

BOARD OF ZONING APPEALS

MINUTES

November 17, 1988

A. ROLL CALL Absent

Mr. Bob Ripley
Ms. Nancy James
Ms. Elizabeth Vaiden
Mr. Claude Feigley

Others Present

Mr. Bernard Farmer, Secretary to the Board
Mr. Larry Davis, Assistant County Attorney

B. MINUTES

The July 28 and October 27, 1988 minutes were approved as presented.

C. OLD BUSINESS

1. ZA-23-88 Prime Associates

Mr. Farmer stated that Prime Associates, Inc., had requested a variance of 5.9 feet from the front setback requirements for a newly constructed home. Mr. Farmer further stated that a permit was issued in March of 1988 to construct the dwelling on this parcel positioned forty two feet from the front property line. Evidently during construction some change in location was made moving the home approximately twelve feet forward on the lot. The lot is situated on a slight curve in the road and according to the applicant was misplaced partly due to their thinking that the road was straight at that point. The home is completed and a Certificate of Use and Occupancy was issued prior to discovery of the violation. No unusual topographic conditions or lot characteristics have been shown which distinguish the parcel from others like zoned. No legal hardship has been demonstrated and staff recommends denial.

Ms. Vaiden opened the public hearing.

Mr. D.W. Mitchell stated that he thought the setback line would be determined from the edge of the blacktop/asphalt. The actual property line is at the end of the drainage ditch. Mr. Mitchell further stated that this

was only his second house in James City County and that in the future he will have his sites surveyed.

Mr. Feigley asked Mr. Mitchell if he made any attempt to locate the pins.

Mr. Mitchell stated that he did find the back pins but thought he needed to use the edge of the blacktop.

Mr. Ripley asked if he found the front pin.

Mr. Mitchell stated that the front pin was located at the bottom of the drainage ditch, and he did not find it..

The Board discussed how the removal of a portion of the garage would affect the appearance of the house and the use of the garage.

Ms. Vaiden closed the public hearing.

The Board discussed with Mr. Farmer the possibility of requiring all applicant wanting to build new single family dwellings or addition provide a survey plat plan prior to a building permit being issued.

Mr. Feigley asked Mr. Mitchell what his alternative would be if the variance were denied.

Mr. Mitchell stated his only alternative would be to remove a portion of the garage. The Board discussed how that would be feasible.

Mr. Feigley motioned to grant the variance as requested.

Ms. James seconded the motion.

The motion was carried 3 to 1, with Ms. James opposed. She stated her vote was to show that the Board is not always in unanimous support of these request.

2. ZA-24-88 Estate of David Ware

Mr. Farmer stated to the Board that the Estate of David Ware had withdrawn their case and that a settlement was reached.

D. NEW BUSINESS

1. ZA-27-88 Energy Services Group

Mr. Farmer stated that Energy Services Group had requested a variance of three feet from the side yard requirements for a single family dwelling. Mr. Farmer further stated in July of 1988 a permit to construct a single family dwelling was issued. Their proposed plot plan showed the dwelling to be located at least fifteen feet from the side property lines. Evidently their original plan was slightly out of scale and some reorientation of the dwelling was necessary during construction. This apparently caused an encroachment of approximately three feet into the fifteen foot yard requirement. Since no legal hardship had been demonstrated and no unique or unusual topographic conditions have been shown which prevents the lots placement into beneficial use, staff must recommend denial.

Ms. Vaiden opened the public hearing.

Mr. Jay Kinner, a representative for Energy Services Group, stated that they tried to save a tree near the porch and in doing so the encroachment occurred. He further stated they had tried to purchase a portion of an adjacent lot. No one could sell a portion of property to them without encroaching into their setback areas.

Mr. Feigley asked about the exterior of the garage.

Mr. Kinner stated the garage has a brick foundation.

Mr. Ripley asked if they had considered making the house smaller; even by a foot.

Mr. Feigley asked if he (Mr. Kinner) was the actual person who had staked out the house.

Mr. Kinner stated the he was not involved in the staking of the house. He came into the project during the end of the paper work. This was the first house Energy Services Group has built in James City County.

Mr. Ripley asked if this was a speculative house or if the house had been sold.

Mr. Kinner stated that it was a speculative house.

The Board reviewed the plans of the house to see if the garage could be changed/converted to a one car garage vs a two car garage.

Mr. Ripley stated that in order to change the garage size to avoid the need for a variance, three feet would need to come off the garage.

Mr. Kinner stated that the house plans had been altered and that a bonus room had been added to the original plans.

Mr. Farmer advised Mr. Kinner that he needed to go to the Code Compliance Office and make the changes with the Plans Examiner. The changes were not noted on the plans filed with the County.

Ms. Vaiden asked if anyone else wished to speak on this case.

No one wished to speak.

Ms. Vaiden closed the public hearing.

The Board discussed the need for surveyed plat plans to be submitted with building plans for review by the Plans Examiner prior to a building permit being issued.

Mr. Ripley motioned to approve the variance request.

Ms. James seconded the motion.

The motion was carried unanimously.

2. ZA-28-88 Development Concepts of Virginia

Mr. Farmer stated that Development Concepts of Virginia had requested a variance of four feet from the rear yard requirements for the construction of Building Number 9, located at the Williamsburg Office Park. Mr. Farmer further stated that the roadway curbs and some site development for this building were done at the same time earlier buildings were constructed since construction was proceeding in an area which required the road to pass this building site. Evidently the placement of this previous ground work is closer than intended to the property line. It is the applicant's desire to continue construction using the same architectural design, while keeping the structure aligned with the existing curbs and also maintaining the required ten foot building landscape strip. In order to place a building of the same design with the area dictated by the existing curbs, a variance of four feet is being sought from the fifty foot setback requirements. Since no legal hardship has been demonstrated which prevents the property from being placed into use and other adequate remedies exist to meet the ordinance requirements, staff must recommend denial.

Ms. Vaiden opened the public hearing.

Mr. Alvin Anderson, Attorney representing Development Concepts of Virginia, presented the Board with drawings of the approved site plan.

Mr. Anderson stated there was not much he could add that Mr. Farmer had not stated in his presentation to the Board. Mr. Anderson asked the Board when making their decision if they would consider the following items:

1. The topographic features of the area.
2. The development of the park, the buildings and the landscaping.
3. The unusual shape of the lot.
4. The letters presented to the Board from three adjoining property owners.
5. The fact that the property had been surveyed.

Ms. Vaiden asked Mr. Anderson about a letter from property owner Mary Kelly requesting trees be planted and that lights be provided by the developer illuminating the building after 8:30 PM.

Mr. Anderson stated that Mr. Sirois agrees to plant the trees (Leland Cypress-previously used) approximately three feet apart for a border/boundary if the Board were to grant the variance request.

Ms. Vaiden asked if anyone else wished to speak on this case.

No one wished to speak.

Ms. Vaiden closed the public hearing.

Mr. Feigley motioned to grant the variance request with the added conditions:

1. Leland Cypress trees be planted approximately three feet apart.
2. The site plan be amended to show the Board's recommendation.

Mr. Ripley seconded the motion.

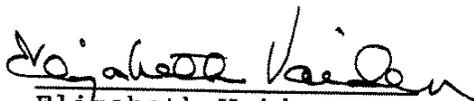
The motion was carried unanimously.

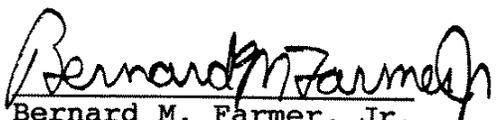
E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

The meeting was adjourned at 8:30 P.M.


Elizabeth Vaiden
Elizabeth Vaiden
Vice-Chairman


Bernard M. Farmer, Jr.
Bernard M. Farmer, Jr.
Secretary