

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
JULY 6, 2006**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON JULY 6, 2006 AT 10:45 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; Mr. Roger Martella and Mr. Maximilian Tufts. Also present was Mr. Doug Morgan, Senior Planner.

Mr. Morgan reviewed the site visit agenda and stated that there would be one (1) site visit as follows:

1. Ghotra Family Company

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.

MEETING:

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, July 6, 2006, 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 Bowen; Mr. Serf Guerra; Mr. Roger Martella; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; and Mrs. Fran Williams, Administrative Specialist.

MINUTES:

On motion made by Mrs. Bowen and seconded by Mr. Tufts, it was moved to approve the June 1, 2006 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 #SPPT06-MA-034, D & T ASSOCIATES LIMITED PARTNERSHIP
(OWNER/APPLICANT) – MARSHALL CAR WASH**

Applicant is requesting special permit approval to operate a car wash, PIN #6969-68-6810-000, located off West Main Street, Marshall District, Marshall, Virginia.

Ms. Johnson 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 June 1, 2006.

Mr. Meadows stated that the public hearing was still open.

Mr. David Baird, applicant, expressed agreement with the staff report.

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

On motion made by Mrs. Mailler and seconded by Mrs. Bowen, 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 development shall be generally consistent with the information submitted with the special permit application.
2. The hours of operation generally shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturday and Sunday.
3. All water for the use shall be trucked in. No well shall be permitted without amendment to this special permit.

4. All customers shall be required to enter and exit the site from Route 55 via Towne Center Drive.
5. A 30' wide area shall be reserved at the southern end of the site for the road shown in the Comprehensive Plan.
6. Site Plan approval is required.

The motion carried unanimously.

SPECIAL PERMIT #SPPT06-LE-036, F & J PROPERTIES, LC (OWNER)/THREE FLAGS ASSOCIATES, LLC (APPLICANT) – ASHLEY GLEN DAY CARE CENTER

Applicant is requesting special permit approval to operate a preschool and day care center, PIN #6889-50-5884-000, located at the intersection of Catlett Road (Route 28) and Whipkey Drive, Lee District, Bealeton, Virginia.

Ms. Johnson stated that the applicant has requested a minimum of ninety (90) days deferral on the application so that issues regarding the required open space can be resolved.

Mr. Meadows stated that the public hearing was still open.

Mr. Ben Tissue, applicant, expressed agreement with the staff report and stated that a request was made at the time Edgewood East, Section D (Ashley Glen) was proposed to reserve Parcels G-1 and H-1 out of open space. Mr. Tissue further stated that the day care center would be an appropriate use for this parcel.

Ms. Mary Skender-Lockhart, a resident of Edgewood East (Ashley Glen), stated that she is in opposition to the granting of this special permit because of concerns about increased traffic, night lighting and the effect this would have on wildlife in the area. Ms. Skender-Lockhart expressed additional concerns regarding flooding in the area and presented the Board with pictures, copies of which are attached to and made a part of these minutes, showing the area after recent heavy rains.

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

On motion made by Mr. Guerra and seconded by Mr. Van Luven, it was moved to postpone action on this item until such time as the applicant has gone through the process of amending the plat and is ready to move forward.

The motion carried unanimously.

ZONING APPEAL #ZNAP06-CR-004, FENDLEY FAMILY PARTNERSHIP, LP (OWNER)/BARBARA PIEKOS & DARRELL DEBBAGE (APPLICANTS)

Applicants are appealing the Zoning Administrator's determination that the structure currently being built by Fendley Family Partnership, LP is not a barn, and therefore, not subject to a 100'

setback, PIN #7901-87-9712-000, located off Grace Church Lane, Cedar Run District, Casanova, Virginia. *Note: This is a public meeting, not a public hearing.*

Ms. Johnson reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Brian Alexander, Esquire, representative, stated that it is his opinion that the structure in question is a barn based on the Zoning Ordinance's definition and, therefore, should be subject to the 100' setback requirement. Mr. Alexander further stated that the applicants described the structure as a "pole barn type" in their application; it is larger than was proposed, and is also closer to the north property line than was indicated. Mr. Alexander presented the Board with pictures of the structure, copies which are attached to and made a part of these minutes. Mr. Alexander urged the Board to reverse the Zoning Administrator's decision.

Mrs. Bowen noted that if the building constructed is inconsistent with the Zoning Permit issued, the applicants could amend their application. Mrs. Bowen further stated that it is common for individuals to use the term "pole barn type" as a way of describing what they are building, but this does not necessarily mean the structure is a barn.

