

May 1, 2008

PRESENT: S. F. Shreckhise, Chairman
J. W. Callison, Jr., Vice Chairman
G. A. Coyner, II
D. A. Brown
J. R. Wilkinson, Zoning Administrator & Secretary
S. K. Shiflett, Zoning Technician I

ABSENT: C. E. Swortzel

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, May 1, 2008, at 9:30 A.M., in the County Government Center, Verona, Virginia.

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VIEWINGS

The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- **Claire Novak, agent for Verizon Wireless - Special Use Permit**
- **William G. or Sharon E. Bibb - Special Use Permit and Variance**
- **Chap Goodwin - agent for Old Dominion Investors, LLC - Variance**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.

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Chairman

Secretary

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PRESENT: S. F. Shreckhise, Chairman
 J. W. Callison, Jr., Vice Chairman
 G. A. Coyner, II
 D. A. Brown
 Pat Morgan, County Attorney
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. K. Shiflett, Zoning Technician I
 B.B. Cardellicchio-Weber, Administrative Secretary

Absent: C. E. Swortzel

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, May 1, 2008, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Vice Chairman Callison moved that the minutes from the April 3, 2008 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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CLAIRE NOVAK, AGENT FOR VERIZON WIRELESS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Claire Novak, agent for Verizon Wireless, for a Special Use Permit to construct a wireless communication facility on property owned by Jimco, LLC, located on the northwest side of Scenic Highway (Route 42), approximately .1 of a mile southwest of the intersection of Scenic Highway (Route 42) and Badger Road (Route 754) in the North River District.

Ms. Claire Novak stated that she works for Network Building Consulting and they are a consultant for Verizon Wireless. She stated that they have an application to construct a 310' self-support communications tower located on TM#10-101. She stated that the purpose of the tower is to improve Verizon Wireless' network for reliability and coverage in the Mt. Solon, Vesuvius, and Mossy Creek area along the northwest section of Route 42 in Augusta County. She stated that this site will connect with an existing site in Bridgewater and two (2) sites in the south along Route 42 in Churchville. She stated that

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the application is in compliance with the Augusta County Comprehensive Plan as well as the Zoning Ordinance. She stated that the tower will be made of galvanized steel and will be non-reflective. She stated that the tower will be lit to specifications required by the FAA. She stated that the site will allow for co-locations of four (4) additional carriers. She stated that Verizon will make space available on the tower for Augusta County emergency services and law enforcement use. She stated that the site is in compliance with the setbacks for the district and it complies with the fall zone requirements. She stated that the site will be landscaped as required by the Zoning Ordinance with a ten (10') foot buffer of Leyland Cypress. She stated that the site has adequate ingress and egress from Badger Road with an existing farm entrance to the site which will consist of a ten (10') foot wide gravel road and a twenty (20') foot utility easement that will be used for power and telecommunications. She stated that the site will consist of the tower and a 12' x 30' equipment shelter for Verizon Wireless. She stated that there will be space around the existing 125' lease area for additional co-locators and their equipment. She stated that they concur with the staff report but would like to request a revision to the condition under number seven requiring space for Augusta County for emergency service and law enforcement use. She stated that Verizon is happy to accommodate the County's use for the purposes at no charge but they request that Augusta County sign a \$0 lease with Verizon Wireless and provide Verizon with the specifications and height requirements for the equipment to be installed so that space can be reserved on the tower for Augusta County. She stated that they have submitted the surety bond and will comply with the County's requirements for its use if the tower is to be removed. She stated that Verizon Wireless will apply for the commercial entrance permit for VDOT during the site review process. She stated that Verizon asks that the Board of Zoning Appeals approve the application today without the condition that the VDOT entrance permit be approved before the Special Use Permit is issued because they will need to do that as part of the site plan process. She stated that she has been in contact with VDOT and she has their application. She stated that the property owner is requesting permission for future use in the fall zone area that they are allowed to construct if needed any type of non-residential structure such as a pole barn for agricultural use. She stated that Ntelos has expressed an interest in co-locating on this tower.

Mr. Coyner asked how often would a person visit this site?

Ms. Novak stated usually once a month. She stated that if there was a storm or a problem then you would have a technician come to the site.

Ms. Brown asked if the reason for the 300' feet would be because of the signal?

Ms. Novak stated that is correct. She stated that they can get a range of six (6) to seven (7) miles using a tower of this height. She stated that if they were to use a smaller tower they would have to build two (2) towers in the vicinity to accomplish what this one will do.

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Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

Mr. Philip Mohler, 3817 Scenic Highway, Mt. Solon, stated that he owns the property across the road from the site. He stated that the signal in the area is pitiful. He stated that it is not convenient because he loses calls all of the time. He stated that they have no signal in the area on Route 42. He stated that they could use their phones in an emergency situation.

Mr. Ernie Reeves, 3359 Scenic Highway, stated that he is a neighboring landowner and a Verizon customer. He stated that they would like for Mount Solon to enter into the twenty-first century. He stated that the signal is quite pitiful.

Mr. Brett Seal, 4100 Scenic Highway, Mt. Solon, stated that he is an adjoining landowner. He stated that he agrees with Mr. Mohler and Mr. Reeves because everything that they said is correct. He stated that they have no service in the area. He stated that many people stop in driveways to use the cell phone in order to try to get a signal. He stated that better service would certainly be appreciated.

Mr. Jim Mohler, 3962 Scenic Highway, Mt. Solon, stated that this is not the first choice for the tower site. He stated that other locations did not work. He stated that this was not the first choice on their farm either. He stated that there was an old apple orchard that had arsenic in it and they did not want to disturb the dirt so they had to select this site. He stated that this was the only site left on the farm. He stated that if the citizens want to have cell service there needs to be a cell tower because they do not have any service now.

Chairman Shreckhise asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

Mr. James Harlow, 520 Badger Road, Mt. Solon, stated that he lives in the brick house. He stated that he will be looking at the tower every morning. He stated that it is easy to be in favor of a cell tower if it will be a benefit financially and not having to look at it every time you go outside your house. He stated that he is not against a cell tower and understands the need for one. He stated that he does not believe that it cannot be placed at another location with the same result and be better aesthetically. He stated that the negative impact affects his scenic view and devalues his property. He stated that he would like to know why the tower is not located south of the proposed site passed the crop land and near the woods which would have a lesser impact. He stated that he has

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pictures that he would like to submit to the Board. He stated if they would move the tower to the other location that Jimco owns the tower would then be a considerable distance away from his property. He stated that if none of those options are available, why not move the tower on the proposed site to the edge of the designated area.

Chairman Shreckhise asked if there was anyone else wishing to speak in opposition to the request?

There being none, Chairman Shreckhise asked if Ms. Novak would like to speak in rebuttal?

Ms. Novak stated that the tower will be 101 and the adjacent parcel is 100 and there is a property line in between the two parcels. She stated that it is not just all one open parcel. She stated that they did look at locating it on parcel 100 but there was an environmental issue and they could not locate the tower there. She stated that also some of that land is in use for their agricultural production. She stated that the tower is located 500' from the southern property line on parcel 101. She stated that the fall zone requirement would be 310' and in talking to the property owners, there is an interest that they may want to put a house up there on the hill one day and they want to reserve that space in between the fall zone and the property line for future use. She stated that they have looked at other properties in this area. She stated that she has worked on this project for a year and they have looked at property north of the site and either they could not negotiate a lease or they ran into similar problems with old orchards. She stated that they have done extensive investigation and research in this area for the tower to locate on.

Chairman Shreckhise stated that moving the site south of where it is now was one of the options that was questioned by the opposition. He asked what the main reason for not being able to do that?

Ms. Novak stated that there may be future use by the landowner for space between the fall zone and the property line.

Chairman Shreckhise stated that the County has a consultant for towers. He asked that Mr. Condyles come up and render his opinion on the site.

Mr. George Condyles stated that he is the President of Atlantic Technology Consultants. He stated that they have been the County's consultant for a few years. He stated that the northwest quadrant of the County has been surely deficient in signal coverage for wireless carriers. He stated that this part of the County is one of the last locations of the County that will be receiving dependable PCS coverage. He stated that Verizon is requesting the 300' tower and the additional ten (10') feet will be a lightning rod. He stated that they visited the site and looked at their site plan and they concur with the site.

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He stated that this site will have five (5) co-locators on it. He stated that it will fill up because of the Route 42 corridor that is there and it will bring several items to the citizens in the area. He stated that besides dependable cell coverage, they will also have dependable wireless 911 coverage and be able to access the future services of wireless internet, high speed, and broadband. He stated that they feel confident that this tower will meet the objectives of the planning and zoning guidelines as well as the wireless carriers and for the citizens of Augusta County.

Chairman Shreckhise asked if the location on the property would be as close as possible to the maximum efficiency as far as coverage?

Mr. Condyles stated that he drove to the field and where this is being placed it really maximizes the signal. He stated that if they were not going with the 300' tower you would probably have to go with two (2) towers further spread apart. He stated that they concur with the location of the tower.

Mr. Coyner asked if Mr. Condyles can address the County 911 system and the weight of the system?

Mr. Condyles stated that they would need to speak with the 911 Director and see if there is a need that they may have in that area. He stated that the system is relatively new and it is a very good system but they could have a dead spot in the area. He stated that Verizon would be able to have their vendor specify the type of antennae and the weight.

Mr. Coyner asked if the tower would be sufficient to handle something like that?

Mr. Condyles stated yes.

Ms. Brown asked if it is placed in concrete in the ground?

Mr. Condyles stated that the soil is rocky at the site. He stated that the tower will have a pier and pad foundation. He stated that they will dig a hole in the ground. He stated that gravel will be put on top.

Mr. Coyner asked if he had any experience with failure for these types of towers?

Mr. Condyles stated that typically the collapse point is anywhere from a 1/3 to half way up the tower and usually the north leg is the collapse leg. He stated that if the tower ever did fail it would fold on itself. He stated that the County's ordinance has a 100% setback from a property line just to be double safe. He stated that anything that can be designed by man can fall. He stated that it is a good setback to have. He stated that the three (3) leg towers are the sturdier of the two.

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Chairman Shreckhise declared the public hearing closed.

Mr. Coyner stated that the consultant has worked with the Board for years and they have always given us good advice. He stated that he has experienced the loss of signal while on Route 42. He moved that the request be approved with the following conditions:

Pre-Condition:

1. The applicant will submit a site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.

Operating Conditions:

1. The height of the tower shall not exceed 310'.
2. Tower design will allow a minimum of five (5) co-locators.
3. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunications purposes. The tower shall be disassembled and completely removed from the site within ninety (90) days of such notification. Pursuant to Section 15.2-2309, paragraph 6 of the Code of Virginia: "The applicant shall provide bond with appropriate surety in the amount of \$25,000 to insure compliance with this stipulation. The applicant will ensure the bond shall remain in effect until at least six (6) months following notice to the Augusta County Community Development Department that wireless telecommunications have been discontinued.
4. The applicant will comply with all FCC regulations.
5. The applicant will not unreasonably deny the telecommunications providers the opportunity to co-locate on this tower.
6. Tower will be a steel structure with a matte non-buffed, non-reflective type finish.
7. The County will have the option of co-locating Public Safety communications equipment and antenna on this site for future growth and upgrade of the radio system, including law enforcement communications.

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- 8. The fenced compound area be screened by a single row of eight (8') foot high staggered evergreen trees planted ten (10') foot on center.

Ms. Brown seconded the motion, which carried unanimously.

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JESSIE WILMER, AGENT FOR NTELOS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jessie Wilmer, agent for Ntelos, for a Special Use Permit to construct a wireless telecommunications facility and the permit be issued transferable on property owned by Christopher E. and Fera B. Morrison, located on the east side of Little Calf Pasture Highway (Route 42), approximately .8 of a mile north of the intersection of Little Calf Pasture Highway (Route 42) and Sunset Hill Lane in the Pastures District.

Ms. Jessie Wilmer stated that she is the agent for Ntelos. She stated that Ntelos is proposing to expand their PCS network on Route 42. She stated that they are starting this year expanding their network from Churchville to Craigsville. She stated that next year they are going to go back to Bridgewater to Churchville. She stated that next year they will also be a co-locator on the previous tower to expand their network. She stated that this particular tower is the only tower that they have proposed along that corridor from Churchville to Craigsville. She stated that they have done their best to plan their network around building as few towers as possible. She stated that they have six (6) sites along that corridor and they have been able to co-locate on five (5) current structures and this is the only new structure planned. She stated that there are no co-location opportunities in the area. She stated that the property is about twenty-three (23) acres. She stated that they have located the site back within the cluster of trees on the property. She stated that behind it is the state forest and the railroad and on the other side of Route 42 is also national forest. She stated that there are no homes close to the site. She stated that they feel that the proposed facility will not substantially detriment the adjacent property or their by right uses and will not increase traffic. She stated that they only come to the site once a month unless there is a problem at the site. She stated that they did do a balloon test showing the location of the site. She stated that they did receive confirmation from the FAA that the tower does not need to be lit or marked. She stated that this is a minimum height which will reasonably achieve the service in this area and provide effective wireless telecommunications for their customers as well as public services for emergency services. She stated that they agree with the conditions as they are proposed. She stated that they will revise it to include five (5) co-location opportunities.

Mr. Coyner asked how long does it take to have the tower constructed?

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Ms. Wilmer stated that they would like to have the tower up by the summer. She stated that it takes about four (4) to six (6) weeks to build a site.

Mr. Coyner stated that with this Ntelos will have coverage from Churchville to Craigsville.

Ms. Wilmer stated that they will have all of the area on air by the end of the year.

Chairman Shreckhise asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed.

Ms. Brown moved that request be approved with the following conditions:

Pre-Conditions:

1. The applicant will submit the \$25,000 removal bond described in (3) below.
2. The applicant will submit a site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
3. The applicant will provide a copy of the NEPA/SHPO study and FAA approval.

Operating Conditions:

1. The height of the tower shall not exceed 199'.
2. Tower design will allow a minimum of five (5) co-locators.
3. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunications purposes. The tower shall be disassembled and completely removed from the site within ninety (90) days of such notification. Pursuant to Section 15.2-2309, paragraph 6 of the Code of Virginia: "The applicant shall provide bond with appropriate surety in the amount of \$25,000 to insure compliance with this stipulation. The applicant will ensure the bond shall remain in effect until at least six (6) months following notice to the Augusta County Community Development Department that wireless telecommunications have been discontinued.
4. The applicant will comply with all FCC regulations.

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- 5. The applicant will not unreasonably deny the telecommunications providers the opportunity to co-locate on this tower.
- 6. Tower will be a monopole structure with a matte non-buffed, non-reflective type finish or stealth structure where appropriate.
- 7. The County will have the option of co-locating Public Safety communications equipment and antenna on this site for future growth and upgrade of the radio system, including law enforcement communications.
- 8. The fenced compound area be screened by a single row of six (6') foot high staggered evergreen trees planted ten (10') foot on center.

Mr. Coyner seconded the motion, which carried unanimously.

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JESSIE WILMER, AGENT FOR NTELOS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jessie Wilmer, agent for Ntelos, for a Special Use Permit to co-locate a wireless communication antennae on the existing tower and expand the compound area on property owned by Atlantic Seaboard Corp. c/o CNS Microwave, located on the south side of Troxel Gap Road (Route 682) approximately 1.7 miles northwest of the intersection of Troxel Gap Road (Route 682) and Walker Creek Road (Route 602) in the Riverheads District.

Ms. Jessie Wilmer stated that she is representing Ntelos. She stated that this is one of the six (6) sites to cover Churchville to Craigsville. She stated that the site in particular covers Estaline Valley Road and the Correction Center of Craigsville. She stated that they are co-locating on the site. She stated that they have to do some structural modifications on the tower to be able to co-locate on the site.

Ms. Brown asked how many co-locators are already on this tower?

Ms. Wilmer stated that CNS Microwave or Columbia Gas is the only carrier on the site for their communications system. She stated that there are three (3) other towers on Little North Mountain but not on this particular tower.

Mr. Wilkinson asked if Ntelos would be able to provide service to McKinley?

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Ms. Wilmer stated that it is not their intention initially but hopefully in the future as they expand.

Chairman Shreckhise asked Mr. Condyles if he had anything he would like to add to this request?

Mr. Condyles stated that he concurs with both of Ntelos' requests.

Chairman Shreckhise asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed.

Mr. Coyner stated that co-locating is precisely what the County is trying to promote. He moved that the request be approved with the following conditions:

Pre-Conditions:

1. The applicant will submit the \$25,000 removal bond described in (1) below.
2. The applicant will submit a site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
3. The applicant will provide a copy of the NEPA/SHPO study.

Operating Conditions:

1. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunications purposes. The tower shall be disassembled and completely removed from the site within ninety (90) days of such notification. Pursuant to Section 15.2-2309, paragraph 6 of the Code of Virginia: "The applicant shall provide bond with appropriate surety in the amount of \$25,000 to insure compliance with this stipulation. The applicant will ensure the bond shall remain in effect until at least six (6) months following notice to the Augusta County Community Development Department that wireless telecommunications have been discontinued.
2. The applicant will comply with all FCC regulations.

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3. The applicant will complete the structural modifications as recommended in the tower analysis report conducted by Tower Technology, Inc.

Vice Chairman Callison seconded the motion, which carried unanimously.

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KEVIN BRENNEMAN, AGENT FOR RED BUD, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Kevin Brenneman, agent for Red Bud, LLC, for a Special Use Permit to replace an existing manufactured home that does not meet the current side yard setback requirements on property they own, located on the north side of Diggs Lane, approximately .1 of a mile southeast of the intersection of Diggs Lane and Lyndhurst Road (Route 624) in the South River District.

Mr. Kevin Brenneman stated that he placed the manufactured home in 1988 and he would like to replace it with another manufactured home at the same location. He stated that the setbacks were changed in 1995 from five (5') feet to twenty-five (25') feet. He stated that the existing setback is nineteen (19') feet on one end and twenty-two (22') feet on the other side. He stated that he has a waterline and hydrant in the way that he would have to relocate if he moved the home over. He stated that he would just like to replace the manufactured home on the existing foundation.

Chairman Shreckhise asked if the applicant would be expanding towards the property line?

Mr. Brenneman stated no. He stated that he wants to put the manufactured home back where it was originally.

Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

Ms. Vanessa McMullen, 16 Cooper Drive, Stuarts Draft, stated that she strongly opposes Mr. Brenneman's request. She stated that she opposes to the illegal taking of any portion of her property. She stated that this is her family owned property that she intends to build on and she plans to utilize the full boundary of her property. She stated that the location of Mr. Brenneman's trailer currently infringes on her property rights. She stated that he knew when he put the trailer on the site he committed an act that

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was not right. She stated that he should have asked permission prior to erecting the structure. She stated that she disagrees with him stating that that trailer was there since 1988. She stated that the brown trailer was removed from the property and the trailer that the Board saw is not the same trailer. She stated that Mr. Brenneman is a surveyor and he knew where the boundary lines were on the property. She stated that for the County to allow this it will be a violation of the law. She stated that even when the federal government takes property, they are required to compensate the landowner. She stated that the only thing that Mr. Brenneman has to do is to move the trailer three (3') feet and he would be in compliance with the zoning requirement. She requested that he immediately remove the structure and be in compliance with the law. She stated that she is strongly opposed to him taking any portion of her property. She plans on building on the property and she will be using the full boundary of her property.

Mr. Wilkinson stated that the County requires a certain amount of setback from a property line. He stated that in 1988 the County setback was only five (5') feet from the property line.

Ms. McMullen stated that she feels that even the staff comments are a conflict of interest because Mr. Wilkinson wrote the staff recommendation in support of Mr. Brenneman. She stated that her thoughts or her situation was not considered.

Mr. Wilkinson stated that he along with the Director of Community Development and Ms. Shiflett has input when writing the recommendations for the Board of Zoning Appeals to consider.

Chairman Shreckhise asked when Ms. McMullen stated her land, did she mean the adjacent land?

Ms. McMullen stated that the land is questionable because they surveyed the property and her father states that even with the survey it was not done correctly. She stated that Mr. Brenneman has real estate property all over and there is no reason for him to try to infringe upon her property for her family. She stated that he should move his trailer three (3') feet and he will be in compliance with the law. She would like to utilize the boundaries of the property. She stated that she does not have a lot of road frontage. She stated that the zoning laws were put there for a reason. She stated that the Brenneman's have enough real estate that they do not need to infringe upon her property.

Mr. Wilkinson asked if the brown trailer was sitting where this one is shown to be placed?

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Ms. McMullen stated that the brown trailer was not in compliance with the law either. She stated that it was a smaller trailer. She stated that this trailer is a lot larger. She stated that there is already building material on her property line. She stated that she will be putting a fence on her property.

Mr. Wilkinson asked if the tree line is the property line?

Ms. McMullen stated yes and Mr. Brenneman knows exactly where the property line is because they surveyed the property.

Mr. Coyner asked how long has Ms. McMullen's family had this parcel of land?

Ms. McMullen stated that the family has owned the property since 1903. She stated if the law states that he should be twenty-five (25') feet from the property line then Mr. Brenneman should comply with the law.

Chairman Shreckhise asked if there was anyone else wishing to speak in opposition to the request?

There being none, Chairman Shreckhise asked if Mr. Brenneman would like to speak in rebuttal?

Mr. Brenneman stated that he does not understand Ms. McMullen's statement that he is on her property. He stated that he has some building materials where he tore the deck off the trailer but they are on his property. He stated that he does not understand her concerns.

Mr. Wilkinson asked if the applicant placed the trailer in 1988?

Mr. Brenneman stated that he placed the trailer there in 1988. He stated that they put the drainfield and the well in.

Chairman Shreckhise asked when the manufactured home was placed on the site in 1988 was it on the same foundation that is there now?

Mr. Brenneman stated yes. He stated that when the manufactured home was placed in 1988 they were in compliance with the setbacks. He stated that in 1995 the setbacks changed.

Mr. Coyner stated that Ms. McMullen mentioned that the old trailer was gone and the new one came to the site. He asked how much time elapsed?

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Mr. Brenneman stated he does not recall. He stated that probably a month in between.

Mr. Coyner asked what the difficulty would be in shifting the manufactured home?

Mr. Brenneman stated that the foundation is already placed and the concrete is poured where the old trailer is. He stated that the well is in front of the trailer and the waterline goes around the left side.

Mr. Coyner asked if the manufactured home could be shifted over?

Mr. Brenneman stated not without relocating the waterline and concrete.

Chairman Shreckhise stated that the well would not have to be relocated.

Mr. Brenneman stated no just the waterline and the concrete foundation.

Chairman Shreckhise declared the public hearing closed. He stated that the Board of Zoning Appeals' decision on this matter is not going to confirm or deny any disputed ownership or survey on this property.

Mr. Morgan stated that is correct.

Mr. Coyner stated that the manufactured home could be moved fairly easy and with the ability that it could be done, he feels that the Board should not grant the permit because it could be moved. He moved that the request be denied.

Ms. Brown seconded the motion, which carried unanimously.

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CARROLL E., JR. OR LINDA S. SWARTZ - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Carroll E., Jr. or Linda S. Swartz, for a Special Use Permit to add sewing, craft supplies and accessories, pet supplies, toys, plants, and flowers and retail merchandise on property they own, located on the north side of Weyers Cave Road (Route 256), just west of the intersection of Weyers Cave Road (Route 256) and Rockfish Road (Route 865) in the Middle River District.

Ms. Linda Swartz stated that they do not want to change a lot. She stated that they would like to have a variety of items for sale. She stated that they cannot do much because the business is very small.

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Mr. Coyner stated that all of the extra merchandise for sale will be inside the building.

Ms. Swartz stated yes. She stated that the business will not change.

Chairman Shreckhise stated that the applicant is not asking for any outside storage.

Ms. Swartz stated no. She stated that they did mention plants but she feels that they did have plants on the previous Special Use Permit.

Chairman Shreckhise stated that will be within the limits of the outside storage that has already been granted.

Mr. Wilkinson stated that the applicant is asking to increase the outdoor area.

Ms. Swartz stated that she may want to come down a little further.

Mr. Coyner stated that the outside storage that the applicant had before is the area where the swing sets are located.

Ms. Swartz stated that they still have that area and she is fine with that because that area will be enough.

Mr. Wilkinson stated that the outside storage for this request will be around the parking lot.

Ms. Swartz stated that they put the flowers around the parking lot each spring and fall.

Mr. Wilkinson stated that the applicant has a permit for outside display for each side of the parking lot for flowers. He stated that they are asking to use the back edge of the parking lot. He stated that the outside display of the furniture is in another area.

Mr. Coyner stated that the only outside display requested today is the backside of the parking lot for flowers and plants.

Mr. Wilkinson stated that the area will be about 10' x 75'.

Mr. Coyner stated that obviously the outside display would be seasonal.

Ms. Swartz stated that is correct.

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Chairman Shreckhise asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. David Steinbauer, 46 South River Meadows Lane, Grottoes, stated that he has several acres adjacent to the property. He stated that they are not requesting anything that would be to anyone's detriment. He would be strongly in favor to the request. He stated that they are good people that want to make some extra money. He stated that his property abuts them on South River Meadows Lane on the back side.

Chairman Shreckhise asked if there was anyone else wishing to speak?

There being none, Chairman Shreckhise declared the public hearing closed.

Ms. Brown stated that the applicant has done a great job with this business. She moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. All outdoor storage be kept in the designated areas shown on the site plans.
2. All retail merchandise for sale, except for flowers, produce, plants, wood crafts, and lawn furniture be kept inside the existing building.
3. If any expansion of building or use is requested or required, the business must be moved to a Business zoned district.

Mr. Coyner seconded the motion, which carried unanimously.

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PAULA LINK, AGENT FOR FALLING WATERS, INC. T/A SHENANDOAH VALLEY KOA - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Paula Link, agent for Falling Waters, Inc. T/A Shenandoah Valley KOA, for a Special Use Permit to add additional camping cabins and a picnic shelter and to have three (3) years to complete the addition on property they own, located on the west side of Bald Rock Road (Route

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781), just north of the intersection of Bald Rock Road (Route 781) and Shackelford Lane (Route 1950) in the Beverley Manor District.

Ms. Paula Link stated that she is representing Shenandoah Valley KOA. She stated that they would like to add a picnic pavilion and eleven (11) cabins. She stated that the cabins have no bathroom and no kitchen. She stated that people will not be living in the cabins.

Chairman Shreckhise asked what is in the space where the cabins will be constructed?

Ms. Link stated that it is currently a field.

Chairman Shreckhise stated that this will be the equivalent to adding more campsites?

Ms. Link stated that they are trading campsites. She stated that they are taking the seven (7) campsites where the pavilion will be. She stated that they are swapping sites for sites.

Mr. Coyner stated that the demand for cabins must be increasing instead of camping out. He asked if this is something that they would like to start this year?

Ms. Link stated that they would like to construct the picnic shelter this year. She stated that they would like to have three (3) years for the cabins.

Mr. Coyner stated that the reason why he asked that is because the applicant asked for an Extension of Time last month.

Ms. Link stated that they are asking for three (3) years to construct these cabins.

Mr. Coyner stated that it looks like they run a nice operation and the Board has never received any complaints to their knowledge.

Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

Ms. Cindy Staton, 151 River Ridge Road, Verona, stated that her property joins Middle River. She stated that from April to October they have to deal with additional people coming across the river and onto their property. She stated that they leave trash and destroy their property. She stated that when they built their home twenty (20) years ago

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they had a panoramic view of a nice hill in the woods and now there is a storage of trailers and they are multiplying. She stated that she is concerned about the affect of runoff into the Middle River and the environmental impacts. She stated that there will be additional traffic on the back roads which are very narrow. She stated that her property values will be affected.

Chairman Shreckhise asked if there was anyone else wishing to speak in opposition to the request?

There being none, Chairman Shreckhise asked if Ms. Link would like to speak in rebuttal?

Ms. Link stated that she does not see where there would be an affect on runoff. She stated that people do store their trailers there. She stated that there is less traffic on the road because the trailers are stored on the site.

Chairman Shreckhise asked if there would be a new septic system?

Ms. Link stated that they would have the same septic system. She stated that they are trading sites for sites.

Mr. Coyner stated that Ms. Staton mentioned the fact that people are going across the river.

Ms. Link stated that if that is happening she is not aware of it. She stated that she has never seen anyone crossing the river.

Mr. Wilkinson stated that the applicant is reducing the amount of campsites so that the total volume of people that will be on the site will be reduced if this is approved. He stated that they would be removing a total of twenty-five (25) campsites in order to put twenty (20) cabins in. He stated that will be a reduction of five (5) campers on the site.

Chairman Shreckhise asked if the trailers are in violation of any previous permits?
Mr. Wilkinson stated no.

Chairman Shreckhise declared the public hearing closed. He stated that there will be no increased traffic on the road.

Mr. Coyner stated that over the years activities change. He stated that to his knowledge the Board has yet to receive a complaint from this operation. He stated that this operation seems to be run well.

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Vice Chairman Callison stated that it is a reduction on the total number of units. He moved that the request be approved with the following conditions:

Pre-Conditions:

- 1. Building permits be obtained for the eleven (11) camping cabins.
- 2. Obtain Health Department approval and provide a copy to Community Development.

Operating Conditions:

- 1. Eleven (11) camping cabins be allowed in exchange for campsites numbered 188-206 and the six (6) RV spaces.
- 2. No camping cabin to be used as a full-time residence.
- 3. Applicant to have three (3) years to complete additions.

Mr. Coyner seconded the motion, which carried unanimously.

* * * * *

RAY A. CUPP - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ray A. Cupp, for a Special Use Permit to continue to have outside storage of RVs, boats, and licensed automobiles on property owned by Mountain Valley Self Storage, located on the west side of East Side Highway (Route 340), opposite the intersection of East Side Highway (Route 340) and Laurel Wood Drive in the Middle River District.

Mr. Ray Cupp stated that he wants the same Special Use Permit that his brother has until he gets the other buildings up. He stated that he is purchasing the property from his brother. He stated that his brother has kept it up neat and he plans to do the same. He stated that everything will be licensed and tagged and in good enough shape so that it will not be an eyesore. He stated that when the other buildings go up the parking will go away.

Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

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Ms. Tracy Cupp, 279 Patterson Mill Road, Grottoes, stated that she is the current co-owner of the property. She stated that they are trying to sell it to Ray Cupp and the contingency in the contract is that he get the Special Use Permit. She stated that as they put buildings up there will be less and less parking because they are waiting for the other buildings to get filled up.

Chairman Shreckhise asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed. He stated that this is a transfer of ownership.

Mr. Coyner stated that this is a good example as to why Special Use Permits are specific to the applicant so that when the change of ownership occurs the Board can revisit the site.

Mr. Wilkinson stated that they were always parked in an orderly fashion. He stated that staff has not received any complaints from this site.

Ms. Brown moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of thirty-five (35) vehicles total.
2. No junk or inoperable vehicles or RV's, or junk boats, or parts of vehicles, RV's, or boats be permitted onsite.
3. Site be kept neat and orderly.
4. Permit be issued for five (5) years.
5. No tractor trailers.
6. All vehicles must be licensed and in operating condition.

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Mr. Coyner seconded the motion, which carried unanimously.

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JAMES F. OR JANET M. BEVINS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by James F. or Janet M. Bevins, for a Special Use Permit to increase the number of dogs for the existing kennel and use the existing garage for kennel, boarding, and office on property they own, located on the south side of Madrid Road (Route 785), just east of the intersection of Madrid Road (Route 785) and Coleytown Road (Route 820) in the Middle River District.

Ms. Janet Bevins stated that she is the owner and operator of Home Away From Home dog boarding and training. She stated that she is going into her sixth year. She stated that there is a need for this special kind of dog care. She stated that she would like to increase the number of dogs so that she can continue to provide this service to her customers and some new customers. She stated that there are times when dogs do overlap due to unexpected circumstances such as cars breaking down and airplanes not arriving when they should. She stated that is why she is running into problems having more dogs on the property.

Chairman Shreckhise asked if she is asking for any increase in outside facilities?

Ms. Bevins stated no, she would like to increase the number of dogs. She stated that they do have a new office building in the garage. She stated that she would like to have less on her kitchen table.

Mr. Wilkinson stated that there will be more dog rooms added in the existing garage.

Ms. Bevins stated that is correct.

Mr. Coyner stated that originally the permit was for the basement and now they will be in the basement and in the garage.

Ms. Bevins stated that is correct.

Chairman Shreckhise asked how many additional dogs is the applicant requesting?

Ms. Bevins stated that she is asking for a total of twenty (20) dogs.

Mr. Coyner asked how many does the applicant have currently?

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Mr. Wilkinson stated eight (8) dogs.

Chairman Shreckhise stated that the applicant is asking for twelve (12) additional dogs.

Mr. Coyner asked what is the average length of stay?

Ms. Bevins stated usually it is weekends which is Thursday through Sunday but she does get dogs that are there for two (2) weeks at a time. She stated that 80% of her customers keep their dogs from Thursday through Sunday.

Mr. Coyner stated that these dogs are inside dogs.

Ms. Bevins stated that these dogs are inside mostly. She stated that these are dogs that sleep with their owners in their beds or on their furniture. She stated that most of the rooms have furniture in them. She stated that they try to socialize the dogs so that they can go out together. She stated that they go out six (6) times a day where if you were to board them at the vet they only go out twice a day. She stated that they have a fenced in area which the Board saw in the picture. She stated that they play with the dogs.

Ms. Brown asked if the dogs have their own room?

Ms. Bevins stated that every dog has their own room.

Mr. Wilkinson stated that the applicant does not take aggressive dogs.

Ms. Bevins stated that is correct. She stated that she does not take in pit bulls or even mixed pit bulls. She stated that she does not take in aggressive dogs.

Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

Mr. Craig Nargi, 375 Madrid Road, Waynesboro, stated that he purchased the farm next door from the Bevins. He stated that the Bevins family has been boarding animals for nineteen (19) years. He stated that he has lived next door for two (2) years and has had no issues. He stated that they do a wonderful job with the animals. He stated that there does not seem to be any additional impact on the road. He stated that this has been a good experience living next door.

Mr. Wilkinson stated that Mr. Nargi has a horse farm.

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Mr. Coyner asked if the dogs disturb his animals?

Mr. Nargi stated that they do not disturb his animals.

Chairman Shreckhise asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

Mr. Dwight Mongold, 364 Madrid Road, Waynesboro, stated that the dog operation has operated outside the capacity for several years. He stated that they put kennels in the garage a few years ago. He stated that there is another building out back that dogs are let in and out of. He stated that the dogs are let out early in the morning. He stated that he could hear the dogs at 5:30 a.m. barking. He stated that he has never come to complain. He stated that eight (8) dogs did not bother him. He stated that it never stays at eight (8) dogs. He stated that if the Board grants this permit, will they have forty (40) dogs at the site. He asked how would the County make sure that they do not have forty (40) dogs at the site. He stated that the dogs disturb him when they are let out early. He stated that through the week it is not a big deal but on the weekends it is a big deal. He stated that it is hard to complain because he is the next door neighbor and he is friends with the Bevins.

Mr. Wilkinson stated that the Community Development Department inspects and enforces the Special Use Permits. He indicated that should someone call his office and suggest that a permit is exceeding the number of dogs or whatever it may be, staff will inspect the facility. He stated that is a confidential request.

Mr. Mongold stated that he is the only neighbor in the area. He stated that he would like them to keep the permit within limits.

Chairman Shreckhise asked if there was anyone else wishing to speak in opposition to the request?

There being none, Chairman Shreckhise asked if Ms. Bevins would like to speak in rebuttal?

Ms. Bevins stated that she had no idea. She stated that she is very considerate to her neighbors. She stated that if it would help she would not let dogs out on Saturday and Sunday until 7:00 a.m. She stated that she had no idea that this was a problem. She stated that Mr. Mongold has never said anything in the last six (6) years. She stated that she would be happy to do whatever it is that she needs to do to make this right.

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Mr. Coyner stated that there is probably a limit as to how much you can do at this site. He stated that were this business to become larger, the applicant would need to think about another location.

Chairman Shreckhise declared the public hearing closed. He stated that the applicant seems to be doing a good job.

Mr. Coyner stated that there is a demand for what she does.

Vice Chairman Callison moved that the request be approved with the following conditions:

Pre-Condition:

- 1. Obtain building permit for renovations.

Operating Conditions:

- 1. Be limited to a maximum of twenty (20) dogs on site.
- 2. No employees other than family members.
- 3. No animal waste to be put into the septic system.
- 4. All dogs be confined within the buildings from 10:00 p.m. until 7:00 a.m.
- 5. Site be inspected every six (6) months for compliance.
- 6. No further expansion.

Mr. Coyner seconded the motion, which carried unanimously.

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WILLIAM MONROE, AGENT FOR THE AUGUSTA COUNTY SERVICE AUTHORITY - VARIANCE

This being the date and time advertised to consider a request by William Monroe, agent for the Augusta County Service Authority, for a Variance from the requirements to have frontage on a public street in order to create a utility lot on property owned by Vaughn A. and Patricia S. Ashby, located on the east side of Buffalo Gap Highway (Route 42),

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across from the intersection of Buffalo Gap Highway (Route 42) and West Ridge Drive in the Pastures District.

Mr. William Monroe stated he is here on behalf of the Augusta County Service Authority. He stated that they have been searching for a new source for the Churchville area for quite some time. He stated that they have found a site that has proven to be a good potential site with the yield of approximately 140gpm. He stated that this will work for the Churchville area very well. He stated that they are treating it for hard water and with carbon dioxide at another site. He stated that this particular location is a better site than what they have found so far. He stated that they have found a landowner who is willing to work with them. He stated that the site is 2.6 acres. He stated that some of the structures that are shown are not proposed but they are looking into the future. He stated that at this time they are going to have the well and the well house. He stated that at this time they are not planning to do the full scale treatment unless something changes. He stated that the drawing shows how the space will be used in the future and presently. He stated that the primary issue is access frontage. He stated that this particular location is probably one of the only ones where they could get a VDOT permit. He stated that they are going to have to do quite a bit of grading.

Mr. Coyner stated that he was curious why the Service Authority would need two (2) acres but they may have to have a drainfield put in at some point in time for treating. He asked if two (2) acres would be the standard?

Mr. Monroe stated that in this particular area it would be. He stated that they have installed three (3) filtration systems to address the Health Department regulations. He stated that they have done that in Middlebrook, Augusta Springs, and Deerfield. He stated that each one of those is a micro-filtration facility. He stated that some of those have to go to the drainfield type of system. He stated that as soon as you pick up bacteria they deem these systems to be under the influence of service water and as soon as that happens they have to install a filter to satisfy the regulation.

Mr. Coyner asked how often does an employee have to visit the site?

