

July 1, 2021

PRESENT: Justine D. Tilghman, Chair  
 George A. Coyner, II, Vice Chair  
 Thomas W. Bailey  
 Mark L. Glover  
 Thomas V. Thacker  
 Sandra K. Bunch, Zoning Administrator and Secretary  
 James R. Benkahla, County Attorney  
 John R. Wilkinson, Director of Community Development  
 Kathleen Keffer, Assistant County Attorney  
 Leslie Tate, Senior Planner  
 Caroline Stoerker, Planner I  
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, July 1, 2021 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**

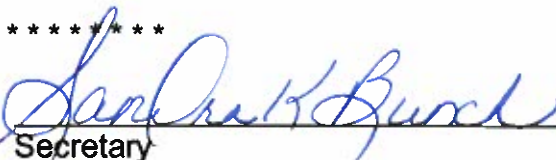
The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- JOYCE B. WHEELER - SPECIAL USE PERMIT
- CAROL MADDOX - SPECIAL USE PERMIT
- KEITH CLARK, AGENT FOR DWS PROPERTIES - SPECIAL USE PERMIT
- PAT HASTINGS, AGENT FOR WAYNESBORO BRIDGE SOLAR, LLC - SPECIAL USE PERMIT
- AN APPEAL BY MARK BABER, AGENT FOR MAD PROPERTIES, LLC TO THE BOARD OF ZONING APPEALS OF A DECISION OF THE ZONING ADMINISTRATOR
- IRVIN MARSHALL, AGENT FOR AUGUSTA AGRICULTURAL AND INDUSTRIAL EXPOSITION, INC. - 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.

\*\*\*\*\*

  
 Chair

  
 Secretary

July 1, 2021

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

ABSENT: None

\*\*\*\*\*

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, July 1, 2021, at 1:30 P.M., in the County Government Center, Verona, Virginia....

\*\*\*\*\*

**MINUTES**

Mr. Coyner moved that the minutes from the June 3, 2021, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

\*\*\*\*\*

**JOYCE B. WHEELER - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Joyce B. Wheeler, for a Special Use Permit to lease storage space within an existing structure on property she owns located at 1642 Mt. Torrey Road, Lyndhurst in the South River District.

Chair Tilghman asked if the applicant plans on using a portion of the building for storage space?

Ms. Joyce Wheeler stated yes. She said there would be two (2) trailers parked outside.

July 1, 2021

Mr. Coyner stated there is a food truck at the site.

Ms. Wheeler stated that is somebody that has parked on my property that did not ask permission.

Mr. Coyner said as the landowner you are going to have it removed correct.

Ms. Wheeler said yes because he has never contacted me about asking permission to be there. I think he asked the guy that is renting that building from me if he could park there and they did not see any problem with it but nobody included me in that decision.

Chair Tilghman said the food truck is not allowed to stay there because it is not included in this request.

Ms. Bunch stated if they want to apply for a Special Use Permit, they will need to get your permission to make application.

Mr. Coyner asked if the applicant has had this piece of property for a while?

Ms. Wheeler said yes.

Mr. Coyner stated this property has been used for commercial projects in the past.

Ms. Bunch stated there were four (4) trailers there today. Two (2) were enclosed and two (2) regular trailers. She asked if he has four (4) trailers?

Ms. Wheeler said that she is not really certain. She said they are all licensed.

Chair Tilghman said the operating conditions are very specific and it is limited to two (2) licensed trailers kept outside. If he wants more than that you will need to come back. The applicant will need to abide by the operating conditions and everything should be inside except for the two (2) trailers. She asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chair Tilghman declared the public hearing closed.

July 1, 2021

Mr. Coyner stated the Board visited the site this morning. The property has been commercial for approximately thirty (30) years. He moved to approve the request with the following conditions:

**Pre-Condition:**

- 1. Applicant remove the food truck from the property or make application for a Special Use Permit.

**Operating Conditions:**

- 1. Be permitted to lease the existing structure for storage space.
- 2. All equipment, machinery, and materials for the business be kept inside the existing building.
- 3. Be limited to two (2) licensed trailers kept outside.
- 4. No employees.
- 5. Site be kept neat and orderly.
- 6. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.

Mr. Glover seconded the motion, which carried unanimously.

\*\*\*\*\*

**CAROL MADDOX - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Carol Maddox, for a Special Use Permit to have a day care center on property owned by The Stuart Hall School and Foundation located at 74 Quicks Mill Road, Verona in the Beverley Manor District.

Ms. Carol Maddox stated we are presently a day care center for ages six (6) weeks through twelve (12) years of age. Our present building only holds 100 children. With

July 1, 2021

the Covid regulations that are coming we are hoping to have more room. We are asking for 150 children at this location but we are tripling our square footage.

Chair Tilghman asked if the applicant has contacted the different departments?

Ms. Maddox stated yes. We have contacted the Health Department and they will come out within the next couple of weeks as well as the Building Inspector because a more extensive inspection will be done to make sure that this site is approved for six (6) weeks of age and up.

Mr. Coyner stated the applicant really just wants to continue to do what she has been doing but in a larger building with more space.

Ms. Maddox stated we will be adding to our school age program. It is very small at this stage because we just do siblings of those who were attending our center. Right now there is not enough in this area for before and after school care. We want to expand that with this location.

Mr. Coyner stated the playground looks very nice and it is a nice location.

Ms. Maddox stated it is awesome. She said they have been at their present location for sixteen (16) years. We are just right across the street from Stuart Hall.

Mr. Coyner stated there is a lot of demand.

Ms. Maddox said this is a big area and we have a waiting list.

Chair Tilghman stated the current site plan shows twenty-four (24) parking spaces. She said that may not be enough to cover parking for your employees. She asked if she has enough space for people picking up and dropping off children?

Ms. Maddox stated she will contact the Virginia Department of Transportation (VDOT) and she may use Church Street as the exit only. The entrance and exit will be like a circle and there is two dividers with trees in the middle of it. The parents can come up and drop their children off but they do not stay very long. We open at 6:30 in the morning so drop-offs are from 6:30 a.m. to 9:30 a.m. and then pickup time is 3:00 p.m. until 6:30 p.m. There is not a lot of traffic at one time coming in and out.

July 1, 2021

Chair Tilghman stated the Board visited the site this morning. She asked if there is another entrance?

Ms. Maddox stated Quicks Mill Road is the entrance that we would have parents come in and circle out onto Church Street.

Mr. Coyner asked if all of the parents have to park and go in to get the children or do you meet at the portico?

Ms. Maddox stated right now our system is that they just drop off and we take them to the classroom and that is because of Covid. The parents of the infants, do bring them in which is about 16 to 20 parents but it is not all at the same time. We are also looking at getting a few more spaces.

Chair Tilghman asked how many staff will there be?

Ms. Maddox said right now we have about 15 but we have estimated 25 at the new location. The employees are usually on different shifts because we are open 12 hours.

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

Mr. Alexander Adam, 74 Beverley Street, Verona, stated he supports the idea. I hope that they do get to move in. There is a walking trail back there but it has been overgrown. I hope somebody will come in and clear it up. It is a good thing to get the kids out in the fresh air. They have a good playground. I support this request.

Chair Tilghman asked if there was anyone else wishing to speak regarding the request?

There being none, Chair Tilghman declared the public hearing closed.

Mr. Thacker stated the Board visited the site today. He said there is a need in the area for this. He moved to approve the request with the following conditions:

**Pre-Conditions:**

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

July 1, 2021

- 2. Provide a copy of the license from the Department of Education.

**Operating Conditions:**

- 1. Applicant obtain building permits and provide a copy to Community Development.
- 2. Be limited to a maximum of 150 children.
- 3. Be limited to twenty-five (25) employees.
- 4. Hours of operation be 6:30 a.m. to 6:30 p.m.
- 5. Site be kept neat and orderly.

Mr. Coyner seconded the motion, which carried unanimously.

\*\*\*\*\*

**KEITH CLARK, AGENT FOR DWS PROPERTIES - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Keith Clark, agent for DWS Properties, for a Special Use Permit for an expansion of a non-conforming use to add additional apartment units within the existing structure on property owned by Teron W. Dewert located at 26 and 28 Mount Sidney School Lane, Mount Sidney in the North River District.

Mr. Keith Clark stated the front part which is the original schoolhouse has already been turned into eight (8) apartments. The gymnasium that was built at a later date is vacant and used for storage and they would like to turn it into eight (8) additional apartments.

Chair Tilghman asked where are you going to get your parking spaces because it was basically full today when we visited?

Mr. Clark stated all of the property along the southern side and western side is vacant land so we can put as many parking spaces in there as we need to.

Chair Tilghman asked if the home almost directly behind the apartments was part of the property?

Mr. Clark stated yes.

Chair Tilghman asked if there are any children in the apartments and if there is an area for them to play?

Mr. Clark said not sure but they can designate an area with a playset for the children.

Mr. Coyner asked if this is one large room?

Mr. Clark stated yes. He said this will be an extensive renovation but the structure is great.

Mr. Coyner asked if he planned on using Route 11?

Mr. Clark suggested that they do not use Route 11. He said they can use Seawright Springs Road. He said he would like to clean the roadway and widen it up. He would like to have people enter one way and exit onto another.

Mr. Coyner said it looks like the alley is 25'. He asked if the tenants can go either way now?

Mr. Clark stated yes. He said when you exit you would not come back the same way. He explained where the entrances would be.

Ms. Bunch stated the applicant will need VDOT approval.

Mr. Coyner asked if he plans on starting on this project this year?

Mr. Clark stated yes.

Mr. Bailey asked if the applicant has spoken with VDOT?

Mr. Clark stated not yet.

