

**MINUTES**

**BOARD OF ZONING APPEALS**

**February 25, 1993**

**A. ROLL CALL**

**ABSENT**

Ms. James  
Mr. Feigley  
Mr. Ripley

Mr. Carr  
Mr. Giedd

**OTHERS PRESENT**

Jacqueline White, Code Compliance Officer

**B. MINUTES**

Minutes of December, 1992 and January, 1993 were approved and adopted as presented. Several minor corrections were noted on the November, 1992 minutes. They will be returned for approval when corrected.

**C. OLD BUSINESS**

Ms. White stated the Supreme Court heard oral arguments for the University Square case.

Mr. Feigley stated that he remains interested in action regarding Mr. Wood and his testimony before the board.

**D. NEW BUSINESS**

ZA-1-93; John and Debra Biers

Ms. White presented the staff report stating that Mr. and Mrs. Biers have applied for a ten foot variance from the front setback requirements in order to build a detached garage at their residence at 7205 Richmond Avenue in the Chickahominy Haven subdivision in James City County. The property is in the R-2, General Residential, Zoning District. The front setback in the R-2 zoning district is twenty-five feet from any street right-of-way. The proposed variance would permit the garage to be built fifteen feet from the edge of the road right-of-way.

Ms. White stated that the Biers desire to build a 24 X 24 foot detached double garage on their property. The septic drain field

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is directly in front of the house and the garage could be no closer than ten feet to the nearest drain line. A single car garage fourteen feet wide could be built within the established front setbacks for the zoning district. A double garage could be built in the rear of the property although it would mean the existing deck would have to be relocated. There are no other structures on Richmond Avenue that come close to encroaching on the front setback. The lot has no unique topography, size or shape that are unusual to the neighborhood. Since no legal hardship has been demonstrated and the granting of a variance would amount to the granting of a special privilege in this case, staff recommends that the variance be denied.

Ms. James asked if the existing house falls within the proper setbacks.

Ms. White said yes.

Ms. James asked if there was any reason the garage could not be built parallel to the front of the house.

Ms. White stated that the lot is not wide enough to build the garage adjacent to the home.

Ms. White clarified the setback requirements for this piece of property.

Mr. Ripley stated that it would be virtually impossible to install a driveway to make the garage functional if built in the rear of the home.

Mr. Feigley opened the public hearing.

Mr. John Biers, property owner, stated that there is a five foot easement for the drainfield, so that if he were to build the garage in the rear of the home this would only allow for the driveway to be constructed eight feet from the house. He also stated that there is a bay window that sticks out from the rear of the house which would make the garage, if built in the rear, only eight feet from the bay window.

Mr. Feigley asked Mr. Biers if he had any architectural drawings of the garage.

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Mr. Feigley expressed concern that all the houses along that portion of Richmond Avenue are set back right in line with the Biers' home, and that a garage being put out in the front yard would be out of place.

Mr. Ripley asked if it was possible to realign the existing septic drain lines and attach the garage to the front of the house.

Mr. Biers stated that he is already having to move one drain line in order to get the garage fifteen feet from the property line.

Mr. Condrey, the next door neighbor, stated that he has no problem with the granting of a variance.

Mr. Feigley asked Mr. Biers what was to be used on the exterior of the garage, and where the entrance to the garage would be from the main road.

Mr. Biers replied that he would use vinyl siding to match the house and that the entrance would be on the side of the garage.

Mr. Feigley closed the public hearing.

Mr. Feigley expressed concern for the aesthetic appearance of the street as he felt this area was one of the cleanest looking streets in Chickahominy Haven. He further stated that he also understands Mr. Biers' problem with the septic system and a suitable location for the garage.

Ms. James asked Mr. Biers if his neighbors were aware that he planned to build a double car garage in this location.

Mr. Ripley clarified that staff had not received any complaints from adjacent property owners.

Mr. Ripley stated that he saw no suitable place on the property where the garage could be put in order to accommodate Mr. Biers. He stated that the septic system only allows you to put the garage in one location. He further stated that he cannot see where it would fit in the back yard.

Mr. Ripley stated that the only other recommendation he could make is that the Biers' possibly plant some type of shrubbery to soften the garage or screen it from the street.

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Mr. Feigley motioned to grant a ten foot variance from the front setback requirements for the construction of a detached double car garage located at 7205 Richmond Avenue subject to the following conditions:

1. That there be suitable shrubbery planted around the garage to provide a vegetative screening from Richmond Avenue.
2. That the garage conform with the existing single family dwelling.

Ms. James seconded the motion.

The motion was carried with a unanimous vote.

ZA-2-93; J. and J. Associates

Ms. White presented the staff report stating that AES Consulting Engineers, on behalf of J and J Associates, has applied for a variance to exceed the height limitation for parking lot light fixtures at the Jeep-Eagle lot of Williamsburg Honda Jeep Eagle auto sales at 7205 Richmond Road. When the site plan for the expansion of the dealership was originally approved, thirty foot tall, metal halide, lights were permitted. Prior to completion of the project, Section 20-12 of the zoning ordinance was changed (10/14/91) and metal halide lights were no longer permitted. The ordinance now states that "no lighting fixture shall exceed a height of twenty (20) feet." During construction, changes were made and the location of several of the light fixtures were changed without site plan amendment or approval. Therefore thirty foot tall light fixtures were installed contrary to the approved site plan. An "as built" site plan was submitted as an amendment but was disapproved since it failed to meet the current requirements. A waiver may be allowed by the director of planning to permit light fixtures to a maximum of thirty (30) feet under certain conditions. Two of these conditions are that "the waiver shall be applied to lots in excess of 500 spaces only" and "no light pole within 150 feet of any public right-of-way shall exceed a maximum height of 20 feet." These fixtures do not meet the necessary conditions for a waiver. Currently all of the parking lot light fixtures on this parcel are thirty feet tall. The property is in the B-1, General Business, Zoning District and is further identified as parcel (1-42) on James City County Real Estate Tax Map (23-2).

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Ms. White stated that although it is unfortunate that the owners failed to follow their approved site plan, this does not constitute a legal hardship. Consequently, staff cannot make any recommendation but to deny the requested variance.

Mr. Feigley clarified that there was an original site plan approved by the county which allowed for thirty foot light fixtures. He further clarified that prior to the completion of the project the zoning ordinance was changed and it no longer permitted thirty foot light structures.

Ms. James asked Ms. White that if they had followed through with the original light fixture locations stipulated in the plans, would there be any expiration date on the approved site plan.

Ms. White stated that there is no expiration date for the site plan, although there is an expiration on the building permit.

Ms. James asked if having two different height lights on a parcel was a violation of any county ordinance.

Ms. White said no.

Mr. Feigley opened the public hearing.

Mr. John Dodson with Williamsburg Honda Jeep-Eagle shared some of the history of the project. He stated that he had every intention of complying with state code and thought that he and his electrician had done so.

Mr. Dodson stated that due to the landscaping and the location of the poles it would cause problems with the underground electrical wires as well as the underground irrigation system if they were to move the poles now.

Mr. Arch Marston, with AES Consulting Engineers spoke on behalf of Honda Jeep-Eagle stating that the twenty foot height limitation should be exceeded, as well as the metal halide lights because this is used primarily for the display of vehicles.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that he often has to drive by that site and that he agrees that it is quite an attractive site. He also stated that he feels as if Jeep-Eagle was caught in the middle of a change

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in ordinance, and because of this he is leaning toward granting this variance.

Mr. Ripley agreed with Mr. Feigley's remarks.

Ms. James commended Mr. Dodson for taking his adjacent property owners into consideration when installing these lights.

Mr. Feigley motioned to grant the variance to exceed the twenty foot height limitation allowing for thirty foot parking lot light fixtures and the type of lighting (metal halide).

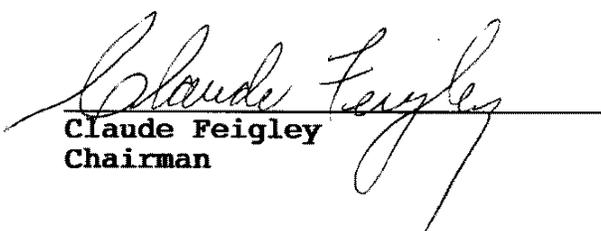
Mr. Ripley seconded the motion.

The motion was carried with a unanimous vote.

**E. MATTERS OF SPECIAL PRIVILEGE**

**F. ADJOURNMENT**

Mr. Feigley adjourned the meeting at 8:35p.m.

  
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Claude Feigley  
Chairman

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Jacqueline White  
JCC Code Compliance Officer