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AGENDA

Board of Zoning Appeals
County of Prince George, Virginia
Organizational Meeting: Monday, April 25, 2022
County Administration Bldg. Boardroom, Third Floor
6602 Courts Drive, Prince George, Virginia

Business Meeting

6:30 p.m.

This meeting is being held in person and electronically in accord with Virginia Code Section 15.2-1413. The meeting is accessible by:

If you would like to participate in the meeting via Zoom –

<https://zoom.us/j/5053851421?pwd=V2pjSHFneFRUUE2bjNqQnR3emZoUT09>

Meeting ID: 505 385 1421

Password: 200726

One tap mobile

+19294362866,,5053851421#,,1#,200726# US (New York)

+13017158592,,5053851421#,,1#,200726# US (Germantown)

Dial by your location

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

During the public comment period you may raise your hand using the Zoom controls on your screen or press *9 on your phone. Visit the Zoom Help Center for more information. If you would like to view the meeting in real time use this link:

<https://www.youtube.com/c/princegeorgevirginia>

Public comments may be made in person during any meeting. You may also submit any public comments on our website at

https://www.princegeorgecountyva.gov/departments/board_of_supervisors/public_comment_form.php.

Any public comments received via Zoom, in person or by the website form up until the public comment section is closed by the Chairman of the Board of Zoning Appeals on April 25, 2022 shall be entered into the meeting minutes.

CALL TO ORDER – Madam Chair McAllister

Roll Call - Clerk

INVOCATION

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

ADOPTION OF AGENDA [1]

ORDER OF BUSINESS – Madam Chair McAllister

- A-1. Election of Vice Chair.
- A-2. Adoption of Meeting Minutes – January 24, 2022. [2]
- A-3. Adoption of the 2021 Annual Report. [3] **Tim Graves**
- A-4. Resolution – Mrs. Brown [4] **Julie Walton**

CITIZENS COMMENTS PERIOD - Madam Chair McAllister

The Citizens Comments Period is open to anyone who wishes to speak to the Commissioners on only topics that are not on the Agenda this evening. Please state your name and address and you will have three (3) minutes to speak.

NEW BUSINESS - PUBIC HEARING - Madam Chair McAllister

- P-1. **Special Exception SE-BZA-22-01:** Calvin Carabin requests a Special Exception pursuant to Section 90-203.1 of the Prince George County Zoning Ordinance to permit a private animal boarding place in a R-A, Residential Agricultural zoning district. A private animal boarding place means a place where four or more dogs, more than four months old, are kept for private use. The applicant is requesting to keep 13 dogs on the property. A Special Exception is required for the use if the dogs are kept on a residentially-used parcel that is less than one (1) acre in size. The subject property, identified as Tax Map 460(0A)00-009-0 and located at 11619 East Quaker Road, is approximately 0.94 acres in size and zoned R-A. The Comprehensive Plan indicates the property is suitable for Agriculture uses. [5] **Tim Graves, Planner I**

COMMUNICATIONS – Tim Graves

ADJOURNMENT - Madam Chair McAllister

MINUTES
Board of Zoning Appeals
County of Prince George, Virginia

January 24, 2022

County Administration Building, Board Room, Third Floor
6602 Courts Drive, Prince George, Virginia 23875

MEETING CONVENED. The Organization and Business meeting of the Prince George County Board of Zoning Appeals was called to order at 6:30 p.m. on Monday, January 24, 2022 in the Board Room, County Administration Building, 6602 Courts Drive, Prince George, Virginia by Mrs. Linda McAllister, Chair.

ATTENDANCE. The following members responded to Roll Call:

| | |
|------------------|--|
| Charles Leonard | Absent |
| Carol Woodward | Present via Zoom at her residence: 9611 Hidden Hills Drive |
| William Kreider | Present |
| Erma Brown | Present |
| Linda McAllister | Present |

Also present: Julie C. Walton, Director, Andre Greene, Planner II, Tim Graves, Planner I and Missy Greaves-Smith, Administrative Support Specialist II

INVOCATION. Mrs. Kreider provided the Invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG. Mrs. Brown led in the Pledge of Allegiance to the United States flag.

ADOPTION OF MEETING AGENDA. Mrs. McAllister asked the Board for a motion to approve the Meeting Agenda. Mr. Kreider made a motion to approve the Meeting Agenda as presented and Mrs. Brown seconded the motion.

Roll was called on the motion.

In favor: (4) Kreider, Brown, McAllister, Woodward

Opposed: (0)

Absent: (1) Leonard

ORDER OF BUSINESS.

A-1. ELECTION OF OFFICERS. Mr. Kreider nominated Mrs. McAllister to be the Chairman of the Board of Zoning Appeals for 2022. With no other nominations, roll was called on the nomination.

In favor: (4) Kreider, Brown, McAllister, Woodward

Opposed: (0)

Absent: (1) Leonard

Mrs. McAllister asked for nominees for the Vice-Chairman. Mrs. Brown nominated Mrs. Woodward for Vice-Chair of the BZA for 2022. With no other nominations, roll was called on the nomination.

In favor: (3) Kreider, Brown, McAllister,
Abstain: (1) Woodward
Absent: (1) Leonard

- A-2. BZA 2022 MEETING SCHEDULE.** Mrs. McAllister requested the Board to review the proposed meeting schedule for the BZA for 2022. With no discussion, a motion to approve by Mrs. Woodward was seconded by Mrs. Brown.

Roll was called on the motion.
In favor: (4) Kreider, Brown, McAllister, Woodward
Opposed: (0)
Absent: (1) Leonard

- A-3. ADOPTION OF THE MEETING MINUTES – JULY 26, 2021.** Mrs. McAllister asked the Board to review the meeting Minutes for the July 26, 2021 BZA meeting. Mrs. Woodward made a motion to approve the Minutes as presented and Mr. Kreider seconded the motion.

Roll was called on the motion.
In favor: (4) Kreider, Brown, McAllister, Woodward
Opposed: (0)
Absent: (1) Leonard

CITIZEN COMMENT PERIOD. At 6:38 p.m. Mrs. McAllister opened the Public Comment period to anyone who wished to come forward to speak to the Board on topics that were not on the Agenda. Citizens were advised to limit their comments to three (3) minutes.

With no one coming forward wishing to speak, the Public Comment period was closed at 6:39 p.m.

NEW BUSINESS - PUBLIC HEARING.

- P-1. VARIANCE REQUEST – VAR-21-02.** Request of David and Susan Berberich for a variance to the 35-foot rear yard requirement of the R-1 Limited Residential Zoning District, pursuant to Section 90-207(b) of the County Zoning Ordinance, to allow a deck addition 15 feet from the rear property line. The subject property, approximately 0.5455 acres in size, is located at 10919 Bland Ridge Drive and is identified as Tax Parcel 42A(01)0C-004-A.

Mr. Graves presented to the Board the Berberich's request.
Background Information:

- April 10, 2018: a ten (10) foot Administrative Variance to the thirty-five (35) foot rear yard setback granted to the prior owner (F. Lewis Wyche, Jr.) of the subject property. (= 25 feet effective rear yard setback)

- March 16, 2021: Applicants purchased the subject property and commenced construction shortly thereafter.
- Applicants requested variance from BZA (for 15 feet effective rear yard setback)

Applicants' Goal:

- Construct a 22' x 12' deck on the rear of the house with a rear setback of 15 feet

Applicants' Request:

- Variance of 20 feet to 35-foot rear yard requirement, for the deck

Variance Review Comments:

- Variance Criteria in Virginia Code § 15.2-2309, 1950
 - The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
(Staff finds that the property was acquired by deed on March 16, 2021)
 - The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; and
(Staff finds that the property most impacted by the reduced setback is the adjacent property to the north, which is owned by the Country Club of Petersburg, Inc. The applicants have secured a letter of support, dated November 19, 2021, from the president of the Country Club of Petersburg, Inc. The letter states that the Board of Directors of the Petersburg Country Club supports the applicant's variance request.)
 - The condition or situation of the property concerned is not of so general or recurring of nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; and
(Staff finds that the irregular shape of the lot in question is unique to the subject property and not of a general or reoccurring nature.)
 - The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
(Staff finds that the granting of the variance does not result in a use that is not otherwise permitted on the property.)
 - The relief or remedy sought by the variance application is not available through an administrative variance, special exception or modification of the applicable ordinance.

(Staff finds that an administrative rear yard setback variance of ten (10) feet was granted on April 10, 2018. The variance request of the applicants for a reduction of the required setback of 35 feet by an additional ten (10) feet is not permitted by an administrative variance and therefore requires approval from the Board of Zoning Appeals.)

Mr. Graves reviewed the possible considerations with the Board. He stated that the Board of Zoning Appeals must determine if the applicants' variance request meets the standards for a variance as defined in VA Code § 15.2-2201 and the criteria set out in VA Code § 15.2-2309.

If the Board decides to grant the variance, conditions may be imposed to mitigate impacts to adjacent properties. Staff has recommended conditions for the Board's consideration. Some of the highlighted conditions discussed were:

1. This Variance is for a 10-foot reduction to the rear yard setback requirement of 25 feet that as was established under the Administrative Variance approved April 10, 2018 for Applicant F. Lewis Wyche, Jr.
2. This Variance is specifically for the "Proposed 22' x 12' deck" as illustrated on the survey plat submitted with the variance application, which shall be located no less than 15 feet from the rear property line and shall not include any roof enclosure.
3. No future additions to the main structure or deck shall be permitted within the required 25-foot rear yard setback as established under the Administrative Variance approved April 10, 2018.
4. This Variance is granted on Tax Map 42A(01)0C-004-A and shall run with the land.

Mr. Graves advised the Board of the notifications that were required and comments received before this Public Hearing. The four (4) adjacent property owners were notified by mail on January 13, 2022. A legal ad ran for the request in the *Progress-Index* on January 13, 2022 and January 19, 2022. The applicant received a copy of this report prior to the BZA Hearing date. The applicant submitted a letter from an adjacent property owner (County Club of Petersburg, Inc.) stating no objections to the variance request.

Two additional comment letters, from adjacent property owners, were received supporting the approval of the variance.

1. Monday, January 17, 2022 (via email):
As a property owner that abuts the property at 10919 Bland Ridge Drive, I highly recommend the Berberich's be given the requested variance. Their property only enhances our neighborhood.
Bryant Palmore
10904 Bland Ridge Dr.
S. Prince George, VA.23805
2. Thursday, January 20, 2022 (via email)
In response to the notice of public hearing on the foregoing variance request of Mr. and Mrs. Berberich, I encourage the Board of Zoning Appeals to allow the variance to accommodate a deck addition, fifteen feet from the rear property line. I do not plan to attend the public hearing on January 24, 2044, but I request that this letter be entered into the record of the proceeding on this Variance Request.
F. Lewis Wyche, Jr.
6405 Courthouse Road
Prince George, VA 23875

Mr. Kreider asked for clarification about the utility easement in the rear of the property. Mr. Graves directed the question to the applicant and added the plat shows a ten (10) foot utility easement.

Mrs. Woodward inquired if the property owners would be allowed to add any types of shade covering or screening to the deck in the future. Mr. Graves stated the owners would not be allowed to add any permanent structure to the top of the deck. A roll out awning or pergola, for sun protection, could possibly be reviewed during the building permit process.

Mrs. McAllister asked if the rear of the property had any wetlands in the rear. Mr. Greene stated he had done two site visits and it was dry.

Mrs. McAllister questioned the applicants' placement of their new dwelling and inquired the need for a second variance on this property.

Mr. Berberich explained that they are requesting an extension of eight (8) feet for their deck. He clarified the questions in reference to the utility easement in the rear of the property. He stated the water and sewer connects are on the front side and the cable company uses the utility easement along the rear.

Mr. Kreider stated that the applicants created their own hardship. Mrs. Berberich reference the letter written from the Board of Directors of the Petersburg Country Club. The Petersburg Country Club's property is directly adjacent to the rear of their property and they have unanimously voted in favor of the request.

Mrs. McAllister asked Mrs. Woodward if she had any additional comments or concerns. She stated she puts a lot of trust in the evaluation staff has prepared. Mrs. Woodward expressed that the legal meaning of "hardship" has changed since she has been on the Board. The neighboring property owners have noted they are in favor of the request and the Country Club of Petersburg, the most affected property owner, has noted their support. Mrs. Woodward believes people should be able to use their property in a way that is appropriate and that is not violating our general zoning ordinances and allows them to make the most use of their property that does not impact negatively on their neighbors.

Mrs. Brown asked the applicants if they are satisfied with the conditions presented. Mr. Bererich stated he was satisfied with the conditions as presented.

Mrs. McAllister opened the Public Hearing at 7:21 p.m. to anyone who wished to for or against this case. With no one present or on Zoom wishing to speak, the Public Hearing was closed at 7:22 p.m.

Mrs. Woodward made a motion to approve VAR-21-02 with the conditions presented in the resolution. Mrs. Brown seconded the motion.

Roll was called on the motion.

In favor: (4) Kreider, Brown, McAllister, Woodward

Opposed: (0)

Absent: (1) Leonard

Mr. Kreider added the following comment with his vote:

“There is no one in this County that believes in property rights any more than I do. Somewhere along the line when you get in this chair up here, you have to think about everybody in this County, not just yourself. I think this is stretching the line, but I due to my comments to property rights, I say - yes.”

COMMUNICATION. Mr. Graves presented to the Board the following updates:

- A. Actions of the Board of Zoning Appeals
 - a. No cases are scheduled for the February 28, 2022 meeting date

ADJOURNMENT. At 7:25 p.m., Mrs. McAllister asked the Board if they had any additional questions. If not, she would entertain a motion to adjourn. Mr. Kreider made a motion to adjourn and Mrs. Brown seconded the motion.

Roll was called on the motion.

In favor: (4) Kreider, Brown, McAllister, Woodward

Opposed: (0)

Absent: (1) Leonard



**County of Prince George
Board of Zoning Appeals**

**2021 Annual Report
January – December 2021**

Adopted on

2021 Board of Zoning Appeals (BZA) Members

Linda E. McAllister, Chair
Erma R. Brown, Vice Chair
William D. Kreider
Charles G. Leonard, Chairman
Carol Dois Woodward

2021 Planning Division Staff Members

Julie C. Walton, DCA - Director of Community Development and Code Compliance
Andre Greene, Planner II
Horace Wade, III, CFM, Planner II (former)
Tim Graves, Planner I
Missy Greaves-Smith, Administrative Support Specialist II

Introduction:

§15.2-2308 (C), of the Code of Virginia, as amended, prescribes the duties of the local Board of Zoning Appeals. One of the duties is to provide an annual report to the Board of Supervisors. It specifically states "The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year." This document seeks to meet this Virginia State Code requirement as a direct linkage between the Prince George County Board of Zoning Appeals and the Prince George County Board of Supervisors.

2021 Meeting Summary:

January 25, 2021

The BZA held the 2021 Organizational Meeting in the Board Room and elected Linda E. McAllister as Chair and Erma R. Brown as Vice-Chair for 2021. The Board reviewed and adopted a Resolution regarding Procedures for Electronic Public Meeting and Public Hearings, a Policy Allowing for and Governing Participation of BZA Members by Electronic Means, the 2021 Meeting Dates, and the BZA 2020 Annual Report. Staff presented reports on actions of the Planning Commission and Board of Supervisors.

July 26, 2021

Heather Mackey from DEQ provided an educational presentation for the BZA and Staff pertaining to Resource Protection Area Exception Requests. The BZA held a public hearing and approved Special Exception Request SE-21-01 to permit a private animal boarding place on a residentially-used property which is less than 1 acre in size.

All other scheduled Business Meetings for 2021 were cancelled.

Planning Commission
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Zoning Appeals of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 25th day of April, 2022:

Present:

Linda E. McAllister, Chair
Carol Dois Woodward
William D. Kreider
Joshua Norris

Vote:

A-3

On motion of _____, seconded by _____, which carried _____, the following resolution was adopted:

RESOLUTION; COMMENDATION; MRS. ERMA R. BROWN; SERVICE ON PRINCE GEORGE COUNTY BOARD OF ZONING APPEALS

WHEREAS, Mrs. Erma R. Brown was appointed by the Board of Supervisors to represent Prince George County on the Board of Zoning Appeals beginning on November 1, 2008; and

WHEREAS, Mrs. Brown dutifully obtained her Certified Board of Zoning Appeals Program training in 2009; and

WHEREAS, Mrs. Brown was a leader on the Board of Zoning Appeals and served faithfully and willingly in leadership roles over her tenure, including as Chair of the Board of Zoning Appeals in 2017 and 2018 as well as Vice - Chair of the Board of Zoning Appeals from 2010-2016 and 2021-2022; and

WHEREAS, Mrs. Brown has served the citizens of Prince George County to the utmost of her ability for over twelve years;

NOW, THEREFORE, BE IT RESOLVED, That the Prince George County Board of Zoning Appeals this 25th day of April, 2022 hereby commends and thanks Mrs. Erma R. Brown for her dedicated service to the Board of Zoning Appeals and to the citizens of the County; and

BE IT STILL FURTHER RESOLVED, That this Board personally thanks Mrs. Brown for her many years of service to Prince George County in her role as member on the Board of Zoning Appeals and her many other roles in the community; and

BE IT STILL FURTHER RESOLVED, That the Board of Zoning Appeals and Planning staff wish Mrs. Brown much happiness and fulfillment in her future pursuits.

A Copy Teste:

Linda E. McAllister
Chair, Prince George County Board of Zoning Appeals

BZA SPECIAL EXCEPTION – SE-BZA-22-01
BOARD OF ZONING APPEALS STAFF REPORT – April 25, 2022

RESUME

REQUEST: The applicant would like to house up to thirteen (13) dogs on the property that he rents which is approximately 0.94 acres in size, located at 11619 East Quaker Road. A Special Exception is required for the use if the parcel is one (1) acre or less in size.

APPLICANT: Calvin Carabin

PROPERTY OWNER: James Herbert Williams

ADDRESS: 11619 East Quaker Road

CASE PACKET CONTENTS / ATTACHMENTS:

1. Resume
2. Draft Resolution
3. Sample Motions
4. Staff Report
5. Copy of Application with attachments
6. Copy of Statement and map from adjacent property owner
7. Copy of Public Notices: APO letter, map, mailing list, newspaper ad

Board of Zoning Appeals
County of Prince George Virginia

Resolution

At a regular meeting of the Board of Zoning Appeals of the County of Prince George held in the Board Room, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 25th day of April, 2022:

Present:

Linda E. McAllister, Chair
William D. Kreider
Joshua Norris
Carol Dois Woodward

Vote:

SPECIAL EXCEPTION SE-BZA-22-01: Calvin Carabin requests a Special Exception pursuant to Section 90-203.1 of the Prince George County Zoning Ordinance to permit a private animal boarding place in a R-A, Residential Agricultural zoning district. A private animal boarding place means a place where four or more dogs, more than four months old, are kept for private use. The applicant is requesting to keep 13 dogs on the property. A Special Exception is required for the use if the dogs are kept on a residentially-used parcel that is less than one (1) acre in size. The subject property, identified as Tax Map 460(0A)00-009-0 and located at 11619 East Quaker Road, is approximately 0.94 acres in size and zoned R-A. The Comprehensive Plan indicates the property is suitable for Agriculture uses.

