

PRESENT: G. A. Coyner, II, Chairman
 D. A. Brown
 C. E. Swortzel
 S. F. Shreckhise
 Pat Morgan, County Attorney
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. K. Shiflett, Zoning Technician I

ABSENT: Timothy K. Fitzgerald, Director of Community Development
 J. W. Callison, Jr., Vice Chairman

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, November 4, 2010, at 9:15 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:

- **Everette W. or Janice E. Orebaugh - Special Use Permit**
- **Gary E. or Rita S. Colvin - Special Use Permit**
- **Donald L., Sr. and Karen R. Quick - Special Use Permit**
- **Frederick V. or Susette L. Johnson - 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.

* * * * *

The staff briefing was held at 1:00 p.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.

* * * * *

 Chairman

 Secretary

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

ABSENT: J. W. Callison, Jr., Vice Chairman

* * * * *

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

* * * * *

MINUTES

Mr. Swortzel moved that the minutes from the October 7, 2010 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

* * * * *

GARY E. OR RITA S. COLVIN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Gary E. or Rita S. Colvin, for a Special Use Permit to have a firewood processing business on property they own, located on the southwest side of Dam Town Road (Route 616), approximately .6 of a mile east of the intersection of Dam Town Road (Route 616) and Stiegel Lane in the Middle River District.

Mr. Gary Colvin stated that he would like to have a firewood business at the site.

Chairman Coyner asked if there would be deliveries?

Mr. Colvin stated yes.

Chairman Coyner asked if customer trucks come to the site?

Mr. Colvin stated no.

Chairman Coyner stated that this site is in a nice area and the Board expects the site to be kept neat and orderly. He stated that the applicant has sophisticated equipment that processes the logs. He asked if this would be a family operation?

Mr. Colvin stated yes, father and son operation.

Chairman Coyner asked if the applicant is requesting any employees?

Mr. Colvin stated no.

Chairman Coyner asked if this would be a seasonal operation?

Mr. Colvin stated yes from August to February. He would cut two (2) to three (3) days per week. He would have deliveries daily. He stated that he would have one (1) to two (2) loads of logs delivered a week.

Mr. Wilkinson asked if the customer deliveries would be Monday thru Saturday?

Mr. Colvin stated yes the deliveries would be in the evenings after he has been processing.

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 this site is a well kept piece of property.

Mr. Shreckhise stated that this use would be compatible with the surrounding area.

Mr. Wilkinson stated that the applicant has completed the pre-condition of getting the entrance permit.

Mr. Shreckhise moved that the request be approved with the following conditions:

Operating Conditions:

1. All equipment and materials be kept in the 150' x 200' area shown on the site plan.
2. All wood and equipment be kept at least twenty-five (25') feet from the property line.
3. No employees other than family members.
4. Hours of operation for wood processing be a maximum of three (3) days per week from 8:00 a.m. to 5:00 p.m. Firewood deliveries will be Monday – Saturday.
5. No Sunday work.
6. No customer traffic to the site.

Mr. Swortzel seconded the motion, which carried unanimously.

* * * * *

FREDERICK V. OR SUSETTE L. JOHNSON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Frederick V. or Susette L. Johnson, for a Special Use Permit to have weddings, office parties, birthday parties, or similar social functions within an existing building on property they own, located in the southern quadrant of the intersection of Arrow Lane and Stuarts Draft Highway (Route 340) in the Riverheads District.

Mr. Frederick Johnson and Christopher Lyszaz stated they are requesting to have weddings, office parties, birthday parties, or similar functions within the existing building.

Mr. Lyszaz stated the building has been there for over three (3) years. He stated that they have renovated and have been doing the upkeep to the building.

Mr. Swortzel stated that the building has been idle over this period of time.

Chairman Coyner asked if they would have the events in the evening?

Mr. Lyszaz stated in the evening or weekends.

Chairman Coyner asked what number of people would the building accommodate?

Mr. Lyszaz stated up to 150.

Chairman Coyner asked if they have adequate parking?

Mr. Lyszaz stated yes.

Mr. Shreckhise asked if the applicant did some insulating and soundproofing to the building?

Mr. Lyszaz stated they have put in steel siding to soundproof along with new drywall on the building.

Chairman Coyner asked how many events would the applicant have a year?

Mr. Lyszaz stated up to twenty-five (25) events. He stated that some churches have asked to have gospel nights.

