

**BOARD OF ZONING APPEALS**

**June 7, 2012**

Mr. David Otey, Jr. called the meeting to order at 7:00 p.m.

**A. Roll Call**

Present:

Mr. David Otey, Jr.  
Mr. Stephen Rodgers  
Mr. Ron Campana, Jr.

Others Present:

Ms. Christy Parrish, Acting Zoning Administrator  
Mr. John Rogerson, Senior Zoning Officer  
Ms. Terry Costello, Zoning Officer

Absent

Mr. Marvin Rhodes

Mr. Otey stated that due to the absence of the chairman, Mr. Rhodes and the resignation of the Vice-Chairman, Ms. Barbara Moody, it was necessary to elect a chairman for the purposes of this meeting. Mr. Rodgers made a motion to nominate Mr. Otey as chairman for the purposes of this meeting with a second from Mr. Campana. The Board unanimously approved. (3-0)

The Board also deferred electing a Vice-Chairman due to Ms. Moody's resignation until all members were present.

**B. Old Business**

There was no old business.

**C. New Business**

Mr. Otey asked if the cases heard tonight have been properly advertised and proper notice has been given. Ms. Parrish verified that they have.

**ZA-0001-2012 10100 Sycamore Landing Road**

Mr. John Rogerson stated that Mr. William Holt of Kaufman and Canoles has applied for variances on behalf of Mr. and Mrs. Murphy who are the property owners of 10100 Sycamore Landing Road. They are requesting variances to the following code sections: (1) Section 24-215 (a), Setback Requirements to reduce the required front yard setback from 50 feet to 35 feet from the edge of the right of way and (2) Section 24-216 (c), Minimum Lot Width and Frontage, to reduce the required minimum lot width of a proposed new lot from the required 150 feet to 130 feet. These proposed variances will allow for the future Family Subdivision of the property and the construction of a new handicap accessible one story single family dwelling. This property is currently zoned A-1, General Agriculture and can further be identified as JCC RE Tax Map No. 0720300001.

Mr. and Mrs. Murphy are requesting variances in order to pursue subdividing 10100 Sycamore Landing Road into two lots and to build a new one story handicap accessible single family dwelling on the newly created lot. Mr. and Mrs. Murphy have owned the property for over 40 years. There are currently two structures on the property. As a final note, many lots along Sycamore Landing Road are nonconforming as it pertains to lot size. Lot sizes range from a half acre to over three acres.

In order to subdivide the property and construct a new dwelling unit the following approvals are needed:

1. An approved variance to Section 24-215 (a)
2. An approved variance to Section 24-216 (c)
3. An approved Special Use Permit granted by the Board of Supervisors.

Mr. Rogerson stated that an unnecessary hardship exists when the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property. Staff finds no undue hardship in this case and cannot support the variances. Staff acknowledges that the property owner acquired this lot in good faith and realizes that the mobility issues of the property owners inhibit utilizing their entire dwelling. However should the Board grant these variances, staff feels the variances would not be a detriment to adjoining properties nor alter the character of the area.

Mr. Otey stated that it was his understanding that the regulations concerning the Resource Protection Area (RPA) on the property came into effect after the owners had purchased the property.

Mr. Rogerson stated that was correct.

Mr. Rodgers asked about the probably of being able to expand the existing dwelling.

Mr. Rogerson stated that a problem exists because the dwelling is currently located in the RPA. An expansion to the dwelling may cause problems with the Engineering and Resource Protection Division and approval may be needed by the Wetlands Board.

Mr. Otey suggested attaching conditions to the variances due to the fact that a special use permit will be required in order to construct a second dwelling.

Mr. Rogerson agreed and stated that should the special use permit not be obtained then the variances would no longer be valid.

Mr. Otey opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles spoke on behalf of the applicant. He stated that the Murphys have owned the property for forty years. There are two structures on the property. He also stated that the Murphys have experienced some medical issues and wish to have a second dwelling for their daughter who is their caregiver. The Murphys wish to subdivide the property in accordance with the family subdivision section of the Subdivision Ordinance. The hardship is that the Murphys cannot use their entire residence due to mobility issues. They cannot tear down the existing house and build a handicap accessible home due to the fact that the existing home lies entirely within the Resource

Protective Area (RPA). The expansion to the front of the building would be heavily regulated by the Chesapeake Bay Regulations. It would also be a challenge architecturally. Mr. Davis stated that without these variances, the Murphys cannot take advantage of the family subdivision provision in the Ordinance. He feels that the variance would not be a detriment to the area and would be in keeping with the character of the Sycamore Landing area.

There being no further comments. Mr. Otey closed the public hearing.

Mr. Rodgers made a motion to approve the application subject to the condition that the special use permit for a family subdivision is granted by the Board of Supervisors. Mr. Campana seconded the motion.

In a unanimous voice vote the application was approved (3-0)

#### **ZA-0002-2012 8428 Croaker Road**

Mr. Rogerson stated that Mr. Andrew M. Franck has applied for a variance on behalf of Mr. Chris Crone, property owner of 8428 Croaker Road. The request is for a variance to Section 24-215 (a) Setback Requirements to reduce the required front yard setback from 75 feet from the center of Riverview Road right-of-way to 50 feet from the center of Riverview Road right-of-way. This variance is requested to allow the property owner to construct an addition to the existing dwelling. This property is currently zoned A-1, General Agriculture and can further be identified as JCC RE Tax Map No. 1410100032.

Mr. Rogerson stated that this dwelling was constructed in the 1940's and is approximately 944 square feet in size. The location of the residence is nonconforming because it encroaches into the current required setbacks from Riverview Road and Croaker Road. The addition is proposed to be approximate 50 feet from the center of Riverview Road. The owner is also proposing to construct an attached garage, which meets setback requirements.

Staff finds no undue hardship in this case and cannot support the variance. Staff acknowledges the property owner acquired the property in good faith and that the location of the house on the parcel is nonconforming. However, staff feels that the variance would not be a detriment to adjacent properties nor alter the character of the area. Mr. Rogerson stated that there were three letters from adjacent property owners that supported the variance.

Mr. Rogerson stated that he had some discussions with the homeowner about possibly moving the house, thus making it less nonconforming. After further review it was determined that it would not be cost effective to do so.

Mr. Otey asked about the proposed garage.

Mr. Rogerson stated that the garage was an expansion that was not in the setback; therefore it was not part of the application.

Mr. Rodgers asked about the neighboring properties and whether those structures met current setback requirements.

Mr. Rogerson stated that there were others in the area that were also nonconforming with respect to the front setbacks.

Mr. Otey opened the public hearing.

Mr. Andrew M. Franck spoke on behalf of the application, Mr. Crone. If the variance is granted, it would allow the homeowner to make a modest addition to his home. Mr. Franck stated that this dwelling was constructed in the 1940's before the adoption of the Zoning Ordinance. He stated that the surveyor showed on the plat that Riverview Road is actually an easement, not a dedicated right-of-way. Mr. Franck showed illustrations of the proposed addition and garage. He stated that while part of the proposed addition would be in the setback, it does not bring the dwelling any closer to Riverview Road. Mr. Franck stated that the addition would provide for a third bedroom that is desired for the family. Currently the residence is too small for himself, his fiancé, and her two young adult children. He stated that the addition would also include added improvements to the residence. The proposed size of the dwelling would not be inconsistent with other homes in the community.

Mr. Franck answered some concerns about whether moving or demolishing the dwelling and rebuilding was a possibility. He stated that it would be very costly to move and the well and septic tank would also need to be relocated.

Mr. Otey asked if the home was destroyed, would a new home be required to follow current setback regulations.

Mr. Rogerson answered that if the home was destroyed by an act of God, then he would be able to build another one in the same location. If the homeowner chose to demolish it on his own, the new home would be required to meet current setback regulations.

Mr. Rodgers asked about the value of the dwelling.

Mr. Chris Crone, owner of the property, stated that the value of the house currently is approximately \$100 per square foot. He stated that moving the home would cost approximately \$10,000. In addition, it would cost another \$12,000 to move the septic tank and \$12,000 to dig a new well.

There being no further comments, Mr. Otey closed a public hearing.

Mr. Campana made a motion to approve the application. Mr. Rodgers seconded the motion.

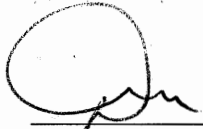
In a voice vote the application was approved. (3-0)

#### **D. Matters of Special Privilege**

There were no matters of special privilege.

**E. Adjournment**

There being no further business, the meeting was adjourned at 8:05 p.m.



---

David Otey, Jr.  
Acting Chairman



---

Christy Parrish  
Secretary