

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
APRIL 4, 2013**

*Site Visit
11:00 a.m.
Parking Lot – Corner of Lee Street and Marshall Street
Warrenton, Virginia*

The Fauquier County Board of Zoning Appeals held an adjourned meeting on Thursday, April 4, 2013, beginning at 11:00 a.m. at the parking lot on the corner of Lee Street and Marshall Street, Warrenton, Virginia to attend a site visit at Howling Hill Kennels, 11347 Eskridges Lane, Catlett, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Michael Brown, Vice-Chairperson; Mrs. Mary North Cooper; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; and Mr. Don Del Rosso, Planner II. Member absent was Mr. Harry Russell.

The meeting was adjourned at 11:25 a.m.

*Work Session
1:00 p.m.
Second Floor Conference Room, Warren Green Building
10 Hotel Street, Warrenton, Virginia*

The Fauquier County Board of Zoning Appeals held a work session on Thursday, April 4, 2013, beginning at 1:00 p.m. in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Michael Brown, Vice-Chairperson; Mrs. Mary North Cooper; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Don Del Rosso, Planner II; Mr. Rob Walton, Senior Planner; and Mrs. Fran Williams, Administrative Manager. Member absent was Mr. Harry Russell.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT13-CR-013, ALVIN C. & EMMA BRENNEMAN (OWNERS/APPLICANTS) – HOWLING HILL KENNELS, LLC

Applicants are requesting special permit approval to allow for a kennel, PIN 7829-81-1018-000, located at 11347 Eskridges Lane, Cedar Run District, Catlett, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

SPECIAL PERMIT #SPPT13-MA-014, RONALD L. & BARBARA G. HOYLMAN (OWNERS/APPLICANTS) – BEAR’S ICE CREAM

Applicants are requesting special permit approval to allow for the operation of a fast food eating establishment, PIN 6969-47-5978-000, located on the north side of West Main Street, Marshall District, Marshall, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

SPECIAL PERMIT #SPPT13-SC-015, LODE HENRY & JENNIFER YVETTE HOLTSLAG (OWNERS)/JENNIFER HOLTSLAG (APPLICANT) – MISS LINNIE DALE’S PRESCHOOL

Applicant is requesting special permit approval to operate a preschool, PIN 7916-62-0564-000, located at 4214 Broad Run Church Road, Scott District, Warrenton, Virginia. (Holly Meade, Staff)

Ms. Meade reviewed the application.

SPECIAL PERMIT #SPPT13-MA-016, ELIZABETH M. MCCULLERS & GEORGEANNE HOEGERMAN (OWNERS/APPLICANTS) – WHISKEY HOLLOW LODGE

Applicants are requesting special permit approval to allow for a guest home operating as a hiker’s hostel, PIN 6023-47-0976-000, located on the west side of Whiskey Hollow Trail, Marshall District, Linden, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

ZONING VARIANCE #ZNVA13-SC-002, JOSEPH W. CODY & JENNIFER S. KRAVITS (OWNERS)/JOSEPH W. & JENNIFER S. CODY (APPLICANTS) – CODY RESIDENCE

Applicants are requesting a variance of the fifty (50) foot rear yard setback requirement in the Rural Conservation (RC) zoning district to allow for the construction of an addition, PIN 7010-38-2730-000, located at 3497 Bull Run Mountain Road, Scott District, The Plains, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the application.

CLOSED MEETING:

On motion made by Mr. Brown and seconded by Mr. Meadows, it was moved to go into a closed meeting, pursuant to *Code of Virginia* Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to SPPT13-SC-011 (Canis Maximus Kennel); SPPT13-CR-

013 (Howling Hill Kennels, LLC); SPPT13-MA-016 (Whiskey Hollow Lodge); and ZNVA13-SC-002 (Cody Residence).

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

Upon reconvening from the closed meeting, Mr. Brown read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and
2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed, or considered in the closed meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Brown and seconded by Mr. Meadows.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

The meeting was adjourned at 1:50 p.m.

Regularly Scheduled Meeting
2:00 p.m.
Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, April 4, 2013, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Michael Brown, Vice-Chairperson; Mrs. Mary North Cooper; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Don Del Rosso, Planner II; and Mrs. Fran Williams, Administrative Manager. Member absent was Mr. Harry Russell.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the public hearing protocol. Ms. Meade stated that, to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

MINUTES:

On motion made by Mr. Tufts and seconded by Mr. Meadows, it was moved to approve the February 7, 2013 minutes.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

REGULAR AGENDA:

SPECIAL PERMIT #SPPT13-SC-010, JEFFREY L. LEHEW FAMILY, LLC X (OWNER/APPLICANT)

Applicant is requesting special permit approval to allow for automobile sales, PIN 7906-00-6859-000, located at 5459 Old Alexandria Turnpike, Warrenton, Virginia. (Holly Meade, Staff)

Ms. Meade stated that the applicant has requested a postponement to allow time for resolution of the septic issue and to appeal the Zoning Administrator's determination related to the easement.

Mr. Meadows opened the public hearing.

In that there were no speakers, Mr. Meadows adjourned the public hearing.

On motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to postpone action on this item, at the applicant's request, until the next regularly scheduled meeting, with the public hearing left open.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

SPECIAL PERMIT #SPPT13-SC-011, FRANKLIN C. H. & IRINA S. BARRETT (OWNERS)/IRINA BARRETT (APPLICANT) – CANIS MAXIMUS KENNEL

Applicant is requesting special permit approval to allow for a kennel, PIN 7906-68-7287-000, located at 6205 Beverleys Mill Road, Scott District, Broad Run, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso stated that the applicant has requested a postponement on this application.

Mr. Meadows opened the public hearing.

Jack Wilson, Esquire, representative, affirmed that his client is requesting a postponement to allow time to present the best case possible.

Mr. Meadows noted that the applicant was prepared to request a postponement at the March 7, 2013 meeting, which was cancelled due to inclement weather. Mr. Meadows inquired if the applicant will be fully prepared to present her case if a 30-day postponement is granted.

Mr. Wilson stated that the applicant will be totally prepared should the Board grant the request for a 30-day postponement.

Ms. C. A. Kamphuis, spoke in opposition to the granting of this special permit, expressing concern about the condition of the dogs during the period that action has been postponed.

Ms. Marie Dennis, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about noise, environmental impacts, and a possible decrease in property values.

Ms. Hilleary Bogley, Humane Investigator, spoke in opposition to the granting of this special permit. Ms. Bogley stated that two animal control officers visited the site after the last public hearing and found that the applicant had actually increased the number of dogs. Ms. Bogley further stated that by increasing the number of dogs and operating illegally for 3½ years, the applicant has shown a constant, blatant disrespect of County rules and regulations.

Ms. Maureen Kievenaar, a neighbor, spoke in opposition to the granting of this special permit.

Ms. Etta Cantrell, who operates a rescue facility, spoke in opposition to the granting of this special permit.

Mr. Charles Dennis, a neighbor, spoke in opposition to the granting of this special permit.

Mr. Jeff Khalatbari, next door neighbor, spoke in opposition to the granting of this special permit, citing concerns about possible environmental impacts as well as decreased property values.

Ms. Judy Ashby, a neighbor, spoke in opposition to the granting of this special permit. Ms. Ashby stated that she has two grandchildren that she does not allow to play outside alone because the applicant's dogs sometimes get loose. Ms. Ashby also expressed concern about safety because of a blind curve near the entrance to the site.

Jack Wilson, Esquire, representative, stated that his client would like to withdraw her application. Mr. Wilson stated that the applicant has the right to do so at any time prior to a vote being taken.

On motion made by Mr. Meadows and seconded by Mr. Brown, it was moved to go into a closed meeting, pursuant to *Code of Virginia* Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to SPPT13-SC-011 (Canis Maximus Kennel).

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

Upon reconvening from the closed meeting, Mr. Brown read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and
2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed, or considered in the closed meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Brown and seconded by Mr. Meadows.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

Mr. Meadows stated that the Board accepts the applicant's request for a withdrawal of the application and advised the applicant to confer with both the Zoning Office and Sheriff's Office upon leaving the meeting to determine what steps should be taken to bring the property into compliance.

SPECIAL PERMIT #SPPT13-CR-013, ALVIN C. & EMMA BRENNEMAN (OWNERS/APPLICANTS) – HOWLING HILL KENNELS, LLC

Applicants are requesting special permit approval to allow for a kennel, PIN 7829-81-1018-000, located at 11347 Eskridges Lane, Cedar Run District, Catlett, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the staff report, a copy of which is attached to and made a part of these official minutes. Mr. Del Rosso also stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Ms. Emma Brenneman, applicant, expressed agreement with the staff report.

Ms. Hilleary Bogley, Humane Investigator, expressed concern about the large number of dogs being requested by the applicants.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for Special Permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the Special Permit application, except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. The applicants shall house a maximum of forty-five (45) adult dogs on-site, which is further defined as any dog more than six (6) months of age, regardless if it is used in conjunction with the business or is a personal pet.
3. The applicants are limited on-site to the commercial breeding and sale of only Boston Terriers, Pomeranians and Pugs. There shall be a limit of twenty-five (25) litters per year.
4. Upon the delivery of each litter, the applicants shall provide documentation to the Zoning Administrator regarding the number of puppies born and the date of their birth. Upon receiving such documentation, the Zoning Office shall give the applicant a date stamped copy as proof of receipt.
5. All customer visits to the subject property shall be limited to those hours between 8:00 a.m. to 6:00 p.m. daily, and by appointment only.

6. All outdoor fenced areas and structures associated with the commercial kennel shall be located at least seventy-five (75) feet from all property lines.
7. Any lighting on-site associated with the kennel shall comply with the Fauquier County Zoning Ordinance.
8. Any signs on-site associated with the kennel shall comply with the Fauquier County Zoning Ordinance.
9. Upon reasonable notice by Fauquier County, the applicants shall grant the County access to the subject property, including access to the interior of all structures on the property, to determine compliance with the Fauquier County Zoning Ordinance and this Special Permit.
10. Animal waste generated by the kennel and the applicants' pets shall be contained and disposed of in conformance with those standards set forth in the United States Department of Agriculture and Natural Resource Conservation Service's publication titled "Composting Dog Waste."
11. A site plan shall be required for this use.
12. The applicants shall obtain appropriate building permits for the structures associated with the kennel.
13. This permit shall be issued for a period of one (1) year.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

SPECIAL PERMIT #SPPT13-MA-014, RONALD L. & BARBARA G. HOYLMAN (OWNERS/APPLICANTS) – BEAR'S ICE CREAM

Applicants are requesting special permit approval to allow for the operation of a fast food eating establishment, PIN 6969-47-5978-000, located on the north side of West Main Street, Marshall District, Marshall, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Ms. Barbara Hoylman, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for Special Permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the Special Permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. The applicant shall be required to fulfill all necessary landscaping requirements pursuant to Article 7 of the Fauquier County Zoning Ordinance. Landscaping requirements shall be reviewed during the site plan process.
3. The ice cream trailer shall be located a maximum of twenty (20) feet from the front property line.
4. The ice cream trailer's two (2) service windows shall face West Main Street.
5. All sales shall be limited to ice cream, ice cream related products, popcorn, and non-alcoholic beverages.
6. All on-site parking associated with the business shall be located behind the ice cream trailer.

7. The hours of operation for the ice cream business are limited to weekdays and weekends as specified in the applicants' Statement of Justification.
8. All new lighting on the site shall comply with the Fauquier County Zoning Ordinance.
9. All lighting on the site shall be turned off after business hours.
10. All new signs on the site shall comply with the Fauquier County Zoning Ordinance.
11. The wastewater generated by the business shall be collected on-site in a tank under the trailer. The applicants shall hire a commercial service for the removal and proper disposal of the wastewater. The applicants shall provide documentation to the Zoning Administrator of such a contractual agreement.
12. The applicants shall bag and properly dispose of all trash generated on-site.
13. A site plan shall be required for this use.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

SPECIAL PERMIT #SPPT13-SC-015, LODE HENRY & JENNIFER YVETTE HOLTSLAG (OWNERS)/JENNIFER HOLTSLAG (APPLICANT) – MISS LINNIE DALE'S PRESCHOOL

Applicant is requesting special permit approval to operate a preschool, PIN 7916-62-0564-000, located at 4214 Broad Run Church Road, Scott District, Warrenton, Virginia. (Holly Meade, Staff)

Ms. Meade reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Ms. Jennifer Holtslag, applicant, expressed agreement with the staff report.

On motion made by Mrs. Cooper and seconded by Mr. Brown, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and

Section 5-009 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. The hours of operation shall be limited to between 6:30 a.m. and 6:30 p.m., five (5) days per week, twelve (12) months per year.
3. The permit shall be limited to a maximum of sixty (60) children and six (6) employees.
4. With the exception of minor maintenance, existing natural screening shall remain.
5. Adequate lighting shall be provided and be in accord with the Fauquier County Zoning Ordinance.
6. The applicant shall obtain a permit for the existing on-site sign.
7. Entrance shall be limited to the existing commercial entrance on Route 600.
8. The applicant shall conduct routine brush clearing at the entrance to maintain site distance as required by VDOT.

9. Outdoor play schedules shall be staggered so that 100 square feet of usable outdoor recreation area is provided for each child that may use the space at any one time.
10. The board fence encompassing the play area shall be repaired and maintained to securely confine the children using the outdoor recreation area.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

SPECIAL PERMIT #SPPT13-MA-016, ELIZABETH M. MCCULLERS & GEORGEANNE HOEGERMAN (OWNERS/APPLICANTS) – WHISKEY HOLLOW LODGE

Applicants are requesting special permit approval to allow for a guest home operating as a hiker’s hostel, PIN 6023-47-0976-000, located on the west side of Whiskey Hollow Trail, Marshall District, Linden, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Ms. Elizabeth McMullers, applicant, expressed agreement with the staff report.

Mr. Greg Thomas, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about security lighting, the negative impact the proposal would have on his quality of life, increased expenses related to road maintenance, and increased traffic.

Ms. Shelly Moubray, a neighbor, spoke in opposition to the granting of this special permit due to concerns regarding safety, the increased risk of fires, litter, and increased traffic.

Ms. Jackie Hubbard, a neighbor, spoke in opposition to the granting of this special permit due to the increased risk of fire, safety, litter, and road maintenance.

Mr. Larry Gascoigne, a neighbor, spoke in opposition to the granting of this special permit, echoing previously stated concerns.

Mr. David Hubbard, a neighbor, spoke in opposition to the granting of this special permit due to concerns about road maintenance.

Ms. Sharleas Hunter, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about safety and the possibility of the expansion of the use for a restaurant and to host weddings.

Mr. Wayne Moubray, a neighbor, spoke in opposition to the granting of this special permit due to concerns about increased traffic and road maintenance.

Ms. Lois Sava, a neighbor, spoke in opposition to the granting of this special permit. Ms. Sava stated that she is concerned about safety, increased crime, and noise.

Mr. Stan Couda, a neighbor, spoke in opposition to the granting of this special permit due to his concerns about safety and road maintenance.

Mr. Devin McJoynt, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about the negative impact the use would have on the privately maintained road. Mr. McJoynt also stated that there is another hostel not far from the proposed site.

Ms. Sharon Thomas, a neighbor, spoke in opposition to the granting of this special permit due to safety concerns.

Dr. Georgeanne Hoegerman, applicant, reviewed her plans for the proposed hostel.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to postpone action on this special permit until the next regularly scheduled meeting, with the public hearing closed.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

ZONING VARIANCE #ZNVA13-SC-002, JOSEPH W. CODY & JENNIFER S. KRAVITS (OWNERS)/JOSEPH W. & JENNIFER S. CODY (APPLICANTS) – CODY RESIDENCE

Applicants are requesting a variance of the fifty (50) foot rear yard setback requirement in the Rural Conservation (RC) zoning district to allow for the construction of an addition, PIN 7010-38-2730-000, located at 3497 Bull Run Mountain Road, Scott District, The Plains, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Mr. Joseph Cody, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

Mr. Meadows requested that the applicant clarify his reasons for the variance request.

Mr. Cody stated that he is unable to put the addition in another location because of the elevation, presence of a propane tank, and waterline.

Mr. Dan Bettino, representative, also stated that the topography is a main reason for the request.

Mr. Brown clarified that the variance can only be granted if the Board finds that it will alleviate a clearly demonstrable hardship rather than be a special privilege (i.e., increased expense, aesthetics, or poor planning).

After further discussion, Mr. Cody requested a postponement until the next regularly scheduled meeting.

On motion made by Mrs. Cooper and seconded by Mr. Tufts, it was moved to postpone action on this variance request until the next regularly scheduled meeting, with the public hearing closed.

The motion carried 3 – 1, as follows:

AYES: Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: Mr. Russell

OTHER BUSINESS:

- Mr. Meadows welcomed two Warren County representatives who were in attendance to observe the Board's proceedings.
- The Board extended its deepest sympathy to Mr. Russell on the recent death of his brother, Emory C. Russell.

- On motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to adopt the following Rules of Procedure Regarding Appeals:

**FAUQUIER COUNTY BOARD OF ZONING APPEALS' RULES OF PROCEDURE
REGARDING APPEALS**

The following procedural rules govern appeals before the Fauquier County Board of Zoning Appeals ("BZA"):

A. Definitions:

Appellant: Any person aggrieved or any officer, department, board, commission, or authority of the County affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Fauquier County Zoning Ordinance.

