

March 3, 2016

PRESENT: G. A. Coyner, II, Chairman
T. H. Byerly, Vice Chairman
D. A. Brown
S. F. Shreckhise
J. D. Tilghman
J. R. Wilkinson, Community Development Director & Secretary

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, March 3, 2016, at 8:30 A.M., in the County Government Center, Verona, Virginia.

The staff briefing was held at **8:30 a.m.** in the Board of Supervisors Conference Room where the Zoning Administrator reviewed the staff report for each request on the Board's agenda. Copies of the staff reports can be found in the Community Development Department.

VIEWINGS

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

- **JOHN D. SENGER - SPECIAL USE PERMIT**
- **NEIL HOUFF, AGENT FOR HOUFF FEED AND FERTILIZER CO., INC. AND HAHN KANODE, AGENT FOR AG VENTURE, LLC - SPECIAL USE PERMIT**
- **TRAVIS MILLER, AGENT FOR R.T. MANUFACTURING, LLC AND FIVE STARS, LLC - SPECIAL USE PERMIT**
- **PAUL E. GREEN - APPEAL A DECISION OF THE ZONING ADMINISTRATOR**

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

Chairman

Secretary

PRESENT: G. A. Coyner, II, Chairman
 T. H. Byerly, Vice Chairman
 D. A. Brown
 S. F. Shreckhise
 J. D. Tilghman
 Pat Morgan, County Attorney
 J. R. Wilkinson, Community Development Director & Secretary
 B. Cardellicchio-Weber, Executive Secretary

ABSENT: None

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, March 3, 2016, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Mr. Shreckhise moved that the minutes from the February 4, 2016, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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JOHN D. SENGER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by John D. Senger, for a Special Use Permit to replace an existing nonconforming bank barn on property he owns, located at 1898 Moffett Branch Road, Churchville in the North River District.

Mr. John Senger stated he would like to replace the barn that was built in the early 1800s. He stated the barn does not meet today's agriculture needs and is not safe for a tractor or hay.

Chairman Coyner asked if the applicant will construct the new barn in the same location? Mr. Senger stated yes. He cannot move the barn back because it stays wet year round.

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Chairman Coyner asked if this would be a pole type building?

Mr. Senger stated either pole or steel.

Chairman Coyner asked if the project will be complete within a year?

Mr. Senger stated it should be complete within two (2) years.

Vice Chairman Byerly asked if 50' x 80' would be adequate?

Mr. Senger stated if he could ask for a 50' x 100' barn. He may not build the barn that large but he would like to have that option.

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

There being none, Chairman Coyner declared the public hearing closed. He stated the Board viewed the property and the building would be in between the road and the floodplain area.

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

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to reconstruct the 50' x 100' bank barn no closer to the road.
2. Applicant be given two (2) years to complete the project.

Ms. Tilghman seconded the motion, which carried unanimously.

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NEIL HOUFF, AGENT FOR HOUFF FEED AND FERTILIZER CO., INC. AND HAHN KANODE, AGENT FOR AG VENTURE, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Neil Houff, agent for Houff Feed and Fertilizer Co., Inc. and Hahn Kanode, agent for Ag Venture, LLC, for a Special Use Permit to continue the existing fertilizer mill and farm shop with equipment sales and repair, warehouse, have seed and product services to poultry growers and cattle producers, and to add a bulk agricultural materials storage area on property owned by Ag Venture, LLC, located at 491 Fadley Road, Weyers Cave in the North River District.

Mr. Neil Houff stated he would like to continue this operation and expand the containment area for additional storage.

Chairman Coyner asked if this would be similar to what is at the site now?

Mr. Houff stated yes.

Ms. Tilghman asked if the Department of Environmental Quality would determine how the tanks are built?

Mr. Houff stated it is based on the product and the size of the tank.

Chairman Coyner asked how long has this operation been at this site?

Mr. Houff stated since September 2012.

Ms. Brown asked who does the applicant sell to?

Mr. Houff stated they have customers in Augusta and Rockingham Counties. He stated their product cuts down on the ammonia for the birds which is a health hazard.

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

There being none, Chairman Coyner declared the public hearing closed. He stated the facility looked very nice when the Board visited this morning.

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

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Pre-Condition:

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

Operating Conditions:

1. Be permitted to add a 50' x 60' bulk agricultural materials storage area as shown on the BZA plan.
2. All hazardous materials be kept within the designated secondary containment facilities.
3. All seed and products be kept within the warehouses or designated storage areas.
4. All tanks to be kept in the designated area shown on the BZA plan and be kept neat and orderly.
5. Sales inventory be limited to twenty (20) pieces of equipment.
6. Be limited to ten (10) pieces of equipment outside waiting to be repaired.
7. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
8. Site be kept neat and orderly.

Vice Chairman Byerly seconded the motion, which carried unanimously.

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TRAVIS MILLER, AGENT FOR R.T. MANUFACTURING, LLC AND FIVE STARS, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Travis Miller, agent for R.T. Manufacturing, LLC and Five Stars, LLC, for a Special Use Permit to expand the existing nonconforming convenience store, replace and expand an existing nonconforming canopy, and reorient the gas pumps on property owned by R.T. Manufacturing, LLC, located at 1785 Lee Highway, Fort Defiance in the North River District.

Mr. Travis Miller with Long and Foster Realtors, stated he is here on behalf of R.T. Manufacturing, LLC and Five Stars, LLC. He stated this property is known as Taylor's Grocery. He noted they will make improvements to the site. He stated they are planning on replacing the pumps and expanding the store. He noted the back of the store is not functional at the present time. He mentioned they planned on replacing and expanding the canopy and a new roof. He stated this will be an overall benefit to the community.

Chairman Coyner asked if they plan on relocating or repositioning the gas pumps?

Mr. Miller stated yes which will make this site safer for ingress and egress.

Chairman Coyner asked if the applicant planned on getting the improvements done as soon as possible?

Mr. Miller stated they plan on expanding the canopy and reorienting the gas pumps next month if the request is approved. He stated they hoped to finish the addition within a year.

Vice Chairman Byerly asked if two (2) pumps are needed?

Mr. Miller stated yes. He stated they will have a new diesel pump with no canopy.

Ms. Brown asked how much square footage is being added to the building?

Mr. Miller stated the square footage is about 336. He stated the addition may be 16' x 21' or smaller.

Ms. Brown asked if the kerosene will remain at the site?

Mr. Miller stated yes.

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Ms. Brown asked what will be sold in the store?

Mr. Miller stated they will sell typical convenience store items.

Chairman Coyner stated this site is a good location being that it is near the school.

Mr. Miller stated the site needs to be updated.

Mr. Wilkinson stated this is a non-conforming building. He stated the property line between the building and the pumps will also need to be vacated before any building permits are applied for.

Mr. Miller stated it will take about two (2) weeks to vacate the line.

Vice Chairman Byerly asked if twelve (12) months would be adequate?

Mr. Miller stated twelve (12) months is adequate for the canopy and pumps. He stated the addition may take a little longer. He stated it could take up to two (2) years for the addition.

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

Ms. Betty O'Shea, 1833 Lee Highway, Fort Defiance, stated she is excited about all of the improvements. She requested that any lighting be installed per the County's ordinance.

Chairman Coyner stated that is a requirement for all businesses.

Ms. Debbie Taylor stated she has owned the store for the last thirteen (13) years and it needs a facelift. She stated this will be great for the community.

Chairman Coyner asked if there was anyone else wishing to speak regarding the request? There being none, Chairman Coyner declared the public hearing closed. He stated the Board visited the site this morning.

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

Pre-Condition:

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

Operating Conditions:

1. Be permitted to construct a 16' x 21' addition to the convenience store no closer to Route 11, replace and increase the size of the canopy to 25' x 50' no closer to Route 11, and to reorient the gas pumps.
2. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
3. Site be kept neat and orderly.
4. Applicant be given two (2) years to complete the addition.

Ms. Brown seconded the motion, which carried unanimously.

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IVAN M. OR LUELLA W. NOLT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ivan M. or Luella W. Nolt, for a Special Use Permit to add an accessory building in conjunction with the business, increase the number of employees, and modify the hours of operation on property they own, located at 83 Lookout Mountain Lane, Mt. Solon in the North River District.

Mr. Ivan Nolt stated he would like to add a 14' x 24' utility shed to house his hand tools for his business and add two (2) additional employees.

Chairman Coyner stated the business seems to be doing well there. He asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Coyner declared the public hearing closed. He stated this is a good operation. He stated the applicant would like to keep all of his small tools inside a building.

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Vice Chairman Byerly stated the business is growing.

Chairman Coyner asked if the applicant would like to request an additional employee?

Mr. Nolt stated he would like to have three (3) employees if the Board would grant him that many.

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

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to construct a 14' x 24' storage building for the business.
2. Obtain a Building Permit for the 14' x 24' building.
3. No more than three (3) employees to come to the site.
4. Hours of operation be 7:00 a.m. to 8:00 p.m. Monday – Saturday.
5. No Sunday work.
6. Site be kept neat and orderly.
7. All other conditions of SUP#13-9 to remain in effect.

Mr. Shreckhise seconded the motion, which carried unanimously.

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ERIN TRZELL - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Erin Trzell, for a Special Use Permit to have a bed and breakfast, inn operation, counseling service or therapy

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retreat, restaurant, and special events on property owned by Yoder Investments, LLC, located at 2487 Hankey Mountain Highway, Churchville in the North River District.

Ms. Erin Trzell stated she lives across the street from the Buckhorn Inn. She stated this property is on the market to be sold and she is interested in purchasing the property and obtaining financing in order to operate a bed and breakfast, counseling services, and healing type activities.

Chairman Coyner asked if her clients will be short term folks?

Ms. Trzell stated she is not interested in operating a residential care facility. She would like to have her clients come for a weekend and combine tourism type activities with counseling sessions and yoga classes. She said she would tailor to the needs of her clients.

Chairman Coyner stated with a bed and breakfast the operator normally lives onsite. He asked if the applicant will stay at the inn if there are overnight guests?

Ms. Trzell stated she will stay at the inn when there are overnight guests.

Chairman Coyner asked if she will have support staff?

Ms. Trzell stated yes. She is in the process of working with the Small Business Center and Economic Development in order to help get financing to purchase the property.

Vice Chairman Byerly asked if the number of events is adequate?

Ms. Trzell stated yes. She stated with her business plan, she would like to focus on the bed and breakfast, restaurant, and counseling. She noted any special events would be extra. She hoped to have one (1) special event such as a wedding per month. She preferred to rely on the bed and breakfast and healing retreats for the majority of her business income.

Chairman Coyner asked if the bed and breakfast will be open during the week?

Ms. Trzell stated yes.

Chairman Coyner asked if the restaurant will support the bed and breakfast or is it for the general public?

Ms. Trzell stated she would like to have the option to do both.

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Ms. Brown asked how much counseling would be done?

Ms. Trzell stated ten (10) clients per week.

Ms. Brown asked if she would have any employees?

Ms. Trzell stated she would have an Administrative Assistant.

Ms. Brown asked if she would have employees working in the restaurant?

Ms. Trzell stated yes.

Ms. Brown asked what type of food would she serve in the restaurant?

Ms. Trzell stated she would like to serve organic and locally grown foods in her restaurant. She will choose menu items based on the needs of her guests. She will operate on a limited basis for the public.

Ms. Brown asked if she would serve breakfast, lunch, and dinner?

Ms. Trzell stated she will serve dinner to the public only. She planned on doing this about two (2) weekends a month.

Chairman Coyner asked how would the applicant advertise?

Ms. Trzell mentioned that the Buckhorn Inn does have a website which she will add additional pages to reflect her counseling services. She is a licensed counselor in Virginia and has had a practice in Hampton.

Vice Chairman Byerly asked about the septic on the property?

Ms. Trzell stated she has seen the Health Departments' comments regarding the septic. She noted that she will take care of those issues prior to beginning her business there.

Vice Chairman Byerly asked if she would like additional time in having guests on the property during events?

