AGENDA

JAMES CITY COUNTY BOARD OF ZONING APPEALS

REGULAR MEETING

COUNTY GOVERNMENT CENTER BOARD ROOM

101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185

September 7, 2023

5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. OLD BUSINESS

D. NEW BUSINESS

1. Case No. BZA-23-0003. 8224 Bridlington Way

E. MINUTES

1. August 3, 2023 Meeting Minutes

F. MATTERS OF SPECIAL PRIVILEGE

G. ADJOURNMENT

M E M O R A N D U M

DATE: September 7, 2023

TO: The Board of Zoning Appeals

FROM: John Rogerson, Senior Zoning Officer

SUBJECT: Case No. BZA-23-0003. 8224 Bridlington Way

Project Description

Mr. Jordan Bond, property owner, has applied for a variance to Section 24-238(b), Yard requirements of the James City County Zoning Ordinance. The variance request is to reduce the required rear setback from 35 feet to 26 feet to allow for the construction of a deck on the rear of the dwelling at 8224 Bridlington Way. The property is currently located in the R-1, Limited Residential Zoning District and can be further identified as James City County Real Estate Tax Map Parcel No. 1331300025.

Parcel History and Ordinance Information

The property is located at 8224 Bridlington Way in the Windsor Ridge Subdivision. The parcel is 0.322 acres in size and contains an existing one-story single-family dwelling approximately 1,404 square feet in size. The dwelling was constructed in 2017 and the applicant is the original owner.

The property owner is requesting the proposed variance to construct the deck to utilize the rear yard of the property. The rear access to the house consists of a sliding glass door; steps to access this entry were constructed by the owner after purchasing the property. The proposed deck is 160 square feet in size with dimensions of 10 feet x16 feet with steps located on the rear of the dwelling as shown on Attachment No. 3.

Section 24-238(b), Yard requirements, requires the main structure have a minimum rear yard of 35 feet. This lot is not considered a corner lot since there is a strip of common area between the lot and side street. The Zoning Ordinance permits steps to encroach into the rear setback to permit access to the rear of the house.

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;

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;

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;

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.

The applicant has provided a narrative and other information explaining his case for meeting the requirement for granting a variance.

Recommendation

Staff recognizes that the existing dwelling was constructed within two feet of the rear setback line. However, staff is unable to support the variance request since the property has been put to use by the construction of a single-family dwelling. Staff does not believe the strict application of the setbacks unreasonably restricts the utilization of the property.

Alternatively, the owner is permitted to have a minimum size landing with steps which comply with the Virginia Uniform Statewide Building Code to allow the owner access to the rear yard. In addition, a concrete or paver patio that is flush with the ground does not constitute a structure and would be permitted in the setback. The alternative would allow an outdoor space without the need for a variance.

Staff recommends denial of the proposed variance.

JR/md
BZA23-3_8224BridWay-mem

Attachments:
1. Resolution
2. Location Map
3. Proposed Site Plan
4. Physical Survey
5. Variance Request Submitted by Applicant
6. Applicant Justification Provided with Application

R E S O L U T I O N

CASE NO. BZA-23-0003. GRANTING A VARIANCE ON JAMES CITY COUNTY

REAL ESTATE TAX MAP PARCEL NO. 1331300025

WHEREAS, Mr. Jordan Bond, property owner, has appeared before the Board of Zoning Appeals of James City County (the "Board") on September 7, 2023, to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 1331300025 and further identified as 8224 Bridlington Way (the "Property") as set forth in the application BZA-23-0003; 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 24-238(b), Yard Requirements, to reduce the minimum rear yard setback from 35 feet to 26 feet to allow for the construction of 10-foot x 16-foot deck with stairs, as shown on the attached Site Plan identified as Attachment No. 3 in the memorandum which is attached hereto, made part hereof, and incorporated into this resolution. This property is currently zoned R-1, Limited Residential, and can further be identified as James City County Real Estate Tax Map Parcel No. 1331300025.

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

1. The strict application of Chapter 24 of the Code of James City County would unreasonably restrict the utilization of the Property; or

2. The granting of a variance would alleviate a hardship due to a physical condition relating to the Property or improvements thereon at the time of the effective date of the Ordinance or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability; and

    a. The Property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and

    b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; and

    c. The condition or situation of the Property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance; and

    d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the Property; and

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

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

To grant a variance to Section 24-238(b), Yard Requirements, to reduce the minimum rear yard setback from 35 feet to 26 feet to allow for the construction of a 10-foot x 16-foot deck with stairs, as shown on the attached Site Plan and identified as Attachment No. 3 in the memorandum which is attached hereto, made part hereof, and incorporated into this resolution. This property is currently zoned R-1, Limited Residential, and can further be identified as James City County Real Estate Tax Map Parcel No.1331300025.

_____
Mark Jakobowski
Chairman, Board of Zoning Appeals

ATTEST:

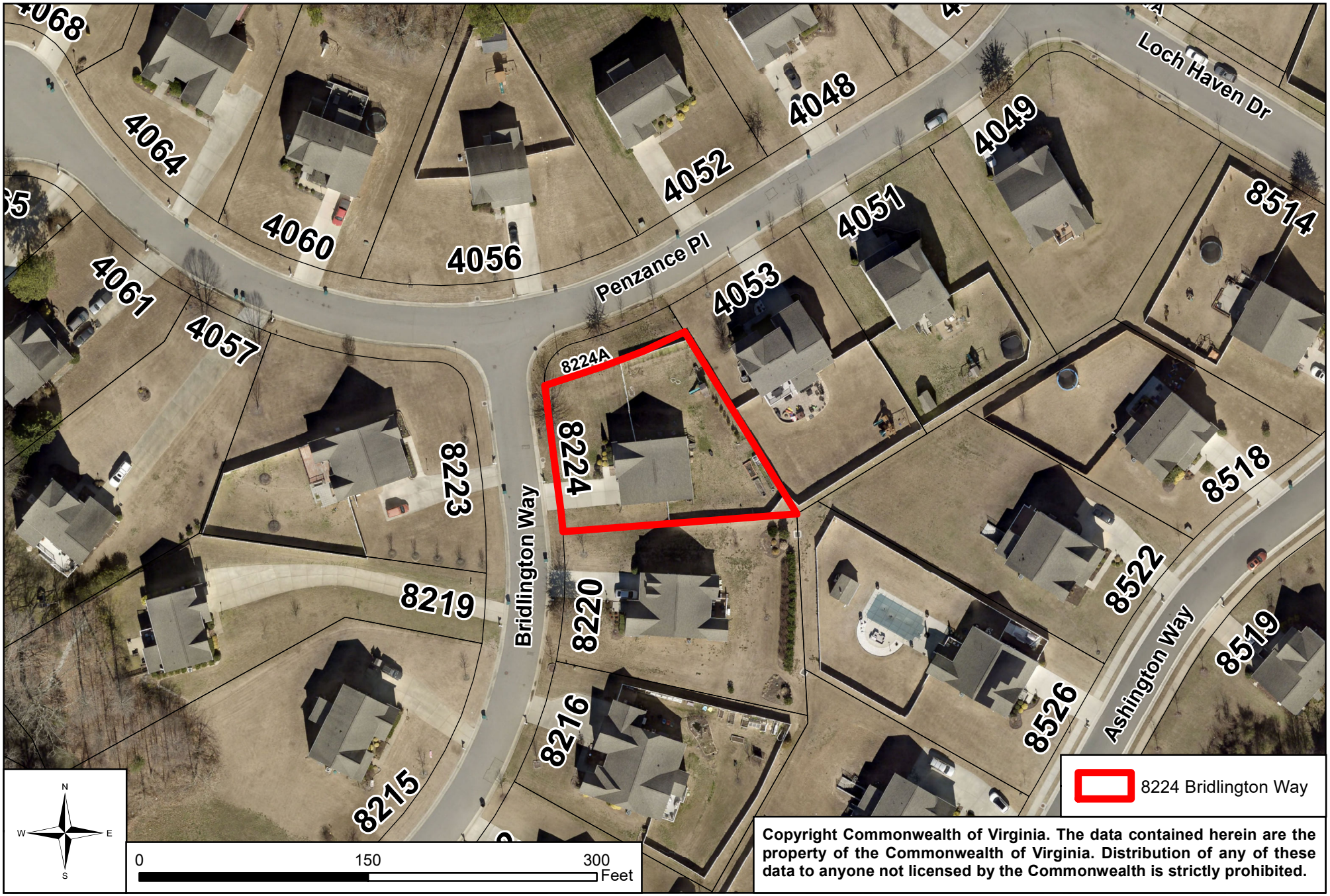
_____
Christy Parrish
Secretary to the Board

	VOTES		
	AYE	NAY	ABSTAIN
DEAN	____	____	____
OTEY	____	____	____
JAKOBOWSKI	____	____	____
GEIB	____	____	____
CAMPANA	____	____	____

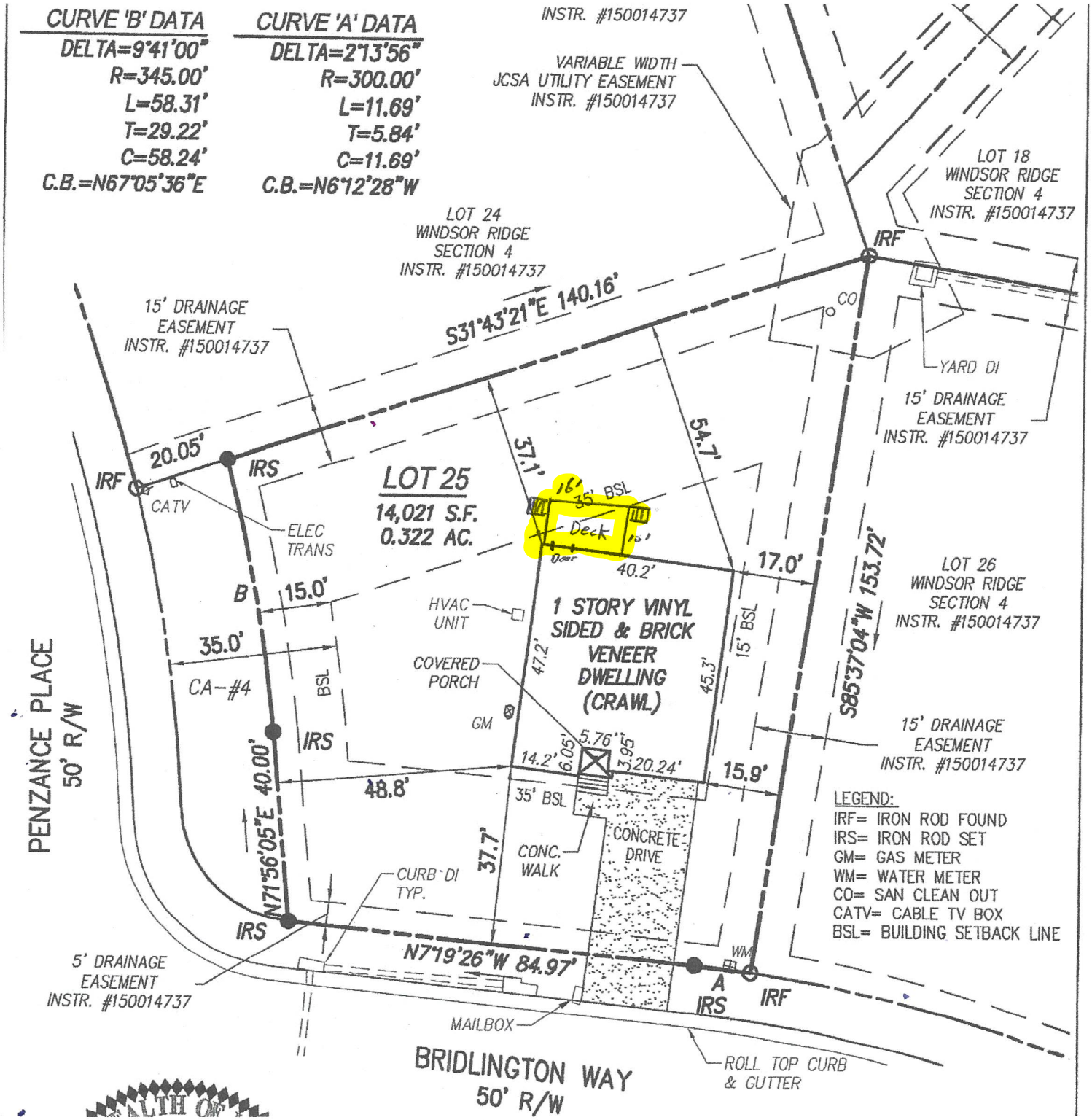
Adopted by the Board of Zoning Appeals of James City County, Virginia, this 7th day of September 2023.

