

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

1. ROLL CALL

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

OTHERS:

Mr. Orlando A. Riutort
Mr. Allen J. Murphy, Jr.
Mr. Frank M. Morton, III

2. MINUTES

At Mr. Abdelnour's request, the minutes of the April 28, 1983 meeting were deferred in order that they may more thoroughly reflect the comments of citizens and attorneys who spoke regarding Case No. ZA-4-83. Mr. Mepham reminded the Board that a court stenographer was present at that meeting to record the minutes of Case No. ZA-4-83 and the minutes will be available if the case is litigated.

3. CASE NO. ZA-5-83 and CASE NO. ZA-6-83. Public hearings for consideration of applications of Mr. Ronnie Bache, on behalf of the Dowling Company, for variances from Section 20-131(a), Sign Dimensions and Special Regulations, of the Zoning Ordinance. The purpose of the variances is to allow the replacement of existing free-standing signs with ones that exceed the maximum size permitted by the ordinance, which in both instances is 32 square feet.

Mr. Murphy presented the staff reports, stating that the properties where these signs are located are sites of Texaco Service Stations, one located on Route 30 and the other on Route 60 West. In addition to the 32 square foot sign at each location, there is a 2'x7' sign which has been placed beneath the Texaco logo advertising auto and diesel fuel. According to County records, the additions are placed on the signs illegally as they were not there prior to the adoption of the current sign ordinance and, further, no permits were issued for them.

Mr. Murphy said the applicant stated that because of a corporate image change, the Texaco ID signs needed to be updated and the only one available measures 42.6 sq. ft.

Mr. Murphy stated that a clearly demonstrable hardship could not be distinguished in either case; therefore, the staff recommended denial of the requested variance.

Mr. Mephram opened the public hearing.

Mr. Ronnie Bache of the Dowling Company, representing Texaco, showed the Board a picture of the sign to be used at both locations, and explained that it could not be scaled down to 32 sq. ft. because it would not go back into the frame and that to manufacture a sign to County specifications would cost \$2500-\$3500.

Mr. Mephram closed the public hearing.

A brief discussion followed during which it was commented that the signs requested were too much of an increase over the maximum 32 sq. ft.; that there were too many other corporations that could make the same request; that there was not a demonstrable hardship, and that the ordinance should be upheld.

Mr. Abdelnour made a motion, seconded by Mrs. Vaiden, to deny the requested variances on Case No. ZA-5-83 and Case No. ZA-6-83. The motion passed 5-0.

4. CASE NO. ZA-7-83. Public hearing for consideration of an application by Mr. & Mrs. John W. Murphy for a variance from Section 20-47(b), Yard Regulations, Rear, of the Zoning Ordinance. The purpose of the variance is to allow the construction of an attached deck within the required rear yard setback on property located at 130 Cooley Road.

Mr. Murphy presented the staff report stating that the dwelling is located 35 feet from the rear property line with a 13'x4' balcony on the rear of the house which extends 4 feet from the house to the rear property line. Because the balcony has no ground supports, the building setback is measured at the point where the vertical line of the building intersects the ground (rear of the building). The Murphys wish to construct a 13'x6' deck addition to the balcony. The deck will have ground supports and will be 24'-6" from the rear property line. The code requires a minimum rear yard setback of 35 feet.

Mr. Murphy said no objections were received from adjacent property owners, and from a planning standpoint the staff had no objections to the request, but because no adequate evidence of an undue hardship had been presented, the staff had no alternative but to recommend denial of the request.

Mr. Mephram opened the public hearing.

Mr. John Murphy, applicant, said he could not indicate a hardship. He discussed the addition with neighbors who signed a statement, which he presented, indicating no objections to the addition. Mr. Murphy also had pictures demonstrating how the addition would look.

Mr. Mephram closed the public hearing.

Following a brief discussion, Mr. Hertzler made a motion, seconded by Mr. Abdelnour, to approve Case No. ZA-7-83. The motion passed 5-0.

5. CASE NO. ZA-8-83. Public hearing for consideration of an application by Mr. B. M. Millner, on behalf of Shirley Pewter Shop, Inc. and J. B. Violette Construction Company, Inc., for a variance from Section 20-89, Area Requirements, of the Zoning Ordinance. The purpose of the variance is to allow the subdivision of approximately 0.96 acres into two lots of 20,000+ sq. ft. each. The property is zoned M-1, Limited Industrial, and is located on the west side of Mooretown Road.

Mr. Murphy presented the staff report, stating that J. B. Violette plans to build a construction office/warehouse on the remaining lot. Mr. Millner stated that Violette Construction Company will connect to public water when the County extends water down Mooretown Road. Mr. Murphy said the water transmission main extension is planned for fiscal year '87; however, funds have not been allocated for this project and is subject to change.

Mr. Murphy said no evidence of hardship had been presented; the proposed building could be constructed without subdividing the property, and there is a warehouse currently in use on this same property. He further stated that the staff is of the opinion that a strict application of the terms of this chapter would not effectively prohibit nor unreasonably restrict the use of this property. For the above stated reasons, the staff recommended denial of the request.

Mr. Mephram opened the public hearing.

Mr. Millner described the lot and the owner's intent for developing it, stating that the applicant could not work out financing unless the lot is subdivided and sold. Water will be available in 1987 and once there the lots will qualify for 20,000 sq. ft., he said. Mr. Millner further stated that a hardship does exist in that the railroad is adjacent to one side of the lot and Mooretown Road is on the other side. The hardship is in the configuration of the property. He felt it would be in the best interest of the County to approve the request, especially since water would be there.

Mr. Shirley Robertson of Shirley Pewter Shop, Inc. stated that this property is of no benefit to the County unless something is done to make it a useful piece of property.

Mr. Mephram closed the public hearing.

Mr. Morton addressed the Board. He stated there was no hardship presented in this case and the Board had no reason under the law to grant a variance. Mr. Morton asked that the Board state the reasons for the hardship, if granted, as he has requested in the past.

Mr. Millner again stated that the hardship was in the configuration of the property. If public water was brought in, they would meet the ordinance, and the hardship is that, if looked at in the legal sense, it is not economically feasible to bring in water. Mr. Millner emphasized that nothing is going to happen to this piece of property unless the Board grants approval and that is the hardship. He said that Mr. Morton is entitled to his opinion that there is no hardship, but it was up to the Board to determine what the hardship is.

Mr. Morton stated that an economic hardship is not a hardship under the law.

Mr. Abdelnour made a motion, seconded by Mrs. Vaiden, to defer action on this case until the next regular meeting in order to give it further consideration. The motion passed 4-1 with Mr. Mepham voting nay.

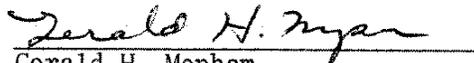
6. EXECUTIVE SESSION

Mr. Abdelnour made a motion, seconded by Mr. Hertzler, to adjourn the regular meeting for an executive session.

7. ADJOURNMENT

The meeting adjourned at 8:30 P. M.


Elizabeth N. Vaiden
Secretary


Gerald H. Mepham
Chairman