

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
SEPTEMBER 4, 2008**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON SEPTEMBER 4, 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; and Mr. Serf Guerra. Also present were Mr. Andrew Hushour, Assistant Zoning Administrator; and Mr. Wally Horton, Senior Planner. Members absent were Mrs. Sonja Addison, Mrs. Mary North Cooper, and Mr. Harry Russell.

**SITE VISITS:**

Mr. Meadows reviewed the site visit agenda and stated that there would be three (3) site visits as follows:

1. Grace United Methodist Church at 11:18 a.m.
2. James R. & Diana L. Morris at 11:35 a.m.
3. Blackwell Road Golf Practice Facility at 12:03 p.m.

With no further business, the meeting was adjourned at approximately 12:15 p.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, September 4, 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; and Mr. Serf Guerra. 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 Mr. Harry Russell.

**MINUTES:**

On motion made by Mr. Guerra and seconded by Mr. Van Luven, it was moved to approve the August 7, 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-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, 7916-67-0405-000, and 7916-67-1596-000, located at 4242, 4224, and 4232 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 on August 7, 2008.

Mr. Meadows opened the public hearing.

Mr. Charles Floyd, representative, expressed agreement with the staff report. Mr. Floyd requested that the applicant be given a minimum of sixty (60) days to submit a site plan on this project.

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 *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 necessary to meet Zoning Ordinance requirements.
2. The use of all existing buildings on the site shall be in strict conformance with those uses identified on the approved special permit plat, except as specifically modified below.
3. The outdoor storage and/or display areas shall be limited to tractors, farm implements, and related equipment. The sale, rental, or service of automobile vehicles as defined in the Zoning Ordinance is prohibited on the site.
4. All such equipment that is to be stored and/or displayed outdoors shall be limited exclusively to those areas as designated on the approved special permit plat; the storage and/or display of equipment in parking spaces, travelways, or landscaped areas is prohibited.
5. All equipment kept in outdoor display areas identified on the approved special permit plat shall be in a 'ready-for-sale' state. The stacking and/or display of such items in shipping containers and/or packaging materials is prohibited in the outdoor display areas.
6. The outdoor display areas shall be clearly delineated on-site with a split rail fence or a shrub or hedgerow.
7. The outdoor storage area identified on the special permit plat shall be constructed and maintained with an all-weather dustless surface and screened from view with a board-on-board privacy fence with a minimum height of six (6) feet.
8. All portions of the proposed travelway that are located on the RA zoned property shall be constructed and maintained with an all-weather dustless surface.
9. Evergreen landscape buffers consistent with those shown on the approved special permit plat shall be planted along the eastern property boundary of the RA zoned property and the southwest corner of the C-2 zoned parcels.

10. Site plan approval is required for this use and such must be submitted to the Department of Community Development within sixty (60) days following special permit approval. In the event that this does not occur, then this Special Permit shall become null and void.
11. At the time of site plan submission, the applicant shall request all necessary modifications.
12. Prior to site plan approval, the tree preservation area shown on the approved special permit plat shall be dedicated as a tree preservation easement and duly recorded as such.
13. Within thirty (30) days following site plan approval, the cabinet maker shall cease operating on the RA zoned property and be relocated to the C-2 zoned property. In the event that this use is still operating on the RA zoned property following the thirty (30) days set forth above, then this Special Permit shall become null and void.
14. The applicant shall obtain all required building permits and necessary inspections for uses occupying the existing structures on the subject property, and for the two prefabricated buildings that are located on the RA zoned property. In the event that permits are not applied for within thirty (30) days following site plan approval, then this Special Permit shall become null and void.

After discussion, on motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to amend Condition #10 as follows:

10. Site plan approval is required for this use and such must be submitted to the Department of Community Development within sixty (60) days following special permit approval.

The motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT09-MA-003, IVY HILL CEMETERY COMPANY OF UPPERVILLE, INC. ET AL (OWNERS/APPLICANTS) – IVY HILL CEMETERY**

Applicant is requesting special permit approval to allow for the expansion of an existing cemetery, PIN #6064-14-3882-000, located on the north side of John S. Mosby Highway (Route 50), Marshall District, Upperville, Virginia.

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. Charles Floyd, representative, expressed agreement with the staff report. Mr. Floyd requested clarification on the proposed signage that will be required.

After discussion, it was decided that the applicant will work with staff to determine the appropriate wording for the proposed signage.

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.
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 proposed new entrance shall be shifted to the west so as to be twenty (20) feet from the eastern side lot line.
3. 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.
4. The applicant shall work with staff to provide a sign or monument documenting the historic significance of the area, with design and content to be approved by the Zoning Administrator.

5. The applicant shall allow a qualified volunteer group designated by the County to survey the property for artifacts and to retrieve any artifacts found for preservation for a public purpose.
6. A site plan is required for this use.

After discussion, it was moved by Mr. Van Luven and seconded by Mr. Tufts, to amend Condition #5 as follows:

5. The applicant shall allow a qualified volunteer group designated by the County to survey the property prior to the first burial on the property for artifacts and to retrieve any artifacts found for preservation for a public purpose.

The motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT09-CR-004, JAMES R. & DIANA L. MORRIS (OWNERS/APPLICANTS) – J. MORRIS TRUCKING, LLC**

Applicants are requesting special permit approval to operate a small contracting business as a home occupation, PIN #7847-76-4033-000, located at 12429 Tower Hill Road, Cedar Run District, Midland, 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. James Morris, applicant, expressed agreement with the staff report.

Ms. Marilyn Scott-Perez, a neighbor, expressed opposition to the granting of this special permit and stated that she is against having any type of commercial business next door to her residential property. Ms. Scott-Perez further expressed concern about run-off, the clearing of her trees, and the safety of school buses traveling on this road.

After discussion, Mr. Meadows stated that further consideration of this application would be deferred until later during this meeting.

Upon continuation of the discussion, Mr. Robert Stevens, a neighbor, expressed concern about possible run-off from any asphalt which may be brought in.

Mr. Meadows clarified that the applicant will exclusively be hauling dirt and not asphalt.

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

On motion made by Mrs. Addison and seconded by Mr. Tufts, it was moved to open discussion on this application.

The motion carried unanimously.

After discussion, it was moved by Mr. Van Luven and seconded by Mr. Tufts 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 particular use 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 necessary to meet Zoning Ordinance requirements.
2. Only the following vehicles and equipment may be stored on-site under this permit:
  - a. Dump Truck
  - b. Case XT skid steer
  - c. Towmaster trailer
  - d. Econoline trailer

Only the dump truck shall actually be utilized in the business; approval for the remaining equipment is limited to storage until sold. Once sold, the above equipment will not be replaced for business purposes.

3. A maximum of approximately five hundred (500) square feet for outdoor storage shall be allowed, set back a minimum of fifty (50) feet from property lines.
4. Employees of the business shall be limited to Mr. and Mrs. Morris.
5. Site Plan approval is required.
6. This permit shall expire on September 4, 2009 and may not be renewed administratively.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-CR-005, GRACE UNITED METHODIST CHURCH, TRUSTEES (OWNERS/APPLICANTS) – GRACE UNITED METHODIST CHURCH**

Applicants are requesting special permit approval to allow for the expansion of an existing place of worship, PIN #7836-95-6175-000, 7836-95-4395-000, and 7836-95-9321-000, located at 13056 Elk Ridge Road, Cedar Run District, Fredericksburg, 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.

Ms. Amy Pritchard, representative, expressed agreement with most of the staff report, but clarified that while the church itself dates back to the 1880's, the actual structure on-site was built in 1927. Ms. Pritchard also stated that the proposed addition will not be used for services, but is simply to expand existing activities (i.e., Sunday School, dinners, etc.). Ms. Pritchard further stated that the entrance will be designed as right-in/right-out.

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

On motion made by Mr. Guerra 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 necessary to meet Zoning Ordinance requirements.
2. The applicant is encouraged to make changes to the new building design and layout to complement the existing historic structure and improve the public viewshed toward the historic structure.
3. The three properties shall be combined to form one parcel prior to site plan approval.
4. Additional landscaping shall be provided in between the parking area and Elk Ridge Road.
5. A site plan is required for this use to include striping the existing front entrance to indicate turns will be right-in/right-out, if permitted by the Virginia Department of Transportation (VDOT).

The motion carried unanimously.

**SPECIAL PERMIT #SPPT09-SC-006, KIRK M. LUCAS & KRISTEN M. TSCHETTER (OWNERS)/KIRK M. LUCAS (APPLICANT) – BLACKWELL ROAD GOLF PRACTICE FACILITY**

Applicant is requesting approval to renew an expired special permit for a golf practice facility, PIN #6985-98-2842-000, located at 6679 Blackwell Road, 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, expressed agreement with the staff report.

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

On motion made by Mrs. Addison 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.
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 facility shall be utilized exclusively for golf instruction and only during daytime hours. No more than twelve (12) students are allowed per day, and all instruction shall be on an appointment only basis.
3. The access road shall have dustless suppressant materials placed on it.
4. If not already approved, the existing entrance to the facility shall be approved by the Virginia Department of Transportation (VDOT). A full commercial entrance is not required unless required by VDOT.
5. All existing vegetation shall be preserved on-site, except for that which must be removed due to disease and/or decay, or for general maintenance.
6. All signage on-site shall be limited to thirty-two (32) square feet.

7. A site plan is required.

After discussion, on motion made by Mrs. Addison and seconded by Mr. Van Luven, it was moved to amend Condition #3 as follows:

3. The access road shall have dustless, environmentally safe suppressant materials placed on it.

The motion carried unanimously, as amended.

**OTHER BUSINESS:**

Ms. Johnson briefed the Board on the status of a proposed text amendment regarding Special Permit requirements.

Ms. Johnson stated that staff is also reviewing the structure of staff reports and asked that the Board let her know if any additional material would be helpful when reviewing applications.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:50 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.*