

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
JULY 2, 2009**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, July 2, 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; Mrs. Mary North Cooper; and Mr. Harry Russell. Also present were Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator; Mr. Wally Horton, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

**MINUTES:**

On motion made by Mr. Van Luven and seconded by Mr. Russell, it was moved to approve the June 4, 2009 minutes.

The motion carried unanimously.

Mr. Guerra stated that, in the future, he would like to see the names of Board members' included rather than referring to them as "Board members."

**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-038, JAIME ZAMBRANA & MARIA L. MENDEZ (OWNERS/APPLICANTS) – J. W. APPLICATORS, LLC**

Applicants are requesting special permit approval to operate a small contracting business as a major home occupation, PIN #7837-07-6714-000, located at 3158 Midland Road, Cedar Run District, Midland, Virginia. (Drew Hushour, Staff)

Postponed.

**SPECIAL PERMIT #SPPT09-CR-040 & SPPT09-CR-041, GOLEY ALBIN & MARGIE ANN DICK & OTHERS, DALE DOUGLAS DICK, & PATRICIA ANN LEONARD (OWNERS)/PATRICIA ANN LEONARD (APPLICANT) – JAPAL AG ED HAUNTED EVENT**

Applicant is requesting special permit approval to host two haunted trail walking events, PIN #6983-85-5497-000, 6983-86-1350-000, and 6983-96-3212-000, located at 8274

Maple Tree Lane and 8275 Maple Tree Lane, 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 official minutes.

Mr. Meadows opened the public hearing.

Mrs. Patty Leonard, 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 Mr. Van Luven, it was moved to grant the special permits, 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 as necessary to meet Zoning Ordinance requirements.
2. All illegal outdoor storage shall be removed from the site prior to the operation of the Haunted Trail.

3. The use shall operate only between the hours of 6:00 p.m. to Midnight, with cars arriving no earlier than 5:30 p.m. and ticket sales ending at 10:00 p.m.
4. The Applicant shall use online ticketing to spread guest's visits throughout the evening to keep traffic at a manageable level.
5. The ticket sales structure for the use shall be constructed so as to be in keeping with the rural "barn" style architecture of the current farmstead.
6. A commercial entrance in accordance with the Minimum Standards of Entrances to State Highways, meeting minimum sight distance requirements, shall be required with verification of compliance with VDOT requirements sent to the Zoning office before the use can commence.
7. The Applicant shall reconstruct Maple Tree Lane so as to provide two-way traffic.
8. Parking areas shall be mowed and maintained to prevent any damage or erosion and usage shall be alternated between the 7.3-acre and 8.6-acre parking areas to reduce damage and erosion from vehicles.
9. Use of the portable toilets and hand-washing stations must be approved by the Health Department and verifying information must be received by the Zoning Administrator before the use can commence.
10. Concessions shall be limited to prepackaged beverages and snacks in accord with all local and state health department regulations.
11. Campfires shall be maintained in accord with all local and state fire laws.
12. The Fauquier County Sheriff's Department and Fauquier Emergency Services shall be properly notified 30 days prior to the opening of the event.
13. The proposed tower lights shall be shielded and be mounted no higher than 20'. All lights shall be removed once the event is over (November 1, 2009).

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-MA-042, VIK RAILAN (OWNER/APPLICANT) – RAILAN'S USED CARS**

Applicant is requesting special permit approval to operate an automobile sales dealership, PIN #6969-79-4305-000, located at 8277 East Main Street, Marshall District, Marshall, Virginia. (Drew Hushour, Staff)

Mr. Russell recused himself from any discussion or vote on this matter.

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. Chuck Floyd, representative, stated that he agrees with most of the staff report. Mr. Floyd stated that his client is willing to request a postponement so that the project can be redesigned to better conform with the Comprehensive Plan.

Dr. Kitty Smith, Marshall District, spoke in opposition to the granting of this special permit. Dr. Smith stated that she served on the citizens' committee that helped develop the Marshall Service District Plan and a used car dealership is not an appropriate use at this location regardless of any changes made to the application. Dr. Smith further stated that even though the applicant is requesting a "temporary" use, cutting down trees and installing asphalt surfaces will have a permanent affect on the area.

Mr. George Thompson, Marshall District, spoke in opposition to the granting of this special permit and stated that a used car dealership is not an appropriate use for this location.

Ms. Ann McCarty, Marshall District, stated that she is speaking as a citizen and is opposed to the granting of this special permit. Ms. McCarty noted that the Marshall Service District Plan is specific about this proposed use when it states "The guidelines seek to *discourage* the following attributes...[the] location of gasoline stations, auto sales, and other auto-oriented/drive-in uses on Main Street." Ms. McCarty stated the Plan further encourages a true mix of uses, stating: "It is critical that the newer areas, especially those along Route 55 east of the Marshall Ford building...be developed as true mixed-use areas and designed as an "extension" of the existing Main Street."

Mr. Bill Clark, Marshall District, spoke in opposition to the granting of this special permit. Mr. Clark stated that this proposed use at this location is not compatible with the Marshall Service District Plan.

In that there were no further speakers, on motion made by Mr. Guerra and seconded by Mr. Van Luven, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open, to allow the applicant time to redesign the site and revise the application.

The motion carried 6 – 0, as follows:

AYES: Mr. Meadows, Mr. Van Luven, Mr. Tufts, Mrs. Addison,  
Mrs. Cooper, Mr. Guerra.

NAYS: None

ABSTENTION: Mr. Russell

ABSENT: None

**OTHER BUSINESS:**

- Mr. Meadows stated that a letter has been received from Merle Fallon, Esquire, requesting that the Board rehear the application of William and Susan G. Chewning (SPPT09-MA-017) requesting a reduction in the required one hundred (100)-foot setback for an existing barn.

Pursuant to *Code of Virginia* Section 2.2-3711(A)(7), it was moved by Mr. Tufts and seconded by Mr. Van Luven to go into a closed meeting 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 #SPPT09-MA-017 (William & Susan G. Chewning).

The motion carried unanimously.

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 Mrs. Cooper.

AYES: Mr. Meadows, Mr. Van Luven, Mr. Tufts, Mrs. Addison,  
Mrs. Cooper, Mr. Guerra, Mr. Russell

NAYS: None

ABSTENTION: None

ABSENT: None

On motion made by Mr. Tufts and seconded by Mr. Guerra, it was moved to rehear the special permit request to reduce the required one hundred (100)-foot setback for an existing barn for William & Susan G. Chewning (SPPT09-MA-017) at the August 6, 2009 meeting.

The motion carried unanimously.

- Mr. Van Luven suggested that a resolution be adopted eliminating site visits since the Board is no longer doing so as a group.

Ms. Sheridan will look into this and the Board will make a decision about the resolution at the next regularly scheduled meeting.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3: 00 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.*