

BOARD OF ZONING APPEALS

AUGUST 23, 1990

A. ROLL CALL

Absent:
Mr. Carr

Mr. Feigley
Mr. Ripley
Mr. Giedd
Ms. James

Others Present:

Bernard M. Farmer, Jr. Zoning Administrator
Leo Rogers, Assistant County Administrator
John Patton, Code Compliance Officer

B. MINUTES

The minutes of the July 26, 1990, were approved with changes.

C. OLD BUSINESS

Mr. Farmer told the Board that a permit has been issued to modify the deck to comply with setback requirements, in regard to case ZA-12-90.

D. NEW BUSINESS

ZA-17-90. Mark Slye, 7627 Beechwood Drive
Tax Map (9-3) Parcel (4-14)

Mr. Farmer presented the staff report stating that Mr. Mark Slye has requested a variance of 17 feet from the front setback requirements for a proposed garage at 7627 Beechwood Drive in the Cypress Point Subdivision. The applicant desires to construct a detached garage 33 feet from the front property line. Section 20-113 of the Zoning Ordinance requires that structures be placed a minimum of 50 feet from any street right of way. The applicant indicated the proposed placement of the garage was necessary due to an existing septic system. Health Department records indicate sufficient buildable area exists between the drainfield and the front setback to construct the garage. Several other sites are available on the parcel where the garage could be constructed without requiring a variance. It is the staff recommendation that the variance be denied as no undue hardship had been demonstrated. Granting the variance would amount to a special privilege to construct in the front setback area, a privilege that is otherwise denied like zoned properties.

Mr. Farmer stated a stop work order was issued last April when the garage slab was poured without a building permit.

Sufficient remedies exist that would allow the applicant to

Sufficient remedies exist that would allow the applicant to construct a garage without being granted this variance.

Mr. Ripley asked what the front setback requirements are for property in the A-1 zoning district.

Mr. Farmer responded they are 50 feet.

Mr. Feigley asked if the lot is nonconforming due to the size.

Mr. Farmer answered yes.

Mr. Feigley asked if granting the variance would make the lot more nonconforming.

Mr. Farmer stated that granting the variance would not make it more nonconforming, since the variance itself would be a legality.

Mr. Rogers stated the lot is nonconforming due to its size only.

Mr. Feigley opened the public hearing.

Mr. Slye addressed the Board and stated he was new to the County and that he purchased the lot with the intentions of adding to the original dwelling. He further stated that with his future plans in mind, the present location for the proposed garage is the only one he felt "would look good." He also stated that with the new low pressure septic distribution system he would like to leave room to make repairs in case something went wrong. Mr. Slye stated he plans to add a bath in the future and did not want to crowd the drain field.

Mr. Giedd asked about area to the left side of the house and why the garage could not be built there.

Mr. Slye replied there was an underground well there which would prevent locating the garage in the area to the left of the house.

Mr. Feigley asked the size of the concrete pad.

Mr. Slye stated the pad is 24X30 feet, he had poured it himself, and his not getting a permit was an honest mistake.

Mr. Feigley closed the public hearing.

Mr. Feigley stated he did not feel a self inflicted hardship was sufficient grounds on which to grant a variance. He moved to deny the variance.

The vote for denial was unanimous.

ZA-18-90. George Jeffries and Nancy Burgess. 151 Devon Road
Tax Map (32-3) Parcel (19-24)

Mr. Patton presented the staff report stating that Mr. Jeffries and Ms. Burgess had requested a variance of 2.01 feet from the side yard requirements for an existing shed at 151 Devon Road in the Windsor Forest Subdivision. A permit was issued to construct a new single family dwelling on this property in 1985. The construction of the shed in question was not included on this permit. At some point after completion of the dwelling the shed was constructed without permit and 2.01 feet in violation of the side yard requirements for a detached structure. The shed's encroachment was discovered as a result of a land survey to convey the property to new owners.

Staff has been contacted regarding this variance application by several residents in the neighborhood. One resident and Heritage Development, the subdivision developers, have indicated they have no objection to the variance. Two other residents have indicated they object to the variance. Staff recommends that the variance be denied. No undue hardship has been claimed or demonstrated which would justify granting the variance. The applicant has requested a variance for convenience, as opposed to a variance for relief of an overly restrictive undue burden or a hardship that approaches confiscation. There are no unique characteristics of this property which would require placement of the structure at its present location. Sufficient buildable area exists within the setbacks of this property to accommodate the storage shed.

Mr. Feigley opened the public hearing.

Mr. George Jeffries past owner of the property stated since the property had transferred to new owners they did in fact have a hardship. He stated the new owners were aware of the need for a variance at the time of the sale. Monies had been set aside at the time of the sale to provide for moving the shed if necessary.

He further stated, he built the shed and felt that It was 5 feet from the side yard and that there was no intent to due anything illegal. Due to the fact it was not habitable he felt no permit was needed.

Mr. Feigely asked Mr. Jeffries for clarification of his statement concerning how he staked off the shed.

Mr. Jeffries stated he pulled a line from the rear pin to the front pin and used that line to to stake off the shed. He further stated at the time of the new survey the rear pin could not be found and new one was placed, and he felt that perhaps that is how the encroachment occured.

Mr. Giedd asked Mr. Jeffries the size of the shed and was told it is 12 x12 feet.

Mr. Feigley asked the type of foundation the shed was on and was told the shed is on a concrete slab.

Mr. Ripley stated in his opinion the building can be moved. He had been contacted by the present owners to estimate the cost of moving the shed if the variance request were to be denied and that he would abstain from any vote. However, the shed could be moved and relocated.

Mr. Jeffries replied the new owners do not want the building moved and had decided against the location Mr. Ripley had bid on.

Mr. Feigley closed the public hearing.

Mr. Feigley requested the wishes of the Board.

Mr. Giedd stated his concern over the number of variances requested lately for structures constructed without building permits.

Ms. James asked if the encroachment would have been found in the review process.

Mr. Patton replied that when structures are to be built on or very close to the setbacks a foundation survey is required.

Mr. Feigley stated the lot lines are the same on both surveys.

Ms. James moved to deny the variance request.

The vote for denial was unanimous except for with Mr. Ripley who abstained.

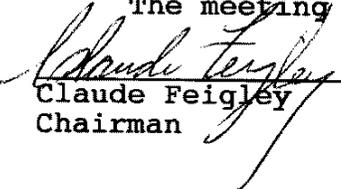
E. Matters of Special Privilege

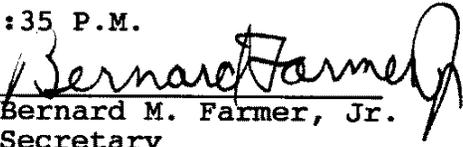
None

F. Adjournment

There being no further business a motion was made for adjournment and unanimously accepted.

The meeting was adjourned at 8:35 P.M.


Claude Feigley
Chairman


Bernard M. Farmer, Jr.
Secretary