

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

September 7, 2000

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, September 7, 2000, 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. Eugene Lofdahl, Mr. John Meadows, Dr. James Branscome and Mr. James VanLuven. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Ms. Holly Meade, Zoning Planner; and Mrs. Beverly Pullen, Office Associate.

MINUTES

The minutes of the August 3, 2000 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.

APPEAL #46015 SMITH CATTLEGUARD CO. INC. (OWNER)/ SMITH-MIDLAND CORPORATION (APPELLANT)

Appellant has filed an appeal of a determination regarding floodplain made by the Zoning Administrator in a letter dated June 7, 2000. The subject property is identified as PIN #7900-75-6202-000, contains approximately 12.50 acres, zoned Industrial-2 (I-2), located at 5127 Catlett Road (State Route 28), in Cedar Run District.

Mrs. Bowen stated that a copy of her affidavit has been distributed to each member.

Mr. Meadows stated that due to his business association with Smith-Midland, he would have to withdraw himself from this appeal case.

Mr. Rodney Smith, President of Smith-Midland Corporation, spoke regarding the appeal he filed and presented to Mr. Rider a letter regarding the appeal.

Mr. Rider explained to Mr. Smith that the BZA had to either proceed with the appeal as filed, or consider his request for postponement. He further asked Mr. Smith to state whether he wanted the BZA to hear his request for an appeal, or to consider his request for a postponement of six months.

Mr. McCulla stated that the BZA has the ability to either hear the request or grant a continuance. He further advised Mr. Rider that the written materials could be accepted, and a postponement could be considered.

Mr. Smith requested that the BZA postpone the appeal for six months to allow him time to apply for a special exception from the Board of Supervisors.

On the motion made by Mr. Lofdahl, and seconded by Mr. Barr, it was moved to grant a postponement of appeal #46015 for six (6) months, or until the Board of Supervisors makes a special exception decision, whichever comes first. In addition, the following conditions apply:

- (1) If the application is not withdrawn, or if the applicant fails to file the special exception application within sixty (60) days, the appeal will be returned immediately to the Board of Zoning Appeals for action.

The vote was 6-0 in favor of granting the motion, with John Meadows abstaining from the vote.

Mr. Rider asked Mr. Smith if the BZA could conduct a site visit on October 5th at 9:30 A.M., and Mr. Smith confirmed.

Mr. Meadows rejoined the BZA.

SPECIAL PERMIT #46189 RICHARD AND MARILYN L. BLAKELY (OWNERS)

Applicants wish special permit approval for a home occupation, accounting services. The subject property is identified as PIN# 6020-15-1696-000, contains approximately 6.74 acres, zoned Rural Agricultural and Rural Conservation, located on Moss Hollow Road (State Route 728), in Marshall District.

Mr. Fred Hodge reviewed the staff report and stated that there will be no sign placed on the property.

Mr. Richard Blakely appeared in support of his request and stated that he had previously held a home occupation permit in Arlington for the same business and that there were no complaints. He described his accounting business as low profile, with only a few clients coming to the home office. He explained that he and his wife are the only employees of the business.

Mr. Rider asked Mr. Blakely how many clients per month will come to the home office, and Mr. Blakely responded that from February through May, there will be approximately 2-3 clients per month coming to the office.

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

No one spoke.

On the motion made by Mr. Barr, and seconded by Mr. Meadows, it was moved to grant special permit #46189, 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:

5-202

Standards for Home Occupations with Retail Sales and Services

1. Such use shall be permitted as a home occupation in accordance with Section 6-302 and shall not be listed in Section 6-303 or similar thereto.
 2. All public contact related to such a use shall be limited to the period between 7:00 A.M. and 8:00 P.M.
 3. Off-street parking for the use shall be provided in accordance with the provisions of Article 7 in addition to that required for the dwelling unit and shall not be located in any required front yard.
 4. Signs shall be limited to those allowed for home occupations in the zoning district where located.
 5. Such use shall satisfy the use limitations set forth in Section 6-304, except that retail sales may not be displayed, stored or sold on the premises other than that which is produced on the premises.
 6. Such use shall have frontage on a public street maintained by VDOT.
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 sign located on the property.
 - (2) The special permit does not convey with the sale of the property.
 - (3) The two (2) employees are residents of the home.

The motion carried unanimously.

SPECIAL PERMIT #46200 SUMERDUCK BAPTIST CHURCH TRUSTEES (OWNERS)

Applicants wish special permit approval to enlarge an existing place of worship. The subject property is identified as PIN #7805-40-5145-000, contains approximately 3.5 acres, zoned Village, located on Sumerduck Road (State Route 651), in Lee District.

Mr. Hodge reviewed the staff report and stated that a site visit was conducted earlier in the day.

Mr. John Hitt, Trustee of Sumerduck Baptist Church was present in support of this request. He stated that the proposed addition is approximately 1,040 square feet, and would include a kitchen, and new bathrooms.

Mr. Meadows asked if the Health Department had commented, and Mr. Hodge stated that an application has been made, but comments had not been received.

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

No one spoke.

On the motion made by Mrs. Mailler, and seconded by Mr. Meadows, it was moved to grant special permit #46200, 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) Approval from Fauquier County Health Department.
 - (2) Site plan approval is required.

The motion carried unanimously.

SPECIAL PERMIT #46193 WALLACE AND LAURE CARTER (OWNERS)

Applicants requested special permit approval for a beauty shop in their home. The subject property is identified PIN #6949-90-6229-000, contains approximately 1.328 acres, zoned Village, located on Grandview Drive (private) off of Crest Hill Road (State Route 647), in Marshall District.

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

Mr. and Mrs. Carter appeared in support of their request. Mrs. Carter stated that they have decided not to request an identification sign. She further stated that there will be no deliveries, and clients will be by appointment only.

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

No one spoke.

On the motion made by Dr. Branscome, and seconded by Mr. Meadows, it was moved to grant special permit #46193, 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:

5-1306 **Additional Standards for Barber/Beauty Shop in Residential and Rural Zoning Districts**

Such uses shall comply with the use limitations set forth in Section 6-304.

6-304 **Use Limitations**

In addition to the use limitations applicable to the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.
2. No retail sales shall be conducted on the premises (for uses allowed in accordance with Section 3-302.1).
3. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation.
4. No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
5. No more than one (1) person other than a member of the household occupying such dwelling shall be employed.
6. No sign shall be permitted except in accordance with the provisions of Article 8.

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 is required.

The motion carried unanimously.

SPECIAL PERMIT & VARIANCE #46208 LIBERTY METHODIST CHURCH, TRUSTEES (OWNERS)

Applicants are requesting special permit approval to enlarge an existing place of worship and a variance to the front setback requirement for the addition. The addition would be at the closest point, 35 feet from center line of the right-of-way instead of 50 feet as required by the Zoning Ordinance. The subject property is identified as PIN #6990-03-4340-000, contains approximately 2.50 acres, zoned Village, located on Old Marsh Road (State Route 837), in Lee District.

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

Rev. Tracy Baer, and Larry Malone were present on behalf of Liberty Methodist Church. Mr. Malone stated that the 3,000 square foot addition would be used for Sunday school classrooms, a fellowship hall, and for administrative uses.

Mr. Rider asked Mr. Malone to confirm that the proposed addition would not encroach any further than the existing church, and Mr. Malone stated that it would not.

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

No one spoke.

On the motion made by Mr. Van Luven and seconded by Mr. Meadows, it was moved to grant special permit #46208, 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) Approval from Fauquier County Health Department.
- (2) Site plan approval is required.

The motion carried unanimously.

On the motion made by Mr. Van Luven, and seconded by Mrs. Mailler, it was moved to grant variance #46208, 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 existing church.
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 variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
5. The strict application of the Ordinance will produce undue hardship.
6. 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.
7. 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.
8. The minimum variance that is necessary to afford relief is 15' feet from the centerline of Route 674.

The motion carried unanimously.

OTHER MATTERS:

Mr. Rider asked Mrs. Mailler to read the thank you note that was received from Ms. Barbara Wilson.

Mr. Rider suggested a motion to include the note as part of the minutes of this meeting.

On the motion made by Mr. Meadows, and seconded by Mr. Barr it was moved to include the thank you note from Ms. Barbara Wilson as a part of these minutes.

The letter is attached to and made a part of these minutes.

The motion carried unanimously.

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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