

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-SIX DAY OF JUNE, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Members Present

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

Others Present

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

2. MINUTES

The May 22, 1986 minutes were approved as presented.

3. OLD BUSINESS

Mr. Davis stated that the county was in the process of setting a hearing date in regard to the 64 Associates case.

4. NEW BUSINESS

Case No. ZA-9-86. Nancy Brown

Mr. Farmer stated that Mr. Richard Costello, on behalf of the the owner, had applied for a variance of 35 feet from the setback in order to construct a building on property located at 101 Depot Street. The property in question is presently part of two parcels. Parcel 1 front on Richmond Road and has a non-conforming structure on it. Part of the parking lot for Parcel 1 is on Parcel 2, which is presently undeveloped. The applicant desires to develop Parcel 2 in a business use consistent with M-1 zoning.

Section 20-354 of the Zoning Ordinance establishes setback requirements of 75 feet from the center line of Depot Street for any building. Additionally, Section 20-355 would require minimum of 20 feet side and rear yards for the property. By adherence to the ordinance, the only area left for a building would be a strip approximately 15 feet deep at one end, 25 feet at the other and 150 feet wide. Since a business building of unusual dimensions would be deeper than 15 to 20 feet, the lot effectively is undevelopable.

Due to the lot's narrow depth from Depot Street, the setback requirements effectively preclude a business development for which this parcel is zoned. This amounts to a hardship not generally shared by other owners of lots within the same zoning district. The staff recommendation is that the variance be granted subject to the following conditions:

1. That no building or structure be placed closer than 40 feet from the right-of-way of Depot Street (this would provide a setback of 30 feet if Depot Street is widened to the State secondary road standard of 50 feet).
2. That the developer adhere to all perimeter landscape requirements of the M-1 Zoning District and the off-street parking provisions of the Zoning Ordinance, Section 20-12.

Mr. Rosenberg opened the public hearing.

Mr. Costello stated that the 40 foot setback requirement would allow a 35 foot building, which would be acceptable. However, his only concern would be cutting off a corner of the building for sake of the 35 foot setback requirement.

Mr. Hertzler asked Mr. Costello if he had building drawings. Mr. Costello stated that he did.

Mr. Rosenberg asked the distance from the lot line to the corner of the building.

Mr. Costello stated that it was 20 feet.

Mr. Feigley moved that the variance be granted with Mr. Farmer's first recommendation changed to read "That no building be placed closer than 37 feet from the right-of-way of Depot Street".

Ms. Vaiden seconded the motion.

Roll call was as follows:

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

The variance was granted 5-0.

Case No. ZA-10-86. Venture Properties II

Mr. Farmer stated that Mr. Richard Costello had requested an interpretation concerning the placement of structures in relation to setback lines for a business development. The property in question is at 6546 Richmond Road and is zoned M-1.

The applicant has requested that the Board establish whether or not within the M-1 zoning district a garbage dumpster concrete pad and enclosure may be considered exempt from the side and rear yard setback requirement. Section 20-355 of the ordinance states in part that "structures shall be located 20 feet or more from side and rear property line." Staff recommended that the interpretations concerning Section 20-355 in the M-1 Zoning District be upheld.

Mr. Rosenberg asked how close an accessory structure could be placed to a property line if the property was zoned General Agricultural.

Mr. Farmer stated that in a A-1, 5 feet was the requirement and in a LB Zone, 10 feet was the requirement.

Mr. Hertzler asked if the dumpster was considered a structure.

Mr. Farmer stated that a dumpster was considered a structure.

Mr. Davis and Mr. Hertzler had discussion over the definition of structures.

Mr. Costello stated that the dumpster would be placed in the rear of the property.

Mr. Rosenberg closed the public hearing.

Mr. Hertzler stated that he did not think the dumpster should be considered a structure. He moved that the administrator's decision that a dumpster was a structure be overturned.

Mr. Rosenberg stated that he could not vote in favor of the requested interpretation and would favor the staff determination.

Mr. Feigley stated that he would prefer entertaining a variance request as opposed to opening up placement of structures in the setback. deny the request. Mr. Hertzler's previous motion to overturn the Zoning Administrator's interpretation concerning placement of structures was then voted on.

Roll call was as follows:

Mr. Hertzler	Yes
Ms. Vaiden	Yes
Ms. James	No
Mr. Feigley	No
Mr. Rosenberg	No

The motion was denied 3-2; the zoning administrator's interpretation was upheld.

Case No. ZA-11-86. Kenneth Dickinson

Mr. Farmer stated that Mr. Dickinson had requested variances from several provisions of the Zoning Ordinance in order to build a mobile home park at 6395 Centerville Road. The application shows 24 lots for mobile homes each being 50-feet wide. The applicant would need variances from Section 20-63; Lot Width, and 20-65(B), Minimum Yard Requirements. He then recommended denial because the applicant had already placed the lot into beneficial use by having two structures on it and he had failed to demonstrate a hardship.

Mr. Rosenberg opened the public hearing.

Mr. Dickinson stated that the existing structures were not the best use of the property. He stated that the property was already between two mobile home parks and the proposed use would be more acceptable than the use presently existing.

Mr. Hertzler motioned to defer from voting on this case until all the board members had an opportunity to visit the site. Mr. Dickinson agreed to the site visit.

Mr. Rosenberg seconded the motion.

Roll call was as follows:

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

The case was deferred until the next meeting.

Case No. ZA-12-86. Williamsburg Assembly of God

Mr. Farmer stated that the Williamsburg Assembly of God had requested a variance from Section 20-246 and Section 20-248 of the James City County Zoning Ordinance as it pertains to off-street parking. The property is located at 5232 Longhill Road. The applicant desires to build a church with required off-street parking on their property. Since the property is zoned Multi-Family Residential, they are precluded by Sections 20-246(E) and 20-248(D) from placing the required parking within 50 feet of Longhill Road and with 35 feet of the adjoining property. These regulations provide for an undeveloped buffer strip around multi-family developments, but fail to take into consideration the differing characteristics of other permitted uses within that zoning district.

Adequate depth of the property exists from Longhill Road to meet the Ordinance requirements. Since other properties adjacent and near this proposed development share this restriction, granting a variance would amount to a special privilege and would be contrary to ordinance requirements and intent.

It is the staff recommendation that no variance be granted concerning the setback requirement from Longhill Road. Staff recommends, however, that a variance be granted from the requirements for parking in a side yard subject to the applicant developing the parking area in accordance with the provisions of Section 20-12.

Mr. Rosenberg opened the public hearing.

Mr. Dean Ross stated that he was hoping to decrease the buffer strip.

Mr. Rosenberg asked if the 40 foot measurement was taken from the property line to the roadway.

Mr. Hertzler stated that he did not have a problem granting the requested variances.

Mr. Rosenberg stated that the applicant was asking for variances from Section 20-246(E) for a 10-feet; Section 20-248(D) 30 feet on each side.

Ms. Vaiden stated that she did not have a problem granted the requested variance. Ms. James moved that the requested variances be granted and Ms. Vaiden seconded the motion.

Roll Call was as follows:

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

The requested variances were granted as requested 5-0.

Case No. ZA-13-86. Richard Gordon

Mr. Farmer stated that Mr. Gordon had requested a variance from the lot width requirements of Section 20-134, in order to add area to an existing lot. The owner desires to extinguish a lot line, increasing the area of the lot beyond an acre. The Zoning Ordinance width requirement for a lot of this area (two acres) would be 150 feet and the lot presently has 105 feet of width. It is the staff recommendation that since no hardship has been shown peculiar to this lot that the requested variance be denied.

Mr. Rosenberg opened the public hearing.

Mr. Gordon stated that he had read the ordinance and he did not see why this would create a problem. He also stated that his neighbor had no objections to him increasing the size of his lot.

Mr. Feigley moved that the variance be granted. 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

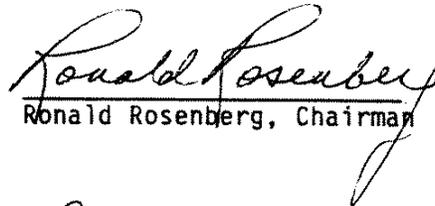
The variance was granted 5-0.

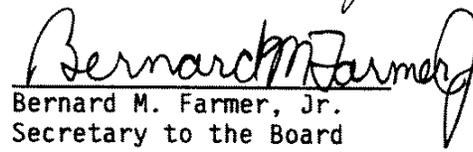
5. MATTERS OF SPECIAL PRIVILEGE

6. ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

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Ronald Rosenberg, Chairman


Bernard M. Farmer, Jr.
Secretary to the Board