

COMMONWEALTH OF VIRGINIA
PRINCE WILLIAM COUNTY
BOARD OF ZONING APPEALS

Brief
September 20, 2004
Regular Meeting
Board Chambers
James J. McCoart Administration Building

Roll Call (2:05 PM):

Present: Fred McKelvey, Chairman
Patrick Salce, Vice-Chairman
Thomas Brenzovich
Betty Eller
Patricia Reynolds
Eileen Thrall
Morgan West

Item 1: Variance Request Case #2005-00010, Marcus G. & Mary Anne Taylor To consider a request for a variance from the provisions of section 32-306.12 of the zoning ordinance to allow a screened porch and covered stairwell with wheelchair lift to be located 10.96 feet from the rear property line instead of the required 24 feet in the PMR, Planned Mixed Residential zoning district. GPIN 7398-35-6323 located at 6044 Dunnbrook Terrace.

Staff, represented by Lisa Fink-Butler of the County's Planning Department, presented the case. She explained the Taylors were requesting a variance to construct a screened porch and wheelchair lift that does not meet the setback requirement. She also explained that the requested structure includes a roof which means it's treated as an addition rather than a deck. A roofed area is considered living space and affects the square footage for tax purposes. Ms. Fink-Butler noted the county was recommending denial of the request.

Ms. Reynolds asked if there were any easements on the property as none were shown on the plat.

Ms. Fink-Butler said she had no information about easements.

Mr. Marcus Taylor provided some information about their request. He said he thought the screened porch would be measured like a deck and only require a five foot setback. He said they had received permission from the Piedmont Homeowner's Association. He explained the lift was needed for his wife's father who uses a wheel chair and cannot get to the main level of the house.

Ms. Eller asked why the deed was included in the application. Mr. Taylor said it was required.

Chairman McKelvey asked how long the Taylors had lived in the house. Mr. Taylor replied about two years.

Mr. Brenzovich asked if an uncovered lift could be installed. Mr. Taylor replied an uncovered lift would be a different style and more expensive.

Mrs. Mary Anne Taylor provided additional information about their request. She said they could not install a lift or elevator in the house and that the stairwell was too narrow. She also commented that there is an easement on the property for the golfers to get their golf balls.

Mrs. Taylor explained her father cannot go outside unless the area is shaded as he is allergic to the sun so they needed a covered area outside and preferably one that was screened as there is a stagnant water hole on the golf course which results in a large number of mosquitoes and raises other health concerns.

Mrs. Taylor read a letter from Piedmont indicating what support was available for their request. Additionally, she displayed a colored rendering of the screened porch and said it didn't extend any further than neighboring decks extend. Mrs. Taylor also said they couldn't buy any of the golf course land to increase the setback.

Mrs. Taylor displayed a petition supporting their request signed by all but two families on the street. The two families were on vacation. Mrs. Taylor displayed another petition signed by all but two families on the other side of the golf course which also supported their request. Mrs. Taylor remarked that no one said "no" and several said something like "Oh, I'd like that too."

Mrs. Eller asked if the Taylors were permitted to build the roofed structure as requested would they be able and willing to remove the roof at a later date.

The Taylors responded that they don't need a deck and wouldn't and possibly couldn't remove the roof.

Mr. Brenzovich asked if the Taylors wouldn't remove the roof would they consider installing a patio.

Mrs. Taylor responded that they would probably install a patio but she didn't know what they'd do for her father since a patio wouldn't provide shade and awnings are not permitted.

Chairman McKelvey provided some observations on setting precedents and on several cases the BZA has heard where the variance requests were denied and the circumstances were similar to this case. The code requirements principally involve confiscation. Mr. McKelvey indicated he was not unsympathetic to the Taylors' problem but the problem doesn't go to the land.

Chairman McKelvey also indicated he wasn't surprised the neighbors didn't object to the Taylors' plans since the neighbors could ask to do the same if the request by the Taylors was approved, however, the Taylors are asking for a special privilege.

Mr. McKelvey went on to say that a zoning text amendment could change the situation to allow covered decks with a five foot setback requirement, but the BZA isn't able to do this. It's not that the BZA is unsympathetic to underlying social needs but the zoning ordinance does not address this issue.

Mrs. Taylor asked about the ADA requirements.

Chairman McKelvey responded that ADA doesn't apply to private residences but the Taylors might want to contact their County Supervisor about this issue.

Ms. Reynolds suggested a covering over the lift and then a temporary screened structure for Mrs. Taylor's father to use instead of the screened porch.

Chairman McKelvey closed the public hearing.

Motion to deny Variance Request Case #2005-00010, Marcus G. & Mary Anne Taylor, passed (7-0; motion Eller, second Brenzovich) – see RES 2004-027.

- Item 2.** Appeal Case #2004-00026, George W. Parks To consider an appeal of Violation Notice and Correction Order PCE2004-00353 which specifies that 1) a flea market is being operated on the subject property in violation of the site plan and the flea market must cease such operation, 2) several accessory structures on the property do not have zoning approval and must be removed, and 3) an unlawful apartment exists on the second level of the welding shop and the apartment must be removed or cease being used. The property is zoned M-1 Heavy Industrial. GPIN 7397-43-6111 located at 14221 Lee Highway.

Motion to dismiss Appeal Case #2004-00026, George W. Parks, passed (7-0; motion McKelvey, second Thrall) – see RES 2004-028.

- Item 3.** Consideration of August 16, 2004 Brief and Resolution

August 16, 2004 brief and resolutions approved as presented. (7-0; motion Brenzovich, second Eller) – see RES 2004-029.

Item 4. Chairman McKelvey commented on his granting a continuance on the Aeromaritime case including his concerns about the 90 day requirement and about the increasing number of continuances being requested. Mr. McKelvey went on to say that he spoke with Acting County Attorney, Joe Howard, and asked that Mr. Howard look into this issue.

Ms. Eller inquired about the necessity of supplying the entire deed of trust as part of the application package since this could be a waste of paper. Ms. Fink-Butler indicated the deed is required to establish the right to submit an application. Discussion followed. Consensus was to continue providing the entire deed package.

Ms. Thrall commented on how helpful and informative the seminar was that she, Ms. Reynolds and Mr. Brenzovich attended earlier in the month.

Sue Chozick, Acting Zoning Administrator, advised there are two cases scheduled for the October hearing; the two appeals continued from September.

Mr. Eller advised she will not be at the October hearing.

Item 5. Adjournment at 3:25 PM

Respectfully submitted,

Antoinette Brzyski
Secretary to the Board