

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 February 17, 2026, 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, February 17, 2026, meeting to order at 7:05 p.m.

ROLL CALL OF MEMBERS PRESENT

Chairman Taylor, Chairman
Vice Chairman Schmitt, Vice Chairman
Maria Dutton, Board Member
Tim Brogan, Board Member
James Jackson, Board Member

STAFF MEMBERS PRESENT

Lauren Kopishke, Planning & Zoning Director / Zoning Administrator
John Ware, Deputy Zoning Administrator
Daniel Wells, Code Enforcement / Property Maintenance Official
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

APPROVAL OF MINUTES

Motion to approve minutes for the December 16, 2025 regular meeting and work session.

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

Chairman Taylor: Because of the equal time rules we can't really have the appeals people sitting at the table with the Board. Because their going to have to present, then your going to have to present and we can't have it that way. Nothing against you just kind of the way it is.

Ms. Potter: I just have a question about the minutes. Was that vote for both sets, the regular meeting and the work session minutes?

Chairman Taylor: Yes.

Chairman Taylor: For the Board. This is two separate appeals. So we can approve, deny, modify on two separate items. There stacked in here number 1 and 2. But number 2 is actually the first component of the whole thing. Whereas number 1 actually comes because of number 2. So, I would need a motion to reorder the agenda so that number 2 actually comes first and number 1 actually comes second.

Motion to bring item number 2 to item number 1 in the agenda for the meeting today.

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

NEW BUSINESS

Chairman Taylor: Okay, so now that that's been all taken care of. The Town and the appellee is going to give their sides. What's going to happen is the Town is going to give all their information on number 2. Then the appellant is going to give all their information on number 2, then we will discuss number 2 which is now number 1. Then we'll go back to the Town for number 1, and then the appellee for number 2 again because its two separate items. It's just the same person. Is the Town ready to present?

Lauren Kopishke: For my portion of the presentation I'm just going to go over what your doing tonight. Cody kind of already summarized it. I'm just going to give a little bit of state statutes behind it and then Daniel our Code Enforcement/Property Maintenance Official will get up and kind of give you a brief timeline that led us to him issuing violations. And then John will provide the rest of the information as to what the Town Code says.

Tonight this is an appeal of decisions made by the Zoning Administrator. I am the Zoning Administrator for the Town of Front Royal. My staff are Daniel and John. They, through my authority, are able to send out violations and interpret the Code. And then under 15.2-2286, that is where my authority comes from, from state code. And then certain matters will originate with the BZA. Those are things like variances or in other localities that hear Special Use Permits. Those are decisions that you make. In this instance you are hearing an appeal of the Zoning Administrator. So this is the mechanism upon which the appellant can get relief from the Code if it is found that we interpreted the Code incorrectly.

For this one in appeal you can hear the meaning of a particular regulation in the Zoning Ordinance. You can decide how land should be classified and whether the use is permitted in a zoning district. That is key for item number 1 tonight. Whether a proposed structure adheres to bulk regulations. Your not hearing that tonight. Conforming vs. non-conforming status of a use or structure. That's not within your purview tonight. Vested rights.

Standing to appeal. This is important. Does the appellant have "standing to appeal" to file the appeal. So any person that is aggrieved by any officer, department, board, or bureau of the

locality affected by any decision of the Zoning Administrator. Basically in this instance our office sent a Notice of Violation to the appellant. They are the property owners. They have the right to appeal. They have standing.

The procedural requirements tonight are also laid out in state code. So, equal time. The BZA has to offer equal amount of time at the hearing to the appellant and to staff. That is why staff is going to give the rest of this presentation. They you should ask questions of staff. The applicant will get up. Provide her rebuttal or her case. Present to you all and then ask questions. Staff then has a chance to refute anything that she states as well. One more time ask questions at that point. And then you will need to go into discussions things like that.

Per state code there's a presumption of correctness. So at the beginning you are presuming that staff and that the Zoning Administrator is correct. The burden of proof is on the appellant. So they have to demonstrate by preponderance of the evidence that the Zoning Administrator was incorrect in their findings and *unintelligible*. In this instance the sending out of the notices of violation. And then your making a decision again, the judgement of whether the administrative officer was correct. Here you can either reverse it, affirm it, or wholly or partly modify the determination of the Zoning Administrator. And again, this is just did staff interpret the ordinance correctly. Your not looking at whether or not the ordinance itself is valid. Your not making any legislative decisions regarding the wording of the ordinance. Your not changing the ordinance. You are simply determining did staff interpret correctly. I'm going to hand it over to Daniel.

Daniel Wells: Thank you. I'm Daniel Wells. I'm the Code Enforcement Officer for the Twon of Front Royal and the Property Maintenance Official for the Town of Front Royal. Two different jobs. Two different sets of codes and regulations. So Code Enforcement is the code of Front Royal. Property Maintenance is within the building code of the state. Those violations are heard by the LBBCA.

Just to give you a timeline of events. The 17th of September we received notification from Energy Services. They contacted our office. They received a call from the applicant regarding the proposal for a new structure and three-phase power. That threw up a red flag immediately to them because three-phase power is typically for commercial and industrial uses. They reached out to us to see if we had any knowledge of the building or the structure, any permits, etc. Deputy Zoning Administrator Ware contacted the appellant or the applicant and we set up a time to go visit the site. The 19th we sent to the site, met up with Ms. Thornberg. Looked around at the proposed location of the new structure and at that point other things were fairly obvious. There were multiple structures on the property. There were animals, things like that. They raised some concerns with us. We came back. Did our research through our records for permits, applications, etc. We did meet in this room on the 21st of October with Ms. Thornberg to go over some of the things that we saw out there. December the 9th we sent the Notice of Violations via USPS certified mail proof of service. And then on the 2nd within the appeal timeline, she appealed in writing to all three notifications.

So on the site visit as you see here there was a building. There's some animals, livestock. Goats in particular. There's chickens there running around. Got other structures here. That's a separate structure. The carport. And then this one down here is a separate structure. So when we did our

research and records and all that the only structure we had approval for was this one right here. We had no approvals for the barn on top, the red storage building, the carport or this structure right here.

Here is the GIS satellite view of the property. And then right there is google maps from this same year. So you can kind of see the different structures laid out on the property and then the sprawl from the livestock and the storage of all the different materials on the property.

So from there I issued three notices of violations. First for unpermitted structures. Because she has one permitted structure where there sit 4, 5 sorry. So the first one was for the unpermitted structures that is not part of the appeal. Just wanted to make it known to you all that that was a violation sent but its not under appeal. They have since applied for the other structures and bring them into compliance.

The second Notice of Violation was the home occupation. So she was approved for a home occupation. Which is a business operated within the home that's incidental to the residential use of the property. And then there are multiple requirements of a home occupation. And then she signed the bottom that she would abide by all that. John will get into more about that and expand later.

The third Notice of Violation was for agricultural pursuit in the R-S which is a residential zone. You cannot keep or raise livestock within a residential zone and John will get into that more. He's the Deputy Zoning Administrator.

So that moves us right into case 2 which will be the first case you hear. Cause we did switch the order of things based on the flow and how they will go.

John Ware: Good evening. I think case number 1 is the one you didn't get the staff report on so its kind of just worked out with this layout here. So case 260002 (2600002) Notice of Violation related to Town Code Sections 175-108.1. Three elements of that section. Section A, C and H of the home occupation standards and limitations.

So this is a zoning map of the property. Highlighted here in this green area outlined in black. That's the property. As you can see here lots to the east are zoned R-1. Minimum size of those lots is 10,000 square feet. This other green here which the applicant owns this property here, that is zoned R-S. Minimal lot size a half an acre. Across the street to the northeast is zoned R-E. Minimum lot size 1 acre and to the northwest that is zoned A-1 agricultural. Minimum lot size 10 acres. So to give you an idea of where the lot lays at. And initially the lot was configured in 2006. Originally at 3.89 acres in 2006. Since then in 2021 they acquired more property and now the combined is 7.7 acres.

The statement of intent for the R-S. R-S is 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. Down at the bottom of it if you read that. Also for the expansion of Town 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 and rooming houses are prohibited. That's the Statement of Intent for the R-S.

So with the R-3 under 175-10.22 its subject to the standards and requirements set forth in this Chapter. Within the R-S District the following uses of land and buildings are permitted by-right. Only single-family detached structures in the residential. No commercial, no industrial, no organizational and under miscellaneous: accessory uses, structures and buildings, home occupation (which is a business that can be out of the dwelling), plus a few other public facilities and public parks as set forth. So those are the only uses that are permitted in the R-S District.

In 2006 in February the previous property owner applied for a building permit for a single-family dwelling, new house. Obtained a building permit from Warren County establishing the primary use as residential. They got the building permit to put the house, established and permitted primary as residential. In 2018 the appellant, the applicant at this time submitted a business license for a home occupation to make and manufacture goat milk based cheese for human consumption. That was their home occupation. That's the nature of the business. They got approval for a business license clearance for a home occupation and the proposed use is only allowed as a home occupation. On the back of the application the applicant read these elements of the home occupation, printed their name and signed the application. The definition of a home occupation 175-3 out of Town Code, 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 175-108.1. At the bottom it says I read and agreed to above by the Home Occupation restrictions as stated in the Town of Front Royal Zoning Ordinance. I also understand that violations 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. They acknowledged that adhering to all elements outlined here A-L of the home occupation.

175-109-1A This is one of the Notice of Violation. The use shall be clearly incidental to the primary use. The primary use is residential. Clearly incidental to the primary 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. The word incidental incorporates the concept of a reasonable relationship with the primary use. It is not enough that the use be a subordinate but it also must be attendant or concomitant. Meaning its an accessory with that. To ignore this latter aspect of 'incidental' would be to permit any use which is not primary, no matter how unrelated it is to the primary use. That is out of your training manual, the Albermarle County Land Use Handbook, Chapter 17.

The second Notice of Violation from the home occupation is out of C. No outdoor display, sales or storage of goods, materials or equipment shall be permitted, except that, the Zoning Administrator may authorize two (2) business vehicles, including the 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 and changing the character of the neighborhood, or increasing traffic.

There is the aerial view from 2021. This is relevant because in June 2021 they were approved for an addition of land to their area. That was the first map we seen on the zoning which increased

the area to 7.7 acres. You can see by this aerial imagery stored round bales of hay on the outside. Additional structures, unpermitted shows up on the aerial. In 2025, the aerial view, another building and a carport was added unpermitted. Plus additional buildings here unpermitted. Photographs from that, hay is now stored under the carport with farm equipment, another building unpermitted.

175-108-1H – 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 extend than that usually experienced in the district on residentially zoned lots where no home occupation exists. Basically you should not be aware that someone is running a home occupation out of their home. You have two side by side homes, the home that has the home occupation shall not create anything more frequent than experienced by someone that does not have a home occupation next door.

As you can see from the photographs provided beforehand, another unpermitted barn, livestock, in this case goats on the premises. Pens there, a substantial amount of livestock. I think at the time we counted upwards to 45 goats on the property. You can see where the home occupation approval to manufacture goat cheese has now expanded tremendously. As stated in their letter dated the 23rd of 2025 a considerable amount of money, effort, and time has been invested in creating a safe 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.

So those are the three violations we sent regarding the home occupation. What you have basically here is a home occupation that was granted, now has expanded beyond what was originally permitted for the home occupation. As stated in the home occupation was to manufacture a product into the goat cheese. That's what was approved for. Its one of those things. It's a good thing that their business expanded to this point. Unfortunately its not in the correct zoning for this. We'll get into that on the second segment. I mean I completely understand. Myself, I'm a sixth generation cattle farmer. I'm one of sixteen hundred century farms here in the state. That means its been in the family for over a century, continued farming and does a business. However, for me personally my farm is zoned correctly for agricultural pursuits.

We have a home occupation business license that expanded in the residential zoning district. And those are the three violations according to the home occupation as defined by Town Code.

Do you have any questions on this part of the presentation?

Vice Chairman Schmitt: I have one John, just now, I've gone through this but there's a lot of legalese. So I just want to. Its for a simple. You said it expanded beyond the initial. I didn't see anywhere that its expanded beyond making goat cheese. Can you walk me through that?

John Ware: That will be on the second part of the appeal. The other appeal process. The other part of that. That expands of where. And I'll elaborate that more.

Vice Chairman Schmitt: But for this one since we do have to rule on them separate, right, for this particular one. Cause it expanded.

John Ware: That is part of the second part where as definition this is considered by our judgement an agricultural pursuit. Which is only permitted in the A-1 District.

Vice Chairman Schmitt: I'm clear on that. But the original permit was for making goat cheese and you said it expanded but I'm not sure how its expanded beyond making goat cheese.

John Ware: It expanded into a farm operation where they are supplying the milk from the goats to process that into cheese.

Lauren Kopihske: So Clare, that is the second part of the application. What your looking at are they in violation of A, C, and H for this portion of the discussion.

Vice Chairman Schmitt: Okay.

Chairman Taylor: Can this lot be rezoned? Currently its R-S. Your saying it doesn't meet.

John Ware: Can it be rezoned? For agricultural the minimum lot size needs to be ten acres. Per definition.

Lauren Kopishke: They could submit, in theory, the applicant could submit an application. Staff would not be able to make the recommendation to Planning Commission and Town Council that it move to any kind of approval because it doesn't meet the minimum requirements of our code and it also does not follow our Comprehensive Plan. And you could potentially make an argument to that it would be spot zoning. There's no agricultural land immediately adjacent to it.

James Jackson: So the minimum is ten acres.

John Ware: Per definition, yes the minimum is ten acres.

Vice Chairman Schmitt: I thought there was a farm adjoining it. Am I wrong on that?

John Ware: Let me go back.

Maria Dutton: When it was originally purchased was my understanding.

Vice Chairman Schmitt: Oh it's across the street.

John Ware: So the agricultural zoned properties is this piece over here. R-E to the north, R-S to the southeast and R-1 here, then more R-S zoned per Town Code.

Lauren Kopishke: For context, staff did trace the zoning back to the 1970s and as far as our records go, this lot has always been zoned residential, or zoned for residential prior to it being developed and then into today.

Chairman Taylor: I have one more question. There's a lot of stuff here. You displayed that there is in 2018 there is a permit for a license for the business.

John Ware: Yes.

Chairman Taylor: What all did they submit with it. Cause when I was looking it says see attached.

John Ware: That is included in your packet, everything we have.

Chairman Taylor: Yeah, but there's a lot in here and I don't know which one of these particularly were attached. Is this the attached? Cause these are like milk parlor drawings.

John Ware: That was submitted with the application.

Chairman Taylor: Okay.

John Ware: Everything that's attached to that application is include with that there that they submitted.

Chairman Taylor: So this was all for that one permitted structure and this parlor the original.

John Ware: Which they are not appealing. They were approved for a cheese shed and a cheese shed only. Only for the cheese shed is what they were approved of. That is not part of this appeal. But they were permitted. They were approved for cheese shed and only one building has the cheese shed.

Chairman Taylor: So, in 2018 they submitted this? And they asked for a cheese room and a milk parlor bur they were only approved for the cheese shed.

John Ware: They were only approved for the cheese shed. That is a correct statement.

Chairman Taylor: Okay.

John Ware: And that was the application we found during our research of the project.

Chairman Taylor: Is there any additional, supplemental information to this as to why one cheese shed was approved but the milk parlor wasn't or its just long enough ago we don't know?

John Ware: You have all the information that was provided with the original application. We included everything with that for that application. There's no more additional information we're aware of. We did do some research with our IT Department for emails. They did not find any email exchanges between staff at that time nor the applicant. So everything that we have on record is included in your packet that's under the appeal process.

Chairman Taylor: This plan detailed report is the approval of that 2018.

John Ware: That is for the home occupation.

Chairman Taylor: Yes. So basically I'm looking for the document that says, this is their document saying I asked for x. I'm looking for the document for the Town that says we approved x.

John Ware: That is that application right there to obtain a business license. Their approved to obtain the business license through zoning. Finance would actually issue the business license. They just get approval from zoning if the use is appropriate to obtain a license for that.

Chairman Taylor: Okay, which means that there should be a building permit that's been approved for the cheese shed.

John Ware: Cheese shed and cheese shed only.

Chairman Taylor: Do we have the building permit, the approved building permit or do you. Cause I didn't see an appeal.

John Ware: Its not part of the appeal process.

Lauren Kopishke: She didn't appeal any of the Notice of Violation for the structure.

John Ware: The structures were not appealed. She was permitted for a cheese shed.

Chairman Taylor: I understand, I understand. But.

John Ware: And only the cheese shed.

Chairman Taylor: So you've said. And that's why I want the. That's why I want the permit for the cheese shed that says we say you can have a cheese shed. Cause its very possible that the appellant may say I got approval for a cheese shed and a milk parlor. And your going to say no. Then I'm gonna say how do I know. Where's my. There's a permit for this. The Town should have.

Lauren Kopishke: Here's the thing. We do not.

John Ware: The cheese shed is not part of this appeal process.

Chairman Taylor: But it matters.

John Ware: Okay, if that's part of your discussion later. If you want to, however, postpone to have more information you can do that.

Chairman Taylor: Not a problem. That's my question. Thank you. Anybody else?

James Jackson: I have a question. Not sure of the process or not. Just curious, did the previous director approve the home occupation outside of the primary dwelling?

John Ware: They approved the cheese shed in conjunction with the home occupation.

James Jackson: Okay.

John Ware: Two separate applications. One for the home occupation and one for an accessory structure. Which was only the cheese shed was permitted.

James Jackson: Just for the cheese shed. Okay. So the additional one was not.

John Ware: No other buildings. No accessory structures, no other buildings we could find of record that was permitted, approved and permitted. Only the one which was a cheese shed.

James Jackson: Okay.

Vice Chairman Schmitt: So was it denied?

John Ware: She submitted the application for a couple buildings. Only the cheese shed was approved.

Vice Chairman Schmitt: Right, that wasn't my question though. Was the other building denied?

Lauren Kopishke: They weren't denied. So, the comment from the previous zoning administrator was that because she did not provide sufficient location information so that we could verify that they were in the appropriate setbacks, he could not approve them at that time. So she was to come back once she had a set location for those structures to get the approval for them.

Vice Chairman Schmitt: Okay, but.

Lauren Kopishke: We don't limit the number of accessory structures. So those structures weren't denied, but they weren't approved. We just did not have enough information to make a decision. Or he did not.

Vice Chairman Schmitt: Okay.

James Jackson: Okay. So those additional structures weren't part of the initial application. They were just. A structure was a part of the original application but after the fact, additional ones were.

Vice Chairman Schmitt: And that's what John is saying where all the nonpermitted structures their not appealing that. They hand that with the permits and stuff. So we don't have to worry about that. I'm concerned about the details of just this particular approval. Basically they said you can do something and I want to know what that encompasses so that we know what they've already been told they can do. And make sure. Cause he said it strayed outside.

James Jackson: I'm just hearing the additional structures and just looking at the language as to approval of A but also there was a B and C sitting there and they were not a part of the *unintelligible*.

Chairman Taylor: That's a violation.

James Jackson: Okay. Got it.

Maria Dutton: I'm not sure if this pertains to one or two. But this was always a residential structure. And there's supposed to be any business going out of there. A business license was approved to make goat cheese. At that point did they not realize that there were livestock on the property?

John Ware: I can't answer that question.

Vice Chairman Schmitt: That's sort of what I was getting at with the question about the milk structure was that that was not flagged. It was not denied or not approved or whatever because of oh well this is isn't zoned properly and you know it sounds like they were saying, oh, we need more information. Not about your business but about the setback. Right, is that right? Okay. That's why I was asking that. Okay.

Chairman Taylor: Any other questions? So if the Towns good to go its up to you, go ahead.

Melanie Thornberg: I'm going to attempt to go in reverse to kind of hit to questions you were asking and finish with the definitions in the Town Code.

Connie Potter: Could you please state your name for the record.

Melaine Thornberg: Melanie Thornberg, 1205 Happy Creek Road. I'm the owner of Happy Creek Cheese, which is our LLC. Which is independent of our farm, Thorny Ridge Farm. Did they know, yes they did. We submitted a three page report and it should be in your packet outlining everything we intended to do, including the facilities for milking, storage of the cheese, and manufacturing of the cheese. There was also email correspondence between myself, Ms. Connie, and Jeremy or Mr. Jeremy Camp. And his instructions to us were that livestock is allowed with the only thing we could not have, even with the zoning designation that we have, we cannot have poultry, I'm sorry, peafowl, waterfowl, or pigs. He said we could have whatever else we wanted to have. And I'll touch on that a little bit later.

The approval. The cheese shed was approved, but there was also another or one or two other buildings, I can't remember off the top that was submitted at the same time. It was never a question of if we could have the buildings, just where we needed to put it. And in your packet there's also a diagram of where we intended. But we weren't exactly sure because VDACS (The Virginia Department of Agriculture *(and Consumer Services)*) needed to verify that we had proper drainage for the building and we couldn't put the drainage too close to the property line. So we were just messing around with where exactly we wanted to put the facilities. At that time, my husband had torn his bicep tendon and so everything was put on pause until he healed and then COVID hit and so we kind of just forgot about putting the permits in for the structures. We weren't aware that we needed to do. We didn't realize that portable sheds, because a couple of

these buildings are just the ones they drop off. We didn't know they needed permits. We have since applied for those permits. Same with the carport. We didn't think that was a structure. We just thought it was just a carport. So we didn't apply for that. We have since applied for that.

All the supplemental information you are asking for. We submitted so much documentation, drawings, colors, where the animals were going to be housed. Where we were going to milk the animals. What we were going to do with the animals. VDACS requires us to have all this in place and Town approval to even get our VDACS certification or permit. So we couldn't even get the okay from the state of Virginia without the Town of Front Royal allowing us to do this.

Home Occupation. I feel like their lumping the home occupation in with our farm. Our cheese business is an LLC. Its independent of the farm. We are allowed to own the animals. We're allowed to have poultry. We're allowed to have goats. We were told we could even have cattle on our 3.7 or 3.4 acres at the time. That is what we were told. As far as the expansion goes. The cost involved with sanitary, grade A equipment is not the same as canning equipment. One piece of equipment was \$40,000. So its not like we're building all these things and doing all these things outside of our purview. We make goat milk products. We make cheese. We make gelato. We make goat milk in the confines of a little tiny shed. When I submitted the application we just wanted to build a bigger barn for the goats to be more comfortable in and to have more space to make the cheese that we are currently making. Right now we're in a, I think its 12' x 16' shed. And that's very small for what we thought we were doing. I didn't realize at the time when I purchased the shed that I was going to grow so fast. Demand was going to be so good. I thought that was a good thing.

As far as the. Let see. Lets go backwards. The nuisance. They touched on being nuisance. We have been at our property for eleven years. The Town. Since they came onboard they didn't even know we were there. The Town Administrator has even eaten our cheeses. A lot of the staff here has eaten our cheeses. Our address is printed clearly on our labels and on our business cards. And it's on the VDACS website as an approved facility. We're not hiding. We're a licensed, insured facility. Its just small. And so what I wanted to do when I requested for the three-phase. Some of the equipment. The ice cream machine, the dry ice machine requires higher capacity. When they came to visit me they thought we were putting in a crematorium. That is what we were told. They said this is an odd place for a crematorium. So there was a miscommunication from the very beginning that somehow we were putting in a place to burn bodies. And we specified, no we've been here for eleven years. We've had goats for eleven years. Our business has been in affect since 2020 without break and it was approved through the Town. It was approved through the county as a farm. We file a schedule F. The state. You know. Everything is in order. We've done everything we were supposed to do. Again, when they talk about changing the character of the neighborhood I feel like their talking about the farm. The farm is not the business. The home occupation is the making and manufacture of the cheese. And that is restricted to the little shed and is not our personal property. It is not our animals. And it is not anything in conjunction with those. The hale bales belong to the farm. And we did specifically because for tax purposes and for legal purposes we did not want to tie the two together. Because dairy is a volatile product and there is a lot that can go wrong. And so we wanted to make sure we provided the cleanest product and make sure that our, the business was separate from our farm.

And again, when we moved in. The lot over here, where it says January was a horse farm. When we bought the place there was a horse farm. There's cattle and hay fields all across the street. There is a huge. What doesn't show here is this black line is all wooded. All this here was all wooded. There was nobody there. We talked to our neighbors. They were thrilled about having the livestock there with us. Our neighbor even comes up and interacts with the baby goats. So there's never been an issue with it. In the eleven years we've been there, six years of operation, we've had one complaint brought to our knowledge and that was from dog barking. Because we have livestock guardians because the neighborhood has dogs and the dogs come in and kill our goats. So we keep the livestock guardians to protect our goats. To protect the livestock and our property. Because we don't want to have to take other measures. We have fencing. We have electric fencing and we have the dogs to protect our investment.

Commercial activities. We have a permit to do the commercial activities. The Town Code states that it is prohibited unless you have a permit. And in the definition and in the code we got the permit. They said it was okay. Everybody was excited. So for them to say that it wasn't is not correct. Because you can even see in your packet we have the approval. We've had the approval and we've never had an issue. We've never had a citation. They didn't even know we were there. So we clearly follow the guidelines of don't be a nuisance because nobody knew we were there. And in the packet also I put a copy of our, what our property looks like from the public access. You can only see the very top of our house. We're nine hundred feet back from the main road. We're not visible from the public. So we're not a nuisance for noise or for the mess. Our home occupation. Even if there was a mess for nuisance, which there isn't because there's never been a complaint and everything that you see that they showed you in the pictures. Hay bales, tractors, the calf hutches, their portable plastic calf hutches, you know, movable features outside of the barn which was under 250 square feet which we thought we didn't need a permit for because it fell under that.

And then onto the Statement of Intent. Again, yes there's a statement of intent in your packet. It's a two or three page packet where I outlined everything. I did color photos. I put a map of our property where we intend to put it with the setbacks and we did everything according to what they asked us to do. The zoning lots. Again, that has all been built up since we moved there. This portion here was not here when we moved in. It was just this portion here. Some of this over here is new. And then again. There's horses on this lot. Cattle and hay on that lot. And this property here had horses as well. So we were under the understanding that livestock was fine. And there's other properties in Town limits that have livestock.

I'll touch again with the structures. The carport. We didn't realize it needed a. It's a carport. We didn't know. So we applied for the structure permit. Again with the under the 256 square feet said a permits not needed. I misread it. It was County that didn't need it, not Town. So I followed all the setbacks. Every structure we put in I made sure that I followed all the setbacks and all the rules even though we didn't need to have it. The permit we made sure we followed all the, everything, all the rules that I realized I needed to.

And then I want to direct your attention to the definition page of Warren County code 175.

Vice Chairman Schmitt: I'm sorry is this the one or the two.

Melanie Thornberg: They both apply. So either one is fine.

Vice Chairman Schmitt: Okay.

Melaine Thornberg: So. And the reason they approved us is because under the Town Code 175 it says for R-S accessory use is a by-right use. And under the Town Codes own definition, it says Urban Agriculture is considered an accessory use when the requirements of 175-110.5 are complied with. We're already allowed to have the livestock because they say in their own code urban agriculture is allowed. It also goes on to define what urban agriculture is. Which is the keeping and raising of livestock and fowl as well as permaculture, bee keeping and so forth. And the Town Code is vague but it is supportive of having animals as an urban agricultural pursuit. It doesn't say its restricted to, or agricultural districts, it actually says the opposite. It has under every single Town Code definition; accessory use is an approved by-right use. Not a special permit use, a by-right use. And so therefore Mr. Camp read that and translated that as hey it says you can have urban agriculture. It says the only thing you can't have pigs, waterfowl and peafowl. That's all they said. He said we could have cattle; we could have goats; we could even have a zebra if we wanted to. Those were his words. Which I almost did. But then again they talk about agricultural pursuits. The code also states, let me get to it. The restrict. This restriction shall not include. I'm sorry, let me go back. The sale of goods and services related to agriculture; 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 incidental selling or trading of neighbors, friends or family nor shall it exclude selling product offsite at farmers markets or venues. We do not sell onsite. We do not have customers come anywhere other than to pick up orders they placed offsite. Which is allowed under home occupation. So, the farm falls under urban agriculture according to what they've told us. There is no acreage restriction. Actually the only restrictions that this code sets is for under one acre which we far exceed. It is not restricted otherwise. We don't have to have agricultural district to have it according to the written in the code currently and when we started the business. And as far as selling. Home occupations are allowed to have customers come to the property because it's a home occupation. And because VDACS is so incredibly strict we could not do it under our own roofline. It had to be a separate facility where we had to have separate water and separate drainage. I think that's about it.

Again, you'll see some papers in your packet. The title is Thorny Ridge Farm with Happy Creek Cheese underneath. Our farm is Thorny Ridge Farm. We keep the goats. We take care of the goats and we milk the goats. And Happy Creek Cheeses uses the milk to make and manufacture goat milk products for human consumption and not animal consumption. And then as far as everything else they said we have complied. We've done everything we were asked to do. We were told we were allowed to do it. And when we talked about the expansion the money is not. The money spent we've taken out probably \$150,000 in loans and advances to be able to put in, you know, the equipment. And the goats themselves are \$700 apiece. We don't get, you know the cheap goats cost, eat that same amount as the expensive goats. So we get the expensive ones to have good quality products. Good genetics. So its not about. And when we started we had fifty goats. So we actually have less goats than we did when we started. So, we're not doing anything outside what we were already approved to do. The Town Code specifically says we're allowed to have these even in Town limits and it even appears to me that they're encouraging it because they made a special subsection stating that urban agriculture is allowed.

As far as the citation for the structure and the first home occupation. They didn't know we were there. How can we be a nuisance? They didn't tell us you know what part is the nuisance. They didn't say we were making smells. They didn't say we have trash everywhere. They didn't even ask us which was trash and which was this. The only thing we have outside for the home occupation are coolers. That is it. As for everything else is farm and personal. We have our stuff outside. But we have 7 ½ acres and you get see any of it from the road. So that was where our confusion lied with the wording of their citation. And that is all I have for the first, second.

Code Taylor: Any questions?

Vice Chairman Schmitt: Do you have a copy of the email correspondence that Mr. Camp.

Melanie Thornberg: Yes I do. I have one copy I believe. I think it's in my bag. Can you bring me. Any other questions while I'm digging through this.

Vice Chairman Schmitt: I have another one. You guy's talked in October. Can you share a little bit about that discussion.

Melanie Thornberg: So I pretty much told them the same thing. That we had permission from the previous administration. We sat down here. Before we even bought the house we sat down with them and asked them if this is something that we can do and we were told yes. The whole reason we bought the place is so we could have a farm. We moved from High Knob and we; this is what we wanted to do.

Husband speaking: Yeah I specifically asked Jeremy about this. This was a dream of hers to have a goat farm, that sort of thing. He said you know, totally within our right to have goats on this property. Like she said before. Horses next door. Cows across the street. And I had even touched base with him about rezoning the property and he said you don't need to rezone the property. Why do you need to rezone the property.

Connie Potter: Can you please state your name for the record.

David Thornberg: Sure, my name is David Thornberg of 1205 Happy Creek. So you know, his stance was you don't need to rezone, you don't need to be agricultural to have goats because your allowed to have them from zoning.

Vice Chairman Schmitt: Yeah, I'm not doubting you, I just have learned from experience. Get it in right. Thank you hun. (*Ms. Thornberg handed Ms. Schmitt a copy of the email request*).

Chairman Taylor: I have a question for you.

Melanie Thornberg: Yes.

Chairman Taylor: You mention that there is a farm LLC and then there's your dairy operation. What operation owns this parcel?

Melanie Thornberg: That is the farm. Well private residence.

Chairman Taylor: It's owned by the private residence.

Melanie Thornberg: Private residence, yes.

Chairman Taylor:

The farm. The farm doesn't actually own any property.

Melanie Thornberg: Correct. Well the animals and some of the milking equipment. But as far as the physical property.

Chairman Taylor: It doesn't own land.

Melanie Thornberg: Correct. I think that's the right one. (*Speaking of the paper handed to Ms. Schmitt to look at.*)

Vice Chairman Schmitt: I think it's the same one that. Did they include this in the packet. Sorry.

Chairman Taylor: This is.

Vice Chairman Schmitt: That is in there? Well this is different. This is 2018.

Melanie Thornberg: They knew about the other building that we were intending to put up. We just didn't know where we wanted to put it up yet.

Vice Chairman Schmitt: It's a different one but it might be in this one.

Connie Potter: What's that one for?

Tim Brogan: It's a date on it.

Vice Chairman Schmitt: That's for the.

Chairman Taylor: No, only 2 sheds approved.

Vice Chairman Schmitt: The other two buildings are not approved.

Connie Potter: Yeah, that's not in your packet.

Chairman Taylor: I do not know where they would go.

Vice Chairman Schmitt: Why would that not be included in our packet. Was there a reason that was not included in the packet.

Chairman Taylor: Don't know. Maybe they didn't have it.

Vice Chairman Schmitt: Okay.

Chairman Taylor: Maybe they couldn't find it.

Vice Chairman Schmitt: Okay. That's what we were asking for.

Chairman Taylor: And now we have copies.

Melanie Thornberg: And I also have that email from Mr. Camp just kind of solidifying that he knew what we were doing and that it was just about procedural. That we just needed to figure out where it was going and not so much if we were aloud to.

Chairman Taylor: This is interesting.

Melanie Thornberg: We had to go through the DEQ. We had to go through multiple organizations to make sure everything was thoroughly up to snuff with water disposal, waste disposal, handling of all materials. We didn't do this lightly. And when we entered into this endeavor it was with the understanding that all this was allowed. And we had explicit permission that we were aloud to do this. The only thing that we did is we forgot to submit the permits on where the buildings would go.

Vice Chairman Schmitt: Do you have a response from him on the (*unintelligible*).

Melanie Thornberg: He did not respond.

Vice Chairman Schmitt: Okay.

Lauren Kopishke: Connie, can you make sure we get a copy of these emails.

Connie Potter: Yeah.

Melanie Thornberg: You sent that to me it was included in that. And I had submitted it twice to you guys already.

Vice Chairman Schmitt: You can pass that. (*unintelligible*) It does show it that there were aware of the operation.

Chairman Taylor: A permit is much stronger.

Vice Chairman Schmitt: Yeah. Okay. That's all the questions I have.

Maria Dutton: Mine are getting answered.

Vice Chairman Schmitt: I do have more questions for staff. Do we have that opportunity.

Chairman Taylor: Once everybody's done we can always ask some more.

Melanie Thornberg: And I also wanted to make a point that they also told us they were not going to renew our permit in March until I submitted state code saying that they were not legally

allowed to rescind our permit because state code prohibits localities from rescinding permits just because they never should have been issued. So they had sixty days to rescind it. It was not rescinded. We've had it legally for six years and by state law cannot rescind it. And the goats are an integral portion of being able to make the goat cheese.

Tim Brogan: Can I ask a question. Who's Jeremy Camp?

Melanie Thornberg: The previous Zoning Administrator.

Chairman Taylor: The previous Zoning Administrator.

Tim Brogan: Okay.

Chairman Taylor: He's no longer with us.

Connie Potter: Can I see that email?

Tim Brogan: I kinda gathered that. I kept hearing the name.

Chairman Taylor: Okay. Any more questions now that we've seen the additional stuff?

Vice Chairman Schmitt: I'm sorry I have one more last question. Did you say there are currently horses and cattle on adjoining properties?

Melanie Thornberg: Yes. Across the street there is cattle and then to the right of that property there are horses. The man next to us he retired and then he got rid of his horses at the time. But that was before COVID. Around, they were still there when we bought the property but we, they're not there any longer. But he makes hay on his field.

James Jackson: So the question, you say across the street. Is that the A-1?

Melanie Thornberg: The R-E.

Multiple people speaking. Unintelligible.

Vice Chairman Schmitt: Are there any horses or cattle on any of the R-S lots?

Melanie Thornberg: Yes. Mr. Sayers has horses. He is on. Oh I'm sorry.

Tim Brogan: He's further back.

Melanie Thornberg: Over here there's an R-E and they have horses. But again according to code livestock is allowed. According to what the Town's own code is.

Connie Potter: Can I see that when your done as well?

Melanie Thornberg: And all these properties are under one acre so they would have to have the property permitting even as the code is written technically their allowed to have it too. If you go

strictly off the definition of the code. And then again this was all wooded area. Oh year, their clearing it.

Vice Chairman Schmitt: I don't think that's relevant just because its based on what's zoned not. But yeah, understood.

Melanie Thornberg: As it goes to the nuisance.

Clare Schmit: Oh, right, right, right.

Chairman Taylor: So, we're good with the appellant? Questions? So that's for the first one. Does anybody have any additional questions for the Town after hearing all of their information?

Tim Brogan: Yes.

Chairman Taylor: Yes. Okay. Hold on.

Lauren Kopishke: Staff has rebuttal time.

Chairman Taylor: Yeah, Yeah, that's what I'm saying. So we have some people with questions for Town staff after hearing them, so let them, you can send whoever up to rebuttal and ask questions.

Vice Chairman Schmitt: Are you looking at that.

Tim Brogan: Yes. Connie can I give this back to you?

Connie Potter: That's hers, yeah.

John Ware: That's a lot of information there. Lot of information there, so the first appeal again is on the home occupation. There violations of the home occupation. A lot of information based on the agricultural part. That is on the second appeal. So I just wanted to keep you. The first appeal is for the home occupation. We found no correspondence between the appellant and Town employees about zebras and other cattle and everything else. We found no correspondence for approval or disapproval of that. The urban ag that was mentioned. That is part of the second appeal. So and the information about livestock on the adjoining properties. That is not relevant to your case here. You are only looking for this one. For this case here is the violations of the home occupation. So just keep that in mind with that. So, keep in mind we'll go back to those. Home occupations they have to be, shall be clearly incidental. A reasonable relationship to primary use. They were only permitted to manufacture goat cheese, period. The display is up. They have hay bales there. They have farming equipment. Other buildings that were not permitted that's an association with that.

The nuisance is. If your going to have a home occupation basically side by side homes. You should not be able to differentiate which home has a business out of it and which one doesn't. You should not create any nuisance. Any noise, dust, smells than are any more frequent than is experienced by a home that does not have a home occupation. So those are the parts for this

appeal. The agricultural pursuit is on the second appeal. I just want to reiterate and focus you. You're only dealing with a home occupation here.

Lauren Kopishke: Also, we didn't have to receive a complaint about the nuisance in order to issue a citation. So when staff was onsite and they saw something that they believed was outside of normal realm as far as nuisance goes, they are permitted and should issue citations or notices of violations.

John Ware: Only the cheese shed was permitted. Cheese shed permitted. Only the occupation to manufacture goat cheese.

Vice Chairman Schmitt: But that's not really part of it. That's another notice that has nothing, we shouldn't be considering that for this either, right?

