

December 3, 2015

PRESENT: J. D. Tilghman, Chairwoman  
G. A. Coyner, II, Vice Chairman  
D. A. Brown  
T. H. Byerly  
S. F. Shreckhise  
J. R. Wilkinson, Zoning Administrator & Secretary

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 3, 2015, at 8:45 A.M., in the County Government Center, Verona, Virginia.

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The staff briefing was held at **8:45 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.

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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:

- **PAUL R. AND THERESA G. JOHNSON - SPECIAL USE PERMIT**
- **LESTER P. AND MARY A. WITMER - SPECIAL USE PERMIT**
- **B.E. BRANNOCK, AGENT FOR CROSCO COMPANY, LC - VARIANCE**
- **DIRK GOLD, AGENT FOR GOLDWRENCH ENTERPRISES, LLC - 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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Chairwoman

\_\_\_\_\_  
Secretary

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PRESENT: J. D. Tilghman, Chairwoman  
G. A. Coyner, II, Vice Chairman  
D. A. Brown  
T. H. Byerly  
S. F. Shreckhise  
J. R. Wilkinson, Zoning Administrator & Secretary  
P. Morgan, County Attorney  
B. Cardellicchio-Weber, Executive Secretary

ABSENT: None

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 3, 2015, 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 November 5, 2015, meeting be approved.

Mr. Byerly seconded the motion, which carried unanimously.

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**PAUL R. AND THERESA G. JOHNSON - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Paul R. and Theresa G. Johnson, for a Special Use Permit to enlarge an accessory building resulting in the aggregate area exceeding 1,200 square feet on property they own, located at 43 Bradford Street, Swoope, in the Pastures District.

Mr. Paul Johnson stated he collects classic cars for personal use. He is planning on selling his home in Stuarts Draft and moving to Swoope. He needs the larger building in order to have storage for the vehicles at his home in Swoope.

Vice Chairman Coyner asked how long has the applicant owned this piece of property?

Mr. Johnson stated eight (8) years.

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

There being none, Chairwoman Tilghman declared the public hearing closed.

Mr. Byerly stated the Board visited the property today. He stated it is kept neat and orderly. He stated enlarging the accessory structure would be compatible with the neighborhood, therefore, he moved that the request be approved with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Be permitted to construct a 24' x 42' addition to the existing garage.
2. Applicant obtain all necessary building permits.

Ms. Brown seconded the motion, which carried unanimously.

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**LESTER P. AND MARY A. WITMER - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Lester P. and Mary A. Witmer, for a Special Use Permit to construct a new building and use a portion of it for a concrete pumping business on property they own, located at 188 Coffman Road, Weyers Cave, in the North River District.

Mr. Wilkinson stated Mr. Witmer was unable to attend the hearing today due to an illness. He requested that the Board table this request for thirty (30) days.

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

There being none, Chairwoman Tilghman declared the public hearing closed.

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Vice Chairman Coyner moved that the request be tabled until the January 7, 2016 meeting.

Mr. Shreckhise seconded the motion, which carried unanimously.

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### **B.E. BRANNOCK, AGENT FOR CROSCO COMPANY, LC - VARIANCE**

This being the date and time advertised to consider a request by B.E. Brannock, agent for Crosco Company, LC, for a Variance from the yard and setback requirements in order to construct an office building on property it owns, located at 270 Keezletown Road, Mount Sidney, in the North River District.

Mr. B.E. Brannock stated he is here representing Crosco Company, LC and with him today is Jonathan Berry and Jeff Crosby. He stated they are here today seeking a Variance in order to place a 72' x 86' prefab building onto the property that houses Crosby Trucking. He noted that office space is needed and the staff has outgrown their existing office space. He stated if the Variance is granted, eighteen (18) employees will utilize the new office space and they foresee hiring about fifteen (15) additional employees in the future. He said that they believe they meet the criteria for granting a Variance and this situation is unique to this parcel of land. He stated this hardship is not one of their making. He noted the granting of the Variance would not be a detriment to the adjacent property owners. He stated they have approached the railroad company and they have no objection to the granting of this Variance. Mr. Brannock displayed a number of photographs on the screen for the Board (copies are in the file; the photographs displayed the manholes, the berm that was already on the property when the land was purchased, and the dock that has an incline). He stated the manholes are pumped twice a year and granting this Variance would reduce the number of times required to pump needed because they would connect to the existing sewer line. He stated the sewer line is built by Crosco and it connects to the pumping station serviced by the Augusta County Service Authority. He stated there is no true public sewer system there. He further stated that what is onsite is there because Crosco put it there. Mr. Brannock stated they cannot put the building near the fueling area because that would be a safety issue. He stated the trucks can only use one of the entrances as per the proffer on the land. He also mentioned that the building cannot be close to the dock because of the bays on the dock. He stated there are parts delivered daily to the service garage. He stated if they lose the dock area, then they would be losing a large part of the functionality of the building. He stated the area is quite narrow. He stated if the building is placed near the manhole then they would lose access to the

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manhole. He stated if the building is placed near the manholes they would have to insert the sewer line across the road, pump the liquid up, lose the dock area, and would need to also bring in fill to the site. He stated that 750 cubic yards of offsite material will need to come in and be purchased. He noted that adding all of the fill will make the grade steeper and narrow their entranceway. He stated by not granting this Variance, Crosco is losing the use of this portion of the property. He noted that EGS has shown where they believe the drainfield exists. He stated that Crosco is asking for a ten (10') foot setback Variance to allow them the insertion of the structure. He stated by granting the Variance it will allow them access to the docks and from the back area, preserve the entrance and provides access to the manhole in the future. He stated they also looked at putting structures on other locations of the property and if they built on the adjacent piece of property, a separate backup generator and a new pump station would be required. He noted that if the Variance is granted, Crosco would be able to use the property to the fullest extent. He stated the placement of the building is a hardship, not one of our making because they purchased the property as you see it today. He stated the berm is not something they constructed. He stated this request would not be a detriment to the neighbors and they have provided a letter from the railroad stating they are in support of the request. He stated this situation is unique to this piece of property and the granting of the Variance would not change the use of this property. He stated the Special Use Permit request is not a realistic option in this situation.

Chairwoman Tilghman asked if the lower property is tied into the Service Authority and if they are paying monthly fees?

Mr. Brannock stated yes. He stated the building has a pump station that Crosby installed and they have gotten the easements from the adjacent property owner and the railroad. He stated they have made the agreements with the Service Authority to tie into the pump but the entire infrastructure was paid for, acquired by, and has been maintained by Crosby.

Chairwoman Tilghman asked if the parcel on the other side of the road is serviced by the same system?

Mr. Brannock stated no it is not tied into the same system. He stated they will run the line downhill and anticipate using that line for liquid waste and the effluent is held in a tank and pumped once a year.

Chairwoman Tilghman stated if they put in a new building there would be less strain on the current septic system.

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Mr. Brannock stated the septic is not being used. He stated the effluent pump is being used.

Chairwoman Tilghman stated the building will not use the septic. She stated the building would sit on top of the septic system. She stated the tractor trailers driving over the septic every day puts more of a strain on it. She stated the applicant should move the building onto the upper side.

Mr. Brannock stated if the structure is placed downhill they would have to install a pump and a different backup generator. He stated the further away we move the building the more facilities they have to run to the building.

Mr. Wilkinson stated with the issue of the drainfield going away, why couldn't the applicant move the building fifteen (15') feet further to make the building meet the setback?

Mr. Brannock stated he would still have to put in a considerable amount of fill to support the building. He stated they also need to maintain the entrance for travel for the tractor trailers.

Chairwoman Tilghman asked if the building is one-story or two?

Mr. Brannock stated it is a one-story structure. He stated it is a prefab pod unit that fits together. He stated these buildings are not designed as two-story units.

Vice Chairman Coyner stated this looks like a matter of convenience.

Mr. Brannock stated this is not a matter of convenience but a necessity if they are to get the full use of the property. He stated they do not have anywhere else on the property to move their entrance. He stated if they put the berm closer it will make the passageway narrower and difficult for two-way tractor trailer traffic. He stated the issue is safety and not convenience.

Vice Chairman Coyner asked if they could add another story to their actual building?

Mr. Brannock stated not with office pods that were purchased. He stated adding another story to remodel their existing building would require major modifications and a lot more money than the pods they have purchased.

Chairwoman Tilghman asked if the building would meet the setbacks if placed in the center of the property?

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Mr. Brannock stated it still would not fit.

Chairwoman Tilghman stated if the building is brought forward the applicant would need to bring some fill in.

Vice Chairman Coyner asked if there was something unique with the size of this building?

Mr. Brannock stated they have already paid for the building. He stated the building comes in seven different units.

Chairwoman Tilghman asked if the applicant can eliminate one of the sections of the building in order for it to fit on the property?

Mr. Jonathan Berry stated it would be a financial burden to remove one of the sections. He stated some of the interior walls are load bearing. He stated each unit has an HVAC system and he does not know what it would take to rewire them. He mentioned that it is not impossible but it would need to be redesigned. He was unsure what it would take to redesign them.

Chairwoman Tilghman stated when the applicant purchased the unit, they should have made sure it fit onto the lot properly.

Vice Chairman Coyner stated the applicant has a number of options. He stated this is a matter of convenience for you. He mentioned that the berm can come out.

Mr. Berry stated they are trying to keep things simple. He stated they have money invested in this building and they thought it would be a reasonable gamble to purchase the building and ask for a Variance. He stated they are not taking any land out of farmland to place the building on that location of the property.

Mr. Brannock felt that he addressed why the other options would not work.

Mr. Byerly stated the manhole tank can be moved anywhere on the property. He stated it is just a tank for solid waste. He stated there would be some expense involved but it can be done.

Vice Chairman Coyner stated nothing is impossible. He stated even the dock area can be reconfigured into office space if necessary.

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Mr. Brannock stated the berm and the rise reduces the functionality of the dock. He stated they would still need to bring in the 750 cubic yards of fill. He stated they cannot move the dock near the fueling center.

Mr. Byerly stated 750 cubic yards of fill is a very small amount. He stated a retaining wall could also be done.

