

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS  
HELD ON TUESDAY, APRIL 21, 1998, IN THE BOARD ROOM OF THE  
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: Fred S. Crittenden, Pinetop District  
Kenneth W. Williams, Pinetop District  
Lenora O. Weber, Saluda District  
John D. Miller, Jr., Saluda District  
Frank Jessie, Jamaica District

Charles M. Culley, Jr., County Administrator  
Michael T. Soberick, County Attorney

**CALL TO ORDER**

The Chairman, Mr. Crittenden, called the meeting to order at 7:30 p.m.

**RECESS AND RECONVENE**

It was noted that the public hearings had been advertised to be held in the courtroom due to a possible crowd. The motion to recess and reconvene in the courtroom was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. Mr. Crittenden opened the meeting with a prayer.

**REZONING APPLICATION – R-98-001, JUNIOR SMITH**

Discussion continued from the February 17<sup>th</sup> meeting regarding the application to rezone 5.8 acres at Tax Map 28-153. According to Planning Director, Tim Wilson, the applicant has expressed a desire to establish a used car lot at this location, however, no plans for a specific use, site plan, or proffers have been offered. The applicant had submitted a petition favoring approval of the application. Mrs. Weber noted that no adjoining property owner had signed the petition.

Mrs. Weber made a motion to deny the application, noting that if approved, this would be an example of spot zoning.

Mr. Williams noted that this area probably should have been zoned as General Business initially, however, a request to rezone an adjoining property had been previously denied. Mr. Miller commented on a neighbor's concern with existing run-off and a concern that no more is created. Mr. Wilson noted that a site plan and erosion and sediment control plan could not be enforced to control impervious areas that previously existed.

Regarding the motion to deny, there was no second. A vote was taken, Mrs. Weber and Mr. Crittenden voting to deny the application; Mr. Williams, Mr. Jessie and Mr. Miller opposing. A motion was made to table a decision on the application for 60 days, made by Mr. Miller, seconded by Mr. Williams and carried by a vote of four to one (4-1), Weber opposing.

**PUBLIC HEARING – REZONING APPLICATION – R-98-002 & R-98-003**

Mr. Wilson presented applications R-98-002 and R-98-003, to rezone the following subdivisions from Low Density Rural (LDR) to Residential (R): North Shore, Windward Watch, Healy's Mill, Bel-Aire Estates, Bush Park, Chick Cove, Remlik Hall, Kilmer's Point, Cedar Pointe, Nesting Beach, Beverly Beach, and The Landing. These applications were submitted by the Planning Commission in response to the Ordinance Review Committee's recommendation to accommodate recently approved increases in the LDR District lot and setback regulations. Conformance with the new setback regulations for LDR will be difficult if not impossible in many of these existing subdivisions, without the granting of variances by the Board of Zoning Appeals.

According to Mr. Wilson, Residential rezoning of these subdivisions would be in accordance with the Comprehensive Plan as far as reflecting the current and predetermined future residential development. The subdivisions requested in these rezoning applications are those identified as being in the most immediate need for Residential District rezoning. Other subdivisions have been identified as candidates for rezoning.

Mr. Crittenden opened the public hearing on these applications.

Sue Hux expressed opposition for the rezoning of Bel Aire Estates, which included rezoning of adjoining land currently being farmed, but with the potential for development. According to Ms. Hux, the lots in this subdivision are large enough to accommodate the increased setbacks, because they were designed to meet the setbacks of the Chesapeake Bay Act. Current lot design and approval of the proposed administrative variance procedure, in her opinion, should be enough to compensate for the increased setback requirements.

Tommy Gilbert, co-owner of Bel Aire Estates, noted that only a portion of the total development had been sub-divided and homeowner's covenants were in place to restrict further subdivision. The remainder of the land, currently being farmed, will be divided into lots of similar size, not the smaller sizes allowed in a Residential zone.

Mary Graff questioned if covenants were in place to restrict further subdividing of lots in the other subdivisions considered for rezoning.

Sue Hux added that current homeowners needed some protection that existing lots will not be further subdivided into smaller lots, further increasing density.

Robert Bunch, developer of North Shore, noted that covenants were in place to restrict divisions in North Shore.

There being no further comment, the public portion of the hearing was closed.

Mr. Wilson noted that while homeowner's covenants could be established to restrict further subdivision of lots, they could also be changed again to allow further subdivision. These covenants are not enforceable by the county.

Mrs. Weber suggested returning the applications to the Planning Commission for further identification of specific boundaries of undeveloped land of some of the subdivisions being considered. The motion to return the applications to the Planning Commission was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously.

### **AMENDMENT APPLICATION 98-003, ADMINISTRATIVE VARIANCE**

Mr. Wilson presented the application for ordinance amendment 98-003, creation of an administrative variance procedure. The ordinance review committee and planning commission have recommended this procedure as a method of dealing with some variance applications created by increased setback requirements of the Low Density Rural zoning classification. The procedure would work much in the same way the current administration of the Chesapeake Bay Preservation Act, allowing the planning director to approve variances of setback no greater than 50%. The Board of Zoning Appeals (BZA) would handle other variance requests. Adjoining property owners would be notified of the application. If written opposition is received, the application would be forwarded to the BZA for consideration.

Mr. Crittenden opened the public hearing. Lauren Crittenden questioned the recourse for property owners not adjoining the subject property. In response, Mr. Wilson explained that any citizen could appeal his decision to the BZA. There being no further comment, the public portion of the hearing was closed. The motion to approve amendment application 98-003, adding an administrative variance procedure, and adding a requirement that members of the Board of Supervisors receive a copy of any pending administrative variance by regular mail, was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

**AMENDMENT APPLICATION 98-002, MANUFACTURED HOME AS SECOND DWELLING FOR AN IMMEDIATE FAMILY MEMBER**

The Planning Commission has submitted Amendment Application 98-002, to revise the current procedures for the permitting of a manufactured home as a second dwelling in a Low Density Rural zone, for an immediate family member. Currently this use is permitted as a special exception; the amendment application would change it to a conditional permitted use.

Mr. Crittenden opened the public hearing for comments. There being none, the public portion of the hearing was closed. It was suggested that the language be change from allowing this use for one per property owner, to one (1) per parcel. In addition, it was suggested to delete the requirement to designate a 10,000 square foot area and add new setbacks for the placement of the manufactured home from the primary residence.

No action was taken, however, it was suggested that the Planning Commission being the applicant should address the previous items.

**AMENDMENT APPLICATION 98-001, RESIDENTIAL ZONING DISTRICT SETBACKS FOR CORNER LOTS**

Mr. Wilson presented application 98-001, a request to add a provision to the zoning ordinance for setbacks for corner lots in a Residential-zoning district. The following language was proposed for addition to the zoning ordinance:

**Setback Regulations – Corner Lots**

Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets and the longer of the two (2) sides fronting on streets shall be subject to setback requirements as a side yard.

The minimum side yard setback on the side facing the street on a corner lot shall be twenty-five (25) feet from the street right-of-way for all structures.

Mr. Crittenden opened the public hearing for comment. There being none, the public portion of the hearing was closed. The motion to approve the ordinance amendment as proposed was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

**SPECIAL EXCEPTION 98-003, BALLANTYNE, SELF STORAGE CENTER**

Mr. Williams noted he would abstain from the discussion and vote on this application as he was related to the applicant.

Mr. Wilson presented the application for special exception 98-003, to permit the location of a self-storage center at Tax Map 39-18-1A. Three buildings are proposed, with the first building measuring 30' x 200' and two future proposed buildings measuring 25' x 200'. This use was added to the zoning ordinance as a special exception use in September, 1997. Preliminary site plan approval has been granted by the Planning Commission, with final approval conditional upon approval of the use by the Board. It was recommended that the special exception be granted conditionally upon receiving commercial entrance permit approval from the Department of Transportation.

Mr. Crittenden opened the public hearing for comments. There being none, the public portion of the hearing was closed. The motion to approve Special Exception Application 98-003 as recommended was made by Mr. Jessie, seconded by Mr. Miller and carried by a vote of 4-0-1 (Williams abstaining).

**SPECIAL EXCEPTION APPLICATION – 95-005, RENEWAL, DOLEZAL AND NICHOLS**

Mr. Wilson presented the application for renewal of Special Exception 95-005, a special exception granted conditionally for the keeping of three (3) horses at Tax Map 45-2 & 2D. According to Mr. Wilson, the applicants have complied with all conditions that were attached to this permit. It was recommended that the condition for three-(3) year reapplication be removed.

The public hearing was opened for comment. Marjorie Phelps, an adjoining property owner, favored approval of the application. There being no further comment, the public hearing was closed. The motion to approve the application with the following conditions was made by Mr. Williams, seconded by Mr. Miller and carried unanimously:

1. This permit shall be valid for the keeping of horses only.
2. The number of horses allowed shall be three or less.
3. As required by the Zoning Ordinance, a fence must be installed.
4. The manure is to be kept limed, covered, composted and removed.

**COMPREHENSIVE PLAN AMENDMENTS**

Mr. Wilson presented proposed amendments to the 1994 Middlesex County Comprehensive Plan which take into account plan revisions recommended by the Chesapeake Bay Local Assistance Department. The proposed amendments deal with central water and sewer systems, surface water, adding and/or updating of Middlesex County Resource Protection Areas Map, Wetlands Map, 100-year Floodplain Map, Highly Erodible Soils map, Highly Permeable Soils Map, Marinas Map, and listing marinas and other places where boats are moored in Middlesex County.

The chairman opened the public hearing for comments on the proposed amendments. There being none, the public hearing was closed. The motion to adopt the amendments to the plan as proposed was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

**AMENDMENT OF FEE ORDINANCE TO ADD ADMINISTRATIVE VARIANCE FEE**

Mr. Wilson presented a request to amend the fee ordinance to establish a fee for the administrative variance procedure adopted earlier by the Board. The proposal includes a fee of \$50 per application to cover the cost of adjoining property owner notification by certified mail. If the application is referred to the Board of Zoning Appeals (BZA), an additional \$200 will be charged, the current fee for a BZA variance application. The additional fee is for certified mailing of notices to adjoining property owners and advertisements of the hearing as required by State Code.

The Chairman opened a public hearing. There being no comments, the public portion of the hearing was closed. The motion to amend the fee ordinance, adding a \$50 administrative variance fee was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

**APPROPRIATION REQUEST**

The motion approving the appropriation of \$58,462.23 from the general fund, for the construction of the sports complex parking lot approved at the Board's February 17<sup>th</sup> meeting, was made by Mr. Jessie, seconded by Mr. Jessie and carried unanimously.

**EXECUTIVE SESSION**

The motion to convene in executive session to discuss a matter relating to pending litigation and contracts, per Code of Virginia, Section 2.1-344.a7, and personnel, per Section 2.1-344.a1, was made by Mr. Williams, seconded by Mr. Miller, and carried unanimously.

Upon reconvening in open session, the following motion was made by Mr. Miller, seconded by Mr. Williams and carried unanimously:

- To the best of the members' knowledge, only public business matters lawfully exempted and identified in the motion by which the executive meeting convened were discussed in executive session.

Action:

There was no action as a result of the executive session.

**ADJOURN**

There being no further business, the meeting adjourned until May 5, 1998.

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Fred S. Crittenden, Chairman  
Board of Supervisors