

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

1. ROLL CALL

Mr. Gerald Mepham, Chairman  
Mr. Joseph A. Abdelnour  
Mr. David L. Hertzler

OTHERS PRESENT

Mr. Richard E. Bain  
Mr. Frank M. Morton, III

2. MINUTES

Action on the June 19, 1984 was deferred until the next regular meeting because Mr. Abdelnour had to abstain from voting, and therefore, there was not a quorum to vote on the minutes.

3. UNFINISHED BUSINESS

A. CASE NO. ZA-7-84. C&S ASSOCIATES

Action on this case was deferred until the end of the meeting because there was not a quorum to vote on this case because Mr. Abdelnour had to abstain from voting.

4. NEW BUSINESS

A. CASE NO. ZA-9-84. WILLIAM R. HUTCHENS

Mr. Bain reviewed the staff report on this case on copy of which is appended hereto. He explained the reason a site plan was required and the parking, minimum area, setback, and minimum frontage requirements and yard requirements for this development.

Mr. Mepham opened the public hearing.

Mr. Hutchens spoke on his own behalf. He noted he had just been provided a copy of a letter dated May 7, 1984 to which he had not had adequate time to prepare a response. He requested, therefore, that this case be deferred to the next regular meeting.

Mr. Mepham questioned whether the public hearing could be carried over to the next regular meeting and Mr. Morton informed him that the public hearing could be carried over if the Board chose to do so.

There were no other persons who wanted to speak on this case and the Board agreed to carry over the public hearing to its next regular meeting.

B. CASE NO. ZA-10-84. J. T. SOTER

Mr. Bain presented the staff report recommending denial due to the lack of an undue hardship. The staff report is appended hereto.

Mr. Mephram opened the public hearing.

Mr. Joseph Soter of 7523 Oak Grove Road spoke on his own behalf. He advised the Board that his neighbors had no objections to the location of the deck and that there was only a small corner of the deck for which a variance was required.

Mr. Soter explained the location of the deck on the plan. He noted it was a deck and not a covered porch.

Mr. Mephram closed the public hearing.

Mr. Hertzler stated that since there were no objections had been raised to the variance and the project was not objectionable from a visual standpoint, he moved that the variance be granted. Mr. Hertzler seconded the motion.

The roll call vote was as follows:

Mr. Abdelnour	Aye
Mr. Hertzler	Aye
Mr. Mephram	Aye

The motion carried 3-0.

C. CASE NO. ZA-11-84. RONALD E. & CAROLYN J. TOLBERT

Mr. Bain presented the staff report which recommended denial. The staff report is appended hereto.

Mr. Hertzler asked if the problem could be resolved by adjusting the boundary line.

Mr. Bain replied that the applicant had tried to do so but his neighbors had not agreed.

Mr. Mephram opened the public hearing.

Mr. Lynn Evans of DeYoung-Johnson Group, Inc. explained the error that had been made in setting the lot lines. He stated that the error had been found and the matter had to be settled in order to clear the title. The developer is not involved in this matter and the owners of lot #10 would not agree to a boundary line adjustment.

Mr. Bain provided the Board a list of the adjacent property owners who had been notified of the public hearing.

Mr. Mepham closed the public hearing.

Mr. Abdelnour made a motion, seconded by Mr. Hertzler, that since there were no objections, the owner had tried to settle the matter by a boundary line adjustment, but that the cost was too high, and there were no problems with the appearance of the property, a variance be granted in this case.

The roll call vote was as follows:

Mr. Abdelnour	Aye
Mr. Hertzler	Aye
Mr. Mepham	Aye

The motion carried 3-0.

D. CASE NO. ZA-12-84. WILLIAMSBURG CHRISTIAN ACADEMY

Mr. Bain presented the staff report which recommended that the variance be granted with the condition it expire on September 1, 1986.

Mr. Davis, Assistant County Attorney, provided the Board with a copy of the site plan.

Mr. Mepham that there was no statement of a hardship. Mr. Bain stated that this was so because the request was only for a temporary variance.

Mr. Mepham opened the public hearing.

Mr. Dennis Kincaide spoke on behalf of the applicant. He explained the need for the proposed structures and their placement in this location rather than in front of the building. He noted a letter had been received from Mr. Larry Waltrip, the adjacent property owner, stating he had no objection to the location of the trailers.

Mr. Abdelnour asked why the variance was being requested for only two years.

Mr. Kincaide replied that they anticipated their planned expansion would be completed by that time and that then these temporary structures would no longer be needed.

Mr. Bob Harmon, a representative of the Academy, also assured Mr. Abdelnour that the school would be completed by that time. The present school would no longer be adequate by that time.

Mr. Mepham closed the public hearing.

Mr. Abdelnour asked if the structures would have to be removed when the variance expired.

Mr. Bain replied that they would.

Mr. Hertzler made a motion, seconded by Mr. Abdelnour, that the variance be granted with the condition that the structures be removed at the end of two years.

The roll call vote was as follows:

Mr. Abdelnour   Aye  
Mr. Hertzler    Aye  
Mr. Mepham      Aye

The motion carried 3-0.

E. CASE NO. ZA-13-84. MARY L. TEMPLE

Mr. Bain presented the staff report recommending denial which is appended hereto. He explained the problem resulting from the property's location in the Reservoir Protection Overlay District.

Mr. Mepham opened the public hearing.

Mr. Paul Temple, owner of the lot, explained that the land had been left to him and his sister and that they wanted to divide the land between them. He stated there had been a will which left it to three heirs and that they were in the process of purchasing the third person's share of the property at this time.

Mr. Mepham closed the public hearing.

The Members discussed the location of the property and whether the variance would be necessary if the property was not in the Reservoir Protection Overlay District.

Mr. Morton noted that the staff has struggled with the issues in the Reservoir Protection Overlay District and he had no problem with this case.

Mr. Hertzler made a motion, seconded by Mr. Abdelnour, that since it was a family subdivision and there was no additional density, the variance be granted.

The roll call vote was as follows:

Mr. Abdelnour   Aye  
Mr. Hertzler    Aye  
Mr. Mepham      Aye

The motion carried 3-0.

F. CASE NO. ZA-14-84. DEVELOPMENT CONCEPTS OF VA., INC.

Mr. Bain presented the staff report, appended hereto, which recommended that the variance be granted.

The Members briefly discussed the size and location of the sign.

Mr. Mepham opened the public hearing.

Mr. Roger Spearman, a local architect, spoke on behalf of the applicant. He noted the applicant's efforts to make the setting of the professional park a natural one but that this in turn had made it more difficult to see from the road. He gave the dimensions of the sign. He noted it was not a lighted sign because the park was only used during the day.

Mr. Woody Sirois, President of Development Concepts, explained the purpose of the directional sign and future development plans for the site. He noted that the neighbors had no objections to the sign.

Mr. Mepham closed the public hearing.

Mr. Abdelnour made a motion, seconded by Mr. Hertzler, that the variance be granted.

The roll call vote was as follows:

Mr. Abdelnour	Aye
Mr. Hertzler	Aye
Mr. Mepham	Aye

The motion carried 3-0.

CASE NO. ZA-7-84. C&S ASSOCIATES

Mr. Mepham explained to the applicant that the Board would still be unable to vote on his request for lack of a quorum.

Mr. Morrell explained that postponing action on this case was becoming not only an inconvenience but an expense. He requested that the Chairman consider two items: (1) that a special meeting be called some time next week to help expedite the situation, and (2) they had proceeded with the matter at the worksession and that Mr. Bain, Mr. Jennings, Mr. Spearman and he had met with Mr. Hall and Mr. Bailey of the Highway Department and had agreed to terms which he would like Mr. Bain to verify at this meeting because Mr. Bain would soon be leaving the County.

Mr. Mepham explained that he would be out of town next week and that since one of the other four Members was already disqualified from voting on the case, it would then require a unanimous vote of the other three members for action to be taken on this case.

Mr. Hertzler asked Mr. Morton if because he held a mortgage on the property in question he should be disqualified from voting on this case. Mr. Morton said that the Commonwealth Attorney would have to make such a decision.

The Members discussed possible times for another meeting.

Mr. Bain said he had advised the applicant should obtain the Highway Department's comments in writing. He noted that the Highway Department had agreed to issue a permit rather than an easement. The permit would run with the owner and not with the land. There could be no signs or parking on the right-of-way. There could be no internal streets. There is also a possibility that the Highway Department may require the closing of the middle entrance to the property. Anything permitted in the right-of-way by the permit would have to be maintained by the property owner. The Highway Department would also require a taper for the deceleration and acceleration lanes. The Highway Department had requested something in writing from the developer to which they could respond in writing.

Mr. Bain reviewed the variances that had been requested by the applicant and the Board's decision on each. He also listed each of the conditions that the Board would require.

Mr. Morrell noted that the Highway Department's policy that the permit goes with the owner and not the land was new and that it was difficult to enforce without additional manpower. The deceleration lane coming from Williamsburg would only be required if a traffic analysis demonstrated a necessity for it. The Highway Department had declined to put anything in writing until they had reviewed the site plans for the project. This would create further delays.

Mr. Morrell stated Mr. Hall had informed him that there were no plans now or in the future to widen the road in this area and that even if it were widened, the permit would still be in force as far as the island is concerned.

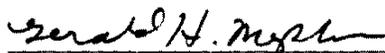
Mr. Morrell advised the Board that he objected to the use of the Horseless Carriage being restricted solely to storage. He noted that no occupancy permit could be issued if there were inadequate parking spaces. The only other possible use for the site would be for an office and it would be a limited traffic area, with which he would have no problem.

Mr. Morton said there was a need to put some restriction on the use of that property and it would be up to the applicant to state to what restrictions he would agree.

Mr. Jennings stated that the Ordinance is written in such a way that it would handle this issue. He noted that use of any of this area for parking for the restaurant and lounge would limit what the Horseless Carriage can be used for.

Mr. Mephram asked if these decisions could be drawn up before the Board met again on the case. Mr. Morrell replied that they basically they were already taken care of.

Mr. Spearman said that he was sure he could have a complete site plan available. It would show the number of parking spaces lined off.

  
Gerald Mephram, Chairman

\_\_\_\_\_  
Bernard M. Farmer, Jr., Secretary