

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
COUNTY OFFICE BUILDING
401 MCINTIRE ROAD – LANE AUDITORIUM
TUESDAY, DECEMBER 4, 2018– 2:00 P.M.

Board Members: Randy Rinehart
Ed Robb
David Bowerman
John Shepherd

Staff Members: Amelia McCulley
Bart Svoboda
Marsha Alley, BZA Clerk and Recorder

County Attorney: Andy Herrick, Assistant County Attorney

1. Call to Order

The meeting was called to order at 2:00 p.m. by Chairman John Shepherd.

2. Establish a Quorum

The BZA established a quorum, with four members present.

Mr. Shepherd explained the protocol for the public hearing, noting a 15-minute timeframe for a staff report, a 15-minute appellant presentation, questions from the BZA, and a public hearing that will allow 3minutes for each speaker.

Mr. Rinehart acknowledged for the record that the appellants, Mr. and Ms. Wright, were friends of his but he still felt he could give a fair decision.

Mr. Shepherd disclosed that Mr. Spencer Gay was part of his extended family but he also felt he could approach the application fairly.

3. Public Hearing: SP 2018-00002 Roslyn Farm and Vineyard

MR. SVOBODA: So, we are here to hear Appeal 2018-00002; this is regarding Roslyn Farm and Vineyard. The zoning clearance was approved by administrator's officer of the county on August 6. We will show that the zoning clearance was reviewed and complies with applicable regulations.

MS. ALLEY: Excuse me, Mr. Svoboda. I want to restart that timer. I'm going to set it -- I'm showing 2 minutes and 40 seconds left. We started with 3 minutes instead of 15, so I'm going to set it a little shorter than 15 minutes.

MR. BOWERMAN: I'm having trouble hearing.

MS. ALLEY: Are you ready? My apologies.

MR. SVOBODA: Yes. After conducting the required review, the clearance was issued. Also, just to make note that, per Virginia Code 15.2.2309, the burden of proof is on the appellant to rebut the presumption of correctness on the issuance of the zoning clearance. The subject property is Tax Map Parcel 61-1. It is located at

100 Roslyn Heights Road and is owned by Roslyn Farm of Albemarle, LLC. The property is zoned RA and is surrounded by Roslyn Ridge subdivision, which is also zoned RA. This is the zoning map that verifies that the property again is zoned RA, Rural Areas. The property located to the east, which is the brown, is zoned R-10 residential, one of our denser residential districts. And to the southwest, a little bit of light blue, which is not adjacent but on the corner of Lambs Road is zoned LI. Also, the parcel is designated Rural Area 1 within the comprehensive plan designation. The actual boundary of the growth area is Hydraulic Road. This is just an additional photo, aerial photograph from March 2018 that shows the subject property. Again, the property is zoned RA. It is located in the Rural Area district. This is an appeal about a zoning clearance that was issued for a by-right use in RA. Zoning Ordinance Article 5.1.58 specifically allows for certain events and activities at agricultural operations.

Under these zoning ordinance standards, there is a list of items that identify what can be used to identify an agricultural operation, a list of agricultural products, which is also included in the appellant's justification. That list includes pigs, cows, goats for dairy and meat, greens and produce for the production of grapes, poultry, poultry eggs, ducks, duck eggs. Those items are all qualifying items. Also, the use value assessment, also known as land use in kind of laymen's terms, is a designation on this property and has been for a number of years. That designation is done through our real estate department and our assessor.

There are some applicable standards that we are looking at today. Virginia Code §15.2.2309(1) enables the BZA to hear and decide appeals regarding the decision made by an administrative officer in the administration or enforcement of the zoning ordinance. Additionally, §15.2.2309(1) further provides that the determination of the administrative officer shall be presumed to be correct. And that at a hearing, which is the appeal we are here for today, the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of evidence. Applicable zoning ordinance sections are 18-5.1.58. This section deals with uses permitted at agricultural operations and talks about some limits there. Also, Albemarle County Code Section 18.31.5 in turn outlines the required process for zoning clearances. I want to be clear that this clearance process is not discretionary; it is a ministerial act. So, once an application meets the requirements or meets the checklist, then it has to be approved by the administrator.

In response to some of the appellant's arguments, we will go through some of those and what we are looking at is why the determination was made. All required notice was given. In this particular case, what that means is that no adjacent property owner or public notice is required in this administrative action. Also, the main property activity on the parcel does not have to be mainly agriculture, meaning there is a list of uses within the ordinance, and you can have a number of uses on your property. A primary use does not necessarily have to be the only use or the strongest use. So that being the case, also there is a variety of subordinate uses that are also permitted in conjunction with these primary uses. As with agriculture, the keeping of livestock or a barn. An example would also be a detached single-family dwelling could be a primary use, but also on that property could be a farm or another type of business that was allowed by right or possibly special permit.

A primary property use need not be agriculture in an agriculture district. It can be a house. Again, it can be a variety of uses. There was question about whether or not emergency vehicle access was confirmed, and staff did confirm that both on July 27th and August 8th. The property's qualification for use value, which is in common terms called land use, demonstrates its agricultural use and it meets that criteria under our taxation department also. In that section, there's a code reference, and some of that documentation was included in the packet for you. Zoning clearance is, you know, that's part of our zoning ordinance despite the argument that the subject property currently does not qualify for, again, agriculture. The zoning clearances are based on the uses proposed in the application, similar to a building permit. So, let me try and clarify that. When a building permit is issued, it is for what is going to be built, whether it's an addition or a new house. So that use or that thing complies when we do the finals, when we do those final inspections, when it's operating. So it's similar to that process. The ordinance regulates the number of attendees, so any approval or review numbers that are within clearance

or a document. Same thing with setbacks for a permit. Those cannot be modified administratively, so those are still in full force in effect.

Ownership of sound equipment is one of the requirements in 18.5.1.58, it's actually G1. There's one of two things you can do there and whether you can prove that the sound will meet or whether you have to own the equipment. And so with the submittal of a sound study, the applicant for the zoning clearance did prove and verify that the sound amplification equipment at the agricultural operation would comply with the applicable standards, and the zoning ordinance requirements. Whether we like it or hate it as staff, we don't have a choice. It's either kind of what we call a fair ball or foul ball. If it meets the requirements, we have to approve it. If it doesn't, then we don't. So based on that criteria, we have no choice once an applicant meets the checklist. In conclusion, I just want to close quickly, the act of approving the zoning clearance is ministerial, it is not a discretionary act.

So, when the requirements of the ordinance are satisfied, the zoning administrator shall issue that clearance. As stated, the zoning clearance 2018-00041 complies with the zoning ordinance standards. The zoning ordinance article 31.5B requires that "if the proposed building structure improvements, site, or the proposed use thereof comply with the zoning ordinance, the zoning administrator shall issue that clearance." Issuance of the clearance on August 6th was correct. The appeal should be denied and the zoning clearance issuance affirmed on both procedural and factual grounds. That concludes staff's presentation. I believe the county attorney has some things to add.

MR. SHEPHERD: All right, thank you. And I have one quick question. Still, will the time for Mr. Herrick's presentation be taken from the staff time?

MS. ALLEY: Mr. Herrick will use the remainder of the staff presentation time.

MR. HERRICK: So first of all, Mr. Chair, I don't know whether the Board has any questions of Mr. Svoboda at this point. If not, again, my name is Andy Herrick and I am here on behalf of the zoning administrator, who is the Board of Supervisors' agent for the administration of the zoning ordinance. I had sent out yesterday a memorandum of law about this proposed application. Just to follow up, the memo that was sent out yesterday, Mr. Svoboda's application, I think that he covered most of the main points that I intended to cover. I would remind the Board that under Virginia laws, specifically §15.2-2309 of the Virginia code, that the determination of the administrative officer, in this case the issuance of the zoning clearance, is presumed to be correct, and that the appellant in this case, Mesa Associates, has the burden to rebut that presumption of correctness.

As Mr. Svoboda indicated, the issuance of a zoning clearance is governed by county ordinance, and specifically there are two county ordinances that deal with the issuance of zoning clearances to agricultural operations. County Code Section 18-31.5 provides the standards for issuing zoning clearances and County Code Section 18-5.1.58 outlines what activities are allowed on agricultural operations, including the subject property. Now much of that part of the zoning ordinance is dictated by state law. The General Assembly has recently enacted legislation that limits local discretion in terms of what can be regulated on agricultural operations. Again, this parcel qualifies for that.

I think there are several sorts of misunderstandings, or maybe misconceptions, about what a zoning clearance is that I hope that my memo and Mr. Svoboda's presentation helped to clarify. Most important of which, and I'm sorry if this is repetitive, is that zoning clearances are administrative and nondiscretionary. We received a number of public comments. I realize that a number of people may or may not like the activity that is being proposed on this particular property, and their comments would be well taken if this were some sort of rezoning application or special use permit application. But in the case of a zoning clearance, it's very much an administrative process. The zoning ordinance lays out a checklist of requirements, and staff does its best to go

through that checklist and determine yes or no. Does it meet this requirement? Does it meet this requirement? Does it meet this requirement? And if it meets all the requirements, it's an administrative process where staff has no discretion but to approve it. I think I quoted for you County Code Section 18-31.5B, "If the proposed building structure improvements and site, and the proposed use thereof comply with the zoning ordinance, the zoning administrator shall issue the zoning clearance." It seems pretty cut and dried. And that's what staff did in this case.

Because this is an administrative process, there really is not much opportunity for public opinion or public comment. Therefore, on a related note, there is no requirement in the ordinance for notifying neighbors or the general public as to when zoning clearance applications are pending or being considered. Again, because it's not a matter that is subject to public input in the way of a rezoning application or a special use permit application. As is also pointed out in my memo, zoning clearance applications are based on proposed uses. They don't necessarily describe the conditions on the property today, what the property's being used for currently. They described what's being proposed in the future. So in that way, they're similar to building permits. Somebody comes in with plans for a building, submits them to the county and says, "If I build this building according to these plans, if the county approves it, then yes, this will be an approved building."

Of course if the ultimate construction of the building deviates from those plans, then the county has the ability not to issue a certificate of occupancy or to take other remedies. And in a similar vein, a zoning clearance when it's issued is not an unlimited license for a property owner to do whatever it wants on the property. If in fact the county grants a zoning clearance and the property owner later does not comply with the terms and conditions of that clearance, it's also a violation of the underlying zoning ordinance. And the county has the ability to enforce it as a zoning violation. Some of the main purposes of the zoning clearance process are to inform applicants of what the zoning process is -- or excuse me, what the zoning ordinance requires -- and to force them to come up with a plan to indicate how they're going to comply with all the applicable terms.

So I hope that gives a good understanding of what the zoning clearance process is, what exactly a zoning clearance is, what it's not. And I hope that in combination with the memo that I sent yesterday and Mr. Svoboda's presentation that we've answered many of the questions that the Board might have. I'm happy to answer any others that you might have at this point.

MR. SHEPHERD: Thank you.

MR. ROBB: Mr. Chairman?

MR. SHEPHERD: Yes.

MR. ROBB: Pretty easy question. Your presentation makes this whole matter seem quite cut and dried, is that correct?

MR. HERRICK: I hope so.

MR. ROBB: Okay. Second question is could I ask the zoning administrator whether or not they had any second thoughts about their decisions related to granting this request?

MS. MCCULLEY: Mr. Robb, I did not approve this permit. One of the staff who works on behalf of the zoning administrator approved this permit and reviewed it over the course of approximately six months. So if you want to ask the person who approved the permit or the deputy zoning administrator that question, that might be more relevant than me because I did not review it.

MR. SHEPEHRD: Mr. Svoboda?

MR. SVOBODA: As I stated earlier, we try not to render an opinion about whether we like it, or --it either meets the regulation or it doesn't, and we issue it that way. That's what we do as far as --

MR. ROBB: Did you have any second thoughts about it when you rendered the opinion? Did you think, you know, maybe this is borderline question here. "Maybe there's a possibility that I don't know everything that I need to know in order to render that decision." It sounds to me like it's quite cut and dried based on the presentation of Mr. Herrick.

MR. SVOBODA: Yes, the way I approach a clearance; I didn't review this one specifically, just the file after the appeal was filed. But the way I review a clearance is it either meets the checklist and can be approved or it can't. So the example I would use, it's kind of a fair/foul ball. Either it's inbounds and whether it was a good hit or a bad hit, depending on your opinion, it's a hit. So it's a fair ball, and a fair ball is a fair ball. We have to approve it. A foul ball is a foul ball.

MR. ROBB: So it's fair to say you didn't have any question about making this decision.

MR. SVOBODA: I did not.

MR. ROBB: Thank you.

MR. SHEPHERD: Thank you. Other questions? A couple of questions for me. In looking at the definition of an agricultural operation event, it has the term "an event conducted at and subordinate to an agricultural operation for up to three days," and it goes on to specify different components that it could have. I want to understand how the whole question of analyzing the events that will be approved by the clearance relate to or are shown to be subordinate to the agricultural uses on the property. How is that interpreted in the application?

MR. SVOBODA: I'm trying to go back to this section here.

MS. MCCULLEY: So in the zoning regulations, a couple of things are in place to assure that in terms of the intensity of the use, it's subordinate. And Mr. Svoboda may have some answers based on the slide he's pulled up, but one of them is numbers of attendees at one time. So within parameters like that and requirements for approval by various review agencies, we find that it's subordinate. We don't have a measurement of amount of time spent in one activity versus another. This provision is very similar to -- and actually arises out of -- a state code provision for farm wineries, breweries, and distilleries. And agricultural operations come to us from enabling authority in the state code, as I said, and activities, agritourism type of activities associated with them must be permitted under local zoning regulations with some limitations as must be permitted with farm wineries, breweries, and distilleries.

But we don't have a clear-cut hard line, either from the state legislature or from us locally as to where that line is for when it's subordinate or it's tripped over that line. Like I said, numbers of attendees is one of those things that we consider. That is a longtime accepted parameter that goes back 12 years with the farm winery regulations. There was also work done where we put these regulations into the zoning ordinance several years ago. So for example, you can't have weddings at agricultural operations, but they're usual and customary at farm wineries. Sorry I can't answer it more directly.

MR. SVOBODA: Yes, a common example might be like a hayride that you see at the pumpkin patch. The legislation encourages the enjoyment of the farm. So most anything, whether it's kind of a petting zoo, the animals that are there, whether you go pick your own vegetables or whether you do the hayride or the corn

maze or buy geraniums, if that's what they're growing, or beef if that's what their selling, it's about -- that legislation is about enjoying the farm or the farm experience. That's how broad that legislation is.

MR. SHEPHERD: Okay, well using the analogy of a building permit, will there be a -- what would be a final inspection before a certificate of occupancy in this case, which would be an analysis of the agricultural -- of what is in place when they want to start the use. Will there be a test at that point of it being subordinate? That it's, that there's enough, that the agricultural uses have been established on the property to satisfy the requirements of the clearance?

MR. HERRICK: Mr. Chair, if I might, I think the analogy there is that in this case, the analogy for the certificate of occupancy is a subsequent zoning enforcement action if in fact the ultimate activity does not match up to what's in the zoning clearance. So just in the same way that if a building wasn't built according to a building permit, or had some sort of safety problems, the county could withhold a certificate of occupancy. In this case, if the actual operations of this did not match up to the clearance -- and in fact were also in violation of the zoning ordinance -- the consequence would be a potential zoning enforcement action.

MR. SHEPHERD: So it would be a complaint-driven process.

MR. HERRICK: Correct. So there's not a separate follow-up inspection other than, again, as you may be aware, the zoning enforcement procedures for the county are complaint driven, so that if we were to receive a complaint that in fact there was some sort of violation of the underlying zoning ordinance, then that would be subject to enforcement by the zoning official as a zoning violation.

MR. SHEPHERD: Okay. Thank you. I have one more question. And I think -- Ms. McCulley, I think you've already answered it, but I'd like you to expand a little bit on the matrix about various uses. There's the section about other special events that are all defined as being determined by the zoning administrator. I'm wondering what sorts of special events you might imagine falling within that category. I mean it's not weddings, I think I heard you say, so that would mean not corporate retreat activities, not large gatherings -- I don't know, now I'm putting words in your mouth. But I think it would be helpful for all of us to just have a sense of how that would be analyzed and enforced.

MR. BOWERMAN: [inaudible] in the ordinance, correct?

MR. HERRICK: Mr. Chair, are you referring to the last line of the matrix that say "other events or activities which are determined by the zoning administrator to be usual and customary uses at agricultural operations throughout the Commonwealth," is that what you're --

MR. SHEPHERD: Exactly. Thank you.

MS. MCCULLEY: So some of those things are in the chart in 5.1.58 and include, for example, farm tours. Sales of agricultural or silvicultural products, harvest your own activities, sale of food products, some event types of things would have to fall under the definition of agritourism, which we pulled from the state-enabling code language. And that says -- it's fairly broad -- it's, "An activity that allows members of the public for recreational, entertainment, or educational purposes to view or enjoy rural activities, including farming, wineries, ranching; historical, cultural, harvest your own activities or natural activities and attractions, regardless of whether or not the participant paid to participate in the activity. Also include but not limited to farm tours, tours of an individual agricultural operation, hayrides, heirloom plant and animal exhibits, crop mazes, educational programs, workshops, or demonstrations."

MR. SHEPHERD: Okay. Thank you.

MR. ROBB: Mr. Chairman?

MR. SHEPHERD: Yes.

MR. ROBB: I noticed that it seems like that the "i"s have been dotted and the "t"s crossed here by the appellant. But I don't see any - or where the county has made any note in the paperwork that I have that relates to proof that there's adequate onsite parking on this property. And secondly, anything regarding traffic management, it seems that there's some questions in my mind related to those two issues.

MR. SVOBODA: I believe it is in your packet. I'll have to double check the VDOT comments where they did talk about, they had actual VDOT review of the zoning clearance and they had no comment or no concerns. We also had the fire rescue/fire marshal's office take a look at it.

MR. ROBB: I'm referring to parking on the property. Is there adequate space for the number of -- what do you, 40 vehicles?

MR. SVOBODA: Yes. So, it --

MR. ROBB: There is? Is it reflected in your report? Maybe I missed it, but you're saying that there is adequate parking?

MR. SVOBODA: There is adequate parking.

MR. ROBB: So that requirement to satisfy this question has been taken care of.

MR. SVOBODA: There is a sketch that shows the layout of the parking area.

MR. ROBB: And the traffic management, from what I understand, is going to be dedicated to the offices of the sheriff's department. Is that correct?

MR. SVOBODA: Not necessarily. As far as directing traffic? I don't understand the question.

MR. ROBB: I thought I saw it in this -- without going through the whole report, I thought I saw that it was going to be the answer to the problem related to traffic management. I mean, it's perfectly reasonable, so.

MR. SVOBODA: Yes, if the condition calls for it. Meaning if there was an event that had 10 cars, it's likely that we wouldn't have the need to direct traffic.

MR. ROBB: But my question is really -- our responsibility is to decide whether or not the county had made appropriate inquiries in order to recommend this site. I can only assume -- and you know what happens when you assume -- I can only assume that that was done.

MR. HERRICK: I don't think we're asking you to make that assumption. What we're hoping is that the materials that have been given to you demonstrate that in fact it was done correctly, beyond an assumption, actual demonstration that it was.

MR. SVOBODA: Yes, on the third page of the clearance, there's a checklist, and towards the end of the checklist, there's a Virginia Department of Transportation, VDOT entrance standards. And there's an email that goes with that on March 13, 2018.

MR. ROBB: I know the Virginia Department of Transportation made a statement there. I'm talking about the -- I just don't want to -- I think we'd be missing the boat if we didn't recognize that there'd be parking on public roads and highways.

MR. SVOBODA: No, the parking would have to be onsite. It's a 21-acre parcel. There is a designated area for the parking.

MR. ROBB: So if it wasn't onsite, then they would -- the applicant would be in violation.

MR. SVOBODA: Yes, that is correct. I'm sorry I didn't understand the question.

MR. SHEPHERD: Would that also be something that the engineering inspection would have taken into account when they were doing their site inspection?

MR. SVOBODA: Our engineering department would not -- since public roads are not owned by the county, they are owned by the state.

MR. SHEPHERD: You mean the site, not the --

MR. SVOBODA: Yes. So onsite, the engineering department did do review to see if there was disturbance or if there is going to be disturbance that doesn't qualify for any exemptions under agriculture. Then they would be required to get permits if it exceeded the appropriate limit, which I believe is 10,000 square feet.

MR. SHEPHERD: I went out to -- I saw the site and I didn't go over the entire 21 acres.

MR. SVOBODA: Yes, sir.

MR. ROBB: And there certainly is plenty of space for parking, but I don't know if there was parking lots made or anything like that.

MR. SVOBODA: No. Generally, in an agricultural use like this, because the events are sporadic, and we really do not want and the ordinance doesn't promote this, neither does the comp plan, that we put parking lots that are only going to be used once or twice a year. Usually it's a grass area, the fair would be a good example of the type of event that is kind of temporary in nature, where you park in the grass, you have access, you park onsite, and the ground recovers and it doesn't get really sloppy. If the parking area was to get what I would call sloppy muddy and require some mediation by the engineering department, by our erosion and sediment control folks, then they would take that into account. But that would be separate.

MR. SHEPHERD: One more quick just point of clarification having to do with the health department. As I understand the comments in the report, farm-to-table operations are not subject to health department approval, so there is no health department approval for food preparation with these activities under this clearance. So would that mean that these events would be -- that there would not be food preparation onsite? In other words, things apart from -- there were many contemplated food offerings under the clearance in their description of it. But that would mean -- would it mean that other food preparation would have to be done offsite in commercial kitchens? I'm assuming -- well, I would just like to have that clarified for everyone.

MR. SVOBODA: Without speaking for the health department, it's my understanding that the food that's grown and prepped is okay. It has to do with kind of resale of things that are brought in. So there's a health department threshold is about not going above a certain level. I thought we had included that in your packet.

MR. SHEPHERD: I thought that the health department is not approving this because it's just not under their authority.

MR. SVOBODA: That's correct. It doesn't reach the threshold that they would get involved.

MR. SHEPHERD: Because it's a farm to table operation.

MR. SVOBODA: Yes.

MR. SHEPHERD: So it's exempt.

MR. SVOBODA: Our letter from the health department, a copy of a letter from the health department on June 21st, 2018 indicates that this is below the threshold of where the health department would get involved.

MR. SHEPHERD: So the clearance would be within -- would only cover the farm-to-table products produced on the property?

MR. SVOBODA: Yes, they had to submit a menu to the health department of the items that they had. And it was verified by the health department, and based on their inspections, that they qualified below their threshold of regular restaurant inspections [inaudible].

MR. ROBB: Mr. Chairman?

MR. SHEPHERD: All my questions. Yes, Mr. Robb?

MR. ROBB: Related to that letter that you're referring to, to Sue Albrecht?

MR. SVOBODA: Yes, sir.

MR. ROBB: Dated June 21st?

MR. SVOBODA: Yes, sir.

MR. ROBB: There was a -- at the last paragraph, it said, "If you wish to challenge this determination, your written request for a hearing must be received in the office of..." and so forth and so on. Did -- I see the copies. Is there any copies that went to the appellant or neighbors that related to this challenge?

MR. SVOBODA: This letter was directed to the owner representative of Roslyn Farm. I don't know if the health department sent those out to any adjacent.

MR. ROBB: Well, according to the copy count, it didn't go to the appellant at all, or to any of the neighbors.

MR. SVOBODA: No this was part of the clearance review.

MR. ROBB: I'm not saying that there was a requirement to do that, I'm just saying --

MR. SVOBODA: Not to my knowledge.

MR. ROBB: If they wanted to appeal the decision of the health department.

MR. SVOBODA: I don't know the health department's appeal rules, so that is a health department decision that is directed towards the landowner who wants to do the activity. I don't know if it's a similar process where say an adjacent neighbor can be aggrieved. I don't know what that process is. So we received a letter based on the fact that we needed verification from the applicant for the zoning clearance that the health department regulations were being met. So based on that letter, they met the requirements that the health department has for this use. That appeal language in that letter is my understanding is directed towards that applicant, not towards anyone else. It's a different process, and I don't know that their process is what we have.

MR. SHEPHERD: Good. Other questions? Okay, thank you for that. We now turn to the appellant's presentation. Same rules, 15 minutes. Thank you very much.

MR. CARAMANIS: Good afternoon, Mr. Chairman, members of the Board. My name is Pete Caramanis. I represent the appellant, John and Trula Wright, who are here today. Mr. Wright is going to --

MS. ALLEY: Excuse me, Mr. Caramanis.

MR. CARAMANIS: More clock issues. That's okay, I'll wait.

MS. MCCULLEY: We're new at this, sorry about that.

MR. SHEPHERD: We wouldn't want to start with -- don't start with one minute.

MR. CARAMANIS: As long as it stays at 55, I'm good.

MS. ALLEY: Okay, I think we're ready. My apologies.

MR. CARAMANIS: No problem. Thank you. Mr. Wright will come up and use some of the balance of my time to make some of his own remarks, but I'm going to just summarize for you our position and our concerns and why we're here today. We've gone through a lot of the different aspects of the review, but I'm going to try to simplify for you our position and our concerns and why we're here today. We've gone through a lot of the different aspects of the review, but I'm going to try to simplify for you. I think the main issue here is whether or not this zoning clearance process is simply a rubber stamp. And part of what you've heard from Mr. Svoboda and Mr. Herrick is how this is ministerial, it's an administrative decision and basically they have no choice but to grant it. And I disagree with that.

Obviously it is not the same process that you talk about with a rezoning or a special use permit, but staff obviously has the discretion to review and make sure that the requirements that are necessary for the granting of this clearance actually exist. So there is the ability to do that review and frankly the expectation to do that review. The language of the ordinance, if it did not contemplate that, would simply list this as a permitted use. There would be no need to get a zoning clearance for it. It would just say "you can do this" if all that it took was to come forward and say, "I want to do it," and then okay, yes, you get your approval. So clearly there's more intended there as far as the review goes.

Section 5.1.58B states -- and this is part of the enacting language for the section -- it says, "The Board find that one or more substantial impacts on the public health, safety, or welfare have been identified when a zoning clearance is required by this section". So essentially what they're saying is if a zoning clearance is required, then obviously there are some concerns here and there are some things that need to be shown before that can be granted. Imagine the precedent set if all that's required is to say, "My property is in land use and now I can have all these events." I mean, they would be happening all over the county. And I fear that that's potentially

what this decision will tell everybody is possible. You just come forward, you say, "I'm in land use and I want to have a bunch of events," and you can.

I think what's interesting is looking at Mr. Herrick's memorandum that he provided to you all, on Page 3, under Item B it talks about the definition of what an agricultural use is in this context. And it sets forth the 12 criteria, which he references, and he references it critical of the appellant, saying, "When the appellant mentions Airbnb rentals that they've ignored the other 12 indicators." Well our position would be that the county has actually ignored those 12 indicators in the review of this application. It seems like the only thing that was actually reviewed was to say that the property is in land use and therefore, it must be agricultural.

But if you look through those 12 factors that are listed, some of the ones that are more unusual are the owner's federal tax forms showing farm expense and income, the receipts showing gross sales over the most recent three-year period or evidence of the value of agricultural products that would have been sold. So those types of things, I don't see any evidence that that kind of review was done. Frankly, the concern of the appellant is that had that type of thing been done, the county would have seen that the requisite agricultural use on this property, in order to be granted this clearance, doesn't actually exist.

So again, you know, Mr. Herrick in that memo talks about -- let's see, in Item E, talking about the subject property being devoted to agricultural use as determined by the assessor. He relies on that and even mentions the fact that that is the first factor listed of the 12. And makes the connection that therefore, it is the highest priority factor, when in fact there's nothing in there that says those are ranked by order of priority. They're just 12 factors that frankly should all be considered. Just because you might satisfy number 1 doesn't mean that you get to ignore the other 11.

The definition of "agricultural operation event," as was mentioned by the Chair earlier, requires that the event be subordinate to the agricultural operation. So we've heard the argument that the agriculture use doesn't have to be the primary use, it just has to be a primary use. And we're not arguing with that. I mean, obviously a piece of property can have multiple uses. However, it is very clear that the events that are sought by this clearance do need to be a subordinate use to the agricultural use. And again, we think if that were reviewed more closely, it would be shown that that is not actually the case.

Furthermore, there's a reason that the definition says a bona fide operation. That means not just an operation on paper, not just a representation on paper that you've done something or that you've met some criteria -- which again, seems to be the position of staff today is that if you submit the application and say, "I've checked all these boxes," that that's enough, without verification. I think that's incorrect. I mean, "bona fide" is there for a reason, which means that it is not just on paper, but it's actually a legitimate use, a legitimate farm operation.

And while the proposed uses are looked at prospectively, meaning that they might not have to be going on right now, but you're saying this is what I intend to do -- and that's fine, I understand that staff needs to accept that for what it is. It is important that when there is a factor that there is an existing use that is relevant and necessary in order to be granting the clearance, that that can't be prospective. You can't come with an application and say, "Well, I intend to first meet the minimum criteria, and then I'm going to do these other things." That should never be approved. You should have to satisfy that base criteria first.

And our argument is that is exactly the process that staff should have gone through in granting this clearance, was to do the due diligence, look at all 12 of those factors, make sure that the agriculture operation is necessary to sustain these events and to be granted this clearance actually existed at the time and exists now. This purpose was created for the purpose of allowing farm operators additional options to maintain their livelihood during slow seasons or the like. It was not intended to encourage event operators to go buy a cow so they could have their events. And I think that we're looking at this a little bit backwards.

Finally, as was also mentioned in some of the questioning, I don't know how this gets enforced. These will be events that will be held privately on this property, and the only people that are going to know the nature of the events and whether they're actually tied to the agricultural operation are the people that are invited to them. And without the staff's review initially to make sure that there is that connection between the agricultural use and the events that are going to happen, I think we have a problem of enforcement going forward or even notice. I mean, the neighbors will see that a bunch of cars are there and a bunch of people are on the property. But how do they know if it's a wedding or if it's a farm tour? And I think that that is a very concerning question certainly for the neighbors.

This is particularly important, given the history of this property and the desired use of the owners. There was a special use permit prior to this which got a lot of opposition from neighbors. From my understanding -- I was not part of that process -- but there was also quite a bit of review by staff that was potentially unfavorable, and now we're here. And this is -- in essence, it feels very much like an end-around for a special use permit that was not able to be gotten, to instead get a zoning clearance that didn't require a notice to anybody. And all you had to do is promise that you were doing something than what you've already indicated publicly was what you really wanted to do. And then it can just exist and hopefully nobody ever knows.

So that's the concern of the neighbors, and I think it's a legitimate concern and we certainly would like the clearance to be overturned on the basis that the amount of due diligence that was done to verify that the agricultural operation in existence today is sufficient to sustain that just wasn't sufficient. I'm going to turn over the rest of my time to Mr. Wright. I'm happy to come back and answer any questions. Thank you.

MR. WRIGHT: Mr. Chairman, members of the Board of Zoning Adjustment. I've been told not to get into emotions on this issue, we should stick with the nuts and bolts. That's really difficult for me to do, and I just have to tell you why, because my dad built Roslyn Farm in 1935, as he was a job superintendent for Barnes Lumber Company. My mother drove me by there as a little kid and showed me what a great place that was. And that's why we went back and bought a lot from the heirs of Mrs. Alton Jones, who eventually owned the property, 22 years ago to build a house in a nice, quiet residential neighborhood. So that's -- I won't bore you with any other emotions.

But if the time allows, I would like to try to bring out a few nuts and bolts that I think are important, because the questions you have asked are very meaningful questions and I may have a little different answer than you have heard. The question is, did the administrative officer make a correct decision or not. Why? Well because I say that this decision was not correct for the reason, number one, this is not a typical zoning request. It started out as it should have as a special use application, and then changed midstream 180 degrees to a zoning clearance.

The applicant's goal was stated clearly in the beginning that the purpose of the special use permit was to have weddings, receptions, and rehearsal dinners. And that was not a secret. But because that had already been announced to the neighborhoods, we had concerns about that. We were notified properly under that special use process, and we came to meetings in numbers and expressed our displeasure. And that may have had some reason for the applicant to change from the application from special use down to zoning clearance. The second reason is so the fact that we weren't advised of the zoning clearance by the zoning staff seems to me like with all the attention this issue got as a special use permit, it would have been a decent thing to do to tell the neighbors that it had changed 180 degrees.

Number two, the zoning clearance is for farm-to-table. It did not include close enough checking and scrutiny required for what I would call a "window dressing farm." For example, the question was asked about the Thomas Jefferson Board of Health and the letter that exempted Roslyn Farm from the health requirements. It is attached to the back menu of what they intend to serve. If they're going to serve 200 people 26 times a year, I

hope they have help from above because the loaves and the fishes -- there's not going to be enough there to do the job.

Third, staff has not been successful conveying to the applicant the point that zoning clearance is not a license for an owner to do what they want. The tweets of the owner indicate that they, for example, are misunderstanding the requirement that the entrance to the property be on Lambs Road and not on Roslyn Heights Road.

Four, staff has not concluded to have surrounding neighborhoods -- as surrounding neighbors and neighborhoods have concluded, that this is probably the best example you will ever see in the entire world of a window dressing farm. And it clearly states in the zoning this was done to enable the applicant to be eligible to host events. So that's very clear why they did what they did, and zoning staff, apparently it didn't occur to them, it occurred to all of us in the neighborhood, but never occurred to the staff.

Fifty-eight seconds. Number five. Of the 13 criteria that the ordinance says may be used to determine what is agricultural production, the zoning staff insists and the deputy county attorney insists that whatever the tax assessor says is the number one criteria. And I would suggest that that's probably the 13th criteria, for the simple reason that the assessor will often give people a break on their property taxes when they have a hayfield or when they have grazing land, which has got nothing to do with farm-to-table events. But apparently that didn't occur to staff.

Number six, the property is not bona fide production of any agricultural product, and staff has never, including today, pointed out -- enough of that -- is that time out? I have a few more reasons, but I won't go into it. Thank you.

MR. SHEPHERD: Thank you very much. So are there questions from the Board of the appellant? Okay. So with that we're going to now open the public hearing. I have -- let me just take a moment -- so we have eight people who have signed up to speak. I guess I will just read the names off. You'll come up in the order that you signed up in. Before I close the public hearing, there'll be a chance to -- I guess we would let final speakers come in. We just ask not to, you know, try to be to the point and not too repetitive for what things have already been said. But you're welcome to use your time as you will. It's a three-minute time limit, and look forward to hearing what you all say. We would start with Brenda Piotrowski. Okay, thank you. John Piotrowski? Okay. Mrs. Ann Rooker? *{Note: Brenda Piotrowski and John Piotrowski declined the opportunity to speak.}*

MS. ROOKER: Good afternoon. I'm Ann Rooker and I reside in the Roslyn Ridge neighborhood. It is important to understand the history of this zoning clearance. This began as a special use permit application, which the applicant, Sue Albrecht, filed with the county in January 2015. The applicant and several neighbors had a few informal meetings and some conversations about her proposal, and the neighbors consistently expressed their reservation and opposition. The process between the applicant and the county to refine the application went on for approximately three years. As strongly suggested by the county for such special use permits, the applicant held a community meeting at Jack Jouett Middle School on February 12th, 2018. This meeting was attended by approximately 50 neighbors, only two of whom spoke favorably about the proposal. In fact, many people angrily voiced opposition. By the end of the meeting, it was clear that the community would not be supportive of this application when it came before the Planning Commission.

The SUP was scheduled for public hearing at the Planning Commission on April 10th, May 1st, and June 12th. Each time, it was deferred by the applicant for personal or family health matters, according to county staff. Staff contacted me on July 5th, 2018 to inform me that the applicant had requested an indefinite deferral, which meant that the application was not currently under active review. We heard nothing more until an associate of the applicant, Richard Fox, tweeted on August 7, 2018, "Beyond excited to finally, after four years, \$150K+ in

permit fees, and countless attempts to prevent hashtag #aguse, be able to host hashtag #farmtotableevents, 24 annual events of 200 attendees with outdoor amplified music. The fight for property rights is far from over, but this battle is now behind us. This was our community's first notice that something had happened.

In fact, as we were to discover, one day after the February 12th community meeting, the applicant had filed for a zoning clearance. And as you've heard, we were never notified of that. According to county staff, as of February 5th, 2018, there were 2,875 properties within a one-mile radius of Roslyn farm that will be negatively impacted by the traffic and noise produced by 24 events with 200 guests each that this zoning clearance allows. This application should have never been approved by zoning clearance process with no notice to or input from the public. We strongly believe this is a subversion of the special use permit, and we ask that you revoke this clearance. Thank you.

MR. SHEPHERD: Thank you. Ron Hutchins?

MR. HUTCHINS: Thank you for the opportunity. I just have one thing to add. I live back on Ipswitch Place inside the Ivy Farm neighborhood. There's a single entrance and exit on Lambs Road to my neighborhood, and the road's very narrow, which I'm sure has been talked about. Back in June this year, we had trees fall across the road that block that entrance. We had no way in and out. The one thing about this whole process that I'm going to put on the table is that although there was a way through the farm, through the Roslyn Farm, around the tree that was down, the owners put a rock in place to stop people from being able to ingress and egress out of the neighborhood. To me that caused life safety issues. And if that's the kind of neighbors they are, I don't support the use of this farm for this and the impact of Ivy Road with them not helping us in case of issues. That's [inaudible].

MR. SHEPHERD: Thank you. Mr. Wright? Mr. Wright, I guess you've already spoken. Spencer --

MS. MCCULLEY: There will be opportunity for rebuttal for the appellant.

MR. SHEPHERD: Okay. So not now, let me make sure -- not now, but in the rebuttal part you could -- I think it's a choice, if you want -- you could speak for three minutes now, or you could be part of the rebuttal at the very end, up to you.

