

June 7, 2007

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. K. Shiflett, Zoning Technician I

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, June 7, 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:

- **Bruce W. or Tammy S. Crow - Special Use Permit**
- **Nellie Gochenour - Special Use Permit**
- **Chief Mike Fisher, Agent for the Doods Volunteer Fire Company - Special Use Permit (Two Requests)**
- **Frederick L. Wood - Special Use Permit**
- **William A. Koiner, Agent for Crosco Company - Variance**
- **EGS and Associates, Agent for Sunrise Investors, Inc. - Variance**

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

June 7, 2007

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. K. Shiflett, Zoning Technician I
 B.B. Cardellicchio-Weber, Administrative Secretary

Absent: S. Rosenberg, County Attorney

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, June 7, 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 May 3, 2007 meeting be approved.

Vice Chairman Callison seconded the motion, which carried unanimously.

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BRUCE W. OR TAMMY S. CROW - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Bruce W. or Tammy S. Crow, for a Special Use Permit to construct a small wind energy turbine and to have an excavating, landscaping, and lawn care business on property they own, located on the east side of Barnhart Road (Route 782) approximately .8 of a mile north of the intersection of Barnhart Road (Route 782) and New Hope and Crimora Road (Route 612) in the Middle River District.

Mr. Bruce Crow stated that he is asking for two different requests. He stated that they have looked at the small wind turbine for at least two (2) years. He stated that they found one similar to the request that the Board approved in Stuarts Draft. He stated that he has an existing pole barn that he uses for farm machinery equipment. He stated that he has done odd jobs for neighbors. He stated that he is approaching retirement and he would like to start an excavation business.

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Ms. Brown asked about the wind turbine?

Mr. Crow stated that the pole is about thirty-three and a half (33.5') feet high. He stated that it is a mono-pole so there are no cables. He stated that the blades and the device make it right at thirty-five (35') feet high. He stated that he does have enough setback with the turbine. He stated that he has identified all of the people that would be impacted from this turbine, spoke with them, and provided them copies of what he wanted to do. He stated that before he proceeded with this request, he made sure that he received a verbal from his neighbors. He stated that they want to make sure that they do not impact the neighborhood in any way.

Ms. Brown asked how many blades would there be on the turbine?

Mr. Crow stated three (3) blades.

Mr. Coyner stated that this is a very quiet operation. He stated that the wind turbine would turn slow.

Mr. Crow stated that it starts up at eight (8) miles per hour. He stated that the wind turbine is not loud at all. He stated that the neighbors that would probably be the most impacted are very excited about it.

Ms. Brown asked when there is no wind does the applicant have electricity stored?

Mr. Crow stated that he will connect directly to the grid. He stated that the system that he will be looking at will not provide total power off of the grid but they would like to cut their power bill in half. He stated that because there is a potential that the meter could run backwards during the night which would indicate that power is being banked. He stated that is the reason for the Special Use Permit.

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 the applicant does have a seven (7) acre lot.

Mr. Coyner stated that they have had several wind towers in the County and have had no complaints on any of them. He stated that the area is rural and he sees no problem with the turbine or having a bush hog and tractor which is keeping with the character of the area. He moved that the request be approved with the following conditions:

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Pre-Condition:

None

Operating Conditions:

1. Structure height including blades not to exceed forty-five (45') feet.
2. All equipment, machinery, and materials for the business be kept inside the 28' x 32' pole barn.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. No employees other than family members.
5. Be allowed only one (1) on premise business sign not to exceed twelve (12) square feet, and no other signs on the property.

Ms. Brown seconded the motion, which carried unanimously.

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NELLIE GOCHENOUR - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Nellie Gochenour for a Special Use Permit to continue an existing restaurant on property owned by Ethel M. Baber, located on the west side of East Side Highway (Route 340), just north of the intersection of East Side Highway (Route 340) and Thorofare Road (Route 628) in the Middle River District.

Mr. Scott Gochenour stated that he is the applicant's son. He stated that they are here to reopen the 340 Snackbar under the same name as it once was when it opened in 1978. He stated that the business was closed in 2006 due to health issues by the owners. He stated that the plans for the snack bar are also unchanged. He stated that they will provide breakfast, lunch, and dinner. He stated that they will open at 9:00 a.m. He stated that they have had a lot of support from members of the community.

Chairman Swortzel asked how many days would the applicant plan on being open?

Ms. Nellie Gochenour stated six (6) days a week. She stated that they will close on Sunday.

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Mr. Coyner asked if the family will be operating the business?

Mr. Gochenour stated yes.

Ms. Brown asked how many people would the restaurant seat?

Ms. Gochenour stated that there are nine (9) booths. She stated that there could be thirty-six (36) people in the restaurant.

Mr. Coyner stated that the staff comments state two (2) employees and if the applicant thinks they need three (3) they need to decide that at today's meeting.

Ms. Gochenour stated that she would like to have the option of three (3) employees.

Mr. Coyner asked if the restaurant would be open seasonal?

Ms. Gochenour stated that the restaurant would be open year round.

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.

Mr. Shreckhise stated that there was a restaurant at the site before. He stated that there has been no objection to this request, therefore, he moved that the request be approved with the following conditions:

Operating Conditions:

1. Site be kept neat and orderly.
2. No junk or inoperable vehicles to be kept outside.
3. Be limited to three (3) employees per shift.
4. Any new outdoor lights require site plan submittal and must meet ordinance requirements.

Vice Chairman Callison seconded the motion, which carried unanimously.

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DANIEL S. OR GWENDOLYN S. HORNING - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Daniel S. or Gwendolyn S. Horning, for a Special Use Permit to reconstruct an existing non-conforming poultry house on property they own, located on the west side of Spring Hill Road (Route 613) approximately .5 of a mile north of the intersection of Spring Hill Road (Route 613) and Glade School Road (Route 753) in the North River District.

Mr. Daniel Horning stated that he would like to replace the poultry house with a better, more energy efficient poultry house with the same dimensions.

Mr. Wilkinson stated that the structure is an older structure in need of repair. He stated that the applicant would need to replace it on the same foundation and no closer to the property line.

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.

Mr. Coyner stated that this is an agricultural area. He stated that the building will be built on the same footprint. He moved that the request be approved with the following conditions:

Pre-Condition:

- 1. Obtain building permit.

Operating Condition:

- 1. The poultry house be reconstructed in the existing location with no expansion in size.

Ms. Brown seconded the motion, which carried unanimously.

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CHIEF MIKE FISHER, AGENT FOR THE DOOMS VOLUNTEER FIRE COMPANY - SPECIAL USE PERMIT

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This being the date and time advertised to consider a request by Chief Mike Fisher, agent for the Dooms Volunteer Fire Company, for a Special Use Permit to have carnivals, circuses, fairs, or similar fire company events on property owned by James M. Dooms, located on the west side of East Side Highway (Route 340) just south of intersection of East Side Highway (Route 340) and Dooms Crossing Road (Route 611) in the Wayne District.

Mr. Mike Fisher stated that he is Chief of the Dooms Volunteer Fire Company. He stated that they have always had their carnival in downtown Waynesboro. He stated that the city decided that they could not use the property in Waynesboro. He stated that he searched for six (6) months and located the two pieces of property that he is requesting permission to use for a carnival. He stated that they would have applied for the Special Use Permit back in February but the president ended up quitting and he did not file the application in time. He stated that the hours of operation will be 6:00 p.m. to 10:00 p.m. on Monday, Tuesday, and Wednesday. He stated that on Thursday, Friday, and Saturday the hours would be 6:00 p.m. to midnight.

Mr. Coyner asked if this event would be held once a year?

Mr. Fisher stated that the events would be held once or twice a year at the most.

Mr. Coyner asked if the events would take place in the summer?

Mr. Fisher stated yes the events would be held in the summer. He stated that the parking is being handled by the fire company. He stated that the sheriff's department will be onsite every night. He stated that they are able to accommodate the parking.

Mr. Coyner stated that he thinks this is a great location.

Mr. Fisher stated that they would like to try to make this bigger and better every year. He stated that they have had a lot of good comments about this. He stated that they are careful about what they bring to the site.

Mr. Coyner asked if the response from the community has been alright?

Mr. Fisher stated yes. He stated that the citizens are glad that the carnival is in Dooms.

Ms. Brown asked if there would be music?

Mr. Fisher stated possibly next year. He stated that they may have a blue grass band or gospel group.

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Mr. Coyner asked if this is a successful fundraiser?

Mr. Fisher stated that it provides about one third of their operating funds.

Mr. Coyner stated that they provide a valuable service to the community.

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

Mr. Michael Chapman, 421 East Side Highway, stated that he is in favor of the carnival operating at the site once a year. He stated that his question is what the applicant is going to bring in later on. He stated that he would like Mr. Fisher to explain the other requests. He stated that the carnival would not bother him a bit because he knows they need the money.

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

Ms. Ellen Carter, 191 Dooms Crossing Road, stated that she lives across the street from the site. She stated that she is concerned about safety, noise, dirt, and the cleanup. She stated that she would like to know if the Special Use Permit would be in effect from now on or maybe given every year. She stated that she is not looking for something bigger and better every year. She stated that she knows they need to have a place to have fundraisers but all of the items listed would be more than twice a year.

Chairman Swortzel stated historically organizations have fundraisers in the community and obviously they need that money to come to a citizen's house in the event of a fire. He stated that running a business like that costs a ton of money. He stated that the fire department desperately needs these fundraisers. He stated that this is a good site for the carnival.

Ms. Carter stated that it should be limited to how many affairs that the applicant has per year. She asked how long would the Special Use Permit be in effect? She stated that she does not want her property values to go down because of noise. She stated that citizens move to the County for piece and quiet. She stated that she has been at this site for fifteen (15) years. She stated that she has seen the Ruritan horse shows which are there twice a year and they are great. She stated that there are no problems with that group.

Chairman Swortzel asked if Ms. Carter has seen any problems so far this week with the carnival?

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Ms. Carter stated not yet but they still have to get through the rest of the week. She stated that if the permit is granted how long would it be in effect?

Mr. Coyner stated that most Special Use Permits are granted with special conditions for that permit and they are continuing unless the permit would have a time limit put on it.

Ms. Carter asked if that would be considered.

Mr. Wilkinson stated that the Board will consider how many times a year they could have an event at the site and it would be listed under the conditions.

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

There being none, Chairman Swortzel asked if Mr. Fisher would like to speak in rebuttal?

Mr. Fisher stated that they would only plan to have one (1) carnival with the possibility of another carnival or a circus. He stated that they would like to have only two (2) events per year. He stated that they would not have any auction sales or fire training because they can have that on their own property. He stated that he will do his best to keep everything down as far as the dust. He stated that when the Ruritan Club has the horseshoe events they are the ones that are watering the track down to keep the dirt down. He stated that the highway department has made some recommendations. He stated that they will have one of the deputy's direct traffic. He stated that they do not look for any problems.

Chairman Swortzel declared the public hearing closed. He stated that this is a good spot to have these carnivals. He stated that the fire department needs these funds.

Ms. Brown stated that this is a valuable asset to the community. She moved that the permit be approved with the following conditions:

Pre-Condition:

None

Operating Conditions:

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1. The only entrance and exit for the carnival be through the existing two (2) entrances onto Route 611 located on the adjoining lot.
2. No outdoor music after 11:00 p.m.
3. Obtain yearly outdoor music festival permit.
4. Be limited to two (2) events per year.

Mr. Coyner seconded the motion, which carried unanimously.

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CHIEF MIKE FISHER, AGENT FOR THE DOOMS VOLUNTEER FIRE COMPANY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Chief Mike Fisher, agent for the Dooms Volunteer Fire Company, for a Special Use Permit to have parking for carnivals, circuses, fairs, or similar fire company events on property owned by Franklin H. or Patricia R. Dooms, located in the southwest quadrant of the intersection of East Side Highway (Route 340) and Dooms Crossing Road (Route 611) in the Wayne District.

Mr. Mike Fisher stated that this property is located right beside Route 611. He stated that they do not plan to disturb the water detention pond. He stated that they are not mowing the property. He stated that this lot would only be used for parking. He stated that there will be a dump truck used for trash hauling.

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.

Ms. Brown moved that the permit be approved with the following conditions:

Pre-Condition:

None

Operating Conditions:

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1. The two (2) existing entrances on this lot will be the only ingress and egress to the carnival.
2. Be limited to two (2) events per year.

Vice Chairman Callison seconded the motion, which carried unanimously.

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FREDERICK L. WOOD - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Frederick L. Wood, for a Special Use Permit to have a detached accessory dwelling unit over a garage on property he owns, located on the east side of Heritage Drive, just southeast of the intersection of Heritage Drive and Providence Lane in the South River District.

Mr. Frederick Wood stated that he would like to have an eight hundred (800) square foot apartment above an existing garage on the property. He stated that there are at least three (3) other structures similar to what is on his property in the neighborhood.

Mr. Coyner asked if someone would reside in this building?

Mr. Wood stated that it would not be for rent but for personal use.

Mr. Coyner asked if they would live there all of the time or would this be used for a vacation?

Mr. Wood stated that it would be used for guests or his personal use.

Mr. Coyner stated that the Board noticed some heavy duty equipment at the site today.

Mr. Wood stated that he is trying to straighten the property up. He stated that he has some work to do around the pond.

Mr. Coyner stated that there is a sophisticated lift in the garage. He asked if that was for his personal use?

Mr. Wood stated that he restores vehicles. He stated that he uses that for his personal use. He stated that he does not operate a business at the site. He stated that the dump truck is his personal truck. He stated that he uses it for hauling trash. He stated that the sky track and the bobcat leave the site when he is not using it.

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Mr. Coyner stated that he will assume that the applicant will tidy up the site.

Mr. Wood stated that he has done some but there is still a lot to do.

Ms. Brown asked how the applicant could have an apartment in a Rural Residential neighborhood?

Mr. Wilkinson stated there are a several classifications of residential zoning districts in Augusta County. He stated that there is Single Family Residential where the lots are smaller and closer together. He stated that Rural Residential is a designation that all of the lots are more than five (5) acres. He stated that only in those Rural Residential subdivisions they have some extra opportunity to make application for things such as an apartment over a garage. He stated that if the lot is at least five (5) acres they can also have limited agriculture.

Mr. Shreckhise stated that if the applicant moves out would the applicant be able to rent the apartment to someone else.

Mr. Wilkinson stated yes.

Mr. Shreckhise stated that if the applicant sells the property then it would no longer be an apartment.

Mr. Wilkinson stated the Board would have to make the permit transferable in order for him to sell the property and allow the new owner use of the apartment.

Mr. Shreckhise stated that the Board normally does not issue permits transferable.

Mr. Wilkinson stated that if the permit was granted non-transferable the new owners would need to come before the Board with an application to have an apartment above a garage.

Mr. Shreckhise asked if the house and the garage apartment are all on one property?

Mr. Wilkinson stated yes.

Mr. Coyner asked if the water and sewer are all on one system?

Mr. Wilkinson stated that currently there is one system. He stated that Mr. Woods is working with the Health Department and the Service Authority to hook the apartment up.

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Mr. Coyner stated that when the Board viewed the site this morning, it did not look like a brand new building. He asked why the applicant was asking for the permit now?

Mr. Wood stated that the building has been there for some time. He stated that the entire building is not just for the apartment. He stated that it is a workshop and a garage. He stated that he is going through a divorce and his wife was going to rent that building without his permission. He stated that she had rented it twice. He stated that he needed to move out of the house because he is in the middle of the divorce.

Ms. Brown stated that the applicant should have gone before the Board before completing the apartment.

Mr. Wood stated that it was built as a studio workshop. He stated that it was not constructed as an apartment.

Ms. Brown asked if the applicant applied for the permits for the building?

Mr. Wood stated yes.

Mr. Coyner asked if he runs his business out of the building at the property?

Mr. Wood stated no.

Ms. Brown asked if the applicant brought the permits today?

Mr. Wood stated that he needs to apply for the permit for the apartment for the finished square footage of the building. He stated that he was waiting to see if the Special Use Permit was approved.

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.

Mr. Wilkinson stated that he did receive a letter from Alison Wood, who lives in the main residence, which stated that she was in opposition to the request.

Vice Chairman Callison stated that the building has been there since 1995 and due to the current circumstances the applicant needs to move into the building. He moved that the request be approved with the following conditions:

Pre-Conditions:

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1. Applicant obtain building permit for the apartment and provide a copy to Community Development.
2. Obtain Health Department approval and provide a copy to Community Development.
3. Obtain Service Authority permit for water hookup and provide a copy to Community Development.

Operating Condition:

1. No other accessory dwelling units to be built on the site.

Mr. Coyner seconded the motion, which carried unanimously.

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JAMES DAVIS OR BEN BALDWIN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by James Davis or Ben Baldwin, for a Special Use Permit to use a vault type privy system and porta johns in lieu of a sewage treatment system during horse shows, and to have vendors for food sales during events on property owned by Verna Doyle or James Davis, located on the south side of Lofton Road (Route 666), just west of the intersection of Lofton Road (Route 666) and Old Back Road in the Riverheads District.

Mr. Ben Baldwin stated that he is requesting a modification to the Special Use Permit that was approved in April. He stated that they would like to use the existing vault type privy system facilities. He stated that they are expecting to have up to 250 people coming to the events. He stated that they would also have porta johns for the events. He stated that the vault privy is located behind the barn. He stated that it looks like a storage building. He stated that the porta johns would be located on the south side of the arena or the barn. He stated that they would also like to have food vendors at the events.

Chairman Swortzel asked how many food vendors would there be at the events?

Mr. Baldwin stated there would only be one (1) vendor per event.

Mr. Coyner stated that the Board intended for the applicant to install the restrooms and septic system. He asked what has changed?

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Mr. Baldwin stated that he believes it was a misunderstanding. He stated that Mr. Wilkinson asked if he was going to use the existing septic field. He stated that he was under the impression that there was an existing septic system at the site but that was not the case.

Mr. Coyner asked if that is something the applicant can do?

Mr. Baldwin stated not easily at this location.

Mr. Shreckhise asked if they have priced the septic system?

Mr. Baldwin stated that they would need a commercial system because of the amount of people coming to the site. He stated that just to get an engineer to come out it would cost \$3,000 just for the planning, \$8,000-\$10,000 for installing the system, and the building which may cost at least \$5,000. He stated that they do not know how many horse shows they are going to have each year. He stated that they may only have two (2) events per year.

Chairman Swortzel asked how many events are currently scheduled for this year?

Mr. Baldwin stated that they have an event tentatively scheduled for October.

Mr. Coyner asked if the applicant has had an event already?

Mr. Baldwin stated that they did hold an event with special permission on May 12th. He stated that they received positive comments from the spectators. He stated that they expanded the privy to two (2) rooms. He stated that this event was not advertised well, therefore, they did not expect a large group. He stated that they did not bring in any porta johns.

Mr. Coyner asked how many people attended the event?

