

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-EIGHTH DAY OF JULY, NINETEEN HUNDRED AND EIGHTY-THREE.

1. ROLL CALL

Mr. Gerald H. Mephram, Chairman
Mr. Joseph A. Abdelnour
Mr. David Hertzler
Ms. Elizabeth N. Vaiden

ALSO PRESENT:

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

2. CASE NO. ZA-8-83. AN APPLICATION BY MR. B. M. MILLNER
on behalf of Shirley Pewter Shop, Inc. and J. B. Violette
Construction Company, Inc. to allow the subdivision of
approximately 0.96 acres into two lots of 20,000 plus
square feet.

It was requested that this case be continued until the next meeting. The request was granted.

3. CASE NO. ZA-9-83. PUBLIC HEARING FOR CONSIDERATION OF AN
application by Mr. Donald G. Lundeen for a variance to
allow the construction of a garage/carport within the
required rear and side yard setbacks. The property is
located on Route 60W in the B-1, General Business district.

Mr. Murphy presented the staff report stating that Mr. Lundeen wishes to build a 20'x20' carport/garage on the rear of his lot to provide protective cover for his vehicle. The structure would be located 5 feet from the rear and side property lines. The property to the rear of the lot is vacant and under cultivation. The B-1 district requires all structures to be located 20 feet from rear and side property lines.

Mr. Murphy stated that the staff had no objections to the proposal from a planning standpoint and that negative reactions had not been received from adjacent property owners; however, adequate evidence of undue hardship had not been presented in this case and therefore the staff had no alternative but to recommend denial.

Mr. Mepham opened the public hearing. Mr. Lundeen, the applicant, said that if he had to adhere to the ordinance, it would not allow room for the garage or turn-a-round. He referred to two of his neighbors who had no objection to this request.

Mr. Mepham closed the public hearing.

Mr. Abdelnour made a motion that the applicant be allowed to locate the garage/carport within 5 feet from the rear and side property lines. Ms. Vaiden seconded the motion, which passed by unanimous roll call vote.

4. CASE NO. ZA-10-83. PUBLIC HEARING FOR CONSIDERATION OF AN application by Mr. Jerry D. Hamilton on behalf of Mr. William D. Penny for a variance to allow the placement of a new home with a 20 foot total width of the two required side yards instead of the minimum 25 feet required by the ordinance. The total width of the lot located at 109 Howard Drive in the Grove Community is 45 feet and is zoned R-3.

Mr. Murphy presented the staff report stating that Mr. Penny wished to construct a new dwelling behind the existing house on the lot in which he presently lives. The smallest home available from Jim Walter's Homes has a 24 foot depth. By turning it around and placing it on the lot lengthwise there will be a 10 foot setback on either side of the parcel. Mr. Murphy said the lot is nonconforming in that it has a frontage or width of only 45 feet and the minimum required in the current ordinance is 75 ft. at the building setback line.

Mr. Murphy pointed out that the Zoning Ordinance empowers the Board of Zoning Appeals to determine the setback as well as side and rear yard requirements for nonconforming lots based upon the following: "Any lot of record made in 1976, which is less in area or width than the minimum required by this chapter, may be used when the requirements of the Board of Zoning Appeals regarding setbacks, side and rear yards are met." This lot was platted in 1968.

Mr. Murphy further stated that the staff is of the opinion that the authorization of such a variance would not seriously change the character nor impose substantial detriment to neighboring properties. A clear hardship may not exist since Mr. Penny is already making use of his property. However, Mr. Penny has applied, not for a hardship variance, but rather for the establishment of side yard requirements for a nonconforming lot as provided for in Section 20-108 of the Zoning Ordinance. Since the request will not result in a change in character of the Grove Community and no negative comments have been received, the staff recommends that the side yards be established as requested in this application.

Mr. Mepham opened the public hearing. There were no requests to speak before the Board. Mr. Mepham closed the public hearing.

In a discussion that followed Mr. Riutort said that it was not recommended that the existing house be removed because it could be used for low income housing, which is needed in the County. Mr. Murphy informed the Board that Mr. Penny agreed to tear down the existing house if requested.

Mr. Morton suggested deferring decision for 30 days permitting time for the Board to make an on-site inspection.

Mr. Abdelnour made a motion, seconded by Mr. Hertzler, to defer action until the next meeting when a case is scheduled. The motion passed by 3-1 roll call vote, with Mr. Mephram voting nay.

Mr. Mephram asked if a decision could be made at the time of the on-site inspection to which Mr. Morton responded that it could. Therefore Mr. Abdelnour withdrew his motion for deferral of the case until the next meeting. It was agreed to continue the meeting at the site on Thursday, August 4, at 12 noon.

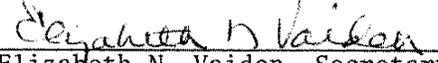
5. MINUTES - April 28, 1983 and May 26, 1983

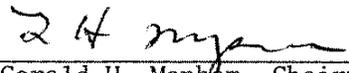
Mr. Abdelnour made a motion to accept the April 28, 1983 minutes, as prepared, provided the transcript of the public hearing with respect to the application of 64 Associates be made a part of the minutes. Mr. Hertzler seconded the motion which was passed by unanimous roll call vote.

Upon a motion by Mr. Abdelnour, seconded by Ms. Vaiden, the minutes of the May 26, 1983 meeting were approved as presented.

6. CONTINUATION OF THE MEETING

Mr. Mephram stated that the meeting would be continued on Thursday, August 4, 1983 at 12 noon at 109 Howard Drive.


Elizabeth N. Vaiden, Secretary


Gerald H. Mephram, Chairman