

December 7, 2017

PRESENT: Thomas H. Byerly, Chairman  
 Steven F. Shreckhise, Vice Chairman  
 Daisy A. Brown  
 George A. Coyner, II  
 Justine D. Tilghman  
 Sandra K. Bunch, Zoning Administrator and Secretary  
 James R. Benkahla, County Attorney  
 John R. Wilkinson, Director of Community Development  
 Beatrice B. Cardelicchio-Weber, Executive Secretary

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 7, 2017, at 9:00 A.M., in the County Government Center, Verona, Virginia.

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The staff briefing was held at **9:00 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

**VIEWINGS**

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

- **PATRICIA S. SHULMAN - SPECIAL USE PERMIT**
- **DARCI D. OBERLY - SPECIAL USE PERMIT**
- **RAY EPPARD, AGENT FOR VICTORY WORSHIP CENTER AND WORLD OUTREACH, INC. - SPECIAL USE PERMIT**
- **SIDNEY BEERY, AGENT FOR LICK RUN DAIRY, 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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Chairman

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Secretary

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 Justine D. Tilghman  
 Sandra K. Bunch, Zoning Administrator and Secretary  
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: James R. Benkahla, County Attorney

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 7, 2017, 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 November 2, 2017, meeting be approved.

Vice Chairman Shreckhise seconded the motion, which carried unanimously.

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**PATRICIA S. SHULMAN - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Patricia S. Shulman, for a Special Use Permit to have a short term vacation rental on property she owns, located at 1226 Middle River Road, Staunton in the North River District.

Ms. Patricia Shulman stated she would like to have a short term vacation rental in her one bedroom apartment attached to the garage.

Mr. Coyner stated the property is not easy to get to.

Ms. Shulman said she has plans in the spring to put in some temporary guardrails. She said the guardrails need to be temporary because the river does flood occasionally.

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

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

Vice Chairman Shreckhise stated this is a good use of the property. He said this will provide extra income to the property owner and this would not be a bother to the neighbors. He moved to approve the request with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Be permitted to use the one (1) bedroom apartment attached to the garage for short term rental.
2. The occupancy shall not exceed four (4) persons at any time.
3. Applicant must reside on premise.
4. Site be kept neat and orderly.

Ms. Tilghman seconded the motion, which carried unanimously.

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**DARCI D. OBERLY - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Darci D. Oberly, for a Special Use Permit to have a short term vacation rental on property she owns, located at 3471 Morris Mill Road, Staunton in the Pastures District.

Ms. Darci Oberly stated she has lived at the site for six (6) years. She lives in the upper level of the home and would like to use the lower level of the home as a short term vacation rental through Airbnb.

Mr. Coyner asked if there is a kitchen in the lower level of the home?

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Ms. Oberly stated no. She will provide a dorm size refrigerator and coffee maker for convenience if her guests have leftovers or keep their drinks cold. She works from home and will be onsite.

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

Ms. Ann Walsh, 3467 Morris Mill Road, Staunton, stated she has concerns about this request. She has spoken with her insurance company and her insurance will increase because of the vacation rental next door due to possible trespassers. She does not want to post a sign on her property. She keeps her windows and doors open in the summer and she is worried about noise. She spoke with the applicant and she will limit noise starting at 9:00 p.m. but that is late. She said the area is very quiet now.

Ms. Brown asked if her property is on the same lane?

Ms. Walsh stated no. She is concerned about the different guests having parties. She asked what is meant by short term and if the applicant will only use Airbnb for rentals.

Ms. Bunch stated short term rentals are less than thirty (30) days. She said the applicant can advertise with whomever she wishes.

Chairman Byerly stated this is not a permit application for venues.

Vice Chairman Shreckhise stated it is unusual to hear that Ms. Walsh's insurance will increase.

Ms. Walsh stated it was a suggestion by her insurance company to add a rider to protect herself because of the possibility of people going onto her property. She said it is her choice to add the additional rider for extra protection.

Ms. Tilghman asked if Ms. Walsh has cattle, horses, or sheep?

Ms. Walsh stated no, only two (2) dogs. She asked how often do Special Use Permits get revisited?

Ms. Bunch stated staff inspects the permits at the end of the first year. She stated the permit will be issued non-transferrable. She stated if staff receives complaints then we will inspect the site for compliance.

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Ms. Walsh asked if she goes on vacation does someone have to be at the site?

Ms. Bunch stated staff has recommended the applicant reside on premise.

Chairman Byerly stated the applicant is not required to stay onsite every minute of every day. He asked if there was anyone else wishing to speak regarding the request?

There being none, Chairman Byerly asked the applicant to speak in rebuttal.

Ms. Oberly stated she did move to the country for the quiet. She will have house rules and if they are violated the guests would not be able to rent at other places. She said one of the house rules is to have quiet hours between 9:00 p.m. and 8:00 a.m. She can also list in the rules that the guests are not allowed to have parties, climb the fence, or cross property lines. She anticipates renting out to guests a couple weekends per month. She does not want to subject her neighbors to the noise and she does not want them bothered in any way.

Chairman Byerly stated the property is very nice. He declared the public hearing closed.

Vice Chairman Shreckhise stated the applicant addressed the major concerns of the neighbor. He stated she will be at the site and in control of her property. He stated if the County receives any complaints, they will inspect the site. He moved to approve the request with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Be permitted to use the two (2) bedrooms in the dwelling for short term rental.
2. The total occupancy of the dwelling shall not exceed six (6) persons at any time unless the applicant provides Community Development with Health Department approval.
3. Applicant resides on premise.
4. Site be kept neat and orderly.

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Ms. Brown seconded the motion, which carried unanimously.

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**RAY EPPARD, AGENT FOR VICTORY WORSHIP CENTER AND WORLD OUTREACH, INC. - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Ray Eppard, agent for Victory Worship Center and World Outreach, Inc., for a Special Use Permit to have batting cages, a thrift store, and lease business space on property owned by Shenandoah Shiloh Christian Center, Trs. of, located at 870 Parkersburg Turnpike, Swoope in the Pastures District.

Mr. Ray Eppard stated they would like to operate a thrift store at this site in order to use those profits for their mission work. He said Victory Worship Church is very active with a sports program of 600 registrations. He said they look to keep their costs low and they will look to use the proceeds from this to supplement the teams and provide sports activities. He said Chris Huffman will manage the baseball cages.

Mr. Christopher Huffman, 927 Dam Town Road, Fort Defiance, stated he will oversee things at the baseball cages. He also will provide pitching lessons. He said this is a good thing for the area.

Mr. Eppard is requesting some changes to the proposed operating conditions. He said they may have camps and may start earlier. He would like to operate from 8:00 a.m. to 9:00 p.m. in order to provide them the flexibility for the batting cages and the thrift store. He stated they plan to have two (2) employees at the batting cage and two (2) at the thrift store as well as a number of volunteers during camps. He said they may have eight (8) to ten (10) volunteers at a time.

Ms. Tilghman asked if the applicant will have any more than forty-nine (49) people at one time which is the maximum load for the building?

Mr. Eppard stated no.

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

Mr. John Woodward, 20 Miss Phillips Road, Swoope, stated that he owns the property adjacent to the building. He stated his only concern is the noise. He stated the batting

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cages are supposed to be inside and there will be customers coming to the thrift store. He is not sure who will rent the business space. He would like to know more detail on what is going on. He said so far there are no issues and they have been a good neighbor. He hoped that a bar would not come to this site.

Ms. Bunch stated the business space is currently being rented out to a heating and air business.

Ms. Jody Woodward, 45 Swoope Road, Swoope, asked if the property will continue to look nice? She asked if it will be mowed? She wanted to be sure that there will not be items stored outside the thrift store. She does not want it to appear junky. She does not want to hear noise from the batting cages. She asked if there will be batting cages outside in the future? She asked if the rezoning will permit a convenience store or bar at this site?

Ms. Bunch stated the property is not being rezoned. She said the Special Use Permit is giving them permission to operate the business because the land is not zoned business. She said the permit will be issued non-transferrable.

