

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, March 14, 2019, in the Amherst County Administration Building, 153 Washington Street, Amherst, Virginia, 24521, to consider the following request:

No. 2019-059: Request by John Oblinger, Vice President for the Elon Ruritan Club 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 100 feet to 77 feet. The purpose of the request is to allow for a proposed front porch to be added to the existing footprint of a building that was destroyed. The request is referenced by a drawing submitted by the applicant. The property is located at 2120 Elon Road and is further identified as being tax map parcel number 136-A-7.

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 Community Development



COUNTY OF AMHERST



Department of Community Development

Division of Planning & Zoning

Dylan M. Bishop, Assistant Zoning Administrator/Planner

Variance Review

Staff Report

March 14, 2019

RE: Case #: 2019-059
Tax Parcel #: 136-A-7
Address: 2120 Elon Road
Magisterial District: Elon
Lot Size: 2.95
Zoning: R-1 Limited Residential District

Applicant:

John S. Oblinger (Vice President Elon Ruritan Club)
463 Johns Creek Road
Madison Heights, VA 24572

Property Owner:

Elon Ruritan Club
2120 Elon Road
Madison Heights, VA 24572

Request:

Request by John S. Oblinger (Elon Ruritan Club) for approval of a variance from Section 913.03. The purpose of the request is to build an attached porch within the Route 130 setback.

The requested variance is for an attached porch which will reduce the setback from the Route 130 right-of-way requirement of 100 feet to 77 feet.

The property is located at 2120 Elon Road and is further identified as tax map number 136-A-7.

Staff Comment(s):

The Elon Ruritan Club was severely damaged by a tornado in April 2018, and was demolished in October of the same year. The property lies within the Route 130 Corridor Overlay Zone, and in this location has a minimum setback of 100 feet from the right-of-way (Section 913.03.1). The original structure was built in 1956, prior to the adoption of any zoning (1982) or building safety (1974) requirements in Amherst County, and is therefore considered a nonconforming structure. According to a drawing provided by the applicant, the setback of the original structure is 84 feet. The current grandfathered variance is 16 feet, and a building permit to reconstruct the Ruritan Club building in its existing footprint was issued in February 2019. This is permissible per Section 601.02.1:

Any structure or portion thereof declared unsafe by the building inspector, or destroyed by any means, may be restored to a safe condition, provided that the requirements of this section are met, and the ownership remains the same as before such declaration or destruction.

Additionally, a nonconforming structure may be enlarged or altered as necessary, provided such enlargements or alterations do not exceed a cumulative 50% of the floor area of the original nonconforming structure, and provided all yard and other appropriate requirements herein are met (Section 601.02.2).

John Oblinger on behalf of the Elon Ruritan Club is applying for a variance which will reduce the setback from the Route 130 right-of-way requirement of 100 feet to 77 feet.

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 zoned R-1 Limited Residential District; the Ruritan Club is the principle use on the parcel and an inground pool lies within the base of the rear yard. The area of the lot between the building and the pool slopes significantly downward towards a creek. Additionally, the existing drainfield and septic tank are located on the slope behind the building. According to the applicant, the original structure suffered continuous water damage due to grading and drainage issues. Due to topography, existing drainfield, and a rear access road, the structure likely cannot be shifted further in the rear yard to accommodate the addition of the front porch.

“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 lots on the northern side of Route 130 in this vicinity slope significantly downward, and these dwellings are located even closer to the right-of-way. The southern side features very flat topography allowing those residences to be set further back from Route 130.

- 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 property is not to change. Other structures also located on the northern side of Route 130 are located within the Route 130 setback and are considered grandfathered per Section 601.

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 property was deeded to the Elon Ruritan Club in 2002 from the American Legion. A copy of the recorded deed is provided, therefore staff believes the property was 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).

The lot features a significant downward slope in the rear yard, where the drainfield and septic tank are also located.

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 136-A-7 for an attached front porch that will reduce the setback from the Route 130 right-of-way requirement of 100 feet to 77 feet.
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:
Tax Parcel Map
Variance Request Application Packet

2019-059



**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

John S. Oblinger V.P. ELON RURITAN CLUB
Applicant Name

463 Johns Creek Rd. Madison Heights Va 24572
Applicant Address City/Town State Zip Code

434-384-3037 434-941-3412 jsoblinder@gmail.com
Applicant phone number Applicant ~~fax~~ number Applicant E-Mail
cell

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

ELON RURITAN CLUB
Property Owner Name

2120 ELON ROAD MADISON HEIGHTS, VA. 24572
Property Owner Mailing Address City/Town State Zip Code

N/A N/A N/A
Property owner telephone number Property owner fax number Property owner E-Mail

Location of Property

2120 ELON ROAD 136-A-7
Street Address Tax parcel ID number

General Description of Property

SEE ATTACHED

When and how did you acquire the property?

SEE ATTACHED

Current Use(s) of Property

CLUB Meetings, Community + Social events. See Attached

Proposed Use(s) of Property

SAME AS ABOVE

Total Acreage: 2.95

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:	^{#1} 913.03	77	100 ft.	23 ft.
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.

See attached

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

see attached

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.

see attached

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.

<u>John S. Obling 2/6/2019</u>	<u>Bonnie L. Meier 2/6/2019</u>
Property Owner Signature Date	Property Owner Signature Date
V.P. + Trustee of Elon Rural Club	

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. 2019-059

Actions Taken:

A. Turner
County Official Receiving Application

Date

Public Hearing fee received by

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

Attachment to Application for Variance of Front Yard Setback for Elon Ruritan Club

Date: 2/3/2019

General Description of Property:

The property is approximately 2.95 acres located on state route 130 approximately 5 miles west of state route 29 business just east from the village of Elon. The property contained a building that was approximately 2,064 sq. ft. on first floor and an approximately 1,920 sq. ft. unfinished basement. The building that was built in 1955/1956 was used for club meetings, community events, social events and fund raising activities, among other community type activities. The main building was at or very close to the current 100 ft. front yard set-back requirements while the 12' X 12' foyer on the front midsection of the building was mostly or completely an exception to the later mandated 100 ft. setback by at least 12'.

The building was "grandfathered" with respect to the 100' setback requirements, with the variance of approximately 12'. In April 2018, the building was severely damaged by a tornado, and was demolished in October 2018, in preparation to rebuild. The plan is to rebuild the building with the same (or very close) front yard setback as the original building with respect to the main structure and the entrance foyer, which is grandfathered. The specific change that mandates this request for additional front yard setback variance is the request for addition of an 8' deep X 12' wide porch in front of the foyer. This is an additional 8' variance beyond the already existing grandfathered variance. The specific total variance requested is no more than 23', or a maximum of 77' front yard set-back.

The 77' front yard set back (23' variance) is requested because I cannot determine the exact location of the original foundation since it has been demolished, so the variance requested is measured to be a worst case scenario. Actual variance will probably be slightly less and front yard set-back will probably be slightly greater than that requested.

There is a site plan attachment to this document showing projected front yard dimensions, as well as approximate set-backs of two adjacent properties, which have much greater variances (grandfathered) than we are requesting herein.

There is Plat of the subject property attached to this document, surveyed by T.W.Saunders dated March 15, 1947. This plat is not known to be recorded, but is addressed in the deed of the property.

When and how did you acquire the property: In 1955, the property was deeded to The American Legion Post 100. They built a club building which was completed in 1956. In later years, they shared the building/property with the Elon Ruritan Club. In 2002, American Legion Post 100 disbanded due to low membership and deeded the property over to the Elon Ruritan Club. The deed is recorded in deed book 885, page 841. A copy of the deed is attached.

1. That the strict application of this ordinance would produce undue hardship:

The original building had serious issues due to water run-off from the front of the building, causing repeated water damage to the basement and items stored in the building. The proposed contractor believes that a front porch positioned in front of the main entrance foyer, significant front grading modifications, raising the building slightly higher than the original building, and improved wall sealing/drainage would eliminate the water run-off problems experienced in the original building. The addition of the porch area on the grade would make the grade to building transition more practical and efficient.

The front porch would also protect the entrance, provide inclement weather protection for people entering the building, and would add an aesthetically pleasing value to the front of the building. Attached is a copy of proposed architect's view of the front of the building.

The building cannot be set back further on the property because currently there is just enough room for a narrow driveway behind the building before the bank drops off significantly. Also, the existing septic tank, distribution tank and drain field are on the slope after the drop-off.

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

The two properties west of our property do not share the same water run-off issues because 1) they have no full basement, and 2) they are closer to the road (approximately 50 ft' front yard set-backs), which are relatively flat building areas before significant inclines/drop-offs behind those building.

Buildings/homes across the highway are basically flat lots and likely do not have similar water run-off issues.

3. That the authorization of such variance will not be of substantial detriment to adjacent property and the the character of the district will not be changed by the granting of the variance:

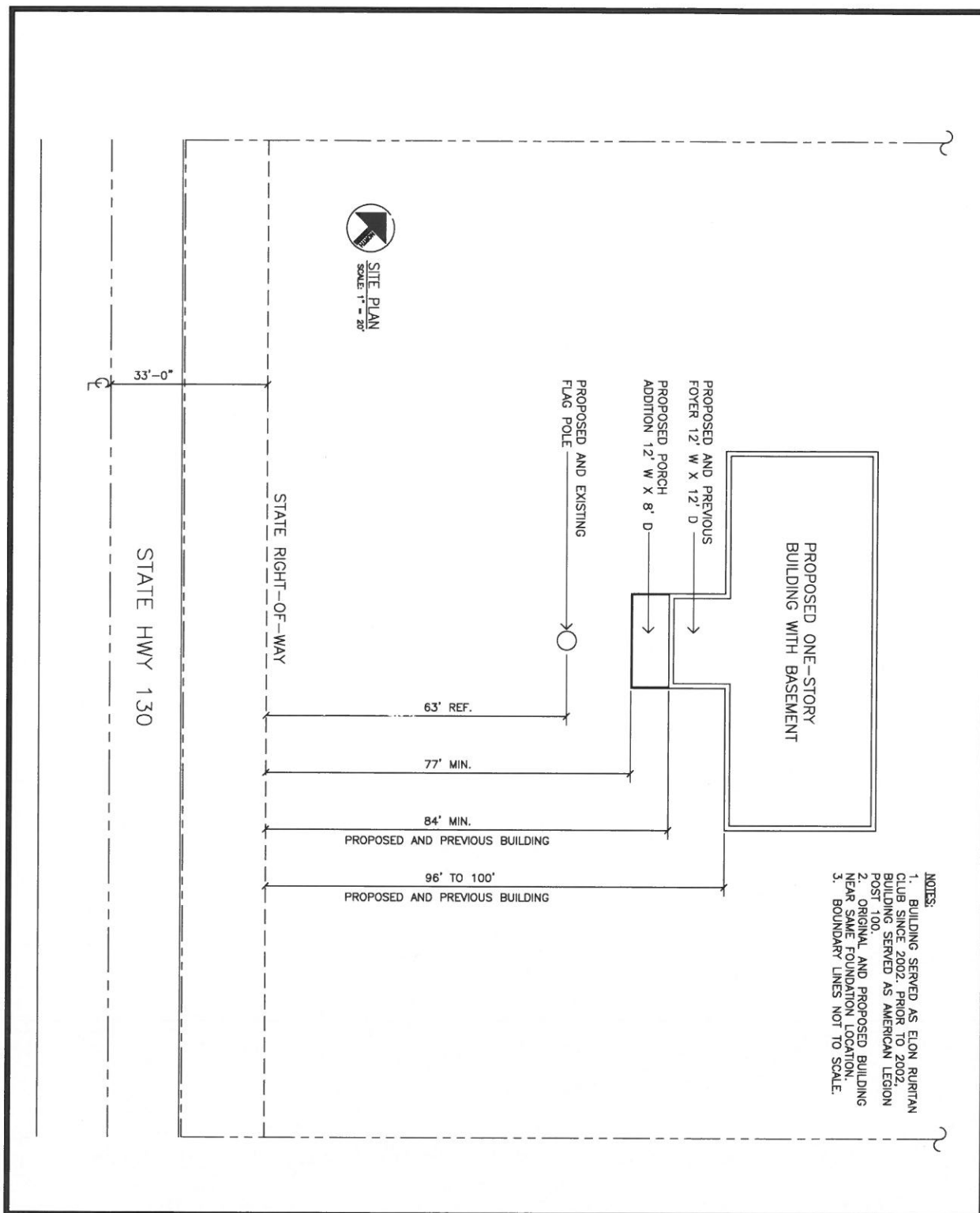
The additional front yard variance of 8' beyond the already ~12' front yard variance grandfathered in original building only applies to a 12' width span of the otherwise allowed parameters for re-building.

Character and detriment to adjacent property should not be impacted at all since the variance requested remains within the functionality boundaries of the original building, i.e., within the boundary determined in relationship to the flag pole and yard. Character of the district may even show an improvement, since the addition of the porch with columns will improved the appearance of the building, enhancing the character of the neighborhood.

Adjacent properties immediately west of our property all have less set-back from the state right-of-way, i.e., approximately 50' vs. our proposed 77'. Buildings to the east of us are a significant distance away and should experience no impact.

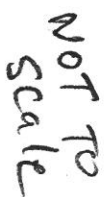


Prepared by John S. Oblinger



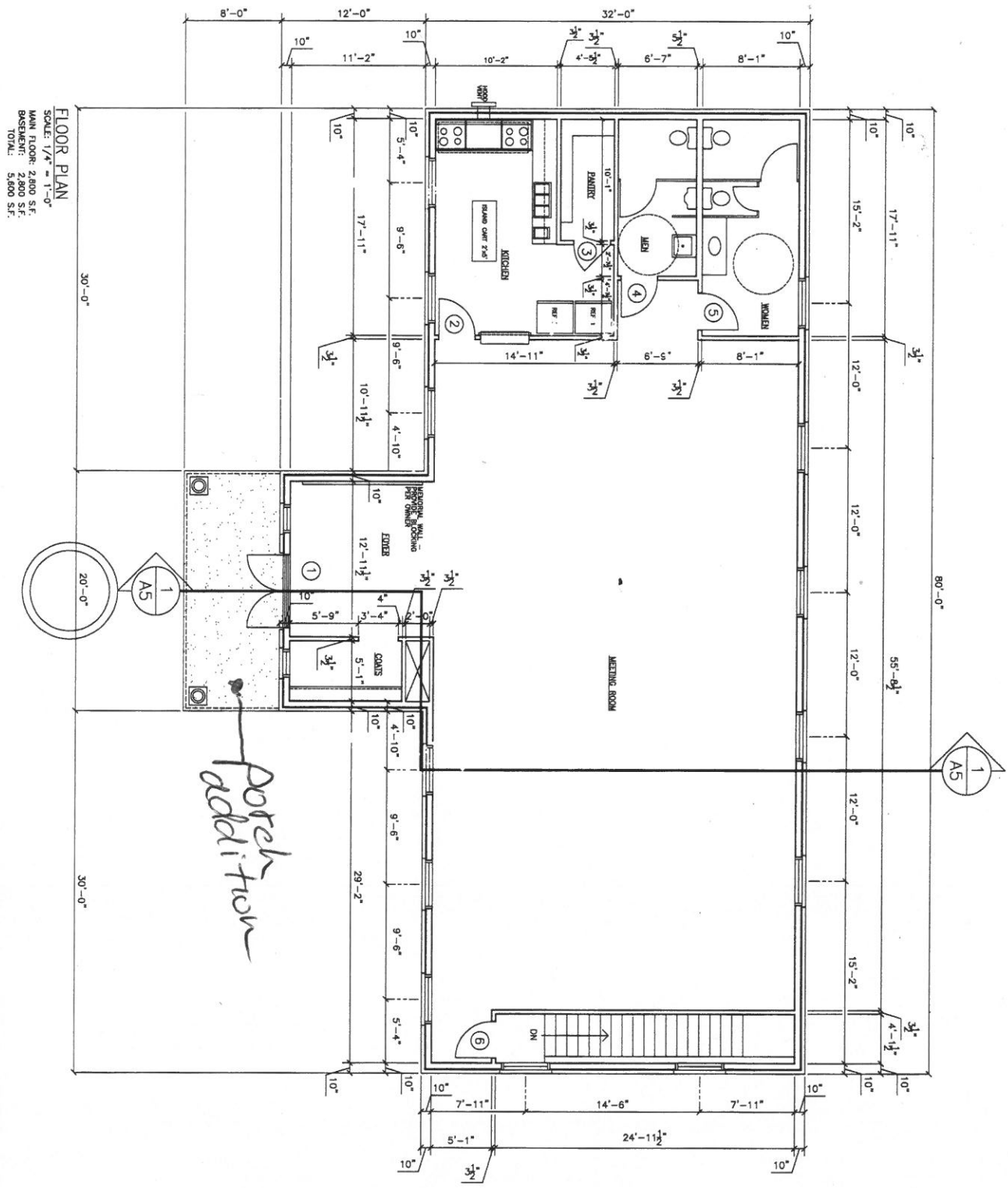
	<p>WALL CONSTRUCTION, LLC</p> <p>161 Dillard Road, Madison Heights, VA 24572 phone: 434-929-0366 website: wallconstructionva.com</p>	<p>ELON RURITAN CLUB MADISON HEIGHTS, VIRGINIA</p> <p>SITE PLAN</p>	<p>DATE: 2-4-2018 DRAWN: JSM CHECKED:</p>	<p>1. REVISIONS</p>
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WEST →



Prepared by John O'Brien

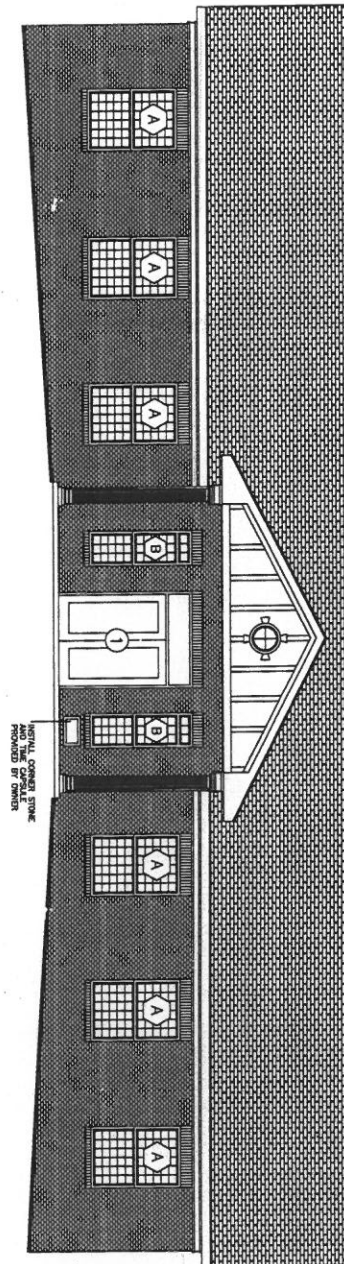
12/23/18



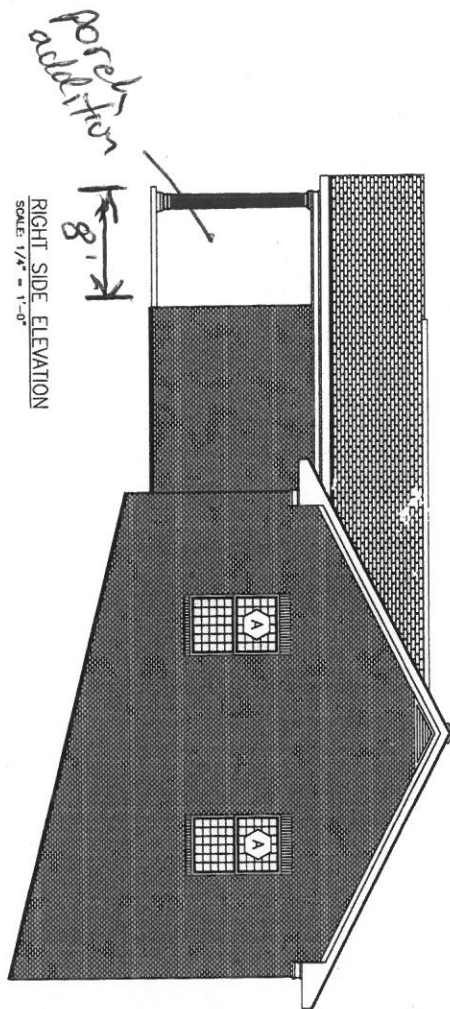
FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 MAIN FLOOR: 2,800 S.F.
 BASEMENT: 2,800 S.F.
 TOTAL: 5,600 S.F.

Porch addition

A1	WALL CONSTRUCTION, LLC 161 Dillard Road, Madison Heights, VA 24572 phone: 434-929-0366 website: wallconstructionva.com	ELON RURITAN CLUB MADISON HEIGHTS, VIRGINIA MAIN FLOOR PLAN	DATE: 11-16-18 DESIGNED: TSR DRAWING: TSR CHECKED:	REVISIONS 1. 12-29-2018



FRONT ELEVATION
SCALE: 1/4" = 1'-0"



WINDOW SCHEDULE				
MARK	OPENING SIZE	WINDOW MNTL. TYPE	DOUBLE HUNG	DOUBLE HUNG
A	48" W x 70" H	WOOD/PVC	YES	YES
B	27" W x 60" H	WOOD/PVC	YES	YES

NOTES:
1. ALL WINDOW AND DOOR FINISHES TO MATCH EXISTING.
2. ALL WINDOW AND DOOR FINISHES TO MATCH EXISTING.
3. ALL WINDOW AND DOOR FINISHES TO MATCH EXISTING.

A3

WALL

CONSTRUCTION, LLC

161 Dillard Road, Madison Heights, VA 24572

phone: 434-929-0366 website: wallconstructionva.com

ELON RURITAN CLUB
MADISON HEIGHTS, VIRGINIA

EXTERIOR ELEVATIONS

DATE: 11-16-18
DRAWN: TSK
CHECKED:

REVISIONS
1. 12-28-2018

PUBLIC NOTIFICATION

CASE 2019-059

BOARD/COMMISSION

BOARD OF ZONING APPEALS

Hearing Dates: March 14, 2019

APPLICANT

John Oblinger
VP for Elon Ruritan Club
463 Johns Creek Rd
Madison Heights, VA 24572

PROPERTY OWNER/SITE ADDRESS

Elon Ruritan Club
2120 Elon Road
Madison Heights, VA 24572

Tax Map #: 136-A-7

Adjoining Property Owners

<u>NAME</u>	<u>ADDRESS</u>	<u>CITY</u>	<u>TAX PARCEL</u>
Walter Malcom & Sheila Michelle Wills	2002 Elon Rd	Madison Heights VA	136-A-40
Walter Malcom & Sheila Michelle Wills	2078 Elon Rd	Madison Heights VA	136-A-40
Andrew & Colan Davis	119 Mattiponi Dr	Madison Heights VA	136A-1-31,32
Cynthia Taylor	2136 Elon Rd	Madison Heights VA	136-A-6
Howard Jr & Rosemary Hudson	2149 Elon Rd	Madison Heights VA	136-5-22
David Neighbors	2129 Elon Rd	Madison Heights VA	136-5-20,21
Holcomb & Florence Nixon	123 Younger Dr	Madison Heights VA	136-5-19
Joy Campbell	2107 Elon Rd	Madison Heights VA	136-5-18

COMMONWEALTH OF VIRGINIA)

COUNTY OF AMHERST) to wit:

This day in the County of Amherst, Jeremy Bryant, Director of Community Development, on behalf of Amherst County, Virginia, personally appeared before me, Stacey Stinnett, a Notary Public in and for the County aforesaid, in the Commonwealth of Virginia, and made oath that he is the agent for Amherst County, Virginia: and that he duly caused a public hearing before the Board of Zoning Appeals on March 14, 2019 to be advertised in a newspaper with general circulation in Amherst County, Virginia, the New Era Progress and the News & Advance. The affiant has declared to me under penalty of perjury that the foregoing is true and correct and further the affiant declareth not.

(Signature)

Jeremy Bryant

(Title)

Director of Community Development

(Date)

February 22, 2019

This affidavit is subscribed and sworn before me this 22 day of February, 2019 by Stacey Stinnett, Planning & Zoning Administrative Assistant for Amherst County, Virginia, on behalf of Amherst County, Virginia, who is personally known to me. In testimony whereof I have set my hand on the day, month, and year aforesaid.

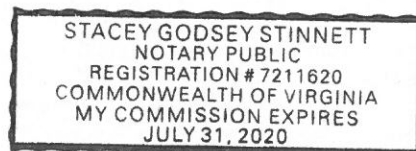
My Commission Expires:

July 31, 2020

Notary Public

Stacey Stinnett
7211620

Registration Number



AMHERST COUNTY



SECTION 136

ELON DISTRICT

0 200 400 600 800 1000
0 0.2 0.4 0.6 0.8 1.0
Feet Miles

RECEIVED 12/21/88