

STAFFORD COUNTY BOARD OF ZONING APPEALS

August 27, 2024

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) Tuesday, August 27, 2024, was called to order with the determination of a quorum at 7:00 PM by Chairman Mr. Apicella in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Steven Apicella, Abraham Panjshiri, Kecia Evans, Dana Brown, Everet Blaisdell, Tylor Underwood, Nathan Mowery (Alternate), Steve Gorski (Alternate)

MEMBERS ABSENT: Jeffrey Spinnanger

STAFF PRESENT: James Staranowicz, Stacie Stinnette

DECLARATIONS OF DISQUALIFICATION

Mr. Apicella: Thank you. Are there any changes or additions to the advertised agenda?

Mr. Staranowicz: No, there's not.

Mr. Apicella: Okay before we proceed any further, does any board member wish to make any declarations or statements concerning any matter being heard by the Board tonight?

Mr. Mowery: Mr. Chair, Could I ask for consideration of the in addition to the agenda under other business, for a discussion about alternate members?

Mr. Apicella: So, before I entertain that, that would have been more appropriate under changes to the agenda. So, you sent in an email, I guess a couple of minutes before the meeting. Can you just describe what you're talking about?

Mr. Mowery: Sure, yeah, it's the same email that I sent back in May to the board, which I think might be because of the length the discussion might be more appropriate if we discuss it at length under the other business later this evening.

Mr. Apicella: Right, but what's the topic?

Mr. Mowery: The topic will be to determine the role of alternate members on the board.

Mr. Apicella: Okay, so what's the will of the board in terms of having it on the agenda tonight or another night? We just did get the email a few minutes before the meeting,

Mr. Mowery: So, it was actually sent back in May.

Mr. Apicella: Right but I didn't bring a copy with me, so I'm just, to me it would be helpful to have a copy of it, to read through it, to understand certainly. Dana?

Ms. Brown: I'm not opposed to discussing it. I wouldn't want to take any action on it, because we didn't, you know, weren't prepared for that, but I'm certainly open to a discussion.

Mr. Apicella: Okay, anybody else? Okay, so we'll add it to Other Business. Thank you. I would now like to explain the roles and responsibilities of the BZA and its procedures. The BZA is a quasi-judicial

Board of Zoning Appeals Minutes
August 27, 2024

body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is authorized by the state code and Stafford County Zoning Ordinance is to hear and decide on special exception application matters here and decide upon request for a variance from Stafford Zoning Ordinance when the liberal enforcement of the ordinance would result in unnecessary hardship to the owners of a property here and decide appeals from any order requirement decision or determination made by the Zoning Administrator. Hearings on appeals, and we don't have any tonight, will be conducted in two parts. The first will be a review of jurisdiction and standing. Second will be hearing of the merits of the case as appropriate after review of jurisdiction and standing. The Stafford BZA consists of seven regular members and two alternate members. Alternate members may participate when a regular member is unable to hear a case. The minimum quorum for the Board to take votes is four members. Let the record reflect that we do have a quorum tonight with a total of seven voting members. The regular members present and voting tonight are Mr. Apicella, myself, Everet Blaisdell, Dana Brown, Kecia Evans, Abraham Panjshiri, and Tylor Underwood. The alternate members present and voting tonight are Steven Gorski. Alternate member Nathan Mowery will be seated at the dias tonight; however, he will be listening only and will not be able to ask questions participate in board discussions on the public hearing items, or vote on any public hearing item, unless otherwise directed by the chair. County staff is represented tonight by James Staranowicz. Today's public hearings will be conducted in the following order, the Chair will ask the BZA secretary to read the case. BZA members can ask questions of county staff regarding the case. The chair will then ask the applicant or the representative to come forward, state their name and address and present their case to the board. The applicant's presentation shall not exceed 10 minutes, unless additional time is requested to and granted by the board, members of the BZA may ask questions of the applicant regarding their case. The chair will then invite members of the public who wish to speak about the case to come forward and address the Board for no more than three minutes, the applicant will have an opportunity to address the public comments and. Any further questions by BZA members after the applicant's final response, the chair shall close the public hearing. With no further public comments, I bring the matter back to the board for further discussion and deliberation. The Board shall review the evidence presented, and the chair shall seek a motion. After discussion of the motion, the Chair will call a vote in order for any motion to be approved. At least four members of the board must vote in the affirmative. The procedure for addressing the BZA and submitting material to the board are as follows: after coming to the podium, members of the public shall provide their name and address so the board can maintain an accurate record of the proceeding. We also ask that you sign the meeting register at the back of the room, as this is a quasi-judicial body under the auspices of the County Circuit Court. We require all applicants, speakers, presenters and the audience members to act with a level of decorum and respect appropriate to a courtroom setting. If there are any disturbances, the chair may call for a temporary recess. Please address your views to the board as a whole and not to the applicant or other members of the public. In order to allow the board time for appropriate review, the applicant or applicant's representative is required to submit relevant material to the part the Department of Planning and Zoning at least 10 business days prior to this hearing, to be included in the staff report. The Board may accept and consider additional relevant material from the applicant or the representative prior to or during the hearing. However, large amounts of additional material may require a deferral on behalf of the applicant to allow the board time to consider that additional material. Members of the public and/or staff may also submit relevant material before or during the hearing. I'd also like to provide some additional information for today's applicants. All applicants are hereby reminded that there are seven voting members present, and any application requires a minimum of at least four affirmative votes for approval. If you decide that there are not enough votes present tonight to enable you to receive a fair hearing, then you have a right to defer your public hearing until another meeting. However, you may defer the hearing for this reason only once in any 12 month period to request a deferral. You need to do so at the beginning of your presentation. Deferral requests are granted at the sole discretion of the board. Applicants may also withdraw their application prior to the closing of the public hearing on their matter,

Board of Zoning Appeals Minutes
August 27, 2024

provided that the application applicant is not withdrawn a substantially similar application within the previous 12 month period. Also be aware that the BZA will not hear any denied application for a special exception or variance which is substantially the same request as determined by the board for at least one year from the date of its previous decision. Any person who does not agree with the decision of this Stafford Board of Zoning Appeals shall have 30 days to petition the Stafford County Circuit Court to review the BZA's decision. The Stafford BZA requires that any persons who wish to speak before this Board shall be administered an oath. Therefore, anyone who does wish to speak tonight, please stand, if possible, raise your hand, your right hand, and agree in the affirmative by saying I do after I read the following statement. Do you hereby swear or affirm that all of your testimony before this Board shall be nothing but the truth?

Members of the public: I do.

Mr. Apicella: Thank you. You may be seated All right. Moving on to our first public hearing, has the staff determined that the application and associated materials are complete?

Mr. Staranowicz: Yes, it's complete.

Mr. Apicella: Okay. I'll now ask the secretary to read the first case.

APPLICATIONS AND APPEALS

1. SE24-02/24155765 - Kelvin Funes - A request for a special exception to allow an event venue in the A-1, Agricultural Zoning District on Tax Map Parcel No. 46-20A (Property) pursuant to Stafford County Code Sec. 28-351. The Property consists of approximately 28.2672 acres and is located at 1500 Forbes Street, within the Falmouth Election District.

Ms. Evans: Thank you. First case, SE24-0224155765, Kelvin Funes. A request for a special exception to allow an event venue in the A-1, Agricultural Zoning District on Tax Map Number 46-20A, pursuant to Stafford County Code Section 28-35. The property consists of approximately 28.2672 acres and is located at 1500 Forbes Street within the Falmouth Election District. The Board of Zoning of Appeals is to consider a request for a special exception to allow for an event venue in accordance with Section 28-35, Table 3.1. The property is zoned A-1, Agriculture, and is located at 1500 Forbes Street within the Falmouth Election District. The Tax Map Parcel Number 46-20A is zoned A-1, Agricultural, which has a single-family dwelling and several outbuildings that were built in approximately 1970. The current owner purchased the property in November 2020. The subject property is located on Forbes Street, approximately 1,215 feet north of Layhill Road and 1,012 feet south of Air Park Boulevard, and consists of approximately 28.2672 acres. The property is wooded to the north and east. To the south is a VEPCO easement and to the west is Forbes Street. There are no wetlands, floodplain, or Critical Resource Protection Areas (CRPA) that would limit development or use of the property.

Mr. Apicella: Thank you. Ms. Evans. Are there any questions for staff? I'll go through the role alphabetically. Mr. Blaisdell?

Mr. Blaisdell: I don't believe so, Mr. Chairman.

Mr. Apicella: Ms. Brown?

Ms. Brown: Yes, I just have a couple. Are Airbnbs legally permitted in Stafford County?

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Staranowicz: Airbnb is considered a short-term rental and at this time we do not allow short term rentals in Stafford County.

Ms. Brown: Okay. And then, are there any permits on file for renovations for this property since November of 2020?

Mr. Staranowicz: No, there is not.

Ms. Brown: Okay. Thank you. That's all I had.

Mr. Apicella: Thank you. Ms. Brown. Ms. Evans?

Ms. Evans: Yes, I just have one. I just wanted to ask if all of the properties around this property, 46-20A, got proper notice?

Mr. Staranowicz: Yes, ma'am, they did.

Ms. Evans: Thank you.

Mr. Apicella: Thank you, Ms. Evans. Mr. Panjshiri?

Mr. Panjshiri: Not at this time.

Mr. Apicella: Mr. Underwood?

Mr. Underwood: Not at this time.

Mr. Apicella: Mr. Gorski?

Mr. Gorski: No questions at this time.

Mr. Apicella: Okay, I do have some questions. How close is the nearest property to this project?

Mr. Staranowicz: I'm sorry, I'm not quite understanding.

Mr. Apicella: Okay. How close is this property to the nearest house? Let me say it a different way.

Mr. Staranowicz: One minute. I'll give a brief... the closest home is approximately 481 feet.

Mr. Apicella: Okay, and how close is this parcel to the airport runway?

Mr. Staranowicz: That would be approximately 1,012 feet from the runway.

Mr. Apicella: Okay, what are the maximum day and nighttime dBA levels that would be applicable to this proposed venue? And just for clarification that's the noise level. That's the cap on the noise level. I believe it's in a residential area or abutting a residential area.

Mr. Staranowicz: So, the maximum daytime for residential areas is 60 decibels and nighttime is 55.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Apicella: Okay. Thank you. Do we have any other wedding and event venues that operate 11 plus hours a day with the potential for multiple events per day, 365 days a year?

Mr. Staranowicz: Not that I'm aware of.

Mr. Apicella: Okay? Does staff have any concerns with the 150 vehicles entering or exiting the neighboring roads such as Forbes or Layhill?

Mr. Staranowicz: I don't see that there should be an issue at this time.

Mr. Apicella: Okay, do we know if there are any issues or concerns with the current site or any matters that might require an investigation?

Mr. Staranowicz: The, excuse me, I'm sorry. We were informed that there's possible Airbnb located at that property. If that's the case, that would be a violation of the Zoning Ordinance since we do not allow them. I have one of my inspectors looking into it and I've contacted the County Attorney's Office also.

Mr. Apicella: Okay and do we know if the property owner lives permanently at the subject home?

Mr. Staranowicz: I was informed by the property owner that he did live on site.

Mr. Apicella: Okay, that's it for me. Thank you, everybody. Any last follow-up questions?

Ms. Evans: Sure, I have one. In reference to your third question for the dBA levels, can staff pinpoint like when you say day, can you give us the hours, day and night?

Mr. Staranowicz: Yes, ma'am, hold on a second. Daytime hours are from 7am to 10pm weekdays, 9am to 10pm on Saturdays and Sunday and legal holidays observed by the county government, unless otherwise specified. Nighttime means the local time between hours of 10pm and 7am weekdays and from 10pm to 9am on Saturdays, Sundays and legal holidays that are observed by the county government, unless otherwise specified.

Ms. Evans: Thank you.

Mr. Apicella: Anyone else? Ms. Brown.

Ms. Brown: Yes, I'm sorry. Thank you. I have one more follow-up question that came out. So, it appears this came to us as a zoning violation for an Airbnb. Was there any reports of events happening on the property as well?

Mr. Staranowicz: Not that I'm aware of.

Ms. Brown: Okay, thank you. Thank you, Mr. Apicella.

Mr. Apicella: Would the applicant or their representative like to make a presentation?

Mr. McCandlish: Good evening. It is a sincere pleasure to address you all. My name is Mr. McCandlish from the firm of Parish Snead Franklin Simpson. I present to you on behalf of Kelvin Funes, who is

Board of Zoning Appeals Minutes
August 27, 2024

seated here to my right, who is the landowner of this parcel. I appreciate the staff's presentation, so I won't repeat it in terms of the dynamics and the metrics of this property. A couple things that I do want to address right at the top. So, I understand that there has been some correspondence with neighboring landowners. I do want to commend Mr. Funes. He has taken extraordinary efforts to communicate with surrounding landowners, to communicate with the HOAs of surrounding properties, and he has also attended events with some as many as 20 local landowners to make sure that they are understanding of what his intentions are with this property. And I think there's some clarifications we can provide that hopefully assure this esteemed body as to what his intentions are, and that it is not that he is hoping or expecting to operate this 365 days a year with multiple events. It's about opportunity. It's about capacity. I want to lead with the headline. In terms of Airbnb rental, that's something that was brought up in an email. My client had previously listed a property on the Airbnb website. He was not under the presumption or understanding that that was something that was not permitted. Whether it was he looked at the various zoning categories and did not see short term rentals specifically listed, but other qualifications, such as hotel or bed and breakfast, which he knew he was not. All I can say is, I've had that conversation with him. This is simply an application to see what he can go through the proper channels, use this property for and in earnest, using whatever conditions this body would place upon it, trying to use this property for some good and some commercial good in the area. As you've seen from the application, he would expect to have roughly 150 attendees, or 150 vehicles as a max for this property. As was eloquently already said, the structure of this property is located at the center of the 28 acres. And I think this is something that is important to mention, so that the event space and where the hub of activity during any event would be towards the center of this 28-acre parcel. He is already committed to placing a sufficient parking area to make sure that those 150 vehicles would be accommodated. Nothing would have to be parked upon street or Forbes for street parking. And I've had conversation with him, and he is also coordinating with VDOT to seek approvals from VDOT for an entrance way, for ingress and egress of those vehicles. So there has been efforts undertaken by my client at this time to ensure that VDOT is on board and understands the scope of the project that he is trying to work on. I will certainly want to hear if you all received the most recent communication, so that some of the presentation can be streamlined. I understand that, I believe it was a Miss Lewis that had contacted members of this body to express concern over the nature of this project. Again, credit to my client's diligent efforts, he was at an event last night with landowners, including Miss Lewis, to address concerns. It seems as though the main area of concern is traffic. That people in the surrounding areas and properties would be worried that even if it's a large parcel, and even if the celebrations are contained within certain hours to the center of the parcel, that the traffic at the beginning and the end of the events would pose the biggest area of possible concern. What I can say is there were some arrangements that were discussed last night that my client would be willing to undertake to assure those neighboring landowners that that would not be an issue. Primarily that there are off streets that rather than take the most direct route back to Route 1. It seems that neighboring landowners were concerned that people would cut down side streets go through areas where special assessments were recently used to repair roadways. My client is willing to commit to signage to assure that any attendees would know exactly, when exiting that property and that parcel, how they would get directly back to Route 1, so that there is at least information and notice for any attendee exactly the way that they are supposed to go. There was also discussions about having some sort of traffic control or traffic personnel that my client would be willing to retain and hire, just to simply make sure that if there is one or two particular side streets that we really want to make sure and want to abide by those goodwill conversations that traffic would not try to cut through, that they would continue to direct traffic back to the most direct route to Route 1. I think it's important to say this is above and beyond by my client. This is above and beyond attempts to make sure that those concerns are heard and addressed at the forefront, at the outset regardless and even before we get to this hearing. In terms of the properties around, yes, they have received proper notice. I will also say that another concern raised that we do want to make sure to mention is the Dogwood Airpark HOA, and also the Stafford Airport

Board of Zoning Appeals Minutes
August 27, 2024

are, as was read into the record not a far distance away. An agreement that was drafted by the local HOA was presented to my client, which would simply say that my client would not raise concerns in terms of noise disturbance for his events, rather than his noise for other events in regard to air traffic in a normal and regular course of business. And so, he is willing to sign that agreement. That is agreement that was drafted not by him, but by the leader of the HOA. That is a further indication of how he is willing to work. And again, to his credit, they have already talked about arrangements so that on days of events, there can be some discussion over when flights are expected, or as flight logs or statuses are updated, that there can be a free-flowing communication. I give my client a lot of credit because those are the types of communication channels that can really help to make sure neighbors can coexist peacefully and to the extent that we want to talk about hours. And this is one area that I do want to make sure is corrected, even though I'm hopeful. Everyone received a late breaking email that seemed to express a reinsurance from Miss Lewis as to the nature of this project. My client is not anticipating of hosting events to 11pm and going to the ordinance, it's very clear that parties of this nature, or celebration of this nature would conclude at 10pm and the 11pm was simply to allow for an hour of cleanup and to make sure that there would be sufficient time after the 10pm closure and after, as people are leaving, that noise is cut off all decibel levels are abided by and that there would be an hour allowed for any staff that was hired on site for the event to clean up. My client again, does anticipate this being his residence, and so this is not, again, I want to make sure that this permit and the special exception that he has applied for is looked at for the confines and for the purpose for which was applied, which was events. My client at this time, intends to live in that residence at some point, if he and again, notwithstanding the fact that we've had the conversation about the Airbnb, if he wanted any other purpose, he understands he goes back before this august body to explain and apply for any further application for other visitation or arrangements for overnight stay. But that is his intention, to live at this arrangement, to live at this structure and so that would be how he would also be able to monitor and oversee events. I am happy to answer any other questions you all have. I do want to make one very quick clarification, and I may have read it wrong. I was looking at the proposed use of agricultural commercial for decibel levels in Stafford County, and I may be mistaken. I had read a daytime decibel level of 65 and nighttime decibel level of 60, and I'm happy to be corrected if that is not the case.

Mr. Apicella: That's not the case. When you're abutting a residential property, you have to abide by that residential property's dBA levels.

Mr. McCandlish: Understood and I just wanted to clarify that so thank you. I appreciate it Mr. Chair. With that, I'm happy to answer any questions that you all may have. Again, I give my client tremendous credit for not only taking the steps of addressing traffic at the outset with VDOT, and I have information materials to that effect, if any supplements are needed, but also reaching out and engaging directly with the landowners, including those that were concerned. And I welcome any comments

Mr. Apicella: So, I'm going to ask my colleagues if they have any questions. But I just want to jump in with one quick question, because I think it bears some clarity. Is the applicant living in the property currently?

Mr. McCandlish: My understanding is that the applicant may be splitting time.

Mr. Apicella: I want to... what does that mean? Is he permanently living in the residence today?

Mr. McCandlish: Okay, I am not certain of whether he's permanent living now, that is my understanding of his intention going forward and with this property were to be permitted. And so, my understanding,

***Board of Zoning Appeals Minutes
August 27, 2024***

candidly to you sir, is that I believe he is splitting time to some extent, but that his intention is to live permanently in this residence.

Mr. Apicella: Splitting time 50/50? 70/30? Where is this other residence?

Mr. McCandlish: Do you mind if I permit my applicant to...?

Mr. Apicella: Absolutely. You can feel free to come up as well.

Mr. McCandlish: My applicant represents, that was my understanding, I just didn't want to misstate or mischaracterize. My understanding is about a 50/50 split currently.

Mr. Apicella: Okay, Mr. Staranowicz, what's the current requirement for a special exception?

Mr. McCandlish: Your Honor, I certainly think my client would be willing to accept a condition that he would be living permanently and full time in that residence, and again, just to the extent that he had been splitting time, and no presumption as to how this proceeding would go, but his intention would be to live permanently in that residence with this permit, or would especially exception be granted.

Mr. Apicella: I hear you. I feel like I need to hear from our staff.

Mr. McCandlish: Yes, sir.

Mr. Apicella: All right. Well, while he's... oh, okay, go ahead.

Mr. Staranowicz: Under the definition for an event venue, it would be operated by the owner of the property who resides on the property.

Mr. Apicella: At the time the application is made? When does that kick in?

Mr. Staranowicz: He would have to be, if we approve it, he would have to be living on the property at that time.

Mr. Apicella: So, if we approve it tonight?

Mr. Staranowicz: He would have to make arrangements to move on to the property.

Mr. Apicella: Immediately. Pretty much. You understand that, right?

Mr. McCandlish: I do, yes sir.

Mr. Apicella: Okay, questions for the applicant. Mr. Blaisdell: ?

Mr. Blaisdell: No.

Mr. Apicella: Ms. Brown?

Ms. Brown: Yes, okay, one of them was the residency, so thank you, Mr. Apicella, for clearing that up. So, I would just like to ask this again, is the gentleman currently operating an Airbnb?

Board of Zoning Appeals Minutes
August 27, 2024

Mr. McCandlish: My understanding is that there is an Airbnb that presently is listed. I am not sure the last time that it had any business, and so it was previously listed and I am certain that there has never been an event held there.

Ms. Brown: The reason I ask is I just tried to book it and I could, so I just wanted to make sure we understood that. The other question is, is he leasing out any of the property for land use?

Mr. McCandlish: I am not aware. Again, I would just ask to speak to my client. I'm not aware of that, but I will do want to clarify, yeah, I'm not aware of any property being leased out for land use.

Ms. Brown: So, nobody's coming in to mow and take the hay, take care of some goats, any kind of farming or anything like that?

Mr. McCandlish: So not lease, what I am aware of is that he does have a farming operation for hay on his property and so there are two or three local farmers that will come in to collect the hay and benefit from the hay. And having represent a couple of the farmers currently I know hay is hard to find during the summer, so he does farm hay on his property that then is to the benefit of a couple of local farmers.

Ms. Brown: Okay, and then does he plan to hold events indoors or outdoors? I know that in there, you guys had said that you weren't, hadn't decided yet on what you were going to build. And that was kind of a question of mine. You mentioned a pavilion. What was your idea of a pavilion? So, what was the intention on that?

Mr. McCandlish: Yes, ma'am, no, great question. My client's intention is to build about a 3,000 square-foot slab upon which he would construct either a tent or pavilion structure. So would not necessarily need to be a permanent structure but would have the opportunity to bring down siding or some type of tarp to enclose noise or enclose activity. But the primary operation for where the events would be held would be a concrete slab upon which you could then have temporary structures put in place depending on the event.

Ms. Brown: Okay. And would you require the same operational days per week and hours in the winter? Would you be, you know, having shorter days and less days in the winter?

Mr. McCandlish: Yes, ma'am, and I'm glad you brought that up. And again, I do want to clarify, my client's intention and expectation is not to hold events seven days a week, nor events 365 days a year. Certainly, there would be seasonal considerations, whether it be temperature or what feasibility there would be to hold events at certain times and in certain temperatures. He certainly just wanted the capacity and the opportunity that if an event worked out, and if there were arrangements that could be worked out, that he would not be precluded from having those events regarding the conditions that were placed on the property at the outset. And so I would certainly expect there to be far fewer than events every day of the week. And I think my client would be willing to some constrictions as to if that were a deciding factor for this body in terms of how many days a week or how many days a year, it could be permitted.

Ms. Brown: Thank you. I only have one last one, just in the interest of moving on. I didn't mean to cut you off there. Where do potential customers come to view the site and discuss pricing prior to contracting for an event? Is there an office for appointments? Or how is that handled? How would that be handled?

Board of Zoning Appeals Minutes
August 27, 2024

Mr. McCandlish: Again, I would ask to just briefly check with my client, and I will say that I don't know that that decision has been made prior to the granting of a special use exception or special exception, but let me just confer with my client to see.

Ms. Brown: I guess I'm looking to find out if they're going to be coming to the house.

Mr. McCandlish: And they very may very well be. But if I may just confer with my client, I would appreciate. So, yeah, he would be fine with having on-site, you know, certainly once he has an understanding of what the parameters of any special exception was, then he would devise a plan and publicize it to probably have people come to the house, be able to meet him, see the space, and be able to possibly operate it from there.

Ms. Brown: Okay, thank you very much. That's all I had, Mr. Apicella.

Mr. Apicella: Thank you, Ms. Brown. Ms. Evans.

Ms. Evans: Yes, I just have one question. So, for the property owners, it's Mr. Kelvin Funes and Sandra B. Gaiten-Diaz. Can you tell me then, on the owner's consent form, who's Molly Flurry?

Mr. McCandlish: Yes, Molly Flurry is my colleague. So, Molly Flurry is another attorney that is under the firm auspices for the representatives of the applicant.

Mr. Apicella: Thank you. Ms. Evans. Mr. Panjshiri?

Mr. Panjshiri: Not at this time.

Mr. Apicella: Thank you. Okay? Mr. Underwood.

Mr. Underwood: Not at this time.

Mr. Apicella: Mr. Gorski?

Mr. Gorski: Yes, I do have some questions, a little bit about the hours of operation. I know what the ordinance says, and what you know your client has agreed to as far as the event closing up or wrapping up 10 o'clock on the weekends and then 9 o'clock on Sunday. I'm going to describe this, for lack of a better term, as being this property being residential adjacent, right? Because it's 481 feet, and there's other residences around it so it's in the middle of 28 acres, I understand, but let's just call it residential adjacent, right? So what assurances, I guess, you know, I guess the assurance that I'm looking for is, how will these hours of operations be met, right? People having a good time. It's a wedding, etc, etc. 10 o'clock, you're closing down, 9 o'clock, you're closing down. You know, if something goes past, because people are having a good time, what assurances can this board or I have that those hours of operation will be stuck to?

Mr. McCandlish: No, I think it's a very fair question, certainly question that's presented with any event venue, wedding venue, or any event venue that has celebrations in the night. First of all, certainly, there will be a lot of incentive for the property owners that will be living there full time and permanently to make sure that people are off their property so that noise complaints in any of the other recourses that any neighbors will have, and I'm sure be all too happy to exercise if it runs afoul of those times. There will be a sensitivity to that, and there will be every incentive for my client to abide by those times.

Board of Zoning Appeals Minutes
August 27, 2024

Secondly, as the father of a young family, I'm sure he's going to want to have some quiet after a certain hour as well. To the extent that you know, if the assurance you're looking for is, how do we know that the last car has left by x time. I again, I think that's something that every event venue is mindful of and has to confront. And so, whether that is, again, to the extent that there's any sort of traffic enforcement and control, they can help to make sure people are aware being called to their cars by a certain time. So, whether that's a preliminary call or end of music time slightly ahead of when expected departure is, these are the types of arrangements certainly that could be put into place. I would certainly ask that conditions that wouldn't be put upon another event venue be imposed upon my client, to the extent that other event venues in residential adjacent areas would not have those same restrictions. But I certainly appreciate and understand that question and would say that he's going to have every incentive to not have noise complaints. He's going to have every incentive to not have calls to county police or inspectors or anyone else that there are cars that are leaving the parking lot well after the hours that are dictated by county code.

Mr. Gorski: Thank you.

Mr. Apicella: Thank you, Mr. Gorski. I'm just kind of following up on Mr. Gorski: 's questions. I will say that I have a great amount of concern about the open endedness of the hours and days of operation. You say the intent is not to do it 365 days a year, and that the applicant is looking for flexibility. Well, again, as I asked staff, no one that we have, as far as I know, has such an open-ended amount of time or possibility to have sort of unrestricted numbers of events throughout the year. So, what I would ask you to consider, and we do have caps on our wedding and event venues. I'm looking at one right now that was done recently, their cap is four events per calendar month. Another wedding and event venue capped at 50 per year. And I don't know what the right amount is, but I'm just saying I really feel like you need to consider some kind of cap on the total number of events and number of events per day. Otherwise, I think the residents will have great angst about there being events again, several events per day, every day of the year. So, I don't know what that number is. My colleagues might have some thoughts about that, but I think we really need to dig a little bit deeper and find a way to make this more appropriate for this residential adjacent parcel and the surrounding community. There are a lot of homes around there. And then there's an active airport as well. So obviously it does bring its own noise, but the noise from an event venue can be pretty significant and bothersome for people if it's occurring frequently and people are trying to enjoy their daily lives.

Mr. McCandlish: Yes, sir. And if I may respond, you know, I've certainly had that conversation with my client, and again, my client's application was submitted with a mind towards flexibility and opportunity. I have spoken with my client, and we've discussed that if that were a tremendous concern of the board, and anticipating that it could be, certainly a schedule of Thursday to Sunday, is a schedule that he would be willing to, if that were a predominant concern, be willing to consider. Again, my client's view is that he's not going to anticipate having multiple events a day or seven events in a week, but that he wouldn't want to close himself off to the opportunity that if it worked out from all their logistics and all their parameters, and there is someone that couldn't find an event space, because it's sometimes hard to find event space on to find event space on Monday, Tuesday, and Wednesday, that he at least have that opportunity. And that was his intention. It wasn't to host an event every day or have hours late into the night of music and loud noise, but simply the opportunity. But if that were something that were a sticking point and a turning point for this body, then a Thursday to Sunday schedule is something I have discussed with him.

Mr. Apicella: Okay. And how about how many events per day during that Thursday to Sunday period?

Board of Zoning Appeals Minutes
August 27, 2024

Mr. McCandlish: I've spoken briefly, and I will say, to a lesser extent about that with my client. I am not certain at this time that he's willing to commit to one event per day, and that's frankly not because he's indicated the contrary, but I just haven't had that specific conversation with him, and so I would not want to misrepresent, and frankly, just as his counsel, I'd want to have a conversation longer than a brief turnaround.

Mr. Apicella: Well, I think you should have that conversation, because it's going to be a sticking point for me. Again, I can't speak for the rest of my colleagues, but several events per day, even if it's just restricted to a Thursday to a Sunday, again, when people are home, trying to enjoy peace and quiet on their days off, could be quite bothersome.

Mr. McCandlish: Can I ask a brief follow-up question Mr. Chair? Just to make sure, and I do appreciate the candor and the transparency of that concern. It is very helpful. To the extent that there's any precedent for...

Mr. Apicella: There is plenty of precedent. I'm sitting here right now with several cases in front of me where we have placed caps on wedding and event venues. So, I'm not just making this up, not pulling it out of air. It's not a precedent to restrict the number of events per week, per month per year.

Mr. McCandlish: Absolutely, and that was not my question. My question was whether there's precedent for having venues that would have two or three so that there wouldn't be a cap for one, but there would be a cap for two or three events per day. And again, not that that's what my client has signaled his intent is. I just want to clarify the parameters of what there is precedent for.

Mr. Apicella: Again, my gut reaction is three is a lot per day. Again, given that it's on the weekend, understand the applicant's desire to have maximum flexibility and profit. Personally, I think three is quite a lot. Again, I can't speak for the rest of my colleagues. I'll have a chance to weigh in as well, but I personally think there is a lot understood.

Mr. McCandlish: Do you mind if I had that brief conversation? Thank you very much, Mr. Chair. I do appreciate it. I do believe my client would be willing to cap it at two per day. And that's not an expectation that there would be two in a day necessarily. Again, and for that to even be possible, there would be an event earlier or midday that would not be at the nighttime hours that have seemed to raise concern. And again, that's just a precaution. So, there's clear expectation for all parties moving forward that there would not be more than two in a day, and that would not be utilized, or expected to be utilized to some great degree.

Mr. Apicella: Understand, I appreciate that. All right. Well, that's it for me. Any follow-up questions? Ms. Brown?

Ms. Brown: Just one. So, is your client aware that if this does get approved by this board today, that there's likely going to be a change in his real estate taxes? Just something to consider about that, had that been thought about or not? And has he renovated the property since he's been there?

Mr. McCandlish: And I anticipated that question. You know, first, I have not had the explicit taxation question with him. I certainly have spoken about the changes that he will have to undergo and the financial differences that there may be and so broach the subject, but to be diligent as his counsel certainly would have a much more thorough conversation about that. I'm glad you asked about the renovations, because that was something that confused me and confounded my client. To his knowledge,

***Board of Zoning Appeals Minutes
August 27, 2024***

the only changes have been painting, and I believe there were some floorboards that were replaced. And I asked him about this, and frankly, drilled him on it repeatedly to understand what the origin of that concern was. And to my knowledge, the extent of it was some floorboards being replaced and painting. I think it arose from, there was a description on the Airbnb website about a renovated building, and so I...

Ms. Brown: Because he put that on his... I mean he wrote that.

Mr. McCandlish: My understanding is that that was somehow language that appeared on the Airbnb website and I, for that very reason, had a very deliberate conversation with him, saying, what renovations, if any, did occur, that could possibly conjure that type of interpretation, and my knowledge is that it was floorboards replacement, painting and some other cosmetic measures.

Ms. Brown: Yeah, just know that, you know, our Commissioner of Revenue's office does have before and after picture so, you know, just want to be clear that you're saying he's only done painting and floorboards.

Mr. McCandlish: That's the conversation I had with him, that there was not significant changes. And if there were significant changes, they're not ones that I'm aware of.

Ms. Brown: Okay, thank you.

Mr. McCandlish: And would you mind? I just want to confer with my client make sure I'm not missing anything. We did have this conversation.

Ms. Brown: Sure.

Mr. McCandlish: Okay, thank you. The only other item that he just mentioned was that there may be some cabinet replacement or some sort of cabinet fixture, but that seems to be the extent of it.

Ms. Brown: Thank you.

Mr. McCandlish: Thank you very much.

Mr. Apicella: Thank you, Ms. Brown. Anyone else have follow-up questions? No? All right, thank you very much.

Mr. McCandlish: Thank you. I appreciate your time.

Mr. Apicella: All right, so I'm gonna open up the public hearing. I've got a list of speakers, and then after that, I'll go through the audience and ask if there's anyone who's for or anyone who's against, but I'll start with the speaker cards. Gary Schue.

Mr. Schue: Since I've never done this before, be gentle. Okay, I'm not here to refute...

Mr. Apicella: What I do need you to do, and everybody else who speaks, is your name and address. Okay?

Mr. Schue: My name is Gary Schue. My address is Fredericksburg, Virginia.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Apicella: Thank you, sir.

Mr. Schue: Okay, my function here is not to refute what the council presented on behalf of Mr. Funes, but on his application page six of seven, Attachment 3, when it indicated what amount of square footage in the dwelling would be used for business purposes, the entry was zero square footage, so there was business to be conducted, and I was self-employed for 40 years, and I'm aware there needs to be space, okay, but that's not my presentation. I was very concerned when I read this from your web page about the process of where a special exception was requested on not only a wedding venue, but also a Monday through Thursday corporate events, birthday parties and dog and pony shows, or whatever could possibly occur during that time. And being a federal contractor, I know there's 20,000 federal contractors in the metro DC area, there's a lot of potential business and income there for Mr. Funes. Okay, and let me just get my notes here. All right, essentially, I was going to start with a folksy story, but maybe it's too folksy for you guys. There was a husband and wife driving down the road, and the husband was an accountant, and he was in the passenger seat, and the wife was in the driver's seat, and they looked over in a field, and they saw a beautiful brown and white spotted cow. And the wife said, oh, look at that view. Beautiful brown and white spotted cow. And then the accountant husband looked out the window and he said, yes, it's beautiful brown and white on this side. And that's the feeling I got when I read this entire application, that there were components within here that didn't really follow. There was one, the wedding venue is a great brown and white spotted cow on this side, because everyone's in favor of wedding venues. They're money makers. They're very nice events. I've been to several the moon out on Poplar and some other events from River Road has some great wedding venues, and I've been to a bunch, but this particular application did not follow the logic that I thought it should have and that's the process for you guys to take care of. Thank you.

Mr. Apicella: Thank you, sir. Brent Bowman, Anita Bowman, Alex Bock.

Mr. Bock: Thank you, Mr. Chairman and this board. My name is Alex Bock. My address Fredericksburg. I would like to respectfully ask for your denial of this special exception as it is written. I have several concerns about the application, many of which you yourselves have already mentioned. Main concern is some of the noise that will be persistent throughout the event times, mostly when we want to enjoy our homes in the evening and during the weekend. Just as a reference, I can hear the Stafford High School Marching band play on Friday nights, and while I do love that it's only a couple nights during the year, not full time like this could potentially be. I do have concerns about the increased traffic on Forbes Street as well, and also the increased likelihood of intoxicated drivers on that street. As you mentioned already this is not a large farm kind of out in the country where some of these on your other venues exist. It is in a smaller piece of land nestled within our residential community and I'd like to ask would you want an event center like this in your backyard? If this were to be approved, I would ask for some limitations that you mentioned already, either reduction in number of guests permitted, or in the days that it is permitted to operate. Thank you very much for your time.

Mr. Apicella: Thank you, sir. Esther Lopez

Mrs. Lopez: My name is Esther Lopez. I live right across from where they want to put the venue. Thank you for your due diligence in coming up with everything, the Airbnb, which they've already done projects on the property, probably without t permit. I just want to say I have two small children, and a bus comes by. So, I would ask if they were going to do anything like that they would just do it on the weekend because a bus goes up and down that street. I have small children and animals. That's really basically what I wanted to say. Thank you.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Apicella: Thank you very much. Ivan Lopez.

Mr. Lopez: Good evening. My name is Ivan Lopez. As my wife said, we live directly across the land that they're discussing. My personal concerns are, I work from home, and I'm directly on the outside wall my home, where every noise, everything that goes across the street, I hear. The other concern is traffic. There's only one egress and ingress route that I'm familiar with, and I've lived there for several years, 20 something years, and I only know that traffic turning into from the adjacent road to Forbes is a difficult road to traverse, primarily because you can't turn left from Route 1 to that road into our street. It takes a long time to get to turn, I know I live there, takes a great deal of time waiting for traffic to turn left, so if we're talking about 150 vehicles or more, I can already see that's going to impede traffic coming off Route 1. But on top of that, the traffic that's literally going to be coming across our street is going to be immense. I also have same concerns as others in terms of the possibility or potential of individuals being inebriated, either walking around the area because they can literally walk across the street onto my property, or literally driving through the traffic. I have small little ones. I also have dogs, dogs who are affected by the marching band that I also hear from the high school, from individuals when they're flying down that road, because we have young teenagers that live in this vicinity also who love to fly down that road. The addition of additional traffic. The reason I moved there is because I have PTSD. The reason I moved there because it was quiet, because I enjoyed the fact that many of the individuals such as myself were retired or in their 60s individuals or prior military individuals, and it's not about a vet community. It's about the peace and quiet in the environment. My weekends is when I only have the opportunity to do anything in my home, where I like to relax when I'm not actually working, when I actually have my grandchildren at my home, when I have my young children, as well as at the house. The issue being is noise. I don't care about the decibels. I do in the sense that if your whispering is one thing, but when I can hear things clearly, it's disturbing to me, especially if I'm sleeping. I go to bed early, and I rise rather early. Any noise is going to affect me. I know my wife for one, even though she didn't communicate it, she wakes up when our cat jumps on our bed, any noise at all. The point being is that we have very sensitive ears in this home. And so personally, I'm not for it. I'm not against someone trying to make a profit or making a living off the land. I am against the idea of changing the property to, you know, something that's commercial and having the effect of additional human beings in that vicinity, there's no way to stop it. And as you stated, and I'm not going to communicate what you've already asked questions on there is no certainty of anything in terms of who, who can come through the neighborhood, who is end up walking around, who's driving, and that would happen literally in front of my property. I realize I'm out of time. Thank you.

Mr. Apicella: Linda Burdette.

Mrs. Burdette: My name is Linda Burdette. I live in Dogwood Air Park. I am the president of the Dogwood Homeowners Association, but I would like to explain that our community has not developed nor agreed on a position with this application. So, no one has the authority to speak for the neighborhood as a whole. Therefore, I am here strictly on my own behalf. I am not against this application. When you live at an airport, you constantly worry about the uses of the land around you. I've been before the Planning Commission and the Board of Supervisors before talking about threats to airports from noise complaints. It is a very real threat. And in a perfect world, all the land for a mile around every airport would be permanently empty. But that's not a reasonable expectation, and in this world, we have to work together. In my personal opinion, this wedding venue is a very reasonable use of this land. There are many, many uses which could be far worse for our quality of life than a wedding venue. My husband and I have met with Mr. Funes on numerous occasions, and we hosted a gathering of concerned neighbors at our home just last night. He has been very receptive to our concerns and has agreed to take steps to address them. We are finalizing an agreement in which he agrees not to complain about the noise of

Board of Zoning Appeals Minutes
August 27, 2024

normal airplane operations. He will notify us when he expects to have couples exchanging vows, so that our pilots can, if possible, adjust their normal traffic pattern to avoid flying directly over the ceremony. He is aware that outdoor venues will have background noises. In this area we hear the trains on Leeland Road, the helicopters and guns from Quantico and the traffic from the highways. Frankly, our small airplanes are minor compared to these. I don't know if it's feasible, but you might consider including another condition, that the venue is subject to noise from neighboring aircraft and other sources such as nearby trains and military bases, and that the venue will not take action against these normal noise sources. Second, Mr. Funes has agreed to post signage at his venue to instruct customers to turn left on Forbes to exit, and that a right leads to a dead end in Dogwood Air Park. He also mentioned having personnel to direct parking. Separate and apart from this application, there are two final issues which currently impact all the neighborhoods on this section of Forbes. The left turn lane from Layhill onto Forbes is a blind curve. We often start to turn just as a car comes flying from the opposite direction. It is very dangerous. Additionally, the road on this section of Forbes is in very poor condition. Both of these issues badly need some assistance from the county. I wish to make clear again that I am not speaking for my entire community, but I personally support this application, and I'm completely willing to work with Kelvin and Sandra to be good neighbors.

Mr. Apicella: Thank you. Randall Burdette.

Mr. Burdette: Good evening, Mr. Chairman, members of the board and guest. I am Randall Burdette, and since 1992 I've lived in Dogwood Air Park. I was formerly the Director of Aviation from 2000 for 2018 having served four governors, setting policy and supporting the 65 public use airports and over 200 privately owned private use airports like Dogwood Airpark that are located throughout the Commonwealth. One of the keys for successful airport operations is flying friendly and working with your neighbors to avoid noise complaints. It's the same whether it's a big private big public airport like Dulles or small airport like Dogwood. Mr. Funes understands this outdoor venue will be subject to noises from Quantico, helicopter flight operations, train operations, and, of course, flight operations from Stafford Regional Airport and Dogwood Airpark. He has shown a willingness to work with us and prepare a written agreement that he will not complain about any flight operations conducted in accordance with federal aviation regulations, from Stafford Regional Airport or Dogwood Airpark. As a resident of Dogwood Airpark, if this venue is approved, I look forward to working with Mr. Funes and the county to put in place agreements to allow Dogwood Airpark residents to enjoy our property and allow Mr. Funes to join his property as well. Thank you.

Mr. Apicella: Thank you, sir. Kristin Maxson.

Ms. Maxson: Kristen Maxson. I really came to speak about the minutes that was attached to the agenda, but I will say that Dogwood Airport community is known to be a great community. Very impressed by it. And I am for small business, and a small business owner that is smart is going to take one step, two steps forward and one step back in all proceedings to ensure that the event is done properly. So that, I would suggest as a good a good rule to follow. What we had was with covid, is we had one step forward or no steps forward, and about six or eight steps back, and it put a lot of people out of business. 2008 when the banks went bad, I couldn't believe the number of banks that folded. Hundreds and hundreds and hundreds, just lines of banks that folded in 2008 and following all the way up to 2012 and this was something that people did. They did a small business to help pay for these kind of economical strifes. So, I am for small business. I just want to let everybody know that in the GIS there are four parcels of the same tax map number. So the tax map number is 46-20A there's one that is specified as 28 acres, but the others are specified as 27 just about a half an acre less of roads and also the airport runway. It all has the same tax map number. This is probably an error and but I just want to make sure that the owner

Board of Zoning Appeals Minutes
August 27, 2024

understands that, and if there's any misunderstanding to how the tax maps are filed, that that is corrected. And I'm really here to talk about the elections that the BZA experienced in the past. It's attached to the minutes, and no public should have to listen to what we had to listen to. This would be May 28 minutes. And what was tucked also in there was some other minutes of the election.

Mr. Apicella: Ms. Maxson, I appreciate your concerns. It's well-noted. Your comments are specific to the case that's in front of us. I gave you a little bit of discretion so unless you have anything else to add about the specific case, the public hearing is specific to normally, special exception.

Ms. Maxson: Normally what happens is before the hearings are actually given...

Mr. Apicella: That's not true with the BZA. There's no public comment period before the BZA starts its business. Totally different entity.

Ms. Maxson: All right. Thank you for the correction.

Mr. Apicella: Ms. Lewis.

Ms. Lewis: Hi. I'm Julia Lewis. I guess you all know about me. My name keeps getting thrown around, doesn't it? Okay. So, my house is located right next door to the Burdettes and so clearly, I'm very close to their property, even though I'm not right on their property line. What I want to talk about because, you know, I want to agree with Linda Burdette, what she said about it being a dangerous turn. I think that 75 cars, because a lot of conversation last night was about the number of cars and the traffic. And I really do believe that even 75 cars, if you look at it, you know, Secretary Evans stated it's about 1000 feet from Layhill to their driveway. And so, if you're thinking about the traffic, there really will be a lot of traffic, and it can back up because it's hard to make that turn from Layhill onto Forbes, and then that can back up into Highway 1. So, I'm concerned about that. The other thing I want to talk about is, you know, the Airbnb. If you look at those pictures, there is a double wide SubZero refrigerator in that kitchen. I don't believe that the Greenwalls turned that house over with this huge refrigerator. So, my question is when they do say that it's a fully renovated luxury farmhouse, I do believe it has had more than just some paint. So, I am concerned about that. Last night at the meeting, there are people in this room who can attest that Mr. Funes is when he was asked about how many events a day, if he would have one or two, he said, oh, you know, I think I would only have one a day, because two would be too much work. And, you know, I swore an oath. I heard him say that. Also, when he's talking about no events at his venue. Well, Paul Scott is not here to say it, and this is probably hearsay, but he told me that there was a business off site, and that there were at least 10 cars, and that was like in the last week to two weeks. So, I think if you were to get into Airbnb records to have him show then he would be able to show you what's going on in that Airbnb. And at the meeting last night, Mr. Funes said that he had no intention of moving to the property until all everything was in its place. And so I just, I want to mention that. So, when he says he's staying there 50/50, I question that. So, I'm asking that you consider limiting him to three days a week, because most of the other venues are Friday, Saturday, Sunday, and also, I've got 30 more seconds so, and also to one event per day. I realize that, Mr. Apicella, you mentioned that they, the applicants, seem to pick their own hours, but I'm asking that you would also limit it to 50 guests, because they're in 2021 the wedding venue for the Jacksons, who have the swimming pool, they have one event a day and limited to 50 guests. And there's a big difference between Mount Olive Road, and our road, there's a lot more traffic. So, thank you very much for your service.

Mr. Apicella: Thank you, Ms. Lewis. So, I'll now ask if there's anyone who hasn't spoken who wishes to speak in support of the application, and if so, please come forward. All right, so you know, if there's

Board of Zoning Appeals Minutes
August 27, 2024

any members of the public who would wish to speak in opposition to the application, who hasn't already spoken. All right, seeing no one would the applicant like to come forward and respond to the public comments.

Mr. McCandlish: Thank you again very much to this board for your time. I appreciate, I do. I appreciate the concerns and the considerations have been brought forward by the public, by neighbors, and so certainly do want to address a couple of the items that have been mentioned. Right at the outset again, I've had a couple of sidebars with my client while other members of the public have been speaking and here's what my client is certainly willing to consider. I appreciate the commentary about the particular difficulties during the weekdays that may include Thursday and so my client would be willing to condense events from Friday through Sunday, if that is a way in which evening events on a Friday would not interfere during the work week, would not interfere as much with children's bedtimes before a school day. My client is willing to commit to events Friday through Sunday. And to that, I'm hopeful, and it seems like at least with the comments we heard, that would obviate the need for some of those concerns, or at the very least reduce them significantly during particular times of sensitivity. The other thing, and I will be very clear, when the question about number of events per day was put forth, I asked a leading question of my client in sidebar, which is, would you be willing to commit to two events per day? Not necessarily, are you only willing to do two events per day? My client is signaling he's willing to do one event per day. And so, in terms of the application to see it go forward. In terms of reasonable conditions that we hope will assure the public of the intent and the scope of what his activities will be. He is willing to have events from Friday through Sunday for one event per day, which would seem to coincide with the precedent that is set by the other event venues of a similar nature. You know, a couple of the other considerations I think that hopefully does speak to a good number of the comments that were raised in the speakers. You know, again, my client's application signified that there would be somewhere between 50 to 150 attendees for an event. That is not to say he is expecting or pushing for 150 attendees at every event. It is rather to say that for a 28-acre property that has a lot of outdoor space and some capacity to hold overflow there with reasonable hours, with reasonable day restrictions, that that is certainly a space that could accommodate 150 people. And so, we wanted to have that option. And so I would ask for that consideration, you know, for other event venues that may have other features, whether it be pools or anything else that have other considerations. He has a large space in which people are able to roam free. And even if there's a hub of whether it be items being served or, you know, tables in a central position, certainly there's enough room in that property for well over 150 people. But he's just asking for that opportunity, if that is something that helps an event happen there. We have heard a lot about traffic and ingress egress. I do want to mention again, to the extent that he's been thoughtful about this, that he's coordinated with VDOT, that VDOT is satisfied in terms of the turn in, that signage will be posted to make sure that traffic does not go in any inappropriate direction and to make sure that there's one or two personnel that are helpful to direct traffic, to make sure they take the most direct route. We are hopeful that that will ameliorate any of the conditions, or at least certainly the risk for traffic going in any other direction. When you're that close to Route 1, there's going to be traffic. And so to the extent that any event venue, any wedding venue, any place that has events with the outside, with the public, that is that close to Route 1, there is going to be some traffic. And I think it's particularly noteworthy, and this was raised by a number of speakers, this is right by the airport. So, this is already a place where there is a constant threat of noise. This is already a place where there is an expectation of at least some level of noise, and I certainly appreciate and do want to be very mindful of the comments that are raised by the hope for hours and decibel levels to be reasonable. But when we are right by an airport, as we heard from at least one or two people that are affiliated with that airport, there is a sense of being good neighbors and allowing certain events or allowing certain venues where noise is already a factor, and so of anywhere to be placed for an event venue, it actually makes sense for an event venue to be placed not too far from Route 1 and not too far from an airport where the ever present threat of noise is already a

Board of Zoning Appeals Minutes
August 27, 2024

factor. We are hopeful with the condensation of time to Friday through Sunday, and certainly abiding by all county codes as they pertain to hours of operation, as they pertain to decibel levels, and having one event per day, this seems to fit cleanly and coincide neatly with the other event venues of a similar nature and of a similar capacity that have already been approved, and we are hopeful that these restrictions will make sure this can be a successful operation, and one that is cohesive with the community that preexists there. So happy to answer any question from there.

Mr. Apicella: Thank you. Any follow up questions for the applicant? Mr. Gorski.

Mr. Gorski: I have a question. We talk about, you know, there being noise at the property, from the airport, Route 1, train for mentioned, etc. So, my question would be, then, this is a place to gather for events, weddings, etc. Why there? Then, right, if there's all this noise already there, I mean, what help me along with that, right? I mean, wouldn't that be an impediment to business, as opposed to something you would strive for?

Mr. McCandlish: That's a great question. I think there are two or three factors that speak to that. First, this is a 28-acre parcel, and so while being completely sensitive to that there are properties and structures that are in the surrounding area, this is still a sizable parcel that is conveniently located. And so frankly, certainly, for the discussion of why Route 1 can present some traffic issues, that also makes it one that is actually fairly accessible. And so it is actually accessible for people from out of town, or they may be traveling from north or south, whatever, up to the capacity that's allowed, would be able to reach that without too much trouble. So that actually is a benefit, in some respects. The other thing that hasn't been mentioned, or maybe only briefly, is that there is a perimeter of forestation around the property. And so certainly, again, being sensitive to sound, being sensitive to site, there is, in fact, forestation around, I believe, two or maybe two and a half sides of the property that creates a natural buffer with the surrounding neighborhoods and properties. And so, while again being mindful the fact that noise can travel, there is, in fact, a little bit of a division that would allow for some seclusion and some isolation of the property from those neighborhoods that are being discussed, as well as for partygoers that are then at the center of the celebration.

Mr. Apicella: Anyone else? Ms. Brown.

Ms. Brown: Just one. Thank you, Mr. Apicella. Did your client, was he going to request a sign delineating this and I'm not even sure what the name of it's going to be, but was he looking for a sign somewhere near the road to advertise this location?

Mr. McCandlish: I can say that I have not had that specific conversation with him, and I would say that that would be a bit preemptive and had not known specifically. And so if that's an issue that is a prerequisite to issuing any sort of special exception, I can certainly speak with him about that, but I have not had that conversation.

Ms. Brown: Do you think that your client might be more beneficial to take some more time to flesh this out? Or is he confident he's ready to go right now? It seems like there's some details that we're not sure of yet.

Mr. McCandlish: I appreciate that. I can speak to my client. I know he has put in a lot of work and that he's eager to bring this proposition, this proposal, to a vote, but I'm happy to speak with him just to make sure.

Board of Zoning Appeals Minutes
August 27, 2024

Ms. Brown: Thank you.

Mr. Apicella: Anyone else? Go ahead sir.

Mr. Underwood: Has the applicant had any discussions with the adjacent Canaan Faith Church of God facility?

Mr. McCandlish: I would have to ask him specifically, if I may have an opportunity. May I be permitted a moment? Thank you. I appreciate your extraordinary patience and again, just want to take the opportunity I do not have knowledge, and I do not believe my clients had a direct conversation with them.

Mr. Underwood: Thank you.

Mr. Apicella: Just a follow up with staff. They were given notice, though, right?

Mr. Staranowicz: Yes, they were.

Mr. Apicella: Okay, so, this is no indication of whether I'm for or against this project, but sometimes what we do is, you've indicated some changes that you're willing to accept should the board decide to move this forward. Signage and traffic control personnel during events and changing the days of operation from Friday through Sunday, no more than one event per day. I have a couple other ones I'd like to see. I don't think they're showstoppers and I couldn't imagine that you'd have any problems with these. But just to make sure that they're being considered. The owner or designated responsible party will be on site for the duration of all events.

Mr. McCandlish: Yep, absolutely.

Mr. Apicella: No overnight services allowed.

Mr. McCandlish: That is good as well.

Mr. Apicella: I don't know where we ended up on this one, Mr. Staranowicz, but no retail sales permitted on-site. We generally put that in a lot of our special exceptions.

Mr. Staranowicz: That is a general standard comment for this.

Mr. Apicella: Okay, notwithstanding the fact that the applicant is willing to sign an agreement with the airport, which we have no control over that, I believe notice shall be given to customers, meaning the whoever he's signing a contract with, letting them know that there's an airport runway in close proximity to the site.

Mr. McCandlish: I just want to make sure he understands. Not an issue.

Mr. Apicella: Okay. Does anyone else have any potential conditions they want the applicant to consider?
Ms. Brown.

Board of Zoning Appeals Minutes
August 27, 2024

Ms. Brown: I do. Thank you very much. Frequently in some of these event venues that we've done, we have asked for the applicant to provide a parking attendant. How does my board feel about that? To help, you know, getting the cars on the property and getting them out and all that kind of stuff.

Mr. Apicella: If we added something about traffic control external to and within the event venue would that work?

Ms. Brown: Also, I did want to cap the guests. How it's written right now its 150 guests or 150 vehicles. Well, if we have 2 per vehicles that 300 guests. That's a lot of people using those potties out there. I think that's a little too much. I'm open to suggestions. I just think that's too high. And I want to add something on here maybe down under number 11 which, after we add everything will come to number 13, where it says applicant will must comply with all federal, state and local codes. Somehow we need here that he will cease and desist operating the Airbnb. I've got a little heartburn approving something when somebody is in violation. A special exception is special. We are granting you a special privilege and if you are already violating county ordinance I'm a little reluctant to do it while you're still doing that. Let's see... and the owner needs to be onsite. We have that. I think that's it. He didn't commit to having a sign or not out there so umm...like, you know, Mr. Funes' Weddings.

Mr. Apicella: Can I ask for clarification from staff? Where did we end up with sign ordinance. Do we have to put something in here or are they entitled to put some sign up of some size per the sign ordinance.

Mr. Staranowicz: If they were to put the sign up, they would be limited to a 25 square-foot sign at the entrance.

Mr. Apicella: Right. It doesn't have to be that big but that's the max?

Mr. Staranowicz: That's the maximum allowed.

Mr. Apicella: So they'd be allowed to do that. We wouldn't necessarily have to put that in the special exception?

Mr. Staranowicz: No, we wouldn't have to but that's what he would be allowed.

Mr. McCandlish: Can I have just one moment to confer with my client, very briefly. I appreciate your patience. I wanted to see if I can get an answer to Ms. Brown's question. Thank you and I do appreciate the patience. Just trying to streamline the process. My understanding and my client's understanding was that it was going to be capped at 150 people regardless and so I think the 150 vehicles was maybe a reference to county code which does reference a threshold. So, just for clarity sake and everyone's comfort we are willing to cap that 150 people and that would certainly entail less vehicles.

Ms. Brown: Okay, so 150 is your bottom line?

Mr. McCandlish: One hundred fifty people. So that would not exceed 150 people for 150 vehicles. That would entail everyone driving themselves.

Ms. Brown: Ok, so you wouldn't go lower than that? One hundred fifty is your threshold?

Board of Zoning Appeals Minutes
August 27, 2024

Mr. McCandlish: Umm, I certainly wanted to at least make that clarification so we knew we weren't going above 150. I would have to talk to my client if we were going to go below that. And as a condition to an approved special exception my client would be willing to abate any Airbnb use.

Ms. Brown: Mr. Apicella, I'm not sure if this goes in for the conditions or not and how this crosses over to home business at an events venue. If he's going to be doing appointments on site will that mean that those appointments are going to be outside of the business hours of Friday through Sunday. We probably need to... they may want to come on a Monday or a Tuesday or Wednesday. It wasn't really clear to me what the plan was on that so I would like to address that because if he is going to have appointments outside of Friday through Sunday.

Mr. Apicella: And again do you have any specific thoughts on how you'd like to address that?

Ms. Brown: I don't. I'm asking for some guidance on that.

Mr. Apicella: Okay, we can discuss it when we bring it back. Anyone else have any thoughts about conditions if this were to move forward? All right, thank you very much. I'm going to close the public hearing and bring this back to the board for further discussion, deliberation, and potential motions.

Mr. McCandlish: I just want to thank everyone for their time and consideration this evening. Thank you very much.

Mr. Apicella: Alright I'll open the floor to anyone that wants to discuss this.

Ms. Evans: I guess I would say my concern is the amount of people, 150 people. That, to me, is a lot, but then also some of the concerns that the neighbors raised, as far as the noise, even though they have the airplane. And then also, I guess if we make sure that they do it only on Friday, Saturday, and Sunday. So that's, those are my concerns.

Mr. Apicella: Thanks Ms. Evans. Do you have a thought, any further thoughts about the number of people just for the sake of discussion?

Ms. Evans: Yeah, I would say, if we lower it to at least, let's say anywhere from 60 to 75, no more, capping that.

Ms. Brown: I would be agreeable with 75.

Mr. Apicella: Okay, any other thoughts about the number of people, more or less, 75 baseline, Mr. Underwood?

Mr. Underwood: Seventy-five does seem to be fairly low. That would be a relatively small wedding, and I think we would be limiting the use fairly considerably. So, I'd want to better understand the threshold of why 75 would be appropriate in this case, versus 150.

Mr. Panjshiri: And I would be in the same boat with that right now. Just because he did mention that the plan is a 3,000 square-foot slab right now. So, like the space wise, sure you'd have the space to accommodate those guests.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Apicella: So, Mr. Blaisdell, Mr. Panishiri, Mr. Underwood, do you have any thoughts? I mean, is it 150 or nothing, or 100. Not to kind of barter this out here but I'm just trying to get a sense of where we can maybe make a meeting of the minds.

Mr. Underwood: Fair enough. I don't know that I felt that 150 was an unreasonable restriction on this particular use, and making a rough assumption of two people per vehicle, that's 75 vehicles, also doesn't seem unreasonable in this particular case.

Mr. Apicella: Mr. Blaisdell?

Mr. Blaisdell: I'm agreeable.

Mr. Apicella: Mr. Panjshiri?

Mr. Panjshiri: I'm agreeable with the 150 number. If it went down to even like 125 if that, for guest number, I'm good with that. I just, 75 I think, kind of, you know, expectation 150, then we cut that in half. And I do know that we have a couple of other like previous special exemptions were smaller, but I didn't get a chance to look if those venues would have been smaller themselves.

Mr. Apicella: Dana, Kecia, can you live with 125?

Ms. Evans: I mean, I can. I'm just thinking about, you know, the neighbors, but if they're only doing it Friday, Saturday and Sunday, I mean, I can live with it.

Mr. Apicella: Mr. Gorski, can you live with 125?

Mr. Gorski: I was actually, you know, the will of the board seems to be already that we're sort of reducing, right? We're reducing days, or reducing, you know, number of events. I would still, my personal opinion is that 150 is a reasonable amount.

Ms. Brown: I actually have a question. I don't know if the staff would know the answer to this. I read in there that the engineer or somebody had looked at it for putting in a drain field to put in some bathrooms, and I think they said it was capable of, I think, 750 gallons per day. So how many people do we think you know, like, when you when you build on a house it perks. It perks for how many bedrooms and occupants in the house. What is the perk rate? How many people can 750 gallons a day accommodate? I know that's a technical.

Mr. Staranowicz: Sorry, I can't answer that.

Ms. Brown: I know like when we get permits, you know, you can only build three bedrooms because it only perks for this amount of, you know, stuff or whatever.

Mr. Staranowicz: Typically, on a house it's built, the septic systems are designed to perk for the number of bedrooms, or they perk for the number of bedrooms in the house. So even at four bedrooms, you could have 650 gallons per day that can accommodate eight people. But that's also taking into consideration, you know, people living there full time, baths, you know, showers, dishes, laundry and everything like that.

Board of Zoning Appeals Minutes
August 27, 2024

Ms. Brown: I'm just wondering on if it's a max, is what I, how I read that was 750 gallons a day. And again, I don't know what the vendors are going to be using, but just if guests were out there washing their hands and flushing the toilets, would we exceed the drain field capacity at one time?

Mr. Apicella: Well, they could. There's nothing precluding them from doing porta potties. And I don't know what the equivalent is for sinks, but something on site.

Ms. Brown: Yeah, it wasn't in the application. It was just, it was implied, in my opinion, that they were going to be putting in bathroom.

Mr. Staranowicz: If they were, to my understanding, is that that would be done if they were to install or build a permanent structure with restroom facilities.

Ms. Brown: Okay, so then, if they're not doing that, if they're doing this portable thing...

Mr. Staranowicz: If they're not doing that, then they have to, if they're using the portable restrooms that would have to be approved by the Health Department prior to being placed on site.

Mr. Apicella: For each event or for the duration of the...?

Mr. Staranowicz: I believe they go ahead and do it for the duration, because it's going to be the same system each time.

Mr. Apicella: Okay? Any other thoughts about conditions beyond the ones that they've already said that they would agree to?

Mr. Underwood: Mr. Chairman, I do have some question in reference to number 13 in the package, and specifically, this is probably a question for staff, but what is the process for determination of willful noncompliance, and how would that be enforced?

Mr. Staranowicz: We would have to receive a complaint that they were doing something outside of their norm, or what was allowed in the conditions. We would have to investigate it and see what's going on. And then at that point it would be brought back to the BZA for relocation of the special exception.

Mr. Underwood: Okay, so that would come back before this board.

Mr. Staranowicz: Yes.

Mr. Underwood: If that condition were not there, is that the same process?

Mr. Staranowicz: Yes, it would still be the same process. It's just making them aware that we can revoke it for noncompliance.

Mr. Underwood: Thank you very much.

Ms. Brown: So, we've determined that they're not going to do the permanent bathrooms, because they're not doing a permanent structure? Is that what we... the 3,000 square-foot slab and not a permanent structure, something that can be taken something that could be taken up and down. Is that what you said?

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Staranowicz: Under those under the code, a structure's defined as anything that's 12 inches tall or taller. A slab is ground level, so it's not considered a structure. Therefore, we wouldn't require them to install restrooms for just a slab.

Ms. Brown: Okay, so then we need to address Porta Potty issues then, like we've done on our other ones, since there's not going to be, they're not going to have to build bathrooms, because they're not going to build a permanent structure, right? Is that what you're saying?

Mr. Staranowicz: Well, if they're using, if they're going to be putting in the slab and is setting tents on it and then taking the tents up and down that that's not considered a permanent structure.

Ms. Brown: Okay. I guess I just want to know, are you going to be building permanent bathrooms? Is that your plan?

Mr. McCandlish: Thank you. I appreciate the question. And so just to clarify, yes, the concrete slab was for the event foundation and not for the bathrooms themselves, my client may anticipate building bathrooms so that there's least some capacity for some type of amenity that's a bit spruced up from a porta potty. So I think he would envision having some sort of dedicated bathroom on site, and whether that's supplemented by portar potties, certainly could be an event by event basis.

Ms. Brown: Thank you.

Mr. Apicella: Just a point of clarity, James. How specific does this this? You know what we're doing here today have to be with regard to bathroom. We know we have a 750 gallon, you know, septic tank system right now.

Ms. Brown: We don't have it now. That's to be built.

Mr. Apicella: Well, to be built, right. Where does our line drawn here? Where is our line drawn and what we can say about this, as opposed to what the health department will mandate as far as porta potties or what have you. Am I making sense?

Mr. Staranowicz: I think so. From what I'm understanding, if they were to do temporary restrooms, porta potties, bringing those in, the only thing we can add in here, as far as a condition is that they would have to have health department approval for any temporary restroom, or if a permanent restroom was applied for that, the septic system has to be approved by the Health Department.

Ms. Brown: I think in the past, we have put in the conditions, if they were using porta potties, how long they could stay on site, like, you know, how soon did they have to be picked up after the event and things like that.

Mr. Apicella: So, Mr. Panchuri reminded me that under number six, it says sanitary facilities must be approved by the Health Department. I think that's pretty broad, in my opinion.

Mr. Apicella: Okay, so again, not yet ready for a motion. I just kind of wanted to run through some of the conditions. If we were, they've been amenable to changing the hours of operation, so days and hours of... *inaudible*... days and hours of operation, Friday to Saturday, 10am to 11pm and Sunday, from 10am to 9pm with one hour cleanup allowed for vendors. All scheduled events and customers shall be

Board of Zoning Appeals Minutes
August 27, 2024

by appointment only. I think that last sentence actually deals with your concern Ms. Brown about customers coming over and making arrangements with the applicant. I think it's broad enough that it would cover that, in my opinion. It would be any time. I personally don't have a problem if someone shows up on a Tuesday at 9 o'clock. We're not talking about 150 people, probably two to four people showing up to make arrangements with the applicant.

Ms. Brown: Does that crossover to the home business aspect, where we have to, you know, only certain amount of...

Mr. Apicella: No, yeah, it's not a home business. I mean, it's its own entity. So, I think, in my personal opinion, that covers the bases for that concern that you had. So, the only...

Mr. Underwood: Mr. Chair, for that specific condition, would it be cleaner to adjust the hours to 10am to 8pm and 10am to 10pm to clarify that the event itself isn't running long. I'm not sure that I read it the way that the applicant intends it to be, and that might just me.

Mr. Apicella: So run that by me one more time, Mr. Underwood: .

Mr. Underwood: If I understood the applicant correctly, they intend for their events to end one hour before the times listed with the last hour being clean up. But I'm not sure that I read that that way.

Mr. Apicella: Mr. Staranowicz, how would you interpret that? I read it to mean just what it's that it says. It's over and done with by 11pm inclusive of cleanup. That's the way I read it. Is that the way you would read it? Or do we need to further clarify that?

Mr. Staranowicz: The way it's typically written, and the way it's written here is we allow them from, in this case, it would be 10 to 11 on Friday and Saturday, which includes the one hour for cleanup. So, I mean, if you wanted to put that event must end by 10pm with one hour cleanup so they'd have up until 11 that way. It's however you want to word that. I don't see where we would need to. It's just that they have until 11 o'clock. Everybody has to be off the property including the vendors and all the cleanup has to be completed.

Mr. Underwood: I just wanted to make sure that it was clear that the event couldn't run to 10:45.

Mr. Apicella: Okay. Again, I asked the applicant about some additional ones that I not necessarily going to put a number to them. Staff can help us with that. Owner or designated responsible party will be on site for the duration of all events. That would be an additional condition. No overnight services allowed. You guys capturing this? No retail sales permitted on site. Notice shall be given to customers that there's an airport runway in close proximity to the site. Signage and traffic control personnel within and external to the venue during events. One thing I think maybe needs some clarity for at least for me. Okay, so we, think most of us agree with the 150 people. Was there a cap on the number of vehicles, or does that not matter?

Mr. Underwood: With the person cap I don't think that that matters.

Mr. Apicella: Okay, so leave it as is, right? Or do we want to do we want to reduce it because, again, that presumes that every single guest has a car by themselves.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Underwood: I think it would be cleaner to remove the car count from that condition and leave it just a per person count.

Mr. Apicella: Folks comfortable that?

Ms. Brown: I'm still not up to the 150, so.

Mr. Apicella: Okay, I got you. All right. So, we've talked about the conditions. Everyone clear, if we were to move this forward, what those conditions with the modifications would be if there was a motion to approve it?

Ms. Brown: Well, it sounded like you added an extra hour of operation that they didn't ask for. They'd ask for till 9pm with an hour of cleanup, and we've offered till 10pm with an hour of cleanup for 11 o'clock.

Mr. Apicella: Where did I do that? I just read that as it is. I'll read it again. Friday through Saturday, 10am to 11pm.

Ms. Brown: So that right there. Where's the 11pm?

Mr. Apicella: It's in the current conditions.

Ms. Brown: Okay for Friday to Saturday. Okay. I see and Sunday from 10 to 9. Okay, got it.

Mr. Apicella: Okay. I think we've noodled this a bit. Is there a motion one way or another on this one that someone would like to make? Mr. Panjshiri.

Mr. Panjshiri: I'll motion to approve with the new conditions that will be added.

Mr. Apicella: Okay. Is there a second?

Mr. Blaisdell: I second.

Mr. Apicella: Okay, there's been a motion by Mr. Panjshiri to approve, seconded by Mr. Blaisdell. Any further comments? Mr. Panjshiri?

Mr. Panjshiri: Nope, not at this time. I think we've covered most of the bases. Things are the concerns that were brought up. It seems like the applicant is very amenable to working on it and making sure he's being a good neighbor within the area. And then if there's anything that is found in noncompliance, as was stated, as is in the conditions this is the special exemption is subject to being revoked.

Mr. Apicella: Okay, Mr. Blaisdell? Anyone else? Mr. Gorski.

Mr. Gorski: If we could, Mr. Chair, just go over those conditions one last time, just so I'm clear on them if you would.

Mr. Apicella: Okay, I'm going to ask staff to do it. James, do you mind? From the get-go, from number one.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Staranowicz: Sure, so days and hours of operation would be Friday through Saturday, 10am to 11pm, Sunday, 10am to 9pm, allowing for one hour of cleanup by all vendors and all scheduled events and customers shall be by appointment only. The applicant shall accommodate an adequate number of parking spaces consistent with the county code. All vehicle parking shall conform with the following standards. All vehicles shall be parked in a designated parking space. No vehicle shall be parked along Forbes Street, and all required travel lane shall remain unobstructed. Number three, the applicant shall construct an entrance in compliance with the Virginia Department of Transportation standards to ensure safety and comply with site distance. No more than 150 guests. The event and parking shall be confined to the general area as shown on the plat, which is attachment seven in the package. Outside vendors and sanitary facilities must be approved by the Health Department. No fireworks shall be permitted. No outdoor concerts shall be permitted. Amplified music shall be allowed during the event and shall comply with the local noise ordinance. Appropriate disposal of waste shall be required by all vendors. No food preparation shall be permitted on site. No overnight services shall be provided. Notice to customers about the active airstrip runway in the vicinity. No retail sales will be allowed. Owner must be on site during all events and the owner agrees to provide traffic control for each event.

Mr. Apicella: Signage and traffic control. I want that to be specific. Okay, signage and traffic control personnel within and external to the venue during events.

Mr. Staranowicz: You said internal and external to the venue?

Mr. Apicella: Yes, to the venue. Yeah. In fact, why don't we move the word traffic to the beginning? Traffic signage and control. Makes it more clear.

Mr. Staranowicz: The applicant shall comply with all federal, state and local codes. Approval of this special exception shall expire when the applicant slash owner vacates the property and is non-transferable. This approval may be revoked for willful non-compliance of a condition imposed by the Board Zoning Appeals.

Mr. Apicella: Okay. I apologize for asking this question, because I was writing something down while you were talking. So, we got the owners going to be on site. No overnight services allowed, no retail sales permitted and notice to customers about the airport. You got those?

Mr. Staranowicz: Yes.

Mr. Apicella: Okay, thank you. All right. You comfortable with that, Mr. Gorski?

Mr. Gorski: Thank you for that.

Mr. Apicella: Okay, welcome. So, I'm now going to ask for a vote all those in favor of the motion to approve.

Ms. Brown: Oh. I thought you were going to let everybody talk.

Mr. Apicella: Oh, I'm sorry.

Ms. Brown: That's okay. I can get on board with this, and I can acquiesce on the head count, if we can get something in there about the porta potties, and then we can make it a 7-0, but I want some kind of it's going to be, they're going to be gone within two days of the last event, or something, because we

Board of Zoning Appeals Minutes
August 27, 2024

have had extensive, extensive conversations about porta potties not being left sitting out there in the field for a week. You know, especially in the summer. That's all. Just a commitment that they will be moved with an X amount of days. I'm fine with two.

Mr. Blaisdell: Well sometimes you can buy your own, as long as you get them clean and maintenance.

Ms. Brown: We're not specifying that, though. So right now, we could have somebody just leaving them in the field all summer. So, you know, that's my concern. If we could tighten that up, I'll vote for this.

Mr. Apicella: Does the Health Department have any rules or regulations about how long a temporary Porta Potty can be on site?

Mr. Staranowicz: Not that I'm aware of. I can check with Mr. Thompson at the Health Department if we need to add something in there.

Ms. Brown: We've usually just made it a part of the conditions in the past.

Mr. Staranowicz: We could have it where it's placed on the property at the beginning on a Friday and removed by Monday or Tuesday.

Ms. Brown: That works. That works.

Mr. Apicella: Can we just say temporary sanitary facilities will be removed within three days of use, or something like that. I think that's too specific when you say by Monday, because if they have the event on Sunday...

Ms. Brown: He said two days and I was good with that.

Mr. Apicella: Okay, two days. Really, two days?

Mr. Staranowicz: Well, I mean, that was just a suggestion. However, you want to word it, that's fine. I can put that in.

Mr. Apicella: Can we do three days?

Ms. Brown: Well, the reason is, if we start using them on Friday, and we use them Friday, Saturday, Sunday, they get three more days. They're sitting there six days. So that was why. I'm not trying to be arbitrary. I'm trying to, you know, cut down the unsightliness of it and all that. Or you guys can just vote this through without me. I mean, I said I'm willing to do it if we can do the Porta Potty thing. But other than that, I'm a no.

Mr. Apicella: Any other thoughts? Two days? Three days?

Mr. Underwood: I would prefer to leave that out only because there are options to purchase your own. There's very fancy porta johns that are less mobile and are more permanent in nature. I could get on with a screening requirement if that was the desire of the board, but otherwise, I don't know that I feel that it's necessary.

