

COMMONWEALTH OF VIRGINIA
PRINCE WILLIAM COUNTY
BOARD OF ZONING APPEALS

Brief
March 27, 2006
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
Richard Smith
Eileen Thrall

Absent: Fred McKelvey

Patrick Salce assumed the duties of the Chairman for this meeting.

Item 1. Appeal Case #APP2006-00018, Arthur L. and Leola Miller To consider an appeal of the Zoning Administrator's letter, dated December 15, 2005, which restated that the uses of motor vehicle storage and equipment storage located at 13375 John Wyatt Drive are not lawfully nonconforming. A-1, Agricultural District. GPIN 7992-66-4576. Coles Magisterial District

Alan Shachter, representing the appellant, requested a continuance as Mr. Miller is unwell and scheduled for surgery tomorrow and one of their witnesses is in the hospital.

Staff, represented by Jeff Notz of the County Attorney's Office, objected to the continuance as the issues involve ongoing violations and requested the case be dismissed.

Discussion followed specifically regarding the language in the NCU letter stating that determinations are based on information contained in the NCU file and if such information should be proven inaccurate at a later date then the determination will be reconsidered.

Motion to agree with the Zoning Administrator and dismiss the appeal in Appeal Case #APP2006-00018, Arthur L. and Leola Miller, passed (6-0; motion Isbell, second Thrall) – see RES 2006-010.

Item 2. Appeal Case #APP2006-00019, Patrick J. Marroum, Angelica Dorantes, and Rudolph E. Marroum, tenants in common To consider an appeal of the Zoning Administrator's determination dated December 27, 2005, which nullified and voided zoning approval for occupancy permit (ZPA2005-04101), and denied issuance of any zoning permit on the property until the owners have complied with the order of the Zoning Administrator outlined in the letter of August 23, 2002, and corrected all existing zoning violations on the property. The property is located at 12904 Marsteller Drive. A-1, Agricultural and B-1, General Business districts. GPIN 7493-59-9336. Brentsville Magisterial District

Staff, represented by Rob Skoff of the County Attorney's Office, advised that the appellant was requesting a continuance.

John Forest advised he was present in place of James Bacon who has previously represented Mr. Marroum and that their firm was only recently retained in this case so they were requesting a one month continuance.

Mr. Skoff objected to the continuance as the case was filed two months ago and citizens are present today.

The Board asked if any of the applicants were present or planned to be present today. Mr. Forest replied in the negative.

Motion to hear Appeal Case #APP2006-00019, Patrick J. Marroum, Angelica Dorantes, and Rudolph E. Marroum, tenants in common, today, March 27, 2006, passed (6-0; motion Thrall, second Reynolds) – see RES 2006-011.

Rob Skoff explained the case involved the unlawful expansion of a nonconforming use and that the appellant had been ordered to remove the additional vehicles. As background, Mr. Skoff provided a copy of a 1987 aerial photograph, that indicated the property was mostly vacant, which was marked as Exhibit 11. Mr. Skoff also provided a copy of a 1990 aerial photograph that also showed the property as mostly vacant and this was marked as Exhibit 12. Mr. Skoff then provided a copy of a 2004 aerial photograph showing numerous vehicles on the property and this was marked as Exhibit 13. In addition, Mr. Skoff provided a copy of a STIPULATION, as a result of a 2002 appeal by this appellant, which stated that appeal was dismissed with prejudice and which was marked as Exhibit 14.

Mr. Skoff went on to explain the appellant applied for an occupancy permit which was contingent on recertification of the nonconforming use. Recertification could not happen as there had been an expansion of the nonconforming use.

Mr. Skoff had Inspector Smiley provide details about the photographs from August 2003; May 2005 and March 2006, marked as Exhibits 15-30, which provided a variety of views of the property and showed vehicles, buildings and other items on the site.

Several citizens, neighboring property owners, spoke against granting the appeal. They talked about illegally parked vehicles; how many more vehicles are there now than were before; a local street being blocked; an illegal fence being installed; trash and debris; the possibility of contamination to their wells if fluids were to leak from the storage tanks and about feeling harassed. Douglas Jerothe provided several photographs to provide visual evidence of their concerns which were marked as Exhibits 31-35.

Mr. Forest suggested that the testimony of some of the witnesses went beyond the scope of the appeal and asked the Board not to give weight to comments about harassment and environmental concerns. Mr. Forest requested the Board find in favor of granting the recertification.

Mr. Skoff reminded members this is a case where a nonconforming use has been unlawfully expanded.

Vice-Chairman Salce closed the public hearing.

Motion to uphold the zoning administrator's determination in its entirety, including the request that no further zoning approvals be granted, and to deny the appeal in Appeal Case #APP2006-00019, Patrick J. Marroum, Angelica Dorantes, and Rudolph E. Marroum, tenants in common, passed (6-0; motion Isbell, second Thrall) – see RES 2006-012.

Item 3. Appeal Case #APP2006-00020, Barbara P. & Sanford K. Kreisler To consider an appeal of a Violation Notice and Correction Order which alleges construction of a dwelling in violation of the required 35-foot front yard setback at 2900 Martin Terrace. A-1, Agricultural District. GPIN 7101-80-4546. Gainesville Magisterial District

The appellants had made a written request for a continuance of at least 60 days. Vice-Chairman Salce had agreed to a continuance until the April BZA meeting.

Motion to continue Appeal Case #APP2006-00020, Barbara P. & Sanford K. Kreisler, until the April 24, 2006 Board of Zoning Appeals meeting, passed by acclamation (motion Thrall, second Borkowski) – see RES 2006-013.

Item 4. 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

Maynard Sipe, representing the appellant, requested this case, which was previously continued to a date uncertain, be heard at the April 24, 2006 meeting of the Board of Zoning Appeals.

Questions were raised about whether a sign application had been completed. Mr. Sipe advised additional information would be forthcoming.

Motion to hear Appeal Case 2006-00014, CVS 5928 VA LLC, at the April 24, 2006 meeting of the Board of Zoning Appeals contingent upon additional information being received regarding the application no later than March 30, 2006, passed by acclamation (motion Salce, second Isbell) – see RES 2006-014.

Item 5. Consideration of February 27, 2006 Brief and Resolutions.

February 27, 2006 brief and resolutions approved as presented, passed (4-0; motion Thrall, second Reynolds) – see RES 2006-015.

Item 6. Staff advised there are three cases on the agenda for the April 24, 2006, Board of Zoning Appeals meeting and one case on the agenda for the May 15, 2006 meeting.

Nicks Evers, Zoning Administrator, advised the application for a variance is being revised to further explain the conditions necessary for the BZA to grant a variance which may help applicants decide whether or not to file for a variance.

Removing the language, that was talked about with the Miller case, from the NCU letter was discussed.

Member Borkowski advised he will not be at the April 24, 2006 Board of Zoning Appeals meeting.

Item 7. Adjournment at 4:13 PM

Respectfully submitted,

Antoinette Brzyski
Secretary to the Board