

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

December 3, 1998

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, December 3, 1998, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; William Barr, Vice Chairman; Mrs. Barbara Wilson, Secretary; Mr Eugene Lofdahl, Mr. John Meadows, Mrs. Peg Mailler and Dr. James Branscome. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Don Margraf, Assistant Zoning Administrator; Mr. Paul McCulla, County Attorney; and Mrs. Beverly Pullen, Zoning Office Technician.

MINUTES

The minutes of the November 5, 1998 hearing were approved as submitted.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners.

VARIANCE #43507

JO ANN WESTERN (OWNER)

Mr. Gary Garrett appeared at the meeting in support of his wife's request for a variance of five (5) feet to a side yard requirement, wherein the Zoning Ordinance requires ten (10) feet, for the purpose of an addition. The subject property is located at 8508 Sunset Lane off of Winchester Road (State Route 17), identified as PIN #6969-68-8479-000, containing .234 acre in Marshall District.

Mr. Don Margraf reviewed the staff report. He stated that Mr. Garrett is requesting a variance of five (5) feet to the side yard, wherein the Zoning Ordinance requires a minimum side yard requirement of ten (10) feet. Mr. Margraf stated that the property does not have an unusual shape or size. He also stated that the Board made a site visit earlier in the day.

Mr. Garrett stated that the reason for this request is to accommodate his mother-in-law by enlarging the existing kitchen, bedroom and bath. Mr. Garrett stated his mother-in-law, who has recently suffered a stroke and is physically disabled, needs additional room to accommodate a wheelchair.

Mr. Rider explained to Mr. Garrett that the Board of Zoning Appeals couldn't issue variances for convenience purposes, only if the property imposes the hardship. Mr. Rider expressed his sympathy with Mr. Garrett due to the medical needs.

Ms. Wilson inquired as to the width required to accommodate a wheelchair.

Mr. Garrett stated he would estimate approximately three (3) feet and he did not think the interior walls could be moved, as the house is very small, approximately 24 feet x 36 feet. He stated that he does not have any other options available for this addition.

Mr. Meadows asked if Mr. Garrett if he could add on the northwest end of the dwelling.

Mr. Garrett stated that he did not feel that would work.

Mr. Rider asked Mr. Garrett how this situation is different from that of his neighbors' properties.

Mr. Garrett stated that the need to accommodate a handicapped person creates the difference.

Mr. Rider asked Mr. Garrett, if he had considered the purchase of five feet from the neighbor, so as to meet the setback requirement.

Mr. Garrett stated he had not considered this option.

On the motion made by Mrs. Wilson and seconded by Mr. Meadows it was moved to defer action on this request for thirty (30) days to allow consideration of other options available.

The motion carried unanimously.

VARIANCE #43519

RODGERS FAMILY LIMITED PARTNERSHIP (OWNERS)

Applicants requested a variance to the setback requirements from a property line for the location of an explosives storage area under Section 5-1704 1. of the Zoning Ordinance, said property line being a Virginia Power substation. The subject property is located 8317 Meetze Road (State Route 643), identified as PIN #6993-17-4088-000, containing 140.491 acres in Center District.

Mr. Margraf stated that the office had received a fax from Roy Beckner, on behalf of the applicants, requesting approval of their request to withdraw the variance request without prejudice.

On a motion made by Ms. Wilson and seconded by Dr. Branscome, it was moved to accept the request for withdrawal.

The motion carried unanimously.

VARIANCE #43526

**R.S. CONTRACTORS, INC. (OWNERS)/TOD J. AND SHEILA D. KRIDLER
(CONTRACT OWNERS)**

Applicant/Owners requested a variance to the minimum front yard requirements for the purpose of constructing a front porch to be located 71.5' feet from the center of Mountjoy Road (State Route 720), wherein the Zoning Ordinance requires 75' feet. The subject property is located on Mountjoy Road (State Route 720), identified as PIN #6959-60-8451-000 containing 1.771 acres in Marshall District.

Mr. Margraf reviewed the staff report. He stated that a zoning permit was issued on October 15, 1998 for the construction of a single-family dwelling. The property owners seek the variance of the front yard setback for the construction of a front porch, due the narrowness and shallowness of the subject property. The Board made a site visit prior to the meeting.

Ms. Shelley Duffus, Secretary/Treasurer of R.S. Contractors, Inc., and Mrs. Sheila Kridler, were present in support of this variance request. Ms. Duffus stated that the reason for the variance was due to the irregular shape of the lot. She stated that the house was located so as to meet the side, rear and front setback requirements, however the front porch cannot be located without a variance due to the curve of the road.

Mr. Rider stated that a letter had been received in opposition to this request from Mary Kay Anderson, an adjoining property owner.

On the motion made by Ms. Wilson and seconded by Mrs. Mailler it was moved to approve variance #43526, based on based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the unusual shape, size, topography and due to the lot being non-conforming.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance and;
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property;
5. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.

6. The strict application of the Ordinance will produce undue hardship.
7. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
8. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
9. The minimum variance that is necessary to afford relief is 3.5 feet to the minimum front yard requirement from the centerline of Mountjoy Road for the purpose of constructing a front porch.

The motion carried unanimously.

OTHER MATTERS

DEFERRAL OF APPEAL #43516 BY WILLIAMS COMMUNICATION, INC.

Mr. Margraf stated that the office had received a fax on November 13, 1998 from John C. McGranahan, Jr., Agent for Williams Communications, Inc. requesting deferral of their appeal until March 11, 1999.

Mrs. Bowen explained that this appeal was filed by Mr. McGranahan on behalf of Williams Communication, Inc. on a decision that she rendered on the ability of an applicant to file a special exception. She stated that the Fauquier County Zoning Ordinance requires the signatures of property owners prior to filing for a special exception. The Appellant's Agent, Mr. McGranahan has indicated that the issue that prompted the determination will not be resolved until a final decision is rendered in the case brought by the Cassells in the Circuit Court of Fauquier County, which is scheduled for trial on March 10 and 11, 1999.

On the motion made by Mr. Lofdahl and seconded by Ms. Wilson, it was moved to approve the deferral of this appeal until after March 11, 1999.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at 2:40 P.M.

William Rider, Chairman

Barbara Wilson, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.