

NOTICE OF MEETING

AMHERST COUNTY BOARD OF ZONING APPEALS

The Amherst County Board of Zoning Appeals will hold a public hearing on Thursday, April 10, 2014, in the Amherst County Administration Building, 153 Washington Street, Amherst, VA, at 7:00 PM on the following request. Information pertaining to the request is on file and available for public review at the Planning Department in the Amherst County Administration Building weekdays, between 8:30 AM and 5:00 PM. Accommodations for persons with a sight, speaking or hearing disability will be made by this office if notified a minimum of four working days prior to the hearing date. Telephone 434-946-9303.

2014A-01 Request by Corey D. Shrader, for approval of multiple variances from Sections 710.06 (1) and 602.02(2) of the Zoning & Subdivision Ordinance to reduce the setback from the stream setback requirement of seventy-five (75) feet to approximately fifty-nine (59) feet and to expand the existing nonconforming structure by greater than fifty (50) percent of the original nonconforming structure, to allow for the addition of a porch to an existing single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located at 1349 Kenmore Road (Route 643), and is further identified as being tax map parcel number 94-A-16A.



Amherst County
Department of Planning and Zoning
Austin R. Mitchell, Assistant Zoning Administrator/Planner

Variance Review
Staff Report
April 10, 2014

RE: Case #: 2014A-01
Tax Parcel #: 94-A-16A
Magisterial District: Courthouse
Lot Size: 9.06 Acres
Zoning: A-1 Agricultural Residential

Applicant:
Corey D. Shrader
1349 Kenmore Road
Amherst, VA 24521

Property Owner:
Same as Applicant

Request:
Request by Corey D. Shrader, for approval of multiple variances from Sections 710.06 (1) and 602.02(2) of the Zoning & Subdivision Ordinance to reduce the setback from the stream setback requirement of seventy-five (75) feet to approximately fifty-nine (59) feet and to expand the existing nonconforming structure by greater than fifty (50) percent of the original nonconforming structure, to allow for the addition of a porch to an existing single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located at 1349 Kenmore Road (Route 643), and is further identified as being tax map parcel number 94-A-16A.

Summary:

Request by Corey D. Shrader, for approval of multiple variances from Sections 710.06 (1) and 602.02(2) of the Zoning & Subdivision Ordinance to reduce the setback from the stream setback requirement of seventy-five (75) feet to approximately fifty-nine (59) feet and to expand the existing nonconforming structure by greater than fifty (50) percent of the original nonconforming structure, to allow for the addition of a porch to an existing single-family dwelling. The request

is referenced by a drawing submitted by the applicant. The property is located at 1349 Kenmore Road (Route 643), and is further identified as being tax map parcel number 94-A-16A.

If the request is approved by the Board of Zoning Appeals, the applicant/property owner must receive a zoning permit and a building permit that is in accordance with the Building Code, including flood proofing requirements.

Staff Comment(s):

According to the homeowner, the original dwelling was erected as a log cabin in the 1880s. This structure predates the existence of zoning in Amherst County and is considered a legal non-conforming structure (grandfathered). The structure does not meet the setback requirements as prescribed in Sections 710.06 (1) Zoning Ordinance. The proposed porch falls within the setback required from the stream. Additionally, section 601.02 (2) states: "*a nonconforming structure may be enlarged or altered as necessary, provided such enlargement(s) or alteration(s) do not exceed a cumulative fifty (50) percent of the floor area of the original non-conforming structure, and provided all yard requirements herein are met*". The proposed porch will be a total of 96 square feet. This addition and previously approved additions together exceed fifty (50) percent of the original structure.

The dwelling is located partially within the Flood Hazard Overlay District (Flood Zone A). Typically, a special exception is required to permit a single-family dwelling within this district; however this structure as previously mentioned is a legal-non conforming structure. Section 709.10 of the Zoning Ordinance regulates "*Existing structures in flood districts*". The expansion of a porch must be in compliance with the regulations found within the Building Code dealing with structures (porch) in floodplains.

Procedure for Review:

Under §15.2-2309 of the Code of Virginia, 1950, as amended, and Sec. 1402.03 (b.) of the County Code, no variance shall be authorized by the Board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship.

The property is occupied with a single-family dwelling that is a permitted use within the A-1 Agricultural Residential District. The lot area of this property does meet the minimum requirements in Section 801. The owner would like to construct a front porch that is approximately 6' x 16' which is a total of 96 square feet. The front porch will encroach within the 75' stream setback. Currently, the dwelling is a legal non-conforming structure. According to the applicant, the entrance to the original dwelling built in the 1880s is currently approximately three (3) feet above finished grade and access must be constructed at the entrance which is within the stream setback.

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

According to the Amherst County Geographical Information System, three other dwellings appear to be within seventy-five (75) feet of this stream (Huff Creek) and two of these dwellings appear to also be within the Flood Hazard Overlay District.

- c. That the authorization of the 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.

According to the applicant, the porch will not encroach any further towards the stream than the current structure. The applicant also states that front porches are common on log cabins built in that time period and that the porch will enhance the character of the dwelling. Staff believes that the granting of the variance request will not change the character of the district since the original structure of the dwelling has been located on the property since the 1880s, and the proposed porch will not be of a substantial detriment to adjacent properties as the nearest dwelling is approximately 1,300 feet away and the cabin is only visible from Kenmore Road.

Additional Considerations:

It is important to note, that § 15.2-2309 of the Code of Virginia, 1950, as amended, also declares that the requesting property owner must have “*acquired the property in good faith*”;

The original existing cabin was built in the 1880s prior to zoning in Amherst County. The current owner acquired the property on March 7, 2011 (according to the Commissioner of the Revenue). On January 31, 2011 a zoning permit was approved to allow for the renovation of the cabin and on July 12, 2012 a zoning permit was approved for an addition to the cabin outside of the stream setback. Since the proposed dwelling/property does not contain an outstanding violation and the variance request is not for an existing structure in violation, the property must be considered to have been acquired in good faith. (Per *Zoning Law for the Virginia Zoning Official*; Zoning Officials Certification Test Preparation Program; written by Greg Kamptner, Deputy County Attorney, County of Albemarle; July 29, 2010)

And that the hardship must be caused by “*reason of the exceptional narrowness, shallowness, size or shape*” of the parcel (including topographic conditions).

A majority of the buildable portions of the property lie within the floodplain and the seventy-five (75) foot stream setback; the overwhelming proportion of the property is wooded and topographically steep. The flattest portion of the property is where the existing dwelling is located. In addition, the front door of

the existing original cabin is three (3) feet above grade resulting in the need for constructing a means of access.

In addition, no variance shall be authorized unless the board finds that 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 general regulation to be adopted as an amendment to the ordinance.

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 guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:

1. All construction must be flood proofed in accordance with the Building Code.
2. The variance is granted for Tax Map Parcel No. 94 – A – 16A to reduce the seventy-five (75) foot setback to approximately fifty-nine (59) feet and to expand the existing nonconforming structure by greater than fifty (50) percent of the original nonconforming structure, to allow for the addition of a porch to an existing single-family dwelling.
3. The proposed porch shall be in general compliance with the submitted plot plan.
4. The granting of this variance shall not be construed to vest in the applicant a right to the variance until all necessary local, State and Federal plan application, review and approval processes have been completed.
5. This approval may be revoked by the County of Amherst or its designated agent for failure by the applicant or its assigns to comply with any of the listed conditions or any provision of Federal, State or local regulations.

Attached:

Notice to Adjacent Property Owners

Tax Parcel Map

Plat

Site Sketch

Variance Request Application



APPLICATION FOR VARIANCE/
MAP INTERPRETATION/APPEAL
Amherst County, Virginia

Pol clu
1091

The undersigned applicant wishes to petition Amherst County Board of Zoning Appeals for a Variance/Map Interpretation/Appeal. Please refer to Section 1006 and 1402 of the zoning ordinance regarding the proper procedure. Please call the Department of Planning and Zoning at 434-946-9303 if you have any questions regarding the County Board of Zoning Appeals duties.

Applicant / Property Owner Information

Corey Shrader

Applicant Name

1349 Kenmore Amherst VA

Applicant Address

City/Town

State

Zip Code

434 942 4305

Applicant phone number

Applicant fax number

ShraderStone@gmail.com

Applicant E-Mail

You are the ☒ property owner; () agent for the property owner.

If you are the agent for the property owner, do you have consent of the owner attached? Please circle one: Yes/No

Property Owner Name

Property Owner Mailing Address

City/Town

State

Zip Code

Property owner telephone number

Property owner fax number

Property owner E-Mail

Location of Property

1349 Kenmore

Street Address

94-17-16A

Tax parcel ID number

General Description of Property

1880's hand hewn chestnut (American) Cabin,
peaceful creek-side setting

When and how did you acquire the property?

2011, Purchase

Current Use(s) of Property

home

Proposed Use(s) of Property

home

Total Acreage: 9.06

Check all categories that apply:

Public water _____ Private wells _____
Public sewer _____ On-site septic systems _____ Mass drainfield(s) _____

Current Zoning:

(Please circle all that apply)

P-1 A-1 R-1 R-2 R-3 V-1 B-2 M-1 FH WS
130 Overlay District Other _____

Request for variance in order to: Construct a porch on existing dwelling

Fill in only the line(s) that apply to your request	Code Section	Applicant has	Code requires	Variance requested
Total area:				
Lot width:				
Front yard setback:				
Side yard setback:				
Rear yard setback:				
Public street frontage:				
Other (write in):	710.06	59'	75'	16'

Other: Nonconforming 601.02.2 83.3% expansion of original no expansion over 50% of original 33.3% expansion of original CS

Section 15.2-2309 of the Code of Virginia requires the Board of Zoning Appeals to make the following findings before a variance can be granted. Please read the factors listed below carefully and in your own words, describe how your request meets each factor. If additional space is needed, use an additional sheet of paper. Justification shall be based on the following three (3) criteria:

1. That the strict application of this ordinance would produce undue hardship.

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

3. 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.

Has the BZA heard a request for this property within twelve (12) months of the date of this application? Yes/ No

Proffers and Conditions

List any proffers or conditions currently associated with this property.

Application fee and other requirements

A \$300.00 application fee must be paid to the County of Amherst upon submission of this application for the cost of advertising and for expenses of notifying the adjacent property owners and incidental to reviewing, publishing, and processing the application (Section 1009, Administrative Fee Structure).

A survey plat of the property by a certified land surveyor must accompany this application. The scale should be 1"=100'.

Signatures

The undersigned Applicant hereby affirms that all information contained herein is accurate to the best of his/her knowledge and confirms that he/she has read the Application and its Instructions and has paid all fees currently due and is aware of costs which may be assessed to Applicant related to this Application process. The undersigned Applicant (and Landowner, if applicable) also authorizes entry onto the subject property by the Zoning Administrator, Planning Director and/or PC or BZA during the normal discharge of their duties regarding the above Applicant.

 3/12/14

Property Owner Signature

Date

Property Owner Signature

Date

Agent Signature

Date

Agent Signature

Date

*****DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY*****

For use by the County of Amherst Department of Planning and Zoning

Case No. 2014A-01

Actions Taken:

S. Surnett

County Official Receiving Application

S. Surnett

Public Hearing fee received by

Application returned for correction/additional information

Amended application received by

Public Hearing advertised in

S. Surnett

Adjacent property owner(s) notified by mail

Action by Planning Commission (if applicable)

Action by Board of Zoning Appeals

3-13-14

Date

3-13-14

Date

Date

Date

Date(s)

3/24/14

Date

Date

Date

Addendum to Application for Variance

Amherst County, Virginia

- 1) Due to the elevation of the dwelling's entrance approximately 3 ft above finished grade, some type of access must be constructed to access the home. There was no zoning in Amherst County at the time the structure was built in the 1880's, therefore the structure's placement within 75 ft of the flood plain line was not considered. When I purchased the property, the logs were constructed with door and window openings and since the entire structure is within the flood plain, moving the entrance would still not have avoided the ordinance.
- 2) The porch I am requesting does not encroach any further toward the creek than any other part of the structure. In other words, the porch will not move beyond the existing structure's current distance to the creek.
- 3) A front porch is in line with the general appearance and value of the cabin, as front porches are a consistent feature among 19th and 20th century log cabins throughout Virginia and Amherst County. I believe this porch will enhance the general character of the home, and is fitting of this historical building in our beautiful county.

Submitted by Corey Shrader

LEGAL REFERENCE:
Deed Bk. 336 Page 254

Existing Sewage Disposal System
Land & Log Cabin Site
SURVEY PLAT
FIELD WORKS Project AM0719

AREA: 9.06 ACRES
I.F. — Iron found
I.S. — Iron set



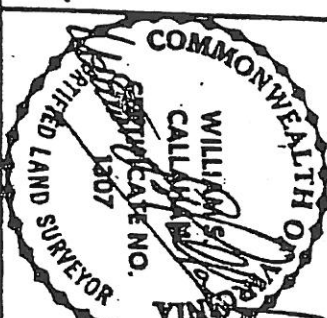
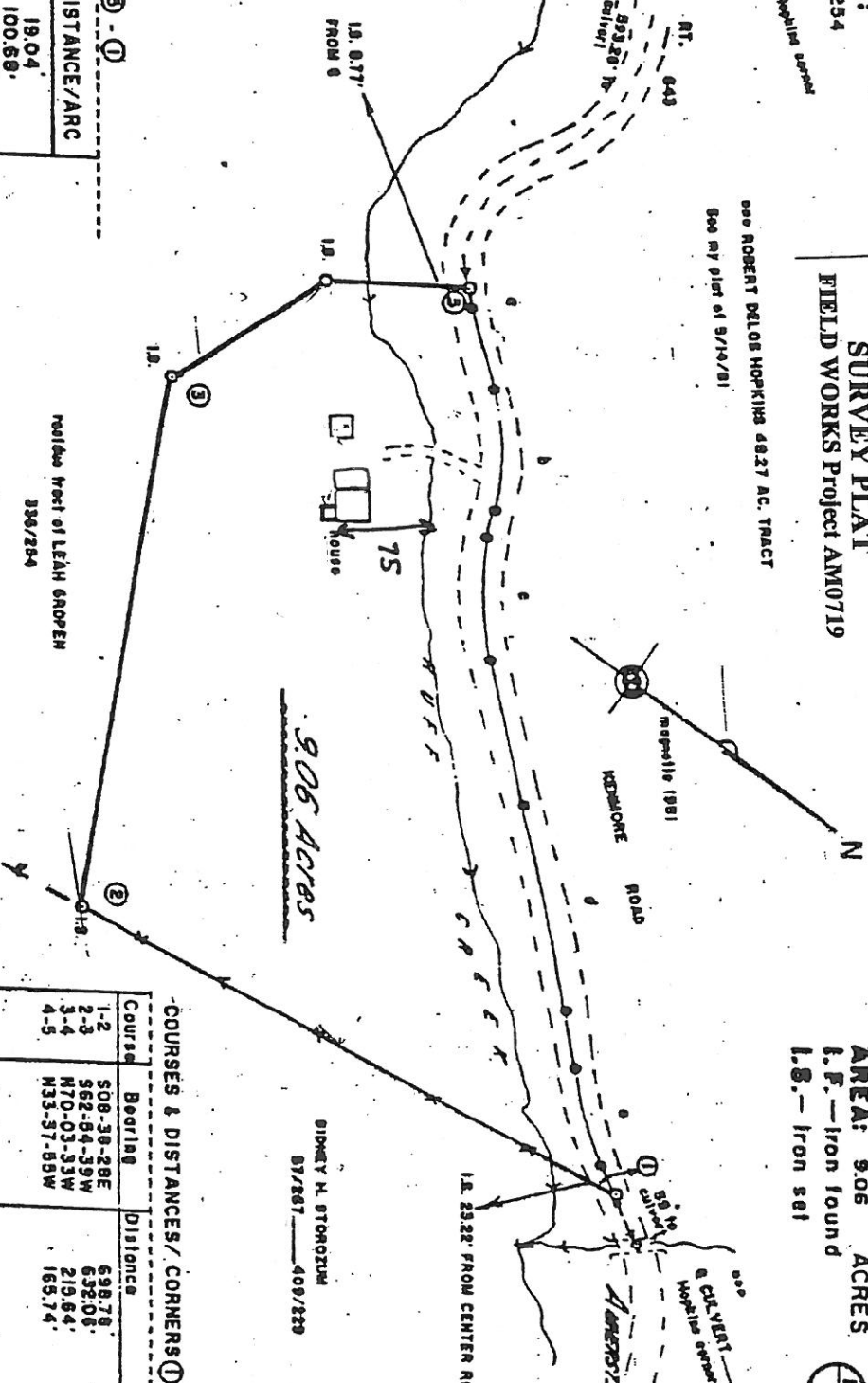
Curves and Distances from ⑤ - ①	
CURVE BEARING/RADIUS	DISTANCE/ARC
A - 149.48'	19.04'
B - M39.04E'	100.69'
C - M56.01E'	141.24'
D - M39.96E'	32.63'
E - M44.46E'	146.14'
	174.13'
	246.41'
	58.06'
	119.69'
	37.27'

— BOUNDARY SURVEY FOR —

SEVERE AMBROS

OWNER: Leah Gropan
SCALE: One inch = 200 Feet

COURTHOUSE MAGIST. DISTRICT
AMHERST COUNTY, VIRGINIA



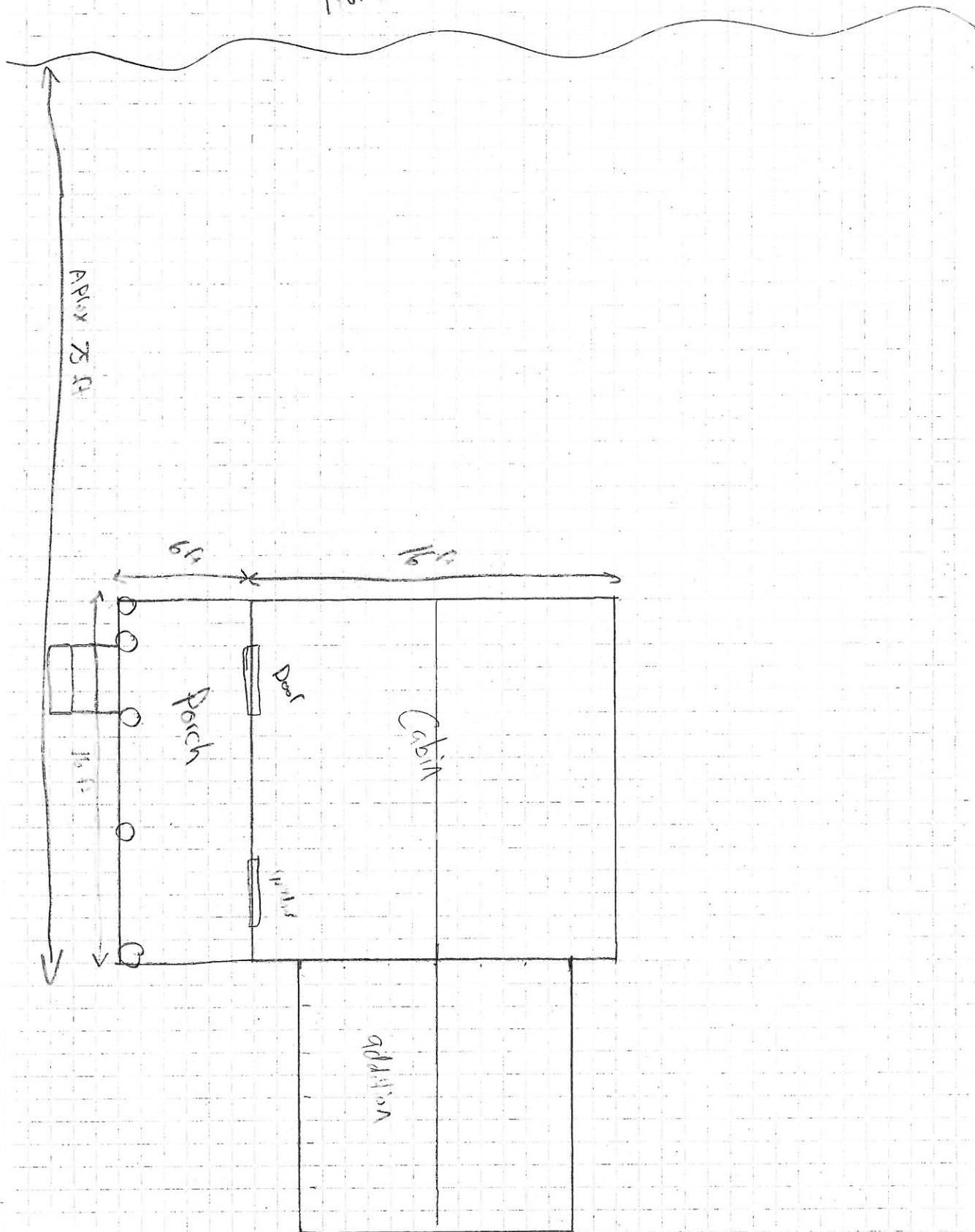
THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES OR EASEMENTS ON THE PROPERTY.

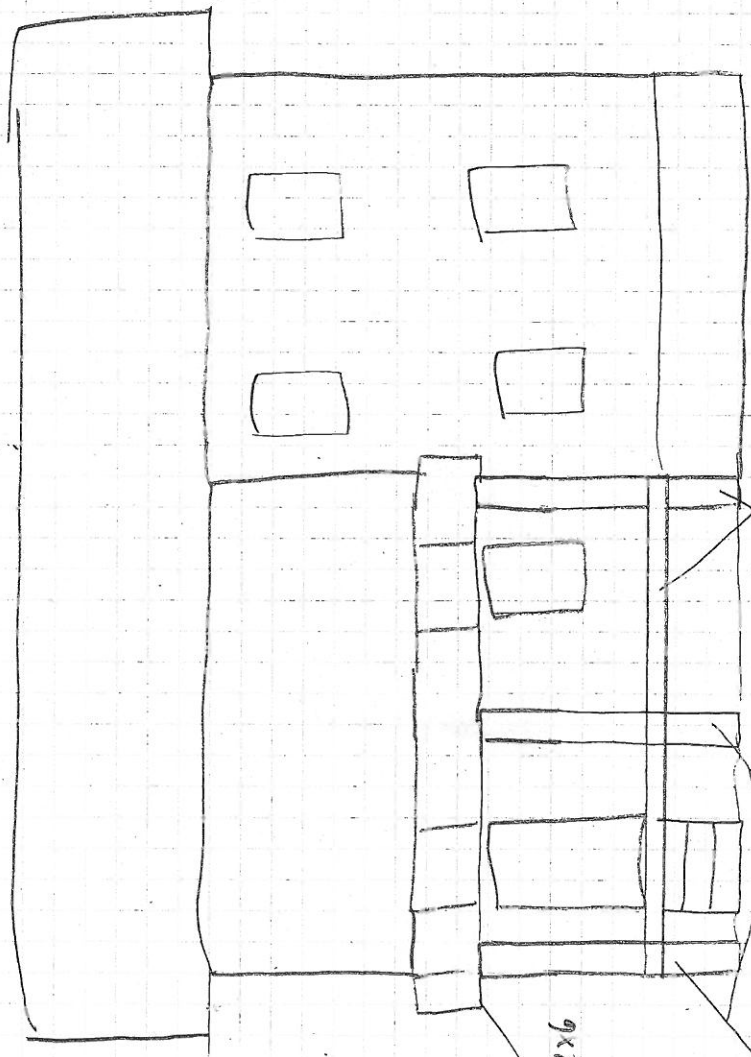
COURSES & DISTANCES / CORNERS ① - ⑤		
Course	Bearing	Distance
1-2	S08-38-28E	638.78'
2-3	S62-54-39W	632.06'
3-4	N70-03-33W	219.64'
4-5	N33-37-55W	165.74'

CERTIFICATION —
I CERTIFY THAT THIS PLAT WAS MADE FROM AN ACTUAL FIELD SURVEY AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF
WITNESS MY HAND AND SEAL THIS 11th DAY OF July A.D. 1982

William S. Callahan
William S. Callahan, C.L.S.
CERTIFIED LAND SURVEYOR-54-17-34/307
ROUTE 2, BOX 199-B
MADISON HEIGHTS, VIRGINIA 24572