BE IT RESOLVED that the Special Exception Application identified as SE-BZA-22-01 is hereby granted by the Board of Zoning Appeals as an amendment to the official zoning map with the following conditions:

1. This Special Exception is granted to Calvin Carabin for a Private animal boarding place for the housing of no more than thirteen total (13) dogs, inclusive of hunting dogs and non-hunting dogs, on the subject property identified as Tax Map 460(0A)00-009-0. This approval shall not be transferrable to future property owners or tenants, nor run with the land.
2. The number of dogs permitted to live on the property shall be reduced with the passing of each dog until no more than three (3) dogs live on the property, unless otherwise permitted in accordance with the County Code.
3. In effort to reduce instances of the dogs barking at passing wildlife and reduce impacts from odor reaching adjacent properties, the kennels shall be relocated so that they are as close as reasonably possible to the rear of the applicant's house, and behind a privacy fence that effectively screens the dogs from eyesight on adjacent properties.

4. All dogs shall be kept under appropriate supervision within the kennels or dwelling or a fenced area or leashed.
5. All areas associated with the keeping of the dogs shall be cleaned and made free of waste on a daily basis, and the property owner shall dispose of the waste in a proper manner which minimizes odor to the greatest extent possible.
6. This Special Exception may be revoked by Prince George County or by its designated agent for failure by the applicant to comply with any of the listed conditions or any provision of federal, state or local regulations.

Adopted on April 25, 2022 and becoming effective immediately.

Sample Motions – BZA Special Exception

APPROVE:

“I move that we APPROVE this request by adopting the Resolution.”

APPROVE WITH MODIFICATIONS TO THE RESOLUTION:

“I move that we APPROVE this request by adopting the Resolution, with the following modification(s) to the resolution:”

DENY:

“I move that we DENY this request because:

POSTPONE:

“I move that we POSTPONE this request until _____ to allow time for _____
(DATE OR MONTH)

(ACTION/EVENT)



BOARD OF ZONING APPEALS STAFF REPORT

Public Hearing April 25, 2022

SE-BZA-22-01 – Private animal boarding place

Applicant: Calvin Carabin

Case Manager: Tim Graves - (804)722-8678

I. Request

Application to the Board of Zoning Appeals for a Special Exception for a Private animal boarding place, in order to continue to house up to thirteen (13) dogs on the property.

II. Property

Address: 11619 East Quaker Road

Zoning District: R-A Residential Agricultural

Tax Map: 460(0A)00-009-0

Current Use: Single-family residential

Site Size: 0.94 acres

Comp Plan Land Use: Agricultural

Legal Owner: James Herbert Williams

Planning Area: Rural Conservation Area

RE Taxes Current?: Yes

Prior Zoning Cases: None

Figure 1: Aerial view of request area



Figure 2: Street View



III. Meeting Information

Board of Zoning Appeals Public Hearing April 25, 2022

IV. Background

1. In 2012, Prince George County amended the County Code to limit the number of dogs allowed on a residentially-used parcel of an acre or less in size and then amended the zoning ordinance to add "Private animal boarding place" as a use which may be permitted by special exception from the BZA.
2. In 2020, Planning & Zoning Staff (P&Z Staff) received a complaint from an adjacent property owner about the number of dogs on the subject property and the resulting impacts of noise and odor. Upon further investigation, staff discovered that the 2012 limitation on

dog ownership on certain lots was not being reviewed at the time of granting of dog licenses. P&Z Staff then engaged with the Treasurer's Office to implement a process to verify property size at the time that dog owners renew or apply for licenses for individual dogs or kennels.

3. After discovering that more dogs were being kept on the subject property than are permitted by Section 6-17 of the County Code, P&Z Staff reached out to Animal Services to investigate the violation. Section 6-17 reads as follows: *"No person shall keep more than three dogs over four months old on any residentially-zoned parcel, any parcel in a business zone that allows residential use or any residentially used parcel, regardless of zoning, of an acre or less, unless the board of zoning appeals approves a special exception in accordance with section 90.985(8) of the County Code."*
4. The County's Animal Control Officer, Sergeant Nicholas Wilder, ultimately brought the case to Court, where it was continued into 2021 largely due to COVID-19 delays before being dismissed for two reasons summarized by Sgt. Wilder:
 - o The complainant, Mr. Brockmeier was not present in court on the dismissal date. Mr. Brockmeier later stated the reason he did not attend is that he was not issued a subpoena to appear in court.
 - o The property owner was reported to be arranging with a neighbor to purchase a small parcel of adjoining land to increase the size of the property to greater than 1 acre, which would bring the kennel use into compliance with the county code.
5. A new case was later brought to Court and is still open while the applicant makes this request to the BZA in attempt to bring the property into compliance with the County Code.
6. The applicant contacted the County to request the application form for this request and submitted it on February 15, 2022.

V. Applicant Proposal

The applicant stated in their application that:

1. They have rented the property since December 2018.
2. They have permission from the property owner.
3. There are currently 13 hunting dogs on the property and no more will be added to the property. They wish to retain these 13 dogs on the property.
4. Each pen has no more than two dogs, with each dog having its own barrel to sleep in, and there is roofing over the pens to protect from weather.
5. The dogs are fed and watered daily, and pens are cleaned multiple times a week.

Followup questions *and answers* from Mr. Carabin:

1. Are there any additional (personal) dogs kept on the property, including inside the house, or is 13 representative of the total number of dogs that live on the property? *13 is representative of all dogs on the property.*
2. Do all of the dogs belong to you? *The dogs all belong to myself and my wife, Hannah Carabin.*
3. Provide a list of all of the dogs housed on the property, including name, age and breed. *—provided—*
4. What records do you keep to identify each dog? *We have records such as vet bills, name plate collars, and pictures of each dog since we have owned them.*
5. Do any friends visit and bring their dogs on a regular basis? *We do not have friends that regularly visit and bring other dogs over and no other dogs are kept on this property other than our own.*
6. Did you or the property owner complete a survey of the property to verify its size and locate the kennels/fencing in relation to property lines? *We are aware of where the markers are for the property lines and the kennels are kept within those lines. We requested a survey plat from a surveyor but it has not been completed at this time.*

Exhibits

Exhibit A - Aerial view 2020 showing distance from kennel to adjacent house owned by Gary Brokmeier (Approximate location of kennels marked in red)



Exhibit B - View of all kennels



Exhibit C - Close up view of two kennels



VI. Planning and Zoning Review Comments

1. Section 6-17 of the County Code states that *"no person shall keep more than three dogs over four months old on any residentially-zoned parcel, any parcel in a business zone that allows residential use or any residentially used parcel, regardless of zoning, of an acre or less, unless the board of zoning appeals approves a special exception in accordance with section 90.985(8) of the County Code."*
2. According to the above code section, no more than three dogs were allowed to live on the property at the time the owner began renting in December 2018. The owner sought licenses and was able to obtain them because County staff did not verify if the code requirements were met before granting the licenses.
3. The County originally discovered the property was being used to maintain more than three dogs as a result of a complaint from a neighbor, Gary Brokmeier, who has stated in prior emails to Staff that his concerns with this use of the property relate primarily to noise from barking dogs at various hours and odor from the dogs. Staff received a current statement from Mr. Brockmeier in response to the current request, which is attached to this report.
4. The Zoning Ordinance defines *Animal boarding place, private* as *"a place where four or more dogs, more than four months old, are kept for private use"*. Pursuant to Section 90-203.1(1), an *Animal boarding place, private*, may be permitted on this property by special exception granted by the board of zoning appeals.
5. The criteria for granting a Special Exception request are found in the Zoning Ordinance definition: *"a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare"*. With this in mind, Staff finds that:
 - a. The County's error in issuing more than 3 dog licenses on this property is not relevant to the definition of Special Exception, and therefore not relevant to the consideration of whether the request meets the criteria for granting a special exception.
 - b. The number and area of dogs on the property could be modified by reducing the number of dogs on the property, whether all at once or over a period of time, and/or by reducing kennel footprint, and/or by keeping some or all dogs indoors.
 - c. The location of the dogs on the property or relation to the neighborhood could be modified by moving the kennels on the property, and/or moving some or all dogs indoors, and/or by taking other measures to reduce off-site impacts from noise and odor.
 - d. Possible additional methods to reduce odor include additional screening, providing bedding and flooring which is replaced or washed daily, and/or changing methods of storing and disposing of waste.
 - e. The land use in its current form has not promoted the comfort and general welfare for at least one adjacent property owner.
6. Section 90-985(8) provides for the Board of Zoning Appeals to have the power and duty *"To grant special exceptions, upon conditions, to allow the keeping of more than three dogs on residentially zoned parcels, on business zoned parcels that allow residential uses, or any residentially used parcel, regardless of zoning, of an acre or less."* Staff has recommended conditions to apply to this request if the Board wishes to grant approval.

7. Staff reviewed GIS information and conducted an on-site inspection of the property on April 5, 2022, and observed the following:
- a. Single-family dwellings about the subject property on three of four sides, including Mr. Brokmeier's house at 11525 East Quaker Road, which is located to the northeast and situated approximately 270 feet from the kennels, according to a GIS measurement. (Exhibit A) Mr Brokmeier's house was not visible from the kennels, but his garage workshop building was.
 - b. The kennels are located to the rear of the house near the eastern property line.
 - c. There were 10 "hunting dogs" outside in kennels and the owner stated 3 "house dogs" were in the house during the visit.
 - d. The kennels consisted of fenced-in pens with barrels or small dog houses for the dogs, with dirt floors.
 - e. The cleanliness of the kennels is shown in photos in this report and the Powerpoint Presentation.
 - f. The dogs did not bark during the visit.
 - g. No odor was noticeable during the visit until standing within 5-10 feet of the kennels.
 - h. The owner stated that he disposes of excrement regularly in the trash bin which is picked up by a weekly garbage service.

VII. Supplemental Staff Review Comments

Animal Services – Sergeant Nicholas Wilder

"I am aware of this property and the issues that have been reported in the past concerning the dogs. There have been numerous reports made by a neighbor that the resident had too many dogs on the land. These complaints were investigated by two separate animal control officers. Both officers found that the resident was out of compliance with the code by having too many dogs for the property size. A summons was issued on two separate occasions for the violation. The first court case was dismissed and I am not aware of the final disposition of the second court case.

I have spoken to both animal control officers that have dealt with this situation, and both stated that the dogs were in good health and that the kennels were clean each time that they were on the property. I have observed these kennels personally on two occasion and the kennels were clean and the animals appeared healthy. I have spoken with the neighbor directly several times via phone, email, and in-person. I have been at the neighbor's house and did not smell anything from his residence. I did detect a little odor when he escorted me to the property line closest to the kennel.

I have spoken with Mr. Williams (property owner) and he first indicated that he was in the process of purchasing land from a neighbor to bring the kennel into compliance. He was given a period to make this happen, and it did not come to fruition as stated. Mr. Williams then indicated that he believed that the property was in compliance by size and was going to get a survey to prove this. I am not aware of a completed survey at this time. We discussed the totality of this case with the Commonwealth Attorney's Office and it was decided that the second summons for the county code violation for too many dogs on the property size would be sought.

If a BZA Special Exception is to be granted, I would suggest a clause to maintain the cleanliness of the kennels and the health of the animals be maintained in accordance with state and local codes. I would also suggest that a meeting be conducted with the neighbors to allow them to voice their concerns directly to the person or persons responsible for approving this request.

In reference to a recommendation from Animal Services, I feel it would be in the best interest of all those involved that we (Animal Services) maintain a sense of neutrality and not recommend approval for or against this request. The animal control officers will be left to investigate any issues that will arise once a decision is made.”

Treasurer’s Office – *Cherokee Crutchfield, Deputy Treasurer*

1. Calvin Carabin had a 20-dog kennel license in 2019 & 2020. A 20-dog kennel license accounts for up to 20 dogs on a given property.
2. According to our records, Mr. Carabin had 9 dogs in 2019 and 14 dogs in 2020.
3. Mr. Carabin currently does not have any licenses for his dogs. After the Treasurers’ office granted Mr. Carabin’s dog licenses in 2020, the Zoning office alerted the Treasurer’s office about the acreage requirement and since that time, no further dog licenses were granted to Mr. Carabin until the acreage requirement topic could be resolved.

Building Inspections Division – *Charles Harrison, Building Official*

The above department reviewed this request and had no comments.

VIII. Public Notice and Community Feedback

- The applicant and owner of the subject property and four (4) adjacent property owners were notified by mailing on April 13, 2022.
- A legal ad ran for the request in the *Progress-Index* on 4/12/22 and 4/19/22.
- The applicant received a copy of this report prior to the BZA Hearing date.
- A letter was received from adjacent property owner Gary Brokmeier in opposition of this request.

IX. BZA Consideration

The Animal Services department has indicated a neutral stance on this request for the reasons stated and recommended that appropriate conditions should be considered if the request is approved.

If the BZA finds it appropriate to approve this request, Planning & Zoning Staff has recommended conditions that seek to reduce the impacts on adjacent property owners and reduce the number of dogs on the property over time toward the required maximum of three (3) dogs. The recommended conditions are provided in Section X of this report. Staff has also provided sample motions for the BZA’s use.

Some factors that the BZA could consider when evaluating this request include:

- Whether the request fits the definition of Special Exception:
“if controlled as to number, area, location or relation to the neighborhood, [the use] would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare”
- Whether the proposed land use is appropriate for this particular property location
- Whether any changes to the recommended conditions are appropriate, or whether additional conditions would be appropriate to further reduce impacts on adjacent properties

X. Recommended Conditions

Staff has recommended the below conditions to accompany this Special Exception which are intended to ensure applicable code requirements are met and limit any expected impacts on adjacent property owners and the surrounding community.

1. This Special Exception is granted to Calvin Carabin for a Private animal boarding place for the housing of no more than thirteen total (13) dogs, inclusive of hunting dogs and non-hunting dogs, on the subject property identified as Tax Map 460(0A)00-009-0. This approval shall not be transferrable to future property owners or tenants, nor run with the land.
2. The number of dogs permitted to live on the property shall be reduced with the passing of each dog until no more than three (3) dogs live on the property, unless otherwise permitted in accordance with the County Code.
3. In effort to reduce instances of the dogs barking at passing wildlife and reduce impacts from odor reaching adjacent properties, the kennels shall be relocated so that they are as close as reasonably possible to the rear of the applicant's house, and behind a privacy fence that effectively screens the dogs from eyesight on adjacent properties.
4. All dogs shall be kept under appropriate supervision within the kennels or dwelling or a fenced area or leashed.
5. All areas associated with the keeping of the dogs shall be cleaned and made free of waste on a daily basis, and the property owner shall dispose of the waste in a proper manner which minimizes odor to the greatest extent possible.
6. This Special Exception may be revoked by Prince George County or by its designated agent for failure by the applicant to comply with any of the listed conditions or any provision of federal, state or local regulations.



BOARD OF ZONING APPEALS HEARING REQUEST

Department of Community Development and Code Compliance
Planning & Zoning Division
6602 Courts Drive, Prince George, VA 23875
(804) 722-8678 | www.princegeorgecountyva.gov

SE-BZA-22-0001

OFFICE USE ONLY

APPLICATION #:

SE-BZA-22-01

DATE SUBMITTED:

FEB 15 2022
BY: TWG

PLEASE FILL IN ALL BLANKS BELOW

REQUEST: (Briefly describe your request. Additional details must be attached in a separate letter or document.)

See attached Letter

REQUEST PROPERTY ADDRESS:

11619 east Quaker rd

TAX MAP PIN(S):

460(04)00
~~40000~~ - 009-0

ZONING DISTRICT(S):

R-A

TYPE OF REQUEST: (Check one)

- ☐ 1. Variance, pursuant to Section 90-985(2) (Provide code section from which you are requesting a variance: _____)
- ☐ 2. Appeal from an order, requirement, decision or determination, pursuant to Section 90-985(1)
- ☐ 3. Zoning Map Interpretation, pursuant to Section 90-985(4)
- ☐ 4. Appeal to decrease a 100' wide RPA buffer area, pursuant to Section 90-985(7)
- ☒ 5. Special Exception to allow 4 or more dogs on a residentially used parcel of 1 acre or less, pursuant to Section 90-985(8)

ATTACHMENTS (CHECK ALL THAT APPLY):

☒ **REQUEST DETAILS** - For all requests, provide a formatted document with pertinent background information, evidence, and reasons why you are making the request. For Variance Requests only (Type #1), provide a formatted document that presents evidence and answers how/why your request meets criteria items 1 through 3 in Section 90-985(a), and provide any conditions you may propose to adhere to as part of the variance request.

☐ **APPEAL DOCUMENTS** - For Appeal requests only (Type #2), provide documentation of the zoning decision or determination you are appealing, which contains the appeal language described under Section 90-990.

☐ **OTHER:**

NAME(S):

James Herbert Williams

MAILING ADDRESS (INCL. CITY, STATE, ZIP):

11021 EASY STREET Dupont, Virginia 23842

E-MAIL:

PHONE:

804-712-5506

NAME(S) (IF DIFFERENT THAN OWNER):

Calvin Carabin

RELATION TO OWNER:

Renter

MAILING ADDRESS (INCL. CITY, STATE, ZIP):

11619 east Quaker rd

E-MAIL:

Calvin.carabin@gmail.com

PHONE:

804-892-0586

OFFICE USE ONLY (COMPLETED AT TIME OF APPLICATION)

FEE DUE:

\$250

FEE PAID:

\$250

PAYMENT TYPE:

CHECK / CASH / CREDIT / DEBIT

CHECK # / TRANSACTION #:

1411

DATE RECEIVED:

3/3/22

RECEIVED BY:

Energov

INV:00001411 3/3

OWNER/APPLICANT AFFIDAVIT

The undersigned Property Owner(s) or duly authorized Agent or Representative certifies that this petition and the foregoing answers, statement, and other information herewith submitted are in all respect true and correct to the best of their knowledge and belief.

NAME:

JAMES HERBERT WILLIAMS

NAME:

Calvin Carabin

SIGNED:

James Herbert Williams

SIGNED:

Calvin Carabin

DATE:

2/15/2022

DATE:

2/15/2022

NOTARIZATION:

STATE OF VIRGINIA

COUNTY OF: Prince GeorgeSubscribed and sworn before me this 15th day of February, 20 22.Alexis Marie Landman

Notary Public

My Commission expires: January 31st, 20 22

To whom this may concern,

My name is Calvin A Carabin and I am requesting a special exception to allow more than 4 dogs on a residentially used parcel of 1 acre or less. I have lived at 11619 East Quaker Road since December of 2018 renting from James Herbert Williams of Disputanta. I have hunting dogs on this property that falls just under one acre at 0.94 acres. I do have permission from my landlord Mr. Williams to have these hunting dogs on the property. I have held a kennel license as required by Prince George County until 2021 when I was told I would no longer be able to hold one due to the amount of acreage and number of dogs on the property. My hunting dogs are very well maintained and taken care of. Each pen has no more than 2 dogs, each dog having its own barrel to sleep in, and roofing over the pens to protect from weather. They are fed and watered daily, and pens are cleaned multiple times a week to ensure cleanliness for the dogs. I am requesting a special exception to allow more than 4 dogs on the property.

Currently, there are 13 dogs on our property and there will be no more added to the property. Animal control has been out multiple times to evaluate the dogs and pens, each time stating the dogs are very healthy and well taken care of. Any issues I have ever had with animal control, or the pens has immediately been corrected or taken care of. Please take this request into consideration, my wife and I love these dogs like they are family and would do anything in the world for each and every one of them. Please let me know if there is any additional information needed or if there is anything I can do to help throughout this process.

Thank you for your time and consideration.

