

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
February 6, 2003**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, February 6, 2003, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mrs. Margaret Mailler, Chairperson; Mr. Eugene Lofdahl, Vice Chairman; Mr. John Meadows, Secretary; Mr. William Barr; Mr. James Van Luven; Mr. Maximilian A. Tufts, Jr. and Mrs. Sonja Addison. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; and Ms. Nancy Albert, Office Associate III.

MINUTES: On motion made by Mr. Lofdahl and seconded by Mr. Meadows the January minutes were approved as submitted. The motion carried unanimously.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Zoning Administrator stated that to the best of her 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. Ms. Albert read the Public Hearing Protocol.

SPECIAL PERMIT #50651 MARY C. DECARLO (OWNER) & DECARLO ENTERPRISES, INC. (LESSEE)

Applicants are requesting special permit approval to store propane fuel on 25 acres of 132.01 acres. The subject property is identified as PIN #6898-18-1549, located at 11271 Remington Road, Lee District, Bealeton, Virginia. Mr. DeCarlo volunteered to have his request moved to the end of the agenda.

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 50651, it was moved to move the case to the end of the agenda.

The motion carried unanimously.

SPECIAL PERMIT #50857 BUCHANAN HALL (OWNER)

Applicants are requesting a special permit to enlarge an existing community meeting hall used for a variety of activities, identified as PIN #6064-14-7137, located at 8549 John S. Mosby Highway, Marshall District, Upperville, Virginia.

Mrs. Bowen stated that the BZA made a site visit this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. John Zugschwert appeared at the meeting representing the special permit. He stated the staff report was correct. He reviewed the application and architectural plans for the expansion.

No one else spoke in favor or against the application.

On motion made by Mr. VanLuven and seconded by Mrs. Addison, in application No. 50857, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

5-401

Standards for All Category 4 Uses

1. No off-street parking or loading spaces shall be located within any required yard or within 25 feet of any lot line in any Rural or Residential District.
 2. In all Residential and in the RR-2 District, all off-street parking and loading areas and all swimming pools and tennis courts shall be effectively screened.
 3. No Category 4 uses shall be operated on a profit-making basis, and the owner of the facility shall be a nonprofit organization or governmental agency.
5. 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: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)
- (a) site plan approval is required.
 - (b) no event shall be held at Buchanan Hall pass 12 midnight except New Year's Eve, which event shall end by 2:00 a.m.
 - (c) there shall be no outside amplified noise.
 - (d) the special permit is issued for three years.

The motion carried unanimously.

SPECIAL PERMIT #50887 JOHN P. SIFRIT & HEATHER P. SIFRIT (OWNERS)

Applicants are requesting a special permit to locate a small contracting business on the property, identified as PIN #6945-36-1395, located at 7017 Catbird Lane, Marshall District, Marshall, Virginia.

Mrs. Bowen stated that the BZA made a site visit this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Heather Sifrit appeared at the meeting representing the special permit. She stated there has been some confusion about their request and they had received a letter in the mail stating they were in violation, however they do have a building permit to build a carport. She stated that the equipment on the site is being used to construct the carport. She stated they were not going to operate their business from the site; however the equipment for the business will be used to construct the carport for which they have a building permit.

Mrs. Mailler asked how many trucks do you have that are over $\frac{3}{4}$ ton to which Mrs. Sifrit replied three.

Mrs. Bowen stated they do have a building permit and zoning permit for a detached carport but the permit stated that no commercial activity was permitted. She said the letter of violation was sent stating that equipment stored on the property constituted a contractor's storage yard, and the zoning interpretation had not been appealed, and the appeal time period has expired. Mrs. Bowen explained the equipment may be used during the construction of the carport; however the property may not be used for a contractor's storage yard without the issuance of a special permit by the BZA.

Mr. Meadows asked Mrs. Sifrit if she has a pool or a permit to build a pool to which she replied no, however she has a request in to the Health Department for approval prior to obtaining the required permits.

Mr. Meadows asked if there is a sign at the front gate of the property advertising a pool company and Mrs. Sifrit said there was.

Mrs. Gallehr stated the BZA if they wish can hold the public hearing, postpone action until next month, to allow the applicants time to meet with staff. The applicants can make a decision to withdraw or proceed with their application.

Mrs. Sifrit stated she did not mind withdrawing the application; however she does not want to receive a violation letter when her equipment is on her property. She wanted to clarify if she withdraws her application that she may have the equipment there while she is constructing the carport.

Mr. Meadows stated she could have her equipment for construction, not a business unless she obtained special permit approval.

Mrs. Bowen stated the BZA could hold the public hearing today and postpone their decision until the March 6, 2003 meeting. She stated that County staff could meet with Mr. and Mrs. Sifrit to be sure they understood the zoning requirement, and that Mrs. Sifrit could withdraw her application at anytime if she chooses.

Mr. Karl Fischer stated he had lived on Catbird Lane since 1999, and that he moved to Fauquier County for an agriculture area that would not have commercial development and overcrowding. He stated the Sifrits cleared part of the property and parked commercial vehicles on the property. Mr. Fischer stated he has great concerns about granting the permit and the impact it will have on the integrity of the neighborhood, and the impact on the lane.

Mr. Walter Hitchcock, who is not an adjoining property owner, brought to the BZA's attention the covenants that were placed on the property when he developed the lots.

Mrs. Diane Cultrera, a nearby resident on Owl Lane, stated her concerns with the location of the commercial vehicles in the neighborhood, additional traffic and the ongoing construction that is taking place on the subject property. She voiced her concerns about business vehicles, and the storage of pool chemicals since Mr. and Mrs. Sifrit operates a swimming pool business.

Mr. David Brinson, a resident of Catbird Lane, stated his concern was with the inconsistencies of the special permit application and the proposed contractor's storage yard.

Mr. Lofdahl asked if the building permit is good for only one year and Mrs. Bowen stated it can be renewed.

Mr. Ed Holdsworth, a resident of Owl Lane, stated he built an addition on his own home and it did not require anything but a one man lift.

Mrs. Carla Perkins, who lives one-fourth mile from the site, stated that Cliff Mills Road is not meant for commercial vehicles. She stated she was confused as to the intent of the application.

Mr. Ralph Crafts who stated he lives about 200 feet from the Sifrit's property stated that he choose a rural area and thought the application totally inconsistent with this area.

Mr. Ted Gilman stated he lives across the street from the property. He said he felt approval would start a precedent for business uses in the neighborhood.

Mr. Ray Cultrera, who said he live one-half mile from the property, stated he was against the approval of the permit. He said he does not want the storage of vehicles and chemicals on the site. He said he felt the business is not comparable with the community, and it belongs in a commercial area.

No one else spoke in favor or against the application.

The BZA suggested that Mr. and Mrs. Sifrit meet with County staff prior to the next meeting.

On motion made by Mr. Lofdahl and seconded by Mr. Tufts, in application No. 50887, it was moved to close the public hearing and defer action to next month.

The motion carried unanimously.

SPECIAL PERMIT #50894 AMERICAN LEGION POST 360 (OWNER)

Applicants are requesting a special permit to locate a meeting hall on the property, identified as PIN #6994-10-6814, located on Frytown Road, Center District, Warrenton, Virginia.

Mrs. Bowen stated that the BZA made a site visit this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mrs. Sonja Addison recused herself and stated she would abstain from voting on the application.

Mr. Gary Pearson, the attorney for the American Legion Post 360, appeared at the meeting representing the special permit. He stated he concurred with the staff report as read. Mr. Pearson stated he would emphasize the difference between the application today versus the denied 1989 application. He said the regular American Legion would hold one Friday monthly meeting and the building would be for the strict use of the members only. He stated the traffic concerns had been addressed and today there are only 33 members. Mr. Pearson stated the American Legion has a good service record and has continued to meet without a meeting hall. He said the approval of this application would launch them into the future with a post home. He stated Mr. John Harrison and Mr. John Williams would like to speak to the application.

Mr. John Harrison stated he came to the community in 1967 and for him personally this has been a good venture. He has been impressed with the character of the individuals involved with the Post. He further said the Post had always come to the need of children by sending them to camp and in other ways. He said they were able to give a college student \$300.00 who did not have the funds for books and tuition. Mr. Harrison stated the American Legion needs a place to meet.

Mr. John Williams stated the American Legion is a proud organization and a post home is needed for meetings and to store records. He asked the BZA to grant the special permit.

Past Commander Tom Carter of the Warrenton American Legion Post 72 stated Post 360 is a small post that does a lot of community activities. He stated an office and meeting space is essential.

Daniel O'Connell, attorney, appeared at the meeting representing Gloria Fairley who lives near the site. He stated that the property is zoned Village and that Ms. Fairley is concerned about outside activities, hours of operation and possible noise affecting her aunt's property.

Mr. Meadows asked what her major concern was and Mr. O'Connell stated that it was noise.

Mrs. Earsaline Anderson, an adjoining property owner, stated that she had canvassed the neighborhood and she presented a petition of 39 residents who are against the American Legion Post application. The petition is attached to and made a part of the record. She stated the objections to the Post location are that Frytown Road area is zoned residential and the application

is not in harmony with the quiet neighborhood, additional traffic would purpose a safety concern, there is a water shortage and soil problems. Mrs. Anderson questioned how many parking spaces would be on the site and how many vehicles would be at the meeting. She stated the road is narrow and there is no room for parking on the street. She questioned if a liquor license was going to be obtained. Mrs. Anderson stated there were no members of the American Legion Post on Duhollow Road or Fox Haven Lane. She stated the neighborhood is not in agreement with the application. The petition is attached to and made a part of the record.

Mr. Terry Smith, an engineer with the firm of Carson Harris & Associates, stated the four corners of the building have been staked out and the front of the proposed building will be approximately 120 feet from the edge of the pavement.

Mr. Lofdahl asked if the building is further away than the 1989 proposed site and was told that the previous proposed building was approximately 40 – 50 feet from the road.

Mr. Robert Chichester, a resident of the neighborhood for 50 years, stated the American Legion bought the property with the promise of building a post home. He stated there are homes being built all around him and the American Legion has given a lot to the neighborhood and school children. Mr. Chichester stated the Post has a right to build their home and they are very polite to the community.

Mr. Robert Banton, Post 158 in Manassas, stated they have 63 members but no post home and it presents a problem for meetings and business that needs to be done. The records are scattered among all the members and there is no place to show the awards the Post has received. The Post does a lot for WWII Veterans and Boys and Girls state, however it is hard to do a lot of work without a place to meet. He stated he hoped the BZA would give some consideration to the programs when they are doing their work on the application.

Mrs. Sandra Matusic, a social worker in the County, stated her main concern with the application is safety, and asked if they would apply for an alcohol permit.

Mr. John Williams stated they do not plan to serve liquor.

Ms. Leslee Addison stated she has an 8-year old son who rides a bike in the summertime and there is a lot of traffic on the road. She voiced concern that there are only 20 parking places shown on the plan and asked where will the additional members park? She stated she did not feel a commercial building being located in a residential neighborhood is right.

Mr. Adrian Mercer, a member of Post 360, stated he would like to address some of the issues raised. He stated that the Post supports the elderly, the traffic would only be once a month for their meeting and would be no alcoholic beverages, just a place to organize. He feels they will help the people of Frytown by having a home. Mr. Mercer stated the reason for people living in Frytown not being members of the Post is because they don't have a Post home. The main issue is to have a place to meet to support the community. The building will conform to the neighborhood and the size of the building is 30' x 60'.

Mrs. Sheila Campbell said she was born and raised in Frytown asked if they would be able to apply for a liquor license at a later date?

Mr. John Williams stated the Post hopes to be amicable with the people in Frytown. He said they did not plan to apply for a liquor license.

Mr. Meadows asked what other times the building will be used and Mr. Williams stated the Post meeting will be the third Friday of each month and it would honor any conditions of the permit.

Mrs. Bowen stated the site plan review will require all off-street parking. She indicated the site plan must be submitted within 12 months of approval of the special permit.

Mr. VanLuven stated he has concerns about events such as Veterans Day, Memorial Day and funerals where there would need to be a meeting and restricting the hours or days might not be practical.

Mr. Meadows stated there are questions about the activities to be answered and the Post should compile a list.

