

September 4, 2008

PRESENT: J. W. Callison, Jr., Vice Chairman
D. A. Brown
C. E. Swortzel
J. R. Wilkinson, Zoning Administrator & Secretary
S. K. Shiflett, Zoning Technician I

ABSENT: S. F. Shreckhise, Chairman
G. A. Coyner, II

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, September 4, 2008, at 8:45 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:

- **Tom Musselman, agent for Emerald Springs, LLC – Variance**
- **William O. Bergdoll, Jr. - Special Use Permit**
- **Matt Collins, agent for Integrated Wireless Development - Special Use Permit**
- **Orville L. or Nancy J. Cupp - Special Use Permit**
- **Jeremy V. Hayes - Special Use Permit**

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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Vice Chairman

Secretary

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PRESENT: J. W. Callison, Jr., Vice Chairman
C. E. Swortzel
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: S. F. Shreckhise, Chairman

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, September 4, 2008, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Swortzel moved that the minutes from the August 7, 2008 meeting be approved.

Mr. Coyner seconded the motion, which carried unanimously.

MATTHEW W. OR ANISSA POWERS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Matthew W. or Anissa Powers, for a Special Use Permit to have a second dwelling for family members on property they own, located on the south side of Walnut Grove Drive, just west of the intersection of Walnut Grove Drive and Limestone Road (Route 626) in the North River District.

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Ms. Anissa Powers stated that she is applying for the Special Use Permit for the property which is zoned Exclusive Agriculture. She stated that her husband's grandmother already lives at the property and she would like for her parents to have a dwelling on the land.

Vice Chairman Callison asked if this would be her second dwelling on the site?

Ms. Powers stated yes on that parcel.

Mr. Wilkinson asked if the plan is to continue to have family members living in the dwelling?

Ms. Powers stated yes.

Mr. Coyner asked if it would still be a family member living in the dwelling years from now when the parents are not around?

Ms. Powers stated that they have no plans that it would go out of the family but she does not know. She stated that she has two (2) sons and she hopes that they will want to live in the dwelling.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Swortzel moved that the request be approved with the following condition:

Pre-Conditions:

None

Operating Condition:

1. The second dwelling to be used only for family members or farm hands.

Ms. Brown seconded the motion, which carried unanimously.

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This being the date and time advertised to consider a request by Jeremy V. Hayes, for a Special Use Permit to construct a wind energy system on property he owns, located on the west side of Azalea Drive, approximately .2 of a mile west of the intersection of Azalea Drive and Howardsville Turnpike (Route 610) in the South River District.

The applicant was not present, therefore, the Board moved this request to the end of the agenda.

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MATT COLLINS, AGENT FOR INTEGRATED WIRELESS DEVELOPMENT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Matt Collins, agent for Integrated Wireless Development, for a Special Use Permit to construct a telecommunications tower on property owned by Sam L. or Geneva R. Batton, located on the east side of Teter Road (Route 861), approximately .1 of a mile east of the intersection of Teter Road (Route 861) and East Side Highway (Route 340) in the Middle River District.

Mr. Matt Collins stated that he is representing AT&T Wireless also known as New Cingular Wireless PCS, LLC a subsidiary of AT&T. He stated that they always look for existing structures, water tank, or transmission power lines that they could locate their antennas on. He stated that new towers are very expensive. He stated that in this case there are no other structures out there. He stated that they are located on a water tank and on a Crown Castle tower which is noted in the application submittal requirements. He stated that there is nothing in between the two existing sites. He stated that they looked at the transmission power line that runs along this parcel and it is about eighty-four (84') feet which is not tall enough to connect the sites. He stated that he has been working with George Condyles with Atlantic Technology Consultants on his recommendations and he has no problem with them. He stated that the parcel is 68.588 acres and they have leased a 100' x 100' area but they would like to put a 60' x 60' lease area in. He stated that they will follow all of the new tower stipulations and requirements. He stated that the FAA determination of no hazard level is in the works currently. He stated that they see no reason why the FAA would not grant approval. He stated that he is waiting for the phase one NEPA assessment as well as a response from the Virginia Department of Historical Resources. He stated that the state historical preservation officer is currently looking at the site. He stated that the NEPA study will take approximately six (6) months. He stated that there are a number of federal requirements that they are working on getting their approvals and recommendations from. He stated that they are currently planning to fence in the 60' x 60' area of the 100' x 100' lease area and they propose to surround it with a double row of six

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(6') foot Leland Cypress trees planted ten (10') feet on center. He would like for the Board to approve the entire area of 10,000 square foot area. He stated that the tower will be built to hold a minimum of five (5) wireless co-locators. He stated that it will be built to handle Verizon, Sprint, Nextel, etc. He stated that the 60' x 60' leased area should be large enough to support the five (5) carriers. He stated that they would like the approval for the entire area so that they do not have to come back before the Board to expand the fenced in area later on. He stated that they will meet all of the requirements under the Special Use Permit.

Ms. Brown asked how far will the service reach?

Mr. Collins stated that it travels miles but if you pickup a call from ten (10) miles away and if this particular cell site picks up a call it is likely to drop that call prior. He stated this particular site will work well with the AT&T coverage in order to hand off calls from the existing installation at the Crown tower and the existing installation they have at the water tank. He stated that is why generally you see these items closer apart depending upon the terrain, coverage, and capacity with the antennas. He stated that there are a lot of hills in this area.

Ms. Brown asked if it would be further than three (3) miles?

Mr. Collins stated yes. He stated that the signal will travel but they can only handle so much traffic. He stated that this area is not a metropolitan area but the natural terrain can cut the signal.

Mr. Wilkinson stated that if the Board requires screening and the compound area is expanded from 60' x 60' to 100' x 100' then additional trees and screening will need to be added or replanted. He stated that the applicant would like the Board to approve the 60' x 60' area now so that they would not have to come back before the Board to expand it to the 10,000 square foot area.

Mr. Collins stated yes.

Mr. Swortzel stated that the applicant does not want to put the trees at the 100' perimeter now just at the 60' currently.

Mr. Collins stated that is correct. He stated that they feel the 60' x 60' would be sufficient but they will lease the 100' x 100'.

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

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Mr. Sam Batton, 139 Teter Road, stated that he is the landowner of the property. He stated that the leased area is not productive agricultural land. He stated that none of the neighbors have any objections.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Vice Chairman Callison stated that this is a step in the right direction to closing the gap of cell phone service in this area.

Mr. Coyner stated that Atlantic Technology Consultants have given their approval for this request.

Mr. Wilkinson stated that staff has received a full report from Atlantic Technology Consultants and agrees that the tower fits in coverage area and there is not an opportunity for co-location.

Mr. Coyner moved that the 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

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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 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 applicant will install a minimum 60' x 60' fenced compound area and be able to expand to a maximum 100' x 100' fenced compound area provided the fenced compound area is screened by a double row of six (6') foot high staggered evergreen trees planted ten (10') foot on center and trees be maintained.

Ms. Brown seconded the motion, which carried unanimously.

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RICHARD FREEDMAN, P.E., AGENT FOR AGGREGATE INDUSTRIES - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Richard Freedman, P.E., agent for Aggregate Industries, for a Special Use Permit to continue the extraction of sand and gravel on property owned by Andrew B. Brown, located on the south side of Cold Springs Road (Route 608), just west of the intersection of Cold Springs Road (Route 608) and Hickory Hollow Lane in the Riverheads District.

Mr. Richard Freedman stated that the application is in the name of Mid-Atlantic Materials, Inc. which is a subsidiary of Aggregate Industries. He stated that they acquired the assets of Brett Aggregates, Inc. including the Andrew Brown leasehold site and are applying to continue the sand and gravel operation as Brett has in the past. He stated that he has read the report and there are no objections to any of the conditions.

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Mr. Coyner stated that the applicant would operate basically as it has been in operation. He asked if there would be any major changes?

Mr. Freedman stated that there will not be any changes.

Mr. Swortzel asked where the majority of the product goes?

Mr. Freedman stated that this is a new site to him but he knows that in the past it has been used to feed the needs of local producers for asphalt and concrete.

Mr. Wilkinson stated that on the updated site plan it looks like the applicant proposed the mining operation to come closer to Route 608 than the older site plan.

Mr. Freedman stated that is another phase that has always been on the plan. He stated that it is a phase that has not been mined yet.

Mr. Wilkinson asked if they will still maintain the buffers?

Mr. Freedman stated yes the buffers will be maintained.

Mr. Coyner asked if the hours of operation are acceptable?

Mr. Freedman stated yes.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Swortzel stated that this business site has been before the Board a number of times. He stated that there has never been any problem with the site. He stated that the operation is good for the area. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

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1. The site plan submitted to and approved by the Board of Zoning Appeals must be followed.
2. One hundred (100') foot buffer zone around the east and western boundary lines, and other buffers shown on the revised site plan dated 3/27/01 will remain in effect.
3. The applicant submit a site plan showing the mining phases as set up into four (4) phases. The maximum depth allowed shall be the depth shown on the site plan.
4. Each phase must be reclaimed as soon as possible but, not later than six (6) months after a new phase has been commenced. The only exception is Phase II where the plant site exists.
5. Reclamation plan be submitted to the Community Development Department for approval.
6. Dust will be controlled on any and all roads in this project.
7. All roads shall be maintained in a good state of repair until the project terminates.
8. Hours of operation be Monday – Friday, 6:00 AM to 5:00 PM and Saturday 7:00 AM to 12:00 Noon, and during daylight savings time Monday – Saturday, 6:00 AM to 7:00 PM. No Sunday operation.
9. All local, state, and federal regulations must be complied with.
10. Survey of contours and intervals shall be submitted upon the request of the Community Development Department.
11. The crusher and screening plant will remain where it is located.
12. Debris, including residue rock and stone and other waste material stored on the property, must have originated from the property and not be brought in from other sites.
13. Whenever the applicant amends the permit with the Department of Mines, Minerals, and Energy, they must submit a copy to the Community Development Department.

Mr. Coyner seconded the motion, which carried unanimously.

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WILLIAM O. BERGDOLL, JR. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by William O. Bergdoll, Jr., for a Special Use Permit to have a sheet metal fabrication shop within an existing building on property he owns, located on the east side of Coffman Road (Route 696), approximately .3 of a mile south of the intersection of Coffman Road (Route 696) and Burketown Road (Route 680) in the North River District.

Mr. William Bergdoll stated that he is requesting a sheet metal fabrication shop in an existing building which he will work at part-time.

Mr. Coyner asked if the sheet metal would be for heating and air conditioning?

Mr. Bergdoll stated HVAC duct work.

Mr. Coyner asked how much noise will be generated when the applicant is cutting, bending, and shaping?

Mr. Bergdoll stated that he realized that there was a complaint filed. He stated that his closer neighbor stated that he never hears him and he has a letter of support from his other neighbor. He stated that he is sure that there is some noise but he did not know that there was a problem until he got a complaint.

Mr. Swortzel asked if this is something that is done every weekend?

Mr. Bergdoll stated not every weekend but just when he has work.

Mr. Coyner asked if this is what the applicant does for a living also?

Mr. Bergdoll stated yes.

Mr. Swortzel asked what is involved as far as noise in making the duct work?

Mr. Bergdoll stated hammering is probably the biggest sound. He stated that there is a potential for noise. He stated that he was not aware that there was a problem until he got a complaint.

Vice Chairman Callison stated that the applicant has neighbors that are pretty close.

Mr. Bergdoll stated that his neighbor, Mr. Hoover, was the neighbor that he spoke with. He stated that James Baugher wrote a letter stating that he was in support.

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Vice Chairman Callison asked if the applicant runs the business by himself?

Mr. Bergdoll stated yes.

Mr. Coyner asked if the applicant was not aware that he needed a permit to operate this business?

Mr. Bergdoll stated that he came in and talked to Mr. Wilkinson and it seemed like the requirements were going to be impossible the first time he checked into this. He stated that he looked into the requirements and it still seemed impossible and when the complaint was filed he came back and went to the engineer because one of the concerns was his building. He stated that the building is very old but even though he fixed it up, certain things are not to today's building codes but it is suitable for what he is trying to do.

Mr. Coyner stated that it looks like it would be tough to get the permit.

Mr. Bergdoll stated that it looked to be impossible because there was talk about handicapped bathrooms even when he said at first no employees or customers.

Mr. Coyner stated that it appears to him that the applicant elected to be in operation knowing that it would be difficult or impossible to get a permit.

Mr. Swortzel asked if the applicant still needs to have a bathroom?

Mr. Bergdoll stated no.

Mr. Wilkinson stated that the applicant spoke with the Health Department and they sent us written comments that as long as he does not have any employees, he would not have to install any restrooms.

Mr. Bergdoll stated that the building was the final issues and he was under the impression that it was impossible for him to get the permit. He stated that he has a letter from his engineer and also a letter stating that the structure would be suitable for the intended use. He stated that he does have plans to insulate the doors.

Mr. Coyner asked what the applicant's objectives are long term? He asked if it would be done one (1) night a week?

Mr. Bergdoll stated that he is not positive. He stated that there is a possibility that he may want to do this full-time but currently he has a child in school.

Mr. Coyner asked when you have these home projects when are they being done?

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Mr. Bergdoll stated that generally on Friday or Saturday during the day. He sometimes does this during the evening but he stops at 9:00 p.m. He stated that he tries to be respectful of his neighbors.

Mr. Swortzel stated that basically the applicant is building four (4') foot sections of duct work. He stated that a hammer is the loudest noise that he has.

Mr. Coyner asked if the applicant would have a roll of metal?

Mr. Bergdoll stated that he buys sheets of metal which would be one (1) delivery a month or less. He stated that he makes all of the fittings. He stated that he has someone coming to the site to clear off the stumps in the bank.

Mr. Coyner stated that the finished product gets delivered.

Mr. Bergdoll stated that he delivers it to whoever ordered the product.

Mr. Wilkinson stated that part of the request the applicant wanted to work on Sundays. He asked if the applicant is fine with working on Friday and Saturday?

Mr. Bergdoll stated that he would like to be able to work on Sunday because that is one of the days that he has off. He stated that he works Monday - Thursday ten (10) hours each day.

Mr. Swortzel stated that working a full-time job on Monday – Thursday does not leave him a lot of time to work.

Vice Chairman Callison stated that the applicant is off on Friday and Saturday.

Mr. Bergdoll stated that he was hoping to have Sunday available with respect to his neighbors because that is one of the days that he has off of work.

Mr. Swortzel asked what time does the applicant get home in the evenings?

Mr. Bergdoll stated that he finishes work around 5:00 p.m.

Mr. Coyner asked if the applicant works a couple nights during the week or every night?

Mr. Bergdoll stated that he does not work every night. He stated that it would depend on when an order comes in. He stated that sometimes there is a lot of work but there are times when there is none.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Swortzel stated that duct work noise carries just like a lawn mower. He stated that if the applicant insulates the doors and shuts them the neighbors would not even know that the applicant was there.

Mr. Coyner stated that the applicant is worrying about meeting the criteria to do this right but in the meantime the applicant continues to operate the business. He stated that the applicant has had some complaints. He stated that working on Sunday will not happen with his vote on this Board. He moved that the request be denied.

Vice Chairman Callison stated that the motion failed due to not having a second. He asked if there is another motion.

Mr. Swortzel moved that the request be approved with the following conditions:

Pre-Condition:

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

Operating Conditions:

1. All equipment, machinery, and raw materials for the business be kept inside the 24' x 46' existing building or 12' x 24' area shown on the site plan.
2. All work be done within the 24' x 46' existing building and all doors be kept closed.
3. The 12' x 24' storage area be screened by an eight (8') foot high opaque vinyl privacy fence and it be maintained at all times.
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. Site be kept neat and orderly.
6. Hours of operation be Monday – Saturday 10:00 a.m. to 9:00 p.m.
7. No Sunday work.

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8. No employees.
9. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
10. No off premise advertising signs associated with the business.
11. If any expansion of building or use is requested or required, the business must be moved to a Business zoned district.
12. Permit be reviewed in a year and renewed if all of the conditions are met.

Ms. Brown seconded the motion, which carried with a 3-1 vote with Mr. Coyner being in opposition to the motion.

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ORVILLE L. OR NANCY J. CUPP - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Orville L. or Nancy J. Cupp, for a Special Use Permit to have a machine shop within an existing building on property they own, located on the south side of Crimora Mine Road (Route 612), just east of the intersection of Crimora Mine Road (Route 612) and Thorofare Road (Route 628) in the Middle River District.

Mr. Orville Cupp stated that there will be no advertising. He stated that he will be supplementing his Social Security. He stated that he works one (1) day a week. He stated that he will be doing small jobs. He stated that there will be very little noise. He stated that the building is insulated and air conditioned. He stated that he is not doing any repair work strictly manufacturing. He stated that he has had other Special Use Permits before and he has had no problems with the Board.

Mr. Wilkinson asked if the applicant will be operating with the doors shut?

Mr. Cupp stated yes.

Ms. Brown asked how close is the nearest neighbor from the site?

Mr. Wilkinson stated that the nearest neighbor is a long distance away. He stated that the houses are spread out.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Coyner stated that this applicant is on the right track. He stated that there will not be any noise associated with this business. He moved that the request be approved with the following conditions:

Pre-Condition:

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

Operating Conditions:

1. All equipment, machinery, and materials for the business be kept inside the existing 24' x 36' building.
2. All work be done within the existing 24' x 36' building and the doors be kept closed.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. Site be kept neat and orderly.
5. Hours of operation be Monday – Saturday 9:00 a.m. to 7:00 p.m.
6. No Sunday work.
7. No employees other than family members.
8. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
9. No off premise advertising signs associated with the business.
10. If any expansion of building or use is requested or required, the business must be moved to a Business zoned district.

Ms. Brown seconded the motion, which carried unanimously.

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JAYMIE D. OR ELIZABETH SMOLENS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jaymie D. or Elizabeth Smolens, for a Special Use Permit to have sales of firearms, parts, and accessories, and to have gunsmithing on property they own, located on the southwest side of Kite Place (Route 1379), approximately .1 of a mile south of the intersection of Kite Place (Route 1379) and Lyndhurst Road (Route 664) in the South River District.

Mr. Jaymie Smolens stated that he works full-time as a director of maintenance in Charlottesville. He stated that he would like to be able to occasionally special order firearms for family and friends along with shipping directly by UPS. He stated that they will like to sell accessories. He stated that he would like to be able to take orders at gun shows. He stated that there will not be a display or inventory at his home. He stated that he does have his own personal guns that will be in a safe at his home. He stated that all of the firearms will be kept in a safe until they are shipped. He stated that there will be no test firing at the site. He stated that he spoke with his adjacent property owners and they are supportive of this venture. They are: Jeff Groah, 57 Kite Place; Leo Nitkitchuk, 58 Kite Place; Tommy Puckett, 76 Heritage; Nay Allen, 112 Heritage; and Al McKechnie, 130 Heritage. He stated that he has a letter of support from Al McKechnie. He stated that he agrees with the operating conditions that staff is recommending in the application. He is asking that the Board of Zoning Appeals approve this request.

Mr. Coyner asked if there would be a lot of volume with this business?

Mr. Smolens stated there will not be a lot of volume because he does work a full-time job and it will be a financial investment. He hopes to make a little extra money. He stated that their intent is to comply with the regulations in an orderly fashion.

Mr. Coyner asked what type of gunsmithing will be done?

Mr. Smolens stated that he will put on scopes or optics on the firearm. He stated that he will not have any equipment or machines at the site.

Mr. Swortzel asked if the applicant would have any inventory at the site?

Mr. Smolens stated there will be no display or inventory at the site. He stated that he will have a book of guns. He stated that he orders through distributors.

Mr. Swortzel asked if the applicant will operate with scheduled appointments?

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Mr. Smolens stated yes by appointment only. He stated that the appointments will mostly be on Saturday afternoon.

Mr. Coyner asked how are the firearms sold?

Mr. Smolens stated that the firearm must pass through his dwelling. He will store the firearm in the safe and then they will ship the gun through UPS at the substation in Fishersville to the customer. He will not be many customers coming to his site. He stated that occasionally there will be a customer that comes to the site for a scope or to look at the gun. He stated that it is easier to ship to the customer. He stated that there will not be a display in the garage.

Ms. Brown asked if the guns at the gun shows are sold from collectors?

Mr. Smolens stated that a lot of the people that sell guns at the gun shows sell guns from the Civil War, Revolutionary War, hunting, etc. He stated that there are many people at the gun shows that are not operating within the County and Federal regulations. He stated that they put up a private sale sign and circumvent the requirements.

Ms. Brown stated that if someone would like the guns cleaned they bring their guns to your home?

