

A G E N D A
JAMES CITY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
James City County Government Center, Building F Board Room
May 2, 2019
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. OLD BUSINESS

D. NEW BUSINESS

	Page:
1. Case No. BZA190004, Granting a Variance on James City County Real Estate Tax Map Parcel No. 4710100116, 4551 John Tyler Highway	1
2. Case No. BZA190003, 6283 Centerville Road Zoning Administrator's Determination Appeal	10

E. MINUTES

1. January 3, 2019 Meeting Minutes	35
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F. MATTERS OF SPECIAL PRIVILEGE

1. Zoning Ordinance Update VA Code 15.22309	38
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G. ADJOURNMENT

ITEM SUMMARY

DATE: 5/2/2019

TO: The Board of Zoning Appeals

FROM: Terry Costello, Deputy Zoning Administrator

SUBJECT: Case No. BZA-19-0004. Granting a Variance on James City County Real Estate Tax Map Parcel No. 4710100116, 4551 John Tyler Highway

ATTACHMENTS:

	Description	Type
☐	Staff Memorandum	Cover Memo
☐	Resolution	Resolution
☐	Location Map	Backup Material
☐	Adjacent property owner map	Backup Material
☐	Property Sketch	Backup Material
☐	SP-0144-2003 Warehouse Expansion	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/25/2019 - 1:39 PM
Publication Management	Burcham, Nan	Approved	4/25/2019 - 1:43 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	4/25/2019 - 1:48 PM

MEMORANDUM

DATE: May 2, 2019

TO: The Board of Zoning Appeals

FROM: Terry Costello, Deputy Zoning Administrator

SUBJECT: Case No. BZA-19-0004. Granting a Variance on James City County Real Estate Tax Map Parcel No. 4710100116

Project Description

Mr. Richard M. Wiatt, Jr., of Vanasse Hangen Brustlin, Inc. on behalf of Branscome Office Property, LLC, has applied for a variance to Section 24-393(a), Yard requirements, to reduce the minimum rear building setback from 50 feet to 48.27 feet to allow for the continued placement of a structure located at 4551 John Tyler Highway. The property is currently located in the B-1, General Business District, and can be further identified as Parcel No. (01-0-0116) on the James City County Real Estate Tax Map (47-1).

Parcel History and Ordinance Information

The parcel is 5.107 acres in size and contains an existing office building and warehouse building. The office building is approximately 10,000 square feet and the warehouse building is 21,680 square feet. The warehouse was originally constructed in 1973 with additions in 1997 and 2004. There is a site plan currently in review to add additional storage on the side of the building.

In 2004, when the last addition was built, it was noted on the plan that the rear setback was 50 feet from the rear property line. Staff believes it was the intention that the building would be at least 50 feet off the rear property line. In 2018, the owner contacted the County to inquire about uses in the B-1 Zoning District and a possible expansion. It was discovered that the right corner of the building encroached into the setback.

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 “Zoning Ordinance”) 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.

Recommendation

The strict application of the terms of the Zoning Ordinance would not unreasonably restrict the utilization of the property, as the property has been put to use by the existence of an office building and warehouse building. However, staff recognizes that it was the intention of the owners at the time the last addition was constructed to be within the confines of the approved site plan. Staff also recognizes that errors are made during the construction process. Staff does not believe there is any evidence this variance would adversely affect any adjacent property owners or adversely affect the character of the district in which it exists. Therefore, staff recommends approval with no further encroachment.

TC/nb
BZA19-04-4551JTHwy-mem

Attachments:

1. Resolution
2. Location Map
3. Adjacent property owner map
4. Property Sketch
5. SP-0144-2003 Warehouse Expansion

RESOLUTION

CASE NO. BZA-19-0004. GRANTING A VARIANCE ON JAMES CITY COUNTY

REAL ESTATE TAX MAP PARCEL NO. 4710100116

WHEREAS, Mr. Richard M. Wiatt, Jr., on behalf of Branscome Office Property, LLC, has appeared before the Board of Zoning Appeals of James City County (the “Board”) on May 2, 2019, to request a variance on a parcel of property identified as James City County Real Estate Tax Map Parcel No. 4710100116 and further identified as 4551 John Tyler Highway (the “Property”) as set forth in the application BZA-19-0004; 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 24-393, Yard requirements, reducing the required 50-foot rear setback to 48.27 feet from the rear property line to allow for the continued placement of the warehouse building.

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; 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.

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

To grant a variance to Section 24-393, Yard requirements, reducing the required 50-foot rear setback to 48.27 feet from the rear property line to allow for the continued placement of the warehouse building shown on property sketch entitled, "Branscome Warehouse Building Zoning Variance Request," dated March 14, 2019, which is attached hereto, made part hereof, and incorporated into this Resolution.

William J. Geib
Chairman, Board of Zoning Appeals

ATTEST:

Christy Parrish
Secretary to the Board

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

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 2nd day of May, 2019.

BZA19-04-4551JTHwy-res

BZA-19-0004 4551 John Tyler Highway Rear Yard Variance Request



BZA-19-0004 4551 John Tyler Highway Variance APO Listing



WIRE TO BE REMOVED
BY UTILITY COMPANY

LIMITS OF
CLEARING

TIE INTO EXISTING
CHAINLINK FENCE.
MATERIALS TO
MATCH EXISTING.

LIMITS OF
DISTURBED AREA

50' BUILDING
SETBACK

PROPOSED CHAIN
LINK FENCE

PROPOSED
GRAVEL

PROPOSED BUILDING SPECIALTIES WAREHOUSE EXPANSION

9,680 GSF (STORAGE ONLY)

MAX HEIGHT=30 FT.

121'

OVERHEAD
DOOR

69'

OVERHEAD
DOOR

PROPOSED
6" GRAVEL

PROPERTY LINE TO
BE EXTINGUISHED

INSTALL 20' CHAINLINK
FENCE GATE

S 82°01'30" W
227'00"

PROPERTY LINE TO
BE EXTINGUISHED

TIE INTO EXISTING
CHAINLINK FENCE.
MATERIALS TO
MATCH EXISTING.

LIMITS OF
DISTURBED AREA

EXISTING TRAILER
TO BE REMOVED

LIGHT POLE
TO BE REMOVED

CLASS III

CLASS III

0.3'

CLASS IV

CLASS IV

CLASS IV

CLASS IV

4

6

4

ITEM SUMMARY

DATE: 5/2/2019

TO: The Board of Zoning Appeals

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. BZA-19-0003, 6283 Centerville Road - Zoning Administrator's Determination Appeal

ATTACHMENTS:

	Description	Type
▢	Staff Memorandum	Cover Memo
▢	Notice of Violation dated February 1, 2019 with attachments	Backup Material
▢	Resolution - (Uphold)	Resolution
▢	Resolution - (Overturn)	Resolution
▢	Section 24-212 Use List (A-1, General Agriculture) of the James City County Zoning Ordinance	Backup Material
▢	2019 and 2017 Commonwealth of VA Imagery site comparison	Backup Material
▢	Letter dated April 19, 2019 from Ashley Springer (adjacent property owner)	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/25/2019 - 1:48 PM
Publication Management	Burcham, Nan	Approved	4/25/2019 - 1:57 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	4/25/2019 - 1:58 PM

MEMORANDUM

DATE: May 2, 2019

TO: The Board of Zoning Appeals

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Case No. BZA-19-0003. 6283 Centerville Road - Zoning Administrator's Determination Appeal

Ms. V. L. Major, Attorney at Law, on behalf of Hayden's Place, LLC, is appealing the Zoning Administrator's written determination on February 1, 2019, that the property located at 6283 Centerville Road (the "Property") is being used for a contractor's storage yard which includes the storage of contractor's equipment, trailers, and vehicles in violation of the James City County Zoning Ordinance. The Property is currently located in the A-1, General Agriculture Zoning District and can be further identified as James City County Real Estate Tax Map Parcel No. 3120100004. This appeal is in accordance with § 15.2-2311 of the Code of Virginia.

Background

On January 2, 2019, staff received a complaint that the Property was being used for the operation of a commercial business. The complaint further stated that trees were being removed from the Property to create a storage yard. Additional complaints followed regarding noise and noting that a fence was constructed to shield the work from Centerville Road.

Various site visits were conducted by staff which revealed construction of new fencing, a graveled area, a storage container, and contractor's equipment on the Property. The contractor's equipment viewed on the Property from the right-of-way included items such as but not limited to: utility trailer(s), small excavator, and a dingo loader. In addition, staff has also witnessed three trucks, at least one with Tiki Tree and Landscape logos, along with trailers and equipment exiting the Property.

The owner of the Property is Hayden's Place, LLC and Mr. Timothy Soderholm is the listed registered agent with the State Corporation Commission. It is staff's understanding that Mr. Soderholm is also owner of Tiki Tree and Landscape, which offers services including tree removal, stump grinding, pruning, landscaping, hardscaping, and lot clearing and excavation. James City County approved an Application for Home Occupation for Tiki Tree and Landscape on August 11, 2009, at the address of 6293 Centerville Road which is adjacent to the Property and owned by Mr. Timothy Soderholm and Ms. Ashley Campbell.

On January 11, 2019, Mr. Soderholm called Zoning staff after he was contacted by an inspector from the James City County Stormwater and Resource Protection Division regarding clearing and grading on the Property. During the discussion, Mr. Soderholm explained that he was trimming trees on the Property and Tiki Tree and Landscape was hired to maintain the Property. He further stated that there were two rental residences where his employees reside and park their work trucks.

