

PRESENT: S. F. Shreckhise, Chairman
 G. A. Coyner, II, Vice Chairman
 J. W. Callison, Jr.
 D. A. Brown
 T. H. Byerly
 Pat Morgan, County Attorney
 J. R. Wilkinson, Zoning Administrator & Secretary
 Timothy K. Fitzgerald, Director of Community Development

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, April 7, 2011, at 8:00 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **8:00 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:

- **Ronald L. Long, Jr. - Special Use Permit**
- **Donald and Martha Forbes - Special Use Permit**
- **William Little, agent for Jabelle, LLC - Special Use Permit and Variance**
- **Paul W. Johnson - Special Use Permit**
- **Appeal by William D. or Tham O. Forloines of the Zoning Administrator's Decision**

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

 Chairman

 Secretary

PRESENT: S. F. Shreckhise, Chairman
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D. A. Brown
T. H. Byerly
Pat Morgan, County Attorney
J. R. Wilkinson, Zoning Administrator & Secretary
Timothy K. Fitzgerald, Director of Community Development
B. Cardellicchio-Weber, Administrative Assistant

ABSENT: None

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, April 7, 2011, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Vice Chairman Coyner moved that the minutes from the March 3, 2011 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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PAMELA JOHNSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Pamela Johnson, for a Special Use Permit to have a day care center within the church on property owned by the Weyers Cave United Methodist Church, located on the north side of Houff Road (Route 2002), just west of the intersection of Houff Road (Route 2002) and Keezletown Road (Route 276) in the Middle River District.

Ms. Pamela Johnson stated that she is the owner of Littlest Lamb Child Care Center. She mentioned she has been in business for twenty-two (22) years. She said Littlest Lamb Child Care Center is located on Dices Spring Road. She is approved and licensed for seventy-five (75) children for that location. She mentioned they are outgrowing the space

for the school age children. She said the church is looking to provide space for them. She is not sure if this would be permanent or on a trial basis in order to see if this works with the church to share a location.

Ms. Brown asked how many employees would you have?

Ms. Johnson stated she will have three (3) employees for forty-six (46) children. She stated most of the time they would be on field trips.

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 the applicant has had a business and has operated very well. She stated that this is needed for children in the area. She 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 Condition:

- 1. Be permitted the number of children as approved by Social Services and Building Inspection Departments.

Vice Chairman Coyner seconded the motion, which carried unanimously.

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DOUGLAS P. SNYDER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Douglas P. Snyder, for a Special Use Permit to have a bed and breakfast operation within existing structures on property he owns located on the north side of Cold Springs Road (Route 608), approximately .2 of a mile east of the intersection of Cold Springs Road (Route 608) and Fauver Mine Lane (Route 702) in the Riverheads District.

Chairman Shreckhise stated that the applicant has laid out what he would like to do.

April 7, 2011¹¹²

Mr. Wilkinson stated the Health Department is limiting the applicant to three (3) bedrooms due to the drainfield size.

Mr. Douglas Snyder stated that is fine. He mentioned he did speak with Sean at the Health Department.

Vice Chairman Coyner asked if the applicant is going to look into associations in order for customers to find out about the bed and breakfast?

Mr. Snyder stated that if he is approved he would establish a website and look into tourism facility organizations.

Ms. Brown asked if the two (2) dwellings would be used?

Mr. Snyder stated just the main home.

Ms. Brown asked if he would have any employees?

Mr. Snyder stated no just himself.

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.

Vice Chairman Coyner stated that this is a quiet area. He stated that this is a good way for people to see rural areas of the County. He 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 limited to three (3) bedrooms for the bed and breakfast operation.
2. Site be kept neat and orderly.
3. Applicant must reside on premises.

Mr. Byerly seconded the motion, which carried unanimously.

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CLEMENT L. MILLER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Clement L. Miller, for a Special Use Permit to have a wildlife management business on property owned by Marshall D. or Anna Miller, located on the north side of Shirey Road (Route 700) just west of the intersection of Shirey Road (Route 700) and Mt. Tabor Road (Route 694) in the Riverheads District.

Mr. Clement Miller stated currently he is using the gas chamber on his truck at his customer's home. He mentioned if he gets the Special Use Permit he will euthanize the animals in the euthanization chamber or shoot tank in the building specified. He would like to keep the animals in the freezer in the building after they are euthanized until they can be disposed of.

Ms. Brown asked if the animals are released onto other locations?

Mr. Miller stated snakes, squirrels, rabbits, and chipmunks can be released. He stated animals such as skunk or raccoons have to be euthanized because there is a possibility that they could have rabies.

Vice Chairman Coyner asked if the animal do not have to be euthanized where would it be released?

Mr. Miller stated in the forest or on a wooded lot. He will not release them on his property.

Ms. Brown asked how are the animals euthanized?

Mr. Miller stated either by shoot tank, pole syringe, or a gas chamber.

Vice Chairman Coyner stated the applicant now has the gas chamber on his truck.

Mr. Miller takes the animals to the landfill after they are euthanized.

Vice Chairman Coyner asked what would the advantage be of being able to keep the animals in the freezer at the site?

Mr. Miller stated that it saves time from him having to go to the landfill everyday. He stated his freezer can hold 40-50 animals.

Vice Chairman Coyner asked how soon will the animal be euthanized?

Mr. Miller stated generally he does it the same day.

Chairman Shreckhise asked the applicant how he controls the animals?

Mr. Miller stated that they are caught in a box trap, then brought to the euthanization chamber, and then to the freezer. He mentioned the animals never touch ground.

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

Ms. Helen Glover, 1305 Middlebrook Road, Staunton, stated that her husband was not able to come. She is opposed to this request. She stated that there is a limited amount of space less than five (5) acres at the site which is not adequate for the operation of a business of this kind. She stated that there is always the chance that the animals can get out. She stated that there is a citizen babysitting next to where they live. She stated that this type of business is not good to have around younger children. She stated there could be animals that have rabies which is very dangerous. She stated her son went over to the site and there were two (2) dogs loose and they were scared of getting bit. She mentioned that she does not think they will stay in cages and there is a possibility that the animals could get loose.

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

There being none.

Mr. Wilkinson stated that he received a letter from Ronnie Buchanan who rents the property adjacent to the request from the Glovers. Mr. Buchanan was concerned about the dogs running loose that killed one of the calves. Mr. Buchanan mentioned in his letter that if the applicant cannot take control of his domestic animals what about the nuisance species.

Chairman Shreckhise asked Mr. Miller to speak in rebuttal.

Mr. Miller stated that when he realized that both of the dogs were a problem they were put down. He mentioned that he has never had an animal get out of the box trap.

Mr. Byerly asked if his dogs caused the death of the cow?

Mr. Miller stated that he reimbursed them for the calf and after that he euthanized the dogs.

Vice Chairman Coyner asked when he picks up the animal they go directly in the cage and then taken out of the cage to euthanize the animal?

Mr. Miller stated they are euthanized while in the cage and then into the freezer. He stated the animal never gets out of the cage.

Vice Chairman Coyner asked if he has multiple cages?

Mr. Miller stated yes.

Vice Chairman Coyner asked what is the volume for the business?

Mr. Miller stated the most animals he has ever picked up was thirteen (13).

Mr. Callison asked what is the number on an average day?

Mr. Miller stated six (6) to ten (10) animals.

Mr. Callison asked if the applicant picks up all types of animals?

Mr. Miller stated mainly possum, raccoon, and groundhogs. He stated squirrels are seasonal.

Vice Chairman Coyner asked if the dog warden refers customers to Mr. Miller?

Mr. Miller stated Animal Control and he has a website. He mentioned he is doing a speech to the 4H Club in Middlebrook next week so people will meet him there.

Vice Chairman Coyner asked what animal does he frequently trap?

Mr. Miller stated raccoons are what he frequently traps but trapping is only 20% of his business.

Chairman Shreckhise declared the public hearing closed. He stated the wild animals will remain caged until euthanized which can be added to the operating conditions if approved.

Vice Chairman Coyner stated that if the request is approved the Board should review the request in a year.

Ms. Brown stated that the County needs someone who can remove these types of animals. She stated that if all of the animals remain caged and the ones that could have rabies euthanized immediately she does not see a problem with the request. She stated that it is good to have this type of service to count on, therefore, she would move that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. All animals brought to the site will be euthanized inside the 10' x 20' area of the existing shed.
2. All animals shall remain in the trap/cage until they are euthanized.
3. All animal remains will be kept inside a freezer until transported to the landfill.
4. Be limited to two (2) company vehicles at the site.
5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment or animals associated with this business to be kept outside.
6. Be limited to one (1) employee other than family members.
7. Applicant must reside on premises.
8. Permit be reviewed in a year and renewed if all of the conditions are met.

Mr. Byerly seconded the motion, which carried unanimously.

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RONALD L. LONG, JR. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ronald L. Long, Jr., for a Special Use Permit to have a paving business on property he owns, located on the south

side of Shutterlee Mill Road (Route 742), just north of the intersection of Shutterlee Mill Road (Route 742) and Luck Stone Road (Route 728) in the North River District.

Mr. Ronald Long stated that he has always had a paving business at his house. He has never had any complaints in his twelve (12) years of business. He mentioned that he maintains the road completely at no cost to the neighbors. He stated his property is clean and properly maintained. He stated that he has four (4) full-time employees that come to the shop.

Chairman Shreckhise asked what is the normal traffic going to the property?

Mr. Long stated two (2) to three (3) cars at 7:00 a.m. He has three (3) dump trucks that run one (1) to two (2) a day. He stated they leave in the morning and do not come back until 4:00 p.m. or 5:00 p.m.

