

Berryville – Clarke County
Government Center
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Berryville, VA 22611



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BERRYVILLE
EST. 1798 *Genuine* VIRGINIA

BERRYVILLE PLANNING COMMISSION

Regular Meeting

Tuesday, November 26, 2024 – 7:00 p.m.

101 Chalmers Court – Main Meeting Room – Second Floor

AGENDA

1. Call to Order – William Steinmetz, Chair
2. Approval of Agenda
3. Approval of Minutes – October 22, 2024
4. Public Hearing – Special Use Permit – Home Occupation
Jason T. McCarty, Applicant, is requesting a special use permit per Section 604.3(g) of the Berryville Zoning Ordinance in order to operate a home occupation (tattoo business) at the property located at 8 West Fairfax Street, identified as Tax Map Parcel number 14A2-((3))-8, zoned DR-4 Detached Residential. SUP 05-24
5. Discussion of Public Hearing
6. Citizens' Forum
7. Planning Update
8. Other
9. Adjourn

Harry Lee Arnold, Jr.
Mayor

Erecka L. Gibson
Vice Mayor

Council Members

William Steinmetz
Ward 1

Diane Harrison
Ward 2

Grant Mazzarino
Ward 3

Ryan Tibbens
Ward 4

Keith R. Dalton
Town Manager

BERRYVILLE PLANNING COMMISSION
Berryville-Clarke County Government Center
Regular Meeting Minutes
October 22, 2024

A meeting of the Berryville Planning Commission was held on Tuesday, October 22, 2024 at 7:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

Attendance: Members of the Planning Commission present: William Steinmetz, Chair; Gwen Malone, Vice Chair; William Gilpin, Dana Libby, Michelle Marino, Tom Parker

Absent: Michael Bell

Staff present: Christy Dunkle, Community Development Director

Others present: Jason McCarty; Sam Miller, President, John H. Enders Fire and Rescue Company; Bill Cleary, Treasurer, John H. Enders Fire and Rescue Company

Press present: none

1. Call to Order – William Steinmetz

Chair Steinmetz called the meeting to order at 7:01 p.m.

2. Approval of Agenda

Mr. Parker made the motion to approve the agenda as presented, seconded by Vice Chair Malone, and passed by voice vote.

3. Approval of Meeting Minutes

Vice Chair Malone made the motion to approve the minutes of the September 24, 2024 meeting as presented and seconded by Mr. Parker. The motion passed by voice vote.

4. Set Public Hearing – Special Use Permit – Home Occupation

Jason T. McCarty, Applicant, is requesting a special use permit per Section 604.3(g) of the Berryville Zoning Ordinance in order to operate a home occupation (tattoo business) at the property located at 8 West Fairfax Street, identified as Tax Map Parcel number 14A2-((3))-8, zoned DR-4 Detached Residential. SUP 05-24

Ms. Dunkle introduced Mr. McCarty who is requesting a special use permit in order to relocate his business to his home. She referenced his correspondence in the staff report and asked that Planning Commission set a public hearing on the matter. She said that she has reserved the meeting room for December 3, 2024 in case the week of Thanksgiving (November 26, 2024) did

not work for members. It was determined that the scheduled meeting date of November 26th would work with most members.

There being no further discussion, Vice Chair Malone made the motion that the Planning Commission of the Town of Berryville set a public hearing for the special use permit request for the November 26, 2024 meeting. The motion was seconded by Mr. Gilpin and passed by voice vote.

5. Site Plan Amendment – Accessory Structure

Clarke County Public Schools, Owner, and John H. Enders Fire and Rescue Company, Inc. (JC Blaylock, Chief, Applicant) are requesting a site plan amendment in order to construct an accessory structure on the property identified as Tax Map Parcel number 14A4-((A))-31, zoned R-2 Residential.

Ms. Dunkle said that Enders would like to construct a storage building on the Johnson-Williams Middle School property. She said she had distributed building elevations of the proposed structure, adding that there will be no outdoor lighting or landscaping. Ms. Dunkle said that the height of the building will be 20' at the peak. She referenced the lease agreement that the fire company has with the Clarke County School Board that identifies the location where a structure may be built. She added that two representatives from the fire company are available to answer any questions.

Chair Steinmetz asked what items would be stored in the building. Mr. Cleary said that they will be getting a new pumper truck and they will store the old truck in this building. He said other items that will be stored in the structure include the 65 Mack, a rescue boat that will be pre-attached to a pick-up truck for easy access, excess hose, and fire equipment.

There being no further discussion, Mr. Parker made the motion that the Planning Commission of the Town of Berryville approve a site plan amendment in order to construct an accessory structure on the property identified as Tax Map Parcel number 14A4-((A))-31. Ms. Marino seconded the motion which passed by voice vote.

6. Citizens' Forum

There were no speakers.

7. Planning Update

Ms. Dunkle said that Jerry Johnson will be opening a retail store in the Coiner Building next month.

8. Other

There was no other business.

9. Adjourn

Mr. Gilpin made the motion to adjourn the meeting at 7:10 p.m., seconded by Vice Chair Malone and passed by voice vote.

William Steinmetz, Chair

Christy Dunkle, Clerk

Item Title

Public Hearing – Special Use Permit – Home Occupation

Prepared By

Christy Dunkle

Jason T. McCarty, Applicant, is requesting a special use permit per Section 604.3(g) of the Berryville Zoning Ordinance in order to operate a home occupation (tattoo business) at the property located at 8 West Fairfax Street, identified as Tax Map Parcel number 14A2-((3))-8, zoned DR-4 Detached Residential. SUP 05-24

Background/History/General Information

Mr. McCarty would like to move his tattoo business from its current West Main Street location to his home located at 8 West Fairfax Street. He is proposing one client at a time.

Adjacent Zoning

The adjacent property is zoned DR-4 Detached Residential.

Parking

The property has four off-street parking spaces, two of which are identified for the property applicants.

Signage

A nameplate of up to two (2) square feet of signage is permitted for a home occupation per Section 315.5(a) of the Berryville Zoning Ordinance.

Hours of Operation

Proposed hours of operation are 10:00 a.m. until 6:00 p.m. seven days a week.

General Information

Mr. McCarty has been operating his tattoo business for 30 years. Due to changes in staffing as described in his application, he would like to move the business to his home.

Tattoo parlors are regulated by the Virginia Department of Professional and Occupational Regulation. Additional information can be found at this link: https://www.dpor.virginia.gov/sites/default/files/boards/BarberCosmo/REG-A425REGS_Tattooing.pdf

Home occupations are regulated under Section 315 of the Berryville Zoning Ordinance. A copy of this section is included in the packet.

Section 503 of the Berryville Zoning Ordinance regulates special use permits. The Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of the ordinance. Once a special use permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council. The authorized activities shall be established within two (2) years of the date of approval with an extension of one (1) additional year with Council approval, or such special use permit shall expire without notice.

Findings/Current Activity

Public hearing notices were published in the Winchester Star on Tuesday, November 12 and Tuesday, November 19, 2024. Adjacent property notices were sent via first class mail on November 8, 2024. No comments were received in the Planning Department.

Schedule/Deadlines

Town Council has set a public hearing for Tuesday, December 10, 2024. It would be appropriate for the Planning Commission to make a recommendation at this meeting.

Other Considerations

N/A

Recommendation

Approve the request as presented.

Sample Motion

I move that the Planning Commission of the Town of Berryville recommend that Town Council approve the request with the following conditions:

- Hours of operation are from 10:00 a.m. until 6:00 p.m. seven days a week; and
- All business activities take place within the house.

Attachments:

- Public hearing notice
- Special Use Permit application
- Special Use Permit narrative
- Aerial photo of the site
- Section 503 Special Use Permit of the Berryville Zoning Ordinance

**BERRYVILLE PLANNING
COMMISSION
PUBLIC HEARING NOTICE**

The Berryville Planning Commission will hold the following public hearing at 7:00 p.m., or as soon after as this matter may be heard, on **Tuesday, November 26, 2024**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Jason T. McCarty, Applicant, is requesting a special use permit per Section 604.3(g) of the Berryville Zoning Ordinance in order to operate a home occupation (tattoo business) at the property located at 8 West Fairfax Street, identified as Tax Map Parcel number 14A2-((3))-8, zoned DR-4 Detached Residential. SUP 05-24

Copies of the applications, amendments, and maps may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Christy Dunkle at 540 955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By order of the Berryville Planning Commission
Christy N. Dunkle, Community Development Director

Town of Berryville
101 Chalmers Court – Suite A
Berryville, Virginia 22611
Phone: (540) 955-4081 Fax: (540) 955-4524 E-mail: planner@berryvilleva.gov

SPECIAL USE PERMIT APPLICATION

Please Note: This is an application only. The permit will be issued only if approved by the Berryville Town Council after review and recommendation from the Planning Commission.

To be completed by Applicant: _____ Date: October 8, 2024

Applicant's Name: Jason T. M^cCarty

Applicant's Address: 8 West FAIRFAX STREET Berryville, VA 22611

Use Applied For: Home Occupation

At the following address: 8 West Fairfax Street Berryville, VA 22611

Special Conditions: Business has parking for clients, Business is separate from family dwelling, Business has private entrance, Business is appointment only

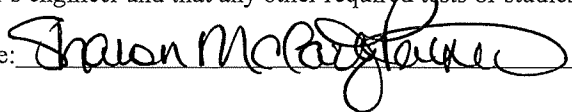
Property Owner's Name: Sharon Painter

Property Owner's Address: 116 West Main Street Berryville, VA 22611

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature:  Date: 10/8/24

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

Signature:  Date: 10/8/2024

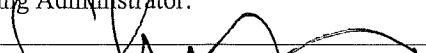
TO BE COMPLETED BY ZONING ADMINISTRATOR

Special Use: HOME OCCUPATION Zone: DR.4

Street Address: 8 W FAIRFAXS Tax Map #: 14A2 ((3))8

Special Use Permit Fee: \$300 Paid: 10.9.24

Site Plan Fee: \$150 Paid: 10.9.24

Signature of Zoning Administrator:  Date: 10.11.24

October 8, 2024

Christy Dunkle, Community Development Director
Town of Berryville Planning & Zoning
101 Chalmers Court
Berryville, VA 22611

Dear Ms. Dunkle:

I am writing to make application for a Special Use Permit, in order to operate a Home Occupation, as defined in Section 503 of the Berryville Zoning Ordinance.

As introduction, my name is Jason McCarty and I am a life-long resident in the Town of Berryville. I have operated a successful business in Berryville for 30 years (1994-2024). Formally, the business operated at 8 Chalmers Court, renting from Dr. Clark Fortney with my father (1994-2014), and then renting a partial building from the Mayor Jay Arnold located at 119 W Main Street (2014-2024). At either location, I've been able to maintain a staff of 5-6 people and to manage all business-related financial and operating costs.

Within the past several months, I have experienced the loss of three key Artists – one married and moved away from this area; one is retiring; and one recently moved to Southern Virginia to pursue their career in the Richmond area. These losses effect my ability to self-maintain a rented facility on the scale I have been accustomed to.

My intent in applying for the Special Use Permit is to create a private Studio business in my home located at 8 W Fairfax Street, Berryville, VA. My work is custom photo realism and requires focus and attention. I am considered one of the best photo realistic artists on the East Coast. Within the 30 years I've worked, I have won over 200 1st, 2nd or 3rd place trophies in competitions across the East and West Coasts. As well, my business has brought many clients to the area who have patroned other Berryville businesses such as our restaurants and shopping boutiques. Over the course of the past five years I reduced my competitions to just East Coast Events, primarily due to

economical fluctuations and family commitments, as well as my own professional commitments.

The one good thing Covid did for professional artists such as myself was to allow us to work privately, by appointment, and to remain so, once the Covid restrictions were lifted. Custom work only allows one appointment per day. I enjoy not having the distractions of walk in traffic from off the street. The business would operate by scheduled appointments Monday through Friday. I am accustomed to operating under normal office hours, 10 am to 6 pm, and would like to continue these hours of operation. There would be no unexpected late or unscheduled visitors to my property or neighborhood. I am a family-oriented person with a wife and son in high school and sports, so our evenings and weekends are busy with typical household chores and sporting or family-focused events.

The size and layout of my home at 8 W Fairfax Street easily allows for the installment of a private Studio, without disrupting or disturbing the home internally or externally. And, without disturbing our neighborhood. My family is well known to our neighbors and we have received encouraging support from them in pursuing this endeavor. I have three off street parking spaces, one of which would be used for one client at a time.

I am hopeful to demonstrate to the Planning Commission and Town Council plans for creating a successful home-based business.

Sincerely,

Jason McCarty

8 W Main St., Berryville, VA 22611 (540) 664-6969 jbodart@gmail.com



- Public
- Parcels
- Parcels With Orthos
- Clarke County Boundary
- Major Roads
- Interstate
- US Highway
- State Highway
- Surrounding Counties Open
- Surrounding Counties Non



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SECTION 503 - SPECIAL USE PERMIT

503.1 PROVISIONS FOR SPECIAL USE PERMITS

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.
- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within one (1) year of the date of approval, or such Special Use Permit shall expire without notice.
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

503.2 APPLICATIONS

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

503.3 APPLICATION REQUIREMENTS

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

503.4 APPLICATION PROCEDURE

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
 - 1. The health, safety, and welfare of the general public.
 - 2. Physical and visual impact on adjoining and abutting properties.
 - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.

4. Compliance with the adopted master plan.
 5. Environmental compatibility.
 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

SECTION 504 - SCHEDULE OF FEES, CHARGES, AND EXPENSES

- 504.1** The Town Council shall establish, by resolution, a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of use and occupancy, special permits, variances, appeals, amendments, and other matters pertaining to this Ordinance.
- 504.2** The schedule of fees shall be available for inspection in the office of the Zoning Administrator and may be altered or amended by the Governing Body by resolutions. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.