

PRESENT: G. A. Coyner, II, Chairman
J. W. Callison, Jr., Vice Chairman
S. F. Shreckhise
D. A. Brown
J. R. Wilkinson, Zoning Administrator & Secretary
Timothy K. Fitzgerald, Director of Community Development
S. K. Shiflett, Zoning Technician I

ABSENT: C. E. Swortzel

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, March 4, 2010, at 8:30 A.M., in the County Government Center, Verona, Virginia.

VIEWINGS

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

- **Jim Brenneman, agent for Marion C. and Clarice J. Weaver – Variance**
- **Leonard C. Klein or June A. Clarke - Special Use Permit**
- **Terri W. Breeden - Special Use Permit**
- **Lynne Godley - Special Use Permit**
- **David E. Berry - Special Use Permit**
- **Charlie and Linda Moore - Special Use Permit**
- **Michael Armstrong - 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

PRESENT: G. A. Coyner, II, Chairman
 J. W. Callison, Jr., Vice Chairman
 S. F. Shreckhise
 D. A. Brown
 J. R. Wilkinson, Zoning Administrator & Secretary
 Timothy K. Fitzgerald, Director of Community Development
 Pat Morgan, County Attorney
 S. K. Shiflett, Zoning Technician I
 B. Cardellicchio-Weber, Administrative Assistant

ABSENT: C. E. Swortzel

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, March 4, 2010, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Vice Chairman Callison moved that the minutes from the February 4, 2010 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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TERRI W. BREEDEN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Terri W. Breeden, for a Special Use Permit to continue an existing retail, deli, and custom meat processing operation on property owned by J. Frank Clemmer, located in the eastern quadrant of the intersection of Middlebrook Road (Route 252) and Dynamite Road (Route 802) in the Riverheads District.

Ms. Terri Breeden stated that she is applying for a Special Use Permit in order to continue the business at The Meat Place. She stated this business has been in

operation for thirty-six (36) years and it will continue to operate the same as it always had.

Chairman Coyner asked if there would be a change in ownership?

Ms. Breeden stated yes. She stated that she will be purchasing the building and several acres of land.

Chairman Coyner asked if the applicant will have the same number of employees?

Ms. Breeden stated yes.

Chairman Coyner stated that he is familiar with the operation. He stated that the business has operated very well. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated that the applicant will be operating the business as it has always been for thirty-six (36) years. He stated that they serve the community well.

Vice Chairman Callison stated that this is a tremendous asset to the area. He moved that the request be approved with the following condition:

Pre-Conditions:

None

Operating Condition:

1. Site be kept neat and orderly.

Mr. Shreckhise seconded the motion, which carried unanimously.

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DAVID E. BERRY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by David E. Berry, for a Special Use Permit to have weddings, birthday parties, reunions, or similar social functions on property owned by James M. and Jayne Ann L. Knopp, Trustees of, located on the east side of Green Hill Lane (Route 836), approximately 1.3 miles southeast of the intersection

of Green Hill Lane (Route 836) and Buffalo Gap Highway (Route 42) in the Pastures District.

Mr. David Berry stated that the site is occupied by family members. He stated that there are two (2) houses on the property. He stated that they are looking at alternative ways to use the property. He stated that the easements prohibit development or subdivision of the property. He stated that they would like to host family events, weddings, and reunions as a small commercial investment. He would like to propose one (1) or two (2) events a week or a month. He stated that they are not going to use existing structures. He stated they are going to use tents and catering. He stated that initially they would like to use portable toilets to see if they are successful with the business. He stated that they may have dinner parties inside the house during the colder months but this would not be the prime use.

Chairman Coyner asked if the family resides on premise?

Mr. Berry stated there are family members that live onsite.

Chairman Coyner stated that this is the property around the brick house. He stated there are occasions where it will be difficult to get to the property.

Mr. Berry stated that all of the events would be held during the fair weather months. He stated that they would be limited to the temperate months of the year. He stated that the site is very beautiful and it is a spiritual place and we do not want that to change.

Chairman Coyner stated that there might be logistical problems getting people in and out of the single lane.

Mr. Berry stated the lane cannot be passed on because it is a single lane. He stated that they have hosted large family events with one hundred (100) people with cars easily. He stated that they have family members to operate traffic control. He stated that the road cannot be widened.

Mr. Shreckhise asked how many participants does the applicant expect at the events?

Mr. Berry stated forty (40) to sixty (60) people outdoors.

Mr. Shreckhise stated portable toilets would only be a temporary use. He stated that if the applicant is successful restrooms will need to be installed.

Mr. Berry stated that the septic system will accommodate the number of participants that they are requesting. He stated that the Health Department permits one (1) portable toilet for fifty (50) people. He stated that they would like to have the portable toilets for a year or

two (2) to see if the business is successful. He stated that he does not see having one hundred (100) participants at an event.

Ms. Brown asked where will cars park during events?

Mr. Berry stated the vehicles will park in the large grassy area which can accommodate twenty (20) to thirty (30) cars.

Chairman Coyner asked if there was anyone wishing to speak in favor to the request?

There being none, Chairman Coyner asked if there was anyone wishing to speak in opposition to the request?

Mr. Rick Chittum, 367 Green Hill Lane, Churchville, stated that he lives in the white farm house. He stated that the dirt erodes quite a bit along the lane. He stated that it is not possible to pass on the road. He stated that there is a little more traffic on that road than what he would like to see during the night. He stated that there is no reference in the comments to the maximum number of participants at any event. He stated that there could be three (3) events per month during the warmer months. He stated that this request is a major concern due to the fact that traffic will be added to a road that already has trouble handling the traffic.

Chairman Coyner asked how many properties are there passed Mr. Chittum's property?

Mr. Chittum stated three (3).

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

Mr. James Delp, 115 Green Hill Lane, Churchville, stated that he agrees with Mr. Chittum. He stated that there is a lot of congestion with Bear Funeral Home already. He stated that there will also be noise when a funeral is going on. He stated that he is not opposed to the family events but a business is not compatible with the area. He stated that he lives on the right on Green Hill Lane.

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

Ms. Sandra Crosby, 722 Vinegar Hill Road, Churchville, stated that the back of her property adjoins the Knopp property. She stated that she is opposed to the noise. She stated that social functions are a broad range. She stated that she would be opposed to hunting parties in the fall. She stated that she heard shots every day of the week from dusk to dawn. She stated that there were wounded deer that crossed her fence and died along her side. She stated that she is concerned about the attendees drinking alcohol and

then driving. She is opposed to any outdoor parties due to the noise issue. She stated that the property is agriculture and to her this would be a business.

Chairman Coyner asked if Ms. Crosby was aware of the family events going on?

Ms. Chittum stated that in the fall there was a hunting party and she was afraid to go outside onto her property.

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

Sam and Debbie Houston sent in a letter to the Board stating that they live on Green Hill Land and are against this request.

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

Mr. Harry Taliaferro, 476 Green Hill Lane, Churchville, stated that his main concern is the road. He stated that there are not many places to pull over on the road when another vehicle is driving. He stated that sometimes water backs onto his driveway. He stated that there were other parties there that were quite loud.

Chairman Coyner asked if Mr. Taliaferro was a resident for quite some time?

Mr. Taliaferro stated twenty-two (22) years.

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

Mr. Jean Liggett, 51 Green Hill Lane, Churchville, stated he was a resident at the property since 1946. He stated that the road has improved much during that time but it has not been widened. He stated that when there is a funeral going on there is no place to get off of the road and he does not know how much traffic that road can handle. He asked that the Board consider the road.

Chairman Coyner asked if there was anyone else wishing to speak in opposition?

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

Mr. Berry stated that the road is an issue but he thinks it is manageable. He does not feel he would have one hundred (100) participants at an event. He stated that they estimated at the most eighteen (18) events. He stated that when they were to meet a car along the road they pull over to the other side. He stated that Bear Funeral Home traffic is an issue. He stated that they will not have much noise because they want to maintain the spirit and atmosphere of the area. He stated that they do not want the area damaged. He stated

that they do not intend to have hunting parties. He stated that they are going to have weddings and birthdays. He stated that they do not intend on having shootings at their parties. He stated that the other houses are separated by the surrounding hills and he does not think the sound would carry that way. He stated that he does not want this use to impact the area. He stated that Churchville has changed over the years.

Chairman Coyner asked if the Board limits the number of participants to sixty (60) if that would be workable?

Mr. Berry stated yes.

Chairman Coyner asked if there would be live music?

Mr. Berry stated that it would be left up to the people holding the events.

Chairman Coyner asked if the music is amplified?

Mr. Berry stated that it generally is. He stated that he would have to see what the market demands. He stated that the hours of operation could be until 10:00 p.m. for that reason. Chairman Coyner asked if there would be someone onsite during the events?

Mr. Berry stated family members would be onsite during events.

Chairman Coyner stated that it is to your best interest that the events are held appropriately.

Vice Chairman Callison asked about the issue during hunting season?

Mr. Berry stated that they lease hunting rights to the property. He stated that they have a hunting contract which includes a strict agreement that they must take care of the property. He stated that the hunters take care of the animals they shoot on the property. He stated that they cannot litter on the property. He stated that they have had problems with other hunters coming onto the property.

Chairman Coyner declared the public hearing closed. He stated that this site has a small road. He stated that remote areas are more attractive to host events. He stated that if the Board grants this permit the request can be reviewed in a year. He would suggest that the Board limit the number of attendees at the events.

Vice Chairman Callison agreed.

Mr. Shreckhise stated that sixty (60) attendees may be too much traffic on the lane. He stated that if the applicant is successful he feels the permit should not be expanded. He stated that eighteen (18) events in the summer are a lot of events. He feels that the Board should set a limit per month.

Mr. Berry stated that he will only have events during the temperate months of the year which could be from May to November. He stated that eighteen (18) events would be the maximum.

Chairman Coyner asked if most events would take place during the weekends?

Mr. Berry stated yes.

Mr. Shreckhise stated that the traffic problem will affect the residents in the area.

Ms. Brown stated that she would be willing to allow the applicant one (1) event per month. Mr. Berry stated that one (1) event per month would be quite limiting to him. He stated that he has to work with his clients and the weather. He stated that the people who want to have an event would need to take the risk of having bad weather.

Chairman Coyner asked how will the neighbors be informed on when an event is going to take place? He stated that if he was a neighbor he would like to know what is going on.

Mr. Berry stated that he would not want to post a sign. He stated that he may be able to send out a mailing or email to all of the neighbors.

Mr. Shreckhise stated that one (1) event per month might be rough for his business. He moved that the request be approved with staff recommendations. He also included in his motion that the applicant should be limited to forty-five (45) participants and a maximum number of two (2) events per month. He stated that the permit should be reviewed in a year and renewed if stipulations are met.

Ms. Brown seconded the motion.

Vice Chairman Callison felt that sixty (60) attendees would be more appropriate.

Mr. Shreckhise amended his motion as follows:

Pre-Condition:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.

Operating Conditions:

1. Be limited to a maximum of two (2) events per month.
2. Number of participants be limited to a maximum of sixty (60).
3. Hours of operation be 8:00 a.m. to 11:00 p.m.
4. No outdoor music after 10:00 p.m.
5. Obtain yearly outdoor music festival permit.
6. Large tents to be put up and removed within one (1) week.
7. No parking of vehicles on any public street during an event.
8. The applicant will install an approved sewage treatment system within two (2) years. The applicant may use Porta-potties as a temporary use during that time.
9. Permit be issued for one (1) year and renewed if all conditions are met.

Ms. Brown seconded the motion, which carried unanimously.

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CHARLIE AND LINDA MOORE - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Charlie and Linda Moore, for a Special Use Permit to have outside storage of a smoker and commercial trailer for bar-b-que sales and one picnic table on property owned by Larry W. Hostetter, located on the north side of Churchville Avenue (Route 250), approximately .2 of a mile west of the intersection of Churchville Avenue (Route 250) and Buffalo Gap Highway (Route 42) in the Pastures District.

Ms. Linda Moore stated that she owns Squealer's BBQ. She stated that they held an administrative permit last year. She stated that her business was very successful. She stated that she would like to run the business April through November. She stated that she would like to have outside storage of a smoker and a 17' x 14' trailer as well as one (1)

picnic table onsite. She stated that they would operate three (3) days a week. She stated that they will be open Thursday, Friday, and Saturday. She stated that they will also have specialty sandwiches and fries. She stated that majority of their clients will have carry out.

Chairman Coyner stated that the trailer would need to sit back off of the road. He asked if the trailer would be kept onsite for the entire season?

Ms. Moore stated yes.

Mr. Charlie Moore stated that he would like the carport moved straight back and it will be screened in. He stated that the trailer will be backed up toward the carport. He stated that they will be twenty-seven (27') feet away.

Mr. Shreckhise stated that this is the same operation but the applicant would not have to take the trailer home and the carport and trailer will be further away from the road.

Chairman Coyner asked if there was anyone wishing to speak in favor to the request?

Mr. John DiGuardo, 191 Cottonwood Lane, Staunton, Churchville, stated that this is a very fine operation. He stated that the applicants are good people. He stated that it is difficult for them to bring the trailer back and forth. He stated that he is in support of this request.

Chairman Coyner asked if there was anyone else wishing to speak in favor to the request?

Ms. Janet Aguilar, 3313 Churchville Avenue, Staunton, stated that the applicants are fine people in which she has known her entire life. She stated that they are good people and the food is excellent. She hopes that the Board grants their Special Use Permit.

Chairman Coyner asked if there was anyone else wishing to speak in favor to the request?

Mr. Don Michael, 22 Lori Lane, Churchville, stated the applicants are good people. He stated that their business has a good reputation in the community. He stated that they are doing a good service for the community.

Chairman Coyner asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Coyner asked if there was anyone wishing to speak in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated that the Board viewed the property.

Mr. Shreckhise stated that this is a real convenience to the citizens. He moved that the request be approved with the following conditions:

Pre-Condition:

1. A revised sketch plan be submitted to Community Development showing the revised trailer locations and setback.

Operating Conditions:

1. The trailer be kept a minimum of twenty-five (25') feet from the edge of the pavement.
2. Be permitted to display one (1) smoker/cooker.
3. Be limited to one (1) picnic table outside located under the carport.
4. Hours of operation be Thursday, Friday, and Saturday from 7:00 a.m. to 8:00 p.m.
5. No Sunday sales.

Vice Chairman Callison seconded the motion, which carried unanimously.

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JERRY M. AND CASANDRA HENDERSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jerry M. and Casandra Henderson, for a Special Use Permit to have a kennel on property they own, located on the north side of Coal Road, approximately 3 miles north of the intersection of Coal Road and St. Mary's Road in the Riverheads District.

Mr. Jerry Henderson stated that he would like to have eleven (11) dogs. He stated that he has two (2) Saint Bernards that are outdoors and nine (9) Chiwawas which are all indoor.

Chairman Coyner asked if the applicant has had dogs for many years?

Mr. Henderson stated he has had more than that over the years but he has narrowed it down to little dogs. He stated that he will not be operating a business. He stated that the

dogs have bedrooms in the barn with heating and air condition and carpet and bedrooms in the house. He stated that there has never been any problems with any of the neighbors. He has lived at this site since 2000.

Chairman Coyner asked if the applicant was breeding dogs?

Mr. Henderson stated no.

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

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

Chairman Coyner stated that the applicant only has house dogs. He stated that the property has twenty (20) acres and is wooded.

Vice Chairman Callison moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

- 1. Maximum of eleven (11) adult dogs kept at this site at any time.
- 2. Dogs be kept inside from 10:00 p.m. until 6:00 a.m.
- 3. Applicant must reside on premises.
- 4. Site be kept neat and orderly.

Ms. Brown seconded the motion, which carried unanimously.

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LYNNE GODLEY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Lynne Godley, for a Special Use Permit to have a kennel on property she owns, located in the northern quadrant of the intersection of Estaline Valley Road (Route 601) and Pond Gap Lane in the Pastures District.

Ms. Lynne Godley stated that she has six (6) dogs at the site. She would ask that the Board permit her to have up to ten (10) dogs. She stated that they are all house dogs. She stated that all of them are either spayed or neutered. She stated that she works for Westwood Animal Hospital and sometimes she takes home stray dogs.

Chairman Coyner asked if the dogs are her pets?

Ms. Godley stated yes.

