



October 2, 2009

Dr. Frank Belloni & Mrs. Debra Chilton-Belloni
161 Seclusion Manor
Mineral, VA 23117

Dr. Belloni & Mrs. Chilton-Belloni,

I write you regarding the property at 1403 N. Augusta St., Staunton, VA 24401. I ask for your cooperation, again.

As you know, you received a Notice of Violation dated September 20, 2007 regarding your construction of a masonry wall in violation of provisions of the Staunton City Code. You then sought relief from the Staunton Board of Zoning Appeals. The Circuit Court of the City of Staunton ultimately ruled that you were not entitled to any variance. The period for seeking an appeal of the Circuit Court's judgment in favor of the City expired several months ago. We had hoped that since that time you would have undertaken to bring matters into compliance or to provide assurance of doing so.

We ask that by October 15, 2009 you provide us with unconditional written assurance that you will bring your property into compliance, advising us of the proposed date yet this year by which you will have necessary changes completed. Absent receiving such assurance by October 15, 2009, we will conclude that you have no interest in resolving this matter cooperatively.

We do sincerely hope that you will cooperate with us. Again, October 15 is the time by which we must receive your unconditional written assurance.

If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "John W. Glover".

John W. Glover
Building Official & Zoning Administrator



March 1, 2012

Dr. Frank Belloni
Debra Chilton-Belloni
161 Seclusion Manor
Mineral, VA 23117

Re: Property at 1403 N. Augusta Street, Staunton

Dear Dr. and Ms. Belloni:

I now serve as Zoning Administrator for the City of Staunton. I succeeded John Glover, who currently focuses on other matters for the City. As you may know, I'm also the Director of Planning and Inspections for the City of Staunton. I've worked in the land-use planning field for over 34 years and have served the City of Staunton for over 25 years as the Director of Planning and Inspections.

In my role as Zoning Administrator, I've taken the opportunity to review the status of your masonry wall located at your property on Augusta Street and Ridgeview Road. My current focus is solely on the civil aspect of this situation, hoping that through this added communication we can find resolution by working together, as Mr. Glover and others have tried before.

Based upon my review, it appears to me that you have not made any effort to bring the wall into compliance despite what seems like repeated indications from you that would do so after the circuit court ruled against you and denied any variance from wall restrictions contained in the City of Staunton Code's zoning provisions. Most specifically and significantly, your wall is almost double the height permitted by the Staunton City Code at the time that it was built. I realize you may want to argue that the wall fronting on Augusta Street, while in violation of the height restrictions, should not concern anyone because of the shrubbery in front of it. The wall, however, still can be seen at various points, depending somewhat on the time of year, but regardless, the wall height restriction is not just about being able to see the wall. Its presence is a continuing violation. The restriction, as well, beyond other considerations, reflects legitimate land-use concerns over the visual impact of a wall being much different than that of plantings, such as a hedge. A wall obviously is a permanent feature that lasts indefinitely. Plantings are living things that can be allowed to grow, be cut back and made smaller, or easily be removed,

DEPARTMENT OF PLANNING & INSPECTIONS
116 W. BEVERLEY STREET | P.O. BOX 58 | STAUNTON, VA 24402
540.332.3862 (OFFICE) 540.332.3807 (FAX)

without the imposing change that a wall imposes. When, and if, the plantings were removed, the wall would still be intact, with the continuation of the impact of its presence where no other exists nearby. Moreover, it can be seen from Ridgeview Road.

The portion of your wall along Ridgeview Road is also of concern because it similarly violates and continues to violate the height restriction that applied when it was built. In addition, the purpose of the P-1, Professional District, is to allow uses that are compatible with the other uses in the district and should not be a detriment to the surrounding properties. One important purpose of the district is to increase the value of surrounding properties by maintaining attractive buildings with open spaces landscaped and all service entrances or unattractive areas screened. In the same vein, the purpose of the City's Code is promote the safety, health, morals, convenience, and general welfare; to encourage the use of lands and natural resources in the city in accordance with their character, adaptability, and suitability for particular purposes; to conserve social and economic stability, property values, and the general character and trend of community development. Your wall, in my judgment as Zoning Administrator, is counter to those purposes because it is not compatible with the general character of surrounding properties in its excessive height, construction with materials not in keeping with those of the neighborhood, and the overall effect this edifice has in permanently enclosing the open space with-permanent materials. From a land use and planning consideration, it has an impact on the neighborhood.

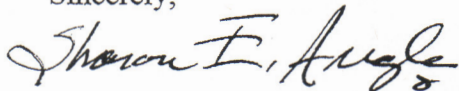
My understanding is that Mr. Glover, as Zoning Administrator, and Mr. Hartless, as Zoning Technician, actually came together to your property on November 21, 2007. At that time, according to them and as reflected in photographs taken at the time, a substantial part of your multi-sided masonry wall still had not been built. As of that time, you were apprised that the City of Staunton's Zoning Administrator considered you in continuing violation. Enclosed is a copy of the text of the letter hand-delivered that day by Mr. Glover and Mr. Hartless to you while on the property. Despite that letter and a previous letter, you unlawfully continued to construct and use the wall, as you do even today after all the time extended to you to correct or abate the matter and prior communications.

Unlike your lack of any progress at compliance, the other property owners with fences at the time that you lost the circuit court case have worked with us. Through their good-faith cooperative efforts, they are in compliance. It begs the question why you believe you are entitled to some exception.

The City retains the right civilly to pursue this matter regardless of any other avenue of relief. Under Virginia Code Section 15.2-2208, "[a]ny violation or attempted violation of this chapter or of any regulation adopted hereunder may be restrained, corrected, or abated as the case may be by injunction or other appropriate proceeding." As the Zoning Administrator, however, I would prefer that matters be resolved without the need for further action; yet, from everything I know, you have continued to be in violation, essentially refusing to follow through on what we were led to believe would be actions by you to bring the wall into compliance. Upon hindsight, the City arguably has shown patience to a fault.

Please advise me in writing, by no later than March 15, 2012, of your position. By communicating with you yet again, we are endeavoring to find resolution, not confrontation. At this time, it seems straightforward with any response: either you are or are not going to get into compliance; and if you are, the date must be made certain soon.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon F. Angle".

Sharon Angle

Director of Planning/Zoning Administrator

Enclosure

Cc: Stephen F. Owen, City Manager
Douglas L. Guynn, City Attorney



March 18, 2014

SENT VIA CERTIFIED & FIRST CLASS MAIL

Ms. Debra Chilton-Belloni
161 Seclusion Manor
Mineral, VA 23117

Re: Zoning Compliance—1403 North Augusta Street, Staunton, VA

Dear Ms. Belloni:

We only recently learned of Dr. Belloni's passing last summer. We extend our condolences. Although there was disagreement and the Circuit Court ruled in favor of the City, Dr. Belloni was clearly a gentleman and a scholar and he was vigorous in asserting a position.

As you know, the matter of zoning violation unfortunately remains unresolved even after the City's successful litigation in Circuit Court several years ago which invalidated the Board of Zoning Appeals' mistaken grant of a variance— and after all of the City's letters since then to Dr. Belloni and you as the owners of the property. Again, if anything, the City has been overly patient.

As the person who succeeded Mr. Glover as Zoning Administrator, I believe it necessary to move forward with expecting compliance with the zoning requirements as they pertain to your property at 1403 North Augusta Street. Accordingly, the City serves formal notice that the violations must be corrected by **May 14, 2014**, which affords you almost another two months to accomplish the needed changes for full compliance. If you choose not to do so, then the City will explore all of its options to take enforcement action, including the filing of necessary papers.

You remain in violation of City zoning requirements, and I respectfully urge you to take action now to achieve compliance before the deadline. In fairness to all citizens, the City should expect zoning compliance whether property is on the north end or the south end or elsewhere in the City. There has already been more than enough time to comply with respect to your property since the City prevailed in the Circuit Court.

This letter is being sent to you by both certified and first class mail so that we assure your receipt. A copy also has been posted on the front door of 1403 North Augusta Street.

Sincerely yours,

A handwritten signature in cursive script that reads "Sharon E. Angle".

Sharon E. Angle
Director of Planning/Zoning Administrator



April 7, 2014

Mr. Mark D. Obenchain, Esq.
Lenhart and Pettit
90 North Main Street, Suite 201
P.O. Box 1287
Harrisonburg, Virginia 22803

Dear Mr. Obenshain:

The City already has compromised remarkably, affording and waiting an extended time for civil compliance with zoning provisions of the Staunton City Code. The date mentioned in my previous letter still affords your client reasonable opportunity to achieve compliance, although it appears from your letter that your client intends to refuse to do so even after yet all this time.

Please be sure that you and your client promptly disclose to any prospective purchaser or agent the City's position that there is a continuing zoning violation, despite the notable patience demonstrated by the City. We also ask that the City's previous correspondence to the Bellonis be disclosed to any such interested person so there is full information about the circumstances of the property and the City's repeated communications to seek voluntary compliance.

For any future legal communications with the City at this time, you may contact Mr. Victor Santos. I believe you know how to reach him. I emphasize, however, that the prior date mentioned in my previous letter remains the same so that there is no misunderstanding.

Sincerely,

Sharon E. Angle
Director of Planning/Zoning Administrator

cc: Victor M. Santos, Esq.



April 16, 2014

Mr. Mark D. Obenchain, Esq.
Lenhart and Pettit
90 North Main Street, Suite 201
P.O. Box 1287
Harrisonburg, Virginia 22803

Dear Mr. Obenchain:

I understand that following my April 7, 2014 letter to you that you contacted Mr. Santos. I realize that neither you nor the property owner has lived in Staunton and likely don't really know about our collective city efforts over the years to promote and preserve the special character and other related zoning interests in various ways related to streetscapes. So, perhaps Mr. Santos can within a constructive legal framework help you appreciate why the City has continued to have an interest in working—even too patiently, perhaps, over an extended time—to achieve civil zoning compliance with respect to the illegal walls on Augusta Street. We still would prefer the property owner work with us, but it appears from the extended history that your property owner has no intention at this point in doing so.

Neither Mr. Glover, my predecessor, nor I as Zoning Administrator authorized the walls and, in fact, in addition to what Mr. Hartless advised the property owner originally, the walls were continued to be built, even after Mr. Glover personally visited the site as Zoning Administrator and confirmed their illegality for the property owners. As you know, not even the Zoning Administrator has authority to issue zoning opinions contrary to the provisions of the Staunton City Code. And even if someone purported to do so, the City is not bound by such an action or prevented from expecting compliance with the law that applies to everyone else, as written. It's unfortunate that the property owners ignored Mr. Glover when he visited the property. It's also regrettable that so much time has passed without compliance, but as a small city we strive to keep communications open, even to a fault, and maintain hope that a property owner will ultimately decide to work with us. The other two property owners involved at the time took that approach, cooperating with us after the circuit court ruled in favor of the City and against them and your property owners as to the variances, and concluded the Staunton Board of Zoning Appeals had acted contrary to law in all three cases in purporting to make exceptions to our zoning conditions on the location and height of the walls or fences.



Mr. Santos forwarded this week your note to him "requesting copies of the following records: 1) Complaints concerning the wall on the subject property; 2) Responses or notes relating to responses made by City officials to complainants referenced in No. 1; 3) Any records related to alleged zoning violations in connection with the subject property dated or generated after October 12, 2011." Your request covers almost three years, and we're glad to respond to it. Particularly in these continuing tight budget times especially for a small city, we have a limited number of staff in our department, and one of them is out this week at training. For these reasons and other demands on our staff, it is not practical for us to respond in 5 work days even to fully ascertain what kind of time and estimated expense may be involved in the search, identification, retrieval, and copying of any records that fall within your broad request. We also will need to evaluate to what extent your request implicates exclusions under the Virginia Freedom of Information Act, such as to investigation of official zoning enforcement complaints.

Sincerely,

A handwritten signature in cursive script that reads "Sharon E. Angle".

Sharon E. Angle
Director of Planning/Zoning Administrator