

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

February 1, 2001

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, February 1, 2001, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. William Barr, Vice-Chairman, Mrs. Peg Mailler, Mr. John Meadows, Mr. Eugene Lofdahl, Mr. James VanLuven and Mr. Maximilian A. Tufts, Jr. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Ms. Holly Meade, Planner; and Mrs. Beverly Pullen, Office Associate.

MINUTES

The minutes of the December 7, 2000 and the January 4, 2001 meeting were approved as distributed.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

NEW MEMBER

Mr. Rider welcomed Mr. Maximilian A. Tufts, Jr., as a new member from the Marshall District, appointed to the Board of Zoning Appeals for a five year term, beginning January 5, 2001.

SPECIAL PERMIT #46703 KENNETH E. PELTZER & ASSOCIATES (OWNER)

Applicant is requesting special permit approval to construct a place of worship. The property is identified as PIN #6993-09-3520-000, containing approximately 8.12 acres, zoned Village, and is located at the intersection of Meetze Road (State Route 643) and Wince Lane, Center District.

Mr. Fred Hodge reviewed the staff report and stated that a site visit was made earlier today.

Ms. Linda Martin was present on behalf of Mr. Ken Peltzer, owner of the property. She explained that Mr. Peltzer acquired the property due to the prior owner losing the property, and since the acquisition he has explored ways to market the property. She stated that the only interest in the property had been from a church, and the Pastor of the church is present today to explain their intentions. She further stated that she had tried to dissuade the Pastor from

proceeding due to previous opposition and denial of a previous request, but after hearing his plan, she felt that the use would be very neighborhood based and a good use of the property.

Pastor Dana Hayden was present in support of this request. He stated that his church, Cornerstone Baptist Church is interested in this property for the construction of their church. He explained that the church supports the community by helping local residents with their housing needs, and that they are committed to helping others.

Mr. Rider explained that financial reasons do not have a bearing on the use of this land. He referenced Pastor Hayden to the previous special permit denial for a church, but explained that each case is considered by its' own merit.

Ms. Martin spoke stating that previously a special permit had been approved for the location of a church, and that another special permit request had been denied.

Mr. Rider stated that the property was never developed by the previous approved special permit, and then homes were built, prior to the denial of the previous permit.

Mr. Barr explained to Pastor Hayden that letters of opposition to this permit had been received citing concerns with traffic, noise and activities that would be held by the church. He asked Pastor Hayden to describe the proposed weekly schedule of activities and how the traffic from his church would differ from the previously denied permit.

Pastor Hayden that the entrance to the property would be from Wince Lane and that there is a natural buffering of trees to the adjoining property owners. He stated that the back of the church would be toward the adjoining property owners, and that parking would be on the side of the property next to the Virginia Department of Transportation property, so as to alleviate noise and congestion. He stated that the proposed church building would seat about 300 people, but they only have a present congregation of about 120-130.

Mr. Rider stated that the proposed screening adjoining the residential area, is no different than that of the previous permit request.

Ms. Linda Martin stated that she understood the concerns with their request, but at the same time she thought the adjoining property owners may prefer this use over other by-right uses of the property.

Mr. Rider asked if anyone wished to speak regarding this request.

Ms. Susan Bersee, an adjoining property owner who resides at 7427 Wince Lane spoke in opposition to this request. She cited concerns with the negative impact a church would have on her enjoyment of her property, specifically with regard to traffic and safety.

Mrs. Sherrie Carter, an adjoining property owner who resides at 7421 Wince Lane spoke in opposition to this request. She expressed concerns with noise, traffic and safety, impact to

property values, screening, and lighting of the site. She also expressed concern with the size of the proposed church of 26,000 square feet is larger than the previously denied request.

Mr. Robert Tully, an adjoining property owner, who resides at 8186 Poplar Grove Drive presented the BZA with a petition signed by property owners of Poplar Grove opposing this request. He stated that he did not oppose the church, but did oppose the increased traffic that would be generated, as well as the safety on Meetze Road.

Mr. Greg Carter, an adjoining property owner, spoke on behalf of Ms. Ruth Robinson who is a tenant of Ms. Marlou T. Church that owns property at 6437 Wince Lane. He stated that Ms. Robinson and Ms. Church oppose this request. He read a letter from them citing concerns with the quiet enjoyment of their property, and the safety with regard to the children that live on the cul-de-sac.

Mr. Meadows stated that the proposed site plan appears to be incorrect with regard to the adjoining lots and stated his concerns with the drawing and the accuracy of the setbacks as shown.

Mrs. Bowen confirmed that the drawing of the adjoining property lines is incorrect.

Mr. Lofdahl stated his concerns with parking, if the drawing is incorrect.

Mr. Meadows also stated his concerns with the incorrect drawing, and if the setbacks are accurate.

Mr. Lofdahl stated that Lot 5, that is not drawn in on the plat, is the most affected by the proposed use. Mr. Lofdahl asked if the owners, Mr. and Mrs. White were present today.

Mr. and Mrs. White came forward and spoke in opposition to the request. They stated that their home would be about 25 feet from the proposed parking lot.

On the motion made by Mr. Van Luven and seconded by Mr. Barr, it was moved to deny Special after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will adversely effect the use or development of neighboring properties.
2. It 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 will not be compatible with the neighborhood in which it is to be located.

4. The application does not comply with the specific standards which apply to the use in question, namely Section 5-602 Additional Standards for Places of Worship.
5. The applicant has other reasonable use of his property.

The motion carried unanimously.

**SPECIAL PERMIT #46689 HUNTER F. AND JEANNETTE H. PAYNE (OWNERS)
AND GRACE INDEPENDENT BIBLE CHURCH (CONTRACT OWNERS)**

Applicant is requesting special permit approval to construct a place of worship on property identified as PIN #6969-14-5354-000 containing 14.315 acres. A portion of the adjoining property identified as PIN #6969-14-9214-000, containing 7.805 acres, includes a 100' ingress/egress easement for the proposed place of worship. The subject properties are zoned Rural Agricultural, and are located on Free State Road (State Route 721), Marshall District.

Mr. Hodge reviewed the staff report and stated that a site visit was made earlier in the day. He further stated that comments have been received from Virginia Department of Transportation and Fauquier County Health Department and are attachments to the staff report. Mr. Hodge stated that he had spoken with Chuck Freer and Mr. Freer had stated that the proposed church would not have a formal/full kitchen, as the large church dinners have been held in the past at other locations. Mr. Freer explained to Mr. Hodge that they will have a small "warming" kitchen to re-heat dishes only for small gatherings.

Mr. Jim Carson of Carson, Harris & Associates was present to answer any questions regarding the proposed site plan. He further stated that Pastor Chris Robinson was present to also answer questions regarding the application.

Mr. Rider asked Mr. Carson if the existing entrance would be used as access by the proposed church.

Mr. Carson stated that it would, however Virginia Department of Transportation would require a commercial entrance.

Pastor Chris Robinson spoke regarding this request. He stated that the church was founded in 1992 and has been meeting at the Marshall Community Center for their services. He explained that they were looking for property for the church and Mr. and Mrs. Payne had approached him regarding their property. He stated that the property is a good fit for their church, in that there is good access to Interstate 66, Routes 17 and 55. He stated that he felt the acreage is sufficient for present needs as well as future growth. He explained that the property has a natural tree line bordering the property to aide in buffering to adjoining properties.

Mr. Rider asked Pastor Robinson if the church would be purchasing the 14.3 acre parcel, and Pastor Robinson stated that they would purchase the 14.3 acres, as well as the required easement to access the property.

Mr. Meadows asked Pastor Robinson for the height of the proposed church, as well as the steeple.

Pastor Robinson stated that the height is proposed to be 37' feet for the church and 76' feet for the steeple.

Mrs. Bowen stated that there is a thirty-five (35) foot height limitation in the Rural Agriculture Zoning District as stated in the Fauquier County Zoning Ordinance.

Mr. McCulla stated that steeples are exempt from the height limitation, however the Board of Zoning Appeals has the authority to place a condition or limitation on the special permit if they feel the height is visually impactful.

Mrs. Bowen stated that height is measured from the vertical distance between the grade and the highest point of the roof for flat roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs. She further explained that the measurement must be taken from the lowest point of the grade. She explained that to exceed the height limitation, a special permit is required from the Board of Zoning Appeals.

Mr. Rider asked if anyone wished to speak regarding this request.

Mr. Lusby Tines, an adjoining property owner, came forward and stated that he is not opposed to the request, but only wanted to see where the church would be built.

On the motion made by Mrs. Mailler, and seconded by Mr. Meadows, it was moved to grant special permit #46689, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect 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, namely:

5-602

Additional Standards for Places of Worship

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g., schools, athletic facilities).

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):
1. Site plan approval shall be required.
 2. An identification sign up to 32 square feet, with a 10' foot height limitation.
 3. Lighting of the site to be downshielded in accordance with the Lighting Ordinance in the Fauquier County Zoning Ordinance.
 4. Total height of aspire to peak shall not exceed 76 feet, as drawn on plan.
 5. Aspire (steeple) shall not be lighted.

The motion carried unanimously.

VARIANCE #46754 DALE L. AND JOANN K. BALLENGEE (OWNERS)

Applicants are requesting a variance of 25' feet from the side and rear property lines for a proposed two-car garage, wherein the Zoning Ordinance requires 50' feet from a side and rear property line in a Rural Conservation Zoning District. The subject property is identified as PIN #6030-38-6264-000 containing 2.463 acres, zoned Residential-1 and Rural Conservation, and is located at 3612 Sage Road (State Route 724), Marshall District.

Mr. Hodge reviewed the staff report and stated that the proposed location for the detached garage is zoned Rural Conservation, which requires structures be a minimum of 50' feet from side and rear property lines. He also stated that a site visit was conducted earlier.

Mr. Rider stated that when the BZA visited the site earlier, they determined that the variance needed is in fact only sixteen (16') feet to the rear property line.

Mr. Ballengee spoke in support of his request. He cited problems with rocks, wetlands, and location of the drainfield to be the reasons for the variance request, and that he had been able to move the structure so a side yard variance was not required.

Mr. Rider asked if anyone wished to speak regarding this request.

No one spoke.

On the motion made by Mr. Lofdahl, and seconded by Mrs. Mailler, it was moved to grant Variance #46754, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

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 location of the wetlands, rock and the drainfield.
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; and
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property;
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are due to the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance; and exceptional topographic conditions or other extraordinary situation or condition of the property.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. 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.
9. 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.
10. The minimum variance that is necessary to afford relief is 16' feet to the rear property line.

The motion carried unanimously.

OTHER MATTERS

Mr. Meadows thanked Mrs. Bowen for the appreciation letter that was sent to Dr. James Branscome on behalf of the Board of Zoning Appeals.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 3:30 P.M.

William Rider, Chairman

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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