

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

August 1, 2002

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, August 1, 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; Mr. James Van Luven; Mr. Eugene Lofdahl; Mr. Maximilian A. Tufts, Jr. Also present were Mrs. Tracy Gallehr, Assistant County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator, Ms. Holly Meade, Zoning Planner and Ms. Nancy Albert, Office Associate III.

**MINUTES:** On motion made by Mr. Meadows and seconded by Mr. Tufts, the July 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. Mr. Barr asked Ms. Albert to read the Public Hearing Protocol and it was read.

**SPECIAL PERMIT #49451 HEIDI DECONDE (OWNER) & TONY HORKAN  
(CONTRACT OWNER)**

Applicant is requesting special permit approval to amend the conditions of a special permit issued October 3, 1991 for an indoor technical school (martial arts studio). The property is zoned Village Commercial and is located at 9151 John S. Mosby Highway, Marshall Magisterial District, Upperville, Virginia. The public hearing for the special permit had been closed at the last meeting.

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

Mr. Tony Horkan appeared at the meeting representing his special permit. He stated that the staff report given by Mr. Hodge was correct.

Mr. Meadows stated that the parking agreement with Upperville United Methodist Church is with Mr. Horkan, not the business and Mr. Horkan said that was correct.

Mr. Meadows stated the property line runs along the side of the building. The state easement comes within a couple of feet. Mr. Meadows asked if there would be enough room for the HVAC unit.

Mr. Horkan stated he thought there was five to six feet along Route 712 and that there would be enough room for the HVAC unit for the second floor. The first floor is air-conditioned.

Mr. Meadows stated that there is more than a couple of feet along the side of the building. He stated his basic concern was traffic being able to park. Mr. Meadows referenced that in September, 1993 Mr. Horkan requested that the special permit be amended not to include the “no parking” signs on Route 712 in that Mr. Horkan had stated he had no control over the parking. Mr. Meadows asked if Mr. Horkan did not have control in 1993 over the parking how would he have control now.

Mr. Horkan stated that in 1993 he was having trouble with the owner. The “no parking” signs were in place, however the owner removed them. The signs have been put back up and they are effective. The students receive a parking notice when they enroll telling them that approved parking is at the church.

Mr. Lofdahl asked if he wished to have classes between 4:00 pm – 8:00 pm, and how long is each class.

Mr. Horkan stated that a regular class is 1 hour, junior class is 45 minutes and a class for 4 – 6 year olds is 30 minutes. There will be a 30 minute break between the classes and a mixture of the type of classes.

Mr. Lofdahl asked if there would be classes on Saturdays, Mr. Horkan said yes.

Mr. Lofdahl asked how long Mr. Horkan had operated the school and he replied 11 years.

Mr. Lofdahl asked if there had been any accidents and Mr. Horkan said no.

Mr. Barr stated that a letter had been received from David & Jill Bryan in opposition.

Mr. Horkan responded to the letter by stating that he too is concerned about the safety of the students.

Mr. Meadows suggested there be a “site plan” of the property given to the students with a “no trespass” statement.

Mrs. Gallehr stated that would be acceptable. She commented it should be presented to the Zoning Administrator within 30 days for approval.

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 49451, it was moved to amend 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.

**5-501                    Standards for All Category 5 Uses**

All off-street parking and loading areas, swimming pools and tennis courts and similar facilities shall be effectively screened and shall not be located in any required yard in all Residential and Rural District.

**5-502                    Additional Standards for All Category 5 Uses Other than Pre-School/Day Care Center/Nursery School**

1. No structure used for or in conjunction with the use shall be located within 100 feet of any adjoining property which is in a Residential or Rural District.
2. The site shall have minimum road frontage, as required for the site's zoning district, on a road designated as a major collector in the Comprehensive Plan, unless the Board of Supervisors or the Board of Zoning Appeals find 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. All off-street parking and loading spaces, swimming pools and tennis courts and similar facilities shall be effectively screened and shall not be located in any required yard in all Residential and Rural Districts.

**5-504                    Additional Standards for Primary School, Secondary/Advanced Schools and Technical Schools (Indoor)**

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:
  - A. 200 square feet of usable outdoor recreation area shall be provided for each child in grades kindergarten through three (3) that may use the space at any one time, and
  - B. 430 square feet of usable outdoor recreation area shall be provided for each child in grades four (4) through twelve (12) that may use the space at any one time. Such usable outdoor

recreation shall be delineated on a plat submitted at the time the application is filed. For the purpose of this provision, usable outdoor recreation area shall be limited in the same manner as paragraph 503.1.

2. All outdoor recreation areas shall be fully fenced.
3. The following standards shall apply to primary and secondary/advanced schools in residential zoning districts:
  - A. Minimum lot size shall be 5 acres.
  - B. The maximum number of students should not exceed 300.
  - C. All exterior lighting shall be designed and installed so that all direct rays are confined to the site and adjacent properties are protected from glare.
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 more than three classes may be held between the hours of 4:00 pm – 8:00 pm, Monday through Friday, with at least thirty minutes scheduled between each class.
  - (b) No more than one class may be held on Tuesday and Thursday mornings between the hours of 9:00 am – 12 noon.
  - (c) No more than three classes may be held on Saturdays between the hours of 9:00 am - 12 noon with at least thirty minutes scheduled between classes.
  - (d) No more than twenty people may use the first floor facilities when a class is in session.
  - (e) Applicant is required to have a valid contract with the Upperville United Methodist Church for the use of their parking lot for a minimum of 15 spaces available at all times, except Sundays, for the entire term of this special permit. Applicant shall file evidence with the Zoning Administrator on an annual basis that the parking agreement with the Upperville United Methodist Church is still in effect.
  - (f) The special permit is issued for one year.
  - (g) Site plan agreement and notice for students, which has been approved by the Zoning Administrator is required.

- (h) The second floor shall be air conditioned by April 1, 2003.
- (i) The special permit does not convey with the sale of the property.
- (j) The property owner and applicant, if different, are responsible for “No Parking” signs being maintained on the building frontage along Route 712 (Delaplane Grade Road). Said signs are to remain on site and in view at all times.

The motion carried unanimously.

### **HEARING ON APPEAL – ROY L. & LOU ANNE BOATWRIGHT**

Mr. Boatwright filed an appeal to a decision made by the Zoning Administrator requesting the Board of Zoning Appeals revoke special permit #44505 issued to them for the operation of a bulk mulch, storage and wholesale business and the location of a truck and heavy equipment sales, rental and service business on property located at 5391 Telephone Road, New Baltimore, Scott District.

Mrs. Bowen stated that a site visit was made this morning. She read a letter dated July 1, 2002 requesting the Board of Zoning Appeals revoke special permit #44505 issued to Roy L & Lou Anne Boatwright and Henry Merckli on September 2, 1999. Mrs. Bowen presented an affidavit stating the reasons for revocation.

Mr. Barr asked Mrs. Bowen if Mr. Boatwright had received a copy of the affidavit and attachments.

Mrs. Bowen stated Mr. Boatwright and his attorney had received a copy yesterday.

Mr. Leo Scolforo, attorney for Mr. Boatwright, said the basic problem was that Mr. Boatwright did not understand what he needed to do to be in compliance.

Mr. Scolforo presented a booklet to the Board of Zoning Appeals and reviewed each section, a copy of which is attached and made a part of the minutes.

Mrs. Bowen stated the site plan was conditionally approved but never bonded and that Mr. Boatwright had not obtained approvals necessary to obtain the required zoning permit. She further stated that screening on the property was installed approximately ten days ago.

She stated that he has had three years to become in compliance and as of today he is still not in compliance and that she thought the Board of Zoning Appeals should revoke Special Permit #44505.

Mrs. Bowen stated that she does not understand how Mr. Boatwright did not know what to do to be in compliance as he had an attorney and a landscape architect working for him, and had met with her on a number of occasions.

Mr. Meadows asked if Mr. Boatwright could speak, since Mr. Scolforo was representing him.

Mrs. Gallehr said he could speak if the time was granted to him.

Mr. Boatwright said his attorney and engineer did work for him. He thought he had site plan approval and did not know until yesterday he needed a zoning permit. He stated he is not defying the ordinance and is trying to be in compliance.

Mrs. Bowen reiterated that her office has tried on several occasions to help Mr. Boatwright. He has been sent correspondence that he is in violation, and that Mr. Boatwright has never followed through with the conditions of the site plan.

Mr. Meadows stated what is before us today is the facts of whether or not he did what he was suppose to do to be in compliance.

In the matter of the hearing to consider revocation of special permit #44505, Mr. VanLuven moved to revoke the special permit and seconded by Mr. Meadows, in accordance with Section 5-015 and Section 5-015.2 of the Fauquier County Code, based upon the staff report, correspondence received from affected property owners found in the record and the Board's findings:

1. The use has been shown to have an adverse affect on the use or development of neighboring properties.
2. The use is not in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does not 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 is not compatible with the neighborhood in which it is located.
4. The use has not complied with the special permit and Ordinances which apply to the use in question, namely:

The failure of the owners and operator to observe all requirements of the conditions in connection with the special permit.

The failure of the owners and operator to observe all requirements of the Fauquier County Zoning Ordinance applicable to the uses in question.

The failure of the owners and operator to obtain final site plan approval and zoning permits for the uses in question.

5. The appellant has other reasonable use.

The motion carried unanimously.

**SPECIAL PERMIT #49839 LIONEL & ANNA M. COLLINS (OWNERS)**

Applicants are requesting a special permit to locate a small contracting business (landscaping) on the site. The subject property is identified as PIN #7815-81-1279, containing approximately 5.68 acres, located at 13740 Ash Lane, Lee Magisterial District, Sumerduck, Virginia.

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.

Lionel Collins appeared at the meeting representing his special permit. He stated the staff report given by Mr. Hodge was correct.

Mr. Barr asked if there would be a separate building for the business and Mr. Collins stated no, there would be equipment at the site for repair.

Mr. Meadows stated there were junk vehicles with logs and asked if these belonged to Mr. Collins and he replied that they belonged to his brother and would be moved.

Mr. Meadows asked if there were three houses on the lane.

Mr. Collins said there were six.

No one else spoke in favor or against the application.

On a motion made by Mr. Lofdahl and seconded by Mr. Meadows, in application No.49839, 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 which apply to the use in question.

**5-203 Additional Standards for Small Contracting Business**

1. The minimum lot size requirement shall be five (5) acres.
2. Not more than five (5) persons shall be engaged in the on-site operation of the business.
3. Not more than five (5) vehicles in excess of ¾ ton and/or pieces of equipment shall be operated from the site or stored there overnight.
4. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the BZA finds that the type and amount of traffic generated by the particular use is such that it will not cause an undue impact on the neighbors or adversely effect safety of road usage.
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)

The motion carried unanimously.

**VARIANCE #49870 MICHAEL R. & RACHEL M. PIERCE (OWNERS)**

Applicants are requesting a variance to a front yard setback requirement for a deck and aboveground pool. The deck and pool will be 39' 10.8" from the centerline of Mosby Drive, wherein the Zoning Ordinance requires 50'. The subject property is identified as PIN #6995-02-9814, containing approximately 0.231 acres, located at 7267 Chestnut Court, Center Magisterial District, Warrenton, Virginia.

Mr. Hodge stated 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.

Michael Pierce appeared at the meeting representing his variance. He stated the staff report given by Mr. Hodge was correct. Mr. Pierce said he felt the addition of the deck and pool would add to property values. He further stated that he would install a fence around the back of the property so that the only view of the pool would be from the second story of their homes.

Mr. Lofdahl asked Mr. Pierce if he was aware of a letter from Maggie Clare opposing the addition, he replied no and was given a copy of the letter.

Mrs. Rachel Pierce responded to the letter stating pools are allowed under their covenants and a fence will be installed regardless of whether or not the variance is granted. She stated she wanted the fence for protection for her young daughter.

Mr. Meadows asked the allowed height of a fence and Mrs. Bowen replied five feet in a front yard.

Mrs. Pierce stated they planted trees that will grow to shield the deck.

Mr. Meadows asked if the variance of 10 feet 1.2 inches was accurate.

Mrs. Bowen stated according to the house location survey that it was correct.

Mr. Lofdahl asked if the current deck was built when the house was built and Mr. Pierce stated no.

Mr. Meadows stated the current deck did not seem to be in compliance with the measurement taken at the site visit. He suggested Mr. and Mrs. Pierce amend their variance request to include the existing deck constructed before they purchased the property to correct the setback.

Mrs. Bowen stated Mr. and Mrs. Pierce could amend their variance to include the current deck and the Board of Zoning Appeals could act on it at the next meeting.

No one else spoke in favor or against the application.

On a motion made by Mr. Lofdahl and seconded by Mr. Tufts the application was deferred until September 5, 2002.

The motion carried unanimously.

**SPECIAL PERMIT #49890 DESYD LC (OWNER) & NICHOLAS SWEENEY (LESSEE)**

Applicants are requesting a special permit to locate an indoor technical school (cheerleading/tumbling training center) on the site. The subject property is identified as PIN#6983-88-6090, containing approximately 2.097 acres, located on Old Meetze Road, Cedar Run Magisterial District, Warrenton, Virginia.

Mr. Hodge stated 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.

Nicholas Sweeney appeared at the meeting representing his special permit. He stated the staff report given by Mr. Hodge was correct.

Mr. Lofdahl asked if the school would use the entire building and Mr. Sweeney stated the school would take approximately 4800 square feet of the building.

John Kehoe, an adjoining property owner, said the application was unclear as to the hours of operation. He was concerned about the noise level in the metal structure, proposed drainfield, limited parking and the additional traffic on Old Meetze Road.

Mr. Meadows asked the distance from Mr. Kehoe's property to the site, and Mr. Kehoe said approximately 50 yards.

Larry Reister stated he was concerned about the safety issue and that Old Meetze Road is a narrow road.

Mr. Lofdahl asked if traffic comes onto the trail, and Mr. Reister stated that it did.

Russ Tantillo stated the noise from the technical school would be that of a home stereo, and that the proposed hours of operation are three nights a week 4:00 pm – 9:00pm. He further stated there are approximately thirty girls per squad.

Mr. Sweeney said he has two schools in Maryland that have twelve girls in a class and there are two classes at a time. At this facility he does not have a problem with the parking or traffic.

Teresa Foster stated the hours of operation might include a Saturday afternoon. She said the lease they currently have will expire in September.

Discussion occurred that the details of the proposed indoor technical school should be provided from the applicant and Mrs. Bowen stated that she would like to meet with the principals involved to obtain additional information to assist the BZA in making a decision.

On motion made by Mr. VanLuven and seconded by Mr. Lofdahl the application was deferred until September 5, 2002.

The motion carried unanimously.

**SPECIAL PERMIT #49892 ROY & LOU ANNE BOATWRIGHT (OWNERS) & HENRY MERKLI (APPLICANT)**

Applicants are requesting two special permit approvals for a general industrial use for bulk mulch, storage and wholesale and the continuation of a truck and heavy equipment sales, rental and service on property located at 5391 Telephone Road, Scott Magisterial District, Warrenton, Virginia.

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

She stated that staff was recommending denial of the special permit for the bulk mulch, storage and wholesale business and approval for ninety days for the trucking business and that that

approval be conditioned that the property be in total conformance within ninety days. At the end of that time, Mr. and Mrs. Boatwright could apply for approval again.

