



# County of Rockbridge

## Office of Community Development

150 South Main Street

Lexington, Virginia 24450

Office: (540) 464-9662

Fax: (540) 463-5981

**CHRIS SLAYDON**

*Interim Director of Community  
Development*

[cslaydon@rockbridgcountvva.gov](mailto:cslaydon@rockbridgcountvva.gov)

ECONOMIC DEVELOPMENT  
540-464-9662

PLANNING AND ZONING  
540-464-9662

GEOGRAPHIC INFORMATION  
SYSTEM  
540-464-9656

Website: [www.rockbridgecountvva.gov](http://www.rockbridgecountvva.gov)

### AGENDA

#### ROCKBRIDGE COUNTY BOARD OF ZONING APPEALS

#### BOARD OF SUPERVISORS MEETING ROOM

15 September, 2021

7:00 p.m.

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PLEASE TAKE NOTICE that the 15 September, 2021, Board of Zoning Appeals meeting will be held by electronic means pursuant to the Continuity of Government Resolution adopted by the Board of Zoning Appeals on February 17, 2021, due to the threats posed by the COVID-19 pandemic to the health, safety, and welfare of the public.

While some Board members may participate remotely, staff will be present presenting as normal in the Board of Supervisors meeting room at 150 S. Main Street, Lexington 24450.

In addition to citizens attending the meeting in person, citizens have several options to view or participate in the Zoom Meeting Webinar as described below:

- (1) Join the Rockbridge County Board of Zoning Appeals Zoom webinar  
When: Wednesday, July 21, 2021 at 7:00pm

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86849483534?pwd=R3JPU1hkZ3loeUx6T2pDS2t0ci9aUT09>

Passcode: 532342

- (2) Or Telephone:  
Dial in to one of the following numbers  
1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799  
**Webinar ID: 868 4948 3534**  
**Passcode: 532342**

If you have never joined a zoom webinar you can find instructions to join at the following link:

<https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-attendee->

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- 1. Call to Order

2. Minutes (21 July, 2021)
3. Ronald W. Snider (South Lee Highway) – *(Public Hearing – See Below)* – Application for a variance to reduce the acreage of an existing non-conforming lot in the Agricultural and General Uses (A-2) Zoning District

Public Hearing Comments can be made by:

1. Email [cslaydon@rockbridgecountyva.gov](mailto:cslaydon@rockbridgecountyva.gov)

2. Comments sent by U.S. Mail must be received by the day of said meeting in order to be read aloud during that meeting.

3. Submit comment in writing and place in the drop box located at the front entrance of the County Administration Building at 150 S. Main Street Lexington, VA 24450

4. Join the Zoom webinar by phone or computer using the instructions at the top of page one (1) of this document then using the information below:

a. you can click on the Q & A box and submit your question there and it will be read during public comment (option for computer with no microphone)

b. if you have microphone you can click on "Raise Hand" button. The mediator will unmute you and announce that you can address your comment.

c. If you call in, the mediator will announce the phone number as it is unmuted and the caller can then state if he or she wishes to comment.

4. Other Business
5. Adjourn

## **Transcript of July 21, 2021 Rockbridge County Board of Zoning Appeals Meeting**

(0:01) Jeff Pufahl (JP): .....February 17, 2021 due to threats caused by the COVID-19 pandemic to the health, safety, and welfare of the public. While some BZA members may participate remotely, staff will be present presenting as normal in the Board of Supervisors meeting room at 150 South Main Street in Lexington, Virginia. In addition to citizens attending the meeting in person, citizens have several options to view or participate otherwise. At this time, we will proceed with the meeting and I'd like approval of the March 17, 2021 minutes.

(0:51) Chris Slaydon (CS): And this does require a motion to approve and then a second.

(0:54) Samuel Vest (SV): I'll make a motion to approve the minutes.

(0:56) Grigg Mullen (GM): I'll second.

(01:01) CS: All right we can take a roll call vote there, sir.

(01:04) JP: All right, all in favor?

(01:09) JP, SV, GM, Lynn Wells (LW), Joseph Clemmer (JC): Aye.

(01:12) JP: Any opposed? All right. Chris?

(01:25) CS: Yes. Bear with me here, I am going to promote myself to a panelist, I hope. Yes, there you go, so that way I can share my screen. Can you still hear me Mr. Pufahl?

(01:46) JP: Yes, absolutely, thank you.

(01:50) CS: Thank you, thank you. All right, our next agenda item is an appeal of the Zoning Administrator's decision from Jonathan P. Tarris. A little bit about the property: the Tarris lot is located at 1006 Shenandoah Road, Lexington, Virginia 24450. The Tarris lot is located in the General Residential (R-1) zoning district. The property is located in the Shenandoah Heights subdivision. The 12-lot subdivision was platted in March of 1980 with an average lot size of .80 acres. The Tarris lot is identified as lot 4 in the Shenandoah Heights subdivision and currently consists of .89 acres per tax records. Again, per tax records, the majority of the single-family dwellings within the subdivision were constructed in the 1980s with the Tarris house being constructed in 1983.

(02:54) Chris Musso (CM): Chris, do you want to get rid of the...

(02:58) CS: Sorry. Thank you sir. A little bit about bed and breakfast homestays. Each zoning district in Rockbridge County has permitted uses and uses by special exception. The uses by special exception are uses by special exception because they have been determined to have a potential greater impact on the area than the permitted uses in the

zoning district. Per Section 604.03-1, a bed and breakfast homestay is a use by special exception in the general residential zoning district - the R-1 zoning district. Per Section 302.02...a uh 24..., a bed and breakfast homestay is defined as a short-term rental where overnight accommodations plus breakfast in a private owner-occupied home that provides one to three guest rooms for occasional bed and breakfast guests. Primary use of the home remains as a residence, not a lodging establishment, signs generally not displayed on the property and all reservations are made in advance. Income derived from the bed and breakfast activity is a source of supplemental income that does not usually represent a primary source of income. Mr. Tarris purchased the property on September 29, 2017 and, a few days later, made an application for a special exception permit to operate a bed and breakfast homestay in the R-1 zoning district. Uses by special exception are required to be reviewed by the Planning Commission. The Planning Commission has an advisory role to the Board of Supervisors, meaning the Planning Commission makes a recommendation to the Board of Supervisors. On November 8, 2017, the Planning Commission recommended that the special exception permit be denied. On November 27, 2017, the Board of Supervisors approved the permit for the special exception bed and breakfast homestay. As far as the zoning letter itself, the May 26, 2021 zoning violation letter, as documented in the May letter, the Zoning Administrator determined that the property was out of compliance, is out of compliance, with the special exception permit for the bed and breakfast homestay. This determination was made based on the following factors:

1. The bed and breakfast homestay definition requires that the short-term rental can be renting for one to three guest rooms for occasional bed and breakfast guests. The online marketing [www.airbnb.com](http://www.airbnb.com) has two options for the type of place for rent. The two options that are offered are “the entire place or” or “private room”. The private room option allows for the host to offer multiple rooms and states that the renter will have your own room and share some common spaces. The options for the entire place states that the renter will have the entire place to yourself. The online advertisement for this lot states that you will have the entire villa to yourself and is offered a short-term rental with up to 12 guests, three bedrooms, four beds, and three and a half baths. Pictures on the Airbnb website show four bedrooms with four king size beds. Per the Commissioner of Revenue records, the single-family dwelling has a total of four bedrooms. Per the May 26, 2021 zoning violation letter, the Zoning Administrator determined that the renting as the dwelling as the entire place was out of compliance with the special exception permit for the bed and breakfast homestay and required that the listing be modified from the entire place to a private room. Again, the private room option allows Mr. Tarris to offer one to three bedrooms and states that the renter will have your own room and share common spaces.

2. The bed and breakfast homestay definition requires that short-term rental be in an owner-occupied home. The Office of Development received multiple reports that Mr. Tarris does not live on the property. Residents along Shenandoah Road and Monticello Road have stated they observed Mr. Tarris picking up mail, checking on the property, but not living on the premise. The May letter, zoning violation letter, the

Zoning Administrator confirmed his decision that the bed and breakfast homestay requires that the dwelling must be lived in by the owner and required that Mr. Tarris confirm that he lives in the house. During the public hearing, staff anticipates that residents of the neighborhood will attest the lack of owner-occupied during rentals or otherwise.

3. In addition to the bed and breakfast homestay definition requiring that the short-term rental in owner-occupied home, it also requires that the primary use of the home remains a residence, not as a lodging establishment. The May letter, the Zoning Administrator advised that the renting of the dwelling without Mr. Tarris being present during renting activity was out of compliance with the special exception permit and required that Mr. Tarris be present on site while the renting activity is taking place.

In conclusion, I felt it would be beneficial to review Section 15.2-2309 of the Code of Virginia titled “The powers and duties of the Board of Zoning Appeals”. The Code states that the decision: 1) the decision of such appeals shall be based on the Board’s judgement of whether the administrative officer was correct; 2) the determination of the administrative officer shall be presumed to be correct; 3) at the hearing of the appeal, the administrative officer shall explain the basis for his determination; afterward, the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence; 4) the Board shall consider any applicable ordinances, laws, and regulations making its decision. Zoning violation and zoning violations are not something that the Office of Community Development takes lightly; it was only after careful consideration that the decision was made that Mr. Tarris was in violation of the special exception permit to operate the bed and breakfast homestay. This concludes staff’s portion of the presentation. At this time, I would like to turn it over to Mr. Jonathan Tarris for his presentation on the appeal and, I’m going to stop sharing my screen real quick. And Jonathan, would you like me to share your presentation on the screen?

(09:04) Jonathan Tarris (JT): Yeah, if you want.

(09:05) CS: Absolutely, more than happy to. I’m going to share my screen one more time and include Mr. Tarris’ presentation. All right.

(09:30) JT: Good evening. I hope you guys have had the opportunity to read over my notice of appeal and my presentation for tonight. I know there have been some issues with parking and, from what I understand, a handful of guests have had some events there without my knowledge. I realize that that is a concern to the neighborhood and something that I am open ears on how I can address. I put in some things I have already done to try and address it, but as far as the... I would like to say that in my special exception permit there were no, I didn’t have any rules about events or parking or anything, there were no restrictions in my permit regarding those. So, though I understand they’re an issue, I don’t think that issue is in itself a violation of my permit.

Now, with regards to the definition of a homestay and whether I am in violation, you know, I think it's pretty clear that the definition says that a homestay is a short-term rental in a private owner-occupied home and, when you break down what each of those things are, I think I clearly meet the definition of that. My property is private. When I go out of town for the weekend or go stay at my farm, or what have you, I rent out the entire place; the place is private to the guests. I also try to make it private for the community, I put up privacy shrubs and things of that nature to ensure that it remains private. I think the most important definition that the County Administrator is focused on is: is the property owner-occupied? I can attest to that; I stay there frequently. I have some people here tonight that have come and stayed the night with me over there. I conceived my daughter in that house; I'm over there a lot. You know, I live here locally; I'm not an absentee landlord. I think the purpose of the owner-occupied definition is to make sure the Marriot or whoever wasn't coming in and buying up residential lots and renting them out absentee and that's not the case. Now if you look at the definition that the County Administrator provided of owner-occupied, their definition based on Webster's is lived in by the owner. Well lived in doesn't make any more sense than owner-occupied, so I looked up the definition of lived in and that is suggested long-term human habitation or use. Since I have owned the property, I have stayed there every, other than the two months when I rented it out long-term, I have stayed there on a monthly basis, often times more so than that. It has certainly been long-term habitation and use; it's where I mean I keep personal belongings there, family heirlooms. I don't know how else to get across that I live here, but I have been living there for quite some time. I vote there, I get my mail there. As the County Administrator said, the neighbors often see me there, it's not like I'm not there so I consider, I believe that I live there because I have long-term human habitation use of the property. The homestay definition does not state when a house is occupied, how often it's occupied, just that it's an owner-occupied home and that is it.

Now the last ground is: is the property a home? Well, it is. I keep my stuff there; it's where I live frequently. But I think that, in terms of this definition, the definition requires that the whole home be rented. If you read it in the paragraph; a short-term rental where overnight accommodations plus breakfast in a private owner-occupied home that provides one to three guest rooms. So, the County Administrator is saying that I should only be renting individual rooms, but the definition clearly says that the owner-occupied home that you're renting for short-term use, and that home can have up to three bedrooms. Now there is the issue of well my house does have four bedrooms. When Chris brought that up to me in, I think in 2019, I got rid of one of the listings of one of the bedrooms and tried to transition the room to more of an office and that is also the room that I stay in when I'm there. When I'm not there, I have rules to say that you are not supposed to go in the owner's area but sometimes the guests break those rules. In fact, I've got a welcome book with some of the rules and regulations that have, you guys can pass that around, that I provide for all my guests.

Finally, and not much related to the violation but I think it does apply to the violation, or proposed violation: is the primary use of the property residential or is it a

lodging establishment? The Zoning Ordinance is very clear that a residential use is any building, any place building or establishment, used, in whole or in part, as a dwelling. Whether I'm staying there or whether my guests are staying there it is used as a dwelling. It is a residential use. If you look at the definition of a lodging, that implies that you are renting out separate rooms that someone, that there is an innkeeper there on premises. So, I really believe that if I were there while the guests were there, that would make the property more like a lodge and less like a residence. We're in a, it's an R-1 zone, it's a single-family zone. If I were my next-door neighbor, I would prefer to have a single family using the property as a residential use rather than having an innkeeper and three guests' rooms. That seems a lot more like a lodge to me than a single-family home.

That is most of what I have to say with regards to the violation, the definitions that goes towards the violation. However, I would like to point out some of the measures I have taken: I provide guests a handbook with rules - there's rules against commercial events, rules against street parking, rules against non-residential use. I gave my neighbors my contact info when I began renting in case there was any issue and I haven't received any complaints from my neighbors. I don't understand, I guess some of them have communicated with the County, but I have not received any complaints from them personally. And like I had said earlier I have planted privacy hedges and done things like that to try and appease the neighbors. Since receiving the violation, I have tried to fix things up. I put labels on each of the rooms, labeling which ones are the guest rooms and which ones are the office and for personal use. I removed, in the pictures of my listing that the Administrator provided, they provide the listing as it was before the violation. I have done a few things to try and make my listing more in compliance. I did advertise the sofas in the living rooms, for example, I moved all advertisements of those for sleeping arrangements, made sure all the sleeping arrangements are in one of the three bedrooms. I have, there are rules in the welcome book, however I have tried to make them more prominent and taped them to the fridge to make sure the guests actually get around to reading them and they don't just hide out in that book. I have added to the rules that any noise events or noise complaints will lead to immediate eviction, to try and put some weight behind the rules. I've added that street parking may result in towing at the owner's expense. I don't know how that would be possible, I put it in there to try to make sure they abide by those rules. And I would like to put some cameras there to kind of monitor the parking and events situation where if I'm away for the weekend, I can kind of tune in on my phone and see if there is too many people there and get somebody over there to ask guests to take care of the issues. I understand that I have a handful of neighbors that don't like that I have Airbnb in the neighborhood. I get that, I am trying my best to do everything I can to appease them, but I really feel like I have met the definition of the homestay. I think that is about all I have to say unless you guys have any questions for me.

(20:02) JC: Do you actually live there?

(20:03) JT: Yes. I don't live there 100 percent of the time, but yeah, I keep my personal belongings there, I keep clothes there. I stay there frequently.

(20:15) JC: But you are not there when you have guests?

(20:18) JT: No. 95. Every now and then I am but majority of the time, no, I am not there when I have guests. I try to rent the place out primarily when I go out of town. My girlfriend lives in Charlottesville, when I go see her and I'm not using the property, I put it up for rent. In a way, it kind of funds weekend travel for me and things of that nature.

(20:48) JP: How long have you owned the home for?

(20:50) JT: Since 2017.

(20:53) JP: 2017?

(20:54) JT: I believe November of '17, if I remember correctly.

(20:56) JP: OK. Did you start renting it out as a B&B immediately or...

(21:05) JT: Yes, sir.

(21:06) JP: ...or was that something that happened later on?

(21:09) JT: Immediately.

(21:10) JP: Immediately?

(21:11) JT: Well, I immediately got the special exception permit then began renting it out.

(21:17) JP: OK. I'm just curious, how often is the property rented?

(21:25) JT: Probably about 40 percent of the year or so.

(21:32) JP: 40 percent?

(21:33) JT: Somewhere between 30 and 50 percent, I'd say.

(21:37) JP: Right, and what is it mainly, alumni coming back and parents or what's the breed?

(21:43) JT: Well, you'll see one of the letters, it may even be a variety, there's certainly, I think some of these events recently were in May and I think they were related to student graduations. I didn't know about them but I think that's what happened in May. So, there's, for certain weekends it's related to universities. More or less though its more high-end clientele, people want to go visit the Natural Bridge State Park or local families who are trying to have guests. The whole summer I rented it out to one local family when a tree fell on their house. I guess that was over 30 days, so it wasn't a short-term rental, but that person found me on Airbnb. Then I also rented it out long-term to a W&L baseball parent who wanted to be here for his son's senior season. So those are

my, two of my, long-term rentals but those were only for a little over a month each. Did that answer your question?

(22:56) JP: Yeah, yeah, I was just curious. So how often do you stay there would you say then, 40 percent?

(23:06) JT: I'd say just about weekly or every other week I'm there. I do have three properties that I stay at, I wouldn't, I don't think I stay at any of them, I have three of my own properties that I stay at, I don't think I stay at any of them over 50 percent of the time.

(23:23) JP: I see, are all of those properties in Rockbridge County?

(23:28) JT: Yes, or Lexington.

(23:30) JP: Or, OK.

(23:33) JT: I've lived here my whole life.

(23:39) JP: All right. Anybody else have any questions? If not, at this time, I would like to open it to public hearing. Is there anybody physically present who would like to speak?

(24:12) CM: Yes sir, we do have people physically present ready to speak. The first up is Jamie Goodin.

(24:19) Jamie Goodin: Howdy, my name is Jamie Goodin. I live at 202 Miller Street in Lexington. Not particularly germane that I thought worth your knowledge, I'm on the Lexington Planning Commission and I think Airbnbs are a good thing in general. Obviously, for our economy, I don't need to recite any numbers to y'all about tourism or about the amount of tourism our County receives because it is very touristy. But I think Mr. Tarris did a great job of outlining a lot of the objections and I think he has taken fantastic steps to remedy a lot of those. He mentioned the parking, the hedges, et-cetera. I also think, kind of going back to the economy, for us to zoom forward for folks, I can't speak for all millennials, I am one for better or worse, time will tell. Having these additional income streams is a part of how we are going to raise our families and contribute to this economy and become employers. So, I encourage y'all to think about any message you may be sending in terms of folks who want to invest in this community because they love it for all the great reasons we love it, and we should make that as easy as possible. I would also, just in terms of the home occupancy stuff, or the owner occupancy, I have been to a private event that Mr. Tarris' house before. There is one in August scheduled, that I am really looking forward to, that is a party that he is hosting for a civic organization on, I believe, a Friday, it may be a Saturday. But, in any case, it's on a weekend. So, when he says he is there, I have no reason to doubt his character, or the truthfulness of what he says. Been to parties there before and looking forward to the ones in the future. In terms of neighbors being upset, we all know how neighbors are; they are happy until they aren't. Obviously, there is the whole notion of not letting one or two speak for everyone. For every vocal neighbor, how many silent neighbors are

there? I was also a little bit surprised when Mr. Tarris mentioned that his neighbors had complaints but they had not shared them with him. That strikes me as kind of an un-neighborly way of doing things. But I don't live in that neighborhood. So, I think Mr. Tarris' outline kind of covers the whole gambit but I would, my big point is tourism is a major thing in this County. We know we need young people to keep this County vibrant as we go forward; young people are going to have multiple streams of income. Mr. Tarris has every time that he has been asked to change something, it seems to me he has done that and then some. So, I would encourage you to consider not just this case, but the message it may send, to everyone else. Thank you.

(27:31) JP: Thank you Mr. Goodin.

(27:36) CM: Next up, sir, is Anna Singer.

(27:47) Anna Singer: Hello everyone, my name is Anna Singer and I have worked for John for about two and a half years, cleaning the Airbnb and also doing lawn care as well. Cleaning the Airbnb has been a great opportunity for me because not only am I a full time college student, I play basketball as well, and so being able to, you know after practice, go and clean for a few hours and just having a job that is very flexible for me and accommodating to my schedule has been super helpful and times that I was too busy or couldn't clean, he never gave me a hard time about it and was just, you know, I'll clean it and never complained and was very, always accommodating. With that being said, he was always, anytime that I couldn't make ends meet or I wasn't able to work enough I could, I felt comfortable enough to text him and just say would you mind lending me 50 dollars or a hundred dollars so I can pay for rent and I can pay for my car bill or groceries or things like that. And without hesitation or any questions or complaints, John was always very accommodating. And given that I worked with him for two and a half years, I have seen how he interacts with the guests at the Airbnb and how attentive he is to, you know, their check in, their check out, as well as making sure that the home is being respected as well as the area and the location, including the neighbors. I have also seen that he has no issue with, you know, kicking people out if they are not being respectful of the noise rules or the parking rules or things like that. But given the location of the house, of how beautiful it is or how nice it is, you know, he doesn't rent it out to just anybody. The people that I have met with and the people that we have interacted with that have stayed at the house have always been very respectful and have always been adamant about cleaning it and so it has made the time that I have worked for him and also been cleaning the Airbnb quite enjoyable. And just as Jamie said earlier, I am kind of surprised that there were so many complaints and issues about, you know, people staying there and the neighbors not feeling comfortable or enjoying it or things like that because, you know, I've had, we've had quite so many good interactions with people that have, you know, come and visited Lexington.

(30:17) JP: Thank you, Ms. Singer.

(30:22) CM: Next up is Melissa Camden.

(30:29) Melissa Camden: How y'all doing this evening? Well, I am his neighbor actually, I live right next door, all three of my windows in my bedroom look down on his house. I have never had no problems. Everybody that's worked there, had work done to the yard, they uh, my daughter has a room that comes out right beside his property, never had nobody come over, disrespect. Met him mowing, such a very nice, very genuine guy, very polite. He offered to help mow my lawn one day, I mean, just very genuine, you know. I don't know why all the complaints about the cars, I mean it seems the cars up above, in the driveway directly beside me I have actually had people go in his driveway thinking it was mine. So, I don't even know where the cars are coming from, haven't seen none so. I don't understand like the other two has said why has there been so many complaints. I had two people that lived beside me. Excuse me.

(31:39) CS: Sorry, I'm just going to stop sharing my screen.

(31:41) Melissa Camden: That have come down with binoculars, I've had to ask them to move out of my driveway, they said they was watching for birds in a tree right underneath (*inaudible*) but they had binoculars towards his house so couldn't quite understand that one, so I asked if they could please just stay out of my driveway and stay in the road watch the birds from the road. But, they wasn't even looking up in the trees, I noticed several many times that they didn't, you know, looking for birds but never seen the birds yet, up in the trees.

(32:14) JT: And was that my neighbors or my guests?

(32:18) Melissa Camden: That's the neighbors, sir, yes sir. The guests have been great, I haven't heard no loud nothing. I mean my kids would tell me for sure because they are downstairs, I'm upstairs, and I have three, 13 year old, 14 year old, and (*inaudible*) is 16. So, no problems at all. I just, he has everything immaculate, I see him there all the time. Always keeping everything nice, nothing's never been out of place. It's just, I was wanting to rent it out actually for my daughter for her birthday, for her, you know, because hers is in January so we figured we might have a little pool party for her 16<sup>th</sup> birthday. So, it's very nice, it's very peaceful, it's never been no problems. And I've been there now for 7 and a half, 8 months. So, I hope everything goes good with that. Thank you.

(33:11) JP: Thank you, thank you very much, Ms. Campbell.

(33:19) CM: And so, there are nobody else signed up for public comments?

(33:23) Paul Bryant: I'll give a comment real quick.

(33:24) CS: OK, just state your name and magisterial district.

(33:27) JP: No one electronically or otherwise?

(33:29) CS: We do have one more person, the order, just for the people that know on zoom, we are going to do in person comments first, take those all in order, then we have

several many emails that we will read after the in-person comments, and then we will do the zoom comments. Just for clarification.

(33:48) JP: Thank you.

(33:50) Paul Bryant: I am Paul Bryant; I reside in the South River district. Known John for quite some time. I was there at the very beginning when he bought the house, and kind of exciting property, home ownership. Kind of just want to attest to the frequency that he is inhabiting the property there. As Mr. Goodin said, I have been there, for the past four years, probably no less than 20 times and stayed the night. I myself travel a lot for work and I have stayed in hotels zero amount of times. I think it's something kind of generational. It's nice to have a private place that, if you are away from home, where you can go and stay and so you don't feel like you are necessarily on the road. But having somebody like John host a place like this for the County, I think, is great because I was just booking recently and, for the number of people that can stay there, there is not that many places around Rockbridge currently that I can tell, that are of that stature and that are that nice so. I have seen other places around in my travels that haven't been nice or a nice neighborhood but I think this is. I think people want to come and stay here and especially during the pandemic and after the pandemic. It's a sense of privacy, my own family from Richmond needed a place to stay. Coming for Thanksgiving, we didn't all want to all gather in one home so it provided a perfect place for them to kind of socially distance but still see the family as needed. I think it's a great thing and any times I have been there, I haven't seen or heard any neighbors complain about anything. So, again, I will just attest to his frequency of being there, he has been there for, especially early on. That's all I have to say.

(36:03) JP + CS: Thank you.

(36:08) CS: Come on up. If you could state your name, magisterial district.

(36:11) James White: Sure. My name is James White. I currently live in Lexington but I have a vested interest in lot five, which is right across the street from Mr. Tarris'. I took a bunch of notes as he was talking about what he was saying. He said some interesting things, like, there have been issues with parking and events without his knowledge. That to me says that he is not present; that he is not occupying the residence when the events are occurring. Which appears to the letter of the law to be in violation in accordance with the Zoning Administrator's recommendation. I don't know him or any of the people who have spoken before me, so this is not a personal attack. I am just trying to think, you know, what does the Code say and how is that being interpreted? He also says that he stays there on a monthly basis, which to me does not sound like occupation. He also said that whether I or my guests are staying, it counts as a residence and if you have guests there who are paying you to stay there, not family or friends, it is not being used as a residence, it's being used as accommodation as lodging. This is just, you know, how I interpret the Code that doesn't necessarily means that's how you interpret the Code but I'm just trying to be logical here. And another thing he said was if I were one of the neighbors, I would rather have a single family living there

and that is not what he is having there. He is not living there primarily; he is having numerous people come in and out of his revolving door. Does that count as a residence in that case? Does that count as being according to the covenants of that plat or anything like that? And, you know, I don't disagree with some of the other statements that have been made; having places to stay is good. Airbnb's are not, by their very nature, bad. However, the real question here is not whether Airbnb's are good or if Ms. Singer's employment is good or if Mr. Tarris is good, the question is: is there a violation and I think the answer is yes. Thank you.

(38:54) JP: Thank you.

(38:58) CS: Anyone else physically present that would like to speak? Chairman Pufahl, there is no one else physically present to speak, with that we will transition to the e-mails that staff have received to date. Mr. Chris Musso, the Zoning Technician for Rockbridge County, will be reading those emails in the order that we have received them and I will be timing him; some may go over the three minute mark.

(39:25) CM: I will do my best to keep them well under.

(39:26) CS: If you could just read who they are from and then read them first. Thanks.

(39:29) CM: Yup, this is from a Timothy Harris at 1002 Shenandoah Road, Lexington, Virginia. So, then I understand that the July 21, 2021 is when it is being discussed about John Tarris and non-compliance with the conditions, this is personal details for Mr. Slaydon, actually it's just detailing what the complaint is. The start is here, I apologize. It says, as you are aware Mr. Jonathon Tarris had come to the November 8, 2017 Planning Commission of Rockbridge County meeting with the objective of getting a special exception permit so that he could operate a B&B business at 1006 Shenandoah Road. The Planning Commission recommended that the special exception permit should not be granted; however, on November 27, 2017, the Board of Supervisors granted this permit after several factors were discussed. My understanding is that these factors include: he had a limited number of guests and vehicles at his house; he claimed that he had sufficient parking for this limited number and they would not park on the side of the road; he actually lives at the address; that there would be no giant gatherings; this would be a small B&B; he would not have any sign that advertises his B&B business visible from the road. Mr. Tarris has obviously not abided by these above factors. For example, he has had multiple events with large groups of people. This has included parking cars not only in his driveway but also on the grass and also including on the shoulder of the road. The County's response so far to his guests parking on the road is to put in no parking signs, but these signs would not be needed if he simply had three cars in his driveway. Since November 2017, he clearly has not been living at the address. Living there to me implies actually sleeping there on a regular basis, which he has not done. On July 5, 2018, Mr. Adam Carlson, who was staying at 1004 Shenandoah, told me that Mr. Tarris has another house in town and has moved out. So, Mr. Tarris has been operating his B&B business while not living there, which makes this not a B&B homestay. I have observed gatherings of significant size; these have included wedding

parties and large groups around the times of college family weekends. Earlier this year, he hosted a large event with people milling around for a couple of days and capped off with an outside religious service, with keyboard and large loud speakers. For the past several weeks or so, he has posted a sign saying for rent, available for 2021 school year Airbnb.com. The sign is in direct opposition to what Mr. Tarris promised you at the November 27, 2017 meeting per Ed Smith's article in the News Gazette. Following the November 27 meeting, Tarris alluded to County regulations that would prohibit him from posting signs advertising his accommodations, but putting up a sign listing Airbnb.com is directly violating this. Please see attached picture I took of this sign. In summary, I would suggest that Mr. Tarris has not abided by the factors for a special exception permit that allowed a residential homestay. Mr. Tarris has clearly not tried to live there, to limit guests to a limited number, or to abide by signage restrictions. Please consider retracting his special exception permit. Please do not allow this business to continue in the established subdivision with its own rules which is zoned R-1. Sincerely, Timothy Harris.

The next one is from Julia Arndt listed as a P.O. Box 155. My name is Julia Arndt; my husband and I live at 111 Monticello Drive in direct vision of the drive to Mr. Tarris' bed and breakfast homestay. I am writing you to voice my objection to the appeal of Mr. Tarris of the Zoning Administrator's decision. The Board of Supervisors granted Mr. Tarris a special exception permit over our objections. That grant had special caveats, among them was that Mr. Tarris live on the property which he does not. Since Mr. Tarris cannot live by the rules, it behooves me to understand why he should be given greater privilege. A primary concern about the bed and breakfast in the first place was traffic and especially parking. Despite his signage, guests park blocking vision around the curb when they have parties. This continues to be a problem. Another consideration, that was ignored, was that the neighborhood has a covenant stating that all of the homes be single-family homes. It is my understanding that the covenant is not legally binding, but when the neighborhood built or bought our homes here with the agreement to abide by this covenant as a moral obligation to others. Our trust has been broken. It is our hope that Mr. Tarris' appeal be denied. Thank you, Julia Arndt.

The next is from Adam Carlson; no address is listed. To the Board of Zoning Appeals: I am writing to you this evening as I have learned that there are questions regarding the Airbnb under management of Jonathon Tarris at 1006 Shenandoah Road. I first want to start by saying that I was a resident and renter of 1004 Shenandoah Road, a directly adjacent neighbor of John from September 2017 to November 2019. During that time, I was stationed in Lexington as a naval officer and ROTC instructor at VMI. John and I shared a front yard together, ended up meeting each other early on, and developed a friendship. My wife and I were aware that John had an Airbnb and I can attest that we had 0 issues, noise complaints, or concerns with his management of his own property during our two-year stint. John and his wife Katie would invite us over to dinner and we knew that they stayed at his residence and they bought a beautiful, and they brought home a beautiful baby girl there, apologies. My wife and I even paid John for the use of his Airbnb. The most notable was that both of our families stayed at his

residence during my wedding, which was in September 2018. John is an upstanding man, a good friend, and is doing what thousands of other people are doing by renting out their homes to improve the quality of their lives and their assets. He has no intention of creating issues for his neighbors or breaking the rules of an Airbnb contract. Many residents in Rockbridge County operate under the same guidelines. I see no reason why his Airbnb should be in question. Please consider this appeal as heartfelt and reconsider any decision that may be made regarding John's property.

The next is from a Tiara Nieves Ruiz. I might be butchering that pronunciation. No address is listed. I'm currently staying at the home on Shenandoah Road. It is clear that the owner stays here based on some personal belongings. Additionally, based on the Zoning Ordinance, we expected a private home and for the owner to be available, which he is. However, we would not have expected him to be present for the entire stay.

The next is from a Kate Loving; again, no address stated. Dear Board of Zoning Appeals: I have stayed at John's house and used his pool several different times and have really enjoyed staying there each time. Guests have everything they could possibly need like a kitchen, bath, showers, TVs, a pool, and even a pool table. It seems to make the most sense for John to be allowed to rent out his house when he is gone on the weekends. For instance, when he comes to visit me in Charlottesville. Hosting these guests would also probably be less of a disturbance to neighbors than signing long-term leases to college students. Something John discussed doing if he isn't able to host short-term stays. John is always friendly to his neighbors and is respectful of their privacy. There haven't been any major issues that the neighbors have brought to his attention with the Airbnb guests and if there were, he would certainly be addressing it.

The next is from a Timothy Tolly; no address listed. Dear Mr. Slaydon and other Board of Zoning Appeals members: in regards to the appeal by the Airbnb at 1006 Shenandoah Road, I wish to state that I am also a homeowner on Shenandoah Road. I have not experienced or noticed any problems related to the operations of this Airbnb, nor have any such problems been brought to my attention. As long as the Airbnb is managed in a responsible manner, I see no reason why you should not allow it to continue its operation. In the event that a problem, example: noise, impeding traffic, et-cetera, should arise, certainly there are various existing ordinances that are designed to deal with the problem and it should be a simple matter to address the problem in the same manners as if the same offense were committed by any other homeowner or resident. Likewise, if the property is not adequately kept up and presents an eye sore or health or safety problem, then that problem could also be addressed by existing ordinances. Unless a problem becomes consistent or not addressed, I see no reason to spurn a clean, low-impact business and a source of much needed tax revenue for the County, from sources originating outside of the area. Thank you for your attention. Sincerely, Timothy Tolly.

The next is from a Tony Bryant. Dear Board of Zoning Appeals: my name is Tony Bryant and I live down on South River. I would like to lend my support to Mr. Tarris as

he is providing a much-needed service in the community. There are not many homes to rent out when family are visiting. I have used his services for my family and have been very pleased with his property. I can assure you that he keeps his neighbors in mind. There should be no reason that he can't rent his home out when he is away. I support the free use of this property. Tony Bryant.

The last is Jennifer Huffman; no address listed. Dear Board of Zoning Appeals: my name is Jennifer Huffman, a resident of Rockbridge County and Jonathan Tarris is my brother. I attended this meeting in 2017, I believe, which granted Jonathan a special exception to operate as a bed and breakfast homestay. Jonathan has made me aware of the violation letter he has received and hearing to discuss such violation letter. I remember from the previous meeting that quite a few neighbors were displeased at the rezoning of the area and allowance of an Airbnb property in the neighborhood. So displeased in fact that several of those attendees left the building shouting rude comments directed at Jonathan. It appears that the violation letter has come about, based on complaints from the neighbors and then possibly further review of the home listing information on Airbnb. While I do not know the facts on how this property is listed, how the property is maintained, et-cetera, I would ask the Board to look into this matter and decide if this issue is about actual violations or just angry neighbors. I would also like to add that I have heard several praises from people who have stayed at this property. Jonathan will host our family from time to time to stay with him there at the property for weekend get-togethers and such. I can personally say that I made the comment to him before visiting him at the property that didn't he think it was strange to have people staying in the house with him and he replied with something along the lines of, no it isn't weird; I enjoy getting to know the people and recommending local restaurants and places for them to visit. Jonathan is genuinely interested in sharing our wonderful community with others and it is unfortunate the restraints that exists that are holding the property owners back in this regard. Thank you for taking the time to read my comment. Jennifer Huffman.

(50:08) CS: Chairman Pufahl, that is all the emails - written correspondence we have received via emails. Going down the list, we have not received any written comments via US mail so, at this time, I would like to proceed with the public hearing by opening it up to zoom conversations. With that being said, if you are on zoom I will go down the list and unmute your uh, have the ability for you to speak. Please start off by stating your name, magisterial district and limit your comments to three minutes max.

With that, bear with me. If you do, would like to speak, I will just go, if you can use your raise hand button now. All right, I am going to allow the first one to talk. We actually have three listed I believe. So the first one is unmuted. Sir or ma'am, can you hear us?

(51:22) Wayne Dymacek: Yes.

(51:23) CS: Ok, we can hear you. If you could, again, start off by stating your name, magisterial district I will start the timer.

(51:32) WD: I am Wayne Dymacek. I live at 103 Monticello Road, which is in the Buffalo district. Just three points, I would like to note that I am (*Inaudible*) a neighbor of ... Jonathan's application, Mr. Tarris' application, have no stake in the decision. They don't live here and don't own property here and so I thought whatever y'all decide, it has no bearing on them. Second, I do have pictures of cars parked on our street that, I have pictures of cars parked on the street, parked in the no parking zone. My wife had a man come up to the door because he was locked out of the, out of Mr. Tarris' house, and he had no way in and we had no number to contact Mr. Tarris because he has certainly never given us his number. And clearly, by his own admission, he does not live there. He may come by, he may stay occasionally, but he certainly does not live there because he is not there when the guests are there. Certainly, when this man was locked out, Mr. Tarris wasn't there. So, and the man said there were no personal effects there at that time. And I have many neighbors that we have spoken to and they have said that because of the Supervisors overriding this decision, they were unlikely to speak against, even though they were because they thought it was (*Inaudible*). Thank you.

(53:25) CS: All right, thank you. The next is, appears it is Steve Mammerella. With that being said, I am going to, sir, can you hear us?

(53:39) Steve Mammerella: Yes, I can.

(53:41) CS: OK, we can hear you. If you could speak up a little bit, that would be great.

(53:45) SM: My name is Steve Mammerella; I live in Buffalo District. I live in 100 Monticello Road, right next to Mr. Tarris' property. I say his property because while he is stating that he does in fact live there on occasion, I have never witnessed him spending the night there. Short of a few months at the very beginning perhaps, but certainly recently he does not, he does not reside there. I would not call him my neighbor, I would say that he owns the house next to us and that's really sort of what is at question here. Airbnbs are nice. Airbnbs are fine, I've had really no complaints about him running the Airbnb. You know obviously there is going to be some small issues but I've never had an issue to complain to him about. Because, generally, his guests have been great and he has been, you know, running it fine. But, the original finding in violation is that he needs to be in an owner-occupied house and I would, under no circumstances, call that house owner-occupied. Thank you.

(54:56) CS: All right, next on the list with a hand raised is Adam. Adam, I am going to allow you to talk and ask you to unmute your mic.

Adam, if you would like to make a comment, please unmute your mic. On the question and answer, on can you hear me, no we cannot hear you.

I believe you are muted. All right, in your message, you say you are unable to unmute. Would you like to type a comment in the question and answer?

(56:01) JT: I believe, I think it's the same Adam that wrote a letter.

(56:05) CS: All right, Mr. Tarris is informing us that you may be the same Adam that wrote the letter in. If that's the case, we can take that letter as your comments. It would be unusual for you to comment twice during the public hearing comment. OK, appreciate you confirming that. He says, yes sir, that is fine for me.

All right, we do have two other people in attendance. If either one of y'all would like to chat, you can raise your hand now. Or, I'll just go down and allow you to talk. If you would like to talk, you can unmute yourself, and that would be a, looks like a Mike Kennedy. If you would like to talk you can just unmute and three minutes. Hearing none, I will go to Tracy. Tracy, if you would like to talk or make a comment during citizen comment period, you can unmute and start your three minutes. All right, not hearing any, we do have a couple of question and answers that have been taken care of from Adam, so I'm going to close that and go to the panelists. I believe that is everyone that wished to speak during the public hearing comments. With that, I will turn it over back to the Chair.

(57:56) JP: Thank you. Go ahead.

(57:56) CS: Oh, sorry. One time, Adam got a little late there. But Adam says I would like to say that, on several times that cars were parked on the road, were from events or parties that I was hosting for VMI students. Thank you for that clarification Adam. At that time it does, that appears to be the extent of the public comments during the public hearing comment period and I will turn the floor back over to the chair.

(58:24) JP: Thank you, Chris. Thank you everyone. At this time, public comments is closed and I would like to open up the floor in the event the applicant has any rebuttal or other comments. Or, if our staff has any comments as well.

(58:46) CS: Staff does have a few comments; with that, we will allow Mr. Tarris to go first.

(58:55) JT: As Mr. Carlson just noted, he had a couple events there that created parking issues. I've seen other neighbors in the neighborhood, every once and a while they have gatherings and they line cars up out there. I know mine get, I've had, I sometimes wonder if some of these complaints aren't my personal events more so than my guests. I do know my guests have had bigger events than they were supposed to from time to time so I'm not saying that. But there is nothing that doesn't allow me to line up cars down the street when I'm having a bunch of people over. So, I just wanted to clarify that that's an issue that's not entirely based on short-term rental. I'm going to reiterate, I stay there frequently and we heard from Mr. Mammerella saying that I never stay there, and I'm trying to pull up here proof that I was there on Sunday, or that I stayed there Sunday night. Not sure why my phone's being funny, but, you know, my tracked mileage shows when I leave and when I'm at my office. I stayed there on Sunday and saying that I never stay there, that's not the case. Really, I just want to come up here and answer any more questions, if the comments spurred anything more to you.

(1:00:27) JP: So, yeah, I have got a couple questions Mr. Tarris. You own other properties and you grew up in the area, sounds like you are a really nice person, done a lot for families coming to stay and I do believe in family and I believe in being nice to others. But, when you purchased the property, did you purchase it as looking at it as a second income or did you purchase it as a primary residence and then just decided not to live there?

(1:01:00) JT: Well, that's a difficult question because every property I've purchased, whether I view it as an investment in some respect. I mean it, I when I first, I intended to live in it and rent it out at the same time which I do, still have done. I don't feel like I've answered your question, could you specify? Could you hear me? I'm sorry.

(1:01:37) JP: No, I can't, yeah, just stand at the microphone.

(1:01:39) JT: Oh, I apologize, sorry. I looked at you; couldn't hear you. Well I guess what I was saying is every property I have purchased whether, you know, I view as an investment any assets at all I view as an investment. So when I purchased the property, I kind of knew that's what I had, live there and rent it out at the same time.

(1:02:03) JP: All right, well, and I respect that. I think we all, you know, need to be sustainable for our families and be proactive as being good in the community. But, this, where you purchased this property, when you purchased it, and I take it you're fairly informed with the law and what's going on, you fully intended, knew that this was probably going to be an issue with regards to the first, by getting the special provisions. And, you've had some complaints from neighbors, and apparently there was even a sign put up. Did you put up a sign or?

(1:02:55) JT: Yes, that sign is kind of a, my back-up plan. That's for if things don't go well tonight for renting out the whole house on a long-term basis. So, yeah, there's a sign out there, but it's not like you said the short-term use of the property.

(1:02:16) CM: Someone is still unmuted.

(1:02:17) CS: I apologize, someone is still unmuted.

(1:03:26) JP: I'm sorry. Technical difficulty?

(1:03:32) CS: No, I think we are good. I was hearing....

(1:03:36) JP: That was just some of the questions that I had, Mr. Tarris.

(1:03:43) JT: I would also like to again repeat that, in my special exception, there were no conditions regarding parking, events, noise, anything like that, there were no conditions. And when you look at the definitions, based on the Code, which is what we have to go on, it's not, you know, I completely understand when some people says well that's not the definition, he doesn't reside there or he doesn't live there. I mean, most people, you know, have one residence that they live in, and I realize I'm a little bit of the exception there, but based under the definitions both in the County Land Use Regulations and Webster's Dictionary, I meet the definition of owner-occupied and

residential use, which is really why I think this whole thing comes down to. Any other questions or...?

(1:04:42) JP: No, you are absolutely right. It does come down to that. And I respect your, your, I respect your challenging what is written in the dictionary and the definition. And often times it's the definition that may be there as a general rule of thumb but it's not always followed to the tee. And in this case, respecting the neighborhood and trying to be... hey look I love fireworks and I've got neighbors who would, and they love fireworks, but I've got neighbors that don't love fireworks and I guess if I lit fireworks fairly often, they would respect that and expect that as a neighbor because oh, that's just Jeff Pufahl, that's what he does. Because I'm there, full time, doing these activities that they expect it from me. And I guess my question is, if I had someone, as a neighbor, if I had someone else, not Jonathan Tarris, staying in the house on a regular basis, and I didn't know what the regular activities were, it may raise a few signs as a neighbor. Because they can't predict and they're not part of the input of the community that they, they bought, they believed in raising their families in and living in and they have strangers staying in their community 40 percent of the year. So, I understand your position as being a resident of the home. I as well have a weekend property that I reside at on weekends. When I'm not there, I don't have the luxury of renting it out as a B&B but I would certainly be able to consider that. So I respect where you're coming from Mr. Tarris but, I also have the respect of your neighbors I'm also concerned.

(1:07:03) JT: Yeah, I understand. If there are any more questions, the, I'll (*Inaudible*) online again. I have one more thing to say but I, I've said enough. So unless you guys have any more questions, that's all I have for rebuttal.

(1:07:33) CS: All right, just a few points of clarification based on the comments: number one, I am the Zoning Administrator, not the County Administrator, so I just wanted to make that clear.

Per the fourth room, it was quoted as not supposed to go in the room, Mr. Tarris said that guests are not supposed to go in that room. I will note that during our staff, during the site visit today, there was a, what sounded like a large dog in that room. And I asked Mr. Tarris, is that your dog? And he said, no it's the guest's dog. And so I found it unusual that when people were not supposed to be in the room, that a guest's dog was staying in this room that was off limits.

Per the conditions, Mr. Tarris is absolutely correct, there were no conditions associated with the special exception permit; however, the special exception permit must meet the definition of a bed and breakfast homestay, and it was the Zoning Administrator's decision, my determination, that the current operation is out of compliance.

Per the sign, I will say that it does say something about student year, I think it says upcoming student year, but it also does direct people to the Airbnb website.

Per the discussion on definitions, in the written material, in the zoning letter presented to the Board this afternoon, Mr. Tarris stated that “if there is disagreement over what the definition of lived in is, the Webster defines lived in as long term, I quote, long term habitation or use which Mr. Tarris would also comply with”. The definition of a bed and breakfast homestay requires that the short-term rental be in a private owner-occupied home. As stated in the May zoning violation letter, the Webster dictionary defines owner-occupied as “as lived in by the owner”. There is no hyphen in lived in, in the definition of owner-occupied. Mr. Tarris has incorrectly inserted that hyphen into that definition, or into this language of lived in. The placement of the hyphen can, and in this case does, change the meaning of the word. In this case lived-in, lived-in hyphen is an adjective, lived is a verb. Lived is defined as to occupy the home. Mr. Tarris has confirmed that he does not “occupy the home during renting activity”. It should be also noted that Mr. Tarris has misquoted the definition of lived-in with the hyphen. Lived-in with the hyphen is defined as of or suggesting long-term human habitation.

There are, each zoning district as stated in the original staff presentation, each zoning district in Rockbridge County has permitted uses and uses by special exception. There are three agricultural zoning districts in Rockbridge County. The A, agricultural limited, A-1, agricultural general, A-2, and agricultural transitional, A-T. Both bed and breakfast homestays and bed and breakfast inns are permitted in all of the agricultural zoning districts. A bed and breakfast homestay and a bed and breakfast inn are also permitted in the general business zone, that would be the B-1 zone. The general residential district, that would be the general residential district and the mixed residential district, are more restrictive and do not allow for bed and breakfast inns. A bed and breakfast homestay is a use by special exception in all of the residential zoning districts. While the agricultural zoning districts, I’m sorry, in all the residential zoning districts. While the agricultural zoning districts make up approximately 72 percent of the County, the residential zoning districts are limited to approximately 1.5 percent of the County.

We have reviewed the definition of a bed and breakfast homestay several times during this presentation so I will not review that definition but I would like to review the definition of a bed and breakfast inn. Per Section 302.25 of the Regulations, a bed and breakfast inn is defined as “a short-term rental where overnight accommodations plus breakfast are provided in a private home that is primarily used for lodging, even though the owners may live on the premise”. Signs displayed on the property, which encourage direct bookings from the general public, activity from the business enterprise provides a major source of income to the proprietors. While bed and breakfast inn does not require that the owners live on the premise, a bed and breakfast homestay requires that it be a short-term rental in an owner-occupied home, be limited to one to three guest rooms for occasional bed and breakfast guests, additionally the bed and breakfast homestay requires that the primary use of the home remains as a residence, not as a lodging establishment. In summary, while the practice of renting the entire house without the owner being, living in, or being present during the renting activities is allowed in all of the agricultural zones, again 72 percent, approximately 72 percent of

the County; the Zoning Administrator determined that this practice in the general residential zoning district, again 1.5 percent of the County property, approximately 1.5 percent, is in violation of the special exception permit for the bed and breakfast homestay. Thank you.

(1:12:48) JP: Thank you, Chris.

(1:12:53) GM: I have a question: if the intent is to rent the property, under what conditions could he rent it and also not be this bed and breakfast homestay?

(1:13:13) CS: He could certainly rent it. Short-term rental is defined as 30 or less consecutive days. So, he could rent it for a month and a day, he could rent it annually. Without any type of special exception. He obviously, also could rent, could advertise it and could rent one to three bedrooms at a time while, according to the zoning, my determination, being present and living in the property. Does that answer your question?

(1:13:39) GM: For a month or more?

(1:13:40) CS: No, he could also do short-term rentals. So bed and breakfast homestay gives him the ability to do short-term rentals.

(1:13:48) GM: If it's determined that he meets the conditions of a bed and breakfast homestay?

(1:13:54) CS: If he meets the definition, yes sir.

(1:13:57) GM: OK. Thank you, Chris. But there is no, but, well, without him living in there on short-term residence, there's no way it's considered short-term, or a homestay, a bed and breakfast homestay?

(1:14:10) CS: Again, the definition, it's been the zoning determination letter that it's owner-occupied and that would determine, that would require him to live on the property, live in the property, and then also be present during the renting activity.

(1:14:28) GM: That seems to be the big question.

(1:14:31) JT: Is it owner-occupied?

(1:14:32) GM: Yep.

(1:14:37) JT: And I would just like to, I know this isn't a court case I know you guys aren't attorneys....

(1:14:43) JP: Speak into the mic, please.

(1:14:44) JT: Excuse me. You know, I would just like add, I know this isn't a court case and you guys aren't attorneys but, the Supreme Court of Virginia stated in Scott v. Walker, that restriction of substantial doubt or ambiguity must be interpreted in favor of the free use of property.

(1:15:04) CS: And Ms. Huffman may have a comment on that, if you do.

(1:15:10) Vickie Huffman (VH): That case deals with private covenants and restrictions, which are completely unrelated to zoning.

(1:15:19) SV: That's not ordinance related? It's like subdivision ordinances?

(1:15:23) VH: That's correct.

(1:15:42) JP: All right, would anybody like to make any motions? Any further discussion?

(1:16:12) JT: May I make a motion?

(1:16:14) CS: No, sir.

(1:16:19) JT: I tried.

(1:16:33) SV: Any more discussion by anybody?

(1:16:51) JT: I have one more thing, I am open ears on anything I can do to please the Board or a neighbor, I realize...

(1:16:58) JP: Does anybody need an extension or?

(1:17:08) CS: To facilitate the conversation, or movement of the meeting, I will say that Ms. Huffman has prepared a motion to affirm the Zoning Administrator's decision; she has drafted a motion to delay action; and she has drafted a motion to reverse the Zoning Administrator's decision. Those are all presented to y'all.

(1:17:36) SV: Chris, I guess from, the question I am asking is if the decision were delayed, is there anything he can, that could happen to help him remedy the situation, or are we just kind of kicking the can down the road if we do basically, because right now I believe he is out of conformity, with the zoning. So, is there any way that he could potentially conform?

(1:18:00) CS: What is being discussed today is the May 26, 2021 zoning violation letter, and that is what is on the table.

(1:18:09) SV: OK.

(1:18:26) GM: I'm prepared to make a motion. I move that the zoning violation determination of May 26, 2021 by the Rockbridge County Zoning Administrator be affirmed and in support make the following findings: one, that the property is not owner-occupied and is not living on the premises during rental activity; secondly, that the primary use of the home is for short-term rental purposes, not as the owner's residence. Therefore Mr. Tarris' operations are in violation of his special exception permit for a bed and breakfast homestay.

(1:19:06) CS: And there was a third, to facilitate the conversation, there was a third part of that motion that the zoning violation determined that the rental of the entire property

does not comply with the authorized use as a bed and breakfast homestay. If you would like to add that.

(1:19:24) GM: Correct, yes. Also, that the rental of the entire property does not comply with the authorized use as a bed and breakfast homestay.

(1:19:36) JC: I second the motion.

(1:19:41) JP: All in favor?

(1:19:44) VH: Roll call vote, please.

(1:19:46) JP: Roll call vote? I'm sorry. OK, Mr. Wells?

(1:19:51) LW: Aye

(1:19:54) JP: All right.

(1:19:59) CS: You would just go down your list, sir, Mr. Pufahl, as far as a roll call...

(1:20:02) JP: I'm sorry, I'm sorry, my mic got muted. Mr. Clemmer?

(1:20:06) JC: Aye.

(1:20:08) JP: Mr. Vest?

(1:20:09) SV: Aye.

(1:20:10) JP: Mr. Mullen?

(1:20:11) GM: Aye.

(1:20:13) JP: And Mr. Pufahl, Aye.

(1:20:18) CS: Thank you.

(1:20:24) JP: OK. Any other business?

(1:20:29) CS: We do have some other business to discuss. We would like to, I guess on the next agenda, we would like to discuss the current BZA bylaws. They are from, I believe the last update we did was in 1999 and there are some processes that we would like to revisit as far as the time associated with each, the staff level and then the applicant. And so, I think best thing to do is just to inform y'all that if it's acceptable to the Board of Zoning Appeals, that we would put that on the next agenda as far as a discussion of the BZA bylaws.

(1:21:24) JP: OK, was there a specific thing you wanted to address in those?

(1:21:29) CS: Yeah, the one thing that we have identified is the timing, the procedural portion of it, I believe it is article three, in the bylaws, and it has timeframes associated with each, timeframes and, well really just the timeframes and the order of the process that we did tonight, or that we do in any appeal or variance type thing.

(1:21:46) JP: OK, all right.

(1:21:48) VH: Right, and in particular with the limitation on a public hearing period of time for witnesses because that goes as long as it goes, depending on how many people are present. You may establish rules about how long they have to speak, but you can't, it would not be appropriate, in my opinion, to say well, we will only hear 15 minutes of comments and then you can no longer speak. So those are the kinds of things I would like to make some adjustments, and submit for your approval.

(1:22:29) CS: The second, thank you Ms. Huffman, the second item that we would like to put on the next month's, or the next meeting, is the discussion of the electronic meeting policy, that there's a few updates that are needed, is that correct Ms. Huffman?

(1:22:46) VH: There are, there's potential for a couple of updates and actually they could be incorporated into a revised set of bylaws. You had previously adopted the electronic meeting policy, we can present you with the updates under FOIA effective July 1, and then, to the extent they are acceptable, can incorporate them into your bylaws, so you have one document outlining your rules and procedures.

(1:23:24) CS: And the, thank you ma'am, the last part of other business that I have for y'all, that staff has for you, is that I would like to talk to the Board of Zoning Appeals about, and I don't know if it would be more appropriate to put this on an agenda item for the next meeting, but I would like to talk about discontinuing the practice of a four o'clock site visit. You know, we obviously encourage each and every one of you to do a site visit, but, you know, per Section 15.02-2308 Code of Virginia, non-legal staff or governing body may have ex-parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the particular case. And I say that that's a relatively new section of Code, it's probably five years old now. We have always adhered to that, you know, we went out this afternoon, it wasn't a meeting because it was only two members, Mr. Wells and myself. But, since this Code of Virginia has been enacted, the site visit makes it very awkward, if you will, to drive members to the site, to view the site, but not to be able to discuss the site. And so, again, I wholeheartedly hope that each of y'all goes to these sites, and looks at it, and has those conversations with Ms. Huffman. But, as far as the practice of having four o'clock site visits the day of the meeting, I would like to discontinue it. So I will sort of, I don't know if it would be more appropriate to have that on the upcoming, it probably would be more appropriate, I'm thinking, to have that as a consider, at the next agenda, to have a consideration to discontinuing that practice, as a formal discussion. So, if it's approved....

(1:25:04) GM: Or change it.

(1:25:04) JP: I can talk about it now. Unless you guys want to wait until the next meeting?

(1:25:16) VH: I would have it on an agenda. But any feedback in the meantime...

(1:25:21) CS: We could certainly have feedback today but we would not like to make a motion or anything like that because, you know, being part of the public, obviously, being part of the public process, we would like to formally put that on the agenda before we take formal action on discontinuing that service. With that being said, obviously I always would like feedback from the members so with that I will turn it back over to you Mr. Pufahl.

(1:25:43) JP: No I, Chris, I couldn't agree more about the awkwardness that it does present, historically. So I, honestly, adding that to an agenda, I think it's a good thing for the BZA and I think it protects the best interest of everyone too and there's no questions to going out there. While I think going out there with someone is helpful and how we might facilitate speaking with the owner outside of you getting a plan visit, I would be interested in some of the solutions that you might have, you know, when we discuss this as part of the agenda for the next meeting.

(1:26:21) GM: I think that it's important to go and see and if it is awkward for you to be there but if Ms. Huffman could be there, that could be a good alternative.

(1:26:30) CS: That's right I apologize Mr. Mullen, because we did talk about that while we were on site today and I apologize.

(1:26:35) GM: So I think that's worth discussing next time.

(1:26:38) LW: If you did not take us, which you have been very faithful to do, if you didn't take us, if we could just have a map to know how to go to that location.

(1:26:53) CS: Certainly, yes sir.

(1:26:56) LW: I think that would be easy enough.

(1:26:58) CS: Yes. So that's all good ideas, yes sir. I appreciate those. And what we will do, we will put those three agenda items for the next agenda.

(1:27:13) JP: Sounds good.

(1:27:14) CS: And that's all the other business for, that staff has for the Board of Zoning Appeals. With that, I will obviously turn it back over to the Chair for any other business that he has or any other members of the Board of Zoning Appeals.

(1:27:28) JP: All right. Yeah, I've got nothing. Is there anything else that anybody else has?

(1:27:38) *Unknowns*: No.

(1:27:40) JP: All right. Meeting adjourned.

AT A REGULAR MEETING OF THE ROCKBRIDGE COUNTY BOARD OF ZONING APPEALS, HELD AT THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICES ON WEDNESDAY 15 SEPTEMBER, 2021

**AGENDA ITEM:** Ronald W. Snider (South Lee Highway) – (Public Hearing – See Below) – Application for a variance to reduce the acreage of an existing non-conforming lot in the Agricultural and General Uses (A-2) Zoning District

**SUBMITTED BY:** Chris Slaydon, Director of Community Development

**DATE:** 9/9/2021

**SUMMARY OF INFORMATION:**

Ronald W. Snider, 717 Plunkett Street, Lexington, VA 24450, has requested a variance to reduce the acreage of an existing non-conforming lot in the Agricultural and General Uses (A-2) Zoning District. The property is located at 2540 South Lee Highway, approximately 0.35 miles north of the intersection of South Lee Highway (Route 11) and Buffalo Bend Road (Route 678), and is further identified as tax map number 87-5-1B.

Per Table 1 of the Rockbridge County Land Development Regulations, there is a minimum two (2) acre lot size in the Agricultural and General Uses (A-2) Zoning District. The existing 0.64-acre parcel is proposed to be reduced to 0.58 acres. The purpose of the proposed 0.06-acre boundary line adjustment is to adjust the property line to increase the land area associated with the driveway to the existing dwelling located at 2520 South Lee Highway, Glasgow, VA 24555. The proposed boundary line adjustment was agreed to years ago, but was never surveyed/transferred.

Lisa-Maria Markham, 2520 South Lee Highway, Glasgow, VA 24555, is the adjacent land owner to the Snider lot and is the applicant. The Markham lot is identified TM# 87-5-1C. Both lots 87-5-1B and 87-5-1C are zoned in the Agricultural and General Uses (A-2) Zoning District and are grandfathered in as less than the minimum two (2) acre lot size, with 87-5-1B being 0.64 acres and 87-5-1C being 0.44 acres, per a recent plat. The two neighbors have come to an agreement to move the shared boundary line in order to further separate the existing driveway from the Snider Lot. The proposed boundary line adjustment plat reduces the acreage of 87-5-1B by .06 acres and increases the acreage of 87-5-1C by 0.06 acres, making 87-5-1B 0.58 acres and increasing 87-5-1C to 0.50 acres.

As lot 87-5-1B is less than the minimum two (2) acre lot size, per County of Rockbridge Land Development Regulations, it can not be reduced in size any further without a variance. A variance is required to facilitate the aforementioned boundary line adjustment. Tax Map 87-5-1C is gaining acreage, and therefore becoming less non-conforming, a variance is not required for it.

**Recommendation:**

Listen to the information presented and public comment, discuss and pose questions as needed, and, if there is a consensus among the board, vote to approve or deny the variance.

**Attachments:**

Application for Variance  
Notice of Public Hearing  
Vicinity Map  
Written Description of Variance  
Preliminary Boundary Line Adjustment Plat

**COUNTY OF ROCKBRIDGE  
APPLICATION FOR ADMINISTRATIVE ACTION**

ACTION	FEE
<input type="checkbox"/> Special Exception (does not include telecommunication facilities)	\$300.
<input type="checkbox"/> Rezoning	\$300. + \$10 /acre
<input type="checkbox"/> Zoning Ordinance Amendment	\$200.
<input checked="" type="checkbox"/> Variance	\$200.
<input type="checkbox"/> Appeal of Zoning Administrators Decision	\$150.
<input type="checkbox"/> Boundary Line Adjustments	\$50.
<input type="checkbox"/> Subdivision -Family	\$75. + \$25./lot
-up to 10 lots	\$150. + \$25./lot
-11 to 20 lots	\$150. + \$50./lot
-21 and up	\$150. + \$100./lot
<input type="checkbox"/> Commercial Site Plan Review	\$150. + \$10/acre
-Minor Site Plan Review	\$50.
Total Fee	<u>\$200</u>

MAGISTERIAL DISTRICT Buffalo ZONE A-2 DATE 8.31-21

1. Land Owner's Name: Ronald W. Snider
2. Address: 717 Plunkett St Lexington VA
3. Phone Number:(work) 540-460-9477 (home) \_\_\_\_\_
4. Applicant's Name: Lisa-Maria Markham
5. Address: 2520 S. Lee Hwy Glasgow VA
6. Phone Number:(work) 540-463-7138 (home) \_\_\_\_\_
7. Tax Map: 87-5-1B Subdivision: \_\_\_\_\_
8. Location of Property: S. Lee Highway Glasgow VA
9. Description of Proposal: Variance to reduce the acreage of an existing nonconforming parcel
10. Is Property in Land Use: yes \_\_\_\_\_ no \_\_\_\_\_

Lisa-Maria Markham  
(Signature of Applicant)

Ronald W. Snider  
(Signature of Land Owner)

Meeting Dates: Planning Commission Notice to PC on 9/8/21  
 Board of Supervisors N/A  
 Board of Zoning Appeals 9/15/21

Date of Final Approval/Disapproval \_\_\_\_\_  
 (Administrator)

Special Conditions: \_\_\_\_\_



# County of Rockbridge

## County Administration Offices

150 South Main Street  
Lexington, Virginia 24450

Spencer H. Suter  
County Administrator  
Office: (540) 463-4361  
Fax (540) 463-5981

BUILDING DEPARTMENT  
(540) 463-9361

DATA PROCESSING  
(540) 464-1241

FISCAL SERVICES  
(540) 463-4361

GEOGRAPHIC INFORMATION  
SYSTEM  
(540) 464-9656

COMMUNITY DEVELOPMENT  
(540) 464-9662

RECYCLING COORDINATOR  
(540) 463-2437

### ROCKBRIDGE COUNTY BOARD OF ZONING APPEALS NOTICE OF PUBLIC HEARING

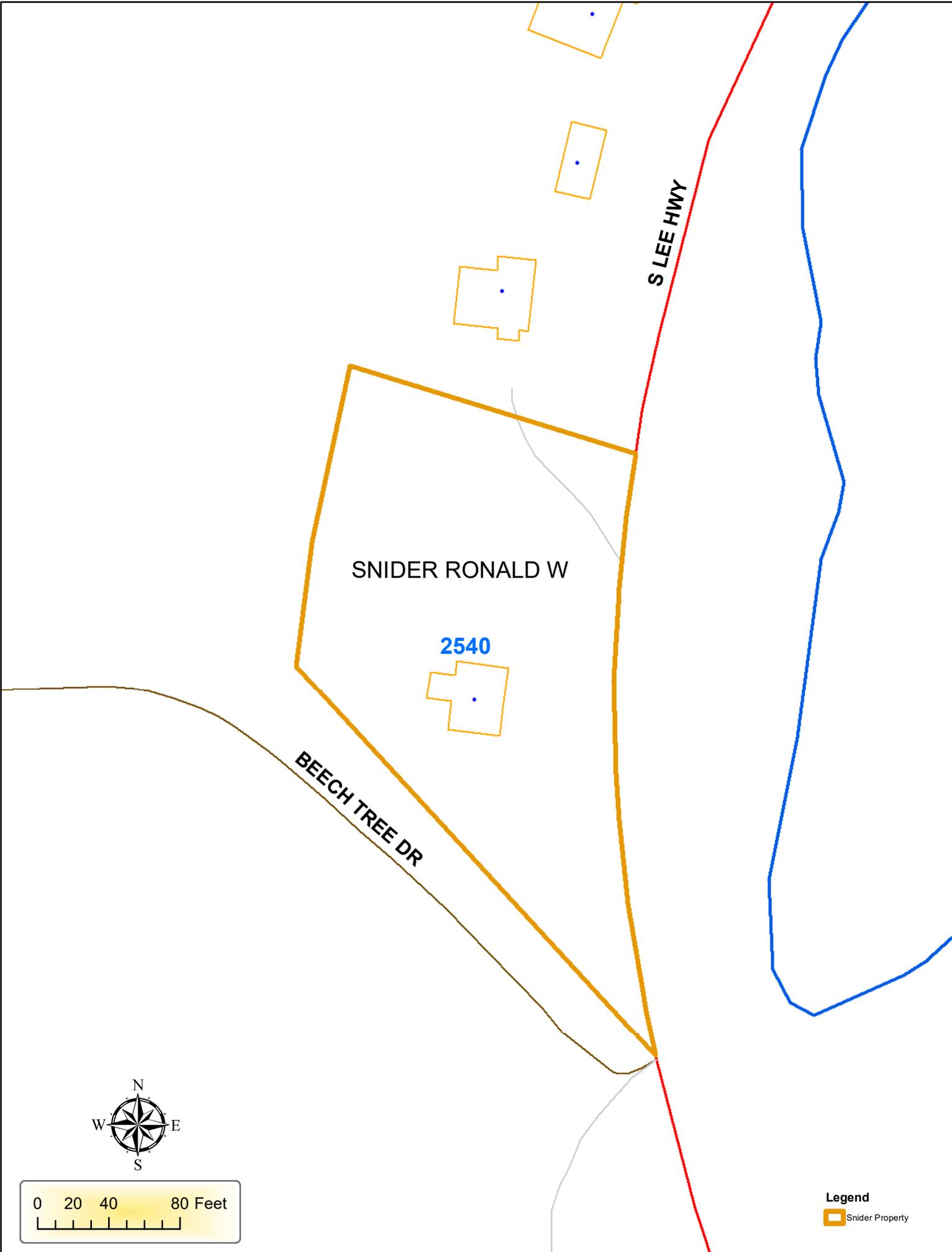
Notice is hereby given per Section 15.2.2204 of the Code of Virginia and Section 807.00 of the County of Rockbridge Land Development Regulations that a Public Hearing will be held by the Rockbridge County Board of Zoning Appeals on Wednesday, September 15, 2021, at or after 7:00 p.m. in the Board of Supervisors Meeting Room at the County Administrative Offices, 150 South Main Street, Lexington, Virginia 24450, to consider the following variance application.

Ronald W. Snider, 717 Plunkett Street, Lexington, Virginia, 24450, applying for a variance from Section 701 of the Land Development Regulations to reduce the acreage of an existing nonconforming lot in the Agricultural and General Uses (A-2) District. Per Table 1 of the Rockbridge County Land Development Regulations, there is a minimum two (2) acre lot size in the Agricultural and General Uses (A-2) District. The existing .64-acre parcel is proposed to be reduced to .55-acres. The property is located 2540 S. Lee Highway, Glasgow, Virginia 24555 and is on the west side of South Lee Highway (Route 11), approximately .35 miles north of the intersection of South Lee Highway (Route 11) and Buffalo Bend Road (Route 678). The property is further identified as tax map number 87-5-1B and is The property is in the Buffalo Magisterial District.

A site visit may be made by the Board at or after 4:00 p.m. on the day of the meeting. Additional information concerning this application may be obtained from the Rockbridge County Office of Community Development, 150 South Main Street, Lexington, Virginia, or by calling 540-464-9662.

By: Chris Slaydon  
Director of Community Development

2 consecutive weeks  
September 1, 2021 and September 8, 2021

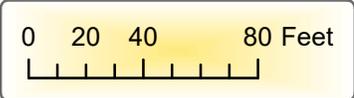


SNIDER RONALD W

2540

S LEE HWY

BEECH TREE DR



**Legend**  
[Orange Outline] Snider Property

**Lexington**

Russ Orrison, PE, LS  
Pierson Hotchkiss, LS  
Gavin Worley, PE



**Lynchburg**

Norm Walton, PE  
Aaron Dooley, LS

August 5, 2021

Lisa Markham TM # 87-5-1C

Variance Narrative

The owners of the two subject parcels agreed some years back to adjust the property line between them, but they did not have a plat or deed prepared at the time. The owner of TM # 87-5-1B is now looking to place that parcel on the market, and so both parties wish to memorialize the agreement. A simple boundary line adjustment plat, showing the revised property line along with new monumentation set in the field, together with a recorded deed in the usual manner, will accomplish the adjustment. However, both parcels are smaller than the area required within the zoning district (Agricultural General Uses District A-2) – 2 acres. It has been determined by staff that a lot that is smaller than currently permitted cannot be made smaller by a simple boundary line adjustment; but rather, that a Variance is required.

In this case, both lots were created prior to the 2-acre lot requirement, and both are smaller than 2 acres. The larger of the two lots would become smaller with the proposed adjustment, but the smaller lot would become larger by the same amount, and both lots would of course remain below 2 acres.

In our system, Variances are not to be granted lightly. They are rightly rare, as the conditions for their approval are rare. State Code directs that certain conditions must be met in order for a variance to be approved:

1. The hardship may not be self-imposed. Here, the lots were created in good faith prior to the current zoning, at what was then a perfectly acceptable size.
2. The granting of the variance will not be of substantial detriment to nearby properties. This boundary line adjustment will be of literally no detriment in any way to anyone, anywhere. It is lines on a piece of paper, and lines of occupation on the ground, but the change is invisible except on the plat.
3. The condition is not so general that a zoning amendment would be a preferable solution. This is the first time in my 22 years here that I have been asked to address this condition.
4. The granting of the variance does not result in a use that would otherwise not be permitted. There is no change in use proposed or contemplated, and the variance would not permit such a change.
5. Relief is not available through a Special Exception. There is no such relief available.

Additionally, in the normal course of dealing with non-conforming situations such as the lot sizes here, there is latitude for the zoning administrator to permit changes to non-conforming situations that will remain non-conforming, provided that the non-conformity is thereby lessened (that is, that the condition becomes closer to conformity even if it does not achieve it). In this case though, the larger lot is non-conforming and becomes less non-conforming, so the zoning administrator of subdivision agent does not have that latitude. But the smaller lot is becoming more conforming, so in total the lots are not less compliant with the letter or intent of the Ordinance.

We respectfully request the approval of a Variance for the boundary line adjustment proposed.  
Thank you for your consideration.

\\PO-Server19\Documents\2021\21299 variance narrative 2021-08-05.doc

17 W. Nelson Street  
Lexington, Virginia 24450

540-464-9001 Fax: 540-464-5009

317 Brook Park Place  
Forest, Virginia 24551

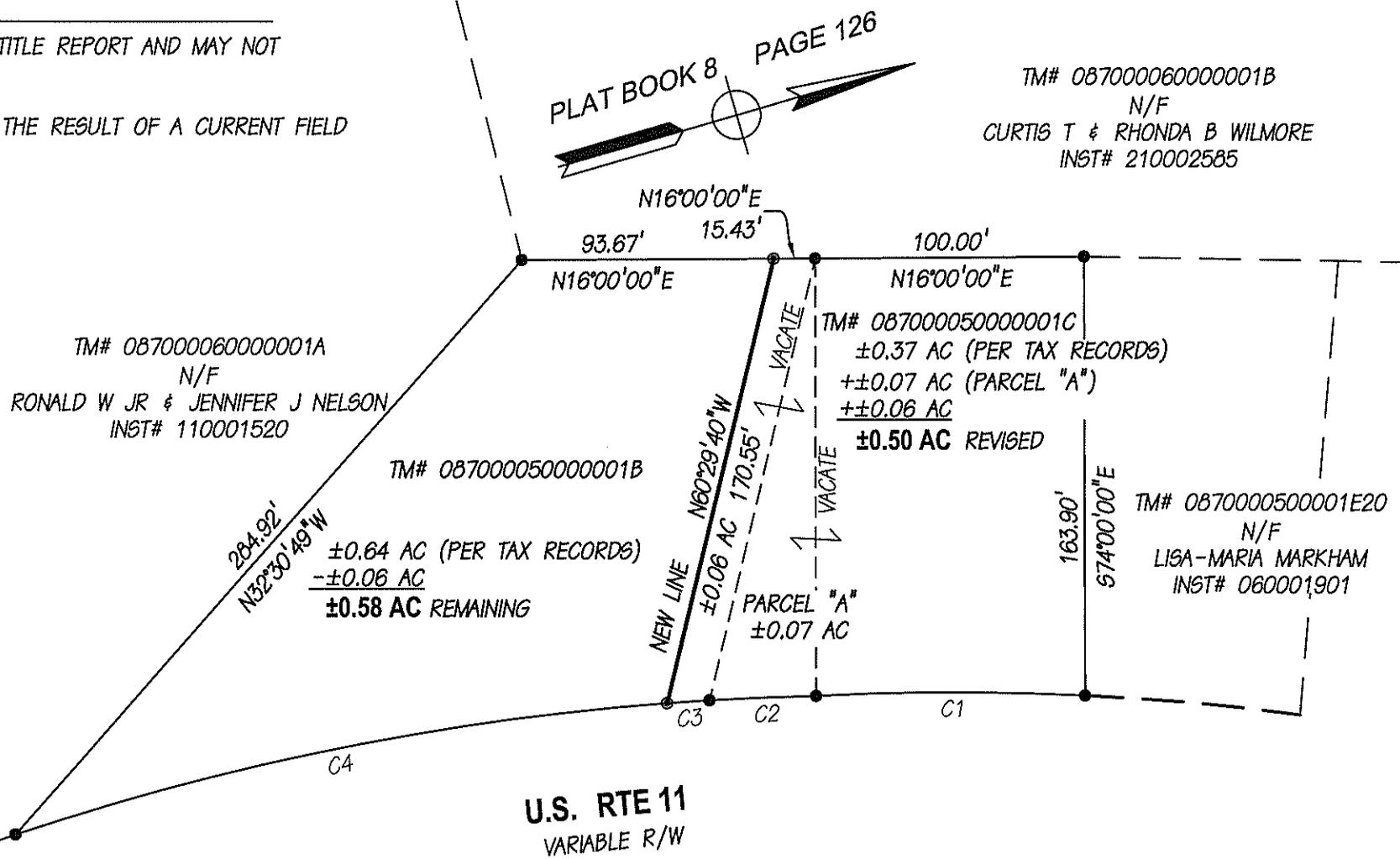
434-525-5985 Fax: 434-525-5986

Email: [pno@perkins-orrison.com](mailto:pno@perkins-orrison.com)

**NOTES:**

1. THIS EXHIBIT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
2. THIS EXHIBIT HAS BEEN PREPARED FROM RECORDS AND IS NOT THE RESULT OF A CURRENT FIELD SURVEY.

CURVE TABLE					
CURVE	LENGTH	RADIUS	BEARING	CHORD	DELTA
C1	100.04'	994.93'	S16°15'56"W	100.00'	5°45'41"
C2	39.62'	987.62'	S13°58'02"W	39.62'	2°17'55"
C3	15.70'	1041.10'	S12°22'39"W	15.70'	0°51'50"
C4	247.85'	993.86'	S4°53'54"W	247.21'	14°17'19"



**SOURCE OF TITLE:**

LISA-MARIA MARKHAM  
TM# 087000050000001C  
INST# 050004392

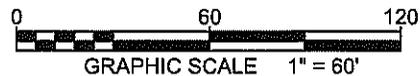
RONALD W. SNIDER  
TM# 087000050000001B  
INST# W19000040

EXHIBIT PLAT OF  
**TM# 087000050000001B**  
&  
**TM# 087000050000001C**  
BUFFALO MAGISTERIAL DISTRICT  
ROCKBRIDGE COUNTY, VIRGINIA



17 W. Nelson Street  
Lexington, VA 24450

Office: 540-464-9001  
Fax: 540-464-5009  
E-Mail: pno@perkins-orrison.com  
WEBSITE - <http://www.perkins-orrison.net>



DATE: 09/02/2021

JOB#: 21299  
DWG: V-BLA-21299.dwg  
DWN: SBL/BDS