

Notice of Public Hearing of the Amherst County Board of Zoning Appeals

The Amherst County Board of Zoning Appeals will conduct a public on Thursday, November 13, 2014, at 7:00 P.M., or as soon thereafter as may be heard, in the Amherst County Administration Building, 153 Washington Street, Amherst, Virginia, 24521, on the following request.

2014A-04 Request by Roland N. Bussard for approval of multiple variance(s) from Section 804 of the Amherst County Zoning Ordinance. The requested variance(s) will reduce the 200 foot setback from public land owned by the United States Government and managed by the U.S. Forest Service. The proposed dwelling will be 84 feet from the northern property boundary; 109 feet from the eastern property boundary; 111 feet from the southern property boundary; and 104 feet from the western property boundary. The request is referenced by a drawing submitted by the applicant. The property is zoned A-1 Agricultural Residential District and is located on a forest service road that has access to Slapp Creek Road (SR 636) and is further identified as tax map number 33-A-2.

Information pertaining to this request is available for review Monday through Friday from 8:30 A.M. to 5:00 P.M. in the Office of the County Administrator at the above address.

Accommodations for disabled persons may be made with the Office of the County Administrator by calling 434-946-9400 or (TTD) 434-946-9335 at least three (3) days prior to the hearing date.

Dean C. Rodgers
Amherst County Administrator



Amherst County
Department of Planning and Zoning
Jeremy S. Bryant, Director of Planning and Zoning

Variance Review
Staff Report
November 13, 2014

RE: Case #: 2014A-04
Tax Parcel #: 33-A-2
Magisterial District: Pedlar
Lot Size: 1.316 Acres
Zoning: A-1 Agricultural Residential District

Applicant:
Roland N. Bussard
414 Buck Hill Road
Natural Bridge Station, VA 24579

Property Owner:
Same as Applicant

Request: 2014A-04 Request by Roland N. Bussard for approval of multiple variance(s) from Section 804 of the Amherst County Zoning Ordinance. The requested variance(s) will reduce the 200 foot setback from public land owned by the United States Government and managed by the U.S. Forest Service. The proposed dwelling will be 84 feet from the northern property boundary; 109 feet from the eastern property boundary; 111 feet from the southern property boundary; and 104 feet from the western property boundary. The request is referenced by a drawing submitted by the applicant. The property is zoned A-1 Agricultural Residential District and is located on a forest service road that has access to Slapp Creek Road (SR 636) and is further identified as tax map number 33-A-2.

Summary:

Roland N. Bussard has requested approval of multiple variance(s) from Section 804 of the Amherst County Zoning Ordinance. The requested variance(s) will reduce the 200 foot setback from public land owned by the United States Government and managed by the U.S. Forest

Service. The proposed dwelling will be 84 feet from the northern property boundary; 109 feet from the eastern property boundary; 111 feet from the southern property boundary; and 104 feet from the western property boundary. The request is referenced by a drawing submitted by the applicant. The property is zoned A-1 Agricultural Residential District and is located on a forest service road that has access to Slapp Creek Road (SR 636) and is further identified as tax map number 33-A-2.

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.

Staff Comment(s):

According to a survey submitted by the applicant, the parcel is surrounded by the George Washington National Forest (GWNF) on three sides. The northern, eastern and western boundaries all border the GWNF, whereas the southern boundary is adjacent to private property. According to the Commissioner of the Revenue an existing manufactured dwelling was on the property but has since been removed. The parcel is zoned A-1 Agricultural Residential District. When a parcel is adjacent to the GWNF, the County requires that all structures shall be placed at a distance that is a minimum of two hundred (200) feet from the forest property. The setback requirement in the A-1 District on the southern boundary is fifty (50) feet as the property is greater than 10 acres in total size. The collective setback requirements that surround this property prohibit the applicant from building on his property; therefore a variance from the regulations is sought by the applicant.

The applicant wishes to build an approximately 24' X 32' dwelling on the parcel of land. The proposed dwelling is referenced on a plot plan that was submitted, which indicates that the structure would meet setbacks from the A-1 Agricultural Residential District. However, the dwelling cannot meet the requirements of two hundred (200) feet from the GWNF. The variance is requested to reduce the setback from the GWNF while meeting the required setbacks in the A-1 Agricultural Residential District.

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.

Currently, the property is vacant and borders the George Washington National Forest (GWNF) on three sides. The property is zoned A-1 Agricultural Residential District, and the applicable setbacks in that district will be met. The required setbacks from the GWNF of two hundred (200) feet cannot be met due to the narrowness of the lot in relation to the setbacks from the GWNF. The said setback is so great that the requirement does not allow the applicant to build in any single location on the lot.

“The threshold question for the BZA in considering an application for a variance...is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with “all reasonable beneficial uses of the property, taken as a whole.” If the answer is in the negative, the BZA has no authority to go further.”

Cochran, 267 Va. At 767, 594 S.E.2d at 578.

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

Approximately eighteen (18) percent of the County’s total land area is located within the George Washington National Forest; therefore the two-hundred (200) foot setback could affect a number of parcels, most of which are also zoned A-1 Agricultural Residential District. The GWNF is located in the western geographic portions of the County and is observed as a very rural and sparsely populated area of the County.

Slapp Creek Road (SR 636) contains a few parcels with existing dwellings that also appear to be within the two hundred (200) foot setback according to the Amherst County GIS. There also appear to be vacant parcels that border the GWNF that could request a similar type variance in the future.

- 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.

The authorization of the variance should not be of a substantial detriment to the adjacent property because the applicant intends to meet the setback requirements prescribed in the A-1 Agricultural Residential District. Additionally, the parcel is surrounded by the George Washington National Forest on three sides and the side bordered by private property is vacant.

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 property was acquired by the applicant on March 26, 2013. A manufactured home was on the property that the owner removed. This structure would have likely been deemed a legal non-conforming structure (grandfathered) due to its apparent age. The applicant was unaware that the structure was a non-conforming structure. According to the applicant, he stated that he was unaware of the setback requirement from the GWNF. (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).

This property gently slopes towards the forest road which begins at the end of State maintenance of Slapp Creek Road (SR 636).

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. The variance is granted for Tax Map Parcel No. 33-A-2 to reduce the 200 foot setback from public land owned by the United States Government and managed by the U.S. Forest Service. The proposed dwelling will be 84 feet from the northern property boundary; 109 feet from the eastern property boundary; 111 feet from the southern property boundary; and 104 feet from the western property boundary.
2. 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.
3. 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

Site Sketch

Variance Request Application



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

pd ck
2014A-04

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

ROLAND W. BUSSARD
Applicant Name
414-BUCKHILL RD NATURAL BRIDGE STA VA 24579
Applicant Address City/Town State Zip Code
540-291-1878
Applicant phone number Applicant fax number 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

Same
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

1582 SLAPP CREEK ROAD AMHERST VA
Street Address Tax parcel ID number

General Description of Property

open & wooded - very rural

When and how did you acquire the property?

MARCH-26-2013

Current Use(s) of Property

Not Used

Proposed Use(s) of Property

1 Bed Room Cabin

Total Acreage: 1.316

Check all categories that apply:

Public water _____ Private wells _____

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

~~*~~ No water or sewer proposed

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: 1 bedroom cabin (used as a
get away cabin for owner)

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):				

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.

The George Washington National Forest is on three sides of the property. The County maintains a 200' setback from the GWNF. This restriction prohibits the property from construction of any type of structure. R.V.B.

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

The parcel is 1.316 acres in size and is zoned A-1 Agricultural Residential District. The average parcel size in the A-1 District is much greater than 1 acre. The parcel is surrounded by the GWNF on three sides and is unique, therefore the hardship is not shared generally by other properties because of these characteristics. R.V.B.

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.

The proposed structure (see plot plan) will meet the fifty (50') foot restriction as required in the A-1 Agricultural Residential District. The use of the property will be a single-family dwelling (cabin), and will be consistent with other uses in the A-1 District. R.V.B.

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.

NO

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.

