

January 7, 2021

PRESENT: George A. Coyner, II
 Justine D. Tilghman
 Thomas W. Bailey
 Thomas V. Thacker
 James R. Benkahla, County Attorney
 Sandra K. Bunch, Zoning Administrator and Secretary
 John R. Wilkinson, Director of Community Development
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Daisy A. Brown

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, January 7, 2021 at 9:30 A.M., in the County Government Center, Verona, Virginia.

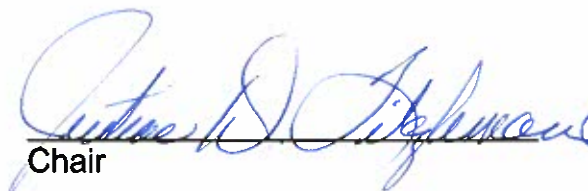
The staff briefing was held at **9:30 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.


VIEWINGS

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

- **WILLIAM F. OR ELIZABETH G. SWISHER - SPECIAL USE PERMIT**
- **RYAN OR ALLIE ARMSTRONG - VARIANCE**
- **DANIEL HANSEN, AGENT FOR MAYBELLA R. ALEXANDER, ESTATE - 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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ABSENT: Daisy A. Brown

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, January 7, 2021, at 1:30 P.M., in the County Government Center, Verona, Virginia....

ELECTION OF OFFICERS

Mr. Bailey nominated Ms. Tilghman as Chair, Mr. Coyner as Vice Chair, and Sandra Bunch as Secretary.

Mr. Thacker seconded the motion, which carried unanimously.

MINUTES

Vice Chair Coyner moved that the minutes from the December 3, 2020, meeting be approved.

Mr. Bailey seconded the motion, which carried unanimously.

CONSIDERATION OF 2021 RESOLUTION

Mr. Thacker moved that the Board of Zoning Appeals adopt the resolution to establish its schedule for regular meetings during calendar year 2021 and if hazardous weather

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conditions are such that the members of the Board cannot meet, the meeting shall be continued the next business day.

Vice Chair Coyner seconded the motion, which carried unanimously.

HEATHER THOMPSON, AGENT FOR LADDFAM, INC. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Heather Thompson, agent for LaddFam, Inc., for a Special Use Permit to continue to have motorcycle shows and exhibitions, live music events, dirt track and paved area for rider training on property owned by SHD, LLC, located at 213 Rolling Thunder Lane, Staunton in the Beverley Manor District.

Ms. Heather Thompson stated they are planning to do several music events, public events, and charity events.

Chair Tilghman asked if she plans on operating along the same line as what has been done in the past?

Ms. Thompson stated yes.

Vice Chair Coyner asked if they still have the dealership there?

Mr. Bob Ladd stated yes, but they started a new company. He stated that he is collecting used bikes right now but he cannot sell any because he does not have a dealer's license yet. He said that he has been out of business for ten (10) years.

Chair Tilghman asked when do you plan on opening up?

Mr. Ladd stated March 1st.

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

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

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Vice Chair Coyner stated the dealership has operated there for years and we have never had any problems at all. He said the events are all well attended and well executed. He moved to approve the request with the following conditions:

Pre-Condition:

None

Operating Conditions:

1. Be limited to no more than two (2) events per month or no more than twelve (12) per year.
2. Events cease by 11:00 p.m.
3. No music events, festivals, or rider training be held on Sunday.
4. Applicant to obtain an outdoor musical or entertainment festival permit from the Board of Supervisors.
5. Local rescue squads be onsite for all music events.
6. Rider training be limited to a maximum of ten (10) riders at any one time.
7. Site be kept neat and orderly.

Mr. Bailey seconded the motion, which carried unanimously.

WILLIAM F. OR ELIZABETH G. SWISHER - SPECIAL USE PERMIT

This being the date and time advertised to considered request by William F. or Elizabeth G. Swisher, for a Special Use Permit to construct an accessory building exceeding the 900 square foot total aggregate allowed on property they own, located at 698 Howardsville Turnpike, Stuarts Draft in the South River District.

Chair Tilghman asked if the pool is no longer there?

Mr. William Swisher stated yes.

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Chair Tilghman asked if the building will be in the back yard?

Mr. Swisher stated yes, in the rear right corner.

Mr. Bailey asked if the building will be used for your personal use?

Mr. Swisher stated yes.

Vice Chair Coyner asked if it is going to be pole construction?

Mr. Swisher stated yes. He said he was waiting for the approval before getting quotes.

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

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

Mr. Bailey stated this site is really close to one (1) acre and there are larger accessory buildings in close proximity of the site. 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 30' X 50' accessory building for personal use.
- 2. No further expansions.
- 3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 4. Site be kept neat and orderly.

Vice Chair Coyner seconded the motion, which carried unanimously.

RYAN OR ALLIE ARMSTRONG - VARIANCE

This being the date and time advertised to consider a request by Ryan or Allie Armstrong, for a Variance from the rear setback requirement on property owned by Ryan, Randy and Benjamin Armstrong, located at 398 Cherry Grove Road, Middlebrook in the Riverheads District.

Mr. Ryan Armstrong stated they think there is a good reason for a legitimate hardship and that they did not create this hardship. He stated they did not build or own this home and they did not buy this home knowing that there was a violation. He stated they inherited this home. He stated they came upon this violation and they did not create this. He stated it was recommended that we get additional property to meet the setback. He stated they did discuss that with the farmer and he was unable to do that and he says that there is a conservation easement on his property so he is unwilling and unable to do so, therefore, they cannot adjust the setback.

Vice Chair Coyner asked if he is unwilling or unable to?

Mr. Armstrong stated it will cause more of a problem for him. He presented the Board with a letter from J. Donald Hanger (copy in the file).

Chair Tilghman read the letter to the Board. She stated Mr. Hanger will not consider a property line adjustment.

Vice Chair Coyner stated in order to have a Variance, you have to not have any other alternatives.

Mr. Benkahla stated the code section for a Variance states that it shall be granted if the evidence says a strict application of the terms of the ordinance will unreasonably restrict utilization of the property or that the granting of the Variance would alleviate hardship due to a physical condition, relating to the property or improvements thereon at the time of the effective date of the ordinance. He stated that he is not so sure that this would compel a Variance and he thinks it would be up to the Board at this point because they would have to show that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property as one question for the granting of the Variance and it would alleviate a hardship due to a physical condition relating to the property for improvements. He stated that he has not heard that is the case.

Chair Tilghman asked if they want to rent the property?

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Mr. Armstrong stated he wants to live in the home once they subdivide.

Vice Chair Coyner stated it does look like there is an alternative but the neighbor is not willing to do that.

Mr. Benkahla stated he is not sure what the regulations are with a conservation easement.

Vice Chair Coyner stated it is odd to him to have a Variance when you really do not need to have one. He said he is not in favor of this.

Mr. Thacker stated the Board may want to look at the possibility of tabling this until the next meeting to have them go back and check to see how much of a problem there is going to be on doing the easement exchange and then come back and see if it is a hardship or not. He stated if it is an easement and you cannot do any adjustments than he would say it is a hardship, but if you can do it and it be just a matter of money then it is something different. He stated he would like to know that before we go any further.

Ms. Allie Armstrong stated they definitely understand the comments about investigating the terms of the conservation easement. She said they had a lawyer who ended up looking into this particular conservation easement, however, it is a situation where we cannot move forward unless the landowner is willing to allow us to investigate the easement and so since we do not have his approval to do so, we are kind of in a situation that there is nothing we can do unless he approves it. She said there is nothing that we can do at this point because the neighbor is not willing to move forward.

She said there are no other options that we can have because even if the easement would allow us to do a boundary line switch, if the property owner is unwilling, then that puts us right back where we were originally. She said we have been in contact with him. She said there are multiple family members who own the farm.

Vice Chair Coyner stated the applicant should contact Mr. Hanger again.

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

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

Mr. Thacker stated the applicant should go back to the property owner and take a look at this again and see if they can work something out. He moved to table the request until the February 4, 2021 meeting.

Vice Chair Coyner seconded the motion, which carried unanimously.

