

COMMONWEALTH OF VIRGINIA
PRINCE WILLIAM COUNTY
BOARD OF ZONING APPEALS

Brief
February 27, 2006
Regular Meeting
Board Chambers
James J. McCoart Administration Building

Roll Call (2:00 PM):

Present: Fred McKelvey, Chairman
Larry Borkowski
Billy Isbell
Patricia Reynolds
Eileen Thrall

Absent: Patrick Salce
Richard Smith

Chairman McKelvey consolidated the two Catherine Gray cases on the agenda and advised they would be heard together.

- Item 1.** Appeal Case #APP2006-00002, Catherine Gray - To consider an appeal of a Violation Notice and Correction Order, which alleges multiple residential buildings are unlawfully located on the property at 13205 Fitzwater Drive. A-1, Agricultural District. GPIN 7493-29-7029 Brentsville Magisterial District &
- Item 2.** Appeal Case #APP2006-00013, Catherine Gray - To consider an appeal of the Zoning Administrator's determination, dated November 14, 2005, which found that a residential trailer located at 13205 Fitzwater Drive is not lawfully nonconforming. A-1, Agricultural District. GPIN 7493-29-7029 Brentsville Magisterial District

Staff, represented by Jeff Notz of the County Attorney's Office, outlined the case and explained that although a NCU was issued for some outbuildings on the property no NCU was issued for a second residence; specifically the mobile home. The appellant may suggest the mobile home is used for storage but a mobile home is normally used as a residence and this one has plumbing, curtains, and a patio with table and chairs.

Mr. Notz stated that no representative of the County has been permitted to enter the trailer.

Dennis Carluzzo, representing the appellant, explained the trailer was part of a previous court case and although no court records were found the judge provided a document establishing that the trailer was the beneficiary of an NCU. Mr. Carluzzo went on to say that the trailer is not a residence. It is a storage facility.

Mr. Notz called on Inspector Odell to explain the VNCO and the pictures that were previously taken of the site and included in the staff report. Pictures taken in September 2005 were provided and marked as Exhibits 7 and 8.

Mr. Notz explained there is no evidence the trailer was ever conforming. An SUP has been required since 1964 and no SUP exists; so it is not grandfathered.

Mr. Carluzzo called on Robert Gray who is the trustee for the property. Mr. Gray talked about what is stored in the trailer and reported no one has ever lived there. Mr. Gray indicated the trailer has been on the property since prior to 1966.

Mr. Carluzzo showed a copy of the SUMMONS; page 80 of the staff report. Mr. Gray said the case was dismissed as it involved a question about moving the trailer and the trailer wasn't actually moved it was only turned so it wouldn't be too close to the pump house. Mr. Gray thought in 1983 the trailer was legally nonconforming.

Mr. Carluzzo called on Carroll Weimer, neighbor, who reported the trailer is used for storage and he has seen it since 1973 when he moved in.

Mr. Notz said the trailer is prohibited under the current zoning ordinance as it is a residence and even if it were being used for storage without an SUP it does not have nonconforming status.

Mr. Carluzzo repeated that the trailer is not for living; it is for storage and it has nonconforming status as proved by the SUMMONS.

Chairman McKelvey closed the public hearing.

Motion to affirm the zoning administrator's determination and deny the appeal in Appeal Case #APP2006-00002, Catherine Gray and in Appeal Case #APP2006-00013, Catherine Gray, passed (5-0; motion Reynolds, second Borkowski) – see RES 2006-006.

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

Item 3. Appeal Case #APP2006-00014, CVS 5928 VA LLC - To consider an appeal of the Zoning Administrator's determination, dated November 17, 2005, which found that an electronic message board is not permitted pursuant to Sec. 32-250.22(4) of the Zoning Ordinance. B-1, General Business Zoning District and Lee Highway HCOD. GPIN 7397-43-0983 located at 14380 McGraws Corner Drive. Brentsville Magisterial District

Staff, represented by Rob Skoff of the County Attorney's Office, outlined the case and explained an electronic message board sign is not permitted as it is not listed in the zoning ordinance and if a sign is not specifically allowed it is not permitted. This applies to both the previous and current zoning ordinance.

Mr. Skoff provided a copy of the relevant portion of the previous zoning ordinance which was marked by the Chairman as Exhibit 5.

Mr. Skoff provided a copy of the relevant portion of the current zoning ordinance which was marked by the Chairman as Exhibit 6.

Maynard Sipe, representing the appellant, provided a handout, marked by the Chairman as Exhibit 7, of the sign portion of the previous zoning ordinance. Mr. Sipe explained the electronic message board would be considered a changeable copy sign and as such was permitted by the previous zoning ordinance which is what applies to this application.

Mr. Sipe provided another handout, marked by the Chairman as Exhibit 8, of the sign portion of the current zoning ordinance and explained how the sign meets the current requirements of the zoning ordinance.

Members questioned the lack of an actual sign permit application being appealed since this meant no details about the sign were available for review.

Mr. Sipe thought the actual sign permit application might have been denied after the determination letter, under appeal, was issued.

Mr. Skoff indicated the question to be answered is whether an electronic sign is permitted.

Chairman McKelvey closed the public hearing.

Motion to continue Appeal Case #APP2006-00014, CVS 5928 VA LLC, until a date uncertain when it would be consolidated with an appeal, if filed, from a decision of the zoning administrator in response to an application for a sign permit at the same location, passed (5-0; motion McKelvey, second Thrall) – see RES 2006-007.

Chairman McKelvey thanked both counsels for their work and requested that if the case comes back before the Board of Zoning Appeals that each counsel provide a brief on which zoning ordinance should be applied.

Item 4. Appeal Case #APP2005-00027, Jock R. & Elizabeth Anne Anderson - To consider an appeal of the Zoning Administrator's determination, dated April 29, 2005, which found that an accessory building located at 12894 Livia Drive must comply with the required 35-foot front yard setback for the A-1, Agricultural District. GPIN 7499-64-1457 Gainesville Magisterial District &

Item 5. Variance Request Case #PLN2006-00444, Jock R. & Elizabeth Anne Anderson To consider a request for a variance from the provisions of section 32-301.06(1) of the Zoning Ordinance to allow an accessory building within the required front yard setback for the A-1, Agricultural District. GPIN 7499-64-1457 located at 12894 Livia Drive. Gainesville Magisterial District

Motion to dismiss, without prejudice, Appeal Case #APP2005-00027, Jock R. & Elizabeth Anne Anderson and Variance Request Case #PLN2006-00444, Jock R. & Elizabeth Anne Anderson, passed (5-0; motion McKelvey, second Borkowski) – see RES 2006-008.

Chairman McKelvey requested Rob Skoff notify attorney for the appellants, Giff Hampshire, that the cases were dismissed without prejudice.

Item 6. Consideration of January 23, 2006 Brief and Resolutions.

January 23, 2006 brief and resolutions approved as presented, passed by acclamation (motion Isbell, second McKelvey) – see RES 2006-009.

Item 7. Chairman McKelvey advised he will not be at the March 27, 2006 Board of Zoning Appeals meeting.

Staff advised there are three cases on the agenda for the March 27, 2006, Board of Zoning Appeals meeting and one case on the agenda for the April 24, 2006 meeting.

Item 8. Adjournment at 5:40 PM

Respectfully submitted,

Antoinette Brzyski
Secretary to the Board