

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

April 8, 1999

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, April 8, 1999, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were 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. Mr. William Rider was absent.

MINUTES

On the motion made by Mr. Lofdahl, and seconded by Mr. Meadows, it was moved to approve the minutes of the March 4, 1999 hearing 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 #43892

EDWARD I. DOWNS, HEIRS (OWNERS)/KAREN E. COSNER (CONTRACT OWNER)

Applicant is requesting special permit approval to locate a professional office in an existing structure for a real estate office. Applicant is also requesting an identification sign up to twelve (12) square feet. The subject property is located at 4483 Lee Highway (State Route 15 & 29) in New Baltimore, containing 1.50 acres, zoned R-1 (Residential), identified as PIN #7916-14-9773-000, Scott District.

Mr. Don Margraf reviewed the staff report. He stated a site visit was conducted earlier in the day. He also stated that the Fauquier County Health Department is requesting an evaluation of the septic tank and distribution box due to the age of the current system. He further stated that Virginia Department of Transportation would be agreeable for commercial use provided that the vehicle trips per day does not exceed ten (10), and they would also require a commercial entrance.

Mrs. Karen E. Cosner, Contract Owner, was present in support of this request. She submitted a letter of support from Mr. and Mrs. Keith Severin. Mrs. Cosner stated that she is requesting special permit approval to use the Downes' property as a real estate office. She explained that her business is commercial and industrial real estate land sales and the traffic generated is much less than a full service residential sales office. She also stated that although the request is for six or less employees, at present there would only be three employees, including herself in the office.

Mr. Lofdahl asked Mrs. Cosner if the entrance to the subject property would be changed, once Route 676 is extended.

Mrs. Cosner stated no but, that VDOT would be constructing an acceleration lane along this property.

Mr. Meadows asked if the acceleration lane would extend to her driveway and she stated that it would.

Mr. Lofdahl asked if there was any expansion or additions planned for the dwelling.

Mrs. Cosner stated that she wants to close in the porch for a conference room, but there will be no other exterior changes to the dwelling.

Mr. Meadows asked Mrs. Bowen if the size of the requested sign complies with the Zoning Ordinance.

Mrs. Bowen stated that the BZA could approve a sign up to fifty (50) square feet, but the applicant is only asking for twelve (12) square feet.

Mr. Barr asked about the concerns of Fauquier County Health Department.

Mrs. Cosner stated that she would comply with the Health Department requirements and is currently evaluating the existing system for compliance.

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

Mr. Ronald Fahy, residing at 4314 Broad Run Church Road, and an adjoining property owner, spoke in opposition to this request. He stated that his wife also has an interest in the property adjacent along Route 29. He asked for confirmation that his letter had been received.

Mr. Barr confirmed receipt of his letter.

Mr. Fahy cited concerns with this request being incompatible with the proposed New Baltimore Service District Citizen Planning Commission plan. He stated that this plan is being considered by the Fauquier County Planning Commission in April. He explained that the proposed plan indicates this area to be for residential use only, and not used for commercial activity. He submitted several photos to the BZA of the area.

Ms. Wilson asked Mr. Fahy for specific objections to the request.

Mr. Fahy cited concerns with traffic, and the change in use.

Mrs. Cosner stated that there will be no change in the appearance of the house. She stated that she would screen the parking area, as required during site plan approval.

Ms. Wilson asked the number of customers anticipated weekly.

Mrs. Cosner stated approximately 2-3 customers a week. She explained that most of the time, her customers meet at the location of the prospective property, and not at the office. She further stated that the office would be used mostly for the writing and presenting of real estate contracts.

Mrs. Mailler asked about the hours of operation.

Mrs. Cosner stated her hours would be generally 8:00 A.M. until 6:00 P.M.

Mr. Barr stated that the BZA has to consider the request based on the current Zoning Ordinance regulations.

No one else appeared to speak to the request.

On the motion made by Mrs. Mailler and seconded by Ms. Wilson, it was moved to grant special permit #43892, 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 does not convey with the sale of, or involuntary transfer of the property.
 2. The special permit is restricted solely to the applicant, Karen E. Cosner, and should Mrs. Cosner transfer any right title or interest in the property, including, but not limited to transference by lease, deed or operating agreement, the permit shall be void.
 3. The proposed identification sign will be twelve (12) square feet.

The motion carried unanimously.

VARIANCE #43905

DOUGLAS D. AND PHYLLIS A TEAGUE (OWNERS)

Applicants are requesting variances to the side and front setback requirements for a detached garage, due to the floodplain and topography of the lot. The proposed garage will be located fifteen (15) feet from the side property line, wherein the Zoning Ordinance requires twenty-five (25) feet, and twenty feet (20) from the front property line, wherein the Zoning Ordinance requires fifty (50) feet, (75' from centerline of Leigh Road). The subject property is located at

7507 Leigh Road (State Route 1134) near Warrenton, containing 10.181 acres, zoned RA (Rural Agriculture), identified as PIN #6973-66-4513-000, Center District.

Mr. Margraf reviewed the staff report. He stated that a site visit was made earlier. He further stated that Fauquier County Health Department and Virginia Department of Transportation have no objection to this request.

Mr. Douglas Teague, Owner, was present in support of his request. He stated that the location of the proposed garage was chosen, due to the floodplain, location of the present septic and reserve areas required. He stated that he had chosen this location so as to minimize the negative impact to his property and to adjoining neighbors, and to protect their views. He also stated that he has not received any negative comments from adjoining property owners. He stated that the cost of constructing the garage has increased due to the proposed location.

Mr. Meadows asked Mr. Teague if he would be willing to turn the garage toward the house, so as to lessen the amount of variance needed.

Mr. Teague stated he had considered that option and felt it would obstruct the views of the overall area. He further stated that it would put the garage in the middle of the open area and would deteriorate the house and the adjoining property. He stated that he felt the proposed location makes the most sense.

Ms. Wilson stated that it is difficult to consider this request, as there are other alternatives available for the location of this garage.

Mr. Barr stated that the Board of Zoning Appeals couldn't grant a variance as a matter of convenience, or change the law.

Mr. Barr asked if anyone wished to speak regarding this request, no one appeared.

On the motion made by Ms. Wilson and seconded by Mr. Meadows, it was moved to moved to deny variance #43905, 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:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the ordinance;
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property;

- (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. Such hardship is generally shared by other properties in the same zoning district and the same vicinity, and is of so general and reoccurring 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 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 #43923

**FENTON FARM L.C. (OWNER) ERNESTO D. AND DEBORAH C. DRAGHI
(TENANTS/APPLICANTS)**

Applicants are requesting special permit approval to operate a tourist home/boarding house (bed and breakfast) in an existing dwelling on a 20 acre portion of the property. Applicants are also requesting approval for an identification sign up to twelve (12) square feet on property located at 7296 Fenton Farm Lane near Warrenton, identified as PIN #6975-81-9887-000, containing 224.19 acres in Marshall District

Mr. Margraf reviewed the staff report and stated that the applicants currently lease twenty (20) acres of the subject property. He stated that a site visit was made earlier in the day. He further stated that Virginia Department of Transportation and Fauquier County Health Department has not commented on this request.

Mr. and Mrs. Ernesto Draghi, tenants, were present in support of their request. Mr. Draghi stated that he and his wife presently reside in the manor house at Fenton Farm. He stated that he currently operates a French restaurant in White Post in Clarke County, and his desire is to open a bed and breakfast at the manor house located at Fenton Farm, and has also applied for special exception approval for a restaurant.

Ms. Wilson asked Mr. Draghi how many bedrooms are in the manor house.

Mr. Draghi stated that there are six bedrooms, but only four would be used for the bed and breakfast, as they have adjoining bathrooms.

Mr. Lofdahl asked about the other buildings and residences on the property.

Mr. Draghi stated that there are two horse barns, as well as a farm manager living on the property, and two other tenant houses that are rented.

Mr. Lofdahl asked if all the persons residing on the farm use the same entrance.

Mr. Draghi replied yes. He further stated that in the future he would like to use the access road to the property from Route 17. He also stated that Mr. Jackson from the Health Department had visited the property and uncovered the distribution box. He said Mr. Jackson stated he would approve the system as it is, but he would recommend upgrading.

Mrs. Bowen stated that site plan approval is required, as well as approval from Virginia Department of Transportation and Fauquier County Health Department.

Dr. Branscome asked Mr. Draghi if the pool and tennis courts would be used.

Mr. Draghi stated that the pool is in working condition, however the tennis courts need to be resurfaced. In the future, as funds are available he would like to make the necessary improvements.

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

No one spoke.

On the motion made by Mr. Lofdahl, and seconded by Mrs. Mailler, it was moved to grant special permit #43923, 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 5-302 Additional Standards for Tourist Homes and Boarding Houses
 1. Such a use shall provide accommodations for not more than twelve (12) persons.

2. Off-street parking for the use shall be in accordance with the provisions of Article 7, shall not be located in any required front yard, and shall be effectively screened.
 3. 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 Supervisors or 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.
 4. In Residential and Rural Zoning Districts, the Building(s) so used shall have the exterior appearance of a single-family residence and normal residential accessory structures.
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 twelve (12) square feet.

The motion carried unanimously.

OTHER MATTERS

Mr. Meadows welcomed Mr. Atkinson from the Spotsylvania BZA. He stated that Mr. Atkinson was observing the hearing today, as part of a requirement of the Virginia Certified Boards of Zoning Appeals program.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at 3:10 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.