

BOARD OF ZONING APPEALS
January 10, 2008

A. Roll Call

Present:

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

Absent:

Others Present:

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

B. Minutes

Mr. Pennock made a motion to accept the minutes of the December 6, 2007 meeting. Ms. Moody seconded the motion. The minutes were approved by voice vote (5-0).

C. Old Business

ZA-0011-2007 Anderson-Hughes House

Applicant requested a deferral while pursuing resolution with other county departments.

Mr. Rhodes opened the public hearing.

Seeing no public comment, the continuation was granted to the next scheduled meeting and the hearing remains open.

D. New Business

ZA-0016-2007 2714 Chickahominy Road

Ms. Brown, Deputy Zoning Administrator, presented the staff report and recommended denial of the variance due to having found no hardship approaching confiscation in the variance request. Ms. Brown stated she would be happy to answer any questions from the Board.

Mr. Fraley asked about the parameters by which the Zoning Administrator could apply administrative authority and grant a variance.

Mr. Rhodes opened the public hearing.

Ms. Brown state the Zoning Administrator may grant variance to existing structures within 18 inches.

Ms. Moody inquired about another building seen in the image provided.

Ms. Brown stated she would have to defer that question to the applicant.

Mr. Denny stated that he had additional comments in response to comments made by the Board. He requested that the public hearing be re-opened.

Hearing no disagreement, Mr. Rhodes re-opened the public hearing.

Keith Denny with the office of Housing and Community Development presented himself and stated he is representing Ms. Walker, the applicant. Mr. Denny stated they are appealing to put the smallest possible house on the lot. Mr. Denny stated they cannot put the house any farther back on the lot due to the location of the septic tank. Mr. Denny stated the only available option is to ask for a variance to the side setbacks.

Mr. Rhodes asked Mr. Denny if it was possible to reduce the size of the house by two feet, placing the house within the permitted setbacks.

Mr. Denny replied that the houses are funded by the state. The limited funding prohibits costly plan revisions.

Ms. Moody asked if the other building, as seen in the image, would be demolished at the same time.

Mr. Denny stated the other building seen in the photograph is owned by another citizen, though it too would be demolished.

Mr. Denny stated they are encouraging the demolition of the adjacent house, as it is dilapidated.

Ms. Moody asked if the new home would be using the existing house's footprint.

Mr. Denny stated no.

Mr. Fraley asked Ms. Brown if notification had been provided to adjacent property owners.

Ms. Brown stated yes.

Mr. Fraley asked Ms. Brown if staff had heard any opposition to the plans from adjacent property owners.

Ms. Brown stated no.

Mr. Fraley asked how far removed the existing house is from the property lines.

Ms. Brown stated the current house is 7 feet from the right property line, and about 20 feet from the left property line.

Mr. Fraley noted that with the current plans the applicant would add 7 feet on one side and lose 6 feet on the other side.

Ms. Brown stated the proposed plan centers the house more efficiently.

Mr. Rhodes closed the public hearing.

Mr. Wenger stated he questions if the proposed variance exhibits undue hardship.

Mr. Denny requested that the public hearing be reopened and the Board concurred.

Mr. Rhodes reopened the public hearing at the request of the applicant.

Mr. Denny stated efforts were made to make the plans modifiable. One modification that was explored was to turn the house. Mr. Denny stated this option would not permit the house to remain within the front setback due to the septic tank. Mr. Denny stated the cost of moving the septic tank prohibits staff from considering it as an option.

Seeing no further comment, Mr. Rhodes closed the public hearing.

Mr. Fraley supported the variance as he felt a need for more low- income housing within James City County.

Ms. Moody stated she supports the variance.

Mr. Rhodes stated he supports the variance. Mr. Rhodes remarked that the new house would be in greater compliance of zoning regulations.

Ms. Moody made a motion to approve the variance to sections 24-353 (a), to reduce the required 15 feet side setbacks to 14 feet with no other structural encroachment.

Mr. Fraley seconded the motion.

Resolution passed by voice vote (5-0).

ZA-0013-2007

142 Forest Heights

Mr. Beau Blevins, Zoning Officer, presented the staff report and recommended acceptance of the proposed variance with no further structural encroachment as it meets

the requirement of demonstrative hardship. The application of the current setbacks renders the parcel unusable otherwise.

Mr. Rhodes closed the public hearing.

Mr. Rob White, the owner, stated he would be happy to answer any questions for the board.

Seeing no further questions, Mr. Rhodes closed the public hearing.

Mr. Fraley moved to approve resolution ZA-0013-2007 to grant the variance to Section 24-256 and Section 24-258(b) of the James City County Zoning Ordinance to reduce the required minimum front yard setback of 50 feet from the centerline of West Forest Heights to the setback of 30 feet and to reduce the required 35 foot rear yard setback to 19 feet for the construction of the new single family home with no further encroachment.

Ms. Moody seconded the motion.

Motion passed by voice vote (5-0).

ZA-0014-2007 137 Forest Heights

Mr. Beau Blevins, Zoning Officer, presented the staff report and recommended acceptance of the proposed variance to Section 24-256 and Section 24-258(b) of the James City County Zoning Ordinance to reduce the required minimum front yard setback of 50 feet from the centerline of West Forest Heights Road to the setback of 30 feet and to reduce the required 35 foot rear yard setback to 19 feet for the construction of the new single family home.

Mr. Rhodes asked if the lot is vacant.

Mr. Blevins stated it is.

Mr. Rhodes opened the public hearing.

Seeing no questions, Mr. Rhodes closed the public hearing.

Ms. Moody made a motion to grant the variance.

Mr. Fraley seconded the motion.

Motion passed by voice vote (5-0).

ZA-0015-2007 8976 Croaker Road

John Rogerson presented the staff report as well as the subdivision plat which includes drain fields and aerial photographs.

Mr. Wenger commented on an area within the lot that has been rendered unusable due to a 25% or greater slope. Mr. Wenger asked Mr. Rogerson if the image is to scale.

Mr. Rogerson stated it is an approximation.

Mr. Wenger asked what the scale is.

Mr. Rogerson replied 1:100.

Mr. Rhodes asked whether setbacks vary in the A-1 district based on the parcel size and if so what particular setback would apply to this property.

Mr. Rogerson stated it is 200 feet.

Mr. Wenger asked for the amount the applicant wants reduce the setback to in the back.

Mr. Rogerson stated Mr. Marcello wants to reduce the setback from 200 feet to 80 feet.

Mr. Rhodes asked Mr. Rogerson to clarify how setbacks are determined with a flag lot, such as Mr. Marcello's lot.

Mr. Rogerson stated the front setback line is established when you achieve 200 feet in width.

Mr. Pennock asked if the recreational area for Ware Creek Manor is being used as a trail easement.

Mr. Rogerson stated it is not. Mr. Rogerson stated the area is a perimeter buffer for Ware Creek Manor Subdivision and is a part of the Home Owner's Association's property.

Mr. Fraley asked if the setback requirements in this case are to protect the view shed.

Mr. Rogerson stated that it is.

Mr. Fraley asked if the area is heavily wooded.

Mr. Rogerson stated it is wooded, and that one cannot see the applicant's home from the road.

Ms. Moody stated she drove by the home 3 times before she could locate it.

Mr. Fraley asked Ms. Moody and Mr. Rogerson if they felt you would be able to see the proposed garage from the road.

Mr. Rogerson stated the proposed garage is removed by 75 feet from any adjacent dwelling.

Mr. Rhodes opened the public hearing.

Mr. Paul Marcello of 8917 Croaker Road spoke.

Mr. Marcello stated that when he purchased the home in 2007 he was assured there would be no issue in building a garage. Mr. Marcello stated he initially had plans to have the garage built at the time the home was constructed though last minute, he opted not to.

Mr. Marcello stated you cannot see the home nor would you be capable of seeing the proposed garage from the road. The proposed garage would be removed from the road 350 feet.

Mr. Marcello stated he owns a number of antique vehicles that he always had intentions of storing within a garage. Mr. Marcello stated as the home stands now there is only a one car garage.

Mr. Marcello stated he has worked with a contractor in creating plans for a garage that would match in siding and trim with the house.

Mr. Wenger asked the applicant where the septic tank is.

Mr. Marcello stated it is immediately in front of the front porch of the house and the drain field is in front of the septic tank. Mr. Marcello stated the drain field is about 45 feet from the proposed garage.

Mr. Rhodes asked if regrading the yard would permit the applicant to place the garage within the setbacks as established on the plan.

Mr. Rogerson stated this is not a plausible option.

Mr. Fraley asked if Mr. Marcello's neighbors are in agreement with the proposed garage.

Mr. Marcello stated the neighbors are in full support and he has their signatures documented to this effect.

Ms. Moody commented on the steep grade of the property and how this diminishes the visibility of the buildings.

Ms. Mary Rochon of Long and Foster Real Estate presented herself as the agent that worked on behalf of Mr. and Ms. Marcello during the purchase of the house.

Ms. Rochon validated Mr. Marcello's claim that the builder stated placing a garage on the property in the manner they wish would not violate codes.

Hearing no further questions, Mr. Rhodes closed the public hearing.

Mr. Wenger made a motion to grant the variance.

Ms. Moody seconded the motion.

Motion passed by voice vote (5-0).

E. Matters of Special Privilege

Election of Officers

The chairman relinquished the chair to Mr. Kinsman who conducted the election of officers.


Mr. Fraley nominated Mr. Wenger as chair. Mr. Pennock seconded the nomination. The motion was approved. (5-0)

Mr. Rhodes nominated Mr. Fraley as vice chair. Mr. Wenger seconded the nomination. The nomination was approved. (5-0)

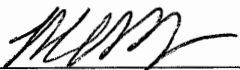
H. Adjournment

At 8:32PM Mr. Fraley moved to recess the meeting to January 28th 2008 in the third floor jury room of the Williamsburg/James City County Courthouse.

Mr. Pennock seconded the motion. The motion was approved. (5-0)



Marvin Rhodes
Chairman



Melissa C. Brown
Deputy Zoning Administrator