

BOARD OF ZONING APPEALS
July 7, 2005

A. ROLL CALL

PRESENT: ABSENT:

Mr. Fraley Mr. Wenger
Mr. Rhodes
Mr. Fischer
Mr. Nice

OTHERS PRESENT:

John Rogerson, Senior Zoning Officer
Melissa Brown, Senior Zoning Officer
Clifton Copley, Zoning Officer
Christy Parrish, Administrative Services Coordinator

B. MINUTES

On a motion by Mr. Nice, seconded by Mr. Rhodes, the minutes of the April 7, 2005 meeting were unanimously approved with the four corrections.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-9-05 1358 Jamestown Road

Ms. Brown stated that this case was being deferred until the next meeting.

2. ZA-10-05 119 Neighbor's Drive

Ms. Brown stated that staff would like to reiterate that application of typical setbacks for the R-2 zoning district would overlap on this lot creating a negative building envelope.

Mr. Rhodes asked if staff had looked into the setback difference between what was requested on the application and the staff report.

Ms. Brown stated that the Board had been provided copies of the new staff report correcting the error.

Hearing no further questions from the Board, Mr. Fraley opened the public hearing at 7:09 p.m.

Ms. Amy Hertzler-Schmidt, applicant, stated that she would answer any questions the Board may have for this case.

Seeing no questions from the Board and no other speakers, Mr. Fraley closed the public hearing at 7:10 p.m.

Mr. Fischer discussed with staff the nonconforming and development status of Neighbor's Drive.

Mr. Nice stated the Board has been through this issue many times and this case was routine.

Mr. Rhodes stated he did not have an issue with this case.

Mr. Nice made a motion to grant a variance to Section 24-256, Setback Requirements, and Section 24-258 (b), Yard Regulations, to reduce the front setback from the centerline of the Neighbor's Drive right-of-way from 50 feet to 30 feet and to reduce the required rear yard setback from 35 feet to 20 feet for the construction of a single family dwelling with no further encroachment.

Mr. Fischer seconded the motion.

The variance was granted unanimously.

3. ZA-11-05 123 Neighbor's Drive

Ms. Brown stated that this case was an adjacent parcel to the case that was just granted.

Seeing no questions from the Board, Mr. Fraley opened the public hearing at 7:14 p.m.

Seeing no speakers, Mr. Fraley closed the public hearing at 7:14 p.m.

Mr. Fraley made a motion to grant a variance to Section 24-256, Setback Requirements and Section 24-258, (b), Yard Regulations to reduce the front setback from the centerline of the Neighbor's Drive right-of-way from 50 feet to 30 feet and to reduce the required rear yard setback from 35 feet to 20 feet for the construction of a single family dwelling with no further encroachment.

Mr. Rhodes seconded the motion.

The variance was granted unanimously.

4. ZA-12-05 3502 Fieldcrest Court

Mr. Fraley asked Mr. Rogerson if he would like to add any additional information to the staff report.

Mr. Rogerson stated he had no further comments to make but would be happy to answer

any questions the Board might have.

Mr. Rhodes asked if there were other cases like this in the community.

Mr. Rogerson stated that there appears to be, but without a survey it is uncertain.

Mr. Rhodes asked if the deck was constructed prior to the applicant purchasing the property.

Mr. Rogerson stated that the applicant said it was there when he purchased the property.

Mr. Fraley discussed the construction of the screened-in porch on a portion of the deck with staff.

Mr. Nice commented that he did not have any objection with this case and noted that the property was heavily screened. He also stated that there was clearly no objections from the neighbors or Home Owners Association.

Seeing no further questions, Mr. Fraley opened the public hearing at 7:19 p.m.

Mr. Ralph Stephens, property owner, stated that when they purchased the home in 1999 they were not aware of this situation. He also stated that the proposed room will only be screened in and will not have heating or air conditioning.

Seeing no further speakers, Mr. Fraley closed the public hearing at 7:20 p.m.

Mr. Fischer motioned to grant a variance to Section 24-238 (b), Yard Regulations of seven feet of the required 35 foot rear yard setback. This variance request is to allow the continued placement of the existing deck and to allow the construction of a screened-in porch on a portion of the deck,

Mr. Fraley seconded the motion.

The variance was granted unanimously.

5. ZA-13-05 135 Neighbor's Drive

Mr. Rogerson stated that due to the absence of the property owner's signature on the variance application, he recommends the Board open the public hearing and then request deferral until the next meeting.

Mr. Fraley opened the public hearing at 7:23 p.m.

Seeing no speakers, Mr. Fraley continued the case.

6. ZA-14-05 138 Neighbor's Drive

Mr. Rogerson stated that Mr. Paul White has made an application to reduce the front and rear setbacks similar to the previous cases.

Mr. Rhodes commented that he was pleased to see that this was a larger lot and that the applicant did not try to subdivide the lot.

Seeing no questions, Mr. Fraley opened the public hearing at 7:25 p.m.

Mr. Paul White, applicant, stated that he would answer any questions the Board may have for this case.

Seeing no other speakers, Mr. Fraley closed the public hearing at 7:25 p.m.

Mr. Rhodes made a motion to grant a variance to Section 24-256, Setback Requirements and Section 24-258 (b) Yard Regulations to reduce the front setback from the centerline of the Neighbor's Drive right-of-way from 50 feet to 30 feet and to reduce the required rear yard setback from 35 feet to 15 feet for the construction of a single family dwelling.

Mr. Fischer seconded the motion.

The variance was granted unanimously.

7. ZA-16-05 4071 South Riverside Drive

Ms. Brown stated that the property owner has provided a visual representation of what the proposed construction would look like.

Seeing no questions, Mr. Fraley opened the public hearing at 7:26 p.m.

Mr. Francis Cason, property owner, stated he would like to line everything up to the way it was built.

Mr. Rhodes asked Mr. Cason if he realized that the request puts the property into a nonconforming situation.

Mr. Cason replied yes.

Mr. Rhodes asked if there was a particular reason for the carport other than aesthetic purposes.

Mr. Cason stated he wanted to do away with the existing carport and use the new one.

Mr. Rhodes stated that there were several requirements the Board has to review when granting a variance including the definition of a hardship approaching confiscation of the property and what impact this variance may have on the character of the neighborhood.

He asked Mr. Cason to address both issues.

Mr. Cason stated that everything was built before zoning requirements. He stated that when he built his garage in 1996, the requirement was five feet, however, he put the garage six feet back to line it up with the existing carport. He also stated that at that time, he did not have the money to complete this construction.

Mr. Rhodes asked if the Zoning Ordinance had changed since 1996.

Ms. Brown stated that the R-2 zoning district had not changed. The garage classified as an accessory structure which qualified for the five foot setback. She also commented that most of the riverfront lots in Chickahominy Haven were nonconforming due to lot area.

Mr. Rhodes asked if there were other houses in the neighborhood that do not meet current setbacks.

Ms. Brown stated that many of the houses along the riverfront do encroach into the side setbacks because they were the first houses built in the neighborhood in the 1960's.

Mr. Fraley asked Mr. Cason if the existing carport was temporary.

Mr. Cason replied yes.

Mr. Nice discussed his knowledge of Chickahominy Haven and how the older section is nonconforming. He also stated that he thought what the applicant was proposing was very tasteful. He asked if there were any neighbors objecting to the variance.

Mr. Cason stated there were none.

Seeing no further speakers, Mr. Fraley closed the public hearing at 7:30 p.m.

Mr. Fraley asked if the house was nonconforming and if the garage was conforming.

Ms. Brown stated that was correct.

Mr. Fraley stated that he thought that artistically and architecturally this was an improvement and added value to the property.

Mr. Fraley made a motion to grant a variance to Section 24-258 (a), Yard Regulations to reduce the required side yard setback from ten feet to four feet for the construction of a carport connecting the existing garage to the existing dwelling at 4071 South Riverside Drive with no further encroachment.

Mr. Fischer seconded the motion.

The variance was granted unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

1. Bylaws

Mr. Fraley discussed with the Board the Memorandum from Jennifer Lyttle, County Paralegal and Board of Zoning Appeals By-Law Revisions that was included in the packet.

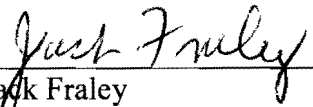
Mr. Rhodes discussed the following concerns with the revisions:

- Page 1, Objectives - uncomfortable with the word "morals".
- Page 1 - #4 - "Members of the Board shall hold no other public office in the County except that one may be a member of the Planning Commission" Where does this come from and does it need to be in the bylaws? Does the Administration have the right to regulate the membership?
- Procedures or a process for the Board of Zoning Appeals when reviewing an appeal of the Zoning Administrator's interpretation or Zoning District Map.

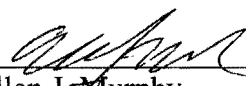
The Board continued their discussion of the bylaws. Mr. Fraley suggested the Board forward all comments or thoughts to Ms. Christy Parrish for staff to review.

F. ADJOURNMENT

The meeting was adjourned at 8:05 p.m.



Jack Fraley
Chairman



Allen J. Murphy
Secretary