

**BOARD OF ZONING APPEALS**  
**September 6, 2007**

**A. Roll Call**

Present:

Mr. Rhodes  
Mr. Wenger  
Ms. Moody  
Mr. Pennock  
Mr. Fraley

Absent:

Others Present:

John Rogerson, Senior Zoning Officer  
Jenny Lyttle, Assistant County Attorney  
Milly Story, Development Management Assistant

**B. Minutes**

The minutes from the July 5, 2007 meeting were passed with amendments.  
Minutes passed (5-0). (Yes – Moody, Fraley, Wenger, Pennock, Rhodes)

Mr. Rhodes made a presentation to former Board of Zoning Appeals member Mr. Fisher.  
Mr. Rhodes presented Mr. Fisher with a plaque in appreciation for his service to the Board.

**C. Old Business**

**ZA-8-07      Autumn West (Deferred)**

Mr. Rhodes reopened the public hearing for the case.

Mr. Rogerson presented a request by the Applicant to defer the case until the November meeting.

Seeing no members of the public wishing to speak, Mr. Rhodes continued the public hearing until the November meeting or a subsequent meeting.

Mr. Fraley, asked if there was a time limit or a limit to the number of times a case can be deferred.

Mr. Rogerson, said he was unclear if there was a limit.

Ms. Lyttle, added that she did not believe there was a limit.

## **D. New Business**

### **ZA-10-07     4073 S. Riverside Dr.**

Mr. Rogerson presented the case to the Board. The Applicant, Mr. Lew Faxon has applied for a variance to section 24-256, requesting a reduction in the front setback from 25 feet to 10 feet in order to build a 24' x 44' garage. The property is zoned R-2, General Residential and can be further identified as tax map number 1910500019 and fronts both the Chickahominy River and S. Riverside Drive. The property is rectangular in shape and is approximately .35 acres in size. The drain field is located in the front yard between the house and S. Riverside Dr.

Mr. Rhodes asked if the property fronted both the river and S. Riverside Dr. which the county considered the front of the property.

Mr. Rogerson responded that for the purposes of application the front of the property was considered to be that which fronted S. Riverside Dr. Mr. Rogerson went on to explain that the county was not concerned with which direction a home was oriented on a lot and that the same consideration was given to corner lots in that the shortest property line was considered to be the front property line.

Mr. Rhodes also asked how close the proposed garage would be to the side property line.

Mr. Rogerson, displayed a drawing to the Board, according to the drawing the distance appeared to be approximately 5 feet, which is within the requirements. But Mr. Rogerson did not believe the drawing was exactly to scale. Mr. Rogerson showed several photographs showing various angles of the front yard where the proposed garage would be placed.

Mr. Wenger asked if the existing small shed on the property was conforming in respect to setbacks.

Mr. Rogerson, yes, the existing shed is conforming.

Mr. Fraley asked to see a previous photograph that depicted a property to the west of 4073 S. Riverside Dr. and asked for the setbacks for that property.

Mr. Rogerson, stated that in the past 12 months the Board of Zoning Appeals had approved a variance for that property for an existing structure to be connected to the house by a breezeway. The structure was an existing as conforming prior to the County's knowledge of property or the application of the ordinance.

Mr. Fraley asked if the existing structure in question was nonconforming in the sense that it was encroaching on the setbacks.

Mr. Rogerson, said yes that the structure was in place prior to the zoning ordinance requirements.

Mr. Pennock asked if Mr. Rogerson knew the dimensions of the structure.

Mr. Rogerson did not know the dimensions or the distance from the front property line, but offered that the Applicant may have more information regarding that, since it was an adjacent property.

Mr. Rhodes commented based on an illustration Mr. Rogerson used illustrating the flood zones, that all the property on the opposite side of the street were also in a flood zone area.

Mr. Fraley asked if all the adjacent property owners were notified and if Mr. Rogerson heard from any of those property owners

Mr. Rogerson confirmed that all the adjacent property owners had been notified and that he had not heard from any of them.

Mr. Rhodes opened the public hearing and invited the Applicant to come forward.

Mr. Faxon approached the podium and identified himself as the property owner of 4073 S. Riverside Dr. Mr. Faxon then made a presentation of several photographs from the surrounding properties illustrating other structures that are close to the property lines, also the types of garages and other accessory structures in the neighborhood. He also illustrated what the proposed garage would look like, the type of landscaping he intended to use and also what he did not intend the proposed garage to look like. Mr. Faxon also offered a copy of a petition he had circulate among the adjacent property owners asking if they supported the building of the proposed garage, they had all signed in support of Mr. Faxon's request for a variance.

Mrs. Faxon, approached the podium and assured the Board the garage would be used for storage and that the antique cars Mr. Faxon collected were not driven on a weekly bases and therefore would be not a threat to the drain field.

Mr. Mike Hartman, approached the podium and spoke in support of the proposed garage and stated that the garage would be closest to his property line and that he was in support of the variance request and the garage.

Mr. Rhodes asked for any additional comments, hearing none he closed the public hearing.

Mr. Wenger asked when the 25 foot setback was put into place.

Mr. Rogerson, stated that it was instituted in 1971.

Mr. Wenger asked if a conforming structure was torn down could another nonconforming structure be built in place of it.


Mr. Rogerson answered that if the nonconforming structure of damaged by causality or an act of god, then it could be replaced in a nonconforming manner. If the nonconforming structure was removed or brought down by the owner then it could only be replaced with a conforming structure.

Mr. Rhodes asked for a vote.

Resolution passed (4-1). (Yes – Moody, Pennock, Fraley, Rhodes. No – Wenger)

**D. ADJOURNMENT**

Mr. Rhodes adjourned the meeting at 7:50pm

  
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Marvin Rhodes  
Chairman

  
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Allen Murphy  
Zoning Administrator