

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 THIRTIETH DAY OF SEPTEMBER, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Members Present

Mr. Ronald Rosenberg
Mr. David Hertzler
Mr. Claude Feigley

Others Present

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

2. MINUTES

The June, July, and August minutes were approved as presented.

3. OLD BUSINESS

Mr. Rosenberg stated that there was one matter of old business for Case No. ZA-19-86, The Muffler Doctor, the applicant had requested a rehearing. Mr. Feigley stated that his only concern was whether the applicant really did received proper notification.

Mr. Davis stated that when the application for the variance was made, the applicant was informed at that time of the meeting date. The copies of the adjacent property owners were not sent to the applicant. There was no legal requirement that any further notification be made.

Dr. Sternberg stated that the meeting date was mentioned at the time he applied for the variance. He was told that he would receive a letter telling him exactly of the date, time, and place plus he would receive copies of adjacent property owner letters.

Mr. Hertzler suggested that Mr. Sternberg wait until all members were present then listen to Mr. Sternberg's argument.

Mr. Rosenberg suggested to table the reconsideration of the case until the next meeting.

Mr. Davis stated that Roberts Rules of Order govern the meetings. It was questionable whether or not the board could reconsider in a subsequent meeting. He suggested that a motion to reconsider be made and seconded and then tabled.

Mr. Rosenberg motioned to reconsider the case. Mr. Feigley seconded the motion.

Mr. Feigley motioned to table the case until the next meeting. Mr. Hertzler seconded the motion.

4. NEW BUSINESS

Case No. ZA-20-86. Ronald Berry

Mr. Farmer stated that Mr. Ronald Berry, the owner, had applied for a variance of 10 feet from Section 20-356 of the James City County Zoning Ordinance. The case pertains to two parcels of property, one at 7880 and the other at 7882 Richmond Road. Both parcels are zoned M-1, Limited Industrial Zoning District. A building exists on one parcel and is presently in use as a business. The applicant is concerned over the Highway Department has proposal to stop on-street parking in front of his business and is afraid that his business will not have adequate parking. He desires to provide his own parking on an adjacent lot. In addition to a variance from landscaped perimeter provisions, Mr. Barry would also need a one foot variance from the geometric design standards of Section 20-12. Mr. Barry's property was not adjacent to the residential portion of planned unit development due to a variable width alley in the back of his lot. Mr. Barry has not demonstrated that a hardship exists. The staff recommendation is for denial. However, if the board would positively consider the request, there are three items that would be important to granting the request.

1. That a site plan be submitted and approved prior to any construction activity.
2. That a landscape plan be indicated as part of the site plan.
3. That the entrance to Richmond Road be designed and constructed to VDH&T's standards for commercial entrances.

Mr. Rosenberg asked Mr. Farmer about the one foot variance from the 23 foot width requirement due to the angle.

Mr. Farmer stated that there would be a portion of the parking lot that Mr. Barry could bring into conformance and meet the requirement, but for a small part at the rear a variance was required.

Mr. Rosenberg asked Mr. Farmer to explain what Mr. Barry could do to meet the requirements of the Zoning Ordinance regarding the landscape perimeter strip.

Mr. Farmer stated Section 20-12(b)(1) of the ordinance requires that a parking lot be separated from property lines by a landscape strip of at least 10 feet in width. Mr. Barry presently has two lots. The landscape strip could not be provided at the property line along the building because that is where he wants to create the parking lot.

Mr. Rosenberg asked if Mr. Berry would comply if the lot line did not exist between the two lots.

Mr. Farmer stated that there was another section in the ordinance that would require the landscape perimeter strip not only around the property lines but around the parking lot itself. He said that the strip would not be required adjacent to the building if the lot line were removed.

Mr. Rosenberg asked if anyone would like to speak in favor of the requested variance.

Mr. Ronald Berry stated that he thought a 20 foot landscape strip was required rather than a 10 foot requirement. He stated that the boundary line between the two lots would be eliminated.

Mr. Rosenberg asked Mr. Berry if he would construct the parking lot as the drawings indicated if the variance was granted.

Mr. Berry stated that he would.

Mr. Wayne Gilley stated that he felt Mr. Farmer was incorrect when he stated Mr. Barry did not demonstrate a hardship in this case. He felt that Mr. Barry would follow any recommendation the board would make.

Mr. Rosenberg stated he was confused with the landscape buffer strip. Mr. Farmer stated that under the ordinance a 10 foot landscape perimeter strip was required between a property line and the parking lot. If that parking lot was adjacent to property that's zoned residential, then a 20 foot strip would be required.

Mr. Rosenberg asked Mr. Farmer if he interpreted Mr. Barry's lot as not being adjacent to the residential property because of the alley.

Mr. Farmer stated that the alley as shown on County maps was as a free-standing, separate parcel. Mr. Farmer stated that the lot was not adjacent to residential property.

Mr. Lynn Evans, Architect, stated that he wanted the board to clear the matter up in the event the alley next to Mr. Barry's property was residential area.

Mr. Farmer stated that the strip of land by the residential property (Burnt Ordinary) would provide access to the PUD. He did not see any reason to interpret that strip of land residential.

Mr. Rosenberg motioned to grant the 1-foot variance on the right-of-way aisle as stated in the staff memorandum with the understanding that the adjacent property was not zoned residential. Mr. Hertzler seconded the motion.

Roll call was as follows:

Mr. Hertzler	Yes
Mr. Feigley	Yes
Mr. Rosenberg	Yes

A 1-foot variance was granted 3-0.

Case No. ZA-21-86. Wendy's International

Mr. Farmer stated that Mr. Richard Costello on behalf of the owner had requested a variance of 10 feet from Section 20-355 of the Zoning Ordinance in order to place a dumpster into the setback area. The property is located at 6666 Richmond Road.

Mr. Costello stated that he had been over several areas in the County and looked at other M-1 zone and there were numerous similar structures located into the setback area.

Mr. Feigley made a motion to grant the variance as requested. Mr. Hertzler seconded the motion.

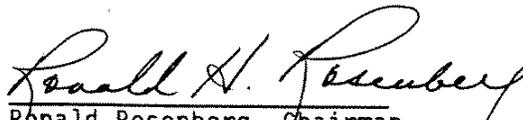
Roll call was as follows:

Mr. Hertzler	Yes
Mr. Feigley	Yes
Mr. Rosenberg	Yes

5. MATTERS OF SPECIAL PRIVILEGE

6. ADJOURNMENT

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


Ronald Rosenberg, Chairman


Bernard M. Farmer, Jr.
Secretary to the Board