

PITTSYLVANIA COUNTY BOARD OF ZONING APPEALS

REGULAR MEETING

FEBRUARY 9, 2016

MINUTES

VIRGINIA: The Pittsylvania County Board of Zoning Appeals met on Tuesday, February 9, 2016, in the General District Courtroom, Edwin R. Shields Courthouse Addition, Chatham, Virginia. Mr. Talbott called the meeting to order at approximately 7:00 p.m. The Board observed a moment of silence. Mr. Shelton called the roll.

PRESENT

Kenneth Talbott
Helen Glass
Joseph "Jay" Craddock
R. Allan Easley
Leon Griffith
Ronald Merricks
Carroll Yeaman
Odie H. Shelton, Jr.

APPROVAL OF THE MINUTES

By motion of Mr. Yeaman, seconded by Mr. Merricks, and by unanimous vote, the Minutes of the January 12, 2016, meeting were approved as presented.

Old Business

There was no old business.

New Business

Mr. Shelton reported on the cases for the March, 2016 cycle.

CHAIRMAN'S REPORT

There was no Chairman's report.

THE ZONING PRECEPTS WERE READ BY Mr. Talbott to **OPEN THE PUBLIC HEARING** at approximately 7:01 p.m.

Case A-1, Joseph C. Frakes, A-16-001 – Mr. Talbott opened the public hearing at approximately 7:02 p.m. Mr. Shelton, Director of Code Compliance/Zoning Administrator, reported Joseph Frakes had filed a Notice of Appeal to the Board of Zoning Appeals on December 4, 2015, of an administrative decision regarding Section 35-178 and Section 35-40. **PRINCIPAL DEFINITIONS OF THE ZONING ORDINANCE.** Home Occupation, Class B. Mr. Shelton further stated Mr. Frakes' main complaint was regarding noise from Elite Fabrications, LLC, a welding shop located on 2.18 acres, located on U. S. Highway 41/Franklin Turnpike, in the Chatham-Blairs Election District. He further stated Mr. Frakes

wanted the business shut down and relocated. He stated the welding shop is not in a Restricted Residential Subdivision area zoned R-1; the shop is located on a farm zoned A-1, Agricultural District. Mr. Shelton further stated Section 35-177 stated in rural agricultural areas, you can expect more noise and odor in this district. There are a few homes in this area and hundreds of acres of farm land, agricultural land. Mr. Shelton stated he had visited the site a number of times and found no noise problems with the welding shop. Mr. Shelton further stated Section 35-178 permits sales, service and repair of farm equipment. Welding and repairing farm equipment and logging equipment is what Elite Fabrication is doing. Mr. Coleman's welding shop is not an industrial operation. This is a small family business operating on a family farm zoned A-1. It is my opinion Elite Fabrication is a permitted use and should be allowed to continue its operation. Mr. Shelton stated, however, he would carry out the decision of the Board. Mr. Shelton stated the staff summary was enclosed in the Board Packet. Mr. Frakes was present to represent the petition. Mr. Frakes stated Mr. Shelton claimed Mr. Coleman's business was a home occupation class B. He further stated there are several things that did not fit the home occupation definition. Mr. Frakes stated, "There shall be no change in the outside appearance of the building or premises, such home occupation in greater volumes than would normally be expected in the immediate neighborhood." Mr. Frakes stated that there were forklifts, welding equipment, grinders and trucks visible on the outside of the building. He further stated "no traffic shall be generated by such home occupation in greater volumes than would normally be expected in the immediate neighborhood". He stated Mr. Coleman's driveway was a single lane drive and trucks were frequently backing in and blocking/impeding traffic on Route 41. He further stated "no equipment or process shall be used in such home occupation, which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses off (sp.) the lot." Mr. Frakes stated one of their complaints was noise, but this was not their primary complaint. He stated he and his family were woken frequently at 2:00 and 3:00 a.m. by noise such as compressors, dropping of steel and welding of steel. He then discussed the issue of employment of more than two (2) persons. He stated Mr. Coleman employed more than two (2) persons. This was supported by pictures and Mr. Coleman's own advertisement. He stated all of the pictures and the advertisement had been on Facebook, he had not taken the pictures himself. Mr. Frakes then stated that Mr. Shelton had stated this business fitted into the A-1, Agricultural District. He stated that the grinding and outdoor welding produced contaminates. He also discussed the zoning of the adjacent parcels and that he believed this business should be situated in an M-1 or M-2 industrial district because of the functions and type of products Mr. Coleman produced. He also showed pictures to document the products that were produced at the business. Mr. Frakes stated the majority of Mr. Coleman's business was metal fabrication and manufacturing of new items and not related to farming or gardening. In closing he stated he did not feel Mr. Coleman's work fitted into the A-1 category. The Board and Mr. Frakes discussed some of his major concerns. He also stated the business was not there when they purchased the property and that noise was a factor. Mr. Frakes stated he would like to see Mr. Coleman relocate his business to the appropriate district. Andrea Frakes came forward and spoke and stated she and Mr. Frakes had checked the zoning of the property prior to the purchase of the house. She also stated the business was not on the property when the house was purchased, but there was a piece of equipment on the property. She also discussed the noise and mentioned water runoff as a problem. She also stated she felt the area was not zoned appropriate for the business and allowing the business may set a precedent for the area. Mr. Coleman came forward and talked about his business and that it had grown into a quarter of a million dollar business. He stated he had started by working on lawnmowers, tractors and fence posts. He then discussed obtaining his permit and he had never tried to hide that this was a business. He gave an overview of the type of work that was done at the location and stated if he is working late at night the doors to the shop were closed. He did confirm that he employs three (3) people. Mr. Coleman and the board discussed the amount of agricultural work he did and he stated approximately 50% of his work was agricultural but he had no pictures of this agricultural work. He further

stated all structural steel work was done on site, but some parts were made in the shop. He also stated he had considered rezoning but was advised not to do so. During the discussion with the Board he stated the business had been at a previous location down the road from this parcel. The Board commended Mr. Coleman on the growth of his business and questioned when he thought he would transition to an industrial location and he answered approximately two (2) years. Michael Parrish and Ricky Atkinson spoke in support of Mr. Coleman and stated they were not aware of excessive noise and that this was a farming area and agricultural noise was the norm. It was also stated the area was very neat and clean. Mr. Atkinson stated he would like for the business to stay at this location. Mr. Frakes then offered a very brief rebuttal. Mr. Talbott closed the public hearing at approximately 7:46 p.m. The Board discussed the petition as the Committee of the Whole. During the discussion the Board stated this business had grown to where it didn't meet the ordinance, criteria of the ordinance or the wording. It was also stated Mr. Coleman's business exceeded the number of employees stated in the ordinance. The Board further stated at his current rate of growth Mr. Coleman was unable to stay at this location and he had grown beyond a home occupation and they wished people were better aware of the ordinance. The Board further stated they did not want Mr. Coleman to have to shut his doors, but he may have to scale back on the number of employees or only do agricultural work. In summation the Board felt Mr. Shelton did the right thing at the time but, Mr. Coleman had no idea his business would grow to this point. They further stated it was their duty of the Board to interpret the ordinance and hoped to keep Mr. Coleman running his business for some period of months, but would have to revisit the case. Upon motion of Mr. Easley, seconded by Mr. Merricks, the following motion was adopted: **Whereas**, Joseph Frakes filed a Notice of Appeal to the Board of Zoning Appeals of an Administrative decision, regarding SECTION 35-178. PERMITTED USES. and SECTION 35-40. PRINCIPAL DEFINITIONS OF THE ZONING ORDINANCE. HOME OCCUPATION, CLASS B of the Pittsylvania County Zoning Ordinance regarding a welding shop located on the petitioned parcel of and, Whereas, the rate of growth of Mr. Coleman's business is such that he will soon exceed the definition of home occupation Class B, However, today we **affirm** the decision of Mr. Shelton with the understanding that we will reconsider this decision in twelve (12) months. The vote was six (6) to 0, with one (1) member abstaining for the vote, Mrs. Glass. (Mrs. Glass had not been sworn in prior to the meeting and did not participate in the discussion or vote on the case.)

This concludes the Appeal Case.

The meeting adjourned at approximately 8:05 p.m.

Kenneth Talbott, Chairman

Hannah R. Orgain, Clerk