



Clarke County Board of Zoning Appeals

MEETING AGENDA

Monday, November 23, 2020 (10:00AM)

Berryville/Clarke County Government Center – Main Meeting Room

1. **Approval of Agenda**
2. **Organizational Meeting**
 - A. Election of Officers – Chair and Vice-Chair
 - B. 2021 Meeting Schedule
 - C. Adoption of Electronic Meeting Participation Procedures
3. **Approval of Minutes – December 10, 2019 Meeting**
4. **BZA-20-02, Caryn Breeden.** Request approval of a 12 foot variance from the 50 foot setback requirement from the centerline of a secondary highway per §3-A-2-c of the Zoning Ordinance. The purpose of the request is to construct a carport. The property is located at 254 Good Shepherd Road, Tax Map #26B-A-4, is approximately 0.5 acre in size, and is zoned Forestal-Open Space-Conservation (FOC).
5. **Other Business**
6. **Adjourn**



Clarke County Planning Department

101 Chalmers Court, Suite B

Berryville, Virginia 22611

(540) 955-5132

www.clarkecounty.gov

TO: Board of Zoning Appeals members

FROM: Brandon Stidham, Planning Director

RE: Establishing 2021 Meeting Schedule and Meeting Date/Time

DATE: November 11, 2020

In recent years, the Board of Zoning Appeals (BZA) has not established a set date and time for its meetings and instead has scheduled meetings on an as-needed basis as applications are received. Staff recommends that the BZA consider establishing a fixed date and time for its meetings each month to facilitate scheduling and publishing of public hearing advertisements. The BZA would continue to meet only as applications or other business matters arise. For discussion purposes, Staff is recommending the BZA consider establishing the **third Monday of each month at 10:00AM** as the official meeting date and time. This is a date that appears to avoid conflicts with other public meetings in the Government Center Main Meeting Room. In the event of a scheduling conflict, the meeting date would be the fourth Monday of the month.

This is what a 2021 meeting schedule with those dates would look like:

- January 25 (4th Monday, avoid conflict with holiday)
- February 22 (4th Monday, avoid conflict with holiday)
- March 15
- April 19
- May 17
- June 21
- July 19
- August 16
- September 20
- October 18
- November 15
- December 20

Meeting dates would be posted on the County website with the disclaimer that these dates are tentative and the BZA will only meet on these dates if there is business that requires its action. Establishing a set calendar of dates would also enable Staff to create a calendar of public hearing advertisement dates and deadlines for submission of ads to the Winchester Star.

If the Board is amenable to this schedule, you can take action in the form of a motion to accept the 2021 meeting schedule at the November 23 meeting. Please let me know if you have questions in advance of the meeting.



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TO: Board of Zoning Appeals members

FROM: Brandon Stidham, Planning Director

RE: Resolution to Adopt Electronic Meeting Policy

DATE: November 12, 2020

Enclosed for your consideration is a Resolution to Adopt an Electronic Meeting Policy. Code of Virginia §2.2-3708.2 authorizes public bodies to allow their members to participate in meetings remotely – including voting on action items – provided that certain criteria are met:

- A quorum of the public body must be physically present at the meeting. In the case of the Board of Zoning Appeals (BZA), a minimum of three members must be physically present to constitute a quorum.
- The member requesting electronic participation cannot attend due to (1) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, or (2) a personal matter subject to the member identifying the personal matter with specificity. Electronic participation for the latter reason is limited to two meetings in a calendar year.
- Any member requesting electronic participation is required to notify the Chair of the reason for participating in a meeting remotely on or before the date of the meeting. It is the Chair's responsibility to determine whether the member's request complies with the electronic meeting requirements and to approve or deny the request accordingly.
- If a member is approved to participate electronically, the meeting minutes must show the reason for the member's remote participation and the location from which the member participated remotely. If a member is denied electronic participation, the reason for the denial shall also be included in the meeting minutes. Provisions shall be made to ensure that all members participating remotely may be heard by all persons at the designated meeting location.

The Code of Virginia also requires the public body to adopt a written policy for electronic meeting participation containing an approval process subject to the limitations of §2.2-3708.2. The BZA currently does not have a written policy for electronic meeting participation – currently members can attend meetings electronically and participate in discussion but cannot make motions or vote on action items. In order for BZA members to participate remotely in future meetings, the BZA must adopt the electronic meeting participation resolution and policy. Please let me know if you have any questions or concerns.

DRAFT

**BOARD OF ZONING APPEALS
RESOLUTION TO ADOPT ELECTRONIC MEETING POLICY**

WHEREAS, the Clarke County Board of Zoning Appeals proposes to adopt a written policy allowing for and governing participation of its members by electronic communication means pursuant to Code of Virginia §2.2-3708.2, and

WHEREAS, the proposed policy shall include an approval process for such participation, subject to the express limitations of Code of Virginia §2.2-3708.2,

AND WHEREAS, the proposed policy once adopted shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

NOW THEREFORE, BE IT RESOLVED THAT the Clarke County Board of Zoning Appeals does hereby adopt the Electronic Meeting Policy included as Attachment A to this resolution, effective this 23rd day of November, 2020

Chair

Clerk

VOTES	AYE	NAY
Borel	_____	_____
Caldwell	_____	_____
Means	_____	_____
Volk	_____	_____
Brumback (ALT)	_____	_____

DRAFT

ATTACHMENT A BOARD OF ZONING APPEALS ELECTRONIC MEETING POLICY

1. Pursuant to Code of Virginia §2.2-3708.2, the following policy is established for members of the Clarke County Board of Zoning Appeals (the “Board”) to participate electronically in Board meetings from remote locations for reasons specified as follows:
 - A. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member’s physical attendance.
 - B. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subsection is limited each calendar year to two meetings.
2. Procedures for authorizing electronic participation in a meeting.
 - A. Electronic participation in a meeting shall only be permitted if a quorum of the Board is physically assembled at the designated meeting location.
 - B. Any member requesting to participate electronically in a meeting shall notify the Chair of the reason for electronic participation as specified in Subsection 1 above, on or before the day of the meeting. The Chair shall determine whether the request for electronic participation complies with the provisions of Subsection 1 above and shall either approve or disapprove the request.
 - C. If electronic participation is approved by the Chair, the Clerk of the Board shall record in the meeting minutes the remote location from which the member participated. The meeting minutes shall also indicate the reason for the member’s electronic participation as described in Subsection 1 above.
 - D. If electronic participation is disapproved by the Chair, the reason for such disapproval shall be recorded in the minutes with specificity.
 - E. For any electronic participation, arrangements shall be made to ensure that the voice of the member participating electronically may be heard by all persons in the designated meeting location.

Clarke County

BOARD OF ZONING APPEALS

MEETING MINUTES - **DRAFT**

December 10, 2019



A meeting of the Board of Zoning Appeals of Clarke County, Virginia was held at the Berryville/Clarke County Government Center, 2nd floor, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia on Tuesday, December 10, 2019.

ATTENDANCE

Present: Charlie Kackley (Chair); Anne Caldwell (Vice Chair); Howard Means; and Laurie Volk

Absent: Alain Borel

Staff: Ryan Fincham (Zoning Administrator)

Others: Branson McKay and Maral Kalbian (Applicants)

CALLED TO ORDER:

Chairman Kackley called the meeting to order at 9:30 a.m.

APPROVAL OF AGENDA

The Board voted to approve the agenda as presented.

Yes: Caldwell (seconded), Kackley, Means (moved) and Volk

No: No one

Absent: Borel

APPROVAL OF MINUTES

The Board voted to approve the minutes of September 10, 2019 with some minor wording corrections.

Yes: Caldwell (moved), Kackley, Means (seconded) and Volk

No: No one

Absent: Borel

PUBLIC HEARING

Chair Kackley opened the public hearing.

BZA-19-04 – Branson McKay and Maral Kalbian request approval of a 12.5 foot variance from the 25 foot setback requirement for mechanical equipment building elements (ground mounted solar panels) to a side property line per §4-G-3-c and §3-A-1-c of the Zoning Ordinance. The property is located on the south side of Old Chapel Road (Rt. 617), Tax Map #22-A-77, is 4.2173 acres in size, and is zoned Agricultural-Open Space-Conservation (AOC).

Mr. Fincham explained this request. He stated that the applicant proposes to construct a ground mounted solar array to provide energy to their property. The site sketch and accompanying

documentation shows the location of the array is proposed to be 12.5 feet from the side property line. Therefore, a variance from the Board of Zoning Appeals of 12.5' is required for the proposed location to be compliant with zoning ordinance setback requirements of 25 feet for "mechanical equipment building elements" found in §4-G-3-c which require a 50% setback from the required setback of 50 feet for typical structures found in §3-A-1-c. Solar panels used primarily to produce energy for the single family dwelling located in close proximity to the single family dwelling have been considered mechanical equipment by Staff in the past.

Evaluation of the variance request is required to include an analysis of criteria set forth in §7-A-3-e of the Zoning Ordinance:

The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in Va. Code §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.

A variance shall be granted if the evidence shows that at least one of the conditions in (A) are met, and all conditions outlined in (a), (b), (c), (d), and (e) are satisfied.

- (A) *(1) The strict application of the terms of the ordinance either unreasonably restrict the utilization of the property, or (2) the granting of a variance 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.*

Applicant's Narrative Response

"As provided by the Clarke County Zoning Ordinance Code Chapter 188, Section 7-A-3-e (2/16/16), Action on Variance Application, we are asking for a variance because the 25-foot setback requirement would "unreasonably restrict the utilization of the property" and "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.""

Staff Comment

The Applicant asserts that both criteria (1) and (2) above are met based on their narrative. Based on the information provided by in Applicant's narrative, Staff generally concurs.

- (a) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.*

Applicant's Narrative Response

"We acquired 3.89 acres from Pauline Adams on 18 December 1987 – see attached survey dated Dec.15, 1987."

Staff Comment

No further comment.

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

Applicant's Narrative Response

The array would be in a location shielded from the road by trees and in an isolated corner of the property. The adjacent property is a large open pasture. Therefore, there would be no "substantial" detriment.

Staff Comment

The proposed location of the array will not be extremely visible from adjacent properties. Whether or not the array is substantially detrimental to adjacent property owners is subjective in nature, and Staff defers to the Board for that determination.

- (c) *Is the condition or situation of the property concerned so general or of recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance?*

Applicant's Narrative Response

"Ours is a unique situation, does not require any amendment to the existing ordinance and meets the existing setback requirement for fewer than 4 acres."

Staff Comment

A text amendment to the zoning ordinance is not recommended for this situation.

- (d) *Will the granting of the variance result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property?*

Applicant's Narrative Response

"Installation of mechanical equipment such as solar panels is permitted under current zoning."

Staff Comment

No further comment.

- (e) *Is the relief or remedy sought by the variance application available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application?*

Applicant's Narrative Response

"A special exception process or modification of a zoning ordinance is not required."

Staff Comment

No further comment.

Applicant's Narrative Additional Comments:

"We are requesting a variance to the setback distance from our property line for the installation of solar panels (mechanical equipment) from the required 25-foot setback (for 4 acres or more) as

outlined in the lot regulations for setbacks (4-G-3 of the code) to a 12.5 foot setback (for fewer than 4 acres) as outlined in the same code.

We would like to install ground-mounted solar panels in order to offset rising energy costs and help reduce our carbon emission footprint. Multiple solar panel companies have recommended the same install location on our property: east of the main house.

Their reasons for this location are:

- The location faces south and is free of tree cover.
- The location is close to the main power connection to the house.
- The location does not require crossing any underground power, water, or utility lines.
- The location would not impact the septic system or the septic system reserve area.

Clarke County's required 25-foot setback for mechanical equipment would place a large area of the solar panels in the shadow of the house each afternoon, significantly lowering the power output. A 12.5 foot setback would resolve this shading problem, which is why we are requesting a variance.

The solar contractors have examined other possible locations on the property and all are either too far away from the main power connection or impact our septic system and reserve area. Also other locations would require crossing water and sewer lines, underground electrical cables, and buried telephone and LP gas lines. None of the installers recommend crossing these utilities.

Unless a variance is granted, we are unable to utilize solar power generation. If circumstances change or if the technology changes, please note that this solar array is easily removable and is not on a permanent foundation.

Placing the solar panels on the house roof is also not a viable option because the roof is not of adequate size and the proper orientation to mount the panels. Barn roof placement would require crossing the underground lines as listed above and is also too far from the main power connection to be efficient. A remote area southwest of the house was eliminated from consideration because the distance is too great, utilities would need to be crossed, and power would be lost in the transmission. Other locations would also potentially impact the septic system reserve area. The area northwest of the house is unsuitable as it is tree covered and in a swale that does not get direct sunlight.

We are requesting the 12.5-foot mechanical equipment setback requirement for parcels fewer than 4 acres. Although we theoretically own 4.22 acres, a portion of that (approximately 0.3 acres) is a private access easement that is not legally accessible to us. We purchased our property (3.89 acres) in 1987. In 1994, we agreed to a boundary line adjustment with our neighbor. The boundary adjustment was of equal acreage and allowed our neighbor access to land they owned behind our house. Because Clarke County zoning does not allow "flag" lots (in this case 50 feet wide), the access easement technically increased our lot size to 4.22 acres. The access easement (on the west end of our property) is fenced off and a driveway was installed by our neighbor. We do not control or maintain that easement and have no legal right to access it. Therefore, the serviceable acreage of our property at 2026 Old Chapel Road was not increased from the original 3.89 acres as we do not have a legal right of entry to the access easement. The Clarke County "maps-on-line" system (<https://www.mapsonline.net/clarkecounty>) does not show the right-of-way as part of our property. Our neighbors are not amenable to a boundary line adjustment to move the eastern boundary line.

We have diligently tried to come up with an alternative location on our property and the only one that will work is along the east property line with the existing setback requirement of 12.5 feet for mechanical equipment on fewer than 4 acres.

We are respectfully requesting the variance in order to “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.”

Staff Additional Comments:

No further comment.

Mr. Fincham asked if there are any questions from the Board.

Board Member Caldwell said that she drove by the site where the array will be located and said she was impressed with how hard it would be to see it from the road. Board Member Means said that he also drove by the site and turned around and came back and he could not see it very well at all in either direction. Board Member Volk asked Mr. Fincham what he meant on page 17 of 24 in the Staff report where he said that the adjacent property is a large open pasture and therefore, there would be no substantial detriment. He said that what he meant by his comment is that the proposed location of the array would not be extremely visible from adjacent properties. He said he was not going to make any call as to whether it was substantially detrimental or not. He said that he has been doing this recently in most BZA cases because he believes it was subjective and whether it is substantially detrimental is the determination of the Board and it is heavily dependent on what the adjacent property owners have to say. He said that in this case he had only one call.

Chair Kackley asked if there were any further comments, there being none he closed the public hearing and called for a motion.

The Board voted to approve this request as presented.

Yes: Caldwell, Kackley, Means (moved) and Volk (seconded)

No: No one

Absent: Borel

There being no further business to come before the Board the meeting was adjourned at 9:48 a.m.

Charlie Kackley, Chair

Ryan Fincham, Clerk

Minutes prepared by Debbie Bean

VARIANCE REQUEST (BZA-20-02)
Caryn Breeden
November 23, 2020 Board of Zoning Appeals Meeting
STAFF REPORT -- Department of Planning

The purpose of this staff report is to provide information to the Board of Zoning Appeals to assist them in reviewing this proposed variance request. It may also be useful to members of the general public interested in this proposed request.

Case Summary

Applicant(s):

Caryn D. Breeden (Owner)

Property Information:

- Location -- 254 Good Shepherd Road (Rt. 604), Tax Map #26B-A-4
- Zoning -- Forestal-Open Space-Conservation District (FOC)
- Property Size – approximately 0.5 acre
- Election District -- Buckmarsh

Request:

Request approval of a 12 foot variance from the 50 foot setback requirement from the centerline of a secondary highway per §3-A-2-c of the Zoning Ordinance. The purpose of the request is to construct a carport.

Facts:

The applicant proposes to construct a 20' X 18' carport over a portion of her existing driveway which is located in the side yard of the lot. The proposed carport will comply with all required setbacks except for the minimum 50-foot setback requirement from the centerline of a secondary highway (Good Shepherd Road) for parcels less than one acre in size (§3-A-2-c, Minimum Setback Requirements). The applicant requests a variance of 12 feet to allow for a 38-foot setback for the proposed carport. The carport would be aligned with the front of the existing home which is also approximately 38 feet from the centerline of Good Shepherd Road.

The applicant's proposed building location is constrained by the location of the existing well beyond the end of the driveway. The home is 24 feet 7 inches from the well and the proposed carport would be 25 feet from the well. Per County Code Chapter 184 (Wells), the minimum setback for a structure foundation from a well is 50 feet however §184-9(I) allows for encroachments that do not exceed current location conditions. Therefore the minimum distance that the proposed carport can be located from the existing well and remain in compliance with Chapter 184 is 25 feet. The onsite sewage disposal system for the lot is located in the rear yard.

Per the applicant, the house was originally constructed around 1950. Staff could not locate a recorded plat for the lot but the metes and bounds description of the lot is consistent dating back to the 1950s. The lot currently does not meet the minimum lot size of 3 acres for lots in the FOC District and is therefore considered to be nonconforming.

Analysis:

Variance requests are reviewed against the criteria set forth in the Code of Virginia and in Zoning Ordinance §7-A-3-e. Subsection 1 states:

1. *The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in Va. Code §15.2-2201 and the criteria set out in this section.*

The applicant has provided a two-page narrative that addresses each of the criteria set forth in §7-A-3-e. The applicant's responses from the narrative and Staff's comments are listed below

The first part of the review is a determination of whether at least one of the two conditions in Subsection 2 below are met:

- *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.*

Per the applicant's narrative, the lot and resultant building envelope has physical constraints in terms of the location of the existing well and onsite sewage disposal system in relation to the driveway and house. The lot is nonconforming as to minimum lot size and the small lot area (approximately 0.5 acre) further limits potential location for the proposed carport. It should also be noted that it is likely that the lot was created and the existing home was constructed prior to the adoption of the County's first zoning ordinance in 1960. Staff believes that these factors provide evidence that the granting of a variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

The second part of the variance review is a determination of whether all five of the review criteria found in §7-A-3-e-2-(a) through (e) are also met. These criteria are addressed separately below:

- (a) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.

Applicant's Response:

I purchased this property from Beachmark Construction on August 21, 2018.

Staff Comment:

The applicant is the owner of record for this property and purchased it over two years ago. Construction of the house and location of the well and onsite sewage disposal system occurred prior to the applicant's purchase so the applicant did not create the asserted hardship of a physically constrained building envelope.

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

Applicant's Response:

The carport would be shielded by the neighbor's garage (which sits 38 foot from centerline) and there would be no "substantial" detriment. The carport would be located 21 foot 7 inches from the property line. The lot regulations for setbacks requires setback of 10 feet.

Staff Comment:

The neighbor's garage located on 228 Good Shepherd Road is the closest offsite structure to the proposed carport. The garage has approximately the same front yard setback as the applicant's house and would approximately align with the applicant's proposed carport. There will be no encroachment into the side yard as the proposed side yard setback would be exceeded by over 11 feet.

- (c) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

Applicant's Response:

Mine is a unique situation, does not require any amendment to the existing ordinance.

Staff Comment:

Lots in this surrounding area are zoned FOC and are of varying shapes and sizes with the applicant's lot being among the smallest in size. Staff does not recommend development of a text amendment to address the applicant's requested setback reduction in lieu of a variance. While the lot size is more typical of a Rural Residential (RR) zoned lot, the Comprehensive Plan does not support RR zoning in this area. Additionally, rezoning to RR would not cure the setback issue as the applicable setback for an RR lot over 15,000 square feet from the centerline of a secondary highway is also 50 feet.

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

Applicant's Response:

Installation of a carport is permitted under current zoning.

Staff Comment:

Staff concurs with the applicant's response. Granting of a variance in this case also would not result in an unpermitted "use variance" or change in the zoning classification.

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

Applicant's Response:

A special exception process or modification of a zoning ordinance is not required.

Staff Comment:

Staff concurs with the applicant's response. The Zoning Ordinance does not include special exception processes. While modifications granted by the zoning administrator are permissible per Zoning Ordinance §7-B, no modification may be granted that is more than 10% of a regulation standard. The requested variance exceeds this requirement.

Recommendation:

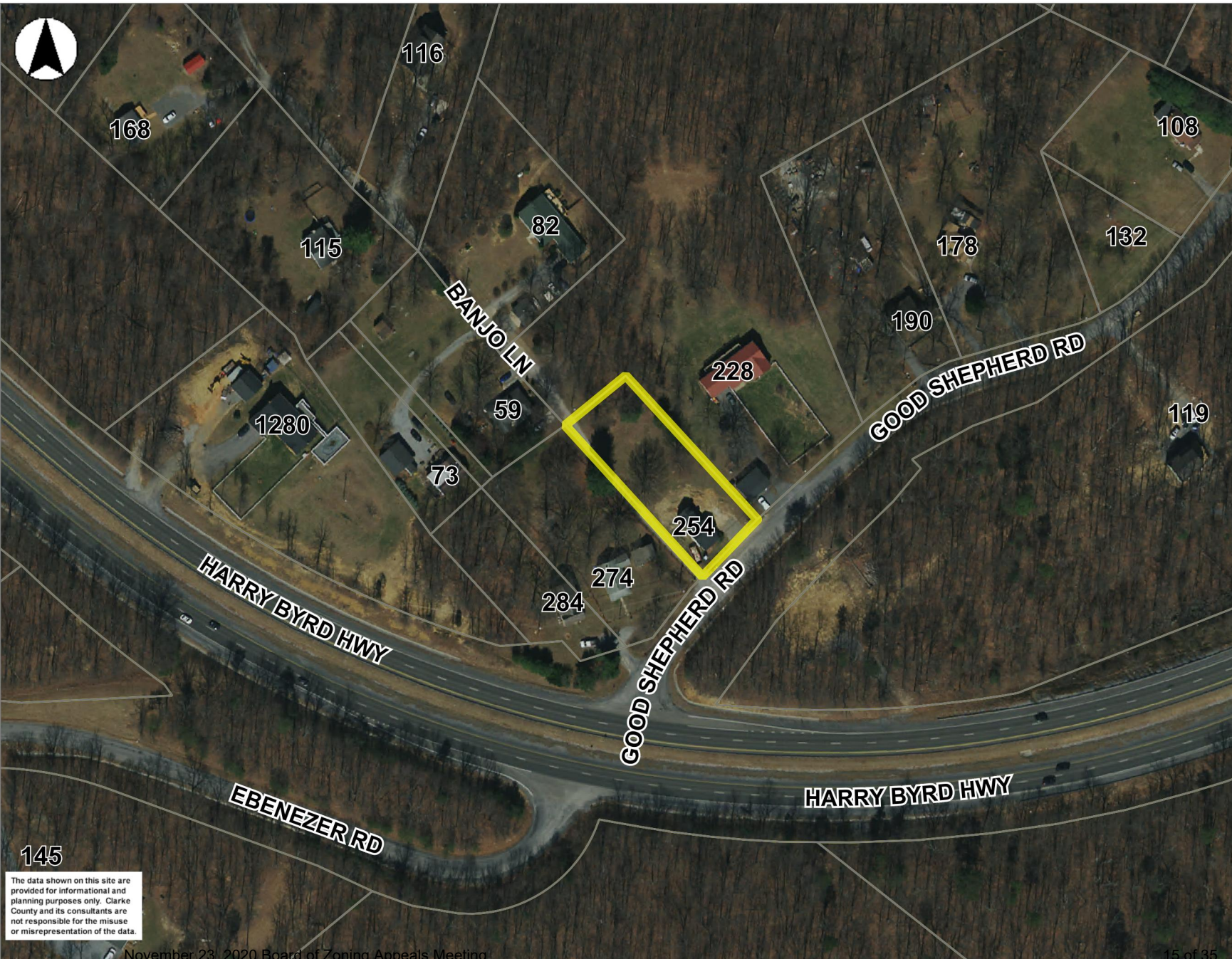
Staff recommends approval of the applicant's request for a 12 foot variance from the 50 foot setback requirement from the centerline of a secondary highway per §3-A-2-c of the Zoning Ordinance. Staff finds that the applicant has demonstrated compliance with the second condition of §7-A-3-e-2 (*that the 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 compliance with all five review criteria set forth in §7-A-3-e-2-(a) through (e) to warrant the granting of the requested variance.

Case History:

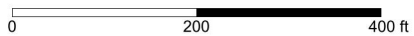
- October 23, 2020 – Variance application and fees received.
- November 23, 2020 – Placed on the Board of Zoning Appeals' agenda and advertised for public hearing (ad dates November 9 and November 16).



- Public
- Points of Interest
- Parcels
- Parcels With Orthos
- Towns
- Clarke County Boundary
- Major Roads
 - Interstate
 - US Highway
 - State Highway
- Surrounding Counties Open
- Surrounding Counties Non



The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.



Caryn D. Breeden
254 Good Shepherd Road
Bluemont, VA 20135

October 20, 2020

RE: Zoning Variance Request for 254 Good Shepherd Road

I am requesting a variance to the setback distance from the centerline of a secondary highway to a structure (required 50 feet for parcels with less than 1 acre) as outlined in the lot regulations for setbacks (4-G-3 of the code) to a 38 foot setback as grandfathered in by the location of my existing home.

I would like to install a carport in order to offer protection from the elements for my vehicle. I am retired and purchasing a vehicle at this age is hoped to last longer than for a younger, still employed, adult.

The reasons for this location are:

- 1) The location is near the entrance of my home.
- 2) My property is only a ½ acre, the back entrance to my home would impact my septic and drain field.
- 3) The location does not require crossing any underground power, water, or utility lines.

As stated above, my home is located on ½ acre which presents challenges for construction of any type of out building on this property. My home was constructed in circa 1950 and does not meet residential structure limitations as outlined in the lot regulations for setbacks. As shown in attached photos, my home currently sits 38 foot back from the centerline of a secondary highway and is constructed 24 foot 7 inches from my well. The lot regulations for setbacks states that a structure is to be 50 foot back from the centerline of a secondary highway and 25 foot from your well. I can meet the 25 foot requirement from the well but requesting approval for a variance of the 50 foot setback from the centerline of a secondary highway. I am requesting a 12 foot variance, which as stated above, is where my home is currently situated on this secondary highway.

As provided by the Clarke County Zoning Ordinance Code Chapter 188, Section 7-A-3-e (2/16/16), Action of Variance Application, I am asking for a variance because the 50-foot setback requirement is not currently being met by my existing home.

