

June 16, 2020

PRESENT: George A. Coyner, II, Chairman
Justine D. Tilghman, Vice Chair
Thomas W. Bailey
Thomas V. Thacker
Sandra K. Bunch, Zoning Administrator and Secretary
James R. Benkahla, County Attorney
Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Daisy A. Brown

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Tuesday, June 16, 2020 at 8:30 A.M., in the County Government Center, Verona, Virginia.

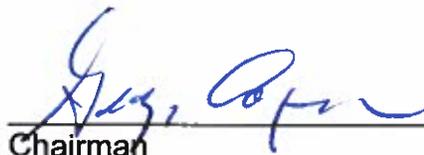
The staff briefing was held at 8:30 a.m. in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

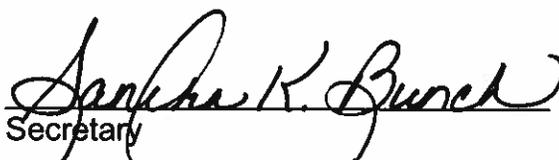
VIEWINGS

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

- RUSTY K. OR KARI G. DAVIS - SPECIAL USE PERMIT
- DONNA L. HAMILTON OR ELLEN M. DANNI - SPECIAL USE PERMIT
- OMAR OR EMILY LOLANDES - SPECIAL USE PERMIT
- CHAPMAN WILLIAMS, AGENT FOR CJ PROPERTIES OF AUGUSTA, LLC - SPECIAL USE PERMIT
- JEFFREY ARMENTROUT - SPECIAL USE PERMIT
- DAVID C. EARMAN - REQUEST BY THE ZONING ADMINISTRATOR TO CONSIDER CANCELLATION OF THE SPECIAL USE PERMIT
- WILLIAM HAUSRATH - 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.


Chairman


Secretary

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ABSENT: Daisy A. Brown

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Tuesday, June 16, 2020, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Ms. Tilghman moved that the minutes from the March 5, 2020, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

RUSTY K. OR KARI G. DAVIS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Rusty K. or Kari G. Davis, for a Special Use Permit to have short term rentals within the existing home and to amend operating condition #3 to allow thirty (30) events per year for SUP#15-40 on property they own, located at 106 Zion Church Road, Waynesboro in the Wayne District.

Ms. Kari Davis stated she came before this Board a couple of years ago. She has been very successful and the neighbors are fine with this increase. She has offered ten (10) person weddings this year due to Covid-19, but they want their big reception next year. She stated that when the ban is lifted she would like to have one (1) wedding per week. She said she would also like to rent out her home on Airbnb during events. She said they would enter the property using a different lane.

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Chairman Coyner asked where are you when the wedding party is in the home?

Ms. Davis stated she will stay with her parents or go on vacation. She said she only plans on having one (1) event per weekend in order to keep the traffic down in the neighborhood.

Chairman Coyner asked if they planned on having weddings every weekend?

Ms. Davis stated possibly in May and June and then in September and October. She said there were some septic concerns but they have the septic approved now for 250 people a weekend. She said to have three (3) weekends or four (4) weekends makes no difference because we are still doing the same thing with the septic.

Chairman Coyner stated the neighborhood would not want to have activities every weekend and that is why there was a limitation.

Ms. Davis stated Google maps puts you on Baynes Road and the guests hit the venue way before they pass any other properties. She said you will not see traffic enter and exit. She said this does not affect the neighbors. She stated that she would not want her request denied because another adjacent neighbor is also trying to have one on their property and increase traffic eventually.

Chairman Coyner stated the Board visited the site this morning.

Ms. Tilghman asked if the applicant talked with the neighbors?

Ms. Davis stated she wants to make sure she maintains a good relationship with the neighbors and she has spoken with them.

Ms. Tilghman asked if the home will only be used for the wedding venue?

Ms. Davis stated essentially yes but she cannot guarantee that it would only be for when weddings are taking place. She said they would all use the same exits and entrances. She said majority of it will be to accommodate the families that are coming from out of town.

Chairman Coyner asked if the Airbnb will be weekends also?

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Ms. Davis stated yes unless they wanted to stay longer. She said she could also accommodate a Thursday – Sunday.

Ms. Tilghman stated she assumed it was for wedding guests and you would not rent it to anybody because a wedding guest would want it?

Ms. Davis stated right now weddings are renting out one (1) to two (2) years in advance. She said this will be a general Airbnb and if they wanted it they would need to rent it out in advance. She would like to have the same rights as others in the County.

Chairman Coyner stated the gravel road and traffic is a factor with a large number of events in your situation.

Ms. Davis stated they are not even a ¼ mile of gravel off of Baynes Road, essentially twenty-five (25') feet off Baynes Road.

Chairman Coyner asked how would they handle parking on a wet weekend?

Ms. Davis stated the guests park on a grassy area. She said they put in a roundabout gravel area and turn around for the safety of the caterers and guests.

Mr. Bailey asked if they would provide meals? He also asked if you would reduce the number of events?

Ms. Davis stated the events are catered and she does not plan to operate a bed and breakfast for her rentals. She said the guests will provide their own food. She said for events in April, May, June, September, and October she may be well under twenty-four (24). She said this type of use would be seasonal. She would like to have at least twenty-four (24) events a year.

Chairman Coyner stated it would be difficult for us to approve you having events consecutively every weekend. He said it would be nice at least one weekend a month where nothing is going on.

Ms. Davis stated it is all very spread out and it is farmland. She said Friday would be a rehearsal dinner and ceremony on Saturday. She said this is not an all weekend event. She said they would abide by all guidelines that the Board puts on the permit.

Mr. Thacker stated there will be one hundred twenty-five (125) people per event.

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Ms. Davis stated she does not have weddings on Friday. She said she sets up for two hundred fifty (250) people on one day. She said the septic system was setup for this particular site in order to handle that number. She can get that document for the Board.

Chairman Coyner asked what is the average attendance?

Ms. Davis stated 248 is the biggest event they had. She said the septic is designed to handle that many people.

Mr. Thacker stated the septic system should be monitored to be sure it is not overused during the two (2) big events.

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

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

Chairman Coyner stated the Board visited the site this morning.

Mr. Thacker moved to approve the request with the staff recommendations.

Ms. Bunch stated the Health Department comments state a maximum of one hundred twenty-five (125) per event on Friday and Saturday only.

Ms. Davis asked if she has to come back before the Board to add more people?

Ms. Bunch stated if the Board puts that as a limitation then you would have to come back to reapply unless the Board modifies the recommended staff conditions.

Ms. Davis stated the septic was built for two hundred fifty (250) people and we booked weddings for two (2) years for two hundred (200) people. She said the one hundred twenty-five (125) is confusing.

Ms. Tilghman stated they are limited by the amount given by the Health Department. She suggested changing the wording rather than her coming back before the Board.

Mr. Thacker amended his motion to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to lease no more than five (5) bedrooms in the existing dwelling for short term stays. Maximum occupancy not to exceed ten (10) persons as limited by the Health Department.
2. Be limited to twenty-four (24) events per year, but no more than three (3) per month, and only one (1) event per weekend.
3. Be limited to a maximum of one hundred twenty-five (125) people per event, Friday and Saturday only, as limited by the Health Department unless the applicant receives approval for a larger number not to exceed two hundred (200) people per event.
4. All other Operating Conditions of Special Use Permit #15-40 remain in effect.

Mr. Bailey seconded the motion, which carried unanimously.

DONNA L. HAMILTON OR ELLEN M. DANNI - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Donna L. Hamilton or Ellen M. Danni, for a Special Use Permit to have a short term vacation rental on property they own, located at 1149 Balsley Road, Staunton in the Beverley Manor District.

Ms. Ellen Danni stated they live at the residence full time on the main floor. She said they would like to rent out their finished basement which is already setup with a bedroom, kitchenette, and bath as an Airbnb. She stated she would like to rent out the site two (2) to three (3) weekends a month.

Chairman Coyner stated the Board visited the site this morning. He asked if the house was recently built?

Ms. Danni stated yes. She said the house is setback from the road.

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Chairman Coyner asked if this would be marketed through Airbnb?

Ms. Danni stated yes.

Chairman Coyner asked if they plan on starting to operate soon?

Ms. Danni stated yes.

Ms. Tilghman asked if there is a separate outside entrance?

Ms. Donna Hamilton stated yes in the basement.

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

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

Chairman Coyner stated the Board visited the site.

Mr. Bailey moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to lease the one (1) bedroom/bath suite in the basement for short term rental.
2. The total occupancy of the dwelling shall not exceed six (6) persons at any time as limited by the Health Department.
3. Applicant reside on premise.
4. Site be kept neat and orderly.

Ms. Tilghman seconded the motion, which carried unanimously.

OMAR OR EMILY LOLANDES - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Omar or Emily LoLandes, for a Special Use Permit to have a short term vacation rental in the basement of the existing dwelling on property they own, located at 1908 Stuarts Draft Highway, Stuarts Draft in the Riverheads District.

Mr. Omar Lolandes stated he bought the property in September. He said the basement space has a living area. He said it does have a separate entrance.

Chairman Coyner asked if they would advertise it on Airbnb?

Mr. Lolandes stated yes.

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

Ms. Rena Myrtle, 1918 Stuarts Draft Highway, Stuarts Draft, stated she lives adjacent to this site. She has lived there for twenty-six (26) years and she is raising her grandchildren there. She stated she does not want anything business type next to them because there are people with young children in the area. She is concerned about traffic. She asked about the procedures for renting this site out. She did not know if they checked for sex offenders or felons. She has concerns about this. She stated this is a benefit to him but concerned what it will do for her. She read an article from the University of Florida that conducted a study that related Airbnb rental and crimes. She stated this is a rural area with a family oriented community. She said she wanted to keep the peace at her retirement forever home. She said these will not be local people and there will be a lot of comings and goings.

Ms. Tilghman asked if they are on the side of the entrance to the basement?

Ms. Myrtle stated the other side. She said they would have to park in the driveway which connects to her property line.

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

There being none, Chairman Coyner asked if the applicant would like to speak in rebuttal?

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Mr. Lolandes stated he would not want to interfere with her retirement home.

Chairman Coyner declared the public hearing closed. He stated this is a well-attended piece of property. He stated they visited the site this morning.

Mr. Bailey stated the applicant seems to be responsible enough to control the renters coming in.

Mr. Lolandes stated Airbnb does check visitors to some extent. He said he lives at this place with his kids. He said he would not put his kids in any kind of risk. He said we would live there also while renting the site out.

Ms. Tilghman asked if Airbnb checks criminal records?

Mr. Lolandes stated they do have a procedures but he does not know what all they check. He said he can put restrictions onto who he rents out to by choosing different filters.

Mr. Bailey stated the applicant would be the first in line to block any type of undesirables that would come there. He said this would be a low impact business with one (1) bedroom being used and a maximum of six (6) people. He moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to lease one (1) bedroom, bath, and kitchen in the basement for short term rental.
2. Maximum occupancy of the dwelling not to exceed six (6) total, as limited by the Health Department.
3. Applicant reside on premise.
4. Site be kept neat and orderly.

Mr. Thacker seconded the motion, which carried unanimously.

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CHAPMAN WILLIAMS, AGENT FOR CJ PROPERTIES OF AUGUSTA, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Chapman Williams, agent for CJ Properties of Augusta, LLC, for a Special Use Permit to have general outdoor storage on property they own, located at 10 Swisher Truck Lane, Staunton in the Riverheads District.

Mr. Chapman Williams stated the site is zoned General Business and it has been used as a business. He said they would like to store equipment outside and he will properly screen it. He said in order to have the outdoor storage a Special Use Permit is needed.

