

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
JUNE 6, 2013**

*Work Session  
12:45 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, June 6, 2013, beginning at 12:45 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. Mary Catherine Sheridan, Assistant County Attorney; Mr. Don Del Rosso, Planner II; and Mr. Rob Walton, Senior Planner.

**MINUTES:**

Board members reviewed the May 2, 2013 minutes.

**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.

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

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 reviewed the application.

**SPECIAL PERMIT #SPPT13-SC-017, 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 reviewed the application.

**SPECIAL PERMIT #SPPT13-LE-018, LODE HENRY & JENNIFER YVETTE HOLTSLAG (OWNERS)/JENNIFER HOLTSLAG (APPLICANT) – WALNUT GROVE CHILD CARE #4**

Applicant is requesting a special permit to continue operating a preschool, PIN 6889-95-4242-000, located at 6653 Oak Shade Road, Lee District, Bealeton, Virginia. (Holly Meade, Staff)

Ms. Meade reviewed the application.

**SPECIAL PERMIT #SPPT13-CT-019, BETHEL UNITED METHODIST CHURCH (OWNER/APPLICANT) – BETHEL UNITED METHODIST CHURCH**

Applicant is requesting a special permit to enclose an existing pavilion for use as a multi-purpose room as part of a place of worship, PIN 6986-03-3585-000, located at 6903 Blantyre Road, Center District, Warrenton, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso 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, June 6, 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. Mary Catherine Sheridan, Assistant County Attorney; Mr. Don Del Rosso, Planner II; Mrs. Meredith Meixner, Administrative Specialist; and Mrs. Fran Williams, Administrative Manager.

**MINUTES:**

On motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to approve the May 2, 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**

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

Mr. Meadows stated that the public hearing was closed on April 4, 2013.

Mr. Joseph Cody, applicant, stated that the proposed location for the addition is the only viable option because of the placement of the drainfield, reserve drainfield, well, and topography of the property. When asked if the property was unimproved when he purchased it, Mr. Cody confirmed that it was, but noted that locating the house on the property was a struggle.

Mr. Cody further explained that both he and his wife work close to the D.C. metropolitan area but they have arranged with their employers to work from home. This would allow them the opportunity to be there when their oldest child, who begins school in the fall, gets on and off the bus and to volunteer at her school. He noted that the addition would provide the necessary office space for both he and his wife, who has stringent security requirements because of the nature of the data she works with.

Mr. Brown stated that the request falls within the realm of a convenience or special privilege rather than a hardship.

Mr. Meadows stated that while it is good when residents do not have to commute long distances, this is not a factor set forth in the Zoning Ordinance, which the Board must adhere to when considering an application. Mr. Meadows stated that the request does not constitute a hardship and cautioned the Board not to let emotions get in the way.

After discussion, on motion made by Mrs. Cooper and seconded by Mr. Russell, it was moved to grant the variance, after due notice and hearing, as required by *Code of Virginia*

§15.2-2204 and Section 13-402 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. That the strict application of the Zoning Ordinance would result in unnecessary, unreasonable, or undue hardship to the property owner; and
2. That the need for the variance is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance; and
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
4. That such variance is necessary in order to afford relief, is not contrary to the intent and purpose of the Ordinance, and results in substantial justice being done.

The variance 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 variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. The proposed addition associated with this application shall be located no closer than 35.9 feet from the rear property line, as shown on the variance plat (Statement of Justification - Attachment 2).

The motion carried 3 – 2, as follows:

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

NAYS: Mr. Brown, Mr. Meadows

ABSTENTION: None

ABSENT: None

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

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 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. Terry Caniford, representative, expressed agreement with the staff report and stated that all issues regarding the site have been resolved.

Mr. Bill Towne, a resident of Snow Hill, spoke in opposition to the granting of this special permit, citing concerns regarding traffic; the potential environmental impact; its incompatibility with the objectives of the Comprehensive Plan for New Baltimore; the potential impact on property values; required repairs to the drainfield; and the improper posting of the property.

Mr. Meadows inquired of staff if the property was properly posted.

Ms. Meade stated that the applicant has submitted a signed and notarized statement confirming that the property was properly posted.

Mr. Jeffrey LeHew, applicant, spoke in support of the granting of this special permit.

Mr. Andrew Egeland, a resident of Snow Hill, spoke in opposition to the granting of this special permit, citing concerns about the negative impact the proposed use would have on the environment.

Ms. Lynn Simpson, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about increased traffic and safety.

Mr. John Gilbert, spoke in opposition to the granting of this special permit. Mr. Gilbert expressed concerns about safety due to sight lines, a blind hill, and a one lane bridge in the area.

Ms. Candace Moe, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about traffic, safety and a general disruption to the community.

Mr. John Soto, spoke in support of granting the special permit.

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. ~~A sight distance easement shall be recorded prior to release of the site plan. The easement shall provide sight distance for vehicles leaving the site, via the main entrance, that is free of landscaping shrubs, trees, parked cars, and permanent or temporary signs. DELETED~~
3. The applicant shall provide landscaping necessary to meet Zoning Ordinance requirements along the property's Old Alexandria Turnpike and Route 29 frontages, with the exception that no landscaping shall interfere with the required sight distance easement along Old Alexandria Turnpike. The proposed landscaping shall be reviewed during the site plan process.
4. "No Parking Signs," per spacing and material specifications in the current version of the Manual of Uniform Traffic Control Devices (MUTCD), shall be posted along the parcel's frontage on Old Alexandria Turnpike (Route 693).
5. The applicant shall install a water meter on the well to track water usage. Water usage shall be limited to a maximum of 300 gallons per day. This information shall be submitted to the Department of Community Development quarterly.
6. Delivery of vehicles shall be restricted to non-peak traffic hours. Deliveries shall not be permitted between the hours of 6:00 a.m. and 9:00 a.m., nor between 3:30 p.m. and 6:30 p.m.
7. ~~No test driving shall occur in the Snow Hill subdivision. DELETED~~

8. The display area shall be limited to the existing asphalt area as depicted on the Special Permit plat.
9. There shall be no more than twenty-five (25) vehicles permitted for sale on the property at any one time. This number may be reduced during the site plan process based on Zoning Ordinance requirements for setbacks, landscaping, and parking requirements.
10. Establishment of vehicle repair, towing, and vehicle washing businesses on-site is prohibited.
11. The western most entrance along Route 693 shall be used for ingress only. The eastern most entrance along Route 693 shall be used for egress only. Each entrance shall be clearly labeled.
12. Hours of operation shall be limited to between 9:00 a.m. and 7:00 p.m. Monday through Saturday, and by appointment only on Sunday.
13. The applicant shall obtain written confirmation from the Health Department that the septic system is adequate for the use prior to approval of the site plan.
14. The septic system shall be monitored quarterly for the first year after occupancy by a Virginia licensed on-site sewage system professional. Quarterly monitoring reports shall be provided to the Department of Community Development and the Fauquier County Health Department.
15. The septic system shall be inspected and cleaned if necessary every three (3) years. Copies of the inspection reports shall be provided to the Department of Community Development and the Fauquier County Health Department.
16. The special permit is issued for a period of three (3) years.

After discussion, on motion made by Mr. Brown and seconded by Mr. Meadows, it was moved to amend the above motion to add the following as Condition #2:

2. A sight distance easement, *if found necessary during the site plan approval process*, shall be recorded prior to release of the site plan. The easement shall provide sight distance for vehicles leaving the site, via the main entrance, that is free of landscaping shrubs, trees, parked cars, and permanent or temporary signs.

The motion carried unanimously, as amended.

After further discussion, on motion made by Mr. Tufts and seconded by Mr. Meadows, it was moved to amend Condition #6, as follows:

6. Delivery of vehicles shall be restricted to non-peak traffic hours. Deliveries shall not be permitted between the hours of 6:00 a.m. and 9:00 a.m., nor between 2:30 p.m. and 6:30 p.m., Monday through Friday.

The motion carried unanimously, as amended.

After additional discussion, on motion made by Mr. Tufts and seconded by Mr. Meadows, it was moved to amend Condition #12, as follows:

12. Hours of operation shall be limited to between 9:00 a.m. and 7:00 p.m. Monday through Saturday, and by appointment only on Sunday *between the hours of 12:00 p.m. and 6:00 p.m.*

The motion carried unanimously, as amended.

After further discussion, on motion made by Mr. Tufts and seconded by Mr. Meadows, it was moved to amend Condition #10, as follows:

10. Establishment of vehicle repair, towing, and vehicle washing businesses on-site is prohibited. *However, vehicle repair, towing, and vehicle washing that is ancillary to this use is permitted.*

The motion carried unanimously, as amended.

Thereafter, the original motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT13-SC-017, 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 reviewed the staff report, a copy of which is attached to and made a part of these official minutes. Mr. Del Rosso stated that in an email dated May 30, 2013, a staff member mistakenly stated that the applicant "...has lost her AKC standing..." when in fact her standing is currently unclear.

Mr. Meadows read the following statement: "An application for Canis Maximus Kennel was previously filed and public hearings were held by this Board on February 7<sup>th</sup> and April 4<sup>th</sup>. By this comment on the record we are hereby making all records of that previous application and public hearings, which includes all recorded testimony from the previous public hearings, part of the official record for this current application. Thus, if you previously spoke to the application it will become part of today's record. However, if there is something you feel compelled to say please feel free to address this Board when the public hearing has been opened. I would like to remind everyone that this is a land use issue; therefore, public comment related to the care of the dogs or breeding operations in general should be limited to the impact that this proposed facility has on the adjoining property owners and nearby area."

Mr. Meadows opened the public hearing.

Jack Wilson, Esquire, representative, expressed agreement with the staff report. Mr. Wilson stated that the applicant does not operate a puppy mill and, to date, she has produced 12 champions. Mr. Wilson stated that the applicant plans to run a first class kennel operation and would like the opportunity to prove that she can do so. Mr. Wilson further stated that, should the special permit be approved, the applicant is prepared to minimize the impacts on the neighbors with soundproofing and any reasonable restrictions the Board wishes to place upon the approval.

Mr. Jeff Khalatbari, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about noise and sight distance for the driveway. Mr. Khalatbari also questioned if the applicant will stay in compliance with any conditions imposed should the application be approved, since she has not complied with the Board's instruction to cease and desist after the last public hearing.

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

Ms. Beth Connell, a neighbor, spoke in opposition to the granting of this special permit. Ms. Connell stated that the applicant can submit any plan, but questioned if she will follow through with its implementation.

Mr. Bill Milano, a neighbor, spoke in opposition to the granting of this special permit. Mr. Milano stated that he is concerned about safety and the traffic impact on the neighborhood. Mr. Milano showed photos of the entrance to the property approaching from both the north and south. He also stated that there have been two fatal accidents along this road within the past eight years.

Mr. John Soto, who has done work at the property, spoke in support of the granting of this special permit. Mr. Soto stated that he has never had a problem entering or leaving the site and that the proposed soundproofed kennel structure and landscaping will help alleviate the noise issue.

Ms. Judy Ashby, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about safety and noise.

Ms. Jacqueline Zinetti, who travelled from New Jersey to speak in support of the granting of this special permit, stated that the applicant is a dedicated and responsible breeder who has a passion for what she does. Ms. Zinetti stated that when she visited the facility to purchase a puppy from the applicant, all of the puppies appeared to be happy and socialized.

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

On motion made by Mr. Brown and seconded by Mr. Russell, it was moved to deny 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 applicant has other reasonable use of this property.
2. The proposed use will adversely affect the use or development of neighboring properties and will impair the value of nearby land.
3. Vehicular traffic generated by the proposed use will be hazardous or conflict with existing patterns in this neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are not provided to serve the proposed use.
5. Surface and groundwater quality will be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT13-LE-018, LODE HENRY & JENNIFER YVETTE HOLTSLAG (OWNERS)/JENNIFER HOLTSLAG (APPLICANT) – WALNUT GROVE CHILD CARE #4**

Applicant is requesting a special permit to continue operating a preschool, PIN 6889-95-4242-000, located at 6653 Oak Shade Road, Lee District, Bealeton, 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.

Mr. Lode Holtslag, 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. Russell 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 6:00 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 eighty-two (82) children and nine (9) employees.
4. Adequate lighting shall be provided and be in accordance with the Fauquier County Zoning Ordinance.
5. Outdoor play schedules shall be staggered so that one hundred (100) square feet of usable outdoor recreation area is provided for each child that may use the space at any one time.
6. Landscaping shall be installed as shown on the approved site plan.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT13-CT-019, BETHEL UNITED METHODIST CHURCH (OWNER/APPLICANT) – BETHEL UNITED METHODIST CHURCH**

Applicant is requesting a special permit to enclose an existing pavilion for use as a multi-purpose room as part of a place of worship, PIN 6986-03-3585-000, located at 6903 Blantyre Road, Center District, Warrenton, 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. Ava Lee, representative, expressed agreement with the staff report.

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 use of the enclosed pavilion space shall be for a multi-purpose room and does not authorize an expansion of the principal place of worship or an increase in the number of seats for the same.
3. All new lighting on the site shall comply with the Fauquier County Zoning Ordinance.
4. A site plan shall be required for this use.

The motion carried unanimously.

**OTHER BUSINESS:**

Mr. Meadows requested that a finalized copy of the recently adopted Rules of Procedure Regarding Appeals be placed in each Board member's book.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 4:10 p.m.

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John R. Meadows, Chairperson

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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.*

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
FEBRUARY 7, 2013**

***Site Visit  
11:30 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, February 7, 2013, beginning at 11:30 a.m. at the parking lot on the corner of Lee Street and Marshall Street, Warrenton, Virginia to attend a site visit at Canis Maximus Kennel, 6205 Beverleys Mill Road, Broad Run, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Harry Russell; and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Mr. Don Del Rosso, Planner II; and Ms. René Austin. Joining them in attendance at the site were Mr. Jay Pinsky; Dr. Kristen Hitt; Ms. Kate Ryan; and Ms. Cindy Smith. Members absent were Mr. Michael Brown, Vice-Chairperson and Mrs. Mary North Cooper.

The meeting was adjourned at 12:20 p.m.

***Work Session  
1:10 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, February 7, 2013, beginning at 1:10 p.m. in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Harry Russell; 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. Members absent were Mr. Michael Brown, Vice-Chairperson and Mrs. Mary North Cooper.

**CLOSED MEETING:**

On motion made by Mr. Tufts 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).

The motion carried 3 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown, Mrs. Cooper

Upon reconvening from the closed meeting, Mr. Tufts 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. Tufts and seconded by Mr. Meadows.

The motion carried 3 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown and Mrs. Cooper

**AGENDA REVIEW:**

**SPECIAL PERMIT #SPPT13-CR-012, C. DAVID LEE (OWNER)/V & D SHAH, LLC (APPLICANT) – IN AND OUT CONVENIENCE STORE**

Applicant is requesting special permit approval to allow for the operation of an automobile service station, PIN 7839-77-7270-000, located at 10847 Elk Run Road, Cedar Run District, Catlett, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

**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 reviewed the application.

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, February 7, 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. Harry Russell; 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. Members absent were Mr. Michael Brown, Vice-Chairperson and Mrs. Mary North Cooper.

**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.

**AGENDA ORDER:**

Ms. Meade announced that the agenda would be revised to consider Item #3 (In and Out Convenience Store) as Item #2 and Item #2 (Canis Maximus Kennel) as Item #3.

