

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
MARCH 4, 2010**

*Work Session
1:00 p.m.
Second Floor Conference Room, Warren Green Building,
10 Hotel Street, Warrenton, Virginia*

The Fauquier County Board of Zoning Appeals held a work session on Thursday, March 4, 2010, beginning at 1:00 p.m. in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Maximilian Tufts, Jr., Secretary; Mrs. Mary North Cooper; Mr. Serf Guerra; and Mr. Harry Russell. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator; and Mr. Wally Horton, Senior Planner.

SPECIAL PERMIT #SPPT10-SC-014, BRYANT F. SMITH, TRUSTEE, H. DOUGLAS SMITH REVOCABLE TRUST, TRUSTEE OF HAROLD DOUGLAS SMITH (OWNERS)/BRYANT F. SMITH (APPLICANT) – BUCKLAND FARMER’S MARKET

Applicant is requesting an amendment to an approved special permit to allow for outdoor activities and changes to approval related to site layout, parking, signage, and operation in conjunction with a community farmer’s market use, PIN #7916-26-2088-000, 7916-05-6928-000, and 7916-16-0865-000, located at 4462 Lee Highway, 4484 Lee Highway, and 6234 Pilgrims Rest Road East, Scott District, Warrenton, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the application.

SPECIAL PERMIT #SPPT10-CR-015, DANIEL J. LeBAILLY & TRACY CHAPMAN GAGER (OWNERS)/DANIEL J. LeBAILLY (APPLICANT)

Applicant is requesting special permit approval to allow for a professional office with six (6) or less employees for therapeutic massage, PIN #7838-02-9492-000, located at 3189 Courtney School Road, Cedar Run District, Midland, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

OTHER BUSINESS:

Mrs. Gallehr stated that Mr. & Mrs. James W. Kunkel, Mountainside Montessori School, have inquired about the Board’s intent regarding Condition #10 of an approved special permit (SPPT08-MA-008), which states: “*The house shall be restored to a residence prior to any resale.*” Mrs. Gallehr stated that Mr. & Mrs. Kunkel have requested that the Board discuss this matter at its meeting this afternoon.

Mr. Hushour stated that a new Vice-Chairperson will need to be elected at today's regular meeting since the Zoning Ordinance Text Amendment reducing the number of Board of Zoning (BZA) members from seven to five was approved on February 18, 2010.

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, March 4, 2010, 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 Elect; Mr. Maximilian Tufts, Jr., Secretary; Mrs. Mary North Cooper; and Mr. Serf Guerra. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator; Mr. Wally Horton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

ELECTION OF VICE-CHAIRPERSON

Mr. Meadows initiated the election of Vice-Chairperson.

On motion made by Mr. Tufts and seconded by Mrs. Cooper, it was moved to elect Mr. Russell as Vice-Chairperson.

The motion carried unanimously.

MINUTES:

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to approve the January 7, 2010 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 had been properly advertised, posted, and letters of notification sent to adjoining property owners.

SPECIAL PERMIT #SPPT10-SC-014, BRYANT F. SMITH, TRUSTEE, H. DOUGLAS SMITH REVOCABLE TRUST, TRUSTEE OF HAROLD DOUGLAS SMITH (OWNERS)/BRYANT F. SMITH (APPLICANT) – BUCKLAND FARMER’S MARKET

Applicant is requesting an amendment to an approved special permit to allow for outdoor activities and changes to approval related to site layout, parking, signage, and operation in conjunction with a community farmer’s market use, PIN #7916-26-2088-000, 7916-05-6928-000, and 7916-16-0865-000, located at 4462 Lee Highway, 4484 Lee Highway, and 6234 Pilgrims Rest Road East, Scott 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. Charles Floyd, representative, expressed agreement with the majority of the staff report. However, Mr. Floyd stated that the entrance is adequate to accommodate the anticipated increase in traffic and noted that it would still meet VDOT’s requirements even if 3,000 vehicles visited the site daily. Mr. Floyd also stated that the overflow parking area, which was used on two occasions this past fall, has been enlarged at staff’s request. In conclusion, Mr. Floyd noted that the banner sign has been removed and all additional Zoning violations currently on the property will be remedied by this weekend.

Mr. Guerra requested clarification on where the products sold at the farmer’s market will be made and how this will be verified.

Mr. Floyd stated that he envisions producing receipts to show where the inventory is from.

Mr. Meadows clarified that the Zoning Ordinance (Section 5-1813.10) requires that *“At least 75% of the agricultural products, horticultural products, and handmade crafts shall be grown or produced within the Commonwealth of Virginia. The remainder shall be grown or produced in the United States of America.”*

Ms. Paula Pierce, an adjacent property owner, expressed concern about the further intensification of the use, additional traffic, and the negative impact to the rural character of the surrounding area, particularly, farming operations at her adjacent property and the conservation protected land immediately adjacent to the back of the site. Ms. Pierce also expressed concern about the additional outdoor activities that have commenced on the property without the necessary approvals and the landscaping, which has not been completed.

Mr. David Mailler, an adjacent property owner, encouraged the Board to have all violations remedied prior to giving any additional approvals. Mr. Mailler also expressed concern about traffic and stated that VDOT should consider extending the deceleration lane or installing one near the Battlefield Baptist Church.

Mrs. Barbara Severin, a neighbor, stated that while she recognizes the benefit of the farmer's market, she is concerned about traffic on Route 29, the negative impact on the neighborhood with the increased activity, the safety of children because of the ponds on adjacent properties, erosion, and the need for adequate wastewater facilities. Mrs. Severin encouraged the Board to make sure all violations are taken care of prior to approving any increased activity at the site.

Mr. Keith Severin, a neighbor, stated that he has been in agriculture all of his life and expressed concern about good farm land being torn up.

Mr. Meadows clarified that the only violations on the site are: 1) a banner sign, which the applicant says was removed today; 2) a truck; 3) a pile of pallets and 4) a pile of lumber. Mr. Meadows also stated that the landscaping is not a violation.

Mr. Bill Coffey, owner of Buckland Farmer's Market, stated all violations at the site will be remedied by this weekend.

Mr. Horton stated that no additional temporary Certificates of Occupancy will be granted if the landscaping has not been completed by the spring.

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 Code, 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.

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 hours of operation, including the market and all outdoor recreation activities, shall be limited to the hours of 9:00 a.m. to 7:00 p.m. except during the months of October, November, and December, when hours on Fridays and Saturdays may be extended to 9:00 a.m. to 10:00 p.m.
3. Additional landscaping consistent with that shown on the revised Special Permit Plat shall be provided to meet Zoning Ordinance requirements and to buffer the parking area from view from Route 29 and the adjacent property to the west.
4. Outdoor storage and/or display shall be limited to seasonal agricultural products that enhance the agricultural character of the property, such as pumpkin displays, apple crates, watermelon piles, Christmas trees, or similar items. The outdoor storage and/or display of any goods, equipment, or commercial vehicles related to the business on-site are prohibited from occurring within any required setback.
5. The overflow parking area shall be grassed, used on weekends primarily during the fall of the year, and be gated to prevent regular use.
6. Directional signage will be utilized to direct patrons to the overflow parking area when in use, and market employees shall assist in directing customers to the overflow area. All directional signage will be removed at the end of each business day and the gate to the overflow area shall be locked to prevent usage by regular market customers.
7. The use shall be limited to two (2) signs: one (1) building mounted sign not to exceed thirty-two (32) square feet in area, and one (1) freestanding sign not to exceed twelve (12) square feet in area and six (6) feet in height. The illumination of either sign is prohibited.
8. A site plan amendment is required for this use. The applicant shall request a dustless surface waiver in conjunction with the site plan amendment to utilize gravel in the new parking area located at the southwest corner of the market building rather than pavement.

After discussion, on motion made by Mr. Meadows and seconded by Mrs. Cooper, it was moved to amend the above motion, as follows:

9. “No Trespassing” signs shall be posted along the Pierce property line.

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

10. The landscaping buffer shall be extended approximately 80' to 100' from the edge of the proposed buffering to the edge of the corn maze along the Pierce property line.

The motion carried unanimously, as amended.

SPECIAL PERMIT #SPPT10-CR-015, DANIEL J. LeBAILLY & TRACY CHAPMAN GAGER (OWNERS)/DANIEL J. LeBAILLY (APPLICANT)

Applicant is requesting special permit approval to allow for a professional office with six (6) or less employees for therapeutic massage, PIN #7838-02-9492-000, located at 3189 Courtney School Road, Cedar Run District, Midland, 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 noted that Mr. Daniel LeBailly, applicant, was present at the work session but was unavailable for the public hearing.

In that there were no 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 Code, 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 necessary to meet Zoning Ordinance requirements.
2. The proposed hours of operation are limited to Mondays through Fridays, from 9:00 a.m. to 5:00 p.m. In addition, business activity is limited to no more than five (5) clients per day on the subject property.
3. Ingress and egress to the subject property for business purposes shall be limited to the existing driveway on Courtney School Road; access to and from the property from Gobbler Run Lane is prohibited.
4. All signage on-site shall be limited to four (4) square feet and shall be non-illuminated.
5. A site plan is required for this use.

The motion carried unanimously.

OTHER BUSINESS:

- Mrs. Gallehr stated that Mr. & Mrs. James W. Kunkel, Mountainside Montessori School, have inquired about the Board's intent regarding Condition #10 of an approved special permit (SPPT08-MA-008), which states: "*The house shall be restored to a residence prior to any resale.*" Mr. & Mrs. Kunkel would like to continue operating the school but transfer legal ownership of the property to a non-profit entity.

Mr. Meadows stated that should the Kunkels decide to sell the property and move, that condition would remain in effect, but transferring ownership to a non-profit entity that will continue operating the Montessori School should not be a problem.

Mrs. Kunkel stated that when they eventually move the school to Marshall, they intend to abide by the condition and restore the building to a residence.

The Board concurred that it would be allowable for Mr. & Mrs. Kunkel to transfer ownership to a non-profit entity that will continue to operate Mountainside Montessori School without violating the previously approved special permit condition.

- Mr. Hushour stated that a Zoning Ordinance Text Amendment regarding variances was approved by the Board of Supervisors on February 18, 2010. Therefore, variances will now be heard by the Board of Zoning Appeals.

Ms. Sheridan stated that a work session on variances will be scheduled for the April 1, 2010 meeting. Also, a work session regarding legislative issues will be scheduled for the May 6, 2010 regularly scheduled meeting.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:40 p.m.

John R. Meadows, Chairperson

Maximilian A. Tufts, Jr., 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.