

**BOARD OF ZONING APPEALS
REGULAR MEETING
Monday, August 7, 2023 - 6:00 PM**

**Board Meeting Room
39 Bank Street, SE,
Chatham, Virginia 24531**

MINUTES

1. CALL TO ORDER

Mr. Easley called the meeting to order at 6:00 p.m.

2. ROLL CALL

3. MOMENT OF SILENCE

The Board observed a moment of silence.

4. PLEDGE OF ALLEGIANCE

The Board recited the Pledge of Allegiance.

5. APPROVAL OF AGENDA

Upon motion of Mr. Craddock, seconded by Mr. Stone, and by a unanimous vote, the agenda was approved as presented.

6. APPROVAL OF MINUTES

- a. June Board Meeting Minutes Approval (Staff Contact: Robin Vaughan)
- a. June Board Meeting Minutes Approval
Upon motion of Mr. Stone, seconded by Mr. Brumfield, and by a unanimous vote, the minutes were approved as presented.

7. OLD BUSINESS

The next bimonthly zoning ordinance update will be held on Thursday August 10, 2023 at 5:30 p.m. The meeting in October will be the final meeting and will be a review of the ordinance. This would be the time to discuss with the Berkley Group. From that point on, we will move into the public hearing phase and public input phase. We will then move into the adoption phase in early 2024.

8. NEW BUSINESS

Mrs. Ragsdale stated there will be three cases for the month of September.

9. CHAIRMAN'S REPORT

There was no Chairman's report.

10. PUBLIC HEARING

Pursuant to Article V, Division 7 of the Pittsylvania County Zoning Ordinance, we the Board of Zoning Appeals have been empowered to hear and decide specific applications and appeals in support of said

ordinance. In accomplishing this important task, we are charged with promoting the health, safety, and general welfare of the citizens of Pittsylvania County. We must insure that all our decisions and recommendations be directed to these goals and that each be consistent with the environment, the comprehensive plan and in the best interest of Pittsylvania County, its citizens and its posterity. Anyone here to speak to the board, other than the applicant, regarding zoning cases will be limited to (3) three minutes.

PUBLIC HEARING

- a. Public Hearing: Case S-23-007 J. D. Shelton, Et Als; Requesting an amendment to the conditions attached to existing Special Use Permit S-19-010. (Staff Contact: Emily Ragsdale)
- a. Public Hearing: Case S-23-007 J. D. Shelton, Et Als; Requesting an amendment to the conditions attached to existing Special Use Permit S-19-010.

Mr. Easley read the zoning precepts and opened the public hearing at 6:06 p.m. Mrs. Ragsdale, Director of Community Development, reported that JD Shelton, Gloria Shelton & Tammy Shelton Wiles had petitioned for an amendment to the conditions attached to Special Use Permit S-19-010, that was granted with conditions on September 10, 2019 for recreational uses; ATV trails. JD Shelton and Tammy Shelton Wiles represented the petition. She stated that they would like to eliminate the 300-foot setbacks, open at 12 pm on Sundays and Holidays, and would like to have two (2) night rides per year and would like to be open on weekday holidays. Mr. Shelton stated that they are working on the loud bikes and they are turning people away that are too loud and have aftermarket mufflers. Mr. Shelton stated that they have spoken with several church members from Mount Tabor and the Pastor and they have no problem with Red Oak opening at 12:00 p.m. on Sundays as their service is over at 11:30 a.m. Mr. Stone noted that the number of EMS calls has decreased this year from the past years. Mr. Stone asked if Mr. Shelton had done any studies to see how his revenue impacts the county and how it potentially creates jobs for the community. Ms. Wiles stated that they had not done any research regarding this. Several residents signed up to speak. First was Phyllis Bledsoe who opposes the amendments. She stated she submitted a FOIA (Freedom Of Information Act) request with the Sheriff's Department for verification on calls regarding Red Oak. She said the Sheriff's Department requested extra time on this request, so she only had a portion of the information that she requested. She stated that the Sheriff's Department has checked the noise levels at her property and Tanner Owen's property. She had requested the readings of these days and said events. She also requested to know what type of equipment was used and when it was purchased and or replaced. She said there have been

discrepancies, and she is still waiting for this information. She stated she requested information on 911 calls made through 2019 through today and gave a brief summary. She stated the main concern is the noise. Tanner Owen spoke next in opposition of the amendments. He stated that people continue to ride with loud pipes, and he can hear them in his home 3,000 feet away. He stated that the preacher or deacon board of Mount Tabor Church have not heard anything about Red Oak opening at 12:00 p.m. He stated that they are racing after they have been told not to. He said the noise is a nuisance and a real problem. Stephen Hodnett spoke next, stating that he really can't hear any of the noise being discussed and the board is more than welcome to come to his house to see if they can hear it. He said that he does not have any complaints. Tim Alderson was next to speak, stating he had concerns due to the noise levels also. He said he has met with JD three times in the last month. Once at his home and twice at Red Oak. He stated that last weekend was fairly peaceful. He said there was one loud machine there this past weekend. He stated all of the comments in his letter have to do with the loud machines. He said that two (2) out of three (3) vehicles on Route 360 are carrying 4-wheelers. He said he is not against the facilities, he would like to see the loud machines policed, due to it not happening now. He also said that most of the noise they hear at night is coming from Pine Lane. Sunny Singh spoke next, stating he is a small business owner and he is here to support a small business. Mr. Shelton and Ms. Wiles came back to the podium to address questions and concerns. Mr. Brumfield said that the main concern with the neighbors seems to be the noise. He asked what could be done to reduce the noise. Ms. Wiles said that they are working on this at the present time, Mr. Shelton has spoken with Sheriff Taylor and he said they are doing all that they can do. Mr. Stone asked how long they had been in business. Ms. Wiles said they opened in 2018. Mr. Stone asked how many riders they get per weekend, Ms. Wiles said 200 - 300 per weekend. Mr. Stone said that he has noticed on Red Oak Facebook page that it states stock exhaust, (no modified, gutted or chopped exhaust). Do not partake alcohol or illegal drugs while operating off-road units. Mr. Stone says that people should not get angry when asked to leave if they have modified mufflers, they should check the Facebook page for that information and it should be enforced. Ms. Wiles asked what decibel they need to have set as a limit so when they receive their meter they will know how to regulate. Mr. Merricks said he has done his own research, and most ATVs from the factory run at 80 - 96 decibels, so the meter should be used according to the manufacturers' instructions to measure the levels. Mr. Easley stated that the Shelton's should police the property for loud mufflers since there have been complaints from the neighbors. Mr. Easley wanted to make sure that the applicants

understood that they were asking for their conditions to be revised, that opens it up for the board to change any conditions that are currently in place. The Shelton's said they did understand this. Mr. Easley closed the public hearing at 6:45 p.m. The Board discussed the petition as the Committee of the Whole. Mr. Easley first read the amendments that the applicants were requesting.

The applicants are requesting the following: to eliminate the required 300-foot setback, amend the restriction placed on the hours of operation to allow them to open at 12:00 p.m. on Sundays and holidays, increase the number of night rides allowed each year to two (2), and allow them to be open on weekday holidays. Mr. Merricks stated that the conditions were originally placed on the Special Use Permit for a reason, they tried to protect the community, but also allow the Shelton's to use their property for their business. He said he has not heard anything tonight that justifies changing any of the existing conditions. He said that they may want to add some wording to these and add a few more. As far as the existing conditions, he feels they need to stay in place. Mr. Brumfield said that he has no problem with two (2) night rides per year as there has been no opposition to this condition. He also has no problem with them being open on weekday holidays. Mr. Merricks stated that most businesses are open on holidays but at the same time, there are families that like to enjoy the holidays as well and enjoy their time outside and they cannot do this due to the noise. Mr. Merricks said that factory mufflers only are allowed and that they should be 100 decibels or less. Chris Dadak stated that it is hard coming up with conditions that are enforceable as the Zoning Administrator. He said that testing of each vehicle would be difficult to enforce from a practical perspective and unfortunately, noise issues are hard to enforce unless there is consistent feedback from the community and consistent decibel testing by law enforcement. Mr. Easley stated that what they want to do is have a positive motion for an application to amend conditions, and add to or take away from them, and then read a motion to amend the conditions that are currently in place. The current conditions are as follows: (1) Primitive camping only. - (2) Night rides allowed once a year until 2:00 a.m. - (3) Hours of operation shall be limited to 10:00 a.m. to 6:00 p.m., Eastern Standard Time, and 10:00 a.m. to 8:00 p.m., Daylight Savings Time. - (4) Factory mufflers only. - (5) Control erosion. - (6) Days of operation shall be Thursday through Sunday; No Sunday operation before 1:00 p.m. - (7) Never ride under the influence of alcohol or drugs. - (8) Maintain setback of 300 feet. - (9) Comply with Health Department Regulations. - (10) Comply with Noise Ordinance. - (11) Maintain vegetative buffer. Mr. Easley would like for (1) primitive camping only, recreational vehicles prohibited - (2) Two night rides per year, with a five working day notice to the Community