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Apicella: Any other thoughts one way or the other? Mr. Blaisdell?

Mr. Blaisdell: It's not like they're going to leave them there and let them get too nasty. I meant they've got events, they got people coming by. They're not going to leave them too long. At least that's me. I put something in there about making sure that they're maintained on a regular basis.

Mr. Apicella: Wow, we're really getting into the weeds here,

Ms. Brown: You said you've got some of the other wedding venue ones. What do we have on the other ones about that?

Mr. Apicella: I didn't see anything about that on...

Mr. Panjshiri: The previous ones, at least the ones that we got sent, have the exact same outdoor vendors and sanitary facilities must be approved by the Health Department. And that's all I have. So that's where I don't, like, I don't know if that's more of, like, a health department kind of purview now.

Ms. Brown: That it wasn't in the past, I mean, for the porta potties, it wasn't. It was just the neighbors had concerns about them, you know, driving by all the time, you know, down the street, and then being left on the property, and then again in the summer with, you know...

Mr. Apicella: Can we, again just trying to come to a conclusion on this one, because we're almost at the finish line. Can we just say if temporary sanitary facilities are used, they must be removed by two days after the last event? Does that work?

Ms. Brown: Yeah, that's fine. That's fine. Thank you.

Mr. Apicella: Okay, anybody else want to speak? Sorry, I didn't give you a chance, Ms. Brown. Alright, seeing no one else, I'm going to call for a vote. All those in favor of the motion to approve this special exception request with the modified conditions as specified this evening, signify by saying aye.

Mr. Blaisdell: Aye.

Ms. Brown: Aye.

Ms. Evans: Aye.

Mr. Panjshiri: Aye.

Mr. Underwood: Aye.

Mr. Apicella: Aye. Opposed?

Mr. Gorski: Nay.

Mr. Apicella: Okay, that motion carries six to one. Thank you everybody. Let the record reflect the motion is approved. Thank you very much for working with us tonight. You'll be receiving a follow up letter from the Department of Planning and Zoning regarding the disposition of this case. All right, going to move on to case number two. Are all the application materials sufficient, Mr. Staranowicz?

Board of Zoning Appeals Minutes
August 27, 2024

2. V24-02/24155774 – Anita & Brent Bowman – A request for a variance on Tax Map Parcel No. 55-118, located in the A-1, Agricultural Zoning District (Property). The requests seeks deviation from Stafford County Code Sec. 28-38(c), “Accessory buildings/structures.” The Property is located at 48 Welford Lane, within the George Washington Election District.

Mr. Staranowicz: Yes, the application is sufficient.

Mr. Apicella: Okay, will the Secretary please read the case

Ms. Evans: Case Number V24-02 24155774. Anita and Brent Bowman. A request for a variance on Tax Map Number 55-118, located within the A-1, Agricultural Zoning District. The request seeks a deviation from Stafford County Code Section, 28-38(c), accessory building structure. The property is located at 48 Welford Lane within the George Washington Election District. The Board of Zoning Appeals is to consider a request for a variance of Stafford County Code Section 28-38(c), “Accessory buildings structure,” specifically to allow for a detached garage to encroach into the front yard. The applicant is requesting a variance of Stafford County Code Section 28-38(c) , “Accessory buildings structure,” specifically to allow for a detached garage to encroach into the front yard located at 48 Wilford Lane, Tax Map Parcel Number 55-118. An accessory structure is defined as accessory use building or structure, a use building or structure that is subordinate in area, extent and purpose to a principal use or structure, performance regulations, Stafford County Code Section, 28-38(c) states... James, do I need to read all this? I don’t think I need to read this. Discussion and analysis. Oh, I guess I do. Okay. Accessory building structures. No accessory building or structure shall be located within 10 feet of any property line on any lot greater than one acre. No accessory building or structure shall be located within five feet of any property line on any lot of one acre or less. No accessory building and/or structure, except for walls, fences and signs, shall be located in any front yard or street facing side yard. No accessory building or structure shall be located within 10 feet of any other structure unless it is attached to the primary structure and does not intrude into any required setbacks. In residential districts of lots less than one acre, no accessory building shall be located closer than five feet to the property line, except on townhouse lots. Accessory buildings may be located no closer than three feet to the side property line and be exempt from rear setbacks where the lot abuts a common open area or other easement at least 10 feet in width. Notwithstanding those structures specifically accepted in subsection 28-24.1 or by subsection D below. No accessory building or structure shall exceed the height of the primary structure. On townhouse lots, no accessory building and or structure shall exceed 10 feet in height. All accessory buildings in or structures, except for fences or walls on townhouse lots shall be not more than 100 square feet in size. All accessory buildings in or interpretive buildings within the H-1 District shall be exempt from the preceding conditions listed in this subsection. In this instance, the applicant is requesting to allow a detached garage to be located in the front yard, the required front yard for A-1, Agricultural zoned property is 50 feet from the front property line. The applicant is requesting that that the detached garage be allowed to be placed 20 feet from the front property line. No variance shall be authorized by the Board of Zoning of Appeals unless it finds one, that the strict application of the provisions of this chapter would produce undue hardship. Two, the such hardship is not shared generally by other properties in the same zoning district and the same vicinity. Three, the authorization of such variance shall not be substantial detriment to adjacent properties, and that the character of the district will not be changed by the granting of the variance. And four, that the condition or situation of the property, concern or the intended use of the property is not of so general or recurring the nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this chapter. The zoning history. The single-family dwelling was constructed in 2023 the current owner purchased the property in March 2024. The existing conditions. The subject property is approximately 8.8450 acres. The front yard setback is taken from the northern property line, where the driveway enters

Board of Zoning Appeals Minutes
August 27, 2024

the property from Welford Lane, a private road, and approximately 1,215 feet south of White Oak Road. The drainfield is located to the east of the single-family dwelling. There are wetlands, floodplain, and a stream, all within Critical Resource Protection Areas (CRPA) that cross the property from east to west south of the house. This could impact the development or use of the property.

Mr. Apicella: Thank you, Ms. Evans. Okay, are there any questions for staff? I'll start with Mr. Blaisdell.

Mr. Blaisdell: No, not at this time.

Mr. Apicella: Ms. Brown?

Ms. Brown: Sure, you know I'm always good for a few. First question is, and I don't know the answer to this, we do so few of these, can we put a condition on a variance?

Mr. Apicella: Yes.

Ms. Brown: Okay, great. And I don't know how many people saw, I did send out five or so questions today to staff. Should I read those out loud or did everybody see those? Did everybody see the answers that he provided to us? Okay, all right. And the last question is, James, I know that you know, I signed up for that seminar with Sands Andersons about the new definition of variances. Has our county code been updated to reflect that yet, the changes in that?

Mr. Staranowicz: Not at this time.

Ms. Brown: Okay, so are we supposed to go by what the state code says or what Stafford County says?

Mr. Staranowicz: We have to apply the state code to in this matter.

Ms. Brown: Okay, because there has been a little change so I'm not sure when the appropriate time to read that to you guys would be.

Mr. Apicella: Feel free to read it.

Ms. Brown: Okay, sure. All right. Well, basically, it was about a case, and I think it got changed in 2015, it was a case from 2015. This was for reasons, you know, how to grant the variance. The old statutory definition was quote, result in unnecessary or unreasonable hardship to property owner. That's what we had to find. The new statutory definition is much smaller. It's just unreasonably restrict the utilization of the property. So, there is a difference in wording there, and the attorney was clear to point out that the impact of the change remains uncertain, however unreasonable quote restrictions should still set a high bar as all reasonable tests do. So instead of we had to find, you know, an unnecessary and unreasonable hardship to the property owner. Now it's just unreasonably restrict the utilization of the property. And I mean, if you guys want a copy of this, I printed it off. They sent me like a whole slide deck, but that's kind of the short version.

Mr. Apicella: Anything further, Ms. Brown?

Ms. Brown: Nope.

Mr. Apicella: Okay. Mr. Panjshiri?

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Panjshiri: Not at this time.

Mr. Apicella: Mr. Underwood?

Mr. Underwood: Yes, for the lot directly to the north of this 36 Welford Lane, the property line shared with 48, what is that considered for the 36. Is that a side or rear?

Mr. Staranowicz: The property line that's shared with 48 would be considered a side.

Mr. Underwood: And what is the side set back in the zoning?

Mr. Staranowicz: The side setback for A-1 properties is 20 feet.

Mr. Underwood: Thank you.

Mr. Apicella: Mr. Gorski?

Mr. Gorski: No questions right now.

Mr. Apicella: Okay, I do have some questions. Are there any structures on the subject property?

Mr. Staranowicz: Are there any structures on the property other than the single-family dwelling?

Mr. Apicella: That's a structure. So, there is a structure.

Mr. Staranowicz: Yes, there's a structure.

Mr. Apicella: And that home, it does have an attached garage on it.?

Mr. Staranowicz: Yes, it does.

Mr. Apicella: Okay, so despite the county's A-1 setbacks you just mentioned, well, the case read by the Secretary said, 50 feet is the front side, 20 feet on the side, 35 feet on the rear. There wasn't a hardship with this parcel that precluded the building of a home on it, right?

Mr. Staranowicz: No.

Mr. Apicella: Is an existing home with an attached garage on it a reasonable use of the property?

Mr. Staranowicz: What was the last part, sir?

Mr. Apicella: Was an existing home with an attached garage on it a reasonable use of the property?

Mr. Staranowicz: Yes.

Mr. Apicella: The applicant wants to build a roughly 1,000 square-foot detached garage within the 50-foot front yard setback, right?

Mr. Staranowicz: Correct.

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Apicella: And the parcel is 9 acres?

Mr. Staranowicz: Approximately 9 acres.

Mr. Apicella: Yes, the staff had a chance to go out and look at the parcel?

Mr. Staranowicz: I have not personally.

Mr. Apicella: Okay, so you don't know, and maybe you can tell from the different aerial views whether there's any other options the applicant has to place a attached garage, not necessarily one that's 960 square feet, and/or storage sheds to the sides of the house, behind the house, or somewhere else on the property.

Mr. Staranowicz: Looking at the aerials, there's possibly some room for a shed in the back. With the way the clearing was done, they could possibly place a smaller shed, or smaller detached structure on the side, in the general area where they're looking at putting the garage but that would possibly also encroach into the front setback at that point too.

Mr. Apicella: But perhaps less than what they're requesting?

Mr. Staranowicz: Yes.

Mr. Apicella: How about actually adding to the home, adding an additional, some size garage to the house?

Mr. Staranowicz: If he was to attach the garage to the house on the area that he's looking at, it would still have to be 50 feet from the...

Mr. Apicella: But it might be possible if there's enough space?

Mr. Staranowicz: It's possible, I think he might have to clear some trees in that area.

Mr. Apicella: Well, that's not really an issue, right? Okay, and I don't mean this in a pejorative way, if a home can be built on a slope, my house is built on a slope, are there construction reasons a detached garage can also be built on a slope?

Mr. Staranowicz: Yes.

Mr. Apicella: There are construction reasons?

Mr. Staranowicz: That it can be or cannot be? No, no, there's not. I don't see where there would be other than a financial burden that would be placed on it?

Mr. Apicella: But it is possible?

Mr. Staranowicz: But it is possible, yes.

Mr. Apicella: Okay, that's it for my questions. Would the applicant like to come forward and present their case.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Bowman: Good evening members of the board. My name is Brent Bowman. I live at 48 Welford Lane, Fredericksburg. My wife and I, as mentioned, moved to Wellford Lane, actually, we moved in on April 27. We purchased the home on March 15. We moved out here from Oregon. I took a job with the government, transferred from Portland, where we lived for 25 years out to here. We first visited Welford Lane on March 2. One of the things that we were looking at was a way to store our vehicles. The attached garage currently has one of our vehicles in it. We have three vehicles registered to us and a utility trailer. So, two of the cars go in there, so my truck sits outside, and my utility trailer sit outside. We had talked to our realtor about options. When we visited this home, we had already put in an offer when we visited on March 2. He introduced us to a builder that specializes in detached garage. We showed him where we wanted to build. That builder didn't have any concerns about the location, just making sure we were set back from the edge of the property line, as discussed. We've talked to other builders and friends who were in the construction industry, and none of them have raised that concern. So, there was no awareness on our side when we purchased the home or that we wanted to do this, that that was there. As I mentioned, they all focus on the clearance from the property lines, the house and our well. Wellford Lane, as mentioned, is a private road. It's about a quarter mile long. The front yard of the property, as defined by ordinance, basically, we've got an 830-foot front yard. So, when you do the math on that, it's almost an acre that's our front yard. Almost all of its forest. The area around the house is the only area that's cleared. The easement access for the property is from 36 and 41. I've talked to both of those individuals. You asked about 41 or 36 Welford. From our house it's uphill to their location, through the forest. We can barely see the top eve, like the windows on their house for the second floor from our house. From our bonus room that's above the garage, you can see a little bit more just because the elevation. So, when we were looking for the desired site that area is already cleared. It's right there in front. That's where we're parking our vehicles currently. We are hoping to minimize disruption on the forest as much as possible. When the staff member came out to take some of the photos today, I was chatting with them on the location. There's a tree that's in the photos. It's down. There's some big logs that are there. That tree was already leaning over pretty bad, and it came down during Debbie. So, about half that tree came down, so we took the rest of it down just to prevent it from falling any further and doing damage. Our property, there's 0.8 acres that's cleared according to the construction plans. That leaves eight acres. Six of that is forest, two of it is considered wetland, and it pretty much dissects the property. So right behind the house, it's about 75 yards back, is where the sign is, and then that cuts up towards the north to the northwest corner of the property. Based off looking at Stafford County's GIS site and talking with Patrick Sweeney, another one of our neighbors, he came over yesterday. He believes the forest has never been cleared there. When he cleared it, they found very old growth. He said he found Civil War buttons and all kinds of other stuff. Stafford County's GIS site has imagery that goes back to 1937 and in 1937 it's a full-grown forest. So, we figure that probably hasn't been harvested for at least 100 years, if it was harvested at all. Our intent is to maintain that as best as possible and actually improve that. We've registered with USDA Natural Resource Conservation Service to basically have people come out. We've got an appointment, actually, in September, for a forester to come out and review our property to help us improve the forest quality for habitat, for wildlife in that area. So, the house was cleared and graded during the initial construction. The large, cleared area to the east of the house is our entire septic system. So, the first septic tank is about, I don't, I would say, 25 feet from the house, down at the bottom of the hill. It pumps it up to one that's probably 50 feet up the driveway, and then that entire area over here. I estimate it's over half an acre is our septic. I don't know where any of the lines run. The best I can tell looking at where the grass is growing this summer, it runs pretty much the entire width of the hill. There's not sufficient clearance behind the house to construct a building without getting into the RPA area, the protection area for the creek. Like I said that sign, is about 75 feet behind the house, and then to the west side of the house, which actually to the west, not to the front. The slopes there range from 10 to 15% and also would require crossing our well line. So, like, attaching a building or a garage to that side of the house is going to disrupt the well so we're either would have to reroute or do something else different

Board of Zoning Appeals Minutes
August 27, 2024

with the well at that point in time. And so, we wanted to avoid, all the builders were like, just stay away from your well as much as you can. So that's why where we set it. There's almost 20 feet from the back corner of the building to our well, which allows maintenance on the well, if need be, by a company, and access through that the front area there, between the building and the house. Has the least slopes of all the cleared areas. That's why we picked it as well, besides being really kind of the only location that made sense with what was cleared and trying to preserve the rest of the forest. As I mentioned, a tree came down. There's another tree that's leaning pretty substantially there. It's got the whole root balls pretty much out of the ground. We were surprised it didn't come down during Debbie as well. So that tree is going to come out. Beyond that we've minimized the impacts this location minimizes the impact on the forest, trying to actually preserve that as best as possible in its status as extreme old growth in the area. Due to the letters like I said, our neighbor, Patrick Sweeney he came over and talked to us. Eric Curry, and her name was Jessica, I've got her numbers on my phone. They called this week as well and asked about it. They're on the southwest corner of the property abutting us. None of the other neighbors have made any comments. As far as other, you know, building options and things like that, we did consider a shed. What we're trying to do is house our full-size equipment. Our utility trailer, we traded-in a 35-foot camping trailer to move out here and bought the utility trailer to move part of our household goods. So, it's nice. We're going to try to use it for some other activities and what we want to kind of keep it inside and preserve it as much as possible, instead of letting it get beat on in the sun. My truck is a 2002 Ford F350, and it's in excellent condition, and I want to keep it that way. So, if I can get it inside, it's going to last that much longer. So that's the reason for the size. The width, with the 10-foot-wide doors and 12-foot tall is clearance for basically the trailer. The other purpose for that building is we have a small ATV, a couple implements, and we'll probably end up getting a tractor or something like that to help us maintain the forest area as well. So that's the reason for the size of the building that we chose for that footprint and the height of the building as well. As I mentioned that location, it is flat. It is already cleared. We want to minimize the forest impacts. We want to save our equipment and stuff. One of the pictures that was taken today probably has a little silver building in it in the back. That's a temporary shed that we've got some of our equipment in it that we're hoping to put in this building. With that, I appreciate your time. Thank you very much.

