

BOARD OF ZONING APPEALS

MINUTES

May 25, 1989

A. ROLL CALL Absent

Mr. Bob Ripley
Mr. Claude Feigley
Mr. Ken Giedd
Ms Nancy James

Others Present

Mr. Bernard Farmer, Secretary to the Board

B. MINUTES

The April 27, 1989 minutes were amended.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-3-89 Richard G. Herbert

Mr. Farmer stated that Mr. Richard G. Herbert had applied for a four foot variance from the rear yard requirements for a deck at 3332 Lancaster Lane located in the Baron Woods Subdivision. Mr. Farmer further stated that on April 12, 1989, Mr. Scott Jarrell applied for a permit to construct a deck for the Herbert's which he evidently had proceeded to construct prior to the permit being issued. The permit was refused because of the setback violation and because Mr. Jarrell was not a registered contractor.

Since no grounds for any undue hardship had been claimed or demonstrated it was the staff's recommendation that this variance be denied.

Mr. Feigley asked if there were any questions.
and opened the public hearing.

Mr. Herbert stated that he realized that he made a mistake while constructing his deck and that behind him was a pipeline and on the other side a power easement. He stated that if a variance was granted it didn't matter because he did not see how a house could be built behind him.

Mr. Feigley asked Mr. Herbert if he realized that a building permit was required.

Mr. Herbert stated that he hired a licensed contractor.

Mr. Scott Jarrell stated that he was told by a local contractor that he did not need a building permit. He then later went to the Code Compliance Office once he had begun the deck because someone else told him that he did need a permit.

Mr. Feigley asked Mr. Jarrell if he was aware of the James City County Building Codes and if he had a copy of the Ordinance.

Mr. Jarrell stated that he was aware of the codes, but not with this situation with the permit and that he did not have his own copy of the ordinance.

Mr. Ripley questioned Mr. Jarrett regarding his actions.

Mr. Jarrell stated that he went to Code Compliance to see if he actually needed a permit because he was confused and he decided to continue with the project because he was at a point where he really did not know what to do.

Mr. Farmer stated that Mr. Jarrell was very honest and basically turned himself in when he visited the Code Compliance Office once realizing what he had gotten himself into.

Mr. Feigley closed the public hearing.

Mr. Farmer stated that Colonial Pipeline easement was directly behind Mr. Herbert and Branscome was on the other side which is zoned business. Any proposed development on Branscome's property will need a large setback because it is adjacent to residential property.

Mr. Ripley made a motion to grant the variance for four feet from the rear yard requirements.

The motion was seconded by Ms. James.

The motion was carried unanimously.

2. ZA-4-89 Walter W. Sims

Mr. Farmer stated that Mr. Walter W. Sims had applied for a five foot variance from the side yard requirements at 3094

N. Riverside Drive in the Chickahominy Haven Subdivision. Mr. Farmer further stated that the Sims' requested the variance to construct a new home on their property where there is an existing cottage presently on the parcel which they want to move to a different location.

It was the staff's recommendation that this variance be denied since there were no unique circumstances or unusual topographic conditions and the property has sufficient space to accommodate the proposed dwelling.

The Board discussed the pie shape of the lot, and viewed the drawing of Mr. Sim's proposed site.

Mr. Feigley asked if there were any questions and opened the public hearing.

Mr. Sims stated that he has owned the property for about 25 years and will be soon retiring and wishes to build a home. He stated he needed to encroach into the right side yard about three feet for approximately a fifteen foot length due to the pie shape of the lot. His adjacent neighbor had no objection. He stated that everyone adjacent to him has 75' width from the street to the water and his property only has 80 feet at the front and narrows to the rear. Lastly, he stated that had his septic system not been existing, which he hoped he could use, he could have extended his house towards the street enough to get what is needed.

Mr. Feigley asked if there were any questions and closed the public hearing.

Mr. Ripley made a motion to grant a variance as presented.

Ms. James wanted to know why Mr. Sims was requesting 5' instead of 3' which Mr. Sims explained he simply wanted to be certain there would be enough allowance if he was short of a few inches. Ms. James seconded the motion.

The motion was carried unanimously.

3. ZA-5-89 Busch Entertainment Corporation

Mr. Farmer stated that Mr. Ronnie Osborne, of Langley and McDonald, on behalf of Busch Entertainment Corporation had requested variances from the geometric design provisions for off-street parking areas at 7901 Pocahontas Trail.

Busch Entertainment Corporation had submitted a site plan to expand their Germany parking area between France and Italy

parking lots. Their designer, Langley and McDonald, wished to delete some parking islands within the parking area because they restrict maneuverability. It is the staff's recommendation that the variances be denied because there is sufficient space to meet the ordinance requirements and nothing had been demonstrated that proved the property was unnecessarily restricted.

Staff also recommends that if a the board felt a variance is appropriate, that the following conditions be attached to any variance granted:

1. That at least 5% of the interior of the lot be landscaped open area.
2. That the area marked "painted island" on the Langley and McDonald plan dated 2/27/89 be changed to landscaped open space.
3. That the 2.5% open space not required within the parking area interior be transferred to the perimeter and be required as excess to other open space requirements.

The Board discussed the large site plan submitted by Langley and McDonald.

Mr. Feigley asked if there were any questions and opened the public hearing.

Mr. David Otey representing Busch Gardens stated that unlike shopping malls or grocery stores, Busch Gardens directs its traffic by loading each bay and then move on to the next line. Mr. Otey further stated that if islands are put in the middle, it would create confusion. One major reason for not wanting islands is the attempt to get traffic off Route 60 as quickly as possible. Thus, if complied with the County to have additional islands, it would definitely slow down traffic; instead of making straight shots into the parking area, the vehicles would have to go around the islands. Lastly, the attendants would have to figure out when he was filling up an island, then move the traffic to the next available island.

Mr. Otey stated that as far as landscaping was concerned, within twenty feet of the parking surface, there was more than enough trees to meet the requirements of the Ordinance.

Mr. Osborne showed the Board where islands would be if they went with interior islands. He stressed how loading

would be slowed down if islands are put in. He requested to maintain single islands which is 2.8% of the parking area whereas Italy has 1.6%, a definitely larger landscaped area. The Ordinance requires 76 trees and they have 193 trees in the perimeter.

The Board discussed the painted islands versus landscaped islands.

Mr. Feigley closed the public hearing.

Mr. Ripley moved to grant the variance subject to conditions as contained in staff memo, except on 2.8% open space required. There was no second.

Ms. James moved to grant the variance as requested except that a minimum of 2.5% interior open space is required. Mr. Feigley seconded.

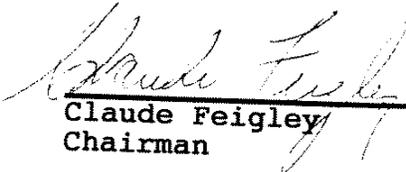
The motion was carried with Mr. Giedd abstaining.

E. MATTERS OF SPECIAL PRIVILEGE

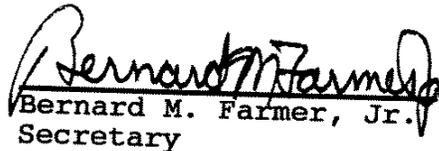
None

F. ADJOURNMENT

The meeting was adjourned at 8:25 P.M.



Claude Feigley
Chairman



Bernard M. Farmer, Jr.
Secretary