

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
DECEMBER 1, 2005**

AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON DECEMBER 1, 2005 AT 10:00 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, Jr.; and Mr. Maximilian Tufts. Also present was Mr. Fred Hodge, Senior Planner.

Mr. Hodge reviewed the site visit agenda. He stated that there would be two (2) site visits as follows:

1. Edward Wenger & Carla Nammack-Wenger at 10:25 a.m.
2. Robert J. Norton, Jr. at 11:40 a.m.

With no further business, the meeting was adjourned at 11:46 a.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, December 1, 2005, 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 R. Martella, Jr.; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Fred Hodge, Senior Planner; Mrs. Debbie Dotson, Planning Associate; and Mrs. Fran Williams, Office Associate III.

MINUTES:

On motion made by Mr. Guerra and seconded by Mr. Van Luven, the BZA moved to approve the November 3, 2005 minutes.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams 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.

**APPEAL #ZNAP06-MA-001, THE SALAHI FAMILY LIMITED PARTNERSHIP
(OWNER/APPLICANT)**

Applicants are appealing a decision of the Zoning Administrator regarding a violation of Special Exception conditions approved by the Fauquier County Board of Supervisors. The properties are identified as PIN #5998-87-0439-000 and #5998-88-4344-000, located at 14141 Hume Road, Marshall District, Hume, Virginia. *Note: This is a public meeting not a public hearing.*

Mr. Fred Hodge, Senior Planner, reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mrs. Bowen disqualified herself from any vote and/or discussion on this application based on her previous position as Zoning Administrator during which time she made a number of decisions related to the property and its use.

Mr. Meadows stated that the applicants have requested a postponement of action on this item until the next regularly scheduled meeting.

On motion made by Mr. Guerra and seconded by Mr. Tufts, it was moved to postpone action on this item until the January 2006 meeting.

The motion carried 6 - 0, with Mrs. Bowen abstaining.

SPECIAL PERMIT #SPPT06-LE-009, STEICO, INC. (OWNER/APPLICANT)

Owner is seeking special permit approval to expand an existing Sheetz convenience store, fast food eating establishment and auto service station on the property, PIN #6980-29-9580-000, located at 10101 James Madison Highway, Lee District, Opal, Virginia. *Note: Public Hearing was closed on October 6, 2005.*

Mr. Hodge 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 October 6, 2005. Mr. Hodge further stated that staff has received additional correspondence from the Virginia Department of Transportation (VDOT), a copy of which is attached to and made part of these minutes, regarding the proposed modifications to the Sheetz entrance.

Mrs. Bowen asked if the applicant would be willing to initially fill the proposed tank from an off-site source.

H. Ben Jones, Jr., Esquire, attorney representing Sheetz, responded that his client would agree to initially fill the proposed tank from an off-site source.

Mr. Guerra expressed concern about tractor trailers entering the site as well as the possibility of water levels in the area being depleted.

Mr. Jones responded that he has reviewed various suggestions made on the water situation in this area. Mr. Jones stated that his client is in ongoing negotiations with the Fauquier County Water and Sanitation Authority (WSA) to have water provided from Green Meadows subdivision. However, this has not been finalized.

Mr. Martella asked about the possibility of using signage to prohibit tractor trailers from entering the site.

Mr. Allen Stevens, Sheetz representative, stated that his company cannot keep tractor trailers off the site, but has proposed using signage to direct these trucks to another entrance.

Mr. Guerra stated that Sheetz has been an asset to the area, but lamented that it appears their decision not to prohibit trucks from using their facility was made based on financial reasons rather than safety concerns.

On motion made by Mrs. Bowen and seconded by Mrs. Mailler, 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 project shall be in general conformance with the special permit plat prepared by Patton Harris Rust and Associates and dated August 23, 2005.
2. The site shall be connected to a central water system operated by the Fauquier County Water and Sanitation Authority (WSA) as soon as it is made available.

3. The existing ingress/egress located on Route 17 shall be improved with the Virginia Department of Transportation's approval to improve safety with on-site traffic flow for safety of the public highway.
4. Initially, water will be tanked in to the site to fill the proposed holding tank.
5. Tractor trailers shall be discouraged from entering the site with the use of signage stating that no truck services are available.
6. If Fauquier County is determined by the State of Virginia to be in a drought area, water will be trucked in and there will be no pumping to the holding tank from the well on-site.

AYES: Mrs. Bowen, Mrs. Mailler, Mr. Tufts, Mr. Meadows, Mr. Van Luven, Mr. Martella

NAYS: Mr. Guerra

ABSENT: None

The motion carried 6-1.

SPECIAL PERMIT #SPPT06-LE-011, JOHN AND TAMMY SLAUSTAS (OWNERS)

Owners are requesting special permit approval to keep livestock on a lot of 1.1 acres located in the R-2 Zoning District, PIN #6887-57-5554-000, located at 12413 Lucky Hill Road, Lee District, Remington, Virginia.

