



## FLUVANNA COUNTY BOARD OF ZONING APPEALS

Fluvanna County Morris Room  
132 Main Street, Palmyra, VA 22963

Tuesday, March 21, 2023 at 7:00 pm

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### AGENDA

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#### REGULAR MEETING

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**1. CALL TO ORDER: Pledge of Allegiance to the Flag and Moment of Silence**

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**2. APPROVAL OF MINUTES**

Draft BZA Organizational Meeting Minutes of January 17, 2023

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**3. PUBLIC HEARING**

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**BZA 23:01 Daniel Barber:** Two fifteen (15) foot variance requests; with one to the minimum 300 foot frontage required along the state road and one to minimum lot width of 300 feet at the required front setback under Section 22-4-3 (C) and (D) for residential use. The subject property is zoned A-1, Agricultural, General and is Tax Map 20 Section 16 Parcel 26 and is located on the east line of Bybees Church Road and is generally north of Barnaby Road. The subject property is located in the Columbia Election District and in the Rural Residential Planning Area.

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**4. UNFINISHED BUSINESS**

None

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**5. NEW BUSINESS**

None

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**6—ADJOURN**

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*Douglas Miles*

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Zoning Administrator Review

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### PLEDGE OF ALLEGIANCE

I pledge allegiance to the flag  
of the United States of America  
and to the Republic for which it stands,  
one nation, under God, indivisible,  
with liberty and justice for all.

*Fluvanna County...The heart of central Virginia and your gateway to the future!*

*For the Hearing-Impaired – Listening device available in the Board of Supervisors Room upon request. TTY access number is 711 to make arrangements.  
For Persons with Disabilities – If you have special needs, please contact the County Administrator's Office at 591-1910.*

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### ORDER

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.
2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Commission wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Commission to discuss the matter.
3. No member or citizen shall be allowed to use abusive language, excessive noise, or in any way incite persons to use such tactics. The Chairman shall be the judge of such breaches, however, the Commission may vote to overrule both.
4. When a person engages in such breaches, the Chairman shall order the person's removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

### PUBLIC HEARING RULES OF PROCEDURE

1. PURPOSE
  - The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action.
  - A hearing is not a dialogue or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.
2. SPEAKERS
  - Speakers should approach the lectern so they may be visible and audible to the Commission.
  - Each speaker should clearly state his/her name and address.
  - All comments should be directed to the Commission.
  - All questions should be directed to the Chairman. Members of the Commission are not expected to respond to questions, and response to questions shall be made at the Chairman's discretion.
  - Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
  - Speakers with questions are encouraged to call County staff prior to the public hearing.
  - Speakers should be brief and avoid repetition of previously presented comments.
3. ACTION
  - At the conclusion of the public hearing on each item, the Chairman will close the public hearing.
  - The Commission will proceed with its deliberation and will act on or formally postpone action on such item prior to proceeding to other agenda items.
  - Further public comment after the public hearing has been closed generally will not be permitted.

*Fluvanna County...The heart of central Virginia and your gateway to the future!*

***For the Hearing-Impaired – Listening device available in the Board of Supervisors Room upon request. TTY access number is 711 to make arrangements.  
For Persons with Disabilities – If you have special needs, please contact the County Administrator's Office at 591-1910.***

**FLUVANNA COUNTY BOARD OF ZONING APPEALS  
ORGANIZATIONAL MEETING MINUTES**

**Fluvanna County Administration Building  
Morris Room, 132 Main Street  
Palmyra, VA 22963**

**Tuesday, January 17, 2023  
7:00 pm**

**MEMBERS PRESENT:** Harold Morris  
Ed Zimmer  
Easton Loving  
James Winsett

**MEMBERS ABSENT:** Peter von Keyserling  
Valencia Porter-Henderson

**STAFF PRESENT:** Fred Payne, County Attorney  
Douglas Miles, Community Development Director  
Jason Overstreet, Senior Planner

**1. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:**

At 7:00 pm, Douglas Miles, Community Development Director, called the January 17, 2023 Organizational Meeting to order, led in the Pledge of Allegiance and then conducted a Moment of Silence.

**2. 2023 ORGANIZATIONAL MEETING OF THE FLUVANNA COUNTY BOARD OF ZONING APPEALS**

Mr. Miles asked for nominations for Chair of the Board of Zoning Appeals in 2023.

Mr. Loving moved to elect Harold Morris as Chair of the Board of Zoning Appeals for the calendar year of 2023. Mr. Zimmer seconded the motion.

<b>MOTION:</b>	<b>I move to elect Harold Morris as Chair of the Fluvanna County Board of Zoning Appeals for the calendar year of 2023.</b>				
<b>MEMBER:</b>	Morris	Loving	Keyserling	Zimmer	Winsett
<b>ACTION:</b>		<b>Motion</b>		<b>Second</b>	
<b>VOTE:</b>	Aye	Aye	Absent	Aye	Aye
<b>RESULT:</b>	<b>4-0 Approved Mr. Morris as Chair</b>				

Mr. Miles turned the meeting over to Chair Morris of Board of Zoning Appeals in 2023.

Chair Morris asked for nominations for Vice Chair of the Board of Zoning Appeals for the calendar year of 2023. Mr. Loving moved to elect Mr. Zimmer and Chair Morris seconded the motion.

<b>MOTION:</b>	<b>I move to elect Mr. Zimmer as Vice Chair of the Fluvanna County Board of Zoning Appeals for the calendar year of 2023.</b>				
<b>MEMBER:</b>	Morris	Loving	Keyserling	Zimmer	Winsett
<b>ACTION:</b>	<b>Second</b>	<b>Motion</b>			
<b>VOTE:</b>	Aye	Aye	Absent	Aye	Aye
<b>RESULT:</b>	<b>4-0 Approved Mr. Zimmer as Vice Chair</b>				

Chair Morris asked for a motion to adopt the 2023 Regular meeting calendar dates. Mr. Loving motioned and it was seconded by Vice Chair Zimmer.

<b>MOTION:</b>	<b>Adoption of the 2023 Regular Meeting Calendar</b>				
<b>MEMBER:</b>	Morris	Loving	Keyserling	Zimmer	Winsett
<b>ACTION:</b>		<b>Motion</b>		<b>Second</b>	
<b>VOTE:</b>	Aye	Aye	Absent	Aye	Aye
<b>RESULT:</b>	<b>4-0 Adopted 2023 Meeting Calendar</b>				

3. **MINUTES:**

<b>MOTION:</b>	<b>Board of Zoning Appeals Minutes of May 17, 2022</b>				
<b>MEMBER:</b>	Morris	Loving	Keyserling	Zimmer	Winsett
<b>ACTION:</b>		<b>Motion</b>		<b>Second</b>	
<b>VOTE:</b>	Aye	Aye	Absent	Aye	Aye
<b>RESULT:</b>	<b>4-0 Approved, as presented</b>				

4. **PUBLIC HEARINGS:**

None

5. **UNFINISHED BUSINESS:**

None

6. **NEW BUSINESS:**

Mr. Miles distributed the 2040 Fluvanna County Draft Comprehensive Compiled Outline Report.

7. **ADJOURNMENT:**

Chair Morris adjourned the Board of Zoning Appeals meeting of January 17, 2023 at 7:22 pm.

Minutes recorded by Valencia Porter, Administrative Program Specialist.

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**Harold Morris, Chair**  
**Fluvanna County Board of Zoning Appeals**



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# COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

132 Main Street  
P.O. Box 540  
Palmyra, VA 22963  
(434) 591-1910  
Fax (434) 591-1911  
[www.fluvannacounty.org](http://www.fluvannacounty.org)

## BOARD OF ZONING APPEALS STAFF REPORT

**To:** Board of Zoning Appeals  
**Case:** BZA 23:01 Variance  
**Date:** March 21, 2023

**From:** Jason Overstreet, Senior Planner  
**District:** Columbia Election District  
**Tax Map:** 20 Section 16 Parcel 26

**General Info:**

The Board of Zoning Appeals is scheduled to hear this request on Tuesday, March 21, 2023 at 7:00 pm in the Morris Room of the County Administration Building.

**Applicant:**

Daniel Barber

**Owner:**

Daniel Barber

**Request:**

**BZA 23:01 Daniel Barber:** Two fifteen (15) foot variance requests; with one to the minimum 300 foot frontage required along the state road and one to minimum lot width of 300 feet at the required front setback under Section 22-4-3 (C) and (D) for residential use. The subject property is zoned A-1, Agricultural, General and is Tax Map 20 Section 16 Parcel 26 and is located on the east line of Bybees Church Road and is generally north of Barnaby Road. The subject property is located in the Columbia Election District and in the Rural Residential Planning Area.

**Code Section:**

Fluvanna County Code Sec. 22-4-3. (C), (D) of the Zoning Ordinance

**Location:**

The subject property is located in the Columbia Election District on the east side of Route 613, Bybees Church Road.

(Attachment C)

**Existing Zoning:**

A-1, Agricultural, General

**Existing Land Use:**

Vacant

**Adjacent Land Use:**

Vacant or Residential

**Comprehensive Plan:** Rural Residential Planning Area

**Analysis:**

The subject lot was created in its current configuration in February of 1992 and consists of 16.452 acres. When created this lot was subject to the regulations of the 1974 zoning ordinance which required 200' of frontage for permitted uses. The lot has approximately 413' of noncontiguous frontage on Bybees Church Road. (Attachment E) The current zoning ordinance requires that lots in the A-1 zoning district have 300' of contiguous road frontage and that the lot width at the setback line be equal to the required frontage. Due to the lot's dimensions, it is considered nonconforming when applying the requirements of the current zoning ordinance.

Sec. 22-4-3. – Residential density; minimum lot size; dimensional requirements.

(C) Minimum frontage required:

(b) All other public roads:300 feet

(E) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.

The applicant is requesting a variance to these current dimensional requirements which, if approved, would allow the lot to be subdivided without meeting the current frontage and setback requirements of the zoning ordinance. If approved, proposed Lot A would have 124' of frontage. If approved this lot could utilize the existing 50' pipestem for access. The residual lot would have 289' of road frontage and the lot width at setback would be 284'. (Attachment F)

Additionally, the Planning Department has provided verbal approval of a proposed lot configuration submitted by the applicant that creates two lots. In this configuration the 50' pipestem remains part of the original (residue) lot, and the original lot is not made less conforming. (Attachment G) Section 22-16-7 of the zoning ordinance prohibits the creation of lots below width and area requirements for the zoning district in which the lot is located.

Sec. 22-16-7. - Prohibition against creation of lots below width and area requirements for district.

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established in each district by this ordinance, nor shall any division be made which creates a lot with width or area below the requirements in each district established by this ordinance.

As stated in Section 22-18-2(B) of the Fluvanna County Code, the Board of Zoning Appeals must consider certain statutory considerations when reviewing a variance request.

The Board may grant a variance 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, 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 or the process for modification of a zoning ordinance at the time of the filing of the variance application.

The Board must make each of the above findings in order to grant a variance as required by the Code of Virginia. Approval of a variance that does not meet each finding would be unlawful. The Board may impose, as part of an approval, 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.

After evaluation of the above factors, staff has the following comments:

***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:***

The subject property was purchased in its current dimensional configuration.

***The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area:***

The granting of this variance would require that the existing 50' pipestem access strip be utilized in order to access Lot A unless access is provided by a new easement through the residual lot. Currently, there is no driveway or road within the 50' pipestem. There are two existing single-family dwellings on each of the lots adjacent to the pipestem that would be affected by vehicular traffic utilizing the it for access.

***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:***

This lot's nonconforming condition did not exist when the lot was originally created. However, in addition to this lot there are many existing lots within the county that were made nonconforming when new dimensional requirements were codified through updates to the zoning ordinance. Often these nonconforming conditions can be addressed through other means such as boundary line adjustments. In this particular case it is not possible to adjust the boundaries in order to bring the lot into compliance with current requirements.

***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:***

Granting of the requested variances would not result in a change to the zoning classification nor would it result in a use that is not permitted.

***The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application:***

A special use permit process is not available to the applicant. No zoning ordinance amendment has been proposed nor is there one in process for this section of the ordinance.

A draft resolution is attached. (Attachment H)

**Suggested Motion:**

I move to (Approve/deny/defer) BZA 23:01, two fifteen (15) foot variance requests; with one to the minimum 300 foot frontage required along the state road and one to minimum lot width of 300 feet at the required front setback under Section 22-4-3 (C) and (D) for residential use.

**Attachments:**

- A – Application
- B – Public Hearing Notice
- C – Aerial Vicinity Map
- D – Zoning Map
- E – Plat of Existing Lot
- F – Plat of Proposed Lot with Approved Variance
- G – Plat of Verbally Approved Lot
- H – Draft Resolution

Copy: Applicant, Daniel Barber via email – d.barber76@yahoo.com



RECEIVED

FEB 21 2023

Fluvanna County  
Planning Dept



COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA  
Variance Application (BZA)

**Owner of Record:** Daniel Barber *DB*  
E911 Address: 3 Mesquite Pt  
29 Anchast Rd., Palmyra VA 22963  
Phone: 434-242-5318 Fax: \_\_\_\_\_  
Email: d\_barber76@yahoo.com

**Applicant of Record:** Same  
E911 Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Representative:** Bryan Chambers  
E911 Address: 253 Willow Drive, Keswick VA 22947  
Phone: 434-962-3746 (c) Fax: \_\_\_\_\_  
Email: chamberslandsurveying@yahoo.com

**Note:** If applicant is anyone other than the owner of record, written authorization by the owner designating the applicant as the authorized agent for all matters concerning the request shall be filed with this application.

**Tax Map and Parcel(s):** TM 20 (16) 26 **Deed Book Reference:** DB 999-1371  
**Acres:** 16.452 Ac. **Zoning:** A-1 **Deed Restrictions?**  No  Yes (Attach copy)  
**Amend. Decl. of Rest. Cov. & Ease. in DB** 599-442.

E911 Address of Parcel: This parcel is vacant land adjoining 1342 Bybees Church Rd.

Description of Property: Wooded Residential/ Ag property

Request for a variance from Section 22-4-3 of the Fluvanna County Code in respect to the requirement for 300' frontage & 300' width at setback in order to build residences.

Fill in only the line(s) that apply to your request(s)	Applicant has	Code requires or permits	Variance requested
Total Area			
Lot Width of 300' @ 125' building setback on Res.	284.26' @ 125' BSL on Residue	300' @ 125' building setback	284.26' @ 125' BSL on Residue
Front yard setback			
Minimum side yard setback			
Total side yard setback			
Rear yard setback			
Public road frontage of 300' on Res.	289.62' of Rd. Frontage on Res.	300' of Road Frontage	289.62' of Rd. Frontage on Res.
Other (write in) 300' Rd. Fr. & 300' W. @ 125' BSL pipe stm	124.23' RF & 50' W. @ 125' BSL	300' RF & 300' W. @ 125' BSL	124.23' RF & 50' W. @ 125' BSL

Two copies of a plan must be submitted, showing size and location of the lot, dimensions and location of the proposed building, structure or proposed use, and the dimensions and location of the existing structures on the lot.

By signing this application, the undersigned authorizes entry onto the property by County employees, the Planning Commission, the Board of Supervisors, and the Board of Zoning Appeals during the normal discharge of their duties in regard to this request.

**All plats must be folded prior to submission to the Planning Department. Rolled plans will not be accepted.**

*Daniel H. Barber* 2/20/2023 *[Signature]*  
Owner/Applicant Name (Please Print) Date Owner/Applicant Signature

OFFICE USE ONLY		
Date Received: <u>02/21/2023</u>	PH Sign Deposit Received: <u>02/21/2023</u>	Application #: <u>BZA 23-01</u>
\$550 plus mailing cost and fee paid: check 1704		Mailing Costs: \$20.00 Adjacent Property Owner (APO) after 1st 15, Certified
Election District: <u>Columbia</u>	Planning Area:	
Approved _____ Denied _____ Date: _____	Zoning Administrator:	

## IMPROVEMENTS PROPOSED

Describe the improvements proposed. State whether new buildings or structures are to be constructed, existing buildings or structures are to be used, or additions made to existing buildings or structures.

A building site for a new proposed residence is desired on the 3.651 acre lot. Access along the pipe stem shown on county approved Bybee Estates (7/5/1991), Section 3 (Recorded in DB 223-816 et. seq.) is desired for a future residence on the larger back lot that it serves.

## SPECIAL CONDITIONS

Relate here the special conditions or circumstances (topography, soil type, shape of property) peculiar to the above described land, building, or structure or to the intended use or development of the land, building or structure involved that do not apply generally to other property in the same district.

The shape of the property for Bybee Estates (7/5/1991), Section 3, recorded in DB 223-816 Pg. 819 provided county approved lot frontages of 200' minimum for lots and an approved pipe stem for access. The current zoning ordinance requires 300' of frontage and a 300' width at the BSL. The residue of Lot 26 has 289.62' of frontage and the pipe stem has 124.23' of road frontage which was previously approved. The residue of Lot 26 is 284.26' wide at 125' from Rte 613 and the pipe stem is 50' wide at 125' from Rte 613.

## UNNECESSARY HARDSHIP

Describe here how the literal interpretation and enforcement of Section 22-4-3 of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use or intended use or development of the properties involved by the applicant.

The pipe stem shown for Bybee Estates (7/5/1991), Section 3, recorded in DB 223-816 et. seq. was obviously meant to serve a lot in back and Mr. Barber intends to utilize it for that. The 3.65 acre Residue of TM 20 (16) -26 has the road frontage required for lots when this subdivision was created.

When the current zoning ordinance went into effect it eliminated the previous Fluvanna Co. approved lot frontage for the subdivision of these lots.

## ADJACENT PROPERTY

Describe the effects of this variance on adjacent property and the surrounding neighborhood. How will adjoining property owners be protected.

Most of the adjoining lots are within Bybee Estates (7/5/1991), Section 3, recorded in DB 223-816 et. seq. except for the smaller 1.739 acre lot for TM 20 (A) 77 belonging to James Loving, et. al. Effects are expected to be minimal.

## PLAN

Furnish plot plan showing boundaries and dimensions of property, width of abutting right-of-ways, location and size of buildings and structures on the site, roadways, walks, off-street parking and loading space, landscaping and the like. (Architect's sketches showing elevations of proposed buildings and structures and complete plans are desirable and may be required with the application if available.)

No buildings currently exist on this lot. A copy of Fluvanna GIS photogrammetry is included to show buildings on adjoining lots. A copy of Bybee Estates (7/5/1991), Section 3, recorded in DB 223-816 et. seq. is included in this submittal to show previous Fluvanna County approval of lot configurations. A plot plan is included in this submittal to show the configuration of the 3.65 acre residue & the pipe stem for which the variance is requested.



RECEIVED

FEB 21 2023

COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA  
Public Hearing Sign Deposit

Fluvanna County  
Planning Dept

Name: Daniel Barber  
Address: ~~29 Amethyst Rd.~~ 3 Mesquite Pl  
City: Palmyra  
State: Virginia Zip Code: 22963

I hereby certify that the sign issued to me is my responsibility while in my possession. Incidents which cause damage, theft, or destruction of these signs will cause a partial or full forfeiture of this deposit.

  
Applicant Signature

1/6/2023  
Date

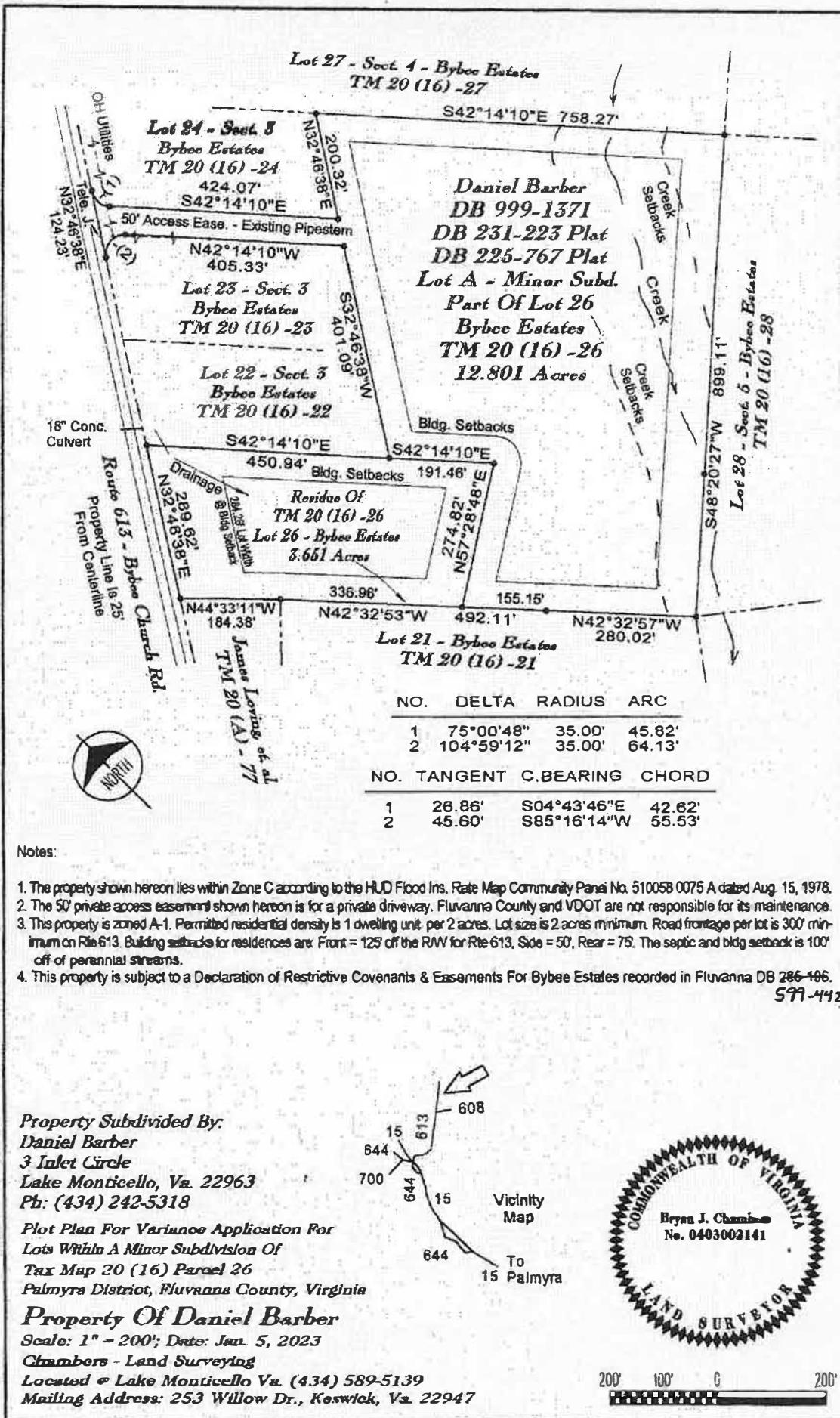
\*Number of signs depends on number of roadways property adjoins.

OFFICE USE ONLY

Application #: BZA \_\_\_\_\_ : CPA \_\_\_\_\_ : SUP \_\_\_\_\_ : ZMP \_\_\_\_\_ : ZTA \_\_\_\_\_ :

\$90 deposit paid per sign\*:

Approximate date to be returned:





RECEIVED

FEB 21 2003

Fluvanna County  
Planning Dept

6393

Prepared by McClure, Callaghan & Atkins  
Tax Map 20(16)26-38

AMENDMENT TO  
DECLARATION OF RESTRICTIVE COVENANTS  
AND EASEMENT FOR  
SECTIONS IV, V and VI, BYBEE ESTATES  
AND  
ROAD MAINTENANCE AGREEMENT

THIS AMENDED DECLARATION OF RESTRICTIVE COVENANTS and ROAD MAINTENANCE AGREEMENT dated this 17 day of Sept., 2004, by R. G. PURCELL & DAUGHTERS LAND & DEVELOPMENT, INC., a Virginia corporation, R. G. PURCELL and BRENDA PURCELL, hereinafter referred to as DECLARANTS.

WITNESSETH:

WHEREAS, The Declaration of Restrictive Covenants and Easements for Bybee Estates is recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 285, page 196, shall no longer apply to Lots 26 and 27, Section IV, Lots 28 through 31, Section V, and Lots 32 through 38, Section VI, Bybee Estates.

WHEREAS, R. G. Purcell & Daughters Land & Development, Inc., being the owner of the above property, and R. G. Purcell and Brenda Purcell being the sole members of the Architectural Control Committee, desire to impose new covenants, restrictions and road maintenance agreement on Lots 26 and 27, Section IV, Lots 28 through 31, Section V, and Lots 32 through 38, Section VI, Bybee Estates.

WHEREAS, the aforesaid lots are shown on a plat showing Boundary Adjustment prepared by Lum's Land Surveys, Inc. dated June 11, 2004 recorded in the aforesaid County Clerk's Office in Plat Book 2, page 105.

WHEREAS, the Road Maintenance Agreement contained herein applies only to Lots 28 through 31, Section V, and Lots 32 through 38, Section VI.

NOW, THEREFORE, the following Restrictive Covenants, Easements and Conditions are hereby imposed on and made applicable to Lots 26 and 27, Section IV, Lots 28 through 31, Section V, and Lots 32 through 38, Section VI of Bybee Estates, more particularly described by Plat of Survey of Lum's Land Surveys, Inc. dated June 11, 2004. recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Plat Book 2, page 105.

(1) No lot shall be used except for residential purposes. Not more than one single family dwelling house may be erected on any such residential lot, except lots over 12 acres may be divided for a family division, if allowed by Fluvanna County. If divided, the new lot would become part of the road maintenance agreement and be responsible for paying their pro-rata share. Out buildings not inconsistent with residential use may be erected upon approval in writing as provided in Paragraph 2 herein.

(2) No building, structure, or out building or structure of any type shall be erected, placed or altered on any lot, including the clearing of lots, until the proposed building plans, specifications, exterior color of finish, and landscape plans have been filed, including front, side and rear elevations, and approved in writing by the Architectural Control Committee of Bybee Estates. All foundations poured or otherwise must be faced with brick, stone or other acceptable materials. No parging of foundations shall be allowed. At least one intersecting roof line must be incorporated into the design of the home. Refusal of plans, location or specifications may be based by the Architectural Control Committee of Bybee Estates upon any ground, including aesthetic considerations, which in the sole discretion of the Committee which they deem sufficient, PROVIDED, HOWEVER, the Committee shall not approve any dwelling or house with a total floor or living space, exclusive of all basements,

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porches, breezeways, garages, tool rooms and unfinished spaces, of less than 1,600 square feet with an attached side-loaded garage or 1,800 square feet without side-loaded garage, that does not have a minimum roof pitch of 7/12. Minimum square footage of 1,600/1,800 for a ranch style house, 2,000 for a one and one-half story house, and 2,200 for a two-story house. Garages facing the road must be side-loaded with windows on the front elevation. No construction shall be commenced and no lot shall be graded except in accordance with such plan or modification thereof which has been approved by the Committee. No alterations may be used in such plans after approval by the Committee except by and with written consent of the Committee. No alterations in the exterior appearances may be made without written consent by the Committee. One copy of all plans and related data shall be furnished to the Committee for its records.

(3) The Architectural Control Committee of Bybee Estates Subdivision is composed of the following persons: R. G. Purcell, Brenda Purcell and Donald A. Morse. These three members may appoint additional members to the Committee. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designation representative shall be entitled to any compensation for services performed pursuant to this covenant.

(4) The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within 14 days after plans and specifications have been received, then the plans and specifications as presented shall be deemed to have been approved.

(5) No sign of any kind shall be displayed to the public view on any lot except those approved in advance by the Architectural Control Committee, except for signs for realtors or builders

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which shall be limited to four (4) square feet.

(6) No trailer, campers, mobile homes, tents, shacks, or other structures shall at any time be occupied as a residence on any lot, and no trailer designed for living purposes shall at any time be brought upon or stored upon said property. No accessory or temporary building shall be used or occupied as living quarters.

(7) No noxious or offensive trade or activity shall be carried on any of the said lots, nor shall anything be done thereon which shall be or become an annoyance or nuisance to any of the property owners in this subdivision.

(8) Dogs, cats, and other household pets must be confined to owner's property at all times. Outside animals are limited to no more than two dogs and two cats. Equine animals are limited to one for every three acres of land. No swine or poultry are allowed.

(9) Fencing must be made of three or four wooden boards. No chain link fencing is allowed. Invisible pet fencing is recommended. Picket fencing shall be allowed for swimming pool enclosures.

(10) No unlicensed automobiles, trucks or similar vehicles shall be kept on any lot, except farm vehicles.

(11) Easements for the installation and maintenance of utilities, driveways, and drainage facilities necessary for the use and enjoyment of any of the lots in this subdivision, or any adjoining property are reserved to Dick Purcell Land, Cattle and Timber Corporation and R. G. Purcell & Daughters Land & Development, Inc., its successors in ownership and assigns.

(12) Any dishes or satellites placed on any lot shall not exceed three (3) feet in diameter.

(13) No hunting or discharging of firearms shall be allowed.

(14) Bybee Estates Architectural Control Committee reserves and is granted the right to

waive in writing the violation of any of the restrictive covenants referred to herein, to amend in writing by a unanimous vote of the Committee any of the restrictive covenants referred to herein, and to amend at any time the Plat of Subdivision with reference to this property.

(15) Enforcement of these Restrictive Covenants shall be by proceeding at Law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. All property owners in this subdivision by recordation of their deed of conveyance subject to these Restrictive Covenants agree to be responsible for any violation of these aforesaid Restrictive Covenants and further agree to be responsible for all reasonable attorney's fees and damages incurred in the prosecution and enforcement of these Restrictive Covenants.

(16) These Restrictive Covenants shall be considered as covenants running with the land, and shall bind the purchasers of all lots as shown on the Plat of Bybee Estates Subdivision referred to previously herein and their successors and assigns. If any of the aforesaid owners, their heirs, executors, successors or assigns shall violate or attempt to violate any of the covenants and restrictions contained herein, it shall be lawful for any person owning any lot in the development in which said lot is situated to prosecute any proceeding at Law or in Equity against the person violating or attempting to violate any such covenants or restrictions and either to prevent them from so doing or to recover damages for such violation. Any invalidation of any one of these covenants and restrictions shall in no way affect any other of the provisions thereof, which shall thereafter remain in full force and effect.

#### ROAD MAINTENANCE AGREEMENT

WHEREAS, Declarant desires to subject Lots 28 through 31, Section V, and Lots 32 through 38, Section VI of Bybee Estates and any subdivision thereof, to the 50-foot right-of-way easement

hereinafter set forth and to subject said lots to the covenants, liens and charges for private maintenance and improvement of the right-of-way as hereinafter set forth, which are for the benefit of the lots served by such right-of-way and the Owners thereof.

NOW, THEREFORE, Declarant hereby declares that Lots 28 through 31, Section V, and Lots 32 through 38, Section VI, Bybee Estates, shown on Exhibit A shall be held, transferred, sold, conveyed and occupied subject to the covenants, easements, liens and charges hereinafter set forth which are hereby imposed to enhance and protect the value and desirability of the said lots. The provisions set forth herein shall run with the land and shall be binding upon any and all parties who have, or shall acquire, any right, title or interest in all or any part of the said lots and shall inure to the benefit of each Owner thereof, and to their successors in interest.

ARTICLE I - DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

Section 1.01. Access Easement shall mean and refer to the 50-foot right-of-way easement established in Section 2.01 hereof.

Section 1.02. Owner shall mean and refer to the record Owner, whether one or more persons or entities, including Declarant, of the fee simple title to each lot served by the Access Easement including contract sellers, but excluding those having such interests merely as security for the performance of an obligation. In the case where any such lot is held by one or more persons for life with the remainder to another or others, the term 'Owner' shall mean and refer only to such life tenant or tenants until such time as the remainderman or remaindermen come into use, possession or enjoyment of such lot. In the case where any such lot is beneficially owned by more than one person, such persons may exercise the rights provided herein as they may choose among themselves, provided, however, that each lot shall be entitled to only a single vote; and provided further that each

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such person shall be jointly and severally liable for any assessment made with respect to such lot.

ARTICLE II - ACCESS EASEMENT

Section 2.01. Establishment of Access Easement: Declarant does hereby establish and impose a non-exclusive access easement fifty (50) feet in width across Lots 37 and 38, for the benefit of Lots 28 through 38, shown on the said Exhibit A for the joint use of the lots, and any subdivision thereof, for ingress and egress to and from State Route 632, and for carrying utilities.

Section 2.02. Maintenance: The Access Easement is private and requires private maintenance as hereinafter set forth. THE COSTS OF REPAIR, MAINTENANCE, UPKEEP, IMPROVEMENT OR REPLACEMENT OF THE ACCESS EASEMENT AND THE PRIVATE ROAD LOCATED THEREIN WILL NOT BE BORNE BY THE COUNTY OF FLUVANNA, THE COMMONWEALTH OF VIRGINIA, OR ANY OTHER PUBLIC AGENCY, BUT RATHER SHALL BE THE RESPONSIBILITY OF AND BORNE AS FOLLOWS:

(a) Declarant: The initial construction of the private road and related improvements (grading, seeding, drainage ditch, culvert pipe, tar and gravel surface treatment, etc.) within the Access Easement shall be borne and completed by Declarant, or its successor(s) in title. Upon the completion of such initial construction, the Declarant, or its successor(s) in title, shall have the rights of an Owner as to each lot actually owned by it; except that, as to any assessment made pursuant to Section 2.03(c), the Declarant, or its successor(s) in title, shall have only one vote, regardless of the number of lots actually owned by it.

(b) Owners of Lots: The Owners of lots shall be responsible for and shall bear equally, the costs of maintenance of the private road and related improvements within the Access Easement.

(c) Damage From Construction Activities: Notwithstanding the foregoing, each Owner shall be solely and exclusively responsible for and shall fully bear the cost of maintenance within the

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Access Easement necessitated by construction activities on his lot, and each Owner shall restore any portion of the Access Easement damaged by his construction activities to at least its prior condition upon completion of such construction.

Section 2.03. Assessments:

(a) Standards of Maintenance: The Owners of lots served by the Access Easement shall determine (by a two-thirds (2/3) decision) the standards to which the Access Easement and private road located therein shall be maintained; provided, however, that any portion of the private road and related improvements shall be maintained in such condition that the private road is passable at all times for ordinary use by passenger automobiles, excepting only severe, temporary weather conditions such as snow or ice, with gravel of appropriate type, depth and width, and drainage ditches and culverts as necessary. Periodic removal of ice and snow shall be deemed to be maintenance if the Owners of two-thirds (2/3) of the lots shall so determine. The expense of such maintenance shall be assessed against each lot served by the Access Easement in equal shares. A notice of such assessment shall be delivered to the Owner of each such lot. Each notice of assessment shall be presumed to have been delivered in accordance with this section if it shall be mailed, by first class mail, postage prepaid, to the Owner of such lot at the address listed in the Office of the Commissioner of Revenue of Fluvanna County for such Owner for tax purposes.

(b) Improvements by Individual Owners: Any Owner may, at his own expense, make such improvements to the Access Easement as he may deem advisable, from time to time; provided, however, that all such improvements shall be carried out in a manner consistent with good engineering practice and without interruption of service for the Owners of other lots. In addition, except as otherwise determined by the Owners of two-thirds (2/3) of the lots served by the Access Easement, any Owner making such improvements shall be solely liable for all additional

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## 599 450

maintenance expenses proximately caused by such improvements. Such liability for additional maintenance expenses may be enforced by assessment as provided in subsection (a) of this Section.

(c) Other Improvements: In the event that it shall be determined by the Owners of 2/3 of the lots served by the Access Easement that it is desirable to make improvements thereto, other than ordinary maintenance, the Owner of each lot served by the Access Easement shall be liable for his proportionate share of such expense, which expense shall be divided equally among all the lots served by the Access Easement. Such liability shall be evidenced by an assessment made by vote of the Owners of 2/3 of the lots served by the Access Easement. A notice of such assessment shall be delivered to the Owner of each lot served by the Access Easement. Each notice of assessment shall be presumed to have been delivered in accordance with this section if it shall be mailed, by first class mail, postage prepaid, to the Owner of such lot at the address listed in the Office of the Commissioner of Revenue of Fluvanna County for such Owner for tax purposes.

### Section 2.04. Collection of Assessments:

(a) Personal Liability: Each Owner shall be personally liable and responsible for his share of the assessments provided for in Section 2.02 and 2.03, above, which are incurred during his Ownership of his lot, and shall pay to the person or corporation performing the work for which such assessment was made his share within fifteen (15) days following completion of such work.

(b) Enforcement: If any Owner shall fail to pay his proportionate share of the costs of maintenance for which he is responsible, as provided hereinabove, any other Owner, or the person or corporation performing such maintenance, may bring an action of law against each Owner of a lot failing to pay his proportional share, and/or foreclose the lien provided for in Section 2.04(c) below against said Owner's lot. The amount due by any delinquent Owner shall bear interest at the maximum judgment rate provided by law from the date of completion of the maintenance; and the

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## 599 451

delinquent Owner shall be liable to pay all costs of collection, including reasonable attorney's fees.

(c) Lien: There shall be a continuing lien on each of the said lots to secure the payment of the assessment as described in Section 2.03, above. Such lien shall be at all times subject to the provisions of Section 2.04(d), and shall be enforceable in the same manner as a mortgage.

(d) First and Second Deeds of Trust: The lien provided in Section 2.04(b) above shall at all times be subject to any first or second mortgage or deed of trust placed on any lot at any time until notice of such lien shall have been recorded as hereinafter provided. If any assessment is not paid by any Owner of a subject lot within fifteen (15) days after the same becomes due and payable, a notice of such employment as to such lot may be recorded by any other Owner or by the person or corporation performing such maintenance in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, and from the time of such recordation the amount stated in the notice, together with interest, costs of collection, and reasonable attorney's fees shall become a lien prior to any first or second mortgage or deed of trust recorded subsequent to the date of such notice.

### ARTICLE III - RESUBDIVISION

Any lot served by the Access Easement which is resubdivided shall be in compliance with the Fluvanna County subdivision ordinance existing at that time. Any new owner of a resubdivided lot shall become an equal part of this road maintenance agreement.

### ARTICLE IV - IMPROVEMENT TO PUBLIC ROAD STANDARDS DEDICATION TO PUBLIC USE

The Access Easement is not a public road and is not eligible for inclusion into the Virginia Secondary Highway System. It is contemplated that, at some time in the future, it is possible that the Owners of lots served by the Access Easement may wish to cause the same to be submitted for inclusion into the said System. In the event of such submission, the expense of improving the

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**599 452**

Access Easement to the standards of the said System shall be the sole responsibility of the Owners of lots served by the Access Easement. Such expense may be paid by assessments as provided in Section 2.03(c), above. In the event that the Owners of 2/3 of the lots served by the Access Easement be dedicated to public use, the Owners of all lots in the subdivision shall take appropriate action to dedicate to public use, in fee simple absolute, without additional consideration, the 50-foot right of way as shown on Exhibit A. The duty to dedicate such strip may be enforced as a ministerial duty by mandamus, injunction or otherwise.

No school bus service or United States postal service is provided along the private road.

THE FOREGOING NOTWITHSTANDING, NOTHING CONTAINED HEREIN SHALL BE DEEMED TO GUARANTEE THAT THE ACCESS EASEMENT WILL EVER BE ACCEPTED AS A PUBLIC ROAD OR THAT THE SAME WILL EVER BE MAINTAINED BY THE COUNTY OF FLUVANNA, THE COMMONWEALTH OF VIRGINIA, OR ANY OTHER PUBLIC AGENCY.

ARTICLE V - UTILITY EASEMENT

Declarant hereby reserves unto himself and his assigns, a perpetual, nonexclusive and 40-foot alienable easement and right of way over, under and above that portion of each Lot located adjacent to the 50-foot access easement to construct, maintain, inspect, replace and repair electric and telephone poles, wires, cables, conduits, pipes and other suitable equipment for the conveyance of water, telephone, electricity, cable, communications and other utilities and public conveniences, together with the right of ingress and egress to all such facilities and easements for the construction, maintenance, and replacement thereof.

ARTICLE VI - ASSIGNMENT OF RIGHTS

The rights set forth herein relating to assessments for maintenance and improvements,

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including the collection thereof, may be assigned by the Owners to an association, to be formed upon the sale of 75 percent of the lots, incorporated for that purpose. The members of any such association shall be the Owners of all of the lots in the subdivision, and membership in the association shall be non-severable from the ownership of each such lot. The voting rights of the members of any such association as to assessments for maintenance and improvements shall be the same as the voting rights of Owners pursuant to this Declaration. Such assignment shall be in writing, signed by the Owners of all lots in the subdivision and recorded in the Fluvanna County Clerk's Office.

ARTICLE VII - GOVERNING LAW; VENUE

This Declaration shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia and the County of Fluvanna. Exclusive venue for any dispute arising hereunder shall be in the Courts of the County of Fluvanna.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed on its behalf by its duly authorized agent.

R. G. PURCELL & DAUGHTERS LAND  
& DEVELOPMENT, INC.

BY: Richard G. Purcell  
Richard G. Purcell, President

R. G. Purcell  
R. G. Purcell

Brenda Purcell  
Brenda Purcell

599 454

STATE OF VIRGINIA AT LARGE  
COUNTY OF ALBEMARLE, to-wit:

The foregoing Declaration was acknowledged before me this 17 day of Sept, 2004, by Richard G. Purcell, President of R. G. Purcell & Daughters Land & Development, Inc., a President of said corporation and individually, and Brenda Purcell.

Angela B. Webster  
Notary Public

My commission expires: August 31, 2007

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY

St. R. Tax	_____	The foregoing instrument with acknowledgment was admitted to record on <u>Sept 20</u> , 20 <u>04</u> at <u>12:30</u> P.M. In D.B. <u>599</u> Page(s) <u>454-455</u>
Co. R. Tax	_____	
Transfer	_____	
Clerk	<u>35.00</u>	
Grantor Tax	_____	
Total \$	<u>35.00</u>	Recording costs paid as shown. <u>454</u>

Teste: Mianda J. Lewis Deputy Clerk  
Bouson E. Peterson, Jr., Clerk

8-7-91

223 816

1747

Return to: Robert S. Lumy  
Land Surveyor  
Palmyra, VA 22963  
8-7-91

The attached plat, and courses and distances description made by Robert L. Lum Certified Land Surveyor, Fluvanna County Va., dated July 5, 1991 of the lands of Dick Purcell Lumber Corporation, a Virginia Corporation situated in Palmyra District, Fluvanna County, Virginia, and being the same land acquired by the said Dick Purcell Lumber Corporation, a Virginia Corporation, by deed dated 19th day of March, 1969, from Russell B. Pace and Merrilyn R. Pace, his wife, of record in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia in Deed Book 74 Page 448, is hereby confirmed and submitted for record in the aforesaid Clerk's Office.

Given under our hands this 10th day of July, 1991

Dick Purcell Lumber Corp.  
Richard G. Purcell

ACKNOWLEDGEMENT

State of Virginia  
County of FLUVANNA, to-wit:

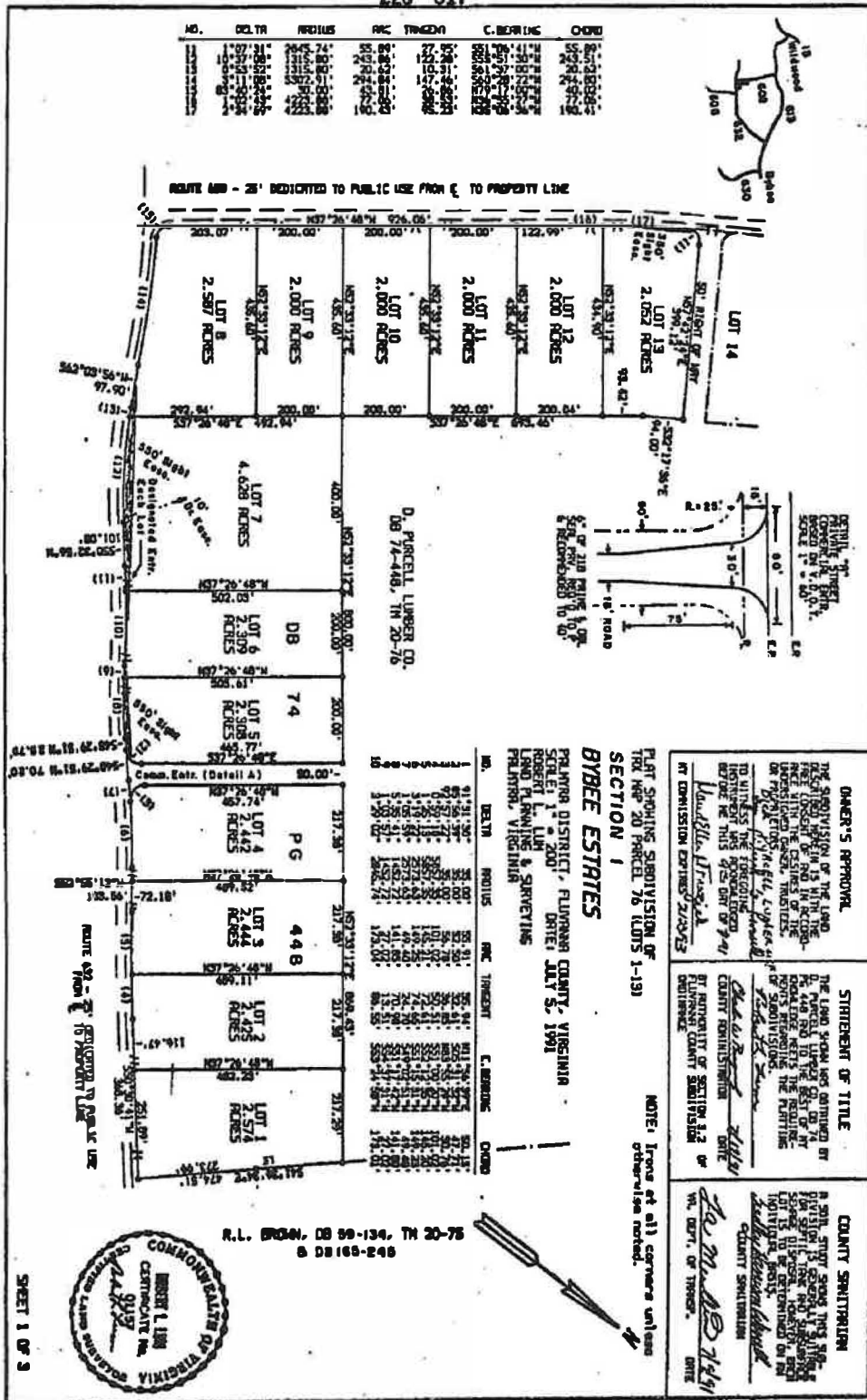
I, Maud-Ellen M. Frazier, a Notary Public for said County of Fluvanna in the State of Virginia, do hereby certify that Dick Purcell Lumber Corporation, by Richard G. Purcell whose names are signed to the foregoing certificate of confirmation by owners, and Plat, bearing date of the 5th day of July, 1991, have acknowledged the same before me in my County aforesaid.

My commission as Notary expires Feb. 28, 1993

GIVEN UNDER MY HAND this 10th day of July 1991

Maud Ellen Frazier  
NOTARY PUBLIC

See Declaration of Restrictive Covenants & Easements for Blythe Estates recorded in Deed Book 285, p. 196.



(Copy of Reduced Plats filed with days dated 19-9-L-7)

SHEET 1 OF 3



R.L. Linn, DB 56-134, TH 20-75  
DB 01-918-248

**OWNER'S APPROVAL**  
THE SUBDIVISION OF THE LAND...  
*Handwritten Signature*  
DATE

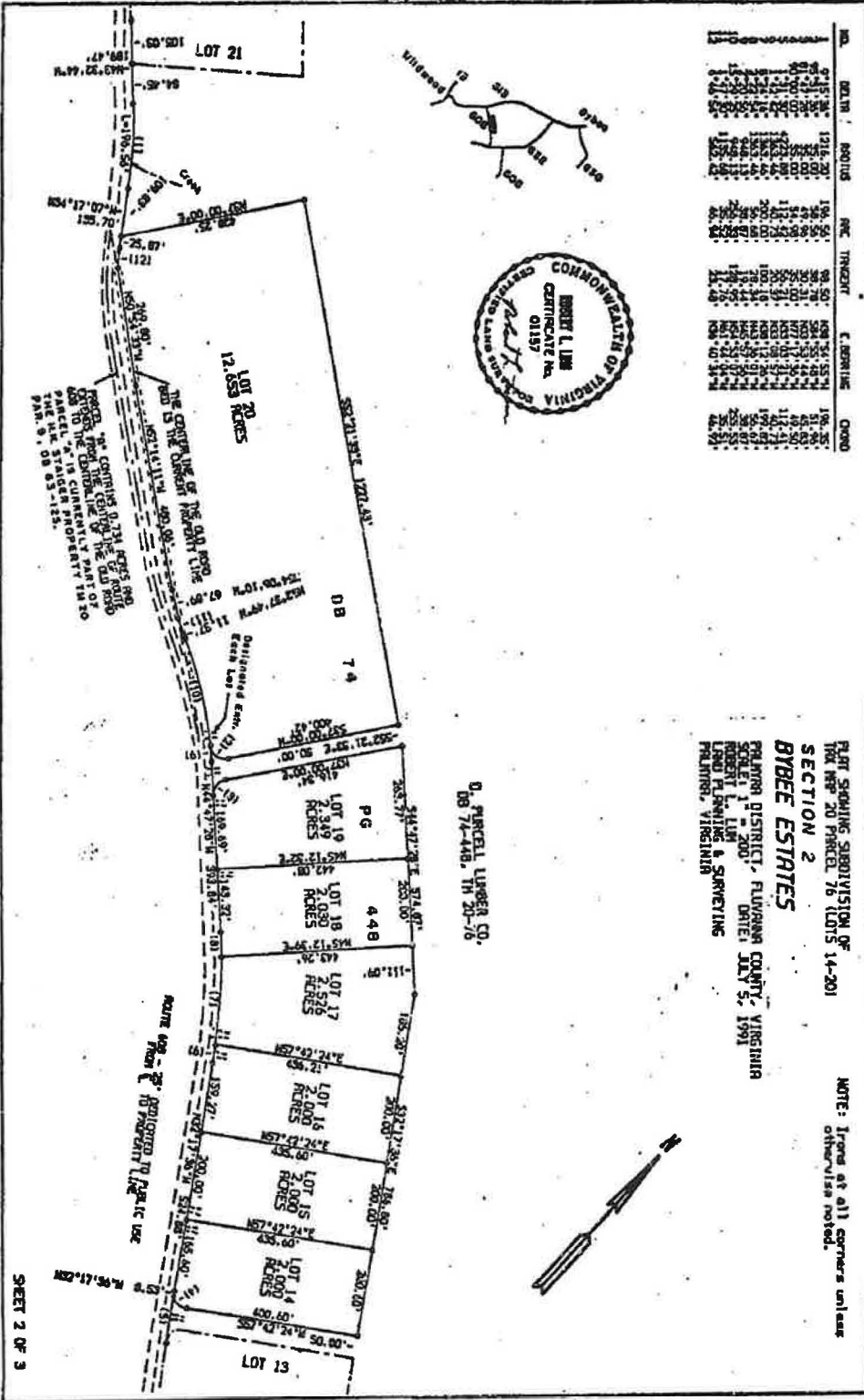
**STATEMENT OF TITLE**  
THE LAND SHOWN HAS ORIGINATED BY...  
*Handwritten Signature*  
DATE

**COUNTY SURVEILLOR**  
A 20% STAMP SHOWS THIS...  
*Handwritten Signature*  
DATE

**NOTE:** Irons at all corners unless otherwise noted.

**SECTION 1**  
**BYBEE ESTATES**  
PALMYRA DISTRICT, FLUVANNA COUNTY, VIRGINIA  
SUBJECT: 1/4 200' PALMYRA DISTRICT, VIRGINIA  
ROBERT L. LINN  
LAND PLANNING & SURVEYING  
PALMYRA, VIRGINIA

NO.	DEPTH	RADIUS	ARC	TANGENT	C. BEARING	COORD
1	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
2	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
3	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
4	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
5	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
6	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
7	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
8	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
9	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
10	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
11	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
12	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
13	91.31	200.00	52.31	52.31	S82°31'12"E	50.14
14	91.31	200.00	52.31	52.31	S82°31'12"E	50.14



PLAT SHOWING SUBDIVISION OF  
TRACT MAP 20 PARCEL 76 (LOTS 14-20)  
**SECTION 2**  
**BYBEE ESTATES**  
PLANNED DISTRICT, FAYETTE COUNTY, VIRGINIA  
SHEET 1 OF 2  
DRAFT JULY 5, 1991  
FAYETTE COUNTY DEPARTMENT OF LAND, PLANNING & SURVEYING  
FAYETTE, VIRGINIA

D. PARCEL LINDER CO.  
DB 74-448, TH 21-76

NOTE: Errors at all corners unless otherwise noted.

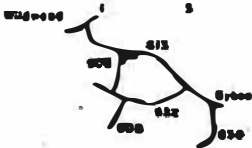
NO.	DELT.	ACRES	AM. TRACED	C. SQUARE	CHAS.
1	2.21	728.47	314.44	137.25	183.18
2	2.21	728.47	314.44	137.25	183.18
3	2.21	728.47	314.44	137.25	183.18
4	2.21	728.47	314.44	137.25	183.18
5	2.21	728.47	314.44	137.25	183.18
6	2.21	728.47	314.44	137.25	183.18
7	2.21	728.47	314.44	137.25	183.18
8	2.21	728.47	314.44	137.25	183.18
9	2.21	728.47	314.44	137.25	183.18
10	2.21	728.47	314.44	137.25	183.18

PLAT SHOWING SUBDIVISION OF  
TRX MAP 20 PARCEL 76 (LOTS 21-25)

NOTE: Irons at all corners unless  
otherwise noted.

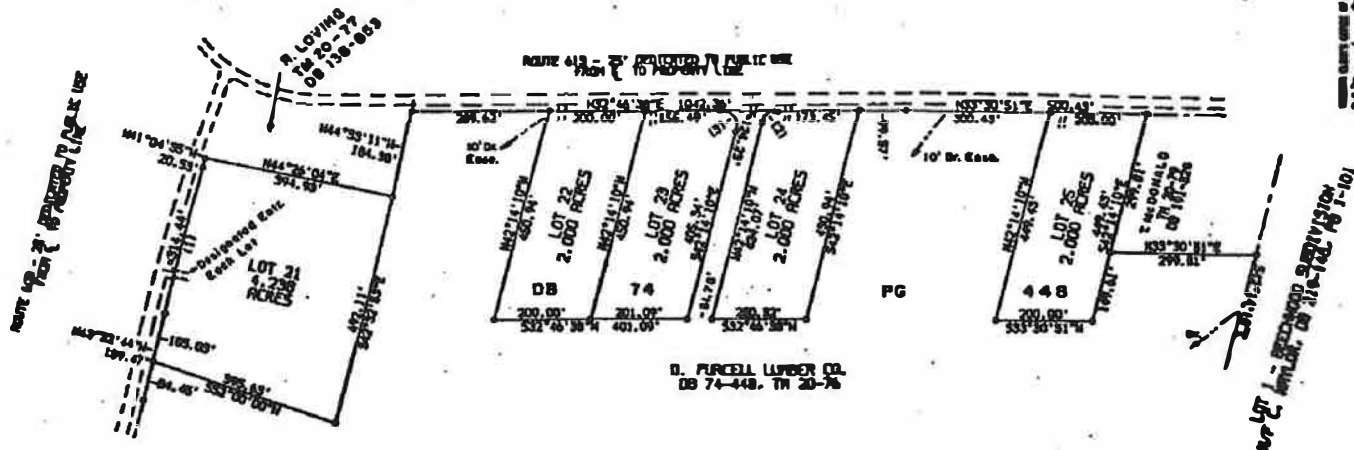
SECTION 3  
BYBEE ESTATES

PALMYRA DISTRICT, PALMYRA COUNTY, VIRGINIA  
SCALE: 1" = 200'  
ROBERT L. LUM  
LAND PLANNING & SURVEYING  
PALMYRA, VIRGINIA



ALL RIGHTS RESERVED BY THE SURVEYOR. THIS PLAT IS THE PROPERTY OF THE SURVEYOR AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR.

223 819



NOTE: 2' RECORDING SUBDIVISION  
SCALE: 1" = 100'

Daniel H. Barber  
3 Mesquite Place  
Palmyra, VA 22963  
d.barber76@yahoo.com

RECEIVED

FEB 21 2023

Fluvanna County  
Planning Dept

02/20/2023

Board of Zoning Appeals  
P.O. Box 540  
Palmyra, VA 22963

Dear Fluvanna County Board of Zoning Appeals,

Firstly, I'd like to thank you for your consideration of this matter. I'd also like to thank the staff at Fluvanna County Planning & Community Development, for their time and guidance. While this request for a variance may not strictly meet the criteria set forth in the guidelines governing this Board, I feel that the issuance of a variance, in this set of circumstances, would not only be beneficial to myself, but would also significantly benefit the County and adjoining properties.

Attached to this letter you will find copies of the parcel as it currently exists, a preliminary plat which Fluvanna County Planning & Community Development has reviewed and indicated would be approved within the Small Subdivision Ordinance, and a copy of the plat being submitted as part of this variance application.

As you can see, the current configuration of this property is quite irregular. At the time of original subdivision (1991), minimum road frontage requirements were 200 linear feet. The 50' pipe stem (containing 124.23' of road frontage), was clearly approved with the intent to be used as access for future development. Separated by two adjacent lots, this parcel possesses an additional 289.62' of contiguous road frontage, and 284.26' at the building setback line. While this falls just short of the current minimum frontages, I'm sure you'll agree, it does not seem logical to add nearly an acre to the residue, for the explicit purpose of meeting the requirements of the current ordinance. Not only does this create a parcel that is even more irregular than its current configuration, but can also be seen as having a negative impact on the neighboring properties, with a new road being created parallel to their rear property line. I feel, and I hope you'll agree, the proposed configuration is substantially cleaner, more efficient, and most consistent with the intent of the County's planning and development goals.

Again, I would like to thank the BZA and Planning for your time and efforts. I'm hopeful that we can move forward in the most beneficial manner available, for all parties involved. With your approval, we have an opportunity to configure these parcels in a more logical and regular manner, with the least negative impact on adjoining properties.

Sincerely,



Daniel H. Barber

LOT 1 BEECHWOOD SUBD  
N/F C. NAYLOR, DB 219-148  
PB 1-101

LOT 6 - BEECHWOOD SUBDIVISION  
N/F C. NAYLOR, DB 219-148, PB 1-101

LOT 8 BEECHWOOD SUBD  
N/F C. NAYLOR  
DB 219-148, PB 1-101

542°14'10"E 1140.90'

299.81'  
N33°30'51"E  
T. MCCONALD  
T.M. 20-79  
DB 191-326

Drainage

149.61'  
N42°14'10"W

LOT 25

542°14'10"E  
449.43'

200.00'  
N33°30'51"E

LOT 27  
22.529 ACRES

548°20'27"W 871.85'

LOT 29

300.43'  
N33°30'51"E

10' drainage  
easement

99.57'  
N32°46'38"E

LOT 24

450.94'

542°14'10"E 1209.21'

758.27'

200.32'  
N32°46'36"E

424.07'  
542°14'10"E

Current Configuration

132°46'38"E  
124.23'

N42°14'10"W  
405.34'

LOT 23

201.09'  
N32°46'36"E

LOT 26  
19.512 ACRES

16.452 ACRES

548°20'27"W 899.11'

LOT 28

ROUTE 613 - 25'  
FROM E  
DEDICATED TO PUBLIC USE  
TO PROPERTY LINE

542°14'10"E  
450.94'

10' drainage  
easement

289.62'  
N32°46'36"E

492.11'

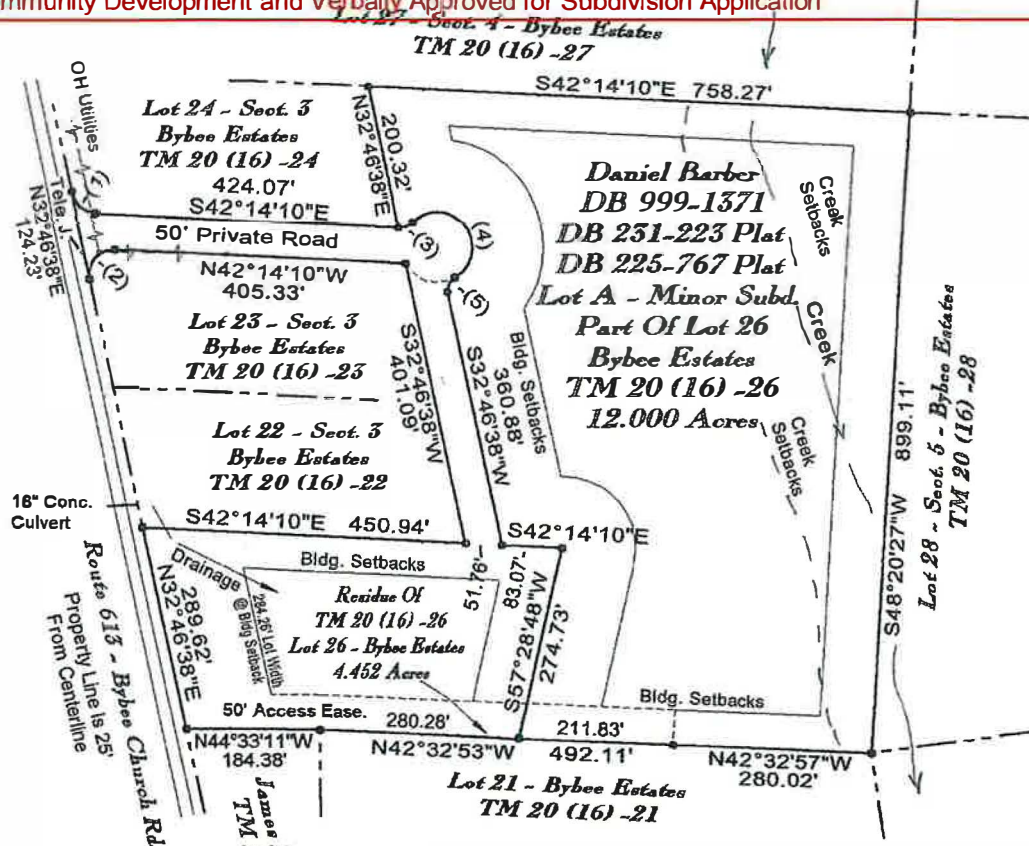
N42°32'53"W

SOLD  
with

537.00'



Configuration of Preliminary Sketch Provided to Fluvanna County Planning and Community Development and Verbally Approved for Subdivision Application



NO.	DELTA	RADIUS	ARC
1	75°00'48"	35.00'	45.82'
2	104°59'12"	35.00'	64.13'
3	47°35'50"	26.77'	22.24'
4	194°32'44"	50.00'	169.77'
5	71°56'06"	20.00'	25.11'

NO.	TANGENT	C. BEARING	CHORD
1	26.86'	S04°43'46"E	42.62'
2	45.60'	S85°16'14"W	55.53'
3	11.80'	S66°02'05"E	21.60'
4	-391.79'	S07°26'22"W	99.20'
5	14.51'	S68°44'41"W	23.49'

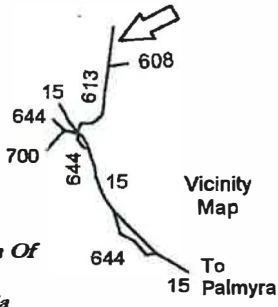
Notes:

1. The property shown hereon lies within Zone C according to the HUD Flood Ins. Rate Map Community Panel No. 5100580075 A dated Aug. 15, 1978.
2. The 50' private access easements shown hereon are for private driveways. Fluvanna County and VDOT are not responsible for their maintenance.
3. This property is zoned A-1. Permitted residential density is 1 dwelling unit per 2 acres. Lot size is 2 acres minimum. Road frontage per lot is 300' minimum on Rte 613 (subject to Fluv. Planning approval of the residue of TM 20 (16) -26) & 50' minimum on the cul-de-sac for the private road. Building setbacks for residences are: Front = 125' off the RW of Rte 613, 100' off the private road, Side = 50' (inclusive of the 50' access easements shown), Rear = 75'. The septic and bldg setback is 100' off of perennial streams.

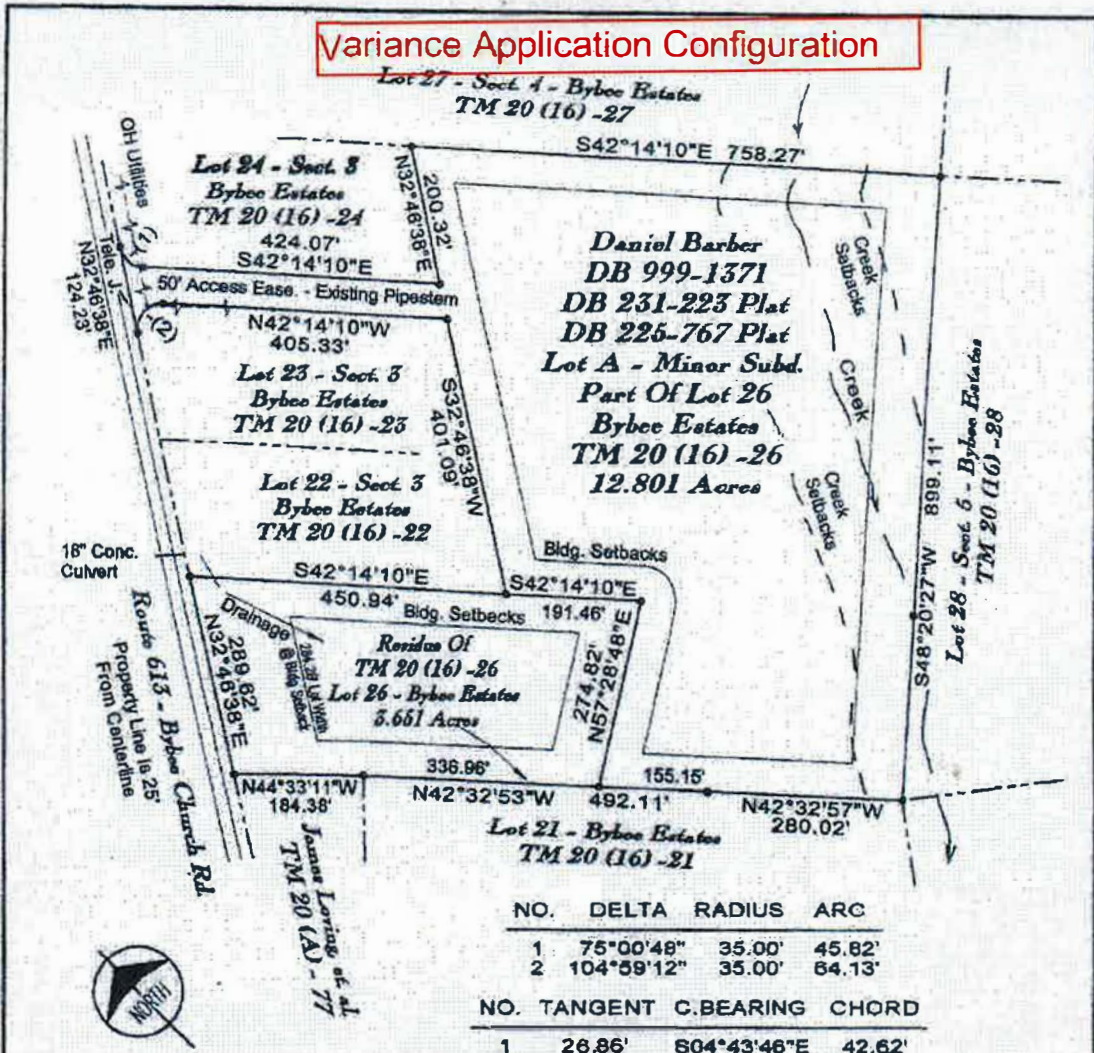
Property Subdivided By:  
**Daniel Barber**  
 3 Inlet Circle  
 Lake Monticello, Va. 22963  
 Ph: (434) 242-5318

Composite Plat For  
 A Minor Subdivision & Family Subdivision Of  
 Tax Map 20 (16) Parcel 26  
 Palmyra District, Fluvanna County, Virginia

Property Of **Daniel Barber**  
 Scale: 1" = 200'; Date: Aug. 20, 2022  
 Chambers - Land Surveying  
 Located @ Lake Monticello Va. (434) 589-5139  
 Mailing Address: 253 Willow Dr., Keswick, Va. 22947



# Variance Application Configuration



NO.	DELTA	RADIUS	ARC
1	75°00'49"	35.00'	45.82'
2	104°59'12"	35.00'	64.13'

NO.	TANGENT	C.BEARING	CHORD
1	26.86'	S04°43'46"E	42.62'
2	45.60'	S85°16'14"W	55.53'

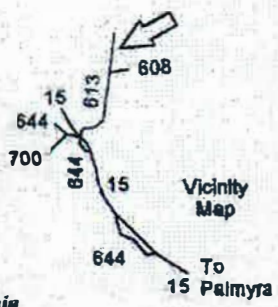
**Notes:**

1. The property shown hereon lies within Zone C according to the HUD Flood Ins. Rate Map Community Panel No. 510058 0075 A dated Aug. 15, 1978
2. The 50' private access easement shown hereon is for a private driveway. Fluvanna County and VDOT are not responsible for its maintenance.
3. This property is zoned A-1. Permitted residential density is 1 dwelling unit per 2 acres. Lot size is 2 acres minimum. Road frontage per lot is 300' minimum on Rte 613. Building setbacks for residences are: Front = 125' off the R/W for Rte 613, Side = 50', Rear = 75'. The septic and bldg setback is 100' off of perennial streams.
4. This property is subject to a Declaration of Restrictive Covenants & Easements For Bybee Estates recorded in Fluvanna DB 285-498.

Property Subdivided By:  
**Daniel Barber**  
 3 Lalet Circle  
 Lake Monticello, Va. 22963  
 Ph: (434) 242-5318

Plot Plan For Variance Application For  
 Lots Within A Minor Subdivision Of  
 Tax Map 20 (16) Parcel 26  
 Palmyra District, Fluvanna County, Virginia

**Property Of Daniel Barber**  
 Scale: 1" = 200'; Date: Jan. 5, 2023  
 Chambers - Land Surveying  
 Located @ Lake Monticello Va. (434) 589-5139  
 Mailing Address: 253 Willow Dr., Keswick, Va. 22947





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# COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

132 Main Street  
P.O. Box 540  
Palmyra, VA 22963  
(434) 591-1910  
Fax (434) 591-1911  
[www.fluvannacounty.org](http://www.fluvannacounty.org)

## **PUBLIC HEARING NOTICE**

**March 3, 2023**

**RE: BZA 23:01 Daniel Barber - Variance requests located on Tax Map 20 Section 16 Parcel 26**

This is to notify you that the Fluvanna County Board of Zoning Appeals will hold a public hearing:

Meeting: Board of Zoning Appeals Public Hearing  
Date: **Tuesday, March 21, 2023 at 7:00 pm**  
Location: County Administration Building – Morris Room  
132 Main Street Palmyra, Virginia 22963

**BZA 23:01 Daniel Barber:** Two fifteen (15) foot variance requests; with one to the minimum 300 foot frontage required along the state road and one to minimum lot width of 300 feet at the required front setback under Section 22-4-3 (C) and (D) for residential use. The subject property is zoned A-1, Agricultural, General and is Tax Map 20 Section 16 Parcel 26 and is located on the east line of Bybees Church Road and is generally north of Barnaby Road. The subject property is located in the Columbia Election District and in the Rural Residential Planning Area.

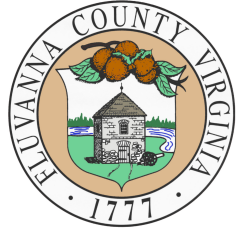
Please be advised that you can attend the meeting in person, join the meeting via Zoom or by a phone call where you will have an opportunity to provide any Public comments. Instructions for participation in the Public Hearing will be available on the County's website along with the Board of Zoning Appeals Meeting Agenda and Staff Report.

You can contact the Fluvanna County Planning & Community Development Department, 8:00 am – 5:00 pm, Monday through Friday. If you have any questions regarding the application or this Fluvanna County public hearing, please contact me at [dmiles@fluvannacounty.org](mailto:dmiles@fluvannacounty.org) or call me at 434.591.1910 with questions.

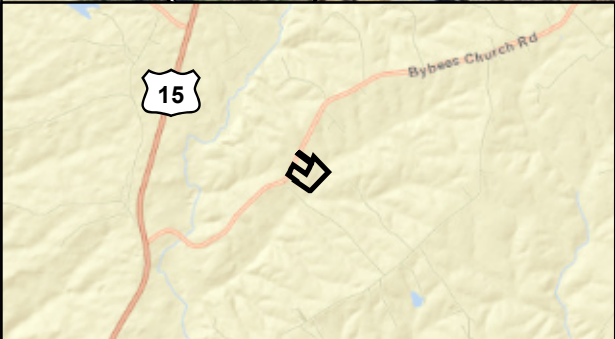
Sincerely,

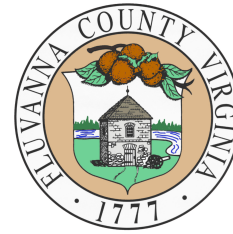
*Douglas Miles*

Douglas Miles, AICP, CZA  
Community Development Director / Zoning Administrator




**BZA 23:01  
Variance Request  
TMP 20-16-26**

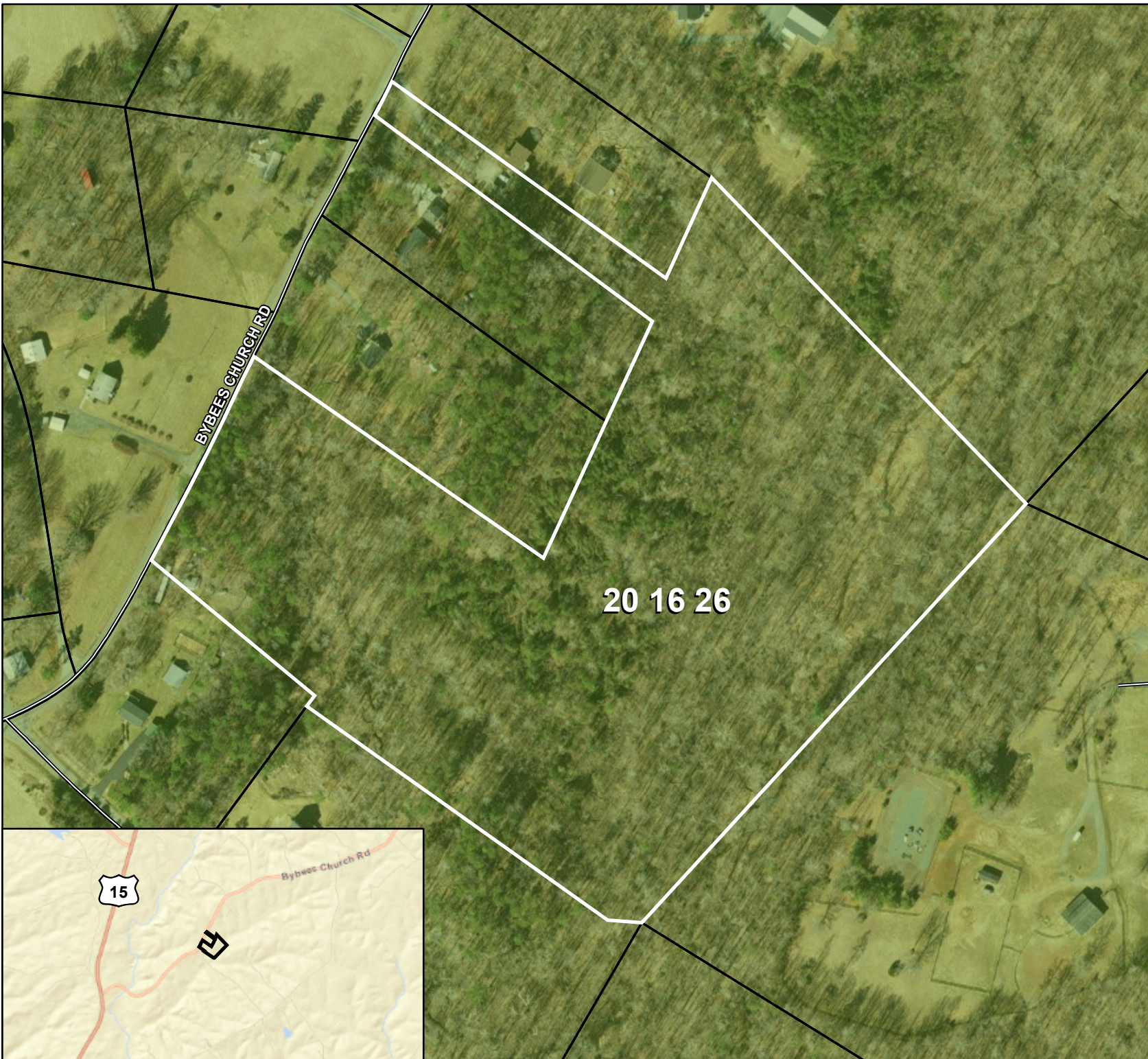




**BZA 23:01  
Variance Request  
TMP 20-16-26**

**Zoning**

 A-1 Agriculture



**Existing Lot Configuration**

231 223

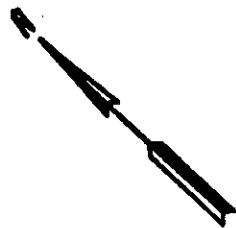
**NOTES**

PARCEL "A" IS TO BE JOINED TO T.M. 20, ((16)), PARCEL 21 (LOT 21, SECTION 3, BYBEE ESTATES) AND IS NOT A SEPARATE BUILDING LOT.

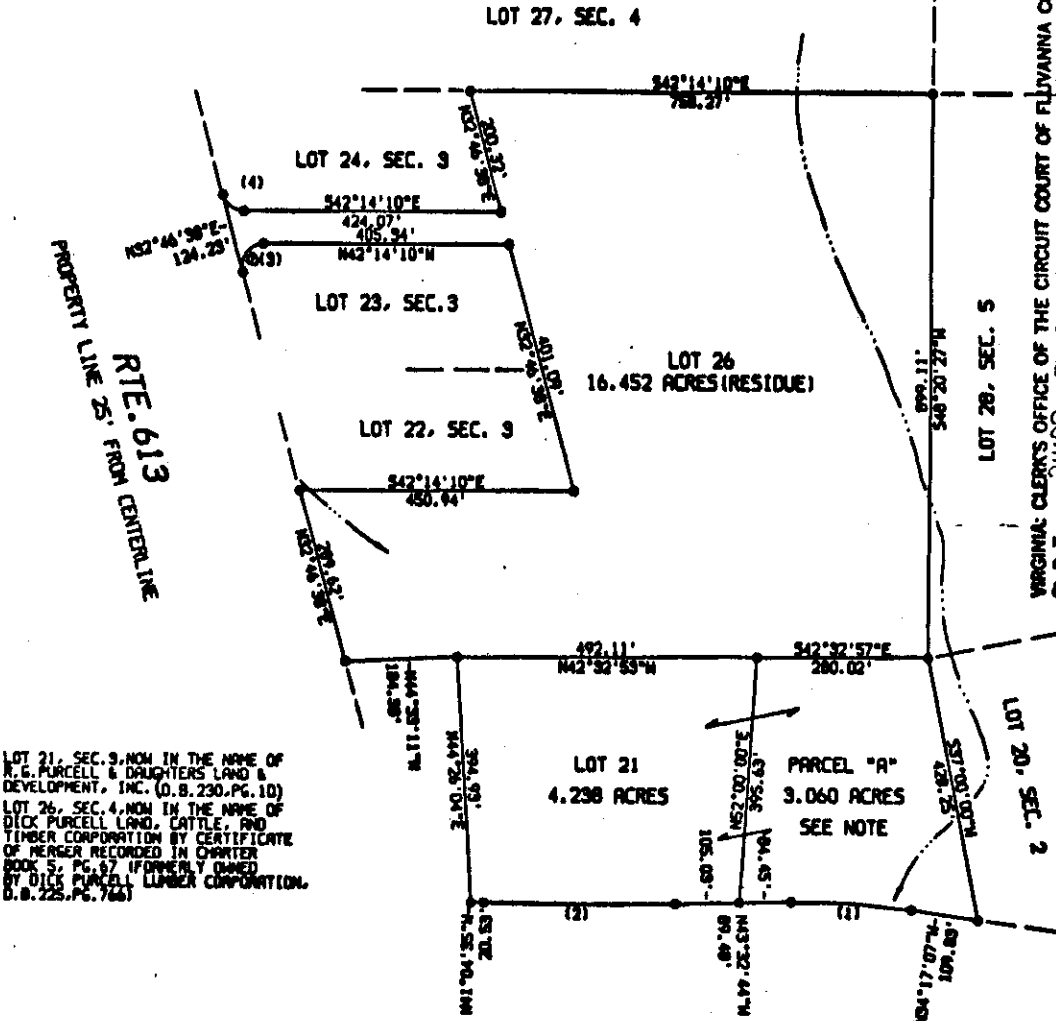
**AREA TABULATION**

PARCEL "A" ..... 3.060 ACRES  
T.M. 20, ((16)), PARCEL 21 ..... 4.238 ACRES  
TOTAL ..... 7.298 ACRES

NO.	DELTA	RADIUS	ARC TANGENT	C. BEARING	CHORD	
1	9°15'36"	1216.20'	196.56'	96.49'	N38°54'54"W	196.35'
2	2°28'09"	7296.47'	314.44'	157.24'	N42°18'30"W	314.41'
3	10°39'13"	85.00'	64.13'	45.60'	S28°16'14"W	55.53'
4	75°00'48"	85.00'	46.62'	26.86'	S04°43'46"E	47.62'



(copy of reduced plat filed with deeds dated 3-4-92)



LOT 21, SEC. 3, NOM IN THE NAME OF N.C. PURCELL & DAUGHTERS LAND & DEVELOPMENT, INC. (O.B. 230, PG. 10)  
LOT 26, SEC. 4, NOM IN THE NAME OF DICK PURCELL LAND, CATTLE, AND TIMBER CORPORATION BY CERTIFICATE OF MERGER RECORDED IN CHARTER BOOK 5, PG. 67 (FORMERLY OWNED BY DICK PURCELL LUMBER CORPORATION, O.B. 225, PG. 766)

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF FLUVANNA COUNTY.  
S. R. Tax 24.00  
Ch. R. Tax 8.00  
Transfer 1.00  
Clerk 13.00  
Greater Tax 14.00  
Total \$ 60.00

The foregoing instrument with acknowledgment was admitted to record on March 4 1992 at 11:12 A.M. in O.B. 231 Page(s) 2-3  
Recording costs paid as shown.  
Treas. Sandra O. Parrish Deputy, Clerk

PLAT SHOWING  
PROPERTY LINE ADJUSTMENT  
TAX MAP 20, ((16)), PARCEL 21 (LOT 21, SECTION 3)  
TAX MAP 20, ((16)), PARCEL 26 (LOT 26, SECTION 4)

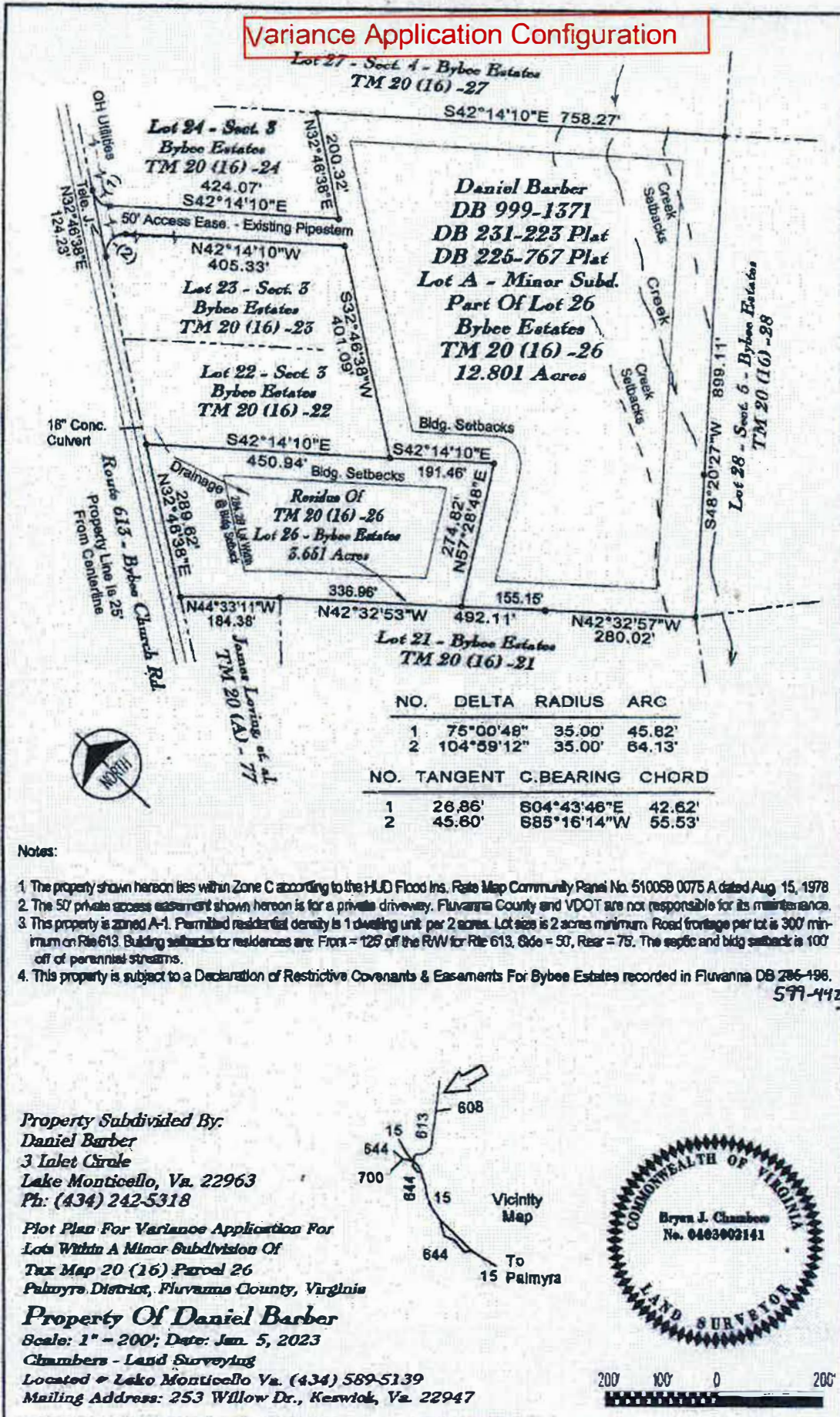
**BYBEE ESTATES**

DISTRICT, FLUVANNA COUNTY, VIRGINIA  
SCALE: 1" = 200' DATE: FEBRUARY 18, 1992  
ROBERT L. LUM  
LAND PLANNING & SURVEYING  
PALMYRA, VIRGINIA

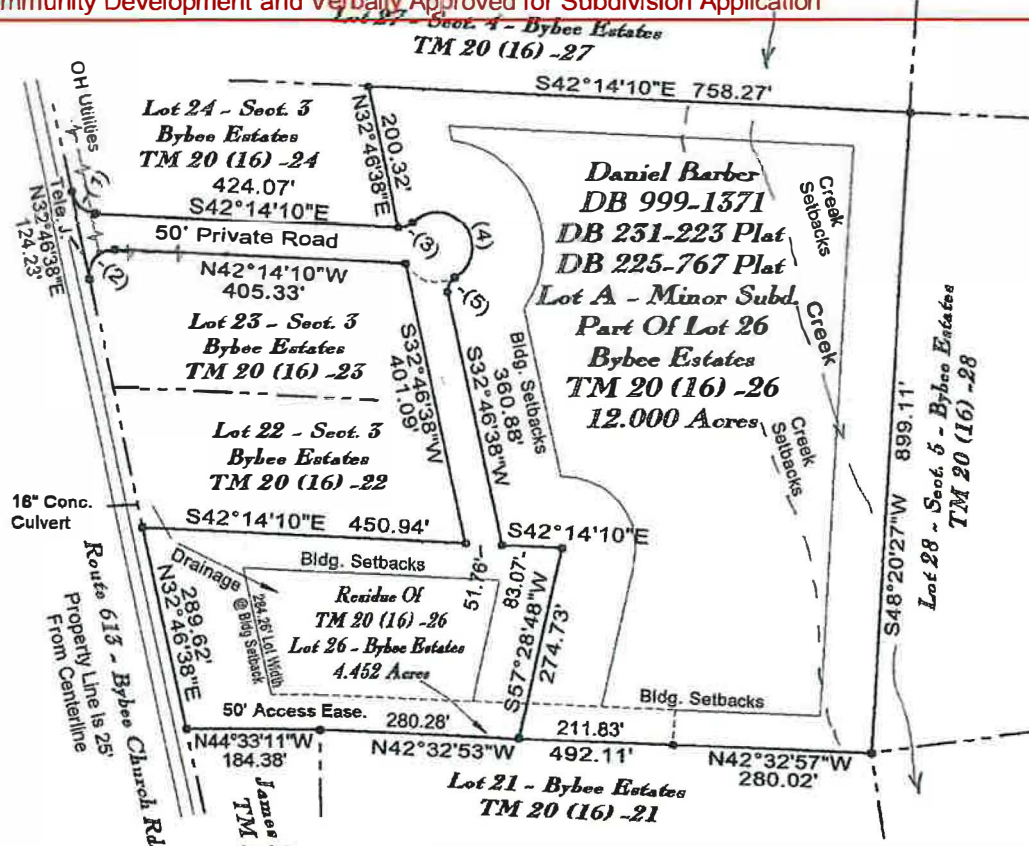
Approved by  
*Charles W. King*  
County Administrator  
2/19/92



Variance Application Configuration



Configuration of Preliminary Sketch Provided to Fluvanna County Planning and Community Development and Verbally Approved for Subdivision Application



NO.	DELTA	RADIUS	ARC
1	75°00'48"	35.00'	45.82'
2	104°59'12"	35.00'	64.13'
3	47°35'50"	26.77'	22.24'
4	194°32'44"	50.00'	169.77'
5	71°56'06"	20.00'	25.11'

NO.	TANGENT	C. BEARING	CHORD
1	26.86'	S04°43'46"E	42.62'
2	45.60'	S85°16'14"W	55.53'
3	11.80'	S66°02'05"E	21.60'
4	-391.79'	S07°26'22"W	99.20'
5	14.51'	S68°44'41"W	23.49'

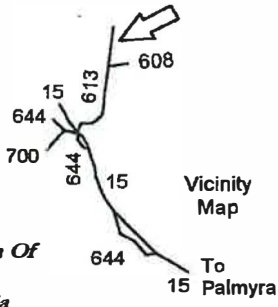
Notes:

- The property shown hereon lies within Zone C according to the HUD Flood Ins. Rate Map Community Panel No. 5100580075 A dated Aug. 15, 1978.
- The 50' private access easements shown hereon are for private driveways. Fluvanna County and VDOT are not responsible for their maintenance.
- This property is zoned A-1. Permitted residential density is 1 dwelling unit per 2 acres. Lot size is 2 acres minimum. Road frontage per lot is 300' minimum on Rte 613 (subject to Fluv. Planning approval of the residue of TM 20 (16) -26) & 50' minimum on the cul-de-sac for the private road. Building setbacks for residences are: Front = 125' off the RW of Rte 613, 100' off the private road, Side = 50' (inclusive of the 50' access easements shown), Rear = 75'. The septic and bldg setback is 100' off of perennial streams.

**Property Subdivided By:**  
**Daniel Barber**  
 3 Inlet Circle  
 Lake Monticello, Va. 22963  
 Ph: (434) 242-5318

**Composite Plat For**  
 A Minor Subdivision & Family Subdivision Of  
 Tax Map 20 (16) Parcel 26  
 Palmyra District, Fluvanna County, Virginia

**Property Of Daniel Barber**  
 Scale: 1" = 200'; Date: Aug. 20, 2022  
 Chambers - Land Surveying  
 Located @ Lake Monticello Va. (434) 589-5139  
 Mailing Address: 253 Willow Dr., Keswick, Va. 22947





**RESOLUTION APPROVING VARIANCE CASE NUMBER BZA 23:01**

BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF FLUVANNA COUNTY, VIRGINIA, that the strict terms of the Fluvanna County Zoning Ordinance be varied with respect to the property described as set forth in the application for case number BZA 23:01 in the following respects:

**BZA 23:01 Daniel Barber:** Two fifteen (15) foot variance requests; with one to the minimum 300 foot frontage required along the state road and one to minimum lot width of 300 feet at the required front setback under Section 22-4-3 (C) and (D) for residential use. The subject property is zoned A-1, Agricultural, General and is Tax Map 20 Section 16 Parcel 26 and is located on the east line of Bybees Church Road and is generally north of Barnaby Road. The subject property is located in the Columbia Election District and in the Rural Residential Planning Area.

The Board, having considered the evidence presented to it as reflected in the record of this case, finding as facts 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, 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 or the process for modification of a zoning ordinance at the time of the filing of the variance application.

PROVIDED, HOWEVER, that the said variance be subject to the following conditions:

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The pipestem of proposed Lot A will not be used for accessing Lot A. An access easement across the residual lot will provide access to Lot A. Lot A can only be divided as a Family Subdivision if all requirements of the zoning and subdivision ordinances are met.