

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

May 3, 2001

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, May 3, 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. Kevin Burke, Deputy 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 April 5, 2001 meeting were tabled until the June 7, 2001 meeting, due to several changes.

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.

VARIANCE #47052 DETTRA COMMUNICATIONS, INC. (OWNER)

Applicant is requesting a variance of 10' +/- feet for two existing antennas on a 300' foot tower. The subject property is identified as PIN #6983-60-1777-000 containing approximately 2.00 acres, located at 6546 Lover's Lane (State Route 744), zoned Rural Agriculture, in Marshall District.

Mr. Hodge stated at last's month meeting this matter was continued and that the public hearing had been closed. He further stated that the Board of Zoning Appeals had requested information regarding any effects on the ability of the fiberglass antennae if they were lowered 10 feet even with the top of the broadcast tower at 300 feet, and the information was included the books.

Mr. Rider stated that Mrs. Trainum had indicated that she has information and wanted to present it. He asked Mr. Burke if it would be appropriate, and Mr. Burke responded that the BZA has the prerogative to accept additional information.

On the motion made by Mr. Lofdahl, and seconded by Mrs. Mailler, it was moved to accept the additional information.

The motion carried unanimously.

Mrs. Trainum presented information to Mr. Rider and stated that the zoning office provided her with a phone number to contact with regard to the interference problems she has experienced, and she wanted the Board to have a copy of a letter she sent to the FCC Field Office.

Mr. Rider stated that he felt the information was not pertinent to this case.

Mr. Robin Gulick, Attorney on behalf of the applicant, stated that the information Mrs. Trainum presented has no bearing on this request, and that the proposed antennas are being used by Metrocall for digital pagers, and would not cause interference.

On the motion made by Mr. Meadows, and seconded by Mr. Van Luven, it was moved to approve variance #47052, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property.
2. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
3. The strict application of the Ordinance will produce undue hardship.
4. 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.
5. The minimum variance that is necessary to afford relief is ten (10) feet, and restricted to two (2) additional antennas.

The motion carried unanimously.

SPECIAL PERMIT #47062 ROGER STEELE CLEARING & EXCAVATION CO., INC. (OWNER)

Applicant is requesting special permit approval to locate a contractor's office and shop on property identified as PIN #7906-42-8883-000 containing approximately 1.9042 acres, located at 5193 Lee Highway (State Route 15, 29 & 211) in New Baltimore, zoned Residential-1 and Commercial-2, in Scott District.

Mrs. Bowen stated that she had spoken with Mr. Steele prior to the meeting, and he had verbally requested had requested a 30 day extension until the June meeting.

Mr. Hodge stated that the public hearing is still open from the April meeting. He also stated that no additional comments from VDOT had been received.

On the motion made by Mr. Meadows, and seconded by Mr. Lofdahl, it was moved to carry over

the public hearing until the June meeting to allow Mr. Steele to meet with Mrs. Bowen.

The motion carried unanimously.

VARIANCE #47061 MICHAEL P. WELLS (OWNER)

Applicant is requesting a variance of 10.5' feet to the rear property line for the addition of a porch to the existing non-conforming dwelling. He is also requesting a variance of 10' feet to the side property line for a proposed structure to replace two existing non-conforming storage buildings. The subject property is identified as PIN #6034-89-3834-000 containing .397 acre, located at 662 Federal Street (State Route 759) in Paris, zoned Village, Marshall District.

Mr. Hodge reviewed the staff report and stated that the original application requested two variances however, staff review determined that the request for a porch addition was allowed under the regulations allowing the expansion of non-conforming uses. He stated that Mr. Wells would like to demolish two existing non-conforming storage buildings and replace them with one new two-story structure, which would be located five (5) feet off the property line, wherein the Zoning Ordinance requires 15 (fifteen) feet. He stated that the lot is non-conforming containing approximately 17,000 square feet, whereby the current lot size requirement in Village zoning is 30,000 square feet, and the minimum lot width now is 90 feet, and this lot is approximately 65 feet in width. He also stated that a site visit was made earlier.

