

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF JAMES CITY, VIRGINIA, IN THE COUNTY GOVERNMENT CENTER, 101 MOUNTS BAY ROAD, BOARDROOM, AT 7:30 P.M. ON THE TWENTY-SECOND DAY OF DECEMBER, NINETEEN HUNDRED AND EIGHTY-TWO.

1. ROLL CALL

Mr. Gerald H. Mepham, Chairman
Mr. Joseph A. Abdelnour
Ms. Elizabeth N. Vaiden
Mr. Warfield Roby, Jr.

OTHERS

Mr. Orlando A. Riutort
Mr. Henry H. Stephens
Mr. Frank M. Morton, III

2. MINUTES

The minutes of the October 28, 1982 meeting were accepted as presented.

3. CASE NO. ZA-11-82. MR. FREDERICK HENRETTY

Mr. Stephens presented the staff report which is appended hereto. The public hearing was then opened.

Mr. D. R. Dansby spoke on behalf of Mr. and Mrs. Henretty. He said that because the contractor who made the error is now bankrupt, the Henretty's have no recourse other than to request a variance. He presented letters from adjacent property owners stating that they had no objection to the variance being granted.

Mr. Abdelnour asked what was behind the Henretty's property. Mr. Dansby informed him that there is an easement behind the property and showed him a plat of the property. There is also undeveloped property behind this lot.

The public hearing was closed without further discussion.

Upon a motion by Ms. Vaiden, seconded by Mr. Roby, the Board voted unanimously to approve the request for a variance.

4. CASE NO. ZA-12-82. WINDY HILL MOBILE HOME ESTATES

Mr. Stephens presented the staff report which is appended hereto. He showed a copy of the plans to the members which showed the thirteen proposed new lots.

The public hearing was then opened.

Mr. B. M. Millner spoke on behalf of the owner of the mobile home park. He stated that the owner has made extensive improvements in the park and that the proposed improvements would make this a much better mobile home park. He showed the Board members the plans for the expansion and explained that three mobile homes and the maintenance shack would be removed from the pool area which would be leveled. He stated that the plans being presented were part of the original plans for the mobile home park; however, they could not be found. If they had these plans, this request for variances would not have been necessary.

Mr. Millner then introduced Mr. Wiggs who owns a mobile home park in Newport News. Mr. Wiggs explained the acute shortage of mobile home park spaces. He stated that Mr. Millner had presented his case before the Newport News Board of Zoning Appeals to obtain 129 additional mobile home spaces and that the Newport News Board of Zoning Appeals had been very supportive regarding the need for more spaces.

Mr. Millner said that the new spaces being created would be filled within two or three weeks. He mentioned the article in the December 21st issue of the Daily Press which stated that park owners are extracting fees from potential renters just to secure spaces for mobile homes.

Mr. Millner stated that the three key points to be considered are the improvements Dr. Jenkins has already made to the park, the need for additional sites, and whether or not it would be in the best interest of the County. He pointed out that even if the request for a variance were approved, the case would still have to go before the Board of Supervisors because they would need a conditional use permit. This would allow the Board of Supervisors the opportunity to have the final say on the matter. If the members of the Board of Zoning Appeals have any questions about this case, they should vote for it and let the Board of Supervisors make the final decision on it.

Mrs. Palmer of 210 Tarleton Bivouac addressed the Board. She stated that she had bought her home in 1964 when there was no mobile home park. She said that to them it is an eyesore because of the garbage and flooding.

Mr. Millner said that the new plans would eliminate this cess-pool and that the new drains would go in a northeasterly direction.

Mr. Abdelnour asked whether it would be feasible to create the new sites with the 6,000 sq. ft. minimum. Mr. Millner replied that the configuration of the sites constricts them and cannot do much with that; however, one of the lots in the 1-7 group could be eliminated but that still would not bring the lots up to the minimum size required. He stated that there is a limit to what is economically feasible considering the cost of the improvements.

Mr. Millner was asked if the mobile home park lots could be screened. He replied that there is a vegetated area that now screens the park and that there was no intention at this time to expand the park into that area. If it were made a condition of the variance, additional screening could be provided.

Mr. Mepham asked if the vegetated area screening the park now was part of the park's property or was it on adjoining property. Mr. Millner said it was probably on both sides of the property line.

Mr. Abdelnour asked about the cesspool problem. Mr. Millner replied that it had been a pond with swans in it that had dried up. He was aware that trash had built up there but there were no trailers.

Mrs. Palmer stated she had thought this area occupied by the mobile home park would be used for houses.

Mr. Mepham asked if changing the direction of the mobile homes would be helpful. Mr. Millner responded that would make the trailers parallel to the road and having the living areas along the road was not good planning.

The public hearing was closed. Mr. Mepham stated that a decision could be made now or it could be deferred. Ms. Vaiden said she felt it should be deferred. Mr. Morton reminded the Board members that their decision had to be made on the basis of whatever hardship they found to exist in the case.

Ms. Vaiden made a motion to defer action until the members had an opportunity to see the property and then act on the case at the January meeting. The motion was denied for lack of a second.

Mr. Roby stated that he saw no hardship in this case. Mr. Millner commented that he would prefer to have the members view the site.

Mr. Abdelnour stated he would second Ms. Vaiden's motion but that Mr. Millner would have to show them something that proves a hardship exists.

Ms. Vaiden re-entered her motion, which was seconded by Mr. Abdelnour, and unanimously approved by the members.

Mr. Millner asked what the members planned to do about viewing the site and also that the Palmers be present when they did.

The Palmers agreed to be present and Mr. Millner was advised that arrangements to visit the mobile home park would be made by the staff.

5. CASE NO. ZA-14-82. MRS. OLIVE BLANCH PURCELL

Mr. Stephens presented the staff report.

Mr. Abdelnour asked about the need to require conditions and a bond to see that they are met. Mr. Stephens stated there would be some control because Building Inspections would have to issue an electrical permit and so there would be no need for a bond. If a bond were required, it could be used to cover the cost of removal of the mobile home. Mr. Morton stated it would be expensive to process such a bond with the insurance companies and it would be difficult to obtain. Mr. Abdelnour asked if a cash bond could be presented to the County. Mr. Mephram asked how the County can control who lives in the mobile home.

Mr. Stephens stated that the mobile home would be considered temporary because it was to be used only while Mrs. Purcell and her daughter lived in the other mobile home on the site. Monitoring would be hard to enforce but it could be required.

The public hearing was then opened.

Mr. D. R. Taylor spoke on behalf of Mrs. Purcell. He advised the members that Mrs. Purcell is 90 years old and her disabled daughter is 56. They have no income and that if they had the money for a cash bond, they would be living in a nursing home and this request would be unnecessary.

Mr. Taylor stated that Mrs. Purcell and her daughter, Mrs. Newman, who will be living in the mobile home for which the variance is being requested, are aware of the conditions proposed by the staff and are willing to comply with them. Mr. Taylor stated this is a case of direct hardship because of the need for close and immediate care for Mrs. Purcell and her daughter which under certain conditions could save the life of either of them.

The public hearing was closed without further discussion.

A motion was made by Mr. Roby, seconded by Mr. Abdelnour, to approve this request with the conditions in the staff report. The motion was unanimously approved.

6. CASE NO. ZA-13-82. MR. DAVID HOOKER

Mr. Abdelnour excused himself from the meeting. Mr. Stephens presented the staff report which is appended hereto.

Mr. Mephram noted that a unanimous vote would be needed in this case because Mr. Abdelnour was not voting.

The members were shown copies of the site plan for Handy Grocery II and the right-of-way was explained.

The public hearing was then opened.

Mr. Richard Costello spoke on behalf of Mr. Hooker. He said that according to VDH&T there were no plans to make Route 31 a four lane highway and that the right-of-way was just for a scenic easement. Mr. Hooker had purchase the lease for this property several years ago and that all these conditions had existed before the County's ordinance had been passed. Mr. Hooker cannot purchase the right-of-way from the Highway Department and cannot move the building further back on the property.

Mr. Costello stated that Mr. Hooker had been given verbal permission to pour the slab by the Building Inspections Department. Mr. Hooker could set the new store further back but it was such a small distance he does not think it would look very good and that there is no real value in doing so. It would allow the building to meet the ordinance but there would be no gain from a design standpoint. He said there are also no problems at the present time for parking cars and trucks; so places can be built and a space provided for the handicapped.

With regard to the canopy Mr. Costello stated he had spoken to the VDH&T and they have a problem with the canopy extending over their property. This would nullify the entire case. Mr. Costello stated that since the VDH&T has no plans to expand the road to four lanes the site meets the generally accepted requirements for setbacks in the County.

Mr. Riutort asked Mr. Costello if Mr. Hooker is a developer. Mr. Costello replied that he does work on septic fields, has built his own house and operates an ice plant. Mr. Riutort said Mr. Hooker should be aware then that he needs a building permit to pour a slab. Mr. Costello said it happens at least one out of twenty times for a builder to get a verbal permit. Mr. Costello admitted that Mr. Hooker had come in by the back door with this matter and had found out he needed a site plan and was now covering his tracks.

The public hearing was then closed.

The members briefly discussed the history of this site. Mr. Morton stated that no hardship had been mentioned. Mr. Costello said there was no hardship except that meeting the ordinance was complicated by the extra width of the right-of-way.

Ms. Vaiden said if it were set back even 6 feet, it would not need a variance. Mr. Riutort stated they would still need a variance to improve a non-conforming use.

Mr. Roby made a motion to deny the request for a variance because a justifiable hardship had not been demonstrated. It failed for lack of a second.

Ms. Vaiden made a motion to grant the variance. It also failed for lack of a second. Mr. Morton explained that the request could be allowed to die for lack of a motion which in effect would deny the request or the case could be carried over to the next meeting.

A motion was made by Ms. Vaiden, seconded by Mr. Roby, to carry the case over to the next meeting. It was unanimously approved.

7. MATTERS OF SPECIAL PRIVILEGE

There were no matters of special privilege.

8. ADJOURNMENT

The meeting adjourned at approximately 9:20 P.M.

Elizabeth N. Vaiden
Elizabeth N. Vaiden
Secretary

Gerald H. Mephram
Gerald H. Mephram
Chairman