

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

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

The Fauquier County Board of Zoning Appeals held an adjourned meeting on November 3, 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. Landers' Kennel at 11:07 a.m.
2. Betty's Chips & Salsa at 11:57 a.m.

With no further business, the meeting was adjourned at approximately 12:15 p.m. to reconvene at 1:15 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia.

***Work Session  
1:15 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, November 3, 2011, beginning at 1:15 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-SC-009, NEIL J. (JR.) & ANNE R. PAPPALARDO (OWNERS)/NEIL J. PAPPALARDO, JR. (APPLICANT) – GRAND SLAM BBQ**

Applicant is requesting special permit approval to allow for a catering business as a major home occupation, PIN #7915-11-8241-000, located at 4447 Corral Road, Scott District, Warrenton, Virginia. (Saundra O’Connell, Staff)

Ms. O’Connell reviewed the application.

**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)

Merle Fallon, Esquire, reviewed his clients’ request for reconsideration of this application, which was denied on October 6, 2011.

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

Applicants are requesting special permit approval to allow for a food processing and catering business as a major home occupation, PIN #6083-97-1172-000, located at 6340 John S. Mosby Highway, Scott District, Middleburg, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

**SPECIAL PERMIT #SPPT12-CR-008, BRIAN T. & LAURIE A. LANDERS ET AL (OWNERS/APPLICANTS) – LANDERS’ KENNEL**

Applicants are requesting special permit approval to allow for a commercial kennel for boarding and an animal shelter, PIN #7925-10-7761-000, located at 7335 Compton Lane, Cedar Run District, Nokesville, Virginia. (Andrew Hushour, Staff)

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, November 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; Ms. Kimberley Johnson, Zoning Administrator; Mr. Andrew Hushour, Assistant Zoning Administrator/Secretary; Ms. Sandra O'Connell, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

**LETTERS OF NOTIFICATION AND PUBLIC NOTICE:**

Mrs. Williams read the public hearing protocol. Mr. Hushour stated that, to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

**MINUTES:**

On motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to approve the October 6, 2011 minutes.

The motion carried unanimously.

**REVISION OF AGENDA:**

On motion made by Mr. Tufts and seconded by Mr. Brown, it was moved to revise the agenda to consider Item #5 (Other Business) as Item #2.

**OTHER BUSINESS:**

**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)

Merle Fallon, Esquire, representing Mr. & Mrs. James D. Christiano, reviewed a request for reconsideration of their variance application, which was denied on October 6, 2011.

Mr. Hushour stated that no new pertinent information has been submitted to warrant a reconsideration of the application.

On motion made by Mr. Russell and seconded by Mrs. Cooper, it was moved to deny the request for reconsideration of this application.

The motion carried unanimously.

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

Applicants are requesting special permit approval to allow for a food processing and catering business as a major home occupation, 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, and stated that a site visit was made earlier in the day. Mr. Hushour further stated that the application has been reclassified as a Category 2 (Residential Business – Major Home Occupation) rather than a Category 15 (Wholesaling and Processing) use.

Mr. Meadows opened the public hearing.

Ms. Julie 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 the applicants are requesting to operate a commercial kitchen for food production and catering with up to five (5) employees on a 6.37-acre parcel to be conducted in a former machine shop, which is separate from the home. Mr. Downey noted that Zoning Ordinance Section 6-301 states: *“Home occupations are permitted as an accessory use to residential use within all dwelling units subject to the following provisions...”* therefore, the application does not meet the standards of a major home occupation since the former machine shop is separate from the home. Mr. Downey further stated that a Zoning Ordinance text amendment would be required for the use to fit in this category and urged the Board to deny the request.

Mr. Jim Herbert, speaking on behalf of the Mosby Heritage Area Association, spoke in opposition to the granting of this special permit. Mr. Herbert stated that this agricultural and historic area is not suitable for a commercial enterprise. Mr. Herbert suggested that the applicant consider using other commercial buildings in the area, perhaps co-operating with El Agave, which is only open for lunch and dinner, or the Fauquier County Livestock Exchange restaurant, once that is rebuilt.

Ms. Caroline Fitzgerald, a neighbor, spoke in opposition to the granting of this special permit, expressing concern about how this proposal would affect her property, which is in a Virginia Outdoors Foundation easement.

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. Sargent expressed concern about possible future expansion of the proposed facility and the potential of encouraging additional commercial activity in this historic and rural community.

Mr. Richard Martinez, a neighbor, spoke in opposition to the granting of this special permit, expressing concern about the effect this commercial activity would have on the community.

Ms. Reiko Lewis, a neighbor, spoke in opposition to the granting of this special permit, expressing concern about the potential impact on the environment, safety, increased traffic, and possible future expansion.

Mr. Brown left the meeting.

Ms. Kathryn Spier, a neighbor, spoke in opposition to the granting of this special permit, stating that a commercial use is not appropriate in this rural area.

Mr. Meadows asked the applicant if he wished to proceed without a full Board present or postpone action on this item until the next regularly scheduled meeting.

Mr. Bob Coonce, applicant, stated that he would like to proceed with a decision.

Ms. Johnson clarified that it has been a longstanding interpretation by the Zoning Administrator that activity related to home occupations, whether major or minor, should be conducted inside a structure – either the home or an accessory structure – to limit its impact on a neighborhood.

James Downey, Esquire, noted that Zoning Ordinance Section 6-302.1.A states: “...*In no case shall more than 25% of the gross floor area of the dwelling be utilized for a home occupation. Alternatively, the use may occupy up to 500 square feet of an accessory structure.*” Mr. Downey stated that this provision only applies to “minor home occupations.”

After 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-SC-006 (Bob & Julie Coonce (Owners/Applicants) – Betty’s Chips & Salsa.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown

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 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown

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 all business related activity on-site, including the preparation of food and deliveries, shall be limited to 8:00 a.m. until 6:00 p.m., daily.
2. The number of employees working on-site shall be limited to no more than three (3) at any one time, including the applicant.
3. Customer visits to the subject property shall be by appointment only and shall only occur during the approved hours of operation.
4. The number of deliveries to the site for business related activity shall be limited to no more than two (2) deliveries per week.
5. An entrance permit from the Virginia Department of Transportation is required prior to the commencement of any business activity on-site.
6. The special permit is granted for a period of two (2) years.
7. The hood vent for the commercial kitchen, which is vented to the outside of the building and is visible on the outside of the building, shall be painted the same color as the exterior of the building where it is vented.
8. No expansion is allowed.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown

**SPECIAL PERMIT #SPPT12-CR-008, BRIAN T. & LAURIE A. LANDERS, ET AL (OWNERS/APPLICANTS) – LANDERS’ KENNEL**

Applicants are requesting special permit approval to allow for a commercial kennel for boarding and an animal shelter, PIN #7925-10-7761-000, located at 7335 Compton Lane, Cedar Run District, Nokesville, Virginia. (Andrew Hushour, Staff)

Ms. O’Connell 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. Laurie Landers, applicant, expressed agreement with the staff report.

Mr. David Hatcher, a neighbor, spoke in opposition to the granting of this special permit, citing noise concerns. Mr. Hatcher stated that this residential area is not the place for a commercial kennel.

Mr. Gordon McCuin, a neighbor, spoke in opposition to the granting of this special permit, citing noise concerns.

Ms. Carol Hash-Hinsdale, spoke in opposition to the granting of this special permit on behalf of her father (Billy Hash), her brother (William Steven Hash), and a neighbor (Anneliese Oakey). Ms. Hash-Hinsdale expressed concern about possible groundwater contamination, increased traffic, noise, odors and safety.

Ms. Holly Hammerle, a neighbor, spoke in opposition to the granting of this special permit. Mrs. Hammerle expressed concern about the increased noise level, traffic, lighting, signage, and hours of operation.

Ms. Glenda Smith, a neighbor, spoke in opposition to the granting of this special permit, expressing concern about noise and the adverse effect this would have on her property. Ms. Smith stated that she has two tenants who have stated that they will move if this kennel is allowed.

Mr. James Lee, a neighbor, spoke in opposition to the granting of this special permit.

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 postpone action on this item, with the public hearing closed, until the next regularly scheduled meeting.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown

**SPECIAL PERMIT #SPPT12-SC-009, NEIL J. (JR.) & ANNE R. PAPPALARDO (OWNERS)/NEIL J. PAPPALARDO, JR. (APPLICANT) – GRAND SLAM BBQ**

Applicant is requesting special permit approval to allow for a catering business as a major home occupation, PIN #7915-11-8241-000, located at 4447 Corral Road, Scott 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. Neil Pappalardo, applicant, expressed agreement with the staff report.

Mr. Ed Moore, representing Brookside Communities, LLC and the Brookside Homeowners’ Association, spoke in support of the granting of this special permit.

Mr. Gary Newell, a neighbor, spoke in support of the granting of this special permit.

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 13-402 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. The applicant is limited to the use of the four (4) existing portable cookers on-site, as described in the application materials.
3. Client visits to the site are limited to the hours of 9:00 a.m. and 5:00 p.m. daily, and shall be by appointment only.
4. The second kitchen on-site is strictly for commercial purposes, for Grand Slam BBQ, and does not authorize any future use as part of an additional dwelling unit on-site.

The motion carried 4 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mr. Brown

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:35 p.m.

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John R. Meadows, Chairperson

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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.*