

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
AUGUST 2, 2007**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON AUGUST 2, 2007 AT 9:30 A.M. IN WARRENTON, VIRGINIA.

Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mr. Serf Guerra; Mr. Harry R. Russell; and Mr. Maximilian Tufts. Also present were Mr. Wally Horton, Senior Planner and Mr. Doug Morgan, Senior Planner. Member absent was Mrs. Sonja R. Addison.

SITE VISITS:

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

1. Jarvis V. & Arleen E. Narron at 10:05 a.m.
2. L. Frederick & Alison J. Worrall at 10:40 a.m.
3. E & K, LLC at 10:55 a.m.
4. Peter A. & Elaheh Barthelson at 11:05 a.m.
5. Laurence & Judy S. Mason at 11:55 a.m.

With no further business, the meeting was adjourned at approximately 12:00 p.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, August 2, 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. Sonja R. Addison; Mr. Serf Guerra; Mr. Harry R. Russell; and Mr. Maximilian Tufts. Also present were Mr. Kevin Burke, County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Wally Horton; Mr. Doug Morgan, Senior Planner; and Mrs. Fran Williams, Administrative Specialist.

MINUTES:

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to approve the July 5, 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.

Mr. Meadows welcomed and introduced two new Board members, Mrs. Sonja R. Addison and Mr. Harry R. Russell.

SPECIAL PERMIT #SPPT07-MA-026, BERNARD F. & TAMARA A. PALISI (OWNERS)/JOSEPH A. PALISI (APPLICANT) – AARON ARMS

Reconsideration of a previously approved special permit to operate a gunsmithing business as a home occupation in order to amend Condition #7, which states: "There shall be no inventory for retail sales stored on-site," PIN #6965-76-6376-000, located at 8265 Meadows Road, Marshall District, Warrenton, 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 reconsideration.

Mr. Joseph Palisi, applicant, expressed agreement with the staff report.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to amend Condition #7 as follows: "The inventory for retail sales shall not exceed ten (10) guns at any one time, none of which will be fully automatic."

The motion carried unanimously.

SPECIAL PERMIT #SPPT07-SC-035, L. FREDERICK & ALISON J. WORRALL (OWNERS)/ALISON J. WORRALL (APPLICANT) – CHESS, INC.

Applicant is requesting special permit approval to operate an equestrian facility, PIN #7907-42-4018-000, located at 6105 General Hunton Road, Scott District, Broad Run, 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.

Mrs. Alison Worrall, applicant, expressed agreement with the staff report, but clarified that the "tack shed" houses a generator for the well. Mrs. Worrall stated that the riding ring is 60' in diameter and added that most of the riding takes place in the field.

Mr. Steve MacMahon, a neighbor, expressed opposition to the granting of this special permit since the Pond Mountain Homeowners' Association prohibits the commercial use of property within the subdivision due to liability issues. Mr. MacMahon further stated that he and his

father-in-law maintain the easement used by the applicant and that any commercial activity would only add to its deterioration.

Mr. Meadows explained that the BZA does not enforce covenants.

Lt. Col. Clifford Francis, a neighbor, expressed support of granting the special permit.

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

Mrs. Mailler expressed concern with the distance of the structures from the property lines and requested that the distance be clarified.

Mr. Horton stated that all structures associated with the equestrian facility should be at least 100' from all property lines.

Ms. Johnson suggested that a survey be required to indicate the exact distance of the structures from the property lines.

Mr. Meadows recommended that, if approved, all horse training activities be limited to the applicant's property and that the issue of shielding the pole light shining on the riding ring be addressed.

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to postpone action on this application until the next regularly scheduled meeting, which will allow time for the applicant to submit a survey indicating exactly how far the structures are from the property lines and for staff to determine if the lighting meets County standards.

The motion carried unanimously.

SPECIAL PERMIT #SPPT08-SC-001, E & K, LLC (OWNER)/ANDREW G. BUDD (APPLICANT) – NEW BALTIMORE INDUSTRIAL PARK

Applicant is requesting special permit approval to allow for the storage of new automobile inventory, PIN #7906-00-6244-000, located 5457 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.

Merle W. Fallon, Esquire, representative, expressed agreement with the staff report. Mr. Fallon stated that the Zoning Ordinance was amended by the Board of Supervisors to allow for this particular use on this site.

Mr. Tony Occhionero, representing the Snow Hill Homeowners' Association, expressed opposition to the granting of this special permit. Mr. Occhionero stated that the residents of Snow Hill are concerned about the run-off, increased erosion and sediment in the two stormwater management ponds, and the effect this drainage will have on the wetlands. Mr. Occhionero also

expressed concern about the lighting, fencing and the potential lure these new vehicles in an isolated area might create for undesirable persons.

