

NOTICE OF MEETING
AMHERST COUNTY
BOARD OF ZONING APPEALS

DATE: August 14, 2014

TIME: 7:00 PM

PLACE: Administrative Office Complex
153 Washington Street
Board of Supervisors Room

A G E N D A

1. Call to Order
2. Approval of Agenda
3. Election of Officers
4. Public Hearing
 - A. 2014A-02 Tim Fuller (Tax Map # 82-A-78)
5. Old/New Business
6. Approval of Minutes for April 10, 2013
7. Adjournment.

NOTICE OF MEETING

AMHERST COUNTY BOARD OF ZONING APPEALS

The Amherst County Board of Zoning Appeals will hold a public hearing on Thursday, August 14, 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-02 Request by Tim Fuller for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirement of fifty (50) feet to approximately thirty (30) feet. The purpose of the request is to allow for the construction of a single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located on Aberdeen Lane and is further identified as tax map parcel number 82-A-78.



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

Variance Review
Staff Report
August 14, 2014

RE: Case #: 2014A-02
Tax Parcel #: 82-A-78
Magisterial District: Courthouse
Lot Size: 1.13 Acres (According to the Commissioner of the Revenue)
Zoning: A-1 Agricultural Residential

Applicant:
Tim Fuller
308 Greenwood Drive
Madison Heights, VA 24572

Property Owner:
Same as Applicant

Request:
Request by Tim Fuller for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirement of fifty (50) feet to approximately thirty (30) feet. The purpose of the request is to allow for the construction of a single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located on Aberdeen Lane and is further identified as tax map parcel number 82-A-78.

Summary:
Request by Tim Fuller for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirement of fifty (50) feet to approximately thirty (30) feet. The purpose of the request is to allow for the construction of a single-family dwelling. The request is referenced by a drawing submitted by the applicant. The property is located on Aberdeen Lane and is further identified as tax map parcel number 82-A-78.

If the request is approved by the Board of Zoning Appeals, the applicant/property owner must still receive a building permit that is in accordance with the Building Code.

Staff Comment(s):

On March 5, 2012 the Amherst County Planning/Zoning Department approved a family division plat that separated 1.27 acres of land from a residue tract that became 9.06 acres in size. The residue tract was owned by Edward Davis and was divided for his daughter Angela Davis Fuller and her husband Timothy Fuller. The plat was put to record in the Amherst County Clerks Office on March 7, 2012. Staff believes there are three significant facts to point out regarding the family divided plat.

First, the connection of Aberdeen Lane to Route 29 existed at the time that the plat was put to record, however Aberdeen Lane has been relocated as a result of road construction that took place at the Buffalo River Bridge. Therefore, Aberdeen Lane has been relocated and no longer connects to Route 29 as shown on the family divided plat. The construction of the road altered the existing right-of-way and changed the platting of the road. Aberdeen Lane was a private road where ownership went to the center of the road. At the time of writing this staff report, the County is considering a request by the Virginia Department of Transportation to accept Aberdeen Lane into the State System of Secondary Roads. Therefore, Aberdeen Lane will likely be upgraded to State maintained road. Second, a significant portion of the lot lies within the approximate location of the 100 year flood (Zone AE) which limits the location a dwelling can be situated on the lot. The applicant is not applying to construct the dwelling in the flood zone; however that is a limitation of the parcel. Finally, the remainder of the lot is very steep outside of the identified floodplain.

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 parcel is vacant and the portion of the lot that is located outside of the flood zone is topographically very steep. Significant limitations of the parcel are the steepness and the portion of the lot that is within the flood zone. Because of the extreme steepness of the lot and location of the floodplain, staff believes that the applicant must seek a variance in order to practically locate a dwelling on the parcel or seek a special exception to locate a dwelling in the floodplain. County ordinances seek to prevent dwellings to locate in the floodplain and therefore it is reasonable to believe that an applicant would request a variance to gain relief from the setback regulations.

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

The steepness of this particular lot appears to be unique along Aberdeen Lane. Directly across the street appears to be an older vacant dwelling that is within the 50 foot setback requirement. Staff believes that the unique characteristics of this lot do not appear to be shared generally by other properties in this vicinity.

- 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 character of this district has been recently altered by the relocation of the entrance of Aberdeen Lane to Route 29. Aberdeen Lane once connected to Route 29 in close proximity to the Buffalo River Bridge and said property. Because of the relocation of Aberdeen Lane this property is now close to the end of that street. Other structures on Aberdeen Lane do not appear to meet the setback regulation and some of these dwellings appear to be older in age and likely predate the Amherst County zoning setback regulation.

Staff believes that the granting of the variance request will not change the character of the district, since the single family dwelling located directly across Aberdeen Lane does not appear to meet setback requirements from the front yard.

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 current owners acquired the property on March 7, 2012 through the platting of a family division. Since that time the parcel has remained vacant, however, the Virginia Department of Transportation undertook a major renovation of the Buffalo River Bridge and as a result of that project re-platted Aberdeen Lane with the intent of the road becoming State maintained.

Since the property does not contain an outstanding violation and the variance request is not for an existing structure in violation of the Zoning ordinance, 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 lot is located within the floodplain (Zone AE) and the remaining portion of the lot is very steep topographically.

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. 82 – A – 78 to reduce the fifty (50) foot setback to approximately thirty (30) feet to allow for the construction of a single-family dwelling.
2. The proposed dwelling shall be in general compliance with the submitted plot plan.
3. 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.
4. 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
Variance Request Application

2014A-02



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

Tim Fuller
Applicant Name
308 Greenwood ^{cl} Madison Heights Va 24572
Applicant Address City/Town State Zip Code
4343861444
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

Tam and Angela Fuller
Property Owner Name
308 Greenwood dr Madison Heights Va 24572
Property Owner Mailing Address City/Town State Zip Code
434 386 1444 |
Property owner telephone number Property owner fax number Property owner E-Mail

Location of Property

134 Aberdeen lane
Street Address
82-A-29 78
Tax parcel ID number

General Description of Property

a narrow strip of land located between
Buffalo river and Aberdeen lane

When and how did you acquire the property?

family gift in 2012

Current Use(s) of Property nothing

Proposed Use(s) of Property single Family dwelling

Total Acreage: 1.13

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: Build a house.

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	30'	50'	20'
Side yard setback:			25'	
Rear yard setback:			25'	
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.

state paved the road now my set back is
75' instead of 50' and I have the flood
plain to the rear

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

my property is narrow and with new set
back it will not allow me to build my
home. there is other homes on this road that
is only 35' off the road

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.

no way will this be any different than
other properties close to me

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.

 7-18-14

Property Owner Signature Date

 7/28/14

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 - 02

Actions Taken:

J. Bennett
County Official Receiving Application

7-18-14
Date

J. Bennett
Public Hearing fee received by

7-18-14
Date

Application returned for correction/additional information

Date

Amended application received by

Date

Public Hearing advertised in

Date(s)

J. Bennett
Adjacent property owner(s) notified by mail

7-30-14
Date

Action by Planning Commission (if applicable)

Date

Action by Board of Zoning Appeals

Date

ZONING PUBLIC NOTIFICATION

Case: 2014A-02

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: August 14, 2014 - Board of Zoning Appeals

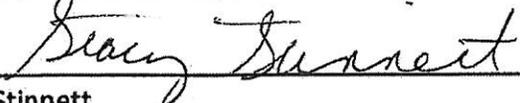
<u>Applicant:</u>	Tim Fuller 308 Greenwood Dr Madison, VA 24572	<u>Property Owner</u> Angela Fuller 134 Aberdeen Ln Amherst, VA 24521
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Tax Map Number: 82-A-78

Adjoining Property Owners:

Tax Map # 82-7-1,2	Tax Map # 82-A-79	Tax Map # 82-A-27
Solid Rock Properties LLC	Edward Davis	Josie Rose
1533 Beech Grove Rd	2433 Cobb St	c/o Clarine Jefferson
Ste 9	Lynchburg, VA 24501	400 Yeardeley Ave
Roseland, VA 22967		Lynchburg, VA 24501
	Tax Map # 82-A-82	
Tax Map # 82-A-80	Frances Rose	Tax Map # 82-A-29
Gary & Luann Ahern	POB 1304	Lynchburg Concrete Ready Mix
POB 1035	Amherst, VA 24521	Concrete Company
Amherst, VA 24521		POB 10066
	Tax Map # 83-A-28	Lynchburg, VA 24506
Tax Map #82-A-81	Frances Miles	
113 North Hillcrest Dr LLC	c/o Nellie Pendleton	VDOT
233 N Coolwell Rd	POB 91	4219 Campbell Ave
Amherst, VA 24521	Amherst, VA 24521	Lynchburg, VA 24501

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)
July 30, 2014 (Date)

Amherst County

VamaNet

Virginia Mass Appraisal Network

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Property Information - Tax Map# 82 A 78 - Account# 0

Property Owner:
Fuller Angela D

Legal Description:
On Rt 29 N Of Amherst
Pt Of Lot 4 Whites Estates
82 A 78

Zoned:
A1

Owners Address:
308 Greenwood Dr
Madison Heights, Va 24572

Assessment Values:

Total Land Area:
1.130Acres

<u>Building 1</u>	0
<u>Other Improvements</u>	0
<u>Land Value:</u>	<u>25,500</u>
Calculated Value:	<u>25,500</u>
Rounded Taxable Value:	<u>25,500</u>

Physical Location:
134 Aberdeen Ln
Amherst, Va 24521

Magisterial District:
Temperance

[-Property Information-](#) [-Sales Information-](#)

If you encounter any difficulties with this site, please e-mail the Webmaster.
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THIS PLAT HAS BEEN PREPARED FROM RECORD INFORMATION, IN PARTICULAR A PLAT RECORDED IN THE AMHERST OFFICE AT PLAT CABINET 2 SLIDE 317. FIELD TIES TO THIS PLAT ARE INDICATED HEREON. REFERENCE IS HEREBY MADE TO A MORE PARTICULAR DESCRIPTION OF THE PROPERTY, THE UNDERSIGNED SURVEYOR HEREBY CERTIFIES ONLY THE NEW SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT INDICATE ALL OF THE ENCUMBRANCES THEREON.

BY GRAPHIC SCALING ONLY, A PORTION OF THIS PROPERTY IS IN ZONE "AE" (AREA WITHIN THE 100 YEAR FLOOD ZONE). THE REMAINDER OF THIS PROPERTY IS IN ZONE "X" (AREA OUTSIDE THE 100 YEAR FLOOD ZONE) ACCORDING TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) ANY FUTURE REQUEST FOR THE ROAD TO BECOME A SECONDARY ROAD SYSTEM IS SUBJECT TO THE PREVAILING VDOT REQUIREMENTS FOR ACCEPTANCE AND IS DONE AT NO CHARGE OF THIS PRIVATE ROAD IS THE RESPONSIBILITY OF THE PROPERTY OWNERS OR OTHER DESIGNATED PARTY, AND IS SUBJECT TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) ANY FUTURE REQUEST FOR THE ROAD TO BECOME A SECONDARY ROAD SYSTEM IS SUBJECT TO THE PREVAILING VDOT REQUIREMENTS FOR ACCEPTANCE AND IS DONE AT NO CHARGE.

LAND, TRACT # 82-A-79, IS SERVED WITH A PRIVATE WELL AND SEPTIC SYSTEM. THE NEW LOT, AS SHOWN HEREON, IS TO BE SERVED WITH A PRIVATE WELL AND SEPTIC SYSTEM. THE NEW LOT, AS SHOWN HEREON, IS TO BE SERVED WITH A PRIVATE WELL AND SEPTIC SYSTEM. THE NEW LOT, AS SHOWN HEREON, IS TO BE SERVED WITH A PRIVATE WELL AND SEPTIC SYSTEM.

AS SHOWN HEREON, IS WITH THE FREE CONSENT OF THE UNDERSIGNED OWNERS, TRUSTEES, IF ANY.

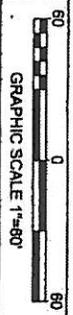
Edward S. Davis
DATE: 3/2/2012

LARGE TO WIT:
COUNTY/CITY OF *Amherst*
C. Burnett
IN AND FOR THE FORESAID STATE,
THAT THE OWNERS WHOSE NAMES
I HAVE ACKNOWLEDGED THE SAME

EXPIRES: 3/31/2012
DATE: 3/2/2012
REGISTRATION NO. 7174873

1. C. BURNETT
TANY PUBLIC
RESULTS
7/19/87
1. JAMES
CHRISTIAN

OFFICE: 434-526-5985
FAX: 434-526-5986
E-MAIL: pnd@perkins-orsion.com



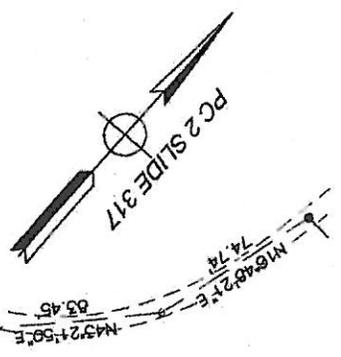
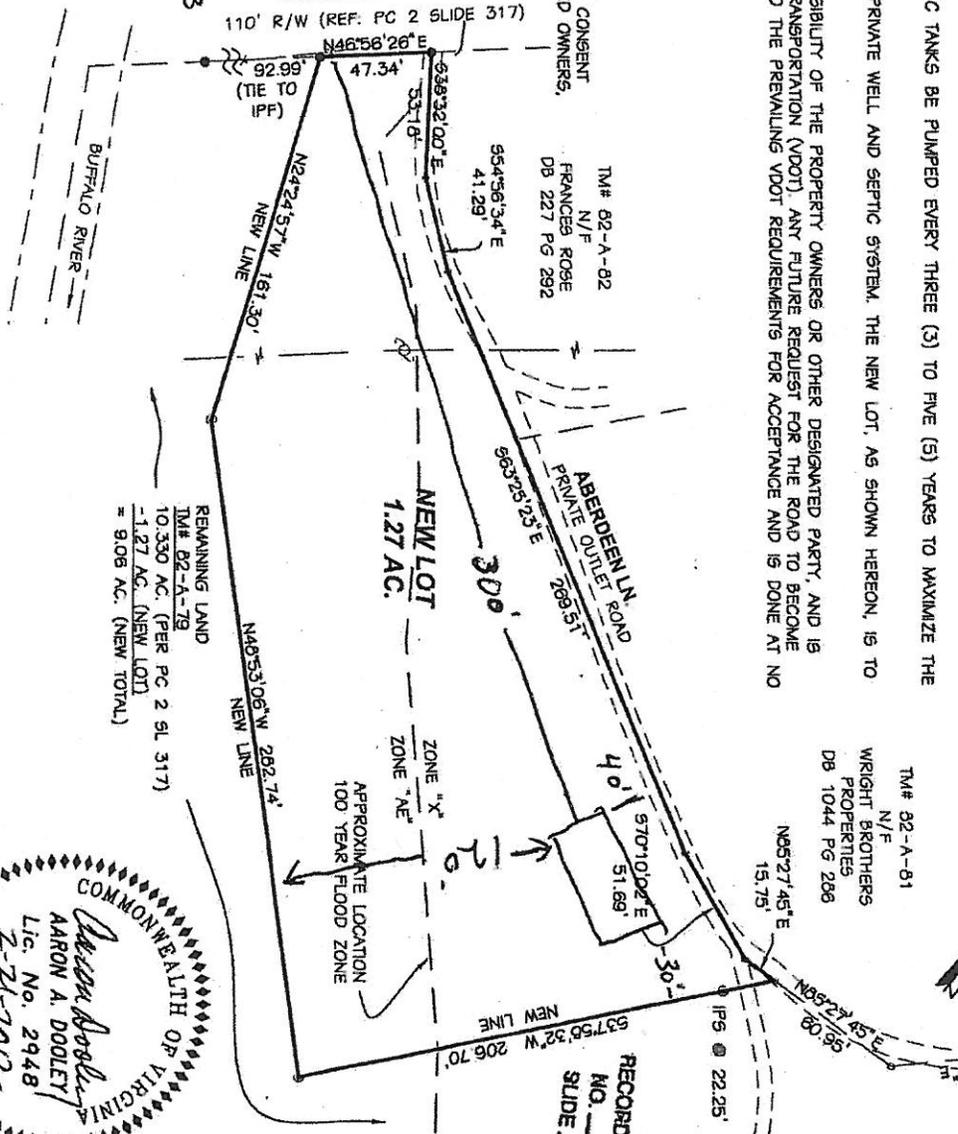
DATE: 12/1/2012
JOB# DAVIS
DWG: V-SP-DAVIS
DWN: AAD

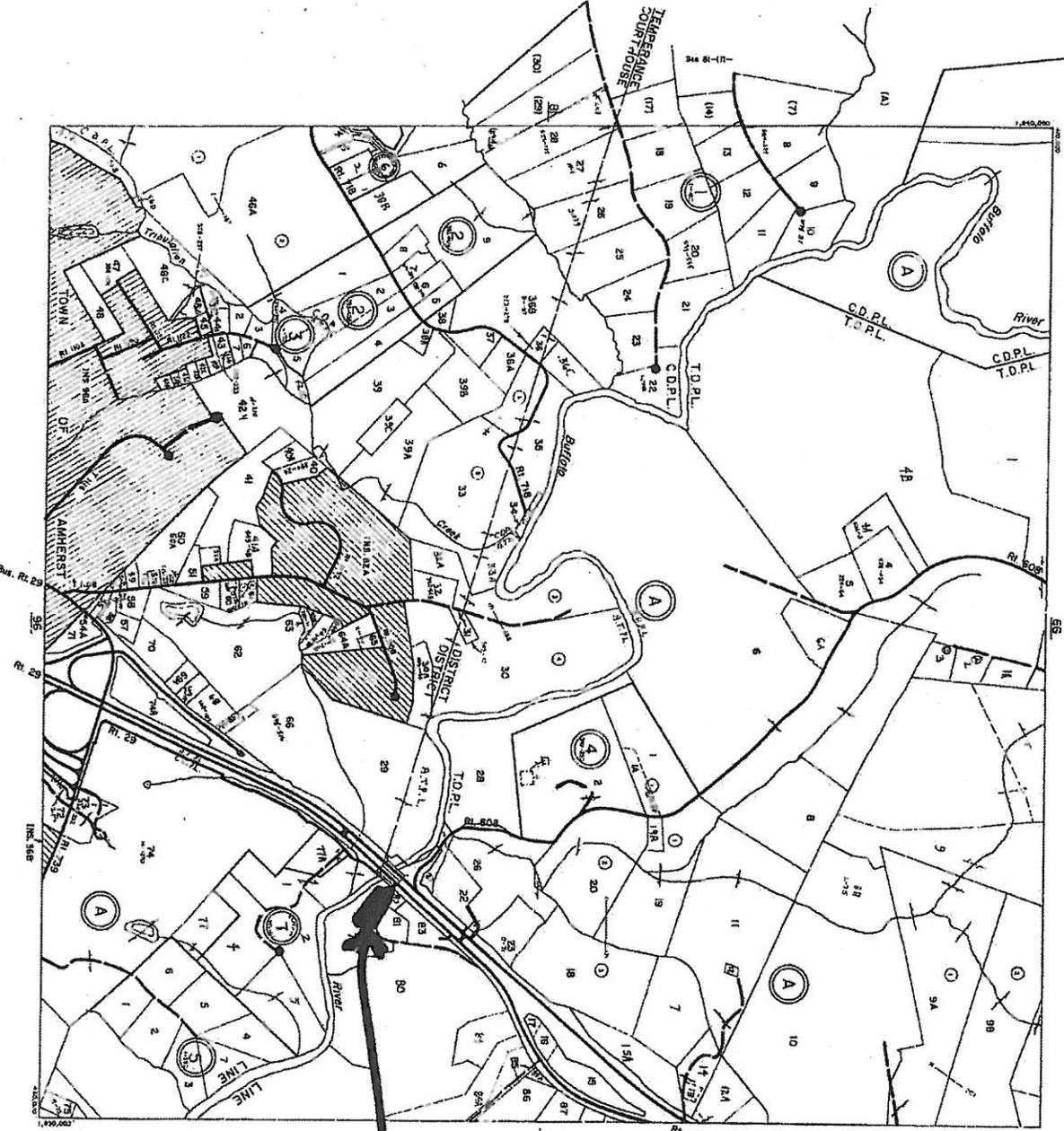
COMMONWEALTH OF VIRGINIA
LAND SURVEYOR
Aaron A. Doolley
Lic. No. 2948
2-21-2012

3/5/2012 *Matthew D. D.*
AMHERST COUNTY SUBDIVISION AGENT
This plat is part of *Book of Plat*
Edward S. Davis
to Angela D & Timothy Still
March 7, 2012
In Speed Book *1204* PAGE *664*
Ray Chase FAMILY DIVISION OF THE PRO
Clow
EDWARD S. DAVIS
COURTHOUSE MAGISTERIAL L
AMHERST COUNTY, VIRG

THE NEW LOT IS TO BE CONNECTED FROM EDWARD S. DAVIS (FATHER) TO ANGELA DAVIS FULLER (DAUGHTER) TIMOTHY FULLER (SON-IN-LAW)

RECORDED IN PLAT CABINET
NO. 3-18
SLIDE 317
LEGEND
● IRON PIN SET
○ IRON PIN FOUND
□ UTILITY POLE
+ OVERHEAD UTILITY





REVISED 12/31/85



TEMPERANCE COURT HOUSE DISTRICT AMHERST TOWN

SECTION 82

AMHERST COUNTY VIRGINIA