Chairman Coyner stated the Board saw the equipment there this morning.

Mr. Williams stated in the back he did add a fresh layer of gravel to the site. He said when he purchased it, the site was used for equipment and vehicle storage when Swisher Trucking was there but the trees were grown over and there was debris and grass. He said the previous tenants had it all gravel. He said they just added fresh stone because it always was gravel.

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

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

Chairman Coyner stated the site is neat and orderly. He said the Board visited the site this morning.

Ms. Bunch said the applicant should discuss the gravel being at the site with Doug Wolfe in Community Development.

Mr. Thacker moved to approve the request 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 including Erosion and

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Sediment Control and Stormwater Management Plan to be approved by all appropriate departments and/or agencies.

Operating Conditions:

1. All equipment, machinery, materials, and RV's be kept in the designated area on the site plan.
2. The 140' x 140' storage area be screened by an eight (8') foot high opaque vinyl privacy fence along the front.
3. All natural vegetation remain and be maintained to provide adequate screening.
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. Site be kept neat and orderly.

Ms. Tilghman seconded the motion, which carried unanimously.

LLOYD KNIGHT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Lloyd Knight, for a Special Use Permit to have a tree trimming and firewood processing business and to have outdoor storage and limited sales of firewood onsite on property owned by Robert L. Spradlin, located at 4043 Little Calf Pasture Highway, Craigsville in the Pastures District.

Mr. Lloyd Knight stated he has two (2) bucket trucks at the site. He said normally they are kept at the self-storage facility. He said he wants to legally be allowed to have his truck there so he can work on it. He burns firewood and his kids burn firewood. He stated in order to store the firewood there he needed the Special Use Permit.

Ms. Tilghman stated the camper is parked along the side of the road. She stated the applicant needs to have the camper behind the house. She said it was parked along the highway property.

Mr. Knight stated he moved it and it will not be there anymore. He said it will be parked behind the house.

Ms. Tilghman stated it can even go in the garage. She said the site needs to be kept neat and orderly.

Chairman Coyner stated the site is kept neat and orderly and the intent is that it be kept that way. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

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

Mr. Bailey moved to approve the request with the following conditions:

Pre-Condition:

1. Obtain VDOT approval and provide a copy to Community Development.

Operating Conditions:

1. All vehicles and equipment for the business and all wood be processed and stored in the designated areas on the site plan.
2. Hours of operation be Monday – Saturday 8:00 a.m. to 6:00 p.m.
3. No firewood processing on Sunday.
4. All trees and natural vegetation remain and be maintained to provide screening.
5. No employees other than family members.
6. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
7. Site be kept neat and orderly.

Ms. Tilghman seconded the motion, which carried unanimously.

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JEFFREY ARMENTROUT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jeffrey Armentrout, for a Special Use Permit to have a towing business and a vehicle impound yard on property owned by Robert S. Elkins, located at 94 Hildebrand Circle, Staunton in the Beverley Manor District.

Mr. Jeffrey Armentrout stated he got into trouble because he had junk cars at the site. He said he has six (6) trucks there and he will put the fence up. He said he stores the cars there for a couple of days, then gets rid of them or keeps them.

Chairman Coyner asked if the applicant picks up vehicles from the Interstate?

Mr. Armentrout stated he picks up from the Interstate and from the public. He said they sometimes keep them or take them to the junkyard. He said if they are approved today they will start building a fence.

Chairman Coyner said the Board visited the site today. He asked if the applicant works on the cars?

Mr. Armentrout stated he works on his own cars and they are in the garage.

Chairman Coyner stated the place is not neat and orderly as well as unacceptable. He asked how many cars do you have at the site?

Mr. Armentrout stated there are 50-60 cars there. He said he got into trouble with too many vehicles when he started working the towing business.

Ms. Tilghman stated the cars were bought to take them to the junkyard.

Mr. Armentrout stated yes he tows vehicles to Lumber Yard Lane, East Main Street, or Tinkling Spring Road. He said when he tows they do not come back to the house.

Ms. Bunch stated the Special Use Permit is for a towing business. She said when we went out to take pictures there were tow trucks with vehicles coming in to the site.

Mr. Armentrout stated just the tow trucks come back there unless they are buying the vehicle. He said if not they go to the junkyard.

Chairman Coyner stated the applicant already has a junkyard there.

Mr. Bailey asked if the applicant removes parts from the cars?

Mr. Armentrout stated he takes the catalytic converter off and that is how he makes a living.

Chairman Coyner stated the application does not allow working on vehicles

Mr. Bailey asked how long do the vehicles stay at the site?

Mr. Armentrout stated they buy them from someone, take them to the site, and then take the catalytic converter out. He stated they just take a piece of pipe out.

Chairman Coyner asked about the oil and gas?

Mr. Armentrout stated the junkyard deals with those fluids.

Chairman Coyner said if you buy the vehicles, how long do they stay before taking it to the junkyard?

Mr. Armentrout stated a week and sometimes not even that. He said he bought two (2) yesterday on his rollback.

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

Mr. Robert Elkins stated he owns the property. He said this is Mr. Armentrout's livelihood. He said he would like him to be neater. He does not have a problem with this business at this site. He stated everyone needs a job. He said there are cars all over the County in fields.

Chairman Coyner stated there needs to be an orderly procedure and location to do that type of thing.

Mr. Scott Hudson, 1420 Balsley Road, Staunton, stated he has lived there for thirty-five (35) years. He said ever since he moved there it has been an issue with noise, dogs, and shooting guns. He said the big trucks vibrate his bedroom and house. He noted some days it seems like grand central station. He said essentially it is a junkyard. He said his property is over the top and he is going to see it even with a twenty (20') foot fence. He

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stated this is a nightmare to him. He has had issue after issue and it seems like he lives next to a construction site. He has called the Sheriff regarding the dog issue.

Chairman Coyner stated the issue before the Board is the cars.

Mr. Hudson stated there are also cars near the creek. He stated this is definitely an environmental hazard. He stated there is a noise issue also.

Mr. Paul Abbe, 1454 Balsley Road, Staunton, stated his property joins Mr. Hudson's property. He stated the noise is unbearable. He said he built a house twenty (20) years ago. He said this property is a mess. He stated this does not need to be made any worse.

Chairman Coyner asked if there was anyone else wishing to speak regarding the request?

There being none, Chairman Coyner asked the applicant to speak in rebuttal.

Mr. Armentrout stated the trucks have diesel motors. He said the tow trucks are loud because they have bigger motors in them. He stated they will not see cars parked in the area.

Chairman Coyner declared the public hearing closed. He stated they visited the site this morning. He said this is an illegal junkyard in an area not suited for that sort of thing. He said this is not compatible with the area.

Mr. Bailey stated in order to keep the County clean we need these types of businesses. He said General Business may be a more appropriate area to keep his diesel trucks and have an impound area. He said the site is overcrowded with vehicles.

Chairman Coyner stated when the Board visited the site today, it was not a good situation at all.

Mr. Thacker stated what we saw today was not desirable for that type of area. He moved to deny the request due to all of the comments from the public and the condition of the site.

Ms. Tilghman seconded the motion, which carried unanimously.

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DAVID C. EARMAN - REQUEST BY THE ZONING ADMINISTRATOR TO CONSIDER CANCELLATION OF THE SPECIAL USE PERMIT

This being the date and time advertised to consider a request by the Zoning Administrator to consider cancellation of the Special Use Permit #88-10 issued to David C. Earman to have an electrical warehouse due to violation of the conditions of his permit on property he owns, located at 1085 Lee Jackson Highway, Staunton in the Beverley Manor District.

Ms. Bunch stated she has notified Mr. Earman numerous times regarding violations of the Zoning Ordinance and operating conditions of his Special Use Permit. She said they have sent letters since 2014 in order to get the property cleaned up. She said she spoke with Mr. Earman and he said that he is no longer operating at this location. She said Mr. Earman was supposed to send in a form to cancel his permit but she has not received that yet. She is requesting the Board cancel the Special Use Permit due to it being in violation of the operating conditions.

Mr. David Earman stated there is a lot of falsehoods with the chronological list of events (copy is in the file). He said there is a lot of inconsistency with this list. He said there were no inoperable vehicles and sometimes he never even received the notices and there were no violations. He noted there was never a vehicle at this site until last year.

Chairman Coyner stated there has been a good amount of interaction with all of the letters sent to you. He stated there are records of inspections in the file. He said the Board visited the site this morning. He said there were vehicles behind the fence and a lot of equipment behind the building. He said the site is not neat and orderly as it should have been.

Ms. Bunch stated we have records of inspections and certified receipts with signatures.

Mr. Earman stated there is one (1) inoperable vehicle behind the building but all of the rest are licensed.

Ms. Bunch asked if they are inspected?

Mr. Earman stated yes.

Chairman Coyner asked what is your intention for this property?

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Mr. Earman stated he ran a business out of this site but he retired seven (7) years ago and December 31, 2018 he completely retired and got rid of his property in Staunton. He said he moved a few things down to this property and it has taken him a while to get rid of items. He said only two (2) items can be seen along the road. He said the semi-trailer has his personal items in it.

Ms. Bunch stated the semi-trailer and all vehicles need to be screened from public view. She said you cannot use the shipping container or semi-trailer for storage.

Chairman Coyner asked if the applicant intends on cleaning the place up?

Mr. Earman stated he was working to sell the items he no longer has use for. He said eventually he will get around to it because he does not want to throw it all away.

Ms. Bunch stated your permit did not permit you to have storage. She said the land is zoned General Agriculture and not Business. She said you stated that you are retired and not operating there. She said there was more than one (1) inoperable vehicle when the site was inspected on June 3, 2020. She said the site is still in violation.

Chairman Coyner stated this is a situation that he does not see improving. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

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

Ms. Tilghman stated the original permit was given to an ongoing business which does not exist anymore. She said the privacy fence does hide some but it is still in violation. She said some of the vehicles could be sold for scrap and she does not believe it is used for the intent it was given.

Mr. Bailey moved to cancel the Special Use Permit due to the violations of their permit and not being in compliance as well as Mr. Earman not operating his business anymore.

Mr. Thacker seconded the motion, which carried unanimously.

WILLIAM HAUSRATH - VARIANCE

This being the date and time advertised to consider a request by William Hausrath, for a Variance from the Floodplain Ordinance to construct a new dwelling on property owned by Lofton Lake Partnership, located at Lofton Lake Lane, north of Cold Springs Road, Raphine in the Riverheads District.

Mr. William Hausrath showed the Board where the house will be located on the aerial. He said Lofton Lake Partnership bought the property in 1987 and sold nine other shares. He said there are no separate deeds. He stated in fifty (50) years he has never heard or seen water getting close to the spillway. He said he has agreed to build 1' above the dam and comply with the County's request about installing flood vents. He stated Headwaters wrote a letter to the Board (copy is in the file). He said he has a problem with their second request. He stated they already have an easement. He stated he is anxious to build the dwelling and he has waited thirty-three (33) years to do it. He believes Headwaters is an overreach of what government should be doing because they already have an easement.

Chairman Coyner asked if there is a location that is not in the flood pool area to build so that you would not have to jump through all of these hoops?

Mr. Hausrath stated he wants to be able to see the lake from his house. He said he can be above the flood pool but it does not hurt anything for him to see the lake.

Ms. Bunch asked the County Attorney if it would be a civil matter since he has an easement or would we have to list it as a pre-condition for Headwaters approval?

Ms. Tilghman asked how many other homes are located at the site?

Mr. Hausrath stated eight (8) homes are already at the site and have been there for twenty (20) years.

Ms. Tilghman asked if any are in the flood pool?

Mr. Hausrath stated yes, two (2) of the houses are.

Ms. Tilghman asked how many more homes will there be on this property?

Mr. Hausrath stated twelve (12) all together.

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

Ms. Nancy Sorrells, 3419 Cold Springs Road, Greenville, stated she is the backup dam observer for this area. She said the flood control dams are located to protect the community. She said there are three things that could happen in a flood: 1) Dam Breach 2) Emergency Spillway Activation 3) Flood Pool. She said they all come with legal restrictions. She said someone may not know they are in a flood area and build in places they are not supposed to. She said she is not for or against this. She stated she is careful not to trigger a lot more spending for the County and State and setting an unwelcomed precedent. She noted there should be nothing in the dam inundation area. She asked if there are aerial photos from the floods in 1969, 1985 and 2003. She said some people would not know about the easement and it would be a good idea to list it in the deed. She said this is important so that a future landowner knows of the dangers. She stated you never know when you will get a 1,000 year flood. She does understand that this is an overreach of the government but this needs to be in place for future generations.

Mr. Doug Wolfe, County Engineer, stated ten (10) years ago there were no restrictions. He said they added the flood pool area upstream of the dams to the Floodplain Ordinance in order to help Headwaters because they had trouble enforcing the provision of their easements because they did not know when people were building in there. He said their plan is projected to go over top of the dam and the flood elevation one (1') foot above. He said the applicant will build a crawl space with vents in order for the water to creep into the crawl space and out of the vents. He stated as an Engineer, he does not see a challenge with that. He said with this dwelling the water will flow in and out in order for it to not cause any damage or risk to people. He showed the Board the site plan submitted for the request. He said they do have dry access.

Ms. Tilghman stated there were houses built in the flood pool before the requirement.

Mr. Wolfe stated he has not looked at the houses built ten (10) years ago because there was not a flood pool requirement at that time. He said we would not have known that it was within the easement area and that is one of the reasons why we put it in the ordinance. He said we now see it on the maps. He said we check to be sure the home is elevated above the floodplain.

Ms. Tilghman asked about the dams in the County and the requirements?

Mr. Wolfe stated we outlined any area and elevation that people needed to build above for each one. He said this dam does not carry the whole storm through the spillway. He stated this dwelling needs to be elevated.

Mr. Benkahla stated it would be a civil matter if Headwaters has an issue. He asked if there is any place on the property that would not require elevation?

Mr. Wolfe stated the applicant does have a lot of room to build and that is the reason for the Variance.

Mr. Benkahla stated the Board needs to decide whether or not the applicant should be granted a Variance. He does not know where this Board would have the authority to require someone to hold a third party harmless. He noted that he would have issues with that.

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

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

Chairman Coyner stated the wording for Headwaters should not be listed in the conditions.

Ms. Tilghman stated she does have concerns about what will happen down the road but we can only control so much. She said too bad this was not in effect when the other houses were built.

Ms. Tilghman moved to approve the Variance with the following conditions:

Pre-Condition:

1. Applicant submit an engineered foundation plan, including flood vents if on a crawlspace, prepared and sealed by a professional engineer.

Operating Conditions:

1. Applicant obtain Building Permit and provide a copy to Community Development.
2. Dwelling be constructed as shown on the topographic survey.

Mr. Bailey seconded the motion, which carried unanimously.

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Mr. Thacker stated they would not want to do away with the applicant's dream of building a dwelling. He said he feels confident about them building a house at this location with the conditions set forth by the Board.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

JOHN F. LOEHR, ATTORNEY FOR APPALACHIAN AGGREGATES, LLC - RESCIND DENIAL OF THE VARIANCE

A request by John F. Loehr, Attorney for Appalachian Aggregates, LLC, for the Board of Zoning Appeals to rescind their denial of the Variance from the required setback for mining operations.

Ms. Bunch stated the Board of Zoning Appeals denied the Variance last year and the applicant appealed the Board's decision. She stated their attorney, Mr. Loehr, would like the Board to rescind the denial of the Variance and reconsider it at the July meeting.

