

November 5, 2009

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

ABSENT: G. A. Coyner, II

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, November 5, 2009, at 9:15 A.M., in the County Government Center, Verona, Virginia.

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VIEWINGS

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

- **John Rorrer, agent for Augusta County SPCA - Special Use Permit**
- **Dale Morse and Susan Holland - Special Use Permit**
- **Robert Moore, agent for LT Partners - Special Use Permit**
- **Scott Swats - Special Use Permit**

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

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Chairman

Secretary

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

Absent: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, November 5, 2009, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Mr. Coyner moved that the minutes from the October 1, 2009 meeting be approved.

Mr. Swortzel seconded the motion, which carried unanimously.

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JOHN RORRER, AGENT FOR AUGUSTA COUNTY SPCA - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by John Rorrer, agent for Augusta County SPCA, for a Special Use Permit to construct a new building for a spay and neuter clinic on property they own, located on the north side of Archery Lane, just west of the intersection of Archery Lane and Desper Hollow Road (Route 638) in the Beverley Manor District.

Mr. Brasil Hamrick stated that he is the agent for the SPCA. He stated that they are building a new facility in order to upgrade the older site.

Mr. Swortzel asked if the animals go up for adoption after they are spayed and neutered?

Mr. Hamrick stated yes.

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Mr. Coyner asked if they will be constructing the new building as soon as possible?

Mr. Hamrick stated yes.

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

There being none, Chairman Shreckhise declared the public hearing closed. He stated that this request is something that the County needs.

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

Pre-Condition:

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

Operating Conditions:

- 1. Be permitted to construct a 3,505 square foot building.
- 2. The operating conditions of all previous Special Use Permits remain in effect.

Mr. Swortzel seconded the motion, which carried unanimously.

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DALE MORSE AND SUSAN HOLLAND - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Dale Morse and Susan Holland, for a Special Use Permit to have an ornamental metal shop for fabrication and blacksmithing within an existing building and to have outside storage of equipment and supplies on property they own, located on the west side of East Side Highway (Route 340), just opposite the intersection of East Side Highway (Route 340) and Browns Lane (Route 905) in the Wayne District.

Mr. Dale Morse stated that he hopes that the Board approves his request for an ornamental metal shop for fabrication and blacksmithing within his existing building.

Mr. Coyner asked if this is the applicant's hobby?

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Mr. Morse stated no it would be his profession.

Mr. Swortzel asked if this will be his full-time employment?

Mr. Morse stated yes.

Mr. Coyner asked if any family members or employees would help?

Mr. Morse stated no he would be the only person.

Mr. Coyner asked if there would be a lot of customers coming to the site?

Mr. Morse stated no. He stated this is not a retail operation. He stated that he will go to the customer's site or he communicates with his customers by email. He stated that there will be very little traffic coming to the site.

Mr. Coyner asked what will the applicant make at the site?

Mr. Morse stated hand rails, driveway gates, light fixtures ,etc.

Mr. Swortzel asked if there would be a lot of noise?

Mr. Morse stated that it would be quieter than the speedway. He stated that the noise level could be similar to the railroad when his heaviest machinery is running. He stated that the machine does not run constantly. He stated that typically it runs for a few minutes at a time.

Mr. Swortzel asked how large will the pieces be that the applicant is making?

Mr. Morse stated it depends on the job. He stated the driveway gates are quite large.

Mr. Coyner asked if all will be kept inside the building?

Mr. Morse stated that is correct. He stated that the doors will remain shut and he is planning on insulating the building.

Chairman Shreckhise asked if the applicant would be making provisions for soundproofing or fireproofing the building?

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Mr. Morse stated that there is not much more he can do in the front of the building due to the cinderblock. He stated that he will insulate and drywall the rear of the building for fire as well as noise.

Chairman Shreckhise asked if he discussed this with his neighbors?

Mr. Morse stated that Bonnie Shifflett had some concerns but she did like that someone would be at the site on a regular basis during the day. He stated that Katrena Collins is in favor of the request. He stated that he will work closely in order to ensure that the neighbors are not affected by this request.

Mr. Swortzel asked if the applicant operated this type of business somewhere else?

Mr. Morse stated that he had a shop in Charlottesville but when he moved to Waynesboro he wanted his operation closer to his home.

Mr. Coyner stated that the materials will be delivered to the site and the applicant would deliver the finished product.

Mr. Morse stated that is correct.

Mr. Coyner asked if there would be painting involved?

Mr. Morse stated no. He stated that there are no chemicals or fumes involved.

Ms. Brown asked if the gate is in a solid piece?

Mr. Morse stated that the pieces for the gate are in twenty (20') foot long pieces. He stated that is considered a large product for him.

Mr. Coyner asked if his business is operated through word of mouth? He asked if the applicant would have a large sign on site?

Mr. Morse stated he may put a small sign in the driveway so that the steel delivery person can find them.

Mr. Coyner asked if the applicant would have employees or need restroom facilities?

Mr. Morse stated no.

Ms. Brown asked if customers would come to the site in order to discuss what they would like constructed?

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Mr. Morse stated that he usually goes to the customer, draws the sample, and either scans or emails it to them. He stated that it is very rare that the client would come to the shop because there is nothing to see.

Mr. Coyner asked if there is an inventory at the site?

Mr. Morse stated no.

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

Mr. Dave McKennan, 356 Oak Grove Church Road, Waynesboro stated that the applicant would be a real asset to the community because he is an honest blacksmith. He is the editor for the Shenandoah Valley Blacksmiths Guild. He stated that Mr. Morse has been very helpful in the Guild.

Mr. Coyner asked if there is a number of blacksmiths in the area?

Mr. McKennan stated not professionally. He stated there is half a dozen between Charlottesville and Dayton. He stated that there is a big interest in blacksmithing. He stated it is a wonderful hobby.

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

Mr. Lanny Campbell, 8000 Ivy Street, Waynesboro, stated that he has lived near a neighborhood type environment and he has not had any problems with the neighbors regarding noise. He stated that he has done blacksmithing for quite some time. He stated that there is not much noise that can be heard from the outside.

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

Mr. Dirk Gold, 94 Colonial Heights Lane, Waynesboro, stated that there are very few professionals in blacksmithing. He stated that there are a large group of hobbyists. He stated that this would be a positive professional contribution to the valley.

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

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

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Mr. Coyner stated that there is a lot of activity on Route 340. He stated that this request will generate little noise. He moved that the request be approved with the following conditions:

Pre-Condition:

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

Operating Conditions:

1. The only outdoor storage permitted shall be within the 4' x 20' area designated on the site sketch.
2. Site be kept neat and orderly.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. Hours of operation be Monday – Saturday 9:00 a.m. to 7:00 p.m.
5. No Sunday work.
6. No employees other than family members.
7. Applicant must reside on premises.
8. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
9. Permit be reviewed in a year and renewed if all of the conditions are met.

Mr. Swortzel seconded the motion, which carried unanimously.

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This being the date and time advertised to consider a request by Robert Moore, agent for LT Partners, for a Special Use Permit to replace a non-conforming manufactured home with a larger unit not meeting the required setbacks on property they own, located on the south side of Rocky Hill Lane, just west of the intersection of Rocky Hill Lane and Desper Hollow Road (Route 638) in the Beverley Manor District.

Mr. Robert Moore stated that the current ordinance is unreasonable to expect that you cannot put a larger home in a park. He stated that the ordinance says that the replacement needs to be of the size that is there or meet the setback.

Chairman Shreckhise stated that the County is looking at changing the ordinances currently. He stated that the applicant needed to bring this issue up with the Board of Supervisors.

Mr. Wilkinson stated that the County is currently working on new ordinance provisions. He stated that the applicant might want to speak with their Board member.

Mr. Moore stated that he did speak with Mr. Coleman.

Chairman Shreckhise stated that the request before this Board today is this specific issue.

Mr. Moore stated that he cannot meet the setback from the road and on the one side of the property line.

Chairman Shreckhise asked if the home would be placed closer to the manufactured home on the left?

Mr. Moore stated that it should be the same on the right side.

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

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

Mr. Swortzel stated that the applicant should be permitted to replace the manufactured home. He moved that the request be approved with the following condition:

Pre-Condition:

None

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Operating Condition:

1. Manufactured home be replaced per the BZA sketch plan.

Vice Chairman Callison seconded the motion, which carried unanimously.

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JEFF RAWLEY, AGENT FOR STOKESVILLE COMMUNITY CHURCH OF CHRIST - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jeff Rawley, agent for Stokesville Community Church of Christ, for a Special Use Permit to reconstruct and enlarge a non-conforming structure on property they own, located on the south side of North River Road (Route 730), just east of the intersection of North River Road (Route 730) and Stokesville Road (Route 718) in the North River District.

Mr. Jeff Rawley stated that he is representing Stokesville Community Church of Christ. He stated that the ramp is currently ten (10') feet long and they want to extend it to twenty-one (21') feet total. He stated there are two members who are handicapped and the church would like to make it easier for them to access the site. He is asking that the Board grant him two (2) years to complete the project. He stated that the church would also like to have a roof over the ramp eventually.

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

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

Mr. Coyner stated that the church will not be encroaching on any property that would be a major road improvement in the future. He stated that the church needs to raise their own funds in order to enlarge the ramp. He moved that the request be approved with the following conditions:

Pre-Condition:

None

Operating Condition:

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1. Ramp be extended as shown on the BZA site sketch.
2. Applicant be given two (2) years to complete the project.

Ms. Brown seconded the motion, which carried unanimously.

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OLD BUSINESS

SCOTT SWATS - SPECIAL USE PERMIT

A request by Scott Swats, for a Special Use Permit to have a landscape and garden center on property owned by James W. Sizemore Family L.P., located in the northern quadrant of the intersection of Lee Jackson Highway (Route 11) and Rosebud Lane in the Riverheads District. - TABLED AT THE 9/3/09 MEETING

Mr. Swortzel moved that the request be brought forward.

Mr. Coyner seconded the motion, which carried unanimously.

Mr. Scott Swats stated he has met with VDOT and they plan on landscaping the front of the property and taking away the private lane. He stated that VDOT stated that they cannot use the private lane, but must jointly use the main entrance. He stated that he has made a road in between his property and the car garage. He stated that the greenhouse will be inside the fenced in lot.

Mr. Wilkinson asked if the old building would be used for storage?

Mr. Swats stated that he will store the trailer, mower, and bulk material in the building. He stated that the nursery/garden center will be separate.

Mr. Wilkinson stated that the Health Department is permitting two (2) employees besides the applicant.

Mr. Swats stated that he would only have one other person at the site. He stated that his workers will come in the morning and pickup the mowers and then come back at the end of the day. He asked the Board to remove the pre-condition about the evergreen trees along the roadside fenced in lot. He stated that he has two sixty (60') foot sycamore trees which cover half of the lot and if he plants the evergreens they will not live. He stated that this area serves as free advertisement for him. He stated that he will keep the site looking very professional.

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Mr. Wilkinson asked if the greenhouse will be the only item in the fenced in area?

Mr. Swats stated yes. He stated that in beside the greenhouse there is a path. He stated that in between the path he will have plants and trees. He stated there will not be any equipment. He stated that he would also have palletized stone and rock on the other side.

Chairman Shreckhise asked how many acres does this property have?

Mr. Swats stated 1.5 acres. He stated that the sign will not exceed twelve (12) square feet. He stated that he plans on putting two (2) columns and a wall in between the post sign.

Mr. Wilkinson stated that the square footage would include the sign area not the posts. He stated that this site does not have much room for expansion due to the small size of the property but the applicant felt that he could operate at this site.

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

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

Ms. Brown stated that this would be a good use of the property. She moved that the request be approved with the following conditions:

Pre-Condition:

1. Obtain VDOT entrance permit and provide a copy to Community Development.

Operating Conditions:

1. Be permitted to construct four (4) 10' x 10' bins to store mulch, stone, and landscape materials as shown on the BZA sketch plan.
2. All equipment, machinery, trailers, and materials for the business be kept inside the existing 35' x 70' storage building.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. Site be kept neat and orderly.

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5. Be limited to two (2) employees per Health Department recommendations.
6. Hours of operation be Monday – Saturday 8:00 a.m. to 7:00 p.m.
7. No Sunday work.
8. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.

Mr. Coyner seconded the motion, which carried unanimously.

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MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

KYLE N. OR KIM H. BRYDGE - CONSIDERATION TO CANCEL SPECIAL USE PERMITS

This being the date and time advertised to consider **cancellation** of the Special Use Permits for Kyle N. or Kim H. Brydge to have a kennel on property they own, located on the east side of China Clay Road (Route 634), just south of the intersection of China Clay Road (Route 634) and Woodbrook Hill Lane in the South River District.

Mr. Wilkinson stated that Mr. Brydge has had several Special Use Permits. He stated that the first permit he requested was to breed reptiles which is no longer in effect. He stated that the Board approved a kennel operation with up to seventy-five (75) dogs in January 2006. He stated that in October 2007 Mr. Brydge requested to increase the number of dogs to three hundred (300). He stated that the Board approved an increase to one hundred six (106) dogs which was the number that was on site at that time. He stated that the state veterinarian came on site and removed all of the dogs except for ten (10) personal dogs that Mrs. Brydge owns. He stated that the applicant violated the conditions of his Special Use Permit standards as well as the State Code of Virginia.

Mr. Kyle Brydge stated that he has never received any tickets from the local Animal Control. He stated that his site was inspected every six (6) months. He stated that he was inspected two (2) months ago. He stated that he did away with all mulch and he had everything done except for his wooden kennel. He stated that the state veterinarian has no common sense. He stated that his wife was allowed to keep twelve (12) dogs and his son was allowed to keep his dogs. He stated that the state veterinarian said that his wife's dog needed medical attention immediately. He stated that Bill Hobgood from Animal Control told Mr. Brydge not to worry about it. He stated that the other County

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officer told him to take the dog to the veterinarian and they did extensive tests and nothing was wrong with the ears or eyes of the dog. He asked how many other dogs did the state veterinarian misrepresent. He stated that every dog was adopted and it is against the law to adopt dogs that are unhealthy. He stated that his veterinarian was scheduled to come out to the site. He stated that he had his statement that every dog was healthy. He stated that the state veterinarian did not care. He stated that the state veterinarian is corrupt. He stated that Bill Hobgood, Animal Control Officer, always told him what he needed to fix. He stated that Mr. Hobgood told him that they were not going to seize the dogs.

Chairman Shreckhise stated that Mr. Brydger needs to tell the Board why they should not cancel his permits.

Mr. Brydger stated that the judge gave him six (6) dogs. He stated that the only thing that he cannot do is breed for two (2) years. He stated that his wife and son can have a kennel and breed because they were never charged with anything.

Mr. Wilkinson stated that the order that they have states that he is prohibited from possession or ownership of any companion animals for a period of two (2) years.

Mr. Brydger stated that there was another order that granted him six (6) companion animals.

Mr. Swartzel asked if the applicant had that paperwork?

Mr. Brydger stated that he does not. He spoke with his attorney and they said that the County should have that paperwork.

Mr. Morgan stated that there was a civil action against Mr. Brydger as well as a criminal action with General District Court where ninety-nine (99) separate offences were considered. He stated that he does not recall that six (6) dogs were allowed but he is more than willing to look into that for the Board.

Mr. Wilkinson stated that he has an order from August 21, 2009.

Chairman Shreckhise stated that the permits were issued to both Mr. and Mrs. Brydger. He stated that both permits were violated. He asked if the Board has much choice with canceling the permits?

Mr. Morgan stated that the Board can lessen the number of dogs but not as a commercial enterprise or cancel both permits entirely.

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Mr. Brydge stated that the Animal Control Officers recommended to him that he have twenty-nine (29) females because he would not be considered a commercial breeder.

Mr. Wilkinson stated in Augusta County if you have more than four (4) dogs over the age of six (6) months it would be considered a kennel as per the Augusta County Zoning Ordinance.

Mr. Brydge stated he would not have to deal with the state veterinarian. He feels that he was treated unfairly. He stated that the only item that Mr. Hobgood charged him on was not having tags for the dogs. He stated that he tried to get County tags on two (2) occasions and they did not have time to give him the tags. He stated that he has never had a dog returned to him that he sold. He stated that all of the dogs had food. He stated that one dog bowl had mold in it but the state veterinarian came to inspect the site before he had time to get his chores done.

Mr. Wilkinson stated that he has another order from August 25, 2009, and it still contains the language that Mr. Brydge is still prohibited from possession or ownership from companion animals.

Mr. Morgan stated that the civil order did prohibit Mr. Brydge from owning any companion animals for a period of two (2) years which was separate from the criminal cases which Mr. Brydge is now talking about. He stated that there were ninety-nine (99) separate offences that Mr. Brydge pled guilty on. He stated that he will check on the court records and bring that information to the December meeting if the Board would like to table the request.

Mr. Brydge stated that he pled guilty because he did not want to go to jail for something that he did not do. He stated that he was doing his own veterinarian treatment on some of the dogs himself. He stated that all of the dogs had food.

Mr. Swortzel stated that before he makes a decision he would like to have a letter from Mr. Brydge's veterinarian stating the condition of the dogs. He also would like to have an Animal Control Officer come to the meeting so that the Board can ask some questions.

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

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

Mr. Coyner stated that he is in total agreement with Mr. Swortzel.

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Chairman Shreckhise stated that they do not have enough information in order to act on the cancellation. He stated that the number of dogs granted is too high.

Mr. Brydge stated that his veterinarian was scheduled to come out the same day the dogs were ceased. He stated that it had been a year since the veterinarian last visited the site. He stated that he was decreasing the number of dogs that he has. He stated that he has no problem with limiting the number of dogs to twenty-nine (29) females. He stated that many people adopted his dogs that the state ceased because they were healthy.

Mr. Swortzel stated that he would like to have some written dialog on the history of the animal care as well as comments from the Animal Control Officer.

Mr. Wilkinson stated that Mr. Morgan will get a copy of the court order for the Board next month.

Mr. Morgan stated that the order that Mr. Wilkinson has is still valid as far as he knows.

Mr. Coyner stated that he would like Gary Webb to come to the December meeting in order to speak to the Board as well as any correspondence from his veterinarian.

Mr. Brydge stated that if he had been written up he would have understood the charges from the state veterinarian but he was not.

Chairman Shreckhise asked if the business is solely in Mr. Brydge's name?

Mr. Brydge stated yes the business license is solely in his name.

Mr. Swortzel moved that the request be tabled to the December 3, 2009 meeting in order to have Animal Control attend the meeting, a letter from the veterinarian, and any other information that will help this Board make a decision.

Mr. Coyner seconded the motion, which carried unanimously.

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EDGAR E. MICHAEL, TRUSTEE - ONE YEAR EXTENSION OF TIME REQUEST

A request by Edgar E. Michael, Trustee, for a Special Use Permit to expand the existing business office by adding a second floor on property he owns, located on the south side of Willow Sprout Road (Route 742), approximately .1 of a mile east of the intersection of Willow Sprout Road (Route 742) and Leaport Road (Route 744) in the North River District.

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Mr. Wilkinson stated that staff sent the applicant a letter asking if they needed an Extension of Time in order to complete construction of the second floor.

Mr. Coyner moved that the one (1) year Extension of Time be approved.

Vice Chairman Callison seconded the motion, which carried unanimously.

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JOHN C. LEAVELL - SIX MONTH EXTENSION OF TIME REQUEST

A request by John C. Leavell, for a Special Use Permit to construct a building for a machine shop on property he owns, located on the south side of Sanger’s Lane (Route 794), just east of the intersection of Sanger’s Lane (Route 794) and Balsley Road (Route 792) in the Beverley Manor District.

Mr. Wilkinson stated that Mr. Leavell is asking for a six (6) month Extension of Time for his permit. He stated that the applicant is moving his entrance. He tried to draw his own site plan but he is going to need a professional engineer to submit his site plan due to the erosion and sediment control measurements that need to be taken into consideration.

Mr. Swortzel moved that the six (6) month Extension of Time request be approved.

Mr. Coyner seconded the motion, which carried unanimously.

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STAFF REPORT

- 09-1 Harlow, Kay F.
- 09-2 Wise, Emma Jean, Trustee
- 09-3 Michael, Edgar E., Trustee

Mr. Wilkinson stated that SUP#09-1 and SUP#09-2 are both in compliance. He stated that the Board approved the Extension of Time for SUP#09-3.

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Mr. Morgan stated that the Gochenour’s will lawfully operate on the two (2) parcels of property. He stated that they have the right to inspect any of their property with only twenty-four (24) hours notice. He stated that there are injunctions on the property and if

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they do not comply then the County can take them back to court. He stated that the court will decide whether there will be a hearing on the appeal of the Board's decision on the Croft property. He stated that he filed a motion to amend the order the way the state code is written. He stated that the court will not be obligated to hear all of the witnesses all over again to determine whether or not this Board made the right decision.

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

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Chairman

Secretary