

**NELSON COUNTY BOARD OF ZONING APPEALS  
SEPTEMBER 3, 2013  
MEETING MINUTES**

**Present:** John Bradshaw, Gifford Childs, Linda Russell, Kim Cash and Alternate Ronnie Moyer. **Absent:** Goffrey Miles.

**Staff:** Tim Padalino, Planning & Zoning Director and Melissa Thompson, Secretary.

**Call to Order:** John Bradshaw called the meeting to order at 7:30 P. M. in the General District Courtroom, County Courthouse, Lovingston. There were four members and an alternate present to establish a quorum.

Mr. Bradshaw explained to those in attendance how Board members are appointed, the Court process, and the swearing in process for those providing testimony.

**Minutes of meeting of February 4, 2013:** Ms. Cash made the motion to table the minutes of February 4, 2013 as they were not included in the meeting packet. Mr. Moyer offered the second. The motion passed 5-0.

**1. Zoning Interpretation Appeal # 2013-001, Janet Lychock**

Mr. Childs stated as president of the Rockfish Valley Community Center (RVCC), he would not participate in this portion of the meeting. He was dismissed by Mr. Bradshaw to sit with citizens in attendance.

Tim Padalino provided BZA members with a Staff report; this included a planning map and a zoning map of the RVCC area, and also pictures of roastery equipment that is currently being used by Trager Brothers Coffee at their existing Lovingston location. He stated the petition received from Ms. Janet Lychock on Friday, August 2, 2013 by the Department of Planning & Zoning was an appeal of a zoning interpretation dated July 11<sup>th</sup>, 2013 and titled, “Zoning Interpretation Regarding Permitted ‘Community Center’ Uses.” The petition states that the appeal is in reference to a zoning interpretation of Article 2, Article 5, and Article 5 Section 1-4 and seeks to appeal the, “classification of coffee roastery as part of ‘goods and services’.”

Mr. Padalino shared the following definition for “Community Center” per Section 2 of the Zoning Ordinance:

*Community Center:* A building and grounds used for recreation, social, educational, health, and cultural activities open to the public or a portion of the public, owned and operated by a public or private non-profit group or agency. The activities may involve leasing of space within the building for the sale of goods and services, offices subject to site plan approval, and any additional conditions that may be imposed to such sales of goods

and services by the Planning Commission. The sale of goods and services may be carried on a profit basis or for charitable non-profit purposes by the owner or the owner's approved lessee or licensee. There can be no exterior indication of commercial activities at the center such as outside storage, sales area or signage, except for a principal sign identifying the center with a listing of its tenants.

(Res. Of 03/13/05)

Mr. Padalino said the above language establishes a community center, and by extension the Rockfish Valley Community Center (RVCC), as a permissible use in the R-1 (Residential) District.

Ms. Russell asked Mr. Padalino if the pictures of the roastery equipment shown in the staff report were the same size as the equipment that is being proposed for Trager Brothers' proposed RVCC location. Mr. Padalino stated it was comparable.

Ms. Lychock presented a PowerPoint presentation representing her appeal of the previously described zoning interpretation. She stated she takes the appeal very seriously and is concerned about property values in the area. It was pointed out that the current Trager Brothers Coffee roastery is located in a B-1 (Business) District. The petitioner also commented on the odor that roasting coffee beans produces. She stated that she takes exception to the letter from Mr. Payne (County Attorney) which stated that a roaster is similar to an oven in a bakery. (See attached letter dated August 28, 2013.) In conclusion, Ms. Lychock stated the main issue was a possible decline in property value and quality of life due to the odor generated by roasting coffee beans.

Ms. Lychock was then sworn in by Mr. Bradshaw and signed the affidavit.

Ms. Russell asked where Ms. Lychock lived in relation to RVCC; how many houses were in between her residence and the community center; and if she had contacted her neighbors on this issue. Ms. Lychock stated her home is less than one half mile from RVCC, that there are four houses in between, and that she had not contacted neighbors. Ms. Cash asked Ms. Lychock to clarify that she had not spoken to folks living between herself and RVCC. Ms. Lychock confirmed that she had not. Mr. Bradshaw stated that someone comes forward at every BZA hearing with the complaint of devalued property and inquired about the process for determining such figures and impacts.

