

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
APRIL 5, 2012**

*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, April 5, 2012, 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. Harry Russell, Vice-Chairperson; Mr. Michael Brown; and Mrs. Mary North Cooper. 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. Member absent was Mr. Maximilian Tufts, Jr.

MINUTES:

Board members reviewed the March 1, 2012 minutes.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT12-SC-019, BRETT & HEATHER D. SIEBENALER (OWNERS)/BRETT SIEBENALER (APPLICANT) – H & B SERVICES, LLC

Applicant is requesting special permit approval to operate a gunsmithing business as a major home occupation, PIN #6995-97-8410-000, located at 6971 Great Oak Way, Scott District, Warrenton, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the application.

ZONING VARIANCE #ZNVA12-SC-006, JON FREDAS (OWNER/APPLICANT) – FREDAS PROPERTY

Applicant is requesting a variance of the twenty-five (25) foot side yard setback requirement to allow for the construction of a detached garage, PIN #6995-84-8582-000, located at 5824 Chittenden Drive, Scott District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-MA-020, MAXIMILIAN A. TUFTS, JR. (OWNER)/WARRENTON HUNT, INC. & ASHLAND BASSETS, INC. (APPLICANTS) – WARRENTON HUNT, INC. & ASHLAND BASSETS, INC.

Applicants are requesting special permit approval to operate a kennel, PIN #6973-16-0401-000, located at 8442 Elway Lane, Marshall District, Warrenton, Virginia. (Saundra O'Connell, Staff)

Ms. O'Connell reviewed the staff report.

ZONING VARIANCE #ZNVA12-CR-007, HISTORIC AUBURN, LLC (OWNER)/BARRY STARKE (APPLICANT) – THE WHITE STORE

Applicant is requesting a variance of the seventy-five (75) foot front yard setback requirement to allow for the construction of a building for office use, PIN #7913-19-2730-000, located at 4485 Old Auburn Road, Cedar Run District, Catlett, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the staff report.

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 5, 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; and Mrs. Mary North Cooper. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; Ms. Saundra O'Connell, Senior Planner; Mr. Rob Walton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist. Member absent was Mr. Maximilian Tufts, Jr.

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. Brown, it was moved to approve the March 1, 2012 minutes.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

SPECIAL PERMIT #SPPT12-SC-019, BRETT & HEATHER D. SIEBENALER (OWNERS)/BRETT SIEBENALER (APPLICANT) – H & B SERVICES, LLC

Applicant is requesting special permit approval to operate a gunsmithing business as a major home occupation, PIN #6995-97-8410-000, located at 6971 Great Oak Way, Scott District, Warrenton, 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. Brett Siebenaler, applicant, expressed agreement with the staff report.

Mr. Stan Bielak, a neighbor, spoke in opposition to the granting of this special permit, stating that the property is under deed restricted covenants, which do not allow commercial businesses. Mr. Bielak also expressed concern about increased traffic, road maintenance, and safety.

Mr. Meadows clarified that, while covenants may be a legitimate concern, the Board does not have jurisdiction to enforce these.

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

After discussion, on motion made by Mr. Brown 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 hours of operation shall be limited to 9:00 a.m. until 2:00 p.m., Tuesday, Thursday, and Saturday for all firearms sales. All client visits to the site shall be by appointment only and such visits are limited to no more than three (3) 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 sale shall not exceed ten (10) firearms at any one time, none of which can be fully automatic.
5. There will be no storage or sales of ammunition, associated with the use, on the subject property.
6. The applicant shall be in compliance with all applicable federal, state, and local licensing requirements and regulations.
7. All firearms associated with the approved use shall be stored in a locked container affixed to the structure.
8. This special permit shall continue for a period of one (1) year.

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

2. The hours of operation shall be limited to 9:00 a.m. until 2:00 p.m., Tuesday, Thursday, and Saturday *for all client visits to the property*. All client visits to the site shall be by appointment only and such visits are limited to no more than three (3) per week.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

Thereafter, the original motion, as amended, carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

ZONING VARIANCE #ZNVA12-SC-006, JON FREDAS (OWNER/APPLICANT) – FREDAS PROPERTY

Applicant is requesting a variance of the twenty-five (25) foot side yard setback requirement to allow for the construction of a detached garage, PIN #6995-84-8582-000, located at 5824 Chittenden Drive, Scott 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.

Mr. Jon Fredas, applicant, expressed agreement with the staff report.

Mr. Brown asked the applicant why the variance is being requested.

Mr. Jon Fredas, applicant, responded that he would like to store vehicles in the garage so that they are not parked in his driveway.

Mr. Brown stated that the request appears to be more for convenience rather than to alleviate a clearly demonstrable hardship, as required by the *Code of Virginia* (§15.2-2309).

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

On motion made by Mrs. Cooper and seconded by Mr. Russell, it was moved to deny 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 Ordinance does not produce unnecessary, unreasonable, or undue hardship to the property owner; and
2. That the hardship is shared generally by other properties in the same zoning district and the same vicinity; and
3. That the granting of the variance will be of substantial detriment to adjacent property; and
4. That the character of the district will be changed by the granting of the variance; and
5. That the variance is contrary to the intent and purpose of the Zoning Ordinance; and
6. That the granting of the variance does not result in substantial justice being done.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

SPECIAL PERMIT #SPPT12-MA-020, MAXIMILIAN A. TUFTS, JR. (OWNER)/WARRENTON HUNT, INC. & ASHLAND BASSETS, INC. (APPLICANTS) – WARRENTON HUNT, INC. & ASHLAND BASSETS, INC.

Applicants are requesting special permit approval to operate a kennel, PIN #6973-16-0401-000, located at 8442 Elway Lane, Marshall District, Warrenton, 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.

Mr. Matt van der Woude and Ms. Mary Reed, representatives, expressed agreement with the staff report and reviewed their proposal to collect the animal waste on a daily basis, place it in a manure spreader along with horse manure that is generated on-site and then spread the mixture on the owner’s fields and pastureland.

Board members expressed concern that this process may not meet the requirement of Zoning Ordinance Section 5-1301.7, which states: “*Waste from operations must be collected and contained so as not to pollute the environment.*”

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

After discussion, on motion made by Mr. Russell and seconded by Mrs. Cooper, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open, to allow the applicants and staff to further research this issue.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

ZONING VARIANCE #ZNVA12-CR-007, HISTORIC AUBURN, LLC (OWNER)/BARRY STARKE (APPLICANT) – THE WHITE STORE

Applicant is requesting a variance of the seventy-five (75) foot front yard setback requirement to allow for the construction of a building for office use, PIN #7913-19-2730-000, located at 4485 Old Auburn Road, Cedar Run District, Catlett, 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.

Mr. Barry Starke, applicant, expressed agreement with the staff report and reviewed his proposal.

Board members expressed concern that there may be other locations on the property where this structure could be located and noted that the request appears to be more for convenience rather than to alleviate a clearly demonstrable hardship, as required by the *Code of Virginia* (§15.2-2309).

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

After discussion, on motion made by Mrs. Cooper and seconded by Mr. Meadows, it was moved to deny 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 Ordinance does not produce unnecessary, unreasonable, or undue hardship to the property owner; and
2. That the hardship is shared generally by other properties in the same zoning district and the same vicinity; and
3. That the granting of the variance will be of substantial detriment to adjacent property; and
4. That the character of the district will be changed by the granting of the variance; and
5. That the variance is contrary to the intent and purpose of the Zoning Ordinance; and
6. That the granting of the variance does not result in substantial justice being done.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSENT: Mr. Tufts

ABSTENTION: None

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:15 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.