

BOARD OF ZONING APPEALS
Minutes for the meeting of September 6, 2001

A. ROLL CALL

The meeting came to order at approximately 7:32 p.m.

PRESENT:

Mr. Ken Giedd
Mr. David Nice
Mr. Emeric Fischer
Mr. Jack Fraley

ABSENT:

Ms. Gloria Wallace

OTHERS PRESENT:

Mr. John Rogerson, Zoning Officer
Mr. Charlie Petersen, Development Management Assistant

B. MINUTES

The minutes of the June 7, 2001 and August 2, 2001 meeting were approved.

D. OLD BUSINESS

None.

E. NEW BUSINESS

Case No. ZA-10-01 103 Jameswood

Mr. Giedd explained the duty and powers of the Board of Zoning Appeals

Mr. Nice noted that his company; David A. Nice Builders Inc. were the contractors that converted the screened in porch into a sunroom in March of 1992.

Mr. Giedd and the other Board members agreed that since Mr. Nice had no current financial interest in the property and that there are new property owners there was no conflict of interest. Therefore, Mr. Nice participated in the hearing.

Mr. Giedd asked that the staff report be read.

Mr. John Rogerson read the staff report stating the following:

Mr. and Mrs. James Bell, property owners, have requested a variance to section 24-238 (b) of the James City County Zoning Ordinance for the continued placement of an existing sunroom located at 103 Jameswood in the Shellbank Woods subdivision. The variance request is to reduce the rear yard setback from thirty-five feet to thirty-three feet. This property can also be identified as Parcel (04-0-0036) on the James City County Real Estate Map (45-1). This property is located in the R-1, Limited Residential Zoning District.

A survey with a site plan for a new single-family dwelling was submitted in April of 1987. The proposed site plan did not identify a screened-in porch on the rear of the house. A building permit was issued for the new single family dwelling in May of 1987. The building permit application showed the rear setback as being fifty feet (50'). County staff has no record of any permits being issued for the addition of a screened in porch. (Which encroaches into the rear setback of thirty-five foot (35') by two feet (2')) In March of 1992, a building permit application was submitted and approved to convert the existing screen porch into an enclosed heated sunroom. Although a site plan was not submitted with the application, the building permit application was approved, and the screened in porch was converted into a sunroom. Since the screened in porch was built without a permit the County had no record of the encroachment when we approved the conversion of it to a sunroom.

The current homeowners, Mr. and Mrs. Bell, were aware of the two-foot encroachment when they bought the house in January of 2001. Mr. And Mrs. Bell purchased an indemnification bond to cover them against any loss associated with this encroachment at the time of purchase.

Mr. Giedd opened the public hearing.

Mrs. Bell stated that the main reason that they bought the house was because of the sunroom, she then showed the Board members pictures of the sunroom from inside the house.

Mr. Fischer asked why the property owners were applying for the variance now.

Mr. Bell stated that he was applying for the variance to clear up the issue now so that it did not become an issue in the future.

Mr. Giedd asked if staff had heard of any objections from adjacent property owners regarding the variance request.

Mr. Rogerson said staff had not heard from any adjacent property owners regarding the variance request.

Mr. Giedd closed the public hearing.

Mr. Nice stated that he did not feel that the overall character of the neighborhood or the zoning district would be affected by the approval of the variance.

Mr. Fischer agreed.

Mr. Giedd made a motion to approve a variance of three feet to the rear yard setback. This variance would establish the new rear yard setback at thirty-two feet, with no further expansion into the new rear yard setback.

Mr. Nice seconded the motion.

Mr. Rogerson called for a vote.

The motion was approved 3-0

E. MATTERS OF SPECIAL PRIVILEGE

None.

F. ADJOURNMENT

The meeting was adjourned at approximately 7:46 p.m.



Ken Giedd
Chairman



Allen J. Murphy
Secretary