

Stafford County BOARD OF ZONING APPEALS

MINUTES July 25, 2006

The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, July 25, 2006 was called to order with the determination of a quorum at 7:00 p.m. by Chairman Nick Kopchinsky in the Board of Supervisor's Chambers in the Stafford County Government Center. Mr. Kopchinsky introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Mr. Kopchinsky said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

Members Present: Nick Kopchinsky, Larry Ingalls, John Overbey, Julie Rutledge, Cecelia Kirkman and 7:05 p.m. Angelo Amador

Members Absent: Steven Beauch

Staff Present: Rachel Hudson, Deputy Zoning Administrator
Wanda Doherty, Recording Secretary

Declarations of Disqualification's: None

Mr. Kopchinsky stated there are four cases on the agenda and two cases have withdrawn for tonight. The cases withdrawn are the Stafford Board of Supervisors SE06-3/2600341 and Richard and Anthony Kim A06-1/2600164. The remaining two cases are James H. Payne SE06-06/2600395 and Christopher and April Perez SE06-4/2600342. Mr. Kopchinsky asked if both applicants were present and they were.

PUBLIC HEARINGS:

Ms. Hudson reviewed the following case for the Board.

SE06-4/2600342 - CHRISTOPHER E. & APRIL D. PEREZ - Requests a Special Exception per Stafford County Code, Section 28-35 Table 3.1 "District Uses & Standards" to allow parking a commercial vehicle on Assessor's Parcel 18G-5-49, zoned A-2, Rural Residential, and is located at 2 Rosepetal Street, Rosedale subdivision.

Ms. Kirkman asked how the County found out about the trailer parked on the side of the road.

Ms. Hudson said most complaints come from private citizens.

Mr. Perez said he and his wife own and operate A&E Transport. He said they had some pictures they would like the Board to see.

Mr. Kopchinsky said if the pictures are presented to the Board they would be held for thirty days.

Mr. Perez agreed and continued to explain the pictures. He said before this complaint he had not heard any complaints from the neighbors. He said he could put up a privacy fence around the yard and would keep the trailer in his backyard. He said it is their little business and with the price of fuel it would be better to keep the trailer on his property.

Mr. Ingalls asked Mr. Perez about his business and the hours of coming and going.

Mr. Perez said he hauls cars for local dealerships and they leave between 9:00 a.m. and noon and return home around 10:00 p.m. and 11:00 p.m. at night.

Mr. Ingalls said he was concerned with the trailer being parked on the road.

Mr. Perez said he always has the trailer parked 12" off the road.

Ms. Rutledge said along the road is an easement for the Virginia Department of Transportation. If it were not an option to park on the road, where would you park?

Mr. Perez said he would park in his yard at the top of his driveway. He said he would be willing to cut some trees down and asphalt the driveway.

Ms. Kirkman asked what kind of well the Perez's had.

Mr. Perez said he did not know.

Ms. Kirkman asked if there are any creeks on the property.

Mr. Perez said no.

Ms. Rutledge asked if the hours of operation could be 10:00 a.m. to 8:00 p.m. because of the noise.

Mr. Perez said they have never had an issue with hours earlier than 10:00 a.m.

Ms. Kirkman said with a well they would need to keep the vehicle a hundred feet from the well.

Mr. Perez said he did not think that would be a problem.

Mr. Ingalls asked where the drain field was located.

Mr. Perez said it was located in the front.

Mr. Ingalls asked how they would get the truck and trailer in the backyard.

Mr. Perez said they would widen the driveway.

Ms. Kirkman asked where the drain field was located.

Mr. Perez said in the front yard.

Mr. Kopchinsky said the pictures show a heavy duty pick-up truck.

Mr. Perez said it was a diesel powered truck.

Mr. Kopchinsky opened the Public Hearing for other comments.

Proponents:

Ms. Perez said the truck and trailer are not parked on the road on a daily basis. She said they have only had the trailer loaded two or three times and she had already priced fencing to put up.

Opponents:

Mr. Rush said he was against the Special Exception request by Mr. Perez. He said it was against the neighborhood covenant, the noise at 10:00 p.m. and 11:00 p.m. at night. He said the noise was worse with the trailer being empty and it is a residential area not a business area.

Mr. Ball said the ditch is muddy with large tracks, mail boxes have been taken out along with signs.

Mr. Ingalls asked if the truck and trailer were moved off the street would it work.

Mr. Ball said no.

Ms. Simmons said she once owned the Perez property and the driveway is too steep to get the truck and trailer up it and you can see them parked on the road for a good distance.

Ms. Pantazis said Mr. and Mrs. Perez are nice neighbors but this is a residential neighborhood. She said they have other parked vehicles at the top of the driveway and that is why they park on both sides of the road. She asked the Board not to approve the request for a Special Exception.

Mr. Kopchinsky gave the applicants a final opportunity to speak.

Mr. Perez said he has not parked on the other side of the road.

Mr. Kopchinsky closed the public hearing.

Motion:

Mr. Overbey made the motion to deny.

Ms. Rutledge seconded the motion.

Mr. Overbey said he did not feel the business use should be in a residential area.

Ms. Rutledge said she seconded the motion for the same reason and there have been problems in the past with commercial vehicles in neighborhoods.

Mr. Ingalls said he was concerned with the health and safety of the neighborhood. He said he commends Mr. Perez for trying to have a business but the size of the trailer would not be safe for the neighborhood.

Vote:

Motion to deny 6-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Amador - yes

Ms. Hudson reviewed the following case for the Board.

SE06-6/2600395 - JAMES H. PAYNE - Requests a Special Exception per Stafford County Code, Section 28-35 Table 3.1 "District Uses & Standards" to allow parking of commercial vehicles on Assessor's Parcel 8A-7-F-7, zoned A-2, Rural Residential, and is located at Lot #7

Longview Drive, Hidden Lake.

Mr. Kopchinsky and Ms. Hudson discussed the possible uses of Mr. Payne's property.

Ms. Rutledge said the uses should conform to the subdivision.

Mr. Payne said he bought the land after he called the County and they told him he could put up a pole barn. He said he lives in the city and wanted a place to put up a pole barn.

Ms. Kirkman asked the applicant if he could construct the pole barn with something other than trailers.

Mr. Payne said yes.

Ms. Kirkman asked if he could use other treatments.

Mr. Overbey said he had a hard time seeing how three trailers would make a pole barn.

Ms. Hudson said she talked to Roger Carpenter the County Building Official and he said he would allow a pole barn built from trailers.

Mr. Ingalls said he could not see the County allowing trailers that could be used to pack stuff in.

Ms. Kirkman asked Mr. Payne what his application was for.

Mr. Payne said it was to build a pole barn.

Ms. Rutledge said the application says the applicant wants to permanently park three tractor trailer trailers in a residential area which could be unsafe.

Mr. Payne said anything could be unsafe and he plans to enclose the trailers.

Ms. Kirkman asked how long the trailers had been on the property.

Mr. Payne said a few months.

Mr. Kopchinsky opened the Public Hearing for other comments.

Opponents:

Ms.Gravelly said she was speaking for the Hidden Lake HOA asking the Board to deny the request to have the trailers in a residential area. She said Mr. Payne's lot is traversed with a creek

leading directly to the lake on his property. She said they are a viable growing community but have about 40 lots that do not perk.

Ms. Lane said she is also on the HOA and certified as a soil technician. She said she found no erosion and has had many complaints from neighbors about the trailers being on the property.

Proponents: None

Ms. Kirkman asked Mr. Payne what type of business he was in.

Mr. Payne said he had his own construction company.

Mr. Kopchinsky gave the applicant a final opportunity to speak.

Mr. Payne said he would like to Board to approve his request.

Ms. Rutledge asked if the applicant planned to plant a garden.

Mr. Payne said he was unsure but it was his intent to keep everything locked and secure.

Mr. Kopchinsky said we are being asked to approve three trailers on the applicant's property.

Ms. Kirkman said the application says he wants permission to put up a pole barn and staff says he wants permission to keep three commercial vehicles.

Mr. Payne said staff was open and honest with him because he was using the three trailers to construct the pole barn.

Mr. Kopchinsky closed the public hearing.

Motion:

Mr. Ingalls made the motion to deny allowing three commercial trailers parked on the property.

Mr. Overbey seconded the motion.

Mr. Ingalls said he made the motion to deny because of the commercial trailers being on the property and it would change the look of the neighborhood. He said all the applicant is asking is to park the trailers on the lots and he feels they could have an effect on health and safety.

Mr. Overbey said he agreed with all that was said and this is rural residential and would prefer a septic system be put on the property for a dwelling.

Mr. Amador said the file says there have been two violation notifications, one in December and another in March. He said the special exception request was not filed for until June.

Ms. Kirkman said she could support a motion to deny allowing commercial trailers on the property, but that she was not voting on a pole barn.

Vote:

Motion to deny – 6-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Mr. Amador – yes

Ms. Kirkman - yes

OTHER BUSINESS

Mr. Kopchinsky said the court has received two petitions filed by Mr. Gross.

Ms. Hudson said she has contacted Mr. Fulton regarding the appeal.

Mr. Kopchinsky said the Board has not been served anything on the petitions filed by Mr. Gross.

The Board discussed the process of appeals and agreed if an attorney was needed the Chairman could contact the County attorney for guidance.

The Board discussed not issuing building permits until after the 30 day appeal time limit has ended.

The Board discussed briefly the information received from the court regarding the Crucible.

Ms. Kirkman asked what the delay on the Rocky Pen case is.

Ms. Hudson said Mr. Boss Director of Utilities asked that it be pulled from the July agenda.

Ms. Kirkman said she would like to make the motion to have the BZA meetings televised.

Mr. Kopchinsky said the Board could talk to the Board of Supervisors about having the meetings televised.

Mr. Amador said he would vote against the motion until he heard from the Board of Supervisors.

Ms. Kirkman amended the motion to having the meeting televised if the Board of Supervisors approved.

Mr. Ingalls seconded the motion but said he really did not want to be on television.

Mr. Amador said he opposed the motion because the Board is appointed by the court and not elected officials.

Mr. Overbey agreed with Mr. Amador.

The motion to ask the Board of Supervisors to allow televised BZA Meetings failed.

Mr. Ingalls – yes
Mr. Kopchinsky – no
Mr. Overbey – no
Ms. Rutledge – no
Mr. Amador – no
Ms. Kirkman - yes

Mr. Kopchinsky asked Mr. Amador regarding information on public records especially emails and they discussed the subject briefly.

The Board discussed the rules of Freedom of Information Act guidelines.

ADJOURNMENT

Motion:

Mr. Ingalls made the motion to adjourn. Ms. Rutledge seconded the motion.

Vote:

Motion carried 6-0

Mr. Kopchinsky – yes
Mr. Amador – yes
Mr. Overbey – yes
Mr. Ingalls – yes
Ms. Rutledge – yes
Ms. Kirkman - yes

Meeting Adjourned at 8:50 p.m.

WLD

Approved: _____ Date: _____
Rachel T. Hudson, Deputy Zoning Administrator