

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

Variance Review
Staff Report
April 13, 2017

RE: Case #: 2017A-01
Tax Parcel #: 148B-A-22
Magisterial District: Elon
Lot Size: 0.554 Acres
Zoning: R-2 General Residential District

Applicant:

Jerry P & Sharon L Walker, Trustees / Walker Revocable Living Trust
132 Lynn Street
Madison Heights, VA 24572

Property Owner:

Same as Applicant

Request:

Request by Jerry P & Sharon L Walker 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 ten (10) feet to six (6) feet. The purpose of the request is to allow for the addition of an attached carport. The request is referenced by a drawing submitted by the applicant. The property is located at 132 Lynn Street and is further identified as being tax map parcel number 148B-A-22.

Summary:

Request by Jerry P & Sharon L Walker 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 ten (10) feet to six (6) feet. The purpose of the request is to allow for the addition of an attached carport. The request is referenced by a drawing submitted by the applicant. The property is located at 132 Lynn Street and is further identified as being tax map parcel number 148B-A-22.

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, this existing dwelling was built in 1971. According to a plat submitted by the applicant, the existing dwelling meets all required setbacks in the R-2 General Residential District.

The applicant wishes to build an approximately 16' X 18' carport addition to the side of the existing dwelling. The reason for the request is to enable Mrs. Walker to be able to get to and from her car without being impacted by the weather, such as ice. The proposed addition would fall within the required side yard setback of ten (10) feet from the northern side lot line. This variance request is to reduce the side yard setback from the northern side lot line.

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-2 General Residential District. The lot area of this property meets the minimum requirements in Section 801 for the R-2 General Residential District for a single-family dwelling with public water and an on-site sewerage system (0.402 acres). The existing dwelling conforms to all setback requirements. The owner would like to construct an addition to the side of the dwelling that will encroach into the northern side 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.

The side yard setback requirement applies to all lots in the R-2 General 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 possibly also fail to meet the side yard setback requirement from 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.

The applicant has spoken with adjoining property owners and has supplied signatures that the neighbors do not object to the proposed carport addition. 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 1971 prior to zoning in Amherst County. The current owner acquired the property in 1977 (according to the applicant). Since the existing 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 an addition could be built to the rear of the dwelling and there is space for an accessory structure in the rear yard of the property. However, the most practical location for the construction of an attached carport is in the proposed location which 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.

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

1. The variance is granted for Tax Map Parcel No. 148B-A-22 to reduce the ten (10) foot side yard setback to six (6) feet to allow for an addition of an attached carport.
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

Support Letter from Physician

Neighbors' Signatures Supporting Request



2017A-01

**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

JERRY P. & SHARON L. WALKER TRUSTEES / WALKER REVOCABLE LIVING TRUST
Applicant Name

132 LYNN ST MADISON HEIGHTS VA 24572
Applicant Address City/Town State Zip Code

434-929-0089 THIRD - TIMEISA - CHARM1996@yahoo.com
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 AS ABOVE
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

132 LYNN ST. 148B A 22
Street Address Tax parcel ID number

General Description of Property

SINGLE FAMILY DWELLING

When and how did you acquire the property?

WE WERE MARRIED IN 1996 AND THE DEED WAS THEN
PUT IN BOTH NAMES, MY WIFE HAS LIVED HERE SINCE 1977.

Current Use(s) of Property FAMILY DWELLING

Proposed Use(s) of Property
to Add A CAR PORT TO SIDE OF HOUSE WHERE THERE ARE
NO STOPS TO BE ABLE TO SAFELY GET MY WIFE IN & OUT OF THE HOUSE

Total Acreage: • 554

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	6'	10'	4'
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.

BECAUSE MY WIFE HAS TROUBLE WALKING I HAVE TO HELP HER IN+ OUT OF THE
HOUSE. THE HOUSE IS SET WHERE WE DO NOT GET SUN AT THE SIDE OF THE
HOUSE SO IN THE WINTER THERE ACCUMULATES ICE THAT DOES NOT MELT
+ MAKES IT DANGEROUS GETTING HER TO THE CAR FOR APPOINTMENTS.

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

MY NEIGHBORS ARE IN GOOD HEALTH + OR HAVE A COVERED LEVEL
ENTRY INTO THEIR HOME.

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.

I HAVE TALKED TO OUR NEIGHBORS AND EXPLAINED WHAT + WHY
I WANT TO BUILD THE CARPORT AND THEY HAVE NO OBJECTION.

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.

Jerry Walker 3/3/17
Property Owner Signature Date

Sharon R. Walker
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. 2017 A-01

Actions Taken:

Jeremy Bryant
County Official Receiving Application

3/2/17
Date

Jeremy Bryant
Public Hearing fee received by

3/2/17
Date

N/A
Application returned for correction/additional information

Date

N/A
Amended application received by

Date

Public Hearing advertised in

Date(s)

Adjacent property owner(s) notified by mail

Date

Action by Planning Commission (if applicable)

Date

Action by Board of Zoning Appeals

Date



CENTRA
Medical Group

CMG Nationwide

125 Nationwide Drive
Lynchburg, VA 24502
Phone: (434) 200-3908 Fax: (434) 200-1677

March 2, 2017

TO WHOM IT MAY CONCERN:

Re: Patient: WALKER, SHARON D DOB: 10/09/1945 MRN: 635988 SSN: 4372

I am writing on behalf of my patient, Sharon Walker. Mrs. Walker has a neurovascular disorder known as cortico basilar insufficiency. Because of this disease, she has significant difficulty walking and requires either a walker or wheel chair at all times. My patient and her husband wish to cover their carport in order to prevent icing of the ground below. They are requesting a variance for this, and I believe that it should be granted in order to ensure the safety and well-being of my patient. Thank you for your attention to this matter. Please let me know if you have any further questions or concerns.

Sincerely,

Danielle S Lewis, MD

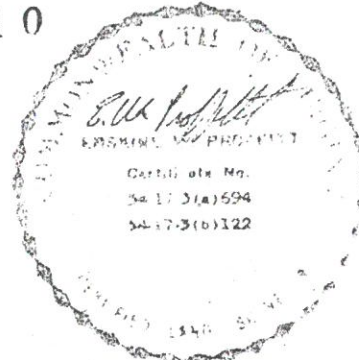
Please add this to the public record.

Sharon Walker 3/3/2017

C. WHEELER

N 25° 03' 30" E 95.50

110110



PHIL HARTLESS

100.0'

234.27

0.554 A^c

Iron

N 62° 25' W

134.27

197

58.5

Arc = 56.41

R = 40'

Δ = 80° 48'

Chord = S 45° 25' W

51.85

Iron

Iron S 34° 30' W 50.29

10' Gravel Drive

72.2

57.8
1 Sty. Brk.
Dwl.

45.1

254

198

12.7
19.1
6.3

16'

6'

18'

6'

S 62° 53' 30" E 191.59

EMERSON REAL ESTATE, INC.

old R 7
Part of Parcel B
Oak Park

Iron 373.71 To P.C. at
DIXIE AIRPORT ROAD

LYNN STREET

50'

BOOK 305
PAGE 223

PLAT SHOWING

To Amherst Board of Zoning Appeals.

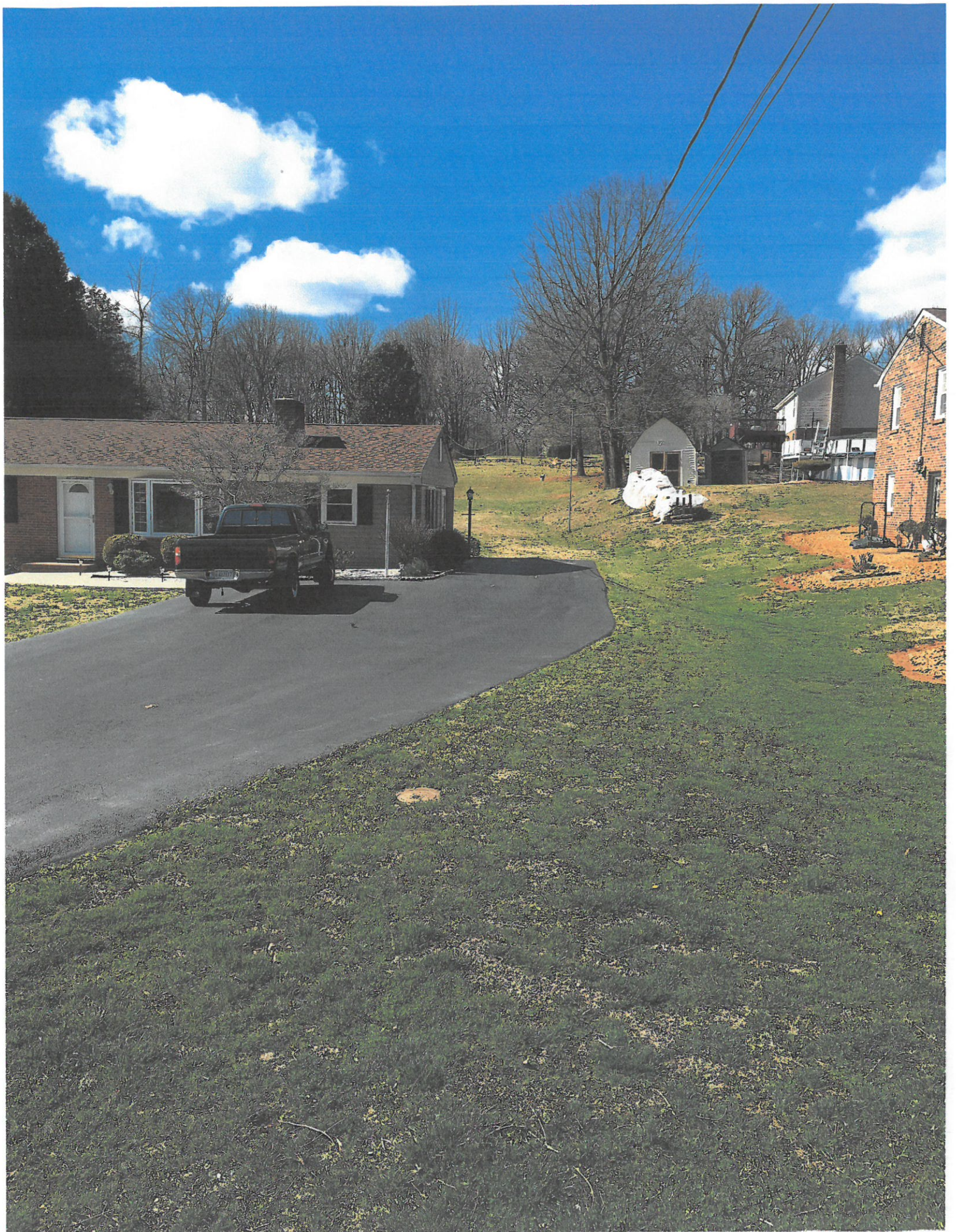
I have been informed by Mr. Walker that he wants to add a carport on the end of his house because of the safety of getting his wife in and out of the house in the winter when there is ice, snow and rain.

I understand that he needs a 3' Variance to do this and I have no objection to this.

Thank you for your assistance.

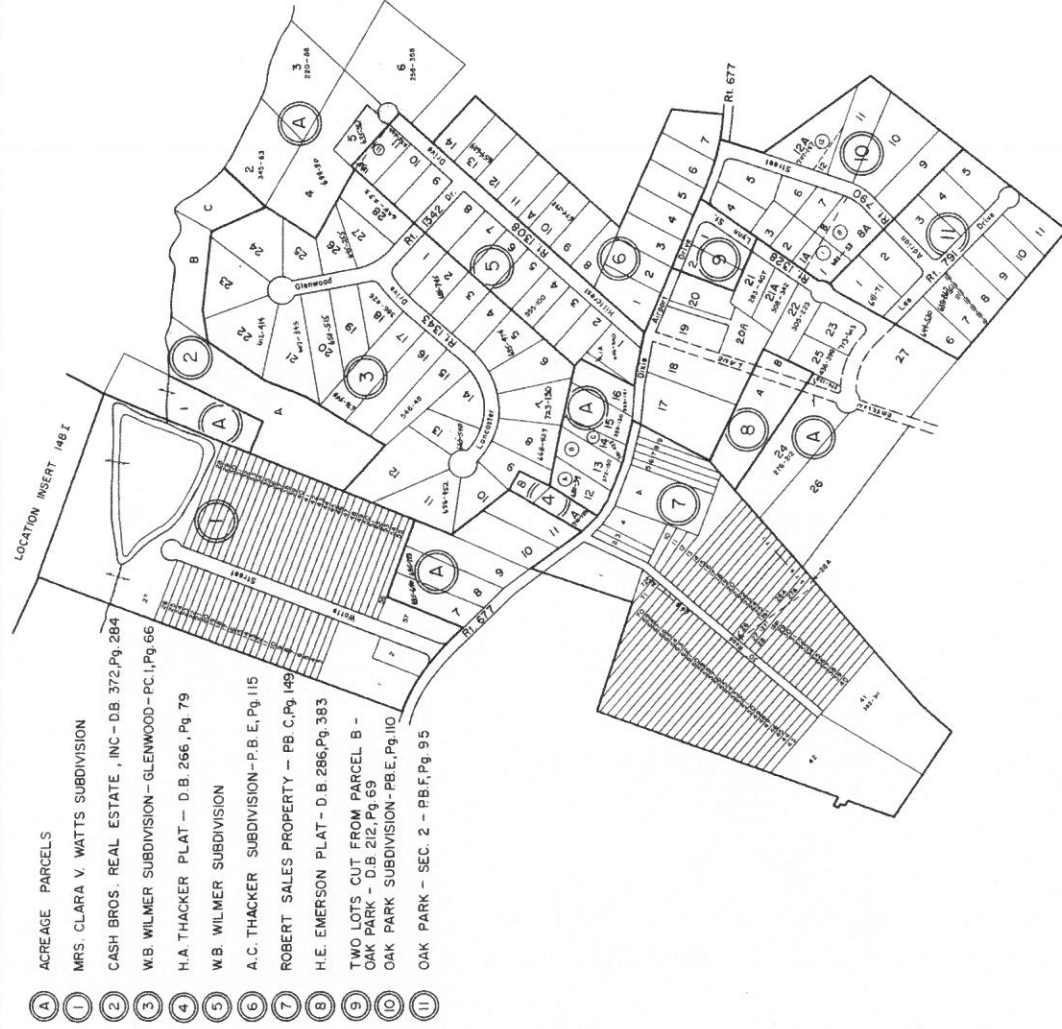
William V. McPherson
124 Lynn St. Madison Heights Va.

Paul Inslow 142 Adrian St Madison Heights 24572
Geraldine Busham 115 Lee Pl. Madison Heights 24572





AMHERST COUNTY



ELON DISTRICT

INSERT 148B

REVISED: 12/31/89