

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-FOURTH DAY OF JULY, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Members Present

Mr. Ronald Rosenberg
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

3. OLD BUSINESS

Case No. ZA-11-86. Kenneth Dickinson

Mr. Rosenberg stated that there was no clear statement on Mr. Dickinson's application as to what he was asking for by the Board of Zoning Appeals.

Mr. Hertzler stated that after looking at the property, the only thing that could be done with the property was leave it like it was or turn it into a mobile home park.

Mr. Rosenberg asked what would be necessary to allow Mr. Dickinson to build what he wanted to build.

Mr. Farmer stated that the lot had a total width of 200 feet. A 50-foot right-of-way would have to be provided as well as a 100-foot setback for the mobile homes. Fifty feet would be left for placement of the homes themselves.

Mr. Feigley stated that he saw two problems. One, Mr. Dickinson was asking for 50-foot widths instead of 60-foot widths and two, the problem with the 100-foot clearance from adjacent property lines.

Ms. Vaiden made a motion to grant a variance from Section 20-65(b). Mr. Hertzler seconded the motion.

Ms. James asked if this case was similar to a case brought before the board last year and the request was denied.

Mr. Farmer stated that this case was similar to the other and it was his intent to ask what hardship was found in this case if the board were to decide favorably.

Ms. Vaiden stated that the hardship was that the lot was situated between two mobile home parks already and the only sensible use would be for this lot to become a park also.

Roll call was as follows:

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

Variance was granted from Section 20-65(B).

Mr. Rosenberg stated that the variance to Section 20-63; lot width, to bring the lot width from 60 to 50 feet be considered.

Mr. Hertzler made a motion to deny the request to Section 20-63. Mr. Feigley 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 denied 5-0.

4. NEW BUSINESS

Case No. ZA-14-86. Bertrund Geddy

Mr. Farmer stated that Mr. Bertrund Geddy had applied for a variance of 55-feet from the setback requirements of Section 20-355 of the James City County Zoning Ordinance. Section 20-355 states the minimum side and rear yards shall be increased from 20 feet to 75 feet when the property abuts property in a residential portion of a planned unit development. It is Mr. Geddy's desire to relocate a house to this parcel and convert it to office space. However, one structure presently exists on the property which has been placed into beneficial use. The location of the second structure to the parcel is what requires a variance.

The ordinance provides that a variance may be granted when due to exceptional narrowness, size, or shape, application of the ordinance produces undue hardship. In this case, no hardship has been demonstrated. The requested variance would amount to granting a special privilege. The staff recommendation is that the variance be denied.

Mr. Rosenberg questioned the uses of the property surrounding the lot.

Mr. Hertzler asked if the property could be rezoned in order to meet the requirements.

Mr. Larry Davis stated that if the property was rezoned to LB, the setback requirement would only be 30 feet.

Mr. Farmer stated that the lot was already in use with one structure and this situation was created solely by the owner since he owned the surrounding property originally.

Mr. Rosenberg opened the public hearing.

Mrs. Sharon Geddy stated that the house was a historic landmark was in the center of a Planned Unit Development. The house had been in her husband's family for a long time. She and her husband were not aware of this problem when they sold the property around the lot.

Ms. Vaiden asked if it would be possible to make the lot part of the PUD.

Mr. Davis stated that it could not be done because the properties would have to be under the same ownership.

Mr. Farmer stated that a residential development would be surrounding the lot.

Mr. Rosenberg stated that Section 20-355 would restrict the owner even more and did create an unusual hardship.

Ms. James asked if any adjacent property owners had any objections to the proposed variance.

Mrs. Geddy stated that there were no objections.

Mr. Hertzler made a motion to approve the variance due to the hardship of the configuration of the land.

Mr. Davis suggested that the board include conditions to the variance. Mr. Hertzler agreed.

Mr. Rosenberg amended Mr. Hertzler's motion to read that "the variance granted from Section 20-355 is for the placement of the structure as indicated on the drawings and for the use as offices only."

Mrs. James seconded the motion.

Roll call was as follows:

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

Variance was approved with conditions 4-1.

Case No. ZA-15-86. Venture Properties II

Mr. Farmer stated that Mr. Richard Costello of AES has requested a variance of 10-feet from the requirements of Section 20-355 of the James City County Zoning Ordinance. The property is located at 6600 Richmond Road. The parcel is zoned M-1. It is the applicant's desire to place a dumpster with pad and fence enclosure 10-feet from a property line. The site is to be occupied by a Burger King Restaurant. Staff has previously made the interpretation that a dumpster enclosure with concrete pad and drain, is a structure fixed in location, and must meet the setback requirements. In a previous case the applicant requested that the Board of Zoning Appeals overturn this interpretation, a request subsequently denied. No evidence has been shown to prove a hardship, or that the lot can't be placed in beneficial use.

Since no unusual characteristics of the property have been shown which unreasonably restrict its use and which are sufficient to prove a hardship. It is the staff recommendation that this request be denied.

Mr. Rosenberg opened the public hearing.

Mr. Costello stated that he had not expected the staff's lack of support on this project. He stated that similar structures had been placed into the setback at at the Pottery, 7-11, Kentucky Fried Chicken, etc. However, this was prior to Mr. Farmer becoming Zoning Administrator and this was the only hardship he could demonstrate.

Mr. Rosenberg asked how much a variance was being requested.

Mr. Costello stated 10-feet.

Mr. Rosenberg asked what was the minimum side yard requirement in the M-1 zoning district. Mr. Costello stated 20-feet.

Mr. Feigley moved that the variance be granted. Mr. Hertzler seconded the motion.

Mr. Davis suggested that conditions be added to the variance.

Mr. Feigley amended his motion to read that the variance be granted for the construction of the dumpster in the setback area as indicated on the plans.

Roll call was as follows:

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

The variance was granted 4-1.

Case No. ZA-16-86. Williamsburg Associates

Mr. Farmer stated that Mr. Richard Costello, of AES, has requested a variance of 10-feet from the requirements of Section 20-355 of the James City County Zoning Ordinance in order to allow a dumpster to be placed within the setback area. The property is zoned M-1. The site is to be occupied by a Western Sizzler Restaurant. No evidence has been shown to prove a hardship, or that the lot can't be placed in beneficial use. The staff recommends that the requested variance be denied.

Mr. Rosenberg opened the public hearing.

Mr. Costello stated that the dumpster was sandwiched between the building and an existing fence and he thought it would be the best location for a dumpster.

Ms. James made a motion to grant the proposed variance with the condition that the dumpster be constructed as shown on the proposed plans.

Ms. Vaiden seconded the motion.

Roll call was as follows:

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

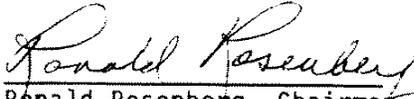
The variance was granted 5-0.

5. MATTERS OF SPECIAL PRIVILEGE

Ms. James suggested that the Board members have identification when they were out visiting sites. Mr. Farmer stated that identification cards could be made.

6. ADJOURNMENT

The meeting was adjourned at 8:30 p.m.


Ronald Rosenberg, Chairman


Bernard M. Farmer, Jr.
Secretary to the Board

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