

January 4, 2007

PRESENT: G. A. Coyner, II, Chairman
C. E. Swortzel, Vice Chairman
D. A. Brown
J. W. Callison, Jr.
S. F. Shreckhise
J. R. Wilkinson, Zoning Administrator & Secretary
S. K. Shiflett, Zoning Technician I

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, January 4, 2007, at 8:30 A.M., in the County Government Center, Verona, Virginia.

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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:

- **Belinda Bodie, Agent for Alltel Communications - Special Use Permit**
- **Kenneth V. or Ruth V. Morris – Special Use Permit**
- **Stephen W. or Monica M. Lincoln - Special Use Permit**
- **Mike Elzer, Agent for National Developers, LLC - Special Use Permit**
- **Robert T. or Naomi Ingram - Special Use Permit**
- **Kyle Olson, Agent for Rutherford Construction - Special Use Permit**
- **Calvin P. or Mary E. Troyer - Special Use Permit**
- **Brett Hayes, Agent for Hayes Investment, LLC - Variance**
- **William T. Bear - Variance**

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

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Chairman

Secretary

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PRESENT: G. A. Coyner, II, Chairman
 C. E. Swortzel, Vice Chairman
 D. A. Brown
 J. W. Callison, Jr.
 S. F. Shreckhise
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. Rosenberg, County Attorney
 S. K. Shiflett, Zoning Technician I
 B.B. Cardellicchio-Weber, Administrative Secretary

Absent: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, January 4, 2007, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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ELECTION OF OFFICERS

Mr. Shreckhise nominated Mr. Swortzel as Chairman and Mr. Callison as Vice-Chairman, and John R. Wilkinson as Secretary.

Ms. Brown seconded the motion, which carried unanimously.

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MINUTES

Vice Chairman Callison moved that the minutes from the December 7, 2006 meeting be approved.

Mr. Coyner seconded the motion, which carried unanimously.

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CONSIDERATION OF 2007 RESOLUTION

Mr. Coyner moved that the Board of Zoning Appeals adopt the resolution to establish its schedule for regular meetings during calendar year 2007 and if hazardous weather conditions are such that the members of the Board cannot meet, the meeting shall be continued the next business day.

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Vice Chairman Callison seconded the motion, which carried unanimously.

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BELINDA BODIE, AGENT FOR ALLTEL COMMUNICATIONS - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Belinda Bodie, agent for Alltel Communications, for a Special Use Permit to replace the existing wireless telecommunication tower on property owned by G.W. and Goldie Lockridge, located on the north side of Jefferson Highway (Route 250), just northwest of the intersection of Jefferson Highway (Route 250) and Lilly Drive in the Wayne District.

Ms. Belinda Bodie stated that she is here on behalf of Alltel Communications. She stated that she would like to replace the existing tower and upgrade their systems. She stated that they need a stronger tower. She stated that they will shift the new tower about twenty-five (25') feet from this one, move the other carriers, and take the old tower down. She stated that Nextel will also be doing upgrades on the tower as well.

Mr. Wilkinson asked if the new tower would also be painted red and white and lighted?

Ms. Bodie stated that they are not required to paint the tower. She stated that it would be galvanized. She stated that they will have the dual mode lighting which is white during the day and red at night.

Ms. Brown asked if the carriers would be in the same order on the new tower?

Ms. Bodie stated yes.

Ms. Brown asked if the tower would be lighted at the top?

Ms. Bodie stated yes. She stated that she will give the Board the FFA information for the tower. She stated that she is expecting that information next week.

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

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

Chairman Swortzel stated that there has been a tower at the site for a long time. He stated that the upgrade is necessary.

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Mr. Coyner stated that this is one of the first towers put in Augusta County and there was no opposition at the last meeting and none today. He moved that the request be approved with the following conditions:

Pre-Conditions:

1. The applicant will submit the \$25,000 removal bond described in (3) below.
2. The applicant will submit a 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.
3. The applicant will provide a copy of the NEPA/SHPO study and FAA approval.

Operating Conditions:

1. The height of the tower shall not exceed two hundred fifty (250') feet.
2. Tower design will allow a minimum of five (5) co-locators.
3. 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 ninety (90) days of such notification. Pursuant to Section 15.2-2309, paragraph 6 of the Code of Virginia: "The applicant shall provide bond with appropriate surety in the amount of \$25,000 to insure compliance with this stipulation. The applicant will ensure the bond shall remain in effect until at least six (6) months following notice to the Augusta County Community Development Department that wireless telecommunications have been discontinued.
4. The existing tower shall be removed within four (4) months of the completed construction of the new tower.
5. The applicant will comply with all FCC regulations.
6. The applicant will not unreasonably deny the telecommunications providers the opportunity to co-locate on this tower.
7. Tower will be a matte non-buffed, non-reflective type finish and lighted per FAA requirements.

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8. County will have the option of co-locating Public Safety communications equipment and antenna on this site for future growth and upgrade of the radio system, including law enforcement communications.

Ms. Brown seconded the motion, which carried unanimously.

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KENNETH V. OR RUTH V. MORRIS – SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Kenneth V. or Ruth V. Morris, for a Special Use Permit to have a dog kennel on property they own, located on the north side of Harmonyville Lane, just southwest of the intersection of Harmonyville Lane and Deep Meadow Drive in the Wayne District.

Kenneth and Ruth Morris stated that they are applying for a Special Use Permit to have a dog kennel. Mr. Morris stated that they would like to maintain the pets that they have now. He stated that the majority of their dogs are elderly or unwanted. He stated that they do not intend to be breeders. He stated that they will not replace the dogs once they pass away. He stated that eventually they will end up with five (5) dogs.

Ms. Brown asked how many dogs do you have now?

Mr. Morris stated ten (10) dogs.

Ms. Brown stated that the fence is just above the dogs head. She asked if any of the dogs ever got out?

Mr. Morris stated no.

Ms. Brown asked if the dogs are kept in the garage at night?

Mr. Morris stated yes.

Ms. Brown asked if the garage is kept closed at night?

Mr. Morris stated yes.

Mr. Coyner stated that this is a very well maintained piece of property.

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

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

Mr. Wilkinson stated that the Board received a copy of a letter in favor from one of the adjoining neighbors. He stated that the Board also received a copy of a letter from a neighbor that was concerned about breeding the dogs for a kennel. He stated that the applicant stated that they would like to have the dogs for their personal use and reduce the number of dogs once they pass away.

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

Pre-Conditions:

None

Operating Conditions:

1. Be limited to a maximum of **five (5)** dogs with the condition that they can keep the eleven (11) they currently have, but as the dogs pass away they will not be replaced, so that over time the amount will naturally be reduced to five (5) adult dogs.
2. All dogs be confined within the home or garage between 10:00 p.m. and 6:00 a.m.
3. Site be kept neat and orderly.

Mr. Coyner seconded the motion, which carried unanimously.

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STEPHEN W. OR MONICA M. LINCOLN - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Stephen W. or Monica M. Lincoln, for a Special Use Permit to continue the existing restaurant, have social events within the barn, and to use an existing building for offices on property they own, located on the southwest side of Natural Chimneys Road (Route 731), just east of the intersection of Natural Chimneys Road (Route 731) and Whetstone Draft Road (Route 756) in the North River District.

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Stephen and Monica Lincoln stated that they are applying for a Special Use Permit to continue the restaurant and have social events at the facility at their property that has been maintained by the previous owner.

Chairman Swortzel asked if the restaurant would operate by appointment only and private parties?

Mr. Lincoln stated yes.

Ms. Brown asked if alcohol would be served?

Mr. Lincoln stated that they would not be serving alcohol. He stated that if his customers want to bring their own alcohol then they are not required to have an alcohol license.

Ms. Brown asked if there would be events inside the house?

Mr. Lincoln stated that they would have limited events with fifty (50) to seventy-five (75) people.

Ms. Brown asked if they would be using the upstairs and downstairs?

Mr. Lincoln stated that their residence is upstairs.

Chairman Swortzel asked what their minimum party size would be?

Ms. Lincoln stated that there could be as few as ten (10) but generally twenty-five (25) people.

Mr. Coyner asked if they were in business already?

Ms. Lincoln stated that they have done events for their church on a voluntary basis.

Mr. Coyner stated that the Board could not get in to the site this morning.

Ms. Lincoln stated that they both work full-time. She stated that is why they would only have special events.

Ms. Brown asked if they would prepare food or have the events catered?

Mr. Lincoln stated that it depends on the request.

Ms. Brown asked if there is a kitchen in the barn?

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Mr. Lincoln stated that there is a commercial kitchen in the home.

Mr. Coyner asked if they could have an event in the house, barn, or in both buildings simultaneously?

Mr. Lincoln stated that it would be impossible for them to maintain more than one event at a time.

Ms. Brown asked if there would be any employees?

Mr. Lincoln stated no. He stated that their family members will be helping.

Ms. Brown asked if they would hire employees for large events?

Mr. Lincoln stated that they have not found it to be a necessity in the past because they have been doing this as a fundraising endeavor. He stated that if the business picks up, they would like to have that option available.

Mr. Coyner asked if they have spoken with the Health Department?

Mr. Lincoln stated that they received the letter from Becky Wood. He stated that the comments from the Health Department state that they have no objection to the proposed intended use as the owners have agreed that they cannot operate the barn (180 people) and the restaurant (50 seats) at the same time. It should be noted that if the usage exceeds what is described above, the water supply would then be under the "Waterworks Regulations" that would perhaps require different approvals, testing, monitoring and treatment processes.

Mr. Coyner asked if they use the top floor in the barn?

Mr. Lincoln stated that they use half of the top floor in the barn.

Mr. Coyner asked if the area is heated?

Mr. Lincoln stated yes but not cooled.

Ms. Brown stated that in order to get to the barn, the customers would park near the house and then the patrons would walk up.

Mr. Lincoln stated yes.

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Ms. Brown asked if there would be any parking on the front side?

Mr. Lincoln stated that if the highway department requires that, then they would do that if need be.

Ms. Brown asked how many parking spaces do you now have?

Ms. Lincoln stated that they have forty-eight (48) marked spaces on the far side and twenty-five (25) on the near side of the house. She stated that with additional parking attendants they would be able to have parking in the open field.

Ms. Brown asked where the open field is located?

Ms. Lincoln stated that it is located on the right side adjacent to the paved parking area.

Chairman Swortzel asked how they would market this?

Mr. Lincoln stated that they have not advertised at all. He stated that everything has been word of mouth.

Chairman Swortzel stated that if they are planning to grow to have employees the Board needs to include that as part of the motion even if it is two (2) years down the road.

Mr. Lincoln stated that they are donating the proceeds to a church building endeavor. He stated that if the business flourishes and this could become their living as opposed to outside work then they would like to have employees as an option.

Ms. Brown asked if there are certain days that they will be open?

Mr. Lincoln stated that typically the demand has been for Friday evenings or Saturdays. He stated that because they are employed outside of the home they decline the business during the week. He stated that they try not to operate on Sundays. He stated that they would like to have the option to operate on Sundays.

Ms. Brown asked what kind of events would be at the site?

Mr. Lincoln stated wedding receptions, class reunions, and family reunions.

Ms. Brown asked if they would be using the outside for wedding ceremonies?

Mr. Lincoln stated that they have gotten requests for customers to be married on the property.

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Mr. Coyner stated that sixty (60) events would be about all that the applicant could handle.

Mr. Lincoln stated that he does not plan to have any more than sixty (60) events.

Mr. Coyner asked if the music would be played inside the barn?

Mr. Lincoln stated yes.

Mr. Coyner asked if the barn has restroom facilities?

Mr. Lincoln stated two (2) restrooms.

Ms. Brown asked if the applicant has received requests to have live bands for the events?

Mr. Lincoln stated yes. He stated that the band would play indoors.

Ms. Brown asked if they have operated this type of business before?

Mr. Lincoln stated no.

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

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

Chairman Swortzel stated that it is good to see this facility being used again. He stated that this is a beautiful piece of property.

Mr. Coyner stated that this is a great facility to have in the neighborhood. He moved that the request be approved with the following conditions:

Pre-Conditions:

1. Obtain VDOT approval and provide a copy to Community Development.
2. Obtain Building Inspection approval and provide a copy to Community Development.

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- 3. 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. Maximum number of people onsite to be one hundred eighty (180) at any one time.
- 2. Be limited to sixty (60) events per calendar year.
- 3. No outdoor music after 10:00 p.m.
- 4. Applicant will keep an annual log of events that will be available for inspection by the Zoning Administrator at any time upon his request.
- 5. Applicant be limited to five (5) employees.

Mr. Shreckhise seconded the motion, which carried unanimously.

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MIKE ELZER, AGENT FOR NATIONAL DEVELOPERS, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Mike Elzer, agent for National Developers, LLC, for a Special Use Permit to construct a building to house the maintenance equipment and shop larger than the 700 square foot aggregate allowed on property they own, located on the north side of Jaspers Lane, just west of the intersection of Jaspers Lane and Howardsville Turnpike (Route 610) in the South River District.

Mr. Mike Elzer stated that he is requesting a Special Use Permit for a maintenance building to house equipment for Shannon Lea at Kennedy Creek.

Chairman Swortzel asked what type of equipment would he be storing in the building?

Mr. Elzer stated that there would be about eight (8) pieces of equipment. He stated that they would have a dump truck, two (2) trailers, bobcat, John Deer tractor that pulls a bush hog, service vehicle, and a pickup truck. He stated that they do not want the equipment visible from the subdivision.

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Chairman Swortzel stated that he is requesting a large building for a subdivision.

Mr. Elzer stated that they have the clubhouse, lake, and the parking areas to maintain. He stated that they have two (2) other areas that are open space which need to be mowed.

Mr. Coyner asked if they would always be maintaining the site or do the landowners have any responsibility?

Mr. Elzer stated that there is a Homeowner's Association but they are in charge of that. He stated that until they turn it over to the Homeowner's Association, they will be responsible for all of the maintenance.

Chairman Swortzel stated that at some point the Homeowner's Association will own this building and the equipment.

Mr. Elzer stated that is correct.

Mr. Coyner stated that there are farms with less storage areas then what you are asking for. He stated that this would be a very large building for only eight (8) pieces of equipment.

Chairman Swortzel stated that the building will look like a turkey house in a residential neighborhood.

Mr. Elzer stated that the building will not be in view of the entire neighborhood.

Chairman Swortzel stated that the Board visited the site this morning and if the building is built high enough for a dump truck then the building will be very obvious.

Mr. Coyner asked what the eave height would be for the building?

Mr. Elzer stated fourteen (14') feet.

Ms. Brown asked if it was necessary to store this much equipment in the building?

Mr. Elzer stated that all of the equipment is necessary to maintain the development.

Ms. Brown asked how many employees would they need?

Mr. Elzer stated that there will be one (1) maintenance person.

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Ms. Brown asked how many acres are there to maintain?

Mr. Elzer stated that there are approximately twelve (12) acres to maintain. He stated that the clubhouse, swimming pool, and the lake is on seven (7) acres. He stated that there are two (2) other open spaces on the site.

Mr. Wilkinson stated that until the lots are sold they would need to maintain 169 acres.

Mr. Coyner stated that the common ground will be the nine (9) to twelve (12) acres.

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

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

Mr. Coyner stated that this is too big of a building.

Chairman Swortzel stated that the applicant is storing eight (8) pieces of equipment in the building.

Mr. Coyner stated that fourteen (14') feet eave is a large building.

Mr. Callison stated that this is not the first subdivision this developer has done. He stated that the building is huge. He stated that Mr. Elzer seems to think that they need a building that large.

Chairman Swortzel asked if the building would be enclosed?

Mr. Elzer stated yes.

Mr. Shreckhise asked why would they need a building that large?

Mr. Elzer stated that they will be storing eight (8) pieces of equipment the size of dump trucks to maintain the subdivision. He stated that this is the equipment that they currently have. He stated that temporarily they are parking the equipment in one of the old turkey buildings that are going to be torn down.

Mr. Shreckhise asked if they would park any of the vehicles outside?

Mr. Elzer stated that they do not want any equipment parked outside. He stated that is the reason for the size of the building.

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Ms. Brown asked if the equipment is used anywhere other than this property?

Mr. Elzer stated no.

Ms. Brown asked if the area would be landscaped around the building?

Mr. Elzer stated yes.

Mr. Coyner asked if the building would be steel?

Mr. Elzer stated yes. He stated that they would want the building to disappear so they may paint it green. He stated that the only home that would be able to see it is the Griffins and he has a site set for a building of his own.

Mr. Shreckhise stated that Mr. Elzer has a lot more experience in this than the Board. He stated that with today's high building costs, there is no advantage to him to make the building any larger than he needs to. He stated that he needs to have the building this big in order to keep items hidden rather than being an eye sore. He stated that the people most affected by the size of this building seem to be in favor of the request. 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. Size of maintenance building be limited to 50' x 140' (7,000 square feet).
2. All maintenance vehicles, equipment, parts, and tools be kept inside the maintenance building.
3. The maintenance shop area can be used only for maintenance of vehicles or equipment to be used in this subdivision and owned or leased by National Developers or the Homeowner's or Property Owners Association when established.
4. No vehicles, equipment, or parts of vehicles or equipment be kept outside.

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- 5. Maintenance building must be constructed and receive an approved permanent Certificate of Occupancy within one (1) year of the Board's action.
- 6. The only means of access to the maintenance building will be from Jaspers Lane and that no direct access will be from Route 610.

Mr. Callison seconded the motion, which carried with a 4-1 vote with Ms. Brown being in opposition to the motion.

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ROBERT T. OR NAOMI INGRAM - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Robert T. or Naomi Ingram, for a Special Use Permit to have outdoor storage and display of materials in conjunction with a landscape and garden center on property owned by John M. or Shirley N. Harner, located in the western quadrant of the intersection of Lee Highway (Route 11) and First Street (Route 1402) in the Beverley Manor District.

Mr. Robert Ingram stated that they are requesting a Special Use Permit to maintain and store their plants outside.

Chairman Swortzel asked if they would have greenhouses?

Mr. Ingram stated yes.

Mr. Coyner asked if they were operating at another location?

Mr. Ingram stated that they operate out of their home with a Special Use Permit. He stated that they are planning to eventually move all of the landscaping materials to the new location. He stated that there is a proposed addition to the building that is already there to house the equipment that they already have.

Mr. Coyner stated that the property slopes to Route 11. He asked what would happen to all of the water when watering the plants?

Mr. Ingram stated that the water drains into the storm drain ditches. He stated that in the entire front of the property there is a ditch that runs the entire length of the property to Route 11.

Ms. Brown asked if most of the plants would be on the side and back of the building?

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Mr. Ingram stated yes.

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

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

Chairman Swortzel stated that the Board viewed the site today. He stated that they would like the site to be put to good use.

Mr. Callison stated that this would be a good use of the property and there is good visibility for the applicant. 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. All outdoor storage be kept in the designated areas shown on the site plan.
2. Site must be kept neat and orderly.
3. No junk or inoperable vehicles to be kept outside.

Ms. Brown seconded the motion, which carried unanimously.

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MARK L. STABLES - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Mark L. Stables, for a Special Use Permit to have a construction business on property he owns located in the eastern quadrant of the intersection of Balsley Road (Route 792) and Hermitage Road (Route 254) in the Beverley Manor District.

Mr. Mark Stables stated that he would like to operate a construction business out of his home. He stated that they already have a parking lot out front. He stated that his home already has an office and a carport. He stated that he is not pleased with the operating

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conditions regarding the number of employees and vehicles in the staff recommendations. He stated that he would like to have at least fifteen (15) employees and fifteen (15) vehicles.

Mr. Coyner asked how many pieces of equipment does he have?

Mr. Stables stated that he has three (3) pickup trucks, ladder racks, one (1) trailer, and they are all parked in front of the storage building.

Mr. Coyner stated that if he has fifteen (15) employees do you think you would need more pickup trucks?

Mr. Elzer stated that he would like to have up to four (4) pickup trucks.

Mr. Coyner asked if the employees come to the site in the morning?

Mr. Stables stated that the employees come to the site in the morning and then go out to the jobs. He stated that they drop the trucks off in the evenings. He stated that there is not anyone at the site during the day except for him.

Mr. Coyner asked if any work is done at night?

Mr. Stables stated no, unless it is in the office doing paperwork.

Mr. Coyner asked if anyone comes to the site at night?

Mr. Stables stated that in the winter the employees come back to the site after dark to pick up their vehicles.

Mr. Wilkinson asked if the applicant could park behind the house. He stated that there is a neighbor's house to the west.

Mr. Stables stated that it would be possible but it would be an expense to him. He stated that the neighbors are easy to get along with and they have not had any problems with them. He stated that there always has been a business at this site.

Mr. Coyner asked if the clients would meet at this location?

Mr. Stables stated that most of the meetings for his customers are done offsite. He stated that there are not many meetings at this site.

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

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

Chairman Swortzel stated that there has been several businesses in that location over the years.

Mr. Callison stated that none of the neighbors are here today in opposition to the request. He stated that he must get along with his neighbors. He stated that the applicant has a large piece of property. He moved that the request be approved with the following conditions:

Pre-Conditions:

- 1. Obtain VDOT approval and provide a copy to Community Development.
- 2. Obtain Building Inspection approval and provide a copy to Community Development.

Operating Conditions:

- 1. Be limited to fifteen (15) vehicles associated with the business, including employee vehicles, and they be kept in the parking spaces designated on the site plan.
- 2. Ladder rack be kept against the rear of the building.
- 3. No junk vehicles or equipment nor any parts of vehicles or equipment be kept outside.
- 4. Be limited to fifteen (15) employees.

Ms. Brown seconded the motion, which carried unanimously.

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KYLE OLSON, AGENT FOR RUTHERFORD CONSTRUCTION - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Kyle Olson, agent for Rutherford Construction, for a Special Use Permit to have outdoor storage of portable storage containers and motor vehicles on property owned by Staunton Self Storage, LLC, located on the east side of Lee Highway (Route 11), just north of the intersection of Lee Highway (Route 11) and Shaner Lane in the Beverley Manor District.

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Mr. Kyle Olson stated that he is representing Staunton Self Storage. He stated that they would like to store eight (8) portable containers and sixteen (16) spaces for RVs.

Chairman Swortzel asked if the portable containers would be rented?

Mr. Olson stated that they do have people who rent them but sometimes there is a lag time. He stated that when they are in between sites they need to have a place to store them temporarily.

Chairman Swortzel asked how many storage containers did they presently own?

Mr. Olson stated eight (8) to ten (10).

Ms. Brown asked where the location is for the storage of the containers?

Mr. Olson stated towards the end. He stated that they would be screened with a white vinyl fence so that it would not be seen from the road.

Ms. Brown asked how tall would the fence be?

Mr. Olson stated tall enough to screen the containers.

Ms. Brown asked if they would be doing some landscaping?

Mr. Olson stated yes.

Ms. Brown asked about the back side where the rock wall is?

Mr. Olson stated that they are presently working with vegetation and ivy.

Mr. Coyner asked how long have they been working with the vegetation?

Mr. Olson stated about a year but it is not doing well. He stated that the ivy is working a little bit better. He stated that they are trying to cover the dirt that is exposed.

Mr. Wilkinson asked how high are the containers?

Mr. Olson stated eight (8') feet tall.

Mr. Wilkinson stated that the fence would need to be at least eight (8') feet in height.

Mr. Coyner stated that there were two double stacked this morning. He asked if he would double stack in another area?

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Mr. Olson stated no.

Ms. Brown asked what the dimensions where for the container?

Mr. Olson stated that they are 5' x 18' and they are eight (8') feet tall. He stated that he does not recall if they are five (5') feet wide or eight (8') feet wide.

Ms. Brown asked if most of the containers are taken to construction sites and how long would they stay there?

Mr. Olson stated that it would vary depending on the construction site. He stated that it varies from six (6) to eight (8) months.

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

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

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

Pre-Conditions:

1. Submit site plan including landscaping and the designated storage areas 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. Applicant construct an eight (8') foot high vinyl opaque privacy fence as indicated on the site plan to screen the storage containers.
3. Applicant develop and submit a landscape plan in conjunction with the Zoning Administrator to be approved by the Board of Zoning Appeals.

Operating Conditions:

1. Maximum of sixteen (16) RV's be kept on site and they be licensed vehicles, and be kept in the designated spaces.
2. No junk or inoperable vehicles or parts of vehicles be on site.
3. The only storage containers permitted will be the two (2) units double stacked for display and the eight (8) single stacked units that must be kept behind the vinyl opaque privacy fence in the designated spaces.

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- 4. The vinyl opaque privacy fence must be maintained at all times.
- 5. Site be kept neat and orderly.

Mr. Callison seconded the motion, which carried unanimously.

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CALVIN P. OR MARY E. TROYER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Calvin P. or Mary E. Troyer, for a Special Use Permit to have motor vehicle repair and operate a day care center in the home on property they own, located on the east side of Horseshoe Circle (Route 842), approximately .2 of a mile south of the intersection of Horseshoe Circle (Route 842) and Cold Springs Road (Route 608) in the South River District.

Mr. Calvin Troyer stated that in talking with the Health Department, to have an auto repair shop they would limit the day care center. He stated that they would need to put a bathroom in the building. He stated that he does not want to operate the auto repair shop and would withdraw the request. He stated that they would be using the repair shop only for their personal vehicles. He stated that he intends to clean up the site. He stated that all that they are asking for is the Special Use Permit to operate the day care.

Chairman Swortzel asked what hours would the day care center be in operation?

Mr. Troyer stated that the license is to operate the day care from 6:30 a.m. to 6:30 p.m. Monday thru Friday.

Chairman Swortzel stated that the Health Department is limiting the number of children to nine (9).

Mr. Troyer stated that they have had a license there for ten (10) years. He stated that he was unaware that they needed a Special Use Permit. He stated that the Health Department did not have a problem with going on with the license the way it is. He stated that for ten (10) years they have had a license to operate a day care center for twelve (12) children through Social Services. He stated that he has copies of ten (10) years worth of licenses.

Mr. Wilkinson stated that the Health Department will only allow nine (9) because of the drainfield. He stated that staff has not received anything from the Health Department stating that they will go higher. He stated that the applicant takes care of twelve (12)

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children but the Health Department states nine (9). He stated that if the applicant had a Special Use Permit at his former address.

Mr. Troyer stated yes. He stated that he did not recall that he had to get a Special Use Permit for the day care. He stated that he did have to get a Special Use Permit for the auto repair business.

Mr. Wilkinson stated that the applicant had a Home Occupation Permit to operate a day care center up to five (5) children.

Mr. Coyner asked if any of the children spend the night?

Mr. Troyer stated not under the license. He stated that he does have foster children and some second shift children. He stated that he does not need a license over five (5) children. He stated that he does not need a license in the evening unless he goes over five (5) children.

Mr. Coyner asked if would operate the day care center on Sunday?

Mr. Troyer stated very seldom. He stated that his daughter sometimes watches children in the evening, Saturday, and Sunday.

Mr. Wilkinson stated that the applicant said he takes care of twelve (12) children during the day and at night up to five (5) children through the day care.

Mr. Coyner asked if all of the children come to the site?

Mr. Troyer stated yes. He stated that they do not have a bus picking them up.

Mr. Coyner stated that the front yard is fenced in. He stated that the Board also saw toys in the back.

Mr. Troyer stated that sometimes they go in the back to give the children a break so that they are not confined to one area.

Mr. Wilkinson stated that if the applicant withdraws the request for a public garage, he can only have two (2) inoperable vehicles on the property without a Special Use Permit. He stated that if there was a need to have more than two (2) inoperable vehicles the Special Use Permit would have to be approved for more than that.

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Mr. Troyer stated that he does not want more than two (2) inoperable vehicles and he would be willing to put up a privacy fence. He stated that he does want to be a good neighbor.

Ms. Brown asked how many personal vehicles does the applicant have currently?

Mr. Troyer stated ten (10) vehicles. He stated that nine (9) of them are licensed.

Mr. Wilkinson stated that Mr. Troyer will need to work out the discrepancy regarding the number of children with the Health Department.

Mr. Troyer stated that the figures he gave the Health Department was based on the County water bill. He stated that with the water bill they were one hundred (100) gallons below what the system would handle. He stated that none of the bills exceeded the system. He stated that when the Health Department saw the bills they stated that they did not see any reason why they could not go on with the number of children that they are currently taking care of.

Mr. Wilkinson stated that should the Board approve the permit, he cannot issue the permit until receiving documentation from the Health Department.

Ms. Brown asked how many people live in the dwelling full-time?

Mr. Troyer stated that his wife, daughter, and he are involved in the day care center. He stated that his daughter has an adopted daughter and they also have some foster children that live in the dwelling. He stated that he has seven (7) foster children. He stated that the foster children do not come under the licensing of the day care center.

Mr. Coyner asked if the applicant was on County water?

Mr. Troyer stated yes.

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

Mr. Marlin Miller, 627 Horseshoe Circle, Stuarts Draft, stated that his property adjoins on the south and east side. He stated that he has concerns about the noise. He stated that his junk vehicles were on the property before he even started building his house. He stated that the day care operation goes on day and night. He stated that this morning there was a car there at 5:30 a.m. He stated that he has pictures of the property. He stated that the advertisement at the Food Lion in Stuarts Draft indicate a twenty-four (24) hour child day care service. He stated that the pine trees that he planted are thirty (30')

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feet tall. He stated that they are starting to die out. He stated that at night lights shine in all directions. He stated that he was definitely against the garage. He stated that he is also in opposition to the day care center because they do not feel that he is being totally honest with the Board as to what he is actually doing there. He stated that there are children in the backyard and the fence has become damaged. He stated that the neighbor told them that the children were climbing the fence. He stated that there are times when the children are not supervised. He stated that Mr. Troyer seems to be well aware of the rights and regulations on what he can do with foster children and the applicant claims to be unaware of the required Special Use Permit. He stated that the applicant operated the same business on Mullins Lane.

Ms. Llfra Miller, 627 Horseshoe Circle, Stuarts Draft, stated that Mr. Troyer will not trim the weeds or trees that are damaged. She stated that the fence is being damaged because of the trees. She stated that there are a row of rocks on their property which make it difficult for them to mow. She stated that they moved to the Stuarts Draft to be in the country.

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

Mr. David Robinson, 417 South Linden Avenue, Waynesboro, stated that he is a Mennonite minister and has known the Troyers for fifteen (15) years or more. He stated that the day care center is well maintained. He stated that the children may do things when adults are not around but they have always corrected the children. He stated that the children know to stay away from the fence. He stated that he understands that some of the neighbors have come onto his property when they should not have been. He stated that Social Services can verify that the day care center is well maintained. He stated that they do inspections throughout the year.

Chairman Swortzel asked if Mr. Troyer would like to speak in rebuttal?

Mr. Troyer stated that he has spoken with Jake Baker who is a neighbor of his. He has had trouble with the Millers. He apologized for hurting them in any way. He stated that their cats keep coming over to his property. He stated that he did mention to Mr. Miller regarding the tree leaning over on the line. He stated that the fence is on the property line. He stated that the pines are three (3') feet off of the line and he did not realize that it was his responsibility to trim the edges along the line. He stated that the day care center has been their living for ten (10) years. He stated that he is not able to work. He stated that if his day care is shut down then his living is shut down. He stated that the cars come up the driveway on the right side, therefore, the lights do not shine on their property. He stated that he does have outside lights on the shop.

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Chairman Swortzel asked if the lights are left on at night?

Mr. Troyer stated yes. He stated that he can shut them off if the Board requires. He stated that he has tried to live peacefully with his neighbors.

Mr. Shreckhise asked if the applicant wants to be nice to the neighbors, why did it take him applying for this Special Use Permit before deciding to clean up the junk vehicles?

Mr. Troyer stated that they never complained before. He stated that he planted the pines for privacy. He stated that the first thousand died and he planted another thousand. He stated that he has been taking care of them ever since.

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

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

Chairman Swortzel stated that Mr. Troyer has operated a day care center for a long time.

Mr. Wilkinson stated that the Social Services license shows that the applicant can take care of twelve (12) children in the day care operation. He stated that the applicant is required to have a Special Use Permit. He stated that the Board needs to decide whether this use is compatible with the neighborhood. He stated that there are some issues with the Health Department. He stated that staff has identified that as a pre-condition. He stated that the applicant needs to get the issues resolved with the Health Department and Social Services. He stated that the Health Department needs to let us know how many children because they can regulate that type of situation. He stated that staff limited the number of children to nine (9) due to the Health Department comments. He stated that the applicant needs a Special Use Permit in order to operate a day care center having more than five (5) children. He stated that there are too many children with the day care center currently.

Mr. Shreckhise stated that there are twelve (12) children involved with the day care center, seven (7) foster children, and three (3) adults. He stated that is twenty-two (22) people under the same septic system. He stated that the Board needs to hear from the Health Department before making a decision. He moved that the request be tabled until the February 1, 2007 meeting in order for the applicant to get the information and approvals from the Health Department acknowledging the number of people authorized to use the system and the number of children the Social Services department recommends.

Mr. Callison seconded the motion, which carried unanimously.

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BRETT HAYES, AGENT FOR HAYES INVESTMENT, LLC - VARIANCE

This being the date and time advertised to consider a request by Brett Hayes, agent for Hayes Investment, LLC, for a Variance from the pavement width requirements in order to install parking spaces on property they own, located in the southwest quadrant of the intersection of Briar Knoll Court and Ladd Road (Route 631) in the South River District.

Mr. Brett Hayes stated that the building was built in 2003. He stated that the requirement in 2004 was forty (40) parking spaces which is one (1) space for every two hundred (200) square feet. He stated that they knew that there was a possibility that they may need additional parking as the tenants change. He stated that is why they built a thirty-four (34') foot wide space from the face of the curb to the face of the curb to allow for a ten (10') foot wide parallel parking space and a twenty-four (24') foot wide two (2) way drive-thru traffic. He stated that in March of 2006 the County changed the rules from the face of the curb to the edge of the pavement. He stated that they used CG-2 curb on this which is an eighteen (18") inch concrete gutter which is the pan of the curb. He stated that they have a dentist's office coming in who is putting in four (4) dental patient treatment centers so they need sixteen (16) parking spaces total. He stated that they need six (6) additional parking spaces. He stated that he had the site plan designed for additional parking spaces in the back. He stated that they went to go forward with this and they were told that they needed additional parking spaces but the County had changed the rules in March 2006 to change the measurement from the face of the curb to the face of the curb over to from the edge of the pavement to the edge of the pavement. He stated that the Board saw the site and saw what the back parking lot looked like. He showed the Board a diagram of the site. He stated that they would have to take the gutter pan and pave over top of it. He stated that the pan itself is fine to drive on. He stated that he is being asked to chop up the concrete and put asphalt there at the same height as what the concrete is. He stated that the Board of Supervisors trusts this Board's judgment in making the decision. He stated that Section 25-32E went into effect on March of 2006.

Mr. Wilkinson stated the pavement width was not spelled out specifically in the ordinance prior to this and it was done as a policy decision up until last summer. He stated the new ordinance took effect June 30, 2006. He stated that the Board of Supervisors felt that they needed to address this not just on a policy but as an ordinance. He stated that when they said twenty-four (24') aisle way they meant the pavement width not curb face to curb face. He stated that existing streets are now non-conforming if they are less than that. He stated that if the applicant wants to make an addition to their site plan then the new requirements would need to be met. He stated that the applicant can pave over the gutter pan.

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Mr. Hayes stated that it does not make any sense. He stated that they should be grandfathered in.

Mr. Rosenberg stated that the site plan submission was submitted prior to the change of the County ordinance.

Mr. Wilkinson stated yes.

Mr. Rosenberg stated that Mr. Hayes is correct that there is a grandfathering if you will, and it is also referred to as the vested rights doctrine, and to the extent if his site plan had shown parking spaces on the travel lane.

Mr. Wilkinson stated that there was no parking approved behind the building on the original site plan. He stated that Mr. Hayes is proposing to add parking to the site.

Mr. Rosenberg stated that had the site plan shown parking spaces on this travel lane that Mr. Hayes is correct that he would have been grandfathered as to those parking spaces that had been shown on the site plan. He stated that because they were not shown on the travel lane on the site plan at the time that it was approved, he is now subject to any changes in the Zoning Ordinance including the change that a minimum pavement width of twenty-four (24') feet is required. He stated that Mr. Wilkinson has noted in his staff report that there is no hardship. He stated that there is another issue which is that the definition of the Variance in the state code is very limited as it is defined as a deviation from provisions of a Zoning Ordinance which regulate the size or area of a lot or parcel or the size, area, bulk, or location of a building or structure. He stated that not only must there be a hardship shown but the subject of the Variance has to be a specific regulation. He stated that a sign ordinance Variance would not be within the definition of a Variance to address that request. He stated that similarly here with regard to the parking provisions it does not fit within the definition of the Variance. He stated that this is beyond the scope of a Variance as that term is defined in the state code. He stated that the site plan as it was originally submitted did not show any parking on the travel lane. He stated as a consequence there is not grandfathering. He stated that there are no vested rights.

Mr. Hayes stated that a Variance can only be granted when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner in such a need for a Variance would not be shared generally by other properties. He asked why would it be necessary to change the surface from concrete to asphalt at the same elevation and who would benefit from that. He stated that there is no problem with this at all. He stated that there is a lot to the left and they have no access on Ladd Road. He stated that they have to have access through ingress and egress along his property. He stated that until that property develops it did not make sense to have parking back there.

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He stated why he would put a thirty-four (34') foot wide stretch of pavement in the back if he was not intending to do it that way. He stated that replacing concrete with asphalt would be unnecessary. He asked what hardship is not financial.

Mr. Wilkinson stated that the ordinance requires that it has to be pavement. He stated that they are not here to debate whether it makes sense. He stated that the customers are going to have to do a u-turn for the parallel parking. He stated that the ordinance states that it must be pavement.

Mr. Hayes stated that the Board of Supervisors wanted to grant the Variance. He stated that he was told to take this to the Board of Zoning Appeals.

Mr. Rosenberg stated that he does not think that there was a formal expression by the Board of Supervisors of a desire that a Variance be granted. He stated that perhaps there may have been some expression by some individual members of some sympathy for Mr. Hayes' situation. He stated that he was asked whether the Board had the authority to address the issue and his response was that because what would be required would be a Variance from the Zoning Ordinance that it would be necessary to apply to the Board of Zoning Appeals for a Variance.

Mr. Hayes asked if this Board has the authority to grant a Variance?

Mr. Rosenberg stated that in his opinion, the Board of Zoning Appeals is beyond the scope of its authority to grant a Variance for this instance.

Mr. Hayes asked why did you recommend that he bring it to them?

Mr. Rosenberg stated that he did not recommend that the applicant bring this before the Board of Zoning Appeals. He stated that he advised the Board of Supervisors that if relief was to be granted that it could only come in the form of a Variance granted by the Board of Zoning Appeals. He stated that the advice that he gave the Board of Supervisors was which body could appropriately consider a Variance. He stated that now that the application is before this Board, he is advising that body that it is beyond the scope of their authority to grant the Variance.

Mr. Hayes asked who has the authority to grant a Variance?

Mr. Rosenberg stated that there is no body, in this instance, in his legal opinion that has the authority to grant a Variance from the parking requirements of the ordinance.

Mr. Hayes stated that the Board of Zoning Appeals does indeed have the authority to grant a Variance. He stated that they have done parking waivers before.

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Mr. Rosenberg stated no, not during the period of time that he has been working for the County. He stated that no such Variance has been granted over the course of the last three (3) years. He stated that ultimately it is within the discretion of the Board on how to proceed.

Chairman Swortzel stated that there is a lack of four (4") inches of asphalt.

Mr. Hayes stated that he can use the curb on the other side for parking. He stated that the pan on the one side is the issue. He stated that he is tempted to paint the concrete black. He stated that this is not a very well thought out ordinance. He stated that he would want people to use concrete gutters and pans. He stated that the concrete lasts longer than the asphalt. He stated that he does not want to tear up good curb and gutter. He stated that this does not make sense. He stated that he could have constructed the CG-1 curb which does not have the concrete and the Board would have been happy with that. He stated that this is unnecessary and it does not affect health or safety. He stated that he is looking for someone on this Board to say that this does not make sense and grant the Variance on this measurement.

Mr. Callison stated that does not look too likely. He stated that not everyone does everything right. He stated that all of the laws are not written exactly right. He stated that in your particular instance the law does not give the Board many options. He stated that Mr. Rosenberg told the applicant correctly because there is no reason or excuse the way the state code is written for this Board to grant a Variance for the applicant's request.

The applicant abruptly left the public hearing.

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

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

Chairman Swortzel stated that he does not disagree with Mr. Hayes. He stated that if there was not a curb on that side it might be legal.

Mr. Shreckhise stated that he understands Mr. Callison's point of view. He stated that he does not think it was the intention of the Board of Supervisors to have this type of situation.

Chairman Swortzel stated that he agrees.

Mr. Shreckhise stated that the applicant did have a legitimate request.

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Mr. Coyner stated that the applicant is now going to have a dentist office which is going to require additional spaces. He stated that they do have additional acreage behind the property.

Mr. Wilkinson stated that the ordinance states that the pavement width will be twenty-four (24') feet and he is short pavement. He stated that the applicant has twenty-two (22') feet of pavement. He stated that the Board addressed this issue in the ordinance by saying the pavement needs to be twenty-four (24') feet and that the developer can add the gutter pan if they desire to add curb and gutter. He stated that the Board set the standard in the ordinance.

Ms. Brown stated that the applicant paved based on retail businesses not the parking requirements for a dentist.

Mr. Shreckhise stated that he would not have paved it thirty (30') feet wide if he did not intend to have parking.

Ms. Shiflett stated that the applicant submitted the site plan without any parking shown behind the building.

Mr. Callison asked if the ordinance changes have a bearing on this request?

Mr. Rosenberg stated that if the applicant had shown on the submitted and approved site plan the parking spaces then they would not be having this conservation. He stated that the applicant would have had a vested right not subject to the change.

Chairman Swortzel stated that the applicant could have made the street a lot narrower.

Mr. Wilkinson stated that any sites within the County wanting to expand need to meet the current parking requirements. He stated that when someone wants to build a house they also need to meet the current requirements.

Ms. Shiflett stated that parking lots expand all of the time.

Mr. Wilkinson stated the expanded parking area needs to meet the new requirements. He stated that this is not an unusual thing.

Mr. Shreckhise stated that if the building was built four (4) years ago it would be concrete instead of pavement not realizing that this would have to be changed.

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Mr. Wilkinson stated that when wanting to make an expansion staff gives them the regulations that they need to abide by. He stated that he does not keep a count of how many need to tear out a curb. He stated that unfortunately things change over the years and they try to be fair and have everyone meet the requirements.

Ms. Brown stated that the applicant built the building for retail businesses and now that a tenant is coming in that is a dentist that requires more parking.

Mr. Wilkinson stated that typically happens to buildings.

Mr. Rosenberg asked at the time of the original site plan submittal was approved was it intended for retail uses?

Mr. Wilkinson stated yes.

Mr. Rosenberg asked if there was something that he presented that indicated that the five (5) bay building was intended for retail uses?

Mr. Wilkinson stated that would be on the narrative of the site plan.

Mr. Rosenberg asked if Mr. Hayes had to apply for an amendment of the site plan in order to permit the office use by the dentist?

Mr. Wilkinson stated that they would need to submit a change of use site plan.

Mr. Rosenberg stated that the original site plan was approved specifically for retail uses.

Mr. Wilkinson stated that with retail he would need one (1) parking space for every two hundred (200) square feet of building.

Mr. Rosenberg stated that now after the Zoning Ordinance has changed to require a minimum pavement width he has come forward and amended the site plan to provide for a portion of this building or center to be used for office purposes which has a heightened parking requirement. He stated that Mr. Hayes stated that the rules changed on him but the fact is that he is changing his use that was the subject of the approved site plan. He stated that the Board would not have heard this request if he had continued the use of the site plan that was submitted in 2003.

Mr. Shreckhise asked if the 2003 requirements for parking for a dental office were the same as it is today?

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Mr. Wilkinson stated yes for the parking requirements. He stated that after he was told that he could not add the parking spaces without widening the drive area, he showed up to the Board of Supervisors meeting that night and he tried to get them to overrule his decision and try to get them to grant a Variance. He stated that Mr. Hayes asked the Board of Supervisors if they could address that issue and that is when Mr. Hayes was told that the Board of Zoning Appeals addresses the Variances not the Board of Supervisors on Zoning Ordinance issues. He stated that he told Mr. Hayes when he applied that he had a very little chance that the Variance would be approved because he did not have a hardship. He stated that the applicant still wanted to proceed and bring this request before the Board of Zoning Appeals. He stated that the state code regulates the requirements of a Variance and what this Board can grant.

Ms. Brown moved that the request be denied.

Mr. Coyner seconded the motion, which carried with a 3-2 vote with Mr. Shreckhise and Chairman Swortzel being in opposition to the motion.

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WILLIAM T. BEAR - VARIANCE

This being the date and time advertised to consider a request by William T. Bear, for a Variance from the parking ordinance requirements in order to create a parking lot across a street on property owned by Patsy J. Smith, located in the western quadrant of the intersection of Buffalo Gap Highway (Route 42) and Green Hill Lane in the Pastures District.

Mr. William Bear stated that he is here with his daughter Judy. He stated that he and his three (3) children operate the funeral home. He stated that he is requesting a Variance from the parking ordinance in order to create a parking lot across the street. He stated that they need additional parking. He stated that people are parking across the street and walking across Route 42 which is very dangerous. He stated that Green Hill Lane is a dead end road with light traffic. He stated that Ms. Smith Arehart does want to sell the property.

Mr. Coyner asked if the parking across the street would be for an overflow situation once the lot is full beside the building?

Mr. Bear stated yes.

Mr. Coyner asked if he would discourage people from parking across the street until the lot is full beside the building?

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Mr. Bear stated that he would have people park beside his building.

Chairman Swortzel asked if the lot would be gated until the lot is full?

Mr. Bear stated yes.

Mr. Coyner asked if he would go as far as the fence with the lot?

Mr. Bear stated that he may go over a little more.

Mr. Coyner asked if he would go as far as the house?

Mr. Bear stated no.

Ms. Brown stated that she noticed vehicles parked behind the home. She asked if it was possible to park extra vehicles there?

Mr. Bear stated that there are pipes underground and it would not be feasible for people to walk that far.

Ms. Brown asked if there were any areas on the property that do not have underground pipes?

Mr. Bear stated not close to the funeral home. He stated that the drainfield is below the lower parking lot and there is one on the opposite side of the house plus some water pipes on the back of the house.

Mr. Coyner asked over the course of the year how many funerals overflowed in order to need the parking across the street?

Mr. Bear stated frequently. He stated that when people park on both sides of the road it is hard for regular traffic to get by.

Mr. Wilkinson stated that the Bears own property on the same side of the funeral home.

Mr. Bear stated that if he has the parking lot in that direction, people would park on the road rather than walking the distance.

Ms. Brown asked how many acres do you own?

Mr. Bear stated eleven (11) acres.

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Mr. Wilkinson stated that the property is zoned Single Family Residential, therefore, it would require for the property to be rezoned before a parking lot could be used across the road.

Mr. Shreckhise stated that even if the Board of Zoning Appeals grants the Variance the applicant would need to rezone the property before they can have parking across the street.

Mr. Wilkinson stated that if the parking lot is granted they would still need to rezone the land to business or agriculture. He stated that the Board of Supervisors created this ordinance. He stated that the parking lot requirements state that no parking lots be across a street.

Mr. Coyner asked if there is a designation of streets?

Mr. Wilkinson stated that they have a designation of thoroughfares like Route 42 which is highly traveled. He stated that as far as the requirement for parking lot the only designation is that there be no parking lots at all across a thoroughfare. He stated that the only designation across other streets would be a parking area for employees not patrons of a business.

Mr. Coyner stated that the Board visited the site this morning.

Ms. Brown asked how many houses are on the dead end lane?

Mr. Bear stated fourteen (14) houses.

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

Mr. Steve Morris, 203 Hotchkiss Road, Churchville, stated that the funeral home was built in 1812. He stated that the western part of Augusta County is growing, therefore, having more funerals. He stated that the parking is a safety factor. He stated that there are vehicles that are parking across the road. He stated that a new parking lot would ease this. He stated that the parking lot would not be used all of the time. He asked that the Board grant the Variance.

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

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Mr. Harold Armstrong, 403 Hankey Mountain Highway, Churchville, stated that he agrees with Mr. Morris. He stated that this is a safety issue. He stated that Mr. Bear needs more parking spaces. He stated that the land on the other side of the house would not be feasible to have people walking through a pasture field to get to a funeral. He stated that at least half of the funerals need more parking. He stated that this situation is important because they do not want to see anyone getting hurt crossing Route 42.

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

Ms. Anna Ashby, 17 Ashby Lane, Churchville, stated that this is a safety issue. She stated that it will be hard to get to the property for people that use walkers or wheelchairs. She hopes that the Board grants the request to have the parking on Green Hill Lane.

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

Ms. Virginia Layman, 81 Sky Manor Road, Staunton, stated that she has known the Bear family for years. She stated that it would not be a problem to have parking on the lane. She stated that sometimes there are many people that come to the funeral and they need more parking. She stated that the Bear's have always taken care of the property. She stated that she hopes that the Board grants this Variance.

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

Mr. Harry Taliaferro, 476 Green Hill Lane, Churchville, stated that there have been many times that the traffic has been backed up on Route 42. He stated that there is only fifty (50') feet from the front of the funeral home back to the intersection. He stated that the Board should limit the use only after the other lot is full.

Chairman Swortzel stated that is what he would suggest.

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

Mr. Vaughn Ashby, 862 Buffalo Gap Highway, Churchville, stated that the area has grown immensely. He stated that there are no sidewalks on the road at all. He stated that parking anywhere in that vicinity is terrible. He stated that safety is his main concern. He stated that with people getting older they cannot walk one thousand (1,000') feet to the funeral home. He stated that parking across the street is a necessity.

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

Ms. Patsy Smith Arehart, 96 Buffalo Gap Highway, Churchville, stated that she is the owner of the property. She stated that she has lived there for twenty (20) years. She stated that this is a safety issue and this is a good request.

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

Mr. William Bonner, 112 Buffalo Gap Highway, Churchville, stated that he is not in opposition to the request. He stated that he owns the property that is adjacent to the parking lot. He stated that the property lies in the floodplain. He stated that he is concerned about the water management. He stated that he does not want to have any water being placed on his property.

Chairman Swortzel asked if there is a stream between the parking lot?

Mr. Bonner stated that there is a culvert coming down by the fence line. He stated that the water would run across his property before it gets to Mill Race.

Mr. Wilkinson stated that the issues related to water runoff will be addressed at the site plan stage before the parking lot could ever be installed. He stated that anything over 10,000 square feet the engineers would be looking at those issues.

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

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

Mr. Coyner stated that the idea in this request is getting the people off of the road quicker.

Mr. Shreckhise stated that people would still park on the road if he had parking at the other sites because it would be too inconvenient.

Mr. Coyner stated that this is a logical request due to the safety issue. He moved that the Variance be approved.

Mr. Shreckhise seconded the motion, which carried with a 3-2 vote with Ms. Brown and Mr. Callison in opposition to the motion.

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January 4, 2007

JED CAMPBELL, AGENT FOR PILOT TRAVEL CENTERS, LLC - EXTENSION OF TIME REQUEST

A request by Jed Campbell, agent for Pilot Travel Centers, LLC, for a Special Use Permit to extend the truck entrance road with reconfiguration of the parking area on property owned by Augusta County Company, LLC c/o Ramsey Enterprises, located on the west side of Lee Jackson Highway (Route 11), west of the intersection of Lee Jackson Highway (Route 11) and Stuarts Draft Highway (Route 340) in the Riverheads District. - **ONE YEAR EXTENSION OF TIME REQUEST**

Mr. Wilkinson stated that the County has not received the site plan to develop the expansion. He stated that staff has received a letter from Pilot requesting a one (1) year Extension of Time.

Mr. Shreckhise asked if Pilot received a copy of the suggestion of only a six (6) month Extension of Time?

Mr. Wilkinson stated yes.

Mr. Coyner asked if they had any indication of what they were doing?

Mr. Wilkinson stated that they did not state whether they will proceed with the entrance road. He stated staff feels that if they were interested in fixing the road, they should move on with the request. He stated that he did not receive any other correspondence other than the one (1) year Extension of Time request.

Mr. Shreckhise moved that the six (6) month Extension of Time be approved.

Mr. Coyner seconded the motion, which carried unanimously.

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BOARD OF ZONING APPEALS ANNUAL REPORT 2006

Mr. Wilkinson presented the Board of Zoning Appeals Annual Report for the year 2006.

Mr. Coyner moved to accept the report.

Mr. Callison seconded the motion, which carried unanimously.

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January 4, 2007

STAFF REPORT

- 06-07 Joyce W. or Clifford W. Hoover
- 06-08 Joan M. Riner
- 06-09 Myron G. or Barbara Jean Cook
- 06-10 Da Bon Enterprises
- 06-11 Stanley M. or Deborah J. Horst
- 06-12 John M. and Charlotte T. Hodge
- 06-13 Harold J. or Martha L. Harple
- 06-14 Stanley R. or Mary Jane Shirk
- 06-15 Stanley M. or Deborah J. Horst

Mr. Wilkinson stated that all of the Special Use Permits are all in compliance except for SUP#06-8. He stated that staff has sent Ms. Riner a letter asking if they will need an Extension of Time. He stated that the applicant has not submitted their site plan.

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Mr. Rosenberg distributed the report of pending zoning cases. He stated that they had a trial on December 13, 2006 involving a property in Craigsville. He stated that Judge Wood found in favor of the County and gave them two (2) months to bring the property in compliance. He stated that Mr. Wilkinson has continued to refer cases to his office. He stated that they have eight (8) cases which have been referred to them. He stated that they believe it is more efficient and Judge Wood prefers to receive them in a batch.

Mr. Coyner asked if Mr. Gochenour is moving his business to the County?

Mr. Wilkinson stated that Mr. Gochenour met with his engineers and Michele Comer and him for a pre-submittal site plan meeting. He stated that he told everyone at the meeting that Mr. Gochenour needed a Special Use Permit for this Board before having any outside storage.

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

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Chairman

Secretary