

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
APRIL 5, 2007**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON APRIL 5, 2007 AT 9:00 A.M. IN WARRENTON, VIRGINIA.**

Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn Bowen; Mr. Serf Guerra; and Mr. Maximilian Tufts. Also present were Mr. Wally Horton, Senior Planner; and Mr. Doug Morgan, Senior Planner.

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

1. Curtis R. & Shelia A. Hansen
2. Tammy J. Abel
3. Paul J. & E. Carroll Devine
4. Dwight O. Messick & Jeremiah Fiel

With no further business, the meeting was adjourned at approximately 11:40 a.m., to reconvene at 2:00 p.m. at 10 Hotel Street, Warren Green Meeting Room, Warrenton, Virginia.

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, April 5, 2007, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn G. Bowen; Mr. Serf Guerra; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Wally Horton, Senior Planner; Mr. Doug Morgan, Senior Planner; and Mrs. Fran Williams, Administrative Specialist. Member absent was Mr. Roger R. Martella, Jr.

**MINUTES:**

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to approve the March 1, 2007 minutes.

The motion carried unanimously.

**LETTERS OF NOTIFICATION AND PUBLIC NOTICE:**

Mrs. Williams read the Public Hearing protocol. Ms. Johnson stated that, to the best of her 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 #SPPT07-MA-017, THOMAS L. & ANNETTE L. PEIRCE (OWNERS/APPLICANTS)**

Applicants are requesting special permit approval to operate a small contracting business as a home occupation, PIN #6949-31-8425-000, located at 10501 Ramey Road, Marshall District, Marshall, Virginia.

Ms. Johnson stated that this application has been removed from the agenda because the property is in the Cobbler Mountain Agricultural and Forestal District. It is therefore subject to a condition requiring all uses other than agricultural and construction of a dwelling unit to be subject to special exception approval by the Board of Supervisors.

**SPECIAL PERMIT #SPPT07-MA-020, CURTIS R. & SHELIA A. HANSEN (OWNERS)/PAUL WARREN (APPLICANT) – BRITISH AND CLASSIC CAR DOCTORS**

Applicant is requesting special permit approval to operate a business to include an auto body/painting establishment and automobile sales, rental and services, PIN #6054-75-1744-000, located at 9183 John S. Mosby Highway, Marshall District, Upperville, Virginia.

Mr. Morgan 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. Paul Warren, applicant, expressed agreement with the staff report.

Mrs. Bowen asked the applicant if all vehicles will be kept inside the existing building.

Mr. Warren responded that since all vehicles will be of museum quality, there will be absolutely nothing stored outside.

Mr. Guerra asked about the putting green that is located on the property.

Ms. Johnson responded that the putting green, which is in violation of the Zoning Ordinance, is associated with another business on the property and staff will be pursuing this separately with the owner of the property.

Mrs. Bowen stated that a neighbor has expressed concern about the possible noise and paint smells and asked if a painting booth would be required.

Mr. Warren stated that the shop will be insulated and this should alleviate any concern about noise. Mr. Warren further stated he is not planning to paint vehicles at this point and if he does so in the future, a painting booth, which would have to meet all Environmental Protection Agency (EPA) regulations, would be required.

Mr. Meadows asked the applicant if he would have any objection to a condition excluding painting if the special permit was approved.

Mr. Warren responded that he would have no objection to this condition.

Mrs. Bowen requested clarification on whether the applicant would be installing any outside lighting.

Mr. Warren responded that he is not requesting any outside lighting as part of this application.

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

On motion made by Mrs. Bowen 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 business shall be consistent with the application materials submitted with this special permit, except that employee parking shall be relocated to the existing parking lot shown on the approved site plan for the site.
2. All activities related to the business shall occur indoors, and there shall be no outside storage of vehicles for repair, service or sales.
3. Any alterations, additions, or modifications to the site shall require an amendment to the special permit and site plan.
4. Site plan approval is required.
5. Hours of operation shall be limited to 8:30 a.m. to 5:30 p.m., Monday through Saturday.

6. No additional exterior lighting shall be placed on the site unless the special permit is amended.
7. There shall no painting of vehicles allowed unless the special permit is amended.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT07-CT-021, TAMMY ABEL (OWNER/APPLICANT) – ABEL GROOMING, INC.**

Applicant is requesting an amendment to a previously approved special permit to operate a pet grooming business as a home occupation, PIN #6994-19-7452-000, located at 7392 Cedar Run Drive, Center 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.

Ms. Tammy Abel, applicant, expressed agreement with the staff report. However, Ms. Abel stated that a similar application was approved on November 2, 2006 with a ten (10) year time period and requested that her application be approved for this same period of time.

Mrs. Bowen noted that the property Ms. Abel is referring to is not in a residential subdivision so there is really no comparison with the two applications.

Ms. Natalie Litwinowicz, a neighbor, expressed concern that paving the front yard would give the appearance of a business rather than a residence. Ms. Litwinowicz stated that if the application is approved, the three (3) year time period should be kept in place as a safeguard.

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

Mrs. Bowen stated that while she understands the concern about paving a portion of the front yard, the small area to be paved is insignificant and could be done by the applicant as part of her residence without a permit.

Mr. Van Luven expressed concern about the amount of hair that would be generated and stated that the septic tank should be cleaned at least every three (3) years.

After discussion, it was moved by Mr. Van Luven and seconded by Mrs. Mailler, 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 home occupations with no retail sales contained in Section 5-201 of the Zoning Ordinance, as well as the use limitations for home occupations contained in Sections 6-302 and 6-304 of the Zoning Ordinance.

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 delivery and pick up area and parking for the pet grooming business shall remain off Cedar Run Drive. Employees and owner will continue to use entrance off Ghadban Court. The entrance off Ghadban Court is to remain a graveled area not T-shaped. It is to remain double wide, adequate for two vehicles to park. Screening and landscaping is to be maintained.
2. The entrance off Cedar Run Drive is to be used for customers only with only one (1) vehicle at a time. The front turnaround off Cedar Run Drive may be asphalted and adequate landscaping and screening is to be maintained.
3. The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Saturday.
4. No more than two (2) non-residents shall be employed on the site.
5. No sign shall be posted for the business.
6. Time limit of five (5) years.
7. The special permit does not convey with the sale of the property.
8. No overnight stays of dogs.
9. Provide a staggered schedule for drop offs and pick ups and provide this schedule to staff.
10. Septic tank to be cleaned every three (3) years.

11. Landscaping shall be maintained.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT07-MA-022, PAUL J. & E. CARROLL DEVINE  
(OWNERS)/RONALD C. DEVINE (APPLICANT)**

Applicant is requesting special permit approval to construct a private helistop, PIN #6944-82-8113-000, located at 8025 Leeds Manor Road, Marshall District, Marshall, 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. Scott Gunderson, representative, expressed agreement with the majority of the staff report. However, Mr. Gunderson stated that since the applicant has included lighting for the site in his application to accommodate Emergency Services, he is requesting that landings not be restricted to daylight hours. Mr. Gunderson further stated that the applicant is requesting that there be no restriction on the number of landings, thereby alleviating the need for tracking how often they land, and that there be no requirement for notification of neighbors since quite frequently the decision to fly in is made at the last minute. Mr. Gunderson stated that it is his understanding that the applicant can currently land in the driveway any time of the day or night as long as the noise level does not exceed guidelines. Mr. Gunderson presented the Board with a letter, a copy of which is attached to and made a part of these minutes, from Mr. & Mrs. Robert E. Armstrong who live nearby, supporting the granting of this special permit.

Mr. Meadows asked if the application is limited to a specific helicopter and, if not, would there be reason for concern regarding the possible increased noise level of other helicopters.

Mrs. Bowen stated that anything in excess of 90 decibels, except in the case of an emergency, would be a violation.

Ms. Johnson stated that a violation of the noise level would be virtually impossible for staff to follow-up on and enforce. Ms. Johnson further stated that a condition limiting the use to a particular helicopter would provide a better basis for enforcement.

Ms. Johnson further stated that there is a potential zoning violation if the applicant is routinely landing a helicopter on the property.

Mr. David McAlister, a neighbor, spoke in opposition to the granting of this special permit. Mr. McAlister stated that he is troubled by the fact that while this application is for a "private" helistop rather than "public," Emergency Services has now expressed an interest in using this site as well. Mr. McAlister expressed further concern about the potential noise and the fact that the study which was submitted was done in 1977 with a microphone on the ground and the helicopter at a height of 400'. Mr. McAlister stated that the only way to determine the true decibel level is to land the helicopter on the site and measure the decibel level. In conclusion,

Mr. McAlister stated that in reviewing the application he was unable to locate any documents required by Section 5-2100.3 of the Zoning Ordinance, which states: *“A statement shall be provided detailing all noise abatement procedures, methods and devices that will be employed in the operation of the facility and sufficient analysis shall be presented to indicate what adjoining lands will be impacted by the anticipated noise.”*

Mr. Mark Frinks, Orlean Fire Chief, spoke in support of granting this special permit. Mr. Frinks stated that Emergency Services would like to use this site for emergency landings as well as training exercises. Mr. Frinks stated this site would be of great benefit to the community with little impact on neighbors.

