

**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 5, 2022**  
**5:00 PM**

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**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.  
Mr. Andrew Dean

Staff Present:

Mr. John Rogerson, Senior Zoning Officer  
Ms. Christy Parrish, Zoning Administrator  
Ms. Liz Parman, Deputy County Attorney  
Mr. Josh Everard, 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-22-0003. 4816 Hickory Signpost Road

Mr. Rogerson presented the staff report.

Mr. Rogerson stated that Mr. Chase Grogg of LandTech Resources, Inc., on behalf of property owner Sone L. Marcano, has applied for a variance to Section 24-236, Setback requirements, of the James City County Zoning Ordinance. He stated that the variance request was to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street for the construction of a new single-family dwelling at 4816 Hickory Signpost Road.

Mr. Rogerson stated that the parcel was 0.563 acres in size and was created in October of 1970. He stated that the entire lot was located within the Resource Protection Area (RPA) and contained delineated wetlands. He stated that the proposed dwelling was 560 square feet in size, would be located on a level area in front of the required front setback line, and the rear of the house would be approximately 7 feet from the wetlands.

Mr. Rogerson stated that the lot to the north at 4824 Hickory Signpost Road received a similar variance in 2005, which reduced the front setback from 60 feet from the centerline of the street to 45 feet for the construction of a new dwelling. He stated that the BZA granted the variance because the RPA and wetlands restricted the use of the lot.

Mr. Rogerson stated that should the BZA grant the variance, the applicant would be required to obtain Chesapeake Bay Board approval to construct in the RPA buffer.

Mr. Rogerson stated that staff recognized that this lot had development constraints due to the existence of the wetlands and RPA, and therefore, the strict application of the setbacks would unreasonably restrict the utilization of the property.

Mr. Rogerson stated that staff believed that the property was acquired in good faith, the hardship was not created by the applicant, and the variance would not be of substantial detriment to adjacent properties. He stated that staff recommended approval of the variance. He further stated that should the BZA approve the variance request, staff recommended that the front setback be reduced from 60 feet from the centerline of the street to 30 feet from the centerline of the street with no further encroachment.

Mr. Geib asked what the setback was when the lot was created.

Mr. Rogerson stated he could not confirm what the setback requirement was in 1970 for this lot.

Mr. Otey asked if the plat stated what the setback requirements were back then.

Mr. Rogerson stated the plat did not.

Ms. Parrish stated that since there were no setbacks shown on the recorded plat, the current setback requirements applied.

Mr. Geib discussed with staff that the 60-foot required setback did not allow much buildable area due to the wetlands and topography of the lot which created a hardship.

Mr. Rogerson confirmed that there was not much buildable area on the lot, and it was unsure whether the County would approve the creation of this lot today.

Mr. Geib asked staff to describe the variance that was granted on the neighboring lot in 2005.

Mr. Rogerson stated that the lots were similar, the flat buildable area was on the front of the lot, and that the BZA granted a front setback variance of 45 feet from the centerline of the

street.

Mr. Rogerson stated that the BZA was provided a letter from a property owner in opposition of the variance who lived across the street.

Mr. Jakobowski confirmed that everyone had received a copy.

Seeing no further questions for staff, Mr. Jakobowski opened the Public Hearing.

Mr. Chase Grogg of LandTech Resources, Inc., 7657 Turlington Road, Toano, stated that the goal was to build a small house with a deck on the back. He stated that the proposed house would be on a slab and constructed on the flat area of the lot. He stated that the proposed location of the house was moved further back to help alleviate some of the concerns seeing the one-lane bridge to the south of the lot.

Mr. Grogg stated that the original front setback was in the middle of the slope where the wetlands were located. He stated that proposal was to try to satisfy both Boards with minimal impacts.

Mr. Jakobowski stated that he visited the site and concurred that the removal of some of the vegetation on the front of the lot will open up the view to the bridge for motorists.

Ms. Babs Bengtson, 4824 Hickory Signpost Road, stated the following concerns: 1) a new driveway before the bridge was not a good idea for traffic control and additional traffic would cause a hardship because the road goes from a two-lane to a one-lane bridge; 2) construction of a new house in wetlands should not be permitted; 3) the lot should have to adhere to the required 60-foot setback as they were established for a reason; and 4) flooding concerns for the new house.

Mr. Gary Bowling, 4676 Hickory Signpost Road, stated he was concerned that this lot is about 80% wetlands, and the front of the house would be about 15 feet from the ditch line. He stated that cars are often stacked up in front of this lot waiting to cross the one-lane bridge. He inquired what the minimum lot size for a house in the R-8 Zoning District was because the houses along the road were much larger than 500 square feet.

Ms. Elizabeth Bowling, 4676 Hickory Signpost Road, stated that the proposal was taking down large trees that would allow more light into the swamp. She stated that she believed that the property was not a usable and the construction activities will be an inconvenience to others. She requested that the BZA reconsider the variance to save the swamp.

Mr. Bowling stated that the construction was in the inward 50-foot RPA buffer and was unsure how they were going to get a variance from the Chesapeake Bay Board to build a house.

Ms. Bowling stated that the bridge was not going to be able to hold all the equipment going back and forth across it.

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

Mr. Campana asked if he could ask a question to Mr. Rogerson.

Mr. Jakobowski reopened the Public Hearing.

Mr. Campana asked if there had been any correspondence with the Chesapeake Bay Board on the matter.

Mr. Rogerson stated he had informed Stormwater and Resource Protection of the case but believed that Mr. Grogg had more conversations with them.

Mr. Grogg stated that they had applied for the exception, and it is on hold pending the outcome of this variance. He stated that while he does not know what the outcome would be, he has not received any negative comments from staff.

Seeing no further questions, Mr. Jakobowski closed the Public Hearing.

Mr. Campana stated that the Board's job was not to decide what kind of house a person could build but rather if a hardship exists. He stated that there was a clear hardship because if a variance was not granted, the lot could only then be used as a green strip of land. He stated the hardship was not self-imposed and supported the variance.

Mr. Jakobowski stated the variance granted in 2005 established a precedent.

Mr. Geib stated that the property owners had the right to use their land and changes to the Zoning Ordinance requirements over time often disadvantaged owners. He stated he was concerned about the effects on the swamp, but that review authority belongs to the Chesapeake Bay Board. He stated that there was almost no usable space on the property outside of what the applicant had proposed for the construction of the new house and supported the variance.

Mr. Otey motioned to Approve the Resolution for Case No. BZA-22-0003 as presented.

Mr. Geib seconded the motion.

Mr. Jakobowski asked if there were any further questions or comments from the Board.

Mr. Dean asked if someone could clarify the one-lane bridge crossing procedures for motorists.

Mr. Jakobowski stated there were yield signs on both sides of the bridge.

Mr. Otey stated that the bridge was very narrow but believes that the proposed house did not have anything to do with the dynamics of the bridge. He stated that there was a topographical hardship that would make it impossible to use the lot for residential purposes if the variance was not approved.

Ms. Parrish confirmed that Mr. Otey motioned to approve the variance and that Mr. Geib seconded that motion.

Mr. Jakobowski confirmed and asked Ms. Parrish to call the roll.

On a voice vote, the BZA voted to Approve the Resolutions for Case No. BZA-22-0003, as presented. (5-0)

## E. MINUTES

### 1. March 3, 2022, Meeting Minutes

Mr. Geib made a motion to Approve the March 3, 2022, Meeting Minutes as presented.

Mr. Campana seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the March 3, 2022, Meeting Minutes

**F. MATTERS OF SPECIAL PRIVILEGE**

None.

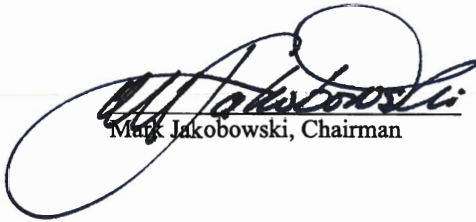
**G. ADJOURNMENT**

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

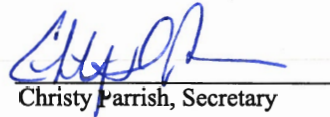
Mr. Geib seconded the motion.

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

The meeting was adjourned at approximately at 5:43 p.m.



Mark Jakobowski, Chairman



Christy Parrish, Secretary

## RESOLUTION

### CASE NO. BZA-22-0003. GRANTING A VARIANCE ON JAMES CITY COUNTY

#### REAL ESTATE TAX MAP PARCEL NO. 4720100045

WHEREAS, Mr. Chase Grogg, on behalf of property owner Sone L. Marcano, has appeared before the Board of Zoning Appeals of James City County (the "Board") on May 5, 2022, to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 4720100045 and further identified as 4816 Hickory Signpost Road (the "Property") as set forth in the application BZA-22-0003; 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 24-236, Setback requirements, of the James City County Zoning Ordinance. The variance request is to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street. The variance request is to allow for the construction of a new single-family dwelling at 4816 Hickory Signpost Road. The property is currently located in the R-1, Limited Residential, and can be further identified as James City County Real Estate Tax Map No. 4720100045; and

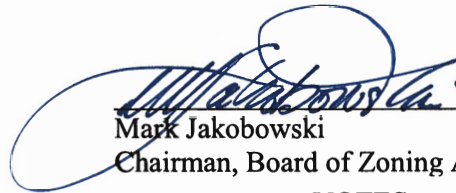
NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, by a majority vote of its members FINDS that:

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; and
  - 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; and
  - 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; and
  - 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 Section 24-236, Setback requirements, of the James City County Zoning Ordinance. The variance request is to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street. The variance request is to allow for the construction of a new single-family dwelling at 4816 Hickory Signpost Road with no further encroachment. The property is currently located in the R-1, Limited Residential, and can be further identified as James City County Real Estate Tax Map No. 4720100045.

  
 Mark Jakobowski  
 Chairman, Board of Zoning Appeals

ATTEST:

  
 Christy Parrish  
 Secretary to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	<input checked="" type="checkbox"/>	___	___
OTEY	<input checked="" type="checkbox"/>	___	___
GEIB	<input checked="" type="checkbox"/>	___	___
CAMPANA, JR.	<input checked="" type="checkbox"/>	___	___
DEAN	<input checked="" type="checkbox"/>	___	___

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 5th day of May, 2022.

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