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**Bath County Board of Zoning Appeals**

**Bath County Courthouse – Room 115**

**April 15, 2013**

**MEMBERS PRESENT:** Becky Armstrong, Janice O'Farrell, Rick Armstrong, Scott Miller, Richard Byrd

**MEMBERS ABSENT:**

**PUBLIC IN ATTENDANCE:**

**STAFF PRESENT:** Sherry Ryder.

Chairman Armstrong called the meeting to order at 7:00 p.m. and welcomed Mr. Byrd.

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

**ADDITIONS AND CORRECTIONS TO AGENDA:**

**PUBLIC HEARING:** (a) Bath County Farmer's Market/Mary Hodges/CA Partners VHS #4 LLC/Natural Assets-Homestead Preserve (TM# 72-42J)- Conditional Use Permit application to use the parking lot area in downtown Hot Springs as a place to host the Bath County Farmer's Market. The property comprises of 1.12 acres situate in the Cedar Creek Magisterial District and is zoned B-2 General Business.

Mrs. Ryder: The planning commission heard this last month. They have used this parking lot for 3 to 4 years to host the farmers market. They reference 610.02-17 which permits fruit or vegetable stores. They were granted a CUP in the past and they are being allowed to use the parking lot for one more year. The Planning Commission recommended two years just in case they were get an extra year. I have never had a complaint and they reference page 16-18 of the Comp Plan and it was recommended 4-0. They averaged gross sales of over \$70,000.00. We did not have any opposition to the farmer's market. We had a lady call and indicate her support.

Chairman Armstrong opened the public hearing.

Chairman Armstrong closed the public hearing.

Mr. Byrd: Made a motion in accordance with section 610.03-11 of the Bath County Land Use Regulations to approve it for a period of 2 years.

Mr. Armstrong: Seconded the motion.

**VOTE: 5-0**

(b) David W. and Theresa Hodge, DBA Parts Plus Inc. (TM# 77-52A)- Conditional Use Permit Application to operate business for the sale of new, used and after-market parts for heavy equipment. The property comprises of 73.05 acres situate in the Millboro Magisterial District and is zoned A-2 Agricultural General and A-1 Agricultural Limited.

Mrs. Ryder: The Planning Commission heard this one last month as well and Mr. and Mrs. Hodge has asked to operate a business that would be for new, used and aftermarket parts for heavy equipment. They have been in business in 10 years. They were unaware they needed a permit and I personally didn't know they were there. They drop ship parts, but do some work on equipment there. He does keep the equipment work to a minimum. You can't see it from the road. They have proffered conditions in there, only new, used, aftermarket parts, office for bookkeeping. They referred to Land Use Regulation of 603.3-6 with proffered conditions. There was one at the Planning Commission Meeting that expressed some concern. Mr. Hodge plans to retire in a couple years. Mr. Gilcrest supports this business also.

Chairman Armstrong opened the public hearing.

Mr. Miller: Was the concern by the neighbor satisfied?

Mrs. Ryder: Yes, she was concerned about heavy equipment being parked at the end of the road.

Chairman Armstrong closed the public hearing.

Mr. Armstrong: Made a motion pursuant to section 603.3-6 of the Bath County Land Use Regulations to allow it for a period of 2 years with the proffered conditions of sale of new, used and aftermarket parts, office for bookkeeping and sales, and minimal tractor repair.

Mr. Miller: Seconded the motion.

Mr. Byrd: Are we going to enter the proffered conditions?

Chairman Armstrong: Yes, I think we should.

Mr. Armstrong: Amended his motion to add the proffers.

**VOTE: 5-0**

(c) Bath Highland County Volunteer Fire Department- Burnsville (TM#23-16A)- Variance application for variance from rear yard setback of required 35'. The requested setback would be approximately 5' from rear property line, which would be for the purpose of an addition to the rear of the building. The property comprises of 0.44 acres and is zoned A-2 Agricultural General. The property is in the Williamsville Magisterial District and is located at 8601 Muddy Run Road, Burnsville, VA.

Mrs. Ryder: The Fire Department and Rescue Squad share this building. The need for the variance on the rear yard setback is so that they can expand the size of the building, with the addition the setback will be about 5 feet. The need the variance is because right now, they have one vehicle that is not parked at the building. The fire trucks are parked in various ways so that they can fit them in the building. They are in the process of getting

a handed down truck and they have nowhere for it. They have no room to do training. They are limited on the side by a gas tank, septic and light pole. The fire and rescue have agreed to put screening in place for the landowners adjacent.

Chairman Armstrong opened the public hearing.

Mr. King: Scott Alexander is the adjacent owner and the fire department asked him to draw up a document in regards to what he would want in place for us to do this.

Mr. Alexander: I have had several meetings with Mr. King in regards to this and as a member of the rescue squad, I am in support of the growth and Kim and I are in agreement to the conditions as long as they are maintained before, during and after construction.

Mrs. Ryder: The conditions are as follows: an official survey be completed to positively identify the property corners and lines to the rear and side of the adjoining property, all disturbed areas onto and approaching the adjacent property line be restored to match previously existing conditions; specifically the positive drainage from the area and replacement of grass and groundcover to prevent erosion. Additionally, all construction debris will be kept off the adjoining property at all times and removed from the rear and side of the building addition upon completion of the project. As a means to provide a screen of privacy and noise buggers between the adjoining properties, two staggered rows of dense evergreen trees (specifically Leland Cypress, 6 feet minimum height) will be planted along the rear of the property line between the two parcels. Rows will be planted a minimum of 5 feet onto the adjoining property, with a maximum spacing of 10 feet O/C between all trees. Survival of all trees will be warranted by the Bath-Highland Volunteer Fire Department for a period of 5 years following the date of planting. Any deviations to above conditions will be presented to adjoining property owner, William S. Alexander for consideration and approval prior to implementation. At which time the proposed variance is approve, it is requested that a copy of this letter and the conditions herein are made a part of the record.

Mr. King: The fire department has voted and approved these conditions and is very grateful to Scott and Kim.

Chairman Armstrong: How long is this going to big enough for you guys? Is it something that you guys need to be thinking about a bigger space?

Mr. King: Potentially, if we have a need for more equipment and more room in the future, we would have to look for a new site. Our projections say this is adequate for 10 plus years but it is also dependent on growth in the area. We need the room to get an additional tanker since we have no fire hydrants in Burnsville. This will see us into the future very nicely.

Mr. Armstrong: Is the rear setback requirement a standard tool?

Mrs. Ryder: It goes back to the 80's.

Mr. Armstrong: The plat shows 25 feet. So that is why I was asking.

Mr. King: This is why we are doing an official survey.

Mr. Miller: What is the relationship between this firehouse and the one in Williamsville?

Mr. King: We are sister departments. They are actually located a few feet into Highland County. We are incorporated together.

Scott Miller: Is there space available at that facility?

Mr. King: The response time would be dramatically increased. We couldn't get on scene in time.

Mr. Byrd: Is it proper to have the Alexander's make this part of this request and ok to be made part of the variance?

Mrs. Ryder: Yes, it is a variance with proffers.

Chairman Armstrong closed the public hearing.

Richard Byrd: Made a motion to approve under section 805.02-1 and 805.02-2. I think that has been coming upon us because of the Land Use Regulations it would produce an undue hardship and that the hardship is not shared generally with other property in the same zoning district in the same vicinity and that authorization to assess variance with not be a detriment to other property and that the character of the district will not be changed and also add proffers included in the letter as follows: an official survey be completed to positively identify the property corners and lines to the rear and side of the adjoining property, all disturbed areas onto and approaching the adjacent property line be restored to match previously existing conditions; specifically the positive drainage from the area and replacement of grass and groundcover to prevent erosion. Additionally, all construction debris will be kept off the adjoining property at all times and removed from the rear and side of the building addition upon completion of the project. As a means to provide a screen of privacy and noise buggers between the adjoining properties, two staggered rows of dense evergreen trees (specifically Leland Cypress, 6 feet minimum height) will be planted along the rear of the property line between the two parcels. Rows will be planted a minimum of 5 feet onto the adjoining property, with a maximum spacing of 10 feet O/C between all trees. Survival of all trees will be warranted by the Bath-Highland Volunteer Fire Department for a period of 5 years following the date of planting. Any deviations to above conditions will be presented to adjoining property owner, William S. Alexander for consideration and approval prior to implementation. At which time the proposed variance is approve, it is requested that a copy of this letter and the conditions herein are made a part of the record.

Mrs. O'Farrell: Seconded the motion.

Mr. Armstrong: He understands where they are coming from.

Chairman Armstrong: I commend Scott and Kim for the encroachment that they are taking on for the community.

Mr. Byrd: The land the department is setting on came from the Alexander's originally so that is a big commitment.

**VOTE: 5-0**

**CHAIRMAN'S REPORT: Welcomed Mr. Byrd to the Board of Zoning Appeals.**

**STAFF REPORT:** Mrs. Ryder went over information that was enclosed in the packet.

**OLD BUSINESS:**

**NEW BUSINESS:**

Mrs. Ryder: I do have a variance application that came in for a singlewide in a residential district. I won't be here on the 3<sup>rd</sup> Monday of May, so I wanted to see when you wanted to schedule it. He is buying the trailer from a neighboring property owner and he should be able to get the trailer by late summer.

Chairman Armstrong: June would be okay then.

The BZA will meet in June since they prefer Mrs. Ryder to be there. The date will be June 17<sup>th</sup>, 2013.

**MINUTES: Approve minutes of February 18<sup>th</sup>, 2013 meeting. Mrs. O'Farrell made a motion and Mr. Armstrong seconded the motion.**

**VOTE: 4-0-1 (Mr. Byrd abstained as not in attendance then)**

Mr. Armstrong made a motion to adjourn meeting.

Mr. Miller seconded the motion.

**VOTE: 5-0**

Chairman Armstrong adjourned the meeting.

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Becky Armstrong, Chairman

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Date