

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
February 5, 2004**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, February 5, 2004, beginning at 2:00 P.M. at the Town of Warrenton Police Department, 333 Carriage House Lane, Warrenton, Virginia. Members present were Mrs. Margaret Mailler, Chairperson; Mr. John Meadows, Vice Chairperson; Ms. Sonja Addison, Secretary; Mr. James W. Van Luven; Mr. Maximilian Tufts, Jr.; Mr. Mark Rohrbaugh. Also present were Ms. Tracy Gallehr, Assistant County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Douglas Morgan, Senior Planner; Mrs. Bonnie Bogert, Planner; and Mrs. Debbie Dotson, Office Associate III.

PRESENTATION OF RESOLUTION TO EUGENE V. LOFDAHL: Ms. Sonja Addison presented and read the Resolution to Eugene V. Lofdahl thanking him for his years of service on the Board of Zoning Appeals.

***WHEREAS,** Eugene V. Lofdahl, has served on the Fauquier County Board of Zoning Appeals with great distinction from September 1974 through December 1984 and January 1988 through December 2003; and served in an outstanding manner as Chairman of the Board of Zoning Appeals from January 1980 through December 1981 and Vice Chairman of the Board of Zoning Appeals from January 1982 through December 1984 and from January 2003 through December 2003; and*

***WHEREAS,** his many exemplary years of leadership, mentoring and service contributed significantly to both County staff and Board of Zoning Appeals knowledge, and helped to protect, through the application and interpretation of the Fauquier County Zoning Ordinance, the unique quality, vision, and sense of place felt by citizens of this County; and*

***WHEREAS,** his concern for the citizens and knowledge of Fauquier County contributed significantly to the Board of Zoning Appeals' efforts to apply the zoning regulations of this County in a fair and impartial manner to the benefit of all who came before the Board of Zoning Appeals; and*

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

***NOW, THEREFORE, BE IT RESOLVED,** that the Fauquier County Board of Zoning Appeals, by this Resolution, does hereby express its highest appreciation to Eugene V. Lofdahl, for his significant and outstanding contributions and years of service as a member of the Board of Zoning Appeals, and to commend him for outstanding service to the citizens of Fauquier County; and*

***BE IT FURTHER RESOLVED,** that this Resolution be placed within the minutes of the Board of Zoning Appeals in recognition of Eugene V. Lofdahl's distinguished service to Fauquier County.*

MINUTES: On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the Board of Zoning Appeals voted to amend the January 8, 2004, minutes:

- on page 1, Mr. Fred Hodge, Assistant Zoning Administrator, to be included in those present;
- on page 1, Mr. Tufts absent from the vote on the election of officers, should be noted.

The motion carried unanimously.

On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the Board of Zoning Appeals approved the corrected minutes of the January 8, 2004, meeting.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE: Ms. Johnson stated that two items (#2 and #4) cannot be approved because there are issues with the notice. She stated that to the best of her knowledge, item #3 had been properly advertised, posted, and letters of notification sent to adjoining property owners. Mrs. Dotson read the Public Hearing Protocol.

VARIANCE #ZNVA04-CR-004, WILLIAM R. AND TONIA SMITH, III (OWNERS)

Applicants are seeking a 35' variance to the front yard requirement for a single family dwelling, PIN #7924-39-5962, located on Payne Lane, Cedar Run District, Nokesville, Virginia.

Mr. Morgan stated that the request for variance in this case had now changed, to include a variance to the flood plain setback. He noted that the BZA made a site visit earlier today, but could not vote on the application until next month, so that the revised request could be properly advertised. Mr. Morgan stated that the applicants were not present but would appreciate any feedback the Board could provide as to whether the revised proposal was consistent with the Board's earlier direction.

Ms. Mailler asked if the Board wished to discuss the variance. Mr. Van Luven stated he saw no problem with the current proposal. Mr. Rohrbaugh stated agreement with Mr. Van Luven. Mr. Meadows noted that the applicant needs to be aware that even though the case is being discussed no decision is being made until next month, and new information could affect the decision. Mr. Tufts stated agreement with the Board.

On a motion made by Mr. Van Luven and seconded by Mr. Rohrbaugh, the Board of Zoning Appeals voted to defer the case until the March 4, 2004, with the public hearing kept open.

The motion carried unanimously.

