

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF
JAMES CITY, VIRGINIA, HELD IN BOARD ROOM, GOVERNMENT CENTER, 101 MOUNTS BAY ROAD,
THE TWENTY-NINTH DAY OF APRIL, NINETEEN HUNDRED AND EIGHTY-TWO.

1. ROLL CALL

Mr. Gerald H. Mepham, Chairman
Mr. George A. Marston, Vice-Chairman
Mr. Joseph E. Brown
Mr. Warfield Roby, Jr.
Ms. Elizabeth N. Vaiden

OTHERS

Mr. Henry H. Stephens

2. CASE NO. ZA-13-81. Mr. Samuel T. Powell on behalf of Mt. Pleasant Associates has applied for variances from Section 20 on Side and Rear Setbacks, Perimeter Open Space Regulations, and Height Limits to permit the subdivision of 1.65 acres into 3 lots.

Mr. Stephens presented the staff report. He explained that the requested variances were to permit the subdivision of property on which three medical offices were under construction. He said that in preliminary meetings with the owners of the project it was explained, if future subdivision of the site was planned, then the project would have to be laid out to accommodate those codes which might affect the subdivision. This was not done and he stated that the variances requested could not be justified on hardship grounds. He recommended denial of the request.

Mr. Spearman made a brief presentation in favor of the application. He said that the open space requirements were met according to his calculations; however, he did not have his computations with him. Mr. Spearman also said that in an October meeting with then Planning Director, Mr. William C. Porter, Jr., that he had been assured that receiving a variance would not be a problem.

Mr. Stephens pointed out that Mr. Porter was still secretary to the Board when this case first came to the Board and that he he been prepared to recommend denial at that time; however, the applicants had requested a deferral.

Mr. Powell made a presentation in support of the application. He said that the project was in conformance with the Ordinance now, and only when new lot lines were established, did a violation occur. He said that what will be perceived by those who see the project will be the same regardless of the outcome of the variance request. He said that because each building is constructed for a medical specialist, each needs to be on

a separate lot to allow for a potential sale. Finally, he said that since the partners were committed to a disolution of the partnership, if the subdivision is not permitted, then they could be forced to file a partition suit. In such a suit the judge will divide the property and both the partners and the County will have to accept the division as provided for by the Court.

Mr. Marston asked if different arrangements of the parking on Lot 2 would not allow the subdivision to occur within the limits of the Code.

Mr. Stephens said that the different arrangements would create conflicts with different code sections.

Mr. Marston moved to approve the variances requested subject to the requirement to maintain a minimum percentage of open space on each lot be met. Mr. Brown seconded the motion which was approved unanimously by roll call vote.

3. CASE NO. ZA-3-82. Mr. D. R. Taylor on behalf of Anboma, Inc. has applied for a variance to Section 20 to allow a brick wall and canopy within the required front yard setback.

Mr. Stephens presented the staff report. He explained that the request was for an appeal to his interpretation as Zoning Administrator that the building line is measured from the canopy support and if the interpretation is sustained then a variance is requested for the setback requirements. Mr. Stephens explained the facts. He said that the approved site plan was unclear that the building included a canopy and had been misread during the staff's review. He said that originally the site plan showed the buildings as violating the setbacks and the plans had been returned for correction. No canopy was proposed on the original plans. When the plans were returned, the canopy had been added but was not noted on the plans. Mr. Stephens said that as soon as the construction got under way on the canopy wall, the violation was noted and work stopped. He said that because the building design could be changed to remove the violation, no unique hardship existed and the variance should be denied.

Mr. Taylor presented Mr. Kerlin to the Board and requested that he explain the situation. Through answers to the questions from Mr. Taylor, Mr. Kerlin explained that a large portion of the site was lost to setback because it was a triangle surrounded by roads. He said that he did not question the location of the canopy because he assumed that the setback was measured from the building wall not the canopy support. He said that if the staff had pointed out the violation to him on the site plan, he would have relocated the building to provide for the canopy.

Mr. Magris, the owner, showed the Board a model of the building. He explained by removing the canopy that the building was much less attractive.

Mr. Taylor said that the variance could be supported by the State Code. He said the shape of the property made the site unusual and unique. He said that the canopy did not endanger the public's safety. He said that he felt that no one was really at fault for the situation but rather this case was the result of a set of unfortunate circumstances. He asked for the Board to allow the building to be completed as designed.

Mr. Roby said that he felt that the definitions in the Code were confusing and ought to be clarified.

Upon a motion by Mr. Marston, seconded by Mr. Roby, a variance from the setback requirements of the B-1 District was approved unanimously by a roll call vote.

4. Mr. Stephens raised the issue of the Stuckey's roof sign which the Board had approved by variance in 1975. He reminded the Board of the condition which it had adopted that required the removal of the sign when VDH&T erected "logo" signs on the interstate. He said notice had been given to the owner and he intended to apply for a waiver from the sign ordinance section prohibiting the roof sign. Mr. Stephens said that he felt the sign would qualify for the waiver which was not part of the Code in 1975.

Mr. Marston said that he did not see any reason to hear a presentation from the owner. If a waiver could be granted, he recommended that it be given.

Mr. Mepham said he had driven by the site recently and he felt the waiver was justified. He said the staff should grant the waiver.

Mr. Brown, Mr. Roby and Mrs. Vaiden noted their concurrence that a waiver be granted and the past condition be dropped.

5. ADJOURNMENT

There being no further business, the April 29th meeting of the James City County Board of Zoning Appeals was adjourned at 8:30 p. m.

Elizabeth N. Vaiden
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Secretary

Gerald H. Mepham
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Chairman