Mr. Hodge 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 November 3, 2005.

Mrs. Tammy Slaustas, owner, expressed agreement with the staff report.

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

Mr. Martella stated that he would like to abstain from any discussion and/or vote on this matter since he was not present at the site visit last month.

Mrs. Bowen stated that she would like the applicant to meet with staff to review compliance requirements regarding the number of animals on the property, required grass cover, etc. Mrs. Bowen further stated that the applicant should do as much as possible to bring the site into compliance and then another site visit can be made in January.

Mr. Wayne Preston, an adjacent property owner, stated that he is in opposition to the granting of this special permit because this matter has been ongoing for the past sixteen (16) months and it appears that the applicant is still not in compliance with Zoning regulations.

Mrs. Bowen asked if it would improve matters for Mr. Preston if the Board of Zoning Appeals required the applicant to plant screening along the property line.

Mr. Preston replied that screening along the property line would help lessen the noise.

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 postpone action on this item until the January 2006 meeting date when another site visit can be made.

The motion carried 6-0, with Mr. Martella abstaining.

SPECIAL PERMIT #SPPT06-SC-012, ROBERT J. NORTON, JR.

(OWNER/APPLICANT)

Owner is requesting special permit approval for an increase in the maximum building height from thirty-five (35) feet to thirty-nine (39) feet for a residence on the property, PIN #7000-77-2792-000, located on Creels Lane, Scott District, The Plains, Virginia.

Mr. Hodge 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. Robert J. Norton, Jr., owner, expressed agreement with the staff report.

Mr. Meadows opened the public hearing.

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

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 structure may be constructed to a maximum height of thirty-nine (39) feet, as generally shown on the drawings submitted with the special permit application.

The motion carried unanimously.

SPECIAL PERMIT #SPPT06-CR-013, EDWARD WENGER & CARLA NAMMACK-WENGER (OWNERS/APPLICANTS)

Applicants are requesting special permit approval to reinstate a previously approved special permit for a kennel and expand the maximum number of dogs to eighty (80), PIN #7930-11-8700-000, located at 10739 Bristersburg Road, Cedar Run District, Catlett, Virginia.

Mr. Hodge 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.

Ms. Carla Nammack-Wenger, owner, expressed agreement with the staff report with the exception of the previous special permit approval date, which was in 1998 instead of 1988.

Ms. Eve Carr, a client, spoke in favor of granting the special permit. Ms. Carr stated that she lives in Stafford County, but brings her dogs to Country Club Kennels because she knows she does not have to worry about them when she leaves them there. Ms. Carr presented a statement to the Board, a copy of which is attached to and made a part of these minutes.

Mr. Charles Heath, a client, spoke in favor of granting the special permit and presented a statement to the Board, a copy of which is attached to and made a part of these minutes. Mr. Heath stated that he and his wife have been exceptionally happy clients of Country Club Kennels for many years.

Ms. Deborah Wright, a neighbor, spoke in favor of granting the special permit. Ms. Wright stated that she is Ms. Nammack-Wenger's closest neighbor and she rarely hears the dogs, there is no odor and the property is kept in immaculate condition.

Ms. Jennifer Woodward, an employee, spoke in favor of granting the special permit. Ms. Woodward stated that she has been employed by Country Club Kennels for approximately five (5) years. Ms. Woodward further stated that Ms. Nammack-Wenger pours her heart into her work and would never intentionally do anything to compromise her business.

Mr. Don Parnell, a client, spoke in favor of granting the special permit. Mr. Parnell stated that he drives for approximately 1 – 1 ½ hours to bring his dog to Country Club Kennels because Ms. Nammack-Wenger runs an outstanding operation.

Mr. Millard Carr, a client, spoke in favor of granting the special permit. Mr. Carr stated that he has been boarding his dogs for over thirty-five (35) years, but has never experienced a more

comfortable, healthy, well run, and caring environment than Country Club Kennels which he has been using for the past four (4) years. Mr. Carr presented a statement to the Board, a copy of which is attached to and made a part of these minutes.

Ms. Judy Hagerman, Director of the Fauquier County SPCA, spoke in favor of granting the special permit. Ms. Hagerman stated that she often relies on Ms. Nammack-Wenger, who is willing to take dogs that would otherwise be euthanized.

Ms. Kate Davis, a client, spoke in favor of granting the special permit. Ms. Davis stated that she drives 1 ½ hours to bring her dog to Country Club Kennels because of the excellent care her pet receives.

Mr. & Mrs. Jeff Crites, clients, spoke in favor of granting the special permit. Mrs. Crites stated that they have been using Country Club Kennels for the past six (6) years and have always found the facilities very clean. Mrs. Crites further stated that Ms. Nammack-Wenger has an excellent and caring staff.

Ms. Stacy High, a client, spoke in favor of granting the special permit. Ms. High stated that she has been using Country Club Kennels for the past five (5) years and has been very pleased with their services.

Mr. Tommy Jenkins, an employee, spoke in favor of granting the special permit. Mr. Jenkins stated that he has been employed by Country Club Kennels for approximately three (3) years and attested to the wonderful character of Ms. Nammack-Wenger.

Ms. Karen Corcoran, a client, spoke in favor of granting the special permit. Ms. Corcoran stated that her employment requires that she travel extensively and her dog is always given loving care in a clean environment at Country Club Kennels when she is away.

Ms. Tammy Leister, an employee, spoke in favor of granting the special permit. Ms. Leister stated that she has known Ms. Nammack-Wenger, who is always willing to help at the animal shelter as well as donate funds when necessary, for approximately six (6) years.

Mr. & Mrs. Robert Beall, clients, spoke in favor of granting the special permit. Mr. Beall stated that their dog became ill while they were out of town, but expressed gratitude for Ms. Nammack-Wenger's willingness to go out of her way to see that he received the necessary care. Mr. Beall stated that Ms. Nammack-Wenger went above and beyond the call of duty when she drove his dog to a veterinarian in Fredericksburg at 10:00 p.m. and then to Springfield, where she stayed with him until 1:30 a.m.

Ms. Marianne Holmes, a client, spoke in favor of granting the special permit. Ms. Holmes stated that she always has peace of mind when her dog is at Country Club Kennels because of the exceptional care given.

Ms. Susan Cummings Houst, a client, spoke in favor of granting the special permit. Ms. Houst stated that Ms. Nammack-Wenger is a wonderful and devoted person.

Mr. Peter Houst, a client, spoke in favor of granting the special permit. Mr. Houst stated that he believes it was merely an oversight on Ms. Nammack-Wenger's part that she allowed her special permit to lapse and urged the Board to approve her request.

Mr. Joel Barkman of Golden Rule Builders spoke in favor of granting the special permit. Mr. Barkman stated that he built a home for Ms. Nammack-Wenger within the last few years and was recently contacted by her to help bring her facility into compliance with Zoning regulations.

Ms. Joan Flory, a neighbor, spoke in opposition to granting the special permit. Ms. Flory stated that she lives two (2) driveways from Ms. Nammack-Wenger and expressed a number of concerns, including: the trash is only picked up once per week; the possible pollution of a nearby stream; run-off into Elk Run; how delinquent dogs are rehabilitated or quarantined; loose, vicious dogs are a danger to other animals in the area; noise that she can hear from her house; buildings without the proper permits; wells and water supply; where the dog waste goes; the disposal of dead animals; feces piling up along the fence; the lack of safety precautions and exceeding the allowed occupancy.

Ms. Lisa Roosa, a client, spoke in favor of granting the special permit. Ms. Roosa stated that she is a police officer and if Ms. Nammack-Wenger is guilty of anything it is a "crime of the heart."

Ms. Nicole Russell spoke in favor of granting the special permit. Ms. Russell stated that she relies on Ms. Nammack-Wenger's help with dogs that have been rescued.

Mr. Edward Wenger, owner, spoke in favor of granting the special permit. Mr. Wenger stated that he and his wife are prepared to do whatever it takes to bring the facility into compliance with all Zoning regulations.

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

Mr. Meadows cautioned the Board that the applicant is requesting not only a renewal, but also an expansion of the facility.

Mr. Martella stated that Ms. Nammack-Wenger is providing a wonderful service, but also expressed concern about an expansion of the facility when it is currently in violation of Zoning regulations.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, 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. The hours of operation for delivery and pick up of animals shall be limited to 8:30 a.m. until 6:30 p.m. Emergency exceptions are allowed.
3. The structures shall be constructed so no noise or odor emissions will be detrimental to other properties in the area.
4. The facility may house a maximum of 80 dogs, including rescue dogs, exclusive of a maximum of 12 personal pet dogs.
5. Animal waste shall be bagged and transported from the site for deposit in an authorized facility on a weekly basis.
6. Site plan approval and zoning and building permits shall be obtained for the existing kennel structures within twenty-four (24) months of special permit approval.
7. Site plan approval and zoning and building permits shall be obtained for the proposed new kennel structure.
8. Any unattended dogs outdoors are to be confined within the fenced recreation areas.
9. The special permit authorizes grooming services as part of the kennel operation.
10. The special permit authorizes private group obedience classes of no more than six (6) dogs at a time and private individual classes, with a total of no more than six (6) such training classes to be held on-site per week.
11. The special permit is based on the entire parcel and any future subdivision will require an amendment to the permit.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Van Luven asked staff about the status of granting authority to the Zoning Administrator for administrative approval of increase in building height requests of five (5) feet or less.

Ms. Johnson stated that the granting of this authority requires a Text Amendment, which will be considered by the Planning Commission at its January 2006 meeting and then forwarded to the Board of Supervisors for approval.

Ms. Johnson stated that the February 2, 2006 Board of Zoning Appeals meeting will be held at the Town of Warrenton Police Department, 333 Carriage House Lane, Warrenton, Virginia.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 5:03 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.