

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

March 4, 1999

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, March 4, 1999, 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; William Barr, Vice Chairman; Ms. Barbara Wilson, Secretary; Dr. James Branscome, Mr Eugene Lofdahl, Mr. John Meadows, and Mrs. Peg Mailler. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Don Margraf, Assistant Zoning Administrator; Mr. Paul McCulla, County Attorney; and Mrs. Beverly Pullen, Zoning Office Technician.

MINUTES

The minutes of the February 11, 1999 hearing were approved as submitted.

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 had been properly advertised, posted, and letters of notification sent to adjoining property owners.

SPECIAL PERMIT #43647

Curtis R. and Shelia A. Hansen (Owners)

Owners are requesting special permit approval to continue using the property, building J (5,737 square feet) and building Q (224 square feet) for retail sales in excess of 5,000 square feet, and auctions. The BZA approved a Special Permit #41902 for this property on December 4, 1997 with a time limited of one year. The subject properties are located on John S. Mosby Highway (State Route 50), identified as PIN #6054-75-1744-000, and PIN #6054-65-8611-000, containing approximately 3.3 acres, in Marshall District.

Mr. Don Margraf stated that the request had been deferred from the February 11, 1999 hearing.

Mr. Rider stated that although the public hearing was closed, he would allow those to speak who wished to comment on the new material that had been received.

Mr. and Mrs. Curtis Hansen, as well as Mr. Calvin Neal, were present in support of this request.

Mr. Hansen spoke regarding issues addressed at the February hearing. He stated that Marybelle Clark's property does not adjoin the property where the auctions are held.

Mrs. Bowen stated that this request includes the parcel adjacent to Ms. Clark's property, as this parcel contains the parking required for the auction establishment.

Mr. Rider asked Mr. Hansen, if the parcel adjoining Ms. Clark's property is used for parking.

Mr. Hansen confirmed that the patrons of the auction establishment do park on this parcel. He also stated that he has been waiting two years for answers as to the uses for the twenty-one buildings located on his property.

Mrs. Bowen apologized to Mr. Hansen for his confusion regarding these buildings. She stated that staff had spent hours with Mr. and Mrs. Hansen, Ms. Valerie Pullman, as well as the engineer, regarding this property and the improvements necessary to use this site. She further stated that Ms. Pullman decided that it would be better to take one building at a time.

Ms. Kitty Smith spoke on behalf of Ms. Marybelle Clark, stating that the application, as well as the public notice included both parcels.

Mr. Rider asked Mr. Margraf if the application contained both parcels.

Mr. Margraf confirmed that it did.

Mr. Calvin Neal spoke regarding this request and stated that the patrons of the auction establishment sent letters in support of this request.

Mr. Rider asked Mr. Neal if auctions had been held since the last meeting.

Mr. Neal stated that he had held two auctions since the last meeting. He also stated that the auction for February 27th had been cancelled.

Mr. Rider reminded Mr. Neal that he had been directed by the Board of Zoning Appeals, the Zoning Administrator and the County Attorney, not to hold any auctions until this request was approved.

On the motion made by Ms. Wilson and seconded by Mr. Lofdahl, it was moved to defer action on this request until after item #9 on the agenda.

The motion carried unanimously.

SPECIAL PERMIT #43707

Steepbottom, L.L.C. (Owner) Richard and Kathleen Fitzsimmons (Contract Owners)

Applicants wish special permit approval to operate a residential care facility on a portion of property identified as PIN #7828-40-2249-000, containing 21.836 acres, located at 3493 Midland Road (State Route 610), in Cedar Run District.

Mr. Margraf reviewed the request stating that this case had been deferred from the February 11, 1999 hearing.

Mr. Rider stated that although the public hearing had been closed, he would allow those to speak who wished to comment on any new material received.

Richard and Kathleen Fitzsimmons were present in support of their request. Mrs. Fitzsimmons spoke and wanted to confirm that a letter had been received from Mr. Bruce Gross, addressing new material that was submitted by the opposition.

Mr. Rider stated that the letter had been received.

On the motion made by Mrs. Mailler and seconded by Ms. Wilson, it was moved to table this request until after item #9 on the agenda.

The motion carried unanimously.

SPECIAL PERMIT #43735

ROBERT E. AND CAROLYN L. GREEN (OWNERS)

Applicants are requesting special permit approval to locate a barber/beauty shop within an existing dwelling as a home occupation, and also requesting an identification sign up to two (2) square feet. The subject property is located at 7571 Greenville Road (State Route 761) near Greenville, and contains 2.024 acres, is zoned R-1 (Residential), identified as PIN #7924-16-4244-000, Cedar Run District.

Mr. Margraf reviewed the staff report stating that the proposed barber/beauty shop would be 12x26 and located within the existing dwelling. The hours of operation would be 10 A.M. to 6 P.M., Wednesday through Saturday. Mrs. Carolyn Green is a licensed certified cosmetologist in the Commonwealth of Virginia. Fauquier County Health Department and Virginia Department of Transportation have no objections to this request.

Mr. and Mrs. Green were present in support of their request. Mrs. Green stated that she wishes to operate a barber/beauty shop on a part-time basis. She estimated having only three to five clients per day, mostly senior citizens. She stated that she will only have two clients at a time in her home and has parking accommodations for those clients.

Mr. Rider asked if anyone wished to speak.

No one spoke.

Mr. Rider stated that the site was visited earlier in the day.

On the motion made by Mrs. Mailler and seconded by Mr. Barr, it was moved to grant special permit #43735, 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 5-1306 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.

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 hours of operation will be 10:00 A.M. to 6:00 P.M., Wednesday through Saturday, by appointment only.
 2. The proposed identification sign for the business will be two (2) square feet.
 3. The special permit does not convey with the sale of the property.
 4. Site plan as required.
 5. The special permit is granted for a period of three (3) years.

The motion carried unanimously.

SPECIAL PERMIT #43773
ROBERT W. AND LINDA D. NEWTON (OWNERS)

Applicants are requesting special permit approval to locate professional offices for three or fewer employees in the downstairs portion of an existing historic building. Applicants also wish to place an identification sign of up to twelve square feet. The subject property is located at 1461 Atoka Road (State Route 713) in Atoka, and contains .926 acres, is zoned Village, identified as PIN #6073-98-4998-000, Scott District.

Mr. Margraf reviewed the staff report. He stated that a site visit was conducted earlier in the day. He also stated that Fauquier County Health Department has no objection to the request, provided

the applicants upgrade the existing sewage disposal, if necessary, and Virginia Department of Transportation has no objection to this request.

Col. and Mrs. Robert Newton were present in support of their request. Col. Newton stated that they have purchased this historic building in order to preserve it and want to allow local conservation or preservation groups use it for their employees.

Mrs. Jane Deane spoke in support of this request. She stated that she and her husband have lived next door to this property for thirty-three years, and they would like to see the Newton's preserve this building and it does affect the value of their property.

Mr. Rider asked if there were others present who wished to speak.

No one else spoke.

On the motion made by Ms. Wilson, and seconded by Mr. Barr, it was moved to grant special permit #43773, 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 5-1305 Additional Standards for Office, Professional (including Clinics), Not more than Six Persons Employed

 1. Not more than six (6) persons may be engaged in the operation of the office, including part-time employees and/or professionals.
 2. No retail or wholesale sales or storage conducted on the premises.
 3. The building so used shall have the exterior appearance of a residential structure of a type allowed in the zoning district in which located.
 4. There shall be no lighting of signs or parking areas on the premises in general in any manner not usual in a residential area.
 5. Such uses in multi-family structures shall be located in end units of townhouse structures or on the lowest floor of other multi-family structures.

6. Office hours shall be limited to the period between 8:30 A.M. and 8:00 P.M., Monday through Saturday. Offices may open at other times for emergencies.
 7. Off-street parking for the office shall be provided in accordance with the provisions of Article 7 in addition to that required for the dwelling units, unless the office hours are limited to the period between 9:00 A.M. and 4:00 P.M.
 8. In the V, R-1 and R-4 zoning districts, no off-street parking space shall be located in any required front yard, and all parking spaces accessory to the use shall be screened so that they are not visible from the first story window levels of adjoining property.
 9. 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 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. Such alternative access shall be to a road designated in the Comprehensive Plan no lower than rural minor collector or urban local.
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 five (5) years.
 - (2) The proposed identification sign will be up to twelve (12) square feet.

The motion carried unanimously

SPECIAL PERMIT #43774

ALLIED PLYWOOD CORPORATION (OWNER)

Applicant is requesting special permit approval for the location of a dust collector silo to be 53' and 5 5/16" in height, wherein the Zoning Ordinance allows 45' feet. The subject property is located at 4227 Whiting Road (State Route 622) near Marshall, and contains 13.978 acres, is zoned Industrial-2, identified as PIN #6979-37-9906-000, Scott District.

Mr. Margraf reviewed the staff report stating that the increase would be 8 feet 5 5/16 inches. He further stated that the dust collector silo would be located 510' from the front property line, 600' from the rear property line and 200' feet from the side property lines. Fauquier County Health Department and Virginia Department of Transportation have no objection to this request. He stated that the site was visited earlier in the day.

Mr. Alan Freeman, Production Manager, was present on behalf of Allied Plywood Corporation in support of this request. He stated that the silo is twelve (12) feet in diameter and 53' 5 5/16" in height. He further stated that the silo is not functional without the height increase. He explained the operation and mechanics of the dust collector silo.

Mrs. Wilson inquired as to the reasons for the height increase request.

Mr. Freeman explained that due to the air filtration system within the silo the additional height is needed for the silo to be effective.

Dr. Branscome asked if any dust was released into the air.

Mr. Freeman stated that no dust was released into the air.

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

No one spoke.

Mr. Rider stated that a phone call had been received from an adjoining property owner, Mrs. Dorothy Holmes. She cited concerns with the dust affecting her property.

On the motion made by Mr. Lofdahl and seconded by Mr. Meadows, it was moved to grant special permit #43774, 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 5-2401 Standards for Approving an Increase in Building Height

The BZA may approve a special permit for an increase in height above the maximum building height regulations specified in Part 4 of Article 3, if it determines that such an increase would not violate the general standards set forth in Section 006 above. Further, the minimum yard requirements applicable to the structure shall be increased by two (2) feet for every one (1) foot of increase in height in excess of the maximum building height set forth for the zoning district.

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 approved to allow the maximum building height of forty-five (45') feet to be increased to 53' 5 5/16 " for a proposed dust collector silo.

The motion carried unanimously.

SPECIAL PERMIT #43775

NEIL L. AND LISA M. SHERRILL (OWNERS)

Applicants are requesting special permit approval to locate a barber/beauty shop in a proposed addition to an existing dwelling as a home occupation. Applicants are also requesting an identification sign up to two (2) square feet. The subject property is located at 5169 Courtney's Corner Road (State Route 637) near Sumerduck, and contains 1.723 acres, is zoned RA (Rural Agriculture), identified as PIN #7806-63-2899-000, Lee District.

Mr. Margraf reviewed the staff report stating that the applicants are proposing an addition of 24x36 to the front portion of the existing dwelling for the location of a barber/beauty shop, an additional bathroom and a living room. He stated that the hours of operation for the barber/beauty shop would be 9 A.M. to 9 P.M., Monday through Saturday. The applicant would only have two clients at any one time. Fauquier County Health Department has no objection, provided that the applicants only have six clients per day. Virginia Department of Transportation has no objection to this request.

Mr. Neil Sherrill was present in support of this request. He stated that he has reserve area, should the existing drainfield need expansion.

Mr. Lofdahl asked Mr. Sherrill if they would use reside at the property.

Mr. Sherrill stated they would live at the property.

Mrs. Bowen stated that under the Home Occupation guidelines, the Zoning Ordinance requires the owner to reside on site.

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 #43775, 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 5-1306 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.

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 hours of operation will be 9:00 A.M. to 9:00 P.M., Monday through Saturday by appointment only.
 - (2) The proposed identification sign for the business will be two (2) square feet.
 - (3) The maximum number of clients will be six (6) a day.
 - (4) The special permit does not convey with the sale of the property.
 - (5) Site plan as required.
 - (6) Special Permit is granted for a period of three (3) years.

The motion carried unanimously.

SPECIAL PERMIT #43776

R.F. HOSKINS (OWNER) AND DAVID B. AND DEBORAH S. COOK (CONTRACT OWNERS)

Applicants wish special permit approval to locate a contractor's storage yard, shop and materials storage yard on the portion of property zoned Commercial-2 proffered, and contains approximately 3.22 acres, located on Lee Highway (State Routes 15/29) near New Baltimore, identified as PIN #7916-67-4848-000, Scott District.

Mr. Margraf reviewed the staff report stating that on January 19, 1999, the Board of Supervisors approved a rezoning of the property to Commercial-2 with proffers. A copy of the proffers and zoning map are attached. Fauquier County Health Department has not received an application as of yet for this proposed use. Virginia Department of Transportation takes no exception to this application.

Mrs. Deborah Cook, applicant/contract purchaser of the subject property, spoke in support of this request. She stated that this property is located partially in both Fauquier and Prince William Counties. She stated that the existing house would be converted to office use. She reviewed the conceptual plan for the Board of Zoning Appeals. She stated that the adjoining property owner, Mr. Logan Hendricks does support this request.

Mr. Merle Fallon, representative of the applicants/contract purchaser, spoke in support of this request. He stated that the conditions of the rezoning restrict the use to retail/plant nursery sales. He reviewed the location of the structures and proposed structures on the property. He stated that beyond the proposed material storage yard is a very steep cliff with a 40-50 foot drop off. He stated that his clients are making a substantial investment in this property and the loan officer of the bank is concerned that the conditions not limit the transfer of the special permit to future owners of the property.

Mrs. Mailler asked for the number of trucks coming into the property per day.

Mrs. Cook stated that there are several crews that will be coming into the property to pick up materials. She explained that the site offer retail nursery sales, as well as full gardening services. As a result, she stated that she did not know the number of vehicle trips per day.

Mr. Fallon stated that Virginia Department of Transportation is requiring a taper, and an acceleration lane at the property. Additionally, VDOT has in their six-year plan working to lower the elevation on the opposite side of the road that will help with the visibility.

Mr. Meadows inquired as to the location of the nearby residences, due to the hours of operation proposed and the effect on adjacent properties.

Mrs. Cook stated that there are not any residences within 200-300 yards from the property.

Mr. Barr asked if an application had been filed with the Fauquier County Health Department.

Mrs. Cook stated that an application was filed during the last week of February 1999. Mr. Fallon stated that the application was made after the Health Department had sent their comments.

Mr. Meadows inquired about the lighting on the property.

Mrs. Cook and Mr. Fallon stated that lighting is conditioned in the proffers of the recent rezoning.

Mrs. Bowen stated that the property was recently rezoned to Commercial-2.

Mr. Rider asked Mrs. Bowen if the retail sales were allowed by right, but the contractor's storage yard required special permit approval.

Mrs. Bowen replied that was correct.

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

Mr. Bob Sowder spoke in support of this request. He cited concerns with regard to finding the appropriate location for this type of business. He stated that he felt this use was appropriate for this area.

Mrs. Mailler cited concerns with the conveyance of this permit and the time period.

On the motion made by Mr. Barr and seconded by Mr. Meadows, it was moved to grant special permit #43776, 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.
 - (2) The special permit does convey with the sale of the property.

The vote was 6 to 1 in favor of granting of this permit, with Mrs. Mailler opposing.

SPECIAL PERMIT #43777
MOUNT HOLLY BAPTIST CHURCH TRUSTEES

Applicants are requesting special permit approval for the enlargement of an existing place of worship. The subject properties are located at 6172 Sumerduck Road (State Route 651) near Sumerduck, zoned R-1 (Residential), and contains approximately 4.25 acres, and is identified as PIN #6895-49-2009-000 and PIN #6895-48-1870-000, Lee District.

Mr. Margraf reviewed the staff report. He stated that there is an existing one story church and shed on the subject property, as shown on the boundary survey plat. The proposed detached building will be 12x24 and will be a temporary Sunday School classroom. Fauquier County Health Department has not received an application for this expansion. Virginia Department has no objection to this application.

Mr. J. Wilson Clatterbuck, Trustee of Mount Holly Baptist Church was present in support of this request. He stated the temporary trailer would be used until the new building is built, for the use of Sunday School classrooms to accommodate the growth.

Mr. Rider asked for clarification of the special permit application, and whether the request is for the temporary classrooms and the enlargement of the church.

Mrs. Bowen stated that she had asked Mr. Clatterbuck if he was ready to make application for the enlargement at this time. She stated that she was told that the plans were not ready for the enlargement, to include in this application, but they wished to proceed with the request for a temporary trailer/modular unit.

Mr. Meadows asked as to the time period needed for the temporary trailer.

Mr. Clatterbuck stated that three years should be sufficient, but they would like five years.

The Pastor of Mount Holly Baptist spoke in support of this request. He stated the increase in the congregation necessitates this request, until the first phase of the enlargement of the church is complete. He also stated that the temporary trailer would only be used on Wednesdays and Sundays.

Mr. Rider stated that the request before the Board of Zoning Appeals today is not for the enlargement, but only for the temporary trailer/modular unit.

On the motion made by Ms. Wilson and seconded by Mrs. Mailler, it was moved to grant special permit #43777, 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 5-602 Additional Standards for Place of Worship
Uses proposed in conjunction with place of worship shall be subject to regulations applicable to such use (e.g., school, 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) Allow location of temporary classroom building as shown on the submitted plat.
 - (2) The special permit is valid for five (5) years or until new building is constructed, whichever occurs first.
 - (3) Site Plan as required.

The motion carried unanimously.

EXECUTIVE SESSION:

On the motion made by Mrs. Wilson, and seconded by Mr. Meadows, pursuant to §2.1-344 (a)(7) of the Code of Virginia, I move to go into Executive Session for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to Special Permit #43647, Curtis R. and Shelia A. Hansen, and Special Permit #43707, Steepbottom, L.L.C. and Richard and Kathleen Fitzsimmons.

The motion carried unanimously.

EXECUTIVE SESSION

The Fauquier County Board of Zoning Appeals, having adjourned into Executive Session this day for the purposes stated in the resolution authorizing such Session, does hereby certify that to the best of each member's knowledge (I) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (II) only such public business matters as were identified in the motion by which the Executive Session was convened, were heard, discussed or considered in the Executive Session.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Ms. Wilson, seconded by Mrs. Mailler.

AYES: Mr. Barr, Mr. Rider, Ms. Wilson, Mrs. Mailler, Mr. Lofdahl, and Mr. Meadows.

NAYS: None

ABSTENTION: None

ABSENT: Dr. Branscome

Mr. Rider stated that the Hansen special permit request will be considered first.

On the motion made by Mr. Meadows and seconded by Mr. Lofdahl, it was moved to grant special permit # 43647, 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.
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 use is limited to Building J for auctions and retail sales, Building H for restroom facility, and Buildings K and Q for storage
- (2) The hours of operation for auctions will be 5:00 P.M. to 9:00 P.M. and on Saturday only.
- (3) A total of twenty-four (24) auctions are permitted in one (1) year.
- (4) A maximum of two (2) auctions is permitted in any one (1) month.
- (5) Access to the site is derived from John S. Mosby Highway (U.S. Highway Route 50).
- (6) A six (6) foot stockade fence shall be installed along the property line adjacent to the Clark property prior to any auctions being held.
- (7) The special permit is granted for a period of one (1) year.

Mr. Rider asked Mr. Hansen if he would like to speak regarding the granting of the special permit.

Mr. Hansen stated that the other special permit requests that were granted today were issued in order to allow the businesses to succeed. He stated that he felt the time allowed for the auctions was not sufficient for a successful business operation.

Mr. Lofdahl asked Mr. Hansen to verify the existence of the retail space permitted on the site.

Mr. Hansen stated that the retail space is separate from the auction establishment. He also stated that the number of auctions granted is not enough.

Mr. Rider stated that the Board of Zoning Appeals is not receptive to 48 auctions per year. He also stated that the other types of special permits granted today were less impactful than this request for auctions.

Mr. Hansen asked the BZA to reconsider the conditions and allow more than 24 auctions.

Mr. Meadows asked the BZA members if they wished to amend any of the conditions imposed.

No one requested to amend the motion.

The motion carried unanimously.

Mr. Rider stated that the Board of Zoning Appeals would continue with special permit #43707, Richard and Kathleen Fitzsimmons. He stated that new information was submitted and the members have had an opportunity to review that information.

On the motion made by Mr. Lofdahl, and seconded by Mr. Barr, it was moved to grant special permit #43707, 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 5-604 Additional Standards for Residential Care Facilities

1. In the consideration of an application for such a use, the concentration of such facilities shall be taken into account to prevent clustering in certain neighborhoods, thereby creating an institutional setting and changing the area's character and social structure.
2. In granting a permit for a residential care facility, a maximum number of residents shall be established. This limitation shall be based upon, but not limited to, the following considerations (as well as the standards set forth in Section 006 above).
 - A. The size of the structure and of the site.
 - B. Location and size of other similar facilities in the neighborhood.
 - C. The density allowed and existing in the area.
3. In addition to the minimum lot size requirements of the zoning district in which located, the minimum lot area for a residential care facility shall be of such size that:
 - A. 300 square feet of usable outdoor recreation area shall be provided for each resident 17 years of age and younger.
 - B. 150 square feet of usable outdoor recreation area shall be provided for each resident 18 years of age and older. Such usable outdoor recreation 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 in the same manner as Paragraph 503.1
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 one (1) year from the date of site plan approval.
- (2) A maximum of ten (10) children is permitted in the facility.
- (3) The special permit does not convey with the sale of the property.

Mrs. Fitzsimmons stated that she would like to request an increase of the number of children.

Mr. Meadows stated that he had asked the applicant during last months hearing if they could accept a limitation of ten (10) children, and Mrs. Fitzsimmons stated that she would rather have ten (10) children than none at all.

Mrs. Hitchings requested to speak regarding the motion and conditions.

Mr. Rider stated she may speak.

Mrs. Hitchings stated that she feels the granting of this permit has placed her two daughters at risk. She thanked to BZA for limiting the number of children to ten (10). She stated that a petition was given to the BZA with over 200 signatures voicing the opposition and impact from the neighbors. She also stated that Sheriff's Higgs letter indicated his concern. She felt concerned that there was a lot of information submitted and she had hoped the BZA members had reviewed the material thoroughly. She stated that due to the fact that there are other similar facilities within less than ten miles and she felt this was a clustering of this type of facility. She asked the BZA to consider the seventeen (17) conditions, in which she had submitted. She felt very disappointed in the decision and she would monitor the situation carefully.

Mr. Rider stated that the BZA had sufficient time to review all cases presented before them.

Mrs. Cindy Litton asked the BZA if they would monitor this special permit. She also thanked the BZA for limiting the number of children.

Mr. Rider stated that the BZA would oversee the special permit.

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at 5:50 P.M.

William Rider, Chairman

Barbara Wilson, 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.