

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 TWELFTH DAY OF NOVEMBER, NINETEEN HUNDRED AND EIGHTY.

1. ROLL CALL

Mr. Gerald H. Mepham, Chairman
Mr. George A. Marston
Mr. Warfield Roby, Jr.
Ms. Elizabeth Vaiden

OTHERS:

Mr. Henry H. Stephens

2. MINUTES

Upon a motion by Mr. Marston, seconded by Mr. Roby, the minutes of the September 24, 1980 meeting were approved as presented.

3. CASE NO. ZA-4-80. CONSIDERATION OF AN APPLICATION OF Mr. John F. Moneymaker on behalf of the Randolph McKown Estate for a variance from Section 20-84.

Mr. Stephens presented the staff report, which is appended hereto. He stated that a variance had been granted for this property about a year ago; however, it had been based upon erroneous information about the actual width of the Route 60 right-of-way. He further stated that a recent survey determined that the Virginia Department of Highways & Transportation had taken more of the frontage of the property during the widening of Route 60 than originally believed. Because the Board had approved the 1979 variance request and had accepted the hardship argument of the applicant at that time, Mr. Stephens felt that an adjustment was reasonable. The variance would allow a 13 foot front yard.

Mr. Moneymaker made a brief presentation in support of the variance. He said that what had been believed to have been an easement had been discovered to be a fee simple purchase. Mr. Moneymaker said the front yard was still physically 39 feet, but 26 feet of it belonged to the Highway Department. He further stated that an existing porch on the structure would be torn down in the future, which would increase the front yard another 6 or 8 feet.

Upon a motion by Mr. Marston, seconded by Mr. Roby, Case No. ZA-4-80, to allow a variance from Section 20-84 for a front yard in the B-1 District of only 13 feet, was approved unanimously.

Ms. Vaiden arrived immediately after the vote on ZA-4-80, and therefore did not vote on the preceding case or minutes.

4. CASE NO. ZA-5-80. CONSIDERATION OF AN APPLICATION OF
Mr. D. R. Taylor on behalf of Mrs. Elsie L. Wroten for
a variance from Section 20-55.

Mr. Stephens presented the staff report, which is appended hereto. He said that an attached porch had been erected without a building permit, and that the porch violated the sideyard requirement of the R-2 District. Mr. Stephens passed around photographs of the porch, which showed it to be built almost on the property line. He stated that the danger of the violation was the potential for a fire spreading between this porch and the dwelling on the adjacent lot. This danger was enhanced because the next-door house is nonconforming, and is built on the property line. Mr. Stephens recommended that the variance be denied. He based his recommendation on the fact that the porch was erected without proper permits, and on the danger of fire spreading between dwellings due to the lack of separation.

Mr. D. R. Taylor spoke in support of his client's application. He said that his client could best describe her request herself, and asked that she respond to his questions.

Mrs. Wroten, responding to Mr. Taylor's questions, stated: the house was built in 1962, and in 1963, a slab and steps were poured where the porch in question is now. The steps had a metal awning over them. In April of 1980, the porch roof was constructed to protect the wood supply that the Wrotens used for heating. Both she and her husband are disabled (she had a heart attack in September of 1980), and they need the porch to protect them as they go out to get wood. The porch is in the only reasonable location because there is no door on the rear of the house where it could be erected without violating zoning regulations.

Mrs. Wroten also said that her daughter called the County Building Inspection Office, and had been told that building permits were not needed for work valued at less than \$200. She said that since the work was done by relatives at no charge, and the materials purchased did not total \$200., she did not think a building permit was necessary.

Mrs. Teixeira confirmed the conversation about the building permit, and asked that the Board of Zoning Appeals grant the variance.

Upon a motion by Mr. Roby, seconded by Mr. Marston, a variance to permit the existing porch described in application ZA-5-80 to have a zero side yard was approved.

5. CASE NO. ZA-6-80. CONSIDERATION OF AN APPLICATION OF
Dr. James S. Ellis for variances from Section 20-85
and 20-12B(1) of the Zoning Ordinance.

Mr. Stephens presented the staff report, which is appended hereto. He said that the variances requested were to permit a parking lot which was not constructed as shown on the site plan approved by the Planning Commission, to have two areas in which the minimum width of the landscaped area is not met. He further stated that, although the site was inspected several times during construction, the violations were not caught until a request for a final occupancy permit was made. Mr. Stephens said this would not be unusual as, during construction, the parking area is usually not complete enough to be included in the inspection. He said all correspondence to the applicant stated that the work was to be completed as shown on the approved site plan. Mr. Stephens stated that, because the hardship was self-induced by failure to follow the site plan for the project, he recommended denial of the variances.

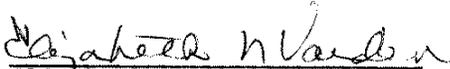
Dr. Ellis spoke in favor of his application. He began by registering a complaint that he had not received the staff's report until today. (Mr. Stephens said that the applicant's copy of the report should have been mailed to him on the same day that the Board was sent their copy.) Dr. Ellis explained that he had hired an architect to design his project and to obtain the necessary County approvals. When construction was started, the architect was dropped from the project, and Dr. Ellis assumed the role of contractor for himself. He said the changes were made in innocence and using good common sense. He stated that he needed more parking spaces so he added them, taking up landscape area in the process. He further stated that the landscaped area in the rear was taken up by an expanded loading space to make the loading and unloading of gas bottles easier. He said that he was upset that he was not informed of the problems sooner, before the parking lot was paved.

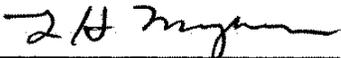
There was a general discussion by the Board as they reviewed the site plan of the project. Mr. Roby and several other Board members expressed concern that the landscaped area along the rear property line had been reduced, as this area helped to buffer a business from an adjacent residence.

Upon a motion by Mr. Marston, seconded by Ms. Vaiden, a variance to approve a 5 foot wide landscaped strip between the parking lot and the north side of the building was approved; and, a variance to allow a 5 foot wide landscaped strip on adjacent property on the east side of the lot was denied.

6. ADJOURNMENT

Upon a motion by Mr. Marston, seconded by Mr. Roby, the November 12, 1980 meeting of the James City County Board of Zoning Appeals was adjourned at 8:20 P.M.


Elizabeth N. Vaiden
Secretary


Gerald H. Mepham
Chairman