

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
March 3, 2022
5:00 PM

A. CALL TO ORDER

Mr. Mark Jakobowski called the meeting to order.

B. ROLL CALL

Ms. Christy Parrish called the roll:

Present:

Mr. Mark Jakobowski
Mr. Ron Campana, Jr.
Mr. William Geib
Mr. David Otey, Jr.

Staff Present:

Mr. Taylor Orne, Senior Zoning Officer
Ms. Christy Parrish, Zoning Administrator
Ms. Liz Parman, Assistant County Attorney

C. OLD BUSINESS

None.

D. NEW BUSINESS

Mr. Jakobowski 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. BZA-22-0001. 5719 Peter Van Wirt Way

Mr. Orne presented the staff report.

Mr. Orne stated that Mr. and Mrs. Goldstein had applied for a variance to Section 24-258(b),

Yard Requirements, to reduce the required rear setback from 35 feet to 32 feet from the rear property line for the continued placement of an above ground pool.

Mr. Orne stated that in October of 2021, the property owners applied for a building permit to erect an above ground pool on the property and that the site plan submitted with the building permit application showed the pool approximately 8 feet from the existing deck on the back of the house and 32 feet from the rear property line. He stated that the pool was considered an accessory structure and the required minimum setback was 35 feet because it was located less than 10 feet from the main structure. He also stated that staff erroneously approved the permit as the pool did not comply with the 35-foot rear yard setback.

Mr. Orne stated that since the issuance of the building permit, the owners had removed the original deck. He stated that by removing the deck, the existing pool was now located more than 10 feet from the main structure and complies with the required minimum setback of 5 feet for accessory structures. He stated that due to the above ground pool being erroneously approved, the owners assumed the location of the existing pool was in compliance when the original deck was on the property. He stated that the owners subsequently applied for a building permit in January of 2022 to construct a new larger deck. He stated that the proposed new deck does not encroach into the required 35-foot rear setback.

Mr. Orne stated that staff could not support this variance request; however, staff recognized that the owners relied on a previously approved permit when removing the original deck. He stated that staff acknowledged that the proposed deck, even though larger in size, will not encroach into the 35-foot required setback. He concluded that should the BZA approve the variance request, staff recommended that the rear setback be reduced from 35 feet to 32 feet from the rear property line for the continued placement of an above ground pool with no further encroachment.

Mr. Geib inquired about some of the structures on adjacent properties to better understand what the possible impacts of this request would be on surrounding properties.

Mr. Geib also discussed the sketch of the property with staff to understand what structures were being proposed.

Mr. Jakobowski opened the Public Hearing.

Mr. Goldstein, property owner, stated that the sketch was fairly accurate with a few minor changes and discussed the elements that were being proposed. He stated the original intent was to attach a deck to the pool.

See no further speakers. Mr. Jakobowski closed the Public Hearing.

Mr. Campana stated he supported the variance as the owner went through the process and received information they believed was accurate. He stated the owners were acting in good faith and the hardship was imposed on them.

Mr. Otey stated that he agreed with Mr. Campana. He also stated that the deck being proposed does not make the pool any closer to the rear neighbor.

Mr. Geib stated that since the error was made and the owner acted in good faith, he supported the variance.

Mr. Otey motioned to Approve the Resolution for Case No. BZA-22-0001 as presented.

Mr. Campana seconded the motion.

On a roll call vote, the BZA voted to Approve the Resolutions for Case No. BZA-22-0001, as presented. (4-0)

E. MINUTES

1. January 6, 2022, Meeting Minutes

Mr. Geib made a motion to Approve the January 6, 2022, Meeting Minutes as presented.

Mr. Campana seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the January 6, 2021, Meeting Minutes.

F. MATTERS OF SPECIAL PRIVILEGE

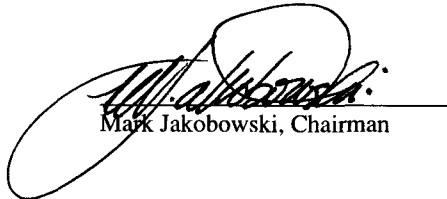
None

G. ADJOURNMENT

There being no further business, Mr. Geib 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 5:25 p.m.


Mark Jakobowski, Chairman


Christy Parrish, Secretary