Mr. Benkahla stated the applicants would like the Board to reconsider the Variance request along the Interstate.

Mr. Thacker moved to rescind the denial of the Variance.

Ms. Tilghman seconded the motion, which carried unanimously.

STACY JOHNSON, AGENT FOR 1 TRIBE, LLC - EXTENSION OF TIME REQUEST

A request by Stacy Johnson, agent for 1 Tribe, LLC, for a Special Use Permit to provide overnight accommodations and farm related workshops and therapy on property owned by Kimball E. Stowers, Trustee, located at 1082 Todd Road, Mt. Sidney in the North River District.

Mr. Bailey moved to approve the sixty (60) day Extension of Time.

Ms. Tilghman seconded the motion, which carried unanimously.

LOREN CONNER, AGENT FOR FIVE STARS, LLC - EXTENSION OF TIME REQUEST

A request by Loren Conner, agent for Five Stars, LLC, for a Special Use Permit to have an apartment within a pre-1980 structure on property owned by Five Stars, LLC, located at 1785 Lee Highway, Fort Defiance in the North River District.

Mr. Bailey moved to approve the ninety (90) day Extension of Time.

Mr. Thacker seconded the motion, which carried unanimously.

JOHN WILKINSON, AGENT FOR APPALACHIAN AGGREGATES - EXTENSION OF TIME REQUEST

A request by John Wilkinson, agent for Appalachian Aggregates, for a Special Use Permit to reopen a closed quarry operation and manufacture crushed stone in conjunction with the Interstate 81 widening on property owned by Spottswood Farms, LLC, located on the east side of Interstate 81 in the Riverheads District.

Ms. Tilghman moved to approve the ninety (90) day Extension of Time.

Mr. Bailey seconded the motion, which carried unanimously.

STAFF REPORT

- 19-32 Hugh and Candace Wade
- 19-33 Sandra Meyer
- 19-34 Joseph Shomo
- 19-35 Michael or Sanda Racca
- 19-36 Jonathan or Crystal Fretwell
- 19-37 D.M. Conner
- 19-38 Garnett Johnson

- 19-23 Spottswood Farms, LLC

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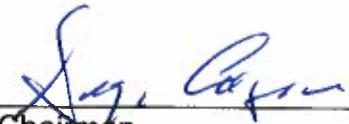
- 19-39 Kenneth Ray Bradley, Jr., Inc.
- 19-40 Paul S. or Connie L. Bendick
- 19-41 James E. or Mary Elizabeth H. Toth
- 19-42 Jerry W. Whitmore
- 19-43 Ethel M. Baber
- 19-44 Joseph K. or Suzan Howell

- 19-45 Joseph D. Shomo
- 19-46 Shen Acres Realty, LLC
- 19-47 Brent J. Warren

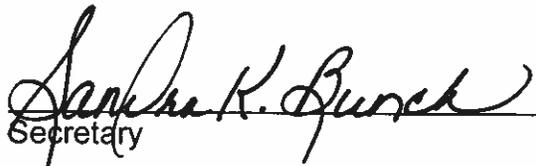
Ms. Bunch stated SUP#19-32 was inspected and staff photographed an inoperable vehicle. She said our inspector is due to go out and recheck the site for compliance. She noted SUP#19-33 and SUP#19-34 were both denied. She said SUP#19-35 and SUP#19-36 are both in compliance. She said SUP#19-37 was denied and SUP#19-38 withdrew their application. She said the Board just approved an Extension of Time for SUP#19-23. She said SUP#19-39 finally got their posts in the ground for the fence. She stated SUP#19-40 – SUP#19-45 are all in compliance. She said for SUP#19-46 they planted only one row of trees. She met the applicant onsite to discuss. She stated SUP#19-47 was in compliance but they did have an untagged vehicle at the site but after we contacted the applicant they placed the vehicle in the garage.

Mr. Benkahla discussed the court cases with the Board.

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



 Chairman



 Secretary

General Purpose