

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-SIXTH DAY OF SEPTEMBER, NINETEEN HUNDRED AND SEVENTY-NINE.

1. ROLL CALL

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

OTHERS:

Mr. W. C. Porter, Jr.
Mr. H. H. Stephens
Mr. M. E. Tompkins

2. MINUTES

Upon a motion by Mr. Marston, seconded by Mr. Brown, the minutes of the May 30, 1979 meeting were approved as presented.

3. APPEAL CASE NO. ZA-5-79. CONSIDERATION OF AN APPLICATION OF Mr. Louis J. Richman, Jr., on behalf of Stephen H. Fox - T Shirts, Ltd., trading as Crazy Shirts, for a variance to Section 20-133(d) of the Zoning Ordinance, to allow the mounting of a sign on the roof of a business establishment.

Mr. Stephens presented the staff report explaining that the sign in question was erected without any permits and the variance is requested as a result of a notice of a zoning violation. He also explained that the building and sign are new unlike the other shops in the center that are nonconforming with nonconforming signs. Mr. Stephens further explained that he recommends denial based on the following:

1. The presence of nonconforming signs in the area is not a hardship and if they attract additional people to the shopping center they may be an asset.
2. Other businesses in the shopping center have met the requirements of the Ordinance.
3. The poor visibility of this location should have been known when the location decision was made. One concept of the location of the stores in shopping centers is that smaller stores attract customers from those already in the center and not from the highway.
4. The staff does not feel that a unique hardship has been proven.

Mr. Richman spoke in favor of his client's application. He expressed his position that this particular case met the waiver standards of the Sign Ordinance.

Mr. Marston asked if the owners of stores immediately adjacent to "Crazy Shirts" had been notified.

Mr. Stephens stated that they had not and that, as per the Virginia State Code, it has been the Planning Department's policy to notify adjacent property owners as well as newspaper advertisements. Mr. Stephens said that in this case, he expected the owner of the shopping center to notify his tenants.

Mr. Porter explained that the department's policy is to follow State law on notifying adjacent property owners and not individuals to avoid being accused of stirring up opposition to a case. He explained that this accusation has been made in the past.

Upon a motion by Mr. Marston, seconded by Mr. Brown, the Board of Zoning Appeals voted 3 to 1 with Mrs. Vaiden abstaining due to conflict of interest, to approve the variance requested in Case No. ZA-5-79.

4. APPEAL CASE NO. ZA-6-79. CONSIDERATION OF AN APPLICATION OF
Mr. S. M. Franck, on behalf of Old Colony Bank and Trust, Company, for a variance to Section 20-85 of the Zoning Ordinance to allow the construction of a bank drive-through land within the ten foot minimum perimeter open space area.

Mr. Tompkins presented the staff report explaining that although the Planning Staff has no objection to the proposal, it is the staff's opinion that adequate evidence of an undue hardship has not been presented. He further stated that unless this evidence can be presented during the meeting, the staff cannot recommend approval.

Mr. S. M. Franck spoke in favor of his clients' application explaining that the proposal will provide better traffic circulation which would increase public safety. He further stated that the proposal would keep traffic from backing up into the parking areas.

Upon a motion by Mrs. Vaiden, seconded by Mr. Roby, the Board of Zoning Appeals voted 4 to 0, with Mr. Marston abstaining due to conflict of interest, to approve the variance requested in Case No. ZA-6-79.

5. APPEAL CASE NO. ZA-7-79. CONSIDERATION OF AN APPLICATION OF
Mr. John Moneymaker, on behalf of Mr. Randolph McKown, for a variance to Section 20-84 and 20-84.1 of the Zoning Ordinance to allow the use of a nonconforming structure which has been vacant for over two years. The variance would allow a waiver to building side, rear and road setbacks.

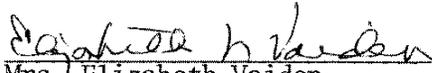
Mr. Tompkins presented the staff report explaining that although the Planning Staff has no objection to the proposal, it is the staff's opinion that adequate evidence of an undue hardship has not been presented. He further stated that unless this evidence can be presented during the meeting, the staff cannot recommend approval.

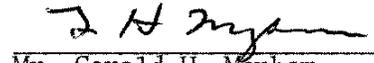
Mr. John Moneymaker spoke in favor of his client's proposal.

Upon a motion by Mr. Brown, seconded by Mr. Marston, the Board of Zoning Appeals voted 4 to 0, with Mrs. Vaiden abstaining due to conflict of interest, to approve the variance requested in Case No. ZA-7-79. The approval was conditioned upon the removal of the existing porch.

6. ADJOURNMENT

There being no other business, the September 26, 1979 meeting of the James City County Board of Zoning Appeals was adjourned at 8:40 P.M.


Mrs. Elizabeth Vaiden
Secretary


Mr. Gerald H. Mepham
Chairman