Chairman Shreckhise stated the applicant does not manufacture product or stored it onsite?

Mr. Long stated that he buys from B & S or Moffett. He does not manufacturer anything. He mentioned sometimes if he has a little bit of the material left he spreads it on his parking lot.

Vice Chairman Coyner asked if the applicant has been operating for twelve (12) years why now is he applying for the Special Use Permit?

Mr. Long stated he was not aware that he needed a Special Use Permit. He bought this property seven (7) years ago. He gave all of that information to Mr. Wilkinson. He stated it is his fault he did not get the permit.

Mr. Callison asked who owns the drive?

Mr. Long stated that the drive is split on the property line. He stated that half of it is his and the other half owned by Mr. Arehart. He stated that they did have the property surveyed.

Ms. Brown asked if they take turns maintaining the road?

Mr. Long stated that he takes care of the entire road. He also paved the road. He stated the driveway was gravel when he moved there.

Mr. Callison stated that the property is very nice.

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

Mr. Carey Arehart, 2835 Shutterlee Mill Road, Staunton, stated that it was Mr. Long's choice to maintain the road. He stated that they were both out there last winter removing the snow from the driveway. He stated that Mr. Long takes more interest in the driveway. He is concerned how this will affect his property value. He moved to the property to have peace and quiet. He stated that the zoning has not changed in the last fourteen (14) years since he moved there. He stated the applicant overlooked that he needed a Special Use Permit. He mentioned this morning he could see the equipment moving from his yard. He asked that there be a buffer planted in order for him not to see heavy equipment which has been done in the past at other sites. He asked that the business hours be defined and the number of employees be regulated. He mentioned when he moved to the site he was a shift worker and he would sleep during the day. He stated the improvements on the property help increase the value. He would hope that would be the case if a business is next to him. He stated that Mr. Long does maintain the driveway. He stated that paving it was his choice and he wonders whether it was done in order to get a commercial driveway approved in the future.

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

There being none, Chairman Shreckhise asked if Mr. Long would speak in rebuttal.

Mr. Long stated that he does maintain the driveway as a courtesy to the neighbor because he knew the trucks were going to be hard on the road. He stated that they are both supposed to pay into it but he did take care of it on his own. He stated that he bought the property for \$200,000 seven years ago. He stated that the property was abandoned and now he has cleaned it up and it is worth \$400,000 with improvements he has done. He stated that there would not be any noise because the trucks go out in the morning and come back in the evenings. His property made the property values in the area increase. He stated some of the other neighbors have not had any problems.

Vice Chairman Coyner stated that if the business gets larger the applicant would need to move to a business location.

Mr. Long stated that this is as big as he ever wants to get. He is thinking about selling some equipment.

Vice Chairman Coyner asked if the paving equipment is moved from job to job?

Mr. Long stated that they come back to the shop 90% of the time. He stated they do a lot of residential business and have one day jobs. He stated they leave early in the morning and come back in the evening. He stated that if they have a small job they may even be back at the site by 1:00 p.m. He stated that they have a truck and trailer, dump trucks, pickup truck, and a service truck. He stated they only work four (4) days a week. He mentioned they do not work Friday through Sunday.

Chairman Shreckhise stated that he cannot remember how much screening there was on the site when the Board visited this morning.

Mr. Long stated there are large pine trees in place at least 30' tall. He stated he could plant two (2) trees to go into the gap.

Mr. Wilkinson stated that the Board visited the site this morning. He mentioned there is an existing buffer from the neighboring homes.

Vice Chairman Coyner stated that the site is neat and orderly and he mentioned that it should remain that way.

Ms. Brown stated that this is a beautiful piece of property.

Chairman Shreckhise declared the public hearing closed.

Mr. Byerly stated that it is a reasonable request especially with the operating conditions set forth to protect the neighbors. He stated that he is impressed with the neatness of the site.

Ms. Brown asked if the Board should ask the applicant to plant more trees?

Mr. Byerly stated that he feels that it is unnecessary. 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. Be limited to five (5) company vehicles at the site and ten (10) pieces of equipment.

2. All equipment, machinery, and materials for the business be kept inside the 30' x 60' shop or the equipment storage area shown on the sketch plan.
3. No mixing or manufacturing of asphalt onsite.
4. No more than five (5) employees to come to the site.
5. Normal hours of operation be Monday – Thursday 7:00 a.m. to 5:00 p.m.
6. Site be kept neat and orderly.
7. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
8. Applicant must reside on premises.
9. No further expansion. If the business grows it will need to be moved to a Business or Industrial District.

Ms. Brown seconded the motion, which carried unanimously.

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PAUL W. JOHNSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Paul W. Johnson, for a Special Use Permit to have a personal kennel on property he owns, located on the north side of Stuarts Draft Highway (Route 340), just east of the intersection of Stuarts Draft Highway (Route 340) and Shalom Road (Route 632) in the South River District.

Mr. Paul Johnson stated that some of the dogs are family pets as well as some rescues. He has lived at this address since 1988. He has a couple of additional letters from some of the neighbors two (2) doors down who are not in opposition to the request. He stated that the large attached garage provides shade and that is where there is food and water for the dogs. He stated that today the dogs also have some water outside. He stated that there is nothing but grapevines on the back of the property. He stated that the closest house is Mr. Showalter and they have discussed the kennel with him and the possibility of putting in a weave type privacy barrier so that the dogs do not bark when they see him. He has also discussed this with the neighbors on the other side in order to limit the line of site so the dogs do not bark.

Vice Chairman Coyner stated that the Wenger property is the same family that has the grapevines?

Mr. Johnson stated yes.

Vice Chairman Coyner stated that the Board visited the site this morning and there was a considerable amount of barking. He stated sixteen (16) dogs is a large number of dogs. He asked if the applicant breeds the dogs?

Mr. Johnson stated occasionally a litter a year.

Vice Chairman Coyner asked if the applicant has a variety of breeds?

Mr. Johnson stated yes.

Ms. Brown asked if the applicant is away from the home during the day?

Mr. Johnson stated that he works full-time. He stated his fiancée is there during the day and lets the dogs out periodically. He mentioned the dogs are inside at night.

Ms. Brown asked what time do the dogs go inside in the evening?

Mr. Johnson stated 6:00 p.m.

Ms. Brown asked what time are they let out in the morning?

Mr. Johnson stated 6:00 a.m.

Ms. Brown stated that there is a total of sixteen (16) dogs.

Mr. Johnson stated yes. He mentioned they are let out at 6:00 a.m. and brought in by 6:00 p.m. He stated the dogs are only out for about fifteen (15) minutes in the morning and then they go back to sleep for two (2) to three (3) hours. He stated that his fiancée lets them out for about fifteen (15) minutes at 10:00 a.m. and again at noon. She sits outside with them on warmer days.

Ms. Brown stated that there are several dogs outside all at one time. She stated it looks like there is an open door out to the garage.

Mr. Johnson stated they sometimes leave the garage door open so the dogs can come and go as they please.

Vice Chairman Coyner asked if the applicant owns all of the dogs?

Mr. Johnson stated yes.

Ms. Brown asked if the applicant had a license for all sixteen (16) dogs?

Mr. Johnson stated yes.

Ms. Brown asked if they all see the veterinarian regularly?

Mr. Johnson stated that the dogs get their rabies vaccination and checkups.

Ms. Brown asked what is the smaller pen for?

Mr. Johnson stated that if one of the dogs is in heat then they put the dog in the smaller pen in order to keep them isolated from the others.

Vice Chairman Coyner asked how many are rescue dogs?

Mr. Johnson stated five (5) of them are rescue dogs.

Vice Chairman Coyner stated that the number of dogs on the lot is a high number for such a small lot.

Ms. Brown asked how many dogs can a citizen have on a lot?

Mr. Wilkinson stated that there should not be any more than four (4) dogs on a parcel. He stated if the lot is zoned agriculture then a citizen can apply for a Special Use Permit to increase the number of dogs. He stated that it is up to the Board to determine if the kennel and number of dogs would be appropriate for the area. He stated that prior to the ordinance change, the Board of Zoning Appeals decided what number was appropriate on a certain size parcel.

Vice Chairman Coyner asked what is the minimum size of the property?

Mr. Wilkinson stated that March 1, 2010, the Board of Supervisors changed the ordinance to regulate that all kennels be on a minimum of five (5) acres. He stated that decision was previously up to the Board of Zoning Appeals. He stated that Mr. Johnson has been there for a number of years with more than four (4) dogs. He stated that the Board of Zoning Appeals can take that into consideration because they have had the dogs at the site prior to the ordinance change.

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

Ms. Holly DiLorenzo, 390 Round Hill Drive, Stuarts Draft, stated she is Mr. Johnson's fiancée. She stated that they respect the neighbors. She mentioned these dogs are their children. She stated occasionally they have a litter. She mentioned the dogs range in size from 2 ½ to 7-8 pounds. She stated the dogs sleep in a king size bed with them. She stated that the larger dogs have heated beds in the garage. She stated they do not stay outside. She stated that the dogs will bark when someone comes on the property. She stated they purchased barking collars for some of the dogs. She stated that they are respectful of the neighbors. She stated that none of the dogs are mistreated. She stated this morning she heard the Heatwole's dogs barking. She stated that when they take in a rescue they have them spayed. She stated they have not had a chance to do that recently due to family emergencies. She stated they have two (2) kennels which keep the females separate when they are in heat.

Vice Chairman Coyner stated that there are a lot of dogs on the property. He asked if the number can be reduced by half?

Ms. DiLorenzo stated she could see reducing the number by half if these were all large dogs. She stated that they were planning on fencing the property. She stated she is out there with them. She stated that the dogs are their protection and safety and they bark when someone comes in the driveway. She stated they have some older dogs and as they pass they will not be replaced.

Vice Chairman Coyner asked what is the age range for the dogs?

Ms. DiLorenzo stated sixteen (16) years old is the oldest dog. She stated the youngest is a year old. She stated majority of the dogs are male.

Vice Chairman Coyner asked if they have been dog owners for years and if she has had experience with dogs?

Ms. DiLorenzo stated yes her dad got her the first dog. She said years ago she had some issues with Animal Control. She stated they have resolved those issues with the Dog Warden. She said they will not have any problems with them.

Ms. Sharon Tyree, 114 Viburnum Drive, Waynesboro, stated the dogs are kept inside majority of the time. She stated the dogs are well taken care of.

Mr. Wilkinson stated that he has received two (2) letters in favor. He stated that they received a letter from John Broyles, 4088 Stuarts Draft Highway, stating they have no

April 7, 2011¹²⁴

objection to the kennel and it is kept neat and clean. He stated that on March 2, 2011, staff received a letter from Mr. Showalter that stated they had no problem with the kennel. He stated that they received three (3) letters in opposition. He stated that they have received a follow up letter from Mr. Showalter on March 29, 2011, requesting a vinyl privacy fence. Mr. Showalter stated they are good neighbors but would like to restrict the barking of the dogs. He stated that the letter from the Wengers stated that barking is a problem and it is not appropriate on this small lot. The Wengers do not want this kennel to affect their property values and they feel that fencing would limit the amount of barking. He stated they also received a letter from the Laubs that state that sixteen (16) dogs are too many dogs and there is an excessive amount of barking on the property and their home is less than half a mile away.

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. He asked who was the adjacent property on the left?

Mr. Wilkinson stated the Wenger's stated in their letter that more than four (4) dogs could affect the property values of the area. He stated the neighbors are suggesting a reduction of the number of dogs on the property and fencing. He stated that the neighbors on the right suggested a solid vinyl fence so that the dogs do not see them which can eliminate some of the barking. He stated they also received a letter from Robert Sumner, 4058 Stuarts Draft Highway, Waynesboro, stated that he is two houses down and he has no objection to Mr. Johnson obtaining the kennel license and he is an outstanding neighbor.

Chairman Shreckhise stated that the neighbors should not have to suffer even though they take good care of the dogs.

Ms. Brown stated two of the neighbor's solution is to have a vinyl fence and one owner suggested no breeding of the dogs and once they pass they not be replaced. She stated that the longer the Board stayed on the property the dogs seemed to calm down a bit.

Vice Chairman Coyner stated that the Board may be inclined to grant a smaller number of dogs. He stated that it is difficult for the Board to issue a permit for sixteen (16) dogs due to the close proximity of the neighbors. He asked if it would be acceptable to reduce the number of dogs to half since some are rescue and elderly which may be really hard to place in a home?

Mr. Johnson said he can work on doing that. He is unsure how soon he can place some of the dogs in homes.

Mr. Wilkinson stated that staff can work with the property owner. He stated that the Board can give the applicant three (3) to six (6) months timeframe in order to place some of the dogs.

Mr. Byerly stated that there are a number of issues. He has an issue with the number of dogs. He stated that shock collars should eliminate some outdoor noise. He stated that even though the number is reduced the neighbors may still have an issue with noise.

Mr. Johnson asked that the Board give them a chance to fence the property in order to block the line of sight so that the dogs do not bark when they see the neighbors. He stated they have five (5) to six (6) shock collars on some of the dogs.

Mr. Wilkinson stated the dogs should not be left outside unattended unless his fiancée or a family member is outside with the dogs. He stated the Board is talking about fencing the entire backyard not just one side.

Chairman Shreckhise stated that there are too many dogs at the site. He stated that because they are family pets the Board should give them ample time to reduce the number and go with staff's recommendation to rid a good portion of the dogs within a year.

Ms. Brown stated that she did see elderly dogs at the site. She would like to see a buffer around the property. She said the dogs should not be left unattended. She mentioned the Board should review the request in a year. She moved that the request be approved with the following conditions:

Pre-Condition:

1. A six (6') foot high solid opaque privacy fence be installed around the backyard within ninety (90) days.

Operating Conditions:

1. All dogs be kept inside the existing 30' x 30' garage at all times unless being supervised by the owner or family member.
2. Maximum number of dogs be limited to eight (8).
3. Applicant must reduce the number of dogs to eight (8) within a year.

4. No breeding of dogs.
5. Applicant must spay and neuter all dogs.
6. Site be kept neat and orderly.
7. Applicant must reside on premises.
8. Permit be reviewed in one (1) year and renewed if all conditions are met.
9. Animal Control to inspect the site every six (6) months.

Vice Chairman Coyner stated that this is still a lot of dogs on a small piece of ground. He seconded the motion, which carried unanimously.

Mr. Byerly stated that this is the only way to accommodate a sensitive situation.

Chairman Shreckhise agreed with Mr. Byerly.

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DONALD AND MARTHA FORBES - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Donald and Martha Forbes, for a Special Use Permit to have a personal kennel on property owned by Linda S. Jackson, located on the west side of J.W. Patterson Lane, approximately .1 of a mile north of the intersection of J.W. Patterson Lane and Estaline Valley Road (Route 601) in the Pastures District.

Ms. Cynthia Woods stated that she is here on behalf of Donald and Martha Forbes. She stated she is there temporarily taking care of Mrs. Forbes. She stated they have decreased the number of dogs at the site. She stated they used to have ten (10) dogs. She stated that the Forbes have three (3) adult dogs and she has three (3) adult dogs that she brings to the site.

Vice Chairman Coyner asked how many dogs are kept at the site?

Ms. Woods stated six (6) dogs.

Ms. Brown asked what size dogs are at the site?

Ms. Woods stated they are miniature poodles. She stated they do not weigh over five (5) pounds.

Vice Chairman Coyner stated the applicant is working on putting up a fence.

Ms. Woods stated they are continuing to put up a privacy fence so that the dogs can be contained on the property. She stated temporarily they will use the wire fence. She stated that they have never had any problems with the dogs. She stated they are never left unattended.

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. Wilkinson stated that his office received a complaint that the applicant had eight (8) dogs at the site. He stated they did have five (5) poodles and three (3) other dogs were reported. He stated that since then they have reduced the number to six (6) dogs on the property.

Chairman Shreckhise asked if Ms. Woods' three (3) dogs would count toward the number of dogs on the property?

Mr. Wilkinson stated yes if the dogs are kept on the site and since Ms. Woods is at the property the majority of the time with her dogs. He stated that if they only kept four (4) or less onsite, the Special Use Permit would not be needed.

Ms. Brown asked if a neighbor filed the complaint?

Mr. Wilkinson stated that the complaint was anonymous.

Vice Chairman Coyner stated the proximity of the dogs to the neighbors is not the same as the previous request.

Ms. Woods stated that she goes to the site three (3) to five (5) times during the week. She stated that she will only be at the site temporarily. She stated her dogs are always on a leash and always contained.

Mr. Wilkinson asked if they could put up the fence within sixty (60) days?

Ms. Woods asked for a little more time.

Mr. Byerly suggested the Board just permitting six (6) dogs and not put an expiration date on the permit.

Vice Chairman Coyner stated that the applicant has reduced the number to six (6) dogs. He stated that the applicant should finish the fence.

Mr. Wilkinson stated if Ms. Woods left her dogs at home the Special Use Permit would not be needed.

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

Pre-Condition:

None

Operating Conditions:

1. Applicant be permitted to keep six (6) existing dogs, however, as they expire they not be replaced.
2. Fence be completed to contain all dogs onsite by September 1, 2011.
3. No breeding of dogs on this site.
4. Site be kept neat and orderly.
5. Animal Control to inspect the site every six (6) months.

Vice Chairman Coyner seconded the motion, which carried unanimously.

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WILLIAM LITTLE, AGENT FOR JABELLE, LLC - SPECIAL USE PERMIT AND VARIANCE

This being the date and time advertised to consider a request by William Little, agent for Jabelle, LLC, for a Special Use Permit to expand a non-conforming building and a Variance from the front setback requirement for a previous addition to the building that does not meet setback requirements on property it owns, located on the west side of Lee Jackson Highway (Route 11), just north of the intersection of Lee Jackson Highway (Route 11) and Peyton Hill Road (Route 659) in the Riverheads District.

Mr. Wilkinson stated that due to legal issues Mr. Little's attorney is requesting that the Special Use Permit and Variance requests be tabled. He stated they are requesting sixty (60) days to look into the legalities of the situation with the building they purchased.

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.

Vice Chairman Coyner moved that both the Special Use Permit and Variance requests be tabled until the June 2, 2011 meeting.

Mr. Byerly seconded the motion, which carried unanimously.

* * * * *

APPEAL BY WILLIAM D. OR THAM O. FORLOINES OF THE ZONING ADMINISTRATOR'S DECISION

This being the date and time advertised to consider an appeal by William D. or Tham O. Forloines, of the Zoning Administrator's decision regarding the keeping of two single family dwellings in a Single Family Residential Dwelling District on property they own, located on the south side of Mount Torrey Road (Route 624), opposite the intersection of Mount Torrey Road (Route 624) and Commonwealth Drive in the South River District.

Mr. Stephen Strosnider stated that he is an attorney from the Franklin, Denney, Ward and Lawson law firm in Waynesboro.

