

COMMONWEALTH OF VIRGINIA  
PRINCE WILLIAM COUNTY  
BOARD OF ZONING APPEALS

Brief  
December 19, 2005  
Regular Meeting  
Board Chambers  
James J. McCoart Administration Building

**Roll Call (2:03 PM):**

Present: Fred McKelvey, Chairman  
Larry Borkowski  
Billy Isbell  
Patricia Reynolds  
Patrick Salce  
Richard Smith  
Eileen Thrall

**Item 1.** Appeal Case #APP2006-00002, Catherine Gray To consider an appeal of Violation Notice and Correction Order PCE2005-02410, which alleges that a prohibited vehicle and multiple residential buildings are located on 13205 Fitzwater Drive, in the A-1 zoning district, in violation of the Zoning Ordinance. GPIN 7493-29-7029. Brentsville Magisterial District

Rob Skoff, County Attorney's Office, advised that Jeff Notz, the Assistant County Attorney assigned to the Gray case, is ill and unable to present the case at this meeting. Mr. Skoff requested a continuance. Additionally, Mr. Skoff reported another appeal has been filed involving this property.

Dennis Carluzzo, attorney for the appellant, stated he had no objection to a continuance.

Mr. Skoff and Mr. Carluzzo agreed the continuance should be until the February meeting date so the two cases could be considered together.

Motion to continue Appeal Case 2006-00002, Catherine Gray, until the February 27, 2006 regular meeting of the Board of Zoning Appeals, passed (7-0; motion McKelvey, second Borkowski) – see RES 2005-038

Amy McCullough, attorney for appellant, Robert Hart advised they brought a court reporter.

Mr. Isbell recused himself.

**Item 2.** Appeal Case #APP2006-00005, Robert B. Hart To consider an appeal of the Zoning Administrator's determination dated August 26, 2005, which found that a marina with accessory boat repair and storage located at 16245, 16247 and 16263 Neabsco Road is not lawfully nonconforming on a portion of the properties. B-1, General Business and R-4, Suburban Residential zoning districts. GPINs 8390-73-7069, 8390-73-8656, 8390-73-9746. Woodbridge Magisterial District

Staff, represented by Rob Skoff of the County Attorney's Office, indicated that Mr. Will was interested in making a statement.

Chairman McKelvey advised that no additional information or evidence could be presented for the record at this time.

Mr. Skoff provided clarification regarding the decision to be determined at this meeting. Today's focus is on the parcel referred to as the railroad property as Mr. Hart has already agreed he can only use the B-1 portions of the two split zoned lots for business purposes.

Mr. Skoff suggested, Exhibit 11, aerial photo, presented at the November 21<sup>st</sup> hearing, was a good example of substantial current use on the property and advised that the NCU must show this use going back in time. Mr. Skoff advised that older aerial photos do not support this claim. Mr. Skoff added that NCUs are not favored in Virginia and this one must conform to the use as it was in 1958.

Additionally, Mr. Skoff cited the analysis in the *Gwinn v. Herring* case, copies of which were distributed to members, as relevant and to be considered by the members when evaluating Mr. Hart's request.

Amy McCullough, attorney for the appellant, suggested that since it was not known when aerial photos were taken it was difficult to determine how accurately they described the use of the property. If pictures were taken in the summer the boat storage might be minimal as the boats could be in the water.

Ms. McCullough went on to say that witnesses had testified to the extent of storage on the property, both in person and by affidavit, and their recollections included continual storage of boats far back on the lot in question.

Additionally, Ms. McCullough referred to the Prince William County Comprehensive Plan which encourages marinas and related activities along the Neabsco Creek waterfront.

Motion to affirm the Zoning Administrator's determination and approve Option 1, as outlined in the Memorandum Opinion for this case dated 19 December 2005, that none of the Railroad property is grandfathered, in Appeal Case #2006-00005, Robert B. Hart, failed (1-5; motion Borkowski; second McKelvey) – see RES 2005-039.

Motion that all of the Railroad property known as 16263 Neabsco Road is grandfathered, in Appeal Case #2006-00005, Robert B. Hart, failed (2-4; motion Thrall; second Reynolds) – see RES 2005-040.

Motion to reverse the Zoning Administrator as to the green portion shown on Visual Aid 7, as outlined in the Memorandum Opinion for this case dated 19 December 2005, and otherwise affirm the Zoning Administrator's decision, in Appeal Case #2006-00005, Robert B. Hart, failed (1-5; motion McKelvey; second Smith) – see RES 2005-041.

Motion to reverse the Zoning Administrator to the extent he held the green colored property on Visual Aids 7 and 8 is not grandfathered, as outlined in Option 5 of the Memorandum Opinion for this case dated 19 December 2005, and to otherwise affirm his decision, in Appeal Case #2006-00005, Robert B. Hart, WITHDRAWN

Discussion about Option 5 on page 38 of the Memorandum Opinion for this case dated 19 December 2005 which reads Visual Aid 8 and Visual Aid 9; not Visual Aids 7 and 8.

Motion to reverse the Zoning Administrator to the extent he held the green colored property on Visual Aids 7 and 8 is not grandfathered, as outlined in the Memorandum Opinion for this case dated 19 December 2005, and to otherwise affirm his decision, in Appeal Case #2006-00005, Robert B. Hart, passed (4-2; motion McKelvey; second Salce) – see RES 2005-042.

Motion to amend Resolution 2005-042 as far back as 16250 Neabsco Road on the lot to the left of this; a line horizontally across from where that says 16250. From the left hand side there where the 1 starts. If you draw a line just straight across horizontally; across the railroad property. Amend it to there.  
WITHDRAWN

Motion to amend Resolution 2005-042 to reverse the Zoning Administrator to match just drawn Visual Aid number 10 to include the railroad easement and the land northeast of the easement as grandfathered, and to otherwise affirm his decision, in Appeal Case #2006-00005, Robert B. Hart, passed (5-1; motion Reynolds; second Thrall) – see RES 2005-043.

Chairman McKelvey thanked applicants, staff and other interested parties for attending the meeting and for their patience.

Chairman McKelvey advised the 30 days in which to appeal the decision of the Board of Zoning Appeals to the Circuit Court begins today according to the Board of Zoning Appeals bylaws.

Mr. Isbell rejoined the meeting.

**Item 3.** Variance Request Case #PLN2006-00251, Richard Francis Hillman & Tara Marie Ressa To consider a request for a variance from the provisions of section 32-300.03 of the Zoning Ordinance to allow a detached accessory building in the front yard of a lot less than 3 acres. SR-1, Semi-Rural Residential Zoning District. GPIN 7994-56-1111 located at 10980 Stonebrook Drive. Coles Magisterial District

Staff, represented by Rob Skoff of the County Attorney's Office, discussed the Cochran case and the standards for granting a variance.

Staff, represented by Seth Jessee of the Planning Office, provided details of the case and explained item by item why this request does not meet the requirements for granting a variance.

The applicant, Mr. Hillman, explained why he thought he met the criteria for receiving a variance. He cannot put a garage behind his house; the lot is uniquely shaped; there is a septic field in the front; he needs a garage to protect his vehicles and this is the only place that meets the setback requirements.

Mr. Hillman suggested his request was not unreasonable and that getting his garage would not hurt anyone.

Mr. Borkowski asked if an addition could be built. Mr. Jessee replied in the affirmative.

Chairman McKelvey closed the public hearing.

Motion to deny the request for a variance in Variance Request Case PLN2006-00251, Richard Francis Hillman & Tara Marie Ressa, passed (7-0; motion Isbell, second Smith) – see RES 2005-044.

Chairman McKelvey advised the 30 days in which to appeal the decision of the Board of Zoning Appeals to the Circuit Court begins today.

Chairman McKelvey thanked applicants and staff.

**Item 4.** Consideration of November 21, 2005 Brief and Resolutions.

November 21, 2005 brief and resolutions approved as presented, passed (7-0; motion Thrall, second Reynolds) – see RES 2005-045.

**Item 5.** Appeal Case #APP2006-00007, Alireza Farchtchi To consider an appeal of the Zoning Administrator's determination dated August 25, 2005, which found that the display and sale of tractors and similar off-road heavy equipment located at 7282 Centreville Road is unlawfully nonconforming. B-1, General Business District. GPIN 7897-25-9655. Brentsville Magisterial District

Motion to dismiss as moot Appeal Case #APP2006-00007, Alireza Farchtchi, passed (7-0; motion McKelvey, second Borkowski) – see RES 2005-046

**Item 6.** Work Session – Information on Training was distributed.

A hand out was distributed and Chairman McKelvey provided a short review of BZA procedures.

**Item 7.** Adjournment at 4:30 PM

Respectfully submitted,

Antoinette Brzyski  
Secretary to the Board