

Case 3244

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Virginia Dare Company
10 Venture Way, Suite A
Sykesville, Maryland 21784

ATTORNEY: Michael L. Snyder, Esq.
Coady and Farley
400 Allegheny Avenue
Towson, Maryland 21204

REQUEST: An appeal of the Zoning Administrator's Notice of Violation dated July 6, 1989 regarding a mobile home.

LOCATION: 1181 Sean Circle in Election District 14; Virginia Dare subdivision, Section 2, Lot 51 recorded in Carroll County Plat Records in book 25, page 61

BASES: Article 17, Section 17.4; Article 14, Division III, Section 14.31; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: September 27, 1989

On September 27, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal of the Notice of Violation dated July 6, 1989 regarding the mobile home at 1181 Sean Circle. For purposes of the record a correction is in order. The public hearing notices should have specified that the Notice of Violation was issued by the Code Official of Carroll County--not the Zoning Administrator. However, the Zoning Administrator appeared before the Board and testified concerning the Notice of Violation. The Code Official did not participate in the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will affirm the appeal. The pertinent findings include the following facts.

FINDINGS OF FACT

The property, 1181 Sean Circle, is also identified as lot 51 of Virginia Dare subdivision. The appellant, Virginia Dare Company is the owner and developer of the residential subdivision. Mr. Howard H. Patton is a licensed contractor and general partner of the company.

The land, estimated to have been about 220 acres by Mr. Patton, was purchased in 1979, and the residential subdivision plan was subsequently developed. As depicted on the site location map used to post the Hearing Notice on the property, sixty-two lots and at least one parcel were eventually recorded by sections within the Carroll County Plat Records. Mr. Patton estimated that eight lots presently remain to be developed with dwellings.

Since the initial subdivision plat recordation, there have been continuous construction and sales of dwellings located in the subdivision following construction of the subdivision streets. Most recently, a Building Permit and Zoning Certificated was issued in 1987 for a dwelling completed in 1988; and presently, there is a dwelling under construction on lot 41, which adjoins the site of the mobile home on lot 51.

The mobile home was placed on the property prior to construction of the streets within the subdivision, and has remained there since then. Mr. Patton testified that it serves as a company office and as a home for a caretaker.

As evidenced by the Zoning Administrator's statement to the Board, she was not aware of the construction of the dwelling in 1987 - 1988, or the dwelling presently under construction when the Notice of Violation was issued.

APPLICABLE LAW

Article 14, Special Provisions; Division III, Mobile Homes and Mobile Home Parks; Section 14.31, Mobile homes (amended through 2-25-76), subsection (b) of Ordinance 1E specifies:

"No person shall park, store or occupy a mobile home (nor allow or permit parking, storage or occupancy of a mobile home), for living or other purposes, except:"

"(b) As a temporary accessory use by a licensed contractor in any district for road, commercial, public, or quasi-public construction projects. Such use shall be limited to construction office or storage, and shelter for a caretaker."

Article 20, Section 20.26, Amended 9-5-79 of Ordinance 1E defines a mobile home as:

"Any vehicle or preassembled structure, so constructed and located, regardless of its foundations, as to permit occupancy thereof for living or sleeping, or the conduct of any business, and so designed that it may be moved or transported on roads by means of attached

wheels, or hauled on a separate conveyance, or propelled or drawn by its own motor power; and arriving at the site where it is to be occupied complete and ready for occupancy, except for minor and incidental unpacking or assembly operations, connection to utilities and the like; including automobile trailers, truck trailers, trailer coaches, trailer homes, mobile homes, busses, streetcars, and all similar devices; but not including modular homes which are constructed to the specifications for single family dwellings as set forth in the local building code and which are transported to the site in several pieces, requiring completion of construction on the site.

Article 17, Board of Appeals; Section 17.2, General powers, subsection (a) reads:

"The Board shall have the following powers:
(a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this ordinance or of any ordinance adopted pursuant thereto."

REASONING

The determinations cited in the Zoning Administrator's statement to the Board as the bases for issuing the Notice of Violation are in error. As a licensed contractor, Mr. Patton is entitled to the use of a mobile home for a "...construction office or storage, and shelter for a caretaker." (Section 14.31(b) of Ordinance 1E.) Although construction of dwellings within the subdivision has extended for a lengthy time, the issue is not the time but use of the mobile home in compliance with the provisions of Ordinance 1E. Use of the mobile home for the specified uses during construction of the dwelling in 1988 would have been appropriate, and its use with the dwelling presently under construction is in compliance with Section 14.31(b).

In addition, use of the mobile home for a caretaker to provide security for one or more homes after completion, but before sale or occupancy, would also be in compliance with the provision. However, that is not the issue before the Board in this case.

CONCLUSION

The Board of Appeals hereby orders that the appeal of Virginia Dare Company is affirmed, and that the Notice of Violation is dismissed.

Oct. 10, 1989
Date

John Totura
John Totura, Chairman