Mr. Michael Wells was present regarding his request. He stated that he plans to raze the two existing structures and replace with one new structure. He stated that he does not plan to use this structure for a rental unit, but as a studio, and for storage space. He stated that the additional space would be used to accommodate his needs.

Mr. Rider stated that based on the site visit, he believes that a new structure could be offset from the corner and meet the current setback requirement.

Mr. Barr asked Mr. Wells to explain the hardship that exists on the property, and Mr. Wells explained that the hardship is dealing with the existing structures, that fall within an area, that one cannot build in.

Mr. Rider asked Mr. Wells how long he has owned the property, and Mr. Wells stated that he purchased the property in 1986.

Mr. Meadows stated that he felt the new structure could be located on the property and meet setbacks requirements.

Mr. Bill Turley, residing at 668 Federal Street, spoke in opposition to the request, citing concerns with the proposed building obstructing his views.

Mrs. Roma Sherman, who owns property on two sides of the subject property, spoke in opposition to the request. She cited concerns with obstruction of her view, and the use of the existing dwelling and apartment being used for rental units, and the concern that this structure

could possibly be used for the same. She stated that she believed the Fauquier County Health Department has only issued a permit for 3 bedrooms, and there are currently 4 bedrooms on the property.

Mr. Rider asked Mr. Wells how far the septic field is from the rear of the shed, and Mr. Wells stated that he thought it was about ten (10) feet.

Mrs. Mailler explained that although she is sympathetic to Mr. Wells' request, she did not feel the Board of Zoning Appeals would be authorized to grant the variance as a matter of convenience.

On the motion made by Mrs. Mailler, and seconded by Mr. Meadows, it was moved to deny variance #47061, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. Strict application of the Ordinance would not effectively prohibit or unreasonably restrict use of the property;
2. The granting of the variance will not alleviate a clearly demonstrable hardship approaching confiscation, and is not distinguished from a special privilege or convenience sought by the applicant.
3. Any hardship or restriction on the use of the property is not by reason of:
 - (c) exceptional topographic conditions or other extraordinary situation or condition of property immediately adjacent thereto.
4. 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.
5. The strict application of the Ordinance will not produce undue hardship.
6. The authorization of the variance will be of substantial detriment to adjacent property and that the character of the district will be changed by the granting of the variance.

The motion carried unanimously.

SPECIAL PERMIT #47182 JOHN J. HEARSEY, JR. AND VIRGINIA SUE BROMLEY (OWNERS)

Applicants are requesting special permit approval to operate a gunsmithing business as a

residential business on property identified as PIN #6974-89-0819-000 containing 2.634 acres, located at 7449 Foxview Drive off of Bear Wallow Road (State Route 690), zoned Residential-2 (R-2), Marshall District.

Mr. Hodge reviewed the staff report and stated that the applicant is a security consultant, who occasionally has a request from clients to procure or modify firearms. He also stated that the site was visited earlier.

Mr. Hearsey was present regarding his request. He stated that he has a small, part-time security consultant business, and that select clients require the need for firearms, or modifications to the firearm. He explained that he has the firearms shipped to him, he makes the modifications and ships them directly to the clients. He stated that gunsmithing is a very small percentage of his business and in 2000 he only sold 10 firearms. He stated that he has a federal firearms license, that allow him to operate the business with zoning approval.

Mr. Rider asked Mr. Hearsey how long he has held the federal firearms license, and Mr. Hearsey stated since 1977, with no incidents.

Mr. Rider asked Mr. Hearsey if he would occasionally fire the weapons on the property, and Mr. Hearsey stated that he does not have a need to fire the weapons.

Mr. Lofdahl asked if any ammunition is stored on the property, and Mr. Hearsey stated that he only has personal ammunition at his residence.

Mr. Tufts asked for the type of firearms he would gunsmith, and Mr. Hearsey stated only small arms, such as rifles, pistols and shotguns, but mostly pistols and shotguns with modifications such as sights, flashlights, etc.

Mr. Rider asked if he has employees work from the property, and Mr. Hearsey stated he did not.

Mr. Lofdahl asked how the weapons are stored, and Mr. Hearsey stated that he has several large mapping safes, that weight about 900 lbs. each and are rated at 45 minutes for the time needed to break in without having the combination.

Mr. Rider asked if there are inspections with regard to his license.

Mr. Hearsey stated that there are federal inspections done approximately every three (3) years.

Mr. Meadows asked if clients ever meet with him at his home, and Mr. Hearsey stated no. Most transactions are done through UPS and Federal Express deliveries.

Ms. Schiela Weir, a resident living on the same street, spoke in opposition to the request, cited concerns with safety to the children in the neighborhood, and concern that the business would grow.

Mr. Rider stated that Mr. Hearsey would most likely move to a larger, commercial space if the

business grows, and that if the permit is granted, he would not be allowed to have any employees.

Mr. Lofdahl asked Mrs. Weir what the impact would be to her.

Mrs. Weir stated that she did not know, other than the types of people that could possibly be coming to their neighborhood, and that she did not feel the use was appropriate.

Mr. Rider stated that based on the zoning of the property, the Fauquier County Zoning Ordinance allows gunsmithing with special permit approval.

Mr. Meadows stated that if the permit was granted, it would most likely be issued for a specific time period.

Ms. Doris Young, a neighbor spoke regarding the request. She stated that it was her understanding that this business had previously been operated from property within the Town of Warrenton for about 20 years. She asked if the property was located in a residential neighbor, and Mr. Hearsey stated that it was. She was concerned about any advertising that would give the physical address of the business, and Mr. Hearsey stated that he is not interested in attracting business, and does not advertise.

Ms. Michele Holt, an adjacent neighbor, stated that she had submitted a letter requesting conditions be placed on the permit, if granted. Among other, she requested conditions specifically to a one (1) year permit period, and that there be no advertising with the physical street address.

Ms. Grace Lim, a neighbor, spoke expressing her concerns with regard to safety of the neighborhood, and specifically safety to the children.

Mr. Lofdahl asked Mr. Hearsey what type of tools are used for the business, and Mr. Hearsey stated that only small hand tools are needed.

Mr. Barr asked Mr. Hearsey if he thought this use would pose any danger to the community, and Mr. Hearsey replied that he did not see any problems, and furthermore thought that the average homeowner could potentially pose more danger than this business because of his secured storage.

On the motion made by Mr. Van Luven, and seconded by Mr. Barr, it was moved to grant special permit #47235, 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:

Section 6-302 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):
 1. There shall be no weapons fired on the subject property.
 2. The permit is granted for one year.

The motion carried unanimously.

SPECIAL PERMIT #47235 PIEDMONT INVESTMENT, LC (OWNER)

Applicants are requesting special permit approval to locate a business office of more than 5,000 sq. ft. on property identified as PIN #6969-78-8974-000 containing .697 acre, located at 4174-A Old Stockyard Yard (State Route 1001), zoned Commercial-1, Marshall District.

Mr. Hodge reviewed the staff report and stated that the site was visited.

Mr. Jim Carson, of Carson, Harris & Associates, was present on behalf of his client. He explained that Piedmont Investments is the real estate arm of Miller Brothers Construction, and the proposed building would be used for their corporate office, with two wings being used for sub-lease as offices. He stated that the proposed building would also contain some storage space, for equipment or materials, in the rear of the building. He stated that the site plan is currently in process.

Mr. Rider stated that the requirement for a special permit is because of the proposed business office space exceeding 5,000 square feet and asked Mr. Carson to explain the use of the building.

Mr. Carson explained that the applicants would occupy the entire first floor as their corporate

office, and the back one-third would be a 2-story open bay for storage of equipment or materials. He stated that the dimensions of the building are approximately 60 x 95. He explained that the area used for offices is approximately 5,700, including the area available for sublease, and the entire building containing approximately 9,000 square feet.

Mr. Barr asked Mrs. Bowen if there was an issue with regard to setbacks of the building, and Mrs. Bowen responded that she did not think there was.

No one appeared in support or opposition.

On the motion made by Mr. Tufts, and seconded by Mr. Meadows, it was moved to grant special permit #47235, 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 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 as required.

The motion carried unanimously.

SPECIAL PERMIT #47240 REMINGTON UNITED METHODIST CHURCH TRUSTEES (OWNER) AND FAUQUIER COMMUNITY CHILD CARE (APPLICANT)

Applicants are requesting special permit approval to locate a teen camp for seven weeks during the months of June through August. The subject property is identified as PIN #6887-09-7783-000 containing 1.488 acres, located at 150 West Bowen Street (State Route 1203) in Remington, zoned Residential-4 (R-4), in Lee District.

Mr. Hodge reviewed the staff report and stated that a permit was granted in 2000 for Our Saviour Lutheran Church, and the purpose of the camp would be to serve the children in the Southern portion of the county.

Mr. Meadows stated that due to his membership with the Remington United Methodist Church, he felt he should remove himself from the case.

Ms. Susan Sharp, Director of Fauquier Community Child Care, and Ms. Brenda Ziolo, Enrichment Coordinator were present on behalf of their request. Ms. Sharp stated that they are requesting special permit approval to operate a teen camp from the Remington United Methodist Church. She stated that a year ago, the Board of Zoning Appeals granted special permit approval for a teen camp at Our Saviour Lutheran Church, and the entire summer there was a waiting list of about 15 children. She stated in this request it is their wish is to serve the children living in the southern portion of the county. Ms. Sharp stated that they would like to accommodate thirty (30) children this summer, and possibly increase to fifty (50) next year.

Mr. Lofdahl asked if there had been any complaints about the previously approved teen camp, and Mrs. Bowen stated that there had been none, only favorable responses.

Mr. Rider asked how many children were served last year from Our Saviour Lutheran Church and their ages.

Ms. Sharp stated that they served 50 children last year, ages 11-13 years.

Mr. Lofdahl asked if there was a waiting list every week, and Ms. Sharp stated that there was.

On the motion made by Mr. Lofdahl, and seconded by Mr. Barr, it was moved to grant special permit #47240, 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:

5-804

Standards and Time Limits for Carnival, Circus, Festival, Fair, Horse Show, Dog Show, Steeplechase, Music Festival, Turkey Shoot, Sale of Christmas Trees and other Seasonal Commodities, and other Similar Activities

In addition to the general standards set forth in Section 006 above, the following standards shall apply:

1. A temporary special permit may be issued for a period not to exceed twenty-one (21) consecutive days in Residential and Rural Zoning Districts and one (1) year in Commercial and Industrial Districts.
2. All permitted activities in a Residential or Rural Zoning District shall be sponsored by a volunteer fire company, local chamber of commerce, veterans' organization, service club, civic organization, church or religious organization, sports or hunt club, charitable, educational or nonprofit organization or recognized chapter thereof whose principal administrative offices are located within the County.

The motion carried unanimously.

VARIANCE #47264 ROBERT D. HOLMES (OWNER)

Applicant is requesting a variance for an attached garage/storage building that is proposed to be located 18' feet from the side property line, wherein the Zoning Ordinance requires 25' feet. The subject property is identified as PIN #6994-59-5825-000 containing .94 acre, located at 7372 Hilly Lane (State Route 1433), zoned Residential-1 (R-1), in Center District.

Mr. Hodge reviewed the staff report and stated that the site was visited.

Mr. Holmes was present regarding his request. He stated that due to the location of the septic field and tank, he needs the variance for locating the garage. He explained that the front corner of the garage would be located eighteen (18) feet from the side property line, and he needs a seven (7) foot variance.

Mr. Lofdahl asked Mr. Holmes if the variance needed was triangular, in that the front corner needed seven (7) feet and the rear corner exceeded the setback requirement, and Mr. Holmes confirmed.

On the motion made by Mr. Barr, and seconded by Mr. Lofdahl, it was moved to grant variance #47264, 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 need for a seven (7) foot variance.

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:

(b) exceptional topographic conditions or variation of property line, 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 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.

7. The minimum variance that is necessary to afford relief is seven (7') feet to the side property line.

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 3:45 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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