

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

IN RE: JANUARY 26, 2023 DECISION OF THE
BOARD OF ZONING APPEALS OF
LOUDOUN COUNTY, VIRGINIA
IN THE MATTER OF APPEAL APPLICATION
APPL-2022-0005

HILARY KOZIKOWSKI, et al.,

Petitioners,

v.

Case No. 23-1194

MONROE RE, LLC, et al.,

Respondents.

HEARING MEMORANDUM
BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA

FILED
2023 MAR 31 P 2:30
CIRCUIT COURT
CLERKS OFFICE
LOUDOUN COUNTY, VA
D.C.
TFSTEL_____

COMES NOW the Board of Supervisors of Loudoun County, Virginia, by counsel, and in and for its memorandum of points and authorities as to the merits of the petition for appeal states the following:

I. Background:

Respondent Monroe RE, LLC and its affiliated entities (“Newport”) own three adjoining properties (the “Newport properties”) at 20173, 20179, and 20191 Gleedsville Road, in Loudoun County. On September 22, 2021, counsel for Newport wrote to the Loudoun County zoning administrator, asking whether the Newport properties could be used for one or more mental health group homes (the “proposed use”). On November 29, 2021, a deputy administrator wrote advising the proposed use would be permissible only if the group homes were operated under license from the Virginia Department of Behavioral Health and Developmental Services (“VDBHDS”), and that a zoning permit would be required. Petitioners’ appeal of the opinions stated in that letter was rejected by the Loudoun County Board of Zoning Appeals (“BZA”) for the reasons the Court has heard at length in the written and oral arguments in CL 22-2838. Petitioners argued and continue to argue that the BZA erred in deciding that the opinions were advisory and not appealable. It remains the position of the Board of Supervisors of Loudoun County, Virginia (“Board”) that the BZA decision in CL 22-2838 was correct and that it should be affirmed.

The instant matter is an appeal of a separate BZA decision that concerns only one of the three Newport properties. On November 16, 2022 (nearly a year after the letter at issue in CL 22-2838) the zoning administrator issued zoning permit #Z20643250001. The permit authorizes Newport to use its property at 20173 Gleedsville Road as a licensed mental health group home (the “permitted use”). Although Newport told the BZA that it intends to apply for additional

permits to operate similar licensed group homes at the two remaining properties, as of this date Newport has not filed any additional applications, and the zoning administrator has made no decision whether such applications would be granted, or under what conditions. Zoning permit #Z20643250001 does not reference Newport's other two properties, and does not allow them to establish any use on those properties. It concerns only the permitted use of 20173 Gleedsville Road as a licensed group home. The respondents appealed the issuance of the permit to the BZA, and the BZA affirmed following a public hearing on January 26, 2023. Respondents timely appealed the BZA decision to this Court. The zoning administrator's decision to grant the permit was compelled by the language of the zoning ordinance and Va. Code § 15.2-2291, and the BZA correctly affirmed his decision. This Court likewise should affirm.

II. Applicable law:

In considering an appeal under Va. Code § 15.2-2314, the circuit court is exercising appellate jurisdiction over a subordinate tribunal, and cannot itself consider questions that the BZA had no authority to consider, such as the validity or constitutionality of legislation underlying the BZA decision. Bd. of Zoning Appeals v. Univ. Square Assocs., 246 Va. 290, 294 (1993). The BZA is a creature of statute, and has no powers beyond those expressly conferred on it by statute. Id. On appeal to the circuit court, the findings and conclusions of the BZA shall be presumed to be correct as to all questions of fact. Va. Code § 15.2-2314. The appealing party may rebut those findings by a preponderance of the evidence. Id. Questions of law are determined by the circuit court de novo. Id.

Pursuant to the Loudoun County zoning ordinance ("ZO") The Newport properties are located in the AR-1 zoning district. "AR" is an abbreviation of "Agricultural Rural." ZO § 2-100. The ordinance regulates uses of land, water, and structures within Loudoun County. See ZO § 1-

103(B). The ordinance generally prohibits all buildings, structures, and uses, except as permitted by the ordinance. ZO § 1-103(C).

The AR-1 district regulations allow “agricultural uses; residential uses; public and institutional uses; commercial uses; and industrial uses” within the district. ZO § 2-102. The specific uses permitted in the AR-1 district are listed in ZO Table 2-102 and include “Dwelling, single-family detached.” See Ex. A.

The term is defined: “Dwelling, Single Family Detached: A residential dwelling unit, other than a portable dwelling, designed for and occupied by one family only and not structurally connected or attached to any other dwelling.

“Family” is separately defined:

Family: A group of people living together consisting of:

- a. One or more persons related by blood or marriage together with any number of natural, foster, step or adopted children, domestic servants, nurses and therapists and no more than two roomers or boarders; or
- b. No more than 4 unrelated persons;
- c. Any group identified in Section 15.2-2291 of the Code of Virginia

Va. Code § 15.2-2291(A) provides:

Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

The applicable statutes and ordinances must be interpreted using well-established principles of statutory construction:

While in the construction of statutes the constant endeavor of the courts is to ascertain and give effect to the intention of the legislature, that intention must be gathered from the words used, unless a literal construction would involve a manifest absurdity. Where the legislature has used words of a plain and definite import the courts cannot put upon them a construction which amounts to holding the legislature did not mean what it has actually expressed.

...

We must also assume that the legislature chose, with care, the words it used when it enacted the relevant statute, and we are bound by those words as we interpret the statute. "Courts are not permitted to rewrite statutes. This is a legislative function. The manifest intention of the legislature, clearly disclosed by its language, must be applied. There can be no departure from the words used where the intention is clear."

Barr v. Town & Country Props., Inc., 240 Va. 292, 295 (1990).

III. Analysis and argument:

A. CL 22-2838 and CL 23-1194 are separate matters:

The Petitioners' opening brief repeatedly confuses this matter with CL 22-2838, where they appealed the BZA's ruling that the administrator's November 29, 2021 correspondence was advisory, and not an appealable "determination" as that term is used in the applicable statutes and case authorities. The opening brief attempts to reargue CL 22-2838, which was fully briefed over six months ago. The Court has authorized no additional briefing in CL 22-2838, and the Board objects to the Petitioners' improper attempt to unilaterally reopen and reargue that matter. If the Court desires further briefing or argument, the Board stands ready to provide it, but the Petitioners' attempt to do so without first seeking leave of court is a clear violation of the Court's order of July 28, 2022. Ex. B. The Board respectfully requests that the arguments regarding the November 29, 2021 letter (which Petitioners refer to as the "Zoning Determination") be stricken, or

at least disregarded, and that the Court take such other actions as may be necessary in the interests of justice to permit the matter to be fairly submitted for resolution on the merits.

B. The permit does not incorporate or rely on the opinions stated in the November 29, 2021 letter:

Petitioners' opening brief inaccurately claims that the Court must address the issue of "whether the Zoning Determination supporting the Zoning Permit was correct..." Pet. Br. at 2. By "Zoning Determination" Petitioners mean the November 29, 2021 letter that is at issue in CL 22-2838. Petitioners apparently intend to argue that a notation on the second page of the zoning permit (Ex. C; RELATED APPLICATIONS NBR - #1 ZCOR-2021-0233) somehow incorporates the opinions stated in the November 29, 2021 letter into the permit. Petitioners' counsel has apparently forgotten that he inquired about the meaning of the notations in November and was informed that "related application" simply means that it concerns the same parcel. See Ex. D (November 18, 2022 email). Nothing in the record supports Petitioners' argument that the opinions stated in the November 29, 2021 correspondence are referenced or incorporated in the permit, and those assertions should be disregarded.

C. The fact that "congregate housing facility" is not a use listed in Table 2-102 is irrelevant to the issues before the Court:

In section II. B of their opening brief Petitioners argue that the zoning ordinance contains a "prohibition ... against Congregate Housing Facilities" and that the BZA erred because "The proper analysis begins and ends with the Zoning Determination's conclusion that the use meets the definition of a Congregate Housing Facility and is therefore not permitted in the AR-1." Pet. Br. at 2-3. The argument is wrong because the major premise is false. Newport's use may meet the definition of an unpermitted use: "Congregate Housing Facility"; but as outlined below it also meets the definition of a permitted use: "Dwelling, Single Family Detached."

The zoning ordinance does not contain a list of uses that are prohibited in the AR-1. Instead, it prohibits all uses except as specifically permitted (see ZO § 1-103(C)). For the AR-1 district, Table 2-102 then contains the list of uses that are permitted. The proper analysis requires a comparison of the proposed use to Table 2-102, and if the proposal fits the definition of any of the permitted uses, it is permissible. Petitioners argument should be rejected because it depends on a fundamental misunderstanding of the structure of the ordinance.

D. Newport’s permitted use is defined by statute to be a “residential facility:”

The Petitioners’ brief frames the issue as “whether it is [VDBHDS] or Loudoun County that determines whether a proposed use is residential for zoning purposes.” Pet. Br. at 3. Their analysis is incorrect and should be rejected because it is neither the County or VDBHDS, but the statute itself that defines a licensed mental health group home to be a “residential facility.” As stated in the last sentence of the statute (emphasis added):

For purposes of this subsection “*residential facility*” means **any group home** or other residential facility **for which the Department of Behavioral Health and Developmental Services is the licensing authority** pursuant to this Code.

Here, Newport’s permitted use is a “**group home**” under **license** by the Virginia Department of Behavioral Health and Developmental Services. The permitted use is specifically conditioned on Newport maintaining licensure by the VDBHDS. By statutory definition, the permitted use is a “residential facility.”

E. The use permitted at 20173 Gleedsville Road is by definition a “Dwelling, Single Family Detached:”

The zoning ordinance permits a “Dwelling, Single Family Detached” in the AR-1 district. The Board defined “family” to include those groups identified in § 15.2-2291 for purposes of the ordinance. The group described in Va. Code § 15.2-2291(A) is a group of “no more than eight individuals with mental illness, intellectual disability, or

developmental disabilities” including “one or more resident or nonresident staff persons.” Consistent with the statutory requirement that such a group be treated as a single family for purposes of zoning ordinances, the zoning ordinance defines the group as a “family.”

The Newport application (Ex. B to the Petition) identifies 20173 Gleedsville Road as the property at issue. The application identifies the purpose of the permit as a “Group Home for five residents.” A copy of Newport’s VDBHDS license accompanied the application and shows that Newport is licensed to operate a “mental health residential group home service for adults” at 20173 Gleedsville Road. The “Bed Capacity” on the license for the address is listed as “5.” The facility meets the definition of “Dwelling, Single Family Detached” under the 1993 revised zoning ordinance, and the administrator’s decision to issue the permit was correct.

F. Petitioners’ claim that “commercial uses” are not permitted in the AR-1 district is not accurate:

Starting on page 7 of their opening brief Petitioners argue that Newport’s statutorily defined “family” is being given preferential treatment over traditional families because Newport is engaged in a “commercial use” that is forbidden to traditional families. The entire premise is false because the idea that commercial activity is banned in the AR-1 is imaginary. Table 2-102 lists dozens of commercial uses including 27 listed use types under the category “COMMERCIAL USES”. Other commercial uses appear under other use categories. By way of example, under the agricultural category Table 2-102 permits multiple commercial uses including (1) commercial winery (multiple types), (2) direct market business, (3) restaurant, (4) sawmill.

G. Petitioners' arguments about "congregate use" if additional permits are issued for Newport's other two properties are beyond the scope of the appeal:

Section D of the Petitioners' opening brief is very unclear, but from the footnote it appears Petitioners are arguing that Newport has obtained two licenses, which so far as VDBHDS is concerned authorize Newport to operate one group home for up to five patients at 20173 Gleedsville Road and a second group home for up to five patients at 20179 Gleedsville Road. The footnote further suggests that the argument, which is not developed or even clearly articulated in the brief, will be presented for the first time at the hearing. The Board objects to arguments being presented for the first time at the hearing. The Board is entitled to reasonable notice of the issues so that the matter can be prepared for presentation to the Court in a reasonable manner.

First and foremost, any licensing decision by VDBHDS cannot be reviewed by this Court in the context of a BZA appeal under Va. Code § 15.2-2314. See Univ. Square Assocs., 246 Va. at 294. The BZA lacked authority to review the VDBHDS licensing decision, and this Court cannot do so on appeal.

There are potential issues in the event that Newport applies for zoning permits to operate group homes on the second or third property. Newport's permitted use at 20173 Gleedsville Road is dependent on the interplay between Va. Code § 15.2-2291 and the zoning ordinance definition of "family." It is the Board's position that Newport cannot operate a group home with more than eight patients, or its facility would no longer fit within the definition of Dwelling, single family, detached. It is conceivable that Newport could attempt to operate two or more of the properties in a combined manner that would take it beyond the statutory limit of eight individuals. That possibility raises complex questions that the Court need not (and cannot) answer here because Newport at this point

has only applied for and received a single zoning permit, and is at this point only authorized to operate a single group home with a limit of five patients.

The Court's authority under Va. Code § 15.2-2314 is limited to the review of the single permit that has been granted. It cannot review the VDBHDS licensing decision, and cannot engage in speculation about what decisions the zoning administrator or BZA might make in the event Newport submits additional zoning permit applications for its other two properties. While the fact that Newport has received a second VDBHDS license makes it appear likely that it will apply for a second zoning permit, the Court cannot assume that the administrator will improperly grant it, or that the BZA would fail to correct his error if he were to make one. The administrator has the authority to grant permits, to deny them, or to grant them with conditions, and must be permitted to make a decision before this Court attempts to review it. The arguments advanced by the petitioner should be rejected because they would usurp to this Court the authority the legislature has by statute vested in the zoning administrator and the BZA.

H. Issues related to drug addiction are likewise premature:

Petitioners claim that Newport intends to admit patients who are addicted to controlled substances in violation of Va. Code § 15.2-2291. The claim flies in the face of overwhelming evidence to the contrary. The record in the BZA is that Newport represented to the BZA that (1) it understands it is limited by Va. Code § 15.2-2291, (2) it cannot treat substance abuse without violating its VDBHDS license, (3) it will screen all patients for substance abuse, (3) it will prohibit use or possession of illegal substances on the premises, and (4) it will discharge any patient who violates the policy. Petitioners' argument that Newport's commitments over and beyond any requirements under its

license ought to be viewed as evidence demonstrating that Newport will violate the statute is deeply cynical and would result in perverse consequences if given any weight by the Court.

In addition to the fact that Petitioners have not presented evidence that drug treatment will occur, such treatment would (according to Newport) violate its state license, and would certainly violate the zoning ordinance. Regardless of whether the state took action to correct violations, if the violation came to the attention of the zoning administrator, it would be his duty to take appropriate enforcement action, subject again to review by the BZA before the question could come before this Court.

IV: Conclusion:

Petitioners' argument should be rejected because they are premature, baseless, or misdirected. Their complaints about the state licensing process cannot be taken up in this forum, and must be directed to the state agency that possesses the authority to issue group home licenses. Their speculative concerns about what might happen if Newport applies to operate similar facilities on a second or third property are premature because at this point only one permit has been issued, and any future permit applications must first be addressed by the zoning administrator and the BZA before coming before the Court for review. Their arguments commercial facilities are prohibited in the AR-1 are simply wrong and without any basis in the text of the zoning ordinance. The BZA correctly affirmed the zoning administrator's decision to grant the permit, and this Court should affirm.

WHEREFORE, the respondent, Board of Supervisors of Loudoun County, Virginia, by counsel, moves for entry of an order affirming the judgment of the Board of Zoning Appeals, or for such other relief as may be appropriate.

BOARD OF SUPERVISORS
OF LOUDOUN COUNTY, VIRGINIA
By Counsel



Nicholas J. Lawrence
Senior Assistant County Attorney
VSB No. 76964
1 Harrison Street, SE (Deliveries only)
P.O. Box 7000 (U.S. mail only)
Leesburg, VA 20177-7000
T: (703) 777-0307
F: (703) 771-5025
Nicholas.Lawrence@Loudoun.gov
*Counsel for Board of Supervisors of
Loudoun County, Virginia*

CERTIFICATE OF SERVICE

I certify that on this 31st day of ~~April~~^{March}, 2023, a copy of the foregoing was sent via electronic mail and first-class mail, postage prepaid to:

Gifford R. Hampshire, Esq.
James R. Meizanis, Jr., Esq.
Blankingship & Keith, P.C.
4020 University Drive, Suite 300
Fairfax, Virginia 22030
ghampshire@bklawva.com
jmeizanis@bklawva.com

John Wilburn, Esq.
McGuire Woods
1750 Tysons Boulevard, Suite 1800
Tysons Corner, Virginia 22102
jwilburn@mcguirewoods.com

Michael Allen, Esq.
Relman Colfax, PLLC
1225 19th Street, N.W., Suite 600
Washington, D.C. 20036-2456
mallen@relmanlaw.com

H. Christopher Bartolomucci
Schaerr Jaffe, LLP
1717 K. Street, NW, Suite 900
Washington, D.C. 20006
cbartolomucci@schaerr-jaffe.com



Nicholas J. Lawrence

- (E) **Additional Regulations for Specific Uses.** References to sections in the final column of Table 2-102 (AR-1 District Use Table) indicate that the listed use is subject to use-specific regulations. The numbers provide a cross-reference to the “Additional Regulations for Specific Uses” in Section 5-600.
- (F) **Minimum Lot Size Requirements.** Each principal permitted use shall meet the minimum acreage requirement, where specified in the “Additional Regulations for Specific Uses” in Section 5-600, for that use. Where two or more principal uses are located on one parcel, the parcel size shall be the larger of the two or more uses requirements, and not the sum of all the minimum lot sizes.

**TABLE 2-102:
AR-1 AGRICULTURAL RURAL-1 DISTRICT USE TABLE
P = PERMITTED S = SPECIAL EXCEPTION M=MINOR SPECIAL EXCEPTION**

USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
AGRICULTURAL USES			
Agriculture	General Use Category	P	Section 5-626
Horticulture	General Use Category	P	Section 5-626
Animal Husbandry	General Use Category	P	Section 5-626
Agriculture Support and Services Directly Related to On-going Agriculture, Horticulture and Animal Husbandry Activity, On-Site	Agricultural processing	P	Section 5-627
	Agri-education	P	Section 5-627
	Animal care business	P	Section 5-627
	Agritainment	P	Section 5-627
	Commercial winery with 20,000 square feet or less	P	Section 5-625
	Commercial winery, over 20,000 square feet	S	Section 5-625
	Custom operators	P	Section 5-627
	Direct market business for sale of products produced on-site – including but not limited to PYO (pick-your-own)	P	Section 5-627
	Equestrian Event Facility	P	Section 5-627

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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Farm based tourism	P	Section 5-628
	Farm co-ops	P	Section 5-627
	Farm machinery repair	P	Section 5-627
	Farm markets	P	Section 5-603
	Feedlot (for on-going, on-site animal husbandry activities)	P	Section 5-627
	Limited Brewery	P	Section 5-667
	Nursery, commercial	S	Section 5-605
	Nursery, production	P	Section 5-605
	Pet farms	P	Section 5-627
	Restaurant	P	Section 5-627
	Sawmill	S	Section 5-629
	Stable, Livery	P	Section 5-627
	Stable, Private	P	Section 5-627
	Veterinary services	P	
	Virginia Farm Winery	P	
	Wayside stand	P	Section 5-604
	Wetlands mitigation bank	P	Section 5-627
Agriculture Support and Services <u>Not</u> Directly Associated with On-Site Agricultural Activity	Agricultural research facility	P	Section 5-644
	Animal care businesses	P	Section 5-630
	Central farm distribution hub for agricultural products	P	Section 5-630

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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Commercial winery with 20,000 square feet or less	P	Section 5-625
	Commercial winery, over 20,000 square feet	S	Section 5-625
	Equestrian Event Facility	P	Section 5-630
	Farm machinery repair	P	Section 5-630
	Farm machinery sales, rental and service	P	Section 5-615
	Feed and Farm Supply Center	P	Section 5-630
	Nursery, commercial	S	Section 5-605
	Stable, Livery	P	Section 5-630
	Stable, Private	P	Section 5-630
Animal Services	Animal hospital	P	Section 5-631
	Kennel	S	Section 5-606
	Kennel, Indoor	M	Section 5-606
RESIDENTIAL USES			
Household Living	Accessory dwelling (accessory to single family detached dwelling)	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	May divide property in accordance with Section 2-103 Development Options.
	Portable Dwelling/Trailer Construction	P	
Group Living	Co-housing	P	
	Convent or monastery	P/S	Section 5-656
	Dormitory, seasonal labor	M	Section 5-632
	Rooming house	P	

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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
PUBLIC AND INSTITUTIONAL USES			
Aviation	Airport/landing strip	S	Section 5-633
Day Care Facilities	Child care home	P	Section 5-609(A)
	Child or adult day care center	S	Section 5-609(B)
Cultural and Government Facilities	Agricultural cultural center	S	Section 5-634
	Fairground	S	Section 5-635
	Structures or uses for local government purposes not otherwise listed in the district	S	
Education	Public School (Elementary, Middle, or High) for fifteen (15) or fewer pupils	S	Section 5-655
	Private School (Elementary, Middle, or High) for more than fifteen (15) pupils	S	
	Private Vocational school	S	
Park and Open Space	Arboretum	P	Section 5-636
	Botanical garden or nature study area	P	Section 5-636
	Cemetery	S	Section 5-637
	Mausoleum	S	Section 5-637
	Crematorium	S	Section 5-637
	Community, neighborhood, or regional park, passive recreational uses	P	
	Community, neighborhood, or regional park, active recreational uses	S	
Public Safety	Fire and/or rescue station	P	Section 5-638
	Police station or substation	P	Section 5-638

**TABLE 2-102:
AR-1 AGRICULTURAL RURAL-1 DISTRICT USE TABLE
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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Religious Assembly	Church, synagogue, temple or mosque, with seating capacity of 300 or less seats in sanctuary or main activity area	P	Section 5-639
	Church, synagogue, temple or mosque, with seating capacity of more than 300 in sanctuary or main activity area, or accessory schools, day care centers with more than 30 50 children, recreational facilities	S	Section 5-639
Utility	General Use Category	P	Recycling drop-off collection center, public: Section 5-607 Utility substation, transmission: Section 5-616(A) Utility substation, distribution: Section 5-616(B)
	Municipal drinking water supply reservoir	P	
	Sewage Treatment Plant	S	Section 5-621
	Sewer Pumping Station	P	Section 5-621
	Water Storage Tank	S	Section 5-621
	Water Treatment Plant	S	Section 5-621
	Water Pumping Station	P	Section 5-621
	Utility transmission lines, overhead (excluding connections of lines from existing overhead public utility transmission lines to individual uses)	S	Unless excepted by Section 1-103(D)
	Water Well, Municipal	P	Section 5-621
COMMERCIAL USES			
Conference and Training Centers	Conference and training centers	P/M	Section 5-640
	Rural Corporate Retreat	P	Section 5-619

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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Rural Resort	M	Section 5-601(D)
Food and Beverage	Teahouse; coffeehouse	P	Section 5-641
	Banquet/Event Facility	M	Section 5-642
	Restaurant	M	Section 5-643
Office	Educational or research facilities use related to the agriculture, horticulture and animal husbandry uses in the district	M	Section 5-644
Recreation and Entertainment	Camp, day and boarding, with 30 or fewer campers	P	Section 5-645
	Camp, day and boarding, with more than 30 campers	M	Section 5-645
	Campground	M	Section 5-646
	Country Club	S	Section 5-660
	Cross country ski business	P	Section 5-647
	Eco-tourism	P	Section 5-647
	Golf course	S	Section 5-648
	Outdoor amphitheater	S	Section 5-649
	Private Club or Lodge	S	
	Rural recreational establishment, outdoor	P	
Retail Sales and Service	Antique shop	P	Section 5-650
	Art gallery or art studio	P	Section 5-650
	Auction house	S	Section 5-651
	Craft shop	P	Section 5-650

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USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Small business	P/M	Section 5-614
Visitor Accommodation	Bed and Breakfast Homestay	P	Section 5-601(A)
	Bed and Breakfast Inn	P	Section 5-601(B)
	Country Inn	P	Section 5-601(C)
	Country Inn with Restaurant with an occupancy of no more than 100	P	Section 5-601(C)
	Country Inn with Restaurant with an occupancy of more than 100	M	Section 5-601(C)
	Guest farm or ranch leasing up to 20 guest rooms	P	
INDUSTRIAL USES			
Telecommunication Use and/or Structure	Radio and/or television tower	S	Section 5-618
	Telecommunications antenna	P	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunications transmission tower	S	Section 5-618(C)(2)
Waste-Related Uses	Vegetative Waste Management facility	M	(Grant of a special exception does not avoid requirements of Chapter 1080, Codified Ordinances of Loudoun County, or any other applicable law.)
	Yard Waste Composting Facility	S	(Grant of a special exception does not avoid requirements of Chapter 1080, Codified Ordinances of Loudoun County, or any other applicable law.)
	Stockpiling of dirt	S	Section 5-657

2-103

Development Options. Land within the AR-1 zoning district may be subdivided under one of the three development options identified below. Nothing in this section shall preclude the opportunity for a property owner

VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY

*HILARY KOZIKOWSKI :
 Plaintiff : Civil No(s): CL22002838-00
 v. :
 *MONROE RE LLC :
 Defendant :

DATE: 07/25/2022

CIVIL SCHEDULING ORDER

Upon the request for scheduling, it is hereby **ORDERED** as follows:

1. Hearing Date: This matter is scheduled on 09/26/2022
at 10:00 AM for the following: _____

- Trial With Jury Without Jury
- Pendente Lite Equitable Distribution/Support
- Custody/Visitation Motion(s)

Other: ZONING APPEAL HEARING *

2. Time Estimate: The time estimate for the hearing is 3 HOURS

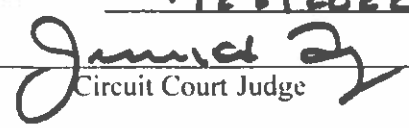
3. Pretrial Conference: A pretrial conference is set for _____ at _____

4. Pretrial Scheduling Order: The parties are encouraged to promptly submit a Uniform Pretrial Scheduling Order as set forth in Rule 1:18 of the Rules of the Supreme Court of Virginia at the Pretrial Conference. If the parties are unable to agree on the Order, 14 days notice of the entry of the Order shall be given. Any party with an objection may file a motion and the Court will conduct a hearing.

5. Divorce Cases: If the case involves equitable distribution of property, each party shall file the standard equitable distribution schedules that include § 20-107.3 factors seven (7) days prior to the Pretrial Conference and or Trial Date. The forms are the same forms used in most jurisdictions and they are available from the Clerk's Office.

6. Other: *OPENING BRIEF: 8/12/2022, OPPOSITION: 8/26/2022; REPLY: 9/2/2022

7. Interpreter Transport

ENTERED this 7/28/2022


 Circuit Court Judge



County Of Loudoun
 Department of Building and Development
 1 Harrison St., S.E., P.O. Box 7000
 Leesburg, Virginia 20177
 (703) 777-0220



Web Inspection Request www.loudoun.gov/airs

The permit holder is responsible for scheduling required inspections and for ensuring that final approvals are received prior to use of the building or structure.
 All residential building and trade permits will be revoked three (3) years from date of issuance. Permits may be reinstated if work is abandoned for a period of six (6) months.
 New permits will be required to complete any work remaining on revoked permits.
 Any related zoning permits will expire with revoked permits.
 When required, residential per unit cash premiums must be paid by cashier's check after all inspections have been finalized. Once received, two business days may be required for processing prior to issuance of the occupancy permit.

ZONING PERMIT # Z20643250001

Permit Issue Date :	2022-11-16	Building Permit # :	
Applicant Name :	MONROE REAL ESTATE LLC	Structure Type :	ZONING ONLY
Owner name :	MONROE REAL ESTATE LLC	Construction Purpose :	ZONING ONLY
Property Address :	20173 GLEEDSVILLE RD LEESBURG VA 20175	Permit Purpose :	GROUP HOME
Bldg/ Floor/ Unit :		MCPI Number :	315302419000
Section/ Lot :	LOT 12-1	Tax Map Number :	/59//18//B2-1/
Subdivision :	PIRETTI FAMILY SUBDIVISION	Contractor :	OWNER
Mechanics' Lien Agent :		Related Permits :	NONE
		Mech Lien Agent Ph # :	

Mech Lien Agent Addr:

Permit Comments

This zoning permit is approved with the condition that the use maintain licensure by the Virginia Department of Behavioral Health and Developmental Services pursuant to the Revised 1993 Loudoun County Zoning Ordinance Article 8 Definition of Family and Code of Virginia Section 16.2-2291.

Article 8 Definitions:

Family: A group of people living together consisting of:

Article 8 - Definitions

Revision Date: April 13, 2022

a. One or more persons related by blood or marriage together with any number of natural, foster, step or adopted children, domestic servants, nurses and therapists and no more than two roomers or boarders; or

b. No more than 4 unrelated persons;

c. Any group identified in Section 16.2-2201 of the Code of Virginia 16.2-2291, Assisted living facilities and group homes of eight or fewer; single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in 64.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

Detail Information

ZONING ORDINANCE
 NUMBER OF ZONING DISTRICTS



ZONING DISTRICT- # 1
 ZONING ACREAGE
 ZONING PURPOSE
 NBR OF RELATED APPLICATIONS
 RELATED APPLICATIONS NBR- # 1
 RELATED APPLICATIONS NBR- # 2
 PROFFERS/CONDITIONS?
 ADU (YES/NO)
 LOT TYPE
 SPECIAL SETBACK REQMTS (Y/N)

ARI
 3.07
 SFDRGROUP HOME
 2
 ZCOR-2021-0233
 APPL-2021-0003
 Y
 N
 REGULAR
 N

Description	Fee Calculations		Total
	Units	Rate	
PERMIT ZONING FEE	0.00	0.0000	\$185.00
PERMIT TOTAL FEE	0.00	0.0000	\$165.00

RECEIVED

Building Official
[Signature]

Zoning Administrator
Mark Stultz

Lawrence, Nicholas

From: Lawrence, Nicholas
Sent: Friday, November 18, 2022 9:12 AM
To: Gifford Hampshire; Spears, Brooks H.; Wilburn, John D.
Cc: mallen@relmanlaw.com; Jim Meizanis; H. Christopher Bartolomucci
Subject: RE: Kozikowski v. Monroe CL 22-2838

I am advised that "NBR" is an abbreviation for "number" and "related application" means it concerns the same parcel.

Nick

Nicholas J. Lawrence
Senior Assistant County Attorney
1 Harrison St., SE (deliveries only)
P.O. Box 7000 (U.S. mail only)
Leesburg, VA 20177-7000
703-777-0307 (office)
703-771-5336 (direct)
703-771-5025 (fax)
Nicholas.Lawrence@loudoun.gov

From: Gifford Hampshire <ghampshire@bklawva.com>
Sent: Thursday, November 17, 2022 3:18 PM
To: Lawrence, Nicholas <Nicholas.Lawrence@loudoun.gov>; Spears, Brooks H. <BSpears@mcguirewoods.com>; Wilburn, John D. <jwilburn@mcguirewoods.com>
Cc: mallen@relmanlaw.com; Jim Meizanis <JMeizanis@bklawva.com>; H. Christopher Bartolomucci <cbartolomucci@schaerr-jaffe.com>
Subject: [EXTERNAL] RE: Kozikowski v. Monroe CL 22-2838

Hi Nick

As I indicated in my email in response to yours of Nov. 7, I agree with you to the extent the Zoning Permit is a new zoning decision. I am trying to identify that in the attached. I see reference at the bottom of the permit to "NBR of related decisions" and then a listing of "NBR # 1" and "NBR # 2" that reference the Zoning Determination and the BZA appeal, respectively.

Can you tell us what "NBR" stands for?

Giff

From: Lawrence, Nicholas <Nicholas.Lawrence@loudoun.gov>
Sent: Thursday, November 17, 2022 11:04 AM
To: Spears, Brooks H. <BSpears@mcguirewoods.com>; Gifford Hampshire <ghampshire@bklawva.com>; Wilburn, John D. <jwilburn@mcguirewoods.com>
Cc: mallen@relmanlaw.com; Jim Meizanis <JMeizanis@bklawva.com>; H. Christopher Bartolomucci