

BOARD OF ZONING APPEALS

MINUTES

DECEMBER 16, 1993

A. ROLL CALL:

ABSENT:

Mr. Feigley  
Mr. Ripley  
Mr. Giedd  
Mr. Carr  
Ms. James (In at 8:00pm)

OTHERS PRESENT:

Bernard M. Farmer, Jr. Zoning Administrator

B. MINUTES

C. OLD BUSINESS

None.

D. NEW BUSINESS

ZA-13-93; Lucille E. Ruge

Mr. Farmer presented the staff report stating that Lucille E. Ruge has applied for an eight foot variance to the side yard requirements to construct an addition to an existing single family dwelling on her property located at 106 Richards Road in the Indigo Park subdivision. The property is further identified as parcel (2-4-11) on James City County Real Estate Tax Map (47-2) and is located in the R-1, Limited Residential zoning district.

Mr. Farmer further stated that the lot consists of a nonconforming single family dwelling with an attached garage located on the right side (when viewing from the front of the house). The house is nonconforming because as it exists, five feet of the garage encroaches into the side yard. The current required sideyard in the R-1 zone is 15 feet. The additions as proposed would encroach seven 7 feet into the sideyard. The expansion of a nonconforming single family dwelling is permissible provided that any expansion shall meet all current zoning requirements and that no nonconforming single family dwelling may be modified to accommodate additional dwelling units. While the applicant is requesting the variance to accommodate a handicap accessible bedroom, additions to the single family dwelling may be made elsewhere and meet current setback requirements. Because no undue hardship exists and

the situation is shared by other lots in the area, staff recommends denial of the variance.

Mr. Feigley opened the public hearing.

Mr. Fisher with J. H. Fisher Construction spoke on behalf of the applicant.

Mr. Feigley closed the public hearing.

Mr. Feigley asked if a variance would be necessary to make the property conforming.

Mr. Farmer stated that the property is legal as it presently exists. If the Board granted relief in this case their action would make the new addition legal and conforming and it would be attached to a portion of the home which is nonconforming.

Mr. Carr stated that he is not in favor of granting the additional 3' for the proposed expansion of the bedroom.

Mr. Feigley made a motion that the Board grant a five foot variance to the side yard requirement for the proposed addition

Mr. Carr seconded the motion.

A roll call vote was taken and the motion was carried 4 to 1 with Mrs. James dissenting.

ZA-14-93; Timothy Johnston

Mr. Farmer presented the staff report stating that Dr. Timothy Johnston has applied for 27 foot variance to the setback requirements to build an office building at the property located at 7191 Richmond Road.

Mr. Farmer further stated that the property could be developed meeting all current zoning requirements, including parking, landscape, etc. The property is currently owned by Cenit Equity Company of Norfolk, Virginia. The applicant is the contract purchaser. He has expressed an interest in building a dental office at some point in the future but has not submitted any building or conceptual development plans at this time. Medical clinics and offices are a generally permitted use in the B-1 zoning district but they must be built according to an approved site plan.

The applicant asks to reduce the setback on the south side of the property adjacent to Nina Lane from fifty feet to twenty three feet. The variance request appears to represent a special privilege or convenience not given like properties in the area. The staff does not consider that an undue hardship has been demonstrated therefore they recommend denial of the variance request.

Mr. Feigley stated to Mr. Farmer that he had researched the zoning ordinance and could not locate the requirement that stated 40 percent of the lot to remain as undeveloped open space.

Mr. Farmer stated that that requirement is contained in the Chesapeake Bay Preservation Regulations.

Mr. Feigley opened the public hearing.

Dr. Timothy Johnston spoke on behalf of the application and explained his reasoning.

Mr. Gary Massie, representing Kristiansand Office Park, spoke in opposition to the requested variance. He felt the property should be developed under the existing regulations.

Mr. Feigley closed the public hearing.

Several members remarked that they felt no hardship had been shown.

There was a brief discussion with Mr. Farmer regarding modification of the existing structure.

Ms. James made a motion to deny the variance request.

Mr. Carr seconded the motion.

A roll call vote was taken and the motion was carried 5 to 0.

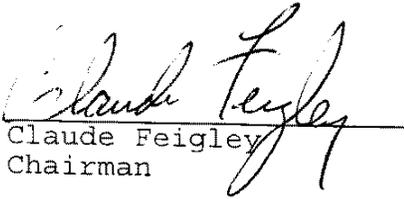
**E. MATTERS OF SPECIAL PRIVILEGE**

1. The 1994 Board of Zoning Appeals Calendar of meetings was approved.
2. The Board held Election of Officers.

Mr. Feigley	--	Chairman
Mr. Ripley	--	Vice Chairman
Mr. Farmer	--	Secretary

F. ADJOURNMENT

The meeting was adjourned at 8:45 P.M.

  
Claude Feigley  
Chairman

  
Bernard M. Farmer, Jr.  
Secretary