

**MINUTES**

**BOARD OF ZONING APPEALS**

**March 25, 1993**

**A. ROLL CALL**

**ABSENT**

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

Mr. Carr

**OTHERS PRESENT**

Bernard Farmer

**B. MINUTES**

Minutes of November 19, 1992 and February 25, 1993 were approved and adopted.

**C. OLD BUSINESS**

None.

**D. NEW BUSINESS**

ZA-03-93; John and Teresa Ancellotti

Mr. Farmer presented staff report stating that Mr. Joseph Abdelnour, on behalf of Mr. and Mrs. Novogratz and Mr. and Mrs. Ancellotti, applied for a three inch variance to the side yard requirements for an existing single family dwelling located at 105 Cooley Road.

Mr. Farmer stated that a building permit was issued in December of 1988 to construct the single family dwelling at this location. The application at that time showed the home to be within setbacks. A Certificate of Occupancy was issued June 14, 1989. In May of 1989 the Novogratz purchased the house under construction and were made aware of a side yard encroachment as shown on a survey dated May 15, 1989. A survey for the conveyance of the property to Mr. and Mrs. Ancellotti dated January 18, 1993 once again showed the encroachment. The Code Compliance office did not become aware of the encroachment until receipt of this variance. Mr. Abdelnour approached the adjacent property owner, Mr. Marshall, with an offer to purchase enough of his property to make the necessary boundary line adjustment to meet the fifteen foot setback requirement. Mr. Marshall was unwilling to sell, but was in favor of granting the variance.

**BOARD OF ZONING APPEALS  
MINUTES  
MARCH 25, 1993  
PAGE 2**

Mr. Farmer stated that since no undue hardship has been demonstrated, and the house as it exists could be placed on the lot within the established set back requirements, staff must recommend that the variance be denied.

Mr. Feigley opened the public hearing.

Mr. Joseph Abdelnour, representative Mr. and Mrs. Novogratz and Mr. and Mrs. Ancellotti stated a brief history of the property. He also stated that he had contacted Mr. Marshall, whom resides next door to the property in question about selling approximately 164 sq. feet of his property. Mr. Abdelnour stated that the Novogratz were aware of the encroachment, but were under the impression that they were covered for it under their Lawyer's Title Insurance. The problem of the encroachment did not surface again until the Novogratz's opted to sell the property.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that due to this being a minute request that he is in favor of granting the variance.

Mr. Ripley stated that he is also in favor of granting the variance because all of the adjacent property owners showed full support.

Mr. Feigley motioned to grant a three inch variance to side yard requirements.

Ms. James seconded the motion.

The variance was granted with a unanimous vote.

**ZA-04-93; William and Helen Hart**

Mr. Farmer presented staff report stating that Mr. and Mrs. Hart have applied for a one foot variance to the side yard requirements for an existing single family dwelling at 113 Shellbank Drive.

Mr. Farmer stated that in 1984 Mr. Hart was granted a variance by the board of Zoning Appeals reducing the side yard setback requirement to ten feet in order to construct a home on this property. The single family dwelling was constructed in 1985.

---

**BOARD OF ZONING APPEALS  
MINUTES  
MARCH 25, 1993  
PAGE 3**

Spearman and Associates re-surveyed the property on June 7, 1988 and noted an encroachment on the eastern side of the property. The building encroaches from 0.5 foot to .92 foot into the side yard. The Hart's stated that they were unaware of the survey and encroachment until a prospective buyer showed it to them last February. Since no undue hard ship has been demonstrated and the property has already been granted a variance to allow its use, staff must recommend denial of the variance.

Mr. Alvin Anderson, representative for the Harts, spoke briefly on the history of the property.

Mr. Ripley stated that the encroachment was first noted in 1988.

The Harts stated that they were refinancing their home and were not made aware of the new survey and the encroachment.

Mr. Feigley closed the public hearing.

Mr. Feigley stated that he felt that there should have been more restrictions placed on the original variance.

Mr. Feigley motioned to grant a further one foot variance on side yard requirements based on the unique size, shape and narrowness of the lot with the following condition:

1. That this variance apply only to the existing dwelling.

Mr. Giedd seconded the motion.

The variance was granted with a unanimous vote.

**ZA-05-93; Julia Canestrari and Roland Wallace, Jr.**

Mr. Farmer presented staff report stating that Ms. Canestrari and Mr. Wallace have applied for a ten foot variance to the rear setback requirement in order to build an addition to an existing single family addition at 103 Woodside Drive in James City county.

Mr. Farmer stated that when this house was built in 1989 the property was zoned R-3, General Residential, and was required to have a thirty-five foot front and twenty-five foot rear building setback. In 1991 the zoning ordinance was changed, eliminating the R-3 zoning district and redesignating R-3 zoned properties to R-2.

**BOARD OF ZONING APPEALS  
MINUTES  
MARCH 25, 1993  
PAGE 4**

At the same time the front setback requirement became twenty-five feet and the rear yard requirement became thirty-five feet. This resulted in making the home nonconforming. Under current zoning requirements almost all of the deck and a portion of the house encroaches in the rear yard. He stated that although Mr. Wallace's problems were not of his doing, the redesignation and change of setback requirements are shared by all other property previously zoned R-3. Even though the shape of the lot makes it difficult to expand the home, it is possible to enlarge the home without requiring a variance. For this reason the staff cannot recommend approval of the variance.

Mr. Feigley opened the public hearing.

Ms. Canestrari and Roland Wallace, Jr. stated to the board the need for the proposed addition to their home.

Mr. Feigley closed the public hearing.

Mr. Feigley noted measurement discrepancies on the drawings.

Mr. Feigley motioned to grant a ten foot variance to establish a twenty-five foot rear setback.

Ms. James seconded the motion.

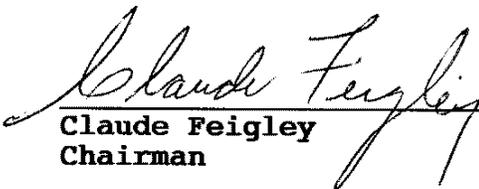
The variance was granted with a unanimous vote.

**E. MATTERS OF SPECIAL PRIVILEGE**

Pertaining to the University Square case, Mr. Farmer stated that the Supreme Court granted a Writ.

**F. ADJOURNMENT**

Mr. Feigley adjourned the meeting at 8:50pm.

  
\_\_\_\_\_  
Claude Feigley  
Chairman

\_\_\_\_\_  
Bernard M. Farmer, Jr.  
Secretary