

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
JUNE 2, 2011**

*Site Visits
10:30 a.m.
Parking Lot at the Corner of Lee Street and Marshall Street
Warrenton, Virginia*

An adjourned meeting of the Fauquier County Board of Zoning Appeals was held on June 2, 2011 at 10:30 a.m. in 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 was Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary.

Mr. Meadows reviewed the site visit agenda and stated that there would be two (2) site visits as follows:

1. Carolyn A. Calarco (Peaceful Haven Alpacas) – 10:49 a.m.
2. Nancy Hope Love (Brookland Labradors) – 11:36 a.m.

With no further business, the meeting was adjourned at approximately 11:50 a.m., to reconvene at 12:25 p.m. in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia.

*Work Session
12:25 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 2, 2011, beginning at 12:25 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:**ZONING VARIANCE #ZNVA11-MA-002, CAROLYN A. CALARCO (OWNER/APPLICANT) – PEACEFUL HAVEN ALPACAS**

Reconsideration of a variance request to reduce the required one hundred (100) foot setback to allow for the construction of a barn, PIN #6943-79-7680-000, located at 8046 Leeds Manor Road, Marshall District, Marshall, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT11-CR-022, O.B. MESSICK & SONS, INC. (OWNER/APPLICANT) – MESSICK COMMUNITY FARMERS’ MARKET

Applicant is requesting special permit approval to operate a community farmers’ market, PIN #6899-77-3423-000 and 6990-70-6469-000, located at 10679 Prairie View Lane, Cedar Run District, Bealeton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT11-CR-023, CALVIN L. RITCHIE TRUST, WILBUR EARLY RITCHIE II, JASON C. (SR.) & ERIN ANN RITCHIE, AND RICKY L. & JANICE N. RITCHIE (OWNERS)/TFS WORLDWIDE, INC. (APPLICANT) – “WE THE PEOPLE” TEMPORARY EVENT

Applicant is requesting special permit approval to host a temporary event, PIN #7807-78-3793-000, 7807-79-2793-000, 7807-99-3475-000, 7808-52-6185-000, 7808-70-2628-000, and 7808-81-5996-000, located at 5253 Inglewood Farm Lane, 5126 Inglewood Farm Lane, 11738 Ag Industrial Road, and 5175 Ritchie Road, Cedar Run District, Bealeton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the application.

SPECIAL PERMIT #SPPT11-CR-026, CALVIN L. RITCHIE TRUST, JASON C. (SR.) & ERIN ANN RITCHIE, AND RICKY L. & JANICE N. RITCHIE (OWNERS)/VIRGINIA AG EXPO (APPLICANT) – VIRGINIA AG EXPO

Applicant is requesting special permit approval to host a temporary event, PIN #7807-78-3793-000, 7807-79-2793-000, 7808-52-6185-000, 7808-70-2628-000, and 7808-81-5996-000, located at 11738 Ag Industrial Road, 5126 Inglewood Farm Lane, 5253 Inglewood Farm Lane, and 5175 Ritchie Road, Cedar Run District, Bealeton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the application.

SPECIAL PERMIT #SPPT11-MA-024 & SPPT11-MA-025, UPPERVILLE BUSINESS PARK, LLC (OWNER/APPLICANT) – UPPERVILLE BUSINESS PARK

Applicant is requesting special permit approval for a retail sales establishment between 5,000 and 20,000 square feet and a carpentry shop less than 5,000 square feet, PIN #6054-75-1855-000, 6054-75-1744-000, 6054-75-0680-000, 6054-75-0404-000, 6054-75-1399-000, and 6054-65-8611-000, located at 9183 John S. Mosby Highway and 9197 John S. Mosby Highway, Marshall District, Upperville, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

ZONING VARIANCE #ZNVA11-LE-006, BRANCH BANKING & TRUST COMPANY (OWNER/APPLICANT) – SOUTHALL MEADOWS (LOT 6)

Applicant is requesting a variance of the seventy-five (75) foot front yard setback requirement for the RA/Rural Agriculture zoning district, PIN #6980-54-1350-000, located at 10383 Michael Ryan Drive, Lee District, Bealeton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT11-CR-027, ANDREW DAVID & REBECCA M. COOPER (OWNERS)/GRADY W. MORRIS (APPLICANT) – OVERCOMING OBSTACLES LANDSCAPING COMPANY

Applicant is requesting an amendment to a previously approved special permit to allow for 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.

SPECIAL PERMIT #SPPT11-SC-020, NANCY HOPE LOVE (OWNER/APPLICANT) – BROOKLAND LABRADORS

Applicant is requesting special permit approval to allow for a dog kennel, PIN #7908-30-0790-000, located at 5369 Brookland Drive, Scott District, Broad Run, Virginia. (Andrew Hushour, Staff)

On motion made by Mr. Brown 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 #SPPT11-SC-020 (Nancy Hope Love, Owner/Applicant – Brookland Labradors).

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. Meadows 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. 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

Mr. Hushour 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, June 2, 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. Russell and seconded by Mr. Tufts, it was moved to approve the May 5, 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.

ZONING VARIANCE #ZNVA11-MA-002, CAROLYN A. CALARCO (OWNER/APPLICANT) – PEACEFUL HAVEN ALPACAS

Reconsideration of a variance request to reduce the required one hundred (100) foot setback to allow for the construction of a barn, PIN #6943-79-7680-000, located at 8046 Leeds Manor Road, Marshall District, Marshall, 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, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mark Hyson, Esquire, representative, expressed agreement with the staff report. Mr. Hyson stated that construction of the barn in another location would present an unreasonable burden on the applicant due to the soil composition and topography of the property.

Mr. Brown inquired if the applicant has discussed a possible boundary line adjustment with the adjacent property owner.

Ms. Carolyn Calarco, applicant, stated that the adjacent property owner is deceased. She has spoken with his heirs about doing so, but with no success.

Ms. Amy Pritchard, with Carson-Ashley and Associates, reviewed the slope and drainage issues on the property and presented the Board with a conceptual grading exhibit, a copy of which is attached to and made a part of these official minutes.

Mr. Carroll Coffey, an adjoining property owner, spoke in opposition to the granting of this variance. Mr. Coffey stated that he and his wife, who is one of the heirs mentioned earlier, intend to construct a home on this adjacent parcel in the near future and expressed concern about possible odors from the barn and how it would affect their view. Mr. Coffey stated that he also feared possible contamination of a nearby spring and noted that maintenance of the private road is an issue.

Ms. JoAnne Dye, a nearby property owner, spoke in opposition to the granting of this variance. Ms. Dye expressed concern about having a business in this location as well as the issue of maintenance of the private road.

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

On motion made by Mrs. Cooper and seconded by Mr. Tufts, 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 barn shall be located no closer than eighty-three (83) feet to the eastern side property line.
3. All applicable permits for the proposed barn shall be obtained prior to the commencement of construction activities, and all necessary inspections completed prior to occupancy.

Mr. Meadows clarified that the applicant has agreed to remove the eight (8) foot overhang from the barn, thereby reducing the requested variance to seventeen (17) feet.

The motion carried 4 – 1, as follows:

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

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: None

ZONING APPEAL #ZNAP11-MA-003, UPPERVILLE VOLUNTEER FIRE COMPANY, INC. (OWNER/APPLICANT) – UPPERVILLE VOLUNTEER FIRE COMPANY

Applicant is appealing a Zoning Administrator's determination that a sign erected on-site is an animated sign, PIN #6054-75-3784-000, located at 9167 John S. Mosby Highway, Marshall District, Upperville, Virginia. (Andrew Hushour, Staff) ***Note: This is a public meeting, not a public hearing.***

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 meeting.

Merle W. Fallon, Esquire, presented the Board with two handouts, copies of which are attached to and made part of these official minutes, to explain the appellant's position in this matter.

Mr. Fallon stated that the appellant had a sign in front of its facility that they could change the lettering on, which is allowed in the Ordinance. His client decided to install a new sign, but did not realize that a permit was necessary.

Mr. Fallon reviewed one of the handouts and noted the definition of "animated," which means "to move, full of action, spirit, lively, vigorous, made or equipped to move or give the appearance of moving." He stated that the appellant's video will show that the sign changes, but does not "move."

Mr. Scott Williams, Fire Chief, presented a video showing the sign that is currently on the property.

Mr. Fallon continued with a review of Article 8 of the Zoning Ordinance, referring to the following portions:

Section 8-201.35, Tube Illumination, which is "...permitted for all establishments in the Commercial 1, 2, 3 zones, Commercial Village and Industrial 1..." Mr. Fallon noted that the subject property is zoned Commercial-Village where lighted signs are allowed.

Section 8-301.1, allows replacement copy, stating: "Changing the bill of acts or features on marquees at movie theaters and theaters and similar approved signs which are specifically designed for the use of replacement copy."

Section 8-301.10 allows “Seasonal displays and decorations not advertising a product, service or entertainment.” Mr. Fallon stated that the appellant could conceivably install flashing Christmas lights around the sign, which is not prohibited.

Section 8-1000.3 – “Animated signs are prohibited.” Mr. Fallon stated that the sign in question is not “animated” and is therefore allowed under the Ordinance.

Section 8-1000.8 – “Any arrangement by exposed tubing or a series of lights in rows, strings, patterns or designs that outline or are affixed to any portion of a building or structure. This prohibition **does not apply** to exposed tubing or lights which are an integral part of an approved sign or sign structure; nor does this prohibition preclude those seasonal displays or decorations as permitted by the provisions of 8-301.19.” Mr. Fallon explained that lights which are part of a sign that set forth your message are allowed.

Section 8-1401.3.A, Identification Signs – “Signage, not exceeding thirty-two (32) square feet in area, for the purpose of showing the name and use of any lawful, non-residential use within these districts for which other signage standards are not specifically set forth, when such signage is erected or displayed on the property. ***In addition to displaying name and use, signage for public uses and schools, whether public or private, may also display information about activities and announcements.***”

Mr. Fallon reviewed his second handout, pictures of existing fire station signs.

Section 8-1501.3.O, Illumination Limitations – (1) “The average illumination on the face or vertical surface of any sign shall not exceed 1 foot-candle.” (2) “A sign shall consist of light lettering... Light sources internally illuminating signs shall be carefully located, aimed and shielded so that light is directed onto the message only...” Mr. Fallon stated that the light is the message in this instance. (3) “Illuminated signs shall not be located within 50 feet of a residential or rural zoning district boundary...” Mr. Fallon stated that his client complies with this requirement.

Mr. Fallon stated that nothing in the Ordinance indicates that the message cannot be changed, nor is there any reference to how frequently the message can be changed. Mr. Fallon noted that the Ordinance contemplates the message being changed.

Mr. Fallon stated that the proposed revision to *Section 8-300.1 – Animated Signs* includes the wording “...and shall also include any electronically controlled changeable copy sign.” A note in the margin states: “New language added to clarify that moving text of an electronically controlled changeable copy sign is an animated sign.” He explained that this language is being added because the current Ordinance is not clear as to whether this would be considered an “animated sign” or not and staff wants to make it clear that if you have changeable copy, it is considered an “animated sign.” But, the Ordinance, as it reads today, – the Ordinance that is being interpreted today – does not make clear that changeable copy is an “animated sign.”

Mr. Fallon concluded by highlighting a Resolution for a Special Exception that was approved by the Board of Supervisors on May 12, 2011 for ASAP Paving, LLC, in which Condition #3 states, “The ASAP Paving sign shall not be permitted to change more than two (2) times in a

24-hour period for the purpose of advertising separate, on-site tenants only. If only one tenant occupies the site, no change in sign content or copy shall be allowed.” Mr. Fallon clarified that the Board of Supervisors contemplates the message changing.

Mr. Brown inquired of staff if the Zoning Administrator would consider a lighted sign that only said “Upperville Volunteer Fire Department” and never changed an “animated sign.”

Mr. Hushour responded that the Zoning Administrator has determined that as long as the message does not change more than once in a 24-hour period, it would not be considered an “animated sign.”

After discussion, 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 Zoning Appeal #ZNAP11-MA-003 (Upperville Volunteer Fire Company, Inc. (Owner/Applicant) – Upperville Volunteer Fire 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. Meadows 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

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

On motion made by Mr. Brown and seconded by Mr. Tufts, after due notice and hearing as required by the Fauquier County Zoning Ordinance and *Code of Virginia*, it was moved to overturn the decision of the Fauquier County Zoning Administrator in Appeal #ZNAP11-MA-003, finding that while the sign for which the Appellant was cited on January 25, 2011 is an animated sign as defined in Zoning Ordinance Section 8-201.1, it fits within the exception of signs indicating time and/or temperature.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-SC-020, NANCY HOPE LOVE (OWNER/APPLICANT)
– BROOKLAND LABRADORS

Applicant is requesting special permit approval to allow for a dog kennel, PIN #7908-30-0790-000, located at 5369 Brookland Drive, Scott District, Broad Run, 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, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Ms. Nancy Love, applicant, expressed agreement with a majority of the staff report. Ms. Love stated that during the site visit, Board members were given a list, a copy of which is attached to and made a part of these official minutes, indicating the age and sex of all dogs on her property. Ms. Love also stated that there is the potential for her female dogs to have a total of ten litters. Ms. Love further stated that she has tried to comply with all of the County's requirements. Ms. Love noted that some of the animal waste, which she believes to be non-toxic since she only feeds her animals a dry commercial dog food, has been buried on the property.

Mr. Russell requested clarification on whether the animal waste was "cleaned up" or "covered up."

Ms. Love stated that she removed as much of the waste as she could, but it had been in a 12' – 14' deep pit for so long, that most of it disintegrated into gravel, which she continues to cover over as it sinks.

Mr. Brown inquired about the drains for each kennel mentioned in the 1996 materials.

Ms. Love responded that the drains were not necessary and no longer exist, but explained that the kennels are usually kept clean.

Mr. Brown stated, in 1996, the applicant proposed to dispose of the waste by adding lime and transporting it to the landfill. Mr. Brown asked if this has been done.

Ms. Love stated that originally she had someone hauling the animal waste to the landfill, but acknowledged that she had some problems with doing so and therefore dug the pit.

Mr. Brown stated that a site visit was made by staff on May 23, 2011, at which time they noticed a litter of puppies that appeared to be approximately two weeks old. Mr. Brown asked the applicant if she had received and complied with a copy of the decree entered by the Fauquier County Circuit Court on April 5, 2011 in which she was ordered to immediately cease operation of the dog kennel and to remove all but two junk, unlicensed or inoperable vehicles from the property prior to April 30, 2011.

Ms. Love replied that she did receive a copy of the court decree, but stated that she submitted the special permit application packet, which she thought overrode the court decree. Ms. Love also stated that when puppies are purchased from her, one of the stipulations is that they will never be taken to a shelter. Ms. Love further stated that one of the vehicles was removed from the property, but she has misplaced the keys to the other one.

Mr. Brooks Martin, an adjacent property owner, spoke in support of the approval of the special permit. Mr. Martin stated that, while he is unaware of the waste issues, it is nice to see families go over to purchase a puppy and hear the kids playing with the dogs. Mr. Martin noted that the applicant has been a good neighbor for approximately 10 years and noise is not an issue because frogs and crickets make a lot more noise than the dogs.

Ms. Kathleen Timberlake, an adjoining property owner, stated that while she would not like to deprive the applicant of making a living, she does have concerns about the noise. Ms. Timberlake stated that she has been trying to sell her property since 2006, but has been unable to do so because of noise from the facility and has since taken it off the market. Ms. Timberlake requested that if the special permit is approved, that it not be conveyed to the new property owners.

Mr. Meadows clarified that special permit approvals run with the land so the approval would convey to any new owners.

Mr. Brown inquired about the length of time the property has been on the market and if Ms. Timberlake has any idea why the property has not sold.

Ms. Timberlake responded that the property has been on the market since her mother passed away in 2006. Ms. Timberlake stated that while she has had some people show interest in the property, they have told her they are not willing to purchase it because of the noise from the kennel; therefore, after reducing the asking price she finally took it off the market.

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

Mr. Brown expressed concern about the proposed scope of the one person operation. Mr. Brown explained that if the Board acts on this application at this time, it must do so based on the material it currently has before it.

On motion made by Mr. Brown and seconded by Mr. Tufts, 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 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 the neighborhood.
4. Adequate drainage and other facilities are not provided to serve the proposed use.
5. Surface and groundwater quality and quantity 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 4 – 0, as follows:

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

NAYS: None

ABSTENTION: Mrs. Cooper

ABSENT: None

SPECIAL PERMIT #SPPT11-CR-022, O.B. MESSICK & SONS, INC. (OWNER/APPLICANT) – MESSICK COMMUNITY FARMERS’ MARKET

Applicant is requesting special permit approval to operate a community farmers’ market, PIN #6899-77-3423-000 and 6990-70-6469-000, located at 10679 Prairie View Lane, Cedar Run District, Bealeton, 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. Charles Floyd, representative, expressed agreement with the staff report.

Mr. Jimmy Messick, applicant, spoke in support of approval of this special permit.

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.
7. The proposed use is designed in such a manner that it will not cause an undue impact on neighboring properties.

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 hours of operation for the community farmer's market shall be limited to 9:00 a.m. until 7:00 p.m. daily.
2. Outdoor recreational activities are permitted year round on-site. Permitted activities shall be dependent on agricultural products that are produced on-site, with a determination made in this regard by the Zoning Administrator prior to the holding of such activities on-site.
3. The applicant shall make every effort to retain as much of the wooded area as possible surrounding the proposed site of the community farmer's market building. In the event that adequate screening of the building from Route 28/Catlett Road to the north and the adjacent properties to the east and west cannot be provided with the existing tree stands on-site, then the applicant will be required to install screening in these areas during the site plan review process, as deemed necessary by the Zoning Administrator.

4. Any signage erected on-site for the community farmer's market shall only be illuminated with indirect lighting.

After discussion, on motion made by Mr. Meadows and seconded by Mr. Tufts, it was moved to amend Condition #3 of the above motion, as follows:

3. The applicant shall make every effort to retain as much of the wooded area as possible surrounding the proposed site of the community farmer's market building, which shall be adequately screened, as deemed necessary by the Zoning Administrator.

The motion carried unanimously, as amended.

AMENDMENT TO THE AGENDA:

On motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to amend the agenda to consider Item #6 ("We the People" Temporary Event) and Item #9 (Virginia Ag Expo) concurrently.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-CR-023, CALVIN L. RITCHIE TRUST, WILBUR EARLY RITCHIE II, JASON C. (SR.) & ERIN ANN RITCHIE, AND RICKY L. & JANICE N. RITCHIE (OWNERS)/TFS WORLDWIDE, INC. (APPLICANT) – "WE THE PEOPLE" TEMPORARY EVENT

Applicant is requesting special permit approval to host a temporary event, PIN #7807-78-3793-000, 7807-79-2793-000, 7807-99-3475-000, 7808-52-6185-000, 7808-70-2628-000, and 7808-81-5996-000, located at 5253 Inglewood Farm Lane, 5126 Inglewood Farm Lane, 11738 Ag Industrial Road, and 5175 Ritchie Road, Cedar Run District, Bealeton, 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.

Ms. Anna Kestner, 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.
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. The event is authorized for July 2, 2011.
3. Hours for the event shall be limited to 2:30 p.m. until the end of the fireworks display, which begins at around dark and lasts for approximately 30 minutes, with early arrivals allowed as early as 12:30 p.m.
4. The parking areas shall be mowed and maintained prior to and following the event to minimize danger of fire, damage or erosion.
5. An access/parking management plan for the event shall be approved by the Virginia Department of Transportation prior to the event, to include plans for transporting visitors to and from the Flying Circus grounds. The applicant shall utilize Fauquier County Sheriff and Virginia State Police officers to manage the access and parking on-site during the event.
6. The Applicant shall coordinate with Fauquier County emergency personnel to establish first aid services on-site and to generate a storm emergency plan.

7. All requirements for vendor permits shall be complied with and such permits shall be obtained from the Fauquier County Health Department and provided to the Zoning Administrator in advance of the event.
8. Temporary privies (port-a-johns) shall be provided as required by the Fauquier County Health Department and permits for such facilities shall be obtained from the Fauquier County Health Department and provided to the Zoning Administrator in advance of the event.
9. A fireworks permit shall be obtained from Fauquier County Emergency Services and provided to the Zoning Administrator in advance of the event.
10. The applicant shall provide adequate lighting to and from the parking areas at the conclusion of the event for anything after dark.
11. Use of the lake during the event shall be prohibited except to water livestock. The applicant shall provide adequate security around the perimeter of the lake throughout the event.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-CR-026, CALVIN L. RITCHIE TRUST, JASON C. (SR.) & ERIN ANN RITCHIE, AND RICKY L. & JANICE N. RITCHIE (OWNERS)/VIRGINIA AG EXPO (APPLICANT) – VIRGINIA AG EXPO

Applicant is requesting special permit approval to host a temporary event, PIN #7807-78-3793-000, 7807-79-2793-000, 7808-52-6185-000, 7808-70-2628-000, and 7808-81-5996-000, located at 11738 Ag Industrial Road, 5126 Inglewood Farm Lane, 5253 Inglewood Farm Lane, and 5175 Ritchie Road, Cedar Run District, Bealeton, 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 Smith, 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. 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.
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. The event is authorized for August 4, 2011.
3. Hours for public attendance for the event shall be limited to 7:30 a.m. until 3:30 p.m., not including setup and breakdown.
4. The parking areas shall be mowed and maintained prior to and following the event to minimize danger of fire, damage or erosion.
5. An access/parking management plan for the event shall be approved by the Virginia Department of Transportation prior to the event. The applicant shall utilize Fauquier County Sheriff and Virginia State Police officers to manage the access and parking on-site during the event.
6. No vehicle movement shall be allowed within the event area indicated in the application materials during the event hours of 7:30 a.m. to 3:30 p.m.
7. The applicant shall coordinate with Fauquier County emergency personnel to establish first aid services on-site and to generate a storm emergency plan. The event organizers shall have EMT and/or rescue squad personnel on-site from 7:30 a.m. to the conclusion of the event at 3:30 p.m.

8. All requirements for vendor permits shall be complied with and such permits shall be obtained from the Fauquier County Health Department and provided to the Zoning Administrator in advance of the event.
9. Temporary privies (port-a-johns) shall be provided as required by the Fauquier County Health Department and permits for such facilities shall be obtained from the Fauquier County Health Department and provided to the Zoning Administrator in advance of the event.
10. Use of the lake during the event shall be prohibited except to water livestock. The applicant shall provide adequate security personnel around the perimeter of the lake throughout the event.

After discussion, on motion made by Mr. Brown and seconded by Mr. Tufts, it was moved to amend Condition #10 of the above motion, as follows:

10. Use of the lake during the event shall be prohibited except to water livestock. The applicant shall provide adequate security *personnel* around the perimeter of the lake throughout the event.

The motion carried unanimously, as amended.

SPECIAL PERMIT #SPPT11-MA-024 & SPPT11-MA-025, UPPERVILLE BUSINESS PARK, LLC (OWNER/APPLICANT) – UPPERVILLE BUSINESS PARK

Applicant is requesting special permit approval for a retail sales establishment between 5,000 and 20,000 square feet and a carpentry shop less than 5,000 square feet, PIN #6054-75-1855-000, 6054-75-1744-000, 6054-75-0680-000, 6054-75-0404-000, 6054-75-1399-000, and 6054-65-8611-000, located at 9183 John S. Mosby Highway and 9197 John S. Mosby Highway, Marshall District, Upperville, 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. Charles Floyd, representative, expressed agreement with the staff report and requested a postponement until the next regularly scheduled meeting to allow time for a few minor revisions.

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

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.

The motion carried unanimously.

ZONING VARIANCE #ZNVA11-LE-006, BRANCH BANKING & TRUST COMPANY (OWNER/APPLICANT) – SOUTHALL MEADOWS (LOT 6)

Applicant is requesting a variance of the seventy-five (75) foot front yard setback requirement for the RA/Rural Agriculture zoning district, PIN #6980-54-1350-000, located at 10383 Michael Ryan Drive, Lee District, Bealeton, 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.

Ms. Joy Basher Downey, representative, expressed agreement with the staff report. Ms. Downey stated that when the property is sold, an addendum will be prepared notifying the new owners that the second structure on the property cannot be converted into living quarters without County approval.

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 front yard setback of the existing residence along Michael Ryan Drive shall be no less than sixty-six (66) feet, as measured from the centerline of the same. Any future addition(s) to the residence shall meet all required setbacks for the RA District, including a front yard setback of seventy-five (75) feet from the centerline of Michael Ryan Drive.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-CR-027, ANDREW DAVID & REBECCA M. COOPER (OWNERS)/GRADY W. MORRIS (APPLICANT) – OVERCOMING OBSTACLES LANDSCAPING COMPANY

Applicant is requesting an amendment to a previously approved special permit to allow for 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. Meadows opened the public hearing.

Mr. Grady Morris, 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 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 pond and the wooded area to the rear of the property.
6. The indoor storage of vehicles and equipment associated with the business shall be limited to the 378 square foot carport. 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 along the western side 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. Supplemental landscaping shall also be installed along the south of the storage yard to create a buffer equating to a thirty (30) foot wide evergreen screen.
9. The lighting of the outdoor storage area is prohibited.
10. The sand pit and any other items not belonging to Overcoming Obstacles Landscaping Company shall be removed from the property immediately if it has not been removed already.
11. Storage of firewood for commercial sale is prohibited.

12. Storage of bulk materials on-site for commercial use or sale is prohibited.
13. The existing 11,000 square foot gravel area shall be reduced to 5,000 square feet, with the balance of this area being brought back into its natural state, which would be grass.

The motion carried 4 – 1, as follows:

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

NAYS: Mr. Brown

ABSTENTION: None

ABSENT: None

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:00 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.