

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 Thursday, October 12, 2017, in the Amherst County Administration Building, 153 Washington Street, Amherst, Virginia, 24521, to consider the following request:

No. 2017A-06: Request by Shirley and Robert Coleman for approval of a variance from Section 913.03 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirements of 125 feet to 64.5 feet. The purpose of the request is to allow for the replacement of a manufactured home. The request is referenced by a drawing submitted by the applicant. The property is located at 4607 Elon Road and is further identified as being tax map parcel number 104-A-42.

No. 2017A-07: Request by Judy McCauley for approval of two variances from Section 411 and Section 710 of the Amherst County Zoning Ordinance. The first requested variance will reduce the setback from the buffer zone surrounding select P-1 Public Lands District from 200 feet to 45 feet. The second requested variance will reduce the setback from the Watershed District requirement of no structure within 350 feet from the normal pool elevation of a water supply reservoir to 240 feet. The purpose of the request is to allow for the addition of an attached garage. The request is referenced by a drawing submitted by the applicant. The property is located at 1466 Elon Road and is further identified as being tax map parcel number 136-3-4.

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
Jeremy S. Bryant, Director of Planning/Zoning

Variance Review
Staff Report
October 12, 2017

RE: Case #: 2017A-06
Tax Parcel #: 104-A-42
Magisterial District: Elon
Lot Size: 0.5 Acres
Zoning: A-1 Agricultural Residential District

Applicant:
Shirley and Robert Coleman
4607 Elon Road
Madison Heights, VA 24572

Property Owner:
Same as Applicant

Request:
Request by Shirley and Robert Coleman for approval of a variance from Section 913.03 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirements of 125 feet to 64.5 feet. The purpose of the request is to allow for the replacement of a manufactured home. The request is referenced by a drawing submitted by the applicant. The property is located at 4607 Elon Road and is further identified as being tax map parcel number 104-A-42.

Summary:

Request by Shirley and Robert Coleman for approval of a variance from Section 913.03 of the Amherst County Zoning Ordinance. The requested variance will reduce the setback from the front yard requirements of 125 feet to 64.5 feet. The purpose of the request is to allow for the replacement of a manufactured home. The request is referenced by a drawing submitted by the applicant. The property is located at 4607 Elon Road and is further identified as being tax map parcel number 104-A-42.

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):

The parcel of land is located in the Elon magisterial district and is located on Route 130, west of the Village of Elon. The parcel of land is 0.5 acres in total size. The applicant hired a surveyor, and the survey revealed that the existing manufactured home had been placed on top of the existing drainfield. The applicant would like to replace the existing manufactured home, however the lot is constrained by its small size, the Route 130 corridor overlay setback and the location of the well and drainfield.

Route 130 is considered a state scenic byway and is protected by the Route 130 overlay district. This district requires that all structures be setback a certain distance depending on the location of the byway. This particular parcel of land is located to the west of the Village and requires a 125 foot setback for all structures.

The applicant would like to place the manufactured home 64.5 feet from the front property line, off of the drainfield and an acceptable distance from the well.

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 parcel of land is a non-conforming parcel because it does not meet the statutorily one acre minimum area required by the Zoning Ordinance. The existing manufactured home is located on the drainfield and is in violation of the Health Department regulations. The proposed manufactured home will be located in front of the existing drainfield, but will be closer to the Route 130 corridor overlay district.

“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.

This property is unique due to its small size and limited space for a manufactured home to be set. The public health consequences of keeping the existing structure on the drainfield are a concern due to the fact that the structure could damage the drainfield and cause a public health concern. Most parcels located on Route 130 are conforming lots that meet the minimum one acre size requirement.

- 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 use of the land is not changing; the applicant already has an existing manufactured home. The existing home will be removed and a new manufactured home will replace it. The character of the district does not substantially change, except the proposed dwelling will move closer to Route 130.

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 is located on top of the drainfield and was apparently unaware of the drainfield location. A survey revealed the location of the drainfield and discovered a violation that was not known by the applicant.

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. The parcel is small and does not meet the minimum lot size requirements in the A-1 Agricultural Residential District.

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. 104-A-42 to reduce the 125 foot front yard setback to 64.5 feet to allow for the placement of a manufactured home.
2. Any changes to existing landscaping and vegetation that is located in the front yard of the lot shall be approved by the Department of Planning and Zoning.
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:

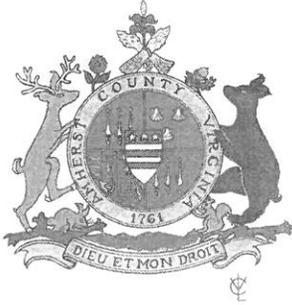
Notice to Adjacent Property Owners

Tax Parcel Map

Site Sketch

Variance Request Application

Plat of Property



Pcl ck

Procedures 2017A-06 Variance/Map Interpretation/Appeal

WHAT IS A VARIANCE?

A Variance is a request to vary certain requirements of the Zoning and Subdivision Ordinance where, due to special conditions of the property, strict enforcement of the Ordinance would, among other standards, effectively prohibit or unreasonably restrict all reasonable use of the property. Examples include, but are not limited to: Requests to permit construction of a structure closer to a lot line than allowed by the Zoning and Subdivision Ordinance (variance to minimum yard requirement) or requests to permit a subdivision of a lot which would result in new lots that do not meet minimum lot width requirements (variance to minimum lot width).

BOARD OF ZONING APPEALS

The Board of Zoning Appeals (BZA) is a quasi-judicial body comprised of Amherst County citizens who are appointed by the Circuit Court. There are five members, with each member serving in an at-large capacity for a term of five years. The BZA has the authority, among other powers, to approve variances of the Zoning and Subdivision Ordinance and rule on appeals of the Zoning Administrator's decision(s). The powers of the BZA are defined by the Zoning Ordinance and the State enabling legislation.

WHO CAN FILE A REQUEST FOR A VARIANCE?

A variance can be filed by a property owner, tenant, or a designated authorized agent, a government official, a department, a board or a bureau. An agent cannot be an applicant but can be authorized to act on the applicant's behalf. If the applicant is not the owner of the property, evidence must be submitted showing that the applicant will have the right to use the property as proposed.

SUBMISSION REQUIREMENTS

A variance application must meet submission requirements as specified in the Zoning and Subdivision Ordinance. A synopsis of the submission requirements is presented on pages 2 and 3 of this publication to provide a convenient way to ensure that all required portions of the application package are submitted.

BOARD OF ZONING APPEALS DECISION

The BZA may approve, deny, or approve-in-part, a variance request. The BZA may approve a variance only upon a finding that the request meets **all of the required standards for a variance** as outlined in the Zoning Ordinance. These Standards are based upon the Code of Virginia Section 15.2309 – Powers and Duties of the BZA.

ASSISTANCE

For clarification of these instructions, to obtain other information related to the application process, or to request help in filing your application, please call the Amherst County

Planning/Zoning Department at (434) 946-9303, or visit the web site at www.countyofamherst.com.

HOW LONG DOES IT TAKE?

The process takes approximately 4-6 weeks once an application is filed. However the Planning Commission (PC) and BZA can delay the process if desired.

HOW MUCH WILL IT COST?

A decision by the BZA requires a public hearing; all public hearings are subject to a \$300.00 dollar fee.

WHAT IS THE PROCESS?

A variance/map interpretation/appeal follows the same general process.

1. Pre-application conference with Planning/Zoning Department;
2. Completing and filing the application;
3. Staff review and public notice;
4. PC recommendation; and
5. BZA public hearing.

PRE-APPLICATION CONFERENCE

Applicants should schedule a pre-application conference with staff prior to submittal of the variance/map interpretation/appeal application package. *Staff recommends a pre-application conference.* Please schedule a conference with staff by calling (434) 946-9303. Staff will review submitted applications to ensure all required materials and information is provided. If the application is not complete, the required information must be provided prior to formal staff review and acceptance of the application.

Applicants are strongly encouraged to discuss the proposed variance with owners of neighboring properties prior to filing an application.

APPLICATION REQUIREMENTS

An application filed to the BZA consists of three parts:

1. Variance/Map Interpretation/Appeal application form;
 2. Public Hearing Fee, \$300.00;
 3. Site plan; and
1. **Variance / Map Interpretation / Appeal Application Form:** The application is available in the Planning/Zoning Department and may also be found on the department's website at www.countyofamherst.com. It must be signed by all owners of the property. If a legal representative signs for a property owner, a copy of the executed power of attorney is required.
 2. **Public Hearing Fee:** All applications are required to be advertised in accordance with the requirements of the Virginia State Code, § 15.2-2204. The Amherst County public hearing fee is \$300.00.
 3. **Site Plan:** An acceptable site plan is required per Article XI, Site Plan Review Requirements, of the Amherst County Code.

POST FILING INFORMATION

4. **Staff Review and Public Notices:** Once staff has accepted the complete application and filing fees have been paid, adjoining property owners are notified that a variance/map interpretation/appeal has been filed and of the time and date of the public hearing. Notice of public hearing is published as a legal advertisement, and the subject property is posted with a notice for public hearing. Staff prepares a report for the PC and BZA.
5. **Public Hearing:** At the public hearing, the staff presents the report; the applicant may also present the request. The BZA takes public comment and discusses the request and makes a final decision.

FILING/FEES/DEADLINES

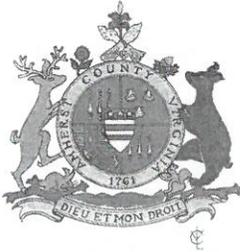
Variances/Map Interpretations/Appeal applications, and accompanying fees, are filed with the:

Department of Planning/Zoning
P.O. Box 390
Amherst, VA. 24521
(434)946-9303

APPEAL

A decision by the BZA may be appealed in accordance with Section 1402.06 of the Amherst County Zoning Ordinance. If you choose to appeal this decision, such action shall occur within 30 days of the date of the Board's action.

2017A-06



**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

Mary Bailey for CMH, Inc. dba Clayton Homes
Applicant Name

14210 Woods Rd. Lynchburg VA 24502
Applicant Address City/Town State Zip Code

434-470-1218 434-239-9695 baileymm-04@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

Shirley E. & Robert L. Coleman
Property Owner Name

4607 Elon Rd. Monroe VA 24574
Property Owner Mailing Address City/Town State Zip Code

434-329-0573 — —
Property owner telephone number Property owner fax number Property owner E-Mail

Location of Property

4607 Elon Rd. Monroe, VA 24574 104-A-42
Street Address Tax parcel ID number

General Description of Property

.50 acre lot SW on property sitting on drainfield

When and how did you acquire the property?

Deed of ~~Gift~~ Transfer 8/31/2005

Current Use(s) of Property

One Dwelling

Proposed Use(s) of Property

Replacement of Old Home with New Energy Saving Singlewide

Total Acreage: .500

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: Upgrade Home

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:	913.03#2	64.5	125	60.5
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.

The owner is trying to better herself with newer home, Current Home is sitting on top of drainfield which is creating a public health safety issue.

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

This will not effect any other homes or properties.

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 will not effect any other homes or properties.

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.

N/A

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

Property Owner Signature Date

 9/8/2017

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. 2017A-04

Actions Taken:

S. Smith County Official Receiving Application Date _____

S. Smith Public Hearing fee received by Date _____

Application returned for correction/additional information Date _____

Amended application received by Date _____

New Era Progress Public Hearing advertised in Date(s) _____

S. Smith Adjacent property owner(s) notified by mail Date 9/22/17

Action by Planning Commission (if applicable) Date _____

Action by Board of Zoning Appeals Date _____



AMHERST COUNTY TREASURER – PROPERTY TAXES FORM

Case #: 2017A-06

Case Request for: Shirley E + Robert L Coleman

Date Contacted Treasurer Department: 9/12/17

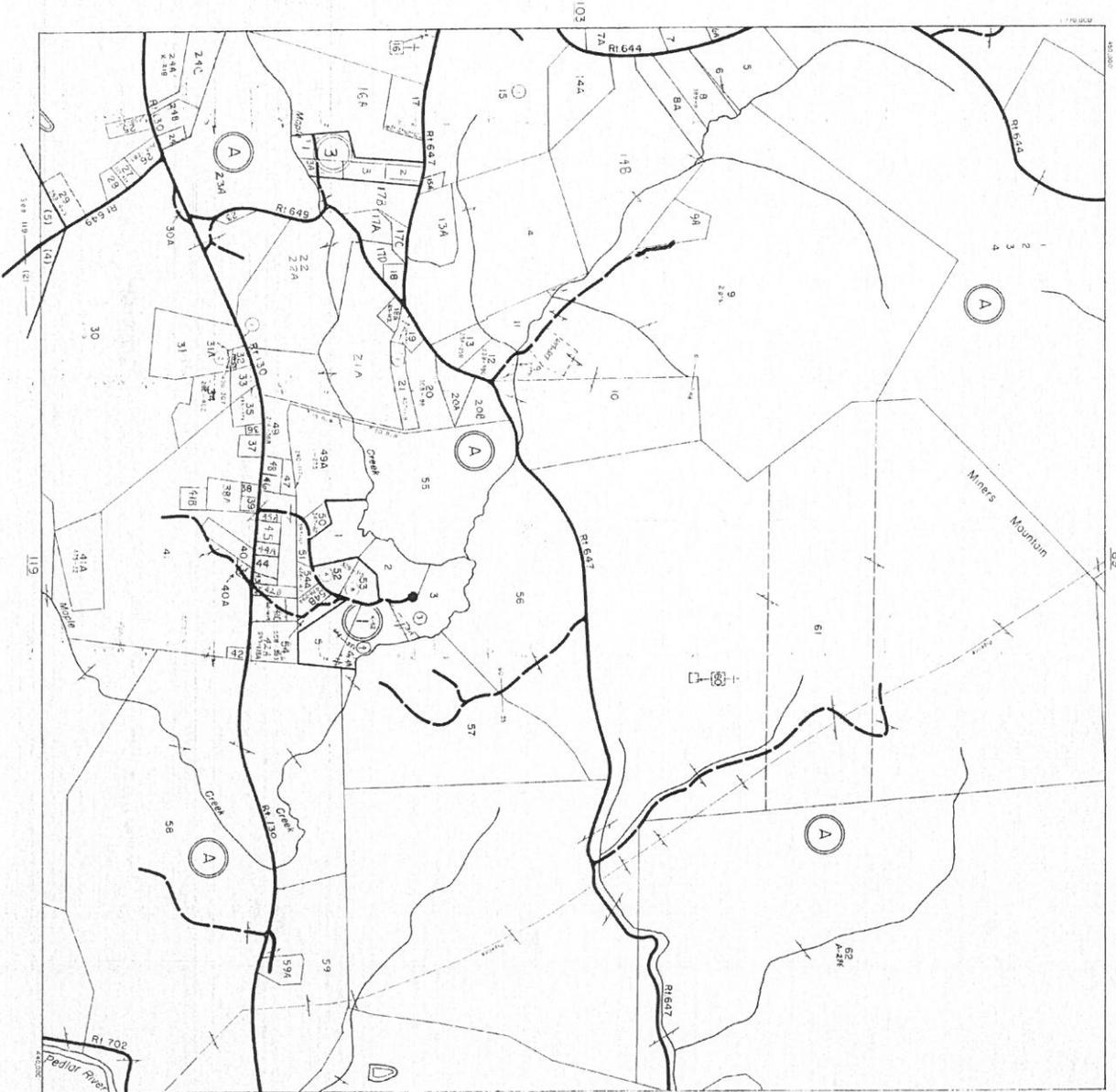
Caller: Stacey Stinson

Spoke with: Kay Rowe - via email

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

If Not Please Include Comments: _____

AMHERST COUNTY



SECTION 104

DISTRICT

REVISED 12/31/93

AMHERST COUNTY, VIRGINIA

ZONING PUBLIC NOTIFICATION

Case: 2017A-06

Board/Commission: Board of Zoning Appeals

Public Hearing Dates: October 12, 2017

Applicant: Shirley E. & Robert L. Coleman
402 Wadsworth St
Lynchburg, VA 24501

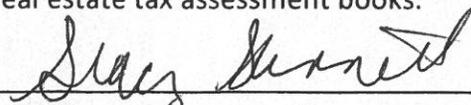
Property Owner
Shirley, Robert Coleman & Mary Harris
4607 Elon Rd
Monroe, VA 24574

Tax Map Number: 104-A-42

Adjoining Property Owners:

Tax Map #104-A-41,42A		
Raymond & Cheryl Coleman		
4642 Elon Rd		
Monroe, VA 24574		
Tax Map #104-A-58		
John, Jean & Patricia Albert		
4397 Elon Rd		
Monroe, VA 24574		

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

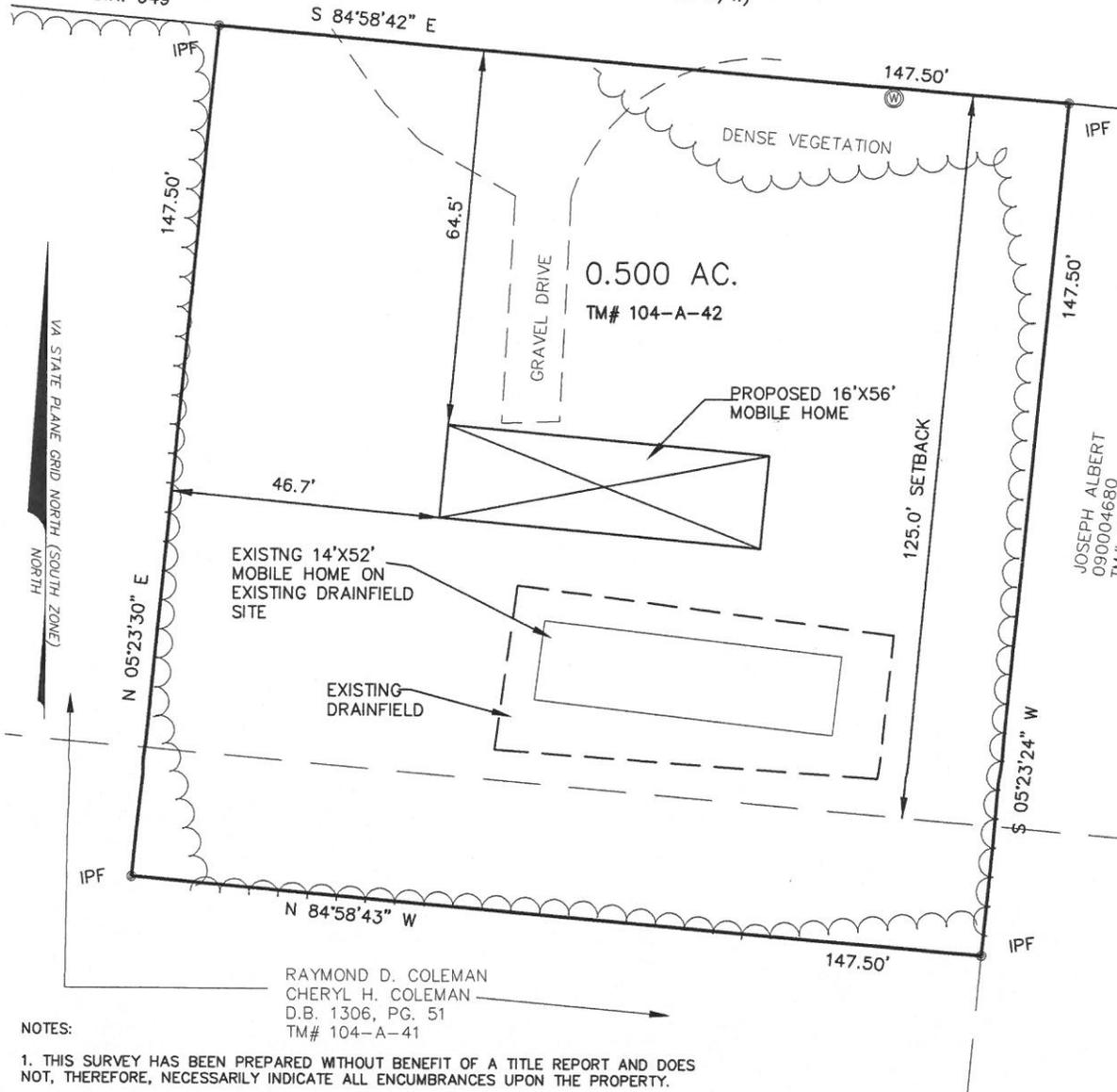
(Signature)

