

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

*Work Session
12:30 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, November 7, 2013, beginning at 12:30 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; Mr. Chuck Floyd, Assistant Chief of Zoning/Development Services; Ms. Tracy Gallehr, Deputy County Attorney; Ms. Marianne Primeau, Senior Assistant County Attorney; Mr. Don Del Rosso, Planner II; Mr. Chris Pettit, Planner; Mr. Rob Walton, Senior Planner; and Mrs. Fran Williams, Administrative Manager.

CLOSED MEETING:

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 Zoning Variance ZNAP14-MA-001 (Blackthorne Inn & Restaurant).

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mrs. Cooper (*Arrived while Closed Meeting was in progress.*)

Upon reconvening from the closed meeting, Ms. Meade read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purpose 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. Meadows and seconded by Mr. Brown.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

AGENDA REVIEW:

ZONING VARIANCE #ZNVA14-MA-001, STONE CREEK GROUP, LLC (OWNER)/SHANE O’CONNOR (APPLICANT) – BLACKTHORNE INN & RESTAURANT

Applicant is requesting a variance of Zoning Ordinance Standard 5-916.3 related to the required setback for structures associated with Class “C” events, PIN 6044-67-8620-000, located at 10087 John S. Mosby Highway, Marshall District, Upperville, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the application.

SPECIAL PERMIT #SPPT14-LE-006, MARK R. LIM & MARY B. HOWARD (OWNERS)/MARK R. LIM (APPLICANT) – AUTO RESTORATIONS, LLC

Applicant is requesting Special Permit approval to allow a major home occupation for the operation of an auto repair garage, PIN 7814-04-2607-000, located at 14333 Snake Castle Road, Lee District, Sumerduck, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

SPECIAL PERMIT #SPPT14-MA-001, SHELBY W. BONNIE (OWNER/APPLICANT) – OAKLEY FARM, LLC

Applicant is requesting Special Permit approval to allow the distillation of industrial alcohol (ethanol) in conjunction with a farming operation, PIN 6063-38-0735-000, located at 1431 Oakley Lane, Marshall District, Upperville, Virginia. (Chris Pettit, Staff)

Mr. Pettit reviewed the application.

SPECIAL PERMIT #SPPT14-MA-011, ROBERT W. & LINDA B. CLAYMIER (OWNERS/APPLICANTS) – DESERT ROSE WINERY

Applicants are requesting Special Permit approval to allow an off-site directional sign, PIN 6908-39-3335-000, located on the north side of Hume Road, Marshall District, Hume, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

SPECIAL PERMIT #SPPT14-LE-012, TRUE DELIVERANCE CHURCH OF GOD VIRGINIA, INC. (OWNER/APPLICANT) – TRUE DELIVERANCE CHURCH OF GOD

Applicant is requesting Special Permit approval to allow a storage structure in conjunction with a place of worship, PIN 6970-41-9150-000, located at 10499 Jericho Road, Lee District, Bealeton, Virginia. (Don Del Rosso, Staff)

Mr. Del Rosso reviewed the application.

The meeting was adjourned at 1:15 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, November 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. 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; Mr. Chuck Floyd, Assistant Chief of Zoning/Development Services; Ms. Marianne Primeau, Senior Assistant County Attorney; Mr. Don Del Rosso, Planner II; Mr. Chris Pettit, Planner; Mr. Rob Walton, Senior Planner; and Mrs. Fran Williams, Administrative Manager.

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. Brown and seconded by Mr. Tufts, it was moved to approve the October 3, 2013 minutes.

The motion carried unanimously.

REGULAR AGENDA:**SPECIAL PERMIT #SPPT14-LE-006, MARK R. LIM & MARY B. HOWARD (OWNERS)/MARK R. LIM (APPLICANT) – AUTO RESTORATIONS, LLC**

Applicant is requesting Special Permit approval to allow a major home occupation for the operation of an auto repair garage, PIN 7814-04-2607-000, located at 14333 Snake Castle Road, Lee District, Sumerduck, 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.

Mr. Mark Lim, 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 hours of operation for the auto repair garage shall be limited to 10:00 a.m. to 5:00 p.m., Monday through Thursday, by appointment only.
3. The number of non-resident employees on-site shall be limited to one (1).
4. There shall be a maximum of six (6) vehicles for repair and restoration on-site at any time.
5. All vehicle repairs and restorations associated with the business shall take place only within the garage attached to the residence.
6. Prior to acceptance, all fluids shall be removed from vehicles for repair and restoration.
7. Any residual fluids that are removed from vehicles for repair and restoration shall be properly stored while on-site and disposed of off-site.
8. All vehicles for repair and restoration shall be completely screened from view of adjoining properties or kept in enclosed structures and shall not be located within any required yard.
9. No vehicles for repair and restoration shall be stored on the subject property's drainfield.
10. The applicant shall obtain the required permits for all structures on the subject property within one (1) year of Special Permit approval.
11. Except for basic maintenance, the applicant shall maintain all vegetation on-site necessary to ensure adequate screening.
12. All signs on-site shall conform to Article 8 of the Fauquier County Zoning Ordinance.
13. All lighting on-site shall conform to Article 9 of the Fauquier County Zoning Ordinance.
14. The Special Permit shall be granted for a period of five (5) years. The Permittee may apply annually for one (1) year renewals by the Zoning Administrator. The application for renewal shall be received at least sixty (60) days prior to

expiration of the Special Permit. If the Permittee does not apply for the renewal, the permit shall expire at the end of that current period.

15. A Site Plan shall be required for this use.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT14-MA-001, SHELBY W. BONNIE (OWNER/APPLICANT)
– OAKLEY FARM, LLC**

Applicant is requesting Special Permit approval to allow the distillation of industrial alcohol (ethanol) in conjunction with a farming operation, PIN 6063-38-0735-000, located at 1431 Oakley Lane, Marshall District, Upperville, Virginia. (Chris Pettit, Staff)

Mr. Pettit 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. Amy Pritchard, representative, expressed partial agreement with the staff report. Ms. Pritchard stated that the proposed condition requiring an official determination from the Virginia Department of Environmental Quality (DEQ) regarding the need for air permits does not appear to be necessary since the applicant will only be producing a very small quantity of ethanol.

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

On motion made by Mr. Tufts and seconded by Mr. Russell, 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 and the Special Permit plat dated July 24, 2013 prepared by Carson/Ashley, except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. All ethanol shall be produced entirely in the Still & Storage Wing of the Broodmare Barn as indicated on the Special Permit plat dated July 24, 2013 prepared by Carson/Ashley.
3. The ethanol produced by the applicant shall be used solely as fuel to operate farm machinery, farm vehicles, and equipment.
4. The ethanol produced by the applicant shall not be offered for sale, transported off the Oakley Farm site, or used to fuel vehicles that travel public roadways. All ethanol produced shall be used solely on the Oakley Farm site.
5. No more than 20 U.S. gallons of ethanol shall be produced in any 24-hour period. No more than 5,263 U.S. gallons of ethanol shall be produced in any one calendar year.
6. No more than 500 U.S. gallons of ethanol produced by the applicant shall be stored on the property at any given time.
7. All ethanol produced by the applicant shall be stored in drums inside the Still & Storage Wing of the Broodmare Barn as indicated on the Special Permit plat dated July 24, 2013 prepared by Carson/Ashley.
8. Signage identifying the storage of ethanol shall be placed on the outside of the Broodmare Barn structure in accordance with the National Fire Protection Association's *Standard System for the Identification of the Hazards of Materials for Emergency Response* (NFPA 704).
9. This permit shall be issued for a period of fifteen (15) years.

After discussion, on motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to delete Condition #9, as follows, so that no time limit is imposed:

~~9. This permit shall be issued for a period of fifteen (15) years.~~

The motion carried unanimously.

After further discussion, on motion made by Mr. Meadows and seconded by Mr. Tufts, it was moved to amend Conditions #3 and 4, as follows:

3. The ethanol produced by the applicant shall be used solely as fuel to operate farm machinery, farm vehicles, and equipment *to be solely used on the ±1,600 acre Oakley Farm site.*
4. The ethanol produced by the applicant shall not be offered for sale.

The motion carried unanimously.

Thereafter, the original motion carried unanimously, as amended.

SPECIAL PERMIT #SPPT14-MA-011, ROBERT W. & LINDA B. CLAYMIER (OWNERS/APPLICANTS) – DESERT ROSE WINERY

Applicants are requesting Special Permit approval to allow an off-site directional sign, PIN 6908-39-3335-000, located on the north side of Hume Road, Marshall District, Hume, 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.

Mr. Robert Claymier, 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 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. One (1) off-site directional sign shall be allowed on the subject property in the location shown on the Special Permit exhibit. It shall be a maximum of one (1) foot by two (2) feet in size and a maximum of four (4) feet in height.
3. The off-site directional sign shall only contain the name of the winery, the distance to the winery and a directional arrow.
4. The off-site directional sign shall not be placed in the Virginia Department of Transportation (VDOT) right-of-way.
5. Prior to installation of the off-site directional sign, the applicant shall work with VDOT to determine the precise location of the sign to ensure it does not block any line of sight.
6. The applicants shall obtain a sign permit prior to installation of the sign.

The motion carried unanimously.

SPECIAL PERMIT #SPPT14-LE-012, TRUE DELIVERANCE CHURCH OF GOD VIRGINIA, INC. (OWNER/APPLICANT) – TRUE DELIVERANCE CHURCH OF GOD

Applicant is requesting Special Permit approval to allow a storage structure in conjunction with a place of worship, PIN 6970-41-9150-000, located at 10499 Jericho Road, Lee District, Bealeton, 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.

Pastor T. Tyrone Champion, applicant, expressed agreement with the staff report.

Mr. Brown asked the applicant to verify that the owner of the property is True Deliverance Church of God Virginia, Inc.; that he is the president of this corporation and has been duly authorized to sign and file the application.

Pastor Champion confirmed that these statements are correct.

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

On motion made by Mr. Tufts and seconded by Mr. Russell, 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 applicant shall obtain all required permits prior to construction of the storage structure.
4. Any lighting on the site shall conform to Article 9 of the Fauquier County Zoning Ordinance.
5. Any signs on the site shall conform to Article 8 of the Fauquier County Zoning Ordinance.
6. A Site Plan shall be required for this use.

The motion carried unanimously.

ZONING VARIANCE #ZNVA14-MA-001, STONE CREEK GROUP, LLC (OWNER)/SHANE O'CONNOR (APPLICANT) – BLACKTHORNE INN & RESTAURANT

Applicant is requesting a variance of Zoning Ordinance Standard 5-916.3 related to the required setback for structures associated with Class “C” events, PIN 6044-67-8620-000, located at 10087 John S. Mosby Highway, Marshall District, Upperville, 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.

Ms. Amy Pritchard, 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 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 Board of Zoning Appeals finds that the previous right-of-way taking has created a demonstrable hardship on the property and the existing structure may be used for Class “C” Events.
3. The structure shall not be expanded within the 100 foot setback area, to be used in conjunction with Class “C” Events, unless the appropriate approvals are obtained.

After discussion, on motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to amend Condition #2, as follows:

2. The Board of Zoning Appeals finds that the previous right-of-way taking has created a demonstrable hardship on the property and the existing structure may be used for Class “C” Events, *subject to Special Exception approval.*

The motion carried unanimously.

Thereafter, the original motion carried 4 – 1, as amended:

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

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: None

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:55 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.