



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

May 7, 2010

Bill Gard, Commodore
Mount Vernon Yacht Club
4817 Tarpon Lane
Alexandria, VA 22309

Re: Interpretation for SPA 80-V-028-2, Mount Vernon Yacht Club, Tax Map
110-3 ((4)) (H) 1, 110-3 ((4)) A: Fence Replacement

Dear Mr. Gard:

This is in response to your letter of June 22, 2009, requesting an interpretation of the development conditions and Special Permit Amendment Plat (SPA) approved by the Board of Zoning Appeals (BZA) in conjunction with the approval of the above-referenced application. As I understand it, the question is whether the replacement of the existing wood and wire fencing along the western site boundary with a combination of new 7' high chain link and wrought iron fencing would be in substantial conformance with SPA 80-V-028-2. This determination is based on your letter and attachments, which include photographs of the existing fencing; an exhibit entitled "The Mount Vernon Yacht Club, Inc., Yacht Haven Estates," prepared by Dominion Surveyors, Inc., and dated March 5, 2010, that shows the proposed fencing; a copy of a letter to the Chairman of the Board of Zoning Appeals (BZA) dated July 20, 1995, from Kenneth Campbell, resident of Yacht Haven Estates; and, a copy of a letter dated October 4, 1995, from Jane W. Gwinn, Zoning Administrator, to Supervisor Gerald Hyland, which discusses maintenance of the fencing. Copies of your letter with relevant exhibits are enclosed.

As I understand it, you are requesting to replace the existing deteriorated wooden and wire fencing and entrance gate along the western property line in order to better secure your property and that of members. You state that this past year has seen an increase in thefts and vandalism on your property, which you attribute to the ease of entrance into your property by non-members, caused by old and no longer secure fencing along the western property boundary. Your exhibits show a combination of wire and wood fencing in various states of disrepair located on the western property boundary. You propose to replace approximately 350 feet of the wire fencing that runs northward from the bulkhead at Dogue Creek with new 7' chain link fence located inside the property boundary. From that point northward to the gate at the Tarpon Lane entrance, you propose to replace the existing wood and wire fence with new 7' high wrought iron fence and a new wrought iron gate. A note on your exhibit states that the existing wire fence is to be removed with permission of the adjacent owners. The existing wood fence is owned by the adjacent property owner and will not be removed by you.

Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/



You have attached to your letter a copy of a letter dated July 20, 1995, to the BZA from Kenneth Campbell, a resident of Yacht Haven Estates, requesting the BZA to reconsider their approval of SPA 80-V-028 and deny it. At issue was the yacht club's maintenance of its western fences and failure to control pedestrian access from its site into Yacht Haven Estates. Also attached to your request is a letter to Supervisor Gerald Hyland, dated October 4, 1995, from Jane W. Gwinn, Zoning Administrator, that, among other items, clarifies that the reason for the addition of Development Condition 11 to SPA 80-V-028 was concern raised by residents of the adjacent residential development on the west about maintenance of the fencing that abutted their property. The development condition was added to require the Mount Vernon Yacht Club to maintain and repair the existing fencing along the western property boundary. The letter also notes that SP 80-V-028 did not require any specific type of fencing. The development condition was carried forward with the BZA's approval of SPA 80-V-028-2.

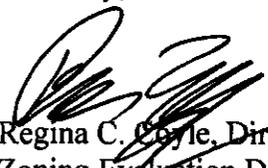
Development Condition 11 states the following:

"Existing vegetation along the northern, eastern and western lot lines shall be preserved and maintained as indicated on Sheet 2 of the approved Special Permit Plat and shall satisfy the requirements of Transitional Screening 1. The existing wood, wire and chain fences along the northern, eastern and western lot lines shall be maintained as indicated on Sheet 1 of the approved Special Permit Plat and shall satisfy the barrier requirements."

Article 10 of the Zoning Ordinance permits a maximum 7' foot high fence along the side and rear yards of any lot. Your proposed fence lies within the side yard of your property. It is my determination that the proposed installation of the 7' high chain link and wrought iron fence described above and contained in your submission would be in substantial conformance with SPA 80-V-028-2 provided that all transitional screening along the western property boundary is maintained in accordance with the approved special permit plat.

This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,


Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

O:\mgodf2\SP Interpretations\Mt. Vernon Yacht Club (SPA 80-V-028-2), fences.doc

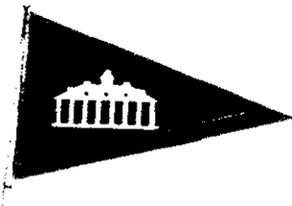
Attachments: A/S

Bill Gard

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cc: Gerald Hyland, Supervisor, Mount Vernon District
Earl Flanagan, Planning Commissioner, Mount Vernon District
Members, Board of Zoning Appeals
Diane Johnson-Quinn, Deputy Zoning Administrator, Zoning Permit Review Branch,
ZAD, DPZ
Kenneth Williams, Plan Control, Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Jack Weyant, Director, Environmental and Facilities Inspection Division, DPWES
Kevin Guinaw, Chief, Special Projects and Applications Acceptance Branch, ZED, DPZ
File: SPA 80-V-028-2, SPI 1004 003, **Imaging**, Reading





Mount Vernon Yacht Club, Inc.

4817 TARPON LANE • ALEXANDRIA, VIRGINIA 22309

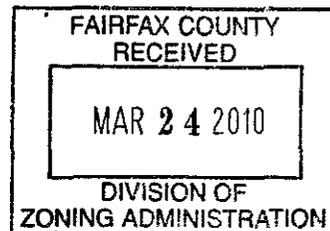
March 24, 2010

Eileen M. McLane
Zoning Administrator
County of Fairfax, Virginia

RECEIVED
Department of Planning & Zoning

MAR 25 2010

Zoning Evaluation Division



2010-0206

Subject: Mount Vernon Yacht Club barrier maintenance/renovation

Dear Ms. McLane

The Board of Trustees of Mount Vernon Yacht Club is requesting an interpretation of SPA-80-V-028 to allow maintenance/renovation of the existing wire & frame fences along the western border of the Club's property located at 4817 Tarpon Lane in Alexandria. We believe this maintenance/renovation to be in compliance with limitation 11 of the Special Permit Amendment.

Over the course of the last year we have experienced an increase in thefts and vandalism to our facilities and boats. In the most recent incident six boats were boarded and there was extensive property damage and thefts resulting in losses of approximately \$30,000. In addition, non-members frequently come onto our property without permission—children, teenagers, and college students as well as adults. To provide better safety for our members and to better secure our facility and our members' personal property we desire to renovate the existing fences along the border and remain in compliance with limitation 11 of the Special Permit Amendment.

The proposed fence is a 7-foot chain link fence, installed from the bulkhead at Dogue Creek and running northerly just past the tree line. From there the fence changes to a 7-foot wrought iron fence all the way to the line of the existing gate at the driveway entrance. A 7-foot wrought iron fence would be installed in line with the existing entry gate to the building corner.

The adjoining property homeowners' association has in the past relinquished to the Yacht Club the maintenance of the existing wire fence and frame fence. We will work with the adjoining property owners to confirm ownership of the fence by the Yacht Club and that the existing fences may be removed. However, should the adjoining property owners claim ownership of these fences, we will place the new fence on our property inside the existing fence.

Thank you for your consideration of this request and we look forward to your favorable reply.

Sincerely,

Bill Gard
Commodore, Mount Vernon Yacht Club

703 360 0450 (H)
202 716 3103 (C)



Different style 5' Wire fence along west side



Note 2' space along the bottom



Fence Line along West Side of MVYC



Fence Line along West Side of MVYC

2





5' Wire fence along west side of property



Note 2' space under wire fence



Damaged fence on West side common area of MVOP



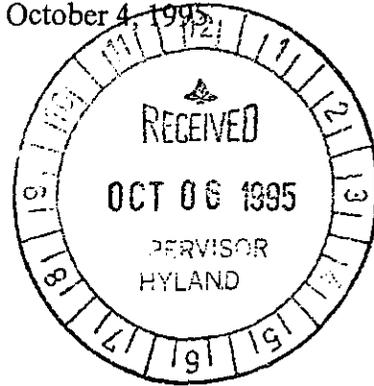
Chicken Wire fence along west side between MVYC and private residence of MVOP

Existing MVYC Club Entry Gate



FAIRFAX COUNTY, VIRGINIA
MEMORANDUM

DATE: October 4, 1995



TO: Gerry Hyland, Supervisor
Mount Vernon District

FROM: Jane W. Gwinn *JWG*
Zoning Administrator

SUBJECT: Mount Vernon Yacht Club

This is in response to your September 5, 1995 memorandum to Carl Sivertsen regarding the Mount Vernon Yacht Club. Your memorandum included a copy of a letter to you from Glenn Reinhardt concerning the compliance of the yacht club operation with the special permit conditions.

As you may well know, the Mount Vernon Yacht Club has been in operation since 1958 and was initially established pursuant to a special permit granted by the Board of Zoning Appeals (BZA) on May 14, 1957. There have been subsequent special permit approvals by the BZA with the latest approval being Special Permit Amendment (SPA) 80-V-028, which was approved by the BZA on July 18, 1995, with a final approval date of July 26, 1995. A copy of the resolution for this SPA is enclosed as Attachment 1 for your reference. As you will note, this approval allowed an increase in the number of boat slips and an increase in the land area for this use and provides that the applicant has six months from the approval date of July 26, 1995 to obtain a Non-Residential Use Permit (Non-RUP) in order to implement the special permit amendment.

Mr. Reinhardt identified a concern regarding the maintenance of the fence bordering the west property line of the Mount Vernon Yacht Club with Mount Vernon on the Potomac. A review of Special Permit (SP) 80-V-028, which at this point is the applicable special permit, does not indicate that there were any requirements for any type of fencing in this area. Therefore, staff does not have a basis at this time to require the fence to be repaired. A copy of the approval resolution for SP 80-V-028 is enclosed as Attachment 2. However, it is noted that Condition #11 of SPA 80-V-028 requires that the existing wood, wire and chain fences along the northern, eastern and western lot lines shall be maintained and staff will ensure that this fence is repaired prior to the issuance of the Non-RUP to implement the SPA. With regard to Mr. Reinhardt's concern regarding the sale of gas to non-Club members, a review of SP 80-V-028 does not indicate any conditions which address this point. It is my understanding that this subject was discussed at the public hearing before the BZA on SPA 80-V-028 and it was the judgment of the BZA that it was not necessary to impose a condition addressing this issue and it was their intent

Gerry Hyland, Supervisor
October 4, 1994
Page Two

that any sale of gasoline to non-Club members should be the exception rather than the rule in response to emergency situations. Whereas I appreciate Mr. Reinhardt's concern, absent a specific condition on the special permit, the County does not have the authority to mandate the accounting system suggested by Mr. Reinhardt. As part of its approval of SPA 80-V-028, the BZA did impose a new condition for the fuel dock in which the maximum hours of operation are limited to Saturday and Sunday from 9:00 a.m. to 12:00 noon. Once this SPA is implemented, if Mr. Reinhardt believes that the fuel dock is being operated in violation of this condition, Zoning Enforcement will perform some weekend inspections to monitor compliance with this condition.

The last concern mentioned by Mr. Reinhardt related to trailer parking on the Mount Vernon Yacht Club property. A site inspection on September 11, 1995 indicated that boat trailers are being parked on the abutting lot, which is the Mount Vernon Landing Marina which is subject to SPA 76-V-277-2 and is permitted to park boat trailers. One boat trailer with a small dinghy belong to the Mount Vernon Yacht Club was observed along the property line with the Mount Vernon Landing Marina and this activity is not in violation of their special permit.

I trust this satisfactorily responds to your inquiry. Should you have any questions or need elaboration, please do not hesitate to contact me.

JWG

Attachments: A/S

cc: James P. Zook, Director
Office of Comprehensive Planning
Carl I. Sivertsen, Deputy Zoning Administrator
for Zoning Enforcement Branch

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-V-028 by MOUNT VERNON YACHT CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend SP 80-V-028 for swimming pool and marina to permit increase in number of boat slips and increase in acreage, on property located at 4817 Tarpon Lane, Tax Map Reference 110-3((4))(H)1; 110-3((4))A, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1995; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is approximately 8.82 acres.
4. It was found to be advisable to modify Proposed Development Conditions 4, 6, 7 and 10, as reflected in this Resolution.
5. It was found to be inadvisable to address the issue of riparian rights which are covered by laws outside the purview of the Board.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land*.
2. This Special Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special permit plat prepared by Larry N. Scartz, dated April 28, 1993, revised through June 6, 1995, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use*.
4. This Special Permit is subject to the provisions of Article 17, Site Plans, as determined by the Director, Department of Environmental Management. Any plan submitted pursuant to this special permit shall be in conformance with the approved Special Permit plat and these development conditions. The Board of Zoning Appeals has no objection to the waiver of this requirement.

5. The operation of the pool shall be limited to Memorial Day through Labor Day, seven days a week from 8:00 a.m. to 9:00 p.m.*
6. The maximum hours of operation of the fuel dock shall be Saturday and Sunday from 9:00 a.m. to 12:00 noon.
7. Unless otherwise qualified herein, extended-hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - (A) Limited to six (6) per season.
 - (B) Limited to Friday, Saturday and pre-holiday evenings.
 - (C) Shall not extend beyond 12:00 midnight
8. The maximum number of memberships shall be 234.
9. The maximum number of boat slips shall be 137.
10. Seventy-eight (78) parking spaces shall be provided as shown on the Special Permit Plat and all parking spaces shall be striped. All parking shall be on site. The parking spaces existing on Tarpon Lane shall be removed.
11. Existing vegetation along the northern, eastern and western lot lines shall be preserved and maintained as indicated on Sheet 2 of the approved Special Permit Plat and shall satisfy the requirements of Transitional Screening 1. The existing wood, wire and chain fences along the northern, eastern and western lot lines shall be maintained as indicated on Sheet 1 of the approved Special Permit Plat and shall satisfy the barrier requirements.

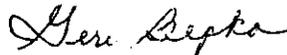
It is noted that these development conditions incorporate and supersede all previously imposed conditions. The previous conditions are noted above with an asterisk ().*

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall obtain a Non-Residential Use Permit through established procedures, within six (6) months of the approval date of the special permit or the special permit shall be null and void. The Non-Residential Use Permit shall include the additional land area and 137 boat slips.*

Mr. Dively seconded the motion which carried by a vote of 6-0. Mr. Pammel was absent from the meeting.

**This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 26, 1995. This date shall be deemed to be the final approval date of this special permit.*

A Copy Teste:



**Geri B. Bepko, Substitute Clerk
Board of Zoning Appeals**

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

S-80 V-028
4817 Tarpon Lane

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-V-028 by MT. VERNON YACHT CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-71-69 for swimming pool and marina to permit reconstruction of wading pool on property located at 4817 Tarpon Lane, tax map reference 110-3((4))(4)1 & pt. A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 6, 1980; and

WHEREAS, the Board has made the following findings of fact:

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-2.
3. That the area of the lot is 3.6 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in the application and is not transferable to other land.
2. This special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation of the pool shall be yearly from Memorial Day through Labor Day, seven days a week from 8 A.M. to 9 P.M.
8. All other conditions of S-71-69 shall remain in effect.
9. Unless otherwise qualified herein, extended-hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
 - (A) Limited to six (6) per season.
 - (B) Limited to Friday, Saturday and pre-holiday evenings.
 - (C) Shall not extend beyond 12:00 Midnight.
 - (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
 - (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
 - (F) Requests shall be approved only if there are no pending violations or the conditions of the Special Permit.
 - (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

A COPY TEST

Sanford R. Hicks
Clerk, Board of Zoning Appeals

Attachment
2

COUNTY OF FAIRFAX
FAIRFAX, VIRGINIA 22030

April 11, 1969

OFFICE OF
BOARD OF ZONING APPEALS

Mr. James E. Halpin
4500 Dolphin Lane
Alexandria, Virginia

Dear Mr. Halpin:

This letter will confirm the decision of the Fairfax County Board of Zoning Appeals on Tuesday, April 8, 1969, granting your application.

In the application of Mt. Vernon Yacht Club, Inc., app. under Sec. 30-7. 2.6.1.1 of the Ordinance, to permit erection of addition to existing bath house, Yacht Haven Estates, 4817 Tarpon Lane, Mt. Vernon District, Mr. Smith moved that the application be granted for the addition based on the following conditions: that the applicant provide the Board of Zoning Appeals with updated copies of the plat showing all parking, all buildings or structures existing on the property, and all proposed buildings or structures as outlined in the application, and that the present building permit application be updated or corrected to show the exact amount of improvements which is closer to \$28,000 than \$12,000 as shown on the permit application. The Lewis Pool Company should provide this Board with a clarification of why the \$12,000 was shown rather than \$28,000 which is incorrect and very deceiving. The addition as long as it meets the setback requirements as outlined on the plat before the Board meets the requirements of the Ordinance, but the dimensions should be shown on the plat. The Board should have a letter from the Pool Company regarding the cost shown on the building permit application. No building permit will be issued until receipt of this information. Seconded, Mr. Yeatman. Carried unanimously.

Betty Haines
Betty Haines, Clerk

If your application is granted, construction or operation must start within 12 months from the date of this hearing, otherwise the approval is no longer valid. Permit shall be issued if you fill out the necessary papers in this office. NO USE PERMIT SHALL BE VALID UNTIL AN OCCUPANCY PERMIT HAS BEEN OBTAINED. If your application is denied, an application for substantially the same subject cannot be filed for a period of 12 months.