

BOARD OF ZONING APPEALS

December 5, 1996

A. ROLL CALL

PRESENT:

Mr. Feigley
Ms. Wallace
Mr. Nice
Mr. Ripley

ABSENT:

Mr. Giedd

Others Present:

Allen J. Murphy, Acting Zoning Administrator
Jacqueline White, Zoning Officer

B. MINUTES

The minutes of the November 14, 1996 meeting were approved as submitted.

C. OLD BUSINESS

None

D: NEW BUSINESS

ZA-26-96; Grace Baptist Church

Ms. White gave the staff report stating that Mr. Stephen Wiley, Pastor, has applied, on behalf of the Grace Baptist Church, for a variance from the sign ordinance for a proposed free standing sign for their property located at 1013 Penniman Road, in the R-2, General Residential, zoning district. The property is further identified as parcel (1-5) found on James City County Real Estate Tax Map (41-4).

The property is located on a corner lot; Penniman Road on one side and Coleman Road on the other. The church faces Penniman Road and has less than 400 feet of frontage on either street. Grace Baptist Church has an existing free standing sign approximately 16 square feet in size. They are now proposing to replace the existing sign with a new 40 square foot free standing sign. The current sign ordinance allows the church to have a 32 square foot free standing sign; approximately twice the size of the existing sign.

A discussion of the frontage took place.

Mr. Feigley opened the public hearing.

Mr. Wiley, pastor for the Grace Baptist Church stated that the reason they were asking for a larger sign was safety. Mr. Wiley further commented that the speed limit on Penniman Road is 35 mph and VDOT recommends the minimum letter size of 6 inches in order for the sign to be read by moving vehicles. Mr. Wiley stated that the intent of the larger sign is so that the traffic can read the name and message on the sign when passing the church. Mr. Wiley stated that their proposed sign would have approximately 8 inch letters, that it would not impair visibility of the area and that it would not be a hazard.

A discussion of the color coded drawing took place.

Ms. Wallace asked Mr. Wiley what led him to believe the existing sign could not be read.

Mr. Wiley stated that the sign could be seen, but not read (an explanation of the difficulty of reading the sign took place). Mr. Wiley further commented that the property owners across the street have stated they do not know the name of the church.

Ms. Wallace asked why Mr. Wiley could not get his message across with a 32 square foot sign.

Mr. Wiley stated that they felt the more room, the more effective the message.

A discussion of the location of the sign relative to the property line took place.

Mr. Ripley stated that he felt the request was for a special privilege.

Mr. Stiles, Building and Grounds Chairman for the church, asked for clarification of the staff recommendation on the application.

Mr. Feigley and Mr. Ripley stated that was a standard recommendation when it comes to signs.

A discussion of the sign ordinance took place.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that it was always difficult to make a decision when a church is involved, however he did not think he could approve a variance for a special privilege.

Mr. Ripley agreed stating that the Board would have to deal with every church if this variance was granted.

Mr. Nice stated that the church seems to be reasonable in their request for a variance and felt that the request should be approved.

Mr. Ripley moved that the variance request to the sign ordinance be denied. Ms. Wallace seconded the motion.

The motion was approved with a 3 to 1 vote with Mr. Nice dissenting.

ZA-27-96; The Old Point National Bank

Ms. White presented the case stating that The Old Point National Bank has requested a variance from the sign ordinance for the property at 5273 John Tyler Highway located in the B-1, General Business, zoning district. The property is further identified as parcel (22-4) on James City County Real Estate Tax Map (48-1).

The Old Point National Bank is located on an outparcel adjacent to the Williamsburg Crossing Shopping Center. The property is located just past the intersection of Route 199 and John Tyler Highway. The existing sign is 31 square feet in size. Old Point National Bank Corporation is making changes to the signage at its branch locations. In conjunction with their corporate sign changes and the realignment of Route 199, Old Point National Bank is now proposing a 50 square foot free standing sign.

Route 199 is scheduled for realignment and widening by the Virginia Department of Transportation. As a part of this process the existing Route 5 (John Tyler Highway) adjacent to the Williamsburg Crossing Shopping Center will be relocated further away from the shopping center. The entrance to the shopping center will also be changed; the current primary entrance/exit will no longer permit a left turn entrance from John Tyler Highway. The left turn entrance will be relocated to what is now the second entrance, closer to the new La Fontaine development. While the realignment changes the actual location of Route 199, the right of way of Route 199 does not change. This creates a triangular open area adjacent to the bank property. Since the location of the right of way is not changing, the location of the proposed sign is still within 75 feet of the street right of way. The VDOT plans also indicate that a future ramp is planned for a portion of the area between the realigned Route 199 and Old Point National Bank property.

Under the current sign ordinance the bank is allowed one 32 square foot free standing sign not to exceed fifteen feet in height from the grade and located at least 5 feet inside the property line. The applicant claims, as their primary reason for requesting a variance, that their sign will be less visible due to the relocation of the road. The applicant could replace the existing sign with a more visible 32 square foot sign and meet the ordinance requirements. The applicant could also relocate the sign to the north corner of the property and be closer to Route 199.