**MINUTES:**

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to approve the January 3, 2013 minutes.

The motion carried 3 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown, Mrs. Cooper

**REGULAR AGENDA:**

**SPECIAL PERMIT #SPPT13-CR-012, C. DAVID LEE (OWNER)/V & D SHAH, LLC (APPLICANT) – IN AND OUT CONVENIENCE STORE (Item #3)**

Applicant is requesting special permit approval to allow for the operation of an automobile service station, PIN 7839-77-7270-000, located at 10847 Elk Run Road, 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. Meadows opened the public hearing.

Scott Braxton Puryear, Esquire, representative, expressed agreement with the staff report.

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

On motion made by Mr. Russell 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 hours of operation for the Automobile Service Station are limited to weekdays and weekends as specified in the applicant's Statement of Justification.
4. All new lighting on the site, including the canopy, shall comply with the Fauquier County Zoning Ordinance.
5. The underground fuel tank shall be installed at least fifty (50) feet from the existing on-site well.
6. All new signs on the site shall comply with the Fauquier County Zoning Ordinance.
7. The applicant shall remove all illegal signs prior to approval of a site plan.
8. The proposed fuel system shall comply with all pertinent Virginia Department of Environmental Quality (DEQ) installation, monitoring and record-keeping regulations.

The motion carried 3 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown, Mrs. Cooper

**SPECIAL PERMIT #SPPT13-SC-011, FRANKLIN C. H. & IRINA S. BARRETT (OWNERS)/IRINA BARRETT (APPLICANT) – CANIS MAXIMUS KENNEL (Item #2)**

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 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 explained that while there may be other legitimate concerns, the Board has the responsibility of making a land use decision – determining if a kennel of any size is compatible with the neighborhood. Mr. Meadows also noted that should the application be approved and no time limit is stipulated, the approval would run with the land to the next owner.

Mr. Meadows opened the public hearing.

Ms. Irina Barrett, applicant, stated that a number of improvements have been made to reduce the impact on the neighborhood. Ms. Barrett also stated that she has reduced the number of dogs that she is requesting, that she loves the dogs in her care and that she is not operating a “puppy mill.” Ms. Barrett expressed concern that her excellent reputation has been tarnished by a report based on inaccuracies and requested that a decision be based on the facts.

Ms. Rebecca Kellert, Center District, spoke in opposition to approval of the application. Ms. Kellert noted that the Board made a site visit to the property earlier in the day and questioned if the applicant would have made the improvements if the site visit had not been scheduled. Ms. Kellert expressed concern about the large number of pets in animal shelters and also asked what will happen to the dogs while the applicant constructs a new kennel.

Mr. Russell requested clarification from staff if the applicant has been operating a kennel for 3½ years without a special permit.

Mr. Del Rosso stated that the applicant has been in operation for 3½ years without the necessary approvals.

Ms. Hilleary Bogley, Humane Investigator, stated that a great deal of misinformation has been circulating on the Internet and in the community. Ms. Bogley stated that after receiving a call of concern, she visited the site and found the applicant to be very cooperative. She also noted that the applicant was providing medical and daily care for her dogs and the conditions did not pose a “cruelty to animals” situation. Ms. Bogley also clarified that everything written in her report was discussed with the applicant. She stated that she offered to take some of the animals to the Middleburg Humane Foundation since the applicant indicated that she was trying to reduce the number of dogs in her care. The eleven dogs that were willfully released to the Middleburg Humane Foundation were examined by a licensed veterinarian and then placed in foster care, transferred to other rescue groups or are currently available for adoption. She stated that she does consider the applicant’s facility to be a “puppy mill” due to the large number of dogs and also expressed concern that many of the dogs were confined to crates. Ms. Bogley concluded by saying she promotes responsible breeding and if the application is approved that it should be done so with a restricted number of dogs in order to focus on the quality of care rather than the quantity of animals.

Mr. Meadows inquired about the number of dogs Ms. Bogley feels would be manageable for the applicant.

