

March 1, 2010

To: Arlington Zoning Committee

From: Kevin Brown
408 N. Edgewood Street
Arlington, VA 22201

Re: RV Parking (March 10, 2010 ZOCO Meeting topic)

Since the 1970s, Arlington County has imposed limitations on the size of vehicles permitted to be parked on residential property. Specifically, privately owned vehicles must be less than 30 feet in length and eight feet in width (there are no height restrictions), or their parking is prohibited. By way of illustration, the largest Arlington Regional Transit bus is 32 feet in length and eight and half feet wide.

Further, in 2003 the County Code was amended to impose a five-day limit on the parking of recreational vehicles (RVs) on streets in areas zoned for residential use (Section 14.2-34(c)). A June 9, 2003, memorandum from County Manager Ron Carlee to the County Board stated the following as background for the change:

The County has received numerous complaints from residents about boats, boat trailers, recreational vehicles, taxicabs, and commercial type vehicles (vehicles used for commercial purposes) being parked on residential streets. Residents have expressed concern about these vehicles occupying parking spaces needed by the residents to access their homes, posing safety hazards, and detracting from the appearance of their neighborhood.

The purpose of this amendment was to allow short-term parking for loading/unloading of vehicles and to allow short-term RV visitors, but to prohibit residents from parking RVs and motor homes long-term on residential streets.

Based on my experience in the Lyon Park neighborhood, the County and the Police Department have been unwilling to enforce the street parking rules, allowing massive RVs to sit for weeks or months in a single space on residential streets, or (at best) to hop from street to street when warned by police. After receiving complaints about the street-parking violations, the County is now considering easing the zoning ordinance to allow the parking of larger vehicles on residential property. Such a change is ill-conceived and out of step with the character of Arlington's residential neighborhoods.

1. An easing of the rules will reduce property values and make Arlington a less desirable place to live.

There is little doubt that RVs have gotten bigger over the years. Indeed, many RVs now exceed the County's size limits by several feet. Allowing larger and larger vehicles to be parked on residential property will undoubtedly diminish the value of homes in the County at a time that Arlington can least afford it. Imagine trying to sell your home to a prospective buyer while explaining the presence of an enormous, billboard-sized RV in the driveway next door. Real

estate agents contacted in February 2010 emphatically confirm this difficulty, explaining that having such a vehicle in a driveway next door to a house on the market would drive down the expected sales price and discourage potential buyers. They also point out that lower home prices will ultimately lead to lower home assessments, causing an erosion of the County's tax base.

Changing the restrictions at this point is also inequitable. The existing limitations have been in effect for nearly 40 years and have been relied upon by tens of thousands of Arlington homeowners, the largest portion of Arlington County's tax base.

A recent posting to the Lyon Park listserv by an RV owner makes it clear that the rules on residential parking limitations are easily researched and followed (note that all capitalizations were in the original posting):

[The writer] is correct when he says that the owner could have looked up the restrictions himself. I looked them up myself BEFORE I bought a camper and found one that complies with the regulations. It's well within the "out to out" limitations of the zoning ordinance as detailed in Section 31, for both WIDTH and LENGTH.

Section 31 also requires that the "RV's" [sic] parked at residences be LESS THAN eight feet wide. Most modern RV's [sic] and even many vintage travel trailers don't comply with this restriction. It appears that the zoning ordinance is intended to eliminate all but the smallest RV's [sic] at residential properties except those stored in an approved accessory structure, which fact is not a secret. If [the writer] is correct and the buyer ignored the regs, then why should anyone have any sympathy?

Also, there is a simple solution. RV storage locations are readily available at modest prices through the Northern Virginia Regional Park Authority. The closest location is about 20 minutes from North Arlington at Bull Run Regional Park. My storage slip cost a little over \$30.00 per month and I'm told, tough [sic] I don't know if it's true, that Arlington County vehicle taxes do not apply to RV's [sic] stored outside the County. There are many other RV storage locations in the immediate area, both publicly and privately managed, all of them fenced and some of them lighted.