Huff Creek



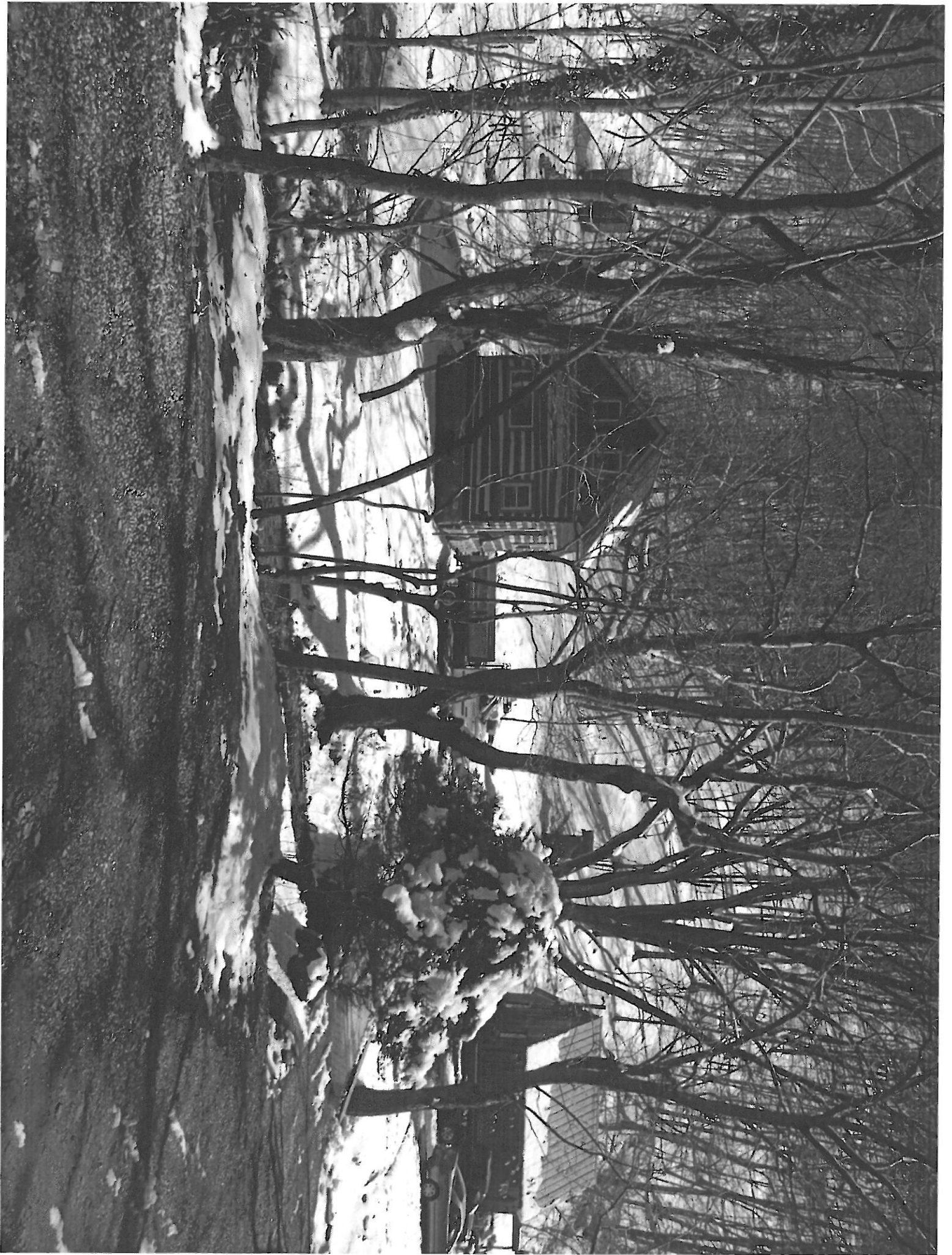


420 8444

Rough cut 2x8 and Joist
Rough cut 1x8 and Decking

Rough cut 2x6
Cedar Joist

Black
Locust
Supports





ZONING PUBLIC NOTIFICATION

Case: 2014A-01

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: April 10, 2014 - Board of Zoning Appeals

Applicant: Corey Shrader
1349 Kenmore Rd
Amherst, VA 24521

Property Owner
Corey Shrader
1349 Kenmore Rd
Amherst, VA 24521

Tax Map Number: 94-A-16A

Adjoining Property Owners:

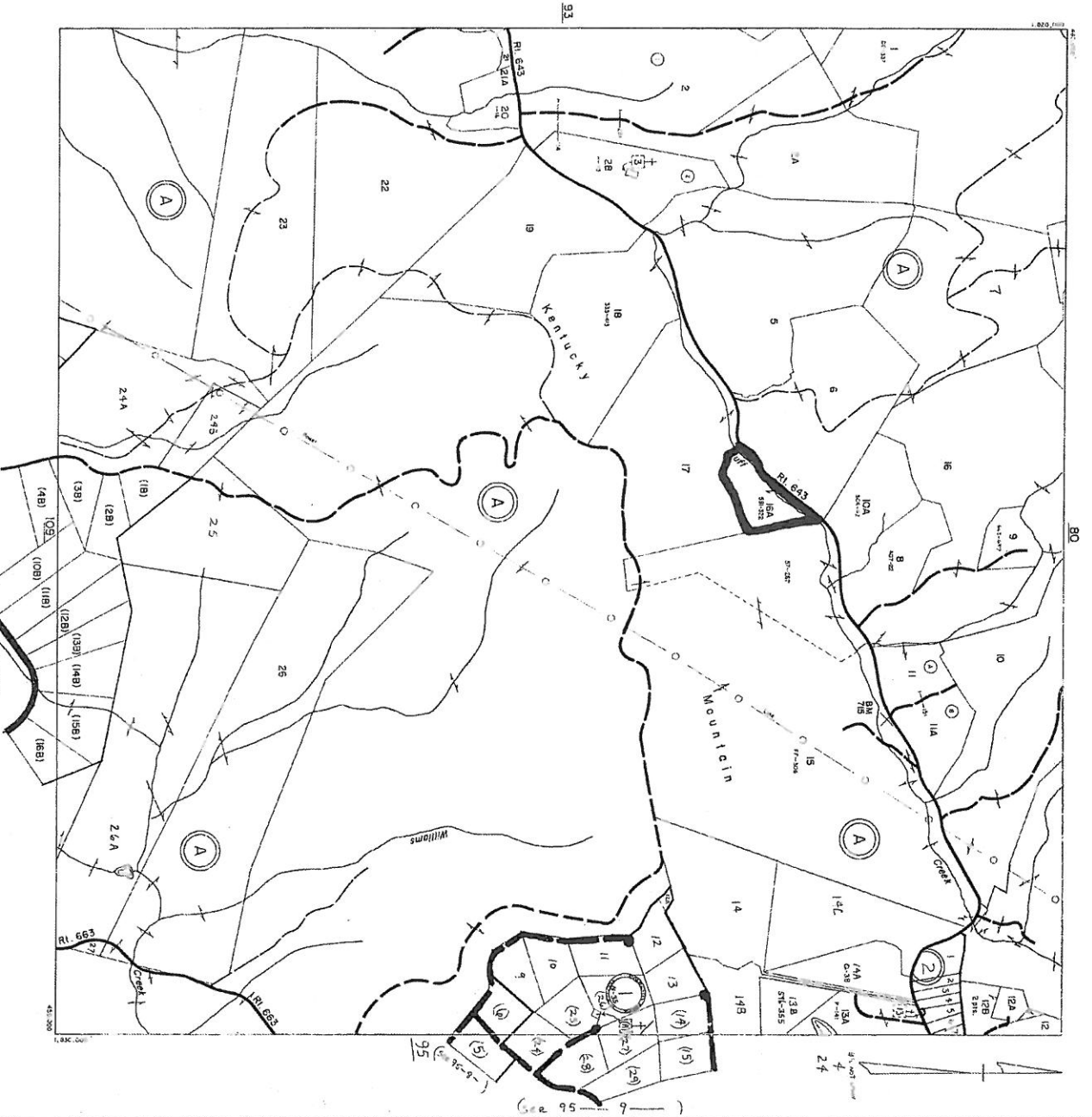
Tax Map # 94-A-17	Tax Map # 94-A-15	
Leah Sarah Gropen	Marion & James Jr McDearmon &	
C/O Paula Biles	Virginia McDearmon Ellis	
6828 26th St W.	POB 262	
Bradenton, FL 34207	Amherst, VA 24521	
Tax Map # 94-A-6		
Robert Delos Hopkins		
138 W. Bethel Dr		
Madison Heights, VA 24572		
Tax Map # 94-A-10A		
Arthur W. Jr & Lynn Cunningham		
1240 Kenmore Rd		
Amherst, VA 24521		

I hereby make affidavit that the notices of public hearing for this case as required by Section 15.2-2204 of the Code of Virginia, 1950, as amending, have been sent by first class mail to the last known address of the owners of abutting property as shown on the current real estate tax assessment books.

Stacey Stinnett (Signature)
Stacey Stinnett

Administrative Assistant (Title)
March 24, 2014 (Date)

AMHERST COUNTY



SECTION 94

COURT-HOUSE DISTRICT

REVISED: 1.3.78