

BOARD OF ZONING APPEALS

September 12, 1996

A. ROLL CALL

PRESENT:

ABSENT:

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

Others Present:

Bernard Farmer, Zoning Administrator
Steven Grant, Staff

B. MINUTES

The minutes of the August 8, 1996 were deferred until the next scheduled meeting for approval.

C. OLD BUSINESS

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

Mr. Feigley commented that at the June, 1996 meeting the Board denied the request for a variance. Mr. Feigley asked Mr. Farmer if the case had been published again.

Mr. Farmer stated that the case had been readvertised by direction of the Board at the August meeting. Mr. Farmer stated that the Board will need to reopen the case and make a new decision based on the case presented to them.

Mr. Farmer presented the case stating that Tommy Hilfiger Stores had applied for a variance to allow an additional sign to be placed at the end of the building, in which they are located in the Berkeley Commons Outlet Center. The store is located in the center of a row of stores, not one of the end units. Mr. Farmer further commented that each of the end stores have been allowed a certain amount of building face signage on the front of their building. Mr. Farmer commented that those that are end units, that have stores facing a parking lot or an entrance on that side are allowed the additional signage. In this case, the store at the end of the row that Tommy Hilfiger is located has already placed the maximum amount of allowable signage on the bulding face, as stated in the zoning ordinance. Mr. Farmer further reported that Tommy Hilfiger has requested that they be allowed to exceed that signage by placing an additional sign. A discussion of the ordinance took place.

Mr. Feigley asked if Reebok had a smaller sign, would Tommy Hilfiger be allowed to place their sign on the same building face.

Mr. Farmer stated yes as long as the signs do not exceed the maximum size allowed by the sign ordinance.

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

Mr. Feigley moved that the variance request be denied. Mr. Giedd seconded the motion.

The motion was approved unanimously.

D. NEW BUSINESS

ZA-18-96; Williamsburg Landing

Mr. Farmer stated that at the August meeting the Board agreed to defer the case generally. Mr. Alvin Anderson, attorney, on behalf of Williamsburg Landing, Inc. had requested the case be deferred for the September and October meetings. Mr. Anderson stated that he will contact staff sometime in October as to a hearing or deferral for November's meeting.

ZA-19-96; Janice M. Ortalan

Mr. Farmer presented the case stating that Ms. Janice M. Ortalan, owner, had applied for a variance for the property located at 109 Indigo Dam Road, in the R-2, General Residential, zoning district. The property is further identified as parcel (10-4-B) found on James City County Real Estate Tax Map (38-4).

This lot was created in November of 1995 through the subdivision of the original parcel into two separate parcels. The lot is roughly 100 by 105 feet and the buildable area is roughly 40 by 80 feet. A building permit was obtained on December 14, 1995 to relocate a one and a half story wood frame house onto the property. A survey that was subsequently completed found that the house was encroaching into the front setback by approximately three inches. A final certificate of occupancy has not been issued yet for the house pending resolution of the setback violation.

In explanation of the error in placing the house, the applicant has stated in her application that she staked the house site off on an iron rod that she located in the yard.

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

Mr. Feigley asked for clarification as to how the request for a 3 inch variance would bring the request back to the building line and would steps be allowed.

Mr. Farmer stated that steps are generally exempt.

A discussion of the ordinance occurred in reference to the steps.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that the applicant should be granted the variance, but to be safe, moved that a variance of 6 inches be granted from the front setback. Mr. Ripley seconded the motion.

The motion was approved unanimously.

ZA-20-96; G.T. Wilson, AES Consulting Engineers, agent for Jimmy & Susan Edwards

Mr. Farmer presented the case stating that Mr. Wilson, AES Consulting Engineers, on behalf of Jimmy & Susan Edwards, property owners, had requested a variance to the front setback requirement for an existing porch. The property is zoned R-8, rural residential, and is further identified as parcel (4-36) found on the James City County real Estate Tax Map (47-1).

The lot is located at the end of a cul-de-sac. The house, constructed in 1986, is a one and a half story structure approximately 1200 square feet in size. The house, with the attached front porch, is about 31.6 feet from the property line. Without the porch the house itself meets front setback requirements. Mr. Wilson, on behalf of the property owners, is requesting a 3.4 foot variance to the front setback for the existing porch.

Given the above definitions the variance needed to allow the front porch and the exterior steps (in excess of three feet) is actually approximately 7.4 feet, 4 feet of exterior steps and 3.4 feet of porch.

Records indicate that the house was not placed on the lot as originally approved in 1986. The house appears to have been placed as a mirror image of the original plans. There was no accurate survey submitted with the building permits but rather a sketch indicating the proposed location of the house and the distances from the property lines. The original plans indicated that the house was to meet setback requirements. It is unclear whether the porch was a part of the original construction. The porch could be changed to a patio, flush with the ground, and meet zoning ordinance requirements.

A discussion of the two provided site plans and shape of the building took place.

Mr. Feigley opened the public hearing.

Mr. Eric Scalise, original buyer of the property, stated that he bought the property in 1986 and sold it in 1991. Mr. Scalise further stated that his title survey showed the structure within the setback lines and it was not until a title survey was required as part of the closing of the 1991 sale, that the encroachment was noted and an agreement at closing stated that Mr. Scalise and Rickman Engineering, the original surveyor, would apply to the Board for a variance. Mr.

Scalise commented that he was unable to have Rickman Engineering bring the variance request to the Board. Mr. Scalise stated he finally went to AES Consulting, at his attorney's suggestion, and they have fulfilled his closing requirement from 1991.

A discussion on how the porch encroached the setback lines took place.

Mr. Wilson, AES Consulting, stated that Rickman Engineering did the original survey of the property and showed the house and porch within the setback lines. Mr. Wilson also stated that Rickman Engineering did the survey in 1991 for the sale of the home and that showed the porch encroaching.

A discussion on surveys took place.

Mr. Feigley closed the public hearing.

Mr. Ripley commended Mr. Sclaise's diligence in getting this issue resolved.

Mr. Nice moved that a variance of 3.4 feet be granted in case ZA-20-96. Mr. Feigley seconded the motion.

The motion was approved unanimously.

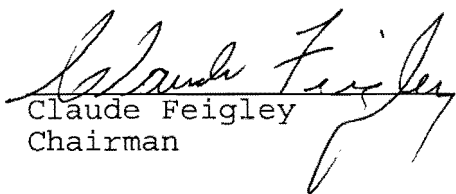
E. MATTERS OF SPECIAL PRIVILEGE

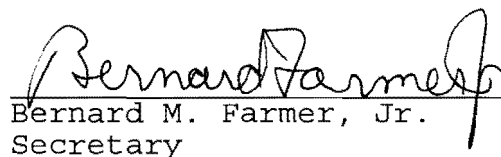
Mr. Farmer advised the Board of his new position, as Capital Projects Administrator, for the County and thanked the Board for their support and service while he's been the Zoning Administrator.

Mr. Feigley, on behalf of the Board, thanked Mr. Farmer for assistance and support to the Board.

F. ADJOURNMENT

The meeting was adjourned at 8:35 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary