

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
November 7, 2002**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, November 7, 2002, beginning at 2:00 P.M. on the 4th Floor of the Fauquier County Court & Office Building, 40 Culpeper Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Mr. James Van Luven; Mr. Eugene Lofdahl and 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. Tufts and seconded by Mr. Meadows, the September 19th training session minutes were approved as submitted, the motion carried unanimously. On motion made by Mr. Lofdahl and seconded by Mr. VanLuven, the October 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 #50461 KIRK M. LUCAS & KRISTEN M. TSCHETTER (OWNERS)
Applicants are requesting a special permit to locate a golf practice facility on the site. The subject property is identified as PIN #6985-98-2842, containing approximately 70.064 acres, located on Blackwell Road, Scott Magisterial District, Warrenton, Virginia.

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

Mr. Steve Athey appeared at the meeting representing the applicant's special permit. He stated that the staff report given by Mr. Hodge was correct.

Mr. Athey stated that Mr. Lucas teaches by appointment only basis and that Ms. Tschetter will only use the facility for practice. Mr. Lucas will do about ten lessons per day. He further indicated that their dwelling will be built overlooking the pond and approximately as shown on the plat submitted.

Mr. Lofdahl asked what percentage of time Mr. Lucas will be teaching.

Mr. Athey said 3 – 4 months out of the year Mr. Lucas will be teaching in Warrenton. Mr. Lucas and Ms. Tschetter go elsewhere in November and December to practice and teach.

Mr. Lofdahl asked how many students would there be for each lesson and Mr. Athey said one adult per lesson but he may do groups of children so he did not feel there would be a traffic impact.

Mr. Meadows asked if there would be 10 one hour lessons and how many days and Mr. Athey said Mr. Lucas works 7 days a week, in good weather.

Mr. Lofdahl stated it would be hard to practice in Virginia in January and February.

Mr. Athey stated that lessons are given at an inside Sterling practice facility. He also stated that there would be a net in the barn for winter practice.

Mr. Barr asked if anyone would like to speak.

Mr. Lawrence Jacobs, owner to the northeast of the property, said he was in favor of the facility but had concerns about issues toward the land and the environmental impact being made. One concern he stated was the mounds on the fence line that are offensive to him because of the size. He said the water flow has changed course since the mounds were placed. He said he maintained his property line and it is difficult to do with the mounds in place.

Mrs. Dawnita Calderone, neighbor on the corner, stated she is the next to the last house before the property. She stated her concern is about the volume of traffic that will be created by teaching 7 days a week. She asked if the BZA could regulate the number of students?

Mr. Meadows asked where her property was located and Mrs. Calderone stated her property is located at the intersection of Arlie and Blackwell Roads.

Mrs. Connie Woodward spoke and stated her property backed up to the Lucas-Tschetter property. She said she was happy that the Ordinance required a 100 foot setback for any structure and if there was to be any outside machinery she would like it screened.

Mr. Jeff Calderone asked if the entrance will be altered and if there would be construction toward the road.

Mr. Athey stated there would be plantings on the stone wall at the entrance but they did not plan any major changes at the entrance. He said that Mr. Lucas and Ms. Tschetter would still have a private practice facility. He stated the owners have spent a lot of money and the property looks much better. He indicated that there will only be their house on the 70 acres and that the barn under construction will house the equipment.

Mr. Meadows asked how far away Mr. Jacobs property was to Mr. Lucas' property and was told about seventy five yards or less.

Mr. Meadows and Mr. Lofdahl discussed the issue of the amount of noise and dust that would be generated by the proposed use.

Mr. Meadows stated there would be the same amount of noise even if the facility were for Mr. Lucas and Ms. Tschetter's private use.

Mr. Athey explained the equipment would be to cut the grass even for the private practice facility and would be housed in the barn.

Mrs. Mailler stated her concern was about the number of students, that 12 people every hour seven days a week would be a lot. She suggested no more than 12 students in a 24 hour period.

Mr. Athey said there would not be a problem with the limit of 12 people in a 24 hour period.

Mrs. Bowen stated the zoning of the property will not change, that this is a use permitted under the Zoning Ordinance with a special permit and site plan approval will be required.

No one else spoke in favor or against the application.

On motion made by Mr. Lofdahl and seconded by Mr. Meadows, in application No. 50461, 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.

5-917

Additional Standards for Golf Practice Facility in the Rural Agriculture Zone

1. The facility shall not be lighted.
2. In a Residential or Rural district, 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. All requirements of the Fauquier County Code, including this Ordinance, which pertain to limitations and prohibitions on noise in the

applicable zoning districts, shall be complied with by the holder of the special permit.

4. Any retail sales conducted on the property shall be accessory. There will be no retail sales.
 5. No structure shall be located closer than 100 feet to any lot line.
 6. The minimum lot size shall be twenty-five (25) acres.
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) Road will have dust suppressant materials placed on it.
 - (b) No more than 12 students in a 24 hour period.
 - (c) VDOT approved entrance, but not full commercial entrance.
 - (d) The BZA finds the road is adequate for the use intended, the amount of traffic generated by the facility will not cause an undue impact on the neighbors or adversely affect safety of road usage.

The motion carried unanimously.

SPECIAL PERMIT #50490 R. CARL FALLER (OWNER) & GREGORY M. YATES (CONTRACT OWNER)

Applicants are requesting a special permit to construct one garden apartment building consisting of 12 units on the parcel zoned C-1. The subject property is identified as PIN #6899-32-1202, containing approximately 1.00 acre, located at 11226 Remington Road, Lee Magisterial District, Bealeton, 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.

Mr. Ben Jones, attorney, appeared at the meeting representing the applicant. He stated that the applicant, Gregory Yates was the contract owner of the one acre parcel. He stated the staff report given by Mr. Hodge was correct. He further indicated that Mr. Yates owns the adjoining Torrie Station Apartments. Mr. Jones stated that the apartments house younger couples and about 20% elderly as tenants. He stated the current rent is \$750.00 a month including water and the apartments maintained a vacancy rate of only 5%.

He said he had reviewed the traffic analysis prepared by Mr. Hodge which indicated 7 trips per day. A number of other uses permitted on the property far exceeded that number. He said the

current building on the property will be demolished and screening and landscaping of the property will be in accord with the Zoning Ordinance. He indicated he felt the proposed apartments would be in harmony with the area, there was a need for moderate housing and these proposed apartments are the right thing in the right place at the right time.

Mr. Lofdahl asked if there would be an elevator and Mr. Jones stated no.

Mr. Tufts asked if the apartments will be 3 bedrooms and was told yes.

Mr. Meadows stated the Planning Commission had commented on this case, a copy of which is attached to and made part of the minutes.

Mr. Lofdahl asked if the current structure had any historical significance.

Mr. Meadows said it did not.

No one else spoke in favor or against the application.

On motion made by Mr. VanLuven and seconded by Mr. Meadows, in application No. 50490, 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. 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.
 - (b) The dumpster pad as shown on your application shall be screened from view of Schoolhouse Road and Remington Road.

VARIANCE #50492 WILLIAM C. & KATHRYN M. HARPER (OWNERS)

Applicant is requesting a variance of 20 feet from the centerline of Moss Lane for a detached carport already under construction. The subject property is identified as PIN #6995-61-5573, containing approximately 1.00 acre, located at 7283 Mill Run Drive, Scott Magisterial District, Warrenton, Virginia.

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

Mrs. Kathryn Harper appeared at the meeting representing her variance. She stated the staff report given by Mr. Hodge was correct. Mrs. Harper said the carport would house an old truck given to her son by her deceased husband. She did not check to see if she needed a permit, she was told by the builder she did not.

Mr. VanLuven asked if the structure could be moved to the right.

Mrs. Harper said no there are two septic tanks and a drainfield in that area.

Mr. Meadows stated it sadden him that a professional would tell her she did not need a permit.

Mrs. Bowen stated there are certain instances where a permit is not needed, however a structure always has to meet setback requirements.

No one else spoke in favor or against the application.

On motion made by Mr. Meadows and seconded by Mr. Lofdahl, in application No. 50492, it was moved to deny the variance based on the Board's findings, after due notice and hearing, as provided by the Code of Virginia Section 15.2-2204:

1. Strict application of the Ordinance would not effectively prohibit or unreasonably restrict use of the property;
2. The variance will not be in harmony with the intended spirit and purpose of the Ordinance, and would not result in substantial justice being done.
3. The strict application of the Ordinance will not produce undue hardship.
4. Such hardship is generally shared by other properties in the same zoning district and the same vicinity, and is of so general and reoccurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.

SPECIAL PERMIT #50495 DANA M. SHEVOCK & JOSEPH J. HORVATH (OWNERS)

Applicants are requesting a special permit to locate a bed and breakfast within their proposed single family dwelling. The subject property is identified as PIN #6956-19-5072, containing

approximately 74.214 acres, located on Wilson Road, Marshall Magisterial District, Marshall, Virginia.

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

Mr. Joseph Horvath appeared at the meeting representing his special permit. He stated the staff report given by Mrs. Bowen was correct. Mr. Horvath stated he is an employee of the Department of Defense and intends to move to the County. He said the proposed residence will be 10,000 square foot house in size containing 10 bedrooms – 4 being for personal use. He said that Philip Helm, a soil scientist, had found a 12 bedroom perc on the site to serve the new home.

Mr. Barr asked if anyone would like to speak.

Mr. Jim Carson with Carson Harris Associates stated the entrance will be VDOT approved and that the parking for the site is not visible to adjoining properties, the site is located on a major collector and he felt impact to surrounding properties will be minimal.

Mr. Meadows stated the elevation is 450' at the road and the house will be 700' to 750'.

Mr. Lofdahl asked if the barn had any historical significance.

Mr. Horvath stated no.

On motion made by Mr. Tufts and seconded by Mr. VanLuven, in application No. 50495, 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.

5-302

Additional Standards for Tourist Homes and Boarding Houses

1. Such a use shall provide accommodations for not more than twelve (12) persons.

2. Off-street parking for the use shall be in accordance with the provisions of Article 7, shall not be located in any required front yard, and shall be effectively screened.
3. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Supervisors or 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.
4. In Residential and Rural Zoning Districts, the Building(s) so used shall have the exterior appearance of a single family residence and normal residential accessory structures.
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) VDOT approved entrance, but not necessarily a commercial entrance.
 - (b) Site plan approval.
 - (c) Health department approval.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 3:30 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\11-07-02.doc