

BOARD OF ZONING APPEALS

MINUTES

AUGUST 26, 1993

A. ROLL CALL; 7:32 pm

The following members were present:

Mr. Feigley
Mr. Ripley
Mr. Geidd
Mr. Carr
Ms. James

Others Present:

John B. Patton; Code Compliance Officer

B. MINUTES

The minutes of the July 22, 1993 meeting were deferred until the next meeting.

C. OLD BUSINESS

None

D. NEW BUSINESS

Mr. Feigley gave a brief introduction on the role of the BZA and the rules under which they operated and how the meeting would be conducted. He then asked that Mr. Patton present the case before the Board.

ZA-11-92; Bobby Lee & Barbara C. Glover

Mr. Patton presented the staff report on the case. Mr. & Mrs. Glover have requested a 2.6 foot variance to the side yard requirements in order to construct a 24 foot wide two car garage at 124 Stanley Drive in the Jamestown Farms subdivision. The property is in the R-1, Limited Residential Zoning District and is further identified as parcel (7-12) found on James City

County Real Estate Tax Map (38-4). There is a one story single family dwelling on the property located 20.9 feet from the left property line and 36.4 feet from the right property line. The R-1 zoning district requires a side yard setback of 15 feet. Mr. Glover has stated he needs a garage 24 feet wide to accommodate his vehicles and provide handicapped access to his vehicles. Both he and his wife have physical limitations that require full opening of vehicle doors for ingress and egress. Currently there is no car port or garage on the property. The lot is rectangular and relatively flat without any apparent unusual characteristics to distinguish it from other lots in the neighborhood or similarly zoned property. A narrower garage (21.4 feet wide) or one located further back on the property could be constructed without requiring a variance. Although the granting of this variance might not be considered to be of a substantial detriment to adjacent property, the property has already been put into beneficial use in a manner similar to surrounding properties and no particular hardship unique to this lot has been demonstrated. Staff must recommend denial of the variance since approval would appear to be only for the convenience of the applicants.

Mr. Patton presented a letter from a Jesse & Lena Harrod, next door neighbors, that stated they had no objection to the construction of the garage. In answer to the Board's question regarding other contacts concerning the case Mr. Patton stated that no other correspondence or telephone calls had been received regarding this case.

Mr. Feigley opened the meeting to hear comments from the public at 7:37 pm.

Mr. Bobby Glover, the applicant, spoke of his medical need for a garage. He suffers from a degenerative muscle disease. He has braces on both legs that extend from his knees to his toes and is unable to bend his ankles. In the winter he is unable to leave his house because he cannot deal with ice or snow and is therefore unable to get into his car. In order for him to get into or out of his car the doors must be in fully open.

Ms. James inquired if there was any where else on the property where the garage could be built.

Mr. Glover said there was but it would be require removing the remaining trees on the property and would not be acceptable.

Mr. Ripley inquired if the garage needed to be attached to the house and if the degenerative nature of the disease could result in Mr. Glover being confined to a wheel chair in the future and if a ramp might not be needed.

Mr. Glover said that an attached garage was needed to keep out of the weather and that in the future he might need a wheel chair and a ramp into the garage.

Mr. Feigley inquired about how many vehicles the Glovers owned, Mrs. Glover's medical condition, about a tree that had recently been removed and where the entrance into the garage would be from the house.

Mr. Glover responded that they owned two vehicles. His wife had a back injury that severely limited her mobility and she was unable to scrape snow or ice from the car windows. He had recently removed the tree that would over hang what ever size garage he constructed along side his house. He explained that the design of the garage was such that the entrance into it would be from what was now the enclosed patio portion of the house.

There being no one else present to testify, Mr. Feigley closed the public hearing at 7:43 pm.

Mr. Feigley opened the discussion by stating that he has had his hair cut by Mr. Glover for the last 20 years and can substantiate his medical condition. He stated that he considered disqualifying himself from voting but felt that he could be fair and impartial in reviewing the case.

Mr. Carr stated that he had a feel for what size the garage needed to be since he had a 25 X 25 foot garage and the request for a 24 foot wide garage was not excessive.

Mr. Ripley pointed out that a 24 foot wide garage was actually less than that on the inside due to the size of the supporting structures. He also pointed out that the design called for a single double door indicating that it was much more reasonable than if the design was for two single doors. Mr. Ripley also stated that he was a personal friend of Mr. Glover and went to the same church but felt he could be impartial in making his determination.

Mr. Feigley said that when he visited the neighborhood he looked very closely at whether the variance would be detrimental to the general character of the

area. He concluded that since no one in the area had objected to the request that it would not be detrimental on the whole.

Ms. James agreed, saying that she did not know Mr. Glover but she had talked to the neighbors and they did not object to the proposed garage. Therefore Ms. James made a motion that the Board approve the request for the variance as proposed.

Mr. Carr seconded the motion.

A roll call vote was taken and the motion was approved unanimously.

Mr. Feigley explained to Mr. Glover that his variance had been granted.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Carr requested to discuss the staff recommendations on the memorandums sent with each case. He felt that often the staff recommendations were asinine and did not make any sense and the memorandum on this case was an example. He asked how the Zoning Administrator could look at the physical disabilities of the Glover's and say that granting a variance was just for their convenience. He felt that all that needed to be said was that the request did not meet the ordinance and that was it. Some other members of the Board indicated that when they were first assigned to the Board they had a similar reaction but as they became familiar with their role and the law they understood the validity of the staff's recommendations. Mr. Geidd said that in the case before the Board tonight the staff's recommendation had been absolutely correct and he felt the Board had in fact granted a variance for the convenience of the applicant. He pointed out that we all are getting older and may have to move from our current homes because we may no longer be able to climb stairs or some other problem that makes our present homes unsuitable. But this is not a reason to grant a variance. Mr. Patton spoke and stated he had authored the memorandum and could provide insight into the recommendations. In general the staff attempts to address the specific legal grounds for granting variances and attempts to point out if these requirements are being met. It is the staff's intent to try and present the facts necessary for the Board to make a legal interpretation on the case and guide the Board to address these requirements in reaching their decision. The Board discussed their legal requirements and why their decision could be appealed and overturned in Court. Mr. Patton gave a thumb nail sketch of the case scheduled to come before the Board next month and provided the members with a copy of the

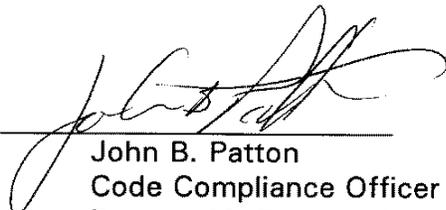
newspaper ad to be run for the next meeting.

F. ADJOURNMENT

The meeting was adjourned at 8:50 P.M.



Claude Feigley
Chairman



John B. Patton
Code Compliance Officer for
Bernard M. Farmer, Jr., Secretary