

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-FIRST DAY OF NOVEMBER, NINETEEN HUNDRED AND EIGHTY-FIVE.

1. ROLL CALL

Members Present

Mr. Ronald Rosenberg  
Mr. David Hertzler  
Ms. Elizabeth Vaiden  
Ms. Claude Feigley  
Ms. Nancy James

Others Present

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

2. MINUTES

The October 24, 1985 minutes were approved as presented.

3. OLD BUSINESS

Mr. Coles case was deferred until the next scheduled meeting.

4. NEW BUSINESS

Case No. ZA-21-85. Charles Braman

Mr. Farmer stated that Mr. James McReynolds, the contractor had applied on behalf of the owner, Charles Braman, for a variance from the rear yard provisions of Section 20-155 of the James City County Zoning Ordinance. On March of 1985 a building permit was issued to Mr. McReynolds and he built a single-family dwelling at 123 Tom Taylor Road in the Lake Toano Subdivision. The plat plan accompanying the building permit indicated the structure was to be placed approximately 60 feet from the rear lot line, however the house was built 31.88 feet from the rear line, resulting in an encroachment of 3.12 feet into the rear yard. In order to be granted a variance, the applicant should demonstrate that a hardship exists that prevents beneficial use of the land. The staff recommendation was for denial.

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

Mr. McReynolds, the contractor, stated that he had staked the house out by what he thought were the survey lines, however they were not. He said that only one corner of the house encroached into the setback area. Mr. McReynolds asked that the board grant the variance and stated that the area behind the house would never be built upon.

Mr. Rosenberg asked who owned the property behind the house. Mr. McReynolds stated that the property was owned by Newport News Waterworks. Mr. McReynolds stated that he did not realize that he was that close to the property line. He stated that he had since, started using a survey company and would eliminate this problem happening again.

Ms. Vaiden asked why he originally started out with a 60 foot setback in the rear yard and apparently used the 35 foot setback.

Mr. McReynolds stated that he placed the house where he thought it would be 60 feet from the rear property line. Mr. McReynolds stated that the lot was very unusually shaped.

Mr. Rosenberg asked if the house was completed. Mr. McReynolds answered yes, and stated that the owners had been in the house for several months.

Mr. McReynolds stated that he would like to have the requested variance in the event the house was ever sold.

Mr. Feigley asked Mr. Farmer what the Code Compliance Office did to see if a building was actually built according to the permit. Were there any safeguards in that area?

Mr. Farmer stated that there was very little that the inspectors could do because quite often the lots were grown over, and the locations were not precise. He said it was impossible for an inspector to walk around and physically located the rear line and measure to determine the location.

Mr. Feigley stated that the difference between 30 and 60 feet was pretty severe.

Mr. Braman stated that the lot had a very peculiar shape. He stated that when he bought the lot he was told that the easement ran directly through the lot and actually it did not.

Mr. Rosenberg closed the public hearing and asked the wishes of the board.

Mr. Feigley stated that he had visited the site and he saw no hardship on the community by granting a variance and moved that the variance be granted and Mr. Hertzler seconded the motion.

Roll call was as follows:

Mr. Hertzler	Yes
Ms. Vaiden	Yes
Mr. Feigley	Yes
Ms. James	Yes
Mr. Rosenberg	Yes

Motion was carried 5-0 to grant the variance.

Case No. ZA-22-85. A. Wayne Brady.

Mr. Farmer stated that Mr. Brady had requested variances from the side yard requirements of Section 20-135 of the James City County Zoning Ordinance. Mr. Brady desired to build on lot 14 of the newly platted Drummond's Field Subdivision which abuts the James River. Mr. Brady had planned on building a house 104 feet wide a lot 110 feet wide. In the A-2, Limited Agricultural Zoning District, a minimum of 15 feet on each side is required. It is the staff recommendation that since the structure has not yet been constructed nor has any permit been issued, the variances requested are solely for the convenience of the property owner. The lot is fully buildable and there are no unusual characteristics pertinent to that lot which would constitute grounds for a hardship on the owner's part. The staff recommendation is for denial.

Mr. Rosenberg asked Mr. Farmer if other lots in the subdivision were built on. Mr. Farmer stated that there were three outstanding permits on homes under construction.

Mr. Rosenberg asked if the other homes conformed to the side yard requirements. Mr. Farmer stated that they did.

Mr. Rosenberg asked if the land to the left of the subdivision, owned by Frances M. White, was part of the subdivision. Mr. Farmer stated that land was not part of the subdivision.

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

Mr. A. Wayne Brady stated that the house he would like to build on the lot was of substantial size and because of the style of home, it would be impossible to cut the size down. He stated that if he did not get the variance he would have to scratch the plans and build another type house. He stated that he had talked to Mr. White and he had no objections and would give him first option to buy the property if it became available.

Mr. Rosenberg asked Mr. Brady where he planned to store his cars in this house. Mr. Brady stated that the plans showed a three car garage and access would be on the side.

Mr. Brady and the board members looked at the house drawings and Mr. Brady explained the layout of the house and showed location of the garage.

Mr. Brady stated that the house would have 6100 square feet of floor space.

Mr. Rosenberg asked if there were any discussion.

Mr. Brady stated that the two adjoining neighbors were in agreement with the requested variances.

Mr. Feigley stated that granting such a variance would set a precedent that the board would be faced with on every lot in the subdivision.

Ms. Vaiden asked if his neighbor was planning to build in the middle of two lots.

Mr. Lewis Waltrip, the adjoining property owner, stated that he had no objection to Mr. Brady building that close to the property line because he had bought three lots together. He stated that he had not planned to build within 50 feet of the property line.

Ms. Vaiden asked Mr. Brady if he could possibly buy a slice of property next to his lot and eliminate the need for a variance.

Mr. Cogdill, the developer, stated that the convenience prohibited the subdivision of lots.

Mr. Feigley wanted the record to reflect that lots could not be subdivided in that subdivision.

Mr. Davis stated that the covenant would not allow property owners to subdivide lot in the subdivision.

Mr. Rosenberg closed the public hearing.

Mr. Hertzler made a motion to deny the variance. Ms. James seconded the motion.

Roll call was as follows:

Mr. Hertzler	Yes
Ms. Vaiden	Yes
Mr. Feigley	Yes
Ms. James	Yes
Mr. Rosenberg	Yes

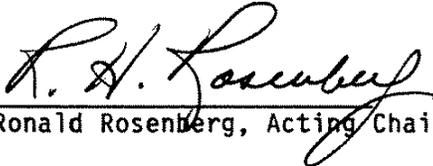
Motion was carried 5-0; variance denied.

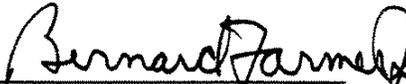
5. MATTERS OF SPECIAL PRIVILEGE

6. ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

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Ronald Rosenberg, Acting Chairman

  
Bernard M. Farmer, Secretary to the Board