

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

June 7, 2001

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, June 7, 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 approved as submitted, and the minutes of the May 3, 2001 meeting were approved as amended.

**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.

**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.

Mr. Hodge stated that this request was continued from the April meeting and that Mr. Steele has submitted a letter requesting his application be tabled for 90 days, or until the September 6<sup>th</sup> meeting, to allow him to work with an adjoining property owner to satisfy Virginia Department of Transportation requirements with regard to ingress/egress. Mr. Hodge stated that the public hearing has not been closed.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to accept the request to postpone this application.

The motion carried unanimously.

**SPECIAL PERMIT #47370 JANICE V. MILLS (OWNER)**

Applicant received special permit approval in August, 1996 for a day care in her home. She is requesting an increase in the number of children from 12 to 20. The subject property is identified as PIN #6959-38-7134-000, containing approximately 5.0 acres, located at 9389 Ramey Road (State Route 732), zoned Rural Agriculture, in Marshall District.

Mr. Hodge reviewed the staff report and stated that the applicant is requesting to amend a special permit by increasing the maximum number of children to 20.

Ms. Janice V. Mills was present on behalf of her request.

Mr. Rider asked Ms. Mills if she holds a state license as a day care provider, and she stated that she does.

Mr. Rider asked staff if there have been any complaints since the original special permit was issued, and Mr. Hodge stated there have not been any complaints.

Mr. Meadows asked Ms. Mills if the 20 children would be full-time.

Ms. Mills explained that she has part-time, full-time, as well as summer care children.

Mr. Van Luven asked Ms. Mills if she has after-school children as well, and she stated that she does.

Mr. Rider asked the ages of the children, and Ms. Mills stated that she cares for infants through 11 year-olds.

On the motion made by Mr. Lofdahl, and seconded by Mr. Meadows, it was moved to grant special permit #47370, 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:

5-503

Additional Standards for Pre-School/Day Care Center/Nursery School

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area 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 to:

- A. That area not covered by buildings or required off-street parking spaces.
  - B. That area outside the limits of the required front yard.
  - C. Only that area which is developable for active outdoor recreation purposes.
2. All outdoor recreation area shall be fully fenced.
  3. In the R-2, R-3, and R-4 zoning districts, such a use shall:
    - A. Serve no more than ten (10) children at any one time unless a location is served by a local collector street that is not internal to a platted subdivision or is served by a major collector street or higher and, the existing adjacent uses within 100 feet are not residential.
    - B. Operate only during the period from 6:00 A.M. until 9:00 P.M. unless the BZA determines the hours of operation will cause an adverse effect on the neighborhood. Upon such a finding the BZA shall impose more stringent hours of operation.

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. The permit is limited to a maximum of 20 children at any one time.
2. The hours of operation shall be from 5:30 A.M. to 9:00 P.M.
3. The permit does not convey with the sale of the property.

The motion carried unanimously.

**SPECIAL PERMIT #47413 DONALD E. AND JANIE G. JONES (OWNERS)**

Applicants are requesting special permit approval to operate a farm equipment sales and service business. The subject property is identified as PIN #6953-47-9783-000, containing approximately 5.492 acres, located at 9488 Old Waterloo Road (State Route 691), zoned Rural Agriculture, in Marshall District.

*Carried over until the end of the agenda.*

**SPECIAL PERMIT #47444 JEREMIAH AND VIRGINIA KEARNS (OWNERS) AND JOSEPH AND DEBBIE STAMBAUGH (APPLICANT-LESSEE)**

Applicants are requesting special permit approval to continue operating a kennel. The BZA issued special permit approval in June, 1998 for three years. The applicants are requesting an increase in the number of dogs from 12 to 20, and are also requesting a time period of ten (10) years. The subject property is identified as PIN #7824-79-8039-000, containing approximately 27.25 acres, located at 3368 Thompsons Mill Road (State Route 615), zoned Rural Agriculture, in Cedar Run District.

Mr. Hodge reviewed the staff report and stated that the applicants are requesting to renew their special permit issued on June 9, 1998 for a period of three (3) years. He stated that the applicants are requesting the special permit be issued for ten (10) years, and that the maximum number of dogs be increased to 20.

Mr. and Mrs. Stambaugh were present on behalf of their request. Mr. Stambaugh stated that they have operated the kennel for the past three years and they would like to increase the number of dogs to 20 and are also planning future expansion of the kennel operation. He stated that he is aware of a letter in the file regarding a neighbor's concern with noise. He explained that he has purchased equipment to control and limit the amount of barking of the dogs. He stated that he has received two complaints from neighbors, that he had addressed directly.

Mr. Rider asked Mrs. Bowen if any complaints had been received, and Mrs. Bowen stated that she had not.

Mr. Stambaugh stated that he is going to be retiring soon, and has a long term interest in the property and is negotiating to purchase the property and expand the facility. He stated that the kennel is a family operated business.

Mr. Meadows asked Mr. Stambaugh if he knows Chris Ryder.

Mr. Stambaugh stated that Mr. Ryder lives about a quarter of a mile away, and he has spoken

with him on two occasions. Mr. Stambaugh stated that he had explained the nature of their business, and that there is permit on file with the County.

Mr. Barr asked Mr. Stambaugh if he understood that economics cannot be a factor in the Board of Zoning Appeals' decision, and Mr. Stambaugh stated he understood.

Mr. Meadows asked Mr. Stambaugh to explain the difference between semi-retired versus retired dogs.

Mr. Stambaugh stated that retired dogs are their pets only, however semi-retired dogs are occasionally used in the training process.

Mrs. Bowen stated that personal pets do not count as the total number of dogs allowed for a business, but any dogs associated with business in any form would count toward the maximum limit.

Mr. Lofdahl asked how many dogs Mr. Stambaugh could have as pets, and Mrs. Bowen stated that the Zoning Ordinance allows up to 12 dogs by right as pets, and puppies under the age of six (6) months do not count.

Mr. Barr asked Mr. Stambaugh during what hours are the guns used for training, and Mr. Stambaugh stated that they have adhered strictly to the hours granted with the permit.

Mr. Mailler stated that if the permit is approved, she felt that ten (10) years is excessive.

Mr. Stambaugh stated that he would like to request that if the permit is granted, a condition could allow the permit to transfer to them in the event they purchase the property.

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

Mr. Chris Ryder, an adjoining property owner spoke in opposition. He stated that he lives approximately 200 yards from the kennels, and cited concerns with noise, safety, and did not feel the permit should be granted. He also stated that he felt the training area should be relocated elsewhere on the property.

Mr. Rider stated that the Zoning Ordinance allows this use with special permit approval, and further stated that he felt the Stambaugh's have done their best to comply with conditions, since there have been no complaints since the granting of the original permit.

Mr. Meadows asked Mr. Stambaugh how much of the property is open area, and Mr. Stambaugh stated that approximately seven (7) acres is wooded, and the remaining 20 acres is open.

Mr. Bob Snow, who lives directly across the street from Mr. Ryder, spoke in opposition. He cited concerns with the noise, and stated that he objected to any increase in the number of dogs.

Mr. Meadows asked Mrs. Bowen if the permit had expired, and Mrs. Bowen stated that the

permit expires on June 9<sup>th</sup>. Mrs. Bowen suggested that the Board of Zoning Appeals may want to schedule a site visit and evaluate the conditions.

Mr. Lofdahl asked Mr. Ryder if the barking or the number of dogs concerns him. Mr. Ryder stated that he was most impacted by the noise, and concerned about the value of his property.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to close the public hearing, carry this case over to the July meeting, and conduct at site visit.

The motion carried unanimously.

**SPECIAL PERMIT #47452 JAMES H. AND MARY C. WEEKS (OWNERS)**

Applicants are requesting special permit approval for an auto repair garage as a residential business. The subject property is identified as PIN #7808-16-6253-000, containing approximately 2.001 acres, located at 11744 Marsh Road (State Route 17), zoned Rural Agriculture, in Lee District.

Mr. Hodge reviewed the staff report and stated that a site visit was conducted earlier. He stated that the permit had expired on September 4, 2000, and that the site has previously been cited for violations of conditions of the permit.

Mr. Rider stated that due to a conflict of interest, he would have to remove himself from this case.

Mr. Barr, Vice-Chairman, accepted Mr. Rider's request and asked the applicant to come forward.

Mr. James H. Weeks, IV was present in support of his request. He explained that since he was cited for the violation, he has not had any more than four (4) vehicles on the premises. He stated that he would like to request the permit be granted for a longer period of time.

Mr. Barr asked Mr. Weeks to explain how the violation occurred.

Mr. Weeks stated that due to problems in obtaining parts, and problems with his clients picking up their vehicles as planned, caused him to go over the allowed four (4) vehicles at times.

Mr. Meadows asked Mrs. Bowen if the violation has been resolved and Mrs. Bowen stated that Mr. Weeks had complied with her request.

Mr. Meadows asked Mr. Weeks if he understood the standards and conditions with this permit and if he thought he could adhere to them.

Mr. Weeks stated that he would comply with the conditions.

Mr. Lofdahl asked Mr. Weeks how he has resolved the previous problems, and Mr. Weeks explained that he delivers the vehicles to his customers, when they cannot be picked up in a timely manner, to prevent exceeding the limitation.

Mr. Barr asked if anyone wished to speak in support or opposition to his request.

No one spoke.

On the motion made by Mr. Meadows, and seconded by Mrs. Mailler, it was moved to grant special permit #47452, 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:

**5-205                      Additional Standards for Auto Repair Garages**

1. Must be conducted on the same lot as the proprietor of the business.
  2. All employees must reside on the lot and shall not exceed two.
  3. All work shall be accomplished and vehicles in excess of two shall be located in a completely screened area and shall not be in any required yard.
  4. A minimum of 2 acres shall be required.
  5. Limited to 4 vehicles.
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) The special permit is granted for a period of three (3) years.

- (2) The outside storage must meet the minimum 105 foot setback from the center line of nearer lane of Route 17.

The motion carried unanimously.

Mr. Rider returned to the Board of Zoning Appeals.

Mrs. Bowen left the meeting.

**SPECIAL PERMIT #47457 CHARLES AND RUTH GRAY (OWNERS) AND CHEMETRICS, INC. (APPLICANT-LESSEE)**

Applicant is requesting special permit approval to use an existing dwelling as a business office of approximately 960 square feet. The subject property is identified as PIN #7911-63-1777-000, and requesting to use a 1.50 acre portion of approximately 171.50 acres, located at 4285 Catlett Road (State Route 28), zoned Industrial-1, in Cedar Run District.

Mr. Hodge reviewed the staff report.

Mr. Bruce Rampy of Chemetrics, Inc. was present in support of this request. He explained that due to growth of their company, they needed additional administrative office space and this parcel is located adjacent to their property.

Mr. Rider asked Mr. Rampy if he only planned to use the 1.5 acre portion of the property containing the existing dwelling, and Mr. Rampy confirmed.

Mr. Rider asked Mr. Rampy where the employees would park, and Mr. Rampy stated that the employees would most likely park close to the existing dwelling or on the Chemetrics property.

Mrs. Mailler asked Mr. Rampy if he was aware of Virginia Department of Transportation's comments regarding the entrance requirements to the property. He had not seen Virginia Department of Transportation's reply, and said Chemetrics would not pay to have a commercial entrance installed.

Mr. Meadows asked if site plan approval is required.

Mr. Hodge stated that site plan approval is required, and parking and the entrance would be addressed during the site plan review process.

Mr. Rider asked Mr. Rampy how many employees would work from this proposed office, and Mr. Rampy stated probably five (5), but no more than seven (7) or eight (8).

No one spoke in support or opposition.

On the motion made by Mr. Van Luven, and seconded by Mr. Meadows, it was moved to grant special permit #47457, 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 #47413 DONALD E. AND JANIE G. JONES (OWNERS)**

Applicants are requesting special permit approval to operate a farm equipment sales and service business. The subject property is identified as PIN #6953-47-9783-000, containing approximately 5.492 acres, located at 9488 Old Waterloo Road (State Route 691), zoned Rural Agriculture, in Marshall District.

Mr. Hodge reviewed the staff report and stated that a site visit was made earlier, and if the special permit was approved, site plan approval would be required.

Mr. Donald Jones was present in support of his application. He stated that he has been repairing farm equipment since August 1998, however he did not realize that a special permit was required. He stated that he had placed some farm equipment on the front of his property to sell, and he understands that is not allowed.

Mr. Meadows asked Mr. Jones if he owned personal farm equipment, and Mr. Jones stated that he did, but some of the equipment belongs to others.

Mr. Rider asked Mr. Jones if he planned to sell equipment, and Mr. Jones stated that occasionally he will sell someone a bush hog, or order a piece of equipment to install for

customers. He emphasized he was not going to “take on a line of tractors” to sell.

Mr. Meadows asked Mr. Jones if he planned to display any equipment for sale, and Mr. Jones stated that he did not, and that usually farmers will come to him if they are looking for a specific piece of equipment.

Mr. Rider asked Mr. Jones if he lives on site, and if he has any employees.

Mr. Jones stated that he does live at the property, and his son works with him on the equipment.

Mr. Rider asked Mr. Jones if the repairs are made within a building, and Mr. Jones explained that approximately 60% of his work is done at the customer’s property, and the other 40% is engine work at the subject property.

Mr. Rider asked Mr. Jones if he plans to use the entire 5.49 acres for the business, and Mr. Jones stated no, only a portion, as he uses some of the property for cattle.

Mr. Rider asked Mr. Jones how much land on the front of his property he planned to use for display, and Mr. Jones stated that he only plans to display equipment behind the building.

Mr. Hodge stated that display is not allowed in any required front, rear, or side yard. He explained that Mr. Jones will need to indicate the display/storage area on the required site plan.

Mr. Meadows stated that Virginia Department of Transportation commented that a commercial entrance may be required.

Mr. Hodge stated that Mrs. Bowen had spoken with VDOT and they may reconsider the requirement, as they did not fully understand the intensity of the intended use during their initial comments.

Mr. Meadows stated that he felt VDOT’s updated comments are important to the case.

Mr. Hodge suggested that the Board of Zoning Appeals may want to carry over the case until next month.

Mr. Barr stated that the neighbors are concerned with traffic, and noise on a typical day, and asked Mr. Jones to address some of their concerns.

Mr. Jones stated that UPS delivers only 2-3 times a week, and he felt that he will not generate any more traffic than normal. He stated that he normally works 7:30 A.M. to 5:00 P.M., Monday through Friday, and has since August 1998.

Mr. Rider explained to Mr. Jones, that if the permit is granted he must follow the standards and zoning regulations for a small scale business and would limit his ability to grow the business.

Mr. Jones stated that at this age, he does not plan to expand the business.

Mr. Tufts asked Mr. Jones to explain his disposal of gasoline, motor oil, etc.

Mr. Jones stated that he has a 750 gallon storage tank for fuel, and two 55 gallon drums for disposal of antifreeze, and that Rollins Oil Company comes to the property and picks up when necessary.

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

Ms. Sandra Henley spoke in opposition, stating that most of her concerns had been addressed. She stated that she had filed a petition from the adjoining neighbors. She explained that she is concerned with property values, as she felt the area was mostly residential, and was concerned that if this use is approved, it might set a precedent for other commercial activity.

Mr. Lofdahl asked Ms. Henley about the type of noise she felt had been generated by the business, and Ms. Henley stated that the noise is from the engines being tested on the road and running.

Mr. Dan Owens, an adjoining property owner spoke in opposition to the request. He cited concerns with noise, traffic, pollution, and the impact to his property values.

On the motion made by Mr. Meadows, and seconded by Mr. Van Luven, it was moved to close the public hearing, and carry over the case until the July meeting.

The motion carried unanimously.

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

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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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