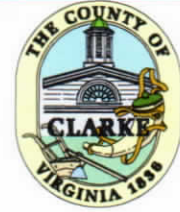


Clarke County

PLANNING COMMISSION BUSINESS MEETING MINUTES FRIDAY, MARCH 6, 2020



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, March 6, 2020.

Attendance

Present: Randy Buckley (Vice-Chair); Robina Bouffault; Anne Caldwell; Mary Daniel; Bob Glover; Scott Kreider; Frank Lee; and Gwendolyn Malone

Absent: Doug Kruhm and George L. Ohrstrom, II (Chair)

Staff Present: Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator; and Debbie Bean, Recording Secretary.

Others: Chris Boies (Clarke County Administrator); and Doug Lawrence (Board of Supervisors)

CALLED TO ORDER

Vice Chair Buckley called the meeting to order at 9:00 a.m.

Approval of Agenda

The Commission voted to approve the agenda as presented.

Yes: Bouffault (moved), Buckley Caldwell, Daniel, Glover, Kreider, Lee, Malone (seconded),

No: No one

Absent: Kruhm and Ohrstrom

Approval of Minutes

The Commission voted to approve the Planning Commission Work Session minutes of February 4, 2020.

Yes: Bouffault, Caldwell (moved), Daniel, Glover, Lee (seconded), and Malone

No: No one

Absent: Kruhm and Ohrstrom

Abstained: Buckley and Kreider

The Commission voted to approve the February 7, 2020 Planning Commission Business Meeting minutes with two corrections. One correction is on page 7 of 33, 2nd paragraph, 13th sentence, the word "landscaping" should be "no landscaping." The second correction is on page 10 of 33 in the last paragraph, last sentence, the words "would this not" should be replaced with the words "this would."

Yes: Bouffault (moved), Buckley Caldwell, Daniel, Glover, Lee, Malone (seconded)

No: No one

Absent: Kruhm and Ohrstrom

Abstained: Kreider

Public Hearing

SP-19-02, Clarke County Humane Foundation. Request approval of a Site Plan Amendment to add a 1,090 square foot addition to an existing animal shelter to accommodate six additional dog kennels and a 12' by 24' pavilion to the property in the Agricultural-Open Space-Conservation (AOC) District. The property is located at 225 Ramsburg Lane, reference Tax Map 13-A-13A, in the Russell Election District.

Mr. Fincham gave an update on this request. He said that the facility's sewer system is an extension of the Town of Berryville sewer system which is owned by the County and maintained by the County Maintenance Department. He stated that David Tyrell, Town of Berryville Director of Utilities, conducted a inspection of the existing pre-treatment tank serving the facility and determined that it is satisfactory for the proposed use. He said that the Town required the Applicant to add notes to the site plan stating that all waste will pass through the pre-treatment tank and that an annual reporting of the tank cleaning be sent to the Town. Joey Braithwaite, County Maintenance Director, indicated that the tank is serviced every September and a service report is sent to the Town. He said that the site plan has been revised with these notes and Staff's required revisions of notes. He stated that Staff received no comments from the Building Department or Emergency Services regarding this proposal. He said that Staff recommends approval of the Site Plan Amendment request. After discussion with Staff and the Commission, Chair Buckley opened the public hearing. There being no public comments, Vice-Chair Buckley called for a motion.

The Commission voted to approve this request as presented.

Yes: Bouffault (moved), Buckley Caldwell, Daniel (seconded), Glover, Kreider, Lee, Malone,

No: No one

Absent: Kruhm and Ohrstrom

Board/Committee Reports

Board of Supervisors (Mary Daniel)

Commissioner Daniel stated that the Sheriff's Department and the Commonwealth Attorney have completed two jury trials for the murder that occurred on the mountain. She said a jury trial in Clarke County is a much bigger deal with the personnel, finance, and everything else. She said that they got their money's worth with security cameras and we had deputies' emptying trash because the maintenance people and cleaning people could not come and go as they normally do. She stated that it was a lot of work but they got it done and it was very impressive how they did it twice within the first two months of the year. She stated that for most of the Board of Supervisors it has been about the budget. She said that the School Board presented their budget to us. She stated if anyone would like a copy she has a spare and it is also available on line. She said that the Finance Committee members are David Weiss, Terri Catlett, and John Staelin. She said that they have done so much

work on the budget the last couple of months and she is very appreciative of the volume their work. She stated that the Board of Supervisors will have their work session on Monday and we will be trying to get to a final number.

Board of Septic Appeals (Ryan Fincham)

Mr. Fincham stated that in 1993 Locke's Mill was approved for a Board of Septic & Well Appeals variance to locate a septic system in the flood plain. He said that it meets all state codes and the County requirements. He stated that he was contacted about a year ago that the variance specified the specific type of treatment and it was a sand filter system going to a LPD dispersal. He said that sand filters are old technology and Greenway Engineering and the current owner wanted to switch that to a fast aerobic unit. He stated that since the Board approved the 1993 variance, it needs to go back to the Board for the proposed system to be approved. He said that it originally came in and they were just asking for the system to be changed. He stated that he found in the 1993 record that the Health Department had notified the Applicant after the variance was granted that they also needed to get a variance for the well site that was proposed. He said that they did not pursue that at the time and it sort of laid dormant. He said that he notified Greenway Engineering and the Applicant and explained that an additional variance is needed. He said that before we advertise it, he told the Applicant to really make sure to ask for every variance that you could possibly need and then we will advertise. Commissioner Caldwell asked if they ever drilled a well. Mr. Fincham said that they proposed it to the Health Department. He stated that it looked like the property had changed hands and they never pursued it. He said it appears like Locke's Mill is looking to be an educational type venue. He added that it will be a very periodic use.

Board of Zoning Appeals (Anne Caldwell)

Nothing to report.

Historic Preservation Commission (Brandon Stidham)

Mr. Stidham said there is a meeting scheduled for March 18th at 4:00 p.m.

Conservation Easement Authority (Randy Buckley)

Nothing to report.

Broadband Implementation Committee (Mary Daniel)

Commissioner Daniel stated that the Committee has not met recently. She also reported that legislation was passed stating that any electrical right of way is deemed to include broadband communications.

Discussion Items, Zoning and Subdivision Update Project

Mr. Stidham stated that we have four topics to discuss today and we will start with topic A which was continued from last month's meeting, Accessory Apartment Use.

Accessory Apartment Use

Mr. Stidham stated that at the Business Meeting last month we talked about the proposed accessory apartment use and concerns that had been raised at the joint work sessions. He said that Staff had presented an alternative approach instead of having an accessory apartment as a free standing use we

would look to incorporate its regulations into the use for a single family dwelling. He stated that during our discussion last month there are still some concerns about the scale of it in relationship to the single family dwelling as well as whether this would facilitate it being rented out to either family members or non-family members or any other purpose. He said that the Commission directed Staff to go back and consider additional changes some of which included establishing a maximum floor area for this dwelling unit as well as prohibiting separate electrical metering for the unit. He stated that Staff has made some additional changes to address the concerns that were raised last month. He said that the biggest change would be the change in the terminology. He said instead of referring to it as an "accessory apartment," the term "secondary dwelling" would be used. He said the reason for this change is to address concerns that the new rules would encourage these dwelling units to be used as rentals. He stated that "secondary dwelling" is a more generic term and emphasizes the fact the dwelling unit is subordinate to the primary single-family dwelling. He said that the term change would not prohibit rentals but it would help to lessen the potential perception that these dwelling units are intended for rental use. He stated that secondary dwellings would not be a listed use but instead would be part of the regulations for "single-family dwelling." He said a secondary dwelling must be subordinate to and located within the footprint of a single-family dwelling provided that it is not physically separated from the balance of the single-family dwelling. He stated that "not physically separated" means that the secondary dwelling has internal access to the single-family dwelling via doorway, hallway, or other means of ingress/egress. He said that current rules state that an attached dwelling less than 600 square feet cannot be accessible internally to the balance of the house because they have to be separate units with their own separate means of ingress/egress.

He stated that the definition of secondary dwelling turns that around and we require you to have internal ingress/egress. He said that will help mitigate the possibility that a second unit will be rented out separately to non-family members. He stated that Staff proposes one modification to the definition of dwelling. He said the current definition is, "*A structure or portion thereof that is used for human habitation.*" The revised definition would read, "*A structure or portion thereof which contains at least one dwelling unit.*" He stated that we are going to jump over to the definition of dwelling unit at the top of page 22 of 33 which we will add a sentence to read, "*One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or for rental or lease on a periodic basis. A separate, independent housekeeping unit consists of one kitchen and at least one bathroom and one bedroom.*" He said that together with these changes to the definition of secondary dwelling, Staff hopes to clarify what collection of rooms within a house is this secondary dwelling and when is there a situation where you may just have a separate kitchen or bathroom.

He said in regards to the second kitchen issue, in most cases currently we would not allow you to have a second kitchen to be approved within your home. He stated that with this change we would clearly identify that one kitchen, one bathroom, and one bedroom constitutes a separate dwelling unit. He said that the addition of the terminology of "one bedroom" is important instead of "living space" which is the language you see in the current Ordinance. He said if someone has a rec room in their basement and maybe a half bathroom and they want to add a kitchen to it, under the current definitions since the rec room would be conditioned living space that would be considered a dwelling unit and Staff would not be able to approve the second kitchen. If they stated on the application forms that is a rec room and the plans for the addition of the kitchen do not have it listed as a bedroom, then Staff will coordinate with the Building Department and have that approved as a rec room with an

attached kitchen and not as a secondary dwelling or an additional bedroom in the basement. He stated that if you decide you want to add a kitchen off of your garage for canning or for some other purpose and it is not with the unit that also contains a bathroom and a bedroom that could be approved as a separate kitchen and not burden the applicant for the potential of it being considered a second dwelling unit. He stated that one of the changes we are talking about is if you have this dwelling unit located within the main dwelling it has to be within the footprint.

He said if you are going to propose one that is attached with a breezeway or it is in a garage that is attached by a breezeway that would not be approved because it is not located within the footprint of the single family dwelling unless the breezeway is enclosed with a common roof structure and walls so that would extend the footprint over and become a wing of the house. He said that the only way the dwelling could be approved with just a regular breezeway would be as a minor dwelling or a dwelling less than 600 square feet.

He stated that on the bottom of page 22 there are some new use regulations proposed. He said that we would limit a single family dwelling to having a maximum of one secondary dwelling regardless of the size of the structure or the size of the property. He stated that we would also prevent that second dwelling from being served by a separate electric meter and also from being assigned a separate address because it is considered part of the home and subordinate to the main home. He said that we are not currently proposing a maximum floor area. He stated one of the major policy issues was obviously the impact on septic systems and we have use regulations in here to accommodate that but the maximum floor area of this secondary dwelling would not impact the septic system. He said that the number of bedrooms obviously would and we are not including the maximum number of bedrooms that can be added to this because that will be driven by what VDH will approve the septic system to be modified to.

He stated that pages 23 and 24 list the modified text amendment language which Staff would use to incorporate this into the new format. He said that one other change Staff did for clarity purposes is on page 23, the use regulations for a single family dwelling. This reads, "A single family dwelling requires the use of a dwelling unit right (DUR)." For this and all the other types of accessory dwellings we have added similar language just to be clear when one requires a dwelling unit right and when one does not require a dwelling unit right. He said that a secondary dwelling would require a zoning permit so it would not be something that you can do by-right if you are proposing a secondary dwelling to be added to an existing home or to be constructed in conjunction with a new home construction you would have to have that separate zoning permit for the second dwelling.

Commissioner Caldwell asked how are we going to deal with the future of one of these primary dwelling, secondary dwelling places where somebody purchases the house and the real estate agent is not particularly upfront about the regulations and somebody buys it thinking that they could block off the door and add the electric to their rental bill and they will have a rental apartment for anybody who wants it. She asked how are we going to make certain that a potential buyer understands our regulations about this and what the restrictions are. Mr. Stidham stated that there is nothing that you can do to ensure that future buyers understand anything about the regulations. He said the one thing that we do have control over is better record keeping and better application forms. He stated this will require the owner that is responsible for this modification to clearly state what the purpose of that addition is and what their limitations are and if it is being coordinated with any certificate of

occupancy or final building department approval and then it would go into our Munis system. He said that it is not going to help when someone buys the property and they are going by what the real estate agent told them and they do not check with the County. He said that it will work with the people that do their due diligence and check the building permit record for this property and see what it is approved for and what they can or cannot do.

Commissioner Caldwell asked if Mr. Fincham will develop the record trail. Mr. Fincham stated he believes the reason this is important is we will actually have some documentation. He said that on a regular basis we receive phone calls from real estate agents and mostly appraisers that are appraising properties and there are no records. He said what has happened over the years is they have come in and get a building permit for internal renovations and they did not add a kitchen, they added everything but the stove. He said that stove comes later and there is no documentation and the appraiser will ask what do I do and I tell them that is your job, but now we will have documentation that says this is what it is supposed to be. He stated that we have a recordation process for the septic permits but he is not sure it works the way we thought it would. Mr. Stidham stated that if they do not look up their building permit then it is doubtful they will look up their chain of title. He said that our Munis system ties all this permit information with a record for the property itself so you can query and find everything for yourself on a lot by lot basis. He stated that Mr. Fincham always said the most important thing you can do on an application form is to ask the right questions. He said that we will have a zoning application for this particular thing that asks the right questions.

Commissioner Bouffault said that referring to Commissioner Caldwell's questions about how we are going to be able to control this. She said that later on we are going to have our Policy Committee meeting and we are going to look at the area Airbnb problem and I think you have the same questions being asked because people are buying homes and converting them into an Airbnb rental. She said that these are sometimes people out of county or living in the city and they do not know about septic and they are blissfully happy when they have a new Airbnb. She stated that at some point we are going to have to address the Policy Committee how we are going to enforce this. She said as we discussed earlier the current ordinance is very short on enforcement and you have to go directly to court. She said she thinks there needs to be something more welcoming where we can have an intermediate step that would apply to an Airbnb just as it would apply to anything else that we may have. She said that this County is coming under increasing pressure which we did not have 15 to 20 years ago. She stated that we are being surrounded by all these things and it is a beautiful county and unfortunately we cannot always count on the honesty of the realtors or the people buying the property. She said this was just a general comment and she does not know if anybody agrees with her but she is concerned with keeping the precious few that we have left. Vice-Chair Buckley asked is anyone else has any questions or comments.

Mr. Stidham asked if everyone is comfortable with this approach and everyone agreed. Commissioner Bouffault said that it appears to be complete as you have written it and if the enforcement is going to be key and Mr. Fincham is going to do some more specific application forms then yes it will be a much better paper trail and that is a good thing. Mr. Stidham said he will consider this as a consensus and this change will appear in the next draft of the zoning ordinance that you receive.

Mr. Stidham said that we will move on to Item B. He said that Commissioner Bouffault had requested that we add this to the agenda.

Service Businesses by Special Use in the AOC and FOC Districts- Onsite vs. Offsite

Mr. Stidham said this was an issue regarding limitations on service businesses in the AOC and FOC districts. He stated that the memo begins on page 25 of 33. He said that this was an issue that was discussed by the Ordinances Committee as policy issue P30 and he attached copies of the minutes from the Ordinance Committee meeting that was discussed as well as the staff report. He stated that the issue at that point was whether the retail service business special use in the AOC and FOC districts should continue limiting services to service businesses only to those who conduct those businesses on-site. He said that was a modification that was made a number of years ago when they changed the wording of retail businesses as a special use. He said that the current definition reads, *"Buildings or land used for on-site sale of merchandise at retail or for the rendering of personnel services where such service is performed on-site."* He stated that the philosophy behind limiting on-site services is that these businesses would provide a service to the people in the rural areas so they would not have to go all the way into town for those services. He said that those could be a hair salon, nail salon or some sort of personal service business that could be done with a special use permit in rural areas.

Mr. Stidham asked Commissioner Bouffault if she would like to bring up her example. She stated that she was wondering if it is not going to be AOC or FOC and there are many professional farmers that have big farms and do a lot of services for other agriculture areas in the county that are not necessarily considered a personal service like a hair salon for example they go and use their own equipment and come to my property she has personally benefited from this type of service. She said that they are not on their own land but they are on my land. She said they can either be spraying my field or they could be cutting and making hay for me. She said 1984 Vice-Chair Buckley's father built the most beautiful riding ring you have ever seen for me. She said again this is on site and not on his land but it is on my land and he is doing an agricultural service. She said that this has been happening and for a long time all around us. She stated that by striking on-site would it not give more flexibility because it has been going on for a long time. She said she is trying to get the reason why you want to keep these two words on-site. Mr. Stidham said that this affects a certain type of business owner that you are referring to in your example. He said that if he had an agricultural operation and sprayed fields and cut hay but also did that for other people, this would be considered part of his agriculture operation. He stated if he does not have an agricultural operation but he is doing it out of his home, he could get a home occupation zoning permit to do that provided that he complied with the home occupation regulations. He said if he does not have an agricultural operation and his business is spraying fields or building fences and he wants to do it in the AOC or FOC District as his base of operations but will not be residing there, it would not necessarily fit under this retail and service business special use. He stated that depending on what he is doing, it may fit under the special trade contractor special use but it is hard to tell. He said that you may have some people that have a mix of different things that they do and some would fit under the special trade contractor and some will not. He stated that what we are talking about here is somebody that wants to open up a new business and not a home occupation and not associated with an agricultural operation and do that as a special use in the AOC or FOC District. Commissioner Bouffault stated she is actually talking about agricultural convergence because we are dealing with the AOC area and you are not separating out agricultural from non-agricultural on-site. She said that she is specifically talking

about agricultural operations which you do off-site side work or other agricultural folks in the county. Mr. Stidham said that if he has a farm and is doing that as side work, then he is covered.

Commissioner Bouffault stated that she is confused by on-site and off-site and which site is it. Mr. Stidham said it is based on the nature of what did we approve for the base of operations for and not where the services are being rendered. He said if he has a farm and is offering a farm service off-site, my off-site service is covered under the definition of agriculture. He stated if he does not have a farm but does have a home occupation and meets the regulations, then he can get a zoning permit for a home occupation and is covered. He stated that if he wants to build a new building under a special use permit and site plan and does not have an agricultural operation and is not living there, he may or may not be able to do it under this use or under the special use trade contractor as a special use. Commissioner Daniel stated that it is defined by the person doing the service and doing work as opposed to where the work is being done. Mr. Stidham said that we approve a wide variety and types of businesses that do off-site services as home occupations provided that what they are doing at their house which is their base of operations meets the home occupation regulations. Commissioner Bouffault said she understands, but she still thinks that it is confusing. She stated that she really does not know what the solution would be but I do think what we want is to always give the maximum flexibility to all the agricultural operations that we can because that is what is protecting us from excessive economic development. Mr. Stidham stated that in 2017 we added agriculture business uses for farm equipment sales service and farm supply sales businesses. He said if we had a use that came in that specifically proposed an agricultural service but they were not in operation themselves but would be suitable to go into the AOC or FOC Districts, we would look and see if we need another agricultural business special use. He said that we need to wait and see where it fits. Commissioner Bouffault agreed and thanked Mr. Stidham for explaining.

Mr. Stidham say that we will move on the Item C.

Landscaping Design Standards – Eastern Red Cedar

Mr. Stidham said this is the issue regarding the use of Eastern Red Cedar trees in required landscaping. He said if we specifically list this tree as we are proposing to do we are essentially saying it is an acceptable tree type to be used in a landscaping plan. He stated that it is not currently listed as a tree type and it is also not listed as a prohibited type. He said that currently we can use that but prefer that you use the listed types. He stated if we removed it from preferred types, people could still use them. He said if we do not want applicants using this tree, then we have to add it to the prohibited list and we are proposing to add Leyland cypress to that list in the ordinance. He stated that a compromise would be to take it out of the preferred list but not list it as a prohibited item. Commissioner Caldwell suggested that although those trees are invasive particularly in agricultural areas they are incredibly tough, they grow fast and they are evergreens. She said that they provide good bird coverage and food in the winter and in certain areas that may not be right next door to an agriculture operation but in other areas such as a gas station they might be a reasonable landscape tree because of their toughness and some of their other characteristics. She stated that she cannot think of another tree that is as tough as those in this County. Commissioner Lee stated that he agrees not to have it in the proposed, but have it available for them. Commissioner Bouffault that she agrees it would make a good compromise. Mr. Stidham asked if everyone agreed to have the compromise approach and everyone agreed to it.

Mr. Stidham said that we will move on to Item D.

Proposed Non-Residential Building Use – Agricultural and Forestal Buildings

Mr. Stidham stated that this item came up at the Planning Commission/Board of Supervisors joint Work Session on November 14, 2019. He said that a couple of concerns have been raised regarding this use. He said that the first concern was whether agricultural buildings such as barns included in this use and, if not, could the non-residential building use cause confusion. He stated that this is a new use proposed to be added that would allow you to have more flexibility in building a structure in an AOC or FOC zoned lot that does not have a single family dwelling on it currently. He said that right now you can do that but you are limited to 150 square feet, which does not always meet the needs of people that may have a river lot and want to have some sort of building to store kayaks or something. He stated that it would also apply to someone that maintains their property and wants to store tractors or property maintenance equipment and 150 square feet is rather limiting. He said that this would give them more flexibility up to 256 square feet or whatever the maximum or minimum floor area requirement is before a building permit is required per building code requirements. He stated that building codes change from time to time and it was originally 150 square feet and was raised to 256 square feet. He said that this change would match with the current building code requirements.

He said that the second concern was whether the definition of forestry include cutting of trees for property maintenance or personal use of firewood. He noted that there may be a loophole that would consider buildings for these activities to accessory structures to a forestry use instead of a non-residential building and therefore would not be subject to a maximum floor area limitation. He said if he wanted to build a building on his property in FOC and it is currently vacant and he is going to use it to cut firewood, it could be considered to be an agricultural building without a floor limitation and he would be able to build whatever he wanted. He stated that we are proposing to make some small modifications to address both of these concerns. He said the first one would create a new accessory use that we would call “agricultural building” and this would not change anything that currently is in practice in the Zoning Department. He said that it is described as a structure under roof that is an accessory to an agricultural use located on the same lot, or that is accessory to a forestry use located on the same lot that is subject to a pre-harvest plan as set forth in Section 6.2.7 (Pre-Harvest Plan) and is exempt from building permit requirements by the Clarke County Building Official. He stated that right now if you came in and wanted to build a barn on your property you would first talk to the Building Official and explain what the purpose of that building is. He said if it is purely for agriculture purposes and the Building Official agrees then he would send written notice to Mr. Fincham that this has an agricultural exemption per Building Department requirements. He said that it does not exempt you from getting a zoning permit and complying with setback requirements. He stated that Mr. Fincham would still require you to get a zoning permit. He said that this would establish as a use with a definition and will still require you to get a zoning permit but would not have any more regulations than we do not currently have for agriculture. He said that it would apply to any agricultural structure under roof, fenced-in areas and barns, sheds and that sort of thing. He stated that the modification to the definition for this use will address the question of forestry operations. He said that if someone comes in and says that he maintains 100 acres of trees in FOC land and he cuts trees for firewood and cuts down dead trees, then he is a forestry operation and he should be able to build a large building there. He said if you are not a forestry operation under the auspices of a pre-harvest plan which also requires you to be going through the Department of

Forestry for their permitting processes. He stated for the purposes of this determination you are not a forestry operation that can get an agricultural building permit. He said that you would be limited to the non-residential permit and capped at 256 square feet. He stated that he believes this resolves both of these concerns and adds clarity from the Planning Commission/Board of Supervisors Joint Work Session on November 14, 2019.

Commissioner Caldwell asked if Mr. Fincham will develop an application form so that it can be traced in the Munis system. Mr. Stidham said that Mr. Fincham is going to have application forms for everything. Commissioner Caldwell said so that somebody does not convert this agricultural building into something else. Mr. Stidham stated that by tying this to the fact that the Building Official has determined based on what was presented to him this is an agricultural building and it is agriculturally exempt and that gets locked in with the zoning permit which goes into the Munis system. Commissioner Bouffault asked if Mr. Fincham will work with the building department because they would need to have a revised application format. Mr. Fincham stated that when he first started working here one of the issues he noticed was that someone would come to the counter and say I am building an agricultural building. He said that we had a form in our office that they signed and dated that said this is agriculturally exempt and they never spoke to the building department and we just issued the zoning permit. He stated that it smelled funny so he talked to Mr. Royston and he read the building code and he thought to himself that he is not exempting this, they are. He said he immediately established a procedure when someone says they want an agricultural building, he sends them to the Building Department and advises Mr. Royston to send him something in writing via email to make it easy because we do not have a proper form. He stated that Mr. Royston responds back to the applicant and sends a copy to him if they are exempt or if they need answers to further questions. He said that we loosely implemented this three or four years ago. He stated that he does not have an issue with an agriculture permit unless he receives an email from the Building Inspector stating that it has been exempted. He said that we will have a form from here on out and on the form they come to him first then take it to the Building Department and he does not issue it until the Building Department has signed off.

Commissioner Lee asked what would happen if someone puts in an application for a sewage disposal system along with this. Mr. Fincham said that he had one a few weeks ago on Swimley Road and there were no dwelling unit rights, Naomi Long inherited this piece from the family across from the Rutherford farm. He said that he asked her questions over and over and Mr. Royston did the same. He said that we have documentation in our files and in Mr. Royston's files that it is a very fancy horse barn. He said that it may look like a house and it does have some finished square footage in it for an office and it has a washer and dryer in it for horse blankets and it also has a bathroom in it. He said that it smells a little bit but we have all of the documentation and she went through the resistivity process, and the AOSE/PE process for the septic system so it is a horse barn with a bathroom, office and the ability to wash horses and horse blankets. He said that is not a residence and everything is documented as such. Commissioner Lee asked what if the property did have a dwelling unit right. Mr. Fincham said it would still be the same way and it would be documented as such and if they built a single family dwelling and used the dwelling unit right then there would be a house and a nice barn. Commissioner Lee said so people could do that initially and hold the use for later on for a single family dwelling. Mr. Fincham stated that for this particular property it had a dwelling unit right and they wanted to build the barn first and they want to live in the barn to save money for the house and that has happened for eons. He said if someone approaches him with that request he tells them it will

use the dwelling unit right, regardless of the size we will use the dwelling unit right for the barn-house. He stated that when they come back to get a zoning permit to build the big house we will confirm that it is either a minor dwelling or not a dwelling at all. He said that basically the dwelling unit right transfers and it has no dwelling unit right at all. He stated that what he does not allow is a less than 600 sq. ft. accessory dwelling that we will call minor dwellings on a vacant piece because there is nothing that it is an accessory to.

Mr. Stidham stated we have two examples now in the County of where documentation was actually done years ago and having its desired effect of putting people on notice with limited utilization. He said that the limit on accessory buildings as a free standing structure was added because of a house like structure that was built on Locke's Mill Road and is right in the stretch of road where all the little river houses are. He said that it looks just like a river house but he does not think they could get a septic system there. He stated that it was approved as an accessory building and the certificate of occupancy from 1993 clearly says it is not to be used as a dwelling. He said that we have had a number of people call over the years to see what can and cannot be done with it, but they are getting the message that it is not a dwelling.

He said that the other one is a very fancy horse barn that is currently for sale off of Rt. 50 on Morning Star Lane and that one has been listed for a year and the listing agents are clearly aware that it is not to be used as a single family dwelling. He stated that it looks like a very fancy house from the outside. He said that he thinks that the forms Mr. Fincham is going to create and integrating them with the Munis system will make it that much more effective in the future. Mr. Stidham asked if everybody is comfortable with the changes on this item and everybody agreed. He said that he has consensus on all of these and that is all the business items he has for today.

Vice Chair Buckley said if there is no further business he will call for a motion to adjourn.

On motion by Commissioner Lee and seconded by Commissioner Malone the meeting was adjourned at 9:55 a.m.


Randy Buckley, Vice-Chair


Debbie Bean, Recording Secretary