

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF JAMES CITY COUNTY, VIRGINIA, IN THE BOARDROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA, ON THE TWENTY-THIRD DAY OF JANUARY, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Mr. Ronald Rosenberg
Mr. David Hertzler
Mr. Claude Feigley
Ms. Nancy James
Ms. Elizabeth Vaiden

Others Present

Mr. Bernard M. Farmer, Jr., Director of Code Compliance
Mr. Larry Davis, Assistant County Attorney

2. MINUTES

The November 21, 1985 minutes were approved as presented.

3. OLD BUSINESS

ZA-19-85. Randy Coles.

Mr. Farmer stated that Mr. Randy Coles, on behalf of Southland Corporation, had requested variances from Section 20-12 and 20-335 of the James City County Zoning Ordinance for expansion of the 7-11 at 7114 Merrimac Trail. He stated that the store was a legally existing non-conforming structure and that the original site plan submitted for the property showed the area as open space. Section 20-12 requires that any expansion of a parking area conform to the requirements of that section. The applicant desires to pave the area for additional parking and not provide landscaped islands or a ten foot wide perimeter strip adjacent to the property line as required by the chapter. Section 20-335 of the ordinance requires that properties within the B-1 zoning district maintain a minimum of 30% of the site as landscaped open space. Mr. Farmer then recommended that the variance be denied since the applicant failed to show a legal hardship existed that was unique to the property and prevented its beneficial use.

Mr. Rosenberg asked Mr. Farmer to explain what Mr. Coles was asking from the Board. Mr. Farmer explained that Mr. Coles desired to delete both landscaped islands that were required by the Zoning Ordinance [Section 20-12]. He stated Section 20-335 was the 30% requirement for landscaping.

Mr. Rosenberg opened the public hearing and asked if anyone would like to speak in favor of the requested variance.

Mr. Coles showed the board members a site plan showing what he wanted to do. He stated that the 7/11 was built according to the requirements at that time. What he wanted to do now was concrete the area beside the store that would eliminate dust and make the area more attractive.

Mr. Hertzler stated that he did not understand why the applicant was requesting a variance since the area was already graveled.

Mr. Farmer explained that the area where the applicant proposed to concrete was grass at one time and gravel had been placed there over the years. Southland Corporation submitted a sketch site plan and outlined the area of improvements they wanted to make in the fall of 1984. The Planning department returned the sketch to them and indicated to Southland that they needed to meet the requirements of the zoning ordinance.

Mr. Rosenberg stated that the board had granted variance in the past with conditions and he thought the board should add conditions to this case if the variance was granted.

Mr. Hertzler stated if the site was grandfathered, how much authority did the board have. Mr. Davis stated that the grandfather clause only applied to the "use" and any expansion would require that the entire site be bought in conformance with the zoning ordinance.

Mrs. Vaiden moved to grant the variance.

Mrs. James asked Mr. Coles if the proposed landscaping in front of the store would not impair visibility for outgoing traffic.

Mr. Coles stated that the landscaping would be very low.

Mr. Halpin, an adjacent property owner, stated that he lived behind the store and the dust, created from the traffic, was a problem and that Southland had been very responsive. He stated that he was in favor of the board granting the variance.

Mr. Feigley moved that the variance be granted with conditions and Mrs. James seconded the motion.

The conditions were:

1. Screening the dumpster.
2. Planting shrubbery
3. Placement of the split rail fence.

Roll call was as follows.

Mr. Hertzler	Yes
Ms. Vaiden	Yes
Ms. James	Yes
Mr. Feigley	Yes
Mr. Rosenberg	Yes

3. NEW BUSINESS

Case No. ZA-23-85. Country Contractors.

Mr. Farmer stated that Mr. David Tuftee had applied for a variance of 7.59 feet from the setback requirements of Section 20-157 of the James City County Zoning Ordinance for an attached garage on a corner lot located at 100 Branch's Pond Road. In October of 1985 a permit was granted for a single-family dwelling on the property that did not include a garage. At some point in construction, the owner and the contractor agreed to add a garage yet no permit was ever obtained. The garage addition caused a violation of 7.59 feet into the setback line. The contractor claimed he mistakenly measured the setback from the pavement edge and not the right-of-way (property line). Section 20-157 of the Zoning Ordinance states that no structure shall be located closer than 35 feet to the side street. Though the ordinance states "street", it was understood and was clearly enumerated in other sections to mean property line or right-of-way line. Mr. Farmer recommended that the variance be denied since the applicant had failed to show that any hardship existed or that he had been prevented from reasonable use of the property.

Mr. Rosenberg opened the public hearing and asked if anyone would like to speak on behalf of the requested variance.

Mr. Feigley asked if a permit was ever issued for the garage. Mr. Farmer stated "no", that after the garage was built the contractor tried to obtain a building permit.

Mr. Rosenberg asked if the garage was completed. Mr. Farmer stated that the outside was complete.

Mr. Christner, a partner of Country Contractors, Inc., presented to the board a letter that Mr. Tuftee had written explaining what had happened. Mr. Christner stated that Mr. Tuftee could not attend the meeting because of an illness in his family.

Mr. Hertzler stated that it puzzled him that a contractor would not know where to take measurements from the property line.

Mr. Rosenberg asked Mr. Christner if there was enough room on the lot to place the attached garage without encroaching onto the setback line.

Mr. Christner stated that there was enough room.

Mr. Feigley stated that an experienced contractor should know better than to measure from the pavement rather than the property line and asked how long had Country Contractors Inc., been building homes.

Mr. Christner stated that they had been building homes for eight years.

Mr. Feigley asked what was the status on the house at the present time.

Mr. Christner stated the owners had closed on the house.

Mrs. Vaiden stated that it was a very unfortunate situation and saw no problem granting the variance.

Mr. Hertzler suggested that the contractors buy a zoning ordinance and consult an engineer in the future to avoid problems like this.

Mr. Rosenberg amended the condition to read "Mr. Tuftee must meet with Mr. Farmer, the Zoning Administrator and buy a zoning ordinance. And if Mr. Tuftee does not see Mr. Farmer within 30 days the variance is void."

Roll call was as follows:

Mr. Hertzler	Yes
Ms. Vaiden	Yes
Ms. James	Yes
Mr. Feigley	Yes
Mr. Rosenberg	Yes

The variance granted was with conditions.

5. MATTERS OF SPECIAL PRIVILEGE

The board went over bylaws and all members adopted a final draft.

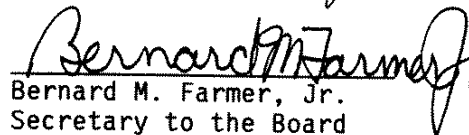
The board elected Mr. Rosenberg as chairman for the board and Mrs. Vaiden was elected at Vice-Chairman. All members were in favor.

6. ADJOURNMENT

The board adjourned at 9:00 p.m.

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Ronald Rosenberg, Chairman


Bernard M. Farmer, Jr.
Secretary to the Board