Ms. Bogley stated that, in her opinion, 12 dogs would be a responsible number for one person to care for.

Ms. Laura Wojtecki, a neighbor and letter carrier who drives past this property six days per week, spoke in opposition to the granting of this special permit. Ms. Wojtecki expressed concern about safety because of a dangerous hill and curve near the entrance. She also stated that over the past 3½ years, she has only seen dogs out in the enclosure less than a dozen times.

Mr. Henry Kievenaar, Jr., a neighbor, spoke in opposition, citing concerns that the kennel was established without the necessary approvals; the dogs are living in an abusive environment; it will require a great deal of expense to transform the kennel into an acceptable facility; and the noise infringes on the peace of adjacent property owners.

Mr. Charles Dennis, a neighbor, spoke in opposition, citing concerns about noise and the possible contamination of groundwater.

Ms. Etta Cantrell, who operates a rescue facility, spoke in opposition, citing concerns about the large number of dogs with only one person caring for them as well as the poor conditions under which the dogs are living.

Mr. Tom Carter spoke in opposition and expressed concern about the precedent that would be set if the application is approved since the applicant has knowingly violated County regulations.

Ms. Carrie Blair, Scott District, spoke in opposition, stating that no water, light, air, food or adequate space is abuse and constitutes a concentration camp for dogs.

Ms. Donna Piwetz spoke in opposition to the granting of this request, stating that some of the dogs she has received in her rescue organization were from clients who had purchased them from the applicant.

Mr. Jeff Khalatbari, next door neighbor, spoke in opposition to the granting of this special permit. Mr. Khalatbari stated that the applicant's fencing is inadequate and her dogs have come onto his property in a pack and cornered his horse. He also expressed concern about noise and safety. Mr. Khalatbari concluded by stating that constructing a new facility will not create a new mentality on the part of the applicant.

Dr. Kristen Hitt, a veterinarian, spoke in opposition to the granting of this special permit. Dr. Hitt expressed concern about public safety because of the dangerous curve and hill near the applicant's driveway; what appears to be inadequate ventilation; and unvaccinated dogs. Dr. Hitt also expressed concern about animal waste and suggested that an environmental impact study be conducted.

Ms. Cindy Smith, a neighbor, spoke in opposition to the granting of this special permit. Ms. Smith stated that she and her family are currently renting a house and considering purchasing property in the area, but she will not do so if the application is approved.

Ms. Carla Nammack, owner of Country Club Kennels, spoke in opposition to the granting of this special permit, echoing concerns of the previous speakers. Ms. Nammack stated that she has ten employees to help her properly care for 80 dogs on a 45-acre parcel.

Ms. René Austin spoke in opposition to approval.

Mr. André Sadowski, a Realtor and previous client of the applicant, spoke in opposition to the granting of this special permit, citing concerns about safety, poor conditions at the kennel, and the negative impact this facility will have on property values. Mr. Sadowski suggested that noise, traffic and environmental impact studies are needed.

Ms. Maureen Kievenaar, a neighbor, spoke in opposition. Ms. Kievenaar expressed concern about noise and the possible contamination of wells.

Ms. Beth Connell spoke in opposition to approval of the special permit.

Ms. Laura Ruehring, Prince William County, spoke in opposition, stating that the use is not compatible with the neighborhood. Ms. Ruehring also expressed concerns about liability, property values and the impact on groundwater.

Ms. Mary Haak asked who citizens can contact about the dogs until such time as a decision is made on the request.

Mr. Meadows stated that Planning staff members will be able to answer that question.

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

On motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open, due to the large number of emails that the Board received but has not had an opportunity to read.

The motion carried 3 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown, Mrs. Cooper

**OTHER BUSINESS:**

Mr. Meadows requested that the Board review the proposed Zoning Appeals' procedures, which were distributed by Ms. Sheridan, for consideration at the next regularly scheduled meeting.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:40 p.m.

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John R. Meadows, Chairperson

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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.*

**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.

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John R. Meadows, Chairperson

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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.*