

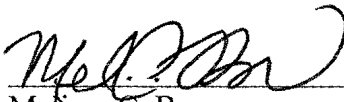


MEMORANDUM

TO: Records Management
From: Melissa C. Brown, Zoning Administrator
Date: 3/28/2012
Re: Board of Zoning Appeals Minutes – November 14, 1996

The following minutes for the Board of Zoning Appeals dated November 14, 1996 is missing the signature for Mr. Claude Feigley, Chairman. Mr. Feigley is no longer available to sign these minutes.

These minutes, to the best of my knowledge, are the official minutes for the November 14, 1996 Board of Zoning Appeals meeting. They were approved by the Board of Zoning Appeals at the December 5, 1996 meeting. Please accept these into the official record.



Melissa C. Brown
Zoning Administrator

BOARD OF ZONING APPEALS

November 14, 1996

A. ROLL CALL

PRESENT:

Mr. Feigley
Mr. Giedd
Mr. Nice
Mr. Ripley

ABSENT:

Ms. Wallace

Others Present:

Allen J. Murphy, Acting Zoning Administrator
Jacqueline White, Zoning Officer
Steve Grant, Staff

B. MINUTES

The minutes of the October 10, 1996 meeting were approved as submitted.

C. OLD BUSINESS

ZA-21-96; Gregory R. Davis, Attorney for Colonial Construction and Charles & Mary Crone.

Ms. White presented the case stating that this case had been deferred and just to reiterate Mr. Gregory Davis, attorney for the developer and the owners, has applied for a variance from the rear setback requirements for the property located at 122 Indigo Dam Road. Ms. White further stated that there was a discrepancy as to how much of a variance was actually required. The Board requested additional information. That information has since been provided by the applicant.

Mr. Feigley opened the public hearing.

Mr. Davis updated the Board on the new survey and stated that a variance of 4.9 feet was needed for the rear setback requirement. Mr. Davis also advised the Board that copies of the canceled checks demonstrating employment of the surveyor by Colonial Construction had been submitted to staff.

Mr. Nice moved to grant the variance. Mr. Feigley seconded the motion.

The motion was approved unanimously.

D: NEW BUSINESS

ZA-24-96; David Mika

Ms. White presented the case reporting that Mr. Mika, property owner, has requested a variance from the rear setback requirement for the

property at 4588 Village Park Drive East, in the R-2, General Residential Zoning District. The property is further identified as parcel (15-42) on the James City County Real Estate Tax Map (47-1).

Ms. White further commented that the property is located in the Village Square subdivision, a cluster development and that the established rear setback is 5 feet from the rear property line.

The parcel is a trapezoid shaped lot, slightly less than 1 acre in size. The two story house was constructed in 1995; the deck was not part of the original construction plans. In March 1996, subsequent to the completion of the dwelling, plans were submitted and approved for construction of a deck on the rear of the structure. The building permit plans indicated that the deck was to be 12 feet by 24 feet, 288 square feet. Site drawings submitted with the building permit application indicated no encroachment into the setback. Recent drawings now indicate that the deck as constructed encroaches into the rear setback requirement. The rear property line is only 12.9 feet from the rear of the house; the deck is approximately 12 feet leaving about 9 inches. The applicant is now requesting a 5 foot variance to allow for the entire deck as it now exists.

Mr. Feigley asked how the encroachment came about.

Ms. White explained that on the original survey submitted that the deck was not drawn to scale.

A discussion of the survey and the deck took place.

Mr. Ripley asked if the area behind the deck could be developed. Ms. White stated no, the area has been designated as a conservation area.

Mr. Feigley stated that he did not agree with the County's determination that there was no unusual topography. Mr. Feigley further commented that the land drops off fairly rapidly as noted in the photos submitted by the applicant.

Mr. Feigley opened the public hearing.

Mr. Mika stated that the property does in fact drop off fairly drastically and that the end of the deck is roughly 13 feet above the ground. Mr. Mika further stated that if he built the deck within the setback (approximately 7 feet) then the deck would be only 1 to 2 feet wide at the breakfast nook or chimney area.

A discussion of the width of the deck and cluster development setbacks took place.

Mr. Feigley closed the public hearing.

Mr. Nice stated he believed Mr. Mika had no experience in completing the building permit application forms and felt that the County should have given him assistance and direction. Mr. Nice further commented that the County should have looked at the application a lot closer and that there was plenty of opportunity for the County to comment about the setbacks. Mr. Nice stated that the Mr. Mika deserves some relief.

Mr. Ripley agreed with Mr. Nice and stated that the deck would be worthless if the deck was to be cut back and that the deck would not impact anyone. Mr. Ripley further stated that he felt staff should have caught the setback error.

Mr. Feigley stated that he has some difficulty with the request because he could not conceive of anyone not drawing the deck to scale when the site plan is to scale. Mr. Feigley further commented that although the County should have caught the error, that at first glance you would think that the site plan and deck addition were accurate because of the seal.

Mr. Giedd stated that the County was good at helping customers, however the error should have been caught.

Mr. Feigley stated that this is not the first case in recent months that have been brought to the Board and had the County been doing their job thoroughly, the Board would not see these cases filed.

A discussion of the permitting process and whether the Board was going to take policy and grant all of these types of cases took place.

Mr. Nice moved that the 5 foot variance request be granted. Mr. Ripley seconded the motion.

The motion was approved unanimously.

Mr. Feigley stated that he would like to make a plea that the County be more precise in granting building permits.

ZA-25-96; Bonnie Mayo

Ms. White presented the case stating that Ms. Mayo had requested a 1.7 foot variance to the side setback requirement for an existing sun room addition for the property at 206 Bergen Circle in the R-2, General Residential, zoning district, in the Norvalia subdivision. The property is further identified as parcel (3-36) found on James City County Real Estate Tax Map (23-2).

Ms. White further reported that the house is on a triangular shaped parcel on a cul-de-sac. The 100 square foot sun room addition was constructed in 1993. The site drawing submitted with the application indicated that the addition was to be 10 feet by 10 feet and located approximately 22 feet from the side property line. As constructed, the addition appears to be only 8.3 feet from the side property line. The property is now for sale and the potential buyer inquired as to the possibility of removing the sun room and constructing an addition. It was during the inquiry that the discovery was made about the encroachment. As constructed the sun room is approximately 8 feet from the side property line.

A discussion of the site plan took place.

Mr. Feigley opened the public hearing.

Mr. Andy Herrick presented Ms. Mayo's case stating that the sun room was built in accordance with the permit and that she has been more than

responsible in building the sun room as permitted. Mr. Herrick further stated that the adjacent property owners do not object to the variance request.

Mr. Ripley asked who the contractor for the sun room.

Mrs. Mayo came forward and stated that George Akery was the contractor and he has retired and moved out of the area.

Mr. Nice asked if Ms. Mayo or the contractor applied for the building permit.

Ms. Mayo stated that she had applied for the permit and that the contractor supplied the drawings. Ms. Mayo further stated that she supplied drawings three times to the county because previous drawings had been declined during review and she assumed it was because it did not meet particular setback requirements.

A discussion of why the previous drawings were declined by the county took place.

Mr. Feigley closed the public hearing.

Mr. Feigley moved that the 1.7 foot variance request be granted. Mr. Ripley seconded the motion.

The motion was approved unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

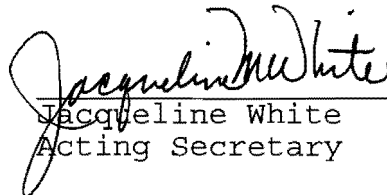
Mr. Feigley called to the Board's attention that the December meeting will be held on December 5th at the Human Services Auditorium at Olde Towne Road. Mr. Feigley further commented that he would like to see a full Board because there will be some sign ordinance issues being heard.

Mr. Ripley stated that his term as a Board member will expire in February and he will not be returning as a member as he will be relocating to another county.

F. ADJOURNMENT

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

Claude Feigley
Chairman



Jacqueline White
Acting Secretary