

BOARD OF ZONING APPEALS

September 28, 1995

A. ROLL CALL

Mr. Feigley
Mr. Ripley
Mr. Giedd
Ms. Wallace

Absent:

Mr. Carr

Others Present:

Bernard M. Farmer, Jr. Zoning Administrator
Jacqueline M. White, Code Compliance Officer

B. MINUTES

The minutes of the August 24, 1995, meeting were approved.

C. OLD BUSINESS

None

D. NEW BUSINESS

Case No. ZA-16-95. John L. Gunter

Mr Farmer presented the staff report. He stated Mr. Gunter is requesting a two foot variance to the setback requirement for the property at 123 Racefield Drive. The house is located on a flag shaped lot. The records indicate that the property was built in 1985 and plans indicated that the house was to be constructed 35 feet from the front property line. Since the construction of the house the zoning ordinance for the A-1 zoning district has changed and now requires a 50-foot setback. Because the property was not legally nonconforming the variance request must be from the current ordinance requirement of 50 feet. A recent survey of the property shows that the house is 33 feet from the property line. As constructed, the house does not meet requirements at the time of construction nor current requirements.

Mr. Feigley asked if the builder was aware of the discrepancy concerning the encroachment.

Mr. Farmer explained the setbacks as indicated on the approved plan.

The public hearing was opened. Because no one was present to speak on the case, the

square foot sign, with a smaller sign reading Thrift Drugs/JC Penney Catalog Center. The previous sign permit for this store was issued in 1979. Since then James City County sign ordinance regrading the size and dimension of building face signs has changed.

Mr. Farmer clarified that the work was deemed part of the repair/ maintenance work which took place and that for the most part people put new signs up and got permits under the current ordinance requirements.

Mr. Feigley opened the public hearing.

Mr. Bill Cowardin, Attorney for Treasury or Thrift Drugs, spoke in support of the application stating that the Thrift Drug store, a division of J.C. Penney, has been operating in this shopping center for many years. Mr. Cowardin stated he was not asking for a 120 square foot sign, but for a 91.3 square foot sign. Mr. Cowardin presented several drawings. The store has a wide frontage and has plenty of room to accommodate these letters without looking very large. He stated there are trees along the road that block the view of the sign.

With no one else wishing to speak the public hearing was closed.

The board discussed the case recalling the recent Farm Fresh case in Norge which was similar. The board concluded that these were two separate businesses within the same store and should be treated as two separate entities, consequently the ordinance provided for separate signs.

Mr. Farmer agreed that he could issue separate building permits for the two signs and to discuss it with Mr. Cowardin.

Mr. Feigley motioned that the board take no action on the request. Mr. Ripley seconded. The motion was passed unanimously.

Case No. ZA-19-95: James F. McReynolds

Ms. White presented the staff report. She stated Mr. Steve Roberts, attorney, on behalf of Mr. McReynolds has requested a variance for the property at 216 Sand Drive West. In May 1995 Mr. McReynolds submitted a building permit to construct a single family dwelling. The plans indicated that the building was to be located approximately 71 feet from the front property line and over 100 feet from the rear property line. The site plans submitted with the construction plans did not show the building setbacks as approved and shown on the subdivision plat. The plans were reviewed and given preliminary approval pending additional information. Construction was completed and a certificate of occupancy was issued in August 1995. A subsequent survey shows that the house encroaches into the front setback.

Mr. Farmer gave a brief explanation of the plans review process. In the application for this house the plans examiner noted a question related to meeting the requirements of lot width.

Upon resubmittal of the information, there was not sufficient communication between staff and Mr. McReynolds to make sure the front setback or lot width requirements were met. The permit was issued to Mr. McReynolds, who proceeded in good faith.

Mr. Feigley expressed concern with lots in this subdivision (in the A-1 zoning district) which are less than 1 acre because the ordinance does not address lots of that size

Mr. Farmer explained approval of the subdivision and stated that our current ordinance has what he felt was an error. He clarified that lots of less than 1 acre were not addressed under the current ordinance. Mr. Farmer also explained that staff has assumed the requirement to be 100 feet, which is standard for lots of less than 1 acre, although the ordinance does not specifically say this.

Mr. Feigley opened the public hearing.

Steve Roberts, attorney for Mr. McReynolds, presented his case. He stated the sale was to close on the 31st of August but the title company required a variance because of an encroachment shown on the as built survey.

Mr. Farmer clarified that some lots in the subdivision are nonconforming and explained the use of minimum lot width and setback requirements in different zoning districts. The lot width for less than one acre in A-1 zoning district has historically been 100 feet (consistent with other zoning districts) and that has always been the intent of the ordinance. During the last ordinance revision the provision was inadvertently omitted from the ordinance.

Mr. Feigley stated that he has no problem with the use the 100 foot setback in judging this case. Mr. Feigley questioned the approval of the building permit and expressed concern that the permit had been released. There was some discussion as to how the variance should be worded. Mr. Feigley moved to grant the requested variance from the intended lot width of 100 foot requirement for the existing location of the structure. Mr. Geidd, seconded. The motion was passed unanimously granting a variance from the 100 foot lot width requirement.

Case No. ZA-20-95; Mr. George Richardson

Mr. Farmer presented the staff report. He stated Mr. Richardson requested a variance to the minimum lot width requirement at 3227 Chickahominy Road. The lot is approximately 6 acres and it is about 1300 feet long. A permit application was submitted by Mr. Ron Leftwich on behalf of Mr. Richardson to construct a dwelling fairly close to the front property line. Their objective was to place the house toward the front of the lot and utilize an existing septic system. An existing mobile home is on the front of the lot. The lot is unusually shaped and is very large and narrow. At its maximum point it is only several hundred feet wide. The property is zoned R-8 which requires that lots greater than one acre have a minimum lot width of 150 feet at the setback line. Mr. Richardson desires to place the structure on the property at a point were it is approximately 138 feet wide. The property widens as you go further on back, but the appropriate place to put the house appears to be where they have requested to

place it because the lot does slope to the rear. They want to utilize the existing septic system by gravity.

Mr. Feigley stated that he had visited the site and agreed with Mr. Farmer that the lot was steep. Mr. Feigley opened the public hearing.

Mr. Leftwich, contractor for Mr. and Mrs. Richardson, discussed the application stating that he has a surveyor looking at the property and found a spot on the property with a 150 foot width, but that it drops off rapidly at that point. He has not finished the survey yet.

Mr. Feigley closed the public hearing.

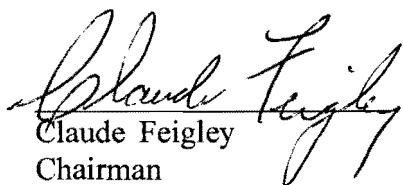
The Board members discussed the case. Mr. Feigley stated that he felt that there was a topographic problem. He didn't have a problem granting him a variance of 15 foot.


Mr. Feigley motioned to grant a variance to the minimum lot width to allow a structure to be located a minimum of 70 feet from the front property line. Ms. Wallace, seconded the motion. The motion passed unanimously.

The Board briefly discussed errors by surveyors, builders, etc. and what to expect at the next meeting.

F. ADJOURNMENT

The meeting was adjourned at 9:50 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary