

BOARD OF ZONING APPEALS

MINUTES

March 23, 1989

A. ROLL CALL Absent

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

Others Present

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

B. MINUTES

The January 26, 1989 minutes were approved as presented.

C. OLD BUSINESS

Mr. Farmer advised the Board that Ms. Carolyn Murphy and Mr. John Patton, Code Compliance Officers, had attended the Board of Zoning Appeals Seminar in Richmond and found the course & material very helpful. Mr. Farmer also advised the Board the seminar is scheduled again in the fall and suggested that each member attend if possible.

D. NEW BUSINESS

1. ZA-1-89 Governor's Square

Mr. Farmer stated that Mr. Edwin Robbins, Property Manager for Governor's Square, had applied for a variance related to parking lot arrangement and location for expansion of existing spaces at 4001 Ironbound Road. Mr. Farmer further stated that Governor's Square is a development of seventy-two (72) condominium units in six buildings, developed at a density of 12.54 units per acre. Though this was permitted under R-5 zoning this density is greater than any similar project since approved. The ordinance required that one hundred eight (108) spaces be provided (1.5 per dwelling unit) for off street parking. One hundred thirty two (132) parking spaces were actually provided (or 1.83 spaces/per dwelling) exceeding what was required by twenty four (24) spaces. There is no question that a current parking and traffic problem exists at Governor's Square despite available parking in excess of what our ordinance requires.

Recently, the Planning Office investigated whether or not amendments to our zoning ordinance were appropriate to address parking. Counts taken at six multifamily developments over a one week period showed Governor's Square to be the only development with a problem (evening counts were in the one hundred seventy (170) car range). It was decided that the ordinance was appropriate in its present state as it worked well for projects within the county which have a normal population mix. Governor's Square, with its large student population, appears to be the anomaly.

Substantial staff effort had been expended for Governor's Square to identify parking alternatives. The county position is that the present situation poses a threat to life, property and welfare and that steps should be taken by Governor's Square to improve the situation before a tragedy occurs. In September of 1987 a meeting was held where representatives from staff, the Board of Supervisors, The College of William and Mary, Governor's Square Homeowners, and Berkeley Realty were in attendance. Parking layout alternatives were identified and graphically presented to Ed Robbins and Klemens Barth at the meeting. Discussion occurred regarding various alternatives which would help ease the parking problem...among them:

1. The use of three areas where parking could be constructed without the need for variances.
2. The use of assigned parking or sticker systems.
3. Self policing efforts including signage, striping and towing of illegally parked vehicles.

In February of 1988 a site plan amendment was submitted and subsequently denied because the parking location violated a section of the ordinance. In March of 1988 Rick Kania of the Planning Office met with Mr. Robbins and again outlined alternatives available to Governor's Square which did not need a variance.

The Planning Office received a letter of complaint in July of 1988 from Klemens Barth in which he pointed out that action on behalf of Governor's Square Homeowner's was voluntary and might not take place if the County wouldn't cooperate. This was interpreted as blackmail for support or a variance. To date, no action has occurred on behalf of the Homeowner's which shows a willingness to comprehensively address the parking problem with all available means.

Given the facts presented there is no unreasonable restriction or unusual condition that effectively prohibits uses of the property. Further, there has been no "clearly demonstrable hardship approaching confiscation" but merely a request for special privilege or convenience which is otherwise denied similar properties, therefore staff recommended denial.

Mr. Farmer stated further that should the Board not agree with the staff recommendation and desire to grant the variance, staff strongly recommended the following conditions:

1. That all existing "no parking" areas and drive aisles be posted or striped as such.
2. That strict enforcement for no parking areas be instituted, including towing of vehicles not parked in designated spaces.
3. That a system be instituted to either assign spaces or assign parking permits (at a number limited to less than the total of spaces) so as to control the number of vehicles using the spaces.
4. That sufficient proof be furnished for review and approval by the County as to the Homeowner's Association intent to accomplish item #2, prior to issuance of any land disturbance permit for the project of parking expansion.

Mr. Feigley asked to review the plans.

The Board discussed the location of the proposed construction, landscaping and whether this would correct the problems.

Mr. Feigley opened the public hearing.

Mr. Greg Davis, Attorney representing Mr. Ed Robbins and Governor's Square, briefly went over the issues covered by Mr. Farmer. Mr. Davis advised the Board that by allowing the additional spaces, issuance of stickers and the policing of the parking lot, the problems would no longer exist.

Mr. Davis stated there is indeed a hardship involved,

emergency service vehicles, if needed, would be unable to reach the desired location without difficulty. Mr. Davis further stated that Mr. Robbins and the Homeowner's Association agreed with the staff's conditions if the Board would grant the variance request.

Mr. Larry Davis, Assistant County Attorney, advised the Board if they could find no other solution to this case the applicant could meet the hardship requirement and they could grant the variance with the conditions recommended by the staff.

The Board discussed the possibility of road expansion to Ironbound Road and what this would do to the area.

Mr. Farmer stated the road had been widened approximately five years ago. If the road was to be widened again there is still forty feet in addition to the right of way, but would be difficult to say whether the road will be widened in the future.

The Board discussed with Mr. Davis and Mr. Robbins the other alternatives that were available to them for the parking lot expansion and/or the possibilities of a rearrangement to the existing parking lot/spaces.

Mr. Davis advised the Board that there is a permanent resident who will be in charge of policing the parking lot.

Mr. Feigley asked if anyone else wished to speak on this case.

No one wished to speak.

Mr. Feigley closed the public hearing.

Mr. Ripley motioned to grant the variance with the added conditions recommended by the staff.

Ms. James seconded the motion.

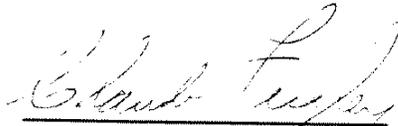
The motion was carried unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

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


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary