

BOARD OF ZONING APPEALS

MINUTES

June 22, 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 approved as amended.
The May 25, 1989 minutes were approved with corrections.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-6-89 Mattie L. Hundley

Mr. Farmer stated that Ms. Mattie L. Hundley had requested a 1.2 foot variance from the front setback, a 21 foot variance from the left side yard and a 1.33 foot variance from the right side for the existing main structure and a 4 foot variance for the existing accessory structures from the James City County zoning ordinance. The structures are located at 1421 Government Road. It was Ms. Hundley's desire to expand the gross floor area by enclosing the deck (which is presently 8 feet from the side property line) thus in conflict with Section 20-401(a)(5). Also it was her desire to legally locate the garage structure on the property. Mr. Farmer further stated that it appeared that the strict application of the ordinance prevented Ms. Hundley from doing as she desired. However, in absence of any demonstrated hardship, the staff recommended that the variances be denied.

Mr. Feigley asked Mr. Farmer for clarification about whether the house and existing shed had been nonconforming for some time and if the new shed and garage had recently been placed on the lot. Mr. Feigley also wanted to be certain of the other reasons Ms. Hundley requested the variance.

Mr. Farmer stated that the addition would increase the gross footage area and would cause a violation of the zoning ordinance.

Ms. James asked which side was considered the front. Mr. Farmer stated that the narrower of the portions of the lot facing the street which would be the side facing Government Road.

Mr. Ripley asked if the law prior to 1985 pertaining to setback requirements which was 25 feet rather than 35 feet. Mr. Farmer replied that he did not know for certain when the requirement changed.

Mr. Feigley opened the public hearing.

Ms. Hundley stated that she was not intending to expand her floor area, but just to screen in her porch. She told the Board that she was a widow and was living on a fixed income, that she tried very hard to keep a presentable place and that she needed her sheds for storage. She said she was certainly not trying to harm anyone else but simply trying to improve her property. She did not realize that she was violating the ordinance.

Mr. Ripley asked Ms. Hundley if she was parking her car in the new shed. She said she was.

Ms. James asked Ms. Hundley if she had any intentions for a concrete floor which she responded that she did not, but only to screen the porch.

Ms. Hundley commented that she was planning to take the pump house down to provide more space.

Ms. James stated that there was not an ordinance when Ms. Hundley's house was built and Wallace Road was not there at that time. When Wallace Road was built it took some of Ms. Hundley's property.

Mr. James Farrow, an adjacent property owner, stated that he supported Ms. Hundley's request for the variance. He understood that she just simply wanted to keep mosquitos away while sitting out.

Mr. Feigley closed the public hearing and stated that due to the fact that Ms. Hundley's home was built prior to the ordinance taking affect, that her request did not appear to be out of line. He felt that all the variances could be considered as one item since this was a unique situation.

Ms. James made a motion to grant the variances as

requested.

Mr. Ripley seconded.

Mr. Farmer clarified that the variance would allow Ms. Hundley to screen her existing deck and to locate garage structure where it exists.

The motion was carried unanimously.

2. ZA-8-89 Larry T. Waltrip

Mr. Farmer stated that Mr. Larry T. Waltrip had requested variances from the zoning provisions related to two principal dwellings on a parcel at 100 Lands End Drive. In June of 1987, Mr. Waltrip began a major renovation of his dwelling. He desired to construct a garage and to build living space in it in order to have temporary accommodations while his home was undergoing renovations. It was Mr. Waltrip's desire to locate the garage/temporary quarters close to his main structure thus not providing sufficient space to allow for a subdivision. Mr. Farmer agreed to allow construction of the carriage house to proceed subject to the removal of the living space once the house renovations were completed. However, upon completion of the renovations, Mr. Waltrip desired not to honor his previous commitment to remove the living quarters in the garage.

Mr. Farmer further stated to the Board members that there were actually three options to look at:

1. Grant the variance to allow the structure to remain there as a separate dwelling on the parcel.
2. Grant a variance from Section 20-135 and require the living quarters be removed and the upper floor be used for other purposes than as a dwelling unit.
3. Deny both variances which would make it a necessity to relocate the carriage house as well as removing the dwelling quarters.

The Board members discussed the case for clarification of the variance requested from Mr. Waltrip with the understanding that his intent was to keep the carriage house as it presently exists. The application actually indicated a variance for "use".

Mr. Feigley asked if there were any questions and

opened the public hearing.

Mr. Larry Waltrip stated that what had happened was not done deliberately and it was an oversight of his about exactly what was going on. He admitted he was not on top of things as far as the setbacks requirements were concerned. Mr. Waltrip further stated that he originally was planning to construct a three car garage. It was later that he decided to put an apartment on top. It bothered him that the County did not catch his setbacks initially. He wanted a variance because his property is isolated, he works a lot, and with someone staying in the garage apartment they could look after his home and property.

Mr. Waltrip did not desire to tear down the carriage house. He did not want to move it because it would cost too much money and he had put a lot of work into it. If he tried to attach it to his existing home, there would not really be a way to make it look like his house. Mr. Waltrip stressed that he was not trying to subdivide in order to sell the property, but rather to find a way to keep the carriage house in its present form.

Mr. Feigley stated that in his review of the case that Mr. Waltrip did not originally intend for the carriage house to have a permanent residence. Mr. Feigley further stated that he had problems with the case especially with the fact of Mr. Waltrip changing his mind to make the carriage house a permanent residential property. Mr. Feigley asked if there were any more questions for Mr. Waltrip.

Mr. Charles Kinnamon stated that he was an adjacent property owner to Mr. Waltrip and did not object his variance. Mr. Kinnamon stated that Mr. Waltrip's lot was very private, that a city block away one could still not see his house. He felt that even if the carriage house was not moved, it still would be very hard to see it from the road. Mr. Kinnamon also stated that he did not object to someone staying there, that he saw it as a good security precaution.

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

The Board had further discussion about Section 20-94, Limitation on the number of dwellings on a lot.

Mr. Feigley made a motion that a variance of five feet from side yard requirements be granted and that no variance be granted to provisions relating to multiple dwellings on a parcel.

Ms. James seconded the motion.

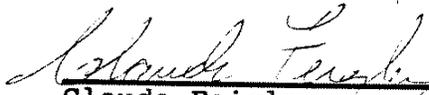
The motion was carried three to one to grant the variance for the side yard requirement, with Mr. Ripley opposing.

E. MATTERS OF SPECIAL PRIVILEGE

Following the regular meeting for ZA-6-89 and ZA-8-89, Mr. Farmer conducted a short work session for an upcoming special meeting for case ZA-7-89. BASF Corporation. He informed the Board members about the facts of the case, and showed photographs of the proposed parcels and buildings involved. Discussion occurred regarding the variances being sought by BASF. Mr. Farmer stated he was unprepared to present any staff position regarding the case and could not discuss the merits of any point over another during the work session.

F. ADJOURNMENT

The meeting was adjourned at 9:00 P.M.



Claude Feigley
Chairman



Bernard M. Farmer, Jr.
Secretary