

COMMONWEALTH OF VIRGINIA
PRINCE WILLIAM COUNTY
BOARD OF ZONING APPEALS

Brief
June 21, 2004
Regular Meeting
Board Chambers
James J. McCoart Administration Building

Roll Call (2:00 PM):

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

Absent: Patrick Salce, Vice-Chairman

Chairman McKelvey stated that the County Employees who were in attendance at the hearing only as a result of subpoenas they received could return to work and would be called if needed.

Item 1: Appeal Case #2004-00014 and Appeal Case #2004-00015, Richmond American Homes of Virginia, Inc. In the R10, Residential zoning district, appealing the violation notice and correction order issued by the zoning administrator regarding activity at the Saratoga Hunt subdivision and additionally appealing the zoning administrator's decision to void zoning approval on lot grading and/or building permits on specific lots in the Saratoga Hunt subdivision located at the intersection of Minnieville Road and General Washington Drive, approximately 1,000 feet east of Silverdale Drive.

Mr. William Freyvogel, the attorney representing Richmond American Homes explained why the property in question, Saratoga Hunt, had not been posted as required. Additionally, Mr. Freyvogel explained significant progress was being made with the County Attorney's Office to settle the matter and suggested the case could be deferred.

Staff, represented by Angela Horan of the County Attorney's Office, indicated support of the request by Mr. Freyvogel to defer the hearing.

Chairman McKelvey read into the record a MEMORANDUM OPINION AND ORDER DISMISSING APPEAL for these cases.

Motion to dismiss Appeal Case #2004-00014 and Appeal Case #2004-0015, Richmond American Homes of Virginia, Inc., passed (6-0; motion Eller, second Reynolds; absent Salce) see RES 2004-017.

Item 2. Appeal Case #2004-00022, D.R. Horton/Villages @ Rippon Lodge
Requesting a determination from the Board of Zoning Appeals on the following issues: 1) vested rights; 2) authority for the Planning Director to revoke a signature summary letter; 3) whether D.R. Horton is entitled to immediate approval of certain subdivision plans; 4) whether D.R. Horton's civil rights have been violated; and 5) whether the County has sufficient legal authority for its Administrative Procedures Manual for this subdivision situated in the RPC, Residential Planned Community zoning district. GPINs 8390-08-5193, 8391-12-8530, 8390-17-5441, 8390-49-4296, 8391-50-3481 and successor parcels, including the major portion of the property located between Jefferson Davis Hwy, Blackburn Road and Rippon Blvd. and the lesser portions of the property fronting on the south side of Blackburn Road (2/10 mile east of Jefferson Davis Hwy) and the north side of Rippon Blvd. (8/10 mile east of Jefferson Davis Hwy), including all parcels identified in the application for an appeal.

Chairman McKelvey questioned whether the Board of Zoning Appeals (BZA) has jurisdiction over this matter and requested arguments on this issue before hearing the merits of the case.

Staff, represented by Angela Horan of the County Attorney's Office, argued in favor of the BZA having jurisdiction.

Ms. Mary Theresa Flynn, the attorney representing D.R. Horton argued that the BZA does not have jurisdiction.

Chairman McKelvey read into the record a MEMORANDUM OPINION AND ORDER DISMISSING APPEAL for this case.

Motion to dismiss Appeal Case #2004-00022, D.R. Horton/Villages @ Rippon Lodge, passed (6-0; motion Eller, second Thrall; Absent Salce) – see RES 2004-018.

Item 3. Appeal Case #2004-00020, Wal-Mart East, Inc. Appealing the violation notice and correction order (VIO2002-00514) citing placing shipping container on the property without zoning approval and citing deviation from an approved site plan without written approval of the director of planning in the B-1, General Business zoning district. GPIN 8292-61-5752 located at 14000 Worth Avenue.

Motion to dismiss Appeal Case #2004-00020, Wal-Mart East. Inc., passed (6-0; motion McKelvey, second Eller; absent Salce) – see RES 2004-019.

Item 4. Consideration of May 17, 2004 Brief and Resolutions

May 17, 2004 brief and resolutions approved as amended. (6-0; motion McKelvey, second Eller; absent Salce) – see RES 2004-020.

Ms. Eller requested a statement be added to the record indicating that the members of the Board of Zoning Appeals had not spoken with each other about the cases before the Board at this hearing. Each member stated that they had not spoken with any other members of the Board of Zoning Appeals about these cases.

Item 5. As there are no cases on the docket for the regular meeting scheduled for July 19, 2004 it was decided that this date be used for the training that was not held in January.

Item 6. Adjournment at 3:50 PM

Respectfully submitted,

Antoinette Brzyski
Secretary to the Board