

September 5, 2024

PRESENT: George A. Coyner, II, Chair
 Thomas W. Bailey
 Monica L. Rutledge
 Thomas V. Thacker
 Sandra K. Bunch, Zoning Administrator and Secretary
 Doug Wolfe, Director of Community Development
 James R. Benkahla, County Attorney
 Nicole Price, Assistant County Attorney
 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Mark L. Glover, Vice Chair

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, September 5, 2024 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:

- WESTLEY AND SAIDEE BEGOON - SPECIAL USE PERMIT
- MATTHEW H. SHOVER - SPECIAL USE PERMIT
- STUART SQUIER, AGENT FOR CELLCO PARTNERSHIP DBA VERIZON - 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.



 Chair



 Secretary

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 Beatrice B. Cardellicchio-Weber, Executive Secretary

ABSENT: Mark L. Glover, Vice Chair

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, September 5, 2024, at 1:30 P.M., in the County Government Center, Verona, Virginia....

MINUTES

Mr. Thacker moved that the minutes from the August 1, 2024, meeting be approved.

Ms. Rutledge seconded the motion, which carried unanimously.

WENDY G. AND PETER CARLSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Wendy G. and Peter Carlson, for a Special Use Permit to have a short term vacation rental on property they own, located at 73 Rockledge Road, Afton in the South River District.

Mr. Peter Carlson stated I would like to operate a short term rental. We will live at the site and we go back and forth between this home and Yorktown. This is a great spot for this. I spoke with the adjacent property owners.

Chair Coyner asked do you plan on overseeing the business?

Mr. Carlson stated yes.

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Chair Coyner asked do you plan on being there when the home is rented?

Mr. Carlson stated yes.

Chair Coyner asked how will the business be marketed?

Mr. Carlson stated online probably through Airbnb. This is a three (3) bedroom house. The view is spectacular.

Chair Coyner stated this is a nice spot.

Mr. Carlson stated I plan on using this to supplement my income.

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

There being none, Chair Coyner declared the public hearing closed. There are several short term rentals in the area. The applicant plans on being onsite when the home is rented out.

Mr. Thacker moved to approve the request with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to lease three (3) bedrooms in the existing dwelling for short term stays. Maximum occupancy not to exceed six (6) persons as limited by the Health Department.
2. Property owner be available when the property is rented in case of emergencies.
3. Site be kept neat and orderly.

Mr. Bailey seconded the motion, which carried unanimously.

WESTLEY AND SAIDEE BEGOON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Westley and Saidee Begoon, for a Special Use Permit to continue to have horse shows, rodeos, bull-riding competitions, livestock shows, and dog competitions, and food trucks on property owned by Old Grey Mare's Acres, LLC, located at 435 Lofton Road, Raphine in the Riverheads District.

Ms. Saidee Begoon stated we would like to purchase the property in order to continue the use. We have cattle and farm there. We would like to use this for horse shows and rodeos. We want to have events for youth including rodeo events.

Chair Coyner asked if there would be porta-johns for large crowds?

Ms. Begoon stated yes. There is only a two-seat bathroom onsite.

Chair Coyner stated the Board visited the site before but could not view the site this morning due to the gate being locked. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

Ms. Jody Sipe, 1204 Old White Bridge Road, Waynesboro, stated I am the agent for the seller. If the Board has any questions, I would be happy to answer them on behalf of the seller.

There being no one else wishing to speak, Chair Coyner declared the public hearing closed. He stated this site has done really well in the past. The applicant would like to continue the same operation.

Mr. Bailey stated they have had events at the site since 2007. He moved to approve the request with the following conditions:

Pre-Condition:

1. Obtain VDOT approval and provide a copy to the Community Development Department.

Operating Conditions:

1. Be permitted to have twenty-four (24) events per year but no more than three (3) events per month.

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- 2. Events may be up to three (3) days and be on Friday, Saturday, and Sunday.
- 3. Be permitted to conduct practices Tuesday, Wednesday, and Thursday.
- 4. Hours of operation be 8:00 a.m. to 11:00 p.m.
- 5. No amplified sound or music after 11:00 p.m.
- 6. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.
- 7. Porta-johns may be used to supplement the onsite restroom facilities but may be brought to the site no sooner than seven (7) days before an event and be removed no later than seven (7) days after an event.
- 8. Site be kept neat and orderly.

