

MINUTES
JAMES CITY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
James City County Government Center, Building F Board Room
101 Mounts Bay Road, Williamsburg VA 23185
May 6, 2021
5:00 PM

A. CALL TO ORDER

Mr. Stephen Rodgers called the meeting to order.

B. ROLL CALL

Ms. Christy Parrish called the roll:

Present:

Mr. Stephen Rodgers
Mr. Mark Jakobowski
Mr. Ron Campana, Jr.
Mr. David Otey, Jr.

Absent:

Mr. William Geib

Staff Present:

Ms. Christy Parrish, Zoning Administrator
Ms. Liz Parman, Assistant County Attorney

C. OLD BUSINESS

None

D. NEW BUSINESS

Mr. Rodgers presented the mission statement of the Board of Zoning Appeals (BZA) for those present in the audience. He stated that the BZA was a five-member Board consisting of James City County residents. It has the power to hear and decide appeals to decisions of the Zoning Administrator and applications for special exceptions, such as yard and setback variances. A favorable vote of three members of the Board was always required to pass a motion. Variances are not granted unless the strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for a variance was not shared generally by other properties, and the variance was not contrary to the purpose of the Ordinance. Variances are not granted as a special privilege or convenience. If the variance was requested because the physical condition of the property or improvements thereon restrict the utilization of the property, the following additional requirements must be met: (i) the property must have been acquired in good faith and any hardship cannot be created by the applicant; (ii) the granting of the variance cannot be substantially detrimental to nearby properties; and (iii) the condition or situation cannot be so general or recurring as to make the formulation of an amendment to the Ordinance reasonably practicable to address the condition or situation. If the Board does authorize a variance, it may impose conditions regarding the location, character, or any other features it may deem necessary in the public interest.

1. Case No. BZA-21-0001. 171-A The Maine

Ms. Parrish presented the staff report.

Ms. Parrish stated that Mr. Danny Poe of the James City Service Authority ("JCSA"), had 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 5 feet from any property line to permit the reconstruction of a wastewater pumping station. She stated that the new pumping station would be constructed on a revised lot configuration of properties located at 171, 171-A, and 173 The Maine.

Ms. Parrish stated that the purpose of the variance was to accommodate the construction of a new JCSA wastewater pumping station. She stated that a site plan was approved in 1986 that permitted a 16 feet by 20 feet one-story, wood frame pump station building on the property. She stated that the Zoning Ordinance at that time allowed for administrative waivers to reduce lot area, lot width, and lot frontage for public utilities with no distance requirements from property lines, but the Zoning Ordinance was then updated in 1998 which required structures to be located a minimum of 15 feet from any property line.

Ms. Parrish stated that the new station must be oriented differently than the existing structure to accommodate current design standards. She stated that JCSA has met and worked with the adjacent property owners to minimize impacts and to acquire the minimum amount of property to accommodate the new structure. She stated that it was staff's understanding that the adjacent property owners requested the setback reduction as proposed.

Ms. Parrish stated that a plan showing the proposed new lot configuration and facility was provided and the 5-foot setback from the proposed building structure was adequate to satisfy JCSA's design requirements. She stated that the proposed buildings and additions would be consistent with the current use of the property, and would be landscaped and fenced to screen them from nearby roads, residences, and other development.

Ms. Parrish stated that staff supported the variance for the following reasons: 1) the existing size and current infrastructure of the lot restricted the location of the proposed improvement which is not shared by others in the same vicinity; 2) the reconstruction would prolong the useful life of the wastewater facility and its improvement; and 3) the proposed improvement and new lot configuration was designed minimum impacts to adjacent property owners. She stated that staff recommended approval of the requested variance as described in the attached resolution.

Mr. Otey asked Ms. Parrish to explain the statement that the adjacent property owners requested the setback reduction.

Ms. Parrish explained that JCSA reached out and discussed the proposal with the adjacent property owners and they agreed on the proposed configuration.

Mr. Rodgers asked for additional clarification on the request.

Ms. Parrish explained that the adjacent properties were included in the variance request because the property acquisition was not finalized. She also further discussed the proposed new property lines and setbacks.

Mr. Rodgers opened the Public Hearing.

Ms. Pat Coll, 172 The Maine, spoke in support of the variance request because it minimized encumbrances on their remaining yard. She stated that in the past they were required to sell a significant part of their property for the Lift Station and a 10-foot wide access easement in perpetuity.

Mr. Jakobowski asked Ms. Coll if granting this variance was resolving some of the issues on the adjacent property lines.

Ms. Coll responded yes.

Seeing no further speakers, Mr. Rodgers closed the Public Hearing.

Mr. Campana stated he supported the variance as it impacted the minimum area of land to improve the facility.

Mr. Jakobowski stated that his question to the adjacent property owner was to ensure the request was understood. He stated that this was a win win situation.

Mr. Rodgers stated that it was great to see all the parties working together and supported the request.

Mr. Otey motioned to Approve the Resolutions for Case No. BZA-21-0001 as presented.

Mr. Rodgers seconded the motion.

On a roll call vote, the BZA voted to Approve the Resolutions for Case No. BZA-21-0001 as presented. (4-0)

E. MINUTES

1. February 4, 2021, Meeting Minutes

Mr. Campana made a motion to Approve the February 4, 2021, Meeting Minutes as presented.

Mr. Jakobowaki seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the February 4, 2021, Meeting Minutes.

F. MATTERS OF SPECIAL PRIVILEGE

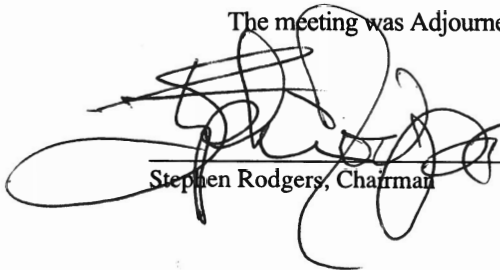
None

G. ADJOURNMENT

There being no further business, Mr. Jakobowski made a motion to Adjourn the meeting.

On a voice vote, the BZA unanimously voted to Adjourn the meeting.

The meeting was Adjourned at approximately at 5:20 p.m.


Stephen Rodgers, Chairman


Christy Parrish, Secretary

RESOLUTION

CASE NO. BZA-21-0001. GRANTING A VARIANCE ON JAMES CITY COUNTY

REAL ESTATE TAX MAP PARCEL NO. 4540200122A AND

PORTIONS OF PARCEL NOS. 4540200121 AND 4540200122

WHEREAS, the James City Service Authority has appeared before the Board of Zoning Appeals of James City County (the "Board") on May 6, 2021 to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 464020012A and portions of properties identified as James City County Real Estate Tax Map Parcel Nos. 4540200121 and 4540200122, and further identified as 171A The Maine, 171 The Maine, and 173 The Maine, (the "Property") as set forth in the application BZA-21-0001; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record and discussed a motion to grant 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 5 feet from any property line, to permit the reconstruction of a wastewater pumping station with no further encroachment, as shown on the attached Site Plan identified as Attachment No. 2 in the memorandum which is attached hereto, made part hereof and incorporated into this resolution. These properties are currently zoned R-1, Limited Residential, and can further be identified as James City County Real Estate Tax Map Parcel No. 4540200122A and portions of Nos. 4540200121 and 4540200122.

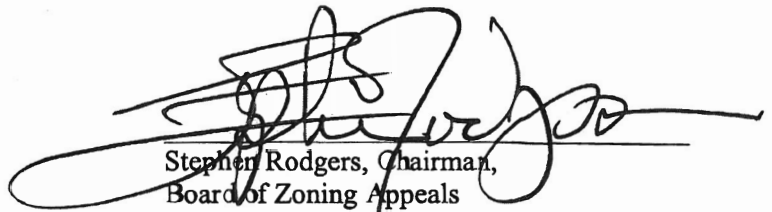
NOW, THEREFORE, the Board of Zoning Appeals of James City County, Virginia, by a majority vote of its members finds that:


1. The strict application of Chapter 24 of the Code of James City County would unreasonably restrict the utilization of the Property; or
2. The granting of a variance would alleviate a hardship due to a physical condition relating to the Property or improvements thereon at the time of the effective date of the Ordinance or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability; and
 - a. The Property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area:

- c. The condition or situation of the Property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance;
- d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the Property; and
- e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the Ordinance pursuant to Subdivision 6 of § 15.2-2309 or the process for modification of a Zoning Ordinance pursuant to Subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

WHEREUPON, the Board of Zoning Appeals of James City County, Virginia adopts the following resolution:

To grant 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 5 feet from any property line, to permit the reconstruction of a wastewater pumping station with no further encroachment, as shown on the attached Site Plan identified as Attachment No. 2 in the memorandum which is attached hereto, made part hereof and incorporated into this resolution. These properties are currently zoned R-1, Limited Residential, and can further be identified as James City County Real Estate Tax Map Parcel No. 4540200122A and portions of Nos. 4540200121 and 4540200122.


 Stephen Rodgers, Chairman,
 Board of Zoning Appeals

ATTEST:

 Christy Parrish
 Secretary to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
RODGERS	<input checked="" type="checkbox"/>	___	___
OTEY	<input checked="" type="checkbox"/>	___	___
JAKOBOWSKI	<input checked="" type="checkbox"/>	___	___
GEIB	<input checked="" type="checkbox"/>	___	___
CAMPANA	<input checked="" type="checkbox"/>	___	___

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 6th day of May 2021.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	2108.48'	100.86'	100.85'	N 61°16'26" W	2°44'27"
C2	2108.48'	151.75'	151.72'	N 64°42'22" W	4°07'25"

GENERAL SURVEY NOTES:

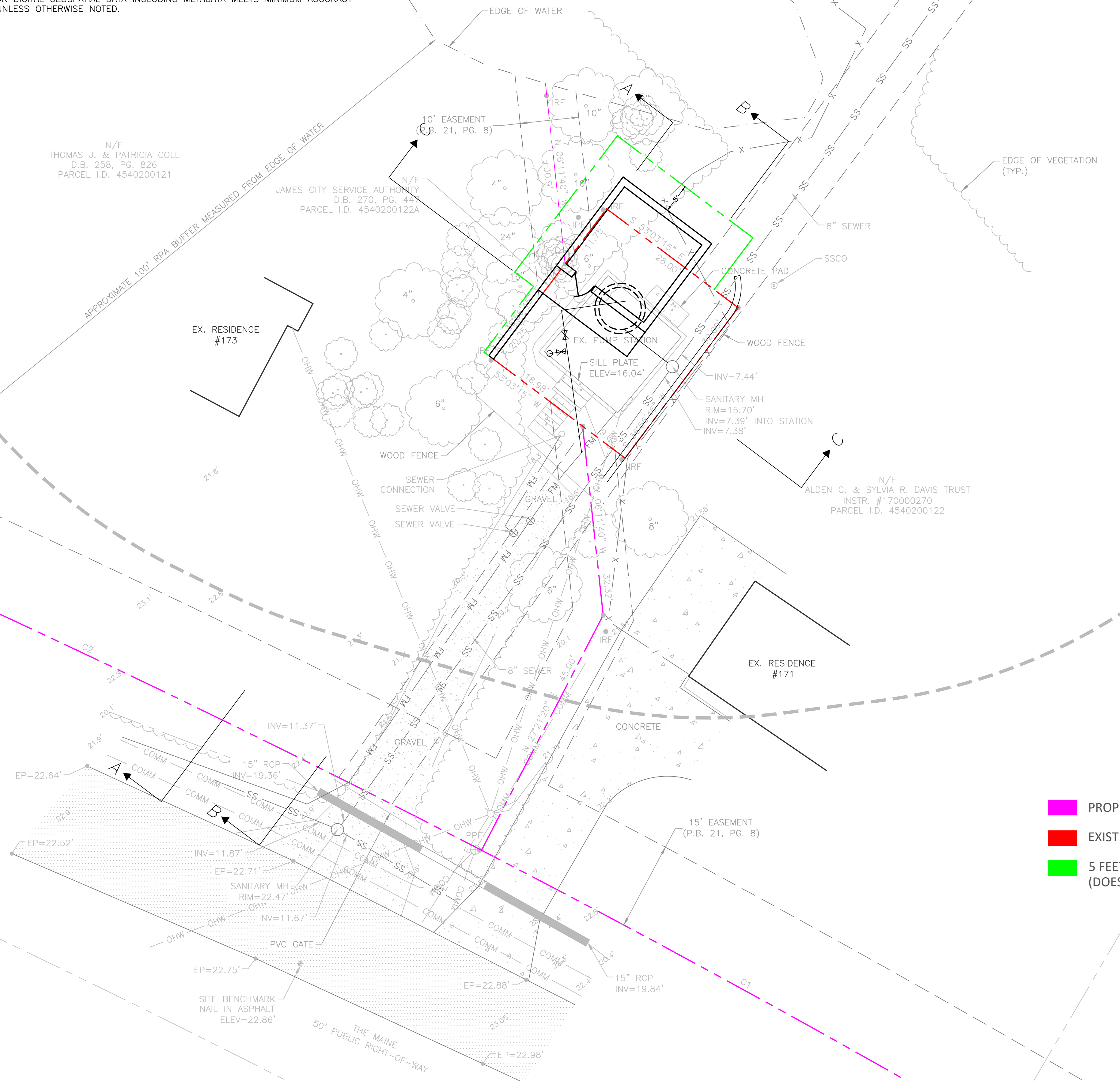
1. THIS SURVEY WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT.
2. THIS FIRM IS NOT RESPONSIBLE FOR THE LOCATION OF ANY STRUCTURE, MANHOLE, VALVE, ETC., HIDDEN OR OBSTRUCTED AT THE TIME THE FIELD SURVEY WAS COMPLETED.
3. THIS SURVEYED AREA APPEARS TO LINE WITHIN FIRM ZONE X AS SHOWN ON COMMUNITY PANEL 5109DC0181D EFFECTIVE DECEMBER 16, 2015.
4. WETLANDS, IF ANY, WERE NOT LOCATED OR RESEARCHED IN THE PREPARATION OF THIS SURVEY.
5. PER THE JCC GIS THE PROJECT AREA APPEARS TO LIE WITHIN AN RPA BUFFER, SAID BUFFER HAS BEEN SHOWN FROM THE EDGE OF THE WATER AS LOCATED AT THE TIME OF THE SURVEY; RPA LOCATION HAS NOT BEEN VERIFIED BASED ON A DELINEATION OF AREAS OF WETLANDS.
6. UNDERGROUND UTILITIES AS SHOWN WERE MARKED BY MISS UTILITY OF VIRGINIA.
7. ELEVATIONS AS SHOWN ARE RELATIVE TO THE NGVD 1929 VERTICAL DATUM AND WERE GPS DERIVED; SITE BENCHMARKS PROVIDED AS SHOWN HEREON.
8. THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF WILLIAM S. FELTS, LICENSE NUMBER 3149, FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION; THAT THE ORIGINAL DATA WAS OBTAINED ON APRIL 10, 2020; AND THAT THIS PLAT, MAP, OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

N/F
THOMAS J. & PATRICIA COLL
D.B. 258, PG. 826
PARCEL I.D. 4540200121

N/F
JAMES CITY SERVICE AUTHORITY
D.B. 270, PG. 44
PARCEL I.D. 4540200122A

N/F
ALDEN C. & SYLVIA R. DAVIS TRUST
INSTR. #170000270
PARCEL I.D. 4540200122

VIRGINIA STATE PLANE
COORDINATE SYSTEM
VIRGINIA SOUTH ZONE
(NAD 83)



- PROPERTY LINES
- EXISTING JCSA PROPERTY
- 5 FEET OFF OF PROPOSED BUILDING WALLS
(DOES NOT MEET SET BACK REQUIREMENTS AND REQUIRES ZONING WAIVER)

