

BOARD OF ZONING APPEALS

MINUTES

FEBRUARY 24, 1994

A. ROLL CALL:

Mr. Feigley
Mr. Ripley
Mr. Giedd

ABSENT:

Mr. Carr
Ms. James

OTHERS PRESENT:

John Patton, Zoning Officer

B. MINUTES

None.

C. OLD BUSINESS

Mr. Patton provided an update on the Temple vs. Otey case stating to the board that the Assistant County Attorney has received a court date of March 9, 1994 and he intends to seek a dismissal.

D. NEW BUSINESS

ZA-3-94; Ristorante Primo

Mr. Patton presented the staff report stating that Barbara Scordo has applied for a ten foot variance to the side yard setback requirements to expand the kitchen area of the Ristorante Primo at 1325 Jamestown Road. The property is further identified as Parcel (1-8A) on James City County Tax Map (48-1). The property is in the B-1, General Business Zoning District. The restaurant was developed within what was the Whitehall Gallery, a former residence and studio for Mr. Palen Thorley. Upon Mr. Thorley's death the property was purchased and developed into business condominiums by Mr. Fred Miller. The entire parcel encompassing the carpet business, the gallery and the restaurant is owned as a condominium, and the site was developed for business uses as each condominium space was finished. The building structure is nonconforming and was built prior to the establishment of the zoning regulations. Under the provisions of Article VII, Nonconformities, the building was allowed to be used for conforming activities and any improvements done to the site or expansions of the building were required to conform to the current

provisions of the zoning ordinance. The necessary interior renovations were permitted pursuant to the provisions of 20-630 (a) (5).

Mr. Patton further stated that Ms. Scordo has submitted an application to allow for expansion of the building into the required side yard. A portion of the existing building already encroaches approximately 3 feet into the side yard. As justification for granting the variance the application states "reasonable expansion of the restaurant kitchen dictates that the plan illustrated on the drawing should be followed." No further justification for the variance was offered. The ordinance provides for expansions of nonconformities and has specific language which states the requirements. Staff recommends the variance be denied.

Mr. Feigley clarified with Mr. Patton the actual section of the zoning ordinance which they are seeking a variance.

Mr. Feigley questioned Mr. Patton as to how this building originally became nonconforming.

Mr. Patton said that this building existed prior to the zoning ordinance being implemented.

Mr. Feigley opened the public hearing. No one wishing to speak, Mr. Feigley closed the public hearing.

Mr. Feigley initiated discussion among the board members and stated that he is certainly reluctant to grant a variance when the applicant does not appear to represent his case. He stated that in his opinion the variance request is a matter of convenience.

The Board indicated unanimously they felt that the granting of this variance would not make this building more non-conforming but agreed that without the applicant present to clarify the reasons for request, they had a problem granting the variance without additional information.

Mr. Feigley made a motion to defer action on this case to the next advertised meeting pending additional information.

Mr. Giedd seconded the motion.

Mr. Feigley made a motion to reopen the public hearing.

Mr. Giedd seconded the motion.

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The Board unanimously voted to defer action pending additional information until the next advertised meeting of the BZA leaving the public hearing open.

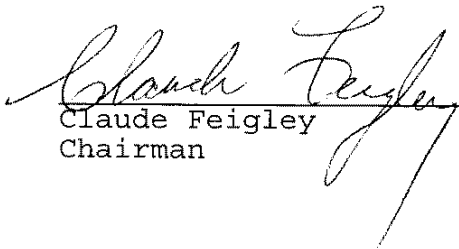
Mr. Feigley asked that staff notify applicant that consideration of a variance will be dependent on their supplying additional information and appearing before the BZA to represent themselves and clarify their request.

E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at 8:10 P.M.


Claude Feigley
Chairman

John Patton
Zoning Officer