



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

Tuesday, November 15, 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
 - October 18, 2022 (*attached*)
4. Public Hearing
 - **This is a continuation from the Board of Zoning Appeals Public Hearing that was held October 18, 2022. 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.

- **Variance Application 2200442** submitted by Angela Baker for a variance from Town Code Chapter 175-14 pertaining to the front yard setback for property located at 1015 Wine Street and is identified by Tax Map #20A9-4-26. The property is located in the R-1, Residential Zoning District. The variance would effectively allow the applicant a front yard setback of eighteen feet (18'). The required front yard setback is thirty-five feet (35') and the applicant has a front yard setback of twenty-five feet (25'). The variance requested by the applicant is to allow the addition of a front porch.

5. OTHER

6. ADJOURNMENT

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on October 18, 2022, at 7 pm.

CALL TO ORDER:

Vice Chairman Williams called the Board of Zoning Appeals, October 18, 2022, meeting to order at 7:05 pm.

ROLL CALL – DETERMINATION OF QUORUM

Present: Board Member Michael Williams, Vice Chairman
Board Member Christine Erin
Board Member Cody Taylor
Board Member Amanda McCarthy
Board Member Andi Robinson

Staff: Lauren Kopishke, Director of Planning / Zoning Administrator
John Ware, Deputy Zoning Administrator
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

APPROVAL OF MINUTES

- June 21, 2022 Meeting (*attached*)

Chairman McCarthy moved, seconded by Ms. Robinson to approve the meeting minutes as written.

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

VOICE VOTE

ELECTION OF OFFICERS

Ms. Erin moved, seconded by Vice Chairman Williams to nominate Amanda McCarthy as Board of Zoning Appeals Chairman.

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

VOICE VOTE

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.

Chairman McCarthy opened the public hearing.

The applicant, Ms. Minick spoke about the project and the reasons for the variances being requested. The Board discussed the Variance Application asking for the applicant to provide additional information and for the public hearing to remain open until the next regular Board of Zoning Appeals meeting.

Chairman McCarthy moved, seconded by Mr. Taylor to postpone a decision until the next meeting in order for the applicant to provide additional information regarding the Variance application.

VOTE: Yes –Williams, McCarthy, Robinson, Erin, Taylor

No – N/A

Absent – N/A

Abstain – N/A

VOICE VOTE

OTHER

None.

ADJOURNMENT

With no further business before the Board,

Vice Chairman Williams moved, seconded by Ms. Robinson to adjourn the meeting.

VOTE: Yes –Williams, McCarthy, Robinson, Erin, Taylor

No – N/A

Absent – N/A

Abstain – N/A

VOICE VOTE

The meeting adjourned at 8:12 pm

Approved by the Board of Zoning Appeals

Date: _____

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



STAFF REPORT FOR THE NOVEMBER 15, 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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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.

- 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.
Town Code	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).

PLANNING COMMISSION COMMENTS:

At their work session on November 2, 2022, the Planning Commission offered the following comments:

- This situation involves two (2) nonconforming lots. Approval of one or more variances will again result in two (2) nonconforming lots.
- From planning standpoint, if one or more variances were to be granted, the Planning Commission observes that the creation of a property line of equal distance between two existing structures would clarify a fundamental principle of land use.

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

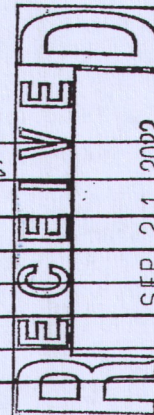
If strictly adhered to, the Town Code Sections cited above would cause unnecessary hardship as follows:

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

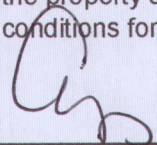
- 5 The character of the district will not be changed by the granting of this variance request.

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

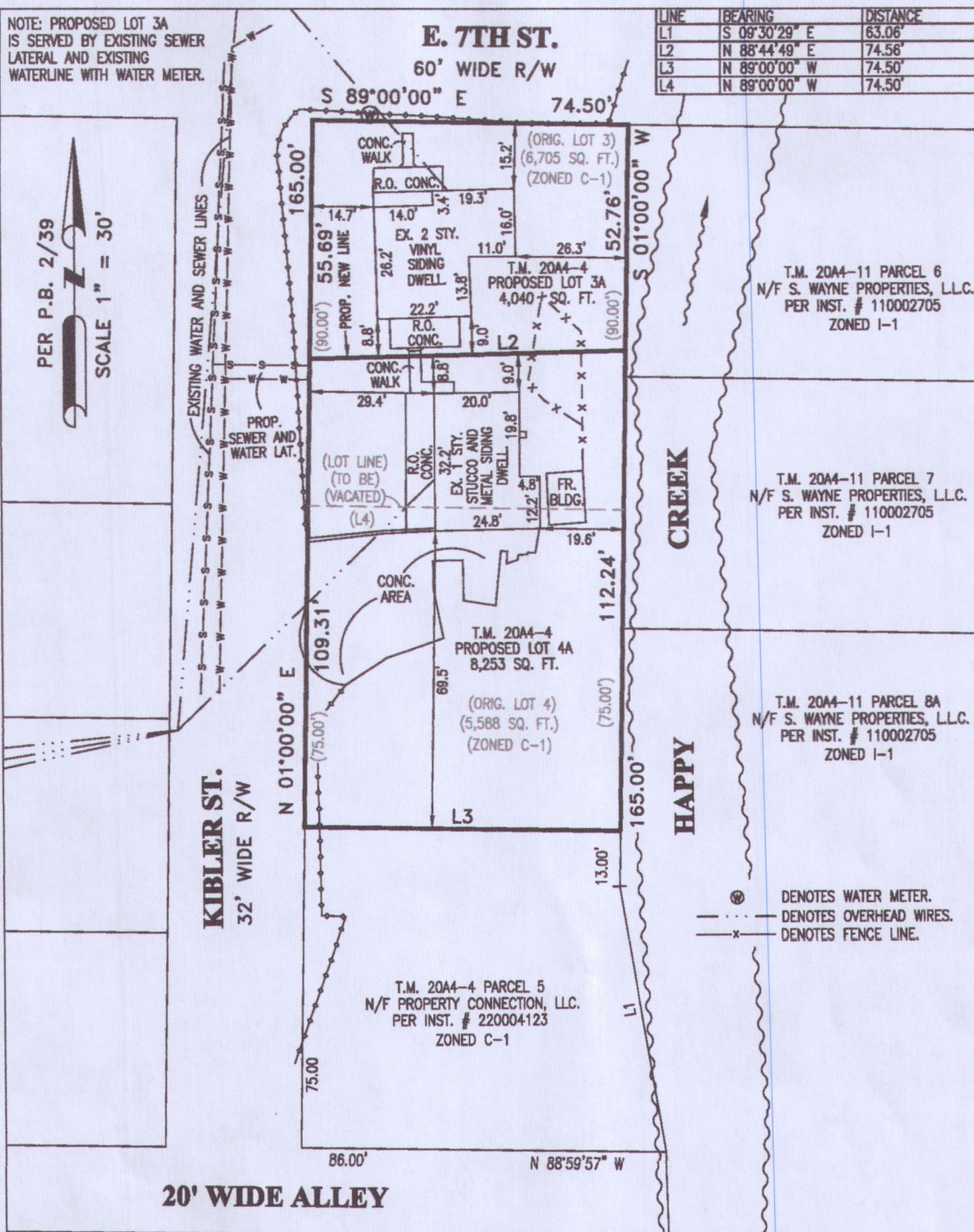
Property Connection LLC, Emily Miner
Print Name manager

Application Fee: \$400.00

pd Check # 1086

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

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



T.M. 20A4-11 PARCEL 6
N/F S. WAYNE PROPERTIES, L.L.C.
PER INST. # 110002705
ZONED I-1

T.M. 20A4-11 PARCEL 7
N/F S. WAYNE PROPERTIES, L.L.C.
PER INST. # 110002705
ZONED I-1

T.M. 20A4-11 PARCEL 8A
N/F S. WAYNE PROPERTIES, L.L.C.
PER INST. # 110002705
ZONED I-1

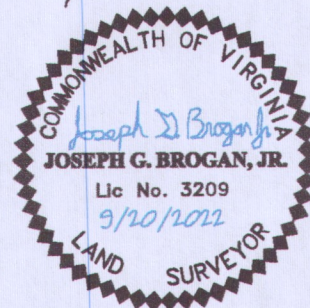
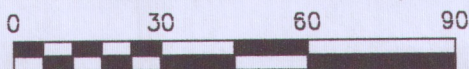
T.M. 20A4-4 PARCEL 5
N/F PROPERTY CONNECTION, L.L.C.
PER INST. # 220004123
ZONED C-1

⊙ DENOTES WATER METER.
--- DENOTES OVERHEAD WIRES.
-x- DENOTES FENCE LINE.

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



TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING

STAFF REPORT FOR THE NOVEMBER 15, 2022, BOARD OF ZONING APPEALS MEETING

APPLICATION #:

2200442

APPLICANT:

Angela Baker

APPLICATION SUMMARY:

The applicant is seeking a variance from the zoning regulations of Town Code Chapter 175-14 pertaining to the front yard setback for property located at 1015 Wine Street, identified by Tax Map 20A9-4-26. The property is located in the R-1, Residential Zoning District.

GENERAL INFORMATION:

Site Address	1015 Wine Street (see vicinity map below)		
Zoning District	R-1, Residential District		
Overlay Districts	Historic Area – NO	Floodplain – NO	Entrance Corridor – NO
Tax Identification	20A9-4-26		
Location	The property is located between Braxton Road and Evelyn Court.		
Existing Use	One (1) Single-family dwelling situated on one (1) parcel.		

Vicinity Map



Aerial Map



Front Elevation – 1015 Wine Street



Front Elevation – 1015 Wine Street



Left Rear Elevation – 1015 Wine Street



Right Rear Elevation – 1015 Wine Street



ADDITIONAL INFORMATION:

<i>Background & Applicant's Statements</i>	The applicant wishes to construct a porch in the front yard setback. The applicant stated "I am requesting that the board grant me a variance due to the fact that the lot my house is located on is narrow, with small side yards, and the back yard and side yards are on a very steep hill. Because of how steep the back yard is, the house could not have been built any farther back on the lot than it was. From the concrete slab directly behind the house, to the back of the property, my family is not able to use the back yard. The Town came in and installed 15 feet of soil, grass and walkway attached to my front yard, along with extending my driveway and installing curb last year. While the plat that was printed up in 1998 shows 25 feet of front yard, the town added 15 feet in May 2021, and now there are 40 feet from the front of the house to the curb. The current stoop projects out 5 feet from the house, and we are hoping to add a porch that will project out an additional 3 feet than the current stoop.
<i>Legal Review</i>	175-14 SETBACK (R-1) Structures shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width or fifty-five (55) feet or more from the center of any street right-of-way less than fifty (50) feet in width; however, no building need be set back more than the average of the setback of the immediately adjoining structures on either side. A vacant lot fifty (50) feet or more in width may be assumed to be occupied by a building having a minimum setback. The variance would effectively allow the applicant a front yard setback of eighteen feet (18'). The required front yard setback is thirty-five feet (35') and the applicant has a legally nonconforming front yard setback of twenty-five feet (25'). The variance requested by the applicant is to allow the addition of a front porch.

Town Code**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).

PLANNING COMMISSION COMMENTS:

At their work session on November 2, 2022, the Planning Commission did not offer any comments.

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 make a determination as to whether or not this constitutes a hardship.

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

There appears to be topographic constraints to this lot in particular. Topography is not a significant issue throughout the entire zone.

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 Board needs to make this determination, staff does not have an objection to this variance.

ATTACHMENT: BZA Application

#2200442



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

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

BOARD OF ZONING APPEALS
Application for Variance

Property Address: 1015 Wine St., Front Royal, VA 22630 Current Zoning: R-1

Parcel Number 20A9-4-26

Subdivision: Fairview Heights Section: Block: Lot: 26

Request for variance in order to build: Front Porch

Fill in only the line(s) that apply to your request(s)	Code Section	Applicant has	Code requires	Variance requested
Total area				
Lot width				
Front yard setback	175-14	25	35	18
Minimum side yard setback				
Rear yard setback				
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>Angela Baker</u>	Representative: _____
Address: <u>1015 Wine St., Front Royal, VA 22630</u>	Address: _____
Phone: <u>703-475-7366</u> Fax: _____	Phone: _____ Fax: _____
email: <u>bakerax1@yahoo.com</u>	email: _____

REASONS FOR VARIANCE

Property Location: 1015 Wine 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.

I am requesting that the board grant me a variance due to the fact that the lot my house is located on is narrow, with small side yards, and the back yard and side yards are on a very steep hill. Because of how steep the back yard is, the house could not have been built any farther back on the lot than it was. From the concrete slab directly behind the house, to the back of the property, my family is not able to use the back yard.

The town came in and installed 15 feet of soil, grass and walkway attached to my front yard, along with extending my driveway and installing a curb last year. While the plat that was printed up in 1998 shows 25 feet of front yard, the town added 15 feet in May 2021, and now there are 40 feet from the front of the house to the curb. The current stoop projects out 5 feet from the house, and we are hoping to add a porch that will project out an additional 3 feet farther than the current stoop.



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.

Because we cannot use our back yard due to the slope of the property, we do not have very much outdoor living space available. We have 2 children and would like to have a place where they can play outside and still be confined to the front porch (with a railing) to ensure safety, as the street has a high volume of vehicle traffic. Failure of this safety precaution could result in a devastating hardship for my family.

* 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: Most of our neighbors do not have the same slope in their back yards that we have and those that do, have wooded lots. Ours is the only cleared un-usable lot on our side of the road (which is where the slope is). They also have more square shaped lots and are able to use more of their side yards than we have available on our narrow lot.

- 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.

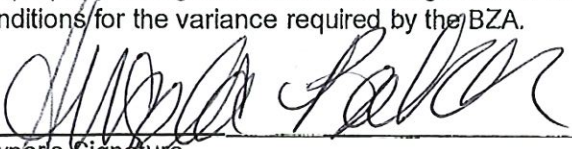
☒ Correct

☐ Incorrect

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

Please see attached page for comments regarding number 4 and 5.

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.