Ms. Tilghman stated staff is recommending no outdoor activities on the operating conditions. She said if the applicant would like to change that in the future, they would have to come back before the Board and get another permit.

Chairman Byerly asked if there was anyone else wishing to speak regarding the request? There being none, Chairman Byerly asked the applicant to speak in rebuttal.

Mr. Eppard stated they do not have plans to have a bar or dance hall. He does understand the comments about the outside of the property. He noted his intent is to keep the site looking nice. He said there is not enough space on the property to do anything outside. He said this is a short term goal for them. He said their plans are to eventually move the batting cage to their own facility. He said they plan on paving only what is required by the Virginia Department of Transportation for the entrance. He said most of the area will be gravel.

Ms. Bunch stated they did receive approval from the Service Authority.

Chairman Byerly declared the public hearing closed.

Mr. Coyner stated the Board visited all of the sites this morning. He said this site is well maintained and the applicant has tremendously upgraded this site from its previous user. He moved to approve the request with the following conditions:

**Pre-Conditions:**

- 1. Obtain Health Department approval and provide a copy to Community Development.
- 2. Obtain VDOT entrance permit and provide a copy to Community Development.

**Operating Conditions:**

- 1. All batting and pitching be done inside the building. No outdoor activities.
- 2. Batting cage hours of operation be 8:00 a.m. to 9:00 p.m. Monday – Friday and Saturday and Sunday by appointment only.
- 3. Thrift store hours of operation be 8:00 a.m. to 9:00 p.m. Monday – Saturday.
- 4. Site be kept neat and orderly.

Ms. Brown seconded the motion, which carried unanimously.

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**SIDNEY BEERY, AGENT FOR LICK RUN DAIRY, LLC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Sidney Beery, agent for Lick Run Dairy, LLC, for a Special Use Permit to enclose and expand an existing nonconforming structure not meeting the front setback requirements on property they own, located at 335 Emmanuel Church Road, Mt. Solon in the North River District.

Mr. Sidney Beery stated he purchased the property in April. He stated the previous owner applied for a Special Use Permit to enclose the structure but never completed the project. He would like to enclose and expand the structure.

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

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



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Mr. Coyner stated the Board visited the site. He moved to approve the request with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Be permitted to enclose the existing 24' x 32' building.
2. Be permitted to add an 8' x 32' addition to **the side** and a 10' x 24' addition to the **rear** of the building.
3. Submit a survey showing the expansion is no closer to the road than the existing structure.
4. Obtain a farm building permit for all additions.

Ms. Brown seconded the motion, which carried unanimously.

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**JONATHAN L. OR JANET L. BURKHOLDER - EXTENSION OF TIME REQUEST**

A request by Jonathan L. or Janet L. Burkholder, for a Special Use Permit to construct a building to operate a landscaping business and make landscaping stones and stone signs on property they own, located at 6409 Spring Hill Road, Bridgewater in the North River District.

Ms. Bunch stated the applicant has not constructed the building.

Mr. Coyner moved to approve the one (1) year Extension of Time request. He said this should be the last extension for the applicant.

Vice Chairman Shreckhise seconded the motion, which carried unanimously.

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**JAMES POTTER, AGENT FOR REDEEMING LIFE MINISTRIES - EXTENSION OF TIME REQUEST**

A request by James Potter, agent for Redeeming Life Ministries, for a Special Use Permit to have a day care operation within a church on property it owns, located in the eastern quadrant of the intersection of Hammond Lane and Christians Creek Road, in the Beverley Manor District.

Ms. Bunch stated the church is under construction.

Mr. James Potter stated he would like to have additional time to get the day care operation started.

Chairman Byerly asked if one (1) year would be adequate?

Mr. Potter stated yes.

Mr. Coyner moved to approve the one (1) year Extension of Time request.

Vice Chairman Shreckhise seconded the motion, which carried unanimously.

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**STAFF REPORT**

- 17-4 Country Estates Mobile Home Park, LLC
- 17-5 Michael Dan Martin

Ms. Bunch stated both permits were inspected and are in compliance.

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Ms. Bunch 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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Chairman

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Secretary