

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

Dec. 4, 2014 - 7 p.m.

A. Roll Call

B. Old Business

1. ZA-0004-2014 9441. Richmond Road - Deferred from Oct. 2, 2014

C. New Business

BZA Schedule for 2015

D. Minutes

Oct. 2, 2014 - ZA-0004-2014. 9441 Richmond Rd.

E. Adjournment

BOARD OF ZONING APPEALS
October 3, 2013

Mr. David Otey, as Vice-Chairman 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.
Mr. William Geib

Others Present:

Mr. Jason Purse, Zoning Administrator
Ms. Terry Costello, Senior Zoning Officer

Absent

Mr. Marvin Rhodes

Mr. Jason Purse gave information on the purpose of the Board of Zoning Appeals.

B. Old Business

There was no old business.

C. New Business

ZA-0008-2013 3506 Fieldcrest Court

Ms. Terry Costello presented her staff report:

Mr. and Mrs. Walter S. Felton have requested a variance to Section 24-238 (b) of the James City County Zoning Ordinance for (1) the continued placement of a deck and porch; and (2) allow for the conversion of the porch into a bedroom addition. The variance request is to reduce the rear yard setback from 35 feet to 23 feet. This property is currently zoned R-1, Limited Residential and can further be identified as JCC RE Tax Map No. 4520500007.

In 1986, plans were submitted to build a single family home on the property with the rear setback at 48 feet and the front setback at 39 feet. Neither a site plan nor drawings were attached in the records department, as part of the application. The survey dated in 1996 shows the house was actually constructed approximately 39 feet from the rear property line and 47.5 from the front property line. No building permit for the porch or deck could be located in County files.

The applicant stated that the porch and deck were already there when they purchased the home in 1996, as show on the survey provided. The survey also shows that the deck and porch encroach into the rear setback approximately 12 feet.

Notices of the application for a variance were sent to all adjacent property owners. There was also a letter signed by several property owners in the neighborhood that were in support of the variance.

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. The strict application of the terms of the Zoning Ordinance does not produce an undue hardship nor does it effectively prohibit or unreasonably restrict the use of the property in this case, therefore staff cannot support the requested variance of 12 feet from the required 35 feet. Two resolutions were presented should the Board wish to grant the variance. One would allow for the continued placement of the deck and porch; and the second would allow both the continued placement of the deck and porch, and also allow for the conversion of the porch into a bedroom, with no further encroachment.

Mr. Stephen Rhodes asked for clarification as to the permit that was obtained in 1992.

Ms. Costello answered that the permit obtained in 1992 was to cover the deck and convert it into a porch.

Mr. Rhodes asked about the process to obtain this approval and whether it should have been noted then that there was no permit for the porch and deck.

Ms. Costello stated that she was unsure of what approvals were needed at the time besides the building permit approval. Since there was no change in foot print zoning approval may not have been required at the time.

Mr. Purse noted that on the permit it stated there were no alterations therefore zoning approval was most likely not required.

Mr. Rhodes stated for the record that he knew the applicants since he resided in the same neighborhood. He stated that he reviewed the information concerning conflicts of interests for public officials and he felt confident he could make an unbiased decision based on the merits of the case.

Mr. Purse also noted for the record that the County Attorney did not have any concerns with Mr. Rodgers' participation.

Mr. William Geib asked for verification that the 1996 survey was obtained when the Feltons purchased the property.

Ms. Costello stated it was.

Mr. Geib asked where it was assumed that the owners at that time knew that the deck and porch were not in compliance.

Ms. Costello stated that it would be reasonable to assume that they were aware of this situation.

Mr. Geib asked if the homeowner's association is active and if they have an architectural review committee.

Ms. Costello stated that there is an active homeowner's association but was unaware if there was any kind of architectural review committees.

Mr. Rodgers stated that this particular street, Fieldcrest Drive, is not part of the homeowner's association. Owners have the option of participating in the association. The association does have an architectural review committee.

Mr. Geib noted that there was a letter attached to the application that had several property owners who were in support of the variance. He asked if the entire community was notified and if they had any input.

Ms. Costello explained that letters are sent to the adjacent property owners only as part of the variance process. There is no requirement to send to everyone in that particular community or the homeowner's association. There is also a sign placed on the property stating that a variance application has been received.

Mr. Ron Campana asked if the addition is increasing the footprint of the deck or porch.

Ms. Costello answered that the addition will not encroach further into the back, but will come out further on the right side of the residence.

Mr. Otey questioned why this is considered an expansion.

Mr. Purse answered that it is a change of use, going from a porch into living space. This would be a discretionary interpretation.

Mr. Otey opened the public hearing

Mr. Walter Felton introduced himself as the property owner. He complimented staff on assisting him in applying for a variance. The deck and sunroom were already there when they purchased the property and it was noted on the survey. He stated that all of the home's bedrooms are located upstairs, and as he and his wife age they will need a first floor bedroom. Mr. Felton would like to remain at this residence and is very happy with the area.

Mr. Felton also stated that they are members of the homeowner's association and he had documentation that their architectural review board had approved this plan.

Ms. Felton also stated that the main objective for the addition was so that they could age in place and would not have to move. She also stated that the builder informed them that the porch was not built properly, but that it would be corrected with this application.

Mr. Otey closed the public hearing.

Mr. Geib stated that staff presented them with two proposals for variances. One was to allow for the continued placement of the deck and porch, and the other was to allow for the continued placement as

well as for the addition.

Mr. Otey felt that this was not an expansion but that this was a nonconforming use with no changes. He can support the variance to allow for the addition since it is not encroaching any further than what currently exists.

Mr. Campana agreed.

Mr. Geib stated that it was reasonable to assume that when the Feltons purchased the property that everything was in compliance with County regulations. He also noted the letter attached with the property owners in the neighborhood that supported the application and that there was no one in objection. The Feltons also obtained approval from the homeowner's association. Therefore he can support the variance to allow for the addition.

Mr. Purse wanted to clarify a previous question about expansion. He stated that the definition of a building is "any structure having a roof supported by columns or walls intended for shelter or housing." It was his interpretation that adding walls and/or columns and enclosing the porch was how the determination was made that this was an expansion.

Mr. Geib stated that he would think that this is a pretty intensive project.

Mr. Felton answered yes it would be.

Mr. Rodgers felt that it was reasonable to assume that if this was included in the closing papers that it had complied with all regulations needed.

Mr. Otey further stated that in some localities that decks, porches are not included in the building foot print.

Mr. Rodgers stated that he visited the site, and currently the porch looks like a heated living space and approving this application will not change anything.

Mr Geib made a motion to approve the variance to allow for the continued placement of the deck and porch as well as the conversion of the porch into living space.

Mr. Campana seconded to motion.

On a roll call vote the variance requests were approved 4-0.

D. Minutes

September 5, 2013

Mr. Otey asked if there were any corrections need for the minute from the September 5, 2013 meeting.

Mr. Rodgers stated that on page two and four there were a couple of sentences that needed some

punctuation, and also format changes on page two.

Mr. Rodgers made a motion to approve the minutes with changes.

Mr. Campana seconded the motion.

The minutes were approved by a voice vote 4-0.

F. Adjournment

There being no further business, the meeting was adjourned

David Otey
Vice-Chairman

Jason Purse
Secretary

BOARD OF ZONING APPEALS

October 2, 2014

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

A. Roll Call

Present:

Mr. Marvin Rhodes
Mr. David Otey Jr.
Mr. Ron Campana Jr.
Mr. William Geib

Others Present:

Mr. Jason Purse, Zoning Administrator
Mr. John Rogerson, Senior Zoning Officer
Mr. Maxwell Hlavin, Assistant County
Attorney

Mr. Otey gave information on the purpose of the Board of Zoning Appeals.

B. New Business

ZA-0004-2014, 9441 Richmond Road

Mr. John Rogerson presented his staff report:

Mr. M. Anderson Bradshaw has applied on behalf of the property owner William B. Jones, Trustee, for a variance to Section 24-215(a), Setback requirements, and to Section 24-217(a) Yard regulations of the Code of James City County. The specific variances requested are: to reduce the front setback from 50 feet to 38.7 feet and to reduce the side yard on the west side from 15 feet to 11.1 feet to allow the continued placement of the existing manufactured home that is currently on the lot. This property is currently zoned A-1, General Agriculture and can further be identified as JCC RE Tax Map No. 0240100049.

There was a house and a garage located on the property at 9441 Richmond Road that was destroyed by fire in June of 2012. Over the course of the next two years staff had received several complaints and had visited the property several times to see about possible zoning violations. The complaints were a result of a camper being moved onto the property and the burning of trash and debris on site. Staff was able to conclude that there was no one living in the camper and the Fire Marshal's office was made aware of the burning taking place on the property.

During the spring of 2014 staff was in contact with the property owner regarding the possibility of placing a manufactured home on the property. Staff explained that manufactured homes were a permitted use and would be allowed. Zoning staff made several site visits over the next month or two to meet the property owner to discuss the clearing taking place and the abundance of material located on the property.

While meeting with the property owner, Mr. Jones, and the proposed tenant, Mr. Larry Aguilar, on site, staff discussed the placement of the proposed manufactured home on the property. Staff advised them that the proposed manufactured home had to be a minimum of 50 feet from the front property line and a minimum of 15 feet from the side property lines.

During this site visit that it came to staff's attention that both Mr. Jones and Mr. Aguilar wear hearing aids. Mr. Jones said that his hearing aid does not work that well and he sometimes turns it off; and Mr. Aguilar is deaf and cannot understand anyone unless he is looking at them when they speak. The property owner and Mr. Aguilar said that they thought the manufactured home had to be 50 feet from the edge of pavement from Richmond Road, so they placed the manufactured home on the concrete slab where the old house had been located, they even pointed out that they moved the manufactured home back two feet from where the house was previously located.

On July 8, 2014 a building permit application was submitted to Building Safety and Permits by Mr. Larry Aguilar for the placement of a manufactured home on the property. A site plan showing the proposed manufactured home on the property was submitted, but it was not drawn to scale. Staff approved the application anyway, thinking that the discussions they had with the owner and applicant on site were sufficient and that the property owner and applicant were aware of the required setbacks. After the manufactured home was placed on the lot, staff received a complaint about the location of the manufactured home in regards to the setbacks.

A site visit by staff revealed that the new manufactured home did not meet the current setback requirements of 50 feet from the front property line and had doubts about it meeting the side yard setbacks as well. It was at that time that staff required the property owner to get the property surveyed so w any encroachments into the required setbacks could be identified. A new survey was done by LandTech Resources on August 21, 2014. The most recent survey showed that the manufactured home encroached into the required front yard setback of 50 feet by approximately 11.3 feet. Additionally, it showed the manufactured home encroached into the required side yard setback of 15 feet by approximately 3.9 feet. The proposed variance would result in a front setback of 38.7 feet and a side setback of 11.1 feet.

Steps will be required at the doors on the front to allow for entry and exit. These steps, along with a landing, are not considered a part of the building line and may encroach an additional three feet into the setback.

Please note that the most recent survey was different from a previous survey done by the same surveying company on February 5, 2007. The most recent survey showed a possible "overlap" of the adjoining property. The most recent survey was also different from the deed description in the attached package. This potential property line dispute will need to be settled between the owners' of the properties and is a private matter. The variance takes into account the more restrictive property lines, so regardless of the property line dispute; the location of the manufactured home will meet the variance as requested

Staff recognizes that the initial approval of the building permit should not have happened since the site plan was not to scale and understands there may have been issues with communication,

since both gentlemen have hearing aids. However, the strict application of the terms of the Zoning Ordinance does not produce an undue hardship nor does it effectively prohibit or unreasonably restrict the use of the property. The property is one half-acre in size and could support a single family dwelling and meet all existing setbacks. Therefore, staff cannot support this application. However, should the Board wish to grant the variance to reduce the front and side yard setback to allow the continued placement of the manufactured home, staff believes the variance would not alter the character of the area, as the previous house was located two feet closer to the front property line and two adjacent properties have structures on them that are also located closer than 50 feet from the front property line.

Mr. Rogerson informed the Board that he would be happy to answer any questions.

Mr. Ron Campana Jr. asked if the setback requirements were fully explained to the applicant.

Mr. John Rogerson replied yes.

Mr. Campana asked Mr. Rogerson if it was his understanding that the setbacks were going to be adhered to.

Mr. Rogerson confirmed and stated that a pin located on the front left corner of the property was identified as the property line.

Mr. Marvin Rhodes asked what the difficulty would be with moving the manufactured home back to meet the front setback.

Mr. Rogerson said the manufactured home could be moved, but it was just a matter of expense.

Mr. Rhodes asked about the location of the septic field.

Mr. Rogerson stated that the septic tank was located on the back left corner of the trailer and he did not feel that the manufactured home could be moved back and remain parallel to the front property line due to the conflicting surveys on the right side property line.

Mr. Rogerson stated that the manufactured home could be placed on the lot perpendicular to Richmond Road and meet all of the setback requirements.

Mr. Rhodes asked about the conflicting surveys and why the County felt that issue may never be resolved.

Mr. Rogerson stated that from the County's standpoint, the conflicting surveys, with regard to the correct location of the right side property line was a private matter.

Mr. William Geib asked Mr. Rogerson to explain the nature of the complaint about the location of the manufactured home in regards to the setbacks.

Mr. Rogerson replied that someone called and said they thought the manufactured home was too

close to the Richmond Road. Mr. Rogerson pointed out that the original house that burned down was built before the county had a zoning ordinance and did not meet the current setback requirements. Mr. Rogerson explained that once the original structure burned down, any new structure would have to meet current setbacks.

Mr. Geib asked when the current setbacks were put in place.

Mr. Rogerson said he did not know what the setbacks in the A-1, General Agriculture zoning district were when the first zoning ordinance was approved in 1970, but the current setbacks in A-1, General Agriculture zoning district have been in place for at least 15 years.

Mr. Geib asked about the diagram that was on the septic permit application from the Health Department and why it was dated August of 1987.

Mr. Rogerson explained that this was an old application that came from the Health Department and the applicant used it as his site plan.

Mr. Geib confirmed that the applicant used the old septic permit application, which was not to scale, as his site plan. Mr. Geib stated that he wanted to be sure he was clear that the applicant thought the setback requirement was 50 feet from the road.

Mr. Rogerson stated that the front left corner of the manufactured home is currently 75 feet from the edge of pavement of the east bound lane of Richmond Road, and explained that the edge of the pavement and the edge of the right of way are different.

Mr. Geib asked if there was a requirement that the structure be parallel or perpendicular to the road.

Mr. Rogerson stated that the only requirement in regards to placement on the lot is that the structure meets the required setbacks.

Mr. Geib suggested pivoting the structure on the lot to meet the setback requirements.

Mr. Rogerson said the placement would have to be exact since the manufactured home is 65 feet long, and the required setbacks on each side are 15 feet, which would equal the lot width of 95 feet exactly.

Mr. Rhodes asked for clarity regarding the several site visits zoning had made to the property and the comment that there was an abundance of materials on the property.

Mr. Rogerson stated that they were clearing trees and moving trailers around on the property and the abundance of stuff on the property was a borderline zoning violation for trash and debris.

Mr. Rhodes asked if there was a zoning violation on the property.

Mr. Rogerson said a zoning violation was issued for trash and debris.

Mr. Geib asked if there was an existing violation on the property, because he did notice a lot of stuff on the property.

Mr. Rogerson said there is not a current zoning violation on the property.

Mr. Otey commented that the structure on the property to the right was clearly closer to the right of way than the existing manufactured home, and asked about the rules for replacing a nonconforming structure.

Mr. Rogerson replied that the Zoning Ordinance allows a nonconforming structure that is destroyed by casualty, which shall mean by fire or other cause beyond the control of the owner or by an act of God, to be restored as long as a permit for the restoration is issued within 12 months of the casualty and the work is completed within 24 months of the casualty. Mr. Rogerson stated that if they had obtained a permit and completed the work within this timeframe, they could have replaced the burned down structure with another in the same footprint. Mr. Rogerson noted that this house was burned down, and the person that did it was convicted of arson.

Mr. Otey asked by how much time they had missed the 12 month deadline to obtain a building permit.

Mr. Rogerson said that the building permit application was submitted on July 8, 2014, which was well beyond the 12 months they had to apply for a building permit to replace the nonconforming structure since the house burned down in June of 2012.

Mr. Otey asked when they first started talking to staff about replacing the structure.

Mr. Rogerson stated it may have been in the spring of 2013, but at that time the remnants of the burnt down structure were still on site.

Mr. Otey opened the public hearing

Mr. M. Anderson Bradshaw introduced himself and stated that he resides at 8620 Merry Oaks Lane and has an office located at 7884 Richmond Road.

Mr. Bradshaw stated that he represents Mr. William Jones who lives in Chickahominy Haven and is the property owner of 9441 Richmond Road.

Mr. Bradshaw stated that Mr. & Mrs. Aguilar were present and that they were the applicants for the building permit.

Mr. Bradshaw stated that the Aguilar's have an agreement with Mr. Jones to live in the manufactured home located at 9441 Richmond Road.

Mr. Bradshaw thanked the Board for their service and thanked staff for working with the applicants during this process.

Mr. Bradshaw said that the Aguilar's understand that the manufactured home is unsightly and have a plan to power wash it and put vinyl siding on the home.

Mr. Bradshaw said the lot was created in 1963 when it was subdivided off from the adjacent property to the east and is described in the deed as being 95 feet wide and 225 feet deep.

Mr. Bradshaw stated that the house that was originally built on the property was nonconforming in regards to location, as it was built before the existence of the Zoning Ordinance.

Mr. Bradshaw stated that in 1987, a permit was issued to construct a new septic tank and drain field to replace the old one which had failed.

Mr. Bradshaw stated that Mr. Jones purchased the property in 1990.

Mr. Bradshaw said that in the summer of 2012, the shed and house were destroyed by arson.

Mr. Bradshaw stated when the house burned down it could have been rebuilt in the same footprint in accordance with Section 24-634 of the Code of James City County, but Mr. Jones did not have the time or the resources to rebuild the house within the required time frame.

Mr. Bradshaw stated that Mr. Jones agreed to allow the Aguilar's to live on the property, and Mr. Larry Aguilar and his wife, Devina Aguilar, purchased a manufactured home and applied for a permit to place the manufactured home on the property.

Mr. Bradshaw further said that Mrs. Aguilar was not familiar with the building permit application process, and the application was completed with the help of staff.

Mr. Bradshaw pointed out that the building permit application states that the manufactured home would be placed in the same location as the house that had burned down, which was the language suggested by staff and three other staff members called Mrs. Aguilar to confirm the location.

Mr. Bradshaw stated that the building permit was issued with some erroneous descriptions of the setbacks and noted that the lot description was 92 feet wide and 250 feet deep, which does not add up.

Mr. Bradshaw further stated that if the lot was 95 feet wide, the 65 foot manufactured home would fit on the lot with 2 side yard setbacks of exactly 15 feet.

Mr. Bradshaw went on to describe possible scenarios as to what happened.

Mr. Bradshaw stated that it is possible that staff had in mind the restoration provision in the Ordinance but did not know the dates of causality, and also suggested that staff was unaware of the location of the former dwelling and the nonconforming status of the former dwelling.

Mr. Bradshaw went on to suggest that staff did not require a survey for the placement of the manufactured home because staff was aware of the limited resources of the applicant.

Mr. Bradshaw stated that it is also likely that when staff said the manufactured home needed to be 50 feet from the front property line, that the applicant heard that it needed to be 50 feet from the road.

Mr. Bradshaw stated that the permit was issued, and the manufactured home was installed; however, when the setback issue came to light, the work was stopped, and a survey of the property was requested.

Mr. Bradshaw stated that in the new survey the side property lines were not perpendicular to Richmond Road, thus 95 feet of road frontage does not constitute 95 feet of continuous lot width from the front of the lot to the back of the lot.

Mr. Bradshaw offered a few illustrations to the Board showing how the lot gets narrower as you go back, and if the lot gets smaller the further back you go the manufactured home will no longer fit on the lot and meet the required setbacks.

Mr. Bradshaw went on to suggest that moving the manufactured home toward the rear creates more of an encroachment into the right side setback because the lot gets narrower the further back you go.

Mr. Bradshaw stated that the exceptional narrowness of the lot lends itself to the granting of the variance, as there may not be any other location on the property that the manufactured home could fit.

Mr. Bradshaw then pointed out the location of the septic tank, which is about 10 feet behind the current location of the manufactured home.

Mr. Bradshaw explained that the separation distance requirement between the septic tank and the manufactured home is 10 feet. He suggested that if you move the manufactured home back it would no longer meet those separation distance requirements.

Mr. Bradshaw discussed the possibility of turning the manufactured home sideways on the lot and suggested that it would cause a problem with the required 50 foot separation distance between the manufactured home and the well.

Mr. Bradshaw pointed out that there is a well on the property in question, and there is another well located on the adjacent property.

Mr. Bradshaw went on to illustrate possible locations for the manufactured home in relation to required separation distances from the drain field, septic tank and wells.

Mr. Bradshaw said that in new subdivisions a reserve drain field is required, and suggested that relocating the manufactured home would prevent the property owner from having another location for a reserve drain field in case one was ever needed.

Mr. Bradshaw also stated that if the manufactured home were placed perpendicular to the front property line, all of the accessory structures would be exposed to the Richmond Road.

Mr. Bradshaw stated that he thought the best place for the manufactured home was its current location.

Mr. Bradshaw stated that it would not change the character of the district because the old house was located there, and there are other structures in the area that do not meet the current setbacks, including the structure on the property immediately to the west.

Mr. Bradshaw suggested that to allow the manufactured home to remain in its current location would be in the spirit of the Zoning Ordinance since Section 24-634 allows for nonconforming structures to be rebuilt in the same location if done so in the specified amount of time.

Mr. Bradshaw suggested that the variance be granted to allow the continued placement of the manufactured home and that he would be happy to answer any questions.

Mr. Campana asked if the identified options Mr. Bradshaw presented were Mr. Bradshaw's options or options identified by a professional.

Mr. Bradshaw replied that options were his, in accordance with required separation distances required by the Health Department.

Mr. Campana asked if there was a place on the lot to place the manufactured home and still meet Zoning Ordinance requirements.

Mr. Bradshaw stated there were places on the lot the manufactured home could be located and meet ordinance requirements but that it is a good idea to have a possible location for a reserve drain field.

Mr. Rhodes asked where the reserve drain field could be located.

Mr. Bradshaw said that he was trying to show the places that the reserve drain field could not be located.

Mr. Geib asked Mr. Bradshaw to show where the proposed reserve drain field could be located.

Mr. Bradshaw identified a possible location for a reserve drain field, and stated said that the manufactured home was placed in good faith and in a location where a house had been for 50 years.

Mr. Otey thanked Mr. Bradshaw for his time, and asked if there was anyone else present that wanted to speak on behalf of the property owner/applicant.

Mr. Bradshaw replied that there was not.

Mr. Otey asked if there was anyone else that wanted to speak.

Mr. Everette Mann, 181 Burr Oak Road, Lynchburg, Virginia, spoke on behalf of his father, who owns the property immediately to the west of the property in question.

Mr. Mann stated that there was a concrete pad, approximately 25 ft. by 25 ft., located in the back of the lot, and the applicant wants to have the dwelling in order to have an accessory structure to use as an automobile repair shop.

Mr. Mann suggested that an accessory building of that size did not seem to be accessory since it is so big.

Mr. Mann presented copies of Mr. Aguilar's Facebook page, which suggested that they wanted a dwelling on the property so they could construct the accessory structure and start working on cars.

Mr. Mann said that the case is not about a residence, but an automobile repair shop that would require a special use permit approved by the Planning Commission and the Board of Supervisors.

Mr. Mann then said the concrete pad was added on to in April 2014, making it 50 feet long.

Mr. Mann then presented pictures of all the stuff on the property, and pointed out that there was wood stacked on his father's property by the pump house, where Mr. Aguilar had cut down his father's pine tree to get the manufactured home on the property.

Mr. Mann said there has been consistent use of his father's property by Mr. Jones and Mr. Aguilar.

Mr. Mann then requested that the Board of Zoning Appeals deny the variance request and put a condition on the property that any accessory building would require a Special Use Permit approved by the Board of Supervisors.

Mr. Otey asked if there was any else that wished to speak.

Mr. Tyssen, 4194 Rose Lane, stated the property to the east belongs to his wife and her mother.

Mr. Tyssen stated that the documents they have show the sides of the property as parallel, and he would like to know which property pin is correct.

Mr. Tyssen stated that he is concerned about losing some of his property due to the conflicting surveys presented in this case.

Mr. Bradshaw stated that he recognizes that the outstanding issues between the adjoining property owners, but the Board of Zoning Appeals is here to rule on the placement of the manufactured home, not the potential uses of the property in the future.

Mr. Mann stated the primary goal of the application is to build the accessory building.

Mr. Geib asked Mr. Rogerson about reserving land for a possible reserve drain field.

Mr. Rogerson stated that the current Subdivision Ordinance requires you to show a primary and reserve drain field on any new subdivision of land.

Mr. Geib asked about alternative septic systems and if those would apply in this case.

Mr. Rogerson and Mr. Jason Purse responded that the Health Department is ultimately responsible for approving both the traditional septic systems and the alternative systems and the alternative systems have to be designed for that specific piece of property.

Mr. Rhodes asked about the Restoration/Replacement of Nonconforming structures in Section 24-634 of the Zoning Ordinance.

Mr. Rogerson explained that the structure has to be destroyed by casualty, such as an act of god beyond the owner's control.

Mr. Rhodes asked if the nonconforming use could be expanded.

Mr. Rhodes asked if it would still be considered replacement if the manufactured home was a different type of structure and had a different footprint.

Mr. Rogerson clarified that to rebuild in accordance with Section 24-634 the property owner would have to utilize the exact same footprint, and stated that the manufactured home was placed two feet further from the road than the original house was, but is much longer.

Mr. Otey closed the public hearing

Mr. Otey said that the Board does not have the power to address some of the concerns mentioned during the hearing and that the Board's responsibility is only to address the setbacks in this case.

Mr. Rhodes stated that Mr. Bradshaw has done a good job of identifying the options by illustrating separation distances from the wells, septic tanks and drain fields.

Mr. Geib stated that he was concerned that people were affected by the setbacks encroachment, and noticed that there were other dwellings or structures that appeared to be closer to the road when he drove through the area.

Mr. Geib asked other members of the Board if the cost associated with moving the manufactured home should be part of the Boards consideration in this case and stated that he is concerned with all of the errors presented in this case that contributed to it coming before the Board.

Mr. Geib asked if this Board has the authority to grant a variance when there is a reasonable solution to the problem.

Mr. Campana replied that the Board must separate the financial aspect from the other issues and if there is a piece of land that can be used and meet the Ordinance requirements, then that is what should be done. Mr. Campana also noted that having a reserve drain field is a good idea but not a requirement in this case.

Mr. Otey stated that he did not think a reserve drain field is required in this case, although he recognized that having a reserve drain field is the best practice.

Mr. Bradshaw said that because there are some outstanding questions that have not been answered, and the Board is missing one member, he would like to defer until the next month so that a full Board can be present. Mr. Bradshaw stated that this would give him time to gather more information regarding alternative septic systems and answer other questions that have come up in this meeting.

Mr. Otey reopened to public hearing to accept the request for deferral from Mr. Bradshaw.

The Board accepted the request from Mr. Bradshaw for deferral.

Mr. Mann asked if there would be an additional public hearing before the full Board.

Mr. Otey confirmed.

Mr. Otey reclosed the public hearing to entertain a motion to defer.

Mr. Rhodes made a motion to defer the meeting until December 4, 2014 when a full Board is likely to be present.

Mr. Geib seconded the motion.

Mr. Purse said that a "yes" vote is a vote to defer until a full Board can be present.

The motion past 4-0 on a roll call vote to defer the meeting until December 4, 2014, or until a full Board can be present.

C. Minutes

September 11, 2014

Minor corrections were made to the September 11, 2014 meeting minutes.

Mr. Geib moved to adopt the minutes as amended.

Mr. Campana seconded the motion.

On a voice vote the minutes from the September 11, 2014 Board of Zoning Appeals were approved as amended 4-0.

D. Adjournment


There being no further business Mr. Otey adjourned the meeting at 8:25 p.m.

David Otey
Chairman

Jason Purse
Secretary

MEMORANDUM

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

FROM: John Rogerson, Senior Zoning Officer 

DATE: December 4, 2014

SUBJECT: **ZA-0004-2014** **9441 Richmond Road**

At the October 2, 2014 meeting of the Board of Zoning Appeals the applicant, Mr. M. Anderson Bradshaw requested the BZA defer taking action on the above referenced case until he had more time to research a location for a reserve drain field. Mr. Bradshaw also said that he would like to defer the case until a full Board of five members would be available to hear the case. The BZA concurred with the request and deferred the case until the December 4th regularly scheduled meeting. Mr. Bradshaw has submitted additional information regarding the case and it has been attached for your reference.

Subsequently, staff met with an official from the Health Department and was advised that the only way to determine if there was a suitable reserve drain field location onsite would be to have a soil scientist perform a soil test. Absent that professional analysis, staff cannot make a determination on the placement of the manufactured home in relation to a potential drain field site. While it's good planning practice, having a reserve drain field on this property is not an ordinance requirement. Staff would not be able to change our recommendation for this reason.

Staff continues to find the strict application of the terms of the Zoning Ordinance does not produce an undue hardship nor does it effectively prohibit or unreasonable restrict the use of the property. The property is a half-acre in size and could support a single family dwelling and meet all existing setbacks. Therefore; staff cannot support this application. However; should the Board wish to grant the variance to reduce the front and side yard setback to allow the continued placement of the manufactured home, staff believes the variance would not alter the character of the area, as the previous house was located two feet closer to the front property line and two adjacent properties are also located closer than 50 feet from the front property line.

Attachments:

Supplemental information from Mr. Bradshaw
BZA Schedule for 2015
Minutes from October 2, 2014

M. Anderson Bradshaw, P.C.

Attorneys at Law
7884 Richmond Road
P.O. Box 456
Toano, Virginia 23168

M. Anderson Bradshaw
Nancy E. Bradshaw Sheppard

Telephone: (757) 566-1282
Fax: 566-8807

October 28, 2014

John Rogerson
Senior Zoning Officer
Development Management
P.O. Box 8784
Williamsburg, VA 23187-8784

PLANNING DIVISION

OCT 31 2014

RECEIVED

Dear John:

Thank you for your concise staff presentation at the October 2, 2014, meeting of the Board of Zoning Appeals as it considered Case No. ZA-0004-2014 9441 Richmond Road.

Enclosed are copies of the exhibits I showed to the Board that evening as well as an outline of my remarks.

I am still trying to work with the neighbors who had concerns, even though their concerns were not with the requested variance, but with the property line discrepancy or Mr. Aguilar's future plans for the property.

Based on the severe limitations on where the manufactured home could be relocated, the impairment any other location would place on meeting the county policy regarding reserve drainfields, and adverse visual impact on the neighborhood of turning the manufactured home perpendicular to the highway, I request that the staff reconsider its recommendation and support the variance request at the continued public hearing on December 4, 2014.

Best wishes,



M. Anderson Bradshaw

MAB/sk

cc: Wm. Jones

1. Acknowledge that manufactured home in its current state is an eyesore. Stop Work order prevents planned improvement of appearance. Once able to complete their plans, including power wash and apply vinyl siding, it will be very attractive. See Exhibit.
2. History
 - a. Lot created in 1963, described as 95 ft. x 225 ft., and small house previously built, prior to current zoning. Non-conforming lot and dwelling at non-conforming location. See Exhibit.
 - b. 1987 new septic tank and drainfield installed at front of lot, replacing failed system along east side. See Exhibit.
 - c. Mr. Jones purchased in 1990 and has rented it since then.
 - d. Juny 2012, dwelling destroyed by arson.
 - e. At that time, could have replaced dwelling at same location under provisions of JCC Code Sec. 24-634. See Exhibit.
 - f. Under insured and did not have resources. Two year time for restoration expired.
 - g. Jones and Aguilar made agreement for Aguilar to purchase and place used manufactured home on the lot.
 - h. Aguilar applied for building permit. Unfamiliar with process and with assistance of staff, completed the permit application.
 - i. Location specified on application is "same location as house that burned". See Exhibit.
 - ii. Mrs. Aguilar recalls that a staff member suggested that language and that she received three subsequent telephone calls from different building department personnel confirming that location would be same as prior dwelling.
 - iii. Permit issued with erroneous description of setbacks. See Exhibit.
 - (1) Lot dimensions 92 x 250
 - (2) Side yards, error in math. 65 foot mfg home would not leave distance stated. But with 95 foot width, would leave EXACTLY the required 15 foot side yards
 - (3) 55 foot front set back.
 - iv. Conjecture. Staff may have had in mind the RESTORATION provision but was unaware of the time frame, or staff may have been unaware that former dwelling was non-conforming and assumed it was located 50 feet from right of way. May have declined to require survey verification because they knew that the applicant had limited resources.
 - i. No good deed goes unpunished.
 - i. Staff clearly thought they were specifying 50 ft. setback from highway.
 - ii. Aguilar clearly heard "same location as old dwelling"
 - iii. Mr. Jones and Mr. Aguilar, both have impaired hearing, but could reconcile the two directions, by interpreting 50 foot setback as 50 feet from highway pavement.
 - iv. Ground prepared, piers placed and inspected, mfg. home installed, issue came to light, work was stopped, and survey requested.
 - j. No situation so bad it can't be made worse.
 - i. Side property lines not perpendicular, so 95 frontage does not generate 95

foot width. So 65 foot mfg home, parallel to road, would not leave 15 foot side yards. See Exhibit.

- ii. Survey overlap with neighbor. Surprise because prior survey of neighbor did not reveal it. Clients do not have the resources to resolve it. Lot potentially narrows towards the rear. See Exhibit.
- 3. Cost to move is unduly burdensome. Don't have the resources.
- 4. Moreover, may in fact be no other location at which dwelling could be placed, because of the exceptional narrowness, size and shape of the lot.
 - a. Can't move it back 20 feet.
 - i. Septic tank is there and required to be 10 feet away. See Exhibits.
 - b. Can't move it back 35 feet. Lot narrows even more.
 - c. Can't turn it sideways without jeopardizing the only possible location for a reserve drainfield.
 - i. Drainfield can't be within 50 feet of well. Well on this lot and on adjacent lot. See Exhibit.
 - ii. Failed drainfield location can't be used.
 - iii. Current house location can't be used.
 - d. Back left corner would place it nearest to adjacent single family conventional residence with which it is not compatible and require that any accessory buildings be in the front, exposed to view, damaging the character of the district.
 - e. Turning mfg. home sideways would expose all accessory buildings to view from highway, damaging the character of the neighborhood.
- 5. Current placement does not change character of the district.
 - a. Adjacent commercial building to the west has 35 foot front setback. See Exhibit.
 - b. Three residences within 900 feet have front setbacks of 42, 40 and 17 feet. See Exhibit.
- 6. Variance would be in harmony with the intended spirit and purpose of the Zoning Ordinance in that it specifically allows for the replacement of a dwelling destroyed by fire. The letter of that exception is that it be completed within two years, which expired in July. The spirit of that exception is that it be done promptly.

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09/12/2014

Consideration \$1,000.00

BOOK 175 PAGE 257

THIS DEED, Made this 20th day of April, 1977, by and between JENNIE M. STEWART, Widow, acting by and through William B. Stewart, her Attorney in Fact, party of the first part, and RICHARD H. STEWART and EDYTHE E. STEWART, His Wife, and WILLIAM B. STEWART and BETTY O. STEWART, His Wife, parties of the second part.

WITNESSETH: That for and in consideration of the sum of Ten (\$10.00) Dollars, cash in hand paid to the party of the first part, at and before the sealing and delivery of this deed, the receipt whereof is hereby acknowledged, and other good and valuable considerations, the said party of the first part does hereby grant with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE unto the said parties of the second part, the following property, to-wit:

All that certain lot, piece or parcel of land, with improvements thereon, situated in Stonehouse District, (formerly Powhatan District), James City County, Virginia, fronting on State Highway No. 60, and more particularly described as follows: Commencing at an iron post marking corner between the property hereby conveyed and the property of W. H. Mann, Jr.; thence along the southerly edge of said Highway No. 60, the distance of ninety-five (95) feet to an iron post; thence extending back between parallel lines the distance of 225 feet; the westerly line of the parcel hereby conveyed coincides with the line of the property of W. H. Mann, Jr. Being a parallelogram in shape, and being the same property conveyed to Jennie M. Stewart by deed dated April 20, 1963, from Richard H. Stewart and Edythe E. Stewart, husband and wife, and duly recorded in the Clerk's Office of the Circuit Court of James City County, Virginia, in Deed Book 90, page 531.

This deed is executed under and by virtue of a Power of Attorney from the party of the first part herein to William B. Stewart, dated April 14, 1977, and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia, in Deed Book 175, Page 257.

WITNESS the following signature and seal:

Jennie M. Stewart (SEAL)
Jennie M. Stewart
BY William B. Stewart
Her Attorney in Fact

(d) *Business or industrial uses.* For uses in any district where the activity is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.

(e) *Businesses or industrial uses not connected to public water and sewer.* Expansion of a use meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.

(f) *Expansion allowance resulting from right-of-way dedication.* Existing business or industrial uses which are permitted within any district and which have been made nonconforming with respect to open space, perimeter landscape requirements or setback requirements as a result of a right-of-way dedication to the county or the Virginia Department of Transportation without compensation shall be allowed to expand in accordance with the current zoning ordinance under the conditions which existed prior to the dedication.

(g) *Miscellaneous changes.* Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses or structures may be permitted, subject to the following standards:

- (1) Such changes shall not increase the land area occupied by any aspect of the nonconforming use and shall not increase the gross floor area of any nonconforming structure; and,
- (2) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.

(h) *Expansion required by law.* Improvements may be made to the nonconforming use or structure for the sole purpose of accessibility or public safety when such improvements are necessitated by a local, state, or federal law. Such improvements may be approved by the zoning administrator and are not subject to paragraphs (d) and (g) of this section.

(Ord. No. 31A-188, 4-13-99; Ord. No. 31A-268, 6-12-12)

Sec. 24-634. Restoration/replacement of a nonconforming use or structure.

(a) A nonconforming use or structure damaged by casualty may be restored in accordance with the provisions of this section, provided such restoration has started within 12 months of the date of the casualty and is complete within 24 months of the date of the casualty. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.

(b) Nonconforming uses other than buildings and signs (such as, but not limited to, underground storage tanks, private sewage disposal systems and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.



Application for Building Permit

Contractor Information

License No.: _____
Company Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone No.: () _____ Fax No.: () _____
Email Address: _____
Signature: _____
Print Name: _____

Owner Information

Name: Larry Aguilar II
Address: 101 Kacefield Drive
City: Leesville State: VA Zip: 23163
Phone No.: (551) 209 1764 Fax No.: (551) 209 1764
Email Address: Larryaguilar@gmail.com
Signature: _____
Print name: Larry Aguilar II
Agent: _____
Print Name: _____

Description of Work: Place 2 BR manf. home on existing parcel
14x65 1978 (same location as house that burned)

Location of Work

Tax Map No.: 024 01 00049
Street Address: 9441 Richmond Rd.
City: Lanexa State: VA Zip: 23089
Zone: _____ Subdivision: _____

Building Information

☐ Stories ☐ No. Rooms ☐ No. Baths ☐ No. Bath Fix

No. Fireplaces ☐ Type: _____

Exterior Finish: ☒ vinyl ☐ brick ☐ wood ☐ other _____

Interior Finish: ☐ Gypsum ☐ wallboard ☐ wood ☐ other _____

Flooring: ☒ carpet ☒ wood ☒ vinyl ☐ other _____

Roofing: ☐ Asphalt ☐ fiberglass ☐ wood ☐ other metal

Heat Type: ☐ gas ☐ heat pump ☐ electric ☐ other _____

Air Conditioning Type: ☐ central ☐ window ☐ none

Estimated Construction Value: 3500.00

(Do not include Lot \$)

(For Commercial Projects Only)

Site Plan No. _____ Date Approved: _____

Mechanic's Lien Agent

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone No.: () _____ Fax No.: () _____

Floor Area (sq.ft.): 910

(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.): _____

☒ Septic ☐ Public Sewer ☐ Grinder Pump ☐ Well

☐ Public H₂O

Existing

OFFICE USE ONLY

Special Flood Hazard Area: Yes ☐ No ☐ Zone _____

Lot Width: 92

Lot Depth: 252

Front Property Line: 55

Right Property Line: 18

Left Property Line: 13

Rear Property Line: 137

PERMIT NO.: _____

LINE NO.: A14 1017

Date/Time In: 8/7/14

Date Plan Reviewed: _____

Improvement Code: 14 manufactured

Structure Used As: mobile home

Occupancy Class: _____

Occupancy Load: _____

Type Construction: _____

Zoning Approved: _____

Zoning Disapproved: _____

Plan Approved: _____

Plan Disapproved: _____

PLAN REVIEW FEE: _____

PERMIT FEE: _____

Notes:

taxes are current

zoning approved

x Not in Floodplain

BUILDING PERMIT

James City County
Williamsburg, Virginia

Permit No: **B14-1729**

TAX MAP NO:

0240100049

X-Reference Permit

Location

SubDivision

Contractor's Name

State License No

Use Group

Use of Structure

Lot Dimensions Length:

Setbacks: Rear Yard:

Mechanic's Lien Agent

9441 RICHMOND ROAD
70240 MAP 2-4 ACREAGE PARCE
HOMEOWNER
100000C PIN 46570
JUL 21 2014
MANUFACTURED HOM
Width: 92
Front Yard 55
187 PAID

Same As (If Any)

Owner's Last Name: AGUILAR II

First Name: LARRY

Date: 21-Jul-2014

Type Improvement: MOBILE HOME - REPLACEMENT

Site Plan No:

Occupancy Load

Water: Well

Side Left: 18

Type Construction

Sewer: Septic

Side Right: 34

Valuation Of Work: \$3,500.00

Permit Fee: \$50.00

Plan Review Fee: \$0.00

Other Fees Due: \$0.00

State 2% Levy: \$1.00

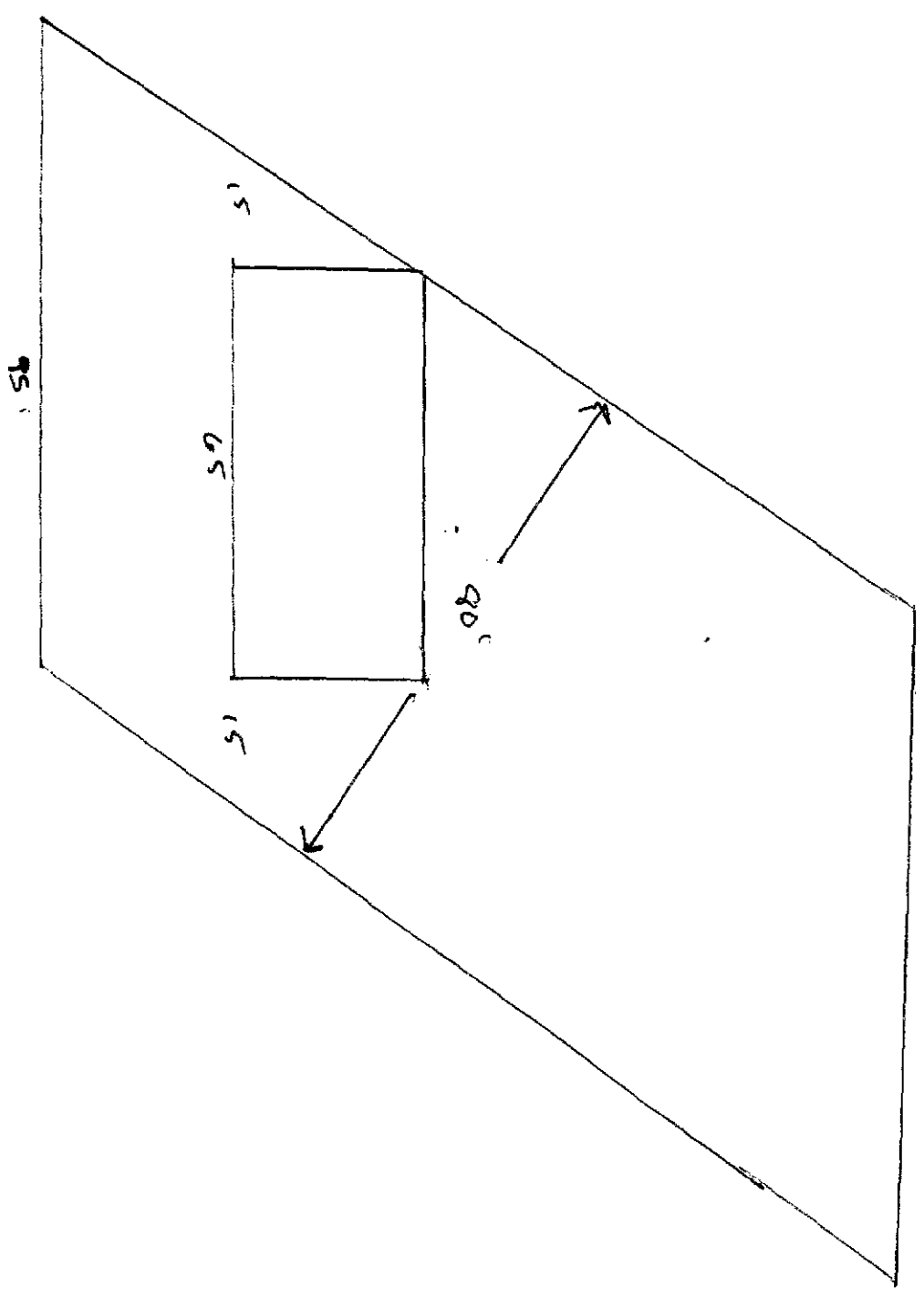
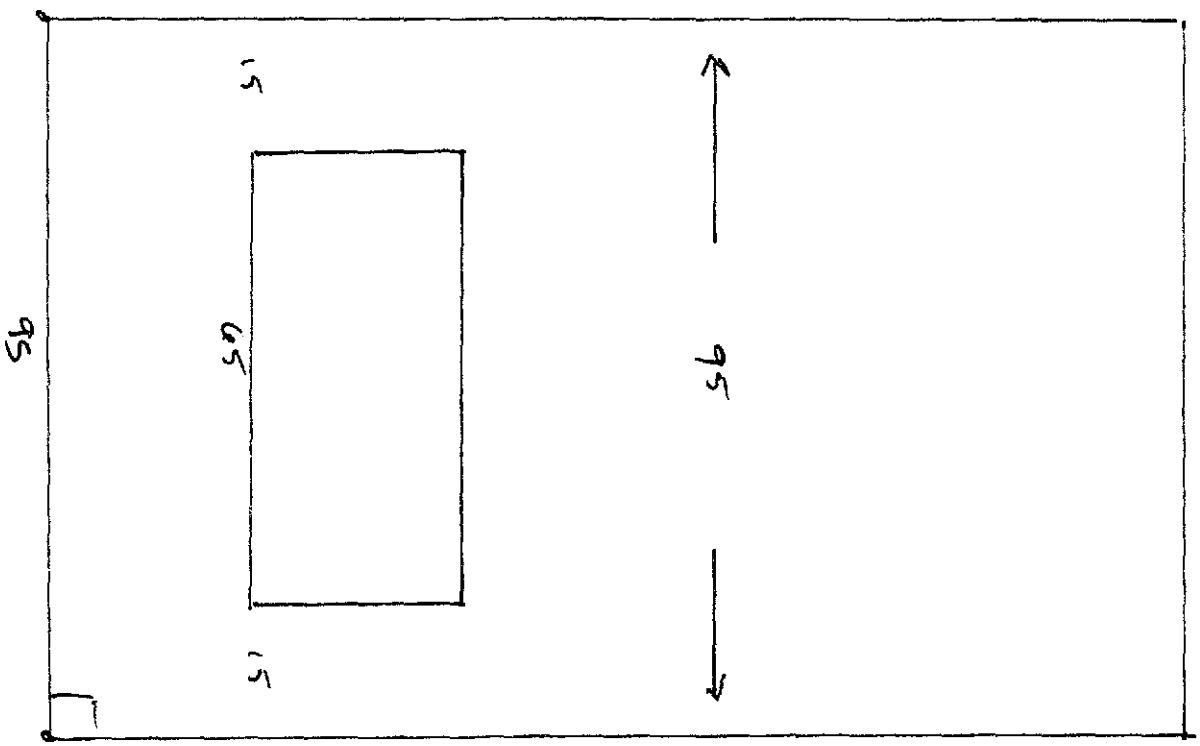
TOTAL: \$51.00

Tom Coghill

Office Copy

Cash

EXERCISES FOR PURPOSES OF ILLUSTRATION



OWNERS CERTIFICATE

THE SUBDIVISION OF LAND SHOWN ON THIS PLAT IS WITH FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS AND OR TRUSTEES.

2-7-07
DATE

Jack Kwintt
OWNER (SIGNATURE)

Jack Kwintt
OWNER (PRINT)

CERTIFICATE OF NOTARIZATION

STATE OF VIRGINIA

CITY/COUNTY OF YORK I, MATTHEW H. CONNOLLY, A NOTARY PUBLIC IN AND FOR THE CITY/COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE PERSONS WHOSE NAMES ARE SIGNED TO THE FOREGOING WRITING HAVE ACKNOWLEDGED THE SAME BEFORE ME IN THE CITY/COUNTY AFORESAID, GIVEN UNDER MY HAND THIS 7TH DAY OF FEBRUARY, 2007. MY COMMISSION EXPIRES JULY 31ST, 2007.

Matthew H. Connolly
NOTARY PUBLIC

CERTIFICATE OF SOURCE OF TITLE

THE PROPERTY SHOWN ON THIS PLAT WAS CONVEYED TO WILLIAM H. MANN, JR. FROM WILLIAM H. MANN, JR. AND PARISH W. MANN (WHO DIED TESTATE ON JUNE 14, 2001) BY LIST OF HEIRS RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE COUNTY OF JAMES CITY, VIRGINIA IN INSTRUMENT # 01051929

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE OR BELIEF, THIS PLAT COMPLIES WITH ALL OF THE REQUIREMENTS OF THE BOARD OF SUPERVISORS AND ORDINANCES OF THE COUNTY OF JAMES CITY, VIRGINIA, REGARDING THE PLATTING OF SUBDIVISIONS WITHIN THE COUNTY.

2/05/07
DATE

Matthew H. Connolly
MATTHEW H. CONNOLLY, L.S. # 002053

CERTIFICATE OF APPROVAL

THIS SUBDIVISION IS APPROVED BY THE UNDERSIGNED IN ACCORDANCE WITH WITH EXISTING SUBDIVISION REGULATIONS AND MAY BE ADMITTED TO RECORD.

2/26/07
DATE

William H. Connolly
VIRGINIA DEPARTMENT OF TRANSPORTATION

2-9-07
DATE

William H. Connolly
VIRGINIA DEPARTMENT OF HEALTH

3/30/07
DATE

William H. Connolly
SUBDIVISION AGENT OF JAMES CITY COUNTY

STATE OF VIRGINIA, JAMES CITY COUNTY

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE COUNTY OF JAMES CITY THE _____ DAY OF _____ 2007.

THIS MAP WAS PRESENTED AND ADMITTED TO RECORD AS THE LAW

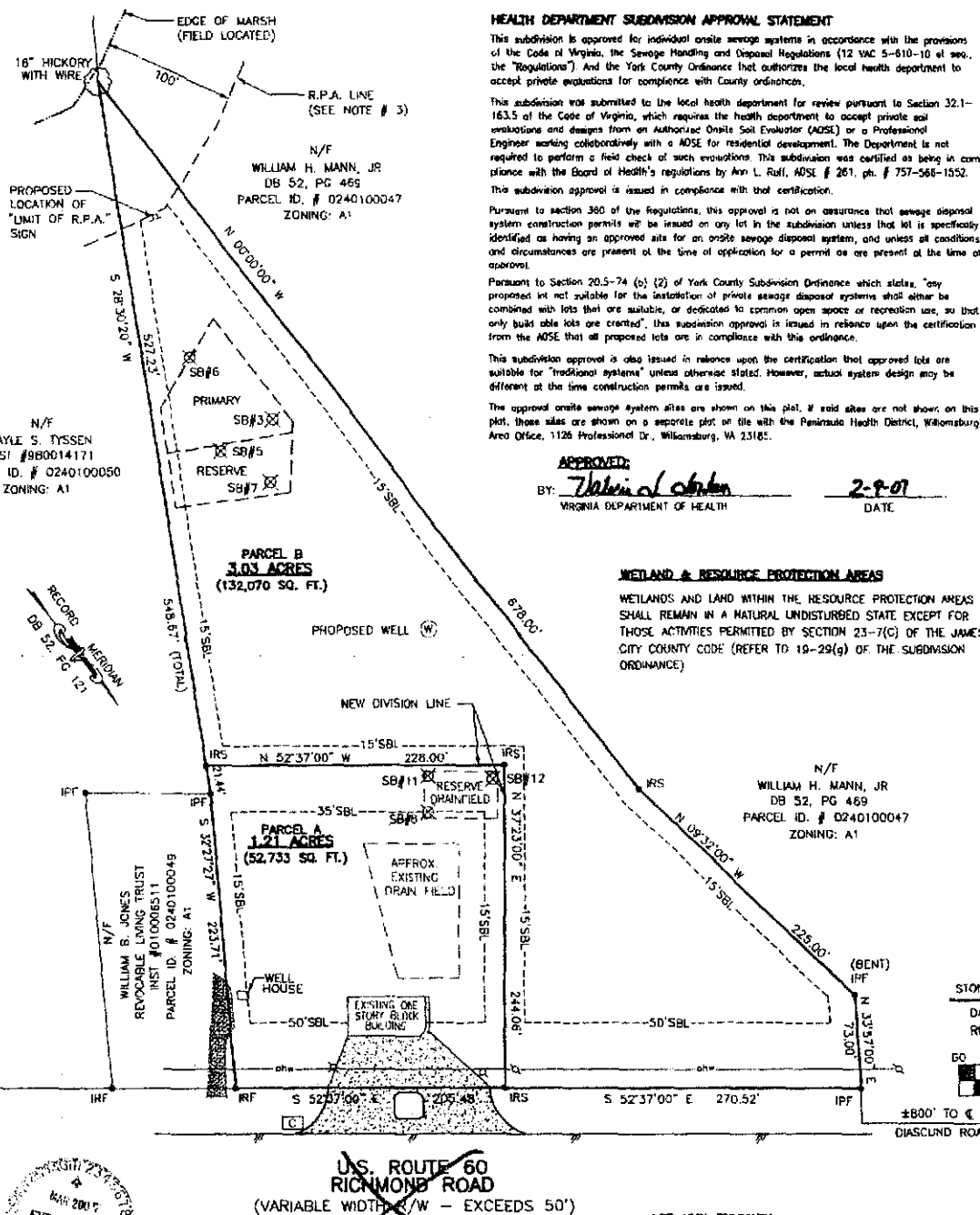
DIRECTS IN INSTRUMENT # _____

TESTE

BY _____ CLERK

GENERAL NOTES

1. THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT, AND MAY NOT REFLECT ALL ENCUMBRANCES, EASEMENTS, ETC., ON PROPERTIES SHOWN HEREON.
2. ALL NEW UTILITIES ARE TO BE PLACED UNDERGROUND.
3. WETLANDS NOT LOCATED FOR THIS SURVEY - R.P.A. LINE SHOWN HEREON IS SHOWN 100' FROM EDGE OF MARSH.
4. UNLESS OTHERWISE NOTED, ALL DRAINAGE EASEMENTS DESIGNATED ON THIS PLAT SHALL REMAIN PRIVATE.
5. ALL NEW MONUMENTS SHALL BE SET IN ACCORDANCE WITH SECTIONS 19-34 THRU 19-36 OF THE SUBDIVISION ORDINANCE.
6. ANY EXISTING UNLINED WELLS SHALL BE ABANDONED IN ACCORDANCE WITH STATE PRIVATE WELL REGULATIONS AND THE JAMES CITY COUNTY CODE.
7. THE PARCEL LIES GRAPHICALLY IN F.I.R.M. FLOOD ZONE "X" PER COMMUNITY PANEL 510201 00008, DATED FEBRUARY 6, 1991.
8. THIS FIRM MADE NO ATTEMPT TO LOCATE UNDERGROUND UTILITIES.
9. PARCEL A SHOWN IS CURRENTLY SERVED BY PRIVATE WELL AND SEPTIC SYSTEM. PARCEL B SHOWN TO BE SERVED BY PRIVATE WELL AND SEPTIC SYSTEM.
10. SEPTIC TANK AND SOILS INFORMATION SHOULD BE VERIFIED AND REEVALUATED BY THE HEALTH DEPARTMENT PRIOR TO ANY NEW CONSTRUCTION.
11. ALL OUTDOOR SIGNS ON THE PROPERTIES WITHIN THE DISTRICT SHALL COMPLY WITH THE REGULATIONS FOR EXTERIOR SIGNS IN ARTICLE 4, DIVISION 3 OF THIS CHAPTER.



HEALTH DEPARTMENT SUBDIVISION APPROVAL STATEMENT

This subdivision is approved for individual onsite sewage systems in accordance with the provisions of the Code of Virginia, the Sewage Handling and Disposal Regulations (12 VAC 5-810-10 et seq., the "Regulations") And the York County Ordinance that authorizes the local health department to accept private evaluations for compliance with County ordinances.

This subdivision was submitted to the local health department for review pursuant to Section 32.1-163.5 of the Code of Virginia, which requires the health department to accept private soil evaluations and designs from an Authorized Onsite Soil Evaluator (AOSE) or a Professional Engineer working collaboratively with a AOSE for residential development. The Department is not required to perform a field check of such evaluations. This subdivision was certified as being in compliance with the Board of Health's regulations by Ann L. Ruff, AOSE # 261, ph. # 757-568-1552. This subdivision approval is issued in compliance with that certification.

Pursuant to section 360 of the regulations, this approval is not an assurance that sewage disposal system construction permits will be issued on any lot in the subdivision unless that lot is specifically identified as having an approved site for an onsite sewage disposal system, and unless all conditions and circumstances are present at the time of application for a permit as are present at the time of this approval.

Pursuant to Section 20.5-74 (b) (2) of York County Subdivision Ordinance which states, "any proposed lot not suitable for the installation of private sewage disposal systems shall either be combined with lots that are suitable, or dedicated to common open space or recreation use, so that only buildable lots are created", this subdivision approval is issued in reliance upon the certification from the AOSE that all proposed lots are in compliance with this ordinance.

This subdivision approval is also issued in reliance upon the certification that approved lots are suitable for "traditional systems" unless otherwise stated. However, actual system design may be different at the time construction permits are issued.

The approved onsite sewage system sites are shown on this plat. If said sites are not shown on this plat, those sites are shown on a separate plat on file with the Peninsula Health District, Williamsburg Area Office, 1126 Professional Dr., Williamsburg, VA 23185.

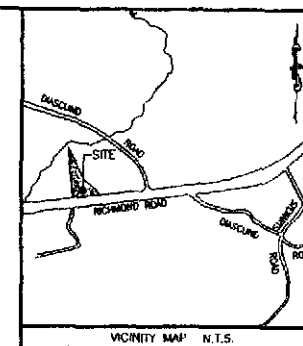
APPROVED:

BY: *William H. Connolly*
VIRGINIA DEPARTMENT OF HEALTH

2-9-07
DATE

WETLAND & RESOURCE PROTECTION AREAS

WETLANDS AND LAND WITHIN THE RESOURCE PROTECTION AREAS SHALL REMAIN IN A NATURAL UNDISTURBED STATE EXCEPT FOR THOSE ACTIVITIES PERMITTED BY SECTION 23-7(C) OF THE JAMES CITY COUNTY CODE (REFER TO 19-29(g) OF THE SUBDIVISION ORDINANCE)



VICINITY MAP N.T.S.

PROPERTY INFORMATION

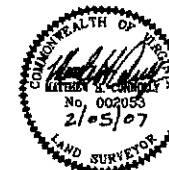
ZONING DISTRICT: A1
PARCEL ID: 0240100048
ADDRESS: 9447 RICHMOND RD.

BUILDING SETBACKS

FRONT: 50'
SIDE: 15'
REAR: 35'

LEGEND

- IRF = Iron Rod Found
- IPF = Iron Pipe Found
- IRS = Iron Rod Set
- CB = Communication Box
- SB = Soil Boring
- UP = Utility Pole
- LP = Light Pole



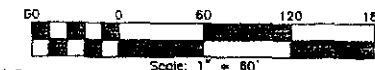
SUBDIVISION PLAT OF

LAND LOCATED AT

#9447 RICHMOND ROAD

BEING IDENTIFIED AS PARCEL #0240100048
STONEHOUSE DISTRICT, JAMES CITY COUNTY, VIRGINIA

DATE: 12/19/06 SCALE 1"=60' JOB# 05-478
REV. 2/05/07 (COUNTY COMMENTS)



LandTech
Resources, Inc.

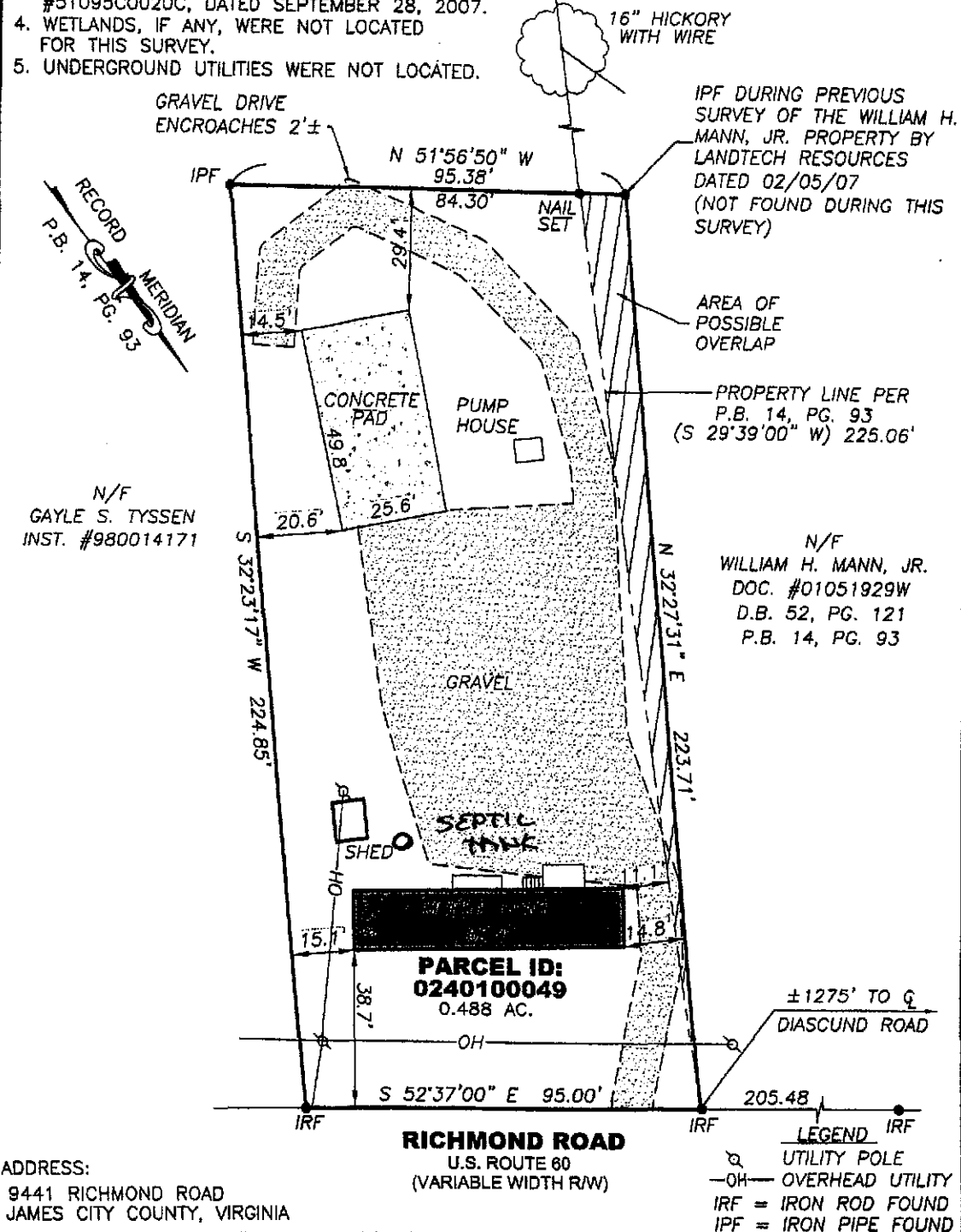
Surveying • Mapping • Land Design

5810-F Mooretown Road, Williamsburg, VA 23185
Phone: (757) 565-1677 Fax: (757) 565-0782
web: landtechresources.com

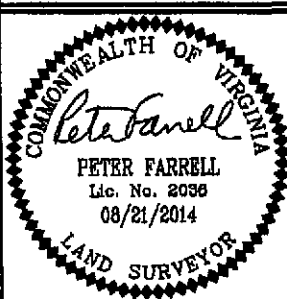
THIS PLAT IS NOT APPROVED.
Planning

NOTES:

1. THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT REFLECT ALL ENCUMBRANCES AFFECTING THE PROPERTY.
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 #51095C0020C, DATED SEPTEMBER 28, 2007.
4. WETLANDS, IF ANY, WERE NOT LOCATED FOR THIS SURVEY.
5. UNDERGROUND UTILITIES WERE NOT LOCATED.



ADDRESS:
9441 RICHMOND ROAD
JAMES CITY COUNTY, VIRGINIA



REFERENCES:
INST. #010006511
P.B. 14, PG. 93

08/21/14
SCALE: 1"=30'
JOB# 14-331
CAD File
14-331.dwg

PHYSICAL SURVEY OF 9441 RICHMOND ROAD
PARCEL ID: 0240100049
For:
WILLIAM JONES
JAMES CITY COUNTY VIRGINIA

LandTech Resources, Inc.
Surveying • GPS • Engineering
3925 Midlands Road, Williamsburg, Virginia 23188
Telephone: 757-565-1677 Fax: 757-565-0782
Web: landtechresources.com

U.S. mail 8-18-87

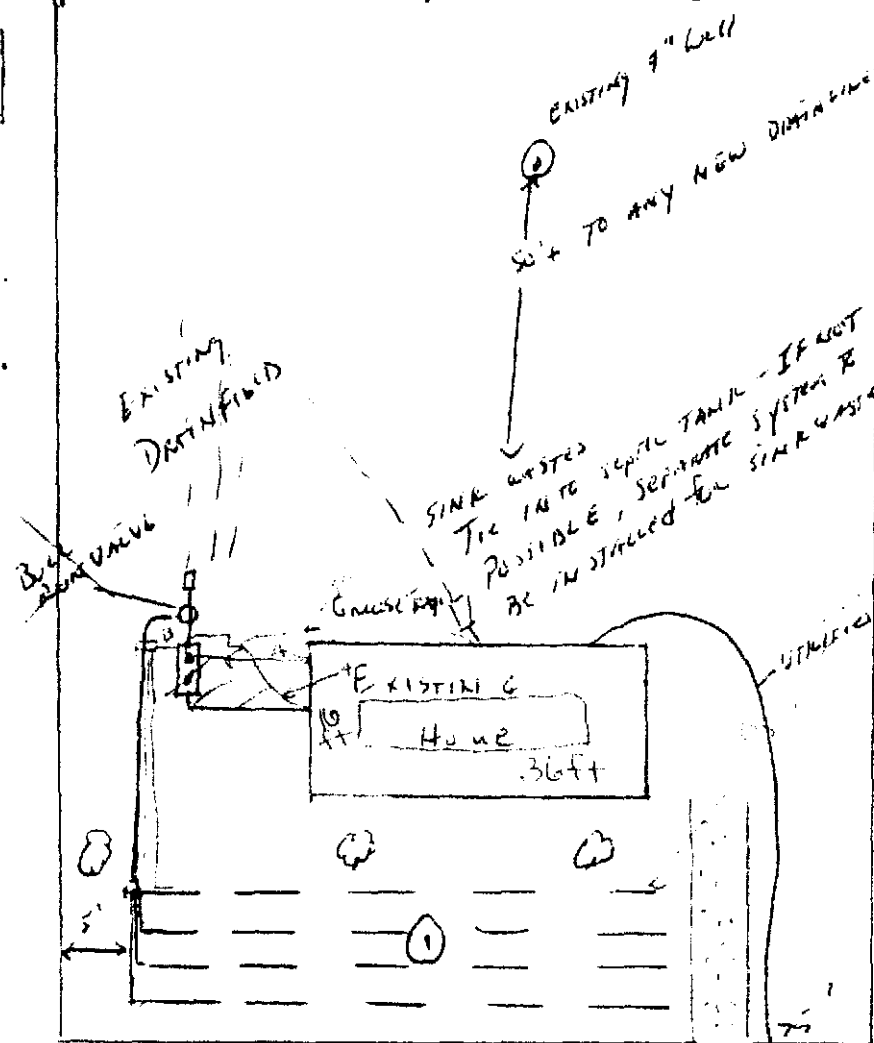
Health Department
Identification Number 142 87-157

Schematic drawing of sewage disposal system and topographic features.

PAGE 2 OF 2

Show the lot lines of the building lot and building site, sketch of property showing any topographic features which may impact on the design the system, all existing and/or proposed structures including sewage disposal systems and wells within 100 feet of sewage disposal system reserve area. The schematic drawing of the sewage disposal system shall show sewer lines, pretreatment unit, pump station, conveyance system, and subsurface soil absorption system, reserve area, etc. When a nonpublic drinking water supply is to be located on the same lot show sources of pollution within 100 feet.

☐ The information required above has been drawn on the attached copy of the sketch submitted with the application. Attach additional sheets as necessary to illustrate the design.



No Scale

- Install 4 x 50' x 3' DRAINLINES on contour
- MAINTAIN the following Distances:
 - Existing well to STKIDF - 50' + (or no closer than distance to EXISTING SYSTEM)
 - STKIDF to HSE - 10'
 - " " TO PROPLIN - 5'
 - " " UTILITIES - 10'
- This appears the best REPAIR SYSTEM available under EXISTING site conditions

A 13
B 24

Richmond Rd

The sewage disposal system is to be constructed as specified by the permit ☒ or attached plans and specifications ☐

This sewage disposal system construction permit is null and void if (a) conditions are changed from those shown on the application (b) conditions are changed from those shown on the construction permit. If construction has not commenced within 6 months of date of issuance, the construction permit must be revalidated.

No part of any installation shall be covered or used until inspected, corrections made if necessary, and approved, by the local health department or unless expressly authorized by the local health dept. Any part of any installation which has been covered prior to approval shall be uncovered, if necessary, upon the direction of the Department.

Date: 18 Aug 87 Issued by:

D.P. Price
Sanitarian

Permit Expires

2-18-92

Date: 8/19/87 Reviewed by:

Larry W. Kypur
Supervisory Sanitarian

If FHA or VA financing

Reviewed by Date

Date

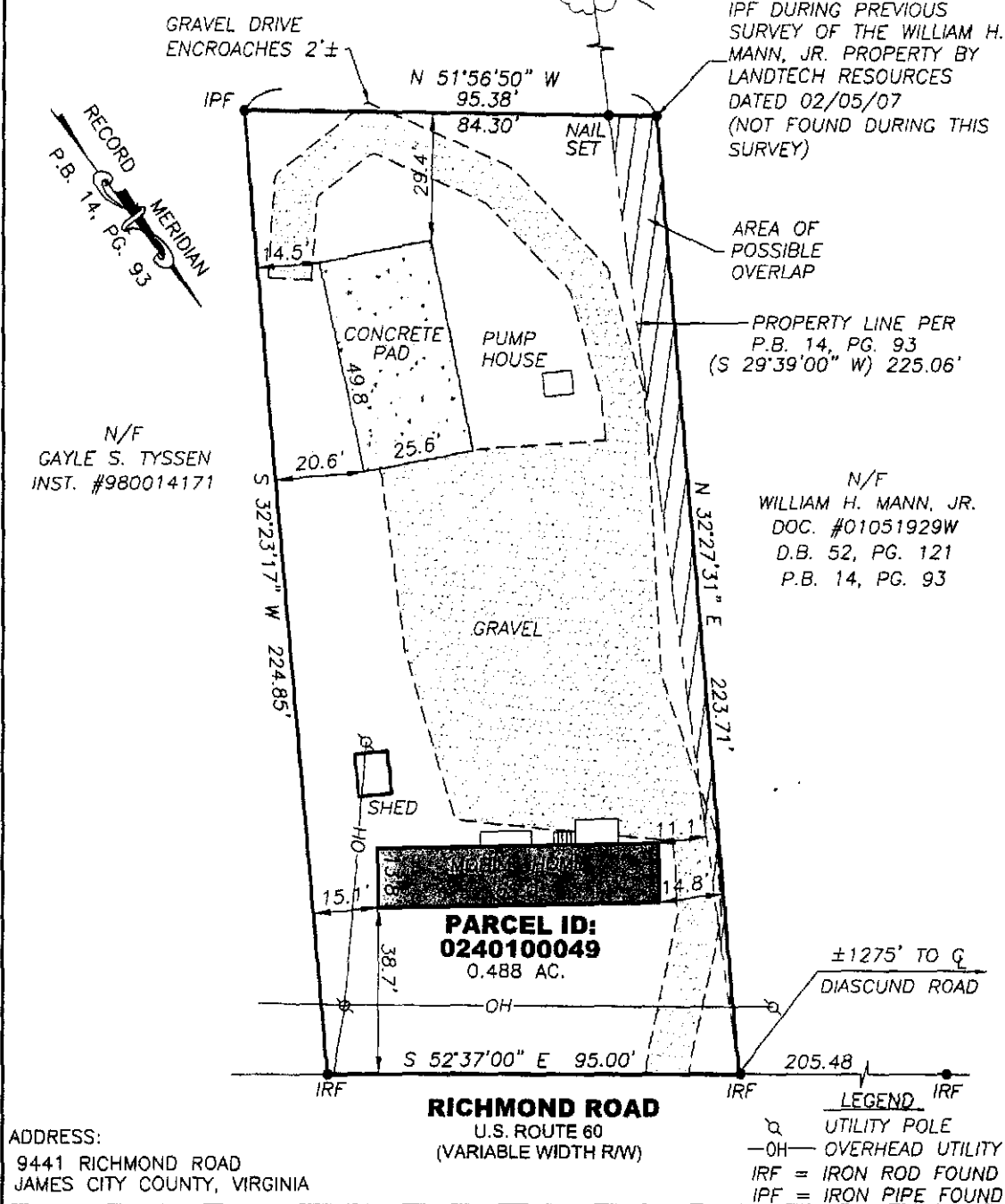
Supervisory Sanitarian

No part to be covered

City of Richmond, Virginia

NOTES:

1. THIS PLAT WAS PRODUCED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT REFLECT ALL ENCUMBRANCES AFFECTING THE PROPERTY.
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 #51095C0020C, DATED SEPTEMBER 28, 2007.
4. WETLANDS, IF ANY, WERE NOT LOCATED FOR THIS SURVEY.
5. UNDERGROUND UTILITIES WERE NOT LOCATED.



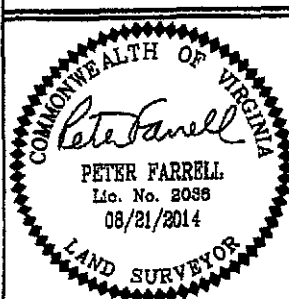
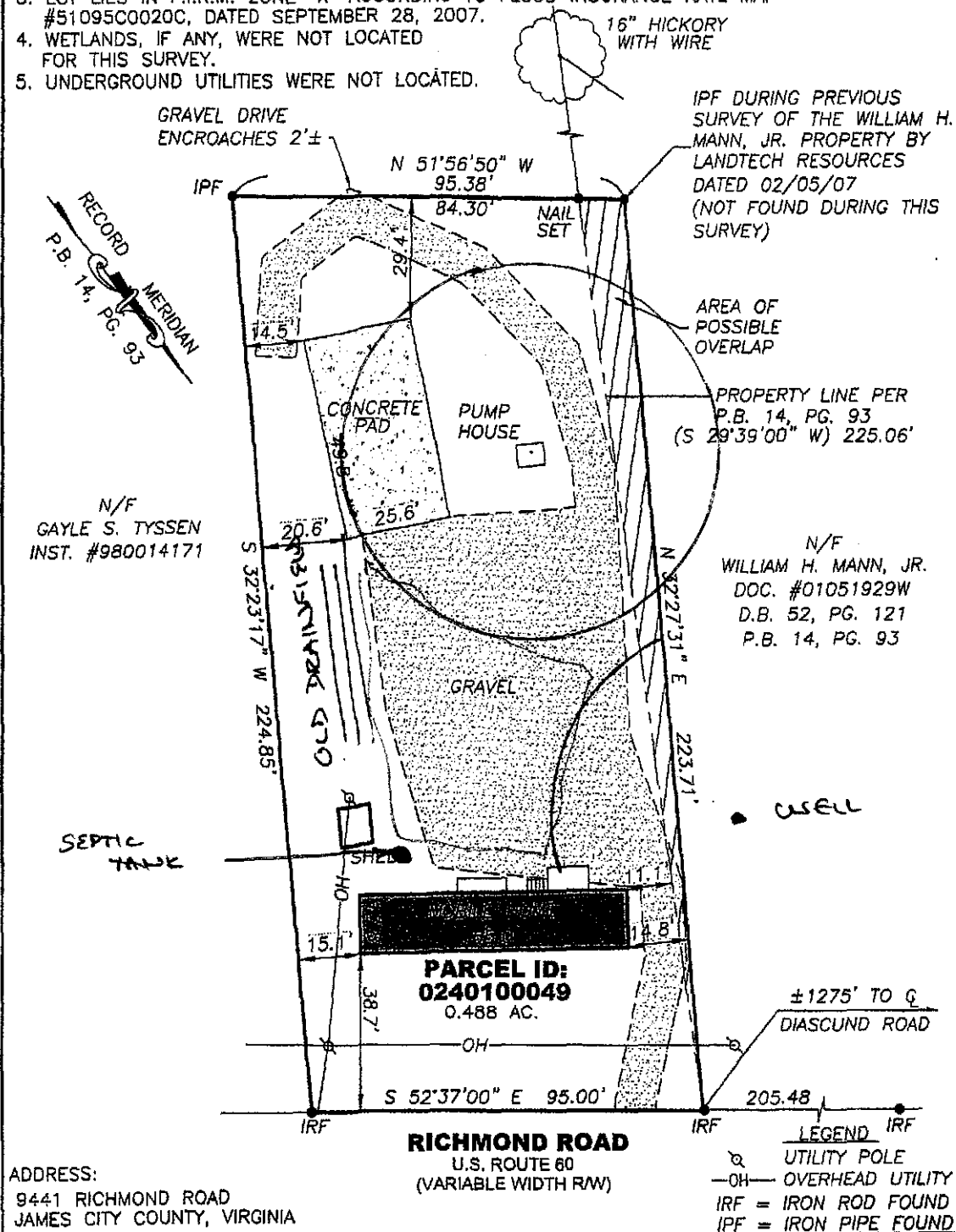
<p>COMMONWEALTH OF VIRGINIA</p> <p><i>Peter Farrell</i></p> <p>PETER FARRELL</p> <p>Lic. No. 2038</p> <p>08/21/2014</p> <p>LAND SURVEYOR</p>	<p>REFERENCES: INST. #010006511 P.B. 14, PG. 93</p> <p>08/21/14 SCALE: 1"=30' JOB# 14-331 CAD File 14-331.dwg</p>	<p>PHYSICAL SURVEY OF 9441 RICHMOND ROAD PARCEL ID: 0240100049 For: WILLIAM JONES JAMES CITY COUNTY VIRGINIA</p> <p>LandTech Resources, Inc. Surveying • GPS • Engineering 3925 Midlands Road, Williamsburg, Virginia 23188 Telephone: 757-565-1677 Fax: 757-565-0782 Web: landtechresources.com</p>
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PLANNING DIVISION

AUG 29 2014

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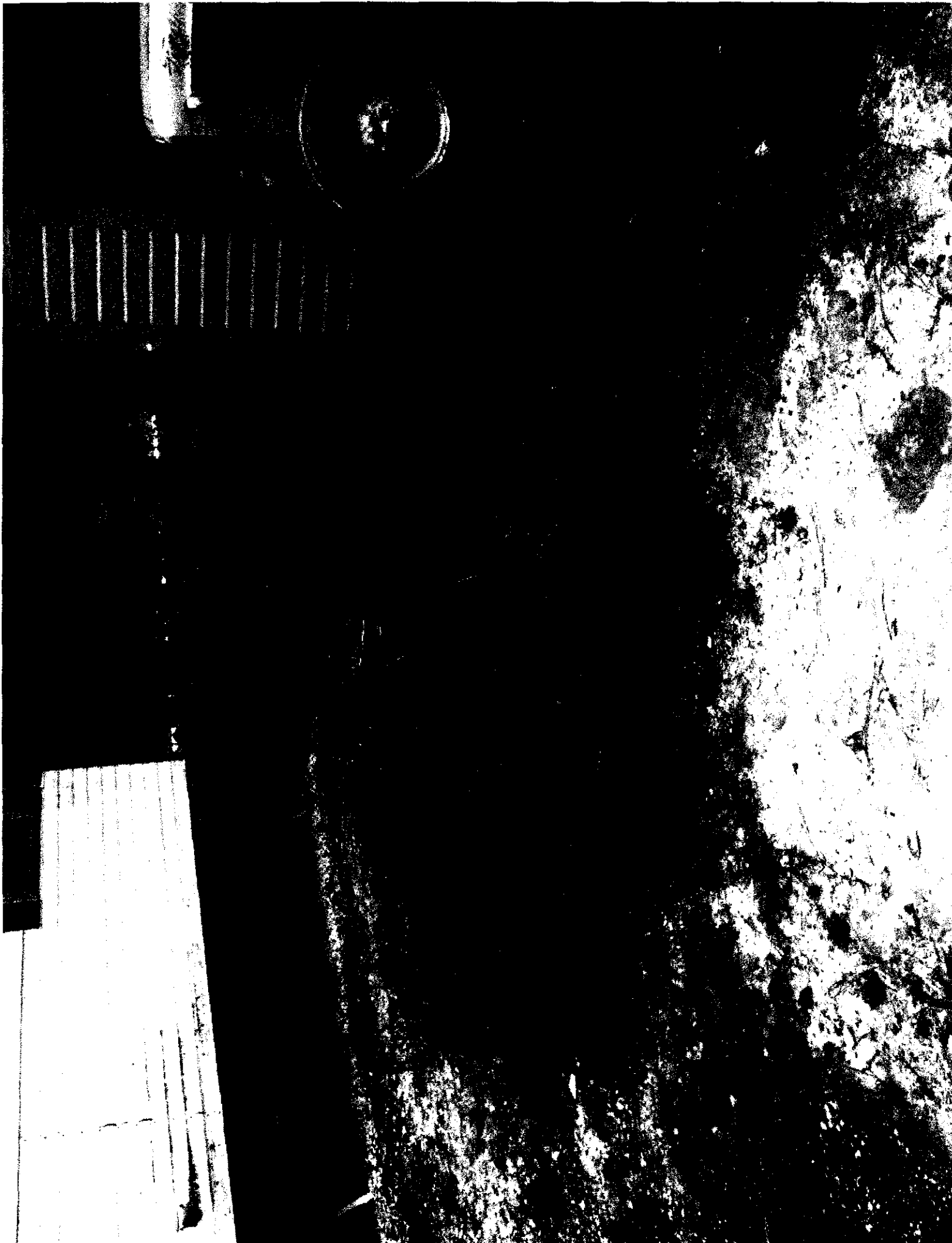


REFERENCES:
 INST. #010006511
 P.B. 14, PG. 93

08/21/14
 SCALE: 1"=30'
 JOB# 14-331
 CAD File
 14-331.dwg

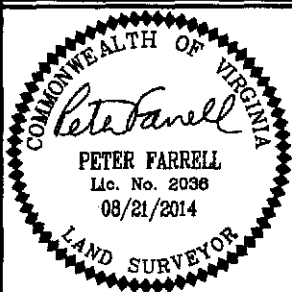
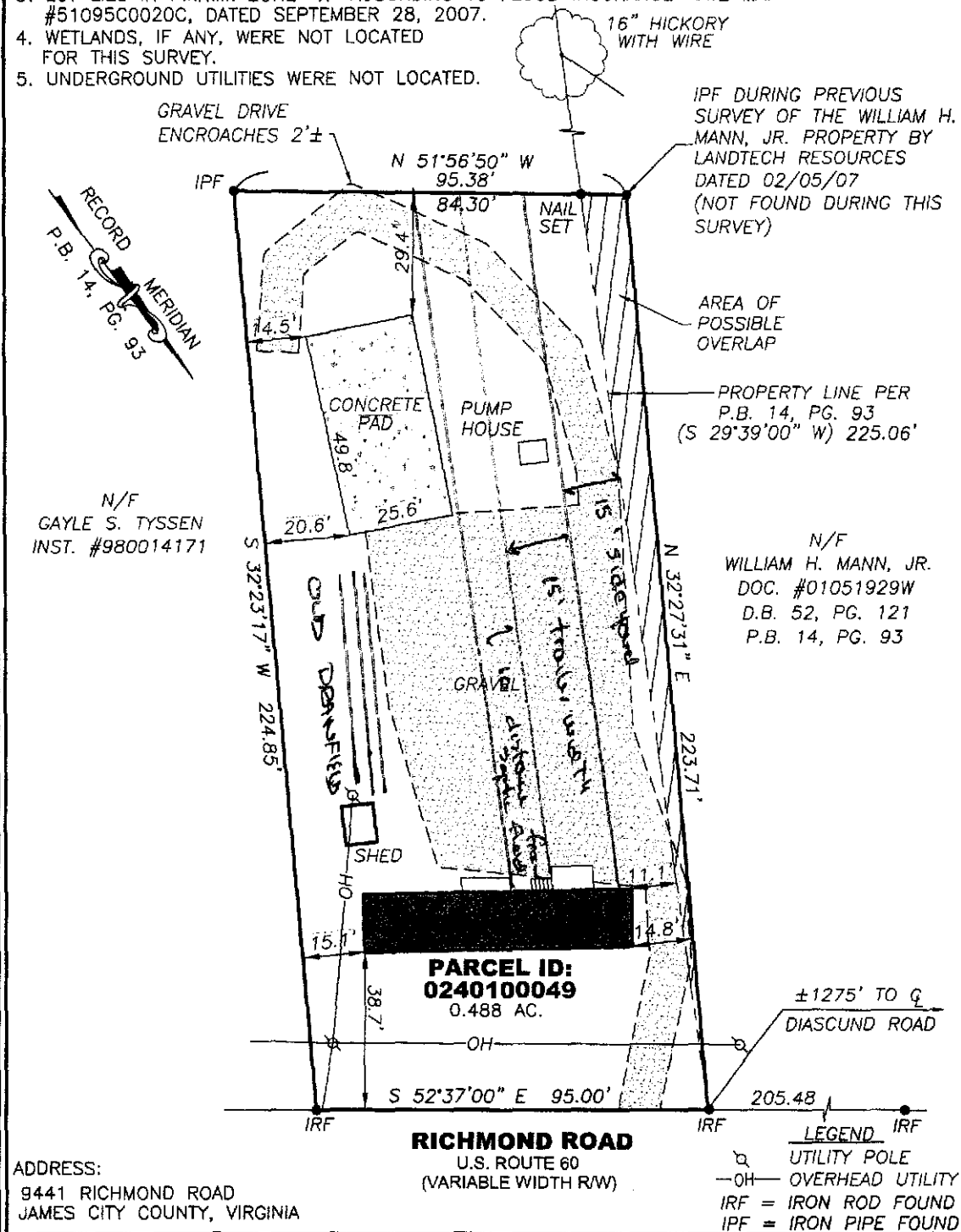
PHYSICAL SURVEY OF 9441 RICHMOND ROAD
PARCEL ID: 0240100049
 For: **WILLIAM JONES**
 JAMES CITY COUNTY VIRGINIA

LandTech Resources, Inc.
 Surveying • GPS • Engineering
 3925 Midlands Road, Williamsburg, Virginia 23188
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08/21/14
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PHYSICAL SURVEY OF 9441 RICHMOND ROAD
PARCEL ID: 0240100049
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Legend

 Parcels



Feet

0 50 100 150 200
1:2,257 / 1"=188 Feet

Title:

Date: 9/29/2014

DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be.

**REQUEST FOR HEALTH DEPARTMENT
CONSTRUCTION CLEARANCE SITE PLAN REVIEW**

(For assistance in completing this form, please call 253-4813)

Tax Map #: _____ Locality: _____ Date: 6/26/2014
(Optional)

Applicant's Name: Larry & Davina Aguilar

Applicant's Address: 9441 Richmond Rd. mailing address: _____
Lanexa, VA 101 Racetield Dr
23168

Applicant's Telephone #: (757) 209-1264

Address of Proposed Construction: _____

Type of Construction: Replacing 2 bdrm house (that burned) with a
2 bdrm Mobile Home

I have provided true and accurate information regarding exact location of on-site sewage disposal system(s).

Davina C. Aguilar
Owner/Agent

OFFICIAL USE ONLY:

The proposed Mobile Home 2 bedroom appears to substantially comply with the minimum required setback distances from an on-site sewage disposal system as required by local code or state regulation. This approval may be based solely on a review of information provided by the applicant. See attached site plan(s) for exact location of proposed construction and location of existing on-site sewage disposal system(s) as drawn to approximate scale.

Donna Bueche EHS
Health Dept. Official

Additional Comments:

Protect drainfield during Construction

Note: The Health Department does not recommend the chemical treatment with a termiticide or any other pesticide of any proposed building foundation within fifty (50) feet of a private well.

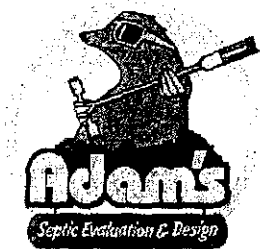
Note: Use extreme caution when excavating for postholes or foundations in the general area adjacent to the septic tank, distribution box, or drain lines to avoid any inadvertent damage to the on-site sewage disposal system.

**Note: York County Code minimum required setback distances for new construction: From Septic tank: 5 feet
From Drainfield: 8 feet
James City County minimum required setback distance for new construction: From Septic tank: 10 feet
From Drainfield: 10 feet**

The attached information was received after the packets were assembled for delivery. If you have any additional questions feel free to contact me.

Thank you,

John Rogerson



Adam's Septic Evaluation and Design, LLC

4516 Misty Ct.
Williamsburg, VA 23185
(757) 344-6270
Fax (757) 645-3060

November 21, 2014

M. Anderson Bradshaw
C/O William Jones Revocable Trust
7884 Richmond Road
Toano, VA 23168

Re: William B. Revocable Trust
9441 Richmond Road
James City County

Dear Mr. Bradshaw:

A site and soil evaluation was conducted on the above-mentioned property on November 21, 2014. The purpose of the evaluation was to locate possible "Reserve" drainfield areas should the existing septic system fail.

The property consist of approximately 0.488 Acres. There is a mobile home partially set up on the property. There is an existing septic system installed in 1987 that has been approved by the health department to connect to the mobile home. There is an existing deep well installed in 1992. There are also impacts to this site including an older septic drainfield, an older well, a neighbors well, gravel driveways, and a concrete pad, that make it difficult to find a large area for a "reserve" drainfield".

There is an area found that is behind the existing mobile home that can be used for an alternative septic system. This would require pretreatment of the wastewater and a shallow placed absorption area for the final disposal of the treated wastewater. This site meets the Sewage Handling and Disposal Regulations to the greatest extent and does not come closer to the required setbacks than the existing approved system.

Moving the mobile home further back on the lot will place the home in this potential "reserve" area.

An Alternative Onsite Sewage System will be required if the existing system should fail. These systems can cost between \$15,000 and \$20,000 to install however this is only an estimate and an actual bid desired, it should be obtained by a properly licensed septic contractor.

Please see attached sketch for the proposed reserve area.

Please do not hesitate to call if you have any questions.

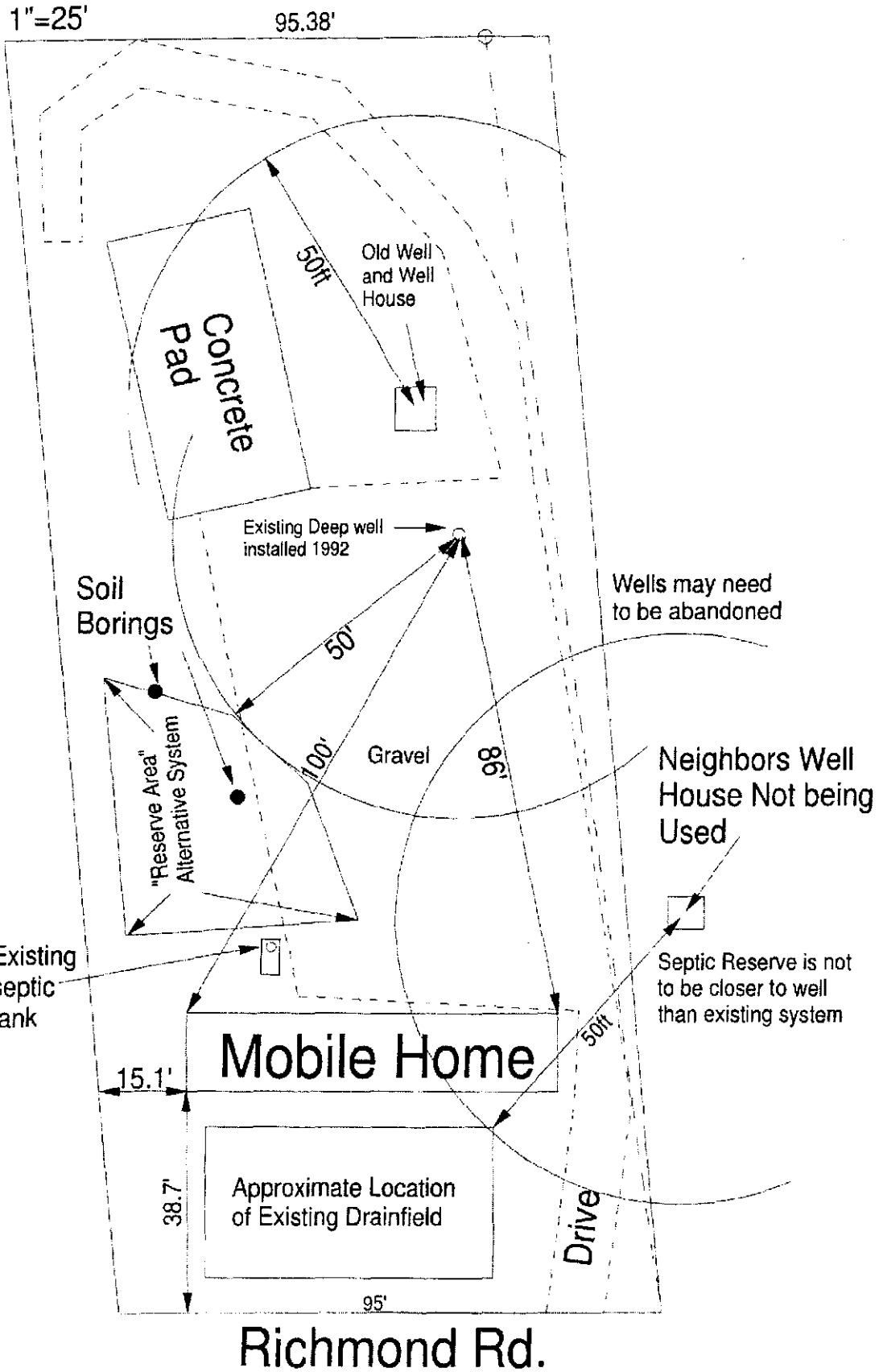
Sincerely,

Adam C. Herman, AOSE #1940001109

Site: 9441 Richmond Rd.

+/- 0.488 Acres

1"=25'



John Rogerson

From: anabradshaw@aol.com
Sent: Tuesday, November 25, 2014 12:48 PM
To: John Rogerson
Cc: adamsseptic@cox.net
Subject: 9441 Richmond Road BZA
Attachments: Jones.AdamsSeptic.pdf

John

Attached is a letter and exhibit from Adam Herman, Soil Scientist, confirming that the only available location for a reserve drainfield is the center of the lot, substantially as I had depicted at the October hearing, and that the soils there are not optimal but appear sufficient from the two borings for a drainfield for an alternative type septic system and drainfield. Mr. Herman advised that further soil analysis and engineering would need to be done at the time of installation, and an actual permit would depend upon soil conditions at that time and the specific alternative system selected.

Please add this to the file, provide it to the Board members, and consider it in your staff recommendation.

Anderson

M. Anderson Bradshaw

-----Original Message-----

From: John Rogerson <John.Rogerson@jamescitycountyva.gov>
To: Andy Bradshaw - home <anabradshaw@aol.com>
Sent: Tue, Sep 30, 2014 8:26 am
Subject: Building permit application

Sorry, sounds like I forgot to include this in your package.

John Rogerson
Senior Zoning Officer

101-A Mounts Bay Road
Williamsburg, VA 23185
P: 757-253-6718
Fax: 757-253-6822
jccegov.com

-----Original Message-----

From: PLO Xerox@james-city.va.us [<mailto:PLO Xerox@james-city.va.us>]
Sent: Tuesday, September 30, 2014 8:15 AM
To: John Rogerson
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF

WorkCentre Location: machine location not set
Device Name: PLOXEROX

For more information on Xerox products and solutions, please visit
<http://www.xerox.com>