



FLUVANNA COUNTY BOARD OF ZONING APPEALS
Morris Room, Fluvanna County Administration Building
October 15, 2024
7:00 PM

TAB	AGENDA ITEMS
	REGULAR MEETING
1.	CALL TO ORDER: Harold Morris, Chairman
2.	ADOPTION OF AGENDA
3.	ELECTION OF SECRETARY
4.	APPROVAL OF MINUTES Minutes of March 19, 2024
5 –	PUBLIC HEARINGS BZA 24:02 Clyde Nuckols – Jason Overstreet, Senior Planner
6 –	UNFINISHED BUSINESS None
7 –	NEW BUSINESS None
8 –	ADJOURN

Planning/Zoning Administrator Review

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.*

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.

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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FLUVANNA COUNTY BOARD OF ZONING APPEALS

Fluvanna County Administration Building

Morris Room

March 19, 2024

7:00 PM

Members Present: Harold Morris
Peter Von Keyserling
Ed Zimmer
James Winsett
Easton Loving

Members Absent: None

Staff Present: Jason Overstreet, Senior Planner
Dan Whitten, County Attorney
Valencia Porter-Henderson, Administration Programs Specialist

1. CALL TO ORDER:

Chair Harold Morris called the Board of Zoning Appeals meeting of March 19, 2024 to order at 7:00 pm.

2. Pledge of Allegiance, Moment of Silence

3. Minutes:

MOTION:	Board of Zoning Appeals Minutes of February 4, 2024				
MEMBER:	Morris	Keyserling	Loving	Zimmer	Winsett
ACTION:		Second		Motion	
VOTE:	Yes	Yes	Abstain	Yes	Yes
RESULT:	4-0-1 Approved				

4. PUBLIC HEARING:

BZA 24:01 – Robert & Andrea Nickels - Jason Overstreet – Senior Planner

A request a ten (10) foot Variance to Section 22-4-3 (E) (1) to allow for the reduction of the minimum front setback from two hundred (200) feet to one hundred ninety (190) feet for an as-built, tasting room structure; request a forty (40) foot Variance to Section 22-4-3 (E) (1) to allow for the reduction of the minimum front setback from two hundred (200) feet to one hundred sixty (160) feet for an addition to an as-built, tasting room structure on Tax Map 48 Section 1 Parcel 3. The subject property is zoned A-1, Agricultural, General District and is known as 5199 West River Road and is located in the Rural Residential Planning Area and the Cunningham Election District.

The subject property is located in the Cunningham Election District on the north side of Route 6, West River Road.

A sketch plan indicating the location of additions to be built upon approval were submitted with the SUP application. The plans for the addition were prepared using incorrect setback measurements that were provided by the Fluvanna Planning Department. (Attachment C) This erroneous data resulted from measuring the required setback distance based on the current alignment of Route 6. This measurement did not account for an increased right of way due to a realignment of Route 6 that did not include vacating the old right of way. This error was not discovered until the applicant received an updated survey indicating the proposed addition’s encroachment into the setback. (Attachment D)

Chair Morris opened the Public Hearing at 7:10 pm by giving each public speaker a limit of five minutes to speak in person, and asked that they state their name and address for the record.

- Michael Madison, 668 Courthouse Rd, spoke in favor of this project
- Kyle Rosemann, 22 West Lake Forest Drive, spoke in favor of this project
- Bruce Lamb, 151 Blue Mountain Ln, spoke in favor of this project

With no one else wishing to speak in person, Chair Morris closed the Public Hearing at 7:12 pm.

Letters of Support from:

- Kenneth H Quantock

- Bruce and Peggy Lamb
- Cindy Ness
- Craig Ness
- Margaret Loewenstein
- Don Morgan
- Craig C. Conboy
- Brian Hyland and Family
- Joseph and Julieanna Dwyer
- Wanda Wright
- Kristine and Kornel Krechowecyj

MOTION:	I move to approve BZA 24:01 – a request for a ten (10) foot Variance to Section 22-4-3 (E) (1) to allow for the reduction of the minimum front setback from two hundred (200) feet to one hundred ninety (190) feet for an as-built, tasting room structure; a request for a forty (40) foot Variance to Section 22-4-3 (E) (1) to allow for the reduction of the minimum front setback from two hundred (200) feet to one hundred sixty (160) feet for an addition to an as-built, tasting room structure on Tax Map 48 Section 1 Parcel 3				
MEMBER:	Morris	Keyserling	Loving	Zimmer	Winsett
ACTION:		Second	Motion		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0 Approved				

5. Unfinished Business:

None

6. New Business:

None

7. ADJOURNMENT:

MOTION:	Adjourn at 7:16 pm by consent.				
MEMBER:	Morris	Keyserling	Loving	Zimmer	Winsett
ACTION:					
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0 Approved				

Minutes recorded by Valencia Porter-Henderson, Administration Programs Specialist.

Chairman Harold Morris
Fluvanna County Board of
Zoning Appeals



COUNTY OF FLUVANNA

"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 24:02 Variance
Date: October 15, 2024

From: Jason Overstreet, Senior Planner
District: Palmyra Election District
Tax Map: 3 Section 30 Parcel 6

General Info:

The Board of Zoning Appeals is scheduled to hear this request on Tuesday, October 15, 2024 at 7:00 pm in the Morris Room of the County Administration Building.

Applicants:

Clyde Nuckols

Request:

BZA 24:02 – Clyde Nuckols: A request for a seventy-five (75) 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 fifty (50) feet, and a request for a thirty (30) foot Variance to Section 22-4-3 (F) to allow for the reduction of the minimum side yard from fifty (50) feet to twenty (20) feet with respect to 3.4 acres of Tax Map 3, Section 30, Parcel 6. The subject property is zoned A-1, Agricultural, General, and is located in the Zion Crossroads Community Planning Area and the Palmyra Election District. (Attachment A)

Code Section:

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

Location:

The subject property is located in the Palmyra Election District on the south side of Beaverdam Road, Route 799, near the intersection with Interstate Sixty-four, I64. (Attachment B)

Existing Zoning:

A-1, Agricultural, General

Existing Land Use:

Single Family Suburban - Vacant

Adjacent Land Use:

Vacant or Residential

Comprehensive Plan:

Zion Crossroads Community Planning Area

Analysis:

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

(E)(2) Minimum setback required (as measured from edge of right-of-way):
125 feet

(F) Minimum side yard: 50 feet

The applicant is seeking a variance of seventy-five feet (75') from the required one hundred and twenty-five foot (125') minimum front setback off of Beaverdam Road. A variance of thirty feet (30') to the minimum required fifty foot (50') side yard is also requested.

The subject parcel, identified as lot 6 on the attached plat of subdivision (Attachment C), was created in May of 2001 as one of seven lots in Ridgeway Farms subdivision. The parcel was purchased by the Nuckols in July of 2001. The lot has frontage on SR 799, Beaverdam Road, and on the private road, Ridgeway Farm Court. Additionally, Ridgeway Farm Court's alignment curves to create additional frontage on the south side of the parcel. Due to the requirements of Sec. 22-4-5. - Special provisions for corner lots, the lot is considered a corner lot and thereby required to conform to the frontage and minimum lot width and setback requirements for all roads. Due to the requirements related to the physical condition of the property, the buildable area for this 3.4 acre lot is severely limited and the strict application of the terms of the zoning ordinance unreasonably restrict the utilization of the property.

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 hardship was not created by the applicant.

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 limited impact on the adjacent and nearby properties. If granted the variance to the side yard would allow a dwelling to be potentially located closer to the adjacent property to the south.

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 conditions affecting this property, while not necessarily limited to this parcel, are not of so general a nature to require a new regulation.

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 solution or process is not available for this particular variance application. 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 24:02 – A request for a seventy-five (75) 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 fifty (50) feet, and a request for a thirty (30) foot Variance to Section 22-4-3 (F) to allow for the reduction of the minimum side yard from fifty (50) feet to twenty (20) feet with respect to 3.4 acres of Tax Map 3, Section 30, Parcel 6.

Attachments:

- A – Application
- B – Aerial Map
- C – Subdivision plat



COMMONWEALTH OF VIRGINIA
 COUNTY OF FLUVANNA
Variance Application (BZA)

Owner of Record: Clyde Wayne Nuckols
 E911 Address: 28 Ridgeway Farm Ct. Keswick 22947
 Phone: 434-962-5101 Fax: _____
 Email: NUCKOLS 7483 @ hotmail . com

Applicant of Record: CLYDE WAYNE NUCKOLS
 E911 Address: 28 Ridgeway Farm Ct. Keswick
 Phone: 434-962-5101 Fax: _____
 Email: NUCKOLS 7483 @ hotmail . com

Representative: _____
 E911 Address: Beaverdam Rd, Keswick
 Phone: 434-962-5101 Fax: _____
 Email: NUCKOLS 7483 @ hotmail . 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): 3 30 6
Acreage: 3.4 **Zoning:** A-1

Deed Book Reference: 427-504 Ac 3.40 Ridgeway Farm 1
Deed Restrictions? No Yes (Attach copy)

E911 Address of Parcel: Lot 1 Parcel ID 3 30 6, Beaverdam Rd, Keswick VA 22947

Description of Property: 3.4 Acre land parcel

Request for a variance from Section ~~22-178A.20.1~~ of the Fluvanna County Code in respect to the requirement for 22-4-(EX2) & (F) in order to build dwelling

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	100 125'	125'	50 75'
Minimum side yard setback			
Total side yard setback	50'	50'	30'
Rear yard setback	55'		35'
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.

Owner/Applicant Name (Please Print) CLYDE WAYNE NUCKOLS Date 9/16/2024 Owner/Applicant Signature Clyde Wayne Nuckols

OFFICE USE ONLY	
Date Received: <u>9/16/24</u>	PH Sign Deposit Received: <u>CHECK # 6025</u> Application #: <u>BZA 24 : 02</u>
\$550 plus mailing cost and fee paid: <u>CHECK # 6026</u>	Mailing Costs: \$20.00 Adjacent Property Owner (APO) after 1st 15, Certified
Election District: <u>Palmyra</u>	Planning Area: <u>Zion Crossroads</u>
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.

LAND Parcel listed to be sold. Interested parties have proposed new home sites which would not work with existing setbacks. Requesting setback variances on front and rear boundaries.

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.

UNNECESSARY HARDSHIP

Describe here how the literal interpretation and enforcement of Section 2217-8A.20.1 of the Zoning Ordinance would effectively prohibit or unreasonably restrict the use or intended use or development of the properties involved by the applicant.

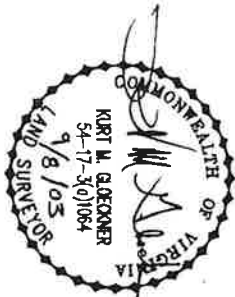
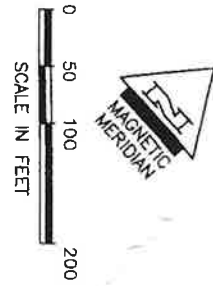
Setbacks prohibit use of land for homesite. Owner wishes to sell this land parcel. Owner recently lost his wife of 49 years and wishes to downsize his property.

ADJACENT PROPERTY

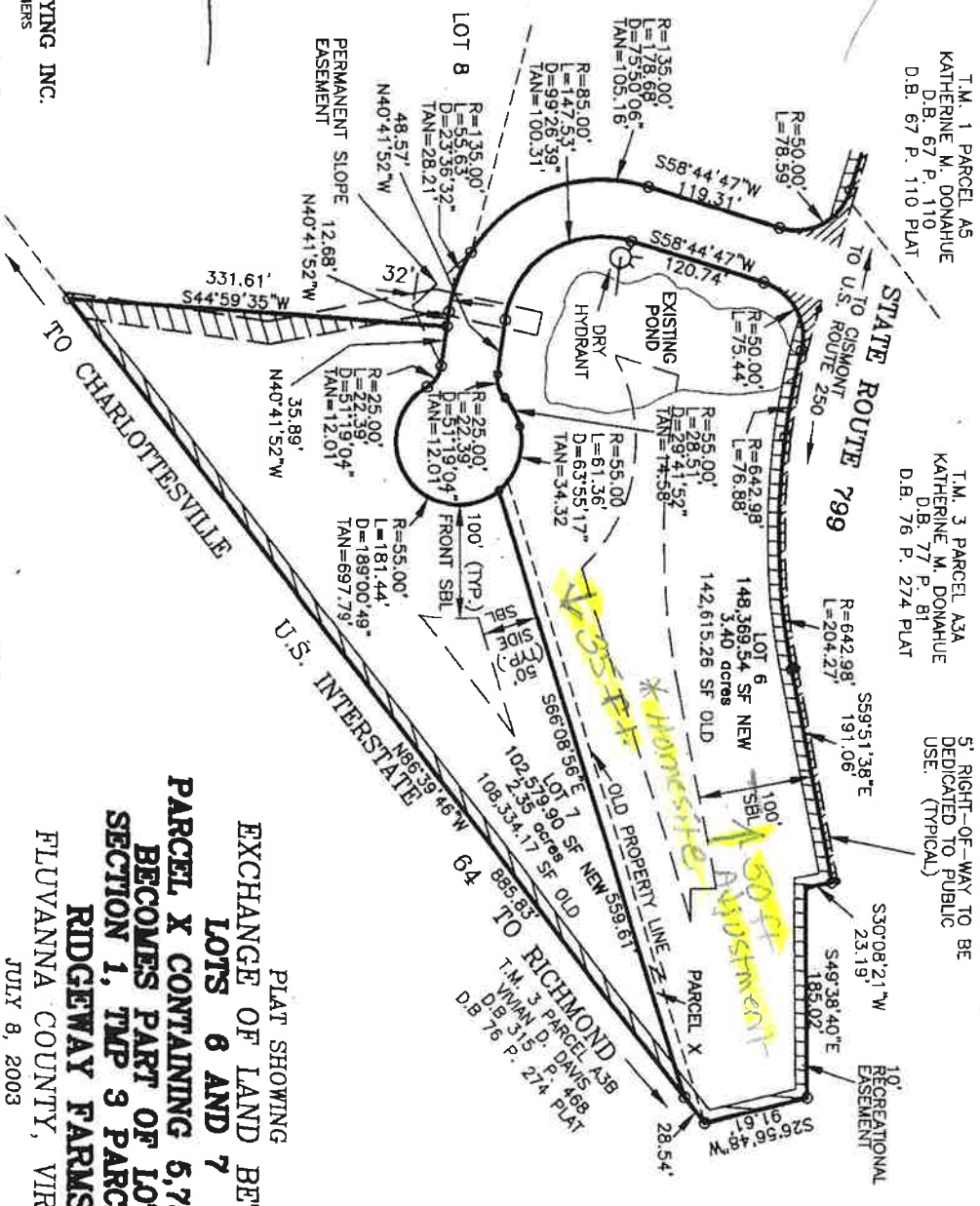
Describe the effects of this variance on adjacent property and the surrounding neighborhood. How will adjoining property owners be protected.

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.)



GLOCKNER ENGINEERING/SURVEYING INC.
 ENGINEERS - SURVEYORS - LAND PLANNERS
 2246 IVY ROAD, SUITE 5
 CHARLOTTESVILLE, VIRGINIA 22903



PLAT SHOWING EXCHANGE OF LAND BETWEEN LOTS 6 AND 7

PARCEL X CONTAINING 5,754.27 S.F. BECOMES PART OF LOT 6

SECTION 1, TWP 3 PARCEL A3

RIDGEWAY FARMS

FLUVANNA COUNTY, VIRGINIA

JULY 8, 2003

DWG. NO. 029XCHANGES.DWG

JOB NO. 9902900

SHEET 2 OF 2



COMMONWEALTH OF VIRGINIA
 COUNTY OF FLUVANNA
 Public Hearing Sign Deposit

Name: CLYDE WAYNE NUCKOLS

Address: 28 RIDGEWAY Farm Ct.

City: HESWICK

State: VA Zip Code: 22947

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.

Clyde Wayne Nuckols
 Applicant Signature

9/10/2024
 Date

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

OFFICE USE ONLY

Application #: BZA 24 : 02 CPA _____ : SUP _____ : ZMP _____ : ZTA _____ : _____

\$90 deposit paid per sign*:

Approximate date to be returned:

GIVE ME YOUR TIRED, YOUR POOR ...

NUCKOLS INSURANCE AGENCY
PO BOX 7483
CHARLOTTESVILLE, VA 22906

68-426/514



626

9-8-2024
DATE

PAY TO THE ORDER OF COUNTY OF FLUVANNA

\$ 550 -

FIVE HUNDRED FIFTY 00/100

DOLLARS



Security Features
Included.
Details on back.

TRUIST

FOR _____

C Wayne Reubel

MP

⑆051404260⑆0005137712875⑆00626

LIBERTY & JUSTICE FOR ALL

NUCKOLS INSURANCE AGENCY
PO BOX 7483
CHARLOTTESVILLE, VA 22906

68-426/514



625

9-8-2024
DATE

PAY TO THE ORDER OF COUNTY OF FLUVANNA

\$ 90 -

NINETY 00/100

DOLLARS



Security Features
Included.
Details on back.

TRUIST

FOR _____

C Wayne Reubel

MP

⑆051404260⑆0005137712875⑆00625

October 7, 2024

County of Fluvanna Virginia
Re: Variance Application (BZA) Hearing Scheduled for October 15, 2024

Fluvanna County Community Development,

This letter is being provided to offer additional details which support the application for setback variances relating to land that I own described as 3.4 acres of land, Parcel ID 3 30 6, Beaverdam Rd., Keswick, VA 22947.

My land parcel has been listed for sale since August of 2023. Since that time I have had many inquiries and showings to include two serious buyers resulting in one written contract and one verbal offer to purchase. Unfortunately, both of these contracts did not result in closed sales because of the buildable space allowable within the current setbacks, therefore I am submitting the variance application for consideration.

My motivation for wanting to sell this land parcel was that I felt it was time to downsize some of my property. My wife of 49 years who has been very ill for some time sadly passed away in June of this year. She is greatly missed.

I hope to get the changes made to this property so that someone can build their future home there and enjoy it as we have.

Thank you for your consideration.

 *Clyde W Nuckols*

Clyde Wayne Nuckols



**BZA 24:02
Variance Request
TMP 3-30-6**

Attachment B



Date: 10/8/2024

