

BOARD OF ZONING APPEALS
January 8, 2015

Mr. David Otey Jr. called the meeting to order at 7:00 p.m.

Ms. Christy Parrish called the roll

A. Roll Call

Present:

Mr. Marvin Rhodes
Mr. David Otey Jr.
Mr. Ron Campana Jr.
Mr. William Geib
Mr. Stephen Rodgers

Others Present:

Mr. Jason Purse, Zoning Administrator
Ms. Christy Parrish, Proffer Administrator
Mr. Maxwell Hlavin, Assistant County
Attorney

B. Old Business

None

C. New Business ZA-0006-2014 4604 John Tyler Highway

Ms. Christy Parrish presented the staff report. She stated Mr. Danny Poe, on behalf of James City Service Authority (“JCSA”), has applied for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 10 feet from the front property line and approximately 3 feet from the left side property line. This proposed variance request is to allow the construction of Lift Station 4-7 Control Building replacement at 4604 John Tyler Highway. The JCSA Lift Station 4-7 control building is proposed to be replaced due to multiple flooding events that have affected the building, damaged associated equipment, and resulted in wastewater overflows into the environment. The existing control building was constructed in 1977 and is located approximately 16.3 feet from the front property line and approximately 6.3 feet from the left property line. Staff concludes that the current placement of the building is non-conforming because the requirement for “Special provisions for lots for public utilities” was not established until 1984. James City County owns the property directly adjacent to the left, right and rear of the site and is designated as a greenway area. The property is also located in the Resource Protection Area (“RPA”) but is not located in a FEMA special flood hazard area. JCSA has obtained the necessary approvals from the James City County Engineering and Resource Protection Division to construct within the RPA. To alleviate flooding, JCSA is proposing to construct a new control building that will be flood-proofed with a watertight entry door. The new building will increase in size and is proposed to encroach further into the front and left yard setbacks. Enlarging and proposed placement of the new control building is necessary for the following reasons:

1. Northeast corner of the building must remain fixed due to the suction and discharge piping for the pumps that enter and exit the building.

2. Southwest wall must be expanded to accommodate the generator so that the 29"x42" exhaust duct can be directed up the wall and out the gable end above the concrete floodwall.
3. New electrical code clearance requirements dictate a large control building.

Ms. Parrish corrected a statement in the staff report. She explained that if the variance was not granted, JCSA would have to abandon the project and not the parcel.

Ms. Parrish stated that an unnecessary hardship exists when the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property. Staff supports this variance for the following reasons: (1) the existing size and current infrastructure of the lot restricts the location of the proposed building which is not shared by others in the same vicinity; (2) the expansion is necessary to prevent flood damage to a public utility; (3) the expansion will eliminate wastewater overflow onto natural areas during a flood event which will protect the health, safety and welfare of the surrounding area; (4) the County owns the surrounding property which is held as dedicated green space; and (5) the proposed location does not adversely affect neighboring properties. Staff recommends approval of the requested variance as described in the attached resolution.

Lastly, Ms. Parrish stated that the Planning Commission had reviewed and approved this project.

Mr. Rhodes questioned why the County did not deed over the necessary acreage to the James City Service Authority for the project instead of going through this variance process.

Ms. Parrish discussed that adding additional acreage to this lot would only address the side setback issue but the front setback issue would remain the same, since the building needed to stay in the same general location.

Mr. Rhodes asked what the setback requirements were when the ordinance was originally adopted.

Ms. Parrish replied that staff was unaware of the considerations at that time but assumed it was due to the small lot size. She added that this lot size is typical for a utility lot.

Mr. Geib asked for clarification on the reasons why the building could not be constructed further back on the lot.

Ms. Parrish replied that that location of the existing pump and mechanical equipment are fixed and cannot be moved without incurring significant expense.

Mr. Otey requested an explanation of the map showing setbacks.

Ms. Parrish explained the map was only a visual exhibit displaying the overlapping setbacks on the property if were not a utility lot.

Mr. Otey opened the public hearing.

Mr. Danny Poe, James City Service Authority, gave a brief overview of the project. He stated that the suction and discharge piping dictates the northeast corner of the building remain fixed. In addition, access for pump and haul trucks and service trucks is essential on the eastside of the building where the driveway is located to provide emergency services which make relocating the building to the east infeasible. Lastly, the building must be expanded to meet the new electrical code which requires the exhaust to be run up and out of the building.

Mr. Poe also stated that a similar building was constructed in the Grove area of the County also due to flooding issues and they have found this design works.

Mr. Otey asked if these stations are typically located in areas that flood.

Mr. Poe stated that pump stations by their nature are located in low areas because gravity lines are sloped downward and then wastewater is pumped up to a force main or to another collection system downstream.

Mr. Geib asked if the fencing around the site was staying the same.

Mr. Poe replied yes and that there will be some landscaping added to the site.

Mr. Geib commented on the condition of the fence being rusted and bent and suggested replacing the fence as part of the project.

Mr. Poe stated that replacement of the fence was not anticipated but they would address the areas of the fence Mr. Geib pointed out.

Mr. Otey closed the public hearing.

Mr. Geib stated that he was satisfied and that he understands the need to replace the building from a health and safety perspective due to flooding occurrences and overflows into the environment. In addition, it does not appear that the increased building size within the same fencing would adversely affect the area or environment. He concluded by suggesting that the weeds and landscaping on the site should be taken care of to show pride in our County assets.

Mr. Rodgers stated he rode by the site and thought the staff memo did an excellent job providing compelling reasons why the variance should be granted.

Mr. Rhodes stated he did not have any concerns.

Mr. Campana stated he was in agreement with the others.

Mr. Rodgers made a motion to adopt Resolution ZA-0006-2014 to approve the variance request.

**WHEREUPON, THE BOARD OF ZONING APPEALS OF JAMES CITY
COUNTY ADOPTS THE FOLLOWING RESOLUTION:**

To grant a variance to section 24-39, Special provisions for lots for public utilities, reducing the required fifteen foot (15') setback from any property line to ten feet (10') from the front property line and three feet (3') from the left side property line for the construction of Lift Station 4-7 Control Building replacement as shown on site plan entitled "James City Service Authority Site Plan Lift Station 4-7 Control Building Replacement" dated November 21, 2014 which is attached hereto, made part hereof and incorporated into the resolution.

Mr. Geib seconded the motion.

On a roll call vote the motion to approve the variance was approved 5-0.

D. Minutes – December 4, 2014

Mr. Rodgers made the following corrections to the December 4, 2014 meeting:

- Page 3 – add the word Service after Adams Septic.
- Page 3 – replace "seemed to think" with responded.
- Page 4 – correct "indivisible line" to invisible line.

Mr. Rhodes moved to approve the minutes of the December 4, 2014 meeting as amended.

Mr. Campana seconded the motion.

On a voice vote the minutes for the December 4, 2014 Board of Zoning Appeals meeting as amended were approved 5-0.

E. Matters of Special Privilege – Election of Officers


Mr. Geib motioned to keep the same slate of officers for 2015– Mr. David Otey, Chair and Mr. Marvin Rhodes, Vice Chair.

Mr. Campana seconded the motion.

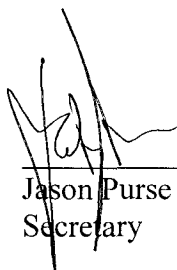
On a voice vote the motion was approved 5-0.

D. Adjournment

There being no further business Mr. Otey adjourned the meeting at 7:20 p.m.



David Otey
Chairman



Jason Purse
Secretary