

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
May 26, 2015

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, May 26, 2015, 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, Danny Kim, Larry Ingalls, Robert Grimes, Dana Brown, Steven Apicella, and Heather Stefl

MEMBERS ABSENT: Ray Davis and Ernest Ackermann

STAFF PRESENT: Melody Musante, Susan Blackburn, and Stacie Stinnette

DETERMINATION OF QUORUM

Dr. Larson: The Board consists of 7 members and 2 alternates. Tonight we do have 7 members sitting and present. Mr. Steven Apicella, all the way down to my left, Mr. Larry Ingalls is next, Mr. Danny Kim, and to my right Mr. Robert Grimes, Ms. Dana Brown, and Ms. Heather Stefl. And I'm Dean Larson. So the County staff tonight is represented by Mrs. Susan Blackburn, our Zoning Administrator, Mrs. Melody Musante, the Zoning Manager, and Mrs. Stacie Stinnette, the Senior Administrative Associate for Zoning and Administration. 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. The 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 favor 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 to any 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 the 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 behalf of the applicant to allow the Board time to consider the additional material. Members of the public and/or staff may also submit relevant material during the hearing. The applicant should be aware that we have 7 members on the Board. That's the maximum you're going to get as far as voting. The applicant may withdraw his or her application at any time prior to a vote to approve or deny the application, provided that the applicant has not withdrawn a substantially similar application within the last 12 months. 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

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decision. I now 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 that any person who wishes to speak before the Board shall be administered an oath. Therefore, I ask that anyone who wishes to speak tonight, stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth? Thank you, please 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 accurate record of the speakers. Also, please sign the form on the table at the rear of the room. Thank you. Are there any changes or additions to the advertised agenda?

Mrs. Musante: There are no changes.

DECLARATIONS OF DISQUALIFICATION

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?

Ms. Brown: I do, Mr. Chairman.

Dr. Larson: Please.

Ms. Brown: Last Wednesday, I believe it was May 20th, I did drive by 21 Brittany Lane. I pulled in the driveway to turn around, and I also spoke with a police officer from another jurisdiction that I happen to know, just on the general information of ammunition and firearms, and stuff like that. That's it.

Dr. Larson: Are there any others? Okay, hearing none, I'll ask the Secretary to read the first case.

PUBLIC HEARINGS

1. SE15-05/15150669 - Adam Udvig - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", R-1, Suburban Residential, to allow online ammunition sales as a Home Business on Assessor's Parcel 20P-9-311. The property is located at 21 Brittany Lane, Hampton Oaks Subdivision.

Mrs. Musante: You have the application, the application affidavit, plat of the property, layout of the area for the business, and letter from the HOA. The applicant is requesting a Special Exception for a home business to operate an online ammunitions and reloading business from his home. All of his contact with his clients will be conducted online, at Virginia gun shows or off-site at a rent as needed office space. The applicant states there will be no customer foot traffic or a physical store front from his home. Additionally, the applicant will lease a mailbox where all business mail will be sent. All items to be shipped to customers will be sent from that location as well, so there will be no influx of shipping trucks at his residence. The applicant states the website will be operational 24 hours per day, seven days a week. He will be available for calls Monday through Friday 5:00 PM to 11:00 PM, Saturday and Sunday 9:00 AM to 8:00 PM and will have a message service forward his voicemails to the website email during the other times. The applicant states his home is protected by a professionally monitored security system 24 hours a day, 7 days a week and that all supplies will be stored in a closet under the stairs in the basement. He has arranged for a liability insurance policy of one million dollars through the National Rifle Association (NRA) if this Special Exception is granted. He will provide one off-street parking space to accommodate the in-home office space. The standards for a Home Business allow for a maximum of 25% of the gross floor area to be utilized for the

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business. The applicant has indicated 200 square feet will be used for the business which meets this requirement as the gross floor area of the dwelling 2,976 square feet. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) gave a presentation to local zoning officials explaining their Federal Firearms License (FFL) permit process. According to their regulations, the applicant must have a premise from which he conducts business or from which he intends to conduct business. The business may be located in a private residence but must be open to the public for inspections and any person to person transfer. Due to this requirement an applicant who wishes to sell or transfer weapons and ammunition from his or her home must obtain an FFL license and a Special Exception for a Home Business through the Board of Zoning Appeals. The single family dwelling was built in 1995.

Dr. Larson: Thank you. Are there any questions for staff?

Ms. Brown: None at this time, but I might have some later, after the applicant speaks.

Mr. Apicella: Mr. Chairman?

Dr. Larson: Yes.

Mr. Apicella: Did we get any comments, feedback, input from either the Sherriff's Department, or the Fire Marshal, more in general, about these kinds of applications, but if there was anything in particular about this specific application.

Mrs. Musante: I actually spoke with the Sherriff's Office and the Fire Marshal's Office today. The Fire Marshal's Office, when I asked them a question about the storage, they used the word ammo containers or in a gun safe, and that was strictly from the Fire Marshal's Office. The gentleman that I spoke with from the Sherriff's Office, he really didn't have a whole lot of input for me, other than you're allowed 50 pounds of black powder, to store black powder. And that was about the only thing that he could give me. He was the gentleman that issued the gun permits for the County. They also suggested, they actually liked the idea of notifying the 911 system. They can add to their CAD system a caution note, which will allow the first responders, as soon as they pull up that address, it'll tell them that they have ammunition in the basement, or whatever it may be. So they did think that that was a good idea. But I didn't get much from the Sherriff's Office. And the only thing I got for the storage was ammo cans or a gun safe.

Mr. Apicella: And in the last application that we had in front of us in terms of the conditions that were set, we did use ammunition cans or containers. Just one more question, under suggested development conditions, number 3 starts off by saying "According to the applicant, there shall be no customers coming to the home." Is there a reason why we're putting in "according to the applicant"?

Mrs. Musante: We took that out of the staff report.

Mr. Apicella: But it's not necessary, the words "according to the applicant"?

Mrs. Musante: No, it is not.

Mr. Apicella: We would not normally say that in the conditions.

Mrs. Musante: No. That can be removed.

Mr. Apicella: Okay. Thank you.

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Ms. Brown: Okay, I changed my mind. I do have a question.

Dr. Larson: Go ahead.

Ms. Brown: For the FFL license it's required that they be able to accept foot traffic. Is that correct? So it's not for the applicant to say that he will never do it, because he's required to. Is that right?

Mrs. Musante: The ATF requires a business premise address, and that is for the ATF to be allowed to do an inspection at any time.

Ms. Brown: Or an exchange from a customer?

Mrs. Musante: If he's doing the transfers, yes. The person purchasing the gun, or is having the transfer, they do have to go to the business premise to do the transfer.

Ms. Brown: But it has to be open to that, which is why he's having to come to us.

Mrs. Musante: Correct.

Ms. Brown: So the applicant really can't say he's not going to accept any.

Mrs. Musante: He can say that in what he does for his business, if he only opens it up to the ATF, that's him, but because of our regulations they have to have the special exception, because even if the ATF comes to his home, that's considered foot traffic for us.

Ms. Brown: And a transfer though, that would be a customer.

Mrs. Musante: If a customer has to come to the home, yes. If he is transferring it to another FFL, then they would go to that FFL's business premise. The only thing he would be doing is shipping the product.

Ms. Brown: Didn't we have a recent case where a similar situation, but the home had to be open in case any merchandise needed to be returned? Last month? I guess I'm just looking for clarification on...I know that the applicant has said there will be no traffic, but I don't know that that's...

Mrs. Musante: His business seems completely different than what the last applicant was, which seems to be different than what we did in the previous month. So I think, maybe we should give the applicant a chance to explain what he's doing, which may answer some of these questions that I'm fumbling on.

Ms. Brown: Okay.

Mrs. Stefl: Mr. Chairman? I just have a quick question.

Dr. Larson: Yes. Go ahead.

Mrs. Stefl: When you talked to the Fire Marshal, did he give you any indication of what would be the range that if ammunition was to come in contact with fire, as you're saying, put in that CAD notice, what kind of a range, if it blows up?

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Mrs. Musante: He did not, but what he did say is, it's better if it explodes than it is if it's coming out of a gun.

Mrs. Stefl: Right. Right. And did he indicate if there's any difference between this area, a large between, say a person who has a personal collection, versus a commercial level of storage, whether that is a concern to them, say, just a regular brick and mortar place on 610?

Mrs. Musante: We did not discuss that, but we did discuss the 5,000 rounds that we seem to be putting on everyone's...as other conditions. And he said 5,000 rounds is not a lot of ammunition to store.

Mrs. Stefl: Compared to, maybe, what the average citizen might even have in their personal...

Mrs. Musante: Which is what he said to me.

Mrs. Stefl: Okay, thank you.

Dr. Larson: I have a question, Melody. You mentioned 50 pounds of black powder. Do you have any more information on that? Is there a zoning issue, or...

Mrs. Musante: It has nothing to do with the Zoning. It's a...and I'm not sure if it's a Fire requirement, if it's an ATF requirement, but he said...the only thing that he mentioned to me was the black powder, and he knew that they could have no more than 50 pounds of that.

Dr. Larson: But 50 pounds is a significant amount of black powder.

Mr. Grimes: I would, just to offer a little bit of insight on that, I just opened up the international fire code and it actually specifically states quantities for group R occupancies, which are 1 and 2 homes, and it states that you cannot exceed 20 pounds. So that's just the international fire code. I haven't actually checked the Virginia amendment to see if that applies.

Mrs. Musante: That number came from the Fire Marshal's Office, the 50 pounds.

Mr. Grimes: So it might be worth discussing that with them further.

Mrs. Musante: Mhm.

Dr. Larson: Thank you. Any other questions for staff?

Ms. Brown: Ah yes, one more. I'm sorry. Is that okay?

Dr. Larson: Go ahead.

Ms. Brown: Did the Fire Marshal...was he aware we were talking not for personal use, that it was for a retail?

Mrs. Musante: Yes, he was.

Ms. Brown: Okay. Thank you.

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Mr. Grimes: And I...let me clarify the statement on the Code. There's three different requirements. There's black powder, smokeless propellants, and small arms primers. The smokeless propellant is not exceeding 50 pounds. That may have been what he was quoting.

Mrs. Musante: Okay.

Dr. Larson: Any other questions for staff?

Mr. Kim: Actually I have one.

Dr. Larson: Okay.

Mr. Kim: Did the Fire Marshal have any concerns about having 50 pounds of gun powder?

Mrs. Musante: Not at all.

Mr. Kim: Nothing? Okay. And he knew that there were houses...okay, great. Thank you.

Dr. Larson: Will the applicant, or his, or her representative please come forward and present their case?

Mr. Udvig: Ladies and gentlemen of the Board, Mr. Chairman. Thank you for allowing me to come and speak to you this evening. I can give you some answers to some of the questions that you've been asking, in large because I had to go seek them myself. The smokeless powder, which is what I'm going to be using when I make my ammunition. The law states that you can have 20 to 50 pounds, but it needs to be built in an ammunition magazine, specifically built out of wood, no less than 1 inch thick. I don't plan on having any more than 20 pounds of powder. That's a lot of powder. Each pound of powder is approximately 7,000 grains, depending on the different cartridge that you're loading, you could run anywhere between 7 and 5 for a pistol, all the way into the low 11 to 12 for rifle. So, if you've got 12 grains, or 4 to 5 grains per cartridge and you got 7,000 per pound of powder, you can see how many actual rounds that you can make out of that. I started this business with the idea of being able to sell to my friends. I've been a reloader for the past two years here. When I was growing up with my father and my grandfather, they taught me how to do the reloading. Spent 13 years in the Marine Corps, and I've had daily access to firearms, ammunition since 1995. I'm a Special Agent for the Department of Defense. I hold a very high security clearance and I have since 1997, and I don't intend on losing it. So I did all of the research that I needed to make sure that I was in compliance with federal and state laws. My intention is not to try to snub anybody's idea of what's safe. I want to make sure that everything that I do is safe. I have a family. I don't want to live in a, well, I don't want to live in a factory. I don't want to live in a warehouse. So it's not my intent to have any of that down in my basement. My overall description that I wrote here, as far as my business plan, this is my business plan as I said it. As I get orders from my friends, I will be filling those orders and I will be sending them out from that shipping point. I have no problem with the 5,000 maximum rounds. It's not a lot of rounds. I know plenty of my friends who have far more than that in their personal inventory. As soon as I make any potential order I will be packaging it together and immediately sending it out. The way that I said that...to answer the question as far as not having any foot traffic. The foot traffic that you're speaking off specifically talks about firearms transfers. I'm talking about selling ammunition online. You don't need to have anybody on premises to sell the ammunition online. And that's why I said, I don't intend on having anybody coming up and having any kind of foot traffic. Number one, it's my home. I don't people walking through my home. If I wanted to have a store front, I would go out and get a store front on 610, like we said earlier. So, this

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is a hobby. This is something that quite honestly I want to be able to transition into a working business. Starting small and getting larger. I also wrote that with my plan, if this take off and starts getting revenue, I do plan on expanding, hopefully here in Stafford. But it's not going to be in my home. It's going to be from a store front. And I tried to make that as clear as I could and I'm trying to get across to everyone, including my neighbors, exactly what I want to do. I'm not going to be running guns out of my home. On top of that, I've made a couple of arrangements with some local FFLs that are going to be distributing some of the ammunition for me at the guns shows. So I'm not going to have any of my stock down in my home. I'm going to be able to bring it to their place, where they've got unlimited storage capabilities, and the ammo will be there as well for any of the stockpiling for them to go and sell that at the gun shows. Now currently, I've got about 5,000 rounds worth of orders just from friends that want to be able to buy from me, because they like the quality of the ammunition that I shoot. They saw the way that I was shooting, specifically my 45, in a competition at the Quantico gun club. They wanted to know what I did to make the ammunition so that the recoil wasn't as heavy and I was able to keep the barrel down on target. And I told them what I did. They said, I want some. I said, I don't think I can do that legally, so I started doing the research. Found out that, no, I cannot do that legally. Found out I needed an FFL, and then that's how I came to be here in front of you this evening. So, once again, I'm not looking to anything like having running guns out of my home. That's not my intent at all. I just want to be able to sell some of the ammunition that I make to my friends. And if this does create the business that it appears there is demand for, well, I mean, out of the 5,000, that's what? Fifty dollars for Stafford? Right there, just from sales alone. And that's just from that. Who knows what we can possibly do, if we're looking at gun shows. Now traditionally I do about 500 rounds in a weekend. I can do about 1,000 rounds a week. So that's why I said, 5,000 rounds, I have no need to have 5,000 rounds stockpiled in my home at any given time. I've already created an ability for me to be able to move beyond that. And I have no problem whatsoever if that's a stipulation that we have, to make both me and my neighbors feels safe about what we have. Part of the questions that came out about the Fire Marshal and ammunition and explosions, I was a range safety officer. As I said, I was in the Marine Core for 13 years. I've dealt with ammunitions much larger than small arms, and I can say that when the Fire Marshal said it's much better for the ammunition to explode than to go out the barrel of a gun, the reason why is, the cartridge itself, the brass, when it explodes, it will rupture, and it explodes outward instead of the gun which will carry all of that forced momentum of the bullet out towards a specific vector. Now, as far as the safe, I have a safe. As far as safe practices, I was an operational risk management manager when I was in the Marine Core, so being a Marine I've got everything set aside. I've got my primers aside. I've got my powder set aside, completely apart from each other. Both are in boxes that are fire rated. It's the closet, it's lockable. I have a complete home security system set in place. In fact my neighbor is a contractor for the State Department who actually runs security systems for the State Department and the embassies. So I've talked to him about what I can do to boost up my security if I need to, because it's pretty robust right now. So, I guess, hopefully I'm getting across to everybody here tonight that I'm not some crazy gun runner. I'm taking a lot of thought into this. I do want to eventually make money with this, but I'm looking at this from a start business standpoint, that most businesses fail in the first 5 years. I don't want to get too big too quick, and I want to be able to grow slowly, and in doing that I will be able to provide revenue to Stafford. I mean, I love this town. Where there any other questions that I heard, that I did not answer?

Dr. Larson: Any questions for the applicant?

Mr. Kim: I did have one. The primers, I'm not...I don't know too much about primers and gun powders, but obviously the primer is what explodes and gets the gun powder. What are the chances that the primers go off? I mean, is it, I mean, what I'm afraid of, I mean, I don't, I mean, where are

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you going to store the primers. I mean, you talked a lot about the gun powders, but the primers I would like a little bit more information.

Mr. Udvig: Absolutely. The primers are basically little metal cups. They are filled with percussive element that when the striker hits, it creates a small explosion. The explosion goes down through the flash hole, hits the powder, powder expands in the cartridge, the cartridge expands in the chamber, resulting pressure pushes the bullet out. So what we do to keep things safe with the primers is, I keep all of the primers in a locked box, an ammo box that we were discussing, that is to a certain extent fire rated, but within that I also keep that into a wooden box itself. So I keep it doubly secured and keep it far away from my black powder, and the black powder I keep in a lockbox that has seems that will break open. The reason why they make sure that the black powder has...you store it in a jug that can actually split open, that's the reason, it won't be a bomb. It won't have an explosive reaction with a tight container. That's what you want to avoid. That's why you never ever, ever keep smokeless powder in a safe, because that safe turns into an explosive bomb. So you have these powder jugs that will split, and the powder will go out, and the powder will actually burn as a pile of powder. I put all that into consideration and set myself up the way I would have done as a Marine, and I did so as a Marine.

Dr. Larson: Any other questions for the applicant?

Ms. Brown: Yes, Mr. Chairman, I have a couple. I've actually got several for you.

Mr. Udvig: Sure.

Ms. Brown: What type of FFL license are you applying for?

Mr. Udvig: The ammunition.

Ms. Brown: Okay, so like a class 7? Or a 6?

Mr. Udvig: Right, but if I can, I mean I would love to be able to do the class 4, which is the manufacturer for arms and for ammunition for my own personal use and for friends and family. Once again, I'm not going to be opening this thing up to have AR-15s running out of my basement. It's roughly the same cost and I can get 20% off for my personal firearms. Like I said, I am a competitive shooter and I would love to be able to use that 20%, and if I was going to be ordering those weapons either for me or friends, or family, that would be for that use right there. I'm not going to be opening it up to the public and have them come into the house and then do their transfers through that. That's not what I'm doing. I've got friends that have the ability to do that, and I'll push that business over for them. Absolutely.

Ms. Brown: And what kind of powder are you going to be using? You mentioned black powder. Will you be using the smokeless powder?

Mr. Udvig: Smokeless powder only ma'am.

Ms. Brown: You're only going to use...so it's not the black powder. It's smokeless.

Mr. Udvig: Correct. It's smokeless powder only.

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Ms. Brown: Okay. And in your report I had read that you had been reloading for your own purposes for the last two years. To reload and actually sell it to other people, do you need any additional kind of licenses or training to do that?

Mr. Udvig: FFL.

Ms. Brown: Just the FFL. Okay.

Mr. Udvig: I highly recommend that you go out and get the training. It's potentially dangerous if you don't know what you're doing.

Ms. Brown: Right. I mean, if I make pies and I'm feeding them to my family, I don't need a special license, but if I'm going to sell them to my neighbors I'm going to need some special...

Mr. Udvig: Right, but the laws state that, no, there is no law for any actual certificate that states that you are a NRA certified ammunition manufacturer, or anything like that. But to mitigate that, that's why I looked at getting the insurance, liability insurance, just because I know that even when everything goes right, sometimes things go wrong. When I purchase my cases from, let's say Lapua or Hornady, somewhere along line their quality of assurance may have slipped and I have a bad round that I can't see microscopically. And let's say that goes off, and all of a sudden the person who's shooting my ammunition say, okay, well you ruined my weapon so I'm going to sue you. The standard industry for anybody that's doing ammunition reloading at a small level, like I'm looking at doing, is 1 million dollars, and that's approximately 1,400 – 1,500 dollars a year. Now my level of commitment to being able to do this, for both me and my friends, and sell, actually has me looking at the business being able to swallow that 1,400 – 1,500 dollars yearly, to make sure that everybody that I'm selling to is going to be covered. Because the last thing that I want to have on my conscience is anything that goes poorly. We all need insurance, just in case bad thing happen.

Ms. Brown: So you will be selling to people other than friends though?

Mr. Udvig: Ammunition. Yes. Ammunition online. If people who don't know me just want to buy from me? Absolutely. The way you do that is by word of mouth and by the gun sales at the gun shows. So I believe after a few rounds of gun shows the demand will go up, but just like I said, from friends that I work with and neighbors, we're looking at right now 5,000 rounds.

Ms. Brown: So you think that's about what you'll be making in a month, maybe, is 5,000 rounds?

Mr. Udvig: Yeah, because if I start going over that, I'm not going to have a whole lot of time to spend with my wife. I don't think she would be too happy about that, without me expanding. And I have written in with my business plan expansion ideas upon which I would be taking on a store front, a warehouse, an actual manufacturing floor, 4-5 different employees, and I'm going to be dealing with health insurance. We all know what's coming up with the Supreme Court and health insurance ruling. So that's going to be fun to deal with for a small business owner as well, but I've got a plan in place for that. Yes ma'am.

Ms. Brown: I just have one last question.

Mr. Udvig: Yes.

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Ms. Brown: This may seem unusual, but I don't have an interior floor plan of your house, you said you're going to be reloading and storing everything in the closet underneath the stairs in the basement?

Mr. Udvig: Yes, ma'am. So the stairway coming down from the mid-level, it goes down, cuts 90 degrees, so the entire length underneath that initial floor down to the half and then over, there's a, I call it the Harry Potter cabinet, so there's a 90 degree dog leg Harry Potter cabinet. When you first open it, the bottom of the stairs sloped down in front of you and you can stand, it's standard height, going down to about this high, 4 feet in. So it's a perfectly placed area for my progressive reloader. I commissioned a buddy of mine who is a fabricator to create a, well, it's a steel post, that I mounted my progressive reloader. That means there is 5 different areas for the dies and then every time that you pull the handle it will move from station to station. That sits in there with all of the different boxes that I've got set up and there's plenty of room for me just to open up a folding chair, sit down, turn on my radio and just go to work with the door closed.

Ms. Brown: So where is this closet in relation to your utilities downstairs? Like your water heater, your heating unit?

Mr. Udvig: It's completely separate from it.

Ms. Brown: How far away? Do you have a gas heater? Are you electric?

Mr. Udvig: It's gas. It's about 20 feet and a couple of walls. I mean, there's a couple of walls in there.

Ms. Brown: Is your water heater together with your forced air heater?

Mr. Udvig: Yes.

Ms. Brown: Okay. That's all I have.

Dr. Larson: I guess, my primary concerns are safety and I do understand how gunpowder behaves in the open. So, when you said that you store it in a container that would split, that's a good thing?

Mr. Udvig: Yep.

Dr. Larson: You mentioned you had a safe. What kind of safe is it?

Mr. Udvig: Well currently, right now, it's a...have you seen the gun safes that we travel with in the military?

Dr. Larson: No.

Mr. Udvig: Okay. So, they're hardened plastic, like pelican cases. So that's what I use currently for my firearms that I personally own.

Dr. Larson: I'm more...since you're not talking about actually moving firearms through your business, I'm talking about the ammunition. You said it was going to be...was the ammunition going to be stored in the safe?

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Mr. Udvig: Yes. The ammunition that I got currently is in ammo cans and I was going to keep it in a locked pelican case. I do have plans on purchasing a 50 gun, fireproof safe that's rated for one year, I mean one hour fire rating, but I currently do not have that, but I've got the pelican case. So the federal, with the federal statutes, the federal and state statutes do not say anything about having a specific type of safe, otherwise I would have bought it. So, if it needs be, by all means, I'm going to go get one.

Dr. Larson: I have another question for you, Sir.

Mr. Udvig: Yes, Sir.

Dr. Larson: The... you mentioned it's 5-7 grains of gun powder per round?

Mr. Udvig: It depends. Yes, Sir, there are different load specifics for round, you know, bullet size, the difference in grain size of the bullet. There's not a standard.

Dr. Larson: Okay. How many grains would be in a pound of gun powder?

Mr. Udvig: 7,000.

Dr. Larson: 7,000.

Mr. Udvig: Which is why I said, 20 pounds is plenty.

Dr. Larson: I have no other questions. Any other questions for the applicant?

Mr. Ingalls: I have a couple of clarifications. Your application and what you said, you were going to do online ammunition and reloading business. Are you planning on selling store bought ammunition, or only reloaded ammunition?

Mr. Udvig: Only reloaded ammunition, right now, Sir.

Mr. Ingalls: Don't give me "right now". Give me what you're going to do.

Mr. Udvig: Well, no, no, no, it's...

Mr. Ingalls: What you want to do.

Mr. Udvig: Well, what I want to do is, be able to take straight brand new cases and then manufacture that ammunition, or take anybody that's coming to send me their cartridges that are once fired, and then I fill that and sell that back to them. The only difference between selling those is that I have to pay the excise tax on the brand new cartridges, but with the reloads I don't.

Mr. Ingalls: But you're not buying finished ammunition and then reselling it?

Mr. Udvig: That's correct.

Mr. Ingalls: You're not doing that?

Mr. Udvig: That's correct. I am not doing that. I am not buying from Winchester and then being a distributor.

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Mr. Ingalls: You're buying the brass, and the caps, and bullets and that's what you're buying and putting them together.

Mr. Udvig: That's correct, Sir.

Mr. Ingalls: How do you get those to your home? Do you pick them up? Or do you have them shipped to your home?

Mr. Udvig: Both, Sir. Either I go to gun shows to pick up any of the powder. I try to go...Green Top usually has a lot of primers. So I'll go to Green Top and I'll get the primers there. For a small business like mine, I won't really get the business discount, unless I start buying in bulk, and I'm not going to be buying more than 10,000 primers at a time. I'm just not going to be doing that. Number 1, it's not safe. Number 2, it'll take me forever to go through those darn things, and then I don't want them to go bad and have a bad product, yada yada yada. So, no, the answer to your question, Sir, is no, I'm not going to be buying already made ammunition and then selling it online.

Mr. Ingalls: But you wouldn't anticipate having the UPS or FedEx guy come to your house two, three times a day, or?

Mr. Udvig: That's correct, because what I've done, Sir, is, gone out and got a...I'm going to be getting an offsite, leased mailbox where I'm going to be getting all of this stuff sent to. Okay? In the past I have had powder sent to my door and I just set up a time to go pick it up in whatever receiving facility, either UPS or FedEx, but I understand that if there is going to be any increase in business, there's going to be more trucks, there's going to be more noise, there's going to be any chance of a truck, god forbid, hitting a child, which is why I didn't want those trucks in the neighborhood, and I want to keep them out in that leased mailbox. So that's where all of the mail, all of the shipments, all of the brass, all of...you know, everything that I'm going to be getting, is going to be going to...

Mr. Ingalls: Separate mailbox.

Mr. Udvig: That's correct. And quite honestly, it's powder and primers, you have to pay like a \$30 surcharge just for transporting it up to 40 pounds at a time. I never by that much at a time, so it doesn't make fiscal sense for me to do that through the mail anyway, so that's why I just drive and go and get it, and then I can take 52%, or 52 cents on the mile.

Mr. Ingalls: You talked a little bit about, in answer to Ms. Brown's question, about the type of license. You kind of indicated that, at least I think you indicated, that whatever type license, number 4, whatever that means, would allow you to do firearm transfer.

Mr. Udvig: That's correct.

Mr. Ingalls: One of the problems I see there is, the advertisement was for online ammunition sales, correct? Not firearm transfer, so I'm not sure how...whether we could even allow you to do that. Because it wasn't advertised in the paper that way and that's not the way your application reads, so I have some concern that, and I'm not sure if you do it to your friends and family members, then maybe that's okay. I mean if you had this license that allowed you to do it, but you only did it for family and a few friends.

Mr. Udvig: Yes, Sir, so, I mean...

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Mr. Ingalls: But I don't think we can now say, well this special exception is for online ammunition and reloading business, and firearms transfer, because firearms transfer wasn't part of the advertisement.

Mr. Udvig: Okay. Because it's not part of the business plan, but I want to be able to take advantage of all of the things that I can get as an FFL license holder. But I don't want to think that I'm being accused of being disingenuous at all.

Mr. Ingalls: No, I'm just trying to make sure that we understand, and maybe I'm wrong and somebody might tell me...

Mr. Udvig: No, it comes down to a matter of my word. My word is that I'm going to be selling ammunition online, and I'm not going to be hanging up a shingle online saying, you know what, give me all your transfers. I'm not going to be doing that. That's not what this is all about. Yes, I do want to be able to take advantage of purchasing a weapon for my own personal use.

Mr. Ingalls: You can get the license, I mean I'm not saying you can't get that type license, and like I say, if you want to use it for your own personal use, and your family members, and close friends maybe, that would not...maybe that wouldn't be...

Mr. Udvig: Okay, so then I guess, I'm sorry, I misunderstood. I am definitely not going into the gun business, as far as firearms, as far as purchasing firearms, as far as transferring firearms. The whole idea is doing ammunition. If that ever becomes something that I want to do, it's not going to be out of my home, period. I would not do that to my neighborhood, and I would not do that to my family. Absolutely.

Mr. Ingalls: Okay. Thank you. One more question. The ordinance actually allows you to have an employee who lives outside of your home. Do you plan on having an employee that would come to your home?

Mr. Udvig: No, Sir. Just me.

Mr. Ingalls: So if we made a condition that no employees outside of the...other than the occupants, family members residing wouldn't bother you a bit?

Mr. Udvig: It wouldn't bother me a bit.

Mr. Ingalls: Okay. Thank you. That's all I have.

Dr. Larson: Any other questions for the applicant?

Mr. Apicella: Mr. Chairman, the applicant mentioned that he was going to maintain an offsite mailbox and I wanted to propose a potential condition associated with that. See if he's okay with it, or help me come up with the right verbiage. So I'm just going to throw something out at you and you tell me what kind of changes you'd like to see. The applicant will maintain an offsite mailbox for receiving, shipping, and I use this term, combustible ammunition products for business purposes.

Mr. Udvig: Can we...combustible and non-combustible?

Mr. Apicella: That's fine.

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Mr. Udvig: Okay.

Mr. Apicella: But you wouldn't want to pick up the metal cartridges, those wouldn't explode, so I don't see why that would be a problem, but...

Mr. Udvig: Well no, but the whole idea is that it would be keeping the shipments away from the home and that was my intent.

Mr. Apicella: Thank you.

Mr. Udvig: Thank you, Sir.

Dr. Larson: Another question?

Mrs. Stefl: I don't recall if you said how big of a pelican box you will be utilizing, and if so, does it have the foam inserts with it?

Mr. Udvig: Negative. It's a...the pelican box without the foam inserts, so it's...

Mrs. Stefl: Briefcase size or lunch box size?

Mr. Udvig: No, about a foot shorter than this table, and is half as tall. So it's a foot locker.

Mrs. Stefl: Foot locker or cooler size, large enough. Okay. That is then incased in the wood? Is that what you...if I'm understanding, it's the pelican box and then the wood?

Mr. Udvig: No, no. We've got the pelican case and then that pelican case is inside the closet which is all firewalled up with 5/8 drywall that flame retardant, standard...

Mrs. Stefl: Understand. Okay. I'm just trying to get a visual of the pelican box. Thank you.

Mr. Udvig: Yes, Ma'am.

Dr. Larson: Any other questions for the applicant?

Ms. Brown: Mr. Chairman, I did miss one on my rather lengthy list. Parking. Code states you have to provide an extra parking space. Where is that going to be?

Mr. Udvig: I don't use my driveway as you stated when you came in to turn around in the driveway.

Ms. Brown: I don't think I stated you didn't use your driveway. I said I turned around in the driveway.

Mr. Udvig: Both my wife and I park in our garage so the driveway is always clear as my neighbor Paul could attest. So we have that parking and then there is a single parking space that's to the right, well, if you're looking at the house, to the left of the driveway, and then there's two parking spaces that are on the street, if you're looking at the house, to the right of the driveway. So there's multiple...

Ms. Brown: Clarify for me, because when I pulled in your driveway, it was just the driveway and then there was grass and a tree on the left. There is another parking space?

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Mr. Udvig: On the road?

Ms. Brown: On-street parking?

Mr. Udvig: Yes.

Ms. Brown: Okay. So it's your intent to use your driveway as your extra parking space?

Mr. Udvig: Yes.

Ms. Brown: Thank you.

Dr. Larson: Any other questions for the applicant?

Mr. Grimes: Yes, just one clarification. What kind of FFL, what type are you applying for right now?

Mr. Udvig: Well, I haven't.

Mr. Grimes: Or propose to.

Mr. Udvig: What I propose to is to get the ammunition and firearms manufacturing. There's that one, and then there's the ammunition manufacturers. If I get the ammunition and the firearms manufacturer I can take advantage of being an FFL, and I can utilize my 20% discount, roughly, based off of MSRP, to be able to enjoy getting a better rifle than I would be able to afford otherwise.

Mr. Grimes: So the type 6 is for manufacture of ammunition and reloading, specifically non-destructive devices. Type 7 is actually for manufacture of firearms and ammunition, who may act as a dealer. That's the one you're looking to...

Mr. Udvig: Yes, Sir.

Dr. Larson: Any other questions for the applicant? I guess I have some on the hours. The hours are Monday through Friday, 5 PM to 11 PM, Saturday and Sunday, 9 AM to 8 PM. If you don't really expect foot traffic, what do you mean by hours of operation?

Mr. Udvig: Just that I'm going to be available to have direct contact via phone.

Dr. Larson: Okay. So that's when you'll be answering calls?

Mr. Udvig: Yes, Sir. At my work I can't have a cell phone.

Dr. Larson: Understand. And when...those hours also cover the times you're going to be doing your ammunition manufacturing?

Mr. Udvig: Yes, Sir.

Dr. Larson: Any other questions for the applicant? Thank you, Sir.

Mr. Udvig: Thank you, Sir.

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Dr. Larson: Would any member of the public like to speak in support of the application, if so, please come forward. Seeing none, would any member of the public like to speak in opposition to the application, if so, please come forward. Seeing none, I'll now close the public hearing and bring it back to the Board for motions and discussion, and decision.

Mr. Apicella: Mr. Chairman, I have a clarifying question. Is it clear, at least in terms of the description of what's in front of us, that it's manufacturing as well as online sales? They seem to be, in my mind, two distinctly different kinds of activities. I'm not trying to be too nuance, but...

Dr. Larson: It certainly...it explicitly says online sales. I thought there was manufacturing mentioned in the application.

Mr. Apicella: Well it says reloading, so it's not...

Dr. Larson: Reloading.

Mr. Apicella: I don't know what that means. I mean it's not obviously clear from the application itself. I just think, I wouldn't want to potentially pass this and have somebody come back and say, well you didn't really say this guy could manufacture ammunition in his home. He can sell it, but he couldn't manufacture it. So in theory, online sales could be, or reloading could be, he's buying, as Mr. Ingalls was saying, you're buying product from Winchester and you're putting them in a cartridge, as compared to sitting there in your home and actually manufacturing bullets.

Dr. Larson: But I'm not sure he's actually...well, okay, just be technical, reloading would be loading something that has already been used, right? So my impression was that he was loading something for the first time. You know, just...is that correct? You get...go ahead.

Mr. Udvig: That's correct. The federal government also makes it a little bit interesting for us to be able to define that. According to the ATF, if you take any new cartridge, put powder, primer, bullet, that's manufacturing ammunition. If they give me a cartridge, that's reloading. And that's why they state that anybody that does that and tries to sell it, needs to get the FFL to be in compliance with the law.

Dr. Larson: Okay, so manufacturing is the right term for what you're proposing?

Mr. Udvig: That's what they...yes.

Dr. Larson: Thank you. Does that answer your question, Steve?

Mr. Apicella: It answers my question, but it's not, I'm concerned about the description in the package not being commensurate with what actually is going to happen.

Ms. Brown: I've got the same concerns on parking, that what's in the description is not actually what's going to be happening as well, and I did want to talk about that, because the staff report on page 3 indicates to me that the ATF is the one that requires that the residence be open for any person to person transfer. So I don't know that he cannot say that he's not going to do it, because that might be in violation of his FFL. And I'm a little concerned about where he wants to place his parking, because as I understand code, the garage doesn't count. Each home, residence has to have two parking places, which the driveway would count, and when I visited the property, I have a new, a 2015 mid-size class 4-door sedan, and I pulled into the driveway and I did not have enough room to put another car my size

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in front of me. And when I put it in reverse to turn around my review camera showed that I was a little bit over the apron on the sidewalk. So I don't think I could have fit 2 of my mid-size cars, you know, stacked in his driveway so he could accommodate 3 or 4 cars. So I'm concerned that he would not be able to provide that extra parking space.

Dr. Larson: Question for staff. How many extra parking spaces in this case? It's one right?

Mrs. Musante: One.

Dr. Larson: That's what I thought. Okay.

Mrs. Musante: Also, I just want to clarify something. It's unfortunate that some of these cases are falling under BZA purview. I want to remind you all that the only reason he's here is because of the business premise issue with the ATF. If they did not require that, this gentleman would only have to apply for a home occupation permit and you would not see him. So I just want to make sure that we're clear on that.

Dr. Larson: Yes, I recall a discussion with ATF. They require the ability to have foot traffic and that's why he's here for a special exception. Any other questions for the applicant or staff?

Ms. Brown: I'd like to make a motion if I could.

Dr. Larson: Go ahead.

Ms. Brown: I'd like to defer this until next month because I would like to be able to sit down with the Fire Marshal's Office and the Sheriff's Office regarding the applicable codes of manufacturing ammunitions in a home residence. I think we haven't done many of these, and I want to get a little more clarification, similar to what happened with the ATF when they came and you guys started doing your other cases, and I would just like to get the two of them together and clarify some of the codes as I read them, you know, chapter 56 and the fire prevention code, again, in the home residence and the amounts of powder, the types of powder, and where it can be stored. I would like to defer for a month to consult with the Sheriffs and the Fire Marshals.

Dr. Larson: Is there a second?

Mr. Grimes: I'd like to second the motion. I think it'll be a great idea to get some input from our local code officials as it applies to the manufacture of ammunition in a residence, and what the requirements would be, if any. Can it be done? How it's done? How it applies to us as we apply special exceptions.

Mr. Apicella: Mr. Chairman, if it does get deferred again, I hate to be petty, but in the description of what's in front of us, if we could add the terminology that includes the manufacture of ammunition and the ammunition sales. Just so the public can understand what is really being requested here.

Dr. Larson: Could staff work with the applicant to make sure the application actually reads manufacturing ammunition.

Mrs. Musante: If you leave the public hearing open, we can re-advertise to allow him to change his application and also allow him to do the firearm transfers which I know is an issue and something that he had mentioned, and then he can change whatever he needs to in his application.

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Dr. Larson: Very well. I'd like to kick off the discussion on the motion. I like...I favor the motion because we have in the past, when we've dealt with ammunition and gun issues, they have been rural home businesses with the exception of last time, and that was all...all the activity took place online, so this is the first time we're actually having the manufacture of ammunition in an R-1 rated...zoned area. So as I had mentioned earlier, I do have concerns about safety, and I endorse the idea of talking with officials that know how these things work, probably better than I do, to see what their comments are. Any other discussion on the motion?

Mr. Apicella: Again, just on keeping the public hearing open, I think it's to the applicant's benefit to get clarity on what they're really intending here. I think it's not particularly clear and I think in the absence of that it could cause problems down the road.

Dr. Larson: I agree with you. Any other discussion?

Mr. Ingalls: I will reluctantly support the motion also. I guess now I'm confused over...I thought I knew what reloading was, it's taking old brass and putting new bullets, and new primer in there, but from what I've heard tonight, if he uses a brand new brass, it's manufacturing?

Mr. Udvig: According to the ATF, yes, Sir.

Mr. Ingalls: I mean, are we're going to even allow manufacturing in a home...as a home business?

Dr. Larson: That's something we'll have time to think about until we consult the Fire Marshal. Any other discussion on the motion?

Mr. Kim: The only, if you don't mind, Mr. Chairman, the only concern that I have is, I mean, Melody talked to the Fire Marshal, talked to the Sherriff's Department, and they didn't seem to have an issue with the applicant's proposed...I mean...for the manufacturing or reloading of ammunition, so I'm kind of opposed holding this hearing off until next month, simply...now, if there was a red flag between the Fire Marshal, I think our Fire Marshal and our Sherriff's Department do a darn good job at keeping us safe, that's why asked you about, you know, how was the reaction of the Fire Marshal when you speak to him and if there wasn't any, I think this would kind of prolong something that we don't really need to prolong. I mean, unless someone can tell me no, I'm completely wrong and there were some safety issues for the neighbors or the neighborhood itself from what's going on. And that's just how I feel about the motion to postpone until next month.

Ms. Brown: Last month I did talk to them as well myself, and it was for a different type of case, and they did say, when I talked to the Fire Marshal, ammunition would be different. They would be more concerned if it was an ammunition issue. And last month when I called them, it was not an ammunition issue. So I'm wondering if it's which Fire Marshal you talk to, and I also got the same response from the Sherriff's Department. So, I just didn't pursuit it at the time because it was not an ammunition issue. But now that it is, and this seems to be one of our first ones in a high density area, I really want to get the two of them together and I want to clarify our codes.

Mr. Kim: I guess the issue I have with that is, how would you, I mean, who would be your qualification? I mean, they're an actual Fire Marshal.

Ms. Brown: We'll get the Chief and the Sherriff to send over their representative.

Mr. Kim: So you're saying that a Fire Marshal isn't qualified to give this advice?

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Ms. Brown: No, I'm saying, it depends on which Fire Marshal you talk to possibly. I want to ask the Chief and I want to ask the Sherriff to send over someone to talk to us about this.

Mr. Kim: I would imagine that they would have some type of qualifications to meet.

Ms. Brown: Well, it was the Fire Marshal that I spoke with last month that said he would be more concerned about ammunition, but we weren't doing ammunition.

Mr. Kim: Okay, Melody, who did you speak to in the Fire Department, so we can clarify, if that's okay if I can ask you.

Mrs. Musante: He was the Deputy Fire Marshal, which is Roger Sutherland.

Mr. Kim: So, one below the Chief?

Mrs. Musante: One of his...

Mr. Kim: One of the top guys who would know.

Mrs. Musante: Yes. Yes.

Dr. Larson: And what exactly did you ask him, Melody?

Mrs. Musante: I explained to him what was coming before you tonight and that we're having these monthly. I explained to him exactly what this gentleman was doing, and I asked him about him about how many rounds they should be storing, about the gun powder, and those were the answers I got, and he did not seem concerned about it whatsoever. And when I told him 5,000 rounds, he said that's nothing.

Dr. Larson: Yeah I understand that, but did he understand that it was in an R...

Mrs. Musante: He did. I told him it was in a residential neighborhood, and then we talked about his neighborhood. So, and he has no issues with it. And he's in a residential neighborhood and has gun sales in his neighborhood.

Dr. Larson: Well this is not gun sales, this is ammunition manufacture.

Mrs. Musante: And accessories, gunsmithing, so...

Dr. Larson: That's not the same thing.

Mrs. Musante: No, but I explained to him exactly what this gentleman was doing. He had no issues with it.

Mr. Kim: So, if you don't mind Mr. Chairman, so to be clear, so you said that the applicant is making reloads and manufacturing?

Mrs. Musante: I did not use the word manufacturing.

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Mr. Kim: And see, to me that makes no difference because it's just verbiage that doesn't make sense. You take a casing, you take a primer, you take gun powder, and take a bullet, regardless of it's used shells or new shells. I mean it's, maybe I'm wrong here, but I think that's...but he gets the idea. It doesn't oppose more danger if he's manufacturing from new shells to reloads, right?

Mrs. Musante: No.

Mr. Kim: I would imagine if there was more danger it would be from the reloads of a spent shell to an actual...I mean, that would just be my opinion, and this is why the Fire Marshal. And if he, Roger?

Mrs. Musante: Roger.

Mr. Kim: ...Roger didn't show any concerns, I think postponing this for another month would be...

Dr. Larson: If we postponed, do you think we could get a representative from the Fire Marshal's office here to testify?

Mrs. Musante: We can certainly ask.

Dr. Larson: What we have now is what they call hear-say evidence.

Mr. Apicella: Mr. Chairman, I appreciate where Mr. Kim is coming from. We've had several of these in front of us. They all have their peculiarities...can't say that word... or unique variances, not the same kind of variances that we deal with, and I think this is a good opportunity for us as Board of Zoning Appeal members to actually ask a live person who represents the public safety community specific questions. So, we haven't had that opportunity directly. We've kind of done it through staff. I don't think there's a big harm in waiting 30 days, or so, to try to get this right. We've tried to navigate around. There's still a lot of vagueness in my mind, so, again, I appreciate where Mr. Kim is coming from, but for the people who live in the surrounding neighborhood, it might be a big deal, so I think it's worth kind of making sure we get it right. I apologize to the applicant if we wind up deferring it, but at the end of the day it's important for us to do the right thing, balancing all the interests and trying to get the right knowledge to make the right decision.

Dr. Larson: Yes, again, this is a little different than everything else we've done, because it's an R-1 zoned area, and the others that we've considered have been much larger lots, rural home businesses. So these are...the lots are a little over 8,000 square feet. I mean I wouldn't be surprised if the Fire Marshal told us that the gun powder stored the way he's going to store it is nothing more than another accelerant like gasoline, or something like that. But I would like to hear from the Fire Marshal's office, and wouldn't mind hearing from the Sherriff...or somebody who would be considered an expert in ammunition as well, other than you, Sir. So I agree with Mr. Apicella that this would be a good opportunity, particularly since we're sort of pressing the limits of, you know, doing these things in neighborhoods. I would like to hear from the experts on this myself.

Mr. Kim: Can I make one more point? It's a more of...it's a sheer number, I mean I have actually friends that probably have 5,000 rounds and they go to a gun show and they see a great deal on 1,000 rounds and they will buy it just because it's a great deal. Like I said, the only reason I'm opposing this is, because like the applicant said, it's 5,000 rounds. Now if it's a vast number he's going to get 50 pounds of gun powder, and he maxed out everything with the primers, and the gun powder, than yeah, I would like that a lot more. But on a sheer number, like I said, I have a handful of friends that probably have well over 5,000 rounds. I mean they're not selling it, but, you know, they see a good

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deal and they pick it up at a gun show. So that's, once again, my apprehension on postponing this, because it's not...It's 5,000 rounds, and as clearly as the applicant has stated many times, 5,000 rounds it sound like a lot, but it's really not.

Dr. Larson: Any other discussion on the motion?

Mrs. Stefl: I'm going to vote nay on this motion, because I welcome Mr. Apicella's comments about the community and public safety, but this has been an issue that has been on our table multiple times and I think if there had been a concern we would have already heard from public safety that they're seeing a large number of these types of things and it's starting to hit their radar if it really was of issue for them. And then also the same as the community, these people, they live in neighborhoods, their neighbors know them, I think we would have seen a larger number of fellow residents coming out in opposition if this was such a concern, so at this time, and I think what we're doing is, we're getting lost in the weeds and not looking at the fact that we need to go forward with these things and not necessarily get lost in all the i's and the t's right now. So, those are my two cents.

Dr. Larson: Any other discussion? Okay. I'd like to call for a vote. Those in favor of the motion to defer this case until next time say aye.

Dr. Larson: Aye.

Mr. Grimes: Aye.

Ms. Brown: Aye.

Mr. Apicella: Aye.

Dr. Larson: All opposed?

Mr. Kim: Nay.

Mr. Ingalls: Nay.

Mrs. Stefl: Nay.

Dr. Larson: Okay, let's go for a show of hands. Those in favor of postponing raise your hand. Four. Those opposed? Motion passes 4 to 3. So we're going to leave your public hearing open. Apparently that will allow you to modify your application to something more reflective in what you intend to do based on the comments that we heard earlier. And staff can help you with that. We're going to try to get some expert witnesses in here to help us get through the safety concerns.

Mr. Udvig: Yes, Sir, if the testimony, and it will, comes out with what is the current safety standards, and I'm well under them, is that going to have any effect on my proposition before the Board?

Dr. Larson: Not sure what you mean by the question.

Mr. Udvig: Well, as far as this being deferred, we're going to have the chance to allow people, experts to come in and they're going to state what the laws are for both federal and state municipality for the storage numbers of ammunition and we're going to take a look at what I'm proposing, and we're going to see that I'm well under what is allowed in residential areas. Is that going to have any effect on my

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proposition before the Board? The reason why I'm asking is, I just want to make sure that I adequately am able to answer all of the apprehensions that are here, and I'm not sure that those are the actual items that are directly reflective of some of these apprehensions. That's all I'm saying, Sir.

Dr. Larson: When the other...when the experts testify, you'll be given an opportunity to respond to their testimony. I can't predict how we'll decide. I mean, I'm not sure what your question is, but I can't give you a prediction on what's going to happen after that.

Mr. Udvig: Okay, I guess I...as far as the laws, I can show you where to go to to see the laws, what's allowed. Fire hazards, you know, exactly how much you can have. The exact same stuff that the Fire Marshal, the Deputy Fire Marshal had said. If I point you in that direction, then, these are the laws, or we can have somebody testify to those laws and I'm just wondering, with that delay, what else do I need to do to be able to make things clearer as to...

Dr. Larson: I think we actually have access to the laws, and we've been discussing those, and as one of my colleagues said, we've had a few of these in the past. I think what we're dealing with here are safety issues and again, this is the first time we have considered making ammunition in what are houses right next to each other.

Mr. Udvig: Okay.

Dr. Larson: So one of the things that we do consider in special exceptions is the safety of the neighborhood, so we'll have to talk that through once we get the expert testimony from the others.

Mr. Udvig: Okay, yes, Sir. One question...

Mrs. Stefl: Mr. Chairman? I just had a quick question if I can ask the staff. Since we kept this public hearing open, he is allowed to send information just like an attorney is able to communicate with us prior to, so he could in essence send it to staff, any information he wishes to provide to us prior to the 30 days, and it could be distributed to us, is that correct, Mr. Chairman?

Dr. Larson: Correct.

Mrs. Stefl: So that might help you.

Mr. Udvig: Yes, ma'am. Absolutely. Thank you. And then the only question that I wanted to pose as well is, there are many of us who do this as a hobby, that's why I wanted to start the business in the first place, that means that this reloading and manufacturing that we're talking about is happening in every single neighborhood across Stafford, in every single high density residential area.

Dr. Larson: That's not under discussion here, Sir.

Mr. Udvig: I understand. It's...we're looking at the business aspect. We're looking at the hobby aspect, which is why the safety rules are there, so that people are in compliance. And I'm just saying that I am within those safety compliance rules and I am coming nowhere near the maximum and I don't have any intention of. And I just hope that the Board understands that I'm not doing this willy-nilly and that I have safety for everyone in my heart, and I've done my due diligence over the past 6 month trying to put this thing together. I appreciate you giving me another 30 days to be able to clarify some issues, and hopefully get some experts to come in and testify that will be able to back up

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everything that I said and then I will see you, hopefully, in whenever we're deferred. Thank you for allowing me to speak.

Dr. Larson: Thank you.

Mr. Kim: If I might say, Mr. Chairman, can I make one statement. In my opinion I think you were good with the information you gave us. I was very comfortable. I think, just on your, I don't know, feeling better about the deferral, it's just getting confirmation from someone that's from the County. I think, you know, with Mrs. Musante and you, I, well, more Mrs. Musante because she works for the County, but I...we're just being more cautious. You know, you did a good presentation and I just want to give you that assurance.

Mr. Udvig: Thank you. I appreciate that.

Dr. Larson: Okay. Thank you, Sir.

Mr. Udvig: Thank you.

UNFINISHED BUSINESS

2. SE15-04/15150614 - Chandergupt S. Bajwa - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1 "District Uses & Standards," A-1, Agricultural, to allow electrical contracting as a Rural Home Business on Assessor's Parcel 34-43. The property is zoned A-1, Agricultural, located at 2378 Warrenton Road.

Dr. Larson: Alright. Shall we continue with our next case? This public hearing I think was closed last time, was it not?

Mrs. Musante: It was.

Dr. Larson: Okay. I had a couple of questions that I need to find them, does anybody have questions for staff or the applicant from last time?

Mr. Apicella: Mr. Chairman, I asked the question of staff earlier about whether the applicant might be willing to accept a condition that essentially puts the parking area for heavy equipment where it currently is today based on the picture that I saw which is in the north-east quadrant of the parcel. I don't know if they had a chance to get any feedback from the applicant or not.

Mrs. Musante: I did get information from Mr. Bajwa, and I was correct, and the reason why he has to move the storage is because he does not meet the 30 feet set back requirement on both the side and the rear on that side, so that's why he moved it to the other side.

Mr. Apicella: Well moving it 30 feet still could be in compliance if he keeps it within the general vicinity of the north. Right now it's kind of in the center of the parcel, or at least the center of the cleared portion of the parcel based on the development plan?

Mrs. Musante: I am not familiar with his site. I have not visited the site so he would probably better to answer whether he can meet that requirement or not.

Ms. Apicella: Again, I wasn't suggesting it be right on the property line just that it be configured

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closer to the north-east quadrant of the parcel, further away from Route 17, that much harder to see as you're driving down Warrenton Road.

Ms. Brown: I have a question for staff, Mr. Chairman. Just a little clarification on fleet parking. I'm looking in our definitions in our code, it says not more than five operable vehicles. When I drove by the property there were several vans parked there. They were white, I believe, with red writing, I can't be sure, but would that be considered fleet parking? They were work vans.

Mrs. Musante: Yes they would.

Ms. Brown: That would be considering fleet parking?

Mrs. Musante: Yes.

Dr. Larson: I have a question for the applicant. Mr. Bajwa, could...am I pronouncing your name correctly? Bajwa. Okay. Thank you. When I drove by your property, must have been about little over a month ago, I saw some fairly heavy equipment parked out there. Do you know...do all of those vehicles have licenses to operate on state roads? Some or all?

Mr. Bajwa: If you're talking about that equipment which is heavy equipment excavator, they're not road driven they are usually hauled on a big trailer tractor.

Dr. Larson: So the heavy equipment itself then wouldn't be operating on the road?

Mr. Bajwa: No they're not.

Dr. Larson: So they wouldn't have a license?

Mr. Bajwa: No, they would have no license.

Dr. Larson: Ok, any other questions for the applicant while he's up here?

Mr. Apicella: Yes Mr. Chairman, I'm just going to ask the same question I've asked of staff, would you have any objection to, again, within meeting setback requirements, locating your heavy equipment towards the rear, I call it the rear of the property, the opposite side of Warrenton Road?

Mr. Bajwa: No, I have no objection there. Actually there's the most space over there for me to organize the stuff.

Mr. Apicella: Great, thank you.

Dr. Larson: So I have a question for staff. The A-1 zoning area requires special exception for home business. A home business, it says rural, under home business rural it said, outdoor storage which may include fleet parking and equipment etc., etc. etc. So now we're on fleet parking, follow the the thread, then under fleet parking we have...this is to not be construed, okay, here we go...fleet parking: parking and storage of more than 5 operable vehicles other than automobiles which are used in the daily operation of the business, not located on site or the parking and storage of more than 1 vehicle with a gross weight in excess of 10,000 pounds. This is not to be construed to include parking and storage of farm vehicles or equipment or construction equipment such as bulldozers, front loaders, backhoes, or similar devices which are not licensed to operate on state roads. What that tells me is, fleet parking

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does not include backhoes and bulldozers and things that are not licensed to operate on a state road. Is that correct?

Mrs. Musante: Yes.

Dr. Larson: So what we have here is not fleet parking then?

Mrs. Musante: Not as far as the bulldozers and front loaders are concerned. His vehicles could be considered fleet parking.

Dr. Larson: So automobile like vehicles?

Mrs. Musante: Correct.

Dr. Larson: Ok, so then that means that if that's not fleet parking then the outdoor storage, which may include fleet parking, but this is not fleet parking. So I guess what I'm getting at is, some of the items that he has parked out there can't be parked there in an A-1 zoned area. Is that correct? If they're not drivable on state roads, if they don't have a license to drive on state roads?

Mrs. Musante: The A-1 does allow for parking and storage of commercial vehicles, depends on what we consider a commercial vehicle, which we do have a definition. Any truck trailer, truck tractor trailer, semi-trailer, garbage truck, dump-truck, cement truck, or similar vehicles or equipment with any gross weight or any vehicle with a gross weight of more than 10,500 pounds.

Ms. Brown: Mr. Chairman?

Dr. Larson: Yes.

Ms. Brown: You said that the fleet parking was okay?

Dr. Larson: No, I said that since they can't...they don't have a license to drive on a state road that it's not considered fleet parking, so I'm not sure what you meant by okay, but this would not be fleet parking.

Ms. Brown: Okay, I'm looking under our definitions under home business and we have 5 different line items, and line item number 3 says; the business must provide off street parking for an employee and customers in addition to the minimum requirements for the district. Next sentence: Fleet parking shall not be permitted.

Mrs. Musante: This is a rural home business.

Ms. Brown: Okay, thank you.

Dr. Larson: Which may include fleet parking. Okay another question. It says outdoor storage which may include fleet parking. Does that mean it doesn't have to be fleet parking?

Mrs. Musante: That is correct. It could be equipment.

Dr. Larson: I'm having trouble finding the commercial vehicle definition. Could you please read that again?

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Ms. Brown: It's under vehicle.

Dr. Larson: Oh it's under vehicle, not under commercial. Okay, for those of you like me that want to hear it again any truck trailer, semi-trailer, garbage truck, dump-truck, cement truck, or similar vehicles or equipment with any gross weight or any vehicle with a gross weight of more than 10,000 pounds which is not owned, leased, or operated by the occupant of the property at which it is parked. That tells me somebody else is parking their things on his property, right? Is that what I'm reading? What difference does it make who owns the vehicle?

Mrs. Musante: We have had issues with that definition for a very long time. I'm not quite sure why it's written that way, honestly. Even though that's the way it's written, I don't believe that's the intent.

Dr. Larson: How has the department of zoning interpreted that definition in the past? Do we know? Has it come up often enough to know that?

Mrs. Musante: I have not dealt with it in quite some time, to be honest with you. That maybe something we need to look at another time.

Mr. Grimes: And I believe that definition, the way it's written off and is applied to parking of those vehicles in a residential neighborhood, which is probably why it's written the way it's written, at least from some experiences in the past.

Dr. Larson: All along my questions with this have had to do with the parking of the types of vehicles that he has.

Mrs. Musante: Right, but if you go back to the rural home business, it says equipment, and I provided you all with the only definitions that we could come up with on equipment. The black laws dictionary defines equipment as tools, devices, machines, or vehicles that assist a person in achieving an action beyond the normal capabilities of a human. Tangible property that is not land or buildings but facilitates business operation. Webster dictionary defines equipment as supplies or tools needed for a special purpose.

Dr. Larson: Does anybody else have any questions on this? I frankly don't understand why, if the applicant owns the equipment, it's a no, but if somebody else owns the equipment it's a yes. I don't understand that. If the equipment is parked in the same place, it's the same equipment. I don't understand the intent of this definition.

Mr. Apicella: Mr. Chairman, I wrestled with this during the last meeting. I took another look at the definition of a rural home business, and quite frankly, again, stewed over this, but really, when I take another look at it, all it really says is, I'll paraphrase, fleet parking shall not be located within front yard setback and shall be at least 30 feet from all the property lines. It really doesn't say that he can't have heavy equipment on his parcel, as I read it, as I take another look at it. That may not be what's ultimately most desirable in a long term and we may want to revisit it, but just in the context of what's in front of us, I'm not quite sure that we could exclude it. It's part of his business, whether those vehicles are licensed or not, which is why I ask for some kind of further mitigation to move that heavy equipment further away from Warrenton Road, as a way to try to not interfere with the view shed, but I don't think they're restricted.

Dr. Larson: Does the Zoning Administrator have some information for us?

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Mrs. Blackburn: Well I would remind you that our zoning ordinance is a permissive code. It tells you what you can or cannot do, if it is not mentioned you cannot do it, and that is the premise of how it's written. When it talks about the fleet parking it

Dr. Larson: Could you speak in your microphone?

Mrs. Blackburn: When it talks about the fleet parking it defines it as 5 operable vehicles, other than automobiles, so we have trucks. They may define as a van also, would be something that an automobile maybe, which are used in the daily operations of business, and it says, this is not construed to include parking and storage of farm vehicles or equipment, which would be your combines, so that is not fleet parking, or construction equipment such as bulldozers, front loaders, and backhoes, and similar devices, which are not license to operate on the roads. So that's not to be considered any kind of fleet parking. And then it also goes on to say, you can have no more than 5 vehicles with the parking and storage of more than one vehicle with the gross weight excess of 10,000 pounds. Well again, they're talking about a vehicle, and a vehicle is something that is licensed. Backhoes and front loaders are not licensed to be on a road. They are first permitted in the M-1 zoning and contractor's equipment storage yards, and that would be something that, if someone were to call and ask me, can I keep this on my farm as a business, I would really have to look into the code very carefully to see, because our code is also a the most restrictive is what wins and it says that on the very beginning of the code. And the rural home business does include contracting and construction, but that doesn't always mean you have backhoes. I mean there are some conflicts within it all. I know people who have contractor's offices in their homed, but it's only mail and phone and bookkeeping and all of that, so there are conflicts within our code. Does that make it any clearer?

Dr. Larson: Well I agree that what we have here is not fleet parking based on the definition, but what we were talking about was commercial vehicles and that definition, I think, and that definition frankly didn't make sense to me, because it was allowed if the applicant didn't own it, and it wasn't allowed if he did own it, and that...I'm trying to understand why that was worded that way but I do not.

Mr. Grimes: I'm not sure where I see the conflict here. When it defines the home business rural that includes contracting and construction, and then under item 1, outdoor storage which may include fleet parking and equipment. Equipment is not defined, but if you were a contracting business, construction business, equipment could be shuffles, could be a backhoe, could be anything, so as long as he complies with the requirements of the home business rural, which is front setback for storing that equipment, and that the storage yards can only be 25% of the total area property, and then outdoor storage shall screened from adjacent properties and roadways with solid fencing and/or landscaping as approved by the Zoning Administrator. If we come back to where we were discussing it originally, was that the Zoning Administrator is going to review and approve a landscaping plan to screen this from view. I don't see where there's a compliance issue. While we all think that the code could better define equipment as it applies to this, it doesn't and we've got several definitions that were added since the last meeting that I actually think really give us a great footing for this. The law dictionary that says, devices, machines or vehicles that assist a person in achieving an action beyond a normal capabilities. I'm pretty sure that's a bulldozer, backhoe, front-end-loader, that would be equipment.

Dr. Larson: That could also be one of these mega bulldozers you see, you know, monster machines. I mean, what's the difference?

Mr. Grimes: As long as it is screened from adjacent properties and roadways, do we care what's back behind the fence?

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Mr. Apicella: Mr. Chairman, I have to say, I'm a little frustrated, because we covered this territory last time. I feel like we're getting kind of a different answer this time, which is fine, but I'm surprised that we're getting a slightly different answer. What...the response that we got last time was, it's up to us to decide based on the circumstances of this particular proposal and the surrounding area whether it is compatible or not compatible, and what kind of conditions we can...should consider to make it more compatible if there's some issues, and that's why, again, I'll say what I said just a few minutes ago, I don't like the idea of heavy equipment in an A-1 zoned parcel but we talked about the fact that it could be a very large parcel. In this case it is kind of a large parcel. They've been operating there, not necessary legally, I think their mitigation...there are businesses before and after this particular parcel. It is in a relatively rural area. Probably at some point down the road it's going to be developed with houses. At this point in time I think to the extent that the board decides that it wants to allow it, I think the best thing that we can do is try to mitigate, again, the view shed of having large equipment being seen from the road. I think there's a lot of vagueness in the code, unfortunately. I personally after, again, taking another look at it, don't necessarily agree that such equipment is precluded. If it was a (inaudible), the kind of thing you see on TV, one of these gigantic dump-trucks several stories high, I probably would say no, that would not be compatible, and I don't think they could create a circumstance where they could mitigate the view. But in this case we're talking about front loaders, dump-trucks, whatever, and again, I think can be screened from the road. There's going to be a privacy screen. There's going to be trees and hopefully the Board will consider what I'm requesting, is again, to put those heavy vehicles as further away from Warrenton Road as possible to, again, mitigate what might be seen from the road shed.

Dr. Larson: Is there a motion for this?

Mr. Ingalls: Have we settled on the development conditions if...could we do that and see if we could get a motion?

Dr. Larson: We can talk to that, yes, we normally kind of do a special....

Mr. Ingalls: We can talk about it ...before we get a motion?

Dr. Larson: Yes, let's do that. We basically have to have those to have a motion, I suppose.

Mr. Ingalls: Does anybody have anything they want to add? Steve is talking about the location of the...of where the storage area would be.

Mr. Apicella: There were some changes that we talked about last time, I'm not sure that they've actually been incorporated. We've talked about whether customers could visit the site. I think you felt pretty strongly about that, Mr. Ingalls. I don't if you want to revisit that and add it back in, since we didn't really take a motion and vote on those changes, do you want to speak to the ones that you had recommended?

Mr. Ingalls: The only ones... last month the only one I talked about, cause we had this discussion on equipment and number 3, I thought on some of us may have said well all materials and supplies shall be stored in an enclosed building. That kind of eliminates maybe dump-trucks and stuff, or equipment. I think somebody had talked about customers would be by appointment only, which I think...and that's the only two I had marked.

Mr. Grimes: There was some discussions about changing the language as it relates to installing the fence and the landscaping? But I don't remember the exactly what the wording was but something to

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the effect that install landscaping and fence as approved ...

Mr. Apicella: In general conformance with...using those words.

Mr. Grimes: By the Zoning Administrator, that something had to be reviewed and approved prior to the actual installation.

Dr. Larson: Any objective of this is so that the equipment is not seen from the road, is that the object...the reason for that?

Mr. Apicella: I think as I recall, Mr. Ingalls had some concerns about...I'm sorry to speak for you...whether or not we were usurping the Zoning Administrator's review and approval authority of the plan, and I think we tried to find some language to say that, again, it would be that the plan submitted would be in general conform...the final plan submitted would be in general conformance with what was presented, ultimately to be approved by the Zoning Administrator.

Mr. Ingalls: Number 7, I think if I was going to change it, I might say install fence and landscaping as generally, add the word generally, shown on the plat submitted, and then add the words "and approved by the Zoning Administrator".

Mr. Apicella: And "as approved".

Mr. Grimes: That's how I recall it, because the plan that's been given to us to look at was very generic. You know, plant or provide them, or something to our...Leyland Cypress but there was no quantity definition, there was no real meat or substance to that plan that was presented. It was a proposed, what we were thinking about, plan but not an actual plan.

Mr. Ingalls: The way the ordinance reads, the Zoning Administrator has the full authority to decide what is appropriate for the screening, and I guess that's all we can do.

Ms. Brown: In our definition, I'd like to see that. I'd like to see...because it says the storage will be screened from view of adjacent properties and roadways by solid board fence and or landscaping as approved, so I want to make sure that it's adjacent properties and roadways that were....

Mrs. Blackburn: Says that in the code, in the definition.

Ms. Brown: Okay.

Dr. Larson: Yeah, I'm fine with leaving it to the Zoning Administrator. She knows the rules.

Mr. Apicella: So in lieu of 3, I would ask that we change it to "all heavy equipment shall be sited to the...within required setbacks, along the north-east quadrant of the parcel".

Dr. Larson: Say it again please?

Mr. Apicella: Can we add the storage area as well? The supplies?

Dr. Larson: Yeah, just go ahead and restate it one more time for us the way you think it should be.

Mr. Apicella: All equipment and supplies shall be stored...shall be in conformance with required

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setbacks along the north-east quadrant of the parcel.

Mr. Ingalls: You're deleting the "stored in closed building"?

Mr. Apicella: Right.

Mr. Ingalls: Okay, that's fine.

Dr. Larson: Do we need to add "along the north-east quadrant" or can we just put in "in accordance with the setbacks"?

Mr. Apicella: Then they could put it anywhere along the setback. It could be in the front setback, the side setback. If you look at the picture that was presented, that's kind of where have, at least the heavy equipment, so I'm suggesting that they just continue to maintain the heavy equipment there, but also all of the supplies.

Dr. Larson: Yeah, I drove by it 30 days ago and saw the equipment. But I was just wondering if we were somehow being preferential on the location of which setbacks we're...

Mr. Apicella: Yeah, somewhere along here.

Ms. Brown: Mr. Chairman?

Dr. Larson: Yes.

Ms. Brown: Is this business still operating right now?

Dr. Larson: Sir, is your business operating?

Mr. Bajwa: Yes, ma'am. Yes, sir.

Ms. Brown: And he was ordered to close the business back in 2012?

Dr. Larson: We haven't visited that, and that's more of a county enforcement...

Ms. Brown: Well, he was going to have to apply again, that's what in the staff report?

Dr. Larson: Would county staff like to address that?

Mrs. Musante: I'm sorry, could you repeat the question?

Ms. Brown: Yeah, looks like from the staff report he was ordered to close the business back in I think it was 2012, and he was going to relocated it and then he was also told that he should reapply again for a rural business permit, so after he's...he's operating without a permit...

Mrs. Musante: What happened, after the public hearing back in 2011, he filed an appeal with the Circuit Court. Once...at that time, when someone filed an appeal, it stayed all action on the zoning enforcement end of it. He then proceeded to...with the purchasing of a property and a rezoning of a property to try to relocate his business, which still meant that we did not go with the enforcement action, because he had filed the appeal. After 2 years the Circuit Court, if there's no action on those

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appeals, can discard them. That is what happened in this case. We were notified that there were...that he was trying to do an additional construction on this site by putting in a drive way, which started the violation process back up again. So he appealed, we stayed all action, he pursued with the rezoning, he did not move to that location, he did not pursue the site plan. The appeal in the Circuit Court was discarded.

Ms. Brown: So should he have not been operating?

Mrs. Musante: I cannot answer that because we stayed all action. At the time that he filed the appeal it was our county attorney opinion that we stay all enforcement action, so....

Ms. Brown: So when the appeal time dropped, at a point would he not have reverted back to he was ordered to close the business immediately?

Mrs. Musante: We were not notified at the time that they discarded the appeal from the Circuit Court clerk...

Ms. Brown: So right now there's no appeal, so he's been operating in violation, is that right?

Mrs. Musante: He is currently operating in violation, which is why he received the violation noticed. So we had to start the process all over again...

Ms. Brown: But since the appeal has gone away and the stay is no longer in place should he not be operating right now while he's trying to get the new business permit?

Mrs. Musante: We have no authority to shut him down. Should he have vacated the premise? Probably so. That's what started the violation process over again. He came in and did what he was advised to do by staff, which is to refile for the rural home business, with the understanding that there was no guarantee that it would be approved.

Ms. Brown: I'm just reading...the county is the one that said he was ordered to close the business immediately.

Dr. Larson: I'm going to shut this discussion off. Could you take this one off line? This is a county enforcement...doesn't really have much do with the BZA, so what I would like to do is continue going down the required conditions, and I wanted to ask clarification for Mr. Apicella. The change to item 3 was "all supplies and equipment shall be in accordance with established setbacks" and then you wanted to put "along the northeast quadrant." My question was, why specify a part of the property if it is...as long as it's shielded?

Mr. Apicella: Because I think, I can see from the road these large pieces of equipment, so the further back you put them on the parcel, the harder they are to see, otherwise I'm going to have a problem supporting this.

Dr. Larson: Okay, I thought the idea was to allow the applicant to put things in place that would shield...

Mr. Apicella: So you put a 6 foot fence, you can still see a large bulldozer or front loader from the road and Leyland cypress, we talked about this at the last meeting, we're not specifying the size of the Leyland cypress. It could take 20 years before that tree is large enough to be able to shield the view of

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that bulldozer or front end loader. I guess my point is, it's already there now, so if it's there now it works, and the applicant is okay with it, because we asked him that question, seems to be something that'll mitigate the potential problem of being able to see it from the road.

Dr. Larson: Alright, I'll yield on that in the interest of time. Any other additions or changes to the required conditions? What was the condition dealing with customers? I had a note saying no customers shall visit the site. Somebody said something about appointment only. What did that end up being?

Mrs. Musante: I have them both. I have "no customers shall visit the site" and then I also have "customers by appointment only, with only one customers at a time", and I don't know that was decided on at the last meeting.

Mr. Apicella: I think at the last meeting there was sort of a consensus around the latter one.

Mr. Ingalls: With customers by appointment only.

Mr. Apicella: With only one at a time.

Mrs. Musante: Okay.

Dr. Larson: Any other changes or additions to the conditions?

Mr. Apicella: Mr. Chairman, do we want to run back through them one more time, just to make sure we're on the same page?

Dr. Larson: Yes.

Mrs. Musante: Number 1: Days and hour of the operation; 6am to 6pm, 7 days per week. Number 2: Applicant must reside and provide prove of residency. Number 3: All heavy equipment and storage areas shall be in conformance with the required setbacks and installed within the north-east quadrant of the parcel. Number 4: Provide off street parking only. Number 5: Provide list of family members employed by the business, employees that will work on site, and employees that will work off site. Number 6: Provide list of vehicles associated with the business, vehicles that will be parked on site, and vehicles that will remain off site with the offsite employees. Number 7: Install a fence and landscaping in general conformance as submitted for review and approved by the Zoning Administrator. No sign advertising the business. Number 10: Customers by appointment only with only one customer at a time. Number 11: Approval of this special exception will expire when the applicant vacates the property. Number 12: This approval may be revoked by the Board of Zoning Appeals for noncompliance of the conditions approved.

Dr. Larson: Did you have one in there about must comply with all federal state?

Mrs. Musante: I did; I'm sorry I skipped it. Number 9: Must comply with all federal, state, and local codes.

Dr. Larson: Okay, number 3, I had wording that read something like "all supplies and equipment shall be in accordance with the setbacks and along the north-east quadrant". Is that something...

Mr. Apicella: Yes, Mr. Chairman, that's what I would prefer.

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Mrs. Musante: Repeat that please.

Mr. Apicella: All equipment and supplies shall be stored in accordance with setback requirements along the north-east quadrant of the parcel.

Mrs. Blackburn: And Mr. Chairman, I have a clarification for that. Would that be the north-east quadrant of the cleared area of the property? Because there's quite a bit of wooded vegetation in the overall parcel.

Mr. Apicella: Do we need to define as cleared on, because that could change over time.

Mrs. Blackburn: Cleared on the air photos that are part of the case.

Dr. Larson: He submitted a plan where he's indicated where the vehicle storage is, about 100 feet from the road. Is that consistent with what you...

Mr. Apicella: No, Sir. So I would add "along the north-east quadrant of the cleared portion of the parcel as shown on the aerial photo provided as part of the application".

Dr. Larson: Are there any clarifications to the conditions? Any other clarifications?

Mrs. Blackburn: I have one more request please.

Dr. Larson: Go ahead.

Mrs. Blackburn: On condition number 2, where we say "the applicant must reside and provide proof of residency" on this property. I'd like on this property (inaudible) so there's no question.

Dr. Larson: I agree with that. Melody, did you get that? Mister...

Mr. Bajwa: Bajwa.

Dr. Larson: Bajwa. Mr. Bajwa, have you heard the conditions that we're talking about?

Mr. Bajwa: Yes, Sir.

Dr. Larson: Do you think you have any problems with those?

Mr. Bajwa: I have no objections and I agree.

Dr. Larson: Very well. Do I hear a motion?

Mr. Apicella: Mr. Chairman, I move for approval of SE15-04/15150614 with the amended conditions as read.

Dr. Larson: Is there a second?

Mr. Ingalls: I'll second it.

Dr. Larson: Discussion? Hearing none, those in favor raise your hand, say aye. Aye.

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Mr. Ingalls: Aye.

Mr. Grimes: Aye.

Ms. Brown: Aye.

Mr. Apicella: Aye.

Mrs. Stefl: Aye.

Mr. Kim: I'll abstain.

Dr. Larson: One abstention. Any opposed? Motion carries. We're going to take a 10 minutes recess and reconvene at 9:10.

[RECESS 9:01 – 9:10]

OTHER BUSINESS

- Discussion of parking requirements for home businesses

Dr. Larson: I'll bring the meeting back to order. We're down to other business and the first item on that is the discussion of the parking requirements for special, I'm sorry, for home businesses, and I think, Dana, you were the one that wanted to talk about that, so why don't you go ahead and lead off the discussion.

Ms. Brown: Sure. I was just looking for some personal clarification on the parking requirements. It seemed like we might have been applying, what's the term, dynamic parking standards, to our various requests for home businesses, for special exceptions. Looked up in our book, it says, you know, a residential home has to have two parking places. It is my understanding from different meetings that the garage does not count. It's the driveway only. But it's not really clear on that and we've had some cases where we wouldn't allow the driveway to be used, and they had to put in an extra parking place, and we've had some cases where we let them use the driveway. And I understand each case is unique. Each property is unique. I'm just looking for some kind of consistent standard just so I know when this comes up again, which it will next month.

Dr. Larson: So just for clarification from staff, if theirs is a two stall garage, those two spots don't count for parking?

Mrs. Musante: That is correct.

Dr. Larson: Okay.

Mrs. Musante: They have to have two spaces outside of the garage for their residential use for parking. Anything addition to that they can utilize the driveway, as long as they have the space. The required parking space is 8.5 x 18. So if they have the two spaces that they're required right in front of the garage and they can abut another car with an 8.5 x 18 parking space, that can count as their one space requirement.

Ms. Brown: Does that mean abutting by hanging off onto the sidewalk?

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Mrs. Musante: Has to be on the driveway.

Dr. Larson: I'm sorry. 18 feet...

Mrs. Musante: 8.5.

Dr. Larson: Yeah. 8.5 wide, 18 feet long. That's defined as a parking space?

Mrs. Musante: Yes it is.

Ms. Brown: Where was that? I didn't see that.

Dr. Larson: That's a long...18 feet? I guess they're talking SUVs and...

Ms. Brown: I don't know, my car is almost 16 feet.

Dr. Larson: Is that right?

Ms. Brown: Like a half inch shy of 16 feet.

Dr. Larson: I never measured my car.

Mr. Ingalls: The case we had tonight, that garage was 36 feet, .7 I believe, from the property line. So you could get two 18 foot spaces between the property line and the garage door. Okay.

Ms. Brown: I don't know. I pulled in there and I felt like I was hanging out, according to my review camera, over the apron.

Mr. Ingalls: Theoretically, and all I'd have to proof to the County, do I have enough space? Yes, I got 36 feet. I can park my two cars up here in the first 18, and then I got another 18 feet.

Ms. Brown: Does that mean the car can touch the garage door and touch the car's bumper in front of it?

Mr. Ingalls: That's right. That's right.

Mr. Kim: I think it's more of a requirement of space. So, if there's...I think we're kind of splitting hair if we say, this car didn't fit. I think the 8.5 by 18 feet, that's what it is, right? And that fits our definition and we're good with that?

Mrs. Musante: Right.

Mr. Kim: Great. Thank you.

Dr. Larson: So that defines a parking space. So if there's a 17 foot wide, 18 foot long garage, that's two parking spaces. And then if it continued for another 18 feet at that width, that'll be two more parking spaces?

Mrs. Musante: Correct.

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Dr. Larson: Thank you. Any other discussion on that?

Ms. Brown: No.

Dr. Larson: Thank you for that clarification. The next one is the discussion of time limits for compliance on Special Exceptions. Again, I think that was one of yours.

- Discussion of time limits for compliance on Special Exceptions

Ms. Brown: Yeah. I would like if we could push this off to next month or the month after. I've been doing some research on other counties on what they're requiring, and I'm running into the fact that there's not many counties that allow BZAs to do special uses, or special exceptions. So I'm having a hard time finding what their time limit is and they're having to refer me to their Board of Supervisors, because that's where those cases are decided. So unless anybody has an objection, I'd like to push that off a little bit. The reason I even brought this up was because I think we need to have a time limit. I think we need to have a time limit. I think after we had our brewery case, was an example of we can't just make a condition and they have till whenever to comply with it. I'd like to get staff some definitive time, so they're not checking this thing for 5 years. And I know some different time limits were bandied about, and at one point we said 6 month on one, and that could be 5 for that particular case, but I don't know that all cases need 6 month. For instance maybe the case we had tonight, if there's landscaping requirements. Now is the time for landscaping requirements. I don't want to give a 6 month time limit when I'm deciding a case in April for landscaping. If I'm deciding a case in November or December, yeah, they might require a 6 month time limit. But if in April we give them 6 month, they come to us back in November, December and say, oh it's winter now, we need an extension. So I kind of want to do it on a more case by case basis. I don't want to have to say, everybody gets 6 month, but I want to see what everybody else is doing.

Dr. Larson: Any objections to putting this one of until Dana is able to get some more information?

Mr. Kim: I just have a quick question. How we are going to determine, like, I mean, there has to be some kind of formula that we can follow. I'm big on formulas that we can follow on, I mean...

Ms. Brown: Well, spring planting time would be one. Weather, I mean, we obviously can't expect them to go out and plant a bunch of trees in the middle of December.

Mr. Kim: But I mean we have to set new guidelines that we, I mean, is that what we have to...I mean that would be the next steps. If this Board actually wants to do that, it would just be more than coming up with a "well it's spring, so we can give them 5 months or 2 months." "It's winter so we can give them 6 months."

Ms. Brown: I think 30 days is reasonable. I think that the applicant...they have to get their stuff to staff...

Mr. Kim: I don't think 30 days is anywhere near reasonable. When you're counting on so many different other avenues to make this happen, it's hard to put that time limit...like, when opening a business, you know, you have a general contractor because they put all that together.

Dr. Larson: Let's...if we're going to defer the discussion, let's defer it, and so we...

Mr. Kim: Sure.

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Dr. Larson: Let's go ahead and defer if there are no objections to that. And going on to the next one, which is adding the HOA compliance to special exception conditions. In response to that request I asked our research attorney, Mr. Gifford-Hampshire to give us an opinion which you should all have a copy of. A couple of highlighted areas, well of course he starts by giving the answer. In my opinion the BZA would act outside its delegated authority by attaching a condition that a homeowner consulted the HOA about applicable restricted covenants. And then he explains why he came up with that opinion. The reason that I was even willing to ask was I...after thinking about this and knowing that the BZA is a county-wide authority and HOAs are local authorities within the county, and each HOA could conceivably have different and even conflicting requirements among their residents. For us, a county-wide authority to say that you should follow those requirements which could conflict on a case by case basis I thought would be inconsistent. So that's why I asked Mr. Hampshire to look into this in the first place, but...Is there any discussion on this? I would also add that I view an attorney's opinions as exactly that, opinions, which are based on the law, but different opinions can be based on different laws and we should treat an attorney's opinion as an opinion and we may or may not in the end with the opinion. In this case I do agree with his opinion myself, but if there's other discussion on this, I think now is the time to hear it.

- Adding HOA compliance to special exception conditions

Mr. Kim: I agree with you, Mr. Chairman.

Ms. Brown: I agree. I think it's clear. I do remember you saying, I don't know if you still feel this way, in the course of this discussion, not as a condition, you know, that I mentioned, you know, you might want to check with your HOA. We're not approving this for your HOA. That would be okay with you?

Dr. Larson: I don't think it would be a condition, but I mean it would be, but I think you could say, you should check with your HOA to see if there are restrictions on this. I don't think that that would...that's not telling anybody that we're supporting or denying or doing anything with the HOA, but it's sort of an advice to an applicant, especially with a special exception, that they would be advised to check with their HOA. Is there any problem with that by somebody on the Board?

Mr. Ingalls: I don't think I would make that a condition.

Dr. Larson: I wouldn't.

Ms. Brown: Not as a condition.

Dr. Larson: That or anybody else on the Board, if I forget, just friendly advice, that's right, it's not a condition, but if you have an HOA, you probably should check with them.

Mr. Apicella: It's declarative statement.

Dr. Larson: I agree. Okay. And again, as the Chair, I don't have to do this. If I forget it, somebody else can feel free to render this sage advice. Okay. The next one was a discussion of recent legislation and it's based on a gathering of the V-A-Z-O. Could you tell me what that is again, Melody?

- Recent legislation

Mrs. Musante: Virginia Association of Zoning Officials.

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Dr. Larson: Okay, and the meeting that we went to on the 14th was our region, which is like 5, or 6, or 7 counties or so.

Mrs. Musante: Correct.

Dr. Larson: I appreciate being invited and allowed to attend that. It was not intended for BZA members. It was intended for staffs. And the questions were...the talks were addressed to staff. Although it was given by Andrew McRoberts, I think some of us on the Board remember when he was on the Board, and he knows me, and so I was able to ask questions that may pertain more to the Board than the staff, and he was willing to address some of those questions, or actually all of the question, on- and off-line. And just a couple of points of interest. I don't want to dwell on this, but FYI, there was a case about transmission lines, and the Dominion Power putting in transmission lines, and one of the jurisdictions challenged the transmission line and the bottom line for that is, since the transmission line spans multiple government zoning laws do not prevent it, the transmission line. Then there was this object of the switching station which isn't...it's tricky. It's part of the transmission line, but it's also in a single local and that was challenged by a zoning entity. I don't want to go into the case in detail, but it turns out the Supreme Court found in favor of the local zoning there 4 to 3, which means, just in general, what this sound like is, if there's something that spans lots of districts, zoning probably doesn't apply. If there's something that spans lots of districts, but has a piece of it that's unique, definable in our county, then zoning may apply. Andrew did add that Dominion wants another hearing and he also added that all it takes is one judge to change their mind and so that's been decided but it could change. There was another...I'm just going to add this as a footnote because it's not that relevant, but...well, it could be I suppose. The previous governor's trouble with gifts and there's legislation imposing a 100 dollar rolling per year limit on gifts. Does everybody understand what I mean by rolling per year, so June 28th to June 28th the following year, from June 29th to June 29th the following year, so one year rolling. And gifts under 20 dollars are not aggregated to the 100 dollar limit.

Mr. Apicella: Under financial disclosure requirements I know I got a package as a Planning Commission member, do BZA members also have to refile?

Mrs. Musante: I'm checking into that. They've been filing them once a year.

Mrs. Blackburn: It's new. We have to do it every 6 month now.

Dr. Larson: Is that a recent change?

Mrs. Blackburn: Yes.

Dr. Larson: Does that apply to all non-profits or all government entities, or do you know what the applicability is?

Mr. Grimes: On non-paid?

Dr. Larson: Non-paid. Yeah, non-paid. I'm sorry, if you don't know the answer off the top of my head...

Mrs. Blackburn: There is a list and it has various County employees, including myself, we have to do a financial disclosure, so we can get that for you.

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Mr. Apicella: I think June 15th is the deadline.

Dr. Larson: Susan, don't spend any time on that.

Mr. Ingalls: It sound like BZA was exempt.

Dr. Larson: Okay. The next item is the, or the next item for new legislation, is the new variance standard. The ultimate bottom line here from Andrew is, some words have changed, and you can see those changes. In his opinion it really hasn't changed much, if at all. So, I mean, there's a lot of happy to glads happening. He made the case where there was change that he thought might mean something, but, and I can't remember what that was, but the bottom line here, what I wrote was, the new variance standard isn't really new at all. And oh by the way, one of the things they do is come right out and say now that if you created the problem yourself, then too bad, no variance. I don't think they did that before. But, I mean, we were taught that you can't self-inflict your hardship, but it's in the law now.

Mr. Kim: You can self-inflict a hardship?

Dr. Larson: You cannot self-inflict. No, no, no.

Mr. Ingalls: You can't build a house that violates the setback anymore? And get a variance?

Dr. Larson: And some of you may remember the 7-Eleven issue. We did that right. I don't know where it went and I don't really care, but...because that was really painful, but that was a correct decision. Okay, we have done this in the past. I just wanted to remind people that a long standing interpretation where things are not clear of the Zoning Ordinance by the Zoning Administrator should carry, what he called, great weight. So, if there's something unclear in the Zoning Ordinance and the Zoning Administrator has interpreted it a certain way, then that in his words, should carry great weight. And in fact we have several asked the Zoning Administrator how things were interpreted in the past, and that has determined some of the things that we've done in the past, so, that is not inconsistent with what we've done in the past. Okay. Special Exceptions, when they go to Court, this is of my notes, decisions by the BZA on any Special Exception must be, quote, plainly wrong in order to be overturned. So if we make a decision on a Special Exception and it is appealed, the Court must find our decision plainly wrong, in those words. Okay, now the interesting part, the ex-parte communications, and Dana, I think you had something in your class recently about this. Feel free to chime in.

Ms. Brown: Well, Andrew McRoberts was the one that talked about it at our class. It had just happened two days before the class, so the impacts they were unclear about, but they said that some of the materials for the class that we were learning would change a little bit. I imagine he's going to be going over it again June 8th, when we go back for our final class. I'm hoping so, because what they talked about there down there was that it was going to change the way that we communicated with staff, or met with staff. And I understand that it only applies to variances, not special exceptions. That's how I understand, I'm not sure if that's correct...

Dr. Larson: That's correct.

Ms. Brown: ...but we wouldn't be able to go on variance to a site visit by ourselves. We would have to take a staff member with us. We'd have to give equal time, is what I understood, to staff and the applicant. No private meetings with each one.

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Dr. Larson: Yeah, actually I understood that a little differently.

Ms. Brown: Okay. Like if I go out to the site and talk to the guy, that's what he had mentioned, but again, this was two days after the...

Dr. Larson: Yeah.

Mrs. Stefl: This is only on variances?

Ms. Brown: Only on variances for ex-parte communication.

Dr. Larson: Well, okay, the ex-parte communication limitations do not apply to special exceptions, so you can feel free to visit a property that's up for special exception and feel free to talk to the owner as we have in the past. Where it gets a little ticklish is, again, as she said, talking with staff. Andrew's interpretation was that us talking with somebody like Melody is clearly fine. She is...she has that hat. Part of her time is to help us and work with us, and that's it. It's not so clear when it gets to other members of the County staff and it gets even less clear when it comes to the County Attorney, but trust me, they don't really want to talk to us anyway, so that's one of the reasons we have our research attorney.

Ms. Brown: I'm glad they clarified that, because that worried me. He had mentioned stuff like, you know, if you had questions for staff like you normally do in the emails, they'd have to be sent to the applicant as well, which I thought was very confusing and...so I'm glad they straightened that out.

Dr. Larson: Well what I have...it's not straightened out...what I have in my notes is staff to BZA and local government attorney can, underline, have ex-parte communications. My recommendation would be just to go through Melody and let her get our answers for us like we almost always do anyway. Yeah, so the other part of it is going to a site for a variance. I had an offline with Andrew about this as well. The way I understand this is, we basically can't do that under any circumstances unless we advertise it as a public meeting, and then the public's invited. Now he told me a trick to use that where we would, you know, might be able to exclude some people, but I'm reluctant to do that if it's a public meeting, I would be reluctant to try to exclude somebody. So bottom line, with a variance you can still go to the property and look around. This is ex-parte communication, okay? But do not talk to the applicant, would be my sage advice.

Ms. Brown: That's what he told me too. I'm looking at this observation note that they wrote in the handout that was in our packet, and it is a little confusing. It says "non-legal staff of the governing body may have ex-parte communications with members of the Board prior to hearing, but may not discuss the facts or law relative to a particular case." So does that mean we can't talk about the case? I can talk to you about your day, or...

Dr. Larson: It is confusing, and what we got from Andrew was, my interpretation was, Melody is okay to talk with about the case, anything about the case, because of her role as...part of her is working with and for us. Anybody else in the County staff, my note says can...I wouldn't. And I think in a much greyer area. That's the way he interpreted it.

Mrs. Stefl: I have a question. If we do go out to the site, it wouldn't a problem to say to the owner: "I'm Heather Stefl. I'm with the BZA. I'm coming out just to see the property. I don't want to talk, but I would like to see your property." That wouldn't be discussing the case, it's just a "Don't shoot me because you see me walking around" kind of thing.

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Dr. Larson: If you were the applicant, what would you do?

Mrs. Stefl: I would say okay...I mean, I would say to the applicant, I can't discuss the case, I just want to come and see the property. I'd be like, okay.

Dr. Larson: But when the applicant starts talking to you about the case...

Mrs. Stefl: Then it would be, I cannot discuss the case, I only came to see the property.

Dr. Larson: See, the communication can go one way.

Ms. Brown: And it could be hear-say too, that you didn't discuss anything, but they said you did. No, she came out to see my property and she thought it looked good. Who's there to dispute that?

Dr. Larson: I would advise not talking at all in cases of variances to the applicant.

Ms. Brown: They said you could set up a Board visit.

Dr. Larson: Unless we have, yes, unless we have a Board visit, but it has to be advertised like we advertise any of our public meetings. So we have to give the notice. People are invited because it's a public hearing, basically. It's a public meeting.

Ms. Brown: Well it wasn't like a quorum thing.

Dr. Larson: No, no, you don't need a quorum but you need to invite the public.

Ms. Brown: Yes.

Dr. Larson: Yes.

Mr. Apicella: I just think if we're not able to visit the site, it probably needs to be stressed to the applicant that the burden is on them to give us enough visuals to show there is some uniqueness about the property...

Dr. Larson: You can visit the site. You can't talk to the applicant.

Ms. Brown: You can drive by and...

Mr. Apicella: I hear you, but I'm kind of with Heather. I wouldn't want to show up and be shot because the guy asked me who the hell are you...

Dr. Larson: Right. I mean, I wouldn't trespass but...

Mrs. Stefl: But we are allowed, I mean, by the variance by just putting in the application, it allows now, my understanding is, people can come visit the site then, just by the sheer fact that they applied for that variance.

Mrs. Musante: And I do tell the applicants, I do tell them that you may see people photographing your property or walking around your property and not once have I had somebody tell me no.

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Dr. Larson: You just can't communicate.

Mrs. Stefl: And there was one time we also talked about having business cards so that they know who did and didn't come by.

Ms. Brown: I talked to Jeff Harvey about this last month, because I had...when I visited the...I had to give them my driver's license. It had my address on it to show who I was and I, you know, checked the website. They said I could go up to HR and I could get an ID badge with my picture on it that said BZA. It would say volunteer, but I could use that when I went out to a property like for a special exception, so I didn't have to give my home address and driver's license.

Dr. Larson: Yes, if you don't have a badge from the County, feel free to get one.

Ms. Brown: What is yours saying? Was it like a picture?

Mr. Grimes: Just says member of BZA, Board of Zoning Appeals and a picture. It says Stafford County. I didn't bring it tonight. I use it so I can get in without signing in. It's an official County badge.

Mrs. Stefl: We have to sign in? Oh you're talking about like if we wanted to go upstairs.

Mr. Grimes: They know most of us now, but the first few times I had to stop and sign in, because they're like, who the heck are you?

Ms. Brown: To go up during the day?

Mr. Grimes: No, to come in here. They changed that.

Mrs. Stefl: Alright, I'll get my badge.

Ms. Brown: Well, what I took away was, just don't do it Dana. That's what I took...my personal...like I said, again, I'm hoping they're going to go over that again, I'm sure, in June. I'll bring back what the latest is, but I think he said it right.

Mrs. Stefl: And I'm with you Steve and like staff just says people might be coming by your property taking pictures and also the burden of proof is on you because some members may not come by and they might need that visual.

Ms. Brown: How often do we do variances?

Dr. Larson: It all depends. They have come down...the requests have come down substantially in the last two or three years, but they still show up.

Ms. Brown: I know everybody has different time constraints on them. I'm one that...for me personally, I like to look at a property before I render any judgements on it so I would definitely, if we do have a variance, I would definitely be interested in a site visit, field trip with everybody. I'd be one of the interested people in doing that.

Dr. Larson: I'm trying to find something else.

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Mr. Grimes: Is it mandatory for the County to visit the site when a variance is requested? So you can do it all based on documentation also? Okay.

Mrs. Musante: I do have an inspector go out to the site to take photos of the property.

Mr. Grimes: And he does not communicate with...

Ms. Brown: I asked Mike Chandler that question. I said, should we be going out? Does everybody need to go out? And his response was, I would go out. That was all he said, so...

Dr. Larson: The...should be, just as a point of interest, the communication with our research attorney is explicitly allowed. Okay? Nothing in this section shall preclude the Board from having ex-parte communications with any attorney or staff of any attorney where such communication is protected by the attorney client privilege or other, similar privilege of protection of confidentiality. So we can talk to our research attorney without a problem. What I was trying to find was what might be governing email. Let me just give you an example of my opinion. If you remember, we had a special exception, it may have been last time or the time before. We had a laundry list of questions and the staff answered the questions, and I think it was Steven, suggested let's just put it in the record because we had it all written down. And my response was, no, I wanted the applicant to hear everything and that's the way I think we should...even though we're not required with special exceptions, I think that's the right thing to do. Let them hear anything that we have that they don't have. Let them hear it in the meeting. It's not just part...and then reading it also makes it part of record, but I'm wondering if we're required to do that for...

Ms. Brown: I thought we were for variances. I thought that Mike Chandler had said, they would have to be copied on it and included on these questions.

Dr. Larson: I think we are required and...

Ms. Brown: I'll ask again.

Dr. Larson: I thought I saw it, but I can't find it.

Mrs. Stefl: Do our emails, if there is an appeal, get put towards the courts? Is that part of the record, that it's up to the Court besides our minutes?

Mrs. Musante: If it's FOIA'd we have to, but not the norm. The only thing that's the record is what's submitted. It doesn't have anything (inaudible - microphone not on).

Mrs. Stefl: Submitted or the minutes?

Mrs. Musante: Correct.

Mrs. Stefl: Okay. Well, really, an attorney would have to know somehow that we communicated about the case through email. He or she would just have to kind of know.

Ms. Brown: Yeah, they just FOIA.

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Mrs. Blackburn: Lots of time what we've been getting lately is that they're just FOIA-ing everything. They want it all; phone messages, emails, notes, correspondence amongst staff. Yes, we have one attorney who has his whole little set of things that he asks about every 6 to 8 months.

Dr. Larson: What I find here is any materials relating to a particular case including staff recommendation which I'm not sure we actually get, or report furnished to a member of the Board shall be made available without cost to such applicant.

Ms. Brown: And all this is after July 1.

Dr. Larson: Right. Yes, that's correct. Maybe we should start now just to practice. That's all I had on the legal changes. Does anybody have any questions on what we covered? Hearing none, Zoning Administrator's Report?

ADOPTION OF MINUTES

None

ZONING ADMINISTRATOR'S REPORT

Mrs. Blackburn: I have nothing at this time.

Dr. Larson: Thank you. Is there a motion to adjourn?

ADJOURNMENT

Mr. Kim: Actually, can I make one statement before you adjourn?

Dr. Larson: Yes.

Mr. Kim: I just...we've asked a lot of the staff with all the corresponding emails that we have from you guys, and I hope that I can speak for the Board, but maybe I can't, but we just want to say thank you for all the stuff that you guys do, and I hope we stay in our scope of what we can actually ask you guys to do, but more than anything I would like thank you very much, because you make this Board look good. So, thank you.

Dr. Larson: Yes, I want to second that for sure. You guys are great. We really appreciate that. Is there a motion to adjourn?

Mrs. Stefl: Motion to adjourn.

Dr. Larson: Second?

Mr. Kim: Second.

Dr. Larson: Those in favor say aye.

Mr. Ingalls: Aye.

Mr. Grimes: Aye.

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Ms. Brown: Aye.

Mr. Apicella: Aye.

Mrs. Stefl: Aye.

Mr. Kim: Aye.

Dr. Larson: Aye. Opposed? Adjourned.

With no further business to discuss, the meeting adjourned at 9:45 p.m.