

Building Planning & Zoning  
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**Bath County Board of Zoning Appeals**

**Bath County Courthouse – Room 115**

**July 21, 2016**

**MEMBERS PRESENT:** Chairman Janice O’Farrell, Vice-Chair Scott Miller, Rick Armstrong, Jason Miller,

**MEMBERS ABSENT:** Richard Hise

**PUBLIC IN ATTENDANCE:** Mike Bollinger (Press)

**STAFF PRESENT:** Sherry Ryder

**Chairman O’Farrell** called the meeting to order at 7:00 p.m.

**PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA:** None

**ADDITIONS AND CORRECTIONS TO AGENDA:** None

**ELECTION OF OFFICERS**

**\*CHAIRMAN**

**Rick Armstrong:** I nominate Janice O’Farrell.

**Jason Miller** motioned to close the nomination.

**Rick Armstrong** seconded the motion.

**VOTE: 3-0-1** (Janice O’Farrell abstained)

**\*VICE-CHAIR**

**Vice-Chair Scott Miller:** I nominate Jason Miller. **Jason Miller** declined.

**Rick Armstrong** nominated Scott Miller.

**Jason Miller** motioned to close nominations.

**Rick Armstrong** seconded motion.

**VOTE: 3-0-1** (Scott Miller abstained)

**\*SECERTARY**

**Jason Miller** nominated Sherry Ryder.

**Rick Armstrong** seconded motion.

**VOTE: 4-0**

## **PUBLIC HEARING**

- a) **Deborah Michael** – Ernest Scott and Betty W. Bourne – (TM#94A1-4-20) – Conditional Use Permit to operate a retail shop of craft related products at 6032 Sam Snead Hwy, Hot Springs, VA. The property comprises 0.81 of an acre situated in the Valley Springs Magisterial District and is zoned R-2 Residential.

**Sherry Ryder:** We have an application for tax map parcel # 94A1-4-20 by Deborah Michael, applicant, to operate a retail shop for hand crafted products and related crafting supplies. Located within a portion of a residential dwelling located at 6032 Sam Snead Highway in Ashwood.

The property is located between Dr. Diamond's and McLaughlin-Young Funeral Home. You can see that Dr. Diamond's business is zoned B-1 Convenience Business and that the funeral home is zoned R-2 Residential. This property adjoins the funeral home property on the half of the lot.

While the property is not similar to any of the sections within R-2 Residential zoning district, Ms. Michael points out that there are various businesses within close proximity to this. She has the funeral home adjoining this property.

If she were to occupy the property as a resident she could have made application as a home occupation but the house is occupied randomly by the owners. Ms. Michael is a caretaker of the property.

The property is approximately 0.81 of an acre and is located within a designated growth area. For this particular type of business, she would need a minimum of five (5) parking spaces and has ample space for that with a back yard that could be used for parking, if needed.

Again, the adjoining properties are zoned R-2 Residential and R-5 Planned Unit Development. Immediately to the south is the funeral home, two (2) parcels north is Dr. Diamonds, then Peter Judah's Office and then Country Café.

At this time, I have not received any opposition to this request.

I do not have any recommendation for this application.

Relevant Section(s) in the Bath County Land Use Regulations are on page 4-3 Economy Goals #3 and #8 and Objective b page 4-3 and page 11-9 #1 of the Bath County Comprehensive Plan.

The Planning Commission voted 5-0 to recommend approval for a Conditional Use Permit for five (5) years and you have those minutes in your pack. There were no other conditions set other than the ones she set in her narrative on her application.

I would be happy to answer any question. You have a copy of the application, pictures showing location, tax map information and letters. Ms. Michaels is here to give you any more information you may want.

**Chairman O'Farrell** asked if anyone had any questions for Ms. Michaels. Mrs. O'Farrell also asked Ms. Michaels if she had any more to say.

**Ms. Michaels** said that she felt that Sherry Ryder had covered it very well. In addition to the parking in the back there is also space along the side of the driveway for three (3) to four (4) cars. Her neighbor gave permission for her to use that strip if needed. I would be glad to answer questions you may have.

**Jason Miller:** I saw red tape along the front. Is that going to be parking?

**Ms. Michaels:** Yes. The entrance to the shop is the front door. Until the parking gets established, I felt it would be good to have some parking there so people wouldn't have to park in the back and walk back around the building. I am trying to direct the primary parking there.

**Chairman O'Farrell:** You plan on opening two (2) days a week?

**Ms. Michaels:** Yes, at first on Friday and Saturday. Hopefully it will grow quickly and I can add more days.

**Chairman O'Farrell** asked Sherry about the difference between Ashwood Station and this business. Was it that the Ashwood Station use to be a business before?

**Sherry Ryder:** I am unsure.

**Rick Armstrong:** Pursuant to Land Use Regulation 605.01 Residential District R-2 and The Comprehensive Plan, Economic Goals and Objective, to attract new businesses and small industries that have low impact on Bath County's environmental, rural and scenic character, but provide jobs and revenue to the county; To encourage the growth of small local businesses as opposed to a large scale "one size fits all" approach to new business services. The objective is to diversify the economy by working with the appropriate parties who have expressed an interest in locating here and to pursue new business that will fit in with the existing environment. With those goals and objectives, I make a motion we approve the request for a period of five (5) years.

**Jason Miller** seconded the motion.

**VOTE: 4-0**

**PUBLIC HEARING:**

- b) **John A. Lockridge** – (M#16-20) – Conditional Use Permit to operate a truck and tractor pull twice annually at 16226 Indian Draft Road, Williamsville, VA. The property comprises

130.44 acres, with approximately 8 acres being the area for the events. The property is zoned A-2 Agricultural General and is situated in the Williamsville Magisterial District.

**Sherry Ryder:** Mr. Lockridge has made application for a Conditional Use Permit to operate a truck and tractor pull. It would be, as you said, located at 16226 Indian Draft Road, Williamsville. It is near the old Williamsville store.

I believe you would put this under section 603.03-20 "Other uses which are similar to the foregoing". As time progresses you come upon things that are similar but not spelled out. We do have uses that could be listed as similar.

The truck and tractor pull was brought to my attention approximately two (2) weeks before it was advertised to commence. I sent a message to Mr. Lockridge that I needed to speak with him and he came to my office the next morning. He stated that he had been told that he had everything that he needed and was not aware that he needed anything from zoning.

He immediately made application and payment for a Conditional Use Permit.

The truck and tractor pull was still held the following weekend. I believe that Mr. Lockridge had financial commitments that he could not get out of so he proceeded with the pull.

I did have some complaints of noise from the night that the pull was held. I understand from Mr. Lockridge's application that any pulls that he had would be finished and cleared out by 11:00 p.m. and that is also what he stated. Please see the recommendations from the Planning Commission minutes.

I have since found out, from the time I wrote this out, that he had a delay with a sled, there were some complications that put him behind about two (2) hours from what he thought was a good starting time.

I have heard some positive response as well from several locals that the pull was something that they enjoyed and it is a pull that they can get points from. Mr. Lockridge has on his application that he would like to do this two (2) times a year.

The total acreage of property is approximately 130 acres. There are a handful of residential addresses within close proximity to the pulling area as you can see on your map. Mr. Lockridge has ample acreage for parking.

The adjoining properties are zoned A-2 Agricultural General and FH-1 Flood Hazard. The area of the truck pull is not in the flood plain.

I have recommended that, if permitted, the County Ordinances be followed as part of that motion and I would also recommend that security be on premises during each event. And that's because of some of the calls I received. The event was attended very well.

This property is not located within a designated growth area.

Relevant Section(s) of the Bath County Land Use Regulations 603.03-20 and page 10-6 Community Facilities & Services Goal #3 of the Bath County Comprehensive Plan.

The Planning Commission voted 4-1 with Jason Miller casting the descending vote to recommend approval of a Conditional Use Permit for a period of twelve (12) months, with up to two (2) events within the next twelve (12) months. Each event is to be complete by 10 p.m. and any other validation be reviewed by the BZA and security be considered, if not by the sheriff office than by private security.

I received an email from Mr. Meadows and I will read it, so it will be on record. {Copy attached}

As you see in the Planning Commission minutes, the night of the truck pull, Mr. Meadows was calling my house at about a quarter till ten complaining about the noise at that time of night. I told him to call the Sheriff's Office and he had already called them. I told him ten o'clock was in the noise ordinance and I didn't know what else to tell you but I would call them and let them know that if was after ten o'clock and it's that bad, would they please check into it for a noise ordinance violation. I did do that and then Mr. Meadows called again. What I heard from Mr. Cowden was that as far as he knew, nothing was followed up on. Jeff Grimm was at the truck pull until nine o'clock that night or about. He said it was one of the more, quieter as far as the people and calmness that he had been to. It was very well structured and people were minding their p's & q's. The reason that I understand that it ended so late was, they had a problem with a sled that held them up two hours and another mechanical problem as well that pushed them past eleven o'clock. It was also their first time putting on the event.

The Smiths were here and he said he didn't like it going into Sunday, but then he realize that the Church was making money selling concessions and it helped the youth group and that made him feel better that the event was helping the community.

This is not like a Truck and Tractor Pull that is held for a fund raiser, like the one in Millboro, for the Fire Department. Mr. Lockridge is doing this on his own as opposed to a non-profit. That is the reason he is here for a Conditional Use permit. Our County Code supports non-profits doing certain things that would otherwise need a CUP. Our Land Use Regulation uphold them as well. The one in Millboro came in when the Fair was there and it matched up with that, then the Fair moved out on them and now there is only a truck pull. That particular truck pull doesn't end until midnight or about and no one complains. It is in an industrial zoned spot as well.

You have Mr. Lockridge's application, proffered list of conditions, photos and information. Mr. Lockridge is here to answer question you may have.

**Vice-Chair Scott Miller** asked if it was unusual for a person who doesn't apply for a permit, to proceed anyway.

**Sherry Ryder:** What we normally do is, if someone opens, say a garage and we find out, we go immediately to them and say to them, you need to immediately apply for a Conditional Use permit. We really want to support new businesses, but you really should not have done this.

We haven't had very many do this and I talked to the County lawyer about this once and he said that you can't do anything until they do open. Then you can send them a letter saying, you can't do anymore and asking them to apply for a permit or there will be legal implications. Mr. Lockridge did get that letter and he touched base with me as well. He said, he had spoken with a former Board of Supervisor member who told him that he didn't need anything else and he was good to go. He went on that instead of calling me.

**Chairman O'Farrell** opened the floor for Public Comments.

**Mr. Lockridge:** I had financial commitments for what I had planned out and I wasn't aware how the County permits and etc. worked. My father owned a large farm and he never talked about getting permits and such. When Sherry contacted me, I immediately went to see her the next morning to get this straightened out. It's a growing sport and locals like having a close event to go to on Saturday, have a good time with the kids, and get a hamburger or hotdog. I had the United Methodist Church in Burnsville do food to help support trips they want to take. I tried to do a community event so everyone would win. I didn't fare so well, but the Church did. I appreciate you hearing this case.

**Chairman O'Farrell** closed the floor for Public Comment and opened the floor for discussion by the Board.

**Vice-Chair Scott Miller:** I always try to consider everything that is put before us and try to support it, but there is a number of things about this lack of an application concerns me and one is just what we talked about. Not knowing the procedure, I understand but you need to know what to do in advance. To proceed without a permit concerns me and the lack of commitment. You wonder about the commitment to other limitations. The email letter from the neighbor also concerns me. The right to read, hear the T.V. and go to sleep is serious, so as we consider moving forward I suggest that we cut off and cease at seven o'clock. All spectators be gone at dusk.

**Chairman O'Farrell:** You said you would like to have it twice a year? You just had one in June, when would be the next one?

**Mr. Lockridge:** I was thinking about the end of October. To schedule is hard. There are a lot of areas that have these events. We will try to get close to the same dates as we can but they could vary by a week here and there.

**Chairman O'Farrell:** I was thinking about daylight savings time and going back to standard time. It will be getting dark earlier.

**Jason Miller:** They do have lights

**Chairman O'Farrell:** I was thinking about the neighbors.

**Mr. Lockridge:** I had planned on being done by ten o'clock but I had mechanical problems. I know that's no excuse. I should of have shut it down at ten o'clock. I knew the noise ordinance was ten o'clock and I should have shut down. I have people driving hours for this event. They come to do this stuff and it's hard to tell a guy who drives three (3) hours and not be able to do anything. I was stuck in the middle.

**Chairman O'Farrell:** Would you be willing to start earlier in the day and finished by dusk?

**Mr. Lockridge:** Millboro started theirs I think at two o'clock and finished at ten o'clock with the noise ordinance. They could have finished a little later, I left around ten. I live within six hundred (600) yard of the track.

**Rick Armstrong:** They finished up at around eleven o'clock.

**Mr. Lockridge:** I know it's a rural area but it seems to work out. I know there will be some who complain. We will listen to the complaints and try to make it better. We aren't trying to annoy people, just trying to have a good thing for the County.

**Chairman O'Farrell:** Would you consider starting earlier?

**Mr. Lockridge:** Yes ma'am. They said two o'clock. It is hard to get it before lunch time. These events are like eight hour events. If I was within the noise ordinance, would it be ok?

**Jason Miller:** I was thinking along with what they were saying. When I read the, Intent of Agriculture General District, A-2. (603.01) – This district is established for the specific purpose of facilitating agricultural operations, forest production, conservation of water and other natural resources, reducing soil erosion and protecting watersheds. Uses not consistent with the character of this district are not permitted. Then it list all permitted uses: agriculture, farms, parks, Churches, golf courses and so forth. Then that check all ... Other uses which are similar to the foregoing. Cultural/music centers, fish hatcheries, camp grounds, recreational parking, shooting range, some of the things in there I agree with, some I don't. It seems to be all over the place. When you read the first part the intent starts off sounding good until you get to the other uses it starts listing and it makes no since. We are going through it on the other hand, with everybody holding this up (he holds up Land Use Book) saying we got to protect the beauty and what not, of Bath County from the pipeline. But yet, we go through the other list and stuff and the same very land we are to protect from the pipeline has a list, that says, you can have whatever you want. Why are we listing this stuff? Traffic is another thing, with serval hundred people, I don't think that road was designed to handle that flow of traffic with one time or anytime events with that number of people coming in or out at one time.

**Rick Armstrong:** I will tell you where I'm at on it. First, there's not a statue, a rule, or law in these ordinance that would strictly prohibit it. So it puts it back into our laps to evaluate it for what it is, and **see** where we are. I do think, even though it is in an industrial area, we do have precedent before us that the County has allowed a truck pull already. The fact that this application is in a non-growth area is probably better, than if it were in a grow area. It's in an area that is more sparsely populated. By my count, there's eleven (11) residents within a half a mile. The one in Millboro, there is over forty (40). It may be in an industrial area but there is houses closer in Millboro than there are in Williamsville. Bath County is going down the road about tourism. They have spent a lot of time and money trying to make Bath County a tourism destination. Five hundred (500) people to me is pretty significant, and I hope the County would extend that same invitation into all social economic groups and not just the clientele of **The Homestead**. We want to draw everybody to the County. This event does that. He does that. The fact that it is for-profit, since I have been on the board here, over three years, we have either approved new CUP's or renewal's for nine events that were for-profit. The only difference is, his profit comes in two days not three hundred and sixty five (365), if there is any profit. He has indicated his willingness to be subject to our conditions. I do appreciate the Meadow's letter, I don't believe it's fully accurate. These truck pulls, when they are pulling, it ranges from fifteen (15) to twenty (20) seconds and then there is a break for four (4) to five (5) minutes while they regrade the track. It's not constant. It goes on then stops. Depending on how good the people are and their equipment, determines how quickly that happens. I can appreciate those people thought it was noisy, they couldn't hear the phone ringing, couldn't hear the T.V., but we have to determine what's a nuisance to the community, and what's acceptable, because there is never going to be time where everything suits everybody one hundred percent of the time. We have the responsibility to determine if it is an acceptable inconvenience to the neighbors. If it were every weekend, then I would say this is a little much. Chances are, on the October pull, most neighbors will be inside with their windows closed anyway. I personally feel like, it is an acceptable inconvenience, for that eight hours day, twice a year. With any number of events, you will find somebody not going to like it. They aren't going to spend a fortune here but if five hundred people are going to come support him and his non-profits there and the people as they come through the County, then I don't have a big issue with it. The fact that he held it without the permit, Mike Collins said, at this point there is no

consequence. Of course there would be further consequence if done again. During the Planning Commission meeting Sheriff Plecker sat there and said that, if he asks, they will come. Jeff Grimm said they had four people on duty that night, scattered through the County. But Robert indicated that they would be there, if asked.

I know there are some stumbling blocks, I believe there is a precedence in the fact Millboro never had their pull as part of the Fair/Carnival. It took the place of the Fair/Carnival. It's never been injunction with anything else. It's only been a pull.

**Sherry Ryder:** I thought it was with the Fair.

**Rick Armstrong:** No. I confirmed that with the event organizer.

**Sherry Ryder:** I was unaware of that and misinformed some people then.

**Jason Miller:** Then the Millboro organizers didn't have to go through the same procedures as this one?

**Sherry Ryder:** No, The County supports fundraising events and so they don't have to get a CUP.

**Rick Armstrong:** Those people were inconvenienced too and more of them.

**Jason Miller:** Then we couldn't do anything. They didn't have to come through us. Then that's the fault in the comparing of the two.

**Rick Armstrong:** Yes, but to be consistent and fair, I put a fair amount of thought into this and I am going to support it.

**Chairman O'Farrell:** You said there is approximately eleven homes around there. Are these permanent homes or what?

**Rick Armstrong:** I am unsure.

**Mr. Lockridge:** Four of the buildings are part of the property. Six are around the property. Maybe four or five are permanent residents, at the most. Not very many people live there. That's why I picked the area I did.

**Chairman O'Farrell:** Do you personally know the people living there?

**Mr. Lockridge:** I do. I went and talked to most of them and asked if they would mind. The Mennonites asked me not to hold events on Sunday. I told them I don't do events on Sundays. Although I did go about thirty five minutes into Sunday. These are either a Friday or Saturday events.

**Chairman O'Farrell:** Would you be willing to notify these four people you know about the event beforehand? So they can have the convenience to not plan an event at their home? I would hate to plan a family cook out and then have this happen.

**Mr. Lockridge:** Yes I can. I am on a first name basis with them.

**Chairman O'Farrell:** How many applicants do you usually have?

**Mr. Lockridge:** It can be around, as far as entries and trucks, probably fifty and some trucks pull twice. That night we had seventy three passes they hooked to the sled. It varies, depending if there is another event in the area.

**Chairman O'Farrell:** After they pull, do they leave?

**Mr. Lockridge:** A lot of them will leave as soon as they pull. Some will load up and stay to watch the rest pull. They paid to come in and so they stay to watch their pulling family do well.

**Vice-Chair Scott Miller:** I would feel more comfortable approving it for just one time to watch how it goes. I would also like to attach a fairly early finish time of eight or nine o'clock. When you think about it taking some hundred(s) of people some time to out. I am thinking about the neighbor and the traffic they will have to put up with for eight hours.

**Rick Armstrong:** That is expected at an event. It would be no different that the Highland County Fair, when it is going on all week. The neighbors there are inconvenienced for a whole week.

**Jason Miller:** That neighbor probably never thought in a million years, that he would be having a truck pull that close to his house.

**Rick Armstrong:** Probably not.

**Jason Miller:** Where I grew up, the Rockbridge tracks are a constant roar.

**Rick Armstrong:** Even though it is not what we are dealing about. It does put things into perspective. For Rockbridge County perspective, they were asked and willing to accept for six months, every Saturday night. Five Hundred people were within ear shot for the benefit of the County. This was for the benefit of the County.

**Jason Miller:** There the County did benefit. Here the only benefit is to a few stores where someone may stop at a store for a drink. We aren't getting any tax money from this. There is no license fee or meals tax

**Chairman O'Farrell:** Do I hear a motion?

**Rick Armstrong:** In accordance to session 603.03-20 of the Land Use Regulations. I motion we approve the permit for twelve months, not to exceed two events total, with review of the operations after first event, with the time limit of ten o'clock, to meet the noise ordinance, although not required, I recommend there be security on site, and copy of Bath County's Noise Ordinance be given to Mr. Lockridge.

**Chairman O'Farrell:** Ask about alcohol at the events.

**Mr. Lockridge:** My insurance won't allow.

**Sherry Ryder:** He stated there would be no alcohol in his proffer.

**Chairman O'Farrell:** Asked for a second.

**Motion failed.**

**Vice-Chair Scott Miller:** I motion the same with the changes for time limit. The event is to end at seven o'clock p.m. and crowd out by nine o'clock p.m.

**Rick Armstrong** second the motion.

**VOTE: 3-1 approved**

**CHAIRMAN'S REPORT: NONE**

**STAFF REPORT:**

The staff report is in the packet.

**Chairman O'Farrell:** Does anyone have questions for Sherry? None

**OLD BUSINESS:**

**NEW BUSINESS:**

**MINUTES: June 20, 2016**

**Vice-Chair Scott Miller:** I make a motion to approve the minutes of June 20, 2016

**Jason Miller** seconded the motion.

**VOTE: 4-0**

**Chairman O'Farrell** asked for a motion to adjourn.

**Jason Miller** motioned to adjourn.

**Rick Armstrong** seconded the motion.

**Chairman O'Farrell** adjourned the meeting at 8:25p.m.

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**Janice O'Farrell, Chairman**

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**Date**

## Comments to the Bath County Board of Zoning Appeals

July 21, 2016

Subject: Truck and Tractor Pull  
Conditional Use Permit  
16226 Indian Draft Road  
TM#16-0-20

I reside at 16169 Indian Draft Road directly across Route 678 from site of proposed Conditional Use Permit. My front porch is approximately 600 feet from the site of the Truck and Tractor Pull. Both my property and the proposed Conditional Use Permit property front on Route 678 on opposite sides. I would reasonably expect to hear farm use equipment at all hours of the day as the property is zoned for agriculture. The original event was held on June 11, 2016 without a permit and commenced at 5:00pm and did not end until 12:35am. The traffic at the event leaving the site continued beyond 1:00am. There apparently has not been any investigation of the sound levels at the event. At my residence, we could not hear the TV or the telephone ring. Residents in Highland County some three miles from the site could hear the event. I do not believe the sounds created by the event after dusk is a reasonable expectation or in compliance with the Bath County Comprehensive Plan.

I do not object entirely to the event. I think any resident of Bath County would object to the level of sound after dusk which prevents watching TV, listening to music, sitting on the front porch, or at the very least trying to sleep.

Based on my objection to the noise levels, I would recommend the event be held at such times that the event is completed and all traffic has left the site by dusk.

R.L. Meadows, Jr.  
Williamsville, VA