

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
MAY 2, 2013**

*Work Session
1:30 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, May 2, 2013, beginning at 1:30 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; Mr. Harry Russell; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Don Del Rosso, Planner II; and Mr. Rob Walton, Senior Planner.

MINUTES:

Board members reviewed the April 4, 2013 minutes.

RULES OF PROCEDURE REGARDING APPEALS:

Board members discussed the Fauquier County Board of Zoning Appeals' Rules of Procedure Regarding Appeals.

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to revise Section B(3), as follows:

“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~~ *fourteen (14)* 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.”

The motion carried unanimously.

On motion made by Mr. Brown and seconded by Mr. Russell, it was moved to revise Section B(4), as follows:

“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~~ *five* (5) 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.”

The motion carried unanimously.

AGENDA REVIEW:

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) *NOTE: The public hearing was closed on April 4, 2013.*

Mr. Walton reviewed the application.

The meeting was adjourned at 1:45 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, May 2, 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; Mr. Harry Russell; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Don Del Rosso, Planner II; and Mrs. Fran Williams, Administrative Manager.

Mr. Meadows stated that the public hearing procedures will not be read since there are no public hearing items scheduled for the meeting.

MINUTES:

On motion made by Mr. Tufts and seconded by Mr. Brown, it was moved to approve the April 4, 2013 minutes.

The motion carried unanimously.

REGULAR AGENDA:

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

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Mr. Walton stated that the applicant is requesting a postponement until the next regularly scheduled meeting.

Jennifer Moore, Esquire, representative, confirmed that the applicant is requesting a postponement until the next regularly scheduled meeting.

On motion made by Mr. Russell 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 – 2, as follows:

AYES: Mr. Russell, Mr. Meadows, Mr. Tufts

NAYS: Mr. Brown, Mrs. Cooper

ABSTENTION: None

ABSENT: None

ZONING APPEAL #ZNAP13-SC-001, JEFFREY L. LEHEW FAMILY, LLC X (OWNER/APPLICANT) – LEHEW PROPERTY

Applicant is appealing a Zoning Administrator’s determination regarding the status of a private easement in the context of a special permit application for an automobile sales use, PIN 7906-00-6859-000, located at 5459 Old Alexandria Turnpike, Warrenton, Virginia. (Kimberley Johnson, Staff) *NOTE: This is a public meeting, not a public hearing.*

Mr. Meadows opened the public meeting.

Robert J. Light, Esquire, representative, stated that the Zoning Administrator’s interpretation is incorrect for the following reasons: 1) the easement in question is public; 2) since both parcels are zoned Commercial-Neighborhood (C-1), the Zoning Ordinance already allows use of an off-site easement; 3) the definition of “accessory use” found in the Zoning

Ordinance does not apply in this instance; and 4) if the special permit is granted, the use would become a “permitted use” for the subject parcel. Mr. Light concluded by respectfully requesting that the Board overturn the Zoning Administrator’s determination.

Ms. Kimberley Johnson, Zoning Administrator, stated that the access easement must be included in the application since all portions of the use must be approved with the special permit. Ms. Johnson also stated that nowhere in the Zoning Ordinance is there a basis for concluding that any part of a use, whether termed “accessory” or “incidental” is allowed by-right on property that is not covered by the special permit approval. Ms. Johnson further stated that, while she would concur that the easement would not need to be included in the application if it was a public street or public access easement, there is no indication of a public purpose or use identified on the approved plat. Ms. Johnson concluded by respectfully requesting that the Board uphold her determination.

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

After discussion and due notice and hearing, on motion made by Mr. Brown and seconded by Mrs. Cooper, it was moved to overturn the decision of the Zoning Administrator in Appeal #ZNAP13-SC-001, finding that the Zoning Administrator incorrectly determined, in this case, that the adjoining landowner was a necessary applicant for the special use permit when the appellant proposed to use an existing ingress/egress easement over the adjoining landowner’s property in conjunction with the special permit use applied for.

The motion carried unanimously.

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:56 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.