

**STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES**  
**February 28, 2017**

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Tuesday, February 28, 2017, was called to order with the determination of a quorum at 7:04 p.m. by Vice-Chairman Steven Apicella in the ABC Conference Room of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Robert Grimes (7:14 p.m.), Steven Apicella, Ernest Ackermann, Dana Brown, Dean Larson, Heather Stefl, Adela Bertoldi, Robert Gibbons

MEMBERS ABSENT: Danny Kim

STAFF PRESENT: Susan Blackburn, Melody Musante, Stacie Stinnette

DETERMINATION OF QUORUM

Mr. Apicella: I am the acting Chairman for the moment. Welcome to this meeting of the Stafford County Board of Zoning Appeals. The BZA is a quasi-judicial body whose members are volunteers appointed by the Circuit Court of Stafford County. The purpose of the BZA is to hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator; it hears and decides upon requests for Variance from the Zoning Ordinance when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of a property. The BZA also hears and decides on requests for Special Exceptions where the Zoning Ordinance allows for Special Exceptions. The Board of Zoning Appeals consists of seven regular members and two alternate members. An alternate member may be called upon to participate when a regular member is unable to hear a case. Let the record reflect that we have... we have a quorum tonight with currently I believe six voting members, including one alternate who will serve in the place of one regular member and that alternate is Mr. Bob Gibbons. The other persons present are myself, Mr. Steven Apicella, Ms. Dana Brown, Dr. Dean Larson, Mrs. Heather Stefl, and Dr. Ernest Ackermann. Also in attendance is our alternate Ms. Adela Bertoldi. She will be seated at the dais tonight, but she will not be deciding on any case or participating in any discussions on the case in front of us tonight. The County staff representatives tonight are Mrs. Susan Blackburn, the Zoning Administrator, Mrs. Melody Musante, Zoning Administrator, and Stacie Stinnette, Senior Administrative Associate. The hearing, and we only have one tonight, will be conducted in a few minutes. The Chair will ask staff to read the case and the members of the Board may ask questions of the staff. The Chair shall ask the applicant or their representative to come forward and state their name and address, and present their case to the Board. The presentation shall not exceed 10 minutes unless additional time is granted by the Board. Members of the Board may ask questions of the applicant to clarify or better understand the case. The Chair will then ask for any member of the public who wishes to speak in support of the application to come forward and speak. There shall be a 3 minute time limit for each individual speaker, and a 5 minute time limit for a speaker who represents the group. After hearing from those in favor of the application, the Chair will ask for any member of the public who wishes to speak in opposition to the application to come forward and speak. After all public comments have been received, the applicant will be able to come forward and have 3 minutes to respond. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. After the applicant's final response, the Chair shall close the public hearing. After the public hearing has been closed, there shall be no further public comments. The Board shall review the evidence presented and the Chair shall seek a motion. After discussion of the motion, the Chair shall call for a vote. In order for any motion to be approved, four members of the Board must vote for approval. In order for the Board to have sufficient time for appropriate review, the applicant or the applicant's representative is required to submit relevant material to the Department of Zoning and Planning 10 business days prior to the hearing, prior to this

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hearing, to be included in the staff report. The Board may accept additional relevant material from the applicant or the applicant's representative during the hearing; however, large amounts of additional material may require a deferral, at the Board's option, on behalf of the applicant to allow the Board time to consider that additional material. Members of the public and/or staff may also submit relevant material during the hearing. Again, the applicant shall be aware that we have currently six voting members present, and you must have four affirmative votes to approve an application. If you do not think there are enough members present tonight that will enable you to receive a fair hearing, then you have the right to defer the hearing until another meeting. However, you may defer the hearing for this reason only once in any 12-month period. Deferral requests are granted at the sole discretion of the Board. The applicant may also withdraw his or her application at any time prior to a vote to approve or deny the application provided that the applicant has not withdrawn a substantially similar application within the previous 12 months. Any person, or persons, who do not agree with the decision of this Board shall have 30 days to petition the Stafford County Circuit Court to review our decision. Also, please be aware that the Board will not hear any denied application, in this case a Special Exception, that is substantially the same request for at least one year from the date of our decision. I'll now ask anyone who has a cell phone, pager, or other electronic device to please silence it. Thank you. It is the custom of this Board to require that any person who wishes to speak before this Board shall be administered an oath. Therefore, I ask anyone who wishes to speak tonight to stand and raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Audience: I do.

Mr. Apicella: Thank you sir; please be seated. The Chair asks that when you come down to the podium to speak, please give your name and address clearly into the microphone so our recording secretary can have an accurate record of the speakers. Also, please sign the form on the table at the rear of the room. Are there any changes to the agenda?

Mrs. Musante: There are if we're going to start with Unfinished Business.

Ms. Brown: Yes, don't we have to vote on an order change of the agenda?

Mr. Apicella: Okay, is that a motion to change the order?

Ms. Brown: No, it's not.

Mr. Apicella: Is there a motion to change the order?

Ms. Brown: Yes.

Dr. Larson: Mr. Chairman, I move that we, since we are expecting our 7<sup>th</sup> member and in fairness to the applicant to have 7 members here, I would suggest that we not do the Special Exception hearing yet, anticipating his arrival in 5 minutes or so, and press on to Unfinished Business.

Mr. Apicella: Okay, there's a motion to move onto Unfinished Business. Is there a second? No? Okay, the motion does not pass, so we're going to proceed forward with the agenda as it is. We have determined that there is a quorum; the first order of business on the agenda is Election of Officers. Is there a motion for election of a Chairman? I think we just need to have... we don't need to have a second, we just need to have, so, is anybody going to recommend someone for Chairman? I'm going to pass the gavel so if I don't hear a motion.

ELECTION OF OFFICERS

A. Election of Chairman

Ms. Brown: (Inaudible).

Mr. Apicella: I'm passing the gavel to you to act as Chairman because I'm going to make a motion.

Ms. Brown: Okay.

Mr. Apicella: I'd like to nominate Mr. Grimes for Chairman.

Mr. Gibbons: Second.

Ms. Brown: Okay, everybody in favor say aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Ms. Brown: Aye. Sorry, my first time. Is there any other nominations for Chairman before we proceed? Seeing none, I will ask again, everybody in favor of Mr. Grimes for Chairman please say aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Ms. Brown: Aye. The motion passes. I'd like to make a motion to nominate Mr. Apicella for Vice-Chairman.

B. Election of Vice-Chairman

Mr. Apicella: Are there any other nominations?

Mrs. Stefl: Mr. Chairman, I'd like to I guess nominate myself to step up. I've been on this Board for some time and would like to seek some leadership role.

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Mr. Apicella: Okay, so there's a nomination for myself as well as Ms. Stefl. How does that normally work? Do we take the first person who was nominated?

Ms. Brown: Okay, you said we do or do not need a seconds?

Mrs. Stefl: In a court of order, Ms. Bertoldi is here as an alternate, so we could have a full Board. (Inaudible - microphone not on).

Ms. Brown: No, he's going to be here. I think she'd have to sit in for the entire meeting.

Mrs. Stefl: Until he's here, she is (inaudible - microphone not on) able to serve as an alternate until he's here.

Mr. Apicella: Any suggestions from staff? Have we not dealt with this before?

Ms. Brown: I don't think that would be right, nothing personal Adela, but just to sit in on an election and he is coming.

Mr. Apicella: Do we have the bylaws present? Oh, here he comes, so I'm going to defer any action and let Mr. Grimes take the Chair.

Mr. Grimes: Apologies everyone.

Mr. Apicella: So in your absence, we appointed you to all three of the positions. Congratulations, you have been reappointed to Chair. There have been two nominations for Vice-Chair, myself and Mrs. Stefl.

Mr. Grimes: So you have two nominations up for Vice-Chair up right now?

Mrs. Musante: Mr. Chairman, we've never dealt with dual nominations for positions, so we are going to check the Roberts Rules real quick to see if that addresses it.

Mr. Grimes: Thank you.

Dr. Ackermann: Roberts Rules say you just do one then the other, based on the order of nomination.

Mrs. Musante: Can you repeat that, Dr. Ackermann?

Dr. Ackermann: The (inaudible) thing it says, if your bylaws don't require you to conduct an election by ballot, and if the candidates are unopposed or there is no major contest for an office, you can save time with a simple voice vote. After the nominations are closed, the vote is taken on each nominee in the order in which they were nominated. Are we okay with that?

Mr. Grimes: That's fine by me. Who was... since I came in late, who was the first nominee?

Ms. Brown: Steven.

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Mr. Grimes: Mr. Apicella? Okay. So, I hear a vote for Mr. Apicella for Vice-Chair? All those in favor say aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mr. Grimes: Aye. All those against?

Mrs. Stefl: Nay.

Mr. Grimes: That was 6-1. Those all those in for Mrs. Stefl as Vice-Chair hear a vote of aye.

Mrs. Stefl: Aye.

Mr. Grimes: All those against nay?

Dr. Ackermann: Nay.

Mr. Apicella: Nay.

Ms. Brown: Nay.

Mr. Gibbons: Nay.

Dr. Larson: Nay.

Mr. Grimes: Nay; 1-6 so we've got Mr. Apicella's been reappointed to the Vice-Chair. Do we have any nominees for the Secretary?

C. Election of Secretary

Dr. Ackermann: I nominate Mrs. Stefl.

Mr. Apicella: I'll nominate Ms. Brown.

Mr. Grimes: Any others? Alright, well based on the order of the nominees, we'll have a vote on Secretary. For Mrs. Stefl, all in favor say aye.

Dr. Ackermann: Aye.

Dr. Larson: Aye.

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Mrs. Stefl: Aye.

Mr. Grimes: All those against say nay?

Mr. Apicella: Nay.

Ms. Brown: Nay.

Mr. Gibbons: Nay.

Mr. Grimes: Nay. Those for Ms. Brown, say aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Mr. Grimes: Aye. Those opposed nay?

Dr. Ackermann: Nay.

Dr. Larson: Nay.

Mrs. Stefl: Nay.

Mr. Grimes: Everybody that said Mrs. Stefl, aye, raise your hands? We have 3. Those who opposed, raise your hands nay? Tied 3-3, nice. Ms. Brown, who said aye? Three again. Those opposed said nay? Alright, we'll have to consult the books again.

Ms. Brown: How did we end up with 6?

Dr. Ackermann: How come there were only 6 votes?

Mr. Grimes: I don't know, somebody didn't... Mr. Larson, what was your vote? Did I miss one?

Ms. Brown: Raise your hand again.

Mr. Grimes: Ms. Brown aye. One, two, three, four; got it. Alright, Ms. Brown has been elected Secretary. I probably didn't. Alright, so that's taken care of. Any declarations of disqualification from any Board member? None? Great. Oop, yes sir.

**DECLARATIONS OF DISQUALIFICATION**

Mr. Gibbons: Mr. Chairman, I did visit the property of the application.

Ms. Brown: Yes, I'm sorry, I thought you said Declarations of Disqualification. Yes, we did visit the property on Sunday afternoon and we did speak with the applicant. And we walked the property.

Mr. Grimes: Excellent, thank you. If we could have the Secretary read the first case?

PUBLIC HEARINGS

1. SE17-02/17151614 - Matthew Gioia - Requests a Special Exception per Stafford County Code Section 28-35, Table 3.1, A-1, Agricultural, to allow ammunition loading, reloading and gunsmithing as a Rural Home Business on Tax Map Parcel No. 18U-1-15. The property is zoned A-1, Agricultural, and located at 44 Magnolia Drive, Magnolia Woods Subdivision.

Mrs. Musante: Case SE17-02/17151614, Matthew Gioia, requests a Special Exception per Stafford County Code Section 2835, Table 3.1, the A-1, Agricultural Zoning District, to allow ammunition loading, reloading and gunsmithing as a Rural Home Business on Tax Map Parcel No. 18-U-1-15. The property is zoned A-1, Agricultural, and is located at 44 Magnolia Drive in the Magnolia Woods Subdivision. You have the application, the application affidavit, plat of the property, layout area for the business... layout of area used for the business, and copy of the Fire Prevention Code. The applicant is requesting a special exception to operate a rural home business that will consist of loading and reloading small arms ammunition and gunsmithing. He intends to custom load and reload small amounts of ammunition on an individual order basis for retail sales at gun shows and wholesale to retailers. The applicant states customers will come to his home by appointment to drop off the empty shells or guns for repair and pickup loaded ammunition or repaired guns. There will be no firing or testing of these weapons on site. The applicant has stated that the customer visits will be by appointment only during the days and hours of Monday through Thursday from 5:00 p.m. to 8:00 p.m., no weekend hours. The applicant has applied for a 12-foot by 16-foot utility shed to store smokeless powder and primers, and to conduct the manufacturing operation of the business. The building will be constructed... constructed 105 feet from the existing single-family dwelling. There will be no more than 100 pounds of smokeless powder and 100,000 primers and will be stored in a locked storage cabinet constructed of 1-inch thick wood. The applicant states no black powder will be used in this business or stored in the utility building. He will be using manually operated presses to load the ammunition. After the ammunition is manufactured, it will be moved to the residence for storage, pickup and delivery, not to exceed 5,000 rounds. The applicant states components will be cleaned and stored in the single-family dwelling as space is required. These components present no hazard. The applicant states any firearms left overnight will be stored in a secured gun safe within the single-family dwelling. The storage area in the home is 143 square feet. The single-family dwelling has a security system and 24-hour video surveillance installed, which will also monitor the utility shed. The applicant states he can provide four off-street parking spaces to accommodate his customers, but the code only requires one. As shown in the photos provided, the driveway is large enough to accommodate the required spaces for a single-family dwelling, as well as up to four spaces for customers. He anticipates less than one client per day. The standards for the rural home business allow for a maximum of 25% of the gross floor area to be utilized for the business. The applicant has indicated 286 square feet within the single-family dwelling, which is comprised of office and storage, and 192 square-foot detached utility building, will used for the business which meets this requirement as the gross floor area of the dwelling is 4,426 square feet. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) requires the applicant to have a premise of which he conducts business or from which he intends to conduct business. The business may be located in a private residence, but must be open to the public for person to person transfer. Due to this requirement, the applicant must apply for a special exception for rural home business through the Board of Zoning Appeals to sell or transfer weapons from his or her home.

Mr. Grimes: Thank you very much. Do we have any questions for staff?

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Ms. Brown: I'm going to have some, but if anybody else would like to go first, that's fine. If not, I can go.

Mr. Grimes: No, please, feel free Ms. Brown.

Ms. Brown: Okay, I was looking for it; I'll just wing it here. A quick couple of questions. In our code under home business rural, under the definitions, on page 20 it says that it can be a non-agricultural business intended for general offices, professional office, personal service, contracting and constructing. So how does manufacturing for ammunition of retail sales at gun shows and wholesalers... how does that qualify for personal service? Or it is something else under there that he's applying as? It's on page 20, number 5, home business rural. I just want to be clear on what he's... that was my first question. It was either general office, business... professional office, personal services, contracting and construction.

Mrs. Musante: The only thing that I can say to that question is due to the FFL requirements... or the ATF requirements, the only reason this gentleman is in front of you tonight is because the FFL... I'm sorry, the ATF requires foot traffic.

Ms. Brown: Right.

Mrs. Musante: So, we have allowed other FFL licensees to come to you all in the same... to do the same process, so staff felt this would be the same process for this gentleman.

Ms. Brown: Well, if I recall, we've let them come for like gunsmithing, in which I would consider it to be a personal service, possibly reloading, but manufacturing, I don't recall ever having a case for manufacturing that would apply under that.

Mrs. Musante: We did have a case for manufacturing; it may have been prior to you serving on the Board. But his case was completely different than this gentleman's.

Ms. Brown: Yeah, there was one that I think was withdrawn since I've been on the Board, but I just, I don't see where it fits into one of these, that's why I was asking. And my second question while we're pondering that, is the shed application -- did that have a request for power?

Mrs. Musante: You'll have to ask the applicant, I'm not sure.

Ms. Brown: Okay. Oh, and the other thing was, on the application affidavit, it talked about the owners of the property. And I was a little concerned because it looks like there's two owners to that property, Mathew Gioia and Nicole Gioia. According to our tax records it was an and, not an or, and I noticed that she didn't sign any of these documents. It was attachment 2, pages... I think she should have signed page 2 and probably page 4.

Mrs. Musante: She's not actually required to sign this affidavit, but she should have been listed under the equitable ownership.

Ms. Brown: Yeah.

Mrs. Musante: Again, you'll have to ask the applicant that.



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Ms. Brown: So, would that be considered the application is incomplete? Or... okay. I'm just... I'm worried about some of these technical points, that's why I brought them up. That's all I had for right now.

Mr. Grimes: Thank you. Does anyone else have questions for staff?

Mr. Apicella: Mr. Chairman, just a couple of questions. The lot looks pretty narrow, at least from the aerial view; I think it's about 80 feet to the property line on one side, maybe a little bit less on the other side. Do you know how close the nearest house is to the location where the shed might be? In terms of feet?

Mrs. Musante: I do not. That may also be a question for the applicant.

Mr. Apicella: Okay, and is it true though that lot, at least on the back end of the lot, is pretty heavily wooded?

Mrs. Musante: Yes.

Mr. Apicella: Is there anything else that you think is worth noting about the particular lot?

Mrs. Musante: I do not.

Mr. Apicella: Okay, thank you.

Mr. Grimes: Any other questions for staff? Alright, before we hear the applicant, I'd like to ask the County Fire Marshal to come up. And, I know that the Board has some questions for him, so I'd like to get his input before the applicant presents his case so that he has all the information from various members of the County.

Mr. Milliken: Mr. Chairman, members of the Board, I don't have a presentation for you. I did not receive anything specific, but I am prepared to speak to any requirements or questions that you may have.

Mr. Grimes: That's perfect, that's exactly what we were hoping for. Are there any questions for... it's Mr. ...?

Mr. Milliken: Mr. Milliken, I'm sorry, Andrew Milliken, Fire Protection Engineer with Stafford County Fire Marshal's Office.

Mr. Grimes: Thank you.

Dr. Larson: I'll start off I guess Mr. Chairman.

Mr. Grimes: Yes sir.

Dr. Larson: Mr. Milliken, what is the distance requirement of a manufacturing facility when it comes to explosives, the closest it can be to a dwelling?

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Mr. Milliken: In this particular case, when we're talking about small arms ammunition and those components, the code outlines a 100-foot distance, separation distance, minimum from any inhabited dwelling.

Dr. Larson: Okay, so that would be... then it would be relevant to finding the answer to Mr. Apicella's question about where the other dwellings are adjacent to the property. The distance from the...

Mr. Milliken: It is my understanding that applicant's dwelling is the closest to the proposed site. If I'm incorrect, I would ask that someone correct me, but I believe that is to be the case.

Dr. Larson: So is that correct Melody? Can you verify that?

Mrs. Musante: That is correct.

Dr. Larson: Okay.

Mr. Milliken: So we believe it's within... it's outside of that minimum distance.

Dr. Larson: Those are the only questions I have.

Mr. Grimes: Thank you. Mr. Apicella?

Mr. Apicella: Greatly appreciate your coming here. I'm certainly not an expert on these kinds of issues, so I appreciate your knowledge and experience. So, I'm just going to ask you just really a couple of broad questions. Do you, having... so you've looked at the application, you're fairly familiar with what's in front of us.

Mr. Milliken: I am familiar this application before you, yes.

Mr. Apicella: Do you have any issues or concerns with what's being proposed?

Mr. Milliken: I do not, as far as the code compliance goes. We've met with the applicant to go over those requirements to identify the processes that will be, if approved, that he will have to go through to ensure that compliance is achieved. And it's part of our enforcement role as the Fire Marshal's Office. That would include an annual permit process where we would do an inspection to make sure that those requirements are being met. But I have found the application to being in lock step with the Virginia Statewide Fire Prevention Code, which is what we enforce, the County Fire Prevention Code, as well as kind of best practices, National Code standards.

Mr. Apicella: Okay, and you've seen the conditions that have been laid out, as they currently exist in the staff report?

Mr. Milliken: I have.

Mr. Apicella: Do you have any other recommendations, for example, the site of the storage shed really isn't discussed in the conditions or the... especially in relationship to the applicant's house or the neighboring houses. Is that something we might want to add to our list of conditions?

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Mr. Milliken: That's certainly... you're welcome to do that. From our perspective, we follow the Virginia Statewide Fire Prevention Code for our enforcement. So we have a number of outlined regulations; I think you have a piece of that document at the end of the application packet. So you'll be able to see some of those requirements that would be enforced. That would our enforcing regulation that we would fall back to, to require; beyond that I don't have anything else that sticks out as a unique situation in this case as long those requirements are met and followed. I don't have anything further to offer.

Mr. Apicella: Now, how about the vegetation in relationship to where the shed is going to be located?

Mr. Milliken: Sure. Again, the Virginia Statewide Fire Prevention Code does outline that for magazines and utility sheds and operations like this. That is a 25-foot buffer from that structure, all the way around, all directions. That vegetation and brush would be maintained, would be cleared, completely from that to eliminate any potential brush fire concerns of that nature. That's a 25-foot distance that he would have to maintain on a constant basis to maintain that clearance.

Mr. Apicella: And does that include trees or just low...

Mr. Milliken: Typically that includes brush, leaves, dry material, vegetative material, large trees, large diameter trees. Specifically, the ATF has specific guidelines regarding making sure that anything less than 10-foot in height absolutely is clear, anything larger than that, larger diameter trees, things we don't anticipate to be an immediate hazard would be evaluated on a case by case basis.

Mr. Apicella: And I'm not sure if it was mentioned in the application, then I'll call it construction material for lack of a better term, for the shed itself; I believe it's going to be wood. Is that...?

Mr. Milliken: That's generally typical. We sometimes see other types of facilities like sea container equivalence and things of that nature. But, wood is certainly the recommended interior material to be used, and that is to prevent, or to provide a non-sparking environment, which is important for this type of an operation. So that is consistent, generally speaking.

Mr. Apicella: And sorry to belabor the point but, for the actual containing of the powder within the shed, what is the recommendation versus what's being proposed. Are they in sync with what's...

Mr. Milliken: They are, and the application, it references the 1-inch box, a 1-inch in diameter wooden box; that is consistent both with the Statewide Fire Prevention Code as well as the National Codes for the container to which these materials are stored. That provides a... both a fire resistive barrier but also a non-sparking container and most importantly a container that is able to ventilate if it is heated to a high temperature is able to release that pressurization to avoid having any sort of detonation hazard or anything like that. So, it's a safety mechanism.

Mr. Apicella: And, I'm sorry, one last question.

Mr. Milliken: Sure.

Mr. Apicella: Again, the shed and the powder are being stored in the shed. Any particular security measures you might recommend so that someone is not able to break in and steal up to 100 pounds of powder?

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Mr. Milliken: Yes, security is a requirement, is a mandate that it is locked and secured. We do... it is not required by our code to have video surveillance; certainly that is a benefit and something that we would look positively on, but it is required that that facility is locked and secured to prevent unauthorized access.

Mr. Apicella: Mr. Chairman, again, I want to thank Mr. Milliken for taking his valuable time to be here with us tonight. Thank you very much.

Mr. Grimes: Absolutely. I have one follow-up question

Mr. Milliken: Sure.

Mr. Grimes: We had a presenter here once before that was dealing with smokeless powder. Can you provide us a little insight on how that... if there was an incident, what normally happens? Because the way it was explained to us previously was that it's rarely an explosive issue.

Mr. Milliken: That is correct.

Mr. Grimes: So, if you could kind of just give us some insight of if an incident happens, what is typically the result of that?

Mr. Milliken: What's the expected conditions of that?

Mr. Grimes: Yes.

Mr. Milliken: So, smokeless powder is chemically and designed different than any sort of high level explosive, or even black powder. Those would be a much more higher concern for a detonation hazard, a more explosive hazard. In this case, smokeless powder is more of a what is called a deflagration hazard; it means it burns fast, burns rapidly. But it does not provide in itself an explosion per se. If that material is within a concealed container, then certainly you could have an explosive hazard. But if it's in the proper DOT regulated containers that are intended to ventilate if they do get overheated, that is intended to prevent that situation. If there is an incident where either the shed or the storage area where the materials are exposed to fire, we would expect to have a rapid burning of that product, a rapid higher than typical heat release, so we'd have a large fire to some degree in that area, in that immediate area. That is I think both why there is a 25-foot buffer to help keep a small fire from approaching and impinging upon the structure, as well as to make sure that it doesn't spread rapidly from the structure. And likewise with the 100-foot buffer, if in the case that the containers would not ventilate properly and we had any sort of projectile issues, worst case scenario that 100-foot buffer is more than ample room to operate and to ensure that we don't have a continuing catastrophic incident.

Mr. Grimes: Thank you for explaining that. So, the idea of storing the powder in these wooden crates is so that the burn is contained within the crate and that it's vented so that it doesn't have that explosive property, correct?

Mr. Milliken: Right, it's to ensure that the operation... it does not create a sparking hazard, it's to ensure that it's not exposed immediately to a fire hazard, it gives it time. And most importantly that it is able to release that pressure, any pressure that is built up in the container that doesn't create an explosion hazard.

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Mr. Grimes: Great. Well, thank you very much. Are there any other questions? Yes, Ms. Brown.

Ms. Brown: I have similar questions to Mr. Apicella, but I... just a little clarity on this. I did visit the property and there were several trees in the 25-foot buffer zone. Would those have to go or they had, you know, there's no leaves on them now, but they've got little branches, that there will be leaves on them.

Mr. Milliken: Sure. We have not, obviously he's before you today, he has not applied for his permit through our office, so we haven't done any specific site inspection. I can just speak generally to the brush, and low cover hazard would certainly be required to be removed. Any large diameter trees where we don't expect a rapid fire spread of growth from that tree or that item would be dealt on a case by case basis. So, if you have a large diameter tree, potentially that could remain within that 25-foot distance. But it would not be permitted if... to create any sort of excessive fire hazard to that structure. If that was the case, then it would be determined by the Fire Marshal's Office that they would have to remove it.

Ms. Brown: Okay, so the three or four trees, you'll decide when you go out there?

Mr. Milliken: Sure, sure. I couldn't tell you today.

Ms. Brown: Okay. And again, as I don't know... I'm not an expert on this subject, the primers, they will be stored out there as well. How does that work with the ignition source? Are those ignition sources with the powder?

Mr. Milliken: I will let the applicant kind of describe the purpose and the role the primers within kind of his operation. The primers themselves, each of those elements are not considered more hazardous. I think the primary hazard here would be your smokeless powder for the most part.

Ms. Brown: When you store together. They can be stored together?

Mr. Milliken: Correct, correct, yes. It is very typical for them to be stored together, in this separated structure.

Ms. Brown: Okay.

Mr. Grimes: Yes sir.

Dr. Ackermann: Are there any regulations requiring access to where the smokeless powder will be stored from your point of view?

Mr. Milliken: From a Fire Department access point of view? Certainly, we do have access requirements so that we're well within that distance to be able to access it. Again, that would be something we would evaluate during the permit process if it was necessary to provide additional access. Typically speaking, as long as we are able to get within 150 feet from where we're parking a fire apparatus we're going to be well within that requirement.

Mr. Grimes: Ms. Brown, you had a follow-up?

Ms. Brown: I did. Is there a minimum shed size to store this?

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Mr. Milliken: I'm not aware, at least to speak to the fire prevention code, it does not speak to a minimum size or size limitation. We do have a limitation regarding what can be... what other operations can be, or that there could not be other operations utilized within that shed. So, for example, you could not be storing your lawnmower and other flammable and combustible liquids within that shed, to use it as a dual purpose. That would certainly be prohibited. So that would specifically be solely for this purpose. As far as the square footage or size, I don't know if there is a limitation.

Ms. Brown: Ventilation requirements or anything like that?

Mr. Milliken: I would have to check with the building department for specifics on that. But there are requirements that they would have to meet, just for your standard magazine arrangement.

Ms. Brown: Okay, and how about like proximity to a playground or a pool or something like that?

Mr. Milliken: We would put those into the same category as an inhabited structure. So certainly, if there are those types of conditions... are you talking... I guess maybe let me clarify. Are you talking like a public or other...

Ms. Brown: No, no. The applicant has a... looks like a significant play area for his kids in the vicinity of the shed. I just wondered if there was a distance that needed to be from the playground.

Mr. Milliken: The Fire Prevention Code certainly does not specifically address that, especially on the applicant for their own property. For that risk, I would imagine that that's probably just not addressed. It certainly can be something you can speak with them about. Certainly, if we found an immediate hazard, we have the... it's well within our regulations to mitigate or to provide guidance for mitigating the hazard, but there's nothing specific.

Ms. Brown: I just have one more, I'm sorry; I'm thinking of them as he's talking. You said there's an annual inspection on this?

Mr. Milliken: There is.

Ms. Brown: How many storage sheds do you inspect in a neighborhood subdivision like this annually in Stafford?

Mr. Milliken: I would... I do not have and I'm not prepared with exact numbers certainly, but I would imagine it would be safe to say we have at least a half dozen or so explosive use permits of this nature... of fireworks, things of that nature.

Ms. Brown: Like in a shed in the back yard? Okay, thank you.

Dr. Larson: Mr. Chair?

Mr. Grimes: Yes sir.

Dr. Larson: I have a question or two for the witness. So, I think you mentioned just a few minutes ago that an occupied building might consider like... be considered like a swimming pool or a closed.. What would be considered an occupied building?

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Mr. Milliken: Inhabited dwelling is the term that's used in the code. So, that would be an occupancy or structure that is typically designed, constructed, and utilized for normal occupancy. I do not believe the code addresses swimming pools, other outbuildings, things of that nature that would not be a constantly occupied space.

Dr. Larson: I guess my question for either you or staff is, if we grant a special exception for this, does this outbuilding, then -- and its 100 foot radius, which would extend to neighbor properties -- does it restrict the neighbors from building things on their own properties? And if so... you're shaking your head no, but I'm trying to understand what has precedence. If we give a special exception for this, could the neighbor build something within that 100-foot radius that he was going to occupy? On his own property?

Mrs. Musante: Go ahead Andrew.

Mr. Milliken: I would say that... we certainly haven't come across that situation before, but it's not an unfair question. I think that it would impact the continued permit approval from our office if we would find that a structure has been created, an inhabited structure has been created within that 100-foot distance. That would be an obligation upon the applicant to deal with. And would not be able to be renewed... that permit would not be able to be renewed if that was the case. Certainly, I think the 25-foot buffer is key and that is something that we would feel would need to be well within the confines of the applicant to be able to maintain on a constant basis, because that is a maintenance issue and concern. The 100-foot buffer, I think that that would be a restriction that would be upon the applicant, if such time that someone would construct that. They would certainly be in violation of that 100-foot buffer potentially.

Dr. Larson: But, you... you're not aware of that situation ever arising (inaudible)?

Mr. Milliken: I'm not aware of any time that would occur.

Dr. Larson: One other question. Are there any code restrictions on open fires within a certain distance of a building like this?

Mr. Milliken: Yes, specifically, open flames are prohibited. Let me make sure I'm giving the correct guidelines here. It's at least a 25-foot separation; I don't know, it may be up to 50 feet. But that is specifically outlined in the standards that we have.

Ms. Brown: Were you getting at like bonfires or barbecues or...?

Dr. Larson: That's exactly what I was getting to.

Mr. Milliken: It is 50-foot.

Dr. Larson: So, again, with a 80-foot wide property, 50-foot would encroach maybe 10 feet on somebody else's property. I'm trying to understand the implications for adjacent properties.

Mr. Milliken: Sure. Yeah, I have no other guidance for you other than that 50-foot prohibition is in place for that operation.

Dr. Larson: Thank you. That's all the questions I have Mr. Chairman.

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Mr. Grimes: Great, any other questions?

Ms. Brown: Not now but can he stay?

Mr. Milliken: I'd be glad to answer any questions as they come up.

Mr. Grimes: Well, I think he'd like to stay to hear the case presented in case there is any discussion points after that.

Ms. Brown: Thank you.

Mr. Milliken: Thank you.

Mr. Grimes: Thank you very much. With that, do we have any more questions for staff before I bring up the applicant? Hearing none, Mr. Gioia if you'd like to come up and present your application?

Mr. Gioia: Good evening ladies and gentleman, my name is Mathew Gioia and I am requesting a special exception for loading and reloading of small arms ammunition and gunsmithing. I'll be custom loading and reloading small arms ammunition on an individual order basis, in a shed that I'm going to construct in my backyard. And also, I'll be selling this ammunition to retail outlets or possibly at gun shows. Customers will come to my house, possibly one per day, but I don't expect any more than one person per day to come to my house and either drop off expended shells to be reloaded or to purchase newly manufactured ammunition. Per the Virginia Fire Code, Chapter 56, paragraph 56-0121 attached, I'm only going to be storing smokeless powder in the shed; no black powder is going to be stored within the shed or used in the business. The utility shed that I'm going to be constructing is actually... I scaled it down from the 12 by 16 to 10 by 12, and I've already submitted the building request and it's been approved for construction. And the building will be constructed in accordance with all commercial building codes of Virginia for utility buildings. And as stated in the application, I won't be storing more than 100 pounds of smokeless powder and 100,000 primers in the aforementioned 1-inch thick cabinet. I'll be using manually operated presses to load the ammunition, and after which time the ammunition poses less of a hazard and it can then be stored in my residence for pickup, not to exceed 5,000 rounds. Anything, in excess of 5,000 rounds would have to be stored out in the shed. And as stated, some of the inert components such as packaging and brass and things like that will be stored in my storage area in my basement, for cleaning and processing. I have applied to Bureau of Alcohol, Tobacco and Firearms for a license and all they're waiting on is approval by the County to go ahead and issue the license. I've contacted insurance agencies and will be securing a million dollars of liability insurance, which is a provision of the ATF and a provision of the Virginia Fire Codes. Some of the questions that were asked that I'll answer now, in my permit application for the shed, I did include power to be supplied which was approved. And the setbacks for the shed, the nearest lines on the one side is 107 feet and on the other side is 77 feet to the nearest property line. So, the only setback issue I see would be on the 77-foot side, if that were ever to come up. And that is all that I have and I await your questions.

Mr. Grimes: Thank you very much. I'll start out, I have a couple of questions for you. How many years have you been doing this?

Mr. Gioia: Over 20 years.

Mr. Grimes: And is it always private? Or did you do it...?



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Mr. Gioia: I've always been doing it for myself. It's illegal to load ammunition for somebody else.

Mr. Grimes: Okay. And who is your customer base?

Mr. Gioia: I have friends that shoot a lot and the price of ammunition is getting expensive, and they've asked me to reload for them, and I have explained to them that I can't do it. I've always been doing this as a hobby and I've always thought about getting into it just, you know, as a small side business. And, I didn't think it was possible until I spoke to another gentleman who has a business out in Culpeper and, you know, he basically walked me through what was required and then I started going down this road. So, it's something I enjoy doing, it's a hobby and I'd like to do it for friends of mine. And my customer base will basically be advertised by word of mouth. So, I don't plan on doing this on the internet, and even the gun show thing would require a lot of time invested to load a lot of ammunition on speck, you know, which is a huge investment and then take it to a show and then try and sell it to people I don't know. Whereas, I would much rather have people request to have their stuff custom loaded, it's cheaper for them, it is cheaper for me, because there's a whole tax code that you get into when you start talking about loading ammunition on speck as opposed to custom reloading somebody else's ammunition. So there's different tax implications there.

Mr. Grimes: Alright, those are all the question's I have for you. Anybody else on the Board have questions here? Ms. Brown?

Ms. Brown: I'm sorry, I was paying attention but I was thinking of what you told me the other day. Could you tell me your shed size again? You said you were going to change it?

Mr. Gioia: Ten by twelve, yes, 10 by 12. Twelve by sixteen is a lot larger than I needed and a lot more expensive than I need.

Ms. Brown: So you've had it approved already?

Mr. Gioia: Yes, it's waiting for pickup basically.

Ms. Brown: Ok, but you haven't had the site inspected yet, for the buffer from the Fire Marshals?

Mr. Gioia: No, that's at the end after the...

Ms. Brown: After the shed is built?

Mr. Gioia: After the shed is constructed then I actually have to make out a fire permit application, is what I understand, and then they'll come out and they'll survey. And there's other things... they can't really issue the fire permit before it's built because there needs to be signage, there needs to be a fire extinguisher on site, there are several other things that they can't issue the permit until after it's been built.

Ms. Brown: Okay, because I was thinking about what you said, I was thinking about all those nice trees that you have right over the shed. It's probably look really pretty out there with all the trees over there but, you had mentioned that if you had to get rid of those you probably wouldn't do it. That's why, before you went to the whole expense of doing this shed, I...

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Mr. Gioia: Right, and that's why I sat down with the representatives from the Fire Marshal's Office before and I reiterated that tonight. And those oak trees that are this big do not qualify as brush. There were some other smaller trees that I left and I was going to wait for them to come and, you know, see if those... there were some holly bushes that I think that's what you were referring to when you said there were some trees...

Ms. Brown: I saw one tree that had already been cut down. But then there was, I don't know, maybe 3 or 4 other trees I think that were quite close to where you had staked off the new shed.

Mr. Gioia: Right, but nothing below the 10 or 25-foot height limit. The trees that I left in that buffer zone are, you know, 75-foot tall oak trees, which would take more than 100 pounds of smokeless powder to set on fire and a shed.

Ms. Brown: Okay, thank you.

Mr. Grimes: Questions?

Mr. Gibbons: Mr. Chairman. I got a little bit confused here. Now, when I talked to you on Sunday you said you were going to do retail business out of the home? In my understanding we could only do online sales out of the residence. Is that true?

Dr. Larson: That's correct, you can't do retail sales out of a residence. But you can sell, you can get your payment online.

Mr. Goioa: I don't understand the...

Dr. Larson: The nuance?

Mr. Gioia: Yes.

Dr. Larson: Welcome the age of the internet. It's against County ordinance to have a retail operation in your private residence. You can't have retail sales in your private residence. So, in order to do that, whoever buys whatever from you pays for it online, then they come and pick up. So there's no money that changes place at your house.

Mr. Gioia: Ok, I know several...

Dr. Larson: Do I have this correct Melody? Since we have gone through this a lot?

Mrs. Musante: Yes.

Mr. Gibbons: I just wanted to make sure that he was aware of...

Mr. Grimes: Are we... is the applicant applying for a Rural Home Business or a Home Business? It's not classified rural because there is a difference in the code, correct?

Ms. Brown: Well, I don't know if it is the code, but it's... our definition doesn't mention the retail sales under Home Business Rural. Unless it's just a catchall for home business, I don't know.

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Mr. Grimes: A lot of the others that we've had come in here have been in our districts.

Mrs. Musante: Correct.

Mr. Grimes: Since this is an A district, this would be a Home Business Rural, and it actually says Rural Home Business is the application.

Mrs. Musante: Correct.

Mr. Grimes: And under the definition that Ms. Brown was pointing out, that Home Business Rural, a non-agricultural business intended for general office, professional office, personal service, contract and construction, which she mentioned earlier, doesn't have the exception that Home Business does, that says, with the exception of retail sales.

Mrs. Musante: That is correct.

Mr. Grimes: So, one of the development conditions that's in here says the business shall not engage in retail sales of merchandise on premise. That actually is not a requirement based on the definitions. Is that correct?

Mr. Apicella: I think there's no retail sales out of a house period, regardless of the zoning district.

Mr. Gibbons: That's what I thought.

Dr. Larson: That was my impression, but I see where the confusion lies.

Mrs. Musante: I do too. It has been standard procedure that we do not allow retail sales, regardless of whether it's a Home Business or a Rural Home Business. But, I see where you're going, that it does not have that specific language in the definition.

Mr. Grimes: Right, and I always accepted it as fact when we're dealing with the R districts because, I mean, they are denser, more compact, increases traffic significantly, but in an area like this where we're talking about 3-plus acre lots, it's a different animal.

Mrs. Musante: Correct.

Ms. Brown: Well, since we're reading the definitions, I am still not clear at all how his application even applies to a Home Business Rural. It states in his statement which is Attachment 1, page 4 of 4, in the first paragraph that he will be "I will be custom loading and reloading small amounts of ammunition on an individual order basis and also loading and reloading ammunition for retail sale at gun shows and wholesale to retailers." I still don't see how that comes into one of the qualifying businesses for a Home Business Rural.

Mr. Grimes: I think it's a personal service.

Ms. Brown: It's not a personal service if you're wholesaling to retailers. A personal service would be like gunsmithing for someone or an individual, but not wholesaling to retailers or at gun shows.

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Mr. Apicella: Right, but I don't think what somebody does offsite has any bearing on this case. So, if somebody wanted to make dresses in their house and they sold them wherever, as long as they're not selling them at their house, it's not an issue. I don't think the rules mean you can't do anything in your house and then sell somewhere else, anywhere. So, if you had a gun business for example, and all you did was sell at gun shows, I don't think that applies here.

Mr. Grimes: Well, I think these are all great points and I think we're getting out of step here. Let's finish with the applicant and then let's bring him back...

Mr. Apicella: Well, I'm speaking to the part of he's going to do some sales of ammunition at gun shows and I don't think that's an issue for us. What you do at a gun show, in my view, is sort of immaterial. I can't speak for the rest of us. I think the point that it does sound like it's a nuance, and it's in (inaudible) with the Stafford County Code, but the bottom line is you can't conduct retail sales out of your house. And the work around is, in order to get paid for whatever you do as a transaction, that it actually happens at your house, you can't exchange money at your physical (inaudible), you have to exchange money by online.

Mr. Gioia: So, even if I'm reloading, custom reloading for somebody, like they come to my house and they drop off the brass and I reload it for them, they have to pay for it online before they come pick it up?

Mr. Apicella: Right.

Dr. Larson: If you're selling something, that's a retail sale. A service is different. If you're repairing a weapon, that's different. But if you're selling an object to somebody for money, that's where this retail sale problem comes in. And I agree with Mr. Apicella, I don't think that applies to your making ammunition at your establishment and taking it to a gun show and selling it there. That's irrelevant.

Mr. Grimes: Well, and again I wanted to wait until we brought this back, but I would almost... and we could argue the point that Mr. Gioia is having a customer bring basically brass to him and he is reloading it. He's providing a service to that person, just like if they brought a gun to be fixed and he fixed the gun and they came and picked it up. Yes, they have to pay for it online based on some of these definitions but, he's not making this brand new; this is a reloading business as you've explained it, correct?

Mr. Gioia: Yes, that part of it is. But if somebody say didn't have the brass, they say I'm out, I could take brand new brass that I buy and I could do the same, you know, functions and make... manufacture the ammunition and sell it to them. But you're saying they can't come to my house to pick it up and transact the money at my house; they would have to pay for it online and then come pick it up.

Ms. Brown: Yes, he's crossing over from reloading as a personal service to manufacturing.

Mr. Grimes: Right, I understand, I understand.

Ms. Brown: So that's the difference

Mr. Grimes: Right.

Mrs. Stefl: Mr. Chairman?

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Mr. Grimes: Yes.

Mrs. Stefl: I guess I don't know a monkey wrench in this, you know, dynamic that we've never really discussed but, you know, with the advent of Square and a lot of those online type payments, could that be something that he could utilize or is that considered payment there? I mean...

Dr. Ackermann: I would think that (inaudible).

Mrs. Stefl: It's an online kind of thing.

Dr. Ackermann: I think that is the same as writing a check.

Mrs. Stefl: Okay.

Mr. Grimes: It's a debit transaction.

Dr. Ackermann: Yep.

Mrs. Stefl: So, it has to be done prior or after the customer leaves.

Mr. Grimes: That's why he sets up a PayPal account for them to pay before they come pick up.

Mrs. Stefl: Right. I'm just trying to... the way his brain's going I want to...

Mr. Gioia: I just want to understand because, I mean, to me yes it's a nuance.

Mrs. Stefl: I knew what the answer would be, I just want to put that on the record so he understands.

Mr. Gioia: So, if I had a barbershop in my house, somebody couldn't walk out with a bottle of shampoo that I had for sale?

Mr. Grimes: That is absolutely right.

Mrs. Stefl: That is absolutely correct.

Mr. Grimes: We had that exact conversation three months ago. Please, write your Supervisors to discuss this. So, any more questions for the applicant?

Mr. Gibbons: I was going to finish my... what I started.

Mr. Grimes: Yes sir, Mr. Gibbons.

Mr. Gibbons: The other thing I'm worried about, but I know you'll be alright, but when you're in a rural area, you got a shed under trees, oak trees, in the fall that's a fire hazard. So you're going to be out there with the wind blowing and the leaves going sideways on you, because otherwise... we've lost a lot buildings and a lot of rural farms out in our area because the leaves are hard to keep up with. And so, you know, keeping your oak trees... I love my trees too, but it's a pain in the rear end when you come

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down to meet this code. So, I just wanted to bring that up to you. And the reason I brought up the retail is when I read everything I had I didn't see no distinction between rural and the other.

Ms. Brown: There is a lot of leaves on the property. The property is wooded, pretty much from behind the shed all the way back to the end of the property, its wooded. And there is a lot of brush and leaves and yeah, it is constantly going to be blowing over into the 25-foot buffer zone, irregardless of the trees that are already there that will be dropping leaves and they're right over the shed.

Mr. Gioia: Right, it wouldn't make any difference if I cut those trees down right next to the shed because all the other trees are just going to drop leaves as well. So, yes, I know it'll be a battle.

Mr. Grimes: Any other questions for the applicant?

Ms. Brown: I did, now I forgot what it was.

Mr. Apicella: Mr. Chairman, I have some questions about the conditions. I presume you've seen the staff report?

Mr. Gioia: I have.

Mr. Apicella: Did you have any issues or concerns with any of the proposed development conditions?

Mr. Gioia: I do.

Mr. Apicella: Can you tell us what those are?

Mr. Gioia: The one, no firing or testing of firearms onsite. I don't live in a no shoot zone and I have plenty of space in my backyard to shoot safely. I shoot recreationally. I don't plan on doing any more shooting than I do now because really if I was shooting the ammunition instead of loading it, I would be cutting into my bottom line, so the no shooting is something I object to.

Mr. Apicella: So, if we change that to something like discharging a firearms onsite for commercial purposes shall be prohibited?

Mr. Gioia: Yeah, that's more than acceptable. And I like to be a good neighbor; I've got a couple of my neighbors here that came to support me and I don't plan on being a noisy neighbor; so I try to keep that in consideration when I'm doing any shooting in the backyard. There was one, #1 on development conditions, no weekend hours. I mistakenly, when I submitted the application, I didn't put weekend hours. But when I submitted the application at the ATF I put from 9 o'clock to 3'o clock on Saturday.

Mr. Gibbons: So, now you want this amended to read that?

Mr. Gioia: Yes, if that's possible

Mrs. Stefl: You said 9 to 3 on...

Mr. Gioia: Saturday.

Mr. Grimes: No Sunday hours at all?

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Mr. Gioia: No Sunday hours, no.

Mr. Apicella: Okay, I have a question about number 6. It says firearms shall be purchased only by special order. But, you're not really going to be selling firearms.

Mr. Gioia: No.

Mr. Apicella: So, that one really wouldn't apply.

Mr. Gioia: That one doesn't apply. I don't have a problem with it, but it just doesn't apply.

Mr. Apicella: And what about number 11? Guns and accessories for sale shall be stored no longer than 5 days.

Mr. Gioia: Yes, I have that highlighted because, I mean, some things are just going to take longer than 5 days to get to. If you've ever taken a firearm to a gunsmith, sometimes its months.

Mr. Apicella: Months would probably be a long time for us, so give us something that might be more reasonable.

Mr. Gioia: Thirty days

Mr. Apicella: And you mentioned during your statement about ammunition being stored I'm going to say both in the shed and in the house depending on the number. And right now, the proposed conditions cap you at a total of 5,000.

Mr. Gioia: In my application I had requested... I guess it was just the way it was worded. I'm not supposed to have more than 5,000 in a residence per the fire code. But, I can have excess of that in the shed.

Mr. Apicella: So the clarification is no more than 5,000 in the residence.

Mr. Gioia: In the residence.

Mr. Apicella: You heard the, I guess I'll call it Fire Marshal staff... I'm sorry if I'm saying the wrong thing... but he mentioned that one of the things that they would like to see including, you know, a professionally monitored system is video surveillance. So, would you have a problem, if we added that, video surveillance of the, I'll call it storage shed?

Mr. Gioia: No, I have that in my application. He said it's not required but it's... but I plan on putting that in.

Mr. Apicella: So adding video surveillance wouldn't be a problem for you?

Mr. Gioia: It's not a problem, no.

Mr. Apicella: Okay, anything else that you want to point out?

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Mr. Goioa: No, not that I can think of.

Mr. Apicella: Alright, that's it Mr. Chairman.

Mr. Grimes: Any other questions for the applicant now?

Dr. Larson: I have a question Mr. Chairman.

Mr. Grimes: Mr. Larson?

Dr. Larson: Yes, the information we have here says you want to do some gunsmithing, is that correct?

Mr. Gioia: Correct. Well, that's a broad category of doing any work on a gun, that I have to call it gunsmithing. It's everything from, you know, sanding down a stock to basically rebuilding it from scratch. It all falls under gunsmithing.

Dr. Larson: I think I saw in your application that you have a gun safe, is that correct?

Mr. Gioia: Correct.

Dr. Larson: Could you tell us about the safe?

Mr. Gioia: I have 2 gun safes, one of them is a cannon gun safe and the other one is called a sportsman gun safe. They're both made of I think 1/4-inch or 5/32 plate steel welded. One has a Sargent and Greenleaf lock on it and the other one has, I don't know what the manufacturer is, but it's a digital lock. So, these things they're about 30 inches wide and 5 1/2, 6 feet tall and they weigh about 800 pounds. So, nobody's getting into them without a blow torch or something like that.

Dr. Larson: So on suggested development condition number 4, could you have any problem with saying all weapons associated with the business will be locked in a gun safe that is secure and located in a room? Right now we just have separate containers.

Mr. Gioia: No, yeah, number 4, a secure gun safe rather than with a deadbolt lock, because they're just in my basement in the storage area. So, putting a deadbolt lock on a hollow core wooden door isn't going to do much, but having the gun safe is really what the deterrent is.

Dr. Larson: Right, so the... are you gun safes bolted to your floor?

Mr. Gioia: No.

Dr. Larson: How heavy are they, do you know?

Mr. Gioia: They're about 800 pounds each.

Dr. Larson: I know the size. Thank you.

Mr. Grimes: Yes, Ms. Brown.

Ms. Brown: Hi, me again. Do you have a co-owner on your property?



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Mr. Gioia: I guess me and my wife are co-listed as... on the deed.

Ms. Brown: Yeah, I have a copy of the tax records and it says you and your wife. And I was wondering why she's not listed on any of these application affidavits.

Mr. Gioia: When I made out the application, I asked who needed who needed to go on there.

Ms. Brown: Well, it's kind of self-explanatory, it says, unless the equitable ownership is a corporation, limited liability company, or similar business ownership, list all equitable owners of the property., That's number 4 on Attachment 2, page 2 of 4., Further on down the page, number 6, it also says, unless the applicant is a contract purchaser and is a corporation, limited liability company or similar business ownership, list all individuals involved with the purchase of this property. So I'm thinking she should have been listed at least 2 places there, and possibly might have had to sign;I'm not sure. But she's not listed and she is a co-owner, according to our tax records. That's all I have right now.

Mr. Grimes: Any other questions for the applicant? Alright, thank you sir, you can take a seat for the moment.

Mr. Gioia: Thank you.

Mr. Gibbons: Mr. Chairman, could somebody go over the conditions the way they're presented?

Mr. Grimes: I'd like to get feedback from the public before we start going down the conditions.

Mr. Gibbons: Got it.

Dr. Larson: Mr. Chairman, at some point I have another question or two for the Fire Department as well.

Mr. Grimes: Okay. Is there any member of the public who wishes to speak in support of the application? Please come forward.

Mr. Gibbons: They didn't swear in.

(In audible conversation to the side)

Ken: Do you want me to raise my right hand?

Mr. Grimes: Yes. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Mr. Tye: Absolutely.

Mr. Grimes: Thank you.

Mr. Tye: I'm here...

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Mr. Grimes: Please.

Mr. Tye: I'm sorry?

Mr. Grimes: If you could give your name and address and then you can present.

Mr. Tye: My name is Count Bo Tye, Jr. I live two doors down from Matt. I'm here as a neighbor to support him for, you know, to get his license and that's what I'm here for. Do you have any questions about... for me about anything?

Mr. Grimes: Not for you, thank you very much.

Mr. Tye: Okay, he's a great guy.

Dr. Larson: Mr. Tye, I have a question. Are you adjacent to the applicant or...?

Mr. Tye: No, I'm two doors down, two doors away from him.

Dr. Larson: Two doors, so two lots.

Mr. Tye: Yes.

Mr. Grimes: Any other questions? Thank you. Does anybody else want to... wish to speak? I'll get you to raise your right hand. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Mr. Uresti: Yes I do.

Mr. Grimes: Great, thank you. State your name and address.

Mr. Uresti: My name is Ed Uresti. I'm not the next door neighbor of Matt but the one over on the left side. We moved here to Stafford in 2012, and Matt and his family were the first to meet us at our home. And I've known Matt as a neighbor, a very responsible person and a good community member. He's a Marine by trade which instills culture of responsibility and accountability, and I know he wouldn't do anything that would be unsafe. I have utmost trust in Matt and just by the evidence of the steps he has taken to do this the right way and get the application the way it is supposed to be done. I know there is an issue about leaves, and I'd like to address that. We have two Koi ponds, we have trees all around those ponds, and yes it can be a problem. But if you're aggressive and take a leaf blower every two to three days, you can pretty much clear out all of the leaves by the end of the fall and keep it leaf free. Now, when you have a big storm, you can go back out there and clean those out. So, yeah, we are very cognizant about the leaf problem. But as a Koi pond owner, leaves are a bad thing in the pond; so you want to make sure they are cleared away. We've got trees all over the place and we are able to do that, just by being aggressive with it. So, that's my two cents and thank you for the opportunity.

Mr. Grimes: Thank you sir. Any questions for this speaker? Thank you very much. Is there anyone in the public who wishes to speak in opposition to this applicant please come forward? Seeing none, does the applicant wish to respond to any of the information provided? Thank you. Mr. Larson, I think you wanted follow-up with Mr. Milliken?

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Dr. Larson: Yes please. Thank you Mr. Milliken. I just had a couple of questions on the permit process.

Mr. Milliken: Sure.

Dr. Larson: So, the permit renewal, is that a yearly renewal?

Mr. Milliken: That is an annual permit renewal.

Dr. Larson: And does somebody from your office come out to inspect the property in conjunction with the yearly renewal, or is it done...?

Mr. Milliken: Yes, every... before we issue a new permit we will complete an inspection.

Dr. Larson: And then hour about the yearly? Every year?

Mr. Milliken: Every year.

Dr. Larson: Okay. Thank you sir., No further questions.

Mr. Grimes: Any other questions? Thank you very much for your time, I appreciate it.

Mr. Milliken: Sure.

Mr. Gibbons: Mr. Chairman, I do have a request.

Mr. Gibbons: Yes sir.

Mr. Gibbons: If somebody could go down through the conditions and make sure we got them all worded right now.

Mr. Grimes: Yeah, we're going to bring this... close the public hearing and bring it back to the Board for discussion so we can discuss it and review the development conditions.

Mr. Gibbons: Go ahead Steven;, do you have a good copy there?

Mr. Apicella: I've made some notes on mine. The applicant indicated on number 1 that he wanted a change at... closer to the end of that sentence after it says 8 PM, 9 am to 3 pm on Saturday and no Sunday hours. I think on number 4 I think I was hearing Dr. Larson say and the applicant agreed to change the verbiage to all weapons associated with the business shall be locked in a gun safe...

Mr. Grimes: In the residence.

Mr. Apicella: ... in the residence. I've got a couple conditions I'm going to suggest adding, but I'm going to go through the ones that I've made some notes on and changed. It doesn't seem to me that number 6 is applicable, so I would strike that and renumber accordingly. At the end of number 7...

Mr. Gibbons: Number 6 you're striking all together, right?

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Mr. Apicella: Yes sir.

Mr. Gibbons: Thank you.

Mr. Apicella: On number 7 add, including video surveillance of the area where the powder is stored, or something to that effect.

Mrs. Stefl: Is this professional monitoring security system on his home or on the shed?

Mr. Apicella: Well, I believe the monitoring system is on the residence...

Mrs. Stefl: Right.

Mr. Apicella: ... and the video surveillance would be on the shed or wherever the...

Mrs. Stefl: We need to add that.

Mr. Apicella: So, applicant shall maintain a professionally monitored security system for the residence, as well as video surveillance of the area where the powder is stored. On what is 9 currently, that's going to change, ammunition shall be stored in cans with no more than a total of 5,000 rounds in the residence. On the discharging of firearms onsite for commercial purposes shall be prohibited. Guns and accessories for sale shall be stored no longer than 30 days. I do have a question about 13. Approval of this special exception for firearm and accessory sales. Is that...

Mrs. Musante: It's a mistake.

Mr. Apicella: It's a mistake?

Mrs. Musante: Mm-hmm.

Mr. Apicella: So how should that be revised?

Mrs. Musante: Approval of this special exception for loading and reloading of ammunition and gunsmithing will expire when this applicant vacates the property and is nontransferable.

Mr. Apicella: Whatever Melody said. I've got a couple that I would recommend adding. I'm going to call it the smokeless powder shall be stored in a lockable shed at least 100 feet from the residence and at least -- and I'm going to kind of look over at Andrew for this one -- at least 70 feet from adjacent homes.

Mr. Grimes: Why are we repeating what's already written in the fire code?

Mr. Gibbons: The shed has got to meet that requirement anyway.

Mr. Apicella: Okay.

Mr. Grimes: The code is provided for reference and I think Mr. Milliken actually provided us with some of that data that's specifically cited in there, for the 100-foot, the 25-foot buffer, various items.

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Mr. Apicella: Okay, I'm good with that. So, I would also suggest that no black powder shall be used for commercial purposes. He's indicated that he's only going to use smokeless powder. And also that no more than 100 pounds of smokeless powder shall be stored onsite at any given time, consistent with the application.

Mr. Grimes: I think that the...

Dr. Larson: I think that's in the code, too.

Mr. Grimes: The fire code says... its 200 pounds in the fire code though, correct?

Mr. Milliken: There's different requirements that would increase as you increase quantity, so if you (inaudible - not at microphone).

Mr. Grimes: Perfect, okay, so then the 100 as stated in the application and reiterate in the development conditions, I think it's a great idea.

Mr. Apicella: That's it, Mr. Chairman.

Dr. Larson: Mr. Chairman?

Mr. Grimes: Yes.

Dr. Larson: I have a comment or two. I think this is the first time the Board will be not considering but appearing to approve a special exception to manufacture ammunition. I may be wrong but I think it's true. I think the last time we did, the applicant withdrew their application because it couldn't meet the legal requirements.

Ms. Brown: I think that's correct.

Dr. Larson: So, and I don't have any problem with the conditions that have gone through. And it gives me some degree of relief to know that the Fire Marshal inspects every year because I do have a concern about neighbors' activities on their own property impinging on these zones around the shed. And, not exactly sure if we need to say anything or not about that; it is inspected yearly. My concerns again are... I'm not so worried about an occupied building, it's never happened before, it would take some time, the applicant would be aware of it and probably say something. The Fire Marshal will certainly see it, maybe even before it's finished. I guess what I'm a little concerned about are open fires, and I don't know if there... is there some way that we can convey to the neighbors that there is sort of a zone that they really can't burn in?

Ms. Brown: I don't think we can deny the neighbors use of their property.

Dr. Larson: Okay, so I don't know how to approach this, but I do have a concern about a barbeque pit or a grill moved out or whatever -- something that's flammable, that has flames going on within the I think 50 feet was the radius that I heard.

Mr. Grimes: Right, but given the dimensions stated by the applicant, one side of the shed to his property line itself is 107 feet, and then the other side is 77 feet, so there would never be an issue of the open flame, coming into play of the code distance.

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Dr. Larson: I thought I heard the lot width was 80 feet. Did I misunderstand that?

Mr. Grimes: I can't imagine it's 80 feet when it's 73 feet from one side of the house and 61 feet from the other side of the house and that doesn't account for the width of the house. So, and the shed is smaller now, so it's 10 x 12, depending on the orientation as drawn on the plat. I can see how that's going to be at least 75 feet from either property line. So, we eliminate the open flame issue; the only issue, which is a very valid point, is the 100 feet potential fallout zone of an incident. But, with it being inspected every year, I would think that the Fire Protection Agency is going to be able to notify the neighbors and/or the applicant if there is a problem with that. Also, the fact that a habitable dwelling has setbacks in this zone that would not allow them to build within that distance of the property line is going to drive those out, probably without that 100 feet distance also.

Dr. Larson: Could I ask the staff a question? What is the width of the property?

Mrs. Musante: It looks like its 204 feet.

Dr. Larson: Ok, thank you.

Mr. Apicella: Mr. Chairman, that was one of the reasons why at the tail end of my recommendation on the location of the shed, that I put the ... the 100 feet I gather that's part of the code, but I added the tail end of it that it would be no closer than 70 feet to the nearest house. Just because we have a picture of where the shed's going to be, it's not required to be in that location; we're not getting a GDP here, we're not... it's not being mandated. And if the applicant so chose, and I'm not saying you would, but in the absence of clarifying where it's actually going to be or stipulating where it's going to be, he could put it as close to the property line as the setbacks would allow, without a restriction. Is that correct?

Mrs. Musante: I'm sorry, say that again?

Mr. Apicella: In the absence of stipulating where the storage shed is going to be, just because we have a picture in the application doesn't mean that's where it is necessarily going to go. He's not required to put it there unless we put some kind of restriction that says...

Ms. Brown: It's already approved to go there; it's already been approved.

Mr. Apicella: Well, it could be knocked down, you know, a year from now and moved closer... for whatever reason. And I'm not saying the applicant would do that, I'm just saying the possibility exists that if you're not guaranteeing in writing that the storage shed can't be any closer than the setback, that's where a storage shed could be within the... you know, as close to the setback as allowable, under the Zoning Ordinance.

Mrs. Musante: Correct.

Mr. Grimes: And why I think a simple way to address that issue without actually defining the distances is simply note that the plat... where the shed is shown on the plat as part of the development conditions.

Mr. Apicella: We could do that.

Mr. Grimes: Right, because that's part of the application.

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Mr. Gibbons: Because when we went over there it was all staked out, he had it all staked out. So I agree with that; just make that part of it, the plat be part the...

Mr. Grimes: Melody, if I'm correct right, the plat is part of the application...

Mrs. Musante: Yes.

Mr. Grimes: ...and would be stored with it, if approved. So, if we referenced it in the development conditions, much like we've done referencing the Fire Marshal letters in the past.

Mrs. Musante: Correct.

Mr. Apicella: So, something along the lines of a new condition that says the storage shed shall be in the general location as identified in the plat submitted with the application.

Mr. Gibbons: Agree with that.

Mrs. Musante: Can you say it again please?

Mr. Apicella: No. The location of the storage shed shall be in general conformance with...

Mr. Grimes: As shown on the plat.

Mr. Apicella: ... the location as shown on the plat. I'm probably saying location twice but...

Dr. Larson: I think that along with their periodic inspection requirement alleviates my concerns.

Mr. Grimes: We have any other discussion from Board members?

Ms. Brown: I have... go ahead.

Dr. Ackermann: I just want to say that I have no problem with the conditions, but my only concern that not all the owners of the property are listed on the application. It could just be an oversight, but it could be that only one owner of the property wants to have this application approved. So I have a very difficult time approving this without all owners making the application. That is my say in it.

Ms. Brown: I have the same concern and also, I think everybody got it, Mr. Larson sent out a copy to... of letters that we consulted our attorney with and we did have this case last time. It was back in June of 2015, and as he stated, I believe the applicant withdrawn, we have not to my knowledge since I've sat on this board, approved a manufacturing. A reloading yes, but not a manufacturing. And I went through the letters and the conclusion, in summary, after the 5 page letter was that residential storage is generally prohibited and disfavored by code. The exception was for personal use when it was not more than 20 pounds of smokeless propellants and small primers. So, we have two letters actually from the attorney, a couple months apart. So, our attorney didn't think this was a good idea. I still don't think that it qualifies for a Home Business Rural. I don't think that manufacturing for wholesale retailers and for gun shows fits in with the definition of a Home Business Rural. It is not a general office business, it's not a professional office business, it's not a personal service; gunsmithing yes, some reloading, yes. Manufacturing is not a personal service, it's not contracting and construction. So I don't think it applies.

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So, because of the attorneys letter, because I don't think it fits our definition of Home Business Rural, manufacturing, and due to the lack of signatures, I'm not going to support this.

Mr. Apicella: Mr. Chairman, I'm wondering if the issue of the signature could be corrected... if this were to pass, if the signature issue could be addressed without us making it a condition, because it's a requirement that the signature be provided. So, before and in any approval letter that it would stipulate that the other signature would be required before, yeah, we could move forward.

Mrs. Musante: We can make sure that that's taken care of.

Mr. Apicella: So, that would not have to be a condition, that would just be something we would handle administratively.

Dr. Ackermann: But isn't that putting pressure on the other person to sign? Saying that's already approved? And if you don't approve it then you're getting in my way.

Mr. Apicella: That's probably an issue between a husband and a wife that I don't want to get into.

Dr. Ackermann: Well, but it's an issue as to why isn't the application complete and I'd rather have a complete application ahead of time before I approve it than approving it saying, well the application should be completed.

Mr. Apicella: I understand where you're coming from.

Dr. Ackermann: Good.

Mr. Grimes: Any other discussion from the Board?

Dr. Larson: Mr. Chairman, I'm still struggling with the use. We have uses permitted by-right in A-1, Agricultural, and it says simply Home Business or Home Occupation. But again, this is a manufacturing use. This is something that we've never approved before. I'm not sure this falls under the A-1, Agricultural code.

Ms. Brown: I agree it doesn't; I don't think this should have come to us. I don't think this falls into the definition. We have an incomplete application and we have something that I don't think falls into our purview. And we have an attorney saying that code generally disfavors this in a residential area.

Mr. Grimes: Code generally disfavors but doesn't prohibit.

Ms. Brown: Residential storage is generally prohibited and disfavored by the code. There's much... there's much more about it.

Mr. Grimes: I'm not sure how that...

Ms. Brown: I don't know; we paid for this.

Mr. Grimes: If the fire protection engineer for the County has reviewed this and doesn't have any issue with it, I'm not sure that I would put a lot more weight on the fact and the opinion of the County's fire protection engineer than I would on that particular opinion in this case.



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Ms. Brown: Okay, well...

Mr. Grimes: Because it relates to a completely separate case, he did not review the actual material associated with this case.

Ms. Brown: Well, no, but it talks about how much powder, 20 pounds.

Mr. Grimes: I understand that.

Ms. Brown: And again, I still don't think it should even come to us because I don't think it falls under a Home Business Rural. We have a list of definitions and what a Home Business Rural can be, and manufacturing is not one of them. And I think for us to quietly write that into the code is wrong. It's not our purview.

Mr. Grimes: We're not writing it into the code and I think that the County staff has told us that if it wasn't for the FFL, the applicant wouldn't even be here, wouldn't be able to this at his home.

Mrs. Musante: Correct.

Ms. Brown: Right. So, I mean, all these things together, that's just another reason.

Mr. Grimes: I don't... okay. Well, I think we have some strong opinions on where it needs to be.

Mr. Apicella: Yeah, I think that's (inaudible) for gun transfers. I mean, we're trying, you know, unfortunately because it's something that hasn't been dealt with and we asked the Board of Supervisors to take a look at firearm transfers and they kind of punted it back to us without any guidance whatsoever, so the only way that, you know, we can put this round...

Ms. Brown: This is not a gun transfer. A gun transfer is a personal service.

Mr. Apicella: I understand. I'm just going back to your point where you're saying that this is not something contemplated, and the Chairman's point was well if it weren't for the FFL we wouldn't be dealing with this at all. Well, if it weren't for the FFL we wouldn't be dealing with gun transfers.

Mr. Grimes: With the firearm transfers as well.

Mr. Apicella: So, to me, it's kind of a similar issue. We're trying to put a square peg in a round hole, because the County code doesn't deal with every single circumstance, it can't; it's unlimited the amount of things that could come in front of us.

Ms. Brown: I don't agree that the county code is very clear.

Mr. Apicella: I appreciate where you're coming from. I'm just saying there's a difference of opinion. I just see it much like the FFL issue associated with the gun transfer. And with respect to manufacturing, I think there is a level... there's manufacturing and there's manufacturing; you know, it's not... I presume he's not going to be manufacturing in 100,000 increments, so it's...

Mr. Grimes: Not when he can only store 5,000.

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Mr. Apicella: ...it's just a word. It's a word that means a lot of different things, so...

Ms. Brown: Well, we have a manufacturing district, so I think it should be...

Mr. Apicella: ... it doesn't have to be manufacturing per se. He's loading gunpowder into shells. Call it what you want.

Dr. Larson: Mr. Chairman, could I ask a question of staff?

Mr. Grimes: Sure.

Dr. Larson: Madam Zoning Administrator, what is your interpretation of the A-1 district and whether small scale manufacturing would be permitted?

Mrs. Blackburn: Mr. Larson, as far as the A-1 zoning district goes, there is a list of uses in the district. And as far as dealing with manufacturing, it would... I would have to look at it to see the difference between manufacturing as our code defines it and what actually re-loading is, if it is more of an assembly or more of a construction as far as putting parts together. So, I would have to do some research on that.

Ms. Brown: Well, there's two different things; there's reloading and there's manufacturing. He's doing both. I'm not disputing the reloading.

Mrs. Blackburn: Then I would just have to have more information on that.

Mrs. Musante: Mr. Chairman?

Mr. Grimes: (Inaudible) clarification, Ms. Brown, where do you get the manufacturing? Where does that...?

Ms. Brown: It's in his statement, several places.

Mr. Grimes: Right. What specifically? I mean, I see ammunitions (inaudible)...

Ms. Brown: It says, my manufacturing operation conducted within this utility, after building, after (inaudible), that's one place.

Mr. Grimes: Okay.

Ms. Brown: One, two, three, third paragraph it says, after the ammunition is manufactured it will be moved to my residence for storage, pickup or delivery. I mean, there's other places, I mean...

Mr. Grimes: I just wanted to seek clarification from you (inaudible - microphone not on).

Ms. Brown: And he again, he said he would reload and he would also manufacture, he would make new ones; that's manufacturing.

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Dr. Larson: There's a definition in the code for manufacturing light. It says establishments engaged in the mechanical transformation of materials into new products, including the assembling of component parts or the manufacture of products for the wholesale market rather than direct sales. Examples of this use include the production of cabinets, furniture, textiles, food products, ceramics, pottery, tools, machinery, appliances, and photographic processing and bottling and canning plants and similar uses -- if that helps.

Mr. Apicella: I thought I heard the word wholesale in that definition?

Dr. Larson: You did; it said assembling component parts or the manufacture of products for the wholesale market. So, putting things together or putting, I guess, I don't know what the difference is now that you mention it.

Mr. Apicella: I mean, theoretically somebody who's canning goods and selling them. If they're selling it in the wholesale market, that would be under that definition of manufacturing. If they're doing it something less than wholesale than it's not within that definition.

Dr. Larson: It is under the (inaudible), in fact that is explicitly here, canned plants is explicitly called out.

Mr. Apicella: Right, for the wholesale market. I'm trying to make that distinction. Just like the last case that was in front of us what, a month or two ago. It showed wholesale versus retail was an issue in front of us, so I think there is a distinction.

Mrs. Musante: Mr. Chairman, maybe the applicant can give a little bit more insight on the... what loading and reloading is and maybe steer away from the word manufacturing -- just a thought.

Mr. Grimes: You're more than welcome, Mr. Gioia, if you'd like to come up and explain the process.

Mr. Gioia: Thank you Mr. Chairman. The same words mean different things to different organizations. To the ATF, manufacturing is taking a shell and putting the powder in and putting the bullet on. That's... they consider that manufacturing. When I talked to the County tax office when we started talking about what was going to be taxed and there's different tax rates for manufacturing businesses and other things, they said "no, I am not doing manufacturing, I am doing assembly because I am not materially changing the materials. All I'm doing is taking bullets that are already formed, shells that are already formed, powder that is already formed, and I'm putting it all together. So, I use the word manufacturing in here because that is what the definition that the ATF uses is. But I am not going to be casting bullets, I am not going to be making powder, I am not going to be making cases. I'm taking components that are already constructed and assembling them. If that helps everybody.

Mr. Grimes: No, I think that's fantastic, thank you.

Mr. Gioia: Okay, thank you.

Mr. Grimes: Do we have any other discussion points? Do I have any motion on the case as presented to us tonight?

Mr. Apicella: Mr. Chairman, I'm going to make a motion to approve SC17-02/17151614 with the modified conditions as stated earlier.

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Mrs. Stefl: I second it.

Mr. Grimes: Any discussion on why you would like to approve this, Mr. Apicella?

Mr. Apicella: Mr. Chairman, as my fellow colleagues on this board know, probably no one noodles these things more than I do and gets into the minutia of what words mean or don't mean. I don't necessarily consider this to be a manufacturing operation, as Dr. Larson read it, especially as that one I believe refers to a wholesale business. I'm not overly troubled by this particular application. Again, as was stated earlier, if it were not for the ATF's requirements the applicant wouldn't even be in front of us, so it's a hoop that anyone who wants to do something like this needs to go through in Stafford County in order to operate such an enterprise. It doesn't sound like it's a large scale business. I think it's just an extension of what we've already approved several times, with relationship to firearm transfers. In this case, the applicant is merely going to be reloading ammunition or putting together you know new ammunition in small quantities for sale to friends, family, at gun shows, what have you, as well as gunsmithing. I suspect this is happening elsewhere in Stafford County and folks just haven't met the requirements. So, for those reasons, Mr. Chairman, I'm going to recommend approval. I don't think the issue of the signature is insurmountable. I think as staff indicated that's something that they can fix administratively in the absence of adding an additional condition to that effect.

Mr. Grimes: Thank you. Any other commentary on this?

Dr. Ackermann: Yeah, I would like to reiterate that I cannot support this, primarily because the application is incomplete; not all owners of the property are all listed. Whether they happen to be married or not married is immaterial, not all owners are listed and we don't know whether all owners agree to this. So I cannot support this and will not support this.

Dr. Larson: Mr. Chairman, I'd like to re-read that definition because I think there may be a misunderstanding on what it says. This is listed under Manufacturing Light -- establishments engaged in the mechanical transformation of materials into new products, including the assembling of component parts, or the manufacture of products for the wholesale market, rather than direct sales. It's either/or; that's Light Manufacturing. Then it goes in to give some examples. So, it's not that since this is not directed to the wholesale market there's no manufacturing going on, it's an either/or in the definition. So the question is, is this mechanical transformation of material into new products including the assembling of component parts; that's the first part.

Mr. Grimes: Do we have any other comments on the motion?

Mr. Gibbons: Mr. Chairman, we had a suggestion from the staff here that she be given some time to take a look at the two definitions. And what bothers me the same as the doctor here, I think the application was incomplete and that bothers me. So, I think to send it back to staff and get an interpretation and getting the application signed or corrected by the next Board meeting would be proper.

Mr. Apicella: Mr. Chairman?

Mr. Grimes: Yes.

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Mr. Apicella: I know so many people in Stafford County that take... that go to craft... that make products at craft fairs, okay, and they're assembling different pieces into something that didn't exist before into a craft. And under the definition that Dr. Larson just read, that would be prohibited. I cannot believe that's what Stafford County had intended. So, I appreciate what he's saying. I just don't think it applies in this case and I think we have to use some rational judgment and some common sense... and I'm not saying you're not using common sense sir, I don't mean that by any stretch... I'm just saying...

Dr. Larson: I'm just reading a definition.

Mr. Apicella: I understand, and again, I would say no one is more strident than I am, especially in terms of setting precedent on this board than I am, but I just don't think it rises to that level. I am certainly very cautious when things come in front of us; this just does not rise to the level of causing me concern or meeting the definition as I think Stafford County intended it. Sometimes we do have to make a judgment call; it's not always clear and again we have to play Solomon and in this case I just don't think it's manufacturing.

Dr. Larson: Mr. Chairman, I would love to support this and I may still end up supporting it, because we have to keep in mind that special exceptions are individual, they are case by case. We're not setting precedent here.

Mr. Grimes: That's absolutely true.

Dr. Larson: We examine each case individually and this case may not meet the threshold of manufacturing in some members' eyes and it may meet the threshold in other members' eyes; that's just up to the member. And then there are others issues about the (inaudible).

Mr. Gibbons: Mr. Chairman, I want to make a substitute motion that we defer this to the next meeting, get interpretation of the staff, and get a completed application.

Ms. Brown: I'll second that.

Mr. Grimes: Let me seek clarification on the substitute motion. We had this come once before and I'll be honest, I don't remember how we worked... do we vote on the substitute motion first or the original motion?

Dr. Ackermann: The substitute motion is on the floor. So and it's been seconded, so we can discuss it and then vote on it.

Mr. Grimes: Okay. I'm against deferring this. I feel like we have the support of the County staff, the County fire protection folks, the Zoning Administrator reviewed this application. The concerns about manufacturing I think are off the table for those reasons that the County has looked at it and has made a decision based on their interpretations. I don't think sending it back to staff is going to make any difference in terms of whether this is manufacturing or not. The simple clerical error of not having both parties sign the application I think can be remedied rather quickly. It could be done in person, so that might alleviate some concerns about duress potentially. But, I just think deferring this is not going to result in anything but us meeting again next month and coming to similar conclusions. So I'm not going to be able to support the substitute motion.

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Dr. Ackermann: I think I would support the substitute motion. It would help the applicant perhaps to get this approved. We don't know whether this was a simple clerical error; that's an assumption on your part. We have no... I mean, the applicant sort of made a gesture or something that you know maybe it was a simple clerical error and it probably is. But I just don't know that, and so that's why I support the substitute motion. I think we would have a better chance of approving this if we did that.

Mr. Grimes: Any other discussion on the substitute motion?

Mr. Apicella: Mr. Chairman?

Mr. Grimes: Yes.

Mr. Apicella: I'm a little tore on this one but I can do a whip count and at the moment I'm not convinced that there are enough votes to support it. I'm concerned that if we took a vote on my motion that it might not get enough support and the alternative might be that the motion gets defeated. And if at least one member is indicating that he or she may not support it merely because of a signature, it might change his mind because of the signature issue that might this to a 4 person vote. So for that reason, while I would prefer not to defer, I think it might be best for the applicant if we do, and get some resolution on at least the signature issue, and also if we can maybe get some clarification on whether or not this particular situation is really a manufacturing issue or not a manufacturing issue. And, I think it has a broader context, as I mentioned before, anyone who produces a craft in Stafford County and sells it, could be in noncompliance with our rules and that causes me great heartburn. So that might be something, if it is an issue, that we'd have to work with the Board to get resolved, because I think a lot of folks would fall under that very broad category. So, for that reason and I apologize to the applicant, I am probably going to support the motion to defer.

Mr. Grimes: I think that those are great points because I would hate to see this motion, the original motion fail over what could potentially or what may be a technicality for the most part. Any other discussion on the substitute motion before I call a vote? So, we have a substitute motion on the floor to defer until next month to seek additional guidance from zoning on the definition and the question of manufacturing, and to get the application updated and correctly submitted. All those in favor of that substitute motion say aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mr. Grimes: All those against?

Mrs. Stefl: Nay.

Mr. Grimes: Nay. Alright, the substitute motion carries 5 to 2. So we will defer until next month. The Zoning office will reach out to you to discuss the next steps. Alright, moving on to Unfinished

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Business. We're at 9 o'clock, we have iPads, continuing education on this. Is everyone up for continuing? Okay, let's take a 7 minute recess for breaks as required and we'll reconvene at 9 o'clock.

Recessed at 8:52 p.m.

Reconvened at 9:00 p.m.

**UNFINISHED BUSINESS**

- \* iPads
  
- \* Continuing Education

Mr. Grimes: Alright, let's go ahead and get this show back on the road. So, we've got two unfinished business items; I'd like to add a third and just a third to note since we didn't get a chance to talk about it last time, I did speak to a couple members of the Board of Supervisors. We wrote... I wrote a letter to them in reference about the firearms transfer. I was told in person that they were going to form an action committee, headed up by the Rock Hill Supervisor to bring in ATF and somebody from this Board and some other folks from the community to discuss it so they could come up with a recommendation... somebody from the Planning Commission as well, to come up with a recommendation on how to address this so that we can hopefully get the code changed so that we don't see all these firearm transfers. So, just an update on that issue.

Ms. Brown: They want to update the code so it doesn't have to come to us?

Mr. Grimes: That was my suggestion.

Ms. Brown: Well, we have so many, that (inaudible) our code needs to be (inaudible).

Mr. Grimes: Well, and my suggestion was simply to...

Mrs. Stefl: (Inaudible - microphone not on).

Mr. Grimes: My suggestion was to add to the Home Business and the Home Rural Business definition firearms transfer as actually one of, right, and that all applications then that would come to Melody's office, she would kindly direct them to apply as if it was a firearm transfer; not firearm sales, not all the other things we've seen it called. Give it a name, get it defined, and then maybe they just go away from us which would alleviate a lot of the load here. Next up on the agenda is iPads. I know we've had our heated discussions in the past. We're headed this way. I think the update is when could we see them now?

Mrs. Musante: You won't now, they've been pulled from the budget. Waited too long!

Mr. Grimes: There we go. Alright.

Mrs. Musante: Now, you can have the old ones, they are still there, but everyone getting new ones, it's been pulled.

Mr. Apicella: And when you say old ones, what version?

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Mrs. Stinnette: Your old one.

Mr. Apicella: Right, but is it an iPad Pro, 128 gig.

Ms. Brown: I think they are iPad 1s.

Mrs. Musante: I can't answer that.

Mr. Apicella: No, they can't be, they're not iPad 1s.

Mr. Grimes: That was the original ones they were proposing.

Mr. Gibbons: They won't put the money back in? Is that what you're saying?

Mrs. Musante: It may be put back in for next year, but it's been pulled for now.

Mr. Gibbons: Yeah, but I mean the next fiscal year.

Mrs. Musante: Mm-hmm.

Mr. Gibbons: It could be back in?

Mrs. Musante: This is for July to July of next year, right? This is until July of 18.

Mr. Grimes: So, the directive from the County obviously if they pulled that has changed? Are we just going to continue with the status quo?

Mrs. Musante: Yes.

Mr. Grimes: Okay. That's going to make this evening go much quicker. Continuing Education. Can you give us an update on that, Melody, where we were (inaudible)?

Mrs. Musante: Waiting to hear from what you all wanted to see at the presentation. We did discuss having Dr. Chandler come. He has given us a quote of \$900 for 4 hours.

Ms. Brown: I want to see special exceptions. We don't learn about that in school. Stafford is one of the very few counties in Virginia that lets their BZAs do special exceptions, so there was virtually in my class no training on that.

Ms. Bertoldi: (Inaudible - microphone not on).

Ms. Brown: Yeah, I think it's most of our business. I think we do more special exemptions than variances. So, that's what I would like to see is focus on special exemptions.

