

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

May 2, 2002

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, May 2, 2002, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Secretary; Mr. James Van Luven; Mr. Eugene Lofdahl; Mr. Maximilian A. Tufts, Jr.; and Ms. Sonja R. Addison. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator, Ms. Holly Meade, Zoning Planner and Nancy Albert, Office Associate III

MINUTES: On motion made by Mr. Meadows and seconded by Mr. Tufts, the April minutes were approved as submitted. Motion carried unanimously.

INTRODUCTION: Mrs. Bowen introduced Nancy Albert as the new Office Associate

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. Mr. Barr asked Ms. Albert to read the Public Hearing Protocol.

SPECIAL PERMIT #49043 SMITH CATTLEGUARD (OWNER) & JOHN CASSELL/FIELDING KINES (APPLICANTS)

Applicants are requesting special permit approval to locate a mulching operation. This operation will include the production as well as wholesale and retail sale of the product. The property is zoned I-2 and is located on Route 28 in Midland, Virginia, Cedar Run District.

Mr. Hodge stated that a letter, dated April 28, 2002, had been received from Mr. John Cassell requesting the application be withdrawn.

On motion made by Mr. Meadows and seconded by Mr. Tufts, it was moved to accept the withdrawal of the Smith Cattleguard and John Cassell/Fielding Kines special permit application. Motion carried unanimously.

SPECIAL PERMIT #49179 JOHN J. HEARSEY, JR. & VIRGINIA SUE BROMLEY (OWNERS)

Applicants are requesting renewal of a special permit to locate a gunsmithing operation from their home. The property is zoned R-2 and is located at 7449 Foxview Drive, Warrenton, Virginia, Marshall District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report a copy of which is attached to and made a part of the minutes.

Mr. Hodge reported a previous special permit was issued on May 3, 2001 and was for a one (1) year term. To date, the zoning office has received no complaints.

Mr. Hearsey appeared at the meeting representing his special permit renewal and asked that the permit be approved with no time limitation.

Mr. Lofdahl asked Mr. Hearsey if he had any complaints and he replied that he had not.

Mr. Van Luven asked if it was routine to place a time limit on a special permit and Mr. Hodge replied that the BZA had been placing an initial one year limit on gunsmithing special permits and the applicant could apply for renewal.

Mr. Hearsey reported he had six transactions in the past year with only one person coming to the property.

Mr. Barr asked Board members to review pages 6 and 7 of the May 3, 2001 minutes on Mr. Hearsey's application and asked if there were any other questions.

No one else spoke in favor or against the application.

On motion made by Mrs. Mailer and seconded by Mr. Meadows, in application No. 49179, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by 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 that apply to the use in question.

6-302 Permitted Home Occupations

Home occupations include the following uses and those uses determined by the Zoning Administrator to be sufficiently similar thereto in terms of type, scale and impact:

14. Gunsmithing with an inventory for retail sales of not more than ten (10) guns at any one time, none of which can be fully automatic, with no on-site signage or advertising and with special permit approval.
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) no weapons shall be fired on subject property.
 - (b) the special permit does not convey with the sale of the property.

The motion carried unanimously.

VARIANCE #49234 ERIC JOHNSON (OWNER) & RICHARD ROBISON, AIA (AGENT)

Applicant is requesting a variance for a two story addition which will be 14' from the property line wherein the Zoning Ordinance requires 25'. A variance of 11' is requested. The property is zoned RA and RC and is located at Beverly's Mill Road, Warrenton, Virginia, Scott District.

Mr. Hodge stated that a site visit was made that morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Hodge stated that the property was non-conforming in size and shape, the drainfield is located in the front of the existing structure and the house was constructed in 1957 prior to current zoning requirements.

Mr. Barr asked if anyone would like to speak.

Mr. Richard Robison spoke that Mr. Hodge was accurate. He requested that the variance be granted for his client.

Mr. Meadows stated the proposed addition is 2.8 feet farther from the side property line than the current structure, which Mr. Robison confirmed.

On motion made by Mr. VanLuven and seconded by Mrs. Mailler it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia Section 15.2-2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the exceptional narrowness of the property.
3. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property.
4. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property is:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance.
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
9. The minimum variance that is necessary to afford relief is 11'.

The motion carried unanimously.

VARIANCE #49236 ELIZABETH OLIVER (OWNER) & SHENANDOAH TELEPHONE COMPANY (CONTRACT OWNER)

Applicant is requesting a variance of two front yard requirements to locate a 12' x 16' pre-fabricated shelter for a by-right telecommunication shelter. The structure will be located 48' from James Madison Highway (Route 17) wherein the Zoning Ordinance requires 105'; therefore a variance of 57' from Route 17 is requested. The structure will be located 31' from Cannonball Gate Road (Route 690) wherein the Zoning Ordinance requires 75'; therefore a variance of 44' is requested. The property is zoned RA and located on the southwest side of Route 17 near Bethel, Warrenton, Virginia, Scott District.

Mr. Hodge stated that a site visit was made this morning. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Barr asked is anyone would like to speak.

Mr. Brian Tew, representative of Shenandoah Telephone Company, stated that the unmanned building would be 12' x 16'. The parking area would be 13' x 32' in size. He further stated that there would be a six foot fence around the structure, all wiring would be underground, and that the existing abandoned house would be torn down.

Mr. Meadows asked if they were going to place vegetation screening on the Route 17 side of the property.

Mr. Tew said the existing vegetation would not be removed.

Ms. Addison asked about the well and if it would be left "as is" and she felt that it may pose a danger.

Mr. Tew said the well is not a danger in that it is capped.

Mr. Meadows asked if the well was a Health Department concern, and shouldn't it be within the fenced area?

Mr. Siebert, representative of Shenandoah Telephone Company, said the well would be in the fenced area.

Mr. Barr asked about the height of the fence.

Mr. Robison, Architect, spoke and suggested the underground water line be tapped within three feet of the well.

Mr. Meadows said the well could have a plate welded over the casing and that the applicant should protect the public where the well is concerned.

Mr. Barr asked if they outside their authority by dealing with the issue of the well.

Mr. McCulla reminded the Board that the primary reason for the variance is the location of the proposed structure, and that the Board would be justified in placing the condition of capping the well because the impact of the new structure on the property.

No one else spoke in favor or against the application.

On motion made by Mr. Lofdahl and seconded by Mr. Tufts, in application No. 49236, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by Code of Virginia 15.2-2204:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because: narrow width and long side setback requirement.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance;
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property.
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of variance.

9. The minimum variance that is necessary to afford relief is 57' from center line of south bound lane of Route 17 and 44' from center line Route 690.

10. Additional conditions include:

(a) extend the fence to include the well

(b) cap the well casing so as not to permit contamination of the water table.

The motion carried unanimously.

SPECIAL PERMIT #49237 CATLETT-CALVERTON RURITAN CLUB, INC (OWNER)

Applicant is requesting special permit approval to locate a meeting hall for their civic club and an identification sign. The property is zoned RA and located on Catlett Road (Route 28), Catlett, Virginia, Cedar Run District.

Mr. Hodge reviewed the staff report which included the conditions attached when the special permit originally was approved on August 3, 2000.

Mr. Barr asked if anyone would like to speak.

Mr. Ed Gulick, representing the Catlett-Calverton Ruritan Club, Inc., stated they had not been idle for the last 14 months, they have received Health Department approval and been awaiting Virginia Department of Transportation comments on the possible widening of Route 28.

Mr. Van Luven asked if the club had considered VDOT requirements.

Mr. Gulick said yes as now planned, VDOT would take a maximum of 80 feet along the front of the property line.

Mr. Lofdahl asked if VDOT 's widening of Route 28 or the Ruritan Club's deceleration lane would come first.

Mr. Gulick said the Ruritan Club would have a temporary entrance.

Mr. Van Luven asked about the size of the building.

Mr. Gulick said it would not be larger than 5000 square feet, but the design is not complete.

Mr. Meadows noted there was a letter of opposition, a copy of which is attached to and made a part of these minutes.

Mr. Lofdahl asked if the sign was going to be a freestanding or attached to the building.

Mr. Gulick said it would be a freestanding sign with no lighting.

No one else spoke in favor or against the application.

On motion made by Mr. Van Luven and seconded by Mr. Lofdahl, in application No. 49237, it was moved to approve the special permit based on the Board's findings, after due notice and hearing, as provided by 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 that 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 as required
- b. approval from the Virginia Department of Transportation
- c. approval from the Fauquier County Health Department
- d. the special permit does not convey with the sale of the property
- e. an identification sign of up to 32 square feet shall be allowed
- f. the meeting hall shall not exceed 5,000 square feet

The motion carried unanimously.

MEETING DATE CHANGE Mrs. Bowen asked the BZA to change the July meeting from the 4th to the 11th.

Mr. Meadows made a motion to move the July meeting to the 11th, and Mr. Tufts seconded the motion.

The motion carried unanimously.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 2:50 P.M.

William W. Barr, Chairman

Margaret Mailler, 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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