

BOARD OF ZONING APPEALS

MINUTES

July 23, 1987

1. ROLL CALL

Members Present

Ronald Rosenberg
Elizabeth Vaiden
Claude Feigley

Others Present

Bernard M. Farmer, Jr.
Larry Davis

Members Absent

Bob Ripley
Nancy James

2. MINUTES

The April 27, 1987 and June 25, 1987 minutes were approved.

3. OLD BUSINESS

There was no old business.

4. NEW BUSINESS

ZA-10-87. Walter Toward

The staff recommends that Mr. Toward's request for an exemption from Section 20-100(2), to install a satellite antenna in his front yard, be denied. Insufficient information has been presented to conclusively show that the only usable signal is from the front of the lot. The evidence available from review of topographic maps and aerial photos places some doubt on the claim that the front must be used for the satellite dish, since other areas of Mr. Toward's five acres seem usable.

If the only usable signal exists other than in the back yard, an exemption may be granted.

Two other satellite installers were contacted and asked about dish placement. The dish needs to be located so as to face from due west to due south, with the angle above the horizon from 0 to 45 degrees respectively. The best and most obvious location is on a clear hill-top. The high point of Mr. Toward's lot is to the rear of the property. To locate the antenna on the rear of the lot, some trees might have to be cut down.

About 50 percent of the surrounding lots are built on at the present time. The house on the lot to the right is occupied.

The public hearing was opened.

Ms Griffin, Co-President of the Deerwood Hills Property Association, was present at the meeting to represent the Deerwood Hills property owners. She presented a petition against allowing the satellite to remain on Mr. Toward's property. The petition was signed by 20 property owners of Deerwood Hills (The total number of property owners in Deerwood Hills at present is 23). She also presented pictures of the satellite before it was taken down pending this case. These pictures and the petition were submitted to the Board and will remain part of the case file. The property owners feel that there is ample room on Mr. Toward's property to place the dish other than in the front yard.

The public hearing was closed.

The request for an exemption fails due to a lack of a motion to overrule the Zoning Administrator's decision that there is a usable signal in the rearyard. The Zoning Administrator's opinion was affirmed.

ZA-11-87. Homer Cluck

The staff recommended that the variance from the setback provisions of Section 20-153 of the James City Ordinance be denied. No legal hardship has been shown sufficient to justify granting the variance. Adequate building area on the lot is available and the necessity for a variance has been created by actions of the builder, not as a result of the setback requirements being too restrictive. Granting this variance would amount to a special privilege otherwise denied similar properties in the same district.

Apparently changes in construction widened the house by 2.4 feet. There are two violations of the setback provisions. The first encroachment is approximately 2.8 feet on the front setback line, and the other encroachment is .4 feet on the side setback.

The public hearing was opened. Mr. Cluck was present and he stated that he has not closed on the house yet. His lease agreement on the apartment he was staying in was about to run out, so he would like to see this matter settled.

The public hearing was closed.

Since the builder had penciled in a reduction of the house width on the plans to conform with the setbacks, the Board felt his actions were intentional. However, the Board was reluctant to take action against the buyer, Mr. Cluck, since he had no control over the building.

Mr. Rosenberg made a motion to grant the side variance of six inches and the front variance of 2' 9" with the condition that the builder purchase a copy of the zoning ordinance and discuss it with the County Attorney, Assistant County Attorney, or the Zoning Administrator within 30 days of this action.

The motion was approved with a unanimous vote.

ZA-12-87. Douglas Tillett

The staff recommended that the variance from the sideyard requirements of Section 20-196 of the James City County Zoning Ordinance be denied. The variance was requested to construct a garage. No legal hardship has been shown which is sufficient to justify granting the variance. The property has been placed into beneficial use, and sufficient space exists to construct a garage of modified design. Granting this variance would be solely for convenience of the property owner and a privilege which is otherwise denied similar properties in the same district.

The public hearing was opened. No one was present to speak on the case, and the public hearing was closed.

Mr. Feigley made a motion to deny the variance as per the staff recommendation.

The motion was seconded by Ms. Vaiden.

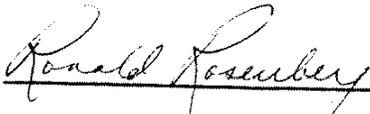
The motion was approved unanimously.

5. MATTERS OF SPECIAL PRIVILEGE

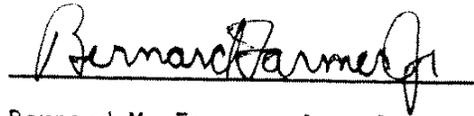
There were no matters of special privilege.

6. ADJOURNMENT

The meeting adjourned at 8:25.



Ronald Rosenberg, Chairman



Bernard M. Farmer, Jr., Secretary