

BOARD OF ZONING APPEALS
March 10, 2005

A. ROLL CALL

PRESENT: ABSENT:

Mr. Fraley None
Mr. Rhodes
Mr. Fischer
Mr. Wenger
Mr. Nice

OTHERS PRESENT:

John Rogerson, Senior Zoning Officer
Michael Drewry, Assistant to County Attorney

A. ELECTION OF OFFICERS

John Rogerson opens floor for nominations for BZA chair. Fraley nominated by Fischer. Voice vote: 5-0. Mr. Fraley appointed chairman. Mr. Fischer nominates Mr. Nice for vice-chair. Voice vote: 5-0. Mr. Nice appointed vice-chairman.

B. MINUTES

On a motion by Mr. Fraley, seconded by Mr. Rhodes, the minutes of the September 2, 2004 were unanimously approved with several grammatical corrections made by Mr. Fraley and Mr. Rhodes.

C. OLD BUSINESS

Mr. Fraley stated that there is no old business.

D. NEW BUSINESS

John Rogerson presents the proposed 2005 BZA hearing calendar. Mr. Fraley clarified the change of the March 3 date to March 10 and asked members to review calendars. Mr. Fraley asked Mr. Rogerson if he expected to vote to accept the calendar tonight. Mr. Rogerson responded that the Board members could vote to amend the calendar tonight. Mr. Fraley moved to approve the calendar as amended. Voice vote: 5-0. 2005 calendar accepted. Mr. Fraley instructs the other board members to get dates down to improve attendance for the new year.

ZA-02-05 Cooke's Garden Expansion

Mr. Rogerson states on behalf of Christy Parrish that the applicant requests deferral of the case until the April 7 hearing. Mr. Fraley opens the public hearing. The address of the property is clarified as 1826 Jamestown and 259 Sandy Bay Road.

Mr. Rogerson confirms that the case number is Z-02-05. Mr. Fraley moves to defer the case until the April 7 hearing. Motion approved.

ZA-01-05 190 Clark Drive; Clarence F. Curry Subdivision

After consulting Mr. Drewry, Mr. Rogerson noted that the public hearing ad for case ZA-01-05 was inconsistent, in that it contained one incorrect reference to a section of the ordinance that had no application to the case itself. To clarify, Mr. Rogerson pointed out that the variance request that Mr. Spearman was applying for pertained to section 24-259c which states that each corner lot shall have a minimum width at the setback line of 100 feet. Mr. Rogerson further elaborated that because there was a citizen in attendance who wished to speak on the application the case should be deferred until the April 7 hearing.

Mr. Drewry stated that in the best interest of the parties involved he recommends the case be deferred to allow it to be advertised correctly.

Mr. Nice asked if the applicant wished to defer. Mr. Rogerson stated that the applicant, Mr. Spearman, wished to speak on the deferral. Mr. Fraley inquired as to whether or not it was appropriate to open the public hearing. Mr. Drewry responded that the case should be re-advertised and opened to public hearing at the next meeting. Mr. Fraley invited the applicant to speak.

Mr. Spearman stated that if there would be no comment from the public, he wouldn't recommend deferral, but since a member of the public was there he recommended deferring it. Mr. Fraley restated that staff wished to defer because the public hearing ad was incorrect, and moved to defer case Z-01-05 until the April 7 hearing. Motion was approved unanimously.

ZA-03-05 Singley Renovation/Addition

Mr. Rogerson asked the members of the board if they have any questions.

Mr. Fraley asked Mr. Rogerson if he inspected the property, and what the conditions of the property were.

Mr. Rogerson summarized the contour of the property. Mr. Rogerson continued, noting that the rear yard was small, and that there is a large bank that slopes down to the rip rap to protect beechwood. A 100 foot RPA buffer runs diagonally across the property. A large portion of the 1 acre parcel is unusable because of the RPA protection buffer. Looking at the contour lines you can see the severity of the slope

and existing drain fields. Mr. Singley has brought pictures of property so you can see the issues with the lot.

Mr. Fraley asked the board if they have any questions. Mr. Rhodes asked if it made any difference as to whether it was built on an old or new foundation.

Mr. Rogerson responded that for the Chesapeake Bay Act, there are provisions that allow you to rebuild on the same foundation as long as you don't encroach farther into the RPA.

Mr. Rhodes then inquired as to whether or not the entire structure would be built on the same foundation.

Mr. Rogerson responded that the front part where the garage is will not be built on the same foundation. Mr. Rogerson further noted that the applicant should address the proposal as new construction as opposed to existing.

Mr. Fraley thanked Mr. Rogerson, and asked the applicant to present his report.

Mr. Bobby Singley Jr. gave a brief summary of his request including that the work will include tearing down the existing structure, preserving the foundation, and constructing a two-story, three bedroom home, with a two car attached garage and a playroom over the garage. The addition of a garage will necessitate the building a new foundation on the roadside (front) side of the house. The total square footage of the new home would be 2,909 sq. ft. including the garage and porches. Mr. Singley continued, citing the reason for needing a variance. The southern corner of the new foundation for the garage will encroach into the 75 ft front setback by 5.5 feet. The request, in summation, is a 6 ft. variance for this portion of the house from the front setback. Mr. Singley cited several development constraints on his lot including 1) non-conforming neighborhood with few lots complying with the A-1 three acre minimum; 2) existing non-compliant minimum lot width; 3) difficulty and impracticality of expanding toward the riverside into the RPA buffer; 4) limitations on expanding the opposite side of the house toward the street posed by the existing drain field; 5) inconvenience of having limited room to add a garage to the main structure due to the tight setback.

Mr. Singley requested that the Board of Zoning Appeals give favorable consideration for a 6 ft. variance from the front setback line of the property to enable the construction of a modest home on an existing non-conforming one acre lot. Mr. Singley added that if his property were zoned R-1 or R-2, he would not need a variance for the addition. Since the addition is going towards Sycamore Landing Road it will not have a negative impact on the neighboring properties or the RPA buffer. In closing, Mr. Singley noted that he included a copy of a letter from one neighbor who supported the variance in the packet. Mr. Singley thanked the board for the opportunity.

Mr. Fraley asked if there were any questions from the board.

Mr. Nice mentioned that he received a phone call from Mr. Rich Costello supporting the variance. Mr. Nice then commended Mr. Singley for doing his homework and for the due diligence he placed on each component of his presentation.

Mr. Fraley thanked the applicant and opened the public hearing. Mr. Fraley closed the public hearing with no citizen requests to speak on the application. Mr. Fraley asked for discussion from the board.

Mr. Fischer stated that he was impressed by the aerial photos and asked Mr. Rogerson to clarify the location of the property on the aerial map. Mr. Fischer then noted that it appeared that all the structures along Sycamore Landing Road conformed to different setbacks, and that the houses weren't lined up by any measure. He added that the applicant can't expand toward the river due to the Chesapeake Bay restrictions. Mr. Fischer continued, stating that the applicant was not asking to build a mansion, that it was a minor request, and that on top of all else the proposed structure would enhance the neighborhood.

Mr. Nice responded that he lived in the area and that many of the houses were set close to the road, lots of them non-conforming. He suggested that the right thing to do was move forward, and avoid expanding toward the river.

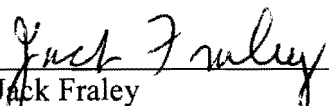
Mr. Fraley voiced his support, and commended the applicant for his presentation. Mr. Fraley stated that he would support the variance and asked Mr. Rogerson for motion to grant the variance. Mr. Rogerson restated the variance request and called the roll. The motion was approved 5-0 in favor of the variance.

E. Matters of Special Privilege


Mr. Fraley thanked Mr. Rogerson. Mr. Fraley noted that there were by-laws under review for an ongoing case item and that Mr. Drewry was working on it. He thanked Mr. Rhodes for his input thus far, and asked the other Board members to submit their input on the by-laws via email.

F. Adjournment

Meeting is adjourned at 8:09 pm.



Jack Fraley
Chairman



Allen J. Murphy
Secretary