

BOARD OF ZONING APPEALS

APRIL 25, 1991

A. ROLL CALL

	Absent
Mr. Feigley	Ms. James
Mr. Ripley	
Mr. Carr	
Mr. Giedd	

Others Present:

Bernard M. Farmer, Jr., Zoning Administrator

B. Minutes

The minutes of the March 1991 meeting were approved with corrections.

C. OLD BUSINESS

None

D. NEW BUSINESS

ZA-5-91. Frank and Virginia Phillips - 9426 Crossover Rd
(2-3)(1-6A)

Mr. Farmer presented the Board with pictures of the site before presenting the staff report stating that Frank and Virginia Phillips had requested a variance from Section 20-112 of the Ordinance in order to subdivide a lot in the A-1 General Agricultural Zoning District into two lots of approximately one acre each. The lot as it presently exists is a nonconforming lot of 2.27 acres which has two single family dwellings located on it. The applicant desires to subdivide the parcel in order to be able to sell one of the dwellings and the land on which it exists. The ordinance presently requires a minimum lot size of 3 acres for a residential use. It is the staff recommendation that the variance be denied as no undue hardship has been demonstrated. Granting this variance would be contrary to the legislative intent expressed in Section 20-112 and enacted in the recent changes to this ordinance section.

Mr. Feigley opened the public hearing.

Mr. Phillips addressed the Board stating that due to present health conditions he was no longer able to maintain the property.

Mr. Phillips also stated he was in compliance with the Ordinance when the dwellings were built and was told at that time he would be allowed to sell one of the dwellings if necessary.

Mr. Ripley asked how long Mr. Phillips had owned the property.

Mr. Phillips answered since 1979.

Mr. Feigley closed the public hearing.

Mr. Feigley stated the exception to the Ordinance was if the property was less than 6 acres and plotted and recorded before the adoption of the Ordinance the property could be subdivided as long as the lots were no less than 2 acres after subdividing.

Mr. Ripley asked how the Ordinance addressed lots with more than one single family dwelling.

Mr. Farmer explained the Ordinance.

Mr. Ripley asked if the dwellings would be required to meet all setback once the lots is subdivided.

Mr. Farmer replied yes.

Mr. Giedd ask if the property contained a dwelling when it was purchased.

Mr. Phillips answered no, that he had a double wide on the property while he was building.

Mr. Giedd asked if the intent of the Ordinance was to maintain low density in the A-1, Zoning District.

Mr. Feigley answered yes.

Mr. Carr stated he felt that Mr. Phillips complied with all Ordinances in effect at the time of purchase and construction of the dwellings. He also stated since the Ordinance was changed in the interim, which was no fault of Mr. Phillips, there did exist an unusual circumstance and hardship.

Mr. Ripley stated he also felt unusual circumstances existed.

Mr. Feigley moved to grant a variance from the lot area requirements of the Zoning Ordinance with the following conditions:

1. That the applicant be allowed to subdivide into no more than 2 lots with acreage to be no less than 1 acre each.
2. That the existing dwellings must meet all setback requirements of the existing Ordinance after the existing subdivision.
3. That any uses of the lots to be limited to one single family residence each.

Mr. Ripley seconded the motion.

The vote for approval of the variance with the conditions was unanimous.

ZA-6-91. Robert and Claire Yattaw -3300 Ash View
(45-1)(5-13)

Mr. Farmer presented the staff report stating that Johnny Walters, surveyor, had applied on behalf of Robert and Claire Yattaw, owners, for a variance from Section 20-154 of the Zoning Ordinance in order to resubdivide Lots 13 and 14 of Section 1, Heritage Landing. The ordinance requires that lots of area greater than an acre have a width at the setback line of not less than 150 feet. As proposed the width of lot 13 is approximately 135 feet. The width and other dimensional characteristics of lot 14, as well as the location of structures on lots 13 and 14 would meet current ordinance requirements, if the variance were granted and the resubdivision permitted

Mr. Farmer further stated, the structure on lot 13 was permitted and constructed in 1987 and its location was in accordance with ordinance requirements. The location of the structure was not however, as shown on the survey of conveyance provided by L. V. Woodson and Associates dated January 21, 1988. The structure was actually located 28 feet from the property line adjacent to lot 14. Evidently, Mr. Walters depended upon the erroneous information and pin placement of the surveys by L. V. Woodson. This resulted in the location of the structure constructed by Mr. Ron Staples on lot 14 to actually be only approximately a foot from the property line. It is the staff recommendation that the variance be denied as no undue hardship has been demonstrated. The properties may be placed into beneficial use. No unique condition has been demonstrated which is not shared by like zoned properties.

Mr. Feigley asked why only a nine foot variance was requested.

Mr. Farmer explained the requested variance.

Mr. Feigley opened the public hearing.

Mr. Walters addressed the Board and gave his explanation of how the errors were made.

The contract purchaser of lot 14 spoke and explained his hardship.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that this is one of those things that just happens but there seems to be a solution by reducing the width requirement.

Mr. Carr asked if the problem was started by an inaccurate survey by Mr. Woodson.

Mr. Feigley stated that was correct.

Mr. Ripley moved to grant a variance of 9 feet to allow a minimum lot width of 141 feet.

Mr. Giedd seconded the motion.

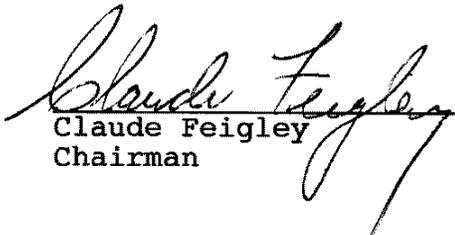
The vote for approval of the variance was unanimous.

E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

The meeting was adjourned at 8:45 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary