

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
AUGUST 7, 2008**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON AUGUST 7, 2008 AT 10:30 A.M. IN WARRENTON, VIRGINIA.**

Members present were Mr. John Meadows, Chairperson; Mr. James W. Van Luven, Vice-Chairperson; Mr. Maximilian Tufts, Secretary; Mrs. Sonja Addison; Mrs. Mary North Cooper; Mr. Serf Guerra; and Mr. Harry R. Russell. Also present were Mr. Andrew Hushour, Assistant Zoning Administrator; and Mr. Wally Horton, Senior Planner.

**SITE VISITS:**

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

1. Elk Run Historic Church Park at 10:45 a.m.
2. Waverly Station at Bealeton Condominiums at 11:10 a.m.
3. Buckland Farmers' Market at 11:25 a.m.
4. McMichael's of Warrenton at 11: 35 a.m.

With no further business, the meeting was adjourned at approximately 11:45 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, August 7, 2008, 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 R. Addison; Mrs. Mary North Cooper; Mr. Serf Guerra; and Mr. Harry R. Russell. 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.

**MINUTES:**

On motion made by Mr. Guerra and seconded by Mrs. Addison, it was moved to approve the July 3, 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 #SPPT08-LE-036, JOLEEN S. TEETS  
(OWNER/APPLICANT)**

Applicant is requesting special permit approval to allow for a kennel, PIN #6889-34-7522-000, located at 11065 Harley Drive, Lee District, Bealeton, Virginia. *Note: Public hearing was closed on July 3, 2008.*

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 on April 3, 2008.

Mr. Meadows stated that the public hearing was closed on July 3, 2008.

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to consider and open discussion on this application.

The motion carried unanimously.

Mr. Frank Reinhardt, representative, stated that he has reviewed the additional correspondence, copies of which are attached to and made a part of these minutes that has been received by staff. Mr. Reinhardt stated that he has begun making the necessary modifications to his operation, such as meeting the required setbacks, fencing the entire property and reducing the number of dogs.

Mr. Neil Selby, owner of Shady Grove Kennel, stated that all of his dogs are American Kennel Club (AKC) registered with females being bred every two years until the age of five.

Ms. Evelyn White, owner of Smoke Hill Farm, expressed concern about the limited acreage of the site, stating that dogs need room to run and cannot stay kenneled all the time. Ms. White also expressed concern about the large number of dogs that end up in shelters at the County's expense or in foster and rescue programs.

Mr. Tufts stated that, while he was not at last month's meeting, he was present for the initial public hearing, has read all of the material, and attended the previous site visit; therefore, he feels confident that he can make a land use decision on this matter.

On motion made by Mr. Tufts and seconded by Mr. Russell, 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 findings:

1. The applicant has other reasonable use of the property.
2. The proposed use will adversely affect the use or development of neighboring properties and will impair the value of nearby land.

The motion carried 4 – 2, as follows:

AYES: Mrs. Addison, Mrs. Cooper, Mr. Russell, Mr. Tufts

NAYS: Mr. Guerra, Mr. Van Luven

ABSTENTION: Mr. Meadows

ABSENT: None

**SPECIAL PERMIT #SPPT08-SC-037, N & K, LLC (OWNER)/NEAL  
McMICHAEL (APPLICANT) – McMICHAEL'S OF WARRENTON**

Applicant is requesting special permit approval to allow for a farm equipment sales, rental, and service establishment, PIN #7916-67-0647-000, located at 4242 Lee Highway, Scott District, Warrenton, Virginia.

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. Charles Floyd, representative, stated that he agrees with most of the staff report. Mr. Floyd stated that the applicant is working diligently to resolve the violations on the property and is requesting a postponement to allow time to fully resolve the outstanding issues.

Mr. Wayne Smith, General Manager, spoke in support of the approval of this request on behalf of citizens who have expressed their support to him, and stated that this business provides a necessary service to local residents.

Mrs. Barbara Severin, Scott District, stated that she would like to postpone comment on this application until a later time since the public hearing will be left open.

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

After discussion, on motion made by Mr. Van Luven and seconded by Mr. Guerra, it was moved to postpone action on this application until the September 4, 2008 meeting, with the public hearing left open.

The motion carried unanimously.

**ZONING APPEAL #ZNAP08-LE-005, WAVERLY STATION AT BEALETON, LLC (OWNER/APPLICANT) – WAVERLY STATION AT BEALETON CONDOMINIUMS**

Applicant is appealing the Zoning Administrator's determination that all banner signs must be removed from the property, PIN# 6899-32-8843-000, located at 6177 Willow Place, Lee District, Bealeton, Virginia. *Note: This is a public meeting, not a public hearing.*

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 meeting.

Ms. Bernadette Manara, representative, acknowledged that the signs are in violation of the Zoning Ordinance, but stated that these signs are necessary since there is no site visibility. Ms. Manara further stated that the business is providing an affordable housing initiative for County employees.

Mr. Meadows closed the public meeting.

On motion made by Mr. Guerra and seconded by Mr. Van Luven, it was moved to affirm the decision of the Fauquier County Zoning Administrator in Appeal #ZNAP08-LE-005, after due notice and hearing as required by the Fauquier County Code and the *Code of Virginia*, finding that the existing signs on the property are in violation of the Zoning Ordinance and that the Zoning Administrator's determination is correct.

Mr. Guerra added that, while the Board sympathizes with the appellant, the signs are in violation of existing Zoning Ordinance regulations.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-SC-001, H. DOUGLAS SMITH REVOCABLE TRUST & BRYANT F. SMITH (OWNERS)/BRYANT F. SMITH (APPLICANT) – BUCKLAND FARMERS' MARKET**

Applicant is requesting an amendment to a previously approved special permit to allow for the relocation of the proposed entrance and access road, PIN# 7916-05-6928-000, 7916-16-0865-000, and 7916-26-2088-000, located on the northwest side of Lee Highway (Route 15/29) near its intersection with Riley Road (Route 676), Scott District, Warrenton, Virginia.

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. Charles Floyd, representative, expressed agreement with the staff report. Mr. Floyd stated that the applicant has met with the Virginia Department of Transportation (VDOT) to discuss the proposed entrance. Mr. Floyd stated that the applicant is proposing to shift the entrance to Avalon Farm if ongoing negotiations with the John C. Pierce family fail.

Mrs. Barbara Severin, a neighbor, stated that she was surprised to hear of yet another change regarding the proposed entrance to the property. Mrs. Severin stated that a number of people rely on the Buckland Farmers' Market and want to see it reopen. Mrs. Severin expressed concern that the either/or proposition regarding the entrance would appear to delay the reopening of the farmers' market.

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

After discussion, 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 the *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 as necessary to meet Zoning Ordinance requirements.
2. Additional landscaping shall be provided to meet Zoning Ordinance requirements and to buffer the parking area from view from Route 29. This landscaping should

- incorporate clustering of trees and shrubs rather than a linear type planting alignment.
3. 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 or similar items.
  4. The proposed entrance shall be located at either the existing entrance to Avalon Farm or at the previously proposed entrance located on the adjoining parcel owned by John C. Pierce Farm, Inc. approved as part of the Special Permit granted February 7, 2008. A full review by VDOT of the entrance and turn lane design shall be completed prior to site plan approval. Any underground utilities that are located within the proposed turn lane will need to be relocated at the applicant's expense. A determination of which entrance is to be used shall be made within thirty (30) days.
  5. The use shall have no more than one (1) free standing sign a maximum of twelve (12) square feet in size and six (6) feet in height.
  6. A major site plan is required for this use. The applicant shall request a dustless surface waiver in conjunction with the site plan to utilize gravel rather than pavement for the parking area and driveway. The applicant shall also seek a parking reduction in order to minimize the parking provided.

The motion carried unanimously.

Mrs. Cooper left the meeting.

**SPECIAL PERMIT #SPPT09-CR-002, ST. STEPHENS EPISCOPAL CHURCH, TRUSTEES (OWNER)/EDWARD F. DANDAR (APPLICANT) – ELK RUN HISTORIC CHURCH PARK**

Applicant is requesting special permit approval to allow for the operation of a museum, PIN# 7818-95-7990-000, located on the south side of Elk Run Road (Route 806) near its intersection with Midland Road (Route 610), Cedar Run District, Midland, Virginia.

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. Edward Dandar, applicant, expressed agreement with the staff report.

Mrs. Lorene Payne, Lee District, spoke in support of the approval of this application, stating that there is a critical need for a structure to protect these historical artifacts.

Ms. Sabina Flournoy, Cedar Run District, spoke in support of the approval of this application, stating that a building is necessary to preserve these important artifacts.

Ms. Ruth Eskridge, Cedar Run District, spoke in support of the approval of this application, stating that this facility would provide tax revenue as many will come to tour it.

Mrs. Barbara Severin, Scott District, spoke in support of the approval of this application. Mrs. Severin applauded the efforts of the Elk Run Church Preservation Committee and stated that this project is astounding and very impressive.

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

On motion made by Mr. Guerra 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 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 drawings submitted with the special permit application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. A site plan is required for this use.
3. The hours of operation shall be daily from 9:00 a.m. to 5:00 p.m. or otherwise by appointment only.
4. The portable toilet requires Virginia Department of Health approval. In addition, the portable toilet shall be located behind the building and shall be screened from public view and adjacent properties with evergreens.

- 5. Any signage located on the property shall be limited to three (3) square feet and will require all applicable building and zoning permits. This signage is in addition to the Virginia Historic Road Marker that is already located on the subject property.
- 6. Within thirty (30) days following Board of Zoning Appeals' approval, the applicant shall make application for an Administrative Modification for reduction of the side and rear setback requirements as shown on the special permit plat.
- 7. The applicant shall obtain all required building permits and necessary inspections for the proposed structure on the subject property.

The motion carried 6 – 0, as follows:

- AYES: Mr. Meadows, Mr. Van Luven, Mr. Tufts, Mrs. Addison, Mr. Guerra, Mr. Russell
- NAYS: None
- ABSTENTION: None
- ABSENT: Mrs. Cooper

Pursuant to *Code of Virginia* Section 2.2-3711(A)(7), it was moved by Mr. Van Luven and seconded by Mr. Tufts 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 the Teets kennel application.

The motion carried 6 – 0, as follows:

- AYES: Mr. Meadows, Mr. Van Luven, Mr. Tufts, Mrs. Addison, Mr. Russell  
Mr. Tufts
- NAYS: None
- ABSTENTION: None
- ABSENT: Mrs. Cooper

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, seconded by Mr. Van Luven.

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

NAYS: None

ABSTENTION: None

ABSENT: Mrs. Cooper

**OTHER BUSINESS:**

None.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:23 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.*