

BOARD OF ZONING APPEALS

MINUTES

JUNE 22, 1995

A. ROLL CALL

ABSENT:

Mr. Feigley
Mr. Giedd
Mr. Carr
Mr. Ripley
Ms. Wallace

Others Present: Jacqueline White, Code Compliance Officer

B. MINUTES

The minutes of the May 25, 1995 were approved.

C. OLD BUSINESS

ZA-4-95: Charles and Virginia Epperson

Jacqueline White stated to the board that we were awaiting a formal letter of withdrawal from Mr. Epperson.

D. NEW BUSINESS

ZA-8-95: James D. Carter on behalf of Longhill Gate Associates

Jacqueline White presented the staff report stating the following: Mr. Carter, on behalf of Longhill Gate Associates, has requested a variance to the side yard requirement for property located at 5300 Tower Hill in the Longhill Gate Subdivision in the R-2, General Residential district. The property is further identified as Parcel (4-1B) found on James City County Real Estate Tax Map (31-4). Longhill Gate was approved and exists as a cluster development in the general residential zoning district. The original site plan regulations established the setback requirement along Longhill Gate Road as 35 feet. Mr. Carter is proposing to construct a two family dwelling at 5300 Tower Hill, which will border Longhill Gate Road on one side. As proposed, a portion of the screened porch and a portion of the house will encroach into the setback. The dwelling will encroach approximately thirteen feet at the widest point and six feet at its' narrowest. No unique characteristics have been demonstrated related to this property and no undue hardship has been shown. The property may be placed into beneficial use without the requested variance. The proposed construction can be redesigned and meet required setbacks. The screened porch is not

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necessary for the beneficial use of the property or the proposed dwelling. Jacqueline White further stated that the applicant must demonstrate that a unique characteristic warranting a variance unreasonably restricts or practically prohibits the beneficial use of the property. He must also show that this is a condition that is not generally shared by like zoned properties. Neither of these requirements has been satisfied. In examining the information presented in this case, the variance requested is more a matter of convenience than necessity for placing the property into use. Staff recommends the variance be denied.

Mr. Feigley opened the public hearing.

Mr. Carter submitted plats showing the lot as originally planned, prior to the Vepco easement, and showing the entrance road, Longhill Gate Road, having a right of way of fifty-three feet.

Mr. Carter stated he was requesting the variances because he wanted to build a larger style home at this location. He said that the smaller model originally planned for this site was not as desirable as the larger model and was consequently more difficult to sell. Mr. Carter claimed that VEPCO (Virginia Power Company) asked that the utility easement (10 feet) be located along the front of the property for easier access for maintenance. Locating the easement along the front left a smaller buildable area. Mr. Carter stated that because he would now need a variance even to build the smaller design, he decided to ask for more of a variance and build the larger design.

Mr. Carr asked Mr. Carter how many variances the board had granted for him in the past.

Mr. Carter indicated that approximately three variances have been granted for the subdivision of Longhill Gate.

Mr. Jeffrey Reed, homeowner and member of the Homeowners Association of Longhill Gate spoke in opposition of the variance. He also read three letters; two from Association members, Ms. Lisa Giles and Mr. Frederic Tate, and the other from himself. The letters generally claimed that the aesthetics of the subdivision entrance were threatened by this construction.

Ms. Doris Reap, secretary for Mr. Carter and homeowner spoke on behalf of the application.

Several homeowners, Ms. Nancy Campbell, Mrs. Donna Davies and Mrs. Jennifer Reed, spoke in opposition of the variance.

Mr. Carr asked who had originally designed the front entrance.

Mr. Carter stated that he provided funds for the construction and that Mr. Fred Belden designed the front entrance.

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Mr. Carter explained to the board once again why he was requesting the variance.

Mr. Feigley closed the public hearing.

Board members discussed the fact that Mr. Carter's desire to build a larger, more profitable structure was not a hardship, nor were the resulting property values.

Mr. Feigley moved to deny the requested variance.

Ms. Wallace seconded the motion.

Mr. Carr discussed sending them back and requesting a new design.

It was clarified that a motion was on the table and that was not an option.

Mr. Feigley called for a vote and the motion was carried unanimously.

ZA-9-95: Kevin and Debra Carter

Jacqueline White presented the staff report stating that Kevin and Debra Carter have applied for a variance to the side yard requirement to allow an addition to the existing structure. The property is located at 191 Racefield Drive in the Racefield subdivision. The property is further identified as Parcel (3-24) on James City County Real Estate Tax Map (3-4). Mr. and Mrs. Carter are proposing to construct an addition, 22 feet by 26 feet in size, to the left side of their existing house. The property is a flat, rectangular lot about a half acre in size. The one story house sits at a slight angle to the property lines. As requested the encroachment of the addition would consist of a trapezoid shaped area encroaching approximately ten feet at the widest point. The Carters have stated that this would be most cost effective location for them to build. Jacqueline White further stated that the lot provides adequate buildable area in the rear or in the front of the house to locate an addition and meet setback requirements. There is no unusual topography or characteristic that is not shared by like zoned area properties. Because no undue hardship has been demonstrated, it is staff's recommendation that this request be denied.

Mr. Feigley opened the public hearing.

Mr. Kevin Carter spoke on behalf of his application. He stated that he proposed to build on this side of the house because the opposite side and the front yard contain his septic field and drain lines. He stated that if he were to build in the rear of the house, he would have to move the existing deck and relocate the heat pump. He described the layout of the house for the board members. He stated that the proposed size of the addition was chosen because it was most cost effective and made the front of the house look proportioned.

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Mr. Ripley stated that it is rather easy to remove and relocate a deck and that it would cost the same whether the addition was built on the side or the rear.

Mr. Ripley asked why it was his opinion that it would be cheaper to build onto the side and not the rear?

Mr. Carter said it would be easier to use the same roof line and to align the family room. He also felt that an L-shaped addition would not look attractive.

Mr. Ripley stated he has constructed several L-shaped additions and that they all looked good.

Mr. Carr also stated that it may depend on who builds it, but that an L-shaped addition can look very attractive.

Mrs. Carter also spoke about the aesthetics of an L-shaped addition and stated that the house would look different than others in the neighborhood.

Mr. Daniel Weiss, adjacent property owner, 193 Racefield Drive spoke on behalf of the requested variance. He thought the addition was to be added to the side of the house closest to his and would have been opposed if that were the case. Because the proposed addition is on the opposite side of the house, he has no objection.

Mr. Feigley closed the public hearing.

Mr. Ripley stated that he did not see a hardship.

Mr. Feigley agreed with Mr. Ripley.

Mrs. Wallace also agreed.

Mr. Giedd said it would look better aesthetically to add onto the side of the house. He also asked Mr. Carter if he had questioned his neighbor about purchasing a portion of his lot to allow enough room for the proposed addition.

Mr. Carter said that he had not questioned his neighbor about the option.

Mr. Feigley moved to deny the requested variance.

Ms. Wallace seconded the motion.

The motion was carried with Mr. Giedd dissenting.

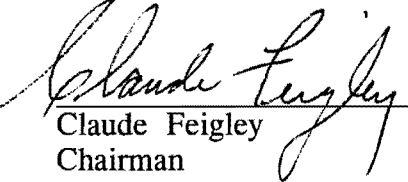
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E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at 9:30 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary