STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES
August 25, 2015

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, August 25, 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, Robert Grimes, Ray Davis, Ernest Ackermann, Dana Brown, and Heather Stefl

MEMBERS ABSENT: Larry Ingalls and Steven Apicella

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

DETERMINATION OF QUORUM

Dr. Larson: Good evening ladies and gentlemen and welcome to this meeting of the Stafford County Board of Zoning Appeals. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator; to hear and decide upon requests for Variance from the Zoning Ordinance, when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property; and to hear and decide on requests for Special Exceptions where the Zoning Ordinance allows for Special Exceptions. The Board consists of 7 members and 2 alternates. We have seven members in attendance tonight. All the way to my left is Mr. Ray Davis. Following him is Dr. Ernest Ackermann. Then we see Mr. Danny Kim, myself, I'm Dean Larson. Then we have Mr. Robert Grimes and Ms. Dana Brown, and Mrs. Heather Stefl all the way down to the right. Tonight the County is represented by our Zoning Administrator, Mrs. Susan Blackburn, Mrs. Melody Musante, our Zoning Manager, and Mrs. Stacie Stinnette, our 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 then 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 support of the application to come forward and speak. There shall be a 3 minute time limit for each individual speaker and a 5 minute time limit for a speaker who represents a group. After hearing from those in favor of the application, the Chair will ask for any member of the public who wishes to speak in opposition of the application to come forward and speak. After all public comments have been received, the applicant shall have 3 minutes to respond. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. After the applicant's final response, the Chair shall close the public hearing. After the hearing has been closed, there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion, the Chair shall call for a vote. In order for any motion to be approved, four 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 client 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. We have seven members, that's the maximum you can have for the meeting tonight. Still, the applicant may wish to defer their hearing. If they do so, they can only do it once in a 12 month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to a vote to approve or disapprove the application, provided the applicant has not withdrawn a substantially similar application within the previous 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 one year from the date of our 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. Please stand if you are going to speak. Okay; raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth? Thank you; you may be seated. The Chair asks that when you come down to the podium to speak, please give your first name and address… I'm sorry, please first give your name and address clearly into the microphone so that 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.

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 this Board tonight?

Ms. Brown: I do, Mr. Chairman.

Dr. Larson: Go ahead.

Ms. Brown: I visited the property at Kellogg Mill and Poplar Road on Sunday, about 2 o'clock. I did not speak with anyone. I did drive by the property on Route 1 this afternoon. And I just feel like I should disclose Mr. Leming's wife as my School Board member, my representative on the School Board, which does not affect my impartiality for this. But I wanted to mention that.

Dr. Larson: Thank you. Anybody else? Okay, hearing none I'll now ask the secretary to read the first case.

PUBLIC HEARINGS

1. SE15-06/15150789 – H. Clark Leming for Victor Buadu and Julia Dillon - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1 "District Uses and Standards," A-1, Agricultural, to allow tax and accounting services as a Rural Home Business on Assessor's Parcel 36-42C. The property is zoned A-1, Agricultural, located at 7 Kellogg Mill Road, McGee Division.

Mrs. Musante: Case SE15-06/15150789, H. Clark Leming for Victor Buadu and Julia Dillon - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1 "District Uses and Standards," for the A-1, Agricultural, to allow tax and accounting services as a Rural Home Business on Assessor's Parcel 36-42C. The property is zoned A-1, Agricultural, located at 7 Kellogg Mill Road, in the McGee Division. You have the application, application affidavit, copy of the violation notice, and copy of building permit for the shed. The applicant is requesting a Special Exception to operate

tax and accounting services as a Rural Home Business. This work involves advising small business owners and individuals on complex tax issues and tax preparation. Requested hours… days and hours of operation are from 8:30 a.m. to 9:30 p.m. Monday through Saturday and 12:00 p.m. to 5:00 p.m. on Sunday. The applicant is proposing to install nine parking spaces which will be designated for two employee spaces and seven spaces for customers or delivery vehicles, such as FedEx and UPS. He is the only employee of the business at this time, but hopes in the future to hire a maximum of two additional employees. The applicant anticipates no more than six customer visits per day to the office. He constructed a 453 square foot accessory building approximately 50 feet from the nearest property line. It contains an office for the tax and accounting services. This is approximately 10% of the 4,000 square feet total gross floor area of the non-residential building allowed for a rural home business. The applicant has indicated there will be no outside storage. He wishes to install a business sign not to exceed 8 feet in area or 5 feet in height. The Zoning Ordinance only allows a 4 square foot home occupation sign. The single-family dwelling was constructed in 1988. The applicant submitted and received a permit for a 12-foot by 36-foot shed in 2014. Zoning received a complaint on April 10, 2015 regarding signage. A notice of violation was sent on April 14, 2015. At that time, it was discovered the applicant was operating a business and was told to apply for a home business permit. During the zoning review of the home business permit, it was brought to our attention the business was operating from the detached shed which is a violation of the home business permit regulations. The applicant was informed of this and told he would need to apply for a Special Exception for a Rural Home business which allows for the business to operate in a detached structure. The application for the Rural Home Business was submitted July 21, 2015.

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

Dr. Ackermann: I have some.

Dr. Larson: Go ahead.

Dr. Ackermann: This is a rural home business as defined in the code, and he needs a Special Exception?

Mrs. Musante: He does need a Special Exception for a rural home business.

Dr. Ackermann: Rural home business, as opposed to home business.

Mrs. Musante: Correct.

Dr. Ackermann: Okay, and in the code, if I read the definition of home business rural, it says prior to obtaining a certificate… item 6, prior to obtaining a certificate of occupancy for a rural home business, the applicant shall submit a development, plan I guess, in accordance with Article 13 of this chapter.

Mrs. Musante: Correct.

Dr. Ackermann: Do we have such a plan?

Mrs. Musante: Not yet. He hasn't applied for his certificate of occupancy. He will not apply for that until this is…

Dr. Ackermann: Until this is approved.

Mrs. Musante: Correct.

Dr. Ackermann: I see. And the fact that the business, actual place of business is in a detached building, is that what makes this a rural home business?

Mrs. Musante: That part, as well as he's requesting two employees other than himself.

Dr. Ackermann: So that's why a Special Exception needs to be granted.

Mrs. Musante: Correct.

Dr. Ackermann: For those two reasons?

Mrs. Musante: Correct.

Dr. Ackermann: Okay, thank you.

Mrs. Musante: You're welcome.

Dr. Larson: Any other questions for staff? Go ahead.

Ms. Brown: Just one question. When I drove out there, I could definitely see it was a shed. When they apply for the occupation permit, are they going to need to have restrooms built out there now because it's going to be a business and employees might be there? Is that going to need to be added on?

Mrs. Musante: This will be… once they apply for their home business permit, after they get approval from you all, it will go through a building review. They are required to have bathroom facilities, but it doesn't necessarily have to be in the structure that they're using as long as they are within 500 feet.

Ms. Brown: So they can be in the home?

Mrs. Musante: Correct.

Ms. Brown: And then the home would then become part of the…

Mrs. Musante: I can't answer that. It's all building code so I can't answer that part. Again, this will go through a building review so if they're required anything additional, it will get caught at the time it goes through a building review.

Ms. Brown: Okay, thank you.

Mrs. Stefl: On those same lines, I didn't know if also a requirement of fire suppression is required in this building?

Mrs. Musante: That's going to be a building code requirement.

Mrs. Stefl: So that would be something that it would go through the building code. So the same as with like a handicap entrance…?

Mrs. Musante: Yes.

Mrs. Stefl: I see that there's… looks like air conditioning or something, you know…

Mrs. Musante: Any modifications, that will get… what will happen after this meeting is we will send the applicant a letter along with the application. At that time, he will need to submit, and I do believe he has actually already spoken to the building department regarding the requirements for him, but he will go through that review on ADA accessibility, all of the building code requirements.

Mrs. Stefl: Right. Because I also see that one of the entrances he has a large desk in front of so it cannot be utilized as an entrance or an exit, so really all he's got is the one in/one out.

Mrs. Musante: And that will be… and he may be able to clarify that. I cannot because I did not speak to the reviewer.

Mrs. Stefl: Okay. And I didn't also see in the package the… and maybe I overlooked it, the actual size of the shed? It says the square foot but it didn't say… I mean, I went to the Fox Country Sheds but they have multiple sizes. This, you know, the 10/12, the 12/14, that's the porch sort of area and overhang. That's not necessarily the…

Mrs. Musante: The building permit was for a 12 by 36.

Mrs. Stefl: Twelve by thirty-six. Okay, thank you.

Dr. Larson: Any other questions for staff? Ray?

Mr. Davis: Looking at the structure that is there now, and in the photographs, the building permit was for a shed?

Mrs. Musante: Correct.

Mr. Davis: Is this structure more than a shed? Would this structure been allowed under that building permit?

Mrs. Musante: It would have been placed on hold through the Zoning Division because they would have to come to you all first to get the approval for the home business. It will… it would not go any further for the review until after this approval, and then he may have to make some modifications for the building code. But it would be placed on hold; it wouldn't have been denied, but it would have been placed on hold.

Mr. Davis: Then this building is not a shed.

Mrs. Musante: I can't answer that. I don't know what the construction of it is and I don't review the building plans part of it. That will all be addressed when he goes back through the building part to make this the office.

Dr. Larson: Any other questions for staff? Mr. Davis?

Mr. Davis: Has any thought been given to the sight distance at the entrance on Poplar Road?

Mrs. Musante: We do… I don't know how to answer that. We don't look at like VDOT entrances or anything like that when we make our inspections or look at these applications. We have received two citizen inquiries, which you all have the emails from, that are concerned about the traffic and the sight distance. The applicant may be able to answer your questions better than we can.

Dr. Larson: Any other questions for staff? Hearing none, I'll now open the public hearing. Will the applicant or his or her representative please come forward to present their case.

Mr. Leming: Good evening Mr. Chairman and members of the Board of Zoning Appeals, I'm Clark Leming. I'm here on behalf of the applicant. I think Dr. Ackermann had some of the most salient questions here and every time one of these issues come up, I have to revisit the ordinance to understand what the difference is between a home business and a home business rural. And I believe that the applicant in this case believed that they were operating a home business. And indeed, if you look at the definition of home business, it is not abundantly clear that we're talking about something that is to occur within the house. That is how it has been interpreted traditionally. But, the main thing it says is the area dedicated to the home business shall not exceed 25% of the gross floor area, excluding unfinished basements and garages. So, whether that's 25% of the gross floor area within the house already or wherever it is, it can't exceed that. It says home businesses shall be permitted in single-family detached dwellings only. So I think there's an implication there that it's supposed to be in the house. But, there is some ambiguity here. Now, chronologically I want to bring a few things to the attention of the BZA. First, the building permit was requested according to County code and received and was constructed. Then, we have some confusion, and there are some inaccuracies in the information that has been provided to you. And I just want to be sure that the Board understand exactly what occurred here. The staff report says that a Notice of Violation was sent on April the 14th, 2015. Now, it may have been sent, but it was… nothing was received by the applicant from the Post Office until May the 4th. Now, here's what happened in the meantime. And of course, that violation didn't go to the shed; he had a permit for the shed. And it didn't go to the use of the shed. What the violation went to was the signs that were erected. In the meantime, what the applicant had done was to apply for another permit to build something for a pergola, and he'll have to tell you what that is. It has something… it's something completely unrelated to what we're here for tonight. And it was an issue. So he called the County and found out that the building permit for the pergola had not been issued because there was a violation. Well, he didn't know what the violation was at that point because he hadn't received it. So there was additional contact with the County and he was told that he needed to apply for a business permit. I think the County was still operating under the assumption that we were talking about a home business, not a rural home business at this point. So he came in to apply for the… for the business occupation permit and a sign permit because, by this time, he's figured out that must be what the violation is. On May the 4th he actually sees the violation for the sign. And then is in the process of taking care of that, has come in and filed an application for a sign permit, but the pergola is still being delayed. So, he's trying to figure out what is going on and the guy that's to inspect the signs comes out to inspect the signs and told him that he had to take the signs completely down before they would process the permit for the pergola. So he takes the signs down and then, through the zoning review for the occupation building… license permit, then it become apparent that he's actually operating, he's conducting his business in the shed. And so that's when it first becomes clear that he's not… we're not dealing with a home business here, but instead a home business rural. So, we put the application… he came to see us at that point… we put the application together, made inquiry, and here we are. So, that is the sequence of events. There was a good bit of confusion. I don't want you to think that the applicant here, in any respect, was trying to circumvent anything. He just didn't understand, first of all, what the violation was; and secondly, that what he was doing was not possible under the ordinance. And he was having dealings with the County on a regular basis. And, even, you know, from the outset, talking about what he was going to use the shed for. So, anyway, there were no

warning lights or anything that went off saying that I'm in the wrong ballpark here; I've got to go over and get one of these things. So, he appears before you tonight. The applicant is a Certified Public Accountant. There are a couple of things that I want to talk about regarding the conditions. This sounds like he's anticipating, and I think most of you are familiar enough with the accounting business to know that it peaks during tax season. So that would be the period of time when there may be the need for additional employees. I point out that even under a home business, you can have one more employee other than family members. But, if you want more than that, then you're talking about this other animal here. And, he had traditionally historically been doing all of these things from his home. They've lived there for about 3 years I think. And, what's happened is that his family has been expanding, so a 3-bedroom home is now needed… all of those rooms are needed for bedrooms. So that's what prompted the whole idea about moving the accounting business, which is largely seasonal, to the shed and out of the main house. I think he has a very long driveway and if you visited the site, you'd see that it is a long driveway. You know, the likelihood that if you would ever need nine parking spaces is remote, but he has that room available and so is willing to mark those off and put them in so there's no question about them. The other thing that I would like to bring to your attention, the conditions say the home occupation sign is not to exceed 4 square feet. And indeed, in the staff report, that's what the… what you're told the ordinance permits. But I'm looking at the definition of home business rural and it specifically says, the business shall be allowed one unlighted façade or monument style sign not to exceed 8 feet in area, rather than 4 feet, 5 feet in height. So I think the ordinance allows for the rural home business a 8-foot square foot sign, not a 4-foot square foot sign. So we would like that condition to be amended. Now, there were some other questions that got into building code issues. It may be the applicant can answer some of those; I'm not sure they're germane to what is before the Board of Zoning Appeals. I mean, he is going to have to go through another review after this for building code. But the issue I think at this point is whether or not he has complied with what is necessary to be considered for a Special Exception for his accounting business to be operated from the shed. So, I wanted you to have the background as to how we got to this point. And I'll be happy to answer questions. If you want to pursue some of the building code issues, Mr. Buadu may be able to answer some of them, but we simply haven't gotten to that point yet, as Mrs. Musante has indicated.

Dr. Larson: Thank you Mr. Leming.

Mr. Leming: Yes sir.

Dr. Larson: Any questions for the applicant's representative?

Mrs. Stefl: (Inaudible - microphone not on). When he operated his accounting company in Ohio, where he moved from, was he aware that he had to have a home occupancy rural… or a home business license there?

Mr. Leming: I have no idea what the regulations in Ohio are. Do you want him to tell you whether he had to have something in Ohio?

Mrs. Stefl: I want to know did he have a home business in Ohio?

Mr. Leming: Victor, did you… come on up here. Did you operate out of your home in Ohio?

Mr. Buadu: Yes I did.

Mrs. Stefl: And did you get a license for that home business?

Mr. Buadu: The County did not require a license for that.

Mrs. Stefl: Okay. I did go to the Ohio code and it did require a home business in your private home, so you were in violation in Ohio too.

Mr. Buadu: Okay.

Mr. Leming: Not that he knows of.

Mr. Buadu: Not that I know of. I mean, I didn't…

Mrs. Stefl: Even though you were served with a notice of violation in Ohio.

Mr. Buadu: I wasn't served with any notice of violation.

Mrs. Stefl: Okay, alright. Well, according to the Canal Winchester, Ohio, you were served with a notice of violation of not… of operating a business out of your home and not being notified. Or not having a license. I just didn't know if you knew when you moved to Virginia if this was a reason you just didn't do it here because you just didn't know.

Mr. Buadu: Yeah, I don't know I was issued a violation; I don't have recollection of that.

Mrs. Stefl: Okay. Alright, thank you.

Mr. Leming: He did what he thought he needed to do here which was to get a building permit.

Mrs. Stefl: Right. Alright, how long have you been operating your accounting company here in Stafford?

Mr. Buadu: Um, I started a year I think, 2013, but it wasn't very active until maybe 2014 because the tax season starts in January.

Mrs. Stefl: Right.

Mr. Buadu: So 2010 is when we actually moved to (inaudible) Kellogg Mill location.

Mrs. Stefl: Okay.

Mr. Buadu: That's when I started using, you know, one of the bedrooms. For the first year, nobody knew anything about… we didn't have any, so it was just one or two customers came in (inaudible).

Mrs. Stefl: Right, right. Okay. And the sign that you have on the side of the building, it used to… it takes up… it used to take up the entire side of the shed. I called it a barn because it kind of looked like sort of a shed/barn, but it takes up the entire side of the shed, correct?

Mr. Buadu: There were two signs. There was a smaller one which was about 5 by 2 or 3 by Kellogg and then there's a bigger one that was tied to the back of the shed or office.

Mrs. Stefl: Right.

Mr. Buadu: And I, you know, at that time I was under the impression that it was zoned A-1 so you could do a business in there. And if you could do a business in there then… I mean, you can't have a business without some advertising, nobody knowing you are there. That's what I thought the sign was. You know, it goes with the A-1 zoning.

Mrs. Stefl: Right. And you had that sign illuminated if I recall.

Mr. Buadu: Yeah, I did put some lights out there to illuminate it but when I turned on the lights, it didn't illuminate all of it. So you couldn't even read it so I stopped turning on the lights, you know, after one or two weeks when I saw that wasn't effective, I stopped illuminating it.

Mrs. Stefl: Right, right; okay. And then another question I have is based on the photos that you showed the inside. When the, I guess you're saying they're going to be temporary employees that come in during the height of the tax season, are you looking to have like two desks in there? Or are they going to come and meet with clients and do some of their work offsite? Or are they going to do all their work in this shed, so there'd be three accountants plus clients. So, in theory, you could have a number of people… you know, if a couple comes, that's… 2, 4… that's like 6 people and then yourselves. So that's like nine people in the shed at almost one time, is that correct?

Mr. Buadu: Yeah, yeah. We do have… there's already a second desk behind the main desk that I put down. So I can make it available when, you know, I need an employee. We also have a seating area that can seat anywhere from 6 to 10 people. We have a couch/sofa and then two chairs. You know, we have two chairs in front of the desk so there's enough room for people to sit around. I mean, in case a couple come and there are kids, there are children, there are enough room to have those children sit down and then also give the couple room for me to work with. So we have enough space to add two additional employees. I just haven't arranged the room so I can have them, because I don't need them at this time.

Mrs. Stefl: Right. And then…

Mr. Leming: Let me point out that the clients are there by appointment only. That is one of the conditions. And I believe the information that he provided to staff earlier indicated that he was anticipating somewhere in the vicinity of six clients per day.

Mrs. Stefl: Per day. So the thought would be… because that was going to be my next question is the nature of discussing financial… you know, you don't want to have someone else hear someone else's financial information, you know, when you have two or three accountants talking with different clients.

Mr. Buadu: Yes, you're right.

Mrs. Stefl: You would want the nature of separation.

Mr. Buadu: Yes, that's correct. And that's why I specified it's mainly by appointment. You have to call in for an appointment.

Mrs. Stefl: And so the employees would be doing all their work there too; they wouldn't be taking their work home or doing any of the forms from say an offsite location or anything like that.

Mr. Buadu: No, at this point I'd want to see… if I hire any employee, I'd want to see, you know, the work product. I mean, review it right there before I can be confident for them to kind of take stuff home, because that's really important especially if you are dealing with taxes and personal information.

Mrs. Stefl: Right. Well thank you so very much.

Mr. Buadu: Thank you for having me.

Dr. Larson: Mr. Buadu, is the current outbuilding that you're using, is that of sufficient size now for what you intend to use it for?

Mr. Buadu: Yes, yes it's sufficient. I have enough room for all that I need and for two additional employees, if I plan to hire any employees in the future.

Dr. Larson: Okay. Any other questions for the applicant? Dana.

Ms. Brown: I just had one question as a point of clarification. The signs are currently up or down? Because I didn't see anything when I went by.

Mr. Leming: They're down.

Mr. Buadu: They have been down (inaudible).

Ms. Brown: Okay, because I drove by and I'm thinking… I looked really hard. Alright.

Mr. Leming: He took them down when the inspector came out and said you gotta take your signs down.

Ms. Brown: The only sign I saw was the public hearing sign, so, okay. Thank you.

Dr. Larson: Any other questions? Mr. Davis.

Mr. Davis: You indicated, Mr. Leming, that the home occupation didn't say whether or not the business had to be in the home. The same thing goes for the rural home; it doesn't say that specifically, but it indicates possibly that that's the case. What we're doing here is doing a Special Exception for that to happen. Is that correct?

Mr. Leming: Yes, for the shed, correct your Honor. Ha your Honor; Mr. Davis. Sorry, I've been in court today too.

Mr. Davis: Thank you.

Dr. Larson: Any other questions for the applicant or the applicant's representative? Seeing none, thank you both. Are you finished Mr. Leming?

Mr. Leming: Yes I am. I was just…

Dr. Larson: Okay, yeah, I think we're finished.

Mr. Leming: I think I heard you say I was finished.

Dr. Larson: Yes. I was just wondering if anybody had any more questions and they don't, so now we're at the point where if any member of the public who wishes to speak in support of this application, could they please come forward. Seeing none, would any member of the public wish to speak in opposition to the application? If so, please come forward.

Ms. Horne: Yes, my name is Dorothea Horne. I have been a short time resident of Hartwood. I have lived there for 27 years and, as a County member, consider that to be very short time in terms of many of the folks that have had families there for 50, 100 years. So, with that said, I don't have any objection to anyone that wants to have a home business. I don't even have objection to the shed that is in the yard. It looks like a shed. It looks very nice. I drive by that road, by that shed, every single day. I saw the shed go up. I saw the signs go up. I saw the signs come down. And while I did not complain about the signage, had they not come down, I would have and my husband would have been up here at the County courthouse complaining about them. What I do oppose to, what I do object to, are two things: number one, this is an agriculture rural residential region of the County. And I object to having a commercial-like business in the middle of that rural area. And when I say commercial-like, when you start putting up an extra building by itself, I don't have any problem with that. And I don't really care that there's an extra car in the driveway. I do care that there is signage, that there is large signage, and that is on the corner of Kellogg Mill and Poplar so it's very visible. I care that there are nine parking spaces, maybe 10, maybe 12. And if you think about how much space does a 9-car garage take up on a 3-acre lot, that's a large piece of that property is going to be a parking lot. So I care about the parking lot. And I care about, with regards to the signage, that is commercial advertising. So, now you have people that are driving by, people see that service. If they want to use the service, I don't really care about that. But I do care that now you what appears to be a commercial-like business with a separate building, a large sign, a number of parking spaces, all in this one corner lot on this road. The other thing that I am concerned about is what is the intent. I mean, the owner has stated that they would… that they are planning to have maybe six people come by on a daily basis during tax season, maybe they're going to have a couple extra employees. They don't think they'll have more than, you know, maybe half a dozen people in the building at any one time. But that's today. That's this month. That's what his stated intention is for now. What about a year from now? What about three years from now? I would say that anybody that has a small business that is larger than in your immediate home where you have additional employees… I'm not talking about one homeowner. I have a sister who is a Certified Public Accountant in Maryland. She has a home business. I'm not talking so much about that. But when you suddenly have a home where there are extra employees, it's your intent to grow your business. So what happens a year from now? There's no maxims. I see no maxims on this. I see where there's no limit to the number of parking spaces. I see where there's no limit to the employees. I see where there's no limit to the traffic going in and out of this building, all times of day and on the weekends. And as you know, Poplar Road is being expanded. That's because there's a lot of new homes being built in that area. The speed limit is 45 miles per hour. Most people do 50 miles an hour. That wider road is going to bring yet more traffic and more homes. There are a lot of farms in the area. And I don't think they're going to be farms forever. They're going to be housing developments, and now you still have this commercial-like business that is in the middle of all of this bringing in more traffic. And that corner, in and of itself, is a very busy corner. I come home from work every night; three years ago, I was the only car. Now I'm sitting in a line of 15 cars waiting to get around the corner where this business is being proposed. So, for those reasons, um, I do not want to see this exception allowed. Thank you very much.

Dr. Larson: Thank you Ms. Horne. Any questions for this witness?

Dr. Ackermann: Yeah, I have a question.

Dr. Larson: Go ahead.

Dr. Ackermann: So, I'm thinking about what would make you feel better. I mean, you talk about you're worried about expansion. We could put conditions on this that limit it to as it's specified here. He couldn't expand without further consideration in the County. How does that sit with you?

Ms. Horne: Well, I would certainly like to see that and I would be agreeable. My only other concern again would be the nine parking spaces. I mean, certainly there is a large driveway in the house. If there were nine cars in the driveway, I wouldn't know if they were business customers or not and I wouldn't complain about that. But when it turns into a parking lot, then that has a different perception.

Dr. Larson: Yeah, just so you know, Ms. Horne, we always put conditions on Special Exceptions. So there are always limits to what a person can do with a business in their home. Just so you know that. That's routine. And we have a list of some that we're going to talk about later. If you stay around, you'll hear all that discussion.

Ms. Horne: Okay, thank you.

Dr. Larson: Any other questions for Ms. Horne? Thank you. Any other member of the public who wishes to speak in opposition to the applicant? Okay, seeing none, does the applicant with to respond to or add additional information?

Mr. Leming: Let me just make a few suggestions here. I think the sign can specifically indicate that this is by appointment only, so that the people that you have coming to the house are ones that have made an appointment. I think that distinguishes it. Many things are regulated here by the ordinance; the maximum number of employees. You all have further limited and have the option of additionally limiting this by the conditions that run with this. I don't believe that the applicant has any objection to a condition indicating what this is for specifically. The ordinance is broad, but clearly he falls within the (inaudible) of the ordinance as a professional office. And that's all that he seeks to do on the property. In addition, the nine spaces, that's simply a function of the room that he has. I think he can live without nine spaces. I don't think it's his intent to turn this into a parking lot just to… that he has the space and it's not an issue to actually draw in the nine spaces. But they can be fewer. The ordinance, of course, requires… both the home business ordinance and the home business rural… require sufficient parking for the business. So I think that was the only thing he was seeking to address and I don't think it matters that there are fewer spaces than nine. There's still a very long driveway where anybody could park and the spaces would be attended to that driveway. There is plenty of room out there for many more than nine cars. But we're certainly open to any suggestions on the number of actual spaces. The hours of operation are specified in your conditions. And I think they are reasonable hours for a business of this nature. Um, so, I think probably, if there are some things that you think are appropriate to add to this, so indeed, what we are talking about here is a professional office which is something that is specifically anticipated in an A-1 zoning district as is a home business. In fact, the only difference that I can see between the two is that under the rural home business, there is the option of a building that is detached from the main dwelling on the property. There are… you require… you're permitted one more, two more employees in a rural home business than you are in a home business. So really it has to do with the scope and size of the business. The CPA, the accounting business I think is peculiar to a particular time of year when there's a rush. The rest of the year not so much; services are much more diminished. So I would think that there are some… that you may want to adjust some of the conditions, but the use fits squarely within what's contemplated by the ordinance.

Dr. Larson: Thank you Mr. Leming. Any questions for the applicant's representative? Mr. Davis.

Mr. Davis: Would the applicant accept another couple of development conditions? Number 4 we talk about a home occupation sign not to exceed 4 square feet. My voice is giving out. Would you agree to have one sign only of 4 square feet?

Mr. Leming: I don't think he gets more than one sign. I think the ordinance just lets him have one, but it's an 8 square foot sign.

Mr. Davis: Okay.

Mr. Leming: And not lit.

Mr. Davis: Okay. Would he agree to have the parking screened with vegetation?

Mr. Leming: Why don't you come up and address the practicality of that. It's a very open yard.

Mr. Buadu: Yeah, there's some trees that (inaudible) the driveway.

Mr. Davis: But not where the parking is.

Mr. Buadu: The proposed parking is going to be in front of the building. And the building will kind of screen it from people coming from Poplar Road going I think to the south… coming down Poplar Road. On Kellogg Road side, we've already planted trees along Kellogg Road so the trees kind of grow, you wouldn't be able to see the cars after the trees (inaudible).

Mr. Leming: Did you have something specific in mind?

Mr. Davis: Well there's… well, trees grow tall; cars are small.

Mr. Buadu: Yes.

Mr. Davis: Cars can drive under trees.

Mr. Leming: Are they evergreen or deciduous?

Mr. Buadu: Yeah, I think trees are (inaudible). It's more like trucks…

Mr. Davis: Bushes.

Mr. Buadu: Yes, bushes. Thank you. A lot of bushes growing.

Mr. Davis: Well, I've driven by there several times but when I'm driving, I can't see that much. So I didn't stop.

Mr. Leming: Because of the bushes you mean?

Mr. Davis: No, just from driving.

Mr. Buadu: On the Kellogg Road side the bushes are (inaudible). So, they are about this high. But when they get tall enough, I don't think you'll be able to see.

Mr. Davis: And the parking in front of the building that kind of faces Poplar Road?

Mr. Buadu: Yes, that is completely screened of, you know, from anybody coming down Poplar, you are not going to see cars parked.

Mr. Davis: How about the use of Poplar Road? Would you direct traffic in and out using your Kellogg Mill Road driveway because of the sight distance and other concerns from using Poplar Road?

Mr. Buadu: Well, we use Poplar Road ourselves, I mean, to go in and out. I don't know how customers… depending on where they live. If they live down Kellogg, they are going to go down Kellogg. But if they live down Poplar, obviously… I mean, if they are going south, they want to go out that way. So it's…

Mr. Leming: it's a circular driveway.

Mr. Buadu: It's a circular driveway, so it depends on where the customer is comfortable with going out.

Mr. Davis: Well, the concern is the sight distance coming east on Poplar. Going to get to your driveway it's just a short distance when they come over that knoll. I tried it tonight; there was a truck behind me. I was at Kellogg Mill Road before I realized what I was doing.

Mr. Leming: What did you have in mind? I mean, signage that would direct the customers to utilize the Kellogg Mill access?

Mr. Davis: Yes.

Mr. Leming: Would you be willing to do that?

Mr. Buadu: Yeah, that's something I would be willing to do.

Mr. Davis: I think it would be safer. We had some information about the number of accidents at that intersection, so it would be even worse with somebody pulling out of your driveway going left on Poplar. People coming down Poplar, it's almost right there as they come over that little rise in the road.

Mr. Leming: So a condition that would pertain to directional signage that would be at the entrance and on the property.

Mr. Davis: Right. People are going to do what they want to do but signs might help a little bit.

Mr. Leming: Even if he put a porkchop out there, someone might still go the way they want to go.

Mr. Davis: Thank you.

Dr. Larson: Any other questions for the applicant?

Mr. Kim: I do have one. So you put in the building permit for the shed. I don't know if you can answer this Mr. Leming or if the applicant… when you put the building permit in to construct the shed, was the purpose the whole time to open up this home rural business?

Mr. Buadu: Yes, yes. And I do remember I discussed it with the lady who took my application in. And I told her… we discussed the A-1 zoning. I also discussed… my wife had also done some inquiries on the A-1 zoning. I mean, nothing came up that indicated that, you know, putting a separate structure on the side was against the rules.

Mr. Kim: Well, that's what I'm trying to get at. So when you built the shed, the whole purpose was to have your accounting business in there. And you asked representatives from the County on I'm going to put a CPA business in here and there was no objection from the County?

Mr. Buadu: I remember there was a reason on the application. I'll have to go through my…

Mr. Kim: Yeah, I'm sorry; it just came to me so I apologize. I probably should have thought…

Mr. Buadu: When I applied for the permit, there was a spot where you have to give the reason.

Mr. Kim: Yes, yes; I applied for a couple of those before.

Mr. Buadu: And I told them what I wanted.

Mr. Kim: That's what I was getting at because I wanted to know what you put on the bottom.

Mr. Buadu: Yeah, I put down I was planning to run my accounting and tax business from that.

Mr. Kim: Okay, sorry that was something I should have asked the County staff a couple days ago, so I apologize.

Mr. Leming: It was substantial confusion. I'd point out that the applicant… the wife of the applicant is an attorney. And so I think there was a reasonable due diligence to try to figure this out. And as I indicated… and there were a multitude of permits that were necessary. The building permit, the sign permit, then you had to figure out what kind of business this is and finally whether you need a Special Exception or not. As I indicated, even when I go through this I have to reread all that every time I do it because there's something not particularly logical about it.

Mr. Kim: No, no, I completely understand. But I wanted more intent than actual (inaudible).

Mr. Leming: I never intended to hide anything from anybody about what he was going to do and the intent in purchasing the shed in the first place was for the accounting business.

Mr. Kim: Okay, that was my main question. I didn't think there was anything…

Mr. Leming: Because he put the signs up right away that lead to the violation.

Mr. Kim: I kinda figured, but I wanted to bring that up.

Mrs. Musante: Mr. Kim? If you look at attachment 4, page 1, down at the bottom, comments, it says 12 by 36 shed with electrical, that is taken directly from the application.

Mr. Kim: Uh, page 4…

Mrs. Musante: It's the last page before you get to the next case.

Mr. Kim: Okay, thank you.

Mrs. Musante: That's it, I think that's it. Yep. Look at the bottom, it says 12 by 36 shed with electrical. That's taken directly off of the application that they give us. See comments?

Mr. Kim: Yeah, I see that.

Mr. Leming: Well, I don't have electrical in my shed.

Mr. Kim: So, those were the only comments when you applied for the shed? This is the actual… yeah, this is the actual application.

Mr. Leming: I think this is generated by the County. This is their form, not his application.

Mr. Buadu: The application form, the requirements… the form is structured differently from information we provide on it. And at the time that I applied, I didn't know that there was a website that… I didn't know how… I mean, when the website came up that you could look up the information that your application has. This was (inaudible) because I applied for the permit back in 2010 and at that time you just filled out the form and gave it to… was interviewed by the representative and then they took the application from me and signed it. I mean, I wasn't aware that there was a website where you could go and look at the details of the information provided. I just filled out a form and gave it to them. And the website only came up in my subsequent applications for the pergola and the sign. That's when they sent me an email to tell me where I could go and look up the (inaudible) of the application. I was not aware that this was information on the website, but I'm sure when I filled out the form, I indicated another reason that I wanted to (inaudible).

Mr. Kim: So, can I ask the staff… are we still on this Mr. Chairman? Are we still with the applicant?

Dr. Larson: Let's just stay with the applicant for now. Is there another question?

Mr. Kim: Okay, thank you.

Mrs. Stefl: One thing that I know that we will probably most likely discuss is the hours of operation. Are you flexible? I mean, I don't have… I don't know what we will come to but are you flexible on maybe not having such a late hour at, you know, Monday through Saturday?

Mr. Buadu: Yes. I mean, depending on what you think is reasonable.

Mrs. Stefl: Okay, I just wanted to know your flexibility. Thank you very much.

Mr. Leming: I think she's asking you what you think would be reasonable.

Mr. Buadu: Well, this is a part time; I have a full time job. And, you know, I normally see my clients in the evenings. So that's why it's a little late. I mean, I take appointments and then see them in the evening. But it's (inaudible) employ somebody to help out with that during the day, they will be taking appointments and doing some work.

Mrs. Stefl: So, you're doing it part time right now…

Mr. Buadu: Yes.

Mrs. Stefl: Is maybe the hope to eventually go full time if this takes off?

Mr. Buadu: Possibly. Possibly, depending on how well it does.

Mrs. Stefl: Yeah, we all want a successful business to take off, so exactly. Thank you.

Mr. Buadu: Thank you.

Dr. Larson: Another question?

Ms. Brown: Yeah, I had one. And I'm sorry if I missed this. Have you decided where you want to put the sign?

Mr. Buadu: Yes. I'll still need to put it on the Kellogg Mill Road side, close to where it used to be.

Ms. Brown: I don't know where it used to be. So, like, right off the road?

Mr. Buadu: Yeah, it was… I spoke with one of the zoning gentlemen and he said there was some distance from the road…

Mr. Leming: There's a setback that's necessary.

Mr. Buadu: Yes, that's the right way, a setback.

Mr. Leming: Said sign set back at least 15 feet from any property line.

Mr. Buadu: Yes.

Ms. Brown: Well, actually I've got the VDOT website up and it talks about sight distance for intersection; because this is an intersection with Kellogg Mill. And it also talks about sight distance triangles. As far as the intersection sight distance, it talks about sight distance shall be based on a height of eyeball 3½ feet and an object height of 3½ feet. And then down under, sight distance triangles, it does say decision point is located 4 feet from the centerline or left edge of pavement of the minor roadway, and 20 feet from the middle of the nearest travel lane. So, I'm just wondering what your flexibility is on signs. We wouldn't want an 8-foot sign up in the sight distance.

Mr. Buadu: Oh no, no. In fact, before I put up the last sign, I actually, you know, drove down to make sure that I wasn't blocking anybody's view from public going up and down. So (inaudible) fine from, you know, to allow people driving up Kellogg to be able to see down Poplar to make sure that there are cars coming or stopping to allow for traffic. I mean, I don't know the exact distance from the requirement.

Ms. Brown: Okay. Well, in our definitions, it also talks about that if a sign… it says that it's unlighted. So are you willing to stand by the…?

Mr. Buadu: Oh yeah. The one there wasn't lighted at all and, for the big one, I stopped lighting it long before the issues came up.

Ms. Brown: Okay, thank you.

Mr. Leming: If you don't have it before you, the ordinance is pretty clear. It cannot be lit.

Ms. Brown: Right.

Mr. Leming: It has to be monument style, it can't be more than 5 feet. So that means it's not on poles; it can't be more than 5 feet in height or 8 feet in area.

Ms. Brown: Right. I just wanted to make sure he understood that it be unlighted.

Mr. Leming: Yeah, he knows it can't be lit.

Dr. Larson: Any other questions for the applicant? Thank you gentlemen. I'm going to leave the public hearing open just for a bit. We're going to have a few questions of staff and I want to be able to ask more questions. Mr. Kim, did you have a question for staff?

Mr. Kim: Yeah. Sorry Melody. Okay, so I did review this, obviously, and when I was looking through this, I didn't know… I'm going back to the application of the shed because when I built my business, I had to, you know, it asked what it was for and I put gym. So, it says… all it says is, you know, 12 by 36 shed with electrical, which, because I have electrical in my shed. So, and it just houses my tools and stuff like that. That's the only… the normal procedure when an applicant comes in for a building permit, which I've done, but I want to hear from you if that's okay and if you don't know, I understand, because this is zoning. Um, in the comments, I mean, for me it was kind of it was a normal question on what is the building permit for. I mean, that's, you know, the County kind of wants to know. So, if it was a normal shed… if I came in and said hey, I want to open a business, I want to build an extra building on my 4-acre lot and I want to do, I want to sell supplements. It would say more than shed with electrical, right? Or…?

Mrs. Musante: Well, no.

Mr. Kim: It wouldn't?

Mrs. Musante: They would come get one of us. Because if you… as soon as you start talking about a business, they come get one of the Zoning.

Mr. Kim: Okay, so can I ask you, so when this application was put in, did anyone get anyone from the Zoning Department?

Mrs. Musante: Not to my knowledge; it wasn't me. So, if an application comes in and it states on there, if they submit it to the permit technician and it states on there 12 by 36 shed with electrical, they are not going to question them. They are going to take that application, they're going to enter in the computer exactly what's on that application and that's what prints out.

Mr. Kim: I kind of figured that.

Mrs. Musante: If there's anything that is fishy or whatever regarding the application, they come get us or they won't accept the application.

Mr. Kim: I put in an application for my electrical for my shed, just so you know.

Mrs. Musante: Okay.

Mr. Kim: So, if the comments would have been 12 by 36 shed with electrical for CPA business, then…

Mrs. Musante: If it had gotten through without them coming to get us at the beginning of this process, once it came to the zoning division for the review, we would have then called the applicant and asked them what they were doing. It would not have gotten through as it is.

Mr. Kim: Now, going back, as I'm sure they're going to ask, the normal procedures on when it comes back to you. How do we mark who we talk to and who we… I mean, obviously not who we did because we don't talk to a lot of people, but if there is an applicant that states 12 by 36 shed with electrical for a CPA business and it gets pushed back to the Zoning Department, what is the normal protocol for you guys to mark down this representative from the Zoning Department has talked to this individual on this applicant.

Mrs. Musante: The review that received the application, after calling the applicant will document everything in the computer. And it shows up with your employee code number.

Mr. Kim: I kind of figured, but I just wanted to clarify that. So thank you very much.

Mrs. Musante: Sure.

Dr. Larson: I have a question for staff. What would be the minimum parking requirement for this business?

Mrs. Musante: Office requires three spaces per thousand square feet.

Dr. Larson: So, three spaces for 1,000 square foot of office space?

Mrs. Musante: Correct.

Dr. Larson: So, business space… space reserved for the business.

Mrs. Musante: Correct.

Dr. Larson: What's the minimum? Would it be just three spaces…

Mrs. Musante: Three.

Dr. Larson: … less than or equal to 1,000?

Mrs. Musante: Yes.

Dr. Larson: Okay, thank you. Does the applicant want to respond to anything that they heard?

Dr. Ackermann: I have a question.

Dr. Larson: Oh, I'm sorry. Other questions for the staff?

Dr. Ackermann: So why in the suggested development conditions, which I guess you folks created, why does it say home occupation sign not to exceed 4 square feet and the code says not to exceed 8 feet in area nor 5 feet in height?

Mrs. Musante: This has been a discussion in prior meetings because we're trying to keep the businesses rural. That's just it. So we use the 4 square feet to give them at least some size of signage or some sort of signage. But doesn't, just like the lady we have in the audience, it doesn't draw a lot of attention to the home because we're trying not to make it look as a business atmosphere. It's still their home. We've discussed this before.

Dr. Ackermann: But that's not what the code says.

Mrs. Musante: Correct.

Dr. Ackermann: Okay, thank you.

Dr. Larson: Any other questions for staff?

Mrs. Stefl: (Inaudible - microphone not on).

Mrs. Musante: They will automatically be in the record.

Dr. Larson: Any other questions for staff? Would the applicant like to respond to anything they've heard here?

Mr. Leming: The only thing that I wanted to clarify, notwithstanding what Mrs. Musante just said what the staff report says, is that the Zoning Ordinance only allows a 4 square foot home occupation sign. That's what I read and that's typically not the case. There may be policy reasons beyond that but that's not what the staff report says. If there's anything else that it'd be helpful that I comment on, I didn't hear anything else that, you know, lead to my thinking you needed to hear anything else, any further words from me except that one point.

Dr. Larson: Anything for the applicant's representative?

Dr. Ackermann: Well, I think I read in here that you said the only reason they needed a Special Exception was because it was in a separate building.

Mr. Leming: But two… aren't there two reasons on there?

Dr. Ackermann: I know, but I think that's what you said, in…

Mr. Leming: Oh, in the application.

Dr. Ackermann: Yeah, yeah.

Mr. Leming: That's the main thing driving (inaudible).

Dr. Ackermann: You know, if you're going to say something about these guys I thought, you know, should get you too. Thank you.

Mr. Leming: Ow. Okay, okay, I get it, okay. That's the main reason. It doesn't have anything to do with the ordinance though.

Dr. Larson: Any other questions for the applicant's representative? Thank you Mr. Leming; I'll close the public hearing now. I'd like to bring it back to the Board for motions and decision. We have typically discussed conditions before we move so that we know what we're making a motion on. So, let's open the floor to discussing the conditions.

Mr. Grimes: Do you want to do it by the numbers or all together?

Dr. Larson: Well, let me walk down one by one here, the ones that so far have been written. I have a few extra here. Days and hours of operation, Monday through Saturday, 8:30 a.m. to 9:30 p.m., Sunday, 12:00 p.m. to 5:00 p.m. Discussion? Looks like we can leave that one. Provide nine off-street parking spaces, two for employees and seven for clients and delivery vehicles. Spaces shall be marked and be 8½ feet wide and 18 feet long. Discussion? Well, okay, I'll open the discussion. I think somewhere in the application the applicant said that they expected or that he expected no more than six clients per day. Yeah, I think that's what I saw. So, it strikes me that seven spots for clients is probably a little overkill.

Mr. Grimes: Well, it does note that it's for two future employees as well, so two employees… six… is eight spots.

Dr. Larson: Right. Well, he says nine (inaudible) spots; two for employees and seven for clients.

Mr. Grimes: Right.

Dr. Larson: Seven plus two. So he's got the two for the clients… I'm sorry, the two for the employees; I'm talking about the seven for clients may be overkill.

Mrs. Stefl: He said he's going to try to see individual, you know, not necessarily have them at the same time. And if a husband and wife are coming separately, then there's two cars plus the employees. I mean, I think having seven at one time, I got the impression as he really wasn't wanting to have that number of people. And I don't know honestly if the facility could handle what probably is nine people in there at one time. I mean, seven clients and three employees; I mean, the two additional and them himself. I mean, that's a lot of people.

Dr. Ackermann: I mean, the business is seasonal, at least that's what it's portrayed as and I think that's probably what the neighbors would like if it remain seasonal. And if we cut that down to five for clients and delivery vehicles, and he says he has a very long driveway, I think it could be handled appropriately. And also, if we cut down the number of spaces, that would put some limit on growth I think.

Dr. Larson: Any other discussion? Mr. Davis?

Mr. Davis: Well the applicant indicates that he will have a minimum of nine parking spaces.

Dr. Larson: That's what we're talking about.

Mr. Davis: We're telling him he can't have nine?

Dr. Larson: That's what we're talking about.

Ms. Brown: Do we want to say a maximum of five parking of spaces? Instead of a minimum? I mean, because minimum means there could be 20, right?

Dr. Ackermann: Oh yeah, I would agree there should be a maximum, right?

Dr. Larson: Yes. Okay, so, yeah, if the idea is to have a maximum of… or, let's put it this way… expecting six clients per day. I don't think he… I can't remember the exact wording but there seems to be a disconnect between what the amount of business he was expecting and the amount of parking that he was proposing. So, I mean, I think five spaces for clients should be plenty based on what I've heard of the amount of business he expects.

Mr. Grimes: And the way the applicant noted here is the applicant anticipates no more than six customer visits per day. So, if they're staggered visits, then having five spaces for customers would work just fine.

Dr. Larson: Okay, I'm going to leave that at two for employees, five for clients. We'll re-approach it when we go back through. Clients by appointment only is the next consideration. I had noted, I mean, that almost sounds like one client at a time but I don't think that was the intent of the business. Is that what… I mean, it seemed like they would have employees and employees could see more than one client at a time. So that's probably not appropriate. The home occupation sign not to exceed 8 square feet by code, just to remind everybody what that is, it's basically a 4 by 2 sign. So, and it's not supposed to be any higher than 8 feet off the ground. It's not a big sign to begin with.

Mr. Grimes: But this application is for a rural home business.

Dr. Larson: Correct.

Mr. Grimes: The development condition is from a home occupation which is different.

Dr. Larson: I thought the area was accurate.

Mr. Grimes: The area that's allowed for rural home business is 8 feet in area…

Dr. Larson: Yes.

Mr. Grimes: … and 5 feet in height, not to exceed 8 feet in area nor 5 feet in height.

Dr. Larson: Correct. That's what we have in the condition. I'm sorry… okay. That's what I said, that's not what's written down. What is in the code is 8 square feet in area, no larger than 8 square feet in area, no higher than 5 feet in height. That's what's in the code. What's written in the conditions is not correct, but we had that discussion earlier that staff was… had the thought of reducing the sign size. How do we feel about reducing the sign size?

Mr. Grimes: I feel like the Zoning Ordinance establishes the allowable sign size, so I'm not sure why we would want to limit that to another occupation other than the rural home business requirements.

Dr. Ackermann: I would agree with that sir.

Mr. Leming: I do agree with that.

Dr. Larson: I also agree with that. Any discussion on that? Any more discussion on that?

Ms. Brown: Just on the sign. Do we need to put anything in there that it cannot be right off the roadway in the VDOT easement or the sight distance in the right-of-way?

Dr. Larson: I think that's also covered.

Mr. Grimes: Again, in the Zoning Ordinance it states that the sign has to be set back 15 feet from the property line. The property lines are automatically set back from the road VDOT easement. So, that sign is going to be at a minimum 20 feet off the road.

Ms. Brown: I have yard in the VDOT easement. VDOT's told me that the sight distance is measured from the centerline of the street to 25 feet up into my yard.

Mr. Grimes: Looking at some maps of the property lines, the property lines appear to be outside of the road easement.

Ms. Brown: It looks like it goes right up to it, but just as long as the applicant is clear since he did seem to have it right off the road last time.

Mrs. Stefl: He also needs to have it on the actual structure, and I don't know if…

Mr. Grimes: Again, the Zoning Ordinance requires that it's a monument sign. I guess it does allow for a façade sign so hanging it off the building could be considered a façade sign.

Mrs. Stefl: Right.

Ms. Brown: But there's only one sign allowed, according to our definitions. They're allowed one unlighted façade or monument sign.

Mr. Grimes: Correct. So, I mean, the development condition could be revised to meet the rural home business sign requirements and a development, an actual development condition would be that we would require it to be a monument sign.

Mrs. Stefl: Right.

Mr. Grimes: Which is a condition beyond what the Zoning Ordinance, or restriction above the Zoning Ordinance.

Mrs. Stefl: Right.

Mr. Grimes: And I like the idea of that. I would rather not see the sign, some plastic banner hanging off the side of the structure advertising the business even though, given the sight distance from the road, I don't know that 8 square feet is going to be seen from the road if it's hanging off the structure. So, I doubt that the business owner would want to do that anyway.

Mrs. Stefl: Do you… I think what prompted this was a sign that is almost, if I recall, 12 by 36. I mean, it was a quite large vinyl sign that was on the side of the shed. I think that's what started this (inaudible).

Mr. Grimes: Right. But given that the sign can only be 8 square feet by the ordinance, you're talking about a sign that's 2 by 4. And 2 by 4 hanging off the side of that structure that far up the property wouldn't be visible from the road.

Dr. Larson: Alright, so I think what we're talking about then for staff is, for number 4, a monument sign not to exceed 8 square feet in area nor 5 feet in height.

Mr. Grimes: I would offer that we just note that the rural home business sign is allowed and must meet the requirements of the Zoning Ordinance.

Dr. Larson: Right, but I thought…

Mr. Grimes: Add the word monument.

Dr. Larson: Right, well…

Mr. Grimes: We're repeating what's already stated in the Zoning Ordinance about the size of the sign.

Ms. Brown: That's because we're correcting what was on our…

Dr. Larson: Let's just leave it that way for clarity. Number 5, must comply with all state and local codes, which would be the Zoning Ordinance too. Approval of this Special Exception is for tax and accounting services only, and will expire when this applicant vacates the property and is non-transferrable. The approval may be revoked by the Board of Zoning Appeals for non-compliance of the conditions of the approval. I was going to propose adding a couple. Number one, I would propose adding that there be no additions to the size of the outbuilding being used as an office. The applicant stated that the… what he had now was sufficient in size for what he anticipated.

Mr. Grimes: I would offer that the Zoning Ordinance allows for a non-residential structure associated with that business to be up to 4,000 square feet. So, if we want to impose a development condition that he can't expand upon that…

Dr. Larson: We can. And the reason we can is because one of the things we look at is the character of the neighborhood. And this is a 3-acre lot; they're not huge lots. And I would suggest that we, since the applicant's already stated that the building is of sufficient size that we just leave it the way it is.

Mr. Grimes: Yeah, I mean, I can agree with that.

Ms. Brown: We're sure that we're not going to have to add restrooms onto this building?

Mr. Grimes: No, we can't because that's going to be building department.

Ms. Brown: So, if we restrict it and they have to add restrooms to open it, that's a problem.

Dr. Larson: Yes, that's a good point.

Mr. Grimes: But again, if they have to add the restrooms, they can either modify the existing structure within the existing footprint to add the restrooms or this simply goes away. Because he won't get an occupancy permit from the building unless they add the restrooms; therefore, this doesn't matter.

Dr. Larson: We could have the no additions to the shed… not a shed; I had to call it a shed. No additions to the building being used as the office maybe with the exception of the addition of a required bath… a bathroom if that's required by code.

Ms. Brown: And I'm not talking about port-o-potties either; I'm talking about like you know…

Dr. Larson: No, whatever's required by the code.

Mr. Grimes: But we don't know what the building code is going to require. And it's going to have to be ADA accessible which could require ramps, covered entrances, several other things that are required typically by the building code for a business to be accessible. So, I don't want to start adding development conditions based on what the building code may or may not require.

Mrs. Stefl: Fire suppression, all kinds of (inaudible – microphone not on).

Dr. Larson: Okay. So, we're back to no additions to the shed or no additions to the building being… structure being used as an office. No outside storage associated with the business, is what I have as another one. And, somebody mentioned requiring the use of the Kellogg Mill access for the business.

Mr. Grimes: Yeah, I'd like that development condition to limit access on Kellogg Mill, and if we could have them provide signage in the driveway, there is a right-in and right-out only, that would also alleviate possible issues with that intersection. Is that allowable as a development condition? I know it'll present a challenge to some folks coming to the business off Poplar Road, but…

Dr. Larson: Well, yeah, that could be problematic. I don't know what the road structure looks like over there.

Mr. Grimes: Well, the property… I'm looking at Google maps for my reference… is located on the actual corner of Poplar and Kellogg, and limiting it to right-in off of Kellogg and right-out off of Kellogg means you'll be heading east on… or you'll be coming from the east direction on Kellogg to turn into the property. And then you'll have to turn right onto Kellogg and make a left or right on Poplar.

Dr. Larson: But the question is how about people on Poplar going either direction…?

Mr. Grimes: They're going to have to go down and find a place to come around.

Dr. Larson: Well, that's the question.

Mr. Grimes: I'm simply trying to eliminate the back-ups caused potentially of folks trying to left-turn in here when you've got all the folks coming off Poplar.

Mr. Davis: The problem is the traffic on Poplar, not Kellogg Mill.

Mr. Grimes: Right, so if you limit the entrance to only Kellogg Mill to right-in/right-out, you're not having them cross over to the other lanes.

Mr. Davis: What about the people coming from the other direction?

Mr. Grimes: I'm not saying that's not a challenge. Because I don't know what the next intersection is down…

Dr. Larson: It is a challenge.

Mr. Grimes: Oh it is a challenge.

Mr. Davis: It's way down.

Dr. Larson: I don't like that condition at all.

Ms. Brown: I had a hard time turning around to get back, a very hard time. Because it would have been easiest for me to cut through the property, but I didn't do that.

Mr. Grimes: So, I mean, a sign just limiting access on Kellogg Mill only?

Dr. Larson: Yes, let's do that. That would be condition 8. So, Melody could you read back what you think you have for conditions?

Ms. Brown: I have one more.

Dr. Larson: Oh, sorry. Go ahead.

Ms. Brown: (Inaudible) waiting my turn.

Mrs. Musante: Hang on; can we get clarification on the last one because…

Dr. Larson: The last one was, the condition was the access to the business would use only Kellogg Mill entrance to the property.

Mr. Davis: What I would suggest is the applicant will erect signs to direct traffic to use the Kellogg Mill Road drive.

Dr. Larson: But aren't we limited on the number of signs we can put up?

Mr. Kim: I think for the business, that's not a sign for the business, it's more of a directional. You can have as many…

Ms. Brown: Yeah, that'd be two signs.

Mrs. Stefl: I think we're splitting hairs here.

Dr. Larson: I don't know if we really need to do this. I think we could just make it a requirement for the business to use that, and then if they violate… if they're in violation.

Mr. Kim: And I think if the clients have a hard time coming in, a good business person would (inaudible) and put signs.

Dr. Larson: Any other potential additions to the conditions?

Ms. Brown: Yeah, I wanted to talk about maybe a six month time limit to meet the conditions. And if he runs into some roadblocks, I'm more than willing to entertain an extension on that if there's reasonable cause.

Mr. Kim: I'd say I agree with you on time extensions. Maybe six months is too much?

Ms. Brown: Well, I don't want him operating until he's got all his permits and, I mean, he's got to be all checked out by the County. So, between now and then, I mean, he can take one month or he can take six months or whatever we decide. But there's no operating the business until he's met all the conditions. So it's up to him how fast he wants to move.

Dr. Larson: Okay, so that condition would be the business cannot operate until all conditions are met . And he has six months to meet the conditions?

Ms. Brown: I'm open to suggestion but I want to put some kind of limit.

Dr. Larson: I would like to… rather than having him come back here, I'd like to have him meet with the Department of Zoning and Planning and have them sort that out, whether there's a… if there's a postponement justified, they can make that decision or if it's not justified, they can make that decision and come back to the Board

Mrs. Stefl: I'm real hesitant on stating that he has to stop operating his business because it's going to be a case where I can't run my business to make the money to make the, you know, additions or the compliances. I mean, I like the idea of a timeline in that, you know, I'm getting there, I'm trying to get… I mean, I like the five to six month timeline.

Ms. Brown: I disagree. We wouldn't let a restaurant open up until it met code. Even though they gotta make business to… or money to stay in business, we would make that restaurant, before they opened up to the public, meet code.

Mr. Kim: That's up to the health department.

Ms. Brown: Well, yeah, but the health department might get involved in this bathroom situation, fire suppression stuff… I mean, I…

Mr. Grimes: But in terms of compliance with the development requirements, again, is a completely separate issue from the building code. So, he can be in compliance with all these and still not have an occupancy permit to operate his business because he doesn't have an occupancy permit from the building code, if I understand the process. So, we can put a timeline on here and say he must comply within six months. That's great. It doesn't do anything about the building code and an occupancy permit to actually use that for a business. Again, this applies to these development conditions only.

Mrs. Stefl: Well, has he been told by the County to cease business there?

Mrs. Musante: No.

Mrs. Stefl: Okay.

Mr. Grimes: The only violation he's received is for the sign, and the sign's been taken down.

Mrs. Stefl: Right. So now we're telling him to stop doing his business to become compliant (inaudible).

Dr. Larson: I think what we're telling him is this Special Exception is not effective until the conditions are met, and that they should be met within six months.

Ms. Brown: Yes.

Mr. Grimes: That I would agree with.

Mr. Kim: That I agree with.

Mr. Grimes: But limiting his ability to operate by (inaudible).

Dr. Larson: We don't have the authority to tell him to stop work.

Mrs. Stefl: Well, that's…

Ms. Brown: Well, can you operate a business without a permit?

Mrs. Stefl: … what she was trying to do.

Mrs. Musante: Technically no, but he has followed the process that he has been directed to do. So it's been office policy not to shut them down as long as they comply with what we have asked them to do, and he has.

Dr. Larson: Okay, and that's County's procedure and outside of our purview. So, let's continue discussing conditions, if there's any other discussion.

Mr. Davis: What happened… I lost track… what happened to the sign condition?

Dr. Larson: What's your question?

Mr. Davis: The directional sign?

Mrs. Stefl: (Inaudible – microphone not on).

Dr. Larson: Uh, we didn't go with that.

Mrs. Stefl: (Inaudible – microphone not on) garage kind of gate system that opens and closes. And I don't know, are we looking for something to be erected on that or is it a (inaudible) to enter and exit the property (inaudible) Kellogg Mill?

Dr. Larson: I think it's up to the business owner to handle the condition. We've levied the condition; if he wants to put up signs or if he wants to do it verbally or if he wants to put it on a document, that's up to him. But the business traffic has to enter off the Kellogg Mill Road, enter and exit.

Mrs. Musante: Can we just go through the conditions, and then if I have something wrong, you all stop me? Because you lost me about three conditions ago.

Dr. Larson: Sure.

Mrs. Musante: Okay. Number 1: Days and hours of operation, Monday through Saturday 8:30 a.m. to 9:30 p.m.; Sunday 12:00 p.m. to 5:00 p.m.

Mrs. Stefl: I thought we were looking to limit the late…?

Dr. Larson: We didn't have that discussion. I think you asked the discussion but it wasn't brought up. Did you want to discuss that now?

Mrs. Stefl: Well, I'm not… I mean, at 9:30 at night, dark, Poplar, Kellogg, and as much as we're discussing the safety of that intersection, we're at a very late hour at that point.

Ms. Brown: Well, people have to come from after work and stuff, too.

Mrs. Stefl: But there is Sunday and Saturday.

Dr. Ackermann: But in the… when he's busiest, January, February, March, it's dark at five o'clock. Right? I mean, so the darkness is an issue… I mean, I agree with you. I think 9:30 is late, you know, but I think we can't do a darkness argument on that because when this is, when he's at his height, you know, five to seven months from now, and that's when everybody's going to be there. I mean, not everybody but I'm sure a lot of his business will be there, from what he says.

Mrs. Stefl: (Inaudible – microphone not on).

Dr. Ackermann: But, you know, when you say 9:30 p.m., do we mean that everybody has to leave by 9:30? Or no new clients after 9:30 p.m.?

Dr. Larson: Because hours of operation are 8:30 a.m. to 9:30 p.m., so he stops operating at 9:30 p.m.

Dr. Ackermann: Okay.

Dr. Larson: That's the way I read it.

Ms. Brown: I'm willing to go to nine o'clock like most retail establishments, if you think that would be consistent. You know, stores close at nine… I don't know.

Mr. Kim: I'm okay with the 9:30 because we don't know what his clientele… I mean, if his clientele are a bunch of bartenders, that's technically early. So I don't want to dictate what is early and late for him. And five o'clock it is dark, so the darkness argument really isn't there is just what I was thinking. So, if it's 9:30 once, I'm okay with the 9:30. I don't think we need to put (inaudible – microphone not on). I mean, that's just my two cents. I just don't think a half hour makes any difference because I don't know his clientele.

Dr. Larson: Any other discussion about the hours of operation? Okay Melody, could you start over please?

Mrs. Musante: Yes. Days and hours of operation, Monday through Saturday, 8:30 a.m. to 9:30 p.m.; Sunday 12:00 p.m. to 5:00 p.m. Number 2: provide 7 off-street parking spaces, two for employees and five for clients and delivery vehicles. Spaces shall be marked and be 8½ feet wide and 18 feet long. Number 3…

Ms. Brown: I thought we had maximum inserted in there?

Dr. Larson: Yeah, provide maximum of.

Mrs. Musante: Number 3: clients by appointment only. Number 4: monument sign not to exceed 8 feet in area nor no higher than 5 feet in height.

Dr. Larson: Eight square feet in area, just to be correct.

Mrs. Musante: Monument sign not to exceed 8 square feet in area and no higher than 5 feet in height. Number 5: must comply with all state and local codes. Number 6: approval of this Special Exception for tax and accounting services will expire when this applicant vacates the property and is non-transferrable. Number 7…

Mr. Grimes: I'm sorry, on number 6, you do have the word 'only'?

Mrs. Musante: Approval of this Special Exception for tax and accounting services only will expire when this applicant vacates the property and is non-transferrable.

Mr. Grimes: Thank you.

Mrs. Musante: Number 7: this approval may be revoked by the Board of Zoning Appeals for non-compliance of the conditions of approval. Number 8: access to the business shall use Kellogg Mill entrance only. Number 9: no additions to the size of the accessory structure being used as the office. Number 10: no outside storage associated with the business. That's where I stopped.

Mr. Grimes: I believe Ms. Brown wanted to add a number 11… I don't know if you want to use the verbiage… but the applicant will be in compliance within six months.

Ms. Brown: Yes, (inaudible – microphone not on). That sounds fine too. Let's use his; that's nice and short.

Dr. Larson: Do you have wording for that last one?

Mrs. Musante: Applicant will be in compliance by six months of approval of this Special Exception.

Dr. Larson: In compliance of these development conditions.

Mrs. Musante: Of these development conditions.

Dr. Larson: Any other discussion on the conditions? Okay, I'm going to ask the client or the client's representative to come up and get a feeling for how acceptable or how much heartburn the client has for this on these conditions.

Mr. Leming: We've spent a lot of time and effort working on these conditions now. The question to you, is anything that has been imposed here something that you don't feel like you can work with?

Mr. Buadu: No, there's nothing…

Mr. Leming: You've never done this before either.

Mr. Buadu: Yeah. I'm okay, I'm just looking at a six month timeline and the detailed requirements. With the parking signs, my understanding is they all have to indicate spots for parking and I don't have to do any major (inaudible) of putting down gravel.

Mr. Leming: Well, the driveway's paved. The conditions say that he has to mark the parking spaces.

Dr. Larson: Right. I mean, I don't know what the, you know, paved area looks like. But off-street parking spaces, that'll be handled by the County, what they find acceptable for off-street parking.

Mr. Buadu: Okay. That's about it I think. I'm okay with the conditions.

Dr. Larson: Okay.

Mr. Leming: Six months.

Mr. Grimes: Are you okay with the six months?

Mr. Buadu: Yeah, that's fine. I'm (inaudible) the driveway because if I have to do the parking, six months is a little… cutting it too…

Mr. Grimes: Well, I'd like to offer that it states in the development condition that the spaces need to be marked.

Mr. Buadu: Okay.

Mr. Grimes: We're not asking you to build new spaces.

Mr. Leming: Right.

Mr. Grimes: Simply mark them on your existing driveway to meet the requirement of 8½ feet by 18 feet long. It should be pretty straightforward. I'm not sure if the County… we had a similar case not too long ago… still allows parking on the grass.

Mr. Leming: But you'd have to keep remarking it.

Mr. Buadu: Yeah, that's fine then.

Mr. Grimes: Well, it could be done with steaks or popsicle sign posts, but that will go through the building review I would assume. But I looked at your driveway and I, you know, seeing how you mark those spaces out shouldn't be too difficult.

Mr. Buadu: No. Thank you. Six months will be fine then.

Dr. Larson: We'll leave that… that's left to the County. That's their procedures and their decision; what they decide as adequate parking is what we're talking about.

Mr. Buadu: Okay.

Mr. Leming: Thank you all for your courtesy.

Mr. Buadu: Quick question though. On the Poplar Road side, we've had issues with people crossing from Poplar to Kellogg. And…

Mr. Leming: Along your driveway.

Mr. Buadu: Yes. We're planning to put a gate up on the Poplar Road side and I don't know if that will suffice to kind of help customers come in on the Kellogg side and then…

Dr. Larson: It might encourage them, yeah.

Mr. Leming: It'll encourage them.

Mr. Buadu: Okay. Well, then that's something (inaudible).

Dr. Larson: However you want to handle it as a business owner, it's just that your business is required to use the Kellogg Mill Road for both access and exit.

Mr. Buadu: Okay, good. Thank you.

Dr. Ackermann: I just wanted to say that (inaudible) says provide a maximum of seven spaces. The applicant could make one space and meet that.

Dr. Larson: No, I think the minimum is three.

Dr. Ackermann: Oh, okay. (Inaudible).

Dr. Larson: You must have a minimum of three spaces to satisfy the County. The condition is a maximum of seven. So, if you don't get to seven, that's still okay.

Mr. Leming: As long as you've got three.

Dr. Larson: As long as you've got three.

Mr. Buadu: I'll shoot for three.

Dr. Larson: Okay.

Mr. Buadu: Okay, thank you.

Dr. Larson: Alright, thank you very much.

Mr. Leming: Thank you all.

Dr. Larson: Appreciate it. Is there a motion to be offered?

Ms. Brown: I motion to approve the conditions as we discussed.

Mr. Grimes: I second.

Dr. Larson: Okay, I have a motion by Ms. Brown and seconded by…

Mr. Grimes: Just on the conditions. I don't know if she's approving the Special Exception.

Ms. Brown: Yes I am. On the conditions that were discussed.

Dr. Larson: With the conditions.

Mr. Kim: Just the conditions or the whole (inaudible)?

Ms. Brown: The whole package.

Mr. Kim: The whole thing?

Dr. Larson: Could you state your motion again Ms. Brown?

Ms. Brown: I motion that we approve this Special Exception with the conditions that we said. How's that?

Dr. Larson: Okay, I have a motion by Ms. Brown and…

Mr. Grimes: And I would second the motion for approval of SE15-06/15150789 with the development conditions as presented.

Dr. Larson: Okay, seconded by Mr. Grimes. The Chair recognizes Ms. Brown for any comments on why she made the motion.

Ms. Brown: No. I'm happy with the conditions.

Dr. Larson: Very good. Does any other member have questions or comments pertaining to the case?

Dr. Ackermann: I just want to say that I would support the motion because I think we've discussed it thoroughly and considered… hopefully provided some consideration to people who live in the neighborhood and also to this request for a home business.

Dr. Larson: Any other discussion?

Mr. Davis: I'll agree with that. We've beat this horse to death.

Dr. Larson: Yes, I'm going to support the motion as well because not only do I think the business owner can do what he wants, but I think we made a valid effort to maintain the character of the rural neighborhood that it's in. Any other discussion? Those in favor say aye.

Dr. Ackermann: Aye.

Mr. Davis: Aye.

Mr. Kim: Aye.

Mr. Grimes: Aye.

Ms. Brown: Aye.

Mrs. Stefl: Aye.

Dr. Larson: Aye. Any opposed? Motion carries 7-0.

Mr. Leming: Thank you all.

Mr. Buadu: Thank you.

Mr. Leming: Mr. Chairman.

Dr. Larson: Sir.

2. A15-03/15150811 – H. Clark Leming for Austin Park Development, LLC - Per Stafford County Code, Section 28-349, "Appeals to board generally," the applicant is appealing a Zoning Administrator's determination letter dated June 26, 2015, regarding vested rights on Assessor's Parcel 30-7H (known as Austin Park). The property is zoned B-2, Urban Commercial.

Mr. Leming: Can I make a suggestion? Before you get to the next matter… actually it's two-fold. Number one, as usual, I've been doing more than my share of talking so I need to get a drink and take a little break here, number one. Number two. You all have… it's taken, well, because of your thorough deliberation, we are now at 8:45 here. And we are about to embark upon a case that is infinitely more complex than the Special Exception. I, uh, about 4:30 this afternoon, I received an email forwarded to me from Mr. Harvey containing an email from Mr. Apicella, who thought he might be sitting with the Commission… the Board tonight. It contained a… I don't know if any of you have seen it… but it contained an extremely lengthy list of additional materials that he wanted to be produced and about 10 questions for the applicant. Now, I think the questions that he raised are germane; they're certainly to the point. I cannot tell you that I've had time to thoroughly go through them. He wrote this, I think, in anticipation that he might be participating tonight, number one. Number two, he asked that the BZA consider this his public statement even if he's not participating. I have gathered together as many of the things in anticipation that he might be here. I gathered together as many of the things as I could, I think, and I mentioned to Mr. Harvey some other things that maybe the staff would have. But, given the hour and what I think is going to be a, at least, as lengthy a discussion about this vesting case as we've spent on the Special Exception, I would not be disappointed at all, and if the BZA is willing to entertain it, I would even request that the matter, that matter, be deferred. I think when there's a complicated matter like that, particularly with the volume of materials that has been requested here, over and above anything that you've seen in your packages, another which I can't say is not germane, but it probably makes sense to start with a case like that at your 7 o'clock hour rather than at 8:45. I know that I cannot possibly respond to the questions that he raised to the extent the BZA wants me to. I think what, do I have a 10 minute presentation limit here? But I think there will be many, many questions that will be generated, if not by his email, based on the

questions that I've heard you ask about the Special Exception and these conditions, certainly many more than that because of the complexity of the issue. At a minimum…

Mr. Kim: I agree with you.

Ms. Brown: I do too.

Mr. Kim: When I ready Steven's email, I was like are you serious? We just don't have the time and I remember saying we're a couple hours away from the meeting and I don't know how germane it is or how important we see this, I don't know if that's how we can determine that, but I agree with you.

Dr. Larson: Well, vesting cases are typically complicated. I expect this one to be no different than in our previous experiences. The email by Mr. Apicella, actually I never actually got it. I got it when you forwarded to me which I don't understand that. But anyway, if we were to entertain those, we would have made them public as we entertained them and in the BZA. On the other hand, if we deferred, it would give everybody, including the staff and you, a better chance to prepare for the case in light of those questions, which I actually thought some of which were very germane.

Mr. Leming: They're good questions, many of which we would have discussed; no question about that. But my thought was probably you all are going to, in light of the questions that have been asked and the materials requested, you all are probably going to want to take action at a later date anyway.

Dr. Larson: Does the staff have any comment on deferral of this case? Any feeling one way or the other?

Mrs. Musante: The only thing is, we do have an appeal scheduled for September that Mr. Leming's firm is also representing. So, we will have two appeals for September. The second one is an appeal of a Notice of Violation.

Mr. Leming: It's not a vesting case.

Mrs. Musante: It's not a vesting case.

Mr. Leming: It's an appeal of a violation notice.

Mrs. Musante: Those are the only two cases… would be the only two cases we would have for next month.

Ms. Brown: Mr. Chair?

Dr. Larson: Yes, Ms. Brown.

Ms. Brown: I did receive the email late also. I think it was forwarded to me. But it had some very good questions on that I was trying to incorporate into my stuff tonight. I would appreciate having the extra time. That's just me.

Dr. Larson: Is there a motion on this?

Mr. Davis: I motion to defer.

Mr. Kim: I second the motion on A15-03-15150811 to defer.

Ms. Brown: Deferred to…?

Dr. Ackermann: But this is a deferral requested by the applicant. Is it? I mean, because a deferral can only be once every 12 months.

Mr. Leming: I'm fine with that. It's okay.

Dr. Larson: Alright, that's fine.

Ms. Brown: Are we deferring to next month or October or…?

Dr. Ackermann: Next month.

Dr. Larson: Next month.

Mr. Kim: Okay, but you're okay with the…?

Mr. Leming: And rescheduling it is really at your all's pleasure. If you're concerned about your… the other case next month, I don't know what you have scheduled for October. I don't think we want to go any further than that. But that's your all's call. Whatever you want to do.

Dr. Larson: Well, we'll reschedule it for next time. So, there's a motion to defer the cited case and a second on the floor. Any more discussion on the motion? All those in favor say aye.

Dr. Ackermann: Aye.

Mr. Davis: Aye.

Mr. Kim: Aye.

Mr. Grimes: Aye.

Ms. Brown: Aye.

Dr. Larson: Aye. Any opposed?

Mrs. Stefl: Nay.

Dr. Larson: Okay, we have 6 for and 1 against.

Mr. Leming: Thank you and I withdraw my request to go get a drink of water.

Dr. Larson: Thank you Mr. Leming.

Mr. Leming: Thank you. Thank you gentlemen and ladies.

Dr. Ackermann: Do we still want to take a break?

Dr. Larson: We're going to take a five minute recess anyway because I had a catastrophic loss of information when it fell and I can't even the agenda here. So, five minute break.

Recess - 8:46-8:50

UNFINISHED BUSINESS

Dr. Larson: Okay, we're back in session. In accordance with the agenda, is there any Unfinished Business?

Dr. Ackermann: Could I just ask, these materials are distributed for us to look over by the vesting…?

Mrs. Musante: That's for the next…

Dr. Ackermann: Andrew McRoberts.

Mrs. Musante: Correct.

Dr. Ackermann: Thank you.

Mr. Kim: So just keep this?

Mrs. Musante: Yes.

Dr. Larson: I actually attended that course and it is excellent. Other Business. Were we doing a plaque for Greg Poss, the one with the little gavel on it?

OTHER BUSINESS

Mrs. Musante: Yes we were. And I'm glad you mentioned it because I don't know what the status is on it (inaudible).

ADOPTION OF MINUTES

July 28, 2015

Dr. Larson: Please check that. Okay, we can deal with it offline. Minutes. Okay. We have the minutes of July 28th in front of us. Are there any corrections to the minutes?

Ms. Brown: I had one small one.

Dr. Larson: Go ahead.

Ms. Brown: And I don't know if I can correct it, but it might have been said this way. Page 23, line 1134, I was taking care of a wasp sting. A multiple three-prong…

Mr. Kim: What's that?

Ms. Brown: I got stung by a wasp three times in rapid succession sitting up here last time. It wasn't a bee because bees can only sting once. Or a hornet, I'm not sure. Oh yes. We had to take a recess.

Mrs. Stefl: It was huge!

Mr. Kim: What?

Mrs. Stefl: Yes. Oh, that's right, you were gone last time.

Ms. Brown: I've never been stung and I didn't realize they inject…

Mrs. Stefl: Right on her breastbone.

Ms. Brown: It went down my shirt and stung me three times and injected poison. And it kind of paralyzed my chest because I didn't know whether I was having an anaphylactic reaction or not, so…

Mr. Kim: But you're okay.

Ms. Brown: I am. It took three weeks for it to go away.

Mr. Kim: Well, what's your correction to the minutes?

Ms. Brown: It was not a bee, it was a wasp because I was stung multiple times.

(Inaudible – microphone not on and multiple people speaking).

Ms. Brown: He took care of it. While I was gone, he managed to capture and kill. And I think he can verify that it was a hornet or a wasp.

Mr. Grimes: We didn't record the capture and kill. Oh that's right, we were in recess.

Ms. Brown: I needed a minute to gather myself. It was hard to breath for a few minutes so I needed to leave to meeting and so we stopped the proceedings.

Dr. Larson: Okay, well…

Ms. Brown: I just wanted to change bee to wasp.

Dr. Larson: One of the more interesting BZA meetings. Any other corrections to the minutes?

Mrs. Musante: Mr. Chairman, Mr. Apicella sent a few items if we could go over those.

Dr. Larson: Yes, please.

Mrs. Musante: Page 9, line 402, should be 'reduce' instead of 'produce'. Page 16, line 791, should be 'bent' instead of 'bend'. And page 17, line 840, should be 'got' instead of 'go'.

Dr. Larson: Okay. And I'm assuming those are the kind that get in parenthesis, right?

Mrs. Musante: She said no.

Dr. Larson: You can just…?

Mrs. Musante: We can change those because he was at the actual meeting, correct?

Dr. Larson: Okay. Any other corrections? Hearing none.

Dr. Ackermann: I move we accept the minutes as presented with corrections.

Dr. Larson: There's a motion to accept the minutes. Is there a second?

Mr. Grimes: I second.

Dr. Larson: All those in favor say aye.

Dr. Ackermann: Aye.

Mr. Davis: Aye.

Mr. Grimes: Aye.

Mrs. Stefl: Aye.

Dr. Larson: Opposed? Abstain?

Mr. Kim: Abstain.

Dr. Larson: Abstain.

Ms. Brown: I forgot to say aye, but I meant to say aye.

Dr. Larson: Okay, there's 5 ayes, 2 abstentions. Zoning Administrator's Report?

ZONING ADMINISTRATOR'S REPORT

Mrs. Blackburn: I have nothing at this time.

ADJOURNMENT

Dr. Larson: Is there a motion to adjourn?

Mr. Kim: Motion to adjourn.

Dr. Ackermann: Second.

Dr. Larson: Those in favor?

Dr. Ackermann: Aye.

Mr. Davis: Aye.

Mr. Kim: Aye.

Mr. Grimes: Aye.

Ms. Brown: Aye.

Mrs. Stefl: Aye.

Dr. Larson: Aye.

With no further business to discuss, the meeting adjourned at 8:56 p.m.