

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN THE COURTHOUSE, WILLIAMSBURG, VIRGINIA, ON THE TWENTY-EIGHTH DAY OF MARCH, NINETEEN HUNDRED AND SEVENTY-NINE.

1. ROLL CALL

Mr. George A. Marston, Chairman
Mrs. Elizabeth N. Vaiden
Mr. Joseph E. Brown
Mr. Gerald H. Mephram
Mr. Warfield Roby, Jr.

OTHERS:

Mr. W. C. Porter
Mr. H. H. Stephens

2. MINUTES

Upon a motion by Mr. Brown, seconded by Mrs. Vaiden, the minutes of October 18, 1978 were approved as presented.

3. CASE NO. ZA-1-79. CONSIDERATION OF AN APPLICATION OF

Mr. Bobby Doyal for a variance from Section 20-57 of the zoning ordinance to allow for the construction of a two car garage attached to the main structure which would encroach approximately 4 feet into the minimum required sideyard.

Mr. Marston asked the staff if they had a report.

Mr. Stephens presented the staff report. Mr. Stephens explained that Mr. Doyal had presented an application to construct a garage attached to his house at 128 Brookhaven Drive in Brookhaven Subdivision. He explained that the subdivision is zoned R-2, Limited Residential, and that the two car garage with dimensions of approximately 22'x24' would encroach into the required sideyard for a corner lot. The required sideyard is 25 feet and the garage would extend to approximately 21 feet from the right-of-way of the road.

Mr. Doyal had requested the variance because of the considerable expense that would be required to remove approximately 6 large pine trees and an azalea garden. There are also deed restrictions in Brookhaven Subdivision which require that all garages be attached garages. Mr. Stephens explained that these deed restrictions prevented a location of a detached garage on the lot. Mr. Stephens also explained that there was also a topographical problem which prevented bringing in the driveway from other than the side street.

Mr. Stephens recommended that the variance be approved.

Mr. Marston opened the public hearing of Case No. ZA-1-79.

Mr. Doyal indicated his presence and informed the Board that he was willing to answer any questions about the project.

There being no other people wishing to speak, Mr. Marston closed the public hearing.

Upon a motion by Mr. Mephram, seconded by Mrs. Vaiden, Case No. ZA-1-79 was approved to allow a variance in the sideyard setback requirements for a corner lot in the R-2 District on Lot 128, Brookhaven Drive.

4. CASE NO. ZA-2-79. CONSIDERATION OF AN APPLICATION OF
Mr. Key Compton and Mr. Mark Shields for variances from Section 20-38 and 20-40, Paragraph B of the Zoning Ordinance to allow the relocation of a dwelling onto a nonconforming lot.

Mr. Marston asked the staff if they had a report.

Mr. Stephens presented the staff report. Mr. Stephens stated that Mr. Compton and Mr. Shields had applied for variances to allow the location of a dwelling from a lot on Route 5 to be relocated on a lot on Ironbound Road. The lot on which the structure is to be relocated is 105' x 105'. The dimensions of the building were such that the required 35 foot setback from the right-of-way of the road and the required 35 foot setback from the rear property line could not be met. The building was 38 feet in width which created a 3 foot violation of either the front or rear setback.

Mr. Stephens indicated that the variances requested to allow for the placement of the building on the site and not to violate either setback by more than 5 feet. This would allow for centering of the building during construction on the lot.

Mr. Stephens indicated that the lot was a nonconforming lot in the A-2 District and that the ordinance specifically provided that when the setback and yard requirements could not be met on a nonconforming lot that was legally in existence prior to 1969 that the Board of Zoning Appeals was the authority to establish appropriate setbacks and yard regulations.

Mr. Stephens indicated that the staff did not object to the requested variances and recommended approval of a variance which would provide a 5 foot maximum reduction of the rear or front setback.

Mr. Marston opened the public hearing on Case No. ZA-2-79.

Mr. Walls, an adjacent property owner, indicated that development of this piece of property would place a house extremely close to his house and he indicated his objection to a variance being granted. It was Mr. Walls contention that the lot was not large enough for the house proposed and should not be developed with the house.

Mr. Walls also raised the issue of whether the survey was accurate claiming that the Highway Department had condemned part of his property in this vicinity for the future widening of Ironbound Road. It was his understanding that property had been taken from the parcel on which this dwelling is proposed to be located also. He indicated that, if that was the case, then the variance required to locate this house on the property would be even larger than that being requested in the application.

Mr. Compton spoke in favor of the application. Mr. Compton explained that he was relocating the home onto this property as an investment. He indicated that he had a contract to purchase the property and that the property had earlier been offered to the adjacent property owner by the present owner but had not been purchased. He said that he was not aware that the Highway Department had taken any substantial portion of the property. It was his information from the present owner that the property taken for the widening of Route 615 in front of this property had been less than one foot. Mr. Compton claimed that because of the small dimension of this property, 105' x 105', that any development of it was likely to require a similar variance and that the ordinance provided the Board of Zoning Appeals was to establish it. He stated that he felt that it was a reasonable request and should be approved by the Board of Zoning Appeals.

Mr. Marston questioned Mr. Compton about the right-of-way in front of his property. He asked if he had a survey of the property that was taken by the Highway Department for the widening of the road in this area.

Mr. Compton indicated that he did not and was relying on the information provided to him by the present property owner.

Mr. Marston asked Mr. Walls how much property was taken from him by the Highway Department for the widening of the road.

Mr. Walls indicated that approximately 5 feet had been taken at one end of his property tapering down to approximately 2 feet at the other end of his property which is closest to the subject parcel.

Mr. Marston stated that it seemed to him that the Highway Department had likely condemned a pie-shaped parcel which was larger on Mr. Walls property than on the property Mr. Compton proposed to develop and that it is likely that the taking from the property Mr. Compton proposed to relocate the structure was rather minor and could have been at or less than one foot in width.

Mr. Brown indicated that he wished to have some specific measurements available on what the actual taking from this property was by the Highway Department prior to making a decision on a variance.

Mr. Mephram indicated that he agreed with Mr. Brown and suggested that the staff should investigate with the Highway Department the actual extent of any property that was acquired in this area for the widening of Route 615.

Mr. Marston indicated that he would not be opposed to deferring action on the case provided that any delay was a relatively short one.

Upon a motion by Mrs. Vaiden, seconded by Mr. Mephram, Case No. ZA-2-79 was deferred for one week until April 4, 1979 at 8:00 P.M.

5. ADJOURNMENT

Upon a motion by Mr. Mephram, seconded by Mr. Roby, the Board of Zoning Appeals meeting of March 28, 1979 was recessed at 9:00 P.M. until 8:00 P.M. on April 4, 1979.

Elizabeth N. Vaiden
Elizabeth N. Vaiden
Secretary

George A. Marston
George A. Marston
Chairman