

BOARD OF ZONING APPEALS

May 6, 2004

A. ROLL CALL

PRESENT:

Mr. Fraley
Mr. Nice
Mr. Rhodes
Mr. Fischer (arrived 7:30 PM)

ABSENT:

Mr. Turnau

OTHERS PRESENT:

John Rogerson, Zoning Officer
Melissa Brown, Zoning Officer
Trey Davis, Development Management Assistant
Mike Drewry, Assistant County Attorney
Mr. Rich Costello, Applicant
Mr. Scott Evans, Applicant
Mr. Mark Rinaldi, Adjacent Property Owner

B. MINUTES

On a motion by Mr. Fraley, seconded by Mr. Nice, the amended minutes of the April 1, 2004 meeting were unanimously approved.

D. OLD BUSINESS

Mr. Fraley suggested that in the absence of the full Board, the discussion of the bylaws should be carried over to the next meeting.

Mr. Drewry asked Board members to call him at any time if they would like him to do any research regarding this matter prior to the next meeting.

Mr. Fraley read a brief explanation of the BZA for the benefit of the applicants and the audience.

E. NEW BUSINESS

ZA-04-04 113 Evergreen Way

Ms. Brown stated that the owners purchased the property in good faith and that the survey provided at closing showed all improved structures within the setbacks. She stated that to force the applicant to alter the garage now would produce an undue hardship.

Mr. Rhodes asked whether the differences between the two surveys from 1997 and 2004 had been resolved.

Ms. Brown responded that the most recent survey was taken to be the correct one and that the corner in question appears of the site plan for the construction of the garage. She explained that the older survey was included to show that when the lot was purchased, the existing buildings were within setbacks.

Mr. Nice stated that one can only act off the most recent survey and that the applicant was facing a true hardship.

Mr. Fraley opened the meeting to public comment at 7:20 PM.

Mr. Scott Evans, the contractor and applicant, said he found that the rear corner of the existing garage encroached on the setbacks during the most recent survey. He stated that he was comfortable with the results of this survey and that the surveyor had located all the corner pins for the property. The current surveyor tied the two points at which the garage encroaches together. This was not done on the previous survey.

Mr. Fraley closed the meeting to public comment at 7:22 PM.

Mr. Fraley asked Ms. Brown for wording for the variance.

Ms. Brown read a RESOLUTION: The board grants a variance to Section 24-238(b), Yard Regulations, of the James City County Zoning Ordinance. This variance reduces the required rear yard setback from 35 feet to 32.9 feet with no further encroachment into the setback.

Mr. Nice moved to grant a variance.

Mr. Rhodes seconded the motion.

Mr. Fraley called for a vote.

Mr. Davis read the roll.

The motion was approved 3-0.

ZA-05-04 10020 Sycamore Road

Mr. Rogerson stated that the applicant, Mr. Rich Costello, had asked to defer the case until it could be heard in front of the full Board at a later meeting.

Mr. Fraley said discussion of this case would continue at the June 3, 2004 meeting.

ZA-06-04 3957 Penzance Place

Ms. Brown stated that she had nothing to add to the information provided in the staff report.

Mr. Fraley opened the meeting to public comment at 7:27 PM.

Seeing no members of the public who wished to speak, Mr. Fraley closed the meeting to public comment at 7:27 PM.

Mr. Rhodes asked why the ordinance called for the shorter of two sides of a corner lot to be the front side.

Mr. Fraley responded that the method has traditionally been the way it was done.

Mr. Fischer arrived at 7:30 PM.

Mr. Rhodes asked whether the mislabeled setbacks were an honest mistake.

Ms. Brown responded that it was. She also said that due to these two similar cases, the setbacks of all oddly-shaped lots would be checked during the site plan review process by looking at the original plat.

Mr. Nice said he understood the confusion and that it looked like all parties involved had tried to do the right thing. He felt the property was consistent with the neighborhood.

Mr. Fischer agreed.

Mr. Fraley asked Ms. Brown for wording for the variance.

Ms. Brown read a RESOLUTION: The board grants a variance to Section 24-238(b), Yard Regulations, of the James City County Zoning Ordinance. This variance reduces the required rear yard setback from 35 feet to 17 feet with no further encroachment into the setback.

Mr. Fraley moved to grant a variance.

Mr. Fischer seconded the motion.

Mr. Fraley called for a vote.

Mr. Davis read the roll.

The motion was approved 4-0.

ZA-07-04 3976 Penzance Place

Ms. Brown stated that she had nothing to add to the information provided in the staff report.

Ms. Brown and Mr. Rhodes examined the survey for the property.

Mr. Fraley opened the meeting to public comment at 7:35 PM.

Seeing no members of the public who wished to speak, Mr. Fraley closed the meeting to public comment at 7:35 PM.

Mr. Fraley asked Ms. Brown for wording for the variance.

Ms. Brown read a RESOLUTION: The board grants a variance to Section 24-238(b), Yard Regulations, of the James City County Zoning Ordinance. This variance reduces the required rear yard setback from 35 feet to 29 feet with no further encroachment into the setback.

Mr. Fraley moved to grant a variance.

Mr. Fischer seconded the motion.

Mr. Fraley called for a vote.

Mr. Davis read the roll.

The motion was approved 4-0.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Fraley reminded the Board that the review of the BZA bylaws would be carried forward to the next meeting.

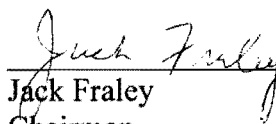
The Board had a general discussion about their availability for the June 3, 2004 meeting.

Mr. Rhodes asked that Mr. Murphy provide a written interpretation of the lot width at setback regulations that he asked about at the previous meeting.

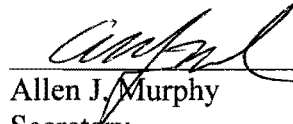
Ms. Brown said she would ask Ms. Parrish to work on that issue and report back to the Board.

F. ADJOURNMENT

The meeting was adjourned at approximately 7:50 PM.



Jack Fraley
Chairman



Allen J. Murphy
Secretary