

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

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **OLD BUSINESS**
- D. **NEW BUSINESS**
 - 1. BZA-22-0003. 4816 Hickory Signpost Road
- E. **MINUTES**
 - 1. March 3, 2022 Meeting Minutes
- F. **MATTERS OF SPECIAL PRIVILEGE**
- G. **ADJOURNMENT**

ITEM SUMMARY

DATE: 5/5/2022

TO: The Board of Zoning Appeals

FROM: John Rogerson, Senior Zoning Officer

SUBJECT: BZA-22-0003 4816 Hickory Signpost Road

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Resolution	Resolution
☐	Site Plan	Exhibit
☐	Location Map	Exhibit
☐	Building Elevations	Exhibit
☐	Original Subdivision Plat from 1970	Exhibit
☐	Site Pictures	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/28/2022 - 2:28 PM
Publication Management	Daniel, Martha	Approved	4/28/2022 - 2:37 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	4/28/2022 - 3:27 PM

MEMORANDUM

DATE: May 5, 2022

TO: The Board of Zoning Appeals

FROM: John Rogerson, Senior Zoning Officer

SUBJECT: Case No. BZA-22-0003. 4816 Hickory Signpost Road

Project Description

Mr. Chase Grogg of LandTech Resources, Inc., on behalf of property owner Sone L. Marcano, has applied for a variance to Section 24-236, Setback requirements, of the James City County Zoning Ordinance. The variance request is to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street. The variance request is to allow for the construction of a new single-family dwelling at 4816 Hickory Signpost Road. The property is currently located in the R-1, Limited Residential, and can be further identified as James City County Real Estate Tax Map No. 4720100045.

Parcel History and Ordinance Information

The parcel is 0.563 acres in size and was created in October of 1970. The current owner purchased the lot in 2005. The entire lot is located within the Resource Protection Area (RPA) and contains delineated wetlands. The variance request is to reduce the front setback to allow the construction of a 560-square-foot dwelling. The proposed dwelling location is on a level area in front of the required front setback line. The rear of the house, if constructed as shown on the development plan, will be approximately 7 feet from the wetlands.

The lot to the north, 4824 Hickory Signpost Road, received a similar variance in 2005, which reduced the front setback from 60 feet from the centerline of the street to 45 feet for the construction of a new dwelling. The Board of Zoning Appeals (BZA) granted the variance because the RPA and wetlands restricted the use of the lot.

If the Board so chooses to grant the variance, the applicant will be required to obtain Chesapeake Bay Board approval to construct in the RPA buffer.

Variance Criteria

In order to have a variance granted, the applicant must prove by a preponderance of the evidence that the standard for a variance as defined in Virginia Code § 15.2-2201 has been met (that the strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for a variance is not shared generally by other properties, the variance is not contrary to the purpose of the Ordinance, and the variance does not result in a change of use), and that the following criteria are satisfied:

1. The strict application of Chapter 24 of the Code of James City County (the “County Code”) would unreasonably restrict the utilization of the property; or
2. The granting of a variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability; and

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

Recommendation

Staff recognizes that this lot has development constraints due to the existence of the wetlands and RPA. Therefore, the strict application of the setbacks would unreasonably restrict the utilization of the property. Staff believes that the property was acquired in good faith and the hardship is not created by the applicant and the variance will not be of substantial detriment to adjacent properties. Therefore, staff recommends approval of the variance.

Should the BZA approve the variance request, staff recommends that the front setback be reduced from 60 feet from the centerline of the street to 30 feet from the centerline of the street with no further encroachment.

