

APPLICATION FOR ZONING ACTION

TO:

- Boone County Planning Commission
- City of Florence Board of Adjustment
- Boone County Board of Adjustment
- City of Union Board of Adjustment
- City of Walton Board of Adjustment
- Zoning Enforcement Officer

FOR:

- Zoning Text Amendment
- Comprehensive Plan Change
- Preliminary Plat Review
- Conditional Use Permit
- Concept Development Plan Change
- Preliminary Development Plan
- Change of Non-Conforming Use
- Design Review Board and Certificate of Appropriateness
- Zoning Map Amendment
- Planned Development Overlay Change
- Improvement Plat Review
- Final or Deed Plat Review
- Site Plan Review
- Historic District Overlay
- Appeal or Variance
- Sign or Zoning Permit

Applicant: ROBERT P. CUNNINGHAM  Owner

Address: 219 BUCKINGHAM DRIVE  Agent

FLORENCE, KY 41042 Telephone: 525-9314 632-9698

Location: LOT # 35 SOUTH-WEST CORNER OF BUCKINGHAM DRIVE & CHELSEA SQUARE

Name of Property Owner: COMPONENT CONST. 2 CBS CONST.

Address of Property Owner: 219 BUCKINGHAM DRIVE

Zoning District: \_\_\_\_\_ Area in Acres: 1/4 (about)

Deed Book: 283 Page Number: 228 Group Number: 1506

Description of Request: TO CHANGE THE BACKSET DISTANCE ON THE SIDE OF THE HOUSE TO THE STREET FROM 25' TO 12' 6" OFF THE LOT LINE, WHICH WOULD SET THE HOUSE 25' FROM THE CURB OF STREET.

Applicant's Signature: [Signature]

Property Owner's Signature: [Signature]

Application Fee: 639.00 FOR PLANNING COMMISSION USE ONLY Date Received: 10-30-87 By: [Signature]

Referred To: [Signature] Meeting Date: 11-19-87

Action Taken: denied Date of Action: 11-19-87

500.00 special meeting  
65.00 publ. minimum  
24.00 adj. prop. owners  
50.00 variance-residential  
+ see 12-9-87 file  
SEE OVER

STAFF REPORT

APPLICANT: Robert P. Cunningham  
DEVELOPMENT: single-family residence  
LOCATION: corner of Buckingham Drive and Chelsea Square, Florence  
ZONE: Suburban Residential One (SR-1)  
DATE: November 19, 1987; 7:30 p.m.

REMARKS:

The applicant is requesting a Variance in the required side yard setback in order to allow the construction of a single-family residence 12.5 feet from the side property line. the + 0.25 acre site, located at the northwest corner of Buckingham Drive and Chelsea Square (lot #35 of the Buckingham Woods Subdivision), is zoned Suburban Residential One (SR-1) and is owned by Component Construction and CBS Construction.

In October, 1987, when Section V of the Buckingham Woods Subdivision was approved by the Boone County Planning Commission, a 25 foot setback from both Buckingham Drive and Chelsea Square was recorded. In October, 1987, Mr. Cunningham applied for building and zoning permits with a plot plan indicating a 12.5 foot setback from Buckingham Drive. The applicant had the understanding that the side yard setback for a corner lot could be one-half the required front yard setback. Article 17, Section 1721, of the Zoning Regulations does require such an arrangement; however, since the 25 foot setback was recorded with the Boone County Clerk, a side yard Variance is required.

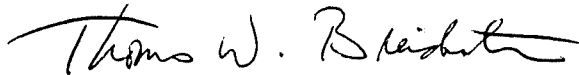
The following reviews the four findings of fact the Board must use when considering requests for Variances:

1. Staff could find no special circumstances involved with this property that does not apply to other lots in the subdivision.
2. Strict application of the setback provisions would require that a smaller house be constructed on the lot. The buildable area of the lot is demonstrated with the attached plats.
3. Again, no special circumstances were found.
4. If granted, the reduced side yard will not affect the public health, safety, and welfare. However, the Board should consider whether or not the essential character of the general vicinity will be altered. All houses along Buckingham Drive behind the proposed Cunningham house have been constructed along the 25 foot line. This new house will encroach upon this even line of houses.

Staff Report - Robert P. Cunningham  
November 19, 1987  
Page Two

Staff has no conditions to recommend should the Board grant this request.

Respectfully submitted,

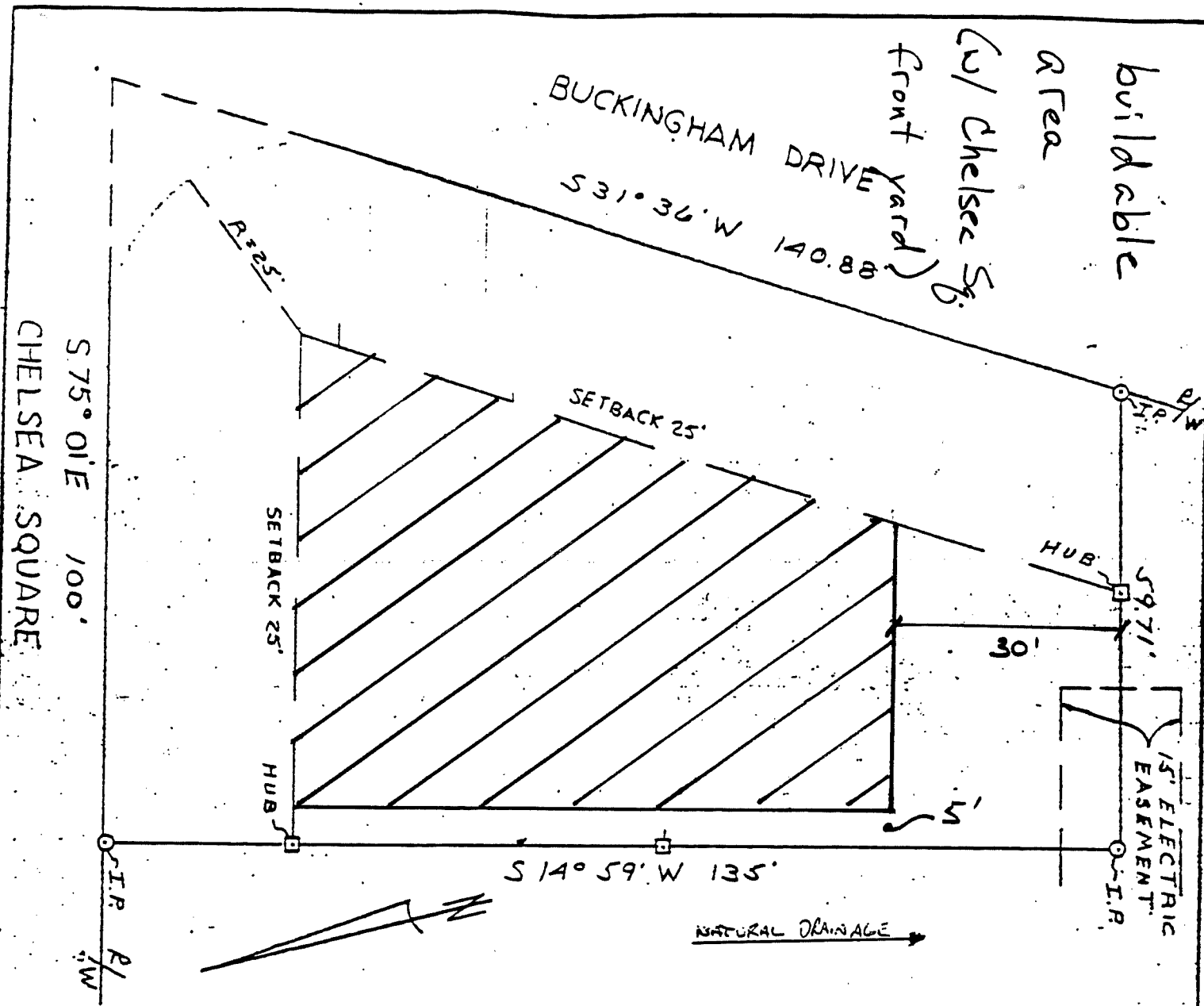
A handwritten signature in cursive script, reading "Thomas W. Breidenstein". The signature is written in dark ink and is positioned above the typed name.

Thomas W. Breidenstein,  
Zoning Enforcement Officer

TWB:mcb

Attachments





FILE NUMBER:  
 CLIENT: Bob Cunningham

STREET ADDRESS: Buckingham Drive  
 CITY OR VILLAGE: Florence  
 TOWNSHIP: N/A  
 COUNTY: Boone  
 STATE: Kentucky

CITY LOT NUMBER: N/A  
 SUBDIVISION NAME: Williamsburg East  
 Section 5

LOT NUMBER: ~~37~~ 35  
 PLAT BOOK: 18  
 PAGE: 1

This identification plat is made for and at the instance of  
 Bob Cunningham

I hereby certify that this identification plat shows the improvement or improvements as located on the premises described, that the improvement or improvements are entirely within lot lines, and that there are no encroachments upon the premises described by the improvement or improvements of any adjoining premises, except as indicated. I further certify that there are no record plat easements affecting the tract shown hereon, except as noted.

BY: *Andrew R. Ament*  
 Registered Land Surveyor

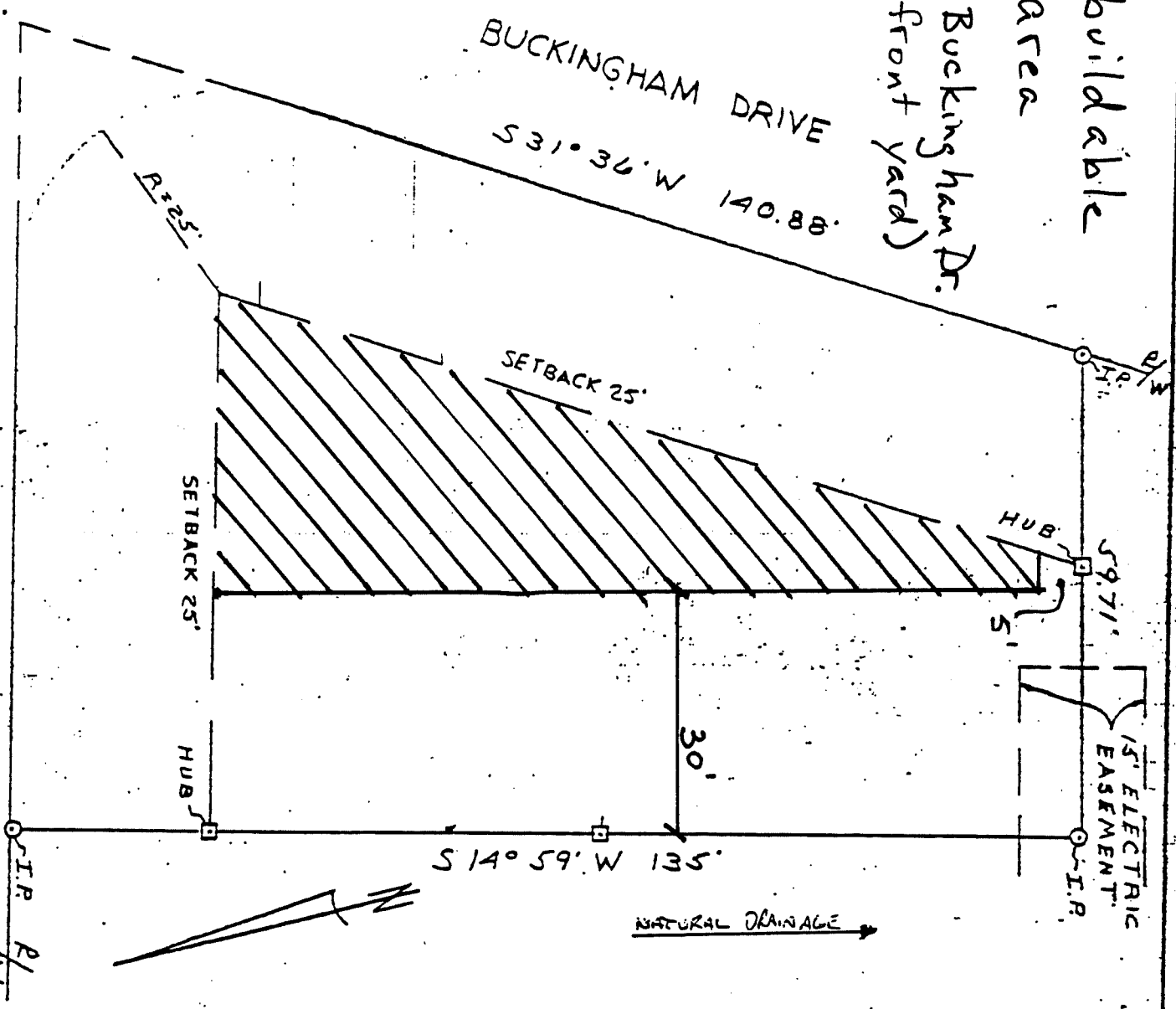
ANDREW R. AMENT  
 REGISTERED LAND SURVEYOR 1729  
 205 East Alexandria Pike  
 Cold Spring, Ky. Phone 606/441-8184

SCALE: 1"=20'	DRAWN: ARA	CHECKED: ARA
DATE: 8-20-87	JOB NO	1257

buildable  
area  
(Buckingham Dr.  
front yard)

BUCKINGHAM DRIVE  
S 31° 36' W 140.88'

CHELSEA SQUARE  
S 75° 01' E 100'



FILE NUMBER:  
CLIENT: Bob Cunningham

STREET ADDRESS: Buckingham Drive  
CITY OR VILLAGE: Florence

TOWNSHIP: N/A  
COUNTY: Boone  
STATE: Kentucky  
CITY LOT NUMBER: N/A  
SUBDIVISION NAME: Williamsburg East

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BY: *Andrew R. Ament*  
Registered Land Surveyor

ANDREW R. AMENT  
REGISTERED LAND SURVEYOR 1729  
205 East Alexandria Pike  
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SCALE: 1"=20'	DRAWN: ARA	CHECKED: ARA
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CITY OF FLORENCE  
BOARD OF ADJUSTMENT

SPECIAL MEETING  
November 19, 1987 - 7:30 P.M.

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Chairman Holland called the meeting to order at 7:30 P.M..

BOARD MEMBERS PRESENT:

Mr. Ashcraft  
Chairman Holland  
Mrs. Meihaus  
Mrs. Ward  
Mr. White

BOARD MEMBERS NOT PRESENT:

None.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

AGENDA ITEM:

1. A request of Robert P. Cunningham for a Variance in the required side yard setback in order to allow the construction of a single-family residence 12.5 feet from the side property line. The .25-acre (approx.) site, located at the northwest corner of Buckingham Drive and Chelsea Square (lot #35 of the Buckingham Woods Subdivision), is zoned Suburban Residential One (SR-1) and is owned by Component Construction and CBS Construction.

Staff Member, Tom Breidenstein, presented the Staff Report which included a slide presentation (see Staff Report). Mr. Breidenstein noted a correction to the Staff Report on Page 1, Paragraph 2, which should begin, "In October, 1980 . . .", not 1987 as indicated. Mr. Breidenstein stated that the adjacent property owners had been notified by Registered Mail and noted that there was no one present in opposition to this request.

