

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
October 6, 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. William Geib
Mr. David Otey, Jr.
Mr. Andrew Dean
Mr. Ron Campana, Jr.

Staff Present:

Ms. Christy Parrish, Zoning Administrator
Mr. Taylor Orne, Senior Zoning Officer

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. Case No. BZA-22-0004. 8261 Croaker Road

Mr. Orne, Senior Zoning Officer, stated that Mr. Vaughn Poller of the James City County Neighborhood Development Division had applied for a variance to Section 24-217(a), Yard Regulations, to reduce the required side setback from 15 feet to 6.5 feet on the right side and

from 15 feet to 13 feet on the left side for the replacement of a single-family dwelling. Mr. Orne stated that the property was located at 8261 Croaker Road and 0.21 acres in size. He stated that the existing dwelling was constructed in 1957 and was approximately 720 square feet in size.

Mr. Orne stated that through the 2021 Scattered Site Community Development Block Grant (CDBG) Program, the James City County Neighborhood Development Division was seeking to improve the property due to the age and condition of the existing single-family dwelling. He stated that Neighborhood Development staff believed that it was more fiscally responsible to demolish the existing single-family dwelling on the property and construct a new single-family dwelling in its place.

Mr. Orne stated that the owner initially contacted James City County Housing for the Home Energy Loss Prevention Program but upon inspection, Housing staff determined the home was structurally unsafe and did not qualify for assistance. He stated that Housing put the project on the waiting list for a future CDBG Housing Replacement Program. He stated that a field survey was also conducted for the 2016 James City County Housing Conditions Study which rated the home a 4 minus, where on a scale of 1 to 5, 5 is uninhabitable.

Mr. Orne stated that the existing single-family dwelling predates the Zoning Ordinance and was currently considered legally nonconforming as it does not meet the front setback established in Section 24-215(a) and the side setbacks established in Section 24-217(a).

Mr. Orne stated that since the existing single-family dwelling was not being demolished by casualty or an act of God in accordance with Section 24-634(a), any new construction must meet the current requirements of the Zoning Ordinance. He stated that due to the irregular shape and size of the property, Neighborhood Development staff have been unable to fit the proposed home on the property within the required setbacks. He stated that the proposed variance included an additional foot on both sides to accommodate any exterior features or errors that may occur during construction.

Mr. Orne stated that even though the owner was not disabled, the CDBG grant required the proposed house to have Universal Design elements to allow the owner to age in place. He stated that modification of the plans to accommodate the required setbacks may not meet Universal Design and would also require additional funding not budgeted for this project.

Mr. Orne stated that in order to have a variance granted, the applicant must prove by a preponderance of the evidence that the standard for a variance as defined in Virginia Code § 15.2-2201 had been met.

Mr. Orne stated that staff was unable to support the variance because it does not meet all of the criteria defined in Virginia Code § 15.2-2201. He stated that staff recognized that due to the irregular shape and size of the lot and CDBG's Universal Design requirements and funding limitations, it does create obstacles for improving this property.

Mr. Orne stated that should the BZA approve this variance request, staff recommended reducing the side setback from 15 feet to 6.5 feet on the right side and from 15 feet to 13 feet on the left side with no further encroachment.

Mr. Campana asked what the proposed size of the new building was.

Mr. Orne stated it was approximately 792 square feet.

Mr. Geib asked if there was currently a structure in front of the house.

Mr. Orne stated there is only a gravel driveway.

Mr. Jakobowski asked if the setbacks from the septic tank drainfield and distribution box were addressed.

Mr. Orne confirmed that they were addressed as part of the project.

Mr. Otey asked if the house had to be set back from the drainfield and distribution box in addition to the setbacks on the property.

Mr. Orne stated yes.

Mr. Geib asked why the proposed house was set back about 2 or 3 feet from the front setback line.

Mr. Orne deferred the question to Mr. Poller.

Mr. Otey asked what the setback was from the existing house.

Mr. Orne confirmed that it was about the same as the proposed house.

Mr. Otey asked about the flag lot next door.

Mr. Orne stated it was a vacant and an unimproved property.

Ms. Parrish stated that the owner of the property called and inquired about the variance request.

Mr. Otey asked if he expressed any objection to the project.

Mr. Orne stated no.

Mr. Otey asked why the variance request did not meet the requirements for a variance.

Mr. Orne stated that the hardship was created by the applicant.

Mr. Otey asked if the unique features of the property were taken into consideration.

Mr. Orne stated that because the existing structure was nonconforming and was being torn down by the applicant, the hardship was created by the applicant which did not meet the standards for a variance.

Ms. Parrish explained that the proposed house could be reduced in size and reconfigured on the lot to meet the current setback requirements but that would have resulted in increase costs for the applicant.

Mr. Jakobowski opened the Public Hearing.

Mr. Poller reiterated the scope of work and put emphasis on the project's goal of providing somewhere to age-in-place.

Mr. Geib asked if the interior had to meet Americans with Disabilities Act (ADA) guidelines.

Mr. Poller stated that it would not be fully ADA but would have some features such as wider hallways and a larger bathroom to permit turning radius.

Mr. Jakobowski asked if a ramp would have to be applied for separately in the future.

Mr. Poller confirmed.

Ms. Parrish stated that ramps are considered the same as steps and are permitted to encroach into the setback.

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

Mr. Geib stated that he had reviewed the details of the application and felt that the new home was reasonably placed on the lot. He stated that there were other homes or accessory structures in the same area that appeared nonconforming as it related to setbacks. He stated that the request met variance criteria b, c, d, and e and he was in favor of granting the variance.

Mr. Campana stated that he agreed with Mr. Geib's conclusion and also supported the variance request.

Mr. Jakobowski stated he also agreed and commented that if the house was reduced to comply with the required setbacks, the house would only be approximately 500 square feet.

Mr. Campana made a motion to Approve the variance request.

Mr. Geib seconded the motion.

On a roll call vote, the BZA voted to Approve the variance request. (5-0)

E. MINUTES

1. June 2, 2022, Meeting Minutes

Mr. Geib made a motion to Approve the June 2, 2022, Meeting Minutes as presented.

Mr. Dean seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the June 2, 2022, Meeting Minutes.

F. MATTERS OF SPECIAL PRIVILEGE

None.

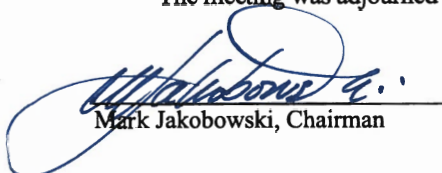
G. ADJOURNMENT

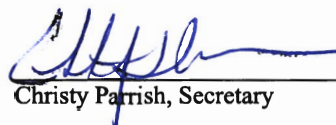
There being no further business, Mr. Campana made a motion to Adjourn the meeting.

Mr. Geib seconded the motion.

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

The meeting was adjourned at approximately 5:26 p.m.


Mark Jakobowski, Chairman


Christy Parrish, Secretary

RESOLUTION

CASE NO. BZA-22-0004. GRANTING A VARIANCE ON JAMES CITY COUNTY

REAL ESTATE TAX MAP PARCEL NO. 1430100023

WHEREAS, Mr. Vaughn Poller, of the James City County Neighborhood Development Division, has appeared before the Board of Zoning Appeals of James City County (the "Board") on October 6, 2022, to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 1430100023 and further identified as 8261 Croaker Road (the "Property") as set forth in the application BZA-22-0004; 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 24-217(a), Yard regulations, to reduce the required side setback from 15 feet to 6.5 feet on the right side and from 15 feet to 13 feet on the left side for the construction of a new single-family dwelling. This property is currently zoned A-1, General Agricultural, and can further be identified as James City County Real Estate Tax Map Parcel No. 1430100023.

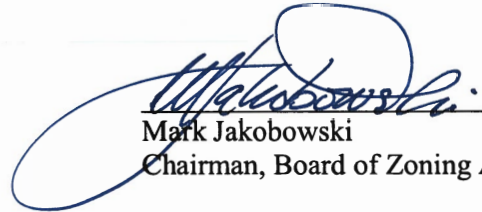
NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, by a majority vote of its members FINDS that:

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

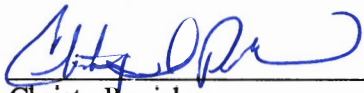
- e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the Ordinance pursuant to Subdivision 6 of § 15.2-2309 or the process for modification of a Zoning Ordinance pursuant to Subdivision A4 of § 15.2-2286 at the time of 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 to Section 24-217(a), Yard regulations, to reduce the required side setback from 15 feet to 6.5 feet on the right side and from 15 feet to 13 feet on the left side for the construction of a new single-family dwelling with no further encroachment. This property is currently zoned A-1, General Agricultural, and can further be identified as James City County Real Estate Tax Map Parcel No. 1430100023.


 Mark Jakobowski
 Chairman, Board of Zoning Appeals

ATTEST:


 Christy Farris
 Secretary to the Board

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

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 6th day of October 2022.

BZA22-4_8261CrkrRd-res