

February 7, 2019

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

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, February 7, 2019 at 10:00 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **10:00 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:

- **DAVID W. OR KAREN S. QUILLEN - SPECIAL USE PERMIT**
- **MARC OR CANDACE M. PAPPAS - 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.


Chairwoman


Secretary

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ABSENT: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, February 7, 2019, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Vice Chairman Coyner moved that the minutes from the January 3, 2019, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

DAVID W. OR KAREN S. QUILLEN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by David W. or Karen S. Quillen, for a Special Use Permit to lease an existing dwelling for short term vacation rentals on property they own, located at 245 Plantation Lane, Lyndhurst in the South River District.

Ms. Karen Quillen stated she lives at 243 Plantation Lane and she would like to use the smaller home on the same property as a short term rental.

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Chairwoman Tilghman stated the Board visited the site today and this would be a very attractive rental.

Vice Chairman Coyner stated the property owners live in close proximity to the short term rental.

Ms. Quillen stated they will be able to see what is going on at the site.

Chairwoman Tilghman asked if the renters will have access to the pool?

Ms. Quillen stated in order for the pool to be used the renter would need to obtain permission first and understand that there will not be a lifeguard on duty.

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 the Board visited the site this morning. He said this is a beautiful, remote area. He noted the neighbors will not be able to see or hear the short term rental. He stated the owners live adjacent to the home for the short term rental. He moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Applicant be permitted to lease the two (2) bedroom accessory dwelling for short term rentals.
2. The total occupancy shall not exceed four (4) persons maximum.
3. The applicant must continue to reside on premise.
4. Site be kept neat and orderly.

Mr. Byerly seconded the motion, which carried unanimously.

MARC OR CANDACE M. PAPPAS - VARIANCE

This being the date and time advertised to consider a request by Marc or Candace M. Pappas, for a Variance from the side yard setback in order to construct an accessory building on property they own, located at 31 Kay Street, Stuarts Draft in the South River District.

Mr. Marc Pappas stated the County gave legacy setback information to their surveyor. He has buried power lines and removed trees and rebuilt a retaining wall in preparation for this building. He said the error was discovered that they need to be fifteen (15') feet from the property line and not five (5') feet. He said they are requesting a Variance from the guidelines that they were given by the County.

Chairwoman Tilghman stated did the surveyor not know better.

Mr. Pappas stated their surveyor checked with the County. He did question the County and we asked them to reconfirm because it did not sound right. He said the County did confirm the setback they were originally given.

Chairwoman Tilghman stated agriculture setbacks are different than residential. She said everybody makes mistakes. She said the incorrect setback was caught prior to obtaining a building permit for the structure.

Mr. Benkahla stated the applicant would need to have an undue hardship not shared by others in order for the Board to grant a Variance. He noted setbacks are listed in the County Code and can be found online on our website. He said there is no vesting because the building was not constructed yet.

Mr. Pappas asked what about his funds used in preparation for the building?

Mr. Benkahla stated you will need to discuss that with your own legal counsel. He said the setbacks are the law and you cannot violate the law.

Mr. Wilkinson stated there needs to be something unique about the property, not just normal construction that is shared by others during normal construction. He said the State Code specifically states that there would need to be a hardship that is not shared with other neighbors. He said for example, if you bought a lot and something is preventing you from putting a house on it. He said this information regarding the

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accessory building does not meet the statute for granting a Variance. He said if you would have obtained the permit and proceeded with construction then the Board could consider it but staff caught it before a building permit was issued. He said it was caught before, therefore, it would not fall under the vested rights statute of 15.2-3207.

Mr. Byerly stated the applicant hired a surveyor and they should have a copy of the manual that states all of this information. He said they acknowledged this on the plat. He said the responsibility resides with the individual.

Mr. Pappas stated their lot borders agriculture land and that may have been the reason.

Chairwoman Tilghman stated the lot is zoned residential. She said it was an unfortunate error on the County to give the wrong setbacks to the surveyor. She said we are human and we all make mistakes but thankfully it was caught and it was simply an oversight. She said it should not have happened but it did. She said the applicant does have the land space to build the garage just not in that area. She said they can put it in the backyard or it could be attached to the house.

Ms. Bunch stated the applicant will need to maintain the fifteen (15') foot setback with a survey also if it is attached to the dwelling.

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. Benkahla stated the factors of granting a Variance is that the strict application of the ordinance would produce an undue hardship, not shared generally by other properties in the same zoning district and same vicinity.

Ms. Brown stated the applicant does not have a hardship. She moved to deny the Variance.

Vice Chairman Coyner seconded the motion, which carried unanimously.

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CRAIG WILLIAMS, AGENT FOR THE CHURCHVILLE VOLUNTEER FIRE DEPARTMENT - EXTENSION OF TIME REQUEST

A request by Craig Williams, agent for the Churchville Volunteer Fire Department, for a Special Use Permit to enlarge and extend an existing nonconforming structure on property it owns, located at 3829 Churchville Avenue, Churchville, in the Pastures District.

Chairwoman Tilghman asked what is the reason for the project not happening yet?

Mr. Craig Williams stated money. He said they had to overcome many obstacles with the design phase and site plan stage because of the floodplain on the land. He has been working with the County Administrator and Fire and Rescue to possibly do a joint venture. He has had meetings with the County Administrator in order to discuss all of their options.

Chairwoman Tilghman asked how many bays would there be?

Mr. Williams stated the original plan was a two-story building with living quarters above. He said they would have 4 ½ bays. He said their goal is that the building be fully funded. He said their primary concern is the bay space and live in space. He said the floodplain situation hindered them. He is planning for long term. He said the cost for building materials have increased. He said they are in the process of finalizing current finances and trying to raise additional funds for the project.

Vice Chairman Coyner asked if requesting a one (1) year Extension of Time would be realistic?

Mr. Williams stated he hopes to break ground within a year. He would prefer to ask for more than a year. He said they had to get passed road blocks and that is why they have taken a long time. He would like to complete the project fast but they have no idea if the assistance will be there. He would like to have more time if possible.

Vice Chairman Coyner asked if two (2) years would be a sufficient time to start the project?

Mr. Williams stated two (2) years would be sufficient time to get the project started.

Vice Chairman Coyner moved to approve a two (2) year Extension of Time.

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Mr. Byerly seconded the motion, which carried unanimously.

STAFF REPORT

- 18-18 C. Rodgers Huff, Trustees
- 18-19 Clarence William Campbell
- 18-20 David Alan Industries, Inc.
- 18-21 Carolyn P. Vines
- 18-22 Robert or Kelly Nordhausen
- 18-23 Preston Brenneman
- 18-24 Monica L. Rutledge

Ms. Bunch stated SUP #18-18 is in compliance. She stated the applicant is in violation of their operating conditions for SUP#18-19. She noted staff has sent a letter and the applicant contacted us and stated the inoperable vehicle will be removed within thirty (30) days. She mentioned SUP#18-20 is in compliance. She stated the applicant is in violation of their operating conditions for SUP#18-21. She noted during an inspection there were two (2) trailers outside, therefore, staff sent the applicant a letter and now the property is in compliance. She stated SUP#18-22 is in compliance. She said the dwelling has been constructed and the applicant has received a Certificate of Occupancy for SUP#18-23. She has sent Mr. Brenneman a letter regarding inoperable vehicles and miscellaneous junk at the site. She said SUP#18-24 is 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.



 Chairwoman



 Secretary