Mr. Barr stated he would like clarification of whether the home will be leased, what kind of activities will there be by the members, where will the people park for an activity and may the members use the facility. Mr. Barr stated the road is unlit and dangerous and there cannot be parking on the road.

Mrs. Mailler stated the best solution would be to work out answers to the questions and return in March.

Mr. Lofdahl asked if rifles are stored at the property and Mr. Williams said no.

No one else spoke in favor or against the application.

On motion made by Mr. Meadows and seconded by Mr. VanLuven, in application No. 50894, it was moved to close the public hearing and defer action to next month.

The motion carried unanimously.

SPECIAL PERMIT #50904 FAUQUIER HERITAGE & PRESERVATION FOUNDATION, INC. (OWNER)

Applicants are requesting a special permit to allow a transportation museum in C-1 zoning, identified as PIN#6969-68-7960, located at 4110 Winchester Road, Marshall District, Marshall, Virginia.

Mrs. Bowen stated that the BZA made a site visit this morning and reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. David Hall, Vice President of Frederick Ward Associates, appeared at the meeting representing the special permit. He stated the staff report is correct. Mr. Hall stated the proposed museum is in architectural harmony with the existing zoning and visitation will be very limited. The building will have a display that may be seen from the outside. Mr. Hall stated the project is being funded through P21 funds from VDOT funneled through Fauquier County.

Mr. Lofdahl asked if Marshall Ford will be torn down and Mr. Hall stated no, they are moving to a new location but this is a separate site.

No one else spoke in favor or against the application.

On motion made by Mr. Tufts and seconded by Mr. Meadows, in application No. 50904, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Code:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question.

5-1107

Additional Standards for Museum

1. Only existing historic structures or sites may be utilized as museums in the Village, Residential-1, Residential-2, Residential –3 and Residential-4 Zoning Districts.
2. The facility shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Zoning Appeals finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.
3. Any retail sales conducted on the property shall be accessory and incidental to the permitted activity, located within the existing historic structure and conducted for the participants of the site.

The BZA may require such screening, planting, fencing, preservation of

trees, entrances, design of structures, or any other requirements which will ensure the minimal impact on the use of the surrounding area and uses.

- 5. 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: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance)

- (a) site plan approval

The motion carried unanimously.

SPECIAL PERMIT #50651 MARY C. DECARLO (OWNER) & DECARLO ENTERPRISES, INC. (LESSEE)

Applicants are requesting special permit approval to store propane fuel on 25 acres of 132.01 acres. The subject property is identified as PIN #6898-18-1549, located at 11271 Remington Road, Lee District, Bealeton, Virginia.

Mrs. Bowen reviewed the staff report, a copy of which is attached to and made a part of the minutes. She stated the public hearing was closed last month and since that time Mr. O’Connell has submitted additional information by letter.

Pursuant to §2.1-344 (a)(7) of the Code of Virginia, Mr. Meadows moved to go into Closed Meeting for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to this application, seconded by Mr. Tufts. Motion carried unanimously.

The Fauquier County Board of Zoning Appeals, having adjourned into Closed Meeting this day for the purposes stated in the resolution authorizing such Session, does hereby certify that to the best of each member’s knowledge (I) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (II) only such public business matters as were identified in the motion by which the Closed Meeting was convened, were heard, discussed or considered in the Closed Meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Meadows, seconded by Mr. Tufts.

AYES: Mrs. Mailler, Mr. Lofdahl, Mr. VanLuven, Mrs. Addison, Mr. Barr, Mr. Meadows and Mr. Tufts.

NAYS: None

ABSTENTION: None

ABSENT: None

Mrs. Tracy Gallehr stated she wished to discuss with the BZA the proposed conditions concerning the proposed propane storage facility.

She said she had discussed the conditions with Phil Myer, Fauquier County Fire Chief, and he had suggested that a night watchman could be someone who was trained and knowledgeable about the site and who lived within fifteen minutes of the site, rather than someone on site as a night watchman. She stated that information was needed from the railroad about the distance that a car might be thrown if there was a derailment in front of the storage site. She indicated clarification of the exact route of the traffic should be presented by the applicant.

Information was requested from the applicant regarding his offer to pay a consultant to monitor the construction on the site and the best way for the County to handle this matter.

Mrs. Gallehr said that Mr. Myer suggested inspection of the alarm monitoring systems follow the State Fire Code in that failure to comply with this condition would then be a violation of the special permit.

Mr. Meadows asked how the truck traffic would come from Lucky Hill Road and if it would cross the railroad tracks.

Mr. Chris DeCarlo stated that yes it would cross the track at a gated crossing.

Mr. Meadows explained how the truck traffic is required to stop at the railroad crossing and the stop sign. He stated the trucks could be sitting on the tracks while waiting for oncoming traffic and if a train approaches the gates may come down. Mr. Meadows stated this is a concern and that is the reason why they felt that rail siding should be installed for delivery of the propane. Mr. Dan O'Connell stated ultimately there would be rail siding however there are a lot of propane suppliers that only deliver by truck, and one of the purposes of having a facility of this size is to get competitive prices, if there is a condition that you can only receive propane by rail that cuts off half the suppliers. He stated the concern about the truck traffic should be addressed.

Mr. Meadows stated there is another entrance to Lucky Hill Road via Route 17 onto Sumerduck Road, onto Old Grassdale Road, then Lucky Hill Road, however that would put truck traffic on secondary roads for a much greater distance. He stated he believes the only solution is rail siding.

Mr. DeCarlo stated when the truck arrives at the crossing the train is required to sound its horn and there is good visibility in both directions.

Mr. Lofdahl asked how far from the intersection before the gates come down and Mr. DeCarlo stated about a one fourth mile.

Mr. Meadows stated that no matter the maximum speed the Amtrak train travels, there has to be data if a derailment occurred as to the maximum distance perpendicular to the track that the train could travel, also he asked how far the property line is from the rail siding?

Mr. Meadows stated he would like to know from Amtrak what is the "safe zone" Mr. James Stannard, engineer for Mr. DeCarlo, stated Department of Transportation could provide that information, and he would obtain that information.

Mr. Lofdahl asked if the fill would be void of rock and Mr. Stannard stated there is a sand path under the tank and a few inches would be sufficient.

Mr. Meadows asked at what point would the rail siding be installed and Mr. DeCarlo stated he would be willing to install it immediately.

Mrs. Gallehr stated it would be helpful to know the number of gallons and truck trips per day.

Mr. Meadows stated his concern is not to have a night watchman but someone on the site that is familiar with the operation for the safety of the neighborhood.

Mr. Lofdahl asked when the plant closes at night are there hand valves or pneumatic valves that close and Mr. Stannard stated a pneumatic system shuts down the tanks.

Mr. DeCarlo stated they will work with Emergency Services and are accessible 24 hours a day by cell phone.

Mr. O'Connell stated he felt the owners want to meet annually with local Fire & Rescue to assure they know where everything is and what to do in case of an emergency.

Mr. Meadows asked if there is a power failure is there a generator or battery backup and Mr. Myer stated battery backup.

Mr. Phil Myer stated one thing about an alarm system is that it has a battery backup and it rings into a central alarm company. The battery is a very small battery in the panel that is recharged constantly and monitors itself. Mr. Myer requested they provide propane detection meters.

Mr. VanLuven asked Mr. DeCarlo if he would provide the meters and he said yes.

Mrs. Bowen asked for an amended drawing with rail siding, number of tanks and location to be submitted as soon as possible so the BZA could review it prior to the next month's meeting.

Mr. VanLuven asked if during the construction phase if there had to be an expert on site and Mr. Stannard said the expert could inspect a tank on site, review the design and prepare a letter stating it has been built according to specifications, however he could make periodic inspections. Mr. Meadows stated it should be a County approved person.

Mr. Lofdahl presented a letter from Mr. Al Linder to Mr. Stannard regarding the incidents of BLEVES (Building Liquid Expanding Vapor Expansion) across the United States since December 31, 1980, a copy of which is attached to and made a part of the minutes.

On motion made by Mr. Tufts and seconded by Mr. Meadows, in application No. 50651, it was moved to defer action to next month.

The motion carried unanimously.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 5:45 P.M.

Margaret Mailler, Chairman

John Meadows, Secretary

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

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