

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-FIFTH DAY OF NOVEMBER, NINETEEN HUNDRED AND EIGHTY-ONE.

1. ROLL CALL

Mr. Gerald H. Mephram, Chairman
Mr. Joseph E. Brown, Vice Chairman
Mr. George A. Marston
Mr. Warfield Roby, Jr.

OTHERS:

Mr. William C. Porter, Jr.

2. MINUTES

Upon a motion by Mr. Marston, seconded by Mr. Brown, the minutes of the October 22, 1981 meeting were approved as presented.

3. Prior to calling the first case, Mr. Alan Gordon, applicant for Case No. ZA-9-81 requested that his case be moved to the end of the agenda because his attorney had not arrived.

Mr. Mephram asked if there were any objections from any Board members. There being no objection, Mr. Mephram stated Case No. ZA-9-81 as being the last public hearing.

4. CASE NO. ZA-10-81. A PUBLIC HEARING TO CONSIDER AN APPLICATION
of Mr. Ronald L. Rice of Charles C. Townes and Associates, on behalf of Schneider's Transport Truck Terminal, for a variance to Section 20-84 of the Zoning Ordinance to allow a commercial repair garage within the required front setback.

Mr. Porter presented the staff report, which is appended hereto, stating that the requested variance did not meet the standards set forth in State law for the issuance of the variance. Mr. Porter further stated that due to the rural nature of the area the variance would not be objectionable nor create any adverse impacts on adjacent properties from a planning standpoint. The staff's recommendation of denial is based upon the standards set forth in the State Code for a variance.

Mr. Mephram opened the public hearing for Case No. ZA-10-81.

Mr. Charles Townes, the applicant, stated that the building had been staked out incorrectly and the 4.9 foot mistake was not discovered until the building was 90% complete. Mr. Townes also explained that the title insurance company would not release clear title until a variance had been issued or the building moved into compliance.

There being no further speakers, Mr. Mephram closed the public hearing.

Upon a motion by Mr. Marston, seconded by Mr. Roby, a variance from Section 20-84 to allow a front yard setback of 45.1 feet was approved for Schneider's Truck Terminal located on Parcel (1-9) on Real Estate Tax Map No. (13-1).

5. CASE NO. ZA-11-81. A PUBLIC HEARING TO CONSIDER AN APPLICATION
of Mr. George Petithory, Jr., on behalf of the Williamsburg Mennonite Church, for a variance to Section 20-33 of the Zoning Ordinance to allow the construction of a church addition within the required rear yard setback.

Mr. Porter presented the staff report, which is appended hereto, stating that the proposed variance was a self created hardship and did not meet the standards in the State enabling legislation for a hardship for the issuance of a variance. Mr. Porter further stated that due to the rural nature of the area the variance would not be objectionable nor create any adverse impacts on adjacent properties from a planning standpoint. The staff recommended denial because the staff feels the applicant did not meet the standards for the issuance of a variance set forth in the Code of Virginia.

Mr. Marston asked if the adjacent property owners had been notified.

Mr. Porter stated they had been properly notified.

Mr. Mephram opened the public hearing for Case No. ZA-11-81.

Mr. George Petithory, Jr., representing the applicate, stated that he would answer any questions the Board members may have.

There being no further speakers, Mr. Mephram closed the public hearing.

Upon a motion by Mr. Marston, seconded by Mr. Roby, a variance from Section 20-33 to allow a rear yard setback of 30 feet was approved for the Williamsburg Mennonite Church located on Parcel (1-32) on Real Estate Tax Map No. (13-4).

6. CASE NO. ZA-9-81. A PUBLIC HEARING TO CONSIDER AN APPLICATION OF
Mr. Alan W. Gordon for a variance from Section 20-55, Yard Regulations, of the Zoning Ordinance. The purpose of the variance is to waive the 10 foot side yard requirement to permit construction of an additional bedroom to within zero feet of the eastern property line.

Mr. Porter presented the staff report, which is appended hereto. Mr. Porter explained that the requested variances were self created hardships and did not meet the standards in the State Code of a hardship for the issuance of a variance. Mr. Porter also explained that the issuance of such a variance would create a hardship for fire and emergency rescue services in times of emergency.

Mr. Herb Kelly, attorney for the application, stated that Mr. Gordon had requested the variance because he wanted to construct a \$65,000 addition to his house in Chickahominy Haven Subdivision. The variance is necessary due to the narrowness of the lot. Mr. Gordon wishes to make the addition, as shown on the plat, in order to preserve the view of the Chickahominy River.

Mr. Kelly further stated that he did not feel fire protection was a problem because cluster homes with zero lot line were an accepted way of building.

Mr. Porter stated that Mr. Kelly was correct in that cluster homes are an accepted method of development where fire protection is available. Adequate fire protection is not available in Chickahominy Haven Subdivision.

Mr. Brown asked Mr. Kelly if the room could be move to preserve some of the side yard.

Mr. Gordon, the applicant, stated that he could not move the room and keep the view of the river he wanted or the balance of the house.

Mr. Jesse Hyatt, representing the applicant, stated that he felt that they could reduce the addition by 2 feet.

Mr. Gordon stated that he could accept the 2 foot reduction.

Mr. Marston asked Mr. Porter if the Board of Zoning Appeals had ever issued a variance for a side yard in Chickahominy Haven below 5 feet.

Mr. Porter stated that he had not found any case where a variance was issued that was less than 5 feet.

Mr. Marston stated that the Board had issued many variances in Chickahominy Haven Subdivision. No one had ever requested a 2 foot variance. Mr. Marston stated that before he would consider a 2 foot variance, he would need a signed letter from the adjacent property owners saying that they recognize their ability to place an addition on their home was limited with the issuance of a 2 foot side yard setback for Mr. Gordon.

Mr. Kelly stated that he would attempt to get such an agreement. He also asked if the Board would approve the variance contingent upon such an agreement.

Mr. Porter stated that he would like to have the County Attorney approve such an agreement before the Board took action. That did not mean the staff would change its recommendation on the variance.

Mr. Marston stated that he would have to see such an agreement before he would consider approving a variance that would permit a 2 foot side yard.

Mr. Mephram stated that he did not feel he could approve a variance that would permit a 2 foot side yard on one side and a 1.2 foot side yard on the other.

Mr. Kelly asked what minimum side yard the Board would approve.

Mr. Marston stated 5 feet was the minimum he could agree to.

There being no further speakers, Mr. Mephram closed the public hearing.

Upon a motion by Mr. Marston, seconded by Mr. Brown, a variance in accordance with Section 20-108 was approved for a 5 foot side yard on the eastern side and the existing 1.2 foot side yard on the western side of lot 37 of Chickahominy Haven Subdivision.

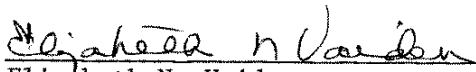
7. MATTERS OF SPECIAL PRIVILEGE


Mr. Porter reminded the Board that the next meeting date is December 24; therefore the staff recommended moving the meeting to December 23.

After a brief discussion, the December Board meeting was set for December 17, 1981.

8. ADJOURNMENT

There being no further business, the November 25, 1981 meeting of the Board of Zoning Appeals was adjourned at 8:15 P.M.


Elizabeth N. Vaiden
Secretary


Gerald H. Mephram
Chairman