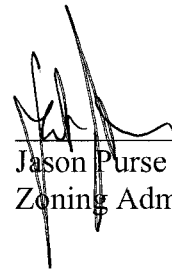


MEMORANDUM

DATE: October 29, 2013
TO: Records Management
FROM: Jason Purse, Zoning Administrator
SUBJECT: Board of Zoning Appeals Minutes-January 8, 2009

The following minutes for the Board of Zoning Appeals dated January 8, 2009 are missing the signature for Melissa Brown, Secretary. Ms. Brown is no longer an employee of James City County.

These minutes, to the best of my knowledge, are the official minutes for the January 8, 2009 Board of Zoning Appeals meeting. They were approved by the Board of Zoning Appeals at the February 5, 2009 meeting. Please accept these into the official record.



Jason Purse
Zoning Administrator

BOARD OF ZONING APPEALS
January 8, 2009

A. Roll Call

Present:

Mr. Mark Wenger
Mr. Marvin Rhodes
Ms. Barbara Moody
Mr. William Watkins
Mr. Jack Fraley

Others Present:

Mr. Adam Kinsman, Deputy County Attorney
Ms. Melissa Brown, Deputy Zoning Administrator
Ms. Jennifer VanDyke, Administrative Services Coordinator

B. Minutes

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

Mr. Rhodes requested changes be made to the minutes.

Mr. Fraley motioned for approval of the October 4th minutes with amendments, seconded by Ms. Moody.

The October 4th minutes were approved with amendments unanimously by voice vote (5-0).

C. Old Business

D. New Business

ZA-0010-2008 4092 South Riverside Drive

Ms. Brown presented her staff report with background information regarding the case. Ms. Brown described the applicant's request to reduce left side yard setbacks from 10' to 5' and, to reduce the rear yard setback from 35' to 10' for the construction of a new garage with dwelling space. Ms. Brown stated that the lot in question is legally nonconforming. Ms. Brown stated that the applicant received several letters of support from adjacent property owners and that staff had not received any calls of concern for the request.

Mr. Rhodes asked Ms. Brown to clarify what determines the front of a corner lots.

Ms. Brown stated that, for corner lots, the shorter of two sides is the front per the zoning ordinance.

Mr. Rhodes asked if there were any restrictions in the County Code for a garage to be permitted as a primary structure on a lot.

Ms. Brown stated that there are restrictions disallowing garages from being primary structures. Ms. Brown stated that the dwelling space was added to the garage to bring the proposal into compliance with the ordinance.

Mr. Rhodes asked how Lot 38 became the location of the drain field for Lot 28.

Ms. Brown stated that Lot 28 could not accommodate a drain field of the size necessary to treat the material from a home of the size being constructed on the lot. Ms. Brown stated that the applicant could provide greater detail regarding the events that lead up to the placement of the drain field.

Mr. Wenger asked for questions for staff.

Seeing no questions, Mr. Wenger opened the public hearing.

Mr. Aaron Small of AES Consulting Engineers representing Mr. Erik Danuser, the property owner, spoke regarding the case. Mr. Small described how the septic field ended up at its current location. The home on Lot 28 had a functional drainfield under construction. Mr. Danuser inherited the property and at that time the existing septic system was 30-40 years old. When Mr. Erik Danuser and family moved into the home, it was necessary to expand the home and the drain field. The existing soils at the location of the previous septic system would not support the needed expansion. With the assistance of the Health Department, Mr. Danuser reviewed all plausible solutions to upgrade the septic system. There were a number of mitigating factors in locating the septic system on Lot 38 that eliminated possible options due to an RPA, soil composition, and existing wells. After reviewing all options Mr. Danuser decided it would be best to relocate the septic system to Lot 38.

Mr. Small stated that Ms. Meadows and Mr. Artis, adjacent property owners, have provided letters stating that they have no objection to the proposed garage.

Mr. Rhodes asked for Mr. Small to point out the location of Ms. Meadows' and Mr. Artis' properties on the map provided.

Mr. Small stated that the driveway for the garage would come off of Canal Street. Mr. Small stated that there is an existing driveway entrance near the front of the property off of South Riverside Drive. It is in the vicinity of the proposed drain fields. Mr. Small has advised the applicant to remove the existing culvert on South Riverside Drive. This would reduce the possibility of driving over the location of drain fields which could potentially damage them.

Mr. Rhodes asked if the two parcels are linked by legal documents that required they be sold together in order to maintain ownership and control over the drain fields.

Mr. Small stated that there is an easement created over the primary and reserve septic fields for the house across the street, therefore there is a legal tie between the properties.

Mr. Rhodes asked if the lot with the septic field could be sold and subdivided.

Mr. Small stated that the lot could not be subdivided, it is already nonconforming.

Mr. Rhodes asked why the applicant did not decide to move the garage five feet towards Canal Street, which would eliminate the need for one of the requested variances.

Mr. Small stated that this location was preferable as it offers a more attractive view from Canal Street.

Mr. Fraley stated that he did go out and look at the property. Mr. Fraley asked what the size of the existing garage is, and how many cars it can house.

Mr. Small stated that the existing garage is for 1.5 cars.

Mr. Fraley asked the size of the proposed garage.

Mr. Small stated that the proposed garage is 48' x 28' and would be a 4 car garage.

Mr. Fraley stated that the proposed garage is a considerable increase from the one existing.

Mr. Fraley asked for clarification regarding the requirements pertaining to the accessory apartment.

Mr. Small stated that the applicant's intended use of the accessory apartment is recreational space for the family.

Mr. Fraley asked if the Zoning Ordinance would permit the applicant to replace the existing garage without the addition of an accessory apartment.

Ms. Brown stated that the applicant could not replace the existing garage without the addition of an accessory apartment; only maintenance of the existing structure would be permitted as a nonconforming use, not reconstruction.

Mr. Rhodes asked for an architectural elevation of the proposed garage. Mr. Rhodes stated he wants to know that the appearance of the structure is appropriate for the community.

Mr. Small stated that the proposed garage would fit in well within the community. Mr. Small stated that there is no architectural rendering available at this time.

Mr. Fraley asked the applicant to describe the structure.

Mr. Danuser stated that there would be four garage doors with windows above. Three small dormer windows would be on the front and a full dormer window on the rear.

Mr. Watkins stated that the existing garage is extremely close to the easement. Mr. Watkins asked if the new structure would be more conforming.

Ms. Brown stated yes, the proposed structure would not be in the easement.

Mr. Watkins asked if the Health Department is satisfied with the location of the secondary drain field.

Mr. Small stated that the Health Department has issued a certified letter for the structure's drain field. The Health Department also issued a Certificate of Completion for the home. Mr. Small stated that everything has been approved by the State Health Department.

Mr. Watkins asked if the building permit is the only other item needed at this time before construction is begun.

Mr. Small stated yes.

Mr. Wenger asked if the garage would be used for business purposes.

Mr. Danuser stated it would not. The garage would be used for storage of personal vehicles.

Mr. Small stated that there is no space for a garage on the other lot.

Mr. Wenger stated that the board has denied other requests for garage expansions within Chickahominy Haven. Mr. Wenger stated he wants to determine that there are no other alternatives before he supports an approval of the variance.

Mr. Small stated that replacing the existing garage would prohibit the placement of the accessory apartment, would be further nonconforming, and accessing the garage at the current location requires passage over a drain field. Therefore, the proposed garage would be preferable.

Mr. Fraley stated that the lot is nonconforming and development on it is greatly restricted by the location of the drain fields and wells. Mr. Fraley stated that he felt replacing the existing structure would be a benefit to the neighborhood. Mr. Fraley stated that it may be advantageous for the board to place conditional requirements upon approval requiring submittal of architectural renderings before construction begins. Mr. Fraley stated that an alternate location of the garage may be preferred. Mr. Fraley asked if there were any prohibitive factors involved in pulling the garage further forward.

Mr. Small stated that it may be acceptable to pull it 10 feet, closer to Canal Street.

Mr. Fraley stated that he would prefer this scenario.

Ms. Moody stated that this alternative would make the location closer to the easement.

Mr. Small stated that they could rotate the structure 90 degrees, making the garage doors face South Riverside Drive.

Mr. Wenger asked how comfortable Mr. Small is with the accuracy of the rendering provided. Mr. Wenger asked if the garage were brought forward would the drain field come to the edge of the easement.

Mr. Small stated he feels very comfortable with the rendering provided. Mr. Small stated that if the garage was brought forward, as suggested, it may not be 10' off the building as required. If the building were rotated he could maintain the distance from the buildings as required.

Ms. Brown asked if the building were rotated could the building still remain 25' off of Canal Street as required by the Ordinance.

Mr. Small stated that he could not accomplish the 25' distance off of Canal Street if the building were rotated.

Ms. Brown stated that given this is a corner lot the Ordinance would require the building be 25' off of Canal Street.

Mr. Wenger stated that it would be preferable to place the proposed building closer to Canal Street. Mr. Wenger asked if the reserve field could be reconfigured to accommodate the building being closer to Canal Street.

Mr. Small stated that it is not possible to reconfigure the drain field due to environmental factors.

Mr. Watkins asked if all four drain fields are currently in place.

Mr. Small stated that only one is currently installed, the one primary for the residence across the street. Mr. Small stated that there is no room to redesign the drain fields.

Mr. Rhodes asked for clarification regarding the dimensions needed to reconfigure the drain field.

Mr. Small stated that the whole field needs to be balanced hydraulically; this consists of two drain field pads. In this case the pads need to be equally sized in order to balance the flows hydraulically. The soil composition on site further complicates location as well.

Mr. Wenger proposed to the applicant that the case be deferred until the February meeting. Mr. Wenger suggested that there could be a more ideal arrangement for the garage with some additional consideration on the part of the applicant.

Mr. Small stated he wanted to clarify what information the board members would like to see. Mr. Small stated that he understood that the board would like to see a 10' setback across the rear of the lot against Lot 39.

Mr. Wenger asked how the owner felt about the delay.

Mr. Danuser stated the delay is acceptable.

Ms. Moody stated she thought there could be improvements made to the location of the garage. Ms. Moody stated that appropriate landscaping could make a more attractive view from the road.

Mr. Fraley made a motion for a deferral until the February meeting, Ms. Moody seconded. The motion was approved unanimously by voice vote (5-0).

The public hearing was continued until the February 5, 2009 regularly scheduled meeting where the case will be heard.

E. Matters of Special Privilege

Election of Officers

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

Ms. Moody made a motion to nominate Mr. Wenger as chair. Mr. Rhodes seconded the motion. The motion was approved unanimously by voice vote (5-0).


Mr. Fraley made a motion to nominate Ms. Moody as vice chair, Mr. Wenger seconded the motion. The nomination was approved unanimously by voice vote (5-0).

Mr. Rhodes made a motion to nominate the Zoning Administrator, Mr. Murphy, as secretary, Mr. Fraley seconded the motion. The nomination was approved unanimously by voice vote (5-0).

F. Adjournment

Mr. Wenger motioned to adjourn the meeting, Mr. Rhodes seconded the motion.

Mr. Wenger adjourned the meeting at 8:04pm.



Mark Wenger
Chairman

Melissa C. Brown
Secretary