

**BOARD OF ZONING APPEALS**

**MINUTES**

**JANUARY 26, 1995**

**A. ROLL CALL ABSENT**

Mr. Feigley	Mr. Carr
Mr. Giedd	
Mr. Ripley	
Ms. Wallace	

Others Present:

Bernard M. Farmer, Jr. Zoning Administrator

**B. MINUTES**

The minutes of the November 17, 1994 meeting were approved with changes.

**C. OLD BUSINESS**

ZA-21-94; Stadium Oil Sales

No action was taken on this application. It will be deferred until further information is received.

**D. NEW BUSINESS**

**ZA-01-95; Mary Alice Dunlap**

Mr. Farmer presented the staff report stating that Ms. Dunlap has requested a twelve foot variance to the setback requirement for an existing carport, shed and deck, for property at 207 Castle Lane. The property is further identified as Parcel (8-2) found on James City County Real Estate Tax Map (46-2). A building permit was issued to the property owner, Mary Alice Dunlap, in 1985 to construct the above mentioned single family dwelling. The lot is located on a cul-de-sac. The house is situated in the northern most corner of the lot. There is a swale on the south side of the lot. The original building permit indicates that the structure was to have a rear setback of thirty six feet which would have met the thirty five foot setback requirement. A recent survey of the property shows that the house has been constructed such that it encroaches into the rear setback by approximately five feet. In addition, there is also an attached carport, shed and deck that

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encroach into the rear setback. To allow for all the encroachments, a twelve foot variance would be required. Ms. Dunlap's attorney, Marion Paine, has stated that the carport and shed were built at the same time as the single family dwelling and that the deck was only partially completed at the time Ms. Dunlap moved into the house. Since the construction of the house, James City County has adopted the Chesapeake Bay ordinance. This established and designated Resource Protection Areas (RPA) which are designed to protect sensitive lands. The house is located entirely within the RPA buffer. While a swale exists on a portion of the property, no variance would be required if the structure had been located in accordance with the approved plans. Although, the swale may be a unique characteristic of the property, sufficient area exists for the house to have been located on the lot within required setbacks. The lot is similar to neighboring like zoned properties and possesses no unusual shape or size.

Mr Farmer stated that the Chesapeake Bay Ordinance should not impact the decision of the board in this instance because the Ordinance was enacted after this house was built and the lot was in existence prior to those regulations being in effect.

Mr. Feigley opened the public hearing.

Marion Paine with Otey & Otey spoke on behalf of the application.

Mr. Feigley asked if the deck was part of the original building permit.

Ms. Paine stated that she believed that the deck was part of the original building permit.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to grant a twelve foot rear yard variance with the following condition:

1. No other construction be done except as it would conform to existing setback requirements and no modifications be made to the deck or carport.

Mr. Ripley seconded the motion.

The motion carried unanimously.

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**ZA-02-95; Michael Sloan**

Mr. Farmer presented the staff report stating that Mr. Sloan has requested a five foot variance to the setback requirement to allow a proposed free standing sign to be located closer than five feet from the front property line for property at 1769 Jamestown Road in the Limited Business Zoning District. A site visit shows the sign would be visible for approximately 120 feet to the East and 340 feet to the West if placed as allowed under the current ordinance.

Mr. Feigley opened the public hearing.

Mr. Patrick Friel of Sloan and Associates, spoke on behalf of the application.

A video tape was submitted for review by the board to simulate how visible the sign would be if placed in the required setback.

Mr. Michael Sloan spoke on behalf of his application.

Mr. Feigley closed the public hearing.

Mr. Feigley moved to allow placement of a free standing sign on the front property line or within Virginia Department of Transportation Right of Way no closer than eighteen feet from the edge of pavement.

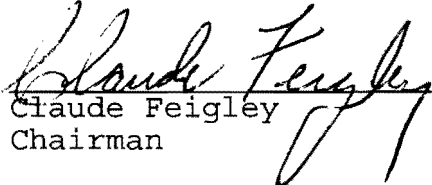
The motion was carried unanimously.

**E. MATTERS OF SPECIAL PRIVILEGE**

None.

**F. ADJOURNMENT**

The meeting was adjourned at 9:30 P.M.

  
Claude Feigley  
Chairman

  
Bernard M. Farmer, Jr.  
Secretary