

ADOPTED

APR 13 1999

ORDINANCE NO. 31A-189

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VIII, APPEALS, BY RENUMBERING DIVISION 1, BOARD OF ZONING APPEALS TO NEW NUMBER DIVISION 2; BY RENUMBERING DIVISION 2, REGULATIONS GOVERNING APPEALS TO NEW NUMBER DIVISION 3; AND BY ADDING NEW DIVISION 1, ADMINISTRATIVE VARIANCES.

BE IT ORDAINED, by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VIII, Appeals, by renumbering Division 1, Board of zoning appeals with new number Division 2; by renumbering Division 2, Regulations governing appeals with new number Division 3; and by adding new Division 1, Administrative variances.

Chapter 24. Zoning

Article VIII. Appeals

Division 1. Administrative Variances

Sec. 24-644. Reduction in setback and yard requirements based on error in building location.

Notwithstanding any other provision of this ordinance, the zoning administrator shall have the authority, as qualified below, to approve a reduction in the minimum setback and yard requirements in the case of any structure existing or partially constructed which does not comply with such requirements applicable at the time such structure was erected. Such a reduction may be approved by the zoning administrator in accordance with the following provisions:

1. *The zoning administrator determines, in writing, that:*
 - a. *The encroachment does not exceed one and one half linear feet, and*
 - b. *The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building permit, if such was required, and*
 - c. *To force compliance with the minimum setback and yard requirements would cause undue hardship upon the owner, and*
 - d. *Such hardship is not shared generally by other properties in the same zoning district and the same vicinity, and*
 - e. *It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and*
 - f. *The character of the zoning district will not be changed by the granting of the variance, and*
 - g. *It will not create an unsafe condition with respect to both other property and public streets; and*
 - h. *The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.*
2. *In approving such a reduction under the provisions of this section, the zoning administrator shall allow only a reduction necessary to provide reasonable relief and may prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this ordinance.*

3. Upon the approval of a reduction for a particular building in accordance with the provisions of this section, the same shall be deemed to be a lawful building.

4. Prior to the granting of a variance, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within twenty-one days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the board of zoning appeals for decision.

5. In accordance with the provisions set forth in section 24-633, the applicant shall have 30 days in which to appeal a decision made under Section 24-644 by the zoning administrator.

Division 12. Board of Zoning Appeals

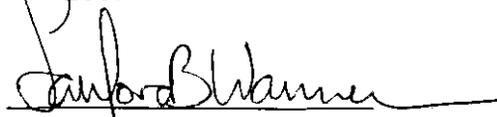
Division 21. Regulations Governing Appeals



Jack D. Edwards
Chairman, Board of Supervisors

SUPERVISOR	VOTE
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

ATTEST:



Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of April, 1999.