JR/ap

BZA22-3_4816HckrySnRd-mem

Attachments:

1. Site Plan
2. Location Map
3. Building Elevations
4. Original Subdivision Plat from 1970
5. Site Pictures
6. Resolution

RESOLUTION

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

REAL ESTATE TAX MAP PARCEL NO. 4720100045

WHEREAS, Mr. Chase Grogg, on behalf of property owner Sone L. Marcano, has appeared before the Board of Zoning Appeals of James City County (the “Board”) on May 5, 2022, to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 4720100045 and further identified as 4816 Hickory Signpost Road (the “Property”) as set forth in the application BZA-22-0003; and

WHEREAS, the Board has listened to the arguments presented and has carefully considered all evidence entered into the record and discussed a motion to grant a variance to Section 24-236, Setback requirements, of the James City County Zoning Ordinance. The variance request is to reduce the required front setback from 60 feet from the centerline of the street to 30 feet from the centerline of the street. The variance request is to allow for the construction of a new single-family dwelling at 4816 Hickory Signpost Road. The property is currently located in the R-1, Limited Residential, and can be further identified as James City County Real Estate Tax Map No. 4720100045; and

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

1. The strict application of Chapter 24 of the Code of James City County would unreasonably restrict the utilization of the Property; or
2. The granting of a variance would alleviate a hardship due to a physical condition relating to the Property or improvements thereon at the time of the effective date of the Ordinance or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability; and
 - a. The Property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
 - b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; and
 - c. The condition or situation of the Property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance; and
 - d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the Property; and

- e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the Ordinance pursuant to Subdivision 6 of § 15.2-2309 or the process for modification of a Zoning Ordinance pursuant to Subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

WHEREUPON, the Board of Zoning Appeals of James City County, Virginia, adopts the following resolution:

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

 Mark Jakobowski
 Chairman, Board of Zoning Appeals

ATTEST:

 Christy Parrish
 Secretary to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	___	___	___
OTEY	___	___	___
GEIB	___	___	___
CAMPANA, JR.	___	___	___
DEAN	___	___	___

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

BZA22-3_4816HckrySnRd-res

GENERAL NOTES

1. A TITLE REPORT HAS NOT BEEN FURNISHED TO THIS FIRM.
2. ELEVATION SHOWN HEREON ARE IN FEET AND ARE CLOSELY RELATED TO JCC GIS MAPPING.
3. WETLANDS SHOWN PER ROTH ENVIRONMENTAL FIELD DELINEATION.
4. THIS FIRM MADE NO ATTEMPT TO LOCATE UNDERGROUND UTILITIES.
5. PARCEL LIES IN F.I.R.M. ZONE "X" ACCORDING TO COMMUNITY PANEL #51095C0182D, DATED DECEMBER 16, 2015.
6. LOT SERVED BY PUBLIC WATER AND SEWER.
7. CONTRACTOR SHALL PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDINGS SHOWN HEREON.
8. TOPOGRAPHIC DATA AS SHOWN IS BASED ON A CURRENT FIELD SURVEY.
9. CONTRACTOR SHALL DETERMINE EXACT FINISH FLOOR ELEVATION AFTER EXCAVATION.
10. ALL DIMENSIONS SHOWN HEREON ARE TO THE FRAMLINE OF THE BUILDING.

EROSION & SEDIMENT CONTROL NOTES

ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE "VIRGINIA EROSIONS AND SEDIMENT CONTROL HANDBOOK 1992 THIRD EDITION". THE CONTRACTOR SHALL BE THOROUGHLY FAMILIAR WITH ALL APPLICABLE MEASURES CONTAINED THEREIN WHICH MAY BE PERTINENT TO THIS PROJECT.

BUILDING INFORMATION

PROPOSED BUILDING IS A ?-STORY FRAME
 PROPOSED GARAGE IS ? BAY/ ??? LOADING

SITE INFORMATION

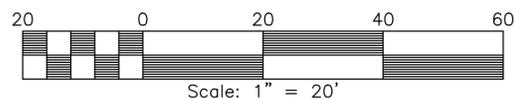
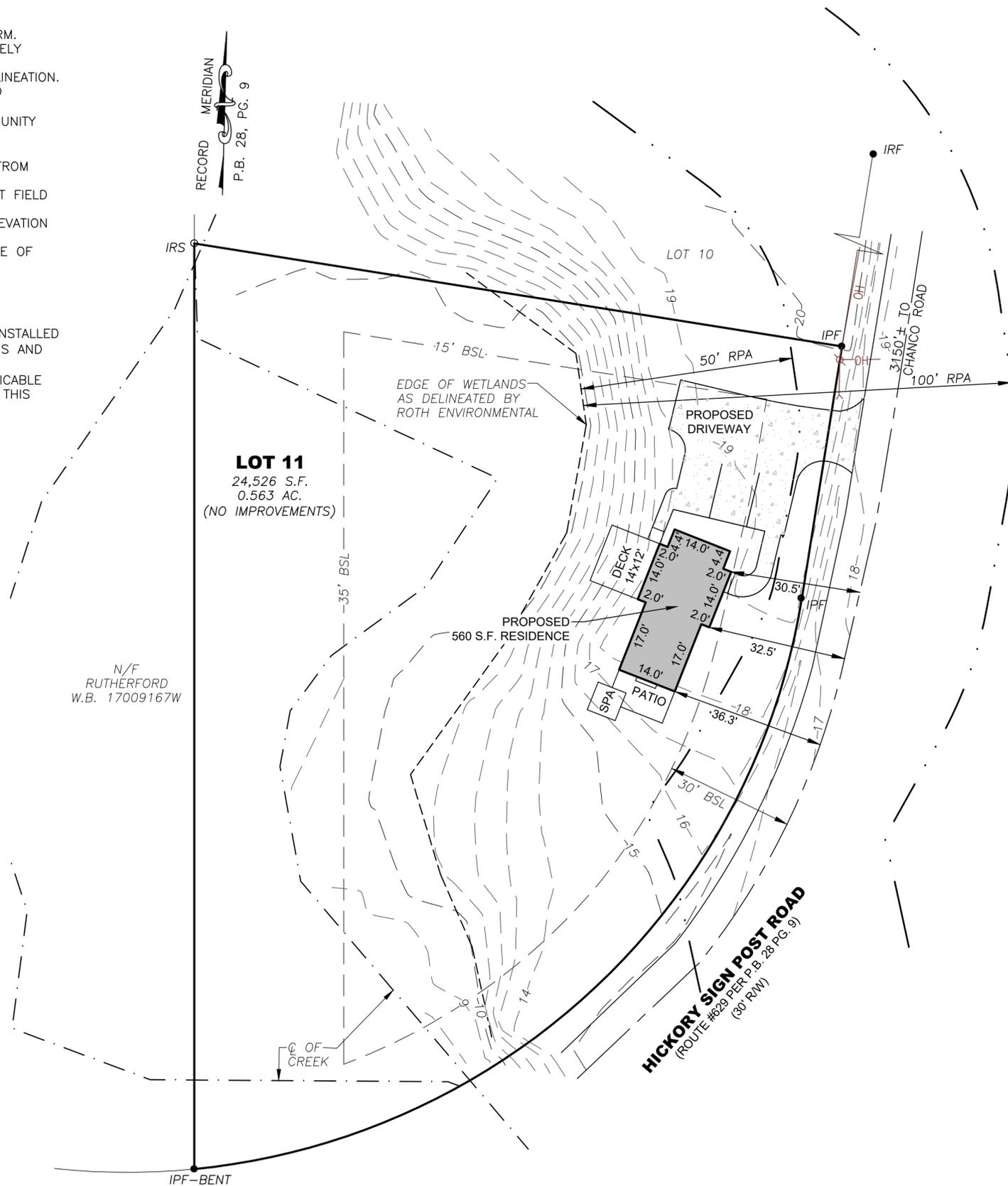
LOT NUMBER 11,
 DIVISION OF ESTATE OF: EVA SLADE ROWE
 TOTAL AREA: 24,526 S.F. / 0.563 AC.
 PARCEL ID: 4720100045
 ZONING DISTRICT: R1
 PROPERTY IS LOCATED IN AN RPA
 EXISTING SITE IS WOODED AS SHOWN

BUILDING SETBACK (SBL)

FRONT: 35
 REAR: 35
 SIDE: 15

EXISTING ADDRESS:

4816 HICKORY SIGNPOST ROAD
 JAMES CITY COUNTY, VIRGINIA



DATE: 03/30/2022
 DRAWN BY: CG
 PROJECT No. 17-590
 FILE NAME: 17-590PP.DWG
 REFERENCES:
 P.B. 28, PG. 9

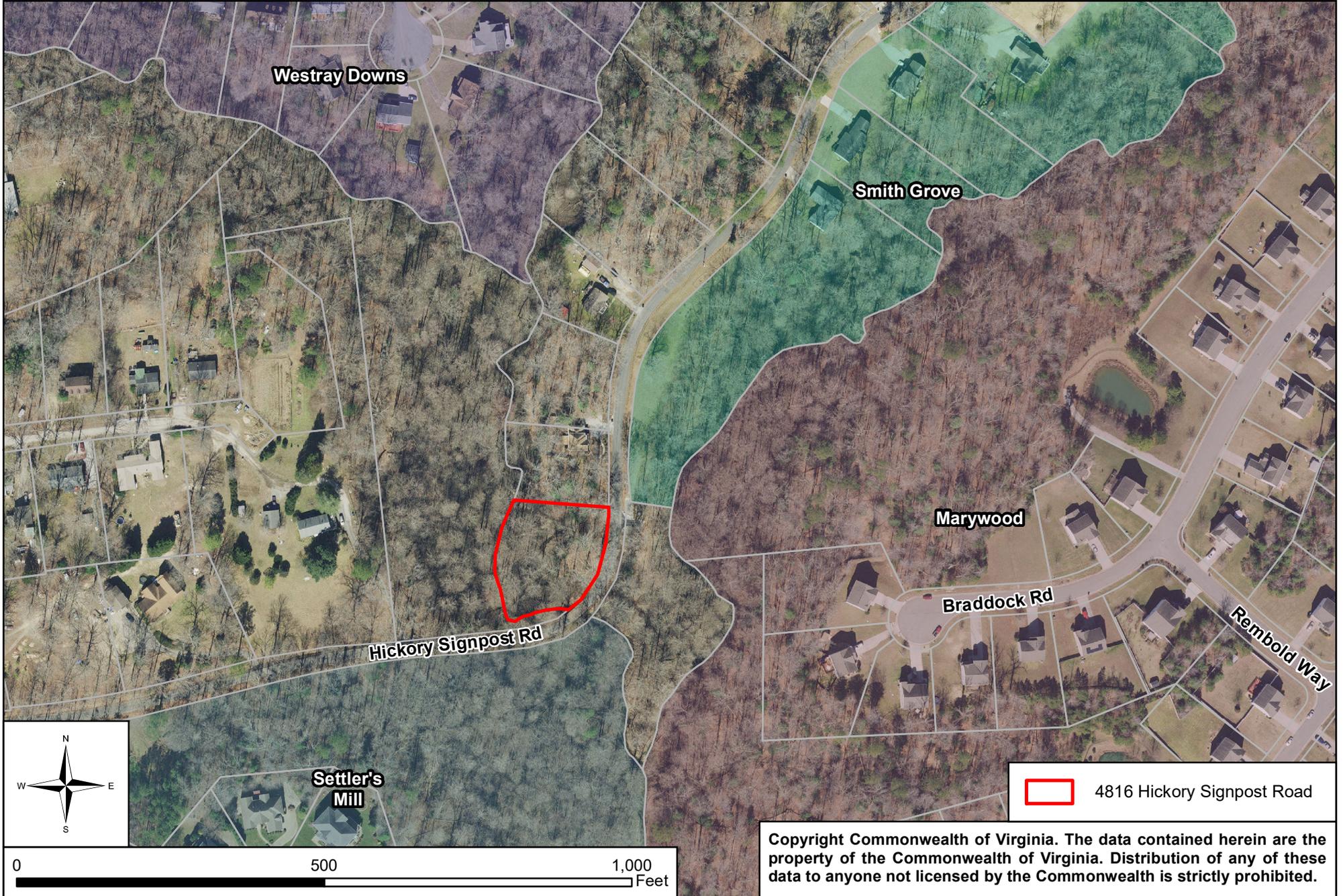
EXHIBIT OF
 LOT 11,
 DIVISION OF ESTATE OF: EVA SLADE ROWE
 FOR
 SONE MARCANO
 JAMES CITY COUNTY VIRGINIA

NO.	DATE	REVISION / COMMENT / NOTE

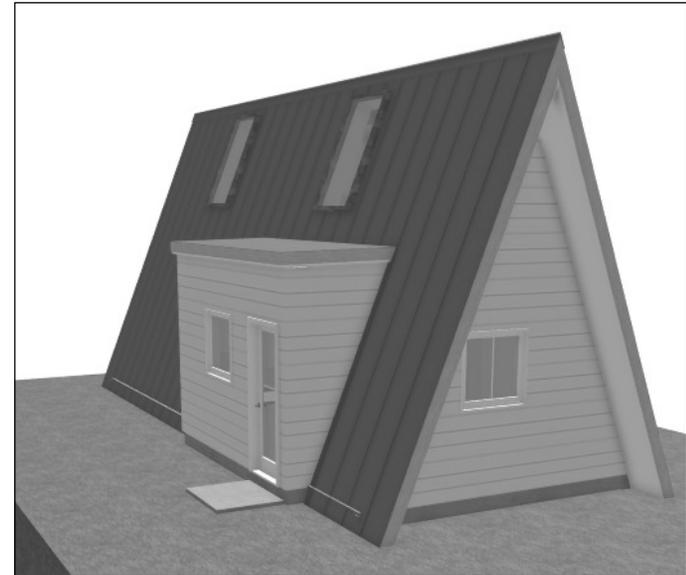
LRI
LANDTECH
RESOURCES, INC.
 ENGINEERING · SURVEYING · GPS

3925 Midlands Road Williamsburg, VA 23188
 Ph: (757) 565-1677 Fax: (757) 565-0782
 web: landtechresources.com

JCC BZA-22-0003, 4816 Hickory Signpost Road



MARCANO RESIDENCE
JAMES CITY COUNTY, VA



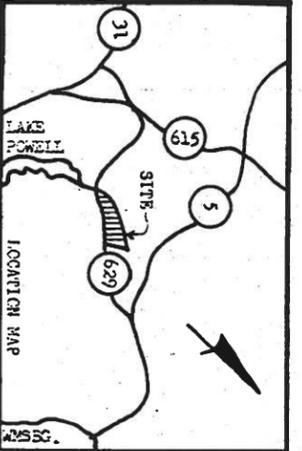
502 SQ. FT. - LIVING AREA

01-25-2022



**WAYNE HARBIN
BUILDER, INC.**

www.harbinbuilder.com



SURVEYORS CERTIFICATE
 To the best of my knowledge and belief, all of the requirements as set forth in the ordinance for approving plats of subdivisions for recordation in JAMES CITY COUNTY, VIRGINIA have been complied with.