Reid M. Bussard 10-8-14

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. 2014 A - 04

Actions Taken:

S. Stennett
County Official Receiving Application

10-8-14
Date

S. Stennett
Public Hearing fee received by

10-8-14
Date

Application returned for correction/additional information

Date

Amended application received by

Date

Amherst New Era Forum
Public Hearing advertised in

10/30/14 & 11/6/14
Date(s)

S. Stennett
Adjacent property owner(s) notified by mail

10/27/14
Date

Action by Planning Commission (if applicable)

Date

Action by Board of Zoning Appeals

Date

ZONING PUBLIC NOTIFICATION

Case: 2014A-04

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: November 13, 2014 - Board of Zoning Appeals
November 6, 2014 - Planning Commission

Applicant: Roland & Sandra Bussard Property Owner
414 Buck Hill Rd Roland & Sandra Bussard
Natural Bridge Station, VA 1582 Slapp Creek Rd
24579 Amherst, VA 24521

Tax Map Number: 33-A-2

Adjoining Property Owners:

Tax Map #46-A-1		
Coogle Jr. & Maxine Gilliam		
1390 Slapp Creek Rd		
Amherst, VA 24521		
Tax Map # 1-A-1		
George Washington & Jefferson		
National Forests		
C/O Forestry Services		
5162 Valleypointe Pkwy		
Roanoke, VA 24019		

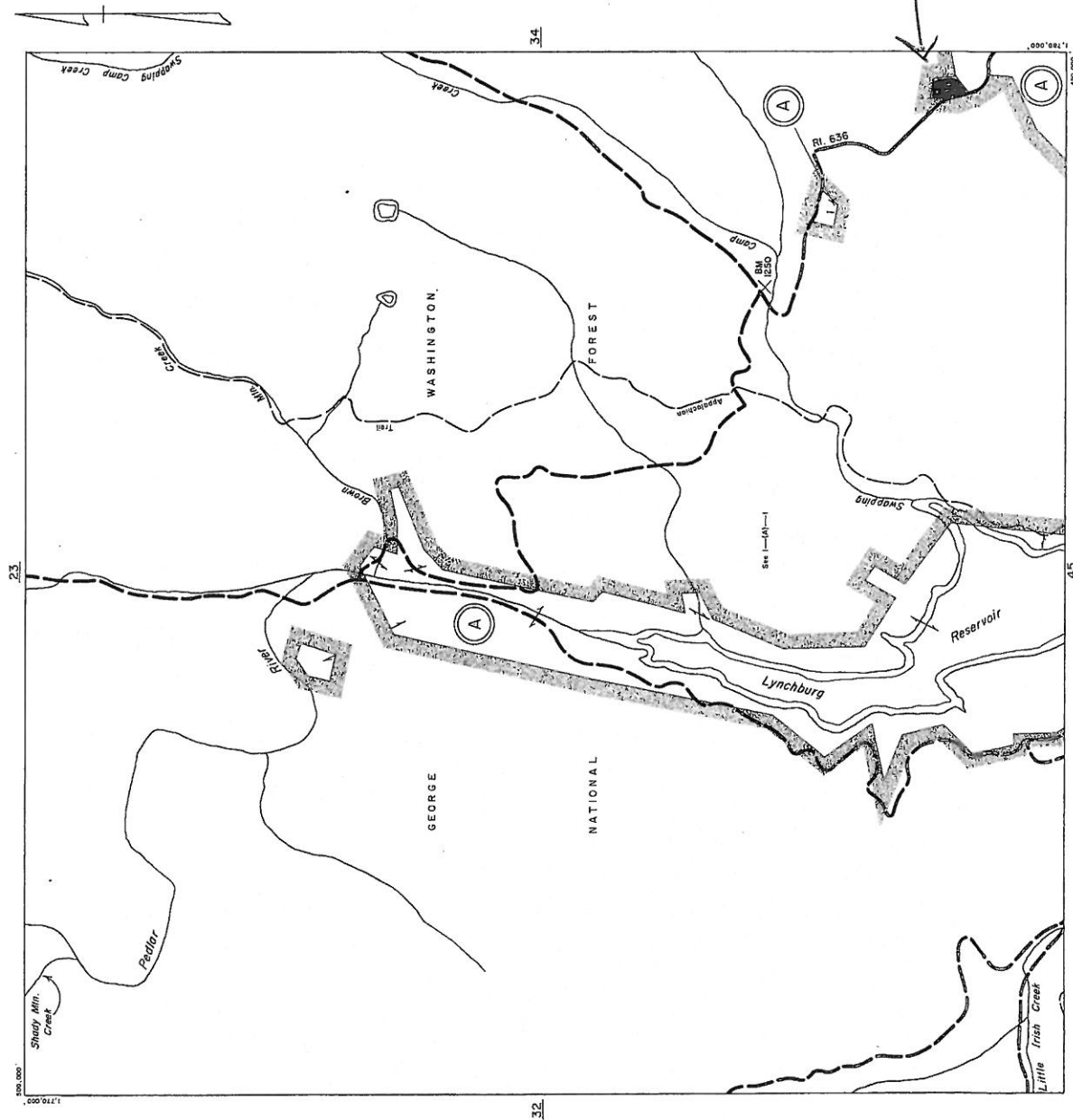
I hereby make affidavit that the notices of public hearing for this case as required by Section 15.2-2204 of the Code of Virginia, 1950, as amending, have been sent by first class mail to the last known address of the owners of abutting property as shown on the current real estate tax assessment books.

Stacey Stinnett (Signature)
Stacey Stinnett

Administrative Assistant (Title)
October 27, 2014 (Date)

AMHERST COUNTY

33-A-2
Tax map



33-A-2

SECTION 33

DISTRICT

PEDLAR

REVISED: 12/31/88

PROPERTY TAX MAP - VIRGINIA DEPT. OF REVENUE

NOTES

- 1) This plat was drawn from an actual field survey and is intended to represent that property conveyed to Roland N. Bussard of record as image #130001370, tax parcel 33-A-2.
- 2) This property is served by an apparent prescriptive right-of-way to Route 636 along the old road.
- 3) This survey was performed without the benefit of a title report and may not indicate all encumbrances upon the property. Unwritten rights not addressed.

Legend:

- Overhead Utility Line
- Utility Pole
- Metal Fence



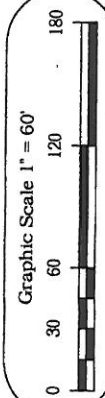
Survey For
Roland N. Bussard
 Slapp Creek Road
 Pedlar Magisterial District
 Amherst County, Virginia
 Surveyed September 27, 2013



TROUT LAND SURVEYING

1366 Forge Road
 Lexington, Va. 24450
 (540) 261-8995

Randall E. Trout, L.S.

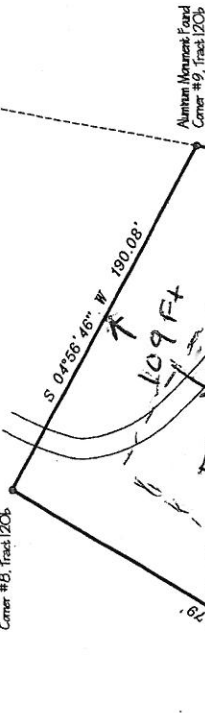


DWN. BY	NO.	DATE	REV. BY	REVISION:
RET				
SIZE				
2				

PROJ. NO.	SHEET
01047	1 OF 1

United States Forest Service
 Tract 120b
 Deed Book 86, Page 112

Aluminum Monument Found
 Corner #3, Tract 120b



Aluminum Monument Found
 Corner #5, Tract 120b

New or Formerly
 Coogie C. Gilliam, Jr.
 Deed Book 723, Page 531
 Tax Parcel 46-A-1

United States Forest Service
 Tract 120b
 Deed Book 86, Page 112

Aluminum Monument Found
 Corner #7, Tract 120b

Old Road Bed

United States Forest Service
 Tract 120b
 Deed Book 86, Page 112

Aluminum Monument Found
 Corner #6, Tract 120b

Corner #5, Tract 120b

United States Forest Service
 Tract 120b
 Deed Book 86, Page 112

±0.7 Mile to
 Swapping Camp Road

Magnetic



Corner #4, Tract 120b

