

BOARD OF ZONING APPEALS
Tuesday, February 17, 2026 @ 7 PM
Town Hall – 2nd Floor, East Conference Room

AGENDA

CALL TO ORDER

ROLL CALL OF MEMBERS PRESENT

APPROVAL OF MINUTES

- December 16, 2025 – Regular Meeting
- December 16, 2025 – Work Session

NEW BUSINESS

1. **2600001** - An appeal of the Zoning Administrators' issuance of a Notice of Violation related to a violation of Town Code Section 175-10.22. Upon inspection, the Appellant was found to be raising and breeding livestock, specifically goats within the R-S Zoning District on property located at 1205 Happy Creek Road and identified on Tax Map 20A21-2-18. The R-S zoning district does not permit agricultural pursuits as a permitted use.
2. **2600002** – An appeal of the Zoning Administrators' issuance of a Notice of Violation related to the Home Occupation standards and limitations set forth in Town Code Section 175-108.1. Specifically, the Zoning Administrator found that the applicant has changed the exterior appearance of the dwelling unit or changed the character of the neighborhood and has outdoor storage of goods, materials or equipment on property located at 1205 Happy Creek Road and identified on Tax Map 20A21-2-18.

ELECTION OF OFFICERS

- Chairman
- Vice Chairman

OTHER BUSINESS

- 2025 BZA Annual Report

ADJOURNMENT

DECEMBER 16, 2025 – REGULAR MEETING

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com for a limited time.

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on December 16, 2025, at 7 p.m. in the Town of Front Royal 2nd floor conference room.

CALL TO ORDER:

Chairman Taylor called the Board of Zoning Appeals, December 16, 2025, meeting to order at 7:00 p.m.

ROLL CALL OF MEMBERS PRESENT

Cody Taylor, Chairman
Clare Schmitt, Vice Chairman
Maria Dutton, Board Member
Tim Brogan, Board Member

MEMBERS ABSENT

James Jackson, Board Member

STAFF MEMBERS PRESENT

Lauren Kopishke, Planning & Zoning Director / Zoning Administrator
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

APPROVAL OF MINUTES

Motion to approve minutes for the August 19, 2025 meeting.

RESULT:	Approved
MOVER:	Chairman Taylor
SECONDER:	Vice Chairman Schmitt
AYES:	Taylor, Schmitt, Dutton
NAYS:	None
ABSTAIN:	Brogan
ABSENT:	Jackson

ADJOURNMENT

RESULT:	Adjourned
MOVER:	Vice Chairman Schmitt
SECONDER:	Chairman Taylor
AYES:	Taylor Dutton Schmitt, Brogan
NAYS:	None
ABSENT:	Jackson

With no further business before the Board, the meeting adjourned at 7:01 p.m.

Approved by the Board of Zoning Appeals
Date: _____

DECEMBER 16, 2025 – WORK SESSION

The Board of Zoning Appeals work session of the Town of Front Royal, Virginia was held on December 16, 2025, at 7:02 p.m. in the Town of Front Royal 2nd floor conference room.

CALL TO ORDER:

Chairman Taylor called the Board of Zoning Appeals, December 16, 2025, work session to order at 7:02 p.m.

ROLL CALL OF MEMBERS PRESENT

Cody Taylor, Chairman
Clare Schmitt, Vice Chairman
Maria Dutton, Board Member
Tim Brogan, Board Member

MEMBERS ABSENT

James Jackson, Board Member

STAFF MEMBERS PRESENT

Lauren Kopishke, Planning & Zoning Director / Zoning Administrator
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

OTHER

Tim Brogan, the newly appointed member of the Board of Zoning Appeals gave a brief introduction of himself.

- By-Laws

Staff and BZA members discussed the current by-laws.

- Staff Training – Mock Cases

For training purposes staff and BZA members reviewed “mock” applications for an Appeal of the Zoning Administrators determination and a variance request.

ADJOURNMENT

RESULT:	Adjourned
MOVER:	Vice Chairman Schmitt
SECONDER:	Chairman Taylor
AYES:	Taylor Dutton Schmitt, Brogan
NAYS:	None
ABSENT:	Jackson

With no further business before the Board, the meeting adjourned at 8:14 p.m.

Approved by the Board of Zoning Appeals
Date: _____

NEW BUSINESS ITEM 1

2600001 - AN APPEAL OF THE ZONING ADMINISTRATORS' ISSUANCE OF A NOTICE OF VIOLATION RELATED TO A VIOLATION OF TOWN CODE SECTION 175-10.22. UPON INSPECTION, THE APPELLANT WAS FOUND TO BE RAISING AND BREEDING LIVESTOCK, SPECIFICALLY GOATS WITHIN THE R-S ZONING DISTRICT ON PROPERTY LOCATED AT 1205 HAPPY CREEK ROAD AND IDENTIFIED ON TAX MAP 20A21-2-18. THE R-S ZONING DISTRICT DOES NOT PERMIT AGRICULTURAL PURSUITS AS A PERMITTED USE.



TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING AND ZONING
102 EAST MAIN STREET
P. O. BOX 1560
FRONT ROYAL, VA 22630

BZA 2600001

Main 540-635-4236 Fax 540-631-2727
Website: www.frontroyalva.com

BOARD OF ZONING APPEALS
APPLICATION FOR AN APPEAL OF ZONING ADMINISTRATOR DETERMINATION
(please print)

Applicant Information	Contact Name	Melanie Thornberg	
	Mailing Address	1205 Happy Creek Rd	
	City/State	Front Royal, VA	
	Phone	703-342-9392	E-mail
Owner Information [] Same As Applicant	Name	David and Melanie Thornberg	
	Mailing Address	1205 Happy Creek Rd	
	City/State	Front Royal, VA	
	Day-time phone	703-342-9392	E-mail
Property Information	Property Address	1205 Happy Creek Rd Front Royal, VA	
	Tax Map No.	20A21-2-18	Size (in acres of sq. ft.) 7.7 acres/ 335412sqft
	Zoning of Property		
	Subject of Appeal This is an application to the Board of Zoning Appeals for an appeal in accordance with Section 175-141 of the Zoning Ordinance from the following determination by the Zoning Administrator: Appeal by-right use/ accessory use		
Justification for an Appeal	(Statement by applicant – use additional pages if necessary) TOWN OF FRONT ROYAL MUNICIPAL CODE 175-10 identifies Urban Agriculture as an accessory use. Accessory Use is a by-right use under R-S. See attached		

**Please provide the names and addresses of adjacent property owners.*

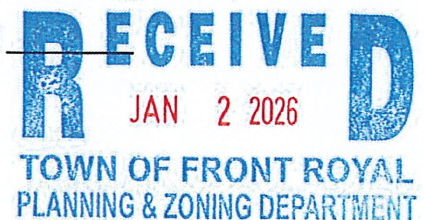
I hereby certify that the information provided on this application and the accompanying drawing(s) of the property is accurate, true and correct to the best of my knowledge and belief.

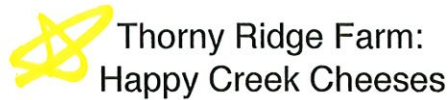
Signature of Applicant: [Signature] Date: 1/2/26

By submitting this application, the applicant grants permission to Town officials and employee to enter upon the property, which is the subject of this application, during reasonable hours and for purposes related to the application process.

\$650.00 Fee Check # _____ Cash ☒ Credit Card _____ Date Paid _____

Revised 6/3/2025





Goat's milk products are an increasingly sought after commodity. The ever increasing demand for artisan goat's milk cheeses have opened an opportunity for farms willing to follow state and federal requirements to meet some of that demand.

David and Melanie own and operate Thorny Ridge Farm. Melanie Thornberg is a disabled U.S. Coast Guard veteran and is the primary owner and head cheesemaker. Her husband, David Thornberg, is co-owner and will also act as a business partner. Our goal is to make and manufacture artisan cheese and cheese products for human consumption on the property of 1205 Happy Creek Rd, Front Royal under the name Happy Creek Cheeses. The milk will be supplied by dairy goats owned and cared for by David and Melanie. All aspects of the cheese making, from housing of the animals to the production and distribution of the cheese will be strictly monitored and done in accordance with the highest USDA and Virginia Department of Consumer and Agricultural Services (VDCAS) guidelines. All artisan cheese and cheese products will be produced (made and manufactured) on site to be sold off site following state and federal regulations. There will be no sales to customers directly on the Happy Creek property listed as prohibited by local zoning ordinances.

Thorny Ridge Farm owns the dairy goats, the milking equipment, and most of the supplies required to immediately begin the cheese making operation. We are required by state law to have a separate facility for milking the animals, processing the milk, and making the cheese. We intend to have pre-manufactured buildings delivered in order to be in compliance with local, state and federal regulations and permitting.

All that we require to start the VDCAS approval process for our farm is the installation and retrofitting of these three facilities (2 buildings). The following is the proposed plans for the three required facilities.

Facility 1 and 2: Milking Parlor/ Milk House

The milk collection area is referred to as the milk parlor. This is the physical location where the animals are milked.

The milk house is the area in which the milk is properly strained, cooled, and stored prior to pasteurization.

The milk parlor/milk house will be a pre-fabricated 14x24 building that will be delivered to our property and renovated per VDCAS requirements. The location of the building will observe proper setbacks and follow all applicable codes. The building will be modified to accommodate a 14x14 milking parlor separated by a solid wall with a door access to the 10x14 milk house. (See diagram on page 3).

Plumbing: Potable water will be plumbed according to state and local regulations and inspected as required. Water will be provided and regulated by the town of Front Royal and plumbed directly from the main house.

ALL waste water drained from the sinks and floor drains will be plumbed into an above-ground grey water tanks. Waste wash water will contain no black water. Tanks will be either emptied via septic company as needed, OR the ph of the water in the tank will be brought to neutral using environmentally safe chemicals (such as sodium bicarbonate). The neutral ph waste water

would then be distributed on the property for watering of pastures (following DEQ guidelines) or fed back to the animals.

Electric service: Electricity will be wired according to state and local regulations and inspected as required. Service will be provided and regulated by the town of Front Royal and wired from the main house. GFCI outlets will be installed according to code in all areas due to moisture contact that may occur. All lighting will be in compliance with VDCAS, state and local requirements. Alternate energy sources will be researched for potential future use.

Facility 3: Cheese Room

The cheese room will be a detached 12'x16' building. All aspects of building will meet applicable state and county permitting regulations including, structural, plumbing, electrical and sanitation. Building will observe proper setbacks and follow all applicable codes. A copy of the proposed 12'x16' building is attached (page 3).

The cheese room will include an entrance "mud" area for sanitation and biosecurity measures that are located within the building with an appropriate entrance. An air curtain system will be researched for potential installation at the entrance to reduce potential for contaminants such as dust, dirt and insects to enter. Walls and ceiling will be insulated and covered in FRP panels or similar impermeable covering.

Plumbing: Potable water will be plumbed according to state and local regulations and inspected as required. Water will be provided and regulated by the town of Front Royal and plumbed from the main house.

Waste water drained from the sinks and floor drains will be plumbed into an above-ground holding tank. Waste wash water will contain no solid materials and no black water. Tanks will be either emptied via septic company as needed, OR plumbed into a holding tank where the ph can be brought to neutral. The neutral ph waste water would then be distributed on the property for watering of pastures (following DEQ guidelines).

Whey, a by-product of cheese making, will be stored into portable containers and will not be included in wastewater calculations but instead saved to be fed back to livestock.

Electric service: Electricity will be wired according to state and local regulations and inspected as required. Service will be provided and regulated by the town of Front Royal and wired from the main house. A separate sub-panel electrical box will be installed in the each building. GFCI outlets will be installed in all areas due to moisture contact that may occur. All lighting will be in compliance with VDCAS guidelines. Alternate energy sources will be researched for potential future use. Cheese room will be heated and cooled with a ductless HVAC system

SUMMARY:

- Buildings will be constructed in a manner so that all interior surfaces shall be impermeable and washable/scrubbable.
- All state and local codes and setbacks will be observed.
- Buildings will be used solely for farm use in the making and manufacturing of cheese and cheese products while in use for this purpose.
- All waste water (excluding whey) will be handled via distribution (after proper treatment) onto land owned by David and Melanie Thornberg (Thorny Ridge Farm) per DEQ requirements or pumped via septic company as needed.
- Electric and water will be sourced by the town of Front Royal, Va.

To Whom It May Concern,

This letter is to address the concerns regarding livestock being allowed within town limits at address 1205 Happy Creek Rd.

In 2019, Mrs. Thornberg applied for a permit to allow construction on a VDACS inspected creamery. All necessary permits, save one, were acquired with the permission from the Town of Front Royal and Warren County.

Happy Creek Cheeses, LLC (cheese manufacturing), Thorny Ridge Farm (farm operations), and David and Melanie Thornberg, have complied with required town zoning standards as it pertains to zoning designation R-S.

Permits were issued and a considerable amount of money, effort and time have been invested in creating a state-permitted facility. Hundreds of thousands of dollars, thousands of hours, sleepless nights, retirement savings have been sacrificed, and tens of thousands of dollars in loans have been acquired to further the advancement of the farm and business under the understanding and translation of the zoning ordinance by the previous zoning administrator and the subsequent granted permits.

Happy Creek Cheeses, LLC has operated with written permission from the town was required from Virginia Department of Agriculture and Consumer Services (VDACS).

While the permit for the placement of the physical location of the milking parlor was not obtained (due to indecisiveness in the placement, and subsequently delayed due to injury, then Covid shutdowns), the question of IF they would be approved was never an issue, rather WHEN it would be approved when the placement was determined (an exemption building permit was obtained through the county for construction of the building).

Many members of the town government have eaten the products produced by Happy Creek Cheeses, LLC and have been exposed to the physical address, as it is printed directly on the packaging.

The Thornbergs have fostered goats for the Julia Wagner Humane Society and Warren County Animal Control in the past and have had multiple visits from various government entities, including Sheriffs, Utilities, Town Officers, and even the former Mayor of Front Royal (Mr. Hollis Tharpe).

When the EDA scandal brought attention to the adjacent property, there were multiple visits from officials and other personnel. This is all to say that there has never been

deception, secrecy, nor question as to the validity of the existence of the farm and business within town limits.

When there was a mis-designation of taxing through the town department, the town was fully aware of the existence of Happy Creek Cheese's location and sent an officer to serve a notice-to-appear when the town mistakenly designated the creamery as requiring to file meals taxes.

Happy Creek Cheeses has participated in town community events and has even been interviewed via social media and other media outlets. Mrs. Thornberg has been transparent about all activities and production and Happy Creek Cheeses is proud of making locally produced dairy products and wishes to continue under the current permits without having to invest hundreds of thousands of dollars and additional man hours creating unnecessary residential expansions.

Adjoining properties on Happy Creek Road share similar zoning designations (properties zoned R-S and R-E) also keep livestock. Other properties within ~1/2 mile from 1205 Happy Creek Rd either maintain livestock, including cattle and/or horses, or are performing agricultural operations (hay fields). One property (zoned R-E) operates a cattle farming operation and hay fields. Another property (zoned R-E) keeps horses. Additionally, A third property (Zoned R-1) keeps horses as well. This is to point out that despite the recent comment of "livestock are not allowed within town limits", the by-right usage of the Town of Front Royal explicitly allows livestock as an accessory use.

Therefore it is officially requested that the town of Front Royal Zoning Administration refrain from disregarding the current zoning definitions and written ordinances, and commit to the continuing support of Warren County's only goat milk creamery (currently) by renewing permits which have been paid for, and approved since 2019, and allowing the expansion of the creamery as requested.

The property located at 1205 Happy Creek Road is currently zoned R-S. As defined by the Town of Front Royal Municipal Code, Section 175-10.22, "the following uses of land and buildings are permitted **By-RIGHT** in the R-S District":

RESIDENTIAL:

Single-family dwellings, detached

COMMERCIAL:

INDUSTRIAL:

ORGANIZATIONAL:

MISCELLANEOUS:

Accessory uses, structures and buildings

Home occupations

Open space and conservation areas

Public facilities

Public parks and playgrounds

Public utilities

Signs, as set forth in Section 175-106

Special childcare services

Such other uses as determined similar to one or more enumerated uses by the Zoning Administrator.

Town Code of Front Royal definitions, Chapter 175, page 10, specifically defines ACCESSORY USE to include Urban Agriculture in that: "Urban agriculture is considered an accessory use when the requirements of Section 175-110.5 are complied with."

Furthermore, the Town Code of Front Royal defines Urban Agriculture (Ch 175, page 10), as follows:

AGRICULTURE, URBAN (Urban Agriculture) – An umbrella term that describes a range of food growing practices **conducted as an accessory use** that **may** include the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, and **both livestock and fowl keeping**, subject to compliance with the regulations of Section 175-110.5.

Finally, Section 175-110.5 lays out specific performance standards in which Urban Agriculture must comply.

The following are the standards laid out in Section 275-110.5 and why they may or may not apply to Happy Creek Cheeses, LLC, Thorny Ridge Farm, and the property 1205 Happy Creek Rd.

1. A. A zoning permit shall be required for the keeping of animals kept in association with urban agriculture when located **on a lot less than 1 acre**. Such a zoning permit application shall include a management plan that adequately addresses waste disposal, site suitability, setbacks, animal density, biosecurity and health measures, odor control, noise control, appearance, and maintenance. The management plan shall be reviewed by the Virginia Cooperative Extension Office, or other qualified expert, nonprofit organization or government entity. Conditions of approval or recommendations may be

required as part of the zoning permit based on the management plan or other recommendations of the Virginia Cooperative Extension Office, or other qualified expert, nonprofit organization or government entity. The zoning permit shall only be valid for one (1) year; except that, the Zoning Administrator may successively renew the permit in additional one (1) year increments upon expiration; provide that, the use remains in compliance with the management plan and otherwise remains lawful.

As stated during our in-person meeting, Town of Front Royal zoning is exclusionary and therefore Section A only applies restriction to lots less than 1 acre. The property in question is approximately 7.7 acres and restrictions, permits, and management plans do not apply (the property was approximately 3.5 acres at the time of application).

2. B. Single family, duplex or two-family dwellings shall be permitted to keep up to six (6) female chickens (non-crowing hens only), six (6) bee hives, and/or six (6) rabbits.

The requirements for fowl, rabbits and/or bees are not the topic of consideration.

3. C. Other types of residential uses, such as townhouses, condominiums, multi-family (apartments), are prohibited from keeping livestock, fowl or bees, except when authorized with a Special Use Permit or Proffer.

1205 Happy Creek Rd. is a single family residence and therefore the Special Use permit or proffer is not applicable.

4. D. Commercial and industrial uses, excluding schools, are prohibited from keeping livestock, fowl or bees, except when authorized with a Special Use Permit or Proffer.

A permit was issued for the make and manufacture of dairy products through the town zoning department as conditions were satisfactorily met.

5. E. Roosters, livestock (excluding rabbits), and fowl (excluding hens) are prohibited on lots less than one (1) acre in land area.

1205 Happy Creek Rd sits on approximately 7.7 acres (the property was approximately 3.5 acres at the time of application) and therefore section E does not apply.

6. F. Pigs are restricted, regardless of lot size, unless a Special Use Permit or Proffer is submitted and approved.

Pigs are not being kept, nor are they the topic of consideration in the permit.

7. G. Chickens, bees, and rabbits are restricted from the front yard and corner side yard on corner lots.

The requirements for chickens, bees, and rabbits are not the topic of consideration.

8. H. Chickens and rabbits shall be kept within an enclosed area that includes a chicken coop or rabbit hutch. Such facilities shall be kept clean and maintained in good condition.

The requirements for chickens and rabbits are not the topic of consideration.

9. I. Chickens coops shall be setback at least ten (10) feet from side and rear property lines. Additional setbacks may be required by the Zoning Administrator if recommended as part of the submitted management plan or review agency recommendation.

The requirements for chickens are not the topic of consideration.

10. J. Any permit issued for Urban Agriculture may be revoked by the Zoning Administrator if such use significantly deviates from the approved zoning permit and/or management plan; or if such use creates a violation of the Town Code, including, but not limited to, an unpermitted expansion, noise violation, unpermitted development activity, or nuisance.

There have been no such permit deviations, expansions, noise violations or nuisances. A building exemption and permit for cheese manufacturing building was obtained through the town and county, the exemption for the construction of the parlor was obtained through the county, however the permit for location of placement of the parlor was delayed.

11. K. The sale of goods or services related to Urban Agriculture is not authorized, except where such sale or services is allowed as a principal use of the property. This restriction shall not include the incidental selling or trading with neighbors, family or friends; nor shall it exclude selling produce off-site at farm markets or other venues.

The permit explicitly allowed the sale of goods produced by Happy Creek Cheeses, LLC as was the requirement through VDACS. All products are sold off-site at farm markets, farmer's markets, events, retail outlets and online direct-to-consumer sales.

12. L. The above requirements are considered in addition to all other requirements of the Town Code that may apply.

The permit request included a narrative on intentions to make and manufacture and produce dairy products. Due to the strict requirements of dairy manufacturing, in-home manufacturing is prohibitive and requirements for VDACS facilities are much too restrictive to be performed under the same roofline as the residence, nor was it ever explicitly required at the time of the initial permit approval.

13. M. Urban agriculture is not permitted as a principal use of a property; except that, this restriction shall not apply to outdoor gardens.

The principle use of 1205 Happy Creek Rd is a residential, therefore Urban Agriculture is not the principle use.

14. N. Bee hives must be setback at least ten (10) feet from side and rear property lines, and shall be enclosed on all sides by a fence at least 4 feet in height. A sign between two (2) and four (4) square feet shall be clearly located on the fence to communicate that bees are being kept within the enclosure.

The requirements for bees are not the topic of consideration.

15. O. Harvesting of honey shall take place within an enclosed building.

The requirements for bees are not the topic of consideration.

Thank you for your time and consideration, and hope this letter satisfies the questions and concerns the town has regarding 1205 Happy Creek Road and look forward to a speedy resolution that does not require forced closing of the business that the Thornberg's have diligently worked towards, and avoiding excessive hardship and unnecessary stress, costly rezoning applications, or forcing the purchase of overinflated-priced land tracts to continue to operate and grow the farm, Thorny Ridge Farm and the creamery business, Happy Creek Cheeses, LLC.

Sincerest Regards,

David and Melanie Thornberg
Happy Creek Cheeses, LLC
Thorny Ridge Farm
1205 Happy Creek Rd.
Front Royal, VA 22630

To whom it may concern,

This narrative is to contest the following violations as they were presented to the owners of 1205 Happy Creek Rd as it pertains to Happy Creek Cheeses, LLC and Thorny Ridge Farm.

Happy Creek Cheeses has been in business since 2020 and the Thornberg have owned goats since 2017. The following citations were issued with incorrect without specific reasoning or examples and very vague complaints.

Appeal 1: Notice of Violation: Home Occupations

According to the citations, there were three items that were cited as “violations” to Happy Creek Cheeses are as follows:

1. *“shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood”*

Happy Creek Cheeses is not situated in a neighborhood nor does the “neighborhood” which abuts to the property have the same zoning designation. The farm is 7.7 acres and at the time of purchasing the property, the adjoining property had horses, and farms adjacent to the property are cattle, hay and horse farms.

Town of Front Royal Zoning definition of DWELLING - A building or portion thereof which is used or intended to be used exclusively for residential purposes and contains one (1) or more dwelling units.

At no point in the history of the business was the dwelling residence changed or altered for the purpose of doing business within the dwelling nor is there any evidence presented to homeowners as to what specifically was altered on the dwelling.

All structures erected separate from the dwelling unit did not change the footprint or appearance of existing dwelling unit.

No specific violation was listed nor was there any documentation of previous violations for any of the specific violations.

2. No outdoor display, sales or **storage of goods, materials or equipment shall be permitted**, except that, the Zoning Administrator may authorize up to TWO business vehicles.

Supplementary documentation highlights the Ford Expedition while not defining how it violates the code. There are no signs, magnets or wraps on the vehicle and it is parked in a legal manner. There are no business or personal signs or displays, and items stored outdoors are primarily for farm use or personal use.

3. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent

than that usually experienced in the district on residentially used zoning lots where no home occupation exists.

The current approved home occupation does not produce any of the above stated nuisances nor has a complaint been filed or served to the property/ business owners in the history of the company's existence. There are no excessive noises, pollution, smells, interference or hazards created directly by the home occupation, nor were any nuisances or hazards specified in the citation. Such a broad reaching complaint without a single example presented on the citation is overreaching and is not addressing any specific nuisance.

Appeal 2: Notice of Violation: Uses Permitted By Right R-S. Permitted Use-Residential

TOWN OF FRONT ROYAL MUNICIPAL CODE Chapter 175, General Provisions, Definitions:

*ACCESSORY USE - A use of a building, lot or portion thereof which is customarily incidental and subordinate to the principal permitted use of the main building or lot. Accessory uses shall include the use of accessory buildings as a separate accessory dwelling unit, provided that the lot is at least 12,000 square feet in size, the accessory building complies with the minimum setback and yard area requirements that are required for main buildings within the applicable zoning district, no more than one accessory dwelling is located on the property, and the accessory dwelling unit does not utilize more than 500 square feet. **Urban agriculture is considered an accessory use when the requirements of Section 175-110.5 are complied with.***

*AGRICULTURE, URBAN (Urban Agriculture) – An umbrella term that describes a range of food growing practices conducted as an accessory use that may include the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, and both **livestock and fowl keeping**, subject to compliance with the regulations of Section 175-110.5.*

*AGRICULTURE/AGRICULTURAL PURSUITS – The tilling of soil, the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, **livestock and fowl keeping and breeding**, farm wineries, roadside stands, tenant houses necessary for the operation of a farm, and the production of natural products with resources primarily derived from the land upon which it is produced. Yard maintenance, landscaping, noncommercial gardening and other customary incidental accessory uses shall not be deemed as "agriculture." Where agricultural uses are permitted under Chapter 175 of the Town Code, the provisions of Section 66-5 pertaining to slaughtering of stock shall not apply, provided that this exemption only applies to small scale slaughtering activities on a farm, and does not apply to slaughterhouses.*

Agricultural pursuits are not listed in the town code as RESTRICTED to agricultural districts. Instead code points out the standard is to preserve open spaces and to discourage

development of agricultural districts. Furthermore, Town Code 175.110 does not set restrictions on Urban Agriculture on lots over 1 acre.

In the citation, the claim that their records do not indicate any approval for the raising of goats or any agricultural pursuit is blatantly false as there is a two page document that was submitted with the business permit application which specifically outlined the keeping, caretaking, and handling of goats, goat milk and subsequent products on the property. For clarification, Thorny Ridge Farm owns the goats and all farm related structures. Happy Creek Cheeses, LLC is the occupation which makes and manufactures goat milk products for human consumption.

Section 175-141 APPEALS TO BOARD OF ZONING APPEALS.

A. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board 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 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 or by a court of record, on application and on notice to the Zoning Administrator, and for good cause shown.

B. From notices of violation for temporary or seasonal commercial uses, parking of commercial trucks in residential districts or similar short-term, recurring violations, as determined by the Zoning Administrator, an appeal shall be filed within ten (10) days of the date of receipt of such notice of violation.

(Ord. No. Z-12-00 Amended and Added (B) 12-18-00)

175-10.21 STATEMENT OF INTENT (R-S)

The R-S Suburban Residential District is composed of quiet, low-density residential areas, on suburban-sized lots, plus undeveloped areas where similar residential construction appears likely to occur. The standards set forth for this district are designed to stabilize and protect the essential character of the areas so delineated, to answer a need in the Town for residential development on larger lots on public water and sewer than are traditional or currently being developed, to promote and encourage a suitable environment for family life where there are children, to provide areas for suitable expansion of the Town as facilities are provided and to prohibit all commercial activities. Development is, therefore, limited to suburban-style concentration, and permitted uses are limited to single-unit dwellings, plus selected additional uses, such as public facilities that serve the residents of the district. Mobile homes or rooming houses are prohibited.

175-10.22 USES PERMITTED BY RIGHT (R-S)

- A. Subject to the standards and requirements set forth in this Chapter, except as prohibited or restricted by separate restrictions of record that may pertain to property within the R-S District, the following uses of land and buildings are permitted by-right in the R-S District:

RESIDENTIAL:

Single-family dwellings, detached.

COMMERCIAL:

INDUSTRIAL:

ORGANIZATIONAL:

MISCELLANEOUS:

Accessory uses, structures and buildings.

Home occupations.

Open space and conservation areas.

Public facilities.

Public parks and playgrounds.

Public utilities.

Signs, as set forth in Section 175-106.

Special childcare services.

Such other uses as determined similar to one (1) or more enumerated uses by the Zoning Administrator.

(Ord. of 6-22-15)

175-10.23 USES PERMITTED BY SPECIAL PERMIT (R-S)

- A. The following uses are permitted within the R-S District only by approval of a special use permit, except as prohibited or restricted by separate restrictions of record that may pertain to property within the R-S District:

RESIDENTIAL:

COMMERCIAL:

Bed and Breakfasts, as set forth in Section 175-107.2.

Day care, and day-care facilities as set forth in the Town Code Section 175-107.1.

INDUSTRIAL:

ORGANIZATIONS:

Churches.

Public Libraries.

Schools.

MISCELLANEOUS:

Any use permitted under Section 175-10.22, or specifically listed above under this subsection, that proposes to occupy a building or structure that exceeds the height requirements of Section 175-10.29, subject to the requirements of Section 175-136. Additional heights approved by a special use permit shall be required to increase the required setback and yard area requirements by an equivalent distance from each property line.

Such other uses as determined similar to one (1) or more enumerated uses by the Zoning Administrator.

(Ord. of 6-22-15)

chapter, (ii) accessory buildings without utilities that are used for storage purposes and do not exceed 256 square feet, and (iii) buildings, such as barns and silos, used for agricultural purposes.

(Amended by adding "Accessory Structure" 7-23-12-Effective Upon Passage)
(Amended 6-22-15-Effective Upon Passage)

ACCESSORY USE - A use of a building, lot or portion thereof which is customarily incidental and subordinate to the principal permitted use of the main building or lot. Accessory uses shall include the use of accessory buildings as a separate accessory dwelling unit, provided that the lot is at least 12,000 square feet in size, the accessory building complies with the minimum setback and yard area requirements that are required for main buildings within the applicable zoning district, no more than one accessory dwelling is located on the property, and the accessory dwelling unit does not utilize more than 500 square feet. Urban agriculture is considered an accessory use when the requirements of Section 175-110.5 are complied with.

(Amended by adding "permitted" 7-23-12-Effective Upon Passage)
(Amended 6-22-15 and 11-23-15-Effective Upon Passage)

ADMINISTRATOR, THE - The official charged with the administration and enforcement of the Zoning Ordinance.

AGRICULTURE/AGRICULTURAL PURSUITS - The tilling of soil, the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, livestock and fowl keeping and breeding, farm wineries, roadside stands, tenant houses necessary for the operation of a farm, and the production of natural products with resources primarily derived from the land upon which it is produced. Yard maintenance, landscaping, noncommercial gardening and other customary incidental accessory uses shall not be deemed as "agriculture." Where agricultural uses are permitted under Chapter 175 of the Town Code, the provisions of Section 66-5 pertaining to slaughtering of stock shall not apply, provided that this exemption only applies to small scale slaughtering activities on a farm, and does not apply to slaughterhouses.

(Added 7-23-12-Effective Upon Passage)

AGRICULTURE, URBAN (Urban Agriculture) - An umbrella term that describes a range of food growing practices conducted as an accessory use that may include the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, and both livestock and fowl keeping, subject to compliance with the regulations of Section 175-110.5.

(Added 11-23-15-Effective Upon Passage)

ALLEY - A public right-of-way which affords only a secondary means of vehicular access to the side or rear of property.

ALL-WEATHER SURFACE - Crushed rock, gravel or similar surface shall constitute an all-weather surface.

AMENDMENT - A change in the Zoning Ordinance and/or Zoning Map granted by the Town Council after review and comment by the Town Planning Commission.

AGRICULTURE AND OPEN SPACE PRESERVATION DISTRICT (A-1)

(Adopted 2-25-91)

175-10.2 STATEMENT OF INTENT (A-1)

The A-1 District is composed of large contiguous parcels of at least ten (10) acres in size used for agricultural pursuits and other uses involving preservation of open spaces, including parks and forested areas. The standards set forth for this district are designed to promote and protect open spaces and agricultural and forested areas. Development is to be discouraged, and the only structures permitted shall be those which are directly related to agriculture and the open space uses provided herein.

(Amended 7-23-12-Effective Upon Passage)

175-10.3 USES PERMITTED BY RIGHT (A-1)

Subject to the standards and requirements set forth in this Chapter, except as prohibited or restricted by separate restrictions of record that may pertain to property within the A-1 District, the following uses of land and buildings are permitted by-right in the A-1 District.

RESIDENTIAL:

Manufactured home, subject to the standards of Section 175-10.10.C

Single family dwelling, provided that only one single family dwelling may be permitted per parcel.

COMMERCIAL:**INDUSTRIAL:****MISCELLANEOUS:**

Accessory uses, structures and buildings.

Agriculture, excluding tenant housing and all slaughtering activities subject to the standards of Section 175-10.10.A

Cemeteries

Home Occupations

Open space and Conservation Areas

Public Facilities

Public Parks and Playgrounds

Public Utilities

Signs, as set forth in Section 175-106

Special Childcare Services

Such other uses as determined similar to one or more enumerated uses by the Zoning Administrator

(Amended "A" 7-25-05-Effective Upon Passage)

(Amended Entire Section/Removed "A-C" 7-23-12-Effective Upon Passage)

(Added "*Special Childcare Services & Such Other Uses...*" 6-22-15-Effective Upon Passage)**175-10.4 USES PERMITTED BY SPECIAL USE PERMIT (A-1)**

A. The use shall be clearly incidental to the principal use of the property for residential purposes and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.

(Amended 3-25-13-Effective Upon Passage)

B. Operators of home occupations must be residents on the same parcel, or parcels, where the home occupation is located. Notwithstanding subsection B, nonresident employees may also work for the home occupation, but no more than one (1) nonresident employee may work from the parcel, or parcels, at the same time.

(Amended 3-25-13-Effective Upon Passage)

C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted. except that, the Zoning Administrator may authorize up to two (2) business vehicles, including any vehicle used by a nonresident employee. Indoor storage is permitted, provided that it does not violate the other restrictions of this section, including, but not limited to, changing the appearance of the dwelling unit, changing the character of the neighborhood, or increasing traffic.

(Amended 3-25-13-Effective Upon Passage)

D. No wholesale or retail business shall be permitted unless it is conducted entirely by mail and/or telephone and does not involve the bulk shipment/delivery of merchandise to and from the premises; provided, however, that articles produced by the home occupation operators may be sold on the premises.

E. Provided that the other requirements of this section are complied with, home occupations shall include, but shall not be limited to, the following uses: home offices, computer repair services, telecommunication services, artist studios, instructional services/tutoring, dressmaking, babysitting/babysitting services, or small item repair services. Uses that are restricted from being classified as home occupations shall include, but shall not be limited to, the following uses: motor vehicle repair, beauty/barber shops (with more than one (1) customer at a time), restaurants, animal hospitals/kennels, retail sales, and dance studios.

(Amended 3-25-13-Effective Upon Passage)

F. In the instance of a home occupation involving a nonresident employee, at least one (1) additional off-street parking place shall be provided.

(Amended 3-25-13-Effective Upon Passage)

G. No home occupation shall create greater vehicular or pedestrian traffic than is otherwise normal for the district in which it is located.

H. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no home occupation exists.



DEPARTMENT OF PLANNING & ZONING

T: (540) 635-4236
F: (540) 631-2727

Town of Front Royal Town Hall
102 East Main Street
P.O. Box 1560
Front Royal, VA 22630-1560

December 9, 2025

David R Thornberg
1205 Happy Creek Rd
Front Royal, VA 22630

RE: 1205 Happy Creek Rd. – NOTICE OF VIOLATION
Certified mail: 9589 0710 5270 0658 6493 99

Dear Property Owner(s):

Recently it was brought to my attention that livestock, specifically goats, are being raised on your property located at 1205 Happy Creek Rd., Front Royal, Virginia. Upon reviewing our zoning records, this property is zoned (R-S) Suburban Residential, which does not permit Agriculture/Agricultural Pursuits. Our records do not indicate any approval for the raising of goats or any agricultural pursuit on this property. All uses and activities must comply with the permitted uses of the zoning district in which the property is located. The raising of livestock within a residential district constitutes a violation of the Town of Front Royal Municipal Code as follows:

Town Code Section 175-10.22 USES PERMITTED BY RIGHT (R-S) The current
PRINCIPAL PERMITTED USE is residential
(agriculture/agricultural pursuits use not listed as permitted or accessory uses)

To bring the property into compliance, all livestock must be removed from the property no later than **January 9, 2026**. If you believe the animals qualify under another allowable category or if you wish to inquire about potential permitting options, please contact the Department of Planning and Zoning for further guidance.

Please note that any person aggrieved by the issuance of a zoning violation notice may appeal to the Board of Zoning Appeals, in accordance with Town of Front Royal Municipal Code Section 175-141. Such an appeal must be in writing stating the reasons for the appeal, must be filed with the Zoning Administrator within thirty (30) days from receipt of this notice, and must be accompanied by a filing fee in the amount of six hundred and fifty dollars (\$650.00). If the appeal is not made within thirty (30) days, this notice shall be final. Additional information about the process for filing an appeal is available via the "Town Code" link on the Town of Front Royal website or by contacting the Department of Planning and Zoning at 540-635-4236.

Should you have any questions regarding this letter or believe that it has been sent in error, please contact me at 540-631-2802.

Sincerely,

Daniel Wells
Property Maintenance Official/Code Enforcement Officer
Department of Planning and Zoning

Enclosures: Reference from Town Code

175-10.21 STATEMENT OF INTENT (R-S)

The R-S Suburban Residential District is composed of quiet, low-density residential areas, on suburban-sized lots, plus undeveloped areas where similar residential construction appears likely to occur. The standards set forth for this district are designed to stabilize and protect the essential character of the areas so delineated, to answer a need in the Town for residential development on larger lots on public water and sewer than are traditional or currently being developed, to promote and encourage a suitable environment for family life where there are children, to provide areas for suitable expansion of the Town as facilities are provided and to prohibit all commercial activities. Development is, therefore, limited to suburban-style concentration, and permitted uses are limited to single-unit dwellings, plus selected additional uses, such as public facilities that serve the residents of the district. Mobile homes or rooming houses are prohibited.

175-10.22 USES PERMITTED BY RIGHT (R-S)

- A. Subject to the standards and requirements set forth in this Chapter, except as prohibited or restricted by separate restrictions of record that may pertain to property within the R-S District, the following uses of land and buildings are permitted by-right in the R-S District:

RESIDENTIAL:

Single-family dwellings, detached.

COMMERCIAL:

INDUSTRIAL:

ORGANIZATIONAL:

MISCELLANEOUS:

Accessory uses, structures and buildings.

Home occupations.

Open space and conservation areas.

Public facilities.

Public parks and playgrounds.

Public utilities.

Signs, as set forth in Section 175-106.

Special childcare services.

Such other uses as determined similar to one (1) or more enumerated uses by the Zoning Administrator.

(Ord. of 6-22-15)

175-10.23 USES PERMITTED BY SPECIAL PERMIT (R-S)

- A. The following uses are permitted within the R-S District only by approval of a special use permit, except as prohibited or restricted by separate restrictions of record that may pertain to property within the R-S District:

RESIDENTIAL:

COMMERCIAL:

Bed and Breakfasts, as set forth in Section 175-107.2.

Day care, and day-care facilities as set forth in the Town Code Section 175-107.1.

INDUSTRIAL:

ORGANIZATIONS:

Churches.

Public Libraries.

Schools.

MISCELLANEOUS:

Any use permitted under Section 175-10.22, or specifically listed above under this subsection, that proposes to occupy a building or structure that exceeds the height requirements of Section 175-10.29, subject to the requirements of Section 175-136. Additional heights approved by a special use permit shall be required to increase the required setback and yard area requirements by an equivalent distance from each property line.

Such other uses as determined similar to one (1) or more enumerated uses by the Zoning Administrator.

(Ord. of 6-22-15)

NEW BUSINESS ITEM 2

2600002 – AN APPEAL OF THE ZONING ADMINISTRATORS' ISSUANCE OF A NOTICE OF VIOLATION RELATED TO THE HOME OCCUPATION STANDARDS AND LIMITATIONS SET FORTH IN TOWN CODE SECTION 175-108.1. SPECIFICALLY, THE ZONING ADMINISTRATOR FOUND THAT THE APPLICANT HAS CHANGED THE EXTERIOR APPEARANCE OF THE DWELLING UNIT OR CHANGED THE CHARACTER OF THE NEIGHBORHOOD AND HAS OUTDOOR STORAGE OF GOODS, MATERIALS OR EQUIPMENT ON PROPERTY LOCATED AT 1205 HAPPY CREEK ROAD AND IDENTIFIED ON TAX MAP 20A21-2-18.



**TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING**

**Board of Zoning Appeals Regular Meeting
February 17, 2026**

APPLICATION:	BZA Appeal Application #2600002
APPLICANT:	Melanie Thornberg
APPLICATION SUMMARY:	An appeal of the Zoning Administrators' issuance of a Notice of Violation related to the Home Occupation standards and limitations set forth in Town Code Section 175-108.1. Specifically, the Zoning Administrator found that the applicant has changed the exterior appearance of the dwelling unit or changed the character of the neighborhood and has outdoor storage of goods, materials or equipment on property located at 1205 Happy Creek Road and identified on Tax Map 20A21-2-18.
PROPERTY INFORMATION:	Site Address(es): 1205 Happy Creek Road Property Owner(s): David Thornberg Existing Zoning: R-S, Suburban Residential District Tax Identification: Tax Map #20A21-2-18
ATTACHED DOCUMENTS:	1. Appeal Application Package. This is the standard application form used to initiate a Board of Zoning Appeals application in the Town of Front Royal. 2. Notice of Violation 3. Approved Home Occupation Permit Issued November 21, 2018

PROPERTY LOCATION AND DETAILS:

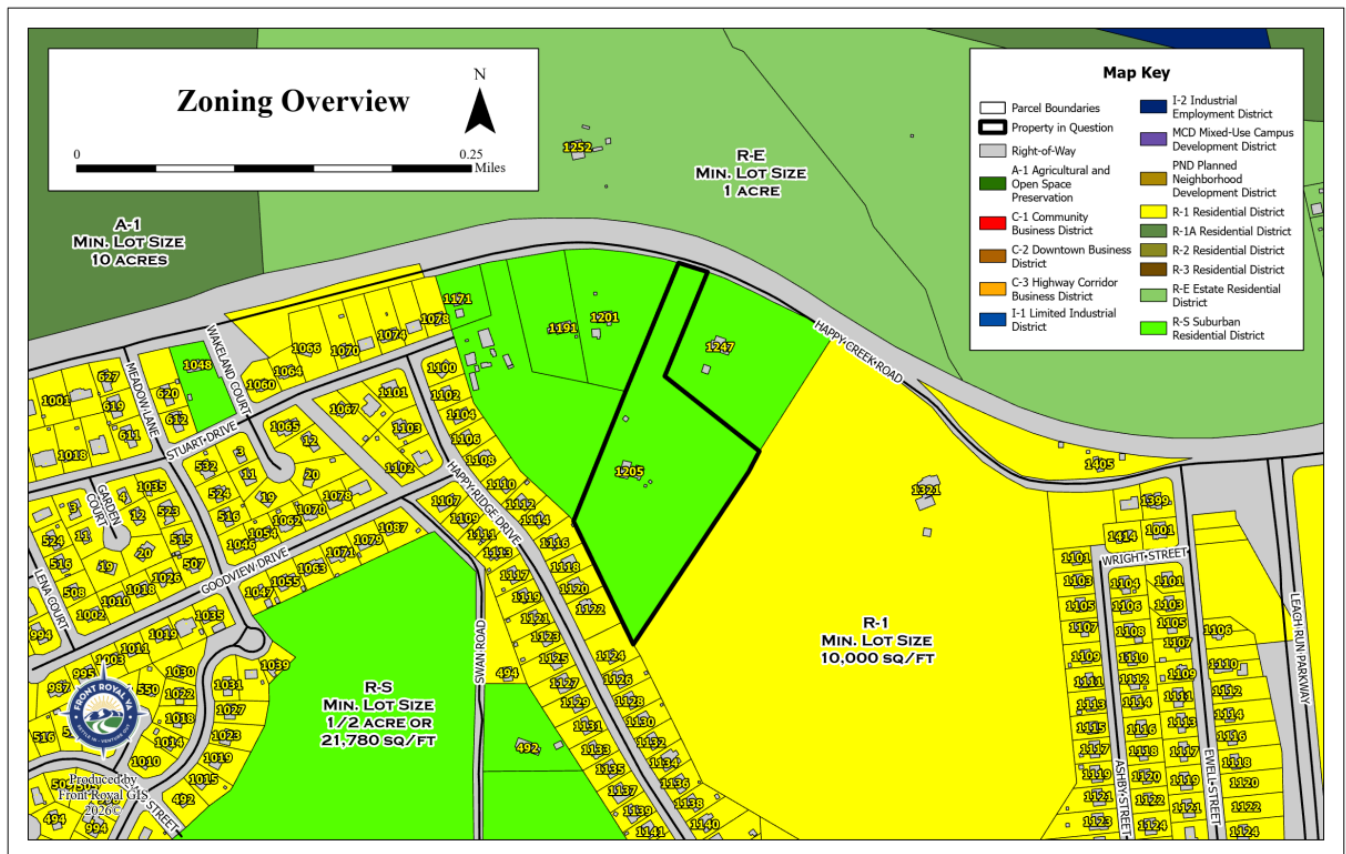
The property consists of a 7.7 acre parcel, identified by Tax Map #20A21-2-18 and addressed as 1205 Happy Creek Road. The applicant has resided on this property since 2014 and the property is zoned R-S, Residential Suburban. The purpose of this zoning district is to ***provide quiet, low-density, large lots*** on public water and sewer. The goal is to promote and encourage a suitable environment for family life while providing areas for suitable expansion of the Town's facilities ***and to prohibit all commercial activities***. Development is, therefore, limited to suburban-style concentration, and ***permitted uses are limited to single-unit dwellings***, plus selected additional uses, such as public facilities that serve the residents of the district. According to Town records, the zoning for the property has always been intended for low density residential use. There are no records of the land being used in any other capacity.

The property is located just south of the railroad tracks which run adjacent to Happy Creek Road. It is bordered by higher density, but single-family residential development to the south and east (in approval stages).

Aerial Map (Town of Front Royal GIS) – 1205 Happy Creek Road



Zoning Map – (Town of Front Royal GIS) – 1205 Happy Creek Road



(Warren County GIS Property Details) – 1205 Happy Creek Road



BASIS FOR NOTICE OF VIOLATION	
TIMELINE OF EVENTS	On September 17, 2025, The Energy Services department called Planning and Zoning to notify staff about the potential of supplying three-phase power to a residential parcel. Residential homes are usually served by single-phase power supply, while commercial and industrial facilities usually use a three-phase supply. They had been contacted by the applicant, Melanie Thornberg to come out to her property to discuss the power needs for a future pole barn she was hoping to construct for her future Creamery. On September 19, 2025, Daniel Wells (Code Enforcement) and John Ware (Deputy Zoning Administrator) performed a site visit. After the site visit, staff began researching records to understand previous approvals. This included requesting records from Warren County. On October 21, 2025 Planning staff requested Melanie Thornberg to meet in person to discuss the findings. On December 9, 2025 Daniel Wells sent the Notice of Violations via USPS. The applicant received the letter and subsequently filed an appeal of the notice within the legal time frame.
NOTICE OF VIOLATION	During the site visit, Code Enforcement Officer Daniel Wells observed that the appellant, Melanie Thornberg was in violation of the Home Occupation standards set forth in Town Code Section 175-108.1., specifically citing the appellant for violating sections A, C, and H.

A. The use shall be clearly incidental to the principal use of the property for residential purposes and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.

- Within the R-S zone, home occupations are permitted as an accessory use per Town Code Chapter 175-10.22. The very nature of accessory use, is that it is clearly subordinate to the primary use. The primary use of this property is residential not agricultural. It is the primary dwelling for Mrs. Thornberg.
- Per the definition of Home Occupation: an occupation conducted entirely within an enclosed dwelling and clearly incidental and secondary to the residential occupancy thereof, carried on by a member or members of the family residing on the premises. All "home occupations" shall meet the standards in Section [175-108.1](#).
- The approved home occupation permit was issued November 21, 2018 limited to making goat cheese in a cheese shed.

C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted, except that, the Zoning Administrator may authorize up to two (2) business vehicles, including any vehicle used by a nonresident employee. Indoor storage is permitted, provided that it does not violate the other restrictions of this section, including, but not limited to, changing the appearance of the dwelling unit, changing the character of the neighborhood, or increasing traffic.

- Tractors, hay bales, numerous accessory structures, and associated farming equipment.

Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Staff Photograph – September 19, 2025 – 1205 Happy Creek Road



Google Earth May 16, 2017 – 1205 Happy Creek Road



Google Earth July 10, 2021 – 1205 Happy Creek Road





H. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no home occupation exists.

- Upon inspection, staff observed upwards of 40 goats, livestock guardian dogs, and chickens on the property.
- There were cleared containment pens, free of natural vegetation.

ADDITIONAL RELEVANT CODE REFERENCES

**TC 175-108.1 -
HOME
OCCUPATIONS**

All home occupations shall meet the following standards:

- A. The use shall be clearly incidental to the principal use of the property for residential purposes and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.
- B. Operators of home occupations must be residents on the same parcel, or parcels, where the home occupation is located. Notwithstanding subsection B, nonresident employees may also work for the home occupation, but no more than one (1) nonresident employee may work from the parcel, or parcels, at the same time.
- C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted, except that, the Zoning Administrator may authorize up to two (2) business vehicles, including any vehicle used by a nonresident employee. Indoor storage is permitted, provided that it does not violate the other restrictions of this section, including, but not limited to, changing the appearance of the dwelling unit, changing the character of the neighborhood, or increasing traffic.
- D. No wholesale or retail business shall be permitted unless it is conducted entirely by mail and/or telephone and does not involve the bulk shipment/delivery of merchandise to and from the premises; provided, however, that articles produced by the home occupation operators may be sold on the premises.
- E. Provided that the other requirements of this section are complied with, home occupations shall include, but shall not be limited to, the following uses: home offices, computer repair services, telecommunication services, artist studios, instructional services/tutoring, dressmaking, babysitting/babysitting services, or small item repair services. Uses that are restricted from being classified as home occupations shall include, but shall not be limited to, the following uses: motor vehicle repair, beauty/barber shops (with more than one (1) customer at a time), restaurants, animal hospitals/kennels, retail sales, and dance studios.
- F. In the instance of a home occupation involving a nonresident employee, at least one (1) additional off-street parking place shall be provided.
- G. No home occupation shall create greater vehicular or pedestrian traffic than is otherwise normal for the district in which it is located.
- H. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no home occupation exists.
- I. Notwithstanding other regulations within this Chapter, signs are not permitted for home occupations, except that the Zoning Administrator may authorize a sign for the following circumstances:
 - 1. When the sign is located on an authorized business vehicle and does not exceed ten (10) square feet in size.

	2. When the sign is located within the C-1, C-2, C-3, I-1, I-2, or MCD Zoning District, subject to the following conditions: a. Shall not exceed four (4) square feet in size. b. Shall not exceed six (6) feet in height, if freestanding.
HOME OCCUPATION DEFINITION 175-3	HOME OCCUPATION - An occupation conducted entirely within an enclosed dwelling and clearly incidental and secondary to the residential occupancy thereof, carried on by a member or members of the family residing on the premises. All "home occupations" shall meet the standards in Section 175-108.1.
RS ZONING DISTRICT	175-10.21 - STATEMENT OF INTENT (R-S) The R-S Suburban Residential District is composed of quiet, low-density residential areas, on suburban-sized lots, plus undeveloped areas where similar residential construction appears likely to occur. The standards set forth for this district are designed to stabilize and protect the essential character of the areas so delineated, to answer a need in the Town for residential development on larger lots on public water and sewer than are traditional or currently being developed, to promote and encourage a suitable environment for family life where there are children, to provide areas for suitable expansion of the Town as facilities are provided and to prohibit all commercial activities. Development is, therefore, limited to suburban-style concentration, and permitted uses are limited to single-unit dwellings, plus selected additional uses, such as public facilities that serve the residents of the district. Mobile homes or rooming houses are prohibited. 175-10.22 - USES PERMITTED BY RIGHT (R-S) A. Subject to the standards and requirements set forth in this Chapter, except as prohibited or restricted by separate restrictions of record that may pertain to property within the R-S District, the following uses of land and buildings are permitted by-right in the R-S District: RESIDENTIAL: Single-family dwellings, detached. COMMERCIAL: INDUSTRIAL: ORGANIZATIONAL: MISCELLANEOUS: Accessory uses, structures and buildings. Home occupations. Open space and conservation areas. Public facilities. Public parks and playgrounds. Public utilities. Signs, as set forth in Section 175-106. Special childcare services.

CONCLUSIONS STAFF ANALYSIS	After review of the observations, documentation and research, it is the judgement of staff that the Notice of Violation issued on December 9, 2025 was based on substantial evidence, was warranted, and was a correct determination. <i>The matter before the Board of Zoning Appeals is whether the Zoning Administrator was correct in issuing the Notice of Violation.</i> • The Board of Zoning Appeals has no authority rule on the validity of the Town of Front Royal Zoning Ordinance. • The Zoning Administrator's determination is presumed to be correct on appeal per Section 15.2- 2309 of the Code of Virginia. • At a hearing on an appeal, the administrative officer is required to explain the basis for their determination. • The appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. For the reasons set forth, The Zoning Administrator requests that the Board of Zoning Appeals uphold the December 9, 2025 Notice of Violation and find that the Appellant is in violation of The Town of Front Royal Zoning Ordinance Sections 175-108.1 (A),(C), and (H) as cited.
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TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING AND ZONING
102 EAST MAIN STREET
P. O. BOX 1560
FRONT ROYAL, VA 22630

BZA 2600002

Main 540-635-4236 Fax 540-631-2727
Website: www.frontroyalva.com

BOARD OF ZONING APPEALS
APPLICATION FOR AN APPEAL OF ZONING ADMINISTRATOR DETERMINATION
(please print)

Applicant Information	Contact Name	Melanie Thornberg	
	Mailing Address	1205 Happy Creek Rd	
	City/State	Front Royal, VA	
	Phone	703-342-9392	E-mail
Owner Information [] Same As Applicant	Name	David and Melanie Thornberg	
	Mailing Address	1205 Happy Creek Rd	
	City/State	Front Royal, VA	
	Day-time phone	703-342-9392	E-mail
Property Information	Property Address	1205 Happy Creek Rd Front Royal, VA	
	Tax Map No.	20A21-2-18	Size (in acres or sq. ft.) 7.7 acres/ 335412sqft
	Zoning of Property		
	Subject of Appeal This is an application to the Board of Zoning Appeals for an appeal in accordance with Section 175-141 of the Zoning Ordinance from the following determination by the Zoning Administrator: Appeal home occupation violations		
Justification for an Appeal	(Statement by applicant – use additional pages if necessary) Cited for violations but not specific violations cited. Cited violations are not applicable or incorrect. See Attached		

**Please provide the names and addresses of adjacent property owners.*

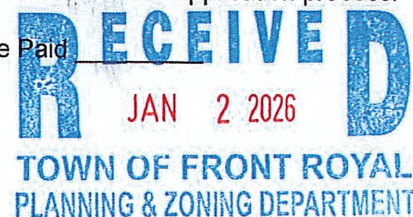
I hereby certify that the information provided on this application and the accompanying drawing(s) of the property is accurate, true and correct to the best of my knowledge and belief.

Signature of Applicant: [Signature] Date: 1/1/26

By submitting this application, the applicant grants permission to Town officials and employee to enter upon the property, which is the subject of this application, during reasonable hours and for purposes related to the application process.

\$650.00 Fee Check # _____ Cash ☒ Credit Card ☒ Date Paid _____

Revised 6/3/2025



#2600002

To whom it may concern,

This narrative is to contest the following violations as they were presented to the owners of 1205 Happy Creek Rd as it pertains to Happy Creek Cheeses, LLC and Thorny Ridge Farm.

Happy Creek Cheeses has been in business since 2020 and the Thornberg have owned goats since 2017. The following citations were issued with incorrect without specific reasoning or examples and very vague complaints.

Appeal 1: Notice of Violation: Home Occupations

According to the citations, there were three items that were cited as “violations” to Happy Creek Cheeses are as follows;

1. *“shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood”*

Happy Creek Cheeses is not situated in a neighborhood nor does the “neighborhood” which abuts to the property have the same zoning designation. The farm is 7.7 acres and at the time of purchasing the property, the adjoining property had horses, and farms adjacent to the property are cattle, hay and horse farms.

Town of Front Royal Zoning definition of DWELLING - A building or portion thereof which is used or intended to be used exclusively for residential purposes and contains one (1) or more dwelling units.

At no point in the history of the business was the dwelling residence changed or altered for the purpose of doing business within the dwelling nor is there any evidence presented to homeowners as to what specifically was altered on the dwelling.

All structures erected separate from the dwelling unit did not change the footprint or appearance of existing dwelling unit.

No specific violation was listed nor was there any documentation of previous violations for any of the specific violations.

2. No outdoor display, sales or **storage of goods, materials or equipment shall be permitted**, except that, the Zoning Administrator may authorize up to TWO business vehicles.

Supplementary documentation highlights the Ford Expedition while not defining how it violates the code. There are no signs, magnets or wraps on the vehicle and it is parked in a legal manner. There are no business or personal signs or displays, and items stored outdoors are primarily for farm use or personal use.

3. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent

than that usually experienced in the district on residentially used zoning lots where no home occupation exists.

The current approved home occupation does not produce any of the above stated nuisances nor has a complaint been filed or served to the property/ business owners in the history of the company's existence. There are no excessive noises, pollution, smells, interference or hazards created directly by the home occupation, nor were any nuisances or hazards specified in the citation. Such a broad reaching complaint without a single example presented on the citation is overreaching and is not addressing any specific nuisance.

Appeal 2: Notice of Violation: Uses Permitted By Right R-S. Permitted Use-Residential

TOWN OF FRONT ROYAL MUNICIPAL CODE Chapter 175, General Provisions, Definitions:

*ACCESSORY USE - A use of a building, lot or portion thereof which is customarily incidental and subordinate to the principal permitted use of the main building or lot. Accessory uses shall include the use of accessory buildings as a separate accessory dwelling unit, provided that the lot is at least 12,000 square feet in size, the accessory building complies with the minimum setback and yard area requirements that are required for main buildings within the applicable zoning district, no more than one accessory dwelling is located on the property, and the accessory dwelling unit does not utilize more than 500 square feet. **Urban agriculture is considered an accessory use when the requirements of Section 175-110.5 are complied with.***

*AGRICULTURE, URBAN (Urban Agriculture) – An umbrella term that describes a range of food growing practices conducted as an accessory use that may include the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, and both **livestock and fowl keeping**, subject to compliance with the regulations of Section 175-110.5.*

*AGRICULTURE/AGRICULTURAL PURSUITS – The tilling of soil, the raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, **livestock and fowl keeping and breeding**, farm wineries, roadside stands, tenant houses necessary for the operation of a farm, and the production of natural products with resources primarily derived from the land upon which it is produced. Yard maintenance, landscaping, noncommercial gardening and other customary incidental accessory uses shall not be deemed as "agriculture." Where agricultural uses are permitted under Chapter 175 of the Town Code, the provisions of Section 66-5 pertaining to slaughtering of stock shall not apply, provided that this exemption only applies to small scale slaughtering activities on a farm, and does not apply to slaughterhouses.*

Agricultural pursuits are not listed in the town code as RESTRICTED to agricultural districts. Instead code points out the standard is to preserve open spaces and to discourage

development of agricultural districts. Furthermore, Town Code 175.110 does not set restrictions on Urban Agriculture on lots over 1 acre.

In the citation, the claim that their records do not indicate any approval for the raising of goats or any agricultural pursuit is blatantly false as there is a two page document that was submitted with the business permit application which specifically outlined the keeping, caretaking, and handling of goats, goat milk and subsequent products on the property. For clarification, Thorny Ridge Farm owns the goats and all farm related structures. Happy Creek Cheeses, LLC is the occupation which makes and manufactures goat milk products for human consumption.

2600002





1205 HAPPY CREEK RD

Property Details

Current Owner

Name: THORNBERG DAVID R

Mailing Address: 1205 HAPPY CREEK RD N/A
FRONT ROYAL, VA 22630

Physical Address: 1205 HAPPY CREEK RD
FRONT ROYAL, VA 22630

Tax Map #: 20A212----18

Account #: 9548

Total Acres (Includes all Sublots): 7.701

Zoning: R-S

Occupancy Code: Dwelling

Magisterial Code: Happy Creek - Town

Land Use: Single Family Urban - Res

School Zone: LFK Elem., WC Middle, WC High

Legal Repository

Legal Description: WM I BEATTY PROPERTY BDY DIV
LR06-585 BDY ADJ W/ L14 LR21-7451

Instrument Type and Year: LR-2014

Instrument Number: 22

Deed Book No: N/A

Deed Book Page: N/A

Will Book: N/A

Valuation & Sales

Land	Improvements	Total Value
\$154,800	\$429,108	\$583,908

Grantor	Sale Price	Sale Date
ODEN SHELLEY J/JENKINS RUSSELL A	\$321,000	

Number of Parcels Involved in Sale

1



Building

Year Built: 2006	Foundation Type: Concrete
Story Height: 1.00	Water: Public
Number of Rooms: 5	Sewer: Public Sewer
Number of Bedrooms: 3	Heating: Heat Pump
Full Bathrooms: 2	Air Conditioning: Full
Half Bathrooms: 1	Fuel Type: Electric
Basement: Crawl	Floor Type: Hardwood, Vinyl
Finished Basement SQ FT: N/A	Exterior Wall Type: Vinyl
Garage Capacity: 2	Interior Wall Type: Drywall
Garage Type: Vinyl	Roof Type: Gable
	Roof Material: Comp Shingle



#2600002

2019

#2600002



#2600002

2024

#2600002



#2600002

Section 175-141 APPEALS TO BOARD OF ZONING APPEALS.

A. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board 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 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 or by a court of record, on application and on notice to the Zoning Administrator, and for good cause shown.

B. From notices of violation for temporary or seasonal commercial uses, parking of commercial trucks in residential districts or similar short-term, recurring violations, as determined by the Zoning Administrator, an appeal shall be filed within ten (10) days of the date of receipt of such notice of violation.

(Ord. No. Z-12-00 Amended and Added (B) 12-18-00)

DWELLING, ATTACHED - A dwelling having any portion of each of two (2) walls in common with adjoining dwellings.

DWELLING, DETACHED - A dwelling which is entirely freestanding on a lot.

DWELLING, MULTIFAMILY - A structure originally arranged or designed to be composed of three (3) or more dwelling units (an apartment house), with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SEMIDETACHED - One (1) of two (2) buildings, arranged or designed as dwellings located on abutting walls without openings, and with each building having a separate lot with minimum dimensions required by district regulations.

DWELLING, SINGLE-FAMILY - A single residential dwelling unit, other than a mobile home or manufactured home, designed for occupancy by one (1) family, and not located on the same lot as another dwelling unit. (Amended 7-23-12-Effective Upon Passage)

DWELLING, TEMPORARY - A residence designed as a portable dwelling but not necessarily attached to a permanent foundation.

DWELLING, TWO-FAMILY - A residential building containing not more than two (2) dwelling units, arranged one above the other or side by side, designed for occupancy by not more than two (2) families.

DWELLING UNITS - One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities and containing not less than six hundred (600) square feet of residential floor area. Such units shall meet the requirements of the Building Code of the Town of Front Royal.

EASEMENT - A grant by a property owner of the use of his land by another party for a specific purpose. The initial property owner in the agreement may be compensated for the use of his property.

ENGINEER, REGISTERED - A licensed professional engineer registered in the Commonwealth of Virginia by the Department of Professional and Occupational Registration as an engineer.

FALL ZONE - Means an area around the base of a wireless telecommunication tower required to be kept clear of buildings, other than those accessory to the wireless telecommunication tower, for the purpose of containing debris in the event of a tower structural failure. The fall zone is measured by a circular radius around the wireless telecommunication tower that equals the structure's height.

(Added 3-24-14-Effective Upon Passage)



DEPARTMENT OF PLANNING & ZONING

T: (540) 635-4236
F: (540) 631-2727

Town of Front Royal Town Hall
102 East Main Street
P.O. Box 1560
Front Royal, VA 22630-1560

December 9, 2025

David R Thornberg
1205 Happy Creek Rd
Front Royal, VA 22630

RE: 1205 Happy Creek Rd. – NOTICE OF VIOLATION
Certified mail: 9589 0710 5270 0658 6493 51

Dear Property Owner(s):

Recently it was brought to my attention that activities occurring on your property located at 1205 Happy Creek Rd., Front Royal, Virginia, are in violation of the Home Occupation standards and limitations set forth in Town Code. Upon reviewing our records, I confirmed that a Home Occupation was approved for this property; however, it has become evident that the operation on-site is in violation of that approval as follows.

Town Code Section 175-108.1

HOME OCCUPATIONS

A. The use shall be clearly incidental to the principal use of the property for residential purposes and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.

C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted, except that, the Zoning Administrator may authorize up to two (2) business vehicles, including any vehicle used by a nonresident employee. Indoor storage is permitted, provided that it does not violate the other restrictions of this section, including, but not limited to, changing the appearance of the dwelling unit, changing the character of the neighborhood, or increasing traffic.

H. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no home occupation exists.

To bring the property into compliance, corrective action must be taken no later than **January 9, 2026.**

Please note that any person aggrieved by the issuance of a zoning violation notice may appeal to the Board of Zoning Appeals, in accordance with Town of Front Royal Municipal Code Section 175-141. Such an appeal must be in writing, must state the reasons for the appeal, must be filed with the Zoning Administrator within thirty (30) days of receipt of this notice, and must be accompanied by a filing fee in the amount of six hundred and fifty dollars (\$650.00). If an appeal is not filed within thirty (30) days, this notice shall be considered final. Additional information regarding the appeal process is available via the "Town Code" link on the Town of Front Royal website or by contacting the Department of Planning and Zoning at 540-635-4236.

Should you have any questions regarding this letter or believe that it has been sent in error, please contact me at 540-631-2802.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Wells', written over a horizontal line.

