

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
OCTOBER 6, 2011**

***Site Visits
10:00 a.m.
Parking Lot – Corner of Lee Street and Marshall Street
Warrenton, Virginia***

The Fauquier County Board of Zoning Appeals held a public meeting on October 6, 2011 at 10:00 a.m. at the parking lot on the corner of Lee Street and Marshall Street to determine which properties that are the subject matter of a public hearing will be the subject of a site visit and the order of such site visits. 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 Ms. Sandra O'Connell, Senior Planner.

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

1. Christiano Property at 10:15 a.m.
2. Teets Kennel at 10:30 a.m.

With no further business, the meeting was adjourned at approximately 10:53 a.m. to reconvene at 12:45 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia.

***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, October 6, 2011, 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; 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 Ms. Sandra O'Connell, Senior Planner.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT12-LE-002, MORRISVILLE UNITED METHODIST CHURCH, TRUSTEES (OWNERS/APPLICANTS) – HIS LITTLE LIGHT AT MORRISVILLE UNITED METHODIST CHURCH

Reconsideration of a special permit approval to allow for a preschool, PIN #7816-36-1316-000 and 7816-36-1500-000, located at 4422 Morrisville Road and 4432 Morrisville Road, Lee District, Bealeton, Virginia. (Wally Horton, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT11-LE-028, JOLEEN TEETS (OWNER/APPLICANT) – TEETS’ KENNEL

Applicant is requesting special permit approval to operate a commercial kennel for dog breeding, PIN #6889-34-7522-000, located at 11065 Harley Drive, Lee District, Bealeton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

On motion made by Mr. Tufts and seconded by Mr. Brown, it was moved to go into a closed meeting, pursuant to *Code of Virginia* Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to Special Permit #SPPT11-LE-028, Joleen Teets (Owner/Applicant) – Teets’ Kennel.

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 Mr. Brown.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

ZONING VARIANCE #ZNVA12-MA-002 – JAMES D. & MARILYN CHRISTIANO, TRUSTEES, ET AL (OWNERS/APPLICANTS) – CHRISTIANO PROPERTY

Applicants are requesting a variance of the required twenty-five (25) foot side and rear yard setbacks for the R-1 Zoning District to allow for the construction of an accessory structure, PIN #6983-09-2157-000, located at 8186 Lees Ridge Road, Marshall District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-CR-005, PETER A. & ELAHEH BARTHELSON (OWNERS/APPLICANTS) – VIRGINIA GREEN GROCER

Applicants are requesting special permit approval to allow for the continued operation of a facility for the commercial processing of bulk agricultural products in the RA Zoning District, PIN #6992-02-9264-000, located at 9243 Green Road, Cedar Run District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-SC-006, BOB & JULIE COONCE (OWNERS/APPLICANTS) – BETTY’S CHIPS & SALSA

Applicants are requesting special permit approval to establish a facility for the commercial processing of bulk agricultural products in the RA Zoning District, PIN #6083-97-1172-000, located at 6340 John S. Mosby Highway, Scott District, Middleburg, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

ZONING VARIANCE #ZNVA12-MA-003, SHENANDOAH TELEPHONE COMPANY (OWNER/APPLICANT) – WARRENTON POINT OF PRESENCE (POP) FIBER OPTIC SITE

Applicant is requesting a variance of the one hundred fifty (150) foot front yard setback requirement from James Madison Highway (Route 17) and the seventy-five (75) foot front yard setback requirement from Cannonball Gate Road (Route 690), for the RA Zoning District. The purpose of the request is to accommodate the construction of a generator and propane tank in support of an existing telecommunications facility, PIN #6976-73-6062-000, located at 7368 Cannonball Gate Road, Marshall District, Warrenton, Virginia. (Saundra O’Connell, Staff)

Ms. O’Connell reviewed the application.

ZONING VARIANCE #ZNVA12-MA-004, JOHN T. HAMMER & VICTOR VOLOSHIN (OWNERS/APPLICANTS) – HAMMER/VOLOSHIN PROPERTY

Applicants are requesting a variance of the seventy-five (75) foot front yard setback requirement from Hazegrov Farm Lane for the RC Zoning District, to allow for the construction of an addition onto an existing dwelling, PIN #6001-96-0799-000, located at 13232 Hazegrov Farm Lane, Marshall District, Linden, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-LE-007, DANFORTH-REMINGTON, LLC (OWNER)/NATIONAL INDEPENDENCE DAY PARADE, INC. (APPLICANT) – NATIONAL HERITAGE FESTIVAL

Applicant is requesting special permit approval to host a temporary event, PIN #6877-97-4647-000, located on the east side of James Madison Highway (Route 15/29), Lee District, Remington, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

The meeting was adjourned at 1:45 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, October 6, 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; Ms. Sandra O'Connell, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

MINUTES:

On motion made by Mr. Tufts and seconded by Mr. Brown, it was moved to approve the September 1, 2011 minutes, with the following revision on Page 3:

Mr. Hushour responded that when he and the Zoning Inspector visited the site, the applicant's representative, Mr. Frank Reinhardt, requested that no photographs be taken, *on advice of legal counsel*.

The motion carried unanimously.

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. Mr. Hushour did note, however, that a question arose regarding notices for Special Permit #SPPT12-SC-006, Bob & Julie Coonce (Owners/Applicants) – Betty's Chips & Salsa.

SPECIAL PERMIT #SPPT12-LE-002, MORRISVILLE UNITED METHODIST CHURCH, TRUSTEES (OWNERS/APPLICANTS) – HIS LITTLE LIGHT AT MORRISVILLE UNITED METHODIST CHURCH

Reconsideration of a special permit approval to allow for a preschool, PIN #7816-36-1316-000 and 7816-36-1500-000, located at 4422 Morrisville Road and 4432 Morrisville Road, Lee District, Bealeton, Virginia. (Wally Horton, 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. Elizabeth Pulliam, representative, expressed agreement with the staff report. Ms. Pulliam stated that this request to amend previously approved Condition #4, which states: "*The required outdoor play area shall be enclosed with a six (6) foot board-on-board privacy fence*" is being made to alleviate the threat of "stranger danger" at a preschool.

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 Board's 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 submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. The year round hours of operation of the preschool are from 9:00 a.m. to 12:00 p.m. five (5) days per week, exclusive of the tutoring program, which is limited to two (2) hours per day for five (5) days per week during after school hours and before 6:00 p.m.
3. The number of students associated with the preschool is limited to twenty-one (21) at any one time, and the number of instructors is limited to no more than four (4) teachers and/or assistants.
4. The required outdoor play area shall be enclosed with a minimum four (4) foot chain link (with or without slats), or vinyl, or shadowboard completely enclosed with no gate on the road side of the fence.
5. All existing trees on-site shall be preserved in order to maintain sufficient screening of the subject property from all adjacent uses.
6. No exterior lighting shall be allowed on-site for the preschool use beyond that which is already established on the site by the church.

The motion carried unanimously.

SPECIAL PERMIT #SPPT11-LE-028, JOLEEN TEETS (OWNER/APPLICANT) – TEETS’ KENNEL

Applicant is requesting special permit approval to operate a commercial kennel for dog breeding, PIN #6889-34-7522-000, located at 11065 Harley Drive, Lee District, Bealeton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour stated that staff has no comments other than what was considered in last month’s staff report, a copy of which is attached to and made a part of these official minutes. Mr. Hushour also stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Frank Reinhardt, representative, expressed agreement with the staff report, which was considered at the previous meeting.

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 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 applicant may house a maximum of twenty-five (25) *adult dogs* on-site, which is further defined as any dog that is over six (6) months of age regardless if it is used in conjunction with the business or pets on-site.

2. The applicant is limited on-site to the breeding and/or sale of only labradoodles and goldendoodles. There shall be a limit of six (6) litters per year. Upon the delivery of each litter, the applicant shall provide documentation to the Zoning Administrator regarding the number of puppies born and the date of their birth.
3. All customer visits to the subject property shall be limited to those hours between 10:00 a.m. and 5:00 p.m. daily, and shall be by appointment only.
4. The housing of all dogs on-site shall be limited to the existing kennel buildings on-site.
5. The lighting of any outdoor area associated with the commercial kennel is prohibited.
6. Regardless of that shown on the special permit plat, no structure that is to be partially or exclusively used for the confinement of any allowed dogs on-site shall be located any closer than seventy-five (75) feet to any property line.
7. Animal waste generated by the breeding facility shall be contained and disposed of as prescribed by the Fauquier County Health Department during the site plan review process. Fences are also considered structures.
8. The installation of any signage related to the breeding facility on-site is prohibited.
9. Upon reasonable notice by Fauquier County, the applicant shall grant the County access to the subject property, including access to the interior of all structures on the property, to determine compliance with the Fauquier County Zoning Ordinance and this special permit.
10. The special permit is issued for a period of one (1) year.

After discussion, it was moved to revise Conditions #6 and 7 of the above motion, as follows:

6. Regardless of that shown on the special permit plat, no structure that is to be partially or exclusively used for the confinement of any allowed dogs on-site shall be located any closer than seventy-five (75) feet to any property line. *Fences are also considered structures.*
7. Animal waste generated by the breeding facility shall be contained and disposed of as prescribed by the Fauquier County Health Department during the site plan review process. ~~*Fences are also considered structures.*~~

The motion carried unanimously, as amended.

ZONING VARIANCE #ZNVA12-MA-002 – JAMES D. & MARILYN CHRISTIANO, TRUSTEES, ET AL (OWNERS/APPLICANTS) – CHRISTIANO PROPERTY

Applicants are requesting a variance of the required twenty-five (25) foot side and rear yard setbacks for the R-1 Zoning District to allow for the construction of an accessory structure, PIN #6983-09-2157-000, located at 8186 Lees Ridge Road, Marshall 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, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. R. D. Sisk, representative, expressed agreement with the staff report.

Mr. Charlie Westbrook, a neighbor, spoke in opposition to the granting of this special permit, stating that the immense size of the structure is affecting his property value. Mr. Westbrook also expressed concern that the subject property has been graded so that the flow of water has been altered, endangering valuables on his property.

Mr. Russell asked Mr. Sisk, the representative, why a building permit was not applied for.

Mr. Sisk responded that the applicant did not realize a permit was needed to remodel an old building.

Mr. Brown stated that during the site visit he noticed a number of other suitable locations where this structure could have been placed on the property.

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

On motion made by Mr. Brown and seconded by Mrs. Cooper, 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 granting of the variance will be of substantial detriment to adjacent property; and
3. That the variance is contrary to the intent and purpose of the Zoning Ordinance.

The motion carried unanimously.

SPECIAL PERMIT #SPPT12-CR-005, PETER A. & ELAHEH BARTHELSON (OWNERS/APPLICANTS) – VIRGINIA GREEN GROCER

Applicants are requesting special permit approval to allow for the continued operation of a facility for the commercial processing of bulk agricultural products in the RA Zoning District, PIN #6992-02-9264-000, located at 9243 Green Road, Cedar Run District, Warrenton, Virginia. (Wally Horton, 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. Peter Bathelson, 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 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 use shall be generally consistent with the information and drawings submitted with the special permit application.

2. Commercial Processing and Storage pursuant to Section 3-315.3 is authorized to occur only within the Kitchen on the Green Road farm. The Kitchen shall only be utilized for processing crops grown on-site or on the Green Meadows Road properties.
3. The applicant shall adhere to the Fauquier County Lighting and Noise Ordinances as they apply to commercial operations.
4. The applicant shall continue to use a water meter to monitor water usage on a daily basis so that it does not exceed 7,000 gallons per day. A report on water usage shall be submitted to the Zoning Administrator on a monthly basis.
5. No growing lights shall be utilized in a greenhouse during non-daylight hours unless the light is completely screened so that no uplighting occurs and the light is not visible beyond property lines.
6. Dead trees shall be replaced where necessary and maintained along the northern and southern property lines adjacent to the driveway and all buildings, in order to screen the use from the adjoining property.
7. No additional land on the site shall be cleared.
8. All water used for the kitchen shall be recycled for drip-irrigation usage for crops grown on-site.
9. The maximum size identification sign allowed on-site shall be two square feet.
10. The applicant shall continue to conduct activities in accord with the approved Conservation Plan on file with the John Marshall Soil and Water Conservation District.
11. The Special Permit shall expire in ten (10) years.
12. Truck traffic supporting the operation shall be limited to the hours of 8:00 a.m. to 5:00 p.m.
13. Permits, as required, shall be obtained from the Virginia Department of Transportation (VDOT) to upgrade the existing entrances to Commercial Entrance standards for the Green Road site.

After discussion, on motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to amend Condition #9 of the above motion, as follows:

9. The maximum size identification sign allowed on-site shall be two square feet *and shall be non-illuminated.*

The motion carried unanimously, as amended.

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

2. Commercial Processing and Storage pursuant to Section ~~3-315.3~~ 3-315.2 is authorized to occur only within the Kitchen on the Green Road farm. The Kitchen shall only be utilized for processing crops grown on-site or on the Green Meadows Road properties.

The motion carried unanimously, as amended.

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

6. Dead trees *or bushes* shall be replaced where necessary and maintained along the northern and southern property lines adjacent to the driveway and all buildings, in order to screen the use from the adjoining property.

The motion carried unanimously, as amended.

SPECIAL PERMIT #SPPT12-SC-006, BOB & JULIE COONCE (OWNERS/APPLICANTS) – BETTY’S CHIPS & SALSA

Applicants are requesting special permit approval to establish a facility for the commercial processing of bulk agricultural products in the RA Zoning District, PIN #6083-97-1172-000, located at 6340 John S. Mosby Highway, Scott District, Middleburg, 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. Meadows advised the Board that he received a phone call from James Downey, Esquire, who stated that his clients, Mr. & Mrs. Brian Fitzgerald, did not get the proper notification because they did not receive it in time – not because it was not sent. Mr. Meadows asked staff if all legal requirements were met.

Mr. Hushour confirmed that the legal requirement regarding letters of notification has been met.

Mr. Bob Coonce, applicant, expressed agreement with the staff report.

James Downey, Esquire, representing Mr. & Mrs. Brian Fitzgerald who are neighbors, spoke in opposition to the granting of this special permit. Mr. Downey stated that his clients’ notice was technically one day late, since they received it on Friday, September 23, 2011. Mr. Downey stated that it is his clients’ position that a commercial kitchen does not fit within the definition of a Category 15 (Wholesale and Processing) special permit use, and therefore, is improperly before this Board for consideration. Mr. Downey contended that since the Zoning Ordinance does not contain a definition of a “commercial kitchen” and Section 2-302.1 states: “*It is the intent of this Ordinance that any use not expressly indicated as a permitted use in a specific zoning district is prohibited...*,” therefore, this issue should be referred to

the Zoning Administrator for an official determination and a possible Zoning Ordinance text amendment.

Mr. Downey also expressed safety concerns since a commercial entrance would be required on a very dangerous portion of John S. Mosby Highway (Route 50).

Mr. Downey questioned the compatibility of this proposed use because of a Virginia Outdoors Foundation (VOF) easement on neighboring properties and the rich history of the area, which is eligible for listing on the National Register of Historic Places. Mr. Downey encouraged the Board to deny the application or, at a minimum, postpone action to allow for further study and possible legal consultation.

Ms. Katie Spier, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about safety, the impact to area drainfields and wells, odors from the proposed operation, and possible future expansion.

