

BOARD OF ZONING APPEALS

June 27, 1996

A. ROLL CALL

PRESENT:

Mr. Feigley
Mr. Ripley
Mr. Giedd
Mr. Nice
Ms. Wallace

ABSENT:

Others Present:

Bernard Farmer, Zoning Administrator

B. MINUTES

The minutes of the May 23, 1996 were approved with a change to Section C, Page 1, Paragraph 1.

C. OLD BUSINESS

Mr. Farmer advised the Board that Williamsburg Landing, case ZA-12-96 has fully withdrawn their application. Mr. Farmer further stated that during the review of case ZA-17-96, AT&T of Virginia, staff noted the applicant was requesting a variance from a property line that likely does not exist. Mr. Farmer stated that until the applicant can show that there was a proper subdivision of the property and a need for the variance, the case will not be placed on the Board's agenda.

ZA-11-96; Charlotte Moore

Mr. Farmer reported that the case was previously heard but because of adjacent property owner notification was readvertised. Mr. Farmer further stated Charlotte Moore applied for a variance for the front and rear property line, for the property at 131 Clark Lane. The property is located on a portion of Clark Lane that was recently built under a Community Block Development Grant, by the James City County Development Office.

The information that was furnished to the board for the last hearing turned out to be incorrect in that the surveyor had mistakenly identified the physical location of the property that Ms. Moore owned. The error was discovered by Mr. Bradshaw, who represented Ms. Moore in some of her transactions. Mr. Bradshaw brought the error to staff's attention. Staff found one adjacent property owner was not notified. Consequently the decision of the last hearing was invalid and the case is once again up for the Boards review.

Mr. Feigley stated that he did not feel anything has changed seriously from what was considered from the last hearing where the variance was granted to Ms. Moore. Mr. Feigley further stated that he believes the only thing different is that the property is physically located closer to the road and that an adjacent property owner was not properly notified.

Mr. Farmer stated that the adjacent property owner had now been notified.

Mr. Feigley opened the public hearing and with no one wishing to speak closed it.

Mr. Feigley moved that a 10 foot variance to the rear yard requirement and a 5 foot variance to the front setback requirement to be approved. Mr. Giedd seconded the motion.

The motion was approved unanimously.

D. NEW BUSINESS

ZA-07-96; Tommy Hilfiger Retail, Inc.

Mr. Farmer presented the staff report stating that Amy Siano, Creative Services Manager for Tommy Hilfiger Retail, Inc., had applied for a variance to Ordinance 20-67 to allow for an additional sign to be placed in the Berkeley Commons Outlet Center. Mr. Farmer indicated that under the current ordinance, individual shops within a shopping center are permitted a single building face sign; if the same unit faces a public right of way or parking lot on the rear or side of the building then an additional sign may be erected on that side. The existing Tommy Hilfiger sign is currently visible from Richmond Road.

Mr. Farmer further stated that the variance request constitutes a special priveledge not enjoyed by other stores in the Berkeley Common Outlet Center.

A discussion of businesses in their own store area vs. business sharing store area ensued.

Mr. Nice asked if landlord approval needed to be obtained prior to coming in front of the board. Mr. Nice further commented that he felt the landlord should have stopped the request prior to coming to the board.

Mr. Farmer stated that he has never required the approval of the landlord. Mr. Farmer further stated that when an application is received he assumes that the applicant has the legal authority under their private agreement with the landlord.

Mr. Feigley opened the public hearing and with no one wishing to speak, closed it.

Mr. Feigley stated that he felt granting the request to Tommy Hilfiger would be granting a special privilege to the store. Mr. Feigley further

stated that the store has the same signage as all of the other stores in the complex and they have used their allotted space for their sign. Mr. Feigley stated that he would not be in favor of granting this variance.

Mr. Feigley moved that in case ZA-07-96, the request for an additional sign be denied. Ms. Wallace seconded the motion.

The motion was approved unanimously.

ZA-16-96; THJ Limited Liability c/o Larry McCardle

Mr. Farmer gave the staff report indicating variances from the yard requirements were requested so that units more than one story could be placed within 50 feet of adjacent residential property. Mr. Farmer further discussed the construction of Section 20-311.

The property was recently rezoned to R-5 and has been in the site plan process for several months. It appears the issue was not noted until after preliminary approval was granted.

Mr. Feigley opened the public hearing.

Larry McCardle stated he was not made aware of the setback requirement until it was brought to his attention by Mr. Farmer and Mr. Murphy. Mr. McCardle further stated that it would be a hardship in having to redesign the project.

Mr. Doug White, engineer for the project gave a scenario of the events leading up to the discovery of the setback encroachment requiring the variance. Mr. White did want it noted that his agency met with the planning department prior to any plans being drawn and nothing was noted as to setbacks at that time or at any time during the preliminary process.

Discussions ensued over various options.

Norman Mason, Langley & McDonald, stated that by moving units towards the east a major expenditure would be incurred in reference to new design and it would also require a lot of underlying ground movement to meet storm water requirements.

Mr. Feigley closed the public hearing.

Mr. Ripley stated that he felt it was a beautiful project, small in density compared to the size of the property. Mr. Ripley stated that he was in favor of granting the variance.

Mr. Ripley moved that a variance be granted for the rear and side setback requirements to have a 50 foot setback vs. a 75 foot setback. Mr. Giedd seconded the motion.

Mr. Feigley stated he would like to congratulate Mr. McCardle for a nice project. Mr. Feigley further stated that he was in favor of granting the variance. Mr. Giedd and Ms. Wallace concurred.

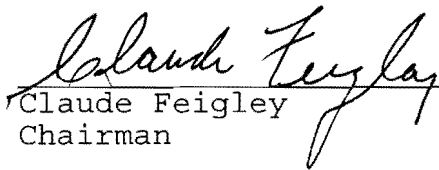
The motion was approved unanimously.

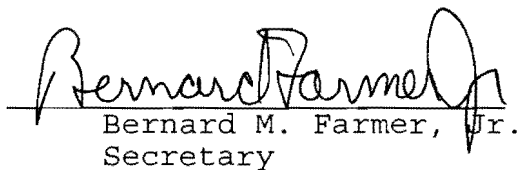
E. MATTERS OF SPECIAL PRIVILEGE

Mr. Feigley stated that the meeting dates have been rescheduled as per the wishes of the Board. Mr. Feigley further stated that the next meeting will be August 8th and that there will be no meeting in July.

F. ADJOURNMENT

The meeting was adjourned at 9:00 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary