

BOARD OF ZONING APPEALS

MINUTES

April 27, 1987

1. ROLL CALL

<u>Members Present</u>	<u>Members Absent</u>	<u>Others Present</u>
Mr. Rosenberg Ms. Vaiden Mr. Ripley Mr. Feigley	Ms. James	Bernard M. Farmer, Jr. Larry Davis

2. MINUTES

The minutes were held until the next meeting.

3. OLD BUSINESS

Mr. Davis informed the board that the Muffler Doctor case has been rescheduled for the first week in May.

4. NEW BUSINESS

ZA-5-87. John Harris

Staff recommended denial of the variance request of 3.4 feet from the side yard provisions of Section 20-155(a) of the James City County Zoning Ordinance. No legal hardship unique to the property in question has been demonstrated. Granting this variance would amount to a special privilege being given to the property owner, where that privilege is denied similar properties in the same district. The location of the property is 4724 Bristol Circle. The rear deck also encroaches 1.8 feet. The house and the chimney encroach ½ foot and 2.4 feet respectively. Lot 6, adjacent to the encroachment, is still vacant. The structure was essentially complete at the time the encroachment was discovered. A temporary certificate of occupancy was issued and there are perspective buyers for the lot.

The public hearing was opened. Mr. Small stated that this was the first house to be staked in this subdivision, and that the initial pin was placed in the wrong place. The house was located to save a large oak tree in the yard.

The public hearing was closed.

Mr. Feigley didn't recall noticing the large oak tree the contractor mentioned. He also expressed concern that this case may set a precedent.

The board members asked for input as to how this kind of mistake can be avoided in the future (since this type of setback violation seems to be on the rise).

Ms. Vaiden suggested staking the setback line prior to construction, and Mr. Ripley mentioned that a survey of the setback lines is a minimal cost to avoid this kind of problem.

Ms. Vaiden moved to grant both of the variances as requested.

Mr. Ripley seconded the motion.

The motion carried with a unanimous vote.

ZA-6-87. Rickmond Engineering

DCI Homes has requested a variance of approximately 8 feet from the setback provisions of Section 20-137(b) of the James City County Zoning Ordinance. This is a corner lot and it must meet a 35 foot setback from all street rights-of-way. This property is located at 2901 Richard Pace North. The staff recommendation was to deny the variance request since no legal hardship unique to the property was found and granting it would be a special privilege.

This house was completed at the time the encroachment was discovered. William Bedford, the street the house encroaches on, was only roughed in, and it was not staked until after the house was half-way complete.

The public hearing was opened.

Steve Graber from Rickmond Engineering stated that this is DCI's first subdivision, and that the lots were staked out early in the project. Mr. Graber stated that the house was staked first; then the road was staked, but the road pins were disturbed and the road shifted.

The public hearing was closed.

Mr. Ripley made a motion to grant the variance as requested.

Ms. Vaiden seconded the motion.

The motion carried by a unanimous vote.

ZA-7-87. Rickmond Engineering

DCI Homes has requested a variance of approximately 5 feet from the setback provisions of Section 20-137(b) of the James City County Zoning Ordinance. The property is located at 2901 Robert Hunt South. This is a corner lot that requires a 35 foot set-

back from all street rights-of-way. The staff recommendation is that the variance be denied. Granting the variance would amount to a special privilege; one that is denied other property owners in a similar situation.

The encroachment was discovered when the structure was at the framing stage. A stop work order was issued pending resolution of the variance request. Only about 40 percent of this lot is buildable. The other 60 percent lies within the setback area.

The public hearing was opened. With no one choosing to speak, the public hearing was closed.

Mr. Ripley expressed concern about a chimney and porch stoop that were shown in the picture of the building but were not on the survey. The survey was done at the foundation stage, before the chimney and porch were showing.

Mr. Ripley also pointed out that the right side of the porch (not shown on the plot plan) may also encroach over the setback line. The board asked that this be looked into. DCI agreed that they would check the setback on the porch also, and notify the Code Compliance Office if there was a problem.

Mr. Rosenberg moved to grant the variance of 5 feet as requested.

Mr. Feigley seconded the motion.

The motion carried by a unanimous vote.

ZA-8-87. Lightfoot Motel Properties

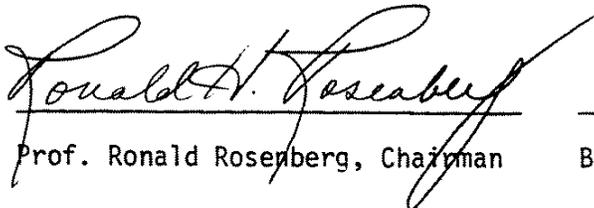
The case was withdrawn.

5. MATTERS OF SPECIAL PRIVILEGE

There were no matters of special privilege.

6. ADJOURNMENT

The meeting was adjourned at 8:55.


Prof. Ronald Rosenberg, Chairman


Bernard M. Farmer, Jr.
Director of Code Compliance