

ESSEX COUNTY BOARD OF ZONING APPEALS  
MEETING OF August 28, 2025, AT 7:00 P.M.  
109 CROSS STREET  
TAPPAHANNOCK, VIRGINIA 22560  
MINUTES

**Present:**

Steven Laffoon- Chairman  
Stephen Walters – Vice Chairman  
Gam Rose  
Ed Haile  
Ned Stephenson

**Absent:**

**Also Present:**

Kelly McKnight – Building and Zoning Office Manager  
Brian Barnes - Director of Building and Zoning

**Call to Order**

Chairman Steven Laffoon called the August 28, 2025, meeting of the Essex County Board of Zoning Appeals to order at 7:00 PM.

**Roll Call**

Ms. McKnight called the roll. A quorum was met.

**Meeting Agenda**

Chairman Laffoon asked if there needed to be any changes made to the agenda? None made.

**Approval of Minutes**

Chairman Laffoon asked if there were any changes or modifications to the June 26, 2025 meeting minutes? Commissioner Gam Rose made a motion to accept the minutes as presented. Commissioner Stephen Walters seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

**Public Comment**

Mr. Joseph Bozman came forward to speak during the public hearing. He said that he wanted to say how much he has enjoyed the last few months as opposed to the last four years prior to

that. He said that we have had people in office that shouldn't have been and people that have shifted money. Mr. Bozman said we are finally having people held accountable for what they have done. Mr. Bozman said this is what we have here in this case. Chairman Laffoon stopped Mr. Bozman and said this is public comment and not the time to speak about the case.

### **Public Hearing**

Application for Zoning Variance # V2500005, submitted by Jennifer P. and John C. Magruder for a Variance on a property located off Richmond Highway, Tax Map # 36-117E, consisting of 2.02 acres +/- . The property is zoned A-2, Agricultural and Forestry, General, and lies within the *Business and Employment* and the *Corridor Enhancement* Land Use District. The request is for a variance from the requirement of Article VI, Division 8, Section 36.419(a) of the Essex County Zoning Ordinance requiring that the principal person conducting the home occupation accessory use shall be a full-time resident of the dwelling, in order to permit the pursuit of a Home Occupation Class B via Conditional Use Permit process as required by Section 36.311.

Mr. Brian Barnes came forward and reviewed the case with the Planning Commission. This is a case requesting a variance for home occupation use. Mr. Barnes said that this began with a citizen request, FOIA inquiry that led to a citizen complaint. We investigated that and found that the individual was operating a home occupation use in A-2 zone. We sent him a letter, individual came in, and we began discussing options. The way you are trained to do enforcement is to make the person aware. The idea is never to punish anyone but to get compliance with the zoning ordinance. The variance is a request from one of the occupation uses in which you are to actually occupy the dwelling. It is a tricky thing from a staff point of view because I don't know where people live. The only reason you can prove it in this case is because that person happens to be a public official who files documents that verify where they live so they can be on a ballot. Mr. Barnes said there are tons of people in this county that have two, three, and four residences. It is impossible for a staff person like me to determine where you sleep. Mr. Barnes said that he is very comfortable with location, character and extent and health, safety and general welfare. Mr. Barnes said that we couch things in health, safety, general welfare there and are generally defensible not only from a zoning standpoint but also from a constitutional right standpoint. You do have the right to own property and enjoy it as long as you do not adversely affect obnoxious fumes, extra traffic. This is why you have a variance request because this would have to be performed prior to obtain a conditional use permit for this use if it is a home occupation use B. Home occupation A as you have seen in the document provided is "by right" and you get that with a zoning permit. Mr. Barnes told the BZA that they have only issued one home occupation A zoning permit in the county. Mr. Barnes said that as you are aware this case has become a bit public, and many people are aware of it. We don't want businesses everywhere. This process and other cases require a case-by-case review whether it is with you all are the Board of Supervisors. Mr. Barnes said the adjacent property owners were notified and he does not have written opposition tonight.

Commissioner Gam Rose asked if this is agricultural zoning and this is an agricultural silvicultural business which is consistent with the zoning requirements for the county why do we even need

to be involved? It sounds like a by-right use of the land. The section on forestry involves the accessory of out buildings which would be necessary for the conduct of forestry silvicultural that Mr. Magruder has been engaged in close to thirty years.

Mr. Barnes said that is a fair questions to ask and he has a statement that he would like to read later.

Commissioner Rose said that if you read the license the A and B requirement as outside of the normal by rights use of silviculture and agricultural use. Mr. Rose said that it makes no sense to have a license that is required at any operational level for activity that is generally permissible with zoning that is for that county in which this would fall.

Mr. Barnes said you may have a point there and you may be referring to the right to farm act which does protect agricultural and forestry operations from extra special authorization which is either special exception or conditional use permit. For normal use operations. Mr. Barnes said that this body is able to make a determination. The state code indicates that the Board of Zoning Appeals interprets the zoning ordinance. Your interpretation would be the interpretation that staff would go on and would be binding until overturned by a Circuit Court Judge. The interpretation is made by you tonight or could be tabled next month regarding that matter. Mr. Barnes said that you act as the Circuit Court Judge. Mr. Barnes said given the applicant involved is a great thing because you all are not appointed by the Board of Supervisors. You all are free to make the decisions that you need to make even if that is overturning me.

Chairman Steven Laffoon asked when did Mr. Magruder purchase this land?

Mr. Barnes said that the applicant is present and will answer any questions they may have. Mr. Barnes did say it has been around 10 years.

Chairman Laffoon asked Mr. Barnes if he knew how long he has had his business there?

Mr. Barnes said that he did not know and that would be a good question for the applicant.

Commissioner Ned Stephenson asked Mr. Barnes if the board was to conclude that a consulting forester silviculture activity is permitted as a by right use in A-2. Will that give you what you need to move forward with this without a variance of any kind?

Mr. Barnes replied, "yes it would."

The applicant, Mr. John Magruder came forward to speak. He said he was there to answer any questions they may have.

Chairman Laffoon said that he has a question. When did you purchase this property?

Mr. Magruder said December 18, 2012. At that time, he rented it out. He rented it out to an employee of his and he did not operate his business out of there until about two years later. The employee lived in there for about a year and then there was a year of renovation. The office has been there for about ten years.

Vice Chairman Steven Walters said, so prior to November 2022?

Mr. Magruder said that he is pretty sure, but he doesn't have the exact date.

Vice Chairman Laffoon said so you started using it as your base of your forestry business is 2015 and you have continually been doing that?

Mr. Magruder replied, "that is correct."

Chairman Laffoon opened up the hearing to the public.

Mr. Joseph Bozman came forward. Mr. Bozman said that now he understands that the current Zoning Administrator explained that the focus is more on obtaining compliance than it is on issuing citations. I heard that his operation has been going on for ten years or so and possible been presented as a primary residence. It would seem to him that someone would know what their primary residence is, or they are misrepresenting the property.

Chairman Laffoon asked if he could interrupt for a second because he said he never heard Mr. Magruder say he was using it as a primary residence.

Mr. Bozman said that when you run for office, don't you put down where your primary residence is?

Chairman Laffoon said that he didn't list that as his primary residence.

Mr. Bozman said so you can have a business that is not your primary residence?

Chairman Laffoon said in A-2 and the 2003 Zoning Ordinance is what he started using it under.

Mr. Jeff Howeth came forward to speak. Mr. Howeth said that in the old ordinance it was voted on and adopted in 2022. In that ordinance it says that this requires these certain permits that have to be in place. The Board of Supervisors passed it. If there is some argument about silviculture, agricultural whatever then the Board ignored it when they adopted that ordinance.

Commissioner Rose said so do you mean the board specifically entertained the question as to where the permitting process would include agricultural or silvicultural?

Mr. Howeth said no he does not. Mr. Howeth said what we enforce it here because the words are read to him and he has to enforce them. We don't get that luxury to interpret it, but you do.

Mr. Howeth said that the old ordinance actually said it must be a residence. Mr. Howeth said tonight we are here to legalize the current violation of commercial use of Supervisor Magruder's office building which is located in agricultural zoned land within the central magisterial district which Supervisor Magruder represents by attempting to manipulate the home occupation definition that Supervisor Magruder approved as written in 2022. Mr. Howeth said that Supervisor Magruder only requested a conditional use permit which is in his application and not a variance to lease his property to his business for home occupation without having to reside there. Since the application required a justification letter never mentioned variance with the appropriate referenced ordinance. In his letter it never mentions variance it only mentions conditional use permit. Mr. Howeth said that the application and the advertisement do not match which makes any action taken tonight null and void. If Supervisor Magruder's intent is to redefine a home occupation as a place of business which is not his home then why doesn't he request a rezoning from the Board of Supervisors and then play by the business rules that all the rest of us abide by that own commercial property. That would be a much cleaner way to do all of this. Then he said to Mr. Stephenson, you asked a question to whether if you did an approval could it clean up a whole lot of things. If you approved the use is what I believed you said? Is that what you said.

Commissioner Stephenson replied, "I'm listening?"

Mr. Howeth read Virginia Code 15.2-2309 defines BZA powers and duties. To grant variances that levitate a hardship due to a physical condition related to a property. All hardships justified in Supervisor Magruder's letter justifies alteration of use and not a levitation of a physical constraint. Supervisor Magruder swore on a Bible that he would uphold the laws and regulations when he became a supervisor and almost every year since he has signed a code of conduct stating that he would uphold all state and federal laws. Conducting unauthorized use on his property for over a decade certainly a zoning violation. Mr. Howeth is very concerned that the Essex County Zoning Administrator has not issued a notice of violation to Supervisor Magruder especially when Supervisor Magruder gave his own written confession of unauthorized activity which was attached to his application. Mr. Howeth said that he couldn't find a safe, adequate and proper, wastewater characterization, site plan, no storm water plans, parking plans or things on file in the zoning office. He asked for a FOIA for this property, and he said there wasn't a single document. There were no permits listed as to what he did to that property.

Mr. Barnes came forward and read a statement which is attached below.

I am often asked for my interpretation of an ordinance or a request for variance.

As you know, I always try to give that Zoning Administrator determination to the best of my ability. I believe in this work because it gives order to what could be chaos in the best country on earth.

But you should also know that we live in a very litigious time and while being on a Board or Commission provides safety in numbers, a stand-alone staff person has no such protection. Previous staff here have not been protected from civil legal action so why should I expect a different outcome. Such a history is chilling as a worker if you think about it long enough. I do not have the wealth and fortune to withstand lawsuits, which is how intimidation of public officials works, as you may be aware.

There is a clear track record in this county of one Zoning Administrator after another coming into this role and not lasting very long. This is largely due to the stress and pressure of this role. Most people on the street could not handle the pressure exerted nor have the honesty and integrity that even one discernment requires.

In recent letters to the editor my integrity has been questioned as is the right of anyone with freedom of speech to question their government. I will defend that right anywhere, but I have the right to be defended by my locality and to speak for my side of the desk from a professional standpoint, while praying I am not the next one sued.

It has been questioned that I may have refrained from pursuing enforcement action due to the fact that the applicant tonight is technically my boss. This seems to insinuate that for fear of losing my job, I would deviate from a legal course of action.

Let me state emphatically that this could not be further from the truth. Is this job so easy and so enjoyable that getting fired for doing the right thing would be worth me doing something to ruin my integrity? Trust me, in this line of work, getting fired for standing up and doing the right thing is a career maker not an albatross.

In almost every case we deal with we work to get property owners to an administrative approval on permit requests and with identified violations, we try to get people to compliance before any civil court action for remedy, which is the last resort, not the first!

My interpretation in this case is not a new use because the use is already stated. The variance request is from a restriction that prevents the owner of the property and the business from being able to sit at a desk in this dwelling and count trees and lick stamps. Our legal mandate for zoning authority comes from the slim margin ability to regulate land uses for the purpose of protecting the health, safety, and general welfare of our citizens. We don't want every single-family dwelling in the county to be a business but a variance process and then a Conditional Use Permit is not an easy hurdle or process to go through. We regulate the location of uses and extent and odors and nuisance. Not being able to have a home occupation use because the ordinance says you must occupy the dwelling is not a new use it is a restriction that may be available to be reduced by a variance. If you disagree with that interpretation, you need to deny this request on that and whatever other grounds you may find consistent with state code 15.2-2308 and all that follows. Such denial will provide the ordinance interpretation that is also one of your duties and powers so that I may, then and after, follow that interpretation.

Commissioner Rose asked Mr. Barnes to repeat the options that he just read.

Mr. Barnes said you have before you the variance to grant a home occupation use even though the requirement is for the owner to occupy the dwelling. You have two of the requirements met. You have the owner of the business, and the owner of the property are the same. The difference is that they don't sleep there. As it has been pointed out the ordinance has changed a little bit so you can even have someone else operate it. That is one option. Another option is to find that there is no need for a variance. If there is ample evidence in your interpretation that a forestry office on an A-2 property is consistent with the zoning ordinance then there is no need to discuss this. But given my previous comments I don't think it would be safe for me to make that call. The other option is for you to deny it. You then give the property owner the chance to appeal that. They could also come back with a rezoning. As I pointed out in the memo this is in the A-2 district but the land use overlay is business and employment district. As you know from your planning commission work and your training is what is happening there is your land use overlay will sometimes change because that is tied in with the Comprehensive Plan. The Comprehensive Plan is telling the zoning ordinance what that land use overlay is such as is this where business and employment will happen soon. So, there is going to be a change to a C, B, or I designation. Which is commercial, industrial or business. So, I think that this individual would have a good case to rezone. You start with a place where people go to count trees at a table with no sign and really nobody knew about it. I wonder how many years others have known about this because this is the first most of us have heard about this. I looked at the zoning ordinance and it was in control when this began operation. Even with the complainants' admittance it was operating for about ten years. It clearly shows that a forestry office is a permitted use in A-2. Is it a home occupation office or is it a forestry office? That may be a better call for the people who interpret the zoning ordinance.

Chairman Laffoon closed the public portion of the hearing.

Vice Chairman Walters said that the beginning of this continuous use as a forestry base of operations office predates the new ordinance and should be evaluated under the old ordinance. Vice Chairman Walters read section 7.2-12 of the old ordinance which listed the permitting uses in the A-2 district by right. These include *forestry, tree farming, wildlife preserves and conservation areas and including accessory office buildings and equipment sheds and temporary sawmills for cutting trees grown on the premises, provided such sawmill is located at least 500 feet from any residence not located on the same property or from any lot in a Residential District, at least 200 feet from any boundary of the tract and at least 200 feet from any street, road or highway.* He said that there is no requirement for owner occupancy. As long as you are in the business of forestry you are permitted an office in the A-2 district and you can do that by right.

Commissioner Rose said that he would infer from this that this language qualifies the permitting language for the A and B class permitting because it can't supersede.

Vice Chairman Walters said that he would argue that home occupancy, which is section 7.2-8, is a separate category which has to do with using your home for a business. So, it starts out with it's my home, it's my permanent residence and then I want to run a business out of my home.

Commissioner Rose said this home occupancy stuff where you want to run a business it seems to not applicable here. You have a guy who is doing silviculture and has an office building which is allowable in the zoning. He doesn't live there, and it is not his home.

Vice Chairman Walters said that if you look at it that way, what is important is that he is a forester. He is in forestry, which is a permitted use, and as long as he is in that business and he uses that property for that business. Vice Chairman Walters said now, if Mr. Magruder retires, sells his business and stops using it as a base of operation for his forestry business then it would have to go back to A-2 use; probably back to a residence which it was when he bought it. As long as it is used in forestry then having an office is an allowable use. If you look at the new ordinance, it basically says any operation devoted to the bona fide production... of silviculture. Basically, any operation would cover forestry. Vice Chairman Walters thinks that the language in this interpretation of forestry being a business that you could run in A-2 by right has followed through to the new ordinance. The old ordinance is very specific about uses and it listed a whole lot of uses. But if you have any operation that is *devoted to the bona fide* production of silviculture a consulting forestry business falls into that also.

Commissioner Stephenson made a motion that the BZA interprets the ordinance to permit consulting forestry to be a by right use of the subject property without the need for any variance and accordingly that the subject case be dismissed with prejudice. Seconded by Commissioner Haile. AYES: 5 NAYES: 0 ABSENT: 0

**New Business**  
**Election of Officers**

Commissioner Rose made a motion to defer the election of officers to the January 2026 meeting. Commissioner Stephenson seconded the motion. AYES: 5 NAYES: 0 ABSENT: 0

**Old Business**  
**Adoption of the bylaws**

Commissioner Rose made a motion that we adopt the 2025 bylaws. Seconded by Vice Chairman Walters. AYES: 5 NAYES: 0 ABSENT: 0

**Adjournment**

Chairman Laffoon adjourned the meeting at 7:52 PM.

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Steven Laffoon - Chairman