Mr. William Forloines stated that he purchased the property in August 2000 and there always was approximately 830 square feet that was used for a cottage at the time of purchase. He stated that he did not use it very much the first five (5) years. He painted the main house and cottage to match four (4) years ago. He also renovated the cottage by putting down carpet and tile. He stated that it already had plumbing and electric. He stated that it has been used as a beauty salon over the years. He stated the cottage already had kitchen cabinets. He stated he had a pool table in the cottage and his son stayed in the cottage when he visited. He uses it for guests when they come.

Mr. Strosnider asked if he did any structural work to the property?

Mr. Forloines stated no. He stated that the structure has not changed at all other than the appliances, paint, and maintenance of the cottage.

Vice Chairman Coyner asked if there has always been a chimney there?

Mr. Forloines stated that he brought in a picture from 1977 that showed the home with the fireplace.

Mr. Strosnider asked if Mr. Forloines wanted to rent out the cottage?

Mr. Forloines stated no. He mentioned that it is too close to the main house and there is not much room for parking.

Mr. Strosnider stated Mr. Forloines would like to maintain it as a guest house/cottage.

Ms. Brown asked if the kitchen was in the cottage?

Mr. Forloines stated yes the kitchen was in there when he bought it as well as a sink and cabinets. He did put countertops there to make it more attractive.

Ms. Brown asked if the cottage is open space or divided?

Mr. Forloines stated the kitchen and living room are all wide open and there is only one wall. He stated that it is big enough to be a bedroom.

Vice Chairman Coyner asked if there is a functioning bathroom?

Mr. Forloines stated yes. He stated that it is all tied into the same septic.

Vice Chairman Coyner asked who the previous property owners were?

Mr. Forloines stated he was the eighth owner. He bought it from the Varners.

Mr. Strosnider would like to ask some questions to the neighbors in the area.

Ms. Flora Wright, 332 Mt. Torrey Road, Lyndhurst, stated that she has moved into the property in 1973.

Mr. Strosnider asked when she moved to the site was there a structure in the backyard?

Ms. Wright stated that the garage was open in the front and it was closed in 1973. She stated that when the Gleason family owned it, they operated a beauty shop out of the garage. She stated the Gleason family sold the property in 1974 or 1975.

Mr. Strosnider asked if the Ironsides made changes to the cottage?

Ms. Wright stated they put the bedroom and bath in and enclosed the porch.

Mr. Strosnider stated that he has a picture of the cottage in 1977 with the chimney and sunroom. He asked if she recalled why they turned it into a cottage in 1977?

Ms. Wright stated their parents lived in it.

Ms. Brown asked was there a pool at the site?

Ms. Wright stated yes at the right of the cottage. She stated that the Ironsides moved away and after that the Crafts moved in and they filled the pool in because they did not want a swimming pool at the site. She stated the garage was enclosed and turned into a beauty shop in 1974 before the Ironsides turned it into a cottage.

Mr. Strosnider asked if she has gone into the cottage?

Ms. Wright stated she has been there a couple of times.

Mr. Strosnider asked if she has been at the property since the Forloines bought it?

Ms. Wright stated yes.

Mr. Randy Zimmerman, 202 Harriston Road, Grottoes, stated he used to rent the cottage in the early 1980s. He stated that it was one big room that included a bedroom, bathroom, kitchen, and living room. He was the tenant.

Mr. Strosnider asked how long did he rent the cottage?

Mr. Zimmerman stated one (1) year.

Ms. Brown asked what year did you rent the cottage?

Mr. Zimmerman stated 1982.

Ms. Brown asked if the cottage was rented from the current owner?

Mr. Zimmerman stated no. He is a co-worker of Mr. Forloines.

Mr. Strosnider asked if he has been back to the cottage since the Forloines bought it?

Mr. Zimmerman stated that the cottage has not changed a bit since he has rented it in the 1980s.

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.

Mr. Strosnider stated that the guest cottage is a Single Family Residential accessory use. He stated that the County ordinance defines a single family dwelling under Section 25-4 and the cottage is a detached accessory dwelling unit. He stated that he has no intention of renting the cottage out. He stated that they would be willing to restrict Mr. Forloines from renting it out. He would like to use the cottage for guests and family members. He does not want to rip out all of the plumbing and electricity. He mentioned that he has lived there for eleven (11) years and he bought it as is. He stated that Mr. Forloines did not turn it into a cottage. He stated that the cottage has been there since 1977 and it should be grandfathered in as a non-conforming use.

Ms. Brown stated that this is a piece of property that is in violation of the Zoning Ordinance.

Mr. Wilkinson stated there cannot be grandfathering of an illegal use. He stated if something is not legal in 1977 when it was put there it would not be grandfathered in today if it was illegal then. He stated each zoning district lists one single family dwelling as a permitted use in single family residential and the only detached accessory dwelling unit is permitted in agriculture. He stated as of March 1, 2010, in Single Family Residential there is the ability to have an attached accessory dwelling unit/apartment. He stated that detached units are not permitted under Single Family Residential. He stated that under Section 25-135 it states anything that is not listed as a permitted use is prohibited in the Zoning Ordinance. He stated that when it turned into a living area it became something that was not permitted.

Chairman Shreckhise asked if Mr. Forloines cannot have a detached dwelling what uses can he have? He asked what would they have to do in order for it to be illegal?

Mr. Wilkinson stated a garage is a customary incidental use and it looked like it started out like that but at some point it turned into a cottage. He stated that garages, storage buildings, and bathhouses do not have a kitchen and bedroom living area. He stated that there are no building permits on record, therefore, there is no paper trail. He stated that they have to rely on the neighbors. He stated that the property has been zoned Single Family Residential since 1955. He stated that a beauty parlor was not permitted in a detached building under the Single Family Residential zoning.

Chairman Shreckhise stated Mr. Forloines can take out the bedroom and kitchen and put the pool table back in and he would be legal. He stated that it is illegal because it is setup

as a dwelling and it cannot be grandfathered in. He stated Mr. Forloines may have a better chance of removing the living area than getting the Board's decision in his favor.

Mr. Wilkinson stated Mr. Forloines can attach the building to the home in order to have an attached accessory dwelling unit. He stated that it cannot be attached by a breezeway. He stated that if they would like to keep the cottage he would have to attach it to the home in order to make it legal.

Mr. Forloines stated that he bought it because there was a cottage on the property.

Ms. Brown asked how many bedrooms are there?

Mr. Forloines stated there are four (4) bedrooms in the house but he only uses two (2) of them. He stated there is one (1) bedroom in the cottage.

Ms. Brown said the Health Department has rules on septic systems and number of bedrooms.

Mr. Wilkinson stated that Mr. Forloines will need to contact the Health Department to see if the drainfield is large enough for five (5) bedrooms before the applicant decides if they would like to create an attached accessory dwelling unit.

Mr. Byerly stated this is a County code violation. He stated they cannot change the County code.

Chairman Shreckhise stated that he agrees that it cannot be grandfathered in as long as it is viewed as another dwelling and as it stands right now the Zoning Administrator properly viewed this as another dwelling.

Mr. Strosnider stated under attached it states that there should be no more than one dwelling unit attached or detached per principle dwelling. He stated in his mind it implies you can have a detached accessory dwelling unit.

Mr. Wilkinson stated that they could not have a detached apartment in a Single Family Residential Zoning District and have a cottage. He stated there is no reference in the Zoning Ordinance that you can have a detached accessory dwelling unit in a Single Family Residential zoned district.

Mr. Morgan said in some zoning classifications you may but not in Single Family Residential. He stated you are looking at the general rules instead of the specific rule.

Mr. Strosnider stated that a detached accessory building would be an accessory use that is customary and clearly incidental to a permitted use. He stated that it meets the definition of single family residential.

Mr. Wilkinson stated that Mr. Strosnider is looking at the attached dwelling unit. He stated that it may be permitted in specific districts but a detached accessory dwelling unit is not listed under Single Family Residential. He stated that under Section 25-135 it states if it is not permitted it is prohibited in the ordinance.

Mr. Strosnider stated Section 25-132.1 does not list in detail all that is permitted.

Mr. Wilkinson stated that it is not a clearly customary use in a Single Family Residential zoned district.

Mr. Byerly stated that this is the interpretation of the Zoning Ordinance.

Chairman Shreckhise stated that he agrees with Mr. Byerly. He stated that he agrees that this is a second dwelling on the same property. He would hope that Mr. Forloines would figure out some way to keep the building and be in compliance with the Zoning Ordinance.

Mr. Byerly moved to uphold the Zoning Administrator's Decision.

Vice Chairman Coyner seconded the motion, which carried unanimously.

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STAFF REPORT

10-31	James A. Rimel ½ & Sara K. Elmasin – Withdrawn
10-32	Stonewall Jackson Area Council of Boy Scouts
10-33	Drew C. Richardson
10-34	Donald R. or Frances J. Truslow
10-35	Gladys M. Hailey – Withdrawn
10-36	R.C. and Glenna L. Meade
10-37	Deerfield Community Center Land Trust

Mr. Wilkinson stated that construction has started on the buildings for SUP#10-32. He stated that SUP#10-33 and SUP#10-34 are both in compliance. He stated that construction of the berm is higher but some of the trees are only five (5') feet high for SUP#10-36. He stated that Tom went out and inspected the property and it does block the view better. He stated it meets the intent of what the Board wanted to accomplish. He stated that the pre-conditions for SUP#10-37 have not been completed yet. He

stated they are updating the sketch survey which is being done by EGS as well as working with the Health Department.

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Mr. Wilkinson passed out the court cases for the Board to review.

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

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Chairman

Secretary