Per the code:

- a. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - I purchased this property from Beachmark Construction Inc. on August 21, 2018.
 -

- b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - The carport would be shielded by the neighbor's garage (which sits 38 foot from centerline) and there would be no "substantial" detriment. The carport would be located 21 foot 7 inches from the property line. The lot regulations for setbacks requires setback of 10 feet.
- c. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as amendment to the ordinance;
 - Mine is a unique situation, does not require any amendment to the existing ordinance.
- d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;
 - Installation of a carport is permitted under current zoning.
- e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of {15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of {15.2-2286 at the time of the filing of the variance application;
 - A special exception process or modification of a zoning ordinance is not required.

I have diligently tried to come up with an alternative location on my property and the only one that will work on a lot size of ½ acre is what I am proposing.

I am respectfully requesting the variance.

Thank you in advance for your careful consideration.

Very Sincerely,

Caryn D. Breeden



LAND DEVELOPMENT APPLICATION

Applicant Caryn D. Breeden
Applicant's Address 254 Good Shepherd Rd
Blue mont VA 20135
Applicant's E-Mail Address carbr340@aol.com
Agent (Contact Person) Phone 540-533-1288
Agent's Company
Agent's Address
Current Property Owner
Owner's Address Phone
Correspondence to be sent to: [X] Applicant ___ Owner ___ Agent ___ Other
Tax Map Parcel Number 26B A4 Magisterial District 3
General Project Location Site size (gross/net acreage) 1/2 acre

Check Appropriate Request:

- PLANNING COMMISSION
Major Subdivision
Minor Subdivision (1 or 2 lots)
Administrative Subdivision (parcels > 100 acres)
Boundary Line Adjustment
Merger of Parcels
Site Plan
Site Plan Amendment
Erosion & Sediment Plan
Storm Water Plan
Maximum Lot Size Exception

- PLANNING COMMISSION & BOARD of SUPERVISORS
Rezoning
Special Use Permit
Comprehensive Plan Amendment
Zoning Ordinance Text Amendment
Subdivision Ordinance Text Amendment
Other

BOARD OF ZONING APPEALS

- Administrative Appeal
[X] Variance
Special Exception

BOARD OF SEPTIC & WELL APPEALS

- Administrative Appeal
Variance

BERRYVILLE AREA DEVELOPMENT AUTHORITY

- Site Plan
Site Plan Amendment

HISTORIC PRESERVATION COMMISSION

- Certificate of Appropriateness

Complete as applicable:

Name of Subdivision, Development, or Proposal
Proposal/Request
Existing Zoning Proposed Zoning # of Proposed Lots

Applicant: The information provided is accurate to the best of my knowledge. I acknowledge that fees and expenses for professional review of application materials by county consultants shall be reimbursed to the County at cost, including any percolation tests, topographic studies, or other requirements of the Health Official or Zoning Administrator. I understand that the County may deny, approve, or conditionally approve this application. I certify that all property corners have been clearly staked and flagged.

Applicant's Signature Caryn D Breeden Date 10/22/2020

Owner: I have read this completed application, understand its intent, and freely consent to its filing. If this application is for the purpose of subdivision, I understand that further subdivision of this property will not be permitted within twelve months of approval of this action, unless an Exploratory Sketch Plan is submitted with this application. I grant permission to the Planning Department and other authorized government agents to enter the property and make such investigations and test as they deem necessary.

Owner's Signature Caryn D Breeden Date 10/22/2020

Town/County Government Center
101 Chalmers Court
Berryville, VA 22611

www.clarkecounty.gov
voice 540-955-5132
fax 540-955-5180



26B A 6

59

26B A 13

J3

284

26B A 14

274

BANJO LN

26B A 4

254

26B A 3

228

GOOD SHEPHERD RD

26 A 70

26 A 82



- Public 35
- Points of Interest 19
- Springs
- Sinkholes
- Parcels
- Parcels With Orths
- Towns
- Clarke County Bounds
- Major Roads
- Interstate
- US Highway
- State Highway
- Surrounding Counties

The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.

50 100 ft

Printed on 09/21/2020 at 11:25 AM

Clarke County MapsOnline

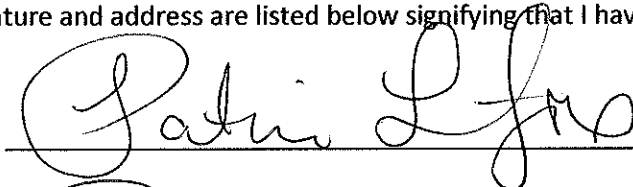
Memorandum for: Clarke County Planning Department

RE: Land Development Application (Variance) for

Caryn D. Breeden – 254 Good Shepherd Road, Bluemont, VA 20135

I have been advised that my neighbor, Caryn D. Breeden, is requesting a variance setback in order for her to construct a carport. Caryn asked if I would be willing to sign this letter regarding her proposed project. My signature and address are listed below signifying that I have no concerns with her proposal.

Signature:



Printed Name:

Patricia L. Fox

Date of signature:

10/20/20

Address:

228 Good Shepherd Rd

Bluemont, VA 20135

Memorandum for: Clarke County Planning Department

RE: Land Development Application (Variance) for

Caryn D. Breeden – 254 Good Shepherd Road, Bluemont, VA 20135

I have been advised that my neighbor, Caryn D. Breeden, is requesting a variance setback in order for her to construct a carport. Caryn asked if I would be willing to sign this letter regarding her proposed project. My signature and address are listed below signifying that I have no concerns with her proposal.

Signature: Gertrude Jewell

Printed Name: Gertrude Jewell

Date of signature: 10-20-2020

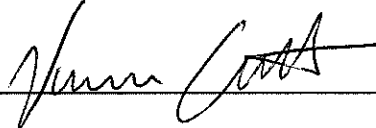
Address: 274 Good Shepherd Rd
Bluemont, VA 20135

Memorandum for: Clarke County Planning Department

RE: Land Development Application (Variance) for

Caryn D. Breeden – 254 Good Shepherd Road, Bluemont, VA 20135

I have been advised that my neighbor, Caryn D. Breeden, is requesting a variance setback in order for her to construct a carport. Caryn asked if I would be willing to sign this letter regarding her proposed project. My signature and address are listed below signifying that I have no concerns with her proposal.

Signature:  VANESSA CORBETT

Printed Name: _____

Date of signature: 10-20-2020

Address: 284 Good Shepherd Rd
Bluemont, VA 20135

Memorandum for: Clarke County Planning Department

RE: Land Development Application (Variance) for

Caryn D. Breeden – 254 Good Shepherd Road, Bluemont, VA 20135

I have been advised that my neighbor, Caryn D. Breeden, is requesting a variance setback in order for her to construct a carport. Caryn asked if I would be willing to sign this letter regarding her proposed project. My signature and address are listed below signifying that I have no concerns with her proposal.