Chairman Coyner stated that the applicant is requesting to have up to ten (10) dogs. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated that the applicant is not breeding dogs.

Ms. Brown moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of ten (10) adult dogs kept at this site at any time.
2. All dogs be kept outside within the exercise area for no more than two (2) hours unless directly supervised by family member.
3. Dogs be kept inside from 10: 00 p.m. until 6:00 a.m.
4. Site be kept neat and orderly.
5. Applicant must reside on premises.

Vice Chairman Callison seconded the motion, which carried unanimously.

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MICHAEL ARMSTRONG - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Michael Armstrong, for a Special Use Permit to have a kennel on property owned by Rosalee K. Armstrong (Life) c/o Michael Armstrong, located on the north side of Middle River Road (Route 732), approximately .2 of a mile east of the intersection of Middle River Road (Route 732) and Union Church Road (Route 732) in the North River District.

Mr. Michael Armstrong stated that he has seven (7) hounds that he hunts. He stated that six (6) out of the seven (7) are fixed. He stated that he does not board dogs or breed them. He stated that he has been buying kennel tags for approximately twenty (20) years and he found out this year that he needed a Special Use Permit. He stated that these dogs are just his personal dogs. He stated that the dogs are well attended to. He stated that in the summer they are in shaded areas. He stated that there has been no complaints with Animal Control. He stated that the dogs have never got into anyone's livestock or in any kind of trouble.

Chairman Coyner stated that the Board has received a fair amount of letters of support from the neighbors. He stated that the applicant does not want to increase the number of dogs on the site.

Mr. Armstrong stated that once the dogs are too old to hunt he does not get rid of them. He stated that he keeps them as his pets.

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

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

Mr. Shreckhise stated that it is nice to have support from all of the neighbors. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of ten (10) adult dogs kept at this site at any time.
2. Dogs be kept at least fifty (50') feet from all property lines.

3. Site be kept neat and orderly.
4. Applicant must reside on premises.

Vice Chairman Callison seconded the motion, which carried unanimously.

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PHILIP C. OR TEENA V. HALL - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Philip C. or Teena V. Hall, for a Special Use Permit to have a kennel on property they own, located on the north side of Crimora Mine Road (Route 612), just east of the intersection of Crimora Mine Road (Route 612) and Hope Drive in the Middle River District.

Mr. Philip Hall stated that he would like to have a kennel for up to twenty (20) dogs. He stated that since 1989 he has had a kennel tag for twenty (20) dogs. He stated that he found out recently that he needs a Special Use Permit for his kennel. He stated that he has a dozen or more hunting dogs on his property.

Chairman Coyner asked if the applicant was breeding dogs?

Mr. Hall stated that he has not bred the dogs up until recently. He stated that his son has taken an interest in breeding the dogs.

Chairman Coyner asked if this is a family project?

Mr. Hall stated yes. He stated that they sell a few puppies in order to pay for the veterinarian bills and the dog food.

Chairman Coyner stated that the property has over twenty (20) acres. He stated that the Board received a letter in support from Jerry Tisdale.

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

Mr. Sam Ralston, 260 Gravel Ridge Road, Waynesboro, stated that he bought his property in the early 1970s. He stated that he has deep concerns about breeding in an agricultural setting. He stated that the dogs may get into the sheep and cattle. He stated that twenty (20) dogs are a lot of dogs. He stated that with breeding they could have up to one hundred (100) dogs at one time. He stated that he does not want to

hear the dogs barking. He stated that he does not know what the applicant does with the feces. He stated that he heard dogs barking on one occasion but he does not know that they are the applicant's dogs. He stated that he does not come to this site quite often but he would like for it to remain a peaceful place.

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

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

Mr. Hall stated that the main reason for the larger number of dogs is because once the dogs get older he does not get rid of them. He stated that the dogs are not running around loose. He stated that his son takes them in the field to exercise. He stated that the feces are cleaned and hauled away.

Mr. Shreckhise stated the applicant is requesting twenty (20) adult dogs.

Mr. Hall stated yes. He stated that he hopes to have three (3) planned litters a year. He stated that he could not envision having twenty (20) adult dogs but he could envision having eighteen (18) dogs. He stated that all of the adult dogs are confined in a kennel. He stated that he has two (2) areas on his property for raising puppies. He stated that he could not even envision having thirty (30) puppies at the site at one time.

