

ALBEMARLE COUNTY BOARD OF ZONING APPEALS

COUNTY OFFICE BUILDING
401 MCINTIRE ROAD – LANE AUDITORIUM
TUESDAY, MAY 1, 2012 – 2:00 P.M.

Board Members: David Bass, Chairman
Lloyd (L.F.) Wood, Vice-Chairman
Randy Rinehart, Secretary
David Bowerman

Staff Members: Amelia McCulley
J.T. Newberry
Stewart Wright
Carla Harris
Ron Higgins

County Attorney: Andy Herrick, Assistant County Attorney

1. Call to Order

The meeting was called to order at 2:00 p.m. by Board Chairman David Bass, who stated that if someone was aggrieved by a decision of the Board they had a right to appeal to circuit court within 30 days of their decision.

2. Establish a Quorum

A quorum was established, and the meeting proceeded.

3. Matters Not on the Agenda

None were presented, and the meeting proceeded.

4. Matters Deferred from Previous Hearing

None were presented, and the meeting proceeded.

5. Special Use Permit Hearing

SP 2011-00015 Independence Offsite Sign

Mr. Newberry: I thought I'd get started with a few different aerial maps to get us acquainted with the area. The area map before you shows The Independence property outlined in purple; the red arrow shows the proposed sign location on Route 20 North. This is a zoning map of the area, you can see it's pretty colorful – it shows a wide variety of uses in the area. The red and pink districts are commercial districts, you can see along 250, and the other colors are all different residential densities – so the green represents R-1; the light brown represents R-10, which is the zoning district where the proposed sign is to be located; the dark brown of the independence is R-15; and Fontana is the gold there, and that's R-6.

This is a bird's-eye view of the area, and it's a different orientation so I'm going to try to pull the mouse cursor up and describe what the different arrows represent. The red arrows on the bottom of the screen show the way that Independence is currently accessed by vehicles. Motorists drive up Route 20 North and take a right on Fontana Drive, go up and then take a right on Avemore Lane, and go straight around the traffic circle through

the Avemore apartment buildings, and then make a right on Portico Way. Not right now, but in the future, vehicles will be able to access the site as the yellow arrows show; vehicles can take a right turn off of Route 250 East downtown, and Country Lane past Guadalajara, then they can go on Olympia Drive over to this access road and make a left and access the Avemore Apartments this way to reach the Independence.

This is the current sign; it's just for Wilton Farm and it is approximately 24 square feet. This is the viewpoint heading north on Route 20, and then it's the same on the backside heading south. The proposed sign, which you saw in your staff report, is different on the north and south elevations. The front side heading north will have an arrow indicating to motorists to take the next right at Fontana Drive; the opposite side, which you see on the right-hand side of the screen, won't have that arrow.

So looking to the sign ordinance for what criteria we can analyze this proposal, topography and vegetation are the two aspects we're looking for. As we saw on the bird's-eye view, there's quite a bit of vegetation and other development in the area that would make an onsite sign for The Independence ineffective at communicating its message offsite. Therefore, the proposal does meet the criterion set forth in 4.15.5(c)(1). However, all special use permits must also comply with the criteria from Section 31.6. They're outlined for you here, that the proposed use will not be of substantial detriment to adjacent property, that the character of the area will not be changed, and that the proposed use will be in harmony with the purpose and intent of the ordinance, other by-right uses in the district, any additional regulations in Section 5, and then generally public health, safety and welfare.

And these criteria we find that there may be some challenges with the current proposal. Without additional offsite signage, visitors looking for The Independence may be misled down the Wilton Farm development roads. This is especially confusing because as you go down those roads, you get closer and closer to The Independence, which is a large building approximately 130,000 square feet – so it feels like you're going to get there, but it's actually a dead end residential street. As far as the character of the area goes, signage for all other uses accessed off of Fontana Drive utilize a monument [sign] at the entrance. This is a by-right option for The Independence if they wanted to locate a monument sign shared with Avemore at the end of Avemore Lane and Fontana Drive. Another consideration is that there is no other offsite signage present along this stretch of Route 20 North between Route 50 and Fontana Drive. So although we are definitely sympathetic to the location of The Independence and its current conditions, without additional offsite signage it's difficult to find this proposal in a positive way.

Therefore, staff recommends denial, and before we go any further I'd like to show us some photographs – kind of take us to a virtual field trip to breathe some life into what staff found. Here we're standing adjacent with the location of the proposed sign, so you're looking north on Route 20...this is as we go up Route 20 North and we're approaching Fontana Drive. You will have seen that sign under the proposal to make a right turn right here, and as we turn around Fontana Drive, it's unclear where The Independence would be. This is the entrance to Wilton Farm and there's currently no sign there that lets you know what's down Wilton Farm Road. Heading further north to the entrance of Avemore it's still unclear exactly where The Independence might be. The only real indication that you would have if you knew it was in the Avemore development, you may be able to look right here at this street sign to see Avemore Lane, but beyond that it's not very clear. Having made the turn onto Avemore Lane, it's still not especially clear where The Independence is. Once you reach the traffic circle you see that there is their logo and name on this directory sign that's pointing you straight around the traffic circle. As you go further down Avemore Lane, here we have another directory sign indicating that motorists should take a right onto Portico Way. This is at the stop sign if you look to your right you can see in the back that this is the independence building, and there at the entrance you see a blue sign on the right-hand side that says "Welcome." Looking straight on the building there's no additional wall signage or anything that would indicate this is The Independence. And just as I mentioned earlier the additional access that will be available at

some point in the future, the red arrow here shows the entrance that could be used. And this is a photograph of The Independence from that location. So here, an offsite sign may also be desirable in the future because an onsite sign would be ineffective in communicating where The Independence is. This is a photograph from Olympia Drive. You can see a part of The Independence but again, there's no wall signage to let you know what that building may be; and this is further up Olympia Drive closer to 250.

So again, taking into account the current conditions and the current wording of the ordinance, we cannot find that this proposal meets all the necessary criteria, and we recommend denial.

Mr. Bass: Any questions? Andy do you want to address the Board now or would you like to wait? Well then, would the applicant come forward, and then of course we're going to have public comment also.

Ms. Robinson: Good afternoon, my name is Beth Robinson and I'm with Hightech Signs, here to represent The Independence for their offsite sign permit. As Mr. Newberry stated, it is virtually impossible to find The Independence; even with the address and GPS, it's still quite difficult to locate the property. So, and also as Mr. Newberry indicated, it doesn't sound like anybody disagrees that The Independence is disadvantaged due to the topography of the property, and that an onsite sign would provide no assistance in directing traffic to their location; and that in fact the predecessor, the Bailey House, went bankrupt – presumably because no one could find this property.

So in addressing the staff points in turn, I would start with the first point that was raised on the staff report as far as the [arrow] on the sign being misleading, and in fact leading motorists into Wilton Farm. I would say that the staff report hypothesizes that the arrow on the directional sign is misleading and the traffic is more likely to go down Wilton Farm Road because it is the first turn off of Fontana Drive. Having turned onto Fontana I'm unsure why an average motorist would assume that the next logical step would be to turn right again into Wilton Farms. If however this is truly a concern, our suggestion might be to revise the content of the sign to further elaborate on the directions to The Independence; so if that arrow in itself is what is misleading, maybe we could relocate the arrow and provide additional direction saying that it is in fact the second right into Avemore. The staff report does allow that the new collocated sign avoids adding unnecessary signage to the area, and clarifies that motorists should use the upcoming right turn lane to Fontana to access both Wilton Farms and The Independence developments.

As far as the impact of the character of the area, the staff report states that the proposed sign changes the character of the area because Fontana, Avemore, and Frost Montessori School all have signs located at their immediate entrances. And the argument that this new and unique sign will adversely affect the character is a little bit of a stretch in our opinion. We're a little confused about how a new, 11 square foot sign – 11 square feet being the proposed amount of signage to go toward The Independence would change the character of the area, which is defined in the staff report as “developed urban area consisting of a mixture of residential, institutional and commercial development.” This sign would not in our opinion detract from the character of the area, which as you turn onto Fontana would seem to be sort of a mixture of upper middle income homes, a very attractive neighborhood. Staff's suggestion of placing an offsite sign at the entrance to the Avemore, while The Independence agrees and would like to further explore this option, they feel that the sign on Route 20 should be used in conjunction with this sign at the entrance to the Avemore to direct motorists onto Fontana, then onto Avemore, then onto Portico Way, and finally around to the entrance of The Independence. That probably neither sign in itself would be enough to get a motorist, and we think that both would in fact be a good solution.

Also, as the applicant and Hightech Signs have been told...by County staff...that should the BZA approve the special use permit for The Independence, the County would seek further legal action to appeal the decision –

fearing that the approval might set a precedent for future offsite signage. And we feel that this is untrue as the BZA has set a fairly comprehensive standard of guidelines for approval, which we do feel the application for The Independence has met.

Mr. Bass: Questions? Would anyone else like to address the Board? Just please come forward and state your name so we can have it on the recording.

Mr. Parker: Hello, my name is Earl Parker. I'm the managing agent for The Independence, or VHDA doing business as The Independence, and I just wanted to point out a few additional items relative to the history of this site. The community is currently owned by Virginia Housing and Development Authority, as they foreclosed on the former Bailey House, and as such does not pay real estate taxes. One of the primary missions of the Virginia Housing and Development Authority is to get this community to a stabilized occupancy so that they can turn it back over to private investors who would begin to again pay real estate taxes in the area, and that's one of the main purposes that we're looking at for getting additional signage to be able to have people make their way to The Independence.

We frequently hear from prospective visitors who contact us via the telephone and are interested in coming to visit. We try to give them directions but as they come and try to make their way to us we frequently get telephone calls, people that turn around and go home, people that turn around and go back up to the shopping centers on 250 and call us to try to get directions once again because it is so challenging. It is a senior living community, and a lot of the folks that are visiting us may have additional challenges as it relates to trying to see the signs and follow the directions, and we're looking for additional ways to allow them to do that. We believe that the proposed sign is an upgrade to the current signage that's in the area and will enhance the attractiveness of the area, and we also would agree that an additional sign at the entrance to Avemore – a collocated subdivision sign with them – would be a positive enhancement, and we'd be willing to stipulate that we would do that along with this sign if it was approved.

Mr. Bass: Anybody else? [You're] welcome to speak. Anyone to speak against the special use permit? Or for it?

Mr. Goodrich: Thank you. My name is William Goodrich. I have been a resident with my wife at The Independence for 2½ years. Mrs. Goodrich at this time is under hospice care in our apartment, and we do have hospice staff visiting us on a weekly basis. Anything to do, sometimes it will necessitate somebody coming in the night. If it's signage that would help get them there sooner, it would help us. We have used the emergency service to take her to the hospital, and now they are well aware of where we live, but there are others that are not aware of The Independence, and we would like to have you consider doing anything to improve this situation. Thank you.

Ms. Walsh: Hi, my name is Cindy Walsh, and I have only lived in The Independence for about six months and I am new to this area. But during that time, I have found that a lot of people that you give directions to try to come The Independence can't find it, as we said, and they'll go back up and call you or they'll call you from a cell phone. So not only is that a problem, but in addition for any emergency vehicles or anything like that that needs to get to any of us quickly, if they don't know exactly where it is they have a hard time finding it. You would not think it would be that difficult, but it is when you're back there on those roads you don't know that it's there. You can see it in the distance, but you don't know what roads to take to get to it actually. So therefore we are very much in favor of trying to get some signage that will get the people there. Thank you.

Mr. Bass: Thank you.

Ms. Holbrook: My name is Jane Holbrook, and I have lived at The Independence for two years now. I came here from Minneapolis, which is on a nice grid pattern, everything is alphabetical, you never get lost. Also went in the winters to Phoenix, which was also on a grid pattern. I can get to the grocery store, but for two years now I've been trying to find my way. So people who are trying to find The Independence could use help. I certainly did when I first came there. It's hard to find and when you start wandering through Avemore you think you've made a mistake, and eventually somebody finds it – but I think we need some better signs.

Mr. Bass: Thank you. Anybody else? If not...yes ma'am.

Ms. Lamb: Hi, I'm Ashley Lamb, I'm the community manager at The Independence, and I deal on a daily basis struggling with trying to guide people into our community – not only with directions but with trying to find us. They may venture out to find us, but once they get into the Route 20 area they are unaware of where to go from there. We also have trouble with JAUNT finding us; we're not on a lot of GPS systems because we are so new, so I think some additional signage would definitely be a great benefit to our community. Thank you.

Mr. Bass: Anybody else? If not, Andy, would you address the Board?

Mr. Herrick: Mr. Chairman, members of the Board, I really don't have anything to add over what Mr. Newberry's already presented. But I'd be happy for either of us to try address any questions the Board might have.

Mr. Bass: I have one question. Having read many times 4.15.5.C1 and been frustrated with the wording of the ordinance, as I have publicly stated, J.T. has introduced a new concept here with the help of Webster's – which is that if topography could be defined as manmade buildings as well as God-made hilltops and trees and vegetation – does that make sense?

Mr. Herrick: It does, Mr. Chairman, and what I think Mr. Newberry has suggested is that The Independence actually meets that criteria already, if I am understanding his staff report correctly – that it meets the requirement of not being able to effectively communicate offsite due to topography and vegetation. But in addition to the requirements of 4.15.5, the Board also needs to look at the general criteria for granting special use permits generally – and that's found in Section 36.1 – and I think that's where Mr. Newberry's indicated that The Independence does not meet those criteria.

Mr. Bass: Thank you. The matter is before the Board. While Randy's reading I'll just make my comment. I always try to visit a site before we hear a special use permit, and I'm not familiar with all of Pantops as well as people who live up there, and I must say that I had a little trouble finding it and I did turn into Wilton Farms and go way back to the end and then finally realized I had made a mistake and came out again. But even then when I got back on Fontana there's a lot of development there, and I think a lot of people would probably like more signage on Stony Point, but the County is getting a great many signs onsite permitted by ordinances as well as those that are requested by special use permit, and I think Mr. Newberry's staff report is right on that it may not actually solve the problem that onsite signs would, or make some of the existing onsite signs that direct you to Independence if you get on Avemore to be a little larger or more visible. Which, I was going to ask you J.T., there's no restriction on those, are there? I mean, they could be larger than they currently are? They're not that large.

Mr. Newberry: The current directional signs within the Avemore development are four square feet are under; therefore they don't require a permit from us, so there could be more of them available if Avemore chose to.

Mr. Bass: Without a special use permit?

Mr. Newberry: Without a special use permit.

Mr. Bass: Just with a sign permit.

Mr. Newberry: Yes. And it could also be bigger.

Mr. Bass: So you're saying that there could be signs on Avemore without a special use permit from this Board, but they would require an application to Community Development. Do I have that right?

Mr. Newberry: Yes, the ordinance does provide for a subdivision sign to be offsite without a special use permit, up to 24 square feet. Our permit planner and I went out to Avemore this morning, actually, to measure their current signage to make sure that there was still room available to put a new subdivision sign at the entrance to Avemore that would also include The Independence...and there's enough room; in fact, just a little bit more room than what's being proposed currently with this special use permit.

Mr. Bass: OK then, once I come down Avemore and I get to the Rotary, can signs there be larger, the way you showed in your...?

Ms. McCulley: While he's looking for that, let me explain because he's going to show you graphically what he's talking about. A subdivision sign is allowed up to 24 square feet at the entrance to the subdivision, and in addition to that a directory sign is allowed up to 24 square feet, giving you directions with arrows and so forth to different parts of the development.

Mr. Bass: Well Amelia – or J.T. – take me down this road, right where you are now, OK? I'm smart enough to turn into Avemore but I still haven't found The Independence. What about that sign? Can that include words like "Independence?"

Mr. Newberry: Sure, and it could also be bigger.

Mr. Bass: And it could be larger, OK, and then could you do the next?

Mr. Newberry: This directory sign could also be bigger.

Mr. Wood: Is the sign that you have there now behind the first sign, so you can't see it right away?

Mr. Newberry: This viewpoint shows that they are stacked and that you first read the "Welcome to Avemore" sign. The speed at which you're traveling down this section before the traffic circle, you're slowing down, anticipating the traffic circle – you can read what's on the contents of this sign but it does take a little bit of effort at least for me.

Mr. Bass: Well for me too, that's what I was saying, I did finally see the word "Independence." Can you show us on your graphics where the onsite sign would be permitted?

Mr. Newberry: (points)

Mr. Bass: That's where I was hoping you would say. And would it be on the island? It could be on the island, right?

Mr. Newberry: That was the subject of our discussion this morning when we went out to measure the current Avemore signage. It's difficult to know without looking at a plat as to what easements or other obstructions may prevent the placement of a subdivision sign, but the middle island there could be an option, upgrading some of this current signage here could be an option. On the other side next to the bus stop into the hillside here could be an option. That would be a part of the permit review.

Mr. Bass: Thank you.

Mr. Wood: Mr. Chairman, I too had a difficult time finding my way in there. I have been familiar for a long time with Wilton Farms, so I didn't turn in there, knowing that it was not the right direction – even after I got past that I wandered around a little bit before I found The Independence. I agree it's difficult, and I agree with all you folks that have stated the difficulty, but I think the staff has done a good job of telling us what we can and cannot do, and it just doesn't seem that we have any mechanism by which to grant the sign that's before us because it doesn't meet all the criteria. How we solve the issue of finding the independence in a simpler way is too difficult for me, but I think the staff is right on and has made some suggestions that you might be able to get there.

Mr. Bowerman: I agree with L.F. It seems to me that the problem arises once you make the turn off of Route 20. And when you're in there, specificity as to where you're going I think would be very, very helpful, as the Chairman has said. But turning right at the traffic signal or turning left if you're coming the other way seems to be an easy direction – the rest of it's internal, to me.

Mr. Rinehart: Mr. Chairman, I concur, I just wonder if there is an option other than denial of the current proposal. I don't know that answer, but it just seems logical.

Mr. Bass: I think J.T. has made some good recommendations that can be done without a special use permit.

Mr. Rinehart: I'm talking about on [Route] 20.

Mr. Bass: OK. I'm sure there are a lot of the organizations like the school and the apartment complexes that would like more signage on 20. The only one that can have it is Wilton Farms because it's on their property, right J.T.? That's an onsite sign.

Mr. Newberry: I'm sorry, Mr. Chairman, what was your question?

Mr. Bass: The Wilton Farms sign that exists today is an onsite sign, correct? It's on their property.

Mr. Newberry: Their parcel does contain frontage.

Mr. Bass: So they're lucky. All the other businesses and residential developments...up to Fontana, they don't have a right to have a sign on Route 20. If they all did, Route 20 would be awfully cluttered down there, as the staff indicates. I think they've got remedies and not particularly expensive ones actually, dealing at and on Avemore.

Mr. Wood: Are the two owned by the same people, or two different owners?

Mr. Parker: Wilton Farms is also owned by VHDA; Avemore is not. So any changes to the signage within Avemore have to be approved by the owners of Avemore, and as to now they've been unwilling to make any changes, to agree to any changes, as it relates to the size of directional signs and such. So while that may sound

like an easy alternative, those property owners have to agree to that. The owners and the managers of Wilton Farm have agreed to decrease the size of the Wilton Farm sign because they do have the same ownership, and that was actually a direction that we were – I think it was suggested to us by staff when a previous recommendation was put in as it related to having two separate signs out there.

Mr. Rinehart: So let me see if I understand it, so essentially VHDA has both of the current properties – Avemore is independent – so you can't put the signs on that we're talking about currently, as the relationship stands, and you all must have a right of way through that property to get to The Independence, but yet there was nothing ever negotiated in terms of the signage.

Mr. Parker: Well, it was negotiated to have notation on the existing signs as it is now; as it relates to increasing the size of those signs, that's not been something that's been desirable by the owners of Avemore. We have not looked into a separate subdivision sign, and that's something that was brought up by staff and something that we've agreed that we're definitely going to look into, and if it's something that we can do we're going to do it. But we felt like the conjunction of the two signs would be the ideal situation.

Mr. Bass: Wait a minute, the subdivision sign – wouldn't that be on the property? That's not going to be on your property, right?

Mr. Parker: That's correct. It would be on Avemore's property.

Mr. Bass: But you're just telling us that they won't give you permission.

Mr. Parker: I'm saying we've had discussions with them previously about the directional signs, and they have been unwilling to increase the size of those. We have not asked them about a subdivision sign, and we intend to do so once we realize that that was something that would be permitted. But we've not done that yet.

Ms. McCulley: Mr. Chairman, one option here is to defer this item to allow this applicant to work with Avemore, because if they aren't able to come to an agreement with a subdivision sign that would be on the Avemore property than that limits some of their options with signage.

Mr. Bass: The gentleman did say that his goal is to make The Independence eventually a private entity, so when I heard that I'm wondering how relevant ownership is here, and I come back to the staff report which like Mr. Rinehart just said...you both own the same property, I ought to be able to do what I want. But the goal is not to have ownership in the same entity.

Mr. Bowerman: What's the difference between a subdivision sign and a directional sign, specifically here?

Ms. McCulley: A subdivision sign names the development and it's at the entrance to the development. You make think classically of a subdivision sign as a residential sign naming the residential development. That's somewhat how it's defined, so Avemore is a residential development including the independence, and that can be at any of the entrances to the subdivision. A directory sign is really more to give you directions once you get on the property, internal to the property, where you go to different uses on the property.

Mr. Bowerman: Is a subdivision sign in this particular case, it's not on their property, it's not a by-right that they can do that, even though they would need a subdivision plat if they could get one.

Ms. McCulley: It is by-right, but it's not on their property because it would be on the Avemore property.

Mr. Bowerman: Again, we're back to the same issue.

Ms. McCulley: It's not a special permit, subdivision signs are one of the types of signs that don't require a special use permit to be offsite, as long as they're at the entrance.

Mr. Bowerman: If it's negotiated.

Ms. McCulley: Yeah.

Mr. Wood: And it needs to be no more than 24 square feet?

Ms. McCulley: In this zoning district, yes.

Mr. Bass: Is the Virginia Housing Development Authority, is it essentially a funding mechanism? Is it like a bank?

Mr. Parker: Yes.

Mr. Bass: So you got the property back, The Independence back, because of insolvency.

Mr. Herrick: Mr. Chair, if I could address a couple things. First of all, the Wilton Farm property, actually we're showing it on our GIS system as being under the ownership of Wilton Associates, LP. We're not showing it as being under the ownership of VHDA. And in any event, the ownership is not relevant – it's not one of the criteria for giving a special use permit, because regardless – if they were in the same ownership today, there's nothing saying that they couldn't be in different ownership tomorrow. And in fact, we anticipate that at some point they are going to be in different ownership, so that's not a relevant criterion. Just for the Board's information in terms of other ownership, the frontage – we're showing on the GIS that the frontage along Fontana Drive....that strip belongs to the Fontana Owners Association, and then once you get past that maybe 20 feet of Fontana Drive, the remaining property is owned by the Avemore – by Avemore Apartments, LP. So that just gives the Board a little more context about the ownership, but again ownership is not relevant to the issuance of the special use permit because ownership can and does change.

Mr. Bass: Thank you.

Ms. Robinson: With Mr. Newberry, I have a question. Under the special use permit allowances, it says that an offsite directional sign does not require a special use permit, but there does not appear to be a definition for a directional sign in the ordinance. This sign does in fact have an arrow on it and is indicating the direction for traffic to go; I would ask, what is a directional sign then?

Mr. Newberry: That is a gap in the ordinance in terms of, there is no specific definition of a directional sign, so the consistent administrative interpretation of the ordinance has been that directional signs fall under the definition of incidental signs, which are limited to four square feet.

Mr. Wood: How many square feet? Four?

Mr. Newberry: Four.

Ms. Robinson: Also, one other thing I have a question about. If they were to combine the subdivision sign with Avemore, my understanding is that Avemore is only allowed to have one monument sign, 24 square feet.

Is that correct? So if that's the case, does The Independence have to request from Avemore to remove the signage that they currently have and consolidate to one monument sign. So essentially the lovely brick structure they have would need to be removed.

Mr. Newberry: I don't think that that's necessarily the case; I'm looking to our permit planner, because Stewart is the one that reviews all of our sign permits. I think that's a choice they could make, but I don't think they'd have to.

Mr. Wright: Just to clarify this presently, on Avemore property, the gold letters on the brick wall do constitute a subdivision sign, they are 11 square feet in sign area. The ordinance allows either one 24-square foot subdivision sign or two 12-square foot or smaller subdivision signs, so in theory there is 12 square feet of subdivision signage available at that site, and it could be on a separate sign – it would not have to be consolidated into that planter sign right there.

Mr. Bass: Thank you very much. But Avemore has to agree, because they have title to the land. I got it.

Mr. Wood: Is that insurmountable? Oh, you have not approached them?

Mr. Parker: We have not approached them about the subdivision sign yet.

Mr. Bass: OK, well it seems to me that we don't have the criteria to grant this special use permit. A denial might actually help with the Avemore people. But even if it wasn't an issue there, I think J.T.'s right, and I honestly don't think – because I got lost anyway – I just don't think...changing the sign on Stony Point is going to make any difference, material difference. I don't know if a Board member wants to make a motion or have more discussion?

Mr. Wood: Mr. Chairman, I would like to move that we accept the staff's recommendation and deny this request.

Mr. Bowerman: Second.

Mr. Bass: Moved by L.F., seconded by David. Would you call the roll, please?

Ms. Harris: Mr. Bass?

Mr. Bass: Aye.

Ms. Harris: Mr. Wood?

Mr. Wood: Aye.

Ms. Harris: Mr. Rinehart?

Mr. Rinehart: Aye.

Ms. Harris: Mr. Bowerman?

Mr. Bowerman: Aye.

Mr. Bass: So I'm sorry, but the special use permit is denied.

6. New Business

A. Minutes of March 6, 2012 meeting

Mr. Rinehart moved to approve the minutes as presented, and the motion passed unanimously (4-0).

7. Old Business

Mr. Herrick reported that there were two current BZA appeals pending in the circuit court, the first of which involved the ReStore n'Station appeal that had been before the BZA twice. He said that the court had agreed to dismiss their appeal of the preliminary site plan determination; the County went before the court on May 17 for the entry of the order – which pertains to the wording of the specific order of dismissal. Mr. Herrick stated that the opponents of the application had also appealed the BZA's determination on the final site plan, and a court date was still being sought for that.

He said that the County was also in the process of seeking a court date for the Arganica appeal; there had been some discussions with Arganica's new attorney which they hoped would be productive.

Mr. Bowerman asked about the current operating status of Arganica.

Ms. McCulley responded that they had a site in an industrial park in Greene County, which staff had visited, so a lot of their warehousing and distributing was being done from that location. She said that staff was less clear about what Arganica was doing from their Albemarle County site, which was the basis for the violation – and had asked their attorney to find out of the business intended to continue using the Albemarle site.

She also said that the BMW violation appeal yielded a site plan approval and approved grading permit, and over the next six or seven months there would be significant construction to develop that site.

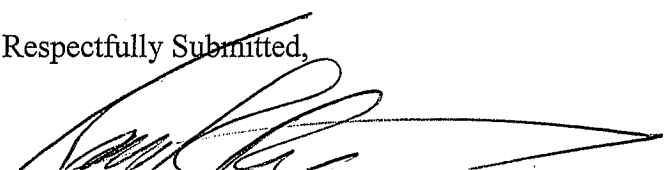
8. Adjournment

Mr. Bowerman moved to adjourn the meeting, which passed unanimously (4-0).

There being no further business, the meeting adjourned at 2:50 p.m.

(Transcribed by Beth Golden)

Respectfully Submitted,



Randolph R. Rinehart, Secretary Board of Zoning Appeals