

**BOARD OF ZONING APPEALS**

**June 5, 2003**

**A. ROLL CALL**

PRESENT:

ABSENT:

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

OTHERS PRESENT:

Christy Parrish, Zoning Officer  
Trey Davis, Development Management Assistant  
Mr. Mark Minarik, Applicant

**B. MINUTES**

On a motion by Mr. Rhodes, seconded by Mr. Turnau, the minutes of the May 1, 2003 meeting were unanimously approved.

**D. OLD BUSINESS**

**E. NEW BUSINESS**

**ZA-06-03                    214 Hempstead Road**

Mr. Rhodes asked whether the variance request applied to the entire width of the property or only the deck.

Ms. Parrish replied that it applied only to the deck.

Mr. Fraley opened the meeting to public comment at 7:07 PM.

Mr. Mark Minarik, the applicant and property owner, thanked Ms. Parrish for being open and available throughout the process and for carefully explaining the hardship issue. He stated that he felt that not being able to replace the deck would be a hardship because the previous deck had caused repeated structural damage to the house. He expressed his desire to only replace the deck with one in the exact same footprint and noted that the current deck was put in by a previous owner without a building permit. Mr. Minarik said he had spoken with his neighbors and none of them had expressed any concern about replacing the deck.

Mr. Fischer asked if the deck was currently causing damage to the house.

Mr. Minarik replied that it was because it was built a step too high and was improperly flashed, thus allowing water to drain into the main support structure.

Mr. Rhodes noted that the house is set back on the lot further than most houses in the neighborhood.

Mr. Minarik replied that the chimney rested on the setback line.

Mr. Rhodes asked whether these lines had been moved since the house was constructed in 1983.

Ms. Parrish replied that they had not.

Mr. Rhodes asked whether anyone had noticed this encroachment into the setback during the transfer of property.

Mr. Minarik replied that they had not.

Mr. Turnau said his daughter owns a house behind Mr. Minarik's in another neighborhood and that Mr. Minarik's house is not at all visible from the rear.

Mr. Fraley closed the public comment section of the meeting at 7:20PM.

Mr. Fischer stated that the deck was in violation of the setback lines, but that it clearly affected the main structure and was close to being a hardship. He saw no adverse effects to building the deck exactly as it had been before and was inclined to grant the variance.

Ms. Turnau and Mr. Rhodes concurred.

Mr. Fischer moved to grant the variance.

Mr. Rhodes seconded the motion.

Ms. Parrish read a RESOLUTION: The board grants a variance to Section 24-258(b), Yard Regulations, of the James City County Zoning Ordinance. This variance reduces the required rear yard setback from 35 feet to 24 feet for the replacement of an existing deck. There can be no further expansion into the rear yard setback.

Ms. Parrish called for a vote.

The motion was approved 4-0.

Upon a request from Mrs. Minarik, Mr. Fraley reopened the meeting to public comment at 7:23 PM.

Mrs. Minarik asked whether the deck could always be replaced.

Mr. Fraley replied that it could.

There being no further comments, Mr. Fraley closed the public comment section of the meeting at 7:25PM

**E. MATTERS OF SPECIAL PRIVILEGE**

Mr. Fraley asked the Board whether they wished to proceed with the July 3 meeting, reschedule it to a later time, or cancel it and wait to hear the two pending cases at the August meeting given that several BZA members would be out of town for the holiday weekend.

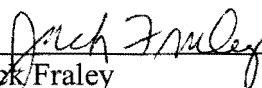
Mr. Turnau said the BZA should find a way to meet at another date in July so as to hear these cases in a timely manner.


Mr. Nice arrived at 7:30PM.

The Board discussed the dates in July they might be available to meet and agreed that Thursday, July 17, 2003 would be convenient for everyone.

**F. ADJOURNMENT**

The meeting was adjourned at approximately 7:38 p.m.

  
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Jack Fraley  
Chairman

  
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Allen J. Murphy  
Secretary