

May 2, 2024

PRESENT: George A. Coyner, II, Chair
 Thomas W. Bailey
 Monica L. Rutledge
 Thomas V. Thacker
 Sandra K. Bunch, Zoning Administrator and Secretary
 Doug Wolfe, Director of Community Development
 James R. Benkahla, County Attorney
 Kathleen Keffer, Assistant County Attorney
 Nicole Price, Assistant County Attorney
 Julia Hensley, Planner II
 Elizabeth Goodloe, Planner I
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Mark L. Glover, Vice Chair

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, May 2, 2024 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.

STOKESVILLE OWNERS GROUP – SUP#24-22

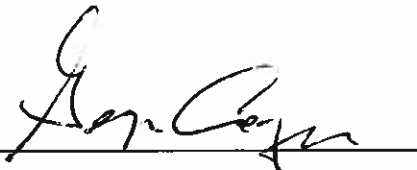
The Board discussed increasing the accessory building from 30' x 30' to 30' x 40'. The applicant did request this originally but it did not get listed in the conditions of their permit. The advertisement did not state a size. The Board agreed that it was a clerical error and decided to amend the condition to reflect the 30' x 40' size.

VIEWINGS

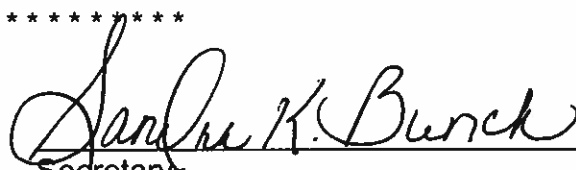
The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- VLADIMIR SHOKOV - SPECIAL USE PERMIT
- STEPHEN J. AND ESTHER M. WENGER - SPECIAL USE PERMIT
- JAMES W., ALINA, AND ROSEMARY J. DENNIS - SPECIAL USE PERMIT
- SHARON G. CONNER, AGENT FOR D.M. CONNER, INC. - SPECIAL USE PERMIT
- VERONICA ZOLOTOOCHIN, AGENT FOR DOG 'N' BUTTERFLY, LLC - SPECIAL USE PERMIT
- JEFFREY LORD, AGENT FOR WAYNESBORO VAB, LLC - SPECIAL USE PERMIT
- BENJAMIN R. GEE - 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

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PRESENT: George A. Coyner, II, Chair
Mark L. Glover, Vice Chair
Thomas W. Bailey
Monica L. Rutledge
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, May 2, 2024, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Bailey moved that the minutes from the April 4, 2024, meeting be approved.

Mr. Glover seconded the motion, which carried unanimously.

VLADIMIR SHOKOV - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Vladimir Shokov, for a Special Use Permit to have a catering business with food prep within a food trailer stored onsite on property owned by Sergey and Lina Shumeyko, located at 86 Grindstone Road, Bridgewater in the North River District.

The applicant was not present at this time.

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STEPHEN J. AND ESTHER M. WENGER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Stephen J. and Esther M. Wenger, for a Special Use Permit to have a short term rental within an existing dwelling on property they own, located at 34 Burketown Road, Weyers Cave in the North River District.

Mr. Stephen Wenger stated I would like to have this Special Use Permit for an Airbnb.

Chair Coyner asked if the rental would be in the main structure?

Mr. Wenger stated yes.

Chair Coyner asked if the applicant resides at the site?

Mr. Wenger stated yes. There is a wing off the back with its own entrance and living area. We plan on living on the other portion of the house.

Chair Coyner asked what is the age of the house?

Mr. Wenger stated 1790s is the brick portion. The additions date back to the Civil War but the back I am not sure when it was constructed.

Chair Coyner stated this is a nice piece of property. How do you plan on advertising?

Mr. Wenger stated through Airbnb.

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

Mr. Stan Jones, 17 Burketown Road, Weyers Cave, stated I live across the street. I could not have picked a better neighbor. I am in favor for them to have this Special Use Permit.

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

There being none, Chair Coyner declared the public hearing closed. The Board visited the site this morning and it is a nice piece of property.

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

Pre-Conditions:

None

Operating Conditions:

- 1. Be permitted to lease the one (1) bedroom suite for short term rental.
- 2. Total occupancy of the dwelling not to exceed eight (8) persons maximum.
- 3. Site be kept neat and orderly.

Mr. Bailey seconded the motion, which carried unanimously.

VLADIMIR SHOKOV - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Vladimir Shokov, for a Special Use Permit to have a catering business with food prep within a food trailer stored onsite on property owned by Sergey and Lina Shumeyko, located at 86 Grindstone Road, Bridgewater in the North River District.

Mr. Vladimir Shokov stated I had a permanent food truck based in Harrisonburg. I would like to cook at this site for the catering business and deliver the food to the customers.

Chair Coyner asked if customers will come to the site?

Mr. Shokov stated no.

Chair Coyner asked if this is a family operated business?

Mr. Shokov stated yes. I will not have employees.

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

There being none, Chair Coyner declared the public hearing closed. The Board visited the site this morning and it is well maintained.

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

Pre-Condition:

- 1. Obtain Health Department approval and provide a copy to Community Development.

Operating Conditions:

- 1. Be allowed to store and prepare food in the food trailer stored onsite.
- 2. No events, customers, or food sales at the property.
- 3. No employees other than family.
- 4. Site be kept neat and orderly.

Mr. Glover seconded the motion, which carried unanimously.

DOUGLAS P., JR. AND ALISON POWERS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Douglas P., Jr. and Alison Powers, for a Special Use Permit to have a short term rental on property owned by Zeb M. Harry, Jr. Revoc. Trust, located at 6374 Lee Jackson Highway, Raphine in the Riverheads District.

Mr. Douglas Powers stated we live in the main house. We would like to bring people to the County and educate them on the agriculture life of the area.

Chair Coyner asked if this would be advertised through Airbnb?

Mr. Powers stated yes.

Chair Coyner asked if the family will supervise during rentals?

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Mr. Powers stated yes.

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

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

Mr. Glover stated this is a well maintained site. It is in a good location. He moved to approve the request with the following conditions:

Pre-Condition:

- 1. Applicant will submit a current lease agreement between the owner and the tenant.

Operating Conditions:

- 1. Applicant be permitted to lease the existing two (2) bedroom dwelling for short term stays.
- 2. Maximum occupancy not to exceed four (4) persons.
- 3. Site be kept neat and orderly.

Mr. Thacker seconded the motion, which carried unanimously.

JAMES W., ALINA, AND ROSEMARY J. DENNIS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by James W., Alina, and Rosemary J. Dennis, for a Special Use Permit to construct an accessory building exceeding the 900 square foot total aggregate allowed on property they own, located at 147 Rutherford Lane, Stuarts Draft in the South River District.

Mr. James Dennis stated I would like to build a steel building. We want to demolish the existing building. We want to have storage for a motor home, tractor and other items.

Chair Coyner asked if it is larger than what is there?

Mr. Dennis stated the existing building is a 15' x 20' and this would be 30' x 50'.

Chair Coyner asked if the building would have steel siding?

Mr. Dennis stated yes. It will match the house and shutters.

Chair Coyner stated this is a large size building for this neighborhood. Why do you need a building that large?

Mr. Dennis stated the shorter size buildings will not fit my motor home.

Chair Coyner asked what is the height?

Mr. Dennis stated 16' tall.

Chair Coyner asked if the building is all steel?

Mr. Dennis stated it is a five star steel building. This structure has gables and structurally sound. Pole barn style buildings are four times the price.

Mr. Bailey asked if the rules state that the camper cannot be stored outside?

Mr. Dennis stated no. People do have campers outside. There are large buildings in the area.

Mr. Thacker asked what is the zoning behind this property?

Ms. Bunch stated Rural Residential is behind this property. They allow for larger buildings.

Mr. Thacker stated in Rural Residential there can be larger buildings because it falls under a different regulation.

Mr. Dennis stated there are trees covering the area on both sides.

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

Ms. Rosa Stevens, 142 Rutherford Lane, Stuarts Draft, stated I live across the street and I am opposed to this. There is a reason why we are only permitted 900 square foot buildings. This steel building will be 1,500 square feet – 16' high. This is not going to

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only house the RV but a Snap-on tool box truck. This is a residential neighborhood on a cul de sac with children. This is a quiet area. According to my one neighbor, he plans on opening a business and running it out of the building and they intend to do an in-law suite. There are safety concerns because the road is narrow. The road is also filled with kids. People walk their dogs down the road. I do oppose it because this is a residential neighborhood. This will take away from property values. It will not be appealing. This will open doors for other people. They moved here from Virginia Beach because Virginia Beach does not allow this there.

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

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

Mr. Dennis stated in zoning it does state as long as no customers coming to the site I can park there. If I cannot park the Snap-on vehicle there, I can park it at a storage unit. We will close on our house at the end of the month. The City of Virginia Beach does not allow storage of commercial vehicles in the backyard. We chose Augusta County because it said as long as you are not operating the business there. Snap-on tools is not an operating business that can be done on my property. We go out and service these customers. I can do it under 900 square feet.

Chair Coyner declared the public hearing closed. This is a nice residential area. This building would not be in character with that area.

Ms. Rutledge stated the structure will be in the back hidden. The Snap-on truck is not relevant to this piece of it because he can park it in the driveway.

Mr. Bailey stated in Single Family it allows 900 square feet. This will be much bigger than that. It will be out of proportion. If the applicant is able to live with the 900 square feet that would be allowed and a better option.

Mr. Thacker stated this seems to be out of character. There are no other buildings in the subdivision that size. He said that the smaller building would serve his purpose. He moved to deny the request.

Mr. Bailey seconded the motion, which carried unanimously.

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SHARON G. CONNER, AGENT FOR D.M. CONNER, INC. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Sharon G. Conner, agent for D.M. Conner, Inc., for a Special Use Permit to expand the existing mining operation on property she owns, located at 245 Oak Lane, Stuarts Draft in the South River District.

Mr. Steve Driver, Terra Engineering, stated I am here to represent the applicant. This property is adjacent to the current mining operation and it is surrounded by General Agriculture zoned property. They have been in business for a number of years. They will obtain the necessary permits from DMME. The request that is on the agenda today is to expand the mining operation to include property owned by Sharon Conner.

Chair Coyner asked if the mining operation will be moved over to this property?

Mr. Driver stated yes. This property will have the 200' buffer and maintain the 500' along the Gerties Lane subdivision.

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

Ms. Shayla Branch, 79 Gerties Lane, Stuarts Draft, stated I am an adjacent property owner. This is not a new issue for the residents of Gerties Lane and adjoining side roads. This has been an issue for several years. DM Conner is being investigated by the County and DMME because they ignored the conditions of their current Special Use Permit. They have mined out the 100' setback. They have not followed the state guidelines for reclamation. They are now pleading ignorance to the County regarding the 100' setback. Ignorance is no excuse for breaking the law, just ask any judge. They cannot continue to ask for forgiveness instead of permission. We ask that no new permits be issued until there are new aerial photographs and surveys done that makes this visible to the public, work be constantly inspected, and that the current issues that they have not followed all be done prior to any new permits being issued. How can you consider this when they are breaking the rules.

Mr. Derek Hutchinson, 106 Gerties Lane, Stuarts Draft, stated my property abuts up to the Conner site. I was not here in 2021 when they came to ask to mine the additional five acres. If they are going to mine, this is the best place to mine but I do have concerns. I do not believe this Board should reward poor behavior. They are currently not in compliance with the current permits. Why would we give them more? The quarries know their stuff. I have been in meetings with them. They have site plans and

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mining plans. It is hard to believe that this was a misunderstanding. Two quarries have made the exact same mistake digging out the 100' buffer. It is important because every foot matters. My biggest request is that they are in compliance. I do not think any reclamation has been done. The Board put conditions (#5 and #7) about reclaiming on their permits. Power lines run right through the middle of this. Will they be taken down and will we have to worry about electricity being lost? I would hope this current request be postponed until DM Conner is in full compliance with all of their Special Use Permits. There will be another meeting next month for compliance. The operating conditions should be put in five acre blocks. From the September 2, 2021 minutes, five acres is about 8-10 years. They need to reclaim it before they start the next section. Postponing this should not cause any harm. Even if they wait another six months, it is not going to shut them down.

Ms. Melissa Golladay, 32 Sycamore Path, Stuarts Draft, stated I am opposed to this. DM Conner and Acres Sand and Stone are violating the 100' setback. The new mining was behind my house. I saw an excavation claw and they were mining a 30' hole on the other side. They did do a good job on reclaiming the one side. I knew they were working too close to property lines. I filed a complaint with the County. I was told they are reclaiming. I sent a video to the County. They are tearing down trees on unmined land, they are not reclaiming. I called DMME and they spoke to the County and they said that they were reclaiming. I sent pictures to Matt at DMME and he did go out that day. Acres Sand was mining that property and that was shut down by DMME. They dug to the property line. The operations manager said that they can dig right next to the property line and they produced a letter from June 2023 that Conner signed an agreement with Acres that they can dig up to the property line on that property. They knew what they were doing. The Whitesells came around for them to sign a document and there was a clause that gave permission 5' away if we all signed it. That is where the trust issues started. Since 2018, we have been living in a quarry. Tia Baker could not be here but she does not want this. All that they wanted was for them to be 500' from her house. They need to stop digging so close to the property lines. I did call the state that they were impeding on the buffer. We breathe this dust and live in this quarry. The property sits at the back of this property. Are we going to hold them accountable? I have no problem with them digging. They had a 100' setback and they dug right to the line. We should advocate for the aerial maps because the quarry looks different. The maps are outdated. That speaks for Acres Sand and Stone also. A lot of his cliffs are not 2-1 so he needs to be investigated. Acres was very aggressive in the meeting because they were aware of what they were doing. This is a safety issue for all of our families. We were ignored and lied to. We should know if they are digging back there. They did not choose to go with the 500' maybe because a lot of the triangle has been mined. Give us 2024 maps with clear setbacks.

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

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

Mr. Benny Conner, 35 Dewey Lane, Waynesboro, stated about the triangle, we are not even going that way. We are going towards Sharon's property about 1,500' from them. For the reclamation, the plan is 10'-20' deep or 8'-10' of rock and no sand. We do not know how deep to go. We have to take the clay off to bring it up sloped 2 to 1. We cannot bring it back to the original. We need rock to make sand. We need to get more rock to keep up with the paving companies.

Chair Coyner declared the public hearing closed. The Board visited the site this morning. They are not up to speed on the current permits and I am not sure why they are in need of another one.

Ms. Rutledge stated they are not in compliance. I am concerned about that. I do not want to consider issuing a new one until everything is brought up to speed.

Chair Coyner stated they have not done what they were supposed to do with what they currently have.

Mr. Thacker stated we should check to see if they are in compliance next month.

Ms. Bunch stated they will not be in compliance by next month.

Mr. Thacker moved to continue the request at the July 3, 2024 meeting.

Ms. Rutledge seconded the motion, which carried unanimously.

VERONICA ZOLOTOOCHIN, AGENT FOR DOG 'N' BUTTERFLY, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Veronica Zolotoochin, agent for Dog 'N' Butterfly, LLC, for a Special Use Permit to amend the Operating Condition of SUP#22-72 in order to increase the number of dogs onsite on property owned by Dog 'N' Butterfly, LLC, located at 766 Frog Pond Road, Staunton in the Pastures District.

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Ms. Veronica Zolotoochin stated I was granted a Special Use Permit for doggie day care and boarding. I have 25-30 clients most days. I keep 4-6 dogs in the home for day care. We do pickup and drop off. The business has grown slow enough and it has been a nice fit. I love what we do. The idea is to keep the dogs safe, happy and content in our home. I would like to increase the number to ten (10) with the boarding in order to have more flexibility in an emergency situation. I do not have the dogs in kennels. This is a home environment. We are out with them in the fenced in area.

Chair Coyner stated the Board visited the site this morning. This is a really nice facility.

Ms. Zolotoochin stated our neighbors have even referred customers to us. We are proud of what we have done.

Chair Coyner asked if ten (10) would be a good number for you?

Ms. Zolotoochin stated yes. We want to grow slowly and ten (10) is a comfortable number.

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

There being none, Chair Coyner declared the public hearing closed. This is a great facility and it is well maintained.

Mr. Glover stated this is a well-run business with no complaints. He moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted a maximum of ten (10) dogs onsite.
2. All other operating conditions of SUP#22-72 remain in effect.

Mr. Bailey seconded the motion, which carried unanimously.

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JEFFREY LORD, AGENT FOR WAYNESBORO VAB, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jeffrey Lord, agent for Waynesboro VAB, LLC, for a Special Use Permit for a 3MW (alternating current) small scale solar energy facility within approximately 23.5 acres of fence enclosed site located on Parcel Tax Map No. 077-32 with a gravel access road extending through Tax Map No. 48-2-1 on property owned by Kenneth R. Bradley, Jr., located at 720 May Avenue, Waynesboro in the Wayne District.

Kevin Comer with Stark Tech and Bryan Schoffman with RWE presented the Board with a PowerPoint Presentation (copy is in the file).

Chair Coyner stated the Board visited the site this morning. When you disturb the trees, will you plant in those areas?

Mr. Comer stated yes.

Chair Coyner asked if the existing sod would be disturbed?

Mr. Comer stated yes. It is flat in that area. The tracking technology can easily handle the slopes. There is a steep grade there. You can have a tall tree and it still will not shade the solar project. They will look at the detail and models and the actual heights of those trees at the final site plan stage.

Chair Coyner stated with another solar site, there was a considerable amount of topsoil that was moved. Will that happen here?

Mr. Comer stated there will be retention ponds and a couple of roads. In the array area there will be no soil disturbance at all.

Chair Coyner asked if the panels rotate?

Mr. Comer stated yes.

Chair Coyner asked how much noise will there be?

Mr. Comer stated it will be quiet due to the location of this project and all of the trees. This will be over 1,000' from the nearest home. No one will hear it.

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Chair Coyner asked if there will be transformer poles at the site?

Mr. Comer stated 5-6 poles are required. It will be on the extension of May Avenue. It will not be visible to anyone.

Chair Coyner stated there will be access on May Avenue which is a quiet narrow street. During construction will the equipment deliveries be able to be handled on the road?

Mr. Comer stated there will be 18-24 large trucks coming in. Mr. Bradley already has a trucking and construction company anyway that already has large vehicles coming to the site. There will be no additional traffic beyond that.

Chair Coyner asked how long has the company been doing solar operations?

Mr. Schoffman stated the company has been around for 125 years. In the United States, there has been 7-8 projects in Virginia and some of our oldest projects are in New England. None of them have been decommissioned yet. The oldest projects would be 8-12 years in operation.

Chair Coyner asked how long do the panels last?

Mr. Comer stated they have a warrantee of 25 years with a potential for up to 40 years.

Chair Coyner asked how long until the project is complete?

Mr. Comer stated this one already has an accepted agreement through Dominion. We are planning construction in 2025 or as soon as possible if we get approval.

Mr. Thacker stated most of the site is wooded. What is the plan to get rid of the timber since it cannot be burned?

Mr. Stephen Quina stated a lot of times they mulch it onsite and then haul it away. We do not burn onsite. There will be no stumps removed.

Mr. Bailey asked once the project is finished who takes care of the monitoring?

Mr. Comer stated RWE or a contractor serving them. Mr. Bradley has his eyes on it since his business is there. The solar panel performance is constantly being reported. There will be no equipment between the rows.

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Chair Coyner asked what is the width between the rows of panels?

Mr. Comer stated 12' based on the maximum tilt so they do not shade each other. The width is based on vehicle access.

Chair Coyner asked how much clearance is at the bottom?

Mr. Comer stated 3' and the maximum tilt is 7'.

Chair Coyner stated there will be enough room for sheep. Will the wires be underground?

Mr. Comer stated the County requires it to be underground.

Mr. Thacker stated the tree stumps will be pushed out. Will there be some disturbance from the topsoil?

Mr. Comer stated yes.

Chair Coyner asked if the site will be reseeded?

Mr. Comer stated yes with native pollinator mixes.

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

Mr. Jack Barber, 169 Windsor Drive, Fishersville, stated I am in favor.

Mr. Kenneth Bradley stated I am the owner of the property. I ask the Board for approval. This is a good opportunity for the County and myself.

Mr. Wayne Nolde, 210 Cider Mill Road, Mount Sidney, stated this is an ideal project in my mind. I support the project. This provides renewable energy. This is a good use instead of someone building lots there. This is a win, win.

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

There being none, Chair Coyner declared the public hearing closed. The Board visited the site this morning. This is an ideal spot and it is not visible from anyone. They do

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not plan on disturbing a lot of the terrain. The owner is receptive to using sheep at the site.

Mr. Glover stated we have seen a variety of these applications. It is not too often that one fits all requirements. He moved to approve the request with the following conditions:

Pre-Conditions:

1. The applicant shall submit a site plan meeting the requirements of Section 25-673 "Site Plan Contents," Section 25-70.4.C "Standards applicable to small solar energy systems," and Section 25-70.5 "Applications and Procedures for Small Energy Systems" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. The solar energy system shall not commence commercial operations until final site plan approval is first obtained from the Zoning Administrator or his/her designee, and all pre-conditions of approval have been met.
3. The solar energy system shall not obtain final site plan approval until evidence has been given to the County that the permittee has obtained an interconnection approval by a regional transmission organization or electric company.
4. In consultation with site plan review, wetlands shall be inventoried and delineated, and no construction of panels or access roads shall be permitted within 35 ft. of the delineated wetland. All operations and infrastructure of solar energy system shall additionally maintain a 35 ft. riparian buffer from all streams.
5. Landscaping Plan. The Applicant shall submit a proposed landscaping plan for each perimeter of the Solar energy system (outside all fenced areas) to the Zoning Administrator and/or his/her designee for review and approval as part of the full site plan, which shall be in general conformance with the landscaping plan submitted with the Concept Site Plan. The following conditions shall govern the installation of landscaping in accordance with the landscaping plan:
 - a. All landscaping shown on the landscaping plan shall be installed at the heights specified on the Concept Site Plan and shall be in good condition prior to the commencement of commercial operations.

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- b. In the event that the Applicant requires a minor deviation from the approved landscaping plan or full site plan, such deviation shall be provided on a revised plan sheet for review and approval by the Zoning Administrator and/or his/her designee. Minor deviations shall not include changes to the proposed install heights of landscaping.
- c. In areas where there is an existing timber buffer remaining on the Solar energy system parcel that provides at least the equivalent buffer benefits as the buffer proposed on the Concept Site Plan, then the existing timber buffer shall be retained as the perimeter landscaping. Hand-clearing of trees within the existing timber buffer for purposes of safety or removal of dead trees is permitted, so as long as the Applicant plants appropriate replacements in accordance with ordinance standards. All existing timber buffers, which may require supplementation with planted trees or shrubs if the existing buffer consists of a relatively thin block of trees or lacks significant understory, are subject to review and approval by the Zoning Administrator and/or his/her designee. The use of existing timber and natural screening is preferable.
- d. In areas where sufficient existing timber does not remain, the landscaping requirements shall conform to the Concept Site Plan. The trees shall be planted during the appropriate time of year, subsequent to the completion of construction.
- e. A surety agreement for landscape maintenance in a form acceptable to the County Attorney shall be submitted and approved prior to the issuance of any building permits. The amount of the surety shall be determined by an independent landscape architect selected and reasonably compensated by the Applicant but approved by the Zoning Administrator and/or his/her designee. The amount of the surety shall be equal to a reasonable estimate of the amount needed to establish, and following establishment, to maintain the landscaping required by the approved landscaping plan for two (2) years after initial installation. Once the landscaping has been successfully established, the surety amount will be reduced to that amount required for two (2) years of maintenance thereafter. The surety will be released only after decommissioning is complete.
- f. All landscaping will be reviewed by the Zoning Administrator and/or his/her designee following installation, at one-year following installation,

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and as necessary thereafter to ensure the landscaping is being maintained.

- g. The Applicant shall work with the County to identify the species that will provide the best aesthetic and environmental benefit, while also considering market availability.
 - h. The use of herbicides for perimeter landscaping shall be minimized to the greatest extent reasonably practicable.
6. Decommissioning Plan. Concurrent with the submittal of the final site plan, the owner of the solar energy system shall produce to the County a Decommissioning Plan as outlined in the Augusta County Code Section 25-70.10, as amended. Any structure or equipment associated with the solar energy system that is not operating for a continuous period of 12 consecutive months shall be subject to decommissioning, per Augusta County Code Section 25-70.10, as amended. Within 6 months of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy system and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Zoning Appeals. Periods during which the Site is not operational for maintenance, repair, or due to catastrophic events beyond the control of the Applicant, during which the Applicant works diligently to return the Site to full operating status, shall not trigger the Decommissioning requirements herein. The Applicant must provide written notice and evidence of the above to the Zoning Administrator during the period in which the solar energy system is not fully operational. Such notice shall identify the last day on which the Site was fully operational. Regardless of the efforts of the Applicant to return the solar facility to full operational capacity, if the Solar energy system does not operate as a solar energy system collecting and storing energy and transferring and distributing it to the Grid after the catastrophic event, for a period of two (2) years the Special Use Permit shall be rendered void and the Applicant shall commence Decommissioning no later than the 730th day after the last day the Site was fully operational.
7. A letter of acceptance from a landfill shall be provided with the submittal of the Decommissioning Plan.
8. Decommissioning Estimate. Concurrent with the submittal of the final site plan, the owner of the Solar energy system shall produce to the County an estimate of the decommissioning costs as outlined in the Augusta County Code Section 25-

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70.10, as amended, and/or detailed below (the more stringent shall apply), by line item and the surety guaranteeing the payment of those costs and the decommissioning work. The estimate shall be signed and sealed by a third-party engineer licensed in Virginia. The decommissioning cost estimate shall include, at least, the following delineated by line item:

- a. Total cost related to complying with all the decommissioning work required by this Special Use Permit.
- b. Costs related to creating, maintaining, and re-stabilizing any construction entrances identified on the Property, with a separate line item for each such construction entrance, unless written waiver to the Board of Zoning Appeals is requested by the landowner.
- c. Costs for mobilization.
- d. Costs for removal and disposal of all materials, line itemed by category of facility. For example, "cost to remove conduit," "cost to remove panels," "cost to remove panel support structure," cost to remove inverters," etc.
- e. Costs to de-compact soils and reestablish topsoil.
- f. Costs to stabilize land disturbed by the decommissioning work.
- g. Costs of trucking, hauling and equipment use.
- h. Costs for removal of any landscaping in buffer zones, setback areas, or under panels
- i. Costs of landfill fees associated with the disposal of commercial and industrial waste
- j. Costs of all labor and estimated man hours to perform the decommissioning work.
- k. Costs must assume an increase in labor and equipment costs of two percent (2%) a year every year until the completion of decommissioning and must assume commencement of decommissioning after year thirty-five (35) of operation.

setback areas, any and all support equipment, and any and all access roads, shall be removed from Land Use Assessment and therefore subject to a rollback tax paid to the County for the difference between land use tax and the fair market value for each of the five most recent complete tax years. The remainder of the property not included in the solar energy system shall continue to meet current requirements for the County's Land Use Assessment program in order to remain included in the program, as determined by the Commissioner of the Revenue upon approval of the Special Use Permit.

12. The applicant shall disclose to the Augusta Water if corrosion control systems are part of the solar energy system.

13. Augusta Water Infrastructure.

- a. Ground surface elevations shall not be changed, and no water shall be impounded over any existing water/sewer infrastructure without written consent of Augusta Water.
- b. No panels and/or appurtenances, including fences and landscaping shall be installed within 20 feet each way of the centerline of any existing water or sewer main to ensure adequate space for future operations and maintenance.
- c. Where public water/sewer utilities are located on the same property as the solar energy system, Augusta Water shall have the right to utilize access roads constructed for the project or be provided with reasonable access to the utilities by truck.

14. The Applicant must obtain site plan approval within 24 months of the issuance of the Special Use Permit and shall substantially complete construction within 36 months of the issuance of final site plan approval. Notwithstanding the foregoing, the Board of Zoning Appeals may approve an extension of any deadline herein for good cause.

Operating Conditions:

1. This Special Use Permit ("Permit") is granted solely for the subject property for operation of a small solar energy system. This Permit shall be binding on – Waynesboro VAB, LLC and any successor-in-interest, including but not limited to any current or future owner, lessee, sub-lessee, and permitted assignee ("Applicant").

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2. The Permit shall not be assignable by Waynesboro VAB, LLC to a third party absent the written consent of the Board of Zoning Appeals of Augusta County.
3. Any document memorializing or relating to the establishment of any successor-in-interest, e.g., lessee, sub-lessee, future owner, permitted assignee, etc., between Waynesboro VAB, LLC or business entity, shall include a recital as to the existence of the Permit, and the duties and obligations of the third party and now successor-in-interest thereunder the Permit, to ensure that successors-in-interest are on written notice of the Permit and its terms and conditions. A copy of these conditions shall be recorded in the clerk's office of the Circuit Court for the County of Augusta, Virginia.
4. The Solar energy system, including but not limited to, fence line boundary, access roads (unless otherwise required by VDOT), and setbacks (unless otherwise determined by the Board of Zoning Appeals), shall be constructed and operated in substantial conformance with the approved Site Plan prepared by VHB, dated April 22, 2024.
5. All bonding or posting of sureties for the project shall at all times be by and in the name of the owner of the solar energy system and its successors and assigns.
6. All non-operational, non-electrical site features along the perimeter of the solar energy system, such as landscaping and fencing, shall be properly maintained throughout the life of the Permit. Fencing shall be maintained in good repair and landscaping shall be maintained so as to provide the desired buffer benefits. Maintenance of such features shall be guaranteed by the surety agreement and surety as provided below. If the Zoning Administrator and/or his/her designee determines that site features identified are not being properly maintained, as described herein, then the Applicant shall be given a notice to remedy as is the standard zoning violation policy of Augusta County.
7. Setbacks, either as shown on the Concept Site Plan, or set by the Board of Zoning Appeals during their review, shall be measured from the property line and/or VDOT Right of Way to the fence line of the solar energy system.
8. The Applicant shall not add additional photovoltaic panel areas, change the entrance locations of access roads (unless otherwise required by VDOT in a written statement), or revise the height, placement, or design of landscaping

buffer elements without prior approval by the Augusta County Board of Zoning Appeals.

9. The Zoning Administrator or any other parties designated by the Zoning Administrator shall be allowed to enter the property at any reasonable time to check for compliance with the provisions of this Permit, with at least 24 hours of advance notice and subject to the security, health and safety standards and regulations that apply to the solar energy system.
10. The Applicant shall preserve and maintain existing forest/vegetation where it serves to meet buffer standards or standards for alternative compliance as required by ordinance from adjacent property and public right of ways, and is not in conflict with the solar panels, as indicated on the Concept Site Plan. See 5.C and 5.D in the pre-conditions of this Special Use Permit. ***Burning of woody debris is not permitted.***
11. All construction and decommissioning activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m., Monday through Saturday, and will be prohibited on Sundays. These conditions shall apply to noise generated during the construction of the solar energy system and to any construction needed during replacement, repair, or maintenance activities during the ongoing operation of the solar energy system. Replacement, repair, and maintenance activities conducted at nighttime and not involving construction shall comply with all applicable noise standards.
12. The solar energy system shall not be lit during ongoing operations, unless as required by the Uniform Statewide Building Code. Lighting used during construction shall be downward facing and shall be located at least 500 feet from any adjacent residential property.
13. All solar panels shall use anti-reflective coatings.
14. No topsoil shall be removed from the site.
15. The Applicant shall implement the following additional measures during construction:
 - a. Maintain all construction-related vehicles in good working order.

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- b. Designate a specific individual and provide that individual's name and contact information to the Zoning Administrator and/or his /her designee, to which questions, complaints, or concerns during construction may be directed.
 - c. Prior to the initiation of construction, mail a notice of construction activity to all property owners whose properties are adjacent to areas on which the Solar energy system will be constructed. The notice shall summarize upcoming construction activities, describe the areas in which construction will occur, including the main routes of delivery, and provide the name and contact information of the solar energy system representative to whom any complaints, concerns, or comments may be addressed.
 - d. Provide adequate portable sanitation facilities that are located in a manner that facilitates ease of disposal but that are not within one hundred and fifty (150) feet of any property boundary of a parcel on which a home is located and whose owner is not participating in the Solar energy system.
 - e. Prohibit any personnel associated with the construction of the solar energy system from overnight lodging at the site.
16. The construction protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization achieved throughout construction, and the approved construction phasing plan shall be implemented during construction.
17. Any electrical wiring used in the system shall be underground except where wiring is brought together for inter-connection to system components and/or at the project substation and switchyard for interconnection to the local utility power grid. Electrical distribution lines between the inverters and the point of interconnection shall be underground except where crossing creeks, floodplains, wetlands, and at the point of interconnection. Nothing in this condition shall prevent the ability to utilize underground boring technology.
18. This Permit shall be valid from the time of issuance and thereafter for a period of forty (40) years from the start of commercial operations of the solar energy system, which shall be the date on which the solar energy system first delivers non-test energy to the high-voltage transmission system, or until this Permit is lawfully terminated or terminated as a matter of ordinance or other law prior to the natural expiration date, whichever is sooner. At the end of the forty (40) year

period, unless such period is otherwise extended by the Board, or unless decommissioning is required sooner pursuant to the conditions herein, the solar energy system shall be deemed to have reached the end of its lifespan and decommissioning shall begin pursuant to the conditions herein.

19. Solar Panels will be constructed, maintained, and operated in accordance with national industry standards and regulations including the National Electrical Code, International Fire Code of the International Code Council and the National Fire Protection Association Fire Code, as provided in Va. Code 15.2-2286. In the event of a conflict between the national industry standards and these Conditions, the national industry standards shall control.
20. Corporate Structure, Associations, and Information. Applicant and all successors-in-interest, including current and future owners, lessees, sub-lessees, and permitted assignees shall provide the Zoning Administrator, with a copy to the County Attorney, written notice of changes of ownership of the solar facility within thirty (30) days thereof.
21. Any substantial upgrades or changes made to the design or operation of the solar energy system that are planned shall be disclosed to the Zoning Administrator and/or his/ her designee at least ninety (90) days before the intended implementation of the upgrades or changes – except as provided herein. Any substantial upgrades and/or changes resulting solely from a bona fide emergency and force majeure event shall be disclosed no later than (sixty) 60 days thereafter.
22. Prior to the activation of the solar energy system, Waynesboro VAB, LLC, shall provide training to the Augusta County Fire Rescue and Augusta County Sheriff's Office. This training and education shall include documentation of onsite material and equipment, proper firefighting and lifesaving procedures, and material handling procedures.
23. Local Subscribers – Prior to beginning commercial operation of the utility-scale solar facility, the Applicant shall work in good faith and use its best efforts to identify residents of Augusta County, Virginia and its incorporated towns to voluntarily subscribe to its community solar program ("Local Subscribers"). Outreach efforts to Local Subscribers may include, among others, advertising in a local newspaper of record and hosting informational community meetings. The Applicant will give notice of such informational community meetings to the County Administrator.

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24. Contribution for Public Improvements – The Applicant, and if different than the Applicant, the solar energy system owner and/or operator, shall provide annual substantial cash payments for substantial public improvements in accordance with the provisions of Virginia Code § 15.2-2288.8. The amount of such annual substantial cash payment shall be equal to \$1,400 per megawatt as measured in alternating current (AC) generation capacity of the Solar energy system as listed in the Applicant’s executed Interconnection Agreement with the interconnecting utility (“Contribution Amount”). The Applicant and the County acknowledge and agree that the County may identify in future budget years qualifying substantial public improvements that will be funded by the annual substantial cash payments to be provided by the solar energy system owner and/or operator. The Contribution Amount will increase annually by two percent (2%), beginning on the first anniversary of the first payment of the Contribution Amount. The first payment will be due on or before the date that is 90 days following the commencement of commercial operation of the solar energy system. Subsequent payments will be due on each anniversary of the commercial operation date until the solar facility is decommissioned as required by these Conditions. The Applicant, facility owner and/or operator shall provide written notice to the Zoning Administrator within ten (10) business days of when the solar facility commences commercial operation. The payment by the Applicant, Solar energy system owner, and/or operator of all annual substantial cash payments until the decommissioning of the solar facility is complete shall be a condition of this permit. The Applicant, facility owner and/or operator shall be jointly and severally responsible for the payment of all annual substantial cash payments required by this condition.

25. Any infraction of the above-mentioned conditions, or any Zoning Ordinance regulations, may lead to a stop work order and revocation of the Special Use Permit by the Board of Zoning Appeals.

Mr. Thacker seconded the motion, which carried unanimously.

OLD BUSINESS**BENJAMIN R. GEE - SPECIAL USE PERMIT**

A request by Benjamin R. Gee, for a Special Use Permit to have a contractor yard for parking of commercial vehicles on property he owns, located at 2986 Churchville Avenue, Churchville in the Pastures District. - **Carried over from the April 4, 2024 Meeting**

Mr. Benjamin Gee stated I hope I did a good job cleaning up the site. The engineer is in the process of working on this so they can get a site plan in the works. I would like the Board to consider more vehicles than what staff is recommending. VDOT did not put a number on the vehicles. I would ask the Board not restrict the number of vehicles. Everything will be kept in the designated areas.

