

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF STAUNTON

**JOHN W. GLOVER and
THE CITY OF STAUNTON, VIRGINIA,**

Petitioners,

v.

**Case Nos. CL08000025-00
 CL08000026-00
 CL08000051-00**

**THE BOARD OF ZONING APPEALS OF THE
CITY OF STAUNTON, VIRGINIA, et al.,**

Respondents.

FINAL ORDER

With the agreement of counsel and the parties acting pro se, these certiorari proceedings have been conducted as consolidated for purposes of trial and rulings. In recognition of this agreement, and with the concurrence of the Court, it is HEREBY ORDERED that the proceedings are consolidated to that extent.

On October 21, 2008, the Court conducted a pre-trial conference and a hearing on motions matured for consideration, in anticipation of the previously scheduled December 4, 2008 trial pursuant to Virginia Code § 15.2-2314. During the conference, the Staunton Board of Zoning Appeals withdrew its September 29, 2008 Motion for Leave to File Answer. Also, the Court then concluded and, in confirmation, does HEREBY ORDER that the September 12, 2008 motion of the City of Staunton to reconsider and vacate or modify the July 24, 2008 Orders of the prior judge designate is DENIED; however, the services of William E. Shmidheiser as court-appointed counsel for the Staunton Board of Zoning Appeals are HEREBY SUSPENDED effective October 21, 2008, given the appearance of John A. Conrad as counsel.

On December 4, 2008, with all parties present, and represented by counsel or acting pro se, the Court conducted an appeal trial of the three Petitions filed by the City of Staunton, et al. and the Answers of the Respondents, if any, in these three consolidated cases pursuant to Virginia Code Section 15.2-2314.

For good cause appearing, and after considering objections of the Petitioners and the argument of counsel, it is hereby ORDERED that the Motion for Leave to File Answer of the Staunton Board of Zoning Appeals is granted and the Answer of the Staunton Board of Zoning Appeals is duly filed, to which the Petitioners objected on the same grounds identified in their October 17, 2008 objection and on the grounds that the motion had been withdrawn and otherwise now was untimely, with the Staunton Board of Zoning Appeals had remaining in default.

Whereupon, the Court received opening arguments, admitted into evidence all evidence submitted by the BZA, overruling the objection of the Petitioners on grounds that additional evidence was not necessary for the proper disposition of the matter, and then the BZA and all other Respondents rested; the Court heard all closing arguments of counsel for the Petitioners and the BZA, and pro se Respondents, and concluded the trial, with leave for the parties to submit additional briefs and/or memoranda of points and authorities, as well as the minutes of the Staunton City Council, all of which were submitted by the parties and considered by the Court.

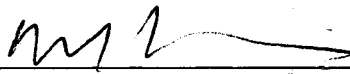
Whereupon, in consideration of the record of the Staunton Board of Zoning Appeals, all evidence submitted by the parties, the written briefs and oral argument of all counsel and all parties, and for the reasons stated in the Court's January 14, 2009 letter opinion, it is HEREBY ORDERED and ADJUDGED that the Staunton Board of Zoning

Appeals' motion to dismiss all three Petitions for lack of standing is DENIED; that the decisions of the Staunton Board of Zoning Appeals to grant each of the three variances are REVERSED; and that the three variance applications are hereby denied.

It is further ORDERED that the transcript of the October 21, 2008 hearing before the Court is hereby made a part of the record in all of these proceedings.

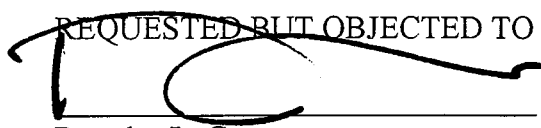
The Clerk is directed to forward an attested copy of the Final Order to counsel of record and all parties acting pro se.

ENTERED this 17th day of June, 2009.



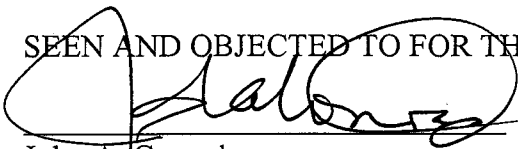
Judge

REQUESTED BUT OBJECTED TO AS NOTED OTHERWISE:

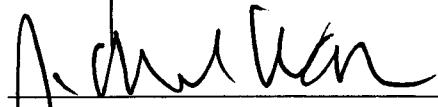


Douglas L. Gynn
Attorney for Petitioners

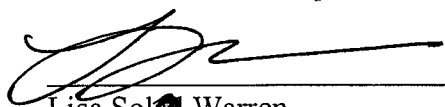
SEEN AND OBJECTED TO FOR THE REASONS STATED IN THE RECORD:



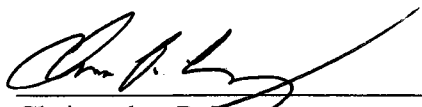
John A. Conrad,
Board of Zoning Appeals Attorney



J. Michael Warren



Lisa Solod Warren



Christopher P. Lowery

A COPY

TESTE: _____ CLERK
Circuit Court, Staunton, Va.

Brandy Pierce Lowery
Brandy Pierce Lowery

Frank Belloni
Frank Belloni

Debra Chilton-Belloni
Debra Chilton-Belloni

SEEN:

William E. Schmidheiser, III
William E. Schmidheiser, Esquire

NO APPEARANCE
After Notice
Endorsement waived
pursuant to Rule 1:13
but see letters
dated April 29, 2009
and MAY 15, 2009
M.S.J.
6-17-09