Mr. Apicella: Thank you, sir. All right. Questions for the applicant. Mr. Blaisdell: ?

Mr. Blaisdell: Yeah, I've got one question. In the area where your garage is proposed, you say that you're willing to put it there just because it's already cleared. And I was just wondering if you were to set it on back and make it to be in compliance, is that still fairly flat back there, if you did have to remove some trees.

Mr. Bowman: So, I actually have the grading plan and things like that, and it does increase in slope as we go down into the treed area pretty substantially and depending on where we were trying to go. So, the property the way the house sits, it's not square to the property line. So, the property line actually starts to diverge away from the house. And in order for us to go kind of straight back in the same line where we have it now, and get those 50 feet, we're cutting, its substantial back in there, and it does create quite a slope.

Mr. Blaisdell: Like how far back? I mean, would it be enough for your garage to sit there if this quarter of an acre of trees was removed?

Mr. Bowman: My estimate is it's going to be closer to three quarters of an acre that we're going to have to impact in order to get this back away from that 50 feet and get around the well. That's the other challenge that we have is the location of the well. We've got to go beyond the well and then that 50 feet.

***Board of Zoning Appeals Minutes
August 27, 2024***

So in order to do that, like the closest I could get, if you're looking at the picture, one of the pictures he took, there's the well, there's a dead tree, and that tree just came down in one of the storms recently as well, but there's a dead tree, and that's about as close as we can get, and beyond 50. And that's a rough estimate. Based off my calculations the shop would have to be beyond where that tree is, which means I'm taking out just about everything between that tree and the house plus a bunch behind and then additional further construction. They're talking about with the size of the trusses that they're bringing in, that they're going to have to bring in some type of a lift or crane to do that. So, they're going to have to clear out additional just to bring in the construction equipment.

Mr. Blaisdell: And it's how big of a garage, again, you say?

Mr. Bowman: Thirty by 32.

Mr. Blaisdell: Okay.

Mr. Apicella: So, can I just piggyback? I just want to be clear, it is possible. Your desire, the reason you don't want to do it is because you're concerned about clearing trees?

Mr. Bowman: Correct. We're trying to preserve the forest.

Mr. Apicella: I understand. Okay. Ms. Brown?

Ms. Brown: Thank you very much. You said that 75 feet behind the house there was a sign, an RPA sign, and that came with the property?

Mr. Bowman: Yes. It was mandated by zoning. When they came in and did the inspections, it wasn't there, and they didn't approve the permit until it was in place.

Ms. Brown: Okay. And just to recap, I did send an email out, but how far away are you proposing this garage be from your well?

Mr. Bowman: That's going to be, I think, in the one drawing, it's 18.6 feet, almost 20.

Ms. Brown: Okay, that's all I wanted in it. Thank you.

Mr. Apicella: Thank you, Ms. Brown. Ms. Evans?

Ms. Evans: No. I have no questions.

Mr. Apicella: Mr. Panjshiri?

Mr. Panjshiri: So, the only clarification, so, like, from, just because, from what I'm looking at, I'm trying to see where the RPA is. So about, basically, how far back from your house is that RPA? Is that a 75 foot? Is that what we're talking about?

Mr. Bowman: Yeah, I think it's, I've got, I've actually got the grading plans, the full-size grading plans, if you wanted to look at those for a minute, it's got it marked in there. And then one of my submittals, I do GIS work as part of my job. One of my submittals actually has a blue body for where the RPA is that can give you a better idea, but you can actually see it from the patio. Well, you can't now, because of all

Board of Zoning Appeals Minutes
August 27, 2024

the spring growth of the you know, summer growth, but it's, it's right past where the fence is. If you see the fence, it's just past that fence.

Mr. Apicella: Okay, thank you. Mr. Underwood?

Mr. Underwood: No questions at this time.

Mr. Apicella: Mr. Gorski?

Mr. Gorski: I do have a few. Thank you for your time today, sir. So, I'm going to come at this from an esthetic perspective. Okay, so all structures aren't created equal, right? You could have a mud hut, you could have a concrete building, you could have a metal shed. You could have what would look like a regular garage, or an architectural wonder that is a garage, right? I would say that those are all options. What are your thoughts as to what the esthetic is going to look like of this building or of the structure that you're proposing to put there.

Mr. Bowman: Our original plan was to mirror the garage that's currently there. So basically, that one's two car double car door, right? So, it's a single door. But basically, to take that and mirror it over there. That was the original idea, and even maybe put a window up above. But then when we started talking to builders, feasibility and things like that. So, we're going to mirror the esthetic of the house. It's going to be vinyl siding. It's going to be a black roof, black trim on all of the metal work and other stuff that's on the garage. So, it's going to look like the house. The only significant difference between it is it's going to have a slightly less sloped roof. Our house, I believe, is eight and 12, and this is going to be a six and 12.

Mr. Gorski: And from what you said, your testimony, and also from these pictures, right now, you're parking your trailer on this, this gravel spot here, your truck, and then you were talking about potentially getting an ATV and or some other equipment for the forest, right?

Mr. Bowman: We already have an ATV, and it's in the shed that's in the one picture.

Mr. Gorski: If a structure isn't built, where would that forest equipment be parked? Would that also be here or where else on the property would you put that?

Mr. Bowman: I haven't gotten there, but it's going to be exposed to the environment one way or another unless I get approval for a shed. I'm leaning away from a tractor, like a small skid steer or something like that, that's going to allow me to work back in the woods. There is a large dump. So, 36 Welford, he bought the property from a long-time resident there, the guy that built the house, and he dumped on our property line. So, there's a substantial area of cleanup back there, and we both agree that a tractor is not getting in there. Some of the logs that have come down in some of the storms, the trees and things like that that need move, the tractor is not going to be able to do it. So, I'm looking at like a small skid steer or something like that, which isn't going to go, it won't fit well in a shed. They weigh too much for a shed floor and things like that. So, a concrete floors is what we need. And it would be a larger shed that would be, you know, and we could potentially put it back where, you know, the temporary shed is now. But, like I said, I haven't crossed that hurdle yet, because I haven't thought about.

Mr. Gorski: And just one last question. In your opinion, what is, from your perspective of doing what you want to do with your land? What is the problem with putting it back there, other than maybe some,

Board of Zoning Appeals Minutes
August 27, 2024

you know, technical reasons from what you want to do with your property are there any issues with putting it back there in your perspective?

Mr. Bowman: So the full-size garage is going to impact into the RPA at that location, regardless of how we were to situate it, just from the where that access point is, where that little shed sits, back to the RPA. There's not that much distance. And then getting back there creates some challenges. The slope on, you know, down through that hill, and other things like I've mentioned, and the impact on the forest, which, like I said, we're trying to preserve that as best as possible.

Mr. Gorski: Thank you.

Mr. Apicella: I'm going to ask the next series of questions with all due respect, sir. You're asking for an exception to the rules that apply to every other homeowner who lives in the A1 district, and I applaud your reasoning behind it which appears to be to save trees. Again, I think that's a laudable thing, and I understand your desire for a detached garage, for the purposes for which you've stated in your application and what you've said tonight. So, I go back to, you know, our objective and the state objective is to minimize opportunities for people, to avoid applying the rules to them and to find other options, when and if those options are available. Several folks have sort of already asked some of the questions that I was likely going to ask, but I'm going to go back to just kind of the general thought here. You have a nine-acre parcel that's pretty big. You're asking for a very, a very large, detached garage, almost 1000, that's your choice. Again, it appears to me, and I think you've already said it, there may be other options here. You may not be what you desire because your goal is to save trees. It may not be what you want because you want a certain size garage, but there are other options that you might have. Sheds, a smaller garage and a shed again, might not be what you would prefer, and putting a detached garage in that location might be optimal for you, because it's pretty close to, I'll call it a driveway. I don't know if it's a gravel or paved driveway. That would certainly be optimal to have a detached garage in close proximity to the driveway, but again, that's not really an issue before us. And I would say, from my experience, the notion, although again, laudable, to save trees, doesn't fall within the parameters of what we would look at in terms of granting a variance. So, I'm going to go back to the overall question. Do you have some other options? Have you explored other options that are feasible, that may not give you everything you want, but that can still accommodate your needs?

Mr. Bowman: We've evaluated them, and this just since it was already cleared, and minimizes the impact, you know, part of the reason we moved there was because of the forest, and so that's our goal, is to try to minimize it. I understand, you know, I've read this statute multiple times. Every time I drive down the road, I don't know how many houses I pass that have a building out front, have a building on their side, you know, the street facing side yard, you know, and those kinds of things. And none of them have any of the characteristics of our house. They're out in the open. They are in a neighborhood, or, you know, along Brooke Road and flat land, and they've got a garage that's sitting out in front of their house, or something like that. Our house, we're at the end of a road. We've got 170 feet of forest between us and our neighbor. It's not, our front yard, the definition. We never considered that front yard. We were always like, oh, this is beyond the side of the house so that's the side yard. And I understand that the definition is there for a reason, but at the same point in time, we're our lot is different than what I've seen. And I understand that's not a reason to make a variance exception. And like I said, there are other options, I think. You know that we have explored, it's just this option is we've already minimized the impact, because it's already done. It's in a logical location. It meets a lot of the variance requirements, if it wasn't an A1 on more than an acre worth of land. And I mean, that's, you know, as far as size, our goal is to store our equipment, and if we can do it in one building, then it makes it that much easier. It makes it that much, you know, more feasible for everything in general. Because instead of building three buildings

Board of Zoning Appeals Minutes
August 27, 2024

and bringing in different equipment and stuff like that to, you know, impact the land we're just doing it once.

Mr. Apicella: I appreciate where you're coming from. Thank you. All right. Any further questions for the applicant? Ms. Brown.

Ms. Brown: Did you tell Mr. Blaisdell, maybe I misheard this, that if you moved the garage back, you would be in the RPA?

Mr. Bowman: So, somebody asked about, it might have been Mr. Gorski, where the silver little shop is, if that building there was an alternative, and the RPA is right behind that.

Ms. Brown: If the setback is 50 feet, how far back is the RPA from that?

Mr. Bowman: So, where we're at, I mean, the house, like I said, is the front corner of the garage is 56.2 feet from the property line. So that's the closest point. That's the front of the garage.

Ms. Brown: The existing garage?

Mr. Bowman: Yeah. And then where, you know, we've got that little temporary storage facility right now. That's, you know, probably 30 feet, 35 feet, I would say, from where the 100-foot RPA area would be for the creek.

Ms. Brown: Okay, thank you.

Mr. Apicella: Anyone else? All right, thank you, sir. There is actually nobody in the audience, but I think I'm still required to open the public hearing, nonetheless. So, if there are any members of the public who would like to speak in support of the application, please come forward now. Yes, there's somebody in the audience.

Mrs. Bowman: Anita Bowman, 48 Welford Lane, Fredericksburg. I would just like to say, you know, we were talking about the front yard versus side yard and the neighbors side yard. I was there and he had a Fourth of July party in basically his side yard. You can't even see our house with the lights on from his property. So, where our front yard is his side yard. And standing there and when I had the house totally lit up, and you couldn't even see our house from his house, so the direct impacting front neighbor. So that's all I wanted to say.

Mr. Apicella: Thank you. Any final comments you'd like to make? You don't have to, but you need to come up to the microphone so she can pick you up on the recording.

Mr. Bowman: I appreciate everybody's time. Thank you. I know this is not something I haven't... I looked back for variances in your minutes forever and I didn't see anything. Everybody we've talked to neighbors, everybody is, you know, it's, they're like, why are you having to go through this? I understand it. I work in the legal profession, and I understand.

Mr. Apicella: We won't hold that against you.

Mr. Bowman: You know, for us, this location just seemed like a logical place to build, given the characteristics of our property and what we hope to do with it down the road. Like I said, our goal is to

Board of Zoning Appeals Minutes
August 27, 2024

improve wildlife habitat. I've got an appointment with, like I said, USDA, coming in next month. They've been out twice already, so we're going to be working with them to try to make this better, and so if we can minimize impact. When they first came out and looked with the cleared space, they were both shocked at what they were seeing on our property because it hadn't been cleared. They're like when they come out to properties and people want to revitalize their pasture or their grasslands, or something like that. She commented that the vegetation that she saw on our borders, she hadn't seen in years. So that's part of the reason, our motivation is to maintain that diversity as much as possible and minimize our impact. So, this was already cleared. That's why we're trying to get this done and get it done in that location.

Mr. Apicella: Thank you, sir. Okay, I'm going to close the public hearing, bring it back to the board for further discussion and potential motion. Any thoughts on this one folks?

Ms. Brown: I have some thoughts. Again, attending that seminar with Sands Anderson, to me, my takeaway from that was the spirit of the change, and the statutory definition was to make getting a variance not as hard. I was surprised, but that is what I took it away from. And being that this property on the other side of the house is where his drain field is, we certainly don't want to build a garage on top of that. I'm very big proponent of protecting RPAs. I actually am willing, and I don't usually vote for variances, but I think I would be willing to consider this, because I think it is unreasonable, I think, to ask him to build it on the drain field, so that takes that part out. Going into the back if we're going to encroach on the RPA or get real close to it, I've got some heartburn about that. And again, based on his property, where it is, I don't see that it's going to affect the neighbors. And he does seem to have a unique problem, because he is kind of landlocked. But that's where I'm at on that.

Mr. Panjshiri: At this moment, I'm kind of on the same page as Ms. Brown. After reading again the variance definition of the unreasonably restrict and just mainly just thinking about like, okay, if somebody else wanted to do, and yes, not all properties are the same, but in that, in his little area, if somebody else wanted to do the same thing, they wouldn't face the same hardship as him, because of the way his property, the physical condition of his property, is situated. So that's my main reason right now, I'm in support of this.

Mr. Apicella: Anyone else, I'm not going to support it if someone makes a motion to grant a variance. Now I'm not sure I agree with the interpretation that you have Ms. Brown. Again, I'm one of my sources is a land use guide from Albemarle County. The most recent version is April, I'm sorry, March 2022, which is past the time frame in which the... the way I understand it is there either has to be an unreasonable restriction or a hardship, but if it's a hardship associated with the topography of the land, there also has to be an unreasonable restriction and a non-reasonable use. And right now, the applicant has a reasonable use of the property. They have a house; they have a garage. That makes it a reasonable use. That's why I asked the question to Mr. Staranowicz. If someone wanted to put a pool on their property, would you look at this differently, and they wanted to put it in the front setback? How about a barn? I appreciate his motivation to save trees, but what he's indicated is, while it's not desirable, he could cut down some trees and move the garage to a different location. Again, not something he wants to do because there's already a cleared area, but he has enough space on his property where he could cut down trees and put down a garage. So, the desire to not cut down trees is, in my opinion, not a valid reason to grant a variance. Again, in my opinion, it's still a very high standard. Because if it wasn't a high standard, everybody would be doing it. Everybody would want to put a garage, you know, close to their front setback, or side setback, or a rear setback, or a pool or something else. There's a reason why the county established setbacks. We may not agree whether the 50 feet is appropriate in this area, but that's the standard that's been set. So again, I think that the motivation here is great. There are alternatives. The

Board of Zoning Appeals Minutes
August 27, 2024

reason he wants to build a garage is to minimize the impact on his equipment. Again, that's not, in my opinion, a valid reason to grant a variance. So still think it's a very high standard notwithstanding the points that Ms. Brown said, and I think it doesn't meet the criteria, in my opinion, for granting a variance in this case. That's my opinion. Will I lose any sleep if I'm the lone dissenter here, no, but at the end of the day, I think we need to follow the state code.

Ms. Brown: Well, I was just reading just the verbiage, word for word. I didn't make up the changes in the statute.

Mr. Apicella: Read the words, but the interpretation may not be as you read it.

Ms. Brown: It's how I interpret it.

Mr. Apicella: Right, and how I interpret it is different than how you interpret it.

Ms. Brown: I did listen to the whole seminar and the basic takeaway was, we want to make this not as hard to get a variance. That the standard that we had in Virginia was too hard to attain, too high a bar. That's how I interpreted it. And again, the setback, he's not on a street. He's landlocked. But again, that's my interpretation of the seminar that I attended, and I did print the slide. It was just one of the slides from that defined that. I'll make a motion to grant the variance.

Mr. Apicella: Is there a second?

Mr. Panjshiri: I'll second it okay.

Mr. Apicella: There's a motion to approve the variance by Ms. Brown, seconded by Mr. Panjshiri. Any further comments, Ms. Brown?

Ms. Brown: No.

Mr. Apicella: Mr. Panjshiri?

Mr. Panjshiri: No, not at this time.

Mr. Apicella: Anyone else? Mr. Underwood?

Mr. Underwood: Yes, while I definitely agree that the impact to the neighbors would be minimal and that the motivation behind this is laudable, I will not be able to support it for the reason that it does appear as though a slight shift of the garage to the west of the residence is possible. I don't necessarily agree that it's our position to determine what's enough use versus not enough use. But because of the possibility of the construction of the garage to the west, I won't be able to support.

Mr. Apicella: Thank you, Mr. Underwood. Other comments? Mr. Gorski?

Mr. Gorski: Yeah, I just have a quick comment. I think that this is, you know, we have to apply, you know, sort of strict scrutiny here, and that's what the law calls for. But within strict scrutiny, though, there's also leeway. There's also room for exception. And in my opinion, what the applicant is trying to do here is a valid sort of exception to that based on their particular situation. So, I, in essence, will be supporting this variance.

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Apicella: Any further comments? Okay, there's been a motion to approve the variance, and it's been properly seconded. All those in favor of the motion. Signify by saying aye. Opposed. Nay. Okay, so what I got were, let's do a roll call vote. Mr. Blaisdell.

Mr. Blaisdell: I vote nay.

Mr. Apicella: Ms. Brown.

Ms. Brown: Yes.

Mr. Apicella: Ms. Evans.

Ms. Evans: Yes.

Mr. Apicella: Mr. Panjshiri.

Mr. Panjshiri: Yes.

Mr. Apicella: Mr. Underwood.

Mr. Underwood: No.

Mr. Apicella: Mr. Gorski.

Mr. Gorski: Yes.

Mr. Apicella: And Mr. Apicella votes nay, so there are four in favor and three noes. The variance is approved. Congratulations. County staff will be following up with you with a letter regarding the disposition of this case. All right, moving on to Unfinished Business. Don't believe we have any. Report of the Zoning Administrator.

Mr. Gorski: Mr. Chair, could we take like, two minutes, maybe?

Mr. Apicella: We could take five minutes. Is that better? All right, we're in recess for five minutes, give or take.

Mr. Apicella: Okay, I call us back into session. Unfinished Business, none. Zoning Administrator's Report.

UNFINISHED BUSINESS

NONE

ZONING ADMINISTRATOR'S REPORT

Mr. Staranowicz: You'll be happy to know there is not a case for next month, so we won't have to worry about this next month. I did want to inform you all that we still do not have a Zoning Administrator. I did apply for the position and interviewed on August 7; however, I was not selected for the position, so I will be stepping down as the Interim Zoning Administrator because I don't feel it's right that I'm doing

Board of Zoning Appeals Minutes
August 27, 2024

the job if I'm not qualified to do it. Therefore, we're working on trying to figure out who if they're going to appoint somebody from the county, or if we're going to wind up getting a consultant in to handle that for us. So other than that, that's the news of the day.

Ms. Brown: That's unfortunate. When are you leaving?

Mr. Staranowicz: I'm sorry?

Ms. Brown: When will you be leaving us?

Mr. Staranowicz: When will I be leaving?

Ms. Brown: The position, I guess.

Mr. Staranowicz: We're trying to figure that out. I have talked and thought about it. I told Mike Zuraf, the Director for Planning and Zoning, that I would hang in there for a little while, but I think I am going to notify him that a decision needs to be made quickly, possibly within the next 30 days, for an Interim Zoning Administrator. I will not be leaving the county. I will still be the Deputy Zoning Administrator, so I will still be around, possibly for at least another year.

Mr. Apicella: All right. Well, thank you, sir. Gonna move unless anybody has any questions for James, going to move on to the next item, which is...

Ms. Brown: Just a comment, I think you've done an excellent job so I'm sorry that you didn't get the position.

Mr. Staranowicz: I believe things happen for a reason, and it just wasn't meant to be. So, I will continue on with my life, and I will continue to do my job to the best of my ability, and who knows, maybe, like said it, I will be here. I'm planning on being here for at least a year.

Mr. Apicella: Thanks again, James, we appreciate everything you've done and everything you will do. Okay, is there a motion and a second to approve the minutes for the May 28, 2024, meeting?

ADOPTION OF MINUTES

3. May 28, 2024 Board of Zoning Appeals Meeting Minutes_DRAFT

Ms. Brown: Yeah, just a couple tiny, tiny corrections. And I didn't know earlier. I'm so sorry, but they're very small, and they were, they weren't numbered this time. So, it's page 24, 4th paragraph, third sentence. It says Sans Anderson that I said s, a, n, s, I think it should be s, a, n, d, s, just so we know I'm talking about the law firm. And in one other tiny, tiny little one was page 33 and this is not Stacy's fault. I didn't see this earlier, so I apologize. It's the second paragraph from the bottom when I'm speaking, and the first sentence there should be a period after, in case, and then that's it. Kind of changes the context a little. But I appreciate your indulgence, Stacie, and I'm so sorry.

Mr. Apicella: Okay with that. Those changes, is there a motion to approve?

Ms. Brown: Motion to approve.

Board of Zoning Appeals Minutes
August 27, 2024

Mr. Apicella: Second?

Mr. Panjshiri: Second.

Mr. Apicella: All in favor say aye.

All members: Aye.

Mr. Apicella: Opposed? That motion carries unanimously. All right. Other Business, Mr. Mowery asked us to consider the role of alternates. Open the floor to you, Mr. Mowery.

OTHER BUSINESS

Mr. Mowery: Thank you, Mr. Chair. In the interest of time, I think maybe it's best I just present to you guys all my argument first to consider, and maybe we can reconsider it at a future meeting once you've had a chance to digest and kind of look at it. My goal, I think, is to better define for us as a board what the role of alternate members are. I think that that role is very clearly defined when it comes to hearing cases, but I think there's a lack of definition right now as to what the role of an alternate member is in the other business that the board pursues, which can be bylaw changes, discussions on different topics, such as training and things of that nature. In order to make that determination, we're using both the bylaws for the board and we're also using Robert's Rules of Order when it's not specifically mentioned within the bylaws. And so, our bylaws outline specific procedures for when an alternate member can participate in a vote, but it says that except in that instance, any alternate member may participate in all the business of the board. In my opinion, that includes discussions and that also includes making motions. There was some discussion last time about whether making a motion, seconding a motion is part of the voting step, and that it's prohibited under the bylaws. Robert's Rules of Orders does specifically segregate motions from votes, and so, based on the interpretation of the bylaws where it only restricts the voting ability of an alternate member, it should then allow an alternate member to participate in discussions with the board, as well as to make motions for the board. Of course, this continues to exclude cases when they are being heard. As we know, and I think, as we've all established, during the procedures of a case, only the sitting members of that case are going to participate in that but when we are discussing other things, such as bylaw amendments or nomination of officers, I think that those instances would and should allow for an alternate member to be involved in that discussion. And the reason is, at any point, an alternate member is going to be asked to be stepped into that body to fulfill the roles of a full member, and so including them in a deliberative process about the rules of that board only makes sense that they would have some ability to participate in that discussion and offer suggestions for how it could be improved. I have laid this out in the email that you guys can are welcome to review and just let me know if you have any questions but unless somebody else would like to chime in, I'm fully open to just us revisiting it at a future meeting date.

Mr. Apicella: Comments anybody? Mr. Underwood?

Mr. Underwood: It seems reasonable to at least clarify one way or the other within our bylaws how we wish for alternate members to participate.

Mr. Apicella: Anyone else? All right, go ahead Ms. Brown.

Board of Zoning Appeals Minutes
August 27, 2024

Ms. Brown: I do remember, and I don't remember when, some years ago, this did come up and I remember specifically the comment was made, you know, we're either a nine-member board or a seven-member board. Do you remember any of that?

Mr. Apicella: I do. And I have a perspective, because in 2010 I was the first alternate member appointed to this body and served in that capacity for five years. So, I know the wasteland that you feel like you sit in.

Ms. Brown: No, I wouldn't say that.

Mr. Apicella: But you know, we've had conversations over those in the past 13 some years about the distinction between alternates and regular members, both in the context of why the board established alternate members and what this body had further intended alternate members to do and not do so.

Ms. Brown: Yeah, and to be clear, I'm not talking about like, for instance, you know, if Mr. Gorski, you know, he's sitting tonight, you know, as a sitting member tonight, so if we were having extra votes on bylaws or things like that, he would be able to definitely vote on that, because he's sitting in for another member. But I wanted to bring that up, because I do remember that. I wasn't on here 15 years ago, but I do remember us talking about that, and that is was a valid concern.

Mr. Apicella: And again, having both perspectives, I don't disagree. I've seen both sides of the equation and one of my Paramount thoughts is I don't want to give anyone who has a case, even though it's not particular to a case, any ability to challenge what we do, because we've become a de facto nine-member board. That's my biggest concern. And whether they prevail or not is kind of immaterial. I don't want to even get to that point where somebody's challenged us in court, because we've changed the nature of this body. I mean, that said, I understand where to come and I personally don't have a problem. And I pushed for the notion and got my colleagues to agree that alternate members should be able to discuss matters, which I have no problem with. But where the distinction is not withstanding what Robert's Rules does or does not say, I think there, there's kind of a dividing line when, when an alternate member starts making motions, in my opinion. Certainly not to vote but I even think there's that dividing line. In my opinion, a motion is not that far dissimilar from a vote. That's my view. But I understand where you're coming from, because I've sat in that, I've sat in that very same chair for years. I have. This is long before you got on here.

Ms. Brown: I definitely think alternates should be weighing in on discussion. I think that they can provide, they sit here and they see us struggle with a lot of things, and I think they give us a perspective that we may not have. That's all.

Mr. Apicella: Anyone else want to chime in now. We can certainly put it on the agenda for further discussion at a future meeting. I would prefer to give staff some discretion. If we only have one case that, you know, we could put it on that agenda, but if we have like, two or three cases, maybe to kind of put, not push it off indefinitely, but it's already 10 o'clock.

Mr. Mowery: I also think that there's value in just having a meeting without any case to be held at some point. If there's other bylaws amendments that we want to consider.

Ms. Brown: I agree. Sometimes we just need a housekeeping meeting.

***Board of Zoning Appeals Minutes
August 27, 2024***

Mr. Apicella: Yeah, but we would need to define what the purpose of that meeting is, and in my opinion, needs to be long enough to make it worthwhile. I don't want to show up here for a half hour, if we could do it during our regular meeting. So that's my personal opinion.

Ms. Brown: I don't think we've ever done anything in a half hour but ok.

Mr. Mowery: If we pair it with some training for the FOIA stuff or something. I don't know if there's anything on the agenda for that, but...

Mr. Apicella: Well, again, I think for now, if that's the only issue, I personally don't want to get too much into the bylaws. I just want to have that conversation. And if it comes to the point where we agree on what that bylaws change is, then we could have a discussion about scheduling that and any other bylaws changes we might want to make. Again, that's my personal opinion. Is everybody okay with that for now? All right with no... you okay?

Mr. Underwood: So just to clarify, it will show up on the next meeting, if it's a short meeting?

Mr. Apicella: If there's not an intensive case, or several cases. Some cases could last a long time, but, and again, I'll give some discretion to staff.

Mr. Underwood: So, this will be a night of the meeting kind of...?

Mr. Apicella: Yeah.

Ms. Brown: So, nobody wants to have a special meeting for any loose ends kind of stuff or anything?

Mr. Apicella: I have plenty to do. I don't know about you all.

Ms. Brown: Well, sometimes we push things off so long because we do have, like, no meetings, or we have too many cases, and sometimes things go for months and months. That's all. He has been waiting, I think, to present this since May. You know, so we've already kind of...

Mr. Apicella: It is pretty rare where we have more than one case. Let's do this if we will revisit it at the next meeting. If it's not on the agenda to schedule it at the following meeting, however many....

Mr. Mowery: That's fine. I have no heartburn about pushing it off to when it's convenient. I mean, as you figured out, I'm not shy about participating in discussion anyway.

ADJOURNMENT

Mr. Apicella: All right, with no further business before the BZA, we are hereby adjourned.

At 9:51 PM, Chairman Apicella adjourned the August 27, 2024, Stafford County Board of Zoning Appeals meeting.