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 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 use shall be limited to storage of new automobile inventory only, consistent with the application submitted for this special permit. The area to be utilized for storage shall not exceed the 2.05 acres of area as depicted on the conceptual drawing. No sales or maintenance shall occur on-site and the public shall not be allowed on-site.
2. The use shall be completely enclosed by a board-on-board fence.
3. A mixture of landscaping to include evergreen, canopy and understory trees must be located around the exterior of the board-on-board fence to completely screen the vehicle roofs from the road and adjacent properties.
4. The applicant shall make provisions for maintenance of the vegetation and trees to ensure its existence.
5. No lighting is permitted on-site except motion-sensor security lighting.
6. A site plan is required for this use.

The motion carried unanimously.

SPECIAL PERMIT #SPPT08-CR-002, PETER A. & ELAHEH BARTHELSON (OWNERS/APPLICANTS) – BARTHELSON GREEN ENTERPRISES

Applicants are requesting special permit approval to allow commercial processing and storage of agricultural products, to sell agricultural products at retail, and to sell accessory farm supply products, PIN #6982-70-6727-000 and 6992-02-9264-000, located at 9317 Green Meadows Road and 9243 Green Road, Cedar Run 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. Peter Barthelson, applicant, expressed agreement with the staff report and clarified that his business office is at Green Meadows Road and his residence is located at Green Road.

Mr. Meadows inquired about the number of people living at the structure that is a combination office and residence.

Mr. Barthelson stated that there is a maximum of three (3) people living there.

Mrs. Mailler asked about the type of fertilizer that is sold from the property.

Mr. Barthelson responded that the fertilizer he sells is all organic (i.e., soy meal).

Mr. Bruce Raich, a neighbor, spoke in opposition to the granting of this special permit. Mr. Raich stated that the broad term “agricultural products” can mean anything from a chicken plucking facility to farm machinery. Mr. Raich further stated that the tranquility of this residential neighborhood has been destroyed by this operation.

Ms. JoAnne Duncan, a neighbor, spoke in opposition to the granting of this special permit because of her concern for the safety of her family as well as the effect this operation is having on her community. Ms. Duncan further stated that the applicant's website indicates that he is an authorized dealer of three fertilizer companies, that he intends to sell equipment and go nationwide with his operation. Ms. Duncan presented the Board with information obtained from the applicant's website, a copy of which is attached to, and made a part of these minutes.

Mr. Gray Brill, a neighbor, spoke in opposition to the granting of this special permit. Mr. Brill expressed concern for the safety of his family as well as the increased traffic from the applicant's operation. Mr. Brill related instances in which the applicant's workers have destroyed his lawn when turning around a truck with a trailer as well as late night parties with loud music.

Mr. Jessie Doyle, a neighbor, spoke in opposition to the granting of this special permit. Mr. Doyle stated that the residents of Green Road have more than enough commercial activity on their road with a part-time tree nursery, an entrance to the Parks and Recreation Department's maintenance shop, an emergency entrance to the County landfill, and a property with big box trucks parked on the front lawn advertising a mortgage company.

Dr. Vinton Williams, a neighbor, spoke in opposition to the granting of this special permit. Dr. Williams expressed concern about the increased traffic, sometimes with tractor trailers sitting in the middle of the road.

Ms. Betsy Raich, a neighbor, spoke in opposition to the granting of this special permit. Ms. Raich stated that the *Code of Virginia's* Right to Farm legislation was intended to preserve open space with low density land use, which does not appear to apply to this operation.

Ms. Terri Jones, a neighbor, spoke in opposition to the granting of this special permit. Ms. Jones expressed concern about the increased traffic and the run-off into Licking Run. Ms. Jones indicated that there are more than three people living in the combination office/residence and expressed further concern about the workers' parties in the evening.

Ms. Leslie Jordan, a neighbor, spoke in opposition to the granting of this special permit because of the water usage. Ms. Jordan stated that some neighbors have seen a decrease in their water supply.

Mr. Hearlie Hendricks, a neighbor, spoke in opposition to the granting of this special permit, expressing concern about the water usage and the increased traffic.

Mr. Morgan Duncan, a neighbor, spoke in opposition to the granting of this special permit. Mr. Duncan expressed concern about the noise, lighting, and increased traffic.

Mr. Gaylord Hoisington, a neighbor, spoke in opposition to the granting of this special permit. Mr. Hoisington expressed concern about the increased traffic, noise and lighting.

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

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to postpone action on this application until the next regularly scheduled meeting to allow time to get copies of what is on the applicant's website and additional information on the impact this operation will have on groundwater in the area.

The motion carried unanimously.

Mr. Meadows noted that the public hearing would be continued until the next regularly scheduled meeting.

SPECIAL PERMIT #SPPT08-MA-003, JARVIS V. & ARLEEN E. NARRON

(OWNERS)/DONALD H. & LINDA P. LECHER (APPLICANTS) – TOP DOG RESORT, INC.

Applicants are requesting special permit approval to operate a dog boarding facility, PIN #6022-42-1064-000, located at 2774 Leeds Manor Road, Marshall District, Markham, 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 majority of the staff report. Mr. Hyson stated that the applicants are requesting a maximum of twenty-nine (29) dogs to allow for any overlap in arrivals and departures. Further, the applicants intend to take steps to reduce noise by having someone supervise any dogs that are outside so that they can be escorted inside if there is excessive barking. Mr. Hyson further stated that the applicants' clients are required to call the facility one hour before they come to pick up their dog and five minutes before they arrive at the site. Mr. Hyson concluded by saying that no grooming will be done on-site. However, on occasion, the dogs are bathed before being sent home.

Mr. Jim Hoecker, a neighbor, spoke in opposition to the granting of this special permit. Mr. Hoecker expressed concern about the noise, increased traffic, and waste disposal. Mr. Hoecker further stated that this commercial activity is incompatible with the character of Leeds Manor Road, which has been designated as a Virginia Scenic By-Way.

Ms. Phoebe Harper, a neighbor, stated that she has no objection to the granting of this special permit.

Mr. Larry King, a neighbor, spoke in opposition to the granting of this special permit. Mr. King expressed concern about the noise, increased traffic as well as the effect this facility will have on eagles nesting in the area and property values. Mr. King further stated that during bad weather many people will not be able to get up the driveway to pick up their pets, which will create traffic issues on Leeds Manor Road.

Ms. Romaine McNelis, a neighbor, spoke in opposition to the granting of this special permit because of the potential noise. Ms. McNelis further stated that quite frequently there is no phone service in this area and that this could present a problem when clients try to coordinate their arrivals by phone.

Mr. Alex Green, a neighbor, spoke in opposition to the granting of this special permit because of the potential noise.

Ms. Shelley Warren, a neighbor, spoke in opposition to the granting of this special permit.

Ms. Nancy Hanscom, a neighbor, spoke in opposition to the granting of this special permit. Ms. Hanscom expressed concern about the narrow, steep driveway and the potential for accidents in icy weather. Ms. Hanscom further stated that a commercial establishment is not conducive to this agricultural area.

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

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, it was moved to postpone action on this application until the next regularly scheduled meeting.

The motion carried unanimously.

Mr. Meadows noted that the public hearing would be continued until the next regularly scheduled meeting.

**SPECIAL PERMIT #SPPT08-LE-004, LAURENCE & JUDY S. MASON
(OWNERS/APPLICANTS) – EL SHADDAI FARM**

Applicants are requesting special permit approval to reduce the required 100 foot setback to allow for the construction of a barn, PIN #6896-04-1367-000, located at 6415 Hardins Pines Road, Lee District, Remington, 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.

Drs. Laurence and Judy Mason, applicants, 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 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. Construction and location of the barn shall be in accordance with the information submitted as part of this Special Permit application.

The motion carried unanimously.

OTHER BUSINESS:

SPECIAL PERMIT #SPPT07-LE-034, OPAL STORAGE, LLC (OWNER)/E. SCOTT & SANDRA F. MERRIMAN (APPLICANTS) – SCENIC AMERICA, INC.

Reconsideration of a previously approved special permit to locate a bus touring company on the site to amend Condition #5, which states: "The special permit shall be granted for a period of ten (10) years," PIN #6980-47-0627-000, located at 10210 Marsh Road, Lee District, Bealeton, Virginia.

Ms. Johnson reviewed the reconsideration and requested clarification as to whether the Board intended to have the applicant renew his special permit after ten years administratively or appear before the Board.

Mr. Meadows opened the reconsideration.

Mr. Scott Merriman, applicant, stated that he would be willing to do whatever is most convenient for him to continue doing business within the County.

On motion made by Mr. Tufts and seconded by Mrs. Addison, it was moved to delete Condition #5.

The motion carried unanimously.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:12 p.m.

John R. Meadows, Chairperson

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.