

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
MAY 7, 2009**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, May 7, 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. Sonja Addison; Mr. Serf Guerra; and Mr. Harry Russell. Also present were 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. Mary North Cooper.

**MINUTES:**

Mr. Meadows requested that the following revisions be made to Page 1 of the April 2, 2009 minutes:

- Revise “Mr. Meadows opened the public hearing.” to read “Mr. Meadows *continued* the public hearing.”
- Revise “In that there were no further speakers, Mr. Meadows adjourned the public hearing.” to read “In that there were no further speakers, Mr. Meadows *held* the public hearing *open*.”

On motion made by Mr. Meadows and seconded by Mr. Van Luven, it was moved to approve the April 2, 2009 minutes, as amended.

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.

Mr. Guerra inquired if staff is satisfied that the applicant is not making a veiled attempt to test the Board's vigilance by removing some of the inoperable vehicles and outdoor storage from the visible portions of the property and simply relocating them elsewhere on the site.

Mr. Hushour responded that he is satisfied the applicant is not doing so.

Mr. Meadows opened the public hearing.

James Downey, Esquire, 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. Van Luven 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 and plans submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. A buffer consistent with that shown on the approved special permit plat shall be established in the southwest corner of the subject property for the benefit of screening the proposed parking area from the adjacent residential properties.

3. The applicant shall be required to fulfill all necessary landscaping requirements pursuant to Article 7 of the Zoning Ordinance. This shall include the 20-foot front yard buffer along Marsh Road/Route 17 to include three (3) canopy trees, three (3) understory trees and twenty-four (24) shrubs per one hundred (100) linear feet of frontage.
4. Signage for the place of worship shall be limited to thirty-two (32) square feet. Any ground sign will be designed as a monument style sign and will not exceed a maximum height of six (6) feet.
5. Within ninety (90) days following approval of this Special Permit, all illegal residential dwelling units on the subject property must be vacated and removed, or permits obtained to utilize such structures for agricultural purposes with any kitchen facilities removed. For reference, the permitted residential dwelling units on the subject property are limited to the existing single-family detached dwelling and the accessory apartment located above the former milking parlor barn on the site.
6. No activity associated with the place of worship may be commenced on the subject property prior to site plan approval. Furthermore, the church edifice itself cannot be occupied until a Certificate of Occupancy has been issued by the Fauquier County Building Official.
7. Health Department approval for on-site water and sewage disposal is required prior to site plan approval.
8. All zoning and building permit violations on the overall property shall be resolved prior to release of a site plan for the church.
9. The hours of operation for the place of worship are limited to Saturday evening hours, Sunday morning hours, and no more than one additional meeting per week to be held Monday through Friday.
10. No more than thirty (30) persons shall be allowed on the site at any one time, and no more than ninety (90) persons shall utilize the place of worship per week. However, upon modification of the existing sewage disposal system on-site, subject to Health Department approval, the existing disposal capacity may be increased and the number of persons allowed on-site per day and per week may be increased accordingly, although not to exceed forty-five (45) persons per day or one hundred and thirty-five (135) persons per week.
11. This Special Permit is approved for a period of one (1) year following the issuance of a Certificate of Occupancy by the Fauquier County Building Official.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-LE-033, ROBERT TED CRABTREE & MICHAEL R. ZUPAN (OWNERS/APPLICANTS) – OPAL 101, LLC**

Applicants are requesting special permit approval to operate a contractor's office, shop, and materials storage yard with all equipment and materials contained entirely within a building or completely screened from view, PIN #6980-19-2537-000 and a portion of 6980-18-3105-000, located on the south side of Opal Road (Route 687) and west of James Madison Highway (Routes 15/17/29), Lee District, with a portion in Cedar Run District, Warrenton, Virginia. (Wally Horton, Staff)

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

Mr. Meadows opened the public hearing.

Mr. Robert Crabtree, applicant, expressed agreement with the staff report.

Ms. Madge Eicher, an adjacent property owner, spoke in favor of the granting of this special permit. Ms. Eicher stated that she welcomes any business that will hire local citizens and that all issues, which may have caused a problem have been addressed.

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

On motion made by Mr. Russell and seconded by Mr. Van Luven, 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 area of Bluestone parking formerly used for the truck terminal shall be restored to a usable condition.
3. There shall be less than 10,000 square feet of new earth disturbance and all development activities shall occur within the pre-existing area, as depicted, requiring no additional requirements in terms of stormwater management or erosion & sediment control measures.
4. Additional screening of the storage yard area with evergreen trees shall be installed along the outer edge of the storage yard to the east/southeast in order to sufficiently screen the yard from view from that direction.
5. As part of the required site plan, the Applicants shall demonstrate that all previously required improvements are constructed and in good working order.
6. All work shall be conducted off-site.
7. The access easement into the site shall be kept clear and unobstructed at all times.
8. All applicable VDOT requirements for this use shall be complied with.
9. Relocation of the access in accordance with the Opal Service District Plan as well as VDOT planned improvements is included as part of this application.
10. Any Health Department concerns shall be addressed as part of the site plan.
11. A Site Plan is required.
12. Hours of operation shall be from 6:00 a.m. to 8:00 p.m., except for emergencies.

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

13. This application will be permitted for a period of ten (10) years, at which time it can be renewed administratively for a period of time to be determined by the Zoning Administrator.

The motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT09-CR-034, RONALD H. & KAREN G. CORL (OWNERS/APPLICANTS)**

Applicants are requesting special permit approval to reduce the 100' setback requirement for a barn in order to replace the current structure, PIN #6982-56-5277-000, located at 6757 Beach Road, Cedar Run District, Warrenton, Virginia. (Wally Horton, Staff)

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

Mr. Meadows opened the public hearing.

Mrs. Karen Corl, applicant, expressed agreement with the staff report. However, Mrs. Corl clarified that she and her husband are requesting special permit approval for reasons other than merely convenience. She noted that the other suitable location on the property is prone to wetness and presented the Board with pictures, copies of which are attached to these minutes, to indicate this.

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

On motion made by Mr. Tufts and seconded by Mr. Van Luven, 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 barn setback shall be reduced from one hundred (100) feet to thirty-nine (39) feet. This reduction is limited to the barn dimensions identified in the special permit application, and no additions to the barn shall be permitted.

2. The new barn shall be no higher than the current pole barn that it will replace.
3. The barn shall be built to resemble a traditional agricultural barn, both in building design and color, specifically (for examples: layout, openings, color, roof type/pitch, etc.).

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

2. The new barn shall be no higher than twenty-five (25) feet.

After further discussion, on motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to revise amended Condition #2, as follows:

2. The height of the new barn shall not exceed twenty-five (25) feet from the ground to the peak of the roof.

The motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT09-CR-035, WILLIAM O. & CHRISTINE A. HAYES, ET AL (OWNERS)/STEVE C. BRYANT & DALE LANDRETH (APPLICANTS) – BRYANT’S POWERWASHING**

Applicants are requesting special permit approval to operate a small contracting business as a major home occupation, PIN #7931-17-2097-000, 7931-16-1895-000, and 7931-16-0895-000, located at 9529 Elk Run Road, Cedar Run District, Catlett, 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. Steve Bryant, applicant, expressed agreement with the staff report.

Mr. Meadows reminded the applicant that special permit approval for a major home occupation requires that the location be his primary residence for at least 183 days per year.

Mr. Bryant stated that he will comply with this regulation.

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

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to postpone action on this application until the next regularly scheduled meeting, with the public hearing left open, to allow time for site visits to be made by individual Board members.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-LE-036, 2325 18<sup>th</sup> STREET LIMITED PARTNERSHIP (OWNER)/YOON KIM (APPLICANT) – MOUNTAIN KIM MARTIAL ARTS**

Applicant is requesting special permit approval to operate a martial arts studio as an indoor sports/activity complex 25,000 square feet or less, PIN #6899-34-0516-001, located at 11085 Marsh Road, 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.

Mr. Meadows opened the public hearing.

Mr. Ralph Nussbaumer, representative, expressed agreement with the staff report.

Board members inquired about the applicant's proposal regarding class sizes, after-school programs, soundproofing, and the number of staff that will be on-site.

In that Mr. Nussbaumer did not have specific information, Mr. Van Luven suggested that the Board hear from the applicant or someone associated with the school at the next meeting.

In that there were no further speakers, Mr. Meadows adjourned the public hearing and reminded the representative that all construction must cease until a special permit is granted and a building permit is issued.

On motion made by Mr. Guerra and seconded by Mr. Van Luven, it was moved to postpone action on this application until the next regularly scheduled meeting, with the public hearing left open, to allow the applicant to be present (with a translator, if necessary) so that he can address the questions raised.

The motion carried unanimously.

**OTHER BUSINESS:**

None.

**ADJOURNMENT:**

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

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John R. Meadows, Chairperson

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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.*