

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN THE COURTHOUSE, WILLIAMSBURG, VIRGINIA, ON THE TWENTY-FIRST DAY OF MAY, NINETEEN HUNDRED AND SEVENTY-FIVE.

1. ROLL CALL

Mr. George A. Marston, Chairman
Mr. Gerald H. Mephram
Mr. Warfield Roby, Jr.

OTHERS

Craig G. Covey, Assistant to the County Administrator

2. MINUTES

Upon motion by Mr. Mephram, seconded by Mr. Roby and passed unanimously the minutes of the meeting of April 16, 1975, were approved as printed.

3. APPEAL CASE NO. ZA-4-75. APPLICATION OF V. M. GEDDY, Jr., on behalf of Ed Allen, President of Chickahominy Recreational Park, Inc., for a variance from Section 20-131, Paragraph (h) of the James City County Zoning Ordinance to permit the erection of a directional sign along the right-of-way of I-64 on the property of Mr. and Mrs. George H. Cooke.

Mr. Geddy was recognized to speak on behalf of Mr. Ed Allen and the Chickahominy Recreational Park, Inc. Mr. Geddy indicated that his client came to the Board on the following grounds:

- 1) That the sign requested of 150 square feet is not a business type sign but a special directional sign authorized by the State under the Virginia Department of Highways and Transportation Commission's resolution dated October 29, 1970.
- 2) That the sign did have a valid permit but that construction had not started because the right-of-way fence had not been located or installed on I-64.

- 3) Mr. Allen was unaware that his building permit had a time limitation in it which would make the permit void if construction had not begun within six months nor was completed within twelve.

Mr. Geddy introduced Mr. Allen to speak on his own behalf. Mr. Allen stated that he requested the sign because he worked with the Chamber of Commerce and because the State agencies had inspected and approved his recreational area as a conservation complex. He indicated that he provides a teen-age land, kiddie land and adult land plus the project is open to churches for group gatherings. In addition, Mr. Allen stated that he raises and releases wild ducks as a conservation measure. It was stated by Mr. Allen that it would be a big inconvenience for Colonial Williamsburg at the Information Center if the signing is not allowed. Mr. Allen indicated he had been allowed to put up a sign of 32 square feet in Hanover County.

Mr. Geddy, again speaking, indicated that the appeal was being made under Section 20-115(c) in the community's interest. He further stated that Mr. Allen is a special case and that his request is not based upon a hardship.

Mr. Covey was requested to speak regarding the appeal and requested the Board to refer to his memorandum of May 21, 1975, which read as follows:

"Background—On June 21, 1973, Mr. Ed Allen submitted an application for and received a building permit, No. 73-474B, for the construction of a 150 square foot directional sign just off of Route 64 approximately 3/4 mile west from Route 607. The sign was to be placed on property owned by George H. Cooke. At the time the permit was issued it was lawful to erect such signs in James City County and the Highway Department would allow the sign along the interstate with County zoning approval in accordance with their general guidelines expressed in a resolution adopted by the Virginia State Highway Commission on October 29, 1970. The resolution allows signs to a maximum size of 150 square feet, 20 feet in height and length. There are also additional regulations regarding spacing of signs.

Simply stated, Mr. Allen's problem is that the interstate opening was a long way off so he decided not to erect the sign for which he got the permit until recently. When Mr. Allen started to erect his sign recently, he found that since he had not begun construction nor completed it within the period allowed by the permit his permit had expired. Likewise, the County Board of Supervisors three months after Mr. Allen got his permit passed a sign ordinance which permits directional signs along interstates but limits their size to a maximum of 10 square feet. The intent is clearly that of prohibiting large billboards and signs of any type along major roadways in James City County.

In my opinion Mr. Allen's expired permit is evidence enough that his rights to a sign size beyond what the law allows no longer exist. Certainly there is no case of hardship when, in fact, all other business men in the County must comply with current law. As in the Stuckey's case that this Board decided on December 4, 1974, there must be the presumption that equity under the law prescribes that Mr. Allen should abide by the ordinance the same as his neighbors in James City unless Mr. Allen can show that the variance which he requests is in fact not a special privilege but rather is a clearly demonstratable hardship approaching confiscation.

Recommendation—My considered opinion to date is that Mr. Geddy on behalf of Mr. Allen is requesting a special privilege as opposed to demonstrating a justified hardship. I recommend denial of Mr. Allen's appeal."

Following the Board's consideration of Mr. Covey's memorandum, Mr. Marston stated that he did not see how Mr. Allen could be granted his request given the current body of law since it appeared that no hardship existed.

Upon motion by Mr. Mephram, seconded by Mr. Roby and passed unanimously Case No. ZA-4-75 is hereby denied and the Administrator is hereby requested to write a letter to the Virginia Department of Highways and Transportation asking for consideration of Mr. Allen's request but for a location within the Highway Department right-of-way.

4. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 8:45 P.M.

Gerald H. Mephram
Gerald H. Mephram
Secretary

George A. Marston
George A. Marston
Chairman