I have confirmed that there are other reasonably-priced commercial RV storage options available in the metro-DC area. While these locations may not be as convenient for owners of excessively-large RVs as parking in their driveways, this is a reasonable burden that comes with choosing to own a vehicle of this size.

2. The changes under consideration disproportionately benefit a tiny handful of residents at the expense of their neighbors and other Arlington County residents.

Easing the long-standing restrictions would place the interests of a tiny handful of County residents (County Staff informs me that there are 51 RVs registered in Arlington, the vast majority of which surely already comport with the existing size limitations) above those of some 30,000 Arlington homeowners. Although I have not attempted to survey all of Arlington's residents, I can say that I was able to get 57 signatures (from seven different zip codes) to a

petition opposing expanding the RV parking size restriction in a week's time. Based on this, I have no doubt that County residents would overwhelmingly oppose the zoning change under consideration.

County Staff also explains that there have been relatively few complaints regarding RVs over the years. As noted above, this is likely due to the fact that the vast majority of potential RV owners properly researched the applicable rules, and voluntarily came into compliance with them. That said, County employees themselves do not seem well versed in the restrictions. I personally dealt with employees who told me that RVs in excess of 30 feet in length and eight feet in width were permitted, until they were confronted with the applicable regulation. I am informed by other county residents that they were similarly misinformed when they called the County to complain about an RV parked in a driveway near their home. In addition, the Arlington County Police Department showed a similar lack of knowledge of the County rules regarding RVs, and have failed for months to properly enforce the street-parking restrictions against RVs (Section 14-2.34(c)). This lack of knowledge on the part of County employees has undoubtedly caused some would-be complainers to simply give up.

3. An easing of the long-standing restrictions will serve to make Arlington further out of step with surrounding communities which have more stringent restrictions, and will likely attract even more RVs to the County.

A survey of the rules regarding the parking of RVs on residential property and streets reveals that surrounding communities have more stringent restrictions. These more restrictive approaches are hardly surprising given the increased density in close-in communities that has occurred in the past several decades. It also bears noting that an easing of Arlington's rules will likely have the perverse effect of attracting even more RVs to the community, given the tougher rules in neighboring areas.

City of Alexandria

- Prohibits the parking of recreational vehicles on residential streets with an exception for loading/unloading—limited to six hours in a 48-hour period. (County Code Sec. 10-4-9)
- Parking of recreational vehicles on residentially zoned property is limited to 25 feet in some residential zones and 20 feet in others. (Zoning Ordinance 7-1102)

City of Falls Church

- Prohibits the parking of recreational vehicles on residential streets for more than 48 hours. (Per conversation with code enforcement officer.)
- Parking of recreational vehicles on residentially zoned property is limited to vehicles less than 4500 pounds (n.b., a 32 foot by eight and a half foot RV weighs over 16,000 pounds). (Code of Ordinances, City of Falls Church Section 48-941)

Fairfax County

- Prohibits the parking of RVs in Community Parking Districts. (Fairfax County Code Section 82-5-7)
- Cannot locate rules regarding parking on residential property but a "travel trailer" is defined as a vehicle weighing less than 4500 pounds and less than 29 feet in length. (Fairfax County Article 20, Part 3)

District of Columbia

- Prohibits the parking of motor vehicles longer than 22 feet on residential streets. (DMV 2413.6)
- Cannot locate rules regarding parking on residential property.

Montgomery County

- Prohibits the parking of recreational vehicles on residential streets. (Montgomery County Code Section 31-14)
- Cannot locate rules regarding parking on residential property.

4. Changes to the rules will add to density problems the County is seeking to avoid.

The changes being considered run counter to a 2005 zoning amendment, which reduced allowable lot coverage in an attempt to limit neighborhood density. The existing limitations allow vehicles to cover an additional 240 square feet of a lot—which is akin to permitting an additional accessory building or garage to be built. Easing these restrictions will only serve to further undermine the intent of the amendment.

5. Paying taxes does not confer unlimited rights to property owners.

All Virginia residents pay taxes on vehicles they own. Those payments, however, do not free residents from complying with local laws. For instance, the payment of taxes does not excuse one from abiding by no parking restrictions or paying when at a metered spot. Similarly, paying taxes on a home does not exempt one from adhering to local zoning restrictions. Homeowners are not free to build upon the entire lot or to open a tavern or nightclub in their home.

Moreover, taken to its logical extreme, this argument would allow the parking of any type/size vehicle (e.g., an airplane) in a residential neighborhood as long as the resident writes a check for the tax upon the vehicle. It also bears noting that all of the jurisdictions listed above collect taxes on vehicles and have no qualms about still imposing size limitations on the legal parking of the vehicles.

6. The existing rules regarding parking on residential property and streets must correspond with one another.

Easing the restrictions on the parking of RVs on residential property will not eliminate the need for enforcement of the on-street restrictions. Indeed, if the County properly enforced its existing restrictions on street-parking, we might not be having this dispute; owners of impermissibly large RVs would have had to find legal alternative parking/storage for their vehicles, mooting out the question. Finally, not all RV owners have driveways large enough to accommodate their vehicles, and many may simply choose to park them on the street for other reasons (e.g., they wish to park another vehicle in the driveway).

Conclusion

I would urge the committee members to craft a solution here that does not place the interests of a tiny handful of RV owners above those of all other County homeowners and residents. The County has addressed these issues on multiple occasions. *First*, decades ago, the County recognized that there needed to be reasonable limits placed on the size of vehicles that could be parked in the open on residential property. These needs are greater today than they were in the 1970s; home sizes are increasing and the County is getting more dense and more urban. If anything, the County should be considering reducing, rather than expanding, the vehicle size limits. *Second*, in 2003 the County – responding to the complaints of residents – recognized that RV parking on residential streets was largely incompatible with the safety and needs of these neighborhoods. While short-term parking was allowed, the County acted decisively to prohibit the long-term parking (more than five days) of RVs on neighborhood streets. The Committee should not support the proposed expansion of the vehicle size restrictions. If necessary, a sensible compromise would be for the County to provide a safe, accessible and affordable place in Arlington where RV owners could park vehicles that do not comport with the existing size restrictions that have been in place for decades. I understand that Montgomery County is trying to do exactly that.

Statement by Bernard Rostker

Thank you for the opportunity to address this extremely important issue. Unfortunately, I have a prior commitment that makes it impossible to attend in person therefore I have prepared a written statement for your consideration.

I support the elimination of Section 31, Subsection A.2 of the Arlington County Zoning Code. In the alternative, depending on the specifics, I could support increasing the maximize size of motor homes allowed to park on private property to at least the average size of motor homes being built in the United States today or allowing the Arlington County Board to receive, review and grant variances to this section of the zoning code.

As currently written, Section 31, Subsection A.2 of the Arlington County Zoning should be repealed because:

- It precludes fulfilling the intent of *The Master Transportation Plan: Parking And Curb Space Management Element* recently passed by the Arlington County Board.
- Its size restrictions are unreasonable and inconsistent with the Commonwealth's motor vehicle standards.
- It denies a person who pays Arlington County personnel property tax (car tax) on a motor home a place to store that vehicle within the County.
- It is ambiguous and inconsistent causing confusion in code enforcement.
- It creates unnecessary and unreasonable hardship by not allowing any consideration for a variance.

I will explain in some detail each of these points in the sections that follow.

The Master Transportation Plan: Parking And Curb Space Management Element.

The Arlington County Board has implicitly endorsed parking of motor homes on private property when it accepted the *Master Transportation Plan: Parking And Curb Space Management Element*, which includes the following.

On Arlington's public streets, it is not appropriate to accommodate the parking of extremely large or disruptive vehicles that are incongruous, (e.g. dump trucks, concrete trucks, motor homes, and boats) with urban or suburban communities. Such vehicles should generally be stored on private property.¹

¹<http://www.arlingtonva.us/departments/EnvironmentalServices/dot/planning/mplan/mtp/images/file73120.pdf>

Unfortunately, the intent of this statement cannot be fulfilled because Section 31, Subsection A.2 of the Zoning Code precludes the parking of motor homes that are greater than 30' by 8' from parking on "private property" anywhere in the county. Section 31, Subsection A.2 of the Zoning Code should therefore be eliminated to bring the zoning code in line with the *Master Transportation Plan* adopted by the Arlington County.

The Size Restriction is Unreasonable and Inconsistent with the Commonwealth's Motor Vehicle Standards

The selection of 30' by 8' as the maximum size for parking "in any district" in Arlington County appears to be arbitrary and is inconsistent with Virginia Motor Vehicle code (§ 46.2-1105), which allows a vehicle up to a width of 8'6" to use the public roads without getting a special permit. After numerous inquires to the County Board, the zoning office and the Police Department, no one can explain why those numbers were selected.

In addition, these size limits are unreasonable since most motor homes built today exceed this dimension, and therefore most new motor homes could not park on any private property in Arlington County, again contradicting to the intent of the *Master Transportation Plan*.

Winnebago Industries is the largest producer of motor homes in this country. An analysis of their 2010 product line² shows that 91 percent of their Class A motor homes exceed the restrictive dimensions of Section 31, Subsection A.2. More than half of their smaller Class C motor homes also exceed the restrictions. In total, 78 percent of Winnebago current models could not park "in any district" of Arlington County. Also, more than half of the trailers produced by Airstream could not park on private property in any district of Arlington County, given the current restriction of Section 31, Subsection A.2. As a result, Section 31, Subsection A.2 should be repealed.

² <http://www.winnebagoind.com/products/winnebago/2010/>

Denies a person who pays Arlington County personnel property tax (car tax) on a motor home a place to store the motor home within the County

A car tax is paid to Arlington County by anyone who “garages, stores, or parks” motor vehicles, trailers, semitrailers, and boats in Arlington County.³ This is not a general tax, but a tax paid only by those who “normally garage, store, or park” their “taxable property” in Arlington County. The taxpayer should be able to expect that, in return for paying this tax, there will be a reasonable place to “garage, store, or park” the motor vehicle in Arlington County. Unfortunately, Section 31, Subsection A.2 prevents the owners of motor homes larger than 30’ by 8’ from parking his/her vehicles on any private property “in any district” of the Arlington County.

Furthermore, Section 14.2-34 B of the Arlington County Parking Ordinances requires that a motor home, parked in a residential district, be moved every five days. This makes long-term garaging or storage impossible. In addition, the prevalence of local parking restrictions, limited parking hours and parking meters in non-residential districts, limits available parking that might be available for more than five consecutive days. These restrictions create a hardship that would not exist if Section 31, Subsection A.2 were repealed.

Ambiguous And Inconsistent Use of Terms Causing Confusion in Code Enforcement

Terms used in Section 31, Subsection A.2 are ambiguous, leading citizens and county staff, including code enforcement personnel, to misunderstand and misinterpret the code. As written, the average citizen cannot search the code and come up with all restrictions on the “garaging, storing, or parking” of the motor home. Moreover, the provisions in Section 31, Subsection A.2 are not transparent and many county employees provide wrong and misleading information when asked about restrictions on motor homes in Arlington County. The critical statement in Section 31, Subsection A.2, “The parking of a trailer in any district is hereby prohibited” is an example.

- The zoning office has interpreted the provision of Section 31, Subsection A.2 to apply only to residential districts, but that is not what the ordinance says. It says, “The parking of a trailer *in any district* is hereby prohibited.”
- The zoning office has interpreted the provision of Section 31, Subsection A.2 pertaining to trailers, as also pertaining to motor homes, in contradiction of the

³ Arlington County Code (§ 27-11.1) specifies “There shall be a personal property tax ... on motor vehicles, trailers, semitrailers, and boats (“taxable property”) which have a situs in the County.” The Code of Virginia (§ 46.2-754) states “The situs ... shall be the locality in which the vehicle is normally garaged, stored, or parked.”

definition of each type of vehicle by the Commonwealth of Virginia. As written Section 31, Subsection A.2 applies to “trailers,” and only by crafting unique and unusual definitions in contradiction with State law and other provisions of Arlington County ordinances does the zoning office include motor homes in the restrictive provisions of Section 31, Subsection A.2. Specifically,

- The Commonwealth of Virginia makes this clear in that there is difference between a trailers and motor homes when it differentiates, defines (§ 46.2-100) and taxes (§ 46.2-694) the two vehicles at different rates. Specifically, according to the Commonwealth of Virginia:
 - "*Motor home*" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.
 - "*Trailer*" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.
- Arlington County follows Virginia Code for parking purposes (§ 14.2-34 B) defining a motor home as “a private motor vehicle with a normal seating capacity of not more than ten (10) persons, including the driver, designed primarily for use as living quarters for human beings.”
- The Arlington County Zoning Code itself makes reference to motor homes as a distinct class of motor vehicles separate from other large vehicles, which are classified as commercial vehicles. Specifically, (Section 1: Definitions) notes “The following shall not be considered commercial vehicles: ... Any motor home or camping trailer when used by an individual solely for personal recreational purposes.”
- The Arlington County Commission of Revenue defines a motor home and a trailer as distinct types of vehicles under § 27-11.1.

The statutory and common sense distinction between motor homes and trailers notwithstanding, the zoning office interprets Section 31, Subsection A.2, to apply to motor homes because they really are “trailers,” citing the zoning code’s definition of a trailer as “any unit enclosing habitable space, which is or was designed to be mobile.”⁴ Section 31, Subsection A.2 goes further by including a motor home in its restriction because it is a “mobile trailer which is propelled;” a definition in direct contradiction to the Commonwealth’s definition of a trailer as being a “vehicle without motive power.” It is difficult to perceive the intent behind such a counter-intuitive definition, and it raises significant questions about the intent of the County Board in applying this section to trailers that are really motor homes. As such, the provision should be repealed.

⁴ See Zoning Code, Section 1: Definitions

Creates Unnecessary and Unreasonable Hardship by Not Allowing any Consideration for a Variance.

The size restriction on motor homes in the zoning code can only be rigidly enforced because Virginia law does not provide for a variance on a restriction that is ancillary to the definition of a land use category. If a size restriction must remain in place, the County Board should provide a reasonable process for seeking a legislative exemption on a case-by-case basis.

Generally, in cases dealing with zoning code, the Arlington County provides a process to consider a reasonable deviation from the zoning ordinance when a strict application of the ordinance would result in unnecessary or unreasonable hardship. (See VA § 15.2-2201.) Unfortunately, the provisions of Section 31, Subsection A.2 are not subject to a variance. Only the Arlington County Board can consider if the strict application Section 31, Subsection A.2 creates a unnecessary and unreasonable hardship or is in the best interests of the citizens of Arlington County,” e.g., the potential parking problem created if vehicles subject to the restrictions of Section 31, Subsection A.2 are parked on the street, or the potential loss of tax revenue, if the restricted vehicles are moved out of the county because it is impossible to find a reasonable place to “garage, store, or park” in Arlington County. Because the application of Section 31, Subsection A.2 is so rigid this section of the code should be eliminated, or in the least provision should be made for the Arlington County Board to receive, review and grant variances to this section of the zoning code.

Summary Statement

Section 31, Subsection A.2 of the zoning code should be repealed. The intent of the recently passed *Transportation Plan* cannot be fulfilled without eliminating Section 31, Subsection A.2 of the Zoning Code. This section is inconsistent with the Virginia Motor Vehicle Code, which allows vehicle up to a width of 8’6” to use the public roads. It unreasonably precludes most motor homes produced in the United States today from parking on private property in Arlington County, even those for which the County has received a car tax. Section 31, Subsection A.2 also is ambiguous leading to misunderstandings in the enforcement of the code, i.e., county employees often provide wrong and misleading information when asked about restrictions on motor homes in Arlington County. Section 31, Subsection A.2 invents new meanings to terms used in everyday life and is in direct contradiction to explicit definitions in Commonwealth law. The provisions of Section 31, Subsection A.2 are not subject to reasonable deviation by consideration of a variance. As a result, this part of the zoning code should be eliminated.