Development Office before each ride. Mr. Merricks would like to add that the Special Use Permit be reviewed in two years for compliance with conditions. That no competitions are to be allowed, which includes racing on the property. The recently acquired property GPIN # 2473-71-0347, approximately 80 acres cannot be used under this Special Use Permit. Mr. Easley then read a positive motion for the amendments to the eleven (11) conditions that the board will vote on for Special Use Permit S-19-010 that was granted on September 10, 2019 for recreational use and ATV trails. (1) Primitive camping only, which would include tents only and no RV's. - (2) Night rides allowed twice a year until 2 am, with written notice being presented to the Zoning Office within five working days prior to the ride. - (3) Hours of operation shall be limited to 10 am - 6 pm Eastern Standard Time and 10 am - 8 pm Daylight Savings Time. - (4) Factory Mufflers only. - (5) Control Erosion (6) Days of Operation shall be Thursday - Sunday, no Sunday Operation before 1 pm. (7) Never ride under the influence of alcohol or drugs. (8) Maintain a setback of three hundred (300) feet. (9) Comply with Virginia Department of Health regulations. (10) Comply with Noise Ordinance. (11) Maintain vegetative buffer. (12) The Special Use Permit will be review in two (2) years to make sure the applicants are in compliance. (12) There will be no competitions. (13) The property located at GPIN # 2473-71-0347 will not be included in this Special Use Permit. A motion was made by Mr. Merricks, seconded by Mr. Stone that the Board of Zoning Appeals make the amendments to the Special Use Permit.

RESULT: Approve
MOVER: Mr. Merricks
SECONDER: Mr. Stone

AYES: Joseph Craddock, Ronald Merricks, Ryland Brumfield, Hershel Stone, Allan Easley, Carroll Yeaman
NOES: None

ABSTAIN: None

- b. Public Hearing: Case S-23-008 Larry and Lucinda Burnett; Requesting a Special Use Permit for offsite parking in accordance with Pittsylvania County Code § 35-179 (Staff Contact: Emily Ragsdale)
- b. Public Hearing: Case S-23-008 Larry and Lucinda Burnett; Requesting a Special Use Permit for offsite parking in accordance with Pittsylvania County Code § 35-179

Mr. Easley opened the public hearing at 7:12 p.m. Mrs. Ragsdale, Director of Community Development, reported that Larry and Lucinda Burnett has petitioned for a Special Use Permit on 105.9 acres, located on State Road

62/Milton Highway, in the Dan River Election District, to allow for offsite parking. Cara Fischer represented the case. There was no opposition. Mr. Easley closed the public hearing at 7:14 p.m. A motion was made by Mr. Craddock, seconded by Mr. Yeaman that the Board of Zoning Appeals grant the Special Use Permit with the following conditions: (1) Camping shall be prohibited. This includes the use of motor vehicles, recreational vehicles and tents. (2) Restroom facilities shall be provided on the premises. (3) Solid waste receptacles shall be provided on the premises and any solid waste shall be disposed of in accordance with Pittsylvania County Code Chapter 17, Solid Waste. (4) Remain in compliance with all applicable Virginia Department of Health regulations.

RESULT: Approved
MOVER: Craddock
SECONDER: Yeaman

AYES: Joseph Craddock, Ronald Merricks, Ryland Brumfield, Hershel Stone, Allan Easley, Carroll Yeaman
NOES: None

ABSTAIN: None

11. ADJOURNMENT

The meeting was adjourned at 7:17 p.m.