

BOARD OF ZONING APPEALS

JUNE 5, 1997

A. ROLL CALL

PRESENT:

ABSENT: MS. WALLACE

Mr. Feigley  
Mr. Giedd  
Mr. Nice  
Mr. Fischer

Others Present:

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

B. MINUTES

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

C. OLD BUSINESS

None

D: NEW BUSINESS

Mr. Feigley thanked outgoing board member Bob Ripley for his 10 years of serving on the Board of Zoning Appeals. He announced that the Board of Supervisors had presented to Bob a Certificate of Appreciation for his service to James City County on the BZA. Mr. Feigley welcomed new member Mr. Emeric Fischer.

**ZA-4-97; Mr. Larry McCardle for Foxfield Subdivision**

Ms. White gave the staff report stating that Mr. Larry McCardle, for THJ Limited Liability, Inc has applied for a variance to Section 20-68 of the James City County sign ordinance to allow for a second residential subdivision sign to be placed at the entrance of the Foxfield subdivision. The property is further identified as 1927 Jamestown Road, located on Parcel (03-0-0001) on James City County Real Estate Tax Map (46-4).

For the identification of residential subdivisions the sign ordinance allows that no sign, intended to be read from any public right of way, shall be permitted except one identification sign not exceeding 32 square feet in area, for each

principal entrance. Such sign, if free standing, shall not exceed 15 feet in height from grade, and may be no closer than 10 feet to the corner.

The Foxfield subdivision is located off of a service road adjacent to Jamestown Road between the Cardinal Acres town homes and the Mainland Farm property. The subdivision has one principle entrance, which is lined by two brick columns. The brick columns, approximately seven feet tall, have been constructed on each side of the entrance to the Foxfield subdivision and an oval sign, approximately 16" X 30", has been erected on each column.

Although the two proposed signs combined square footage of seven square feet is less than what would be permitted with a single sign, there is no condition unique to this subdivision that warrants a variance. There is no hardship not shared generally by like zoned properties. The applicant is seeking a special privilege for convenience. The property does not exhibit any unusual topography and no undue hardship has been demonstrated, therefore staff recommends denial.

Mr. Feigley opened the public hearing.

Mr. Larry McCardle representing THJ, Limited Liability Co. developers of Foxfield Subdivision, of which he is a partner, stated that he realized ignorance of the law is no excuse, but he feels that just because the Code Ordinance is law, does not necessarily make it a good one. He said that he realized that the sign ordinance is necessary for the visual protection of our area and James City County, and thinks the Planners have done a very good job. He stated that he disagrees with allowing only one sign to the subdivision entrance.

Mr. McCardle further stated that he did not intentionally violate the sign ordinance. He said he was not aware that the ordinance had changed.

The signs in question are oval 16" x 30", which is slightly over 2 ½ sq. ft. per sign. The code allows up to 32 sq. ft. for entrance signs, therefore the total square footage is 27 less then what is allowed for one large sign.

Mr. McCardle presented pictures of signs to entrances of other subdivisions in Williamsburg and James City County. He made reference to Governor's Land which has two signs, one on each side of the entrance.

Mr. McCardle pointed out that if the vote is against this case, his alternative is to remove the signs and patch the damage done to the brick columns, and erect one sign back to back somewhere on the ground.

In closing Mr. McCardle asked to be able to leave the signs as they are on the two brick columns at the entrance to Foxfield Subdivision.

Mr. Feigley asked if he feels that one sign would adequately inform people that this was the Foxfield Subdivision. Do two signs enhance that capability?

Mr. McCardle answered stating that the two signs on either side of the entrance creates a balance.

Mr. Feigley pointed out that there are several other subdivisions in the county

that only have one sign.

Mr. Geidd asked if the signs were designed professionally.

Mr. McCardle said he designed the signs himself.

Mr. Fischer stated that all logic dictates that what Mr. McCardle is saying is all correct, in creating a balance; however, he does not see where Mr. McCardle has demonstrated a hardship.

Mr. McCardle said his hardship would be in having to remove the signs which are bolted to the columns and if removed would damage the brick. He feels that this demonstrates some degree of hardship.

Mr. Nice said he had rode out and looked at the signs and thinks they are very tasteful. He thinks this is much more acceptable then some of the other subdivisions that have one large sign.

Mr. Feigley asked if there were any further questions. He closed the public hearing.

After a discussion of the variance requested, Mr. Geidd made a motion to grant the variance.

Mr. Nice seconded it.

The variance was granted with a 3 to 1 vote; with Mr. Feigley voting against it.

**ZA-5-97; Mildred Andrews**

Ms. White gave the staff report stating that Ms. Mildred Andrews, property owner, has applied for a ten (10) foot variance to Section 20-215 of the James City County Zoning Ordinance for a proposed addition to her existing home. The property is located at 205 Highfield Drive in the Burnham Woods subdivision in the A-1, General Agricultural zoning district. The property is further identified as parcel (4-38) located on James City County Real Estate Tax Map (12-1).

The house was originally constructed in 1983 and was purchased by Ms. Andrews in 1989. Ms. Andrews is requesting a ten foot variance to the front setback requirement for a proposed addition to be constructed on the left side of the existing one story house. The 16' x 31' addition is proposed at a site forty (40') feet from the front property line. At the time the ordinance changed, the house became nonconforming.

While the proposed addition has no more of an impact than the existing dwelling, Ms. Andrews' request is one of convenience rather than to alleviate a clearly demonstratable hardship. The property does not exhibit any unusual topography or unique characteristic. The property has been put into beneficial use and no hardship has been demonstrated.

Mr Feigley opened the public hearing.

David Tuftee, owner of Country Contractors, said Ms. Andrews had hired his company to construct the addition to her home. He stated that Ms. Andrews is a concert pianist who wishes to expand her living room to incorporate 3 large instruments. He said going off the back of the house would not work for what she desires to do. Mr. Tuftee said he had built a similar addition approximately 8 years ago for one of Ms. Andrews neighbors. He feels the hardship on Ms. Andrews is financial. It's much cheaper to add on the end of a structure.

Mr. Feigley asked if he had quoted a price on the construction that would meet the zoning ordinance. Mr. Tuftee said no because it would be much more expensive. He stated that other work had been done in the neighborhood that was very similar to what he proposed to do. He said they were not aware of a change in the setback requirement until they submitted their application for a permit.

Ms. Mildred Andrews spoke to the Board on her own behalf, stating that music was her whole life. She said she moved to the Williamsburg area from Austria where she lived for 20 years because she wanted to be near the culture here. Ms. Andrews stated that she plays for a lot of area churches, and is associated with many musicians in the area. She needs this addition so she can put her 3 large instruments in there, and invite her fellow musicians in to play with her. She has a 6 foot grand piano, a 7 foot piano and an 8 foot harpsichord.

Ms. Andrews said her neighbors are in favor of the addition to her home.

Ms. Rosemarie Beckman, a neighbor of Ms. Andrews spoke in favor of the addition. She said Ms. Andrews adds so much to the area and is such an asset to the musical culture in Williamsburg. She feels it would be terrible if Ms. Andrews is not allowed to build the addition, and asked that the variance be granted.

Mr. Feigley said he went out and looked at the area and does not feel the addition would effect the nature of the neighborhood. He said he would be very happy to grant this variance.

Mr. Nice said that he, too looked at the property and the subdivision. He feels is clearly defined that people who by property in good faith, and then fall victim to an ordinance change is unfair. He agreed with Mr. Feigley that the variance should be granted.

Mr. Feigley made a motion to grant the variance as requested. Mr. Nice seconded it.

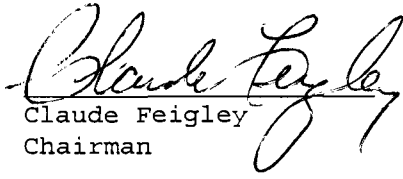
The variance was granted unanimously.

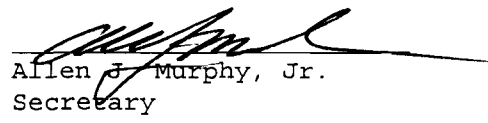
**E. MATTERS OF SPECIAL PRIVILEGE**

None

**F. ADJOURNMENT**

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

  
Claude Feigley  
Chairman

  
Allen J. Murphy, Jr.  
Secretary