Mr. Grimes: Can you remind me what our budget is?

Mrs. Musante: Well, we don't have a budget, or you all don't have a budget. It's coming out of our training budget.



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Ms. Brown: So, it's free?

Mr. Grimes: I seem to remember there was a quote of \$400.

Mrs. Musante: No, it's \$900 for 4 hours.

Mr. Grimes: No, \$900 is his quote, but we discussed a budget amount in previous meetings.

Mrs. Musante: I don't remember that.

Ms. Brown: I don't remember that either. Did we get it approved yet?

Mrs. Musante: I've got it approved through our Director, yes.

Ms. Brown: Okay.

Mr. Grimes: Alright.

Ms. Brown: Can I ask on that same thing, another question?

Mr. Grimes: Feel free.

Ms. Brown: Sign class. Sorry guys that was my thing. I got a note, I'm on a list with Virginia Tech for continuing education. And I got that and I sent that to my Supervisor, Wendy Maurer, and I just said that I was interested. I didn't know if anybody else was going, but I was interested. And somehow that ended up getting much bigger than I anticipated and now we've got staff going, the Supervisors are invited and the Planning Commission. So, I think it's going to be a good class. It's only \$30 bucks, it's for the whole day, it's down in Richmond and it's on the new Supreme Court ruling about all the signs restrictions and all that kind of stuff. So, I hope somebody else besides me is going from our Board.

Mr. Grimes: We were hoping that both of the attendees that are going from the Board will come back and brief us thoroughly.

Ms. Brown: I think Bob, are you going too?

Mr. Gibbons: What's that?

Ms. Brown: To the sign class down in Richmond on the April 4<sup>th</sup>? Are you going to the sign class?

Mr. Gibbons: Yes.

Ms. Brown: Okay, good, good, okay.

Mr. Grimes: So any other suggestions? We have special exceptions for this continuing education.

Mr. Apicella: I think we covered the gambit, but if we want to emphasis special exceptions, that's fine. We also get a lot of Zoning Administrator determination issues as well and I those are worthwhile to spend some time on. So, everything we do is worthwhile to talk about. You know, the ex parte

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communication thing, I think is a good refresher on that. But if we want to give some emphasis to those two issues, that would be helpful.

Ms. Brown: Yeah, I'd like to leave it open for questions. I know he needs to prepare for something but yeah, I wouldn't want to limit ourselves.

Mr. Grimes: Well, I think we prepare an agenda of the items we'd like to review and focus on, and we make sure that we put it on the agenda, you know, a Q and A session... whatever that is, 30 minutes at the end of it. Ms. Bertoldi, you had...

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: I'll put together an agenda and email it around to the Board members for comment. Is everybody good with that?

Mrs. Musante: How soon are you looking to do this? With Dr. Chandler?

Mr. Grimes: Well, we've been reappointed for this year, correct?

Mrs. Musante: Yes.

Mr. Grimes: So, I'd say check his calendar, I don't think it's a rush. We'd all want to make sure that it happens. You've got it allocated for us.

Mrs. Musante: Okay.

Ms. Brown: Didn't we talk about Saturday, or... yeah, because everybody works?

Mr. Grimes: Was that in his budget, was a Saturday?

Mrs. Musante: I'm not sure.

Mr. Grimes: I'm guessing not.

Ms. Brown: Okay.

Mrs. Musante: I'm not sure; I will ask thought. So you prefer a Saturday.

Ms. Brown: I'll do whatever, but I'd prefer a Saturday for everybody else.

Mrs. Musante: Okay.

Ms. Brown: But, that's not a deal breaker for me.

Mr. Gibbons: Mr. Chairman, once before we had a Regional BZA where everybody came. We had Dr. Chandler for the four hours, but Fredericksburg, Spotsylvania, King George, we all went together, down at the city and everybody got the benefit.

Mr. Apicella: That was a lo-o-o-ng time ago.

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Mr. Grimes: Well, it's actually not a bad idea, from the point of sharing the cost.

Ms. Brown: Yeah, but do they do special exceptions though?

Mr. Grimes: Maybe not, but.

Ms. Brown: Yeah, if we're going to spend a lot of time on that, that's like a waste for them.

Mr. Apicella: (Inaudible - microphone not on) \$900, I just think that's a lot. I agree that maybe somewhere down the road if we wanted to partner with other localities, (inaudible - microphone not on).

*Discussion inaudible - microphones not on.*

Ms. Brown: Yeah, I don't want to put it off. I signed another writ yesterday, so that means we're going to court again, so I'd rather get any kind of guidance we can.

*Discussion inaudible - microphones not on.*

Mr. Gibbons: The big thing you don't get, one the most important aspects of this, is (inaudible) James and the State. They tell you what's all going through the Legislature and what's being changed; we don't get that no more. And you'll get what Chandler wants and what they're doing, but you don't get what the Legislature. And that's why the proffer thing jumped up on us real quick and we lost the damn thing.

*Discussion inaudible - microphones not on.*

Mr. Grimes: So, if we could get scheduled in the next two months. Seems like a reasonable time, obviously.

Ms. Brown: Spring break's coming.

Mr. Grimes: We can plan around that.

Mrs. Musante: Okay.

Mr. Grimes: Okay, so, we have no meeting minutes from last meeting, I guess because the recording equipment wasn't working. So, no written meeting minutes to review. Other business, looks like annual report.

Mr. Gibbons: I thought you were going to put compensation on there?

**ZONING ADMINISTRATOR'S REPORT**

Mrs. Musante: Do you want to do the Zoning Administrator's report first?

Mr. Grimes: That would... oh, I'm sorry, I skipped right past that. I apologize. The Zoning Administrator's Report.

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Mrs. Blackburn: Mr. Chairman, on March 13<sup>th</sup> we are taking Mr. ... well, we are going to go to court over the Newton junkyard case. So, that will be very interesting and hopefully at our next meeting we'll be able to report something.

Mr. Apicella: So when you say we, is the County going to participate?

Mrs. Blackburn: Yes.

Mr. Apicella: Great.

Mrs. Blackburn: We also had an action with the Wild Run Brewery case. The Wild Run Brewery's attorney admitted to a violation, and also I think it was agreed to an injunction, and now we are waiting on the court order from the Judge.

Mrs. Stefl: What was the violation (inaudible)?

Mrs. Blackburn: The violation for Wild Run Brewery was not complying with the conditions of approval for the special exception for the microbrewery. And it's taken this long, and so the BZA revoked his special exception and he continued operating. And then we do have the sign conference on April 4<sup>th</sup>, which Melody and I are also attending and there are a couple of other staff members. We have just adopted a new sign ordinance that was a blend of the Attorney Association had crafted a sign ordinance in trying to work with the Supreme Court case, and we have at least adopted that so we have something on our books that we have to work with. It's been very interesting trying to get everyone to realize a church sign is no longer a church sign. It is a freestanding sign, on a non... for a non-residential use normally in a residential zone. So it has been very interesting making sure everyone is following those lines. It actually ends up being quite simple, but in some instances for people to continue some of various practices like for political signs, they are now not just political signs, they are temporary signs. There is no use, there is no classification, there is no nothing; they are a temporary sign. And one of our struggles has been how do you deal with that and not allow for a 4 x 8 temporary sign all the time on a person's property. So, we have tried to get down to that and Ms. Brown is going to be on... we have a sign committee now, after we have adopted this to try and get everybody to understand, to see if there's any tweaking, so this sign conference will be very interesting to see how far they have been able to push some of the envelopes and what are some of the other techniques that other jurisdictions have thought of. We have actually come up with some stuff with, if it's on an arterial road, can it have a different sign, square footage, or things that, so it's been a whole different way to look at signs. And we will come back with all kinds of fun information. But, that's all I have for tonight.

Mr. Grimes: Thank you very much. Annual Report?

**ADOPTION OF MINUTES**

NONE

**OTHER BUSINESS**

- \* 2016 Annual Report

Mrs. Musante: Okay.

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Mr. Grimes: Did you want me to read it?

Mrs. Musante: You want me to read this whole thing?

Mr. Grimes: No. Do we need to approve it?

Mrs. Musante: I think you do, basically do it just like minutes, ask if you've got any corrections, or...

Mr. Apicella: Mr. Chairman, motion to approve the annual report. And it gets provided to the Board of Supervisors, right?

Mrs. Musante: Yes it does.

Mr. Grimes: Do we have a second to approve the annual report?

Dr. Larson: Second.

Mr. Grimes: All those in favor approving the annual report, say aye.

Dr. Ackermann: Aye.

Mr. Apicella: Aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Dr. Larson: Aye.

Mrs. Stefl: Aye.

Mr. Grimes: Aye. Those opposed nay. None. Before we close, one last thing; Bob mentioned it so I feel I should address it. I wrote another letter to the Board of Supervisors requesting a review of compensation for members of the Board of Zoning Appeals. I gathered, with the help of Melody, precedence of adjacent jurisdictions. The reality is all but one get compensated in one form or another. I was hoping to have a decision on that before we had the iPad discussion, because then that would eliminate a lot of the concern about, I hate the iPad, I'm going to print it, well you're getting paid now so that shouldn't be a problem. But, I followed up with my Supervisor to ask the status because I thought it may have been killed because I hadn't seen it brought up in any of the meetings. It is going to be brought into the budget committee, but it has not yet. So, I have no idea what they're thinking on it.

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: I presented it such that it would be compensation per meeting that you sit. So, I don't know that...

Ms. Bertoldi: (Inaudible - microphone not on).

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Mr. Grimes: ... and I didn't... I don't think I went that far into who is sitting or not sitting. I didn't say voting member, I said sitting.

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: There was... I waffled back and forth.

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: No, I agree. I spent a lot of time trying to think... I originally wanted to approach it that we would get a monthly compensation, every member. Then it didn't matter. Then there was a concern expressed by some that well not everybody's here that much. There are some members that don't sit for a lot of meetings and they would be paid the exact same as the person that is here for every meeting. Is that fair? Is that appropriate? So I presented it to the Board as a monthly, but it could come back modified because some of the other jurisdictions, matter of fact several of them, pay by the meeting that you attend. So, if you are sitting at a meeting, that's when you get paid.

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: That's evident by your participation in the meetings.

Ms. Bertoldi: (Inaudible - microphone not on).

Mr. Grimes: Again, I think it's written a monthly stipend for every member of the Board of Zoning Appeals. That's how it's presented now. So we'll, see if they come back with any kind of push back. Because I was worried, because this letter was written in December, December 15 -- I hadn't heard a word that they had just rejected it outright, but that's not the case.

Mrs. Stefl: What is the average stipend in the other jurisdictions?

Mr. Grimes: It's anywhere from \$75 per meeting to...

Mrs. Musante: Forty-five hundred dollars.

Mr. Grimes: A year. So, it is all over the board. Now, we excluded Fairfax County from the research because they meet twice a month, all day long, 8 hours, two days, I mean, so their compensation is like \$12,000 a year, it's a different animal.

Dr. Ackermann: Any back pay?

Mr. Grimes: I did not put that in there. Alright, so that's it. Any other discussion, comments, because in case they come back I'm willing to provide feedback.

Ms. Brown: Just one comment and it actually wasn't about that, it was about the other topic on the iPads. This packet, when I got the notice to come, you know, sign the lawsuit the other day my first thought was okay, what's the number of the case and I went down to my little box to pull all my notes to see what it was. Turns out I was not here and we don't have any notes for that one yet. But, what is the cost to mail this, about 2 bucks? I mean, it goes First Class, it doesn't go priority or anything. I was thinking about this for the iPad and for the budgetary and for the salary discussion that we might have,

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you know, a new iPad is about 600 bucks. Okay, if this costs \$200, I could get 300 packages mailed to me for the same price as an iPad; 300 packages is like 25 years. So... for not... we don't want to spend a lot of money and we can save that money for our salary, I'm just saying. I could get 25 years of Board packages for what it would cost for an iPad, so put it in financial perspective.

**ADJOURNMENT**

Mr. Grimes: Alright, I need a motion to adjourn. Motion to adjourn? Second? All say aye. Thank you all very much.

With no further business to discuss, the meeting adjourned at 9:24 p.m.