

**MINUTES**

**BOARD OF ZONING APPEALS**

**DECEMBER 17, 1992**

**A. ROLL CALL**

**ABSENT**

Mr. Carr  
Mrs. James  
Mr. Giedd  
Mr. Ripling  
Mr. Feigley

**OTHERS PRESENT**

Bernard M. Farmer, Jr.

**B. MINUTES**

The minutes of the October meeting were approved and adopted as presented.

The minutes of the November meeting have not been prepared to date.

**C. OLD BUSINESS**

Mr. Farmer noted to the board that no appeal from last months hearing has been made.

Mr. Farmer stated that a tentative date for sometime in January has been set for the hearing of the University Square case in Supreme Court.

**D. NEW BUSINESS**

Case ZA-10-92; Lawrence D. Skalak

Mr. Farmer presented photographs to the board members showing approximately where Mr. Skalak would like to put the house.

Mr. Farmer presented the staff report stating that Mr. Skalak has applied for a variance to Section 20-154 of the Zoning Ordinance which requires a minimum lot width of one hundred-fifty feet at the building set back line for lots of more than 43,560 square feet in area. The property is located at 104 Branch's Pond Road in the Lake Toano Subdivision in the R-1, Limited Residential, zoning district. The lot is approximately 1.146 acres, (49,919 sq.

**BZA MINUTES  
DECEMBER 17, 1992  
PAGE 2**

feet), in size. The property is further identified as Parcel (3-27) on James City County Real Estate Tax Map (22-1).

Mr. Farmer stated that the lot is 119.5 feet wide in front and 175 feet wide in the rear. The lot is 150 feet wide, approximately 190 feet from the front property line. The two adjacent lots are each less than one acre in size and are therefore only required to have a lot width of one hundred feet at the building set back line. Since both of the adjacent lots are over 100 feet in width at the front lot line, the building set back line needs to be no more than thirty-five (35) feet from the road right-of-way. There are single family dwellings on both of the adjacent lots and set back approximately 120 from the street right-of-way. The first three lots on the south side of Branch's Pond Road are all larger than one acre in size but since none of them are 150 feet in width at any point they were only required to meet the minimum setback of thirty-five feet from the front property line. Each of the homes on the south side of Branch's Road was built approximately 100 feet back from the front property line.

Mr. Farmer stated that on February 2 1992, the Board of Supervisors adopted a change to Section 20-153, Setback Requirements that eliminated the following language:

(a) Where forty (40) percent or more frontage on one side of a street within the same block is improved with buildings, no building shall project beyond the average front yard so established.

(b) No building shall be required to have a front yard greater than that of one of two (2) existing buildings, on immediately adjoining lots on each side, whichever is the farthest removed from the street.

Thus, prior to February of this year, no variance would have been necessary to build as is now proposed.

Mr. Farmer stated that since no undue hardship, meeting all the requirements of the regulations, exists, staff cannot recommend approval. However, should the Board desire to grant relief in this case it is recommended that the building setback line be established as not less than the adjoining property furthest removed from the street.

Mrs. James questioned Mr. Farmer as to whether the property was purchased prior to February of this year.

**BZA MINUTES  
DECEMBER 17, 1992  
PAGE 3**

Mr. Skalak replied to Mrs. James's question stating that a septic permit was obtained in 1978, but that he did not purchase the property until a few months ago.

Mr. Feigley opened the public hearing.

Mr. Skalak stated that he is a small builder in the James City County.

Mr. Skalak showed a copy of Section A of Lake Toano Subdivision, and for illustrative purposes he also presented a copy of the topographic maps that the county has for public use.

Mr. Skalak stated that he feels that particular lot has been penalized. He feels that there is no real difference from the rest of the lots adjacent to the lot in question. He also stated that he had spoken with the adjacent property owners and no one voiced any objections as to where he wanted to put the house.

Mr. Skalak stated that he seeks this variance for the sole purpose of building the house in conformance with the other houses on the street.

Mrs. James questioned his being within the setbacks from the rear property line.

Mr. Skalak replied that the home would be well within the rear and side setback requirements.

Mr. Ripley stated that he would like to note that the existing lot was cleared in 1978 and has an existing driveway on it.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that he feels that the change in the zoning ordinance has created some what of a problem for Mr. Skalak. He stated that having gone out to the site, it would be very odd to go out there and see Mr. Skalak's home located further back than the two on the adjoining sides. He also stated that he would feel very comfortable in granting the variance with staff's recommendations.

Mrs. James motioned to grant variance with the stipulation that the setback be no less than the adjoining property closest to the road. The motion was carried.

The motion was carried by a unanimous vote.

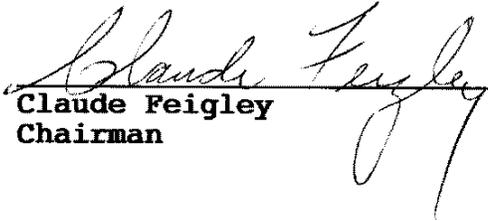
**BZA MINUTES  
DECEMBER 17, 1992  
PAGE 4**

**E. MATTERS OF SPECIAL PRIVILEGE**

Proposed BZA meeting schedule for 1993 was approved and adopted.

**F. ADJOURNMENT**

The meeting was adjourned at about 8:00pm.

  
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Claude Feigley  
Chairman

  
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Bernard M. Farmer, Jr.  
Secretary