

ORDINANCE NO. 08-18()

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, Article II, Basic Regulations, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 6.4 Nonconforming lots
- Sec. 10.2.1 By right
- Sec. 10.2.2 By special use permit
- Sec. 10.4 Area and bulk regulations

By Adding:

- Sec. 5.1.45 Country stores

Chapter 18. Zoning

Article 1. General Provisions

Sec. 3.1 Definitions

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~~Country Store: A retail store, the ground floor area of which is four thousand (4,000) square feet or less and which offers store whose primary use is to offer for sale a wide variety of goods retail merchandise.~~

Country Store, Class A: A country store located in a historic country store building, and which may include accessory uses including those expressly authorized in section 5.1.45.

Country Store, Class B: A country store located in a non-historic country store building, and which may include accessory uses including those expressly authorized in section 5.1.45.

Country Store Building, Historic: A building whose primary use at any time on or prior to October 8, 1958 was a country store.

Country Store Building, Non-Historic: A building constructed after October 8, 1958 whose primary use at any time after that date was a country store.

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Article 2. Basic Regulations

Sec. 5.1.45 Country stores

Each country store, Classes A and B, shall be subject to the following, as applicable:

- a. Country store, Class A. Each country store, Class A, shall be subject to the following:

1. Primary use. At least fifty-one percent (51%) of the gross floor area of a historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(a)(2)(a).
2. Accessory uses. The following uses are permitted as accessory uses:
 - a. Accessory food sales. Accessory food sales, which may include, but are not limited to, luncheonettes, snack bars, refreshment stands and other restaurant uses. Interior seating for luncheonettes, snack bars, refreshment stands and other restaurant uses shall not exceed twenty percent (20%) of the total gross floor area of the country store use. An additional twenty percent (20%) of the total gross floor area of the country store use shall be allowed as exterior seating.
 - b. Single family dwelling and offices. Up to forty-nine percent (49%) of the gross floor area of an historic country store building may be used for one single family dwelling and/or one or more offices.
3. Exemptions. Country stores, Class A shall be exempt from sections 4.1.2, 4.1.3, 4.12.6, 4.12.13, 4.12.14, 4.12.15, 4.12.16(a) and (b), 4.12.17, 4.12.18, 4.12.19, 6.3 (B), (F) and (G), 6.4(D), 32.7.2.7, 32.7.2.8, and 32.7.9.
4. Building size. An historic country store building shall not exceed the gross floor area of the building as it existed on October 8, 2008 or four thousand (4,000) square feet gross floor area, whichever is greater.
5. Front yard setback. The following minimum front yard setback shall apply:
 - a. Building satisfies minimum front yard setback. If, on October 8, 2008, a historic country store building satisfies the minimum front yard setback set forth in section 10.4, then that setback shall apply.
 - b. Building does not satisfy minimum front yard setback. If, on October 8, 2008, a historic country store building does not satisfy the minimum front yard setback set forth in section 10.4, the minimum front yard setback shall be the distance between the building and the street, road or access easement on October 8, 2008 and that distance shall not be thereafter reduced. An enlargement or extension of the building shall: (i) be no closer to a right-of-way than the existing structure or footprint; (ii) be set back from the street, road or access easement the minimum distance required by the Virginia Department of Transportation to provide sight distance; and (iii) comply with the rear and side yard setback requirements, unless they can be reduced pursuant to section 4.11 of this chapter.
6. Entrances. No existing entrance for a new use shall be used until the Virginia Department of Transportation approves the entrance to the site. Except for those changes to the entrance required to meet applicable design standards, provide adequate sight distance and safe and convenient access as determined by the county engineer, each existing entrance shall retain its existing site character as determined by the director of planning.
7. Sewage disposal systems. Notwithstanding any other provision of this chapter, if an on-site conventional sewage disposal system cannot be approved:
 - a. Off-site conventional sewage disposal system. The zoning administrator may approve a conventional sewage disposal system to serve a country store and its accessory uses that is located on an abutting lot, provided that the owner obtains

from the owner of the abutting lot an easement and the deed of easement is in a form acceptable to the county attorney that provides perpetual access to the sewage disposal system to allow its installation and maintenance.

b. *On-site nonconventional sewage disposal.* The zoning administrator may authorize an on-site nonconventional sewage disposal system if the applicant demonstrates to the satisfaction of the zoning administrator that: (i) a conventional sewage disposal system cannot be provided on-site for the country store use only; (ii) the lot on which the country store use is located cannot be enlarged by boundary line adjustment or subdivision; (iii) a conventional sewage disposal system cannot be located on any abutting lot owned by the applicant because of a physical condition or limitation of that lot including, but not limited to, topography, soil conditions, or existing improvements on the abutting lot (hereinafter, a “physical condition or limitation”); (iv) a conventional sewage disposal system cannot be located on any abutting lot that is under different ownership than the lot on which the country store is located because of either a physical condition or limitation or the owner’s refusal to grant an easement; and (v) the Virginia Department of Health approves the nonconventional sewage disposal system. In authorizing a nonconventional sewage disposal system, the zoning administrator may require that the applicant maintain the system as recommended by the Virginia Department of Health or as required by law.

c. *Systems defined.* For the purposes of this subsection, a “conventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that uses a subsurface soil absorption system; a “nonconventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that does not use a subsurface soil absorption system including, but not limited to, a Type III system regulated under 12 VAC 5-610-250(C).

b. *Country store, Class B.* Each country store, Class B, shall be subject to the following:

1. *Primary use.* At least fifty-one percent (51%) of the gross floor area of a non-historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(b)(2)(a).

2. *Accessory uses.* The following uses are permitted as accessory uses:

a. *Accessory food sales.* Accessory food sales, which may include, but are not limited to, luncheonettes, snack bars, refreshment stands and other restaurant uses. Interior seating for luncheonettes, snack bars, refreshment stands and other restaurant uses shall not exceed twenty percent (20%) of the total gross floor area of the country store use. An additional twenty percent (20%) of the total gross floor area of the country store use shall be allowed as exterior seating.

b. *Single family dwelling and offices.* Up to forty-nine percent (49%) of the gross floor area of the non-historic country store building may be used for one single family dwelling and/or one or more offices.

3. *Exemptions.* Country stores, Class B, shall be exempt from section 32.7.2.8.

4. *Building size.* A non-historic country store building shall not exceed the gross floor area of the building as it existed on October 8, 2008 or four thousand (4,000) square feet gross floor area, whichever is greater.

5. *Front yard setback.* The following minimum front yard setback shall apply:

- a. *Existing building satisfies minimum front yard setback.* If, on October 8, 2008, an existing non-historic country store building satisfies the minimum front yard setback set forth in section 10.4, then that setback shall apply.
- b. *Existing building does not satisfy minimum front yard setback.* If, on October 8, 2008, an existing non-historic country store building does not satisfy the minimum front yard setback set forth in section 10.4, the minimum front yard setback shall be the minimum required by the Virginia Department of Transportation to provide sight distance.
- c. *New building.* Each non-historic country store building established on and after October 8, 2008 shall comply with the minimum front yard set forth in section 10.4.

6. *Entrances.* No existing entrance for a new use shall be used until the Virginia Department of Transportation approves the entrance to the site. Except for those changes to the entrance required to meet applicable design standards, provide adequate sight distance and safe and convenient access as determined by the county engineer, each existing entrance shall retain its existing site character as determined by the director of planning.

c. *Sale of gasoline and other fuels.* If a special use permit is granted for the sale of gasoline and other fuels, the sale of gasoline from dispensers shall be limited to one multiple product dispenser or one dispenser containing no more than six nozzles, not including nozzles for diesel fuel.

d. *Pre-existing country stores.* Any country store existing before and continuing on and after October 8, 2008 that was authorized by a special use permit or a conditional use permit (the "permit") granted by the board of supervisors shall be subject to the following:

1. *Country store, Class A.* If the country store qualifies as a country store, Class A, the use is subject to section 5.1.45 and the permit and its conditions are of no further force or effect, provided that if the permit or a modification, waiver, variation, or a variance authorizes what would otherwise be allowed only by a modification or waiver of the requirements of section 5.1.45 granted under section 5.1, the country store, Class A and/or the historic country store building as approved, except for approvals that pertained to the sale of gasoline from dispensers, shall be deemed to be conforming to section 5.1.45.

2. *Country store, Class B.* If the country store qualifies as a country store, Class B: (i) if the permit has a condition that is more restrictive than the applicable regulations in section 5.1.45, the applicable regulations in section 5.1.45 shall apply; and (ii) if the permit or a modification, waiver, variation, or a variance authorizes what would otherwise be allowed only by a modification or waiver of the requirements of section 5.1.45 granted under section 5.1, the country store, Class B and/or the non-historic country store building as approved, except for approvals that pertained to the sale of gasoline from dispensers, shall be deemed to be conforming to section 5.1.45.

e. *Continuation of accessory uses.* Notwithstanding any other provision of this chapter, if a country store, Class A or Class B, use discontinues, an accessory use authorized by sections 5.1.45(a)(2) or 5.1.45(b)(2) may continue for up to two (2) years thereafter even though a country store, Class A or Class B use is not reestablished during that period.

Sec. 6.4 Nonconforming lots.

A nonconforming lot may continue, subject to the provisions, conditions and prohibitions set forth herein.

A. *Physical changes to a nonconforming lot.* A nonconforming lot may be changed as follows:

1. *Area or width.* The area or width, or both, of a nonconforming lot may be increased to make the lot less nonconforming.

2. *Boundary line adjustments.* The boundary of a nonconforming lot may be adjusted provided that one lot sharing the boundary to be adjusted is a conforming lot and the boundary line adjustment does not make the conforming lot nonconforming or the nonconforming lot more nonconforming.

3. *Public dedication or eminent domain.* The area of a nonconforming lot may be reduced by dedication for a public purpose or by the exercise of eminent domain.

B. *Uses allowed on a nonconforming lot.* A nonconforming lot may be used as though it satisfies the zoning regulation that makes it nonconforming, provided that:

1. The use is either a nonconforming use or is a use that complies with the zoning regulations applicable to the district in which the lot is located; and

2. The zoning administrator determines that the lot may be occupied consistently with the public health, safety and general welfare.

C. *Division, combination, or adjustment of boundary line of nonconforming lot authorized.* A nonconforming lot may be divided, combined with any other lot, or have one or more of its boundary lines adjusted, provided:

1. The resulting lot or lots comply with the requirements applicable to the district in which the lot is located and all other applicable requirements of the Albemarle County Code; ~~or~~

2. In the opinion of the zoning administrator, the resulting lot or lots more substantially conform to the requirements of section 4.0 (general regulations) of this chapter and the area and bulk regulations applicable to the district in which the lot is located, and comply with all other applicable requirements of the Albemarle County Code; or

3. The resulting lot or lots serve a country store, Class A or B, and the division, combination or boundary line adjustment is required to allow the use to meet the requirements of the Virginia Department of Health and the location of all structures on the resulting lot or lots will not become nonconforming or more nonconforming, and the size of the resulting lot or lots will not become more nonconforming.

D. *Setbacks applicable to a nonconforming lot.* The current front, rear and side yard minimum setbacks applicable to the district in which the lot is located shall apply to a nonconforming lot; provided, that if any such setback is thereafter reduced as a result of an amendment to the setbacks applicable to the district in which the lot is located, and in effect when an existing structure is extended or enlarged, then that reduced setback shall apply.

E. *Effect of change of ownership.* A change of the ownership or occupancy of a nonconforming lot shall not affect the status of the nonconforming lot.

(§§ 6.1.1, 6.1.2, 6.5.1, 6.5.2, 6.5.4, 12-10-80, 4-15-81, 9-21-88, 6-14-89, 9-9-92; Ord. 00-18(4), 6-14-00)

State law reference – Va. Code § 15.2-2307.

Article 3. District Regulations

Sec. 10.2.1 By right

The following uses shall be permitted in any RA district subject to the requirements and limitations of these regulations:

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24. Country store, Class A (reference 5.1.45).

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Sec. 10.2.2 By special use permit

The following uses shall be permitted only by special use permit approved by the board of supervisors pursuant to section 31.2.4: (Added 10-9-02)

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22. Country store, Class B (reference 5.1.45).

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52. Sale of gasoline and other fuels in conjunction with a country store, Class A or Class B (reference 5.1.45).

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Sec. 10.4 Area and bulk regulations

Area and bulk regulations within the RA, rural areas, zoning district are as follows:

REQUIREMENTS	DIVISIONS BY RIGHT (Amended 8-14-85)	DIVISIONS BY SPECIAL USE PERMIT (Amended 8-14-85)
Gross density	0.5 du/ac	0.5 du/ac
Minimum lot size	2.0 acres	2.0 acres
Minimum frontage existing public roads	250 feet	250 feet
Minimum frontage internal public or private roads	150 feet	150 feet
Yards, minimum:		
Front (existing public roads)	75 feet	75 feet
Front (internal public or private road)(Amended 11-13-91)	25 feet	25 feet
Side	25 feet	25 feet
Rear	35 feet	35 feet
Maximum structure height	35 feet	35 feet