

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
DECEMBER 2, 2004**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, December 2, 2004, beginning at 2:00 P.M. at the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mrs. Margaret Mailler, Chairperson; Mr. John Meadows, Vice-Chairperson; Mr. James W. Van Luven; Mr. Maximilian A. Tufts, Jr.; Mrs. Carolyn Bowen; Mr. Roger R. Martella, Jr.; and Mr. Serf Guerra. Also present were Ms. Tracy Gallehr, Assistant County Attorney; Ms. Kimberly Johnson, Zoning Administrator; Mr. Fred Hodge, Senior Planner; and Mrs. Debbie Dotson, Office Associate III.

**MINUTES:** On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the BZA moved to approve the November 4, 2004, 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-MA-004, JOHN A. MCINTIRE (OWNER) /  
WILLIAM MCINTIRE AND JOHN R. MCINTIRE, STILLHOUSE VINEYARDS  
(APPLICANTS)**

Applicants are seeking special permit approval for winery with minor events on the property, PIN #6929-75-3501-000, located at 4366 Stillhouse Road, Marshall District, Hume, Virginia.

Mr. Hodge stated that applicant has requested deferral until the January 6, 2005, meeting in order to review an interpretation from the Zoning Administrator.

On a motion made by Mr. Van Luven and seconded by Mr. Tufts, the BZA moved to postpone the hearing until the January 6, 2005, meeting, noting that this will be the final deferral.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT05-SC-015, ALL GOD'S CREATURES (OWNER)**

Owner is seeking special permit approval to expand and renovate an existing kennel operation on the property, PIN #7905-90-1151-000, #7905-80-5137-000, #7905-80-8308-000, #7905-80-9538-000, #7905-80-3038-000, #7905-80-8280-000, #7904-95-1802-000, #7904-89-5643-000, and #7904-89-6798-000, located at 7353 Woodlawn Lane, Scott District, Warrenton, Virginia.

Mr. Hodge stated that the public hearing for this application was held last month and kept open and that the BZA had made a visit to the site last month and again today. He reviewed the amended staff report, a copy of which is attached to and made a part of the minutes.

Mrs. Bowen stated for the record that she had recused herself from any discussion or vote on this matter at last month's meeting.

James Tucker, Architect, appeared representing the application and noted agreement with the amended staff report.

Mrs. Mailler asked if there were any speakers for or against the application.

Al Benkelman, neighbor, raised concerns about the impacts of the kennel. He asked conditions to be placed on the use if approved; he stated that the building should be soundproofed, the windows triple glazed and fixed, a traffic study should be performed, a standby generator installed, and animal waste should be bagged and removed.

George Slack, neighbor, raised concerns about the application. He stated that the traffic analysis submitted to staff did not take into account the cats that would be boarded. He stated that over 75 residents in the area would be affected by the noise from the kennel.

George Knauf, client of kennel, appeared in support of the application, noting that Paws Awhile is trying to eliminate the noise by building the new facility.

Don Nuckles, neighbor, spoke. He stated concerns about the maximum number of dogs being 200. He stated that there was a big difference between 100 enclosures and 200 dogs, and that the future number of dogs and or enclosures could escalate.

John Neyhouse, client of kennel, spoke in support of the application. He stated that on three occasions he sat and watched traffic in the vicinity of the kennel between 7:30am and 8:30am. And that he has concluded that the traffic issues in the area are not caused by the kennel but rather by people cutting through the area.

Regina Frazier, neighbor, voiced concern that 200 dogs is too many.

Linda Martin, client of kennel, stated that the Sisters do live on site and that this makes a difference in the level of care and attention they give the business.

Mother Irene, owner, appeared representing the application. She stated that the kennel would not board separate family dogs together in order to increase their business. They do not do that now and do not intend to do it.

Mrs. Mailler asked if there were any other speakers. In that there were no other speakers, the public hearing was closed.

On a motion made by Mr. Tufts and seconded by Mr. Meadows, the BZA noted that due notice and hearing, as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009, had been provided, and moved to grant the special permit, with the following findings and conditions:

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 and the special permit plat prepared by James F. Tucker dated October 11, 2004 and November 18, 2004.
2. The hours of operation for delivery and pick up of animals utilizing the boarding services shall be limited to 8-10 a.m. and 4-6 p.m. Monday through Fridays, 8-10 a.m. Saturday and 4-6 p.m. Sunday. The lone exceptions would be for emergencies. Proposed hours for daycare would be 7-10 a.m. and 4-7 p.m. Monday through Friday, with some exceptions by appointment only.
3. All dog confinement areas and runs shall be located within enclosed structures with fixed windows designed so that no animal sounds from within the building will be audible at the property lines. A qualified acoustics consultant shall certify that the proposed construction will meet this requirement prior to the release of any building permits for the kennel.
4. The structures shall be constructed so that no odor emissions are discernable at the property lines. A qualified consultant shall certify that the proposed

- construction incorporates state-of-the-art odor control equipment prior to the release of any building permits.
5. Two fenced outdoor exercise areas shall be permitted, as shown on the special permit plan. Dogs being exercised in such areas shall be under constant supervision of staff and shall be taken indoors if they become loud. No more than eight dogs shall be exercised in each area at one time, to be accompanied by no fewer than four staff. The hours of use for the outdoor exercise areas shall be limited to 8a.m. to 5p.m; at all other times the dogs shall be kept indoors.
  6. The facility may house a maximum of 200 dogs (including boarding and daycare) and 24 cats.
  7. Parking facilities shall be in accord with requirements of the Zoning Ordinance.
  8. All lighting shall be in accord with requirements of the Zoning Ordinance.
  9. The current nine (9) parcels must be boundary adjusted to create one lot of approximately 21.86 acres in size prior to release of any site plan for the use.
  10. Animal waste shall be bagged and transported from the site for deposit in an authorized facility.
  11. Site plan approval is required.

The motion carried 6-0-1, with Mrs. Bowen abstaining.

**SPECIAL PERMIT #SPPT05-SC-016, G.S. AND NANCY BARNHOLT (OWNERS)**

Owners are seeking special permit approval to locate a beauty shop in the existing single family dwelling, PIN #7905-36-9176, located at 7045 Executive Court, Scott 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.

Nancy Barnholt, owner, appeared representing the application and noted agreement with the staff report. She stated that the business would be kept small.

Mr. Martella asked for clarification of the parking situation. Mrs. Barnholt stated that the driveway is wide enough to accommodate 4 cars across, and that the first two parking spaces would be for clients. She noted that the neighbor she shared the driveway with is her sister-in-law.

Mr. Guerra asked Mrs. Barnholt if there was any procedure that she would perform that would take longer than 30 minutes. Mrs. Barnholt stated that if a procedure took one hour, it would be 2 appointment slots used.

Mr. Van Luven asked Mrs. Barnholt what form of walkway and stairs would be proposed. Mrs. Barnholt stated that she was waiting to hire a contractor and that railing would be installed.

Mrs. Mailler 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. Tufts, the BZA noted that due notice and hearing, as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009, had been provided, and moved to grant the special permit, with the following findings and conditions:

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. Routine appointments generally shall be limited to 9:00am to 2:00pm on Tuesday, Thursday, and Friday.
2. No parking of client vehicles will be permitted on the public street.
3. Appointments shall be staggered at least 30 minutes apart to ensure no more than two client vehicles are parked in the private driveway at any time.

4. Site plan approval is required.

The motion carried unanimously.

**ZONING APPEAL #ZNAP05-CR-001, JOHN AND CAROLYN FAGNANI (OWNERS)**

Owners are appealing the Zoning Administrator's determination of zoning violations, PIN #7925-26-4133, located at 7130 Rogues Road, Cedar Run District, Nokesville, Virginia. **NOTE: Not a public hearing.**

Mrs. Bowen stated that she would recuse herself from any discussion or vote on this matter because she had made prior decisions on this property when she was the Zoning Administrator for Fauquier County.

Mr. Hodge stated that Ms. Nikki Marshall, counsel for owners, requested that this matter be tabled in order to pursue avenues to obtain the necessary permits to resolve this issue.

Mr. Van Luven asked if 30 days would suffice. Mrs. Johnson asked that a longer period be granted because it might not be possible to resolve the outstanding issues within 30 days.

Mr. Meadows asked for confirmation that the BZA is looking specifically at the Zoning Administrator's decision that the permit had expired. Mrs. Johnson stated that was the issue. Mr. Meadows wanted to know what specifically the applicant is trying to work out.

Mrs. Johnson stated that the applicant had indicated a willingness to secure whatever permits were necessary in order to bring the business into compliance. If such approvals were secured, the question of whether the permit has expired is no longer relevant. She further stated that she did not object to the appeal being tabled because her goal is to get the applicants into compliance.

Mr. Martella stated that if there is a way to reach a resolution, the Zoning Administrator deserved the time to do that.

Mr. Guerra indicated that he felt the decision should be made at this meeting.

There was discussion regarding the appropriate length of time for a deferral.

On a motion made by Mr. Van Luven and seconded by Mr. Meadows, the BZA moved to table the appeal until the February 2005 meeting.

The motion carried as follows:

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

NAYS: Mr. Guerra

ABSENT: None

ABSTAINED: Mrs. Bowen

**SPECIAL PERMIT #SPPT05-CR-018, MICHAEL AND SANDRA GETZ /  
CREEKSIDE KENNELS, INC. (OWNERS)**

Owners are seeking special permit approval for a kennel to house a maximum of 25 dogs on the property, PIN #6991-93-5470, located at 5566 Balls Mill Road, Cedar Run District, Midland, 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.

Sandra Getz, owner, appeared representing the application and noted agreement with the staff report. She stated that drop off and pick up times would be by appointment only.

Mr. Van Luven asked Mrs. Getz what her intentions were on keeping the noise levels down. Mrs. Getz stated that the runs will be indoors and the building would be insulated and that the dogs would only be outside for exercise.

Mrs. Mailler asked if there were any speakers for or against the application.

Carl Bailey, contractor, appeared in favor of the application. He stated that he was helping to build the kennel and that it would be soundproofed, escape proof, and drains would be installed that stop everything but water.

Mrs. Mailler asked if there were any other speakers. In that there were no other speakers, the public hearing was closed.

On a motion made by Mrs. Bowen and seconded by Mr. Tufts, the BZA noted that due notice and hearing, as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009, had been provided, and moved to grant the special permit, with the following findings and conditions:

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 and the special permit plat.
2. The hours for delivery and pick up of animals generally shall be limited to 8:00am thru 5:00pm daily by appointment only.
3. All dog confinement areas and runs shall be located within enclosed structures.
4. The facility may house a maximum of 25 dogs.
5. Animal waste shall be bagged and transported from the site for deposit in an authorized facility.
6. Parking facilities shall be in accordance with requirements of the Zoning Ordinance.
7. All lighting shall be in accordance with requirements of the Zoning Ordinance.
8. Site plan approval is required.

Mrs. Mailler asked if there was any discussion from the BZA.

There was discussion of having a schedule for the removal of animal waste and soundproofing requirements.

On a motion made by Mr. Martella and seconded by Mrs. Bowen, the BZA moved to amend Condition #5 to read:

5. Animal waste shall be bagged and transported from the site for deposit in an authorized facility at least once a week.

The amendment to the motion carried unanimously.

The amended motion carried unanimously.

**RECONSIDERATION OF REVOCATION OF SPECIAL PERMIT #51090, ROY AND LOU ANN BOATWRIGHT (OWNERS)**

Fauquier County Zoning Administrator is requesting the Fauquier County Board of Zoning Appeals revoke Special Permit #51090 (approved August 7, 2003) for truck and heavy equipment sales, rental and service on property identified as PIN #7906-00-9413-000, located at 5391 Telephone Road, Scott District, Warrenton, Virginia. **NOTE: Not a public hearing.**

Mr. Hodge turned the reconsideration over to Mrs. Johnson.

Mrs. Bowen stated that she would recuse herself from any discussion or vote on this reconsideration because she had made prior decisions on this property when she was the Zoning Administrator for Fauquier County.

Mrs. Johnson, Zoning Administrator, appeared representing the reconsideration. She stated that the Assistant County Attorney informed her that a Consent Decree had been signed with the applicant, and therefore the revocation was no longer needed to close the business down, and she asked for the appeal to be dismissed.

On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the BZA moved to dismiss the revocation of special permit #51090.

The motion carried 6-0-1, with Mrs. Bowen abstaining.

**OTHER BUSINESS:** Mrs. Johnson stated that Jeffrey and Pamela Jenkins are asking the BZA to reconsider their decision of November 4, 2004 related to a reduction in setback requirements for a barn because of new information about the location of a reserve drain field.

On a motion made by Mr. Tufts and seconded by Mr. Meadows, the BZA moved to reconsider special permit #SPPT05-SC-014 at the January 6, 2005, BZA meeting.

The motion carried unanimously.

Ms. Gallehr stated that there were two items she needed to address. She stated that the appellant has asked the court to set a trial date for the Pennington Appeal of the BZA decision. She also informed the BZA that there would most likely be an appeal filed on the Zoning Administrator's decision regarding the shooting range.

**RESOLUTION OF APPRECIATION FOR J. MARK ROHRBAUGH, JR.:** Ms. Margaret Mailler read the Resolution for J. Mark Rohrbaugh, Jr., thanking him for his service on the Board of Zoning Appeals.

*WHEREAS, J. Mark Rohrbaugh, Jr., has served on the Fauquier County Board of Zoning Appeals with great distinction from February 2003 until October 2004; and*

*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 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 J. Mark Rohrbaugh, Jr., for his significant contribution to the County; 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 J. Mark Rohrbaugh, Jr.'s distinguished service to Fauquier County.*

On a motion made by Mrs. Bowen and seconded by Mr. Van Luven, the BZA moved to place the resolution in the minutes.

The motion carried unanimously.

**ADJOURNMENT:** There being no further business before the BZA, the meeting was adjourned at 3:44 P.M.

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Margaret Mailler, Chairperson

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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.