

BOARD OF ZONING APPEALS

MINUTES

September 28, 1989

A. ROLL CALL

ABSENT

Mr. Bob Ripley
Mr. Claude Feigley
Mr. Baxter Carr
Mr. Ken Geidd

Ms. Nancy James

Others present

Mr. Bernard Farmer, Secretary to the Board

B. MINUTES

The August 24 minutes were approved as presented.

C. OLD BUSINESS

None

D. NEW BUSINESS

1. ZA-12-89 Margaret McSweeney

Mr. Farmer gave the Staff presentation. Mr. & Mrs. Tim Fox (contract purchasers of the property) requested a 20 foot variance from the front setback in order to construct a detached single family dwelling. The structure cannot be placed on the lot within the existing setbacks. Since no undue hardship was demonstrated and the request for the variance amounts to a special privilege otherwise denied other owners of like zoned property, Staff recommended denial.

Mr. Feigley opened the public hearing.

Mr. Fox stated that he could not build the proposed house on the lot within the present set backs. Mr. Ripley questioned the size of the house, the size of the houses in the neighborhood and if he would need a well and septic system.

Mr. Fox stated the size of his proposed house would be 1900 square feet, which is comparable to the houses in the neighborhood. He also stated the land does not perk but he had received a permit from the State Board of Health for a special waste disposal system which would allow him to build on the lot.

Mr. Mark Lusk, an adjacent property owner stated his approval of Mr. Fox's intent to build on the property.

Mr. Feigley closed the public hearing.

The board discussed if the variance would negatively affect River Dr., and determined that it would not.

A motion for approval of the variance as presented was made by Mr. Feigley and seconded by Mr. Carr.

The motion for approval was carried unanimously with the condition that Mr. Fox install an approved sewage disposal system.

2. ZA-13-89 Spencer Builders

Mr. Farmer presented the Staff report.

Spencer Builders requested a 10.4 foot variance from the front setback requirements for a house under construction. The building permit was mistakenly approved to allow construction too close to the front property line. Spencer Builders proceeded unknowingly and did not discover the problem until the late stages of construction. Mr. Farmer assured the board that a substantial search had been made of all permits issued in the A-1 Zoning District since the setback requirements had changed and that all mistakes were discovered.

Mr. Feigley opened the public hearing.

There being no public discussion, Mr. Feigley closed the public hearing.

A motion for approval of the variance as presented was made by Mr. Carr and seconded by Mr. Geidd.

The motion was unanimously approved.

3. ZA-14-89 Michael Maxey

Mr. Farmer presented the Staff report. Mr. Maxey requested a 10 foot variance from the front setback requirements of 50 feet. His permit was mistakenly approved to allow a lesser setback than that required. His home was presently under construction and in the framing stage.

Mr. Feigley opened the public hearing.

Mr. Maxey stated he hired Mr. Roger Spearman to insure compliance with the approved plans. Mr. Spearman indicated his reliance on the plans approval and stated he did not check the ordinance requirement. Mr. Farmer commended Mr. Maxey for his efforts.

Mr. Feigley closed the public hearing and requested the wishes of the Board.

A motion for approval of the variance as requested was made by Mr. Carr and seconded by Mr. Ripley.

The motion was unanimously approved.

4. ZA-15-89 Hertzler Brothers

Mr. Farmer presented the Staff report. He indicated that the lot in question was subdivided prior to April 1987 and at that time only required a 25 foot setback from the side street. On 8 April 1987, after the plat showing a 25 foot setback was recorded, the ordinance changed to require corner lots have a setback of 35 feet from all streets. When the permit application was made the builder and the plans examiner mistakenly relied on the record plat. Mr. Farmer further indicated that Mr. Small, the surveyor, recalled a conversation questioning the setback but was told it was acceptable. Mr. Farmer stated he could neither deny nor confirm the conversation as he didn't recall.

Mr. Feigley opened the public hearing.

Mr. Carr questioned how long the house was unoccupied and if the present owners were aware of the encroachment. Mr. Small, who represented Hertzler Brothers, stated the home was vacant for 2 years and that the present owners are aware of the encroachment.

Mr. Feigley closed the public hearing.

Mr. Feigley requested the wishes of the Board.

A motion for approval of the variance as requested was made by Mr. Ripley and seconded by Mr. Geidd.

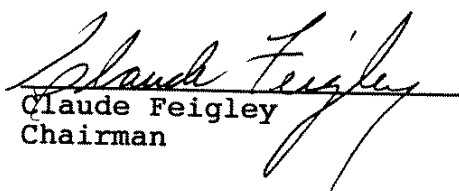
The motion to approve the variance was carried unanimously.

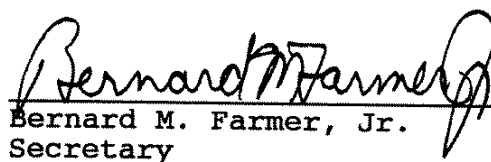
E. MATTERS OF SPECIAL PRIVILEGE

Mr. Small suggested to the Board of Zoning Appeals they consider sponsoring an ordinance amendment to allow platted setbacks to be used for properties recorded prior to zoning changes adopted by James City County. Such an amendment would alleviate much confusion.

F. ADJOURNMENT

The meeting adjourned at 8:30 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary