

COMMONWEALTH OF VIRGINIA  
PRINCE WILLIAM COUNTY  
BOARD OF ZONING APPEALS

Brief  
October 18, 2004  
Regular Meeting  
Board Chambers  
James J. McCoart Administration Building

**Roll Call (2:00 PM):**

Present: Fred McKelvey, Chairman  
Thomas Brenzovich  
Patricia Reynolds  
Eileen Thrall  
Morgan West

Absent: Betty Eller  
Patrick Salce, Vice-Chairman

Chairman McKelvey presented counsel for Aeromaritime and counsel for the county findings of fact he prepared regarding Appeal Case #2004-00027 for their review and comment.

**Item 1:** Appeal Case #2005-00001, Carroll & Bessie E. Carter To consider an appeal of the zoning administrator's determination that motor vehicle sales are not a lawfully nonconforming use in the B-1, General Business zoning district. GPIN 7896-29-2007 located at 8081 Centreville Road.

Staff, represented by Rob Skoff of the County Attorney's Office, described the property and presented the case.

Mr. Hawk, the applicant, brought a number of documents for the board to see which he indicated proved the continuous sale of cars from 1980.

Mr. Carter, the owner, stated that Auto Wholesalers had been in operation since 1980.

Chairman McKelvey numbered Mr. Hawk's documents as exhibits and requested Mr. Hawk explain how each document supported continuous auto sales from 1982.

Mr. Hawk indicated he didn't have sales records going back to 1982 but he had affidavits for purchases, copies of leases, copies of dealer bonds, and documents from the Department of Motor Vehicles (DMV).

Mr. Brenzovich asked why the site plans don't show the auto sales business.

Mr. Carter responded he only applied for his uses at the site not the rental uses.

Mr. Skoff asked if auto sales was included in the January 1999 nonconforming use (NCU) verification.

Mr. Carter responded auto sales was not included in that request.

Ms. Reynolds asked why the bonds stopped in 1986.

Mr. Hawk responded 1986 was the last year the DMV required dealer bonds except for new dealers.

Ms. Thrall asked about the difference in addresses among the documents.

Mr. Hawk responded that the Post Office made a change but the actual location did not change.

Mr. Skoff provided a copy of the NCU verification request from January 1999 which detailed uses at the property but did not include auto sales.

Chairman McKelvey closed the public hearing.

Motion to affirm the zoning administrator's determination in Appeal Case #2005-00001, Carroll & Bessie E. Carter, passed (3-2; motion Brenzovich, second McKelvey; Ayes Brenzovich, McKelvey, West; Nays Reynolds, Thrall; Absent Eller & Salce) – see RES 2004-030.

Motion to reverse the zoning administrator's determination in Appeal Case #2005-00001, Carroll & Bessie E. Carter, failed (2-3; motion Thrall, second Reynolds; Ayes Reynolds, Thrall; Nays Brenzovich, McKelvey, West ; Absent Eller & Salce) – see RES 2004-031.

- Item 2.** Appeal Case #2004-00027, Aeromaritime Investment Company/Washington Homes of Virginia To consider an appeal of the zoning administrator's determination that the vested development rights of the owner of the Potomac Crest Apartments have been lost because diligent pursuit has not been demonstrated. The property is located at 12812 Occoquan Road (GPIN 8393-61-6306), is zoned RM-1, Urban Residential, and comprises approximately 5.44 acres.

Neither counsel had comments on Chairman McKelvey's findings of fact.

Staff, represented by Rob Skoff of the County Attorney's Office, presented the case and described the property. Mr. Skoff provided two aerial views of the property. One from 1966 and one from 2004 showing the changes to the area. Mr. Skoff suggested the 1966 site plans are no longer good and stated no new site plans had been submitted. Had new site plans been submitted they would have been good for five years.

Questions were raised about vested rights, how long the vested rights continue and whether diligent pursuit is required to keep the vested rights active.

Michael Mattock, representing the new owner, Washington Homes, Inc. indicated he was not aware of any diligent pursuit requirement once vesting has been determined.

Joan Everett, representing Aeromaritime, confirmed information on the applications.

Several neighbors spoke and expressed their concerns about the development especially if it is allowed at the 22 units per acre. One resident provided a many paged citizen petition requesting the development be done at the current 16 units per acre zoning requirement.

Mr. West inquired if vested rights accrue to the property or the owner.

Chairman McKelvey replied vested rights run with the land.

Mr. Skoff repeated the necessity for diligent pursuit to keep the vested rights.

Mr. Mattock replied the diligent pursuit was already performed in order to gain the vested rights and those rights continue.

Chairman McKelvey closed the public hearing.

Motion to reverse the zoning administrator's May 27, 2004 determination in Appeal Case #2004-00027, Aeromaritime Investment Company/Washington Homes of Virginia, failed (2-3; motion Thrall, second McKelvey; Ayes McKelvey, Thrall; Nays Brenzovich, Reynolds, West ; Absent Eller & Salce) – see RES 2004-032.

Motion to affirm the zoning administrator's May 27, 2004 determination in Appeal Case #2004-00027, Aeromaritime Investment Company/Washington Homes of Virginia, passed (3-2; motion McKelvey, second Reynolds; Ayes Brenzovich, Reynolds, West; Nays McKelvey, Thrall; Absent Eller & Salce) – see RES 2004-033.

Chairman McKelvey added the set of facts, he gave to counsel at the beginning of the hearing regarding Appeal Case #2004-00027, to the record.

**Item 3.** Consideration of September 20, 2004 Brief and Resolutions

September 20, 2004 brief and resolutions approved as presented. (5-0; motion Brenzovich, second Thrall) – see RES 2004-034.

**Item 4.** Sue Chozick, Acting Zoning Administrator, advised there is one variance case scheduled for the November hearing and to date one appeal case scheduled for the December hearing. The cut off date for December is October 25<sup>th</sup>.

Ms. Chozick announced, effective October 25, 2004, the new Zoning Administrator/Division Chief will be Nick Evers.

**Item 5.** Adjournment at 5:20 PM

Respectfully submitted,

Antoinette Brzyski  
Secretary to the Board