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 THIRD DAY OF DECEMBER, NINETEEN HUNDRED AND SEVENTY-FIVE.

1. ROLL CALL

Mr. George A. Marston, Chairman
Mr. Gerald H. Mepham
Mr. Warfield Roby, Jr.
Mrs. Elizabeth Vaiden
Mr. Joseph E. Brown

OTHERS
Craig G. Covey, Zoning Administrator

2. MINUTES

Upon motion by Mr. Mepham, seconded by Mr. Brown and passed unanimously the minutes of the meeting of May 21, 1975, were approved as printed.

3. APPEAL CASE NO. ZA-5-75. APPLICATION OF WILLIAM T. AND MABLE L. DOUGLAS for a variance from Article III, Section 20-23, Paragraph (a) of the James City County Zoning Ordinance to permit the placement of a mobile home on nearby property owned by the applicant sixty feet away from his lot on which he will be reconstructing his burnt residence.

Mr. Douglas was recognized by the Chairman to speak in his own behalf and stated that he felt his wife had explained their position and request in their application and letter of October 23, 1975 and had nothing to add unless there were questions.

The Chairman called upon Mr. Covey to offer his position and whatever background would be helpful. Referring to Mr. Douglas' property survey map, Mr. Covey covered the background of the case by summarizing his memorandum to the Board dated November 28, 1975 wherein he stated:

BACKGROUND

Mr. and Mrs. Douglas experienced a fire recently

which partially destroyed their home on Lake Powell Road. To solve their housing problem while reconstructing their home they applied for approval to place a mobile home on their property. On September 16, 1975 a conditional use permit (#75-38) was issued for a period of two years which was in accordance with the time Mr. Douglas indicated he would need to get everything completed.

On October 2, 1975, I received a letter from James R. Sheeran, Esquire, of West Point. Mr. Sheeran was a neighbor during his years in law school but had recently moved and was attempting to sell his adjoining property. His letter contended that Mr. Douglas was violating the Zoning Ordinance in several ways. Upon checking out the complaint, I determined that Mr. Douglas had been issued a temporary conditional use permit under the provisions of Section 20-23(a) of the Code which permits the location of a temporary mobile home on the same lot as that used for the permanent dwelling under construction. The apparent violation was that Mr. Douglas had not placed the mobile home on the same lot with his house, but rather on other property containing a 70' x 24' brick residence. This property is sixty-feet away and is property in which he has interest in futuro by deed of record from Ms. Elsie M. Buckner who holds the life estate to the 0.436 acre tract. In addition, Mr. Douglas had a second older trailer on Parcel "D" which is almost a sixty-foot square piece of property between the Douglas' house (Parcel "C") and the temporary mobile home site (Parcel "A"). This older trailer was originally on Parcel "A" but was disconnected from utilities and moved aside to make way for the temporary mobile home. The older trailer belongs to Mrs. Buckner. The reason Mr. Douglas gave for not placing the mobile home on the same lot with his house was small size and layout of the lot, existing utilities and the need to be able to have good access around the house for reconstruction.

When I visited with Mr. and Mrs. Douglas in their temporary mobile home and during subsequent conversations in my office, it became my opinion that their case was unusual and certainly one bearing every mark of a hardship situation. Therefore, the matter is before the Board for its consideration of the variance requested which will enable the temporary mobile home to remain on Parcel "A". Mr. Douglas understands he

will have to move the older trailer but may place it back on its original site before its nonconforming use status expires two years from September 16, 1975.

RECOMMENDATION

Based upon Mr. and Mrs. Douglas' application and the situation as I have outlined above, my recommendation is to grant the applicant's request under the authority granted the Board by Section 20-115(b) of the James City County Code.

Asking for those in opposition to speak, the Chairman recognized Mr. James R. Sheeran who identified himself as an adjoining property owner. The Chairman asked if Mr. Sheeran presently resided on the property to which Mr. Sheeran replied he did not but lived in West Point where he practices law.

Mr. Sheeran stated that Mr. Douglas does not have a hardship because, referring to the State Code, Section 15-495, any hardship must arise from the land; its shape or topographic conditions. Furthermore, Mr. Sheeran stated that because Mr. Douglas had placed the new trailer adjacent to his adjoining property on which there is a house he (Mr. Sheeran) had lost two sales for his house. He further stated that his property value was down $6,000 representing an 18 to 20 per cent real estate deflation. No documents or other evidence as to the specific potential purchasers or appraisal was offered to the Board.

In further discussions Mr. Sheeran stated that Mr. Douglas had represented to the County that he owned more than an acre of land suitable for the temporary location of the mobile home but in fact Mr. Douglas does not own an acre in any one parcel. It was pointed out by Mr. Sheeran that Mr. Douglas owns or has by deed the future right of possession to several adjoining parcels in the vicinity, all of which are less than an acre.

Mr. Sheeran stated that it would be alright with him if Mr. Douglas would put the trailer on the same lot with his burned house (Parcel C) or on the rear-most lot (Parcel B) where Mr. Douglas is slowly building a duplex residential dwelling.

Mr. Douglas requested to speak in rebuttal and was recognized by the Chairman. Mr. Douglas stated his mobile home was 65 feet long and asked the Board to look at his survey plat showing the four parcels - A, B, C, and D. He pointed out that his burned home site, parcel C had a frontage of 55 feet on Old Jamestown Road and that his 26' x 36' house with carport takes up the widest portion of his lot leaving no practical way to place the 65 foot long mobile home on the same lot without being too

close to Old Jamestown Road and having the mobile home hang over the property lines. Referring to Parcel D, the 63.14' x 60' lot directly behind Parcel C, Mr. Douglas showed the Board where he had a 30' x 47' workshop on this parcel which prohibited the location of the trailer there. Regarding Parcel B, Mr. Douglas explained that he could have located the mobile home on this parcel where he is constructing a duplex but there were no provisions for sewage. He stated that the reason he was slowly building the duplex was because he was timing his construction to coincide with the completion of the County's sewer project currently under construction along Old Jamestown Road. Summarizing, Mr. Douglas stated that he placed the trailer on the most feasible location given the circumstances and thought he could have it moved by spring of 1976 but would appreciate at least a one year Conditional Use Permit just in case an unforeseen problem arose.

The Chairman indicated that he thought a year was plenty of time if the Board granted the variance. Mr. Brown stated that it appeared from what he could see that an undue hardship would exist if the law were strictly applied in this case plus the fire rendered this property uniquely unusable as a home site until it can be repaired. The Chairman noted that since an older trailer was where the new one is to be for a short term basis this did not appear to be of substantial detriment to adjacent property or the neighborhood.

Upon motion by Mr. Brown, seconded by Mr. Mepham and passed unanimously Case No. ZA-5-75, a variance from the same lot requirement, is hereby granted in accordance with the applicant's request but with the provision that the Conditional Use Permit No. 75-38 be terminated one year from date of issuance.

4. APPEAL CASE NO. ZA-6-75. APPLICATION OF CHARLES E. AND LINDA ENROUGHTY, JR., for a variance from Article V, Section 5-5-1 of the James City County Zoning Ordinance. Property is located in Chickahominy Haven, Section IV, Lot 26.

Mr. Enroughty was recognized to speak and briefly restated his application indicating that Lot 25 to the east is vacant and that Lot 27 to the west contains a home which has twelve feet of side yard.

Mr. Covey presented a brief background and his recommendation as follows:

BACKGROUND

The request by Mr. Charles Enroughty and wife for a side yard variance on their 75-foot-wide lot is

the typical case in Chickahominy Haven with which the Board is quite familiar. Specifics are that the applicant wishes to build into his side yard by two feet leaving each side yard eleven and one-half feet wide.

Adjoining Lot 25 to the east is vacant. Lot 27 to the west contains a home with a side yard of twelve feet. The combined adjacent side yards for Lots 26 and 27 would be twenty-three and one-half feet which is ample.

RECOMMENDATION

It is recommended that the applicant's request for a variance (special exception) of two feet be granted.

Mr. Burcher, the adjacent homeowner, stated he had no objection to the Enroughty's request.

Upon motion by Mr. Roby, seconded by Mr. Brown and passed unanimously Case No. ZA-6-75, a two feet side yard variance (special exception), is hereby unanimously granted to the applicant.

5. APPEAL CASE NO. ZA-7-75. AN APPLICATION OF C. H. ANDERSON on behalf of Stuckey's of Williamsburg, Inc., for an interpretation of the Zoning Ordinance, Chapter 20, Article VIII, Section 20-131(e) and a variance from Chapter 20, Article VIII, Section 20-133(d). Property is located at the southwest corner of the intersection of Interstate 64 and State Route 168.

Mr. Anderson was recognized to speak on behalf of Stuckey's. Colonel and Robert Groom were introduced by Mr. Anderson as the owners and principles involved in the Stuckey's store in James City County. Mr. Anderson stated that his client has requested permission to have a temporary sign on the roof of the Stuckey's building and will remove the sign upon Virginia Department of Highways and Transportation's placement of logo signs on I-64 at the Toano interchange.

The Chairman requested Mr. Covey to give his opinion concerning the applicant's request. The background and recommendation offered by Mr. Covey was as stated in his memorandum to the Board:

BACKGROUND

The applicant in this case is requesting additional sign square footage which will enable his business to be identified from I-64. The request concerns

the location of a sign on the building's roof. The sign would be at the top of the roof peak on the side most visable from the east bound lane of I-64. A previous request for a 64 feet high, 428.5 square feet free standing sign was denied by the Board on December 4, 1974. As the Board may recall, there was a chance that the Virginia Department of Highways and Transportation would be erecting a logo sign system along I-64 like exists on I-95. According to Commissioner Fugate, such a logo sign system is under study and anticipated but it cannot be implemented in the near future due to funding and other related cost problems. Copies of the correspondence on this subject between the County and VDHT are attached.

Based upon the present status of the logo program, the approach to the site, the site's topography plus the economic considerations outlined by the applicant it appears reasonable to consider some special exception within the powers granted to the Board in Section 20-115(c). In granting a special exception, the Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest. Such special exception could be to grant approval for the mounting of a sign upon the roof as requested by the applicant with an appropriate safeguard provision on behalf of the public interest. The provision could be in the form of an agreement wherein the applicant would agree to remove the sign within 30 days following the installation of the logo signs at the Toano interchange. The applicant has previously agreed that this approach would be acceptable.

The details of sign size and type of mounting or roof painting need to be agreed upon by the Board. The smallest readable sign which will get the job done would seem to be the reasonable solution. According to the type of road, average auto speed and reaction time factors the sign size should be between 150 and 200 square feet. A recognized sign design guide, Street Graphics, published by the American Society of Landscape Architects suggests a 162 square feet sign for this type of rural setting along an expressway.

In addition to the applicant's sign variance request, there is also a request for an interpretation of the word "facade" in Section 20-131 (e). However, if the Board deems the above suggestion for signing a reasonable one, then no interpretation

is necessary. My opinion is that a roof is a roof and although it might be part of the "front facade" it is still a roof and the County Code prohibits signs mounted on a roof.

RECOMMENDATION

It is recommended that a special exception be granted the applicant for a 162 square foot roof-mounted sign. Also it is recommended that the applicant's attorney together with the County Attorney and the Zoning Administrator prepare and have executed an agreement, with bond as may be appropriate, to provide for the eventual removal of the roof sign upon installation of the logo sign system at the Toano interchange.

Mr. Robert Groom speaking for his father said that the 162 square feet would be very acceptable and appreciated Mr. Covey's research to determine the sign size.

Mr. R. M. Hazelwood of Toano was recognized by the Chairman to speak in behalf of the applicant's request as were Jack Barnett and David Ware. Mr. Hazelwood stated he lived across the highway from Stuckey's and would be most affected but foresees no problem. Tourist dollars, he stated, are very much needed along Route 60 because they "turn over" more than local dollars in the County's economy. Mr. Barnett stated that tourists see interesting things on Route 60-W and should be aided by signing of any type which acquaints them with businesses on Route 60. He said the tourist dollars are slim and every chance is needed to get their business. Mr. Ware stated that thirty-two square feet in a free-standing sign is not adequate and that the Board of Supervisors passed an illegal ordinance. Mr. Ware favored and supported the sign exception for Stuckey's.

Mr. Brown indicated from his experience it was hard to know what the Stuckey's store is until one is in front of it, which certainly is not adequate identification for a motorist on I-64.

Mr. Mepham inquired of Mr. Groom regarding the relative visibility of signs from I-64 due to the high grass on Virginia Department of Highways and Transportation's property at the interchange.

Mr. Groom indicated that Virginia Department of Highways and Transportation had given them permission to mow grass.

Upon motion by Mr. Brown, seconded by Ms. Vaiden and passed unanimously Case No. ZA-7-75, a special exception for a 162 square foot roof-mounted sign, is hereby granted to the applicant with the provision that the sign be removed within thirty days

from the date logo signs are installed on I-64 at the Toano interchange. No performance bond was required.

6. ADJOURNMENT

The meeting was adjourned at 9:00 P.M.

Elizabeth N. Vaiden
Secretary

George A. Marston
Chairman

Gerald H. Mepham
Acting Chairman