

**Board of Zoning Appeals
James City County Government Complex
Board Room, Building F**

January 10, 2013 - 7 p.m.

A. Roll Call

B. Minutes

April 1, 2010

November 4, 2010

February 2, 2012

June 7, 2012

C. Old Business

D. New Business

1. ZA-0005-2012 - 328 Mill Stream Way

2. ZA-0007-2012 - 140 Point O Woods

E. Matters of Special Privilege

1. Election of Officers

2. 2013 Meeting Schedule

3. Introduction of Zoning Administrator

F. Adjournment

BOARD OF ZONING APPEALS
April 1, 2010

Mr. Wenger called the meeting to order at 7:00 p.m.

A. Election of Officers – 2010 Calendar Year

Mr. Rhodes moved to discuss new officer elections after the Board's new business, with a second from Ms. Moody.

In a unanimous voice vote, the Board moved officer elections until after new business (5-0).

B. Roll Call

Present:

Mr. Mark Wenger
Ms. Barbara Moody
Mr. William Watkins
Mr. Marvin Rhodes
Mr. David Otey

Others Present:

Mr. John Rogerson, Senior Zoning Officer
Mr. Brian Elmore, Dev. Mgt. Assistant

C. Minutes – November 5, 2009 & December 16, 2009

1) November 5, 2009

Ms. Moody moved for approval of the minutes, with a second from Mr. Watkins.

In a unanimous voice vote, the minutes were approved (3-0; Abstain: Rhodes, Otey).

2) December 16, 2009

Ms. Moody moved for approval of the minutes, with a second from Mr. Watkins.

In a unanimous voice vote, the minutes were approved (4-0; Abstain: Otey).

D. Old Business

There was no old business.

E. New Business

ZA-0001-2010 108 & 100 Chesapeake Avenue

Mr. Rogerson presented the staff report and stated that the applicant intends to combine the two lots through a Boundary Line Extinguishment (BLE). He stated a home would be constructed on the combined lot. Staff did not believe any issues would result from the BLE. Staff would like the variance

setbacks recorded with the subdivision plat at the courthouse. The applicant is not the property owner, but will purchase the property if a variance is granted. After sending out adjacent property owner notices, staff heard from the owner of several neighboring, similar-sized parcels. The owner was concerned about protecting the character of the area, although he did not object. The owner was provided with case materials and will meet with the applicant. Property hardships were caused by adoption of the Zoning Ordinance. The lots were subdivided approximately 50 years ago.

Mr. Wenger opened the public hearing.

Mr. Robert Wiltshire, the applicant, stated that the home's dimensions would be 38.10' deep by 46' wide.

Mr. Rogerson stated that if the two lots were combined, the by-right building envelope would be 26' by 38'.

Mr. Rhodes asked why the applicant was not asking for a 12' variance from Chesapeake Avenue.

Mr. Rogerson stated that as a corner lot, the School Lane side would require another 10' setback, as the shorter of the two sides becomes the front. The requested variance is 2 ½-3' larger than the home to allow the applicant margin of error.

Mr. Wiltshire stated he would be willing to relocate the existing gravel drive if a neighbor requested.

Mr. Wenger stated that no deck could extend beyond the granted variance.

Mr. Wiltshire stated that the home would only include a patio. He stated he had heard of no objections from the owner of 106 Chesapeake Avenue.

Mr. Wenger closed the public hearing.

Mr. Watkins stated he would be inclined to grant the variance.

Ms. Moody stated she would also be inclined to grant the variance.

Mr. Rhodes stated a hardship exists due to the building envelope. He stated the variance request was overly generous but he could support it.

Mr. Rogerson stated the variance grants a reduction of the setback from the School Lane Right-Of-Way (ROW) from 50' to 40', a reduction of the rear yard setback from 35' to 25', and a reduction of the side street setback from 25' to 12' for the two properties, contingent on the boundary line extinguishment.

Mr. Watkins moved to grant the variance, with a second from Ms. Moody.

In a unanimous roll call vote, the variance was approved (5-0).

F. Matters of Special Privilege

Mr. Rogerson stated the General Assembly approved removal of the hardship language from the BZA's powers and duties. The wording change loosens the minimum standard the BZA can use. Hardships no longer have to approach levels of confiscation.

Mr. Wenger stated the General Assembly had also approved language that BZA members conducting their official duty are no longer subject to lawsuits.

Mr. Rhodes stated the BZA was considering meeting with a judge to determine when the BZA could seek legal guidance.

The BZA discussed possible meeting times with Judge Powell.

Mr. Rogerson stated he would consult the County Attorney regarding the swearing-in of BZA members.

A. Election of Officers (Continued)

Mr. Rogerson opened the floor for nominations for Chair.

Ms. Moody moved to nominate Mr. Wenger for Chair, with a second from Mr. Watkins.

Mr. Rhodes moved to close the floor for nominations and elect for Mr. Wenger, with a second from Ms. Moody.

In a unanimous voice vote, Mr. Wenger was re-elected Chair (5-0).

Mr. Rogerson opened the floor for nominations for Vice-Chair.

Mr. Rhodes moved to nominate Ms. Moody for Vice-Chair, with a second from Mr. Watkins.

Mr. Otey moved to close the floor for nominations and elect Ms. Moody, with a second from Mr. Wenger.

In a unanimous voice vote, Ms. Moody was re-elected Vice-Chair (5-0).

G. Adjournment

The meeting was adjourned at 7:45p.m.

Mark Wenger
Chairman

Melissa C. Brown
Secretary

BOARD OF ZONING APPEALS
November 4, 2010

Mr. Wenger called the meeting to order at 7:00 p.m.

A. Roll Call

Present:

Mr. Mark Wenger
Ms. Barbara Moody
Mr. William Watkins
Mr. Marvin Rhodes
Mr. David Otey

Others Present:

Ms. Melissa Brown, Zoning Administrator
Mr. Brian Elmore, Dev. Mgt. Assistant
Mr. Adam Kinsman, Deputy County Attorney

B. Minutes – April 1, 2010

Ms. Brown stated the minutes would be ready for review by the next Board of Zoning Appeals (BZA) meeting.

C. Old Business

There was no old business.

D. New Business

ZA-0002-2010 Appeal to Zoning Administrator's Interpretation of Chisel Run Proffers

Ms. Brown stated the County Attorney's office had requested a special meeting format.

Mr. Otey stated he may have a potential conflict of interest. He stated the original applicant for the rezoning was Sam Powell, his law partner at the time. There was no involvement or financial interest with the case.

Mr. Rhodes moved for adoption of the special meeting format, with a second from Ms. Moody.

In a unanimous voice vote, the special format was adopted (5-0).

Mr. Vernon Geddy, representing Busch Development Corporation, stated that regarding whether the appeal was within the jurisdiction of the BZA or the Board of Supervisors, proffer-interpretation appeals are heard by the Board of Supervisors. The appeal is not a proffer interpretation since the proffer is clear. The meaning of the language of the rezoning resolution adopted by the Board of Supervisors is in question. The resolution states "... Board of Supervisors of James City County does hereby approve zoning case Z-0010-1983 as described herein and as detailed by the attached memorandum and accepts the voluntary proffer signed by the property owner." The proffer states a 239-unit cap on land inside and outside of the rezoned area.

Mr. Kinsman stated the BZA is limited to certain powers, including granting variances and hearing appeals to Zoning Administrator decisions. The Zoning Administrator is also limited to making determinations under the Zoning Ordinance and to interpreting proffers. Appeals to the Zoning Administrator's interpretation of proffers are heard by the Board of Supervisors, since the Board originally approved those proffers. The Zoning Administrator cannot interpret a proffer without reviewing all other case and resolution materials. A determination cannot be made against a resolution and the corresponding proffers separately. The proper avenue for the applicant's appeal is through the Board of Supervisors. The BZA should decline jurisdiction over the appeal.

Ms. Brown stated that if an applicant wants to appeal to the BZA, staff must forward that application.

Mr. Watkins stated that based on his training and experience, he agrees with Mr. Kinsman's argument that the BZA does not have the authority to hear the appeal. He stated that the General Assembly grants the BZA clear authority, and without that, the matter should be deferred to the Board.

Mr. Moody stated her thinking was similar to Mr. Watkins. She stated she could not make a decision on the matter.

Mr. Rhodes stated he did not see the BZA having jurisdiction over the case.

Mr. Watkins moved to waiver jurisdiction and refer the matter to the Board, with a second from Ms. Moody.

In a unanimous roll call vote, the BZA deferred the matter to the Board in accordance with Section 24-19, Petition for review of decisions, of the zoning ordinance(5-0).

Mr. Wenger opened the public hearing.

Ms. Diane Reyes, 5401 Sasha Court, stated she was concerned with tree loss from the additional lots in Chisel Run. She asked if there was a site plan available for review.

Ms. Brown stated no site plan had been submitted yet with the appeal.

Ms. Jeaneete Novio, 5312 Nicholas Court, stated she was concerned with tree and wildlife loss from the Chisel Run application.

Mr. Wenger closed the public hearing.

E. Matters of Special Privilege

There were no matters of special privilege.

F. Adjournment

Mr. Watkins moved for adjournment, with a second from Ms. Moody.

The meeting was adjourned at 7:25p.m.

Mark Wenger
Chairman

Melissa C. Brown
Secretary

BOARD OF ZONING APPEALS
February 2, 2012

Present:

Ms. Barbara Moody
Mr. Marvin Rhodes
Mr. David Otey
Mr. Ron Campana
Mr. Stephen Rogers

Others Present:

Ms. Melissa Brown, Zoning Administrator
Mr. John Rogerson, Senior Zoning Officer
Ms. Terry Costello, Zoning Officer
Mr. Adam Kinsman, Deputy County Attorney
Mr. Jack Fraley

Ms. Brown called the meeting to order.

A. Introduction

The meeting began by all Board of Zoning Appeal members and staff members giving a brief introduction of themselves.

B. Recognition of Past Members

The Board presented Mr. Jack Fraley a plaque in appreciation for his service and contributions to the Board of Zoning Appeals. Mr. Fraley accepted the plaque and spoke of his experiences and plans.

The Board also recognized Mr. Mark Wenger. Mr. Wenger was unable to attend the meeting. Staff will arrange the plaque be delivered to Mr. Wenger.

C. Election of Officers – 2012 Calendar Year

Ms. Brown opened the floor for nominations for Chair.

In a unanimous voice vote, Mr. Rhodes was elected Chair (5-0).

Mr. Brown opened the floor for nominations for Vice-Chair.

In a unanimous voice vote, Ms. Moody was elected Vice-Chair (5-0).

Staff presented the 2012 BZA Meeting Schedule. The Board unanimously accepted the scheduled as presented.

D. Adjournment

The meeting was adjourned.

Marvin Rhodes
Chairman

Melissa Brown
Secretary

BOARD OF ZONING APPEALS
June 7, 2012

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

A. Roll Call

Present:

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

Others Present:

Ms. Christy Parrish, Acting Zoning Administrator
Mr. John Rogerson, Senior Zoning Officer
Ms. Terry Costello, Zoning Officer

Absent

Mr. Marvin Rhodes

Mr. Otey stated that due to the absence of the chairman, Mr. Rhodes and the resignation of the Vice-Chairman, Ms. Barbara Moody, it was necessary to elect a chairman for the purposes of this meeting. Mr. Rodgers made a motion to nominate Mr. Otey as chairman for the purposes of this meeting with a second from Mr. Campana. The Board unanimously approved. (3-0)

The Board also deferred electing a Vice-Chairman due to Ms. Moody's resignation until all members were present.

B. Old Business

There was no old business.

C. New Business

Mr. Otey asked if the cases heard tonight have been properly advertised and proper notice has been given. Ms. Parrish verified that they have.

ZA-0001-2012 10100 Sycamore Landing Road

Mr. John Rogerson stated that Mr. William Holt of Kaufman and Canoles has applied for variances on behalf of Mr. and Mrs. Murphy who are the property owners of 10100 Sycamore Landing Road. They are requesting variances to the following code sections: (1) Section 24-215 (a), Setback Requirements to reduce the required front yard setback from 50 feet to 35 feet from the edge of the right of way and (2) Section 24-216 (c), Minimum Lot Width and Frontage, to reduce the required minimum lot width of a proposed new lot from the required 150 feet to 130 feet. These proposed variances will allow for the future Family Subdivision of the property and the construction of a new handicap accessible one story single family dwelling. This property is currently zoned A-1, General Agriculture and can further be identified as JCC RE Tax Map No. 0720300001.

Mr. and Mrs. Murphy are requesting variances in order to pursue subdividing 10100 Sycamore Landing Road into two lots and to build a new one story handicap accessible single family dwelling on the newly created lot. Mr. and Mrs. Murphy have owned the property for over 40 years. There are currently two structures on the property. As a final note, many lots along Sycamore Landing Road are nonconforming as it pertains to lot size. Lot sizes range from a half acre to over three acres.

In order to subdivide the property and construct a new dwelling unit the following approvals are needed:

1. An approved variance to Section 24-215 (a)
2. An approved variance to Section 24-216 (c)
3. An approved Special Use Permit granted by the Board of Supervisors.

Mr. Rogerson 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 finds no undue hardship in this case and cannot support the variances. Staff acknowledges that the property owner acquired this lot in good faith and realizes that the mobility issues of the property owners inhibit utilizing their entire dwelling. However should the Board grant these variances, staff feels the variances would not be a detriment to adjoining properties nor alter the character of the area.

Mr. Otey stated that ~~he~~it was his understanding ~~that~~ the regulations concerning the Resource Protection Area (RPA) on the property came into effect after the owners had purchased the property.

Mr. Rogerson stated that was correct.

Mr. Rodgers asked about the probably of being able to expand the existing dwelling.

Mr. Rogerson stated that a problem exists because the dwelling is currently ~~located-exists~~ in the RPA. ~~This would provide some~~An expansion to the dwelling may cause problems with the Engineering and Resource Protection Division. ~~-and and~~ approval may be needed by the Wetlands Board.

Mr. Otey suggested attaching conditions to the variances due to the fact that a special use permit will be required in order to construct a second dwelling.

Mr. Rogerson agreed and stated that should the special use permit not be obtained then the variances would no longer be valid.

Mr. Otey opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles spoke on behalf of the applicant. He stated that the Murphys have owned the property for forty years. There are two structures on the ~~house~~property. He also stated that the Murphys have experienced some medical issues and wish to have a second dwelling for their daughter who isas their caregiver. The Murphys wish to subdivide the property in accordance with the family subdivision section of the Subdivision Ordinance. The hardship is that the Murphys cannot use their entire residence due to mobility issues. They cannot tear down the existing house and build a handicap accessible home due to the fact that the existing home lies entirely within the Resource

Protective Area (RPA). The expansion to the front of the building would be heavily regulated by the Chesapeake Bay Regulations. It would also be a challenge architecturally. Mr. Davis stated that without these variances, the Murphys cannot take advantage of the family subdivision provision in the Ordinance. He feels that the variance would not be a detriment to the area and would be in keeping with the character of the Sycamore Landing area.

There being no further comments. Mr. Otey closed the public hearing.

Mr. Rodgers made a motion to approve the application subject to the condition that the special use permit for a family subdivision is granted by the Board of Supervisors. Mr. Campana seconded the motion.

In a unanimous voice vote the application was approved (3-0)

ZA-0002-2012 8428 Croaker Road

Mr. Rogerson stated that Mr. Andrew M. Franck has applied for a variance on behalf of Mr. Chris Crone, property owner of 8428 Croaker Road. The request is for a variance to Section 24-215 (a) Setback Requirements to reduce the required front yard setback from 75 feet from the center of Riverview Road right-of-way to 50 feet from the center of Riverview Road right-of-way. This variance is requested to allow the property owner to construct an addition [to the existing dwelling](#). This property is currently zoned A-1, General Agriculture and can further be identified as JCC RE Tax Map No. 1410100032.

Mr. Rogerson stated that this dwelling was constructed in the 1940's and is approximately 944 square feet in size. The location of the residence is nonconforming because it encroaches into the current required setbacks from Riverview Road and Croaker Road. The addition is proposed to be approximate 50 feet from the center of Riverview Road. The owner is also proposing to construct an attached garage, which [does meet](#) setback requirements.

Staff finds no undue hardship in this case and cannot support the variance. Staff acknowledges the property owner acquired the property in good faith and that the location of the house on the parcel is nonconforming. However, [Staff does feel](#) that the variance would not be a detriment to adjacent properties nor alter the character of the area. Mr. Rogerson stated that there were three letters from adjacent property owners that supported the variance.

Mr. Rogerson stated that he had some discussions with the homeowner about possibly moving the house, thus making it less nonconforming. After further review it was determined that it would not be cost effective to do so.

Mr. Otey asked about the proposed garage.

Mr. Rogerson stated that the garage was an expansion that was not in the setback; therefore it was not part of the application.

Mr. Rodgers asked about the neighboring properties and whether those structures met current setback requirements.

Mr. Rogerson stated that there were others in the area that were also nonconforming with respect to the front setbacks.

Mr. Otey opened the public hearing.

Mr. Andrew M. Franck spoke on behalf of the application, Mr. Crone. If ~~this~~the variance is granted, it would allow the homeowner to make a modest addition to his home. Mr. Franck stated that this dwelling was constructed in the 1940's before the adoption of the Zoning Ordinance. He stated that the surveyor showed on the plat that Riverview Road is actually an easement, not a dedicated right-of-way. Mr. Franck showed illustrations of the proposed addition and garage. He stated that while part of the proposed addition would be in the setback, it does not bring the dwelling any closer to Riverview Road. Mr. Franck stated that the addition would provide for a third bedroom that is desired for ~~his~~the family. Currently the residence is too small for himself, his fiancé, and her two young adult children. He stated that the addition would also include added improvements to the residence. ~~Part of the renovation project would include the removal of a small shed on the property.~~ The proposed size of the dwelling would not be inconsistent with other homes in the community.

Mr. Franck answered some concerns about whether moving ~~the dwelling~~ or demolishing the ~~old dwelling~~ and rebuilding was a possibility. He stated that it would be very costly to move, and ~~in doing so~~ the well and septic tank would also need to be relocated.

~~He stated that demolishing and rebuilding would also be costly.~~

Mr. Otey asked if the home was destroyed, would it a new home be ~~a requirement required~~ to follow current setback ~~requirements~~ regulations.

Mr. Rogerson answered that if the home was destroyed by an act of God, then he would be able to build another one in the same location. If the homeowner chose to demolish it on his own, ~~there the new home~~ would be ~~the requirement required to of meeting meet~~ current setback regulations.

Mr. Rodgers asked about the value of the dwelling.

Mr. Chris Crone, owner of the property, stated that the value of the house currently is approximately \$100 per square foot. He stated that moving the home would cost approximately \$10,000. ~~In addition, it would cost another \$12,000 to move the septic tank and \$12,000 to dig a new well. to move the septic tank another \$12,000 and \$12,000 for a new well.~~

There being no further comments, Mr. Otey closed a public hearing.

Mr. Campana made a motion to approve the application. Mr. Rodgers seconded the motion.

In a voice vote the application was approved. (3-0)

D. Comments

Mr. Rogerson stated the next meeting will be July 12, 2012 due to the July 4th holiday. Ms. Christy Parrish stated that there will probably be a meeting in September as well.

E. Matters of Special Privilege

There were no matters of special privilege.

F. Adjournment

There being no further business, the meeting was adjourned at 8:05 p.m.

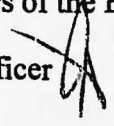
David Otey, Jr.
Acting Chairman

Christy Parrish
Secretary



MEMORANDUM

TO: Honorable Chairman and Members of the Board of Zoning Appeals

FROM: John Rogerson, Senior Zoning Officer 

DATE: January 10, 2013

SUBJECT: **ZA-0007-2012** **140 Point O' Woods**

FACTS:

Mr. Craig Wilson on behalf of property owners Mr. & Mrs. Stackhouse has applied for a variance to Section 24-238(b), Yard requirements, to reduce the required rear yard setback from 35 feet to approximately 20 feet. The rear property line is the edge of the existing lake known as Mirror Lake. This proposed variance request is to allow the continued placement of a portion of the existing dwelling and for the construction of a proposed sunroom. This property is currently zoned R-1, Limited Residential and can further be identified as JCC RE Tax Map No. 1340800001.

FINDINGS:

The most recent subdivision plat titled Mirror Lakes Estate, Section 8; Lot 1 BLA was approved on April 22, 1991 and shows the dimensions of the lot as being similar to the two surveys referenced below and dated December 8, 2004 and December 16, 2004.

On July 31, 2003 a building permit application was submitted by Coastal Homes, Inc. and approved for the placement of a modular home located at 140 Point O' Woods. Attached with the building permit application was a survey by Benjamin Hardin dated March 27, 2002 (Exhibit A). The proposed development plan originally included a detached garage on the left side of the house, a deck on the back left of the house and a screen porch on the back right of the house. At the time of construction the builder decided to omit the detached garage and the screen porch. On the development plan the distance from the rear of the house to the edge of the water, which is the rear property line, was identified as 40'. On that development plan the entire house was inside the building envelope. The proposed location of the house met all setback requirements.

On June 14, 2004 the property owner made application to construct a detached garage to the left of the house (Exhibit B). A survey dated December 8, 2004 was submitted with the building permit application for the garage and that survey showed the rear of the house as being 22.8' from the edge of the water which is the rear property line. This new survey showed that the edge of the Mirror Lake had moved approximately 18' closer to the house. The proposed garage was going to be close to the required setbacks so a "foundation survey" was required. After the foundation for the garage was poured and the blocks were set another survey was done. This survey dated December 16, 2004 (Exhibit C) showed the rear of the house as being 24' from the edge of the water. This even newer survey showed that Mirror Lake had moved almost 2' closer to the house within one week.

RECOMMENDATION:

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 would recommend that a variance be granted for the existing portion of the house that is located in the setback to clear up the setback issues associated with the existing house caused by the varying water levels in Mirror Lake. Staff cannot support further encroachment into the rear yard setback for the proposed sunroom since the property has been put to use by the existence of the current dwelling. However, should the Board wish to grant the variance for the sunroom, staff feels the variance would not be a detriment to adjoining properties nor alter the character of the area.

Attachments:

Exhibit A, B, C
Resolution
Alternate Resolution
SP-0025-1991 BLA Mirror Lakes Section 8, Lot 1
Variance Application
Location maps
Photos

R E S O L U T I O N Z A - 0 0 0 7 - 2 0 1 2

GRANTING A VARIANCE ON JCC RE TAX PARCEL NO. (13-4) (08-0-0001)

WHEREAS, Allen & Katherine Stackhouse, property owners have appeared before the Board of Zoning Appeals of James City County (the "Board") on January 10, 2013 to request a variance on a parcel of property identified as JCC RE Tax Parcel No. (13-4) (08-0-0001) and further identified as 140 Point O' Woods Road (the "Property") as set forth in the application ZA-0007-2012; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record do move to grant a variance to section 24-238 (b), Yard Regulations, of the James City County Zoning Ordinance to reduce the required 35' rear yard setback to 20' feet to allow for continued placement of the existing house and the construction of a sunroom on the back right corner of the house as shown on the development plan submitted by Craig Wilson of Outback Construction.

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

1. The strict application of Chapter 24 of the Code of James City County (the "County Code") would produce undue hardship.
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
4. By reason of the exceptional narrowness, shallowness, size or shape of the Property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the Property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of Chapter 24 of the Code of James City County (the "County Code") would effectively prohibit or unreasonably restrict the utilization of the property.
5. Granting the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
6. The variance will be in harmony with the intended spirit and purpose of Chapter 24 of the County Code.
7. The condition or situation of the Property 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.
8. In authorizing the variance, the following conditions regarding the location, character and other features of the proposed structure or use which have been determined to be in the public interest are imposed: **no further encroachment is permissible.**

ATTEST:

Secretary

Chair, Board of Zoning Appeals

January 10, 2013

R E S O L U T I O N Z A - 0 0 0 7 - 2 0 1 2

GRANTING A VARIANCE ON JCC RE TAX PARCEL NO. (13-4) (08-0-0001)

WHEREAS, Allen & Katherine Stackhouse, property owners have appeared before the Board of Zoning Appeals of James City County (the "Board") on January 10, 2013 to request a variance on a parcel of property identified as JCC RE Tax Parcel No. (13-4) (08-0-0001) and further identified as 140 Point O' Woods Road (the "Property") as set forth in the application ZA-0007-2012; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record do move to grant a variance to section 24-238 (b), Yard Regulations, of the James City County Zoning Ordinance to reduce the required 35' rear yard setback to 20' feet to allow for continued placement of the existing house shown on Physical Survey of Lot 1, Section 8 Mirror Lakes Estates for Allan and Katherine Stackhouse dated December 16, 2004.

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

1. The strict application of Chapter 24 of the Code of James City County (the "County Code") would produce undue hardship.
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
4. By reason of the exceptional narrowness, shallowness, size or shape of the Property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the Property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of Chapter 24 of the Code of James City County (the "County Code") would effectively prohibit or unreasonably restrict the utilization of the property.
5. Granting the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
6. The variance will be in harmony with the intended spirit and purpose of Chapter 24 of the County Code.
7. The condition or situation of the Property 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.
8. In authorizing the variance, the following conditions regarding the location, character and other features of the proposed structure or use which have been determined to be in the public interest are imposed: **no further encroachment is permissible.**

ATTEST:

Secretary

Chair, Board of Zoning Appeals

January 10, 2013



MEMORANDUM

TO: Honorable Chairman and Members of the Board of Zoning Appeals

FROM: Christy H. Parrish, Proffer Administrator

DATE: January 10, 2013

SUBJECT: **ZA-0005-2012** **328 Mill Stream Way**

FACTS:

Mr. and Mrs. Mike Benson have applied for a variance to Section 24-238(b), Yard requirements, to reduce the required rear yard setback from 35 feet to approximately 21 feet. This proposed variance request is to allow the continued placement of a deck and hot tub that encroaches into the rear yard setback. This property is currently zoned R-1, Limited Residential can further be identified as JCC RE Tax Map No. 4711900018.

FINDINGS:

Mr. and Mrs. Benson (the "Owners") purchased the property at 328 Mill Stream Way on January 24, 2012. Prior to the closing, the Owners discovered that the deck and hot tub on the rear of dwelling were erected without building permits or approvals from James City County during the home inspection. On or about January 9, 2012, representatives from the Engineering and Resource Protection Division and Zoning Enforcement Division visited the property and confirmed that a portion of the deck and hot tub encroached into the required rear yard setback and into areas designated as resource protection and natural open space. Prior to the closing, the sellers indicated to the Owners that they did not have adequate time to remedy the deck and hot tub issues and the Owners did not want to delay the closing.

Upon closing on the property, the Owners consulted with James City County staff from Building Safety and Permits, Engineering and Resource Protection and Zoning Enforcement. Since that time, the Owners have obtained building permits, installed safety railings, and received approvals from the Chesapeake Bay Board for the continued placement of the deck and hot tub.

A portion of the deck and hot tub encroaches 13.4' into the required 35-foot rear yard setback. The adjacent property to the rear is owned by the Home Owners Association and is designated natural open space. The Owners do not believe there were any mature canopy trees removed for the construction of the deck. At the time of this writing, staff has not received any concerns with the variance request.

RECOMMENDATION:

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 finds no undue hardship in this case and cannot support the variance. Staff acknowledges the property owner acquired the property after the

construction of the deck/hot tub and has worked with staff diligently to remedy the issues. However should the Board wish to grant the variance, staff feels the variance would not be a detriment to adjoining properties nor alter the character of the area. The Board may also add a condition to the variance that no further encroachment is permissible.

Attachments:

Resolution

Variance Application

Letter from Owners

Survey dated 10-17-2012

Two Location maps

Photos

Original Development Plan dated 7-28-1999

Violation Letter

Chesapeake Bay Board memorandum and resolution

R E S O L U T I O N Z A - 0 0 0 5 - 2 0 1 2

GRANTING A VARIANCE ON JCC RE TAX PARCEL NO. (47-1) (09-0-0018)

WHEREAS, Mike and Mechelle, property owners have appeared before the Board of Zoning Appeals of James City County (the "Board") on January 10, 2013 to request a variance on a parcel of property identified as JCC RE Tax Parcel No. (47-1) (19-0-0018) and further identified as 328 Mill Stream Way (the "Property") as set forth in the application ZA-0005-2012; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record do move to grant a variance to section 24-238 (b), Yard Regulations, of the James City County Zoning Ordinance to reduce the required thirty five (35') foot rear yard setback to twenty one point six (21.6') feet to allow for the continued placement of a deck and hot tub as shown on the plat entitled "Physical Survey of Lot 18, Section 6 Settlers Mill for Mike and Mechelle A. Benson" dated October 17, 2012.

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

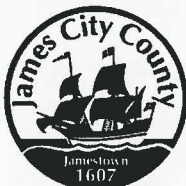
1. The strict application of Chapter 24 of the Code of James City County (the "County Code") would produce undue hardship.
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. Authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
4. By reason of the exceptional narrowness, shallowness, size or shape of the Property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the Property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of Chapter 24 of the Code of James City County (the "County Code") would effectively prohibit or unreasonably restrict the utilization of the property.
5. Granting the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
6. The variance will be in harmony with the intended spirit and purpose of Chapter 24 of the County Code.
7. The condition or situation of the Property 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.
8. In authorizing the variance, the following conditions regarding the location, character and other features of the proposed structure or use which have been determined to be in the public interest are imposed: **no further encroachment is permissible.**

ATTEST:

Secretary

Chair, Board of Zoning Appeals

January 10, 2013



Board of Zoning Appeals Application

Date: _____ ZA: _____ Receipt No.: _____

Please complete all sections of the application. Call (757) 253-6685 if you have any questions.

Please note that before accepting this application, County staff will verify that all real estate taxes owed for the subject properties have been paid in full in accordance with Section 24-24. If you are unsure if your payments are up-to-date, please contact the County Treasurer at 757-253-6705.

The applicant must provide the following information to support this application:

1. A plat of the property drawn to scale showing dimensions and locations of all structures, wells, septic systems, and easements associated with the property.
2. A location sketch of the property showing all adjacent roads or right-of ways and showing the nearest road intersection.
3. Building elevation drawings and/or topographical map if appropriate to request.

1. Project Information:

Project Name: 328 Mill Stream Way - Variance to rear setback
Address: 328 Mill Stream Way Zoning: R-1
Is Site Inside PSA? Yes ☒ No ☐
Tax Map & Parcel ID: (47-1)(19-0-0018)

2. Applicant/Contact Information:

Name: Mike & Michelle Benson
Company: _____ Phone: 410-451-1537
Address: 1409 Tufted Moss Court Fax: _____
Crofton MD 21114 e-mail: BENSON FARM 98 @ GMAIL.COM

3. Property Owner(s) Information:

Name: _____
Company: Land Phone: _____
Address: _____ Fax: _____
e-mail: _____

Continue on separate page if additional owners

4. Variance

The above applicant respectively requests that the Board of Zoning Appeals grant a variance to Section 24- 238 b of the Zoning Ordinance.

The specific variance(s) requested are: to allow the existing deck and hot tub to remain and encroach into rear setback.

Continue on separate page if necessary

The variance is requested for the following reasons: SEE Attached

Continue on separate page if necessary

5. Appeal

The above applicant respectively requests that the Board of Zoning Appeals review the decision made on _____ (date).

The following action is requested:

- ☐ an interpretation of Section 24-_____ of the Zoning Ordinance.
- ☐ an interpretation of the Zoning Ordinance map.
- ☐ an appeal of an administrative decision.

Explanation of appeal: _____

Has the applicant previously filed an appeal in connection with the property? (If yes, give date of appeal) _____

Explanation of purpose to which property will be put: _____

6. The undersigned declares that the above statements and those contained in any exhibits transmitted to the Board of Zoning Appeals are true.

Signature of Applicant: [Signature] Michelle Baer Date: 23 Apr 12

Signature of Owner: [Signature] Michelle Baer Date: 23 Apr 12

We are submitting this appeal in regards to the deck attached to 328 Mill Stream Way that was constructed within 35 foot setback. We respectfully request the James City County Zoning Board approve the variance permitting the deck to remain within the set-back.

First, we like state that we are not the original home owners and did not construct the deck within this area. We recently purchased the Home in January 2012. As part of the purchase process and home inspection, we noted the deck did not have any safety railings installed. It was our concern about the lack of these safety rails and our request to the seller that we wanted proper documentation that brought this situation to light. From this point, we asked the seller to ensure that the deck had the proper paperwork/permits. We were told that the Homeowner's association approved it (which we did see the HOA's written approval) and that the seller would get the proper paper work from the county and install the proper safety railings. The seller assured us that it would be taken care of and that it would not be a problem to get the necessary permits. There was a meeting at the house with my realtors, the seller and we believe a representative from the county. We were led to believe the situation would be able to get resolved prior to closing. Just a few days before closing, we were informed by the Seller that they did not have the adequate time to order and install the railing and get all the required permits for the deck prior to closing. We were then told that the County would work with us to get this resolved and acquire proper permits/permissions. We bought this house as our retirement home and did not want to delay the purchase. After closing, we immediately installed the railings at a cost of \$4000. The railings have been inspected, permitted, and approved by James City County.

Removing the deck would place financial strain on us not to mention the \$4000 lost in the new safety railing. Relocating the deck would also be extremely costly and not practical since there are no areas to relocate the deck to and would damage cause damage to the natural open space.

On 8 Aug 2012, the Chesapeake Bay Board of James City County granted our appeal allowing us to maintain the deck within the Natural Open Space and Resource Protection Area. (Resolution is Attached).

We respectfully request the Zoning Board to approve the variance to maintain the deck at its current location.

Sincerely,


Mike and Mechelle Benson

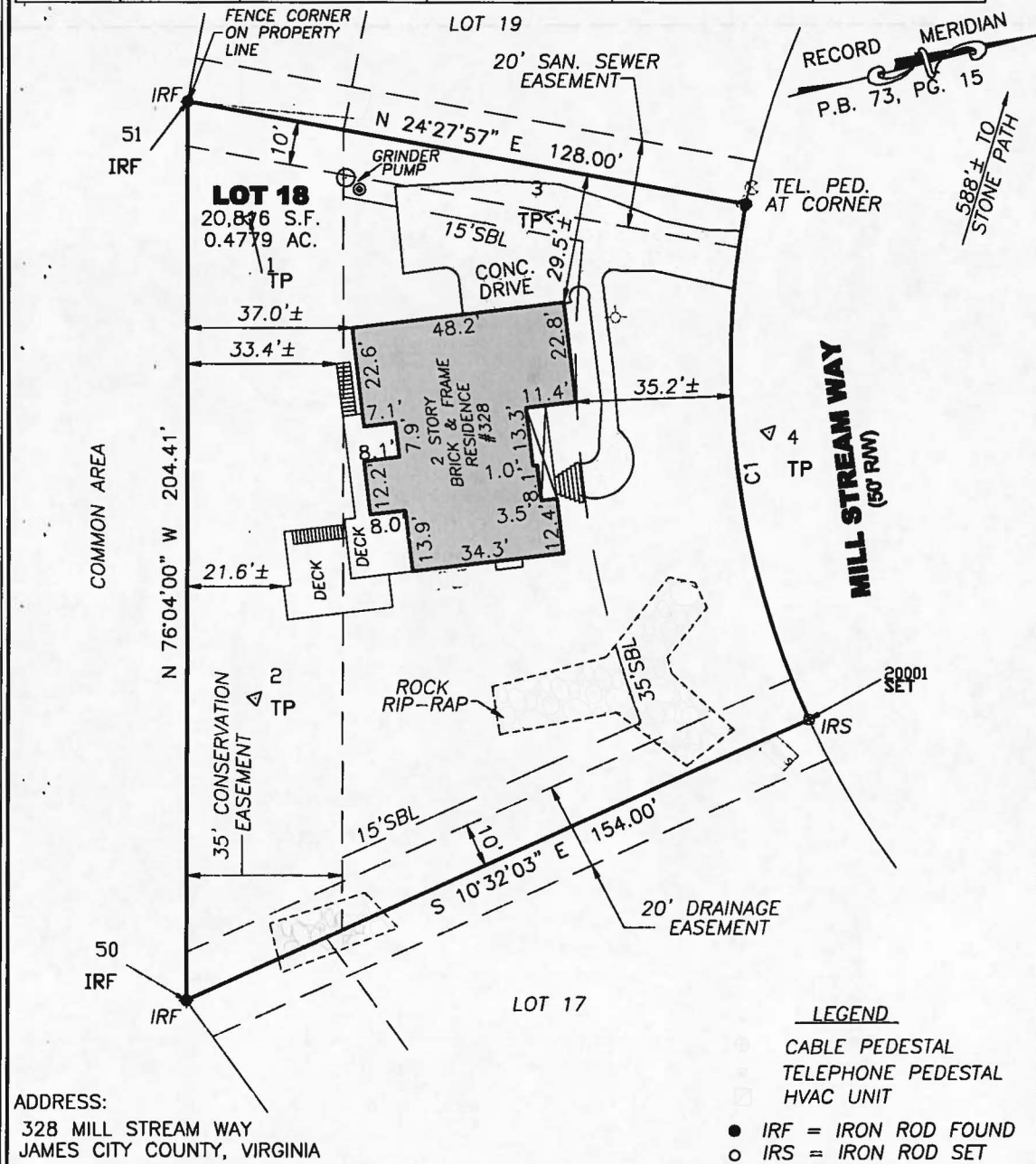


328 Mill Stream Way

NOTES:

1. THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND REFLECTS ONLY THOSE ENCUMBRANCES, EASEMENTS AND SETBACKS AS SHOWN IN P.B. 73, PG. 15.
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 PERFORMED.
3. LOT LIES IN F.I.R.M. ZONE "X" ACCORDING TO FLOOD INSURANCE RATE MAP #51095C0185C, DATED SEPTEMBER 28, 2007.
4. WETLANDS, IF ANY, WERE NOT LOCATED FOR THIS SURVEY.
5. UNDERGROUND UTILITIES WERE NOT LOCATED.

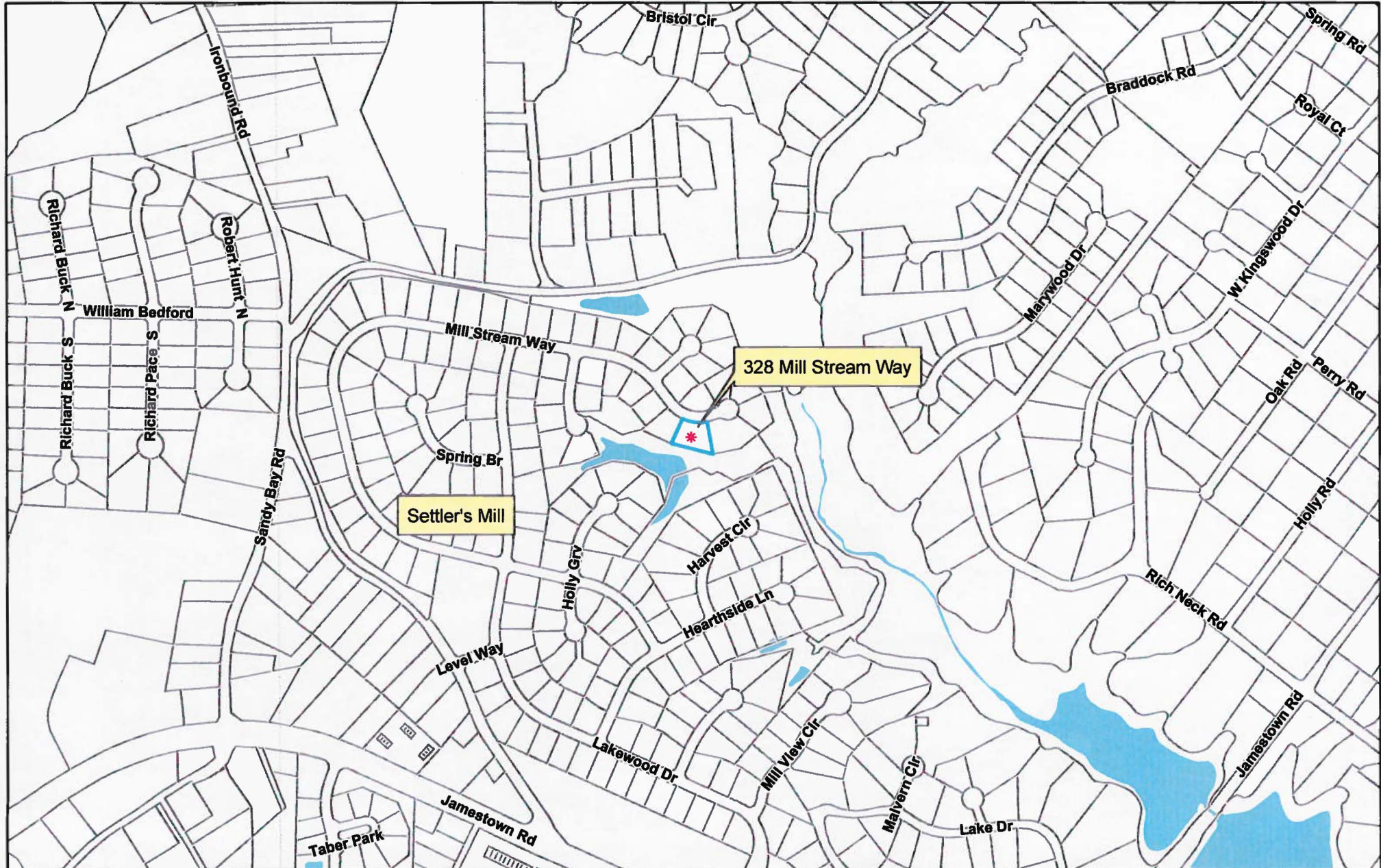
| CURVE | RADIUS | ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|-------|---------|------------|--------------|---------------|-------------|
| C1 | 196.38' | 119.96' | 118.10' | S 83°02'04" E | 34°59'56" |



| | | |
|--|---|--|
| <p>COMMONWEALTH OF VIRGINIA</p> <p><i>William S. Felts</i></p> <p>WILLIAM S. FELTS</p> <p>Lic. No. 3149</p> <p>10/17/2012</p> <p>LAND SURVEYOR</p> | <p>REFERENCES:</p> <p>P.B. 73, PG. 15</p> <p>DATE: 10/17/12</p> <p>SCALE: 1"=30'</p> <p>JOB# 12-387</p> <p>CAD File</p> <p>12-387.dwg</p> | <p>PHYSICAL SURVEY OF LOT 18, SECTION 6</p> <p>SETTLERS MILL</p> <p>For:</p> <p>MIKE & MECHELLE A. BENSON</p> <p>JAMES CITY COUNTY VIRGINIA</p> <p>LandTech Resources, Inc.</p> <p>Surveying • GPS • Engineering</p> <p>205 Bulifants Boulevard, Suite E, Williamsburg, Virginia 23188</p> <p>Telephone: 757-565-1677 Fax: 757-565-0782</p> <p>Web: landtechresources.com</p> |
|--|---|--|

ZA-0005-2012

328 Mill Stream Way



328 Mill Stream Way



ZA-0005-2012, 328 Mill Stream Way



ZA-0005-2012, 328 Mill Stream Way

Page 2 of 2

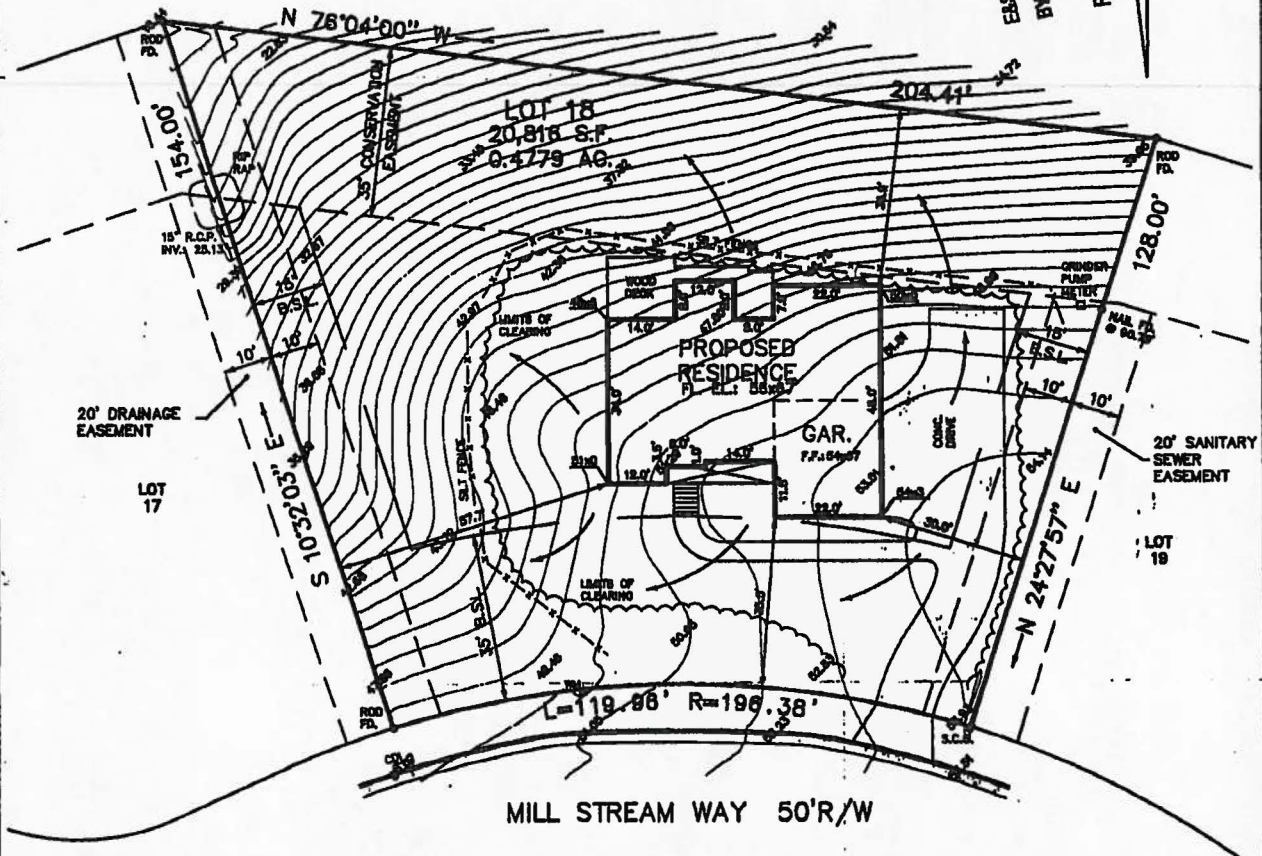


Building Permit Plan

COMMON AREA
&
CONSERVATION EASEMENT

WIND EASEMENT
A/B
EBS APPROVED AS NOTED
BY *[Signature]*
8-22-99

RECORD NORTH



NOTES:

1. BUILDER: PATRICK MAULD BUILDERS, INC.
2. ELEVATIONS ARE BASED ON NGS DATUM.
3. HOUSE DIMENSIONS ARE FROM THE FIRST FLOOR PLAN AND ARE TO THE OUTSIDE OF FRAME WALL.
4. HOUSE PLANS PROVIDED BY THE BUILDER.
5. THE BUILDER MUST VERIFY ALL HOUSE DIMENSIONS.
6. THE BUILDER SHALL CONTACT "MISS UTILITY" PRIOR TO ANY LAND DISTURBING ACTIVITY.
7. A STONE CONSTRUCTION ENTRANCE IS REQUIRED.
8. EROSION AND SEDIMENT CONTROL DEVICES ARE TO BE INSPECTED AND MAINTAINED DURING CONSTRUCTION.
9. B.S.L. DENOTES BUILDING SETBACK LINE.
10. NO CLEARING OR CONSTRUCTION IS ALLOWED IN THE CONSERVATION EASEMENT.

PLAT REF.: P.B. 73, PG. 13-15
FLOOD ZONE: X
COMMUNITY NO.: 510201
PANEL NO.: 45
SUFFIX: B
DATE OF FIRM INDEX: 2-6-91



THIS DRAWING WAS PREPARED PRIOR TO CONSTRUCTION AND UNLESS OTHERWISE NOTED ALL IMPROVEMENTS SHOWN ON THIS DRAWING ARE PROPOSED.

JOHNNY S. WALTERS, III

C.L.S.



DEVELOPMENT PLAN

LOT 18

SETTLERS MILL

SECTION 6

JAMES CITY COUNTY, VIRGINIA

WALTERS LAND SURVEYING, LTD.

710 DENDRICH BOULEVARD, SUITE 4C

NEWPORT NEWS, VIRGINIA 23608

P.O. BOX 1684 YORKTOWN, VIRGINIA 23698

PHONE: (757) 898-1057 FAX: (757) 898-2862



Copy

Development Management
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
P: 757-253-6671
F: 757-253-6822
devman@james-city.va.us
jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

April 5, 2012

Mr. and Mrs. Mike Benson
1409 Tuffed Moss Court
Crofton MD 21114-3211

RE: 328 Mill Stream Way - setback violation

Dear Mr. and Mrs. Benson,

I am writing in reference to the property you own located at 328 Mill Stream Way (the "Property"). This Property can also be identified, respectively, as Parcel Number (19-0-0018) on James City County Real Estate Tax Map (47-1). The Property is zoned R-1, Limited Residential and is 0.477 acres in size.

It was brought to staff's attention that the deck and hot tub located behind the dwelling encroaches into the rear yard setback which is a violation of Section 24-238 (b) Yard regulations of the James City County Zoning Ordinance. Section 24-238 (b) Yard regulations requires each main structure and accessory structures located ten feet or less from the main structure have a minimum rear yard setback of 35 feet.

In order to correct this violation, you must either remove the structure within the 35' rear yard setback or apply for a variance from the Board of Zoning Appeals. I have enclosed an application to the Board of Zoning Appeals. The applicable variance fee is \$500.00.

Also, it is my understanding that this structure is located within the Resource Protection Area buffer and conservation easement. The structure was constructed without a building permit prior to you acquiring the property in January 2012.

As previously discussed, you intend to resolve this situation in the following steps:

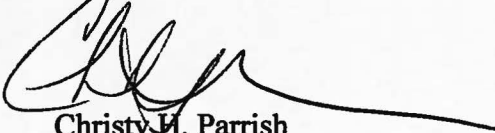
1. Request an exception from the Chesapeake Bay Board;
2. Request a variance from the Board of Zoning Appeals;
3. Request and process a conservation easement land area "swap" from James City County.

You may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with section 15.2-2311 of the *Code of Virginia*, 1950, as amended. The decision shall be final and unappealable if not appealed within 30 days. The applicable appeal fee is \$500.00. Additional information may be obtained regarding the filing of an appeal in sections 24-663 and 24-664 of the *James City County Code*.

Please note that the above appeal language only applies to the setback violation determination. If you disagree that the structure is located within the rear yard 35' setback, you may appeal this decision within 30 days. Should you not appeal the setback violation determination, you may apply for the setback variance after receiving the outcome from the Chesapeake Board Board.

Please feel free to contact me at 757-253-6755 should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christy H. Parrish', with a long horizontal flourish extending to the right.

Christy H. Parrish
Proffer Administrator

Enclosure

cc: Mr. Mike Woolson, Engineering and Resource Protection

MEMORANDUM

Date: August 8, 2012
To: The Chesapeake Bay Board
From: Michael D. Woolson, Senior Watershed Planner *MDW*
Subject: Appeal of Notice of Violation, Natural Open Space Easement and Resource Protection Area
328 Mill Stream Way, Settler's Mill at Jamestown, Section 6
JCC PIN 4711900018

Mr. and Mrs. Michael and Mechelle Benson, owners of the above referenced property, are appealing the administrative decision to remove a deck that was built in an area designated as natural open space (NOS) easement and resource protection area (RPA). The deck was built without the Zoning Enforcement Division's approval and without any building permits from Building Safety and Permits Division.

The lot was platted on April 28, 1999, with the conservation easement clearly identified on the lot but without any RPA designation. This was due to the fact that there was no defined RPA identified on or adjacent to the lot as defined by the Ordinance in effect at that time. However, on January 1, 2004, revisions to the Ordinance became effective that changed how perennial water bodies are identified and now it is required that determinations be made based on a field investigation. In 2007, property owners who were affected by the revised ordinance were notified by mail.

On or about January 9, 2012 representatives from the Engineering and Resource Protection and Zoning Enforcement Divisions visited the property at the request of the real estate agent listing the property for sale. A deck was observed in the NOS easement and RPA, not attached to the principal structure. Further research into County records did not indicate any of the necessary approvals or building permits for the deck structure. The Benson's purchased the property later in January 2012.

The two issues before the Board are similar in nature; therefore it is staff's intent that any decision be applied to both issues (RPA and NOS). The deck is a violation of condition #1 of the easement as no written documentation has been found nor provided indicating that the County Engineer approved the structure being placed in the easement. The deck is also considered an accessory structure under the provisions of the Ordinance as it is a free-standing structure not part of the principal structure (primary residence) on the lot. The matter is before the Board for the RPA issue as staff does not have the ability under to Ordinance to authorize the placement of an accessory structure in the RPA. The matter is before the Board for the NOS easement issue as the easement was placed on the lot to partially satisfy the stormwater requirements set forth under the Ordinance for the subdivision.

In their appeal letter, the Benson's indicate that no mature canopy trees were removed for the deck. Staff believes this to be a true statement, as no evidence to the contrary could be found. The

AUG 08 2012

Benson's also indicate that they are willing to replant the understory and shrub layers that were removed.

In making a decision on this appeal, the Ordinance states that the Board needs to *balance* the hardship to the property owner with the purposes, intent and objectives of the Ordinance. The Board needs to make the following findings in order to decide in favor of the appellant:

1. *The hardship is not generally shared by other properties in the vicinity;*
2. *The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected;*
and,
3. *The appellant acquired the property in good faith and the hardship is not self-inflicted.*

The Board can impose reasonable and appropriate conditions to the granting of any exception, waiver or variance as it deems necessary in the public interest to ensure that the purpose and intent of the Ordinance are preserved.

If the Board decides to adopt the resolution to grant the appeal, staff would recommend that the Benson's be required to enter into a Chesapeake Bay Restoration Agreement and mitigate the impervious area of the deck at a rate of twice the normal rate to ensure that water quality is not adversely affected. In this case, the plantings would be onsite and consist of 2 understory trees and 6 shrubs.

Staff is available to answer questions related to this appeal.

Attachments:

- Notice of Violation, Natural Open Space, dated May 15, 2012
- Notice of Violation, Resource Protection Area, dated May 15, 2012
- Appeal Letter, received June 8, 2012

RESOLUTION

GRANTING AN APPEAL ON JCC RE TAX PARCEL NO. 4711900018

WHEREAS, Mike and Mechelle Benson, property owners (the "Appellants") have appeared before the Chesapeake Bay Board of James City County (the "Board") on August 8, 2012 appealing Notices of Violation, Case No. CBV-12-009, dated May 18, 2012, ordering removal of the deck and restoration of the Resource Protection Area (RPA) and Natural Open Space (NOS) easement, on property identified as JCC RE Tax Parcel No. 4711900018 and further identified as 328 Mill Stream Way in the Settler's Mill subdivision (the "Property") and;

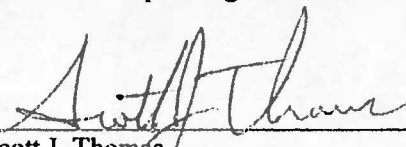
WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record.

NOW, THEREFORE, following a public hearing, the Chesapeake Bay Board of James City County by a majority vote of its members FINDS that all of the following conditions have been met:

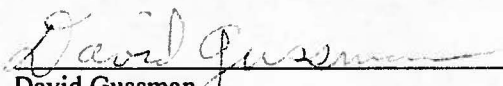
1. The hardship is not generally shared by other properties in the vicinity;
2. The Chesapeake Bay, its tributaries and other properties in the vicinity will not be adversely affected: and
3. The Appellants acquired the property in good faith and the hardship is not self-inflicted.

THEREFORE, the Chesapeake Bay Board of James City County is granting the appeal filed by Mike and Mechelle Benson received on June 8, 2012 and overturning the May 18, 2012 Notices of Violation issued by James City County Engineering and Resource Protection Division.

In granting this appeal, the Appellants are required to enter into a Chesapeake Bay Restoration Agreement and mitigate the impervious area of the deck at a rate of twice the normal rate to ensure that water quality is not adversely affected. In this case, the plantings would be onsite and consist of 2 understory trees and 6 shrubs.



Scott J. Thomas
Director, Engineering and Resource Protection



David Gussman
Chair, Chesapeake Bay Board

Adopted by the Chesapeake Bay Board of James City County, Virginia, this 8th day of August 2012.

THE FORGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 8th DAY OF August 2012 IN THE COMMONWEALTH OF VIRGINIA IN THE COUNTY OF JAMES CITY.



NOTARY PUBLIC
MY COMMISSION EXPIRES 12/31/14

7014335 MELANIE J. DAVIS
NOTARY PUBLIC
REG. #7014335
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DEC. 31, 2014



DEC 05 2012

RECEIVED

BOARD OF ZONING APPEALS APPLICATIONDate: 12/6/12 ZA: 07-12 Receipt No.: 6227

Please complete all sections of the application. Call (757) 253-6685 if you have any questions, or go online to www.jccEgov.com/resources/devmgmt/dlv_devmgmt_planning.html

The applicant must provide the following information to support this application:

1. A plat of the property drawn to scale showing dimensions and locations of all structures, wells, septic systems, and easements associated with the property.
2. A location sketch of the property showing all adjacent roads or right-of ways and showing the nearest road intersection.
3. Building elevation drawings and/or topographical map if appropriate to request.

1. Project Information:

Project Name: STACKHOUSE SUNPORCH
Address: 140 POINT O WOODS Zoning: Residential
WILLIAMSBURG VA 23188 Is Site Inside PSA? Yes ☒ No ☐
Tax Map & Parcel ID: (13-4)(08-0-0001)

2. Applicant/Contact Information:

Name: ALLAN STACKHOUSE
Company: _____ Phone: 757-566-8536
Address: 140 POINT O WOODS Fax: _____
WILLIAMSBURG VA 23188 E-mail: ADSTACKHOUSE@COX.NET

3. Property Owner(s) Information:

Name: ALLAN STACKHOUSE
Company: _____ Phone: 257-566-8536
Address: 140 POINT O WOODS Fax: _____
WILLIAMSBURG VA 23188 E-mail: ADSTACKHOUSE@COX.NET

Continue on separate page if additional owners

4. Variance

The above applicant respectively requests that the Board of Zoning Appeals grant a variance to Section 24-_____ of the Zoning Ordinance.

The specific variance(s) requested are: REDUCTION OF 20' SET BACK

TO ALLOW FOR CONSTRUCTION OF A SWIMMING POOL IN LOCATION
APPROVED FOR A SWIMMING POOL (NEVER BUILT) IN ORIGINAL
BUILDING PERMIT.

Continue on separate page if necessary

The variance is requested for the following reasons: 1. WINTER LANE IN LAKE HAVES
RISEN TO A LEVEL THAT WAS NOT ANTICIPATED. 2. SWIMMING POOL WILL BE
WITHIN CONFINES OF EXISTING HOUSE LINES, WHICH MET SET-BACK
REQUIREMENTS AT TIME OF CONSTRUCTION.

Continue on separate page if necessary

5. Appeal

The above applicant respectively requests that the Board of Zoning Appeals review the decision made on _____ (date).

The following action is requested:

- ___ an interpretation of Section 24-_____ of the Zoning Ordinance.
- ___ an interpretation of the Zoning Ordinance map.
- ___ an appeal of an administrative decision.

Explanation of appeal: _____

Has the applicant previously filed an appeal in connection with the property? (If yes give date of appeal) _____ (date).

Explanation of purpose to which property will be put: _____

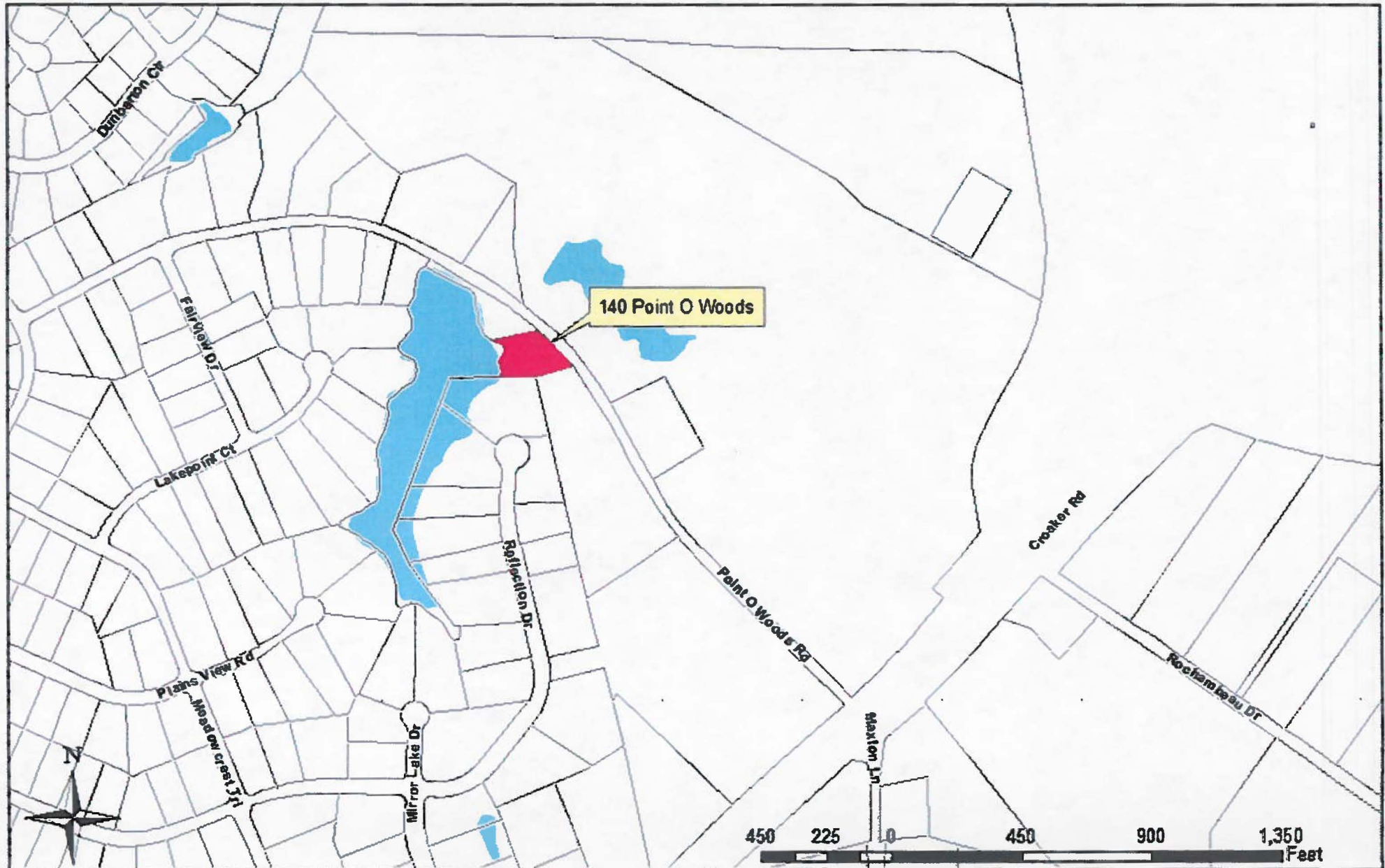
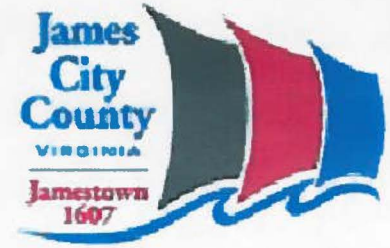
6. The undersigned declares that the above statements and those contained in any exhibits transmitted to the Board of Zoning Appeals are true.

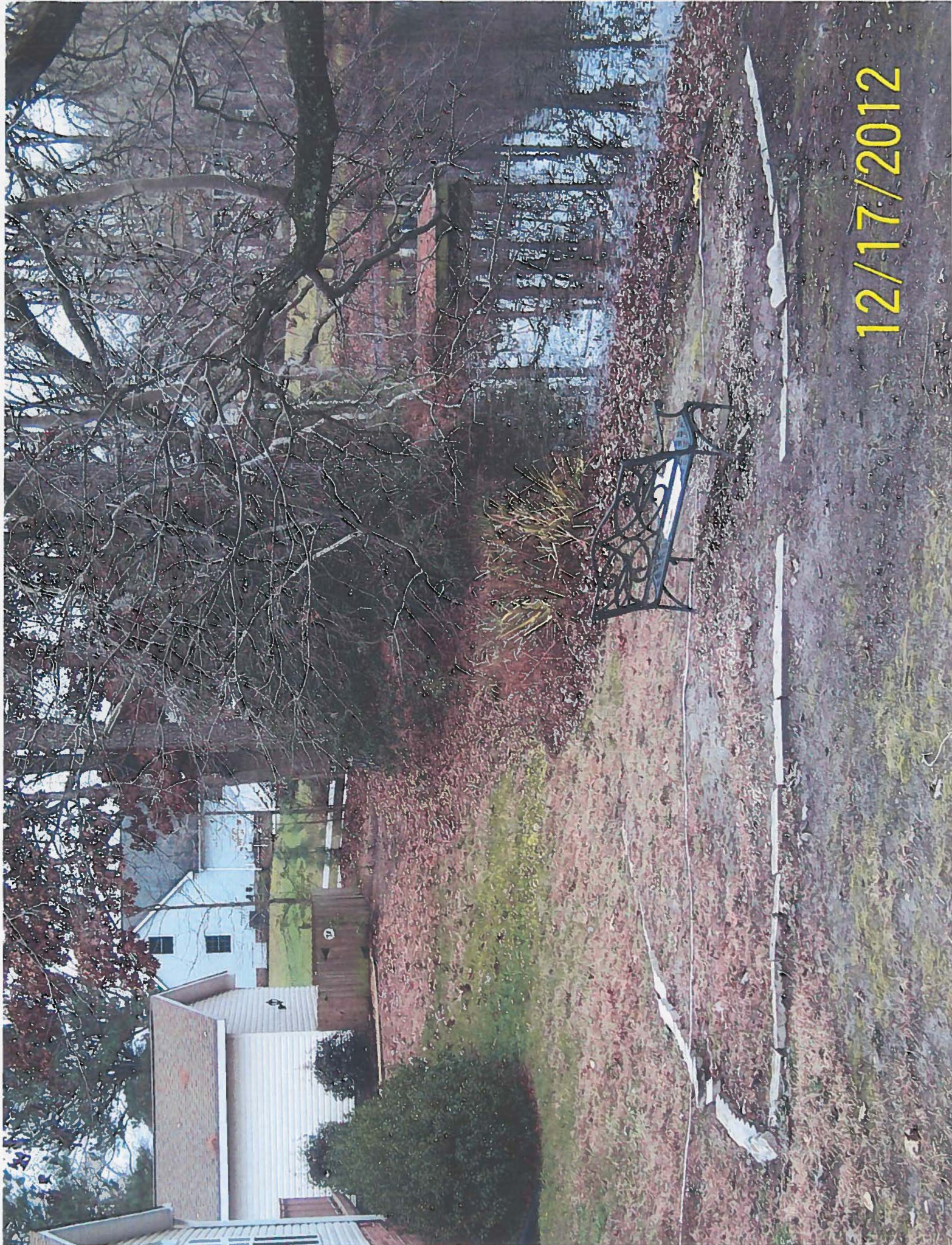
Signature of Applicant: Allen Stachhouse Date: 12/5/12

Signature of Owner: Allen Stachhouse Date: 12/5/12

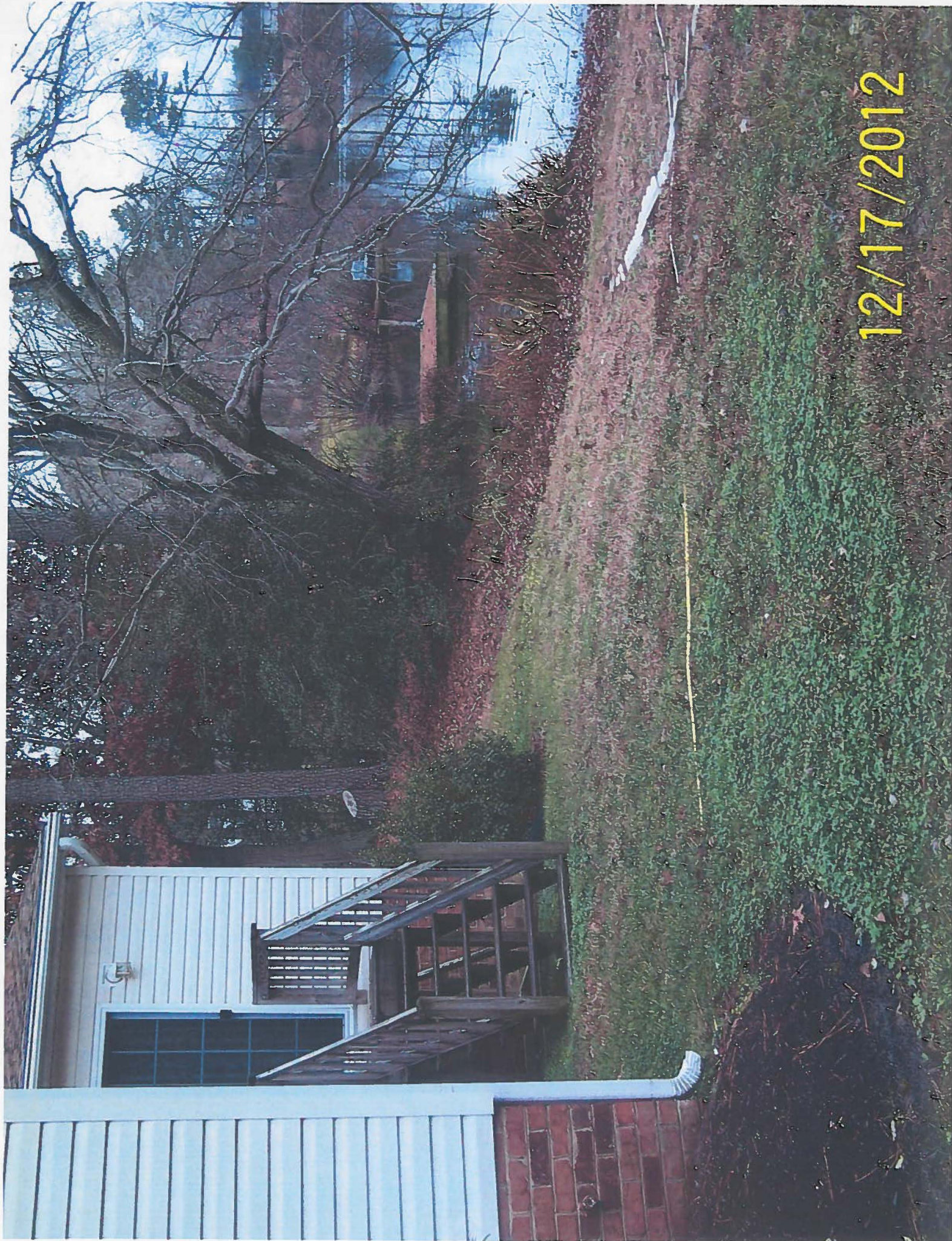
ZA-0007-2012

140 Point O Woods





12/17/2012



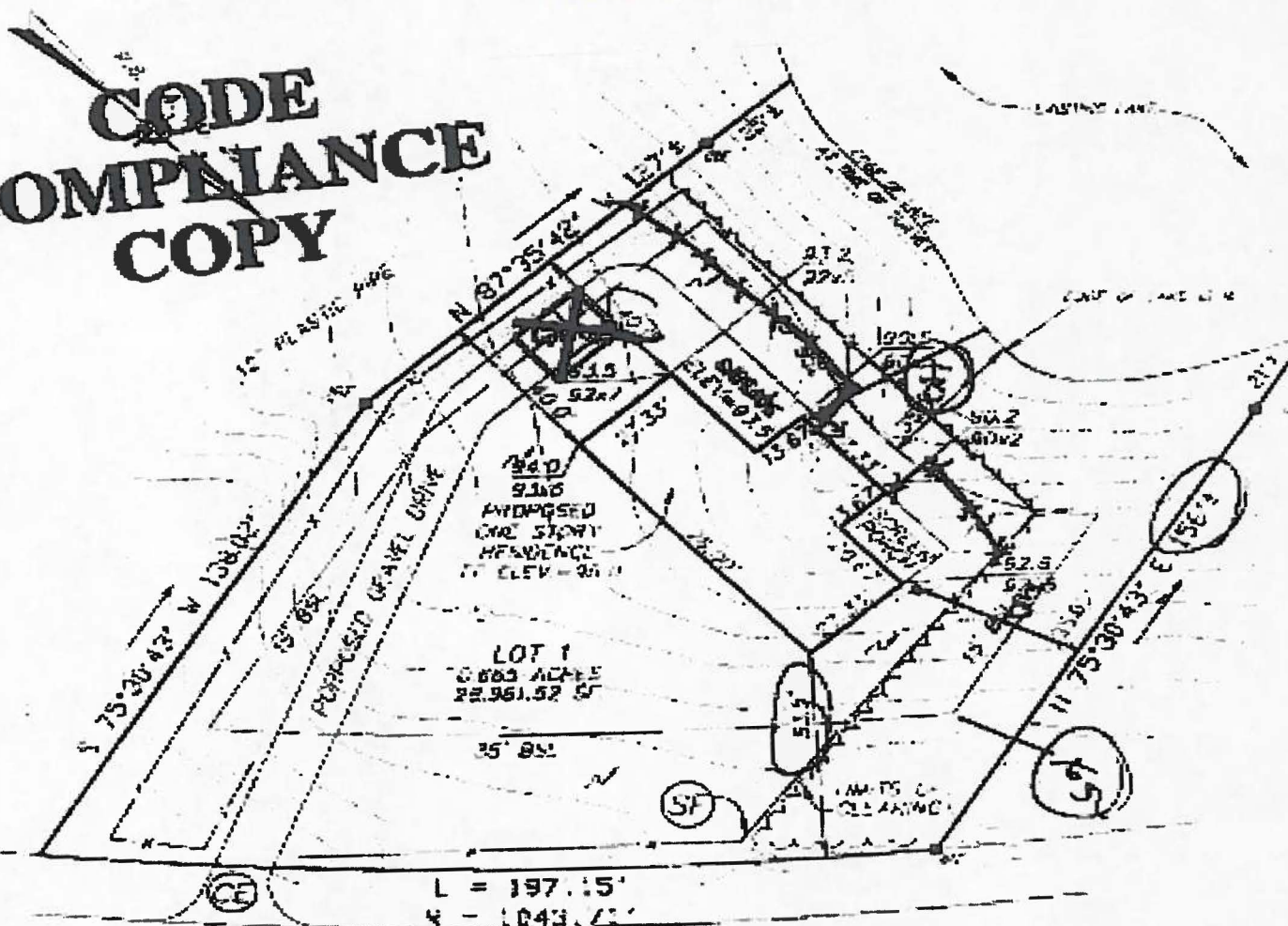
12/17/2012



12/17/2012

Exhibit A

**CODE
COMPLIANCE
COPY**



POINT O' WOODS DRIVE
(50' R/W)

NOTE:

1. BUILDER SHALL BE RESPONSIBLE TO
INSTALL AND MAINTAIN EROSION
CONTROL MEASURES.

2. BUILDING DIMENSIONS SHOWN HEREIN
SHALL BE VERIFIED BY THE BUILDER
PRIOR TO CONSTRUCTION.

3. ELEVATIONS SHOWN HEREON ARE
BASED ON AN ASSUMED BENCHMARK
AND ARE RELATIVE.

4. LOT DIMENSIONS ARE BASED ON THE
SURVEY MAP ENTITLED "MIRROR LAKE
ESTATES, SECTION 8"
P.B. 54, P.C. 21.

5. THIS SITE PLAN DOES NOT REPRESENT
A BOUNDARY SURVEY.

6. BUILDER SHALL BE RESPONSIBLE FOR
ALL NECESSARY PERMITS.

OWNER:
COASTAL HOMES, INC.
15043 WARWICK BLVD
NEWPORT NEWS, VA 23608
(757) 873-2770

THOMAS LAND SURVEYING, P.C.
11831-A CANYON BOULEVARD
NEWPORT NEWS, VIRGINIA 23604
TEL: (757) 873-2770 FAX (757) 873-2777

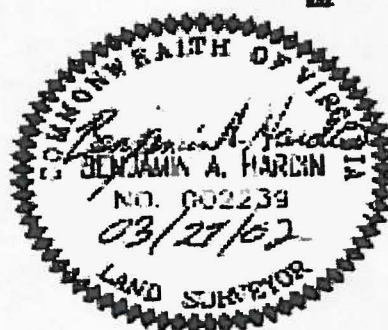
☒ A04-0998

DECK & SCREEN PORCH
(APP'D BY HB IN ZONING)
(EIS APPROVAL NOT REQ'D)

☒ A04-0999

DETACHED GARAGE
EAS APPROVED AS NOTED
BY E.C. 9-23-04

WIND EXPOSURE
A/B



FLOOD INSURANCE RATE MAP

ZONE _____

COMMUNITY NO. _____

PARCEL NO. _____

DATE OF FIRM _____

DEVELOPMENT PLAN

LOT 1
MIRROR LAKE ESTATES
SECTION 8
JAMES CITY COUNTY, VIRGINIA

JOB NO. 01-444

SCALE: 1" = 40'

DATE: 12/17/01

Exhibit A



JCC CODE COMPLIA

01

Coastal Homes APPLICATION FOR BUILDING PERMIT

101 Mounts Bay Road, P.O. Box 8784, Williamsburg, VA 23187-3627

(757) 253-6626

FAX: (757) 253-6850

Office Hours: Mon-Fri 8:30 a.m. - 5:00 p.m.

CONTRACTOR INFORMATION

License No. 2705052743A
Company Name Coastal Homes Inc.
Street Address 15043 WAREWICK BLVD
City Newport News State VA Zip 23608
Phone No. (800) 822-2500 Fax No. (800) 822-4599

Signature: Cheryl Luck
Print Name: Cheryl Luck

OWNER INFORMATION

Name Allan & Kathy Stackhouse
Address 92 Buranda Pl.
City Haskell State MT. Zip 02420
Phone No. (413) 879-7170 Fax No. ()

Signature: _____
Print Name: _____

Agent: Cheryl Luck / Coastal Homes
Print Name: Cheryl Luck

DESCRIPTION OF WORK

Deliver & set up modular home

SAME AS PLAN NUMBER _____ (Lists Options)

(For Commercial Projects Only)

Site Plan No. _____ Date Approved _____

LOCATION OF WORK

Tax Map No. (13-4) (8-1)
Street Address 170 Point Woods Rd
Zoned R-1 Subdiv. _____

MECHANICS' LIEN AGENT

Name: Homebuyers Solutions
Address: P.O. Box 586
City Nellisford State VA Zip 22558
Phone No. (800) 361-1900 Fax No. ()

BUILDING INFORMATION

Stories 1 No. Rooms _____ No. Baths _____ No. Bath Fix _____
No. Fireplaces (Wood Prefab Gas FP. Gaslog. Other _____)
Exterior Finish: Vinyl Brick Wood Other _____
Interior Finish: Crown Moulding Wood Other _____
Flooring: Crown Wood Vinyl Other _____
Roofing: Asphalt Fiberglass Wood Other _____
Heat Type: Gas Heat Pump Electric Other _____
Air Conditioning Type: Central Window None _____

Floor Area (sq. ft.) 3,040. 2,457 sq ft
(Do not include Basement, Garage, and Deck/Porch)
Deck (sq. ft.) _____
Porch (sq. ft.) _____
Basement Area (sq. ft.) _____
Garage Area (sq. ft.) _____
Total Area (sq. ft.) _____

Estimated Value 100,357 (Do not include Lot 5)

Septic _____ Public Sewer X Grinder Pump X
Well _____ Public H₂O X

OFFICE USE ONLY

Lot Width 160
Lot Depth 156
Front Property Line 50
Right Property Line 41
Left Property Line 40
Rear Property Line 40

Improvement Code 12
Structure Used As FER
Use Group RA
Occupancy Load _____
Type Construction 53
Zoning Approved CHP
Zoning Disapproved _____
Plan Approved RAH 12/10/02
Plan Disapproved _____

Notes: JLR
543 APPROVED 12/10/02 W/NO H/L
LOW 35 W/1M
NEED LAMIN. WALL AND OR GUTTER
COPIES
NEED 4-100 R/L
NEED INSTALLATION INSTRUCTIONS
NEED END PIER DETAILS
NEED HUD VS STATE S&L DETERMINATION

PERMIT NO. 030278
LINE NO. 02-1108
Date/Time In 1/31/02 1:22
Date Plan Reviewed 2/20/02

PLAN REVIEW FEE \$245
PERMIT FEE \$249.61

Jerry Cooky 485-7655



FOUNDATION
SURVEY
REQUIRED

LAKE

EDGE OF LAKE
AT TIME OF
SURVEY

EDGE OF
LAKE IS PL.

LOT 12
SECTION 1

JAMES CITY CO.
ID#1340100017A

WILLIAMSBURG
AREA CHILDCARE
ID#1340100037

LOT 1

FOUNDATION
SURVEY
REQUIRED

Exhibit B

POINT O' WOODS ROAD
50' R/W
L=196.48'
R=975.00'

NOTES:

- SURVEY PREPARED WITHOUT
BENEFIT OF A TITLE REPORT
- UNDERGROUND UTILITIES
- CENTERLINE OF FENCE SHOWN
- FLOOD INSURANCE RATE MAP
ZONE: X
PANEL NO. 0020B
COMMUNITY NO. 510201
PANEL DATE: 2-8-91
INDEX DATE: 2-8-91
- REF: P.B.54, PG.23
- PARCEL: 1340800001

FOUNDATION
SURVEY
REQUIRED

140 POINT O' WOODS ROAD

PLAT OF THE PROPERTY OF

ALLAN & KATHERINE STACKHOUSE

LOT 1

MIRROR LAKE ESTATES

SECTION 8

JAMES CITY COUNTY, VIRGINIA

JOB #:
04-358

DRAWN:
RRP

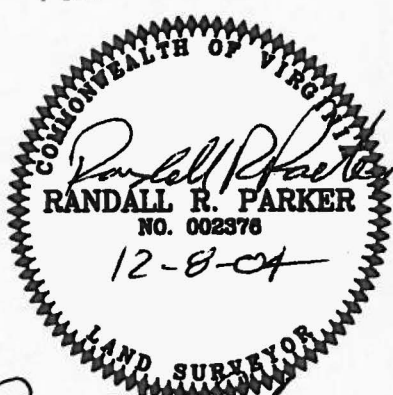
F.B.-PG:
11-28

TO:
BMC

SCALE:
1" = 40'

DATE:
12-8-04

FOUNDATION
SURVEY
REQUIRED



I, Randall R. Parker, HEREBY CERTIFY
THAT THE PROPERTY SHOWN ON THIS PLAT WAS SURVEYED
ON THIS DATE AND IS CORRECT TO THE BEST OF MY
KNOWLEDGE AND BELIEF.

THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS
EXCEPT AS SHOWN.

PARKER SURVEYING, INC.

73 CURTIS TIGNOR RD.
NEWPORT NEWS, VIRGINIA 23608
PHONE: 757-833-7758

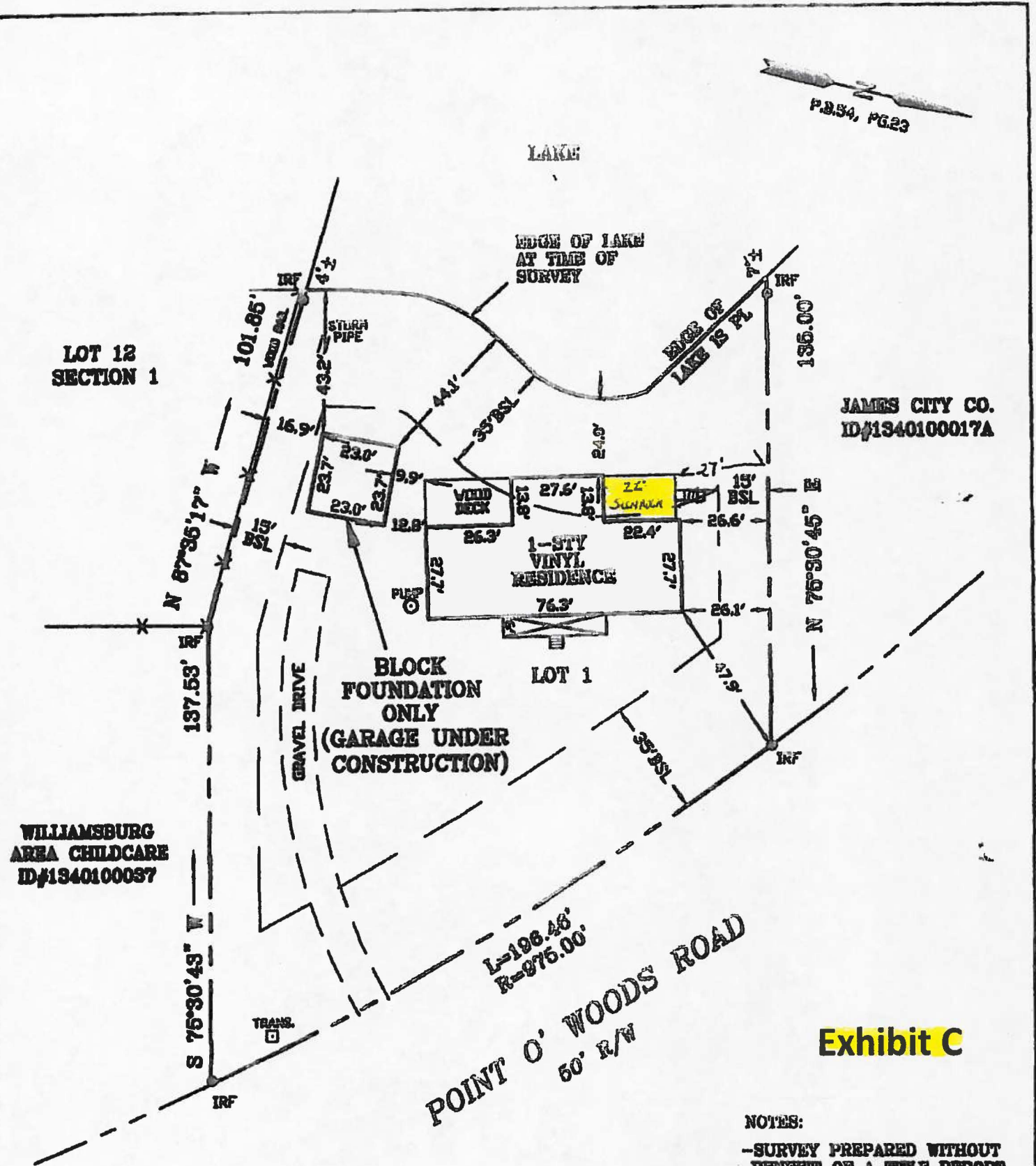


Exhibit C

- NOTES:
- SURVEY PREPARED WITHOUT BENEFIT OF A TITLE REPORT
 - UNDERGROUND UTILITIES
 - CENTERLINE OF FENCE SHOWN
 - FLOOD INSURANCE RATE MAP ZONE: X
PANEL NO. 0020B
COMMUNITY NO. 610201
PANEL DATE: 2-8-91
INDEX DATE: 2-8-91
 - REF: P.B.54, PG.23
 - PARCEL: 1340800001

140 POINT O' WOODS ROAD

| | | | | | |
|---|---------------|-------------------|------------|-------------------|-------------------|
| PLAT OF THE PROPERTY OF ALLAN & KATHERINE STACKHOUSE | | | | | |
| LOT 1 | | | | | |
| MIRROR LAKE ESTATES | | | | | |
| SECTION 8 | | | | | |
| JAMES CITY COUNTY, VIRGINIA | | | | | |
| JOB #: 04-368B | DRAWN: RRP | P.B.-PG: 11-88 | TO: BMC | SCALE: 1"= 40' | DATE: 18-10-04 |

COMMONWEALTH OF VIRGINIA
RANDALL R. PARKER
NO. 008378
12-16-04
LAND SURVEYOR
I HEREBY CERTIFY
THAT THE PROPERTY SHOWN ON THIS PLAT WAS SURVEYED
ON THIS DATE AND IS CORRECT TO THE BEST OF MY
KNOWLEDGE AND BELIEF.
THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS
EXCEPT AS SHOWN.
PARKER SURVEYING, INC.
73 CURTIS TIGNOR RD.
NEWPORT NEWS, VIRGINIA 23608
PHONE: 757-833-7758

BZA 2013 Schedule

| Meeting Dates | Application Deadlines | Ad to the Press | Display Dates | APO/Applicant Letters | Packets Delivered |
|---------------|-----------------------|-----------------|-----------------|-----------------------|-------------------|
| Jan 10 | Dec 6 | Dec 21 | Dec 26 & Jan 2 | Dec 21 | Jan 4 |
| Feb 7 | Jan 3 | Jan 18 | Jan 23 & 30 | Jan 18 | Feb 1 |
| Mar 7 | Jan 31 | Feb 15 | Feb 20 & 27 | Feb 15 | Mar 1 |
| Apr 4 | Feb 28 | Mar 15 | Mar 20 & 27 | Mar 15 | Mar 29 |
| May 2 | Mar 28 | Apr 12 | Apr 17 & 24 | Apr 12 | Apr 26 |
| June 6 | May 2 | May 17 | May 23 & 30 | May 17 | May 31 |
| July 11 | June 6 | Jun 21 | Jun 26 & July 3 | June 21 | July 5 |
| Aug 1 | June 27 | Jul 12 | Jul 17 & 24 | Jul 12 | Jul 26 |
| Sept 5 | Aug 1 | Aug 16 | Aug 21 & 28 | Aug 16 | Aug 30 |
| Oct 3 | Aug 29 | Sep 13 | Sep 18 & 25 | Sep 13 | Sep 27 |
| Nov 7 | Oct 3 | Oct 18 | Oct 23 & 30 | Oct 18 | Oct 25 |
| Dec 5 | Oct 31 | Nov 15 | Nov 20 & 27 | Nov 15 | Nov 27 |