

SUPREME COURT OF VIRGINIA

Prince William Board of County Supervisors, et al. v. Henry Archie, Jr.

Prince William Board v. Archie · No. Record No. 171030 · Decided August 9, 2018

SUMMARY

The Supreme Court of Virginia considered whether an automobile graveyard on a parcel in Prince William County qualified as a lawful nonconforming use. The Court held that the use had not been discontinued for the two-year period required by the county zoning ordinance, despite a change in ownership and the absence of permission for the continued storage of vehicles. The Court affirmed the circuit court's reversal of the Board of Zoning Appeals' decision.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice S. Bernard Goodwyn; All the Justices
JURISDICTION	Virginia
DECIDED	August 9, 2018
DOCKET	Record No. 171030
DISPOSITION	affirmed
PROCEDURAL POSTURE	The County appealed the circuit court's reversal of a Board of Zoning Appeals decision denying verification that Parcel 20A was a lawful nonconforming automobile-graveyard use.
STANDARD OF REVIEW	In an appeal from a circuit court decision reviewing a board of zoning appeals determination, the Court gives a presumption of correctness to the circuit court's factual findings but reviews conclusions of law de novo. Interpretation of a zoning ordinance and its application to the facts are reviewed de novo.
PRECEDENTIAL VALUE	Published Virginia Supreme Court opinion; binding precedent in Virginia.
PARTIES	Prince William Board of County Supervisors, et al. v. Henry Archie, Jr.

TOPICS

[zoning](#)[statutory interpretation](#)[judicial review of agency action](#)[administrative law](#)

PRACTICE AREAS

real estate

zoning

administrative law

QUESTIONS PRESENTED

1. Whether the lawful nonconforming automobile-graveyard use of Parcel 20A was terminated because Archie did not own the property or have permission to use it during the period from 1987 to 1992.
2. Whether the nonconforming use was discontinued for at least two years when the property owner, Land Management Groupe, Inc., did not itself place junk vehicles or parts on the property.

HOLDINGS

1. Ownership of the property and the user's lack of permission or legal right to use it do not determine whether the property's lawful nonconforming-use status continued; under the County Code, that status adheres to the use of the land rather than to the owner, tenant, or holder of legal title.
2. The lawful nonconforming use of Parcel 20A was not discontinued because the evidence supported the circuit court's finding that the parcel continuously contained an automobile graveyard; the use would terminate under the County Code only if fewer than five inoperative motor vehicles occupied the property for at least two years.

KEY QUOTATIONS

“The intent to discontinue a particular use is not relevant to the analysis. The nonconforming use must be discontinued in actuality.” (at 11)

“That LMG bought the property, and apparently wanted the junk vehicles to be removed, did not change the status of the property as an automobile graveyard under the County zoning ordinances.” (at 13)

FACTUAL BACKGROUND

An automobile salvage business began on property in 1954, before Prince William County adopted zoning ordinances in 1958, and the property was later divided into Parcels 20, 20A, and 20B. The County confirmed Parcel 20A's nonconforming automobile-graveyard use in 1982. Although Parcel 20A was owned by Land Management Groupe, Inc. from 1987 to 1992 and Archie lacked permission to store vehicles there, testimony from Archie and multiple witnesses established that the parcel was never cleared and continued to contain more than five inoperative vehicles.

PROCEDURAL HISTORY

The Prince William County Zoning Administrator determined that Parcels 20 and 20B had lawful nonconforming automobile-graveyard uses but that Parcel 20A did not. The Board of Zoning Appeals upheld that determination. On certiorari, the Circuit Court of Prince William County reversed, finding that the use of Parcel 20A predated the County's zoning ordinances and had never been discontinued. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- W&W P'ship v. Prince William Cty. Bd. of Zoning Appeals, 279 Va. 483, 689 S.E.2d 739 (2010)
- Hale v. Board of Zoning Appeals, 277 Va. 250, 673 S.E.2d 170 (2009)
- Donovan v. Board of Zoning Appeals, 251 Va. 271, 467 S.E.2d 808 (1996)
- Board of Supervisors of Washington County v. Booher, 232 Va. 478, 352 S.E.2d 319 (1987)
- Dick Kelly Enterprises v. City of Norfolk, 243 Va. 373, 416 S.E.2d 680 (1992)
- County of Fayette v. Cossell, 430 A.2d 1226 (Pa. Commw. Ct. 1981)
- McMilian v. King Cty., 255 P.3d 739 (Wash. Ct. App. 2011)
- Lee v. Spoden, 290 Va. 235, 776 S.E.2d 798 (2015)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/virginia-supreme-court-of-virginia/2018/prince-william-board-of-county-supervisors-et-al-v-henry-ta8qrpnk>