

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
JULY 5, 2012**

*Work Session
1:00 p.m.
Second Floor Conference Room, Warren Green Building
10 Hotel Street, Warrenton, Virginia*

The Fauquier County Board of Zoning Appeals held a work session on Thursday, July 5, 2012, beginning at 1:00 p.m. in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Harry Russell, Vice-Chairperson; Mr. Michael Brown; Mrs. Mary North Cooper and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Mary Catherine Sheridan, Assistant County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Andrew Hushour, Assistant Zoning Administrator; and Mr. Rob Walton, Senior Planner.

MINUTES:

Board members reviewed the June 7, 2012 minutes.

AGENDA REVIEW:

SPECIAL PERMIT #SPPT12-MA-027, MIT RAJ, LLC (OWNER/APPLICANT) – FAUQUIER STORAGE

Applicant is requesting special permit approval to allow for a storage establishment, PIN 6981-17-2727-000, located at 9462 James Madison Highway, Marshall District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour reviewed the application.

SPECIAL PERMIT #SPPT12-MA-032, TURNER ASSOCIATES TRUSTEE, ASHBY TRUST (OWNER) – RICK PAULSON (APPLICANT) – MARKHAM MOTORCYCLE WORKS

Applicant is requesting special permit approval to operate a motorcycle detailing business, PIN 6021-73-2035-000, located at 11511 Old Markham Road, Marshall District, Markham, Virginia. (Holly Meade, Staff)

Ms. Meade reviewed the application.

SPECIAL PERMIT #SPPT12-LE-033, TU T. NGUYEN (OWNER)/THIEN-HUONG T. HOANG (APPLICANT) – VIETNAMESE AMERICAN MAHASI MEDITATION CENTER Applicant is requesting special permit approval to allow for a place of worship, PIN 7806-98-3618-000, located at 12734 Marsh Road, Lee District, Bealeton, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the application.

CLOSED MEETING:

On motion made by Mr. Tufts and seconded by Mr. Meadows, it was moved to go into a closed meeting, pursuant to *Code of Virginia* Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to all the appeals on the agenda.

The motion carried 5 – 0, as follows:

AYES: Mr. Meadows, Mr. Russell, Mr. Brown, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: None

Upon reconvening from the closed meeting, Mr. Tufts read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and
2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed, or considered in the closed meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Tufts and seconded by Mr. Meadows.

The motion carried 5 – 0, as follows:

AYES: Mr. Meadows, Mr. Russell, Mr. Brown, Mrs. Cooper, Mr. Tufts

NAYS: None

ABSTENTION: None

ABSENT: None

The meeting was adjourned at 1:40 p.m.

<p><i>Regularly Scheduled Meeting</i> <i>2:00 p.m.</i> <i>Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia</i></p>
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The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, July 5, 2012, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mr. Harry Russell, Vice-Chairperson; Mr. Michael Brown; Mrs. Mary North Cooper and Mr. Maximilian Tufts, Jr. Also present were Ms. Holly Meade, Assistant Chief of Planning/Secretary; Ms. Mary Catherine Sheridan, Assistant County Attorney; Mr. Andrew Hushour, Assistant Zoning Administrator; Mrs. Susan Eddy, Chief of Planning; Ms. Kimberley Johnson, Zoning Administrator; Mr. Rob Walton, Senior Planner; Mrs. Meredith Meixner, Administrative Specialist; and Mrs. Fran Williams, Administrative Specialist.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE:

Mrs. Williams read the public hearing protocol. Ms. Meade 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.

MINUTES:

On motion made by Mr. Brown and seconded by Mr. Russell, it was moved to approve the June 7, 2012 minutes.

The motion carried unanimously.

ZONING APPEAL #ZNAP12-LE-001, STEICO, INC. (OWNER/APPLICANT) – SHEETZ STORE #221

Applicant is appealing a Zoning Administrator's determination that a gasoline canopy and illuminated diesel price signs are in violation of the Fauquier County Zoning Ordinance, PIN 6980-29-9580-000, located at 10101 James Madison Highway, Lee District, Bealeton, Virginia. (Andrew Hushour, Staff) *Note: This is a public meeting, not a public hearing.*

Postponed.

Note: Agenda revised to consider Item #10 as Item #3

ZONING APPEAL #ZNAP12-CR-005, MALCOLM W. COOK TRUSTEE, MICHAEL SHAWN HAWKINS TRUST (OWNER) MICHAEL SHAWN HAWKINS – HAWKINS PROPERTY (ITEM #10)

Applicant is appealing a Zoning Administrator's determination that a non-conforming use has been expanded, uses have been added, and construction of buildings without permits have occurred in violation of the Fauquier County Zoning Ordinance, PIN 7922-96-4463-000, located at 3328 Catlett Road, Cedar Run District, Catlett, Virginia. (Kimberley Johnson, Staff) *Note: This is a public meeting, not a public hearing.*

Mr. Meadows opened the public meeting.

Merle Fallon, Esquire, representative, stated that the appeal was submitted after the submission deadline for the July 2012 meeting and requested a postponement on this item until the next regularly scheduled meeting.

In that there were no further speakers, Mr. Meadows adjourned the public meeting.

On motion made by Mr. Russell and seconded by Mr. Brown, it was moved to postpone consideration of this item until the next regularly scheduled meeting.

The motion carried unanimously.

SPECIAL PERMIT #SPPT12-MA-027, MIT RAJ, LLC (OWNER/APPLICANT) – FAUQUIER STORAGE

Applicant is requesting special permit approval to allow for a storage establishment, PIN 6981-17-2727-000, located at 9462 James Madison Highway, Marshall District, Warrenton, Virginia. (Andrew Hushour, Staff)

Mr. Hushour stated that the applicant has requested a postponement until the next regularly scheduled meeting.

On motion made by Mr. Russell and seconded by Mr. Tufts, it was moved to postpone this item until the next regularly scheduled meeting, with the public hearing left open.

The motion carried unanimously.

ZONING APPEAL #ZNAP12-MA-002, MARTHA MICHAEL (OWNER/APPLICANT) – MICHAEL/BONETA PROPERTY

Applicant is appealing a Zoning Administrator's determination that the occupancy of a dwelling unit by four (4) or more unrelated persons, for a boarding house, is in violation of the Fauquier County Zoning Ordinance, PIN 6035-80-2509-000, located at 625 Federal

Street, Marshall District, Paris, Virginia. (Andrew Hushour, Staff) *Note: This is a public meeting, not a public hearing.*

Withdrawn.

SPECIAL PERMIT #SPPT12-MA-032, TURNER ASSOCIATES TRUSTEE, ASHBY TRUST (OWNER) – RICK PAULSON (APPLICANT) – MARKHAM MOTORCYCLE WORKS

Applicant is requesting special permit approval to operate a motorcycle detailing business, PIN 6021-73-2035-000, located at 11511 Old Markham Road, Marshall District, Markham, Virginia. (Holly Meade, Staff)

Ms. Meade reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Mr. Rick Paulson, applicant, expressed agreement with the staff report.

Ms. Cherie Calvert, owner, spoke in support of granting this special permit.

Ms. Julie Martin, a neighbor, spoke in opposition to the granting of this special permit. Ms. Martin expressed concerns regarding the entire parcel being located in the floodplain; a possible negative impact to wetlands; signage; noise; lighting; parking; no record of a permitted well or drainfield for the site; and a claim that not all the neighbors were notified of this proposal.

Ms. Martin also read a statement, a copy of which is attached to and made part of these official minutes, from Mr. Warren Montouri, a neighbor unable to be in attendance, opposing the granting of this special permit due to concerns about its possible effect on the historic village of Markham.

Mr. Charles Matheson, a neighbor, spoke in opposition to the granting of this special permit, stating that the use is unsuitable for this historic area. Mr. Matheson also stated that he has already been impacted negatively since one of his tenants has moved because of the motorcycle detailing business.

Mr. Bill Green, a neighbor, spoke in support of granting this special permit.

Ms. Nancy Hanscomb, a resident of Markham, spoke in support of the proposal, stating that the appearance of the building is quite an improvement from its previous condition.

Mr. Meadows stated that the Board has not had an opportunity to review the additional material which was submitted during the Work Session.

In that there were no further speakers, Mr. Meadows adjourned the public hearing.

After discussion, on motion made by Mr. Tufts and seconded by Mr. Russell, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing left open.

The motion carried unanimously.

ZONING APPEAL #ZNAP12-CR-003, KENNETH L. & NATALIE J. ORTBERG (OWNERS/APPLICANTS) – ORTBERG PROPERTY

Applicant is appealing a Zoning Administrator's determination that the subject property is not a legal lot of record, PIN 6993-30-5414-000, located on the southeast side of Green Road, Cedar Run District, Warrenton, Virginia. (Andrew Hushour, Staff) *Note: This is a public meeting, not a public hearing.*

Postponed.

ZONING APPEAL #ZNAP12-MA-004, PIEDMONT AGRICULTURE ACADEMY, LLC (OWNER/APPLICANT) – PIEDMONT AGRICULTURE ACADEMY

Applicant is appealing a Zoning Administrator's determination regarding the operation of a farm sales establishment, including temporary and/or special events, without the required County approvals, PIN 6034-98-2331-000, located at 1037 Gap Run Road, Marshall District, Paris, Virginia. (Andrew Hushour, Staff) *Note: This is a public meeting, not a public hearing.*

Mr. Meadows stated that the public meeting will be held even though the appellant has submitted a request for a postponement on this item.

Mr. Hushour reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public meeting.

Michelle Rosati, Esquire, representative, expressed dismay that her request for deferral was not granted since several other cases on the agenda have been postponed at the applicant's request. Ms. Rosati stated that the request for additional time was made in light of the fact that Zoning staff has had 1½ years to develop a case against her client, and the staff report, which she received just 48 hours prior to the meeting, contains a great deal of information. She further stated that it is her position and contention that the property is in full compliance with the Zoning Ordinance and that the Notice of Violation and Corrective Order is in error.

Ms. Rosati went on to say that the use, based upon Virginia law and County statutes, should be considered legally non-conforming since it began prior to the July 14, 2011 Zoning Ordinance text amendment related to Wayside Stands and Farmer's Markets. She also noted that the principal use of the property is not a "Farm Sales Establishment," but agricultural since it is used as a farm and the sales are an accessory use.

Ms. Rosati further stated that no other farmers in the County have been cited for similar violations. She concluded by stating that the rules should be fair, consistent, and evenly applied and respectfully requested that the Zoning Administrator's determination be overturned.

In that there were no further speakers, Mr. Meadows adjourned the public meeting.

On motion made by Mrs. Cooper and seconded by Mr. Tufts, it was moved to postpone action on this item until the next regularly scheduled meeting.

The motion carried unanimously.

SPECIAL PERMIT #SPPT12-LE-033, TU T. NGUYEN (OWNER)/THIEN-HUONG T. HOANG (APPLICANT) – VIETNAMESE AMERICAN MAHASI MEDITATION CENTER Applicant is requesting special permit approval to allow for a place of worship, PIN 7806-98-3618-000, located at 12734 Marsh Road, Lee District, Bealeton, Virginia. (Rob Walton, Staff)

Mr. Walton reviewed the staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Meadows opened the public hearing.

Mr. Tu T. Nguyen, owner, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Brown and seconded by Mr. Russell, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Zoning Ordinance, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking, loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.

6. The proposed use is consistent with the general standards for special permits.

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:

1. The site shall be in general conformance with the information submitted with the special permit application except as specifically modified by the conditions below or necessary to meet Zoning Ordinance requirements.
2. A private consultant must be hired to evaluate the existing drainfield on the site to determine if the use can be supported. The use may not commence until adequate drainfield capacity is demonstrated on the site.
3. Prayer services are permitted on weekends between the hours of 9:00 a.m. and 5:00 p.m. on Saturday and Sunday only; and the maximum number of attendants allowed for the place of worship at any one time is limited to forty (40) persons.
4. Activities ancillary to the permitted use on the property, such as religious schooling for members and educational seminars are limited to the weekend hours of operation as set forth in Condition #3 and three (3) additional nights per week, Monday through Friday, between the hours of 6:00 p.m. and 9:00 p.m.
5. The existing signage must comply with Article 8 of the Fauquier County Zoning Ordinance in the following manner:
 - a. The applicant shall not be permitted to have more than three (3) flags on the property and no single flag shall exceed 50 square feet in area.
 - b. Any modifications made to the existing freestanding sign shall be in accordance with Article 8 of the Fauquier County Zoning Ordinance.
 - c. The existing window signs can only occupy 15% of any individual window on the commercial building. The existing window signs shall be reduced in size or removed from the windows.
6. Parking for not less than ten (10) vehicles shall be provided on-site, the location of which shall be approved during the site plan process, and shall not encroach upon the approved drainfield.

The motion carried unanimously.

ZONING VARIANCE #ZNVA12-CR-012, VINCENT ANDERSON & DENYS ANDERSON (OWNERS)/VINCENT L. ANDERSON, JR. & DENYS J. ANDERSON (APPLICANTS) – ANDERSON PROPERTY

Applicants are requesting a variance of the required one hundred (100) foot front and side yard setbacks to allow for an existing barn, and a variance of the required twenty-five foot

side yard setback to allow for an addition made to the existing residence, PIN 7847-94-8323-000, located at 12380 Tacketts Mill Road, Cedar Run District, Stafford, Virginia. (Rob Walton, Staff)

Withdrawn.

OTHER BUSINESS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:50 p.m.

John R. Meadows, Chairperson

Holly Meade, Secretary

Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one (1) year.