

**BOARD OF ZONING APPEALS**

**MINUTES**

**JANUARY 27, 1994**

**A. ROLL CALL:**

Mr. Feigley  
Mr. Ripley  
Mr. Giedd

**ABSENT:**

Ms. James  
Mr. Carr

**OTHERS PRESENT:**

Bernard M. Farmer, Jr. Zoning Administrator

**B. MINUTES**

The minutes of the December 16, 1993 meeting were approved.

**C. OLD BUSINESS**

None.

**D. NEW BUSINESS**

ZA-2-94; Mr. and Mrs. Robert McGaw

Mr. Farmer presented the staff report stating that Stephen Romeo, surveyor, on behalf of Mr. and Mrs. Robert McGaw has applied for a variance to reduce the required lot width at the building setback line from 150 feet to 143 feet for their property located at 2416 Sarah Spence in the Vineyards subdivision. A plat plan prepared by Stephen Romeo of Langley & McDonald submitted with building plans by Ron Davis Builder for a single family dwelling showed a portion of the porch of the dwelling to be forward of the building setback line. The builder was notified that a foundation survey was required due to the minimum front setback requirements. The submitted plans show the forward most edge of the porch features to be 9.25 feet from the building face. The foundation survey shows an encroachment into the required setback. The porch encroaches as much as 7.45 feet beyond the "setback line"; allowing for a maximum encroachment of 3 feet as allowed under the "building line" definition the porch still encroaches as much as 4.45 feet. Construction has continued on the building in spite of the encroachment.

Mr. Feigley clarified the sequence of events with Mr. Farmer regarding notification to the applicant at the time building permit was issued.

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Mr. Ripley questioned Mr. Farmer about the 150 foot zoning requirement and its intent.

Mr. Farmer stated that as well as he understands the intent was to have a sufficient lot width at the closest point where you were actually going to build a house.

Mr. Feigley opened the public hearing.

Mr. Stephen Romeo with Langley and McDonald, applicant, offered to the board an exhibit annotating setbacks as required by the zoning ordinance and a copy of the original application as submitted for the building permit.

Mr. Romeo stated that he had attempted to contact adjacent property owners in reference to any problems with the granting of this variance but got no response. He has also spoken with the developer of the project and he fully endorses the application for the variance.

Mr. Feigley questioned Mr. Romeo as to why they set the foundation where they did knowing how close they were to the setback.

Mr. Romeo stated that on the original application he had the setback noted at thirty-five feet. He was later notified by a member of the Code Compliance Office, after the foundation had been constructed that there was a potential problem.

Mr. Ron Davis, General Contractor stated that once he was notified that there was a potential problem he had a survey done on the property. Framing on the house had continued at this point.

Mr. Feigley closed the public hearing.

There was discussion among the board members about what the zoning ordinance states and its requirements.

Mr. Farmer clarified for the board the process that the Office of Code Compliance takes when an application for building permit is received and a proposed dwelling is located on or close to the required setback lines.

Mr. Ripley moved to grant a variance of 4.5 feet to the front setback.

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Mr. Giedd seconded the motion.

The motion passed unanimously.

ZA-1-94; Myrain & Shirley Harvey

Mr. Farmer presented the staff report stating that Mr. Johnny S. Walters, on behalf of Myrain & Shirley Harvey, has applied for a one foot variance for the existing single family dwelling for the property located at 105 Greenbrier in the Shellbank Woods subdivision. A building permit was issued in January of 1989 to construct a single family dwelling at this location. The original development plan showed the house to be seventeen feet from the side property line. When built, the house was shifted slightly to the right and an additional two feet, not indicated on the development plan, was added to the width of the house. A certificate of Occupancy was issued on May 30, 1989. Mr. Walters, the surveyor, failed to note the encroachment at the time of the original mortgage survey. An updated survey, October 1992, showed the house to encroach eleven inches into the sideyard.

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

Mr. Feigley opened the public hearing.

Mr. Johnny Walters, owner of Walters Land Surveying spoke on behalf of the applicants about the original survey made where he failed to note the encroachment.

Mr. Feigley closed the public hearing.

There was discussion among the board members that the contractor was at fault in this encroachment.

Mr. Feigley made a motion to grant the variance request.

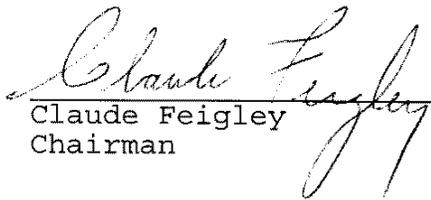
The motion passed unanimously.

**E. MATTERS OF SPECIAL PRIVILEGE**

None.

**F. ADJOURNMENT**

The meeting was adjourned at 8:30 P.M.

  
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Claude Feigley  
Chairman

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Bernard M. Farmer, Jr.  
Secretary