

BOARD OF ZONING APPEALS

MINUTES

APRIL 22, 1993

A. ROLL CALL

Mr. Feigley
Mr. Ripley
Mr. Giedd

ABSENT:

Mr. Carr
Ms. James

OTHERS PRESENT:

Bernard M. Farmer, Jr. Zoning Administrator

B. MINUTES

The approval of the March 25, 1993 minutes was postponed.

C. OLD BUSINESS

Mr. Farmer stated to the board that new Co-Council, an attorney in Virginia Beach had been assigned to the University Square Case. He had filed a motion for dismissal ten days prior to the deadline for filing the briefs.

Mr. Feigley stated to the applicants that they had the option to carry their case to the next meeting because there were only (3) members present.

D. NEW BUSINESS

ZA-6-93; Michelle Baker

Mr. Farmer presented the staff report stating that Michelle Baker had requested an eight and one half foot variance from the rear yard requirements of Section 20-177(b) of the Zoning Ordinance for a deck attached to an existing dwelling at 104 Teal Way. This property is in the R-2, General Residential Zoning District. It is further identified as Parcel (23-47) on Real Estate Tax Map (32-3). The zoning regulations require a minimum rear yard of 35 feet for each main structure. A survey of the property shows that the deck encroaches into the required rear yard by 8.5 feet.

Mr. Farmer further stated that the home was completed in 1988 and had a Certificate of Occupancy issued in September of 1988. Since records are not kept permanently, all that is available from the original permit file is the site drawing submitted as part of the application. Though the applicant has stated that the deck existed at the time of the original sale of the house, we are

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unable to determine at what point it was constructed since it did not show on the site drawing. The encroachment is shown on a survey plat dated May 9, 1989 prepared by Spearman & Associates, Inc. The survey shows that there was adequate room on the lot to site the home with no encroachment. There are no apparent topographic, size, shallowness, shape or other special conditions to warrant an encroachment. Since no undue hardship exists and there are no unique conditions to warrant a variance staff recommends denial of the request. Granting this variance would amount to a special privilege which is denied like zoned and situated properties.

Mr. Feigley opened the public hearing.

Mr. John Ransone, general contractor, and neighbor to the applicant spoke briefly on the proposed additions to the home. He stated that there was no other way of adding on the existing home except to build on the existing deck.

Mr. Feigley stated to the applicant that there are certain criteria that the board must meet when granting a variance such as legal hardship, topography of land, etc.

Ms. Baker stated that the deck was on the home when she purchased the home, and is not aware how they were able to close on the property with the existing encroachment.

Mr. Farmer read from section 15.1-495 of the Local Planning Legislation on the Powers and duties of the board of zoning appeals.

Mr. Ripley spoke briefly on the lot size and that the lot in question was a lot shallower than most in the general area.

Mr. Giedd spoke briefly on allowing the deck to remain on the property, but not to allow further improvements or additions to it.

Mr. Farmer stated to the board that he did receive one letter from an adjacent property owner in favor of granting the variance for the proposed addition.

Mr. Feigley motioned to grant a ten foot variance from the rear yard requirements for the existing deck with the following conditions:

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1. That the deck may not be enclosed or have any other construction.
2. That any additions to the residence conform with the required setbacks.

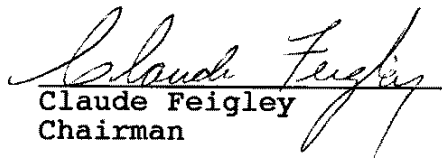
The motion was carried with a unanimous vote.

E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at 8:25 P.M.



Claude Feigley
Chairman

Bernard M. Farmer, Jr.
Secretary