

# Department of Planning & Community Development



A Public Hearing of the Franklin County Planning Commission was held on May 12, 2015, in the Franklin County Board of Supervisors conference room located in the Franklin County Government Center.

**THOSE PRESENT:**

C. W. Doss, Jr. – Blue Ridge District  
Edmund “Doc” Law – Rocky Mount District  
James Colby – Gills Creek District  
Wendy Ralph – Union Hall District  
Angie McGhee – Boone District  
Earl Webb – Blackwater District  
Sherrie Mitchell – Snow Creek District

**THOSE ABSENT:**

Jim Jefferson - County Attorney

**OTHERS PRESENT:**

Neil Holthouser, Director of Planning & Community Development  
Susannah Smith, Senior Planner, Current Planning Manager  
Lisa Cooper, Senior Planner, Long Range Planning Manager  
Lori Crouch, Clerk

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The meeting was called to order by Chairman Earl Webb at 6:00 PM in Board of Supervisors conference Room. The first order of business was the approval of the minutes from the April 14, 2015 work session. Mr. C. W. Doss, representative of the Blue Ridge district made a motion to approve the minutes as written. The motion was seconded by Mrs. Wendy Ralph, representative of Union Hall district. Chairman Webb noted we have a motion and second for the approval of the minutes, all in favor say aye. Those opposed say nay.

**(RESOLUTION 05-15-1):**

**BE IT THEREFORE** resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to approve the April 14, 2015 minutes as written and presented.

MOTION: Doss

SECONDED: Ralph

Voting on the motion was as follows:

AYES: Doss, Webb, Colby, Law, McGhee, Mitchell, Ralph

NAYES:

ABSENT:

ABSTAIN:

At this time Mr. Earl Webb, Chairman, introduced the first petition on the agenda. The petition of William M. Hannabass, Mary Hannabass and Shirley Frith requesting a rezone from RC-1, Residential Combined Subdivision District to A-1, Agricultural District. Mr. Webb opened the public hearing with comments from the Staff.

Ms. Susannah Smith, Current Planning Manager, thanked the Planning Commission. Ms. Smith introduced the petition for rezone by William Marvin and Mary Hannabass and Shirley Frith. There are two (2) parcels of land, but are handling this as one rezoning petition. The Tax Map # 55-5.2 and 55-5.2D in the Blackwater District, there are two (2) homes on the property, with addresses of 531 and 535 Jamestown Road. These parcels are presently zoned RC-1 which is Residential Combined Subdivision District, which allows mobile homes, double wides and single family homes. The size of the parcels total 15.31 acres. The area is mostly undeveloped property with exception of the two (2) homes. The Future Land Use Map for this area appropriate for forestry, agricultural and rural residential. The surrounding zoning of the districts are A-1, B-2 and RC-1. The properties that are zoned as RC-1 appear to be original zoning. Owned by someone that

was interested in developing the Cobweb Hills Subdivision, but these tracts of land were never developed, are still zoned RC-1. There is no public water service in this area. The homes are on private well and septic. There is a plat showing the dimensions of the properties, Tract A is 9.22 acres, the property of the Hannabass' and Tract B is 6.09 acres, which is owned by Ms. Shirley Frith. The applicants do own to the road, they have a developed shared driveway among the two (2) properties. The existing conditions are two (2) manufactured homes, one on each lot. The Hannabass' own the double wide and at the end of the drive is Ms. Frith's single wide. There is a retaining wall that separates the two (2) properties, there are several farm type buildings, i.e. barns and sheds on the property, as well as gardens and boxes with vegetables being grown in; which the Planning Commission did see while at the site visit. The Hannabass' do intend to add some additional gardens and would like to add a hunting cabin in the wooded area in the center of the property. The Hannabass' had originally come in seeking a permit to build a hunting cabin, however they were unable to do so because of zoning of the property. The staff spoke with them about building a second home on the property, but that is not what the Hannabass' wanted to do. The Hannabass' would like to have only the hunting cabin added. Which is not allowable in the RC-1 district. At the site visit the Planning Commission Members were made aware of hunting stands that surround the area, where they hunt and that they do grow vegetables. Ms. Smith brought attention to the hundred year floodplain map, steep slopes and possibility of some jurisdictional wetlands down the south side of the property. These things would make it difficult to develop this land. The surrounding area is wooded, there is a little sight distance problem on Jamestown Road going back to the south. Ms. Smith stated that Staff is recommending the Planning Commission consider and approve the following: *The Planning Commission recommends that the Board of Supervisors approve the request for rezoning from RC-1, Residential Combined Subdivision District, to A-1, Agricultural District, as submitted.*

Ms. Smith asked if there were any questions at this time by Commission Members. She also stated that it is somewhat unusual for an A-1 request that is not conditioned without any proffers.

Mrs. Wendy Ralph, representative of the Union Hall District, asked Mr. Chairman if she may ask a couple of questions. Mrs. Ralph asked staff in regards to the property that the Hannabass' own, could that property be divided into a separate home instead of a hunting cabin? Ms. Smith stated that yes the property could be divided for a separate home, but only for a family member, however the property does not have enough frontage to actually be divided into a legal lot. They have enough with the portion that is owned by Ms. Frith to actually put a road in. It looks as if the developer had planned to do that. Ms. Smith stated that she thinks the problem that the developer ran into was that the property does not perk all that well. So the property is limited in what could be done. Ms. Smith restated, yes, the Hannabass' could divide but that is not what they wanted to do, they would like a hunting cabin which is a use by right so that they may continue to hunt, use the wood as a wood lot and to continue to farm. Mrs. Ralph asked for clarification on the hunting cabin as just for recreational purposes? Ms. Smith stated that a hunting cabin does not have to have sleeping quarters, and under the building code it is not considered a single family dwelling. The hunting cabin can have bunks in it, it does have to have septic. There must be a bathroom in the hunting cabin. A hunting cabin does not have to have a kitchen, as a single family dwelling; which must have an area for preparing food, sanitary services and an area for sleeping. Mrs. Ralph then asked the question, that should the Board of Supervisors approve this rezone to A-1 would this present or future owners be allowed to do short term rentals; would the request have to come through the planning commission and the board again? Ms. Smith stated that the A-1 zoning only allows Short Term Rental of a Dwelling with a Special Use permit, so the owners would be required to go through similar steps they are currently doing by having a public hearing before the Planning Commission and the Board of Supervisors. Ms. Smith reassured Mrs. Ralph that the owners of the property would not be able to rent the hunting cabin.

Mr. Jim Colby, representative of the Gills Creek Districted asked staff regarding the staff report where the "staff had discussed possible proffers with the applicants", would staff be able to recommend any proffers that they think would make this request more favorable? Ms. Smith stated that proffers are first of all, voluntary and all staff can really do is understand what the applicants plans are for the future, their long term plans. Ms. Smith stated that there are some intense uses that can be done without an special use permit, such as an antique shops, sub divide, a bed and breakfast, a cemetery and other such uses with animals such as kennels or a commercial stable. There are special uses that are allowed in A-1 such as campgrounds, lumber yards, flea markets, and the like which would all require a special use permit which

as the Planning Commission knows would require a public hearing. Ms. Smith commented that perhaps the applicants would be willing to proffer in only the uses that they would like to have such as the hunting, fishing and agriculture and of course their residence. The applicants did not seem to be interested in the proffers. Ms. Smith felt that maybe the biggest reason was that the applicants are surrounded on three sides by A-1 that have no proffers or restrictions. Mr. Colby asked to see the zoning map again. Ms. Smith corrected herself that the property is actually surrounded by 2 1/2 sides. Mr. Colby thought that by looking at the zoning map that the rezoning of an A-1 in the area would be an intrusion to the surrounding RC-1, Residential Combined Subdivision area. In looking at the zoning map Mr. Colby believes that the rezoning to an A-1 in that area would look more disjointed. Ms. Smith commented that in her observation that in looking at the tracts of land and the development. The RC-1 is very restrictive, as far as a zone that encourages development of homes. The property is very steep and again a possibility of jurisdictional wetlands which could not be developed without a vast amount of capital. The floodplain map shows the property to be very encumbered and again the steep slope on the property would make for a very impractical area to develop. The surrounding tracts are more flat and are zoned well for the RC-1. The farther back areas do not make sense in the RC-1 Zone. This area looks more like an A-1 property.

Ms. Smith at this time introduced the Hannabass'.

Mr. William Marvin Hannabass thanked the planning commission for hearing him and stated that when he purchased the land, he asked if there were any restrictions on the property. He was told that there were no restrictions. Mr. Hannabass' original intention of purchasing the property was to raise steers. He stated that he built a barn on the property and after which found out that he could not raise steer on the property. He wondered what was the point of building a barn and he can't raise the steer that he wanted. Mr. Hannabass stated again that he did not know that there were restrictions. He stated also that he knew in Bedford County anything over 5 acres was considered a farm. Mr. Webb asked if the Planning Commission had any questions for the owner. Mr. Webb thanked Mr. Hannabass.

Mrs. Mary Hannabass introduced herself to the planning commission. She stated that some of the Planning Commission had come out to the property for the site visit; those members were able to see the beauty of the property. She explained to the Planning Commission that she was reared up in the area and among nature. They want to keep the beauty of the land and grow their own food with no pesticides or poisons. Mrs. Hannabass stated that the vegetables that are extra she gives away to her neighbors. She informed the Planning Commission that all the land that has been cleared has been cleared by their hands. She confirmed that when they purchased the land that were told there were no restrictions. Mrs. Hannabass would like to be able to go to the river to sit and enjoy nature. She would like for her neighbors to be able to enjoy the area and the river, as well. Mrs. Hannabass asked the Planning Commission to consider the approval to rezone their property to A-1 to keep it from being developed. Mrs. Hannabass told the Planning Commission that they do not plan to sell the land out of their family. She thanked the Planning Commission for their time.

At this time, Chairman Webb asked for any public comments.

Mr. Tony Saunders was called to speak.

Mr. Tony Saunders stated that he was mostly concerned about the hunting cabin. What were they going to hunt? He stated that there wasn't anything to hunt. Mr. Saunders stated that he has had problems with hunters on his property. He informed the Planning Commission that he lives adjacent to the property owners, Mr. & Mrs. Hannabass. Mr. Saunders stated that he has no problem with a farm or their having a garden, as he has had one for the twenty-nine (29) years that he has owned his property. But he does not understand why they need a hunting cabin. Mr. Saunders asked for any questions. Chairman Webb thanked Mr. Saunders.

Mr. Paul Akers was called to speak.

Mr. Paul Akers introduced himself to the planning commission and stated that his property adjoins Mrs. Frith's. Mr. Akers stated he wants to make sure that no trailer parkers were going to be allowed and that no

industry would be placed on the property. He informed the Planning Commission that there is too much traffic in the area now and doesn't want to have more. Mr. Akers told the Planning Commission he had heard several years ago that a trailer park was going in on the Frith's land. He told the Planning Commission that he does not have a problem with the gardens as long as no trailer parks were allowed or more traffic on the road. Chairman Webb thanked Mr. Akers.

Chairman Webb asked for any other public comments. Mrs. Hannabass asked if she may address the hunting question. She stated there are lot of deer over riding in the area. Mrs. Hannabass assured the Planning Commission that they do not want to bring the outside in to hunt, they have one (1) son, two (2) granddaughters, one (1) grandson and one (1) son in law, only those in the family would like to hunt. Mr. Hannabass would like to have a milk cow so they may make their own butter and cheese.

Mr. Webb asked Mrs. Hannabass if they would be willing to put proffers on this land that no one but family members would be allowed to use the hunting cabin and hunt on their land? That the Hannabass' not put a mobile home park on the property? Mrs. Hannabass assured Mr. Webb that neither they nor Shirley Frith want to have a trailer park on their properties. Mr. Webb asked if the Hannabass' would be willing to proffer these items in order for the rezoning request to be more favorable. Mr. Webb explained to Mrs. Hannabass that it would alleviate the objections from Mr. Akers that you would not have a mobile home park on these parcels as well as restricting your hunting to family and not renting out the hunting cabin to others to hunt.

Mrs. Hannabass expressed that they are willing to stand on the proffer statement that is suggested by the Planning Commission of only family to hunt on the land, that they do not intend to rent out the cabin or have a trailer park. She stated that with the two (2) granddaughters living with them as well as their son, it would frighten her to allow a lot of people on the property to hunt. She agreed that they would be willing to the proffers suggested in order to protect the children.

Mr. Webb asked staff to speak to the explanation of the proffers

Mrs. Ralph clarified the proffers would go with the parcels that should the Hannabass' or Frith's sell the property the new owners would be bound by these proffers as well. If they should want to change they would have to come before the Planning Commission and the Board of Supervisors to change the proffers.

With no further comments, Mr. Webb moved the petition into regular session.

Chairman Webb asked for a motion.

Mr. Jim Colby, Gills Creek District motioned to accept the request for rezone from RC-1 to A-1 with proffers. The motion was seconded by Mr. Edmund Law, Rocky Mount District.

Mr. Holthouser explained further the proffers and the statement that the Hannabass' and Mrs. Frith would sign and include with their application to the Board of Supervisors. Mr. Holthouser gave suggestions of proffers. Mr. Colby amended his motion as such. Mr. Law amended his second as such.

**(RESOLUTION 05-15-2):**

**BE IT THEREFORE** resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to approve the request to rezone the property from RC-1 to A-1 with proffers as stated: (REZO-4-15-14045).

1. **Limitation of Use:** Use of the property shall not include any of the following:
  - Manufactured Home Parks
  - Short Term Tourist Rental of a Dwelling
2. **Limitation of Hunting:** The property may be used for hunting only by the property owners or immediate family thereof.

Voting on the motion was as follows:

MOTION: Colby

SECONDED: Law

Voting on the motion was as follows:

AYES: Colby, Doss, Law, Mitchell, Webb, Ralph, McGhee

NAYES:

ABSENT:

ABSTAIN:

Mr. Holthouser explained to the petitioners in more detail what had just transpired; the Planning Commission has voted to recommend approval of their request to rezone from RC-1 to A-1 with proffers. He also explained that the proffers would have to be approved and signed by both the Hannabass' and Mrs. Frith.

At this time Mr. Webb introduced the second order of business on the agenda. The petition of Franklin County Board of Supervisors to amend Chapter 25, "Zoning," of the Franklin County Code, as follows: amend Article I, Division 3, Section 25-40, Principal definitions of the Zoning Ordinance, to amend the definition of "variance" to be consistent with §15.2-2201 of the Code of Virginia; and amend Article V, Division 7, Section 25-773, Powers and duties of the board of zoning appeals, to amend the criteria for the granting of variances to be consistent with §15.2-2309 of the Code of Virginia. (Case # A-4-15-00001)

Mrs. Lisa Cooper thanked the planning commission. At this time Mrs. Cooper explained to the planning commission that on March 26, 2015 the General Assembly enacted a change of House Bill 1849, changes of variances of the Board of Zoning Appeals to be effective as of July 1, 2015. Which include changes to the Code of Virginia related to the definitions of variance and related to the definition of the powers and duties of the Board of Zoning Appeals. Mrs. Cooper stated that Staff would like to get ahead of the time table to change the Zoning ordinance § 25-40 principal definition of a "variance" to be consistent with the Code of Virginia §15.2-2201. **\*See ordinance information listed below.**

\* ARTICLE 1. General Provisions

DIVISION 3. Definitions

Sec. 25-40. Principal definitions of the Zoning Ordinance

*Variance* means, in the application of this Zoning Ordinance, a reasonable deviation from those provisions regulating the **shape**, size, or area of a lot or parcel of land, or the size, **height**, area, bulk or location of a building or structure when the strict application of this chapter would ~~result in unnecessary or unreasonable hardship to the property owner~~ **unreasonably restrict the utilization of the property**, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the ~~intended spirit and purpose of this chapter, and would result in substantial justice being done.~~ It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

*(Ord. of 5-25-88; Res. No. 22-12-93, § 3, 12-21-93; Res. of 8-17-94; Res. No. 19-10-94, § 1, 10-18-94, Res. No. 21-10-94, 10-18-94; Res. No. 22-10-94, 10-18-94, Res. No. 38-11-95, 11-21-95; Amend. of 12-19-95; Amend. of 9-16-97; Res. No. 22-05-98, 5-19-98; Res. No. 26-09-99, 9-21-99; Res. No. 16-03-2001, 3-20-01; Ord. of 2-15-05(3); Ord. of 9-21-04; Ord. of 2-21-06(2); Amend. of 3-25-08(5); Res. No. 26-05-2008, 5-20-08; Res. No. 12-10-2008, 10-21-08; Res. No. 13-10-2008, 10-21-08; Res. No. 14-10-2008, 10-21-08; Res. No. 15-10-2008, 10-21-08; Res. No. 15-04-2009, 4-21-09; Res. No. 5-05-2009, 5-19-09; Res. No. 16-05-2009, 5-19-09; Res. No. 12-07-2010, 7-20-10; Res. No. 12-07-2014, 7-15-14)*

**Secs. 25-41—25-44. - Reserved.**

## ARTICLE V. Procedure

### DIVISION 7. Board of Zoning Appeals

Sec. 25-768. - Board of zoning appeals; appointment and organization.

A board of zoning appeals, consisting of seven (7) members, shall be appointed in accordance with the provisions of section 15.2-2308 of the Code of Virginia, and shall have such powers and duties as set forth in section 15.2-2309 of the Code of Virginia.

*(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)*

**Cross reference—** Powers and duties of board of zoning appeals, § 25-773.

Sec. 25-769. - Staff.

Within the limits of funds appropriated by the board of supervisors, the board of zoning appeals may employ or contract for such secretaries, clerks, legal counsel, consultants and other technical and clerical services as the board of zoning appeals may deem necessary for transaction of its business. These services may also be provided by the county staff with concurrence of the board of supervisors.

*(Ord. of 5-25-88)*

Sec. 25-770. - Compensation.

Members of the board of zoning appeals shall receive such compensation as may be authorized by the board of supervisors, from time to time, by ordinance or resolution.

*(Ord. of 5-25-88)*

Sec. 25-771. - Removal.

Pursuant to the Code of Virginia, section 15.2-2308, any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held after at least fifteen (15) days' notice.

*(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)*

Sec. 25-772. - Bylaws.

The board of zoning appeals may, from time to time, adopt such rules and regulations consistent with the ordinances of the county and the laws of the Commonwealth as it may deem necessary to carry out the duties imposed by the chapter. The meetings of the board shall be held at the call of its chairman or at such times as a quorum of the board may determine. The board shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of official actions shall become part of the permanent records of the board. A quorum shall be a majority of all members of the board.

*(Ord. of 5-25-88)*

Sec. 25-773. - Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties in accordance with section 15.2-2309 of the Code of Virginia:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any regulation adopted pursuant hereto. ~~The decision on such appeal shall be based on the board of zoning appeals' judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a public hearing on an appeal, the administrative officer shall explain the basis for his/her determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this chapter, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board of zoning appeals shall be in compliance with this chapter, notwithstanding any other provision of law, general or special.~~
- (2) ~~To authorize~~ ~~Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases such a variance as defined in section 15.2-2201 of the Code of Virginia, the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his/her application meets the standard for a variance as defined in section 25-40 definitions and the criteria set out in this section. from the terms of this chapter as will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provision will result in unnecessary hardship; provided, that the spirit of the chapter shall be observed and substantial justice done, as follows:~~
  - a. ~~When a property owner can show that his~~ ~~Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of this chapter, and (i) the property interest for which the variance is being requested property was acquired in good faith and where, by reason of the exceptional and any hardship was not created by the applicant for the variance; narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibitor unreasonably restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter. (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of section 15.2-2309 of the Code of Virginia or the process for modification of a zoning ordinance pursuant to subdivision A4 of section 15.2-2286 of the Code of Virginia at the time of the filing of the variance application.~~
  - b. ~~No such variance shall be authorized by the board of zoning appeals unless it finds:~~
    1. ~~That the strict application of this chapter would produce undue hardship;~~
    2. ~~That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~

- ~~3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~
- ~~e.b.~~ No such variance shall be ~~authorized~~ **considered** except after notice and hearing as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia. **However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board of zoning appeals may give such notice by first-class mail rather than by registered or certified mail.**
  - ~~e.d.~~ ~~No variance shall be authorized unless the board of zoning appeals finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.~~
  - ~~e.c.~~ In ~~authorizing~~ **granting** a variance, the board of zoning appeals may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. **Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under this chapter. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.**
- (3) To hear and decide appeals from the decision of the zoning administrator **after notice and hearing as provided by section 15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the board of zoning appeals may give such notice by first-class mail rather than by registered or certified mail.**
  - (4) To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia, the board of zoning appeals may interpret the map in such a way as to carry out the intent and the purpose of this chapter for the particular section or district in question. **However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the the street or road form the property affected, the board of zoning appeals may give such notice by first-class mail rather than by registered or certified mail. The board of zoning appeals shall not have the power to change substantially the locations of district boundaries as established by this chapter.**
  - (5) ~~No provision of this chapter shall be construed as granting any~~ **The board of zoning appeals shall not have the power, however, to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the Board of Supervisors. substantially to change the locations of district boundaries as established by this chapter and the zoning map.**

(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)

Sec. 25-774. - Appeal to the board of zoning appeals.

Appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator. Such appeal shall be taken within ten (10) days after the decision appealed from by filing with the zoning administrator, and with the board of zoning appeals, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of zoning appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order

granted by the board of zoning appeals or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(Ord. of 5-25-88)

Sec. 25-775. - Application for variances.

Application for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with the provisions of this section and with rules adopted by the board of zoning appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board of zoning appeals, who shall place the matter on the docket to be acted on by the board of zoning appeals. No such variance shall be authorized except after notice and hearing as required by sections 15.2-2204 and 15.2-2205 of the Code of Virginia. The zoning administrator shall also transmit a copy of the application to the commission, which may send a recommendation to the board of zoning appeals or appear as a party at the hearing.

(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)

Sec. 25-776. - Procedure.

- (a) Appeals and applications for variances shall be filed with the zoning administrator, together with a fee as set forth in section 25-789
- (b) The board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to sections 15.2-2204 and 15.2-2205 of the Code of Virginia, as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of four (4) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter.

(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)

Sec. 25-777. - Decision of board of zoning appeals.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer, or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board of zoning appeals, which petition shall proceed in accordance with section 15.2-2314 of the Code of Virginia.

(Ord. of 5-25-88; Res. No. 12-10-2008, 10-21-08)

Secs. 25-778—25-788. - Reserved.

Chairman Webb brought the hearing back into regular session. He asked for any public comment in regards to the issue of the amending of Chapter 25.

There were no comments at this time.

Chairman Webb asked for a motion.

Mrs. Wendy Ralph, representative of the Union Hall District motioned to recommend to the Board of Supervisors the approval to amend Chapter 25 "Zoning" of the Franklin County Code. The motion was seconded by Mr. Jim Colby, representative of the Gills Creek District.

**(RESOLUTION 05-15-3):**

**BE IT THEREFORE** resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to recommend the approval of the request to amend Chapter 25 of the Code of Virginia "Zoning" to be effective July 1, 2015. (Case#A-4-15-0001).

Voting on the motion was as follows:

MOTION: Ralph

SECONDED: Colby

Voting on the motion was as follows:

AYES: Colby, Doss, Law, Mitchell, Webb, Ralph, McGhee

NAYES:

ABSENT:

ABSTAIN:

At this time, the planning commission went into a work session. Mr. Holthouser stated that the planning commission had a holdover item from the previous work session in April, on Short Term Rentals.

Mr. Holthouser asked if he may summarize the thoughts the Planning Commission expressed in the April work session. There are three (3) recommendations the Planning Commission could take to the Board of Supervisors, as was requested. The following recommendations are 1) Do nothing. Leave it as is. Allow Short Term Rental by Special Use Permit in A-1, allowable in RPD. 2) Have more supplemental regulations by amending the zoning ordinance, location criteria, or by category. 3) By clarifying by location in the comprehensive plans. Mr. Holthouser indicated that he and Mrs. Angie McGhee had spoken earlier in the week. As for her line of work, in Real Estate, Mrs. McGhee has indicated that she had not heard back from all the colleagues she had contacted in this regard. Mrs. McGhee indicated that some agents had not had enough time to gather their thoughts and would like some more time to think.

Mr. Webb stated he tends to think that the ordinance is just fine the way it is. He feels that it is too hard to categorize, but to do so on a case by case basis. Planned Communities have proffered away from Short Term Rentals. They are too cumbersome.

Mr. Colby stated he has a different view, that the Board has sent it to the Planning Commission because there is a problem. That if everything was working just fine, they would not have asked the Planning Commission to look into it. Mr. Colby stated he would like to bring a proposal before the Planning Commission and was not prepared at this time.

Mrs. Ralph stated that she does have some thoughts and possibly to strengthen some of the ordinance. She asked that the Planning commission table the conversation until July.

Mrs. Cooper stated that Planning Commission had asked staff to look into Short Term Rentals in the surrounding counties with lakes. She commented that Spottsylvania County and Louisa County do not have any regulation on Short Term Rentals, most of theirs are docks and the lake itself. Pulaski County actually prohibits Short Term Rentals. Mrs. Cooper compared the two counties, Bedford and Franklin. Bedford County does allow Short Term Rentals in the following zoning categories R-1, R-2 and PRD, which is their Planned Residential Developments. They do not allow Short Term Rentals in A-1 and none with a special use permit. Bedford can, however, revoke if in non-compliance. If there is a rental agent, that agent must have a copy of the permit at the office to be shown at anytime. They do have maximum occupancy on number of adults per room, as well as vehicle and boat parking areas which are similar to Franklin County. Bedford County does not have a noise restriction. Bedford County does have Fire and Smoke restrictions that are more specific. Franklin County does not charge for application where Bedford County charges \$50.00 fee and plot plan and septic permit. Mrs. Cooper stated that some citizens had mentioned that it may be easier to get short term rental in Bedford County, but with the fee it is possible it would be more restrictive.

Mr. Holthouser stated he understands that some years ago there was a stakeholders committee that made recommendations to the county, leading up to the adopting of some of the counties changes. In 1995 some of changes were accepted, supplementary regulations were adopted. In 1998, the changes in where they were allowed. Mr. Holthouser has heard from some of the previous committee members, who at that time thought short term rentals would be allowed in A-1 and R-1. Mr. Holthouser stated what was adopted was not to allow them in R-1 and allow them in A-1 with a special use permit. Mr. Holthouser asked the planning commission if there were any indication to pursue a more permissive approach in allowing them in additional zoning categories beyond where they are now. There was an overwhelming consensus of a non-permissive approach.

Chairman Webb moved to recess further discussion until an added work session on Tuesday, June 30 to discuss in more detail the Comprehensive Plan and continued discussion on Short Term Rental.

With no other business, the meeting was adjourned.

*Lori A. Crouch*                      May 18, 2015  
Clerk    Date