Mr. William Trager addressed the Board, stating he is the owner/operator of Trager Brothers Coffee located on Front Street in Lovingston. He stated that his family cares about Nelson County. He stated that local residents have been employed and the new location will provide four more jobs. He stated the proposed location's footprint will be very small, and will provide a nice place for people to gather. Ms. Cash asked if Mr. Trager would be installing a smoke stack and if so what would be the height. He stated he would be installing a chase with a metal stack four to eight feet above the roof line. Ronnie Moyer asked if the operation would be similar to the one in Lovingston. Mr. Trager said yes, and added that he had never had a neighbor complain about the odor. Ms. Russell asked if there would be café-related issues. Mr. Trager said he planned to only

serve coffee, and that he was proud to be providing non-alcoholic adult beverages in that area. Ms. Russell stated that during a ten year lease many things could happen. Mr. Trager stated he was willing to look into the lease concerning food, and stated his contract with UVA Hospital says he will not serve food.

The public hearing was opened and the following people spoke.

**Stuart Mills, Executive Director, RVCC**

Mr. Mills stated he believed the use is legal and that leasing of space is very important to the continued operation of RVCC. The relationship with Trager Brothers Coffee will allow for a place to visit and have conversation. RVCC's mission is about community, and a place to gather and drink coffee fits in very well. RVCC could not afford to staff such a place to gather. He continued saying many folks in the area are looking for a social space. In conclusion he said he did not believe the roaster produces an odor, rather it smells good.

**Judy Barnes, 8230 Thomas Nelson Highway, Lovingson, VA**

Ms. Barnes stated she does have a problem with the roasting odor of coffee but, agreed the social and coffee part was great. She stated that an informal complaint had been made to Steve Carter, County Administrator, and that it makes her nauseous when it is humid or foggy during trips to a local bank. She also stated she believes it causes some cancers.

**Sally Rose Monnes, Former Trager Brothers Coffee Employee**

Ms. Monnes stated she had worked for the roastery for two years, three months and it was a family-run business that provided child care for employees.

**Brady Nicks, Attorney, Lovingson, VA**

Mr. Nicks pointed out that Mr. Payne had previously provided correspondence to the BZA members and to the petitioner stating that Ms. Lychock had no standing with her appeal. Mr. Nicks questioned the Board concerning Mr. Payne's assertion of the petitioner's lack of standing. Upon being summoned for clarification, Mr. Payne stated that it was a threshold question. He stated the Code of Virginia allows for a person who is aggrieved to appeal to the Board. He stated the person making an appeal has to show possible harm and proof of affected property value.

The public hearing was closed.

Ms. Cash thanked those in attendance for being present out of interest and concern for their community. She said the issue is not who wants the roastery and who does not; but rather the question is if the Director correctly interpreted the Zoning Ordinance, and was the Zoning Ordinance correctly applied in this case. She stated that her decision would be based on those considerations.

Ms. Russell stated she supported everything Ms. Cash said. She said that because Ms. Lychock lives near the RVCC, the appeal sounds more like a personal opinion and that she would base a decision on Mr. Padalino's zoning interpretation.

Ms. Cash made the motion to move that the board upholds the decision of the Director of Planning & Zoning as it applies to RVCC's ability to lease space to Trager Brothers Coffee, allowing a café with a coffee roaster as integral part of that business.

Ms. Russell amended to classify it as a small batch roastery.

Mr. Moyer offered the second and the motion passed 4 to 0.

**Other Business:**

Mr. Bradshaw asked Mr. Payne for information concerning procedures during the BZA hearings and for a description of the alternate role. Mr. Payne shared legal procedure information.

**Adjournment:**

9:15 PM

**Next Meeting:** October 7, 2013

Respectfully submitted,

Melissa M. Thompson  
Secretary