Mr. Monroe stated that with chlorine someone would go out on a daily basis to record the results of what is happening at the site.

Vice Chairman Callison stated that the surrounding area is highly subdivided. He was wondering if a lot of that area is served the Service Authority.

Mr. Monroe stated that they have two other wells on Route 42 toward Crawford Manor and the other two are in Crawford Manor subdivision. He stated that a lot of the area is served by the Service Authority.

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Chairman Shreckhise asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Chap Goodwin, an attorney, stated that he is in favor of the request. He stated that he has run into this problem several times and it is an impractical solution to require road frontage on lots particularly when the area that you want to use is a good ways away from the road. He stated that it is a good idea to consider these things without requiring a Variance.

Chairman Shreckhise asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none, Chairman Shreckhise declared the public hearing closed.

Mr. Wilkinson stated that the Augusta County Zoning Ordinance is under review by a consulting firm hired by the Board of Supervisors and that is one item that they have on their list to change so that a Variance would not be necessary with the creating of utility lots.

Chairman Shreckhise stated that on this particular request there is not an option to move the well and it seems like this would be the proper thing to do.

Mr. Coyner stated that this is practical. He moved that the request be approved.

Ms. Brown seconded the motion, which carried unanimously.

* * * * *

WILLIAM G. OR SHARON E. BIBB - SPECIAL USE PERMIT AND VARIANCE

This being the date and time advertised to consider a request by William G. or Sharon E. Bibb, for a Special Use Permit to reconstruct, enlarge, or extend a non-conforming structure and parking lot, and a Variance from the rear setback, open space, and buffer requirements on property they own, located on the north side of Jefferson Highway (Route 250), just west of the intersection of Jefferson Highway (Route 250) and Old White Bridge Road (Route 640) in the Wayne District.

Mr. Coyner moved that the request be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

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Mr. William Bibb stated that he and his wife has owned Superior Sound in the white building since 1990. He stated that Coffey's Market has been vacant for quite awhile. He stated that approximately two (2) years ago they became available all at the same time. He stated that the building that has a hardship from the fact that it did not have adequate parking and the property line is only twenty (20') feet off of the building. He stated that in order to get into the parking lot to get to that building he had to egress onto Coffey's Market property all of those years and when he acquired both of them, Coffey's Market property had a problem with getting to the sewer. He stated that it made sense for him to merge these two pieces of property. He stated that when they widened Route 250 they took a substantial amount of property off of the front and made it nonconforming at that time. He stated that this property has been in use for over fifty (50) years. He stated that on the plat they showed fourteen (14) parking spaces on the back property line. He stated that his new plat he is asking for ten (10) parking spaces on the back line. He stated that there has always been a hardship trying to get behind the building because the County requires an eighteen (18') feet aisle way for one way and twenty-eight (28') feet for two-way and there is only twenty-eight (28') feet behind the building. He stated that there has been parking behind the building for years. He stated that when he acquired these two pieces of property he wanted to maximize the use so that he could afford to build the project. He stated that it took him about six (6) months to figure it out. He stated that based on the typical site plan he will merge the two (2) properties, get rid of two (2) entrances which would now come into the old Coffey's Market property, and create an ease of getting in and out of the property. He stated that he is proposing something that gets rid of an eye soar on Route 250, creates more tax revenue for the County, and creates potential retirement for himself and his family. He stated that the neighbors behind Coffey's Market property are all in favor of what he is doing. He stated that one of the neighbors met with Mr. Wilkinson one day. He stated that he is trying to do something to his benefit and be cooperative with the neighbors. He stated that there is no hardship that he created. He stated that it was created by the widening of Route 250 and the County changing the setbacks in after the property was already in use. He stated that he is trying to reclaim the use of the property.

Mr. Coyner asked what will the use be for the property?

Mr. Bibb stated that the use would be retail. He stated that he will use it for offices. He stated that Shenandoah Valley Garage Doors will be renting one space. He stated that he will take half of the building and make two units that are 1,600 square feet facing the parking lot to the side. He stated that El Puerto restaurant showed interested in putting a Mexican store. He stated that a couple of other people would like to move to his site as well. He stated that his family owns Rockwood Mobile Home Park and it is the nicest manufactured home park in the County. He stated that they run a tight ship. He stated that this will be the place to be on Route 250. He stated that he will try to be conservative

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with energy. He stated that the building will be a high end building and not a metal building. He stated that he will have stone stucco on the outside.

Chairman Shreckhise asked if because of the size of the building and the retail situation if there would be a required number of parking spaces no matter what type of clientele the applicant has at the site?

Mr. Wilkinson stated that in the Parking Ordinance, for every use they have a number of parking spaces and most of it is based on square footage for most retail and offices other than medical and doctor offices. He stated that with retail it is one (1) space for every 200 square feet. He stated that because of the loss of the parking when Route 250 was widened, the previous owner lost parking spaces.

Mr. Bibb stated that his site plan has ninety-six (96) allocated parking spaces and that is based on a gross square footage of approximately 18,000 square feet which only requires ninety (90) spaces. He stated that it will probably end up being 17,000 square feet gross so there is a good chance that the parking spaces on the back will never be used. He stated that the parking in the front of the building is more than adequate. He stated that he can build the building with the green space but that leaves him with a hardship of not being able to get around the building to service dumpsters. He stated that he is not doing anything different than what it was used for. He stated that he is not changing the intended use of it at all.

Mr. Coyner stated that years ago there was a street that lead to Kingsbury.

Mr. Bibb stated that it is technically not a deeded street but it still is there. He stated that Mr. Rowe continues to use it as long as there is no cars parked on the space. He stated that he has talked with the three (3) neighbors behind the Coffey's Market. He stated that he will do whatever he needs to do to screen the site. He stated that he will put up a fence or plant trees. He stated that Mr. Hanback at the last meeting mentioned a fence. He stated that it does not cost anymore money because they are both about the same money. He stated that the fence would be right on the property line. He stated that the houses have been back there for a long time and he does not want to do anything to hurt the neighbors.

Mr. Coyner stated that when the Board visited the site this morning, the dumpster was pretty close to the property line. He asked if the dumpster could be moved?

Mr. Bibb stated that he could move it anywhere. He stated that the dumpster has been there for twenty (20) years. He stated that he shows it right on the back corner but he could move it. He stated that he would have no problem putting this as part of the agreement that the dumpster be housed. He stated that there is no food in the dumpster. He stated that the dumpster contains cardboard and paper. He stated that the dump truck

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comes to pick up the trash about once a week on Thursday. He stated that he has never had a complaint about the dumpster. He stated that it would be nice not to have it near the houses and he understands the setback requirements that he has to abide by. He stated that he is taking a total noncompliant piece of property and make it into compliance. He stated that he has an open relationship with neighbors and he does not want to destroy it.

Chairman Shreckhise asked if there was anyone wishing to speak in favor to the request?

There being none, Chairman Shreckhise asked if there was anyone wishing to speak in opposition to the request?

Mrs. Pat Rexrode, 20 Lancaster Avenue, Waynesboro, stated that she owns the property behind TNT. She stated that her property is near the dumpster. She stated that Mr. Bibb may have talked to the other three (3) folks but they have never heard from him. She stated that they owned that property since 1995 and it has been a rental property. She stated that the last folks that moved out intended to buy but decided not to so they have spent six (6) months fixing the dwelling up and are planning to sell it. She stated that they may have a potential buyer and they were asking about the property behind them. She stated that they are concerned about the buffer and what the buffer actually is. She stated that the house is very close to the property line. She stated that some folks came the other day to put some sand beside the dumpster and it turned out that they dumped the sand behind their property.

Chairman Shreckhise asked what kind of buffer and screening would Mrs. Rexrode prefer?

Mrs. Rexrode stated that she would certainly like something that they could not see through.

Mr. Wilkinson stated that he talked with someone identifying herself as a potential purchaser of the property and she would prefer a vinyl fence along the property line rather than a double row of trees. He stated that the Board is considering screening along the adjoining properties.

Mrs. Rexrode stated that she does not know if there is enough room at the site. She stated that they do not want anything that they can see through. She stated that the dumpster is close to the line and it is an eyesore. She stated that she heard that the clotheslines are not on their property and they were going to lose them. She stated that she would assume that Mr. Bibb would have a survey done to see actually where the property line is.

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Chairman Shreckhise asked if there was anyone else wishing to speak in opposition to the request?

Mr. Dale Rexrode, 20 Lancaster Avenue, Waynesboro, stated that they would like to see a buffer in the grass area about twenty (20') feet. He stated that they have a box van that has been parked perpendicular for quite some time. He stated that he does not think the parking spaces would look good up against their house. He stated that Mr. Hanback has a good buffer area. He stated that they are closer than Mr. Hanback's property. He stated that he would like to see the dumpster over closer to their building as well as being enclosed. He stated that when the house is being showed everyone asks about the dumpster. He stated that he does not want to see anything that is undesirable. He stated that their property is for sale if Mr. Bibb would like to buy it.

Mr. Bibb stated that he is not trying to hurt anyone. He stated that he is not trying to get a Variance from the piece of property that is behind them. He stated that piece of property is already compliant because there are existing parking spaces on file. He stated that the dumpster has been there the entire time that the Rexrode's have owned the property. He stated that he does not have any problem putting up a fence behind their property to help them out. He stated that the house is so close that he would have to put up a twenty (20') foot tall fence to put something up that you could not see over or around. He stated that property is already being used and will be used. He stated that will not change. He stated that the four (4) lots that we are talking about are the lots that Coffey's Market is on. He stated that he probably would have bought the property before they spent all of the money on it. He stated that when they bought it the commercial building was behind them. He stated that the building behind them will not change. He stated that it will turn into a nicer building. He stated that he does not have a problem with putting up the fence. He stated that the building on the right hand side will stay physically as it is but the face of the building will change. He stated that the footprint will not change.

Chairman Shreckhise stated that the parking on the property is in compliance.

Mr. Bibb stated that it is as close as they could ever get it because he ingresses and egresses on someone else's property. He stated that the parking spaces have been like that for thirty (30) years.

Chairman Shreckhise stated that those parking spaces are not in question today.

Mr. Bibb stated that he will work with Mr. Rexrode but the fact of the matter is that the site has been like that since they bought their property. He told one of the neighbors that there are three (3) pine trees that will die when he does what he wants to do but he will put the trees back. He stated that he does not even have to do that. He stated that he gets the trees cheap. He stated that he will not put a fence behind his property because it does not

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interfere with him. He stated that he is trying to do what is right. He stated that the cypress trees behind the Superior Sound building, Mr. Hanback planted them about ten (10) years ago and most of them are technically on his property. He stated that he will not be a detriment to these people. He stated that he needs to have the building as large as he can so that he can afford to build it. He stated he is not asking for something that he created. He stated that the ordinance changed after he bought the property. He stated that he is very comfortable with what he is doing.

Chairman Shreckhise declared the public hearing closed.

Mr. Coyner stated that it is great that someone wants to improve this property that has been sitting there for years with no activity.

Chairman Shreckhise stated that the hardship of not having enough parking spaces is not by anything that the applicant did but by a change in requirements and the widening of the road. He stated that he is also relieving a hardship with the accessibility and the driving hazards.

Mr. Coyner stated that it sounds like he wants to be a good neighbor.

Vice Chairman Callison moved that both the Special Use Permit and Variance requests be approved with the following conditions:

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. A six (6') foot high opaque white vinyl privacy fence or a double row of six (6') foot high staggered pines trees planted ten (10') foot on center be installed along the entire rear property line.

Operating Conditions:

1. Site be kept neat and orderly.
2. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
3. The six (6') foot opaque privacy fence and tree buffer must be maintained at all times.

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- 4. Any new outdoor lights require site plan submittal and must meet ordinance requirements.

Mr. Coyner seconded the motion, which carried unanimously.

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JOHN J., II OR SHARON R. ARBAUGH - SPECIAL USE PERMIT

A request by John J., II or Sharon R. Arbaugh, for a Special Use Permit to have a construction business and use an accessory building on property they own, located on the northeast side of Barrenridge Road (Route 642), just north of the intersection of Barrenridge Road (Route 642) and Cricket Road (Route 797) in the Middle River District. - **TABLED AT THE APRIL 3, 2008 MEETING**

Mr. Coyner moved that the request be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Wilkinson stated that the inspector was at the site today and took some photographs. He stated that the vehicles in question at last month's meeting have been removed and all of the vehicles on site are properly licensed. He stated that some of the vehicles belonged to friends and the applicant had those removed.

Chairman Shreckhise stated that was the main reason that the request was tabled.

Mr. John Arbaugh stated that he met the pre-conditions and agreed to the operating conditions. He stated that all of the inoperable vehicles are removed.

Chairman Shreckhise stated that this was an opportunity for the County to make sure that the site looks good and will operate smoothly before the Board grants a request.

Mr. Coyner stated that it takes a neighbor to be a neighbor. He moved that the request be approved with the following conditions:

Pre-Conditions:

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1. Obtain letter of approval from Building Inspection Department and provide a copy to Community Development.
2. Obtain VDOT entrance permit and provide a copy to Community Development.

Operating Conditions:

1. All equipment, machinery, and materials for the business be kept inside the existing barn.
2. Be limited to one (1) company vehicle at the site.
3. No employees to come to this site other than family members.
4. Site be kept neat and orderly.
5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
6. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.

Ms. Brown seconded the motion, which carried unanimously.

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CHAP GOODWIN - AGENT FOR OLD DOMINION INVESTORS, LLC - VARIANCE

A request by Chap Goodwin, agent for Old Dominion Investors, LLC, for a Variance from the yard and setback requirement regarding construction of a new dwelling on property they own, located in the northern quadrant of the intersection of Heatwole Drive and Alba Circle in the Wayne District. - **TABLED AT THE MARCH 6, 2008 MEETING**

Mr. Coyner moved that the request be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Wilkinson stated that since the last meeting they have received an updated survey from EGS and Mr. Goodwin is here to explain the details to the Board and the arrangement that they have been working on with acquiring additional right of way from the highway department.

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Mr. Chap Goodwin stated that on the rear corner they would need a three (3') foot Variance to meet the requirements. He stated that they would need to shave a triangle on the back of the house but it would be a difficult, expensive, and impractical solution to this. He stated that they spoke with the highway department and Mr. Fitzgerald believed they would be willing to give up the portion of the right-of-way to the edge of the curb. He stated that in order to do that the Board of Supervisors will have to approve an amendment to the subdivision plat that has gone to record. He stated that Mr. Coleman is here and he would confirm that the Board of Supervisors has taken a straw vote and would indicate that they are willing to make that amendment. He stated that they need an approval of the Variance before the Board of Supervisors would go forward. He stated that Mr. Fitzgerald was not available but he would confirm that information to Mr. Wilkinson. He stated that they do have hardships with this lot. He stated that the property falls from Heatwole Drive toward Alba Circle in the back of the lot. He stated that turning the house was not a practical solution for building the house. He stated that the builder was working under the misconception that the twenty (20') foot side yard setback was still in place when in fact it has been amended. He stated that they submitted the site plan based on the twenty (20') foot side yard setback and all of the approvals were made and the Certificate of Occupancy was issued. He stated that this came up because of a post-sale survey. He stated that sale has gone south but they do have a pending sale if they get the Variance squared away. He stated that they have neighbors here to speak because they are anxious to have the house occupied and they are in favor of the granting of the Variance. He would ask the Board to grant the Variance in this case. He stated that the contractor made a mistake.

Mr. Coyner stated that the house is not square to anything. He stated that were the house to have been more square with the lot they would not have had an issue.

Mr. Goodwin stated that the objective was to keep the house inline with the houses on Heatwole Circle. He stated that to turn it square would have put it significantly out of line with the houses on Heatwole Circle even though it would have kept the house inline with Alba Circle. He stated that if they turned the house parallel to Alba Circle it would not have been inline with the houses on Heatwole.

Vice Chairman Callison stated that the bottom line is that the house is too big for the lot. He stated that the applicant created this situation. He stated that there has been a number of sites in the County that have had their Variances denied. He stated that they have had citizens who have been subject to larger losses than this that have had to make adjustments to their property.

Mr. Goodwin stated that the issue is that the house does meet the code for the lot and it got situated improperly. He stated that it was designed and the building permit was

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applied for based on a misconception as to what the side yard setback was. He stated that there are many other houses in the neighborhood that are in a similar situation as far as being at that distance from the road but they fell in under the old twenty (20') foot setback requirement.

Mr. Coyner stated that there are signed documents by the building contractor that state what the setbacks are to be.

Mr. Goodwin stated that the contractor submitted that they understood what the setbacks were and he submitted a site plan to the building inspection office that showed the dwelling twenty (20') feet away. He stated that if only it would have been caught at that point when they submitted the drawing, they would not have to be here today. He stated that his understanding was that the twenty (20') foot requirement was still in effect and he was not aware that it had changed. He stated that he drew his drawing based on the twenty (20') foot setback and thought he was in compliance.

Ms. Brown asked if he even met the old twenty (20') foot setback?

Mr. Wilkinson stated no, the contractor did not meet the twenty (20') foot setback either.

Mr. Goodwin stated that he met the twenty (20') foot in the front and because the house twisted he did not meet it in the back. He stated that he did not build the dwelling but that is how it happened.

Mr. Coyner stated that this is an unfortunate situation but they did start out with an open lot. He stated that there have been many garages that have had to be moved or houses that needed the corners cut off in order to comply. He stated that he is not familiar with the straw vote that the Board of Supervisors did which Mr. Goodwin alluded to.

Mr. Goodwin stated that in order to adjust the right of way for Alba Circle and give them the extra fifteen (15') feet that has to be approved by the Board of Supervisors, so in order for him to take that to the Board of Supervisors they have to indicate that this Board would be willing to grant the Variance. He asked the Board of Supervisors if they would take a look at it if they would be favorably disposed to approving the adjustment of the subdivision so that the fifteen (15') feet could come back in before he brought this matter back to the Board of Zoning Appeals. He stated that the Board of Supervisors did take a straw vote at their meeting and they would be inclined to approve this if the Variance is granted. He stated that there is no reason for them to do it if the Variance is not granted. He stated that they were looking at the possibility if they were willing to amend the subdivision plat so that the fifteen (15') feet can come back in and they would be three (3') feet off the right-of-way instead of much more.

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Chairman Shreckhise stated that the Board of Supervisors can still do that whether this Board grants the Variance or not.

Mr. Goodwin stated that if there is no Variance granted, there is no reason to go forward.

Chairman Shreckhise stated that the applicant would if they wanted to remove a small part of the house instead of all of it.

Mr. Goodwin stated Chairman Shreckhise is correct.

Ms. Brown stated that when the Board visited the site it appeared that the house is a little further forward than the other houses on Alba Circle.

Mr. Goodwin stated that if the Board looks at the way the road moves, the road turns backwards toward the houses going out. He stated that is the reason it looks further out because the road is actually further out.

Ms. Brown stated that when they built the dwelling they could have turned the house so that the front is on the other side.

Mr. Goodwin stated that the problem is that the house would either be way up in the air or down in the hole because of the fall on the lot.

Mr. Coyner stated that the house could have been designed differently.

Mr. Goodwin stated yes perhaps a tri-level. He stated that the intention was there and they thought they were meeting the requirements. He stated that the contractor is the expert and that is who the property owners rely on. He stated that this will be a huge loss to absorb by the contractor. He stated that they would end up with a house that could not be sold.

Mr. Coyner stated that there is an option of shaving a portion of the house off or turning the house.

Mr. Goodwin stated turning the house is not an option. He stated that he does not think that turning the house would be reasonable because the basement is already there. He stated that shaving it off will leave with a nine (9') foot room. He stated that it could be done but that is not a good result.

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Chairman Shreckhise stated that the Board has already had the public hearing on this request. He stated that they have already received all of the information from the public on this request. He stated that he asked Mr. Wilkinson to do a brief review of the files and to take a look at some of the other situations that this Board has ran across in the last few years. He stated that basically all of the requests, when they have had this type of situation, have been denied.

Mr. Wilkinson stated that they have had four (4) requests within a six (6) month period. He stated that the buildings were built too close in violation of the setback. He stated that they came before the Board during a public hearing and the requested Variances were denied. He stated that this Board directed him to go before the Board of Supervisors to request that they consider an ordinance to require stakeout of new structures and at this point they have not adopted the ordinance.

Vice Chairman Callison stated that until they get qualified people to set the house or mark the property, this will certainly continue. He stated that this Board does not get any help on that matter.

Mr. Coyner stated that this is unfortunate to the property owner that an error was made through no fault of this Board. He stated that economics do not qualify for a hardship under the State Code. He stated that this Board has a history of adhering to the rules that they have to go by and it would be remiss not to do that. He moved that the request be denied.

Ms. Brown seconded the motion, which carried unanimously.

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**EDWARD TREADWAY, AGENT FOR POUNDING MILL QUARRY CORPORATION -
EXTENSION OF TIME**

A request by Edward Treadway, agent for Pounding Mill Quarry Corporation, for a Special Use Permit to have a quarry and manufacture crushed stone on property owned by Carolena M. McClure (Life) c/o Finley McClure, located on the east side of Interstate 81, between Interstate 81 and Fauberitaville Lane in the Riverheads District. -
TWO YEAR EXTENSION OF TIME REQUEST

Mr. Coyner stated that the applicant needs a little more time for the state to determine how and when to widen Interstate 81. He moved that the two (2) year Extension of Time be approved.

Ms. Brown seconded the motion, which carried unanimously.

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STAFF REPORT

- 06-18 Sullivan, Chester A.
- 07-47 Plecker, Timmy W. – **Tabled**
- 07-48 Wertman, Charles F. or Deloris K.
- 07-49 Jerusalem Chapel United Brethren
- 07-50 Vines, James F. or Laura K.
- 07-51 Allhiser, Alfred L., Jr. and Melanie J.
- 07-52 Augusta Oil Corporation
- 07-53 Pollock, Stew G. and Alyce M.
- 07-54 Campbell, Luke M. or Esther B.
- 07-55 Fifer, Garland V. and Carolyn K.
- 07-56 Almarode, Jon E.
- 07-57 Bussard, Timothy W. c/o Brown, Doris
- 07-58 Gore, Richard A. or Gary D.
- 07-59 Lighthouse, An Independent Church

Mr. Wilkinson stated that the pre-conditions for SUP#06-18 are complete and Mr. Sullivan agreed to replenish the trees. He stated that SUP#07-48 and SUP#07-49 are both in compliance. He stated that SUP#07-50 is waiting on their VDOT letter. He stated that SUP#07-51 is in compliance. He stated that staff has not received the VDOT letter for the entrance for SUP#07-52 and staff has sent them a letter. He stated that the applicant has contacted VDOT and they should be receiving the letter shortly. He stated that SUP#07-53, SUP#07-54, SUP#07-55, SUP#07-56, SUP#07-57 are all in compliance. He stated that SUP#07-58 applied for a Home Occupation Permit to operate the collision avoidance training business. He stated that staff has sent a letter asking if the Special Use Permit is still active. He stated that the applicant responded to the letter and stated that the permit is still active. He stated that SUP#07-59 is in compliance.

Chairman Shreckhise stated that the staff should include in the operating conditions that the trees be properly maintained when making recommendations.

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Mr. Morgan passed out the pending zoning cases. He stated that they were successful in getting an injunction on the Gochenour case.

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There being no further business to come before the Board, the meeting was adjourned.

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Chairman

Secretary