Vice Chairman Coyner stated the applicant has other options.

Mr. Berry stated a retaining wall is possible but the idea of a retaining wall scares him if a truck would hit the retaining wall.

Mr. Wilkinson read the criteria for the Board granting a Variance.

Section 15.2-2201 of the Code of Virginia **defines** Variance In the application of a Zoning Ordinance, a reasonable deviation from those provisions regulating the shape, size or area of a lot or parcel of land, or the size, height, area, bulk or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a Variance would not be shared generally by other properties, and provided such Variance is not contrary to the purpose of the Ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Virginia State Code 15.2-2309 provides for the granting of a Variance if the evidence shows that the strict application of the terms or the ordinance would unreasonably restrict the utilization of the property or that the granting of the Variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property was acquired in good faith and any hardship was not created by the applicant for the Variance; (ii) the granting of the Variance will not be of substantial detriment to adjacent property and nearby properties in the area; (iii) the condition or situation of the property is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the Variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the Variance application is not available through a special exception process.

Vice Chairman Coyner stated the property is currently being utilized. He stated the Board of Zoning Appeals is not making the property unusable by not granting the Variance. He stated the trucking business will continue.

Mr. Brannock stated to relocate the building it would take away the dock area.

Mr. Shreckhise stated the property is usable. He stated this Board cannot grant a Variance just because the business wants to expand.



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Mr. Brannock stated the setback is making a portion of the property unusable. He stated this is a taking of the property.

Chairwoman Tilghman stated this is not a taking of the property. She stated the applicant chose the building which is too big in size for the area it was supposed to go on. She stated a building can be placed on the property because there is room but not the building that the property owners already purchased.

Mr. Brannock stated they are planning on adding additional employees and giving the existing employees more room. He stated this size structure is sufficient for their needs. He stated if they are not able to expand there then the Board is basically telling them they need to move.

Chairwoman Tilghman stated no that is not the case. She stated the applicant does have options.

Mr. Jeff Crosby stated his major issue is with the manhole and the safety issues with the tractor trailers coming onto the property. He stated his major problem is with the building setback and him not getting the opportunity to hire more people. He stated there are so many new regulations with safety that they have had to hire extra people. He has farmed the other property for years and he is against taking farmland and changing it into another use.

Mr. Byerly stated the Board would like to try and find a solution for this situation. He stated the applicant does have options in moving the building fifteen (15') feet and the applicant only needs 750 cubic yards of fill. He stated a retaining wall is an option too. He further stated that the parking area could also be rearranged.

Mr. Brannock stated there is not a lot of distance for the tractor trailers if they move the building out fifteen (15') feet.

Ms. Brown stated the applicant does have a lot of options.

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

There being none, Chairwoman Tilghman declared the public hearing closed.

Vice Chairman Coyner stated he was disappointed that the applicant did not purchase a different size building or think of a different configuration of the building.

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Chairwoman Tilghman stated she respects the amount of square footage that they need but the building would have fit legally had it been two stories. She stated the proposed building does not fit in the area. She stated a building can be placed on the property if it were to be smaller. She stated the applicant has other alternatives.

Mr. Byerly stated the Board needs to comply with the Virginia State Code.

Mr. Wilkinson stated the granting of a Variance should be granted only if there is an unreasonable restriction of the property.

Mr. Shreckhise stated the Board cannot grant this Variance.

Vice Chairman Coyner moved to deny the Variance request due to the fact that the applicant does have other options in order to accommodate their business and by the Board not granting the request they are not denying them the privilege of using their property for a trucking business.

Mr. Shreckhise seconded the motion, which carried unanimously.

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**B.E. BRANNOCK, AGENT FOR CROSCO COMPANY, LC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by B.E. Brannock, agent for Crosco Company, LC, for a Special Use Permit to expand a non-conforming building on property it owns, located at 270 Keezletown Road, Mount Sidney, in the North River District.

Mr. Wilkinson stated it was determined by the site plan submitted that the existing building does meet the current setbacks, therefore, the Special Use Permit is unnecessary.

Mr. Brannock withdrew the Special Use Permit request.

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**STAFF REPORT**

- 15-4 Edgar E. Michael, Trustee
- 15-5 Jonathan L. or Janet L. Burkholder

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15-6	Goldwrench Enterprises, LLC
15-7	Augusta County Eagles Aerie #4129

Mr. Wilkinson stated SUP#15-4 was denied. He stated the applicant will be requesting an Extension of Time for SUP#15-5. He sent Mr. Gold a letter regarding their violation on SUP#15-6 about the unlicensed vehicles. He stated the applicant will need an Extension of Time to complete the screening. He stated the Board visited the site today. He stated all of the existing screening is gone and there are ten (10) unlicensed vehicles that are not in the impound area. He has not heard from Mr. Gold.

Vice Chairman Coyner asked that Mr. Gold be present at the January 7, 2016, meeting to discuss the violation.

Mr. Wilkinson stated SUP#15-7 has been inspected and is in compliance.

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Mr. Morgan discussed the court cases with the Board.

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

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Chairwoman

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Secretary