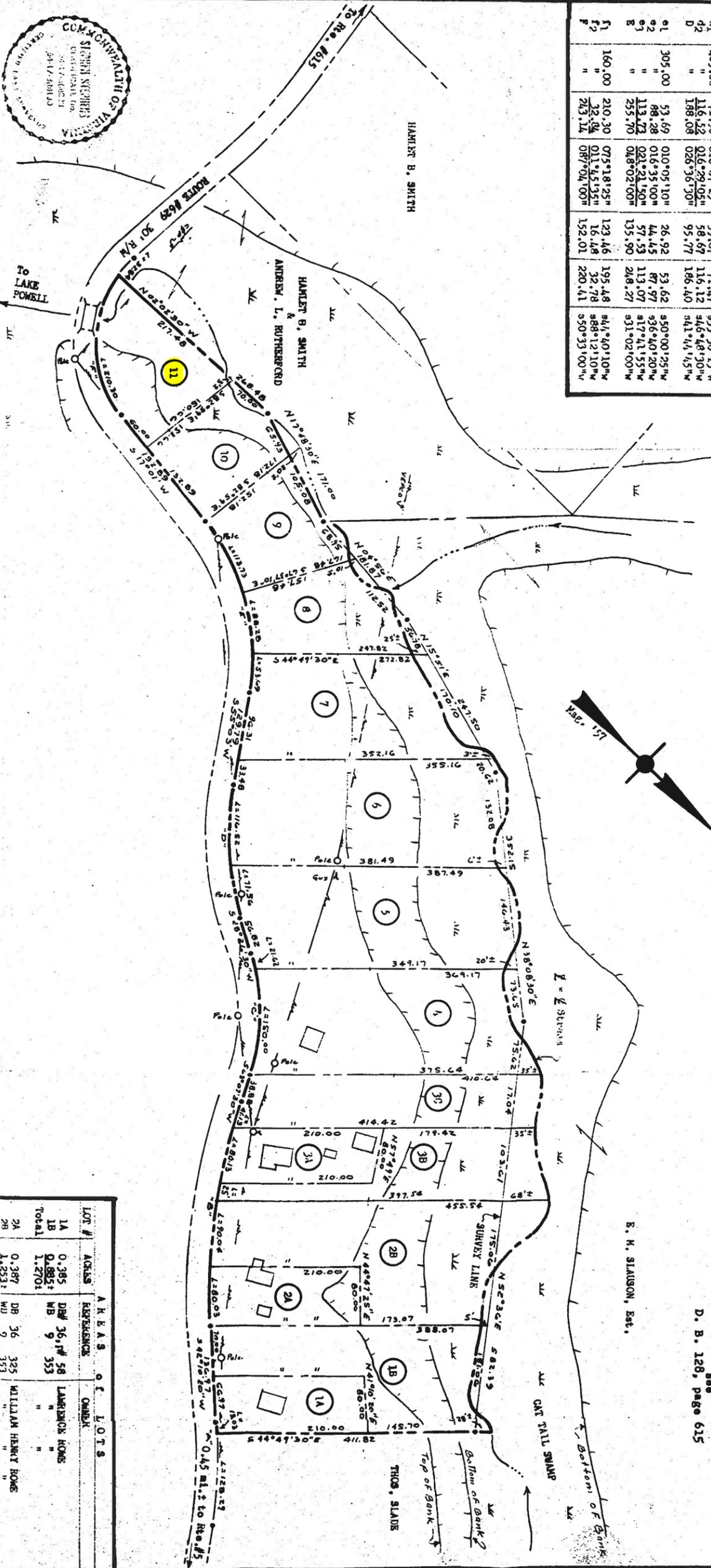
Stephens S. Stephens
 STEPHEN S. STEPHENS
 SURVEYOR
 1000 W. 10th Street, Norfolk, Va.

NOTES
 Iron pipes at all corners, except as noted, (along rear, iron pipes were set along survey line with distance measured to stream.)
 Perimeter bearings are clockwise.

DIVISION
 Of Estate of:
 EVA SLADE HOME
 Widow of:
 MARCELLUS HOME

Scale: 1" = 100'
 JAN. 1970
 BARRETT DISTRICT, JAMES CITY COUNTY, VIRGINIA

#	R	L	I	T	C	CB
a1	730.00	128.39	010°04'10"	64.36	128.23	84.8°14'00"
a2	"	13.02	001°01'20"	6.51	13.03	84.2°41'00"
A	"	141.42	011°06'00"	70.93	141.20	84.7°43'20"
b1	875.67	80.03	005°14'10"	40.04	80.00	84.4°47'25"
b2	"	94.04	006°09'10"	47.07	94.00	85.0°29'10"
b3	"	25.00	001°36'10"	12.50	25.00	85.4°22'50"
b4	"	80.03	005°14'10"	40.04	80.00	85.7°49'00"
b5	"	41.13	002°41'30"	20.57	41.12	86.1°46'45"
B	"	320.23	030°57'10"	161.92	318.45	85.2°38'55"
c1	283.51	150.00	030°18'50"	76.80	148.26	84.7°58'05"
c2	"	21.62	004°22'10"	10.82	21.62	83.0°37'35"
C	"	171.62	034°41'00"	84.53	169.01	84.5°47'00"
d1	405.00	71.56	010°07'25"	35.87	71.47	83.3°30'15"
d2	"	116.22	016°29'45"	58.67	116.12	84.6°48'30"
D	"	188.08	026°36'30"	95.77	186.40	84.1°44'45"
e1	305.00	53.69	010°05'10"	26.92	53.62	85.0°00'25"
e2	"	88.28	016°35'00"	44.45	87.97	85.6°40'20"
e3	"	113.72	021°24'00"	57.53	113.07	81.7°41'55"
F	"	255.70	048°02'00"	135.90	248.27	83.1°02'00"
f1	160.00	210.30	075°18'25"	123.46	195.48	84.4°40'10"
f2	"	32.84	011°45'25"	16.48	32.78	88.8°12'10"
F	"	243.14	087°04'00"	152.01	220.41	85.0°33'00"



JAMES CITY COUNTY, VIRGINIA, to wit:
 I, *Stephens S. Stephens*, a NOTARY PUBLIC in and for the county and state aforesaid, do hereby certify that the above named persons whose names are signed to the foregoing writing have acknowledged the same before me in the county and state aforesaid.

Given under my hand this *10th* day of *January*, 1970.
 My commission expires this *1st* day of *January*, 1972.

This DIVISION of:
 EVA SLADE HOME,
 Widow of: MARCELLUS HOME,
 and recorded in P. B. # 9, p. # 353,
 is made with the full consent and approval of all Beneficiaries of her will.

John E. Rome, Executor.

JAMES CITY COUNTY, VIRGINIA, to wit:
 In the office of the CLERK of the CIRCUIT COURT for the county and state aforesaid, this plat was presented and admitted to record as the law directs and recorded in P. B. # *9*, p. # *353*.

Date: *10/16/70*
 TESTE: *Stephens S. Stephens*
 BY: *Stephens S. Stephens*
 CLERK

A P P R O V E D
 For: JAMES CITY COUNTY, VIRGINIA

Date: *10/16/70*
 By: *Stephens S. Stephens*
 By: *Stephens S. Stephens*
 By: *Stephens S. Stephens*

LOT #	ACRES	REFERENCE	OWNER
1A	0.385	DB# 36, p# 58	LAWRENCE HOME
1B	0.895	" "	"
Total	1.270		
2A	0.387	DB 36	WILLIAM HENRY HOME
2B	1.253	" "	"
Total	1.640		
3A	0.377	DB 45	JOHN E. & EVELYN R. HOME
3B	0.663	" "	"
Total	1.040		
3C	0.720	DB 123	ALBERTA R. & FRANKLIN B. JENKIN
4	1.240	" "	MARCELLUS HOME, Jr.
5	1.270	" "	NANNIE HOME WALKER
6	1.290	" "	SARAH HOME MCCOY
7	0.950	" "	CARRIE HOME TAYLOR 1ST Proposed
8	0.540	" "	WILLIAM HENRY HOME
9	0.493	" "	LAWRENCE HOME
10	0.484	" "	JOHN E. & EVELYN R. HOME
11	0.563	" "	MARCELLUS HOME, Jr.
TOTAL	11.500	DB 20	MARCELLUS & EVA HOME, Est.



4816 Hickory Signpost Road

View from the North



View from the East



View from South



Views from the West





ITEM SUMMARY

DATE: 5/5/2022
TO: The Board of Zoning Appeals
FROM: Christy H. Parrish, Zoning Administrator
SUBJECT: March 3, 2022 Meeting Minutes

ATTACHMENTS:

	Description	Type
📎	March 3, 2022 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/27/2022 - 9:02 AM
Publication Management	Daniel, Martha	Approved	4/27/2022 - 9:06 AM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	4/27/2022 - 10:17 AM

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
March 3, 2022
5:00 PM

A. CALL TO ORDER

Mr. Mark Jakobowski called the meeting to order.

B. ROLL CALL

Ms. Christy Parrish called the roll:

Present:

Mr. Mark Jakobowski
Mr. Ron Campana, Jr.
Mr. William Geib
Mr. David Otey, Jr.

Staff Present:

Mr. Taylor Orne, Senior Zoning Officer
Ms. Christy Parrish, Zoning Administrator
Ms. Liz Parman, Assistant County Attorney

C. OLD BUSINESS

None.

D. NEW BUSINESS

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

1. BZA-22-0001. 5719 Peter Van Wirt Way

Mr. Orne presented the staff report.

Mr. Orne stated that Mr. and Mrs. Goldstein had applied for a variance to Section 24-258(b),

Yard Requirements, to reduce the required rear setback from 35 feet to 32 feet from the rear property line for the continued placement of an above ground pool.

Mr. Orne stated that in October of 2021, the property owners applied for a building permit to erect an above ground pool on the property and that the site plan submitted with the building permit application showed the pool approximately 8 feet from the existing deck on the back of the house and 32 feet from the rear property line. He stated that the pool was considered an accessory structure and the required minimum setback was 35 feet because it was located less than 10 feet from the main structure. He also stated that staff erroneously approved the permit as the pool did not comply with the 35-foot rear yard setback.

Mr. Orne stated that since the issuance of the building permit, the owners had removed the original deck. He stated that by removing the deck, the existing pool was now located more than 10 feet from the main structure and complies with the required minimum setback of 5 feet for accessory structures. He stated that due to the above ground pool being erroneously approved, the owners assumed the location of the existing pool was in compliance when the original deck was on the property. He stated that the owners subsequently applied for a building permit in January of 2022 to construct a new larger deck. He stated that the proposed new deck does not encroach into the required 35-foot rear setback.

Mr. Orne stated that staff could not support this variance request; however, staff recognized that the owners relied on a previously approved permit when removing the original deck. He stated that staff acknowledged that the proposed deck, even though larger in size, will not encroach into the 35-foot required setback. He concluded that should the BZA approve the variance request, staff recommended that the rear setback be reduced from 35 feet to 32 feet from the rear property line for the continued placement of an above ground pool with no further encroachment.

Mr. Geib inquired about some of the structures on adjacent properties to better understand what the possible impacts of this request would be on surrounding properties.

Mr. Geib also discussed the sketch of the property with staff to understand what structures were being proposed.

Mr. Jakobowski opened the Public Hearing.

Mr. Goldstein, property owner, stated that the sketch was fairly accurate with a few minor changes and discussed the elements that were being proposed. He stated the original intent was to attach a deck to the pool.

See no further speakers. Mr. Jakobowski closed the Public Hearing.

Mr. Campana stated he supported the variance as the owner went through the process and received information they believed was accurate. He stated the owners were acting in good faith and the hardship was imposed on them.

Mr. Otey stated that he agreed with Mr. Campana. He also stated that the deck being proposed does not make the pool any closer to the rear neighbor.

Mr. Geib stated that since the error was made and the owner acted in good faith, he supported the variance.

Mr. Otey motioned to Approve the Resolution for Case No. BZA-22-0001 as presented.

Mr. Campana seconded the motion.

On a roll call vote, the BZA voted to Approve the Resolutions for Case No. BZA-22-0001, as presented. (4-0)

E. MINUTES

1. January 6, 2022, Meeting Minutes

Mr. Geib made a motion to Approve the January 6, 2022, Meeting Minutes as presented.

Mr. Campana seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the January 6, 2021, Meeting Minutes.

F. MATTERS OF SPECIAL PRIVILEGE

None

G. ADJOURNMENT

There being no further business, Mr. Geib 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 5:25 p.m.

Mark Jakobowski, Chairman

Christy Parrish, Secretary