

NOTICE OF MEETING

AMHERST COUNTY BOARD OF ZONING APPEALS

The Amherst County Board of Zoning Appeals will hold a public hearing on Thursday, September 11, 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-03 Request by Phyllis Hartless for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the side yard requirement of fifteen (15) feet to approximately nine (9) feet. The purpose of the request is to allow for the expansion of an attached carport. The request is referenced by a drawing submitted by the applicant. The property is located at 150 Pine Acres Drive and is further identified as tax map parcel number 148D-1-121-124.



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

Variance Review
Staff Report
September 11, 2014

RE: Case #: 2014A-03
Tax Parcel #: 148D-1-121-124
Magisterial District: Elon
Lot Size: 0.57 Acres
Zoning: R-1 Limited Residential

Applicant:
Phyllis Hartless
150 Pine Acres Drive
Madison Heights, VA 24572

Property Owner:
Same as Applicant

Request:
Request by Phyllis Hartless for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the side yard requirement of fifteen (15) feet to approximately nine (9) feet. The purpose of the request is to allow for the expansion of an attached carport. The request is referenced by a drawing submitted by the applicant. The property is located at 150 Pine Acres Drive and is further identified as being tax map parcel number 148D-1-121-124.

Summary:

Request by Phyllis Hartless for approval of a variance from Section 804 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the side yard requirement of fifteen (15) feet to approximately nine (9) feet. The purpose of the request is to allow for the expansion of an attached carport. The request is referenced by a drawing submitted by the applicant. The property is located at 150 Pine Acres Drive and is further identified as being tax map parcel number 148D-1-121-124.

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):

This property consists of four parcels, each 25 feet in width. The existing dwelling crosses over interior lot lines on the property. According to the Commissioner of the Revenue, this existing dwelling was built in 1959. This structure predates the existence of zoning in Amherst County and is considered a legal non-conforming structure (grandfathered). The side yard setback in the R-1 Limited Residential District is fifteen (15) feet, therefore all portions of the property fall within the setback requirements from property lines. The property owner must vacate interior property lines prior to the approval of any structures on the property.

The applicant wishes to build an approximately 10' X 22' addition and enclose the existing attached carport. The proposed addition would also fall within the setback from the exterior lot line. This variance request is to reduce the setback from the exterior lot line, under the assumption that the interior lot lines would be vacated.

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 and two accessory structures, which are permitted uses within the R-1 Limited Residential District. The lot area of this property would meet the minimum requirements in Section 801 with interior lot lines vacated. Currently, the dwelling is a legal non-conforming structure. The existing dwelling would conform to setback requirements if interior lot lines were vacated. The owner would like to construct an addition and enclose an existing attached carport.

“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.

The side yard setback requirement applies to all lots in the R-1 Limited Residential District. According to the Amherst County Geographical Information System, other dwellings in the vicinity appear to also be located where if additions were proposed toward side property lines they would likely also fail to meet the side yard setback requirement from exterior lot lines.

- 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.

There is an existing fence between the proposed addition and the adjacent property. The addition would not expand closer to the street than the existing dwelling. Staff believes that the granting of the variance request will not change the character of the district and will not be of substantial detriment to adjacent property.

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 existing dwelling was built in the 1959 prior to zoning in Amherst County. The current owner acquired the property on June 18, 1984 (according to the Commissioner of the Revenue). 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).

This property is a relatively flat piece of property with no substantially steep slopes. It appears that the vacation of interior property lines would allow for an expansion of the dwelling or construction of accessory structures in the rear yard of the property.

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 property owner shall vacate all interior lot lines.
2. The variance is granted for Tax Map Parcel No. 148D-1-121-124 to reduce the fifteen (15) foot side yard setback to approximately nine (9) feet to allow for an expansion of the existing carport.
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

Site Sketch

Variance Request Application



**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

PHYLLIS HARTLESS
Applicant Name
150 PINE ACRES DR. MADISON HEIGHTS VA. 24572
Applicant Address City/Town State Zip Code
434-929-0035
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

150 PINE ACRES DR. MADISON HEIGHTS VA. 148D-1-121-124
Street Address Tax parcel ID number

General Description of Property

BRICK HOUSE

When and how did you acquire the property?

