

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES

November 25, 2008

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, November 25, 2008 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Ernest Ackermann in the Board of Supervisors Chambers. Mr. Ackermann introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Mr. Ackermann stated the Bylaws of this Board state the applicant would be allowed up to ten minutes to state their case, the other speakers would be allowed three minutes to testify, and the applicant would be allowed three minutes for rebuttal.

Members Present: Ernest Ackermann, Larry Ingalls, John Overbey, Steven Beauch, Robert Gibbons and Dean Larson

Members Absent: Cecelia Kirkman

Staff Present: Rachel Hudson, Zoning Administrator
Melody Musante, Senior Zoning Technician
Aisha Hamock, Recording Secretary

Mr. Ackermann asked if there were any changes to the advertised agenda.

Ms. Hudson stated yes, the Brook Fire Safety Association sent a fax requesting a deferral of the Variance.

DECLARATIONS OF DISQUALIFICATIONS

None

PUBLIC HEARINGS

- 1. SE08-9/2800630 - CHARLES WILLIAMS** - Requests a Special Exception per Stafford County code, Section 28-35, Table 3.1, "District Uses & Standards", to allow the keeping of a horse on a three-acre or larger lot on Assessor's Parcel 45-35C & 53-1D. The properties are zoned R-1, Suburban Residential, located at 117 Musselman Road.

Ms. Hudson read the staff report. She stated the applicant is requesting a special exception to keep a horse on this R-1 zoned property. She stated Mr. Williams believed that he could again keep a horse on his property as he had done so before. She stated he has not had a horse on the property since 1999 therefore had lost the nonconforming use to do so. She stated Stafford County's Zoning Ordinance allows someone to apply for a special exception to keep horses or ponies on R-1 property if the parcel is three (3) acres or larger. She stated the Zoning Ordinance also addresses special regulations in Code Section 28-39(d): 1) Any structure for the housing of said animals shall be at least 150 feet from any property line; 2) Such lots shall be properly fenced to contain said animals; 3) No more than one animal shall be allowed for each two (2) acres of rangeable land. She stated for the purposes of this section, "rangeable land" is an area properly fenced for use by horses, not including house or yard areas. She stated Code Section 28-351 "Grant of Special Exceptions" states that if the Board of Zoning Appeals shall find that the use for which a special exception is sought shall be in accord with stated standards, it may grant the exception, provided that all other provisions of law shall be complied with. She stated Virginia Code 15.2-2309 authorizes the BZA to hear and decide applications for special exceptions and may impose conditions relating to the use for which the permit is granted as it may deem necessary in the public interest. She stated Stafford County Code Section 28-352 authorizes the BZA to impose conditions

***Stafford County Board of Zoning Appeals
November 25, 2008***

regarding the structure or use as it may deem necessary in the public interest. She stated based upon Virginia State Code and County Code authorizing the BZA to impose conditions, the BZA has the ability to limit the duration of a special exception permit, if the BZA determines that the special exception should be approved. She stated the shelter on the property did not meet the 150 feet setback from every property line. She listed development conditions 1) to limit the duration of the Special Exception to five (5) years; 2) specify the location of the two (2) acres rangeable fenced land; 3) provide shelter for the horse, keeping a minimum of 150 feet from all property lines and consider the orientation of the shelter.

Mr. Gibbons asked if the public hearing was re-advertised because of the addition of the two (2) acres.

Ms. Hudson stated yes.

Mr. Gibbons asked if the difference between this public hearing and the last meeting was that there could be a limit set for the Special Exception rather than running with the property.

Ms. Hudson stated yes.

Mr. Gibbons asked if the time limit could be set for a five (5) or ten (10) year period and after a certain amount of time the Special Exception could be renewable.

Ms. Hudson stated that could be done.

Robert Williams, 121 Musselman Road, stated he was the nephew of the applicant. He stated the only request the applicant had was that he be allowed to have the horse for the remainder of his life plus one (1) year. He stated the applicant would like to keep the lot the way it was and keep the stall in the location it was currently located. He stated the applicant did not want any more undo hardship then necessary.

Mr. Ackermann asked how close the barn was to Musselman Road currently.

Mr. Williams stated it was approximately 100 yards, 300 feet to the road. He stated the closest the stall came to a property line was his property that adjoined the applicant property. He stated the stall did nt bother him because they were family.

Mr. Gibbons asked Mr. Williams at the last meeting if the horse could be located on the back parcel. He asked if he was stating that the applicant did not want the horse to be on the back parcel.

Mr. Williams stated the applicant would still use the back parcel and would also like to continue to utilize the stall currently used. He stated the stall would be no closer to Musselman Road than currently located.

Mr. Overbey stated at the last meeting, the issues that were raised were that the horse was on the front parcel. He stated what he was hearing was that the applicant was not willing to compromise with the neighbors.

Mr. Williams stated he would like to compromise and the horse was 300 hundred feet from the road.

Mr. Overbey stated that was still to close for the neighbors.

Mr. Williams stated that one of the neighbors moved.

Mr. Beauch stated he heard the neighbors complaining that the horse had access to the area all the way to the fence on the road.

Mr. Williams stated the horse had never had access to that area.

***Stafford County Board of Zoning Appeals
November 25, 2008***

Mr. Ingalls stated the Ordinance did not give the BZA any discretion regarding the shelter. He stated there were three (3) conditions listed and would not be able to change the ordinance in place.

Mr. Williams asked if the horse could continue to use the paddock being used as rangeable acres and move the stall further back.

Mr. Ingalls stated the Ordinance as written states: Any structure or the hosing of said animal shall be at least 150 feet from any property line.

Mr. Williams stated he realized that and asked if the part of the lot could be used as rangeable acres. He stated the stall could be used for hay and grain.

Mr. Ingalls stated if the Board were to approve the rangeable land, how could the area be described so that everyone would know the area being considered.

Mr. Williams stated from Musselman Road to the lot the horse is located in would be approximately 300 feet and use from there back as rangeable acres.

Mr. Ackermann stated that adding the second parcel to the application would have no affect on the proposal. He asked if there would be a restriction on where the horse would be housed.

Mr. Williams stated the horse could be moved farther to the back of the property. He stated the applicant would still like to use the area as rangeable land.

Mr. Ingalls asked what Mr. Williams asked for regarding the time.

Mr. Williams stated the applicant would like to have the horse for his life plus one year so the family could find a suitable place for the horse.

Mr. Overbey asked how old the horse was.

Mr. Williams stated 6 ½ years old.

Mr. Overbey asked what the normal life span of a horse was.

Mr. Williams stated between twenty-five (25) and thirty (30).

Mr. Ackermann opened the public hearing for public comment.

Tucker Williams, 10001 Landing Road, stated he was the brother of the applicant. He stated he could not understand why the BZA would not allow the applicant to keep his horse. He stated his family had been at the farm since 1944 and had always had animals and horses on the property. He stated regarding the 150 feet; his son would sign a waiver that stated the horse would be allowed to be close to his property. He stated the applicant would like to keep the horse until he passed away. He asked the Board to allow his brother to keep his horse.

Sam Musselman, 118 Musselman Road, stated he had been living in the house he built since 1957. He stated the brother of the applicant came over to discuss the situation of the horse being in the front of the property. He stated if the applicant put the horse at the back of the property, there would be no problem. He stated Tucker Williams advised him a week after their conversation that the applicant wanted to keep the horse on the front of the property, which was a third of the property. He stated the flies were so bad that you would not be able to eat outside on a picnic table. He stated the horse would come down to the fence on the road. He

***Stafford County Board of Zoning Appeals
November 25, 2008***

stated he would not have a problem if the applicant put on the horse on the backside of the property and would be out of site from the neighbors.

Mr. Ingalls asked Mr. Musselman for the distance to the back of the property from Musselman Road.

Mr. Musselman stated he did not have a problem with 300 feet from the road.

Mr. Ingalls asked if Mr. Musselman would agree to allow the horse be to 300 feet from the road.

Mr. Musselman stated he would prefer to have the horse be on the back parcel. He stated he would agreeable to the area from the barn to the back of the property for the horse.

Harry Crisp, 1465 Kings Highway, stated he was the George Washington District Supervisor and had requested a deferral at the last meeting for the Board of Supervisors to determine whether it was feasible to amend the Zoning Ordinance to allow horses in R-1 zoned property with a Conditional Use Permit (CUP); if so the Board could grant the CUP and set an expiration date for the applicant to have his horse on his property. He stated the Board of Supervisors consulted with the County Attorney regarding the options; the County Attorney agreed that would be an option but that it may take four (4) to six (6) months to make a change to the Zoning Ordinance. He stated the County Attorney also suggested that the BZA could proceed to grant the Special Exception and set an expiration date. He stated this item was discussed at the first Board of Supervisor meeting in November and it was the Board's consensus that the BZA should proceed to consider this item and grant the Special Exception with an appropriate expiration date.

Mr. Ackermann asked if the applicant wanted to respond or add additional information.

Mr. Williams stated the applicant had several chickens on the back of the property that would need to be moved and asked if he would be able to house the animals at the front of the property.

Mr. Ackermann referred to the Zoning Administrator.

Ms. Hudson stated the applicant was grandfathered for the different types of birds.

Mr. Williams stated the birds would be moved to make room for the horse in the back.

Mr. Ingalls asked if there was room for both in the back parcel.

Mr. Williams stated the applicant had several birds on the property.

Mr. Ingalls asked how the applicant would take care of the manure on the property.

Mr. Williams stated the applicant would move the manure to the backfield to be spread for fertilizer.

Mr. Ingalls asked if there would be a problem with a condition that any manure be moved to the back of the property.

Mr. Williams stated that would be fine.

Mr. Ackerman closed the public hearing for public comment.

Dr. Larson asked if the timeframe could be based on an event rather than a segment of time.

Ms. Hudson stated yes.

*Stafford County Board of Zoning Appeals
November 25, 2008*

Motion:

Mr. Overbey made a motion to approve SE08-9/2800630 with the following conditions: the shelter provided for the horse would be 150 feet from all properties lines, the horse be kept no further forward than existing shelter recently built and the Special Exception be granted for ten (10) years and may be reviewed and renewed another five (5) years.

Mr. Gibbons seconded the motion.

Mr. Overbey stated he made the motion because the applicant had always had animals on his property long before the development of the area. He stated the Board should also consider that the area had become developed and the neighbors had a right to live there and be comfortable. He stated by placing the restrictions on the exception, the Board would meet the criteria and allow the applicant to keep the horse.

Mr. Beauch offered a friendly amendment and suggested the a conditions be that no animals or live stock would be kept in front of existing shelter.

Mr. Overbey accepted the amendment.

Dr. Larson clarified if that would be 150 feet.

Mr. Overbey stated any shelter to keep the horse in would have to be 150 feet and could use existing shelter for storage.

Mr. Ackermann stated the duration of ten (10) years with a review in five (5) years seems to be contrary to what the County Attorney was saying. He stated the Exception could be limited to a specific number of years if need be and could later be extended if requested. He stated a condition could state the Special Exception could be limited to ten (10) years and could be reviewed for extension at that point.

Mr. Beauch made an amendment to review at five (5) years with the option for renewal then.

Mr. Overbey accepted that amendment.

Mr. Ingalls stated he wanted to offer a few more conditions: that the applicant must meet the requirements of the current Zoning Ordinance section 28-39(d) as listed: (1) any structure for the housing of said animals shall be at least one hundred fifty (150) feet from any property line; (2) such lots shall be properly fenced to contain said animals; (3) no more than one animal shall be allowed for each two (2) acres of rangeable land. For the purposes of this section, "rangeable land" is an area properly fenced for use by the horse, not including house or yard areas. He stated he would also like to include the condition that the maximum number of horses at any time shall be one (1), tax map parcels 45-35C and 53-1D shall not be subdivided or reduced in acreage, horse feed must be kept in rodent proof containers and disposal of manure shall be moved to the rear of the property behind the existing hay barn shown on sketch of the property.

Mr. Overbey accepted the amendments.

Mr. Ackermann asked for a recap of the conditions.

Mr. Overbey read all of the conditions.

Stafford County Board of Zoning Appeals
November 25, 2008

Ms. Hudson asked if the duration of five (5) years should include being renewed to additional five (5) years.

Mr. Overbey stated it should be renewed.

Mr. Ackermann stated the Special Exception could be extended if requested.

Mr. Ingalls stated he would hope that the applicant would not be put through hearing process to ask for an extension after five (5) years.

Mr. Ackermann stated the Board would need to discuss the mechanism for renewal.

Mr. Overbey stated that would be a question for the County Attorney.

Ms. Hudson stated if the zoning office received complaints and the applicant was not in compliance with the conditions, the applicant would then be in violation. She stated if the violations were not corrected, the Zoning Administrator would recommend the BZA to revoke the Special Exception.

Mr. Overbey stated the Board did understand that.

Ms. Hudson asked of the language should read that the duration of the Special Exception shall be five (5) years and may be extended if requested.

Mr. Ackermann stated that was corrected.

Mr. Ingalls stated the Special Exception could be renewed for an additional five (5) years upon review of staff and the BZA.

Vote:

The motion to approve application SE08-9/2800630 with conditions listed passed 6-0.

Mr. Ackermann – yes

Ms. Kirkman – absent

Mr. Ingalls – yes

Mr. Overbey – yes

Mr. Gibbons – yes

Mr. Beauch – yes

Dr. Larson – yes

- 2. V08-4/2800632 - BROOKE FIRE SAFETY ASSN INC** - Requests a Variance from Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", front yard requirement, to allow an addition to an existing nonconforming structure on Assessor's Parcel 39-101F. The property is zoned A-1, Agricultural, located at 222 Andrew Chapel Road (Brooke Fire Station).

Mr. Ackermann stated this item would be deferred to the January BZA meeting.

- 3. V08-7/2800692 - JOSEPH & BETH FALK** - Request a Variance from Stafford County Code, Section 28-62(g)(2)f.2.(a)&(c) "General Performance Criteria" for an existing retaining wall constructed to stabilize a steep slope on Assessor's Parcel 21B-800. The property is zoned R-1,

*Stafford County Board of Zoning Appeals
November 25, 2008*

Suburban Residential, located at 1411 Aquia Drive, Aquia Harbour Subdivision.

Mrs. Musante read the staff report. She listed the items the members received with their staff reports. She stated the dwelling was built in 1989, a permit to construct a pier/ dock was issued October 22, 1998, a permit to construct a bulkhead was issued July 9, 2007, permit to repair existing bulkhead was issued October 31, 2008, a permit to repair an existing vinyl retaining wall, which was constructed without a permit was placed on hold pending BZA approval and a permit for a deck was issued October 31, 2008. She stated a building permit application for the retaining wall above the water line was submitted in June 2007 and CBA review was completed on July 2, 2007. She stated the Department of Planning was informed by Chesapeake Bay Local Assistance department that a Variance was required for any wall outside of the Wetlands Board jurisdiction on October 16, 2007, therefore, the wall was built when the county only required a building permit and a Major Water Quality Impact Assessment for the impacts to the RPA along the shoreline. She stated a permit application to repair the wall was approved in October 2008 and these repairs were to replace pilings that were too short to hold the tiebacks for the wall. She stated the wall itself was not modified or moved. The existence of the upper wall for which the Variance was being requested was discovered during a site visit to inspect the repairs on the original wall. She stated Mike Lott and James Staranowicz were here to answer any questions.

James Staranowicz, Department of Code Administration Environmental Division, stated some background on the property. He stated the property was located on Aquia Channel. He stated Aquia Channel was a manmade perennial water body and was protected by a Critical Resource Protection Area (CRPA) buffer. He stated the 100 foot CRPA buffer covered a portion of the lot as shown on the plat of survey. He stated the house does not encroach into the CRPA buffer and the lot was flat until approximately eighty-five (85) feet from the house where there is an abrupt fall of five (5) feet to a flat area behind a new bulkhead. He stated the property was shown in FEMA zone X shaded, which was an area outside of the 100 year flood plain but within the 500 year flood plain. He stated the County's flood hazard area overlay district requirements apply to properties located in the 100 year flood plain, therefore, those requirements were not applicable to this project. He stated the applicant proposed to complete the construction of the one retaining wall, shown on the attached plan. He stated construction of the retaining wall commenced without necessary building permits or approvals. He stated the proposed retaining wall would be between four (4) and five (5) feet tall and this wall would be located within the seaward fifty (50) foot CRPA buffer. He stated the BZA should consider the requirements of section 28-62(1); when considering the request for Variance to the requirements of Chesapeake Bay preservation. He stated if the BZA was inclined to approve the request, staff recommends the following conditions 1) a building permit shall be obtained for the proposed retaining wall, 2) property owner shall sign and implement the attached mitigation plan, 3) the development on the site shall be in accordance with all appropriate requirements of Chapter 11, Erosion and Sediment Control of the Stafford County Code.

Mr. Gibbons stated he was disturbed by the buffer restoration plan and the penalties that would be placed on the applicants. He asked if staff discussed the mitigation plan with the property owners.

Mr. Staranowicz stated he did discuss the mitigation plan with the applicants. He stated the applicant was aware there would be some type of restoration needed.

Mr. Gibbons asked when the planting should be done.

Mr. Staranowicz stated the planting would be need to be completed by the Spring.

Mr. Ackermann asked if staff was recommending the planting be completed in the spring

***Stafford County Board of Zoning Appeals
November 25, 2008***

Mr. Staranowicz stated the fall season for planting was at an end because of the cold weather setting in and would recommend the plantings for the spring. He stated the plants have a better chance of survival if planted in early spring.

Mr. Ingalls asked if the deadline could be push to June 1, 2009.

Mr. Staranowicz stated yes.

Mr. Ingalls asked if the proposal before the BZA was a reasonable proposal based on the disturbance of the land.

Mr. Staranowicz stated yes.

Mr. Ackermann asked if the Code Administration Department developed the plan and if he thought it was a reasonable plan.

Mr. Staranowicz stated yes.

Mr. Beauch stated he did not understand what trees and shrubs do; he knew the roots held the dirt in place and asked what else they did.

Mike Lott, Environmental Planner, Department of Planning and Zoning, stated that plants uptake nutrients needed for growth, including nitrogen and phosphorus. These are the two primary nutrients that an RPA buffer can uptake, resulting in a reduction in the amount of nutrients entering the bay. Excess nutrients in the bay negatively affect water chemistry and promote algal blooms. The more intact an RPA buffer is the better able it will be in preventing excess nutrients from reaching the bay. He stated that currently there was not much of an existing buffer because the property was developed prior to the enactment of the Chesapeake Bay Act. When there is a disturbance to the RPA, as required by Code, staff asks that the buffer be restored. A planting schedule is used to determine the amount of plantings required and is based on the square footage of impact. He reiterated that the plants would reduce the amount of nitrogen and phosphorus entering the bay.

Mr. Beauch asked if the same result could be achieved by prohibiting the fertilization of the area.

Mr. Lott stated there was no measure to prevent that.

Dr. Larson asked what the cost of the buffer restoration plan.

Mr. Lott stated it should be under \$1000.00.

Mr. Ackermann opened the public hearing for public comment.

Joseph and Beth Falk, 1411 Aquia Drive, stated they bought their house in July 2004. Mrs. Falk stated they bought the house because it had access to the water and would be a great place to raise their children. She stated the house had a large flat backyard and at the end of the yard there was a steep slope to the water; there was a fence at the rear portion of the yard. She stated there was no problem with the layout when they purchased the home. She stated they noticed a large amount of erosion after living in the house and the shoreline was eroding. She stated the neighbors were having similar problems and built a seawall to stop the erosion. She stated every time there was a storm the top surface of the yard would wash away and the slope was steep enough that even if plants could be planted on the slope it would be unsafe to care for any plantings. She stated the rear portion of the back yard was noticeably receding towards their home

***Stafford County Board of Zoning Appeals
November 25, 2008***

resulting in the possible loss of their fence to the incline. She stated they were concerned that an injury could occur from the fence collapsing and there were other safety concerns. She stated their main water sport was kayaking and the kayaks were secured to the slope, which were dangerous to move around on the slope. She stated they hired a licensed contractor to build a seawall with a retaining wall behind it. She stated the contract stipulated that the contractor was to do all of the legwork to obtain the necessary permits. She stated they also hired the contractor to construct a gazebo by the water. She stated they were not aware of the requirements of the Chesapeake Bay Act when they signed the contract. She stated they ensured the contractor was fully licensed by the State, the contractor had been working in Stafford County for many years. She stated the contractor obtained the necessary permit for the seawall but did not obtain the permit for the retaining wall and went ahead with construction. She stated the contractor knew that he was not to start any work without the required permits; the contractor obtain a seawall permit and obtained a building permit, which he used for the retaining wall permit. She stated the permit was believable and had no reason to doubt the contractor. She stated immediately after the construction of the walls they began having problems and they contractor was not returning any calls. She stated in August the seawall and retaining wall looks like they would collapse. She stated it was apparent they needed to hire another contractor, who had the approval of the Environmental Planner with the Department of Planning and Zoning. She stated the new contractor began the process to obtain a permit for a retaining wall and to seek county approval for the gazebo. She stated they were told they only way to keep the gazebo was to have it 80 feet from the water and attached to the house. She stated they were in the process of having a deck constructed so the gazebo could be attached to the deck. She stated the retaining wall would be necessary to protect the back yard and the people who use it. She stated they would do all the planting required by County officials to ensure no adverse impact to the RPA and have no objection to the mitigation plan.

Dr. Larson asked how the applicants discovered that the retaining wall did not have the correct permit.

Mr. Falk stated after the retaining wall started to collapse, he called the County and the county verified the contractor did not have the right permits for construction. He stated the permit for the seawall was for the original seawall built before they purchased the home.

Mr. Ingalls stated the contractor hired built the seawall and asked if that was the wall repaired.

Mr. Falk stated the seawall was not collapsing like the retaining wall, but it was bulging and was very concerned.

Mr. Ingalls asked if the new contractor made repairs to the seawall.

Mr. Falk stated yes and he had made emergency repairs to the retaining wall as well.

Mr. Ingalls asked if the applicant would move the gazebo toward the house and out of the RPA.

Mr. Falk stated they would work with county officials to get the approval needed.

Mr. Ingalls stated there seemed to be a lot of gravel between the retaining wall and seawall and asked what material would go there.

Mr. Falk stated that had not been finalized and would work with county officials to determine a top surface when the contractors was done with the repairs. He stated they would prefer something that would allow drainage.

*Stafford County Board of Zoning Appeals
November 25, 2008*

Mr. Ingalls stated he was concerned that he did not see more impervious cover in that area.

Mr. Falk stated they would work with staff.

Mr. Ingalls asked if there would be steps constructed and what the material would be.

Mr. Falk stated there would be steps constructed from wood.

Mr. Ingalls asked if the applicant would put a fence back up.

Mr. Falk stated yes.

Mr. Ingalls stated based on the questions about the gazebo there were three (3) recommendations listed if the BZA was to consider approving the application. He asked if the BZA should consider adding a condition that the applicants would move the gazebo out of the RPA and up toward the house.

Mr. Staranowicz stated the applicants were granted an administrative waiver to remove the gazebo from the current location and attach to a deck, which would be attached to the house.

Mr. Ingalls asked if the BZA could make it a condition.

Mr. Staranowicz stated yes.

Mr. Ingalls asked about the materials being used.

Mr. Staranowicz suggested to the applicants a mulch bedding and addition of shrubbery in that area.

Mr. Ingalls asked if there should be a condition about the material used to fill the area between the walls.

Mr. Staranowicz stated he did not think it would necessary because that area was calculated as part of the mitigation plan.

Mr. Gibbons asked if the effective date of the planting could be modified to June 30, 2009.

Mr. Staranowicz stated the late June weather would not be suitable for planting and suggested the planting be completed no later than June 15, 2009.

Mr. Gibbons stated that would be ok.

Mr. Ackermann closed the public hearing for public comment.

Motion:

Mr. Ingalls made a motion to grant the request for a Variance with the following conditions: that a building permit shall be obtained for the construction of the retaining wall, the property owner shall sign and implement the attached mitigation plan, the development of the site shall be in accordance with all appropriate requirements of Chapter 11 Erosion and Sediment control of the Stafford County Code, the existing gazebo shall be removed from the area between the sea wall and the retaining and relocated closer to the existing dwelling, the area between the sea wall and the retaining wall shall be of a type of material that was pervious and approved by the Stafford County Code Administration office and on the mitigation plan change the date under number 4 Failure to Restore, under General Conditions to June 15,

*Stafford County Board of Zoning Appeals
November 25, 2008*

2009.

Mr. Gibbons seconded the motion.

Mr. Ingalls stated he made that motion because it met the requirements of the Ordinance for a Variance in the CRPA. He stated the applicant were under some hardship due to the contractor the applicants employed. He stated the offer the applicants made was adequate maintain the spirit of having the CRPA; with the mitigation plan the area could be better then what was there before. He stated the retaining wall did seem to be necessary to prevent erosion of the bank.

Mr. Ackermann stated he agreed with the motion and felt if the appropriate action to take. He stated he was concerned with moving the dates out for the plantings and recommended to the applicants that they did not wait to the last minute to get the plants in the ground.

Mr. Ingalls stated in the mitigation plan it said if the plants did not live the applicant would have to replace them. He stated there were two places that the June 15, 2009 date would need to be updated and should read that the property owners agreed that the restoration of the CRPA shall be completed by June 15, 2009 date.

Dr. Larson stated the motion mentioned moving the gazebo closer to the house and the applicant stated it would need to be 50 feet from the water and asked if the condition could be what was required.

Mr. Ackermann stated the applicants planned to attach the gazebo to a deck that was being built.

Mr. Ingalls stated he would accept that recommendation and modified the condition that the gazebo would attach to the deck that would attach to the house.

Mr. Staranowicz stated the administrative waiver states that gazebo would be no closer then 80 feet from the water.

Mr. Ingalls asked if the condition should state the gazebo be no closer then 80 feet to the water to match the waiver. He stated if the gazebo was attached to the deck, it could be closer then 80 feet and did not want a conflict between the conditions and the administrative waiver.

Mr. Ackermann asked how far the proposed retaining was to the water.

Mr. Staranowicz stated 15 feet.

Dr. Larson asked how far the house was from the water.

Mr. Staranowicz stated 100 feet.

Vote:

The motion to approve application V08-7/2800692 with conditions passed 6-0.

Mr. Ackermann – yes

Ms. Kirkman – absent

Mr. Ingalls – yes

Mr. Overbey – yes

Mr. Gibbons – yes

*Stafford County Board of Zoning Appeals
November 25, 2008*

Mr. Beauch – yes
Dr. Larson – yes

UNFINISHED BUSINESS

None

REPORT BY ZONING ADMINISTRATOR

None

Mr. Ackermann stated according to the bylaws there would be an election of officers at the February meeting. He stated he hopes to have an annual report at the January meeting for review.

ADOPTION OF MINUTES

September 23, 2008

October 28, 2008

Motion:

Mr. Overbey made a motion to defer the September and October 2008 minutes until the January meeting.

Mr. Gibbons seconded the motion.

Vote:

The motion to defer approval of the minutes until the January 2009 meeting passed 6-0.

Mr. Ackermann – yes
Ms. Kirkman – absent
Mr. Ingalls – yes
Mr. Overbey – yes
Mr. Gibbons – yes
Mr. Beauch – yes
Dr. Larson – yes

OTHER BUSINESS.

None

ADJOURNMENT

Mr. Overbey made a motion to adjourn.

Mr. Gibbons seconded the motion.

The meeting adjourned at 8:42 PM.

Robert C. Gibbons, Chairman
Board of Zoning Appeals