Signature: Warren Sweeney

Printed Name: Warren Sweeney

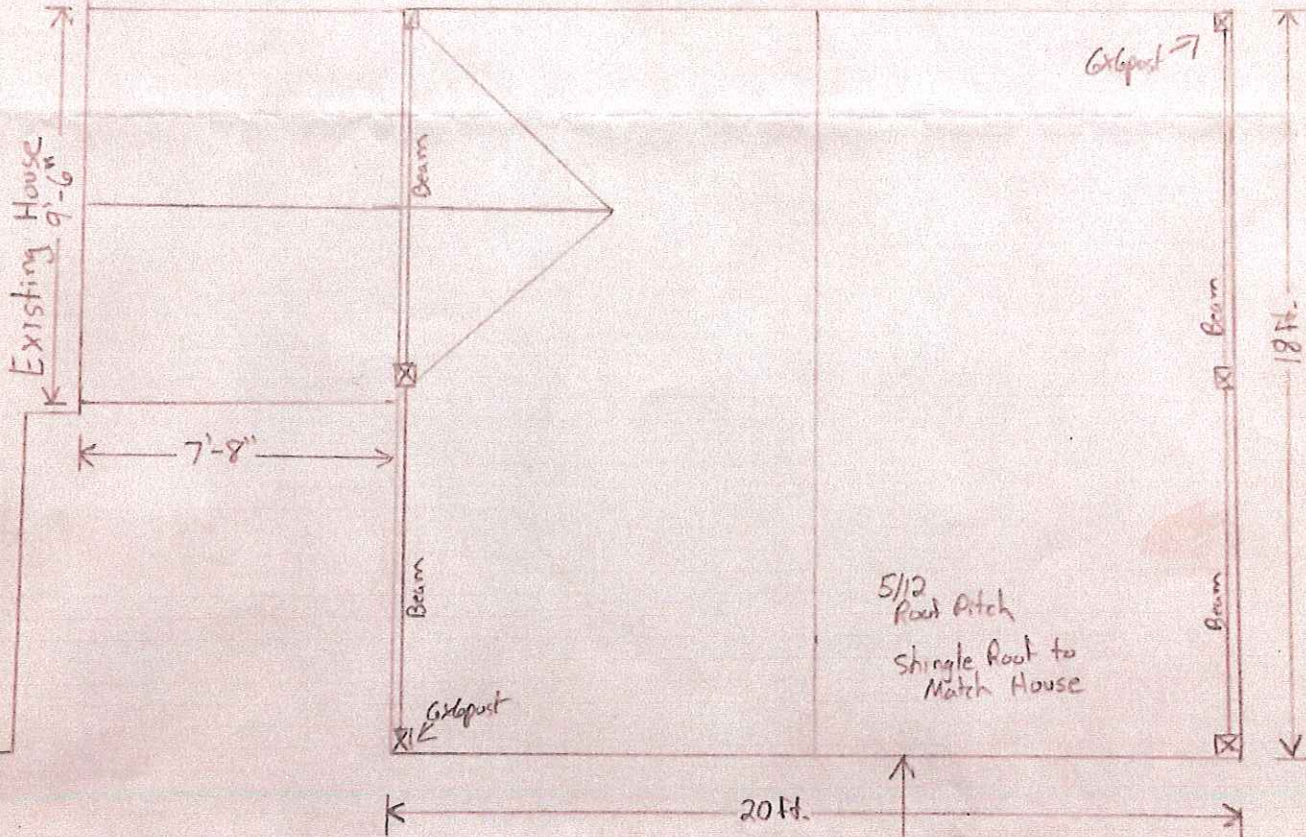
Date of signature: 10-20-2020

Address: 59 Banjo Lane
Bluemont, VA. 20135

Caryn Breeden

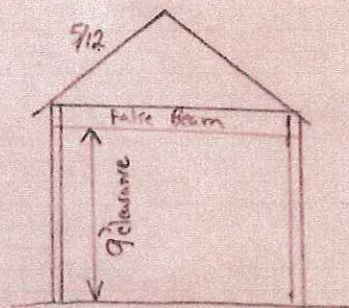
Owell

25 feet



Carport ceiling to be vinyl material
Exterior cornice to be metal wrapped to match house
Vinyl siding in gables to match house

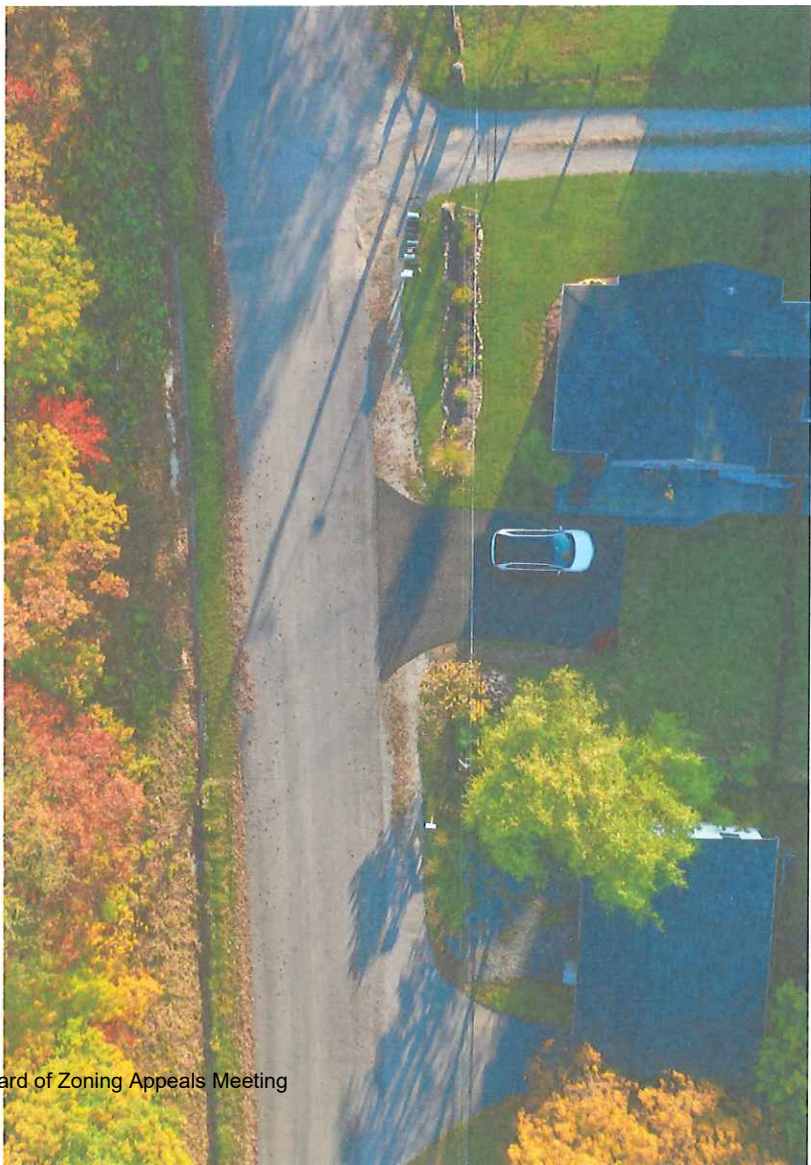
38 feet to
Center of road

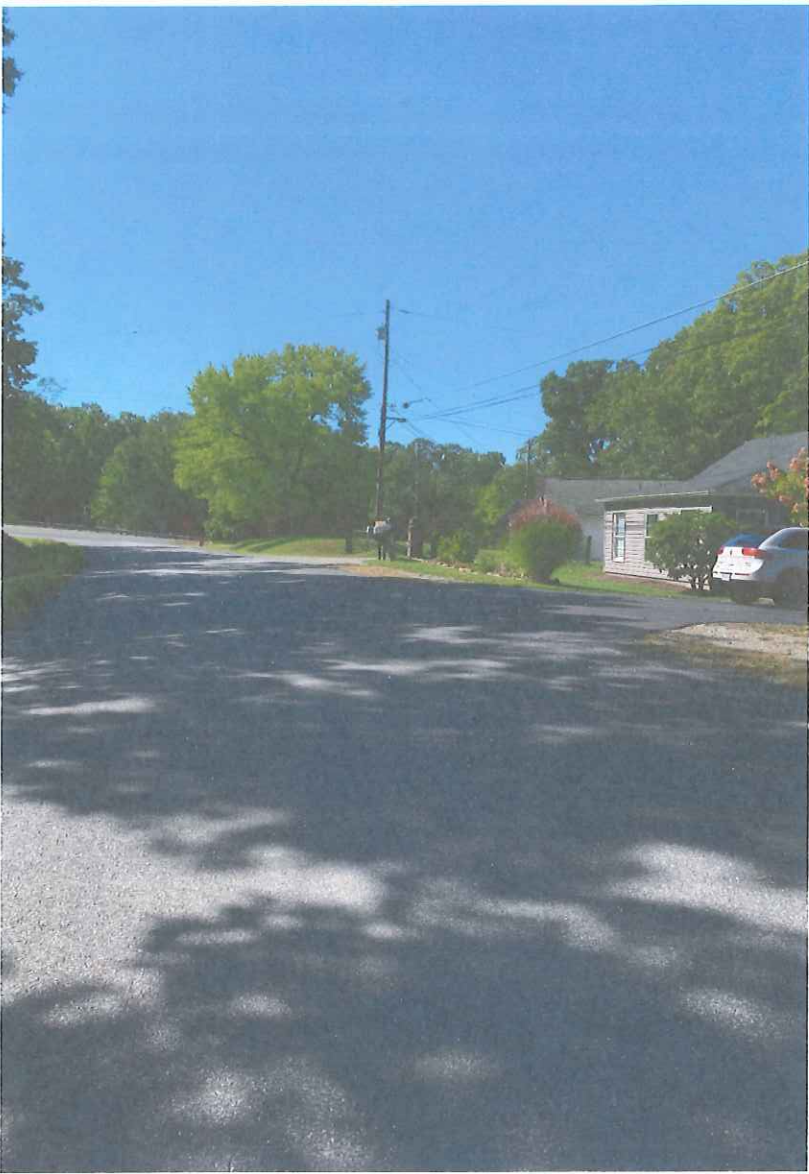


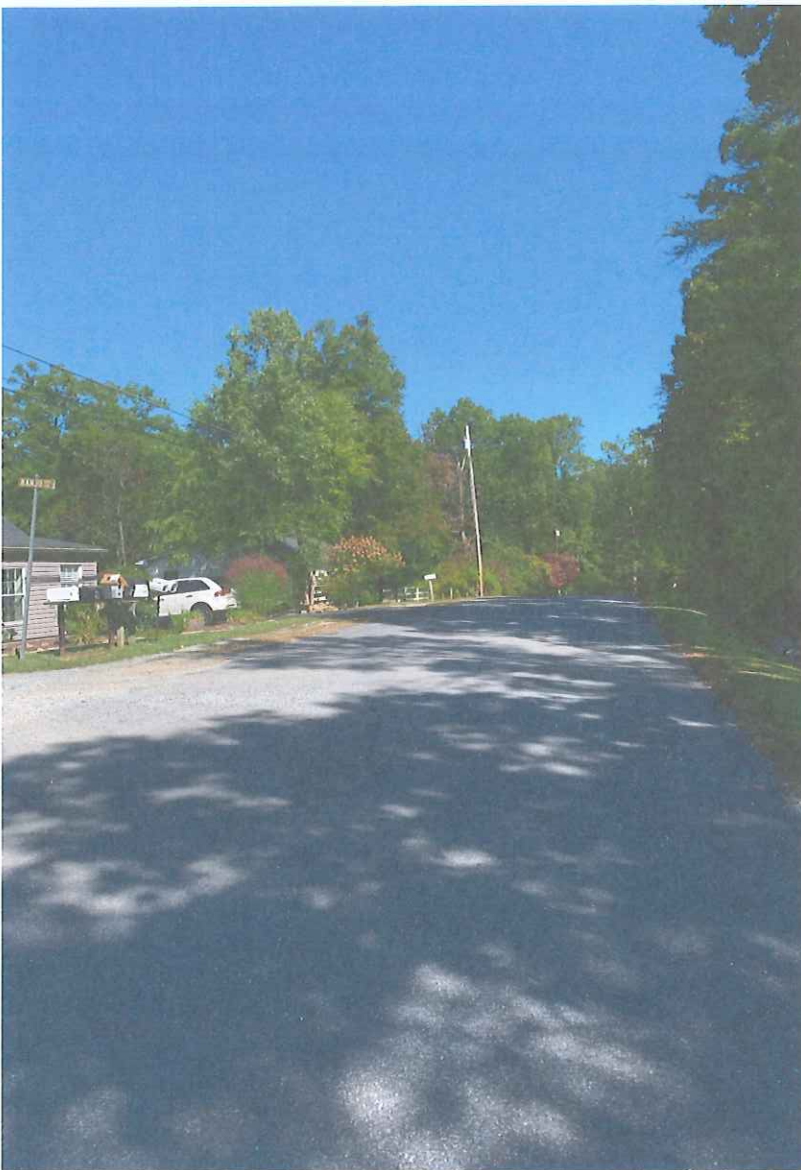


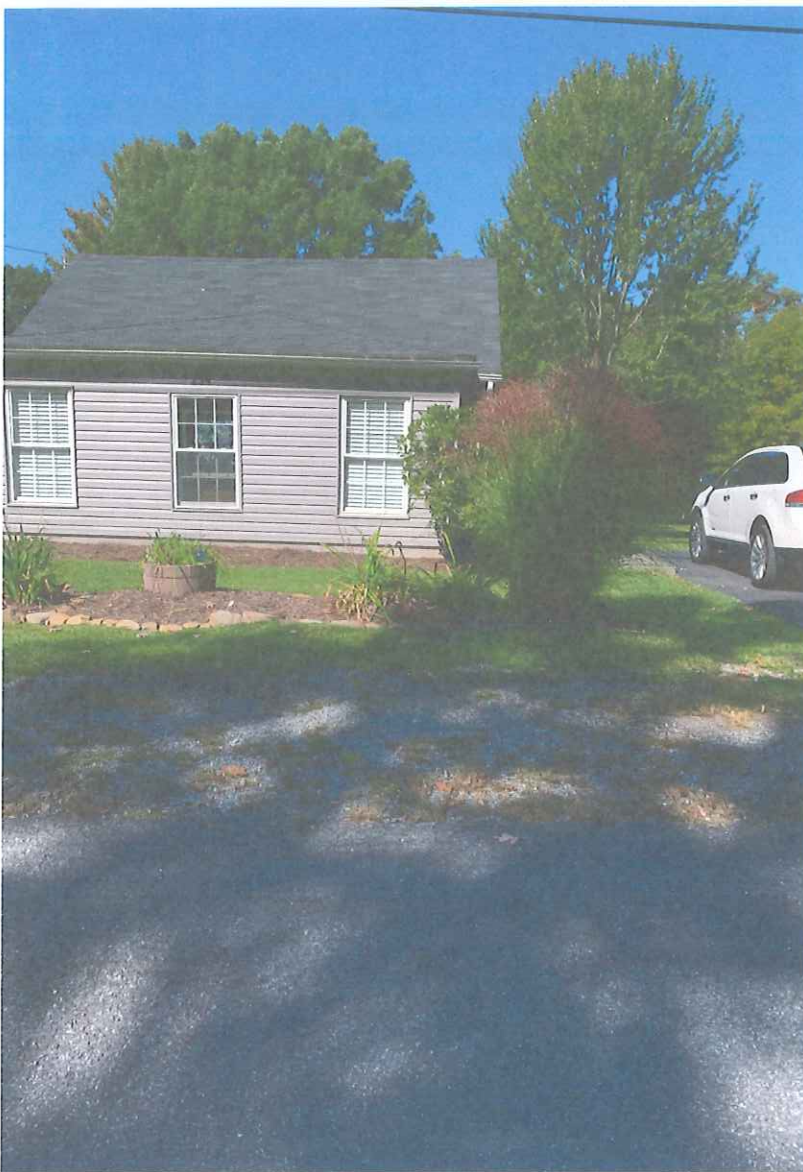










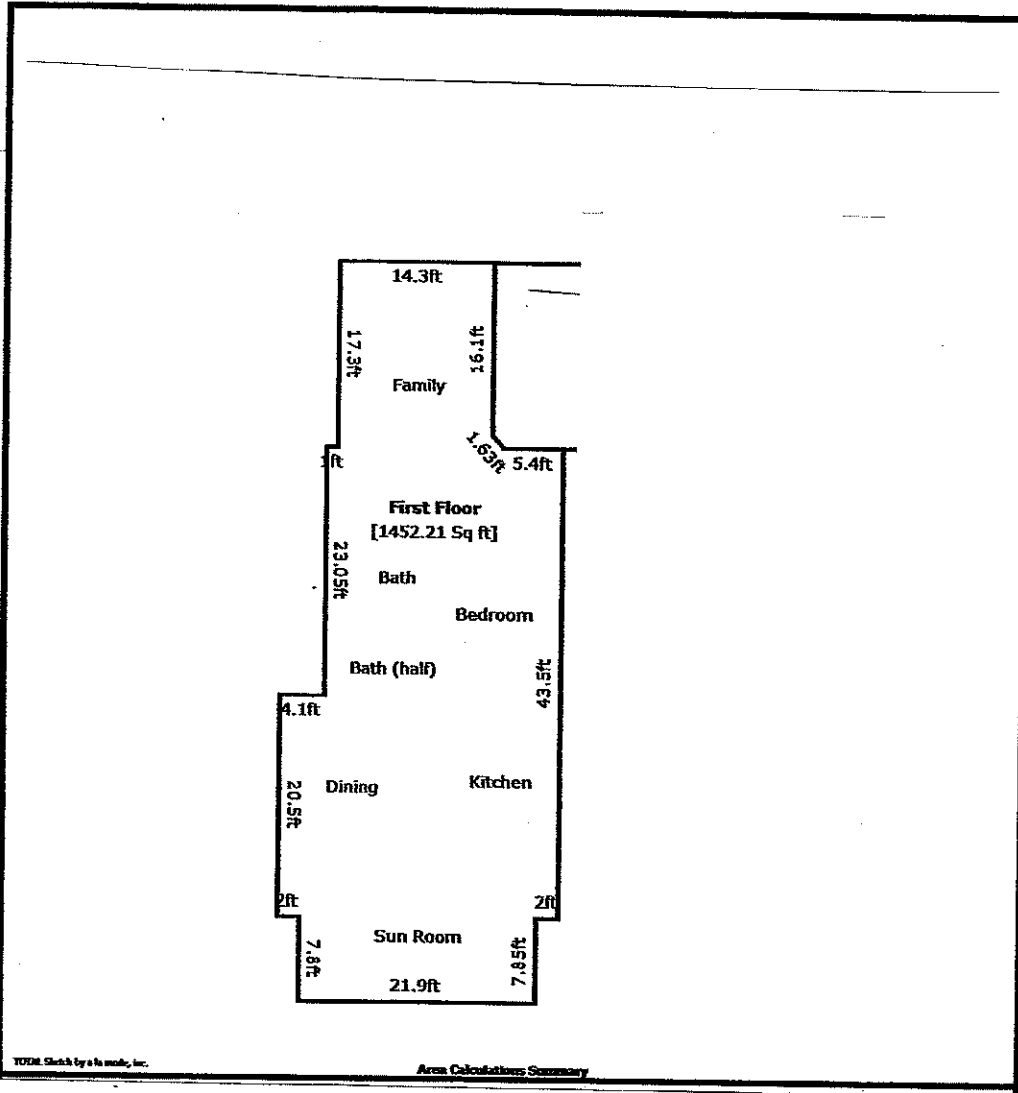






Building Sketch

Borrower	Caryn Breeden		
Property Address	254 Good Shepherd Rd		
City	Bluemont	County	Clarke
Lender/Client	United Wholesale Mortgage	State	VA
		Zip Code	20135





- Public
- Points of Interest
- Springs
- Sinkholes
- Ponds
- Percels With Orth
- Towns
- Clarke County Bo
- Major Roads
- Interstate
- US Highway
- State Highw
- Surrounding Cour

Well identified in (X)
 25' from well
 38' from centerline of secondary hwy



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24' 7" from property line