Mr. Meadows asked if the site plan approval could be done within ninety days.

Mr. Leo Scolforo, attorney for Mr. and Mrs. Boatwright and Mr. Merckli, stated his client did not understand he did not have site plan approval. He presented the BZA with a handbook containing information about the use, a copy of which is attached to and made a part of these minutes.

Roy Boatwright stated he would use experts (attorney and engineer) to help him obtain a site plan approval.

Mr. Meadows asked how the mulch use fits the neighborhood?

Mr. Boatwright said it is agriculture storage.

Henry Merckli stated he lived in Prince William County but had his business in Fauquier County, and stated he has completed his site work for the mulch operation. He told the BZA he opened his business in 2001 and it would be a hardship not to be able to continue his business, because without the business income he would not be able to meet his financial obligations.

Mr. Meadows asked how many parts trucks were on the on site, and Holly Meade stated the proposed site plan shows sixteen parking spaces, plus one for an employee. Mr. Meadows stated that he had counted more than fifty trucks on the site during the site visit.

Mr. Meadows referred to the attachments provided with the staff report and asked if Attachment C voids Attachment A and was told by Mrs. Bowen yes.

Mrs. Gallehr stated there could be new conditions on the special permit approval.

Mr. Meadows stated that on the on the site visit he observed piles of wood chips on the adjacent property.

Mr. Boatwright indicated the previous property owner left a grinder on the parcel. He stated they have done a lot of cleanup, including taking the floor out of the sawmill. Mr. Boatwright said the grinder is currently inoperable and waiting for repair.

Colin Cantrell stated that the mulch operation does fit into the community. He stated that near New Baltimore on Route 29 there is a nursery with mulch for sale. He said Mr. Merckli is a good man with the knowledge to run the mulch operation.

Mr. Meadows asked Mr. Cantrell if he was an employee and he said no, that he was a welder.

Doug Gorham stated he was a retired secret service agent. He said Mr. Boatwright had good

intentions, but he needed more time. He stated the operation serves both the agricultural and business community, and that he needs to be shown some compassion and given a chance.

Steve Merckli stated he is the son of Mr. Merckli and will help him to be in compliance. He stated the noise level is ninety seven decibels for the loader so noise wasn't a problem and stated that he was taking his test for erosion and sediment control in November. He said there was no silt coming off the site and the business is a good fit with the neighborhood. He said most of their customers are from Snow Hill subdivision.

Mr. Meadows asked if most (51% or more) of the customers live in Snow Hill subdivision?

Mr. Merckli said a lot of the customers are from Snow Hill but not 51% or more.

Steve Duncan stated he purchased a truck from Mr. Boatwright, and that he runs a good business. He feels if the Board of Zoning Appeals would allow Mr. Boatwright more time he would become compliant.

Ms Leslie Wise, president of the Snow Hill Homeowners Association, stated the business has not observed the overall site plan., and that the trees were planted only in the last three weeks. She further stated that the previous track record of the business indicates future danger for run off from the site. She stated she felt Mr. Boatwright has ignored the guidelines and taken advantage of the situation. She said that based on concerns expressed in letters to the Zoning Office the homeowners requested denial of this special permit application.

Mr. Peter Jackson, an adjoining property owner in Snow Hill, said he represented twenty five other neighbors who were opposed to the special permits.

Mr. Jackson presented a petition to the Board of Zoning Appeals requesting denial of the application, the petition is attached and made part of the minutes. He stated that the property owner had not installed the required drainfield and septic tank for the sanitary facilities. He stated his concerns with a fire that occurred at the mulch operation and he felt that the site for four years had been a continual violation, and requested the special permit applications be denied.

Mrs. Bowen said this is not a popularity contest but a land use decision. She further stated that the zoning office has received several anonymous phone calls against the application. The property is zoned I-2 but it is up to the Board of Zoning Appeals to determine if the special permit uses meet the standards for this particular site which is a heavier industry.

Mr. Meadows stated the Circuit Court Judge appoints the Board of Zoning Appeals and has to abide by the zoning laws of Fauquier County, and the State of Virginia.

Mr. Boatwright said he did not think this was politically driven, and that he is learning everyday. He also stated that he knew Mrs. Bowen was doing her job.

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 special permit #49892, Roy L. and Lou Anne Boatwright, seconded by Mr. VanLuven. Motion carried.

The BZA held a Closed Meeting.

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. VanLuven.

AYES: Mr. Barr, Mr. Meadows, Mr. VanLuven, Mr. Lofdahl and Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: Mrs. Mailler and Ms. Addison

On motion made by Mr. VanLuven and seconded by Mr. Lofdahl, in application No. 49892, it was moved to grant the special permit for truck and heavy equipment sales, after due notice and hearing, as required by Code of Virginia § 15.2-2204 and § 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.
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. 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:

- a. The term of this special permit shall be for 90 days.
- b. The total number of tagable vehicles, including those used for parts allowed is 50, exclusive of his employee.
- c. Site plan approval required during the ninety days.
- d. The hours of operation are Monday – Saturday, 7:30 am – 8:00 pm, except for emergencies.
- e. The special permit does not convey with sale of property.
- f. All proposed trees required shall be a minimum of 6 feet in height and planted as required by the Zoning Ordinance.
- g. Lighting and sign will be in accordance with the Fauquier County Zoning Ordinance.

The motion carried unanimously.

On motion made by Mr. Meadows and seconded by Mr. VanLuven, in application No. 49892, it was moved to deny the special permit for bulk mulch and topsoil storage and wholesale sales, after due notice and hearing, as required by Code of Virginia Section 15.2-2204 and Section 5-009 of the Fauquier County Zoning Ordinance, based upon the Board's findings:

1. The proposed use will adversely affect the use or development of neighboring properties. It is not in accordance with the applicable zoning district regulations and the applicable provisions of the adopted Comprehensive Plan.
2. The proposed use is such that vehicular traffic generated will be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site, specifically the dust blowing across the highway.
3. The proposed use is such that air quality, surface and groundwater quality and quantity, will be degraded to an extent that would hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The use will not be compatible with the neighborhood in which it is to be located.
5. The owners have other reasonable use of their property.

**SPECIAL PERMIT #49733 L. RUTH BOWER (OWNER) & MICHAEL C. & CINDY LEE BOWER (APPLICANTS)**

Mrs. Bowen read a letter from Michael Bower dated July 24, 2002, a copy of which is attached to and made a part of these minutes.

The applicants requested the BZA to consider amending and clarifying the following several conditions from the special permit approved from last month:

Applicants requested the Board of Zoning Appeals consider amending condition 2 (b) from "Sunday 4pm – 6pm (pickup only)" to "Sunday 4pm – 6 pm". The Applicants would like the ability to have customers drop off dogs in addition to pickup at their kennel to be located on Route 603, Greenwich Road.

Condition #3 be amended to read "attendee present during hours that animals are outside the enclosed facility or in outside exercise runs".

Condition #4 be amended to read that "animals are allowed in outside exercise runs between the hours of 7:00 am – 8:00 pm".

On motion made by Mr. Meadows and seconded by Mr. Tufts, in application No. 49733, it was moved to amend the special permit conditions 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:

2. (b) the hours of operation for Sunday are 4pm – 6pm.
3. attendee present during hours that animals are outside the enclosed facility or in outside exercise runs.
4. animals are allowed in outside exercise runs between the hours of 7:00 am – 8:00 pm.

**BZA TRAINING:** Mrs. Bowen stated that a training session with the County Attorney's Office is scheduled for September 19, 2002, 11:00 am – 2 pm. A memo requesting topics to be discussed was given to the BZA members.

**ADJOURNMENT:** There being no further business before the Board, the meeting adjourned at 6:10 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.  
C:\bza files\2002 minutes\08-01-02.doc

