

**BOARD OF ZONING APPEALS**  
**October 4, 2008**

**A. Roll Call**

Present:

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

Others Present:

John Rogerson, Senior Zoning Officer  
Adam Kinsman, Deputy County Attorney  
Brian Elmore, Development Management Assistant

**B. Minutes**

Mr. Wenger called the meeting to order at 7:00.

Mr. Rhodes moved to approve the minutes.

Ms. Moody seconded the motion for approval.

The September 11th minutes were approved by voice vote (3-0).

**C. Old Business**

**ZA-0009-2008**

**426 Carriage Road**

Mr. Rogerson provided his staff report. He said Ms. Mary A. Watkins is applying for a variance to reduce side yard setbacks from 10 feet to 4.4 feet on the right side and 4.5 feet on the left side in order to set a modular home on the property.

Mr. Fraley asked about the anticipated land use of an adjacent city-owned property.

Mr. Rogerson stated there was little chance of the adjacent city-owned parcel being developed. He had received no comment from adjacent property owners. He said VDOT's Treyburn Drive right-of-way included a nearby retention pond.

Mr. Fraley asked about the nearby lots.

Mr. Rogerson stated the parcel in question is vacant. He said several nearby lots had the same approximate width. He said several structures along that area of Carriage Road were legally nonconforming in regards to minimum lot width. He said there had been illegal dumping on this site.

Mr. Wenger opened the public hearing.

Mr. Rich Rizk, representing Ms. Watkins, spoke. He said the property had been in Ms. Watkins' family since 1958. He said several nearby homes were nonconforming. He said Ms. Watkins, a life-long James City resident, intended to build a home and care for her mother there. He said the original structure and its replacement both burned down. He stated granting the variance would complement the County's redevelopment in that area.

Mr. Wenger closed the public hearing.

Mr. Fraley stated the Board of Zoning Appeals was a safety valve for long-term James City citizens. He said it was common sense to support the variance.

Mr. Pennock said the adding Ms. Watkins home would be a good improvement to the area.

Mr. Rhodes said he would have preferred other options to be considered because of the lot size. He said considered economics and the suitability of the modular home, he would support the variance.

Ms. Moody stated the bank was preventing the home from being turned. She said developing the lot would be an improvement.

Mr. Rogerson stated staff had drafted a resolution for granting the variance.

Mr. Rhodes said as a condition of the variance, a surveyor should pin the lot corners

Mr. Fraley moved that the variance be granted subject to the provision that the lot corners be pinned, the motion was seconded by Mr. Pennock.

The amended variance was adopted by voice vote of 4-1 (No-Wenger).

#### **D. New Business**

There was no new business to discuss.

#### **E. Matters of Special Privilege**

Mr. Kinsman stated a Kingsmill cell tower advocacy group filed an appeal to be heard by the BZA in either late August/early September. He asked the BZA to hear the case and not accept the group's proposed indefinite deferral.

Mr. Wenger stated he was not in favor of indefinite deferrals.

Mr. Fraley stated the deferral was due to assessing alternative technologies and proposals. He said it would be a courtesy for the applicant to present the case in November.

Mr. Pennock stated deferral can wait until the applicant is prepared.

Mr. Kinsman stated his concern for the BZA not setting a hearing date.

Mr. Wenger stated the Director of Planning was being held up by the delay.

Mr. Rhodes stated the BZA had no rule stating when a case must be heard.


Mr. Wenger suggested Mr. Kinsman learn the applicant's time frame.

Mr. Fraley stated an applicant needs a reason for deferral.

#### **F. Adjournment**

Mr. Wenger adjourned the meeting at 7:40pm.

  
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Mark Wenger  
Chairman

  
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Melissa C. Brown  
Secretary