

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
MARCH 3, 2011**

*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, March 3, 2011, 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 Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; and Mr. Wally Horton, Senior Planner.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT11-MA-015, JOHN C. & KATHERINE S. WRIGHT (OWNERS)/JOHN C. WRIGHT (APPLICANT) – EARTH & TURF, LLC

Applicant is requesting special permit approval to operate a small contracting business as a major home occupation, PIN #6953-66-4097-000, located at 9327 Lee Highway, Marshall District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the application.

SPECIAL PERMIT #SPPT11-CR-016, HISTORIC AUBURN, LLC (OWNER/APPLICANT) – HISTORIC AUBURN, LLC

Applicant is requesting special permit approval to operate a business or professional office with six (6) or less employees, PIN #7913-19-2730-000, located at 4493 Old Auburn Road, Cedar Run District, Catlett, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT11-CR-017, ANDREW DAVID & REBECCA M. COOPER (OWNERS)/GRADY W. MORRIS (APPLICANT) – OVERCOMING OBSTACLES LANDSCAPING COMPANY

Applicant is requesting special permit approval to operate a small contracting business as a major home occupation, PIN #6982-65-8733-000, located at 6732 Beach Road, Cedar Run District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the application.

The meeting was adjourned at 1:45 p.m.

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| <p><i>Regularly Scheduled Meeting</i> <i>2:00 p.m.</i> <i>Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia</i></p> |
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The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, March 3, 2011, 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 Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; Mr. Wally Horton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

MINUTES:

On motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to approve the February 3, 2011 minutes.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the Public Hearing protocol. Mr. Horton 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.

SPECIAL PERMIT #SPPT11-MA-015, JOHN C. & KATHERINE S. WRIGHT (OWNERS)/JOHN C. WRIGHT (APPLICANT) – EARTH & TURF, LLC

Applicant is requesting special permit approval to operate a small contracting business as a major home occupation, PIN #6953-66-4097-000, located at 9327 Lee Highway, Marshall District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Horton 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. John Wright, applicant, expressed agreement with the staff report and presented the Board with statements of support, copies of which are attached to and made a part of these official minutes, from three neighboring property owners. Mr. Wright noted that he and his

mother, Katherine S. Wright, recently purchased the adjacent property (PIN #6953-65-0725-000) to the southwest of the subject parcel.

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 as necessary to meet Zoning Ordinance requirements.
2. All activity related to the small contracting business shall be limited to Mondays through Fridays, between the hours of 8:00 a.m. and 6:00 p.m. and Saturdays between the hours of 8:00 a.m. and 1:00 p.m.
3. The number of employees allowed to work from the subject property shall be limited to five (5) persons, including the applicant, John C. Wright.
4. No trucks or equipment other than that specified in the application materials shall be stored on-site in conjunction with business operations.
5. The outdoor storage area for the parking of vehicles and equipment associated with the business, as well as employee parking, shall not exceed 5,000 square feet in area

and shall be located in the general area identified on the special permit plat, which shall be maintained in a gravel surface.

6. A thirty (30) foot wide dense evergreen buffer shall be installed along the southwest side of the outdoor storage area to adequately screen the use from the adjacent residence, in accordance with Zoning Ordinance requirements. Such landscaping shall consist of a double row of evergreen trees spaced ten (10) to fifteen (15) feet apart. In addition, sight obscuring board-on-board privacy fencing shall also be installed along the southwest side of the outdoor storage area to ensure adequate screening.
7. The lighting of the outdoor storage area is prohibited.
8. No additional land clearing or improvements shall be made to the site for business purposes.
9. This special permit shall be issued for a period of one (1) year.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT11-CR-016, HISTORIC AUBURN, LLC
(OWNER/APPLICANT) – HISTORIC AUBURN, LLC**

Applicant is requesting special permit approval to operate a business or professional office with six (6) or less employees, PIN #7913-19-2730-000, located at 4493 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.

