

BOARD OF ZONING APPEALS

FEBRUARY 22, 1990

A. ROLL CALL

Mr. Claude Feigley
Ms. Nancy James
Mr. Bob Ripley

ABSENT
Mr. Baxter Carr
Mr. Ken Giedd

B. MINUTES

The December 28, 1989 minutes were deferred to the next meeting.

C. OLD BUSINESS

Mr. Farmer stated an Amendment to the Ordinance to allow for certain encroachments of chimneys has been drafted and will be forwarded to the Planning Commission and will soon be before the Board of Supervisors for approval. If the Board approves the amendment the issue regarding the encroachment of the Nuttycombe case would be a moot point.

D. NEW BUSINESS

1. Case No. ZA-1-90. Houston and Lucy Caldwell

Mr. Farmer presented the staff report stating that Houston and Lucy Caldwell had requested a 2 foot variance from the rear yard requirements and a 2.75 foot variance from the side yard requirements for an existing single family dwelling at 107 Pasbehegh Dr. As well as can be determined from a review of existing records, the original construction of the house encroached into the rear yard. On the west side, a carport encroached into the side yard, but may have been "detached" at the time it was constructed and not considered part of the main structure for purposes of setback and yard requirements. In 1983 a permit was issued to the previous owners to enclose the carport and make it part of the living space. At that time no variance was issued and there is no record of any action which abated the violation of the rear or side yard. While planning for construction of a recent addition the owners discovered that the side and rear of their home encroached into the required 15 foot side and 35 foot rear yard. The location of the recent addition was changed to conform with ordinance requirements and work was allowed to proceed. The present owners, the Caldwelles, are seeking relief for the encroachments which occurred prior to their ownership. Staff recommends denial since no unusual topographic characteristics or other circumstances have been demonstrated which would constitute an undue hardship. Application of the zoning ordinance requirements does not prevent beneficial use of the property.

A discussion followed regarding the survey plat which was submitted with the application.

Mr. Feigley opened the public hearing.

Mr. Caldwell addressed the Board and stated he was available to answer any questions, he also stated he had a survey done prior to closing on the property but obviously an oversight had occurred.

Mr. Feigley questioned the accuracy of the measurements of the rear setback.

Mr. Caldwell and Mr. Ripley explained how they measured for the addition and how they eventually had a surveyor set the pins.

Ms. James questioned who wrote in the 33 feet on the plat submitted with the application and was told Code Compliance wrote it in when he brought in the application, after questioning Mr. Caldwell.

Mr. Feigley closed the public hearing.

Mr. Ripley moved to grant the rear and side yard variances for an existing structure at 107 Pasbehegh Dr.

Ms. James seconded the motion.

The motion for approval of the variances was carried unanimously.

2. Case No. ZA-2-90. Carlton T. Hall

Mr. Farmer presented the staff report stating that Mr. Carlton Hall had requested a 2.25 foot variance from the rear yard requirements and a 1.48 foot variance from the side street requirements for an existing single family dwelling. Mr. Hall was issued a building permit to construct a single family dwelling on this parcel inside of the required setbacks. Mr. Hall proceeded with construction and the occupancy permit was issued in December. Approximately one month later a physical survey was done for mortgage purposes and the violations of the setback and yard requirements were discovered. Mr. Hall has indicated that he did have the setbacks staked prior to construction by a licensed surveyor (L.V. Woodson). The subsequent survey for mortgage purposes was done by Spearman and Associates. The staff recommends denial since no unusual topographic characteristics or other circumstances have been demonstrated which would constitute an undue hardship. Application of the zoning ordinance requirements does not prevent beneficial use of the property.

Mr. Feigley opened the public hearing.

Mr. D.R. Dansby, attorney representing Mr. Hall, presented photo's and explained the encroachments with help of the photos.

Mr. Hall addressed the Board and stated he was available to answer questions.

Mr. Hall explained how and why he originally hired Mr. Woodson to perform the survey and stake off the lot, and Mr. Dansby indicated their use of Mr. Spearman was only due to normal business associations.

Mr. Feigley questioned if Mr. Woodson was familiar with the setback requirements in Mill Creek Landing, and was told Mr. Woodson was the surveyor who originally laid off the subdivision.

Mr. Feigley questioned if Mr. Hall plans to occupy the dwelling and if the adjacent property is vacant was told yes.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to grant the rear and side yard variances as requested.

Ms. James seconded the motion.

Mr. Ripley stated he felt Mr. Hall had made an excellent effort to conform to zoning ordinances.

The motion to grant the variances was carried unanimously.

E. MATTERS OF SPECIAL PRIVILEGE

The proposed calendar for 1990 was accepted as amended.

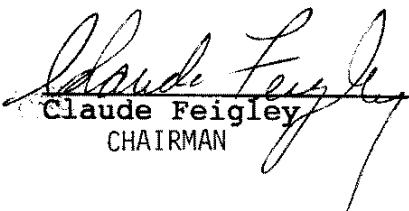
Mr. Farmer presented a draft of a new Application Form for Variances.


The Board approved of the format and ask Mr. Farmer to proceed with completing the form.

Ms. James asked to have the Magisterial District included in the address of the applicant in the future.

F. ADJOURNMENT

The meeting was adjourned at 8:15 PM.


Claude Feigley
CHAIRMAN


Bernard M. Farmer, Jr.
SECRETARY