

BOARD OF ZONING APPEALS

MARCH 6, 1997

A. ROLL CALL

PRESENT:

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

Others Present:

Allen J. Murphy, Jr. Acting Zoning Administrator
Jacqueline White, Zoning Officer

B. MINUTES

The minutes of the February 6, 1997 meeting were approved as submitted.

C. OLD BUSINESS

None

D: NEW BUSINESS

ZA-3-97; Alexander J. Frazier, c/o Roger Spearman, Spearman & Associates

Ms. White gave the staff report stating that Mr. Roger Spearman had requested, on behalf of the property owner, a variance to the minimum lot width requirement for a proposed subdivision of the property at 175 Clark Lane, in the R-2, General Residential Zoning District. The property is further identified as parcel (1-42) found on the James City County Real Estate Tax Map (32-2).

The above referenced property is currently a vacant 1.041 acre lot that the applicant wishes to subdivide into two equal-sized lots. The two resulting parcels would be 22,665.6 square feet (.5203 acres) in size. To achieve this the lots would be less than 100 ft. wide. The R-2 district regulations require that parcels ranging in size from 20,000 square feet to 43,650 square shall have a minimum width at the setback line of 100 feet.

The property is currently a legal lot that could be put into beneficial use. Other lots in the vicinity have had structures built on them without the

necessity of a variance from any land use regulations. Given the large size of the lot, other subdivision designs, although they might not evenly split the property, could be considered and no variance would be required.

The granting of this variance would constitute a special privilege not shared by other similarly zoned parcels. Any hardship in this case is created by the applicant's desire to subdivide the property in one particular manner. No hardship has been demonstrated that is not self-imposed. For these reasons staff recommended denial.

Mr. Feigley questioned the size of the lot before the proposed subdivision.

Ms. White stated that the current property size is 1.041 acre.

Mr. Ripley asked what was the nature of surrounding lots.

Ms. White stated they vary, some larger, some the same size.

Mr. Nice asked the width of the proposed lots.

Ms. White stated approximately 84'.

Mr. Feigley opened the public hearing.

Roger Spearman with Spearman & Associates, representing Mr. Frazier, explained to the Board the desire of the owner to divide the parcel of land located at 175 Clark Lane. The proposed subdivision would create 2 lots totaling approximately 22,000 square feet each. Mr. Spearman added that there are two easements that run through the property and that has an effect on the property use. He further stated that the effective use of each lot would be less than 20,000 square feet. Mr. Spearman ended by respectfully requesting the granting of the variance.

Mr. Feigley closed the public hearing.

A discussion took place on the variance request.

Mr. Nice made a motion to grant a variance from minimum lot width requirement to allow the minor subdivision of the property located at 175 Clark Lane, stating that the proposed subdivision was preferable to the uneven division that would be done if the variance was not granted.

Mr. Geidd second the motion.

The motion was approved with a 4 to 1 vote.

ZA-18-96; Williamsburg Landing, Inc.

Ms. White gave the staff report stating that Mr. Alvin Anderson, attorney, on behalf of Williamsburg Landing, Inc., has applied for variances from the yard requirements, off street parking requirements and the transitional screening requirements for proposed additions for their property at 5700 Williamsburg Landing. The property is further identified as parcel (1-2) found on James City

County Real Estate Tax Map (48-2).

Williamsburg Landing is a retirement community located off of Lake Powell Road in the R-5, Multifamily Residential, zoning district. The property is situated between Route 199 and an undeveloped property adjacent to the airport. Williamsburg Landing, Inc., is proposing additions to the "landing" building, which is situated immediately adjacent to the undeveloped property on the side of the Williamsburg Landing parcel. The existing "landing" building is approximately 73.4 feet from the property line. The existing maintenance building is approximately 40.5 feet from the property line.

The "landing" building was constructed in 1984. At the time of construction, the adjacent undeveloped property was zoned A-2. For the existing 65-foot tall, three story "landing" building the current required setback is 130 feet with 35 feet of transitional screening and no parking within 40 feet of the property line. The existing "landing" building is non-conforming.

The applicant is requesting a variance to the transitional screening requirement contained within the landscape ordinance. The zoning ordinance states in part: the Planning Commission or Planning Director may modify, permit substitutions for any requirement of this Section, or permit transfer of required landscaping on a site. While the Planning Director will consider modifications to the landscape requirements, he feels that it would be premature to address the matter before the setback issues have been addressed.

The applicant is requesting a variance from the off street parking requirement to allow additional parking spaces to encroach into the required forty foot setback for off street parking. Approximately seven parking spaces are proposed within 10 feet of the property line. The additional parking is to be located in the rear of the "landing" building in what is now a service area for delivery trucks.

The proposed auditorium and kitchen additions would bring the landing building approximately 63.6 feet from the property line.

The variances requested to the landscape screening requirements, the off street parking requirement and to the yard requirements appear to be special privileges not granted to like zoned property. The property is not unusual in topography, size or shape. Any limitations in area adjacent to the "Landing Building" are a result of the original design and plan of construction. The property is not unique and exhibits no exceptional characteristics. The property has been put into beneficial use and no undue hardship approaching confiscation has been demonstrated.

Mr. Feigley questioned height requirements and setback requirements at the time of the original construction.

Ms. White stated that they had requested a height waiver. The ordinance changed later. It was changed to R-8, which changed the setback requirements for Williamsburg Landing.

Mr. Feigley opened the public hearing.

Mr. Alvin Anderson, on behalf of Williamsburg Landing, stated that they are proposing to add on to the existing kitchen, add a new auditorium, and new dining room. They are requesting a variance of a 65' setback instead of 130' setback.

Mr. Anderson, presented a photograph of the entire 135 acres of Williamsburg Landing. The land was purchased by American Retirement Corp. The Williamsburg Landing development in 1984 was 70 acres. In 1994 & 1995 cluster homes were developed. The Landing has been growing over a period of time, and the number of residences has increased, thus creating a need for an expansion of the dining and recreation area. The "Landing" building is the core of the social activity for Williamsburg Landing.

Mr. Feigley clarified that they were asking for a 70' variance to the 130' setback requirement for R-5. He further stated that he was in favor of this, but stated that he had a problem with the parking issue.

Mr. Anderson stated that Williamsburg Landing has two buses, which discourages residents to own cars. He said they wanted as much "service" parking as possible in the back of the building.

Mr. Geidd asked if the new parking would be closer to the property line.

Mr. Anderson said there was no great difference, the new parking area will be used for loading/unloading, and service parking only.

Mr. Feigley stated that the motion doesn't really address the parking issue.

Mr. Nice said if you do an overlay of the two drawings, they're not expanding the parking area.

Mr. Feigley said the ordinance says no parking within 40' of property line.

Mr. Nice stated that the present parking is within the 40' setback.

Mr. Ripley asked Allen Murphy if planning would work with Williamsburg Landing on landscaping, Mr. Murphy answered yes.

After a discussion of the setback requirement and the parking issue, Mr. Feigley made a motion to grant a 70' variance to the setback requirement, and defer the parking variance pending negotiation with the Planning Department.

Ms. Wallace second the motion.

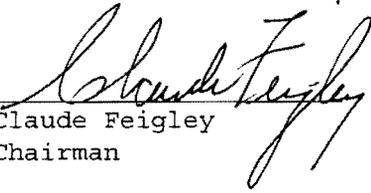
The variance was granted unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

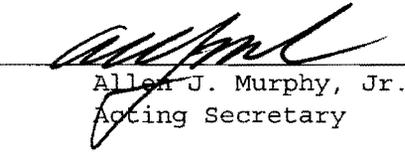
None

F. ADJOURNMENT

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



Claude Feigley
Chairman



Allen J. Murphy, Jr.
Acting Secretary