

November 1, 2007

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

ABSENT: G. A. Coyner, II

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, November 1, 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:

- **Alan or Linda Acord - Special Use Permit**
- **Joseph Truxell - Special Use Permit**
- **Cash Enterprises, LLC - Special Use Permit**
- **Sam Argenbright, agent for EJ's, L.C. - Special Use Permit**
- **Mary Ann Rubush - 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: C. E. Swortzel, Chairman
 J. W. Callison, Jr., Vice Chairman
 D. A. Brown
 G. A. Coyner, II
 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, November 1, 2007, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Mr. Coyner moved that the minutes from the October 4, 2007 meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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CASH ENTERPRISES, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Cash Enterprises, LLC, for a Special Use Permit to have a daycare facility within an existing building on property they own, located on the north side of Stuarts Draft Highway (Route 340) just east of the intersection of Stuarts Draft Highway (Route 340) and Johnson Drive (Route 909) in the South River District.

Mr. Wilkinson stated that this request has been withdrawn from the Board's agenda.

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SAM ARGENBRIGHT, AGENT FOR EJ'S, L.C. - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Sam Argenbright, agent for EJ's, L.C., for a Special Use Permit to have an electrical business within an existing building on property they own, located on the south side of Stuarts Draft Highway (Route 340), just west of the intersection of Stuarts Draft Highway (Route 340) and Augusta Farms Road (Route 649) in the South River District.

Mr. Jeff Gentry with EGS & Associates is representing Mr. Argenbright. He stated that the request is to use the detached building for electrical supplies for a contractor. He stated that there is not a business office at the site. He stated that there are no customers coming to the site. He stated that the building is used strictly for storage.

Chairman Swortzel stated that at the time the picture was taken there were five (5) vehicles at the site. He asked what would be a normal number of vehicles at the site?

Mr. Gentry stated that the two (2) times he has been at the site he saw two (2) vehicles in the rear. He stated that there is a separate party that is leasing the house.

Mr. Wilkinson asked if the bucket truck would be stored outside?

Mr. Gentry stated that is the same truck that was there during his visit.

Mr. Coyner stated that Mr. Argenbright is acquiring some of the property on Route 340. He asked if in some point in time would the plan be to access this business from the road that is going behind and not directly off of Route 340?

Mr. Gentry stated he thinks that would be the case. He stated that the access primarily would be off of the subdivision streets.

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 this would be a good use of the property. He stated that the applicant has a plan for the future entrance.

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

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Pre-Conditions:

1. Obtain VDOT entrance permit and provide a copy to Community Development.
2. Comply with the Building Code issues, obtain a letter of approval from Building Inspection Department, and provide a copy to Community Development within sixty (60) days.

Operating Conditions:

1. The 24' x 40' building be used for storage only, no office use.
2. No more than four (4) employees to come to the site at any one time.
3. Hours of operation be 7:00 a.m. to 9:00 p.m.
4. All equipment and materials for the business be kept inside the 24' x 40' building.
5. Only two (2) commercial vehicles on the site.
6. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
7. No Sunday work or use of the site.
8. No on or off premise signs be permitted until the property is zoned Business.
9. Permit be granted for five (5) years.
10. At the time where the access street is built with the business property, access to this site would be from the new street, and not directly from Route 340.

Mr. Shreckhise seconded the motion, which carried unanimously.

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ALAN OR LINDA ACORD - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Alan or Linda Acord, for a Special Use Permit to have a cable TV business within an existing building and have outside storage of three satellite dishes on property they own, located on the south side of

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Dry Branch Road (Route 868), approximately .1 of a mile east of the intersection of Dry Branch Road (Route 868) and Last Raid Lane in the Pastures District.

Mr. Alan Acord stated that he is requesting a Special Use Permit for storage of cable equipment.

Chairman Swortzel asked where he plans to install cable?

Mr. Acord stated that he would like to rent the space to Crawford Manor Cable Company.

Mr. Wilkinson asked if there would be any employees coming to the site?

Mr. Acord stated that they would come to the site to check their equipment and pickup material to install cable. He stated that there are receivers from the satellite dishes in the building. He stated that if there is a problem they would need to come to the site to check the equipment.

Mr. Coyner asked if there were daily comings and goings to the building?

Mr. Acord stated only when there is a problem. He stated that sometimes they could go to the site three (3) to four (4) times a week but when they are there it is usually only fifteen (15) to twenty (20) minutes.

Mr. Coyner asked if there would be noise at the site?

Mr. Acord stated no noise at all.

Mr. Shreckhise asked where the third satellite dish would be located on the site?

