

BOARD OF ZONING APPEALS

MINUTES

July 27, 1989

- A. ROLL CALL
- | | |
|--------------------|---------------|
| Mr. Bob Ripley | Mr. Ken Geidd |
| Mr. Claude Feigley | |
| Mr. Baxter Carr | |
| Ms Nancy James | |

Others Present

Mr. Bernard Farmer, Secretary to the Board

B. MINUTES

The June 22, 1989 minutes were approved as presented.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-9-89 William and Frances Clark

Mr. Farmer stated that Mr. Benny Lacks had requested a .8 foot variance from the side yard requirements for a house located at 119 Pleasant Point Road. The construction of this home was begun in 1977 and after the shell was up, construction was abandoned. At the time the original building permit was issued the ordinance required a fifteen foot setback from side property lines. It is understood that the Clarks, the present owners, desire to sell the property to Mr. Benny Lacks, who intends to finish construction of the house.

During a survey of conveyance, it was discovered that the home was sited .8 feet too close to the side line. The ordinance provides that most of Riverview Plantation lots may adhere to originally platted setbacks, however, this lot was resubdivided and the governing plat, recorded prior to adoption of zoning, shows a side yard requirement of sixteen feet and does not serve as a mechanism of relief to the property owner. Mr. Farmer further stated that the staff recommended that the variance be denied.

Mr. Feigley stated that the second plat was recorded as 16' setback and that the County requires 15' setback.

Mr. Farmer stated that the Board should consider the ordinance requirement and disregard the requirement of the plat.

Mr. Farmer stated that the plat has the effect of a covenant which is an agreement among property owners who have the choice to enforce such provisions. The Board is required under law to only adhere to the Zoning Ordinance requirement of 15'.

Mr. Carr asked what alternatives the Clarks would have if the variance were denied. Mr. Ripley responded they would have to restructure the house or tear it down.

Ms. James asked if this 16' side yard requirement was unique to this property or were there others in this subdivision. Mr. Farmer responded there were at least six other properties as shown on the second plat.

Mr. Feigley opened the public hearing.

Mr. Benny Lacks who resides at 126 Four Mile Tree Drive in Riverview Plantation stated that his interest in the property was to purchase it. Mr. Lacks stated that he had conducted quite a bit of research. He was really interested in pursuing the purchase of this property in order to get the situation resolved and due to the Clarks poor state of health. Mr. Lacks cited portions of his material he had researched to the Board.

Mr. Feigley made the Board's consideration clear to everyone that the Board could not relieve Mr. Lacks from a covenant's requirement, but only from the zoning ordinance. Mr. Feigley closed the public hearing.

Ms. James asked if the Board needed to grant two variances, one for the steps and one for the setback requirement. Mr. Farmer responded that the ordinance provides for architectural features such as steps, so it was not necessary to grant two variances.

Mr. Ripley emphasized that the building had been sitting vacant for twelve years and that it needed to be completed or torn down.

Ms. James moved that the variance be granted for .8 feet to enable the construction of house to be completed.

The motion was carried unanimously.

2. ZA-10-89 Williamsburg Jamestown Airport

Mr. Farmer stated that Mr. Larry T. Waltrip had requested a variance from the height requirements to erect an airport beacon tower at 100 Marclay Road. The Williamsburg Jamestown Airport exists pursuant to a special use permit issued by the James City County Board of Supervisors. The previous beacon tower was an old wooden tower and due to its deteriorated condition, it was determined to be unsafe and was demolished.

Some grading has occurred and ground elevation has been lowered since the old tower was removed. Fifteen feet has been removed from the ground where the beacon tower was situated before. Now the ground is located at an elevation of 40' and the proposed tower is 100' which is 25' higher than the top of the previous beacon tower. The new location will not penetrate the photo glide slope.

Mr. Feigley asked that if it was possible to replace the tower at its initial 60' height. He wondered if that would be a problem. Mr. Farmer responded that Mr. Feigley was correct, that the airport has a lawful right to replace the old tower. Mr. Feigley asked if the consideration before the Board was the difference between the 60' allowed to replace the old tower and the 100' for the proposed tower. Mr. Feigley clarified to everyone that heights that Mr. Farmer was referring to in his staff report were heights above sea levels not ground levels.

Mr. Farmer stated that he should read from the recently amended A-2 Zoning Provisions. There was a 5 minutes recess at 8:06 p.m. to allow Mr. Farmer time to go to his office.

Mr. Farmer read to the Board an amended copy of A-2 Zoning Ordinance pertaining to height restrictions. Mr. Farmer reemphasized that the airport has nonconforming rights to reerect the tower at 60', but the variance under consideration was to allow a new tower 100' tall.

Mr. Feigley opened the public hearing.

Mr. Waltrip stated that the previous 60' tower was on top of a hill and with the new grading the proposed tower would actually be 20' higher. The trees that form a boundary line around the airport are about 18-19 years old and they have grown so large now that they were blocking the ability for the original tower to give signals. Pilots were flying over the beacon before seeing it. A tower is significant because it helps pilots guide themselves to the airport. Instead, the pilots were flying around the airport looking for the tower because once you fly over the tower, it is difficult to see it. Mr. Waltrip stated that if he

chose to clear the trees about 20', it would really hurt the sound barrier. A beacon tower makes an airport safer and trees help eliminate sound.

Mr. Waltrip brought with him two members from the State Division of Aeronautics, Mr. Steve McNeally and Mr. Morgan Harris who were able to answer various technical questions.

Mr. Feigley asked what the normal times of operation were for the tower. Mr. McNeally explained that it is a photo light meaning when it gets dark it automatically comes on. Mr. Feigley stated that he understood the old beacon had been out of service for a year, so why now was a beacon needed when they had gone a year without one. Mr. Waltrip explained that there had been many complaints from pilots saying that they could not see the airport and they were flying over it over residential areas which was not safe especially during inclement weather. Mr. Waltrip stated that the purpose of the beacon was to allow a pilot to see it 10 miles out from the airport.

Mr. Farmer asked Mr. Waltrip if he thought the placement of the beacon tower would change the amount of traffic going in and out of the airport. Mr. Waltrip responded negative because he said the beacon would not determine whether people came to Williamsburg, people were going to come because they had a reason to come, regardless of whether a beacon was there or not.

Mr. Ripley asked Mr. Waltrip if he would come back to the Board later looking for more height. Mr. Waltrip assured Mr. Ripley that he was not looking for any more height, this would be the optimum location and height.

Mr. Richard Coackley who resides at 110 Redbud Lane stated he was chairman of the Jamestown Civic Association and he attended the meeting to represent families residing near the airport. His concern was not the structure or the construction of the tower, but rather he and others were suspicious of the request and the justification for it. Mr. Coackley commented that he viewed the file for the case and noticed that the application for the case was in pencil which to him did not constitute a legal document. It appeared that the request was handled in an informal manner.

Ms. Jean Miller asked Mr. Waltrip questions pertaining to the exact location of the airport and commented that she felt that the new beacon tower would encourage the number of pilots to fly.

Mr. Feigley closed the public hearing.

Mr. Feigley made a motion to grant the variance to the height of the beacon tower with the condition that it does not exceed 141' above mean sea level.

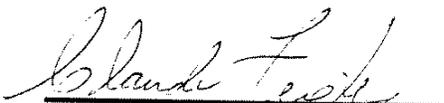
The motion was carried unanimously.

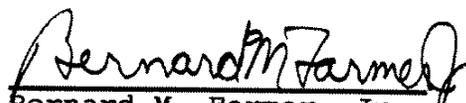
E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

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


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary