

**STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES**  
**October 22, 2013**

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, October 22, 2013, was called to order with the determination of a quorum at 7:00 p.m. by Chairman Dean Larson in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

**Members Present:** Dean Larson, Gregory Poss, Steven Apicella, Robert Grimes, Larry Ingalls, Ray Davis, Danny Kim

**Members Absent:** Ernest Ackermann, Heather Stefl

**Staff Present:** Susan Blackburn, Melody Musante, Evelyn Keith

**CALL TO ORDER BY CHAIRMAN**

**DETERMINATION OF QUORUM**

Dr. Larson: The purpose of the BZA is to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator; to hear and decide upon requests for Variance from the Zoning Ordinance, when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property; to hear and decide on requests for Special Exceptions where the zoning ordinance allows for Special Exceptions. The Board consists of seven regular members and two alternate members. Tonight we have Mr. Greg Poss in attendance, Mr. Steven Apicella, Mr. Robert Grimes, Mr. Larry Ingalls and Mr. Ray Davis. I'm expecting to see Mr. Danny Kim shortly and I'm Dean Larson. The County Staff tonight is represented by our Zoning Administrator, Ms. Susan Blackburn, Ms. Melody Musante, our Zoning Manager and Ms. Evelyn Keith, our Zoning Technician. The hearings will be conducted in the following order: the Chair will ask the staff to read the case and members of the Board may ask questions of the staff. The Chair shall ask the applicant or their representative to come forward and state their name and address and present their case to the Board. The presentation shall not exceed 10 minutes unless additional time is granted by the Board. Members of the Board may ask questions of the applicant to clarify or better understand the case. The Chair will then ask for any member of the public who wishes to speak in support of the application to come forward and speak. There shall be a 3 minute time limit for each individual speaker and a 5 minute time limit for a speaker who represents a group. After hearing from those in favor of the application, the Chair will ask for any member of the public who wishes to oppose the application to come forward and speak. After all public comments have been received the applicant shall have 3 minutes to respond. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. After the applicant's final response the Chair shall close the public hearing. After the hearing has been closed there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion the Chair shall call for a vote. In order for any motion to be approved, 4 members of the Board must vote for approval. In order to allow the Board time for appropriate review, the applicant or applicant's representative is required to submit relevant material to the Department of Zoning and Planning 10 business days prior to this hearing to be included in the staff report. The Board may accept additional relevant material from the applicant or the applicant's representative during the hearing. However, large amounts of additional material may require deferral at the Board's option on the behalf of the applicant to allow the Board to consider that additional material. Members of the public and/or staff may also submit additional, relevant material during the hearing. The applicant should be aware that we currently have 6 members present. We're expecting the 7<sup>th</sup>. You must have 4 affirmative votes to approve an

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application. If you think that there are enough applicants, excuse me, enough members present tonight that will enable you to receive a fair hearing then you, if you like, you can defer the hearing until another meeting. However you may defer the hearing for this reason only once in a 12 month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to the vote to approve or deny the application, provided that the applicant has not withdrawn a substantially similar application with the previous 12 month. Any person or persons who do not agree with the decision of this Board shall have 30 days to petition the Stafford County Circuit Court to review our decision. Also, be aware that the Board will not hear any denied application for a variance or special exception that is substantially the same request for at least 1 year from the date of our decision. Now I ask that anyone who has a cell phone, pager, or other electronic device, to please silence it. It is the custom of this Board to require any person who wishes to speak before the Board shall be administered an oath. Therefore I ask that anyone who wishes to speak tonight, please stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Mr. Lovell: I do.

Dr. Larson: Thank you. You may be seated. The Chair asks that when you come down to the podium to speak, please first give your name and address clearly into the microphone so our recording secretary can have an accurate record of the speakers. Also please sign the form in the back on the table. Are there any changes or additions to the advertised agenda?

Ms. Musante: There are no changes.

**DECLARATIONS OF DISQUALIFICATIONS**

Dr. Larson: Before we hear the first case, does any Board member wish to make any declaration or statement concerning any of the cases to be heard before the Board tonight?

Mr. Ingalls: Mr. Chairman, as part of the information submitted to us on the first case, was a plat that was prepared by Sullivan, Donahoe and Ingalls in, I think, 2011, a boundary line adjustment plat. Sullivan, Donahoe and Ingalls is a company that I retired from in 2009. So I was not present when that plat was prepared and it's really just a piece of additional information showing the parcel and therefore I'm going to be able to vote on this case.

Dr. Larson: I understand, thank you. Any other?

Mr. Davis: I visited the site yesterday and talked with the homeowners.

Dr. Larson: For the variance application?

Mr. Davis: For the second. Yes.

Dr. Larson: Okay. Any other statements?

Mr. Grimes: And I went by the site for the first case this evening. Just did a drive-by.

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Dr. Larson: Okay. Any others? Okay and I'll say that I visited this first case site this afternoon and talked with the owner about and toured the facility and where the brewing establishment would be. Okay, I'll ask the secretary to read the first case.

**PUBLIC HEARINGS**

1. SE13-02/1300408 - SHORTS BRANCH BREWERY - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1 "District Uses & Standards", B-2, Urban Commercial, c) Special Exceptions, to allow a microbrewery in accordance with Section 28-39(w) on Assessor's Parcel 21-57B. The property is zoned B-2, Urban Commercial, located at 3071 Jefferson Davis Highway in the Aquia Pines RV Park.

Ms. Musante: Case SE13-02/1300408, applicant Shorts Branch Brewery. Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1 "District Uses & Standards", B-2, Urban Commercial, c) Special Exceptions, to allow a microbrewery in accordance with Section 28-39(w) on Assessor's Parcel 21-57B. The property is zoned B-2, Urban Commercial, located at 3071 Jefferson Davis Highway in the Aquia Pines RV Park. You have the application, the application affidavit, copy of the ABC license, plat of the property and the building layout. The applicant is requesting a Special Exception to operate a microbrewery in conjunction with the existing Aquia Pines Camp Resort. The application states the hours of operation will vary depending on the season but the facility will be open 7 seven days a week. The applicant indicates they will utilize existing parking within the campground and anticipate 10 to 50 customers per day. The anticipated majority of customers will come from the campers staying in the campground and/or the adjacent hotels. According to the description provided by the applicant, these customers will be traveling by foot and not car. The adjacent property to the North has an existing pedestrian path. Upon completion of the hotel to the south, a pedestrian path will be constructed after the inter-parcel connector is complete. The parking requirements for this use are a combination of those needed for the tasting room and those needed for the manufacturing of the product. For this site, the tasting room is 864 square feet and requires 11 parking spaces and the brew room is 360 square feet and requires 2.5 parking spaces per 1000 square feet for a total of 14 spaces. Upon a site visit, staff did take note of the parking spaces available as shown on the plans submitted with the application. There will be no additional construction on the site for this use. The 2 existing buildings, the basement of the camp store and the pavilion, will be utilized for both the brew room and the tasting areas. The areas indicated on the plan as recreation lounge, laundry, restrooms and storage are for the convenience of the camp customers and not for the use of the microbrewery. The applicant states the Aquia Pines Camp Resort has been selling brewing supplies to local residents and campers. The microbrewery will provide additional services to campers and customers to draw them to Stafford. The applicant states they will produce 1,100 barrels per year for consumption on site. The Aquia Pines Campground was established in April 1973. The Board of Supervisors adopted an Ordinance on May 21, 2013 giving the Board of Zoning Appeals authorization to grant a Special Exception for microbreweries in the B-2, Urban Commercial Zoning District. Suggested development conditions, number 1, the microbrewery will comply with the plan submitted with the case and/or any changes that may be made by the Board of Zoning Appeals at the time of the hearing. Any changes or alterations to the use or the plan will require a new special exception application. Number 2, the hours open to the public will be limited to 12 noon to 10:00 pm 7 days a week. Number 3, there shall be no off site sales of the product brewed on premises. Number 4, there shall be a minimum of 14 parking spaces allocated for the microbrewery. Number 5, all areas and structures associated with the microbrewery shall comply with all applicable Federal, State and Local codes. Number 6, this permit shall only be issued to the Mr. Everett Lovell, current owner of Aquia Pines Camp Resort. Transfer of this permit shall require a new special exception application. And we have been told that we cannot be person specific on the conditions, but we can put a time limit on it.

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Dr. Larson: Okay, are there any questions for staff?

Mr. Apicella: Mr. Chairman? You sort of answered my first question, but I'm going to ask anyhow. In terms of the number of parking spaces, it sounds like it's based on the amount of square footage, not necessarily on the amount of volume that would be produced by the facility. Presumably campers and other visitors to the campsite can purchase or bring alcohol on to the campground now? There is no prohibition?

Ms. Musante: Correct. Not that we're aware of anyway.

Mr. Apicella: Do we know if the end product will be available for purchase in containers? People would be able to take the beer in some kind of container and take it off of the campsite?

Ms. Musante: We will have to refer this question to Mr. Lovell.

Mr. Davis: That is one of the conditions.

Mr. Apicella: I didn't read it that way. I read it as that they couldn't sell the product offsite. So whatever they produce on the site, they couldn't bottle it and sell it at food lion for example, but I'm using Blue & Grey Brewery as an example. You can purchase bottles there and you can bring your own bottle and have it filled at the Blue & Grey Brewery and take it offsite. So that's what I'm trying to find out. Again, my reason for asking this question, because my concerns might be traffic and parking, so if it's that kind of a facility, there may be even more traffic than we might otherwise think, if our assumption is, it's just going to be consumed on site.

Ms. Blackburn: And what I was referring to was at the bottom of his special exception description, it volumes at 1,100 barrels per year for consumption on site.

Mr. Apicella: Okay, so we might want to...

Mrs. Blackburn: (Inaudible) question to the applicant.

Mr. Apicella: ... and if that's the plan going forward, we might want to embody that in the conditions.

Dr. Larson: Actually when I read that I interpreted that to mean literally 1,100 gallons consumed on the site. I didn't think it had anything to do with any people coming in and buying and taking it offsite. And I didn't see anything, as with you, I didn't see anything in the documentation of the application that would limit people coming in, buying and taking it back offsite.

Mr. Apicella: Yes, Mr. Chairman. I also heard that potential visitors will be able to come via pathways onto the campground. Do we know what kind of lighting is available on those pathways? Are there any lighting requirements associated with people coming and going onto the site?

Ms. Musante: The applicant did not indicate in their application any existing lighting. That would be something that you could add as a condition for the pathways.

Mr. Apicella: Okay.

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Mrs. Musante: And I'm not familiar with what the County Code requirements are for lighting on pathways. That's actually taken care of at site plan.

Mr. Apicella: Okay. Under condition number 5 it indicated "All areas and structures associated with the microbrewery shall comply with all applicable Federal, State and Local codes." Would that also mean Noise Ordinance requirements?

Ms. Musante: Yes.

Mr. Apicella: Okay. Normally, in terms of CUPs, which I think this is very much like a CUP and speaking from the Planning Commission's perspective, the reason why we did a Special Exception for this kind of use was because of the prohibitive cost associated with trying to get a CUP. It's over 10,000 dollars, so we didn't feel it was appropriate to make someone doing this kind of a small business go through the CUP process and incur those kinds of costs. This being said, since I think it is very much like a CUP, I see the conditions in the same way that I see a CUP. So one of the typical conditions that we put at the end of the list of conditions is that when there's a failure to comply that... how can I say... extinguishes their ability to continue to utilize the special exception. So we might want to consider that as an additional add and one other provision that we have seen in a lot of recent application or at least CUP approvals is prohibiting the use of banners, balloons and similar kind of signing. Not that they couldn't have a permanent sign, but we wouldn't want to see the proliferation of pop-up signs every week associated with that particular facility or use. So that might be an additional condition that we might want to consider. So those are my comments prior to having the applicant come forward.

Dr. Larson: Mr. Apicella, given your position of dual membership on the Planning Commission and this Board, could you give us a little insight as to what the Planning Commission spoke with the Board about and as to why they decided to allow microbreweries and some of the reasoning there?

Mr. Apicella: We had several interested parties indicate that they wanted to establish microbreweries in Stafford. Some of the surrounding jurisdictions allow it. We did not allow it and we saw it as an opportunity to encourage additional economic development. Obviously we have, I don't want to say similar uses, but you know there are bars and other places where you can buy alcohol in the Stafford area. So this seemed to be another opportunity, as we have wineries in Stafford to promote that kind of industry which is just, I think, starting at the ground level. So that's a large part why we decided to proceed forward with it. We didn't hear any negative feedback from any interested parties, saying that they didn't want to see this in Stafford County. So we're hopeful that this will be a good start to this kind of industry in our locality. Again, and the reason why it's come to the BZA as the Special Exception was the reasons that I've mentioned before, because of the prohibitive cost of the CUP. There's no other pricing mechanism currently available to applicants to request this kind of a use without getting a smaller fee imposed. Again, for somebody who is just starting out with a small business, it kind of inhibits that kind of request coming forward. And this is an opportunity to kind of pilot test what kind of interest we might get for additional, similar uses. And it doesn't just apply to microbreweries. We also allow breweries in distilleries in Stafford County under different kinds of conditions. Those wouldn't come to the BZA, just microbreweries in a B-2.

Dr. Larson: Thank you, Mr. Apicella. Are there any other questions for staff? Okay, hearing none, will the applicant or his/or her representative come forward and present their case?

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Mr. Lovell: Good evening, my name is Everett Lovell, Stafford, Virginia. I am here, because I filed to have this hearing in front of the BZA Board based on the zoning changes which were recently outlined. I think it's interesting that it was mentioned that microbreweries weren't allowed prior to these changes. They also weren't prohibited. If I were to open a restaurant by-right, I could have a microbrewery in the restaurant, which I think is noteworthy. That would be allowed by-right in B-2, which is where I have my business. As far as... I just wanted to touch on a couple of things that were brought up before I start my remarks... as far as the signage; there are some federal or state, I forget which, requirements on signage and I think it's more like neon signage and stuff that you have on the building, or how close it has to be to the building. The camp ground currently we just have signage down on Route 1 and that's where we're going to continue to have signage. As far as lighted pathways, there's a little conflict with the camp ground and wanting lighted pathways or wanting lighted pathways for general kind of business. You try to keep the amount of, I call it light pollution, but you try to keep that to the absolute minimum. Our roads are very defined. The hotel to the south of the camp ground, which is currently under construction, is supposed to build an inter-parcel connector up to the property line and I was going to build a pathway over to the inter-parcel connector so that people would be able to go back and forth. When I originally came down and filed for the microbrewery, staff brought up one condition and that was that I would have additional parking. I currently have about 20 acres of B-2 land and I've operated the camp ground for 28 years; parking has never been an issue. We've hosted many large groups, well over 600 people in some instances and parking just hasn't been an issue. If you want to have a few designated parking spots that I designate just for the microbrewery, I'm willing to do that. I don't think that should be a requirement though. I think I take very good care of the travelling public that comes into the property. As far as all the other conditions that the County Staff posted, these were come up with after our initial meeting and after I could respond to them, sort of at the 11<sup>th</sup> hour. I don't agree with any of them to be quite honest with you. Incidentally I've had an ABC license through Virginia for 28 years now. Hours of operation, limiting my hours of operation, I don't think that's necessary. I currently have an offsite, off-premise type beer license where I sell Budweiser and similar sort of products to whomever I choose. You know, as long as they're over 21 years of age of course. I never had a problem with the ABC Board. I don't foresee any problem in the future with me serving beer that's brewed on site. I will mention that I did say in the application I intend to serve to people on site. Well, things have changed. Things are constantly changing. I've had people come to me since then and ask if I would brew a particular beer for them and now we're getting into offsite sales. I intend to go forward with that, if we approve the microbrewery and I think it's in Stafford's best interest and my best interest that you not overly restrict this business, that you allow me to function as a normal business would. I don't know what else to say really, that said it. You know there is going to be change. There's a lot of change. I've had the camp ground for 28 years. That was before the internet, before swipe credit cards, when people carried around camping books that were really thick. Let me see if I had any other notes here. When the Board of Supervisors passed the Ordinance that said that I had to come in front of a BZA Board for approval, Board of Zoning Appeals for approval, they did lower the fee to like 150 or 200 dollars, I forget which it was. And I believe Mr. Harvey told them at the time that they could not do that and they did it anyway and I think they're now going through a more formal process to lower the fee down to something like 150/200 dollars, something on that order. If the Stafford County Board does lower the fee, I did pay the full fee of 1,300 dollars, or I forget what exactly it was, but I would like to be refunded, because when I came in to file this application, it was with the understanding of what the Stafford Board had done and Mr. Harvey said no, you know I'm sorry the Board acted improperly or didn't follow all the correct channels and therefore the fee is still 1,300 dollars, but if they change it, I'd like to be refunded. I think what we're touching on here, a lot is the area of governance. The federal government heavily restricts who can brew and who can't brew. And for instance, every recipe I brew I must file with the federal government and get approval from the federal government. The state of

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Virginia or the Commonwealth of Virginia also heavily governs alcohol type sales. For instance, if I just sell beer onsite in a glass to somebody, I still have to have an approved label for that beer on file with the Commonwealth of Virginia or you close. As a microbrewery in Manassas found out, they were forced to close while they got approval for the labels even though they were not selling in bottles or cans. I believe that's all I have to say.

Dr. Larson: Thank you, Mr. Lovell. Are there any questions for the applicant?

Mr. Ingalls: Mr. Chairman? If, Mr. Lovell, if you could explain... just tell me what you really want to do, so that I understand what you want to do. And you have to understand that this is a process that we have to go through and maybe there are some rules and regulations involved. But tell me so I understand... You don't have a real tasting room. I guess you're going to use the outdoor pavilion, but you tell me, explain to me what you intend to do on this site.

Mr. Lovell: Yes, Sir. The pavilion used to be enclosed and I removed the walls... I'm going to replace the walls on it and insulate the ceiling to make it from a more of a 10 month a year facility to a full year facility. So yes, I do intend to use the pavilion. It has a beautiful fireplace in it. I intend to brew onsite and serve to people onsite. That said, I can promise you, things will change. Hopefully somebody will come to me and say, well... let me digress a second. The Blue & Grey was mentioned earlier and how you can go into the Blue & Grey and they'll fill up your growler for you or some sort of sealable container for you. One of the things that Blue & Grey will do is they will fill up your 5 gallon keg for you so you can take it home and put it in your kegerator and have their beer on tap in your home. If somebody comes to me and says, will you fill up my keg? I'd say absolutely, absolutely and you can take it to wherever in Stafford County or Washington D.C. or wherever you want and put it in your kegerator and drink our beer at your home.

Mr. Kim: That would be an additional permit that you would have to seek out, because you can't, and it's been a while since I've looked into ABC law, but you can't sell off premises without getting a special off-premise license which you would obviously require... which you would obtain.

Mr. Lovell: The ABC regulates all that very well.

Mr. Kim: No, I understand, I'm just getting an understanding on it. I'm not questioning it. I'm asking you.

Mr. Lovell: I'm not exactly sure. You know, I've talked to the ABC agents. They've always been extremely helpful and they are law enforcement officers.

Mr. Kim: I understand who they are, I mean I'm just asking if you... like I said, I'm just trying to get an idea of what you want. You said you were completely against every recommendation that the staff had.

Mr. Lovell: Yes, Sir.

Mr. Kim: And I wanted to understand, I mean, you know, if the hours open to the public would be limited to noon till 10p.m., 7 days a week, are you... I don't understand. I know you object to it, but are you looking for longer hours, or you just don't want the restriction. I don't know where you're coming from.

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Mr. Lovell: I just don't want the restriction. Currently if you come into my establishment at 10 in the morning and say I want to buy a Budweiser, I'd sell it to you.

Mr. Kim: Yeah, ABC law, you can.

Mr. Lovell: And I don't know why... I don't know...

Mr. Kim: Is it 6, I think, 6 or 7 in the morning? And once again, this is ABC law, I'm not questioning, I'm just trying to understand it, once again.

Mr. Lovell: I know that I can sell in the hours that I'm normally open which is 8 in the morning till 7 at night.

Mr. Kim: Okay.

Mr. Lovell: So if it starts at 6 in the morning I'm never there at 6 in the morning, so the store would not be open at that time.

Mr. Kim: Oh so you just don't want the restriction.

Mr. Lovell: That's correct.

Mr. Kim: Okay, thank you.

Mr. Lovell: I don't see anything positive from this restriction. Because as I said, I think the alcohol and tobacco... the ABC folks in Virginia...

Mr. Kim: They regulate themselves very well. Yes, I understand. Thank you.

Mr. Lovell: Very professionally.

Dr. Larson: Mr. Lovell, I know you close at 7 o'clock, or you close the store now at 7 o'clock, would that continue to be the case with regard to the microbrewery?

Mr. Lovell: The microbrewery would probably stay open until 8 or 9. In years passed a few times we opened the store at midnight for a special sort of sale, but by and large we close at 8 or 9 in the summertime; this year we closed at 7, because the economy is so slow and we close at 6 o'clock in the winter times.

Dr. Larson: Okay, if you could just answer a general question for me.

Mr. Lovell: Yes sir.

Dr. Larson: How many gallons are in a barrel?

Mr. Lovell: 31.

Dr. Larson: Thank you.

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Mr. Lovell: And typically, when people buy a keg... what's known as a keg, it's a half barrel, it's 15.5 gallons. But they have all different size kegs, but that's the standard commercial keg.

Dr. Larson: Thank you. Are there any other questions for the applicant?

Mr. Apicella: Mr. Chairman. Respectfully, Mr. Lovell, our job is... first of all, I think it's great that you're planning on opening up a microbrewery. I was, again, on the Planning Commission and helped try to expand the opportunities as much as possible. But, both from a Planning Commissioner's perspective and a BZA member's perspective, our job is to, while promoting your business, also look out for the surrounding community, the health and safety and welfare of your neighbors and people who are coming to the site. So while you may have the best intent, things might happen that you cannot control or did not foresee. So that's kind of the balancing act that we have to do. And that's one of the reasons why I asked about lighting. So people are coming off and on the site, its 10 o'clock at night, and its dark. Unfortunately I didn't get a chance to visit the site, but we wouldn't want somebody to get hurt, because they were coming to the site to buy some of the product, or crime for example. Somebody is standing in the woods, waiting for somebody who's had some beer and robs them, because there's not enough lighting to stop that from happening. So that's, again, that's one of the reasons why I brought up lighting on the pathways. They might be short pathways and it might not be an issue. I'm not trying to suggest that it should interfere with the other conditions at the camp ground and make it less of an attractive place for people to come. For that particular reason, but by the same token, I have got to be concerned about the people who are there, coming back and forth, just for the purpose of buying the products. So again, I would ask if you would consider some kind of reasonable lighting. I'm not talking about tower lighting, maybe along the ground some kind of pathway lighting, so that people don't get hurt. I don't know what that might look like. Staff might have an idea. You might have an idea. Again, just to protect the public interest. Is that something you would consider?

Mr. Lovell: I would consider that. The reason I answered your question is because there is only one camp ground open to the traveling public in Stafford County and that is me. And it doesn't surprise me at all when people are not very familiar with what we do there because there is just not a lot of us. And typically what campers do, if you put those little lights in they run over them because they have some big vehicles and sometimes they just don't see them. So I would rather put a taller light in so people don't run over it.

Mr. Apicella: That's fine. I'm just looking for some kind of lighting to protect the public. I noticed in looking at the topographical map that there are a number of homes in the vicinity. Those folks could want to come over to your site and have the great brew that you produce. We can't know that at this point. Again, I just want to make sure that no one gets hurt to the extent that we can forestall that from happening. So, I'm with you on the hours. I think that's something we can look at. Again, from a neighbor's perspective, somebody buying beer at 2 o'clock in the morning might seem like a little too much maybe. So, I think maybe there is a reasonable compromise that we might want to consider in terms of hours of operation, because we restrict hours of operation on other businesses as well. Again, just to protect the neighbors, the surrounding neighbors. There's going to be a hotel. They might not want to have people buying beer at 3 o'clock in the morning. So, do you have a sense of what might work better for you, as compared to what the staff recommended?

Mr. Lovell: I can't see us being open after 11p.m. or midnight, or serving. Again, I'm just thinking, like 99 percent of the time we wouldn't be open after, say, 10 or 11. But you might have some events where you'd stay open later. And I haven't owned a microbrewery, so it's hard for me to project 5 years

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in the future. I have owned the camp ground for 28 years and I'm standing here reflecting on all the change that I've seen come through on that, and so I'm hesitant where you say things in here that are hard and fast rules and then I'd have to come back and ask permission to do something else that I can't foresee now in the future.

Mr. Apicella: I mean, that's part of this process. Again, it gives you a chance to test it, it gives the County a chance to test it and hopefully the fee will be reduced and if need be, you need to come back and ask for changes, get down to the 150 dollar fee to make those changes, because we didn't foresee, you didn't foresee and we didn't foresee. You saw the benefits of changing it. We didn't see the impacts of those changes, so... and I'll go back to traffic. That's why I talk about volume. Right now you got a certain number of spaces for your campers. I don't know how occupied you are on any given day compared to the number of spaces, but this will probably bring some people who aren't campers to you site and we want to make sure there's adequate parking for those people. So to the extent that you increase your sales beyond the, let's say the 1,100 that you projected, well that might have an impact on the people coming and going to your site, so egress and ingress to the site as well as the number of spaces you need to set aside for that. So that's one of the reasons why, again I'm not trying to inhibit what you're trying to do. I'm trying to look out for the public welfare as well. We need to think about what's the right balance based on what you have there, versus what would happen if you grew and what changes might need to happen down the road. So that's why I was worried about offsite sales, or people taking stuff offsite, because people can drive by, park, buy a gallon, buy a keg or whatever and drive off. And that might be fairly frequent, because there are not a lot of places in Stafford County where you can do that, where you can fill up a keg, or even a bottle and take it offsite. So that's a good opportunity for you, but it's also a situation where the traffic might be overwhelming and the parking might be overwhelming beyond what we thought, or what you thought. So that's one of the reasons why, again I don't want to stop you from having offsite sales, if that's what you want to do, but by the same token, I need you to be somewhat flexible in terms of how much parking you're going to set aside, if that's what you want to do and maybe you just need to pilot test it before you go there and let's consider more parking down the road by coming back for another special exception. I know its 150 dollars and that might be arduous, but by the same token, maybe at this point you're not willing to give up more spaces, because you don't know what the demand's going to be.

Mr. Lovell: You're raising very good points. I'm still not sure I'd have to come back in front of this Board, because if the business does grow, which I certainly hope it does grow, I am going to have to build another building and therefore I would have to file building plans and some sort of site plan would be involved in the building plan and then we'd get into parking again. So I'm not sure this Board would have to consider the issue or if it would be the building group of Stafford County.

Mr. Apicella: If we set limitations though by virtue of this Special Exception, I think you would have to come back. You might have to do a dual process, but we would have to tweak those special conditions.

Mr. Lovell: I understand.

Mr. Apicella: Yeah, and in terms of signage, again, I think it's great to have a permanent sign or to amend the sign that you have there. We just, I think we're moving forward as a county trying to eliminate these balloon signs, these banners popping up on a daily basis or a weekly basis. So that's kind of a standard way ahead that I think we've adopted in the last several CUPs that I've been involved with. So, again, permanent sign I think is fine, but the restriction on the banners, except for... I think we've allowed for a grand opening just to really help the marketing of the new business, but again, that

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would be something that I would feel pretty strongly about, because I think consistency is important. Not to inhibit your business, but, again, looking out for the neighbors who wouldn't want to see signs popping up, sign proliferation every couple of days. Are you okay with that?

Mr. Lovell: Pretty okay with that. I just had a banner printed, probably a month ago, and it says "Husband Daycare Center". Drop your husband off, go and get your manicure. All you have to do is pay for his beer. It's longer than that, but that's the basic message. And that's why I'm smiling when you're talking about banners, but I can work around whatever you say about banners. That's not a problem.

Mr. Apicella: Okay. That's it for me, Mr. Chairman.

Dr. Larson: Okay. I just noticed that we probably will have to deal with a definition or two since we're new to this as well.

Mr. Lovell: Yes sir.

Dr. Larson: Offsite sales for example, I would have... when the statement says "no offsite sales", I interpreted to mean, don't take the product offsite and sell it in a Safeway or something like that. Where I think your interpretation was, buy it onsite and take it offsite. I would have considered that an onsite sale. We'll talk about it. Just think about it. Mr. Lovell, you should know that this Board doesn't have anything to do with the setting of the fee. That's a County administrative function. What I would suggest for the County though is, since Mr. Lovell is the first one, if they go ahead and change the fee in the near future, that they consider giving him a refund for the difference. Okay? Did you want to say something?

Ms. Blackburn: Oh, I was just going to say, we did bring that up to the Board of Supervisors and there was no action taken on the item.

Dr. Larson: No action meaning...

Ms. Blackburn: They did not vote or anything.

Mr. Apicella: I think they didn't vote on the fee.

Dr. Larson: Changing the fee.

Mr. Apicella: But in the past they have taken an action with part of that action being making the condition retroactive. So that would certainly be within the Boards purview if they wanted to do that. When they finally take it up and...

Dr. Larson: I mean for staff and for you, Mr. Apicella, back with your Planning Commission connection to the Board, I think it's just a matter of fairness. If it's changed in the near future, he being the first one, he shouldn't be penalized for that just by the virtue of being first. Are there any other questions for the applicant?

Mr. Poss: Mr. Chairman, I'd like to ask a question. I'd like to revisit the offsite sale. I think you mentioned that you had another store where you sold...

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Mr. Lovell: I have a store in the campground.

Mr. Poss: Oh in the campground.

Mr. Lovell: Yes, it's part of the campground operation.

Mr. Poss: Okay. In that store are there federal or state laws that govern the selling of your microbrew in that store?

Mr. Lovell: Yes.

Mr. Poss: There are? And what are those?

Mr. Lovell: In order to have a microbrewery, you have to have a federal permit, and that's just to brew. And then you have to have approvals for the recipes. It's about a 3 month process to get approval of the brew and then every time you change the recipe, you have to go back to them again and ask for approval.

Mr. Poss: Okay, so the federal and state regulations allow you to sell it in your store and the people take it offsite to their home or wherever they want to take it.

Mr. Lovell: They allow you to serve onsite and then I could also sell it, as part of the tasting room, you can sell beverages, yes, in a growler, in some sort of sealable container.

Mr. Poss: Okay, but you can't purchase it and, like you mentioned the example, someone might bring a keg in and you would like to be able to fill that up and then they take that home. Does the federal state laws allow that?

Mr. Lovell: Yes.

Mr. Poss: Okay.

Mr. Lovell: They do not allow me to sell it to a restaurant, because then you have to...you can, but you can't sell it... I shouldn't say they don't allow me to sell it directly to a restaurant. I'd have to go through a distributor and that's a state statute, state ABC function.

Mr. Poss: Do they put restrictions on the time limits?

Mr. Lovell: Hours of operation?

Mr. Poss: That you can be open? Federal or state law?

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

Mr. Poss: Okay.

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Mr. Lovell: Another item, since you raised the hours of operation, is, we'll probably start brewing at like 7/8 o'clock in the morning, because it's a full day. And that's another reason I didn't like the noon to 10 restriction. Thank you, thank you gentlemen.

Dr. Larson: Any other questions?

Mr. Grimes: Yes, I have a couple, just because I'm not familiar with the process, maybe you can help me out. Is there a by-product of brewing beer? Waste generated? Water?

Mr. Lovell: There is waste water, because a lot of brewing beer is keeping things sanitary. So there's a lot of washing and cleaning. And I guess the primary waste product that you may think of is spent grain. Because to brew beer you have to take, usually barley, but a whole lot of other things, but usually barley, and it's sprouted barley. It's not just regular barley. It's sprouted so the starches in the grain have been converted to sugar and basically you are just washing those sugars out with nice, warm water and you're getting sugar water that you then brew. When you're all done you have spent grain that tastes like cardboard. And smaller batches I just dispose of it on the ground, because I do have twenty-some acres there and it's not hard to get rid of it. It's actually sort of good for the ground.

Mr. Grimes: And what about odor generated from the brewing process?

Mr. Lovell: Not a lot at this level. Again, if I were to enlarge and have larger kettles, I don't know that I'd have much odor out of the fermentation or the brewing process either. There is some odor from the brewing process. I don't know if you've ever been around beer that's brewing.

Mr. Grimes: My only point of reference is Sweet Water Tavern. Walking up to the restaurant, you can sometimes catch that whiff. But I don't know the size of their kettles, if it relates to the size of yours and what you'd be producing.

Mr. Lovell: Okay. I don't know either. Currently I have 6 kettles that are... not kettles, they are conical, and they each hold about 110 gallons so you could probably put 80 or 90 gallons in them.

Mr. Grimes: I would say, by the size of the tanks I saw at Sweet Water, they're much bigger.

Mr. Lovell: Okay.

Mr. Grimes: And then lastly on the parking. I did drive there today and the parking that's identified on the small plat that was given to us, or actually in the documentation, it doesn't look like it's parking now.

Mr. Lovell: No, it's not.

Mr. Grimes: Okay, because it looks like grass.

Mr. Lovell: That is correct, yes sir.

Mr. Grimes: I don't remember, it looks like there was a curb along part of it, but not necessarily where you showed the parking.

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Mr. Lovell: That's correct. We installed a curb to try to channel the water many years ago, probably 20 years ago, and a lot of that was to try to channel the water off into the grass so it went through the grass before it went down into the stream that feeds Aquia Creek basically, but that was... we were trying to rinse whatever might be in the rainwater out before it got to the creek. And that wasn't any sort of statute that was just us doing that, because we thought that was the right thing to do.

Mr. Grimes: And I appreciate you trying to be a good steward of the environment by doing that. I asked about the waste products too.

Mr. Lovell: That's why the concrete ditch is where you saw it.

Mr. Grimes: Okay, and then in reference to that parking, there is no sidewalk proposed so anybody who parks in those spots is going to have to walk in the street to walk up to where the tasting room is going to be.

Mr. Lovell: Actually they're going to walk... you're partially correct... they're not going to walk up the hill and then walk back down the hill. We're going to have them walk, basically, past our swimming pool. I don't know if you saw the swimming pool there.

Mr. Grimes: I don't think I did.

Mr. Lovell: It's our old mini golf course which we've torn a lot of that out and so they're going to walk through that. So when you leave the parking area you're not going to walk up to the office and back down. You're just going to basically walk straight over to the pavilion.

Mr. Grimes: Okay and how are you going to handle accessibility for ADA?

Mr. Lovell: That's a good question. We have parking right next to the pavilion, a small amount of parking but not a lot, and we're going to set aside some of that for anybody that happens to have mobility issues. We're revamping the entryway to our bathrooms, because currently there is a little lip going into our bathrooms, which we don't have to do, but we were just doing that as part of our ongoing maintenance and trying to keep things up to current levels. We're going to build a ramp going into the pavilion too. I have an architect designing the two entry way doors into the pavilion and he's making sure those comply with the current ADA standards, including the sill. I didn't know there is a special sill you have to use for doorways so people in wheelchairs can get in and out.

Mr. Grimes: And in reference to the signage, coming into the campground, you have a nice sign right there on Route 1.

Mr. Lovell: Yes sir.

Mr. Grimes: You have a little temporary sign that indicates you sell brewing supplies.

Mr. Lovell: Okay.

Mr. Grimes: Is there going to be any kind of signage inside the campground that's going to direct folks where to park? And is it going to be permanent or temporary?

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Mr. Lovell: No, I was going to put a small sign that said “microbrewery parking here”. That said, we have two signs that say everybody that enters the campground “stop at the office”. Very few people do, so I’m hoping they read the sign that says “microbrewery here”. I noticed you said you drove around the campground and drove out, I’m not sure if you saw our two signs that said “Please stop at the office”.

Mr. Grimes: I did and I turned around right in front of the office so the gentleman in the window could see me turning around and going out, because I can understand from a security perspective why you’d want that.

Mr. Lovell: I walk out on the campground very often each day and ask people why they’re out there driving around.

Mr. Grimes: And that leads to the next question with the traffic in and out and the potential number of customers. When you have campers arriving at the site, do they arrive at all hours?

Mr. Lovell: Yes. I like them to arrive in daylight hours, but you do have people coming in during the middle of the night sometimes and we leave out maps if they have called in advance or we leave out a generic map that says, if you’re getting in here late, fill out this envelope, pick a campsite that’s designated and park and we’ll see you in the morning.

Mr. Grimes: Okay, that’s all the questions I had. Thank you.

Dr. Larson: Any other questions for the applicant? Thank you, Mr. Lovell. Question for staff. The parking spot requirement. Is there any requirement in how the spots are constructed? Can they be grass? Can they be gravel? I mean is there a requirement on how you construct a parking spot?

Ms. Musante: In today’s world, I’ll start out that way, if he was coming in with a new business he would be required to pave the parking areas. I’m assuming that this would be the same way. We are not going to require him to do a site plan, because technically he is not disturbing the more than 2,500 square feet to get these parking spaces in. I would have to discuss this with Jeff Harvey to see if he would require him to pave these areas or not.

Dr. Larson: Okay.

Ms. Musante: Short answer would be: Yes, they would have to be paved.

Mr. Ingalls: Along that same parking lot, the actual parking requirements that you have listed here, that is really by the County Code elsewhere in our Code. That’s not... that’s the minimum required for certain types of uses I assume.

Ms. Musante: Correct.

Mr. Ingalls: But that’s not something you just made up, 14 spaces, that’s the parking Code for every business that has to have minimum parking.

Mrs. Musante: That is correct.

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Mr. Ingalls: And so that's where that is coming from. It's not some made up number. That's the County Code for parking.

Mrs. Musante: Right.

Mr. Ingalls: We don't have anything to do with it. We have to enforce it, but that's all... you know, we're not making those 14 spaces up, nor can we let you off the hook for less than 14, because that is the County Code.

Mrs. Musante: Correct.

Mr. Ingalls: Thank you.

Dr. Larson: Mr. Lovell, did you have something to add?

Mr. Lovell: In asking about parking spaces, I would not allow people to park on the grass, because it would get very muddy and very messy very quickly. All the campsites are very hard compacted gravel and that's what I was going to use for the parking areas.

Dr. Larson: Okay, thank you. Any other questions for staff? Okay. Would any member of the public like to come forward and speak in support of this application? Seeing none, would any member of the public like to come forward and speak in opposition of the application? Alright. Okay, we'll close the public hearing. Would somebody like to make a motion on this?

Mr. Ingalls: Mr. Chairman, maybe before we make a motion, could we go down the suggested conditions one by one and see if we have any kind of agreement?

Dr. Larson: I think that's a great idea.

Mr. Ingalls: That way, when somebody makes a motion, we don't have to go back and forth and back and forth. Maybe if we could agree on, just by talking, we know that we are in somewhat agreement or non-agreement on each one of those and hash them out and then maybe make a motion after we've hashed those out or we could just make a motion and maybe do the same thing.

Dr. Larson: I don't really care, which order we do it in.

Mr. Ingalls: Whatever you think is most appropriate.

Dr. Larson: I prefer your order. Let's go through the conditions. So the first one is: microbrewery will comply with the plan submitted with the case and/or changes made by the Board of Zoning Appeals at the time of the hearing. Any changes or alterations to the use or the plan will require a new special exception. In other words, they would have to stick with the conditions that we put on or ask for another special exception. That's the way I read it. Any discussion on that one? Okay we'll assume that one will stay. Hours open to the public; the staff recommended 12 noon to 10 p.m., 7 days a week. Discussion?

Mr. Grimes: I'd like to offer that I think that I like having hours of operation, simply so we can help control a little bit of the potential traffic in and out, although, as pointed out, it's his camp ground and

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that entrance of Route 1 is just to his facility. It doesn't serve anybody else. So the traffic would be confined within his property, but limiting a start time to noon. Just from personal experience of doing winery tours and etc., you might want to get there a little early for lunch and have a beer before noon. So I'd like to see those hours extended, at least extended to earlier in the day and I don't know that 8 o'clock is the right time, because who's to judge who works what hours and decides when they want to get up and go have a beer tasting. I would almost restrict it to the same hours that the ABC Board restricts the sales of beverages from a normal, commercial establishment, whether it's Wawa or Food Lion, which I believe is 6 to midnight, but we can almost write that the hours open to the public will be in conjunction with the same sales requirements as set by the ABC Board. That would be my suggestion on modifying number 2.

Mr. Kim: Mr. Chairman, can I ask the staff a question?

Dr. Larson: Sure.

Mr. Kim: How did you guys come up with this noon to 10 time frame?

Ms. Blackburn: We had a discussion amongst ourselves and just thought noon was a nice time to start and 10 p.m. would be a nice time to close. There was no hard, fast rule or anything like that.

Mr. Kim: Okay. And I understand it being a little difficult with it being the first one. So, thank you, I understand how you guys came up with it.

Mr. Ingalls: I mean, as it's written, it says hours open to the public, which would, I think, alleviate the applicant's concern that he could start brewing and making his beer anytime he wants. It's just the hours of which, I would think, like the tasting room, where people are going to be coming and I agree with my colleague. Frankly I can see, like I said, when you go on a wine tour, you may want to get there at 10 or 11 and do the tasting and then go outside and have lunch or picnic basket and drink a couple of bottles of wine and lay around till you're sober again. So I'm flexible on the hours. I'm a little concerned about the night hours and certainly I would think, on a Friday or Saturday night if he had something going on, a little later on a Friday or Saturday night wouldn't upset me. I think we want to make his business successful. We don't want to put so many limits that he is not successful. We want to look out for the public, the citizens of Stafford, but we want to make sure we haven't made it so he can't be successful, but I think you have to look out for the citizens of the County and do the best we can with this and like I said, starting early would not be a problem for me. And I wouldn't mind going to 11 o'clock on a Friday or Saturday night, or 11:30, maybe even midnight, I don't know, on the weekend.

Dr. Larson: It seems to me that maybe we're... there may be 2 things we're talking about and maybe we're talking about them at the same time. There is the tasting room where you have beer on tap and you get beer in a glass and sit and drink. And there is the store where he probably already sells beer whenever the store opens, which probably is 6 o'clock. I didn't catch when it opened, but, so, there may be... we may be convoluting 2 different types of beer sales here. Any other discussion on the sales, or the time for the sales?

Mr. Poss: Do we know when the ABC agency allows them to be open and what their regulations are?

Mr. Kim: I think it's starting sales at 6 in the morning and if it's classified as a restaurant, which there is not going to be no food at all served, so if I'm understanding correctly...

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Dr. Larson: Mr. Lovell, would you like to answer that question?

Mr. Kim: I am sorry, I should have asked that question earlier.

Mr. Lovell: I'm not going to serve food. I do have a caterer that's going to be there, serving food. Whether he'll be there at all times or part of the time, you know, that remains to be seen, but I intend to have food available. I don't want to... there's all sorts of liabilities and I don't want to abide by the Health Codes to serve it.

Mr. Kim: And I think it's midnight for off-premise sales and 2 o'clock for in-premise, for drinking. I mean it's like a restaurant. I think it's the same hours, if I'm correct.

Dr. Larson: Wouldn't that fall under applicable federal, state and local codes?

Mr. Kim: Yes, that is what I was...

Mr. Ingalls: Well, following your lead there, Mr. Chairman, would you want to limit the hours on the tasting room being open from 10 to whatever, or... just the tasting room, that's the time he would be open. I mean his testimony is that he closes up his store early. I mean, at 7 or 8 o'clock, maybe 9 o'clock at the latest, so...

Dr. Larson: But he probably opens it early, too.

Mr. Ingalls: Yeah, he opens it early, but that... if we said the tasting room, he could still sell in the grocery store, whatever the hours are. All we're limiting is the tasting room area. That'll be open a certain time of the day.

Dr. Larson: Yeah, I think that's the only thing, that if we limit anything, it really makes any sense.

Mr. Ingalls: If we limited anything, we would limit that.

Dr. Larson: Yes.

Mr. Grimes: And I think that, we're talking about the areas that are designated as the microbrewery and that, only that portion that is open to the public, whether it's the tasting room or whatever it will be called. I think his store operation doesn't have anything to do with this.

Mr. Ingalls: Right. I agree.

Dr. Larson: Did you have something to add Mr. Lovell?

Mr. Lovell: Yes, Sir. Under current Code, the ABC Code, you cannot have an off-premise license to sell things like Budweiser and be a microbrewery, so if I'm a microbrewery, I'll have to surrender the off-premise beer license and get a brewer's license. So it won't be an "and" kind of scenario. It'll be an "either, or". And you brought up one other point, but I forgot what it was, something about serving, but that was just... you can't have both licenses.

Dr. Larson: Did you intend to bottle the beer and sell it in your store?

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Mr. Lovell: I don't know that I can do that. I think I can sell it in the tasting area. I don't know if I can sell it in the store. That's a very good question for the ABC agent. The ABC agent did tell me though that he really doesn't care where I do, what I do, because I have 20 acres and when he grants me an ABC microbrewer's license, or brewer's license for 3071 Jefferson Davis Highway, it must take place on 3071 Jefferson Davis Highway. He doesn't say you must do this activity in the pavilion and you must do this activity in the lower level of the store. That said, it is very heavily regulated, but he doesn't care where it happens on the property.

Dr. Larson: Thank you. So what do we...

Mr. Lovell: He hasn't visited the property yet. I've asked him to come out, but he hasn't come out yet.

Dr. Larson: So what do we do about this time requirement?

Mr. Apicella: I'm just going to throw out something for discussion purposes. How about if, again, I'm looking at almost like restaurant, the way a restaurant might conduct business, versus how a store might sell alcohol. So, again just for discussion purposes, and I am absolutely open to tweaks. From 8 to 10 Monday through Thursday and from 8 to midnight and Friday... I am sorry, Sunday through Thursday 8 to 10, Friday and Saturday, 8 to midnight.

Mr. Kim: My one suggestion would be to... it's not a restaurant, so they can't serve till 2, but keep it to... instead of having so many regulations on exact, specific days, it doesn't seem like you want to stay open too late, but have it till midnight. That alleviates your concern of too much Government involvement, or Stafford County involvement, or BZA involvement, whatever you want to call it. I'm okay with that if you guys...

Mr. Apicella: So you're saying 8 to midnight?

Mr. Kim: 8 to midnight, I mean... definitely...

Mr. Apicella: I'm okay with that.

Mr. Kim: Yeah, I'm okay with that, too. 2 in the morning... I know you didn't ask... but that should definitely be a no, because you're not a restaurant and you don't so... I can deal with that, because I think that also adheres to the ABC law.

Dr. Larson: Mr. Lovell, do you know what your hourly restriction would be based on your license for microbrewery and the law?

Mr. Lovell: No, Sir, I do not.

Dr. Larson: Okay, thank you. 8 to midnight sounds perfectly reasonable to me. I'm sort of inclined to go with the initial suggestion to just allowing current federal laws to control this.

Mr. Apicella: I don't know what that is.

Dr. Larson: I don't either.

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Mr. Apicella: So I'm a little hesitant to...

Dr. Larson: But I'm sure there's something.

Mr. Apicella: It's not a Food Lion, that's why I say, it's not the same as purchasing a beer at a Food Lion. It's going to have a different kind of traffic and a different kind of impact.

Dr. Larson: Does anybody have any comments on 8 a.m. to midnight?

Mr. Ingalls: I think I can support that if... but I think we need some hours that we, as the County, set and like I said, none of us seem to know what the hours for federal and state are going to be. They could be more or less and he would have to abide by that, but at least we, as the County, have set some hours and that's what... I think we're looking out for the citizens and everybody and I think that's reasonable. It's a very reasonable time.

Dr. Larson: I agree. Okay, let's pencil that in. Third suggestion was, there shall be no off-site sale of the product brewed on the premises and as I alluded to in the beginning, we need to define what we mean by offsite sales first.

Mr. Ingalls: Is it really offsite distribution that we would be worried about? I would want to allow him to do what he says most these microbrewers must do and that's if somebody comes in and said "I got a bottle. You fill it up and I'll take it home" or "Here's bottles" or "Half a keg" or whatever. I'd want him to be able to do that, if other microbreweries are doing that.

Dr. Larson: I would agree and yes other microbreweries do that.

Mr. Ingalls: But at the same time, do we want him sending out how many barrels off to wherever.

Mr. Apicella: Mr. Chairman, I agree. Again, I think we need to promote this business in Stafford County. My only concern, again, is with the traffic and the parking. So, I think it is two separate issues and the reason why I bring that up is, the applicant's indicated a certain amount that he plans on producing per year, 1,100 barrels. He may do more than that, but I think we need to have potentially a cap on how much... and I'm not saying that's the right cap, 1,100... but I think 10,000 barrels would be too much, based on the circumstances that exist on the ground, at the camp ground. So, if you provided more parking, I'd be okay with more barrels, but I think a combination of no off-site distribution and a cap, whatever that might be for selling, you know, allowing somebody to come in with a growler or keg, are two pieces that kind of are joined together just, again, to mitigate the impacts of traffic and parking associated with this use. I don't know what that cap should be. I think 1,100 is probably too low, but I think 10,000 would be too high.

Dr. Larson: I think the 1,100 was what the applicant thought would be consumed on site. If you're allowing people to come in with growlers and what not to fill them up and take them home, which I think is what we thought was appropriate. Then you're probably talking more. Mr. Lovell, do you have a feeling on what sort of production you would be having in mind for this for all applications?

Mr. Lovell: No, Sir. I can tell you microbreweries have gone out of business and I can tell you ones that have hit the jackpot and become really full-sized, full-skilled breweries. If I go over 10,000 barrels a year, I think according to County Code, I would have to be in a different zoning.

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Dr. Larson: I agree.

Mr. Lovell: I think I'm restricted. So I think that's an important point. As far as traffic, you know, I've had tractor trailers coming in and out of the camp ground. They don't have any problem. You know we have 40/45 foot motor homes and 40 foot fifth wheels coming in and out of there every day. It's not a problem. I have propane deliveries coming in and out every day. I have a lot of deliveries, just as a normal business would. I would not encourage the Board to restrict me on how many gallons I can sell, or how many barrels I can sell. To be very frank, I'll withdraw my application if we go too far down this road, because I hope to grow the business and I'm not going to cause traffic problems or discomfort for the campers. Maybe we should recess and visit this some other month. I hate to do that. I want to get going, but it sounds like there's a lot of uncertainty here.

Mr. Davis: I beg your pardon, what was the last statement?

Mr. Lovell: I think there is a lot of uncertainty about how many barrels equals how much traffic or how it's going to impact the community. And I'm not saying that's wrong. I think that's a good... something that should be visited. I'm not sure it's going to get resolved tonight.

Dr. Larson: Thank you, Mr. Lovell.

Mr. Davis: I have a question.

Dr. Larson: For the applicant or... okay.

Mr. Davis: What does the ABC law on your permit authorize you, how much that you can make?

Mr. Lovell: I don't have a brewer's license yet. I have an off-premise license to sell Budweiser type pre-canned products and there is no limit on the quantity I can sell.

Mr. Davis: What about a limit on the quantity of the brewery? Is there a license that tells you how much?

Mr. Lovell: No, there would be no limit. There is the Stafford County Zoning restriction that I would be limited to under 10,000 barrels.

Dr. Larson: Okay, any other questions for the applicant? Okay.

Mr. Grimes: I would also note that the County Ordinance that was passed specifically notes that, only beer products that are produced on premises shall be sold by the facility. Any sales on premise and off premise consumption shall be in accordance with the licensing requirement of the Virginia Department of Alcoholic Beverage Control. So it seems like the County, in amending this Ordinance and putting this in here, kind of covered the restriction on them, by saying you will comply with the requirements of the licensing of the ABC Board. So to add something to our restrictions that would overstep that, I think would be erroneous on our part.

Mr. Apicella: Mr. Chairman, I'm going to liken this to a CUP where you have a pharmacy with a drive-through window, versus a pharmacy that doesn't have a drive-through window. There are certain conditions that happen as a result of going from one kind of use to another kind of use. Again, I'm not

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trying to restrict the applicant's business. I'm trying to look out for... we're only allocating 14 spaces. I don't know whether that's the right number. I don't know if that'll accommodate people buying 10,000 barrels of beer in a given year. It sounds like it's awful low, because it's not the only thing going on there. There's other thing happening at that site. It is a camp ground primarily that now wants to grow and have a microbrewery and I think that's great, but to some extent they could be in competition with each other in terms of the amount of traffic and the amount of parking. The applicant is a little hesitant to offer more parking and rightly so, because that might impact his other business. Bottom line is, again, we have to protect the public interest not in spite of what the applicant wants. Again, 10,000 barrels seems like an awful lot to me. We have conditions on other... again, as a Planning Commission we put conditions on businesses, because it's appropriate and necessary to put these conditions on businesses where they have an impact, not only within their immediate area, but outside of their immediate area. So I don't know what the right number is. I didn't say it should be 1,100. I just think 10,000 barrels with 14 parking spaces just seems like there is a disconnect there. I don't have the right answer. The applicant always has the option of coming back and hopefully, and I think the Board will, positively approve a change in the fee to 150 dollars. It's not a huge amount, so if the applicant finds that he needs to grow his business beyond whatever cap we set, he can always come back, pay the fee and ask us to re-consider based on additional conditions that he might be willing to agree to, including more parking spaces or some impact on the egress or ingress to the facility. I just don't know what 10,000 barrels... how many customers are going to be coming on a daily basis. We want to preclude any unintended consequences at the same time promoting this business.

Dr. Larson: We're sort of overlapping into the next one, which is okay the minimum of 14 parking spaces. If I can interject, I'm not concerned about the parking spaces, because the applicant is a business man and if he finds he needs more parking spaces, I'm quite sure he'll put them in. It would be bad business not to. He'd be tearing up his surface for his camping operation. They sort of... they aren't mutually exclusive. They can be done in synergy with each other, but the microbrewery could have an impact on the camping, but I think it would be up to him to make sure that doesn't adversely affect his business. I mean, it's probably in his interest that that doesn't happen.

Mr. Apicella: Mr. Chairman, that's true for any business. We wouldn't have conditions if it was always a business man looking out for his own interest. We had to put conditions, not just to protect his own business, but also to protect the citizens that are going to be in the surrounding community.

Dr. Larson: Right. I totally understand that and I think the licensing requirements are intended to do a lot of that.

Mr. Apicella: Those permitting... that has nothing to do with... that's our role and responsibility. The ABC Board has, I don't think, has any... their not looking out for the citizens per se, in the same way that we're supposed to be looking out for the citizens. They're not going to be setting the same kind of conditions. Planning and Zoning (inaudible) the conditions that we would be setting. Their interest is completely different than ours. I hear what you're saying, but they're regulating a different aspect of his business, versus us trying to regulate and mitigate the impacts of his business, not just for him, but for his surrounding community and the people visiting his site.

Mr. Kim: If I can interject here, I'm not so concerned about... and I understand where you're coming from, Steven... but I... the 14 parking spaces isn't that important to me, because it's a camp ground and there's going to be plenty of people, I'm sure, not one person comes in a 30 foot RV and says, you know... I'm assuming you're going to allow them to come up to the brewery, purchase what they want,

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take it back to their RV if they want and normally I would absolutely agree with the parking spaces, but it being like 28 acres and a camp ground for people to bring multiple people in one vehicle, you know, one RV...

Mr. Apicella: Then why not ask for a reserved area for over-parking, just in case that happens and not be paved, but just an additional area that can be designated if and when circumstances arise, to ensure that there's adequate parking for people coming and going onto the site? You know, you could have 15 people who come and visit that site at any given hour on a Saturday, trying to fill up growlers. If your capacity is 10,000 barrels, you may well.

Mr. Kim: But for the... and I'm not arguing... but for the 14 parking spaces, I mean that's what staff suggested or is that the County Code? Okay, it's County Code. So as long as it adheres to the County Code, I don't really think parking is an issue.

Mr. Apicella: Danny, that's based on the size of the facility, not on the amount of barrels that they're producing. I asked that question, because I wasn't quite sure how they came up with the... and the applicant had said, he was only going to do 1,100, so it's not... the number of parking spaces, for whatever reason, isn't associated with the amount of business or volume. It's associated with the structures.

Mr. Grimes: And I think that parking is not different than you find in a restaurant. And again, going back to Sweet Water, which is a restaurant combination microbrewery. Their parking is created by the number of square footage in the restaurant, no different than the microbrewery. So the spaces are set by the Code, not by the potential traffic of people coming in and having their growlers filled. So it's... the Code sets the parking, not the business volume.

Dr. Larson: The Code sets minimum parking, but the business can add parking, if they need to and I've seen lots of business do that, so I'm going to have to disagree with you, Mr. Apicella. I think that a business man who sees the need for parking and it's affecting his business, would add the parking so his business could thrive. I agree that we're here to protect the citizens, we're talking about 2 different things here.

Mr. Ingalls: Well, I think we're getting a little confused here. Restaurants are usually by number of seats, which that will tell you how many cars... I mean, if you got a 100 seat restaurant, you know, when it gets more than full, most likely somebody might go somewhere else, but that's how restaurants are done. And what we have here, we got an application that's a request from the applicant to do 1,100 barrels a year, or whatever. And to think that we can sit here and try to figure out what the impacts will be when he goes to 9,900 barrels a day. I can't fathom what the impact on this place would be if he's doing 9,000 barrels rather than 1,100. So to me, if you limit the number of barrels that limits the parking and that way I don't have to deal with the parking. He's going to have to deal with the parking and in my opinion, if he's successful, and we hope he is, he's going to find he probably doesn't quite enough on certain days and times. I mean, I don't know how his camp ground fills up and whether he always has spaces throughout the camp ground and somebody could come in. You know, I would assume he's expecting somebody to come in with a bus load of people, and one bus may bring in 40 people or so, and any one time. Which would be okay, he'd have a place to park it. He's got a big enough site for buses. But I think if we limit the barrels, we're also looking out for, I think, what we need to and what we're titled to do is to look out for citizens and impacts it's going to have on the citizen in the traffic... the traffic for 1,100 barrels a year versus 9,000 barrels a year, it's got to be greater. It's got to be a

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greater impact on the site and on the travelling public and everything else. So I think we have to we have to limit... if we limit the barrels now to a reasonable number and giving him a chance to grow, but to the point where, okay, 9,000... I think 9,000 barrels a day on this site with the conditions as they are right now... it's not going to work. It's just not going to work. You're going to have more... that little tasting room doesn't hold all those people, unless you got some big, heavy beer drinkers coming in at one time.

Dr. Larson: That was the conclusion that I was coming to about half an hour ago, that the one thing that... the one limit that would be useful to deal with almost everything else we're talking about, except for the minimum parking requirement, would be limiting the number of barrels. So we wouldn't have to put any limits on where the product is sold, who it's sold to. I mean, that could be all licensing issues, once it got to that limit, then he would have to come back. Get another special exception.

Mr. Apicella: Again, that was my thought process that he's pilot testing his circumstances on the ground and he can see and we can see what the net result is of a growing business and more barrels than we had anticipated. So that was kind of my argument. You're making my argument. Again, 150 dollars isn't so insurmountable that if we set a 5,000 barrel limit, again, I'm not saying that's the right number, but that would give him a chance to see, hey, is this going to work on this site or do I need to do something different? And for us to say "Hey, this is not going to work". We see how it's been. You need to change the conditions on the ground in order to accommodate anything beyond that, whatever upper limit we would put on the number of barrels.

Dr. Larson: Mr. Lovell, did you have something you would like to add.

Mr. Lovell: Yes, when you're talking about number of barrels and parking spaces, I think there is a little disconnect in there, because if I'm up to 9,000 barrel level, it's not going to be a retail sale. Somebody coming in to have their growler or 5 gallon keg, or even 15 gallon keg filled. It's going to be like a UPS refrigerated truck pulling up and taking out 35 or 40 kegs at a time, or 50 kegs, something like that. So I don't really see the connect between parking spots and beer volume.

Dr. Larson: Could you... do you have an estimate on what your production capacity will be, based on your current plans?

Mr. Lovell: Yes, that's where I came up with the 1,100 barrels.

Dr. Larson: Okay, that would be the capacity then.

Mr. Lovell: Yes. And since I filed that application, as I believe I mentioned earlier, I've been approached, I didn't go out and seek the business, but I've been approached by a local feller who wants to sell my beer and said, would I increase production, so that he can buy it and bottle up and do what he wants with it. And of course I'd entertain something like that. And then of course, as I mentioned earlier, I'd be going back to the Zoning and Building people and say I want to put up a bigger building, because I'm not going to put up a 3 barrel conical, I'm going to put up a 15 or 20 barrel conical. And those guys are 15 feet tall, or so. They wouldn't fit in my current building.

Dr. Larson: Right. As Mr. Apicella pointed out, the approval process there is a bit different from what you're going through now.

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Mr. Lovell: Yes Sir.

Dr. Larson: So we actually service slightly different functions. We're looking out more for impact on traffic and public safety and things like that. Okay. Thank you. Any other questions for the applicant while he's up at the podium?

Mr. Lovell: Also, hopefully we will have had a few other of these applications and I won't be the first one, if I'm back.

Dr. Larson: Right. Does anybody have a suggestion for a limit on a number of barrels of production?

Mr. Ingalls: Well, if you gave him double his production, which would be 2,200 barrels, which would give him a chance to grow... would be his maximum. I don't know whether that's too many or not enough.

Mr. Apicella: I'd just take it up to 2,500. I mean it's only 400 more barrels, it's a reasonable amount, so somewhere in the same range.

Mr. Kim: Mine would be, not to have a limit, because if you're selling more, I don't think it's going to be camp ground consumption. It's going to be a big truck coming. I don't know the exact procedure. But it would be a big truck coming, getting a bunch of kegs or bottles or whatever it may be. I don't think setting a limit just would be...

Mr. Apicella: Danny, back to Larry's point. We don't know, what we don't know, because we haven't done this before.

Mr. Kim: No, absolutely.

Mr. Apicella: But it is a little unfair to the applicant, because he's the first one in the gate. By the same token, I think we have to take a conservative approach. If he had to come back and pay 10,000 dollars to revisit this, then I might look at it differently, but we're talking about 150 dollars to come back to ask us and change the amount of production. I just don't see that that is particularly arduous for us to do this smartly having not done it before.

Mr. Kim: Well, see, for me it feels more like there's... we're capping success. I mean if he can sell 10,000 gallons or 10,000 barrels it would be... and maybe that's just me.

Mr. Apicella: And nobody is going to stop him from doing that. It's just, we revisit the circumstances on the ground to see if something needs to change, because the production volume is higher.

Mr. Ingalls: He would not be able to produce 9,000 barrels in his current facility.

Mr. Kim: No I don't think so.

Mr. Ingalls: He would have to have a much bigger facility and all of the sudden he's back here or back somewhere...

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Mr. Kim: And that's exactly the reason why I don't see why we need a cap, because he's not going to be able to produce that... Mr. Lovell is not going to be able to produce that amount of beer with the facility he has now.

Mr. Ingalls: He said what he was going to produce and, like I said, you want to give him enough to be successful and we always seem to do that. We ask what are you going to do and we kind of try to narrow it down, because that's the application before us. It's not "Well, I want to open up a school", "How many kids are you going to have?", "I'm going to have 25, but I might grow to 1,000". We put limits on this thing, knowing what size are we really talking about.

Mr. Kim: But in that analogy you actually have to house 1,000 students.

Mr. Ingalls: Right.

Mr. Kim: He's not going to have to house 1,000 different...you know, 10,000 barrels or whatever. I mean, if you want to put a cap on it, if we can extend that to maybe 3,000, then I would be more willing for it, but I just don't want to double and say "That's all we can do". I just feel like there's a...

Mr. Ingalls: Well, I just picked a number.

Mr. Kim: Oh, okay, okay.

Mr. Apicella: I can live with 3,000.

Mr. Kim: I can live with 3,000. Can you live with 3,000? Or is this portion closed?

Mr. Lovell: I don't believe so. As I mentioned when I first came in. When I first approached staff, the only restriction they had was 14 parking spots. Actually I think it was 11 or something, but that doesn't really matter. I take care of the... I find parking for the people that come in there. And all these other restrictions came out after I'd paid my fee, after I'd agreed to the process and after the... I didn't even have time to comment on it and that's why I found them objectionable.

Dr. Larson: Well, Mr. Lovell, those were only suggestions by staff. They didn't levy any restrictions on you. They're suggesting restrictions to the Board. The Board will levy the restrictions that we think are appropriate for your special exception and this is your opportunity, as you're taking, to respond to those.

Mr. Lovell: I appreciate this opportunity.

Dr. Larson: Okay.

Mr. Poss: Mr. Chairman, I just expressed my opinion on this. I'm having a hard time... again, we want this business to be successful and I'm having a hard time sitting here, not knowing anything about the micro-brewing business and based on the comment that he made that if he were producing 10,000 barrels, then a semi would be backing up. So there's so much about this we don't know and I appreciate what you're saying, but I'm really struggling with the fact that maybe we should not put these kind of restrictions on the business, because if he gets to that point, he's going to have to come back and enlarge his business. So for us to put that kind of limit on him, I'm just not sure that's the best way we can help him be successful.

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Mr. Grimes: And I would... I have to support you on that comment. I don't like putting limits on this gentleman's opportunity to be successful. And kind of remind us that when we're trying to look out for the public and I agree, but this parking area, the access to his site is wholly contained within his site. They're not driving past somebody else's house to get there. They're not driving by another business to get there. Literally, when you turn off Route 1, you are on his property. And traffic control problems coming exiting in and out is no different than the same... probably generates more traffic from his actual camp ground for people coming in and out than this business might, but I just don't see imposing a restriction of how much he can produce has any benefit to the public safety and welfare. Again, everything is contained within his property and egress and ingress out of his property has been designed so RVs can come in and out of there. So I just don't quite see why we're worried the amount of traffic, based on his potential to produce 10,000.

Dr. Larson: Mr. Apicella, do you have a comment?

Mr. Apicella: You know it's unfortunate, in a way it's good for the applicant to have this process going to the BZA, because the fee is much cheaper and the process is much more expedited. If this were going to the Planning Commission, it would be a completely different process. We would get a potential vehicle impact analysis. We don't get that here, because we haven't done it before. I can tell you from my own experience, I've gone to Blue & Grey Brewery. There are a lot of people there and there's a lot of traffic. I welcome you to check it out. They've got a good business plan, a good business model. They provide growlers on any weekend, there's quite a bit of traffic there. That's my frame of reference and the whole purpose of a special exception is to create conditions to mitigate the impacts of any kind of development, not to inhibit somebody's business model, or business plan for the sake of inhibiting it, but also looking out for the community. If we don't go through this process and we don't do it intelligently, again, we're going to end up with unintended consequences. The problem here, one more time, is, we've never done this in Stafford County. We've not done it at a camp ground. It's not a Food Lion. It has more than one use. It will have more than one use, once this is approved. So part of our job is to balance all the issues in front of us, to make sure that we make a smart decision. And, again, at worst for the applicant if we took a conservative approach, he only has to come in and pay 150 dollar fee to have us re-assess the set of conditions to make them more appropriate, based on the growth. So to me that is the crux of the issue. Do you want to just roll the dice and see how it goes and not worry about what happens in the long run, or at least try to do something that is smart and conservative, having not done this before. See how it goes and let us revisit it, if necessary, should his business explode. And hopefully it will. I will be one of the first people over there. But I just want to do what I think is right and best for the citizens of Stafford, not just for this business. And it won't just be the citizens of Stafford. There'll be other people from Prince William County, from the surrounding jurisdictions, who go, because there's not a lot of microbreweries here. So this whole conversation started, because... not because of what he would have on site and consumption on site, but what would happen with people coming and going from the site, because they want to fill up a growler. 10,000 barrels times 31 gallons per barrel, that is a lot of product and it's all well and good to say "Well, you know, he's not going to be able to do that". We don't know what he can do, because we haven't done it before. Maybe he can do it without structures. I don't know. But the only limitation for him to come back is if he would be required, if we allowed 10,000 barrels and he had to build some structures he would have to come in with a site plan and that might not even come to us. That might just go through the regular planning process and we would never get a chance to revisit it and establish new conditions. Now is the opportune time to establish conditions, reasonable conditions, not unfair, not that they're going to jeopardize his business, not that are going to inhibit his growth, but something that looks out for both, his business model and the citizens of Stafford. And I think we have a responsibility here to do what is

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right, not just for the applicant, but for everybody. There is a surrounding community there. There are houses in the general vicinity. There will be hotels in the surrounding community. We just don't know what the impacts will be, because we haven't experienced this before. So to just give the maximum doesn't seem to be smart and prudent, not knowing what the consequences might be.

Dr. Larson: Anybody else want to weigh in here?

Mr. Poss: Mr. Chairman, do we know in fact that it's going to be a 150 dollar fee, or is that something that the Board of Supervisors...

Dr. Larson: It hasn't been changed yet. My understanding right now is its 1,300 dollars. Is that correct?

Mr. Poss: Okay, so that... do you have any...

Mr. Apicella: I can't guarantee, but I am assured that a majority on the Board want this to go through and want to reduce the fee. I didn't see the back and forth. I don't know why they didn't decide. I know they had a long meeting. A lot of stuff on the agenda. That's may have been the reason why they didn't take a vote on it and they may have punted on that and another issue. So my sense is, you know, they authorized an alternative process, the special exception process, because they wanted this to go through quickly and they wanted to reduce the cost on the applicants. I can't see why they wouldn't do a 150 dollar fee or something close to it.

Dr. Larson: Okay, anybody else want to comment on the limitation of barrels issue?

Mr. Davis: I'd like to comment on number 3, because I don't think we ever finished that. We just skipped to something else.

Dr. Larson: Ah, yes. We did skip that. I think we were using the limitation of barrels as a surrogate for that. That being no off-site sales of the product brewed on premises.

Mr. Davis: Well, since the ABC license would tell us, or tell him what he can do, I don't think we need number 3.

Dr. Larson: I actually agree with that. If everybody is in favor, or doesn't object...

Mr. Ingalls: If we put a limit on the barrels.

Dr. Larson: Correct. Well, we're talking about the limitation. In any case, I don't think that that's even correctly worded, to tell you the truth, but...

Mr. Grimes: Yes, the ABC Code reference to on premise and off-premise when they referred to sales.

Dr. Larson: Right. So, I think...

Mr. Poss: Well off-premise means that you can buy it and take it home. It doesn't mean that you can take it somewhere and sell it. I think that's prohibited under the ABC law.

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Mr. Kim: Without a special permit?

Dr. Larson: You can get a permit for that, yes.

Mr. Kim: Yes, you can get a permit for that.

Dr. Larson: I think Blue & Grey does that now. They sell their beer.

Mr. Kim: You can get a growler, you go in.

Mr. Poss: But under normal licensing they can't.

Mr. Kim: No, not under normal...

Dr. Larson: I don't actually think, Mr. Lovell, if you care to comment, does your current license, or would the license that you're applying for allow you to sell barrels to, say, a restaurant?

Mr. Lovell: Absolutely not.

Dr. Larson: Okay.

Mr. Lovell: You have to sell to a distributor and the distributor has to sell to a restaurant. I think that's terribly unfair, but we're not here to discuss that.

Dr. Larson: Right.

Mr. Lovell: If I wanted to sell to Sam's Pizza, so he can serve Everett's finest on tap, it's not happening, unless, and it's not easy to find a distributor, but you have to find a distributor to sell your product to the restaurant. You can't sell directly to the restaurant.

Dr. Larson: That's interesting.

Mr. Davis: They had the same problem with wineries.

Dr. Larson: Okay. Thank you for that information. But you can sell your product to a distributor?

Mr. Lovell: That's correct.

Mr. Grimes: But again, that's for purchase by a commercial establishment.

Dr. Larson: Correct.

Mr. Grimes: Correct me if I'm wrong, but you can sell your product for somebody to take home.

Mr. Lovell: Absolutely. And while you're discussing on- and off-site, you know they have a lot of beer festivals and so some breweries set up a booth or have a booth set up on their behalf at the beer festival, just like the wine festival, and you have 10 or 15 or whatever of these breweries that are serving their

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tastings of their product. You don't want to in defining on- and off-site, please don't prohibit me from doing that.

Dr. Larson: I don't think we would want to prohibit you from doing that. Just my personal opinion. Anyway, number 3. I'm hoping to get around that, if we can settle on this other, the number of barrels issue. I'm thinking the number of barrels issue will take care of those on-off-site, on-off-premise type issues. That's why we skipped that, Mr. Davis. Okay. So we were discussing number of barrels. As I've said before, my heart sort of goes with not putting on a restriction, but I'm persuaded by Mr. Apicella that we probably should have a restriction, so that the applicant would have to come back if he grew to a point where it would be obvious that he would be impacting, let's say, the traffic on Route 1. Just to remind you, Route 1 is a 2 lane each way and it has a turn lane in the center of the road so that people can turn left safely, which by the way was a sorely needed addition to the road, but I think that that has alleviated a huge safety problem with people stopping in the middle of the passing lane to turn left. But there may be a time, when a traffic light is needed on Route 1 for that spot and perhaps it would be because of a successful business. I don't know, but in any case, I think we've hammered this to death. I'd like to get a decision on the Board on the capacity issue now. I think that issue has been discussed and hammered and I'd like to get that settled before we talk about the other restrictions, if there are any. So would somebody like to move on just the capacity issue?

Mr. Davis: 3,000 barrels.

Dr. Larson: A motion for 3,000 barrels limit. Is there a second?

Mr. Apicella: Second.

Dr. Larson: Okay. The motion has been made and seconded. Any other discussion? Okay, those in favor say aye.

Mr. Poss: Aye.

Mr. Apicella: Aye.

Mr. Ingalls: Aye.

Mr. Davis: Aye.

Mr. Kim: Aye.

Dr. Larson: Aye. Any opposed?

Mr. Grimes: Nay.

Dr. Larson: Alright, motion passes. Based on that motion, I would recommend that we delete item number 3 and not offer any other restrictions on the sale of the product, that are already covered by license and the current law.

Mr. Davis: So moved.

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Dr. Larson: Second? Is there a second to the motion to remove item number 3?

Mr. Kim: Oh, I'm sorry, yes.

Dr. Larson: Okay, those in favor say aye.

Mr. Poss: Aye.

Mr. Grimes: Aye.

Mr. Davis: Aye.

Mr. Apicella: Aye.

Mr. Kim: Aye.

Dr. Larson: Aye. Opposed?

Mr. Ingalls: Nay.

Dr. Larson: Okay. We did talk about the minimum 14 parking spaces. That is a requirement by the Code. Any other discussion on parking spaces? Hearing none, the next condition is all areas and structures associated with the microbrewery should comply with all applicable federal, state and local codes. Anybody have a problem with that? Alright, then the last one was corrected by staff so that the condition cannot be associated with an individual, but we can put a time limit on the special exception, as we have done in the past, many times.

Mr. Apicella: Are you saying an individual by name versus the Aquia Pines Camp Resort? So can it be on the resort?

Ms. Blackburn: No, we had counsel stating that it could only be a time limit, that it would run with the land otherwise.

Mr. Ingalls: We used to do that, but they caught us.

Mr. Kim: What's the time limit?

Dr. Larson: That's up to us.

Ms. Blackburn: You can place a time limit on it, or not. But that is one of the conditions that the State Code does allow to be placed on a special exception.

Mr. Kim: Okay, thank you.

Mr. Grimes: But, can, I mean... do you have a time limit but can it also be attached to the sale of the property? Change of ownership? I have an upstanding citizen that wants to run his business, but I don't know if somebody else is going to come in and be the same.

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Mr. Ingalls: And some of the ones we've done in the past, we've put like a five year time limit on them. This is kind of new to us and most of those special exceptions we have are kind of small, in residential areas, you know, home businesses and whatever they're called, those little types things that we do try to...we know the neighborhood is going to change, neighbors are going to change and the type of special exception we're talking about, we want to make sure it doesn't... you know, like the hairdresser. They come in here and the person might be just really great and going to do a great job and we just don't want it to keep passing down and selling that house, you know, I got a special exception that you can come in here and run a little business out of here. And it is a time limit that it has to be, because, I guess I've been here too long and I'm seeing... you think things are going to stay just like they are, but you go back and look at what happened in the last 10 years, things move along, things change and some things I would have probably liked to have another shot at, based on what's going on now versus what was there the night I voted. But this one is a little different. I struggle with a time limit, because it's a business and it's a little different and I don't know whether I would support or not support a time limit. I'd have to think about it.

Ms. Musante: Mr. Chair? According to our County Attorney's Office it runs with the use of the land, so if he does sell it, it will stay with the land, so the new owner can operate under these guidelines.

Dr. Larson: Right, but again, we've already put a limit of 3,000 barrels, so why would we care if somebody owned the microbrewery?

Mr. Apicella: Yeah and they would have to comply with the same conditions.

Dr. Larson: The same conditions.

Mr. Ingalls: I think that maybe the 3,000 barrels is another way of saying "well, we don't need a time limit", because if he grows that much in 3 to 4 years, he's going to be back and he's going to expand this thing and make it a much more successful business.

Dr. Larson: Yeah, I would assert that the 3,000 barrel requirement is the safety valve that Mr. Apicella is concerned about and I think it's probably the only one we need. Unless somebody can persuade me...

Mr. Apicella: The only safety valve, again, because it's standard language in the CUP, for failure to comply extinguishes your right to continue, so I think that's standard boilerplate language we need to add, or else it has no teeth, the other conditions have no teeth.

Dr. Larson: Isn't that part of a special exception wording when we put conditions on it?

Mrs. Musante: We have done that, yes.

Mr. Apicella: But it's not in here. So that's what I'm saying. That needs to be added.

Dr. Larson: That needs to be part of it. Okay.

Mr. Apicella: And I don't know the exact words, maybe you can help us.

Dr. Larson: Mr. Lovell, do you have something you wanted to add?

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Mr. Lovell: In talking about tying it to me personally, please keep in mind that anybody who buys the property and would therefore be allowed to have the microbrewery, they too would have to go and apply for a federal permit to be a brewer and also go through the arduous ABC review. So it's not like just anybody... just anybody can buy the property, but that doesn't mean that they're going to have permits to brew.

Dr. Larson: Thank you for that clarification.

Mr. Lovell: Yes, Sir.

Mr. Apicella: Mr. Chairman, with your indulgence, can I ask staff to add that language?

Dr. Larson: Absolutely.

Ms. Musante: Failure to comply with the approved conditions will result in revocation of this special exception.

Mr. Apicella: So I would as that also be added as a condition.

Ms. Musante: And then I also have the use of carnival style flags, banners, balloons, windsocks, inflatable and unapproved lighting is prohibited.

Mr. Apicella: I would add to that, with the exception of a onetime grand opening, if the Board members agree.

Dr. Larson: I have no problem with that. Discussion of that?

Mr. Ingalls: Would you just one time, I mean if he wanted to hold a special Oktoberfest or something like that...

Mr. Apicella: We talked about that in the Planning Commission and you could literally come up with a special event every day.

Mr. Ingalls: Yeah, you can have a special event signage, or maybe we can limit it to no more than... per year.

Mr. Apicella: I'm good with that.

Mr. Davis: Who's going to keep count?

Mr. Ingalls: I don't know. I'm not. But I think he ought to have an opportunity, like I said, you hear about Oktoberfest's and all these other things this time a year, I would think, help him be successful, if he wants to have an event. If it's according to the new Ordinance, if it's more than 200 people, he has to have a special permit for that anyway, if it's more than 200.

Mr. Apicella: This is not so much about the number of people, as much as clutter of balloons, signs...

Mr. Ingalls: I know what you're trying to do and like I said, but if he were to do it 4 times a year...

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Mr. Apicella: I can live with 4 times a year.

Dr. Larson: Could you construct wording about what you're talking about for a potential motion? As a potential restriction, let's put it that way.

Mr. Apicella: I'm going to need Melody's help here. I'll add something to the end of it.

Ms. Musante: The use of carnival style flags, banners, balloons, windsocks, inflatable and unapproved lighting is prohibited...

Mr. Apicella: ...with the exception that the applicant may promote special events no more than 4 times a year.

Dr. Larson: Alright, so let me read through, Melody, I'm going to let you read that last one when I get there. Okay, the conditions, the proposed conditions on the special exception are: The microbrewery will comply with the plan submitted with case and or any changes that may be made by the Board of Zoning Appeals at the time of the hearing. Any changes and alterations of the use or the plan will require a new special exception application. The hours open to the public will be 8 a.m. to 12 midnight. There will be a minimum of 14 parking spaces allocated for the microbrewery. All areas and structures allocated with the microbrewery shall comply with applicable federal, state and local Codes. And what was the last one, Melody?

Ms. Musante: We have: Failure to comply with approved conditions will result in revocation of the special exception. We have: The use of carnival style flags, banners, balloons, windsocks, inflatable and unapproved lighting is prohibited with the exception the applicant may promote special events no more than 4 times per year. And then we have: No more than 3,000 barrels provided per year.

Dr. Larson: Thank you. I forgot that key element.

Mrs. Musante: Produced.

Mr. Davis: Number 1 indicates that he has to comply with what has been submitted. The addition of 3,000 barrels is more than what he has requested. We need to change that somehow.

Dr. Larson: So it's and/or changes that may be made by the BZA. So we have made those.

Mr. Davis: Number 2, you need to add 7 days a week.

Dr. Larson: Thank you. Add 7 days a week to the hours.

Ms. Musante: I have that.

Dr. Larson: Any others? Okay. Is there a motion with those conditions?

Mr. Apicella: So moved, Mr. Chairman.

Dr. Larson: Is there a second?

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Mr. Kim: Second.

Dr. Larson: Those in favor say aye.

Mr. Poss: Aye.

Mr. Grimes: Aye.

Mr. Ingalls: Aye.

Mr. Davis: Aye.

Mr. Kim: Aye.

Mr. Apicella: Aye.

Dr. Larson: Aye. Any opposed? Congratulations, Mr. Lovell.

Mr. Lovell: Thank you gentlemen.

Dr. Larson: Next case.

2. V13-03/1300409 - PRINCE WILLIAM HOME IMPROVEMENTS - Requests a Variance from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", R-1, Suburban Residential, of the rear yard requirement to construct an addition to an existing single-family dwelling on Assessor's Parcel 44R-4-279. The property is zoned R-1, Suburban Residential, located at 8 Sunstone Drive, Stafford Lakes Village.

Ms. Musante: Case V13-03/1300409, Applicant, Prince William Home Improvements, requests a Variance from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", for the R-1, Suburban Residential, of the rear yard requirement to construct an addition to an existing single-family dwelling on Assessor's Parcel 44R-4-279. The property is zoned R-1, Suburban Residential, located at 8 Sunstone Drive, in the Stafford Lakes Village subdivision. You have the application, owners consent form, house location dated May 20, 2013, construction plans and a letter from the doctor. The Applicant is requesting a variance of the rear yard setback to construct an addition onto an existing single family dwelling. The property is in a cluster designed subdivision which requires a rear yard setback of 25 feet. The applicant is requesting a 4 foot variance of the required 25 feet rear yard setback which would result in a rear yard of 21 feet. The rear property line... this doesn't make any sense, sorry... the rear property line resulting with the rear yard narrower on one side other than the other. It is the narrower section of the rear yard that does not comply. Alternate options, such as constructing a deck or a screened porch of the same size were discussed with the applicant. These options would have complied with the applicable rear yard requirement negating the need to request a variance. No variance shall be authorized by The Board of Zoning Appeals, unless it finds: Number 1, that the strict application of the provisions of this chapter would produce undue hardship; the applicant states the hardship is the property owner is wheelchair bound. This alteration would allow the owner easier access to the outdoors. Number 2, that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the applicant states yes to this question with no

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justification. This subdivision is Cluster which allows a reduced rear yard setback of 25 feet. Number 3, that the authorization of such variance shall not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; The character of the district will not change by the granting of this variance, was the answer from the applicant. Number 4, that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter; The applicant states the adjacent and nearby properties will not be affected by the granting of this variance. Single family dwelling was constructed in 2001.

Dr. Larson: Are there any questions for staff?

Mr. Ingalls: Mr. Chairman, I have one. Melody, you did go over the application with the applicant, explaining that you could build this same size room, if it were a screened in porch. It could be a screened in porch and he would not need a variance. Is that correct?

Ms. Musante: That information was discussed with the applicant, it was not with me. My co-worker here, Evelyn, did speak with them.

Mr. Ingalls: Okay, but it was discussed with him.

Ms. Musante: Yes.

Mr. Ingalls: Okay. It could be a deck or screened in porch and the variance would not be required.

Ms. Musante: Screen porches can be as close as 19 feet to the property line. Decks can be as close as 13 feet to the rear property line.

Mr. Ingalls: Thank you.

Dr. Larson: Any other questions for staff?

Mr. Apicella: Mr. Chairman? I'm looking at attachment 2, page 1 of 1, which is a plat. So looking at the back end of the property line where the two arrows are pointing from the edge of the proposed addition to the end of the property line. Do you have a sense, and this is just roughly speaking just to kind of help us deliberate on this, where along that back property line they would meet the requirement.

Ms. Musante: They could actually move the addition, looking at the plat on paper to the left and could possibly meet that 25 feet, if they shifted it.

Mr. Apicella: That was my thought. Additionally, when I look at the building plans, what I see is sort of a combination addition/deck. And I have this at my house where I have, again, an enclosed room on one side and a deck where I can walk through the door onto the deck. So if they just flipped the plan around, they could actually still meet the requirement...

Mrs. Musante: Possibly.

Mr. Apicella: ... by staying in the exact same configuration that they have, but just moving the deck and the stairs to the other side.

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Mrs. Musante: The other side.

Mr. Apicella: So they do have some options to do what they want to do, without...

Mrs. Musante: Correct.

Mr. Apicella: ... needing a variance or encroaching upon the boundary line.

Ms. Musante: Correct.

Dr. Larson: Other questions for staff? Will the applicant and/or his or her representative come forward and present their case?

Mr. Villanueva: My name is Henry Villanueva. I actually represent Prince William Home Improvement who will be constructing the proposed structure for Mr. and Mrs. Feneis at 8 Sunstone Drive. They are proposing to do a 3 season room, due to the fact that Mister is unfortunately wheelchair bound, doesn't have too much accessibility to go anywhere, so what they're really looking for is him to have an area that he can go to with a lot of sunlight, that he can actually can some sunlight, because that's what we're proposing, to put a lot of windows in the area there. He doesn't get too much access outside. So obviously a screen room was discussed. We did discuss a screen room at length with them and obviously the County's approval on a screen room. However they were looking more for possibly having something all year round, versus being hindered on the fact that it's raining possibly outside for him to be able to access the outside, because regardless, if you have a screen room and it's raining outside, then obviously he's not going to be able to be outside while it's raining. They are... the reason for the location of the actual addition is that we are actually proposing to open a doorway. If you look on the actual picture of the house, which is attachment...

Mr. Davis: Page 3 of 5.

Mr. Villanueva: Yes, I saw it here, I don't know what page it is ...the issue is that the double window on the left hand side of the house is where the door would be located as a mode in egress or ingress, in other words in and out of that 3 season room. There is a window on the farther side that would be a single door that you could obviously... I discussed that with them as well, moving the 3 season room to the other side, however there is a bunch of hallways there and there is a... so there would be a lot of interior alterations to the actual house that would need to be done in order for them to have access for him with the wheelchair and all, because there is... If you look on the survey, I should say, right where it kind of bumps back in, right where the 2 foot mark is, they have a window there, I think there is a door actually there, there is a door presently there. And that door, before you get to that door, is an actual laundry room which probably has a walkway of, you know, a normal walkway, I would say maybe 3.5 feet. I didn't measure it exactly, but roughly. So you do have to turn the corner to get to the per se hallway to get to that door. So you would have to turn the corner and then get in front of the door, which is why they didn't want to go that route. So we would facilitate him going in and out of the actual room itself, to add the door on the right hand side. I should say, if you look, standing in the yard, looking at the back of the house, to add the door on the left hand side where that double window is. We did discuss, like I said, with the homeowner the different options that we had and I did try to get us as much details as I could from the County before we actually discussed it with them and they were very helpful with that, but at this point they just want to do the 3 season room and they feel like that's going to be their only option to both have him outside and enjoying at least some kind of sunlight as well as

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being able to get him in and out of that room easy, because the wife is the only one that stays home with him pretty much every day. That's it.

Dr. Larson: Any questions for the applicant?

Mr. Ingalls: Mr. Chairman?

Dr. Larson: Yes.

Mr. Ingalls: I guess... so what you're saying is, you're starting the room just outside that double window there on that end of the house? So you're going to take those double windows out and make that a double door or something that's wide enough for him to go out?

Mr. Villanueva: Correct.

Mr. Ingalls: That's the reason you're staring as far that way as you have to.

Mr. Villanueva: Correct.

Mr. Ingalls: I guess I'm thinking, like my colleague said, you could make that whatever number of feet it has to be a screened in porch. You could go out onto the screened in porch then the remainder to the left would be a... I noticed you called it a 3 seasons room, which tells me it may not be heated or air conditioned.

Mr. Villanueva: Correct.

Mr. Ingalls: So it's not much different than a screened in porch. I mean it doesn't have... it sounded like to me from reading some things that you... that the flooring would be like a deck flooring with gaps in it maybe. I don't know.

Mr. Villanueva: Correct.

Mr. Ingalls: So it's really a covered deck with windows, rather than a screen.

Mr. Villanueva: Correct.

Mr. Ingalls: That's what's throwing you into this variance, is you're putting windows instead of screen in it.

Mr. Villanueva: Correct.

Mr. Ingalls: But if you were to think about... or let's make that... you come out, those double doors that you're going to change around those windows onto a covered screened in porch and then you go down to the left and go into the new room which would be all the other way. I mean you still could put your stairs at the far end or move the stairs wherever you want it, but that would seem like to a reasonable approach and you wouldn't need the variance and still accomplish your mission. It would give you a nice... give the person a nice screened in porch which will give you plenty of air on a nice day and if it

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was raining, you are still under roof and you could go into the windowed room on a really wind blowing day or something, that still gave you the opportunity to be in there.

Mr. Villanueva: But if it was raining and if you were to be out there, I don't think you would be too comfortable.

Mr. Ingalls: Well, if it's covered and it's screened in, a quick exit and you know, you go out the door and go into the other room.

Mr. Villanueva: Right, but the purpose of the actual area would be for him to have some time there. It wouldn't be just a quick in and out type of thing.

Mr. Ingalls: I know. You go out the door. You go out into a screened in porch. You go down the screened in porch to a double door, or whatever it takes, and go into your room with the windows. So he still has... it gives you both. He can either sit in the deck, on the screened in porch if it's really nice, or he could go in where the windows are and sit in there and be comfortable in there, I would think.

Mr. Villanueva: Oh so, if I'm hearing you correctly, you're possibly proposing to do half screen and half...

Mr. Ingalls: Right. That's what I'm proposing. It's half screened on the side where you need the variance which would eliminate the need for the variance. You do have of that or whatever it takes... your 21 feet, I don't know how you got that number, unless a surveyor computed it for you, because it's very, very...

Mr. Villanueva: It is actually... well, this survey got reduced so it'll fit in the packet, but you can actually, on full size, you can scale it with an engineer scale.

Mr. Ingalls: A scale? That's living a little dangerous, but anyway. You hope the scaling is... but that to me would be an option that maybe you could consider half and half.

Mr. Villanueva: I definitely did speak to them about that as well. However they were, you know, then their counter to that would have been that it then reduces the full space of the actual area. So for example, I believe the total room size we're proposing to do is 24 feet, I believe it was. Or 26, sorry. So I mean if you even took that by half, then you have a 13 x 10 and a 13 x 10.

Mr. Ingalls: Which you could extend it the other 6 feet that you have and make that enclosed. Make it longer.

Mr. Davis: Extend it how?

Mr. Apicella: And/or you could make it longer on the other side, so it looks like there is a lot of flexibility on how you can configure the...

Mr. Ingalls: I think you could almost end up with a room close to your 10 x 26, still having your option of extending it further that way to get as big of a room as you want. I mean, once you solve the variance problem you can just make that room as long as you want. Go all the way to the end of the house.

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Mr. Davis: The problem is the air conditioning system sitting on the ground right there.

Mr. Apicella: My point is, once you get to the other side you could go, instead of going this way, you could go this way and still be within the 25 feet presumably, because really, the property goes in a steep angle on the other end, so you can have an L-shaped room, right, and still not encroach on to the AC units.

Mr. Grimes: We are getting into architectural design, but I understand the owners would like to put a set of double doors where the double window is, to gain access to this room, because it's easier to get to.

Mr. Villanueva: Right.

Mr. Grimes: That's creating the problem with the property line.

Mr. Villanueva: Correct.

Mr. Grimes: But you could also create a simple 6 foot covered, enclosed vestibule that would eliminate this butting into the variance distance, that setback distance that's required and simply make it 6 foot outer depth from the house, 6 foot over to where the 3 season room actually starts, like a little vestibule so the owner doesn't have to go outside to get to the enclosed space. They would literally travel from inside to the vestibule inside and then extending this design down the 6 feet that you have created for the vestibule which would still give them the exact same room. Now one of those condensing units may have to be moved over 3 feet, but refrigerant lines are relatively inexpensive, so it's not a big cost, but you could still achieve... meet their needs of coming from the house, through this new opening and not encroach on that setback. So it's just a suggestion that I might put out there that you're going to still get the same end result of how you get to the space.

Mr. Villanueva: Right. What they were looking for as far as that... because that is something that we also discussed, but they were also keeping in mind the actual physical appearance of the outside, so if you kind of picture in your mind, you're going to have like a roofed structure and then it kind of juts out and then back around, so they also have to obviously maintain visual appearance as far as that part of it goes, with the HOAs and stuff like that. So they're trying to get something that's visually appealing as well as obviously getting some use for the outside for the husband.

Mr. Davis: Mr. President?

Dr. Larson: Yes, Mr. Davis.

Mr. Davis: I visited with the wife and son yesterday. I have not known them before and basically what they're looking for is something that's comfortable for their father and husband. I don't think a screened in porch is what they're after. They requested a variance and I think that's what we should give them.

Dr. Larson: I have a question for the applicant. The hardship that was cited in the application is the owner is wheelchair bound. This alteration would allow him greater and easier access to the outdoors. Does the owner have a medical condition that requires him access to the outdoors?

Mr. Villanueva: Not a medical condition that requires him to be outside, but he's typically stuck indoors every single day, other than the days that he goes to the doctors or something like that, so I don't know

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if he discussed with Mr. Davis there, as far as his medical condition, but he... I mean... frankly he doesn't have too much time on his hands so they just really just want to make him as comfortable as possible during the rest of his time, is what they're trying to do.

Dr. Larson: Thank you.

Mr. Villanueva: Yes.

Dr. Larson: Any other questions for the applicant? Okay, noting that there are no members of the public to speak I will close the public hearing and bring it back to the Board.

Mr. Davis: Mr. President?

Dr. Larson: Yes, Mr. Davis.

Mr. Davis: I move for approval of variance V13-03/1300409.

Mr. Apicella: Mr. Chairman, I move for a substitute motion.

Dr. Larson: Substitute motion?

Mr. Apicella: Which is, unfortunately in this case, to deny.

Dr. Larson: Is there a second to the substitute motion.

Mr. Davis: I think if you vote the first motion up or down, is the way you deny it.

Mr. Apicella: Yeah, but a substitute motion, under Robert's Rules the substitute motion takes precedence over an original motion. It's a different way of attacking the issue.

Dr. Larson: Mr. Apicella, would you object to seeing if there is a second to Mr. Davis' motion?

Mr. Apicella: No.

Dr. Larson: Is there a second to Mr. Davis' motion? Hearing none, is there a second to the substitute motion?

Mr. Grimes: I would second the substitute motion.

Dr. Larson: Any discussion on the substitute motion?

Mr. Apicella: Mr. Chairman, while it pains me to recommend denial, I don't see another way ahead on this one. Approving a variance is a very high standard. It is ultimately about the layout of the land. There's case law that says that while an applicant wants something that's most desirable that's not necessarily what should be the rationale for granting a variance. I understand and appreciate what the applicant wants. I wish there was a way he can get exactly what he wants. And I think there is a way to accommodate part of what he wants, maybe not in the way that he's asking for it, or his family is asking for it. Again, I think we ourselves have looked at the layout of the land and the proposed structure and

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see many ways that the desired meets can be met without encroaching into the setback area. So for all those reasons, while I wish, again, we could give the applicant what they want, I don't believe that standards for that variance are met in this case and therefore that's why I'm recommending denial. It pains me to do it, but that's, I think, where we are.

Dr. Larson: Other discussion?

Mr. Grimes: The reason for seconding, I have to agree with most of Mr. Apicella's points. I'd also include that if you look at the plat or the zoning map of the property, and actually I took a look at it on Google, there are some properties that are very close behind their property. The setbacks are there for a reason, for other people's enjoyment of the open space as well and I do believe there are other options that could get the applicant a nice outdoor space and be accessible without encroaching on that setback.

Dr. Larson: Is there any other discussion? I'm going to support the motion as well for the reasons Mr. Apicella mentioned and the applicant should understand that a variance is a very... it's a waiver of the law and it rides with the land, so even though the current applicant has a hardship that has nothing to do really with the land, it's a medical condition. That as a quality life's issue, the applicant would like to be outside and I totally support that and I think there are some reasonable workarounds that we've identified here in the discussion. Once we grant the variance it rides with the property forever. So that setback violation continues with the property forever. So it's a pretty major thing to grant a variance. So I'm going to support the motion. Any other discussion?

Mr. Villanueva: May I make just one more final comment.

Dr. Larson: Yes.

Mr. Villanueva: I do appreciate obviously the time you guy have taken to do this and I do understand obviously the setback requirements and stuff like that, however we're not asking for 10 feet, we're not asking for 12 feet. I mean its 4 feet, you know, I mean it's not much. I mean, even if you were to, as you said, approve it and then it rides with the land, I mean, it's not a whole lot of area there that obviously would affect, in other words. I mean we're talking about 4 feet, like I said, we're not asking for even half of what they have there, just the 4 feet is my final comment.

Dr. Larson: Thank you. Since I allowed the applicant to speak again, are there any questions for the applicant?

Mr. Davis: I have a comment.

Dr. Larson: Go ahead.

Mr. Davis: The property directly behind this property, you cannot see the house. There are tall trees, about probably about 30 feet tall, I'm not sure what they are, but the house behind is concealed and as mentioned, 4 feet is almost nothing. I don't think it's going to make any difference and the owners of the property indicated to me that all their neighbors were in favor of this. They wanted to know if they should come and speak to us tonight and I didn't tell them one way or the other, but no one in the community is objecting to this project.

Dr. Larson: Thank you, Mr. Davis.

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Mr. Villanueva: Just one more thing, if it's possible to have another person of the Board here, make a visit there, I mean if it will help at all, I mean, it would be something that would be hopefully considered.

Dr. Larson: I don't think that's possible at this point. We've already heard the case and have a motion and a second on the Board here. Okay, if there is no other discussion from the Board.

Mr. Kim: If I could just make a comment.

Dr. Larson: Yes.

Mr. Kim: I definitely, if there weren't other options of accomplishing what the applicant wants, I would be more inclined to approve the variance, but it to me seems like this is what they want and this is the only thing that we're going to do, so I, once again, you guys aren't completely against doing anything else, then, you know, I mean you're here just for the variance and that's... Can I ask...

Dr. Larson: Go ahead, ask him the question.

Mr. Kim: Yeah, you guys are completely against everything else that the Board had suggested to you guys?

Mr. Villanueva: I mean everything, just about everything, maybe, I came up with a couple of more stuff while I was meeting with them and everything that you guys brought up I brought up personally with the homeowner in trying to design something else that obviously would fit the back of the house there, but everything... anything short of cutting a line straight across the room, you know, to meet the setbacks, obviously, it just doesn't fit with the house. I mean any other design, it just wouldn't fit with the house for example. It would look a little off, a little architecturally different. It wouldn't fit with the designs per se.

Dr. Larson: Okay, I think that'll... any other discussion from the Board? Okay, I'm going to call for the question. Those in favor of the motion to deny the variance say aye.

Mr. Poss: Aye.

Mr. Grimes: Aye.

Mr. Ingalls: Aye.

Mr. Kim: Aye.

Mr. Apicella: Aye.

Dr. Larson: Aye. Any opposed?

Mr. Davis: Aye.

Dr. Larson: Okay. We have no other business that I know off. Zoning Administrator's Report?

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UNFINISHED BUSINESS

OTHER BUSINESS

ADOPTION OF MINUTES

ZONING ADMINISTRATOR'S REPORT

Ms. Blackburn: I have nothing at this time.

ADJOURNMENT

Dr. Larson: Okay thank you. Do I hear a motion to adjourn?

Mr. Apicella: (Inaudible, microphone not on)

Mr. Grimes: I second that motion.

Dr. Larson: Okay. All those in favor say aye.

Mr. Poss: Aye.

Mr. Grimes: Aye.

Mr. Ingalls: Aye.

Mr. Kim: Aye.

Mr. Apicella: Aye.

Mr. Davis: Aye.

Dr. Larson: Aye. Opposed? Okay, thank you gentlemen.

With no further business to discuss the meeting adjourned at 9:22 p.m.