During the same discussion, staff explained that a Special Use Permit (SUP) is required if the Property will be used for the storage of heavy equipment, oversized vehicles, and materials for Tiki Tree and Landscape. Staff further explained that employees who reside on the Property may drive a typical sized work vehicle to and from work. Mr. Soderholm responded that he would be contacting his attorney.

Prior to this complaint, the James City County Circuit Court found Mr. Soderholm to be in violation of the James City County Zoning Ordinance for similar activity on the adjacent property at 6293 Centerville Road.

Interpretation

Section 24-5 of the James City County Code requires the Zoning Administrator to administer and enforce Chapter 24- Zoning of the James City County Code (the “Zoning Ordinance”).

Based on the above information, staff issued a “Notice of Violation” on February 1, 2019 and determined that the Property is being used for a contractor’s storage yard which includes the storage of contractor’s equipment, trailers, and vehicles. This is not a permitted use listed in Section 24-212 Use List (A-1, General Agriculture) of the Zoning Ordinance. Section 24-212 requires the issuance of an SUP for the storage of heavy equipment and for contractors’ warehouses, sheds, and offices. Use of the Property to store contractor’s materials, equipment, trailers, and vehicles used for commercial purposes, whether stored inside structures or storage containers, without the issuance of an SUP constitutes a violation of the Zoning Ordinance.

The letter further detailed that in order to come into compliance with the Zoning Ordinance, Hayden’s Place, LLC must remove all contractor’s equipment as described above within 30 days from the date of the letter or apply for an SUP from the Board of Supervisors.

On February 28, 2019, an appeal of this interpretation was received from Hayden’s Place, LLC. The appeal explanation stated “Appeal from Zoning Administrator's decision letter dated February 1, 2019 regarding contractor's storage yard.” No further information has been provided by the applicant or the owner as of April 24, 2019.

Staff recognizes that the owner may from time to time hire Tiki Tree and Landscape to provide services on the Property. However, the equipment may only be used on-site for the necessary amount of time it takes to complete the project. Undefined time limits to store contractor’s materials, equipment, trailers, and vehicles used for commercial purposes on the Property and/or the continuous moving of such equipment to and from the Property to other job sites constitutes using the Property as a contractor’s storage yard.

Recommendation

Staff recommends that the Board of Zoning Appeals uphold the Zoning Administrator’s interpretation regarding this matter. Use of the Property to store contractor’s materials, equipment, and vehicles used for commercial purposes is not permitted without the issuance of an SUP from the Board of Supervisors and is a violation of the Zoning Ordinance.

Should the Board of Zoning Appeals agree with this interpretation, staff encourages the owner of the Property to pursue the following options to resolve the matter:

- Option A: Remove all contractor’s materials, equipment, trailers, and vehicles used for commercial purposes from the Property. Owner is requested to provide staff the location of such items to ensure the Property is brought into compliance.
- Option B: Apply for an SUP from the Board of Supervisors and comply with the outcome of such request.

CHP/md

BZA19-3-6283Cntrville-mem

Attachments:

1. Notice of Violation dated February 1, 2019 with attachments
2. Resolutions for consideration
3. Section 24-212 Use List (A-1, General Agriculture) of the James City County Zoning Ordinance
4. 2019 and 2017 Commonwealth of VA Imagery site comparison
5. Letter dated April 19, 2019 from Ashley Springer (adjacent property owner)



Community Development

101-A Mounts Bay Road

P.O. Box 8784

Williamsburg, VA 23187-8784

P: 757-253-6671

F: 757-253-6822

community.development@jamescitycountyva.gov

jamescitycountyva.gov

Building Safety & Permits

757-253-6620

Engineering & Resource Protection

757-253-6670

Neighborhood Development

757-253-6640

Planning

757-253-6685

Zoning Enforcement

757-253-6671

February 1, 2019

CERTIFIED MAIL AND USPS

Hayden's Place LLC
Mr. Timothy Soderholm, Registered Agent
6293 Centerville Road
Williamsburg VA 23188-7316

NOTICE OF VIOLATION

RE: 6283 Centerville Road – Contractor's Storage Yard

Dear Mr. Soderholm,

James City County Zoning staff has received a complaint indicating that you are developing and operating a contractor's storage yard on property owned by Hayden's Place, LLC at 6283 Centerville Road in James City County (the "Property"). The Property is zoned A-1, General Agriculture, is designated as low density residential on the James City County Comprehensive Plan, and can be further identified as Parcel No. (01-0-0004) on the James City County Real Estate Map No. (31-2). The Property contains at least one residential dwelling and multiple accessory buildings.

