



AGENDA
BOARD OF ZONING APPEALS

Regular Meeting

MONDAY, NOVEMBER 28, 2022 AT 5:30 P.M.

I. Roll Call

II. Approval of Agenda

III. Reorganizational Meeting

- a. Election of Chairperson for Calendar Year 2022
- b. Election of Vice-Chairperson for Calendar Year 2022

IV. Public Hearing

22-01: Request for Variance, Boyce L. Green, applicant
125 Harris Avenue/Tax #123-4-0-9
127 Harris Avenue/Tax #123-4-0-8
129 Harris Avenue/Tax #123-4-0-7

V. New Business

22-01: Variance Request to Section 90-73 (Boyce Green)

VI. Adjournment



MEMORANDUM

November 28, 2022

TO; Members, Board of Zoning Appeals

From: Matthew E. Culbreath, Planning & Zoning Project Manager

Subject: Item 22-01: Variance Request – Boyce Green applicant

Location: 125 Harris Avenue, Tax Map #123-4-0-9
127 Harris Avenue, Tax Map #123-4-0-8
129 Harris Avenue, Tax Map #123-4-0-7
Tax Map #123-4-0-10

The applicant has submitted a Land Use Amendment Application to the Board of Zoning Appeals to request a variance to Section 90.73 of the City’s Zoning Ordinance. The properties listed above are in the R 3, Residential District. Section 90.73 of the Zoning Ordinance requires that “Each single-family dwelling lot shall have a minimum width of 60 feet and a minimum area of 6,000 square feet.”

Mr. Green is applying for a variance to move the lot lines so that each house is on its own individual lot. Two of the houses currently have lot lines running through the middle. A variance is required in this case because the proposed lot change does not meet the requirements for a single-family dwelling.

Findings required to grant a variance

The Board of Zoning Appeals must determine each of the following findings set forth in Virginia Code Section 15.2-2309 are present to grant a variance:

- A. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance from which this chapter derives, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of this chapter



would effectively prohibit or unreasonably restrict the use of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

B. No such variance shall be authorized by the board unless it finds, by preponderance of evidence that all the following facts and conditions exist:

- 1) The strict application of this chapter would produce undue hardship.
- 2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- 3) The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance.
- 4) The exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property do not apply generally to other properties or classes of uses in the same zoning district.
- 5) The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
- 6) The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of this chapter or the public interest.
- 7) No variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or the intended use of the property, for which variance is sought (one or the other or in combination) is not of such general or recurring a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation, to be adopted as an amendment to this chapter in the manner prescribed herein for amendments.

Background of Variance Request

Lots 7, 8, 9, & 10 were first subdivided on March 26, 1912. The lots have the same dimensions now as when this survey was done. Our zoning ordinance was not in



CITY OF EMPORIA

place until 1972. The 3 houses that are built on these lots are believed to have been built sometime in the 1940's. When they were constructed our zoning ordinance was not in place and the houses addressed 127 & 129 Harris Avenue were built on top of lot lines. The applicant's family purchased the properties on January 16th, 1961, which is 11 years before the ordinance was established. Currently all three lots are taxed together, not individually, due to the house's orientation on the lots.

Analysis of the Variance Request

In this case, the undue hardship that is present is that since the houses at 127 & 129 Harris Avenue are positioned on lot lines the houses cannot be individually sold. In my analysis of the request, application of the zoning ordinance would prevent each house from being on its own parcel of land due to lot size requirements. Both the existing lots and houses were created before the zoning ordinance was enacted so therefore the existing conditions of the property were established without the guidance of the ordinance. It is staff opinion that the authorization of the variance will not in any way be of substantial detriment to adjacent property.

Recommendation

Staff recommends Approval to grant the variance to accept the new proposed survey of 125, 127, & 129 Harris Avenue and Lot 10 on Harris Avenue because of the following:

1. The applicants purchased the property in good faith, 11 years before the establishment of the zoning ordinance.
2. The property owners now face a hardship due the inability to sell the individual houses due to their orientation on the current lots.
3. This an exceptional and extraordinary case because these lots were created in 1912 and the houses built 30 years after before the zoning ordinance was created.
4. The applicants are a victim of the initial subdivision of the city not meeting the current requirements of the zoning ordinance and that the houses were built with no regard to where the lot lines were.
5. As it currently stands both the lots and houses are non-conforming to the zoning ordinance. This variance would not change the non-conforming status from either. However, it is best practice that each individual house



CITY OF EMPORIA

should be on its own individual lot and by granting this variance property rights are restored to the owner that are currently being denied.

Attachments

- A. New Proposed Survey of lots 7-10
- B. Survey March 26, 1912
- C. GIS Map
- D. Deed of Purchase January 16, 1961
- E. Variance Application

GENERAL NOTES:

1. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND IS SUBJECT THERETO. THEREFORE, THERE MAY EXIST ENCUMBRANCES WHICH AFFECT THE PROPERTY NOT SHOWN HEREON.
2. THE SUBJECT PROPERTY IS WITHIN THE LIMITS OF ZONE "X- UNSHADED" AS SHOWN ON THE FEMA FLOOD INSURANCE RATE MAP PANEL NO. 51081C0158C, EFFECTIVE DATE JULY 7, 2009. THIS DETERMINATION IS BASED ON SAID MAP AND HAS NOT BEEN VERIFIED BY ACTUAL FIELD ELEVATIONS.

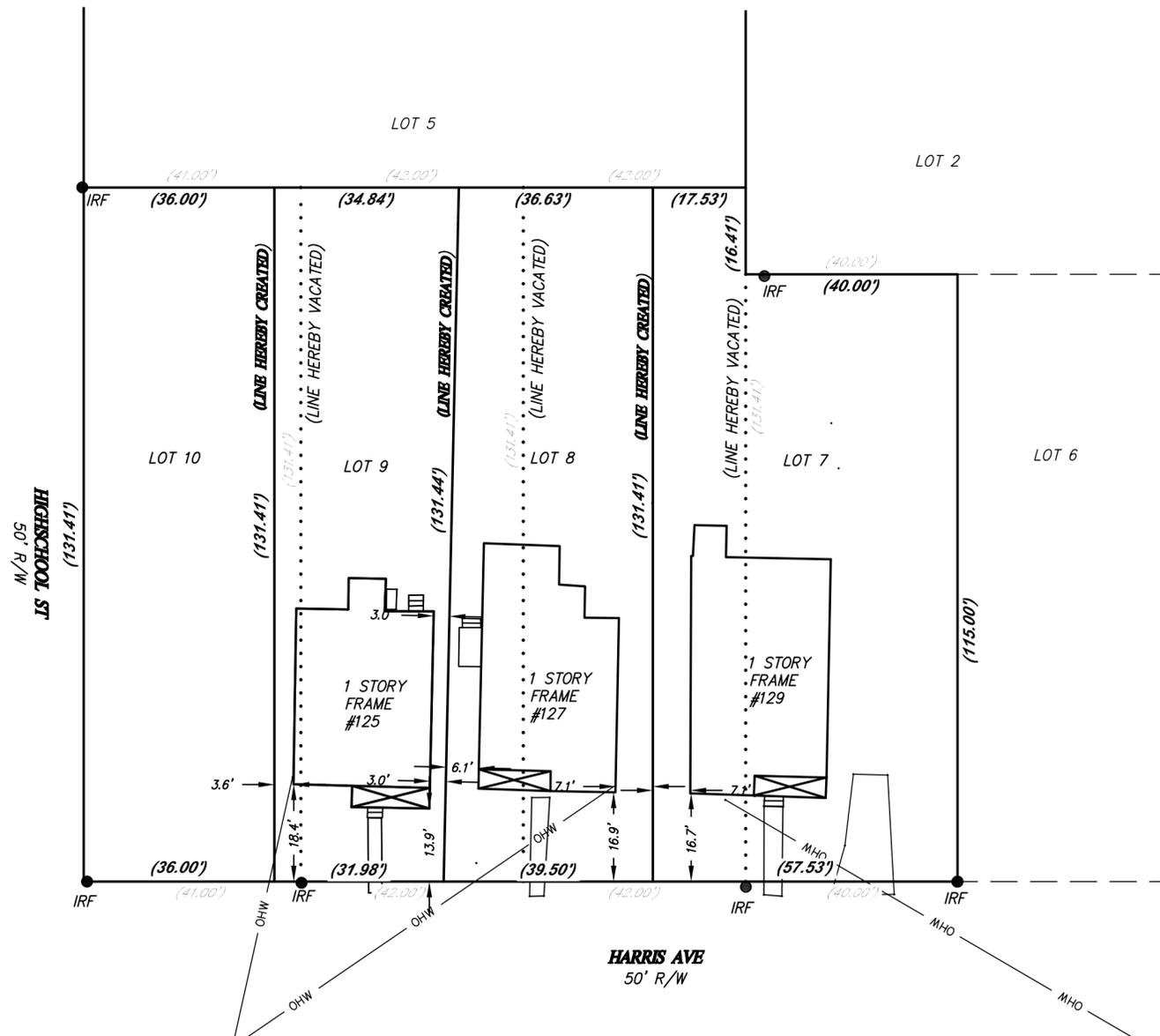
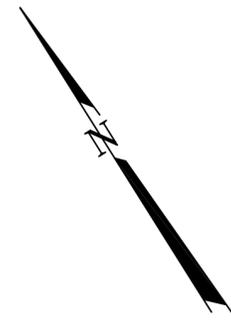
REFERENCE MAPS:
 PLAT OF SURVEY DONE BY JAMES C. FIELD,
 DATED 3/26/1912 AND RECORDED IN PB 1 PG. 273

LEGEND:
 IRF = IRON ROD FOUND
 OHW = OVERHEAD WIRES

= VACATED DISTANCE
 = NEW DISTANCE

OWNER INFORMATION:

OWNER(S) : FRED DOUGLAS GREEN
 LEGAL REF. : DB. 251 PG. 732

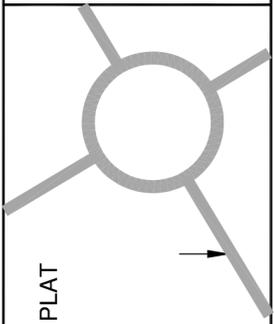


2122 Carolina Ave, SW
 Roanoke, VA 24014
 Ph: 540-387-1153

1915-B W. Cary Street
 Richmond, VA 23220
 Phone: 804-358-2947

www.parkerdg.com

**DRAFT
 ONLY
 FOR
 REVIEW**



BOUNDARY LINE ADJUSTMENT PLAT
LOTS 7-10

TM 123-4-7, 8, 9, 10
 CITY OF EMPORIA
 BELFIELD DISTRICT
 GREENVILLE, VIRGINIA

REVISIONS

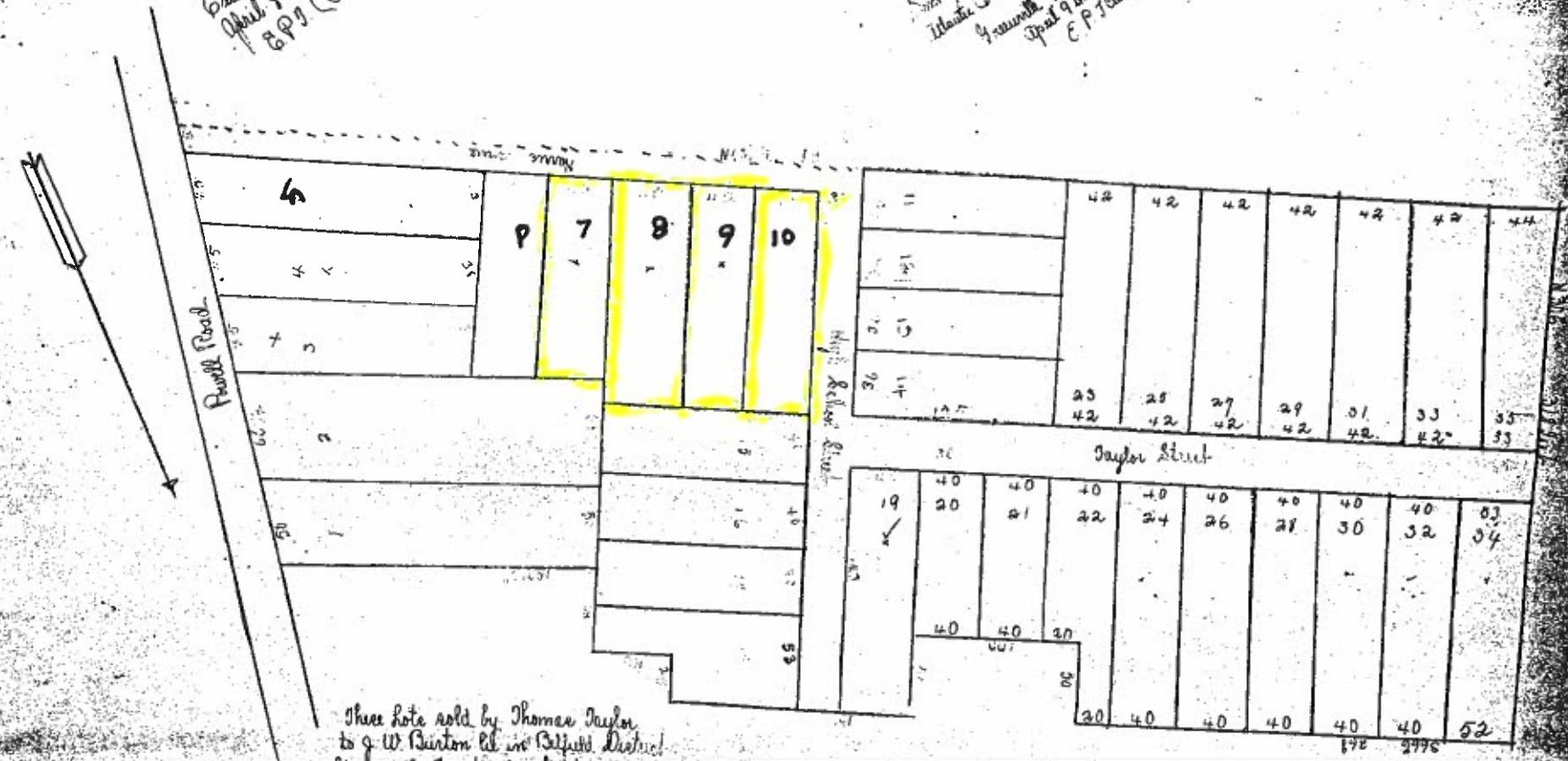
CALCS BY:	MGM
DRAWN BY:	MGM
CHECKED BY:	JCG
SCALE:	1" = 20'
DATE:	14 SEPTEMBER 2022
PROJECT NUMBER:	22-5062
SHEET NO.:	

1 OF 1

g. W. Burton
Deed Book No. 31 Page 80

Examined
April 5th 1912
E. P. Turner

Sent by mail to
Atlantic Coast Realty Company
Greenville, S.C.
Special Agent
E. P. Turner



Three lots sold by Thomas Taylor
to g. W. Burton et al in Bluff District
Hudon County Va about 300 feet
North of the Sand limits of Campbell
Scale 20 ft to 1 in
Dec 4th 1911

James O. Field
Surveyor

Virginia. In the Clerk's Office of the Circuit Court of the
County of Greenville on the 26th day of March, 1912. This Plat
was this day lodged in the said office and was, together
with the certificate thereon, admitted to record at 11 o'clock
A.M.