Ms. Trzell stated 11:00 p.m. or midnight would be sufficient time.

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Mr. Wilkinson mentioned that the ordinance defines that the operator of the bed and breakfast will need to be onsite during the use of the property.

Ms. Trzell stated she plans on having a business manager so if she is unable to stay on the premises, then her manager would be onsite during the operation of the bed and breakfast.

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

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

Chairman Coyner stated it is exciting that the applicant wants to keep the inn going.

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

Pre-Conditions:

None

Operating Conditions:

1. Be permitted to use five (5) bedrooms for a bed and breakfast.
2. No guests may stay over two (2) weeks at any one time.
3. Be permitted to have a forty (40) seat restaurant.
4. Be permitted to have six (6) weddings and twelve (12) special events per year, but no more than two (2) per month.
5. Be limited to a maximum of one hundred (100) people per event, if the Health Department approves an upgrade of the septic system or a portable restroom trailer is utilized.
6. No outside amplified music after 8:00 p.m.
7. Events to cease by 11:00 P.M. and all persons off the property by midnight.

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8. The applicant must be on the premises during events, and stay in the Buckhorn Inn during the bed and breakfast operation.
9. Site be kept neat and orderly.
10. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
11. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the Ordinance requirements of Article VI.A Outdoor Lighting.

Ms. Tilgman seconded the motion, which carried unanimously.

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PAUL E. GREEN - APPEAL A DECISION OF THE ZONING ADMINISTRATOR

This being the date and time advertised to consider a request by Paul E. Green to appeal a decision of the Zoning Administrator regarding a dump site on property he owns, located on the southwest side of Calf Mountain Road, west of the intersection of Calf Mountain Road and Jarman Gap Road in the Wayne District.

Mr. Paul Green stated he owns the property along Calf Mountain Road. He said what is going on at this site, he has no control over. He has contacted the Sheriff's Department about the illegal dumping along the road and the Game Warden to install cameras but there are no places for them. He noted there is nothing that he can do to prevent people from dumping along the road. He stated this is an isolated area and it has been like this for years. He does not know what to do to stop this. He stated that he is not physically able to cleanup the site. He said that it is upsetting to see the deer and other animals being slaughtered. He did contact three contractors and have gotten quotes on the cleanup. He lives in Norfolk and if he pays to have the property cleaned up, the dumping will still occur.

Chairman Coyner asked if there is a Homeowner's Association?

Mr. Green stated there are only a few houses built on those lots. He stated the lots all have a fifty (50') foot pipe stem down to the road. He stated when Mr. Wilkinson sent him the letter, he planned on renting a truck to cleanup the site, but it was more than he could handle. He purchased this property in 2006.

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Mr. Wilkinson stated when these lots were created, the ordinance allowed as many lots as you would like to create as long as they were twenty (20) acres with public road frontage. He stated the landowner and the surveyor put together a plat with lots that were all twenty (20) acres. He stated they wanted to get the maximum number of lots with each having fifty (50') feet of road frontage along the road. He stated at that time it did meet the technical requirements of the ordinance and the County could not deny the plat. He stated in 1995, the County changed the ordinance to only allow one (1) lot per year and the lot must be at least 150' wide in order to prevent something like this from happening in the future. He stated with the way this subdivision was created, every fifty (50') feet there is a lot. He has sent other letters out to other property owners along Calf Mountain Road. He stated property in the County cannot have a dump site or a junkyard without first obtaining a Special Use Permit. He mentioned littering would be a violation, however, an officer would have to witness that.

Mr. Green stated that if he sells the property it will not be a good selling point if the County has a lien on the property.

Mr. Wilkinson stated his position stands where this is a violation of the Augusta County Code for illegal dumping on the property. He read the following from the ordinance:

§ 25-72 Permitted Uses of the Augusta County Zoning Ordinance lists the permitted uses within General Agriculture zoned districts without administrative or special use permits. The operation of dump, landfill or junkyard **is not a permitted use** in this district.

§ 25-74.1 Prohibited Uses of the Augusta County Zoning Ordinance states all uses except those listed in Sections 25-72, 25-72.1, 25-73 and 25-74 are specifically prohibited in General Agriculture districts unless permitted by overlay district regulations.

Section 15.2-2309 of the Code of Virginia states the Decision of the Appeal of the Zoning Administrator shall be based on the Board's judgment of whether the administrative officer is correct in the interpretation of the code.

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

There being none, Chairman Coyner declared the public hearing closed. He stated the Board's determination is whether the Zoning Administrator interpreted the code correctly.

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Mr. Shreckhise felt the Board should uphold the decision of the Zoning Administrator because he is doing his job. He does see a problem and feels the problem should be addressed. He does not think the property owner should have full responsibility in the cleanup of the site when he did not create the violation. He directed staff to send a memo to the Board of Supervisors that they should look into options to see if the County could help pay for some of the cleanup and have more officers patrolling that area from the Sheriff's Department.

Ms. Tilghman stated Mr. Wilkinson did not have a choice except to enforce the ordinance with a written complaint from the County. She agreed that at some County level there has to be a better solution to this problem. She did not think it was right to put this on one individual. She stated Mr. Green cleaning up the property will not permanently solve the problem. She stated a fence is not even feasible in this location of the County.

Vice Chairman Byerly stated this is a difficult situation. He stated it is this Board's responsibility to uphold the County ordinance. He asked if Mr. Green has had a conversation with his Board of Supervisor?

Mr. Green stated no.

Chairman Coyner stated that could be another avenue Mr. Green can pursue.

Vice Chairman Byerly stated this site is a potential health hazard with the stream nearby and dead animal carcasses in the area. He stated this is not a good situation.

Mr. Green stated bears, turkeys, dogs, and deer have been dumped onto his property.

Mr. Shreckhise moved to uphold the decision of the Zoning Administrator.

Ms. Brown seconded the motion, which carried unanimously.

Mr. Shreckhise also made a motion to authorize Mr. Wilkinson to send a memo to the Board of Supervisors asking them to address this problem on Calf Mountain Road. He stated the Board feels this issue should not fall completely on the landowner to police and cleanup the area. He stated the County should look into options to offer some assistance either monetarily or having the Sheriff's Department patrolling the area frequently so that the full responsibility did not fall on the landowner.

Ms. Tilghman stated the illegal dumping is not isolated to Mr. Green. She stated Mr. Wilkinson has sent other property owners in the area letters. She said this has the

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potential to be an even bigger problem. She seconded the motion, which carried unanimously.

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DAVID OR CATHERINE MARIE RICCONI - EXTENSION OF TIME

A request by David or Catherine Marie Riccioni for a Special Use Permit to have firearms and ammunition sales and gunsmithing on property they own, located at 1676 Newport Road, Raphine, in the Riverheads District.

Mr. Wilkinson stated the applicant is asking for an eight (8) month Extension of Time to complete the handicapped ramp. He stated staff is recommending approving a one (1) year Extension of Time.

Chairman Coyner stated a year would be better to give the applicant more time to complete the pre-condition.

Ms. Tilghman moved that the one (1) year Extension of Time be approved.

Vice Chairman Byerly seconded the motion, which carried unanimously.

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STAFF REPORT

- 15-17 Emmett W., Jr. or Sharon M. Hanger
- 15-18 Jeffrey P. or Deborah L. Back
- 15-19 Jose Ortiz Cruz or Rebecca J. Kidd
- 15-20 VBR Properties, LLC
- 15-21 Sangersville-Towers Ruritan Club, Inc.
- 15-22 David L. or Ann W. Gardner
- 15-23 Weyers Cave Recreation Association, Inc.

Mr. Wilkinson stated staff has sent a letter asking if the applicant requires an Extension of Time for SUP#15-17. He stated staff sent the applicant a letter regarding the dog runs for SUP#15-18. He stated Mr. Back called and said the runs are enclosed in plastic, therefore, the site is in compliance. He noted staff sent a letter to Rebecca Kidd regarding obtaining her entrance permit for SUP#15-19. He stated SUP#15-20, SUP#15-21, SUP#15-22, and SUP#15-23 are all in compliance.

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

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Chairman

Secretary