

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
JULY 7, 2005**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD JULY 7, 2005 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; Mr. Maximilian A. Tufts, Jr.; Mrs. Carolyn Bowen; Mr. Serf Guerra; and Mr. Roger R. Martella, Jr. Also present was Mr. Fred Hodge, Senior Planner.

Mr. Hodge reviewed the site visit agenda. He stated that there would be two site visits which would be held as follows:

1. Fauquier SPCA, Inc. at 11:00a.m.
2. Warrenton Church of Christ at 11:30a.m.

With no further business, the meeting was adjourned at 11:50a.m., to reconvene at 2:00p.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 7, 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. Kimberley 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 Mr. Van Luven and seconded by Mr. Tufts, the BZA moved to approve the June 2, 2005, minutes as amended:

- page 4, 3rd paragraph from the bottom, last sentence changed to “Mr. Martella stated”.

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-LE-031, ALI AND RUTA QURESHI (OWNERS)

Owners are requesting special permit approval to locate an animal park and petting zoo on the property, PIN #6888-27-1435, located at 11471 Kings Hill Road, Lee District, Bealeton, Virginia. **NOTE: Public hearing was closed June 2, 2005.**

Mr. Hodge stated that the BZA site visit was performed last month. He reviewed the staff report, a copy of which is attached to and made a part of the minutes. He also stated that the public hearing was closed on June 2, 2005.

Ali and Ruta Qureshi, owners, appeared to answer questions from the BZA.

Mrs. Mailler asked about the number of children and/or people allowed at one time. Mrs. Qureshi stated that groups would be pre-booked and public would not be allowed when school is in session. Mrs. Qureshi stated that when school was not in session the public would be allowed. Mr. Qureshi stated that he had done research on the traffic flow at the Reston Petting Zoo and the Leesburg Petting Zoo and found that typically one parent with two children attending with a maximum of 50-60 people at the most and no more than 20-25 cars at one time.

The BZA discussed: the number of people and vehicles allowed at any given time; the need for an identification/directional sign on Route 29; and the number of domestic animals permitted.

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.
7. The Board of Zoning Appeals finds the proposal is consistent with surrounding agricultural uses and fosters education about the use of agricultural animals.
8. 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 657 (Kings Hill 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 facility shall be in general conformance with the drawings, information and events included in the special permit application, except for modifications necessary to bring the plan into compliance with the zoning ordinance.
2. In addition to the animal exhibition and petting areas, the following accessory uses are authorized:
 - a) pony rides;
 - b) hay-rides;
 - c) 4-H activity/exhibition area;
 - d) educational activities for school children, Headstart children, and children with special needs;
 - e) children's play area;
 - f) retail shop/concession stand;
 - g) seasonal displays such as a pumpkin patch; and
 - h) other accessory activities determined by the Zoning Administrator to be of similar character and impact to those listed above.
3. No special events are requested or approved with this permit.
4. A farm stand (wayside stand) shall be allowed provided it complies with the regulations of 6-102.23 of the ordinance.
5. Not more than one animal unit per two acres shall be allowed on the property. A report shall be submitted annually to the Zoning Office, listing the size and numbers of animals associated with the petting zoo.
6. All structures, including holding and display areas, shall be located a minimum of 100 feet from any property line.
7. Parking areas shall be located 50 feet from adjoining Rural or Residential Districts and shall be screened from adjoining properties.

8. The facility may be open only between March 1 until December 15.
9. The facility shall not open to the public prior to 9:00 a.m. and shall close 30 minutes before sunset.
10. Any retail sales shall be accessory and incidental to the permitted activity. Retail structures shall not exceed a total of 600 square feet in area.
11. All such uses shall be subject to and operated in compliance with all other applicable Federal and State regulations.
12. Dwelling units on the property are limited to the existing dwelling unit, to be occupied by the applicants.
13. The property shall be managed according to a controlled grazing plan adequate to maintain grasses and legumes for grazing and to minimize erosion. The current plan shall be made available to the Zoning Administrator upon request.
14. Outdoor amplified music and sound is prohibited.
15. A hand sanitation facility shall be located near any place where food is dispensed and at each exit.
16. One identification sign of 25 square feet is allowed.
17. Site plan approval is required.
18. A maximum of 100 visitors will be allowed at one time and a maximum of 25 vehicles at one time.
19. Special permit shall is valid for a period of ten (10) years.
20. Applicant shall apply to VDOT for authorization to place a sign identifying the Petting Zoo coming off Rt. 29 South.

The motion carried unanimously.

SPECIAL PERMIT #SPPT05-CR-033, FAUQUIER SPCA, INC. (OWNERS)

Owners are requesting special permit approval to build an addition for cat viewing, PIN #7902-51-8200-000, located at 9350 Rogues Road, Cedar Run District, Casanova, 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.

Tim Nevill, representative, 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.

On a motion made by Mrs. Bowen and seconded by Mrs. Mailler, 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 addition shall be in general conformance with the drawings, floor plans and information submitted with the special permit application.
2. The facility shall maintain a 150-foot buffer along the western and northern property lines, a 125-foot buffer from the southern property line and 75 feet from the front property line (bordering Route 602).
3. Plantings used to buffer to the extent of filling in the existing row and adding a row towards Route 602 which is not within the 25' area dedicated VDOT right-of-way and continue to the paddock area.
4. Site plan approval or waiver is required.

The motion carried unanimously.

SPECIAL PERMIT #SPPT05-CT-034, WARRENTON CHURCH OF CHRIST (OWNERS)

Owners are requesting special permit approval to host two evening outdoor social events with concerts on church property, PIN #6985-90-1007-000, #6985-90-2124-000, #6985-90-3212-000, #6985-90-4299-000, #6985-90-5480-000, #6985-90-6591-000, #6985-90-7682-000, and #6985-90-8760-000, located at 6398 Lee Highway Access Drive, Center 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.

Bob Counts, representative, appeared representing the application and noted agreement with the staff report. Mr. Counts stated that the application is for 2 events but that the Youth Group would like to hold 5 events and they realize they would need to submit another application.

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

Jonathan Moury, youth group member, appeared in favor of the application. He stated that this would provide a safe environment for kids after football games.

John Wheeler, youth group graduate, appeared in favor of the application. He stated that having an alternate place to go on Friday nights pulled him away from drinking and drugs. He stated that the point of this event is to help kids understand that there is more to high school and life than partying.

Laura Evans, youth group member, appeared in favor of the application. She stated that she is a new member and was drawn to the group because of events like the one being applied for. She stated that this would be a good way to reach out to the youth of Fauquier.

Rachel Ryon, youth group member, appeared in favor of the application. She stated that the group feels like it is their responsibility or calling to show kids that there is another option. She stated that if this event keeps classmates from getting into a car drunk then the event has been successful. She stated that the group is aware of the practical problems that arise from an event like this. She stated the group will work with the BZA and the community to minimize the problems and that with compromise and work that a happy medium can be reached. The group has committed to this because we feel that there is something more important here. She stated that her personal opinion is that the positive influencing of my peers and my classmates is more important than the time and compromise it will take to improve the traffic and noise situation. She stated that the BZA has a unique responsibility and opportunity to make a decision to help shape the decisions and actions and ultimately the future of the teens in our community.

Mary Ann King, resident of Warrenton Lakes, appeared in favor of the application. She stated that she had no objections to the application and that it would help the community.

Mr. Meadows asked Ms. King how close she lived to the property. She stated about one-half mile.

Rebecca Twenty, teen, appeared in favor of the application. She stated that it would be a place for parents to know where their kids are and what they are doing.

Daniel Twenty, teen, appeared in favor of the application. He stated that he is a graduate of Culpeper High School and a member of the marching band. He stated he saw a lot of rowdiness after football games and lots of bad choices being made. He wished that an event like this would have happened in Culpeper so that he could have brought his friends and had an opportunity to reach out to them.