Mr. Johnson stated local caterers have told him that these types of facilities are needed.

Mr. Wilkinson stated that the Health Department has given approval for up to one hundred fifty (150) people including employees. He mentioned the caterer would need approval from the Health Department for food. He stated that staff has suggested, if the Board approves the request, to limit the applicant to one (1) event per weekend in order to give the neighbors a break.

Mr. Swortzel stated that there are other establishments in the County that are similar to this request. He asked if there have been any complaints on any of the other sites?

Mr. Wilkinson stated that staff has not had any problems with Barrenridge Winery and Mossy Creek Catering. He stated that they have never received any complaints regarding those two sites and they seem to have good community support.

Chairman Coyner asked if this would be a family run business?

Mr. Lyszaz stated yes.

Ms. Brown asked if there would be any music outside?

Chairman Coyner stated that all activity would need to be on the inside.

Mr. Swortzel asked what the parking arrangements are?

Mr. Wilkinson stated that the parking lot accommodated the former Moose Lodge. He stated that the site plan shows a large level area for cars and adjoining grass overflow area. He stated that the parking could be in view of the adjoining neighbors.

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. Roger Sparks, 53 Burning Bush Lane, Stuarts Draft, stated that he is one of the closest residents. He asked if the County has a noise ordinance.

Mr. Wilkinson stated that the noise ordinance is in effect from midnight to 7:00 a.m. and no more than seventy (70) decibels can be measured at the property line. He stated that the applicant is requesting indoor music and the music will cease by midnight.

Mr. Sparks asked if the applicant will be getting the alcohol permits for the events. He stated that Bob Errett put the road in. He stated that the applicant's other business brings in tractor trailers up and down the road. He stated that with the additional traffic the road should be brought up to County specifications.

Mr. Wilkinson stated that it is a private lane and the road is maintained by the property owners.

Mr. Sparks stated that they have been there since 1978. He has not had any real problems there but there are a minimum of four (4) children living on the lane going up to the property. He mentioned vehicles will be going in and out in a hurry.

Ms. Bonnie Farran, 337 Labelle Drive, Stuarts Draft, stated that she is the President of the Homeowner's Association and represents thirty-two (32) homes. She stated that she is not an adjacent property owner but she is next to the site. She is asking the Board to deny the permit because there is way too much traffic and noise already. She stated that she would like to enjoy her property with peace and quiet on the weekends. She stated that the traffic was increased when the other Special Use Permit was granted. She stated that she does not think this use is appropriate for the area. She stated that there are a number of children in the area. She stated there is no security to protect them when people have been drinking and there is no fence to protect them. She stated that if the permit is granted a fence or a natural fence would be necessary. She stated that there is not a fire hydrant in the area. She stated that this is an old building and with candles being lit at the events the homes that are in close proximity could catch on fire or the lawn could be caught on fire with a cigarette being tossed. She stated that there would be approximately 3,700 people

coming through yearly. She stated the Moose Lodge has not been an active site since the 1990s. She stated a small number of people used the Moose Lodge not 150 people. She mentioned that there are a lot more homes now than when the Moose Lodge was in existence.

Chairman Coyner asked if she lived at the site when the Moose Lodge was operating?

Ms. Farran stated no. She stated Arrow Lane is a one lane road. She stated the traffic will back up onto Route 340 where there is a 55 mph speed limit. She mentioned that there would be more traffic accidents and noise is very much an issue. She stated that the music will be an issue as well. She mentioned they even hear the organs from Calvary Church which is a mile away. She stated this is not an appropriate location because it is too close to a residential area. She has been to other facilities and they are not this close to a residential area.

Ms. Amanda Dunning, 16 Arrow Lane, Stuarts Draft, stated that eight (8) houses access that road along with small children. She is concerned about the extra traffic. She stated the road is not in good condition. She stated that this business would be in the middle of a residential area and at the entrance of where her property is. She noted that this would be a second business in a residential area.

Mr. Harry Romanin, 158 Labelle Drive, Stuarts Draft, stated that he owns lot #28 in LaBelle Estates. He stated that there is a lot of brush at his site but noise will still be an issue. He enjoys having the surrounding area as a residential use and he would like to see it remain that way. He stated that there are plenty of other places to have these functions. He stated this is a quiet residential area.