Chair Coyner stated we would not grant an unopen number of vehicles.

Mr. Gee stated I would like to have at least fifteen (15).

Chair Coyner stated toward the road there was debris and brush.

Mr. Gee stated it is stuff that I have cleaned up over the years and it has been so dry and I have not burned in a long time.

Chair Coyner stated the Board visited the site this morning. We would be remiss to not have a number on the vehicles allowed. The applicant does not think eight (8) is enough.

Ms. Bunch stated the container up front cannot be used for storage. Outside storage was not requested as part of your permit. This is not supposed to be used for storage. The porta-potties are not supposed to be used for permanent restrooms. The permit was only advertised as parking for vehicles only.

Mr. Gee stated I do not want them to use the restroom by their vehicles so that is why they are there.

Ms. Bunch asked if there are restrooms in the existing building?

Mr. Gee stated there is but they do not go up near the building. I do not want them to go out in public view. The porta-john is out of sight.

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Ms. Bunch stated you did not ask for outside storage. The ordinance says that shipping containers cannot be used for storage. If you had a building you could use that. The application was for parking only.

Mr. Gee stated I will move the storage container. You had said to move it so we moved it out of the floodplain. I am trying to accommodate these folks to get public utilities done.

Ms. Rutledge asked if he added a storage building if that would be in compliance? What will he need to do to be in compliance?

Mr. Gee asked if he can put a Miller storage building there?

Ms. Bunch stated yes but a shipping container would not be permitted. Nothing can be in the floodplain. There is a fifty (50') foot setback from Route 250 and nothing can be in the floodplain.

Mr. Gee stated I will move the shipping container.

Mr. Glover stated the brush has to be removed also because of the floodplain. It should have not been there to begin with.

Mr. Gee stated this is not a good time to burn. John Wilkinson told me it can be kept there.

Ms. Bunch stated it cannot be in the floodplain.

Mr. Gee stated I will burn it as soon as possible.

Mr. Bailey stated the applicant should only have twelve (12) vehicles at the site.

Ms. Rutledge moved to approve the request with the following conditions:

Pre-Condition:

1. Applicant remove all prohibited items from the floodplain, including the storage container and shipping container used for storage, and debris within **thirty (30) days**.

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- 2. Applicant submit an updated site plan and revise the Erosion & Sediment Control Plan and Stormwater Management Plan, and demonstrate there is no reduction of floodplain volume. Any gravel placed will need to be excavated first to have no increase in ground elevation.

Operating Conditions:

- 1. Applicant be allowed to park twelve (12) licensed commercial vehicles, including licensed **empty** utility trailers in the designated gravel parking area shown on the site plan.
- 2. No materials or equipment subject to flotation be kept in the floodplain.
- 3. All other Operating Conditions of SUP#03-43, #05-64, #08-54 and #21-32 remain in effect.

Mr. Bailey seconded the motion, which carried with a 3-2 vote. Mr. Glover and Mr. Thacker were opposed to the motion.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

DAWN VALLIMONT, AGENT FOR THE VIRGINIA FARMHOUSE, LLC - EXTENSION OF TIME

A request by Dawn Vallimont, agent for The Virginia Farmhouse, LLC, for a Special Use Permit to have an extended stay campground on property they own, located at 219 Anderson School Road, Staunton in the North River District.

Mr. Vallimont stated it is taking longer than expected. We have an approved plan from Valley Engineering. We are working with the Health Department on permits for a well and two septic fields.

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

Mr. Thacker seconded the motion, which carried unanimously.

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PAOLO MORABITO - EXTENSION OF TIME

A request by Paolo Morabito, for a Special Use Permit to construct a building for storage of commercial equipment on property he owns, located on the south side of Rankin Lane (Route 848), north of the intersection of Rankin Lane and Howardsville Turnpike (Route 610), Stuarts Draft in the South River District.

Ms. Bunch stated the applicant needs more time.

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

Mr. Glover seconded the motion, which carried unanimously.

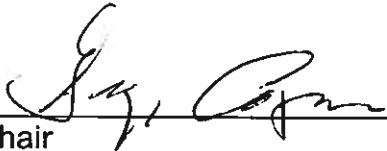
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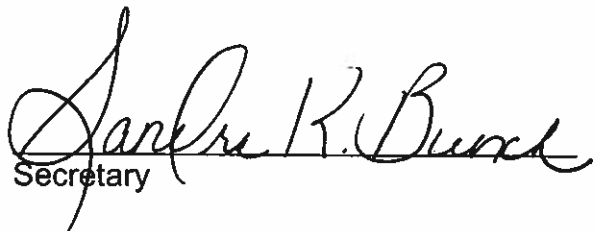
- 23-40 Rebecca Jane Parisien
- 23-41 Factory Holding Company, LC
- 23-42 Gary E. or Beverley H. Farrar
- 23-43 Paolo Morabito
- 23-44 David W. Surratt Revoc. Trust

Ms. Bunch stated SUP#23-40 and SUP#23-41 are both in compliance. The applicant has not completed the pre-conditions for SUP#23-42. We sent them a letter. The Board just approved an Extension of Time for SUP#23-43. SUP#23-44 was denied.

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

