

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
FEBRUARY 5, 2009**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON FEBRUARY 5, 2009 AT 9:30 A.M. IN WARRENTON, VIRGINIA.

Members present were Mr. John Meadows, Chairperson; Mr. James W. Van Luven, Vice-Chairperson; Mr. Maximilian Tufts, Secretary; Mrs. Mary North Cooper; Mr. Serf Guerra; and Mr. Harry Russell. Also present was Mr. Wally Horton, Senior Planner. Member absent was Mrs. Sonja Addison.

SITE VISITS:

Mr. Meadows reviewed the site visit agenda and stated that there would be four (4) site visits as follows:

1. William & Susan G. Chewning at 10:05 a.m.
2. Saint Patrick Orthodox Church at 10:45 a.m.
3. Snap Fitness at 11:05 a.m.
4. Dominion Virginia Power at 11:15 a.m.

With no further business, the meeting was adjourned at approximately 11:40 a.m. to reconvene at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia.

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, February 5, 2009, 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. James W. Van Luven, Vice-Chairperson; Mr. Maximilian Tufts, 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; Ms. Kimberley Johnson, Zoning Administrator; Mr. Andrew Hushour, Assistant Zoning Administrator; Mr. Wally Horton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist. Member absent was Mrs. Sonja R. Addison.

MEETING:

Mrs. Gallehr opened the meeting and initiated the election of officers.

a. Chairperson

On motion made by Mr. Russell and seconded by Mrs. Cooper, it was moved to nominate Mr. Meadows as Chairperson.

The motion carried unanimously.

b. Vice-Chairperson

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

The motion carried unanimously.

c. Secretary

On motion made by Mr. Russell and seconded by Mrs. Cooper, it was moved to nominate Mr. Tufts as Secretary.

The motion carried unanimously.

MINUTES:

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to approve the December 4, 2008 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 #SPPT09-CR-016, CHARLES A. CARDINE, TRUSTEE (OWNER)/FATHER PATRICK CARDINE (APPLICANT) – SAINT PATRICK ORTHODOX CHURCH, INC.

Applicant is requesting special permit approval to locate a place of worship in an existing building, PIN #6980-76-1190-000, located at 6588 Balls Mill Road, Cedar Run District, Bealeton, Virginia. (Drew Hushour, Staff)

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

James Downey, Esquire, representative, expressed agreement with the staff report. Mr. Downey requested a postponement of up to ninety (90) days to allow the applicant time to address issues raised by staff.

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

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to postpone action on this item up to the third regularly scheduled meeting, at the request of the applicant, with the public hearing left open.

The motion carried unanimously.

SPECIAL PERMIT #SPPT09-MA-017, WILLIAM & SUSAN G. CHEWNING (OWNERS/APPLICANTS)

Applicants are requesting special permit approval to reduce the required setback for an existing barn, PIN #6064-92-7483-000, located at 1285 Rokeby Road, Marshall District, Upperville, Virginia. (Drew Hushour, Staff)

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. William Chewning, applicant, expressed agreement with the staff report. Mr. Chewning stated that the building was constructed in its current location because of the extensive amount of bedrock located on the property.

Dr. Behzad Parva, a neighbor, spoke in opposition to the granting of this special permit. Dr. Parva expressed concern about the structure being in close proximity to his well, a possible decline in property values, as well as the fact that the applicant obtained a permit for a farm equipment storage shed, but promptly began using it as a barn. Dr. Parva presented the Board with a statement, a copy of which is attached to and made a part of these minutes, outlining his concerns.

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

On motion made by Mr. Van Luven and seconded by Mr. Guerra, 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 Code, based upon the following Board's findings:

1. The applicant has other reasonable use of the property.
2. The current use is not in accordance with the applicable Zoning district regulations. The structure can go back to being used as a farm equipment storage shed as was permitted on July 10, 2007.

The motion carried unanimously.

SPECIAL PERMIT #SPPT09-LE-018, 2325 18th STREET LIMITED PARTNERSHIP (OWNER)/ANDREW STEVENSON (APPLICANT) – SNAP FITNESS

Applicant is requesting special permit approval to operate a health club/spa, PIN #6899-24-9788-000, located at 11077 Marsh Road (Units C and D), Lee 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 minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Andrew Stevenson, applicant, expressed agreement with the staff report. Mr. Stevenson clarified that there is no need for soundproofing since there will be no group exercise rooms with loud music playing.

Mr. Guerra expressed concern about possible entry into the adjacent liquor store through the common wall.

Mr. Stevenson stated that his facility will be equipped with a security system and the liquor store has one as well.

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 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 BZA finds that soundproofing of the building is unnecessary for this use.

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. A minor site plan and building permits are required.

The motion carried unanimously.

SPECIAL PERMIT #SPPT09-MA-019, CLIFFORD A. & ANDREA H. SCHMIDT (OWNERS/APPLICANTS) – PROMISE LANDSCAPE, LLC

Applicants are requesting special permit approval for a major home occupation to operate a landscaping business, PIN #6944-34-1054-000, located at 7756 Leeds Manor Road, Marshall District, Marshall, Virginia. (Wally Horton, Staff)

Postponed.

SPECIAL PERMIT #SPPT09-MA-020, THE PIEDMONT ENVIRONMENTAL COUNCIL (OWNER/APPLICANT) – OVOKA MEMORIAL

Applicant is requesting special permit approval for interment uses, PIN #6034-48-0136-000, located on the southwest side of John S. Mosby Highway (Route 17/50), Marshall District, Paris, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. Todd Benson, representative, expressed agreement with the staff report. Mr. Benson stated that while hikers will be able to enter the site, access by vehicles will be limited because of a locked gate. Mr. Benson clarified that no grading or improvements are planned for the site or the road. Mr. Benson agreed that the site will be kept free of trash and litter.

Mrs. Patricia Thomas, an adjacent property owner, stated that her concerns have been addressed by Mr. Benson. Mrs. Thomas presented the Board with a statement, a copy of which is attached to and made a part of these minutes.

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 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.

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 applicant shall confirm that property setbacks are maintained between the cemetery and any existing wells located on adjoining properties in accordance with Health Department requirements as part of the site plan approval.
3. Interment shall be for non-commercial ash scattering purposes only.
4. Maximum number of memorial events per year is ten (10), with no event exceeding twelve (12) vehicles.
5. A site plan is required for this use for the portion in Fauquier County. While the parking and access is located in Clarke County, access and parking shall be shown on the plan and limited to that described in the special permit application.
6. The property shall be kept free of trash and litter.

The motion carried unanimously.

SPECIAL PERMIT #SPPT09-LE-021, VIRGINIA ELECTRIC AND POWER COMPANY/DBA DOMINION VIRGINIA POWER (OWNER/APPLICANT) – FAUQUIER STAGING AREA

Applicant is requesting special permit approval to operate a material storage yard, PIN #6888-83-5891-000, located at 11870 Lucky Hill Road, Lee District, Remington, Virginia. (Wally Horton, Staff)

Mr. Horton reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Michael Proctor, representative, expressed agreement with the staff report. Mr. Proctor stated that the applicant would like to have the option of leaving the fence and paved entrance in place.

Mr. Neil Selby, who is currently leasing the property, requested that the fencing be allowed to remain once the project is completed to allow his horses to graze as well as prevent illegal dumping along Lucky Hill Road.

Ms. Sharon Kilby, a neighbor, expressed concern about the possibility of trucks blocking her driveway. Ms. Kilby also stated that she is in agreement with Mr. Selby's request that the fencing remain in place once the project is completed.

Ms. Cynthia Beblavy, a neighbor, expressed concern about the possibility of fumes from idling trucks along the roadway.

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

On motion made by Mr. Van Luven 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.
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 necessary to meet Zoning Ordinance requirements.
2. Hours of operation for deliveries will be between the hours of 7:00 a.m. and 5:00 p.m. Work hours at the site will be from dawn until dusk.
3. No assembly activities shall occur on the site.
4. No fuel or petroleum products shall be stored on-site.
5. Freight trucks delivering to the site as well as contractor vehicles delivering from the staging area will not be stored on-site and will be off-site prior to the close of operations on the day of delivery.
6. Sight-obscuring fencing shall be provided along Lucky Hill Road to screen the storage area. Landscaping shall also be provided at locations across from residential dwelling units.
7. The applicant shall restore the site after its use as a staging area is no longer needed. The fencing may be retained. A bond for the restoration of the site will be required. The bond shall be sufficient to include all restoration measures necessary to bring the site back to its pre-development condition, with the exception that approximately thirty (30) square feet of pavement at the entrance of the site may be retained. The site will be restored to its previous condition within three (3) months of completion of the work.
8. The special permit shall expire in three (3) years from the date of approval of the special permit.
9. A site plan is required for this use.
10. Any lighting on the site must comply with Article 9 of the Fauquier County Zoning Ordinance pertaining to lighting.

After discussion, it was moved by Mr. Van Luven and seconded by Mr. Tufts to amend Item #7 of the above motion as follows:

7. The applicant shall restore the site after its use as a staging area is no longer needed. The fencing may be retained at the discretion of the Lessee in mutual agreement with the owner. A bond for the restoration of the site will be required. The bond shall be sufficient to include all restoration measures necessary to bring the site back to its pre-development condition, with the exception that approximately thirty (30) linear feet of pavement at the entrance of the site may be retained. The site will be restored to its previous condition within three (3) months of completion of the work.

The motion carried unanimously.

After further discussion, it was moved by Mr. Van Luven and seconded by Mr. Tufts, to amend the above motion, as follows:

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. Hours of operation for deliveries will be between the hours of 7:00 a.m. and 5:00 p.m. Work hours at the site will be from dawn until dusk.
3. No assembly activities shall occur on the site.
4. No fuel or petroleum products shall be stored on-site.
5. Freight trucks delivering to the site as well as contractor vehicles delivering from the staging area will not be stored on-site and will be off-site prior to the close of operations on the day of delivery.
6. Sight-obscuring fencing shall be provided along Lucky Hill Road to screen the storage area. Landscaping shall also be provided at locations across from residential dwelling units.
7. The applicant shall restore the site after its use as a staging area is no longer needed. The fencing may be retained at the discretion of the Lessee in mutual agreement with the owner. A bond for the restoration of the site will be required. The bond shall be sufficient to include all restoration measures necessary to bring the site back to its pre-development condition, with the exception that approximately thirty (30) linear feet of pavement at the entrance of the site may be retained. The site will be restored to its previous condition within three (3) months of completion of the work.
8. The special permit shall expire in three (3) years from the date of approval of the special permit.
9. A site plan is required for this use.

10. Any lighting on the site must comply with Article 9 of the Fauquier County Zoning Ordinance pertaining to lighting.
11. No stacking or standing of vehicles shall occur on any public street.

The motion carried unanimously, as amended.

SPECIAL PERMIT #SPPT09-CT-022, KENNETH E. & ANNE CAUSEY BURKE (OWNERS)/MICHAEL POFF & TOM GREGORSON (APPLICANTS) – CORNERSTONE BAPTIST CHURCH

Applicants are requesting special permit approval to locate a place of worship in an existing home and outbuildings, PIN #6993-33-5475-000 and 6993-33-5077-000, located at 8533 Meetze Road, Center District, Warrenton, Virginia. (Wally Horton, Staff)

Withdrawn.

SPECIAL PERMIT #SPPT09-CT-023, JAMES M. & BARBARA J. STEWART (OWNERS/APPLICANTS)

Applicants are requesting renewal of a special permit for a major home occupation to operate a gunsmithing business, PIN #6995-90-8188-000, located at 7450 Maple Court, Center District, Warrenton, Virginia. (Drew Hushour, Staff)

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Meadows opened the public hearing.

Mr. James Stewart, applicant, expressed agreement with the staff report.

Mr. Al Foster, a neighbor, spoke in support of the 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 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 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.

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. All public contact related to the gunsmith business shall be limited to the period between 7:00 a.m. and 8:00 p.m.
3. No firearms and/or weapons associated with the gunsmith business shall be fired on the subject property.
4. The inventory of firearms offered for retail sales shall not exceed ten (10) guns at any one time, none of which can be fully automatic.
5. In the event of the sale of the subject property by the applicants, this approval will become null and void.

The motion carried unanimously.

SPECIAL PERMIT #SPPT09-CR-024, JOSEPH W. & PEGGY E. LONGERBEAM AND OTHERS/REALTY INCOME CORP. (OWNERS)/CATHERINE ADKINS (APPLICANT) – PILOT TRAVEL CENTER

Applicant is requesting special permit approval to operate a truck stop, including expansion of facilities, PIN #6981-20-8999-000 and 6981-21-9233-000, located at 10029 James Madison Highway and 10007 James Madison Highway, Cedar Run District, Warrenton, Virginia. (Drew Hushour, Staff)

Withdrawn.

OTHER BUSINESS:

Mr. Meadows stated that due to the economy, regular group site visits will be discontinued, effective immediately. If the Board feels there is a need for a site visit, an item can be postponed with a site visit scheduled for the following month.

Mr. Meadows stated that Ms. Mary Catherine Sheridan, Assistant County Attorney, will be providing legal counsel for the Board beginning with the next regularly scheduled meeting.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:10 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.