John Kolodner, youth group graduate, appeared in favor of the application. He stated that as much as traffic may be an issue he didn't believe that the issue was as nearly as important as having a teen driving drunk after a party. He stated that this event is going to allow the youth group to be a positive influence and improve Fauquier community residents, many of whom may not go away after graduating from high school. This event is a preventative measure that is far reaching that starts with some music after a football game.

Jon Justice, Youth Minister, appeared representing the application. Mrs. Mailler asked Mr. Justice about how many young people he thought would be in attendance. Mr. Justice stated that he was aiming for 200 but did not feel it would exceed that number. Mr. Justice stated that the plans were to have 30-40 adults and youth group members working the events. He stated that there were two sheriffs who were members of the church that have volunteered to help at the events. He stated that the teens would need to show their IDs in order to attend and it would be kept at the high school age level.

The BZA members discussed concerns about the amplified music, lighting, traffic control, and hours of the event. Mrs. Bowen asked Ms. Gallehr about the Fauquier County Ordinance on noise. Ms. Gallehr stated she could obtain a copy and provide it to the members.

Meeting was recessed at 3:22p.m.

Meeting was reconvened at 3:31p.m.

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

Cathy Ryan, area resident, spoke in favor of the application. She stated that the youth group is very dedicated to the event.

Ms. Gallehr clarified the difference in the noise regulations and their enforcement between Zoning Ordinance and the County Code and noted that where the provisions are different, the more stringent apply. She read the section of the County Code that pertains to this particular use:

Sec. 13.5-3. Specific prohibitions.

(c) *Loud parties, playing of radios, musical instruments, etc.*

- (1) Operating or permitting the use, or operation of any radio receiving set, musical instrument, television, phonograph or any other device for the production of sound between the hours of 10:00 p.m. and 7:00 a.m. the following day, except Friday and Saturday evenings, when the hours of noise limitation shall be 11:00 p.m. to 7:00 a.m. the following day in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) persons within a building or plainly audible at fifty (50) feet from such device when operated within a motor vehicle parked on a public right-of-way or in a public place.
- (2) The conducting of any loud party, between the hours of 10:00 p.m. and 7:00 a.m., except Friday and Saturday evenings, when the hours of noise limitation shall be 11:00 p.m. to 7:00 a.m. the following day, with or without radios, musical instruments or stereos in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) persons within a building or plainly audible at fifty (50) feet from such device.

Ms. Gallehr stated that this group would run a substantial risk of violating the Code if the event went past 11:00pm.

The BZA members discussed noise and hours for the event, as well as egress/ingress into the site.

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

On a motion made by Mr. Martella and seconded by Mrs. Mailler, 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 Lee Highway Access 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 music events shall be in general conformance with the drawing and information submitted with the special permit application.
2. Hours for the musical performance shall be limited to 9:30 p.m. until the time specified in the County Code, which is 11:00 p.m. on Fridays and Saturdays, on September 2 and September 9, 2005.
3. The stage/performance area shall be oriented so that the musical performance will be directed toward the Lee Highway Access Road and away from residential structures in Warrenton Lakes subdivision.
4. All activity and parking shall be limited to church owned property. No parking will be permitted on Lee Highway Access Road or neighboring streets.
5. The church shall provide for traffic control at Nordix Drive and the Access Road or ingress/egress into the event and shall also arrange for a police car presence along Rt. 29 to provide caution of the event during the length of the event.
6. The church shall notify Emergency Services and the Sheriff's Department of the upcoming event.

Mr. Meadows asked if there was any further discussion.

On a motion made by Mr. Guerra and seconded by Mr. Martella to add the following condition:

7. The church shall provide for uniformed police presence during the event.

The amendment to the motion carried unanimously.

The amended motion carried unanimously.

ADJOURNMENT: There being no further business before the BZA, the meeting was adjourned at 3:50 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.