

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF JAMES CITY COUNTY, VIRGINIA, IN THE BOARDROOM, 101-C MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA, ON THE TWENTY-SEVENTH DAY OF FEBRUARY, NINETEEN HUNDRED AND EIGHTY-SIX.

1. ROLL CALL

Mr. Ronald Rosenberg, Chairman  
Mr. David Hertzler  
Mr. Claude Feigley  
Ms. Nancy James  
Ms. Elizabeth Vaiden

Others Present

Mr. Bernard M. Farmer, Jr., Director of Code Compliance  
Mr. Larry Davis, Assistant County Attorney

2. MINUTES

The January 23, 1986 minutes were approved as presented.

3. OLD BUSINESS

There being no old business, the Board moved on to new business.

4. NEW BUSINESS

Case No. ZA-2-86. Dale Skinner.

Mr. Farmer stated that Mr. Skinner had applied for a variance of 12-feet from the rear yard requirements of the Zoning Ordinance in order to construct a deck on a house presently under construction in the Lake Toano Subdivision. He stated that permit number 85-1737 was issued for the construction of the house and it did not show a deck. The provisions of the Zoning Ordinance state that if an accessory structure is attached, it is considered part of the main structure and has to conform with the yard requirements of the Zoning Ordinance. Mr. Farmer recommended that the variance be denied since there were no peculiar characteristics of the lot or topography that existed that would have required placement of the house so far to the rear of the property and the condition was created by the applicant.

Mr. Rosenberg opened the public hearing and asked if anyone would like to speak in favor of the requested variance.

Mr. Skinner explained that when he started construction of the house, he did not indicate a deck and make provisions for it, because he had intentions of pouring a concrete slab. He stated that the reason he placed the house so far back on the lot was because of the Little Creek Reservoir. Also, the lot did not abut any other homes, and would not affect the neighbors.

Mr. Rosenberg asked the board if they had any questions.

Mr. Rosenberg asked how far along was the construction of the house.

Mr. Skinner estimated that it was about 90% completed.

Mr. Farmer showed the house plans that were submitted for the structure.

Mr. Rosenberg asked Mr. Skinner if he was asking for a 12-foot variance.

Mr. Skinner answered yes.

Mr. Rosenberg closed the public hearing. He stated that the deck would be a clear violation of the Zoning Ordinance the way it was proposed.

Mr. Hertzler stated there was an inequity in the law since Mr. Skinner could pour a concrete slab, which would not have been a violation, but that to build above ground with wood, would be a violation. He stated that it did not make sense to him at all.

Mr. Davis explained that the Zoning Ordinance provides that garages or other accessory structures such as carports, porches, decks, and stoops attached to the main building shall be considered part of the main building.

Mr. Hertzler stated that the zoning ordinance had gotten into landscape architect's work and that decks should not be considered structures.

Mr. Davis stated concern over decks that were often converted into rooms and once they were built they were a very difficult issue to deal with, and the best the best way to control this issue to keep people from encroaching into another person's space was to not allow it to happen.

Mr. Farmer commented on the differentiation between decks and slabs under the building code for purpose of clarification. Because decks have a structural frame, they need to be constructed properly and in accordance with the code.

Ms. James moved that the variance be granted with the condition that it never be enclosed. Mr. Rosenberg seconded the motion.

Roll call was as follows:

Mr. Hertzler	Yes
Mr. Feigley	Yes
Ms. James	Yes
Ms. Vaiden	Yes
Mr. Rosenberg	Yes

The variance was granted 5-0.

5. MATTERS OF SPECIAL PRIVILEGE

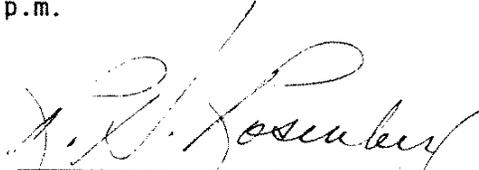
Mr. Davis discussed compensation for Board members and asked the board for their thoughts.

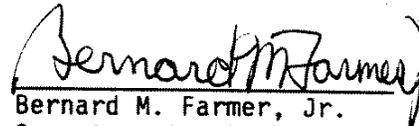
Mr. Hertzler stated that he did not want to be paid for being on the board. All members voiced the same opinion for no compensation.

Mr. Farmer was designated Secretary to the Board of Zoning Appeals.

6. ADJOURNMENT

The meeting was adjourned at 8:00 p.m.

  
Ronald Kosenberg, Chairman

  
Bernard M. Farmer, Jr.  
Secretary to the Board

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