



**TOWN OF FRONT ROYAL, VIRGINIA
BOARD OF ZONING APPEALS MEETING**

Tuesday, October 18, 2022 @ 7:00 PM
Front Royal Town Hall, 2nd Floor Town Council Meeting Room

AGENDA

1. Call to Order
 2. Roll Call – Determination of Quorum
 3. Approval of Minutes
 - June 21, 2022 (*attached*)
 4. Election of Officers
 5. Public Hearing
 - **Variance Application 2200398** submitted by Property Connection LLC for multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.
- The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38:
- i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2.
 - ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2.
 - iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4.
 - iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3.
 - v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3.
 - vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3.

6. OTHER

7. ADJOURNMENT

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on June 21, 2022, at 7 pm.

CALL TO ORDER:

Vice Chairman Williams called the Board of Zoning Appeals, June 21, 2022, meeting to order at 7:00 pm.

ROLL CALL – DETERMINATION OF QUORUM

Present: Michael Williams, Vice Chairman
Christine Erin
Amanda McCarthy
Andi Robinson

Absent: Cody Taylor

Staff: Lauren Kopishke, Director of Planning / Zoning Administrator
John Ware, Deputy Zoning Administrator

APPROVAL OF MINUTES

- March 15, 2021

Ms. McCarthy moved, seconded by Ms. Erin to approve the minutes as written.

There was no discussion.

VOTE: Yes – Erin, Williams, McCarthy
No – N/A
Absent – Taylor
Abstain – Robinson

VOICE VOTE

OTHER BUSINESS

- **2299143** - Variance of 175-44.C.1 of the Town of Front Royal Zoning Ordinance submitted by RK Holdings d/b/a Rural King Front Royal to permit an above ground propane storage tank.

Mr. Ware explained the Applicant was seeking a Variance to install an above ground liquid propane re-filling station. Staff denied the applicants initial zoning application because Town Code Section 175-44 C.1. states no flammable or explosive liquids, solids or gases shall be stored in bulk above ground; provided, however, that tanks or drums of fuel directly connecting to energy devices, heating devices or appliances located on the same lot as the tanks or drums of

the fuel are excluded from this provision. The application was denied based on what is allowed in the C-1 Zoning District.

BZA member asked if the BZA had anything to do with the fact the property is located in the floodplain. Mr. Ware responded the BZA does have a say however for the C-1 Zoning District, above ground storage tanks are not allowed for the use the applicant intends.

BZA member asked if any other business in the area had been granted a variance to install above ground tanks. Mr. Ware stated he was not aware of any granted variances for this type of request.

BZA member referred to the tanks at Southern States and asked what the difference was between Southern States and Rural King. Mr. Ware said Southern States was located in the C-2 Zoning District and it fell under miscellaneous in the C-2 Zoning District which is the same provision in the C-1 Zoning District. Southern States may have been granted a variance when they applied at that time. Ms. Kopishke explained this section of the Zoning Ordinance did not take affect until June 22, 2015. The tank at Southern States predates this section of the ordinance and they may not have needed a variance at that time.

Vice Chairman Williams visited Southern States and was told those tanks were installed in 1999 before it was Southern States. He expressed concern with the tanks at Southern States and if they were to apply for a variance currently they would need to install a concrete block elevated to specific standards to not be a concern for buoyancy and this is not the case with the current installation. This property is located in the floodway. The tank is currently anchored to cinderblocks which he does not think is anchored to the property. Ms. Kopishke explained that if Southern States comes to the Town to do any renovation or change the way the tank is anchored they will get the same response from staff that it is not permitted and would be required to be placed underground. The BZA hears several different types of variances or appeals. It is the job of the BZA to determine the strict application of the chapter. Would the requirements of Chapter 175-44.C.1 produce an undue hardship on Rural King. That such hardship is not generally shared by other properties in the same zoning district and the same vicinity. Does that mean that other businesses nearby or in the same zone, are they allowed to do it but this one wasn't. The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by granting of the variance. The criteria listed in Chapter 175-139 gives the BZA a checklist stating the grounds for the BZA to grant a variance.

Mr. Ware clarified that the applicant is not appealing the decision of staff but asking for a variance to be granted. Ms. Kopishke voiced they are asking for relief from this ordinance. They are asking that you waive the requirements of this ordinance and allow them to install an above ground tank.

Staff confirmed the applicant was notified of the BZA meeting but did not attend.

Vice Chairman Williams opened the public hearing.

There were no speakers. Vice Chairman Williams closed the public hearing.

Vice Chairman Williams referred to the BZA class he had taken and expressed concern of individuals that were allowed to do things and then it became to where they questioned why they had a zoning ordinance if variances are repeatedly granted. Rural King is not the only place that sells propane tanks. If the BZA allows a variance for this it will open the door to many others requesting a variance for this type of thing. If the BZA denies the variance request they can provide the applicant an alternative which would be to bury the tank. BZA member asked if a propane tank could be buried in the floodplain. Mr. Ware explained the applicant would have two (2) options in the floodplain. 1) Bury the tank underground and be anchored. Do a load calculation on the buoyancy and size of the tank to determine the size of the concrete at the base of the anchoring system; or 2) Raise the area in front of Rural King on a pad above the base flood elevation which the elevation certificate by the land surveyor would determine what the flood elevation is. They could build a pad there that would be anchored to the pavement then the tank on top of that would be anchored to the concrete pad. For safety they would place bollards around the tanks.

Ms. Robinson expressed that the application is ill prepared and presented for someone who wants to have a variance.

Ms. Erin questioned if maybe the applicant wanted to try this and see if it is cost saving for them to receive the variance and if not then spend the money to bury the tank. Ms. Kopishke said they would need to bury the tank or not have it.

Mr. Ware advised that the applicant could bury the tank by-right and would need to comply with the floodplain regulations.

Vice Chairman Williams stated for the record he would like to require the applicant to bury the tank.

Vice Chairman Williams moved to deny the variance based on the fact they have other plausible and applicable options that have been presented to them to be able to have the tank.

Vice Chairman Williams asked for clarification from Ms. Kopishke for the wording of the motion. Ms. Kopishke described the appropriate wording.

Vice Chairman Williams moved, seconded by Ms. Robinson to deny application 2200143 after due notice and hearing as required by the Code of Virginia 15.2-2204 and Section 175.139 of the Town of Front Royal Zoning Ordinance based on the following Board findings. The strict application of the terms of the chapter does not effectively prohibit or unreasonably restrict the use of the property.

There was no additional discussion.

VOTE: Yes – Erin, Williams, McCarthy, Robinson
No – N/A
Absent – Taylor
Abstain – N/A

VOICE VOTE

ADJOURNMENT

Ms. Robinson moved, seconded by Ms. Erin to adjourn the meeting.

VOTE: Yes – Erin, Williams, McCarthy, Robinson
No – N/A
Absent – Taylor
Abstain – N/A

VOICE VOTE

The meeting adjourned at 7:23 pm

Approved by the Board of Zoning Appeals
Date: _____

**TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING**



STAFF REPORT FOR THE OCTOBER 19, 2022, BOARD OF ZONING APPEALS MEETING

APPLICATION #:

2200398

APPLICANT:

Property Connection LLC

APPLICATION SUMMARY:

The applicant is seeking multiple variances from the zoning regulations of Town Code Chapter 175. The purpose of the variances is to subdivide a single parcel, upon which two existing detached single-family dwellings are located into two parcels. Each dwelling will be located on its own individual lot. The property is zoned C-1 (Community Business District) and is identified as Tax Map #20A4-4-3 with the two dwellings located thereon addressed as 225 East 7th Street and 631 Kibler Street, Front Royal, VA.

GENERAL INFORMATION:

Site Address	225 East 7 th Street & 631 Kibler Street (see vicinity map below)		
Zoning District	C-1, Community Business District		
Overlay Districts	Historic Area – NO	Floodplain – YES	Entrance Corridor – NO
Tax Identification	20A185 7		
Location	The property is located to the west side of Remount Rd.		
Existing Use	Two (2) Single-family dwellings situated on one (1) parcel.		

Vicinity Map



Aerial Map



Aerial Floodplain Map



Right Side Elevation-225 E 7th Street



Front Elevation-225 E 7th Street



Front Elevation-631 Kibler Street



ADDITIONAL INFORMATION:

<i>Background</i>	Per the Applicant's surveyor, the applicant is requesting the subdivision of the parcel into two lots to sell each lot individually. The lots are unable to meet current Zoning requirements and therefore would need a variance to be granted.
<i>Applicant's Statements</i>	"The property has 2 existing houses sitting on the same parcel. I am requesting a variance to separate the 2 properties with a lot line to put each house on its own separate legal lot."
<i>Legal Review</i>	The following variances are requested from the requirements of the Zoning Ordinance C-1 Zoning District, Chapter 175-38: i. The proposed lot upon which the dwelling identified as 225 E 7th Street will be granted a 3,460 square foot variance from the minimum 7,500 square foot lot area requirement of Town Code Chapter 175-40.A.2. A. <u>Minimum Lot Size:</u> 1. Residential uses with four (4) or more units = 6,000 s.f first unit; 1,500 s.f each additional unit. 2. All other uses: 7,500 s.f. ii. A 15.5-foot variance from the minimum 90-foot lot width for corner lots required by Town Code Chapter 175-40.D.2. D. <u>Minimum Lot Width:</u> 1. Interior Lot: Seventy-five (75) feet.

2. **Corner Lot: Ninety (90) feet.** (Amended Entire Section 10-23-89-Effective Upon Passage)

- iii. Said dwelling be granted a 0.3-foot variance from the minimum 15-foot corner lot side yard setback requirement of Town Code Chapter 175-42.A.4.

A. Principal Structures, when abutting properties are in a commercial or industrial district.

1. Front setback:

a. Where no parking is provided between the structure and the street: five (5) feet. Provided, however, that no drive aisle shall be located within five (5) feet of any structure having a setback less than fifteen (15) feet.

b. Where parking is provided between the structure and the street: fifty (50) feet.

2. Side: 10 feet on one (1) side only.

3. Rear: 15 feet.

4. Corner side: 15 feet.

- iv. Said dwelling be granted a 6.2-foot variance from the minimum 15-foot rear yard setback requirement of Town Code Chapter 175-42.A.3.

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- v. Said dwelling be granted a 5.5-foot variance from the minimum 15-foot front porch to the front property line requirements of Town Code Chapter 175-3.

PORCH - Any porch, veranda, or gallery (as the terms are commonly and customarily defined) or similar projection from the main wall of a structure, constructed upon the ground, and covered by a roof, canopy, or awning; provided that the term shall not include any carport, or other such improvement designed for and capable of accommodating the parking of a motor vehicle protected from the elements. An unenclosed porch shall mean a porch with no side enclosure, other than the side of the structure to which the porch is attached, with no screens or windows. An unenclosed porch may project into a front or rear yard not to exceed ten feet (10') nor extend any nearer than fifteen (15') from any front or rear property line. The

	area of a porch shall be included in the calculation of lot coverage. A porch shall not be considered an overhang, nor vice versa. vi. Said dwelling be granted a 13.2-foot variance from the minimum 15-foot rear porch to the rear property line requirement of Town Code Chapter 175-3. PORCH - Any porch, veranda, or gallery (as the terms are commonly and customarily defined) or similar projection from the main wall of a structure, constructed upon the ground, and covered by a roof, canopy, or awning; provided that the term shall not include any carport, or other such improvement designed for and capable of accommodating the parking of a motor vehicle protected from the elements. An unenclosed porch shall mean a porch with no side enclosure, other than the side of the structure to which the porch is attached, with no screens or windows. An unenclosed porch may project into a front or rear yard not to exceed ten feet (10') nor extend any nearer than fifteen (15') from any front or rear property line. The area of a porch shall be included in the calculation of lot coverage. A porch shall not be considered an overhang, nor vice versa.
<i>Town Code</i>	VARIANCES Town Code 175-139.B authorizes the Board of Zoning Appeals with the ability to issue variances, as stipulated below: “To authorize, upon appeal in specific cases, such variance from the terms of the chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the chapter shall be observed, and substantial justice done, as follows: 1. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property, or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the chapter. 2. No such variance shall be authorized by the Board, unless it finds:

	a. That the strict application of the chapter would produce undue hardship. b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity. c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance. 3. No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia as amended. 4. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned, or the intended use of the property 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 chapter. 5. In authorizing 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 guaranty or bond to ensure that the conditions imposed are being and will continue to be complied with. 6. In the event that a variance is not granted, the same variance application, or a variance application that is substantially the same, may not be submitted to the Board for consideration for a period of one (1) year from the date on which the variance request was denied.
State Code	Virginia Code § 15.2-2309.2 states the following in regard to Variances and the BZA: “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, 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.

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.”

Based on Virginia Code § 15.2-2309(2), that went into effect on July 1, 2015, the BZA must grant a variance if the evidence shows that the strict application of the terms of the zoning ordinance would “unreasonably restrict the utilization of the property or that 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”, and the following:

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application.” Virginia Code § 15.2-2309(2).

STAFF COMMENTS:

The Board needs to determine if the applicant has met the following criteria in order to issue the variance.

That the strict application of the chapter would produce undue hardship.

- *The Board needs to have the applicant articulate the issues and determine if this scenario constitutes a hardship.*

That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

- *Staff does not believe this hardship is widespread in this zoning district.*

That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

- *The structures in the immediate vicinity of the Applicant's property appear to be residential in nature. This appears to be an older neighborhood, originally platted in the 1940's and 1950's. The structures look like they have been maintained to a point they are not blighted. The surrounding uses are commercial. The comprehensive plan update calls for this area to be developed as mixed use.*

ATTACHMENT: BZA Application



Town of Front Royal
Department of Planning and Zoning
102 East Main Street
P.O. Box 1560
Front Royal, VA 22630

BZA 2200398

Main 540-635-4236
Fax 540-631-2727
www.frontroyalva.com

BOARD OF ZONING APPEALS

Application for Variance

Property Address: 225 East 7th St Front Royal, VA Current Zoning: C-1

Parcel Number 20A443 (20A4-4-3A NEW)

Subdivision: North River town Section: 4 Block: - Lot: 3

Request for variance in order to build: Separate houses into 2 legal lots

fill in only the line(s) that apply to your request(s)	Code Section	Applicant has	Code requires	Variance requested
Total area	175-40. A. 2	4,040 SF	7,500 SF	3,460 SF
Lot width (<u>CORNER LOT</u>)	175-40. D. 2	74.50'	90'	15.5'
Front yard setback				
Minimum side yard setback (<u>CORNER LOT</u>)	175-42. A. 4	14.7'	15	0.3'
Rear yard setback	175-42. A. 3	8.8'	15'	6.2'
Public street frontage				
other (write in)				

* Six copies of a plan must be submitted with this application, showing size and location of the lot, dimensions and location of the proposed building or structure, and the dimensions and location of the existing structures on the lot.

Applicant: <u>Property Connection LLC</u>	Representative: <u>Emily Minick</u>
Address: <u>225 East 7th St Front Royal, VA 22630</u>	Address:
Phone: <u>703-594-9421</u> Fax:	Phone: Fax:
email: <u>minickproperty@yahoo.com</u>	email:

REASONS FOR VARIANCE

Property Location: 225 East 7th St Front Royal, VA 22630

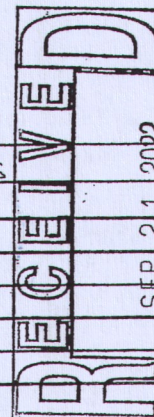
If strictly adhered to, the Town Code Sections cited above would cause unnecessary hardship as follows:

1 My use of the property would be prohibited or unreasonably restricted because of the:

exceptional narrowness, shallowness, size or shape of the property existing at the time the ordinance became effective
or
exceptional topographical conditions or other extraordinary situation or condition of the property
or
condition, situation or development of property immediately adjacent to the subject property

State **specifically** the reason/conditions affecting this property.

This property has 2 existing houses sitting on the same parcel. I am requesting a variance to separate the 2 properties with a lot line to put each house on its own separate legal lot.



TOWN OF FRONT ROYAL
PLANNING & ZONING DEPARTMENT

or

- 2 A clearly demonstrable hardship* would result if a variance is not granted. Specify the hardship that would result from strict application of the ordinance.

Currently, without a variance in order to sell the property you would have to sell both houses because they are on the same lot. If separate houses on each lot will result in each house having their own address and legal boundary.

* Note: Financial burden or added cost in complying with the ordinance is not a hardship under the law.

- 3 My property was acquired in good faith, without foreknowledge of the restrictions upon it.

Correct

Incorrect

The hardship outlined above is not shared generally by other properties in the same zoning district and the same vicinity

Specify: Many houses are on their own legal lot. With two houses on the same lot, the houses cannot be separate and have an address.

- 4 Authorizing this variance will not result in substantial detriment or adverse impact to adjacent property.

Correct

Incorrect

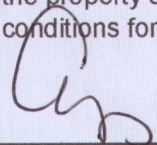
- 5 The character of the district will not be changed by the granting of this variance request.

Correct

Incorrect

Additional comments or justification may be attached on a separate sheet.

I hereby certify that all of the statements and information contained herein are, to the best of my knowledge, complete and correct. By signing this application, the owner authorizes the Board of Zoning Appeals and Town employees to enter the property during the normal discharge of their duties in regard to this request. I (we) agree to comply with any conditions for the variance required by the BZA.



Date: 9/20/22

Owner's Signature

Property Connection LLC, Emily Miner
Print Name manager

Application Fee: \$400.00

pd Check # 1086

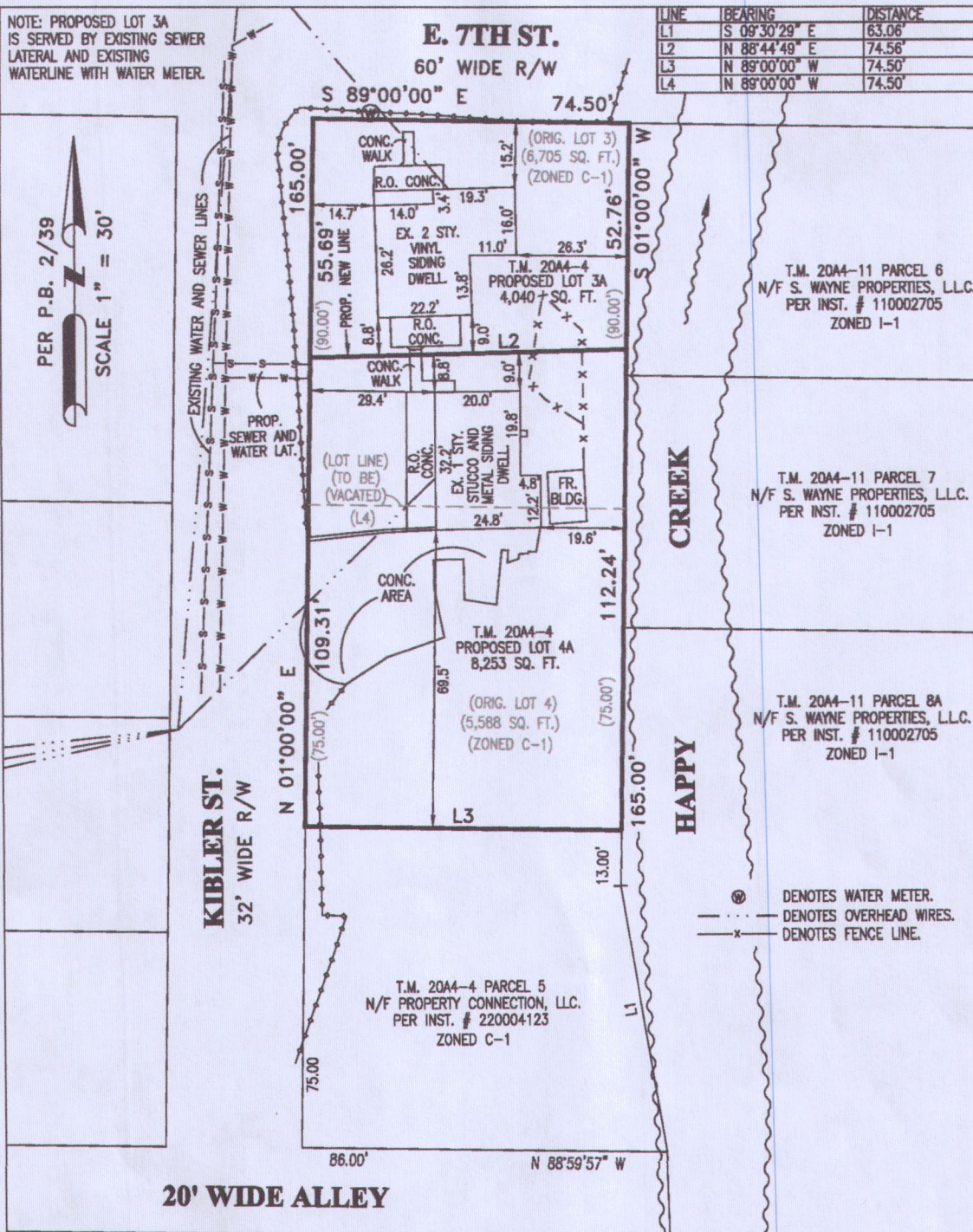
NOTE: PROPOSED LOT 3A
IS SERVED BY EXISTING SEWER
LATERAL AND EXISTING
WATERLINE WITH WATER METER.

E. 7TH ST.

60' WIDE R/W

LINE	BEARING	DISTANCE
L1	S 09°30'29" E	63.06'
L2	N 88°44'49" E	74.56'
L3	N 89°00'00" W	74.50'
L4	N 89°00'00" W	74.50'

PER P.B. 2/39
SCALE 1" = 30'



NO TITLE REPORT WAS FURNISHED TO THIS OFFICE.
SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

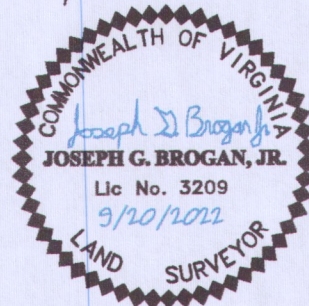
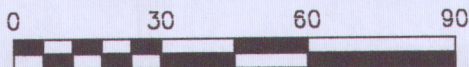
DERIVATION OF TITLE TO: PROPERTY CONNECTION, L.L.C.
PER INSTRUMENT # 220004123.

PLAT REF: INST. # 110002364 AND P.B. 2/39.

SUBJECT PARCELS SITUATED IN FLOOD ZONE AE
PER FIRM MAP # 51187C0112C EFFECTIVE DATE JUNE 3, 2008.

SKETCH SHOWING PROPOSED BOUNDARY
BETWEEN LOTS 3 AND PER
PLAT OF C.D. BINNS LOTS

NORTH RIVER MAGISTERIAL DISTRICT
TOWN OF FRONT ROYAL
WARREN COUNTY, VA.



PREPARED BY:
BROGAN LAND SURVEYING, PLC
P.O. BOX 1578
FRONT ROYAL, VA. 22630-0034
TEL. & FAX (540) 635-5657
SEPTEMBER 20, 2022