

Building, Planning & Zoning
P.O. BOX 216
WARM SPRINGS, VIRGINIA
24484



PHONE: 540.839.7236
FAX: 540.839.7222

Bath County Planning Commission

Bath County Courthouse – Room 115

March 23, 2015

MEMBERS PRESENT: Chairman John Cowden, Vice-Chair Jason Miller, Trudy Woodzell, John Loeffler,

MEMBERS ABSENT: Millboro seat still vacant.

PUBLIC IN ATTENDANCE: Mike Bollinger (press), Crystal Salvatore, Justin Neil, Joe Neil, Janice O’Farrell, Timmy Hepler, Johnny Martin

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:

Chairman Cowden called the Public Hearing meeting to order at 7:00 p.m.

PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING(s):

Joseph Neil and Justin Neil (d/b/a Neil’s Small Engine Repair) and Darling Properties, LLC (property owner) (TM#62-14C) – Conditional Use Permit application to operate an outdoor power equipment sales, service and repair shop. The property is located at 15862 Mountain Valley Road, Warm Springs, Virginia. The property comprises 1.92 acres situated in the Warm Springs Magisterial District and is zoned B-1 Convenience Business.

Chairman Cowden opened the Public Hearing for input on the Neil’s Small Engine Repair and Sales Business.

Sherry Ryder: I will give a summary of the application that was included in the informational packet for the public’s information.

They are making an application under section 609.03-1: Personal service establishment which performs services on the premises including repair shops etc.

At this time the former hardware store at the Warm Springs Market is vacant and has been for some years. The business would be within the building not outside. All repair would take place within the building. The building is leased from Darling Properties, LLC which is owned by Crystal Salvatore.

Approval from Bath County Service Authority and the Bath County Health Department would need to be obtained... The area has both public water and sewer. VDOT will be contacted for approval, I don't foresee any problems there. The traffic count will not change and has ample site distant. Any additional lighting would have to comply with the Outdoor Lighting Ordinance the county already has in place. Parking dictates one space for every 200 square feet of retail space. There is about 1500 square feet of retail so that would be 8 spaces required and there is plenty of space for that. They would need to be designated spaces due to another business being next door. Each business would know where their parking places are. The property is located in the designed growth area.

The adjoining properties are zoned B-1 Convenience Business (Warm Springs Market) and R-1 Residential Limited. There is adjacent B-2 General Business zoning (across the street) that has proffered conditions (Jay Trinca's antique shop).

I have not received any opposition in regards to the application. Signs were posted and ads were printed in the Recorder and the Virginia Review. I did have inquiries on the restrooms. There are two restrooms inside the building with public water and sewer.

Relevant sections: 609.03-1 – Bath County Land Use Regulations. Page 4-3 Economy Goals #3 and #8 and Objective B page 4-3 and Page 11-9 #2 of the Bath County Comprehensive Plan.

There will be 0 employees. Just the father and son working there at this time. The building has 3500 square feet, the remaining space (about 2000 square feet) will be used for storage and repair not retail. They have suggested working hours from 9am to 5pm Monday through Friday and 9am to 12pm on Saturday.

Once their Conditional Use Permit is approved, they will need to get a sign permit to make sure the signage falls within our ordinance as well. Joseph and Justin Neil are here to represent their application request. You have photographs, the zoning layout with pictures in your packet. I am willing to answer any questions and Crystal Salvatore is here to represent as the property owner.

Chairman Cowden asked about the one residential block in the layout.

Sherry Ryder: The residential block is across the street. The one resident closest, is the two story house nearest to the lane at Jay Trinca's antique shop.

Chairman Cowden: The public has been notified?

Sherry Ryder: Public Notice Signs have been put up for more days than required and it has been advertised.

Chairman Cowden: Signage, do they have to come back? Who does it go through?

Sherry Ryder: Through me, it would be an administrative permit.

Mr. Loeffler: Will there be any noise challenge for the residential folks?

Joseph Neil: There shouldn't be, the repair work will be done inside.

Sherry Ryder: Our code requires that all repair work be done inside the building.

Chairman Cowden: Will you be doing any ATV repairs?

Joseph Neil: Mostly lawn and garden equipment. Lawn mowers, tillers.

Chairman Cowden: It appears to meet the Comprehensive Plan and the Ordinances. It's a welcomed business in the county.

Mr. Loeffler asked Sherry how long a time is usually granted on Conditional Use Permits.

Sherry Ryder: You can make a recommendation on the time limit when passing the request on to the Board of Zoning Appeals. You can recommend an indefinite. But three to five years on a first time is good.

Chairman Cowden: Can we set a trial term?

Sherry Ryder: You can. That way if anything changes with the conditions or if there is any problems or complaints they can be investigated and /or corrected before going to the BZA. The BZA would then decide to revoke the permit or reissue.

Crystal Salvatore asked if the business would have reapply after five years to continue working in the building.

Sherry Ryder: If there is no complaints and the conditions are the same, they would have to only ask for a renewal through the Board of Zoning Appeals.

Johnny Martin asked if they would be working on generators.

Joseph Neil: Yes if they have a small engine.

Mr. Loeffler: If you have a lot of business, will you be hiring an employee? Would it still be in compliance?

Sherry Ryder: Yes, they would still be in compliance.

Chairman Cowden: You mentioned, bathrooms, are they required.

Timmy Hepler: How many bathrooms do they have to have? Can they use the port-a- johns?

Sherry Ryder: With a new business, Ordinance requires that you hook up to the public system if it is offered.

Sherry Ryder: The restrooms are not for the public use. They can be used by the public if the business allows it. When you have two people working eight hours, you need to have a restroom. The Ordinance requires the building of a business have facilities for workers and employees.

Mr. Miller: I make the motion to recommend for approval the Condition Use Application as submitted for a small engine repair and sale service subject to Section 609.03-1 of the Land Use Ordinance for a period of five years.

Mr. Loeffler seconded the motion

Vote:3-0-1Trudy Woodzell abstained, due to employee conflict

Chairman Cowden thanked everyone for their work on the grading of the Capital Improvement Plan.

The Planning Commission discussed the issues that came up and would like to revisit the application forms.

Chairman Cowden: Lets' put the application review on the April agenda to evaluate the application form and the evaluation form for the CIP 2016.

CHAIRMAN'S REPORT: None

STAFF REPORT: In packet

Sherry Ryder: You have a copy of the Staff Report that was given to the Board of Supervisor, dated February 5th to March 5th, 2015

One thing that consumed a lot of time was with an overnight lodging establishment that was in residential which is not permitted. The Health Department got involved. The establishment has now complied with the rules.

The Planning Commission asked Sherry to put together a distinction between Overnight Lodging and Bed & Breakfast regulations for next month's meeting.

OLD BUSINESS

Gas Drilling & Hydrofracturing Ordinance – Discuss Draft

Sherry Ryder: Things have changed since this was drafted a year ago. At the time they were considering the plans of hydrofracking on federal lands, they were unsure where the pipe line was going to go. We are fifty one percent federal land in Bath County. The County Board and Board of Supervisors wanted something in place if needed. This draft has been edited once before I believe. Mike Grist read it over and didn't see anything that needed edited or taken out. He thought it was a good idea to have something in place in case something came up down the road.

From what we understand from the Forest Plan that the Forest Service came up with, Bath County will not have any hydrofracking on forest owned land. But there is still some private land, but mostly public land, that has some Marcellus Shale. Mostly land in the northwest side of the county. There is some in the northeast too, so there is still the possibility of drilling.

Now that things have changed and we are going in a different direction, we may want to revisit this.

Chairman Cowden: Currently we have been told we can't do anything about preventing the pipeline from coming through. Do we have the power to make them get a Conditional Use Permit?

Sherry Ryder: Yes, they would need to apply for a Conditional Use Permit for mineral extraction. We have always had it in our regulations that any request, not in there, would be referred to something similar. Through Conditional Use, Variance and Zoning. With the gas lines this would, come through as Conditional Use Permit and through both Boards.

Chairman Cowden: This would apply to A1 and A2?

Sherry Ryder: Yes.

Chairman Cowden: When I read the ordinance I agree with Mike Grist in not seeing anything that needs taking out. What worries me is, what might be missing since I'm not in that field.

Sherry Ryder: Southern Environmental Law provided a couple drafts for ordinance for us to go by. Those were from the Eastern side of the state so we tweaked them when we wrote up our ordinances to fit Bath County.

Vice-Chair Miller: The one thing that Bill Jones said was that the seals on the pipes could start to leak after one hundred years. Well, there was a news article out of West Virginia paper that stated the seals on some of the pipes on the western side of West Virginia and Ohio had already started to leak. It hasn't been that long since they were installed.

Chairman Cowden: In terms of enforcement, you are the officer in charge of that, right?

Sherry Ryder: Apparently, yes

Chairman Cowden: So for operators performing work, we can have fines but it would have to be a Court of Law.

Trudy Woodzell: If the Pipe Line Company decides to do something, they are going to do it and the County wouldn't have the money to fight them.

Vice-Chair Miller: Like Bill Jones said, the big company isn't the ones we need to worry about. It's the smaller, fly by night companies we need to watch. They will try to get by with what they can and then file bankruptcy. The County is left with the cost of cleaning up to deal with.

Sherry Ryder: We could put a lien on and take the land as collateral but I think the best thing we could do is to make them take out a Bond. The County doesn't want the liability of what is lying under the ground. We would use the bond money to pay for damages. We would need to work with a lawyer to work that out.

Chairman Cowden: How would you figure out the amount?

Sherry Ryder: I think as part of this Ordinance, and I would ask Mike Collins about it. I think part of the ordinance says, if anyone makes out an application for Gas, drilling or hydrofracking permit, that we, the County would get help, though a lawyer familiar in this field of business. The expense should be shared with the applicant in some way. This should be done at the beginning. Before it is needed and with help from someone with legal expertise. I'm not for sure that we will have a problem but like you said, what if one day we do. It would be nice to have it already on the books.

Vice-Chair Miller: At least it won't be like, should someone come along and apply for a permit, they won't be able to say, we didn't have any ordinances against it when they applied and have it haunt the County in court.

Sherry Ryder: We can't change what ordinances we have. As new regulations are put in place we can try. Energy laws change daily and are hard to keep up with.

Trudy Woodzell: Why can't you place under letter (J) something like; the owner applicant shall supply us with; A retainer with Southern Law that would provide legal information regarding our next steps.

Chairman Cowden: It already says here in the draft; if they are found liable by Court of Law they would have to pay a fine, plus all court cost etc. Bonding?

Sherry Ryder: It would be similar to subdivision bonding. You have all the details spelled out like your roads etc. You would get the estimate for the Bonding through an engineer. They would be bonded for the full amount and then the engineer would sign off on a percentage of work done. Then, The County would be asked to release that percentage of money. The County does not have to release any money.

Mr. Loeffler: Where would the money come from after the work is done?

Sherry Ryder: It would come from a Security Bond that the County sets up. They have an ending date controlled by the County I think. I will talk with Michael Collins about that and get back to you.

Chairman Cowden: I would like to have information on all of this Bonding. Who would and who could we make take them out, and for how long? Who comes up with the standards on who meets the requirements and the amounts?

Sherry Ryder: I will try to have Michael Collins come to the next meeting.

Vice-Chair Miller: Maybe it would be worth having the County pay someone write this section on our ordinances.

Chairman Cowden: Let's see if we can get some teeth in this concerning Bonding.

Trudy Woodzell: That would be good to help protect us from the fly-by-night guys.

Chairman Cowden: Is there anything else to discuss about the draft? Sherry find out what you can and let us know.

Architectural Standards for Business zoned properties - Discuss

Sherry Ryder: Our standards were adopted in 2010. Prior to the Dollar General Store, we had talked about some sort of property look. This book is a copy of Rockbridge's version from 2002. It came out about that time. Ellen Black, Mike Grist and a couple others thought parts of this book was a good idea on guidelines on new and remodeled business building looks. This subject has been put off, brought up and put off for a number of years. The Economic Development Department is now coming up with plans, so it might be good to have something started from you guys to mesh with what they want to go with.

Mr. Loeffler: We don't want to chase away new businesses.

Sherry Ryder: They are only giving you guidelines to go by and examples of what other localities did, to think about.

The Commissioner discussed about other locations and the good and bad examples they had seen.

Sherry Ryder: There are people that are interested in this and are willing to be a part of a Committee to help make it work.

Mr. Miller: We would transition into something like this slowly. Street layouts, planters in the middle, store fronts, sidewalks, bike lanes, two lanes, the median and so forth.

Chairman Cowden: I do like the look of a coordinated location. But we still have to honor individuals, price and so on.

Vice-Chair Miller: We have only a few places that this would happen. Warm Springs, Courthouse area, Hot Springs, downtown area and Mitchell town.

Trudy Woodzell: I am concerned with telling new businesses what color to paint or what the roof has to look like, etc.

Sherry Ryder: We can always start requirements with new buildings or those with a sixty percent renovation.

The Planning Commission agreed to think about starting guidelines with new businesses or with those needing sixty percent renovation. They discussed other buildings that were built in Hot Springs. They came out looking very nice without any requirements, but agreed that they were very lucky. They discussed what other groups in the county may want to have a say and they will be kept in mind as the subject continues.

Chairman Cowden: We will keep this on the agenda for further discussion.

Sherry Ryder: I will get some more information together and get back to you in a couple months. After that we can get together and set up a committee.

NEW BUSINESS

Lighting

Sherry Ryder said this subject was brought up by request by the Sheriff's Office. We do not have regulations that would address residential lighting or even agricultural lighting. She explained the situation that brought this up.

Chairman Cowden: What happens when a person has a floodlight pointed at an empty lot or field?

Sherry Ryder: We have had that problem. Anyway, I promised the sheriff I would bring this up at the Planning Commission meeting. So think about it.

Vice-Chair Miller: I think this should fall under the law of disturbing the peace statute. If it doesn't fall under there, then I don't see how we can regulate it.

Trudy Woodzell: Didn't we work hard on Residential Lighting at one time? We even talked about how many decimals of light from the center of the lot to the corner of the other lot. Are we going to ok having Sherry go out on Friday night to check on lighting complaints?

Sherry Ryder: Yes, and we had a lot of people complaining about any possible rule. They want their lights for security reasons. With the Business Lighting, I have had to go out at night, three times, to make sure the light didn't shine past the property line.

Chairman Cowden: We do have regulations on how a security light is angled. And it's not necessary for it to be on all night long.

Sherry Ryder: We do have light regulation in new subdivisions.

Vice-Chair Miller: Then you get into someone's right to have a motion light. Then you have the problem with it turning on and off all night long when something walks by. So one that stays on might be better.

Mr. Loeffler: If there is a complaint, can the Sheriff Department enforce it?

Sherry Ryder: The County can adopt something that is part of the County Code that would give the Sheriff Office that authority.

Reappointment of Term

Sherry Ryder: Jason Miller's term is expiring soon. He wants to be reappointed for a full term. With the Planning Commission's OK, I would like to send correspondence to the Board of Supervisors asking for his reappointment.

Chairman Cowden: Do I hear a motion?

Mr. Loeffler: I move to make the motion to send correspondence asking the Board of Supervisors to reappoint Jason Miller to a new full term.

Trudy Woodzell: I second the motion.

Vote: 3-0-1 (With Jason Miller abstaining)

Amendment to Comp Plan

Sherry Ryder: Next month we need to look at amendment to the Comp Plan with regards to House Bill 2 (HB2) in the transportation section. Language needs to be included in that chapter to be able to apply for funding under VTRANS 2040. It would need to be in there in order to qualify for future funding for Route 220. The deadline to have it incorporated and adopted is October 1, 2015. A public hearing by the Planning Commission and Board of Supervisors will need to take place.

MINUTES

Chairman Cowden: We have the minutes for February 23, 2014

Vice-Chair Miller: We have a typo on under Public Attendance with Matt's last name. "Ratchiff" should be spelled with a "l", Ratcliff.

Trudy Woodzell made a motion to approve the minutes, with corrections, for February 23, 2014

John Loeffler seconded the motion.

Vote: 4-0

ADJOURN

Vice-Chair Miller made a motion to adjourn the meeting.

Chairman Cowden adjourned the meeting at 8:30 p.m.

Vote: 4-0

Chairman John Cowden

Date