

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
FEBRUARY 2, 2012**

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, February 2, 2012, 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. Harry Russell, Vice-Chairperson; Mr. Michael Brown; Mrs. Mary North Cooper; and Mr. Maximilian Tufts, Jr. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; Ms. Sandra O'Connell, Senior Planner; and Mr. Rob Walton, Senior Planner.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT12-CT-013, BRIAN P. & PATRICIA E. PARRISH (OWNERS)/BRIAN P. PARRISH (APPLICANT) – TRIUNE ARMS, LLC

Applicant is requesting special permit approval to operate a gunsmithing business as a major home occupation, PIN #6995-03-3020-000, located at 7208 Princess Anne Court, Center District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-MA-014, JAMES F. & ELEANOR H. LEONARD (OWNERS)/PAM LEONARD & JOHN FLOWER (APPLICANTS) – MING TANG ACADEMY

Applicants are requesting special permit approval to operate a boarding house to host international students in an existing residence, PIN #6966-39-1454-000 and 6967-20-7454-000, located at 6168 Carter's Run Road, Marshall District, Marshall, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the application.

SPECIAL PERMIT #SPPT12-MA-015, JAMES F. & ELEANOR H. LEONARD (OWNERS)/PAM LEONARD & JOHN FLOWER (APPLICANTS) – MING TANG ACADEMY

Applicants are requesting special permit approval to construct a residence to allow for the operation of a boarding house to host international students, PIN #6966-39-1454-000 and

6967-30-9038-000, located on the west side of Carter’s Run Road, Marshall District, Marshall, Virginia. (Saundra O’Connell, Staff)

Ms. O’Connell reviewed the application.

On motion made by Mr. Meadows and seconded by Mr. Tufts, 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 Special Permit #SPPT12-CT-013, Brian P. & Patricia E. Parrish (Owners)/Brian P. Parrish (Applicant) – Triune Arms, LLC; SPPT12-MA-014 and SPPT12-MA-015, James F. & Eleanor H. Leonard (Owners)/Pam Leonard & John Flower (Applicants) – Ming Tang Academy.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

Upon reconvening from the closed meeting, Mr. Hushour 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 Mrs. Cooper.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

The meeting was adjourned at 1:55 p.m.

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

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, February 2, 2012, 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, Vice-Chairperson; Mr. Michael Brown; Mrs. Mary North Cooper; and Mr. Maximilian Tufts, Jr. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; Ms. Sandra O'Connell, Senior Planner; Mr. Rob Walton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the public hearing protocol. Mr. Hushour stated that, to the best of his 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. Russell and seconded by Mr. Tufts, it was moved to approve the January 5, 2012 minutes.

The motion carried unanimously.

SPECIAL PERMIT #SPPT12-CT-013, BRIAN P. & PATRICIA E. PARRISH (OWNERS)/BRIAN P. PARRISH (APPLICANT) – TRIUNE ARMS, LLC

Applicant is requesting special permit approval to operate a gunsmithing business as a major home occupation, PIN #6995-03-3020-000, located at 7208 Princess Anne Court, Center District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour 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.

Dr. Brian Parrish, applicant, expressed agreement with the staff report.

Ms. Susan Kiser, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about safety, increased traffic and the character of those coming to the neighborhood to purchase firearms. Ms. Kiser also presented her concerns in writing, a copy of which is attached to and made a part of these official minutes.

Ms. Joice Fredenburgh, a neighbor, spoke in opposition to the granting of this special permit, expressing concern for the safety of children in the area. Ms. Fredenburgh stated that a residential neighborhood is not an appropriate location for this use.

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

In response to inquiries from Board members, Dr. Parrish stated that an Alcohol, Tobacco & Firearms (ATF) license will be required for the business, of which he is the only officer. Dr. Parrish also stated that the 10' x 20' shed, which was designed by a structural engineer, has hurricane grade roofing and sits on 16 pylons (with each containing approximately 400 pounds of concrete) below the frost line. Dr. Parrish further stated that the following safety precautions will be taken to secure the firearms: 1) Installation of an alarm system, with battery back-up, to be monitored by ADT; 2) Security bars; 3) Deadbolt lock with keyed entry on both sides; 4) Industrial grade safe to be fastened to the wall and floor joists.

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

On motion made by Mr. Brown and seconded by Mr. Meadows, 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 the property.
2. The proposed use will adversely affect the use of neighboring properties and will impair the value of nearby land.

Mr. Brown stated that numerous law abiding citizens purchase firearms, but he is concerned about the impact this use would have on a residential neighborhood with homes in such close proximity.

Mr. Tufts suggested that a time limit could be imposed on the use.

After discussion, on motion made by Mr. Meadows and seconded by Mrs. Cooper, 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 Special Permit #SPPT12-CT-013, Brian P. & Patricia E. Parrish (Owners/Applicants) – Triune Arms, LLC.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

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

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

The motion made by Mr. Brown and seconded by Mr. Meadows prior to the Closed Session to deny the special permit failed 3 – 2, as follows:

AYES: Mr. Brown, Mr. Russell

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

ABSTENTION: None

ABSENT: None

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 hours of operation shall be limited to 5:00 p.m. until 7:00 p.m., Sunday through Fridays, and 9:00 a.m. until 6:00 p.m. on Saturdays. All client visits to the site shall be by appointment only and such visits are limited to no more than two (2) per week.
3. No firearms associated with the commercial activity shall be fired on the subject property.
4. The inventory of firearms offered for retail sales shall not exceed ten (10) guns at any one time, none of which can be fully automatic.
5. This special permit shall expire in one (1) year.

After discussion, on motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to amend the above motion to add Condition #6, as follows:

6. This special permit is conditional upon the applicant obtaining and maintaining all federal, state, and local permits applicable to this use.

The motion carried unanimously, as amended.

After further discussion, on motion made by Mr. Meadows and seconded by Mr. Russell, it was moved to amend the above motion to add Condition #7, as follows:

- 7. A concrete slab shall be poured under the gun safe, which shall be bolted to such.

The motion carried unanimously.

After additional discussion, on motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to amend Condition #2 of the above motion, as follows:

- 2. The hours of operation shall be limited to 5:00 p.m. until 7:00 p.m., Sunday through Fridays, and 9:00 a.m. until 6:00 p.m. on Saturdays. All client visits to the site shall be by appointment only and such visits are limited to no more than two (2) per week, *one customer at a time*.

The motion carried unanimously.

The original motion, as amended, carried 4 – 1, as follows:

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

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: None

SPECIAL PERMIT #SPPT12-MA-014, JAMES F. & ELEANOR H. LEONARD (OWNERS)/PAM LEONARD & JOHN FLOWER (APPLICANTS) – MING TANG ACADEMY

Applicants are requesting special permit approval to operate a boarding house to host international students in an existing residence, PIN #6966-39-1454-000 and 6967-20-7454-000, located at 6168 Carter’s Run Road, Marshall District, Marshall, 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.

SPECIAL PERMIT #SPPT12-MA-015, JAMES F. & ELEANOR H. LEONARD (OWNERS)/PAM LEONARD & JOHN FLOWER (APPLICANTS) – MING TANG ACADEMY

Applicants are requesting special permit approval to construct a residence to allow for the operation of a boarding house to host international students, PIN #6966-39-1454-000 and 6967-30-9038-000, located on the west side of Carter’s Run Road, Marshall District, Marshall, Virginia. (Saundra O’Connell, Staff)

Ms. O'Connell 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 on both applications.

Ms. Pam Leonard, applicant, expressed agreement with both staff reports and reviewed the proposal. Ms. Leonard stated that subdivision potential research indicates that the properties owned by her family on Carter's Run Road have a maximum of 20 development rights, but with this proposal she is hoping to minimize the impact on her neighbors and preserve the rural character of the area. Ms. Leonard stated that she hopes to open the facility within the next year or two, depending on the number of students they are able to attract. Ms. Leonard further explained that, while they are applying for a maximum of 12 students, it would be ideal to have fewer students, which would allow for greater flexibility as they decide on a new business model.

Mr. Michael Boike, a neighbor, spoke in opposition to the granting of these special permits. Mr. Boike stated that this proposal does not eliminate any of the development rights mentioned by the applicant. Mr. Boike noted that the site of the proposed new dwelling has a preliminary perc approval for a two bedroom house, which would not be adequate for the proposed number of residents. Mr. Boike also stated that the applicants are proposing to move a 19th century bank barn to the site and convert it to a dwelling, but questioned if the structure would meet the criteria of resembling a single-family dwelling. In conclusion, Mr. Boike expressed further concern about traffic and safety issues and suggested that the Board might want to make a site visit since Carter's Run Road is classified as a local collector and was not designed for this type of use.

Ms. Shelesa Brew, a neighbor, spoke in opposition to the granting of these special permits. Ms. Brew expressed concerns about safety, increased traffic, and the possibility this proposal would set an unwelcome precedent of commercialization in this area.

Mr. George Brew, a neighbor, spoke in opposition to the granting of these special permits, stating that this is not the appropriate location for this proposal because the increased traffic would pose a threat to residents and livestock.

Mr. Stanley Owens, a neighbor, spoke in opposition to the granting of these special permits, stating that the anticipated number of trips per day appear to be underestimated. Mr. Owens also expressed concern about possible future expansion and stated that he and his family did not envision this type of use when they moved to the area 10 years ago.

Dr. Kitty Smith, Marshall District, spoke in opposition to the granting of these special permits, questioning if the required sight distance is available along this portion of Carter's Run Road. Dr. Smith suggested that a site visit be made.

Ms. Susan Jones, a neighbor, stated that she does not have enough information to determine if this proposal would be beneficial for the area since the applicant has not presented a solid business plan. Ms. Jones also expressed concern about safety along Carter's Run Road, stating that it is dangerous just trying to cross the road to get her mail.

Mr. George Thompson, a neighbor, spoke in opposition to the granting of these special permits, stating that Carter's Run Road is not the appropriate location for this proposal.

Mr. Alvin Henry, speaking on behalf of his father-in-law, Mr. William Skinker, who is a neighbor, spoke in opposition to the granting of these special permits. Mr. Henry stated that Mr. Skinker is concerned about increased traffic and safety due to the speed of motorists along Carter's Run Road and the vast deer population in the area.

Mr. Johnathan MacQuilliam, a neighbor, spoke in opposition to the granting of these special permits because of increased traffic along Carter's Run Road, which is very narrow. Mr. MacQuilliam also stated that he is concerned about the applicant's uncertainty regarding the actual number of students they will accommodate at the site.

Mr. Meadows asked the Board if they would like to schedule a site visit.

Board members indicated that they are familiar with Carter's Run Road and no site visit will be necessary.

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

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to grant the special permit (SPPT12-MA-014), 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.
7. The type and amount of traffic generated by the particular use is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

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. Occupancy of the residence on-site shall be limited to the applicants and their immediate family, plus no more than twelve (12) persons associated with the boarding house business.
3. The applicant shall be required to maintain the wooded area of the subject property adjacent to Carter's Run Road and the north and west sides of the property, so as to provide appropriate screening of the use on-site and its associated parking.
4. Signage associated with the approved use shall be limited to no more than two (2) square feet and shall be non-illuminated.
5. The boarding house associated with this application, approved for the existing dwelling, will cease once the new facility, proposed with Special Permit Application #SPPT12-MA-015, has received a Certificate of Occupancy.

Mr. Brown stated that it appears the applicant is requesting an educational enterprise or "school" rather than simply a boarding house.

Mrs. Cooper expressed concern that the applicant does not have a clear business plan.

After further discussion, Mr. Russell withdrew his motion to grant Special Permit #SPPT12-MA-014 and Mr. Tufts withdrew his second.

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to reopen the public hearing and postpone action on Special Permit #SPPT12-MA-014 until the next regularly scheduled meeting.

The motion carried unanimously.

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to reopen the public hearing and postpone action on Special Permit #SPPT12-MA-015 until the next regularly scheduled meeting.

The motion carried unanimously.

OTHER BUSINESS:

- Mr. Meadows inquired if it was necessary for the Board to include a condition regarding a security system being installed for Special Permit #SPPT12-CT-013,

Brian P. & Patricia E. Parrish (Owners)/Brian P. Parrish (Applicant) – Triune Arms, LLC.

Ms. Gallehr clarified that since this was stated in the application materials, it is covered in Condition #1, which states: *“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.”*

- Board members identified the following areas of concern regarding Special Permit #SPPT12-MA-014 & SPPT12-MA-015, James F. & Eleanor H. Leonard (Owners)/Pam Leonard & John Flower (Applicants) – Ming Tang Academy:
 1. Approval will not be for a school.
 2. No summer school programs will be allowed.
 3. Zoning Administrator to determine if a live-in tutor would make the facility a school.
 4. Include a condition that the students must attend Highland School or receive confirmation from Highland School that the students have been accepted.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:55 p.m.

John R. Meadows, Chairperson

Andrew B. Hushour, 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.