Appeal: Action taken to contest a decision of the Zoning Administrator or to contest any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Fauquier County Zoning Ordinance

B. Submission of written materials:

- (1) The appellant shall file a land development application noting its appeal along with a detailed statement of justification for the appeal with Fauquier County's Office of Community Development, located at 29 Ashby Street, Third Floor, Warrenton, Virginia 20186, in accordance with the relevant provisions of the Code of Virginia and the Fauquier County Zoning Ordinance. The appellant shall file eight (8) complete copies of the statement of justification, including copies of all exhibits, at the time of filing. County staff shall provide the appellant a copy of the BZA's rules of procedure regarding appeals upon appellant's request or no later than at the time appellant files its land development application noting its appeal.
- (2) The appeal shall be placed on the BZA's next agenda for which it can be properly advertised, consistent with the legal notice requirements of the Code of Virginia and the Fauquier County Zoning Ordinance. There may be instances in which an appellant must file an appeal to protect its rights but appellant and County staff are actively pursuing a resolution to the issue which resulted in the appeal. In those instances, appellant and County staff can consent to postpone scheduling of the appeal. In those instances, the appeal will not be placed on the BZA's public meeting agenda until either party notifies the Secretary of the BZA of the need to schedule it.
- (3) County staff shall file seven copies of its written response to the appeal, including copies of all exhibits, with the Secretary of the BZA within five business days of the date appellant filed its appeal. Staff shall also transmit by

hand delivery, facsimile, or email a complete copy of its response to the appeal, including copies of all exhibits, to the appellant, so that the appellant receives its copy by 4:30 p.m. the same day staff files its response with the Secretary of the BZA.

- (4) The appellant may, but is not required to, file a written reply to staff's submission with the Office of Community Development. If appellant elects to file a written reply, it shall be filed within three business days of the date staff filed its response to the appeal. The appellant shall file eight (8) complete copies of its reply, including copies of all exhibits, at the time of filing.
- (5) If appellant raises new or different arguments in its written reply to County staff's submission, staff may, but is not required, to file a reply with the Secretary of the BZA. If staff elects to file a reply, it shall be filed within three business days of the date appellant filed its reply. Staff shall file seven copies of its reply, including copies of all exhibits, at the time of filing. Staff shall also transmit by hand delivery, facsimile, or email a complete copy of its reply, including copies of all exhibits, to the appellant, so that the appellant receives its copy by 4:30 p.m. the same day staff files its reply with the Secretary of the BZA.
- (6) There is no page limit for written submissions.
- (7) Untimely submission of written materials may preclude or hinder the BZA's consideration of them but shall not be grounds for delay of consideration except at the discretion of the BZA.

C. Oral argument at the public meeting:

- (1) Order of oral argument:
 - a. Appellant or the appellant's representative shall present its case.
 - b. County staff shall present its case.
 - c. Appellant shall have the opportunity to rebut the issues presented by County Staff. Appellant's rebuttal is limited to five minutes.
 - d. County staff may only reply to appellant's rebuttal if appellant raises new issues during its rebuttal. County staff's reply is limited to five minutes. The decision to allow County staff to reply to Appellant's rebuttal shall be made by any member of the BZA. A majority vote of the membership is not required.
- (2) The parties shall have twenty minutes to present their arguments.
- (3) The time periods set forth regarding presentation of appeals at the public meeting may be modified at the discretion of the BZA. The Chairperson shall enforce the time limitations so that the hearing is held in a fair and orderly manner.
- (4) Appeals will be heard in the order in which they appear on the agenda unless a majority of the membership of the BZA votes to modify the agenda.

- (5) If either party presents an exhibit at the public meeting which was not submitted with its written submission, then a copy shall be submitted to the Secretary of the BZA at the public meeting. That copy shall be included in the BZA's official record relating to the appeal. Untimely submission of exhibits may preclude or hinder the BZA's consideration of them but shall not be grounds for delay of consideration except at the discretion of the BZA.

D. Requests for deferral of appeals:

- (1) A request for a deferral of an appeal shall be in writing, shall be addressed to the BZA, and delivered to the Secretary of the BZA. The party requesting the deferral shall transmit a copy of the request for a deferral to the opposing party or its representative by hand delivery, facsimile, or email so that the opposing party receives its copy by 4:30 p.m. the same day the request for deferral is delivered to the Secretary of the BZA.
- (2) A request shall include the reason(s) why deferral is necessary.
- (3) A decision regarding a deferral shall be made by the BZA at the public meeting at which the case is scheduled to be considered.
- (4) The parties shall be prepared to proceed with argument of the appeal in the event the request for deferral is denied.

The motion carried 4 – 0, as follows:

AYES: Mr. Brown, Mr. Meadows, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mr. Russell

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:40 p.m.

John R. Meadows, Chairperson

Holly Meade, Secretary

Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one (1) year.