Mr. Guerra stated that while he empathizes with the appellants because the pictures indicate that their view has been obstructed, he feels that he must concur with the Zoning Administrator's decision on this matter.

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, after due notice and hearing as required by the Fauquier County Code and *Code of Virginia*, it was moved to uphold the April 26, 2006 determination of the Zoning Administrator that the Fendley Farm structure is an agricultural building rather than a barn and has a setback requirement of 25 feet rather than 100 feet.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CR-038, GHOTRA FAMILY COMPANY
(OWNER/APPLICANT)**

Applicant is requesting special permit approval to construct a modular dwelling adjacent to an existing country store, PIN #7839-77-7270-000, located at 10847 Elk Run Road, Cedar Run District, Catlett, Virginia.

Ms. Johnson 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. Tom Yuen, representative, expressed agreement with the staff report.

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

Mrs. Bowen noted that no site plan approval would be necessary for this proposal, but requested clarification of the requirements if the structure is converted to a commercial use in the future.

Ms. Johnson stated that site plan approval would be required if the proposed structure is converted to a commercial use.

On motion made by Mr. Tufts and seconded by Mrs. Bowen, 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 development shall be generally consistent with the information submitted with the special permit application.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CR-039, THE FAUQUIER SPCA, INC.
(OWNER/APPLICANT)**

Applicant is requesting special permit approval to operate a retort for animal cremation, PIN #7902-51-8200-000, located at 9350 Rogues Road, Cedar Run District, Casanova, Virginia.

Ms. Johnson 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. Tim Nevill, representative, expressed agreement with the staff report.

Ms. Johnson stated that she received a call from a property owner in the neighborhood, Mr. Paul Lawson, who stated that he had just recently learned about the application and asked that action be postponed. Ms. Johnson further noted that Mr. Lawson is not an adjacent property owner so he was not notified by the Zoning Office.

Mr. Bill Fendley, a neighbor, spoke in support of granting the special permit, stating that this will give the community a closer location to cremate their pets that have died.

Mrs. Mildred Riddell, a neighbor, spoke in opposition to the granting of this special permit. Mrs. Riddell stated that while she has great admiration for the Fauquier SPCA, she feels this is the wrong location to have a retort for animal cremation. Mrs. Riddell expressed concern about whether the retort would be properly maintained, the possibility of having untrained volunteers operating it, as well as the increased traffic.

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

On motion made by Mr. Van Luven and seconded by Mrs. Bowen, 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. All construction shall be in general conformance with the drawings, floor plans, and information submitted with the special permit applications. The paddock area will be relocated, possibly to the rear of the existing building.

2. Landscaping shall be placed along Route 602 outside of the 25' area dedicated to the VDOT right-of-way and continuing to the property line.
3. Site plan approval or waiver is required.
4. Any building constructed along the southern property line shall be of block construction and contain no windows. Should the Building Code require a door, it shall be of solid steel construction.
5. A retort for animal cremation is authorized for the SPCA.

The motion carried unanimously.

OTHER BUSINESS:

On motion made by Mr. Meadows and seconded by Mrs. Bowen, it was moved to thank Mr. Fred Hodge, former Senior Planner, for his many years of service and dedication to the Board of Zoning Appeals and the citizens of Fauquier County by means of the following resolution, which is made a part of these minutes:

RESOLUTION

A RESOLUTION TO RECOGNIZE FREDERIC HODGE FOR HIS SERVICE TO THE FAUQUIER COUNTY BOARD OF ZONING APPEALS AND THE CITIZENS OF FAUQUIER COUNTY

WHEREAS, on July 11, 1988, Frederic Hodge began his career with the Fauquier County Department of Community Development as a Zoning Inspector, and subsequently was promoted to Senior Planner and Assistant Zoning Administrator positions in the Zoning, Permitting and Inspections division of the Department; and

WHEREAS, Frederic Hodge has provided almost 18 years of service to the citizens of Fauquier County; and

WHEREAS, Frederic Hodge 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 July 2006, that Frederic Hodge be, and is hereby, commended for his many 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 Frederic Hodge 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 Fred Hodge's service to Fauquier County.

The motion carried unanimously.

Mrs. Gallehr stated that she recently received notice from the Circuit Court that the Board of Zoning Appeals' ruling in the Michael Prentiss case has been affirmed.

ADJOURNMENT:

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