

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

**A. Roll Call**

Present:

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

Absent:

Others Present:

Beau Blevins, Zoning Officer  
Melissa Brown, Deputy Zoning Administrator  
Adam Kinsman, Deputy County Attorney  
Jennifer VanDyke, Administrative Services Coordinator

**B. Minutes**

Mr. Wenger made a motion to accept the minutes of the November 1, 2007 meeting. Mr. Pennock seconded the motion. The minutes were approved by voice vote (5-0).

**C. Old Business**

**ZA-008-2007            Autumn West Village**

Mr. Rhodes closed the public hearing with no action. The applicant requested that the case be withdrawn.

**ZA-0011-2007        Anderson-Hughes House**

Mr. Rhodes continued the public hearing at the applicant's request until the January Meeting.

**D. New Business**

**ZA-0012-2007        105 Briar Lane**

Ms. Melissa Brown presented the background of the case. She stated Ms. Bonnie L. Mines has applied to request a variance to Section 24-177, Minimum Setback Requirements, of the James City County Zoning Ordinance to permit the location of an existing deck at 105 Briar Lane. The variance requested is to reduce the required minimum front yard setback from fifteen feet (15') to nine feet (9'). The property is zoned A-1, General Agricultural, and can be further identified as Parcel Number (05-0-

0005) on JCC Real Estate Tax Map (24-3). The surrounding lots are roughly square with similar areas.

The Property is located in the Briarwood manufactured home park. Manufactured home parks are specially permitted uses in the A-1, General Agricultural, zoning district. Briarwood was approved under SUP-0007-1989. Section 24-177 of the James City County Zoning Ordinance requires that structures be setback a minimum of 15 feet from internal private streets in manufactured home parks. Briar Lane is an internal private street.

An undue hardship exists when the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property in a manner approaching confiscation. Staff recognizes that the homeowner is dealing with health issues; however, an undue hardship does not exist according to code, and staff cannot support this variance request. Staff recommends denial.

Mr. Rhodes opened the public hearing.

Mr. and Mrs. Lucas, the applicant's parents, discussed the health problems Ms. Mines suffers from, and relayed the doctor's suggestion that Ms. Mines spend time outdoors as a part of her therapy. Mr. and Mrs. Lucas also provided images of adjacent property owner's porches, citing similar properties.

Mr. Rhodes opened the public hearing.

Mr. Joseph Lubbock of 102 Briar Lane stated he was not opposed to the porch remaining as- is on site.

Mr. Rhodes asked staff if other properties within the neighborhood had reduced setbacks.

Ms. Brown stated that, yes, there are existing properties that are nonconforming. There are also properties in the area that are in violation.

Mr. Rhodes asked if there are other properties that are grandfathered?

Mrs. Brown stated no, that the setbacks had not changed. There were properties that had variances in the neighborhood for similar structures.

Mr. Wenger stated he wanted to disclose his relationship with the builder responsible for the construction of the porch. He stated, in the interest of full disclosure, he is friends with the builder. He stated he did not feel his vote would be biased due to this relationship.

Mr. Rhodes closed the public hearing.

Ms. Moody stated she was in favor of allowing the porch to remain. She suggested the porch should have a railing. Ms. Moody also stated she drove through the neighborhood and felt the porch did not visibly take from the uniformity of the other houses.

Mr. Pennock stated he agreed with Ms. Moody. He was in favor of the porch remaining.

Mr. Rhodes stated he understood the positive impact the porch could make in regards to Ms. Mines' health. He also stated he did not feel as though creating a zoning variance was appropriate.

Mr. Rhodes asked staff if there was any way to create a temporary variance to allow the porch to remain while Ms. Mines remained the property owner.

Ms. Brown stated her only recommendation would be to create a clause stating there could be no further structural encroachments.

Mr. Wenger made a motion to approve the variance.

Mr. Fraley seconded the motion.

Resolution Approved (4-1) (Aye-Moody, Fraley, Pennock and Wenger; Nay-Rhodes)

Mr. Rhodes asked staff to confirm future Board of Zoning Appeals meeting dates.

Mr. Fraley stated he wanted to be on record for opposing the increase in zoning appeal fees.

Mr. Pennock asked staff when the increase occurred.


Mr. Kinsman stated the fee rose to the current amount in the summer. He also cited the rising costs in advertising fees, creating the need for the increased amount.

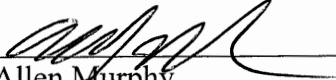
Mr. Rhodes asked if there was any other business for the committee.

**E. ADJOURNMENT**

At 7:29pm Mr. Rhodes made a motion to adjourn the meeting. Mr. Wenger seconded the motion. The motion was approved by voice vote (5-0).

Mr. Rhodes adjourned the meeting.

  
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Marvin Rhodes  
Chairman

  
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Allen Murphy  
Zoning Administrator