Calvin Carabin

INVOICE INV-0001411
FOR PRINCE GEORGE COUNTY, VA

BILLING CONTACT
 CALVIN CARABIN
 11619 EAST QUAKER ROAD
 DISPUTANTA, VA 23842



| INVOICE NUMBER | INVOICE DATE | INVOICE DUE DATE | INVOICE STATUS | INVOICE DESCRIPTION |
|----------------|--------------|------------------|----------------|---------------------|
| INV-0001411 | 03/03/2022 | 03/03/2022 | Paid in Full | NONE |

| REFERENCE NUMBER | FEE NAME | TOTAL |
|----------------------------|----------------------------------|----------|
| SE-BZA-22-0001 | PGC Special Exception to the BZA | \$250.00 |
| 11619 E Quaker Rd VA 23842 | SUB TOTAL | \$250.00 |

| |
|--|
| REMITTANCE INFORMATION Prince George County, VA 6602 Courts Drive P.O. Box 68 Prince George, VA 23875 |
|--|

TOTAL **\$250.00**

STATEMENT REFERENCE BOARD OF ZONING APPEALS HEARING REQUEST # SE-BZA-22-0001

'Special Exception to Zoning' Application # SE-BZA-22-0001

I wish to formally express my **OBJECTION** to approval of this 'Special Exception' request based on several factors.

The renter at 11619 E Quaker Rd., Mr. Calvin A. Carabin, has requested special exception to maintain 13 dogs on the .94 acre parcel of property, with home, that he rents.

County Code 78.2-6-17 allows 3 dogs on a property which is 1 acre or less. Mr. Carabin states that there are 13 dogs in his kennels, well beyond the code restriction. I do not however believe that the dogs inside the house itself on this property are included in that count. The location of the kennels is nearly centered on the 3 adjacent properties affected by their existence (as depicted on the attached map). **The significance of this location is the inconvenience and disruption it creates to the surrounding properties and their occupants with both waste odors and noise throughout the day and night (2 additional code issues).**

County Code 78.2-6-14 states that odors generated by the presence of these dogs cannot be detected beyond the owner's property line. --- The kennels themselves are located within 15-20 feet of the owner's property line. It is virtually impossible to contain these waste odors to the owner's property as the creation of the sources (multiplied 13 times) is a continuous event. Whenever there is a breeze, the odors will emanate to the surrounding areas. As my location is north of the kennels, when it gets hot and humid in the summer and these breezes come from any southerly direction (which occurs throughout the summer months), that odor emanates to my location. I documented a log for the period May – October 2020 at the recommendation of the Prince George Animal Control Office and noted foul odors from dog waste on 20 separate occasions. I notified the authorities 7 times about the problem during that period (allowing for time to correct the issue between notifications, as advised by the Animal Control Officer).

County Code 54-23.1 states that noise restriction hours are daily from 10PM to 6 AM. Specifically; To allow any animal or bird except farm animals between the hours of 10:00 p.m. and 6:00 a.m. to create noise such that it is plainly audible at least once a minute for ten consecutive minutes (i) inside the confines of a dwelling unit, house or apartment of another; or (ii) **at 50 or more feet from the animal** or bird. The dogs to which this hearing refers, are **not pets**, but as Mr. Carabin states, are '**hunting dogs**.' Their job is to bark or alert on game. Since we live away from built up areas, we have a variety of animals including deer, coyote, fox, possum, racoons, and other dogs that roam around **at night**. When any of the above are detected by the dogs, it triggers a barking frenzy which can, and often does, go on for hours (day and night). The dogs often bark on the average of 5 ½ to 6 hours per 24-hour period and most frequently, **at night**. During the same period noted above, (May – Oct 2020) these dogs woke me up **at least once** per night on 28 separate occasions between the hours of 10PM and 6AM, barking incessantly. My home is located well beyond the stated 50 feet and we never leave any windows and doors opened overnight (central air and heat). The other affected residences, 11609 and 11621, are even closer to the kennels than mine.

The disruption to the peace and serenity of the surrounding area is an extreme annoyance. It creates stress which can lead to further complications such as health issues. It defeats the purpose of why many people decide to move out of the cities and into the county's more rural areas in search of a more secure, relaxed environment (an environment which we have enjoyed for 24 of the last 26 years).

Gary M. Brokmeier



Legend

- Schools
- Firestations
- Political Boundaries
- Taxparcels
- Access Easements
- Wetlands
- RPA

Map edited by
Gary Brokmeier
on 5 April 2022

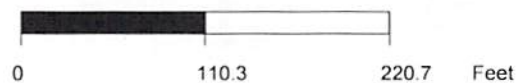
Notes

Kennel located on
property line nearly
centered on 4
addresses shown.



The information contained in this data should not be used as a "legal description". Map information aims to be accurate, but accuracy and completeness is not guaranteed.

Copyright, 2020 County of Prince George, VA



Map Scale 1: 1,324

4/4/2022





County of Prince George, Virginia

"A global community where families thrive and businesses prosper"

April 13, 2022

BOARD OF ZONING APPEALS - NOTICE OF PUBLIC HEARING

Dear owner, agent or occupant of each parcel that is abutting, immediately across the street or road, or within close proximity of the property affected:

This is notification that the Prince George County Planning Commission will hold a public hearing on **Monday, April 25, 2022 beginning at 6:30 pm** to consider the following request that involves the Prince George County Zoning Ordinance:

SPECIAL EXCEPTION SE-BZA-22-01: Calvin Carabin requests a Special Exception pursuant to Section 90-203.1 of the Prince George County Zoning Ordinance to permit a private animal boarding place in a R-A, Residential Agricultural zoning district. A private animal boarding place means a place where four or more dogs, more than four months old, are kept for private use. The applicant is requesting to keep 13 dogs on the property. A Special Exception is required for the use if the dogs are kept on a residentially-used parcel that is less than one (1) acre in size. The subject property, identified as Tax Map 460(0A)00-009-0 and located at 11619 East Quaker Road, is approximately 0.94 acres in size and zoned R-A. The Comprehensive Plan indicates the property is suitable for Agriculture uses.