Virginia Department of transportation has not begun construction of the realignment of Route 199 or John Tyler Highway. The applicant is requesting relief from a condition that does not yet exist. When this realignment occurs, staff recognizes that this is an unusual circumstance unique to this property. While the distance of the property from the actual road would be greater after John Tyler Highway is realigned, the property does not exhibit any unique characteristic until this realignment happens. Staff also feels that visibility of a sign is not instrumental to the operation of the bank.

In the event that a variance is granted the staff has recommended the following conditions be considered:

- 1) that no building permit/sign permits be issued until the area of John Tyler Highway located immediately in front of the bank property has actually been blocked off from traffic by VDT and traffic is diverted to the realigned John Tyler Highway as proposed with the Route 199 project.

- 2) that the proposed 50 square foot sign is to be placed in the exact location as the existing sign.

Mr. Feigley asked if staff knew what VDOT was planning with the triangular area and was the area currently greenspace.

Mr. Murphy stated that the area was currently planned for greenspace, but was unclear as to VDOT's future plan for the area.

A discussion of the proposed on/off ramp from 199 took place.

Mr. Nice stated that he did not see a recommendation from staff.

Mr. Murphy stated that if a recommendation was required then staff would approve with conditions.

Mr. Ripley asked if any other adjacent property owners may be affected by this realignment.

Mr. Murphy stated that three other properties may come to the Board depending on their decision.

Mr. Calvin Davis interrupted, stating that he didn't feel the applicant was receiving proper attention from the Board and that the Board was pushing staff to make a decision for the board.

Mr. Feigley explained the procedure of the Board discussing any questions or clarifications they may have prior to the applicant presenting their case. Mr. Feigley then stated that everyone in the audience who wanted to speak in the case would have an opportunity when the Board opened the public hearing.

Mr. Feigley opened the public hearing.

Cynthia Jordan, representing the bank, stated that the bank did not want to have two signs and that the current sign is the only one different from the other Old Point National Bank signs on the Peninsula.

A discussion of how the sign will look and the placement of the sign took place.

Mr. Feigley stated that he felt the current sign was ineffective. Mr. Feigley further stated that he had some concern as to what is really going to happen to the road during the realignment.

Calvin Davis of University Square Associates discussed the sign criteria of the covenants and restrictions for the property, and expressed his ideas and concerns.

Mr. Murphy reminded the Board that the County does not enforce covenants.

Mr. Feigley closed the public hearing.

Mr. Nice stated that he felt the variance should be granted.

Mr. Ripley agreed with Mr. Nice.

Ms. Wallace stated that she had concerns about granting a variance for a non-hardship.

Mr. Nice moved that the variance be granted. Mr. Feigley seconded the motion.

The motion was approved unanimously.

ZA-28-96; W. John Butler Builders

Ms. White presented the case stating that Mr. John Butler, contract purchaser and builder, had requested a variance to the front setback requirement, the rear yard requirement and the minimum lot width requirement for the property located at 112 Selby Lane, in the R-2, General Residential, zoning district. The property is further identified as parcel (4-13) found on James City County Real Estate Tax Map (50-2).

The property is rectangular in shape and there are currently no structures on the lot. The adjacent lots are developed, the lot to the rear of the property is vacant. Surrounding lots are similar in size with structures ranging from approximately 770 square feet to 1550 square feet. Selby lane has a 40 foot street right of way. The applicant is requesting a five foot variance to the front setback and a fifteen foot variance to the rear setback requirements, which will accommodate the proposed house with a rear deck.

The applicant is proposing to construct a one story single family dwelling approximately 1180 square feet in size with an attached deck approximately 10 feet x 12 feet. While the lot is unique in shape or size relative to immediately adjacent properties, it is smaller, shallower, and narrower than similarity zoned properties in the County. Application of current setbacks on this lot would produce undue hardship.

Mr. Feigley opened the public hearing.

John Butler stated that all of the houses out there are the same size and that at some point the property was buildable. However, that with all of the current restrictions imposed by the ordinance, it is no longer a buildable property.

Bob Kidd, potential buyer of the property, stated that the houses on either side of this lot are either in front of or even with the proposed project.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to grant a five foot variance to the front yard requirement and fifteen feet to the rear yard requirement.

Mr. Ripley seconded the motion and requested that Mr. Butler use a licensed contractor to set the points of the new construction.

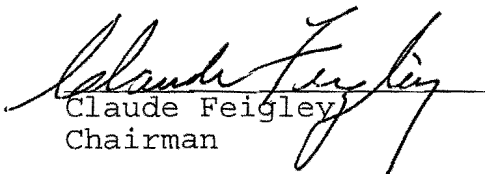
The motion was approved unanimously.

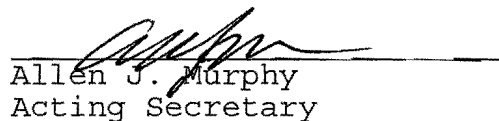
E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

The meeting was adjourned at 8:45 P.M.


Claude Feigley
Chairman


Allen J. Murphy
Acting Secretary