MR. WRIGHT: Let's take the three minutes right now.

MR. SHEPHERD: All right.

MR. WRIGHT: I'm hoping that the substantial impact that's been described to you on the neighborhood will be part of your decision. Although, I'm sure that's under the code supposed to have been done a long time ago. But you all ask wonderful questions and, you know, things like the parking -- yes. The parking is shown on a plan that was submitted, and the parking is shown in a grassy field. There's no road yet to get to the parking, but I guess it's under construction and at some point in the future, before or after the events are held, the road will be completed. But other than that, I just appreciate you all's serving and trying to help other citizens solve their problems. It's very good of you to do that. Thank you.

MR. SHEPHERD: Thank you. Spencer Gay.

MR. GAY: Thank you for the opportunity to speak to the Board. I am a resident of Albemarle County and I live down at the end of Lambs Road, and so this would affect my entry and exit every time I wanted to go to or from my house during one of these events. As you probably know, Lambs Road is about a lane and a half as it is, and you have to sort of close your eyes, hold tight on the wheel if you pass anybody now. If you add a police car to

that, plus another line of cars, it'll be bad. Ever since this farm has changed hands, Lambs Road has changed in its nature. There have been dump trucks up and down the road for two and a half years, sort of spewing clay all over the road -- they never bothered to get gravel until the very end, and sort of nosing us out of the way.

I moved here when I had a farm. I had a horse farm. I bred horses. That was an agricultural event. Holding weddings is not an agricultural event. If you drive around this farm, the backroad has run-out sheds for horses. I have not seen a horse yet. One reason is because there's no fence. So there's been no agricultural operation. It should really read "Roslyn Virtual Farm" in that there are trellises but no vines. There's certainly not a vineyard if you don't have vines, if there's no production.

So this end run is obvious what's been attempted. I believe staff has done their dead-level best, except for the fact that the administrator who made the decision has not bothered to show up today to face the music and been able to support their own decision. I think it's very telling that this person couldn't be bothered to come and say, "I did the right thing for the right reasons." We're all neighbors here. The folks who have moved to Roslyn Farm have not acted like good neighbors; and in the future, they will probably act just like they have in the past. I don't look forward to that, and I hope there's a way for this not to play itself out.

And we'll be the policemen. We'll be the people who bring the complaint. The staff here is not going to monitor things. They're not paid to do that. They're not paid to come out on weekends and check on the noise and the line of traffic and how it's affecting the neighborhood. It's not their problem until somebody else has to complain. So now if this goes forward with this end run, this is what's going to be our deal. We're going to have to be able to be the policemen for this situation, which I don't believe is our role. Thank you.

MR. SHEPHERD: Thank you. Mike Farabaugh?

MR. FARABAUGH: Mike Farabaugh. I live next to Roslyn Farm in Roslyn Heights subdivision. And before I get to my speech, something that I was hearing in the conversations, if I could ask the question, is a wedding rehearsal dinner allowed as an event? Can I ask that question. Okay, I'll --

MR. SHEPHERD: We'll address it -- you will leave here knowing the answer to that question.

MR. FARABAUGH: Well, I'll throw it into the speech. The reason I am asking this question is a car followed me to the end of my cul de sac, and I pulled back and I put the window down and I looked and the guy said, "Hey, where's the rehearsal dinner?" So if that's not allowed, it's already being -- the rules are already being broken. But back to my speech. Forgive me, I'm not a public speaker. But Board members, it's with mixed emotions that I'm requesting that you do not grant the continuance for the events and for Roslyn Farm.

My conversations with the folks at Roslyn Farm have been pleasant and cordial, mainly Richard, I do not care to have my privacy infringed upon by the noise and events that can be created or the people that find their way to my house, because it's already happening on a smaller scale with their Airbnb that's in operation. My neighbors and I have repeatedly had unwanted visitors at all hours, disturbing us. I'm getting tired of raking my gravel due to tires peeling out in the middle of the night after someone realizes they've gone to the wrong house. And I asked that a sign be hung at the entrance of Roslyn Farm, more than once, probably over a year ago when we were at a meeting, and this still hasn't happened.

I have concerns that even if these events could be handled to my satisfaction today, what recourse do I have down the road if they are not. I was given a business card of a code compliance officer at one of the previous meetings, and I thought I would test the number and I had asked to be called back. I was not called back. A few days later, I was talking to one of my neighbors and they had a problem where someone was beating on their door in the middle of the night. And I said, "Well, let me give you that number. Let me call that number again

just to see if I give you the right number.” I was never called back by the zoning -- the compliance officer. That system’s broken right now. Before this goes any further, I think that system should be fixed before these events are allowed. And even if the current management of Roslyn Farm were to work with all the neighbors and address any concerns, what happens down the road when they sell this business to a possible unscrupulous party. Again, I thank you for your time.

MR. SHEPHERD: Thank you very much. Does anyone else wish to address the Board? All right, can you start by just stating your name?

MR. HARDING: Sure. Can you hear me? I’m Elliott Harding, I’m actually an attorney representing the applicants in this case. And one thing I’ve heard today is that this is an end around of a special use permit. But I think this entire process is an end around of what would be a special use permit, and that is the public comment coming in and trying to impose a process that clearly does not apply to a zoning clearance determination. And I know that there’s a lot of frustration that stems from over a year, almost two at least, of confusion about what does need to be satisfied with a clearance versus a special use permit. But at the end of the day, a zoning clearance permits these events that they’re seeking to have, and they’ve satisfied everything possible that the law requires. And the presumption is in their favor in the county’s determination.

Earlier it was mentioned that anybody with this use could seek a rubber stamp, that they could just go and say, “Hey, I want to have these events.” They’ll be compliant and then they get the clearance. That’s absolutely not true. The applicants in this case have had VDOT come out and check the property, and they’ve approved both emergency access and just travel on the property generally. And the parking that was mentioned earlier, as the county mentioned, it is adequate. They’ve had their sound systems checked. That’s not just a rubber stamp. The Virginia Department of Health has issued that letter that was mentioned that says that their [inaudible] in the county has come in multiple times to see the property. That’s -- those aren’t just rubber stamps. Those are significant factors to consider.

As far as the 13 factors to consider for ag use, over a majority of them favor the applicants. It’s the current use, the acreage and ag production is over 21 of the 24 acres are in ag use -- a proportion -- so that’s almost 90 to -- over 90 percent if you really break it down by decimal. The portion of that, the crops and the animals and the fowl, let’s see, you’ve got chickens, cows, pigs, goats, ducks, eggs, tomatoes, greens, peppers, and herbs. I personally have bought several dozen eggs there, and I hope to be able to get a cow out of this process for the holidays. As far as the acreage of the lot and the site, again, it’s around 21 1/2 of the 24 1/2 acres, and then you’ve got the census data and the capital investment.

And as was mentioned in one tweet, \$150,000 in general has been put into a process. And unfortunately they spent tens of thousands of dollars applying for a special use permit that they didn’t need. And that’s a much different issue. But generally speaking, the neighbors understandably are frustrated because they weren’t included in a special use permit process that isn’t required. And I’d imagine that this zoning administration and the folks in this room haven’t had to deal with this very often because it’s not supposed to happen. The presumption is in favor of them. If anything, they could appeal a denial, but they went through the processes necessary and they were granted it for a good reason. And finally, as far as the neighborly component, there’s a reason that properties are shut down generally when people are trespassing through, and it’s because there are animals -- horses, et cetera -- running at large, that could be injured, could injure someone, and ultimately end up in liability in the middle of a rainstorm. Thank you.

MR. SHEPHERD: Thank you. Anyone else wish to speak?

MR. ROOKER: Good afternoon, I’m Dennis Rooker. I live at 1800 Roslyn Ridge Road. Given the time constraints, I’m going to focus on only one issue. The County Zoning Ordinance states that “Each agricultural

operation shall obtain approval of a zoning clearance under Section 31.5 prior to generating any amplified music at their agricultural operation. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the agricultural operation will comply with the applicable standards in Section 4.18, or that the owner has and will use a sound meter. Simply stated, staff never verified that either of those two requirements were met before granting the clearance.

The applicant attached a noise management plan to its application. That noise management plan had numerous representations and undertakings, including the following: "All amplified music played at the manor house will be brought under the control of sound limiter equipment and mobile monitoring equipment." It further stated that the applicant would "set threshold limits of music at which the entertainment limiters cut off the power supply to any amplification system in use." Staff did nothing to verify that the applicant actually owns any of the equipment necessary to implement that plan, which is required by the ordinance.

Most importantly, staff has taken the position that the noise management plan attached to the application is not part of the application, and that the applicant isn't actually required to implement that plan at all. Staff could have imposed a condition on its approval that the applicant adhere to its noise management plan, but staff did not do that. In support of its decision, staff cites "a noise evaluation done by Native Nashville Sound in Lynchburg, Virginia." Native Nashville Sound is actually one student at Sweetbriar College. According to a presentation she gave at a public meeting, her evaluation was done using a boom box and a noise meter that she owns. Nowhere in the noise evaluation does it state that the applicant actually owns a noise meter or the equipment necessary to monitor sound in any way.

In summary, before issuing the clearance being appealed today, staff was required by the zoning ordinance to verify that the sound equipment at the agricultural operation will comply with the noise ordinance, or that the application has and will use a sound level meter. Staff did not do that. Staff didn't see the equipment or even verify its existence. These requirements of the ordinance are there to protect the public. It's a violation of the ordinance for this clearance to go forward, because staff clearly did not do what the ordinance requires it to do in order to grant a clearance. So it's a technical thing that wasn't done. It's not public opinion, it's not emotional. They didn't satisfy the requirements. Staff made a mistake. Thank you.

MR. SHEPHERD: Thank you.

MR. ROBB: There's another lady.

MR. SHEPHERD: Yes.

MS. PRUM: Hi, thanks for letting me speak today. My name is Debbie Prum. I live on Ipswitch Place down Lambs Road. I have a couple of questions -- I have four points, a couple of questions. So the idea of farm to table, I am wondering which farm products are going to land on these tables, because I have the same question as the gentleman in the back. And I'm still very confused about this. It seems as if weddings are not allowed, but maybe wedding receptions and rehearsal dinners are allowed. And is alcohol going to be allowed at these events? Okay, that's the first point.

Second point is noise. Because of the lay of the land, our whole neighborhood listens to morning announcements at Jouett, band practice, football games, and football events, whatever. So I am extremely worried about noise regulation too, and as the gentleman before me pointed out, this doesn't seem to be an issue that was addressed. Third thing, traffic. There's one way into our neighborhood and one way out. We're already dealing with traffic from one church, one food bank, and three schools. And we found out how these folks operated during an emergency. I'm sorry there were no chickens or cows or anything in the way of the short

path that we could have gotten through during Hurricane Riley, and it was blocked by a couple of boulders and a large piece of equipment. And there's a YouTube video of this out if anyone doesn't believe me.

Safety -- my background, I worked with Dartmouth Med School and I headed up a research resource center, and we studied car accidents. This is a car accident waiting to happen. We have a dark, narrow, windy road. And it's one way in, one way out. It's the perfect storm. Maybe someone's directing traffic in for an event, maybe there's alcohol served, but there's not likely traffic being directed out of an event. And we have three schools with basketball games, baseball games, football games, spring concerts. And it is the perfect storm of potentially -- I don't know if there's going to be alcohol, drunk people, and people that are coming in and out of the school area. That's all I have to say. I hope that you don't let this happen to our peaceful neighborhood.

MR. SHEPHERD: Excuse me, could you repeat your name, Please?

MS. PRUM: Debra Prum, Ipswitch Place, right down Lambs Road.

MR. SHEPHERD: How do I spell the last name.

MS. PRUM: It's P as in Peter, R-U, M as in Mary.

MR. SHEPHERD: Thank you. So excuse me one sec. You are next. I'm sorry for having bypassed you, but I will catch up in a minute. But you're here, go ahead.

MR. JORDAN: Hi, my name is Patrick Jordan and I live at 1915 Lambs Road, right across from the adjoining property in question, I guess. I don't have any planned remarks, I wasn't planning on speaking, I was just here to hear what happens. But one thing that I feel hasn't been stressed enough until I guess the last speaker is the size of Lambs Road and the danger that exists on Lambs Road in terms of not just cars trying to get by each other, but also there's no sidewalk. And also there's children walking up and back and forth to school and to the park, and people running, pedestrians on one of them -- not running of course, but walking.

And I know that this is a zoning board, but you gentlemen are the county and looking out for our safety, and certainly if there's an accident or somebody's injured, it will be county resources that come to assist. And I just think it's a really dangerous road to begin with, without added traffic. Quite often I'm scared walking my dog on that road by traffic coming through. And I just think that it really needs to be examined. VDOT should be questioned. I'm not here to argue with what my neighbors want to do or not want to do, but I do think there is a big safety issue there that should be addressed. Thank you.

MR. SHEPHERD: Thank you.

MS. SCULLY: My name is Mimi Scully. I live at 1790 Lambs Road. I've been a resident there for just three years. In that short time, Lambs Road has been impassable on at least three occasions that I can recall. I'm new to Virginia, I come from New York. When trees go down, the county or the town come and cut them down and clear the passageway. I don't know how it works with VDOT or whoever, but nobody came for a long time. Luckily there was no medical issue. Lambs Road is a dead end. There is no way out. So that -- we all live with that condition all the time. I cannot imagine if we have 50 cars and a tree goes down and all this traffic is going to be stuck there. There are trees all along what I would consider to be the easement of the road, but I'm told that here in Virginia there isn't a town easement or whatever along the road, that your property goes right up and your responsible for the trees when they come down. And the neighbors on Lambs Road haven't been able to clear those trees very quickly, and this has been a very, very dangerous situation. That's the way the situation exists on that road.

I understand that VDOT approved the application for a lot more traffic on the road. We already have the new soup kitchen there; we have the high school, elementary school, several schools. We have a lot of traffic on our street and we cannot really pass by. There are school busses. There are ginormous excavation trucks and dump trucks. It's really, really a challenging road -- even without any new traffic. So my question would actually be what is the process for having VDOT return and review their decision? Because I don't think Lambs Road is a suitable entrance and exit for that much new traffic.

There is also a great deal of frontage of Roslyn Farm on Hydraulic Road. Hydraulic Road is a very large, wide road, stoplights, several public buildings and entrances. There's a couple of churches. I think that if the entrance to their farm was on Hydraulic Road, it would be safer for our community. Certainly it would be better for the residents of Lambs Road, and I think it would be a much more attractive and suitable entrance for their new business. That's all I have to say. I know the neighbors have a lot of concerns about other things, but I think the safety and the size of the road and the condition of the road is something that the county or state or whoever needs to look at.

MS. ALLEY: Excuse me, ma'am. Could you state your name again and spell it?

MS. SCULLY: Mimi, M-I-M-I, Scully, S-C-U-L-L-Y.

MS. ALLEY: Thank you.

MR. SHEPHERD: Yes, yes. And thank you for your patience.

MR. TUBBS: Hello there. Sean Tubbs, the Piedmont Environmental Council. I'm going to try to condense this a little bit because some of the points have already been made by Mr. Caramanis earlier. I understand that this body cannot change county ordinance, but I do suggest that it's up to you to interpret where there's conflicts and where there's a lack of definitions, and I urge you to grant the appeal. The purpose and intent of Section 5.1.58 of the County Zoning Ordinance states in part that "appropriately scaled, low-impact events and activities on farms engaged in agricultural production," encouraging that as a way of honoring the comprehensive plan.

But the section also goes on to state that conflicts can arise between residential and agricultural uses. And as such, there are to be strategies in order to address the potential impacts. These strategies are enshrined and encoded within the matrix that you've discussed and we've discussed today under Subsection D. And the major question in the appeal, to my eyes, is the question of whether a farm-to-table dinner is an allowed event under county code. Section 3 of the zoning ordinance doesn't currently define what that means, and there are open questions as to what that means and how its specific impacts of such an event would be mitigated, how it would be measured, et cetera. And that's a matter for the Board of Supervisors to perhaps take up at a later time.

But for now, I would argue that the lack of that definition is potentially grounds to grant the appeal. Section 3 of the zoning ordinance goes on -- and it's been discussed by Mr. Caramanis earlier -- the 13 criteria, which you can see listed there. The staff report only addresses the three. Mr. Harding earlier did address the other three, but that information isn't before us and we haven't seen that information. So I think it would be interesting to see what the zoning clearance would have been looked like if that material had been submitted and was before the public today.

And of course, again, I think that the zoning ordinance is clear that the staff has several factors to consider when making the determination about whether agricultural is the primary use of the property, and I think that the appellants have argued that they didn't establish that. So I think if you look over this, I think that it's pretty

clear that there's some open questions in this, and it's up to you to determine what the course of action is here. Thank you.

MR. SHEPHERD: Anyone else? I'm on the verge of closing the public hearing. The public hearing is closed. So now we turn to final statements from staff and the appellant.

MR. HERRICK: Mr. Chair, members of the Board, there are a number of arguments that have been made that I'd like to respond to. There's been much made of the list of criteria of devoted -- and the definition of "devoted to the bona fide production of crops, animals, or fowl" has been indicated on a number of occasions. There are a total of 13 criteria, which "may" be considered. I point out that the definition allows staff to consider them, but again it's "may be considered," not necessarily "shall be considered."

And the reason that I called attention to the qualification for use value assessment is, as you all may be aware, the county assessor is required to accept a variety of different types of information in making the final determination as to whether a property does or does not qualify for land use. Before a property can qualify for land use, the county assessor has to affirmatively determine that it is real estate devoted to agricultural use. So baked into the county assessor's determination is a consideration of a number of the factors already listed here. I would suggest to the Board that in fact a qualification for land use, while not completely dispositive, while one of only a number of factors, is perhaps the best indicator as to whether a property is or is not devoted to agricultural use.

I would point out as well that there's been much discussion about the history of the proposed land use on the property. The fact that at some point in the past, the applicant had applied for a special use permit and then had decided to go forward with a different process. As Mr. Svoboda indicated during his presentation, the job of county staff is really to determine fair and foul balls -- not necessarily to change the line, not necessarily to call a fair ball foul just because the home crowd might wish it so. The lines that are drawn in the ordinance are carefully drawn.

In Section 5.1.58, there's actually a table that lists what the by-right uses are, what by-right uses are with the zoning clearance, and what the special use permit qualifications are. And again, the county staff is not saying that the proposed uses that are within the by-right with a clearance should be in the special use permit category or vice-versa. It's county staff's judgment that the uses that have been proposed fit within the by-right with a special -- with a zoning clearance -- and in fact meet that criteria.

I would point out that the legislative history is relevant with regard to the state legislation that's been passed. As I had indicated at the outset, the General Assembly of Virginia has in more recent years dictated and restrained the discretion of localities and regulated what can and cannot -- what localities can and cannot do in terms of regulating agricultural operations. And in fact, the county ordinance that was adopted in 2014 was in direct response to legislation of the Virginia General Assembly in the year 2014, earlier that year, specifically Section 15.2-22.88.6, which -- this is the General Assembly speaking -- "No locality shall regulate the carrying out of any of the following activities that an agricultural operation, unless there is a substantial impact on the health, safety, or general welfare of the public.

So localities can't regulate, again, unless there's some substantial impact on public welfare, safety, or health, counties cannot regulate agritourism, the sale of agricultural or silvicultural products, the sale of related products. It can't regulate the preparation processing or sale of food products that's in compliance with other state laws, and it can't regulate other activities or events that are usual or customary at Virginia agricultural operations. So in response to this 2014 state legislation, the county board carefully crafted the ordinance that was adopted here in Albemarle in 2014 that spells out what by-right uses are, what by-right uses with a special -

- excuse me, with a zoning clearance are, and what special use permit activities are. And again, staff's attempt to enforce that, to call fair balls fair and foul balls foul.

Finally, the last point I'd like to address is the sound requirements. And again, as is pointed out in my memo, County Code Section 18-5.1.58G1 requires that the clearance verify that the sound amplification equipment at the agricultural operation will comply with the applicable standards in Section 4.18, or that the owner has and will use a sound level meter. Again, so the property owner's ownership of a sound meter is not a requirement. It's an alternate requirement, and in fact it was staff's determination that by providing a satisfactory sound study, that the applicant had in fact met the first prong of the requirement and that county staff had verified that the sound amplification equipment would comply with the applicable standards. So those are my responses, and I'd be happy to answer questions if you have any.

MR. SHEPHERD: Thank you. Questions for Mr. Herrick? Rebuttal?

MR. CARAMANIS: Thank you. I appreciate your attention and thoughtful questions this afternoon. Just really quickly to summarize, I know you've heard a lot of arguments today that are probably more properly before the Board of Supervisors in a different context, but I do think that they are all relevant as an example of the history that is involved with this project, which I think is very relevant. The bottom line is that there was insufficient investigation and verification by staff of a bona fide agricultural use on this property, to which the events that are planned would be subordinate. And those are words straight out of the ordinance that are required.

Also, I just want to point out, in 5.1.58B, I referenced it somewhat before, but there's a longer quote here that again I think is relevant as far as what type of investigation or what level of thought and diligence should have been used by staff, and I think that it is appropriate for them to take that history into account, knowing all of the concerns that involved this parcel and to make sure that this clearance was granted appropriately. So that section I referenced says, as I've mentioned before, "The Board further finds that one or more substantial impacts on the public health, safety, or welfare have been identified when a zoning clearance or a special use permit is required by this section." So we know the zoning clearance is required. That means that a determination has already been made that there's substantial impact by what's being proposed. These substantial impacts and the thresholds and standards related thereto are based upon the comprehensive plan, study, experience from authorizing and regulation similar events and activities under this chapter, and existing state standards.

In addition, the Board finds that the thresholds and standards herein are the minimum necessary in order to satisfy the relevant policies, goals and objectives of the comprehensive plan without allowing the events, activities, and structures permitted by this section to cause substantial impacts, and thereby endanger the public health, safety, or welfare. I think what's important-- there are a few things. Number one, it talks about them being the minimum standards. So what we have set forth here is at a minimum, staff should have done. And we've already shown that several of those factors were not even contemplated.

I would argue further, based on the other comments that you've heard and the history of this matter, that they actually should have gone above the minimum in this case, knowing all of those issues that were out there and the potential threats to safety and public health, as we've heard. This states that very clearly. I don't think that standard's been met. And for that reason, we ask you to grant our appeal and to overturn the issuance of the zoning clearance. Thank you.

MR. SHEPHERD: Thank you. Okay, so the matter is now in front of the Board. Thoughts or comments from anyone?

MR. ROBB: Well, Mr. Chairman.

MR. SHEPHERD: Yes.

MR. ROBB: I had the pleasure and responsibility to go out and look at this property back in the early part of November, and when I went out there -- which I've been around here for a while and I've known the existence of the property -- when I went out there and drove in and drove into the driveway, I met a young man who identified himself as Fox, who was blowing leaves. And I introduced myself, told him I was a member of this Board, and told him what a nice piece of property I thought they had.

And I said, "What do you plan to do here?" He said, "Well we're going to have a bed and breakfast and we're going to raise crops here to feed our guests." I said, "Well it doesn't look to me like you've got many crops being raised." There was some grapevines and so forth. He said, "Yeah, well, deer has eaten all the grape products, grapevines, and leaves and all." I said, "Do you have any other animals?" Because well, there was a few cows there. And he said, "Yeah, we're going to use those cows to feed." And so I didn't ask him any other questions and I left. But it was -- I'm not a city boy but I'm not really a country guy either, but that was no farm, in my opinion.

And then I looked at the history here that came to me through the mail related to the fact that there was a public hearing that was held that related to the special use permit, and I didn't hear or see anything more related to that special use permit. And I wondered, "Well, what happened to that?" And then I looked at some of the questions that needed to be answered by the applicant related to control of traffic and parking, and about some other factors related to the application. And I have to agree that the county staff did what it had to do. It made a decision based on the ordinance.

But I've been involved in making decisions related to ordinances and laws for more years of my life than I'd like to admit. And sometimes the laws and the ordinances just don't quite fit. I asked the questions when this meeting started that related to your decision, Mr. Svoboda. I sympathize with your decision. I agree that you're caught, like I am, between a rock and a hard place. But I find that I have no other responsibilities as I ever have to do the right thing. And the right thing for me is to deny the decision that was made by this county staff.

MR. BOWERMAN: To uphold the appellant's position?

MR. ROBB: Pardon me?

MR. BOWERMAN: To uphold the appellant's position that it should be overturned.

MR. ROBB: Yes.

MS. ALLEY: Excuse me, Mr. Bowerman, could you speak into the mic.

MR. BOWERMAN: Sorry. I just said to uphold the appellant's opinion that the application be overturned, the judgment of the zoning ordinance -- zoning staff -- be overturned.

MR. RINEHART: Mr. Chairman, on the other side of the fence, I've read all of the material prior to coming, listened to the testimony, and I fall on the other side. I have not been convinced that I am going to vote to affirm the appeal, but deny it. And it's based on all of the information that I have taken in. But I hear Mr. Robb's testimony and I understand and sympathize -- not sympathize, certainly -- but I hear him loud and clear.

MR. ROBB: Mr. Chairman, did I confuse the issue by saying that I have no intentions of supporting the county staff's decision.

MR. RINEHART: And I'm on the other side of the fence.

MR. SHEPHERD: That was clear to me.

MR. BOWERMAN: I understand. You're against.

MR. SHEPHERD: Well, I am troubled by this. I understand the fact that a clearance for this activity should essentially be a ministerial, by-right review and approval, and that the responsibility to assure safety, public health and safety, lies in the county staff and also other agencies like the health department and VDOT to assure that the minimum thresholds are met in that regard. However, I was really just struck by the requirement that the use, that this activity be subordinate to the agriculture activities on the property. And I'm very hesitant to try to -- I realize we've come this far in this review, and it makes me hesitate to put the brakes on at the last minute when the criteria are mostly, in my mind, satisfied for the approval of the clearance and the denial of the appeal.

But I'm troubled, as I said before, over the lack of -- the problem, let me state it this way, the problem for me is I think what is proposed is approval under the clearance, but the criteria for the review has not been satisfied because we don't know if it is -- if the activities would indeed be subordinate to the agricultural uses. I understand that it has land use taxation. I was just looking -- as I was reviewing this, I did not know what criteria or what category of land use this property enjoys, and I gather that the activities that were described, and I understood Mr. Svoboda to say that they are basically proposals, not ongoing agricultural activities. In fact, I want to just stop for a minute and say is that correct? On the application, when it speaks of the listed activities, I think are proposed, they are not representatives of ongoing activities now. Is that what -- do you agree with that?

MR. SVOBODA: So an event would be proposed because it's not taking place at that time.

MR. SHEPHERD: No, not the event, the agricultural activities.

MR. SVOBODA: The agricultural activities as the evidence --

MR. SHEPHERD: Ducks, goats, grapes, that stuff.

MR. SVOBODA: Yes, your staff report shows that we were out there on two separate occasions, on July 27th and August 8th, and verified onsite the conditions that were submitted. So some of these things, like a building permit since that's the example that we're using, have to be verified that they exist to present day. So there's some current conditions that qualify you for the proposed things that come along as your subordinate uses. The land use, for instance. So those various things, the five or six different things that the real estate assessor uses that are listed in that code section of the state code is also in the definition of what "bona fide agriculture" is, like receipts and different things.

So those things, in order to use that, that particular thing has to be happening at that time. The livestock that was seen on those onsite visits were there on that day, not that they would bring them in. So those things are also considered as part of staff's decision, what's actually taking place. Agriculture is everything from hay to cattle and [inaudible]. So the real estate records do show that it's in agricultural land use, that's the land use category. I don't know if that answers your question.

MR. SHEPHERD: Okay, thank you. My decision would be easier if the conditions of the clearance clarified the limits as opposed to leaving it to a complaint-driven enforcement mechanism. I would also say -- and actually I'm not, I should just really direct this to you -- I'm really trying to lay out the basis for my decision here. But

what I would like to find would be back to the building permit analogy. I think that so far they have a building permit, they have a plan, and they can build it, build this activity as shown in their application. But I don't see where the final has been issued here where what is being approved is indeed subordinate to the activity, which I think is an important criteria in the definition of the use. So, I'm leaning, I will just say that on the basis of that, I think I'm leaning towards supporting the appellant in this case.

MR. BOWERMAN: I'm not sure what you just said, Mr. Chairman. What did you mean by that?

MR. SHEPHERD: I can clarify if you want.

MR. BOWERMAN: Yeah, do that first.