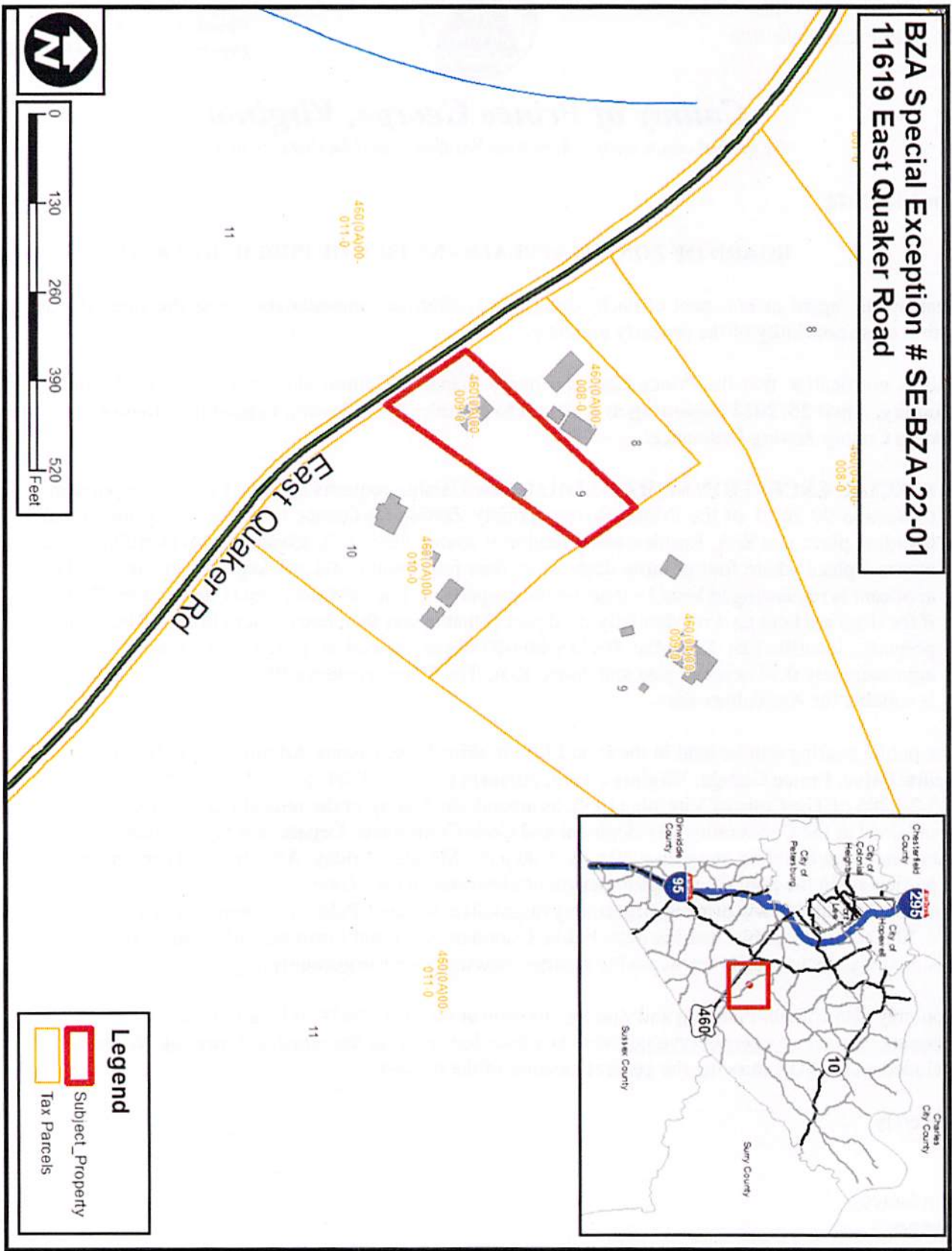
The public hearing will be held in the Board Room, third floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia 23875, pursuant to §15.2-2204, §15.2-2225, §15.2-2232, and §15.2-2285 of The Code of Virginia (1950, as amended). A copy of the related material may be reviewed or obtained at the Community Development and Code Compliance Department in the County Administration Building between 8:30 a.m.-5:00 p.m., Monday-Friday. All interested persons are invited to participate in the public hearings in person or electronically by Zoom. A live video stream will be available at https://www.princegeorgecountyva.gov/live_stream/. Public comments can be submitted prior to 4:30 p.m. on the public hearing date. Public Comment submittal forms and information on accessing this meeting electronically are available at <https://www.princegeorgecountyva.gov>.

You may also contact Planning and Zoning Division at (804)722-8678 or by e-mail at planning@princegeorgecountyva.gov with any questions prior to the scheduled meeting. We have included a GIS Map showing the general location of the request.

Sincerely,

Tim Graves
Planner

BZA Special Exception # SE-BZA-22-01 **11619 East Quaker Road**



Legend

- Subject_Property
- Tax Parcels

BROKMEIER GARY M & CAROL S
11525 E QUAKER RD
DISPUTANTA, VA 23842

WHITE TROY A
2203 GORDON ST
HOPEWELL, VA 23860

WILLIAMS JAMES H & ELIZABETH S
11021 EASY ST
DISPUTANTA, VA 23842

ARCHER JEFF & FELICIA
11621 E QUAKER RD
DISPUTANTA, VA 23842

HEATH SHERRY D TRUSTEE
12000 E QUAKER RD
DISPUTANTA, VA 23842

CARABIN CALVIN & HANNAH
11619 E QUAKER RD
DISPUTANTA, VA 23842

**PUBLIC NOTICE
PRINCE GEORGE
COUNTY**

Notice is hereby given to all interested parties regarding the following public meeting: The Prince George County Board of Zoning Appeals will hold a public hearing on Monday, April 25, 2022 beginning at 6:30 p.m. concerning the following request:

Special Exception SE-BZA-22-01: Calvin Carabin requests a Special Exception pursuant to Section 90-203.1 of the Prince George County Zoning Ordinance to permit a private animal boarding place in a R-A, Residential Agricultural zoning district. A private animal boarding place means a place where four or more dogs, more than four months old, are kept for private use. The applicant is requesting to keep 13 dogs on the property. A Special Exception is required for the use if the dogs are kept on a residentially-used parcel that is less than one (1) acre in size. The subject property, identified as Tax Map 460(0A)00-009-0 and located at 11619 East Quaker Road, is approximately 0.94 acres in size and zoned R-A. The Comprehensive Plan indicates the property is suitable for Agriculture uses. The public hearing will be held in the Board Room, third floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia 23875, pursuant to §15.2-2204, §15.2-2225, §15.2-2232, and §15.2-2285 of The Code of Virginia (1950, as amended). A copy of the related material may be reviewed or obtained at the Community Development and Code Compliance Department in the County Administration Building between 8:30 a.m.-5:00 p.m., Monday-Friday.

All interested persons are invited to participate in the public hearing in person or electronically by Zoom. A live video stream will be available at https://www.princegeorgecountyva.gov/live_stream/. Public comments can be submitted prior to 4:30 p.m. on the public hearing date. Public Comment submittal forms and information on accessing this meeting electronically are available at

<https://www.princegeorgecountyva.gov>.

Tim Graves
Planner

(804) 722-8678

April 12, 19, 2022 No. 7154275