Ms. Johnson stated that a number of issues have been raised that would broaden the use and suggested that action on this application be deferred so that the proposal can be further clarified.

Ms. Cathy Crain, a neighbor, spoke in opposition to the granting of this special permit. Ms. Crain expressed concern about the potential impact that sudden, unexpected noise would have on horses in the area. Ms. Crain also stated that she does not feel that a subdivision is the proper place for a training facility for Emergency Services.

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

Mrs. Mailler requested more current information on the decibel levels.

After discussion, on motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to defer action on this application up to sixty (60) days.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT07-SC-023, DWIGHT O. MESSICK & JEREMIAH FIEL (OWNERS)/FREDERICK B. BROWN (APPLICANT) – ABOUT SIGNS, INC.**

Applicant is requesting special permit approval for an office use with six (6) or less employees, PIN #7906-11-4495-000, located at 5392 Lee Highway, Scott District, Warrenton, Virginia.

Mr. Morgan 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. Frederick Brown, applicant, expressed agreement with the staff report and stated that he would like to ensure that a 32 square foot sign is included as part of this application.

Mr. Van Luven stated that the Virginia Department of Transportation (VDOT) will require a commercial entrance for this site.

Mrs. Mailler expressed concern about having a 32 square foot sign on this site.

Mr. Dwight Messick, owner, stated a tax office was approved for this site in 1988.

Mrs. Bowen stated that the applicant for the previously approved special permit lived on the property and operated her business as a home occupation. However, the applicant in this instance will not be residing on the property.

After discussion, the applicant requested a sixty (60) day deferral so that he could meet with staff as well as the Virginia Department of Transportation (VDOT) to discuss entrance requirements.

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

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to defer action on this application, pursuant to the applicant's request, for a period of up to sixty (60) days.

The motion carried unanimously.

### **OTHER BUSINESS:**

Mr. Meadows stated that Mrs. Bowen has submitted a letter of resignation from the Board effective May 1, 2007. Mr. Meadows expressed appreciation to Mrs. Bowen for her many years of dedicated service to the citizens of Fauquier County and requested that the following Resolution, which was presented to her during lunch, be included in the minutes of the April 5, 2007 minutes:

### **A RESOLUTION TO RECOGNIZE CAROLYN G. BOWEN FOR HER SERVICE TO THE FAUQUIER COUNTY BOARD OF ZONING APPEALS AND THE CITIZENS OF FAUQUIER COUNTY**

This resolution was adopted at a regular meeting of the Fauquier County Board of Zoning Appeals, held in the Warren Green Building Meeting Room, 10 Hotel Street, Warrenton, Virginia, on Thursday, April 5, 2007.

*WHEREAS*, Carolyn G. Bowen, served as a Member of the Fauquier Board of Zoning Appeals since February 27, 2004; and

*WHEREAS*, prior to her service on the Board of Zoning Appeals she served in an outstanding manner as Fauquier County Zoning Administrator and was an integral member of the staff serving the Board of Zoning Appeals from June, 1973 through March, 2003; and

*WHEREAS*, her many exemplary years of leadership and service contributed significantly to both County staff and Board of Zoning Appeals knowledge, and helped to protect, through the application and interpretation of the Fauquier County Zoning Ordinance, the unique quality, vision, and sense of place felt by citizens of this County; and

*WHEREAS*, her concern for the citizens and knowledge of Fauquier County contributed

significantly to the Board of Zoning Appeals' efforts to apply the zoning regulations of this County in a fair and impartial manner to the benefit of all who came before the Board of Zoning Appeals; and

*WHEREAS*, the Board of Zoning Appeals, on behalf of all the citizens of Fauquier County, wishes to express its profound appreciation for her service to the citizens of Fauquier County and her devotion and dedication to the betterment of the County;

*BE IT FURTHER RESOLVED*, that the Fauquier County Board of Zoning Appeals does hereby offer its heartfelt appreciation and extends its best wishes to Carolyn G. Bowen in all future endeavors; and

*BE IT FURTHER RESOLVED*, that this Resolution be placed within the minutes of the Board of Zoning Appeals in recognition of Carolyn G. Bowen's distinguished service to Fauquier County.

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John Meadows, Chairperson

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Margaret Mailler, Vice Chairperson

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James W. Van Luven, Secretary

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Maximilian A. Tufts, Jr.

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Roger R. Martella, Jr.

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Serf Guerra

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:15 p.m.

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John R. Meadows, Chairperson

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James W. Van Luven, 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.*