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



ELON ROAD
(ROUTE 130, VARIABLE WIDTH R/W)

0.7 MI ± TO
S.R. 649



JOSEPH ALBERT
090004680
TM# 104-A-58

RAYMOND D. COLEMAN
CHERYL H. COLEMAN
D.B. 1306, PG. 51
TM# 104-A-41

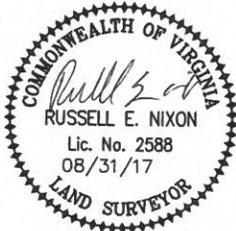
NOTES:

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 IS NOT IN A FLOOD ZONE THIS PROPERTY IS IN FLOOD ZONE X AS SCALED FROM F.E.M.A. FLOOD INSURANCE RATE MAP(S).
3. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE PER DATE OF THIS PLAT AND THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN HEREON.

NARRATIVE:

THIS REQUEST TO THE BZA IS BEING MADE BECAUSE OF A HARDSHIP CAUSED BY THE SET BACK REQUIREMENT FROM ROUTE 130. THAT SET BACK BEING 125' ALONG THIS ROUTE OF 130. THE EXISTING MOBILE HOME IS CURRENTLY SETTING ON TOP OF THE EXISTING DRAINFIELD SITE FOR THIS PROPERTY, THE OWNER HAS PURCHASED A NEW MOBILE HOME AND BY LAW CAN NOT PLACE THE NEW MOBILE HOME AT OR ON ITS EXISTING SITE. THE CURRENT MOBILE HOME IS ALREADY IN VIOLATION OF THE 125' SETBACK AND HAS BEEN GRANDFATHERED SINCE THE NEW SETBACK REQUIREMENT WAS IMPLEMENTED. PLEASE CONSIDER APPROVAL OF THIS APPEAL AS THE CURRENT MOBILE HOME IS IN NEED OF MAJOR REPAIR AND THE NEW HOME WILL BE A MUCH NEEDED IMPROVEMENT TO THIS PROPERTY.

SOURCE OF TITLE:
SHIRLEY E. COLEMAN
ROBERT L. COLEMAN
D.B. 1011, PG. 213



SURVEYED FOR:

Nixon Land Surveying, L.L.C.
1063C Airport Road
Lynchburg, VA 24502
Phone: (434) 237-3600
Fax: (434) 237-0699
Email: ren@nixonsec.com
www.nixonsec.com

SHIRLEY E. COLEMAN

PLAT SHOWING RESURVEY FOR ZONING APPEAL FOR NEW HOME LOCATION ON PROPERTY OF SHIRLEY E. COLEMAN AND ROBERT L. COLEMAN ELON DIST. AMHERST CO., VIRGINIA

COMM. NO.: 2017177	REVISED:
SCALE: 1"=20'	DR. BY: ren
SHEET: 1 OF 1	DATE: 08-31-17
CHK. BY: REN	DRW. NME. BZA

DO NOT MOVE AN ANCIENT BOUNDARY STONE OR ENCROACH ON THE FIELDS OF THE FATHERLESS. PROVERBS 23:10 (NIV)