Mr. Francis Sargent, speaking on behalf of his daughter, Ms. Landis Sargent, stated that she is in opposition to the granting of this special permit. Mr. Landis also stated that his daughter recently purchased her property because of its historical significance and also expressed concern about safety along this portion of John S. Mosby Highway (Route 50).

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 reopen the public hearing.

The motion carried unanimously.

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open, to allow for a site visit.

The motion carried unanimously.

ZONING VARIANCE #ZNVA12-MA-003, SHENANDOAH TELEPHONE COMPANY (OWNER/APPLICANT) – WARRENTON POINT OF PRESENCE (POP) FIBER OPTIC SITE

Applicant is requesting a variance of the one hundred fifty (150) foot front yard setback requirement from James Madison Highway (Route 17) and the seventy-five (75) foot front yard setback requirement from Cannonball Gate Road (Route 690), for the RA Zoning District. The purpose of the request is to accommodate the construction of a generator and propane tank in support of an existing telecommunications facility, PIN #6976-73-6062-000, located at 7368 Cannonball Gate Road, 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. Lynn Koerner, representative, expressed agreement with the staff report.

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

On motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to grant the variance, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 13-402 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. That the strict application of the Zoning Ordinance would result in unnecessary, unreasonable, or undue hardship to the property owner; and
2. That the need for the variance is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance; and
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
4. That such variance is necessary in order to afford relief, is not contrary to the intent and purpose of the Ordinance, and results in substantial justice being done.

The variance is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the information and drawings submitted with the variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. The front yard setback of any structure on the subject property shall be located no closer than seventeen (17) feet from the northern property line adjacent to Route 17/James Madison Highway, and no closer than ten (10) feet from the southern property line adjacent to Route 690/Cannonball Gate Road.

The motion carried unanimously.

ZONING VARIANCE #ZNVA12-MA-004, JOHN T. HAMMER & VICTOR VOLOSHIN (OWNERS/APPLICANTS) – HAMMER/VOLOSHIN PROPERTY

Applicants are requesting a variance of the seventy-five (75) foot front yard setback requirement from Hazegrov Farm Lane for the RC Zoning District, to allow for the

construction of an addition onto an existing dwelling, PIN #6001-96-0799-000, located at 13232 Hazegrov Farm Lane, Marshall District, Linden, 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. John Hammer, applicant, expressed agreement with the staff report.

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

After discussion, on motion made by Mr. Russell 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 residence on-site shall be located no closer than forty-eight (48) feet, as measured from the centerline of Hazegrov Farm Lane, and as shown on the approved variance plat.

The motion carried unanimously.

SPECIAL PERMIT #SPPT12-LE-007, DANFORTH-REMINGTON, LLC (OWNER)/NATIONAL INDEPENDENCE DAY PARADE, INC. (APPLICANT) – NATIONAL HERITAGE FESTIVAL

Applicant is requesting special permit approval to host a temporary event, PIN #6877-97-4647-000, located on the east side of James Madison Highway (Route 15/29), Lee District, Remington, 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 Ferguson, representative, expressed agreement with the staff report and reviewed various aspects of the proposed event.

Mr. Meadows expressed concern that the applicant does not have the necessary authorization from the property owner, Danforth-Remington, LLC. Mr. Meadows inquired about the relationship of Mr. John Maestri to Danforth-Remington, LLC and read the following from his e-mail dated September 14, 2011 that was submitted with the application, which states: *“Charles, per our meeting today this will serve as notice to you that subject to you providing the required insurance and other items we discussed, subject to my satisfaction, that I will grant your organization to use the property that Danforth-Remington, LLC owns near Remington from October 12 through October 16, 2011. We will formalize this as soon as possible.”*

Board members expressed concern that they have before them an incomplete application, which has not been properly filed since a great deal of pertinent information is not available for today’s meeting. Board members also noted that little or no information has been submitted regarding parking, music accompanying exhibits, Health Department approval, hours of operation, and traffic control. Concern was also expressed about the two addresses on the applicant’s letterhead, neither of which is in Fauquier County.

After a brief recess, Ms. O’Connell stated that she spoke on the telephone with Mr. John Maestri, who indicated that he is one of two principal members of Danforth-Remington, LLC and he is giving authorization for the applicant to have use of the property. Ms. O’Connell also stated that Mr. Maestri indicated that the agreement mentioned at the end of his e-mail relates to proof of liability insurance and the applicant agreeing to restore the property to its original condition if any damage is done.

After further discussion, on motion made by Mr. Tufts and seconded by Mr. Russell, 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-LE-007 (Danforth-Remington, LLC (Owner)/National Independence Day Parade, Inc. (Applicant) – National Heritage Festival.

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 Mr. Russell.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: None

On motion made by Mrs. Cooper and seconded by Mr. Meadows, it was moved to discuss this item further.

The motion carried unanimously.

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. 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 Board, as of this meeting, does not have a validly filed application before it for consideration.
2. The applicant, in connection with the application, if validly filed, has other reasonable use of this property.
3. The proposed use will adversely affect the use of neighboring properties.
4. Pedestrian and vehicular traffic generated by the proposed use will be hazardous or conflict with existing patterns in the neighborhood.
5. Adequate parking, loading, and other facilities are not provided to serve the proposed use.
6. Additional standards set forth in the Fauquier County Zoning Ordinance, Section 5-804.2, requiring that all permitted activities be sponsored by, among other things, a charitable, educational or non-profit organization or recognized chapter thereof whose principal administrative offices are located within the County have not been satisfied in this application.
7. Additional standards imposed by the Fauquier County Zoning Ordinance, Section 5-804.4, requiring that the sponsoring organization shall furnish the Health Director information as to sanitary arrangements and facilities to be used by the public and employees, and the Health Director shall advise the Zoning Administrator that such arrangements and facilities will be adequate if properly used and maintained has not been provided to this Board, and therefore, has not been satisfied.
8. Additional standards imposed by the Fauquier County Zoning Ordinance, Section 5-804.7, that require this Board to find that 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 the safety of road usage cannot be found by this Board.

The motion carried 4 – 1, as follows:

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

NAYS: Mrs. Cooper

ABSTENTION: None

ABSENT: None

OTHER BUSINESS:

- Board members signed the following Resolution of Appreciation for Mr. Charles W. “Wally” Horton, IV, who recently left the County to accept another position:

**A RESOLUTION TO RECOGNIZE CHARLES W. “WALLY”
HORTON, IV FOR HIS SERVICE TO THE FAUQUIER COUNTY
BOARD OF ZONING APPEALS AND THE CITIZENS OF FAUQUIER
COUNTY**

WHEREAS, on October 16, 2006, Charles W. Horton, IV began his career with the Fauquier County Department of Community Development as a Senior Planner in the Zoning, Permitting and Inspections division of the Department; and

WHEREAS, Charles W. Horton, IV has provided five years of service to the citizens of Fauquier County; and

WHEREAS, Charles W. Horton, IV has been an integral member of the staff serving the Fauquier County Board of Zoning Appeals;

WHEREAS, the Board of Zoning Appeals, on behalf of all the citizens of Fauquier County, wishes to express its profound appreciation for his service to the citizens of Fauquier County and his devotion to the betterment of Fauquier County; now, therefore, be it

RESOLVED, That Charles W. Horton, IV be, and is hereby, commended by the Fauquier County Board of Zoning Appeals this 6th day of October 2011 for his years of dedication to the citizens of Fauquier County; and

BE IT FURTHER RESOLVED, That the Fauquier County Board of Zoning Appeals does hereby offer its heartfelt appreciation and extends its best wishes to Charles W. Horton, IV in all future endeavors; and

BE IT FINALLY RESOLVED, That this Resolution be placed within the minutes of the Board of Zoning Appeals in recognition of Charles W. Horton, IV’s service to Fauquier County.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:42 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.