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



July 1, 2021

There being none, Chair Tilghman declared the public hearing closed. She said there has been no opposition for this request. She said this is very close to a lot of nice homes. I am surprised about there not being any opposition.

Mr. Coyner stated that he is glad there is a vacant lot behind this property. The road looks like an old alley.

Mr. Glover stated he is concerned with the road and people not observing the entering one-way and exiting another.

Chair Tilghman said that this almost does not look like a used road. VDOT does not support any additional rental units unless the site distance is improved at Mount Sidney School Lane at Route 11. She said the applicant should discuss further with VDOT because another exit would be worth considering.

Mr. Coyner stated since the applicant has not had a chance to discuss these matters with VDOT, he would move to table the request to the August 5, 2021 meeting.

Mr. Glover seconded the motion, which carried unanimously.

\*\*\*\*\*

**IRVIN MARSHALL, AGENT FOR AUGUSTA AGRICULTURAL AND INDUSTRIAL EXPOSITION, INC. - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Irvin Marshall, agent for Augusta Agricultural and Industrial Exposition, Inc., for a Special Use Permit to provide overnight accommodations for up to twenty recreational vehicles during events on property they own located at 277 Expo Road, Fishersville in the Beverley Manor District.

Mr. Irvin Marshall stated we have partnered with Skyline and Shenandoah Valley Kennel Clubs. They require a number of overnight parking for the RVs. The reason being is that their event is in the summer and everything has to be air conditioned so all of the animals have to stay in the buildings or the RVs. They want to hookup the electrical or else they will just be working off the generators.

Mr. Coyner asked if the electrical connection for the RVs would only be during an event?

July 1, 2021

Mr. Marshall stated they would not be open for rent any other time.

Mr. Coyner asked if they would perhaps like to come a day earlier for an event?

Mr. Marshall stated typically they will come a day before for setup and possibly stay a day after but most would leave the same day. They often come in two or three days beforehand to start setting up and then sometimes stay several days after the event. I would like to be able to have three (3) days just for those couple of events. They usually setup earlier for the County Fair.

Chair Tilghman stated it makes sense but we just do not want to leave it open, where anybody stays.

Mr. Marshall stated that is not the intention at all. He said all units will be setup so they can be disconnected when not in use. They will be turned off except during events.

Mr. Coyner asked if three (3) days would be more than adequate?

Mr. Marshall stated yes.

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

There being none, Chair Tilghman declared the public hearing closed.

Mr. Coyner stated several neighbors called him and they were happy to know that this is tied to an event and not people renting sites.

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

**Pre-Conditions:**

1. Obtain Health Department Permit for the Recreational Vehicle Park and provide a copy to Community Development.
2. Applicant obtain building permit and provide a copy to Community Development.

**Operating Conditions:**

- 1. Be permitted to establish twelve (12) new sites for recreational vehicle parking as shown on the BZA sketch plan.
- 2. Be permitted to use eight (8) existing electrical outlets outside the building for recreational vehicle parking use.
- 3. The recreational vehicle sites can only be used during scheduled events.
- 4. Recreational vehicles be permitted to arrive three (3) days before an event and remain onsite three (3) days after an event.

Mr. Glover seconded the motion, which carried unanimously.

\*\*\*\*\*

**PAT HASTINGS, AGENT FOR WAYNESBORO BRIDGE SOLAR, LLC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Pat Hastings, agent for Waynesboro Bridge Solar, LLC, for a Special Use Permit to use a forty (40) acre portion of the parcel as a small solar energy system on property owned by HW Farms, LLC located at 532 Old White Bridge Road, Waynesboro in the Wayne District.

Mr. Pat Hastings stated this is a proposal for a five megawatt ground mount solar system. This project is intended to be a part of the Dominion Shared Solar program that is currently in development and it is expecting to come out and be active in the next year. The lease area that we have with the landowner is about 40 acres. The ground coverage itself is a little bit less than 30 acres. The access road that we are proposing is off of Old White Bridge Road. There will be general access vehicles during construction and tractor trailers for deliveries of equipment. The road is a gravel stone road and it is not paved, but built obviously to get trucks and equipment back to the site. The electrical feeds directly into the existing Dominion Energy distribution system. The power from the field itself travels underground to the existing electrical poles at the street where it ties into Dominion. General construction timeline for the project like this is typically four months. The working hours are typical and I know that is one of the pre-conditions because people are worried about noise and how it is going to affect the neighbors. The working hours are typically 7am to 3pm or 4pm. The way that these

July 1, 2021

tracker systems are installed are that they are mounted and then driven into the ground. The system is a little bit different. It is actually screwed into the ground. There will be 15-20 workers there regularly on the project for months. After the project is over, there is only about 2-3 site visits for maintenance per year. It will be for landscaping and maintaining the system itself. With the access roads we understand the need to coordinate with VDOT on the entrance and we understand the permit process and the details need to be finalized during the site plan. For the stormwater management requirements that come along we will engage with Timmons Group for help as well as erosion and sediment control and wetland protection. There are a few wetland areas that are delineated along Old White Bridge Road. There will be about 30-40 temporary jobs for this project that we would get locally as well as the materials. We understand going through this process how this is going to look to the neighbors and I think we tried to address that with the visualizations that we have provided and we significantly added a lot of visual buffer in the form of trees and bushes. We think we have done a good job at trying to buffer as best as possible. There is a significant amount of landscaping around the project to accommodate that. The reason that this project is towards the back corner is because of the Class 3 soils and it is the least farmable area on the property. We understand there are conditions that are required for it to be approved and we are fully ready to comply with all of those.

Mr. Derek Sheehan, Dynamic Energy, stated the purpose of this project is that it is going to be part of the shared solar program, which is part of the Virginia Clean Economy Act. Typically only one in five homes meet the requirements to install solar panels on the roof. The cost to install panels can be prohibitive and there could be restrictions if there is a homeowner's association that would not allow for it or you may have trees that shade the roof so shared solar programs basically enable anybody with an electric account with Dominion in the service territory to access the benefits of solar energy. The main benefit here not only to reduce greenhouse gas emissions in the service territory of the state but also we are able to provide a participant a 10% discount on their electric costs. These programs are typically free to sign up for but they are limited though because it is on a first come, first serve basis. There is a cap on this program and it will only be about 30 to 40 projects across the state. It really allows businesses and residents access to this program and maybe low income customers as well. To sign up, there is no installation, it is all done just directly through the utility and they track the production each month and then they will then apply that credit that you have received from your share of the solar panels out in the field to your electric bill and that just acts as a direct credit to that bill. Then in turn, the customer will then pay for that credit, but just at a reduced rate, typically about 10%. This program will be

July 1, 2021

available to County residents. There is an opportunity for residents in the County to benefit from this project being here.

Chair Tilghman asked if you have to live in proximity to this project or live in Augusta County?

Mr. Sheehan stated you just have to live within Dominions service territory. Any project under the program is available to any electric customer of Dominion within the whole service territory of the state. This Virginia program is not limited by counties, any resident in the Dominion territory can sign up for this project.

Mr. Coyner asked how would you participate with this?

Mr. Sheehan said basically with the company that is doing the subscribing for the project. There is a consumer disclosure form which has been issued by Dominion so the consumer, or the electric customer, knows all of the terms and conditions of everything. We submit it to their electric account and their share size to the utility and then typically within 60 days they will start receiving credit. It is more or less just signing a form and then getting it submitted.

Chair Tilghman asked if this is run through your organization?

Mr. Sheehan stated the way the program is established there are subscriber organizations and essentially they act like a marketing company. Most solar project developers are just developing projects so usually there is a marketing company that will partner with our organization. We do in house subscription so when we do subscribe these projects, we have to wait and see if we will be handling the subscription. The regulations say that Dominion has to provide the infrastructure for customers to sign up for the program. The stop date is July 1, 2023 so we are a little ways out from subscribers starting to enroll in the projects.

Mr. Bailey asked if there is a maximum number of people that would be on this particular project?

Mr. Sheehan stated average 1,000 residential customers.

Mr. Bailey asked about noise during construction but after everything is completed, will there be any noise from the facility at all?

July 1, 2021

Mr. Meehan stated no noise, the trackers do not make any noise. He said it would be just the panels in the field.

Mr. Coyner asked what size are the panels?

Mr. Hastings stated panels are typically about 77 inches tall by about 44 inches wide. In a system like this there are two modules on top of each other. This is a tracking system and in the morning it faces the east. It is going to be at its tallest position as soon as the sun starts going from east to west and then the tracking system will move along and follow the sun so the highest point of the module in the morning is about 14-15 feet high. At noon they will be flat.

Mr. Coyner asked if they will be flat at night or does it start with daylight in the morning?

Mr. Hastings stated it will be facing directly east at noon, flat. It will be just the opposite way once the sun goes down. The tracker will reverse itself back to the east to wait for the sun in the morning again. There are some electronics/controller or algorithm that says where it is. It will follow the sun throughout the day.

Mr. Coyner asked when are they as vertical as it can be?

Mr. Hastings stated at seven o'clock in the morning when the sun comes up it will be 52 degrees which is the maximum angle of the modules.

Mr. Coyner asked what is the access point off the ground?

Mr. Hastings stated about 7-8 feet.

Mr. Coyner asked if you can have goats or sheep on the property?

Mr. Hastings stated you can have sheep but not goats.

Mr. Coyner asked if you do not have livestock how do you maintain these?

Mr. Hastings stated at the end of the project construction, we will plant a low growth. They call it a solar seed mix and some projects use a pollinator or other local fescues that are low growth obviously because we do not want the grass to grow high. As far as a landscaping plan, 2-3 times a year they will come in and they will mow as necessary to keep that down so it is not overpowering and to keep out invasive species of weeds.

July 1, 2021

Mr. Coyner asked if topsoil is removed?

Mr. Hastings stated we do not remove any topsoil and there is no grading on site to accommodate the racking, other than trenching for the electrical lines going out to the street as well as the access road to get back there. There is disturbance with general construction activities, skid steers and machines getting back there but we know we are not bringing or moving lots of dirt.

Mr. Coyner asked if the panels will follow the contour of the land?

Mr. Hastings stated yes.

Mr. Coyner asked about erosion and sediment control?

Mr. Hastings stated they have to meet state requirements and submit a SWPP Plan and have silt fence, straw, etc. during construction to prevent any runoff especially, if there is wetlands in the surrounding area. Once construction is done and it is fully stabilized, they will need to seed areas depending on what time of year.

Mr. Coyner stated the Board toured a facility in Front Royal and was concerned about the ditches where the water ran off each panel.

Mr. Hastings stated if it was a fixed mount system you are going to get runoff from the rain. This is a tracker system which is different, it moves but I would be curious to see what kind of stabilization they had with it and if the grass was enough.

Mr. Coyner asked how much glare is on the panels?

Mr. Hastings stated the solar modules themselves are more like a plexi-glass. It is a plastic material and they have an anti-glare coating. We use a software program and it is a glare analysis software primarily for around airports to do analysis from any perspective so there is no glare. We have run a glare analysis and there is no known glare from this project overview or from neighboring areas.

Mr. Coyner asked what is the life expectancy of the panel?

Mr. Hastings stated the life expectancy of the solar modules themselves are warranted for 20-25 years so they will be producing for up to 25 years. A lot of these systems that

July 1, 2021

have been installed for that long can produce much longer but the solar modules themselves are not the pieces of equipment that fail, it is the electronics. The electrical pieces that need to get maintained has a lifetime of 10-15 years and would then need to be replaced. The electrical infrastructure itself will need to be maintained.

Mr. Coyner asked if there will be a box or building at the end of each row?

Mr. Hastings stated you probably saw on the end of the rows an inverter on the solar modules themselves. They take that power from the inverters and then they go to a transformer and the transformer will convert that from 480 volts to the voltage that you tie in at the utility. It is not a building but a 10x20 concrete pad where that transformer is. There are no buildings that need to be installed.

Mr. Thacker asked where does the power hook into the system?

Mr. Hastings stated the power generator will hook into the system at the existing Dominion Power lines. We will install the interconnection pole or have a disconnect switch but it will tie in directly to the Dominion Power Plant, there will be new poles going perpendicular to the property. They will be interconnected into the existing power line that runs along the road already.

Chair Tilghman asked if this will be totally fenced and locked?

Mr. Hastings stated yes.

Chair Tilghman asked if the gravel road is permanent in order to get back in and do repair work, will there be a gate onto the property for the owner to use as well as for you?

Mr. Hastings stated there will be a fence around the project. The access road is not fenced in. There is not a gate on Old White Bridge Road. When you get further back into where the solar array is, that is where the gate will be so you can get in. The property owner can use that access road as needed.

Mr. Coyner asked how far does the road go up to the panels?

Mr. Hastings stated the gravel road goes back as far as they need it to in order to get to the equipment.



July 1, 2021

Mr. Coyner stated it looks like these panels are in three different sections on the drawing. He asked how much space is in between each one of those sections?

Mr. Hastings stated approximately 25 feet minimum so you can drive between each row.

Mr. Coyner asked if it is positioned toward the sun?

Mr. Hastings stated yes.

Mr. Coyner asked how frequently will there be comings and goings?

Mr. Hastings stated the proactive maintenance itself and mowing is about three times a year so we are out there checking the tracker system and the electronics. It will be one or two guys in the pickup truck that go out and do it so it is not a lot of heavy machinery just regular maintenance work.

Mr. Coyner stated in years to come your company is obligated to do it and not the farmer.

Mr. Hastings stated yes. There is operation and maintenance to protect the system.

Mr. Bailey asked if there is a remote control if there is a problem?

Mr. Hastings stated the system is monitored. There is a cellular modem out on the site in the inverters and they do that through data communication cable underground just like a regular cat five cable you have sitting around here. There is an online web interface where you can pull it up and you can see what the system is producing. You can see the history and what it has produced. There are alerts and alarms if there are any issues with the tracker system or the inverters themselves and they stop producing so you get them on your phone or on the website.

Mr. Thacker stated the Board visited the site today. We were on the property on the north side, you have a buffer not quite halfway up. The vegetation is mostly hardwoods but in the fall when the leaves are off, you are not going to have any buffer up from there up to hide this site. I would be interested in running it all the way up to the corner. The buffer all the way up that side for protection of the people that live on that side. It is very sparse trees up through there.

July 1, 2021

Mr. Hastings stated the objective there was to try and keep as much natural buffer. We do not have any objections of increasing that further to the north to the property line as needed.

Mr. Coyner asked if this will be monitored electronically if something were to be wrong?

Mr. Hastings stated there would be a local person that can respond to a maintenance issue when something goes wrong.

Chair Tilghman stated with the technology changing continually and improving constantly, you say the likes of these things are basically 20-25 years, is that correct? Will they be realistic to use in 25 years?

Mr. Hastings stated typically the solar modules themselves will produce and it is warranted for 20-25 years but they could produce more, if you leave it so there is a benefit. The lease timeframe is 20-25 years. The system is still producing after that, you definitely can extend the lifetime of the project. In 20-25 years, the technology will be a lot different than it is now, I think we will have to look at the system and what it is producing and what kind of programs or incentives are around.

Chair Tilghman stated technology changes daily. She asked where are the panels made?

Mr. Hastings stated a lot of them are made overseas, India, Malaysia, Vietnam, and China. There are manufacturers in the United States that are starting to make modules so it is something that is getting here.

Chair Tilghman asked if they are price competitive?

Mr. Hastings stated it has been challenging with the cost.

Mr. Coyner asked if the panels will come from the United States on this project?

Mr. Hastings stated it depends on what is available so it may come from a few different companies. It is really what is available at the time of construction in 2023. Obviously, American made if we can.

Mr. Coyner asked if these panels are recyclable? He asked in lieu of taking them to the landfill can they be repurposed?

July 1, 2021

Mr. Hastings stated there are groups that do recycle modules and take the aluminum frames and they take the glass and recycle it. It is part of our company requirement for us that you know they are recycled and not thrown into a dumpster.

Mr. Coyner asked if this project were to go forward what is the timeframe?

Mr. Hastings stated it is up to Dominion. We can only move as fast as they can in developing the program. Actual construction in 2023 but the reason we are here today is part of the project requirements.

Chair Tilghman asked if you are required to get project approval from the County or Town or wherever you are dealing with before you sign contracts with them?

Mr. Hastings stated not necessarily, we made application with Dominion. It has probably been eight months now that they have been reviewing it. You can sign the interconnection agreements without getting all of the approvals. They will also need building and electrical permits. Dominion will not approve the project if you do not approve it. We need County approval as a requirement for the Community Solar Project.

Mr. Sheehan stated the program opens up on October 1<sup>st</sup>. He said in order to submit they will need to have agreements with the utility company and permits as well as their Special Use Permit.

Mr. Glover stated the customers within the Dominion region could benefit with the 10%. He asked if it is possible that potentially it could not serve any of the Augusta County residents?

Mr. Sheehan stated there will be 30-40 projects in total and it is possible. He said they will try to be sure that as many local residents benefit from this as possible. They should be ready to sign up when open enrollment starts.

Mr. Coyner asked if the cables are in the ground?

Mr. Hastings stated the solar module plugs into each other. He said the major conduit is in the ground.

Chair Tilghman asked if each row is independent?

July 1, 2021

Mr. Hastings stated 12-15 modules in the string. If one string goes out it will not turn off the entire system.

Mr. Coyner asked what is the time period to install them?

Mr. Hastings stated four (4) month period of time to install.

Mr. Coyner asked what is the contract on automatic renewal?

Mr. Sheehan stated the lease is twenty-five (25) years with a 4-5 year option to extend.

Mr. Coyner asked about bonding?

Mr. Hastings stated there is a bond. This is typical with these types of projects.

Mr. Thacker stated if you do not fence out the cattle they will tear the buffer area to pieces.

Mr. Hastings stated if it is a concern that can be something that they consider. They can put the fence inside and the buffer area outside. Typically the fence keeps the animals out but most of the time they are dealing with deer.

Mr. Thacker stated he would be concerned if there is cattle in the field.

Mr. Coyner stated the buffer area should be maintained. When the trees are planted, they should be mature trees.

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

Mr. Steven Wine, 101 Wines Farm Lane, Waynesboro, stated he is one of the landowners of HW Farms where the solar fields are being proposed. I was born and raised on this property or the adjacent property which is right across the road from this property. My family has rented this property all my life and farmed it all my life until we bought it just a few years ago. I was old enough to help these farmers and then as I got older I watched their properties being sold off and houses being built where their crops were raised and their livestock was kept, times have changed then and times are changing now so this project will help us financially keep doing what we love to do, but it

July 1, 2021

will also help others as well to cut back on their electric bills. I am absolutely for this project.

Chair Tilghman asked what do you intend to do with the portion of the land that would not be used?

Mr. Wine stated we will continue to farm that and have crops, just like we are doing right now.

Chair Tilghman asked if you run any animals on that land or is it just the adjacent land?

Mr. Wine stated we do have livestock and we run cattle on the adjacent land.

Mr. Coyner asked if he planned on fencing off the cattle from the buffer area?

Mr. Wine stated we will do whatever is right. He said there is a fence there now with trees. They can put another fence.

Ms. Nancy Sorrells, 3419 Cold Springs Road, Greenville, stated she is here to speak in favor of the project. I was one of the appointed members of the County's solar committee that worked on the Comprehensive Plan and a former Board of Supervisor member so I have been kind of diving deep into this solar for the last couple of years now. I see solar projects as a win for the County whether or not actual farming takes place on these larger scale projects, an income stream helps farms remain viable, and unlike other types of development, the land is not being permanently removed from agricultural production. I would add that solar arrays do harvest energy and with proper management they produce clean water and they produce rich topsoil. In 25 or 35 years the land can still be returned to farming in a more traditional manner because it has been protected. The reality is that solar arrays also represent a large tax revenue many times higher to the County than if this land had remained in agriculture, and that is without the subsequent service needs that other types of development necessitate, such as schools and emergency services. The land goes out of land use, which represents a revenue increase for the County. This benefits the County citizens directly, all of them by diversifying the County's tax base providing substantial new tax revenues and keeping our taxes lower for the future projects. This also provides pressure relief against haphazard development that comes over time like cutting off five acre lots or rezoning and putting this into a subdivision with increasing taxes along with traffic congestion impacting us permanently and permanently taking it out of farming. This does not necessarily mean the land is taken out of production. Since it can still be used

July 1, 2021

as you heard for sheep grazing and pollinator production. There currently is no requirement that if this project does not happen that the landowner must produce an agricultural product on his own land, his land is in solar than it cannot be developed into houses or commercial businesses or industries, it will be guaranteed to remain open space, and possibly have some complimentary farm use for the length of the contract. With the County's robust ordinance, it will be buffered nicely and it will have wildlife corridors and you can help make that even tougher with your great questions that you are asking about because these are Special Use Permits and not rezonings. This is a temporary land use but no more long term than an easement or timber lot. It is certainly less permanent than a housing development, and at the end of the lease, all the options are still on the table with improved land and cleaner water, in response to some who say they would like to say that they would like to see this remain farming. My question is why would the County, try to intrude into farmers business plans and landowners property rights for solar but the County does not limit the number of acres that can be plowed up, or how many trees can be cut down or how many poultry houses can be erected, nor does it under our ordinances limit how many houses can be built on five acre lots that are cut off out of agriculture or rezoned for subdivisions. In my opinion, the emphasis should be instead on robust planning, such as encouraging complimentary agriculture. I have a handout that is an evaluation tool that retired USDA soil scientist Bobby Whitescarver and I developed for considerations in planning for solar projects. It puts it together and answers a lot of the questions. I would like to see the developers on this project maybe go a little further and promise to avoid ground compaction as much as possible. They should do that but in places where they are putting that service road and other places I would like to see him segregate the topsoil and make sure that it is taken care of, and it would be really nice to have them get certified as a Virginia Pollinator Smart through the Virginia Department of Conservation and Recreation. They mentioned some fescue and a pollinator mix but they should get certified through DCR. This is considered complementary agriculture with grazing the sheep. The predominant land use has always been agriculture. There is nothing about our family farms today that bears any kind of resemblance to the farms of the past even if you go back to the mid-20th century, much less than mid-18th century when we started farming here, who grows flax and hemp here today like they did in the 1700s, where are the big wheat fields from the 1800s, who drives cattle up to the mountains for grazing like we did all the way up until World War II. My point is that the only way farming has survived in the County is because farmers have been given the ability to be flexible, agile and have forward thinking, and that is what this is. They are thinking to help preserve farmland and to help all the County citizens, whether they are farmers or not, this project and others are coming down the pike both to you for the smaller ones and to the Board of Supervisors for the larger ones, if done correctly. This comes with

July 1, 2021

good planning, like what the County has done with the Comprehensive Plan and with the ordinances. This can be a win for everybody to help preserve farming and preserve open space. They provide significant revenue for the County without the need for monies going back out for services which means it keeps our taxes low. They allow for better soil, clean our water and when the lease is up with our strong County ordinance, the land is back on the table. Even if the electricity does not help those 1,000 customers all in the County, it does help us as it goes back to the grid and we pull back from the grid. We would love to have all manufacturers in the USA but the reality is that is the same materials our TVs, and our phones and our computer screens are made of and they are manufactured all over the world. Solar is rapidly changing and there are lots of questions but I think we have a chance to do it right here in Augusta County and we have always done it right.

Chair Tilghman asked her to explain about pollinating and the resources they can use with the Department of Conservation and Recreation?

Ms. Sorrells stated the Virginia Department of Conservation and Recreation has whole programs called Virginia Certified Pollinator Smart and it is just another step of planting the right plants that are going to help with our pollinators. You can have complimentary beehives and things and it is just another level that would make it a better project.

Mr. James Donnelly, 193 Red Fox Lane, Waynesboro, stated Mr. Coyner brought up an excellent point about reflection of the solar farms because it is so close to Eagle's Nest. My wife and I do support clean energy projects like solar and we do not object to being located next to our land. Although, I do not like the locations presented by the applicant of the 500 or so acres the applicant owns, they picked the 90 acres that has by far the greatest negative impact on the neighbors and the community. There are a minimum of 10 homes that will look out at this solar farm every day. Since we would likely not see the solar farm from our house even though it is adjacent to our property. This solar farm will immediately decrease the value of these 10 properties. And likely, others to a lesser degree. If you doubt this statement, how would you like to buy a home that looks out on a solar farm out your picture window every day. Keep in mind now the homes are elevated. You are going to be 14 to 15 feet high. They talked about buffers actually down on the level of Old White Bridge Road. If you plant trees you are looking, probably about the time the lease expires, that they would really serve any useful purpose. Using the Augusta County Zoning and overlay map, the values of these 10 properties is approximately \$4.1 million. If you use the Zillow information it is approximately \$5.1 million and given the state of the housing market, it is probably closer to \$5.5 million. If the value is decreased just 10% that would be the immediate loss of around \$500,000.

July 1, 2021

A 20% reduction would be closer to a million. I doubt the applicant will utilize that much from the lease essentially because of the proposed location. There will be a net financial loss to our community and to the neighbors. Based on the Augusta County map it appears that the applicant owns approximately 300 acres along Entry School Road. There are several locations in this area that would have almost no impact on individual homes, except maybe the applicants. One of these parcels is adjacent to the back of our property, we would have no objection to locating the solar farm there. A comment was made at the Planning meeting, I think again today, that the selected parcel was the least productive farmland. That is a very weak argument for locating the solar farm at the proposed location. Given the significant financial impact on the neighbors, it appears that the applicant picked this location to maximize their benefit without any regard for their neighbors. One additional point, the location and the scenic reputation of Old White Bridge Road. Anytime you mention to someone that you live along Old White Bridge Road, the first thing they comment is how beautiful the drive is and it is a very busy road. Entry School Road has less traffic. In conclusion, based on this significant negative impact and the existence of viable alternatives, our recommendation to the zoning board is that they have the applicant resubmit the request with the solar farm located in a far less impactful location.

Ms. Pamela Behrens, 175 Red Fox Lane, Waynesboro, asked what sort of impact this will have on our community, both in the short term and the long term. My husband and I have met twice now with the Planning Department to get a better understanding of what this proposal entails and how it will impact the community. The Planning Department has told us that the buffers they are requiring will not block the view of the solar panels and that was never the intention to block the view of the solar panels. That means that given the rise and the slope of that 40 acres of panels that would be the direct line of sight for at least a dozen homes along Old White Bridge Road. Please consider the consequences that there would be on those homeowners that have worked their entire lives to pay for homes that they could potentially leave to their children and now panels will be in their front yards. This would have an adverse effect not only on their homes, but for the rest of the community. And if they wanted to sell their homes, nobody would want to buy them. They will now have to endure the blight on their front lawns for the rest of their lives. This is a testbed for small scale entrepreneurs and if this exception passes today, they will be approaching other agricultural members of our society and do the same thing, before we know it, it will sprout out throughout our entire County. There is a place for solar. We have 90% of our County in agriculture. There are other areas not in residential communities that will not be impacted. I know it is not your job to have to come up with alternatives. The owner of this particular 40 acres has in his possession approximately 500 acres or more, many of which are along Entry School



July 1, 2021

Road overlooking the railroad tracks. This solar field could be placed there. The argument has been made that this soil is the least productive but as a community we have watched the successful growth of various crops over the years. We do not buy the bad dirt theory. I realize that according to the Planning Department's template of pre-conditions, specifically paragraph 10, the County would be able to charge back rollback tax but the difference between the previous land use tax for rezoned agriculture and the revised industrial is four to five years back. However, if this exception is passed, it will significantly adversely affect home values in the area so the County will not benefit from just five years' worth of incremental tax increase, but it will result in the devalue of property values and also reduced property tax income over the next 35 years. These newly formed LLC's are flush with cash from government subsidies which may or may not continue in the future. I hope that there has been significant background checks on the financial strength of these entities and in years to come, they fall on hard times and have to dissolve or become bankrupt, that they do not adversely affect the bond. This may be a 35 year exception, but technically, it would be converting 40 acres of land into industrial use and it would adversely affect our property values for the rest of our life. Please know that the people with expensive condos and apartments, overlooking Central Park in New York City would never think of allowing solar panels in Central Park. Please consider what happens when hydrocarbon becomes our next viable alternative.

Mr. John Foster, 643 Old White Bridge Road, Waynesboro, stated we are one of those, families that looks directly at this hillside. When we look at our picture window that is what we are going to see. I enjoy the wildlife in the area. I am concerned about the use of farm land for non-farming. I do not see this as a farm product. I came across an article in a farm magazine that is aimed to let the landowners, the farmers, understand what might happen if they leased their land for solar. This was written for the farmer not for other people. They pointed out if this project is big enough those electric companies like to locate close to high voltage electric transmission lines. That is not what is in the Valley here and maybe this is not big enough. There is a transmission line within two miles. The gentleman said, there is other farmland. The farmer should be aware of this and that they need substations, to connect to that line. I do not know what kind of facility might go in my front yard. I do not even know what is necessary. I would like to know if this project goes through, I should be given a priority instead of someone who lives in another county for his electric bill's reduction.

Mr. Nelson Carter, 599 Old White Bridge Road, Waynesboro, stated he is across the street. My daughter lives next to Mr. Foster, three doors down from my house, and our families both oppose this.

July 1, 2021

Mr. Carl Behrens, 175 Red Fox Lane, Waynesboro, stated he has a few handouts for the Board. They sent them a postcard about solar and how they want to lease their land and you know all the wonderful things they are going to do. I am not sure if any of you have been exposed to that. I guess you got to have a few acres to make it worthwhile. But that is what is happening right now there are fishing expeditions going on by the solar companies. They are springing up and not necessarily from Virginia, this one is from Pennsylvania and Waynesboro Solar LLC, is a kind of a misnomer. Once those panels start going in, and I think it is a real shame that folks that rely and continue to rely on the Comprehensive Plan are not going to be able to do so because of what they want to do in terms of putting in that solar farm and solar farms are kind of a misnomer to the industry. It is an industrial operation. You might as well have a power plant across the street from you rather than an agricultural setup. We are here today, and I am speaking with the folks that have spoken before in opposition to ask that you consider human and economic cost of this proposed solar industry installation. All the paperwork in coordination thus far has centered on compliance. You have your policy items that are in the master plan and those are great, but their compliance with the county, state, and federal regulations, and that is all well and good, and we appreciate the diligence of the staff and the Planning Commission, but the staff analysis is skewed in favor of the project, and does not represent the effect of this industrial project on us the people. That is why we are here today. Those policy considerations in terms of what we can require of the solar people to do in terms of fencing and growth of grass under the panels and I think most of you would probably agree that if we are going to run sheep there they will need water. There is no water on that hillside. I think you will agree that the fencing that is going to go around this facility is going to restrict wildlife passage, which the Planning folks say would not be restricted. It is just a mistake. The whole picture of it is being skewed in favor of the solar company. There is big money in solar power. There are huge government grants. It is wonderful ground. There are no rocks in there and anything that would impede drilling for the posts that have to go into the solar panels. It is easy to access and we already have roads going in there. The salesman negotiates with the farmer and when you have a deal, the salesman makes sure that the farmer signs a nondisclosure agreement so that other farmers do not have an advantage in future negotiations. Next you do everything the Planning staff wants so they will endorse your project and their staff analysis. I personally heard a lot of waffling today from the Waynesboro Bridge Solar representatives. A lot of waffling when they say it will be a nice idea and we will do that. That scares me a lot because there is a big difference between okay go do it and oh remember you said you would help us out with this and you build that buffer. Take a look at your car that is about 20 foot long, maybe a little less, but that is not much of a buffer. You put in six foot trees. You saw on Old

July 1, 2021

White Bridge Road today. It is not a very steep valley but the houses come up the hillside, the farm goes up the hillside. There is no way you are ever going to get a buffer adequate to shield those houses from the solar installation. This is the wrong location. My neighbor Tim Donnelly said, and it makes good sense, to believe for one minute that this company is not going to come back in time and ask the rest of the 90 acres to be approved for more solar. The economic impact is going to be on those of us who live there right now. That is pretty much a given I mean it only makes good sense to understand that, and I think he is being very conservative in his estimate of how much damage that installation would do to the folks that live along Old White Bridge Road. I have not heard yet according to the 2019 VDOT study of traffic flow there are 4,800 trips a day across Old White Bridge Road from Route 250 to Route 254. We do not have 2020 numbers because it did not make any sense to have those because of the pandemic. But 4,800 trips a day, that is an amazing number of trips and an amazing number of people that are going to be looking at what you see in that copy of that postcard that I made for you. Upwards of 90% of Augusta County is zoned agricultural. To locate this industry so close to Waynesboro, Fishersville and the folks that live here and travel this area is just plainly wrong. Solar companies, as we have discussed, are not local. It is a great name Waynesboro Bridge Solar and it has about as many ties to Virginia, as I do to Boise, Idaho. This is a case of first impression and that is why this one is so important. If you approve this one now, I will guarantee you there will be more lining up. That company in particular, I had never heard of before and there are others out there that are just waiting. Just waiting in the wings to descend upon other farmers, farms, or other landowners to get this permission. Once you have approved one that creates this much difficulty for the people that live in the area, you are going to be hard pressed to deny somebody else the same right. Most things in life can be put on a continuum from the big stuff to the little stuff. My argument is that if we take 30 acres out of production, then we take another 30 acres, and then before you know it, there are hundreds, or 1,000s of acres that are going out of production. Ethanol has caused a lot of the land that was being grown for corn to go out of production or for that corn to be re-diverted to other than food resources. Virginia is an agricultural producer. We have had GE and Dupont here but they have come and gone but agriculture is important. This is your opportunity to redirect the solar industry and Augusta County to more appropriate sites. Just because a company is trying to slip a foot through the door, they should not be supported in doing so. I could not have written a more favorable staff analysis, if I had been the attorney for Waynesboro Bridge Solar, LLC and I cannot help but wonder how much he may have influenced that report. The plan calls for 15,600 modules, 700 strings and 24 to 25 modules per string and we have a little bit better understanding of what those modules and strings are. This industrial project does not fit in with the character of the area. It violates the rural view shed on

July 1, 2021

many levels, not only for people who live there but the people who drive by there. If you wanted to add to that solar farm that is not the place to do it. Spotsylvania recently approved a 5,000 acre solar installation. Keep that in mind, that is something meaningful, that is something efficient, and apparently something that the County could approve not to the detriment of the people that live there. Employment opportunities here are negligible. The Pennsylvania folks are going to bring in companies that do this on a regular basis. They are going to build it and they are going to maintain it. I do not think the buffer is going to be of any value to us at all.

Mr. Curtis Foltz, 160 Red Fox Lane, Waynesboro, stated this is in his backyard. This sounds good and can get a savings but people who have had this there is a grey matter that is not mentioned. You need to read the fine print. We lose 1,000s of acres every day due to development and housing every day and once it is lost it is never regained. Ms. Sorrells mentioned after 25 years bring this back but after this has been used after 25 years it becomes a Brownfield site. It would contain hazardous materials and a lot of items that you would not want to deal with. We are left with a bunch of plastic and metals. As technology improves a lot of times it is easier to build new than retrofit. There is a lot of wildlife in this area and in the pasture land near my home and this would interfere with their atmosphere. These things also kill birds. That is a straight stretch of road between two curves on Old White Bridge Road except there is one problem with it right before you get to the entryway to Red Fox Lane, there is a blind hill, coming from Route 254 towards Route 250. As you approach this, there is no visibility and this would probably be the proposed place for them to put a gate entry into the site. We have quite a few cars that like to speed on this road. This is not just a simple rural highway. The blind hill is a major concern. One of the items discussed or presented was in urban regional planning is green strip development, where in between two larger developments, you leave a green strip for nature and this fits very well with the encroachment of Waynesboro and Fishersville. I can go up behind my home and look over and see 200 houses. I was told by a Farm Credit loan officer that yes our farmers now need supplemental income. Well, supplemental income for a lease for a solar farm can range from \$250 to \$3,000, per acre per year. I feel that you would probably have to go larger and bigger in order to get financial sustainability from that. How many solar farms are there in Augusta County?

Chair Tilghman stated this Board has not approved any.

Mr. Foltz thanked the Board for that.

July 1, 2021

Chair Tilghman asked if there was anyone else wishing to speak regarding the request?

There being none, Chair Tilghman asked the applicant to speak in rebuttal.

Chair Tilghman said most landowners are approached by different solar groups and there is a lot out there. She asked what do you consider viable or not viable? Could this go on another part of the farm that is not bothering anyone? Do you go in and say what part of the farm is usable for the solar panels?

Mr. Hastings stated you have to look at what is the location relative to the utility lines in three phase power lines where you can actually tie these things in. The high transmission lines and big substations are part of the larger projects. These are the smaller projects and you have to be close to utility lines where you can actually tie the project into it. There may be different areas that have open land but they are just not able or feasible to actually interconnect to the grid. They look at what makes most sense for the landowner and tie into the grid.

Chair Tilghman asked why did you pick these 40 acres and what makes this area more feasible? Is it topography?

Mr. Hastings stated the feasibility of a location to the utility lines and the feasibility of the topography does come into play also. Now what is usable is up to the landowner. What do they want to use and what do they want to give up. If it is not too steep and not moving a lot of dirt.

Chair Tilghman asked why did this not go right across the back against the woods?

Mr. Hastings stated it has to do with the topography of the land and more trees and shade for the solar modules. It is a combination of everything and that is how we pick the best area. As far as pollinating, we definitely have done that in the past and we can commit to it and can plant pollinator species under the solar modules and that is not out of the ordinary. A lot of counties and other states actually require it so that is something that we can commit to one way or another. As far as the location, it depends on the high transmission lines and the interconnection of equipment and how you are tying into the utility lines. It is no different than the utility poles that are already along Old White Bridge Road. It is just a few more going back into the property that will have the wires on there and go underground to interconnect to it so it is a typical pole mounted. We do try to cite them and we understand the neighbors and how they feel so we try to accommodate the visual buffers. We take this as a good location and a good site for it.

July 1, 2021

The question about hazardous materials was answered at the Planning Commission meeting. The decommissioning is done or started and everything is taken away along with the steel and the aluminum from the racking of the solar modules, the conduits underground are dug up and the land restored. There were questions about the hazardous materials leached into the ground during the lifetime and there is a lot of research and documents that are out there. It does not leach anything out and there is no hazardous materials going into the ground. You know everything is encapsulated and meant to be outside. There was one question about birds and them being killed, so there is solar technology and it is called concentrated solar power and it is totally different than this, they use mirrors. They are not killing the birds with this technology or this type so it is a little different. This is a new technology in a lot of people's eyes but it has been around for a while and starting to show up on people's radars and that is obviously why we are here. I do not want you to feel like I am standing up here waffling, but we are committed to try to make everybody happy. We are a small company and we have been around for 13 years. If there are requirements or conditions that are needed, we are more than open to discuss them and to commit to what is necessary. This project is a very good opportunity for the landowner and for the County and everybody.

Mr. Coyner asked if there needs to be a three phase power line in the area?

M. Hastings stated that is correct.

Mr. Coyner asked how about Entry School Road?

Mr. Hastings stated it does not go back to three phase, but it does intersect there.

Ms. Pamela Behrens asked if they could ask for a delay of decision and have them at least evaluate the other parts of the property instead of just going with this 40 acres because it is near the power lines and if they go out Entry School Road would be closer for them.

Chair Tilghman stated we will discuss that and we can ask them. This is the first hearing that we have had as a Board on solar. We have tried to educate ourselves, to some degree. We visited different projects that have already been in operation and some that have been in operation for quite a while. We saw one that had been in operation, not too long and we saw some that are undergoing operation so that we would have some ideas as a group to see what these look like and where they are located. We did not talk to anyone who was with a solar company. We talked to some

July 1, 2021

people. We all have different opinions of beauty, but beauty is in the eye of the beholder. We stopped at one solar farm that was probably 150-200 acres so it was huge compared to this. I stopped to talk to one of the neighbors, and I told them that we were with Augusta County and we were looking at solar farms because we were trying to learn something about them. They said we are probably not the people to talk to because we have only been there for six months, and I said well how do you feel about this solar farm. She said we bought it because there was a solar farm and her reasoning was they knew what that land in front of them was going to look like for the next 30 or 40 years. They did not want to be in an area that had homes. They did not want to go to an area that would turn residential. The neighbors said that they thought everybody was happy. I was shocked. They said they knew what they were looking at, and they preferred that instead of ending up with a residential neighborhood. I think the other thing that you have to realize is that the state has made a lot of regulations that concern solar part of which I did not know all of the details but we have had two ladies that have spent the last year or so doing nothing, but trying to write regulations and ways that we comply with the regulations. The state says you must do this and still have some leeway as to where we are going. Someone mentioned that it sounded like the solar people have written our staff reports. They have not and our staff people are very independent. The standards for the Board was written to comply with what the Board of Supervisors have said. It really does not matter whether they like a project or not. We cannot base our opinion on whether I like it in front of me or not. There will be projects we approve and projects we disapprove.

Mr. Coyner stated the company has been in business for 13 years. How do you pick a location?

Mr. Hasting stated he has been with the company for 13 years. The choosing of a location is collaborative. The landowner has to be willing to entertain a project. These projects or these sites need to be looked at for what is feasible where you can interconnect and where you can tie in. The aspects that come into play with the location to the utility lines and power lines where you can actually decide what is feasible to tie in is a big piece of it. There is a lot of different components that come into play as far as citing. It is unbuildable if you need to go two miles to tie into the utility line.

Mr. Coyner said the ones that the Board has seen, I thought, always looked like the power companies are looking for a nice clear open field and they were not really interested in more vertical properties in the forest.



July 1, 2021

Mr. Hastings stated I will be clear we do not do that type of a project that you saw because it sounds like it was pretty large. There is obviously incentive for them to do it and it is another piece of the energy puzzle. There is utility scale solar and then there are smaller projects. There are also solar on people's roofs. There are different types of projects and they all kind of fit into the overall energy plan for now and in the future.

Chair Tilghman declared the public hearing closed.

Mr. Coyner stated we should table this for a month to give the power company a chance to meet with the landowner to see if there is another location that would be well suited. I would like to know if that opportunity exists. He moved to table the request to the August 5, 2021 meeting to see if another location is feasible.

Mr. Thacker stated he agrees with Mr. Coyner. Since this is the first one, we want to take our time and make sure we do it right. He seconded the motion, which carried unanimously.

Mr. Coyner stated if the applicant has 400-500 acres of ground, there may be a 40 acre piece that could work better for this.

Mr. Wine stated the piece of property belongs to HW Farms, which I am a co-owner of. HW Farms owns 90 acres but on the other lands, there are other members that are not a partner of HW Farms.

Mr. Coyner asked if you and your other partners would be receptive to looking across the hill on that property or not?

Mr. Wine stated one of the other property owners with HW Farms does not have anything to do with Wine Farms.

Ms. Bunch stated the request would need to go back before the Planning Commission and we would essentially be starting over with new advertisements.

Ms. Leslie Tate, Planner, stated that would certainly be a change with it being a different applicant and parcel number and we would need to re-advertise the request with the new parcel number and potentially pick up different adjacent property owners in our mailings so it would be starting over. If they were just moving the panel area on the same property, it might be a little bit easier but to do a whole new property, it would need to be re-notified to the adjacent property owners.



July 1, 2021

Mr. Coyner withdrew his motion. He moved to postpone the Board’s decision until August 5, 2021 to give the Board additional time to think about this request.

Mr. Glover seconded the motion, which carried unanimously. This is the first time we have had this type of application, and we have heard from the community and the sensitivity of the decision. We want to make sure that we have thoroughly given due consideration to all comments and all of the information.

Chair Tilghman stated during that period of time, the public can submit written comments but the public hearing is closed.

\*\*\*\*\*

**OLD BUSINESS**

**AN APPEAL BY MARK BABER, AGENT FOR MAD PROPERTIES, LLC TO THE BOARD OF ZONING APPEALS OF A DECISION OF THE ZONING ADMINISTRATOR**

An appeal by Mark Baber, agent for Mad Properties, LLC, to the Board of Zoning Appeals of a decision of the Zoning Administrator regarding the storage of wrecked or inoperable/unlicensed vehicles, development within a designated floodplain in violation of the Augusta County Floodplain Ordinance and a semi -trailer possibly being used for storage on property they own located at 1864 East Side Highway, Crimora in the Middle River District. - **Tabled at the June 3, 2021 Meeting**

Mr. Coyner moved to bring the item forward.

Mr. Glover seconded the motion, which carried unanimously.

Ms. Sandy Bunch stated she is the Zoning Administrator for the County. We are here because you tabled the appeal to give Mr. Baber the opportunity to submit documentation to our County Engineer for his review. Jeff Gentry with EGS and Associates submitted documentation and it did show that the propane tank that was in question in the floodplain is out of the floodplain. The retaining wall, however, was found to be located in it and Mr. Gentry said that it would be removed. You also tabled my opinion that the property was being used as a junkyard and the storage of inoperable and wrecked vehicles. I continue to receive complaints on this property. On

July 1, 2021

June 10, 2021, we received a complaint that a wrecked vehicle was on a rollback. We went to inspect the property and the vehicle was not on site when it was inspected. On June 18, 2021, I received another complaint regarding wrecked vehicles on the rollback. On June 18, 2021, we inspected the property and found three vehicles, two of which were clearly wrecked on the tow truck. Again, on June 21, 2021, I received a complaint regarding vehicles brought to the site on Saturday, June 19, 2021 and they were left on the rollback all weekend. On June 22, 2021, we inspected the property again. These pictures are from June 22, 2021 where there was one vehicle on the rollback at that time. I am still requesting that you uphold my decision that the property was in violation the date I sent the letter. I realize the propane tank is outside of the floodplain, however, any development in a floodplain requires a Floodplain Development Plan, which was not submitted to our office. When the letter went out, I did not get contacted. Nothing was submitted until the day of the actual appeal and the property continues to be in violation of not only his site plan to have a motor vehicle display area, but also the County ordinance pertaining to junkyards in business zoning. We visited the property today but later on in the afternoon we received notification that there is a wrecked vehicle on the rollback.

Mr. John Adams stated he is here representing Mark Baber. At this point what my client wants more than anything else out of this Board is his predictability and clarity that we are going to make our arguments for certain specific uses and certain specific activities on the property and what would be helpful to him is if the Board were to address those as basically individual issues so that he has clarity going forward as to what this Board would permit on the property and what the Board would not permit. I think that kind of clarity will be helpful for everybody going forward. Because certainly based on some of the things I heard last time, I think some portion of this dispute has arisen because of poor communication and an inability to achieve that kind of clarity and so because of that I am going to address a couple of the violations that we have been alleged and that we have already discussed. Just briefly, just so we can try to slice them and say what we are talking about. This property has two permitted uses. It has permitted use as a vehicle sales lot. It also has a permitted use as a vehicle repair shop, and both of those are permitted uses and they do not perfectly align and they allow some different things, and I think it is important to keep that in mind because I do think that if an activity comes within either of those uses. It should be permissible. What term to use for the types of vehicles that are not permitted. Often, the language of wrecked or junk vehicles comes into play, but the fundamental definition from the code is inoperable vehicle, and one of the things that has been a bit of a challenge and I think has been clarified is that the definition of inoperable vehicle has a couple of components. One is, it could be a vehicle that is not actually in operating condition and there is no dispute about that.