BZA23-3_8224BridWy-res

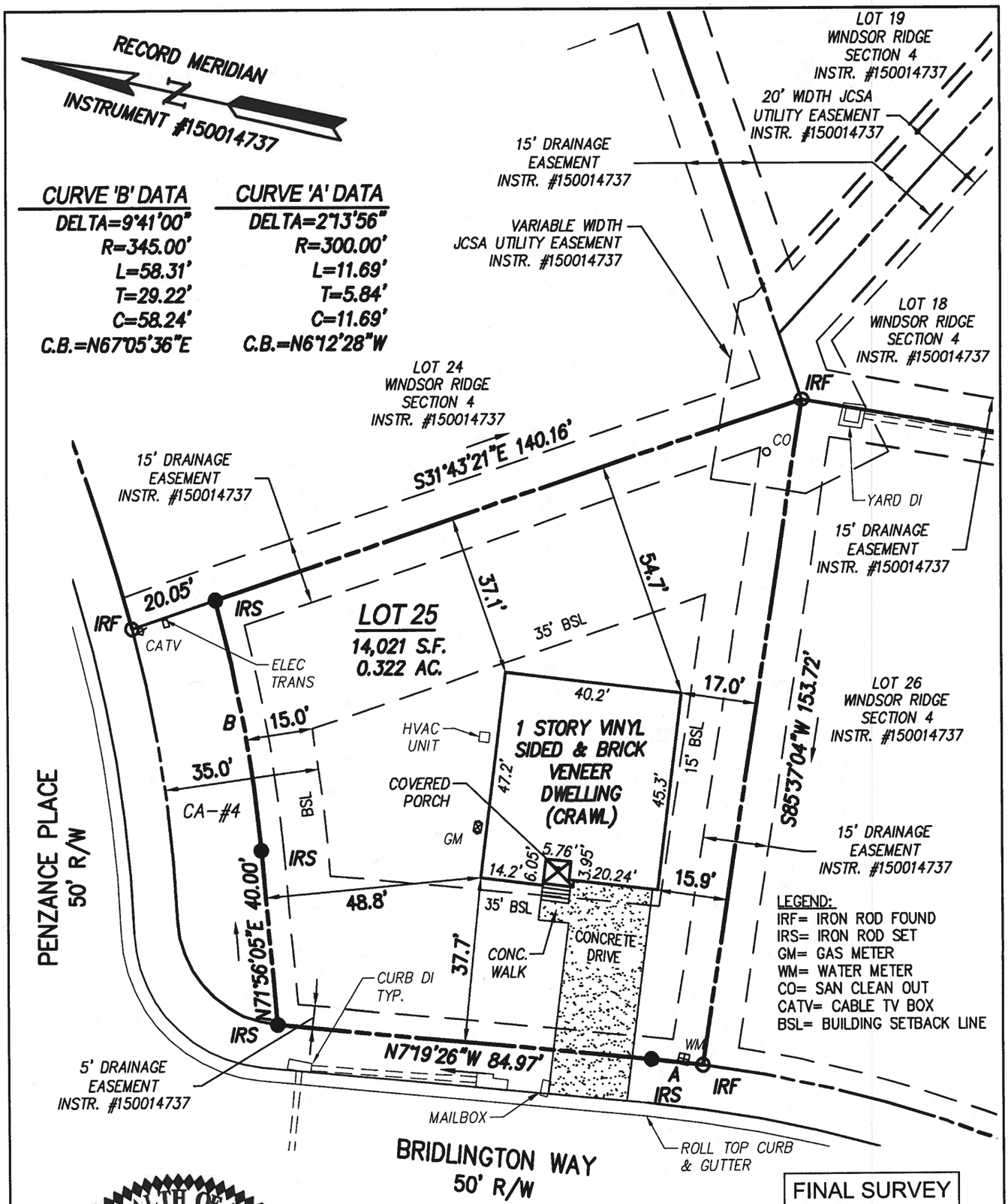
JCC BZA-23-0003
8224 Bridlington Way



Copyright Commonwealth of Virginia. The data contained herein are the property of the Commonwealth of Virginia. Distribution of any of these data to anyone not licensed by the Commonwealth is strictly prohibited.



Propose Deck Addition



FINAL SURVEY
B16-2770

COMMONWEALTH OF VIRGINIA
PRESTON C. JUDSON
Lic. No. 003130
02-13-2017
LAND SURVEYOR

TAX MAP #1331300025
STREET ADDRESS: #8224 BRIDLINGTON WAY

NOTE:

- THIS PROPERTY LIES IN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER F.I.R.M. #51095C0044D EFFECTIVE DATE 12/16/15.
- THIS PLAT IS BASED ON A CURRENT FIELD SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT. THIS PROPERTY IS SUBJECT TO EASEMENTS, SERVITUDES, COVENANTS, AND ENCUMBRANCES OF RECORD.

PLAT SHOWING IMPROVEMENTS

LOT 25, SECTION 4
WINDSOR RIDGE

PREPARED FOR: RYAN HOME
CUSTOMER: BOND

STONEHOUSE DISTRICT JAMES CITY COUNTY VIRGINIA

Project Contacts:	PCJ / RCH	Scale:	1" = 30'
Project Number:	W10214-04-25A	Date:	02-13-2017

AES
CONSULTING ENGINEERS
5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
Phone: (757) 253-0040
Fax: (757) 220-8994
www.aesva.com
Hampton Roads | Central Virginia | Middle Peninsula

S:\JOBS\W10214\04-Windsor Ridge Sec 4\Survey\Plans\Plats\Final\W10214-04-25A FINAL.dwg, 2/16/2017 11:14:49 AM, bob.hegeman

These documents were printed from the official JCC Records Management imaging site

Variance Request for 8224 Bridlington Way

Variance Request: Requesting variance to Zoning Ordinance Sec. 24-238. - Yard Requirements. Requesting reduction in rear yard setback line for the construction of code compliant 160sq.ft. deck and stairs.

Reason for Variance: The strict enforcement of the rear yard setback line unreasonably interferes with the owner's utilization of the property. Due to the location of the rear sliding door and foundation height, any code compliant exit will cross the rear setback line and be in violation of Sec. 24-238. The problems are compounded by the application of Sec. 24-239 - Special Provisions for Corner Lot. This hardship is uniquely shared by the property owners because of the corner lot and the location of the rear exit of the home. The building is not placed parallel to the rear property line causing the rear door to be less than 3 feet from the setback line.

The inability to build a reasonably sized deck on the rear of the structure (that are common to the Wellington neighborhood) also interferes with the property value of the home, on which James City County is a lien holder through the County's Affordable Dwelling Unit (ADU) program. Stipulations of the lien holder include not doing any 'things which would cause the Property to become less valuable' and 'the right to inspect the Property at any reasonable time' (Deed of Trust Note - Section 8 Borrower(s) Covenants - Subsections A. and C.). The current exit to the home is a set of floating stairs that would fail inspections because of the quality, anchoring method, and the fact that they are crossing the setback line. They need to be replaced to be in compliance with the lien.

The owner believes it is a reasonable request to build a deck that is 16' long (along the house) and extends 10' from the back door. Two sets of stairs will be used to exit to the side and rear yards of the property. In preparation for the deck build (prior to knowing about the setback limits), the owners have planted 8 thuja green giant privacy trees along the rear fence line that is shared with 4053 Penzance Pl. Those trees are well established and growing rapidly. The owners of 4053 Penzance Pl. have been provided with the details of the proposed 16'x10' deck. They have no objections to the proposed deck and stairs. The owners of 8224 Bridlington Way submitting the application would also consent to a requirement from the board of appeals to add additional privacy screening to the deck plans to further mitigate any privacy concerns.

Photos of the location of the deck are provided below. The yellow spray-painted lines are the dimensions of the proposed deck and stairs.

We are requesting that our variance be heard at the September meeting of the Board of Zoning Appeals.









Applicant Justification Provided with Application

Variance Request

Requesting variance to Zoning Ordinance Sec. 24-238. - Yard Requirements. Requesting reduction in rear yard setback line for the construction of code compliant 160sq.ft. deck and stairs.

The deck will extend 10ft from the rear of the home with 2 sets of stairs on either side to discharge into the rear and side yards.

We are requesting that our variance be heard at the September meeting of the Board of Zoning Appeals.

Reason for Variance

The strict enforcement of the rear yard setback line unreasonably interferes with the owner's utilization of the property. Due to the location of the rear sliding door and foundation height, any code compliant exit will cross the rear setback line and be in violation of Sec. 24-238. The problems are compounded by the application of Sec. 24-239 - Special Provisions for Corner Lot. This hardship is uniquely shared by the property owners because of the corner lot and the location of the rear exit of the home. The building is not placed parallel to the rear property line causing the rear door to be less than 3 feet from the setback line.

The inability to build a reasonably sized deck on the rear of the structure (that are common to the Wellington neighborhood) also interferes with the property value of the home, on which James City County is a lien holder through the County's Affordable Dwelling Unit (ADU) program. Stipulations of the lien holder include not doing any 'things which would cause the Property to become less valuable' and 'the right to inspect the Property at any reasonable time' (Deed of Trust Note - Section 8 Borrower(s) Covenants - Subsections A. and C.). The current exit to the home is a set of floating stairs that would fail inspections because of the quality, anchoring method, and the fact that they are crossing the setback line. They need to be replaced to be in compliance with the lien.

Evidence of No Substantial Detriment

The owner believes it is a reasonable request to build a deck that is 16' long (along the house) and extends 10' from the back door. Two sets of stairs will be used to exit to the side and rear yards of the home. In preparation for the deck build (prior to knowing about the setback limits), the owners have planted 8 Thuja green giant privacy trees along the rear fence line that is shared with 4053 Penzance Pl. Those trees are well established and growing rapidly. The owners of 4053 Penzance Pl. have been provided with the details of the proposed 16'x10' deck. They have no objections to the proposed deck and stairs. The owners of 8224 Bridlington Way submitting the application would also consent to a requirement from the board of appeals to add additional privacy screening to the deck plans to further mitigate any privacy concerns.

Evidence of No Zoning Classification Change

Building a code compliant deck on the rear of the structure in no way changes the zoning classification or results in a use that is not permitted on a residential property.

Evidence Not Through Special Exception

The variance request for a single residential corner lot with rear exit unreasonably close to the building setback limit is not so general or recurring in nature as to require an amendment to the JCC Zoning Ordinances.

Evidence of Good Faith

The owners of the property did not create the hardship. The design, placement, and building of the home was out of the control of the current owners who purchased the property as built.

The owners are seeking a variance request in good faith to remain compliant with all County ordinances. We ask that our variance application be heard at the September meeting.

M I N U T E S
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
August 3, 2023
5:00 PM

A. **CALL TO ORDER**

Mr. Mark Jakobowski called the meeting to order at 5:00 p.m.

B. **ROLL CALL**

Ms. Christy Parrish called the roll:

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

Absent:
Mr. Andrew Dean

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

C. **OLD BUSINESS**

None.

D. **NEW BUSINESS**

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

1. Case No. BZA-23-0002. 196 The Maine

Mr. Orne, Senior Zoning Officer, stated that Ms. Debra Hill and Ms. Camilla Buchanan had

applied for a variance to Section 24-238(a), Yard requirements, to reduce the required side setback from 15 feet to 10.5 feet on the left side for the construction of a first-floor master bedroom addition. He stated that the property was currently zoned R-1, Limited Residential, and was located in the First Colony neighborhood.

Mr. Orne stated that the property owners were requesting the variance be granted as a reasonable modification on behalf of a person with a disability. He stated that the proposed location of the addition was necessary to provide easier access to a bedroom and bathroom while also providing enough room for the potential use of a wheelchair.

Mr. Orne stated that the addition was proposed for the left side of the house, rather than the front or rear of the house, due to the current configuration of the house. He stated that constructing the addition on the front or rear of the house would require structural work as well as completely removing existing features in the home. He stated that according to the property owners and their contractor, in order to construct the addition on the front or rear of the house, the entire left side of the house would have to be reconfigured to accommodate the proposed addition.

Mr. Orne stated that Virginia Code § 15.2-2309 states, "if a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted."

Mr. Orne stated that while the strict application of the terms of the Zoning Ordinance does not restrict the utilization of the property, staff did find the request a reasonable modification on behalf of a person with a disability which would provide safety and enjoyment of the property. He stated that should the BZA find that the variance request would alleviate a hardship by granting a reasonable modification on behalf of a person with a disability, staff recommended approval of the variance request.

Mr. Campana asked if staff had received any inquiries about this request.

Mr. Orne stated that he had not received any.

Mr. Geib asked if staff knew what the distance of the neighboring house was to the property line.

Mr. Orne stated that he did not know that distance but that the property was zoned R-1, and any expansion would have to meet the 15-foot setback.

Mr. Geib discussed that as he drove through the neighborhood, he observed various structures and fencing that did not appear to comply with the required setbacks. He asked if the County had historically approved reduced setbacks for this area.

Mr. Orne stated that the Zoning Ordinance permits accessory structures such as a garage to be less than 15 feet from the side property line when located at least 10 feet from the dwelling. He stated that building permits are reviewed to ensure new structures comply with the setback requirements.

Ms. Parrish stated that there are various reasons why an existing structure could be closer to a property line. She stated that a foundation survey or an as-built survey are now required when any structure will be within three feet of the required setback. She also stated that First Colony was an older neighborhood and setback requirements have changed over time.

Mr. Otey asked if requiring a survey was a new procedure.

Ms. Parrish stated that the procedure had been in place as long as she had been in Zoning.

Mr. Otey stated that he was fairly certain that some of the houses in this neighborhood were built prior to the adoption of the Zoning Ordinance. He also stated that prior to the foundation survey procedure, approvals were based on a plan submitted to the County, and many years later it was discovered it was not constructed in the correct location in accordance with the approved plan.

Mr. Jakobowski stated that he agreed with Mr. Otey that a large portion of the houses were constructed prior to the adoption of the Zoning Ordinance.

Mr. Jakobowski opened the Public Hearing.

Ms. Debra Hill, property owner, stated she can confirm that the existing houses are not all constructed 15 feet from the property lines. She stated that they constructed their house in 1986 and their builder told them they had to be 10 feet from their neighbor. She stated she was also surprised to see that her neighbor's house appears to be less than 10 feet from the side property line.

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

Mr. Geib stated that he was sympathetic to individuals who wish to remain in their home as they age. He stated that he supported granting the variance on the basis of the Americans with Disabilities Act. He stated that granting the setback reduction did not create a hardship for the community.

Mr. Campana stated that he agreed with Mr. Geib and that the request was not a self-inflicted hardship. He stated he supported the variance as requested.

Mr. Otey stated he supported the variance request as recommended by staff.

Mr. Geib asked if the resolution should be amended to state that the variance was granted for a disability.

Ms. Parrish stated that the existing resolution contained language to include requests from persons with a disability.

Mr. Geib made a motion to Approve the variance request as stated in the resolution.

Mr. Campana seconded the motion.

On a roll call vote, the BZA voted to Approve the variance request. (4-0)

E. **MINUTES**

1. January 5, 2023, Meeting Minutes

Mr. Geib made a motion to Approve the January 5, 2023, Meeting Minutes as presented.

Mr. Otey seconded the motion.

On a voice vote, the BZA voted unanimously to Approve the January 5, 2023, Meeting Minutes.

F. **MATTERS OF SPECIAL PRIVILEGE**

None.

G. **ADJOURNMENT**

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

Mr. Otey seconded the motion.

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

The meeting was adjourned at approximately 5:25 p.m.

_____ _____

Mark Jakobowski, Chairman Christy Parrish, Secretary