

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ROANOKE

IN RE: AUGUST 15, 2018 DECISION OF THE BOARD OF ZONING APPEALS OF ROANOKE COUNTY

STAN SEYMOUR, JANE SEYMOUR,)
ADRIAN MAVER, and)
BLAINE CREASY,)

Petitioners,)

v.)

Case No. CL 18-1377

THE BOARD OF SUPERVISORS OF)
ROANOKE COUNTY, VIRGINIA, and)

5985 COLEMAN ROAD LLC,)

Respondents.)

FINAL ORDER

On July 29, 2019, The Board of Supervisors of Roanoke County, by counsel, 5985 Coleman Road, LLC, by counsel, and the Petitioners, by counsel, appeared before this Court on the Plaintiff's Petition. The Court issued a written opinion on December 3, 2019 that the Plaintiffs lack standing. On December 19, 2019, The Board of Supervisors of Roanoke County, by counsel, 5985 Coleman Road, LLC, by counsel, and the Petitioners, by counsel, again appeared before this Court on the Petitioners' Motion to Reconsider the Court's ruling regarding standing.

Upon consideration of the arguments presented on July 29, 2019 and December 19, 2019 and the pleadings filed, and it appearing proper to do so, the Court **FINDS** that the Petitioners have failed to meet the two-step test for standing, as set forth in *Friends of the Rappahannock v. Caroline Cnty. Bd. of Supervisors*, 286 Va. 38, 48 (2013). The Roanoke County Board of Zoning Appeals did not commit error in finding that the Petitioners lack standing because they are not aggrieved by the Roanoke County Zoning Administrator's determinations regarding the property located at 5985 Coleman Road. Accordingly, it is hereby **ORDERED** that:

1cc:
Kuback
Gilbert
Cowan
Warner
2-6-2020

CND

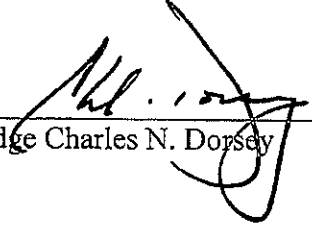
- 1) The Petition is **DENIED** and this appeal is **DISMISSED** with prejudice. The Petitioners' Motion to Reconsider is likewise **DISMISSED**.
- 2) The Court's written opinion of October 3, 2019, is amended as follows, and incorporated herein by reference:
 - a. The opinion pertains to this matter (CL18-1377) as well as CL18-1555.
 - b. The Court recognizes that the Respondents dispute that the first prong of the *Friends of the Rappahannock* test (whether the Petitioners own real property within close proximity to the property that is the subject of the determination) has been met. However, the Court finds that this prong has been met. However, the Court's analysis does not change; the second prong has not been met.
 - c. The Court, in enumerating certain examples of the Plaintiffs' allegations of harm, intended for such examples to be illustrative, but not all-encompassing. The Court properly considered all of the allegations of harm and all of the evidence before the Court. In light of all of the allegations and evidence, the Court found that the general objections pled by the individual complainants present no factual background upon which an inference can be drawn that the particular use of the property would produce such harms and thus impact the Petitioners. Additionally, the Court found that the Petitioners failed to articulate the loss of some personal or property right belonging to the individual Petitioners different from that which the general public might suffer.

The Clerk is directed to close this matter and provide a copy of this Order to counsel of record.

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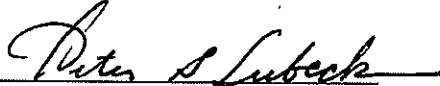
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Judge Charles N. Dorsey

SEEN:

For the reasons set forth in the County's Answer to the Petitioners' Complaint, the County objects to the Court's finding that the Petitioners have met the first prong of the Friends of the Rappahannock test. In all other respects, the County AGREES with the Court's findings, analysis, and ruling.



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*Counsel for The Board of Supervisors of
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SEEN:

For the reasons set forth in 5985 Coleman Road, LLC's Answer and as incorporating the County's Answer to the Petitioners' Complaint, 5985 Coleman Road, LLC objects to the Court's finding that the Petitioners have met the first prong of the Friends of the Rappahannock test. In all other respects, 5985 Coleman Road, LLC AGREES with the Court's findings, analysis, and ruling.

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Judge Charles N. Dorsey

SEEN:


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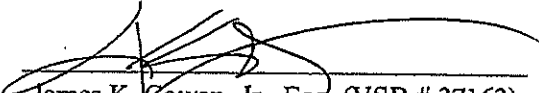
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Counsel for 5985 Coleman Road, LLC

MD

Seen and OBJECTED TO as to the Court's findings that Petitioners failed to plead facts sufficient to meet the two-step test for standing, as set forth in *Friends of the Rappahannock v. Caroline Cnty. Bd. of Supervisors*, 286 Va 38, 438 (2013), and therefore lack standing, and that the Roanoke County Board of Zoning Appeals did not commit error in finding that the Petitioners lack standing because they not aggrieved parties, and for the reasons set forth on the record in their pleadings filed in this matter and at oral argument, and as more specifically set forth in the Petitioners' Memorandum in support of its Motion to Reconsider the Court's Ruling on Standing.


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A COPY TESTE: STEVEN A. MCGRAW, CLERK
CIRCUIT COURT, ROANOKE COUNTY, VA

BY 
DEPUTY CLERK