

BZA 24-07-001
Review Date: July 18, 2024

LOCATION: 932 Monticello Avenue

TAX MAP & PARCEL: Tax Map 57, Parcel 66

APPLICANT: Mr. Derek & Mrs. Karla Bathrick

PROPERTY ZONING AND USE: R-A (Residential A), single family home

APPEAL: The petitioners file this appeal because the Zoning Administrator improperly failed to act on Karla's 2024 application for a Homestay Permit. The Notice of Violation should be reversed and the Zoning Administrator should be directed to issue the 2024 Homestay Permit.

BACKGROUND: The Applicant, Karla Bathrick applied for a Homestay Permit via mail, with a copy of her drivers license in January of 2024. The Department of Neighborhood Development Services now uses an electronic permit portal called Cityworks, to process all zoning permits and building permits. The application was entered into Cityworks as permit # ZA-24-0044 on February 8, 2024 and denied on April 4, 2024 with the following comment: "The Homeowner must reside at the residence as his/her primary residence for at least 185 days of each calendar year. You do not meet the occupancy requirement and therefore are not permitted to lease this property for less than 30 days at a time." The Applicant should have received an email from Cityworks prompting her to create an account to view her application. **(Exhibit A)**

A Notice of Violation was issued to Mr. & Mrs. Bathrick on May 9, 2024. The applicants were cited for being in violation of section 3.2.2 of the Charlottesville Development Code. This code section regulates allowable uses in each zoning district in the City. The Bathrick's do not possess a Homestay Permit to operate a short-term rental from the property and were using the home for this purpose. I further noted in the notice of violation that they were not eligible to have a Homestay permit because the property was not their primary residence for at least 185 days of each calendar year. **(Exhibit B)**

Appeal: The Bathrick's have hired Ashley T Hart, from Flora Pettit law firm to represent their case in front of the BZA. An Appeal was submitted within 30 days of the Notice of Violation, per section 5.7.17(B) of the Development Code.

The Petitioners have asked the Board of Zoning Appeals to reverse the Zoning Administrators Notice of Violation and issue the Homestay permit. It has been stated that "the determination is legally erroneous because occupancy for least 185 days of each calendar year is not a condition or requirement to be "eligible" to apply for a permit. Rather, it is a requirement for operating under a permit."

The Homestay regulations can be found in section 3.5.2(E) of the Development Code. It should be noted that the Notice of Violation referenced section 3.2.2 because the Applicant's do not possess a Homestay Permit and were cited for an illegal use the R-A zoning district. As noted by Ms. Hart, the Applicants provided a copy of Ms. Bathrick's driver's license and in the

previous year a copy of her voter registration card. **(Exhibit C & D)** She also provided the contact information for the responsible party, which is Guesthouses. The submittal of this information does not guarantee that an application will automatically be approved, which is what is being insinuated in this appeal as the proper steps that the Zoning Administrator must take when reviewing a Homestay Application.

The Homestay Ordinance was created in 2015 to allow short-term rentals to be operated from single-family residences. In an effort to prevent the City's housing stock from being bought up to be used as short-term rentals, City Council & Planning Commission added a requirement in the proposed code that requires the owner of the Homestay to occupy the home as their permanent residence for a minimum of 185 days of each calendar year. Homestays are a very contentious topic in the City of Charlottesville. The fear that City Council and Planning Commission had is unfolding in front of our eyes. Additional steps must be taken in an effort to prevent the City's housing stock from being converted from single family homes to illegal short term rental units. It is common to research where an Applicant is employed, if they own other properties or if they have other short term rentals. In this case, it was discovered that the Bathrick's reside at 6208 Winnepeg Dr in Burke Virginia. That is the owners' address on record in the City GIS page and is also the address on record in the Fairfax County assessor information. **(Exhibit E & F)** This is the information that swayed me to deny the Homestay Application in first place.

Staff has received an email Mr. & Mrs. Johnson, the adjacent property owners at 919 Bolling Avenue. They echo my findings that the property owners do not reside at the home and that they only met the Bathrick's once when they were completing renovations of the property after they purchased it. **(Exhibit G)**

It is Staff's opinion that this appeal doesn't address whether or not the applicant resides at the home, but rather that I improperly refused to review and approve the application.

Inbox New Case Search Reports

Summary

Main Address People Date Group Fees Payment Instrument Workflow Ref Docs Condition Flags Notes

Type/Subtype: ZNG-ZONING - ZNG-HOPIEST Number: ZA-24-0044

Main

Case Description: Zoning Permits
Status Code: CLOSED
Subtype Desc: Homestay Provisional Use
Location: 932 MONTICELLO AVE
Tag:
Initiated By: esben12/5/2024
Facility Id:
Level Id:
X, Y: -8725776.66197077, -4582536.64754128

Attachments: Zoning Permit

View Documents

Open OnBase Plan Review Import Documents Create OnBase Plan Review Project

Address

Obj/Id	Assess Type	Assess ID	Address
5889028	CVGIS.CITYADDRESS...	134296	932 MONTICELLO AVE

People

Role Code	Name	City
OWNER	BATHRICK, DEREK & KARLA BIRNENINGHAM, GUILLERMO & DAIRA	CHARLOTTEVILLE
APPLICANT	KARLA BATHRICK	

Data Group

Grand Sum: 0

Instrument

No Entries Found

Workflow

Description	Result	Target End	Completed
Intake Application	ACCEPTED	2/8/24 10A	2/5/24 10A
Fees Paid?	COMPLETE	2/8/24 10A	2/5/24 11A
Zoning Review	DEBY - CLOSED	2/8/24 31A	4/4/24 32F
Issue Permit		4/7/24 12P	

Attachments

Task Comments - Google Chrome

permits.charlottesville.gov/cityworks-prod/CWPPermit/UF/Case/Lookup/Page/CUPTaskComment...

Comments

ADD COMMENT
BRODHEAD
This homeowner must reside at the residence as his/her primary residence for at least 185 days of each calendar year. You do not meet the occupancy requirements and therefore are not permitted to lease this property for less than 30 days at a time.

Exhibit A

CITY OF CHARLOTTESVILLE

"A World Class City"

Neighborhood Development Services

610 East Market Street
Charlottesville, VA 22902
Telephone 434-970-3182



May 9, 2024

Derek Bathrick & Karla Birmingham
6208 Winnepeg Drive
Burke VA 22015

RE: 932 Monticello Ave (TMP 570066000)

To whom it may concern:

During a review of the above-referenced property, the City Zoning Administrator found one or more violations of the Charlottesville Development Code §3.2.2, which regulate the use of a lot in the City of Charlottesville.

Violations are outlined in the attached Notice of Violation and Order of Correction. You are advised of the following:

1. The attached Notice of Violation and Order of Correction constitute the determination of the City's Zoning Administrator that one or more violations exist at your property. In accordance with section 5.2.17(B), you have the right to appeal this determination to the Board of Zoning Appeals within thirty (30) days of the date of this letter. If an appeal is not made within this time period, then this determination becomes final.
2. Under Section 5.4.2E(1)(c) of the Charlottesville Development Code, violations of this Section are subject to a civil penalty, resulting in a first-offense fine of \$200.00. The second offense of the same violation results in a fine of \$500. Section 34-5.4.4D(7) of the Development Code provides for civil penalties for each day the violation occurs, with each additional day the violation continues constituting a separate offense and resulting in fines up to \$5,000. **If you are unwilling or unable to work with the City to correct the identified violations, the City may initiate legal proceedings for the purpose of imposing the civil sanctions allowed by law. Your prompt attention to this notice is necessary.**
3. I have scheduled **June 9, 2024** as the re-inspection date for correction of the listed violations.

Sincerely,
Read Brodhead

Zoning Administrator
City of Charlottesville

Attachments: Notice of Violation and Order of Correction

Exhibit B

NOTICE OF VIOLATION
ORDER OF CORRECTION

TO: Derek Bathrick & Karla Birmingham
DATE: May 9, 2024
INSPECTOR: Read Brodhead

ADDRESS OF VIOLATION: 932 Monticello Ave (TMP 570066000)

VIOLATION of Charlottesville City Code *Section 3.2.2: Permitted Use Table*

In accordance with §3.2.2 of the City of Charlottesville Development Code, which regulates allowable uses in each zoning district in the City. This Property is being used for a short-term rental in a residential zoning district. Use of the Property as a short-term rental is prohibited without a Homestay permit. In order to be able to apply for a Homestay, the property owner must reside at the property as their primary residence for at least 185 days of each calendar year. Because you do not meet the minimum residence requirements, you are not eligible apply for a homestay permit.

To correct this Violation for compliance with the Charlottesville City Code, use of the Property as a short-term rental must immediately cease. Listings for the Property must be removed from all short-term rental platforms (Air B&B, VRBO, Stay Charlottesville, Guesthouses, etc.). All future use(s) of the Property must comply with the allowances set forth in Sec. 3.2.2 of the Charlottesville Development Code. Continued use of the Property as a short-term rental may result in fines and future legal action.

ORDER: You are hereby ordered to correct the above listed Violations and bring the above-referenced property into full compliance with the Charlottesville City Code §3.2.2 by **June 9, 2024, which has been designated as your re-inspection date.**

Virginia VA LISA DRIVER'S LICENSE

14 Customer Number [REDACTED]

15 Name BATHRICK KARLA ELIZABETH

16 Address 932 MONTICELLO AVE CHARLOTTESVILLE, VA 22902-5911

17 Date of Birth [REDACTED]

18 Sex F Eyes BRO

19 Height 5'-04"

20 Issued 05/01/2023

21 Class D

22 Exp NONE

23 Restrictions C

24 Exp 01/23/2028

25 Issued 00, 092782204



Exhibit C



* VIRGINIA *
DEPARTMENT *of* ELECTIONS

VOTER REGISTRATION NOTICE

DATE ISSUED: 3/7/2023

ID NUMBER: [REDACTED]

KARLA ELIZABETH BATHRICK
932 MONTICELLO AVE
CHARLOTTESVILLE, VA 22902-5911

LANGUAGE PREFERENCE: English

YOUR VOTING LOCATION:

CLARK SCHOOL GYM
1000 BELMONT AVENUE
CHARLOTTESVILLE, VA 22902-



LOCALITY: CHARLOTTESVILLE CITY
PRECINCT: 102 - CLARK

DISTRICTS: CONG 05 SEN 011
 HSE 054

LOCAL: DISTRICT ONE

YOUR VOTER REGISTRATION OFFICE:

PO BOX 1219
CHARLOTTESVILLE, VA 22902-1219
434-970-3250

FOR TOWN ELECTIONS:

TOWN:

TOWN PRECINCT / DISTRICT:

TOWN ELECTION VOTING LOCATION:

Exhibit D



RESIDENTS

BUSINESS

GOVERNMENT

SERVICES

CONNECT

PROPERTY

Address Map Number Map Search Search Home

Profile

Sales

Values

Tax Details

Residential

Commercial

Map

Structure Size

MAP #: 0774 03 0267

BATHRICK KARLA E

6208 WINNEPEG DR

Owner

Name	BATHRICK KARLA E.
Mailing Address	6208 WINNEPEG DR BURKE VA 22015
Book	25944
Page	1383

Co-Owners

BATHRICK DEREK D

Parcel

Property Location	6208 WINNEPEG DR BURKE VA 22015
Map #	0774 03 0267
Tax District	30000
District Name	BRADDOCK
Land Use Code	Single-family, Detached
Land Area (acreage)	
Land Area (SQFT)	11,744
Zoning Description	PRC(General Combination Dev)
Utilities	WATER CONNECTED SEWER CONNECTED GAS NOT AVAILABLE
County Inventory of Historic Sites	NO
County Historic Overlay District	NO
Street/Road	PAVED
Site Description	BUILDABLE-AVERAGE CUL-DE-SAC

For further information about the Fairfax County Historic Overlay Districts, [CLICK HERE](#)

For properties within the towns of Herndon, Vienna or Clifton please contact the town to determine if the property is within a town historic district.

Legal Description

Legal Description	BURKE CENTRE LT 267 SEC 1C
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Last Refresh

Date
Data last refreshed: 17/May/2024 DB:PORA34CUR

General Information

Need Help?

For questions and requests for information about the Real Estate site, call 703-222-8234 or [CLICK HERE](#)

Disclaimer/Privacy Policy

Under Virginia State law these records are public information. Display of this information on the Internet is specifically authorized by Va. Code 58.1-3122.2 (1998). See the [Virginia State Code](#) to read the pertinent enabling statute.

1 of 1

[Return to Search Results](#)

Actions

- Neighborhood Sales
- Printable Summary
- Printable Version

[Click on the following links to Contact Us regarding:](#)

- [General Incident](#)
- [Parcel Incident](#)

Links

[Definition Of Terms](#)

Exhibit E

Search Results Details Map

Printer-Friendly

View In Map Back To Results

932 MONTICELLO AVE

Summary Details Ownership History Assessment History

Base Information

Parcel Number: 570066000	Current Owner: BATHRICK, DEREK & KARLA BIRMINGHAM, GUILLERMO & DAIRA
State Code: 1.0 Residential (Urban)	Attention:
Tax Type: Taxable	Owner Address: 6208 WINNEPEG DR
Zone: R-A	Owner City State: BURKE VA
Acreage: 0.1120	Owner Zip Code: 22015
Legal: LOT 9 BK 19 BELMONT	



Additional Data

Elementary School Zone: Clark
 Voting Precinct: Clark
 Neighborhood: Belmont

Stormwater Utility Information

Impervious Area: 1,698 sq. ft.
 Billing Units: 4
 Projected Stormwater Utility Annual Fee: \$57.60

Exhibit F

Brodhead, Read

From: Marc Johnson <rmarcjohnson@gmail.com>
Sent: Friday, June 21, 2024 9:30 PM
To: Brodhead, Read
Subject: Notice of BZA case

Follow Up Flag: Follow up
Flag Status: Flagged

**** WARNING:** This email has originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Mr. Brodhead,

We received your notice regarding BZA case 24-07-001 for 932 Monticello Avenue as adjacent property owners.

To our knowledge, the owners have never inhabited the property in an ongoing way (certainly not for 185 days), and it has been used as a short term rental for some time. We have never seen the owners living in the property after meeting them when they were doing some renovations after purchase, but have observed significant volumes of short term rentals. We didn't know what additional information would be helpful regarding the appeal as it sounds like they are disputing this fact.

Please let us know what additional information we can provide. We do not believe we will be able to attend the zoning appeal meeting on the 18th.

Richard and Dreama Johnson
919 Bolling Ave.

Exhibit G