

Meeting Minutes of the Bland County Planning Commission for July 11th, 2005.

Members Present:

Jerry Mercer, Elmer Chewning, Allen Newberry, Henry Blessing, John Dodson, Stephen Kelley, Deborah Looney, Guy Boone, and Robert Trobaugh

Members Absent:

R.B. Anderson, Jim Baker

Others Present:

Jonathan D. Sweet - Planning Commission Secretary, Carol Hall - Deputy County Administrator, Jack Whitaker – Applicant, Daniel Chupp - Applicant.

CALL TO ORDER

At 7:00 PM, Planning Commission Chairman, Jerry Mercer called the meeting of the Bland County Planning Commission to order at the Bland County School Board Office, Bastian, Virginia.

ROLL CALL

Planning Commission Secretary Jonathan D. Sweet took the roll call and announced that there was indeed a quorum present.

APPROVAL OF MINUTES

Chairman Mercer requested a motion to approve the minutes of the June 6th, 2005 meeting. Vice Chairman Chewning made the motion to approve the minutes of the June 6th, 2005 meeting as presented; Commission Member Trobaugh provided a second to the motion, and it passed as written by acclamation.

ITEMS TABLED FROM PREVIOUS MEETING

None

PUBLIC HEARING ON REZONE AND/OR CUP

Jack Whitaker's Application for a Conditional Use Permit

Chairman Mercer officially opened the public hearing to receive public comment on Jack Whitaker's application for a Conditional Use Permit to operate a commercial automobile sales business, as permitted in Sec. 62-242, (25), on a commercially zoned site on Rt. 52, west of I-77, next to Affordable Care, Inc., Rocky Gap, Virginia, Tax Parcel #: 24-A-1-B-1.

Chairman Mercer provided the floor to Mr. Whitaker to address the Commission and public on the proposed application. Mr. Whitaker stated that this request for a Conditional Use Permit was to conduct used automobile sales during daylight hours (10:00 AM to 6:00 PM - winter; 10:00 AM to 8:00 PM - summer) on a buy-here pay-here basis. He stated that he intends to start with 20 vehicles and grow accordingly as demand and the lot lends itself. He will not be conducting any repair or service on the site and vehicles will be washed off site at another owned and operated establishment (C.J.'s) where a carwash is desired to be located. He intends to have two to three sales representatives and will not be selling any farm equipment or anything else other than used cars and trucks.

Chairman Mercer acknowledged that there was no public wishing to comment.

Chairman Mercer officially closed the public hearing.

Chairman Mercer sought discussion from the Commission. Commission Member Boone expressed his concerns about chemicals from washing vehicles and oil leakage from the used cars leaching from the property and into nearby waterways. The Commission had no further discussion.

Chairman Mercer requested a motion to recommend to the Bland County Board of Supervisors, the approval or disapproval of Mr. Jack Whitaker's application for a Conditional Use Permit to operate a commercial automobile sales business, as permitted in Sec. 62-242, (25), on a commercially zoned site on Rt. 52, west of I-77, next to Affordable Care, Inc., Rocky Gap, Virginia, Tax Parcel #: 24-A-1-B-1

Commission Member Blessing made a motion to recommend to the Bland County Board of Supervisors, the approval of Mr. Jack Whitaker's application for a Conditional Use Permit to operate a commercial automobile sales business, as permitted in Sec. 62-242, (25), on a commercially zoned site on Rt. 52, west of I-77, next to Affordable Care, Inc., Rocky Gap, Virginia, Tax Parcel #: 24-A-1-B-1 with no conditions to be imposed. Commission Member Looney provided the second to the motion and the motion passed unanimously.

Daniel Chupp's Application to Rezone

Prior to opening the public hearing, Chairman Mercer requested Secretary Sweet to read the Bland County Planning Commission's process and purpose (please request to see document entitled – Bland County Zoning Process). Secretary Sweet concluded his reading and requested permission to address the Commission regarding the public notice for this Public Hearing.

Secretary Sweet stated that he acknowledged that the wording in the media advertisement was inaccurate from a property description but was however represented precisely using its tax map parcel number. Secretary Sweet further explained that an E-911 address has not yet been slated for that location and that was the purpose for not providing that information in the legal advertisement. Secretary Sweet went on to provide that his office had contacted each and every individual that was sent a certified letter (adjacent property owners) by phone and provided greater detail of description to the whereabouts of the proposed site. He concluded by stating that all of the adjacent landowners were legally notified as well as both legal ads were run in accordance with the requirements set forth by the Commonwealth.

Chairman Mercer then officially opened the public hearing to receive public comment on Daniel

Chupp's application to rezone 2.5 acres from agriculture to industrial, with a Conditional Use Permit to conduct a cabinet shop operation, as permitted in Sec. 62-262, (9), on a site located on Rt. 670, 2.5 miles from Rt. 42 in Mechanicsburg, Virginia, Tax Parcel #: 71-A-16-C.

Chairman Mercer presented the floor to Daniel Chupp to brief the Commission on his application and proposed operation. Mr. Chupp explained that he would be manufacturing cabinets and cabinet doors from 7:00 AM to 6:00 PM only five days a week (Monday – Friday). He would utilize a 90H.P. diesel engine that power a belt & pulley system to run laves and equipment needed to for his production. He stated that the engine would be housed in a cinderblock building and well insulated for further noise reduction. The engine would also be equipped with a muffler to reduce and minimize noise. He stated that he would be using kiln-dried lumber (example: plywood) that would be brought in on straight, box trucks and he anticipates around two deliveries a month. In his facility he will utilize a recycling dust collection unit that would clean the air, capture particles and prevent heat loss within the building. He intends to employ no more then five (5) persons and has no intentions of expanding. He stated that he wishes to stay within his means and not to grow any larger then the application represents. He mentioned that he would be using many hand tools in his production process, as that adds to the unique quality of the product.

Chairman Mercer then presented the floor to the public for public comment. The following persons spoke in opposition of Mr. Chupp's application to rezone from Agriculture to Industrial with a Conditional Use Permit:

1. Mr. Raymond Clemons
2. Mr. James Bogle
3. Mr. Danny Boogle
4. Ms. Kimberly Clemons
5. Mr. Robert Stuart
6. Mr. Douglas Wiley
7. Mr. Daryl Tyeyor
8. Mr. Harold S. Cochran - Letter

The following is a compilation of concerns from the above listed public with whom were of opposition of this application:

- This property is not an industrial area, but a scenic part of the county.
- The public should have been re-notified with specific direction regarding the location of the site.
- Large truck (tractor-trailers/semi-trucks) traffic is dangerous along that stretch of road.
- Commission Member Blessing should abstain from the proceedings, as he has a perceived conflict of interest due to a long relationship with the Amish community and transaction related to the sale and purchase of produce.
- The diesel engine potentially generating excessive noise.
- Hazardous waste issues.
- Surveying being conducted and the potential of selling this land to another individual would render the CUP null and void.
- Road is only surface treated and can not be salted.
- A lot of children play in the street in this area.
- Wood catches fire, does not want to lose home to a fire due to proximity to the site.
- Works at night and sleeps during the day, thus noise will keep awake.

- Had a rezone in the area before and it turned out to be a gay nudist camp ground.
- They do not and will not pay taxes.
- This will set a precedence.
- Does not need to intertwine industry and agriculture.
- Taxes will go.
- Everyone along that road should be notified when tractor trailers are traveling the road.
- Eyesore issues with respect to the visibility of the facility.

The following persons spoke in favor of Mr. Chupp's application to rezone from Agriculture to Industrial with a Conditional Use Permit:

1. Mr. Jerry Williams
2. Mr. Don Anderson
3. Mr. Sam Chupp
4. Mr. Jerry Miller

The following is a compilation of support from the above listed public with whom were of in favor of this application:

- The Amish and their operations have not been a problem for the community in the past 12 yrs. And will not be a problem now.
- Have hauled products (milk) all over Southwest Virginia on much worse roads then 670 and has never had an accident or a reason for concerns.
- The Amish community has been generating tax dollars for Giles County for years, and should be doing the same in Bland County.
- If any problems arise, Mr. Chupp has always been and will be willing to work with his fellow neighbors to resolve them.
- Mr. Chupp (the Amish) is/are an asset to the entire community.
- They help pay public school taxes and don't utilize services, and have to fund their own school system as well.
- Not here to be a burden, but to help the community.
- Appreciate all the neighbors, regardless of how this application process turns out.
- The closest trees to the facility are 30' - 40' away, thus should prevent the spread of a fire in its event.
- We like to make our living at home.
- We like to work with our families and children.

Chairman Mercer thanked the public for their input and officially closed the public hearing.

Chairman Mercer then opened the floor for discussion amongst the Commission. The following points were the product of that discussion:

- 670 does not have set restrictions on vehicles.
- There are currently school buses, garbage trucks, tractor trailers (log trucks), manufactured homes, traveling this road.
- The Amish community does indeed pay real estate, personal property and machine & tool taxes.
- This action has no direct correlation to an increase in property value for the adjoining neighbors.

- County Attorney provided legal opinion using case law that the County advertised sufficiently and that the proceedings were legitimate and legal.
- The rezone permit and CUP is indeed transferable, as long as the approved use is continued and is not augmented.
- VDOT regulates the county roads.
- Law enforcement enforces any criminal activity.
- Virginia Department of Health regulates water and septic issues.
- The Virginia Department of Environmental Quality regulates and responds to any environmental concerns.
- Building Official enforces building codes.
- Zoning Administrator enforces zoning matters including compliance to Conditional Use Permits.
- The Public can assist in regulating all of these areas by informing the proper authority of a potential or perceived violation, infraction or negligence.

The Commission concluded their discussion and brought forth proposed conditions to address all legitimate concerns brought forth by public comment. Those proposed conditions are as follows:

1. Traffic - No tractor trailers be permitted to deliver materials or transport product to or from the site for purpose of public safety and well-being.
2. Noise - That the 90H.P. diesel engine be equipped with a muffler and located within a well insulated cinderblock building to limit and reduce noise.
3. Work Hours - The cabinet shop's working hours would be limited from 7:00 AM to 6:00 PM, five days a week (Monday – Friday only) to reduce noise and impact on surrounding neighbors.
4. View Shed – An adequate amount of trees are to be planted and strategically placed to conceal the facility from the adjoining landowners (the Walkers), i.e. along the front side of the property.
5. Fire Protection – A minimum of four (4) fire extinguishers, being of proper class, are to be placed throughout the facility for the purpose of public health and safety.
6. Facility Size – That the facility not be expanded above its original dimension of 56'x120', or to exceed employment of more than five (5) persons.
7. Waste Disposal – To properly dispose of all hazardous by-products and materials associated with the operation for the purpose of public health, safety and well-being.
8. Requirements - To comply with all applicable local, state, and federal laws.
9. Reversion – If the approved use (cabinet shop) fails to operate for more than two (2) consecutive years, i.e. twenty-four (24) consecutive months, then the property will revert back to its original zoning designation of agriculture and the conditional use permit will be null & void.

Chairman Mercer requested a motion to recommend to the Bland County Board of Supervisors, the approval or disapproval of Daniel Chupp's application to rezone 2.5 acres from agriculture to industrial, with a Conditional Use Permit to conduct a cabinet shop operation, as permitted in Sec. 62-262, (9), on a site located on Rt. 670, 2.5 miles from Rt. 42 in Mechanicsburg, Virginia, Tax Parcel #: 71-A-16-C.

Commission Member Boone made a motion to recommend to the Bland County Board of Supervisors, the approval of Daniel Chupp's application to rezone 2.5 acres from agriculture to industrial, to conduct a cabinet shop operation, as permitted in Sec. 62-262, (9), on a site located on

Rt. 670, 2.5 miles from Rt. 42 in Mechanicsburg, Virginia, Tax Parcel #: 71-A-16-C, with the following conditions:

1. Traffic - No tractor trailers be permitted to deliver materials or transport product to or from the site for purpose of public safety and well-being.
2. Noise - That the 90H.P. diesel engine be equipped with a muffler and located within a well insulated cinderblock building to limit and reduce noise.
3. Work Hours - The cabinet shop's working hours would be limited from 7:00 AM to 6:00 PM, five days a week (Monday – Friday only) to reduce noise and impact on surrounding neighbors.
4. View Shed – An adequate amount of trees are to be planted and strategically placed to conceal the facility from the adjoining landowners (the Walkers), i.e. along the front side of the property.
5. Fire Protection – A minimum of four (4) fire extinguishers, being of proper class, are to be placed throughout the facility for the purpose of public health and safety.
6. Facility Size – That the facility not be expanded above its original dimension of 56'x120', or to exceed employment of more than five (5) persons.
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8. Requirements - To comply with all applicable local, state, and federal laws.
9. Reversion – If the approved use (cabinet shop) fails to operate for more than two (2) consecutive years, i.e. twenty-four (24) consecutive months, then the property will revert back to its original zoning designation of agriculture and the conditional use permit will be null & void.

Commission Member Dodson provided the second to the above mentioned motion. Chairman Mercer asked the Commission if there was any further discussion. The Commission responded with no and a vote was tendered. The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Jerry Mercer	X		
Elmer Chewning		X	
Allen Newberry	X		
Henry Blessing			X
John Dodson	X		
Stephen Kelley	X		
Deborah Looney	X		
Guy Boone	X		
Robert Trobaugh	X		

The motion carried.

OLD BUSINESS

Contractor Storage Yard with a Conditional Use Permit as an allowed use in an Agricultural District.

Due to the length of the two preceding public hearings a motion was made by Commission Member Dodson to table the discussion on Contractor Storage yard until the August Meeting. Commission Member Newberry provided the second and the motion carried unanimously.

NEW BUSINESS

None

ADJOURNMENT

Commission Member Looney made a motion to adjourn the meeting, Vice Chairman Chewning provided the second.

Chairman Mercer obliged – the meeting was adjourned.