

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 6, 2007**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON SEPTEMBER 6, 2007 AT 10:02 A.M. IN WARRENTON, VIRGINIA.

Members present were Mr. John Meadows, Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Sonja R. Addison; Mr. Harry R. Russell; and Mr. Maximilian Tufts. Also present were Mr. Wally Horton, Senior Planner and Mr. Doug Morgan, Senior Planner (former). Members absent were Mrs. Margaret Mailler, Vice Chairperson and 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. Sean & Deborah L. Cannon at 10:35 a.m.
2. L. Frederick & Alison J. Worrall at 10:55 a.m.
3. Peter A. & Elaheh Barthelson at 11:10 a.m.

With no further business, the meeting was adjourned at approximately 11:43 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, September 6, 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; Mr. James W. Van Luven, Secretary; Mrs. Sonja R. Addison; Mr. Serf Guerra; Mr. Harry R. Russell; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Mr. Wally Horton, Senior Planner; Mr. Doug Morgan, Senior Planner (former); and Mrs. Fran Williams, Administrative Specialist. Member absent was Mrs. Margaret Mailler, Vice-Chairperson.

SPECIAL PRESENTATION:

Mr. Meadows stated that Mr. Doug Morgan has resigned to accept a position with another locality and expressed the Board's appreciation to him for his exemplary service to the citizens of Fauquier County and requested that the following Resolution be included in the minutes:

A RESOLUTION TO RECOGNIZE DOUGLAS S. MORGAN FOR HIS SERVICE TO THE FAUQUIER COUNTY BOARD OF ZONING APPEALS AND THE CITIZENS OF FAUQUIER COUNTY

WHEREAS, on December 4, 2000, Douglas S. Morgan began his career with the Fauquier County Department of Community Development as a Senior Planner in the Zoning, Permitting and Inspections division of the Department; and

WHEREAS, Douglas S. Morgan has provided approximately seven years of service to the citizens of Fauquier County; and

WHEREAS, Douglas S. Morgan has been an integral member of the staff serving the Fauquier County Board of Zoning Appeals;

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

NOW, THEREFORE, BE IT RESOLVED, That the Fauquier County Board of Zoning Appeals this 6th day of September 2007, that Douglas S. Morgan be, and is hereby, commended for his years of dedication to the citizens of Fauquier County; and

BE IT FURTHER RESOLVED, That the Fauquier County Board of Zoning Appeals does hereby offer its heartfelt appreciation and extends its best wishes to Douglas S. Morgan in all future endeavors; and

BE IT FINALLY RESOLVED, That this Resolution be placed within the minutes of the Board of Zoning Appeals in recognition of Douglas S. Morgan's service to Fauquier County.

MINUTES:

Mr. Guerra stated that the minutes should indicate that the two public hearings that were adjourned (pages 6 and 7) should indicate that the vote was first and then the public hearing was adjourned.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to approve the August 2, 2007 minutes, as amended.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the Public Hearing protocol. Mr. Morgan 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 #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 stated that the public hearing was closed at last month's meeting.

Mrs. Alison Worrall, applicant, expressed agreement with the majority of the staff report. Mrs. Worrall stated that the security light was installed as a result of break-ins in the area. Mrs. Worrall also requested clarification on whether she would be required to move the tack shed if, in the future, a neighbor makes a complaint.

Mrs. Gallehr stated that the Board could impose a more stringent requirement, but she would not be required to move the building at a later time.

Mr. Ray Peterson, a neighbor, spoke in opposition to the granting of this special permit. Mr. Peterson stated that the pole light, which is located on the applicant's property, shines in his bedroom windows. Mr. Peterson expressed further concern about the expense he has incurred in maintaining the easement.

Mr. Steve MacMahon, a neighbor, expressed opposition to the granting of this special permit.

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

On motion made by Mr. Van Luven and seconded by Mrs. Addison 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 use shall be generally consistent with the information and drawing submitted with the special permit application.
2. No more than two (2) horses other than those owned by Ms. Worrall shall be boarded or instructed at any one time.
3. No more than two (2) trailers shall be kept on the property at any one time.
4. Hours of operation shall be limited to 9:00 a.m. to 6:00 p.m.
5. All activities shall be located on the applicant's property.
6. Instruction shall not be conducted during the winter.
7. An evergreen buffer shall be planted along the western property line buffering the adjoining residential unit from the pen and paddock.
8. Security lighting shall be shielded so that it does not exceed .5 footcandles beyond the property line.

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 stated that the public hearing remained open.

Mr. Peter Barthelson, applicant, expressed agreement with the staff report with the exception of the proposed hours of operation for the outdoor retort and fan.

Mr. Bruce Raich, a neighbor, spoke in opposition to the granting of this special permit due to concerns about traffic as well as the amount of water usage.

Mr. Willard Green, a neighbor and local businessman, stated that reference was made to his property at the last meeting. Mr. Green stated that neighbors should try to get along with each other.

Mr. Benjamin Cooper, Director of the Fauquier County Farm Bureau and a resident of Orlean, spoke in support of granting this special permit.

Ms. JoAnne Duncan, a neighbor, spoke in opposition to the granting of this special permit due to concerns about water usage, noise, lighting, traffic, and the extent of the business.

Mrs. Ann McCarty, Planning Commission member and a resident of Delaplane, spoke in support of granting this special permit. Mrs. McCarty emphasized that the Zoning Ordinance (Section 3-503) specifically states: *“In the Rural Zoning Districts, agriculture and forestry are the preferred use. The operation at any time of any machinery used in farming and forestry procedures and all other agricultural operations shall be permitted and have preference over all other uses.”*

Ms. Leslie Jordan, a neighbor, spoke in opposition to the granting of this special permit. Ms. Jordan stated that she and her family operate a small cattle farm and expressed concern about the possibility of running out of water.

Mr. Tom Davenport, a farmer and resident of Marshall District, spoke in support of granting this special permit and encouraged the Board to support such innovative farming ideas such as the applicant's.

Ms. Ellen Ussery, a resident of Marshall District, spoke in support of granting this special permit.

Ms. Betsy Raich, a neighbor, spoke in opposition to the granting of this special permit. Ms. Raich stated that her objection is to the processing plant and expressed concern about water usage.

Ms. Judy McConnell, Fauquier County Farm Bureau President, spoke in support of granting this special permit.

Mr. Morgan Duncan, a neighbor, spoke in opposition to the granting of this special permit.

Mr. Jessie Doyle, a neighbor, spoke in opposition to the granting of this special permit. Mr. Doyle expressed concern about water usage and having a commercial venture in a residential neighborhood.

Mr. Tim Berry, a neighbor, spoke in opposition to the granting of this special permit, citing safety concerns with the increased traffic.

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

After discussion, on motion made by Mr. Guerra, it was moved to postpone action on this application until the next regularly scheduled meeting to allow time for the applicant to meet with neighbors to resolve concerns that have been raised.

In that there was no second, the motion failed.

On motion made by Mr. Van Luven and seconded by Mrs. Addison, 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. 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.
5. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
6. 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.
7. 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 use shall be generally consistent with the information and drawing submitted with the special permit application.
2. Commercial Processing and Storage pursuant to Section 3-315.3 is authorized to occur only within the Kitchen on the Green Road farm. The Kitchen shall only be utilized for processing crops grown on-site or on the Green Meadows Road properties.

3. Farm Supply Establishment pursuant to Section 3-313.5 is authorized only for the incidental sale of fertilizer and other crop supplements utilized by the farm operation. All such fertilizer and supplements shall be stored on the Green Meadows Road site and sold from the Green Meadows Road site. In no event shall the amount of fertilizers and crop supplements sold exceed 5% of the amount utilized by the farm. The applicant shall provide invoices to demonstrate compliance with this condition upon request by the Zoning Administrator.
4. Farmer's Market use pursuant to Section 3-318.21 is authorized only to allow for the retail sale of products grown and processed at the farm off-site via delivery. A by-right "Wayside Stand" for the sale of produce grown on-site pursuant to Section 6-102.23 of the Zoning Ordinance is not prohibited by this condition.
5. The applicant shall adhere to the Fauquier County Lighting and Noise Ordinances as they apply to commercial operations.
6. The applicant shall install a water meter to monitor water usage on a daily basis to ensure that it does not exceed 7,000 gallons per day. A report on water usage shall be submitted to the Zoning Administrator on a monthly basis.
7. Signage shall be installed at the Green Meadows farm site clearly showing the entrance and exit for trucks. Accommodation for trucks to turn around within the site shall be provided.
8. No growing lights shall be utilized in a greenhouse during non-daylight hours unless the light is completely screened so that no uplighting occurs and the light is not visible beyond the property lines.
9. An evergreen buffer shall be planted along the southern property line adjacent to the driveway and all buildings in order to screen the use from the adjoining property. Minimum planting height shall be eight (8) feet.
10. No additional land on the Green Road site shall be cleared.
11. All water used for rinsing vegetables in the Kitchen shall be recycled for drip-irrigation usage for crops grown on-site.
12. The maximum size identification sign allowed shall be two (2) square feet at the Green Road site and eight (8) square feet at the Green Meadows Road site.
13. The applicant shall prepare and implement a Conservation Plan to be approved by the John Marshall Soil and Water Conservation District or the Natural Resource Conservation Service.
14. The special permits shall expire in one (1) year.
15. A site plan is required.
16. Truck traffic supporting the operation shall be limited to the hours of 8:00 a.m. to 5:00 p.m.

