

October 4, 2018

PRESENT: Steven F. Shreckhise, Chairman
Daisy A. Brown
Thomas H. Byerly
Sandra K. Bunch, Zoning Administrator and Secretary
James R. Benkahla, County Attorney
John R. Wilkinson, Director of Community Development

ABSENT: George A. Coyner, II, Vice Chairman
Justine D. Tilghman

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 4, 2018 at 9:00 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at 9:00 a.m. in the Board of Supervisors Conference Room. The staff reports for each request were reviewed 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:

- **JASON MCCALL, AGENT FOR MOSSY CREEK BREWING CO., LLC - SPECIAL USE PERMIT**
- **GARY J. SMITH - SPECIAL USE PERMIT**
- **LINDSAY BIRT, AGENT FOR ROCKY TOP FARMS, LLC AND KEVIN J. BIRT - 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.


Chairman


Secretary

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 John R. Wilkinson, Director of Community Development
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: George A. Coyner, II, Vice Chairman
 Justine D. Tilghman

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, October 4, 2018, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Byerly moved that the minutes from the September 6, 2018, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

JASON MCCALL, AGENT FOR MOSSY CREEK BREWING CO., LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jason McCall, agent for Mossy Creek Brewing Co., LLC, for a Special Use Permit to have outdoor storage of a food truck on property they own, located at 414 Parkersburg Turnpike, Staunton in the Pastures District.

Mr. Jason McCall stated he would like to have a food truck at this location for his brewery. He owns Skipping Rock Beer. He is in the process of renovating the building for a tap

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room and constructing a production facility onsite. He would like to offer his customers the opportunity to purchase food at the site.

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

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

Ms. Brown stated the Board visited the site today. She said the food truck would not interfere with anything. She moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to have one (1) food service truck outside, and it be kept in the designated area shown on the plan.
2. Site be kept neat and orderly.

Mr. Byerly seconded the motion, which carried unanimously.

GARY J. SMITH - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Gary J. Smith, for a Special Use Permit to add a 378 square foot accessory building exceeding the 900 square foot total aggregate allowed on property he owns, located at 1170 Stuarts Draft Highway, Staunton in the Riverheads District.

Mr. Gary Smith stated he would like to put an additional storage building onto his property. He said this would be an engineered steel building on a gravel pad. He would like to use the building to store his lawn equipment.

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

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

Mr. Byerly stated this is a reasonable request. He moved to approve the request with the following conditions:

Pre-Condition:

- 1. Applicant obtain a Building Permit.

Operating Conditions:

- 1. Be permitted to construct a three hundred seventy-eight (378) square foot building.
- 2. No further expansions.
- 3. Site be kept neat and orderly.

Ms. Brown seconded the motion, which carried unanimously.

LINDSAY BIRT, AGENT FOR ROCKY TOP FARMS, LLC AND KEVIN J. BIRT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Lindsay Birt, agent for Rocky Top Farms, LLC and Kevin J. Birt, for a Special Use Permit to have weddings and special events and to provide overnight accommodations for short term rental on property they own, located at 1124 Mossy Creek Road, Bridgewater in the North River District.

Ms. Lindsay Birt stated she would like to rent the facility out for special events. She would like to have ten (10) or less events per year. She would like to provide overnight accommodations in the apartment above the garage for the wedding night only. She said the barn will also be rented for the weddings.

Ms. Brown stated the entrance to the property is tight. She asked what road would be used for special events?

Ms. Birt said in speaking with the Virginia Department of Transportation (VDOT) the traffic will come into the front. She said there are two (2) entrances. She will need to look at

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having flaggers to direct traffic. She will work with VDOT to determine the egress and ingress to the property.

Ms. Brown asked where would the guests' park?

Ms. Birt stated parking will be in front of the barn in the pasture area.

Ms. Brown asked when someone stays the night in the apartment, where would they park?

Ms. Birt stated the apartment is next to the house and has a separate entrance.

Ms. Brown asked if a proposed wedding site is near the pond?

Ms. Birt stated the pond is a proposed option. She said the grassy area behind the pond can accommodate the parking for the wedding ceremony.

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

Mr. Ronald Capstack, 88 Shenandoah Lane, Bridgewater, stated he is opposed to the proposal. He has issues with the noise because the event barn is open and the enclosed sound will travel. He said the previous owners had events at the site in which the noise was easily transmitted from the music and the guests. He said in the evening hours they expect to enjoy the outdoors. He stated there would be issues with traffic because neither entrance is adequate in VDOT's 2013 review of the property. He said flaggers are being suggested but they may not be noticed at night. He would have issues with enforcement on the curfew, noise abatement, and the number of events. He said there are restrictive covenants in place that prohibit this type of use. He noted the covenants will be in effect until January 1, 2026 without any amendments. He said the covenants state there should only be a single family home and any home business may not have more than five (5) clients in any one day. He also has letters from four (4) families who will also be impacted by this.

Mr. Byerly asked Mr. Capstack where his residence is?

Mr. Capstack stated his residence is to the right behind the barn. He said the sound is amplified by the barn when the doors are open and directed towards his property.

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Mr. Ralph Cohen, 123 Shenandoah Lane, Bridgewater, stated he is one of the neighbors that signed the letter. He lives about 1/3 of a mile away. He said in this area the sound is amplified due to the hill. He noted the covenants make it clear about operating a business at the site. He said this area is dangerous enough now because people drive rather quickly along the road. He opposes this project.

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

There being none. Chairman Shreckhise noted the covenants would be a civil matter. He asked if Ms. Birt would like to speak in rebuttal?

Ms. Birt stated she has spoken to a few of the neighbors on the left side and they are in support. She already discussed the covenants with her attorney before she started this process and was told that it does not apply. She said this would be a rental situation. She said this is not an ongoing thing because she is only renting a few times a year. She said there has been events in the past and there were never any traffic issues. She will have flaggers in place and make sure they have adequate egress and ingress. She said past events have not had flaggers and there has never been an issue before. She noted that local residents have asked her if they could have events at her property.

Chairman Shreckhise stated there are two (2) members not present today and in order for the permit to pass, it would require at least two (2) votes in favor. He asked if the applicant would like to table the request to next month when a full Board is present.

Ms. Birt requested that the Board go ahead and vote on the request.

Chairman Shreckhise declared the public hearing closed.

Mr. Byerly stated he lives not too far from this property. He said the neighbors on the southwest side are much closer than those along the mountain. He feels that with the conditions recommended by staff there should not be any issues. He said the restrictive covenants is a civil matter and it cannot influence our decision. He moved to approve the request with the conditions.

Ms. Brown stated the Board visited the site today. She is not comfortable with the roadway and the 200 people coming in and out from an event. She said if they do not have the flaggers, then what will happen with the traffic along the road. She is concerned about the safety of this location.

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Chairman Shreckhise called for the vote on Mr. Byerly's motion. The motion did not carry.

Ms. Brown said she has safety concerns with the road and the two (2) driveways. She has issues with 200 people coming in and leaving the property after an event. She moved to deny the request.

Chairman Shreckhise stated he is hesitant to vote in favor of the request because of the driveway. He said events will last until 10:00 p.m. He said even though the Board cannot look at covenants, however, they were put there for a reason. He felt this is not a good place to have the special events.

There was no second to the motion, but the motion to deny passed with a 2-1 vote, with Mr. Byerly being in opposition to the motion.

OLD BUSINESS

ATLANTIC COAST PIPELINE, LLC - SPECIAL USE PERMIT

A request by Atlantic Coast Pipeline, LLC, for a Special Use Permit to have a contractor storage yard and outdoor storage of food trucks on property owned by Scotland Land Company, LLC, located on the north side of West Augusta Road, east of the intersection of West Augusta Road and Deerfield Valley Road, West Augusta in the Pastures District.
- TABLED AT THE SEPTEMBER 6, 2018 MEETING

Ms. Brown moved that the item be brought forward.

Mr. Byerly seconded the motion, which carried unanimously.

Ms. Bunch stated the request was tabled in order to obtain more information from Dominion regarding the project.

Mr. Wilkinson stated West Augusta Road was adopted into the Rural Rustic Road Paving Program on January 27, 2010, by Resolution of the Board of Supervisors. He said the program is a means for localities to be able to hard surface roads. He said the criteria is that the road be a public road and not private and the traffic needs to be at least 50 vehicles per day. He said a citizen can request to their Board of Supervisor for their road to be put on a list in order to determine if it could be added to the Six-Year VDOT Plan.

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He stated the requirements are that the road be unpaved and it be in a Low Density development area and no more than 1,500 vehicles per day traveling on the road, the County is unaware of any pending development that will affect the traffic pattern on it and it is on the Six-Year VDOT Plan. He said it is also referred to as pave and place or chip and tar. He said they pave the roads just to get people out of the dust. He said there is no further restrictions by the Board of Supervisors as stated in the previous hearing.

Mr. Emmett Toms, Dominion, stated they have submitted written comments on all questions the Board requested from the last meeting.

Chairman Shreckhise asked if a bond will be set?

Mr. Toms stated at the last site they agreed on a \$1 million bond. He said there will be a \$1 million bond agreement set for the County to hold and they will also have a bond with VDOT. He said they have videotaped the roads they plan on using. He said they are required to do this by FERC and DEQ anyway.

Chairman Shreckhise asked what would be the anticipated start date?

Mr. Toms stated there will be all permits in place by 2019. He said they will need to have all permits in place before they start. He said the revised staff conditions list they have to obtain federal and state permits before starting.

Chairman Shreckhise asked how will the dust be eliminated?

Mr. Toms stated they will have a water truck. He said they would not use any water from the stream.

Mr. Ron Baker, Project Manager for Atlantic Coast Pipeline, stated they have agreed to provide a \$1 million bond. He said the gravel removal date will be within thirty (30) days of the Special Use Permit expiration. He said they plan on starting March 2019 and will finish in April 2021. He said all Dominion permits are subject to other agencies. He said they cannot control when the agencies issue their permits. He said they will obtain water from municipal water sources. He noted they plan to use a water truck. He stated they have a road agreement with VDOT as well as a bond. He said they have video documented all secondary roads prior to them being used. He said the video will help to compare all roads after the construction is complete.

Ms. Brown asked if the roads need to be fixed during construction, will that be done?

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Mr. Baker stated yes. He said they have to maintain a certain degree of performance for the road. He said if the road is damaged they will fix it as it happens. He said DEQ will provide them with an Erosion and Sediment Control and Stormwater permit and with that comes all sorts of requirements like best management practices, erosion control devices, sediment ponds, spill prevention, and counter measures plans to address any spills.

Ms. Brown asked if they have their permit from DEQ?

Mr. Baker stated no but they should have all permits by March 2019. He said the Erosion and Sediment Control is issued in phases. He said this is in the initial footprint of being approved and that approval is eminent. He said this yard on the agenda is not in that footprint but it is just a matter of process and it can be issued as an amendment.

Ms. Brown said this storage yard has not been filed with DEQ yet?

Mr. Baker stated no.

Ms. Brown asked should that come first?

Mr. Baker stated they will need to first obtain local permits and then the state permits from VDOT and DEQ as well as the FERC notice to proceed. He said they cannot do anything with this yard until they have local and state permits and until they get a notice from FERC stating they can proceed. He stated FERC makes sure all studies are done and reviews it all. He presented a presentation to the Board.

Chairman Shreckhise stated two (2) to three (3) weeks ago this area was flooded and if this yard was being used, the material would have ended up going into the Middle River.

Mr. Baker stated it is out of the floodplain. He said this is a general site plan, not an Erosion and Sediment Control Plan. He said they will not complete the plans if they cannot use the site because that would be a waste of resources.

Chairman Shreckhise stated there is no use getting approvals from DEQ and FERC unless you first get the approval from the County.

Mr. Baker showed the Board a picture of the fuel storage area. He said the inner lining is steel plated, with a four (4") inch gap and another layer of steel plate. He said the intent is that the inner liner holds fuel and the outer liner holds the fuel plus 10% more. He said the swimming pool will hold all plus another 10%.

Ms. Brown stated this area would have been covered in water a few weeks ago.

Mr. Baker said this is a waterproof system. He said if something comes out of the pool, it is addressed immediately.

Ms. Brown asked what happens if the fuel leaks during a flood?

Mr. Baker stated the site is monitored daily. He said this is an industry standard and it is taken very seriously. He stated if they anticipate operating longer than two (2) years, they will ask for longer but they anticipate only two (2) years. He said the Erosion and Sediment Control permit is under review. He said they have been cutting trees in Virginia, including Augusta County. He said once the Erosion permits are approved, they file through FERC and will start construction. He noted they have full construction permits in West Virginia and North Carolina. He stated there is nothing in the FERC requirements that say they cannot keep the gravel there. He said FERC wants us to work with the landowners when we can. He said they will continue to communicate with FERC. He said when we are using the yard, we are required to get rid of the gravel from the site but if the landowner wants the gravel and they have to get an Erosion and Sediment Control Plan in order to leave the gravel then that is the landowner's deal. He said at the close out of the Special Use Permit the gravel will leave their site.

Ms. Brown asked where would the gravel be hauled to?

Mr. Baker stated to the landfill maybe in Augusta County. He said there is nothing on that gravel that is not on every gravel road in the area. He stated they are in agreement with staff's recommended pre-conditions and operating conditions except for a few points he wanted to mention. He stated the earlier staff report said two (2) food trailers and now it says three (3). He does not have a preference but they would not be stored at the site the entire time. He said the food trailers would leave each day. He said they do maintenance on the equipment at the site and would not want to be in violation of operating condition #4 regarding the junk or inoperable vehicles.

Chairman Shreckhise asked what is the benefit to Augusta County and the residents in the area of having the storage yard at this site?

Mr. Baker stated the pipeline goes through the middle of the property. He said they are going to have to put a storage yard somewhere. He said all traffic is going to funnel down to Deerfield Valley Road but at least it will be focused where the work is going to happen.

Ms. Brown asked if they will still need to truck the pipe in?

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Mr. Baker stated it will come from Bealeton, Clarksville, or Culpepper. He noted the pipe will come to the site regardless. He said the workers will arrive at the site around 6:30 a.m. and then go out to the right-of-way to get the work done as opposed to going to Fishersville first. He stated if they have to go to Fishersville first at 6:30 a.m. and then leave after the meeting and travel to this proposed site, there would be traffic coming to the right-of-way later in the morning hours. He said this is in the best interest for the area.

Ms. Brown stated the employees will still have to travel to the site and then out to the right-of-way regardless.

Chairman Shreckhise asked if they would get done faster if the employees and the material is transported here as opposed to going straight to Fishersville?

Mr. Baker stated this is about the people coming to the site and not about transporting materials. He said this site will be an office space in order to meet. He said there will be some pipes stored at this location but not huge piles of pipe. He said this location is primarily a meeting place, a site to work on equipment, and to have offices for the project.

Ms. Brown asked if the pipes will be coated and welded?

Mr. Baker stated they are coated already for the most part. He said 99% of the welding happens on the right-of-way. He said they only do some welding at the storage yard.

Chairman Shreckhise asked if the pipes are coated there?

Mr. Baker stated some are. He said they are all coated but on the 6" to 7" back end is uncoated. He said when the pipes are joined together on the right-of-way, you would coat the rest of the pipe.

Ms. Brown asked about the chemicals used during that process?

Mr. Baker stated fusion bond epoxy. He said it is used everywhere.

Ms. Brown asked if it was toxic?

Mr. Baker said it is also used on water lines.

Chairman Shreckhise said all of the Board members are not present today. He asked if the applicant would like to table the request to the next meeting when all of the Board members should be present?

Mr. Toms asked the Board to defer this request to the November 1, 2018 meeting in order to have the full Board present.

Mr. Byerly moved to table the request to the November 1, 2018 meeting.

Ms. Brown seconded the motion, which carried unanimously.

Chairman Shreckhise stated the Board will still accept any comments from the public by email or letter with any new information that will help the Board make their decision.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

PLECKER BROTHERS, INC. - EXTENSION OF TIME REQUEST

A request by Plecker Brothers, Inc., for a Special Use Permit to have outdoor storage of excavating material and equipment on property they own, located on the north side of Sangers Lane at the intersection of Sangers Lane and Balsley Road, Staunton in the Beverley Manor District.

Ms. Bunch stated the applicant has submitted their site plan but they need to submit more information to staff for Erosion and Sediment Control.

Mr. Byerly moved to approve the sixty (60) day Extension of Time.

Ms. Brown seconded the motion, which carried unanimously.

STAFF REPORT

- 17-59 Patricia S. Shulman
- 17-60 Darci D. Oberly
- 17-61 Shenandoah Shiloh Christian Center
- 17-62 Lick Run Dairy, LLC

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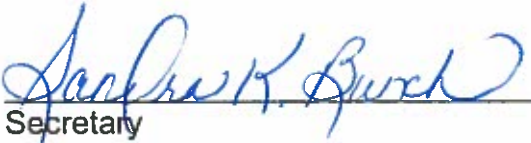
Ms. Bunch stated all of the permits have been inspected and are all in compliance.

Mr. Benkahla discussed the court cases with the Board.

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



Chairman



Secretary

