

BOARD OF ZONING APPEALS

October 4, 2001

A. ROLL CALL

PRESENT:

Ms. Wallace
Mr. Fischer
Mr. Fraley

ABSENT:

Mr. Nice
Mr. Giedd

OTHERS PRESENT:

Jim Breitbeil, Zoning Officer

B. MINUTES

The minutes of the September 6, 2001 meeting were approved with the correction of indicating Mr. Jack Fraley as present.

C. OLD BUSINESS

None

D. NEW BUSINESS

ZA-11-01 113 Sabre Drive

Mr. Jim Breitbeil presented the staff report stating Mr. and Mrs. Charles D. Rackley, property owners, have requested a variance to Section 24-238, Yard Regulations, of the James City County Zoning Ordinance for the continued placement of an existing single-family dwelling at 113 Sabre Drive. The variance request is to reduce the required rear yard setback from 35 feet to 31 feet for the continued placement of an existing single-family dwelling. The property is currently zoned R-1, Limited Residential and can be further identified as Parcel No. (07-0-0011) on James City County Real Estate Tax Map No. (46-2).

A building permit for the construction of single-family dwelling on this parcel was approved on October 2, 1985. Foundation surveys, which are commonly used today in the review process, were not a requirement at the time of this permit. Therefore, staff was not aware that the dwelling was constructed with an encroachment on the required rear yard setback. Mr. and Mrs. Rackley are not the first owners of this dwelling. They are now in the process of selling their home, and a variance is required to proceed with the sale.

The dwelling as shown on the attached survey dated 8/21/01 does not present a substantial detriment to adjacent property, nor does it alter the character of the area. Staff finds that Mr. and Mrs. Rackley acquired this property in good faith when they purchased their home approximately eleven years ago. The encroachment should have been noticed at the time they purchased the property. This property does not provide a unique situation where a variance would be required for the placement of a dwelling on the lot; therefore, staff cannot support the variance request.

Mr. Fraley asked who would have noted the encroachment eleven years ago when the property was sold.

Mr. Breitbeil stated the closing attorney.

Ms. Wallace opened the public hearing

Mr. David Holland, attorney for the Rackleys, stated the closing attorney did not catch the encroachment when the Rackleys purchased their home in 1992. The Rackleys are not the first property owners and the buyer's closing attorney will not let the sale go through when he noticed the encroachment. He asked the Board to grant the variance.

Ms. Wallace closed the public hearing.

Mr. Fraley made a motion to grant a variance to Section 24-238, Yard Regulations, of the James City County Zoning Ordinance to establish the rear yard setback at 31 feet for the continued placement of the dwelling at 113 Sabre Drive as shown on the physical survey by LandTech Resources, Inc. dated August 21, 2001.

Mr. Fischer seconded the motion.

The motion was granted unanimously (3-0).

ZA-12-01 126 John Rolfe Lane

Mr. Jim Breitbeil presented the staff report stating Mr. and Mrs. Mark J. Valla, property owners, have requested a variance to Section 24-238, Yard Regulations, of the James City County Zoning Ordinance for the continued placement of an existing deck, with a proposal to add a sunroom to the deck on the rear of the dwelling at 126 John Rolfe Lane. The property is currently zoned R-1, Limited Residential and can be further identified as Parcel No. (06-0-0005) on James City County Real Estate Tax Map No. (45-2).

Mrs. Valla submitted a letter requesting this case be deferred to the November meeting. One formal letter of objection has also been received. The Berkeley's Green Management Association submitted a letter asking that this application be denied.

Ms. Wallace opened the public hearing.

Ms. Wallace closed the public.

Mr. Fischer made a motion to defer this case to the November meeting.

Ms. Wallace seconded the motion.

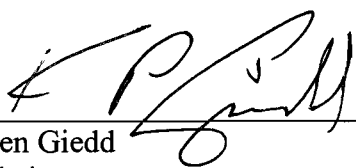
This motion was granted unanimously (3-0).

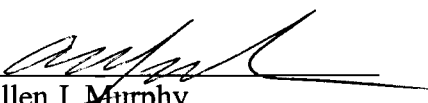
E. MATTERS OF SPECIAL PRIVILEGE.

None

F. ADJOURNMENT

The meeting was adjourned at approximately 7:50 p.m.


Ken Giedd
Chairman


Allen J. Murphy
Secretary