

**BOARD OF ZONING APPEALS**  
Minutes for the meeting of August 2, 2001

**A. ROLL CALL**

The meeting came to order at approximately 7:35 p.m.

**PRESENT:**

Mr. Ken Giedd  
Mr. David Nice  
Ms. Gloria Wallace  
Mr. Jack Fraley  
Mr. Emeric Fischer

**ABSENT:**

**OTHERS PRESENT:**

Mr. Jim Breitbeil, Zoning Officer  
Mr. Charlie Petersen, Development Management Assistant

**B. MINUTES**

The minutes of the May 3, 2001 meeting were approved. Mr. Ken Giedd noted a need for corrections to the minutes of the June 7, 2001. These corrections have been made and the minutes will be available for signature at the next BZA meeting.

**D. OLD BUSINESS**

None.

**E. NEW BUSINESS**

**Case No. ZA-09-01                      128 Tewning Road**

Mr. Giedd asked that the staff report be read.

Mr. Breitbeil stated Mr. Robert F. Ripley, property owner, has requested a variance to Section 24-416, Yard regulations, of the James City County Zoning Ordinance for the proposed expansion of the Bobcat Business Management Center located at 128 Tewning Road. The variance request is to reduce the required rear yard setback from 75 feet to 20 feet for the expansion of business unit F in the rear of the property. The property is currently zoned M-1, Limited Business/Industrial and can be further identified as Parcel No. (01-0-0011-F) on James City County Real Estate Tax Map No. (39-1).

Mr. Breitbeil stated that the Bobcat Business Management Center currently has 7 units. The unit in question is a welding shop and the expansion is for prefabricated metal structure that will be attached to the existing unit. In an M-1 zoning district, structures shall be located 20 feet or more from side or rear property lines. However, the minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district. What is unique about this case is that the rear of the property, where the addition is proposed, is adjacent to Eastern State Hospital as opposed to a residential

development. The Eastern State Hospital is currently zoned R-2, General Residential. There is a strip of wooded Eastern State Hospital property approximately forty feet (40') deep directly behind the business center and there is also an access road that separates the business center from the nearest building in the Eastern State Hospital complex, which provides an effective buffer of separation between the two developments.

Mr. Breitbeil stated that given the unique development situation described here, the proposed addition as shown in the attached plan does not present a substantial detriment to adjacent property nor would it alter the character of the area. However, an undue hardship approaching confiscation does not appear to exist in this case, therefore staff can support the variance request.

Mr. Breitbeil stated that he would be happy to answer any questions from the board.

Mr. Fraley asked if there had been any comments or complaints from Eastern State Hospital.

Mr. Breitbeil stated that there have been no comments or complaints from adjacent property owners.

Mr. Giedd asked if there were any other questions from the board.

Mr. Giedd dispensed with the explanation of function and purpose of the Board of Zoning Appeals because of the property owner's familiarity with the board.

Mr. Giedd opened the public hearing.

Mr. Robert F. Ripley, property owner, came forward to present his case.

Mr. Ripley stated that he was the owner of Bobcat Business Management Center on Tewning Road. He explained that he was confused by the guidelines covering minimum rear yard regulations for limited business/industrial properties that adjoin properties adjacent to a residential and agricultural district that is designated for residential use on the comprehensive plan. According to his interpretation, he believed that his expansion would be permitted but after consulting with staff, he was informed that a variance would be required prior to construction.

Mr. Ripley stated that the building was constructed in 1988 and that he added unit F in 1989. He stopped construction the 75 feet (75') rear setback because at the time of construction he was a member of the Board of Zoning Appeal and did not wish to apply for a variance due to a possible conflict of interest. At that time it was decided that he would wait until a later date when he wasn't on the board. Ironically, he spent ten years on the board and in the last 4 years, his daughter and her business partner started a welding business operating out of unit F.

Mr. Ripley stated that property within the proposed expansion area is already graveled, semi-impervious, and is being utilized for outdoor storage. He stated that because they

are requesting to cover this existing outdoor storage area, they are not adding more impervious surface.

Mr. Ripley asked that the board grant his variance request and stated that he would be glad to ask any question of the board.

Mr. Giedd asked if there were any question from the board.

Mr. David Nice stated that after visiting the property, he could see that granting this variance would not present a negative impact to the surrounding area.

Mr. Fraley, Mr. Nice, and Mr. Giedd agreed that there must have been an oversight in the zoning classification many years ago that lead to this current situation.

Mr. Giedd closed the public hearing.

Mr. Emeric Fischer stated that in this instance the board should disregard the ordinance because of the misclassification of the property behind the Bobcat Business Management Center.

Mr. Fraley made a motion to establish the rear setback at twenty feet (20') for the purpose of adding a 40' x 50' addition to unit F at the rear of the Bobcat Business Management Center located at 128 Tewning Road.

Mr. Giedd seconded the motion.

Mr. Breitbeil called for a vote.


The motion was approved 5-0


**E. MATTERS OF SPECIAL PRIVILIGE**

None.

**F. ADJOURNMENT**

The meeting was adjourned at approximately 7:52 p.m.

  
\_\_\_\_\_  
Ken Giedd  
Chairman

  
\_\_\_\_\_  
Allen J. Murphy  
Secretary