

February 1, 2007

PRESENT: C. E. Swortzel, Chairman
J. W. Callison, Jr., Vice Chairman
D. A. Brown
S. F. Shreckhise
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, February 1, 2007, at 9:30 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:

- **David M. or Darlene M. Stevens - Special Use Permit**
- **George N. Perry - Special Use Permit**
- **Darren Crosier - 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: C. E. Swortzel, Chairman
 J. W. Callison, Jr., Vice Chairman
 D. A. Brown
 G. A. Coyner, II
 S. F. Shreckhise
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. Rosenberg, County Attorney
 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, February 1, 2007, 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 January 4, 2007 meeting be approved.

Vice Chairman Callison seconded the motion, which carried unanimously.

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DAVID M. OR DARLENE M. STEVENS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by David M. or Darlene M. Stevens, for a Special Use Permit to construct a garage larger than the seven hundred square foot aggregate allowed on property they own, located on the north side of Cattle Scales Road (Route 828), just south of the intersection of Cattle Scales Road (Route 828) and Kiddsville Road (Route 796) in the Wayne District.

Mr. David Stevens stated that he is requesting a 24' x 32' garage with ten (10') foot ceilings. He stated that his building would be less than fourteen (14') feet in height. He stated that it would be a pole building with metal sides and a metal roof.

Mr. Coyner asked if he would use the building for his personal use?

Mr. Stevens stated yes.

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Ms. Brown asked if he planned on keeping the other building?

Mr. Stevens stated yes.

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

There being none, Chairman Swortzel declared the public hearing closed. He stated that the Board visited the site today. He stated that there are silos and barns on the adjacent properties. He stated that this building would be compatible with the community.

Mr. Coyner stated that there is farmland all around this parcel. He stated that the building would not appear out of character. He moved that the request be approved with the following condition:

Pre-Condition:

None

Operating Condition:

1. Applicant obtain building permit.

Vice Chairman Callison seconded the motion, which carried unanimously.

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GEORGE N. PERRY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by George N. Perry, for a Special Use Permit to have an accessory building over the fifteen foot height restriction on property he owns, located on the south side of Westgate Road (Route 1925), just east of the intersection of Westgate Road (Route 1925) and Eastgate Road in the Beverley Manor District.

Mr. George Perry stated that he has had this building for twenty (20) years. He stated that when he built the building he did not know that it was too high. He stated that he did not know that there was a height limitation. He stated that had he known that at the time he would not exceed the height limitation. He stated that he uses the building for his personal use. He stated that he uses the building for his hobbies.

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Mr. Wilkinson asked if a contractor helped him with the building?

Mr. Perry stated that he constructed the building along with his neighbors help.

Ms. Brown asked if there were any buildings behind him?

Mr. Perry stated that there is a farm building up above him. He stated there are barns and silos in the area around him.

Ms. Brown asked if the silos were taller than the building?

Mr. Perry stated yes.

Chairman Swortzel stated that the silo is twice as tall as the building. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. George Cross, 253 Westgate Road, stated that the building has been there for many years. He stated that the building does not bother him as far as sight. He stated that the building is compatible with the area. He stated that he lives on the right side before getting to Mr. Perry's house.

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

Mr. Stephen Craig, 28 Eastgate Drive, stated that he is Mr. Perry's brother-in-law. He stated that he has lived in that neighborhood for twenty-seven (27) years now. He stated that he hopes that this Board grants Mr. Perry permission to keep the building the way it is. He stated that his health and finances are not where he could disassemble the building.

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

Mr. Donald Fitzgerald, 257 Westgate Road, stated that he has lived in the neighborhood for twenty-two (22) years. He stated that he is fine with Mr. Perry keeping the building on the property.

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

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

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Chairman Swortzel stated that the building is only eighteen (18") inches too tall. He stated that there are many farm buildings nearby.

Mr. Wilkinson stated that he received a petition from fifteen (15) neighbors on Westgate Road in support of Mr. Perry's request.

Mr. Shreckhise stated that the lot is kept neat and this building is not a detriment to the area. He moved that the request be approved with the following condition:

Pre-Condition:

None

Operating Condition:

1. No further expansions to this building and no additional accessory buildings on this lot.

Vice Chairman Callison seconded the motion, which carried unanimously.

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DARREN CROSIER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Darren Crosier, for a Special Use Permit to have outdoor storage of equipment and materials in conjunction with a landscape business on property owned by R.T. Manufacturing, LLC, located in the eastern quadrant of the intersection of Lee Highway (Route 11) and Dam Town Road (Route 616) in the North River District.

Mr. Darren Crosier stated that he would like to store his business vehicles at this site. He stated that he has overgrown his current location. He stated that he will be renting office space from the Taylors and will be using the gravel parking area behind the building to park vehicles. He stated that he would have a limited amount of storage outside. He stated that he would store pallets of pavers or retaining wall blocks outside. He stated that he will keep his tools in the basement of the building. He stated that he will be using the site predominately for vehicle parking.

Ms. Brown asked if customers would be coming to the site?

Mr. Crosier stated that customers could come to the site. He stated that under normal circumstances he will be called to his client's residence to meet with them. He stated that

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at some point he would like to make the office area a design studio. He stated that he does not have many items on site for his clients to see. He stated that he keeps his inventory as low as possible. He stated that they order items as they need them for jobs. He stated that currently he has four (4) pallets of pavers. He stated that they had an issue on a job with color matching. He stated that they would be used on another project at some time. He stated that they do have leftover plants on hand. He stated that they are normally in plastic nursery containers and eventually installed on jobs. He stated that inventory is kept at a minimum.

Mr. Coyner asked if a lot of inventory go directly to the job site?

Mr. Crosier stated that most of it does but sometimes the materials are purchased in advanced and need to be kept on site until it is ready to go to the job. He stated that sometimes they have items leftover from the jobs. He stated that he would not keep any more than twenty (20) plants on hand from time to time.

Chairman Swortzel asked if they would be located behind the trees or in the parking lot area?

Mr. Crosier stated that they would be within the parking lot so the homeowner's do not see them from their property. He stated that if you drive down Dam Town Road during the day when the trucks are on the jobs, perhaps you would see over to the far corner. He stated that he believes that is the best area to keep outside storage.

Ms. Brown asked if there would be pines used as a buffer.

Mr. Crosier stated yes.

Mr. Wilkinson stated that the sketch shows it on the opposite side of the trees.

Mr. Crosier stated that he will keep the items stored near the pines. He stated that this is a better plan than what was originally proposed which can be viewed from the O'Shea property. He stated that there would be a dump truck on the side of the storage area so that it cannot be viewed. He stated that there is lighting currently on the property and he is not proposing to add additional lighting.

Mr. Coyner asked what the applicant did with the old wooden pallets?

Mr. Crosier stated that they are charged \$12.00 for them on their account. He stated that the sturdy ones are returned so that it can be credited to their account. He stated that sometimes he may take them to the landfill.

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Mr. Coyner stated that the property needs to be kept neat and orderly. He stated that the applicant needs to amend the site plan.

Mr. Wilkinson stated that all of the outside storage would be visible from Dam Town Road. He stated that the outside storage would need to be screened from public view.

Mr. Crosier stated that it would be over in the corner shaded by the pines.

Ms. Brown asked why the applicant wanted the outside storage on the other side?

Mr. Crosier stated that the O'Shea's are good clients of his and he did not think they would like to see the pallets of pavers. He stated that they have the large brick house. He stated that they are not opposed to this business but they want the property neat and tidy. He stated that other folks that had businesses there at some point had a trailer in the field which was an issue. He stated that he does not believe that the outside storage would be highly visible. He stated that in the past couple days he did have some second thoughts about that. He stated that there are no neighboring houses in view of that area.

Ms. Brown stated that a privacy fence would be better if the outside storage is placed in that area.

Mr. Crosier stated that he does not have that much outside storage to justify putting a privacy fence on the property. He stated that he does not know how much cost would be involved.

Ms. Brown asked if he thought about putting a fence on the property?

Mr. Crosier stated that he does not feel it will be necessary at this point in time because of the limited outside storage that he does have. He stated that it is not appropriate to run his business from home anymore. He stated that he is a really small business. He stated that a privacy fence could be constructed if the Board puts a stipulation on his permit. He stated that if he keeps the outside storage close to the pines, the vehicles would be blocking the view of the outside storage.

Mr. Shreckhise asked how much area do you need in the parking lot?

Mr. Wilkinson stated that the dimension would be a 10' x 30' storage area.

Mr. Shreckhise stated that the applicant would need to modify the site plan.

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Mr. Wilkinson stated that all of the outside storage would need to be adequately screened from public view. He stated that if the applicant changes the area of outside storage it would need to be screened.

Mr. Shreckhise stated that it would not be anything that bad to look at.

Ms. Brown stated that the outside storage would be better placed behind the pines if there is not much of a difference.

Mr. Crosier stated that he does not know how the O'Shea's would feel about keeping the outside storage behind the pines. He stated that she made some comments about Fort Construction and how they operated. He stated that she did not like that type of business. He stated that it was his understanding that Mrs. O'Shea was going to be here today to speak in favor but she is not at the meeting. He stated that there are a lot of trees on her property. He stated that their residence would have a very limited view. He stated that they might see pallets in the winter.

Ms. Brown stated that they are a good distance away.

Mr. Crosier stated that their home is at least one hundred (100) yards or so. He stated that they typically try not to have any more than what they need at the site.

Vice Chairman Callison asked if there were any complaints or previous concerns on this site?

Mr. Wilkinson stated that they had to address the unlicensed vehicles when Fort Construction operated their business at the site.

Vice Chairman Callison stated that four (4) vehicles is not quite the size of the previous user.

Chairman Swortzel stated that the ordinance requires that any outside storage be screened. He stated that the applicant should leave the site plan the way it was originally submitted. He stated that if the neighbors have any problems with the request, then the applicant could come back before the Board to relocate the outside storage.

Mr. Crosier stated that if there are any problems with his neighbor, he will accommodate her because she is a valued client of his.

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

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

Vice Chairman Callison stated that this site has been a business for a number of years. He stated that the previous users outgrew the site. He stated that the applicant has outgrown the use of his home for his business. He stated that the applicant's use is not as intensive as the previous users. 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 six (6) vehicles or pieces of equipment to be kept in the rear of the building.
2. Outdoor storage of materials be limited to a 10' x 30' area as designated on the site plan.
3. Site be kept neat and orderly.
4. No junk or unlicensed vehicles or parts of vehicles or equipment be outside.

Mr. Shreckhise seconded the motion, which carried unanimously.

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CALVIN P. OR MARY E. TROYER - SPECIAL USE PERMIT

A request by Calvin P. or Mary E. Troyer, for a Special Use Permit to have motor vehicle repair and operate a day care center in the home on property they own, located on the east side of Horseshoe Circle (Route 842), approximately .2 of a mile south of the intersection of Horseshoe Circle (Route 842) and Cold Springs Road (Route 608) in the South River District. - **TABLED FROM THE JANUARY 4, 2007 MEETING**

Mr. Coyner moved that the item be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

Chairman Swortzel stated that the Board received additional information from both the applicant's engineering firm and the Health Department. He stated that there are twenty-

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two (22) people living in the home. He stated that he did not know if they were all living on the property at one time but that is a lot of people. He asked how many people are full-time?

Mr. Calvin Troyer stated that there are nine (9) full time people living in the home. He stated that he currently is taking care of eleven (11) day care children.

Chairman Swortzel asked what the applicant's hours were?

Mr. Troyer stated that the hours are from 6:30 a.m. to 6:30 p.m. He stated that the children are there between eight (8) and nine (9) hours.

Chairman Swortzel asked if any of the nine (9) residents that are at the home full-time are working age people that are away from the home?

Mr. Troyer stated that they are not working age. He stated that they are all in the home all at one time except for him because he is in and out of the house.

Chairman Swortzel stated that during the day there are twenty (20) people at the site.

Mr. Coyner asked what time would the children come in the morning?

Mr. Troyer stated 6:30 a.m. but sometimes the time varies.

Ms. Brown stated that 6:30 a.m. to 6:30 p.m. is the first shift. She asked what are the hours for the second shift?

Mr. Troyer stated that it is hard to explain because some of the children come at different times.

Chairman Swortzel asked what is the latest that they stay at the site?

Mr. Troyer stated 6:30 p.m.

Chairman Swortzel asked if that was Monday thru Friday?

Mr. Troyer stated that is correct.

Mr. Rosenberg stated that the applicant never has more than five (5) beyond 6:30 p.m. but there are occasions when the applicant has day care children after 6:30 p.m. and that could be one (1) or two (2). He asked how frequently does that occur?

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Mr. Troyer stated that is a fairly regular occurrence that they have one (1) or two (2) in the evening.

Mr. Rosenberg asked if the applicant had children receiving day care before 6:30 a.m.?

Mr. Troyer stated that he is not sure.

Ms. Brown stated that the applicant stated at the last meeting that they do take children during the second shift.

Mr. Troyer stated that they could only take in twelve (12) children due to the social services regulations. He stated that they are not allowed to overlap. He stated that if one of the children leaves then they can take more in.

Mr. Coyner asked when does the second shift clients pick up their children?

Mr. Troyer stated between 10:00 p.m. and 11:00 p.m.

Ms. Brown asked what is the latest time?

Mr. Troyer stated 2:00 a.m.

Mr. Coyner stated that there will be traffic coming and going throughout the night.