July 1, 2021

Also, a vehicle that is partially or totally disassembled, more than a specific period of time. I do not think that is ever been implicated in this case and the other is a vehicle that does not have valid license plates or a valid inspection. One of the challenges was my client was under the impression that the first portion was being enforced even as to the inventory of vehicles that were otherwise operable that he had at this property and the adjacent property for purposes of vehicle sales. I believe I heard last time that is not the way that either the administrator or this Board wants to enforce. But if that level of clarity can be provided I think that will be helpful for my client. Again, that is not going to the question of whether they can be driven or not, the assumption is these are operable vehicles in the sense that they are drivable, but while they are waiting to be purchased by a buyer. I think all dealers operate this way, they will not have license plates, and in many cases they may not have current inspections. The DMV requirement being that they are inspected as they leave. So that is the first point, and I think a clarity there would be helpful. Is he being cited for merely having vehicles that were otherwise inventory for the auto sales but did not have either inspection sticker or the tags. I think that has been addressed, but again I think clarity, going forward will be helpful because certainly his impression was that standard was being enforced in a different and more rigorous way against him. The second point also deals with inoperable vehicles. I do think there are going to be some vehicles at this particular location that would qualify as inoperable. If they are present at that location ancillary to the repair use. I mean, again, we want clarity, is he allowed to have a vehicle that is otherwise inoperable, as it is being repaired or it is just waiting for repairs. Again, it seems that the mere presence, as opposed to storage of an inoperable vehicle at a place of automotive repair would be permitted and would be inherent to that use. And again, that is part of one of the things that we are looking to clarify, and we will talk about that with regard to the rollbacks with merely the presence of the vehicle on the property. With regard to the tank, I think that has been addressed with testimony and documentation as provided by Jeff Gentry. I think I am hearing the Zoning Administrator saying that point has been dropped but certainly our position with regard to the propane tank is that none of the violations that were set out in the notice of violation relating to the tank were well founded. I hope we are in agreement on that but certainly we believe that Mr. Gentry's testimony at the last hearing and the documents he has provided addresses that issue. With regard to the wall, again, we conceded freely at the last hearing that a portion of the wall was in the floodplain. You will remember Mr. Gentry and his testimony that the intrusion likely would not have a significant effect on the floodplain. That said, Mr. Baber has decided to remove the wall. I have a photograph that was taken yesterday that shows the removal of almost all of the wall at this point and the removal of fill and dirt from the floodplain, which is almost concluded and I give that to you for the record. There is about 15 cubic feet remaining there. My client intends to remove that and we are not

July 1, 2021

contesting that point but we are merely trying to get into compliance when it comes to that. You will see that despite the fair nature as described by Mr. Gentry of the intrusion, it is a significant job to move. There was significant pieces of concrete that had to be moved and excavation that had to be done. So my client is trying to do that as expeditiously as possible. My hope is that the wall issue is addressed and again shows my clients desire to be and remain in compliance. I do want to talk about these photographs, particularly the new photographs with regard to the tow trucks. There is nothing in the code that says anything specific about whether you can or cannot have a vehicle on a tow truck or attached with a tow truck at either of these types of locations. I would argue that transporting vehicles with some other vehicle is again inherent to both the activity of auto sales. They are often transported by being towed or carried by other vehicles as well as auto repair and so some measure of presence of vehicles at the site that are either being towed or being carried is inherent to that usage. I will even say that with regard to the repair function, you may in fact even have inoperable vehicles. Although if you look at this photograph and from June 18, 2021, I do not see where these are necessarily inoperable. It would seem that even if they were inoperable vehicles that could well be ancillary to the repair function. What the code addresses is the issue of storage and certainly we would take the position, but having the vehicles on a rollback or on a tow truck does not constitute storage particularly. The Zoning Administrator had a very candid testimony on this. There were some complaints, but in some of the complaints, assuming that the complaint was even valid by the time the Zoning folks were able to get there, the vehicle was already gone, there has never been an allegation of a vehicle that was present for a week, much less than a month. And it is an instructive point that when it comes to disassembling cars, what the code gives the property owner is 60 days before the disassembled vehicle itself is considered inoperable for purposes of the code. And so we are within the kind of short timeframe that we certainly think that the code would permit a tow truck or rollback to be present again at a place that has a need for such vehicles in the ordinary course of business. The other point I would say here is that the vehicle is parked next to the diesel pump at the location and may well have just been there to get fuel. We think with the allegation being that perhaps over a weekend is the longest period I think I have heard as far as a rollback, that I just do not think it transmutes the appropriate use of a tow truck and rollback for an auto dealer or repair shop into something that would be considered storage and then turn this into a junkyard or a salvage operation. So another point I would make is that there has been discussion about the fact that in the request on Zoning with regard to salvage, there was an agreement not to bring inoperable vehicles to the site. Again, I think it is important to note that there are multiple uses for this property. And we would agree that it would not be appropriate to bring a vehicle to this site for purely salvage purposes but certainly bringing an inoperable vehicle to an auto

July 1, 2021

repair shop in order to be repaired, we believe would be an appropriate and permitted use. The concern is if you uphold this particular aspect of the finding, does that mean anytime a rollback or a tow truck is there without any time qualifier, that becomes a violation because in fact that would make the repair shop portion of the usage, virtually impossible. I would ask that you identify and address each of the alleged violations individually again to give my client the kind of clarity, going forward that he needs in order to operate his business. I would also encourage and ask you not to address any issues on this but would include questions about the location of parking, that were not included in the original notice of violation and I do not think are properly before this Board until a separate violation is tendered to you.

Chair Tilghman stated she thinks she handled this wrong last month. The question that was before us was on that date in time if there was a violation. I believe he was. If you have a service station, you will see a wrecker pull up cars. I am not sure how many bays he has but it looks like at least two. I am not saying he is not working on cars. Nobody that runs a repair shop has that many cars sitting outside. Does he have a lot where he can pull his wrecked vehicles that have been hit or need extended work? I think of a service station as being a lube job instead of body work. We continually get complaints on the property. We visited the site today and if I was a customer it would have been hard getting to the gas tanks. Does he have another area somewhere that he owns or rents that he could put the vehicles at? I am not the neighbors that see this all the time so we got to be reasonable here about what is expected.

Mr. Adams stated I will say I was there yesterday doing the same sort of thing you were doing. There were a lot of cars there and I mean there is no getting around it. I go to a mechanic in Staunton and his place is full of vehicles. He is not in a prominent location but his place is much more crowded with vehicles than Mr. Baber. I will say that space is often at a premium and people are trying to deal with the pressures of their business and space. I do think that the proper way to address that, and I do not think that was in this notice and it is something we can look at going forward is a question of how many parking spots in this location. I also think the question of inoperable vehicles comes up, but again, I do think for a repair shop that presents differently than for an auto sales lot, but I think my view would be that would be a separate issue relating to the number of spots and storage of vehicles that way. I will say that this has been a repair shop since 1935 and that is a usage that goes back a long time. I understand the pressures you are under but repair shops are not always the most beautiful things. I think my client will do everything he can to keep his place as presentable as possible just in a neighborly way, but he is working on some structural limitations and trying to run his business. I do know that he does have rented space, but primarily he uses that for

July 1, 2021

precisely for the kind of salvage and impound things that we can see, he could not do that at this location or the other location across from here. So that is part of the pressure he is under there, he is using that location precisely for the types of things that we all can see and could not be done at this property. I think he is under some specific pressures and I think short of the issue of the number of parking spots, I think what he is actually doing as crowded as it may seem, is not in violation.

Mr. Bailey stated is it possible that you could have an impound lot located here? It would be a courtesy more than anything to put the vehicle when it is going to sit there to locate it inside the impound lot which would take care of any questions.

Mr. Adams stated it would be feasible to put an impound lot across the street but there are a couple of issues like cost issues. There are issues that may be considered more unsightly by the neighbors than the usage that is going on now. It might make your lives easier to deal with the necessities of the code but it might actually be less neighborly. The other issue that I mentioned is it is also leased property so we need permission from the current landowner and it would probably need an amendment to the lease and the landowner may or may not permit that.

Mr. Mark Baber stated he does not see that there is a reason for a storage lot at the station lot. We do not keep anything more than 30 days. The place has been in operation since 1935 so if there is ever a grandfathering that would have to be it because of that location. There are three or four others that I know of in the County that are piled with cars. I made that statement to John and Sandy a year and a half ago and their reply was they are grandfathered. As far as inoperable vehicles, there should not be a question. We do not have a salvage vehicle there since I started there four years ago. The state declares that definition for salvage vehicle because the County does not have one. That is where the definition would come from is from the state. Junk vehicle or junkyard has a whole other meaning which is scrapped. So when those words are being used, that is improper.

Mr. Adams stated I think my client might be open to it, but I do not know if I think it is required, but we could try to designate some additional parking spots further on the interior of the property and that would at least get them further away from the road and that frankly could potentially give my client more parking and it would move some of the vehicles that are being worked on further away from that corner. It should be on the gas station side of the road. There is some property that is further behind the gas station further away from Route 340. It would go back towards those mobile homes and in the area near the retaining wall. You could potentially put some spaces there which

July 1, 2021

would at least give him more parking and move some of the parking further away from that corner. A certain amount of the cars that are parked there are not even their cars, customers coming in they also do park there as well as customers coming in both on the auto purchase side and the repair side. A certain number of those cars or vehicles they do not have any control over as far as where they are parked and placed and how many are there at any given time.

Chair Tilghman said she is not sure about the layout of the property that much so she is not sure what your asking is feasible.

Mr. Adams stated they are not asking for approval but his client wants to be in problem solving mode.

Ms. Bunch stated they have met with Mr. Baber on numerous occasions at the Community Development counter and explained that in General Business zoning permitted uses need to be within a fully enclosed building, not outside. Yes, repair is permitted there and so is vehicle sales, but vehicle sales has to be in the designated areas shown on the site plan. Anything inoperable, even with motor vehicle repair operations has to be in an impound yard with an approved Administrative Permit. So when he brings it in, it either needs to go into that bay, or into an impound yard if it is inoperable. I understand that his vehicles he has for sale will not have license or inspections, we are not arguing that. Everybody that has a vehicle sales lot does not have license and inspections but we are talking about the repair operation because he does not have a body shop there. We even allow impound yards for towing operations if you are going to bring it back to the property, it has got to in an impound yard. Vehicles that are licensed and inspected waiting for repair that are perfectly legal after 30 days even have to go in that impound area. We are not doing anything differently on this site than what we do on any other General Business site. If your car is towed in and needs to be repaired and you did not drive it in than it is pretty much inoperable. The applicant can designate whatever area they would want for an impound yard. It just has to be screened by a totally opaque fence. It has to be setback 25 feet from the edge of pavement. Section 25-302 clearly states every use that is permitted.

Mr. Baber said there is no room on the property for an impound yard.

Chair Tilghman said the Board cannot come up with solutions for you.

Mr. Adams stated the one thing we would request is if the violation is found, just to know what the specific conduct was that constituted the violation so that we have



July 1, 2021

predictability and clarity going forward. We also think that the trailer would not constitute a violation. A trailer is appropriate inventory for an auto sale yard, the mere presence of the trailer on the property itself cannot be a violation.

Ms. Bunch stated it was not in its designated area so it was an inoperable vehicle. It was located outside of the site plan area on the Administrative Permit that Mr. Baber signed. He will need to keep the vehicles in the designated area and now he wants to designate more of an area for vehicle sales on the site plan but it will need to be updated.

Mr. Adams stated the point is on the original notice of violation related to the location was not included. I do think the Board should limit itself to the actual violations that were contained in the notice of violation. I appreciate what the Chairwoman had said and I understand there is a lot of issues here and they sort of morph into each other and it is confusing, but at the same time, we are trying to confine it to say what is properly before the Board today and how do we decide on those issues. There is a feeling certainly that my clients have which you have probably felt that it is sort of this global examination of their business practices from top to bottom.

Ms. Bunch stated we have all of the letters in the file, but what he is saying is that the trailer should not be found in violation. It was not in its designated area. The vehicle behind the building is considered inoperable.

Mr. Glover stated the Board tabled this last month, so this is a continuation of what we reviewed last month. The question that is before us is to decide if this was a violation.

Ms. Bunch stated the fact that they brought documentation showing the items out of the floodplain at the appeal does not change the fact that they were in the floodplain according to our records when I sent that letter, it appeared they were in the floodplain. Now they are out and they are getting into compliance.

Mr. Benkahla stated there is evidence to show that it was never in the floodplain. If we have evidence to show that it was never a violation, I think you could make that determination. He stated she made a determination on that day that the tank based on the information she had that the propane tank was in the floodplain and it is not. It cannot be a violation because it was not a violation.

Ms. Kathleen Keffer stated she is the Assistant County Attorney. I am here solely to answer the question that Mr. Adams has put forth about what exactly were the



July 1, 2021

violations and how Mr. Baber was in violation of the code on the day that Sandy Bunch sent the notice. By way of framework in the State Code that when there is an appeal to the Board of Zoning Appeals, the Zoning Administrator's decision is presumed to be correct unless the appellant rebuts that presumption by a preponderance of evidence. On April 7, 2021, and you should have a copy of this notice in your packet. I am just going to go through the notices. The April 7<sup>th</sup> notice, it does refer to a couple previous letters but I am going to stick with the April 7<sup>th</sup> because this was the final notice and this was the one where they were notified that they have the right to appeal so this is the one we are working off of at this hearing today. The one thing that was mentioned was development within a designated floodplain. I think we have an agreement at this point, that part of the retaining wall was in the floodplain. I do think the appellant agrees with that and they are working to remedy that but at the time it was in the floodplain, therefore, our argument is that it was in violation and she is correct and this should be upheld. I think the other part of the development in the floodplain was the propane tank. I think we have come to an agreement that we cleared that up a few minutes ago that we have learned new information after consulting with them and that it never was in the floodplain.

Ms. Bunch stated there was a permit needed. Did the applicant ever get the electrical permit?

Mr. Adams stated that is not a matter before the Board today.

Ms. Keffer stated the next thing is the storage of wrecked or inoperable, unlicensed vehicles on the property. We have had a lot of discussion about that. So let's look at the pictures in the record. We have looked at a lot of them up on the screen and I do recognize that there is some confusion and there might be some disagreement about whether or not they should be considered inoperable, but our ordinance says 25-4 define that an inoperable vehicle is one of three things and our ordinances are worded in such a way to say any motor vehicle trailer or semitrailer which meets any one of them makes it inoperable and that it does not have valid license plates and valid inspection decals. Number two is not in operating condition. Number three says that it has been partially or totally disassembled and I am skipping over the 60 days or longer. You have looked at multiple photographs of vehicles with front ends missing you have seen multiple photographs of vehicles up on tow trucks. Our argument to you is that if it is on a tow truck, it is not in operating condition. The reason being it would not have to get towed if it was in operating condition. According to the photos, they are being stored on the property, and I would also submit to you that the fact that those vehicles being brought to the property without the proper screening that is required in the Business

July 1, 2021

district, therefore, they are in violation on that point. The next point is a semi-trailer possibly being used for storage. I think we have already kind of talked a lot about that. I think the appellant has acknowledged that there was a trailer on the property in the back of the property, not in the place designated on the site plan for sale it was in the back and it was up for sale. According to the site plan the trailer was in violation. There is some other wording in the letter, giving them some background about when the property had been viewed and what had been found and it spells it out pretty clearly about wrecked and inoperable vehicles stored on site, some of the photos show some of those vehicles were behind the building and that is not the proper place to store them and they were not screened. That is the violation. A semi-trailer was stored behind the building, in public view and that is written right in the violation along with the retaining wall, propane tank, and fill within the designated floodplain. There has been a lot of talk about salvage and junkyards and that kind of thing in this notice Ms. Bunch also cited 25-305 prohibits junkyards and salvage yards. Ms. Bunch also mentions in the letter that the County prohibits development within a designated floodplain. Everything else except for the propane tank we would argue, is a violation and was in violation at the time and her determination should be upheld. Unless she is presumed correct and under State Code you think in your judgment the appellant has put up sufficient evidence that she was wrong.

Mr. Adams stated to presume that any vehicle that is on a rollback is inoperable is just not valid. You could have a car that needs brake work but is perfectly operable and gets towed in. More to the point with regard to the sales function, that is certainly a situation where you can have perfectly operable cars that are being transferred, ancillary to the sale purpose. I think that assumption, and we are still concerned with the idea that a vehicle being transported on the back of another vehicle could be considered to be in storage. To assume that a vehicle that otherwise seems to be perfectly drivable and assume it is inoperable, particularly in the context of the two permitted uses that exist at this property. Again, with the trailer I do not think that the location was adequately presented in the notice of violation and alleging a violation made based on the location was not done. If that had been done, that would be a separate question. I think what this says is that the mere presence of the trailer on the property was a violation and certainly I think that as alleged does not rise to the level of a violation. I do not think we really want to contest further anything else that was said. I do appreciate Ms. Keffer's statement of the law and the specific issues we are dealing with. I think that provided a lot of clarity.

Chair Tilghman discussed the final notice of violation with the Board.

July 1, 2021

Mr. Glover moved to uphold the Zoning Administrator's decision on everything except the propane tank.

Mr. Coyner seconded the motion, which carried unanimously.

\*\*\*\*\*

**MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR**

**COLLINS HUFF AND MICAH HUFF, AGENTS FOR C. RODGERS HUFF TRUSTEE & ETAL - SPECIAL USE PERMIT**

A request by Collins Huff and Micah Huff, agents for C. Rodgers Huff Trustee & Etal, for a Special Use Permit to have a short term campground, trail riding, hiking, mountain biking, weddings and special events on property they own, located at 425 Shenandoah Mountain Drive, West Augusta in the North River District. - **Cancel SUP**

Mr. Coyner moved to cancel the Special Use Permit.

Mr. Thacker seconded the motion, which carried unanimously.

\*\*\*\*\*

**TROY A. AND MELISSA L. SIZER-LEWIS – EXTENSION OF TIME REQUEST**

A request by Troy A. and Melissa L. Sizer-Lewis, for a Special Use Permit to have weddings and special events on property they own, located at 100 Cider Barn Lane, Stuarts Draft in the Riverheads District.

Mr. Glover moved to approve the six (6) month Extension of Time.

Mr. Coyner seconded the motion, which carried unanimously.

\*\*\*\*\*

July 1, 2021

**STAFF REPORT**

20-33	CCW Enterprises, LLC
20-34	CCW Enterprises, LLC
20-35	Robert or Stephanie Baiotto
20-36	Ashley Christopher or Shari B. Craun
20-37	Charles L. or Angel L. Douglass

Ms. Bunch stated SUP#20-33, SUP#20-34, and SUP#20-35 are all in compliance. Staff has sent a letter for SUP#20-36 stating that their pre-conditions have not been completed. They will be on the August agenda for an Extension of Time. SUP#20-37 is in compliance.

\*\*\*\*\*

Ms. Keffer discussed the court cases with the Board.

\*\*\*\*\*

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

\*\*\*\*\*

  
 \_\_\_\_\_  
 Chair

  
 \_\_\_\_\_  
 Secretary