Owner's Signature

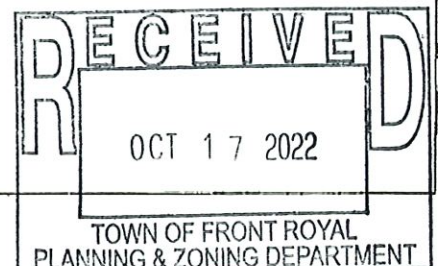
Date: 10/17/22

Angela Baker

Print Name

Application Fee: \$400.00 pd 10/17/22 mpm
CK# 2092

Revised June 23, 2020



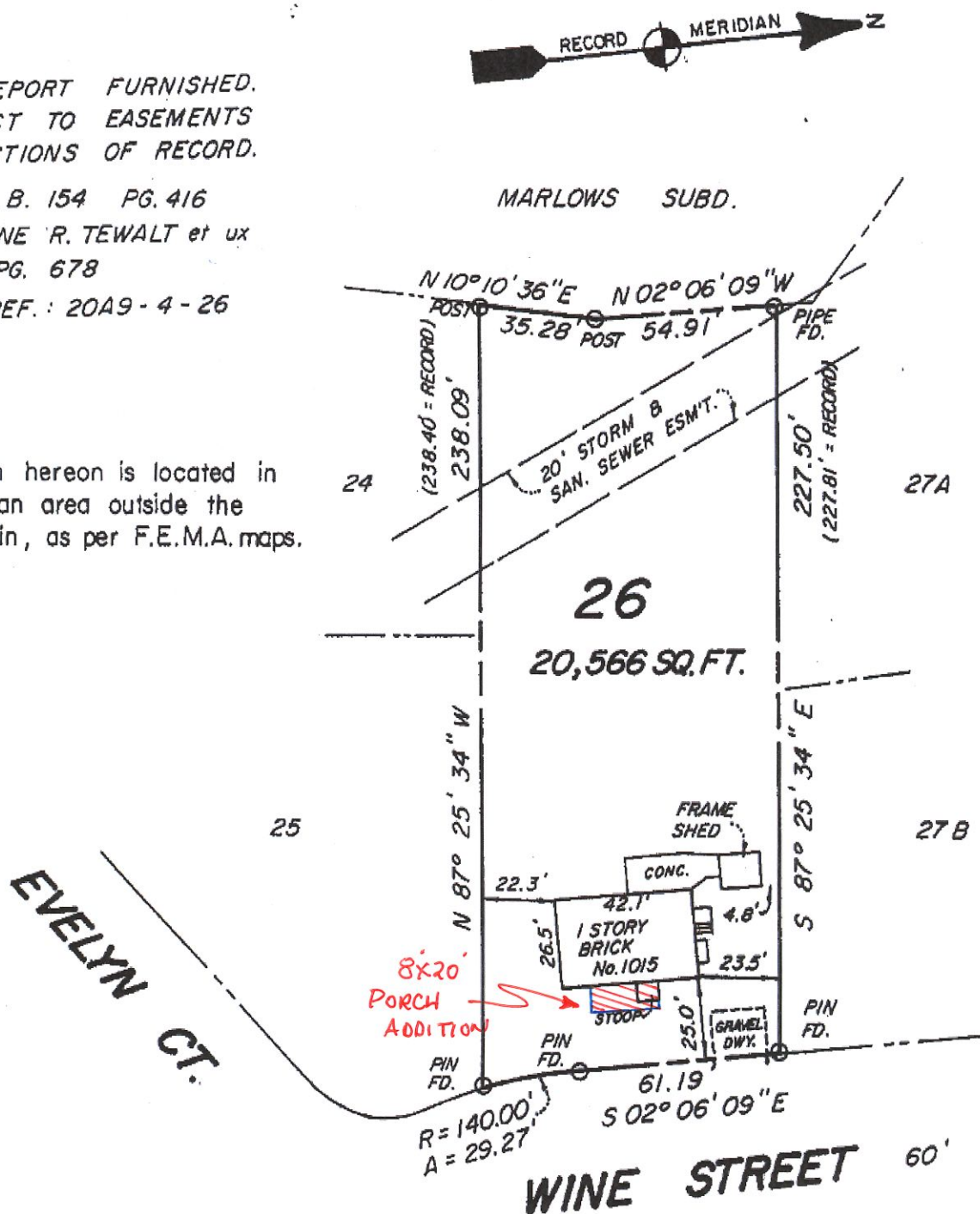
4. Authorizing this variance will not result in substantial detriment or adverse impact to adjacent property.
Adding a front porch to my house will not affect anyone on any adjacent property. The house is set 40 feet back from the street. The porch will not affect the view of the street in any way.
5. The character of the district will not be changed by the granting of this variance request.
Improving upon the curb appeal and functionality of my home will not affect the neighborhood in a negative manner.

000028 FEB 11 88

NOTES:

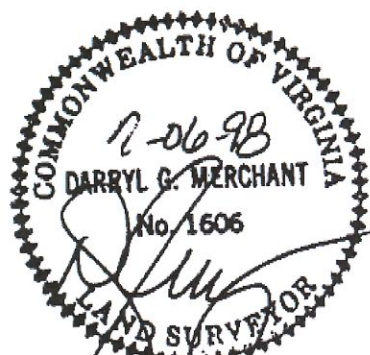
1. NO TITLE REPORT FURNISHED.
PLAT SUBJECT TO EASEMENTS
AND RESTRICTIONS OF RECORD.
2. PLAT REF.: D.B. 154 PG. 416
3. OWNER: EUGENE R. TEWALT et ux
D.B. 218 PG. 678
4. TAX MAP REF.: 20A9-4-26

The house shown hereon is located in
Flood Zone X, an area outside the
500-yr. flood plain, as per F.E.M.A. maps.



SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT I HAVE SURVEYED THIS PROPERTY ON
THE GROUND; THAT THIS PLAT IS CORRECT TO THE BEST OF MY
KNOWLEDGE, INFORMATION AND BELIEF; AND THAT THERE ARE NO
ENCROACHMENTS EITHER WAY ACROSS PROPERTY LINES EXCEPT AS SHOWN.



Darryl G. Merchant
Licensed Land Surveyor
P.O. BOX 1508
FRONT ROYAL, VA. 22630
540-636-4949

HOUSE LOCATION SURVEY

LOT 26
FAIRVIEW HEIGHTS

TOWN OF FRONT ROYAL
WARREN COUNTY, VIRGINIA

DATE: 6 FEBRUARY 1998

SCALE: 1" = 50'