Site visits were conducted by staff which revealed the construction of new fencing, graveled area, a storage container, and contractor's equipment on the Property. The contractor's equipment viewed on the Property included items such as but not limited, utility trailer(s), small excavator and a dingo loader. Staff observed the Property from the public right-of-way and the attached photos depicting items on the Property were taken from the public right-of-way. Staff has also witnessed three trucks along with trailers and equipment exiting the Property. It is my understanding that you are the owner of Tiki Tree and Landscaping, which offers services including tree removal, stump grinding, pruning, landscaping, hardscaping, and lot clearing and excavation. James City County approved a Home Occupation application for Tiki Tree and Landscape on August 11, 2009 at the address of 6293 Centerville Road which is adjacent to this Property.

Based on this information, it is my opinion that the Property is being used for a contractor's storage yard which includes the storage of contractor's equipment, trailers and vehicles. Section 24-212 Use List (A-1, General Agriculture) of the James City County Zoning Ordinance requires the issuance of a special use permit for the contractor's offices, warehouses and sheds and for the storage of heavy equipment. Use of the Property to store contractor's materials, equipment, trailers and vehicles used for commercial purposes whether stored inside structures or storage containers without the issuance of a Special Use Permit constitutes a violation to the James City County Zoning Ordinance.

In order to come into compliance with the Zoning Ordinance, you must remove all contractor's equipment as described above within **30 days from the date of this letter**. Failure to do so will result in this matter being forward to the James City County Attorney's office to pursue legal action to gain compliance. Alternatively, you can apply for a Special Use Permit from the Board of Supervisors.

In accordance with § 15.2-2311 of the Code of Virginia you have thirty days from this date to appeal this decision to the Board of Zoning Appeals. If not appealed within thirty days from this date, this decision shall be final and unappealable. The applicable appeal fee is \$500. Additional information regarding the filing of an appeal can be found in sections 24-663 and 24-664 of the James City County Code and at https://library.municode.com/va/james_city_county/codes/code_of_ordinances?nodeId=CD_ORD_CH24ZO_ARTVIIIAP_DIV3REGOAP_S24-663INEFAPREOR.

Please feel free to call me with any additional questions at 757-253-6685.

Respectfully,



Christy H. Parrish
Zoning Administrator

Attachment

cc: Paul Holt, Director of Community Development and Planning
Liz Parman, Assistant County Attorney
John Rogerson, Senior Zoning Officer



01/25/2019



01/25/2019



02/01/2019



Taken 2/1/19

7018 1130 0000 9509 3333

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Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postmark
Here

Postage	\$
Total Postage and Fees	\$

Sent To	Hayden's Place LLC
Street and Apt. No. or PO Box No.	6293 Chestnut Hill Road
City, State, ZIP+4	Williamsburg VA 23188

RESOLUTION

CASE NO. BZA-19-0003. 6283 CENTERVILLE ROAD -

ZONING ADMINISTRATOR'S DETERMINATION APPEAL

WHEREAS, Ms. V. L. Major, on behalf of the property owners (the “Appellant”), has appealed the Zoning Administrator’s written determination on February 1, 2019, that the property located at 6283 Centerville Road (the “Property”) is being used for a contractor’s storage yard which includes the storage of contractor’s equipment, trailers, and vehicles in violation of the James City County Zoning Ordinance. The Property is currently located in the A-1, General Agriculture Zoning District and can be further identified as James City County Real Estate Tax Map Parcel No. 3120100004; and

WHEREAS, the Board of Zoning Appeals at its meetings on May 2, 2019, held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Zoning Appeals is of the opinion that the decision of the Zoning Administrator is correct and that the Appellant’s appeal should be denied.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, does hereby uphold the Zoning Administrator’s written determination on February 1, 2019, that the property located at 6283 Centerville Road is being used for a contractor’s storage yard in violation of the James City County Zoning Ordinance and in consideration of such decision, the Board of Zoning Appeals makes the following specific findings of fact:

1. Section 15.2-2309 of the Code of Virginia, 1950, as amended (the “Virginia Code”), authorizes the Board of Zoning Appeals to hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.
2. Section 24-5 of the James City County Code requires that the zoning administrator administer and enforce Chapter 24- Zoning of the James City County Code (the “Zoning Ordinance”).
3. Section 15.2-2309 of the Virginia Code requires that the Zoning Administrator’s interpretation is presumed to be correct and the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
4. The Board of Zoning Appeals finds the Zoning Administrator’s interpretation is correct, the appellant has not met his burden of proof, and that the property located at 6283 Centerville Road is being used for a contractor’s storage yard which includes the storage of contractor’s materials, equipment, trailers, and vehicles.

5. The Board of Zoning Appeals finds that the storage of contractor’s materials, equipment, trailers, and vehicles on the Property is a specially permitted use and requires the issuance of a Special Use Permit (SUP) by the James City County Board of Supervisors.
6. The Board of Zoning Appeals finds that the storage of contractor’s materials, equipment, trailers, and vehicles on the Property without issuance of an SUP stands in violation of Section 24-212 Use List of the James City County Zoning Ordinance.
7. The Board of Zoning Appeals orders that the owner of the Property come into compliance by removing all contractor’s materials, equipment, trailers, and vehicles used for commercial purposes from the Property or apply for an SUP within 45 days from May 2, 2019.

Mr. William J. Geib
 Chairman, Board of Zoning Appeals

ATTEST:

Christy Parrish
 Secretary to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	_____	_____	_____
OTEY	_____	_____	_____
ROGERS	_____	_____	_____
CAMPANA, JR.	_____	_____	_____
GEIB	_____	_____	_____

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 2nd day of May 2019.

BZA19-3-6283Cntrville(uphold)-res

RESOLUTION

CASE NO. BZA-19-0003. 6283 CENTERVILLE ROAD -

ZONING ADMINISTRATOR'S DETERMINATION APPEAL

WHEREAS, Ms. V. L. Major, on behalf of the property owners (the “Appellant”), has appealed the Zoning Administrator’s written determination on February 1, 2019, that the property located at 6283 Centerville Road (the “Property”) is being used for a contractor’s storage yard which includes the storage of contractor’s equipment, trailers, and vehicles in violation of the James City County Zoning Ordinance. The Property is currently located in the A-1, General Agriculture Zoning District and can be further identified as James City County Real Estate Tax Map Parcel No. 3120100004; and

WHEREAS, the Board of Zoning Appeals at its meetings on May 2, 2019, held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Zoning Appeals is of the opinion that the decision of the Zoning Administrator is not correct and that the Appellant’s appeal should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals of James City County, Virginia, does hereby overturn the Zoning Administrator’s written determination on February 1, 2019, that the property located at 6283 Centerville Road is being used for a contractor’s storage yard in violation of the James City County Zoning Ordinance and in consideration of such decision, the Board of Zoning Appeals makes the following specific findings of fact:

1. Section 15.2-2309 of the Code of Virginia, 1950, as amended (the “Virginia Code”), authorizes the Board of Zoning Appeals to hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.
2. Section 24-5 of the James City County Code requires that the Zoning Administrator administer and enforce Chapter 24 - Zoning of the James City County Code (the “Zoning Ordinance”).
3. Section 15.2-2309 of the Virginia Code requires that the Zoning Administrator’s interpretation is presumed to be correct and the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
4. The Board of Zoning Appeals finds the Zoning Administrator’s interpretation is not correct, the appellant has met his burden of proof, and that the property located at 6283 Centerville Road is being used to store equipment, trailers, and vehicles.

- 5. The Board of Zoning Appeals finds that the storage of such equipment, trailers, and vehicles on the Property is a permitted use.
- 6. The Board of Zoning Appeals finds that storage of such equipment, trailers, and vehicles on the Property is not a violation of the James City County Zoning Ordinance.

 Mr. William J. Geib
 Chairman, Board of Zoning Appeals

ATTEST:

 Christy Parrish
 Secretary to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
JAKOBOWSKI	_____	_____	_____
OTEY	_____	_____	_____
ROGERS	_____	_____	_____
CAMPANA, JR.	_____	_____	_____
GEIB	_____	_____	_____

Adopted by the Board of Zoning Appeals of James City County, Virginia, this 2nd day of May 2019.

BZA19-3-6283Cntrville(overturn)-res

JAMES CITY COUNTY ZONING – CHAPTER 24

DIVISION 2. - GENERAL AGRICULTURAL DISTRICT, A-1

Sec. 24-212. - Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments, attached, in accordance with section 24-32.	P	
	Accessory apartment, detached, in accordance with section 24-32.		SUP
	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Group home or residential facility, for eight or fewer adults.	P	
	Group homes or residential facilities for nine or more adults.		SUP
	Group quarters for agricultural workers.		SUP
	Home care facilities.		SUP
	Manufactured homes that are on a permanent foundation.	P	
	Manufactured home parks in accordance with the special provisions of article IV.		SUP
	Single-family detached dwellings.	P	
	Two-family dwellings.		SUP
Commercial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	

JAMES CITY COUNTY ZONING – CHAPTER 24

DIVISION 2. - GENERAL AGRICULTURAL DISTRICT, A-1

	Adult day care centers.		SUP
	Airports and landing fields, heliports or helistops and accessory uses.		SUP
	Animal hospitals, veterinary offices and kennels.		SUP
	Automobile graveyards.		SUP
	Automobile repair and service.		SUP
	Automobile service stations; if fuel is sold, then in accordance with section 24-38.		SUP
	Beauty and barber shops.		SUP
	Campgrounds.		SUP
	Cemeteries and memorial gardens, not accessory to a church or other place of worship.		SUP
	Commercial equipment repair accessory to a dwelling with no outdoor storage or operations and the use occupies a building not larger than 2,000 square feet.		SUP
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities except for facilities approved as part of a subdivision created pursuant to section 24-214(c).		SUP
	Contractors' warehouses, sheds, and offices.		SUP
	Convenience stores; if fuel is sold, then in accordance with section 24-38.		SUP
	Day care and child care centers.		SUP

JAMES CITY COUNTY ZONING – CHAPTER 24

DIVISION 2. - GENERAL AGRICULTURAL DISTRICT, A-1

	Dinner theaters and dance halls as an accessory use to a restaurant or tavern.		SUP
	Farm equipment sales and service.		SUP
	Farmers' markets, limited in area to 2,500 square feet.	P	
	Farmers' markets over 2,500 square feet in area.		SUP
	Feed, seed and farm supplies.		SUP
	Flea markets, temporary or seasonal.		SUP
	Food processing and storage.		SUP
	Gift shops and antique shops.		SUP
	Golf courses and country clubs.		SUP
	Greenhouses, commercial.	P	
	Home occupations, as defined herein.	P	
	Horse and pony farms (including the raising and keeping of horses), riding stables.	P	
	Horse racing tracks.		SUP
	Horse show areas, polo fields.		SUP
	Hospitals and nursing homes.		SUP
	House museums.	P	
	Hunting preserve or club, rifle or pistol range, trap or skeet shooting.		SUP
	Lumber and building supply stores.		SUP

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	Medical clinics.		SUP
	Nurseries.	P	
	Off-street parking as required by section 24-54.	P	
	Petroleum storage, other than on a farm for farm use or accessory for a residence.		SUP
	Professional offices of not more than 2,000 square feet with no more than one office per lot.		SUP
	Race tracks for animals or vehicles, including racing courses for power boats.		SUP
	Railroad facilities, including tracks, bridges, switching yards and stations. However, spur lines, which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways, and track and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.		SUP
	Rental of rooms to a maximum of three rooms.		SUP
	Rest homes for fewer than 15 adults.	P	
	Rest homes for 15 or more adults.		SUP
	Restaurants, taverns.		SUP
	Retreat facilities.		SUP
	Retail sale and repair of lawn equipment with outdoor display area up to 2,500 square feet and repair limited to a fully enclosed building.		SUP
	Retail sales of plant and garden supplies.		SUP

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	Retail shops associated with community recreation facilities.		SUP
	Sanitary landfills, in accordance with section 24-40, construction debris landfills, waste disposal or publicly owned solid waste container sites.		SUP
	Slaughter of animals for personal use but not for commercial purposes.	P	
	Slaughterhouses.		SUP
	Small-scale alcohol production.		SUP
	Tourist homes.		SUP
	Upholstery shops.		SUP
	Waterfront business activities: marine interests, such as boat docks, piers, yacht clubs, marinas and commercial and service facilities accessory thereto, docks and areas for the receipt, storage, and transshipment of waterborne commerce; seafood and shellfish receiving, packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.		SUP
Agricultural Uses	Accessory buildings and structures.	P	
	Accessory uses, including agritourism activities, as defined in section 24-2.	P	
	Fish farming and aquaculture, but shall not include the processing of such products.	P	
	Food processing and storage, when it occurs in private homes per Code of Virginia § 3.2-5130 subdivisions A 3, 4, and 5.	P	
	General agriculture operation, production agriculture or silviculture activity, dairying, forestry, general farming, and	P	

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	specialized farming, including the keeping of horses, ponies and livestock, but not intensive agriculture as herein defined and not commercial slaughtering or processing of animals or poultry.		
	Limited farm brewery.	P	
	Limited farm distillery.	P	
	Intensive agriculture as herein defined.	P	
	Petroleum storage on a farm as an accessory use and not for resale.	P	
	Sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation, including wayside stands.	P	
	Storage and repair of heavy equipment as an accessory use to a farm.	P	
	Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.	P	
	Wineries, with accessory commercial facilities.		SUP
Civic Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Fire stations, rescue squad stations, volunteer or otherwise.		SUP
	Places of public assembly used primarily as an event facility in accordance with section 24-48.	P	
	Places of public assembly used primarily as an event facility not in accordance with section 24-48.		SUP
	Places of public assembly.		SUP

JAMES CITY COUNTY ZONING – CHAPTER 24

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	Post offices and public buildings generally.		SUP
	Schools, libraries, museums and similar institutions, public or private.		SUP
	Seminaries.		SUP
Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures; or multi-antenna systems greater than a height of 35 feet. All facilities shall comply with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures that utilize alternative mounting structures; are camouflaged; or multi-antenna systems up to a height of 35 feet. All facilities shall comply with article II, division 6 of this chapter.	P	
	Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.		SUP
	Telephone exchanges and telephone switching stations.		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.		SUP
	Utility substations.		SUP
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and		SUP

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	associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, including pump stations,, are permitted generally and shall not require a special use permit.		
	Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.	P	
	Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.		SUP
Open Uses	Preserves and conservation areas for protection of natural features and wildlife.	P	
	Timbering in accordance with section 24-43.	P	
Industrial Uses	Accessory buildings and structures.	P	
	Accessory uses, as defined herein.	P	
	Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of top soil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which do not require a special use permit.)		SUP
	Manufacture and sale of wood products.		SUP
	Solid waste transfer stations.		SUP
	Storage and repair of heavy equipment.		SUP

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	Storage, stockpiling and distribution of sand, gravel and crushed stone.		SUP
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Editor's note— Ord. No. [31A-296](#), adopted June 9, 2015, amended § 24-212 in its entirety to read as herein set out. Former § 24-212 pertained to use list. See the Code Comparative Table for complete derivation.

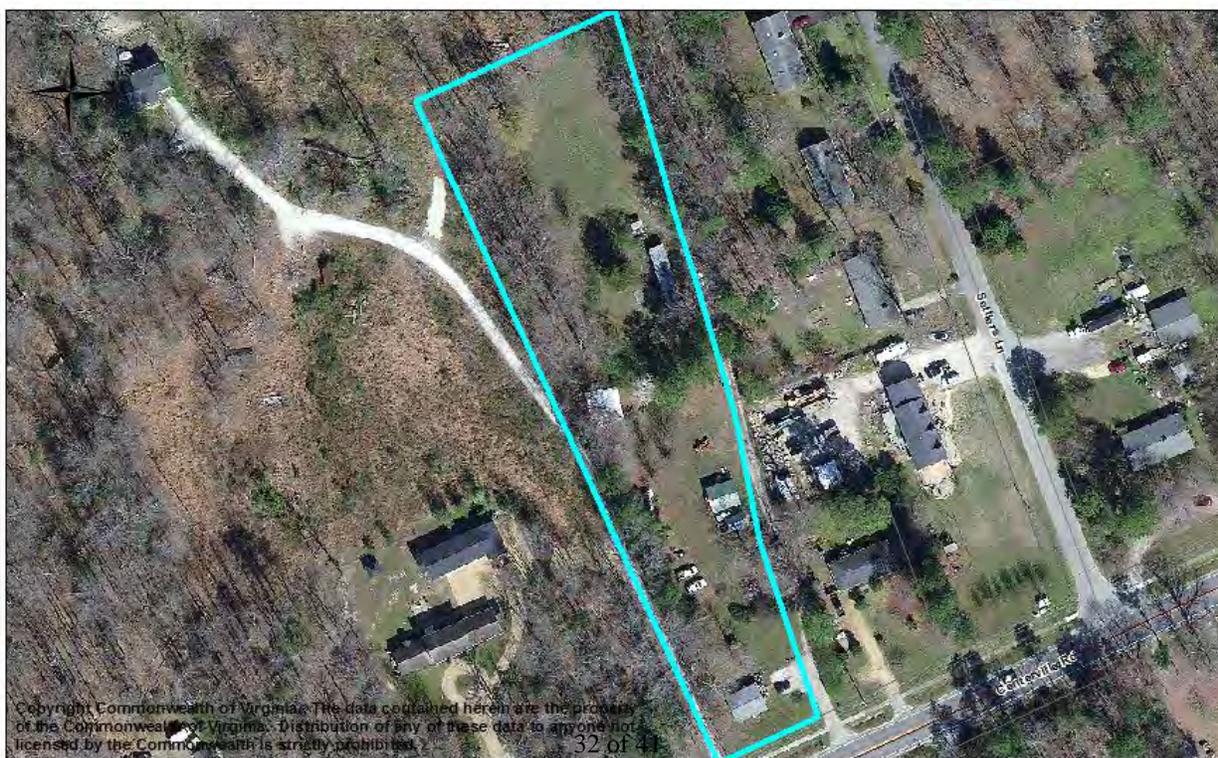
(Ord. No. [31A-312](#), 11-8-16; Ord. No. [31A-335](#), 8-8-17)



BZA-19-0003, 6283 Centerville Road 2019 Commonwealth of VA Imagery



BZA-19-0003, 6283 Centerville Road 2017 Commonwealth of VA Imagery





BZA-19-0003, 6283 Centerville Road 2019 Commonwealth of VA Imagery



BZA-19-0003, 6283 Centerville Road 2017 Commonwealth of VA Imagery



April 19, 2019

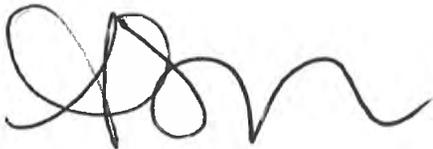
To whom it may concern:

I am writing in response to the letter I received from the Zoning Administrator on April 12, 2019 in reference to case number BZA-19-0003.

The property located at 6283 Centerville Road is adjacent to my property located at 4 Settlers Lane. My backyard abuts to the previously mentioned property. Since purchasing my property, I have had no unpleasant or disagreeable interactions with the owner of the Centerville Road property. In fact, our communications have been nothing but pleasant and amicable. Timothy Solderholm has worked to continuously improve the mentioned property by clearing out trees that are in danger of falling to protect all surrounding properties. Timothy has also cleared Settlers Lane of snow and ice after many winter storms to allow all of the neighbors to travel the street safely, using the equipment and machinery that is being stored on his property. Timothy keeps his properties well-maintained and the equipment for his well-known landscaping business is stored neatly within his property boundaries.

My household has no objection or hesitation to the upcoming hearing and urges the County to reconsider the zoning and allow the storage of his equipment so he can continue to run a successful and prominent business in the County.

Sincerely,



Ashley Springer

Adjacent Property Owner, 4 Settlers Lane

PLANNING DIVISION

APR 24 2019

RECEIVED

ITEM SUMMARY

DATE: 5/2/2019
TO: The Board of Zoning Appeals
FROM: Christy H. Parrish, Zoning Administrator
SUBJECT: January 3, 2019 Meeting Minutes

ATTACHMENTS:

	Description	Type
▣	January 3, 2019 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/24/2019 - 3:03 PM
Publication Management	Daniel, Martha	Approved	4/24/2019 - 3:15 PM
Board of Zoning Appeals Secretary	Secretary, BZA	Approved	4/24/2019 - 4:09 PM

MINUTES
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 3, 2019
5:00 PM

A. CALL TO ORDER

Mr. Geib called the meeting to order.

B. ROLL CALL

Ms. Christy Parrish called the roll:

Present:

Mr. William Geib

Mr. Stephen Rodgers

Mr. David Otey, Jr.

Mr. Ron Campana, Jr.

Mr. Mark Jakobowski

Staff Present:

Ms. Christy Parrish, Zoning Administrator

C. OLD BUSINESS

None

D. NEW BUSINESS

1. Board of Zoning Appeals 2019 Meeting Schedule

Ms. Parrish presented the proposed 2019 meeting schedule. The meetings are proposed for the first Thursday of the month at 5:00 p.m.

Mr. Geib requested that the meeting materials be posted on Wednesday the week before the meeting.

Mr. Geib motioned to adopt the meeting schedule as presented.

On a voice vote, the Board voted to adopt the 2019 meeting schedule as presented (5-0).

2. Draft - 2018 Board of Zoning Appeals Annual Report

Ms. Parrish presented the draft 2018 Board of Zoning Appeals Annual Report for the Board of Supervisors.

After a brief discussion, Mr. Jakobowski motioned to approve the report as presented.

Mr. Campana seconded the motion.

On a voice vote, the Board voted to approve the 2018 Board of Zoning Appeals Annual Report as presented (5-0).

E. MINUTES

1. December 6, 2018 Meeting Minutes

Mr. Geib asked if there were any corrections to the December 6, 2018 meeting minutes.

After hearing none, Mr. Campana motioned to approve the minutes from the December 6, 2018 meeting. Mr. Jakobowski seconded the motion.

On a voice vote, the motion was approved 5-0.

F. MATTERS OF SPECIAL PRIVILEGE

1. Election of Officers for 2019

Ms. Parrish conducted the election of officers for the 2019 calendar year.

Mr. Campana nominated Mr. Geib for Chairman and Mr. Rodgers for Vice Chairman.

On a voice vote, the Board elected Mr. Geib as Chairman and Mr. Rodgers as Vice Chairman for the 2019 calendar year by a unanimous voice vote (5-0).

G. ADJOURNMENT

There being no further business, Mr. Otey motioned to adjourn the meeting. Mr. Campana seconded the motion.

On a voice vote, the Board voted to adjourn the meeting. (5-0).

William Geib, Chairman

Christy H. Parrish, Secretary

ITEM SUMMARY

DATE: 5/2/2019
TO: The Board of Zoning Appeals
FROM: Christy H. Parrish, Zoning Administrator
SUBJECT: Zoning Ordinance Update - VA Code 15.2-2309

ATTACHMENTS:

	Description	Type
▣	Zoning Ordinance Update - VA Code 15.2-2309	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Board of Zoning Appeals	Secretary, BZA	Approved	4/25/2019 - 3:06 PM

VIRGINIA ACTS OF ASSEMBLY -- 2018 SESSION

CHAPTER 757

An Act to amend and reenact §§ 15.2-2283 and 15.2-2309 of the Code of Virginia, relating to zoning; disabilities.

[H 796]

Approved April 4, 2018

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 15.2-2283 and 15.2-2309 of the Code of Virginia are amended and reenacted as follows: § 15.2-2283. Purpose of zoning ordinances.**

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas and working waterfront development areas; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; ~~and~~ (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard; *and (xii) to provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.) or state and federal fair housing laws, as applicable.* Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § 62.1-255.

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

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 the 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 (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 A 4 of § 15.2-2286 at the time of the filing of the variance application. *Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to 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. 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.*

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.