

COMMONWEALTH OF VIRGINIA  
PRINCE WILLIAM COUNTY  
BOARD OF ZONING APPEALS

Brief  
October 17, 2005  
Regular Meeting  
Board Chambers  
James J. McCoart Administration Building

**Roll Call (2:02 PM):**

Present: Patrick Salce, Vice Chairman  
Larry Borkowski  
Billy Isbell  
Patricia Reynolds  
Eileen Thrall

Absent: Fred McKelvey

**Item 1:** Appeal Case #APP2006-00004, Arthur L. & Leola Miller To consider an appeal of a Violation Notice and Correction Order which alleges construction of structures and commencement of uses without zoning approval; keeping prohibited vehicles, inoperative vehicles, construction equipment, storage containers, and dump heap on the property at 13375 John Wyatt Drive in the A-1, Agricultural zoning district, in violation of the Zoning Ordinance. GPIN 7992-66-4576. Coles Magisterial District

Staff, represented by Rob Skoff of the County Attorney's Office, outlined the case and read out a list of the violations. Mr. Skoff then displayed pictures taken by and asked questions of Michelle Janke, Property Code Enforcement Inspector, regarding what she saw at the site and whether or not the uses are allowed or prohibited. Ms. Janke explained the uses are prohibited and identified construction vehicles, inoperative vehicles, and trash and debris in the pictures of the site.

Mr. Skoff provided a copy of a fax cover sheet, received by Ms. Janke showing 13375 John Wyatt Drive as the address of MILLER INDUSTRIES, for inclusion in the record (Exhibit 7).

Questions were raised and definitions were provided of inoperable vehicles and questions were raised about whether the vehicles in question had current county stickers and/or current registrations.

Alan Shachter, representing the appellant, asked Ms. Janke who she worked for; whether she was a deputy zoning administrator and about how many inoperable vehicles would be allowed if they were properly screened. Ms. Janke explained she works for the Property Code Enforcement Division of the Department of Public Works and as such is authorized on behalf of the Zoning Administrator to issue violation notices.

Mr. Skoff asked David Nawrocki, Property Code Enforcement Inspector, about his inspections of the property. Mr. Nawrocki indicated he inspected the site several times and on October 14, 2005 he was still able to see the violations on the site in question from the neighboring property.

Questions were raised and definitions were provided for dump heap.

Mr. Shachter asked Mr. Nawrocki if he worked for the Department of Public Works. Mr. Nawrocki replied in the affirmative.

Several neighbors expressed their concerns about the uses being conducted on and related to the property including big truck and trailer traffic on their gravel road; deliveries of drums of oil; storage of unknown materials and vehicles and equipment; trash, debris and barrels with unidentified contents and the possibility of contamination of their wells.

Mr. Skoff brought up the fact that the appellant had not appealed the decision, by the Zoning Administrator, denying the request for verification of the nonconforming uses on the property and, therefore, that determination is final and cannot be raised again.

Alan Shachter, on behalf of the appellant, presented his case and suggested that the nonconforming use determination was not final. Mr. Shachter requested the unsigned affidavits he had previously provided be made a part of the record and they were included as Exhibit 8.

Vice-Chairman Salce advised nonconforming use would not be addressed at this time as an appeal regarding this issue should have been filed before.

Mr. Shachter provided some details regarding Mr. Miller's use of the property:  
started leasing the property in 1987 for equipment storage;  
purchased and moved in about 2½ years ago;  
in the process of cleaning up, but more material keeps surfacing;  
some of the equipment can be used for agricultural work;  
county stickers are up to date on the vehicles;  
the garage and storage container were there when he moved in;  
has oil delivered in drums for his pick-ups;  
the oil and other materials are safely stored.

Mr. Borkowski asked Mr. Miller whether all the equipment and all the vehicles on the property were operable. Mr. Miller replied in the affirmative. Mr. Borkowski asked about current registrations for the vehicles. Mr. Miller did not have the registrations available.

Ms. Reynolds asked Mr. Miller if he had zoning approval to store equipment on the property. Mr. Miller said no, he thought the previous owner of the property had approval.

Mrs. Miller provided a diagram and displayed pictures (Exhibit 9) showing how difficult it is to see their property and that their storage area isn't readily visible from the road.

Mr. Shachter provided his argument, based on the Dillon Rule, that the authority of the Zoning Administrator cannot be delegated and therefore the violation notice issued was not legal.

Mr. Skoff had Ms. Janke show two more pictures of the site (Exhibit 10).

Mr. Skoff asked Mr. Evers, the Zoning Administrator, if the Property Code Enforcement Inspectors were his designated agents. Mr. Evers replied in the affirmative.

Mr. Skoff requested the Violation Notice and Correction Order (VNCO) be upheld and the appeal be denied.

Mr. Shachter requested the appeal be granted and the VNCO be denied.

Vice Chairman Salce closed the public hearing.

Motion to affirm the zoning administrator's determination and deny the appeal in Appeal Case #APP2006-00004, Arthur L. & Leola Miller, passed (5-0; motion Borkowski, second Thrall) – see RES 2005-032.

**Item 2.** Consideration of September 19, 2005 Brief and Resolutions. Not available for review.

**Item 3.** Appeal Case #APP2005-00027, Jock R. & Elizabeth Anne Anderson

A written request and Motion for Continuance was received from counsel for the appellant.

Motion to continue Appeal Case #2005-00027, Jock R. & Elizabeth Anne Anderson, until the February 2006 meeting of the Board of Zoning Appeals, passed (5-0; motion Thrall, second Reynolds) – see RES 2005-033

**Item 4.** Mrs. Thrall advised she will be recusing herself from the Robert B. Hart case scheduled for the November 19, 2005 meeting of the Board of Zoning Appeals.

**Item 5.** Adjournment at 4:55 PM

Respectfully submitted,

Antoinette Brzyski  
Secretary to the Board