Mr. Smolens stated no. He stated that they do not have the time to be in that type of service. He stated that the cleaning of the gun is part of the entire shooting experience.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Coyner stated that there will be no inventory at the site. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

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1. All firearms, parts, or accessories for the business be kept inside the home.
2. Provide a copy of the FFL license to Community Development.
3. Hours of operation be by appointment only.
4. No more than two (2) customers to come to the site per day.
5. No Sunday work or sales.
6. No employees.
7. No on or off premise signs be permitted.
8. No test firing on property.
9. Permit be reviewed in a year and renewed if all of the conditions are met.

Ms. Brown seconded the motion, which carried unanimously.

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TOM MUSSELMAN, AGENT FOR EMERALD SPRINGS, LLC - VARIANCE

This being the date and time advertised to consider a request by Tom Musselman, agent for Emerald Springs, LLC, for a Variance from the front setback requirement due to an accessory building having been constructed too close to the street on property it owns, located on the south side of Hessian Lane, approximately .9 of a mile west of the intersection of Hessian Lane and Middle River Road (Route 732) in the North River District.

Mr. Tom Musselman stated that he is the agent for Emerald Springs which is owned by his brother-in-law and himself. He stated that the Variance he is requesting would permit them to keep the garage which was built when the dwelling itself was built. He stated that they know that it was there in 2001 but again it may have been there in 1993 when the house was originally built. He stated that they bought the house in 2006 and inherited this problem. He stated that they realized it was a problem when they tried to get the final occupancy permit for the house which was not done in 1993 either. He stated that it became evident that the garage was not within the setback requirement but there was no building permits on file for the garage. He asked what is the value for the County in requiring a garage which has been there for fifteen (15) years to be torn

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down at the end of a private road where the neighbors have never complained about it. He stated that in the staff report it mentions the options which are not feasible options. He stated that to move the garage and pour a concrete slab and foundation will cost more than the garage itself. He stated that for them to tear it down or move it will cost them between \$15,000 and \$20,000.

Mr. Coyner asked how did the applicant discover that there was a problem?

Mr. Musselman stated that initially they were listing the property to sell. He stated that a realtor discovered that the house did not have the final occupancy permit. He stated that in that process it was brought to their attention that the garage never had a building permit or inspections done with the County.

Ms. Brown asked if there was a survey done when the applicant purchased the dwelling?

Mr. Musselman stated no.

Vice Chairman Callison asked if the dwelling is occupied?

Mr. Musselman stated yes. He stated that they had to forfeit the sale of the property until they got it resolved.

Mr. Swortzel asked when did the applicant purchase the property?

Mr. Musselman stated December of 2006.

Mr. Swortzel stated that the lot was not surveyed at that point in time.

Mr. Musselman stated no. He stated that they do a lot of purchasing. He stated that this particular house was a foreclosure. He stated that they buy and sell a lot of properties and rarely in their transactions is there an actual survey. He stated that they did not feel the need to do another survey.

Mr. Coyner stated that is one of the risks that the purchaser takes without a survey.

Mr. Musselman stated that when you purchase a dwelling that was built in 1993 you assume that there is an occupancy permit.

Mr. Coyner stated that the applicant purchases and sells many properties. He stated that it would appear to him that someone with this type of experience would be aware of something like this.

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Mr. Musselman stated that this is the first time it has ever happened. He stated that if it was a newer dwelling than they would have been a little more concerned but the fact that it was built in 1993, it was not on his radar screen.

Ms. Brown asked if the garage is on top of the well?

Mr. Musselman stated that the well is really close to the garage. He stated that they would have to request a hold harmless because it is so close to the well. He stated that they will cross that bridge when they get to it either by re-drilling the well or tearing down the garage.

Ms. Brown stated that the lot is very deep on the left side of the house as well as behind it.

Mr. Musselman stated yes and it is also very steep.

Ms. Brown stated that if the garage would have been against the house it could have met the setback.

Mr. Musselman stated that he is not here to argue that the building could have been placed anywhere else but the options listed for them to move the building to a different location would cost them \$15,000 to \$20,000. He stated that there will be many fees involved and it will not make it worth it to them financially.

Mr. Wilkinson stated that in the Virginia Code the applicant's financial burden is not a consideration of this Board. He stated that they have had several people in situations similar that did move their garage back or cut off part of a dwelling to bring them into compliance.

Mr. Musselman stated that he understands the normal protocol. He stated that the garage has been there for fifteen (15) years without any complaints. He asked what value is that to the County?

Mr. Wilkinson stated that it is not a value to the County but a required setback. He asked if the applicant approached the Homeowner's Association about reducing the right of way or shifting it?

Mr. Musselman stated that he has not approached them. He feels that would be difficult to do.

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Vice Chairman Callison stated that most of the houses on the opposite side of the road are fairly distant from the road but this property is fairly close.

Mr. Musselman asked if they did change the right of way would that require them to change the road itself?

Mr. Wilkinson stated that as long as the road is still on the right of way.

Mr. Musselman stated that the right of way is fifty (50') feet wide.

Mr. Wilkinson stated that if the property owners decide to bring the road up to standards in order for the highway department to maintain it they will need the fifty (50') foot right of way. He stated that it would be up to the property owners if they would like to reduce the right of way. He stated that the applicant will probably end up moving the building somewhat.

Mr. Musselman stated that the only option would be to change the easement and then physically move the road.

Mr. Coyner stated that the applicant may want to move the building.

Mr. Wilkinson stated that the applicant is twenty-four (24') feet too close to the right of way.

Mr. Swortzel stated that the property owner may be able to get twenty-four (24') feet from the neighbor.

Mr. Coyner stated that the chances of getting the Variance approved without proving a hardship will probably not happen.

Mr. Wilkinson stated that the applicant can request to table the request in order to speak with the Homeowner's Association to see if reducing the right of way is an option.

Mr. Musselman stated that if it does not look like the Board will grant the Variance he would like more time to research all of the options.

Mr. Wilkinson stated that he would suggest that the applicant get cost estimates on moving the building back.

Mr. Coyner asked if sixty (60) days would be enough time?

Mr. Musselman asked if they can have a little more time.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Ms. Brown moved that the request be tabled for ninety (90) days.

Mr. Swortzel seconded the motion, which carried unanimously.

* * * * *

JOHN KAYLOR, AGENT FOR HEADWATERS SOIL & WATER CONSERVATION DISTRICT - VARIANCE

This being the date and time advertised to consider a request by John Kaylor, agent for Headwaters Soil & Water Conservation District, for a Variance from the lot width and lot frontage requirements in order to create a parcel to expand the emergency spillway of Tom's Branch flood control dam, on property owned by Melvin and Elwood J. Hewitt, located on the south side of Back Creek Lane, approximately .1 of a mile south of the intersection of Back Creek Lane and Howardsville Turnpike (Route 610) in the South River District.

Mr. Otis Bilkins stated that he is an Associate Director with Headwaters Soil and Water Conservation District and he is also the Vice Chairman of the Dam Safety and Maintenance Committee. He stated that they have to buy approximately 3.5 acres of land so they can dispose of excavation material for widening the spillway. He stated that they need to have Tom's Branch flood control dam meet the high hazard dam classification which they just recently changed. He stated that the first choice would have been to purchase easement rights but the property owner did not sell them any easement rights. He stated that the property owner decided to sell them the 3.5 acres which they really do not need because they only needed a portion of it, however, in buying the 3.5 acres they can relocate a fence which the Division of Dam Safety is not to pleased about being on the dam. He stated that the land itself is also basically a dry creek so there is no possibility of anyone building down there. He stated that they will use it for excavation material only.

Ms. Brown asked if there are any wetlands at the site?

Mr. Bilkins stated that there is a creek bed and right now it probably has a trickle of water going through it.

Ms. Brown asked where is Tom's Branch in reference to Sherando's large dam?

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Mr. Bilkins stated across the road. He stated that if you go down on Howardsville Turnpike as you cross Back Creek, turn right and go down another road, the dam is back up in there.

Mr. Coyner stated that the water goes to Back Creek. He stated that the applicant is enhancing the dam.

Mr. Bilkins stated that because of development the hazard classification of the dam has gone up and they now have to meet the probable maximum flood which it does not today. He stated that they are widening the spillway to allow more water to go through during a flood event so the dam will not fail.

Ms. Brown asked if the water has ever gone over the top?

Mr. Bilkins stated not over the top but this particular dam has flowed through the secondary spillway. He stated that they want to widen the spillway to 275' now.

Mr. Coyner asked when will the work be accomplished?

Mr. Bilkins stated that they plan to start working on the dam in spring of 2009. He stated that they have some land rights issues that they need to get straightened out. He stated that they try to complete the projects before the hurricane season.

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

There being none, Vice Chairman Callison declared the public hearing closed.

Mr. Coyner moved that the request be approved in the interest of public safety.

Mr. Swortzel seconded the motion, which carried unanimously.

* * * * *

JEREMY V. HAYES - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jeremy V. Hayes, for a Special Use Permit to construct a wind energy system on property he owns, located on the west side of Azalea Drive, approximately .2 of a mile west of the intersection of Azalea Drive and Howardsville Turnpike (Route 610) in the South River District.

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The applicant was not present to speak at the meeting.

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

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

Mr. John Bottemiller, 112 Azalea Drive, stated that after he and his wife reviewed the information that staff gave when he came to the office, he visited three (3) out of the four (4) existing wind generators in Augusta County. He stated that it is entirely inappropriate for the County to approve a sixty-five (65') foot wind generator to be installed in the front yard of a less than one (1) acre parcel adjacent to their resident. He stated that all of the existing generators that they viewed were in rural settings on parcels that were greater than five (5) acres and were placed in the rear of the existing residential structure. He stated that two of them were forty (40') feet high and were several hundred feet from adjacent properties. He stated that from the information it would appear that the tower would be placed within sixty (60') feet of their lot line. He stated that were this to mechanically separate from the foundation it would certainly fall on his property. He stated that he has vehicles and a driveway on that side of the house. He stated that aside from the visual objection there are other points to consider. He stated that underground utilities would pass in close proximity to the tower and a sixty-five (65') foot tower on the top of Afton Mountain would attract lightening to the area. He stated that being just sixty (60') feet from the lot line and less than one hundred (100') feet from the residence they would anticipate undesirable wind noise from the blades and generator noise. He stated that environmental groups nationally point out the attraction and killing of many species of birds that may strike the blades. He stated that they discussed the proposed tower system with their neighbors and have not found any neighbors that the sixty-five (65') foot front yard structure would benefit. He stated that it is also unknown what the detrimental affect on property values would be. He hopes that the Board deny the request for the tower.

Mr. Coyner asked if the applicant has been a resident for a long time?

Mr. Bottemiller stated almost everyone here today has been in the neighborhood from six (6) years to fifteen (15) years. He stated that this particular property was sold at foreclosure. He stated that three weeks ago they had a party and Mr. Hayes was invited and he did not attend. He stated that he is a new resident of thirty (30) to forty-five (45) days.

Mr. Swortzel asked if they saw the tower in Stuarts Draft that is in the front yard?

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Mr. Bottemiller stated no. He stated that he saw John Root's tower and even though you can see the tower from all over there are no close adjoining neighbors to him. He stated that the one in Stuarts Draft on Windy Hill Road and the houses around it are on five (5) acre lots and the tower is forty (40') feet and it is placed behind the structure. He stated that from Windy Hill Road you see about ten (10') feet of the tower and the blade. He stated that the tower in New Hope is similar to the one on Windy Hill. He stated that the entire development keeps to themselves but when something like this comes up they all support one another. He stated that rumor has it that the applicant installs these types of systems. He stated that he does not think a sixty-five (65') foot tower will clear the trees because his trees are a lot higher. He stated that there is not sufficient wind on their hill to operate these types of systems. He stated that it takes an eight (8) mile an hour wind to move the system. He stated that more of these are going to show up in rural settings. He stated that this request will not benefit anyone in the neighborhood except de-value their property. He stated that this is a residential neighborhood. He stated that these towers belong in a rural area. He stated that there are two types of generators. He stated that one stores dc current. He stated that the other type of generator is a commercial one that is two hundred (200') feet tall with one hundred (100') foot blades and it is distributed from the generator into the grid. He stated that is not something that you put in your backyard. He stated that most of the wind energy systems will be generating a dc current. He stated that he is affiliated with Valley Amateur Radio Club and an assistant to Augusta County EOC to get messages in an emergency to Richmond and he does not know what affects this system will have on his ability to communicate.

Mr. John McCarthy, 84 Azalea Drive, stated that there are fourteen (14) people today which represent a good majority of the people who live in the community. He stated that when we are talking about a sixty-five (65') foot tower with a twelve (12') foot blade on it there are a lot of people who are visually connected to that. He stated that they had very little notice for this request. He stated that only three (3) property owners were notified. He stated that the Board needs to think about this as if it is going in the front yard or next door to their property. He stated that most of them had to take off of work to come here today. He stated that the applicant did not show up. He stated that they would hate to have the Board table the request and then have to come back. He stated that if they come back they will probably have many more neighbors to speak in opposition. He stated that there is not much wind in the area but when it is moving it will be quite a site.

Mr. William Harris, 119 Azalea Drive, stated that he is directly across the road. He stated that this tower will be at the right when he looks out his window. He stated that the wind energy system causes vibrations and causes health problems. He stated that there are low frequency sounds that cause health threats. He stated that he has a daughter and he does not want to expose her to anything that will be unhealthy.

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Mr. Louis Gorenflo, 134 Azalea Drive, stated that he lives on the property that is adjacent to Mr. Hayes' property. He stated that he has lived there for almost six (6) years now. He stated that there is no value to any of them having this structure. He stated that this will not enhance the neighborhood. He stated that they have a covenant that is attached to the deed and they show nowhere that states approval of a windmill on the front property of their yards. He stated that they attempted to find a study that would outline the pros and cons on having this structure on a lot that is half an acre and he could find no studies that would address this type of thing. He stated that he would request that the wind energy system be denied.

Ms. Susan Stewart, 90 Ledges Lane, stated that she went and looked at one other windmill in the area and it is on a ranchette which is a much larger area than half an acre. She stated that she was concerned about the noise. She stated that they are at a disadvantage because they do not know the model that Mr. Hayes wants to put up and they do put out a tolerable amount of noise but at high winds the wind did not mask the noise. She stated that the smaller turbines are loud. She stated that the blades at high winds begin to flutter. She stated that so many of the studies commented on what the base level of noise was. She stated that the traffic would mask the sound of the turbine but where they are the only thing that they hear at night is the whippoorwills. She stated that there is no door that can be closed. She stated that the studies show that a house will not buffer the noise. She stated that the staff person stated that noise was a concern and needed to be studied. She stated that the staff is recommending denial and that more studies be done for noise. She stated that if the Board approves the request she would hope that the covenant be followed by getting the approval of the grantors of the land which would need to be done in writing.

Ms. Nancy Whitlock stated that the grantors can refuse what is being built on the property. She stated that they have a signed affidavit from them. She stated that the trees are not that tall. She stated that the tower will be sixty-five (65') feet tall. She stated that there have been some birds that have been found dead due to the blades. She stated that the area is peaceful and quiet. She stated that this is such a small lot and it would not really be appropriate. She stated that she read that they have to be a minimum of eight (80') feet to one hundred twenty (120') feet and rise up above the turbulence of trees and other objects. She stated that she is concerned about the wildlife. She stated that they have a nice bat population which controls the mosquito problem. She stated that property values will be impacted. She stated that there would be noise pollution. She stated that noise lead to chronic stress and chronic stress hormones which does impact the health of the neighbors. She stated that it does impact everything from heart disease, high blood pressure, and sleep disturbance. She stated that the turbines are comparable to a washing machine. She stated that Jeremy Hayes was invited to the neighborhood picnic and if he planned on putting up any type

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of permanent resident in the neighborhood he would have jumped on the opportunity to come to speak to his neighbors and explain his thinking. She stated that he passed on that opportunity. She stated that they do care for the environment but this is not a good fit for the neighborhood.

Mr. Coyner asked if Mr. Hayes approached any of the neighbors privately?

Ms. Kathy Gorenflo stated that she lives next door to the property. She stated that when he moved in he told her what he had planned to do and he also said that he builds these towers for other people. She stated that conceptually they thought it was a great idea but they had no idea of the details. She stated that they had no idea of how large it would be and that it would be in the front yard.

Mr. Bottemiller asked how did the Special Use Permit requirement come about for this request?

Mr. Wilkinson stated that he made the decision as Zoning Administrator several years ago. He stated that the County does not address wind energy systems specifically in the ordinance. He stated that if you are generating wind energy for purposes of selling it back to the power companies, in his opinion it is a business, so you will have to have a Special Use Permit and have the public hearing. He stated that the Board of Supervisors are reviewing all ordinances this fall and that is one of the things on their list that they may consider actually putting in the ordinance. He stated that the deed restrictions on the property would be enforced by the Homeowner's Association and would be a private matter.

Vice Chairman Callison declared the public hearing closed.

Mr. Coyner moved that the request be denied due to the fact that the nature of the application is not compatible with the neighborhood. He stated that there was a number of neighbors that came to speak in opposition to the request and the applicant was not present at the meeting.

Ms. Brown seconded the motion, which carried unanimously.

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OLD BUSINESS

JARRETT F., JOSEPH J., AND DIRK S. GOLD, AGENTS FOR GOLDWRENCH ENTERPRISE, LLC - SPECIAL USE PERMIT

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A request by Jarrett F., Joseph J., and Dirk S. Gold, agents for Goldwrench Enterprise, LLC, for a Special Use Permit to enlarge the fenced vehicle storage area and to add display and sales of motor vehicles on property they own, located on the west side of East Side Highway (Route 340), just north of the intersection of East Side Highway (Route 340) and Landes Lane in the Wayne District. - TABLED FROM THE JULY 3, 2008 MEETING

Mr. Coyner moved that the request be brought forward.

Mr. Swortzel seconded the motion, which carried unanimously.

Mr. Dirk Gold stated that he is one of the owners of Goldwrench Automotive. He stated that he is requesting that he relocate and make larger a car storage area on their business property. He stated that they have an already approved building addition where the current fenced in area needs to be relocated because it gets in the way of the parking when the building will be expanded. He stated that it needs to be larger to accommodate all of the vehicle storage needs which includes both towing and customer vehicles. He stated that it is needed to provide security. He stated that he needs to have all towed vehicles in the secure lot. He stated that he needs to make sure that customer vehicles that have been repaired but not picked up are in a secure area. He stated that during the past month a repossession tow truck came onto their property and backed up to a vehicle and towed it off their property and did not discuss why they were there. He stated that he found out that it is perfectly legal for a repossession truck to do that. He stated that he spoke with the police and they cannot restrict him from doing it. He stated that they do not have to speak to anyone. He stated they had a \$500 repair bill on the vehicle that just got pulled off of his property and he did not even know who took it. He stated that when he called the police they told them that the vehicle was stolen and they told him that it was not stolen because the owner has to report it stolen. He stated that he called the owner and the owner's phone was off the hook because the owner apparently was not paying his bills on the car, phone, or house. He stated that he went to his home that evening and there was a u-haul truck in the front of the home. He stated that he had no way to get the problem solved. He stated that these are issues that businessmen face.

Mr. Coyner stated that the business has been a learning experience for you.

Mr. Dirk Gold stated that he started life as an engineer and he has learned a lot in the last year. He stated that he wants to comply with the requirement to store all of the inoperable vehicles in a fenced area and maintain a good roadside appearance. He stated that the rear field has been corrected. He stated that since they met with the Board in July he has cleaned up the area and completed the paperwork and got rid of about four (4) or five (5) vehicles that were abandoned. He stated that they installed

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gravel in the existing storage area so that he could utilize that total area. He stated that he also installed gravel in the parking area between the current paved parking and the storage area so that all vehicles are on paved parking or gravel so that nothing is on grass in the front of the building. He stated that he also re-evaluated what he needed in regards to the size of the lot. He stated that this time he reduced the size to one hundred twenty (120') feet wide to eighty (80') feet wide. He stated that he needs it eighty (80') feet wide in order to allow two (2) rows of cars to be in a lot and forty (40') feet in between for the truck to maneuver the cars adequately. He stated that he knows much better now what he needs than when he made the original request.

Mr. Swortzel stated that the existing screened area the vehicles are backed straight in.

Mr. Dirk Gold stated that in the existing screened area he has one row that is backed in on one side.

Mr. Swortzel asked if the vehicles were angled would that not be better?

Mr. Dirk Gold stated no. He stated that the lot is not wide enough to angle them. He stated that there needs to be room to maneuver the vehicles around.

Mr. Wilkinson stated that the applicant has 55' x 95' currently.

Mr. Dirk Gold stated that he would like to go fifteen (15') feet wider than what is there now toward the garage. He stated that what that does is allow him space to keep all of the vehicles he needs including however many Volkswagens he needs for repair.

Mr. Swortzel stated that the site looks much better.

Mr. Dirk Gold stated that the one customer spent \$10,000 with them and they would like to continue his business so he is trying to accommodate that customer. He stated that after discussing with the neighbors his business plan and clarifying the issues with them, they did not have any issues with what he was proposing. He stated that he is not providing a salvage lot and he is not parting out vehicles and selling them to customers. He stated that he is not creating a traffic issue or a clutter issue. He stated that he has gotten rid of all the vehicles except for the Volkswagens because he needs a decision from the Board.

Mr. Wilkinson stated that there were five (5) or six (6) unlicensed vehicles on the left today.

Mr. Dirk Gold stated that they are all operable. He asked if operable means that they can be there or do they have to be currently licensed and tagged?

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Mr. Wilkinson stated that they have to be licensed currently or have a valid inspection sticker to be left outdoors. He stated that those vehicles need to be in the storage area until you are ready to pull them in the garage.

Mr. Dirk Gold stated that a couple of those are ones that they are trying to get ready to sell. He stated that part of the request is to be able to sell vehicles because they do acquire vehicles that are sellable. He stated that those vehicles that are not sellable they get the paperwork and sell them to a salvage yard.

Vice Chairman Callison asked if they do state inspections?

Mr. Dirk Gold stated not yet but they would like to. He stated that they need to expand their shop in order to do state inspections.

Mr. Wilkinson stated that in March of 2007 the Board granted an expansion of the shop which is still pending. He stated that the applicant was given two (2) years to build that and part of it was to submit a site plan which he assumes that the applicant is waiting for the final outcome of this request in order to do that at one time.

Mr. Dirk Gold stated that is correct and they feel like they have addressed the issues. He stated that they want to keep the site clean and neat.

Mr. Wilkinson stated that the request from March was for the applicant to expand the building and add some parking which will push the screened in area back.

Mr. Dirk Gold stated that the screened area is smaller and the lot to the rear is what he would like to make narrower so that it is not as visible from the front of the building. He showed the Board a copy of the revised site plan. He stated that he would like to have the dimensions 80' x 180'.

Ms. Brown asked if there was a house behind the lot?

Mr. Dirk Gold stated that there is a railroad track immediately behind it.

Mr. Wilkinson stated the storage area currently is ninety-five (95') feet long and the applicant is going to take out half of it and leave fifty-five (55') feet and then ask that the additional area be placed eighty (80') feet wide and one hundred eighty (180') feet deep. He asked if it would be for storage of the Volkswagens or something long-term?

Mr. Dirk Gold stated that he will use the back area for any long-term vehicles so that he does not have issues with cars that do not have license plates or a current inspection.

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Mr. Swortzel asked if there is a closeable gate on the site?

Mr. Dirk Gold stated that there is a gate.

Mr. Wilkinson stated that the applicant may want to put a sliding gate at the site.

Mr. Dirk Gold stated that the current fenced in area has a gate on the front. He stated that if he makes it smaller he will push the gate further back. He stated that becomes any kind of storage such as a customer's car that just got repaired and they have not paid the bill.

Mr. Coyner stated that the vehicles that are in limbo need to be stored in the fenced in area.

Mr. Dirk Gold stated that their goal is to keep the front of the property looking much cleaner and to have enough space so that he does not have any vehicles that do not comply.

Mr. Coyner stated that most of the vehicles that are repaired, people do come in to pay for the work.

Mr. Dirk Gold stated that most of the vehicles are paid for. He stated that when someone brings a vehicle in and you show them the repair bill the owner says that they need to think about it and then three (3) months later they have not picked the vehicle up and that is where the vehicles start to grow.

Vice Chairman Callison asked about the bus on the property?

Mr. Dirk Gold stated that the bus belongs to his son's business and he drives it for promotional needs.

Mr. Jarrett Gold stated that the bus is operational. He stated that during tax season they keep it at the tax office and they do a food drive for Blue Ridge Food Bank and that is where they can collect the food during tax season. He stated that ultimately the goal is to get more finances together and get it painted and continue to use it in that manner.

Mr. Wilkinson stated that if the part of the request to have vehicles for sale is approved, there is a certain amount of parking needed for the customers. He stated that if the spaces out front are used for display, then there needs to be some spaces that need to be left open for the customers. He stated that ten (10) available spaces will be required for the DMV sales license.

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Mr. Jarrett Gold stated if they designate the front ten (10) as display parking then they can designate the rear for customer parking.

Mr. Wilkinson stated that it is up to the applicant as to where they are placed. He stated that as long as the number of parking spaces are met.

Mr. Jarrett Gold stated that the car sale part of the business is to comply with the Division of Motor Vehicle. He stated that they do not foresee them being car salesmen.

Mr. Wilkinson stated that there will be a 80' x 180' area in the back.

Mr. Jarrett Gold stated that the smaller front storage can be used when wrecked vehicles are towed in. He stated that the insurance companies will be at the site within a week.

Mr. Wilkinson stated that if the applicant gets a call early in the morning to tow a vehicle and they do not have time to get it in the screened area to put the vehicle in the garage. He stated that you do not want to have wrecked vehicles outside in view of the neighbors. He stated that was a stipulation on Mr. Edwards' permit. He stated that from time to time staff sent Mr. Edwards a letter regarding the wrecked vehicles outside the storage area. He stated that with repeated violations the Board can advertise to cancel the permit. He stated that if the applicant expands the garage then they need to provide additional customer parking. He stated that they need one (1) parking space for every three hundred (300) square feet of building. He stated that the County has a required amount of open parking spaces that must be provided.

Vice Chairman Callison stated that he counted eighteen (18) Volkswagen vehicles at the site. He asked if there was a demand or interest for those vehicles? He stated that a few of them could be fixed up a little bit and then they could be used but the rest of them look like they would be used as parts.

Mr. Jarrett Gold stated that his customer feels that they can be refurbished and turned around to make a profit. He stated that they do not sell them or own them.

Mr. Swortzel asked why isn't the owner here requesting vehicle storage?

Mr. Jarrett Gold stated that most of the vehicles are in Pulaski. He stated that they have 10% of what he owns at the site.

Mr. Dirk Gold stated that the immediate plan is to get the better ones fixed up so that they can be sold. He stated that there is a demand for those types of vehicles.

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Mr. Jarrett Gold stated that he spoke with another person that specializes with Volkswagens and they feel that they need to keep some on hand because parts are hard to come by. He stated that they are not talking about taking the entire van apart but little things here and there like a gauge. He stated that this customer fills in their time. He stated that they service their other customers first. He stated that right now they are going through their busier times. He stated that December and January will be hard to find work and that will be where the work is. He stated that they do want to present themselves well. He stated that they did cleanup the property. He stated that they do not want to become a garage with all cars spread out in the front of the shop.

Ms. Brown asked how many employees are there at the shop?

Mr. Jarrett Gold stated that there is himself and brother as owners and one (1) full-time mechanic. He stated that he works full-time for the garage doing the bookkeeping.

Mr. Wilkinson stated that the Board wants to be clear as far as what type of business that you are trying to operate. He stated that it is different from Mr. Edwards' request which was just for automobile repair. He stated that the request before the Board has not been advertised for a salvage yard which was brought up by the neighbors at the last meeting. He stated that whatever amount of vehicles that will be repaired can be under consideration for the storage and the other six (6) or seven (7) that you would be salvaging parts need to be somewhere else or you will need to apply for a salvage yard permit. He stated that keeping vehicles for salvaging is not part of a typical motor vehicle repair operation.

Mr. Dirk Gold stated that he looked up the salvage laws with the Department of Motor Vehicle. He stated that he wants to avoid the appearance of a salvage yard because you are either distributing parts and selling them to customers, taking parts and stripping them to have them crushed, or taking vehicles apart to be sold to recyclers. He stated that he is not in that business. He stated that they are not looking to part the vehicles out.

Mr. Wilkinson stated that the applicant would still be parting out the Volkswagen vans.

Mr. Jarrett Gold stated that they are not selling parts on the vans.

Mr. Wilkinson stated that if the applicant is salvaging and leaving them there that is not a motor vehicle repair operation under the Augusta County regulations.

Mr. Dirk Gold stated that he wants to avoid that.

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Mr. Wilkinson stated for example Commonwealth Engine does not have a line of vehicles that he uses to strip out parts.

Mr. Jarrett Gold stated that they would like to continue the vehicle storage on the Special Use Permit. He stated that they will not sell parts. He stated that the parts that they will sell are ones that they install on the vehicles.

Mr. Wilkinson stated that the outside storage of vehicles is in conjunction with the automobile repair operation which are typically ones that are waiting for repair or pickup or money but not vehicles to be salvaged.

Mr. Coyner stated that during the last week or so it looks like some of the vans were moved. He asked if it is their plan to deplete the numbers down?

Mr. Jarrett Gold stated yes.

Mr. Coyner stated that once you get it down to the five (5) that you are working on the number needs to be kept down.

Mr. Dirk Gold stated that he is not looking to have any more than eighteen (18) vans at the site any more. He stated that this evolved quicker than what he thought. He stated that he is not stripping the vehicles.

Mr. Jarrett Gold stated their goal is to have the vehicles turnover. He stated that he does not want to see vehicles accumulate. He stated that they do not get into the salvage business. He stated that they sell the entire vehicle to the salvage yard.

Mr. Wilkinson asked how long before the applicant gets the vans down to at least half?

Mr. Dirk Gold stated that most of the repair work happens in the fall or winter for the vans. He stated that he would like to have at least six (6) months but if he would have to get it reduced quicker than he will call the owner and ask that the vans be removed.

Mr. Coyner stated that the intent needs to be to get the inventory down. He stated that the applicants could lose the permit over trying to be too good of a guy.

Mr. Dirk Gold stated that they do not want to come across as a salvage operation.

Mr. Wilkinson stated that they do not want to fill up the rear storage lot with vans and when the every day customer comes in then the applicant cannot work on the vehicle because there is no where to put it. He stated that if the applicant leaves it outside and it does not have a current license then that would be a violation of the permit.

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Mr. Dirk Gold stated that if they get permission to build what they want then the Board will not see vehicles outside.

Vice Chairman Callison asked what the projections would be on getting the addition?

Mr. Dirk Gold stated that he had two (2) years to work on the addition. He stated that he would like to start construction next spring.

Mr. Jarrett Gold stated that the first thing would be to get an approved site plan. He stated that the first year was to build up business on their investment.

Mr. Wilkinson stated that if the vehicle does not have any tags or an inspection, missing parts, doors off, or fenders off the vehicle must be kept in the screened in area and not outside where the neighbors see it. He stated that licensed vehicles can be parked in parking spaces.

Mr. Swortzel asked how does the towing arrangement work?

Mr. Dirk Gold stated that they do police tows and if a car is broken down or abandoned they go through the list of about half a dozen towing companies in Waynesboro. He stated that if it is an abandoned vehicle the state police decide. He stated that if they get a call from the state police they need to go and pick it up. He stated that they bring it to their shop with no money and then you fill out the paperwork to declare an abandoned vehicle so that they can dispose of it. He stated that if the car is a decent car the owner will contact them and then they will take the car wherever. He stated that a person calls and states that their car is broken down and he brings it to their place they are only bringing it for repair work. He stated that the vehicles that they need to get rid of are police tows or wrecked vehicles.

Mr. Jarrett Gold stated that every car they tow that is damaged goes in the impound lot. He stated that with the proposed plan that area is designated for that. He stated that sometimes it takes three (3) to four (4) months in order to dispose of the vehicles that are abandoned. He stated that the business has grown in over a year.

Mr. Swortzel stated that the Board wants to encourage what the applicant is here to do.

Mr. Jarrett Gold stated that they want to go ahead and get the larger storage area built and get the expansion done and the building can come later. He stated that they would comply with the permit and have the vehicles behind the fence lot.

Mr. Swortzel asked how high will the fence be?

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Mr. Dirk Gold stated eight (8') feet.

Mr. Coyner stated that they need to get the inventory down. He stated that the Board wants to see that the applicant is successful.

Mr. Wilkinson stated by definition when you are storing more than five (5) vans you do have a junkyard according to the Augusta County definition of a junkyard or salvage operation. He stated that if you are a working operation this Board may be willing to go along with that to a point but not ever again where you have fifteen (15) or eighteen (18) of something parked for six (6) months or a year before you can get to it.

Mr. Coyner stated that the applicant needs to be within those parameters.

Mr. Jarrett Gold stated that they have repaired relationships with the neighbors.

Mr. Coyner moved that the request be approved with the following conditions:

Pre-Condition:

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.

Operating Conditions:

1. The new vehicle storage area be increased to a maximum of 80' x 180' and be screened by an eight (8') foot high opaque privacy fence and must be maintained at all times.
2. All unlicensed or inoperable vehicles be kept within the building or the 80' x 180' or 55' x 50' vehicle storage areas.
3. Vehicles displayed for sale be limited to a maximum of ten (10) and kept in the spaces as shown on the site plan.
4. Site be kept neat and orderly.
5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
6. Permit be reviewed in a year and renewed if all of the conditions are met.

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- 7. No salvaging or parting out of vehicles.
- 8. Volkswagen inventory needs to be reduced to either five (5) or six (6) within six (6) months.

Ms. Brown seconded the motion, which carried unanimously.

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Mr. Wilkinson passed out a copy of the court cases. He stated that Mr. Nissley's final deadline is October 1st to clear the site in order to reduce the amount of lien should the County come in and cleanup the property.

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STAFF REPORT

- 07-78 EJ's, L.C.
- 07-79 Acord, Alan G. or Linda F.
- 07-80 Truxell, Joseph or Barbara – **Denied**
- 07-81 Grinde, Danny Lee
- 07-82 Cash Enterprises, LLC – **Withdrawn**

Mr. Wilkinson stated that they are sending the final notice to complete the stipulations for SUP#07-78. He stated that SUP#07-79 and SUP#07-81 are both in compliance.

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

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Vice Chairman

Secretary