

BOARD OF ZONING APPEALS

MINUTES

AUGUST 25, 1994

A. ROLL CALL

ABSENT:

Mr. Feigley
Mr. Giedd
Mr. Carr

Mr. Ripley
Ms. Wallace

Others Present:

Jacqueline White, Code Compliance Officer

B. MINUTES

The minutes of the May 26, 1994, June 30, 1994 (record vote on case ZA-12-94), & July 28, 1994 were adopted.

C. OLD BUSINESS

None.

D. NEW BUSINESS

ZA-15-94; James D. Carter

Jacqueline White presented the staff report stating that Mr. James D. Carter has requested an approximately 19 foot variance to the setback requirements along Longhill Gate Road, for property located at 5301 Sloane Square. The property is further identified as Parcel (4-18A) found on James City County Real Estate Tax Map (31-4) and is located in the R-2, General Residential, Zoning District. Longhill Gate was approved and exists as a cluster development in the general residential zoning district. The original site plan approved consistent with the Residential Cluster Development regulations established the setback requirement along Longhill Gate Road as 35 feet. In examining the information presented in this case, the variance requested is more of a matter of convenience than a matter of necessity for placing the property into use. Staff recommends the variance be denied.

Mr. Feigley offered the opportunity for applicants to defer their cases because there were only 3 members present on the board.

Mr. Roberts, an attorney representing Mr. Carter, stated that he did not wish to defer action on his application.

Mr. Feigley questioned Ms. White about the change in zoning.

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Ms. White stated that the setbacks were set when the cluster development was established.

Mr. Feigley opened the public hearing.

Mr. Steve Roberts, on behalf of Mr. Carter, presented a copy of the approved site plan that Mr. Carter relied on in proposing the construction on lot 18A and stated that the thirty five foot setback is annotated on some of the lots, but is not apparent on the lot in question. He stated that the unique location of lot 18A and its side and back yard in relation to Longhill Gate Drive does create a hardship for the following reasons: approximately 5% of the units in Longhill Gate have screened in porches; all of the units in Longhill Gate have decks and are roughly of uniform size; and Mr. Carter and his company have a tentative contract to purchase with Mr. and Mrs. McMillan who would like a 10 X 13 screened in porch and an 8 x 20 deck to be included on this custom built unit. Mr. Roberts further stated that he had not received any feedback in opposition of the application.

Ms. White, referring to the original site plan submitted by the applicant, stated that there is a notation of the thirty five foot building setback along exterior boundaries.

Mr. James Carter stated on behalf of the application and stated that he had spoken to someone in Code Compliance about placing larger decks on the dwelling in question and was provided a copy of the zoning ordinance where R-3 zoning district had been changed to R-2 which changed the setback in the rear from thirty five feet to twenty five feet. He stated that he had drafted a letter to Mr. Doug Murrow of the Code Compliance department asking him to place it in writing that there was a twenty five foot setback. Mr. Murrow sent a letter of reply stating that the twenty five foot setback did not apply to Longhill Gate subdivision. Mr. Carter further stated that he attended a meeting of the Longhill Gate Homeowners Association on August 19, 1994 and received no opposition to the variance request.

Mr. Feigley closed the public hearing.

The board members agreed that the proposed triangular deck on the original plans was an adequate size and that they did not have a problem with the screened in porch therefore Mr. Feigley made a motion to deny the 19 foot variance request, but to grant a variance for the construction of a 10 x 13 screened in porch as shown on the application.

Mr. Giedd seconded the motion.

The motion carried unanimously.

ZA-16-94; Eric and Amelia Speth

Jacqueline White presented the staff report stating that Mr. and Mrs. Speth have requested a 1.2 foot variance from the side yard requirements for a detached shed located at 103 Fernwood Drive. This property is in the R-1, Limited Residential Zoning District. It is further identified as Parcel (4-64) found on James City County Real Estate Tax Map (45-1). The zoning regulations require a minimum side yard of 5 feet for a single story detached accessory structure. A survey of the property shows that the shed encroaches into the required side yard by 1.2 feet. Since no undue hardship has been demonstrated and there are no unique conditions to warrant a variance staff recommends denial of the request. Granting this variance would amount to a special privilege which is denied like zoned and situated properties.

Mr. Feigley opened the public hearing.

Eric Speth spoke on behalf of his application and explained, in detail his efforts in trying to place the shed within the proper setbacks.

Mr. Feigley closed the public hearing.

Mr. Carr motioned to grant the 1.2 foot variance request.

Mr. Giedd seconded the motion.

The motion carried unanimously.

ZA-17-94; Williamsburg Pottery Factory

Jacqueline White presented the staff report stating that Mr. Richard Costello of AES, on behalf of Williamsburg Pottery Factory, has requested a four foot variance from the setback requirements of Section 20-393 of the Zoning Ordinance for construction of a covered platform and stairs to be added to an existing building at 6692 Richmond Road. This property is in the M-1, Limited Business/Industrial Zoning District. It is further identified as Parcel (1-24) found on James City County Real Estate Tax Map (24-3). The zoning regulations require a minimum setback of 50 feet from any street right of way greater than 50 feet in width. The

road right of way in that location is approximately 200 feet. Apparently the property owners are designing interior modifications to Building 8, the Outlet Shops, at the Williamsburg Pottery Factory. They have indicated that the design would require an exit along the side of the existing building facing Richmond Road. Building Code requirements for approved exits would necessitate a minimum width of 40 inches, and a covering over the stairs and platform to prevent snow and ice accumulation. While staff is sympathetic to the needs for building code safety and generally supports additional emergency exits, no evidence has been shown that this is the only possible design. No unique characteristics of the site have been cited which unusually restrict its use. The property is of substantial size and has numerous existing buildings and uses. Since no undue hardship exists and there are not unique conditions to warrant a variance staff recommends denial of the request. Granting this variance would amount to a special privilege which is denied like zoned and situated properties.

Mr. Feigley clarified that the stairway in question is required by the Uniform Statewide Building Code and not a zoning requirement.

Mr. Feigley opened the public hearing.

Mr. Robert Costello, of AES Consulting Engineers, offered a sketch to the board showing how the interior of the building is to be divided into additional small, shallow outlet stores. He further stated that all malls must have exits, dead ends are not permitted due to safety issues. The proposed stairway would be used in case of emergency only.

Mr. Feigley closed the public hearing.

After discussion among the board members it was determined that the proposed stairway would not encroach on the setback any more than an existing heating and air conditioning unit does presently, therefore Mr. Giedd made a motion to grant a 4 foot variance to the southside of building eight for the construction of an emergency exit stairway.

Mr. Carr seconded the motion.

The motion carried unanimously.

ZA-18-94; Little Zion Baptist Church

Jacqueline White presented the staff report stating that Mr. John Hopke, Architect, on behalf of Little Zion Baptist Church has requested a 2.8 foot variance from the rear yard requirements of Section 20-259(b) of the Zoning Ordinance for a planned addition to an existing church building. The property is located at 8625 Pocahontas Trail and is zoned R-2, General Residential Zoning District. It is further identified as Parcel (1-79) found on James City County Real Estate Tax Map (52-3). The zoning regulations require a minimum rear yard of 35 feet for each main structure.

Mr. Giedd asked to interrupt and stated that he didn't feel that he could participate in the action of the board because he is employed by an adjacent property owner and he isn't certain of the position of his company.

Mr. John Hopke of Hopke and Associates stated that he had met with Mr. Joe Cross, of Kingsmill, adjacent property owner earlier that afternoon and that he stated no opposition to the addition.

Mr. Feigley decided that Mr. Giedd is qualified to act on this application.

Mr. Giedd further stated that he has a great deal of interest in the view of the property in question from the Kingsmill owned property and felt that he would be in a position to be making requests of Mr. Hopke as to what he felt personally was in the best interest of his company.

The Board decided to let Mr. Hopke present his case to the Board for consideration and then if Mr. Giedd still felt as if he must disqualify himself, then the Board would establish the fact that there was not a quorum and would defer action on the case.

Ms. White continued the presentation of the staff's report stating that the previous rear yard requirement in this zoning district was 25 feet, thus the main building became nonconforming several years ago when the ordinance changed the R-3 zoning district and increased the rear yard requirement. The preliminary site drawing also shows an existing accessory building within several feet of the rear property line. A review of a previously approved site plan for the church does not show the shed and our files did not contain any amendments. It appears the shed constitutes a violation. The property abuts a portion of the new Kingsmill Golf Course and is generally flat, with no unusual characteristics. The

applicant has not shown any characteristic of the property which is unique and which unreasonably restricts the use of the property design have been shown, they do not prove the existence of any undue hardship. Staff recommends denial of the request. Granting this variance would amount to a special privilege which is denied like zoned and situated properties.

Mr. Feigley opened the public hearing.

Mr. John Hopke of Hopke and Associates gave a brief description of the property, its unique shape and the proposed addition.

Mr. Arch Marston of AES Consulting Engineers also spoke on behalf of the application and the proposed addition.

Mr. Feigley asked about any proposed landscaping.

Mr. Hopke stated that they do have a landscape plan, but that the golf course had a berm in place on their property which acts as a screen.

Mr. Feigley asked what they intended to do with the non-compliant shed.

Mr. Hopke stated that he didn't feel that the church would be opposition of relocating the shed.

Mr. Feigley closed the public hearing.

The board agreed that the granting of this variance would not cause the existing building to be anymore non-conforming than it is in its present state.

Mr. Giedd stated that he would vote on a motion.

Mr. Carr motioned to grant a 2.8 foot variance from the rear setback requirement.

Mr. Feigley seconded the motion.

The motion carried unanimously.

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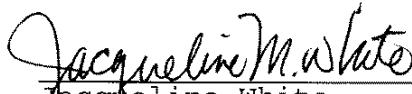
E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at 10:00 P.M.

Claude Feigley
Chairman



Jacqueline White
Zoning Officer