

BOARD OF ZONING APPEALS

MINUTES

November 16, 1989

A. ROLL CALL

ABSENT

Mr. Claude Feigley
Ms. Nancy James
Mr. Bob Ripley

Mr. Baxter Carr
Mr. Ken Giedd

B. MINUTES

The minutes of the October 26, 1989 meeting were approved as presented.

C. OLD BUSINESS

Mr. Feigley acknowledged the Memorandum on Use of Platted Setbacks.

Mr. Farmer stated the director of Planning will have a report compiled for the Board's review.

Mr. Farmer, in response to Ms. James's request for identification, stated he is working with the Personnel Department and they will be available to photograph the members on December 4, 1989 at 1:30, if this is not convenient the next date will be early in 1990.

Mr. Farmer stated the Planning Department is reviewing a proposed ordinance amendment regarding the Nuttycombe case in Rolling Woods. Mr. Farmer further stated he is not aware if an outside Attorney has been hired.

Mr. Feigley asked Mr. Farmer to keep the Board abreast of developments.

D. NEW BUSINESS

1. Case No. ZA-20-89. Spencer Builders

Mr. Farmer presented the staff report stating that Spencer Builders had requested a 2.56 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 unknowingly

proceeded with construction and the error was not discovered until August 8, when a STOP WORK ORDER was posted on the property.

August 8, the Builder was contacted and decided to repour the footing since at the time that was the only work completed. Evidently the new footing was incorrectly located resulting in the present variance request of 2.56 feet.

Mr. Feigley opened the public hearing.

Mr. Spencer and Mr. Graham of Spencer Builders were present.

Mr. Feigley thanked them for their efforts and asked how the mistake occurred. Mr. Graham stated that someone mistakenly moved the corner stake.

Mr. Feigley asked how the second mistake was identified.

Mr. Graham stated that a foundation survey was done for closing.

Mr. Spencer and Mr. Graham stated that framing was up when second mistake was identified.

Mr. Ripley asked how you define the front of the lot.

Mr. Farmer stated the short side of the lot is the front of the lot.

Mr. Feigley closed the public hearing.

Mr. Feigley stated Mr. Spencer had gone to expense and is suffering a hardship.

Mr. Feigley moved to grant the variance of 2.56 feet, Ms. James seconded the motion.

During the discussion which followed Mr. Ripley stated he also feels a hardship exists.

The motion for approval was carried unanimously.

Case No. ZA-21-89. Deborah and Mont Linkenauger

Mr. Farmer presented the staff report stating that Mr. & Mrs. Linkenauger had requested a .32 foot variance from the side yard requirements for their dwelling. In July of 1988 a building permit was issued to the owners for construction of a single family dwelling. The proposed side yard adjacent to the recreation lot was to have been eleven feet. Evidently, during construction some adjustments were made which placed the dwelling 9.68 feet from the property line resulting in the variance request.

Staff recommends denial since no undue hardship has been claimed or demonstrated unique to this property such that application of zoning ordinance requirements prevents the property's beneficial use.

Mr. Feigley opened the public hearing.

Mr. Bland, attorney for the Linkenaugers, stated Mr. Linkenauger purchased lots 32, 33, & 34 and had surveys with rods set prior to 1986 by Paul Small. He also stated that the plats had been checked many times. Mr. & Mrs. Linkenauger found the original rods and set the building line themselves using the 1986 marks. Since then VEPCO placed a pole close to the rod and the Linkenaugers have not been able to find the rod since the pole was set.

Mr. Feigley asked if the iron rod used to set the line was the same as the one shown on the survey .

Mr. Bland answered no, that a new one was set.

Mr. Feigley asked what stage the house was in when the violation was identified.

Mr. Farmer stated it was framed and at the rough in stage.

Mr. Feigley asked if a STOP ORDER was posted.

Mr. Farmer stated there was not a STOP ORDER posted since he was not aware a violation existed until Mr. Bland called.

Mr. Farmer stated that a correction on the address of this property had been made from that presented in the application.

Mr. Ripley asked the size of the Recreational lot and the ability of purchasing the 4 inches from the Citizen's Association.

Mr. Farmer stated that on non conforming lots adjustments can be made only if the adjustment does not make it more non conforming and purchasing the 4 inches would make it more non conforming.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to grant the variance as requested.

Ms. James seconded the motion.

The motion for approval of the variance was carried unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

Mr. Ripley spoke on his concern regarding having variances recorded with the Clerk of Circuit Court.

Mr. Farmer stated he would investigate how to record variances with the Clerk of Circuit Court.

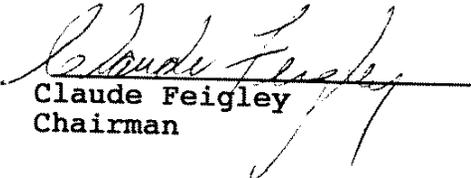
Mr. Feigley asked that this be added to the list of items to be reviewed at a later date.

Ms. James expressed her concern of having a member on the Board who will not be functioning for 6 months.

Mr. Farmer stated that Judge Carneal appointed Mr. Carr knowing that he would be absent for 6 months each year.

F. ADJOURNMENT

The meeting was adjourned at 8:25 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary