

PRESENT: T. H. Byerly, Chairman  
 S. F. Shreckhise, Vice Chairman  
 D. A. Brown  
 J. D. Tilghman  
 J. R. Wilkinson, Zoning Administrator & Secretary

ABSENT: G. A. Coyner, II  
 Pat Morgan, County Attorney

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Wednesday, July 3, 2013, at 8:15 A.M., in the County Government Center, Verona, Virginia.

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The staff briefing was held at **8:15 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.

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**VIEWINGS**

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

- **DONNA FIX, AGENT FOR MEADE MOBILE HOME PARK, LC - SUP**
- **GINGER CHRISTMAS, AGENT FOR THE CHRISTMAS GROUP, INC. - SUP**
- **IRA BIGGS, AGENT FOR COMMONWEALTH EXCAVATING, INC. - SUP**
- **MONTE N. AND DONNA C. ATKINS – SUP**
- **JOE WHITE, AGENT FOR CHARLES D. CROUSE AND GEMSTONE, LLC - SUP**
- **LARRY PIRKEY**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.

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 Chairman

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 Secretary

PRESENT: T. H. Byerly, Chairman  
S. F. Shreckhise, Vice Chairman  
D. A. Brown  
J. D. Tilghman  
J. R. Wilkinson, Zoning Administrator & Secretary  
B. Cardelicchio-Weber, Administrative Assistant

ABSENT: G. A. Coyner, II  
Pat Morgan, County Attorney

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Wednesday, July 3, 2013, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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**MINUTES**

Ms. Tilghman moved that the minutes from the June 6, 2013, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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**DONNA FIX, AGENT FOR MEADE MOBILE HOME PARK, LC - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Donna Fix, agent for Meade Mobile Home Park, LC, for a Special Use Permit to replace a nonconforming manufactured home in a manufactured home park with a larger unit on property owned by J.R. Ridenour, located at 90 Meade Park Circle, Lot 39, Verona, in the North River District.

Ms. Donna Fix stated they would like to replace a manufactured home in the park with a larger unit.

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

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

Vice Chairman Shreckhise stated this would comply with the rest of the structures in the park. He stated this would fit in with the area. He stated the Board visited the site this morning. He moved that the request be approved with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Replacement home to be no closer than twenty-one (21) feet to the side of the adjacent homes as shown on the BZA sketch plan.
2. Applicant obtain proper placement permits from Building Inspection.

Ms. Brown seconded the motion, which carried unanimously.

Chairman Byerly stated the manufactured home park is a well run operation.

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Mr. Wilkinson stated that Ms. Christmas has been delayed coming to the meeting and asked that the Board move her request to the end of the agenda.

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**MONTE N. AND DONNA C. ATKINS - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Monte N. and Donna C. Atkins, for a Special Use Permit to have outdoor storage of equipment on property owned by Alvin Moomau, located at 4544 Lee Jackson Highway, Greenville, in the Riverheads District.

Mr. Monte Atkins stated they are requesting a Special Use Permit for extra equipment storage at the site. He stated they are trying to eliminate a lot of their storage at the house. He stated they are trying to expand their operation and not have any neighbors complain.

Ms. Brown asked how many pieces of equipment will be at this site?

Ms. Donna Atkins stated there will be twenty-five (25) behind the building and ten (10) to twelve (12) in the front.

Ms. Brown asked if the vegetation barrier will be kept at the site?

Mr. Atkins stated they do not want to do a lot of stuff at the site because it may be a temporary location for them. He stated they are trying to get a permanent lease but are not sure. He stated there will be brush and they are keeping the tree line behind the building.

Vice Chairman Shreckhise asked if there are trucks and cars being kept at the site and not machinery?

Mr. Atkins stated there will be dump trucks and trailers behind the building. He noted that they will not have a business office at the site only storage. He stated no one will be on site in the morning or late at night.

Ms. Brown asked how often would employees pickup equipment?

Mr. Atkins stated it could be everyday.

Ms. Brown asked how far away do you live from the site?

Mr. Atkins stated two (2) miles northwest from this site.

Ms. Brown asked if they would have only one (1) entrance at the site?

Mr. Atkins stated yes.

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

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

Mr. Wilkinson stated staff received three (3) letters in support of the request.

Ms. Brown stated the Board visited the site this morning.

Mr. Wilkinson asked the Board about stipulation #3 regarding the existing vegetation or if they would prefer the applicant to install a fence at this time.

Vice Chairman Shreckhise stated the applicants are only leasing the site for a certain time period.

Mr. Atkins stated they wanted to get the permit first. He stated the reason why they cannot get a long term lease is because the owner is locked up in a legal battle with DEQ. He mentioned this was an old gas station. He stated they would like to put up a fence but if they have to get off of the site within two (2) to three (3) months they would not want to invest the money in it.

Chairman Byerly asked if two (2) employees at the site would be sufficient?

Mr. Atkins stated most of the time he has three (3) employees coming to the site at any time.

Chairman Byerly asked if four (4) would be adequate?

Mr. Atkins stated yes.

Vice Chairman Shreckhise stated the Board should put a time limit on the permit because he would hate to leave the permit open ended. He stated the Board can grant the permit for two (2) years then the applicant can reapply if they are still at the site. He stated the permit could be granted using the existing vegetation and not require them to build a fence.

Ms. Tilghman stated if this site becomes more of a long term operation then the Board could put more stipulations on the request. She stated the operation is large enough so the applicants should move to a business location but the neighbors were informed of the request and the Board did not receive any opposition. She stated if there was any opposition she would not be in favor of this request.

The other Board members agreed with Ms. Tilghman.

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

**Pre-Conditions:**

1. Obtain VDOT entrance permit and provide a copy to Community Development.

2. Applicant submit a revised BZA sketch plan to the Zoning Administrator.

**Operating Conditions:**

1. Be limited to a maximum of ten (10) licensed vehicles out front and they be limited to no more than five (5) on each side of the existing building.
2. Be limited to twenty (20) company vehicles or pieces of equipment to be kept in an outdoor storage area behind the existing building as shown on the site plan.
3. The designated outdoor storage area be screened from view by the existing vegetation that will be maintained at all times.
4. No more than four (4) employees to come to the site at any one time.
5. Hours of operation be 7:00 a.m. to 9:00 p.m. Monday . Saturday.
6. No Sunday work.
7. Site be kept neat and orderly.
8. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
9. No on premise sign be permitted.
10. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.
11. If any future expansion of building or use is requested or required, the business must be moved to a Business zoned district.
12. Permit be granted for two (2) years.

Vice Chairman Shreckhise seconded the motion, which carried unanimously.

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### **HOWELL AND SONS, INC. - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Howell and Sons, Inc. for a Special Use Permit to continue the existing permit to have general auction sales with storage of equipment, concession stands, and an office trailer, and to modify condition #4 to increase the time before and after an auction to move equipment on property owned by Elizabeth Jane Howell, located on the north side of Indian Ridge Road (Route 657) just east of the intersection of Indian Ridge Road and Offliter Road (Route 646) in the Riverheads District.

Mr. Benjamin Howell stated his sons help him with the auctions. He stated his sister owns the property and she is here today to answer any questions the Board may have. He would request that the Board renew his Special Use Permit and the Board not put a timeframe on it so that he does not have to come back before the Board to renew the permit. He stated he is also requesting to be able to bring items to the site two (2) Saturdays before and two (2) Saturdays after an auction. He stated his clients need an extra day to remove items from the property. He stated there is a demand for these types of services in the agricultural community. He stated they have tried to comply with all of the rules. He stated his auctions have turned into a big event.

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

Mr. William Carter, 156 Cranberry Drive, Stuarts Draft, stated he moved here about ten (10) years ago. He noted he was surprised to see that there was quite a lot of auctions going on when he first moved here. He stated they needed a Special Use Permit to hold the auctions because the land was not zoned for them. He stated the applicant has repeatedly violated the conditions that were placed on the permit. Mr. Carter went over the chronology of repeated violations on the applicant's permit. He stated three (3) years ago an extension of the permit was granted. He stated the applicant should not be permitted to sell firearms at his auctions because he is taking the firearm under consignment. He stated they can hear the auctions going on a half a mile away from the site. He noted the applicant has continued to violate the condition of no parking along the public street. He stated the property is pasture land but it looks like a junkyard for twenty (20) days of the month. He

stated he objected to the initial permit and objects to this one. He stated the applicant should not have parking along the road with all of the large trucks and trailers that are driving through the area. He would request the Board take a second look at the permit.

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

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

Mr. Howell stated an auctioneer may sell firearms if the owner is present or available. He stated he was notified by the Federal Firearms Association and he was found to be in compliance with the laws. He stated at the last permit hearing he was allowed to hold general auctions sales. He mentioned that he does not solicit household equipment but he is permitted to sell everything. He stated all zoning violations were prior to their last permit they were issued. He stated they try to adhere to all regulations. He stated they rope off the area but a few do park along the edges of the road but the road is never blocked by vehicles. He stated they always try to remove the equipment out of the field as best as they could. He noted that he does not know of anything that they could do different unless they were to get police enforcement. He stated they do not stop the auction in order to tell three (3) people to move the vehicles off of the edge of the road. He stated most people who attend the auctions get a number and then park in the designated parking area. He has seen people park there for a short period of time.

Vice Chairman Shreckhise asked if there were any violations since the last meeting?

Mr. Wilkinson stated the last violation at the site was in March 2012 which was when the equipment was not being removed in a timely manner. He stated there have been several incidents where there was parking along the road.

Vice Chairman Shreckhise stated the applicant should have someone out there during the auctions. He stated the applicants that came before the Board to have Halloween events hired people to come and take care of the parking issues of people parking along the road. He stated if the attendees of the auction do not listen then the applicant should contact the police.

Mr. Howell stated they have separated the entrance and exit to the site. He stated they have three (3) people getting cars into the site. He stated they have always gotten traffic onto the site in a safe manner and have never received any complaints. He stated where the vehicles park they do not affect the flow of traffic.



Mr. Wilkinson stated the Board is concerned about the public's safety of walking across the road. He stated the applicant should do whatever needs to be done so that people do not walk across the road. He stated VDOT now requires applicants to hire certified flagmen for events.

Vice Chairman Shreckhise stated the applicant can ask VDOT for some assistance in providing no parking signs.

Mr. Wilkinson stated the applicant should contact VDOT. He stated the applicant has done a better job in moving the equipment in the specified time period.

Chairman Byerly stated the public's safety is the Board's main priority. He stated VDOT may even be able to provide temporary signage.

Ms. Brown stated the applicant currently is permitted seven (7) days and now he is asking for storage of up to ten (10) days.

Ms. Tilghman felt that the number of days was more than adequate.

Vice Chairman Shreckhise asked if Sundays are counted in the number of days?

Mr. Howell stated no. He stated they do not do anything on Sundays.

Mr. Wilkinson stated the Board could remove that limitation if they choose. He stated all applicants need to follow the conditions that the Board places on the permits. He stated the Board can put a timeframe on the permit or take it off.

Chairman Byerly declared the public hearing closed.

Ms. Tilghman stated this request seems to be getting bigger and bigger and may be in the wrong place. She stated the applicant will have eight (8) general auctions per year and selling a variety of items. She stated if the applicant brings items to the site ten (10) days before and after an auction that will be approximately 160 days a year which is almost half of a year. She stated the applicant needs to hire certified parking attendants during the auction events. She stated the applicant should crack down on the parking issues. She stated this permit should not be open ended. She moved to deny the request.

Vice Chairman Shreckhise felt that the Board should not deny the request because a lot of people in the County are in favor of the auctions going on. He noted if the parking is controlled properly this request is an asset to the community. He stated the parking needs

to be regulated. He stated the applicant should not be permitted any more than ten (10) days before and after an auction of storage of the items. He stated the applicant should not have any more than the requested number of auctions per year. He stated the permit should possibly be granted only for one (1) year to be sure the applicant complies with the regulations. He stated the Board should require the applicant to have certified parking attendants during the auction events.

Ms. Tilghman's motion failed due to not having a second.

Vice Chairman Shreckhise moved to approve the request with the following conditions:

**Pre-Conditions:**

None

**Operating Conditions:**

1. Be permitted to have eight (8) general auction sales per year.
2. Be limited to a 50q x 300q area at the top of the hill for storage of vehicles or equipment between auctions. No individual item may be stored onsite longer than ninety (90) days.
3. The only other items permitted to be stored onsite between auctions is the two (2) concession stands and **one (1) office trailer.**
4. No vehicles or equipment be brought to the site prior to **ten (10) days** before an auction event and all vehicles and equipment be removed within **ten (10) days** of an auction event and the site be returned to an agricultural state.
5. Portable toilets may be brought to the site no sooner than seven (7) days prior to an auction and be removed within seven (7) days after the auction is held.
6. All equipment, machinery, materials, and vehicles for sale at the auction be kept inside the designated areas shown on the site plan.
7. **No parking along the public street. All parking to be on the site.**
8. **Two (2) VDOT certified parking attendants will be provided during all auction events to direct parking into the property.**

9. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
10. Hours be 7:00 a.m. to 7:00 p.m.
11. No Sunday activity.
12. The only signs to be permitted for this business is one (1) on premise business sign not to exceed thirty-two (32) square feet, one (1) off premise advertising sign and four (4) directional signs, and it is the applicant's responsibility to keep the sign out of the VDOT right-of-way. All offsite signs to be removed within three (3) days of an auction.
13. Permit be issued for one (1) year.

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

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**IRA BIGGS, AGENT FOR COMMONWEALTH EXCAVATING, INC. - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Ira Biggs, agent for Commonwealth Excavating, Inc., for a Special Use Permit to have a topsoil operation on property owned by LowKey, Inc., Blue Fox, Inc., and Middle River, Inc., located on the north side of Rifes Ford Road (Route 906), approximately .6 of a mile west of the intersection of Rifes Ford Road and Laurel Hill Road (Route 612) in the Beverley Manor District.

Vice Chairman Shreckhise stated he will be abstaining from any discussion or vote on this request.

Mr. Ira Biggs stated he has stopped his operation for the last four (4) months in order to get his Special Use Permit and Erosion and Sediment Control plans approved. He is asking for permission to proceed with his topsoil operation at the site. He stated he does have an Erosion and Sediment Control plan in place to follow all erosion regulations. He mentioned that he was asked to take over this operation and has already improved the site.

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Ms. Tilghman asked about the road getting to the site. She stated they actually could not see the actual site today.

Mr. Biggs stated it is an old logging road which they have improved so that they could get down to the site.

Ms. Brown asked if the applicant owns the site?

Mr. Biggs stated no. He noted he was asked to help the owners out and take over the topsoil operation about a year ago.

Chairman Byerly asked if all retention ponds are completed?

Mr. Biggs stated he does not have permission from the Board to get in there to finish them. He noted they have some in place. He mentioned as far as he knows nothing is getting into the river.

Ms. Tilghman asked if there is a berm in place?

Mr. Biggs stated yes.

Ms. Brown asked how tall is the berm?

Mr. Biggs stated the berm is six (6') to seven (7') feet tall but in some places the height varies.

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

Mr. Stephen Kennamer, 457 Pine Top Road, Fort Defiance, stated that he lives across the river and he is opposed to this request. He stated they have witnessed several issues with the topsoil being washed into the river. He noted that the Middle River does affect the Chesapeake Bay. He stated this request will have a strong negative affect on the environment. He stated they have operated a long time without any permits. He stated there will also be noise coming from the site. He stated the applicant has been excavating without any attention to any responsibilities. He would request that the permit be denied.

Mr. Francis Stout, 21 Woodlee Drive, Apartment #334, Staunton, stated he owns the farm across the river. He stated the applicant started this project months ago. He stated they think the rules do not apply to them. He stated the applicant has been at the site for quite

some time now without any permits and they thought they could get away with it. He stated they built a haul road with no netting. He stated the river turns brown when it rains. He stated on June 25<sup>th</sup> he photographed a ten (10) minute shower showing brown silt in the river. He stated the pictures show runoff in the Middle River. He stated the water has run brown on their side for a number of days. He stated his number one concern is erosion and noise. He stated they have two (2) full time employees at the site running equipment. He hoped the Board would not grant this request. He asked who would supervise the reclamation of the property. He stated from their past performance their best interest is not the river.

Mr. Larry Powell, 407 Pine Top Road, Fort Defiance, stated the river and the agriculture in the area should be protected. He started the CREP project in order to keep cattle out of the river. He stated if the applicant has not operated within the last four (4) months then someone else has been operating their equipment. He stated there has been a lot of trees taken down and placed near the river. He stated erosion needs to be controlled because they are operating within several feet from the river. He stated the berm is equal to or lower than the river. He stated he did notice some debris that was never there before. He stated the road was built last year and they have moved in dump trucks, an earth moving pan, bulldozer, and a sifting machine to the site. He respects the applicants need to make a living but he would hope that he respects their rights regarding the river.

Mr. Doug Kern of Rifes Ford Road stated that the topsoil operation has been nothing but a nightmare and he opposes this request. He stated there is nothing good about this and prefers that it not get started.

Kathryn and Thomas Kempton, 837 Rifes Ford Road, Verona, stated they live across the entrance. He stated the culvert that was put in is no way long enough to accommodate tractors and backhoes. She displayed pictures to the Board of the site. She stated the road is not designed to handle the trucks. She noted the turn is not adequate and is tearing up Rifes Ford Road. She stated the trucks break up the road and the side of the road is washed out. She stated if another vehicle meets up with a truck it may cause an accident. She mentioned that people walk their dogs along that road. She stated they finally get a paved road and it has been destroyed. She stated they will leave and not repair the road.

Mr. Kempton stated where the road goes down to the river the trucks come in and out at the same time. He stated the road is not much more than a two lane road.

Chairman Byerly asked if this is a rural rustic road?

Mr. Wilkinson stated yes.

Mr. Kempton stated the state approved what was done.

Ms. Kempton stated the high side of the culvert is smashed. She stated they decided to drive off of the road through the ditch in the field and created their access road. She stated originally there was a road there. She does not know who gave them permission. She stated the culvert is next to the mailbox and it was moved up the road so that the neighbors can get the mail. She stated they have river bottom topsoil and have a hard time growing grass. She asked if the operation is stopped why are they seeing muddy tracks on the road. She stated they are destroying the road.

Ms. Laura Pile, 218 Kalorama Street, Staunton, stated she is here on behalf of Linda Stout. She stated Ms. Stout's house is visually affected. She stated they have heard construction equipment operating during the night. She stated Ms. Stout lives across from a demolition site instead of it being a rural location.

Mr. Robert Wise, 347 Pine Top Road, Fort Defiance, stated he owns the farm on the right side. He would hate to see the river destroyed like this applicant is doing. He mentioned that he did wonder why the river has been so muddy. He stated this is a shame that it has gone this far. He hoped that the Board deny the request. He stated this would be a detriment to the County and Middle River.

Ms. Mary Stout stated her property has been in the family for over 100 years. She stated they love the river. She stated they sold some of the land on one side of the river because it was not good farm land. She mentioned that her mother-in-law told her that someone would cut the trees off the bluff but she never dreamed that would actually happen. She stated it breaks her heart to see this continue.

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

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

Mr. Biggs apologized if he has disturbed any of the neighbors in the area. He stated he will need to restore anything that he does. He stated there are bonds in place if he does not. He stated he has all of the permits from the County. He stated DCR has approved his operation. He stated he does not know where the mailboxes are but he will checkout the culvert pipe at the site.

Ms. Brown asked if the applicant is permitted to use the same road for construction?

Mr. Biggs stated he uses the public road and he does have a bond with the state.

Mr. Wilkinson stated the highway department did look at the entrance to the site. He noted that VDOT had no objections to this request. They stated the existing entrance is adequate for the proposed use of a topsoil operation and any damages to the existing roadway Rt. 906 (Rifes Ford Rd.) due to the use of heavy equipment on this entrance will need to be corrected by the landowner. They further stated the entrance into this tax parcel (047-75A) will be the only entrance allowed to ingress and egress these properties and the corrugated metal pipe needs to be cleaned and repaired on the north end so water can easily flow through. They noted should the safety, use or maintenance level of this entrance change, VDOT reserves the right to require changes as conditions warrant.

Ms. Brown asked when would the road be repaired?

Mr. Wilkinson stated when the project is complete then someone would visit the site and see if the road needs to be repaired before releasing any bonds to the applicant. He stated the neighbors can always call VDOT with any issues during the process. He stated if anything needs to be corrected then the applicant will need to do so.

Ms. Brown stated when going to the site the neighbors state trucks drive onto other property.

Mr. Biggs stated he has not seen that but it will be corrected if that is what is happening.

Mr. Wilkinson stated if the roadway is damaged the neighbors can contact VDOT.

Mr. Biggs stated if he does not take care of the road then the bond would be pulled so that VDOT can do the work. He stated it pertains to his project only.

Ms. Brown asked how long will the project take?

Mr. Biggs hoped to have the property reclaimed by the fall of this year.

Chairman Byerly stated Todd Flippen is here to answer any Erosion and Sediment Control questions.

Mr. Todd Flippen stated they have an Erosion and Sediment Control plan for the project. He stated there are state requirements for Erosion and Sediment Control measures downstream of any development. He stated there will be a variety of sediment traps and

silt fence. He noted that he cannot tell the Board what the site looks like today because their inspector is not in.

Ms. Brown asked about the steepness of the berm and how safe it is?

Mr. Flippen stated as far as the diversion dike berm there are specifications for that. He noted they need to have a minimum of 18+ and have gradual side slopes. He stated if it is steep and not able to be seeded they would look at that during inspections. He stated everything is inspected to be sure they are meeting the Erosion and Sediment Control regulations.

Chairman Byerly asked who oversees the reclamation process?

Mr. Flippen stated our inspector goes out on regular inspections and will fill out reports. He stated they are supposed to seed the site within a certain time period.

Ms. Brown asked if the applicant knows what they need to do?

Mr. Flippen stated that all of the regulations are stated in the plans that they submit to the County. He stated if a contractor leaves the site a dirt field then a bond allows the County to come in and stabilize the area with the bond money.

Mr. Wilkinson stated VDOT would determine if any of the roads will need to be repaired before releasing their bond to the applicant.

Chairman Byerly asked if the retention ponds are in place?

Mr. Biggs stated there are four (4) installed out of the seven (7) on the plans.

Chairman Byerly stated the applicant is in the process of installing those.

Ms. Tilghman asked the applicant to provide a timeline on all of the work done at the site.

Mr. Biggs stated the property owners have remained the same throughout the process. He stated the person doing the excavating has changed. He stated the owner's grandson got involved with the excavating and the property became a mess. He stated they needed help and then they called him over a year ago to start working at the site.

Ms. Tilghman asked at what point did the County look at this site?



Mr. Flippen stated he does not have the file to show the date that the County first noticed the illegal land disturbance. He stated anything over 10,000 square feet requires an Erosion and Sediment Control plan. He stated their office sent the owners (LowKey) a letter stating they need to provide us with a plan that shows the stabilization practice to remedy the disturbance.

Mr. Wilkinson stated on April 19, 2013 staff sent the owners a land disturbance violation letter and that a Special Use Permit would be required to operate at the site.

Ms. Tilghman stated the Army Corp. of Engineers does not get involved unless there is disturbance in the water.

Mr. Wilkinson stated according to the neighbors there were issues for approximately two (2) years.

Mr. Biggs stated that he has not been there for two (2) years.

Chairman Byerly declared the public hearing closed.

Ms. Brown stated she would like to get a closer look at the site. She moved the request be tabled until the August 1, 2013 meeting.

Ms. Tilghman stated she would also like to take a closer look at the site. She stated the contractor cannot just walk away from this site. She noted there are bonds in place which holds the contractor responsible for the work or the County will pull the bonds.

Mr. Biggs stated he would have repaired the site and have been done already if the County did not stop his work.

Chairman Byerly stated at this point he appreciates the applicant taking over and trying to rectify the situation. He noted the Board is unfamiliar with topsoil mining operations. He appreciated all of the neighbors input. He would agree that the Board needs to visit the site to get a closer look and collect more information.

Ms. Tilghman seconded the motion, which carried with a 3-0 vote, with Vice Chairman Shreckhise abstaining from the motion.

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**GINGER CHRISTMAS, AGENT FOR THE CHRISTMAS GROUP, INC. - SPECIAL USE PERMIT**

This being the date and time advertised to consider a request by Ginger Christmas, agent for the Christmas Group, Inc., for a Special Use Permit to have an assisted living facility, rooms for boarders, and an aviary within the existing garage on property owned by Sergio A. or Joni L. Coppola, located at 2437 Fadley Road, Bridgewater, in the North River District.

Ms. Ginger Christmas stated she has operated an assisted living facility in other states. She stated she is in the process of closing those and moving to Virginia. She stated her husband has recently passed away. She stated she will be living in the five (5) bedroom home. She stated the Health Department states that it is a four (4) bedroom home with the other room to be used as an office. She stated she would like to have an assisted living facility for three (3) or less individuals at the site. She works with college students or older. She stated her clients have been dealing with grief or post-traumatic issues. She stated she loves doing this. She noted that she is a life skills coach. She also would like to have an aviary bird rescue and sanctuary at the site. She mentioned that there are sixteen (16) different species of birds at the site. She gives them to families to adopt them. She trains them and also uses the birds for demonstrations in schools. She stated she also had some college kids ask about boarding and if she had a room open that would be fine with her. She mentioned that she is planning on buying the land from the Coppolas.

Vice Chairman Shreckhise stated that she is asking to have a home for people with problems. He stated that there are a lot of houses in the vicinity real close that have children who would be concerned. He asked if she carefully screens out people with a history of violence, sexual predators, or similar problems?

Ms. Christmas stated yes that is her concern too because she will also be living at the site and has children and grandchildren.

Ms. Brown asked what type of people would the applicant take in?

Ms. Christmas stated it varies. She stated typically they are young women or college students who may have been assaulted and are trying to get back on their feet. She stated she would not take any sexual predators or anyone with a significant history of violence. She stated her guests do a lot of community service which is a requirement of her program.

Ms. Brown asked if she has people helping her at the site?

Ms. Christmas stated her guests would cook for themselves. She stated that a fellow comes in for two (2) weeks and is off for two (2) weeks. She stated she also has a woman who helps her one (1) week on and three (3) weeks off. She stated she also has someone doing mentoring from time to time.

Ms. Tilghman asked if the applicant would get referrals before allowing someone to come to the site?

Ms. Christmas stated she only takes in people by referral only and by invitation only. She stated the client would sign a release so that it gives her permission for her to be able to contact past providers so she can do a complete screening. She stated they sign a HIPAA form. She noted she typically works with doctors and pastors families.

Chairman Byerly asked if she works with people from drug rehabilitation homes?

Ms. Christmas stated that is not her favorite type of client but it could happen if they are self-medicating. She stated she could recall having a doctor and pastor who started taking medication due to a loss of someone.

Ms. Brown asked how did she start doing this type of work?

Ms. Christmas stated her son had some difficulties and she felt there were not many places that would help someone over the age of eighteen (18). She worked with a top psychiatrist to develop a program but she did not know she was going to be asked to run it. She stated she screens her clients and chooses who will stay on her property. She wants the neighbors to feel safe.

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

Mr. Brian Suter, 2463 Fadley Road, Bridgewater, stated he is not in opposition but do have some concerns. He stated in December he took in his sixteen year old niece into his home who has had problems in the Chicago area. He stated that he commends Ms. Christmas for helping out the youth of today but that is a lot of hard work. He stated troubled teenagers are hard to deal with and at the home he previously lived in neighbors took some in and crime went up in the area. He stated he does have some concerns about the safety of the children in this area. He stated that he has not had any problems previously with Ms. Christmas. He stated on occasion he can hear the birds but that is not a big deal. He stated that he does travel a lot. He stated that his main concern is having men over the age

of eighteen at the site and having his teenage niece be at the site by herself. He stated he is concerned about security. He stated she should probably notify the neighbors of who will be at the site without disclosing anything confidential. He stated that they have had drainfield issues and he would want to make sure the extra people would not cause a detrimental affect on the property. He stated for the safety of his family, he would like to know who is living there. He stated if something happened in the area he is concerned about the response time of law enforcement.

Mr. Jeffry Rinker, 2491 Fadley Road, Bridgewater, stated he lives adjacent to Ms. Christmas. He commends her goals and focus on having a facility like this. He stated he is a geologist and environmental engineer and a resident of the location for four (4) years. He stated all of the neighbors are great. He stated the applicant has not purchased the property and he thought it was unusual for them to apply for a Special Use Permit on property that they do not even own yet. He stated his neighbor has a well that is starting to fail. He stated that house has been vacant for approximately three (3) years now. He stated he is concerned about the additional water usage that would be associated with the assisted living facility and boarding operation. He stated the septic field is for four (4) bedrooms only. He is not sure how many residents she will have at the facility. He stated this request would definitely have some stress on the groundwater. He stated this is a rural area. He asked that the Board not approve this in his backyard. He stated he has a seventeen year old daughter who is by herself a lot and he is concerned about her safety.

Mr. John Doughty, 2495 Fadley Road, Bridgewater, stated the wells in the area are starting to fail. He stated that he has nine (9) children. He stated he has met Ms. Christmas and she is a kindhearted lady with noble intentions. He stated she already has four (4) adults living in the home. He mentioned that his wife and he are concerned because they have already had police chases on Roman Road. He stated they have created a neighborhood watch in the area. He stated that he is concerned about Ms. Christmas request. He stated he is concerned with the wells running dry and the young adults who will live at the site.

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

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

Ms. Christmas stated any of the neighbors can come to her home anytime to meet everyone. She stated the people living with her are all related except one who is an attorney. She stated they are supposed to close on the property soon. She stated the type of folks that she would bring to the site are doctors, attorneys, judges, etc. She stated she needs to feel comfortable with them staying in her home. She stated there are many things

that she cannot say about the people living with her due to HIPPA laws. She stated the surrounding families can meet her clients as long as it is done with respect. She stated she would like to do this because that is what she is qualified to do and she has a team surrounding her that would benefit the community. She noted that she would like to give back to the community. She stated it is imperative that her neighbors feel and are kept safe. She stated they did have some trouble with the well and septic but they did get it working now. She feels this is a reasonable request.

Chairman Byerly stated the neighbors are concerned with the unknown even though the applicant may bring in responsible people to the site. He stated this is a noble undertaking.

Ms. Tilghman asked if she has done this type of business before?

Ms. Christmas stated yes. She also worked in other big facilities and operated the business in her homes. She stated her clients stay for about two (2) years.

Ms. Tilghman asked if she operated in a rural setting before too?

Ms. Christmas stated yes. She understands her neighbors concern because the neighbors are important to her.

Chairman Byerly declared the public hearing closed.

Vice Chairman Shreckhise stated that he is familiar with this community and it is particularly vulnerable. He stated all of the homes are very close and have a lot of young children. He stated this is not a place for young adults but he would not have a problem with elderly persons. He mentioned that he would commend the applicant for wanting to do such a business but this is not the place for it. He stated the community has a number of concerns. He stated these people will live in fear. He stated there are better places for this type of business. He stated the neighbors are concerned because they are dealing with the unknown because the clients will not be family members and she does not know them until they get there.

Chairman Byerly stated this is such a small operation that he would disagree. He asked if the Board would want to consider age restrictions on the permit?

Vice Chairman Shreckhise stated they have had issues with the septic and well. He stated he would not have any problems with the applicant having the elderly stay at her home. He stated he would not want to put this type of risk on the community.

Chairman Byerly asked about the applicant having college students stay at the site?

Vice Chairman Shreckhise stated that he would be against that too.

Chairman Byerly stated this is not an uncommon practice because of having the colleges nearby. He asked how many residents could she have?

Vice Chairman Shreckhise stated that the neighbors will not know who would be living at the site. He stated she could only have two (2) tenants.

Mr. Wilkinson stated one (1) bedroom would be for the applicant and three (3) bedrooms for the assisted living or boarders. He stated the applicant could have two (2) people in each bedroom. He stated the Health Department does not limit the number of people living in the home just the number of bedrooms. He stated the Health Department is requesting that the septic be evaluated so that they can make sure that it is adequate.

Ms. Christmas stated she would request for the Board to issue the permit using three (3) bedrooms. She noted if she had four (4) bedrooms it would require a larger state license. She stated she is only asking for three (3) or less people. She stated when her grown children visit she may want to have a room available for them to sleep in. She stated she may have two (2) girls share a room. She stated they need to abide by her rules and she meets their families. She stated she wants the neighbors to feel comfortable to come by and meet her guests. She noted that she does know these people. She stated before they come to live with her she will see their records, know about them, and meet their family. She mentioned these are outstanding people from outstanding families.

Ms. Brown stated the Board may want to limit the applicant to three (3) guests.

Ms. Tilghman stated she had a lot of questions about the type of clients that the applicant will bring into the home. She stated that the applicant will feel that these people are good people in a troubled place in life but the fact remains that it only takes one judgment error. She noted that it only takes one error in judgment for an incident to happen.

Ms. Christmas stated her clients are evaluated by doctors and psychologists. She stated while she was traveling in and out this past week her employee was at the site along with an attorney, and a college student.

Ms. Brown questioned why the applicant travels while there are clients at the home.

Ms. Christmas stated her employee that is on two (2) weeks and off two (2) weeks was at the site which enables her to travel. She stated the lady employee that she has works for one (1) week and is off three (3) weeks. She stated they have been with her company for more than five (5) years now. She stated they are all trained personnel.

Ms. Brown asked if the employees moved here too?

Ms. Christmas stated no. She stated one lives in Atlanta, Georgia and the other lives in Arkansas.

Ms. Brown asked where do the employees stay when they are on duty?

Ms. Christmas stated they stay in an extra room at the house. She will have a maximum of four (4) to five (5) people at any given time. She stated that she has seven (7) children of her own that sometimes will visit the site too. She stated when her husband was ill they were all in and out of the house at different times.

Vice Chairman Shreckhise stated he is not comfortable with the assisted living request and moved to deny the portion of the request to have an assisted living facility and rooms for boarders. He also moved that the aviary within the existing garage be approved with the following operation conditions:

**Operating Conditions:**

1. Be permitted to have an aviary with up to thirty (30) birds within the existing attached garage.
2. Be limited to a maximum of five (5) customers per day for birds.
3. Site be kept neat and orderly.

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

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## OLD BUSINESS

### **JOE WHITE, AGENT FOR CHARLES D. CROUSE AND GEMSTONE, LLC - SPECIAL USE PERMIT**

A request by Joe White, agent for Charles D. Crouse and Gemstone, LLC, for a Special Use Permit to have a bridge refinishing and painting company with outdoor storage of vehicles and equipment, and to construct a vehicle service building for company use on property owned by Thelma I. Uplinger, located in the western quadrant of the intersection of Crattan Hill Road (Route 696) and Wise Hill Lane in the North River District. - **TABLED FROM THE AUGUST 2, 2012 MEETING & THE DECEMBER 6, 2012 MEETING & THE APRIL 4, 2013 MEETING**

Vice Chairman Shreckhise moved that the item be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Wilkinson stated the Board inspected the property today.

Vice Chairman Shreckhise stated there was one (1) inoperable truck at the site today.

Mr. Charles Crouse stated it will be removed.

Vice Chairman Shreckhise stated the applicant has done a good job cleaning up the site. Chairman Byerly stated the Board was impressed.

Vice Chairman Shreckhise stated staff always inspects the site at the end of the first year in operation. He stated this permit should be inspected two (2) times a year for compliance. He stated the Board wants to be sure that it does not look like it once did.

Mr. Wilkinson asked about the big trucks at the site?

Mr. Crouse stated those trucks are still used on the job.

Mr. Wilkinson stated he was unsure if the red vehicle is operable?

Mr. Crouse stated it will be removed.

Ms. Brown stated the brush in the field needs to be removed.



Vice Chairman Shreckhise stated staff will do inspections as needed.

Mr. Wilkinson stated normally staff goes out before the year is up unless there is a complaint filed.

Vice Chairman Shreckhise 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 one (1) 50qx 100qbuilding to be used as an office and service shop for company vehicles and equipment only.
2. All service or repair work to be done inside the building.
3. Be permitted to have a 150qx 300qarea for outdoor storage of vehicles and equipment.
4. All equipment, machinery, and materials for the business be kept in the designated area shown on the site plan.
5. All vehicle parts, barrels or containers of oil, fuel, or other hazardous fluids or materials shall be labeled and kept inside the 50qx 100qbuilding.
6. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
7. Site be kept neat and orderly.
8. Community Development to inspect the site every six (6) months.
9. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.

10. Any new outdoor lights require site plan submittal and must meet ordinance requirements.
11. No further expansion on this site.

Ms. Brown seconded the motion, which carried unanimously.

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**MATTERS TO BE PRESENTED BY THE ZONING ADMINISTRATOR**

**EDWARD TREADWAY, AGENT FOR POUNDING MILL QUARRY CORPORATION -  
EXTENSION OF TIME REQUEST**

A request by Edward Treadway, agent for Pounding Mill Quarry Corporation, for a Special Use Permit to have a quarry and manufacture crushed stone on property owned by Carolena M. McClure (Life) c/o Finley McClure, located on the east side of Interstate 81, between Interstate 81 and Fauberitaville Lane in the Riverheads District. - **TWO YEAR EXTENSION OF TIME REQUEST**

Mr. Edward Treadway stated they are being hopeful that sooner or later the widening on Interstate 81 will be done. He stated they would like to maintain the Special Use Permit so that they do not have to reapply.

Ms. Brown moved that the two (2) year Extension of Time request be approved.

Ms. Tilghman seconded the motion, which carried unanimously.

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**STAFF REPORT**

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|-------|------------------------------------|
| 12-32 | Harry L. Myers, III                |
| 12-33 | Chad E. or Stephanie E. Berry      |
| 12-34 | C. Matthew Fredricksen             |
| 12-35 | Ronald D. or Elizabeth M. Hearn    |
| 12-36 | Community Bank                     |
| 12-37 | Frederick V. or Susette L. Johnson |

Mr. Wilkinson stated all permits have been inspected and are all in compliance.

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

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

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Chairman

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Secretary