The motion carried 5 – 1, as follows:

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

NAYS: None

ABSTENTION: Mr. Guerra

ABSENT: Mrs. Mailler

SPECIAL PERMIT #SPPT08-MA-005, SEAN & DEBORAH L. CANNON (OWNERS)/DONALD H. & LINDA P. LECHER (APPLICANTS) – TOP DOG RESORT, INC.

Applicants are requesting special permit approval to operate a dog boarding facility, PIN #6959-02-6749-000, located at 9491 Walsingham Lane, 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. Mr. Hyson stated that the applicants are requesting an indoor dog boarding facility with an average of 8 - 9 dogs per day. Mr. Hyson noted that the applicants provide pick-up and delivery service and those clients who do come to the property must call one hour prior to coming and also five minutes before arriving. Mr. Hyson further stated that the dogs will spend the majority of the time inside and are always supervised when outside.

Mr. David Evans, a neighbor, spoke in opposition to the granting of this special permit. Mr. Evans expressed concern about the adverse environmental impact the waste from this proposed use would have on streams in the area.

Mr. Meadows requested clarification on how often the animal waste is removed.

Mr. Hyson stated that the animal waste will be removed on a daily basis.

Ms. Barbara Hoylman, a neighbor, spoke in opposition to the granting of this special permit, citing concerns about increased traffic, noise, and keeping pets indoors for long periods of time.

Mr. Paul Carey, a neighbor, stated that he has no objection to the granting of this special permit as proposed in the application materials submitted.

Ms. Laurie Oliveri, a neighbor, spoke in opposition to the granting of this special permit. Ms. Oliveri expressed concern about the precedent this would set.

Mr. Fred Story, a neighbor, spoke in opposition to the granting of this special permit. Mr. Story expressed concern about traffic and noise.

Mr. Carl Anderson, a neighbor, spoke in opposition to the granting of this special permit because of the noise and increased traffic.

Mr. William Anderson, a neighbor, spoke in opposition to the granting of this special permit. Mr. Anderson noted inconsistencies such as the applicant's providing pick-up and delivery of the pets and having clients call prior to coming to the property.

Mr. Kevin Williams, a neighbor, spoke in opposition to the granting of this special permit. Mr. Williams expressed concern about the noise and stated that he specifically moved to this area to get away from barking dogs that were making him physically sick.

Ms. Karen Showalter, a neighbor, spoke in opposition to the granting of this special permit. Ms. Showalter stated that this residential area is not the place for a commercial business. Ms. Showalter expressed further concern about keeping the dogs in a confined area inside and the possibility of disease.

Ms. Vicky Newell, a neighbor, spoke in opposition to the granting of this special permit.

Ms. Peggy Daly, a neighbor, spoke in opposition to the granting of this special permit.

Mr. Michael Gorman, a neighbor, spoke in opposition to the granting of this special permit.

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

Mr. Russell requested clarification of whether the dogs will be picked up and delivered or if clients will come to the house. Mr. Russell also asked if the dogs will have free range of the house.

Mr. Hyson stated that the majority of the dogs will be picked up and delivered by the applicants and that traffic from clients bringing their pets to the property will average one car per day. Mr. Hyson also stated that the pets will live inside since they are house dogs. Mr. Hyson further stated that his clients have been operating a dog boarding facility for four years and there are no employees other than the applicants.

After discussion, on motion made by Mr. Van Luven 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.

The motion carried unanimously.

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:15 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.