

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF JAMES CITY, VIRGINIA, IN THE COUNTY GOVERNMENT CENTER, 101C MOUNTS BAY ROAD, BOARDROOM, AT 7:30 P.M. ON THE TWENTY-FOURTH DAY OF FEBRUARY, NINETEEN HUNDRED AND EIGHTY-THREE.

1. ROLL CALL

Mr. Gerald H. Mepham, Chairman
Mr. David Hertzler
Mr. Warfield Roby, Jr.
Mr. Joseph A. Abdelnour
Ms. Elizabeth N. Vaiden

OTHERS

Mr. Orlando A. Riutort
Mr. Henry H. Stephens

2. MINUTES

The corrected minutes of the December 22, 1982 meeting were approved as presented.

The minutes of the January 27, 1983 meeting were approved as presented.

3. CASE NO. ZA-12-82. WINDY HILL MOBILE HOME ESTATES

Mr. Stephens informed the members that he had met with Mr. Millner, attorney for the applicant, this afternoon (February 24, 1983) and Mr. Millner had advised him that his client would be unable to come to this meeting. He requested an additional continuance to allow him time to discuss the case with his client. Mr. Stephens read Mr. Millner's written request.

Mr. Abdelnour made a motion, seconded by Ms. Vaiden, to defer the case to another meeting at which there would be at least one other case to discuss. The vote was unanimous in favor of the motion.

4. CASE NO. ZA-13-82. MR. DAVID A. HOOKER

Mr. Abdelnour excused himself from participating in this case because he was providing Mr. Hooker legal representation on another matter.

Mr. Stephens provided the members with copies of a letter from the Virginia Department of Highways and Transportation which provided a response to the questions that had formed the basis for the case having been deferred previously. The VDH&T indicated it was unwilling to sell

to Mr. Hooker that portion of the right-of-way which would make his building conforming and the variances he was requesting unnecessary. Mr. Stephens then reviewed the staff report on this case which had been originally presented at the December 22, 1982 meeting of the Board of Zoning Appeals.

Mr. Riutort explained Mr. Waltrip's statement regarding the pouring of a slab. Mr. Waltrip had advised Mr. Hooker that he could pour a slab without a building permit; however, if he planned to put a building on that slab, he would be required to obtain a building permit.

Mr. Hertzler asked if there is room on the property for what Mr. Hooker wants to do. Mr. Stephens reviewed the site plan for the members. Mr. Hertzler asked if the front wall of the building could be removed and the building expanded toward the rear of the property.

Ms. Vaiden stated that the problem existed because of the width of the Highway Department's right-of-way. The members agreed that they did not have the authority to allow Mr. Hooker to extend his canopy into the State right-of-way.

After a brief discussion of the history of the right-of-way in this area, Mr. Mephram stated that if a hardship existed for Mr. Hooker, it was due to the exceptional width of the right-of-way in front of his property. Mr. Stephens explained that most of the variances would be unnecessary if Mr. Hooker could either move his building back or purchase a portion of the right-of-way but neither of these seemed to be possible.

Mr. Costello, who had filed the application on behalf of Mr. Hooker, stated that along almost any other two lane road in the County Mr. Hooker's building would not be nonconforming because the right-of-way would not be so wide. To move the building back six feet would destroy the plumbing and the electrical work including the electricity for the gas pumps. This area which includes a food establishment is the real value of the building. The gas pumps were allowed previously by the Highway Department which is why they are there now, but they do not want the canopy extended over the right-of-way.

Mr. Riutort pointed out that the Comprehensive Plan recognizes this strip of land as something more than just an exceptionally wide right-of-way for a road that might have been built and has not.

Ms. Vaiden made a motion that the variance for the building be granted but that the variance for the canopy not be granted based on the hardship that exists because of the unduely wide right-of-way and because the business could not afford to be moved back and still survive economically. Mr. Mephram seconded the motion.


The roll call vote was as follows:

Mr. Hertzler	Aye
Ms. Vaiden	Aye
Mr. Roby	No
Mr. Mepham	Aye

5. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 8:00 P.M.

Elizabeth N. Vaiden
Secretary



Gerald H. Mepham
Chairman