SPECIAL PERMIT #SPPT04-MA-018, MARIE HORNG (OWNER) / BRITT C. & DOROTHEA T. COLVIN (APPLICANTS)

Applicants are seeking special permit approval to locate a bed and breakfast on the property and an identification sign up to twelve (12) square feet, PIN #6975-81-9887, located at 7296 Fenton Farm Lane, Marshall District, Warrenton, Virginia.

Mr. Morgan noted that the BZA made a site visit earlier today, and he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Colvin, applicant, appeared representing the application and noted agreement with the staff report.

Mr. Rohrbaugh asked Mr. Colvin how many employees the bed and breakfast would have. Mr. Colvin stated that he and his wife would be operating it together, only on weekends, from Thursday through Sunday.

Mr. Meadows asked Mr. Colvin about the time limit that was being requested. Mr. Colvin stated it was 5 years.

Pamela Gedding, resident of another home on the property, stated concerns with the impacts of parking and the possibility of guests bothering horses that are boarded on the property.

Dorothea Colvin, applicant, stated that parking would be located behind the main dwelling, and that guests would not be encouraged to cross onto parts of the property outside the lease area.

Ms. Johnson noted that one of the standards in the zoning ordinance for a bed and breakfast use is location on a major collector, or a specific finding by the Board that there would be no impacts on the adjoining street. She noted that the proposed use is located on a local collector.

Ms. Gallehr stated that she had a number of concerns related to the application and asked questions regarding the ownership of the property, the ownership of other properties in the county with delinquent taxes, the legal status of the entity to operate the bed and breakfast and the residence of the operators. Ms. Gallehr asked that the Board defer the application for a month so that concerns identified could be worked out with the County Attorney and with the Zoning Office.

Ms. Colvin stated she would not like to have the application deferred.

On a motion made by Mr. Rohrbaugh and seconded by Mr. Meadows, the Board of Zoning Appeals voted to defer the application until the March 4, 2004, meeting and to keep the public hearing open.

The motion carried unanimously.

VARIANCE #ZNVA04-MA-005, FAUQUIER HERITAGE & PRESERVATION FOUNDATION, INC. (OWNERS)

Owners are seeking a 26' variance to the front yard requirement (Town Centre Drive) on the southwestern portion of the property, PIN #6969-68-7960, located on Rt. 17, Marshall District, Marshall, Virginia.

Mr. Morgan noted that a BZA site visit was made earlier today, and, that due to faulty advertisement, final action on this application could not be taken today.

Meredith Whiting, appeared representing the application. She stated that this project was funded under a grant from the Virginia Department of Transportation. She also stated that the project needed to be completed (full construction) by the end of the year.

John Orr, civil engineer, appeared representing the applicant. He stated that the variance is needed from the easement at the back of the property (Town Centre Drive) and the right-of-way easement being required by the comprehensive plan along the southeast side of the property. .

Mr. Meadows asked for clarification of which road was creating the hardship. Ms. Johnson stated the hardship is being created by Town Centre Drive, located at the rear of the property. Because it is a 50' right-of-way easement, the front yard setback requirement applies along this frontage. The side road is only a 30' easement and, therefore, a front yard setback is not required at this time.

Dave Hall, representative of the engineering firm, appeared representing the application and asked for expedited review of building permit applications. Ms. Johnson noted that this is an issue outside the jurisdiction of the Board of Zoning Appeals.

On a motion made by Mr. Meadows and seconded by Mr. Rohrbaugh, the Board of Zoning Appeals voted to defer the application until March 4, 2004, with the public hearing kept open.

The motion carried unanimously.

APPEAL #ZNAP04-MA-003, RAY PENNINGTON, III (OWNER)

Ms. Johnson explained that a request had been made by Mr. Tissinger, counsel on behalf of Mr. Ray Pennington, to reconsider the Board of Zoning Appeals decision on January 8, 2004 to dismiss appeal #ZNAP04-MA-003.

On a motion made by Mr. Meadows and seconded by Mr. Van Luven, the Board of Zoning Appeals voted to reconsider the appeal at the hearing on March 4, 2004.

AYES: Mrs. Mailler, Mr. Meadows, Mr. Van Luven, Mr. Tufts, Mr. Rohrbaugh

NAYS: None

ABSENT: Ms. Addison

The motion carried.

Ms. Gallehr updated the Board on the Big K Radio case.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 2:53 P.M.

Margaret Mailler, Chairperson

Sonja Addison, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A recording of the meeting is on file for one year.