



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

Tuesday, December 20, 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
 - November 15, 2022 (*attached*)
4. Public Hearing
 - **The public hearing was closed at the November 15, 2022 BZA meeting. This is a continuation of the discussion for 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.
5. OTHER
6. ADJOURNMENT

The Board of Zoning Appeals regular meeting of the Town of Front Royal, Virginia was held on November 15, 2022, at 7 pm.

CALL TO ORDER:

Vice Chairman Williams called the Board of Zoning Appeals, November 15, 2022, meeting to order at 7:05 pm.

ROLL CALL – DETERMINATION OF QUORUM

Present: Michael Williams, Vice Chairman
Cody Taylor
Andi Robinson

Absent: Amanda McCarthy, Chairman
Christine Erin

Staff: John Ware, Deputy Zoning Administrator
George Sonnett, Town Attorney
Connie L Potter, Executive Assistant / Clerk for the Board of Zoning Appeals

APPROVAL OF MINUTES

- October 18, 2022 Meeting

Mr. Taylor moved, seconded by Ms. Robinson to accept the minutes as written.

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

VOICE VOTE

PUBLIC HEARING

This public hearing was continued for the Board of Zoning Appeals meeting held on 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:

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- 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.
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- 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.

Mr. Ware explained that the Planning Commission at their work session on November 2, 2022 offered the following comments:

“This situation involves two (2) nonconforming lots approval of one or more variances will again result in two (2) conforming lots.

From a 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.”

The public hearing is continued from the October 18, 2022, Board of Zoning Appeals meeting.

Emily Minick spoke and distributed a Letter from her attorney Mata & Hill PLC who is representing the “Owner” Property Connection LLC explaining the applicant’s hardship.

George Sonnett, Town Attorney explained his role which is to support Town staff, and the interest of the Town fundamentally is to enforce the Zoning Ordinance unless the Board of Zoning Appeals finds that the applicant who has the burden of proof has met the criteria for a variance.

After a lengthy discussion Vice Chairman Williams asked if anyone from the public wished to speak. As there were no speakers present, Vice Chairman Williams closed the public hearing and asked for a motion.

Vice Chairman Williams moved to approve the variance based on what he believes to be a stated hardship and that he believed the applicant purchased the property in good faith.

There was not a second and the motion died.

Mr. Taylor moved, seconded by Ms. Robinson to deny based on the fact that the hardship is self-created.

Mr. Taylor stated buying a property without a survey is not smart, but reliance on erroneous corners and things like that has been found to be used to get a variance but simply not even attempting to find the information makes it a self-created hardship.

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

ROLL CALL

The motion failed because there were not three (3) votes out of the total Board of five (5) members.

There was additional discussion on how to move forward and the following motion was made.

Ms. Robinson moved, seconded by Mr. Taylor to postpone the decision until we have at least four (4) if not a full zoning board on December 20, 2022.

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

VOICE VOTE

-
- **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.

Mr. Ware explained the variance request.

Vice Chairman Williams asked if anyone would like to speak.

The applicant, Ms. Baker had no additional comments regarding the variance request application.

There was some discussion regarding the steep slope in the rear yard.

Vice Chairman Williams closed the public hearing.

BZA members reviewed staff comments from the staff report.

Ms. Robinson moved, seconded by Mr. Taylor to deny the variance due to the fact this does not constitute a hardship because there is another option of a fence and also properties in the area are all of like kind with like stoops and to allow one would allow all potentially.

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

ROLL CALL

OTHER

None.

ADJOURNMENT

With no further business before the Board,

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

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

VOICE VOTE

The meeting adjourned at 7:45 p.m.

Approved by the Board of Zoning Appeals
Date: _____



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

STAFF REPORT FOR THE DECEMBER 20, 2022, BOARD OF ZONING APPEALS MEETING

APPLICATION #:

2200398

APPLICANT:

Property Connection LLC

APPLICATION SUMMARY:

The public hearing was closed at the November 15, 2022, BZA meeting. This is a continuation of the discussion for Variance Application 2200398. 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	20A4-4-3		
Location	The property is located at the intersection of 7 th Street and Kibler Street.		
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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1. Front setback:

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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.
<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).

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

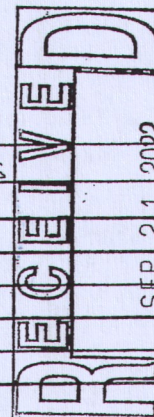
If strictly adhered to, the Town Code Sections cited above would cause unnecessary hardship as follows:

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

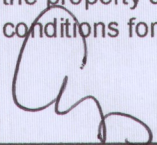
- 5 The character of the district will not be changed by the granting of this variance request.

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

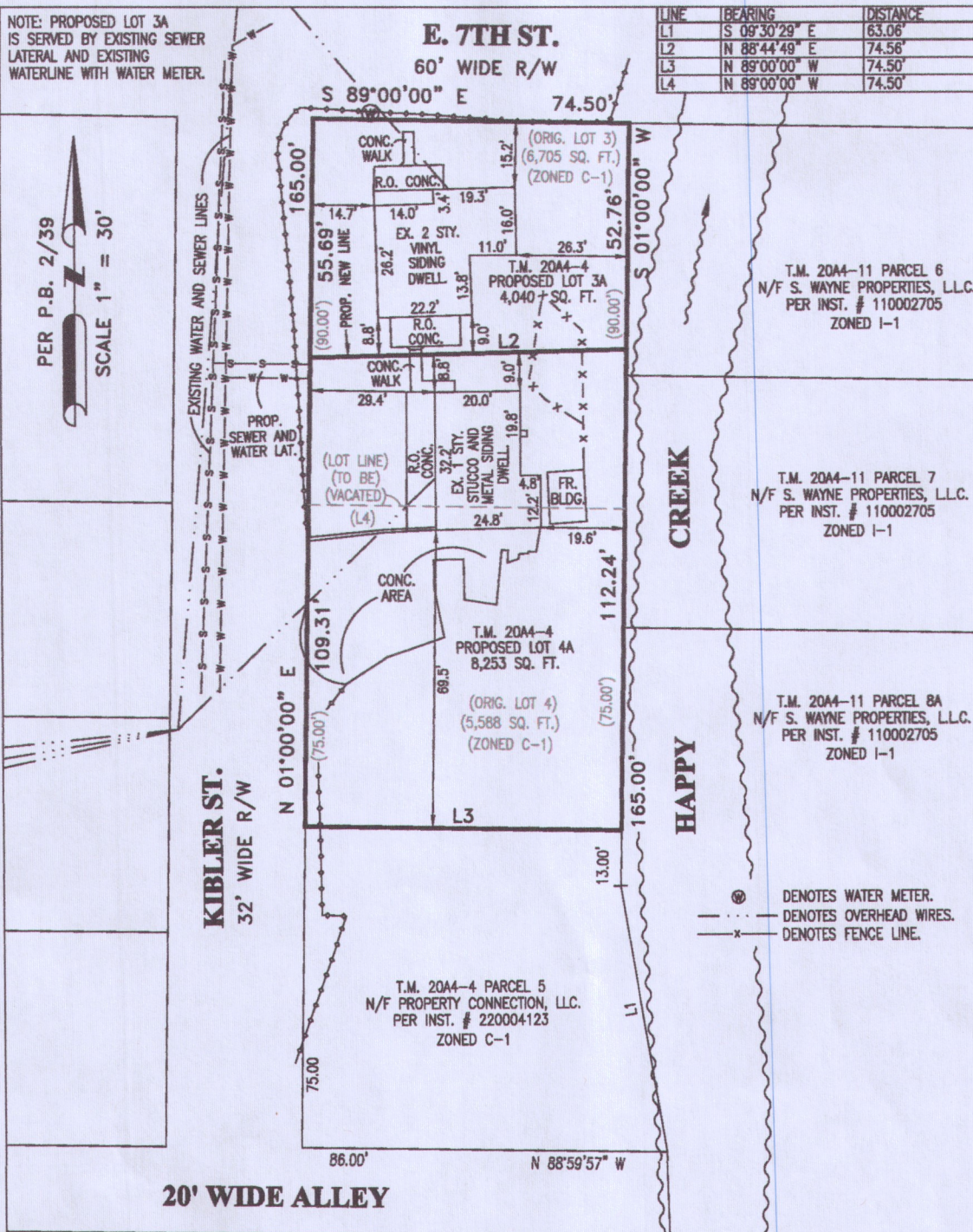
NOTE: PROPOSED LOT 3A
IS SERVED BY EXISTING SEWER
LATERAL AND EXISTING
WATERLINE WITH WATER METER.

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.

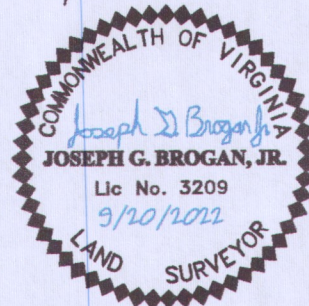
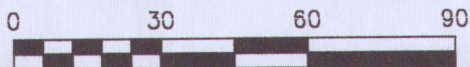
DERIVATION OF TITLE TO: PROPERTY CONNECTION, L.L.C.
PER INSTRUMENT # 220004123.

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