Mr. Baldwin stated 125 people attended the event.

Mr. Coyner asked if the porta john situation is a stopgap until the applicant sees if they are going to be successful and then they can put in a restroom facility? He asked if a year would be enough time to install a permanent restroom?

Mr. Baldwin stated that he does not know how many events he will have within a year. He stated that currently there is only one (1) event scheduled for this year. He stated that if the events grow, he will need to have at least three (3) years to decide.

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Mr. Coyner asked what would the applicant's threshold for installing restrooms be?

Mr. Baldwin stated that if he had at least one (1) event per month. He stated that if he had to turn people away, it would justify installing a restroom at the site.

Mr. Shreckhise asked if there was any other permanent structures at the site?

Mr. Baldwin stated that they have the indoor arena. He stated that he will not be building any other buildings currently.

Chairman Swortzel stated that there are not many engineered systems for \$10,000.

Mr. Wilkinson asking if the applicant needs an engineered system or is it because of the commercial size, the system would have to be more than a regular septic system?

Mr. Baldwin stated that from what Mr. Marshall was saying it will need to be a commercial size septic field and it needs to be designed.

Vice Chairman Callison stated that he supports this request until the applicant finds out how many events he will have a year.

Mr. Coyner stated that this request sounds logical. He stated that the request cannot be open forever.

Vice Chairman Callison stated that the Board can give the applicant three (3) to five (5) years to use the portable systems.

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 he agrees with Vice Chairman Callison. He stated that the Board should give the applicant time to find out exactly how many events there would be to see if the permanent restrooms would justify installing the commercial septic system.

Mr. Wilkinson stated that the applicant already has a permit for one (1) event per month.

Mr. Shreckhise asked how many years should the permit be granted for?

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Chairman Swortzel stated that one (1) year is not enough time because the applicant will not know how many events they are going to have.

Mr. Coyner stated that three (3) years will give the applicant a reasonable amount of time to reapply.

Mr. Shreckhise stated that if the applicant is not doing enough business, they can come before the Board to reapply. He moved that the request be approved with the following conditions:

Pre-Condition:

None

Operating Conditions:

- 1. The applicant can operate using the vault-privy and porta johns for a period of three (3) years.
- 2. Applicant be allowed to have food vendors at the events.

Mr. Coyner seconded the motion, which carried unanimously.

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WILLIAM A. KOINER, AGENT FOR CROSCO COMPANY - VARIANCE

This being the date and time advertised to consider a request by William A. Koiner, agent for Crosco Company, for a Variance from the rear lot line setback requirement in order to construct an addition to the existing building on property it owns, located on the north side of Keezletown Road (Route 750), approximately .6 of a mile northeast of the intersection of Keezletown Road (Route 750) and Lee Highway (Route 11) in the North River District.

Mr. Jeff Crosby stated that he is a member of Crosco. He stated that about three (3) years ago the facility collapsed. He stated that the pad is still there and in 1990 they refurbished the office part to a two (2) story office. He stated that when the facility collapsed they had to move across the street for growth. He stated that the staff report listed convenience and this is not the case. He stated that when this facility collapsed three (3) years ago he could have grandfathered himself in but he did not know it. He stated that he does not know the codes. He stated that at the time this was detrimental to them. He stated that they had other things on their mind. He stated that they have

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100 employees. He stated that over the last seventeen (17) years they have grown. He stated that all of the paperwork, payroll, dispatch, coordination, and safety is handled at this facility. He stated that their transportation department is not run separately. He stated that they need to have departments adjoining each other because every piece of paper, every bill, accounts payable, accounts receivable, and safety all get the paperwork together. He stated that it is not feasible to have these departments separate. He stated that one of the recommendations was to move across the street. He stated that the trailer facility is there but they would have a 1,500 square foot facility empty plus he is going to double his expense. He stated that he knows the Board would understand financial ability because they are all business people. He stated that they are not in a position to waste money to be able to stay in business. He stated that the edge of the concrete where they are going to build is exactly fifty (50') feet from the center of the railroad track. He stated that there is a farm behind them. He stated that at the same time they are causing no harm whatsoever to the surrounding community. He stated that they do not have any neighbors. He stated that the only neighbors are Mr. Reed who's home is a quarter of a mile away from them. He stated that they are adjoining the railroad track. He stated that the southern area is where equipment is parked. He stated that to the north is where Crosco is.

Mr. Wilkinson asked what is the temporary building that is behind there now?

Mr. Crosby stated that when the facility collapsed that was the best building they could put up. He stated that they had to work one winter out of that facility doing trailer work. He stated that they were in the process of outgrowing it when it collapsed. He stated that the one portable will be coming down. He stated that is the one they operated out of until they had their other facility built.

Mr. Shreckhise asked how big is the building?

Mr. Crosby stated approximately 50' x 100'.

Mr. Wilkinson stated that according to the site plan the proposed building would only be about two (2') feet off of the property line. He stated that they are asking to build to the back of the property line, however, the requirements of the Augusta County ordinance requires that everyone meet setbacks. He stated that the staff report states that they can add on to the facility at the end. He stated that it is nothing unusual for a business as they expand to maybe move the office in there and move the dock area further down and still meet the setbacks for the County.

Mr. Crosby stated that his costs would be double. He stated that he would also have to build another warehouse. He stated that he understands setbacks are needed but they are in a place where there is not anyone around. He asked if the Board as

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businesspeople would spend twice the money to accomplish something that fits their needs.

Mr. Wilkinson stated that it is not an usual thing that every business faces. He stated that when anyone makes an expansion they have to meet the same requirements as any other business.

Mr. Crosby stated that right now there are 100 employees working in Augusta County. He stated that they have terminals in Charlotte, Sidney, Ohio, and Massachusetts. He stated that they want the tax base here because these are not \$20,000 a year jobs. He stated that people are going to grow into this. He stated that he could move that tax base to another state. He stated that he understands that and that is why he could have been grandfathered three years ago but he did not know. He stated that he is not using that as an excuse but he could have been able to build that now without having to ask.

Mr. Wilkinson stated that the Virginia state code limits the Board's powers to grant Variances based on you meeting some criteria. He stated that it focuses on the exceptional narrowness, shallowness, and size of the property which would prevent you from meeting the setback requirements or other requirements to where you do not have any use of the property at all if the ordinance is followed.

Mr. Crosby asked if he says that he does not have the size or the shape of the property then the Board could grant the request?

Mr. Wilkinson stated that if the applicant wanted to build the trucking business and there is nothing on the property and there is no way that you could build a building and meet the ordinance requirements then a Variance is an option. He stated that when there is an expansion, there is already a use established on the property and there are setback requirements for everyone. He stated that looking at the site plan, an addition could be built meeting all of the requirements of the Augusta County ordinance.

Mr. Crosby stated that staff is saying that they have other places to build this but if he builds it any other place, it causes him a hardship financially. He stated that every department has to be together because they all handle the same paperwork. He stated that he does not know where else he would build it.

Mr. Wilkinson stated that financial issues are not hardships as defined by the state code.

Ms. Brown stated that the state code is a strict guideline that they must follow.

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Mr. Wilkinson stated that the Board does not have that much leeway as they do with Special Use Permits.

Mr. Coyner asked how long have they operated from this location?

Mr. Crosby stated twenty-seven (27) years.

Chairman Swortzel stated that the bad thing is that Mr. Crosby did not build the building back. He stated that he did not know that if the building fell down he could not put it back. He stated that the foundation is there and he could sit it on the existing foundation instead of relocating the dock. He stated that this is something that needs to be looked at very hard.

Vice Chairman Callison stated that the property is adjacent to the railroad.

Mr. Shreckhise asked if the plastic structure that was put up temporarily would count for the rebuilding of the building that collapsed?

Mr. Wilkinson stated that he would have to check with the Building Inspection department. He stated that it certainly is not attached to the building.

Mr. Shreckhise stated that the structure was put up inadequately but it was rebuilt. He stated that because the plastic building was there it could be considered a reconstruction.

Chairman Swortzel asked what else could you do with the property because it is next to the railroad. He stated that this is common sense.

Mr. William Koiner stated that if they can build there they can use other property for future expansions.

Mr. Wilkinson stated that every business owner has those issues. He stated that the Board can recommend to the Board of Supervisors that in business and industrial areas setback requirements may need to be looked at.

Mr. Coyner asked when the shed and the concrete pad were built?

Mr. Crosby stated 1950.

Mr. Wilkinson stated that in 1950 there was no setback. He stated that they have a section in the ordinance that says if there is a non-conforming structure like that they

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can rebuild it if it is destroyed by wind, fire, tornado, etc. it can be rebuilt within twelve (12) months.

Mr. Shreckhise stated that the applicant put up the plastic structure within twelve (12) months. He stated that maybe the plastic structure and the building that fell down did not meet the building codes.

Mr. Koiner stated that the building that collapsed did not meet today's building codes.

Vice Chairman Callison asked if the building was the entire length of the building?

Mr. Crosby stated yes.

Mr. Wilkinson asked if the applicant knew when the addition was put on?

Mr. Crosby stated that the original building was built in 1950.

Mr. Coyner asked when did the snow load cause the building to collapse?

Mr. Crosby stated in February of 2004.

Ms. Brown asked when the temporary structure was put up?

Mr. Crosby stated in March of 2004.

Mr. Koiner stated that the original foundation of the building is still there now.

Chairman Swortzel stated that if the building is extended down more waste of space is being created.

Ms. Brown stated that the Board should get a date on a permit when the temporary structure was placed.

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

Mr. Bruce Crow stated that when Isabel came through they had a lot of wind damage at the site. He stated that he is neither in favor nor in opposition. He stated that the building code does allow for zero setback. He stated that Mr. Crosby would have to put three (3) hour firewall, not because it is adjoining a railroad, but because the railroad could be abandoned at some time. He stated that he dealt with a company during Isabel when he was after federal money but unfortunately in private industry they did

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not have enough to meet the threshold to get small interest loans and be able to put things back. He stated that one of the conversations that he had with Mr. Crosby was that he had to take the money out of his own pocket. He stated that the insurance company does not cover natural disasters. He stated that he has looked at this site. He stated that it was clearly a building and it had some debris left. He stated that it was about three (3) years ago.

Ms. Brown asked what the size of the building was?

Mr. Crosby stated that the structure that came down was 134' x 35'. He stated that the reason they did not build a trailer shop back then was because they knew they were going to expand down the road and there was no use in going back and building a small facility.

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.

Mr. Shreckhise stated that if someone would continue the use as it was then they could build on it within a year. He stated that it is quite evident that they wanted to do that. He stated that they did not have the finances to rebuild it according to the building code, therefore, he stuck a plastic structure to get by so that they could rebuild it as he wants to do now. He stated that they would like to change the temporary structure into a permanent structure. He stated that the applicant was not aware of the law. He stated that this is an unusual circumstance.

Mr. Coyner stated that he understands the situation but it is still a convenience factor to have all of the offices together. He stated that they have enough acreage.

Chairman Swortzel stated that it is a common sense factor too.

Mr. Coyner stated that the bottom line is that this is a convenience factor.

Mr. Shreckhise stated that the applicant did rebuild on the same structure three (3) years ago but it did not count because it was not inspected.

Chairman Swortzel stated that he believes that it would have required a building permit.

Mr. Crosby stated that he cannot tell the Board if it required a permit because he was not involved in putting that structure up.

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Mr. Coyner stated that he would propose tabling the matter to July so that Mr. Rosenberg can advise the Board on state code Variance standards.

Vice Chairman Callison stated that they have to do the logical thing for this situation.

Mr. Shreckhise stated that if the permit were to be granted he does not feel that the Board is setting a precedent with this situation.

Chairman Swortzel stated that the applicant did build part of the structure.

Mr. Shreckhise moved that the Variance be granted.

Vice Chairman Callison seconded the motion, which carried with Ms. Brown being in opposition.

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EGS AND ASSOCIATES, AGENT FOR SUNRISE INVESTORS, INC. - VARIANCE

This being the date and time advertised to consider a request by EGS and Associates, agent for Sunrise Investors, Inc., for a Variance from the lot width requirements involving an exchange of property in order to obtain additional right of way to align a new public street (Locust Grove Drive) with Augusta Farms Road (Route 643) on property owned by Sunrise Investors, Inc., located just south of the intersection of Locust Grove Lane and Stuarts Draft Highway (Route 340) in the South River District.

Mr. Jeff Gentry with EGS & Associates stated that he is working with the VFW on a property exchange to get an adequate right of way opposite of Route 649 on Locust Grove Drive. He stated that there is a proposed Planned Unit Development which is going before the Planning Commission this month. He stated that the development consists of single family homes, townhouses, and condominiums. He stated that when Route 340 was built, the farm that was owned by the Fitzgerald family had thirty-three (33') feet of frontage there and VDOT never acquired any right of way in or around that signal. He stated that this was an oversight. He stated that they are working with the highway department to try and acquire a right of way that should have been acquired when Route 340 was built. He stated that they are trying to get the minimum right of way width of fifty (50') feet to satisfy the highway department. He stated that the VFW would exchange a sliver of their property in exchange of giving them a third of an acre in behind their existing tract of land. He stated that would create a fifty (50') foot right of way along the property. He stated that according to Community Development staff this would be an illegal lot width. He stated that once the land is exchanged and the subdivision is built, the corner lot will be one tract and a legal tract at that time. He

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stated that something has to happen first to make this click. He stated that there needs to be an exchange with VDOT and the VFW first. He stated that they really need this Variance in order to make the land exchange work. He stated that the offices sit on two (2) property lines. He stated that they are acquiring up to twelve (12') feet off of the end of the property going straight to VDOT. He stated that they would also dissolve the property line that is going through their building.

Chairman Swortzel stated that when the fifty (50') foot right of way is given, how far off of the end of the dwelling will they be?

Mr. Gentry stated that is not part of this request. He stated that has nothing to do with the VFW lot. He stated that the problem has to do with the next lot, not the VFW lot. He stated that Locust Grove Drive would be a public street and have curb and gutter and be fifty (50') feet wide.

Mr. Coyner stated that the purpose of the ordinance is to have the roads line up with the traffic lights.

Mr. Gentry stated that the alignment is not very good at that intersection. He stated that they will be redesigning the signals and the turn lane so that you do have an option to go straight across.

