

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
APRIL 6, 2005**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, April 6, 2005, beginning at 2:00 P.M. at 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; Mr. Maximilian A. Tufts, Jr.; Mrs. Carolyn Bowen; Mr. Roger R. Martella, Jr.; and Mr. Serf Guerra. Also present were Ms. Tracy Gallehr, Acting Deputy County Attorney; Ms. Kimberly Johnson, Zoning Administrator; Mr. Todd Benson, Assistant Zoning Administrator; Mr. Fred Hodge, Senior Planner; and Mrs. Debbie Dotson, Office Associate III.

MINUTES: On a motion made by Mrs. Mailler and seconded by Mr. Tufts, the BZA moved to approve the March 3, 2005, minutes.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE: Mrs. Dotson read the Public Hearing protocol. Mr. Hodge 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 #SPPT05-CR-024, TRINITY BAPTIST CHURCH (OWNER)
Owner is requesting special permit approval to expand an existing place of worship, PIN #6982-47-9527-000 and #6982-47-9866-000, located at 8803 James Madison Highway, Cedar Run District, Warrenton, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Derek Williams, representative of the owner, appeared representing the application and noted agreement with the staff report. Mr. Williams noted that the addition is an accessory to the existing structure and that the main church meeting space would not be increased in size. He stated that no increase in traffic was anticipated and that the use is consistent with the Comprehensive Plan.

Mr. Meadows asked if there were any speakers for or against the application. In that there were no speakers, the public hearing was closed.

On a motion made by Mr. Van Luven and seconded by Mr. Tufts, the BZA 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 site shall be in general conformance with the special permit application plat dated February 14, 2005 and prepared by Vision Land Consultants, Inc., and the revision of March 9, 2005, which shows the proposed expansion to be a detached structure separated from the existing building by a minimum of 10 feet.
2. A minimum of 100 parking spaces shall be provided for the total site.
3. Site plan approval is required.

The motion carried unanimously.

VARIANCE #ZNVA05-MA-002, HAZEL F. BLEVINS ESTATE (OWNER) / MAC HOLT (APPLICANT)

Applicant is seeking to locate a single family dwelling 39.1 feet from the centerline of Frost Street wherein the Zoning Ordinance requires 50 feet. A variance of 10.9 feet is requested. The property is identified as PIN #6969-58-9172-000, #6969-58-9140-000, and #6969-58-9007-000, located on Frost Street and Anderson Avenue, Marshall District, Marshall, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

James Downey, attorney, appeared representing the application and noted agreement with the staff report. Mr. Downey stated that this application satisfies the standard for

allowing a variance due to the exceptional narrowness of the lot. He noted that a 30' wide dwelling was proposed, the minimum size possible.

Mr. Meadows asked about the width of a proposed dwelling if the variance was not granted. Mr. Downey consulted with Mr. John Elkin, Jr., LS. Mr. Elkin stated that the dwelling could only be 16.7 feet wide.

Mrs. Bowen asked Mr. Downey why the lot couldn't be split down the middle differently, with one lot having frontage only on Frost Street. She suggested that such a configuration might eliminate the need for a variance. Mr. Downey responded that such a configuration might be possible, and they would be willing to explore it. He noted it might require removal of the detached garage.

Mr. Downey asked that the BZA defer the application until the next BZA meeting.

Mr. Meadows asked if there were any speakers for or against the application.

Charles Risdon, neighbor, appeared opposing the application. He stated that he'd been required to join his two lots together to meet requirements and asked that the BZA not grant a variance in this case.

John Elkin, representative of the applicant, stated that he would look at the options suggested by the BZA, including meeting with the Zoning Administrator to see how to handle going around the existing garage.

On a motion made by Mr. Guerra and seconded by Mr. Tufts, the BZA moved to postpone the application until the next scheduled BZA meeting and to keep the public hearing open.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT05-CR-025, A. W. & WILLIAM C. PATTON
(OWNERS) / LEE HOLLANDER (APPLICANT)**

Applicant is seeking special permit approval to locate a recreational shooting range on the property, PIN #7819-66-3353-000, located on Midland Road, Cedar Run District, Midland, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. Mr. Benson reviewed the staff report, a copy of which is attached to and made a part of the minutes.

James Downey, attorney, appeared representing the application and noted agreement with the staff report. Mr. Downey introduced Mr. Bob Counts, Carson-Harris & Associates; Mr. Lee Hollander, Applicant; Mr. David Lux, Mr. Mark Hardy, and Mr. Salvatore Fiorentino, Sound Engineer. Mr. Downey recounted the history of the earlier Range 82 application before the Planning Commission. He noted he had done a lot of research on ranges since that application, and that the research found four basic types of ranges: field

simulation, target ranges, combined field simulation with target ranges, and combined ranges with archery added. He noted that many of these ranges are membership only, and that is how Range 82 is proposed to operate. The membership only format enables Range 82 to regulate users, screen individuals, and assign times, better addressing safety issues. Mr. Downey noted that there will be elevated observation platforms occupied by range safety officers and that anyone using the facility will be required to take a range safety course. He noted the “no blue sky” type design, and that Mike Anderson, Manager of the Warrenton/Fauquier Airport has said there is no problem with the use. Mr. Downey stated a noise analysis had been completed and that Mr. Fiorentino is present to address any questions about noise. The noise analysis shows that the range will comply with the Zoning Ordinance. Mr. Downey noted that berms and landscaping will help reduce the noise.

Mr. Van Luven stated that the airport overlay district had not been addressed in the report submitted by Mr. Downey, nor had it been mentioned or discussed in the staff report. Mr. Downey stated that page 6 of the report states that the FAA had no interest in the proposal and recommended that the applicant speak to Mr. Mike Anderson of the Fauquier Airport. Mr. Van Luven indicated that Mr. Anderson does not make policy for the airport as he does not have that authority.

Mr. Van Luven asked Mr. Downey how potential members would be screened. Mr. Downey indicated that this has not yet been established; various methods are available and an appropriate one would be utilized.

Mr. Meadows asked if membership would be approved on a same-day basis, if someone could come to the Range, apply for membership, and shoot the same day. Mr. Downey indicated that it was possible, so long as the safety course could be completed immediately. Mr. Hollander agreed that it might be possible, but noted that the details have not been worked out.

Mr. Guerra asked for the definition of “no blue sky”. Mr. Downey stated that the term refers to the way the range is built to stop discharge upward. “No blue sky” means no shooting in the blue sky. Mr. Hollander further clarified “no blue sky”.

Mr. Guerra asked if there would be any rapid fire firearms allowed on the range. Mr. Hollander stated that it was possible. People would be allowed to shoot whatever they brought to the range. He noted that the proposal would allow such firearms. Mr. Guerra noted that the proposal is not clear, and asked Mr. Downey to provide a list of specific weapons that would be used at the range. Mr. Lux stated that the range is only proposed to handle small arm type weapons that individuals would carry. Mr. Meadows reiterated that the BZA would like to have a list of weapons that the applicant intends to allow at the range.

Mr. Guerra asked for the meaning of non-recreational activities. Mr. Lux stated that non-recreational would be a group of people using the range for team building exercises. Individuals would be recreational.

Mr. Martella asked if there was going to be any type of training on site. Mr. Lux stated that no training at all would be provided except for the required safety course. Mr. Lux then stated that the Range would not provide training, but that training might be provided on the range by those groups using the range to those groups.

Mr. Meadows asked if firearms or ammunition would be stored on site. Mr. Lux stated that the intention is not to have a vault of guns or ammunition on site.

Mr. Meadows raised concerns that an annual lead test was not sufficient for monitoring lead. In addition, he asked how muzzle dust would be controlled. Mr. Hollander stated that they intended to be sound, both to address the environmental issue but also because lead is worth money and it is to their benefit to remove the lead and sell it.

Mr. Meadows asked about the amount of acreage dedicated to the sporting clay range. Mr. Hollander stated that he could not answer this that he was not very familiar with sporting clay sport shooting and that these details had not been worked out.

Mr. Meadows asked if lead tests would cover the entire area of the flight of the pellets and would it extend past the flight of the pellets. Mr. Hollander stated that they would do whatever is necessary. He noted that they intended to do a base-line test as soon as the permit was approved in order to establish the base record.

Mr. Van Luven stated concerns about the high water table and the number of people shooting and the lead removal time line, whether it would assure lead does not leach into the water supply. He asked who would follow up on the testing. Mr. Benson stated that the lead study would be submitted to the Zoning Administrator for review and approval.

Mr. Martella asked about the range office and shop area on site. Mr. Lux stated that the shop area would be use to sell clothing, earplugs, things of that nature. Mr. Martella questioned the hours of operation from 7:00am to 10:00pm. Mr. Lux stated that the employees would get there to attend to administrative duties at 7:00am. He stated that these hours came from his understanding of the noise ordinance. Mr. Hollander stated that the hours would depend on the number of members. Mr. Martella asked if shooting would take place from 7:00am to 10:00pm. Mr. Hollander indicated that the likely hours for shooting were less, 8:00am to dusk. The additional hours are necessary for administrative and preparation/clean-up work.

Mrs. Bowen asked the applicant to provide additional information for the next meeting, to include a specific definition of blue sky, a list of the type of weapons allowed at the range, clarification of the shooting hours, and clarification of what the existing buildings will be used for. Mr. Meadows asked the applicant also describe more clearly how the structures are to be built and materials being used.

Mr. Meadows asked if there were any speakers for or against the application.

Ed Dickerson, Midland area resident, appeared opposing the application. He stated that a gun range would add to the noise already present in the area.

David Mentzer, Fauquier County resident, appeared in favor of the application. He stated that Fauquier County has no accessible firing ranges that can be used by the Fauquier Junior Gun Club, an educational corporation affiliated with 4-H.

Mr. Meadows asked if there were any other speakers. There were none.

Mr. Meadows asked Mr. Fiorentino, the applicant's sound expert, to explain the impact of multiple shotguns being fired at once, versus a single shotgun. Mr. Fiorentino stated that the location of the shot would be a factor because sound dissipates as it travels. He stated that the highest reading obtained at the property boundaries was below Ordinance levels. Mr. Meadows noted that only a single shot gun was fired and asked Mr. Fiorentino how the sound would increase by firing 50 shotguns. Mr. Fiorentino could not provide the answer. Mr. Meadows asked for information to be provided at the next meeting for the worst case scenario of having, for example, 78, or 50, weapons fired at once.

Mr. Guerra asked Mr. Fiorentino if he was talking about point source or line source db. Mr. Fiorentino stated point source.

Mr. Martella stated he could not emphasize enough how serious a concern noise is to the BZA members. Mr. Fiorentino stated he would provide more information.

Mr. Meadows asked Mrs. Kilanski for her input on lead testing. Mrs. Kilanski noted that she was not an expert on this issue, but that she had done significant research. She reviewed the information she had provided for the staff report, and further stated that the biggest problem is that the water is acidic, which makes lead soluble.

Mr. Guerra asked Mrs. Kilanski if quarterly testing for lead levels would be better than once or twice a year. Mrs. Kilanski stated the more testing the better, at least in the early years to establish compliance. Mr. Guerra asked if perhaps there is another type of test for lead. Mrs. Kilanski stated that the EPA recommends the pH testing.

Mr. Counts stated that he has been in touch with Larry Johnson who has agreed to work with the Range to do baseline testing and to capture runoff for testing.

On a motion made by Mr. Guerra and seconded by Mr. Van Luven, the BZA moved to postpone the case until the next scheduled meeting and to keep the public hearing open.

The motion carried unanimously.

SPECIAL PERMIT #SPPT05-LE-026, JOHN AND CARLOTTA PUCKETT / ROGERS FORD WINERY (OWNERS)

Owners are requesting special permit approval for a winery with minor events and to operate a bed and breakfast on the property, PIN #7803-28-8448-000, #7803-24-0913-000, #7803-24-6434-000, #7803-26-3252-000, and #7803-26-4857-000, located on Rogers Ford Road, Lee District, Sumerduck, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier that day. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

John Puckett, owner, appeared representing the application and noted agreement with the staff report.

Mr. Meadows asked if there were any speakers for or against the application. In that there were no speakers, the public hearing was closed.

Winery:

On a motion made by Mrs. Mailler and seconded by Mr. Tufts, the BZA 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
7. The Board of Zoning Appeals finds the type and quantity of traffic generated by the use will not adversely affect the safety of the road usage on Route 632 (Rogers Ford Road) or adversely affect the neighborhood.

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 submitted with the special permit application. Events shall be limited to the 38 acre area adjacent to the Rappahannock River, comprised of 4 contiguous parcels.
2. Five events with no more than 149 guests are permitted per calendar year.
3. No more than ten smaller events with less than 50 people are permitted per calendar year.
4. The special permit is issued for a period of three (3) years.
5. At least 30 days prior to each event, the applicants shall provide the Zoning Administrator:
 - A. Proof of coordination with the following agencies:
 1. Fauquier County Sheriff's Office
 2. Virginia Department of Transportation
 3. Fauquier County Emergency Services Coordinator
 4. Fauquier County Health Department; and
 - B. The name, address and a contact person for each individual, group, association, partnership or corporation which is expected to conduct retail sales at the event.
6. Events shall be limited to a time period between 12:00pm and 6:00pm.
7. Site plan approval is required.

On a motion made by Mrs. Mailler and seconded by Mr. Tufts, the BZA moved to amend the motion to add:

8. No amplified music will be permitted.

The motion to amend the permit carried unanimously.

The amended motion carried unanimously.

Bed and Breakfast:

On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the BZA 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.
7. The Board of Zoning Appeals finds the type and quantity of traffic generated by the use will not adversely affect the safety of the road usage on Route 632 (Rogers Ford Road) or adversely affect the neighborhood.

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. A maximum of four (4) guests will be allowed.
2. The bed and breakfast will operate seven (7) days a week May through December.
3. The off-street parking for the use shall be in accordance with the provisions of Article 7, shall not be located in any required front yard and shall be effectively screened.
4. The business shall meet all Health Department regulations for such facilities.
5. The business is subject to site plan approval.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT05-CR-027, TRENIS, INC. (OWNER) / DAWN SMITH
– BULLDOG, INC. (APPLICANT)**

Applicant is seeking special permit approval for a contractor's storage yard and office for a demolition business on the property, PIN #7922-85-9592-000, located at 3400 Catlett Road, Cedar Run District, Catlett, Virginia.

Mr. Hodge stated that a BZA site visit was made last month. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Dawn Smith, applicant, appeared representing the application and noted agreement with the staff report. She noted that an arrangement had been made with the adjoining building occupant to utilize the bathroom facilities.

Mr. Meadows asked if there were any speakers for or against the application. In that there were no speakers, the public hearing was closed.

On a motion made by Mr. Guerra and seconded by Mr. Van Luven, the BZA 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 site shall be in general conformance with the special permit application drawings submitted with the application.
2. All equipment and materials shall be completely screened from view or stored entirely within a building.
3. Site plan approval is required.

4. Requirement of an agreement to use restroom facilities at an adjoining business or run a temporary pit privy unit for the use of employee in accordance with the Health Department.

The motion carried unanimously.

OTHER BUSINESS:

Ms. Gallehr updated the BZA on the Pennington appeal. She stated that the case has been postponed indefinitely.

ADJOURNMENT: There being no further business before the BZA, the meeting was adjourned at 4:28 P.M.

Mr. John 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.