

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF JAMES CITY COUNTY, VIRGINIA, IN THE BOARDROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA, ON THE TWENTY-SECOND DAY OF AUGUST, NINETEEN HUNDRED AND EIGHTY-FIVE.

1. ROLL CALL

Members Present

Mr. Ronald Rosenberg
Mr. Claude Feigley
Ms. Nancy James

Others Present

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

2. Minutes

The July 25, 1985 minutes were approved as presented.

3. OLD BUSINESS

There being no old business to discuss, the Board moved on to new business.

4. NEW BUSINESS

Case No. ZA-12-85. Van Kniest, Inc.

Mr. Farmer stated that AES, A Professional Corporation, on behalf of Van Kniest, Inc. had requested a variance of .89 feet from the setback provisions of Section 20-173 of the James City County Zoning Ordinance. The encroachment of .89 feet into the setback area was discovered during a title survey by AES. Mr. Farmer recommended that even though the encroachment was minor, it was still in violation of the Zoning Ordinance, and since no legal hardship had been shown the staff would have to recommend denial.

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

Mr. Miller, a representative for AES, explained that they had made a mistake in the layout of the house.

Mr. Rosenberg asked how the staking out accident happen?

Mr. Miller explained that there was a curve shown on the plat that the field crew did not take into account.

Mr. Feigley motioned to approve the variance as requested.

Roll call was as follows:

Mr. Feigley Yes
Mr. Rosenberg Yes
Ms. James Yes

The variance was approved 3-0.

Case No. ZA-13-85. Robert Hornsby.

Mr. Farmer explained that AES, A Professional Corporation, on behalf of Robert and Lois Hornsby, had requested a variance from the lot width requirements of Section 20-174 of the Zoning Ordinance. This variance was for a proposed lot in a new section of Windsor Forest Subdivision. The subdivision plans for the property had been engineered and one lot (lot number 5 of the Subdivision) was made deeper and larger in area than the others. Subdivision approval for this proposed plan had been withheld pending the disposition of the requested variance. Mr. Farmer stated that the Ordinance required that lots of greater than one acre require a minimum width at the setback line of 150 feet. Since the applicant created the condition himself, and any inconvenience is self-imposed, no hardship has been created by application of the Ordinance. It was the staff recommendation that the Board deny the requested variance since granting the request would effectively be a legislative action, one specifically the responsibility of the Board of Supervisors.

Mr. Rosenberg opened the public hearing and asked if anyone would like to speak.

Mr. Small, representative of AES, stated the Mr. Hornsby was a good planner and had exceeded the size of all the lots in this subdivision. He said the problem was with the geometry of the land because of its long and narrow size.

Mr. Hornsby stated that this problem had never happened before and that his father always used good planning practices in developing a subdivision.

Mr. Feigley asked Mr. Davis whether this matter should be presented before the Board of Supervisors instead of the Board of Zoning Appeals.

Mr. Davis stated that if the Board could find a hardship it was a matter for this Board.

Mr. Hornsby stated that in his opinion most variances were self-imposed.

Mr. Feigley asked Mr. Hornsby if the variance was not granted, would he try to apportion the land to the other lots.

Mr. Hornsby stated that they would probably try to redesign the size of the lots so that they would conform, but they had done what they thought was the best thing in this situation.

Mr. Rosenberg asked Mr. Hornsby if he had considered giving the back portion of the lot to the church that was adjacent to it.

Mr. Small stated that it would mean changing plats, but it could be done.

Mr. Feigley stated concern over setting a precedent.

Mr. Rosenberg closed the public hearing.

Mr. Feigley asked if the subdivision plan had been reviewed.

Mr. Davis stated that the Planning Commission had reviewed the subdivision and supported the planning aspect of the subdivision plan.

Mr. Feigley motioned that the Board approve the variance as requested.

Roll call was as follows:

Ms. James	Yes
Mr. Rosenberg	Yes
Mr. Feigley	Yes

Variance was granted 3-0.

Case No. ZA-14-85. Kenneth Matthews.

Mr. Farmer stated that Mr. Matthews had applied for a variance from the side yard requirements of Section 20-196. Mr. Matthews was cited by a building inspector for construction of his garage without a permit. Upon application, however, he discovered that he placed the garage too close to the side yard line. It is the staff recommendation that no unique or special circumstances pertaining to the property exist which are grounds for a hardship and the recommendation must be for denial.

Mr. Rosenberg opened the public hearing and asked if anyone would like to speak.

Mr. Matthews stated that his neighbor had no objection to his garage and explained that he was unaware of setback distances or the requirement for a permit.

Mr. Feigley asked Mr. Matthews how long had he been a resident of James City County.

Mr. Matthews explained that he had returned from Germany and moved into the house in the summer.

Mr. Rosenberg asked what was on the other side of his lot. Mr. Matthews stated that it was a vacant lot.

Mr. Rosenberg moved that the variance be granted.

Roll call was as follows:

Mr. Feigley	Yes
Mr. Rosenberg	Yes
Ms. James	Yes

Variance was granted 3-0.

Case No. ZA-15-85. Elbert Walker.

Mr. Farmer explained that Mr. Elbert Walker on behalf of Mt. Calvary Seventh Day Adventist Church had requested a variance from Section 20-12 of the James City County Zoning Ordinance in order to reduce their required parking spaces to zero. The applicant had failed to show that strict application of the Ordinance caused hardships, prevented use, and approached confiscation. The staff recommendation was that the variance be denied in all respects.

Mr. Rosenberg opened the public hearing.

Mr. Walker explained that there were only 15 pews to the church and at most, allowed seven people per each row. The basis for the parking was based upon the sanctuary alone and his client had not expressed an intent to expand the sanctuary at all. He does intend to add multi-purpose space for classrooms and meeting rooms, and that is what they wanted to determine whether or not parking restrictions would apply.

Mr. Rosenberg asked Mr. Walker why the plat showed a 40 car parking lot.

Mr. Walker stated that it was based upon seating capacity of 200.

Mr. Rosenberg asked Mr. Farmer if the parking lot was a 40 car parking lot?

Mr. Farmer stated that the requirement would be for a 21 car parking lot. However, the applicant has requested a variance for zero. He further stated the 40 car lot was based on an assumption that the sanctuary seated 200.

Mr. Rosenberg asked Mr. Farmer if the applicant were to build a parking lot under the code, would it have to be a paved parking lot? Mr. Farmer stated that it would not have to be paved.

Mr. Rosenberg closed the public hearing.

Mr. Feigley moved to deny the variance for zero parking. Ms. James seconded the motion.

Mr. Feigley amended his motion to "deny the motion as presented". Ms. James seconded the amended motion.

Roll call was as follows:

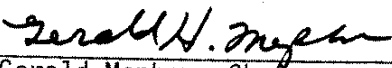
Mr. Feigley Yes
Mr. Rosenberg Yes
Ms. James Yes

21. Variance was denied 3-0. The requirement for parking was determined to be

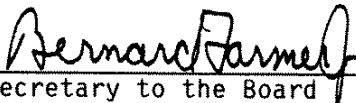
5. MATTERS OF SPECIAL PRIVILEGE

6. ADJOURNMENT

Meeting was adjourned at 9:30 p.m.



Gerald Mepham, Chairman



Secretary to the Board

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