Ms. Brown asked if the light pole and telephone pole need to come down?

Mr. Gentry stated that the utilities will have to be moved.

Mr. Wilkinson stated that the alignment is a requirement by the County's ordinance.

Mr. Gentry stated that it is also required by the highway department. He stated that the land exchange is needed in order to start the entire process.

Vice Chairman Callison asked if the VFW is creating a new lot or adding the land to what they already have?

Mr. Gentry stated that they would be adding it to whatever they have. He stated that the VFW will wind up with one (1) tax parcel.

Mr. Wilkinson asked how long before the public street is in?

Mr. Gentry stated that this is labeled as part of phase two. He stated that they hope to start working on phase one later this year. He stated that phase two depends on how

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good the market is. He stated that they hope to have phase two under construction within three (3) to five (5) years but he is unsure.

Mr. Wilkinson stated that there will not be a need for the Variance once the street is constructed and dedicated as right of way.

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.

Mr. Coyner moved that the Variance be approved with the following stipulation:

1. The Variance be granted only for the purpose of creating a public street (Locust Grove Drive) that will line up opposite of Augusta Farms Road (Route 649).

Vice Chairman Callison seconded the motion, which carried unanimously.

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STEPHEN CAMPBELL - 90 DAY EXTENSION OF TIME REQUEST

A request by Stephen Campbell, for a Special Use Permit to have an investment office within an existing dwelling on property owned by Ronald L. or Susan P. Rosenthal, located on the north side of Jefferson Highway (Route 250), approximately .1 of a mile west of the intersection of Jefferson Highway (Route 250) and Maple Road in the Wayne District.

Mr. Stephen Campbell stated that he received a letter from staff notifying him that the pre-conditions needed to be completed. He stated that he needs to get an approval from VDOT, health department, and the site plan for the parking. He stated that they have submitted copies of the health department and VDOT approvals. He stated that they submitted a poor site plan and he is assuming that the Board would like a professional site plan.

Mr. Wilkinson stated that he can give the applicant those requirements because it has to be drawn to scale.

Mr. Campbell stated that they have been operating the investment office since September. He stated that he will be submitting the site plan as soon as possible. He stated that they have increased the size of the parking lot. He stated that four (4) parking spaces were created, two (2) parking spaces in the garage, and three (3) other spots for clients.

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Mr. Wilkinson stated that the applicant should stop by his office and ask for the list of site plan requirements.

Chairman Swortzel asked if the applicant had an entrance permit when the Special Use Permit was issued?

Mr. Wilkinson stated that VDOT wants an entrance permit in the name of the new business.

Mr. Campbell stated that he moved in July and the office opened in September. He stated that they did not contact VDOT. He stated that they did contact them a month ago and they said that there were no changes that needed to be made in the entrance.

Mr. Shreckhise moved that the ninety (90) day Extension of Time be approved.

Mr. Coyner seconded the motion, which carried unanimously.

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STAFF REPORT

- 06-40 Howdyshell, James W. or Teresa C.
- 06-41 Robinson, Roy L., Jr. or Paula Marie
- 06-42 Boxler, Tamara R.
- 06-43 Lighthouse, An Independent
- 06-44 Showalter, Blaine M.
- 06-45 Johnson, Frederick V. or Susette L.
- 06-46 Wood, Lester W. or Janie F.

Mr. Wilkinson stated that SUP#06-40, 06-41, 06-42, 06-43, 06-44, and 06-45 are all in compliance. He stated that staff has sent the Woods for SUP#06-46 a letter to see if the permit is still active because the building was boarded up.

* * * * *

Mr. Wilkinson handed our Mr. Rosenberg's report of pending zoning cases. He stated that they have not had any recent court cases to report. He stated that staff has sent GLS Leasco the final notice for their dock expansion. He stated that they did not have an approved site plan for that expansion. He stated that they did submit the site plan but it was rejected because it did not meet the ordinance requirements. He stated that they will be filing legal action. He stated that they started tearing the dock down. He stated that

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they are getting ready to file again on Mr. Gochenour. He stated that the pending cases would be coming up late summer to Judge Wood. He stated that Ira Nessley signed a consent decree. He stated that his son asked to give him until November 1st to get the site cleared. He stated that Mr. Nethken came to this Board for an additional twelve (12) months to rebuild the building. He stated that June 1st was his twelve (12) month deadline. He stated that he sent Mr. Nethken two (2) letters that his time is up. He stated that he came in the first of May and stated that he is working on getting a contractor. He stated that he told Mr. Nethken that the building needs to be completed by June 1st. He stated that the lot is cleaned up. He stated that he told Mr. Nethken that he can build a 700 square foot garage, go before the Board of Zoning Appeals to apply for a SUP to build a bigger building, or build nothing.

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

* * * * *

Chairman

Secretary