Mr. Robert Gayer, 140 Labelle Drive, Stuarts Draft, stated that his property is shown on lot #29 which is heavily wooded. He is concerned with the traffic on Arrow Lane with all the kids. He moved there for peace and tranquility. He stated that the celebration atmosphere will carry on outside the building. He stated that there will be cigarettes, drugs, and alcohol coming to the site. He stated their lot is wooded and if a fire were to start it would be quite a blaze. He strongly opposes this request.

Mr. John McGehee, 182 Labelle Drive, Stuarts Draft, stated that he is lot#27 on the map. He stated that he has a hot tub and a deck on his property and likes to enjoy those things on the weekends. He built his property in 1992. He stated the Moose Lodge has not operated since he has been at the site. How many Special Use Permits were granted on the property?

Mr. Wilkinson stated two (2) permits. He stated Mr. Johnson came back twice in order to build a larger building.

Mr. McGehee stated that he does not have an issue with the wood stove business which is neat and clean. He stated he does have an issue with the social events and traffic. He stated there will be seventy-five (75) to one hundred (100) vehicles coming to the site at the same time and leaving at the same time. He stated that there is not enough parking at the site to handle seventy-five (75) to one hundred (100) cars. He mentioned that the lights will shine onto his deck. He stated events will happen on the weekend and he will not be able to enjoy his property. He stated this use is not compatible with the area. He stated that the applicants have applied for this type of permit in the past. He asked if the previous permit was denied?

Mr. Wilkinson stated that is correct.

Mr. McGehee asked if the Board had put a condition of no other Special Use Permit on the property?

Mr. Wilkinson stated the Board put the stipulation of no further expansion on the previous permit.

Mr. McGehee stated there will be noise, people, traffic, and lights in the evenings.

Chairman Coyner stated the applicant is asking for twenty-five (25) events. He asked Mr. McGehee if he would have the same feeling if the Board granted only three (3) or four (4) a year?

Mr. McGehee stated that most of the events will take place on Saturday afternoon or evening. He stated people do not get married on Fridays or Sundays. He stated that the neighbors in Labelle Estates are trying to enjoy their property during that time. He stated that the wood stove business is going on during the week, during the day when people are not at their homes. He asked if staff is recommending approval on this request?

Mr. Wilkinson stated no.

Mr. Roger Sparks stated that there is a fire hydrant in the area.

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

There being none, Chairman Coyner asked the applicants to speak in rebuttal. He asked if the applicants would be providing the alcohol or getting a permit?

Mr. Lyszaz stated that they are only renting the facility. He mentioned the caterer would be responsible for the alcohol permit.

Chairman Coyner stated guests could possibly wonder onto the adjacent property. He asked if the applicant would consider placing a fence on the property?

Mr. Lyszaz stated that was the purpose of them leaving the brush at the site.

Mr. Johnson stated if the Board wanted to look at the property they would find that a fence would be impossible and impractical.

Chairman Coyner stated the Board visited the site this morning. He mentioned were this request to go forward it could be possible that a fence would need to be constructed. He asked if the building is up to fire code?

Mr. Lyszaz stated that there are fire extinguishers in the building. He stated the closest fire hydrant is 150'. He stated that the building does not have any sprinklers. He stated that sprinklers were recommended but they did not say it was required.

Mr. Swortzel asked if they have met all requirements with Building Inspection?

Mr. Lyszaz stated yes they were told what they needed to do. He stated that they are in the process of widening and repairing the road.

Mr. Swortzel asked what type of a right of way is there?

Mr. Lyszaz stated fifty (50') feet.

Mr. Shreckhise asked if the applicants maintain the road completely?

Mr. Lyszaz stated yes.

Chairman Coyner asked if the other property owners share the expense of maintaining the road?

Mr. Lyszaz stated no. He stated that sections at the bottom of the road are an issue. He stated that they are working to try to solve issues with the road.

Mr. Shreckhise stated that most of the concerns are of the celebration atmosphere that things will get out of hand with the loud music and the alcohol. He stated that the main concern is alcohol. He feels a stipulation with no alcohol may alleviate some of the neighbors' concerns somewhat.

Mr. Lyszaz stated at every wedding there is a champagne toast and it is hard to take that away from the bride and groom.

Mr. Johnson stated that the building has been completely rebuilt with double walls. He stated that his daughter got married in August with 160 people and he walked around and could not hear anything. He stated that the air conditioning unit was louder than the music.

Mr. Swortzel asked if there would be crowd control outside?

Mr. Lyszaz stated yes. He stated that the family will make sure nothing gets out of hand. He stated they are all family there.

Ms. Brown asked how many cars were at his daughter's wedding?

Mr. Lyszaz stated seventy-five (75) cars. He mentioned they still had the overflow parking area available.

Chairman Coyner asked if there were any problems with traffic and cars backing up on Route 340?

Mr. Lyszaz stated that prior to the wedding they let the neighbors know something was going on. He stated that there were no traffic issues with Arrow Lane. He stated that the tractor trailers come in once a month with the wood stove business.

Chairman Coyner declared the public hearing closed.

Mr. Wilkinson stated the Board received copies of two letters in opposition which state the same issues as mentioned here from Robert Gayer, 140 Labelle Drive, who spoke here today, and Kevin McFarling, 110 Labelle Drive.

Chairman Coyner stated that the difference with this permit is that it is surrounded by houses. He stated that the Board put the stipulation on the previous permit of no further expansion. He stated that the wood stove business is compatible with the neighbors. He stated he is not sure if this is a good spot for this type of business.

Mr. Shreckhise stated there is a lot of opposition which is a big factor with the Board rendering a decision. He stated that the neighbors are concerned of having a celebration atmosphere. He stated that the Board may want to limit the events to ten (10), no alcohol, and the property owner be responsible for crowd control.

Chairman Coyner stated no one has spoken in favor of this request.

Ms. Brown stated that the Board can grant the request and check it again in a year due to the fact that there are other facilities in existence with no complaints.

Mr. Swortzel stated that an earlier time to end the events would be better for the neighbors.

Mr. Shreckhise stated the neighbors are concerned about the safety of the children.

Chairman Coyner stated when the wood stove business was granted, the Board said no further expansion but an applicant can make an application anytime they want to. He stated that the Board has had discussion on this request, he would entertain a motion.

Mr. Shreckhise moved that the request be denied due to the fact that there was so much opposition.

There was not a second to the motion.

Mr. Shreckhise withdrew his motion until he can get some support from the other Board members. He feels that if the Board grants this permit they should limit the number of events and no alcohol consumption.

Chairman Coyner felt that this request is not a good use of the property.

Mr. Swortzel stated the property owners seem they will make every effort to keep the property quiet. He stated that the highway department states the road is adequate for vehicles getting in and out.

Ms. Brown asked if there were problems with traffic when the Moose Lodge operated?

Mr. Swortzel stated that there is a lot more development in this area now then when the Moose Lodge operated.

Mr. Shreckhise suggested possibly having ten (10) to fifteen (15) events a year and the permit be reviewed again by the Board in a year where the applicant would come before this Board so that the permit can be reviewed for compliance. He also mentioned no alcohol permitted.

Mr. Swortzel stated that he is not sure how the applicant would fence the property. He mentioned limiting the request to have no alcohol would not be right for the wedding party. He moved that the request be approved with the following conditions:

Pre-Condition:

1. Obtain letter of approval from Building Inspection Department and provide a copy to Community Development.

Operating Conditions:

1. Be limited to fifteen (15) events per year and a maximum of one (1) event per weekend.
2. There be no food preparation on site.
3. Maximum number of people on site be one hundred fifty (150).
4. No outdoor music or activity other than parking.
5. All events to cease before 10:00 p.m.
6. No further business expansion on this site.
7. Site be kept neat and orderly.
8. Property owner responsible for crowd control.
9. Permit be issued for one (1) year and applicant must reapply to continue.

Mr. Shreckhise stated that he is hesitant to agree with the motion other than the reapplication of the permit should encourage the applicants to be good neighbors.

Ms. Brown seconded the motion, which carried with a 3-1 vote, with Chairman Coyner being in opposition to the motion.

* * * * *

EVERETTE W. OR JANICE E. OREBAUGH - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Everette W. or Janice E. Orebaugh, for a Special Use Permit to have a welding and machine shop and equipment repair within an existing building, construct an addition for the machine shop, and have a farm waste hauling business on property they own, located on the west side of Knightly Mill

Road (Route 778), approximately .4 of a mile south of the intersection of Knightly Mill Road (Route 778) and Westview School Road (Route 773) in the North River District.

Mr. Shreckhise stated he would not be participating in the hearing or the vote on this request.

Mr. Everette Orebaugh stated he runs a machine shop, welding, and a waste hauling business. He stated that he has fifty-three (53) signatures of landowners in support of the business. He mentioned the circled names on the list are adjacent landowners.

Chairman Coyner stated that the Board has had calls of support on this request. He stated where else would a manure business be but in an agricultural area. He stated that the Board visited the site this morning and no one would see this business due to the terrain of the property. He asked if the applicant would repair equipment?

Mr. Orebaugh stated 95% of the repairs are farm equipment and he does all types of welding.

Mr. Swortzel asked if he works on farm equipment?

Mr. Orebaugh stated yes.

Chairman Coyner asked if this is a family business?

Mr. Orebaugh stated yes but he does have other employees. He has two (2) truck drivers for the manure business who are both self-employed. He stated in the shop it is just basically him and his family.

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

Mr. Dave Wampler, 675 Buttermilk Road, Mount Sidney, stated that he is an adjoining property owner on a dairy farm. He stated that the surrounding area has all working farms. He stated that the roads can handle this request. He stated that the applicant is a good neighbor. He would like to see this request go through. He stated that the applicant does high quality work.

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

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

Mr. Wilkinson stated that he received two (2) letters in opposition. He stated that one letter was from Jeffrey or Phyllis Meador, 518 Knightly Mill Road, Mount Sidney, who was concerned about the waste on the adjoining property and runoff. He stated that Martin Auville, 501 Knightly Mill Road, Mount Sidney, had the same concerns.

Mr. Wilkinson stated he contacted the Extension office and the Department of Environmental Quality who stated the washing of the manure trucks would have minimal impact. He stated there were no requirements for manure trucks.

Chairman Coyner stated that they viewed the property this morning. He stated this is a farming area. He stated that this site is an ideal setting. He stated that no one can see this business from the road.

Ms. Brown stated that the Board visited the site today and the site was neat and orderly. She stated this business is great for the agricultural businesses. She stated the natural landscape is fine as a barrier.

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

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. All outdoor storage be kept in the designated 100' x 100' area shown on the site plan.
2. Be limited to four (4) waste hauling vehicles at the site.
3. No more than two (2) employees to come to the site.
4. Hours of operation be 7:00 a.m. to 8:00 p.m.
5. No Sunday work.
6. Site be kept neat and orderly.
7. No further expansion.

8. Be permitted to construct a 50' x 100' building for business use and be given two (2) years to complete the building.

Mr. Swortzel stated that this is a rural area. He seconded the motion, which carried with a 3-0 vote with Mr. Shreckhise abstaining from the vote.

* * * * *

DONALD L., SR. AND KAREN R. QUICK - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Donald L., Sr. and Karen R. Quick, for a Special Use Permit to construct a building for motor vehicle repair on property they own, located in the northwest quadrant of the intersection of Mt. Torrey Road (Route 664) and Goldfinch Lane in the South River District.

Mr. Donald Quick, Sr. stated that he does motor vehicle work for Augusta Auto Sales. He stated that he has a shop in Waynesboro currently. He would like to put a shop on his property.

Chairman Coyner stated the size of the building maybe a little too big. He stated that the Board visited the site this morning.

Mr. Quick stated James Greis, 23 Goldfinch Lane, Lyndhurst, submitted a letter to the Board regarding his request. He stated that a 24' x 45' shop is too small for him. He stated that he works on changing motors. He mentioned that he likes to keep all items inside the building.

Chairman Coyner asked what would be done with the fluids?

Mr. Quick stated that he puts them in 55 gallon drums. He stated that the neighbors did not have any problems with the request.

Chairman Coyner asked if this would either be a family operation or would the applicant have employees?

Mr. Quick stated he would be the only one working.

Chairman Coyner stated the Board has had issues with shops accumulating into junkyards.

Mr. Quick stated that it will not be his intention to rebuild cars. He wants to do mechanical work on the cars.

Mr. Swortzel asked how many vehicles would the applicant be working on at one time?

Mr. Quick stated two (2) to three (3) vehicles at the most. He would need the building big enough in order to put two (2) vehicles in it.

Chairman Coyner stated that once the Board puts stipulations on the request the applicant needs to be disciplined to adhere to those conditions. He stated there cannot be a number of cars sitting around.

Mr. Swortzel asked if the applicant lives at the site?

Mr. Quick stated he has lived at the site for six (6) years and bought it nineteen (19) months ago.

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 all vehicles will be inside the building and nothing outside.

Mr. Swortzel stated that this is a needed business. He asked how tall will the building be?

Mr. Quick stated ten (10') to twelve (12') foot ceilings.

Chairman Coyner stated that the building will look like a machine shed. He stated that the applicant must adhere to the requirements and keep all items inside.

Mr. Shreckhise asked if all of the neighbors are in support?

Mr. Quick stated that he talked with all the neighbors and there were no complaints.

Mr. Swortzel stated that he is concerned about the size of the building being on this size property but the applicant must adhere to all stipulations. He moved that the request be approved with the following conditions:

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 permitted to construct a 30' x 50' garage for vehicle repair operations and a 30' x 60' vehicle impound area between the buildings.
2. The 30' x 60' vehicle impoundment area be screened by an eight (8') foot high opaque fence and must be maintained at all times.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. Site be kept neat and orderly.
5. Hours of operation be Monday – Saturday 8:00 a.m. to 7:00 p.m.
6. No Sunday work.
7. No employees other than family members.
8. Permit be reviewed in a year and renewed if all of the conditions are met.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Wilkinson stated that all inoperable vehicles would need to be kept in the screened area.

* * * * *

Mr. Wilkinson recommended that the Board should hear the request for the Variance first and then the Special Use Permit request.

LORI SCHWELLER, AGENT FOR VERIZON WIRELESS - VARIANCE

This being the date and time advertised to consider a request by Lori Schweller, agent for Verizon Wireless, for a Variance from the required setback in order to construct a new tower on property owned by Royal Orchard Land Corp., located on the west side of Three Notched Mountain Highway (Route 250), approximately .5 of a mile north of the intersection of Three Notched Mountain Highway (Route 250) and Howardsville Turnpike (Route 610) in the Wayne District.

Ms. Lori Schweller stated she is the agent for Verizon Wireless. She mentioned Struthers Scott who is the Chairman and Treasurer of the cell tower committee for Royal Orchard,

Bobby Bryant who is the Manager at Royal Orchard, Clair Novak, and Debbie Balser with Ntelos are all here today. She stated they are requesting a 195' monopole tower. She mentioned they are requesting a Variance because they are not able to meet the required setback of 110% of the height of the structure from adjacent property lines. She stated that Article LIX §25-592 of the Augusta County Code gives the BZA the authority to hear and decide applications for Variances as may be authorized by State law. She also noted the Virginia Code § 15.2-2309. She stated that the findings for a Variance are as follows: A. That the strict application of the ordinance would produce a hardship relating to the property; B. That the hardship is not shared generally by other properties in the same zoning district and in the same vicinity; and C. That the authorization of the Variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the Variance. She stated the wireless facility sites are heavily dependent on topography, must meet technical objectives including location and height to propagate signal that connects with neighboring "hand-off" sites, and strive to mitigate visual impact. She mentioned in order to meet the setback, the monopole would be at a lower elevation, so it would need to be more than 199' to provide the same degree of effectiveness. She stated the FAA requires towers more than 199' to be lit. She also mentioned the National Park Service (NPS) evaluated the view shed from McCormick Gap and Calf Mountain Overlook. NPS "objects to any lighting of the tower as that will have a significant impact on the view shed integrity." She stated that the monopole would need to be 249' tall in order to be affective. She stated that the hardship is not shared generally by other properties in the zoning district and the vicinity. She mentioned in a wireless facility site, all properties are truly unique. She also stated the site selection factors are radiofrequency engineer's search area, landowner interested in leasing, access to site, elevation, adequate tree coverage, and consider the effect on historic and environmental resources. She showed the Board the view shed analysis on the McCormick Gap and Calf Mountain Overlooks. She stated they need to have a NEPA review. She stated that the NPS noted that the proposed site is not visible from McCormick Gap. She stated that it would be visible from Calf Mountain but it would blend in with the trees. She stated that the authorization of Variance will not be of a substantial detriment to adjacent property or change the district's character. She stated they are engineered to collapse within property boundaries. She mentioned the adjacent property is in the City of Waynesboro, which requires 110% setback from structures, not boundary lines. She stated there would be a wooded mountain backdrop from Parkway viewpoint. She stated abutting landowners have been notified. She mentioned the NPS mitigation requests the monopole to be weathering steel and the antennas and connectors to be painted brown.

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

Mr. Struthers Scott and Bobby Bryant stated that in 2006 they were contacted by Verizon Wireless. They mentioned that there will finally be calls that will not drop going up the mountain.

Chairman Coyner asked where is the access to the site?

Mr. Struthers stated in a remote area with no activity along the flat side of Route 250. He stated that it is up against the interstate right of way in order to have a tower.

Mr. Swortzel stated that the goal is to have the tower cover both sides of Interstate 64.

Ms. Debbie Balsler stated she is with Ntelos. She stated that Ntelos would like to co-locate on the tower if the site is approved.

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

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

Mr. Wilkinson stated that the engineering report stated that should the tower fail it would fall and collapse within the proposed setback. He stated that the plans were reviewed by Atlantic Technologies.

Mr. Swortzel asked if there has ever been a tower fail?

Ms. Balsler stated that Ntelos has not lost a tower. She could not speak for the other carriers.

Mr. Shreckhise stated that if the tower is moved to meet the 219' setback the topography of the property would require the applicant to both increase the height of the tower and light the tower which would result in disapproval of the site by the National Park Service. This hardship would not be shared by other property owners in the area. He moved that the Variance be approved.

Ms. Brown seconded the motion, which carried unanimously.

* * * * *

LORI SCHWELLER, AGENT FOR VERIZON WIRELESS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Lori Schweller, agent for Verizon Wireless, for a Special Use Permit to construct a new wireless

telecommunications facility on property owned by Royal Orchard Land Corp., located on the west side of Three Notched Mountain Highway (Route 250), approximately .5 of a mile north of the intersection of Three Notched Mountain Highway (Route 250) and Howardsville Turnpike (Route 610) in the Wayne District.

Ms. Lori Schweller stated that the general standards of a Special Use Permit are conformity with the Comprehensive Plan and policies of the County and no undue adverse impact on surrounding neighborhoods. She mentioned all items on the Comprehensive Plan that the tower would help address. She stated that the white areas on the maps mean no coverage. She stated this would cover Route 250 and Interstate 64 in those areas. She mentioned going over the mountain many calls are dropped. She stated that the tower would not have an adverse impact on the neighbors. She stated that they will adhere to mitigation measures requested by the National Park Service (weathering steel, exposed areas painted brown, no lighting on the tower). She stated that the tower was located to provide optimum coverage while remaining under 199' so lighting would not be required by the FAA. She stated that the tower is designed to be engineered to collapse within property boundaries.

Chairman Coyner asked how much taller will the tower be than the tree line?

Ms. Schweller stated that the tower is not at the top of the tree line. She stated that it will be in the line of site for the tower over the mountain above the tree line. She stated that she would like to amend one of the conditions that staff is proposing to the following:

- Rent-free if solely for use by the County police, fire, rescue, and/or other emergency communication services.
- In accordance with the Verizon Wireless Collocation Guidelines (included with the application)
- Requires application with equipment specifications and written license agreement.
- Subject to space availability and structural capacity without the need for extensions or structural modifications (unless approved by and installed by Applicant at the County's sole cost and expense).
- Non-transferable.

Ms. Brown asked if they can co-locate five (5) carriers on the tower?

Ms. Schweller stated that the tower can co-locate four (4) plus Verizon. She stated that there will be an equipment shelter at the base. She stated that the lease area is 20' x 40'. She stated this is a standard monopole with three (3) arms and antennas. She mentioned the fenced compound is 87.5' x 100'. She stated there is a road with parking to get to the site.

Chairman Coyner asked if Verizon is ready to start this fall?

Ms. Schweller stated they do not have a definite timeframe for the building. She mentioned this is a high priority site. She stated that the sites have been evaluated as far as budget but they have an interested co-locator. She mentioned that it would be built sooner rather than later.

Mr. Wilkinson stated the applicant would like to amend operation condition #6.

Mr. Morgan stated he can help with amending the operating conditions.

Mr. Shreckhise stated that Verizon needs to leave space for Augusta County's 911.

Mr. Wilkinson stated they will reserve a spot for 911. He stated the Information Technology department can give all the details on the weight of the 911 equipment. He stated that it would not be any different than any of the other towers. He stated that the wording is standard language in the ordinance. He mentioned that pre-condition #2's wording has changed as a result of the ordinance changes that took place in March.

Mr. Morgan stated that in other localities they used the right of refusal and when it came down to the last spot the County had the option. He stated perhaps that may be better language to use in the operating condition.

Ms. Schweller stated that language is fine. She mentioned Verizon has agreed to that language in other jurisdictions. She will email Mr. Wilkinson the Word document.

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

Mr. Mike Rodriguez, 1319 Red Top Orchard Road, Waynesboro, stated he was not clear on the elevation of the tower. He stated his concern is that it would be directly line of site where he will build a house. He stated he would like to know what the power output of the tower is. He would like to measure the energy density of the tower on the land before and after the tower is put up.

Chairman Coyner asked if he is an adjacent property owner?

Mr. Rodriguez stated yes. He felt that it would not be unreasonable to measure the energy density. He stated that if the home is in the line of site there will be more energy released. He stated that his building location is 2,200.

Ms. Balsler stated that the regulations are on the FCC website. She stated that the carrier operates under the FCC strict guidelines. She mentioned they operate under the 19 megahertz band. She stated that if you go outside those guidelines you can lose your license. She stated that the elevation is 1,970 and the property would be 2,200 which is above it. She stated that it would not be shooting into Mr. Rodriguez's property. She stated you get more energy standing in front of a microwave than the tower.

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

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

Chairman Coyner stated that this is a remote area. He stated that the citizens will appreciate the service at the site. He stated that it is definitely a needed service.

Mr. Swortzel stated George Condyles from Atlantic Technology has studied the site and has recommended approval of the request.

Ms. Brown stated that Fire and Rescue and the Library will be able to make use of the features that the tower will bring.

Chairman Coyner stated that the County can participate with the 911 equipment being added to the tower.

Mr. Wilkinson stated that the applicants are ready to move forward pending approval from the Board.

Mr. Swortzel moved that the request be approved 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 to be approved by all appropriate departments and/or agencies.
2. The applicant will submit information necessary to comply with Section 25-68.7 "Bonding" of the Augusta County Zoning Ordinance.

Operating Conditions:

1. Be permitted to construct a 199' weathering steel non-lighted monopole telecommunications tower.
2. No additional landscaping or buffering is required.
3. Tower design will allow a minimum of five (5) co-locators.
4. The applicant will notify the Augusta County Community Development Department within thirty (30) days of the date the tower is no longer used for telecommunications purposes. The tower shall be disassembled and completely removed from the site within 180 days of such notification.
5. The applicant will not unreasonably deny the telecommunications providers the opportunity to co-locate on this tower.
6. Augusta County shall be allowed, at its request, to use a mutually agreed upon location on the monopole for County emergency communications, subject to the following conditions:
 - Rent-free if solely for use by the County police, fire, rescue, and/or other emergency communication services.
 - In accordance with the *Verizon Wireless Collocation Guidelines* (included with the application).
 - Application submitted with equipment specifications.
 - Written no-rent license agreement between the County and Verizon Wireless.
 - Subject to space availability and structural capacity without the need for extensions or structural modifications (unless approved by and installed by Applicant at the County's sole cost and expense); provided, however, that when only one space for collocation remains on the monopole, the County shall have the right of first refusal before any additional carrier is allowed to collocate, including ground space, not to exceed 10' x 10', for its communication needs, without any charge. This otherwise perpetual reservation may be waived at the discretion of the County Administrator, and

this right of first refusal shall expire upon the earlier to occur of the tower (a) being removed; or (b) reaching full capacity.

- Non-transferable

Ms. Brown seconded the motion, which carried unanimously.

* * * * *

STAFF REPORT

- 10-1 Swanson, George B. Trustee
- 10-2 Marion, Eddie N. or Lucille P.
- 10-3 Booth, Guy S.
- 10-4 Eggleston, Walter V., Jr. or Kennalyn
- 10-5 Bradley, Dennis L.
- 10-6 Howell, Ben L. or Teresa H.
- 10-7 Howell, Elizabeth J. – **Cancelled**

Mr. Wilkinson stated that SUP#10-1 is in compliance. He stated a new Special Use Permit has been issued to replace SUP#10-2. He stated that SUP#10-3 is in compliance. He stated that the applicant will be paving the entrance for SUP#10-4. He mentioned staff has sent Mr. Eggleston a letter asking if an Extension of Time is needed. He stated SUP#10-5 and SUP#10-6 are both in compliance.

* * * * *

Mr. Wilkinson passed out the court cases for the Board to review.

* * * * *

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

* * * * *

Chairman

Secretary