

# **STAFFORD COUNTY BOARD OF ZONING APPEALS**

***May 25, 2021***

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Wednesday, May 25, 2021, was called to order with the determination of a quorum at 7:00 PM by Chairman Dean Larson in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center, and at remote locations throughout the County.

**MEMBERS PRESENT:** Dean Larson, Steven Apicella (remote), Dana Brown, Kecia Evans, Robert Grimes, Jon Ireland, Jeffrey Spinnanger

**MEMBERS ABSENT:** Robert Gibbons

**STAFF PRESENT:** Douglas Morgan, Melody Musante, James Staranowicz, Stacie Stinnette

Dr. Larson: Are we okay Doug? Good evening ladies and gentlemen and welcome to the May 25, 2021, 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. The purpose of the BZA is to do three things, hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator. Hearing of appeals will be conducted in two parts, the first will be a review of the BZA jurisdiction and appellate standing. The second would be the hearing on the merits of the case, if required, after review of the jurisdiction and standing. Hear and decide upon request for variances from the Zoning Ordinance and when a literal enforcement of the ordinance would result in unnecessary hardship to the owners of the property. And hear and decide requests for special exceptions, much like what we have tonight, where the Zoning Ordinance allows for special exceptions. The Board consists of seven regular members and two alternates. An alternate may be called upon to participate when a regular member is unable to hear a case. The County staff is represented tonight by Mr. Doug Morgan, the Zoning Administrator in the back, Stacie Stinnette, and James Staranowicz. BZA hearings will be conducted in the following order, the Chair will ask the staff for the completeness of the application, the Chair will then ask the staff to read the case and members of the Board may ask questions of the staff. If applicable the Chair will ask the Board if there are any issues with BZA jurisdiction or appellate standing of the case presented. The Chair shall ask the applicant or the 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 other additional time is granted by the Board. Board members may ask the applicant questions to clarify or better understand the case. The Chair will then open the public hearing. 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 three-minute time limit for each individual speaker and a five-minute time limit for a speaker who represents a 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 of the application to come forward and speak. After all public comments have been received the applicant shall have three minutes to respond and provide closing remarks. We ask that each speaker present their views directly to the Board and not to the applicant or other members of the public. We require that the applicants, speakers, and presenters in the audience to act with a level of decorum and respect appropriate for a courtroom setting. After the applicants file a 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 to allow time for appropriate review the applicant or the applicant's representative is required to submit relevant material to the department of Planning and Zoning 10 business days prior to this 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 the

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additional material. Members of the public and or staff may also submit relevant material during the hearing. The applicant may withdraw his or her application at any time prior to a vote to approve or deny the application provided the applicant has not withdrawn a substantially similar application within the previous 12 months. Any person or persons who do not agree with a decision of this Board shall have 30 days to petition the Stafford County Circuit Court for a review of our decision. Also be aware that the Board will not hear any denied application for a variance or a special exception that is substantially the same request for at least one year from the day of our decision. I now ask that anyone who has a cell phone or other electronic device to please silence it. The Board requires 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? Say I do. Thank you, you may be seated. The Chair asks that when you come down to the podium to speak please first give your name and address clearly into the microphone so that our recording secretary will have an accurate record of the speakers. Also, please sign the form on the back table in the rear of the room, thank you. Are there any changes or additions to the advertised agenda?

Mr. Staranowicz: No.

DECLARATIONS OF DISQUALIFICATION

Dr. Larson: Now before I hear the first case does any Board member wish to make any declaration or statement concerning any cases to be heard before the Board tonight?

Ms. Evans: I do Chair.

Dr. Larson: Please.

Ms. Evans: I'd just like to make the declaration that Board member Dana Brown and myself went out to visit the applicant's residence on Sunday so we did a site visit.

Dr. Larson: Thank you, anybody else?

Ms. Brown: I just wanted to add to that yes, I did go in, I did speak with the applicant and his wife and they took us on the tour, the house was lovely, and it was on Sunday.

Dr. Larson: Anybody else?

Mr. Apicella: Mr. Chairman this is not a declaration but before we get started with the public hearing, again this is Steven Apicella, I would request the Board's permission to participate remotely tonight.

Dr. Larson: Thank you Steve. Do I have a motion for Steven's participation today?

Ms. Brown: I'll make a motion to approve.

Dr. Larson: Is there a second?

Ms. Evans: I second.

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Dr. Larson: Motion and second, any discussion? Those in favor say aye. Any opposed? Okay the motion passes. I will now ask the Secretary to read the first case summary.

PUBLIC HEARINGS

1. SE21-02/21153856 – Nicholas Wingert - Requests a Special Exception per Stafford County Code Sec. 28-35, Table 3.1, “District uses and standards,” A-1, Agricultural to allow a Bed and Breakfast as a business on Tax Map Parcel No. 39J-3-28. The property is zoned A-1, Agricultural, located at 148 Falling Creek Drive, within the Aquia Election District.

Ms. Evans: Board of Zoning Appeals is to consider a request for a special exception to allow a bed and breakfast as a business on Tax Map Parcel No. 39J-3-28. The property is zoned A1, Agricultural, located at 148 Falling Creek Drive. Bed and breakfast uses are only permitted with the approval of a special exception granted by the Board of Zoning Appeals. The applicant is requesting a special exception to operate a bed and breakfast on the property. The definition of bed and breakfast is a commercial enterprise housed in a building primarily designed as a single-family residence where rooms are for rent, typically on a short-term basis and at least one meal a day is offered to overnight guests and where no more than 10 short term lodging rooms and meals served family style are provided. The operator of the inn shall live on the premises. The existing single-family dwelling is 7,746 square feet comprised of three floors per the Commissioner of the Revenue records. The applicant states 4,673 square feet will be utilized for the bed and breakfast. The basement is mostly finished and comprised of a game room, theater room, and bathroom but will not be utilized by the guests. The applicant has requested the days and hours of operation to be seven days per week, 24 hours per day. Per staff from the Virginia Department of Health, currently their plan review has been approved. I have not yet received the application for a hotel operation permit or the pool plan review application. An inspection is required for the bed and breakfast to receive both their lodging permit and approval to operate the pool for transit guests. Approval from Stafford County Planning and Zoning will also be required to receive their permit. The existing on-site sewage disposal system is currently safe, adequate, and proper to be able to serve a four-bedroom house with a total of eight occupants. The zoning history, the single-family dwelling was constructed in 2007, the current owner purchased the property in May 2013, the Board of Supervisors changed the code to allow for bed and breakfasts in the A1 zoning district on October 1, 2019. Prior to the adoption of this ordinance, bed and breakfasts required conditional use permits. The applicant was issued a notice of violation on July 20, 2020 for operating an Airbnb. Airbnb uses are defined by the Zoning Ordinance as bed and breakfasts, staff met with the applicant regarding applying for a special exception, the applicant requested several extensions as he was having issues obtaining a permit from the health department regarding his septic. Furthermore, the applicant was advised to cease operation of the Airbnb. As of April 27, 2021, the Airbnb website was still in operation with the most recent review of January 2021. The subject property is located on the south side of Courthouse Road, the perimeter of the site is heavily wooded, there are no wetlands or flood plain that would limit the use of the property. The site does have critical resource protection areas but does not affect the use of the property. Surrounding the site on most sides are single family dwellings or large tracts of land consisting of three acres. That’s it.

Dr. Larson: Are there any questions for staff? I have a question for staff. The violation was issued on the 21<sup>st</sup> of January, 21<sup>st</sup> of July I’m sorry, my question is were there any violations prior to that?

Mr. Staranowicz: Not that we’re aware of.

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Dr. Larson: Okay, it says the, the summary says the site has a critical resource protection area but that does not affect the use of the property. What is the, where is the location of the CRPA? Is that not near the house? I didn't see anything on the map.

Mr. Wingert: *Inaudible*.

Dr. Larson: Are you the applicant? Please do. And your name and location please.

Mr. Wingert: My name is Nicholas Wingert, sorry-

Ms. Brown: I think they need to do the oath.

Dr. Larson: Say again.

Ms. Brown: I think they need to do the oath before they speak.

Dr. Larson: They haven't done the oath?

Mr. Wingert: I thought that was for the other-

Dr. Larson: Okay, okay, let me give you the oath okay. Okay do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth.

Mr. Wingert: Yes.

Dr. Larson: Okay all we need right now is just the answer to the CRPA question.

Mr. Wingert: So, the property backs up to Accokeek Creek and 100 feet from the creek on either side is the RPA line and so within that zoning you can't do any building.

Dr. Larson: So that's at the rear of the property?

Mr. Wingert: That's at the very far rear, yup, down about 50 feet down in elevation.

Dr. Larson: Okay. Thank you.

Ms. Brown: Mr. Chairman?

Dr. Larson: Yes?

Ms. Brown: I did have a question for staff and I was wondering, should we read the other page into the record of the staff report about how we would grant the special exception?

Dr. Larson: I don't think that's necessary to read every time.

Ms. Brown: Okay because it's got different stuff in here, but I had a question about that.

Dr. Larson: Go ahead.

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Ms. Brown: Okay and it's for staff it was number six, it says the use shall be in accord with the purpose of this chapter and the Comprehensive plan for the County. I wasn't sure what that exactly meant, I looked at the Comp Plan and it looks like that's an A-1 area and this is a use in there for special exceptions so I'm assuming that it complies with the Comp Plan is that correct? Okay thank you.

Dr. Larson: Any other questions for staff?

Mr. Apicella: Mr. Chairman?

Dr. Larson: Go ahead.

Mr. Apicella: So, I'm reading page three of seven, that second paragraph. You mentioned or asked a question about the notice of violation on July 20, 2020, if there were any violations before that time, my question would be what happened after that time? I see a sentence here that says the applicant was advised to cease operation of the Airbnb, as of April 27, 2021 the Airbnb website was still in operation with the most recent review, I assume that means Airbnb review, being January 2021, so do we know what happened with this site and its uses after July 2020?

Dr. Larson: Could the staff explain? Go ahead Doug.

Mr. Morgan: Yes, it is normal protocol once the notice of violation goes out we do have contact with the property owner, we've had contact through email and telephone calls with the owner in order to get him to apply for a special exception. That is our main course of action here is to make sure that they comply with the code and letting them know that they're under violation. He'd been into the office several times and had filled out paperwork and had been advised that his application needed to be submitted and completed and we did work with him on that time and it did take him some time to get into the office to finalize everything he needed for his application so while he was working on that, staff did accommodate his extension needs.

Dr. Larson: Okay so I understand their having no fines that associate with the violation.

Mr. Morgan: Fines would be assessed once we proceed to court, those fines that you see under the Zoning Ordinance would actually be once they are found guilty in the court of law.

Mr. Apicella: So, Mr. Morgan, before you go, again I'm just trying to connect some dots here. When were they advised, what dates or around what date were they advised to cease operations?

Mr. Morgan: Formally in writing on the notice of violation date.

Mr. Apicella: So, in July, on July 20, 2020?

Mr. Morgan: Correct.

Mr. Apicella: And based on your review of at least Airbnb, you see that there may have been some additional activity and/or rentals from that period through January of 2021?

Mr. Morgan: We did see that there was some activity on the Airbnb website, again Airbnb is just a name for where they advertise, they're actually a bed and breakfast under Stafford County Zoning Ordinance definition and guidelines under the A-1 district so under where they advertised was where we were able

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to locate what the activity was so those activities currently show posts and feedback from people who have stayed or had apparently or appeared to have stayed on the premises. That information is still available on the website.

Mr. Apicella: I guess what I'm getting to is based on your review of Airbnb, did it appear to you based on the reviews that you saw that they continued to have guests despite the notice to cease and desist?

Mr. Morgan: Yes, sir that was the appearance to us and that's why we continued to reach out to him to get him to apply for a special exception.

Mr. Apicella: Thank you.

Ms. Evans: I have a question.

Dr. Larson: Go ahead. We'll wait for the public hearing. Go ahead Kecia.

Ms. Evans: One of my questions is for staff. Was this ever zoned as a by-right use?

Mr. Morgan: Yes, in the previous Ordinance there was some confusion there whether it required a conditional use permit or was approved by-right use. By-right use as you see in any zoning district are uses that are allowed in that zoning district but they do need a permit for those uses. As you see in the A-1 district, you're allowed to have a single-family detached dwelling, you still need a permit for that, same with any other use and any other district, but yes ma'am it was a by-right use in the A-1 zoning district.

Ms. Evans: Would that be lay knowledge, like anybody would know to get a permit even though it's, they're thinking that oh it's by-right use. Would they know to get a permit?

Mr. Morgan: Customarily people do call into the office, they would call into the office whenever they're establishing a business and they live in a single-family residence, sometimes we don't so I mean we do have instances where people were not aware of those situations and we try to be very lenient, we try to be very business friendly and you know for the citizens of Stafford County, we reach out to them, that's why I noticed the violation went out and we tried to work with the applicant, like we would any resident and any home owner and give them the advantage to come in here and apply for special exception, unfortunately this one took seven months.

Ms. Evans: I'm assuming that's due to Covid?

Mr. Morgan: There were some other hang ups, I don't know exactly what the reasons were for that. Our office was fully functioning and fully operational and we have gone to completely automated systems so everything could be handled over the phone and electronically so our office has been functioning at full force every since March 23 of last year when we were under strict guidelines.

Ms. Evans: So, it's accurate to say that they had the capability to obtain the permits.

Mr. Morgan: According to our office, and our process and procedures, yes ma'am we were fully functioning.

Ms. Evans: Okay, thank you.

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Dr. Larson: I had one more question for you Doug. The summary says that the applicant was advised when they got the violation to cease operation of the Airbnb, just to confirm what I think you said before, did you know whether or not that actually happened? Or did they cease the operation of the Airbnb?

Mr. Morgan: It was apparent from the Airbnb website that it had not.

Dr. Larson: Okay, I just wanted to confirm what you said. Okay, thank you. Any other questions for staff? Okay thank you staff. Is the application for this case complete?

Mr. Staranowicz: Yes, it is.

Dr. Larson: Okay, thank you. Okay I would like to open the public hearing at this time. Will the applicant or his or her representative please come forward and present their case.

Mr. Wingert: Good evening Supervisor and staff, thank you for your time. My name is Nick Wingert and I have lived at this residence for eight years now. I've served four years in the Marine Corps, Marine Corps infantry, I have, since then I've support U.S. embassies and consulates overseas and I have plenty of scars and even contracted malaria overseas serving our country so I'm, I do, I'm a patriot and I am a good citizen. I try to, I try to follow all laws and everything that I can to the best of my ability and some of these things I just want to mention as I was hearing this, there was a lot of confusion for this violation that we received. I just want to touch on this before we go too far while it's fresh in our memory, the violation that we received was for operating a hotel, not a bed and breakfast, that was the violation. And so, from that point forward there was a lot of confusion as to what we needed to do to rectify the matter and we believed that what we needed to do was not upset the neighbors, not have anymore violations while we worked through this matter with multiple extensions. Initially we thought that it would be just one month. It turned out that because of Covid, and the lack of company, because there was only a limited number of companies that could work with septic systems, that we couldn't actually get the, do the digging and do all the site, the testing that needed to be done. The problem was, the root of the problem was that when this home was built in 2007, the builder did not have, and the County did not have the septic system inspected, so it did not meet the size of the house. So, we learned and discovered through this that we're in a house that isn't actually a five-bedroom house even. So, we've been working through that to try to solve that. I personally work full time and barely make ends meet on most occasions, I decided to do the bed and breakfast, three years ago in 2018 after I divorced from my previous wife. I have three kids. I pay child support and alimony and I've never missed a payment. I have, I've been trying to get this, trying to do this mainly to make ends meet. I'm not greedy, just trying to make this work. I couldn't sell the house at that time because, when we divorced, because the, well it was worth less at that time three years ago. Couldn't even sell it without having to owe money. So, doing the bed and breakfast, by right, I thought at the time when I was pretty busy, and it was an oversight trying to get this, trying to do this, you put this business together, and during that time in the first two years I had nearly 600 bookings. These were good bookings and I did not affect my neighbors in any way. There were never any complaints. I did everything as best I could. So anyway, that's sort of, that sort of rings us to where we are now, we have this bed and breakfast, we're in Stafford County, we get 10,000 google searches each month for Stafford and bed and breakfast. I think they're-, yeah go ahead.

Ms. Wingert: I just want to add and clarify something with regards to the statement as of April 27, 2021 that Airbnb website was still in operation with a most recent review of January 2021, so I just want to clarify because it does get really confusing, even for us, we are not an Airbnb, we are a bed and breakfast as this gentleman has stated here and it is still up, our listings are still up and the reason they are still up is because we want our reviews, like Nick has said several hundred guests in the last three years, that's

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almost 1,000 people that we've accommodated at our bed and breakfast. Keep in mind that we started this in 2018 when it was by right, we had no idea it was a permit, I'm sure Eileen can explain to you how many questions I've asked her, probably bombarded her because I've been so confused about this whole thing. So back to the statement about the Airbnb website, our listing is still up and it's because of the reviews. No we have changed the setting so that we are no accepting transient guests, in fact we have received multiple messages saying hey for some reason we can't book with you guys but you're still up here and I just said you know it's a minimum of 30 days which no one I'm sure is gonna pay 200 bucks a night for a minimum of 30 days but we keep it up so our reviews are still with our listing, we don't want to lose that because we worked so hard to do that. So, if you try and book with us on Airbnb you can maybe leave us a message or you know have a minimum of 30 days so I just wanted to clarify, to clarify that statement. Thank you.

Mr. Wingert: So, one of the concerns that I believe my neighbors have that is mostly the speed of vehicles driving in our street. I've lived there for eight years, most of the traffic into our street, and we live at the end of a cul-de-sac, most of it is neighbor traffic, just neighbors, however there's the Sunday drivers, there's the high school students that like to do donuts in front of my house, there's people who are just, they're just checking out, there's an 11 acre property right next to mine so they race, they zip into the neighborhood, it's a 25 mile an hour speed limit and then they leave and often they're exceeding the speed limit, there's some rolling hills. So, I know that my neighbors are upset that there may be high speed traffic but it's not, it has never been more due to my guests than it has been to even our neighbors. If you just from your own personal experience if you're looking for an address that you've never been to you tend to slow down and try to find the address, you're not racing. So, a lot of these people that are speeding are familiar with the neighborhood and exceeding the speed limit, not necessarily transient traffic so that's another issue that I just wanted to address. And then of course we have some neighbors that drive golf carts and ATVs in the street which is not legal and not necessarily safe but that happens as well but it's not necessarily guests that have been an issue so I just wanted to clarify that because I know that's a concern that my neighbors had.

Ms. Wingert: I'm just gonna add one more thing, back to the statement about being in operation, we were actually, we actually ceased operations back in September because I got pregnant, I just had him two weeks ago, and we're hoping to, hoping, we're not sure if we can go back to operating again, but I assure you we are not operating during that time, especially because of Covid and we didn't want anyone else except for my mom and just a few family members to come by, especially when I was pregnant.

Mr. Wingert: Are there any questions? I can make a closing statement or...

Dr. Larson: Sure, no we'll have time for that later, are there any questions for the applicant?

Ms. Evans: Yes.

Dr. Larson: Go ahead Kecia.

Ms. Evans: Hi, how are you. I have several questions for you. So, one question that I want to ask you is about the ad that's on the Airbnb website. You say minimum of 30 days stay, so explain to the Board again why is that, because 30 days that's really not a bed and breakfast, that's basically someone occupying the home that's renting I would think.

Ms. Wingert: Yes, ma'am so the reason why I just changed the setting from what we had regularly which was the transient to the 30 days is because we didn't want to lose our reviews, we didn't want to delete



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our account and we didn't want to bring it down because of two reasons. If I would've just put it down then we would've lost our google ranking and that took years to do so for example, if any of you google best bed and breakfast in Stafford, we're in the top three out of at least 50 listings, we're in the top three bed and breakfasts in Stafford and that has to do with a lot of the reviews on Airbnb. So, if we were to say hey let's put it down then all those, all, let's see it's called, this is gonna sound funny but it's called link juice, links are what google sees as, what's the word, not verified but...

Mr. Wingert: Authorized?

Ms. Wingert: Authorized, thank you, authorized. It has a lot to do with our google ranking and unless we ceased to operate I didn't see a reason to put it down. Again, you can try to book but you can't book, we're just ranked, we're up there but we're not taking any bookings.

Ms. Evans: Okay, my next question to you is that, I guess have you filed the application for the pool plan review?

Ms. Wingert: So, we, I actually went to the Health Department today and went to go submit it to Eileen again. When she sent it, I got into labor and I didn't see it and I had an emergency c-section it took me like three to four weeks to even get back to everything and I know that's probably not a good excuse because I can look through my emails but I just, I was not, I did not see it. I think I emailed her a week ago, or yeah about a week ago and asked her about the permit and she stated to me Sharon, I sent that to you on the 15<sup>th</sup> of April, 15<sup>th</sup> of April and then I went to her again today and she said that we can reconvene on the pool plan review because I did send her the lodging permit review but the pool plan review I sent to her, I went to meet with her today about it and she said that we can move forward if this were to be accepted.

Ms. Evans: And my last question for right now, can you let the Board know about the parking? Because when I look at the pictures and I know when I went to your property you have a long driveway, and then you have like a circle driveway and then off the circle you have the shaded area, can you explain to the Board if this was to get approved where would the guests park? Where, how are you, I guess are they gonna park on the street, explain the parking to us.

Mr. Wingert: So, no parking on the street, and there are five parking spaces in gravel in the shade that are lined up near the turnaround circle that's inside our driveway, not the cul-de-sac turnaround circle. So, they're up near the building and they're out of view from the neighborhood, they're out of sight and nearby the house.

Ms. Wingert: We state on our description that there's absolutely no parking, we actually state on our description that if you are to park in the street your car will be towed. We know that's not going to happen, but we just say that just to ensure that no one tries to deviate from that rule.

Ms. Evans: Okay and I'll wait for my other questions.

Dr. Larson: Dana?

Ms. Brown: I had a couple and I wanted to show them something, is it okay if they come up or I go down?

Dr. Larson: Yeah, either way.

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Ms. Brown: I had asked for a copy your building construction plan and I just wanted to ver-, have you look at it and just verify this is your house, but if you wouldn't mind. And I ask because it looks a little different from what I saw and maybe I'm not reading the map right. Okay so this is not how yours is, it looks a little different than what I saw, how many bedrooms do you have total?

Dr. Larson: Could I ask you to step back to the microphone and sort of retrace, just give your answer again to the first question and then continue.

Mr. Wingert: Okay so there are five bedrooms-

Ms. Wingert: He wants to know the answer to her question which is is that-

Mr. Wingert: Okay this is not the correct floor plan for our house, the floor plan does not exist on file with Stafford County, neither did the, well the septic plan did but it was never compared with the house so there were a lot of things that didn't happen in 2007, my understanding from the Health Department is there was about a two-year period where a lot of things weren't happening.

Dr. Larson: Okay and then the next question was?

Ms. Brown: How many bedrooms do you have total?

Mr. Wingert: So, there are seven bedrooms total, five bedrooms on the top floor, and two bedrooms in the basement and then there's other rooms like an office, a sunroom, and some other spaces.

Ms. Brown: Is everything permitted in the house? All the bedrooms? All the extra bedrooms?

Mr. Wingert: Yeah, everything is, well it's not permitted, most of it was constructed before I moved in so I just did finishing on the walls and things like that, putting flooring down. So I couldn't tell you but my guess is supposedly not.

Ms. Brown: Okay so you didn't build any of the bedrooms? You just finished them?

Mr. Wingert: Just drywall, just putting up the drywall from the framing and things that were there.

Ms. Brown: So it was already framed when you moved in? Okay. So, you didn't get any electrical permits or plumbing permits for bathrooms or anything like that?

Mr. Wingert: No.

Ms. Brown: Okay, and I could be wrong I apologize if I forgot what you said, I think you said something when I was there about you registered with the County as a bed and breakfast back in 2019.

Mr. Wingert: So, I registered as a business, as a bed and breakfast in 2018 and that's, I registered and I've been paying the transient occupancy tax-

Ms. Brown: That was the next question.

Mr. Wingert: -of five percent and the business taxes, so I've been out in the open with what I'm doing, I just did not have the permit.

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Ms. Wingert: In 2018 it was by right and we were not aware that we needed a permit, in fact after we submitted the site review we didn't even know you needed a permit until Eileen communicated that to us, so this is very, this is all new information.

Ms. Brown: One of the things, I did look at your website, you do have very high reviews, but you have not operated since September, correct?

Ms. Wingert: Right.

Ms. Brown: One of the reviews and I don't remember when it was, they admired your overlook point out to the creek in the backyard, I think you called it a deck I kind of call it a treehouse deck I'm not sure what to call it, do you have a permit for that?

Mr. Wingert: There is no permit for that, my understanding when I was looking into it is that because it has no footings there's nothing that's uninspectable, tree houses are fully inspectable and there's really no building code for tree houses.

Ms. Brown: Do you know how many people it can hold, I mean would there be... I've seen a lot of deck collapses on the news recently.

Mr. Wingert: So, the plan I got from tree house masters, so it's built with the hardware and everything that the professionals are using.

Ms. Wingert: How many people can it hold?

Mr. Wingert: I don't know if it had a number, I could probably find out from, because they have an engineer that designed it.

Ms. Brown: Yeah, I was a little apprehensive about going out there, it has the little fire, I don't want to call it a fire pit but like a-

Mr. Wingert: A little gas propane-

Ms. Brown: Gas, propane, yeah. Okay, and then how many guests do you usually have per week, on average?

Mr. Wingert: It's hard to say, when Covid hit, it went down to nothing, so prior to Covid I could have easily three guests a day.

Ms. Brown: And my most important question I want to know is what is the longest stay? Do they stay one night, five nights, or do you let them stay longer than five, ten, twenty?

Ms. Wingert: The longest stay we've had is one week and we've had one guest book a week.

Ms. Brown: So most of them are less than a week?

Ms. Wingert: Yes.

Ms. Brown: Okay, that's all I had right now. Mr. Chairman?

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Dr. Larson: I just have one follow up question. You mentioned seven bedrooms, presumably some of those are occupied, how many bedrooms would be available for guests?

Mr. Wingert: So, so not counting us, so there would be up to five but not all at the same time. Depending on their needs, two of the bedrooms have bathrooms, sometimes they don't want a bathroom so they'll rent one of the other rooms that has a shared bathroom, they may just be passing through Stafford and they don't need much. Or they're staying longer and they do want the bathroom, so it's and then after they leave if we don't book it the next day that gives us a day to clean it so that we don't have to have them all booked all the time so it can be a sort of a... just trading off between rooms.

Dr. Larson: Right so when you say five available bedrooms but not all at the same time, does that mean it's your plan to rent somewhat less than five bedrooms at one time. Say four or three or what-

Mr. Wingert: Probably three at a time because of that way that we have to do it until we correct the septic issue, it's going to be fewer bedrooms until we can address that.

Ms. Wingert: So, we just keep the options open and then when one is booked we just don't book the other one because in order for someone to book we actually have to see their request and then accept it so it's not just an instant booking thing, they actually have to request to book and then we have to accept that booking, there are controls.

Dr. Larson: I just have one other question and then I'll ask the Board again. So how many permanent residents are in the house now? I assume three based on what I've heard.

Mr. Wingert: Her and I and our newborn.

Dr. Larson: Okay, thank you. Any other questions for the applicants?

Ms. Evans: I just have a follow up question.

Dr. Larson: Go ahead.

Ms. Evans: In reference to the tree deck, I did go out on there but can you describe to the other Board members basically how high it is, what materials you used to build it and so forth?

Mr. Wingert: So, it's 10 feet at the platform from the ground, so it's 10 feet and then it has the standard rails that you would have on any deck so it meets deck codes, building codes for decks for safety.

Ms. Evans: Standard rails meaning?

Mr. Wingert: Yeah so, the 36 inch you know handrails that you can't climb over, so it's built to the same deck standards that you would for any home deck as far as what you're, safety wise where you stand. Beneath it has pressure treated four by six timbers that are in, it's called a tri-beam, two tri-beams and then some cantilevers that are mounted with very hefty steel, stainless steel hardware into the tree and these are hardwood trees so they mount in and the interesting thing about any tree house is the trees, and you've probably seen a nail where there's a nail pounded into a tree and then it grows over it, so the hardware actually gets stronger over time on tree houses, the footing, the points that they connect to the tree get stronger, so it's pressure treated, it's gonna last 50 years like any deck.

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Ms. Evans: Okay, and so you did say its 10 feet off the ground?

Mr. Wingert: Mhm.

Ms. Evans: And not one inspector from Stafford County came out to inspect?

Mr. Wingert: I did a lot of research, there is, just in general across the United States, there are no counties, or there really aren't any inspection building codes for tree houses so people build them and so long as you keep them under 13 feet they're usually not any issue.

Ms. Evans: But do you consider it a treehouse or a deck? I know when we talked you said deck.

Mr. Wingert: As a tree house with nothing that you climb, because it just comes right off the rock face cliff that we have.

Ms. Evans: Okay.

Mr. Wingert: So, there's no climbing, no steps, no, it's just right there off of the-

Ms. Evans: So, when I came down there were steps...

Mr. Wingert: Oh, steps up to the house-

Ms. Evans: Right there were steps going down to the tree house.

Mr. Wingert: Okay so those were stone blocks that were put into the side of the cliff.

Ms. Evans: And who did that?

Mr. Wingert: I did that. But that's a few feet back from, that's on a rock face, so there's no... and it's three steps, so it's beneath the, I think it's 122 inches, it has a hand rail and it's just three little steps that are stone on stone.

Ms. Evans: Okay but getting to the tree house, it's the stone steps that I'm talking about. You have three little steps, right?

Mr. Wingert: Up closer to the pool?

Ms. Evans: Yes, going into the tree house, like how would your guests get into there, like how I did they would go that same path?

Mr. Wingert: They'd go down those three steps and then they walk another six feet to the deck and then they walk and then there's that.

Ms. Evans: Okay. That's the end of my question for that one.

Dr. Larson: Okay having, I did not visit so I'm just a little confused, is the tree house attached to the house? No?

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Mr. Wingert: It's about 60 feet away from the house.

Dr. Larson: Sixty feet, okay.

Mr. Wingert: Past the hot tub, past the pool, there's a paver pathway that takes you there and then the three steps that take you down to the rock face and from there you step onto the platform.

Ms. Wingert: We call it an outlook platform.

Dr. Larson: What is the tree house normally used for?

Mr. Wingert: Nature. There's a creek right there, so you walk out and then you see the elevation drops off from that point about 50 feet down to Accokeek Creek so there's, if you're a birdwatcher or you want to watch deer pass through you sit there and you just have a bird's eye view of everything.

Dr. Larson: Is there any furniture in the tree house?

Mr. Wingert: Just the little light weight chairs, about 20 bucks from Lowes.

Ms. Wingert: And then we have these two, what are they called, they're not fire pits because that's not right-

Mr. Wingert: They're propane fire pits that you can sit in front of-

Ms. Wingert: A little fire that you can sit there at night.

Dr. Larson: Okay, any other questions for the applicants?

Mr. Spinnanger: I have some questions. So, can you explain a little bit more about the septic issues, so right now you have a seven family, a seven-bedroom home; however the septic system as you read it here is four bedrooms and eight occupants, right? So right now, that constrains you rather substantially. But you mentioned earlier that you were going to, you're taking some steps to remedy the septic issue, could you explain that further?

Mr. Wingert: So, the, so I have three drain- or three pipes in the drain field. Each pipe handles 150 gallons per day, so that allows for 450 gallons, so it pretty much prevents, so we need one more drain pipe to get to 600 gallons which will allow for a six-bedroom house. The problem is finding just the right type of perc for that drain pipe. Now it's a four-acre property, there's some digging, we have to look at the other side-

Ms. Wingert: Because there's 11 acres next to us and we're getting, we might have to talk to the builder about it because the builder who built our home is the same one who owns the property adjacent to us so with the condition-

Mr. Spinnanger: So, I guess the reason for my question and thank you for that, is so because right now it makes it seem like right so we're doing a little subtraction here right so the eight occupants, there's three in there so that would have us say that you know the maximum number of you know folks staying in your Airbnb would be five additional, however right subject to the remedy of the septic system, that number would actually go up to six bedrooms and some number greater than five right, not counting the

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three of you all, so I guess that, what is the total, do we know for a six bedroom house what does that change the occupancy, is it based on the number of rooms or is it based on square footage, what could it go up to, right and so if you get back to the boom times how many tenants could, how many renters could you have at any given time?

Mr. Wingert: It's probably, it's if we, it's going to be at most six bedrooms, so at most 12 people in the house.

Mr. Spinnanger: Twelve additional?

Mr. Wingert: Twelve total people.

Mr. Spinnanger: Okay so three, 12 minus, okay so three minus so essentially nine, math in public I apologize it's been a long day, but so nine additional folks in the home at any given time, you know-

Ms. Wingert: That would be the maximum occupancy.

Mr. Wingert: We generally get a lot of people that are families or traveling together and so they would rather stay at a place like this then at a hotel and so...

Mr. Spinnanger: Okay, thank you.

Dr. Larson: Any other questions for the applicant?

Mr. Apicella: Mr. Chairman I'm gonna springboard off the last questions, so that makes, that's kind of complicated for us because I see a permit, a sewage disposal system permit dated April that's from VDH that says you're gonna be limited to eight occupants in the home each day including guests and other family members, that's the current state so we can only drive two conditions based on what exists now in the absence of knowing for sure that those changes that you're talking about are in place, so I'm not quite sure...

Mr. Wingert: So, I guess we would ask that if we could add more and get approved by the Health Department for additional, being able to support additional occupants then we would go to that level of 12 occupants.

Dr. Larson: Let's uh, we'll discuss that as a Board after there's a motion or after we've finished with the public hearing.

Mr. Apicella: I'm just curious though before we do that Mr. Chairman, did the Virginia Department of Health tell you that based on the flow, that and what you're saying are gonna be the changes that that would accommodate 12 people, where are you getting the 12 people from?

Ms. Wingert: That would just be our maximum based on the rooms because we're not, I mean you have a maximum of two people per room, we're not gonna put more than two people per room-

Mr. Wingert: And my understanding from talking with the with those that are in the Health Department and with the septic, four drain pipes can allow for up to six-bedroom pump.

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Dr. Larson: Right I actually think we have somebody that's an expert in the septic area here to testify so we can ask that question.

Mr. Apicella: Thanks Mr. Chairman.

Dr. Larson: Any other questions, any other questions for the-, go ahead.

Mr. Ireland: So, I just got a couple for now and is the property ADA compliant? Americans With Disabilities Act.

Mr. Wingert: Yes, it is.

Mr. Ireland: It is? It's been certified by somebody?

Mr. Wingert: It hasn't been but everything that, all the hand rails, everything, they were turned in properly and um...

Mr. Ireland: So... I'll get to this later I guess but is a bed and breakfast under the same rules as sort of like a hotel where you have to have safety inspections because I go back to the deck/treehouse whatever that is, if you have more people out there you're just not-

Mr. Wingert: I honestly, I don't know, everything that we're doing we're learning as we go.

Mr. Ireland: No, I know but, I love your enthusiasm and your wanting to do this that's exciting I can tell, but you're really, you're putting potentially people's lives in danger for some of this stuff so that's why we have these experts that go out and do the inspections, I'm preaching to the choir you guys know that.

Ms. Wingert: Yeah, so I spoke to Eileen and there will be an inspection obviously if you approve then we'll have an inspection, I believe we do hold the same standards as a hotel and I know that we are prepared to be inspected as one, as ADA compliant and everything else so-

Mr. Ireland: So let's go back to what the Board member just mentioned on the website here, on the call, it seems like you're asking for us to approve things, that you don't have everything set up yet, it's almost putting the cart before the horse, you have to have these things in place I would think before we can approve it, I'm just saying that I'm not expecting a response, I'm just letting you know that it's gonna be hard for us to say yes you have all this but you promised us 20 different things but who's gonna keep track of that and who's gonna enforce it, I just say that because it's gonna be difficult but be thinking about that as we sort of talk later on where we're coming from.

Ms. Wingert: One hundred percent and thank you for clarifying that. I do want to clarify that we are requesting to be approved for an eight bedroom, not for a 12, if it does come to that we would have to come back to you and do this all over again with our neighbors and everything else, we do understand that so we're not asking to be approved for a 12 but an eight as we are, as our plan was approved by the Health Department, so thank you for clarifying that.

Dr. Larson: Yes, that is the application, we'll consider the application for sure, this other, sort of a secondary discussion we may have, we will have it at the right time. Any other questions for-



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Ms. Evans: I'm sorry, I just have one I want to piggyback off what he said about the ADA. You said that you're ADA compliance but when I went there can you describe-, like besides the hand rails how would someone who's in a wheel chair get into the home?

Mr. Wingert: So when I initially started doing this back in 2018 my, and I'm not sure who it was I was speaking with the County at the time, the, so long as you don't have any bedrooms on a ground, on the ground floor and everything requires people to step up and to up to another floor, as long as everything is like that on separate floors than you don't have to have ramps and things like that in the house. As long as it's known that they are on different floors and nobody can walk straight in to a room. Is that, I don't know, maybe I'm not answering the right question.

Ms. Evans: I guess I'm just a little bit confused let's say if I, I'm in a wheelchair how would I get to my bedroom or how would I even get into your home period.

Mr. Wingert: Right so that's the point that I got clarification on too in 2018 is that you don't, you're not required to make it wheelchair accessible to the upstairs floor so long as there were no bedrooms on the first floor.

Ms. Evans: Right I'm just talking about just getting into the home, how would, where's the ramp to get into the home?

Mr. Wingert: There is no ramp, my understanding is I didn't, from my communications when I started doing this, I didn't need to have a ramp to be compliant or meet whatever standards.

Ms. Evans: Okay.

Mr. Spinnanger: So, are you, can I clarify? Are you saying that nobody with a wheelchair is going to be able to stay at your property?

Mr. Wingert: Correct.

Mr. Spinnanger: Okay, thank you.

Mr. Wingert: So long as I make that clear to guests, then it's okay and that's the way a lot of bed and breakfasts are, they're older homes, they're just not ever going to be to that standard.

Ms. Wingert: For it to be wheelchair accessible we'd have to put an elevator in our home because all the rooms are upstairs.

Ms. Evans: Okay, thank you for the clarification.

Dr. Larson: Okay we've gone a lot further than 10 minutes but it's mostly our questions that have driven that, are there any other questions for the Board?

Ms. Brown: That was my question, I wanted to know how I would get upstairs because I didn't see an elevator, and how to get out to the pool or any of those things. Okay, she had my, my back on that.

Dr. Larson: Any others? Okay thank you very much, you'll have another opportunity to speak.

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Mr. Wingert: Okay thank you.

Dr. Larson: Okay so now we're looking for public comments, first we'll ask for any member of the public that wishes to speak in support of the application those of you that oppose will get your opportunity afterwards so does anybody wish to speak in support of the application? Come forward sir. And sir I don't think you took the oath earlier you may not have been here I'm gonna have to administer that.

Mr. Inge: I can take the oath now.

Dr. Larson: Okay. Do you hereby swear or affirm that all testimony before this Board shall be nothing but the truth?

Mr. Inge: I solemnly swear.

Dr. Larson: State your name and address please.

Mr. Inge: My name is Clarence Inge. I live just down the street from Mr. Wingert. I'm in favor of course, I think it's very ingenious in this time and day that folks want to try and make a living and I'm in favor of that so thank you for doing that. We did have a concern. Last year we had an incident and explained it, we accepted it and we moved forward. I'm recommending that pending the septic tank upgrade, I'm recommending that they, you, the Board supports free enterprise. You know it's, this is the American way. He hasn't infringed upon my rights. The incident that happened, he explained it to my satisfaction and I'd recommend, my wife is here she's in the back, she's in a wheelchair, the septic tank issue they could remedy that, it's time for it and I'm recommending that subject to that, you know that you allow them sufficient time to do that, they're private citizens and I support free enterprise so I'd recommend that we support that. I do and my wife does also so thank you very much.

Dr. Larson: Thank you sir, any questions for this witness. Seeing none would anybody else-

Ms. Brown: I have one.

Dr. Larson: Go ahead.

Ms. Brown: I'm sorry sir, would you mind coming back?

Dr. Larson: We have a question for you sir.

Ms. Brown: I apologize, I wasn't fast out of the gate on that, you said there was an incident about a year ago, what was the incident?

Mr. Inge: I guess it was... the guest had false pretense that they rented the place out and we've had a couple incidents where people came to the wrong address and they were very polite and stuff and but this particular incident, there was a lot of cars, I thought it was some kind of graduation party and stuff like that, right after there was a lot of traffic, they weren't disorderly until one sob decided to do some spinning off and out of there 30, 40 people that were there, for one person to spoil it that's just not right and so that was one incident, I think 2018 or something like that. One incident and one monkey shouldn't stop the show.

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Ms. Brown: I appreciate you clarifying that, thank you very much, I didn't have anything else.

Dr. Larson: Any other questions for this witness? Thank you, sir. The applicants will get a chance to answer that more thoroughly later on. Are there any other people that would like to speak in support of the application? Seeing none, if any member of the public wishes to speak in opposition to the application please come forward. State your name and address please.

Ms. Ellis: Hello, my name is Kathy Ellis and I strongly oppose the granting of a special exception. I'm the one who I think kind of got this started by sending an email to the Zoning staff back in July and I've been in constant contact with them probably on a monthly basis and I'm glad to, I only have a few minutes to talk, I wish I had as much time as they did but definitely the neighbors are affected by what's been going on with the bed and breakfast. The special exception is supposed to be granted if the use doesn't change the character of the development. If the use doesn't adversely affect the neighboring properties. If the use doesn't affect the safety of the persons residing in the neighborhood. It's a small enclosed residential neighborhood. We all chose to live in this neighborhood for privacy, for security, for tranquility, we purchased our home on the street thinking our kids could play in the yard, in the street, and we are now faced with substantially increased traffic on the street from the b and b. Last summer, this is the incident that was referenced, last summer brought weekly events at the b and b like the one last July 5<sup>th</sup> is when it was. It was attended by hundreds of people, cars were parked all the way to the entrance and people were walking through yards. The police were called by several residents to help maintain the peace, trash was everywhere and over the last year the closest neighbor, Sarah Dowd, has had strangers mistaking her home for the b and b, walking around the back of her home, and even walking into her home. I'm sure she's gonna have a lot more to say about this by the way. Living down the street from the bed and breakfast that rents out several different rooms on a daily basis and offers itself as an event venue, or at least used to, goes against the character of our neighborhood and it has already adversely affected the neighboring properties and it affects the safety of the residents. I think they even mentioned that they have, what did she say, hundreds a year, thousands now, she's mentioned how many people they rent to, imagine in your nice little neighborhood you live in, next door to you or a couple doors down like in my case is a hotel and that's what you're next to at this point. Clearly the petitioner has not met the criteria for granting of a special exception and if you grant a special exception now it'll set a terrible precedent. What will stop any other resident in our nice subdivision from setting up their home as a b and b moving forward. It would destroy our wonderful quiet neighborhood. And just quickly, why was this resident when it started in July 20<sup>th</sup>, why was this resident never taken to court or why was the b and b never shut down, I followed it, I followed it on a monthly basis, as of January they still had, January 2021 reviews, people reviewing had a wonderful stay or whatever they say, so obviously regardless of what the staff the Zoning says, they continue to run the business. Why did the zoning staff allow the residents several exceptions and even to deal with the Health Department when they hadn't even gotten a special exception granted from this Board? That's all I have to say.

Dr. Larson: Thank you, stand by, any questions for this witness?

Ms. Evans: I do.

Dr. Larson: Go ahead.

Ms. Evans: So, I'm a little bit confused on how I guess the, the bed and breakfast, I guess what was your words, it messes up the character?

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Ms. Ellis: Well you were there and thank you for taking a trip there so you saw, it's an enclosed, one way to get in there, how it messes it up is we noticed there was an increased amount of traffic. So, you buy a house you say oh it's great, it's a nice street, it's got a cul-de-sac, it's gonna be a wonderful place and all of a sudden you notice just more traffic than normal. What really caused us to notice it were the parties. At this point they were doing events and they advertised for events at the time, this may have changed but at the time they did and we noticed there were several events and it was a summer thing, that's when it seems to happen. What really started it was the one particular one last July 5<sup>th</sup> and again I'm sure there'll be other residents to talk about it and that's when we really kind of said we can't, we kept kind of closing our eyes and just kind of saying okay well you know we'll let them do this thing but you know regardless of his situation that's not what the laws say. If it affects our neighborhood, if there's more traffic, if we have to worry about speeding cars and your kids can't play out front anymore, those are things that affect the neighborhood.

Ms. Evans: Very true, could the July 5<sup>th</sup> incident, could it be that they were just, this was last year in the height of Covid?

Ms. Ellis: It was can you believe that, the police came out and did nothing.

Ms. Evans: But could it be that it wasn't part of the bed and breakfast it was just maybe a family gathering?

Ms. Ellis: No, it wasn't, we know exactly what it was, we saw the invitation, you go to pay and I think it was like a \$60 fee or something.

Ms. Evans: Do you have a copy of the invitation?

Ms. Ellis: I think Sarah might? Yes, we do. By the way all of this information, videos of cars on multiple occasions has all been sent, sent it all to Melody Musante. I would be in touch with her every single month. I felt like you know nobody really, you guys asked so many questions, which is wonderful, about what he's doing there but nobody is really listening to the neighbors and I might have been the representative of my neighbors but I was in touch continually with her sending her all this information, I don't know if you all received any of this-

Ms. Evans: So that's my next question and this will be my last question, so I did go out there, and one of the things that I noticed that it appeared that he's... the home is back in a cul-de-sac and it's off to the right. When I went there I couldn't even see the homes in the back so I'm a little bit confused on how, where is the disturbance coming, because the house it's singled in the back. Twofold, one again I refer to what they just testified to, we have hundreds, thousands of people that stay at our house-

Ms. Evans: So, they're always out, so they're all over the place?

Ms. Ellis: The point is you own a house, you're on a cul-de-sac, you have five houses this way and across the street and that's where you've moved to and all of a sudden you have a hotel at the end of your street and you have that amount of traffic going back and forth. That's not something you anticipate or even assume could potentially happen in the place, in a closed subdivision, number one and number two, the parties.

Ms. Evans: Okay and this will be the last question I promise. Can you tell me like I guess the acres between your house and his?

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Ms. Ellis: All the houses are like three acres.

Ms. Evans: So, it's three acres.

Ms. Ellis: I mean they're mainly long acres so they're not as wide you know what I'm saying?

Ms. Evans: Right but from your house to Mr. Wingert's house it's literally three acres?

Ms. Ellis: Oh no it's more than that, it's four houses down, five houses down.

Ms. Evans: Right so that would be... right.

Ms. Ellis: Quite frankly, you know and this is what I talked with Melody Musante about, we were talking about giving notice to the neighborhood, I think you should have given notice to the people who live at the very front of the street because every single car that passes to the cul-de-sac passes there and passes there and back and forth you've got cars coming all the time, you know it's not just the people who live right next to the house, it's everyone back and forth all the time for every single person who stays at that place.

Dr. Larson: Right I can't speak for the County but I know there are regulations that they follow in that regard so I think they ensure the adjacent properties and sometimes I think they go beyond that but I don't-

Ms. Ellis: Yeah, they didn't do much this time, I didn't even get a notice, in fact most of the people here didn't get a notice, I got the notice and I sent it to everybody myself even though I asked them to please send it to the people at least on Falling Creek even if you don't send it to the other street so, again I really really tried to represent the neighborhood, represent what all of our neighbors were saying and I feel like, like the staff, the Zoning staff just really has been bending over backwards to placate them and to help them in any way possible to get this bed and breakfast going and have kind of disregarded what we've been saying, that's just how I feel.

Dr. Larson: I'd also like to add that Melody Musante isn't here tonight because she's sick.

Ms. Ellis: Okay.

Dr. Larson: She called me earlier today and this may be the first time I'm aware of it in 12 years that she's been sick but certainly-

Ms. Ellis: Well she was just on vacation so, she may have picked up something, yeah.

Dr. Larson: Any other questions for this witness?

Mr. Apicella: Yeah Mr. Chairman?

Dr. Larson: Go ahead.

Mr. Apicella: So, for the speaker, one of the proposed conditions in the special exception says no special events shall be allowed on site, we can certainly noodle that a little bit more and give more clarity to it. Would that help some of your concern? Because if they violated that at least a couple of times then they

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could lose their special exception. So, I appreciate where you're coming from I'm just wondering if that might be one issue we can address through our special exception conditions.

Ms. Ellis: That would be nice but I would argue that I think you're gonna have trouble enforcing anything. Had it not been for me even sending the email a year ago we wouldn't even be here because no one would know about it. Even after the notice of violation July 20<sup>th</sup>, nothing really happened. They kept renting out and there's plenty of reviews to show that they were renting out, I went on their site, I saw you can rent it out regardless of what she's claiming so I think there would be an issue if you do that. I think you're gonna have an issue regarding how many rooms you allow them or people you allow them because I think he's gonna do whatever they want and really how are you gonna enforce them not to do an event?

Mr. Apicella: Well what I would say is if it does get passed take pictures and send them to Melody and you know I suspect if they get enough complaints that again it will come to us, we have in the past eliminated special exceptions when the applicant failed to comply. This is a different process they don't have a special exception at the moment, this might change the dynamics.

Ms. Ellis: Yeah so and you know what you'll probably hear from some other residents, especially the one right next door, they'll tell you about some of the visitors, it may not just be the special events, certainly that's a big thing that really changes the neighborhood but I think once you hear from Sarah who's here today who's directly next to them it'll give you a little indication of some of the type of people who also stay at the bed and breakfast.

Dr. Larson: Any other questions for this witness? Thank you very much.

Ms. Ellis: Thank you.

Dr. Larson: Oh, she has one more question.

Ms. Evans: What do you mean by type of people, like explain that.

Ms. Ellis: I'll let Sarah answer that because she has the direct information as well as probably videos, I think she has pictures regarding age and so forth so I'll let her testify about that.

Ms. Evans: Alright, thank you.

Ms. Brown: Mr. Chairman?

Dr. Larson: Go ahead.

Ms. Brown: I just had a comment, just for us, I did find in the back of the staff report the 12 letters went out and I'm not able to correlate those to the map that we got, so something to maybe look at later.

*Inaudible.*

Ms. Brown: Right, right that's the 12 but when I try to match them to the green map, I was trying to mark which ones it, yeah.

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Dr. Larson: Would any other member of the public like to speak in opposition to the application? Name and address please.

Mr. Youngblood: Good afternoon my name is James Youngblood. My wife and I live on Falling Creek Drive. So, on the, with the special exception on the website it says that it shall not affect the health and safety of a person residing in the neighborhood it doesn't say like next door or adjacent lots so it does suppose to take into account the entire neighborhood. So, the incident, going back to that on July 5<sup>th</sup>, 2020, 148 Falling Creek was rented out for a party and I do have the flyers and some pictures for that. People were walking through our yard under the influence of drugs and alcohol which definitely affects the safety of my family and my kids. Cars were speeding and racing down the street which also affects the safety of my family and my kids. Trash, alcohol containers, drug paraphernalia was left on my property, that affects the health and safety of my family. People from 148 Falling Creek were urinating and vomiting on my property, that affects the health and safety of my family. And ladies wearing clothing and exposing themselves to my kids and my kids were exposed to sexual and provocative acts so that also affects the health and safety of my family. And then also outside of the parties is the constant traffic for the renters coming in and out. You know we see the cars going down to the cul-de-sac and pulling into that house and its constantly different cars so that increased traffic pattern affects the safety and health of my family so this you know can't just be the adjacent you know lots, the adjacent you know housing, it is all the houses in the neighborhood coming in and out. It is a one way in one way out so everybody has to travel, all the people staying at this bed and breakfast, nearly 1,000 are coming in and out at a constant level so that is not something that we want and also you know the property value of having a you know Airbnb you know living next to you you may hear that oh it increases property value, yeah it increases property value when that is a designated vacation spot like the Outer Banks, yeah, that increases property value but in a neighborhood in Stafford Virginia, that doesn't increase property value, that lowers it so and that's another thing that the special exemption cannot do is it can't decrease the property values so and I feel it does. That's it.

Dr. Larson: Any questions for this applicant, or this witness.

Ms. Brown: Yes, just one. You said you noticed the cars going up the driveway constantly?

Mr. Youngblood: Yes.

Ms. Brown: So, they're not parking on the street or are they parking on the street?

Mr. Youngblood: Not the ones I've seen. They're parking you know in the driveway.

Ms. Brown: Okay, thank you.

Dr. Larson: Any other questions?

Ms. Evans: Yes, I just have one, the incident that you guys keep, that you're talking about, it was one time or is it all the time that you see you know the drugs, the alcohol, and the provocative, I guess clothes wearing as you say?

Mr. Youngblood: The incident that that I'm talking about is the one-time incident. There was an increase in parties during the summer but this is the one I'm specifically talking about was July 5<sup>th</sup> where over 200 cars were parked in our neighborhood. 200. There wasn't even a spot in our neighborhood, our neighborhood, if you outlined all the streets it's three miles okay, I know that because I was a marine

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and I ran three miles so that's how far that is, there wasn't enough room to park in our neighborhood so they started parking along Andrew Chapel which is also a dangerous spot so that's you know if you do the math and it's about 25 feet per parking spot, that's over 200 parking spots, so there was more than 200 cars in our neighborhood, so.

Ms. Evans: And the police were called out right?

Mr. Youngblood: Yes.

Ms. Evans: Did anyone get arrested for drugs and alcohol?

Mr. Youngblood: The police didn't do anything, they didn't even go in. They said they couldn't because it was up to the Health Department and not them.

Ms. Evans: So, you're saying, you're testifying that the police department, the sheriff came, there was drugs and alcohol at this party and the sheriff said that they could not do anything, it was up to the Health Department?

Mr. Youngblood: Yes, because they said it was, they were going off of the Covid restrictions, they were like we can't do anything for Covid restrictions that's the Health Department that enforces that not us, we're like there's drugs and alcohol you can smell it, they're walking by, you can see it, I mean pretty obvious but no nothing was done.

Dr. Larson: Any other questions for this witness.

Mr. Apicella: Mr. Chairman just one quick question, I'm curious if you know during this incident if the owners of the property were on site at the time? And or did you reach out to them?

Mr. Youngblood: I do not know if they were on site at the time, we did reach out to them the next day, we talked to them you know but obviously we didn't really get anywhere with that.

Mr. Apicella: Thank you.

Dr. Larson: Other questions? Thank you, sir.

Mr. Youngblood: Thank you.

Dr. Larson: Would anybody else like to speak in opposition to the application if so please come forward. State your name and address please.

Ms. Dowd: My name is Sarah Dowd and I reside on Falling Creek Drive, I am the house directly across the cul-de-sac from the Airbnb. I wanted to initially start out by saying I'm a single mother of two minor children I have a 13-year-old and a 16-year-old, we've lived in Falling Creek for almost three years. Since moving to the area, the Airbnb has been open, I have had numerous people come to my home thinking it was 148. People have knocked on my door, they have literally walked in my home through an open garage as well as walked around my house to the back door in hopes to gain entry into what they thought was their home for the night or the weekend. Many Airbnbs have keyless entry so it's natural for a stranger to walk into a house they have rented. Needless to say, this happened many times. In the last, I was a little alarmed tonight to hear that the Airbnb was supposed to be shut down because I have



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four photos from my Ring, and videos of people that have come my home since January trying to gain access to the Airbnb. One on January 9, 2021 at 3:02 a young lady showed up to my home, I was videoing a court appointed co-parenting coach and so I was recording a video for co-parenting class and this woman showed up, I thought it was a neighbor, my, one of the videographers said it was a young lady, many times our neighbors come over to our house, she came in the house, I didn't recognize who she was, she said she was here to shoot a video, a music video at the Airbnb, I instructed her that I wasn't shooting a video for that but that it was across the street, the Airbnb was across the street. The next morning Sunday January 10, another young lady came by, very in a winter coat but with short shorts on and a cropped top came by at 10:25am, told me that, and I have videos of all this on my Ring, told me that she needed to, she wanted to know if we did videos and that she was looking for work. Another young man, another man on January 22 came by, peered into my home trying to gain access to the Airbnb and then I had another gentleman as of March 31 at 1:20pm asking if we could, if he could get into the Airbnb, there was a language barrier that he wanted to see if there was enough room for his family. I have a child that has been diagnosed with anxiety, she's afraid to answer the door based on people that continuously come to our home, so again it was alarming to hear that this was supposed to be shut down and it's active currently. I've met with the neighbors as of the last two weeks they have shown me their home, I had a package delivered at their home so they came over it was my first time talking to them and we did have good conversations however they did not let me know that the Airbnb was supposed to be shut down so my concern is that even if they are given the authority to have this Airbnb that my safety of my home and my children are continued to be at risk by people actually coming to my home searching for the Airbnb. I work, I'm a business owner as well, I have purchased, I have rented office space across from the courthouse to serve substance abuse clients which I could have done at my home but however for the community's sake I don't want addicts coming in and out of our neighborhood because that's just not safe so I've done what I needed to do as a business owner to make sure that I'm following all the rules and regulations of Stafford County and I would like to hope that the safety of our community is protected without having this Airbnb and having people come to my home mistaking it for 148 Falling Creek Drive.

Dr. Larson: Any questions for this witness? Thank you. Does any other member of the public wish to speak in opposition to the application? Seeing none-

Ms. Evans: I just have one question, I thought there was going to be someone to talk about the type of people. I didn't know that-

Ms. Ellis: As far as the type of people who would come up.

Ms. Dowd: I think the concern for the type of people is not necessarily a type of person, however these young girls that came to my home barely dressed, one of the girls came in and said I just need to take my clothes off for the video, I did talk to the neighbors they did say that they were shooting a music video and that at one point they stopped them shooting the video because they were pretending to us illegal substances as part of the video and I have a 13 year old and there's many teenagers on our street that want to be actors and actresses and just to have that person come to my home in short shorts in the middle of winter is a little alarming so I wouldn't necessarily say it was these people or anything like that it's just the type of clientele that are coming to the home. So as far as the party, these were also young teenagers, I have the Instagram, I have the video of all the cars, the invite for June- July 5<sup>th</sup>, another quarantine fever that was shot for that party and there were people in the middle of the cul-de-sac and my kids are watching this.

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Ms. Evans: Do you have, I guess on the flier does it list age like you have to be 21 and older or is, when you say that there were teens there I'm trying to, because I mean I look like a little girl and I'm a grown woman.

Ms. Dowd: I mean I could just, the only thing that I have is and I can submit to the Board, the videos of the young girls that came to my home, I can't guarantee what age they were, they could have been 18 but at the same different you know they were young and I can't-

Ms. Evans: They looked young.

Ms. Dowd: They looked young yes.

Ms. Evans: Okay that's all I wanted to know.

Ms. Dowd: I can't verify the age of all the people at the party.

Ms. Evans: Thank you.

Mr. Ireland: Excuse me, I have one question. So, the approximate, this was in January of this year?

Ms. Dowd: Yes, I've had, I've recorded the last four people that have come to my home. So, starting in January all the way up until March 31<sup>st</sup>.

Mr. Ireland: Alright, thank you.

Ms. Brown: Of this year?

Ms. Dowd: Yes ma'am.

Dr. Larson: Okay, I'll check one more time, sir?

Mr. Morris: I just wanted to add-

Dr. Larson: Are you speaking in opposition?

Mr. Morris: Opposition.

Dr. Larson: Go ahead, I think you need to be sworn in though. Okay, do you swear or affirm that all testimony before this Board shall be nothing but the truth?

Mr. Morris: Yes, I do.

Dr. Larson: And state your name and address.

Mr. Morris: Richard Morris I live on Meadowbrook Lane. Probably the longest residing family there. Been there 17 and a half years. Live in the cul-de-sac, we went through a period of drug deals going on in front of our house and the person doing it lived in the neighborhood and they drove a specific car so we could tell when a drug deal was going on when this car came into our cul-de-sac. Myself and other members of the cul-de-sac put a stop to it along with the County sheriffs because it was bringing people

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into the neighborhood that didn't belong there and have no stake in the neighborhood. We have children that lived in the cul-de-sac and drug deal goes wrong you don't know what's going to happen, fortunately that never took place. The character of their neighborhood is very quiet, it's a nice laid-back place, we've enjoyed it for nearly two decades. It's had its ups and downs, very minor. The age groups of the families who live there are the families are late thirties into the forties, fifties, it's a, it's not a young neighborhood. The character of the neighborhood could possibly change with this type of activity and if we allow one and then will there be two then three then more, it would definitely turn it in to more of a business park than neighborhood and that's our concern. When you have a commercial entity in this neighborhood you're bringing in people that don't have a stake in the neighborhood, they don't care about the neighborhood they care about where they're going to spend their weekend or their evening so there's just no sense of belonging there. For us we drive in the neighborhood, we maintain the speed limit, we drive slow when families are out walking with their kids or dogs. People that don't have a stake in the neighborhood won't do that and that's not, that's just a natural human occurrence that's what's going to happen, they don't have a buy in there. So that's my chief concern with that is that it will just lose the character of the neighborhood and it just won't be as, the quiet friendly place that it's been for nearly 20 years for my family and I.

Dr. Larson: Are there any questions for this witness?

Mr. Spinnanger: One. I'm not familiar with that area necessarily so you're on Middlebrook you said?

Mr. Morris: Meadowbrook. Up at the end yeah, it comes off of Andrew Chapel Rd and goes all the way up into a cul-de-sac.

Mr. Spinnanger: Is that near this Falling Creek Drive?

Mr. Morris: Yes, my property is on the corner of Falling Creek and Meadowbrook.

Mr. Spinnanger: I got you, thank you.

Dr. Larson: Any other questions for the witness?

Ms. Evans: I guess I'm confused as well, but it's not near the house because...

Mr. Morris: It's not near their property no.

Ms. Evans: Right, okay.

Mr. Morris: Right I'm just addressing, and oh I have two the one thing we get, usually on weekends if somebody has a party or something you know just simple house party, they come to the stop sign at Meadowbrook and Falling Creek, they might think they're at the corner of Andrew Chapel and they'll make a left turn so we'll get multiple people doing U-turns in our cul-de-sac late at night, sometimes they're a little rambunctious and there's two or three cars together that are racing and you know and we also have three dogs, fortunately they don't go out in the road but it's kind of, in a nice term it livens up the neighborhood but that's just a lot of traffic right there at that corner.

Ms. Evans: I think I know exactly where you're talking about because I made that U-turn as well with coming to their house.

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Mr. Morris: I think I may have waved at you.

Ms. Brown: I have a question Mr. Chairman too before you let him go.

Ms. Evans: My last question...

Dr. Larson: Go ahead, ask your last question.

Ms. Evans: You referenced drug dealing?

Mr. Morris: Yes.

Ms. Evans: That was before I'm assuming Mr. and Ms. Wingert bought the home or is this in the midst of the bed and breakfast or...

Mr. Morris: No, this was before that took place but-

Ms. Evans: But nothing while they've been-

Mr. Morris: Not that I'm aware of. So, we made it an unfriendly environment for the people who wanted to deal drugs so that went away.

Ms. Evans: And the sheriff did arrest people I'm assuming, or the sheriff took care of that?

Mr. Morris: I believe there was an arrest that did happen but they were very quick to respond if I called the Sheriff's department and said there was a drug deal going on right now we would get two or three cruisers coming in there within three to five minutes.

Ms. Evans: And not the Health Department?

Mr. Morris: Not the Health Department.

Ms. Evans: Okay, thank you.

Dr. Larson: Dana?

Ms. Brown: I did drive around the neighborhood when I visited on Sunday before we met, it's my recollection that Meadowbrook Drive is the only entrance to the subdivision, is that correct?

Mr. Morris: Yes, that's correct.

Ms. Brown: Okay so it's the main access and the main exit point and there were no other entries besides that. Okay thank you.

Dr. Larson: Any other questions for the witness? Thank you, sir. Check one more time, would anybody else like to speak in opposition of the application? Please come down. Name and address please.

Mr. Ellis: I need to be sworn.

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Dr. Larson: Oh, I'm sorry. Okay well do you hereby swear or affirm that everything you say today before the Board will be the truth.

Mr. Ellis: Yes. Paul Ellis, Falling Creek Drive. I just wanted to clarify and answer some questions, I'm the one who called the cops on the date at that big block party. I would like to leave this for you when you guys adjourn, the block party like other people had said was over 200 vehicles, my property is exactly four houses away but the edge of my property line goes down the back of two property owners, so I'm only two houses away if you look at my property line in reference to the property that's in question. I called the police because the personnel didn't want to pay the cover charge as they were coming back from the block party. You could hear the music in my bedroom at night. It was well after 10 o'clock. I went down to the end of the street and the only reason why I was concerned was scantily clad personnel in bikinis were trying to walk through our driveway through our backyard because they didn't want to pay the cover charge which was down at the end of the street for this block party. So now you have people and if you looked at the vehicles there were a lot of out of state vehicles and this was at the height of covid, not wearing masks, a big block party and they were trying to cut through our property, go through my chain link fence to beat paying the cover charge to get into this party okay and thing soonly escalated worse, once that happened then I decided to call the Sheriff's department. They dispatched one patrol unit, he went down with his lights on, he came back and I asked him if they were going to break it up and he said no, we're not going to break this up because it would cause more damage by going in to shut this party down than it would to kind of just let it peter out. And it did, it petered out after a while after repeated calls to the Sheriff's department because things just kept getting worse with people doing burnouts and puking and throwing beer cans and people parking in your lawn and breaking your sprinkler heads on your property so things got progressively worse throughout the night but the Sheriff's department I'm the one who called the Sheriff's department, I'm the one who talked to the deputy, they were not going to break the party up and they were not going to arrest anybody because they were, what I assume they were worried about a riot that would have happened because it was well over I would estimate between three and five hundred people and when you're talking about the septic and you're talking about outdoors around the pool and you're talking about this patio. This party this summertime that these parties happen you're talking 200, 300 people and the application is for eight people to live in that room overnight so I don't want this to go through I nonconcur and I think it's a public safety issue.

Dr. Larson: Any questions for this witness? Thank you, sir.

Mr. Ellis: I will leave these for you.

Ms. Brown: Mr. Chairman could we see those now?

Dr. Larson: Say again.

Ms. Brown: Could we see those now instead of after the hearing?

Dr. Larson: Sure.

Ms. Brown: Mr. Morgandale thank you very much.

Dr. Larson: Would anybody else like to speak in opposition to the application? Okay seeing none would the applicant like to respond to the public comments or add additional information. Now let me, before you get started I understand we have two experts here from the county or maybe the state septic and

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health department, I'd like to hear from them if I can after, no you guys stay here, after the applicants have addressed any responses to what they've just heard. Go ahead please.

Mr. Wingert: Okay so yes this did happen on July 5<sup>th</sup>. It was probably the most unfortunate thing that ever happened in my life, all of our neighbors were victims, I was a victim as well. This young man had approached me, he told me that he was the first person to graduate college in his family, it was Covid and this was going to be his family and friends a small group only.

Ms. Wingert: Graduation party outside of Airbnb.

Mr. Wingert: And I too called the sheriff, I too put in a police report, I was there at the house alone and there was nothing I could do. It had nothing to do with, none of these, this was supposed to be a three- or four-hour barbeque around my pool, his family and friends, he even had his mother on the phone as he was showing her the property and the pool that they were going to be at. It may have been true and that his friends got ahold of it and did this. This was, like I said this was the most unfortunate thing to ever happen, I was victimized as well. I, I also got up the next morning as soon as the sun came up and I police called the entire neighborhood for trash. I was embarrassed and my property was destroyed, it was trampled. It was something that would never happen again. This happened during Covid, I had zero bookings. There was no, none of these people stayed overnight, they were all out by 8:15 in the afternoon or evening, I didn't even see it coming. For me I would never have another event ever ever ever, this was, I can't say it enough, it was the worst thing that ever happened. And as a result of this, these people that came in the neighborhood there are some other people faced with showing up that I have no clue who they are, that's who my neighbors are referring to. I assume that this has subsided, I don't know about the other people showing up knocking on doors,

Ms. Wingert: I'd like to comment on that, we did talk to Sarah about that and she did inform us that there were people who came to her house in January and we informed her that number one, if you look up either Falling Creek Bed and Breakfast on Google or best bed and breakfast nearby on Google you can get directions to our home and when you go down the street and people come to our house you know all time asking for bookings because either we don't answer the phone or they cannot get our listing or they can't book on Airbnb so they just come to our home especially the locals nearby so they do come by and we did talk to her and we talked to her when she informed us which we were not, we were not aware of, not only were we embarrassed but we said well we can see why they might be confusing because for number one you can't see that our home is at the end of the cul-de-sac, I don't know if you noticed that but when you drive down the street you can't even see our mailbox but we do have a hill top side that we communicated with Sarah that hey let's have like a sign out there or some lights that actually show 148 on our side because it, if you see if I can demonstrate, now 145 and 148 from a distance and think about it after dark, like in the dark especially if this is a thicker five it could easily be mistaken for 148 even because it looks like the last house on the street so we communicated to her that if she was okay with it that we would pay for pay for her number just to be a little bit bigger so it looks like that and also for us to have a bigger 148 on the mailbox because you know a lot of people do like staying with us and that does not mean that we book or that we had bookings because I can assure you we did not, especially at the height of my pregnancy. As for the July 5<sup>th</sup> incident that was extremely embarrassing, that was bad, that was outside of Airbnb, we did not book it through Airbnb because we would be banned from Airbnb if we ever did anything like that, that was simply a gesture for a grad student, we didn't have anything so we said hey sure we'll sponsor your barbeque and while Nick is working in the basement and I was out in New York at the time working, this happened in the matter of an hour. We did send letters out to our neighbors apologizing we did try to communicate with them afterwards but they refused to talk to us so...

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Dr. Larson: Okay I have a question, have you before or after that had any other events?

Ms. Wingert: We have never had an event period, that was the only thing that we-

Mr. Wingert: We've been married on our property.

Ms. Wingert: There was like 12 people there.

Mr. Wingert: We've had friends do things. I had a friend have a party, no payments, no Airbnb or anything but these were just personal use of our property.

Ms. Wingert: Yeah just like family things.

Mr. Wingert: Our guests have not, they don't park on the street.

Ms. Wingert: And we were not aware that people were charging money for it, that was brought to our attention by our neighbors as well. So, we had no idea.

Mr. Wingert: Like I said I did call the police and I didn't get anything as well. It was a bad situation and I don't think anybody wanted to touch it. But it had nothing to do with the bed and breakfast activities, nothing to do with it.

Ms. Wingert: Events were not what we want to do. We don't want that to ever happen again, in fact that's why we want to stay with Airbnb and never book outside of it because they have behavioral controls.

Dr. Larson: Any other questions for this witness?

Ms. Evans: Are these gonna be, are these on the record, for the record or these are, do we just want to give these back.

Dr. Larson: Let's talk about that after this.

Ms. Evans: I ask this question because it does say "I bought tickets with what's the addy" so they asked for the address and then I was gonna ask, did you ever see the flier?

Mr. Wingert: I never saw a single ticket, I didn't even know that they were doing it until I saw hoards of people. I had no clue it was happening.

Ms. Wingert: I've never even seen that until now but I did hear of it.

Ms. Evans: My next question is on this picture it shows that somebody put cones in the driveway I guess to let people know to not park in the driveway, is this your driveway? Is this your driveway?

Mr. Wingert: I can't see it from here.

Unknown Speaker: No that's my driveway.

Ms. Evans: That's your driveway.

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Mr. Wingert: It was insane. But like I said, I couldn't have foreseen, I did not know that Covid would cause or anything would cause this kind of a, a, an occurrence. I was naïve to it. That won't happen again, parties' period won't happen again at this residence.

Ms. Wingert: We were a little bit duped and it was a little naïve of us to do that so...

Dr. Larson: Any other questions for the witness?

Mr. Apicella: Mr. Chairman I have a question. It hasn't come up so I'm gonna go ahead and ask it, I hope you can hear me.

Dr. Larson: Yes, go ahead.

Mr. Apicella: Mr. Chairman can you hear me.

Dr. Larson: Go ahead Steven I can hear you. Okay Steven you might try reconnecting if you can hear me. Go ahead with your question.

Mr. Spinnanger: So, on the, you didn't on the incident on the 5<sup>th</sup> of July, from the event on the 5<sup>th</sup> of July you said you did not rent through Airbnb right, this was done outside of Airbnb. How much did you charge, how much did you receive?

Mr. Wingert: It was \$400.

Mr. Spinnanger: \$400 as a flat rate, right?

Mr. Wingert: Just to use the pool for four hours. And nobody was to go inside the house.

Mr. Spinnanger: And you said you didn't know anything about the, what was indicated on the flier.

Ms. Wingert: No.

Mr. Wingert: I had no clue.

Ms. Wingert: He had just said hey this is gonna be a graduation party, I'm the first one to graduate in my family would you please do this one thing for me.

Mr. Spinnanger: Okay so as business owners right, and residents, do you feel some responsibility for the harm of how you operated your business-

Mr. Wingert: Absolutely.

Ms. Wingert: Absolutely.

Mr. Spinnanger: Okay so, okay. I have questions regarding, you were very adamant that there's been no activity related to the Airbnb since the Septemberish time period, right? So, I'm having difficulty reconciling the pictures that were shown to us earlier about the people who showed up for a video, for, explain that.



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Ms. Wingert: Absolutely so this was in 2020, we had a few people message us and say hey can we rent out your space for a music video and they were there for again a few hours-

Mr. Spinnanger: When was this?

Ms. Wingert: This was in August.

Mr. Spinnanger: So, she's got pictures in January so you gotta help me out here right, help me reconcile, so what you told me right and you didn't use Airbnb on the event in July, I assume that you weren't using Airbnb for what you're now describing, is that correct?

Ms. Wingert: Correct.

Mr. Spinnanger: Yup, okay so-

Mr. Wingert: No overnight guests, that's the-

Mr. Spinnanger: I understand that but you still had people that you were using your property for the, related to the business purpose, correct?

Mr. Wingert: Not this business.

Mr. Spinnanger: But a business.

Mr. Wingert: Yeah.

Mr. Spinnanger: Okay. So, in, after August, yes or no?

Mr. Wingert: Yes.

Mr. Spinnanger: But you told use earlier that you haven't used your property-

Ms. Wingert: I can actually, I can pull up the messages for-

Mr. Spinnanger: No, no, no I don't need that right so here's my concern right, my concern is that you very forth rightly said that there's a lot of trial and error and learning by doing and I can totally appreciate that right, I absolutely can but I think there's, my concern if I'm being very honest and on the record here, there's some willful ignorance that I see in the process here and that concerns me greatly because you told us under oath that you haven't used the property since August, right, but you had us believe that it was as a bed and breakfast, but it's a distinction in my mind without much of a difference because you were using your residence for a business purpose after August but you told this Board that you did not do that, so which one is it, so please explain that to me.

Ms. Wingert: We did not use it as a business purpose after September especially when I found out I was pregnant.

Mr. Spinnanger: So, what are the people in January who showed up for music video, what were they coming for?

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Ms. Wingert: I have no idea but I was, I told Sarah as I told you in my beginning statements that both could be people looking to rent out our Airbnb because that has been done in the past.

Mr. Spinnanger: I believe that we could probably, I don't know the protocol for this Mr. Chairman but I imagine we could probably ask that witness to come back and explain and probably provide for us how many times, on how many different occasions we had people show up asking questions related to shooting a video.

Ms. Wingert: Absolutely.

Mr. Spinnanger: Okay but help me out there right. So, you're saying that maybe they came in as purely speculative, they maybe showed up there, possibly because they wanted to inquire about renting your property which is very popular within Stafford County and we stipulated that but we're like nine months into Covid at that point. And its purely happenstance that the shooting of a video, is it possible that something else, I mean something akin to what happened in July is happening and you're not aware of it? People have interest in use of your property for that purpose? And so maybe you don't know the answer to that so I'll just ask one final question but you're telling me flat out you have not used your property, your private residence since August of last year in any capacity for a business purpose in any reason, you have not collected nickel since August, yes or no?

Mr. Wingert: So, what we did do, I have to clari-, just let me, what we have done is we switched it to 30 days, so we I've had roommates and I've had and we have a 30-day tenant who is a friend of ours who's moving into the area that she's staying at our house.

Ms. Wingert: Until she finds a home.

Mr. Wingert: That is what we're doing.

Mr. Spinnanger: So, I guess one follow up, that's following after you were advised to cease operation.

Mr. Wingert: That is not a transient occupant, it's over 30 day, so that's not a short term-

Ms. Wingert: She's just a friend staying with us until she finds a home, and she's staying-

Mr. Spinnanger: I understand.

Ms. Wingert: She's been there for what, a few months now, yeah.

Mr. Spinnanger: Okay, thank you.

Mr. Apicella: Mr. Chairman?

Dr. Larson: Go ahead.

Mr. Apicella: I'm having some connectivity issues so I hope I can get through this but I know we're getting lost in the words Airbnb, just want to have some clarity here on a couple of things. First of all, just as the notice of violation indicated, a person cannot use their property as a hotel. Secondly, you can't rent out your property as an event venue unless you meet the requirements of an event venue, looks like my video is gone now. Can you guys hear me?

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Ms. Wingert: Yes.

Dr. Larson: Yes. We can still hear you. Can you hear us?

Mr. Apicella: So, I just want to read what's in front of us okay, it's right at the beginning of the staff report. The applicant's requesting a special exception to operate a bed and breakfast on their property. The definition of a bed and breakfast is a commercial enterprise housed in a building primarily designed as a single-family residence where rooms are for rent, typically on a short-term basis and at least one meal a day is offered to overnight guests and where no more than 10 short term lodging rooms and meals served family-style are provided. The operator of the in shall live on the premises. I just want to be clear that if this gets passed that the applicant understands the parameters of the special exception and anything that's outside that definition that's used, that they're using their premises for a commercial venture is not permitted so they have to meet that definition and they can't go outside that definition so when I hear that they rented their property out for people to do a music video, it doesn't seem to me and Mr. Morgan can chime in, that that is permissible as part of a bed and breakfast.

Mr. Wingert: So, can I speak? So, at-, this, this was Covid, my business as a bed and breakfast came to an absolute stop. I was experimenting to see if there was any other potential ways to make ends meet. I'm not, like I said I'm not greedy, but I was trying to see if there was anything there. And that's about all I can say to that. It's not something that I intend to do going forward, period.

Ms. Wingert: Or want to do.

Mr. Wingert: It's-

Mr. Apicella: I hear you sir, I just wanted to be sure that you understand the parameters if this should get passed, what you can do and what you can't do.

Mr. Wingert: Absolutely, yes.

Dr. Larson: Any other questions for the applicant?

Ms. Brown: Just one.

Dr. Larson: Go ahead.

Ms. Brown: Is this your main source of income?

Mr. Wingert: No, I work for the federal government full time.

Ms. Brown: I remember that now I'm sorry.

Ms. Wingert: It's my main source of income.

Dr. Larson: Any other questions for the applicant? Thank you. I'd like to recall, I believe your first name was Sarah don't recall the last name, I think you were the person who testified about the music video people coming to your house, please come up to the podium.

Ms. Dowd: Should I bring my phone for the video or?

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Dr. Larson: You have a video?

Ms. Dowd: I have an app that's a Ring on my door that videos anyone that comes to my door.

Dr. Larson: That would be interesting if we could all see it on our screens but let's just get your testimony. Hey Jeff did you have questions?

Mr. Spinnanger: Yes sir, thank you. Thank you for coming back. So, can you, and I sort of write it down and I kind of got lost in my notes but so you mentioned the 9<sup>th</sup> of January, can you tell me just how many different days you know that you had people show up, I assume in January?

Ms. Dowd: The morning of, well the afternoon of January 9<sup>th</sup> which is a Saturday at 3:02pm a young lady came to my home, indicated that she was coming to shoot a music video and then I sent her across the street I asked her what address she was supposed to go to, she said 148, I told her this was 145 and then the very next morning on Sunday January 10<sup>th</sup> at 10:25 another young girl came to my home and indicated that her friend accidentally came to my house the day before and she knew that I was videoing a co-parenting class and wanted to know if there was any work for her to shoot videos or to be in movies.

Mr. Spinnanger: Okay, thank you very much.

Dr. Larson: Thank you. Would the applicant like to respond, I'll give you 30 seconds to respond if you have a response.

Ms. Wingert: Thank you, so I would just like to respond saying that a lot of people do come by our house to see if we have availabilities and from that July party we've had people come by and see if they can we do this can we do that whether it's music videos or another event and we have always declined after that, it's been a trickle but we haven't had anyone since I don't know how long it has been, and again we've talked to Sarah and we thanked her for telling us that people have come to her house which we, she just made us aware of a few days ago and we had no idea and this is very embarrassing to us that that happened and we offered to pay for a better sign that says clearly 145 as well as if you can see on the top view of the I think it's called a plat, on the hillside a nice sign that says Falling Creek Bed and Breakfast so people can actually see in the site where you can't see our house that our house is on the right.

Dr. Larson: Okay so where exactly is that sign again?

Mr. Wingert: We will add it if we get approved. We don't have a sign outside of our house right now.

Dr. Larson: Okay.

Ms. Wingert: Yeah.

Mr. Wingert: And we would put lights on it and lights on our address as well. Right now, it's a little difficult, like I said it's a cul-de-sac so people don't always see it, the numbering the way that it is right now.

Dr. Larson: Any other questions for the applicants? Thank you.

Ms. Wingert: Thank you.

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Dr. Larson: Would the staff call the expert witnesses that we have one by one, maybe the septic person first? State your name please.

Mr. McCord: Brett McCord, I'm the Environmental Health Manager for the Rappahannock Area Health District.

Dr. Larson: Thank you. Any questions for the septic expert?

Mr. Ireland: So, this was the initial concern I had was with the septic because everything else until the witnesses appeared, I was most concerned with the septic. We've already gone over that you know you've got documents in here stating that it's approved for four bedrooms, eight occupants to include the residents I assume?

Mr. McCord: Right.

Mr. Ireland: Now we're talking seven bedrooms, who knows how many people, plus you're probably doing more washing of bedding, of rooms, getting them prepped, turn over, do you have a way of measuring maybe a thumbnail of what this type of business would go through and what type of system they would need, not just update the one they had but would they need a whole new system to handle a lot more people with a lot more bedrooms?

Mr. McCord: We don't have any data for bed and breakfasts on how to judge that type of use, our regulations, we go two people per bedroom for residential use and that's how we, and it's 75 gallons per person or 150 gallons per bedroom and that's how we come up with a design flow for residential houses.

Mr. Ireland: Okay and just a quick follow up, I don't know if you heard the applicant talk about what his plan is to add another pipe in the drain field, does that like to you a reasonable-

Mr. McCord: Well yeah it's, drain field is made up of, can be made up of laterals and there's so many square feet per lateral depending on how wide or long it is and it's dependent on the soil, if it's sandy soil you might do 100, 200 square feet per bedroom or something if it's a more clay soil you might do 500 square feet per bedroom and so that's how you determine the size of the drain field.

Mr. Ireland: So, if he gets ready to do this he will have to have a permit and inspected and all that or does he just do it himself and it comes-

Mr. McCord: No, he has, it has to be permitted. Permit goes through us generally, we you know have to hire a private on-site soil evaluator to do it, they submit it to us and we review a certain percentage of that work. In Stafford County there's, your drain field capacity has to correlate with your bedroom capacity in your house. There's no other or state regulations that allow us to do conditional permitting but not in Stafford County so you could have a five bedroom house with a four bedroom drain field it would just, you would have a document recorded in the land records to say your drain field's only big enough for eight people but you have a five bedroom house which could be occupied by you know 10 people. But that's not allowed in Stafford County.

Mr. Ireland: Okay, got ya. One last question. I have a septic and I understand that you have to get it pumped out every five years.

Mr. McCord: Right Chesapeake Bay Ordinance.

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Mr. Ireland: If this was to be approved could we put a condition on it, a condition of it has to be pumped out every three years to help us prevent possible contamination or failed system that nobody would know until it's too late.

Mr. McCord: The County could do that but yeah there's nothing in my regulations that allow us to do that.

Mr. Ireland: Okay, I guess as a technical person would that be an effective possible solution to possibly prevent issues?

Mr. McCord: Yeah, the more you, usage, the pump out frequency, Chesapeake Bay it says five years but it you know with heavy use you might need to do it three years or you know the only way you can do that is go out and check the system.

Mr. Ireland: Okay that's all I have thank you.

Dr. Larson: Any other questions for this witness? Dana?

Ms. Brown: I did tour the property and I noticed that they did have an alternative septic system, what would cause or what would necessitate that that house be built on an alternative system versus a regular system, is there a soils problem that would necessitate that or...?

Mr. McCord: The alternative systems, we started using those maybe 20 years ago, they just allow us to use a more marginal type soil that we couldn't use years ago. Basically, an alternative system cleans the effluent up a lot more than septic tank effluent so it allows you to use thinner soil and smaller areas for a bedroom. And those do have O and M maintenance contracts they have to have someone visit it at least annually to inspect it and make sure it's working.

Ms. Brown: So that wouldn't prevent him from expanding his-?

Mr. McCord: No, he could, they're similar, once you start getting in that bedroom capacity, drain fields can get really big unless you're in real sandy soil so that's one reason you go to alternative systems because you have a limited area but you can load it heavier, at higher gallons per square foot so you can use a smaller area.

Ms. Brown: Okay, thank you.

Dr. Larson: Any other questions? Thank you, sir. I'd like to call the Health department expert if they are still in attendance.

Ms. Sousa: Good evening, my name's Eileen Sousa, I'm one of the Environmental Health Specialist Seniors at the Stafford Environmental Health Department. Primarily my duties are food, food inspections, but I also regulate the hotel regulations as well.

Dr. Larson: Okay are there any questions for the Health Department?

Ms. Evans: I just have one.

Dr. Larson: Go ahead.

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Ms. Evans: I see that you approved their plan?

Ms. Sousa: Yes, I did.

Ms. Evans: And what was their food plan?

Ms. Sousa: Their food plan?

Ms. Evans: Yes.

Ms. Sousa: So to be designated as, or classified as a bed and breakfast, the stipulation is they have to provide at least one food service, it is not narrowed to just breakfast service, they could serve another meal during the day but it has to be at least one food service and they cannot offer a pre-packaged foods, things that are shelf stable like granola bars, like bagged muffins that type of thing they have to have foods that requires temperature control for safety. For example, if they made eggs or French toast and bacon, milk, those would count as a food service for a bed and breakfast.

Ms. Evans: Would cereal count then?

Ms. Sousa: Not cereal but cereal with milk.

Ms. Evans: Okay, thank you.

Ms. Sousa: You're welcome.

Dr. Larson: Any other questions?

Ms. Brown: Yes.

Dr. Larson: Go ahead.

Ms. Brown: I'm the lady that called you. Hi, I'm Dana. I thank you for your answers to my questions it was a nice format, I was still a little confused under the food permit.

Ms. Sousa: Okay.

Ms. Brown: You know, I wanted to know what they had to serve if anything and I think, what I don't understand is your responsible is that VDH food regulations exempt bed and breakfast operations that prepare and offer food to guests regardless off the time the food is prepared and offered if, and it meets all the categories so they don't have to serve food, is that what you're saying?

Ms. Sousa: No for the bed and breakfast to be classified as a bed and breakfast they require to provide a food service.

Ms. Brown: Okay. That's what I thought but when I read it I was like okay. Alright, and is there a maximum stay per person, you know per stay that they can have under a bed and breakfast? Can you stay for 30 days at a bed and breakfast?

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Ms. Sousa: There's, to my knowledge there's no restriction whether they're bed and breakfasts or hotels, there are some hotels for example they have people stay for extended periods of time, like if they're moving and waiting for their home to be built, but there's no, as far as I'm aware there's no requirement that they can only stay a certain period of time. Now if they have people that are staying in the home, renting a room and they're staying longer than, let's say they're staying for two weeks. There's a requirement for the bedding to be changed at a certain frequency, they cannot, they have to change the bedding, they can't wait til they leave after 30 days, they have to change it at least every seven days per our regulations.

Ms. Brown: So, they can still have a transient status as like a hotel but they can have 30 day stays, which doesn't seem very transient to me but that's okay?

Ms. Sousa: No, yes, they could, they could, as far as I'm aware yes.

Ms. Brown: Okay. What is the requirement because I actually did ask the applicants about housekeeping, you said just every two weeks? What if they're there for three or four days, do they need the bedding changed, towels changed?

Ms. Sousa: So, if somebody is staying just let's say for one day and they're checking out the next day, the bedding has to be changed between occupants. But if the same occupants are staying for, for the whole, let's say they're staying for seven days, the bedding would be changed at least every seven days if they're doing long term stays, but like the towels they would have to get fresh towels every day, that would have to be changed out, we're talking just the linens on the beds.

Ms. Brown: Okay so they would need housekeeping daily, pretty much, I mean they'd need the towels changed out and then the...

Ms. Sousa: Yes.

Ms. Brown: Okay, okay, thank you.

Dr. Larson: Any other questions for this witness? Thank you very much.

Ms. Sousa: You're welcome, thank you.

Dr. Larson: I'd like to thank again both of our experts for coming tonight, appreciate that. Alright now bring it back to the Board for discussion and motions? Public hearing is closed.

Ms. Brown: I had a couple questions for staff, are we allowed to do that?

Dr. Larson: Yes, absolutely.

Ms. Brown: One more short round?

Dr. Larson: That's not the public hearing so go ahead.

Ms. Brown: Okay, whoever would like to take this one. Does Stafford County require permits for treehouse decks? When I looked at this treehouse deck it was nailed into the trees that was the support so I'm gonna call that a treehouse deck, do we need a permit for that?



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Mr. Morgan: Yes.

Ms. Brown: Okay let's see, you know what that's it, that's all I'm gonna ask.

Mr. Morgan: Any other questions for staff, go ahead.

Ms. Evans: I probably know the answer to this but I'm assuming for the things that they did not get permits for are, is Stafford County able to get an inspector out there to inspect if we were to grant?

Mr. Morgan: They would have to apply for a building permit, and yes there would have to be an inspection. For drywall and interior construction, electrical, mechanical, plumbing, as well as outside decks, as well as turning into a bed and breakfast, the building office would go out there, we would advise the building official, there may be ADA compliant requirements that it would also be needed as well as the deck that was constructed would need a permit and show how it's constructed, an inspection would be done once a permit is obtained.

Ms. Evans: Okay, thank you.

Mr. Apicella: Mr. Chairman?

Dr. Larson: Go ahead.

Mr. Apicella: I have a question about one of the proposed conditions, again I'm not sure what's going to happen with this application tonight but number four says no special events of a, it's a typo, shall be allowed onsite. I couldn't find a definition in the Zoning Ordinance for special events and you heard some concerns by some of the public about some activity that occurred in the past, is there a set of words or a different terminology that we should use to make sure that that kind of activity does not happen associated with this bed and breakfast use?

Dr. Larson: Let me first uh-

Ms. Brown: I have an idea Steven-

Dr. Larson: Stand by one, let me first explain to the public now what's happening. The Board traditionally talks about conditions on a special exception, then when we vote for or against the special exception those conditions along with the special exception that we're voting for. So, because, just because we're talking about conditions doesn't necessarily mean it will pass as a special exception but if it does pass those conditions will be attached to the special exception. Go ahead Dana.

Ms. Brown: Steven, my suggestion was no events would be allowed, no public events like that. But I also had a special exception if this were to pass that I wanted to put in that the County, that this property would not be eligible for any kind of County subsidized pump and haul. That was just something that I wanted to add and as far as staff goes, there was another question I did miss one. The owner was showing off his property and the property was very very nice and I noticed he had put in a tankless water heater system, I think powered by propane, I didn't I'd asked for a list of all the approved improvements and I can't find it up here so I don't know if I got that, is that on the list as being approved, did he get a permit for that?

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Mr. Morgan: The only permits that I did find on this property was the single family detached residence, a swimming pool installation, and a deck, which it does have a deck on the rear of the home, those are the three that were identified. And in doing so, just for clarification, the permit that I did provide to you, yes that is actually 148 Falling Creek Lane, this is the building permit, it may look a little bit different and the reason why it's different is because we used to do what was called form homes, we had standardized homes for like Classic Homes, they would come in with their home plan and you can see how there's several different identifications on here so they would come in with the Classic Home plan and have that reviewed by the building office, the building office would then approve Plan B, Plan A, Plan C. Plan B might have the garage on the right side, Plan A might have the garage on the left side, Plan C might have a reverse A in the front, Plan D might have a little bit of a front porch on it but this is the actual permit from it and this is a form permit that shows that that it's an unfinished basement, the bedrooms and the layout, so what I did provide to you was actually for 148 Falling Creek Drive.

Ms. Brown: Okay because I noticed there was a note stamped on here for bedroom five that it was not approved for a bedroom use.

Mr. Morgan: Correct and we correlate even though it's not under the Zoning Ordinance per view to review for Health Department permits, the Health Department and Stafford County Zoning office work very closely and we try to work together and mirror those up so that when people do come in for a permit these kind of things don't happen and we say look you're only approved for a four bedroom perk, a lot of the times people will turn that into a study. That fifth bedroom won't have a closet or it won't be identified as an office or a study or a game room or a workout center something to that nature.

Ms. Brown: Okay, the reason I even caught on this was because the upstairs floor plan is very different and it's not a flip, it's not a flip of the plan. I mean the bathrooms are in different places. It's not like you know the masters on the left versus on the right as an A or B, I mean I've bought a couple new homes, this is, this is pretty different from what I saw on there and Kecia maybe you could add to that but-

Mr. Morgan: And again, if there's interior alterations, that does happen sometimes and we don't know about that, bathrooms do get added, walls get added, walls get taken down and some of those things do not go through the permitting process but yes those do require a permit.

Ms. Brown: Does he need to meet ADA requirements for a bed and breakfast?

Mr. Morgan: That would be a question for the building official, I do believe that there are requirements for change of use, change of this is now going from a single family residence to a b and b, so that bed and breakfast would have to comply to maybe different standards and that would be a building code official question, so once you would, if you did get approval tonight, he would still have to meet those permit requirements to the building office.

Ms. Brown: Okay, thank you.

Dr. Larson: Before I ask if there are other questions-

Mr. Apicella: Mr. Chairman?

Dr. Larson: Just one second. Melody's not here, she's the one that originally, or usually takes care of noting conditions on the special exceptions, do we have somebody identified that is doing that?

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Mr. Morgan: James and Stacie are both taking care of that.

Dr. Larson: They're both taking notes?

Mr. Morgan: James is taking notes and Stacie is doing the official minutes.

Dr. Larson: Okay good, go ahead Steven.

Mr. Apicella: Yeah, again just to circle back to my previous question, again there's no term called special events, no term called public events in the Zoning Ordinance, I just want to take advantage of the opportunity here in front of us Mr. Morgan to see if we can come up with some terminology again that would preclude the kind of activity that caused concern to the neighbors if this winds up going forward.

Mr. Morgan: Event venues now in the A1 zoning district do require a minimum of 20 acres, so those event venues much like the wedding venue that was passed earlier this year, I believe in February if I remember correctly, minimum acreage is 20 acres so if a condition was to be crafted of course this property doesn't qualify for an event venue other than a bed and breakfast if so approved by the Board of Zoning Appeals.

Mr. Apicella: So, if we said something along the lines that the subject property shall not be used as an event venue and no special events shall be allowed on site, again I know that special events isn't codified in the Stafford County Code of Ordinances at least with that, that's some boundaries around it and help us understand if there was some confusion about what we were trying to preclude here.

Mr. Morgan: Yes.

Mr. Apicella: Okay, thank you.

Dr. Larson: Any other questions for the Zoning Administrator?

Ms. Evans: Yes, I have one, it says here that the bed and breakfast is zoned as a, it's defined as an Airbnb?

Mr. Morgan: They were classifying it as an Airbnb. Airbnb is basically where they're advertising. Stafford County Zoning Ordinance references such type of use as a bed and breakfast, we don't identify Airbnb uses in the Zoning Ordinance.

Ms. Evans: Okay cause that was my next question cause I was like are Airbnbs even allowed in Stafford County?

Mr. Morgan: No, they're bed and breakfasts.

Ms. Evans: Okay, alright, my next question would be oh it was for the ADA, I'm assuming that I guess because you don't handle it it would go through you said what department again?

Mr. Morgan: The building official, Cary Jamison's office would be reviewing the site for compliance of the deck, any outside alterations, interior alterations, and ADA compliance once-

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Ms. Evans: I'm only assuming that they would have to be compliant if not it would be discriminatory, so, alright, thank you.

Dr. Larson: Okay I would point out there is no definition of special event but there is a definition for event venue and our Zoning Administrator's pointed out the property requirement of 20 acres. It also says the events may include but are not limited to weddings, birthdays, anniversaries, concerts, reunions, festivals, etcetera in addition the facility may contain a kitchen to conduct catering for onsite events only so there is a little bit more definition of what an event is and of course the 20-acre restriction eliminates this property.

Mr. Morgan: Correct.

Dr. Larson: Any other questions for the Zoning Administrator? Or staff, any other member of staff?

Ms. Brown: I just have a comment when you're ready.

Dr. Larson: Okay, thank you sir. Okay well, I'll bring it back to the Board. Go ahead Dana.

Ms. Brown: Okay, I've listened to everything, I've read the entire packet and I have visited the property. This use is allowed in that area to be clear. I, the house is beautiful, the idea is great, but my personal opinion right now is that I don't think this design has been quite flushed out yet. Right now, they're asking for us to approve more guests than we can. We can't approve anything that is in violation of the law and right now under your current septic situation and as many bedrooms as your planning on using for guests we could not approve something like that. I think there's a lot of discussion about there, what you're going to need to do to alter the property to be able to operate this bed and breakfast and I think that's gonna involve more time with staff to discuss this ADA, if you're gonna have to comply with that, is that something you want to do, if you want to expand your sewer system but that is just my personal opinion of how I'm feeling at the moment.

Dr. Larson: Okay, I think they applied for eight guests, I guess you're saying that they couldn't have eight guests because they-

Ms. Brown: No, they'd only be able to have five right now because there's the husband, the wife, and the baby.

Dr. Larson: Right so that we could put in the conditions of the special exception.

Ms. Brown: We could, we could. And the bedrooms, right now all the bedrooms are in use. I think seven bedrooms are in use. There's five numbered bedrooms upstairs and then there's two in the basement and I think the owner said that sometimes they will rent out the master suite and they will stay down in the basement when their bedroom is being used.

Dr. Larson: Was that what they told you when you visited?

Ms. Brown: Yes.

Dr. Larson: Because I didn't hear that tonight.

Ms. Brown: Yes, Kecia do you want to add to that?

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Dr. Larson: Okay, that's okay, I believe you I'm just saying I hadn't known that.

Ms. Brown: Yes.

Dr. Larson: Okay. Alright.

Ms. Evans: Dr. Larson?

Dr. Larson: Yes.

Ms. Evans: Let's see, can we ask that question to put their answer on the record instead of saying it's because it would be hearsay.

Dr. Larson: Certainly. Well it's hearsay from you-

Ms. Evans: Right exactly but I would rather have them answer it and put it on the record.

Dr. Larson: Would the owners come forward please and answer the question, do you rent out the master bedroom?

Mr. Wingert: Yes, we rent any bedroom, and we limit it to the total number of occupants that we're allowed. So, if it's five then we'd have five people.

Dr. Larson: Limit the bed and breakfast to five guests?

Ms. Wingert: Yes, a total of eight including us, five total guests.

Dr. Larson: Right and it would have to be phrased a total of eight just like the law is phrased because they might have another baby.

Ms. Wingert: *[Laughter]* Not any time soon.

Dr. Larson: Not trying to put any ideas in anybody's head, okay so any other questions for the applicant?

Ms. Evans: When you say any base, I mean any room, you rent any room, or I should say every room, there was rooms downstairs in the basement, there was two.

Mr. Wingert: Which are off limits to guests.

Ms. Wingert: The baby's room is off limits.

Ms. Evans: Okay, and how do the guests know that they are off limits?

Ms. Wingert: It states that on the description and also the door is locked.

Ms. Evans: Okay thank you.

Ms. Brown: Are the rooms priced differently to differentiate the rooms, like the master would be more than one of the bedrooms that didn't have a bath attached.

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Ms. Wingert: Correct.

Ms. Brown: So, you have structured pricing then?

Ms. Wingert: Yup, yeah, we have different pricing-

Mr. Wingert: And it changes throughout the year, seasonal and such.

Ms. Wingert: Those are the two factors is the type of room and then the season.

Ms. Brown: Okay.

Dr. Larson: Okay so let's thank you very much, let's try to get the Board discussion going to see what conditions we want or a motion afterwards. So right now, we're working on conditions so we understand what we're going to vote on. Does anybody have any other conditions for a special exception?

Mr. Ireland: So, I-

Ms. Evans: I do. Okay, I'm sorry.

Dr. Larson: Go ahead.

Mr. Ireland: I'm thinking that I'm in a position where I think I'm going to be a no vote without conditions because there's so many things that you guys are working on still that you haven't gotten approved, you've built some things I'd love the DIY stuff that you've done, I appreciate the gentleman who was speaking on your behalf saying he doesn't have a problem with it because you guys are there to make money and do good things but there are a lot of unknowns and there are a lot of promises and there's a lot of, in my mind the septic is gonna fail, eventually, and you know that's one of the leading causes of groundwater contamination is a failed septic, I have a septic, I've had a septic in the past so I understand that but it's detrimental to the land and maybe possibly land owners, the other thing is your neighbors whether they live next to you as an abutting neighbor or down the street one way in one way out, I live on a cul-de-sac as well, they've made a compelling case that, and unfortunately that one time incident hopefully was like you said the only time that it will ever happen, it had nothing to do with a bed and breakfast, I understand what you're saying, however it makes it look really bad and I'm not sure I would want something that appears even in my brain that it's a hotel and I know a bed and breakfast is, you could call it a hotel you could not call it a hotel but the more bedrooms you add the more patrons you add the more problems you add and all these DIY projects and whether the deck is safe for patrons or I mean I hope you have good insurance because that scares me to death so but to go back to we're looking at here I think in our book the 28 351 grading of special exceptions, D2 says shall not affect adversely the use of neighboring properties, I think there's been a compelling case from neighbors who feel that that is the case, number four the use shall not affect the health or safety of persons residing or working in the neighborhood, you know mental health if someone has to deal with some of that and I understand that July 5 party was an anomaly hopefully, but it was a bad one and you guys admit that and also number five detrimental to public welfare, injurious to property you know the septic system to me is, may seem a little thing to some people but it's a you know it is kind of a big thing so I'm gonna be a no vote and I'm new to this so with the caveat that if you guys get this stuff, you may find it all these things you have to fix is too much, it's a bridge too far, it might be too expensive and you can't afford it, so what we're doing here is sort of wasting our time if you can't live up to some of those conditions so I would say put the cart behind the horse, find out what you really need to do with all the experts from the County, what

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it's gonna take, the complexity, the cost, the insurance and all that and come back and make your pitch again and say we've done all these things, we've fixed all this stuff and we're still in this to make some money, and that's where I'm coming from, thank you.

Mr. Apicella: Mr. Chairman? I'm not yet where Mr. Ireland is yet, I think we could at least consider some conditions that would potentially mitigate the impacts on the neighbors so I'd like to offer some, again I'm not saying I'm for or against this application at this time but I would like to at this time recommend a couple of tweaks to the proposed conditions so I'm okay with one, two, and three as currently written, I would say for item number four I would recommend and I'm hoping Stacie's catching this, the subject property shall not be used as an event venue and no special events shall be allowed on site. That's my first proposed change.

Dr. Larson: Okay.

Ms. Brown: I'm fine with that.

Dr. Larson: I think that's more consistent with what the Ordinance is saying.

Mr. Apicella: On number five, I would say that the property owner shall maintain a fully operational septic system with no more than eight occupants per health, per the Virginia Health Department, including family members and guests, I know that's a long sentence.

Dr. Larson: Are you getting this staff? Go ahead and repeat that Steven.

Mr. Apicella: Okay the property owner shall maintain a fully operational septic system with no more than eight occupants per the Virginia Health Department, including family members and guests.

Dr. Larson: I just want to make sure they capture what you're saying, you might have to slow down a little bit. One more time slowly.

Mr. Apicella: Yeah, no worries, the property owner shall maintain a fully operational septic system with no more than eight occupants per the Virginia Health Department, including family members and guests.

Dr. Larson: We got it now? Okay. Next.

Mr. Apicella: Okay now a couple of these I think are maybe redundant with the code requirements but I just want to make sure there's no uncertainty so I'm gonna throw them out there just to have it on the table. I would add a condition that the subject property must remain owner occupied for as long as the b and b remains in business.

Ms. Brown: Well doesn't seven say that Steven? Number seven.

Mr. Apicella: It doesn't say owner occupied so I you know, a person can own a property and potentially have a bed and breakfast and not actually be there, I don't think that comports with our requirements so I just want to make sure that the applicant knows that they have to, they have to remain, you know it's their residence that they're using as a bed and breakfast, they can't beat feet and take a vacation for three weeks and continue to use it as a bed and breakfast while they're off site.

Dr. Larson: Okay so say your condition again Steven.

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Mr. Apicella: Yeah, the subject, the subject property shall remain owner occupied for as long as the b and b remains in business.

Dr. Larson: That's not what you said before, what you said after that to explain it, it sounded like you said that the owner has to be there whenever there's guests in the b and b.

Ms. Brown: Yeah, be on site.

Mr. Apicella: I don't mean that, I mean obviously they can go out and get groceries, I just mean that they can't rent the property out and not and not be living there.

Dr. Larson: No okay your exception, your condition says that but your explanation said something else.

Mr. Apicella: Yeah, maybe I didn't explain it very well, I'm not trying to say they have to be on the site 24/7.

Dr. Larson: Okay.

Mr. Apicella: If you think that's something they need to be, I think that would be you know a little too prescriptive. I just want to be sure that they're living at the residence while they're using it as a bed and breakfast.

Dr. Larson: No, I think your condition is fine.

Mr. Apicella: Okay one more, again I know it's required but I just want to make sure there's no uncertainty here that at least one meal per day shall be offered to b and b guests.

Dr. Larson: At least one what?

Ms. Brown: Meal.

Mr. Apicella: At least one meal per day shall be offered to b and b guests.

Dr. Larson: Okay.

Mr. Apicella: That's its Mr. Chairman.

Mr. Gibbons: Can we put this in a form of a motion?

Dr. Larson: Almost, I want to make sure we get, I want to make sure we get everybody's conditions.

Ms. Brown: I had one earlier, I don't know if you guys agreed with it, it was about this property will be ineligible for County subsidized pump and haul should the septic system fail.

Dr. Larson: Ineligible for what?

Ms. Brown: County subsidized pump and haul.

Dr. Larson: Pump and haul?



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Ms. Brown: Yes, it's when the drain field fails and the property is not livable unless you have some company come out and do pump and haul. In the past, the County has offered subsidized at the expense of the tax payers to pay for that so I don't want to put the tax payers of Stafford on the hook should too many guests come, too much laundry gets done, the septic system fails, I just want to add that in there as a protection for the tax payers and I wouldn't mind delineating there'd be no alcohol served on the premises.

Dr. Larson: Pump and haul.

Ms. Brown: Pump and haul yes sir.

Mr. Staranowicz: That's uh, usually the program is run by the Utilities department.

Dr. Larson: Okay I just wanted to make sure you got it. Because I didn't hear it the first time.

Mr. Staranowicz: That's exactly what she's explaining.

Ms. Brown: But I want to be very specific, subsidized pump and haul, I don't think we can prohibit pump and haul but just subsidized pump and haul. I don't want the County to be subsidizing the pump and haul so I just want to put that word in there.

Dr. Larson: Okay, I have one that I always want to add, no retail sales on the premises or retail sale of, retail sale of goods will be prohibited.

Ms. Evans: Can I add a condition as well?

Dr. Larson: Go ahead.

Ms. Evans: Definitely make sure that ADA compliance and I want to iterate number six that they must comply with all state, federal, and local codes. I'm really concerned about the lack of permits that you have. So that's the only thing I'm, I'm not leaning towards no, but I'm not leaning towards yes either. Thank you.

Dr. Larson: Any other conditions offered? Go ahead.

Ms. Evans: I forgot, sorry, can we put a requirement, age requirement,-

Dr. Larson: Age?

Ms. Evans: Yeah because I see as far as them renting out I see it what was it like a 19-year-old that did that for July 5 was it? Okay because I see it and it says 19+ so I'm assuming that that was the age 19 and older, so how old or does anyone know, how old do you have to be to rent out a bed and breakfast. I'm assuming they have to be-

Mr. Wingert: *Inaudible.*

Ms. Evans: Can you stand up to the podium?

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Mr. Wingert: To rent or anything using an Airbnb site you have to have a government issued ID and a credit card. So that's the minimum standard but we've found that I think as you're alluding to the younger they are the more problematic they are.

Ms. Evans: Right and I ask that because of like let's say someone is 19 or 20, you're not monitoring, they bring alcohol to your home.

Ms. Wingert: We have a 25 and over and that's why we like Airbnb is that they allow us to make those settings.

Ms. Evans: Okay.

Ms. Wingert: And deviating outside of that is just I mean anything can happen.

Mr. Wingert: There has been occasions though where we have somebody that that has a child at Mary Washington University and then they rent a room for them to be here so that they can visit with their child so-

Ms. Evans: So just case by case basis.

Mr. Wingert: It really is but we understand how the younger they are the more...

Ms. Evans: Right okay. I just wanted to make sure. Thank you.

Dr. Larson: Any other offered conditions?

Mr. Apicella: Mr. Chairman?

Dr. Larson: Yes.

Mr. Apicella: I think Mr. Ireland had one that might be worth considering which is to get the septic system cleaned out at a minimum every three years.

Dr. Larson: That almost sounds like a Health Department issue to me.

Mr. Apicella: Well again the minimum requirement is five years, I'm just suggesting I mean it kind of goes along with what Ms. Brown was talking about just to again make sure there's no problem with septic system that it gets cleaned out more frequently than the minimum requirements. I do think the County enforces it though.

Ms. Evans: He said it should be three years. Right, he said it should be three years.

Dr. Larson: Why is that?

Mr. Gibbons: It should be. Because there's the bay.

Dr. Larson: A what?

Ms. Evans: Because of the Chesapeake Bay Act? Is that what you're talking about. Yes.

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*Inaudible.*

Dr. Larson: I think we, yes could the Health Department expert could you come forward again please or, we're talking about or maybe it's the septic person?

Ms. Brown: Did he just leave:

Dr. Larson: Oh yeah.

Mr. Apicella: It came up, Mr. Ireland asked the question, he asked whether it would have some merit and have, make sure that the septic system is less prone to failure if it was pumped out more frequently than the required five years and Mr. Ireland mentioned three years as a target and I recall that the septic professional said yeah that wouldn't hurt so...

Dr. Larson: Yeah, I remember the discussion.

Mr. Apicella: It costs about \$200, \$250 to get it cleaned out.

Dr. Larson: Alright, do you have that, have you copied that requirement down, condition, okay we have it. Any others? Okay before we reread the conditions I am still not comfortable with this special exception as some of you voiced. My biggest problem is what happened in July. I want to make sure if we go forward that won't happen. And I understand we're trying to do it with the venue, with the event venue language, I'm just wondering if that's strong enough.

Mr. Ireland: I want to make a statement on that. I have a neighbor who lives across the street from me, just moved in. They don't have a bed and breakfast. They have a party probably once or twice a month and they have cars up and down my street, both sides, right in front of my house. I hear the music, so you can't regulate them either I mean they're not a bed and breakfast but in your defense you are saying that you didn't, you were expecting it to be a lot different than what it turned out to be and I understand that so it's a hopefully a one time deal but if they didn't sponsor it and it was out of control even the cops didn't want to go there then, I don't know that we can use that against you necessarily but there are other issues that could potentially cause another, is he okay to talk?

Dr. Larson: Go ahead.

Mr. Wingert: We would entirely be willing to make a condition, zero outdoor amplified music, because we don't want that period and that's what they want to do is people want to have a party at the pool so if there's no amplified music then it's really nobody's gonna hear anything. And that does cut down on people thinking they're going to have a party at our house.

Mr. Spinnanger: Mr. Chairman I have a quick question right, so there's a, so I shared the concerns and you know that you had and I appreciate what you just said and the stipulation but I mentioned earlier there's a lot of learning by doing here and that part's fine frankly to a certain degree but for me there's a bevy of permits, there's a bevy of open questions regarding what you intend to ultimately do with respect to the septic system and if we grant the special exception as is right now with a whatever else and you go back in you upgrade the septic you know to be reflective of the number of bedrooms that you actually have that would up the amount, I would imagine that we would, then this Board would have established a precedent. It would be hard to then walk back and say well eight was fine but our limit was on the septic system, you've now changed the septic system to accommodate the house and therefore

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your occupancy levels would be you know right for increase. So that's a bit of a concern of mine and mindful of the unanswered questions you know regarding permits and such, I wonder if staff could just briefly review, they have the option to withdraw their application and then go back and address these various and sundry other permits and such and then bring it back but if we vote no if this was to be, and I don't know that it would or not right, you know but that would actually delay any action by the applicant by a year, is that correct?

Dr. Larson: They can withdraw it.

Mr Spinnanger: They can withdraw. Okay.

Dr. Larson: If we don't vote on it then it won't have been declined. To address what you just said though, if we approve a special exception with the conditions we're talking about, notably eight occupants total, that's what the special exception's approved for so it doesn't matter what he does. He can get the superman septic system of the whole state and he's still only allowed to have eight occupants including them until he comes back-

Mr. Spinnanger: Comes back to the Board again.

Dr. Larson: That's correct.

Mr. Spinnanger: Thank you for that.

Ms. Brown: Which is a good point, why would he want to go to that expense if he could only have eight so maybe it would be better to get him to get his ducks in a row and decide what he really wants to do.

Dr. Larson: Applicant would you like to address that?

Mr. Wingert: So, generated income from this is pretty much the only way that we could afford to do these upgrades that are needed. So, we would be happy to limit it at eight and then if we, you know if everything is going well, we have a good record then we could at that point revisit and reapply for the extra two persons that we might be able to do.

Dr. Larson: Any other questions.

Ms. Evans: I do have a question, when they say revisit, could we revisit as far as with the stipulations making sure that they are in compliance within a matter of...

Dr. Larson: We can't revisit but we can, if the County finds that they're in violation then it comes back to us and we can rescind it. We have as somebody pointed out before we have done that in the past.

Ms. Evans: Okay, alright.

Dr. Larson: Okay, thank you. Any other comments or questions or discussion. I realize this is going a little later than I certainly planned but we need to thoroughly flesh this out.

Ms. Brown: I love the idea. I love the idea, I think your house is lovely. I would approve it if these things were in order and right now I just think that there's a lot of unanswered stuff and a lot of things that need to be fixed. So, if you were to come back to us with these things fixed I could do it, I could support it.

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Mr. Ireland: Are we voting now or?

Dr. Larson: We're getting close.

Ms. Evans: There are a lot of issues, but this would be what, the first bed and breakfast that this Board approved, is that right?

Ms. Brown: This Board but there are five other bed and breakfasts that are approved in Stafford I checked this morning. And maybe Mr. Morgan could confirm that but-

Ms. Evans: Right and they've been approved by this Board?

Ms. Brown: No, they've been approved-

Ms. Evans: Okay so that's an issue in itself.

Ms. Brown: They've been approved in Stafford. This is our first one as a special exception.

Ms. Evans: So, I would say with all the stipulations that every member pointed out here, why not give them a chance. I understand that you know, I mean my biggest issue is the permits, you have to get these permits. The July 5 incident, it happened, let's get over it and that's it. But I would say why not give you a chance. You have on supporter here and he said that it was just that one incident so that's just my take on it.

Dr. Larson: Is there a motion?

Mr. Apicella: Mr. Chairman? I'll go ahead and make a motion to approve the special exception with all the conditions as revised.

Dr. Larson: Okay let's, could I ask the staff to read back the conditions please?

Mr. Staranowicz: Condition one days of operation seven days a week 24 hours a day. Condition two, the applicant shall accommodate an adequate number of parking spaces consistent with the County code, all vehicle parking shall conform with the following standards, all vehicles shall be parked in designated parking spaces, no vehicle shall be parked along Falling Creek Drive, and all required travel lanes shall remain unobstructed. Condition three, adequate addressing should be present at the driveway entrance.

Mr. Apicella: Mr. Chairman, I'm gonna stop you there, it should say shall be present, should is too wishy washy.

Dr. Larson: I agree, shall be present.

Mr. Staranowicz: I said adequate addressing should be present at the driveway entrance.

Dr. Larson: Wait we want to change that to shall be present, in other words it's mandatory.

Ms. Evans: Dr. Larson can we say must?

Dr. Larson: In the vernacular requirements for DoD I can tell you shall is a must.

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Ms. Brown: Shall is the...yeah.

Dr. Larson: Go ahead.

Mr. Staranowicz: The property shall not be used as an event venue and no special events shall be held on the property. Property owner shall maintain a full operational septic for eight occupants per the VDH requirements including family members and guests.

Mr. Apicella: It's fully not full, f-u-l-l-y.

Mr. Staranowicz: Yes sir, corrected. For eight occupants.

Dr. Larson: No more than eight. So, could you read that again once you finished the editing.

Mr. Staranowicz: The uh, for number five it should be property owner shall maintain a fully operational septic for no more than eight occupants per VDH guidance including family and guests. Subject property must be owner occupied for as long as the bed and breakfast is in business. At least one meal per day shall be offered to bed and breakfast guests. Should the septic system fail, the property shall not be put on a County subsidized pump and haul program. No retail sales of goods or merchandise will be allowed at the bed and breakfast. Pump out shall occur every three years. Must comply with all state, federal, and local codes. The special exception shall expire when the applicant vacates the property and is non-transferable. The special exception may be revoked for willful non-compliance of the conditions imposed by the Board of Zoning appeals.

Dr. Larson: So, the pump out every three years, could you put septic tank pump out every three years?

Mr. Staranowicz: Yes sir.

Ms. Brown: Did we decide not to do the no alcohol served on site by the owners? Because they would need an ABC license for that. And they haven't requested one.

Dr. Larson: We could put that in, I, that might also come under state, federal, and local codes. You can put it in as a reminder.

Ms. Brown: I'm not gonna support this, I'm just gonna tell you right now I just think that these need to be figured out first, so you can put it in or not put it in, I'm a no vote on this.

Dr. Larson: The applicant also suggested something to mitigate the party atmosphere with no outdoor amplified music, that wouldn't be a bad idea. Steven you made a motion were those the conditions you were moving?

Mr. Apicella: Yes. I just want to be sure that the one where it says fully operational septic after the word system I didn't hear that, but yes those are the conditions that I would recommend as part of my motion.

Mr. Staranowicz: Mr. Chairman there was one more that I hadn't written down and it was the Ms. Evans requested that they be ADA compliant.

Dr. Larson: Okay.

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Mr. Apicella: Ms. Evans? Would you be okay with ADA compliant as required? Because we just don't know.

Ms. Evans: Correct, yes, I would be, yes.

Dr. Larson: Alright, there's a motion on the floor is there a second?

Ms. Evans: I second the motion.

Dr. Larson: Any other discussion?

Mr. Gibbons: I second the motion.

Dr. Larson, Okay Bob, we have two seconds. Okay, any other discussion? Okay those in favor, I think we're gonna have a split vote, those in favor raise your hand.

Mr. Apicella: I'm raising my hand Mr. Chairman.

Dr. Larson: Four. Alright, those opposed raise your hand. Okay, the motion passes 4-3 (*Mr. Ireland, Ms. Brown, Mr. Spinnanger opposed*), your special exception has been granted with the conditions that we've attached to it. You should be receiving a letter from the County within the next few days.

Mr. Wingert: Thank you very much.

**UNFINISHED BUSINESS**

NONE

**ZONING ADMINISTRATOR'S REPORT**

Dr. Larson: Alright, there's no unfinished business, Zoning Administrator's report. We'll come back to that. Minutes, let's talk about the minutes.

**ADOPTION OF MINUTES**

2. March 23, 2021

Mr. Ireland: Can I make a motion about the minutes? Since the minutes are verbatim from a transcription service and we can't change them because they're a legal document, why do we review them? I make a motion that we skip reviewing them.

Ms. Brown: We do change them.

Mr. Ireland: You can't. I thought we talked about last time where it's a verbatim transcript and we can't change them because it's a legal document. I know you have.

Ms. Brown: No, the discussion that I remember was that we have to, they suggested we do like a summary minutes but the clerk had told us that for legal reasons we have to have them verbatim.

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Mr. Ireland: But in that same discussion I thought she said-

Mr. Apicella: Mr. Chairman, can I chime in? The reason for review and discussion is in case we find errors and omissions which does happen sometimes, it's not a perfect transcription service so every now and then a word will be misspelled or a word will be missing or it'll be the wrong word so it's not to change it, it's just to make sure it's accurate.

Mr. Ireland: Okay.

Ms. Evans: Can I say, if a word is missing, the transcriber is only transcribing what she heard, so we can't alter that, because she's taking it verbatim.

Dr. Larson: Well yeah except I think we've had this discussion a long time, in fact I don't think, I don't think any of the staff members were here at the time, there, you can misinterpret or mishear or not hear, I mean they might put inaudible but they also might misunderstand what they just heard and the person that said the word knows what they said.

Ms. Evans: Right and I understand that but if we are having, well if she was a certified transcriber and this was like a case was to go to court and she was certified this is what I heard she wouldn't say oh this is what I'm assuming the Board member said.

Ms. Brown: We certify the minutes. We're by the vote we are certifying the minutes.

Ms. Evans: Okay, I'm just saying, maybe it's me, but like when I do, when we do transcriptions in court it is what the court reporter is hearing and that's on the record, that's the record.

Dr. Larson: But that person's present and they can actually hear it. The transcribers here are listening to a recording that sometimes is not easy to hear.

Ms. Evans: Right but it's the same thing, so it's just that-

Dr. Larson: It's not really the same thing.

Ms. Evans: Because she's present.

Dr. Larson: She's present but she's not memorizing everything we say.

Ms. Evans: No, she's recording it.

Dr. Larson: No, she's not, she's, the recording is recording it.

Mr. Morgan: The recording is what transcribes it, a human being does not do that.

Ms. Evans: Right so basically-

Mr. Morgan: So, she has to go back through and listen to it while it's being, there's a lot of times there's many different words that really aren't even words or some- or sometimes it's foul words that aren't really said.



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Ms. Evans: So, I definitely get it, like when we're in court there is a little machine that is recording the proceedings, the court reporter is only getting some of it. Then they go back and they listen to the audio to make sure that that's what they're transcribing.

Mr. Morgan: Correct.

Ms. Evans: I'm assuming that's what she does.

Mr. Morgan: That's exactly correct.

Ms. Evans: So therefore, what she transcribes is what she transcribes. We should not alter that.

Mr. Apicella: I'm just gonna say that sometimes it's not 100% accurate-

Ms. Evans: Of course.

Mr. Apicella: A couple of words might not be uh-

Ms. Evans: But that's why they have the record-, that's why they have the audio so the court can hear exactly what it is, we should not be saying hey that's not what was said. She's only transcribing what she hears.

Mr. Morgan: You're absolutely correct. And on top of that it gets difficult to listen when people are talking over people and trying to get the correct person and sometimes those words get jumbled and it's very difficult and sometimes lengthy when there's a long conversation.

Ms. Evans: Yes, that's where the-

Mr. Apicella: I'm just concerned we've had some, we've had some significant cases where the words were not transcribed correctly, where I thought the change was very important to make, just a word or two changed the whole context of what was said you know again we've got lots of new members and we can certainly change course but I think we've given some leeway to members if they know what they said and they're adamant that they said it to give them some ability to make the changes. It's not rewriting history, it's just making sure the words are accurately uh written on the page.

Dr. Larson: Let me ask the Zoning Administrator, if we stop certifying our minutes-

Mr. Morgan: You approve, you approve the minutes.

Dr. Larson: But why, that's the question, why do we have to bother doing it if they're already recorded?

Mr. Morgan: Well they've got to be transcribed.

Dr. Larson: It's just a recording.

Ms. Brown: Because we're making sure it's right, and I'll give you a recent example-

Dr. Larson: I'm not arguing either way all I'm saying is if we did not approve the minutes, would the Court accept the minutes?

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Mr. Morgan: I do not believe so, that would be a-

Dr. Larson: And why would that be? It's a recording. And with a transcriber. But why wouldn't they accept it?

Mr. Morgan: Because then they would have to accept the recording, not the written minutes.

Dr. Larson: And so, when this Board approves the minutes, we can make changes to the minutes, the things to clarify what was said and then approve it or certify it whatever word you want to use and the court will accept that.

Mr. Morgan: But what I'm, but I believe what Ms. Evans is saying that when you clarify and change things that might clarify what your intent was or what you thought it would sound, those are different.

Dr. Larson: If that's what she's saying, I agree.

Mr. Morgan: Relaying what the minutes, yes. That's exactly what she's saying.

Ms. Evans: That's exactly what I'm saying.

Dr. Larson: Okay but –

Mr. Morgan: I wanted to make sure I wasn't missing that.

Dr. Larson: But I agree with Steven, I agree with Steven-

Ms. Evans: Only because I just see where the attorneys, the defense and the prosecution, they will argue that the defense will wit like we're altering it but hey it is what it is.

Dr. Larson: I agree with Steven, if the recording and the transcriber both hear the same thing and say oh yeah I agree that meant, that was this and the person that said it knows that that was not the case and it actually sometimes does alter the, I mean it's a language, words matter, and if it alters the meaning of what was said, that's important and it needs to be corrected.

Mr. Morgan: And that's why it's very important to make sure that we're cognizant of what we're doing what we're saying and that we're constantly being recorded during these meetings to make sure that we're clear and concise and to the point.

Dr. Larson: Totally agree. So back to the minutes.

Ms. Brown: Can I just add my recent example was like a month or two ago on the minutes and it was an error that I asked to be corrected and I had the minutes were written as the letter a one like a one or a one and what I was really saying was A1, I was referring to a zoning issue so that's a, you know I needed that corrected because it was very specific and that's why I wanted it corrected and if I'd let it go as a one zone doesn't mean A1 zone, so that was, that's just an example of one of the things I can remember of why I've changed mine.

Dr. Larson: So back to the minutes of March 23-

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Ms. Evans: Dr. Larson?

Dr. Larson: Oh, go ahead.

Ms. Stinette: Let me clarify.

Dr. Larson: Okay.

Ms. Stinette: We do have three people that type the minutes, so sometimes all three of us work on one set of minutes and sometimes we will have one of the others come, hey come listen to this I can't understand what they're saying, so they come listen, so we do hear different things all three of us. And also, when y'all do, when you all do tell us, correct a word or something, we will go back and listen to the tape again and if we know what the correct word is or what you think the correct word is we will then hear that and it's much clearer because sometimes we just cannot understand a word or two and yeah, so.

Dr. Larson: Okay so, and thank you for that input, that makes a lot of sense. Are there any corrections to the March 23, 2021 minutes? Any corrections? Okay is there a vote, or is there a motion to approve the minutes?

Mr. Ireland: I move that we approve the minutes as transcribed.

Dr. Larson: Second?

Ms. Evans: I second.

Dr. Larson: Those in favor say aye. Opposed. Okay minutes are passed.

OTHER BUSINESS

3. Email Submission

4. By-laws

Dr. Larson: I am going to suggest in view of that time that we table our discussion of email submission which is something I really want to talk about and by-laws if there are no objections we can have a motion to adjourn.

Ms. Brown: Before we do that, can we find out if we have a meeting next month?

Mr. Morgan: We have not had a case filed so we will not have a meeting in June. Last week was the cut off so we do not have a case for June.

Ms. Brown: I just don't want to kick this down the can, can down the road like we did last time for a year.

Dr. Larson: You mean the by-laws?

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Ms. Brown: Yes, especially because the only change that I wanted to make was just to clarify that small thing that the Chairman will take over at the next meeting after election that was the only thing I wanted to add.

Dr. Larson: Can we do that via email?

Ms. Brown: I don't know, can we?

Dr. Larson: Yes.

Ms. Brown: We can't take a vote via email, though right? That would be a meeting.

Dr. Larson: Actually, it's administrative, it's administrative right?

Ms. Brown: Steven what do you think?

Mr. Apicella: I just, is there some urgency, I mean I, do we have the exact words, I don't know.

Dr. Larson: Well actually the next time it's gonna happen-

Mr. Apicella: Can it not wait until the July meeting?

Dr. Larson: Is like eight or nine months from now, we have that long to actually make sure it's in there.

Ms. Brown: No this is the end of May so we have six or seven months but we won't be meeting necessarily, I just want to have it done and in place.

Dr. Larson: We did go a long time.

Ms. Brown: I want to have it in place before the February meeting so we'd have to have it approved in January you know we're starting... *inaudible*... next week.

Mr. Apicella: If we don't, if we don't have any meetings between now and then then we'll have a special meeting in January, I just, I just don't know that there's that much urgency, I don't disagree with what you're trying to do I just don't know what the words are exactly, I haven't seen them, I'm just wondering why it's so urgent that we'd have to take it up right away.

Ms. Brown: Well I think it's been on the agenda twice right since February.

Dr. Larson: I don't recall, but I do recall the by-laws taking absurdly long to get past.

Ms. Brown: I do too. Just because we kept kicking it down because it was late so, how about this, how about if I just write what I think they should say, send it to you, maybe you can send it around and see what people think and then we can approve or not approve at our next meeting?

Dr. Larson: How about if we do this, that's that's exactly what I was gonna propose, in fact that's what I thought you were going to do, I actually thought you were gonna do that this time.

Ms. Brown: Okay I can do that.

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Dr. Larson: Compose it, send it around, let people think about it, and when we-

Ms. Brown: How about if I send it to you and I'll let you send it around.

Dr. Larson: Alright, and at the next meeting then we have it, we can discuss and vote on it then.

Ms. Brown: Okay, that works for me.

Dr. Larson: Okay.

Ms. Evans: Chairman Larson, can I also say something for the secretary duties, I do not handle A through E in the by-laws and so that's one thing that we wanted to, I wanted to address, but I can do the same thing, email.

Dr. Larson: Yes, please.

Ms. Evans: I know we're all ready to get out of here.

Dr. Larson: Yes, if you would send an email to me with your suggested changes and then I'll forward it to the Board.

Ms. Evans: No problem.

Dr. Larson: Anything else? Do I have a motion to adjourn?

Ms. Evans: Motion to adjourn.

Dr. Larson: Second?

Mr. Apicella: Second.

Dr. Larson: Those is favor say aye.

**ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 10:08 PM.