

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

1. ROLL CALL

MEMBERS PRESENT

Mr. Gerald Mepham
Mr. David Hertzler
Mr. Ronald Rosenberg
Ms. Elizabeth Vaiden

OTHERS PRESENT

Mr. Larry Davis, Assistant County Attorney
Mr. Bernard Farmer, Zoning Administrator

2. MINUTES

The March 28, 1985 minutes were approved as presented.

3. OLD BUSINESS

Mr. Farmer updated the Board on cases which had been taken to the District Court. He stated that Judge Carneal made a ruling on the Ribock case based upon a letter that was presented from the previous Zoning Administrator. Judge Carneal determined that the individual did have a right to build another main structure on that parcel. In the Hutchen's case, Judge Carneal determined that he would not allow a hearing on four of the issues that were presented to him because of the time period in which they were decided.

4. NEW BUSINESS

CASE NO. ZA-5-85. G. C. BENNETT

Mr. Farmer stated that Ms. Violet Parker had applied on behalf of Mr. Bennett for a variance of 4 feet from the side-yard requirements contained in the R-3, Limited Residential Zoning District. He stated that it was the applicant's desire to enclose an area between an existing carport, and an existing single-family residence, and provide an additional area for the carport and breezeway by attaching it to the main structure. Mr. Farmer stated that under Section 20-2 of the Zoning Ordinance when an accessory structure is attached to the main building, it shall be considered part of the main structure. Since no unusual characteristics of topography exist which

restrict the use of the lot, and since the lot has been placed into beneficial use, no demonstrable hardship has been shown. Staff recommends that the variance be denied.

Mr. Mepham opened the public hearing and asked if anyone would like to speak in favor of the request.

Mr. Jim Parker, spoke on behalf of Violet Parker. He explained that the Bennett's were his in-laws and they were in the process of moving back to James City County. He presented some pictures to the Board to give some idea of what the house looked like and showed a sketch of what the house would look like after the proposed attachment. He stated that there was a problem with storage in the house and that was why he wanted a storage room on the back of the carport. Mr. Parker stated that he had a letter from an adjacent property owner, who faces the carport, stating that they had no objection to the building.

Mr. Mepham closed the public hearing.

Mr. Rosenberg asked Mr. Parker if he had given any thought about relocating the storage area. Mr. Parker stated that the storage area could be relocated, but he wanted to make the area even.

Mr. Hertzler asked Mr. Parker if he could move the storage area to avoid being in violation. Mr. Parker stated he could but, the storage area would improve how the house looked and that he preferred it be attached.

Mr. Hertzler stated concern over allowing accessory structures being part of the main structure because it would create a way of getting around the setback requirements. He also stated that the Board had turned down other similar cases and they would have to turn this one down as well.

The Board had discussion over the dimensions of the lot.

Mr. Rosenberg motioned to deny the variance and Ms. Vaiden seconded the motion.

Roll Call was as follows:

Mr. Hertzler	Yes
Mr. Mepham	Yes
Mr. Rosenberg	Yes
Ms. Vaiden	Yes

The Zoning Administrators decision was upheld 4-0 to deny the request for a variance.

CASE NO. ZA-6-85. LAWRENCE BEAMER

Mr. Farmer stated that Lawrence Beamer had applied for a variance of 20 feet from the side-yard requirement pertaining to a corner lot in the R-1, Limited Residential Zoning District. Mr. Farmer stated that Mr. Beamer's lot

with its unusual topographic conditions (steep slope with creek) unnecessarily restricted the use of the lot. He then stated that the setback of 35 feet from any street right-of-way was a condition that further restricted the use of the front and one side while the location of the sewer easement and marsh restricted the other side. Mr. Farmer stated that a strict application of the Ordinance in this case unreasonably restricts the use of all but 10% of the lot, and since the hardships of topography were not shared by others in the same Zoning District, granting a variance would not necessarily be a special privilege. Mr. Farmer recommended that a variance of 12 feet be granted, so that the structure when constructed, would be no closer than 23 feet from the Spring Street right-of-way.

Mr. Mephram opened the public hearing and asked if anyone would like to speak in favor of the request.

Mr. Beamer spoke on his own behalf. He stated that he was more interested in what the house would look like than just building a house on the lot because the house would be for his son. Mr. Beamer explained the reason that he wanted to be within 15 feet rather than 23 feet from the right-of-way was because the house that he was planning to build had an 8 to 10-foot deck that would sit out over the creek area. The closer that the house got out to the creek the more the deck would look as though it were laying over the creek.

Mr. Rosenberg asked Mr. Beamer if the application sketch was correct since he had requested 23-feet and not the intended 15-feet. Mr. Beamer clarified that he was requesting 15-foot setback and Mr. Farmer was recommending 23-foot setback.

Mr. Mephram asked Mr. Beamer when the lot was purchased. Mr. Beamer stated that he bought the lot in 1979.

Mr. Beamer stated that he had trouble getting water to the lot in the beginning when he purchased the lot, but he now had water running to the lot. He said he then subdivided the lot because he wanted to prove that something could be done with an unusual size lot and still make it look nice.

Mr. Mephram asked Mr. Beamer what he was planning for parking spaces. Mr. Beamer explained that there would be a long drive which would come around and there would be no parking on the street.

Mr. Mephram stated he had trouble with this variance because Mr. Beamer knew that the land was unusable when he bought it.

Mr. Rosenberg explained that the situation is called self-created hardship under the law. Mr. Rosenberg asked what the likelihood of Spring Road ever being expanded beyond its present 18 foot pavement dimension?

Mr. Farmer stated that it probably would not be expanded any further than it already was.

Mr. Hertzler asked what size house Mr. Beamer was planning to build on the lot.

Mr. Beamer gave Mr. Hertzler the dimensions of the proposed house.

Ms. Vaiden asked where the driveway would go. Mr. Beamer answered that the driveway would be in the back.

Mr. Farmer stated that one neighbor had been by the Code Compliance Office to look at the case file.

Mr. Mephram asked the wishes of the Board.

Mr. Rosenberg stated concern over the true topography of the lot.

Mr. Mephram answered that there was a five to six foot drop from the edge of the pavement to where the first floor area would be.

Mr. Beamer explained why he wanted to make the house appealing to the eye and that was why he was trying to place it on the center of the lot.

Mr. Hertzler made the motion to accept the staff's recommendation and Ms. Vaiden seconded it.

Mr. Mephram asked if there was any discussion on the motion.

Mr. Rosenberg stated concern over lots being subdivided so they would not create such a hardship to build on.

Mr. Farmer stated that under the Subdivision Ordinance, one of the requirements for having a lot is that it be suitable on which to build.

Roll call was as follows:

Mr. Hertzler	Yes
Mr. Mephram	Yes
Mr. Rosenberg	Yes
Ms. Vaiden	Yes

Zoning Administrators decision upheld 4-0 to grant the variance of 23 feet.

CASE NO. ZA-7-85. DANIEL FOSTER

Due to conflict of interest, Mr. Hertzler removed himself from discussion or action pertaining to this case.

Mr. Farmer stated that Mr. Paul Small on behalf of the property owners, had requested a variance of 3.32 feet from the front setback requirements of Section 20-61 of the James City County Zoning Ordinance and recommended that since no demonstrable hardship exists, that the Board deny the request.

Mr. Mephram opened the public hearing and asked if anyone would like to speak in favor of the request.

Mr. Paul Small explained that a mistake had been made by the contractor when the plat plan was prepared and asked that the Board allow the variance for 3.32 feet so that the home would be considered a legal structure.

Mr. Rosenberg asked why a permit was issued in the first place.

Mr. Hertzler explained that his staff had made the mistake and that such a mistake would not occur again.

Mr. Mephram closed the public hearing.

Mr. Rosenberg motioned to grant the variance and Ms. Vaiden seconded the motion.

For clarification, Mr. Farmer asked if the variance was for the encroaching 3.32 feet and pertained to the existing structure only.

Roll call was as follows:

Mr. Hertzler	(abstained)
Mr. Mephram	Yes
Mr. Rosenberg	Yes
Ms. Vaiden	Yes

Variance granted for allowing 3.32 foot encroachment.

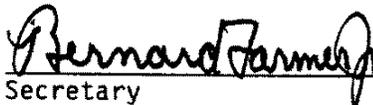
6. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

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 Gerald Mephram, Chairman



 Secretary

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