

BOARD OF ZONING APPEALS

MINUTES

May 26, 1988

A. ROLL CALL

Absent

Mr. Ronald Rosenberg
Ms. Elizabeth Vaiden
Mr. Claude Feigley

Mr. Bob Ripley
Ms. Nancy James

Others Present

Mr. Bernard Farmer, Zoning Administrator
Mr. Larry Davis, Assistant County Attorney

B. MINUTES

The March 24, 1988 minutes were approved as presented.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-11-88 Dale & Karen Willetts

Mr. Farmer stated Mr. & Mrs. Dale Willetts had requested a 12 foot variance from the rear setback requirements of the James City County Zoning Ordinance to construct an addition to their single family dwelling. Mr. Farmer further stated that the applicant had been issued a building permit for the construction of a single family dwelling. Since the lot is small and buildable area is somewhat restricted, the applicant chose to construct a house built close to the front and rear setback lines. Since no legal hardship has been demonstrated, staff must recommend denial. Granting the variance would amount to a special privilege otherwise denied similar properties.

Mr. Rosenberg opened the public hearing.

Mr. Willetts stated that this is an old lot and that the lots are extremely small.

Mr. Rosenberg closed the public hearing.

Mr. Feigley stated that he had visited the site and that many lots in the area seemed to have accessory structures close to the property lines. Mr. Feigley stated that based on this information he motioned that the variance be granted as requested by the applicant with the added condition that the deck not be enclosed.

Ms. Vaiden seconded the motion.

The motion was carried unanimously.

2. ZA-12-88 Mr. Jerry C. Smith & Ms. Lynn R. Kelley

Mr. Farmer stated Mr. Jerry C. Smith and Ms. Lynn R. Kelley had requested a 7.27 foot variance from the side yard and a 7.38 foot variance from the front yard setback requirements of the James City County Zoning Ordinance to construct an addition to their single family dwelling. He further stated that in 1980 an addition was constructed on the applicants dwelling which was placed 27.62 feet from Colony Point Road (the zoning ordinance would have required at least 35 feet). Mr. Farmer further explained that a subdivision was being developed on adjacent property, and that a road right-of-way was being proposed beside the dwelling. Though this new development has no legal bearing on the present case, the dwelling would become "non-conforming" within a matter of months. Since no legal hardships have been shown, staff must recommend denial.

Mr. Rosenberg opened the public hearing.

Mr. Feigley asked Mr. Smith why the property had not been surveyed.

Mr. Smith stated that he relied on the contractor he hired.

Mr. Rosenberg closed the public hearing.

Mr. Rosenberg motioned to grant the variance as requested.

Ms. Vaiden seconded the motion.

Mr. Rosenberg asked if there was a way that the contractor could be notified regarding this case and why this case came to the Board of Zoning Appeals.

Mr. Farmer stated that he will send a letter regarding this case to Mr. David Nice, the contractor of record for the 1980 addition.

The motion was carried unanimously.

3. ZA-12-88 Mr. & Mrs. John Morrow

Mr. Farmer stated Mr. & Mrs. John Morrow had requested a 14 foot variance from the front yard setback and a 1 foot variance from the side yard setback requirements of the James City County

Zoning Ordinance for an accessory structure. He further stated that originally Mr. Morrow had constructed a slab enclosed by a chain link fence in which to keep his dogs. At a later date Mr. Morrow erected a substantial structure on his property to cover his dogs. Mr. Morrow was contacted by The Code Compliance Office and was told the accessory structure was in violation of the zoning and building code requirements as it had been constructed without a permit and too close to the street right-of-way and side property line. Mr. Morrow stated that he had contacted Ms. Cody at the Satellite Office inquiring whether or not a permit would be required, he was told that a permit was not required for a "dog house lean to". There is sufficient buildable area on the lot and The structure could legally be constructed and meet all of the zoning ordinance requirements. Staff must recommend denial of the variance request.

Mr. Rosenberg opened the public hearing.

Mr. Morrow stated that these dogs are not for commercial use and that he checked with our Satellite Office to see if a permit was needed for a "dog house lean to". He was advised by the Satellite Office that he did not need a permit.

Mr. Rosenberg closed the public hearing.

There was a discussion about the Satellite Office and the Code Compliance Office regarding the issuance of permits. Mr. Farmer stated that a "dog house" would not require a permit. However, he emphasized that a 30' x 10' x 10' tall structure located 3 feet from a property line was a different story entirely.

Ms. Vaiden motioned to grant the variance with the following conditions:

1. The structure not be modified in any way.
2. The structure not be used for commercial purposes.
3. That the structure be used for the boarding of no more than 3 adult dogs and their offspring. The offspring must be sold or relocated when they reach maturity, so that no more than 3 adult dogs are boarded at any time.

The motion was carried unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

None

F. ADJOURNMENT

The meeting was adjourned at 8:36 p.m.

Elizabeth Vaiden

~~Prof. Ronald Rosenberg~~

Vice Chairman

Elizabeth Vaiden

Bernard M. Farmer, Jr.

Bernard M. Farmer, Jr.
Secretary to the Board