MR. SHEPHERD: The overriding point for me is that it has to be shown, that these activities have to be shown to be subordinate to the other activities on the property. And I feel like the approval of the clearance should have, the analysis of that to be defined, identified, and clear as conditions to the clearance. I feel like we're so close to being able to approve this by just basically revising the conditions, but they're not there, and I think it leaves too much open.

MR. BOWERMAN: Well we don't really have conditions on a ministerial act, do we?

MR. RINEHART: We can't put conditions.

MR. SHEPHERD: No, I understand that. There's conditions on the clearance, but we're not here to -- we can't put conditions on this.

MR. BOWERMAN: I'm just -- I think I understand the concerns of the neighbors, but I don't think that this rises to the level it needs to be to override the decision of the staff. I think this meets all the relevant requirements of the zoning ordinance, and that staff's issuance of a zoning clearance was appropriate. And I move that we deny the appellant's request, because I think we spent -- we've almost driven off all of the appeals of staff's decisions by the applicants of zoning matters, be they special permits or ministerial acts.

And I've been very satisfied that staff is very competent to review the requirements of the ordinance and make sure that all of the relevant conditions have been met. And I just don't see that -- I'm going to make a judgment -- I'm not a land planner, I'm not a staff person. I don't have those skills, but I've got to rely on somebody. And the seven years that I've been on this board or however many -- maybe it's longer than that now, time passes quickly, I just don't see that it rises to the level that I'm going to do that. That's my motion, and that's where I'm coming from.

MR. SHEPHERD: All right, thank you.

MR. ROBB: There's a motion?

MR. SHEPHERD: Yes. Is there a second?

MR. RINEHART: I will go ahead and second it.

MR. SHEPHERD: I would like to clarify what the motion is.

MR. BOWERMAN: It's to deny the application that's before us, in plain, simple terms. And now I'm moved by the fact that a 2-2 vote is not an affirmation, affirming anything.

MR. SHEPHERD: What is the result of a tie?

MR. BOWERMAN: I think it depends on the way it's structured, which way you go on it.

MR. ROBB: We're still in a discussion mode.

MR. SHEPHERD: Yes.

MR. ROBB: I'll direct your attention to the zoning ordinance, Chapter 18--Zoning. Substantial impact. "An impact that may arise from an event or activity at a farm winery, farm brewery, farm distillery, agricultural operation that has a significant adverse effect on 1) an abutting lot or the neighborhood, including an impact on any owner, occupant, or agriculture or silviculture activity, or 2) any rural road, natural resource, cultural resource, historic resource. A substantial impact may result from a wide variety of factors, including but not limited to the generation of traffic, noise, dust, artificial outdoor light, trash, storm water runoff, excessive soil compaction, the failure to provide the adequate traffic controls and sanitation facilities, the cumulative effects of large numbers of events and activities occurring simultaneously, particularly when they are in close proximity to one another or required travel in the same rural roads, and events and activities that are incompatible with existing production agriculture."

MS. MCCULLEY: Mr. Chairman?

MR. SHEPHERD: Yes.

MS. MCCULLEY: I just wanted to mention the options that this board has, and this comes straight out of the zoning ordinance, which is lifted from the state code: "The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from." We're at the 90-day period. Under state law, an appellant is entitled to kind of the equivalent of a speedy trial, so they're entitled to a decision today. If the appellant chooses to defer this, then that is another option if the Board would agree to that. So you have the option to overturn, uphold, or modify the decision. You also have the option to defer this to a later meeting, if the appellant would agree to extend their time period for an action.

MR. SHEPHERD: Okay, that is helpful.

MR. RINEHART: So what would be gained by deferring?

MS. MCCULLEY: It's just options for the board.

MR. RINEHART: Right, okay.

MR. ROBB: The motion's been made and seconded.

MR. BOWERMAN: What is the effect of a tie? That's what I need to know. And does the nature of the motion, a tie of that motion, determine which way it goes. I mean, you could defer or deny the appellant's request. If both votes or a tie, which is appropriate?

MR. HERRICK: Under state law, Virginia Code Section 15.2-2312, the concurring vote among the majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer. So as a five-member body, it requires three votes to reverse the decision of the zoning administrator. In addition of being in the state code, that is also in the BZA's rules of procedure, Section 5.A.2.

MR. BOWERMAN: So it's three.

MR. HERRICK: So it requires three affirmative votes to reverse a decision of the zoning administrator.

MR. ROBB: I think I'm entitled to make a substitute motion.

MR. RINEHART: He has to agree to it.

MR. SHEPHERD: Okay, yes.

MR. ROBB: The substitute motion is that this Board -- let me find my cheat sheet here -- in any event that this Board deny the recommendation or the affirmative action taken by the zoning administration related to application AP 2018-00002. That's my motion.

MR. BOWERMAN: I don't know what Andy says about this, but I don't agree with that. I don't support that, and I don't know what that does to having two motions on the floor at the same time. So if I don't support that -

MR. ROBB: The Chairman granted me a substitute motion.

MR. BOWERMAN: He did, but I don't know whether the -- I don't know under Robert's Rules whether we have to act on the first. What I'm saying is I don't approve of what you want to do, all right? That being the case, do we have to deal with that issue before the first, or how -- procedurally, how can we proceed, because I don't know.

MR. SHEPHERD: Okay, so if -- I think I should back up, and I want to do this in a proper way at this point. I think we should call a vote on whether to withdraw the first motion, and then we -- is that -- let me, before I say that, I'd rather be correct than stumble through this.

MR. BOWERMAN: I agree. We don't do this every day, you know.

MR. HERRICK: Mr. Chair, from a parliamentary procedure perspective, there was a motion made and seconded, and that motion deserves a vote before any other motions are taken, unless it's a motion to defer or a motion to amend. But there cannot be two competing motions on the floor at the same time.

MR. SHEPHERD: Okay, thank you. So is there --

MR. RINEHART: Mr. Chairman, there was not --

MR. SHEPHERD: I call for the question.

MR. BOWERMAN: There's a question -- the question has been called.

MR. SHEPHERD: Okay, so I think -- is there a --

MR. RINEHART: Is there a second to your motion?

MR. ROBB: No, my motion is what's [inaudible].

MR. RINEHART: Okay.

MR. BOWERMAN: Vote on the question.

MR. SHEPHERD: So your motion did not carry, for lack of a second.

MR. ROBB: It was never made.

MR. SHEPHERD: We're voting on David's -- can we have further discussion. As part of the further discussion, can we hear from the appellant about the possibility of deferring it?

MR. RINEHART: You've closed it. You've got to call for the vote.

MR. SHEPHERD: Okay. So, I think we're -- I'm going to go -- we're going to vote on the motion. Can you restate the motion so we're clear on what a yes and what a no vote is?

MR. BOWERMAN: The motion is to deny the appellant's request to overturn the decision of the planning staff on this question. The zoning administrator and staff.

MR. SHEPHERD: To deny the appellant?

MR. BOWERMAN: Yes.

MR. SHEPHERD: So a yes denies the appellant and upholds the zoning administrator?

MR. RINEHART: Right.

MR. BOWERMAN: That would take three affirmative votes in order to pass, right?

MR. SHEPHERD: Yes.

MR. BOWERMAN: If that was tied, how would that leave that situation? It would remain the way it is, correct?

MR. HERRICK: Yeah.

MR. BOWERMAN: Okay. That's fine.

MR. SHEPHERD: So could you please call the roll?

MS. ALLEY: Mr. Bowerman?

MR. BOWERMAN: Aye.

MS. ALLEY: Mr. Robb?

MR. ROBB: No.

MS. ALLEY: Mr. Rinehart?

MR. RINEHART: Aye.

MS. ALLEY: Mr. Shepherd?

MR. SHEPHERD: No. Therefore, because it's a tie, the zoning administrator's determination is upheld and the clearance is passed.

MR. BOWERMAN: There's no change.

MR. SHEPHERD: Correct.

MS. MCCULLEY: Is it possible to take a brief adjournment?

MR. SHEPHERD: Yes. Okay, so we're in adjournment.

Recess

The Board recessed its meeting at 4:00 p.m. and reconvened at 4:09 p.m.

5. Approval of Minutes

A. November 14, 2017 meeting

Mr. Rinehart moved to approve the November 14, 2017 minutes as presented. Mr. Bowerman seconded the motion, which passed unanimously (4-0).

6. Old Business

Mr. Bowerman commented that the rules the BZA had set up for speaker time limits had worked very well at this meeting.

Mr. Shepherd agreed, adding that he appreciated the cooperation of all speakers as it seemed that everyone respected the red light to indicate their time was up.

Mr. Robb asked if there had been a response received regarding the information sent to the circuit court judge, as Mr. Herrick had mentioned.

Mr. Herrick responded that he had emailed the judge's assistant after being contacted by the Chair. And the judge's assistant emailed him back to say she had sent it to the judge, but no additional correspondence had been received.

7. New Business

Mr. Svoboda stated that they needed to act on the 2019 BZA schedule.

Mr. Shepherd noted that several dates had been moved to accommodate holidays and election day.

Mr. Rinehart moved to approve the schedule as presented. Mr. Robb seconded the motion, which passed unanimously (4-0).

The BZA canceled their January meeting and would hold their organizational meeting in February because an application would also be heard at that time.

8. Adjournment

At 4:13 p.m., Mr. Rinehart moved to adjourn the meeting. Mr. Bowerman seconded the motion, which passed unanimously (4-0).

(Recorded by Marsha Alley and transcribed by Beth Golden)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Randolph R. Rinehart", is written over a horizontal line.

Randolph R. Rinehart, Secretary Board of Zoning Appeals