SEPT, 1961 FROM BUCK WOODY

tax map #
148D-1 - 121-124

Current Use(s) of Property

LIVE IN

Proposed Use(s) of Property

ENCLOSE AND WIDEN CAR PORT

Total Acreage: 100 X 250

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: _____

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:	804	9'	15'	6'
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.

yes - currently there is an existing frame
(carport attached to house) ^{built by me zoning Ord.} I need
five foot to enclose carport.

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

This request would not expect
my neighbors to change the
property in any way.

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.

same as above ↑

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.

Phyllis Hartless 8-11-14
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-03

Actions Taken:

D. Bennett

County Official Receiving Application

D. Bennett

Public Hearing fee received by

Application returned for correction/additional information

Amended application received by

Amherst New Era Progress

Public Hearing advertised in

D. Bennett

Adjacent property owner(s) notified by mail

unanimously approved

Action by Planning Commission (if applicable)

Action by Board of Zoning Appeals

Date

Date

Date

Date

Date(s)

Date

Date

Date

8/11/14

8/11/14

8/28/14 & 9/4/14

8/25/14

8/21/14

ZONING PUBLIC NOTIFICATION

Case: 2014A-03

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: Septebmer 11, 2014 - Board of Zoning Appeals

Applicant: Phyllis Hartless
150 Pine Acres Dr
Madison Heights, VA 24572

Property Owner
Phyllis Hartless
150 Pine Acres Dr
Madison Heights, VA 24572

Tax Map Number: 148D-1-121-124

Adjoining Property Owners:

Tax Map #148D-1-125-128	Tax Map # 148-A-143	
Peggy Cash	Jason Childress	
138 Pine Acres Dr	170 Pine Acres Dr	
Madison Heights, VA 24572	Madison Heights, VA 24572	
Tax Map # 148D-1-144-148	Tax Map # 148D-A-1	
Preston Cunningham	Robert Jr & Michele Mawyer	
POB 86	121 Lamont Dr	
Monroe, VA 24574	Madison Heights, VA 24572	
Tax Map # 148D-1-117		
Sheila Wills		
160 Pine Acres Dr		
Madison Heights, VA 24572		

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
August 25, 2014

(Title)
(Date)

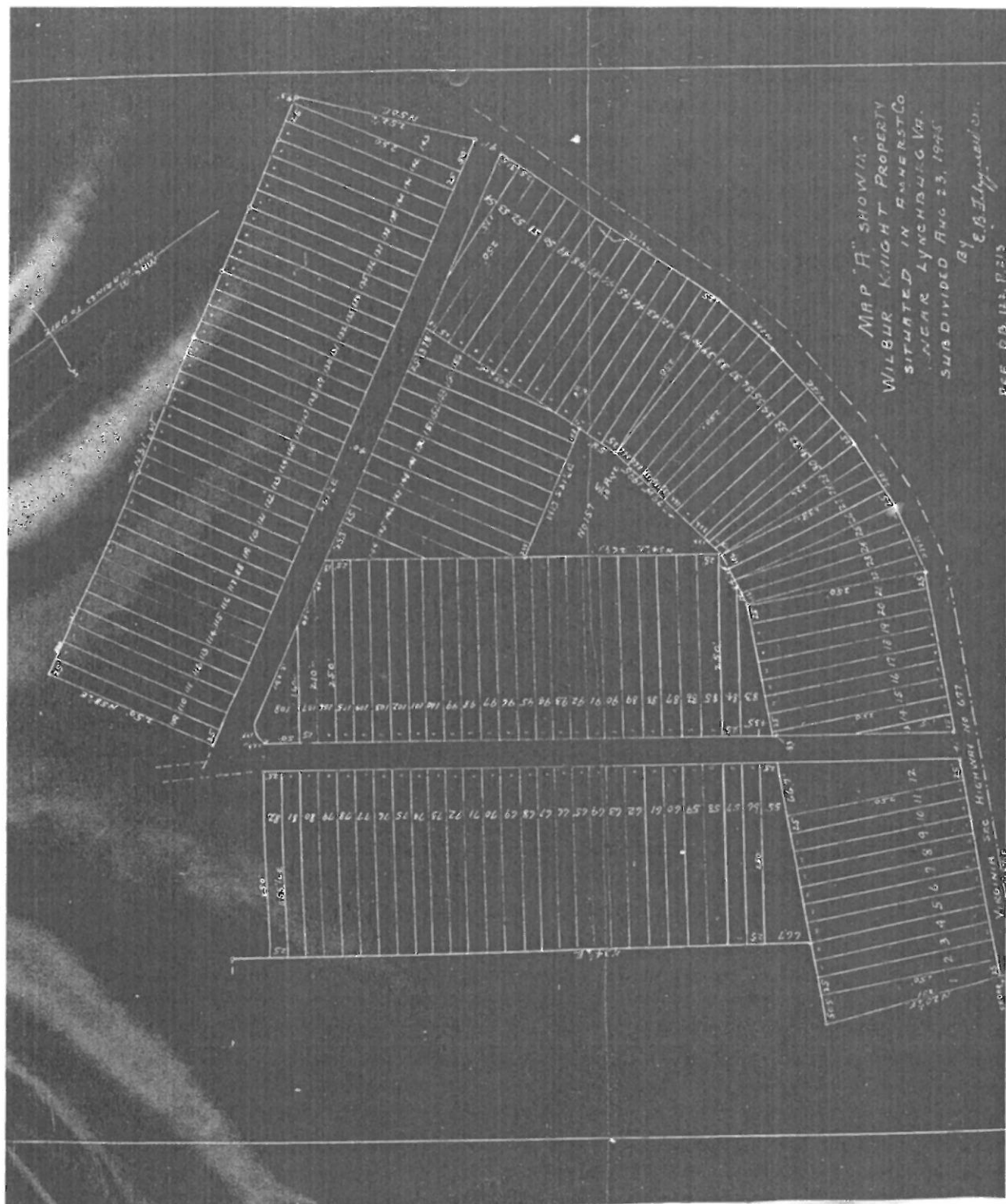
REVISÉ: 12/31/88



ELON
DISTRICT

INSERT 148D

PROPERTY TAX DIV. - WASHINGTON COUNTY, OR TUALATIN

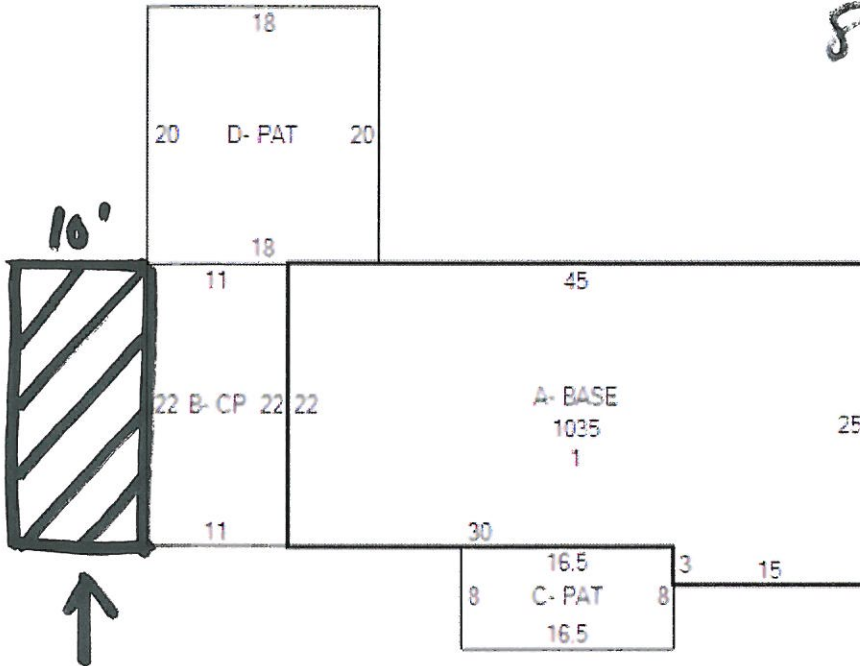


Lots, 121-124

C-150
Plaintiff's
Exhibit #3

P.S.H

8-28-14

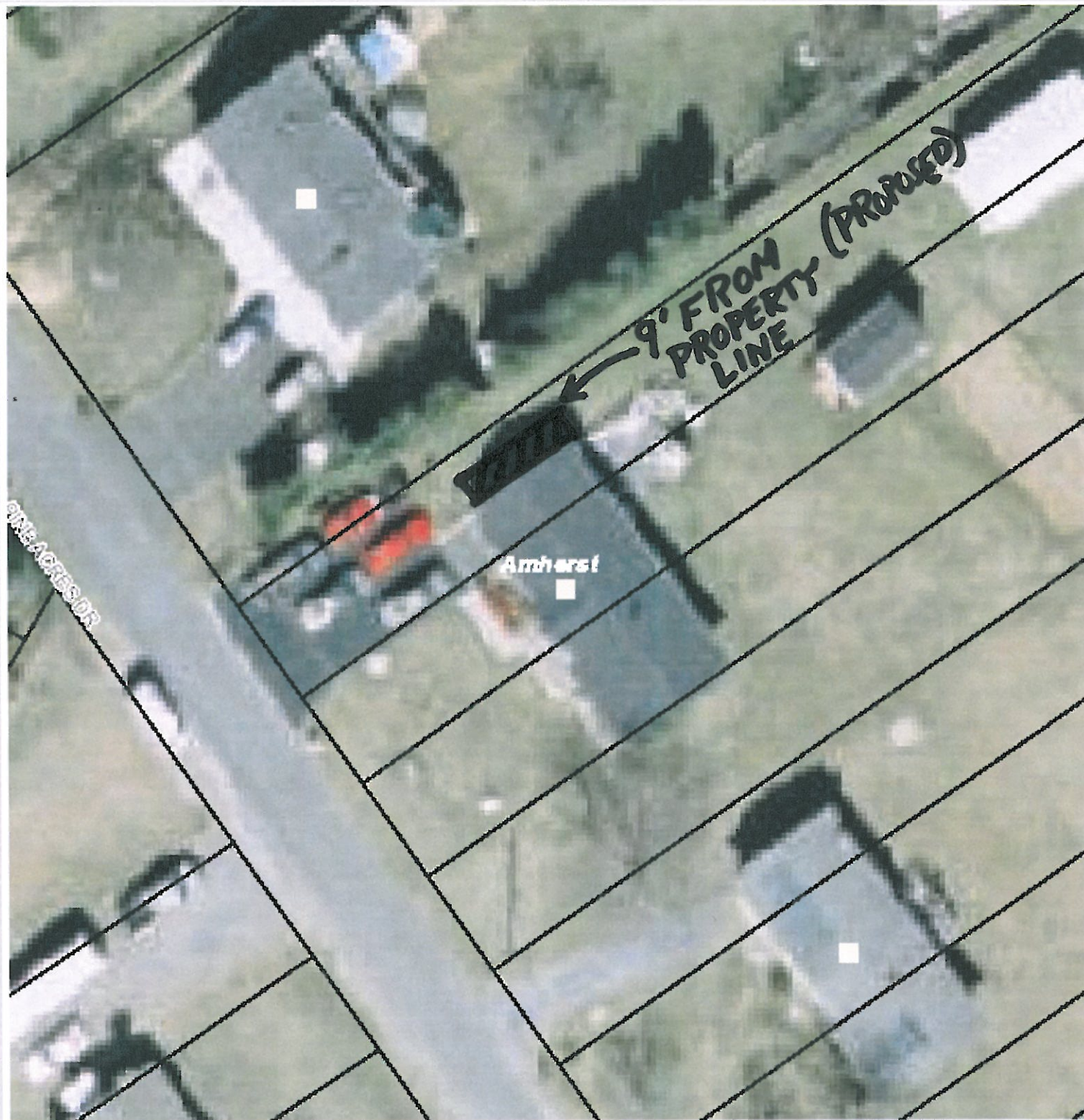


PROPOSED
ADDITION

10' x 22'



P.S.H 8-28-14

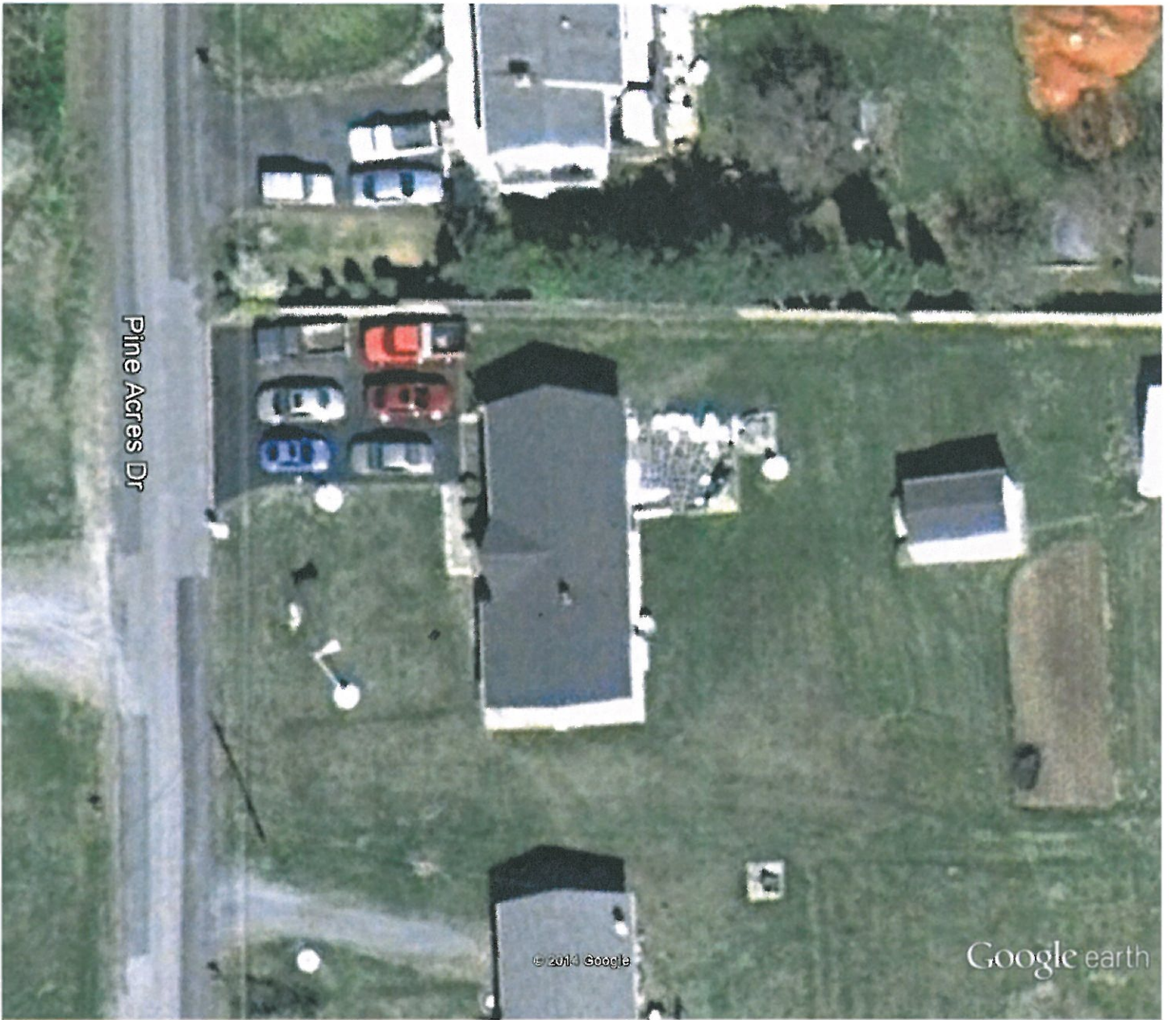


Scale: 1:564.248588

Date: 08/25/2014

Printed By:

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Google earth





Scale: 1:564.248588

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