E. Peyton Turner Clerk

City of Emporia, Virginia

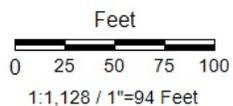
Legend

- City Boundary
- Parcels
- Site Addresses
- Road Centerlines
- Streams and Rivers
- Water Bodies



Title: 125, 127, 129 Harrias Ave GIS

Date: 10/18/2022



DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Emporia is not responsible for its accuracy or how current it may be.

185
79

Mailed:
Fred Douglas Green
203 Walker St.
Emporia, Va.

Mailed: J. T. EVERETT and wife
Boyce C. Wornom TO DEED
Attorney at Law FRED DOUGLAS GREEN Instrument No. 74.
Emporia, Va.

THIS DEED made this the 16th day of January, 1961, by and between J.T. EVERETT and NELLIE C. EVERETT, his wife, Parties of the First Part, Grantors, and FRED DOUGLAS GREEN, Party of the Second Part, Grantee,

WITNESSETH:

That for and in consideration of the sum of Ten (\$10.00) Dollars, cash in hand paid by the Party of the Second Part to the Parties of the First Part, and other good and valuable considerations, receipt whereof is hereby acknowledged, the Parties of the First Part do hereby bargain, sell, grant and convey with GENERAL WARRANTY of title to FRED DOUGLAS GREEN, the following described property, to-wit:



- (1) Those three (3) certain lots or parcels of land, with buildings and improvements thereon, lying, being and situate on the north side of Harris Avenue in the Town of Emporia, Belfield Magisterial District, Greensville County, Virginia, and being known and designated as Lots 7, 8, and 9 on a plat of survey thereof made by James C. Field, Surveyor, dated March 26, 1912, of record in the Clerk's Office for the Circuit Court of Greensville County, Virginia, in Plat Book 1, at Page 273; reference to which said plat is hereby made for a full, complete and accurate description of the lots herein conveyed; it being part of the same property as conveyed by John S. Green to J.T. Everett, by deed dated September 3, 1926, of record in the aforesaid Clerk's Office in Deed Book 40, at Page 485.
- (2) Those two (2) certain lots or parcels of land, with buildings and improvements thereon, lying, being and situate on the east side of High School Street in the Town of Emporia, Belfield Magisterial District, Greensville County, Virginia, and being known and designated as Lots No. 15 and 16 on a plat of survey thereof, made by James C. Field, Surveyor, dated March 26, 1912, and of record in the Clerk's Office for the Circuit Court of Greensville County, Virginia, in Plat Book 1, at Page 273; reference to which said plat is hereby made for a full, complete and accurate description of the lots herein conveyed; it being the same and identical lots as conveyed by Georgia P. Kelly and husband to J.T. Everett, by deed dated July 25, 1928, and of record in the aforesaid Clerk's Office in Deed Book 41, at Page 444.

186.
79

The Parties of the First Part covenant that they are seized of said property and that they have the right to convey the same; that they have done no act to encumber the said property; that the Party of the Second Part shall have quiet possession thereof free from all encumbrances; and that they will execute such further assurances of said real estate as may be requisite.

WITNESS the following signatures and seals.

J. T. Everett (SEAL)
Nellie C. Everett (SEAL)



COUNTY OF GREENVILLE, To-wit:

I, R. T. TUCKER, JR., a Notary Public in and for the County aforesaid, in the State of Virginia, do certify that J. T. EVERETT and NELLIE C. EVERETT, his wife, whose names are signed to the foregoing writing, bearing date of the 16th day of January, 1961, have each this day acknowledged the same before me in my County and State aforesaid.

Given under my hand this 18TH day of January, 1961.

My Commission expires: MAY 21ST, 1962.

R. T. Tucker, Jr.
NOTARY PUBLIC

VIRGINIA: In the Clerk's Office of the Circuit Court of Greenville County on the 30th day of January, 1961. This DEED OF BARGAIN AND SALE from J. T. EVERETT and wife to FRED DOUGLAS GREEN was this day lodged in the said office and was, with the certificate thereon, admitted to record at 10:45 o'clock, A. M.

\$3.85 Revenue Stamps affixed and cancelled.

Teste: [Signature], Clerk
W. A. Taylor, Jr.

0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0



City of Emporia
 Community Development and Planning
 201 South Main Street
 Emporia, Virginia 23847
 (434) 634-3332 (434) 634-0003 (F)

Permit Number 241-2022
 Date 9/20/2022
 Tax Map # 123-4-0-789
 Zoning District R-3
 Enterprise Zone Yes No

LAND USE AMENDMENT APPLICATION
Information must be typed or printed and completed in full.
Attach additional pages where necessary.

Land Use Information:

- Application Type: Variance Rezoning Conditional Use Permit
 Special Exception Amendment Appeal
 Telecommunications Tower Co-location on existing tower

* Description of Request:

Proposed Acreage: _____

* **Applicant/Agent Information:**

Is the applicant: Property Owner (If property owner skip to next section) Contract Purchaser Other: _____

Agent(s): _____ Phone # _____

Mailing Address: _____

E-Mail Address: _____

If you are the agent for the property owner, do you have consent of the owner attached? Yes No

* **Property Owner Information:**

Property Owner (s): Boyce Green _____

Phone # (804) 245-8899

Address: 8110 Diane Lane
Richmond VA 23227

Property owners mailing address (If this is different from that listed in the Assessor's Office)

Subject Parcel Information

* Location of Property: Harris Ave. Emporia VA 23847

* Street Address: 125, 127, 129 Harris Ave.

* General Description of Property:

Current Zoning (circle one)

R-1 R-2 R-3 C-1 C-2 I-1 I-2 DT Other _____

Proposed Zoning (for rezoning request)

R-1 R-2 R-3 C-1 C-2 I-1 I-2 DT Other N/A

Existing Use(s) of Property

Single Family Dwelling

* A. Explain fully the proposed use, type of development, operation program, reason for this request, etc.:

Adjustment of Border Lines
For 3 Houses

B. Section(s) of the City Code that pertain to this request

Sec. 90-224

* C. State how this request will not be materially detrimental to adjacent property, the surrounding neighborhood or City in general. Include where applicable; information concerning use of public utilities/services, relationship to the comprehensive plan effect of request on public schools, traffic impact, means of access to nearest public road, existing and future area development, etc.

- Adjusting Lines for Property
not to affect ~~any~~ anyone. Lines go through Hou

* D. Has any previous application for a land use amendment been filed in connection with these parcels? List case numbers and explain any existing use permit, special exception, conditional use or variance previously granted on the parcels in question. If this application is to amend an existing special use

No

permit, special exception, or other applicable amendment, please explain the request (proposed change in structure(s) including all signs).

E. Proffers and Conditions

* List any conditions or proffers currently associated with this property.

No

If the applicant proffers any conditions (§ 15.2-2297 of the Code of Virginia), they must:

- 1) Have a reasonable relationship to the rezoning
- 2) Not include a cash contribution to the City of Emporia
- 3) Not include mandatory dedication of property
- 4) Not include payment for construction of off-site improvements

Proffers may be amended in writing prior the Planning Commission public hearing.

If this is an application for a **conditional zoning**, the following conditions are voluntarily proffered:

* F. Please list any and all restrictive covenants, deed restrictions and other special considerations:

No

* G. If required by the Zoning Administrator, attach a site plan / plot plan / survey plat / building dimensions / densities showing the location(s) of existing and proposed structures to be erected and applicable setback lines and distances including all zoning district requirements.

Notes:

- (1) Special use permits shall be for an indefinite period of time unless the Planning Commission imposes a condition specifying a shorter duration. Such permits shall run with the land unless the City of Emporia imposes a more restrictive condition with regard to the succession to rights in such a permit.
- (2) The City of Emporia may include, as part of the ordinance granting any conditional use permit, suitable regulations and safeguards as it may deem appropriate. Once a special use permit is approved subject to such conditions, they shall be deemed to be a part of the zoning ordinance and may be enforced by the zoning administrator. Conditions attached to a special use permit may only be amended or deleted by subsequent application for the purpose.
- (3) This application for a conditional special use permit must be accompanied by two (2) copies of any required site plans or plot plans.

- * H. If requesting a variance, explain the unique physical hardship or extraordinary situation (size, shape, topography, etc.) that is justification for the request:

Can't sell houses because of property line placement

- * I. Explain how the zoning ordinance prohibits or unreasonable restricts the use of the property.

Can not move lines because they are non conforming to the ordinance, not able to sell

- * J. Applicant Remarks

Checklist:

- ✓ The required fee must accompany this application. A fee schedule is attached for your convenience Checks must be made payable to: "Treasurer, City of Emporia".
- ✓ Enclosed with the application, a copy of the appropriate city tax map with the property marked and, if available, a surveyed plat of the entire parcel.
- ✓ Enclose with this application any required plans or plats (plans must be folded).
- ✓ Enclose with this application any additional information to assist with review and determination.

I/We hereby certify that to the best of my/our knowledge all the above statements and the statements contained in any exhibits transmitted are true and that the adjacent property owners listed herewith are the owners of record as of the date of the application:

Date: 8/29/22

Applicants Name Beyce Oh
(Typed or printed)

Signature of Applicant [Signature]

Note: Incomplete application will not be accepted. Any request that requires plans must be accompanied by application at time of submission.

For Office Use by the Community Development Planning and Zoning Department and/or the Planning Commission

Zoning/Subdivision Code (90-14 or 66-8): Fee Paid:

Copy of Receipt attached

Action Taken:

Planner / Zoning Administrator

Date

Planning Commission

Date

City Council

Date

PERMIT FEES

VARIANCE	\$300.00
REZONING	\$400.00 + 50/lot
CONDITIONAL USE PERMIT	\$300.00
TELECOMMUNICATIONS TOWER (CONDITIONAL USE)	\$1,500.00 per plus review by private consultant if deemed necessary for final approval
CO-LOCATION ON EXISTING TOWER (CONDITIONAL USE)	\$300.00 per plus review by private consultant if deemed necessary for final approval
SPECIAL EXCEPTION	\$300.00
AMENDMENT TO CONDITIONAL USE	\$300.00
RENEWAL OF CONDITIONAL USE	\$300.00
REQUEST FOR PRIVATE ROAD- NAME/SIGN	\$100.00
REQUEST TEXT AMENDMENT	\$400.00
APPEAL	\$300.00
AMENDMENT TO PROFFERED REZONING	\$300.00

V O U C H E R

Date: 9/20/2022

City of Emporia
201 S Main St
Emporia

VA 23847

Permit Number : 0000241 - 2022
Department : PZPER

Payee: GREEN BOYCE

Ticket # : 2200241

Permit Type: VARIAN -- Variance

Permit Fee: \$300.00
Total Due: \$300.00

CITY OF EMPORIA

SEP 20 2022

PAID

TAX RECEIPT

Ticket #: 22002410001 @@

KAREN A. TAYLOR
PO BOX 511

Date : 9/20/2022
Register: KAT/QPADEV000D
Trans. #: 16249
Dept #: PZPER
Acct# :

EMPORIA VA 23847

PLANNING & ZONING PERMIT
VARIAN 123 4 0 7, 8, 9
Permit Fee

Previous Principal
Balance \$ 300.00

Principal Being Paid \$ 300.00
Penalty \$.00
Interest \$.00

GREEN BOYCE
GREEN BOYCE
8110 DIANE LANE
RICHMOND, VA 23227

Amount Paid \$ 300.00
*Balance Due \$.00

Pd by GREEN BOYCE Check 300.00 # 1020
BALANCE DUE INCLUDES PENALTY/INTEREST THRU THE MONTH 9/2022