Daniel Wells
Property Maintenance Official/Code Enforcement Officer
Department of Planning and Zoning

Enclosures: Reference from Town Code, Copy of Zoning Approval for Home Occupation

175-108.1 HOME OCCUPATIONS

All home occupations shall meet the following standards:

- A. The use shall be clearly incidental to the principal use of the property for residential purposes and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.
- B. Operators of home occupations must be residents on the same parcel, or parcels, where the home occupation is located. Notwithstanding subsection B, nonresident employees may also work for the home occupation, but no more than one (1) nonresident employee may work from the parcel, or parcels, at the same time.
- C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted, except that, the Zoning Administrator may authorize up to two (2) business vehicles, including any vehicle used by a nonresident employee. Indoor storage is permitted, provided that it does not violate the other restrictions of this section, including, but not limited to, changing the appearance of the dwelling unit, changing the character of the neighborhood, or increasing traffic.
- D. No wholesale or retail business shall be permitted unless it is conducted entirely by mail and/or telephone and does not involve the bulk shipment/delivery of merchandise to and from the premises; provided, however, that articles produced by the home occupation operators may be sold on the premises.
- E. Provided that the other requirements of this section are complied with, home occupations shall include, but shall not be limited to, the following uses: home offices, computer repair services, telecommunication services, artist studios, instructional services/tutoring, dressmaking, babysitting/babysitting services, or small item repair services. Uses that are restricted from being classified as home occupations shall include, but shall not be limited to, the following uses: motor vehicle repair, beauty/barber shops (with more than one (1) customer at a time), restaurants, animal hospitals/kennels, retail sales, and dance studios.
- F. In the instance of a home occupation involving a nonresident employee, at least one (1) additional off-street parking place shall be provided.
- G. No home occupation shall create greater vehicular or pedestrian traffic than is otherwise normal for the district in which it is located.
- H. No home occupation shall create noise, dust, vibrations, smells, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in the district on residentially used zoning lots where no home occupation exists.
- I. Notwithstanding other regulations within this Chapter, signs are not permitted for home occupations, except that the Zoning Administrator may authorize a sign for the following circumstances:
 - 1. When the sign is located on an authorized business vehicle and does not exceed ten (10) square feet in size.
 - 2. When the sign is located within the C-1, C-2, C-3, I-1, I-2, or MCD Zoning District, subject to the following conditions:
 - a. Shall not exceed four (4) square feet in size.
 - b. Shall not exceed six (6) feet in height, if freestanding.

(Ord. of 3-25-13)



TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING AND ZONING
102 EAST MAIN STREET, PO BOX 1560
FRONT ROYAL, VA 22630

FRBLC 11/31-2018

Main 540-635-4236 Fax 540-631-2727
Internet: www.frontroyalva.com

APPLICATION FOR ZONING APPROVAL
(PLEASE PRINT)

FEE: \$10.00
(Checks Payable to Town of Front Royal)

PURPOSE OF APPLICATION

(Please check appropriate box)

☒ Business License

☐ Home Occupation (see reverse side of application)

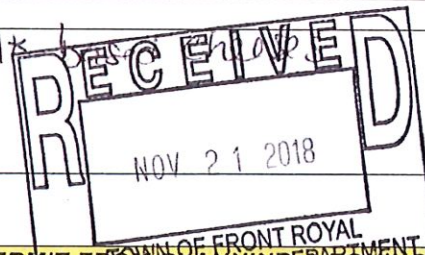
☐ Change of Ownership

☐ Change of Address

☐ Business Name Change

Applicant Information	Company Name	Happy Creek Cheese		
	Contact Name	Melanie Thornberg		
	Mailing Address	1205 Happy Creek Rd		
	City/State	Front Royal VA 22630		
	Phone	703 342 9392	E-mail	Thornridgefarm@gmail.com
Property Owner Information	Name	David & Melanie Thornberg		
	Mailing Address	1205 Happy Creek Rd		
	City/State	Front Royal VA 22630		
	[] Same As Applicant	Day-time phone	703 342 9392	E-mail
Property Information	Site Address (location of the proposed business):			
	1205 HAPPY CREEK RD FRONT ROYAL VA 22650			
	Square Footage of Building:		Number of Off Street Parking Spaces Available:	
	Bldg 1: 240 sqft Bldg 2: 192 sqft		# 10?	
List all Proposed Business Vehicles / List Make and Model:				
2001 Ford Expedition				

Describe Proposed Nature of the Business	To make and manufacture goat milk for human consumption. (Statement by applicant) SEE ATTACHED
Prior Use of Building	N/A



***ANY NEW SIGNAGE OR SIGN FACE CHANGES WILL REQUIRE A SIGN PERMIT FROM PLANNING & ZONING**
By submitting this application, the applicant grants permission to Town officials and employees to enter upon the property, which is the subject of this application, during reasonable hours and for purposes related to the application process.

Signature of Applicant [Signature] Date 11/21/18

TO BE COMPLETED BY THE DEPARTMENT OF PLANNING AND ZONING

TAX MAP NUMBER	_____	ZONING DISTRICT	_____
PERMITTED PER SECTION	_____	PARKING SPACES REQUIRED	_____
HISTORIC DISTRICT	_____	ENTRANCE CORRIDOR	_____
FLOODPLAIN	_____		
ZONING APPROVAL	_____	DATE	_____
Comments: _____			



HOME OCCUPATION

HOME OCCUPATION - An occupation conducted entirely within an enclosed dwelling and clearly incidental and secondary to the residential occupancy thereto carried on by a member or members of the family residing on the premises. All home occupations shall meet the standards in §175-108.1, which are as follows:

- A. The use shall be clearly incidental to the principal use of the property for residential purposes, and shall not change the exterior appearance of the dwelling unit, or change the character of the neighborhood.
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 - a. Shall not exceed four (4) square feet in size.
 - b. Shall not exceed six (6) feet in height, if freestanding.

I Melanie Thornberg (PLEASE PRINT) have read and agree to abide by the "Home Occupation" restrictions as stated in the Town of Front Royal Zoning Ordinance. I also understand that violation of these provisions is a misdemeanor and may result in revocation of my business license and possible fines of up to \$1,000 per day of violation.

SIGNATURE

DATE

PLAN DETAILED REPORT (FRBLC-001131-2018)

Plan Type: FR - Business Lic. Clearance	Project:	App Date: 11/21/2018
Work Class: Review	District: Front Royal	Exp Date: NOT AVAILABLE
Status: Approved	Square Feet: 0.00	Complete Date: 12/03/2018
Description: Happy Creek Cheese - Home Occupation	Valuation: \$0.00	Assigned To: Jeremy Camp

20A212----18	Main	Address: 1205 Happy Creek Rd Front Royal, VA 22630	Main
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Owner
Melanie Thornberg
1205 Happy Creek Rd
Front Royal, VA 22630

Mobile: 7033429392

Note	Created By	Date and Time Created
1. The proposed use is only allowed as a home occupation and is subject to all Town Code restrictions found under 175-118 of the Town Code.	Jeremy Camp	12/03/2018
2. All health department or dept. of agriculture requirements shall be complied with.	Jeremy Camp	12/03/2018

Activity Type	Activity Number	Name	User	Created On
FR - Application Completeness Check			Connie Potter	11/21/2018

Invoice No.	Fee	Fee Amount	Amount Paid
00005356	(FR) Business License Zoning Clearance	\$10.00	\$10.00
Total for Invoice 00005356		\$10.00	\$10.00
Grand Total for Plan		\$10.00	\$10.00

Condition	Comments	Date Created	Satisfied
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TOWN OF FRONT ROYAL
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APPLICATION FOR ZONING APPROVAL
(PLEASE PRINT)

FEE: \$10.00

(Checks Payable to Town of Front Royal)

pt @ Finance

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(Please check appropriate box)

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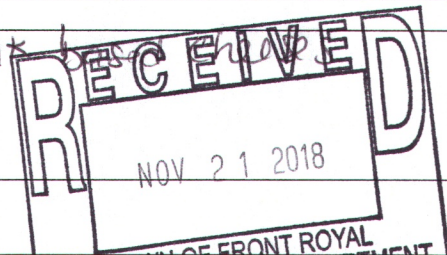
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	Mailing Address	1205 Happy Creek Rd		
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	Square Footage of Building:		Number of Off Street Parking Spaces Available:	
	Bldg 1 - 240 sqft Bldg 2: 192 sqft		4 10?	
List all Proposed Business Vehicles / List Make and Model:				
2001 Ford Expedition				

Describe Proposed Nature of the Business	To make and manufacture goat milk for human consumption. (Statement by applicant) SEE ATTACHED
Prior Use of Building	N/A



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By submitting this application, the applicant grants permission to Town officials and employees to enter upon the property, which is the subject of this application, during reasonable hours and for purposes related to the application process.

Signature of Applicant

Date 11/21/18

TO BE COMPLETED BY THE DEPARTMENT OF PLANNING AND ZONING

TAX MAP NUMBER	_____	ZONING DISTRICT	_____
PERMITTED PER SECTION	_____	PARKING SPACES REQUIRED	_____
HISTORIC DISTRICT	_____	ENTRANCE CORRIDOR	_____
FLOODPLAIN	_____		
ZONING APPROVAL	_____	DATE	_____
Comments: _____			



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I Melanie Thornberg (PLEASE PRINT) have read and agree to abide by the "Home Occupation" restrictions as stated in the Town of Front Royal Zoning Ordinance. I also understand that violation of these provisions is a misdemeanor and may result in revocation of my business license and possible fines of up to \$1,000 per day of violation.

SIGNATURE

Revised 02/01/16

DATE

11/21/18

Thorny Ridge Farm: Happy Creek Cheese

Goat's milk products are an increasingly sought after commodity. The ever increasing demand for artisan goat's milk cheeses have opened an opportunity for farms willing to follow state and federal requirements to meet some of that demand.

Melanie and David own and operate Thorny Ridge Farm. Melanie Thornberg is a female, disabled US Coast Guard veteran and is the primary owner and head cheesemaker. Her husband, David Thornberg is co-owner and will also act as a business partner. Our goal is to make and manufacture artisan cheese and cheese products for human consumption on the property of 1205 Happy Creek Rd, Front Royal under the name Happy Creek Cheese. The milk will be supplied by dairy goats owned and cared for by Melanie and David. All aspects of the cheese making, from housing of the animals to the production and distribution of the cheese will be strictly monitored and done in accordance with the highest USDA and Virginia Department of Consumer and Agricultural Services (VDCAS) guidelines. All artisan cheese and cheese products will be produced (made and manufactured) on site to be sold off site following state and federal regulations. There will be no sales to customers directly on the Happy Creek property listed as prohibited by local zoning ordinances.

Thorny Ridge Farm owns the dairy goats, the milking equipment, and all supplies required to immediately begin the cheese making operation. We are required by state law to have a separate facility for milking the animals, processing the milk, and making the cheese. We intend to construct, or have delivered, buildings in order to be in compliance with local, state and federal regulations and permitting.

All that we require to start the VDCAS approval process for our farm is the installation and retrofitting of these three facilities. The following is the proposed plans for the three required facilities.

Facility 1 and 2: Milking Parlor/ Milk House

The milk collection area is referred to as the milk parlor. This is the physical location where the animals are milked.

The milk house is the area in which the milk is properly cooled and stored prior to pasteurization.

The milk parlor/milk house will be a pre-fabricated 12x20 building that will be delivered to our property and remodeled per VDCAS requirements. The location of the building will observe proper setbacks and follow all applicable codes. The building will be modified to accommodate a ~12x12 milking parlor separated by a solid wall with a door access to the ~8x12 milk house. (See page 3)

Plumbing: Potable water will be plumbed according to state and local regulations and inspected as required. Water will be provided and regulated by the town of Front Royal and plumbed from the main house.

Waste water drained from the sinks and floor drains will be plumbed into an above-ground IBC totes. Waste wash water will contain no solid materials and no black water. Tanks will be either emptied via septic company as needed, OR the pH of the water in the tank will be brought to neutral using environmentally safe chemicals (such as sodium bicarbonate). The neutral pH

waste water would then be distributed on the property for watering of pastures (following DEQ guidelines).

Electric service: Electricity will be wired according to state and local regulations and inspected as required. Service will be provided and regulated by the town of Front Royal and wired from the main house. GFCI outlets will be installed all areas due to moisture contact that may occur. All lighting will be in compliance with VDCAS guidelines. Alternate energy sources will be researched for potential future use.

Facility 3: Cheese Room

The cheese room will be a detached 12'x16' building. All aspects of building will meet applicable state and county permitting regulations including, structural, plumbing, electrical and sanitation. Building will observe proper setbacks and follow all applicable codes. A copy of the proposed 12'x16' building is attached (page 3).

The cheese room will include an entrance "mud" room for sanitation and biosecurity measures that are located within the building with an appropriate entrance. An air curtain system will be researched for potential installation at the entrance to reduce potential for contaminants to enter such as dust, dirt and insects. Walls and ceiling will be insulated and covered in FRP panels or similar impermeable covering.

Plumbing: Potable water will be plumbed according to state and local regulations and inspected as required. Water will be provided and regulated by the town of Front Royal and plumbed from the main house.

Waste water drained from the sinks and floor drains will be plumbed into an above-ground holding tank. Waste wash water will contain no solid materials and no black water. Tanks will be either emptied via septic company as needed, OR plumbed into a holding tank where the pH can be brought to neutral. The neutral pH waste water would then be distributed on the property for watering of pastures (following DEQ guidelines).

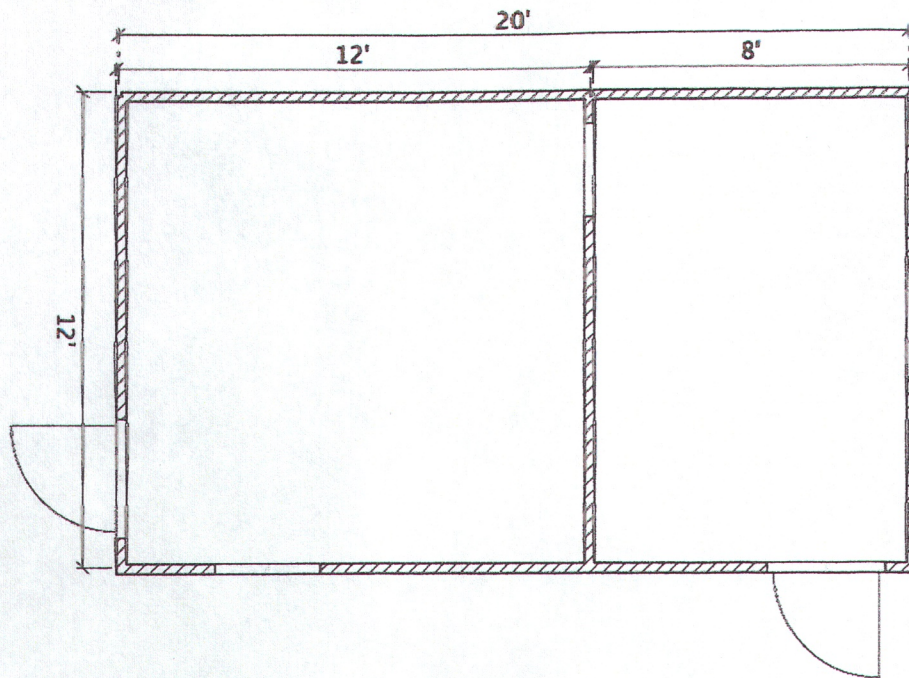
Whey, a by-product of cheese making, will be stored into portable containers and will not be included in wastewater calculations but instead saved to be fed back to livestock.

Electric service: Electricity will be wired according to state and local regulations and inspected as required. Service will be provided and regulated by the town of Front Royal and wired from the main house. A separate breaker box (for both buildings) will be installed in the cheese room. GFCI outlets will be installed all areas due to moisture contact that may occur. All lighting will be in compliance with VDCAS guidelines. Alternate energy sources will be researched for potential future use. Cheese room will be heated and cooled with a ductless HVAC system

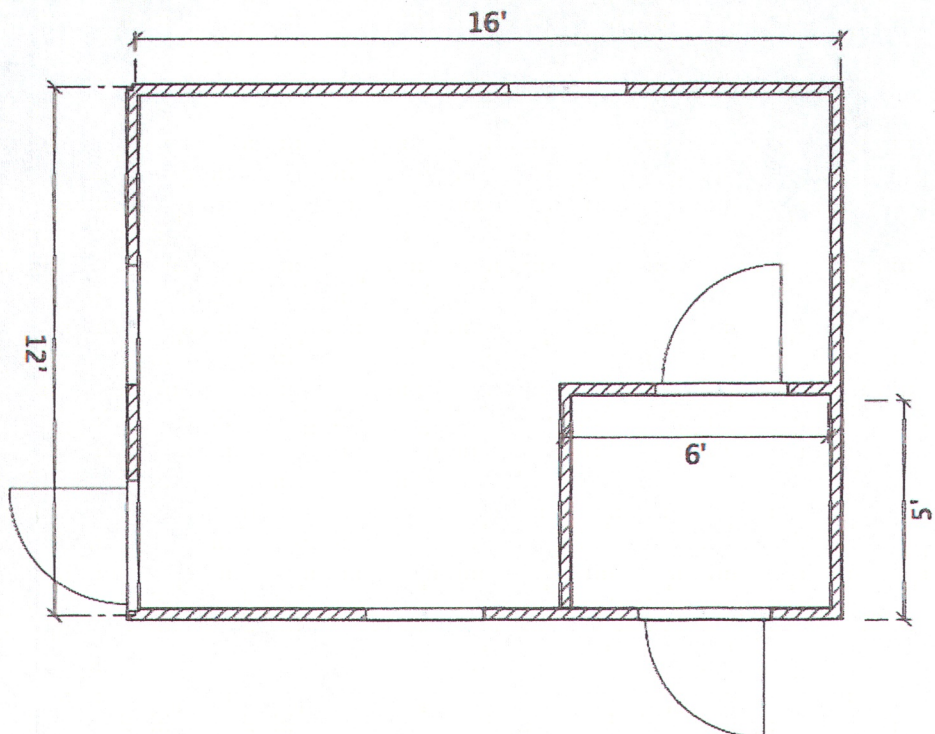
SUMMARY:

- Buildings will be constructed in a manner so that all interior surfaces shall be impermeable and washable/scrubbable.
- All state and local codes and setbacks will be observed.
- Buildings will be used solely for farm use in the making and manufacturing of cheese and cheese products.
- All waste water (excluding whey) will be handled via distribution (after proper treatment) onto land owned by David and Melanie Thornberg (Thorny Ridge Farm) per DEQ requirements or pumped via septic company as needed.
- Electric and water will be sourced and metered by the town of Front Royal, Va.

PROPOSED MILK PARLOR AND MILK HOUSE



PROPOSED CHEESE ROOM



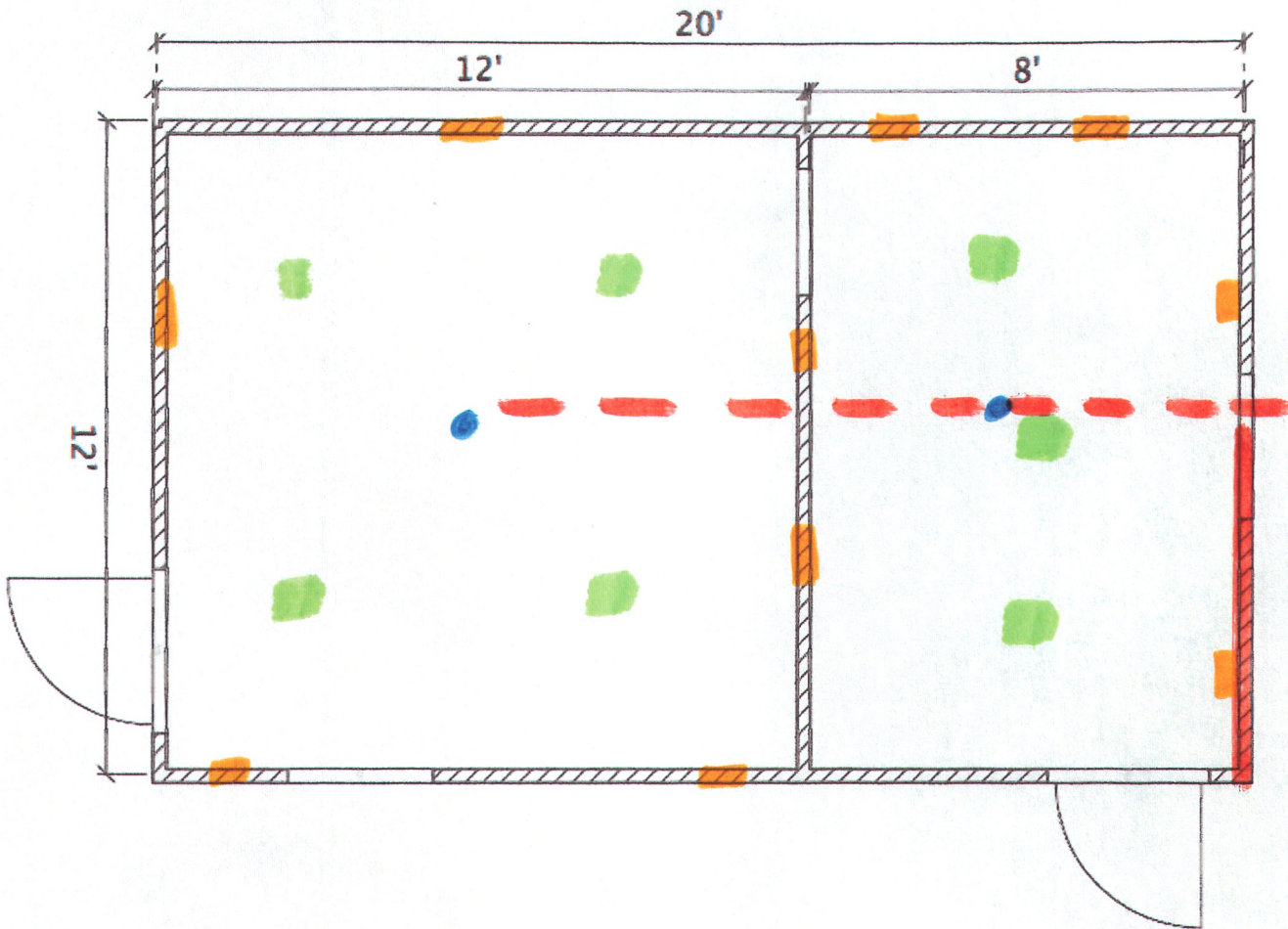
In order to proceed, we are required to have written (email or hard copy) permission from the Town of Front Royal Zoning Department that states we have approval to "Make and Manufacture" cheese at this location.

The below picture is an approximate location of where the facilities will be installed. The milk house/milk parlor's location is indicated by the red circle. The cheese room location is indicated by the red arrow.



THORNY RIDGE FARM

PROPOSED MILK HOUSE/ MILK PARLOR



ELECTRICAL OUTLETS

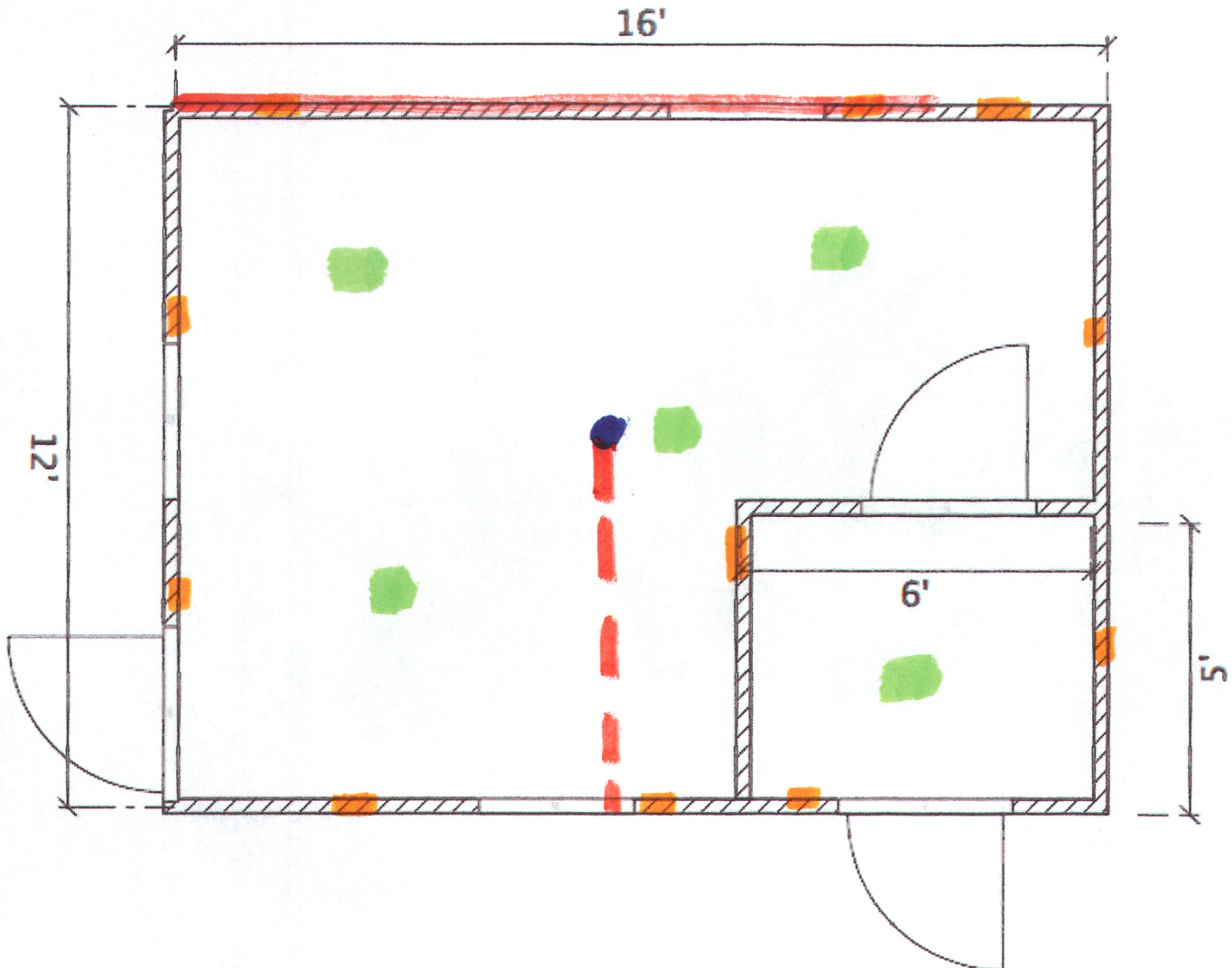
LIGHT FIXTURES

FLOOR DRAIN

PLUMBING LINES

THORNY RIDGE FARM

PROPOSED CHEESE ROOM



ELECTRICAL OUTLETS



LIGHT FIXTURES



FLOOR DRAIN

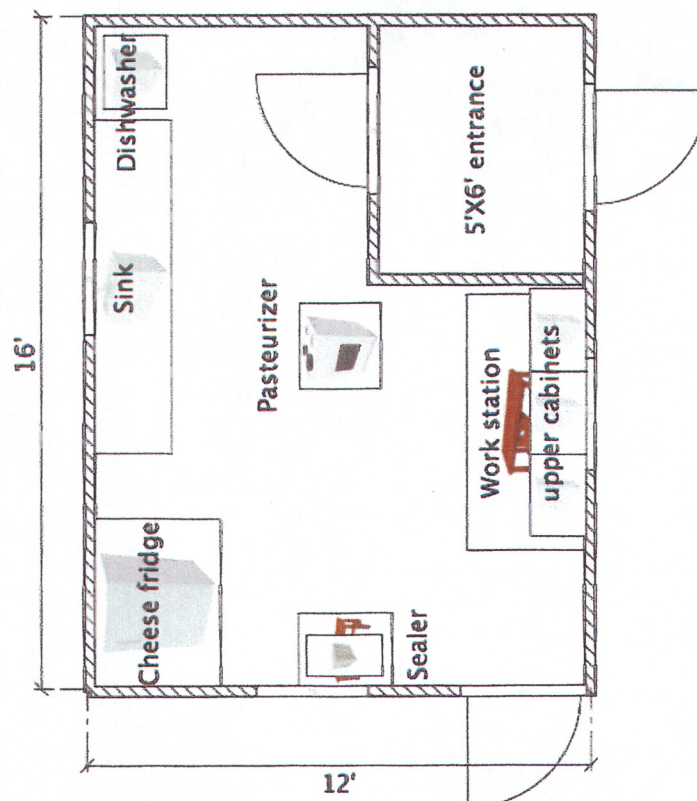
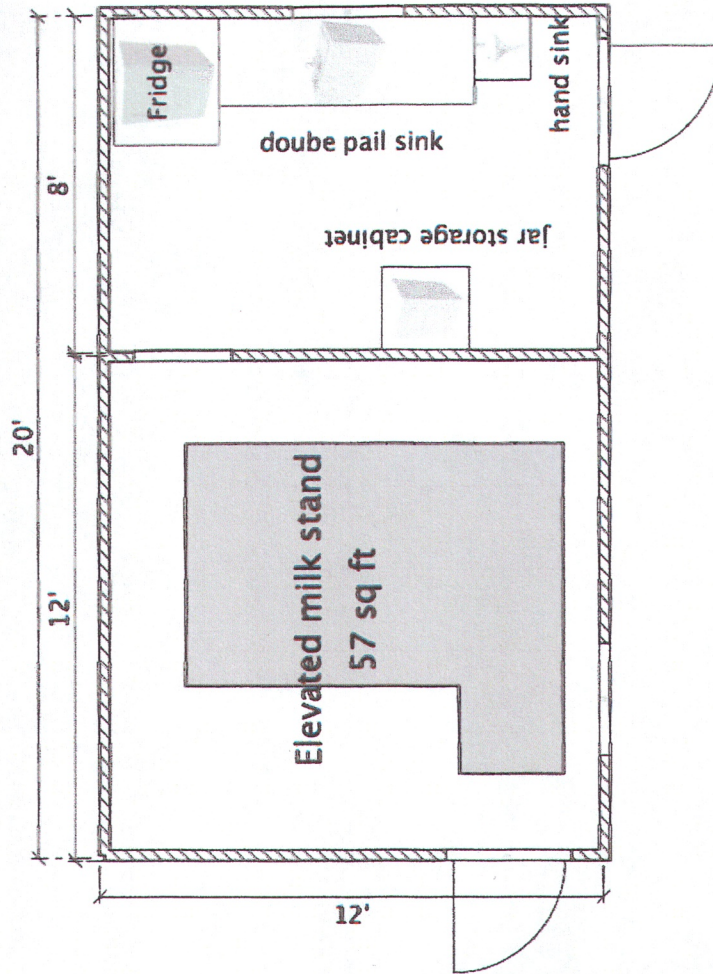


PLUMBING LINES



THORNY RIDGE FARM

Basic idea of layout of parlor/MH and cheese room



ELECTION OF OFFICERS

2025 BZA ANNUAL REPORT

TOWN OF FRONT ROYAL

BOARD OF ZONING APPEALS



2025

ANNUAL REPORT

PLANNING AND ZONING STAFF - 2025

Lauren Kopishke

Director of Planning and Zoning

August 2, 2021 – Current

John Ware

Deputy Zoning Administrator/Planner I

November 15, 2021 - Current

Daniel Wells

Property Maintenance Official/Code Enforcement

April 15, 2024 - Current

Sean Mennard

GIS Coordinator

October 22, 2025 - Current

Carol Buffa

Planning Technician

October 3, 2022 - Current

Connie L. Potter

Executive Assistant/Boards and Commissions Clerk

January 17, 2006 - Current

BOARD OF ZONING APPEALS 2025

The Code of Virginia requires all jurisdictions with a Zoning Ordinance to have a Board of Zoning Appeals. The Board of Zoning Appeals is a five-member board of citizens appointed by the Circuit Court. The Board hears variance requests from the requirements of the Zoning Ordinance and appeals of decisions made by the Zoning Administrator. All variance requests and appeals require a public hearing. Appeal and variance requests are discretionary decisions; although case law does provide guidance as to what the courts consider a hardship which is required for a variance approval.

In 2025, the Board of Zoning Appeals held three (3) regular meetings. The chart below shows the actions taken by the Board of Zoning Appeals in 2025.

2025 BZA MEMBERS

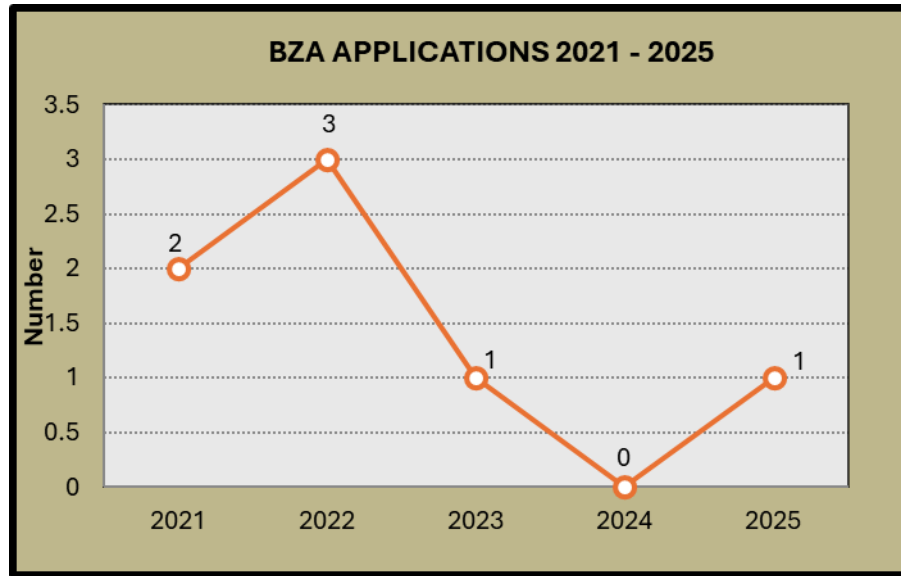
Clare Schmitt..... Term Expires May 1, 2027 .Appointed 3/27/2023
Cody Taylor..... Term Expires May 1, 2029 .Reappointed 4/22/2024
Maria Dutton Term Expires May 1, 2030 .Reappointed 5/28/2025
James Jackson..... Term Expires May 1, 2028 .Appointed 11/25/2024
Lorie Noakes Term Expires May 1, 2026 .Appointed 8/26/2024 Resigned 9/30/2025
Tim Brogan Term Expires May 1, 2026 .Appointed 10/27/2025 to Fill Unexpired Term

BOARDS OF ZONING APPEALS MEETING ATTENDANCE 2025

NAME	MEETINGS PRESENT	# OF MEETINGS
Clare Schmitt	3	3 (100%)
Cody Taylor	3	3 (100%)
Maria Dutton	3	3 (100%)
Lorie Noakes (Resigned 9/30/2025)	2	2 (100%)
James Jackson	2	3 (67%)
Tim Brogan	1	1 (100%)

BZA ANNUAL REPORT 2025

DATE OF MEETING	APPLICANT	ATTENDANCE
February 18, 2025	The BZA met to consider meeting minutes, elect officers, and review the 2024 Board of Zoning Appeals Annual Report.	Present: Clare Schmitt Cody Taylor Maria Dutton Lorie Noakes James Jackson
August 19, 2025	The BZA met to consider meeting minutes and review one (1) Variance Application. 2500335 – A Variance Application submitted by Orange Creek LLC for a variance from Town Code §175-24.A. pertaining to the construction of a building and the side yard setback located on property at 15 and 17 W. 11th Street, identified by Tax Map 20A2-4-43-24. The property is located in the R-2, Residential District. The variance would effectively allow the applicant a side yard setback of 8.7 feet. The required side yard setback should be a minimum of ten feet (10'). The variance requested by the applicant is to allow a setback of less than ten feet (10') for a recently constructed two-family attached dwelling. <i>Status: Chairman Taylor moved, seconded by Ms. Dutton to deny the variance application. (Chairman Taylor stated the BZA cannot legally grant a variance in the clear with it being a self-created hardship.)</i>	Present: Clare Schmitt Cody Taylor Maria Dutton Lorie Noakes James Jackson Denied: 5-0
December 16, 2025	The BZA met to review meeting minutes received training from staff. The BZA discussed two (2) "mock" cases. One Zoning Determination Appeal and one (1) Variance Request.	Present: Clare Schmitt Cody Taylor Maria Dutton Tim Brogan Absent: James Jackson



CHAPTER 15

APPEALS OF DECISIONS BY ZONING OFFICIALS TO THE BOARD OF ZONING APPEALS

Chapter 15

Appeals of Decisions by Zoning Officials to the Board of Zoning Appeals

15-100 Introduction

A board of zoning appeals (“BZA”) has the power and duty to consider a variety of matters. Some of those matters originate with the BZA, such as applications for special use permits (see Chapter 12) and variances (see Chapter 13). The procedures and standards applicable to those matters are covered in those respective chapters. Other matters originate with either the zoning administrator or other administrative officers (collectively, the *zoning administrator*), and they come to the BZA in the nature of an appeal from that zoning official’s decisions, determinations, orders, and requirements, including notices of violation (collectively, *decisions*). *Virginia Code* § 15.2-2309. This chapter focuses on appeals of those decisions to the BZA.

The range of issues that the zoning administrator may be asked to resolve in a decision, and which may be appealed to the BZA, include:

- The meaning of a particular regulation in the zoning ordinance.
- How a land use should be classified and whether the use is permitted within a particular zoning district.
- Whether a proposed structure complies with lot size, setback, height, bulk, or other requirements.
- Whether a use or structure complies with the zoning ordinance or is nonconforming.
- Whether an owner has vested rights.

A decision has legal significance because, if a person aggrieved by the decision fails to timely appeal it to the BZA, it becomes a final, binding decision – a *thing decided*. (see Chapter 14 for further discussion of the *thing decided* rule).

15-200 Standing to appeal

Any person aggrieved, and any officer, department, board, or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision, or determination (to repeat, collectively, a *decision*) made by any other administrative officer in the administration or enforcement of the state zoning laws, the locality’s zoning ordinance, or any modification of zoning requirements pursuant to *Virginia Code* § 15.2-2286, may appeal the decision to the BZA. *Virginia Code* § 15.2-2311(A).

To have a right to appeal a decision, a person who is not affiliated with the locality must be a *person aggrieved* by the decision. *Virginia Code* § 15.2-2311(A). The meaning of *aggrieved* is settled under Virginia case law:

... [I]n order for a petitioner to be “aggrieved,” it must affirmatively appear that such person had some direct interest in the subject matter of the proceeding that he seeks to attack. The petitioner “must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest” ... The word “aggrieved” in a statute contemplates a substantial grievance and means a denial of some personal or property right, legal or equitable, or imposition of a burden or obligation upon the petitioner different from that suffered by the public generally.

Virginia Marine Resources Commission v. Clark, 281 Va. 679, 687, 709 S.E.2d 150, 155 (2011), quoting *Virginia Beach Beautification Commission v. Board of Zoning Appeals of the City of Virginia Beach*, 231 Va. 415, 419-420, 344 S.E.2d 899, 902-903 (1986); see *Vulcan Materials Co. v. Board of Supervisors of Chesterfield County*, 248 Va. 18, 445 S.E.2d 97 (1994); *Mann v. Loudoun County Board of Supervisors*, 75 Va. Cir. 24 (2008). Organizations that neither own nor occupy any real

property, nor hold any right that would be affected by a decision, are not persons aggrieved. *Pearsall v. Virginia Racing Commission*, 26 Va. App. 376 (1998).

Mere proximity to the parcel that is the subject of the appeal alone is insufficient to establish standing; a *particularized harm* must exist. *Friends of the Rappahannock v. Caroline County*, 286 Va. 38, 743 S.E.2d 142 (2013) (to allege standing, proximity to the subject property, alone, is insufficient; instead, a plaintiff must allege sufficient facts showing harm to some personal right or property right different than that suffered by the public generally). This standard applies to appeals of zoning decisions to the BZA. *In Re: November 20, 2013 Decision of the Board of Zoning Appeals of Fairfax County*, 89 Va. Cir. 345 (2014). The alleged harm also cannot be speculative. In *In Re: November 20, 2013 Decision of the Board of Zoning Appeals of Fairfax County*, the zoning administrator determined that a proposed warehouse was part of a “public benefit use” that could be allowed by special use permit, and not a prohibited “storage” use. The trial court concluded that the neighbor’s alleged harm that the decision changed the nature of their residential neighborhood with resulting visual impacts, increased traffic flow, and noise from truck deliveries, and the need for increased vigilance, was “speculative” and insufficient to establish standing. The court noted that the proposed warehouse still required a special use permit from the board of supervisors, and until that board approved the special use permit, it was “impossible to know what harms, if any, might result.”

15-300 Notice of the decision and perfecting an appeal

An appeal must be filed within 30 days after the decision is made. *Virginia Code* § 15.2-2311(A); see *Voorhees v. County of Fairfax Board of Zoning Appeals*, 2009 Va. Cir. LEXIS 84, 2009 WL 1269384 (2009) (BZA did not err in denying appeal as untimely where zoning approval of grading plans was made on April 20, and the petitioner’s appeal was not filed until May 23; failure of petitioners to receive notice of zoning approval does not trigger any due process rights where notice of the decision was not required by state law or county ordinance).

Written notice of a zoning violation or a written order of the zoning administrator must include a statement informing recipients that they may have a right to appeal the decision within 30 days in accordance with Virginia Code § 15.2-2311, and that the decision will be final and unappealable if it is not appealed within 30 days. *Virginia Code* § 15.2-2311(A). The notice of the zoning violation or written order must state that the applicable appeal fee and explain where additional information may be obtained regarding the filing of an appeal. *Virginia Code* § 15.2-2311(A). The appeal period does not begin until the statement is given and the zoning administrator’s written order is sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. *Virginia Code* § 15.2-2311(A).

A locality’s zoning ordinance may provide for an appeal period of less than 30 days, but not less than 10 days, for short-term recurring violations pertaining to temporary or seasonal commercial uses, parking commercial trucks in residential zoning districts, or maximum occupancy limitations on residential dwelling units. *Virginia Code* § 15.2-2286(A)(4).

The failure to file a timely appeal results in the official determination becoming final and binding – a *thing decided*, at least in a subsequent civil court proceeding.

At least one trial court has concluded that an appeal to the BZA pursuant to Virginia Code § 15.2-2311(A) may not be circumvented by filing a court action under Virginia Code § 15.2-2313. Virginia Code § 15.2-2313 provides:

Where a building permit has been issued and the construction of the building for which the permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, by suit filed within fifteen days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals.

In *Campbell v. Davidson*, 96 Va. Cir. 55 (2017), the city had issued building permits for the construction of a 301-unit multifamily apartment complex on April 11, 2017. On April 25, 2017, the plaintiffs, who were landowners in

the vicinity of the apartment complex, filed a lawsuit against the city and the zoning administrator pursuant to Virginia Code § 15.2-2313. The plaintiffs alleged that the building permits had been issued in violation of the zoning ordinance. The plaintiffs never filed an appeal to the board of zoning appeals under Virginia Code § 15.2-2311.

The issue in *Campbell* was whether Virginia Code §§ 15.2-2311 and 15.2-2313 provide optional avenues for appeal or whether they are sequential. Citing prior Virginia case law, the trial court granted the city's and zoning administrator's motion to dismiss the lawsuit, holding that an appeal under Virginia Code § 15.2-2311 is a "mandatory appeal" and the plaintiffs were precluded from direct judicial attack under Virginia Code § 15.2-2313 because they failed to timely exhaust their administrative remedies under Virginia Code § 15.2-2311. The trial court said that what the plaintiffs had attempted in this case "was essentially an end-run around that mandatory administrative appeal." The trial court in *Mirror Ridge Homeowners Association v. Board of Supervisors of Loudoun County*, 51 Va. Cir. 406 (2000) reached a similar conclusion. In dismissing both cases on the plaintiffs' failure to exhaust their remedy under Virginia Code § 15.2-2311, the trial courts do not satisfactorily address the express language in Virginia Code § 15.2-2313 that "the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals."

In those localities imposing civil penalties for zoning violations, the civil penalties may not be assessed by a court having jurisdiction during the 30-day appeal period. *Virginia Code § 15.2-2311(A)*.

The notice of appeal must be filed with the zoning administrator and with the BZA and must specify the grounds for the appeal. *Virginia Code § 15.2-2311(A)*. After the notice of appeal is filed, the zoning administrator must promptly transmit to the BZA all the papers constituting the record upon which the action appealed was taken. *Virginia Code § 15.2-2311(A)*.

If an appellant fails to perfect the appeal because it was not filed within 30 days after the date of the determination or there is a question as to whether the appellant is aggrieved, the BZA should consider and act on these jurisdictional issues. It is not the locality's staff's role to reject or dismiss the appeal or to refuse to process it.

15-400 Effect of filing an appeal on pending proceedings

Generally, filing an appeal with the BZA stays all proceedings in furtherance of the action appealed from. *Virginia Code § 15.2-2311(B)*. *Proceedings*, as the term is used in Virginia Code § 15.2-2311(B), refers to not only litigation, but also "any action that proceeds from the action appealed from." *Wahrhaftig v. Artman*, 73 Va. Cir. 37, 38 (2007) (because Virginia Code § 15.2-2311(B) is remedial in nature, it should be liberally construed and, therefore, construction of the structure authorized by the county's issuance of zoning permits was stayed pending an appeal to the BZA). For example, if the zoning administrator makes an official determination that a zoning violation exists on the landowner's property and initiates a zoning enforcement action, that action is stayed while the appeal is considered by the BZA. As another example, if a site plan is being processed and there is an appeal of the use classification related to the site plan, processing of the site plan is stayed until the appeal is resolved.

However, proceedings pertaining to parts of a project that are separate and distinct components, such as different phases of a phased site plan or subdivision plat, are not stayed. *Ripol v. Westmoreland County Industrial Development Authority*, 82 Va. Cir. 69 (2010) (BZA appeal pertaining to the site plan for Phase 1A did not stay proceedings pertaining to Phase 1B; therefore, the zoning administrator was not stayed from acting on the site plan for Phase 1B of the project where the two phases were separate and distinct components).

Finally, a zoning administrator may certify to the BZA that facts exist such that a stay, in their opinion, would cause imminent peril to life or property. *Virginia Code § 15.2-2311(B)*. If the zoning administrator makes such a certification, the pending proceedings will not be stayed unless the appellant successfully applies to the BZA or the circuit court for a restraining order. *Virginia Code § 15.2-2311(B)*.

15-500 Procedural requirements before and during an appeal hearing

Several procedural rules apply to the conduct of an appeal hearing:

- Scheduling the hearing on the appeal: The BZA must “fix a reasonable time for the hearing” *Virginia Code* § 15.2-2312.
- Notice of the hearing: The BZA must “give public notice thereof as well as due notice to the parties in interest.” *Virginia Code* § 15.2-2312. Notice of the hearing must be provided as required in *Virginia Code* § 15.2-2204. *Virginia Code* § 15.2-2309(3).
- Before the hearing; contact by parties with BZA members: The *non-legal staff* of the governing body, as well as the appellant, landowner, or its agent or attorney, may have *ex parte* communications with a member of the BZA before the hearing but may not discuss the facts or law relative to the appeal. If any *ex parte* discussion of facts or law occurs, the party engaging in the communication must inform the other party as soon as practicable and advise the other party of the substance of the communication. Prohibited *ex parte* communications do not include discussions that are part of a public meeting or discussions before a public meeting to which the appellant, landowner, or its agent or attorney are all invited. The *non-legal staff of the governing body* is “any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to [Virginia Code] § 15.2-1542.” *Virginia Code* § 15.2-2308.1(A) and (C).
- Before the hearing; sharing locality-produced information: Any materials relating to an appeal, including a staff recommendation or report furnished to a BZA member, must be available without cost to the appellant or any person aggrieved as soon as practicable thereafter, but in no event more than three business days after the materials are provided to a BZA member. If the appellant or person aggrieved requests additional documents or materials that were not provided to a BZA member, the request should be evaluated under the Virginia Freedom of Information Act (*Virginia Code* § 2.2-3700, *et seq.*). *Virginia Code* § 15.2-2308.1(B).
- At the hearing; the right to equal time for a party to present its side of the case: The BZA must offer an equal amount of time in a hearing on the case to the appellant or other person aggrieved and the staff of the local governing body. *Virginia Code* § 15.2-2308(C).
- At the hearing; the zoning administrator’s required explanation: At a hearing on an appeal, the zoning administrator must explain the basis for their decision. *Virginia Code* § 15.2-2309(1).
- At the hearing; the presumption of correctness: At the hearing, the zoning administrator’s decision is presumed to be correct. *Virginia Code* § 15.2-2309(1).
- At the hearing; the burden of proof is on the appellant: After the zoning administrator explains the basis for the decision, the appellant has the burden of proof to rebut the presumption of correctness by a preponderance of the evidence. *Virginia Code* § 15.2-2309(1).
- Decision: The decision by the BZA must be based on its “judgment of whether the administrative officer was correct.” *Virginia Code* § 15.2-2309(1). The BZA may reverse or affirm, wholly or partly, or may modify, the decision of the zoning administrator. *Virginia Code* § 15.2-2312. *See section 15-700 for further discussion.*
- Time for the decision: The decision must be made within 90 days. *Virginia Code* § 15.2-2312. The 90-day period is directory, rather than mandatory, and the BZA does not lose its jurisdiction to act on an appeal after the time period has passed. *See Tran v. Board of Zoning Appeals of Fairfax County*, 260 Va. 654, 536 S.E.2d 913 (2000) (BZA did not lose jurisdiction to decide appeal after 550-day delay).
- Required vote: The concurring vote of a majority of the BZA’s membership is necessary to reverse the determination of the zoning administrator. *Virginia Code* § 15.2-2312. This means that a seven-member BZA may reverse the zoning administrator’s determination only if at least four members vote for reversal, and a five-member BZA may reverse only if at least three members vote for reversal. *See Hughey v. Fairfax County Zoning Appeals Board*, 41 Va. Cir. 138 (1996) (3-3 vote of a seven-member BZA was a “decision” because the vote established that the BZA could not and would not reverse the zoning administrator’s decision). Thus, if only three members of a five-

member BZA are present for the vote, all three must vote in favor of reversal; however, the zoning administrator's determination may be affirmed or modified on a 2-1 vote. If the BZA's vote on an appeal results in a tie vote, the person filing the appeal may request to have the matter carried over until the next meeting, but the BZA is not required to grant the request. *Virginia Code § 15.2-2311(D)*.

- **Findings to support the decision:** To facilitate judicial review, the BZA is required to make findings that reasonably articulate the basis for its decision. *See Packer v. Hornsby*, 221 Va. 117, 121, 267 S.E.2d 140, 142 (1980) (adding that if the BZA does not, “the parties cannot properly litigate, the circuit court cannot properly adjudicate, and this Court cannot properly review the issues on appeal”). There is no minimum standard to which a BZA must adhere in making findings of fact. At bottom, the BZA must ensure that it has created a record that addresses the findings so that the circuit court can properly adjudicate the issues on appeal. *McLane v. Wiseman*, 84 Va. Cir. 10 (2011) (“In fact, the verbatim transcript contains numerous findings of fact in support of the BZA’s decision”).

15-600 Considering an appeal; matters the BZA may and may not decide

The BZA’s decision on appeal is limited to the issue of whether the zoning administrator’s decision was correct. *Virginia Code § 15.2-2309(1)*; *Board of Zoning Appeals of James City County v. University Square Associates*, 246 Va. 290, 295, 435 S.E.2d 385, 388 (1993); *see In re April 23, 2015 Decision of the Board of Zoning Appeals*, 92 Va. Cir. 246, 248 (2015) (BZA correctly determined that the zoning administrator erred when he determined that he needed more information before he could make a determination as to the nonconforming status of a towing and recovery lot when the zoning ordinance at the time had a by-right use classification that was consistent with the actual use at the time). This does not mean that the BZA’s inquiry is limited only to the reasons and authority cited in the zoning administrator’s written decision. *Town of Madison v. Board of Zoning Appeals/Potichas*, 65 Va. Cir. 433, 434-435 (2004). Regardless of what the zoning administrator states in their determination, the BZA’s role is to determine whether the *decision* was correct and must apply the terms and provisions of the zoning ordinance even if the zoning administrator did not cite them. *Madison, supra*.

Summary of the Scope of Review on Appeal
• The issue for the BZA is whether the zoning administrator’s decision was correct. • Statements by the appellant or their attorney may further limit the scope of the appeal. • In the consideration of an appeal, the BZA may not: → Determine whether a proposed use is appropriate in the zoning district. → Determine what is in the public interest. → Amend or repeal a zoning regulation. → Determine that a zoning regulation is invalid.

The scope of the proceeding before the BZA may be limited by statements made by the appellant or their attorney. *See Adams Outdoor Advertising, Inc. v. Board of Zoning Appeals of the City of Virginia Beach*, 261 Va. 407, 544 S.E.2d 315 (2001). In *Adams*, the applicant’s attorney stated at the BZA hearing on his client’s application for a variance for a sign that the “only issue is whether Adams spent too much on the sign and whether, because of the misunderstanding between the City and Adams [on] what could be done and what could not be done and whether it would in fact be proper for a variance. That’s all that’s before you.” Because the scope of the BZA proceeding was limited by the attorney’s statements, the scope of judicial review was likewise limited. The Virginia Supreme Court determined that the BZA correctly denied the variance, particularly since the BZA did not have the authority to grant a variance on the grounds presented. *Adams*, 261 Va. at 414, 544 S.E.2d at 319.

A BZA may not determine what uses are appropriate in a zoning district because that is a legislative function reserved to the governing body. *Foster v. Geller*, 248 Va. 563, 568, 449 S.E.2d 802, 806 (1994) (the BZA does not have the power to rezone property); *Board of Supervisors of Fairfax County v. Southland Corp.*, 224 Va. 514, 522, 297 S.E.2d 718, 722 (1982) (the decision of the legislative body, when framing its zoning ordinance, to place certain uses in the special exception or conditional use category, is a legislative action). In such an appeal, the BZA’s role is only to determine whether the use is within one of the use classifications the governing body has decided to allow in the district.

Likewise, a BZA may not determine what is in the public interest because that determination requires the balancing of private conduct and the public interest, which is a legislative decision that lies with the governing body, not the BZA. *Helmick v. Town of Warrenton*, 254 Va. 225, 229, 492 S.E.2d 113, 114 (1997) (the exercise of legislative power involves the “balancing of the consequences of private conduct against the interests of public welfare, health, and safety”); *Southland Corp.*, 224 Va. at 521, 297 S.E.2d at 721 (the power to regulate the use of land by zoning laws is a legislative power, residing in the state, which must be exercised in accordance with constitutional principles). Administrative zoning decisions such as those made by the BZA must be grounded within the legislative framework provided. *Higgs v. Kirkbride*, 258 Va. 567, 573, 522 S.E.2d 861, 864 (1999). While the BZA should consider the zoning ordinance, the ordinance should not be extended by interpretation or construction beyond its intended purpose. *Higgs, supra*. In addition, equitable considerations are inappropriate. *Coleman v. Board of Zoning Appeals of the City of Fairfax*, 2011 Va. Cir. LEXIS 66 (2011) (reversing decision of the BZA because a single BZA member relied on “equitable considerations” in voting to overturn the decision of the zoning administrator that the counseling center had engaged in an activity not allowed by the zoning ordinance; the circuit court said that the BZA member’s statements revealed that he arrived at his decision because the counseling center had engaged in that activity for years). See Chapter 29 for discussion of the rule that public bodies act only as a corporate body and not by the actions of its members separately and individually.

Lastly, one of the common duties of the BZA on an appeal may be to determine whether the zoning administrator correctly interpreted the zoning ordinance. The power to interpret the zoning ordinance has its limitations. Although the BZA (as well as the zoning administrator) must necessarily interpret the zoning ordinance to execute its responsibilities, that obligation does not give rise to a power to declare a regulation invalid, which is a determination within the sole province of the judiciary. *Town of Jonesville v. Powell Valley Village*, 254 Va. 70, 487 S.E.2d 207 (1997). In addition, the BZA does not have the power to amend or repeal portions of a zoning ordinance. *Foster, supra*. The principles relevant to the interpretation of the zoning ordinance by the BZA are well established. *Higgs, supra*. See Chapter 16 for a discussion of some of those key principles.

15-700 The effect of a decision on an owner who did not receive a notice of violation or order

For a notice of violation or an order of the zoning administrator to be binding against a landowner, the landowner must have been given notice of the violation or the order. *Virginia Code § 15.2-2311(A)*. Otherwise, any decision of the BZA on the matter is nonbinding against the landowner. *Virginia Code § 15.2-2311(A)*. If the landowner had actual notice of the violation or the order, or participated in the appeal hearing, the lack of notice is waived. *Virginia Code § 15.2-2311(A)*.

15-800 Presenting an appeal to the BZA

Appeals to the BZA can become legal free-for-alls resulting in long, drawn-out hearings where a multitude of issues, both relevant and irrelevant, are raised by the participants and the BZA, and where the relevant and material issues may be lost in the confusion. This risk is especially true where the BZA’s practices and procedures do not require a level of formality that imposes structure to the proceedings and the participants and the BZA are not familiar with the relevant issues and the applicable legal standards.

15-810 Insist on a clearly stated and comprehensive statement of the basis for the appeal

The appellant’s written appeal must clearly state the basis for the appeal. When the appeal is received, the BZA or its staff must review the statement to ensure this requirement is satisfied. A statement of the basis for the appeal is critical because it should be relied on to frame *and limit* the issues on appeal.

If the statement is unclear or needs further information, the BZA or its staff should ask the appellant to elaborate on the basis for the appeal. Without a clearly stated basis for appeal, the parties and the BZA can only guess what the key issues will be on appeal (such as whether a use is nonconforming). In any event, the appellant must provide as much information as possible about the appeal before the appeal is scheduled for hearing.

15-820 Presenting the appeal

There are several things a locality's staff can do to present their side of an appeal to ensure that the BZA understands and focuses on the material issues.

- **Identify the dispositive issues:** Staff must identify the dispositive issues and keep them at the forefront for the BZA's consideration. This will depend, in part, on the appellant providing a detailed statement of the basis for the appeal.
- **Provide a legal memorandum:** Appeals to the BZA are quasi-judicial proceedings that often raise legal issues that need to be explained to the BZA. For example, assume that the issue on appeal is whether a use is accessory to a primary use; the BZA may need to be briefed on the elements of establishing an accessory use and how those elements have been interpreted under the case law. If necessary, a legal memorandum prepared by the locality's attorney should accompany the staff report. Staff should not be concerned that a legal memorandum will cause the appeal to become too legalistic. The BZA is always obligated to apply the correct legal principles when it makes its decision.
- **Use visual aids:** Presentations should include a visual component for several reasons. Maps, aerial photographs, and ground-level photographs familiarize the BZA and the persons attending the public hearing with the property at issue. Applicable zoning regulations, definitions of key terms, and other information provide the BZA, the participants, and others in attendance points of reference that they can easily refer to when necessary.
- **Focus the oral presentation on the dispositive issues:** BZA members must read the locality's staff report and other materials, the appellant's written materials, and all the other writings received pertaining to the appeal before the public hearing. Staff should assume that the BZA has read these materials and focus its oral presentation on the dispositive issues and the relevant materials and facts, rather than merely re-read the staff report at the public hearing.
- **Minimize the detours to the irrelevant and immaterial issues:** All parties to an appeal need to ensure that the BZA understands the relevant and material issues. Whether intentional or not, some appellants may raise irrelevant or immaterial issues and arguments (*e.g.*, common topics include the claim that the owner is a longstanding resident who pays taxes; less obvious though irrelevant topics include the claim that the zoning on the property is inappropriate for the neighborhood), misstate or misrepresent the law (*e.g.*, by stating that a regulation or a case stands for A, when it actually stands for B), or play the victim or seek sympathy (*e.g.*, "I already built the structure"; "I didn't know it was a violation"; "So and so said it was okay"; "So and so has been harassing me about this/has been verbally abusive"; "Doesn't the zoning department have anything better to do with its time?"). Unfortunately, this strategy may be effective with some BZA members.

The strategies applied to properly present a particular appeal will depend on the issues and parties involved, and the public interest that may be generated by the appeal.

15-900 Appeals of BZA decisions to the circuit court

A person aggrieved by a decision of the BZA, or any aggrieved taxpayer or any officer, department, board, or bureau of the locality, may appeal the BZA's decision to the circuit court by filing a petition for writ of certiorari. *Virginia Code § 15.2-2314.*

15-910 The time in which to file a petition for writ of certiorari

The petition for writ of certiorari must be filed in the circuit court within 30 days after the final decision of the BZA. *Virginia Code § 15.2-2314.* The date of the *final decision* is the date the BZA takes its vote on the matter that decides its merits. *West Levinsville Heights Citizens Association v. Board of Supervisors of Fairfax County*, 270 Va. 259, 268, 618 S.E.2d 311, 315 (2005). Local zoning regulations or BZA by-laws establishing a different method to determine

the running of the 30-day period are inconsistent with Virginia Code § 15.2-2314 and are invalid. *West Lewinsville, supra* (holding invalid BZA by-laws that commenced the 30-day period on the “official filing date,” which was a date specified in the BZA clerk’s letter that was eight days after the BZA voted on the appeal). The failure of a party to file a petition for writ of certiorari within the 30-day period does not divest the circuit court of its subject matter jurisdiction, so the issue of timely filing is waived if it is not raised in the circuit court. *Board of Supervisors of Fairfax County v. Board of Zoning Appeals of Fairfax County*, 271 Va. 336, 347-348, 626 S.E.2d 374, 381 (2006).

15-920 The parties in an appeal to the circuit court

The necessary parties in a case challenging a BZA decision are the governing body and the landowner and the appellant before the BZA (assuming the latter is different from the landowner). The third paragraph of Virginia Code § 15.2-2314 states:

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. *The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings in the circuit court.* The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals. (italics added)

The BZA is not a party to the proceeding, and its sole role is to prepare and submit the record of the BZA proceedings to the circuit court within 21 days after the writ of certiorari is served on it. *Virginia Code § 15.2-2314*.

In *Boasso America Corporation v. Zoning Administrator of the City of Chesapeake*, 293 Va. 203, 796 S.E.2d 545 (2017), Boasso appealed the decision of the BZA to the circuit court within the 30-day appeal period required by Virginia Code § 15.2-2314. However, Boasso’s petition did not name the city council as a necessary party and it sought to amend its petition to add the city after the 30-day period had run. The issue in the case was whether the city council had to be named in the petition within the 30-day period, or whether Boasso could add it as a necessary party by amending its petition after the 30-day period had run. The trial court granted the city’s motion to dismiss the petition because the city council had not been named as a necessary party within the 30-day appeal period. The Virginia Supreme Court affirmed. The Court held that a locality’s governing body that “is expressly identified in [Virginia Code § 15.2-2314] as a necessary party must be included in the petition within 30 days of the final decision of the board of zoning appeals, not at some undefined future date by amendment to the petition.”

The court may also allow other aggrieved parties to intervene in the proceeding. *Virginia Code § 15.2-2314*. Naming the governing body in the style of the case is not required. *See In Re: October 31, 2012 Decision of the Board of Zoning Appeals of Fairfax County*, 2014 WL 1391769 (Va. Cir. Ct. 2014).

15-930 The nature of the proceeding in circuit court

A proceeding under Virginia Code § 15.2-2314 “has the indicia of an appeal in which the circuit court acts as a reviewing tribunal rather than as a trial court resolving an issue in the first instance.” *Board of Zoning Appeals of Fairfax County v. Board of Supervisors of Fairfax County*, 275 Va. 452, 456-457, 657 S.E.2d 147, 149 (2008) (proceeding under Virginia Code § 15.2-2314 is not a trial proceeding for which nonsuit is available under Virginia Code § 8.01-380(B); adding that the option to take additional evidence was insufficient to change the nature of the proceeding from an appeal to a trial).

The court’s review of the BZA’s decision is limited to the scope of the BZA proceeding, *i.e.*, whether the zoning administrator’s decision was correct. *Foster v. Geller*, 248 Va. 563, 567, 449 S.E.2d 802, 805 (1994); *Board of Zoning Appeals of James City County v. University Square Associates*, 246 Va. 290, 294-295, 435 S.E.2d 385, 388 (1993). Thus, the court’s role, like the BZA’s, is to determine whether the *decision* was correct, applying all the applicable terms and provisions of the zoning ordinance, even if the zoning administrator did not cite them.

The limited scope of review that applies in a certiorari proceeding prohibits the court from ruling on the validity

or constitutionality of the ordinance or statute underlying the BZA's decision. *City of Emporia v. Mangum*, 263 Va. 38, 44, 556 S.E.2d 779, 783 (2002); *Board of Zoning Appeals of James City County v. University Square Associates*, 246 Va. 290, 294, 435 S.E.2d 385, 388 (1993); *Kebaish v. Board of Zoning Appeals of Fairfax County*, 2004 Va. Cir. LEXIS 37 at 17-18, 2004 WL 516224 at 6-7 (2004) (trial court would not rule on the constitutionality of the federal Religious Land Use and Institutionalized Persons Act of 2000 in a certiorari proceeding).

Because the individual members of a BZA act only as a single entity, the court does not review the individual actions of each member of the BZA but reviews the decision of the BZA. *Sundlun v. Board of Zoning Appeals of Fauquier County*, 23 Va. Cir. 53 (1991). The result reached by the circuit court in *Sundlun* is consistent with the broader principle that public bodies act only through the body itself, and not by the acts of its individual members. See *Campbell County v. Howard*, 133 Va. 19, 59, 112 S.E. 876, 888 (1922) (a board of supervisors can act only at authorized meetings as a corporate body and not by actions of its members separately and individually).

A petitioner in a certiorari proceeding to review a decision of the BZA cannot challenge the composition of the BZA or the authority of a member to sit on the BZA. *Sundlun, supra*.

An appeal may be dismissed as moot if the landowners no longer own the property to which an appeal pertains. *Board of Supervisors of Fairfax County v. Ratcliff*, 298 Va. 622, 842 S.E.2d 377 (2020) (landowners sold their home while the county's appeal of the circuit court decision in favor of the landowners was pending; the Virginia Supreme Court vacated the judgment of the trial court).

15-940 Presumptions attached to BZA decisions and standard of review

On appeals from BZA decisions arising from appeals from decisions by the zoning administrator, two rules apply. On questions of fact, the findings and conclusions of the BZA are presumed to be correct. *Virginia Code* § 15.2-2314. The appealing party may rebut that presumption by proving by a preponderance of the evidence, which includes the record before the BZA, that the BZA erred in its decision. *Virginia Code* § 15.2-2314. On questions of law, the court hears arguments on those questions *de novo* ("anew"), as though the BZA had not decided the question and, therefore, without any presumptions. *Virginia Code* § 15.2-2314. The interpretation of statutes and ordinances are questions of law to which no presumption of correctness applies. *Hale v. Board of Zoning Appeals for the Town of Blacksburg*, 277 Va. 250, 269, 673 S.E.2d 170, 179 (2009).

The party challenging the BZA's decision has the burden of proof. *Trustees of the Christ and St. Luke's Episcopal Church v. Board of Zoning Appeals of the City of Norfolk*, 273 Va. 375, 380-381, 641 S.E.2d 104, 107 (2007); *Foster v. Geller*, 248 Va. 563, 566, 449 S.E.2d 802, 805 (1994). Although the trial is not *de novo* and is generally held on the record of the proceedings before the BZA, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia. *Virginia Code* § 15.2-2314.

The circuit court may reverse or affirm, wholly or partly, or modify the BZA's decision. *Virginia Code* § 15.2-2314. If the BZA's decision is affirmed and the circuit court finds that the appeal was frivolous, the petitioner may be ordered to pay the costs incurred in making the return of the record. *Virginia Code* § 15.2-2314. The petitioner may be entitled to recover its costs only if the court determines that the BZA acted in bad faith or with malice in making the decision that was appealed. *Virginia Code* § 15.2-2314.