Ms. Rutledge seconded the motion, which carried unanimously.

MATTHEW H. SHOVER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Matthew H. Shover, for a Special Use Permit to manufacture and sell firearms and to sell ammunition on property owned by Matthew H. Shover and Ashlee D. Patrick, located at 175 Elliot Street, Staunton in the Pastures District.

Mr. Matthew Shover stated I would like to obtain my FFL in order to manufacture and sell firearms and ammunition. As far as manufacturing, I would like to order rifles and take the pieces off the rifle and sell them individually. I do not intend to manufacture any ammunition but do intend to sell. I would like to be able to offer to friends and family only. I know there is concern about traffic so I am ok with online only. Operating Condition #3 references to not have inventory. I do intend to dropship as much as possible but the items I cannot dropship, I would have that inventory onsite and I would need to log those items into the ATF book. I would not have a ton of inventory.

Chair Coyner asked what cannot get drop shipped?

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Mr. Shover stated I cannot dropship the firearms. I have to receive it and then log it in my books and send it back out.

Chair Coyner stated this location is not conducive to traffic coming and going. The Board visited the site this morning.

Mr. Shover stated I would love to offer this service to my friends and family. This will only be 5% of my business plan for customer traffic. Majority will be online.

Chair Coyner asked is this is your livelihood?

Mr. Shover stated I have a full time job and my wife is expecting. This will help get some extra income so that she can stay at home. I am fine with it being online.

Chair Coyner asked if there would be employees?

Mr. Shover stated no employees.

Chair Coyner asked if there would be firing of the firearms onsite?

Mr. Shover stated there would be no firing.

Chair Coyner asked what type of guns will you sell?

Mr. Shover stated rifles, shot guns, and hand guns.

Chair Coyner asked what type of customers would you have?

Mr. Shover stated sportsmen and hobby customers. I would sell at auctions.

Chair Coyner asked when you buy and sell, do you ever touch the weapon?

Mr. Shover stated it has to be through me and come through my inventory so that I can log it in. My books are cross-referenced. The ATF will check my books.

Mr. Bailey asked how is the ammunition handled?

Mr. Shover stated I order from distributors. Some are drop shipped but some do not allow for the items to be drop shipped so I will receive those.

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Mr. Bailey asked if there would be inventory?

Mr. Shover stated some of it ships through my inventory. The majority of it is on an order basis. I have my personal guns at the site.

Ms. Rutledge asked about the Type 2 License?

Mr. Shover stated I will try and purchase that as well. I will begin with the Type 7 and maybe within a year, I would increase it. Type 2 (add on umbrella to deal more licensed guns) is a special add on for the license and it allows items regulated by the NFA.

Ms. Bunch stated staff did not advertise the difference in the license classes. We just advertised the manufacturing and selling of firearms and ammunition.

Ms. Rutledge stated would 5% foot traffic be about once a month?

Mr. Shover stated maybe one time a month. If there is an issue I would back off on that.

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

Mr. Chris Flavin, 179 Elliot Street, Staunton, stated I support firearms but I do not want a business that is in a residential neighborhood on a private road. There is limited parking. Mr. Flint drives a logging truck. He is the one who put in the road and maintains the road. A lot of times he barely has enough room if someone parks on the road to get his logging truck through. The road is narrow. There is not street parking other than in the driveway. Mr. Shover had people over and they were parking on my yard. There is an issue with safety and security. There will be a higher likelihood of a break in or crime especially when you are advertising a business. What kind of security is on his home? What would prevent someone from breaking in? What trainings will be done to keep the neighbors safe? There will be more deliveries in the area. We cannot control the drivers. I take pride in my property and lawn and I do not want people parking on my lawn. Not everyone got a notice. Ten of my neighbors received a notification in the mail.

Ms. Bunch stated only neighbor's that touch the property or across the road get a letter.

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Mr. Flavin stated two did not receive anything in the mail. The Board should look at this to be sure that all parties were notified properly. It may be on your list but they did not receive anything. This is a private road and all individuals are responsible for the road maintenance. Mr. Flint maintains the road. If it does pass, Mr. Shover should pay a higher fee with the road maintenance. When I signed the agreement when I bought the property, this is what we do. He said that there would be no customer traffic but he wants to sell to outside people. Today Mr. Shover said he would have some inventory. How do you regulate what some inventory is? How would the 95%/5% be regulated? There would be no way to quantify the number but he said one person a month. He could have anybody over the house because there is no way to regulate that number of who is family and who is a friend. There will be an increase in the outside traffic. There will be a safety and security issue with this.

Ms. Lisa Adams, 168 Elliot Street, Staunton, stated I have a lot of concerns about this because this is a small quiet neighborhood. I am concerned about parking and traffic issues. With deliveries and traffic there will be no place to turn around. When they are parked we will not be able to get in and out of the road. I have been blocked from my own driveway during deliveries. This is a safety and security issue. No one is going to purchase a home that is going to have a business. There is no guarantee about the competence and knowledge they have in making and manufacturing of weapons and dealing with ammunition. If there is a problem or any mishaps, any one property could be damaged. I have a letter from a neighbor that could not be here. I do not know how much this business would affect property values. I would like to see them thrive but this property has too many issues.

Ms. Bunch read the letter from the property owner of 164 Elliot Street (copy is in the file).

Mr. Rocco Pannozzo, 171 Elliot Street, Staunton, stated the traffic turns around on private driveways. We will see an increase in traffic if approved. I sit on my porch all of the time. It is peaceful and quiet but that will all diminish with all of the traffic and delivery trucks. When the road gets repaired he does not charge for it but he does have the right to do that. The road is starting to show some wear and tear. One of the other neighbors touched on property values. This is a safety concern. We are only 17'-20' apart and if a gun goes off an accident could happen. This will cause wear and tear on my property. How would you regulate selling to friends? On Facebook, people can have thousands of friends.

There being no one else to speak, Chair Coyner asked the applicant to speak in rebuttal.

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Mr. Shover stated there are safety and security numbers that are on the ATF's website. 61% of permits are in single family homes. There are 27 that exist within Augusta County. There were 40 incidents in the last year out of the 4,107 FFL. I am not advertising the business at the site, I am just getting packages. This is an internet based business unless you look to see if I have an FFL. There will be an increase in the number of deliveries. I cannot do anything about delivery trucks parking along the road. No one will know. In my report it says the business has access to Elliot Street which is state maintained.

Ms. Bunch stated that was a typo and it should have said the business has access to a state maintained road through Elliot Street.

Mr. Shover stated I did not even know about the maintenance agreement. I did not receive it when I bought the house. The ATF will conduct visits to my house at least once a year if not more to make sure all is happening as it should.

Chair Coyner declared the public hearing closed. The Board visited the site this morning. The houses are close and right next to each other. This is a narrow road. This is not a good location for this type of business.

Ms. Rutledge stated I do think people coming to the home is not a good idea. The applicant is not planning to put up a sign. Majority of the business is done online. I am fine with this as long as no one is coming to the home. The applicant clearly will have inventory onsite. We will need to modify #3.

Ms. Bunch stated we could put a timeframe on keeping inventory.

Chair Coyner stated it will be hard to monitor that.

Ms. Rutledge stated the ATF monitors the business.

Mr. Thacker stated this is a nice subdivision. The bus today could hardly turnaround. The houses are close. A gun business in a neighborhood really bothers me. I am concerned with the security. I have a problem with this.

