

**A G E N D A**  
**JAMES CITY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**James City County Government Center, Building A Large Conference Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**January 6, 2022**  
**5:00 PM**

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- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **OLD BUSINESS**
- D. **NEW BUSINESS**
  - 1. Board of Zoning Appeals 2022 Meeting Schedule
  - 2. Board of Zoning Appeals 2021 Draft Annual Report
- E. **MINUTES**
  - 1. May 6, 2021 Meeting Minutes
- F. **MATTERS OF SPECIAL PRIVILEGE**
  - 1. Election of Officers for 2022
- G. **ADJOURNMENT**

**ITEM SUMMARY**

DATE: 1/6/2022  
TO: The Board of Zoning Appeals  
FROM: Christy H. Parrish, Zoning Administrator  
SUBJECT: Board of Zoning Appeals 2022 Meeting Schedule

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**ATTACHMENTS:**

	Description	Type
☐	BZA 2022 Meeting Schedule	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	12/28/2021 - 10:11 AM

**BZA 2022 Schedule – Meetings begin at 5:00 p.m.**

Meeting Dates	Application Deadlines	Ad to the Press	Ad Display Dates	APO/Applicant Letters	
Jan 6	Dec 2	Dec 16	Dec 22 & 29	Dec 17	
Feb 3	Dec 30	Jan 13	Jan 19 & Jan 26	Jan 14	
Mar 3	Jan 27	Feb 10	Feb 16 & 23	Feb 11	
Apr 7	Mar 3	Mar 17	Mar 23 & 30	Mar 18	
May 5	Mar 31	Apr 14	Apr 20 & 27	Apr 15	
June 2	Apr 28	May 12	May 18 & 25	May 13	
July 7	June 2	Jun 16	Jun 22 & 29	June 17	
Aug 4	June 30	Jul 14	Jul 20 & 27	Jul 15	
Sept 1	July 28	Aug 11	Aug 17 & 24	Aug 12	
Oct 6	Sept 1	Sept 15	Sep 21 & 28	Sep 16	
Nov 3	Sept 29	Oct 13	Oct 19 & 26	Oct 14	
Dec 1	Oct 27	Nov 10	Nov 16 & 23	Nov 11	
Jan 5 2023	Dec 1	Dec 15	Dec 21 & 28	Dec 16	

**ITEM SUMMARY**

DATE: 1/6/2022  
TO: The Board of Zoning Appeals  
FROM: Christy H. Parrish, Zoning Administrator  
SUBJECT: Board of Zoning Appeals 2021 Draft Annual Report

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**ATTACHMENTS:**

	Description	Type
▣	Board of Zoning Appeals 2021 Draft Annual Report	Exhibit

**REVIEWERS:**

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	12/21/2021 - 5:25 PM
Publication Management	Daniel, Martha	Approved	12/22/2021 - 9:59 AM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	12/28/2021 - 10:03 AM



# 2021 BOARD OF ZONING APPEALS ANNUAL REPORT

## 2021 BOARD OF ZONING APPEALS MEMBERS

Name	District	Appointment	Term Expires
Stephen M. Rodgers, Chairman	Berkeley	4/2011	3/31/2024
Mark Jakobowski, Vice Chairman*	Roberts	4/2018	3/31/2023
Ron Campana, Jr. *	Jamestown	8/2011	6/30/2026
William J. Geib *	Powhatan	4/2013	3/31/2023
David Otey, Jr. *	Roberts	3/2010	3/31/2025

\* Virginia Certified BZA Member

## INTRODUCTION

The James City County's Board of Zoning Appeals (BZA) is a five-member, quasi-judicial body appointed by the local circuit court to serve five-year terms. Any community adopting a Zoning Ordinance must also establish an appeals board for review of circumstances where landowners may be unjustly burdened by the Zoning Ordinance. The Board conducts public hearings to consider requests for variances to the County's Zoning Ordinance, as well as appeals of decisions made by the Zoning Administrator.

The definition of variance reads:

*Variance means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.*

The Board must find that the strict application of the Zoning Ordinance would unreasonably restrict the utilization of the property. Any decision made by the Board may be appealed to the James City County Circuit Court within 30 days.

State Code language places the burden of proof on the applicant with these five standards as the criteria:

*Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of a variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and*

- (i) *the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- (ii) *the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- (iii) *the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- (iv) *the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and*
- (v) *the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.*

## MEETINGS

The James City County BZA is scheduled to meet the first Thursday of every month at 5 p.m. in Building F at the James City County Government Complex. The BZA met three times in 2021.



## VARIANCES/APPEALS

One Zoning Administrator's Determination Appeal and four applications for variances were considered in 2021. All five applications went before the BZA. The synopses of the applications are as follows:

**BZA-20-0014, 7218 Merrimac Trail** - This was an appeal of the Zoning Administrator's determination that a mural painted on the outside wall of an existing building was a sign regulated by the James City County Zoning Ordinance. The BZA upheld the Zoning Administration's determination on January 7, 2021.

**BZA-20-0015, 6702 Richmond Road** - This was an application for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 14.7 feet from the left side property line and 6.2 feet from the rear property line for the construction of a chemical feed building to be located at an existing well facility. The BZA approved the application on February 4, 2021.

**BZA-20-0016, 121A Queen Mary Court** - This was an application for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 5.7 feet from the right-side property line and 10.1 from the front property line for the construction of a chemical feed building to be located at an existing well facility. The BZA approved the application on February 4, 2021.

**BZA-20-0017, 5374 Centerville Road** - This was an application for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 9.9 from the right-side property line for the construction of a

chemical feed building to be located at an existing well facility. The BZA approved the application on February 4, 2021.

**BZA-21-0001, 171A The Maine** - This was an application for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 5 feet from any property line to permit the reconstruction of a wastewater pumping station. The BZA approved the application on May 6, 2021.



From left to right: Ron Campana, Jr., David Otey, Jr., William J. Geib, Mark Jakobowski, and Stephen Rodgers.

**ITEM SUMMARY**

DATE: 1/6/2022  
TO: The Board of Zoning Appeals  
FROM: Christy H. Parrish, Zoning Administrator  
SUBJECT: May 6, 2021 Meeting Minutes

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**ATTACHMENTS:**

	Description	Type
☐	May 6, 2021 Meeting Minutes	Minutes

**REVIEWERS:**

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	12/21/2021 - 4:46 PM
Publication Management	Daniel, Martha	Approved	12/21/2021 - 4:49 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	12/21/2021 - 4:50 PM



**MINUTES**  
**JAMES CITY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**James City County Government Center, Building F Board Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**May 6, 2021**  
**5:00 PM**

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**A. CALL TO ORDER**

Mr. Stephen Rodgers called the meeting to order.

**B. ROLL CALL**

Ms. Christy Parrish called the roll:

Present:

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

Absent:

Mr. William Geib

Staff Present:

Ms. Christy Parrish, Zoning Administrator  
Ms. Liz Parman, Assistant County Attorney

**C. OLD BUSINESS**

None

**D. NEW BUSINESS**

Mr. Rodgers presented the mission statement of the Board of Zoning Appeals (BZA) for those present in the audience. He stated that the BZA was a five-member Board consisting of James City County residents. It has the power to hear and decide appeals to decisions of the Zoning Administrator and applications for special exceptions, such as yard and setback variances. A favorable vote of three members of the Board was always required to pass a motion. Variances are not granted unless the strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for a variance was not shared generally by other properties, and the variance was not contrary to the purpose of the Ordinance. Variances are not granted as a special privilege or convenience. If the variance was requested because the physical condition of the property or improvements thereon restrict the utilization of the property, the following additional requirements must be met: (i) the property must have been acquired in good faith and any hardship cannot be created by the applicant; (ii) the granting of the variance cannot be substantially detrimental to nearby properties; and (iii) the condition or situation cannot be so general or recurring as to make the formulation of an amendment to the Ordinance reasonably practicable to address the condition or situation. If the Board does authorize a variance, it may impose conditions regarding the location, character, or any other features it may deem necessary in the public interest.

1. Case No. BZA-21-0001. 171-A The Maine

Ms. Parrish presented the staff report.

