

Tax Map/Block/Parcel
No. 71-03-07
Case 5888

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Jeremy Wright
5808 Cabbage Spring Road
Mt. Airy, MD 21771

ATTORNEY: N/A

REQUEST: Appeal of a Zoning Administration's notice of violation regarding improper signage.

LOCATION: The site is located at 5808 Cabbage Spring Road, Mount Airy, Maryland on property zoned "C" Conservation in Election District 13.

BASIS: Code of Public Local Laws and Ordinances, Section 158.115(A).

HEARING HELD: October 29, 2015

FINDINGS AND CONCLUSION

On October 29, 2015, the Board of Zoning Appeals (the Board) convened to hear an appeal of a Zoning Administration's notice of violation regarding improper signage. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Jay Voight, the Zoning Administrator, testified about how the Formal Notice of Violation was filed in the case via a July 22, 2015 letter. He stated that there was a complaint that someone was running a landscaping or a nursery business on the property. The property is located in the Conservation zone. When his inspector went to the property to investigate the complaint, it was determined that there was an illegal sign on the property.

The sign reads as follows:

VGM – Violet's Grounds Management—Nursery * Landscaping * Tree Care
VGMLawn.com—210-855-1301—CALL FOR LANDSCAPE TREE CARE
NURSERY – OPEN SOON 240-855-1301

Mr. Voight explained that the law as it applies to billboards only allowed signs in the Industrial zone unless the billboard was grandfathered in before the sign ordinance took effect.

Mr. Voight noted that a sign on the property could be no larger than three feet but that sign had to address a use on the premises. In this case, the owner has a business in Montgomery County, Maryland. There was no business in Carroll County, although there were greenhouses at the property. Mr. Voight mentioned that his office performs enforcement of the zoning codes when a complaint has been lodged. A complaint was lodged and that is the reason that an inspector first went to the property. Once an inspector is at the property to investigate the validity of one complaint, the inspector can then look into other zoning violations on the same property.

Mr. Voight explained that the only cure for the improper signage violation was to have the sign removed. As of the date of the hearing, the sign had not been removed.

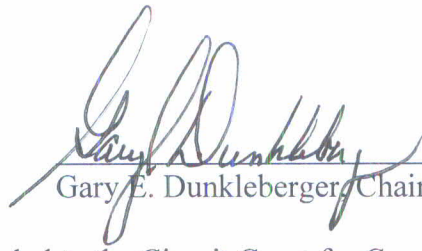
Jeremy Wright testified that he and his wife owned a minority-owned business. His wife is the majority owner of the business. He placed the sign on his property although he runs the business from its Montgomery County location. Most of the work done by the business occurs in Montgomery County, Washington, D.C., and Virginia. He stated that the sign on his Carroll County property has brought in business. He stated that the enforcement of zoning laws through a complaint initiated procedure only was not reasonable or fair and it could be abused. He acknowledged that the zoning inspector first came to his property as the result of a complaint. That complaint had to do with him running a business on the property. He testified that within five miles of his property there were several zoning violations. Since those violations within five miles were not addressed by the County, he did not believe it was fair or just for the zoning administration to single him out for sign violations. In his opinion, the zoning administration did not follow its own procedure of looking for violations where there was a complaint specifically about that violation. The complaint was about the running of a business. The complaint was not about the sign in question, and inspectors should not have considered the sign violation. Therefore, in his opinion the formal notice of violation in the July 22, 2015 letter should not have been issued. His position was that the County had a selective enforcement policy that was unjust as it applied to him.

The Board found that the Zoning Administration and its inspectors acted appropriately in this case. The policy and procedure as set by the County Commissioners was followed with regard to investigating only instances of zoning code violations when a complaint is lodged. The Board upheld the Formal Notice of Violation that was issued by the Zoning Administration in the July 22, 2015 letter. It would be improper to allow Mr. Wright to have a sign now for a business that he intends to apply for next year. It does not seem like a far stretch that in investigating whether a business is being run from a property that any signs related to that business may also be considered a part of the violation. The complaint related to the running of a business. The sign was obviously created to generate business. Indeed, Mr. Wright stated that the sign had provided him with business.

The Board was convinced that Mr. Wright's improper sign was in violation of the County sign ordinances. The use was inconsistent with the purpose of the zoning ordinance. Based on the findings of fact made by the Board above, the Board found that the sign in question was a violation of the zoning ordinances with regard to signs permitted on a property.

29 October 2015

Date



Gary E. Dunkleberger, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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