County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
AGENDA
TUESDAY, NOVEMBER 12, 2024 at 2:00 P.M
LANE AUDITORIUM

1. Call to Order

2. Establish a Quorum

3. Public Hearings:
   A. Project: VA202400002 Variance – TMP 58-21 – 724 Maranatha Lane
      Property Owner(s): Patrick & Julia Kilcur
      Contact Person: Patrick Kilcur
      Tax Map Parcel ID: 05800-00-00-02100
      Staff: Lisa Green

4. Approval of Minutes
   A. March 12, 2024

5. Old Business
   A. Convene to Closed Meeting under *Virginia Code* § 2.2-3711(A)(1) – to discuss, consider, or interview prospective candidates for employment – BZA Legal Services Contract renewal for FY2024-25

   B. Reconvene to Open Meeting – Certify Closed Meeting

   C. Take Action on business discussed during Closed Meeting, if applicable

6. New Business

7. Adjournment

Opportunities for the public to access and participate in the meeting will be posted at https://www.albemarle.org/community/quick-links/county-calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

BOARD OF ZONING APPEALS IN-PERSON MEETING GUIDELINES

Thank you for attending the Board of Zoning Appeals (BZA) meeting. The following information is provided to help ensure the meeting proceeds as efficiently and effectively as possible. As a courtesy to others, please turn off all cell phones during the meeting.

General Information:

This meeting is recorded and later transcribed into minutes approved at a later meeting date.

Each item set for public hearing will begin with a presentation of the staff report. Next, the applicant or appellant for that item will be invited to speak. During the course of the process, the Chair will open the public hearing to comments from the public. At the end of these proceedings the Chair will announce that the public hearing is closed. Once the public hearing is closed, no further public comments will be allowed unless the Board asks for additional information from the applicant or appellant.

The BZA reserves the right to digress from these guidelines in any particular case.

To Members of the Public:

Public comment is welcome during Public Hearings. A sign-up sheet will be available in Lane Auditorium prior to the meeting for anyone who would like to comment on a scheduled public hearing. If you wish to comment on those matters for which comments from the public will be received, please list your name on the appropriate sign-up sheet. When your name is announced for comment, please come to the microphone and state your name for the record. For uncommon spellings, please spell your name for the recording clerk. If you are with a group of people, you may want to have a spokesperson present your position to the Board.

In order to give all speakers equal treatment and courtesy, the Board requests that speakers adhere to the following guidelines:

- *Come forward to the speaker's podium and state your name;*
- *Address comments directly to the Board as a whole - open public debate is prohibited;*
- *State your position and give facts and other data to back it up – keep in mind that there is a **3-minute time limit for public comment**;*
- ***Give written statements and other supporting material to the Recording Clerk** (written comments are also welcome if you do not wish to speak).*

Additional Guidelines for Applicants and Appellants addressing the Board:

- *Please contact staff in Community Development ahead of the meeting to make any necessary arrangements for your presentation. **The Recording Clerk will also need copies of any handouts given to the BZA members for the official record of the meeting.***
- *Be clear in stating your position and do not repeat information that has been previously submitted to the Board.*
- *Stay on topic by addressing the questions in the application or by responding directly to staff's determination(s). Focus on presenting facts and data that support your position.*
- *Keep in mind there is a **15-minute time limit for presentations and a 5-minute time limit for rebuttal comments.** The Board will ask any necessary follow-up questions to clarify points made during the presentation.*
- *Understand that the Board of Zoning Appeals cannot change County ordinances.*

The BZA reserves the right to place additional time limitations on speakers, as necessary.

VA2024-00002 Maranatha Lane
Staff Report

STAFF: Lisa Green and Francis H MacCall
PUBLIC HEARING: November 12, 2024

STAFF REPORT: VA2024-00002 Maranatha Lane

OWNER/APPLICANT: Patrick & Julia Kilcur
PARCEL ID: 05800-00-00-02100
ZONING: Rural Areas, RA
ACREAGE: 5.64 acres
LOCATION: The property is at 720 Maranatha Lane in western Albemarle County. One approved dwelling is located on the property. Please refer to the Map and Plat of the Property (Attachment A).

TECHNICAL REQUEST AND EXPLANATION: The applicants request a 24-foot variance from the required 25-foot front setback to allow a structure to be located approximately 1 foot from the right of way of the private street known as Maranatha Lane (Attachment B). Albemarle County Code § 18-10.4 currently provides that the front setback for primary structures in the Rural Areas is 25 feet from internal public and private roads. Additionally, Albemarle County Code § 18-4.11 requires accessory structures to meet the front yard setback and the setbacks along the side and rear to be six feet. The applicant proposes that an existing structure be located 1 foot from the right-of-way of Maranatha Lane, a variance of 24 feet.

BACKGROUND:
Zoning Ordinance History
The Zoning Ordinance adopted December 10, 1980 (the **"effective date of the ordinance"**), established the requirement that "No portion of any accessory structure shall be permitted in any required yard; provided however… that no such building shall be located within any yard required by Section 4.6.3. Section 4.6.3 describes a front yard, which is the yard "nearest the street." At that time, the front yard depth for a property zoned RA, Rural Areas, was 75 feet. That distance changed in 1991 with a Zoning Text Amendment (ZTA) creating a 25-foot yard requirement on internal public or private streets.

In 2002, a ZTA was adopted to define accessory structure setbacks for alleys and shared driveways. This amendment removed the language from section 4.6.3, which previously required front yards to be established according to the applicable district regulations. As a result, it was interpreted that accessory structures only needed to meet the minimum six-foot setback requirements in front yards.

In 2009, a ZTA was adopted to correct what was believed to be an error in allowing accessory structures within the front yard with a reduced setback. The amended ordinance changed the language from section 4.6.3 to reinstate the requirement that the front yard setbacks align with district regulations based on the zoning classification. In the RA zoning, an accessory structure would have had to be located 75 feet from public streets and 25 feet from internal public streets (dead ends) and private streets.
Consequently, there was a period from February 6, 2002, to July 1, 2009, during which any accessory structure could be built in the required front yard, provided it only met the six-foot setback from all lot lines.

Parcel Background
On April 12, 2004, the property owner submitted a subdivision application to create a family subdivision; however, it was eventually withdrawn due to inactivity.

On May 16, 2006, a Letter of Determination was issued regarding the property's development rights, determining the property contained five development rights.

On April 9, 2008, the property was sold.

On April 28, 2008, the new owner submitted a subdivision application to create a two-lot subdivision with a private street. The subdivision and the plat for the two parcels and the private street were approved and recorded in June 2008. The subject parcel was assigned three development rights, with the second lot being assigned two development rights. **The private street created is known as Maranatha Lane.**

On July 29, 2008, the property was sold.

On August 25, 2008, the new owners applied for a building permit to construct a 768-square-foot accessory structure with an unfinished basement intended for use as a workshop. The application was reviewed, and the permit was issued on September 9, 2008. Several inspections were completed, including the preliminary zoning inspection, which established the structure's location. The preliminary zoning inspection would have allowed the accessory structure to only meet the six-foot structure setback from the private street right-of-way, as this was within the timeframe between the 2002 and 2009 ZTAs noted above.

On October 24, 2008, the last inspection was conducted for framing and rough-in electric. The property owner did not request any further inspections, resulting in the permit being considered abandoned after six months of inactivity.

On March 2, 2023, the Kilcurs purchased the home.

On June 4, 2024, the Kilcurs applied for a Homestay permit to utilize the structure as a short-term rental. Upon reviewing the application, staff discovered that the accessory structure had been completed by the previous owner and converted into a single-family dwelling. Staff informed Mr. Kilcur that if the accessory structure remained a single-family dwelling, they would need to obtain a variance for the front setback of 25 feet from the right-of-way of Maranatha Lane and acquire a building permit to officially convert it from an accessory structure to a single-family dwelling.

On August 14, 2024, the Kilcurs applied for this variance and, on August 24, 2024, applied for a building permit to establish the structure as a single-family dwelling. The outcome of this hearing will determine whether that permit is issued.

QUALIFYING CONDITIONS:
Under Virginia Code § 15.2-2309(2) (Attachment D), the BZA may "grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the

evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section."

The following lays out the standard for a variance as defined in *Virginia Code* § 15.2-2201 and § 15.2-2309(2), which Albemarle County establishes in County Code § 18-34.4(i) (Attachment E). Both are outlined below.

Virginia Code § 15.2-2201 - Definitions
A variance is "a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when" the following four standards are met.

1. *The strict application of the ordinance would unreasonably restrict the utilization of the property, and*

2. *Such need for a variance would not be shared generally by other properties, and*

3. *Provided such variance is not contrary to the purpose of the ordinance.*

4. *It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.*

And

County Code § 18-34.4(i) provides:
The Board shall grant a variance if the evidence shows:

(i) that strict application of the terms of the ordinance would unreasonably restrict the utilization of the property; or

(ii) that granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance;

and all of the following:

1. *<u>Good faith acquisition and hardship not self-inflicted.</u> The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the applicant for the variance.*

2. *<u>No substantial detriment.</u> Granting the variance will not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*

3. *<u>Condition of situation not general or recurring.</u> The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.*

4. *<u>Use variance prohibited.</u> Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property.*

5. *<u>Special use permit or special exception not available.</u> The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this chapter when the application is filed.*

STAFF ANALYSIS:
Staff has evaluated this application against the above variance standards.

Virginia Code § 15.2-2201
Standard: The provisions regulating the location of a building or structure when the following four standards are met;

1. *The strict application of the ordinance would unreasonably restrict the utilization of the property, and*
   Staff: The owners already reasonably utilize the property with an existing single-family dwelling. The proposed addition of a second single-family dwelling would expand on the existing reasonable utilization of the property. Staff cannot definitively state that the strict application of the 25' front setback would unreasonably restrict the property's expanded utilization.

2. *Such need for a variance would not be shared generally by other properties, and*
   Staff: Staff believes that no other properties in the area generally share the need for a similar variance.

3. *Provided such variance is not contrary to the purpose of the ordinance.*
   Staff: Staff believes that granting the variance is not contrary to the Zoning Ordinance purposes outlined in *County Code* § 18-1.4 (Attachment F).

4. *It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.*
   Staff: There would be no change in the use of the property if the variance were granted, as dwellings are a permitted by-right use within the RA zoning.

County Code § 18-34.4(i)

Standard: *The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property; or*
Staff: The owners already reasonably utilize the property with an existing single-family dwelling. The proposed addition of a second single-family dwelling would expand on the existing reasonable utilization of the property. Staff cannot definitively state that the strict application of the 25' front setback would unreasonably restrict the property's expanded utilization.

Standard: *Granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance;*

Staff: The location of the road improvement was not on the property on the **effective date of the ordinance**; thus, there was no hardship at that time that existed. That said, the structure was approved as an accessory structure, which was permitted to be in the front yard, albeit it was discovered 15 years after construction that it did not meet the required six feet. That said, the approval and inspection of the structure with the 2008 building permit is considered a significant governmental action; thus, the structure's location is set for use as an accessory structure, not as a primary structure, i.e., a dwelling unit. As noted above, the applicant has requested a variance of the front yard setback requirement to allow the structure to be used as a primary structure, i.e., a dwelling unit. With all that being stated, staff believes that the improvements to the property, i.e., Maranatha Lane, do not create a hardship for adequately locating a second single-family dwelling within a building site and meeting the required setback, but granting the variance would alleviate the hardship to allow the use of the structure to be a dwelling unit.

And

1. *The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the applicant for the variance.*
   Staff: This application meets this standard. The property was acquired in good faith, and any hardship was not created by the applicant.

2. *Granting the variance will not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*
   Staff: This application meets this standard. Staff has not identified a substantial detriment to adjacent and nearby properties.

3. *The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.*
   Staff: This application meets this standard. The property's condition is not so general or recurring that the regulations must be updated by an amendment to the ordinance.

4. *Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property.*
   Staff: This application meets this standard. The granting of the variance would not result in a use not otherwise permitted on the property.

5. *The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this chapter when the application is filed.*
   Staff: This application meets this standard. The RA zoning district regulations for setbacks are not subject to a special use permit or special exception.

STAFF RECOMMENDATION:
Since staff cannot definitively state that the strict application of the 25' front setback would unreasonably restrict the utilization of the property, staff cannot recommend the approval of this variance application. Staff does believe that granting the variance would alleviate a

hardship due to an improvement relating to the property and that the five additional criteria for granting a variance have been met.