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.
7. The type and amount of traffic generated by the facility 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 as necessary to meet Zoning Ordinance requirements.
2. Approval is granted for both existing structures on the subject property to be utilized for commercial purposes as professional offices, for a maximum of six (6) employees. This limitation on the number of employees shall govern on the subject property regardless of whether one or both of the existing structures are converted to such commercial use.
3. The proposed hours of operation for all commercial activity on-site are limited to Mondays through Saturdays, from 8:00 a.m. until 6:00 p.m.
4. The exterior façades of both structures on-site shall generally retain their existing residential character and architectural style regardless of their intended future use(s).
5. All signage on-site shall meet the requirements and standards set forth in Article 8 of the Zoning Ordinance, and such signage shall only be non-illuminated.
6. Prior to site plan approval, the ingress/egress easement shown on the approved special permit plat shall be dedicated and duly recorded as such.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-CR-017, ANDREW DAVID & REBECCA M. COOPER (OWNERS)/GRADY W. MORRIS (APPLICANT) – OVERCOMING OBSTACLES LANDSCAPING COMPANY

Applicant is requesting special permit approval to operate a small contracting business as a major home occupation, PIN #6982-65-8733-000, located at 6732 Beach Road, Cedar Run District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these official minutes. Mr. Horton stated that he received a phone call from an adjoining neighbor, Ms. Cheryl Parker, who expressed concern about noise from activities occurring on the property as late as 10:00 p.m. and requested that, if approved, a condition be made to limit the hours of operation.

Mr. Meadows opened the public hearing.

Mr. Grady Morris, applicant, expressed agreement with the staff report. Mr. Morris stated that he rents the subject parcel from Mr. & Mrs. Andrew Cooper and noted that noise late in the evening is from another business being conducted on the property by the owners.

Mr. Meadows inquired if staff is aware of another business being conducted on the site.

Mr. Hushour stated that the property is currently under enforcement action regarding multiple businesses as well as other issues and this is the first step in bringing the site into compliance.

Ms. Valerie Hirschhorn, a neighbor, stated that while she is not opposed to the operation of the small contracting business by the applicant, she is concerned about the noise late at night and possible contamination of her water.

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

After discussion, on motion made by Mr. Tufts 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 SPPT11-CR-017 (Andrew David & Rebecca M. Cooper (Owners)/Grady W. Morris (Applicant) – Overcoming Obstacles Landscaping Company).

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. 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 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

Mr. Russell requested clarification on who resides at the subject property.

Mr. Morris stated that he lives on the property, which is rented from the owners, Andrew & Rebecca Cooper.

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.
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 as necessary to meet Zoning Ordinance requirements.
2. All activity related to the small contracting business shall be limited to Mondays through Fridays, between the hours of 8:00 a.m. and 5:00 p.m., and Saturdays from 9:00 a.m. until 5:00 p.m.
3. The number of employees allowed to work from the subject property shall be limited to five (5) persons, including the applicant, Grady W. Morris.
4. No trucks or equipment other than that specified in the application materials shall be stored on-site in conjunction with business operations.
5. The outdoor storage area for the parking of vehicles and equipment associated with the business, as well as employee parking, shall not exceed 5,000 square feet in area and shall be located in the general area identified on the special permit plat, between the existing residence and pond on the subject property.
6. The indoor storage of vehicles and equipment associated with the business shall be limited to the existing 378 square foot carport on-site. Prior to site plan approval, all applicable County permits shall be acquired for the carport and all necessary inspections completed.
7. No additional land clearing or improvements shall be made to the site for business purposes.
8. A thirty (30) foot wide dense evergreen buffer shall be installed around the perimeter of the outdoor storage area to adequately screen the use from all adjacent residences, in accord with Zoning Ordinance requirements. Such landscaping shall consist of a double row of evergreen trees spaced ten (10) to fifteen (15) feet apart.
9. The lighting of the outdoor storage area is prohibited.

- 10. Storage of firewood for commercial sale is prohibited.
- 11. Storage of bulk materials on-site for commercial use or sale is prohibited.

Mr. Brown stated that the use is too intense for the neighborhood and expressed concern about surface and groundwater quality.

The motion carried 4 – 1, as follows:

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

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: None

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

- 12. The existing 7,900 square foot gravel area shall be reduced to 5,000 square feet with 2,900 square feet along the pond side, being brought back into its natural state, which would be grass.

The motion carried unanimously, as amended.

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:53 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.