Ms. Parrish stated that Mr. Danny Poe of the James City Service Authority ("JCSA"), had applied for a variance to Section 24-39, Special provisions for lots for public utilities, to reduce the required setback from 15 feet from any property line to approximately 5 feet from any property line to permit the reconstruction of a wastewater pumping station. She stated that the new pumping station would be constructed on a revised lot configuration of properties located at 171, 171-A, and 173 The Maine.

Ms. Parrish stated that the purpose of the variance was to accommodate the construction of a new JCSA wastewater pumping station. She stated that a site plan was approved in 1986 that permitted a 16 feet by 20 feet one-story, wood frame pump station building on the property. She stated that the Zoning Ordinance at that time allowed for administrative waivers to reduce lot area, lot width, and lot frontage for public utilities with no distance requirements from property lines, but the Zoning Ordinance was then updated in 1998 which required structures to be located a minimum of 15 feet from any property line.

Ms. Parrish stated that the new station must be oriented differently than the existing structure to accommodate current design standards. She stated that JCSA has met and worked with the adjacent property owners to minimize impacts and to acquire the minimum amount of property to accommodate the new structure. She stated that it was staff's understanding that the adjacent property owners requested the setback reduction as proposed.

Ms. Parrish stated that a plan showing the proposed new lot configuration and facility was provided and the 5-foot setback from the proposed building structure was adequate to satisfy JCSA's design requirements. She stated that the proposed buildings and additions would be consistent with the current use of the property, and would be landscaped and fenced to screen them from nearby roads, residences, and other development.

Ms. Parrish stated that staff supported the variance for the following reasons: 1) the existing size and current infrastructure of the lot restricted the location of the proposed improvement which is not shared by others in the same vicinity; 2) the reconstruction would prolong the useful life of the wastewater facility and its improvement; and 3) the proposed improvement and new lot configuration was designed minimum impacts to adjacent property owners. She stated that staff recommended approval of the requested variance as described in the attached resolution.

Mr. Otey asked Ms. Parrish to explain the statement that the adjacent property owners requested the setback reduction.

Ms. Parrish explained that JCSA reached out and discussed the proposal with the adjacent property owners and they agreed on the proposed configuration.

Mr. Rodgers asked for additional clarification on the request.

Ms. Parrish explained that the adjacent properties were included in the variance request because the property acquisition was not finalized. She also further discussed the proposed new property lines and setbacks.

Mr. Rodgers opened the Public Hearing.

Ms. Pat Coll, 172 The Maine, spoke in support of the variance request because it minimized encumbrances on their remaining yard. She stated that in the past they were required to sell a significant part of their property for the Lift Station and a 10-foot wide access easement in perpetuity.

Mr. Jakobowski asked Ms. Coll if granting this variance was resolving some of the issues on the adjacent property lines.

Ms. Coll responded yes.

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

Mr. Campana stated he supported the variance as it impacted the minimum area of land to improve the facility.

Mr. Jakobowski stated that his question to the adjacent property owner was to ensure the request was understood. He stated that this was a win win situation.

Mr. Rodgers stated that it was great to see all the parties working together and supported the request.

Mr. Otey motioned to Approve the Resolutions for Case No. BZA-21-0001 as presented.

Mr. Rodgers seconded the motion.

On a roll call vote, the BZA voted to Approve the Resolutions for Case No. BZA-21-0001 as presented. (4-0)

**E. MINUTES**

1. February 4, 2021, Meeting Minutes

Mr. Campana made a motion to Approve the February 4, 2021, Meeting Minutes as presented.

Mr. Jakobowaki seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the February 4, 2021, Meeting Minutes.

**F. MATTERS OF SPECIAL PRIVILEGE**

None

**G. ADJOURNMENT**

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

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

The meeting was Adjourned at approximately at 5:20 p.m.

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Stephen Rodgers, Chairman

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Christy Parrish, Secretary

**ITEM SUMMARY**

DATE: 1/6/2022  
TO: The Board of Zoning Appeals  
FROM: Christy H. Parrish, Zoning Administrator  
SUBJECT: Election of Officers for 2022

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**REVIEWERS:**

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	12/21/2021 - 4:46 PM