

BOARD OF ZONING APPEALS

MINUTES

MAY 25, 1995

A. ROLL CALL

ABSENT:

Mr. Feigley
Mr. Giedd
Mr. Carr

Mr. Ripley
Ms. Wallace

Others Present: Bernard M. Farmer, Jr. Zoning Administrator

B. MINUTES

The minutes of the April 27, 1995 were approved.

C. OLD BUSINESS

A letter was submitted from Richard Costello of AES Consulting Engineers withdrawing his application on behalf of Stadium Oil Sales, Case No. ZA-21-94.

D. NEW BUSINESS

ZA-4-95; Charles and Virginia Epperson

Mr. Farmer presented the staff report stating that Mr. and Mrs. Epperson have requested a variance to allow the height of a proposed garage to exceed the height of the main building, for property located at 3068 N. Riverside Drive. KDT Construction, on behalf of Mr. and Mrs. Epperson, submitted a building permit application in March 1995 to construct a two story garage, 24 feet by 30 feet in size and 18 feet 8 inches in height. The existing house on the lot is 15 feet 6 inches in height. The contractor and the property owner were informed that the garage as proposed could not be approved because the height of this accessory building exceeded the height of the house. New drawings were submitted showing the garage to be the same height as the house and the application was approved and issued. Shortly after construction began an application for a variance was submitted to allow the height of the garage to exceed the height of the house. The Eppersons have stated that they desire a storage area over the proposed garage. This request constitutes a special privilege or convenience sought by the applicant. Therefore, it is staff's recommendation that this request be denied.

Mr. Feigley opened the public hearing.

**BOARD OF ZONING APPEALS
MINUTES
MAY 25, 1995
PAGE 2**

Mr. Charles Epperson spoke on behalf of his application. He feels that he should be able to build the proposed garage on his property. He said that he needs the additional height on the second story. He stated he had not been treated fairly and wanted to know why he couldn't get a permit if no one objected.

Mr. Feigley asked Mr. Epperson if he understood the zoning ordinance.

Mr. Epperson said he does not understand the ordinance and that he feels that James City County is treating him unfairly.

Mr. Feigley asked if the contractor was present?

Mr. Epperson replied no.

Mr. Carr stated that he is in favor of granting a deferral until the June meeting if Mr. Epperson wishes so that he can have his contractor attend and speak on his behalf.

The case was deferred until the next advertised meeting leaving the public hearing open.

ZA-5-95; Joe Morgan on behalf of Harold and Mary Sheridan

At this hearing, it was determined that a variance was not required to construct the proposed garage. Consequently, the case was withdrawn.

ZA-6-95; Ronald W. Eads

Mr. Farmer presented the staff report stating that Mr. Ronald W. Eads, of AES Consulting Engineers, on behalf of Mr. and Mrs. Wilson, has submitted an a request for a variance to reduce the required minimum width at the setback line of a parcel from 150 feet to 100 feet. The property is located at 2494 Manion Drive. The parcel is located on a cul de sac; it is a flag shaped lot approximately 100 feet across at the flag portion and approximately 250 feet across further back. The lot was subdivided from a larger piece in September 1993 as part of a family subdivision and subsequently recorded as a matter of procedure. When recorded the plat showed an incorrect setback. The smaller portion was subsequently sold; the remaining parcel for which this variance is being requested is about 128,961 square feet; and approximately 2.960 acres. Section 20-352 of the current zoning ordinance requires that lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet. The Wilsons are requesting a variance to allow them to build within the flag portion of the lot. As proposed the house would be built approximately 35

**BOARD OF ZONING APPEALS
MINUTES
MAY 25, 1995
PAGE 3**

feet from the adjacent dwelling. Numerous options are available for the structure to be built and meet setback requirements without the need for a variance. The portion of the land beyond the flag portion is roughly 250 feet by 426 feet and allows for a very large area in which to construct the proposed structure. The minimum width requirement for the parcel has not changed since Mr. Wilson received subdivision approval in 1993. It is staff's recommendation that this request be denied.

Mr. Feigley opened the public hearing.

Mr. Ronald W. Eads, of AES Consulting Engineers spoke on behalf of the application. He explained the plat and reasons for needing the variance.

Mr. Theodore Wilson spoke on behalf of the application.

Mr. Robert Clayton of 2494 Manion Drive stated that when he purchased the adjacent property from Mr. Wilson in August of 1994 he was told that the flag portion of the remaining lot would be a dirt drive to the property in the rear. He indicated he would like for the variance to be denied.

Mrs. Mary Rebok, owner of lot adjacent to the Clayton's concurred with Mr. Clayton's testimony.

Mr. John Williams of 2425 Manion Drive spoke in opposition of the requested variance.

Mr. Feigley closed the public hearing.

Mr. Feigley, referring to section 20-2, the definition of "setback" in the current zoning ordinance stated that he is not inclined to grant the requested variance.

Mr. Carr concurred.

Mr. Feigley moved that the variance be denied.

Mr. Carr seconded the motion.

The motion carried unanimously.

ZA-7-95; Don Newsom

Mr. Farmer presented the staff report stating that Mr. Don Newsom has requested

**BOARD OF ZONING APPEALS
MINUTES
MAY 25, 1995
PAGE 4**

a variance of eleven feet to the side yard requirements for property at 7240 Merrimac Trail. Mr. Newsom applied and received approval for rezoning of the property in February of 1993 from R-2, General Residential District to LB, Limited Business District with proffers. This project comprises two separate parcels. The front parcel, which is not part of this variance request, contains a two and a half story residence and a detached garage. This dwelling unit will serve as a business office and caretaker's residence for a nursery. On the second parcel, located behind the first, Mr. Newsom has submitted a site plan that proposed five shade houses, a covered carport/garage structure, and provisions for thirteen parking spaces. The adjacent parcels are all zoned R-2, General Residential District. The northern and eastern parcels are railroad right-of-ways and contain two lines of tracks. The southern parcels contain single-family dwellings. Beyond this right-of-way on the northern side lies Gibson Mobile Home Estates; a mobile home park with approximately 50 dwellings. In order to accommodate the three larger proposed shade houses Mr. Newsom is requesting that the side setback be reduced to 24 feet. The side setback requirement in the Limited Business District, when residentially zoned property is adjacent to the site, is 35 feet. Staff recommends denial of this variance request.

Mr. Feigley opened the public hearing.

Mr. Newsom spoke on behalf of his application. He said that although the railroad tracks are zoned residential they represent a primarily commercial use. Therefore, this particular circumstance is unusual and represents a hardship. He also said that by requiring the 35 foot setback an unreasonable financial hardship is imposed. Mr. Newsom stated that Mr. Gibson, owner of adjacent property on the North side provided a letter in favor of granting the requested variance.

Mr. Feigley read a letter from Mrs. Nancy James in reference to the proposed request.

Mr. Farmer presented copies of the proffers referred to in Mrs. James letter.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to grant a variance of 11 feet to the North side yard requirement to allow construction of shade/greenhouses similar to those by "X.S.Smith" as described in the case file for 7242 Merrimac Trail with the following condition:

1. The proffers related to the property be complied with.

Mr. Carr seconded the motion.

The motion carried unanimously.

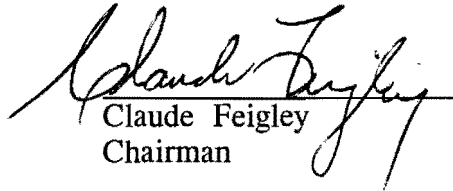
**BOARD OF ZONING APPEALS
MINUTES
MAY 25, 1995
PAGE 5**

E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at 9:20 P.M.


Claude Feigley
Chairman

Bernard M. Farmer, Jr.
Secretary