

PITTSYLVANIA COUNTY BOARD OF ZONING APPEALS

REGULAR MEETING

March 8, 2016

MINUTES

VIRGINIA: The Pittsylvania County Board of Zoning Appeals met on Tuesday, March 8, 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. Merricks, seconded by Mr. Yeaman, and by unanimous vote, the Minutes of the February 9, 2016, meeting were approved as presented.

Old Business

There was no old business.

New Business

Mr. Shelton reported on the cases for the April, 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 S-1, Zachary Turner and Others, S-16-002 – Mr. Talbott opened the public hearing at approximately 7:03 p.m. Mr. Shelton, Director of Code Compliance/Zoning Administrator, reported Zachary Turner and Others had petitioned for a revised Special Use Permit on a total of 58.82 acres, four (4) parcels of land, located on State Road 713/Birch Creek Road, in the Dan River Election District, for a recreational facility/public facility, namely, a haunted house/haunted trail. Mr. Shelton further stated Mr. Turner had submitted a new Site Development Plan to bring nonconformities with the previous permit into compliance. Mr. Shelton stated a copy of the Site Development Plan was enclosed in the Board packet. It

was further stated the Planning Commission, with opposition, recommended granting the petitioners' request. Mr. Zachary Turner was present to represent the petition. Mr. Turner presented a handout and discussed that VDOT had approved the entrance into the site. He briefly went over the parcels under petition and that a licensed surveyor had done the Site Plan. He briefly discussed the driveway and showed an invoice and receipts from the Sheriff's Department to confirm that deputies were present at the facility last year. Mr. Turner stated he had planted Leland cypress on the back side of the property as a noise buffer and stated a decibel meter was at the location last year. He further stated he had EMT's present and that all food served was approved by the Health Department. He stated they attempted to keep the noise down and that the decibel level was usually 32 to 36 and the allowable level, indicated by the Sheriff's Department, was 57 between 7:00 a.m. and 10:00 p.m. and 52 between 10:00 p.m. and 7:00 a.m. He stated they tried to keep the noise down at the operation. He further stated safety was the number one rule at the operation and stated building inspections had done inspections prior to their opening and also he had sprayed fire retardant on the entire attraction. Mr. Turner further stated the speakers had been turned toward the haunted house to decrease the noise. He then stated he had also attended seminars on this type of attraction. The Board and Mr. Turner discussed the days and hours of operation and where the new trees had been planted. Mr. Turner stated that if there was rain the facility was not open. Janelle Amparo (sp.), Eddie Smith, Angela Johnson, Kelly Hawker, Dana Shaw and Justin Turner spoke in support of the petition. Some of their comments were that this operation was good for the community, it gave young people in the community something to do and a good work ethic, the noise was not bad and that the operation was run well and safely. It was also stated that law enforcement was present when the facility was open. John Gourley and Carolyn Christie spoke in opposition to the petition, mainly the issue of noise. Mr. Turner offered a brief rebuttal. He stated he had been in compliance every night of operation. He had tried to be a good neighbor, the neighbor across the road had no complaints and he had done everything he could to be in compliance. Mr. Talbott closed the public hearing at approximately 7:33 p.m. The Board discussed the petition as the Committee of the Whole. The Board discussed adverse effects and that noise and that the Noise Ordinance was regulated by the Sheriff's Department. They further stated that traffic did not seem to be an issue. It was mentioned that any recreational activity created noise but that this facility was only in operation for approximately twelve (12) days per year. There was a brief discussion of the trees that had been planted and that possibly more trees were needed and a brief discussion of different decibel levels. Upon motion of Mr. Yeaman, seconded by Mrs. Glass, the following motion was adopted: Whereas, Zachary Turner and Others have petitioned the Board of Zoning Appeals for a revised Special Use Permit for a recreational facility/public facility, namely a haunted house/haunted trail and, **Whereas**, we find no substantial detriment to adjacent property, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of the Ordinance, and **Whereas**, there are no significant adverse effects upon adjacent property that cannot be mitigated through conditions, I move the Special Use Permit be **granted** with the following **conditions**: (1) Days of operation are limited to four (4) full weekends, Fridays, Saturdays and Sundays of October. (2) Hours of admission limited to 7:00 p.m. to 11:00 p.m. and activities terminated by 11:30 p.m. (3) Plant additional vegetative border along the north fence, at minimum, an additional row of Leyland cypress. Motion passed unanimously.

This concludes the Special Use Case.

Case V-1, Bachelors Hall Volunteer Fire Department, Inc., V-16-001 – Mr. Talbott opened the public hearing at approximately 7:52 p.m. Mr. Shelton, Director of Code Compliance/Zoning Administrator, reported Bachelors Hall Volunteer Fire Department, Inc. had petitioned for a Variance on approximately 0.49 acre, located on State Road 878/Duncan Drive, in the Westover Election District to Section 35-388. Minimum Yard Dimensions. (B.) Side Setback, of the Pittsylvania County Zoning Ordinance requesting a variance of 30 feet left side setback to allow for the addition of a new bay to the existing structure. Mr. Shelton further stated the Planning Commission, with no opposition, recommended granting the petitioner's request. No one was present to represent the petition. There was no opposition to the petition. Mr. Talbott closed the public hearing at approximately 7:54 p.m. The Board discussed the petition as the Committee of the Whole. During the discussion it was stated like a lot of fire departments, this property was landlocked and they needed the addition and we needed them. Upon motion of Mr. Griffin, seconded by Mr. Merricks, the following motion was adopted: **Whereas**, Bachelors Hall Volunteer Fire Department, Inc., has petitioned the Board of Zoning Appeals for a Variance to Section 35-388. Minimum Yard Dimensions. (B.) Side Setback, of the Pittsylvania County Zoning Ordinance and the zoning precepts demand accommodation of such public service facilities, I move the Variance be **granted**. Motion passed unanimously.

This concludes the Variance Case.

Case A-1, Laura Swift, A-16-002 – Mr. Talbott opened the public hearing at approximately 7:57 p.m. Mr. Shelton, Director of Code Compliance/Zoning Administrator, reported Laura Swift filed a Notice of Appeal to the Board of Zoning Appeals on January 13, 2016, of an administrative decision regarding **SECTION 35-120. JUNK YARDS**, of the Pittsylvania County Zoning Ordinance regarding screening from the adjacent recycling facility located on Beach Hollow Road, in the Westover Election District. Mr. Shelton further stated it was his opinion that the property line and zoning line Laura Swift discussed does not need a fence because the salvage yard is screened from the road due to the higher elevation of the salvage yard from Ferry Road and houses along Ferry Road. He further stated he would carry out the decision of this Board. Laura Swift was present to represent the petition. Ms. Swift stated she was respectfully appealing Mr. Shelton's decision regarding screening for the salvage yard that is visible from the property. Ms. Swift read a portion of Mr. Shelton's letter and stated the salvage yard's activity is visible from her property and the property of residents on Ferry Road. She also stated industrial activity was taking place on the R-1 property adjacent to the facility. She stated she wanted the screening so she could get into her land safely and the residents on Ferry Road didn't have to see the activity. She also stated some trees had been disturbed on the residential property. She further stated that since 2004 there had been non-compliance at the operation. Seth Elmore was present to represent Don Warren, the owner of the facility. Mr. Elmore stated that Mr. Shelton's decision should be upheld as supported by Ms. Swift. Mr. Don Gauldin came forward and stated he had lived across the road from Mr. Warren's operation and that he did not see any activity and those traveling the road were not able to see any activity. He also stated this operation has been at this location since 1950 or 1960. There was then a discussion regarding the location of Mr. Swift's home, her 50 acres and that she is surrounded by trees and vegetative growth. It was further stated the activity is behind the office and cannot be seen from Ferry Road. Ms. Swift offered a brief rebuttal and stated she could see the operation from the road. Mr. Talbott closed the public hearing at approximately 8:06 p.m. The Board discussed the petition as the Committee of the Whole. Mr. Talbott reminded the Board this appeal was regarding the screening and did Mr. Shelton make the right decision.

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The Board reviewed the drawing in the packet and discussed the undeveloped area and the thick vegetative growth. The applicant and the Board discussed a survey of the property and the right-of-way. The Board also discussed the elevation of the property. It was also discussed that the members felt the operation was adequately screened for the level of activity going on now. Upon motion of Mr. Yeaman, seconded by Mrs. Glass, the following motion was adopted: **Whereas**, Laura Swift filed a Notice of Appeal to the Board of Zoning Appeals of an Administrative decision, regarding **SECTION 35-120. JUNK YARDS.** of the Pittsylvania County Zoning Ordinance regarding screening from the adjacent recycling facility located on Beach Hollow Road, **and, Whereas**, for reasons well supported in the record, I move the Zoning Administrator's decision be **upheld.** Motion passed unanimously.

This concludes the Appeal Case.

The meeting adjourned at approximately 8:20 p.m.

Kenneth Talbott, Chairman

Hannah R. Orgain, Clerk