Mr. Bailey stated I am concerned with the business operating out of the home. The applicant is going to want to see the business grow and that will cause more deliveries and more traffic.

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Mr. Thacker moved to deny the request on the basis of the negatives that the Board discussed including location, type of business, and it being a negative impact on the neighbors.

Mr. Bailey seconded the motion, which carried with a 3-1 vote. Ms. Rutledge opposed the motion.

STUART SQUIER, AGENT FOR CELLCO PARTNERSHIP DBA VERIZON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Stuart Squier, agent for Cellco Partnership dba Verizon, for a Special Use Permit to construct a 195' telecommunications tower with a 4' lightning rod within a 50' x 50' fenced compound on property owned by William A. Dull, located at 304 Smoky Row Road, Staunton, located between Smoky Row Road and Eidson Creek Road in the Pastures District.

Ms. Lori Schweller with Williams Mullen presented a PowerPoint presentation to the Board (copy is in the file).

Chair Coyner asked what is the timeframe for construction?

Ms. Schweller stated six (6) months once we begin. The stipulations state that Verizon must commence the tower within two (2) years and diligently pursue the project within two (2) years of approval.

Chair Coyner asked does it take about a year?

Ms. Schweller stated we have to obtain site plan approval and building permits. We are in agreement with all of the proposed conditions in the staff report.

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

Mr. William Dull, 304 Smoky Row Road, Staunton, stated this will improve mobile coverage in the area and help reduce the dead and drop zones in this area. This will attract new businesses. We will have better connectivity. They will involve community input and have an open line of communication to keep us informed and be sure the

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tower benefits everyone. This new tower and equipment will handle the next generation of mobile technology.

Ms. Shelley Dull, 304 Smoky Row Road, Staunton, stated this will help my dad. This will improve connectivity, public safety, economic benefits, and support modern living. This is future proofing this infrastructure. Many times landlines are out and there is limited internet in the area. In order to make a call we have to drive to The Meating Place to get a signal. I need to know that my father is ok because I work out of town and he does not get service there. This will help with education because most of the learning is done online. If there is no internet it will put students behind in the curve of education. Sometimes they go to different restaurants in order to use the internet. People are losing out on several home sales on Smoky Row Road because we do not have cell phone service and many people work from home. Since they didn't have the internet they lost out on sales. This will improve property values. No one will have to go to the top of hill to make phone calls and no one will be left behind.

Mr. Charles Kincaid, 849 Eidson Creek Road, Staunton, stated I am the closest house to the project. This will help with the safety, emergency situations, and education.

Mr. Chris Campbell, 1521 East Side Highway, Waynesboro stated my wife and I purchased this property. We want to build our dream home on the land. There is a number of cell towers within these communities. We understand the towers need to be put somewhere but we are concerned about our family's health and loss of property value. Cell phone towers are relatively new. The RF waves may have health effects and it does not mean that it is proven safe. More research needs to be done especially for long term effects. If approved, it would be a loss of our family dream or exposing our nine (9) year old daughter to health risks. Would you be willing to take that gamble on your family members? I oppose this. I want to be a good neighbor and I do not want to tell people what to do but I am here for my family.

Mr. Clay Robinson, 47 Rolling Green Drive, Staunton, stated my wife and I moved here from South Carolina. We purchased an elevated property and we just learned about this. There has been no posting along Smoky Row. The sign was on Eidson Creek Road. I spoke with neighbors along Rolling Green Drive and Smoky Row and they have no knowledge about this. I am not aware about them advertising a balloon test. The site for the tower is elevated and the tower will be tall. I do not know exactly where it will be as it relates to Rolling Green. I do not know the adverse impacts. I have two bars on my phone and I am a Verizon customer. That is not very scientific data for you to rely on. This will impact a lot of people's health and view shed. We bought property because of the magnificent view and it is the most absolute gorgeous part of the world.

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There will be adverse impacts on the value. I urge you to look at the information presented to you and wait for Verizon to provide you data points on signal strength in the area and the signal strength from the tower that you approved previously. There may be alternatives to accomplish this with a smaller tower. I urge you to take no action until you receive the data. This would be the third cell phone tower within three (3) miles. The FAA could require the tower to be lit. We need the data stating there is a real need for this. Let's not ruin the beauty we have in Augusta County. Why can't they use the T-Mobile tower?

Ms. Ellison Robinson, 47 Rolling Green Drive, Staunton, stated even today there is confusion on where the tower is. Is the gravel road where the cell phone tower will be or will they create another road?

There being no one else wishing to speak, Chair Coyner asked the applicant to speak in rebuttal.

Ms. Schweller stated the tax map and parcel is advertised. The existing road is not the proposed site. The tower will be close to the woods. The health and safety of the tower is regulated by the FCC. All sites have to comply with federal law and regulations. They have not found any danger to human life by living near a cell tower. The FCC has jurisdiction and it is not a matter local government can use when making their zoning decision. We have heard that the area is significantly lacking coverage. Verizon would not spend money to build a tower if it was not needed. We do get complaints from citizens who need better service. As Ms. Dull pointed out, this may improve property values. The tower will be seen at great distances but the service is needed. The tower south of Route 252 will not serve this area. There will not be a light on the tower. If the tower is under 200' and not within 5 miles or 8km from an airport the FAA would not request the tower be lit.

Chair Coyner asked if the tower could be shorter?

Ms. Schweller stated 199' is a standard height for networks in Virginia as provided by Verizon engineers. It will provide better coverage. I cannot tell you the difference between 150' and 199'. That would require an expert to answer. This was the height that Verizon determined was needed.

Chair Coyner asked if the FAA ever said it needed to be lit?

Ms. Schweller stated if it is not near an airport, we have not seen that happen.

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Chair Coyner declared the public hearing closed. There is a need for the tower in this area. The tower will be seen from the high points.

Ms. Rutledge stated this is much needed for public safety. I understand the concern about the view shed. There are dead zones in the area with coverage.

Mr. Bailey stated this tower is needed in the area.

Chair Coyner stated all setbacks are met. This will be a tremendous improvement for this area with cell phone coverage.

Ms. Rutledge moved to approve the request with the following conditions:

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance including an Erosion and Sediment Control Plan and Stormwater Management Plan to be approved by all appropriate departments and/or agencies.
2. The applicant will submit all necessary information and a bond, irrevocable letter of credit, or appropriate surety to comply with Section 25-68.7 "Bonding" of the Augusta County Zoning Ordinance within **two (2) years**.

Operating Conditions:

1. Be permitted to construct a 195' monopole style telecommunications tower with a four (4') lighting rod.
2. Tower design will allow a minimum of three (3) additional co-locators.
3. The tower will **not be lighted unless required by the FAA in the future**.
4. The fenced compound area be screened by a **double row of six (6') foot high staggered evergreen trees planted ten (10') foot on center, per section 25-68.6 of the Augusta County Zoning Ordinance**, and the trees be maintained at all times.
5. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunication purposes. The tower shall be disassembled and completely

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removed including the concrete pad to a depth of at least three (3') feet below grade and all equipment from the site within 180 days of such notification.

- 6. The applicant will not unreasonably deny the telecommunication providers the opportunity to co-locate on this tower.
- 7. The County will have the option of co-locating public safety communications equipment and antenna on this site for future growth and upgrade of the radio system, including law enforcement communications.
- 8. Permit be issued transferable to a tower company or other wireless provider.
- 9. Construction of the approved project shall commence within **two (2) years** of final approval and be diligently pursued until completion.

Mr. Bailey seconded the motion, which carried unanimously.



STAFF REPORT

23-61	Charlene T. May
23-62	Ivan Pizarro

Ms. Bunch stated staff sent a letter for SUP#23-61 due to their pre-conditions not being complete. SUP#23-62 is in compliance.

Ms. Price discussed the court cases with the Board.

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

 _____ Chair	 _____ Secretary
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