

BOARD OF ZONING APPEALS

MINUTES

April 27, 1989

- A. ROLL CALL
- |                    |                 |
|--------------------|-----------------|
| Mr. Bob Ripley     | Ms. Nancy James |
| Mr. Claude Feigley |                 |
| Mr. Ken Giedd      |                 |

EDITORIAL NOTE:

Mr. Giedd was appointed to fill Mrs. Vaiden's expired term on 4/25. The board was unaware at the meeting and presumed Mr. Giedd was appointed to the vacant position. Mrs. Vaiden was not an acting member of the Board for this meeting.

Others Present

Mr. John Patton, Code Compliance Officer

B. MINUTES

The March 23, 1989 minutes were approved as presented.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-2-89 Mark A. & Karen L. Bonasso

Mr. John Patton stated that Mr. Mark Bonasso, the owner, has requested a 4.03 foot variance from the front setback and a .33 foot variance from the side setback requirement from the James City County Zoning Ordinance for an existing dwelling. The dwelling is located at 137 Old Field Road. The property is further identified as parcel (4-0-0018) found on James City County Real Estate Tax Map Number (38-3). The property is located in the R-2, Limited Residential Zoning District.

The property is a corner lot, Lot 18, Section 1, of The Meadows Subdivision. The dwelling was originally constructed under building permit number 85-1143B dated May 24, 1985.

This date is significant because it was after the Zoning Ordinance changed the setback requirements from 25 to 35 feet.

The setbacks as shown on the application were: 48 feet from the front, 42 feet from the right side, 45 feet from the left side and 62 feet from the rear. This met the zoning requirements at that time which required 35 feet setbacks from all road frontages .

A survey of the property made in November of 1985, prior to closing, disclosed that the building had been improperly located on the site in violation of the James City County Zoning Ordinance for front and side setback requirements. Mr. and Mrs. Bonasso were aware of the violation and decided to close on the property in spite of the known violations. They had indicated that they thought the builder filed for a variance with the Board of Zoning Appeals and all issues were resolved. However, no action was taken as the builder declared bankruptcy and left town.

Staff recommended denial of the variance because there was nothing unique in the size, shape or topography of the property to warrant a variance and any economic hardship was at least partially self induced by the owner.

Mr. Feigley asked if there were any questions.

The Board discussed how the original site plan properly located the house.

Mr. Ripley asked when the 25 foot setback requirement changed to 35 feet.

Mr. Patton stated that in 1985, the setback requirement changed from 25 feet to 35 feet prior to the building permit being applied for at this location.

Mr. Feigley opened the public opening.

Mr. Mark Bonasso, the owner, submitted six letters and signatures from adjacent neighbors simply stating they did not object to the variance being granted.

Mr. Bonasso stated that it took longer than anticipated to get his house built because his builder had several other projects. Mr. Bonasso explained he was living in an apartment and had requested several extensions to his lease which had expired based on the planned completion date of his house. He had been forced to move his furniture into the home before closing and had lived in a motel for two weeks before closing; thus, he moved in simply because he had no other place to go. Mr. Bonasso's attorney advised him to ask Mr. Brown to file for a variance and obtain title insurance. He assured him there should not be any problems.

Mr. Feigley asked if there were any questions for Mr. Bonasso.

Mr. Feigley stated that it bothered him that Mr. Bonasso's lawyers were not present to represent him since he had acted on their advice. Mr. Feigley also stated that he understood that Mr. Bonasso was under a lot of pressure during the time of moving into his new home, but he did not understand why Mr. Bonasso accepted the house when he was aware that he did not meet the James City County Zoning Ordinance.

Mr. Feigley asked if anyone else wished to speak on this case.

No one wished to speak.

Mr. Feigley closed the public hearing.

Mr. Ripley motioned to grant the variance of 4.03 feet from the front setback requirements and .33 feet from the side setback requirements from the James City County Zoning Ordinance.

The motion was seconded.

The motion was carried unanimously.

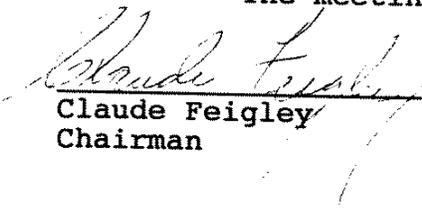
Mr. Ripley welcomed the new member, Mr. Ken Giedd.

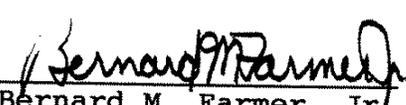
**E. MATTERS OF SPECIAL PRIVILEGE**

None

**F. ADJOURNMENT**

The meeting was adjourned at 7:45 P.M.

  
Claude Feigley  
Chairman

  
Bernard M. Farmer, Jr.  
Secretary