

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 3, 2009**

*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, September 3, 2009, 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. James W. Van Luven, Vice-Chairperson; Mr. Maximilian Tufts, Secretary; Mrs. Mary North Cooper; Mr. Serf Guerra; and Mr. Harry Russell. Also present were Ms. Mary Catherine Sheridan, Assistant County Attorney and Mr. Andrew Hushour, Assistant Zoning Administrator. Member absent was Mrs. Sonja Addison.

REVIEW OF AGENDA:

SPECIAL PERMIT #SPPT10-CR-004, CALVIN L. RITCHIE TRUST, JANICE N. RITCHIE, RICKY L. RITCHIE, WILBUR EARLY RITCHIE II, THE PADDOCKS AT KASTLE GREEN, LLC, & BRANCH BANKING AND TRUST COMPANY (OWNERS)/PEOPLE HELPING PEOPLE OF FAUQUIER COUNTY, INC. (APPLICANT) – “WE THE PEOPLE” TEMPORARY EVENT

Applicant is requesting special permit approval to host a temporary event, PIN #7807-78-3793-000, 7808-81-5996-000, 7807-99-3475-000, 7808-44-5264-000, 7808-70-2628-000, 7808-54-7177-000, and 7808-52-3089-000, located at 5174 Ritchie Road, 5175 Ritchie Road, 5176 Ritchie Road, 5126 Inglewood Farm Lane, and 11738 Ag Industrial Road, Cedar Run District, Bealeton, Virginia. (Wally Horton, Staff)

Mr. Hushour reviewed the application.

MINUTES:

Mr. Van Luven stated that he would like to amend Page 10 of the August 6, 2009 minutes, as follows:

“Mr. Robert Taylor, a neighbor, stated that he hears the dogs barking twice a day, which is a concern because ~~of~~ *the noise created by his cow and calf operation may become an issue.*”

OTHER BUSINESS:

Mr. Meadows stated that Dr. James R. Branscome, who previously served on the Board of Zoning Appeals, recently passed away and requested that Ms. Sheridan prepare a letter of condolence which will be sent to his family.

The meeting was adjourned at 1:25 p.m.

<p style="text-align:center"><i>Regularly Scheduled Meeting</i> 2:00 p.m. <i>Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia</i></p>
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The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, September 3, 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 Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator; and Mrs. Fran Williams, Administrative Specialist. Member absent was Mrs. Sonja Addison.

ANNOUNCEMENTS:

Mr. Meadows announced that Item #4 (“We the People” Temporary Event) would be considered as Item #2 on the agenda.

MINUTES:

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to approve the August 6, 2009 minutes, as amended.

The motion carried unanimously.

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 had been properly advertised, posted, and letters of notification sent to adjoining property owners.

SPECIAL PERMIT #SPPT10-CR-004, CALVIN L. RITCHIE TRUST, JANICE N. RITCHIE, RICKY L. RITCHIE, WILBUR EARLY RITCHIE II, THE PADDOCKS AT KASTLE GREEN, LLC, & BRANCH BANKING AND TRUST COMPANY (OWNERS)/PEOPLE HELPING PEOPLE OF FAUQUIER COUNTY, INC. (APPLICANT) – “WE THE PEOPLE” TEMPORARY EVENT

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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.

In that there were no 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.
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. The event is authorized for September 26, 2009 with a rain date of October 17, 2009.
3. Hours for the event shall be limited to 1:00 p.m. until the end of the fireworks display, which begins at 8:00 p.m., with early arrivals allowed as early as 11:30 a.m.
4. The parking areas shall be mowed and maintained prior to and following the event to minimize danger of fire, damage or erosion.
5. An access/parking management plan for the event shall be approved by VDOT prior to the event. The applicant shall utilize County Sheriff and State Police officers to manage the access and parking on-site during the event.
6. The Applicant shall coordinate with County emergency personnel to establish first aid services on-site.
7. Food and drink shall be limited to bottled water and prepackaged snacks.
8. Temporary privies (port-a-johns) shall be provided at the required rate of 1 per 100 attendees and permits for such facilities shall be secured from the Health Department in advance of the event.
9. A fireworks permit shall be secured from Emergency Services in advance of the event.
10. The following sewage disposal sites shall be protected in advance of the event by fencing or other means satisfactory to the Health Department:
 - a. the area approved on PIN #7808-44-5264 for the installation of a mound type sewage disposal system;
 - b. the sewage disposal site on PIN #7808-44-6128.

The motion carried unanimously.

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

Reconsideration of a previously denied special permit to reduce the required one hundred (100) foot setback for an existing barn, PIN #6064-92-7483-000, located at 1285 Rokeby Road, Marshall District, Upperville, Virginia. (Andrew Hushour, Staff)

Postponed.

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. (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.

Jennifer R. Moore, Esquire, representative, expressed agreement with the staff report. Ms. Moore referred to a letter from the Planning Commission urging denial of this application, in part, because of the large vehicles used. Ms. Moore stated that the Zoning Ordinance allows a small contracting business to have up to five vehicles in excess of 1½ tons.

Ms. Sheridan clarified that Mr. Meadows had recused himself from any discussion relating to this application, including the letter, at the Planning Commission meeting.

Ms. Moore reviewed her clients' application and stated that it meets the Zoning Ordinance requirements for a small contracting business as a home occupation.

Mr. Van Luven inquired about the frequency of large vehicles making deliveries to the property.

Ms. Moore responded that deliveries are rare and sporadic, but can be limited to a maximum of one delivery per week.

Mr. Guerra expressed concern about the impact on neighbors from the noise and asked about the need for Sunday hours.

Mr. Zambrana stated that Mondays are usually very busy so he likes to load his truck on Sundays, but he is flexible and would be willing to reduce the hours on Sundays.

Mr. Ben Nichols, a neighbor, spoke in opposition to the granting of this special permit, stating that this use is inconsistent with the neighborhood and expressed concern about its negative impact on property values.

Ms. Teresa Nichols, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about noise and decreased property values. Ms. Nichols questioned who would be responsible for enforcing the conditions if this application is approved.

Ms. Nancy Greene, a neighbor, spoke in opposition to the granting of this special permit. Ms. Greene stated that this use is not compatible with the neighborhood and should be on property zoned Commercial. Ms. Greene also noted that the applicant cannot be the sole employee based on the large number of areas served as listed on his website. Ms. Greene

further stated that this use is a violation of a non-common open space agreement with the Board of Supervisors.

Mr. Todd Benson, Piedmont Environmental Council, spoke in opposition to the granting of this special permit. Mr. Benson stated that the Board of Zoning Appeals cannot ignore the fact that the property is under a non-common open space easement agreement with the Board of Supervisors, which has sent a letter urging that the application be denied. Mr. Benson further stated that the Planning Commission, an expert on land use policy, has also sent a letter urging denial because the use is not compatible with the Comprehensive Plan.

Ms. Debbie Dotson, a neighbor, spoke in opposition to the granting of this special permit. Ms. Dotson stated that large trucks entering the property are not just rare occurrences, and expressed concern about the safety of school buses in the area.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, 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 SPPT09-CR-038, Jaime Zambrana/Maria L. Mendez (Owners/Applicants) – J. W. Applicators, LLC.

The motion carried 6 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mrs. Addison

Mr. Guerra left after the closed meeting.

Upon reconvening from the closed meeting, Mr. Van Luven 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. Van Luven and seconded by Mr. Russell.

The motion carried 5 – 0, as follows:

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

NAYS: None

ABSTENTION: None

ABSENT: Mrs. Addison, Mr. Guerra

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

On motion made by Mr. Van Luven 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 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 activity related to the small contracting business shall be limited to Mondays through Saturdays, between the hours of 7:00 a.m. and 7:00 p.m. On Sundays the activity related to the business shall be limited to between the hours of 1:00 p.m. and 4:00 p.m. Activity at the site on Sunday is expressly limited to the loading and unloading of materials and equipment.

3. Vehicular traffic associated with the small contracting business occurring on-site shall be limited to approved business hours. Vehicle trips associated with the small contracting business are limited to those made by the applicant, which shall not exceed more than two (2) round trips per week. Deliveries to the site for the small contracting business shall not exceed one (1) trip per week and shall take place on the same day of the week, every week of the year, which shall be either on Wednesdays or Thursdays. Invoices documenting each delivery shall be made available by the applicant to the Zoning Administrator or her designee upon request within three (3) business days. No employees or customers of the business shall be permitted to visit the site.
4. The existing vegetation located around the periphery of the subject property and around the vicinity of the existing dwelling shall be preserved and maintained in order to provide the natural vegetative screening of the site.
5. The proposed outdoor storage area identified on the special permit plat is limited to 1,500 square feet and shall be clearly delineated on-site and screened from view of all surrounding properties and the road using evergreen trees in order to ensure compliance. The area shall be used only for the storage of scaffolding related to the small contracting business.
6. The storage of construction materials related to the business, such as tools, stone, or other masonry products, shall only occur indoors within the existing barn structure on the subject property.
7. The vehicles and/or construction related equipment authorized for use and/or storage on the site is limited to one (1) flatbed truck, one (1) semi-truck with trailer and one (1) commercial forklift, and such shall be stored on the existing gravel driveway area adjacent to the existing barn structure, or within the structure itself. Prior to site plan approval the applicant shall provide the appropriate registration documents for each of these vehicles and/or construction related equipment.
8. No signage associated with the small contracting business shall be displayed on-site.
9. A site plan is required for the small contracting business prior to commencement of any operations on-site. The commercial entrance shall be designed in conformance with the rural area. Such design shall be approved during the site plan process. This use shall not commence until such time as the site plan has been approved and complete compliance with these conditions is achieved and maintained as determined by the Zoning Administrator. Site plan approval shall occur within ninety (90) days of the granting of this special permit.
10. In the event that the applicant is found to be in violation of these conditions and the Zoning Administrator determines that a Notice of Zoning Violation is warranted and issued, then this special permit shall be administratively suspended immediately and all activity related to the small contracting business on-site must cease until such time that the violation is remedied.

11. The permit shall expire on September 3, 2010 and may only be renewed pursuant to Section 5-202.10 of the Zoning Ordinance.

The motion carried 3 – 2, as follows:

AYES: Mr. Van Luven, Mr. Russell, Mr. Meadows

NAYS: Mrs. Cooper, Mr. Tufts

ABSTENTION: None

ABSENT: Mrs. Addison, Mr. Guerra

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:20 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.