John Ware: What, the cheese shed?

Vice Chairman Schmitt: No, well the other buildings that are unpermitted.

John Ware: Yeah, that is not part. Did not appeal those.

Lauren Kopishke: She did not appeal those.

Vice Chairman Schmitt: No, I understand that but you just referenced it. So what I'm saying is. It seems like your saying there's some information we shouldn't be considering as part of this. But then your mentioning information that I don't think we should be considering as part of this either, right?

Lauren Kopishke: We're stating that the home occupation was approved to make cheese.

Vice Chairman Schmitt: Right. But the other buildings have nothing to do with this. Correct or not? Am I misinterpreting that?

John Ware: Right.

Vice Chairman Schmitt: Okay. So I'm just saying lets be consistent about the things that were not considering as part of this.

John Ware: I'm trying to reiterate the cheese shed was approved to manufacture the cheese per the home occupation.

2 voices – unintelligible.

Vice Chairman Schmitt: I'm clear on that. I got it.

Daniel Wells: It pertains to it because she was permitted to do it out of the cheese shed as opposed to the home. Which is the typical approval of a home occupation. It's from the primary

residence. She was approved to do it from the accessory structure. That's why the cheese shed has some bearing to the home occupation. Because that is not typical.

Vice Chairman Schmitt: Right. But it was approved? I understand maybe it shouldn't have been. But I'm saying that was approved so, I'm still struggling with where. It sounds like that's what she's currently doing. Running the operation out of the cheese shed. Correct? She's manufacturing cheese out the approved cheese shed. Am I missing something here guys. Help me understand. Right?

John Ware: The home occupation with that they can. With the affects of the other part that shall not create any of these others.

Lauren Kopishke: And the outside storage.

John Ware: And the outside storage of farming equipment, hay bales and everything else is not permitted.

Maria Dutton: As per the zoning of that particular.

Lauren Kopishke: As per the home occupation.

John Ware: As per the home occupation.

Vice Chairman Schmitt: Okay, so let's take away the manufacturing the cheese. Lets just pretend the cheese thing goes away for a second. The cheese shed, everything. Would you guys have issued a citation? You would have for the nonpermitted buildings which apparently the can rectify by getting permits for them.

John Ware: What's the question now?

Vice Chairman Schmitt: The home occupation violation. It's around the cheese shed and far as expanding. But what I'm saying is let's say she just closed up shop tomorrow. No more cheese. We're just having goats and having a farm essentially I guess. Is there a violation?

John Ware: Those violations is on your, the next appeal.

Lauren Kopishke: So she'd still be in violation of a nonpermitted use.

John Ware: Not of the home occupation.

Lauren Kopishke: There very tied together.

Vice Chairman Schmitt: I'm clear on them being tied together. I understand.

Chairman Taylor: I think what she's. When you mentioned storage of things outside. Cheese making operation is the home occupancy. But she's not storing cheese making operation equipment outside. She's storing goat milking, goat farming stuff outside. Which is part of the

second violation not the home occupancy violation. So the storage outside doesn't violate the home occupation because its not the home occupation that's storing things outside. Would be my understanding. Unless there is cheese making equipment outside as well. Which I don't think there would be.

James Jackson: So what your referencing when you showed the slide of the carport. That's just an additional structure.

Chairman Taylor: It is.

Vice Chairman Schmitt: That has nothing to do with the home occupation thing.

James Jackson: You're just denoting what's there physically on the property.

Chairman Taylor: That's also the second violation. So, hay bales outside, goats. All that stuff. That would be covered under their second violation. Not saying its right or wrong. Just that's part of the second one. So there connected with this kind of.

James Jackson: Yes. Got it.

Chairman Taylor: Do you have any more questions for staff?

Vice Chairman Schmitt: I don't think so.

Chairman Taylor: Okay. Good, good. Since these things are so tied together. Does everybody want to hear the second violation before we decide to vote on anything since they seem to be.

James Jackson: Yes, yes.

Chairman Taylor: Okay.

Vice Chairman Schmitt: But I thought we said we did the home occupation first because of said that the second kind of mute, right. Is that right or no?

Lauren Kopishke: One's not mute because of the other one.

Chairman Taylor: It's just that the home occupation is the business that is the thing, they need goats for the home occupation.

Lauren Kopishke: If the business wasn't there. If she wasn't manufacturing goat cheese she wouldn't need the goats.

Chairman Taylor: Wouldn't need the goats. That's why we did it first. But it seems like there's a lot of intermixing of the violations. So in order to clarify it we can just have them do their second presentation and then you'll have all of the facts and we won't have to worry about it and then we can always vote on both of them.

Vice Chairman Schmitt: Okay.

James Jackson: That's clear, yes.

Chairman Taylor: You guys want to do your second one?

John Ware: Your second part of the appeal is a notice of violation related to Town Code §175-10.22 the raising and breeding of livestock, specifically goats within the R-S zoning district.

Again, there is the map showing the R-S. To the east is R-1, 10,000 square foot lots. To the south other additional R-S lots and to the north the R-E minimum lot size 1 acres and to the northwest the A-1, 10 acre lots. That's the zoning.

Again the statement for the R-S. Limited single unit dwellings for that statement of intent. Low density, residential on suburban size lots. Uses that are approved or permitted. Single-family dwellings detached. Miscellaneous: no commercial, no industrial, no organizational. Only under miscellaneous: accessory uses, structures and buildings, and a home occupation. That is the only uses that are permitted.

However, in the A-1. The A-1 is A-1 district 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. Per the definition: The standards set forth for this district are designed to promote and protect open spaces, agricultural and forested areas. Development is to be discouraged, and only structures permitted shall be those directly related to agriculture and open space uses.

Uses permitted in the A-1. Single-family dwelling. provided that only one (1) single-family dwelling per parcel. And under miscellaneous: Agriculture is a permitted use in the A-1. Notice agriculture is not permitted in the R-S. Agriculture and agricultural pursuit as defined: 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 for the necessary operation of the farm, and the production of natural products with resources primarily derived from the land upon which it is produced. 175-3 defines agriculture. Only permitted in the A-1. Not permitted in the R-S.

Accessory Use. Those are permitted in both districts. However the accessory use is a use of a building lot or portion thereof which is customarily incidental and subordinate to the permitted, for the principal permitted use of the main building. Down at the bottom: urban ag is considered an accessory use when the requirements of Section 175-110.5 are complied with. Only as an accessory use.

So what does that mean? In general, a use that is customarily incidental to a primary use implies that the accessory use flows from, naturally derives or follows a logical sequence of, or is normal and expected offshoot of the primary use. The primary use is residential in the R-S. Customarily incidental is one that is commonly and habitually, and long practice been established as reasonably associated with the primary use. The term subordinate defined by the Webster Dictionary to mean placed in or occupying a lower class or rank or inferior. A subordinate use

incorporates the requirement that the accessory use be minor in relationship to permitted primary use.

Things to look at. You need to give a law its plain and natural meaning. The first step in interpreting a law is to employ the plain and natural meaning of the words used. Out of Albemarle County Land Use Handbook with case law stated. When ascertaining the plain meaning of the law, each word's meaning should be considered in the context the entire phrase from which it is taken. Then it tells you: undefined term must be given its ordinary meaning, given in the context of which it is used. And we can resort to using Webster's Third New International Dictionary. That's why we use some of those words because some of those words is not in Town Code for define. That's why we reference the handbook that you received for your certification.

As stated earlier, you seen this. They acknowledged that they consider they have a considerable amount of money, effort and time 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 for the further advancement of the farm. As outlined in the R-S. Agriculture and agricultural pursuits are not permitted in the R-S. Only in the A-1 zoning districts.

Urban Ag is an accessory use but only in the context of 175-110.25 (*should have been 175-110.5 referenced*). As you remember back from the definition of agriculture: raising and breeding of livestock is only permitted in the A-1. Within the Urban Ag there is performance standards but only as an accessory use. Clearly incidental to the primary. So, those under one acre require an urban ag permit for keeping of a maximum of six chickens, livestock of six rabbits or six beehives. If you have over one acre and zoned residential you do not need an urban ag permit for rabbits, livestock, bees or chickens. So they go in there, roosters are not allowed. Their prohibited and as we go down urban agriculture is not permitted as a principal use of the property except that this restriction shall not apply to outdoor gardens. Do you have any questions on staff on the zoning difference between the R-S what is permitted in the R-S and what is permitted in the A-1. Agriculture, agriculture pursuits is only permitted in the A-1 district and urban agriculture cannot be a principal use of a property. It has to be insubordinate and incidental as defined in the code.

Chairman Taylor: Questions? I have a question. Go back one slide maybe two, I'm not sure. One more. Okay. So under urban agriculture. It says use that may include raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, apiculture, and both livestock and fowl keeping, subject to compliance with 175-110. So, urban agriculture allows livestock.

John Ware: Rabbits.

Chairman Taylor: Okay. Do you have a definition of livestock for the Town? You say rabbits. I accept. But do you have a definition where anybody else reading this would get rabbits?

John Ware: So, also keep in mind that duplexes you're only allowed to keep six female chickens, non-crowing hens, six bees and/or six rabbits. Roosters are not permitted on those lots.

Chairman Taylor: Cause of the crowing.

John Ware: And only livestock, so those are not permitted.

Chairman Taylor: So, you gave the slide previous to urban agriculture, you gave agriculture, agricultural pursuits. Under agriculture and agricultural pursuits it gave pretty much the same list, hydroponics, forestry, gardening, apiculture, livestock and fowl keeping and breeding. So, does that mean that under the A-1 you're only allowed to have rabbits because they can only have livestock?

John Ware: No.

Chairman Taylor: So you're saying that because it excludes it from.

John Ware: In the urban ag it defines; it has rabbits listed with the livestock.

Vice Chairman Schmitt: Not in all instances though.

John Ware: So they need a permit if you're under one acre for urban ag.

Chairman Taylor: Yes. They're not under one acre. They don't have to worry about it.

John Ware: They don't need to have an urban ag permit that's approved by the extension agent for rabbits, bees or chickens. This definition breeding, this definition livestock and fowl keeping and breeding. And also, the production of natural products with resources primarily derived from the land upon which it is produced.

Chairman Taylor: Okay, so you're looking at section b where it says single-family which is a single-family shall be permitted to keep up to this, this, this, this.

John Ware: That's not in all residential zoning districts or houses so it's clear on here other types of residential uses such as townhomes, condos and multi-family there prohibited at all.

Chairman Taylor: Sure but we don't care about that cause they're a single-family. So under single-family it lists what urban agriculture allows, which is rabbits, bee hives.

John Ware: Clearly incidental.

Lauren Kopishke: But what you look at with this one is staff has made the determination that this is an agricultural pursuit. This is an agricultural use. Their farm that they've described is agriculture. Whereas we're stating you are in a residential zone. The primary use of your property needs to be residential not agricultural.

Chairman Taylor: Yes. That's fine.

James Jackson: Clarity.

Vice Chairman Schmitt: Actually I do have one other question. Because the horses thing. How do you interpret horses in residential?

John Ware: With all do respect. That's not relevant for pending violations or nonconforming uses for this case. There is cases out there, yes we acknowledge there's nonconforming uses.

Vice Chairman Schmitt: What I'm asking is do you consider horses to be livestock?

John Ware: Yes.

Lauren Koishke: Yes.

Vice Chairman Schmitt: So horses are not permitted within any residential zoning. Is that accurate to say?

Chairman Taylor: No

John Ware: That is accurate with the statement: There are some nonconforming uses in Town.

Lauren Kopishke: There's some incidences where the properties were zoned agricultural. They had horses which was permitted and then at some point in time the Town rezoned.

John Ware: Legally nonconforming. I guess I should state that.

Lauren Kopishke: Yes.

Vice Chairman Schmitt: Okay.

Chairman Taylor: They already had them so they can keep them until.

Vice Chairman Schmitt: But you couldn't be in a residential and buy horses.

Maria Dutton: Speaking at the same time as Vice Chairman Schmitt and unintelligible.

Vice Chairman Schmitt: And buy horses.

John Ware: There legally nonconforming uses.

Chairman Taylor: Yep. This property didn't have goats.

Vice Chairman Schmitt: Yeah. I understand that.

Lauren Kopishke: This property has never been in an agricultural use. At least as far back as the 70s. It was never zoned agricultural as far as we can find. Whereas some of the other ones were. Theres' the LeHew mansion there.

Maria Dutton: Yes. Exactly.

Lauren Kopishke: That's had horses since the civil war. Its always had horses. Its never stopped having horses.

Vice Chairman Schmitt: Yeah. Yeah. No, I'm clear on the grandfathered in thing. (*says something unintelligible*).

Lauren Kopishke: But again the horses are not what you're talking about here.

Vice Chairman Schmitt: Right, but the reason I'm brining it up is because he's mentioned the definition of livestock. So I'm saying if the definition of livestock is rabbits, which I still think is vague there. I'm asking about horses if it's the Town's position that currently today in Town today I can't go buy a horse and put it in my backyard in a residential? So I think its relevant because of the vagueness of the livestock definition.

Chairman Taylor: Yes.

Melanie Thornberg: Okay, I wanted to touch on what they had mentioned in the first portion of this where if the Town does not specifically designate the definition we go off of the legal or Webster's Dictionary or what is commonly known and livestock is not just rabbits. Livestock, I just did a quick search. Horses, cattle, sheep and other useful animals kept or raised on a farm or ranch. So its not only for and the Town Code does not only say you can only have rabbits no matter the size of the property. What it does is it limits the amount on smaller parcels. So that people on small parcels don't get large animals or they need permits to keep animals that fit on theirs. We have seven and a half acres. Livestock on ours would include goats, sheep, horses or whatever is deemed allowable under the term livestock. There's no mention that rabbits are the only livestock allowed. Because its an exclusionary and the term livestock, again because the Town didn't define it we have to go off of the common term. And common term is not livestock is only rabbits. If you go to a livestock auction you're not only buying rabbits. Your buying cattle, your buying horses, your buying sheep. All types of farm animals. So that is all included in the definition of livestock. And that is the most reasonable definition. And I think that is pretty clear on those.

The primary use of our residence, and again I'm going backwards, is our home. We live there. That is our primary use. It's a home residence. The secondary use or the incidental use we have a farm. We have a small hobby farm that we love. We have our animals. They all have names and that is because we're allowed to have it on the size property that we have.

175-110.5 has fifteen specifications on what you can and cannot do under urban agriculture. Of those fifteen, eleven of them only pertain to rabbits, bees and poultry. Of the rest only one of them pertains to home occupation. Meaning no industrial or commercial activity. The others do not restrict over any property over 1.1 acres. It just only puts restrictions on smaller lots. None of those apply. None of those is even what we're here fighting. We're fighting for the chance to keep our animals, our goats. Not chickens, not bees, not anything like that. We haven't deviated from our permit. The permit says we are going to make and manufacture cheese. We milk our own goats. We do so in the confines of the building that we have or the building we have been permitted. Again, I do acknowledge that the submitting of the other buildings was an oversight

on our part which we quickly remedied when it was brought to our attention. But for the rest of it we don't feel like its applicable. We don't require a permit to our animals and under the code this specifically says urban agriculture is allowed as long as the provisions, those fifteen provisions are met. And we meet all fifteen provisions and for the one that involves commercial or industrial we have a permit for that under the home occupation. So we've checked all the boxes. We've done everything they told us to do. The relationship from the primary use to the incidental use it is not uncommon for a person to have a farm on their home. Its not a big agricultural facility where we have big giant silos and all this machinery where nobody lives there. We have goats in our backyard that we milk and make cheese. Its not outside of the customary use of a party of our size. Now because it is in residential district we went off of the code. And again I will refer you back to the definition and to the code where it says accessory use. And under accessory use for R-S they even show you, urban agriculture is an accessory use keeping, raising of livestock is urban agriculture. What I do with the milk once I have the goats have their babies. We milk them, we use that for our business. Our home occupation which are two separate things. So, to reiterate. The reasonable definition of livestock is not just rabbits. I think that's pretty clear. If anybody's ever had a horse. If anybody's ever had anything, there are many animals considered livestock. Llamas, emu, ostrich's (*says something unintelligible*). The principal primary use is our residence. We live there. We raised a family there. We have a garden. We have our goats in our backyard. The permit is not required for the urban agriculture as they even said themselves. It allows for it. In their own definition it allows for it. It doesn't say you can only have rabbits. It doesn't say that your restricted to agricultural district. It says the opposite. It says urban agriculture is by-right use under accessory use in every single zoning district. If you look up on the zoning page under each one it states accessory use. We didn't write the code. We followed the code that was written and we did what we were told. And we did exactly what the previous Zoning Administrator interpreted the law as. And again 175-110.5 those fifteen line items, only one of them apply to us. And we're in compliance. We have the permit. Everything else we don't have one acre; we don't have bees. We're not talking about bees, chickens and rabbits. We're only talking about the goats and the ability to keep our livestock on our property as we have for the last eleven years. That's it. Any questions?

Chairman Taylor: Any questions?

Vice Chairman Schmitt: I'm not sure it's a question for her but I do want to look at the agricultural. I didn't see that. Is that in the packet. I didn't see that specifically.

Maria Dutton: The definition of urban agriculture?

Melanie Thornberg: I have it here if you need it.

Vice Chairman Schmitt: No, I have the definition.

Lauren Kopishke: Its in your staff report.

Vice Chairman Schmitt: As guess what I'm trying to determine is whether its clear that their defining livestock as rabbits in that. The list of eleven, fifteen.

Melanie Thornberg: I have it here.

Vice Chairman Schmitt: It may have been in our packet because it sounds really familiar. What you were showing me, is that in there?

Chairman Taylor: Yeah, this is the actual Town Code. I have the whole Town Code here.

Melanie Thornberg: There's a packet in there. Their labeled pages 1 through 6. Page 1, 2, and 3 of 3. And it talks about the accessory uses and then there's also page 3 of 6.

Vice Chairman Schmitt: That's the agriculture pursuit. I'm looking specifically for the urban.

Melanie Thornberg: I'm sure they can bring it back up. I have a copy of it here if you want to read over it.

Vice Chairman Schmitt: Oh yeah. Here we go. That's what I was looking for.

Chairman Taylor: Can I see that?

Melanie Thornberg: Anybody else want to see these?

Maria Dutton: Yes. Thank you.

Tim Brogan: I do.

Melanie Thornberg: Those are the fifteen points that are located in 175-110.5 of the Front Royal Town Code. Those should have been included in your packets. Its also on the permit for the. I believe urban ag. I don't know if its on the second permit or not actually.

Vice Chairman Schmitt: Cause it says roosters, livestock excluding rabbits and fowl excluding hens are prohibited on lots less than one (1) acre in land area. I see this. Yeah. But why would you say that here of. You know what I mean.

Chairman Taylor: Do they. 4 of 6. Find the page before this. Maybe its on the other side.

Melanie Thornberg: Section e. does talk about livestock and then it specifies that rabbits are not included under the term, or their not referring to anything other than rabbits. But they didn't say the only thing that are allowed are rabbits.

Chairman Taylor: So, 175-110. Urban Agriculture as defined under section (*he was speaking of 175-3*) shall comply with the following performance standards. That means everything follows this. You must comply with. It give a, all these things. But then it give b. single-family, duplex.

Vice Chairman Schmitt: *Says something unintelligible.*

Chairman Taylor: I know, but comply with the following performance standards. That means a single-family shall be permitted to keep these things.

Vice Chairman Schmitt: Yep.

Chairman Taylor: Because of the way ordinances work its stated you will be allowed to have this. That means you can only have what they say you can have is the way it works. Now, I do take issue.

Vice Chairman Schmitt: It does say pigs are restricted regardless of lot size. And then it says.

Chairman Taylor: Well basically its running through all these things.

Vice Chairman Schmitt: Yeah. Yeah.

Chairman Taylor: Saying all these different certain areas. We have to cover all these different basis.

Vice Chairman Schmitt: But then it says roosters, livestock and fowl are prohibited on lots less than one (1) acre in land area.

Chairman Taylor: Correct. I take issue with the fact that they've (*unintelligible*) livestock here and on the A-1. Their basically saying this livestock does not equal that livestock which does not equal that livestock. And I don't like that. It should be this is livestock.

Lauren Kopishke: If your done speaking with the applicant have her sit.

Chairman Taylor: Sorry. Do we have any more questions for her?

Maria Dutton: No.

Chairman Taylor: Does anyone have any questions for Town staff on this one? Or does Town staff have its own rebuttal?

John Ware: Just a reminder to keep focused on the definitions. What was, what is allowed in each district. Also a lot of information was given to you verbally. Lets see here. It should be outlined that your decision must be based on existing facts rather than recitation of non-existing facts, hypotheticals, proposal, ideas or concepts or what ifs. Its based on the facts and based on the Towns definitions. The applicant did not provide any other substantial evidence what was provided for them from the previous Zoning Administration or staff. In your packet is a complete packet of information that we have. All of it. Total. That goes to these two appeals. So just to reiterate on this second part. As defined in the code per the definition. Livestock, fowl keeping and breeding and the production of natural products with resources primarily derived from the land upon which it is produced. That is the definition of agriculture. Only permitted in the A-1 district and in the A-1 district only. Those in the urban ag. That operation has to be clearly incidental. As stated by the applicant they invested thousands, hundreds of thousands of dollars to operate a farm which now based on their information that they divulged is probably, is the principal use of the property. Not the accessory use of it. Accessory use has to be clearly incidental. In line with the permitted use of residential. Per the definitions. A lot of other information was given to you. You have to remain focused on what is the defined by the Town

Code. And you have to make a decision if we interpreted the Town Code per the definitions correctly.

Chairman Taylor: Any additional questions for Town? So, that's everything. Just to let us know and we are going to discuss. So, not that you will but that means there's no more commenting from outside. So, yes it may sound like its going for or against but we're just up here. Okay?

On business item number 2, the first one we saw. Home Occupation. As they pointed out we can affirm their decision, can overturn their decision, or we can modify their decision. Okay. So basically all the powers that they have to make a decision now come to us on appeal. Does anybody have any thoughts on or discussion that you'd like to have around that issue?

Maria Dutton: As far as the home occupation.

Chairman Taylor: Home occupation only. So that's cheese making. So that's not hay bales, that's not storage outside. Making some cheese in a shed.

James Jackson: I'm clear with that.

Tim Brogan: And ice cream.

Chairman Taylor: Yes, their doing things inside. Does anybody have any thoughts?

James Jackson: I'm clear with that.

Chairman Taylor: So currently the Town is saying that their home occupation has exceeded being a home occupation. So they're going to. They have a violation on it. Their basically going to close it down.

Maria Dutton: Because they think that the home occupation and the goats and everything are all one conglomerate.

Chairman Taylor: No, no. They knows that there's two because they have the two different violations. They just think that the home occupation that they approved of making the cheese in the shed has grown beyond what they approved.

Maria Dutton: So we're looking at it becoming the principal factor of the use of the property vs. the subordinate.

Chairman Taylor: Yep. That's what there. Its part of what their saying.

Vice Chairman Schmitt: We have to look. I think this is the home occupation one and the other one is the farm use. So I think to me.

Chairman Taylor: Those would be two separate.

Vice Chairman Schmitt: So to me the home occupation one is kind of clear that their doing what their allowed to do. Based on what they've submitted. But that doesn't mean. I know this is hypothetical. Lets say you take away the goats. Let's say they say. Hypothetical you say no to the other. We're upholding the administrator, you can't have livestock on the R-1 or R-S. They could continue operating, they could move all the goats and everything off and still continue with their home occupation. That's making cheese.

Maria Dutton: Not without the goats.

Chairman Taylor: No.

Vice Chairman Schmitt: Do you see what I'm saying? There's 2 different. I'm saying they have not expanded beyond making cheese. My understanding is that their still doing what they were allowed to do.

Chairman Taylor: But the Town thinks they have expanded beyond that. So they would no longer be able to do that.

Vice Chairman Schmitt: Right. But I think that they provided evidence that their not doing anything beyond. That's my position, yeah.

Chairman Taylor: Anybody else.

James Jackson: Based on the evidence that's represented.

Chairman Taylor: So, I have some thoughts on it. 2018 they asked for a permit. In their permit they describe the purpose or nature of their business. Its say to make and manufacture goat milk based cheeses for human consumption. It sees see attached. They have a couple of attachments. We saw the attachments here. She gave us another one for 2019 that was just slightly later that had a little bit of additional information on it. The Town approved that. The Town says they approved one cheese shed that they didn't approve the milking parlor because of some stuff. Cause it was undecided. But the application that came to the Town based on the second document that they have that they didn't approve yet stated squarely that they were just waiting for a placement, not. They didn't care if they were milking. They just wanted to know where it was going to be and make sure it was in the right spot. Okay. So that means that this permit they notified the Town that they wanted to make goat cheese by having a cheese shed and they notified them that they wanted to have a milking parlor. You can't milk things unless you have things to milk.

Maria Dutton: Correct. That's where I think they had to know.

Chairman Taylor: So they and they approved that at the time. Now there are questions of scale. Clearly the Town does not intend R-S to become some massive commercial farming operation. But, they did say okay we're good with cheese and we're good with milking. Its incumbent upon the person approving, that means the Town to know what that means. So when they say I want to manufacture goat milk and goat cheese and the Town says okay. That means that the Town has

to look up the Virginia Department of Agriculture codes. They have to know all that before they say yes. They can't say yes and then go we didn't know that it was gonna require a separate unit.

(Multiple people talking – unintelligible)

Chairman Taylor: So they can't do that. The other thing is they approved cheese barn, cheese shed.

Maria Dutton: Cheese shed.

Chairman Taylor: So they kept saying that home occupations are to be.

Maria Dutton: Within the home.

Chairman Taylor: Yeah.

Tim Brogan: An accessory building.

Chairman Taylor: So the use shall be clearly incidental to the principal use of the property. So we still have to deal with that. Shall not change the exterior appearance of the dwelling unit or change the character of the neighborhood. But they approved external buildings. So they basically said that exterior appearance changing things we're good with. So, that means this component of it they're okay with changing the exterior appearance for what they permit. That is a cheese shed. So they've already allowed a change. And then change the character of the neighborhood. I think we've already really gotten into the fact that their pretty much surrounded by open space. There's cows and horses around. Like yes there's still neighborhoods. Yes its R-S. But its like the edge of ag zone so the character of the neighborhood I don't. That's an opinion. I don't know if we're going to get into that. So I think the Town has approved some form of the business their running. Now clearly incidental to the principal use of the property. How do we decide what. Clearly the primary use is a residence cause that was established. But how do we decide how big this operation can get before it becomes the primary use vs. the incidental use. You can't just say any because then you just can't have any and you can't say you can't allow anything to happen. So there has to be some determination. In this proceeding the Towns opinion is assumed to be correct per state guidelines. So if they're issuing the violation that means we assume that their correct that this has exceeded what it should be. So that means clearly incidental. Their saying its no longer incidental. We have to assume that to be correct. But.

Vice Chairman Schmitt: Unless we're presented though *(multiple people talking unintelligible)*.

Chairman Taylor: The fact that they approved some component of this. Yes. So. And that's. I don't know. So we have two options. We can. I don't think we can simply just grant the appeal because their assumed to be correct. They've said its more than incidental. That's the way it's got to be. But we have a second option. We don't necessarily overturn. We can modify. The Town has approved some form of this business. So it will be up to the Town to decide where that limit is. How many goats or how many square foot of or I don't know how they determine how much. And I think some of that is going to change because of VA 15 2307 under section vii. I

feel that because of their approval that qualifies as a significant, affirmative governmental act. They said you can do. Based on that they have committed significant resources to their business. That vests them somewhat in their business. Because they have an approval and that approval. It has you know limitations. But those limitations like incidental. We got a bunch of. We got a bunch of.

Vice Chairman Schmitt: Definitions.

Chairman Taylor: We've got a bunch of definitions. But none of those definitions are shall not exceed thirty percent of x. Like there's no way to measure. There's no metrix. It's all well it shouldn't be the primary use. Well what is primary use. How do you decide a primary use. And you can. Maybe that's like way like super case law that we're not going to be able to do. But. So installing three-phase power that is commercial grade equipment.

Vice Chairman Schmitt: Yeah.

Chairman Taylor: No home use anything uses three-phase power. So I think that when you upgrade to three-phase you're at commercial levels. You've clearly crossed the threshold. If you. You know if certain amount of the land is under whatever. I am looking at the imagery. It's 7.7 acres but I'm not seeing more than an acre and a half, maybe two acres under agricultural pursuit. Out of seven and a half acres. So I don't know if that's become the primary use vs. the home. Cause the home is part but the woods are part of the enjoyment of the home. So I think because of them granting some sort of pursuit and then, it going on for such a long time and then doing that. I think that we should go with like an option 2. To modify their violation. Basically stating they're still in violation. They've grown too big. But the penalty of the violation can't be to lose everything. i.e. shut down the whole business cause they've approved some of it. So there needs to be a point at which the Town says okay our original intent was for you to have x amount. You are allowed to have that if you scale back to it. That's why I was asking him for the permits. They can't provide what they allowed. They say only a cheese shed. But we've got a lot of documentation that they submitted saying they also submitted a milking parlor. So that means some of them goats are approved because they said we want a milking parlor. And you should know that a milking parlor comes with milking goats. Their saying that they talked to the Town administrator. Well with the milking parlor and all that stuff in there that makes me think that maybe they did talk to him and he said something like that. We don't have any proof but there's a lot of evidence here. Preponderance. So there's not enough evidence to just shut down their whole business. Some of it should exist. So I'm open to ideas on how to amend their violation. Anybody else can approve, deny.

Maria Dutton: I'm following everything that you're saying and I'm in agreement. Because yeah. Like somebody approved this. Who wrote the letter? That was one of my notes. Where did that come from and where did that approval where did that authority come from.

Chairman Taylor: And that was the previous planning administrator. He approved some of this business as a home occupation. So they can make cheese. So whatever cheese building and I'm sure they would probably be allowed to enlarge their cheese building or whatever because we don't know how big it was initially. But if they made it ten square feet more I don't think that would be like the end of the world.

Vice Chairman Schmitt: So the violation. It says: 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, material, or equipment on property located at the property.

Maria Dutton: So we've already established that the Town agreed that they could change the look of their property by adding the other building.

Chairman Taylor: Yes. So they, they've allowed an accessory structure. So they basically said the fact that it has to occur under a dwelling, under the same dwelling no longer applies.

Maria Dutton: Right and they made that point when they were doing their talk. That this was an exception.

(Multiple people talking unintelligible)

Vice Chairman Schmitt: But I mean I think that's what when you were saying. I guess my questions like when you say modify which part are you suggesting we modify? Cause that's the notice of violation is.

(Multiple people talking unintelligible)

Tim Brogan: Do we have the authority to modify the Town Code in that manner?

Chairman Taylor: We're not modifying the code.

Lauren Kopishke: You do not have the authority to modify Town Code.

Chairman Taylor: We're not modifying the code. We're modifying the violation.

Tim Brogan: Do we have the authority to do that?

Chairman Taylor: Yes. We do. Decision by BZA must be based on judgement. Whether the administrative officer was correct. So we have to determine whether they are correct or not. And then the BZA may reverse, affirm, wholly or partially, or may modify the decision of the Zoning Administrator.

Tim Brogan: Okay.

Chairman Taylor: We do have that power. So basically whatever they've done. When the appeal comes to us we now basically wield their powers. But we can't do anything outside of that.

Vice Chairman Schmitt: So it was A, C and H. So the use shall be clearly incidental which I think we are maybe not in agreement on? And then no outdoor display, sales, or storage of goods, materials or equipment shall be permitted, except that they may authorize up to two 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. To me there's nothing the C.

Chairman Taylor: C is all the farm stuff. So haybales, things like that. So that's a different violation.

Vice Chairman Schmitt: No but they sited those three. This is all under home occupation. They sited these three things in the violation.

Chairman Taylor: Correct. So.

Vice Chairman Schmitt: And then H is: No home occupation shall create noise, dust, vibrations, smells, smoke, glare. I know we've heard all that but those are the three things. So I guess when your saying modify. Like which would you not.

Chairman Taylor: Can I add one more wrinkle?

Vice Chairman Schmitt: Yeah.

Chairman Taylor: So your looking at the, what they've sited. Regardless of what the Zoning Administrator states in their determination. BZAs role to determine the decision was correct and must apply the terms and provisions of the zoning ordinance even if the Zoning Administrator did not site them. So they have put this here as their decision. But if there are components to the code that they didn't even bother to bring up. We still have to follow.

Vice Chairman Schmitt: Their in violation. Right, right, right. Okay.

Chairman Taylor: That's. Yes these are the things they put in their presentation but if there's more then that's still a problem.

Vice Chairman Schmitt: Right, right.

Chairman Taylor: So I don't think C is an issue for the home occupation. Unless there's cheese outside or cheese making stuff outside. And they can probably solve that by simply getting another permitted structure to store that stuff in if the outdoor storage of it was an issue. It doesn't seem like they were. He mentioned hay bales and other things like that. Those aren't cheese making things. So I don't think for the home occupancy that's an issue. And then he mentioned H which is: shall create noise, dust, vibrations, smoke, smell.

Maria Dutton: There's been no complaints.

Vice Chairman Schmitt: Yeah, but I don't think that there have to be complaints.

Chairman Taylor: Yeah there doesn't have to be. Basically they can't do these things.

Maria Dutton: Understood. There hasn't been any complaints in regards to a smell. Which with goats and a creamery. That would alert me to some issues. (*unintelligible*) We don't know what's going to happen five years. And if this creamery gets that big will it then start.

Chairman Taylor: They would then issue a violation to stop it. So we don't have to concern ourselves with the hypothetical of growth. We just have to be as it is now. John's presentation stated that basically two homes next to each other you can't know that ones running a business and one isn't. But they approved the cheese shed outside. So they basically said we're okay with you putting your cheese making operation outside the building. Which means two homes next to each other ones got a cheese shed, one doesn't. And their going back and forth making some cheese. So he's saying you can't do that but they approved it. So we're in a situation where the code says yeah but they approved it. So they violated their own thing.

Vice Chairman Schmitt: But if you're looking at two houses. I don't think necessarily a cheese shed. I mean how do you know that that's a cheese shed vs. another shed that I have my you now, exercise peloton in.

Someone said: You won't know that.

Chairman Taylor: I don't know the details of cheese making. I don't know if there's emissions or something like that. It's just that they've already approved exterior changes that could be noticeable that are related to the business. So their okay with it. Or they were okay with it. And they can't go back on it. So.

Tim Brogan: Until they bought the other acreage to give them 7.7 acres and put the unauthorized buildings on there.

Chairman Taylor: Sure. Well.

Tim Brogan: I've ridden by there and you can see those buildings from Happy Creek Knoll.

Chairman Taylor: Yeah. But their allowed to have additional accessory structures. That's why that's not one of the violations that their not appealing. They basically said our fault we do need permits. Their going to get the permits. Theoretically if the permits go through then you'll be able to see the buildings still and it will be fine. That's not part of this so we don't necessarily have to worry about it. Its just things that are stored outside of those buildings. So big stacks of hay, things like that.

Tim Brogan: Those are now being hidden by the carport.

Chairman Taylor: Yes. I don't know how far they have to go to hide it. Like hay can be stored in a hay barn. But I don't think any of those are in reference to the home occupation though. They're not storing cheese making stuff outside.

Tim Brogan: I hope not.

Chairman Taylor: I hope not. But they were semi-approved for a milking parlor too. So. Like they included those drawings in their permit. They had the additional thing saying we need to know where these are.

James Jackson: Yes.

Chairman Taylor: So that's the guy saying I'm good I just need to know where they are. That's interpretation yes but I mean that's what we're here to do, interpret. So the home occupation has clearly reached a greater proportion than what the Town would like to see a home occupation be. But how do we. How do we decide that its needs to be smaller? And how much smaller? I would amend the violation to say they need to go back to whatever they had when it was approved is what they need to go back to. But I don't know what that is. And I don't know if the Town knows what that is. Because the Town approved something. And then I don't know if it grew. Cause there's no list of number of goats. They approved a cheese shed. Possibly a milking parlor. I know that if we uphold their violation then the business will cease to exist.

Maria Dutton: Yes.

Tim Brogan: We don't want that.

Chairman Taylor: Entirely. Which.

Vice Chairman Schmitt: But that really cant. I mean that I don't think part of our. Yeah.

Chairman Taylor: Well no it can. So because they've already approved a business to exist. If we were to approve the violation we would be allowing the Town to say you can have this and then you can't have anything. And take the whole. Cause it would take the whole business away. Not part of it. The whole thing.

Maria Dutton: And then your looking at a hardship too. Right?

Chairman Taylor: That doesn't apply here.

Maria Dutton: No.

Chairman Taylor: So some of that business needs to remain. Like the Town said they can make cheese. It never said how much cheese or how little cheese but it said they can make cheese. It just has to be incidental to the primary use.

Maria Dutton: So this was all brought to their attention because she was looking for that electrical.

Chairman Taylor: She was looking for three-phase power. Which is highly unusual.

Tim Brogan: That's commercial.

Maria Dutton: That is to me that seems to me that seems to be clearly. Yeah that is a violation to me of the home occupation.

Chairman Taylor: I would agree. I would say that they can't have three-phase power (*Vice Chairman Schmitt spoke at same time saying: as part of a home occupation*) to run commercial equipment because you are at a commercial level. It definitely crosses the incidental threshold.

Vice Chairman Schmitt: It says to bring the property into compliance corrective action must be taken no later than January 9th. But then their appealing it. So. But it doesn't say what the corrective action would be. I mean I guess its.

Maria Dutton: They were saying removing the goats.

James Jackson: I was looking for a corrective action. Something may have been said well if you do this or upon this you have. Something to give them some guidance.

Chairman Taylor: That's what we would need. We would need the Town to say in order to take this from exceeding incidental use to in compliance with home occupation. How much of the business needs to be scaled back. Cause right now its all of it. That can't be. So it must be somewhere and I think that power really only rests with the Town.

Vice Chairman Schmitt: So what are you proposing?

Chairman Taylor: I know what I'm proposing but I don't know how to word it into a cohesive argument. That would be the problem. At least for the home occupation.

James Jackson: Because you can't make a decision and that decision eliminates their business.

Maria Dutton: Right.

Chairman Taylor: No. Cause their allow to have the business.

James Jackson: But its to how its scaled.

Vice Chairman Schmitt: I think that's what I'm a little unclear on. Upholding the violation. What does that actually mean? So if we said yes this is reasonable. This is a fair violation. Then they have to bring it into compliance. What does that look like?

James Jackson: That's what we're asking.

Vice Chairman Schmitt: Yeah. So they would continue with their. You said going back to how it was at whatever time. Is that go back to how it was at 2020, 2023? It sounds like if they.

Chairman Taylor: According to the Town they don't think there should be goats as part of this home occupation.

Maria Dutton: Period.

Chairman Taylor: Period. So no goats. Zero goats. Their allowed a cheese shed.

Vice Chairman Schmitt: That's where I'm a little confused. That seems to be part of the other one where. I mean that's a little more clear cut.

Chairman Taylor: I think that the approved application basically said we're going to have goats and they okay.

Maria Dutton: Because you can't make goat cheese without goats.

Chairman Taylor: Well you could. You could import the goat milk. But they also asked for a milking parlor.

Maria Dutton: Right.

Vice Chairman Schmitt: Right. Which was not approved. I now we got additional material.

Chairman Taylor: The location wasn't approved.

Vice Chairman Schmitt: Yeah. Yeah. Yeah.

Chairman Taylor: But they knew that there was a milking parlor. Which means they knew there was going to be something milked. And then the applicant says we had conversations. We explained to them we will have things that will be milked and that's what the milking parlor's for. That sounds reasonable to me. It doesn't sound reasonable to me for them to say we submitted plans for a milking parlor and the Town goes oh well we didn't know you'd have anything being milked. We just thought you were going to have a milking parlor for fun. No that doesn't make any since.

Vice Chairman Schmitt: Right. But the only evidence that we've evidence is hearsay is hearsay. Like I'm not saying that their not telling the truth but without having Mr. Camp here to.

Chairman Taylor: Well no their second document.

Vice Chairman Schmitt: Yes. But I'm saying that's the only evidence that we've seen is that document as far as (*unintelligible*).

Chairman Taylor: Yes, but that's an official document. So that's good enough for me. I don't know why the Town doesn't have a version of that and why we don't have a version of that. But.

James Jackson: They have a version.

Chairman Taylor: They have a version of it. And unless they've really AI'd that think up its. I mean it seems legit. We can always ask the Town if it is legitimate. Cause we don't have it. But.

Vice Chairman Schmitt: You guys made a copy of that, right? Or you have that now?

Connie Potter: I'll have to make a copy. I took a picture of it.

Lauren Kopishke: What document?

Connie Potter: The emails between Jeremy and them.

Chairman Taylor: No.

Vice Chairman Schmitt: And the 2019.

Connie Potter: 2019 email.

Vice Chairman Schmitt: Do we have a copy of the one from 2018, the permit of approval?

Connie Potter: For the shed or the home occupation? What are you talking about?

Vice Chairman Schmitt: It looks exactly like the.

Melanie Thornberg spoke from the audience: You guys have that because he brought it to the meeting when we got together.

Vice Chairman Schmitt: Now I'm drawing a blank on was that on the one or the two.

Lauren Kopishke: That was printed off our old permit.

Daniel Wells: No, just let them provide you with what their talking about.

Chairman Taylor: Its this. It looks exactly like this. But it's a 2019 version. She has a copy of it.

Connie Potter: Okay. Can I see that?

Chairman Taylor: Yes.

Connie Potter: Cause that's for the business license what your holding there.

Chairman Taylor: They have another one of these but it says 2019. Has some different information.

Connie Potter: But it probably is not a business license. It's a zoning minor or zoning major at the top.

Chairman Taylor: Could be, yeah.

Connie Potter: Which I think is for the shed.

Melanie Thornberg spoke from the audience: I think that's 2018. Here's the 2019.

Chairman Taylor: But it is official correspondence.

Connie Potter: Of course, absolutely. Absolutely.

Talking from the audience with the BZA members.

Tim Brogan: Is this the one you want to submit or?

Melanie Thornberg spoke from the audience: So this is the zoning approval with the unconfirmed locations (Chairman Taylor states: that one) and other permits related to electricity and water. You already have that one.

Chairman Taylor: The Gmail related stuff. But the actual permit looking one. That's the one. It clearly specifies on there that he's just waiting for location.

Connie Potter: We put that in the packet didn't we.

Chairman Taylor: And there's even a picture in here specifying location data of milking parlor.

(Multiple people talking unintelligible.)

Melanie Thornberg spoke from the audience: I have the attachment that had the description of what we were doing as a three page document.

Vice Chairman Schmitt: Yeah. That's in the packet though I think. Right.

Melanie Thornberg spoke from the audience: It should be. I thought it was.

Chairman Taylor: So they have this right here where it says this is where our sheds going to be and this is where we would to have our milking parlor. And then that extra document says oh please just tell me where your other buildings will be. Your milking parlor and stuff.

Vice Chairman Schmitt: This I think was the part that was submitted with their business license.

Melanie Thornberg spoke from the audience: This here says Thorny Ridge Farm, Happy Creek Cheese and hit has all the buildings and the location.

Chairman Taylor: So that means when they approved this they had all this information.

Tim Brogan: Except the location.

Chairman Taylor: He was aware of all of this and said yes. So he's aware of a cheese room. He's aware of a milking parlor. He doesn't know where its going to be but he's aware of it. So he's approving some of that. Now maybe he approved it error but it doesn't really matter. He said yes.

Tim Brogan: Its approved.

Chairman Taylor: And at that point it's a significant government action that has now taken place over a long period of time that by vesting by doing that it basically created a by-right situation. Where now their allowed to this because the government at some point said yes.

James Jackson: Which gave them a go.

Chairman Taylor: Which gave them a go. Then they invested significant time and energy into it. And so now they have some approval that they've used as justification. And its up to the Town to be clear, concise, know its own rules and say yes or no once they say yes.

Vice Chairman Schmitt: So was there anything. I guess I'm just like. So is this document right here is the only thing that was. There's this application with three pages of their operation and then this is all they get. They just get a stamp business is approved.

Maria Dutton: Yes.

Chairman Taylor: I'm guessing. That's why I was asking if there was permit. I would think that the cheese shed would a building permit. A separate thing beyond. Cause this is a business license. So there should be a building permit that comes with the cheese shed.

Vice Chairman Schmitt: But that didn't happen til 2019 it looks like.

Melanie Thornberg spoke from the audience: That's through the county.

Chairman Taylor: Oh that's through the county.

Melanie Thornberg spoke from the audience: Yes.

Chairman Taylor: Then there you go. I still think that the Town would have like a copy maybe or something. Who knows. Otherwise the Town won't know what buildings are permitted and not permitted. Cause their out there saying there's a bunch that are not permitted. Its like how do you know which ones permitted. Let's see the permit. Where's the permit. They must have it.

So I don't think its as cut and dry as simply saying the code doesn't allow you to make goats. You told them they could have goats.

Vice Chairman Schmitt: I don't know that I agree with you they told them you could have goats. That's where I really don't feel like its cut and dry. Because I'm not seeing anything here that says you can have goats. What I'm confused by is if I was reviewing this maybe I don't understand the process enough. But if I'm reviewing an application for a business license and I'm reviewing all the materials associated with it. And I believe that currently this is what would happen. The staff would say I'm seeing some problems in your application for this business license. So if I'm, if this piece of paper is saying yes this is approved as outlined in your application. Then I agree with you. But I'm not satisfied that that's what this is.

Chairman Taylor: That's all we have.

Vice Chairman Schmitt: Right. I understand that. I could see it. I understand. To me the approval. I do understand. I'm trying to figure out the. Okay we're supposed to assume that the administrator is right. I do understand why he made the decision. But I do feel like there's. I think where I'm getting stuck is, is there a preponderance of evidence that the Town they approved it and said yes you can do this.

Chairman Taylor: The Town admitted they approved it in 2019 in his statements. He said that they did approve the cheese shed. John stood up there and said.

Vice Chairman Schmitt: But I don't think the cheese shed to me. Maybe I'm missing something but I don't think the cheese shed means yes you can have goats. Approving a cheese shed, you know what I'm saying?

Chairman Taylor: Correct.

Vice Chairman Schmitt: That's where I'm getting a little stuck.

Chairman Taylor: What he was saying up there is that. So this right here. Proposed use is only allowed as a home occupation. So this right here approves the home occupation as submitted by them and described by them as to what their home occupation is. The only thing we have to go on is the things that they put in with their things saying this is our home occupation, this is what we'd like to do and they said okay as long as you following these rules.

Vice Chairman Schmitt: Said yes multiple times while Chairman Taylor was talking. Yeah it says to make and manufacture goat milk. I can't read it where it says because it says received. But to make and manufacture goat milk and cheese for human consumption. See attached.

Chairman Taylor: And then they have these attachments for the milking parlor. I'm sure they had like a little description of what they did and everything as well. They had a whole right up.

Maria Dutton: A whole thing of it.

Chairman Taylor: This came with it.

Vice Chairman Schmitt: Yeah, yeah, yeah. That's what I'm referencing as the.

Chairman Taylor: This approval is for these actions and they describe exactly what their going to do. Milk collection area. Animals will be milked. Like when he said yes this is a good home occupation. He was relying on what they submitted. So.

Maria Dutton: That lists animals

Chairman Taylor: So this lists goats being milked. So it doesn't say that we will have fifty goats, or twenty goats or whatever. But it does say we will have goats. And they said okay.

Vice Chairman Schmitt: So my question though is okay so then the cheese shed was approved but he milking parlor was not.

Chairman Taylor: Yes. And that would be like a building permitting thing.

Vice Chairman Schmitt: No, No. I understand but I guess I'm like is there any way to have. I don't now.

Chairman Taylor: But the other one of these that they had does kind of prove the milking parlor. He's just asking them where their putting it.

Maria Dutton: Yeah. All he said was the only reason that we didn't really basically (*unintelligible*) they had not determined the location.

Chairman Taylor: He was asking for the location. Now he could have still said no that locations bad. But he wouldn't ask for a location if he was like milking parlors a no go no matter where you put it.

Maria Dutton: Right.

James Jackson: So your just assuming that that's what he said.

Chairman Taylor: He's assuming that as long as you put in the correct spot then okay we'll go with it. But I need to know where. That's the thing that complicates this.

James Jackson: There's nothing there that says saying stop/go. There nothing here that says that.

Vice Chairman Schmitt: So if we uphold then the next step is. I don't know that can't probably factor in to our decision. Like the next step is them going to court, right?

Tim Brogan: They have the right to appeal it.

Vice Chairman Schmitt: That's if they appeal then the next step and then they go to and then.

Chairman Taylor: They could. Which is exactly why no matter what decision we make. Whether affirm, overturn or modify we have to include a why.

Vice Chairman Schmitt: Why we did it. Yeah.

Tim Brogan: So if the milking shed is the primary concern here so are they going back to milking by hand til such time as this gets straightened out? That's a lot of work. I'm sorry to bring that up.

Chairman Taylor: That would be a hypothetical. I don't know. Because there's two we're still going to have to rule on the keeping of the goats.

Vice Chairman Schmitt: This is going to be mute.

Chairman Taylor: But I think that if the home occupancy they approved involved some goats then the idea of them leaning on accessory use which clearly accessory use limited to rabbits. It's

a misinterpretation of the code on their part and that's understandable because livestock, livestock, livestock. It shouldn't be like that. You shouldn't use one word to mean two different groups of things. That is not good.

James Jackson: That's not for us to determine.

Chairman Taylor: Well I mean it kinda is.

James Jackson: I mean to say that livestock is specifically this.

Chairman Taylor: No. No. We can't determine what livestock means but we can say that livestock as a term is vague.

James Jackson: Exactly. Yes. True.

Chairman Taylor: Because it contradictory to itself. And in contractual documents contra proferentem means that any time there is an unknown the person who wrote it loses. Because they had the ability to write it. So if they say livestock and then they say livestock and then go on to say well livestock here means this does that mean the other livestock means that too? You can't define livestock two different ways.

Vice Chairman Schmitt: Right. It does specifically say breeding. And I didn't say anything in the urban agriculture that said you can breed.

Chairman Taylor: That's true. They may not be allowed to breed. So there may be they can have goats but they can't breed them. But I think milk requires breeding so I'm not sure how that falls so yes there is even more stuff to that. But once again you can say no and say yes. Like we can say your allowed to have goats but you can't breed them. We could technically truck them elsewhere and breed um and bring um back. It doesn't matter how they handle it. All that matters is they have a right to do certain things and don't have a right to do other things. How they handle it is up to them. That's why I initially asked can the property be rezoned. And if it's not over the ten acre limit and they won't let them rezone it there goes the simple solution.

Vice Chairman Schmitt: Right. But that. Yes, but that doesn't. I don't think that really has bearing on this right? Whether or not it can be rezoned. Like this isn't a.

Chairman Taylor: Correct. We're only doing that. I just. Its fact finding.

Vice Chairman Schmitt: Do you have a?

Chairman Taylor: Go for it.

James Jackson: We defined livestock.

Tim Brogan: It's a whole bunch of different critters.

James Jackson: Right. So since that's been defined/undefined livestock is (*unintelligible*). They referenced goats. Okay and they've referenced the goat milk. And so you also (*unintelligible*) milking. So all those factors come together when it comes to the cheese. So you have all these things that end up being a product and then with this product comes other things that's needed in support of this product. So you have the shed, the carport. You have other things that are sitting on the property itself that was not initially addressed. But its not so much that its assumed but you know that I guess as this goat milk as the goat goats livestock evolves these things come into play. And because they exist it's a part of their initial business.

Maria Dutton: Technically.

Chairman Taylor: But the business can only be so big.

James Jackson: Ok so now we're talking acreage. Now we're talking. Those are some factors here that we have to make decisions on. Decisions that we see. That's where we are.

Vice Chairman Schmitt: At the end of the day if this was done today. I don't know how you go back and correct it. If it was done today it wouldn't have been approved.

James Jackson: They submitted.

Vice Chairman Schmitt: I know you can't like go back and fix the. I know legally we can't do that. I'm just. That's where I'm getting a little stuck.

James Jackson: But they submitted information from emails, written documents that were read and it didn't say anything about them that they got a non-approval. They were included in their process of their paperwork. So you don't want to assume but because they continue to move forward in their business practices they would not have gone forward if there was a stop/go. Because they submitted information for the approval (*unintelligible*) and to garner understanding with questions back and forth and so they did not get a no you can't. They didn't get a yes you can. They just continued to move forward with nothing to impede their decision making process.

Chairman Taylor: I would say the did get a yes. That business license is a yes you can for something.

James Jackson: For something.

Chairman Taylor: For something.

James Jackson: But it wasn't fully defined. It is there.

Chairman Taylor: And this was submitted with the application.

James Jackson: Okay, good.

Chairman Taylor: So they submitted this and I mean it, when you read it their basically saying their making cheese products for human consumption on the property of 1205 Happy Creek,

Front Royal under the name Happy Creek Cheese. 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 animals to the production and distribution of the cheese will be strictly monitored and done and all this stuff all according to VDACS and everything. Its says: they'll be no sales. They're not going to do that because they can't do that. And no sales directly because its prohibited. But it says the milking equipment most of the supplies. I mean.

Vice Chairman Schmitt: It's the dairy goats.

Chairman Taylor: It says all aspects of the milking process. So and they submitted this with this and got an approval for a business license. Now maybe the guy should have read it more thoroughly but this is enough justification to say hey I got a go ahead here and then nobody came out within six months, eight months, a year, two years, three years, four years, five years. Nobody ever checked up on the whole thing. Saying hey, we should (*unintelligible*) for some goat milk. Maybe we should check up on that and see what. No, it wasn't until three-phase power. If the didn't ask for three-phase power they could of just kept right on going. And it would have just. Cause they had yes. Its not a secret business.

Vice Chairman Schmitt: But is the question like within is the three-phase power the.

James Jackson: Its commercial.

Vice Chairman Schmitt: No, no. I agree. So I'm saying. I guess I'm saying is that the.

Chairman Taylor: They shouldn't be allowed three-phase power. They shouldn't be allowed be allowed commercial equipment cause their clearly beyond home occupancy.

Vice Chairman Schmitt: I guess that's what I'm saying then. Is that, like is that the grounds for the violation then.

Chairman Taylor: We can't decide that. Only the Town can decide where incidental lies.

James Jackson: So when the statement was made all aspects at that point all aspects to include not to include wasn't stated there.

Chairman Taylor: So its all aspects of this milking, cheese making enterprise that fit within home occupancy. So that means no commercial equipment, no giant combines or nothing like that. So it has to be a home occupancy. They said yes to a home occupancy version of goat milking. Which means an incidental use of the property. So.

Tim Brogan: To me home occupation would be somebody that enjoys cleaning and they have their own little cleaning business. One person cleaning business or a fella down the street that has the attached garage to his house and he rebuilds transmissions for people. That's all done within the confines of the four walls. Now they were granted permission for an accessory building. I think I'm correct, John the home occupation for me to be able to look at that house and say that doesn't look exactly like the other one. Correct? Is that what you said?

John Ware: We can't answer any questions.

Tim Brogan: Okay. I'm sorry. That's what I heard correct?

Maria Dutton: He said you shouldn't be able to notice.

Chairman Taylor: You shouldn't be able to notice the thing happening.

Tim Brogan: To me. Now I've been around here a little while. I remember their beside the old Oden Farm. They had sheep from Happy Creek and 6th Street that intersection. There was horses on the south side of the road and on the north side of the road was cattle. There was a couple cattle farms through there that had cattle.

Chairman Taylor: Yes. So that's specific to the character of the neighborhood but it doesn't affect them because they bought after.

James Jackson: Right.

Tim Brogan: The land they are on at one time I believe had cattle on it. Cattle or sheep. But their not part of the Happy Ridge subdivision.

Chairman Taylor: No. Its just all about the zoning. I mean you can have a subdivision and ag butted up against to it but that's not how they have this.

Tim Brogan: Because it has to be ten acres or more?

Chairman Taylor: Correct. So this is zoned R-S and its been zoned that way for a very long time. Now not infinitely because everything was farm at some point. But it is currently R-S. So there are limitations to that. Like I said they approved it. They shouldn't have approved it. They should have said no and I think. I would. On item one with the whole raising goats and all that I would just overturn that. Throw that out. And on item two where it's the home occupation I would modify that to say there needs to be some hard numbers set about how big the business can be. Because they've approved a business which means that they've given. They approved a business which gave them vested rights. And they can't now strip them of their vested rights. The state code give (*unintelligible*). Because of a mistake that's fine but oh well that's the way it is now. So that means this will become legally non-conforming. Okay well there's other legally non-conforming's over there with horses and stuff. Its not the end of the world. But we do need to make sure that it doesn't expand into some massive dairy production. I don't know down the road. So it needs to stay a home occupancy. So we need to. I'm guessing we need to say modify there violation to say that no commercial operations. Must conform to that. Can't exceed two acres of whatever livestock land or certain number of goats. That what I don't. I don't know enough about the subject to know what limits to place. I would. If I had my druthers I would say what it is right now. No bigger. No more goats. No more buildings. No more expansion of the space that they currently have. Cause that's the easiest way to say this is it. Because the Town doesn't have a definition of incidental that's metrix we'll just say no bigger than you are now or you will get violations and that'll be a thing. So just its just like no more expansions. That's it. And then I would say well the community won't suffer for that. I don't think that's gonna be a thing.

Tim Brogan: Not at this time.

Chairman Taylor: That's right. But what are you going to do? You gonna shut down the whole I mean violate the whole business because they got something. Like they do have a legal thing to hang their hat on. But it's the boards decision. I'm only. This is what I think. So. Clare is feverously shuffling all these pieces of paper.

Vice Chairman Schmitt: I know I'm just trying to keep. Yeah. I just.

Chairman Taylor: It's a lot of slices of paper.

Maria Dutton: Its is. Yeah.

James Jackson: It makes sense to me to what you just said. And what they have now. This is it. And anything else over that, above that they need to get approval.

Chairman Taylor: Yep.

James Jackson: Yeah cause you can't shut their business down.

Tim Brogan: We don't want to.

James Jackson: You wouldn't want to do that.

Chairman Taylor: No. No. I don't think you can. I think the vested rights. Now will, depends on how much money they have into it, do they take it further up the chain. But I think at some point the court says yeah no you were told you could, you put in a bunch of money and that's a problem. But do we want them to pay lots of lawyers fees just to get that answer when we could very reasonably give that to them and that be the end of it. I mean.

Vice Chairman Schmitt: I don't think that. I mean. I don't think that has any bearing on this thought based on everything that I've read about much to my chagrin. I don't think we get to decide oh well we don't.

Chairman Taylor: Well when we modify we do. So I mean you would say.

Vice Chairman Schmitt: I know we can modify but I'm saying I don't think the cost of taking it further can factor in at all to our decision.

Chairman Taylor: Correct. I mean we can say it can't but.

Vice Chairman Schmitt: Yeah. I'm just saying I don't think that can't be a factor. It has to be. It has to be. I don't know that we're going to get anywhere but further discussion. It has to be basically like. I mean what you're saying makes sense that the Towns. I think you could argue that yes the Town said yes to something that does not appear to be something they should have said yes to.

James Jackson: But they did.

Chairman Taylor: But they did.

James Jackson: That's where we are.

Vice Chairman Schmitt: Yeah.

Chairman Taylor: So we have the. We only have the couple options. We can accept the Town's thing and go with the violations which will which more than. Because of number, I think it's one the livestock and breeding thing. Because of that if we go with that. That alone will kill their business. That will be the end of the business. They could go back to cheese just cheese making if they import milk to do it. But according to their own documents that they submitted with this that was never the intent. The intent was to have your own goats and make the cheese. I don't even know if the business would be viable if you could buy milk and then cheese it. So I don't. I think that just this one would close the whole business down. But if you add both and affirm both I think that's the end of the businesses.

Vice Chairman Schmitt: Right.

Chairman Taylor: Now we assume them to be correct. But in amongst that I'm also assuming Jeremy Campbell (*should be Camp*) to be correct. Who is the Planning and Zoning Administrator who approved the business. And he said yes. So is he correct? Are they correct but he's not. Or he's correct but their not. Because they're both the Town.

Tim Brogan: Rock and a hard place.

Chairman Taylor: If they.

Vice Chairman Schmitt: So the Zoning Administrator did have access to all this information when they made the decision except for maybe that one thing that was introduced tonight. But when they made the decision to issue the violations.

Chairman Taylor: Absolutely. Absolutely.

Vice Chairman Schmitt: I don't know. Should we vote? Or is there a motion on the table? Cause I don't know. I mean unless they want to discuss further.

Chairman Taylor: There will be two motions. One for each. So is everybody good?

BZA members said yes.

Chairman Taylor: So for. I'll go with item for business item number one which is 260001 that's the appeal of the Zoning Administrators' issuance of a Notice of Violation related to a violation of Town Code. Appellant was found to be raising and breeding livestock, specifically goats within the R-S Zoning District.

I would make a motion to overturn that. Due to the fact that the goats, the milking of the goats, having the goats as part of the business was I believe to be somewhat approved by the Town. I don't know to what extent, but I know that they told the Town they were going to have goats and the goats, and the Town said yes in some capacity. We don't know what capacity. But some capacity. So, I would say I make a motion to overturn business item 2600001.

Do I have a second?

Ms. Dutton: *I'll second it.*

Chairman Taylor: Okay. So we have a second. Connie can we have a vote.

Connie Potter: Vice Chairman Schmitt: This is for new business item 1? Yeah okay. Your motion is to overturn? Okay I vote no.

Chairman Taylor: I Vote Yes

Ms. Dutton: Yes

Mr. Brogan: Yes

Mr. Jackson: Yes

Chairman Taylor: Motion passes.

Chairman Taylor: Business item 2. Which is number 2600002. Is that right? Yeah. 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. Specifically, the Zoning Administrator found that the applicant has changed the exterior appearance of the dwelling or changed the character of the neighborhood and has outdoor storage of goods, materials and equipment on property located at 1205 Happy Creek Road.

I would make a motion to modify the violation. Sorry, no. Yes it would be a motion to modify the violation.

James Jackson: *Do we have to define the modification:*

Chairman Taylor: *Yes. So, the violation, how do I put it? Due to the fact that the business was approved previously in 2018 to have cheese making and goats (Maria Dutton said: and the shed) and the shed and all that stuff that goes with it, I feel that they have already accepted that the exterior appearance of the dwelling will be changed and they knew about it. And they were ok with it. But I, I accept that the home occupation requires it to be an incidental use. Which means the business cannot grow or expand beyond its current capacity. That includes number of goats, number of area under occupation by agricultural pursuits, and number of buildings related to those agricultural pursuits. They can't increase the square footage of that. That would be, I would, that would be my motion to modify the violation to keep. So that their no longer in violation as long as they don't change from where they are right now. As of this day. (James Jackson said: their current status) their current status.*

Do I have a second?

Mr. Jackson: Second.

Connie Potter: Mr. Brogan: Yes
Ms. Dutton: Yes
Mr. Jackson: Yes
Vice Chairman Schmitt: No
Chairman Taylor: Yes

Chairman Taylor: Motion passes.

Vice Chairman Schmitt: Is there any further discussion or no we don't discuss?

Chairman Taylor: No. That's done. The decision has been made. That closes everything for the new business portion of our agenda. We do however have more business that we have to take care of.

ELECTION OF OFFICERS

Chairman Taylor: First board business is it's a new year would be election of officers. Would anybody like to nominate someone for Chairman?

- Chairman

Motion to nominate Cody Taylor as Chairman.

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

- Vice Chairman

Motion to nominate Clare as Vice Chairman.

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

Chairman Taylor: So we have our new officers for the year. The last order of business is the BZA Annual Report. It's the last thing in your packets. We went over that so we just have to approve it.

OTHER BUSINESS

- 2025 BZA Annual Report

Chairman Taylor: The last order of business is the BZA Annual Report. It's the last thing in your packets. We went over that so we just have to approve it.

Motion to approve the 2025 BZA report prepared by Connie.

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

ADJOURNMENT

Motion to Adjourn

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

With no further business before the Board, the meeting was adjourned at 9:49 p.m.

Approved by the Board of Zoning Appeals
Date: 3/17/2026