DANIEL HANSEN, AGENT FOR MAYBELLA R. ALEXANDER, ESTATE - VARIANCE

This being the date and time advertised to consider a request by Daniel Hansen, agent for Maybella R. Alexander, Estate, for a Variance to separate three (3) non-conforming dwellings creating a lot with two (2) dwellings in a residential district on property owned by Maybella R. Alexander, Estate, located at 126, 136, and 138 Laurel Hill Road, Verona in the Beverley Manor District.

Mr. Daniel Hansen with Balzer and Associates stated he is here on behalf of the Alexanders. He stated there is currently three homes on the property zoned single family. He stated the homes have been in place for a long time. He stated they obviously have a non-conforming situation as it stands today. He noted their goal is to break off two of the homes and put them on one parcel leaving one home on a single lot so basically we are taking a totally non-conforming situation now and would like to have a conforming lot, and unfortunately be left with a nonconformity still but there is not enough road frontage to make three completely conforming lots. He noted they are making the non-conformance less non-conforming.

Vice Chair Coyner stated you are actually going to be improving it.

Chair Tilghman asked at the time they were built, they were conforming?

Mr. Hansen stated yes to the best of his knowledge.

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

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

Mr. Bailey stated the applicant is not going to increase the non-conforming use. He moved to approve the Variance with the following conditions:

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Pre-Condition:

- 1. Obtain Service Authority approval and provide a copy to Community Development Department.

Operating Condition:

- 1. Be permitted to subdivide the existing lot in order to separate the three (3) existing dwellings, by creating a new lot containing one (1) dwelling and leaving one (1) non-conforming lot containing two (2) dwellings as depicted on the submitted plat dated 12/2/2020.

Vice Chair Coyner seconded the motion, which carried unanimously.

MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR

MATTHEW LAYMAN – EXTENSION OF TIME REQUEST

A request by Matthew Layman, for a Special Use Permit to have outdoor storage of excavation equipment and materials on property owned by CJ Properties of Augusta, LLC, located on the east side of Lee Jackson Highway (Route 11), adjacent to 10 Swisher Truck Lane, Staunton in the Riverheads District.

Vice Chair Coyner moved to approve the thirty (30) day Extension of Time.

Mr. Thacker seconded the motion, which carried unanimously.

KENNETH RAY BRADLEY, JR., AGENT FOR KENNETH RAY BRADLEY, JR., INC. – CANCELLATION

A request by Kenneth Ray Bradley, Jr., agent for Kenneth Ray Bradley, Jr., Inc., for a Special Use Permit to have general outdoor storage for a contractor storage yard on property he owns, located at 391 East Side Highway, Waynesboro in the Wayne District.

Mr. Thacker moved to cancel SUP#19-39.

Vice Chair Coyner seconded the motion, which carried unanimously.

JARED SIMMONS, AGENT FOR BELLE VISTA FARM, LLC - EXTENSION OF TIME REQUEST

A request by Jared Simmons, agent for Belle Vista Farm, LLC, for a Special Use Permit to have horse shows, weddings, and other special events on property they own, located at 5654 Spring Hill Road, Mount Solon in the North River District.

Vice Chair Coyner moved to approve the nine (9) month Extension of Time.

Mr. Bailey seconded the motion, which carried unanimously.

BOARD OF ZONING APPEALS ANNUAL REPORT 2020

Ms. Bunch presented the Board of Zoning Appeals Annual Report for the year 2020.

Vice Chair Coyner moved that the report be approved.

Mr. Thacker seconded the motion, which carried unanimously.

STAFF REPORT

- 20-8 Victory Worship Center and World Outreach
- 20-9 Lewie F. or Ida Murhl Blessing
- 20-10 Jerry D. or Sheila H. Davis
- 20-11 David L. or Ann W. Gardner
- 20-12 Joseph or Susan Koo

Ms. Bunch stated a letter was sent regarding the pre-conditions for SUP#20-8. She stated SUP#20-9 and SUP#20-10 are both in compliance. She noted that there is no building permit yet on file for SUP#20-11, therefore, staff will recheck the site in February. She stated SUP#20-12 has been withdrawn.

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Mr. Benkahla discussed the court cases with the Board.

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


Chair


Secretary

