

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
JUNE 7, 2007**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON JUNE 7, 2007 AT 10:00 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 G. Bowen; and Mr. Maximilian Tufts. Also present were Mr. Wally Horton, Senior Planner; and Mr. Doug Morgan, Senior Planner. Member absent was Mr. Serf Guerra.

**SITE VISITS:**

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

1. Carol A. Lundquist at 10:25 a.m.
2. Manzar Asjodi at 10:55 a.m.
3. DESYD, LC at 11:15 a.m.

With no further business, the meeting was adjourned at approximately 11:25 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, June 7, 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; 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. Serf Guerra.

**MINUTES:**

On motion made by Mrs. Bowen and seconded by Mr. Tufts, it was moved to approve the May 3, 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-CT-028, DESYD, LC (OWNER)/MICHAEL L. FLAMMIA (APPLICANT) – BC CHOPPERS, LLC**

Applicant is requesting special permit approval to operate a vehicle sales, motorcycle, and service business, PIN #6983-88-6090-000, located at 6418 Old Meetze Road, Center 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. Michael Flammia, applicant, expressed agreement with the staff report.

Mr. John Kehoe, a neighbor, stated that although he wishes the applicant much success in his endeavor, he does have concerns about the potential noise as well as how the increased traffic will affect safety in the neighborhood. Mr. Kehoe requested that the applicant remain vigilant and report any suspicious activity to the appropriate authorities.

Ms. Denise Haugsdahl, a neighbor, spoke in opposition to the granting of this special permit. Ms. Haugsdahl expressed concerns about increased traffic, excessive speed, and the impact this will have on bicyclists and pedestrians. Ms. Haugsdahl further stated that she does not feel this dead end street is an appropriate location for this business.

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

Mrs. Bowen requested clarification from the applicant on the proposed hours of operation, how noise concerns will be addressed, how sight distance onto Old Meetze Road will be improved, and if motorcycles are tested on Old Meetze Road.

Mr. Flammia responded that his proposed hours of operation are Monday through Friday (10:00 a.m. – 6:00 p.m.); Saturday (10:00 a.m. – 4:00 p.m.); and Sunday (10:00 a.m. – 2:00 p.m.). Mr. Flammia stated that since he will be operating during daylight hours only, there will be no night noise and he would be willing to plant evergreens for screening and better noise control. Mr. Flammia further stated that the property owner, Mr. Doug Darling, has given him permission to trim any trees necessary to improve site distance along Old Meetze Road. Mr. Flammia also stated that he is not aware of any testing of motorcycles on Old Meetze Road.

Mr. Meadows stated that the Zoning Ordinance allows a noise level of up to 90 decibels at the property line and asked the applicant if the building contains noise suppressant insulation.

Mr. Flammia responded that the building is constructed of 8" block walls and running motorcycles inside has not caused a problem with adjacent tenants in the building.

Mrs. Bowen stated that having the back door closed would also help with noise control.

Mr. Meadows expressed concern about the Sunday hours of operation and suggested that, if the Board moves to approve the application, it might want to consider a one year approval to ease the concerns of neighbors.

Mr. Flammia stated that he would be willing to limit his business on Sundays to the sale of parts and apparel if this would ease the Board and neighbor's concerns.

Mr. Van Luven asked if the sign, which is currently on the site, is in accordance with the Zoning Ordinance.

Ms. Johnson stated that a sign permit will be required.

Mrs. Bowen suggested that action on this application be postponed to allow the applicant the opportunity to submit a detailed plan showing how he proposes to landscape the property to lessen the sound as well as how the site distance onto Old Meetze Road can be increased.

On motion made by Mr. Van Luven and seconded by Mrs. Bowen, it was moved to postpone action on this application until the next regularly scheduled meeting so that the applicant can discuss these issues with the property owner and submit a plan addressing the concerns that were raised.

The motion carried unanimously.

Mr. Meadows re-opened the public hearing since the applicant will be submitting revised materials for the next meeting.

**SPECIAL PERMIT #SPPT07-MA-027 & SPPT07-MA-029, MANZAR ASJODI (OWNER/APPLICANT) – MARSHALL CITGO/MARSHALL AUTO SALES**

Applicant is requesting special permit approval for the continued operation of an existing service station as well as an amendment to a previously approved special permit to allow for vehicle sales, rental, and service with the addition of a service bay, PIN #6969-58-1347-000, located at 8406 West Main Street, Marshall District, Marshall, Virginia.

Mr. Doug 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.

Ms. Amanda Scheps, representative, 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 Mrs. Mailler, 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 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 proposed use shall be generally consistent with the materials submitted by Carson, Ashley & Associates with this special permit revised May 11, 2007.
2. The uses shall be limited to automobile sales, rental and service; service station and associated convenience store; office; and one auto service bay. No additional uses shall be added to the site without approval of an amendment to this special permit.
3. No equipment, vehicles, or materials shall be stored on-site in conjunction with the office use.
4. All auto repairs shall occur inside, within the service bay identified on the plan. Services provided shall be light repair, such as oil change, tire repair, inspections and other routine maintenance.
5. There shall be no outside storage of vehicles for repair or service.
6. No sales vehicles shall be displayed or stored outside of the area identified for display on the plan.
7. All landscaping and screening shown on the plan shall be provided prior to issuance of any certificate of occupancy for the service bay.
8. Parking lot and display areas must be striped as identified on the concept plan dated May 11, 2007 prior to the issuance of the occupancy permit for the new addition.

9. All handicap access, striping and signage must be provided as identified on the concept plan dated May 11, 2007 prior to the issuance of the occupancy permit for the new addition.
10. All lighting fixtures shall be replaced with full cut-off fixtures, with a maximum average horizontal illumination level of 2.5 foot-candles. Lighting levels shall not exceed 0.5 foot-candles at the property line.
11. A site plan, consistent with the concept plan dated May 11, 2007, is required prior to the issuance of any building permits.

After discussion regarding the expense involved in replacing the lighting fixtures, on motion made by Mrs. Bowen and seconded by Mr. Tufts, it was moved to amend Condition #10 of the previous motion as follows:

10. All lighting fixtures shall be brought into conformance with current Zoning Ordinance regulations within two (2) years of the date of site plan approval for the new structure.

The motion carried unanimously, as amended.

**SPECIAL PERMIT #SPPT07-MA-030, CAROL A. LUNDQUIST  
(OWNER/APPLICANT)**

Applicant is requesting special permit approval to operate a holistic veterinary clinic, PIN #6957-61-4753-000, located at 9224 Bear Mountain Drive, 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.

Mark Hyson, Esquire, representative, expressed agreement with the staff report and presented a revised statement of intent, a copy of which is attached to and made a part of these minutes, with signatures from adjoining neighbors indicating their support of Dr. Lundquist's proposal.

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

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, 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 Board of Zoning Appeals finds that 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 on Bear Mountain Road.

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 development shall be consistent with the information and drawings submitted with the special permit application.
2. The use will be conducted one (1) day per week during daylight hours.
3. Only one client vehicle will be on-site at any time, except for the potential overlap between a client arriving and the previous client preparing to leave.
4. No animals shall be kept overnight.
5. All operations of the holistic veterinary clinic shall be indoors, with the exception of animals arriving and being picked up.
6. A natural buffer of trees shall be planted in the cleared area between Applicant's property and the Daniel Rota property to fully screen the building from view.
7. Site Plan approval is required.
8. A dustless surface waiver is required for the gravel driveway.

The motion carried unanimously.

### **OTHER BUSINESS:**

Mrs. Gallehr stated that two letters have been received from citizens regarding the Mr. Ronald Devine's helistop special permit application (SPPT07-MA-022), which was approved on May 3, 2007. Mrs. Gallehr stated that one letter is from Mr. Jonathan L. Barbour who is requesting that the application be re-advertised and reconsidered by the Board of Zoning Appeals. Mr. Barbour

has alleged that the property was improperly posted and that he was unaware of its being considered at the May 3, 2007 meeting.

Mrs. Gallehr stated that the second letter, from Mr. David R. McAlister, requested clarification on issues related to Condition #5.

Mrs. Bowen stated that the Zoning Administrator, Ms. Johnson, has certified that the property was properly posted; therefore, this is not an issue for discussion.

On motion made by Mrs. Bowen and seconded by Mr. Meadows, it was moved to re-open special permit #SPPT07-MA-022 for discussion of Mr. McAlister's concerns regarding Condition #5.

After clarification from Mrs. Gallehr that while the Zoning Administrator has legal authority to interpret and answer Mr. McAlister's questions, the Board can give her direction regarding what was meant when the conditions were approved, the motion failed 5 – 0, as follows:

AYES: None

NAYS: Mrs. Bowen, Mr. Meadows, Mr. Van Luven, Mrs. Mailler, Mr. Tufts

ABSTENTION: None

ABSENT: Mr. Guerra

Mrs. Bowen clarified her intentions with regard to the following questions from Mr. McAlister's letter, a copy of which is attached to and made a part of these minutes:

Question 1:

*What is the Zoning Board's definition of "a use"?*

Mrs. Bowen stated that it was her intention for "a use" to refer to one landing and one take-off.

Question 2:

*What is the Zoning Board's definition of "emergency services purposes"?*

Mrs. Bowen stated that an emergency would include a car accident, riding accident, heart attack, etc.

Mrs. Gallehr noted that this issue is irrelevant since emergency services helicopters can land at any location at any time.

Ms. Johnson stated that Mr. Joseph Palisi, owner of Aaron Arms (SPPT07-MA-026), which was approved on May 3, 2007, has requested that this application be reconsidered to amend Condition #7, which stated *"There shall be no inventory for retail sales stored on-site."*

Mr. Palisi stated that he is requesting reconsideration of this condition to allow some inventory, which will be stored in a secured concrete vault, to be sold at gun shows. Mr. Palisi requested that his application be reconsidered at the August 2, 2007 meeting due to a scheduling conflict in July.

Mrs. Bowen suggested that the applicant provide staff with a written request outlining why this reconsideration is being requested and contact his neighbors to alleviate any concerns they might have.

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to postpone action on reconsideration of this application until the August 2, 2007 meeting.

The motion carried unanimously.

Mrs. Gallehr stated that Mr. Martella has resigned from the Board effective immediately due to other obligations. The Board expressed appreciation to Mr. Martella for his exemplary service to the citizens of Fauquier County and requested that the following Resolution be included in the June 7, 2007 minutes:

**A RESOLUTION TO RECOGNIZE ROGER R. MARTELLA, JR. FOR HIS  
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, June 7, 2007.

WHEREAS, Roger R. Martella, Jr., served as a Member of the Fauquier Board of Zoning Appeals since September 22, 2004; and

WHEREAS, his 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 appreciation for his service to the citizens of Fauquier County and his devotion and dedication to the betterment of the County;

NOW, THEREFORE, BE IT RESOLVED, that the Fauquier County Board of Zoning Appeals does hereby offer its highest appreciation and extends its best wishes to Roger R. Martella, Jr. 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 Roger R. Martella, Jr.'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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Serf Guerra

Mrs. Bowen stated that because of her move, this will be her last meeting. Mrs. Bowen thanked staff and the Board for their support over the years.

Mr. Meadows stated that a request has been made to reschedule next month's meeting to July 12, 2007. However, it was noted that the Board of Supervisors' meeting, which some staff members will need to attend, will be held on that date.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to hold next month's meeting on Thursday, July 5, 2007 as previously scheduled.

The motion carried unanimously.

Mrs. Gallehr stated that she will contact the County Administrator to ensure that Maintenance workers refrain from using gas-powered equipment during meetings.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:10 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.*