Vice Chairman Callison stated that this area is well secluded. He moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of twenty (20) adult dogs kept at this site at any time.
2. All dogs be confined within the designated kennel area on the site plan or be under control of the owner.
3. No further expansion.
4. Site be kept neat and orderly.
5. Applicant must reside on premises.

Ms. Brown seconded the motion, which carried unanimously.

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LEONARD C. KLEIN OR JUNE A. CLARKE - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Leonard C. Klein or June A. Clarke, for a Special Use Permit to have a kennel on property they own, located in the western quadrant of the intersection of Arbor Hill Road (Route 695) and Griner Road (Route 697) in the Riverheads District.

Ms. June Clarke stated she has ten (10) dogs on her ninety (90) acre piece of property. She stated that two (2) of the dogs are working sheep dogs and four (4) are her personal dogs. She stated that all of the dogs are spayed or neutered. She stated that she does not breed the dogs. She stated that some of her dogs are considered special needs. She stated that they would like to have the option to get other special needs dogs if the need arises.

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

There being none, Chairman Coyner declared the public hearing closed. He stated that this site is in a remote location.

Ms. Brown moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of ten (10) adult dogs kept at this site at any time.
2. All dogs be confined within the designated areas on the site plan or under control of the owners.
3. No breeding onsite.
4. Site be kept neat and orderly.

- 5. Applicant must reside on premises.

Mr. Shreckhise seconded the motion, which carried unanimously.

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GARY S. DEFIBAUGH - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Gary S. Defibaugh, for a Special Use Permit to have a kennel on property he owns, located on the west side of Gravelly Hill Lane approximately .7 of a mile north of the intersection of Gravelly Hill Lane and McKinley Road (Route 682) in the Riverheads District.

Mr. Gary Defibaugh stated that he is applying for a Special Use Permit to have thirteen (13) dogs onsite. He stated that he would like to do some breeding and have field trials. He stated that he would be lucky to have one (1) litter a year. He stated that they have one (1) house dog that is neutered. He stated that he has lived at this site since 1984. He stated that he has had the dogs the entire time that he lived at this site. He stated that he has had an average of four (4) to six (6) dogs at one time. He stated that he has had up to eighteen (18) dogs at one time. He stated that he needs a buffer in order for him to sell the puppies.

Chairman Coyner asked if there was anyone wishing to speak in favor to the request?

Ms. Linda Defibaugh stated that they have had a kennel for twenty-five (25) years. She stated that the dogs are not turned loose unless someone is outside with them. She stated that they never turn a dog away. She stated that they show the beagles.

Chairman Coyner asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Coyner asked if there was anyone wishing to speak in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated that this site is in a remote section of the County.

Vice Chairman Callison moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Maximum of thirteen (13) adult dogs kept at this site at any time.
2. All dogs be confined within the designated kennel area on the site plan or under control of the owner.
3. Site be kept neat and orderly.
4. Applicant must reside on premises.

Ms. Brown seconded the motion, which carried unanimously.

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VIRGINIA WALKER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Virginia Walker, for a Special Use Permit to have a kennel on property owned by Jackie H. Shuler, located on the north side of Poor Creek Lane (Route 853), approximately .1 of a mile northwest of the intersection of Poor Creek Lane (Route 853) and Lofton Ridge Lane in the Riverheads District.

Mr. Wilkinson stated that the applicant withdrew their request for this Special Use Permit.

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JIM BRENNEMAN, AGENT FOR MARION C. AND CLARICE J. WEAVER - VARIANCE

This being the date and time advertised to consider a request by Jim Brenneman, agent for Marion C. and Clarice J. Weaver, for a Variance from the yard and setback requirements in order to subdivide the property they own, located on the north side of Augusta Farms Road (Route 643), approximately .5 of a mile north of the intersection of Augusta Farms Road (Route 643) and Augusta Blvd. in the Beverley Manor District.

Mr. Jim Brenneman stated that he is representing the Weaver family. He stated that this property has been in the family for over ninety (90) years and four (4) generations. He stated that Mr. Weaver would like to retain their house and the one (1) acre of land and convey the former chicken house back to the farm. He stated that there is not quite enough distance in between the buildings in order to meet the setback. He stated that the smaller building is just a little bit bigger. He stated that the size of the building requires a twenty-five (25') foot setback instead of a five (5') foot setback. He stated that if they reduced the size of the building it would tear off the best part of the building. He stated that the building has been there for sixty (60) years.

Chairman Coyner asked what is the distance between the buildings?

Mr. Brenneman stated 45.7' and the setback is fifty (50') feet. He stated that there are no other neighbors near this property.

Chairman Coyner stated that the Board visited the site this morning. He asked about the lane that goes down to a house?

Mr. Brenneman stated the fourth generation built a house along the lane.

Chairman Coyner asked if there was anyone wishing to speak in favor to the request?

Mr. Maynard Weaver, 517 Augusta Farms Road, Waynesboro, stated that they would like to separate the farm building from the residential property. He stated that if they ever would end up selling the farm they would like to have the farm buildings all on the farm property. He stated that the farm house is on a separate deed.

Chairman Coyner asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Coyner asked if there was anyone wishing to speak in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated that granting this request would seem like a common sense thing to do. He asked if the Board could legally grant this request?

Mr. Wilkinson stated that Variances are different than Special Use Permits. He stated that is a narrow window of approving Variances under the Code of Virginia. He stated there needs to be something unique about the property. He stated that either the size, shape, or topography of the property causes the property owner not to be able to meet the setback or without any use of the property they might lose it. He stated that the use

is established on the property. He stated that they understand what the family would like to do but it is not unusual because it is something that is shared with other property owners. He stated that under the Code of Virginia a convenience is not grounds to grant a Variance.

Chairman Coyner asked how long has there been a fifty (50') foot setback?

Mr. Wilkinson stated since 1995.

Vice Chairman Callison stated that the building was reduced in size once before. He stated that the applicant can reduce the size of the building even though it is the best part of the building. He stated that if the building is reduced the Variance would not be needed.

Mr. Wilkinson stated that if the building is reduced to less than nine hundred (900) square feet than it would meet the setback.

Chairman Coyner stated that the building has been on the property for quite some time. He stated that common sense should be taken into consideration for this request.

Ms. Brown stated that if the Board grants this permit it would be setting a precedent.

Vice Chairman Callison stated that businesses have had to take part of their building down due to the fact that they did not meet setbacks. He stated that portions of new houses have been taken off in order to meet current setbacks.

Mr. Shreckhise stated that if the Board were to allow this it would be setting a precedent because this situation is the same as someone taking off a corner of a house or a garage.

Chairman Coyner stated the difference in this case is that the house is new construction with new guidelines. He stated that this building has been at the site for thirty (30) years and the setback has changed after the building was placed on the property.

Ms. Brown moved that the Variance be denied.

Vice Chairman Callison seconded the motion, which carried with a 3-1 vote with Mr. Coyner being in opposition to the motion.

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STAFF REPORT

- 09-12 King, Sylvia G.
- 09-13 Landrum, Guy W. III and Therressa D. – **Denied**
- 09-14 Fisher, Carl, Jr. or Suzanne E.
- 09-15 Marshall, J. Irvin
- 09-16 Workman, John E. or Dawn M.
- 09-17 Robert, Helen G.
- 09-18 Cash, Neil W. and Linda H.
- 09-19 White, Edward James or Jennifer S.
- 09-20 Cestari Sheep and Land Co., LLC
- 09-21 Town of Craigsville

Mr. Wilkinson stated that SUP#09-12 through SUP#09-20 are all in compliance. He stated that he sent the Town of Craigsville a letter regarding SUP#09-21. He stated that the project has not started yet and the applicant is requesting an Extension of Time in order to complete the pre-condition.

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Mr. Morgan stated that the judge was very impressed with the record that was produced by the Board of Zoning Appeals to the court. He stated that Mr. Chester will write comments regarding the record within a week or so. He stated that he did file a motion to dismiss the Board of Zoning Appeals individually for Valley Aerospace and the motion was granted. He stated that the judge will appoint a commissioner.

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

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Chairman

Secretary