PROPOSED MOTIONS:
The following motions are offered for consideration and action by the Board:

If the Board finds legal grounds to grant this variance:

I move to grant variance application VA2024-00002 Maranatha Lane to allow the proposed structure to be located 1 foot from the right-of-way of Maranatha Lane, a variance of 24 feet, with the following conditions

1. **The proposed structure is limited to the size described in building permit B2024-02522SF.**

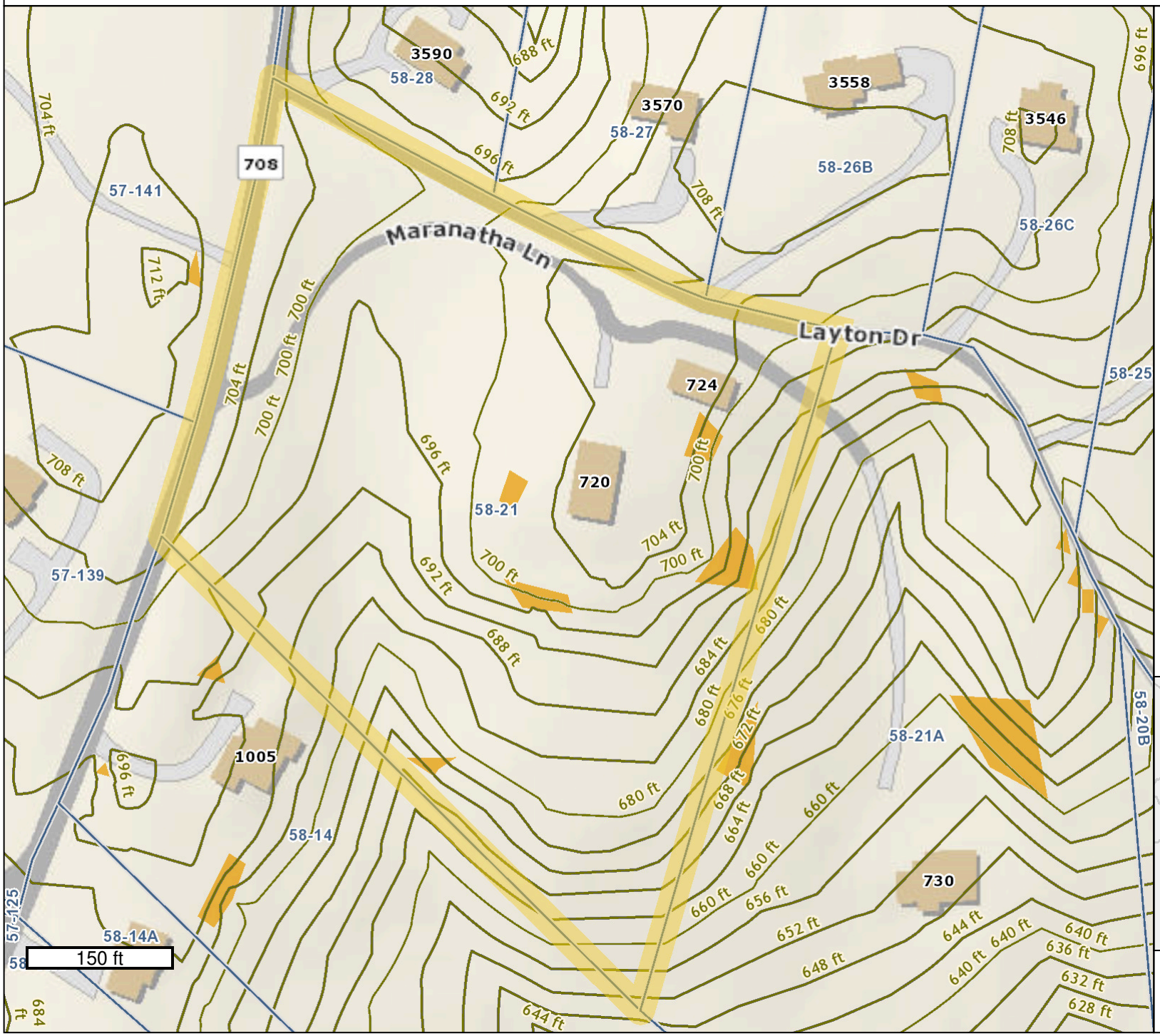
If the Board chooses to deny this variance:

I move to deny the variance application VA2024-00002 Maranatha Lane (Provide the stated reason(s) for denial)

Attachments:
Attachment A: Map and Plat of the Property
Attachment B: Variance Application VA2024-00002 Maranatha Lane
Attachment C: Building Permit B2024-02522SF
Attachment D: Virginia Code § 15.2-2309(2)
Attachment E: County Code § 18-34.4(i)
Attachment F: County Code § 18-1.4

VA2024-02 Maranatha Lane

ATTACHMENT A



Legend

(Note: Some items on map may not appear in legend)

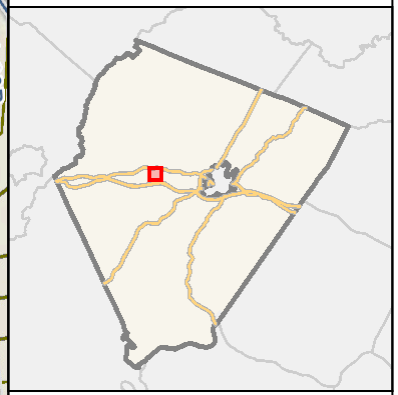
Overlays
- Water Protection Ordinance Buffers

Parcel Info
- Parcels

Elevation
- Y2018 Elevation Contours
  - Y2018 Elevation Contours (100 ft)
  - Y2018 Elevation Contours (60 ft)
  - Y2018 Elevation Contours (40 ft)
  - Y2018 Elevation Contours (20 ft)
  - Y2018 Elevation Contours (4 ft)

Zoning Info
- Flood Hazard Overlay (100 Year Flo

Steep Slopes Overlay
- Critical Slopes
- Steep Slopes - Managed
- Steep Slopes - Preserved



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

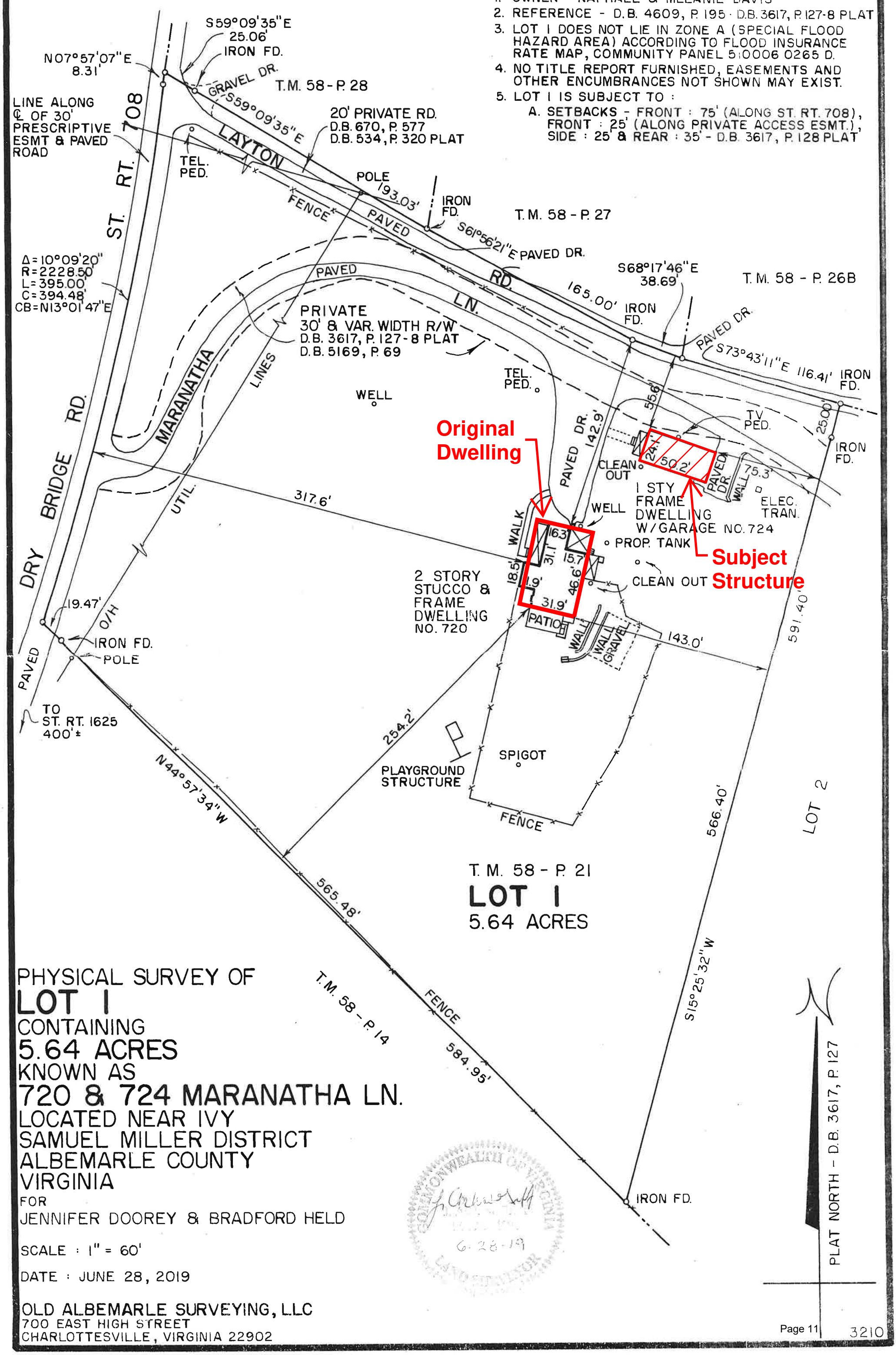
Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

October 16, 2024

Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

NOTES :

1. OWNER - RAPHAEL & MELANIE DAVIS
2. REFERENCE - D.B. 4609, P. 195 · D.B. 3617, P. 127-8 PLAT
3. LOT 1 DOES NOT LIE IN ZONE A (SPECIAL FLOOD HAZARD AREA) ACCORDING TO FLOOD INSURANCE RATE MAP, COMMUNITY PANEL 5:0006 0265 D.
4. NO TITLE REPORT FURNISHED, EASEMENTS AND OTHER ENCUMBRANCES NOT SHOWN MAY EXIST.
5. LOT 1 IS SUBJECT TO :
   A. SETBACKS - FRONT : 75' (ALONG ST. RT. 708), FRONT : 25' (ALONG PRIVATE ACCESS ESMT.), SIDE : 25' & REAR : 35' - D.B. 3617, P. 128 PLAT



PHYSICAL SURVEY OF
LOT 1
CONTAINING
5.64 ACRES
KNOWN AS
720 & 724 MARANATHA LN.
LOCATED NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY
VIRGINIA
FOR
JENNIFER DOOREY & BRADFORD HELD

SCALE : 1" = 60'

DATE : JUNE 28, 2019

OLD ALBEMARLE SURVEYING, LLC
700 EAST HIGH STREET
CHARLOTTESVILLE, VIRGINIA 22902

COMMONWEALTH OF VIRGINIA
6-28-19
LAND SURVEYOR

Z Variance

Albemarle County
Community Development
401 McIntire Rd, North Wing
Charlottesville, VA 22902
Phone 434.296.5832

F O R O F F I C E U S E O N L Y	Variance Number:	
Fee Amount: $1063.68 **to be paid once the application is deemed complete**	Date Paid:	By:
Application $592 + Technology Surcharge $23.68 + Initial Notice Fee $448		
Receipt #:	Check #:	By:

Applicant - Fill out the entire page below
Upload the completed document and all attachments/additional information to the Digital Submissions Page HERE

Name:	Patrick Kilcur	**E-Mail Address:**	patrickkilcur@gmail.com
Mailing Address:	724 Maranatha Ln. Charlottesville VA 22903	**Phone #:**	6103081203

Property Information

Tax Map and Parcel Number:	05800-00-00-02100		
Physical Address: (if applicable)	724 Maranatha Ln. Charlottesville VA 22903		
Total Acreage:	Whole property including 720 Maranatha Ln is 5.6 acres		
Zoning: (staff will fill out if unknown)			
Other Info/Notes: (if applicable)	I purchased my property at 720 Maranatha Ln last year which inluded on the same parce		
Owner of Record:	Patrick Kilcur	**E-Mail Address:**	patrickkilcur@gmail.com
Mailing Address:	720 Maranatha Ln. Charlottesville VA 22903	**Phone #:**	6103081203

REQUIRED ATTACHMENTS & OTHER INFORMATION TO BE PROVIDED for THE APPLICATION TO BE CONSIDERED COMPLETE AND OFFICIALLY SUBMITTED

- ☑ One (1) copy of any and all plans or additional information.
- ☑ One (1) copy of a recorded plat or boundary survey of the property. If there is no recorded plat or boundary survey, please provide legal description of the property and the Deed Book and page number or Plat Book and page number, or and any recent surveys of the property.
- ☑ Drawings showing all existing and proposed improvements on the property, with all dimensions and distances to property lines, and any special conditions on the property that may justify the request.
- ☑ Written description of your request (include dimensions, measurements or sizes in feet). **This is to also include evidence as noted on Page 2**.
- ☑ As the owner/applicant I certify that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, which are owed to the County of Albemarle and have been properly assessed against the subject property, **have been paid**.

REMEMBER TO upload the completed document and all attachments/additional information to the Digital Submissions Page HERE

Z Variance

Albemarle County
Community Development
401 McIntire Rd, North Wing
Charlottesville, VA 22902
Phone 434.296.5832

Please be aware that the board shall grant a variance if the evidence shows:

That strict application of the terms of the ordinance **would unreasonably restrict the utilization of the property**;

That granting the variance would alleviate a **hardship due to**

a physical condition relating to the property or

due to improvements thereon at the time of the effective date of the ordinance; or

That granting the variance would alleviate a **hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability**

and

All of the following:

Good faith acquisition and hardship not self-inflicted. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.

No substantial detriment. Granting the variance will not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

Condition of situation not general or recurring. The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

Use variance prohibited. Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property.

Special use permit or special exception not available. The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this chapter when the application is filed.

Please be aware that the evidence required above needs to be provided by the applicant and should be provided with the written description as noted on Page 1.

REMEMBER to upload the completed document and all attachments/additional information to the Digital Submissions Page HERE

Review cannot begin until the application is deemed complete and all applicable documents and fees are submitted.

Once an application is deemed complete, you will be contacted to pay the noted fees and a hearing before the Board of Zoning Appeals will be scheduled per the published submittal and review schedule.

If you have any questions feel free to contact Zoning Staff at (434) 296-5832.

I hereby certify that I own the subject property, or have the legal power to act on behalf of the owner in filing this application. If you are not the owner then you must complete the **CERTIFICATION THAT NOTICE OF THE APPLICATION HAS BEEN PROVIDED TO THE LANDOWNER** on the last page. I also certify that the information provided on this application and accompanying information is accurate, true, and correct to the best of my knowledge. By signing this application I am consenting to written comments, letters and or notifications regarding this application being provided to me or my designated contact via or email. This consent does not preclude such written communication from also being sent via first class mail.

Signature _____ Printed Patrick Kilcur

Date 8/14/2024

August 14, 2024

Dear Board of Zoning Officials,

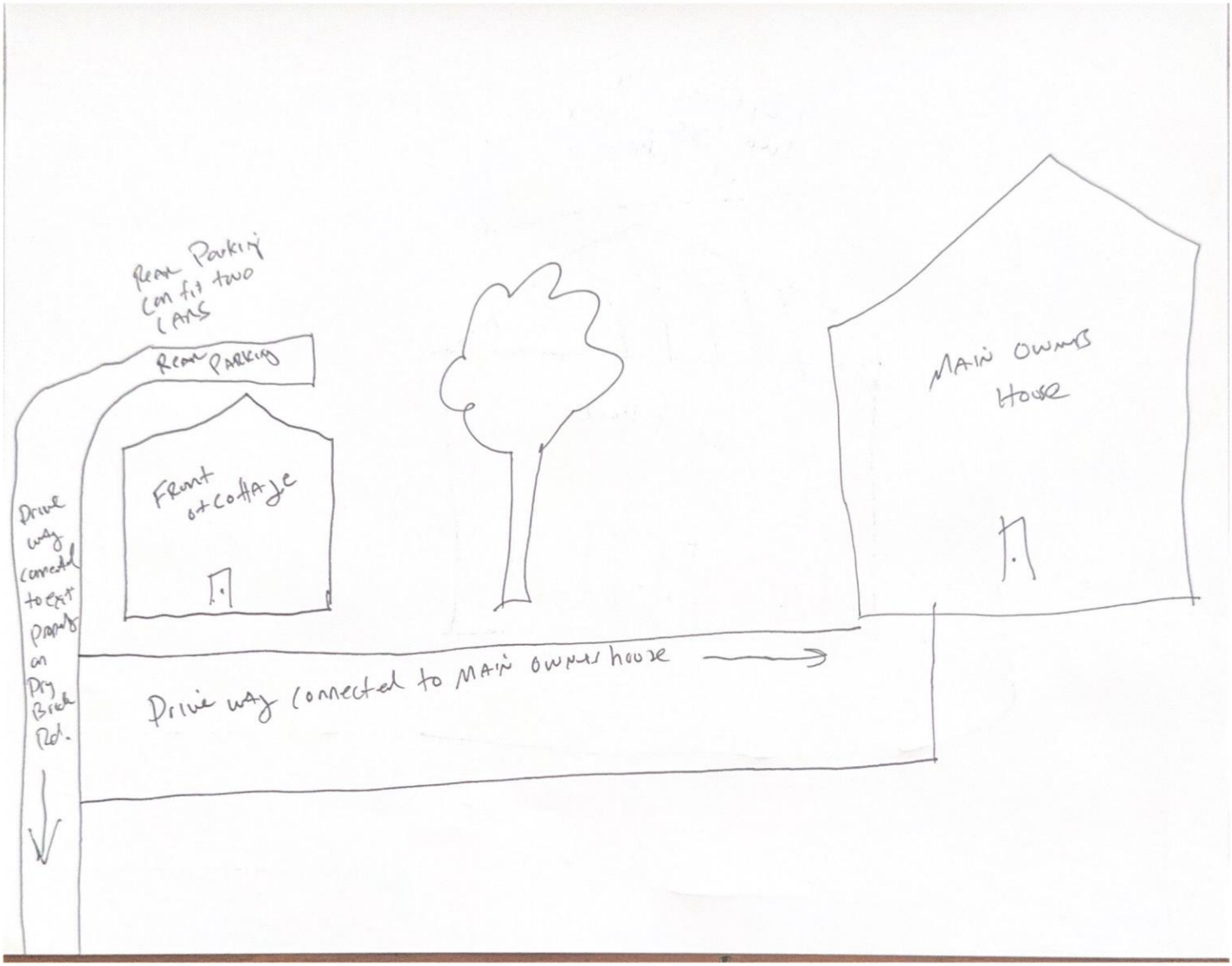
My family and I moved to Charlottesville two years ago, and we purchased our home at 720 Maranatha Ln a little over a year ago. When we bought the property we were excited since it also had a two bedroom, one bath, full kitchen cottage (Length 50.2 ft, Width 24.1ft) on the property which we were planning to use for a short term rental. I recently learned that the prior owners who built the cottage never did the necessary permitting for it to be used as a dwelling. This became a shock and disappointment to us but my family and I would like to make sure we are doing everything we need to do to ensure it complies with the county regulations and seeking a variance for the necessary setback requirements. In the attached documents I have included the plat of the property which list the second dwelling and the set backs and dimensions, along with all the required information I believe you need. I have also included an approval from the health department on my septic system for this cottage, in addition to pictures of the cottage itself. I would be grateful for your consideration on us seeking this variance because we really would like to rent this cottage out. If we knew that this cottage would not have been able to be rented out, I think it would have been hard for us to justify purchasing this home at the price point it was listed. If there is anything further that you need please do not hesitate to reach out to me.

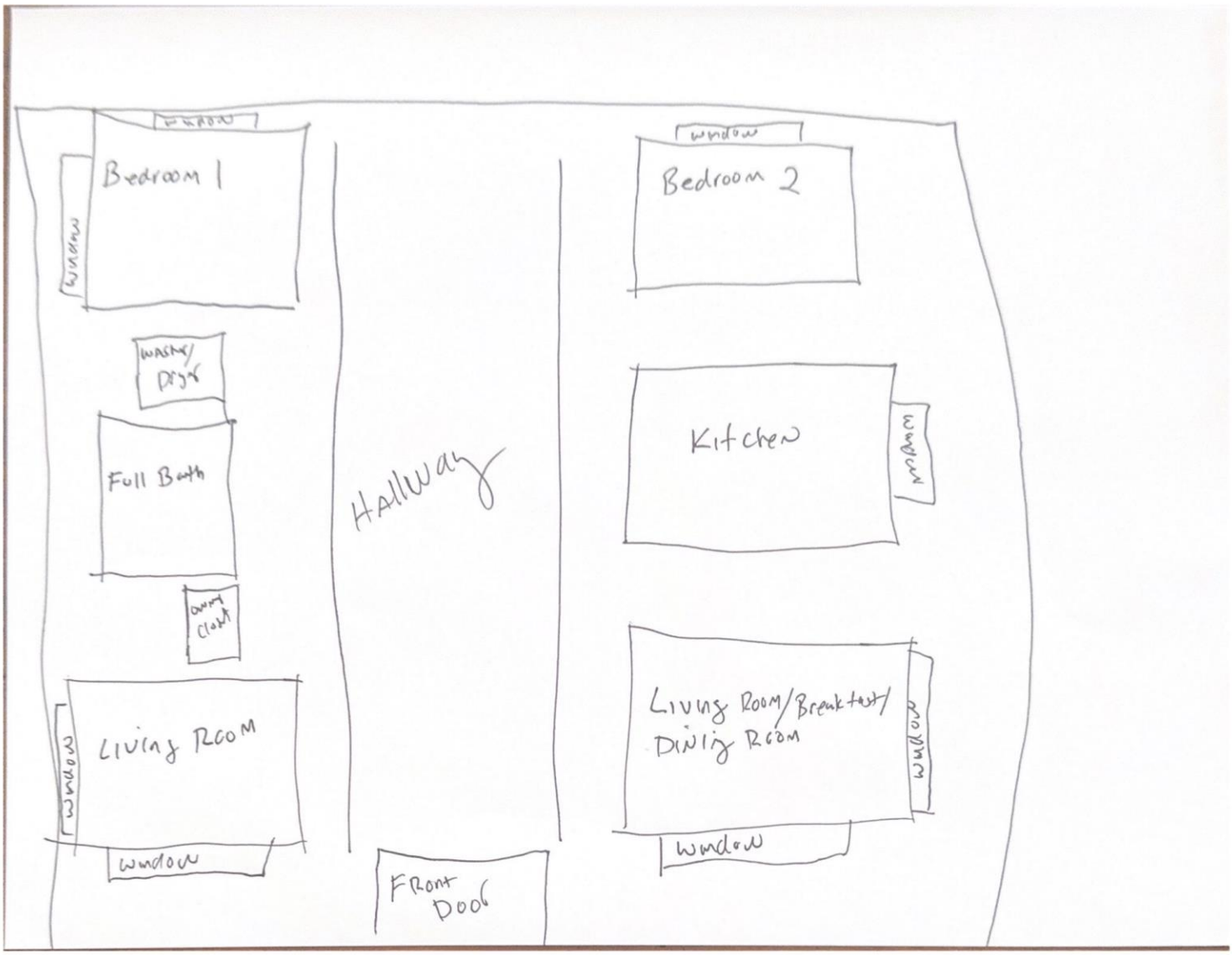
My appreciation,

Patrick Kilcur

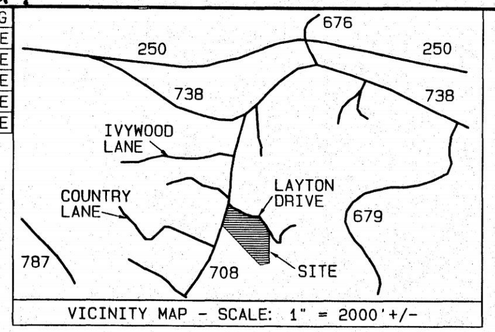
patrickkilcur@gmail.com

610-308-1203

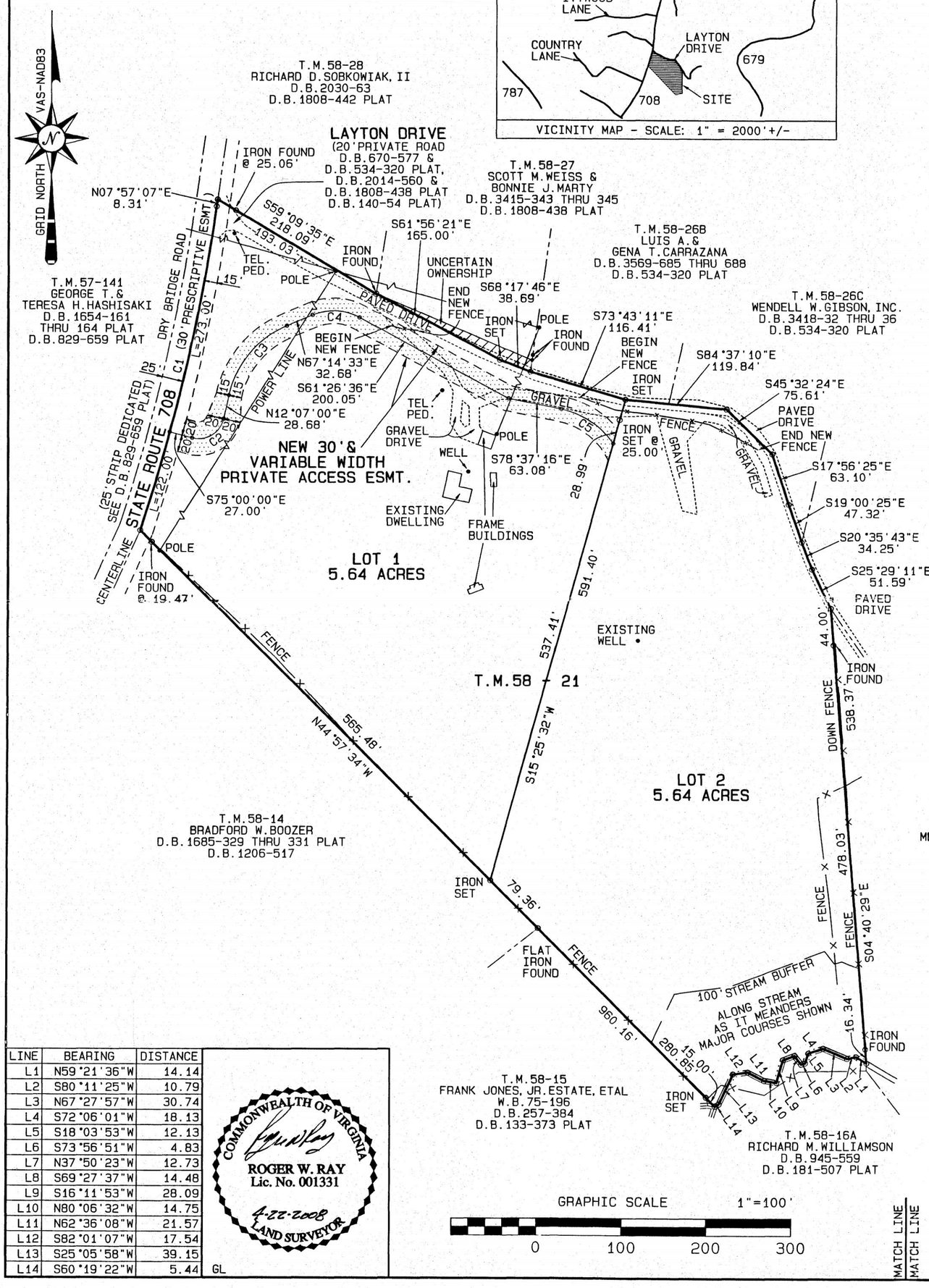

Rear Parking
can fit two
CARS
Rear PARKING
Front
of cottage
MAIN OWNERS
House
Drive
way
connected
to exit
property
on
Dry
Brick
Rd.
Drive way connected to MAIN OWNERS house


window
Bedroom 1
window
Washer/
Dryer
Full Bath
Hallway
Living Room
window
window
Front
Door
window
Bedroom 2
Kitchen
window
Living Room/Breakfast/
Dining Room
window
window

LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	10°09'20"	2228.50	395.00	198.02	394.48	N13°01'47"E
C2	92°53'00"	30.00	48.63	31.55	43.48	N58°33'30"E
C3	55°07'35"	115.61	111.24	60.35	107.00	N39°40'47"E
C4	51°18'51"	63.88	57.21	30.68	55.32	S87°06'01"E
C5	44°31'26"	96.87	75.27	39.65	73.39	S56°21'34"E



VICINITY MAP - SCALE: 1" = 2000'+/-



THE LAND USE NOTES SHOWN ON THIS PLAT ARE IMPOSED AT THE REQUEST OF THE DIRECTOR OF PLANNING. BY PLACING HIS/HER SIGNATURE ON THIS PLAT HE/SHE HAS DEEMED THAT THEY ARE CORRECT AND IN ACCORDANCE WITH THE ALBEMARLE COUNTY ZONING ORDINANCE IN EFFECT THIS DATE. THESE NOTES ARE NOT RESTRICTIVE COVENANTS RUNNING WITH THE LAND AND THEIR APPEARANCE ON THIS PLAT IS NOT INTENDED TO IMPOSE THEM AS SUCH. ANY REFERENCE TO FUTURE DEVELOPMENT RIGHTS SHOWN HEREON IS THEORETICAL.

A. PROPERTY ZONED RA.
B. LOT 1 IS ASSIGNED THREE DEVELOPMENT RIGHTS AND MAY BE FURTHER DIVIDED.
C. LOT 2 IS ASSIGNED TWO DEVELOPMENT RIGHTS AND MAY BE FURTHER DIVIDED.
D. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, LOT 1 AND LOT 2 EACH CONTAIN A BUILDING SITE THAT COMPLIES WITH SECTION 4.2.1 OF THE ALBEMARLE COUNTY ZONING ORDINANCE.
E. THE STREET IN THIS SUBDIVISION MAY NOT MEET THE STANDARDS FOR ACCEPTANCE INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS AND WILL NOT BE MAINTAINED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION OR THE COUNTY OF ALBEMARLE.
F. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, UNDER CURRENT COUNTY POLICY, PUBLIC WATER AND/OR SEWER SERVICE WILL NOT BE AVAILABLE TO THIS PROPERTY.
G. ALL SUBSEQUENT DIVISIONS OF THIS PROPERTY SHALL ENTER ONLY ONTO SUCH STREET SHOWN ON THE APPROVED FINAL PLAT AND SHALL HAVE NO IMMEDIATE ACCESS ONTO ANY PUBLIC STREET.
H. THE STREAM BUFFER SHOWN HEREON SHALL BE MANAGED IN ACCORDANCE WITH THE WATER PROTECTION ORDINANCE OF ALBEMARLE COUNTY.
I. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, THIS PROPERTY DOES NOT LIE WITHIN AN AGRICULTURAL-FORESTAL DISTRICT.
J. THIS PROPERTY LIES WITHIN THE SOUTH FORK RIVANNA WATER SUPPLY WATERSHED.
K. SETBACK REQUIREMENTS:
FRONT= 75' (ALONG STATE ROUTE 708)
FRONT= 25' (ALONG NEW PRIVATE ACCESS ESMT.)
SIDES= 25'
REAR = 35'

THE DIVISION OF LAND DESCRIBED HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNER, PROPRIETORS, AND TRUSTEES. ANY REFERENCE TO FUTURE POTENTIAL DEVELOPMENT IS TO BE DEEMED AS THEORETICAL ONLY. ALL STATEMENTS AFFIXED TO THIS PLAT ARE TRUE AND CORRECT TO BEST OF MY KNOWLEDGE.

STEPHEN A.COMER NATALIE L.COMER

ERIC I.ERKEL MEGAN W.ERKEL

CITY/~~COUNTY~~ OF Charlottesville
STATE OF VA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 25 DAY OF JUNE 2008 BY
STEPHEN A.COMER & NATALIE L.COMER
NOTARY PUBLIC Gwen Lacy ID# 187571
MY COMMISSION EXPIRES : 9.30.2010

CITY/~~COUNTY~~ OF Charlottesville
STATE OF VA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 25 DAY OF JUNE 2008 BY
ERIC I.ERKEL & MEGAN W.ERKEL
NOTARY PUBLIC Gwen Lacy ID# 187571
MY COMMISSION EXPIRES : 9.30.2010

APPROVED FOR RECORDATION :

Amelia McCulley VDF 6/26/08
AGENT FOR THE BOARD OF SUPERVISORS DATE

NOTES:
1. OWNER(S) AND ADDRESS:
STEPHEN A.COMER AND NATALIE L.COMER
ERIC I.ERKEL AND MEGAN W.ERKEL
1511 BROAD AVENUE
CHARLOTTESVILLE, VIRGINIA 22903
2. LEGAL REFERENCES:
T.M.58-21
D.B.3577-111 THRU 114
D.B.140-54 PLAT
3. BOUNDARY DATA SHOWN HEREON IS BASED ON A CURRENT FIELD SURVEY.
4. SHOULD AN OFFICIAL DETERMINATION OF PARCELS OF RECORD REVEAL THAT ADDITIONAL PARCELS AND/OR DEVELOPMENT RIGHTS EXIST, THE INTENT OF THIS PLAT IS NOT TO COMBINE PARCELS OR EXTINGUISH DEVELOPMENT RIGHTS.
5. THIS PROPERTY SUBJECT TO EASEMENT TO VIRGINIA TELEPHONE & TELEGRAPH COMPANY (D.B.499-499 & D.B.439-87).
6. DENOTES NEW 30' & VARIABLE WIDTH PRIVATE ACCESS EASEMENT
7. DENOTES UNCERTAIN OWNERSHIP.
8. THIS PROPERTY SUBJECT TO R/W AS DEFINED IN D.B.111-22 AND D.B.111-20 INSOFAR AS THEY MAY APPLY. INSUFFICIENT DATA TO DETERMINE LOCATION.

LINE	BEARING	DISTANCE
L1	N59°21'36"W	14.14
L2	S80°11'25"W	10.79
L3	N67°27'57"W	30.74
L4	S72°06'01"W	18.13
L5	S18°03'53"W	12.13
L6	S73°56'51"W	4.83
L7	N37°50'23"W	12.73
L8	S69°27'37"W	14.48
L9	S16°11'53"W	28.09
L10	N80°06'32"W	14.75
L11	N62°36'08"W	21.57
L12	S82°01'07"W	17.54
L13	S25°05'58"W	39.15
L14	S60°19'22"W	5.44

COMMONWEALTH OF VIRGINIA
ROGER W. RAY
Lic. No. 001331
4-22-2008
LAND SURVEYOR

GL

GRAPHIC SCALE 1"=100'
0 100 200 300

SUBDIVISION PLAT
LOT 1 AND LOT 2
A DIVISION OF THE PROPERTY OF
STEPHEN A.COMER & NATALIE L.COMER
AND ERIC I.ERKEL & MEGAN W.ERKEL
ALSO NEW 30' & VARIABLE WIDTH PRIVATE ACCESS EASEMENT
LOCATED ON STATE ROUTE 708, NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY, VIRGINIA
SCALE: 1" = 100' DATE: APRIL 22, 2008

FOR
STEPHEN A.COMER

ROGER W.RAY & ASSOC., INC.
1717-1B ALLIED STREET
CHARLOTTESVILLE, VIRGINIA 22903
TELEPHONE: (434) 293-3195

13543A

APPROVED

Albemarle County
1138 Rose Hill Drive
Charlottesville, VA 22903
(434) 972-6219 - Office
(434) 972-4310- Fax

VIRGINIA DEPARTMENT OF HEALTH
Thomas Jefferson Health District

ENVIRONMENTAL HEALTH SERVICES

Louisa County
1 Woolfolk Avenue
Louisa, VA 23093
(540) 967-3707 - Office
(540) 967-3733 - Fax

Fluvanna County
132 Main Street
Palmyra, VA 22963
(434) 591-1965 - Office
(434) 591-1966- Fax

Greene County
50 Stanards Street
Stanardsville, VA 22973
(434) 985-2262 - Office
(434) 985-4822 - Fax

Nelson County
4038 Thomas Nelson Hwy
Arrington, VA 22922
(434) 263-4297 - Office
434) 263-4304 - Fax

Findings: Review Pursuant to VA CODE §32.1-165
Attachment 3a

Property Owner: Patrick Kilcur

Home Phone: N/a **Cell Phone:** 610.308.1203

Email: patrickkilcur@gmail.com

Site Address: 724 Marantha Lane, Charlottesville, VA 22903

Parcel ID #: 58-21

Subdivision: N/a **Section:** N/a **Lot:** N/a

Is the existing onsite sewage system safe, adequate, and proper or approvable as nonconforming for the proposed use?

☑ YES Comments: The existing two bedroom cottage to be used as a short term rental. This dwelling is connected to an approved septic system.

☐ NO Comments:

Other Comments:

Please note that each evaluation is based on a case by case basis and may or may not include a Department site visit. There is no guarantee given or implied that this sewage disposal system will continue to function properly in the future. In the event of a sewage disposal malfunction, the owner will be responsible for any repairs or other actions deemed necessary by the Department to correct the situation.

See Page 2 for Site Sketch and Signature

SITE SKETCH

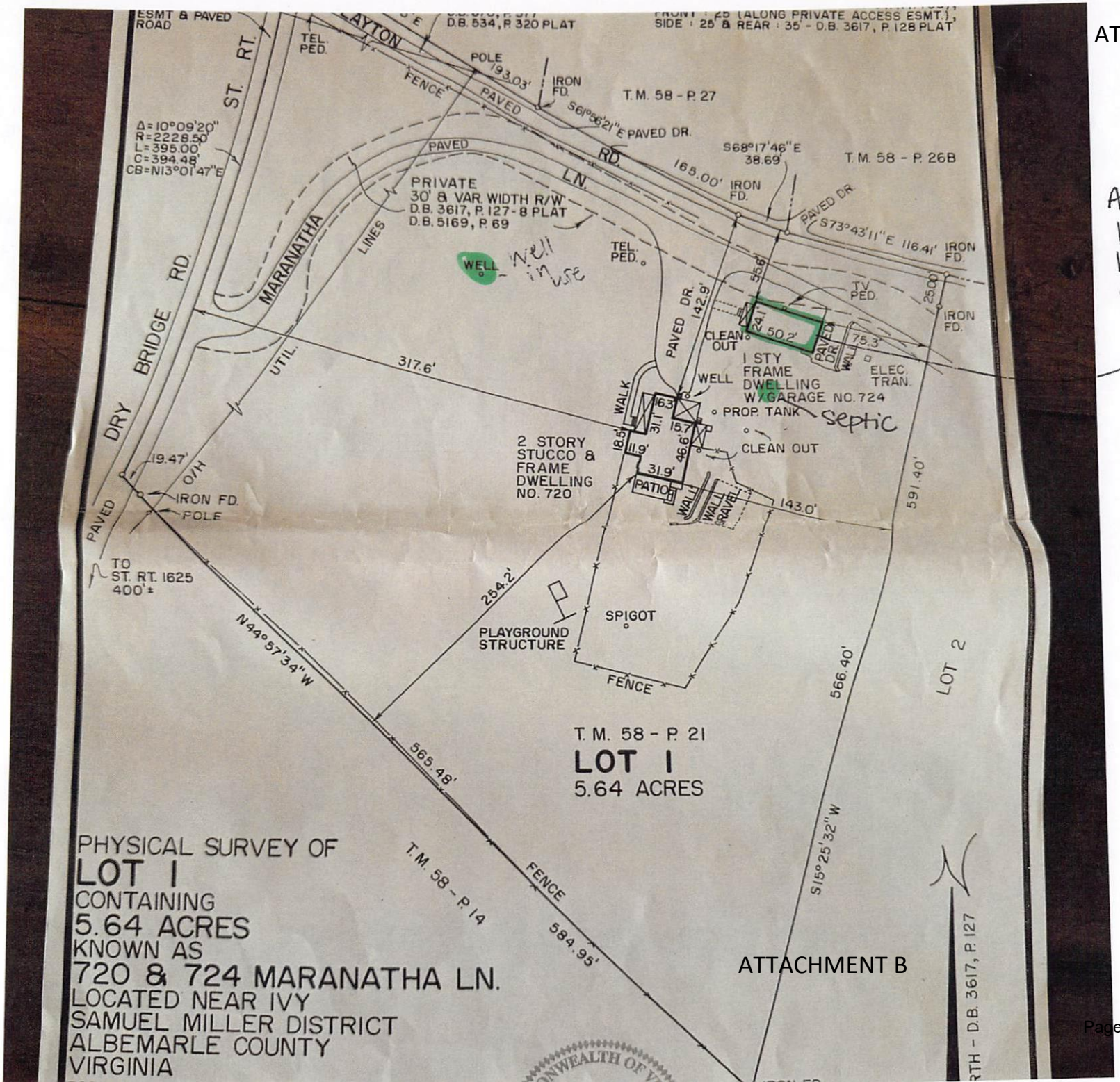
SEE ATTACHED

SITE SKETCH

Date: 8/7/24

Signature of Health Department Official

Any owner may challenge a denial by requesting an Informal Fact-Finding Conference (IFFC) within 30 days of receipt of a decision. All requests for an IFFC must be sent in writing to the District Health Director and cite the reason or reasons for the request.



Already built 2 bedroom cottage for Air BNB rental

APPROVED

ATTACHMENT B

County of Albemarle

ATTACHMENT C

Community Development Department
401 McIntire Road Charlottesville, VA22902-4596
Voice : (434) 296-5832 Fax : (434) 972-4126

BUILDING or ZONING APPLICATION - Page 1

PARCEL / OWNER INFORMATION

TMP: 05800-00-00-02100

Current Owner(s): KILCUR, PATRICK & JULIA KILCUR

Acres: 5.64 Primary Zoning: Rural Areas Major Subdiv.: Acreage

APPLICATION INFORMATION

Building Permit #: B2024-02522-SF

Entered By: Danielle Summers on 08/21/2024

Sub Application Type: Detached Single Family Dwelling

Associated Building Permit:

Street Address:

BUILDING WORK INFORMATION

Work Class	Frame Type	Water Supply Type	Sewage Disposal Type	Foundation Type
Other	Masonry	Private	Private	Other

Work Valuation: $ 1.00

Jurisdictional Area: No Service

Other Foot / Found. Desc.:

Work Description: I purchased this home one year ago with an existing seperate two bedroom dwelling on the property. I am seeking a retroactive building permit for this dwelling since the prior owners has it registered as a workshop.

Directions: 724 Maranatha Lane

Legal Description: Lot 1

Use Group:

Construction Type:

Square Footages:

# of Stories	1	Porches		Unfinished Basement	864
1st Floor	864	Decks		Other Unfinished	
2nd Floor		Garage	288	Total Unfinished Sq. Footage	1152
3rd Floor		Swimming Pool			
Finished Basement					
Other Habitable					
Total Habitable Sq. Footage	864			Total Building Sq. Footage	2016

Set Backs:

Front		Back	
Left Side		Right Side	

Zoning Pre-Construction? ☐ Land Use? ☐

Fire Alarms Required? ☐ Bldg Pre-Construction? ☐

Fire Sprinkler NAPA Code/Year:

PROPOSED USE INFORMATION

Dwelling Units	1	Accessory Structures	0	Mobile\Prefab. Homes	0	Mobile Offices\Prefab. Units	0
Carports	0	Bedrooms	2	Baths	1.0	Paint Spray Booths	0
Garages	1			Kitchens	1	Swimming Pools\Hot Tubs\Spas (Res. Only)	0
Other	0			Elevators\Escalators\Lifts	0		

APPLICATION CONTACT INFORMATION

Contact Type	Name	Address	CityState	Zip Cod	Work Phone	Cell
Owner	kilcur, patrick & julia kilcur	720 MARANATHA LANE	charlottesville va	22903	(610) 308-1203	
Primary Contact	same/owner/agent				( ) -	
General Contractor	same/owner/agent				( ) -	

County of Albemarle

ATTACHMENT C

Community Development Department
401 McIntire Road Charlottesville, VA 22902-4596
Voice : (434) 296-5832 Fax : (434) 972-4126

BUILDING or ZONING APPLICATION - Page 2

PARCEL / OWNER INFORMATION

TMP: 05800-00-00-02100

Current Owner(s): KILCUR, PATRICK & JULIA KILCUR

Acres: 5.64

Primary Zoning: Rural Areas

Major Subdiv.: Acreage

APPLICATION INFORMATION

Building Permit #: B2024-02522-SF

Entered By: Danielle Summers on 08/21/2024

Sub Application Type: Detached Single Family Dwelling

Associated Building Permit:

Street Address:

SUB-CONTRACTOR INFORMATION

Contractor Number	StateLicenseNumber	License Class

Separate permits may be required for Electrical, Plumbing, Heating, Ventilating and Air Conditioning.

This permit becomes null and void if work or construction authorized is not commenced within 6 months, or if construction or work is suspended or abandoned for a period of 6 months at any time after work is commenced in accordance with the Virginia Uniform Statewide Building Code. The county or it's agents will not monitor and advise the status of your permit once issued as this is the responsibility of the permit holder.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction. It is the responsibility of the permit holder to obtain, understand, and follow all regulations associated with all proposed work.

All permits associated with detached single-family dwellings, including accessory structures, shall have a three-year time limit from the issuance date, including any extensions granted, to complete all associated work. Violation of this time frame will be handled in accordance with state or local statute.

By signing this building permit, the owner and/or their agent hereby grant employees of the Albemarle County Community Development Real Estate Departments the right to enter and inspect the subject property Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., holidays excepted.

If you are not the owner of record, please check which applies:

☐ I certify that I am the agent for **KILCUR, PATRICK & JULIA KILCUR**, the Owner, and am authorized to submit this application on behalf of the Owner under the agency granted to me.

☐ I am neither the Owner nor the Owner's agent. I certify that written notice of this application, by providing a copy of this application, will be mailed to the Owner at the following address

720 MARANATHA LANE **CHARLOTTESVILLE VA** **22903**

within 10 days of today's date as required by Virginia Code § 15.2-2204(H). I understand that, if I do not provide the notice to the Owner as provided herein, the building permit application and every other subsequent approval, permit or certificate related thereto could be determined to be void.

Signature of Owner, Contractor or Authorized Agent — Date

Signature of Building official or Authorized Representative — Date

ELECTRONIC RECORDS STATEMENT: Albemarle County is creating and using electronic records and electronic signatures as allowed by the Uniform Electronic Transactions Act (Virginia Code § 59.1-479 et seq.). As an applicant to the Building Permit process, you may consent to receive, or have online access to, electronic records and receive and create records having electronic signatures related to Building Permits, Correspondence, Inspection Tickets and Certificates of Occupancy (the Building

Please initial here if you AGREE to receive and/or use electronic records and electronic signatures for Building Permit transactions.

Initials of Owner, Contractor or Authorized Agent

Your agreement to conduct Building Permit transactions by electronic means does not prevent you from refusing to conduct other transactions by electronic means.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2309. Powers and duties of boards of zoning appeals

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) 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 a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate

under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting 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. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected,

the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555;1997, c. 587;2000, c. 1050; 2002, c. 546;2003, c. 403;2006, c. 264;2008, c. 318;2009, c. 206;2015, c. 597;2018, c. 757.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Section 34.4 - Variances.

i. *Criteria to establish basis to grant a variance*. The board shall grant a variance if the evidence shows: (i) that strict application of the terms of the ordinance would unreasonably restrict the utilization of the property; or (ii) that granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance; and all of the following:

1. *Good faith acquisition and hardship not self-inflicted*. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
2. *No substantial detriment*. Granting the variance will not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
3. *Condition of situation not general or recurring*. The condition or situation of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
4. *Use variance prohibited*. Granting the variance does not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property.
5. *Special use permit or special exception not available*. The relief or remedy sought by the variance application is not available through a special use permit or special exception authorized by this chapter when the application is filed.

j. *Factors not to be considered*. The board shall not base any decision on the merits of the purpose and intent of any relevant provision in the zoning ordinance.

k. *Time for decision*. The board shall schedule a reasonable time for the hearing on an application so that it may make its decision within 90 days after the date the application was deemed to be complete. This 90-day period is directory, not mandatory.

l. *Action by the board; vote required to grant variance*. The concurring vote of three members of the board is required to grant a variance.

m. *Conditions on variance.* In granting a variance, the board may impose conditions, as follows:

1. *Nature of conditions*. The board may impose reasonable conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest.
2. *Guarantee or bond to ensure compliance*. The board also may require that the applicant provide a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
3. *Conditions deemed to be essential and nonseverable*. Except as the board may specify in a particular case, any condition imposed on a variance shall be deemed to be essential and nonseverable from the variance itself and any condition determined to be invalid, void or unlawful shall invalidate the variance.

n. *Effect of granting variance; expansion of structure*. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and this chapter; however, any structure permitted by a variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under this chapter. If an expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

Sec. 1.4 - Purposes.

The purposes of this chapter are to promote the public health, safety, convenience, and welfare and to accomplish the objectives of Virginia Code §§ 15.2-2200 and 15.2-2283 . To these ends, this chapter is intended to:

A. Provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers;

B. Reduce or prevent congestion in the public streets;

C. Facilitate creating a convenient, attractive and harmonious community;

D. Facilitate providing adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;

E. Protect against destroying or encroaching upon historic areas;

F. Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers;

G. Encourage economic development activities that provide desirable employment and enlarge the tax base;

H. Provide for preserving agricultural and forestal lands and other lands of significance for the protection of the natural environment;

I. Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;

J. Promote creating and preserving affordable housing suitable for meeting the current and future needs of the County as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated;

K. Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard; and

L. Protect surface water and ground water as defined in Virginia Code § 62.1-255 .

VA2024-00002 Maranatha Lane
Information Submitted by Applicant

August 14, 2024

Dear Board of Zoning Officials,

My family and I moved to Charlottesville two years ago, and we purchased our home at 720 Maranatha Ln a little over a year ago. When we bought the property we were excited since it also had a two bedroom, one bath, full kitchen cottage (Length 50.2 ft, Width 24.1ft) on the property which we were planning to use for a short term rental. I recently learned that the prior owners who built the cottage never did the necessary permitting for it to be used as a dwelling. This became a shock and disappointment to us but my family and I would like to make sure we are doing everything we need to do to ensure it complies with the county regulations and seeking a variance for the necessary setback requirements. In the attached documents I have included the plat of the property which list the second dwelling and the set backs and dimensions, along with all the required information I believe you need. I have also included an approval from the health department on my septic system for this cottage, in addition to pictures of the cottage itself. I would be grateful for your consideration on us seeking this variance because we really would like to rent this cottage out. If we knew that this cottage would not have been able to be rented out, I think it would have been hard for us to justify purchasing this home at the price point it was listed. If there is anything further that you need please do not hesitate to reach out to me.

My appreciation,

Patrick Kilcur

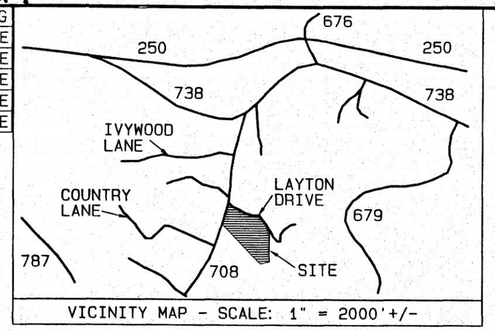
patrickkilcur@gmail.com

610-308-1203

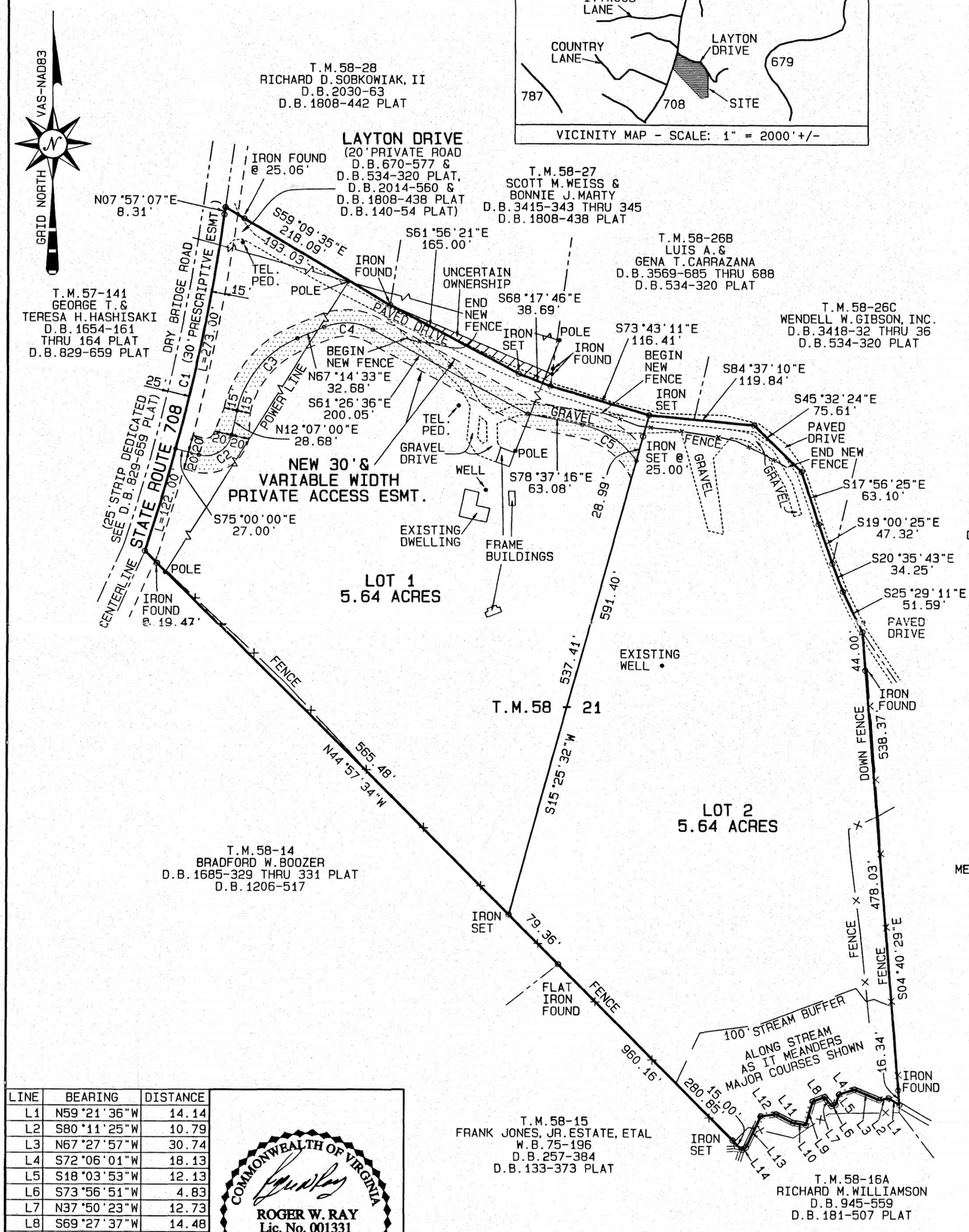
Deed Book 3617 PG. 127

Deed Book 3617 PG. 128

LINE	DELTA	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	10°09'20"	2228.50	395.00	198.02	394.48	N13°01'47"E
C2	92°53'00"	30.00	48.63	31.55	43.48	N58°33'30"E
C3	55°07'35"	115.61	111.24	60.35	107.00	N39°40'47"E
C4	51°18'51"	63.88	57.21	30.68	55.32	S87°06'01"E
C5	44°31'26"	96.87	75.27	39.65	73.39	S56°21'34"E



VICINITY MAP - SCALE: 1" = 2000'+/-



THE LAND USE NOTES SHOWN ON THIS PLAT ARE IMPOSED AT THE REQUEST OF THE DIRECTOR OF PLANNING. BY PLACING HIS/HER SIGNATURE ON THIS PLAT HE/SHE HAS DEEMED THAT THEY ARE CORRECT AND IN ACCORDANCE WITH THE ALBEMARLE COUNTY ZONING ORDINANCE IN EFFECT THIS DATE. THESE NOTES ARE NOT RESTRICTIVE COVENANTS RUNNING WITH THE LAND AND THEIR APPEARANCE ON THIS PLAT IS NOT INTENDED TO IMPOSE THEM AS SUCH. ANY REFERENCE TO FUTURE DEVELOPMENT RIGHTS SHOWN HEREON IS THEORETICAL.

A. PROPERTY ZONED RA.
B. LOT 1 IS ASSIGNED THREE DEVELOPMENT RIGHTS AND MAY BE FURTHER DIVIDED.
C. LOT 2 IS ASSIGNED TWO DEVELOPMENT RIGHTS AND MAY BE FURTHER DIVIDED.
D. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, LOT 1 AND LOT 2 EACH CONTAIN A BUILDING SITE THAT COMPLIES WITH SECTION 4.2.1 OF THE ALBEMARLE COUNTY ZONING ORDINANCE.
E. THE STREET IN THIS SUBDIVISION MAY NOT MEET THE STANDARDS FOR ACCEPTANCE INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS AND WILL NOT BE MAINTAINED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION OR THE COUNTY OF ALBEMARLE.
F. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, UNDER CURRENT COUNTY POLICY, PUBLIC WATER AND/OR SEWER SERVICE WILL NOT BE AVAILABLE TO THIS PROPERTY.
G. ALL SUBSEQUENT DIVISIONS OF THIS PROPERTY SHALL ENTER ONLY ONTO SUCH STREET SHOWN ON THE APPROVED FINAL PLAT AND SHALL HAVE NO IMMEDIATE ACCESS ONTO ANY PUBLIC STREET.
H. THE STREAM BUFFER SHOWN HEREON SHALL BE MANAGED IN ACCORDANCE WITH THE WATER PROTECTION ORDINANCE OF ALBEMARLE COUNTY.
I. ACCORDING TO THE COUNTY OF ALBEMARLE GIS WEBSITE, THIS PROPERTY DOES NOT LIE WITHIN AN AGRICULTURAL-FORESTAL DISTRICT.
J. THIS PROPERTY LIES WITHIN THE SOUTH FORK RIVANNA WATER SUPPLY WATERSHED.
K. SETBACK REQUIREMENTS:
FRONT= 75' (ALONG STATE ROUTE 708)
FRONT= 25' (ALONG NEW PRIVATE ACCESS ESMT.)
SIDES= 25'
REAR = 35'

THE DIVISION OF LAND DESCRIBED HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNER, PROPRIETORS, AND TRUSTEES. ANY REFERENCE TO FUTURE POTENTIAL DEVELOPMENT IS TO BE DEEMED AS THEORETICAL ONLY. ALL STATEMENTS AFFIXED TO THIS PLAT ARE TRUE AND CORRECT TO BEST OF MY KNOWLEDGE.

STEPHEN A.COMER — NATALIE L.COMER

ERIC I.ERKEL — MEGAN W.ERKEL

CITY/~~COUNTY~~ OF Charlottesville
STATE OF VA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 25 DAY OF JUNE 2008 BY
STEPHEN A.COMER & NATALIE L.COMER
NOTARY PUBLIC Gwen Lacy ID# 187571
MY COMMISSION EXPIRES : 9.30.2010

CITY/~~COUNTY~~ OF Charlottesville
STATE OF VA
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 25 DAY OF JUNE 2008 BY
ERIC I.ERKEL & MEGAN W.ERKEL
NOTARY PUBLIC Gwen Lacy ID# 187571
MY COMMISSION EXPIRES : 9.30.2010

APPROVED FOR RECORDATION :

Amelia McCulley VDF 6/26/08
AGENT FOR THE BOARD OF SUPERVISORS DATE

NOTES:
1. OWNER(S) AND ADDRESS:
STEPHEN A.COMER AND NATALIE L.COMER
ERIC I.ERKEL AND MEGAN W.ERKEL
1511 BROAD AVENUE
CHARLOTTESVILLE, VIRGINIA 22903
2. LEGAL REFERENCES:
T.M.58-21
D.B.3577-111 THRU 114
D.B.140-54 PLAT
3. BOUNDARY DATA SHOWN HEREON IS BASED ON A CURRENT FIELD SURVEY.
4. SHOULD AN OFFICIAL DETERMINATION OF PARCELS OF RECORD REVEAL THAT ADDITIONAL PARCELS AND/OR DEVELOPMENT RIGHTS EXIST, THE INTENT OF THIS PLAT IS NOT TO COMBINE PARCELS OR EXTINGUISH DEVELOPMENT RIGHTS.
5. THIS PROPERTY SUBJECT TO EASEMENT TO VIRGINIA TELEPHONE & TELEGRAPH COMPANY (D.B.499-499 & D.B.439-87).
6. DENOTES NEW 30' & VARIABLE WIDTH PRIVATE ACCESS EASEMENT
7. DENOTES UNCERTAIN OWNERSHIP.
8. THIS PROPERTY SUBJECT TO R/W AS DEFINED IN D.B.111-22 AND D.B.111-20 INSOFAR AS THEY MAY APPLY. INSUFFICIENT DATA TO DETERMINE LOCATION.

LINE	BEARING	DISTANCE
L1	N59°21'36"W	14.14
L2	S80°11'25"W	10.79
L3	N67°27'57"W	30.74
L4	S72°06'01"W	18.13
L5	S18°03'53"W	12.13
L6	S73°56'51"W	4.83
L7	N37°50'23"W	12.73
L8	S69°27'37"W	14.48
L9	S16°11'53"W	28.09
L10	N80°06'32"W	14.75
L11	N62°36'08"W	21.57
L12	S82°01'07"W	17.54
L13	S25°05'58"W	39.15
L14	S60°19'22"W	5.44

COMMONWEALTH OF VIRGINIA
ROGER W. RAY
Lic. No. 001331
4-22-2008
LAND SURVEYOR

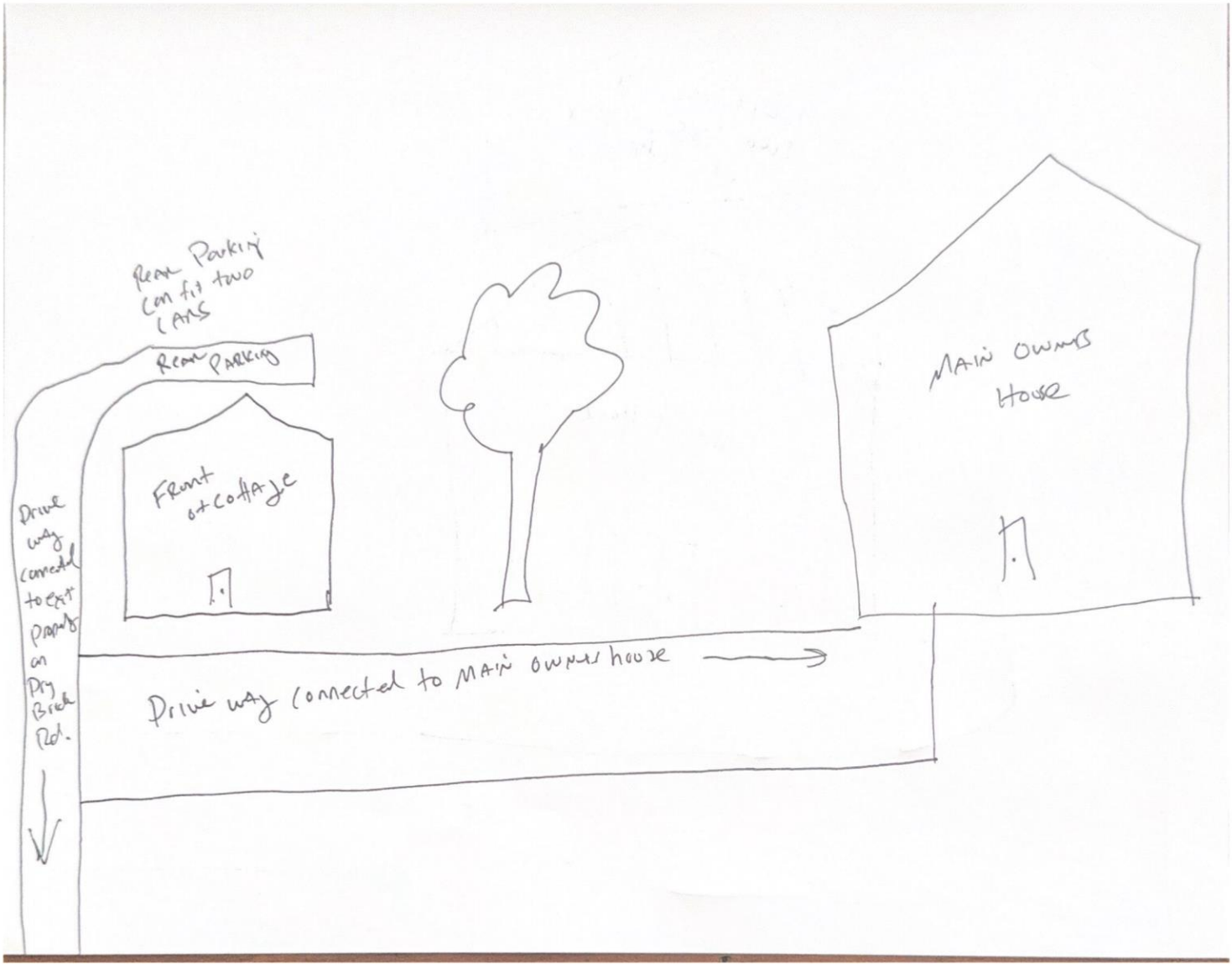
GL

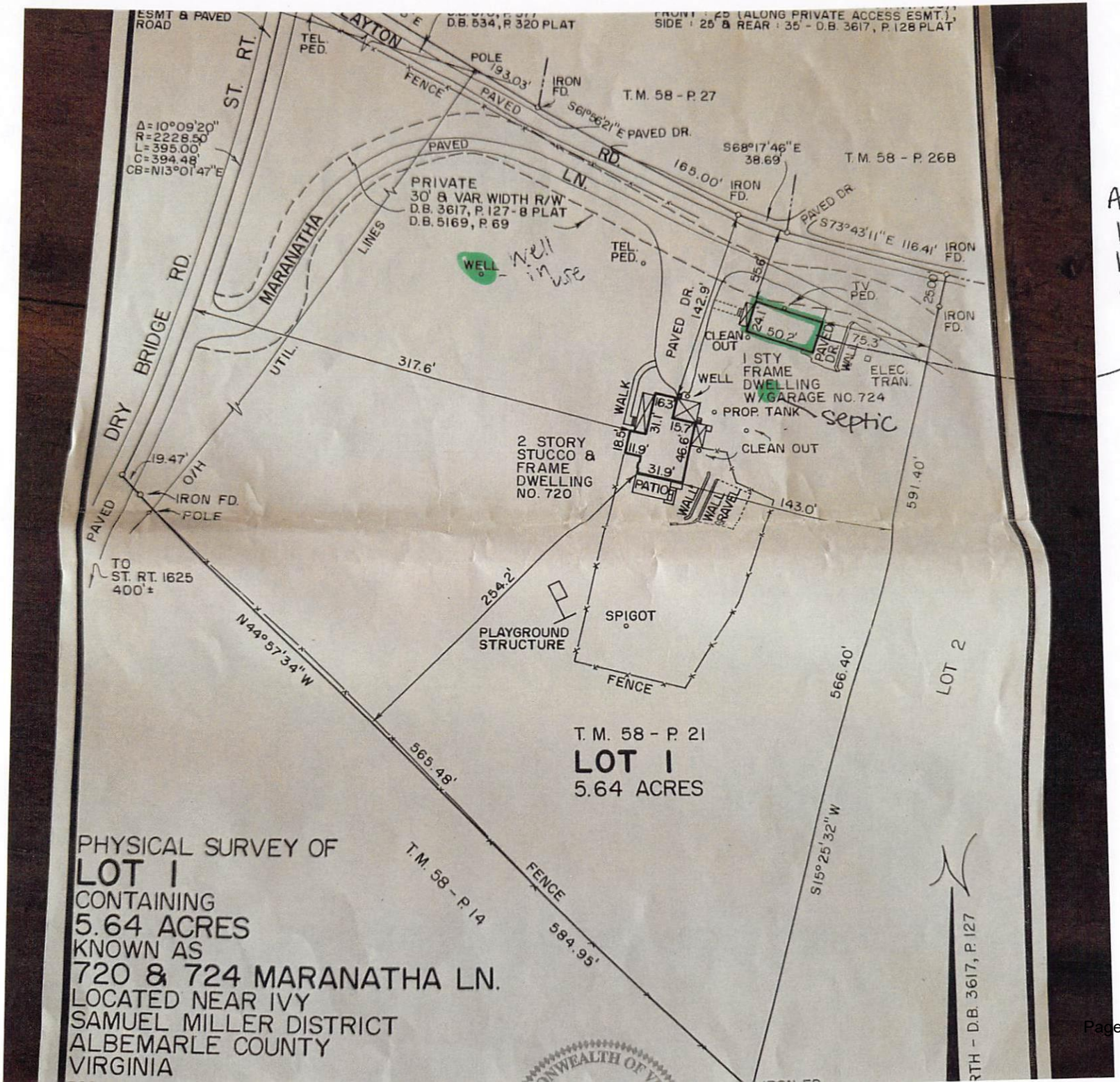
SUBDIVISION PLAT
LOT 1 AND LOT 2
A DIVISION OF THE PROPERTY OF
STEPHEN A.COMER & NATALIE L.COMER
AND ERIC I.ERKEL & MEGAN W.ERKEL
ALSO NEW 30' & VARIABLE WIDTH PRIVATE ACCESS EASEMENT
LOCATED ON STATE ROUTE 708, NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY, VIRGINIA
SCALE: 1" = 100' DATE: APRIL 22, 2008

FOR
STEPHEN A.COMER

ROGER W.RAY & ASSOC., INC.
1717-1B ALLIED STREET
CHARLOTTESVILLE, VIRGINIA 22903
TELEPHONE: (434) 293-3195

13543A


Rear Parking
can fit two
CARS
Rear PARKING
Front of cottage
MAIN OWNERS
House
Drive
way
connected
to exit
property
on
Dry
Brick
Rd.
Drive way connected to MAIN OWNERS house



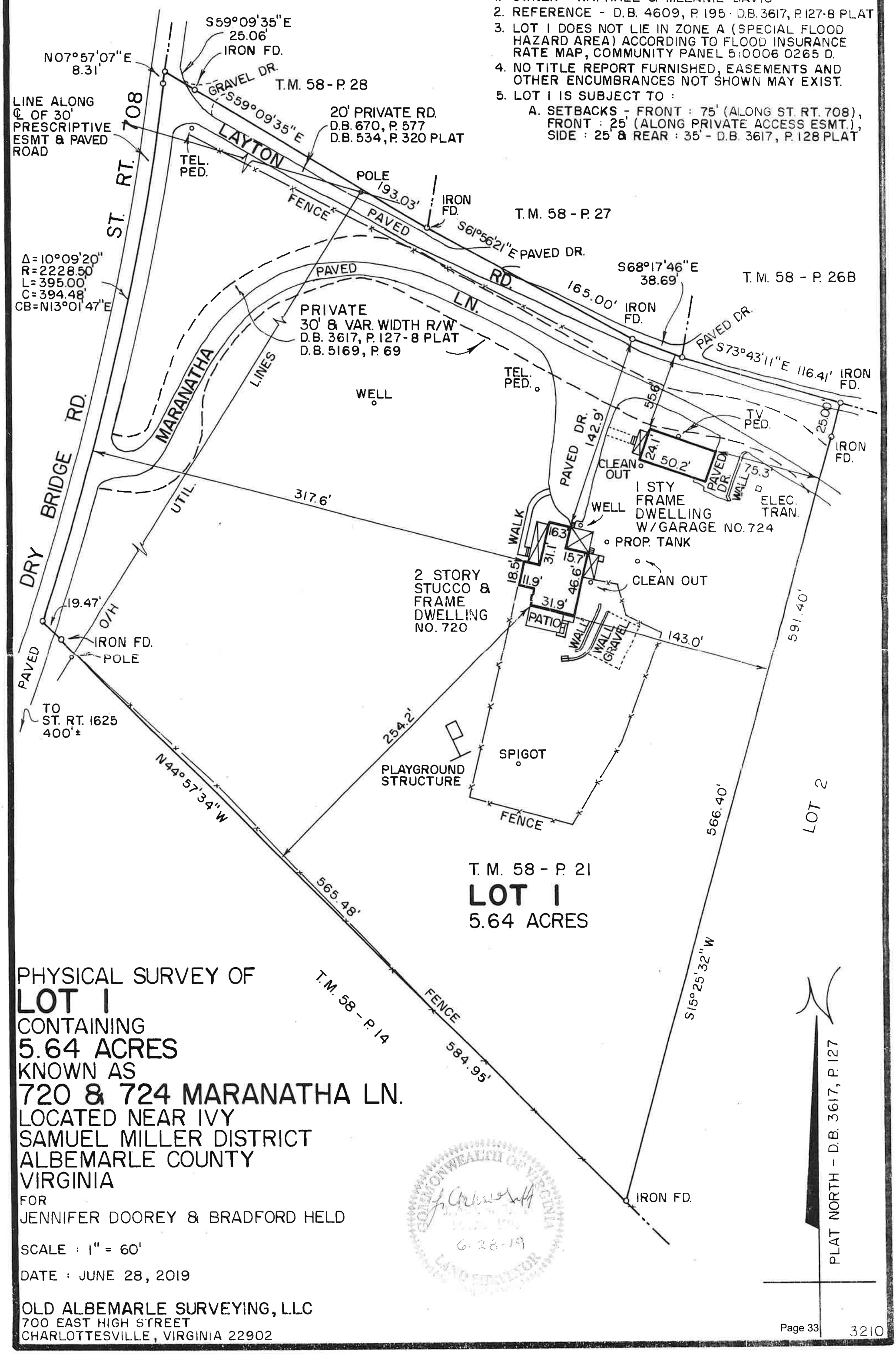
PHYSICAL SURVEY OF
LOT 1
CONTAINING
5.64 ACRES
KNOWN AS
720 & 724 MARANATHA LN.
LOCATED NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY
VIRGINIA

Already built 2 bedroom cottage for Air BNB rental

APPROVED

NOTES :

1. OWNER - RAPHAEL & MELANIE DAVIS
2. REFERENCE - D.B. 4609, P. 195 · D.B. 3617, P. 127-8 PLAT
3. LOT 1 DOES NOT LIE IN ZONE A (SPECIAL FLOOD HAZARD AREA) ACCORDING TO FLOOD INSURANCE RATE MAP, COMMUNITY PANEL 5:0006 0265 D.
4. NO TITLE REPORT FURNISHED, EASEMENTS AND OTHER ENCUMBRANCES NOT SHOWN MAY EXIST.
5. LOT 1 IS SUBJECT TO :
   A. SETBACKS - FRONT : 75' (ALONG ST. RT. 708), FRONT : 25' (ALONG PRIVATE ACCESS ESMT.), SIDE : 25' & REAR : 35' - D.B. 3617, P. 128 PLAT



PHYSICAL SURVEY OF
LOT 1
CONTAINING
5.64 ACRES
KNOWN AS
720 & 724 MARANATHA LN.
LOCATED NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY
VIRGINIA
FOR
JENNIFER DOOREY & BRADFORD HELD

SCALE : 1" = 60'

DATE : JUNE 28, 2019

OLD ALBEMARLE SURVEYING, LLC
700 EAST HIGH STREET
CHARLOTTESVILLE, VIRGINIA 22902

COMMONWEALTH OF VIRGINIA
6-28-19
LAND SURVEYOR

3210

NOTES :

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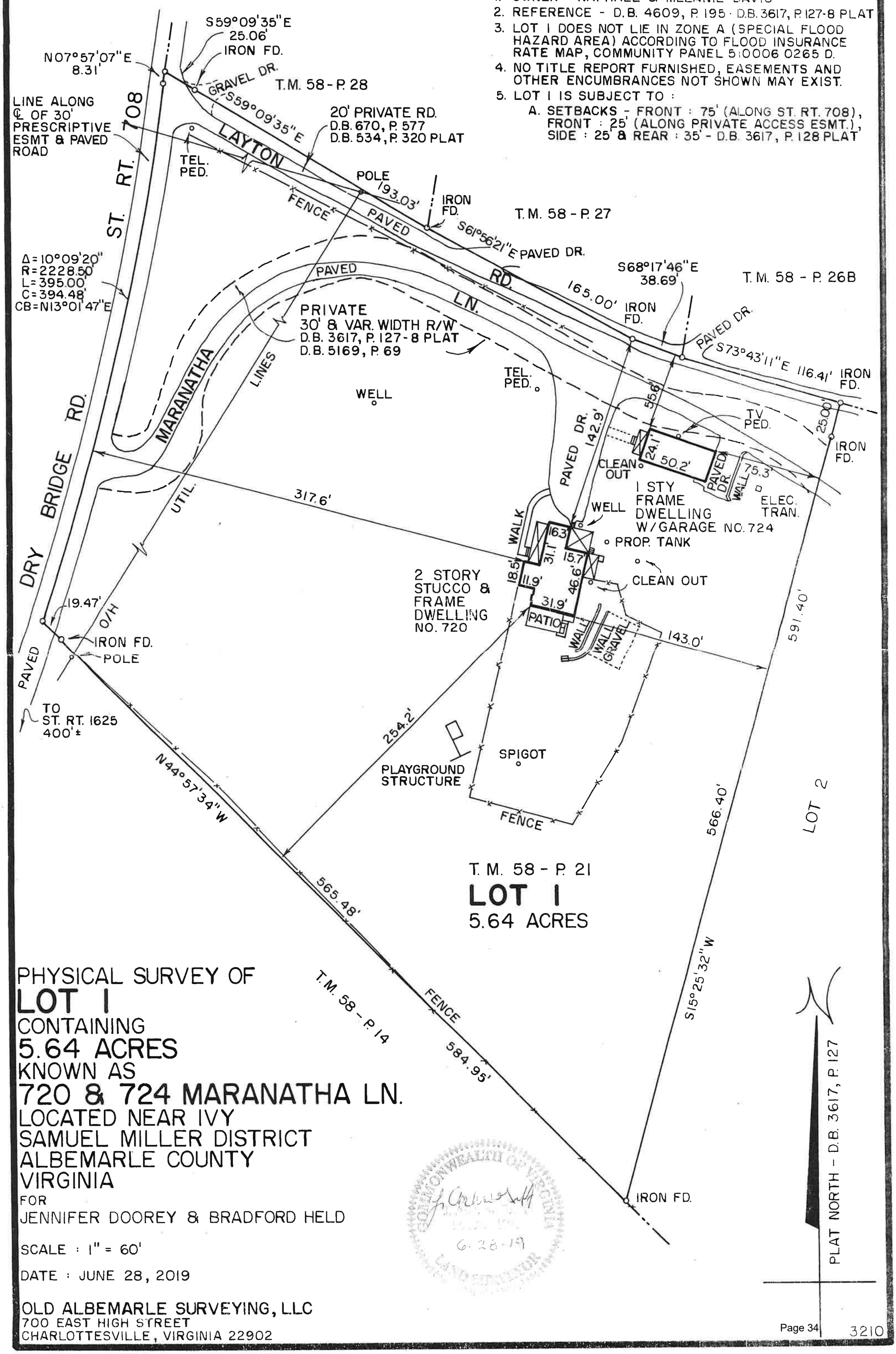

PHYSICAL SURVEY OF
LOT 1
CONTAINING
5.64 ACRES
KNOWN AS
720 & 724 MARANATHA LN.
LOCATED NEAR IVY
SAMUEL MILLER DISTRICT
ALBEMARLE COUNTY
VIRGINIA
FOR
JENNIFER DOOREY & BRADFORD HELD

SCALE : 1" = 60'

DATE : JUNE 28, 2019

OLD ALBEMARLE SURVEYING, LLC
700 EAST HIGH STREET
CHARLOTTESVILLE, VIRGINIA 22902

COMMONWEALTH OF VIRGINIA
6-28-19
LAND SURVEYOR

3210

ALBEMARLE COUNTY BOARD OF ZONING APPEALS

LANE AUDITORIUM

TUESDAY, MARCH 12, 2024—2:00 P.M.

Board Members:	Edward (Bo) Carrington, Chair Kurt Burkhart, Vice-Chair John Shepherd, Secretary Marcia Joseph Ronald Rosenberg
Staff Members:	Bart Svoboda, Director of Zoning Francis MacCall, Deputy Zoning Administrator Marsha Alley, BZA Clerk and Recorder
County Attorney:	Andy Herrick, Deputy County Attorney
BZA Attorney:	James Bowling, IV

1. Call to Order

The meeting was called to order at 2:00 p.m. by Mr. Carrington.

2. Establish a Quorum

Mr. Carrington established a quorum.

The following members were present: Ronald Rosenberg; John Shepherd; Kurt Burkhart; Marcia Joseph; and Edward Carrington.

Also present were James Bowling, Andy Herrick, Bart Svoboda, Francis MacCall, and Marsha Alley.

3. Public Hearings

A. AP2023-00004 Challenger Way Set Back Determination

Francis MacCall, Deputy Zoning Administrator, stated that the property, TMP 61W-01-0C-1, totaled 3.51 acres zoned C1 and was located at 442 Westfield Road. He stated that staff did not agree with the appellant's claims contained in Attachment D of the staff report. He said that the determination of the Zoning Administrator, LOD2023-00010, Attachment C, was correct, and the Board should affirm the determination.

Andy Herrick, Deputy County Attorney, stated that the applicable code section was County Code § 18-4.28(a), which regulated the setbacks if a neighboring property was zoned residential. He explained that because there was a neighboring property zoned neighborhood model district (NMD), the Board was asked to determine whether a property zoned NMD constituted being zoned residential.

Mr. Herrick stated that, based on past practice and in line with previous applications of the ordinance, NMD zoning constituted residential zoning for the purposes of the setback. He noted that the existing structures on the appellant's property were legally nonconforming and would be able to continue as legally nonconforming uses.

Mr. Rosenberg asked how the NMD was defined in the ordinance.

Mr. MacCall explained that a NMD was a planned development district with traditional neighborhood development as established in the County's Neighborhood Model, which was part of the Comprehensive Plan.

Mr. Herrick clarified that there was not a definition in the ordinance, but there was a statement of purpose and intent. He said that in § 18-28(b), there was a requirement that each district must have two different general use classifications, including residential.

Mr. Shepherd stated that if they wanted to consider the residential characteristics of the NMD zoning, then they had to consider the uses; otherwise, the zoning was just NMD.

The Chair opened the public hearing for comments by the appellant.

Pete Caramanis, counsel for the appellant, stated that the NMD was categorized as a planned development district, not as a residential or commercial zoning. He stated that the section of the ordinance cited by staff applied to property that was "adjacent to residential, rural areas, or the Monticello Historic Districts". He noted that the Monticello District was another of several planned development districts, and it was specifically referenced, but the NMD was not specifically mentioned.

Mr. Caramanis stated that applying the residential classification to the NMD was inappropriate, and had the ordinance intended to include the NMD, it would have been enumerated alongside the Monticello Historic District. He also noted that the zoning ordinance did not state that the NMD was a residential district, and staff had only determined it was residential through consistent and longstanding practice.

Mr. Caramanis stated that in the code of development, Block 1 was completely residential, and Block 2 was labeled for mixed use and residential. He stated that the only permitted types of residential uses were commercial styles, such as assisted living facilities and transient lodging. He stated that they did not need to review the code of development because the task was to review the ordinance, which did not indicate that the NMD was residential, and it did not include the NMD in the districts outlined in the set back requirements.

Mr. Svoboda stated that if the NMD could not be declared residential, it could also not be considered commercial, so the set back requirement was unclear. He said that it may be 20 feet according to the ordinance, which was measured from the district line, but they had not made a determination in this case.

The Chair opened the hearing for comments from the public. Hearing none, the Chair provided staff with five minutes for rebuttal.

Mr. Herrick stated that, regarding Mr. Caramanis' assertion that the NMD was a planned development district, there was a variety of different residential, industrial, and commercial district listings under the structure of the ordinance. He noted that while the NMD was listed under section 20(a), it was not a subsection of the general planned use development district, section 20. He noted that the Monticello Historic District, section 11, was not a planned district.

Mr. Herrick continued that under section 4.20, there was a table that followed the statement: "the following shall apply within the C1, CO, and HC districts." He stated that the side and rear minimum rows of the table listed two alternatives: first, if the abutting lot was zoned residential, rural areas, or Monticello Historic District; and second, if the abutting lot was zoned commercial or industrial. He noted that residential, rural areas, commercial, and industrial were all in lower case in the ordinance, thus referring generally to the zoning categories, not specific zoning districts. He stated that the Zoning

Administrator was only able to choose between applying one of the options, and when faced with the facts and past practices, the NMD was more appropriately judged as residential.

Mr. Carrington asked for clarification regarding the status of the Monticello Historic District. He stated that it was his understanding that there were seven distinct planned development districts outlined in section 8.1, and the Monticello Historic District was listed as the first.

Mr. Herrick agreed that Mr. Carrington was correct, and that section 8.1 included both the NMD and the Monticello Historic District. He stated that he stood corrected but noted that he was previously referring to the structure of the ordinance.

The Chair provided the appellant five minutes for rebuttal.

Mr. Caramanis stated that the capitalization of the word residential was not relevant because the ordinance had to be considered as a whole, and nowhere in it did it state that the NMD was a residential zoning. He noted that if a rezoning would have impacts on a neighboring property, such as requiring additional set backs, then property owners should be informed.

The Chair opened the floor for discussion from the Board.

Mr. Shepherd stated that he was leaning towards supporting that the Zoning Administrator's determination was incorrect because section 420 applied to residential, rural areas, and the Monticello Historic District, and it did not specifically mention the NMD.

Ms. Joseph stated that she agreed with Mr. Shepherd. She stated that due to the opportunities for commercial development and the intent of the NMD, to be flexible and not impose burdens on itself or neighboring properties, she did not agree with the determination of the Zoning Administrator.

Mr. Burkhart stated that ambiguity regarding the NMD definition led him to support the appellant.

Mr. Rosenberg stated that he intended to vote with Mr. Burkhart.

Mr. Carrington stated that section 7.1 established 26 zoning districts. He stated that six of the 26 contained the word residential, and seven of the 26 were defined as planned development districts. He stated that planned development districts were not categorized as residential, and they would require explicit mention for the setback requirements to apply. He noted that an NMD did not require residential uses so long as the Board of Supervisors determined there were residential uses within a quarter of a mile of the site.

MOTION: Ms. Joseph moved that the Board of Zoning Appeals overturn the Zoning Administrator's determination in LOD 2023-00010. Mr. Shepherd seconded the motion, which passed unanimously (5-0).

4. Approval of Minutes
A. January 9, 2024

MOTION: Mr. Rosenberg moved that the Board of Zoning Appeals approve the minutes for the January 9, 2024 meeting. Mr. Burkhart seconded the motion, which passed unanimously (5-0).

DRAFT

5. Old Business

A. Discussion: Possible appointment of alternate BZA member(s)

Mr. Carrington noted that a draft letter had been distributed to the board members for consideration. He stated that Mr. Burkhart and Ms. Joseph had contributed all of the effort for drafting the letter.

Mr. Shepherd stated that the letter reflected the benefits of appointing alternates and the experiences of other localities, and it should set up the Board of Supervisors for a good discussion.

Mr. Rosenberg stated that he was not originally supportive of alternates, but complicated cases such as the one they addressed at the meeting had changed his opinion.

Ms. Alley noted that the letter should be corrected so that it was addressed to Chair Jim Andrews, not Jim Anderson.

MOTION: Ms. Joseph moved to authorize the Chair to sign and deliver a letter, as amended, to the Board of Supervisors requesting alternate appointments to the Board of Zoning Appeals. Mr. Rosenberg seconded the motion, which passed unanimously (5-0).

6. New Business

Mr. Carrington stated that they should prepare as a Board to discuss the representation agreement with Mr. Bowling. He stated that they would discuss the matter in closed session at the next meeting. He noted that in the past, the agreement was on an hourly basis at $350/hour with a cap of $5,000.

Mr. Bowling noted that the payment schedule was largely dependent on the number of and the length of the public hearings. He stated that for many years, he had come in under the cap; however, last year, he had exceeded the cap by about 4 hours. He noted that at the end of February, there was a major change in zoning law in the state, which gave him some concern. He stated that the case revolved around variance law changes in 2015. He stated that once the case became well known in the legal community, there will likely be a substantial increase in variances and the workload. He said he would send out a copy of the opinion to the board members.

Mr. Svoboda noted that the funding for the current contract was already included on the Board of Supervisor's budget; however, increased funding was not. He stated that the earliest the Board of Zoning Appeals would be able to discuss the matter would be at its June meeting, which would be after the budget process had ended.

Mr. Carrington asked whether there was an avenue for additional funding after the budget had been set.

Mr. Svoboda said that there was a process for out-of-budget allocations, but it required significant staff time.

7. Adjournment

MOTION: Mr. Burkhart moved to adjourn the BZA meeting. Mr. Shepherd seconded the motion, which passed unanimously (5-0).

The meeting adjourned at 3:48 p.m.

(Recorded by Marsha Alley and transcribed by Golden Transcription Services)

DRAFT

Respectfully Submitted,

_____

John Shepherd, Secretary, Board of Zoning Appeals

DRAFT