

MINUTES

BOARD OF ZONING APPEALS

January 28, 1993

A. ROLL CALL

Mr. Feigley
Mr. Ripley
Mrs. James

ABSENT

Mr. Carr
Mr. Geidd

OTHERS PRESENT

Bernard M. Farmer, Jr.

B. MINUTES

Minutes of November and December were presented.

C. OLD BUSINESS

The Supreme Court will hear oral arguments on the University Square case in the middle of February.

D. NEW BUSINESS

ZA-11-92; Florence F. Gray

Mr. Farmer presented the staff report stating that Florence F. Gray has applied for a 10 foot variance from the front setback requirements of Section 20-175 for an existing manufactured home at 418A Carriage Road. The property is located in the R-2, General Residential, Zoning District and is further identified as Parcel (5-3) on James City County Real Estate Tax Map (39-1). Because the road right of way is less than 50 feet, the setback requirement is a minimum of 50 feet measured from the centerline of the street. Mr. Farmer stated that on April 6, 1992, Ms. Gray received a Special Use Permit to replace a mobile home at 418A Carriage Road. On August 4, 1992 Ms. Gray registered a 1992 12X60 foot Clayton Manufactured Home with the Commissioner of Revenue's office and obtained an electrical permit to upgrade the electrical service to 200 Amps. Neither the Special Use Application nor the electrical permit application had a site plan showing the proposed location of the new manufactured home. A condition of the electrical permit was that the old mobile home be removed prior to the new double wide being set up. Mr. Farmer further stated that the new mobile home was not brought on to the property for another month and then

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not set up until sometime in November. He stated that the new manufactured home was set back about two feet further from the road than where the old mobile home had been. He stated that during the process of erecting the new manufactured home on the property, Mr. Lafayette Brown, Mrs. Gray's son-in-law, contacted Development Management Offices for assistance. At Mr. Brown's request, Dave Fletcher, of the County Planning Department, met with Mr. Brown and Ms. Gray at the property and indicated where the new home needed to be placed to meet the side yard setback since this was a double-wide manufactured home that was replacing a single wide. Mr. Brown and Mrs. Gray interpreted this to also represent the front setback position and had the home setup accordingly. Mr. Farmer stated that they did not consider moving the home further from the street since the property slopes off rapidly to the rear and the rear of the home is already approximately five feet further above grade than the front of the home. During Code Compliance's inspection of the home it was discovered that the home did not meet the front setback requirements, therefore Code Compliance refused to grant a Certificate of Occupancy or release power to the home. Mr. Farmer stated that Mr. Brown requested that a temporary Certificate of Occupancy be issued due to Mrs. Gray's health and the length of time it would take before the case could be heard by the Board of Zoning Appeals. He stated that a temporary Certificate of Occupancy was granted following application for the variance.

Mr. Farmer stated that although staff recognizes that an honest misunderstanding between County staff and Mrs. Gray could have occurred, it does not constitute a legal hardship or reason to grant a variance. He also stated that staff had obtained several estimates on what it would cost to move the manufactured home and those were within the two to three thousand dollar range, which would represent a substantial sum for the applicant. He further stated that it is physically possible to move the manufactured home back another ten feet on the lot, but that it would be difficult due to the topography of the lot. Regrettably, staff must recommend that the variance be denied.

Mr. Feigley stated that he is confused about the procedure of granting a special use permit and whether or not a manufactured home is considered a single family dwelling or not.

Mr. Farmer stated that a manufactured home is considered a single family dwelling. He also stated that there is a provision under the special use permitting provisions that says "replacement manufactured homes" require a special use permit and that the board

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of supervisors has the legislative authority to grant special use permits in the residential zoning district in which it exists.

Mr. Farmer shared some history with the board pertaining to manufactured homes, the zoning ordinance that was adopted in 1969, and the amendments to the ordinance adopted five years ago.

Mr. Feigley stated that the board was not here to question the granting of the special use permit, but he wanted to be more knowledgeable about the special use permit procedure for future manufactured home cases.

Mr. Feigley stated that after observing the site himself that the most objectionable thing he noted was the large manufactured home being placed on such a small lot. He once again stated his concern as to why the special use permit was granted. He questioned Mr. Farmer about a building permit needing to be obtained for installation of the manufactured home.

Mr. Farmer stated that staff issued an electrical permit which is a permit to install the manufactured home. This permit is issued to make sure the tie downs, the electrical, plumbing and water hookups are done properly.

Mr. Farmer stated that staff does require site drawings and site details for the installation of a manufactured home outside of a mobile home park, the same as required for a single family dwelling.

Ms. James stated that her concern was the underpilings under the mobile home were just stacked cinder blocks.

Mr. Farmer stated that dry stacking of cinder blocks is typical in the installation of mobile homes.

Mr. Feigley opened the public hearing.

Mr. Lafayette Brown spoke on behalf of Florence Gray and stated that the mobile home that was there previously was situated closer to the road than the replacement mobile home. He stated that he contacted Mr. Fletcher at the county offices in order to get some understanding of where the county wanted the mobile home to be placed. He stated that Mr. Fletcher came out to the site and staked off where the mobile home was to be placed. He further stated that at the time Mr. Fletcher came out to the site, the home

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was placed closer to the road. He stated that they had the home moved back after Mr. Fletcher flagged the location because it was their understanding that this was where the county wanted the home placed on the lot. Mr. Brown stated that he feels that it was a matter of miscommunication between himself and the county. He stated that he had done everything he felt possible to comply with the county ordinance.

Mr. Farmer clarified for the board that Mr. Fletcher who is with the James City County Planning Department was the gentleman who went out to the site and staked out the side yard setbacks.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that in this case he feels as if a lot of leeway has been granted because of the circumstances of some people concerned.

Mrs. James states that she feels that it is certainly an improvement on what was there. She stated that she spoke with some of the neighbors and they had no problem with the mobile home being placed there.

Mr. Ripley stated that he also feels that the new manufactured home is certainly an improvement and that they tried in every way to conform with the codes of James City County.

Mr. Feigley motioned to grant the variance because applicant has showed good faith in getting assistance from the county for the proper location of this trailer.

Mrs. James seconded the motion.

Mr. Farmer clarified that it is the boards intent that this variance shall apply only to the manufactured home approved under Special Use Permit 29-92.

The motion was carried with a unanimous vote.

ZA-12-92; Larry R. VanWinkle

Mr. Farmer presented the staff report stating that Mr. VanWinkle has requested a one foot, one inch variance from the side yard requirements of Section 20-155 of the Zoning Ordinance for an existing dwelling at 7137 Church Lane in the Lake Toano

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Subdivision. This property is in the R-1, Limited Residential Zoning District. It is further identified as Parcel (5-36) on Real Estate Tax Map (22-1). The zoning regulations require a minimum side yard setback of fifteen feet for each main structure. Mr. Farmer stated that a survey of the property shows that the left rear corner of the home is only thirteen feet eleven inches from the left property line. The home was completed in 1984 and had a Certificate of Occupancy issued July 12, 1984. The encroachment is shown on a survey plat dated June 21, 1991 prepared by H.I.S. Surveying, but this information was not provided to Code Compliance until recently. He stated that there are no records remaining of the original building permits or plans. The survey shows that there was adequate room on the lot to site the home with no encroachment. He stated that there are no apparent topographic, size, shallowness, shape or other special conditions to warrant an encroachment.

Mr. Farmer stated that since no undue hardship exists and there are no unique conditions to warrant a variance the staff recommends denial of the request.

Mr. Feigley clarified that the encroachment was shown on a survey plat done in June, 1991, then questioned Mr. Farmer as to what action he would have taken if he had been aware of the encroachment at that time.

Mr. Farmer replied that if staff had been aware that the encroachment existed the property owner would have been required to have it removed and abated or seek a variance.

Ms. James clarified that it was the house in question, not an addition such as a deck, etc.

Mr. Feigley opened the public hearing.

Mr. Larry VanWinkle, previous owner of the home stated that he purchased the land and went to a contractor in 1984 to have the home built on the property. He stated that at that time the prime contractor sent an engineer out to help with the siting of the structure on the property. He stated that the civil engineer for the contractor recommended the site location as being the best site location on the lot. He was told that it was approximately seventeen feet from the property line. He stated that he relied upon that survey and used it to obtain a building permit. He stated that Mr. Cardon, owner of the property brought the

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encroachment to his attention.

Mr. Ripley asked Mr. VanWinkle if a survey was made of the property at the time the house was sold.

Mr. VanWinkle replied that they relied upon the original survey.

Mr. VanWinkle stated that the adjacent property located next to the side with the encroachment is Newport News water system property.

Mrs. James asked Mr. VanWinkle if he had explored the possibility of purchasing the proper footage from Newport News.

Mr. VanWinkle stated that he had not explored that possibility.

Mr. Wayne Cardon, property owner stated that he had vested interest in 1991. He stated that he wanted to put up a fence and wanted to know what the requirements as far as the property and he applied for a permit for a fence. He stated that at that time the surveyor pointed out that there was a problem with the setback on the North West corner. He further stated that he contacted Mr. VanWinkle in reference to this encroachment. He stated that it was the corner of the garage that was encroaching, and that if they were to go through the major reconstruction process in order to conform with the minimum fifteen feet setbacks it would be very expensive. He stated that he had not received an estimate on rebuilding the garage, nor had he contacted Newport News in reference to purchasing the proper footage.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that he had seen somewhat similar cases that bordered the Newport News reservoir site, and that they had been lenient in these cases. He stated that he feels it was an honest mistake and that no adjacent property owners will be affected from a building standpoint and that he is in favor of granting the variance.

Mr. Ripley stated that a case happened to him sometime ago with a lot he had purchased in Season's Trace.

Mr. Ripley stated that he is in favor of granting the variance

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because the owner has done everything he could do to make it correct.

Mrs. James motioned to grant the one foot one inch variance requested.

Mr. Ripley seconded the motion.

The motion was carried with a unanimous vote.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Feigley stated that the board needs to fulfill the obligation of choosing officers for the coming year.

Mrs. James motioned that the officers remain as is because they are working very efficiently.

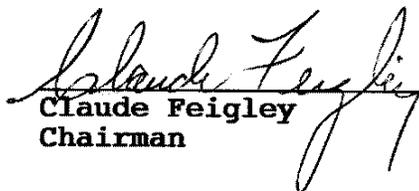
The motion was carried with a unanimous vote.

Officers remain as is:	Mr. Feigley	--	Chairman
	Mr. Ripley	--	Vice Chairman
	Mr. Farmer	--	Secretary

Mr. Feigley stated that the board would like to hold the approval of the November and December minutes over to the next meeting.

F. ADJOURNMENT

Mr. Feigley adjourned the meeting at 8:30pm.



Claude Feigley
Chairman



Bernard M. Farmer, Jr.
Secretary