

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

1. ROLL CALL

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

OTHERS:

Mr. Orlando A. Riutort  
Mr. Frank M. Morton, III  
Mr. Allen J. Murphy, Jr.

2. MINUTES

The minutes of the February 24, 1983 meeting were accepted as presented.

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

Mr. Murphy informed the Board that Mr. Millner, attorney for Windy Hill Mobile Home Estates, Ltd., had requested withdrawal of this case.

By unanimous vote, the case was accepted for withdrawal.

4. CASE NO. ZA-1-83. WALLACE GARAGE

Mr. Murphy presented the staff report for an application by Mr. Samuel K. Wallace for a variance from Section 20-84, Setback Requirements, of the Zoning Ordinance. The purpose of the variance was to allow the construction of a garage/storage building within the required setback of 50 ft. The property is located at the intersection of Ironbound Road and Route 31. Mr. Murphy stated that the staff recommended denial of the request because an undue hardship had not been demonstrated in this case.

Mr. Mepham opened the public hearing.

Mr. Stephen Harris, attorney for the applicant, showed the Board photographs of the property, indicating the location of the house presently located on the property, and two small buildings on the west-erly corner of the property. The buildings, he said, fall within the right-of-way. The garage Mr. Wallace intends to build is a residential type double garage with storage in it (24x40) which can only be placed against one of the buildings with the existing setbacks. He said this is business property and he sees no reason to squeeze this building into an area just to meet setbacks that have already been violated. This building site was selected to line up with other buildings on the property. Mr. Harris said a 30 ft. variance would afford the extra room needed to service this building. Mr. Harris asked for favorable consideration of Mr. Wallace's request.

Mr. Alvin Anderson, representing Raleigh Square, Inc., located directly across the road from the Wallace property, spoke in opposition to the request. Just recently, he said, the Board of Supervisors acted favorably on his client's request for rezoning for multi-family dwellings. He further stated that the garage should be placed elsewhere as it would be detrimental to the residential property across the road and that the Comprehensive Plan designates Jamestown Road as a greenbelt entrance to the City of Williamsburg. This structure, he said, was consistent with the Comprehensive Plan and requested that the application be denied.

There being no other speakers, the public hearing was closed.

Following a brief discussion, Mr. Hertzler made a motion, seconded by Mr. Roby, to deny the request for a variance.

Mr. Abdelnour abstained from voting. The motion passed 3-1 as follows: Mr. Hertzler, Mr. Mephram, Mr. Roby - AYE; Ms. Vaiden - NAY.

5. CASE NO. ZA-2-83. SHELLIS, INC.

Mr. Murphy presented this case for a Special Exception to allow the conversion of a single family dwelling to an office building. The property is located in an R-2 zone where offices are not a permitted use (102 Wickre Street). The Comprehensive Plan designates a commercial area at the intersection of Route 143 and Penniman Road. A real estate office is located on the corner of Wickre Street and Penniman Road and a service station at the corner of Penniman Road and Route 143.

Mr. Murphy stated that on December 20, 1982, Mr. William R. Bland was informed by the staff that 102 Wickre Street was zoned B-1, General Business, according to the zoning map. This was confirmed by the Planning Office in a letter dated December 21, 1982. The property was subsequently purchased by Shellis, Inc. and the dwelling was refurbished and converted to an office building. Mr. Murphy said that it was regrettable that an error was made in this case which led to this application. However, he said, such an error does not justify the granting of a Special Exception, and that this case must be considered for its merits regardless of the fact that an error was made.

Mr. Murphy said the placement of an office building in this area was incompatible with permitted uses in the R-2 district. With the exception of the real estate office the entire street was residential, and to grant this exception would set a precedent for allowing offices in residential areas, he said.

Mr. Murphy said the applicant had alluded to some hardship due to expenses incurred in converting the dwelling to an office building. The evidence in this case, he said, does not clearly show a hardship warranting the issue of a Special Exception and, therefore, the staff was recommending denial of the requested Special Exception.

Mr. Mephram opened the public hearing.

Mr. William R. Bland requested to speak on behalf of the owners, Dr. and Mrs. James S. Ellis. He wished to clarify that he did not apply for the exception on behalf of Shellis, Inc., as stated in the staff memorandum, but on behalf of Dr. and Mrs. Ellis, the legal owners of the property. Mr. Bland stated that the application for exception was made as a result of an error in zoning and because it appeared the best method to resolve the problem. He pointed out that he was not present to request that the lot be rezoned, but to ask the Board to grant a Special Exception to the owners to allow them to continue to maintain the office of Shellis, Inc. He said the Ellis' are the majority stockholders in Shellis, Inc. and so long as they are and so long as they own the property, they were willing to abandon the use of an office upon sale of the property, or if Shellis, Inc. is sold.

Mr. Bland said Dr. Ellis purchased the property to provide an office for Shellis, Inc. The contract of sale was dated 12/1/82 and contained a contingency that said property be zoned B-1 and able to be used as an office. Mr. Rick Smith of Berkeley Realty was told by the Planning Office that the property was B-1. Mr. Bland said he was told to close the transaction on behalf of both the seller and purchasers. At that time the Planning Office made a verbal response that the property was zoned B-1. He didn't know why, Mr. Bland said, but he requested and received in writing in a letter dated December 21, 1982 confirmation that the property was zoned B-1. The transaction was closed on December 29, 1982. He did not know until January that there was a problem.

Mr. Bland reviewed the expenses incurred in the conversion of the building and said he did not feel resale of the property would reimburse the investment. The hardship was in "having to be here in the first place, and how do we get back to where he ought to be if you-all don't approve this request for exception ... and I see no way to put him back to where he should have been had the mistake not been made." Mr. Bland asked that the owners be permitted to maintain the office as long as they are the major stockholder and own the building.

In response to Mr. Abdelnour's inquiry regarding the exact use of the building and concern for traffic, Dr. Ellis responded that there were three people in and out - the secretary, himself, and Mr. Diggs, contractor for Shellis, Inc. However, realtors and insurance people may come by. There is no heavy equipment involved.

Mr. Rick Smith of Berkeley Realty discussed the financial aspects and stated that the property which was purchased for \$54,500 would have to sell for \$68,000 in order to recover the investment. Based upon area sales, he felt this property would possibly sell for \$56,000-\$57,000.

The following citizens spoke in opposition to the Special Exception: Mr. Roger W. Willetts, 106 Wickre Street; Mr. John W. Newton, 107 Wickre Street; Mr. Billy Scruggs, 3 Monument Drive; Mr. Floyd A. Robinson, 100 Wickre Street; Mr. Larry M. Allgood, 4 Monument Drive; Ms. Virgie W. Newton, 107 Wickre Street. They each asked the request be denied, stating that the property's use as an office would be detrimental to the area as it would increase traffic on the street and create spot zoning.

Mr. Abdelnour asked if the terms of the sales contract were incorporated into the deed; Mr. Bland responded that they were not.

Mr. Morton asked, if the Board chose to grant a Special Exception, that they set forth their reasons for doing so.

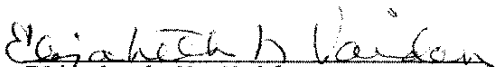
There being no further speakers, the public hearing was closed.

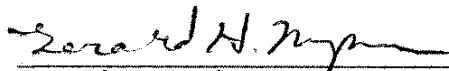
Mr. Roby made a motion, seconded by Mrs. Vaiden, that the request for a Special Exception be denied.

The motion was passed 4-1 in the following roll call vote. Mr. Hertzler, Mr. Roby, Mrs. Vaiden, Mr. Mephram, AYE; Mr. Abdelnour, NAY.

6. ADJOURNMENT

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

  
Elizabeth N. Vaiden  
Secretary

  
Gerald H. Mephram  
Chairman