

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

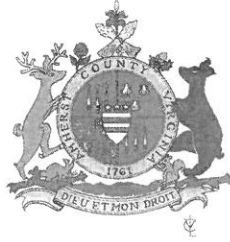
The Amherst County Board of Zoning Appeals will conduct a public hearing during its regular meeting commencing at 7:00 P.M. on Wednesday, June 7, 2017, in the Amherst County Administration Building, 153 Washington Street, Amherst, Virginia, 24521, to consider the following request:

**No. 2017A-03:** Request by Rayburn Keith & Mary Ruth C. Ogden for approval of a variance from Section 804 of the Zoning & Subdivision Ordinance to reduce the front yard setback from fifty (50) feet to thirty-three (33) feet 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 227 Forest Sale Road, and is further identified as being tax map parcel number 48-A-10.

The proposed application is available for review Monday through Friday from 8:30 A.M. to 5:00 P.M. in the Planning/Zoning office at the above address.

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

Jeremy S. Bryant  
Director of Planning/Zoning



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

**Variance Review**  
**Staff Report**  
**June 7, 2017**

**RE: Case #:** 2017A-03  
**Tax Parcel #:** 48-A-10  
**Magisterial District:** Temperance  
**Lot Size:** 2.09 Acres  
**Zoning:** A-1 Agricultural Residential District

**Applicant:**  
Rayburn Keith & Mary Ruth C. Ogden  
227 Forest Sale Road  
Amherst, VA 24521

**Property Owner:**  
Same as Applicant

**Request:**  
Request by Rayburn Keith & Mary Ruth C. Ogden for approval of a variance from Section 804 of the Zoning & Subdivision Ordinance to reduce the front yard setback from fifty (50) feet to thirty-three (33) feet 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 227 Forest Sale Road, and is further identified as being tax map parcel number 48-A-10.

**Summary:**

Request by Rayburn Keith & Mary Ruth C. Ogden for approval of a variance from Section 804 of the Zoning & Subdivision Ordinance to reduce the front yard setback from fifty (50) feet to thirty-three (33) feet 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 227 Forest Sale Road, and is further identified as being tax map parcel number 48-A-10.

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 the Commissioner of the Revenue, the original dwelling was constructed in 1983. A zoning permit issued on January 11, 1983 for a single-family dwelling to be built sixty (60) feet from the front property line and twenty (20) feet from the side property line. The setbacks for this zoning district in 1983 were fifty (50) feet from the front property line and fifteen (15) feet from the side property line. According to a plat submitted by the applicant, the existing dwelling was constructed 44.8 feet from the front property line and 12.1 feet from the side property line. The existing structure does not meet the setback requirements as prescribed in Section 804 of the Zoning Ordinance for the front yard or side yard setback.

The owner wishes to build a porch addition to the existing single-family dwelling on the property that would be thirty-three (33) feet from the front property line. The required setback in Section 804 is fifty (50) feet from the front property line. The entire front of the existing structure lies within the required setback; therefore any addition to the front of the dwelling would require a variance.

**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 zoned A-1 Agricultural Residential District. The lot area of this property meets the minimum acreage requirements in Section 801 which requires A-1 lots to have a minimum of one (1) acre. The existing dwelling does not meet setback requirements. According to the applicant, VDOT built a new road in front of the existing house. A plat dated May 19, 1987 shows a 40 foot right-of-way in the location of the current road. The applicant would like to construct a porch on the front of the dwelling that will further encroach on the front yard setback.**

**“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.

According to the Amherst County GIS, while a few other dwellings on Forest Sale Road appear to also be built near the front yard setback requirement, most properties in the area are larger tracts and the existing dwellings on those properties are not constrained by setbacks.

- 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 dwelling is on a lightly traveled dead end road. There is a dwelling on the adjacent property but the addition will not be closer to that dwelling. The addition will not result in any additional traffic or change of use of the property. Staff believes that the granting of the variance request will not change the character of the district, since the single-family dwelling has existed since 1983 and will not be of a substantial detriment to adjacent properties.

#### **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*”;

A zoning permit was issued on January 11, 1983 in the name of the applicants for a single-family dwelling to be built sixty (60) feet from the front property line and twenty (20) feet from the side property line. The setbacks for this zoning district in 1983 were fifty (50) feet from the front property line and fifteen (15) feet from the side property line. According to a plat submitted by the applicant, the existing dwelling was constructed 44.8 feet from the front property line and 12.1 feet from the side property line. The existing structure has served as a single-family dwelling for the applicants since its construction.

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

**The required front yard setback cannot be met due to the location of the existing dwelling. Any addition to the front of the dwelling would require a variance.**

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.

**On May 18, 2017 the Amherst County Planning Commission recommended approval of the request. Should the Board of Zoning Appeals approve this request; Staff recommends the following conditions:**

1. The variance is granted for Tax Map Parcel No. 48-A-10 to reduce the front yard setback from fifty (50) feet to thirty-three (33) feet and to allow for the addition of a porch to an existing single-family dwelling.
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

# ZONING PUBLIC NOTIFICATION

Case: 2017A-03

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: June 7, 2017

Applicant: Keith R. & Mary R. Ogden  
227 Forest Sale Rd  
Amherst, VA 24521

Property Owner  
Keith R. & Mary R. Ogden  
227 Forest Sale Rd  
Amherst, VA 24521

Tax Map Number: 48-A-10

Adjoining Property Owners:

Tax Map # 48-A-11	Tax Map # 48-A-8A	
Amherst County	Stevenson & Susan Coffey	
POB 390	4234 Lexington Turnpike	
Amherst, VA 24521	Amherst, VA 24521	
Tax Map # 48-A-9A, 9B		
Ralph. E & Wendy Sale		
241 Forest Sale Rd		
Amherst, VA 24521		
Tax Map # 48-A-9		
James & Lyndell Sale		
3946 Lexington Turnpike		
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)

Administrative Assistant (Title)  
May 22, 2017 (Date)



2017-03  
pd case

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

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**

Keith & Mary OGDen  
Applicant Name

227 Forest Sale Rd Amherst VA 24521  
Applicant Address City/Town State Zip Code

434-922-7644  
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

Keith & Mary OGDen  
Property Owner Name

227 Forest Sale Rd Amherst VA 24521  
Property Owner Mailing Address City/Town State Zip Code

434-922-7644  
Property owner telephone number Property owner fax number Property owner E-Mail

**Location of Property**

227 Forest Sale Rd 48A10  
Street Address Tax parcel ID number

**General Description of Property**

Single Family Dwelling

**When and how did you acquire the property?**

1975

Current Use(s) of Property

Home

Proposed Use(s) of Property

Porch

Total Acreage: 2.09

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: Porch

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:	804	33'	50	17'
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.

We are unable to construct a porch  
on other areas of the house due to  
topography and existing placement of the  
septic system.

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

This is a Unique Situation where a  
lot of things have changed AFTER the house  
was built

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.

This is a single family dwelling on a very  
light traveled Rd that will not be of substantial  
detriment to adjacent property

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.

None

#### 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.

May R. Ogden 5/1/17  
Property Owner Signature Date

[Signature] 4-28-2017  
Agent Signature Date

\_\_\_\_\_  
Property Owner Signature Date

[Signature] 4-28-2017  
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. 201.7A-03

Actions Taken:

J. Bryant  
County Official Receiving Application

4/28/17  
Date

J. Smith  
Public Hearing fee received by

4/28/17  
Date

Application returned for correction/additional information

\_\_\_\_\_  
Date

Amended application received by

\_\_\_\_\_  
Date

Amherst + New Era Progress  
Public Hearing advertised in

June 1 + June 8  
Date(s)

Adjacent property owner(s) notified by mail

\_\_\_\_\_  
Date

Action by Planning Commission (if applicable)

\_\_\_\_\_  
Date

Action by Board of Zoning Appeals

\_\_\_\_\_  
Date

We are unable to construct a porch on other areas of the house due to topography and existing placement of the septic system.

MAG. 1943

RALPH E. SALE & WENDY SALE  
RALPH B. SALE & JACQUELINE SALE

SOURCE OF TITLE:  
DEED TO REYBURN KEITH  
OGDEN IN D.B. 373, P. 51.

This map is part of Deed 2  
Rayburn Keith & Ogden  
Rayburn Keith & Ogden  
recorded 5-28  
in Book 523 Page  
804 C. May 1943

2.09 Ac.

AMHERST CO. BUFFALO  
RIVER WATERSHED

S.R. 802 (40' R/W)



NOTES:

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND DOES NOT, THEREFORE, NECESSARILY INDICATE ALL ENCUMBRANCES UPON THE PROPERTY.
2. THIS PROPERTY DOES NOT FALL WITHIN THE FEDERAL INSURANCE RATE MAP ONE HUNDRED YEAR FLOOD ELAIN.

JAMES C. MAY & ASSOCIATES, P.C.  
Engineers - Surveyors - Planners  
LYNCHBURG, VIRGINIA

SCALE: 1" = 50' DATE: MAY 19, 1987

PROPERTY SURVEY OF

2.09 ACRE PARCEL FOR  
REYBURN KEITH & MARY C. OGDEN

TEMPERANCE DISTRICT

COMM. NO. 587861

TAX NO. 48-A-10

R. R. REF. 87-2

AMHERST



## AMHERST COUNTY TREASURER – PROPERTY TAXES FORM

Case #: 2017A-03

Case Request for: Keith & Mary Ogden

Date Contacted Treasurer Department: 5-11-17

Caller: Stacy Skinnell

Spoke with: Kay Lowe

Has Owner Paid All Property Taxes with Amherst County: YES ☒ NO ☐

If Not Please Include Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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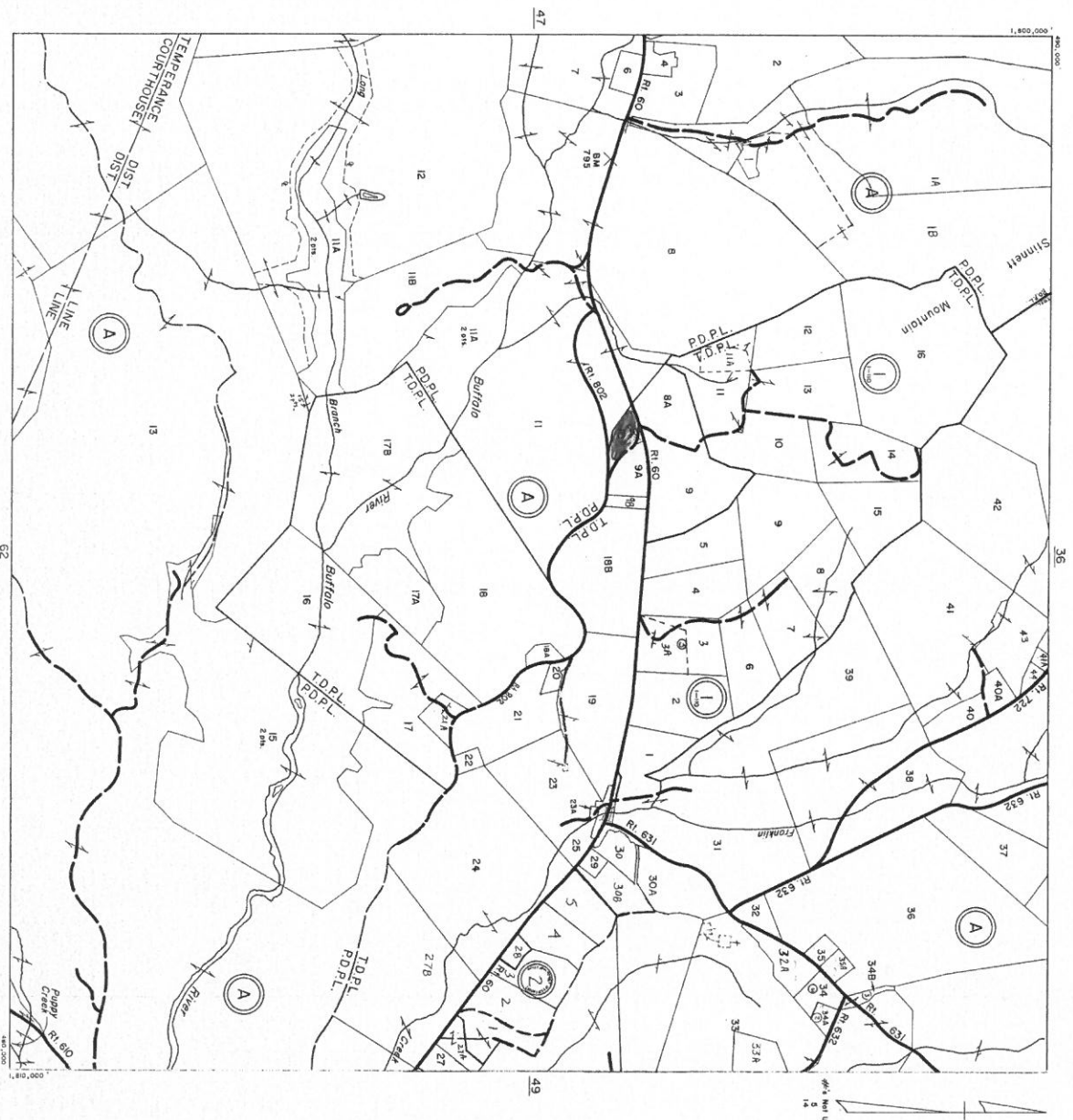
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AMHERST COUNTY



TEMPERANCE  
PEDLAR  
COURTHOUSE  
DISTRICT

SECTION 48