



## FLUVANNA COUNTY BOARD OF ZONING APPEALS

### ORGANIZATIONAL MEETING

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

Tuesday  
February 6, 2024

**7:00 PM**

TAB	AGENDA ITEMS
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<b>1– CALL TO ORDER: Jason Overstreet, Senior Planner</b>
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<b>2 - PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE</b>
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<b>3– 2024 ORGANIZATIONAL MEETING:</b>
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Election of the 2024 BZA Officers
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Adoption of 2024 Meeting Schedule
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Amendments to 2024 By Laws and Procedures
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<b>4 – MINUTES</b>
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Minutes of May 16, 2023
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<b>5 – PUBLIC HEARING</b>
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<b>Liberty Homes – BZA 23:02</b> – Jason Overstreet, Senior Planner/Acting Zoning Administrator
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A request for a ten (10) foot Variance to Section 22-4-3 (E) (2) to allow for the reduction of the minimum front setback from one hundred twenty-five (125) feet to one hundred fifteen (115) feet for an as-built, single-family detached dwelling on Tax Map 33 Section 11 Parcel 1. The subject property is zoned A-1, Agricultural, General District and is known as 4305 Cedar Lane Road and is located in the Rural Preservation Area and the Columbia Election District.
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<b>Samuel Ross Jr –BZA 23:03</b> – Jason Overstreet, Senior Planner/Acting Zoning Administrator
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A requests a one hundred forty foot (140) Variance and a one hundred fifty foot (150) Variance to the minimum lot width of three hundred (300) feet at the minimum required setback under Section 22-4-3 (D); requests an eighty foot (80) Variance and a one hundred eighty-five foot (185) Variance to the minimum required three hundred foot (300) frontage under Section 22-4-3 (C) (b) for residential use on Tax Map 59 Section A Parcel 79. The subject property is zoned A-1, Agricultural, General District and is known as 2953 Bremono Road and is located in the Rural Preservation Area and the Fork Union Election District.
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<b>6 – UNFINISHED BUSINESS</b>
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None
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<b>7 – NEW BUSINESS</b>
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None
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<b>8 – ADJOURN</b>
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*Jason Overstreet*

Jason Overstreet, Senior Planner  
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.

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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.

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*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.*

**MOTION:** I move to elect \_\_\_\_\_ as Chair of the Fluvanna County Board of Zoning Appeals for the calendar year of 2024.

**MOTION:** I move to elect \_\_\_\_\_ as Vice Chair of the Fluvanna County Board of Zoning Appeals for the calendar year of 2024.

**MOTION:** I move to elect \_\_\_\_\_ as Secretary of the Fluvanna County Board of Zoning Appeals for the calendar year of 2024.

**AGENDA                      Board of Zoning Appeals                      January 16, 2024**

**SUBJECT:** Election of Officers

**TIMING:** Routine

**DISCUSSION:** Jason Overstreet will opens the meeting and calls for the nomination and election of the Chair.

Upon the election of the Chair, the elected Chair will then call for the nomination and election of the Vice Chair.

Election Chair Nomination

Election of Secretary Nomination

The Annual or Organizational meeting of the Board of Zoning Appeals will be conducted first and then move to the Regular meeting and conduct of business.

Staff: Jason Overstreet, Senior Planner

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Jason Overstreet, Senior Planner



# 2024 Board of Zoning Appeals

## Board of Zoning Appeals Meeting Dates at 7:00 pm

- January 16, 2024
- February 20, 2024
- March 19, 2024
- April 16, 2024
- May 21, 2024
- June 18, 2024
- July 16, 2024
- August 20, 2024
- September 17, 2024
- October 15, 2024
- November 19, 2024
- December 17, 2024

BZA meetings may be subject to cancellation throughout 2024.

Fluvanna County Adm. Building  
132 Main Street—Morris Room  
Palmyra, Virginia 22963

JANUARY							FEBRUARY							MARCH							APRIL						
SU	MO	TU	W	TH	FRI	SA	SU	MO	TU	WE	TH	FRI	SA	SU	M	TU	WE	TH	FRI	SA	SU	M	TU	WE	TH	FRI	SA
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SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER						
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15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				



**Board of Zoning Appeals: Pre-Application Schedule**  
**Fluvanna County Planning & Community Development**  
**132 Main Street / Post Office Box 540 / Palmyra, VA 22963**  
**Phone 434.591.1910 / [planning@fluvannacounty.org](mailto:planning@fluvannacounty.org)**

<b>Pre-application meeting (7 days prior to filing date)</b>	<b>BZA Filing Date (1st work day of month) File Application by 4:00 pm</b>	<b>BZA Meeting Dates (3rd Tuesday of month)</b>	<b>Legal Ad Dates (Thursdays two consecutive weeks before meeting)</b>
December 26, 2023	January 2, 2024	February 20, 2024	Feb 8 and Feb 15, 2024
January 25, 2024	February 1, 2024	March 19, 2024	Mar 7 and Mar 14, 2024
February 23, 2024	March 1, 2024	April 16, 2024	Apr 5 and Apr 12, 2024
March 25, 2024	April 1, 2024	May 21, 2024	May 9 and May 16, 2024
April 24, 2024	May 1, 2024	June 18, 2024	Jun 6 and Jun 13, 2024
May 24, 2024	June 3, 2024	July 16, 2024	Jul 3 and Jul 11, 2024
June 24, 2024	July 1, 2024	August 20, 2024	Aug 8 and Aug 15, 2024
July 25, 2024	August 1, 2024	September 17, 2024	Sept 5 and Sept 12, 2024
August 27, 2024	September 3, 2024	October 15, 2024	Oct 3 and Oct 10, 2024
September 24, 2024	October 1, 2024	November 19, 2024	Nov 7 and Nov 14, 2024
October 25, 2024	November 1, 2024	December 17, 2024	Dec 5 and Dec 12, 2024
November 25, 2024	December 2, 2024	January 21, 2025	Jan 9 and Jan 16, 2025

**BY - LAWS**  
**FLUVANNA COUNTY BOARD OF ZONING APPEALS**

**I. OBJECTIVES; READOPTION AND AMENDMENT**

This Board of Zoning Appeals, established pursuant to an ordinance adopted by the Fluvanna County Board of Supervisors and effective on the 1<sup>st</sup> day January 1974, adopted the following provisions in order to facilitate its powers and duties in accordance with (Chapter 11, Title 15, Article 8, Section 15.1-495 Code of Virginia, 1950 as amended). These Bylaws are hereby amended and readopted pursuant to Title 15.2, Subtitle II, Ch. 22, Art. 7 of the Code of Virginia (1950), as amended, and are effective on and after **January 16, 2024** ~~January 10, 2017~~.

**II. TITLE**

The official title of this board shall be the Fluvanna County Board of Zoning Appeals.

**III. RULES FOR MEMBERS**

Members having any interest or personal concern over a case shall so state and shall disqualify themselves from acting on that case; and shall, in all cases, comply with the Code of Virginia regarding conflicts of interests (Title 2.2, Subtitle I, Part E, Ch. 31).

**IV. SELECTION OF OFFICERS**

The officers of the Board of Zoning Appeals shall consist of a chairman, vice chairman, and a secretary who shall be elected by the board in accordance with Virginia Code Sec. 15.2-2308-C. The secretary may or may not be a member of the board.

Each officer shall be elected for a term of one year and may be reelected; except that the secretary, if not a member of the board, may be appointed for an indefinite term and continue office during the pleasure of the board.

Nominations shall be made by members from the floor at the first regular meeting of each calendar year. A candidate receiving a majority vote of the entire membership of the board shall be declared elected and take office immediately and serve for one year or until his successor shall take office. Vacancies in office shall be filled immediately by regular election procedures.

**V. DUTIES OF OFFICERS**

The chairman shall be a citizen member of the Board of Zoning Appeals and shall preside at all meetings for the board; sign all actions passed by the board certifying that the same were duly adopted. After his signature is affixed to any action, the same shall be considered immediately entered as a public record.

The vice chairman shall be a citizen member of the board and shall act in the absence or inability of the chairman to act; and shall have the powers to function in the same capacity of the chairman in cases of the chairman's inability to act.

The secretary shall keep a written record of all business transacted by the board; Notify all members and other parties as the chairman may direct on all meetings;

Keep a file of all official records and reports of the board;  
Certify all maps, records and reports of the board;  
Serve notice of all hearings and public meetings;  
Attend to correspondence of the board as hereinafter prescribed;  
Keep a set of minutes as hereinafter prescribed, together with a verbatim record of all proceedings of the board; and  
Prepare and be responsible for the publishing of notices and advertisements relating to public hearings in section VI of these By- Laws.

## **VI. MEETINGS**

Regular meetings of the Board of Zoning Appeals shall be held the third Tuesday of the month beginning at 7:00 P.M except as provided by a majority vote of the board.

When a meeting date falls on a legal holiday, the meeting shall be held on the following day unless otherwise designated by the chairman.

Special meetings may be called at the request of a quorum of the membership or by the chairman when appropriate work load require same to be held. Written notice of meetings shall be given to each member at least five days prior to such meetings and shall state the purpose and time of the meeting. Such notice may be delivered by regular mail or by electronic transmission, to the extent authorized by the addressee.

All regular hearings, records, and accounts shall be open to the public as provided by law. Closed meetings may be held in accordance with the Virginia Freedom of Information Act (Title 2.2, Subtitle II, Part B, Ch. 37).

A majority of the membership of the board shall constitute a quorum. The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to Virginia Code Sec. 15.2-2311, shall, in addition, cause such notice to be advertised in accordance with the provisions of Virginia Code Sec. 2204, and shall decide the same within ninety (90) days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. The concurring vote of a majority of all members shall be necessary to reverse any order, requirement, and decision, or determination of an administrative officer or to decide in favor of the applicant or any matter upon which it is required to pass under the ordinance or to effect any variance from the zoning ordinance. Voting shall be by roll call, and a record of the vote shall be kept as a part of the minutes.

Except as otherwise expressly provided by these Bylaws or by law, procedures for meetings of the board shall be governed by Robert's Rules of Order, H<sup>th</sup> 12<sup>th</sup> Edition.

## **VII. POLICY FOR REMOTE PARTICIPATION OF MEMBERS OF THE FLUVANNA COUNTY BOARD OF ZONING APPEALS AT MEETINGS OF THE BOARD**

### **A. Authority and Scope**

1. This policy shall govern participation by an individual member of the Board of Zoning Appeals of Fluvanna County, Virginia, by electronic communication means in public meetings of the Board of Zoning Appeals of Fluvanna County, Virginia, and any closed session of the Board held in accordance with applicable law, from and after the date of adoption of this policy.
2. This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.3 and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code § 2.2-3700 et seq.
3. Any reference to a specific provision of federal, state, or local law referenced in this policy shall mean such provision of law, as amended from time to time, or as set forth in any successor provision dealing with substantially the same subject.

## B. Definitions

1. “Member” means any member of the Board of Zoning Appeals
2. “Remote participation” means participation by an individual member of the Board by electronic communication means in a public meeting where a quorum of the Board is physically assembled, as defined by Va. Code § 2.2-3701.
3. “Meeting” means a meeting as defined by Va. Code § 2.2-3701.
4. “Notify” or “notifies,” for purposes of this policy, means verbal or written notice that is reasonable under the circumstances, with written notice, such as by email or letter, being the preferred means of notice. Notwithstanding the foregoing, notice does not include text messages or communications via social media.
5. “VFOIA” means the Virginia Freedom of Information Act, Va. Code § 2.2-3700, et seq.

## C. Mandatory Requirements

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

1. A quorum of the Board must be physically assembled at the primary or central meeting location; and
2. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.



#### **D. Process to Request Remote Participation**

- 1. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Board Chair (or the Vice-Chair if the requesting member is the Chair) that such member is physically unable to attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) such member's principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.**
- 2. If the requesting member is unable physically to attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter and that such matter renders the requesting member unable physically to attend. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in (i) - (iii) above.**
- 3. The requesting member is not obligated to provide independent verification regarding the reason for such member's nonattendance, including the temporary or permanent disability or other medical condition or the family member's medical condition that prevents the member's physical attendance at the meeting.**
- 4. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether the request is in conformance with this policy, and therefore approved or disapproved.**

#### **E. Process to Confirm Approval or Disapproval of Participation from a Remote Location**

**When a quorum of the Board has assembled for the meeting, the Board shall vote to determine whether:**

- 1. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and**
- 2. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.**

#### **F. Recording in Minutes**

- 1. If the member is allowed to participate remotely due to a temporary or permanent**

- disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because the member's principal residence is located more than 60 miles from the meeting location the Board shall record in its minutes (1) the foregoing circumstance due to which the member is participating remotely; (2) the Board's approval of the member's remote participation; and (3) a general description of the remote location from which the member participated.
2. If the member is allowed to participate remotely due to a personal matter, the Board shall record in its minutes (1) the specific nature of such personal matter that renders the requesting member unable to attend stated by the requesting member; (2) how many times the member has attended remotely due to a personal matter; (3) the Board's approval of the member's remote participation; and (4) a general description of the remote location from which the member participated.
  3. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

#### G. Closed Session

If the Board goes into closed session, the member may continue to participate remotely in the closed session, and shall ensure that no third party is able to hear or otherwise observe the closed meeting.

#### H. Strict and Uniform Application of this Policy

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. Unless independently received by County staff, the Chair (or Vice-Chair) shall provide County staff with copies of the member's written request to participate remotely and the written response, as applicable, if the request or response is in writing, to be retained by County staff for a period of one year, or other such time required by records retention laws, regulations, and policies.

#### I. Meetings Held Through Electronic Communication Means During Declared States of Emergency

1. In addition to the foregoing, pursuant to the Code of Virginia Section 2.2-3708.2(A)(2) the Board of Zoning Appeals may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with the Code of Virginia Section 44-146.17, or Fluvanna County has declared a local state of emergency pursuant to Code of Virginia Section 44-146.21, provided that (i) the

**catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency provide for the continuity of operations of the Board or the discharge of its lawful purposes, duties, and responsibilities. The Board of Zoning Appeals when convening a meeting in accordance with this subdivision (I) shall:**

- a. **Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the Board of Zoning Appeals conducting the meeting;**
  - b. **Make arrangements for public access to such meeting through electronic communication means;**
  - c. **Provide the public with the opportunity to comment at those meetings of the Commission when public comment is customarily received;**
  - d. **Otherwise comply with the provisions of the Code of VFOIA; and**
  - e. **State in its minutes the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.**
- J. Nothing in this Section VII shall be construed to prohibit the use of interactive audio or video means to expand public participation.**

## **VIII. ORDER OF BUSINESS**

The order of business for a regular meeting shall be:

1. Call to order by the chairman;
2. Roll call;
3. Determination of quorum;
4. Approval of minutes;
5. Report of the secretary;
6. Report of special committees (if any);
7. Unfinished business;
8. Public hearings;
9. Closed meeting (if any);
10. Adjournment

The secretary shall take down motions as accurately as possible to reflect the intent of the board. Any member may require that the secretary read back each motion before a vote is taken. The names of the persons making and seconding motions shall be recorded by the secretary.

The Board of Zoning Appeals shall keep a set of all minutes for all regular, adjourned and special meetings as well as committee meetings.

The secretary shall sign all minutes and certify copies following the adoption of the minutes with any corrections.

**IX. HEARINGS**

In addition to those required by law the board may at its discretion hold public hearings when it decides such hearings will be in the public's interest.

The chairman of the board may administer oaths and compel the attendance of witnesses. The secretary shall notify the parties in interest and the Zoning Administrator of its decision.

**X. CORRESPONDENCE**

It shall be the duty of the secretary to draft and sign all correspondence necessary for the Board. It shall be the duty of the secretary to communicate by writing, by telephone or by electronic communication as authorized by these Bylaws or by law whenever necessary to make communications that cannot be carried out as rapidly as required through direct correspondence.

All official papers and plans involving the authority of the board shall bear the signature of the chairman or acting chairman. Copies of same shall be certified by the secretary.

**XI. AMENDMENTS**

These rules may be changed by a majority vote of the entire membership.

The board may temporarily suspend any of the rules by a unanimous vote of members present.



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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

## BOARD OF ZONING APPEALS STAFF REPORT

**To:** Board of Zoning Appeals  
**Case:** BZA 23:02 Variance  
**Date:** February 6, 2024

**From:** Jason Overstreet, Senior Planner  
**District:** Columbia Election District  
**Tax Map:** 33 Section 11 Parcel 1

**General Info:**

The Board of Zoning Appeals is scheduled to hear this request on Tuesday, February 6, 2024 at 7:00 pm in the Morris Room of the County Administration Building.

**Applicant:**

Liberty Homes VA Inc.

**Owner:**

Liberty Homes VA Inc.

**Request:**

**Liberty Homes – BZA 23:02** - requests a ten (10) foot Variance to Section 22-4-3 (E) (2) to allow for the reduction of the minimum front setback from one hundred twenty-five (125) feet to one hundred fifteen (115) feet for an as-built, single-family detached dwelling on Tax Map 33 Section 11 Parcel 1. The subject property is zoned A-1, Agricultural, General District and is known as 4305 Cedar Lane Road and is located in the Rural Preservation Area and the Columbia Election District.

**Code Section:**

Fluvanna County Code Sec. 22-4-3. (E) (2) of the Zoning Ordinance

**Location:**

The subject property is located in the Columbia Election District on the east side of Route 659, Cedar Lane Road.

**Existing Zoning:**

A-1, Agricultural, General

**Existing Land Use:**

Residential, Single-family Detached Dwelling

**Adjacent Land Use:**

Vacant or Residential

**Comprehensive Plan:**

Rural Preservation Planning Area

**Analysis:**

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

(E) Minimum setback required (as measured from edge of right-of-way):

(2) All other public roads: 125 feet

A single-family dwelling has been constructed by the applicant on TMP 33-11-1. The location of the house site was inadvertently moved 11 feet towards the front setback which resulted in it being constructed within the front setback. The attached plat indicates that the house and covered porch encroach six feet (6ft') into the setback. The applicant is requesting a variance of ten feet (10') to the front setback requirement. If approved, a certificate of occupancy will be permitted as the house will no longer be in violation of Sec. 22-4-3.

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 property was acquired in good faith and the setback violation, while technically created by the applicant, is due to a mistake made during construction. The mistake was not discovered until after the house was built.

***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 the variance will have no impact on the adjacent and nearby properties.

***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:***

The encroachment of a structure into the setback for new construction is extremely rare.

***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 variance 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 remedy is not available for this violation. No zoning ordinance amendment has been proposed nor is there one in process for this section of the ordinance.

**Suggested Motion:**

I move to (Approve/deny/defer) BZA 23:02 – a request for a ten (10) foot Variance to Section 22-4-3 (E) (2) to allow for the reduction of the minimum front setback from one hundred twenty-five (125) feet to one hundred fifteen (115) feet for an as-built, single-family detached dwelling on Tax Map 33 Section 11 Parcel 1.



**COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA  
Variance Application (BZA)**

**RECEIVED**

NOV 29 2023

Fluvanna County  
Planning Dept

**Owner of Record:** Liberty homes VA, inc **Applicant of Record:** Same as owner

**E911 Address:** 8249 Crown Colony Pkwy, ste 100 **E911 Address:** \_\_\_\_\_

**Phone:** 804-972-0215 **Fax:** \_\_\_\_\_ **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Email:** ST2@LibertyHomesVA.com **Email:** \_\_\_\_\_

**Representative:** Same as Owner **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.**

**E911 Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Tax Map and Parcel(s):** TMP 33-11-1 **Deed Book Reference:** DB 163-845

**Acreage:** 2.020 **Zoning:** A-1 **Deed Restrictions?**  No  Yes (Attach copy)

**E911 Address of Parcel:** 4305 Cedar Lane Rd

**Description of Property:** \_\_\_\_\_

**Request for a variance from Section** 22-4-3.E.2 **of the Fluvanna County Code in respect to the requirement for**

**125' setback from public roads** in order to build

Fill in only the line(s) that apply to your request(s)	Applicant has	Code requires or permits	Variance requested
Total Area			
Lot Width			
Front yard setback	<del>115'</del> 115'	125'	10'
Minimum side yard setback			
Total side yard setback			
Rear yard setback			
Public road frontage			
Other (write in)			

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.**

Shawn Tutthill - Liberty Homes VA 11/28/23 [Signature]  
 Owner/Applicant Name (Please Print) Date Owner/Applicant Signature

OFFICE USE ONLY		
Date Received: 11/29/23	PH Sign Deposit Received: 11/29/23	Application #: BZA 23 : 02
\$550 plus mailing cost and fee paid: Check 5320		Mailing Costs: \$20.00 Adjacent Property Owner (APO) after 1st 15, Certified
Election District: Columbia	Planning Area: Rural Preservation	
Approved _____	Denied _____	Date: _____
Zoning Administrator:		

Fluvanna County Department of Planning & Community Development \* Box 540 \* Palmyra, VA 22963 \* (434)591-1910 \* Fax (434)591-1911

This form is available on the Fluvanna County website: [www.fluvannacounty.org](http://www.fluvannacounty.org)





RECEIVED

NOV 29 2023

COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA  
Public Hearing Sign Deposit

Fluvanna County  
Planning Dept

Name: Liberty Homes VA, INC.

Address: 8249 CROWN COLONY PARKWAY, STE 100

City: MECHANICSVILLE,

State: VA Zip Code: 23116

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

11/28/23  
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:

**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.

There are no proposed improvements.

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**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.

There are no special conditions.

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**UNNECESSARY HARDSHIP**

Describe here how the literal interpretation and enforcement of Section 22-4-3.E.2 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 house was mistakenly constructed 11' from the location shown on the building permit plan. This mistake was not discovered until a survey was performed after the house was completed. A copy of the survey is attached. The house cannot obtain an occupancy permit with the porch 6' into the front setback.

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**ADJACENT PROPERTY**

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

The adjoining property owners will not be affected by the 120' setback variance. The 6' encroachment into the front setback can only be determined by a physical survey of the property.

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**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.)

A copy of the physical survey showing the encroachment into the front setback is attached.

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# COUNTY OF FLUVANNA

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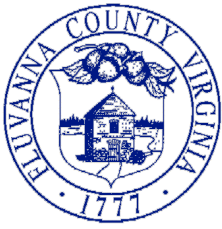
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(434) 591-1910  
Fax (434) 591-1911  
[www.fluvannacounty.org](http://www.fluvannacounty.org)

## MEMORANDUM

**Date:** December 29, 2023  
**From:** Valencia Porter  
**To:** Douglas Miles  
**Subject:** APO Memo Complete

Please be advised the attached letter went out to the attached list of Adjacent Property Owners for the January 16, 2024 Planning Commission meeting.



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# COUNTY OF FLUVANNA

---

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## PUBLIC HEARING NOTICE

**December 29, 2023**

**RE: Board of Zoning Appeals – Variance Requests**

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

**Meeting:** Board of Zoning Appeals Regular meeting

**Date:** **Tuesday, January 16, 2024 at 7:00 pm**

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

**BZA 23:02 – Liberty Homes VA Inc** - requests a ten (10) foot Variance to Section 22-4-3 (E) (2) to allow for the reduction of the minimum front setback from one hundred twenty-five (125) feet to one hundred fifteen (115) feet for an as-built, single-family detached dwelling on Tax Map 33 Section 11 Parcel 1. The subject property is zoned A-1, Agricultural, General District and is known as 4305 Cedar Lane Road and is located in the Rural Preservation Area and the Columbia Election District.

**BZA 23:03 – Samuel Ross Jr** – requests a one hundred forty foot (140) Variance and a one hundred fifty foot (150) Variance to the minimum lot width of three hundred (300) feet at the minimum required setback under Section 22-4-3 (D); requests an eighty foot (80) Variance and a one hundred fifty foot (150) Variance to the minimum required three hundred foot (300) frontage under Section 22-4-3 (C) (b) for residential use on Tax Map 59 Section A Parcel 79. The subject property is zoned A-1, Agricultural, General District and is known as 2953 Brema Road and is located in the Rural Preservation Area and the Fork Union Election District.

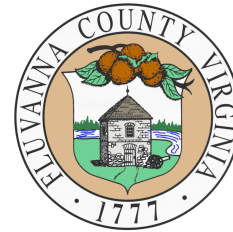
The regular meeting of the Board of Zoning Appeals will be in person and instructions for public participation during the meeting will be made available on the Fluvanna County website: [www.fluvannacounty.org](http://www.fluvannacounty.org) Interested persons may submit written comments prior to the scheduled meeting to [planning@fluvannacounty.org](mailto:planning@fluvannacounty.org) or call 434.591.1910, between 8:00 am and 5:00 pm Monday – Friday or visit the County Administration Building at 132 Main Street Palmyra, VA 22963.

Sincerely,

*Douglas Miles*

Douglas Miles, AICP, CZA  
Community Development Director

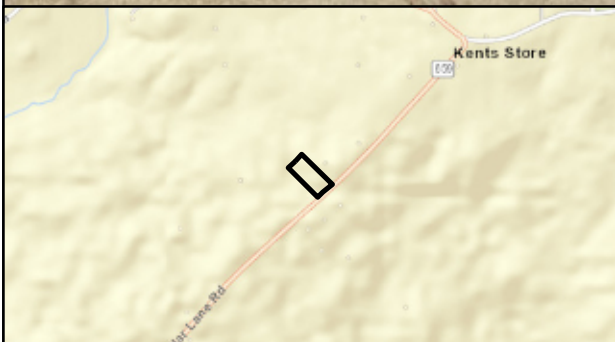




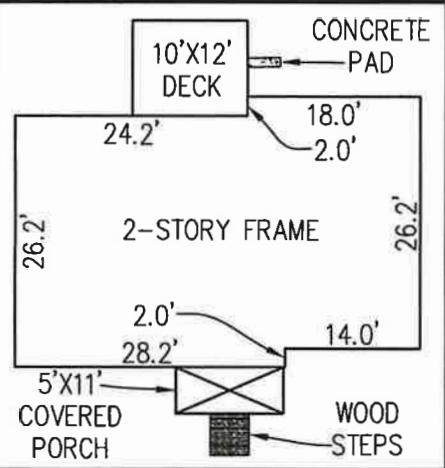
**BZA 23:02**  
**Variance Request**  
**TMP 33-11-1**  
**Zoning: A-1**

**33 11 1**

**CEDAR LANE RD**



**January 12, 2024**



HOUSE DETAIL  
SCALE: 1"=20'

TMP: 22-A-68A3  
N/F HELEN M. FLEMING  
& THOMAS W. FLEMING  
ZONED: A-1  
PB 3 PG 106 (PLAT)

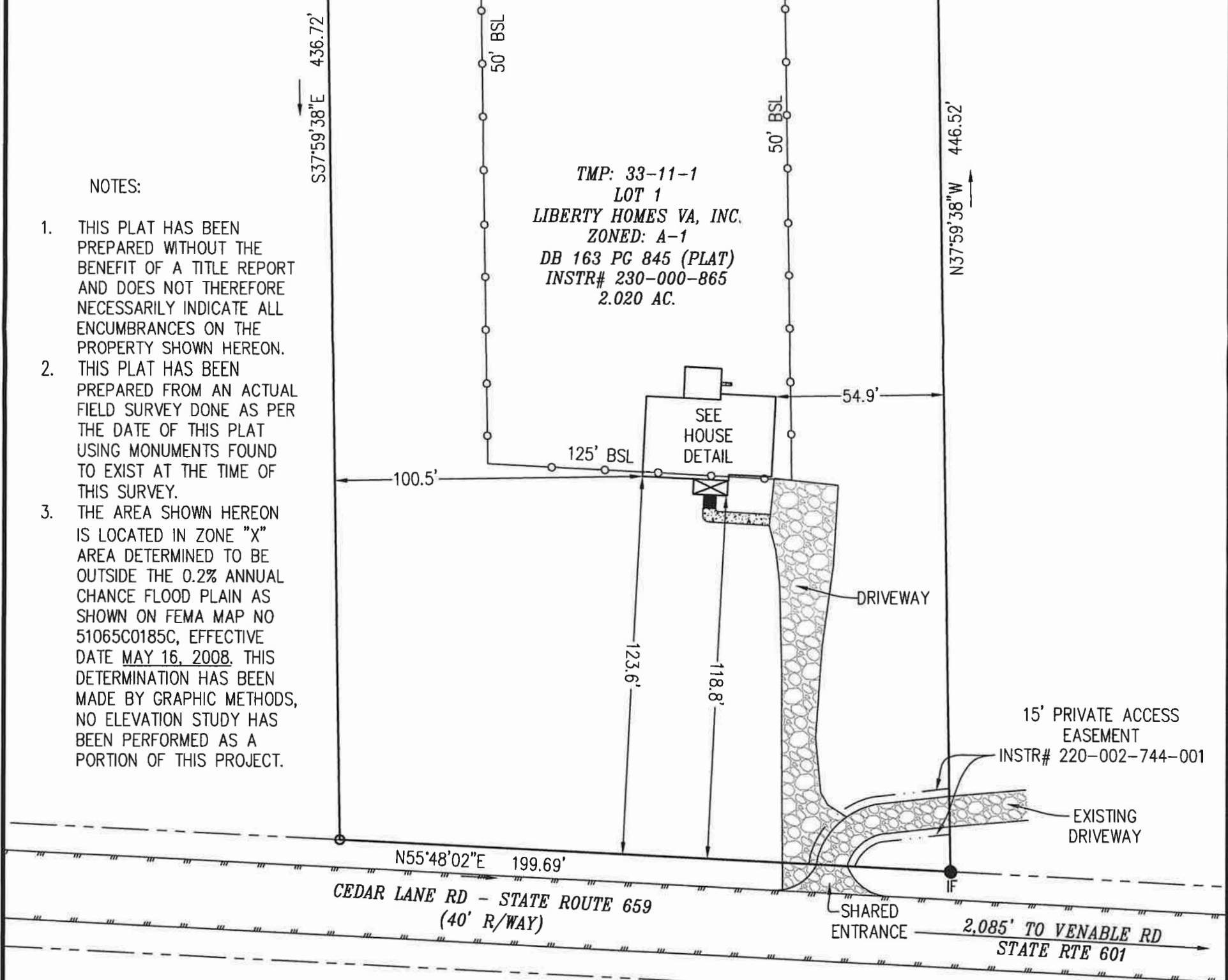
RECORD NORTH  
PB 163 PG 845

TMP: 33-A-71  
LOT 71  
N/F JENNIFER BELL NEWTON ET. AL.  
ZONED: A-1  
DB 802 PG 697  
PB 163 PG 845 (PLAT)

TMP: 33-11-2  
LOT 2  
N/F MICHAEL R. WEST  
& DEBORAH A. WEST  
ZONED: A-1  
PB 163 PG 845 (PLAT)  
INSTR# 220-002-744

TMP: 33-11-1  
LOT 1  
LIBERTY HOMES VA, INC.  
ZONED: A-1  
DB 163 PG 845 (PLAT)  
INSTR# 230-000-865  
2.020 AC.

- NOTES:
1. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY SHOWN HEREON.
  2. THIS PLAT HAS BEEN PREPARED FROM AN ACTUAL FIELD SURVEY DONE AS PER THE DATE OF THIS PLAT USING MONUMENTS FOUND TO EXIST AT THE TIME OF THIS SURVEY.
  3. THE AREA SHOWN HEREON IS LOCATED IN ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN AS SHOWN ON FEMA MAP NO 51065C0185C, EFFECTIVE DATE MAY 16, 2008. THIS DETERMINATION HAS BEEN MADE BY GRAPHIC METHODS, NO ELEVATION STUDY HAS BEEN PERFORMED AS A PORTION OF THIS PROJECT.



SCALE: 1"=40'  
LEGEND  
BSL BUILDING SETBACK LINE  
IF IRON FOUND

CONCRETE  
GRAVEL



**MERIDIAN**  
PLANNING GROUP, LLC  
440 Premier Circle, Suite 200  
Charlottesville, VA 22901  
(P) 434.882.0121

PLAT SHOWING PHYSICAL SURVEY  
FOR  
TAX MAP 33, SECTION 11, PARCEL 1  
LOT 1  
CEDAR LANE RD  
FLUVANNA COUNTY, VA  
SHEET: 1 of 1  
FILE: CEDAR LANE RD - LOT 1 - PS.DWG  
DATE: NOVEMBER 27, 2023

**RESOLUTION APPROVING VARIANCE CASE NUMBER BZA 23:02**

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 23:02 in the following respects:

*A request for a ten (10) foot Variance to Section 22-4-3 (E) (2) to allow for the reduction of the minimum front setback from one hundred twenty-five (125) feet to one hundred fifteen (115) feet for an as-built, single-family detached dwelling on Tax Map 33 Section 11 Parcel 1*

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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RECEIVED

DEC 27 2023

Fluvanna County Planning Dept



COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Variance Application (BZA)

Owner of Record: Samuel Ross Jr

Applicant of Record: Samuel Ross Jr

E911 Address: 2953 Bremo Bluff Road

E911 Address:

Phone: 434-531-9219 Fax:

Phone: Fax:

Email:

Email:

Representative: Samuel Ross Jr

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.

E911 Address: 224 Spring Road

Phone: 434-531-9219 Fax:

Email:

Tax Map and Parcel(s): 59 A 79

Deed Book Reference: DB 879-225

Acreage: 7.0

Zoning: A-1

Deed Restrictions? No Yes (Attach copy)

E911 Address of Parcel: 2953 Bremo Bluff Road

Description of Property:

Vacant land

Request for a variance from Sections 22-4-3(D) of the Fluvanna County Code in respect to the requirement for 22-4-3(C) in order to build drive lot

Table with 4 columns: Fill in only the line(s) that apply to your request(s), Applicant has, Code requires or permits, Variance requested. Rows include Total Area, Lot Width, Front yard setback, Minimum side yard setback, Total side yard setback, Rear yard setback, Public road frontage, and Other (write in).

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.

Owner/Applicant Name (Please Print) Samuel Ross Jr

Date 12/27/2023

Owner/Applicant Signature

OFFICE USE ONLY

Table with 3 columns: Date Received, PH Sign Deposit Received, Application #. Includes fields for mailing costs, election district, and zoning administrator.

Fluvanna County Department of Planning & Community Development \* Box 540 \* Palmyra, VA 22963 \* (434)591-1910 \* Fax (434)591-1911

This form is available on the Fluvanna County website: www.fluvannacounty.org



RECEIVED

DEC 27 2023

COMMONWEALTH OF VIRGINIA  
COUNTY OF FLUVANNA  
Public Hearing Sign Deposit

Fluvanna County  
Planning Dept

Name: Samuel Ross Jr  
Address: 224 Spring Road  
City: BREMO BLUFF VA 23022  
State: VA Zip Code: 23022

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.

Samuel Ross Jr  
Applicant Signature

12/27/2023  
Date

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

OFFICE USE ONLY

Application #: BZA 23 : 03 CPA : SUP : ZMP : ZTA :

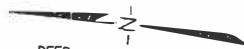
\$90 deposit paid per sign\*:

Approximate date to be returned:

- NOTES:
- 1) NO TITLE REPORT SUPPLIED. NOTICED ABOVE GROUND UTILITIES ARE SHOWN. OTHER EASEMENTS, UTILITIES OR MATTERS THAT MAY BE OF PUBLIC RECORD ARE NOT SHOWN.
  - 2) THIS PROPERTY LIES IN ZONE "X" AS SHOWN ON FLOOD INSURANCE RATE MAP 81065C0260C. (MAY 16, 2008)
  - 3) THE BOUNDARY LINES ALONG TAX MAP 59 (A) 80 HOLD A JANUARY 8, 1973 SURVEY OF K. W. GLOCKNER, C.S. REFERENCED IN A DEED OF TRUST FOUND IN DEED BOOK 93 AT PAGE 944 THAT IS RECORDED SIMULTANEOUSLY WITH THE OWNER'S DEED FOUND IN DEED BOOK 93 AT PAGE 543.

R/S = ROD SET  
 R/F = ROD FOUND  
 P/F = PIPE FOUND  
 I/F = IRON FOUND  
 F/H = FIRE HYDRANT  
 W/M = WATER METER  
 PED = PHONE PEDES  
 P/P = POWER POLE  
 O/H = OVER HEAD  
 ENC = ENCROACHMENT

DEED BOOK 275 PAGE 726



IRMA B. MELTON  
 W/B 31 PG 126  
 PLAT D/B 275 PG 726  
 TX MP 59 (A) 78A

**PARCEL A**  
**3.152 ACRES**  
 PORTION EAST OF  
 TAX MAP 59 (A) 80

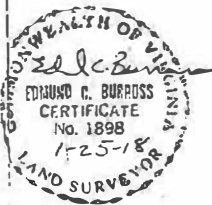
NADINE A. G. ARMSTRONG  
 W/B 58 PG 163  
 O/B 93 PG 543  
 TX MP 59 (A) 80

**PARCEL B**  
**4.714 ACRES**  
 PORTION WEST OF  
 TAX MAP 59 (A) 80

DEMETRIA R. CARTER  
 AKA  
 DEMETRIA C. WASHINGTON  
 O/B 779 PG 284  
 TX MP 59 (A) 82

RYAN BOURGEOIS  
 O/B 950 PG 302  
 PLAT D/B 15 PG 68  
 TX MP 59 (A) 81

JULIAN H. SMITH  
 O/B 225 PG 246  
 TX MP 59 (A) 83



**PLAT OF TWO PARCELS OF LAND IN FORK UNION  
 DISTRICT OF FLUVANNA COUNTY VIRGINIA**  
 BOUNDARY SURVEY OF TAX MAP 59 (A) 79

EDWARD F. FOSTER, JR.  
 O/B 131 PG 454  
 PLAT D/B 131 PG 457  
 TX MP 59 (B) 3

EDWIN E. WADE  
 REVOCABLE DECLARATION  
 O/B 559 PG 786  
 TX MP 59 (A) 99

OWNER: SAMUEL ROSS, JR.  
 DEED BOOK 879 PAGE 225  
 PROPERTY ADDRESS: 2953 BREMO ROAD

DATE: JANUARY 25, 2018  
 GRAPHIC SCALE 1"=100'



**BURRUSS LAND SURVEY, LLC**

PO BOX 28 POMHATAN VA 23139 PH: (804) 598-7697

1-71.21'  
 180-13-36-M  
 A 3  
 R=1035.00'

REGISTERED FLUVANNA COUNTY CLERK'S  
 Dec 05 2023 AT 10:38 AM  
 TRISTANA P. TREADWAY, CLERK BY CAA  
 2452

230003320.002



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# COUNTY OF FLUVANNA

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Fax (434) 591-1911  
[www.fluvannacounty.org](http://www.fluvannacounty.org)

## MEMORANDUM

**Date:** December 29, 2023  
**From:** Valencia Porter  
**To:** Douglas Miles  
**Subject:** APO Memo Complete

Please be advised the attached letter went out to the attached list of Adjacent Property Owners for the January 16, 2024 Planning Commission meeting.



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# COUNTY OF FLUVANNA

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## PUBLIC HEARING NOTICE

**December 29, 2023**

**RE: Board of Zoning Appeals – Variance Requests**

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

**Meeting:** Board of Zoning Appeals Regular meeting

**Date:** **Tuesday, January 16, 2024 at 7:00 pm**

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

**BZA 23:03 – Samuel Ross Jr** – requests a one hundred forty foot (140) Variance and a one hundred fifty foot (150) Variance to the minimum lot width of three hundred (300) feet at the minimum required setback under Section 22-4-3 (D); requests an eighty foot (80) Variance and a one hundred fifty foot (150) Variance to the minimum required three hundred foot (300) frontage under Section 22-4-3 (C) (b) for residential use on Tax Map 59 Section A Parcel 79. The subject property is zoned A-1, Agricultural, General District and is known as 2953 Bremo Road and is located in the Rural Preservation Area and the Fork Union Election District.

The regular meeting of the Board of Zoning Appeals will be in person and instructions for public participation during the meeting will be made available on the Fluvanna County website: [www.fluvannacounty.org](http://www.fluvannacounty.org) Interested persons may submit written comments prior to the scheduled meeting to [planning@fluvannacounty.org](mailto:planning@fluvannacounty.org) or call 434.591.1910, between 8:00 am and 5:00 pm Monday – Friday or visit the County Administration Building at 132 Main Street Palmyra, VA 22963.

Sincerely,

*Douglas Miles*

Douglas Miles, AICP, CZA  
Community Development Director





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# COUNTY OF FLUVANNA

---

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www.fluvannacounty.org

## BOARD OF ZONING APPEALS STAFF REPORT

**To:** Board of Zoning Appeals  
**Case:** BZA 23:03 Variance  
**Date:** February 6, 2024

**From:** Jason Overstreet, Senior Planner  
**District:** Fork Union Election District  
**Tax Map:** 59 Section A Parcel 79

**General Info:**

The Board of Zoning Appeals is scheduled to hear this request on Tuesday, February 6, 2024 at 7:00 pm in the Morris Room of the County Administration Building.

**Applicant:**

Samuel Ross Jr.

**Owner:**

Samuel Ross Jr.

**Request:**

**BZA 23:03 – Samuel Ross Jr** – requests a one hundred forty foot (140) Variance and a one hundred fifty foot (150) Variance to the minimum lot width of three hundred (300) feet at the minimum required setback under Section 22-4-3 (D); requests an eighty foot (80) Variance and a one hundred eighty-five foot (185) Variance to the minimum required three hundred foot (300) frontage under Section 22-4-3 (C) (b) for residential use on Tax Map 59 Section A Parcel 79. The subject property is zoned A-1, Agricultural, General District and is known as 2953 Bremono Road and is located in the Rural Preservation Area and the Fork Union Election District.

**Code Section:**

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

**Location:**

The subject property is located in the Fork Union Election District on the north side of Route 656, Bremono Road

**Existing Zoning:**

A-1, Agricultural, General

**Existing Land Use:**

Vacant

**Adjacent Land Use:**

Vacant or Residential

**Comprehensive Plan:** Rural Preservation Planning Area

**Analysis:**

The subject parcel was created in its current configuration in June of 1968 when a 2.5 acre parcel (TMP 59-A-80) was divided from it. This division effectively split the subject parcel into two lots which are referenced as Parcel A and Parcel B on a 2018 boundary survey plat included with this report. Parcel B previously had a dwelling that has since been removed although a septic system remains. Parcel B has approximately 224 feet of road frontage and the width of the lot at setback is approximately 163 feet. Parcel A has approximately 115 feet of road frontage and the width of the lot at setback is approximately 154 feet.

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

(D) 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, Parcel A would have approximately 115 feet of frontage and the lot width would be approximately 150 feet at the setback. If approved, Parcel B would have 224 feet of frontage and the lot width would be approximately 160 feet at the setback.

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 which consists of two parts (Parcel A & Parcel B).

***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 division of this lot should not be of substantial detriment to the adjacent properties as the land use will still maintain its rural nature as intended by the Comprehensive Plan.

***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 existed 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:***

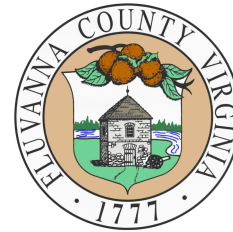
Granting of the requested variances would not result in a change to the zoning classification nor would it result in a use that is not permitted.

***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.

**Suggested Motion:**

I move to (approve/deny/defer) BZA 23:03 - request for a one hundred forty foot (140) Variance and a one hundred fifty foot (150) Variance to the minimum lot width of three hundred (300) feet at the minimum required setback under Section 22-4-3 (D); request for an eighty foot (80) Variance and a one hundred eighty-five foot (185) Variance to the minimum required three hundred foot (300) frontage under Section 22-4-3 (C) (b) for residential use on Tax Map 59 Section A Parcel 79.



**BZA 23:03**  
**Variance Request**  
**TMP 59-A-79**  
**Zoning: A-1**



**January 12, 2024**

NOTES:  
 1) NO TITLE REPORT SUPPLIED. NOTICED ABOVE GROUND UTILITIES ARE SHOWN. OTHER EASEMENTS, UTILITIES OR MATTERS THAT MAY BE OF PUBLIC RECORD ARE NOT SHOWN.  
 2) THIS PROPERTY LIES IN ZONE 'X'. AS SHOWN ON FLOOD INSURANCE RATE MAP 5106500260C. (MAY 16, 2008)  
 3) THE BOUNDARY LINES ALONG TAX MAP 59 (A) 80 HOLD A JANUARY 8, 1973 SURVEY OF K. M. GLOCKNER, CLS REFERENCED IN A DEED OF TRUST FOUND IN DEED BOOK 93 AT PAGE 544 THAT IS RECORDED SIMULTANEOUSLY WITH THE OWNER'S DEED FOUND IN DEED BOOK 93 AT PAGE 543.

R/S = ROD SET  
 P/F = PIPE FOUND  
 I/F = IRON FOUND  
 F/H = FIRE HYDRANT  
 M/M = METER METERS  
 P/P = POWER POLE  
 O/H = OVER HEAD ENC = ENCROACHMENT

EDWARD F. FOSTER, JR  
 D/B 131 PG 454  
 PLAT D/B 131 PG 457  
 TX MP 59 (9) 3

REVOCABLE DECLARATION  
 EDWIN E. WADE  
 D/B 935 PG 766  
 TX MP 59 (A) 93

IRMA B. MELTON  
 W/B 31 PG 126  
 PLAT D/B 275 PG 78A  
 TX MP 59 (A) 78A

**PARCEL B**  
 4.714 ACRES  
 PORTION WEST OF  
 TAX MAP 59 (A) 80

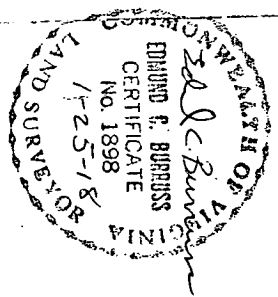
**PARCEL A**  
 3.192 ACRES  
 PORTION EAST OF  
 TAX MAP 59 (A) 80

NADINE A. G. ARMSTRONG  
 W/B 58 PG 163  
 D/B 93 PG 543  
 TX MP 59 (A) 80

AKA DEMETRIA R. CARTER  
 DEMETRIA A. C. WASHINGTON  
 D/B 719 PG 282  
 TX MP 59 (A) 82

RYAN BOURGEOIS  
 PLAT D/B 950 PG 502  
 TX MP 59 (A) 81

IRMA B. MELTON  
 W/B 31 PG 126  
 PLAT D/B 275 PG 78A  
 TX MP 59 (A) 78A

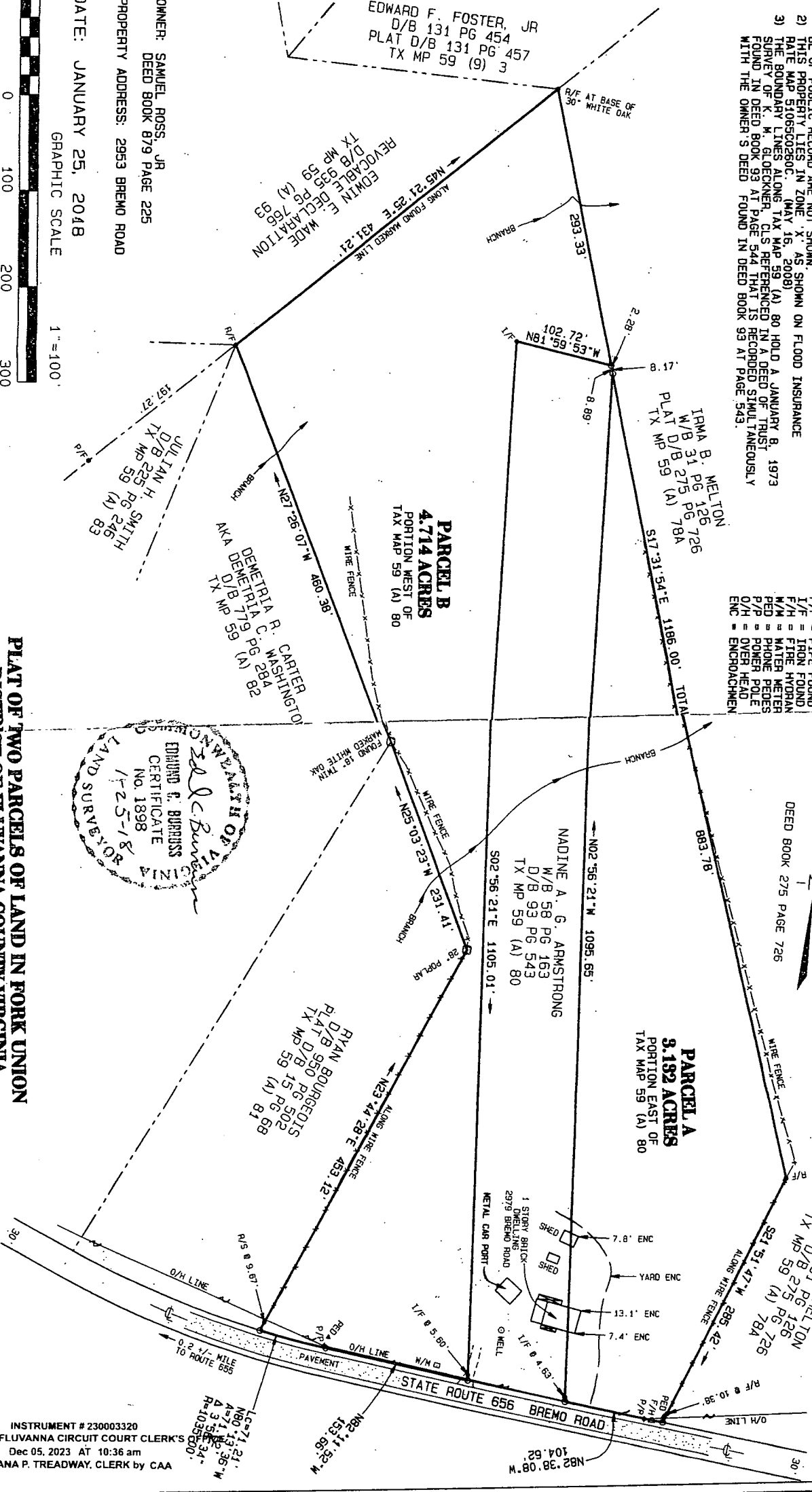


OWNER: SAMUEL ROSS, JR  
 DEED BOOK 879 PAGE 225  
 PROPERTY ADDRESS: 2953 BREMO ROAD  
 DATE: JANUARY 25, 2018  
 GRAPHIC SCALE 1"=100'



**BURRUSS LAND SURVEY, LLC**  
 PO BOX 28 POMHATAN VA 23139 PH: (804) 598-7697

**PLAT OF TWO PARCELS OF LAND IN FORK UNION  
 DISTRICT OF FLUVANNA COUNTY VIRGINIA  
 BOUNDARY SURVEY OF TAX MAP 59 (A) 79**



INSTRUMENT # 230003320  
 RECORDED FLUVANNA CIRCUIT COURT CLERK'S  
 Dec 05, 2023 AT 10:36 am  
 TRISTANA P. TREADWAY, CLERK by CAA