Mr. Troyer stated that it would only be from 6:00 a.m. to 2:00 a.m. He stated that he has to sleep too. He stated that this is not constant traffic.

Mr. Rosenberg asked if clients come at 2:00 a.m. on a regular basis?

Mr. Troyer stated that it varies. He stated that it does depend on when the parents of the children get off of work. He stated that his regular clients are late night or early morning.

Mr. Rosenberg asked if the applicant had clients coming late at night or early in the morning?

Mr. Troyer stated that he does have a couple come in during those hours. He stated that he is not allowed to have over five (5) children during the evening hours.

Chairman Swortzel stated that the residences in Augusta County are fortunate to have this type of service but there are a lot of people at the residence per day.

Mr. Coyner stated that there are many comings and goings until 2:00 a.m.

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Vice Chairman Callison stated that the applicant takes care of twelve (12) children per day with the social services regulations.

Mr. Wilkinson stated that is correct.

Vice Chairman Callison stated that all of the day care children are gone at 6:30 p.m. He stated that the applicant is allowed to have up to five (5) children at night as far as social services is concerned.

Mr. Troyer stated that he does not watch more than twenty-one (21) children at one time.

Vice Chairman Callison stated that there are five (5) children not under a license. He stated that there are twelve (12) children under license with social services.

Mr. Wilkinson stated that the applicant is limited to twelve (12) day care children maximum as per social services. He stated that they leave by 6:30 p.m. He stated that the applicant has less than five (5) during the second shift in order to comply with social services not requiring him a license. He stated that the Zoning Ordinance does require that he obtain a Special Use Permit for the number of children. He stated that if the applicant keeps more than five (5) during any time of day. He stated that the Board must consider the traffic, noise, and impact on the neighborhood with this business. He stated that the applicant operated this business at his previous location but did not obtain a permit when he changed locations.

Mr. Coyner stated that he has been operating for ten (10) years at this location. He stated that there are a lot of people at this site. He stated that the applicant may be doing too much at this location.

Mr. Shreckhise stated that they are putting the community under stress.

Ms. Brown stated that when businesses come before the Board, they are limited on the amount of children they can have by the square footage of the building.

Chairman Swortzel stated that there are nine (9) permanent residents, twelve (12) daytime day care children, and five (5) or less at night. He stated that there are twenty-one (21) people in the dwelling during the day. He stated that this number is too excessive.

Mr. Rosenberg stated that the Zoning Ordinance does not break up the time of day into discrete segments of time. He stated that if the applicant has more than five (5) children per day at any point in time, then a Special Use Permit is required.

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Mr. Shreckhise stated that the Board could limit the request to a specific time and the number of children that the applicant takes care of. He stated that he feels that this facility is too small for the number of children that the applicant takes care of. He stated that this request is too close to the neighbors. He stated that there is too wide a span of hours that disrupts the neighbors.

Chairman Swortzel stated that with large day care centers, social services regulates the number of square footage per child.

Mr. Coyner stated that too much is going on at this site.

Mr. Troyer stated that rather than the Board shut the operation down, he would rather the Board reduce the number of children.

Chairman Swortzel stated that it is not the intention of this Board to shut anyone down. He stated that the way the day care is operating now, he feels that the operation is too excessive for this community.

Mr. Coyner stated that maybe the applicant should only operate the day shift and be limited to nine (9) children.

Mr. Troyer stated they can make it but it will be tight. He stated that he only makes \$362 per month per foster child. He stated that he is not making any money for the foster children. He stated that they are doing this more as a community service. He stated that they are charging \$105 a week for the day care operation per child. He stated that he only receives \$945 a week. He stated that will be cutting it close for his expenses.

Mr. Wilkinson stated that unfortunately financial status cannot be considered as part of the request.

Mr. Shreckhise stated that the Board realizes that they are providing a good service. He stated that he would limit the hours from 6:00 a.m. to 9:00 p.m. He stated that taking care of six (6) children may be too little of a number for Mr. Troyer.

Mr. Coyner stated that he agrees.

Chairman Swortzel stated that he does have some sympathy for the people who work at 2:00 a.m. and need a babysitter but he does not think that is a good hour to be coming in and out from the site. He asked if that would be on a regular basis?

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Mr. Troyer stated that is something that his daughter is doing for a little extra income for herself. He stated that she has been controlling that.

Mr. Wilkinson stated that the Board should consider if this type of business would be better located in a business area or if they could limit the number of children and the hours of the day care operation.

Ms. Brown asked if the Board would regulate the square footage for each child?

Chairman Swortzel stated that there is a number but the Board does not know what it is. He asked if the applicant had the number of foster of children at the time he received the permit from Social Services?

Mr. Troyer stated that social services makes three (3) visits per year. He stated that he is regulated by social services under a points system. He stated that even his foster children are included under that point system. He stated that social services also comes in to look at the condition of the home. He stated that in accordance with the point system, they are allowed to have eleven (11) children presently.

Mr. Wilkinson stated that the social services department does not take into consideration the impact to the neighborhood.

Mr. Rosenberg stated that the point system does not have much of an affect.

Mr. Shreckhise asked how many children are there at the house now not counting any of the day care people?

Mr. Troyer stated six (6).

Chairman Swortzel stated that the hours that Mr. Shreckhise stated is fine. He stated that the applicant would be limited to nine (9) day care children maximum and the Board could review the permit in a year and renewed if in compliance. He stated that there would not be any activity past 9:00 p.m.

Mr. Coyner stated that the applicant would not be permitted to operate the business at 2:00 a.m.

Mr. Rosenberg stated that the Board should limit the applicant to nine (9) individual children per day.

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Mr. Shreckhise stated that the Board would be interested to see if a lot of comments come in from the neighbors within the year. He moved that the request be approved for the day care operation only with the following conditions:

Pre-Conditions:

1. Obtain permit from the Health Department and provide a copy to Community Development.
2. Provide a copy of the license from the Department of Social Services.
3. Obtain VDOT approval and provide a copy to Community Development.

Operating Conditions:

1. Hours of operation be limited from 6:00 a.m. to 9:00 p.m.
2. The number of children be limited to nine (9) children per day.
3. Site be kept neat and orderly.
4. The permit be reviewed in one (1) year and renewed if kept in compliance with the operating conditions.

Mr. Coyner seconded the motion, which carried unanimously.

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MIKE ELZER - AGENT FOR NATIONAL DEVELOPERS OF VIRGINIA, LLC - SIX MONTH EXTENSION OF TIME

A request by Mike Elzer, agent for National Developers of Virginia, LLC, for a Special Use Permit to have active and passive recreation facilities with buildings on property they own, located on the north side of Jasper Lane, approximately .3 of a mile north of the intersection of Jasper Lane and Howardsville Turnpike (Route 610) in the South River District.

Mr. Mike Elzer stated that he is requesting a six (6) month Extension of Time for the clubhouse. He stated that the Special Use Permit will expire in April and he needs additional time to complete the clubhouse. He stated that they will be starting the grading work and the excavation. He stated that they will be starting construction at the end of March or April.

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Mr. Coyner stated that the applicant is doing things right at the site. He moved that the six (6) month Extension of Time be approved.

Ms. Brown seconded the motion, which carried unanimously.

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STAFF REPORT

- 06-16 Yancey, Cynthia A. or Robert E.
- 06-17 Morris, Raymond D. and Lucille C.
- 06-18 Sullivan, Chester A.
- 06-19 Johnson, Frederick V. or Susette L.
- 06-20 Lee, Henry W. or Lois C. – **Denied**
- 06-21 National Developers of Virginia, LLC
- 06-22 Steger, Lyall O., III
- 06-23 Root, Beulah S. Trustee

Mr. Wilkinson stated that SUP#06-16 and SUP#06-17 are in compliance. He stated that the trees have died for SUP#06-18 for Mr. Sullivan. He stated that staff has sent the applicant a letter that the trees need to be maintained for a privacy screen. He stated that Mr. Sullivan received that letter and is asking if the Board would permit him to replace the trees with an eight (8') foot privacy fence.

Mr. Rosenberg stated that he would need to come back before the Board because the tree buffer is an operating condition.

Mr. Wilkinson stated that he would contact Mr. Sullivan. He stated that staff has not received the Health Department letter for SUP#06-19 for Mr. Johnson. He stated that staff has sent him a letter. He stated that the Board just approved a six (6) month Extension of Time for SUP#06-21. He stated that SUP#06-22 is in compliance. He stated that SUP#06-23 for Mr. Root is in the process of completing his wind tower. He stated that is in compliance and should be completed this week.

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Mr. Rosenberg stated that not much has changed since the last meeting. He stated that they are going to file eight (8) enforcement actions. He stated that they will be filed tomorrow or next week.

Mr. Coyner asked what is going on regarding the Conner property?

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Mr. Wilkinson stated that the County has taken legal action against Conner and Larew. He stated that they have cleared the site and the inoperable vehicles are screened for public view. He stated that they burned the trash. He stated that they have gotten two (2) permits to place two (2) dwellings. He stated that the site is in compliance.

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

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Chairman

Secretary