Mr. Acord stated that it would be behind the building near the fence at the lower side.

Vice Chairman Callison stated that the building is quite large.

Mr. Acord stated that before he bought the property a cabinet shop operated at the site for years.

Mr. Coyner asked if the cable company would use the entire building?

Mr. Acord stated that they will use just a small portion of the building. He stated that he uses the building to store his lawn tractors and he works on his equipment in the building. He stated that he also has some woodworking equipment in the building.

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Mr. Wilkinson asked how is the cable service provided to the customers?

Mr. Acord stated that the cable runs down the power line. He stated that if someone requests service they come to the site to get the cable.

Chairman Swortzel asked if the cable company has been there for quite some time?

Mr. Acord stated that the cable company has been but not at this site. He stated that they want to upgrade and get some more channels.

Ms. Brown stated that the three (3) satellites receive signals and if she wanted to use their service, the company would tap on to that signal.

Mr. Acord stated that he picks up the signal and then the customer would have the cable installed.

Mr. Coyner stated that he receives everything and the cable goes from this location to wherever they have a customer.

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

Mr. Boyce Brannock, PO Box 108, Staunton, stated that he is here to represent Crawford Manor Cable Company. He stated that Crawford Manor Cable provides a low cost cable and internet service to approximately 140 households in the immediate vicinity of Crawford Manor. He stated that over the past year it has used its presence in Mr. Acord's former turkey house to store processors that serve as a link to its cable system. He stated that over the past year, the facility has allowed Crawford Manor Cable to update, improve, and expand the nature of its program and quality of service to its customers. He stated that the passive nature of its operation makes for a very limited, low impact operation at the site that does not disturb the neighborhood. He stated that the cable company has been operating for approximately twenty-five (25) years but has just been operating recently in a portion of Mr. Acord's building. He stated that previously it was a turkey house and under a former owner the building was used as a cabinet shop with numerous employees and deliveries a week. He stated that Crawford Manor Cable Company has none of that. He stated that it currently has one (1) employee who monitors the system on an occasional basis for infrequent periods. He stated that there will not be a customer service office at the site. He stated that without the approval of the application, Crawford Manor Cable would more than likely discontinue the upgrades that it provides to the neighborhood's customers. He stated that he asked that the Board consider the request and the benefits that it provides. He stated that there is a representative from the cable company that is here to answer any technical questions that the Board has.

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Mr. Coyner stated that the cable company is operating out of the building already.

Mr. Brannock stated that the parties entered into a lease agreement for a portion of that business thinking that it has such a low impact because there is so little interaction going on. He stated that this is a warehouse as opposed to an ongoing business. He stated that when it was brought to their attention by the Zoning Administrator that they needed a Special Use Permit, the application was made.

Mr. Coyner stated that he is curious why the applicant is here today instead of a year ago.

Mr. Brannock stated that he does not think that the parties realized at the time that they needed what they are here requesting today because this is such a low impact business.

Ms. Brown asked how many miles out can you receive the satellite signal?

Mr. Brannock stated that the satellite dishes are used to receive the signal and then that is processed through the cable system.

Mr. Coyner stated that the customer base is determined how far out the cable company wants to lay a cable.

Mr. Adver Lear stated that he is the local employee for Crawford Manor Cable Company.

Chairman Swortzel stated that this cable company is no different than any other cable company and it serves in the immediate area right around where it is located.

Mr. Lear stated that the business is a very small system.

Mr. Coyner asked if they are envisioning expanding the business?

Mr. Lear stated that they have no immediate plans for any major expansion. He stated that they may expand if a residence nearby requests cable. He stated that the equipment that they installed is to add additional cable channels. He stated that it has nothing to do with how far they can run the business. He stated that the distance to where they can run the cable is determined by where they want to go and how many households are there and the amplifiers required. He stated that there are different kinds of cable. He stated that with coax they can go ten (10) to twenty (20) miles but with fiber they can go further than that.

Ms. Brown asked if they planned to go fiber?

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Mr. Lear stated that there is no need to because of where they serve presently. He stated that they would like to add more television channels with the satellite dishes. He stated that everyone wants more choices.

Mr. Coyner stated that to get more channels they need to add more satellite dishes.

Mr. Lear stated that all cable channels that people want are not all on the same satellite dish.

Ms. Brown asked if the trees have anything to do with interference?

Mr. Lear stated that trees come into play where the satellite dishes are. He stated that if they are in between them it will interfere with the reception. He stated that once the channels are added to the system the trees would not have any affect on the channel. He stated that sometimes they need to get around the trees with the dishes.

Mr. Coyner asked if the proposed satellite dish would be similar to what is there already?

Mr. Lear stated yes.

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

Mr. Arthur Blackwell, 622 Dry Branch, Churchville stated that he shares the driveway with the property owner. He stated that he has been inside the building. He stated that the portion of the building that the cable company is using is small compared to the building. He stated that the area is 12' x 15'. He stated that in his experience in using the driveways and at no time no one has been in the way of his travels. He stated that at most he had seen two (2) vehicles near the building when they first started the business up. He stated that in the building there are a few coils of cable. He stated that Crawford Manor Cable is the only choice that the people in the area have. He stated that they could also use Dish Network and pay \$100 and not get any local channels. He stated that the satellite dishes are not noticeable from the road. He stated that there is limited traffic on the road. He stated that the only vehicle that comes to the site is a white work van.

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

Mr. Tracy Money maker, 606 Dry Branch Road, Churchville, stated that since the business has been established they have not seen any extra traffic. He stated that they very seldom see them come to the site. He stated that this establishment does supply them

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with cable at a low cost. He stated that he cannot afford Comcast or Dish Network. He stated that there would be no extra traffic coming to the site.

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

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

Ms. Judith Knopp, 463 Hankey Mountain Highway, Churchville, stated that she is representing the Knopps who have adjoining property. She stated that she is not opposing the cable business at all. She stated that the eye soar of the two (2) existing dishes and proposed three (3) dishes and the white van should be placed in a way so that it is not visible from the residential homes. She stated that the Acords own a lot of property. She asked if the satellite dishes and the vans could be placed on the right hand side of the turkey house. She stated that the vans should be parked on the Acord side because they are getting the benefit of the rental money and it seems to her that they should bear the look of these commercial items. She stated that from her cabin the satellite dishes are noticeable.

Mr. Coyner asked if they had an opportunity to own that property when it was a poultry house?

Ms. Knopp stated that her husband sold them the poultry house and it was not used as a woodworking shop since the early 1960s when Crawford Manor was first created from Knopp Enterprises. She stated that it was not an active cabinet making shop for many years.

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

Ms. Jane Jenkins stated that she lives in the old Crawford farm house to the left of the property. She stated that there is a tremendous impact with the placement of the satellite dishes. She stated that she has photographs that she has taken to show the Board. She stated that it is great that they have an opportunity to have access to television but if they are going to expand like the way they say they will be doing the billing at the site. She stated that not all of the people pay the bills by check. She stated that a lot of them will pay cash. She stated that they are going to go up to the Acord's door and pay their bill which will cause a lot of traffic. She stated that there have been all sorts of cars coming in and vehicles backing up. She stated that she bought the property because of the quiet, beauty of the valley. She stated that this is depreciating the value of her property.

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Mr. Coyner asked how long did Ms. Jenkins live at the site?

Ms. Jenkins stated four (4) years. She stated that there was no activity in the barn until last year. She stated that Mr. Acord should take into consideration of how this business is affecting the neighbors.

Chairman Swortzel stated that the Board visited the site today. He asked if there was anyone else wishing to speak in opposition to the request?

There being none, Chairman Swortzel asked if the applicant would like to speak in rebuttal?

Mr. Acord stated that if they move the dishes to the other side of the building they will be viewed from the road. He stated that from where they are now, only one (1) person can see them.

Ms. Brown asked if billing would be done at the site?

Mr. Acord stated that no one will be coming to his house to drop off their payment. He stated that he has nothing to do with the cable company except for renting them the building.

Mr. Coyner asked if the business office was part of this building?

Mr. Acord stated no.

Mr. Wilkinson stated that an office is not part of the request.

Ms. Jenkins asked if the satellite dishes can be placed on the land on the back of Dry Branch Road? She stated that the neighbors will not see it because it is blocked by the forest.

Mr. Arthur Blackwell stated that the real issue does not really involve the satellite dishes at all. He stated that if he wants to put an antenna for radio signals it has been allowed in the County. He stated that there is nothing illegal for him to have one (1) satellite to his house and two (2) to his shed. He stated that the issue is whether or not he can operate a business or maintain the cable in the building.

Mr. Wilkinson stated that for personal use there could be satellites but for a business use it would require a Special Use Permit and the Board will make a decision of how many outdoor storage items the applicant can have.

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Mr. Brannock stated that there has been satellite dishes used for this company out in that area since its inception. He stated that there is no customer service at this site whatsoever. He stated that this site is used for signal receipt, signal transfer, and signal transmittal. He stated that this is more for warehouse space than anything else. He stated that no customer involvement takes place at this site. He stated that they are not asking for the ability to service customers at this location. He stated that one (1) individual comes to the site occasionally during the week.

Mr. Wilkinson stated that the hours of operation and employees in the staff report may not correspond with what is actually going on there.

Mr. Brannock stated that staff recommendations state two (2) employees. He stated that currently there is only one (1) employee. He stated that Mr. Lear is there on an occasional basis to take care of whatever problem that the system is experiencing. He stated that there are not regular hours of operation with this site. He stated that this is not an office. He stated that if something goes down at 7:00 p.m. Mr. Lear would go to the site and spend ten (10) to fifteen (15) minutes and fix whatever he needs to fix and then leaves.

Chairman Swortzel stated cable is on 24 hours a day. He asked what happens if it goes off at 4:30 am?

Mr. Brannock stated that the owner would go to the business in a case of emergency. He stated that there is no record or any indication to the Board that there are frequent emergencies.

Chairman Swortzel declared the public hearing closed.

Vice Chairman Callison stated that the building overshadows anything else that is there. He stated that he did not see the satellite dishes from the road. He stated that this is a service to the community. He moved that the request be approved with the staff recommendations.

Mr. Coyner stated that the motion should include that there be no customer service office at the site which will alleviate people coming and going. He seconded the motion, which carried unanimously.

Mr. Coyner asked if in an emergency situation would the cable company not have the ability to go to the site?

Mr. Wilkinson stated that the way that the conditions are stated they would not have the ability to go to the site.

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Mr. Shreckhise stated that the Board may want to say normal business hours.

Mr. Wilkinson stated that the motion needs to be modified so that it will reflect the emergency hours.

Chairman Swortzel stated that at times there could be an emergency.

Mr. Rosenberg suggested the following language: Cable television equipment on the property may operate twenty-four (24) hours per day, seven (7) days per week. Non-emergency service calls shall be limited to 7:00 a.m. to 9:00 p.m. Monday thru Saturday.

Vice Chairman Callison amended the motion as follows:

Pre-Conditions:

1. Comply with the Building Code issues, obtain a letter of approval from Building Inspection Department, and provide a copy to Community Development.
2. Obtain Health Department approval and provide a copy to Community Development.

Operating Conditions:

1. All equipment, cable, and materials for the business be kept inside the building.
2. Be limited to two (2) company vehicles at the site.
3. The only outdoor storage will be three (3) satellite dishes as shown on the site plan.
4. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
5. Be limited to two (2) employees.
6. No Sunday work.
7. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
8. No customer service office at the site.

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9. Cable television equipment on the property may operate twenty-four (24) hours per day, seven (7) days per week. Non-emergency service calls shall be limited to 7:00 a.m. to 9:00 p.m. Monday thru Saturday.

Mr. Coyner seconded the motion, which carried unanimously.

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DANNY L. GRINDE - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Danny L. Grinde, for a Special Use Permit to have motorcycle repair and service shop within an existing building on property he owns, located on the south side of Middlebrook Road (Route 252), just west of the intersection of Middlebrook Road (Route 252) and Oak Springs Lane in the Beverley Manor District.

Mr. Danny Grinde stated that he recently retired from Shenandoah Harley Davidson. He stated that he would like to open a small, one (1) man operation by appointment only. He stated that he does not intend on putting a sign along the road. He stated that he has acquired a clientele with working in the business for over thirty (30) years. He stated that he builds motors for people. He stated that he does not envision any more than two (2) people or three (3) vehicles a day. He stated that UPS will be dropping off deliveries. He stated that he is not going to have a retail sales operation at the site. He stated that the proposed business hours would be from 9:00 a.m. to 6:00 p.m. and nothing on Sunday or Monday. He stated that he takes great pride in his home and he spends a lot of time mowing. He stated that he would like to keep the site neat and orderly. He stated that he would like to work part-time at his home.

Mr. Coyner asked if there would be a lot of noise at the site?

Mr. Grinde stated that he does have a drag bike and he walks outside before starting the bike. He stated that he never starts it in the morning or in the evening. He stated that he does not envision regular motorcycle noise being a problem. He stated that he asks anyone coming to see him to take it easy with the noise. He stated that he has no control over the traffic on the road. He stated that this is important to him and he will do what he can to make this work.

Ms. Brown asked if he would need to start the bikes to make sure that they are in good running condition? She asked if he would be working on drag bikes?

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Mr. Grinde stated that he would be working on stock motorcycles. He stated that he is a Harley Davidson Specialist. He stated that most of the time people will be bringing the bike in a trailer or they would take their own motor out. He stated that the drag bikes get ran on the track.

Mr. Coyner stated that the applicant being a motorcycle enthusiast may have motorcycles in and out, shop or no shop.

Mr. Grinde stated that he does have a lot of friends that stop by and see him on the weekends. He stated that he does have motorcycle traffic in his driveway.

Ms. Brown asked if the bikes are worked on in a building?

Mr. Grinde stated yes.

Ms. Brown asked if the windows or doors are kept open?

Mr. Grinde stated that his building is air conditioned and heated so there is no reason to have the door open. He stated that he will open the door if there is a lot of exhaust fumes. He stated that most of the bikes would be stock motorcycles and he would be doing regular service on them. He stated that he does not propose any extra noise.

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

There being none, Mr. Wilkinson stated that he has received one letter in opposition to the request. He stated that the letter is from Charles and Elda Rankin and they are concerned about noise. He stated that Mr. Grinde has a race bike and when it is fired up it causes the windows to rattle. He stated that they are concerned that the noise is already a lot and the shop would have additional noise for the neighbors to have to withstand.

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

Mr. Grinde stated that the drag bike gets started six (6) times a year for a few minutes. He stated that if that is a problem he will not do that anymore. He stated that he does not like to go to the race track before he starts the bike. He stated that he does not want to drive 500 miles to race a bike that does not start.

Ms. Brown asked if he still races?

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Mr. Grinde stated that he owns a top fuel racing team. He stated that he has professionals that ride for him.

Chairman Swortzel asked if the applicant can start the bike up in the building?

Mr. Grinde stated that he cannot do that because the fumes would be dangerous. He stated that he can take it to the Harley Davidson dealership to start it up. He stated that is something that he does not do everyday anyway.

Ms. Brown asked if the fuel is being stored in the building?

Mr. Grinde stated that they usually buy the fuel at the racetrack.

Chairman Swortzel declared the public hearing closed.

Mr. Shreckhise stated that this Board cannot keep him from going outside and starting up his bike. He stated that this business will not add any more noise in the area. He 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. Obtain letter of approval from Building Inspection Department and provide a copy to Community Development.

Operating Conditions:

1. All vehicles, equipment, machinery, and parts for the business be confined inside the existing 18' x 24' garage.
2. Hours of operation be 9:00 a.m. to 6:00 p.m. Monday thru Saturday.
3. No employees.
4. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.
5. No Sunday work.
6. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.

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Mr. Coyner seconded the motion, which carried unanimously.

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JOSEPH TRUXELL - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Joseph Truxell, for a Special Use Permit to have a tractor, equipment, and small engine repair shop within an existing building, and have mobile service on property he owns, located in the western quadrant of the intersection of Scott Christian Road (Route 705) and Howdysshell Lane in the Pastures District.

Mr. Joseph Truxell stated that he would like to have a business license to do repair in the shop. He stated that he has a service van and he also will repair garden tractors and engines.

Chairman Swortzel asked if he would be operating the business part-time or full-time?

Mr. Truxell stated that he would be operating the business part-time. He stated that he will not be working much in the evenings.

Mr. Shreckhise stated that the outdoor storage was visible from the residents. He stated that when the Board visited the site there were inoperable vehicles and buses at the site. He stated that the Board is concerned about the build up of more inoperable vehicles.

Mr. Truxell stated that the buses are used as storage buildings. He stated that he uses them to store parts and transmissions. He stated that the blue truck will be on the road shortly. He stated that the old Dodge truck will be away from the site because it belongs to someone else.

Mr. Wilkinson stated that the inoperable vehicles need to be stored in a building or screened from public view. He stated that the County limits the amount of junk vehicles that the applicant can have. He stated that using buses for storage is not permitted under the Augusta County Zoning Ordinance.

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

Ms. Marion Roberts, 106 Miss Phillips Road, Swoope, stated that she owns 6.9 acres behind Mr. Truxell's property. She bought this property in July of 1987. She stated that

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many of the homes have been restored in the area. She stated that it is hard keeping Howdysshell Lane up. She stated that the road was rebuilt with loads of gravel when she placed the manufactured home on her lot. She stated that no one maintains the road. She is concerned that the applicant will come out onto their private lane instead of using the driveway. She stated that the vehicles have piled up on his property. She stated that if the applicant could not find parts for the vehicles and they pile up, it could get out of hand. She stated that gasoline and fuel are all fire hazards. She stated that in residential areas these permits outgrow themselves. She stated that the Board should limit the permit to a reasonable amount of vehicles. She stated that at first the business starts out small but then they get quite large and out of hand. She stated that there has been various vehicles at the site.

Mr. Wilkinson stated that should the Board approve the permit, there will be specific limitations placed on the Special Use Permit. He stated that if the applicant violates those stipulations then they could lose their Special Use Permit.

Chairman Swortzel stated that staff goes out to inspect the property after the permit is approved.

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

There being none, Chairman Swortzel asked if Mr. Truxell would like to speak in rebuttal?

Chairman Swortzel stated that the applicant needs to cleanup the site and it needs to be maintained. He stated that this type of service is very useful to the community.

Ms. Brown asked if there is anything in the building?

Mr. Truxell stated that he has his pulling tractor, another tractor, and some of his machinery to repair vehicles in the building.

Ms. Brown asked what is the size of the building?

Mr. Truxell stated that the size of the building is 46' x 32'.

Mr. Wilkinson asked if the two (2) tractors outside are his personal equipment?

Mr. Truxell stated that the one out back belongs to his friend. He stated that one of the tractors have been stored there by someone else.

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Chairman Swortzel stated that the Board has had a history of applicants that this has happened to. He stated that the applicant needs to realize that this site should not be a drop off storage facility. He stated that the Board will put stipulations on the permit if it is granted and they would need to be adhered to.

Mr. Coyner stated that if the applicant is too accommodating, the business will be in jeopardy.

Chairman Swortzel stated that he suggests that the applicant get rid of the buses that are used for storage.

Mr. Truxell asked if he could convert the buses into a building?

Mr. Wilkinson stated that the applicant would need to build a frame over it. He stated that Mr. Truxell may be better off just to place a building at the site.

Chairman Swortzel declared the public hearing closed.

Mr. Coyner stated that every rural neighborhood needs this type of service. He stated that he would move that the request be tabled for ninety (90) days to give the applicant time to get rid of the buses and clean the site up.

Chairman Swortzel stated that the applicant can get some insight from Mr. Wilkinson as to what he needs to do to bring the site into compliance. He stated that staff should revisit the property prior to the meeting.

Ms. Brown seconded the motion, which carried unanimously.

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MARY ANN RUBUSH - VARIANCE

This being the date and time advertised to consider a request by Mary Ann Rubush, for a Variance from the setback and yard requirements in order to create a new lot and separate a dwelling from the farm on property owned by John H. Rubush, Jr., located on the west side of Knightly Mill Road (Route 778), approximately .1 of a mile north of the intersection of Knightly Mill Road (Route 778) and Westview School Road (Route 773) in the Middle River District.

Ms. Mary Ann Rubush stated that her farm is located between the airport in Weyers Cave and Interstate 81. She stated that she is in the process of trying to settle her deceased husband's estate. She stated that the two (2) acres come right to the farm

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fence and it keeps the cattle from coming up. She stated that the buildings have been there for a long time. She stated that she does not anticipate that Doug Rubush is going to sell but if he should they do not want the farm buildings to go. She stated that he did not want to pay taxes on those buildings when he is just working on the farm. She stated that the second acre that he is to receive would go in his portion of the 160 acres that is to be divided between he, his brother, sister and the children of their deceased son.

Mr. Coyner asked how long ago was the residence built?

Ms. Rubush stated in 1953.

Ms. Brown asked if anyone has lived in the home place?

Ms. Rubush stated that the oldest son has been there for twenty (20) years. He stated that he kept the property up and spent a lot of time there.

Chairman Swortzel stated that one of the drawings did not require a Variance from the setback.

Mr. Wilkinson stated that the applicant has a couple of options. He stated that they could take down the shed or reduce the size of it to reduce the required amount of setback area.

Mr. Rosenberg stated that the alternative would be to reduce the size of the building so that it is less than nine hundred (900) square feet.

Chairman Swortzel stated that this request is difficult because the applicant has not shown the Board that there is a hardship. He stated that the applicant does have other options that she could pursue.

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

There being none.

Mr. Wilkinson read an email that he received from J. Douglas Rubush in opposition to the Variance to create a one (1) acre lot.

Ms. Rubush stated that Doug Rubush left the house this morning unhappy. She stated that she did not know anything about this email. She stated that Doug Rubush had said

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he did not want any of the buildings because he did not want to pay taxes on them. She stated that the Board can just dismiss this request from their agenda.

Mr. Rosenberg stated that he would recommend that Ms. Rubush wait until she finds out what the situation is within the family and come back before the Board. He stated that there are some legal constraints for this Board to grant the Variance in any case, but at least the applicant would still have the opportunity for the Board to hear the request instead of it being disposed of outright today since the applicant paid her fee.

Mr. Wilkinson stated that the Board can table the request so that Ms. Rubush can speak with her family.

Chairman Swortzel declared the public hearing closed.

Mr. Coyner moved that the request be tabled for thirty (30) days.

Ms. Brown seconded the motion, which carried unanimously.

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DAVID M. JOHNSON - VARIANCE

This being the date and time advertised to consider a request by David M. Johnson, for a Variance from the lot area requirement in order to subdivide a lot on property he owns, located on the east side of Cold Springs Road (Route 608), just north of the intersection of Cold Springs Road (Route 608) and Tadpole Lane in the Riverheads District.

Mr. David Johnson stated that his uncle acquired a strip of land along Route 608 in 1973 and they have the survey showing it to the center of the road. He stated that he acquired the first acre in 1984 and put a home on the property assuming by his deed that it was a full acre. He stated that in 1992 he bought a second acre and later on down the line he could potentially build a house on the next acre over. He stated that he has gone to both neighbors asking for some property to put him back to two (2) acres. He stated that Mr. Swecker surveyed the property and he found in 1950 there was a forty (40') foot right of way that was never posted on the plats and deeds. He stated that he cannot split this land because he does not have enough acreage. He stated that they have spent hours trying to figure out who owns the adjoining land behind him so that he can buy some more land. He stated that they discovered that they do not know who owns the land behind him so he cannot get the strip that he needs to put him back to two (2) acres.

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Mr. Coyner asked if the applicant has tried to get property from anyone else?

Mr. Johnson stated that he has tried to get property from his neighbors. He stated that Myrtle and Murphy Peters stated that it may impose on their setback if they were to sell him some property. He stated that Ms. Luke stated that she thought she bought two (2) acres also and now she owns less than two (2) acres. He stated that this is from a survey mistake that was never picked up.

Ms. Brown asked if the applicant is planning on selling one of the lots?

Mr. Johnson stated yes. He stated that he wants to live there until the house is built on the other lot and then sell it.

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

Mr. Jerry Swecker with EGS stated that Mr. Funk surveyed a whole strip of land along there. He stated that when the research was done it was missed that right of way had been conveyed for Route 608. He stated that it was a long narrow strip and it since has been divided several times. He stated that right of way was not caught. He stated that they went to make this division and went back and did one more look through the deeds and they picked up that right of way had been conveyed off for Route 608 in 1950. He stated that this was a survey mistake done by Mr. Funk and it is a research error that they cannot do anything about that now. He stated that Mr. Reji had agreed to sell the twenty (20') foot strip to allow them to make the two (2) acres. He stated that years ago they tried to research that piece that they show as unknown and ran into a dead end on it. He stated that Ms. Miller does the research for them and they cannot prove who owns that land. He stated that Mr. Reji claims that he owns the land and he actually bought two lots on Route 608 to access it but that twelve (12) acre tract does not join this piece of property. He stated that they have done tremendous research. He stated that it will take a lot of time and a lot of money to determine who owns that land. He stated that somewhere back there is an estate that still owns this piece of property but they do not have any good means of finding that.

Mr. Shreckhise asked what Mr. Swecker meant by a lot of time?

Mr. Swecker stated that Ms. Miller has at least twenty-five (25) hours now that he will not bill for.

Mr. Shreckhise stated that he would think that they would not bill for this matter because it was a mistake.

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Mr. Swecker stated that he worked for Mr. Funk at the time. He stated that EGS bought the assets but they did not buy the business or his liabilities. He stated that Mr. Reji believes that he owns sixty (60) to seventy (70) acres. He stated that he is only being taxed on twelve (12) acres. He stated that he feels that it does not belong to Mr. Reji. He stated that he cannot survey the land with doing an extraordinary amount of research.

Mr. Rosenberg stated that Ms. Miller is an accomplished title examiner. He stated that they could enter into a contract to acquire the strip and the attorney could have a title examination done for title insurance purposes and if a title insurer is willing to insure title to a twenty (20') foot strip that would address that issue. He stated that the title examiner would give you the title and then the plat could be done.

Mr. Swecker stated that Mr. Reji does not want to spend any money doing research. He stated that he does not want to pay taxes on anything more than twelve (12) acres. He stated that a Variance was approved on a similar hardship down the road from this piece of property. He stated that property was less than two (2) acres and they could not acquire any more property to make it two (2) acres in order for it to be split up.

Mr. Johnson stated that he hired Doug Woodworth to do a quick claim deed but he does not want anything to do with this property. He stated that Mr. Reji believes that he bought all of that land.

Mr. Wilkinson asked what his deed says that he owns?

Mr. Swecker stated that Mr. Reji's deed states 12.25 acres.

Mr. Wilkinson stated that Mr. Reji does not own the rest of the land.

Mr. Johnson stated that Mr. Reji believes that he owns more because of the look of the tax map as well as the amount of land that he believes that he owns.

Mr. Swecker stated that the tax maps are not always accurate.

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 this is similar to the situation down the road that the applicant bought land that was not really there.

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Mr. Shreckhise stated that the applicant did not foresee these problems when they bought the property. He stated that the applicant has done everything that he could possibly do to correct the situation. He moved that the Variance be granted.

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

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OLD BUSINESS

JOHN C. LEAVELL - SPECIAL USE PERMIT

A request by John C. Leavell, for a Special Use Permit to construct a building for a machine shop on property he owns, located on the south side of Sanger's Lane (Route 794), just east of the intersection of Sanger's Lane (Route 794) and Balsley Road (Route 792) in the Beverley Manor District. - TABLED FROM THE SEPTEMBER 6, 2007 AND OCTOBER 4, 2007 MEETINGS

Mr. Coyner moved that the request be brought forward.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Wilkinson stated that VDOT has agreed on an entrance west of Route 250. He stated that an entrance permit would need to be obtained by Mr. Leavell.

Mr. Coyner stated that the VDOT issues regarding the trees were addressed.

Mr. John Leavell stated that is correct.

Mr. Coyner stated that it is great that the applicant wants to operate a business at this site. He moved that the request be approved with the conditions recommended by staff.

Vice Chairman Callison seconded the motion, which carried unanimously.

Mr. Leavell asked if Mr. Wilkinson received the information from the Health Department and the Department of Environmental Quality?

Mr. Wilkinson stated that the Health Department recommended no employees only family members. He stated that the Department of Environmental Quality stated that they would be fine with two (2) employees because of the specific type of sand filter.

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He stated that staff did not make any changes to their recommendations because staff feels that it should remain a small business.

Ms. Brown asked how many employees would the applicant like to have?

Mr. Leavell stated that he would like to have up to three (3) employees.

Chairman Swortzel stated that he has no problem with the applicant having employees.

Vice Chairman Callison stated that the applicant indicated that his brother helped him with the business.

Mr. Leavell stated that he would like to have an employee or two (2) just in case he needs them.

Ms. Brown asked how many people can use this special filtration system?

Mr. Wilkinson stated that the state would allow two (2) non-resident employees.

Mr. Rosenberg asked if his brother resides at the premises?

Mr. Leavell stated no.

Mr. Coyner amended his motion that the request be approved with the following conditions:

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. Obtain VDOT entrance permit and provide a copy to Community Development.

Operating Conditions:

1. All equipment, machinery, and materials for the business be kept inside the 40' x 60' building.
2. Hours of operation be 7:00 a.m. to 8:00 p.m. Monday thru Saturday.
3. Be limited to two (2) employees.

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- 4. No Sunday work.
- 5. No further expansion.
- 6. The only sign to be permitted for this business is one (1) on premise business sign not to exceed twelve (12) square feet.

Vice Chairman Callison seconded the motion, which carried unanimously.

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STAFF REPORT

- 07-1 Staunton Self Storage, LLC
- 07-2 Stables, Mark
- 07-3 Morris, Kenneth V. or Ruth V.
- 07-4 Troyer, Calvin P. or Mary E.
- 07-5 Lockridge, G.W. and Goldie
- 07-6 Harner, John M. or Shirley N.
- 07-7 Lincoln, Stephen W. or Monica M.
- 07-8 National Developers of Virginia, LLC

Mr. Wilkinson stated that when staff inspected SUP#07-1, the fence was not completed. He stated that since the last inspection the fence has been completed and the site is in compliance. He stated that SUP#07-2 have not completed the pre-conditions on the permit, therefore, staff has sent them a letter. He stated that SUP#07-3 and SUP#07-4 are both in compliance. He stated that applicant for SUP#07-5 is working with the FAA on the height of the tower. He stated that Waynesboro airport is objecting to the height of the tower. He stated that SUP#07-6 is in compliance. He stated that SUP#07-7 have not completed the pre-conditions on the permit, therefore, staff has sent them a letter. He stated that SUP#07-8 submitted their site plan but the entrance was incorrect and they are working on a re-submittal of the site plan.

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

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Chairman

Secretary