



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

**Variance Review**  
**Staff Report**  
**July 13, 2017**

**RE: Case #:** 2017A-04  
**Tax Parcel #:** 156A1-A-10  
**Magisterial District:** Elon  
**Lot Size:** 0.362 Acres  
**Zoning:** R-2 General Residential District

**Applicant:**  
Gregory P. Davidson  
173 Seminole Drive  
Madison Heights, VA 24572

**Property Owner:**  
Same as Applicant

**Request:**  
Request by Gregory P. Davidson 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 four (4) feet. The purpose of the request is to allow for the addition of a deck and ramp. The request is referenced by a drawing submitted by the applicant. The property is located at 173 Seminole Drive and is further identified as being tax map parcel number 156A1-A-10.

**Summary:**

Request by Gregory P. Davidson 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 four (4) feet. The purpose of the request is to allow for the addition of a deck. The request is referenced by a drawing submitted by the applicant. The property is located at 173 Seminole Drive and is further identified as being tax map parcel number 156A1-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, this existing dwelling was built in 1949. According to a plat of the property, the existing dwelling meets all required setbacks in the R-2 General Residential District.

The applicant has had an approximately 10' X 10' deck addition and a 4.5 foot wide ramp constructed to the side of the existing dwelling. The deck and ramp were built by volunteers and was constructed without the knowledge of the need for a zoning or building permit. The reason for the request is to enable Mr. Davidson the ability to safely enter and exit from his home. The deck includes a ramp that will allow Mr. Davidson to have access from the paved surface of the driveway to his home for his wheelchair. The proposed addition would fall within the required side yard setback of ten (10) feet from the side property 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 an accessory structure, 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 public sewer (0.230 acres). The existing dwelling conforms to all setback requirements. The owner would like to permit a deck with a ramp to the side of the dwelling that encroaches into the side yard setback to allow for accessibility for a wheelchair into the dwelling.**

**“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 stated that the structure does not extend beyond the width of the existing driveway. There is also an existing privacy fence between the deck and ramp and the adjoining property. 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 1949 prior to zoning in Amherst County. The current owner acquired the property in March 2017 (according to the Commissioner of the Revenue). The deck and ramp were constructed for the applicant by volunteers without the knowledge of the need for zoning and building permits.**

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. According to a volunteer helping with construction of the deck and ramp, the ramp needed to be built from the side of the deck in its existing configuration due to the slope of the driveway. If the ramp were built directly toward the front property line it would have to have been much longer due to the slope of the driveway and may have encroached into the front yard setback.**

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. 156A1-A-10 to reduce the ten (10) foot side yard setback to for (4) feet to allow for the addition of a deck and ramp.
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:

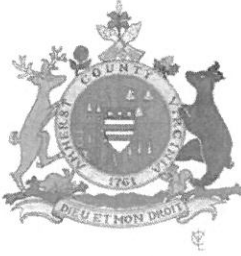
Notice to Adjacent Property Owners

Tax Parcel Map

Site Sketch

Variance Request Application

Plat of Property



Gd cash  
2017A-04

**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**

Gregory P. Davidson  
Applicant Name

173 Seminde Dr. Madison Hgts. 24572  
Applicant Address City/Town State Zip Code

(434) 229-4201 Gpdavidson69@gmail.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  
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**

Street Address Tax parcel ID number

**General Description of Property**

SFD

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

Purchased through VHDA (loan thru)

5/26/17 - Contacted applicant to get permission to complete rest of farm. Applicant gave answer I wrote them in

Current Use(s) of Property

Single Family Dwelling

Proposed Use(s) of Property

deck 10'x10' (Ramp 4.5' wide)

Total Acreage: \_\_\_\_\_

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	4'	10'	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.

This is the closest exit from my bedroom in case of fire.

The ramp allows me the ability to exit my home to a concrete surface. My front door exists onto a grass yard and my motorized wheel chair weighs over 400lbs. with me in it, which could leave me immobilized.

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

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When the house was built, it was built off center on a small lot. The other side of the fence is the south side of an apartment parking lot.

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 entire structure will not exceed the width of my driveway, which it is built on. It is adjacent to an 8ft. privacy fence, and metal storage shed behind it. It is only visible from the street 75 ft. away.

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.

#### 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.

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

Sharon E. Hansen 5/19/17  
Property Owner Signature      Date

\_\_\_\_\_  
Agent Signature      Date

\_\_\_\_\_  
Agent Signature      Date

Robin Jones (contractor)

772-285-4366



\*\*\*\*\*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-04

Actions Taken:

J. Durnell  
County Official Receiving Application

5/25/17  
Date

J. Durnell  
Public Hearing fee received by

5/25/17  
Date

Application returned for correction/additional information

Date

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

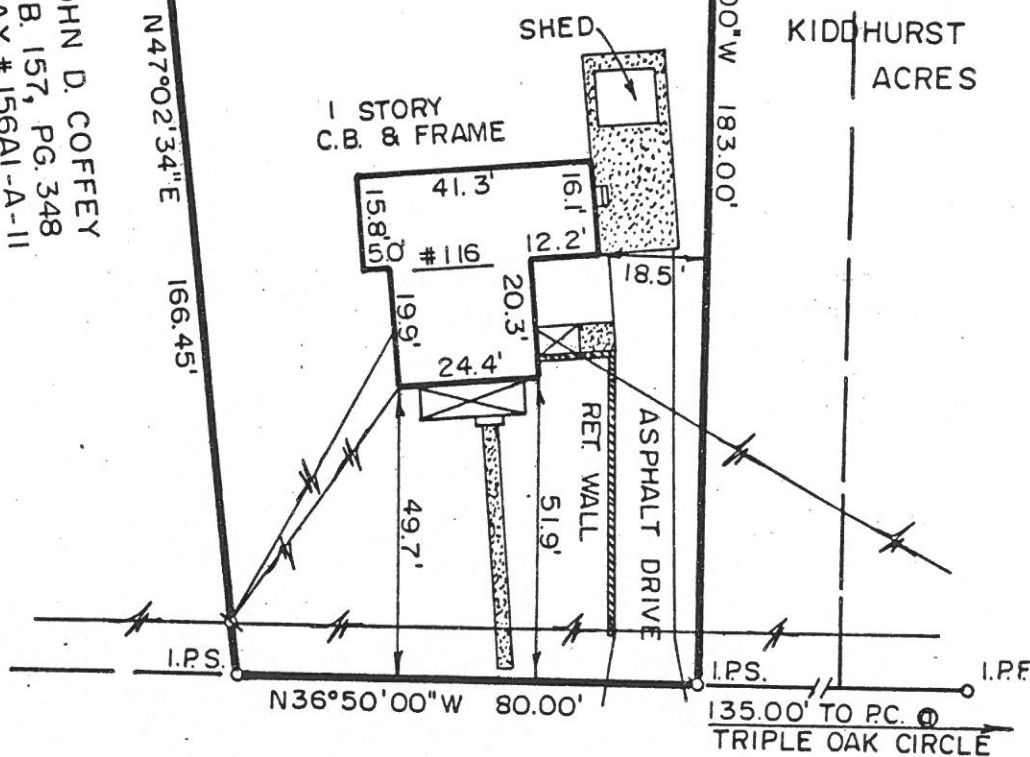
3886'

RICHARD JAMES  
GUNTER  
D.B. 398, PG. 28  
TAX #156A1-A-7

KATHLEEN R. PATTERSON  
D.B. 506, PG. 27  
TAX #156A1-A-9

JOHN D. COFFEY  
D.B. 157, PG. 348  
TAX #156A1-A-11

0.362AC.



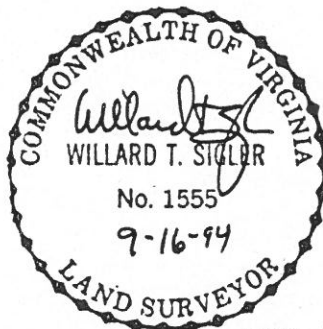
SEMINOLE DRIVE (SR 681)

**SOURCE OF TITLE**

DEED BOOK 164, PAGE 367  
DEED BOOK 657, PAGE 447

**SURVEYED FOR**

PATRICK O'MEARA



BOOK 684 PAGE 634

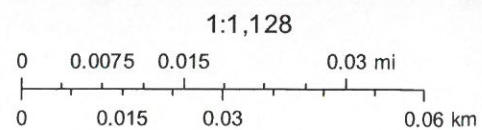
THIS PROPERTY IS LOCATED IN

THIS SURVEY HAS BEEN DONE





May 19, 2017



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



# AMHERST COUNTY



- (A) ACREAGE PARCELS
- (1) W.E. MCGINN EST.-P.B.G, Pg. 91
- (2) LAWRENCE TRUCK SALES, INC.-D.B. 353, Pg. 209
- (3) 2 LOTS ON TRIPLE OAK CIRCLE-D.B. 227, Pg. 331
- (4) G.W. GOHNE PROPERTY-D.B. 93, Pg. 584
- (5) J.P. ABBOT TRACT-P.B.D, Pg. 75
- (6) GADOURY SUBDIVISION-P.B.E, Pg. 114
- (7) KIDDHURST ACRES-P.B.D, Pg. 233
- (8) RESUB. OF LOTS 187 THRU 197 KIDDHURST ACRES-D.B. 410, Pg. 416
- (9) LAKEVIEW SUBDIVISION PLAT # 4, D.B. 191, Pg. 69, P.B.E, Pg. 50
- (10) LAKEVIEW SUBDIVISION-P.B.E, Pg. 34
- (11) PLAT OF MADISON VIEW-P.B.D, Pg. 231
- (12) WINBROOKE P.C. 1, s14c 173

SANITARY DISTRICT  
MADISON

INSERT 156A1