Mr. Robert Cunningham, the applicant, stated that they intend to build a 2200 sq. ft. house on the site. He stated that when the lot was surveyed, the surveyor advised him that the zoning law was that you only have to have one-half the required distance from the front lot line for the side yard. They chose the plans for the house on that basis. When they applied for a permit, they were told it would be ready on Tuesday. Therefore, they scheduled the digging for Thursday. Then, as Mr. Breidenstein was not in that week, and they didn't anticipate any problems, they went ahead with the digging. They did not find out that there was a problem until after the digging was done.

Mr. Cunningham discussed other houses and lots in the neighborhood. He noted a corner house that has a front yard setback of 30' with a side yard setback of 15', which is one-half the distance. He stated that every house is not set the same. He added that this lot is difficult to build on as it is at an angle.

Mr. Ashcraft noted a house at the corner of Chelsea and Achates which appears to be on a lot similar in size to this one. He stated that the house faces the corner and did not appear to intrude on the other houses. He asked Mr. Cunningham if he had considered this arrangement for his house.

Mr. Cunningham stated that the way the house is layed out is the only way it will fit on the lot unless the setbacks are reduced. He stated that this would be a two-story house with the driveway off Chelsea Square.

Chairman Holland asked if a one-car garage instead of a two-car garage would make the structure fit the requirements.

Mr. Cunningham stated that he did not think so and that this would detract from the house. He noted that the corner of the back of the garage would be the closest point to the lot line and it is 13 or 14 feet from the line.

In response to a question from Mr. Ashcraft, Mr. Cunningham stated that he has talked to the neighbors and they would like to see this house built because it will help the value of the neighborhood. He stated that the house will be comparable to the highest priced model built by Henry Fischer. Mr. Cunningham stated that he owns the house to the south of this lot.

Following discussion of the distance of the adjoining houses from the lot lines, Counselor Wilson advised that there would be a distance of approximately 110 feet from the closest house to the angle of the garage.

Mr. White stated that he had visited the site. He asked if it would be possible for the house to face Buckingham Drive.

Mr. Cunningham stated that there would be no back yard.

Mr. White noted that the other houses are very much in line and it would be an injustice to the neighborhood to place a house the way Mr. Cunningham proposes. He suggested that the house be turned and that an application be made for a Variance on the back yard.

Mr. Cunningham stated that the back yard would only be about 7 feet deep.

Mr. White noted that the street is at an angle and that pictures of the site can be deceptive.

Mr. Ashcraft asked if Mr. Cunningham would be living in the house.

Mr. Cunningham stated that this house will be for sale and he will continue to live in the gray adjoining house.

Mrs. Meihaus asked if the house would be in line with the other houses on Chelsea Court. Mr. Cunningham advised that it would, but the side of the garage would not be in line with the houses on Buckingham Drive.

Mr. Breidenstein presented the slides of the neighboring streets again for clarification regarding the placement of the houses on those streets. He noted that the slides can be deceiving due to the curves in the roadway.

Mr. Ashcraft asked if the property values of the other residents would be affected by granting this Variance.

Mr. Chuck Selee, the other partner in this project, stated that if the house was of concern then the residents would have been present.

Mrs. Ward noted that the most affected neighbor would be Mr. Cunningham who is not complaining since he is the applicant.

Mr. Ashcraft asked how much yard there would be if the house were turned to face Buckingham Drive.

Mr. Breidenstein provided a cut-out drawing of the plan of the house which was placed in various ways on the surveyor's rendering of the lot in order to clarify how the setbacks would be affected by changing the placement of the house.

Mr. Ashcraft stated that he believes Mr. Cunningham would be getting an economic advantage in that he probably paid less for this lot than a lot which would accommodate this house.

Mr. Cunningham stated that he wanted to build on the other lot. He bought the other lot on which his house is built and an option on this lot. He stated that he had no idea what he was going to build on this lot when the option came due. He noted again that he was misinformed by the surveyor regarding the setback requirements.

Mr. White asked if this information was obtained from the county surveyor.

Mr. Cunningham stated that the information was obtained from his own surveyor.

Mr. Breidenstein noted that the information provided by the surveyor would have been correct if the setback requirements had not been recorded in the Clerk's Office.

Mr. Cunningham stated that Mr. Breidenstein's comments would indicate that this is the way setbacks are handled in most neighborhoods. He added that, based on the information given him by the surveyor, he spent a lot of time and effort on this project and purchased the plans. He added that it also cost money to have the foundation dug, and that it would cost additional money to change it. He stated that they went ahead with the digging as they were concerned about getting started prior to the winter weather. He added that the Kenton County Building Inspector, who is a friend of his, had given him the same information as the surveyor gave him.

Mrs. Ward commented that there must have been a way that the surveyor could have known about the setback requirement.

Mr. Cunningham noted that the surveyor had interpreted the zoning law and that they had no reason to doubt him.

Following discussion regarding how the surveyor could have known about the setback requirements, Mrs. Ward asked the applicant if he would consider a one-car garage.

Mr. Cunningham stated that he would not and, as opposed to doing that, they would build a different house -- which would cost them more money.

Mr. White again questioned the possibility of turning the house and getting a Variance on the back yard.

Mr. Cunningham stated that this would involve the expense of redigging the foundation and there would be only a minimal back yard.

Mr. White noted that there would be a minimum back yard, but there would be a larger side yard.

Counselor Wilson advised that turning the house to face Buckingham Drive would require a rear yard Variance, which could not be granted at this meeting as it was not advertised.

Mrs. Meihaus stated that she would be in agreement with the Variance as requested and noted that a one-car garage would mean more vehicles parked on the street. Mrs. Meihaus moved that the Variance be granted as requested. The motion was not seconded.

Mr. Cunningham stated that the reason they called for an emergency meeting is that the hole has been dug and they want to get started building due to the liability. He noted that water could accumulate in the hole and be dangerous to children in the area. He stated that they may have to fence the site.

Mr. White moved that the Variance be denied on the basis that the character of the neighborhood would be changed. He stated that he believed Mr. Cunningham was a victim of circumstances to a degree due to the angle of the street. Mr. White added that he would be in favor of turning the house to face Buckingham Drive and granting a Variance on the rear yard, or building a smaller house on the lot. Chairman Holland seconded the motion.

Chairman Holland asked if there was any further discussion. There being none, he asked for a roll call vote on the motion which found Mr. Ashcraft, Chairman Holland, Mrs. Ward, and Mr. White in favor. Mrs. Meihaus was opposed. The motion to deny the request carried by a vote of 4 to 1.

Mr. Cunningham asked if they would have to start the process over again in order to get the Variance for the back yard.

Mr. Ashcraft moved that the fees be waived. Chairman Holland seconded the motion.

Mr. Breidenstein noted that an applicant normally has to pay the "hard costs", such as \$65 for publication, \$4 for notification of each joint property owner, and \$50 for an application fee. He noted that the fee paid by Mr. Cunningham for this Special Meeting was \$500.


Mr. Ashcraft withdrew his previous motion and moved that all fees be waived. Mr. White seconded the motion and it carried unanimously.

Mr. Cunningham asked if he could assume that the Board will grant the back yard Variance as long as the neighbors do not complain.

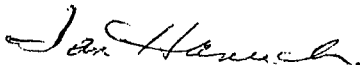
Counselor Wilson advised him that this would not be a proper assumption as there may be other findings of fact.

There being no further business to come before the Board, Chairman Holland moved that the meeting be adjourned. Mr. White seconded the motion and the meeting was adjourned by unanimous consent.

APPROVED:

  
Charles Holland, Chairman

ATTEST:

  
Jan Hancock, Recording Secretary