

**BOARD OF ZONING APPEALS**

**February 6, 2003**

**A. ROLL CALL**

**PRESENT:**

Mr. Nice  
Mr. Fraley  
Mr. Fischer  
Mr. Rhodes

**ABSENT:**

Mr. Turnau

**OTHERS PRESENT:**

John Rogerson, Zoning Officer  
Trey Davis, Development Management Assistant  
Mr. John G. Wood, Applicant

**B. MINUTES**

On a motion by Mr. Fischer, seconded by Mr. Nice, The minutes of the November 7, 2002 meeting were unanimously approved.

**D. OLD BUSINESS**

**E. NEW BUSINESS**

**ZA-15-02            124 Allyson Drive**

Mr. Fraley stated that Mr. Rogerson had provided the facts and findings of this case and then asked Mr. Rogerson if he had any additional comments he wished to make.

Mr. Rogerson explained the process of adjacent property owner notification letters.

The Board had no additional questions for Mr. Rogerson and Mr. Fraley opened the meeting to public comment at 7:30PM.

Mr. John Wood, the property owner, stated that the report presented by Mr. Rogerson accurately reflected the situation regarding the setbacks on his property.

Mr. Fraley asked if Mr. Wood had bought the house without a lawyer present.

Mr. Wood responded that there was a lawyer present at the closing, but that the issue had not been brought to his attention when he purchased the home 15 years ago. He added that he had lost one sale when the issue came to light in December.

Mr. Fraley closed the public comment section of the meeting at 7:33PM.

Mr. Fischer stated that Mr. Wood, and innocent buyer, had not been advised by a lawyer prior to the original purchase and that zoning laws have become more restrictive since that time. He added that the house, built in 1988, should be granted a variance of two feet.

Mr. Nice agreed that all parties had acted in good faith and that sometimes these issues are overlooked. He stated that this case was routine.

Mr. Rhodes asked Mr. Rogerson how frequently this type of issue arises.

Mr. Rogerson responded that the implementation of foundation surveys for all construction within three feet of setback lines has been effective over the past five years in preventing this type of case from occurring with new construction. He added that the Zoning Administrator can grant variances of up to 18 inches, but that Mr. Woods' house encroached 19.2 inches into the setback.

Mr. Fischer moved to grant the variance.

Mr. Nice seconded the motion.

Mr. Rogerson read a RESOLUTION: The board grants variance to Section 24-238 (a) of the James City County Zoning Ordinance to establish the left side (south-east) yard setback at 8 feet with no further encroachment permitted.

Mr. Rogerson called for a vote.

The motion was approved 4-0.

## **E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Fraley stated that at the last meeting, Mr. Turnau had asked whether the meeting time could be moved earlier. Mr. Fraley noted that the BZA could only decide this issue at the first meeting on each year.

Mr. Fischer stated no preference for any particular time but that 7PM would be fine.

Mr. Nice said that he works late and that 7PM or 7:30PM was convenient for him.

Mr. Rhodes agreed that those times were best for him as well.

Mr. Fraley stated that 7PM would be convenient for him and asked Mr. Rogerson for staff's opinion.

Mr. Rogerson replied that 7PM was very reasonable.

The Board voted unanimously to adopt a new meeting time of 7PM every first Thursday of the month.

Mr. Fraley informed the Board that it was time to elect officers for the year – both a chair and vice-chair.

Mr. Nice said he would not mind keeping the officers as they are, but Mr. Fraley pointed out that Ms. Wallace, the former vice-chair, was no longer a member of the Board.

Mr. Nice nominated Mr. Fraley for the chair.

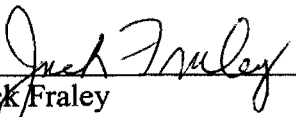
Mr. Fischer seconded the nomination and Mr. Fraley was elected unanimously.

Mr. Fraley nominated Mr. Fischer to serve as vice-chair.

Mr. Nice seconded the nomination and Mr. Fischer was elected unanimously.

**F. ADJOURNMENT**

The meeting was adjourned at approximately 7:40 p.m.

  
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Jack Fraley  
Chairman

  
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Allen J. Murphy  
Secretary