

BOARD OF ZONING APPEALS

April 25, 1996

A. ROLL CALL

PRESENT:

Mr. Feigley
Mr. Ripley
Mr. Giedd

ABSENT:

Mr. Nice
Ms. Wallace

Others Present:

Jacqueline White and Steven Grant, Code Compliance

B. MINUTES

The minutes of the February 22, 1996 were approved unanimously.

C. OLD BUSINESS

None

D. NEW BUSINESS

ZA-05-96; Carpets by J.C. Law

Jacqueline White gave the staff report indicating that Mr. Williams, lessee had requested a variance to the sign ordinance to allow for a sign advertising Carpets by J.C. Law, to be placed above the roof line for their unit in the Digges Brothers Office Park. The property is located at 108 Ingram Road, Suite #3 and further identified as parcel (1-7) found on James City County Real Estate Tax Map (47-1).

Mr. Williams placed a sign on the building in violation of the sign ordinance. Subsequent to notification, Mr. Williams applied for and received a sign permit for the sign, however the permit did not permit the sign to be located above the roof line. The existing building which fronts on Ingram Road currently has 6 commercial units. Several of the other businesses have signs located on the building; but have located them on the building face in accordance with the current sign ordinance (Section 20-70 (e)).

Carpets by J.C. Law desires to locate the sign above the roof line in an effort to make the sign more visible. The site plan submitted for the property indicates that an additional building is to be constructed between the existing building and Ingram Road. Neither the site nor its visibility from the road have changed since the construction of the building. The difficulty for access by consumers has been evident since before Carpets by J.C. Law located in this facility. No special circumstances have been demonstrated that are not shared by other businesses in liked zoned property.

Mr. Feigley opened the public hearing.

Mr. Ro Williams, co-owner, Carpets by J.C. Law stated that they have been in business for the last 25 years and recently ventured into James City County when several of the developers they deal with began developing in the Williamsburg area. Mr. Williams further commented that several clients have stated that they had difficulty locating the store, Mr. Williams stated that after receiving approval from the landlord, John Digges, they placed the sign on the roof, so that it would be visible from the street.

Mr. Williams stated that due to the natural swale near the street, and the ground floor of the building being 6 to 8 feet below the street, the only place for them to locate the sign, so that it would be visible, was on the roof of the building.

Mr. Feigley asked Mr. Williams if the only entrance to the store was off of Ingram Road. Mr. Williams stated yes.

Mr. Ripley asked what would happen to the sign when construction begins on the proposed building that will be in front of the current shops.

Mr. Williams stated that at that time they would remove the sign because they may relocate into the new building.

A discussion as to alternate locations for the sign took place.

Mr. Giedd asked if the landlord of the property would be willing to enlarge the current marquee setting on Route 5. Mr. Williams stated that he would not.

A discussion of placing a directional sign took place.

Mr. Ripley asked Ms. White to clarify what is considered a roof and what is a facia.

Ms. White stated that Mr. Farmer determined that it was a roof.

A discussion of roof vs. facia took place.

Mr. Feigley closed the public hearing.

Mr. Ripley stated that the Board would need to determine if they felt the location of the sign was on the roof or facia. Mr. Ripley further commented that the Board and County have been strict on signage and felt that the store could be seen fairly well from the main road and felt he could not grant a variance based on the fact the his address is on a secondary road.

Mr. Giedd stated that if a variance for one business was granted the Board would have to approve for all businesses. Mr. Giedd further commented that keeping the aesthetics of the community is important and that is why the sign ordinance works toward bringing people to Williamsburg. Mr. Giedd stated that if a loop hole could be found

reference roof vs. architectural feature he would approve otherwise he would not.

Mr. Feigley stated that he had no trouble seeing the marquee sign from Route 5, and felt he could not support this variance.

Mr. Feigley moved that the variance requested in case ZA-05-96 for the placement of a roof sign be denied.

Mr. Ripley seconded the motion. The motion was approved unanimously.

ZA-07-96; Tommy Hilfiger

The applicant, Tommy Hilfiger requested that the case be deferred to the next scheduled meeting of the Board when all members of the Board can be present.

ZA-08-96; M. Anderson Bradshaw, for Esther Hounshell, owner and James & Rebecca Alexander, contract purchaser

Jacqueline White reported to the Board that M. Anderson Bradshaw, on behalf of Esther M. Bradshaw, owner and James & Rebecca Alexander, contract purchaser, had requested a variance to the side yard requirement for the property located at 3073 N. Riverside Drive, in the R-2, General Residential Zoning District. The property is further identified as parcel (2-81) found on James City County Real Estate Tax Map (19-1).

The house was constructed in 1979 on a trapezoid shaped quarter-acre lot. Attached to the house are a 160 square foot shed, a 576 square foot carport, and a 390 square foot covered patio. The house as constructed encroaches six feet into the side yard, the carport however, encroaches eight feet into the side yard. At the time of construction the R-2 district required a minimum side yard for each main structure of ten feet. Staff conferred with Mr. Bradshaw's office, and reviewed all available files, but was unable to determine if the carport and shed were part of the original construction.

A survey, completed in 1993, submitted by the applicants shows that portions of the home have been built within the required side yard setback. Although applicants have asked for a six foot variance, to account for the carport, a variance of eight feet is needed. No new construction is proposed in connection with this variance application.

Also noted on the recently submitted survey, the minimum lot width at the setback of the house is only 68 feet across. At the time of construction the Zoning Ordinance required a minimum width of 80 feet for this size lot (less than 20,000 square feet); currently the ordinance requires a minimum width at the setback of 75 feet for this size lot. A variance to the minimum lot width requirement is also required to allow for this encroachment to be considered.

Mr. Feigley asked Ms. White if the carport was ignored would a variance to the side yard requirement still be required. Ms. White stated yes.

Mr. Ripley asked why the applicant request for only a 6 foot variance if the violation is 8 feet.

Ms. White stated that she did not know if the applicant was aware that the encroachment was actually 8 feet.

Mr. Feigley opened the public hearing.

Mr. Bradshaw stated that the Hounshell's purchased the property in 1982 and that when the current contract purchasers applied for a loan the encroachment was noted on the survey. Mr. Bradshaw further stated that he and the applicants were unaware of the minimum lot width violation. Mr. Bradshaw stated that all of the structures, per the Assessor's office, were constructed in 1977 by a Mr. H.L. Denton and this was confirmed by Ms. Hounshell. Mr. Bradshaw asked that the variance be granted to allow the structures to remain as they are based on four considerations:

1. The property has existed in its present state for 17 years without objection by anyone.
2. The property is exceptionally narrow and a non-conforming lot.
3. It would be a great hardship to remove the infractions.
4. Granting of the variance would not be detrimental to the character of the neighborhood of Chickahominy Haven.

Mr. Feigley closed the public hearing.

Mr. Feigley moved that the variance request in case ZA-08-96 for the side yard and the minimum width lot requirement be granted with the condition that the existing structures remain as they currently are with no alterations to take place.

Mr. Ripley seconded the motion. The motion was approved unanimously.

ZA-09-96; Robert DeBellis

Jacqueline White presented the case stating that Mr. Robert DeBellis, property owner, has requested a variance to the side property line to allow for a shed at the property located at 2519 Manion Drive, in the R-8, Rural Residential Zoning District, in the Drummonds Field subdivision. The property is further identified as parcel (2-5) found on James City County Real Estate Tax Map (46-3).

The above mentioned parcel is rectangular in shape and abuts the James River. The rear of the lot is primarily dominated by a 100 foot Resource Protection Area (RPA) buffer. The house was built in 1994. Subsequent to the completion of the house the builder constructed a shed adjacent to the house. The size of the shed is such that it could be constructed without the issuance of a building permit; but setback requirements must still be met. The shed is approximately 80 square feet in size. During a recent site visit the shed was observed to be too close to the side property line, approximately 2 feet. In an effort to meet zoning ordinance requirements the property owner has relocated the shed five feet inside the property line. However,

because the shed is now only 9 feet 2 inches from the house, it does not meet the requirements to be considered an accessory structure. The zoning ordinance for the R-8 zoning district requires a 5 foot side yard for accessory structures and a 15 foot side yard for the primary structure.

The house is located approximately 145 feet back from the front property line. The size of the rear deck and the presence of the RPA buffer leave little room available to locate the structure in the rear of the property. Although it may not be aesthetically appealing, there is buildable room in front of the property.

Mr. Feigley opened the public hearing.

Mr. Robert DeBellis stated that he uses the shed as a garden house. Mr. DeBellis further commented that upon pulling the permit to build a deck, it was noted that the shed was in violation and that he could not place the shed in the back of the house due to the Chesapeake Bay Act. Mr. DeBellis stated that you cannot see the shed from the street due to landscaping.

Mr. Feigley asked if there may be a covenant regarding placing the shed in front of the house.

Mr. DeBellis stated that he was not aware of any covenant, but he did not think the Home Owners Association would allow the shed in the front of the house.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that the shed should not be placed in front of the home.

Mr. Ripley motioned that in case ZA-09-96 a 10 inch variance be granted to the steps on the deck to allow the shed to remain where it is currently standing.

Mr. Giedd seconded the motion. The motion was approved unanimously.

ZA-10-96; Caroline Council

Steven Grant gave the staff report indicating that Ms. Caroline Council, property owner, had requested a variance to the underground utility requirement for the property at 3416 N. Riverside Drive in the Eagle Tree subdivision, in the A-1, General Agricultural Zoning District. The property is further identified as parcel (1-8J) found on James City County Real Estate Tax Map (9-4).

Ms. Council is requesting a variance in order to locate the utilities above ground rather than underground as currently required by the zoning ordinance (Section 20-200).

The lot in question is over 28 acres in size. The oddly shaped lot is a stem lot with 250 feet across at the front, opening up to a much wider area ranging from 400 to 1200 feet across. The plans submitted

locate the house nearly 2600 feet from the front property line. Under the current ordinance new utilities must be underground. Ms. Council has indicated that Virginia Power has informed her that although other lots will be affected by this utility easement, she will need to bear the cost of placement because her lot is the only one requiring the service be extended from the road at this time. Ms. Council has requested the variance in order to reduce the related costs of placing these utilities underground.

Mr. Feigley opened the public hearing.

Caroline Council stated that last year she and her mother purchased the property and there is a country lane that traverses the surrounding properties, approximately 250 feet from the construction site. The majority of the building, in this subdivision, is taking place near the country road. The perk sights were not near the main road, but closer to the country road, so that is where they chose to build. Ms. Council further stated that there is an eagle's nest on the property, so this further limits her as to where she was able to construct the home.

Ms. Council showed where current utility poles are located and where she would like to place approximately 6 additional poles.

Mr. Ripley asked if lots 10 & 11 were currently occupied. Ms. Council stated no.

Mr. Giedd asked how far apart would the poles be placed.

Ms. Council stated approximately 350 feet and close to the woods so that they blend in.

Mr. Giedd asked if the country road was a through road or a "dead end".

Ms. Council stated that it does not go through.

Mr. Feigley asked how far would Ms. Council be willing to place the utilities underground.

Ms. Council stated approximately 350 feet.

Mr. Ripley stated that he had concerns about lots 10 & 11.

Mr. Feigley stated that there are poles currently existing on lot 9, however there is a letter from the owners of lots 10 & 11 stating they had no objections.

Mr. Feigley closed the public hearing.

Mr. Ripley stated that the developer should have been responsible for putting in the service.

Mr. Ripley asked Mr. Grant for clarification as to the reference in the presentation of placing utilities underground, the Planning Commission may waive requirements for underground utilities upon favorable

recommendation of the Development Review Committee, what does that mean.

Mr. Grant stated that during the subdivision process the developer may ask for a waiver to the underground utilities allowing utilities to be placed above ground.

Mr. Ripley moved that in case ZA-10-96 a variance be granted to allow above ground utility poles on the service access road to all properties fronting this road (lots 9, 10, 11 & 12).

Mr. Feigley second the motion. The motion was approved unanimously.

ZA-11-96; Charlotte Moore

Steven Grant presented the case stating that Charlotte Moore, owner, has applied for a variance to the front and rear setback requirements for the property located at 131 Clark Lane. The property is further identified as parcel (1-9) found on James City County Real Estate Tax Map (33-1) and located in the R-2, General Residential Zoning District.

The Mooretown Road area has recently undergone changes and upgrades in connection with the James City County's Community Development office. As a part of this improvement project Clark Lane was realigned and paved. The lot at 131 Clark Lane is a vacant lot and remained intact during the realignment of Clark Lane.

The above mentioned lot is rectangular in shape and Ms. Moore desires to relocate an existing 1272 square foot house to this lot. To accommodate the house with the front stoop and the rear deck, Ms. Moore is requesting a 10 foot variance to the rear yard requirement and a 5 foot variance to the front setback requirement.

The front setback requirement, in the R-2 zoning district, is 25 feet; the rear yard requirement is 35 feet. While the lot in question is not exceptionally narrow, its shallowness leaves a relatively small buildable area. The majority of the proposed structure will conform with current zoning requirements.

Mr. Feigley asked Mr. Grant if he was correct in his understanding that if the rear deck was not to remain, the house would still be encroaching the setback requirement. Mr. Grant stated yes.

Mr. Ripley noted that the stoop is considered an architectural feature therefore the variance required for the front setback should only be 2 feet not five feet.

Mr. Feigley opened the public hearing.

Ms. Moore stated that she purchased the property in 1981 and wanted to place a trailer on the site, however the property was rezoned and the new zoning would not allow her to place a mobile home on the site. Ms. Moore further stated that she found a house that is required to be removed due to the 199 expansion.

Mr. Feigley asked Ms. Moore if the deck and stoop would be removed to move the house to the new location. Ms. Moore stated yes.

A discussion of the work done to Clark Lane by Housing and Community Development took place.

Mr. Feigley closed the public hearing.

Mr. Giedd moved that in case ZA-11-96 a variance be granted of 10 feet for the rear setback and 5 feet for the front setback.

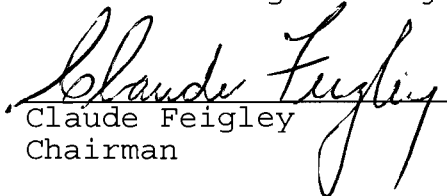
Mr. Ripley seconded the motion. The motion was approved unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Feigley stated that Baxter Carr was not reappointed as a member of the Board of Zoning Appeals and that David Nice was appointed to replace Mr. Carr.

F. ADJOURNMENT

The meeting was adjourned at 9:30 P.M.



Claude Feigley
Chairman



Bernard M. Farmer, Jr.
Secretary