

ORANGE COUNTY  
BOARD OF ZONING APPEALS

COMMUNITY DEVELOPMENT BLDG.  
128 WEST MAIN STREET  
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347  
FAX: (540) 672-0164  
[orangecountyva.gov](http://orangecountyva.gov)

**Regular Meeting**  
**Gordon Building Meeting Room**  
**112 W. Main St, Orange, VA, 22960**  
**Wednesday, January 21<sup>st</sup>, 2015**  
**AGENDA**

**7:00 pm**

1. Call to order and determination of quorum
2. Election of officers for 2015
3. Approval of agenda
4. Approval of minutes
  - a. December 17<sup>th</sup>, 2014
5. ~~Public Hearing:~~
  - a. AV 14-04: David Waddill, on behalf of Rivendell Holdings LLC, has applied for an administrative variance for the property referenced by tax map 43-59, which is currently addressed as 12403 Greenwood Rd. The variance request is from Section 70-306(d), which requires a setback of 85 feet from the centerline of the road which runs along the southern boundary of the property. Rivendell Holdings LLC is requesting a setback of 52 feet from the southern property line, which is a reduction of approximately 40 feet. This administrative variance request was denied on December 4th, 2014 and has been forwarded to the Board of Zoning Appeals for a public hearing pursuant to Zoning Ordinance Sec. 70-71(b).
6. New business
7. Old business
  - a. Action deferred from the December 17<sup>th</sup>, 2014 meeting (public hearing closed) - AV 14-03: Robin Canard-Lovett, on behalf of Foxview Properties LLC, has applied for an administrative variance for the property referenced by tax map 54-64, which is at the corner of Constitution Hwy and Maudes Ln, approximately 2 miles north of Barboursville. The variance request is from Section 70-646(5) of the Orange County Zoning Ordinance, which requires a minimum front yard setback of 300 feet from the right-of-way of Route 20. They are also seeking a variance from Section 70-306(d), which requires a setback of 85 feet from the centerline of Maudes Lane. Foxview Properties LLC is requesting a reduction of 150 feet from the front yard setback requirement and a reduction of 60 feet from the setback requirement from Maudes Lane. This administrative variance request was denied on November 13th and has been forwarded to the Board of Zoning Appeals for a public hearing pursuant to Zoning Ordinance Sec. 70-71(b).
8. Adjourn

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**Orange County Board of Zoning Appeals  
Gordon Building Meeting Room  
112 West Main Street  
December 17, 2014  
7:00 p.m.  
Minutes**

**Present:** Jonathan Chasen, Andy Hutchison, R. Duff Green, Jerry Bledsoe, Serge O'Granovitch

**Absent:** None

**Staff Present:** Josh Frederick, Acting Director; Susan Crosby, Senior Administrative Assistant and BZA Secretary

*All discussion and comment made during this meeting was captured via digital audio recording. The minutes as written below are intended to be a summary of this discussion and comment. Anyone desiring detailed information about comment or discussion made during the meeting is referred to the recording.*

**1. Call to Order and Determination of Quorum**

Chairman Chasen called the meeting to order at 7:12 p.m. and stated a quorum was present to conduct business.

**2. Approval of Agenda**

Chairman Chasen asked if there were any additions to or deletions from the agenda. A motion was made by Mr. Green, seconded by Mr. Hutchison that the agenda be approved as presented. Motion carried 5-0. Agenda approved.

**3. Annual Review of Board of Zoning Appeals By-laws**

Chairman Chasen asked if there were any changes or additions to the by-laws. Josh Frederick addressed the members and explained the memo staff sent out suggesting minor changes to the changes to the by-laws. Although nothing major, they do more reflect current practices. A motion was made by Mr. Hutchinson, seconded by Mr. Bledsoe that the by-laws be accepted as amended. Motion carried 5-0. Amended by-laws approved.

**4. Approval of Minutes**

A motion was made by Mr. Green, seconded by Mr. Bledsoe to approve the minutes of August 21, 2013 as presented. Motion carried 5-0. Minutes approved.

**5. Public Hearing: AV 14-03**

Dr. Jay Hoofnagle came forward to speak against the variance for parcel 54-64. He and his wife own 65 acres behind the parcel owned by Foxview Properties LLC. They oppose it for many reasons. They feel it is not in keeping with the zoning laws. The application asks for 2 modifications in the setbacks. The first is a 150' variance instead of the 300' setback on Rte. 20 and the second is for a 20' setback instead of 85'. These are not small variances. The Hoofnagels also believe this is not a hardship request because they are not asking for themselves but to build for profit. The previous structure Foxview Properties refers to was a very small one room shack with no indoor plumbing and has been

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deserted for over 20 years and doesn't believe it even had a foundation. Mr. Hoofnagel also stated the parcel is located on a historic highway and feels it would detract from the value and nature of the road. He stated the Lovetts have cut down all the trees on the property, they left it open to erosion and disrupted habitat. Dr. Hoofnagle stated there were several other neighbors at the public hearing who also oppose the variance. The structure being requested is quite large, almost half the lot, and is not in keeping with the other homes in the area.

Roy Jacobson came forward to speak in strong opposition of the variance. He and his wife currently rent land from the Hoofnagles. In their opinion the variance would degrade the historic character, aesthetic beauty and environmental quality of the local communities and surrounding properties on Constitution Hwy (Rte. 20) and Maudes Ln. Mr. Jacobson stated there are Zoning Ordinances for good reasons and one of the reasons is to prevent the cramming of houses on undersized property. He also stated they have witnessed significant erosion due to the removal of all vegetation and lack of proper erosion controls which the Lovetts failed to install leading to a stop work order from the county. Mr. Jacobson doesn't believe that just because a small shack was one time on the property, it is not justification to build a considerably larger structure on it now.

Jason Capelle came forward to speak in opposition of the variance. He believes that developers who purchase land for a living should know the ordinance and doesn't think it is right for the county to have to fix a hardship that they created. He thinks if they didn't know the restrictions on the property, considering it is their business they should have. He feels this is not the right conditions to fix it.

The applicant, Robin Canard-Lovett, came forward. Ms. Lovett gave each member a packet and also a petition with 65 signatures who support the application for variance. Ms. Lovett stated the county shows it as a buildable lot and explains why they feel the variance should be granted. Ms. Lovett said when they purchased the property at the tax auction there were no restrictions for the property mentioned, the Special Commissioner never mentioned it and also, the appraiser who appraised it for the county, appraised it as a lot. She stated they are not asking for anything other than what has been given to others. She stated that if the county doesn't feel it is a buildable lot then they shouldn't be taxing it as a buildable lot. Ms. Lovett also stated that half of the lot was already cleared when they purchased and any land disturbance has been strawed and seeded so there is no longer an erosion issue. Ms. Lovett provided a sample of the house they are wanting to build and believes it to be a modest size home of only 1,200 sq. ft.

Mr. O'Granovitch wanted to know why if they are only planning on building a 1200 sq. ft. house why are asking for so much room. Ms. Lovett's response was because not knowing where the well and septic would need to go they wanted to give themselves room to move around if need be. Mr. Bledsoe commented that the well and septic don't fit into the setbacks, so what is being requested could be closer than what is being proposed. Discussion ensued.

Mr. Green asked Ms. Lovett who owns the property. Ms. Lovett believes they do since they have a recorded deed. Mr. Hutchison stated there appears to be some question as to who has legal ownership because the County Attorney seems to think so based on the information they have.

Chairman Chasen asked Ms. Lovett what she views as the cause of the hardship. Ms. Lovett replied, because of the setbacks the county has imposed on it. Mr. O'Granovitch asked if she was aware of the setbacks when they purchased the property. She replied that she did not know and nothing was mentioned at the sale about the lot basically being unbuildable. Mr. Bledsoe wanted to know if before these types of sales, are you given notice before the actual sale? Ms. Lovett replied in the affirmative. He stated that with given that much time, she should have done her due diligence and checked all possible issues with the lot to know what you were up against before purchasing it. Discussion ensued.

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Chairman Chasen stated on advice of the County Attorney because of question over legal ownership he feels they should defer their decision. Mr. O'Granovitch asked Dr. Hoofnagle if he feels he owns the property. Mr. Hoofnagle said yes he believes they do because they purchased the property 7 years ago and thought he owned and was surprised when someone else said they owned it. But the deed was never recorded. He didn't know he did not receive a tax bill because he owns many properties and didn't realize it wasn't included.

Chairman Chasen closed the public hearing.

Mr. Hutchison made a motion to defer action on application until more information concerning actual ownership, Mr. Bledsoe seconded motion. Motion carried 5-0.

**6. Election of Officers**

Chairman Chasen opened the floor for nominations for Chairman.

A motion was made by Mr. Hutchison, seconded by Mr. O'Granovitch, to elect Mr. Chasen as Chairman. Chairman Chasen asked for any other nominations, there being none. Motion carried 4-0, Chasen abstained.

Chairman Chasen opened the floor for nominations for Vice-Chairman.

A motion was made by Mr. Green and seconded by Mr. Bledsoe to nominate Mr. Hutchison as Vice-Chairman. Chairman Chasen asked for any other nominations, there being none. Motion carried 4-0, Mr. Hutchison abstained.

Elections closed.

**7. New Business**

Chairman Chasen asked for any additional new business. Josh Frederick stated there is another application and it will be heard at the Jan. 21<sup>st</sup> meeting. Mr. O'Granovitch stated he will be out of town. Mr. Frederick also stated the current application will put it back on the agenda in case there is any further development. As long as there is pending legal action it will stay deferred but on the agenda.

**8. Old Business**

There was no old business to come before the BZA.

**9. Adjourn**

A motion was made by Mr. Hutchison, seconded by Mr. Green, that the meeting be adjourned. The motion carried with all members voting in the affirmative. The meeting adjourned at 7:53 p.m.

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Jonathan Chasen, Chairman

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Susan Crosby, Secretary

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**STAFF REPORT**

TO: Orange County Board of Zoning Appeals

FROM: Josh Frederick, Senior Planner &  
Acting Director of Planning & Zoning

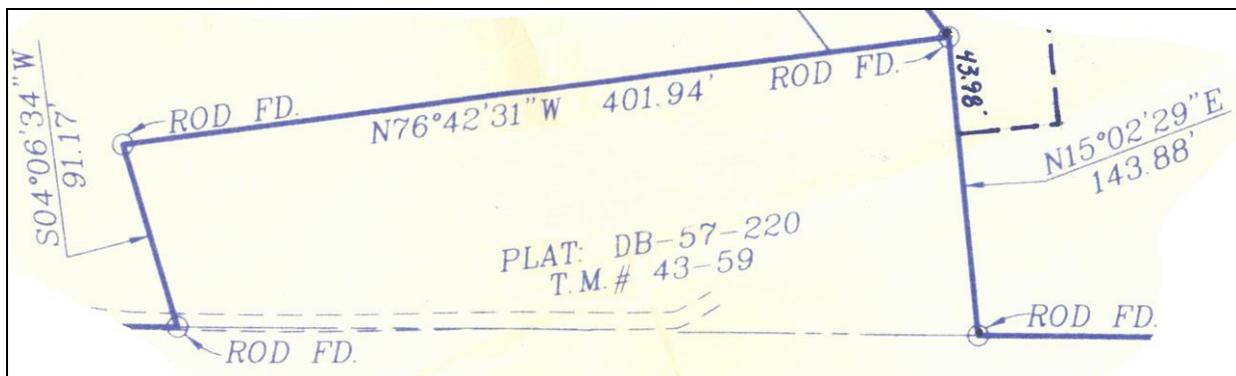
DATE: January 14<sup>th</sup>, 2015

RE: AV14-04: Rivendell Holdings, LLC – Tax map 43-59

**CASE OVERVIEW**

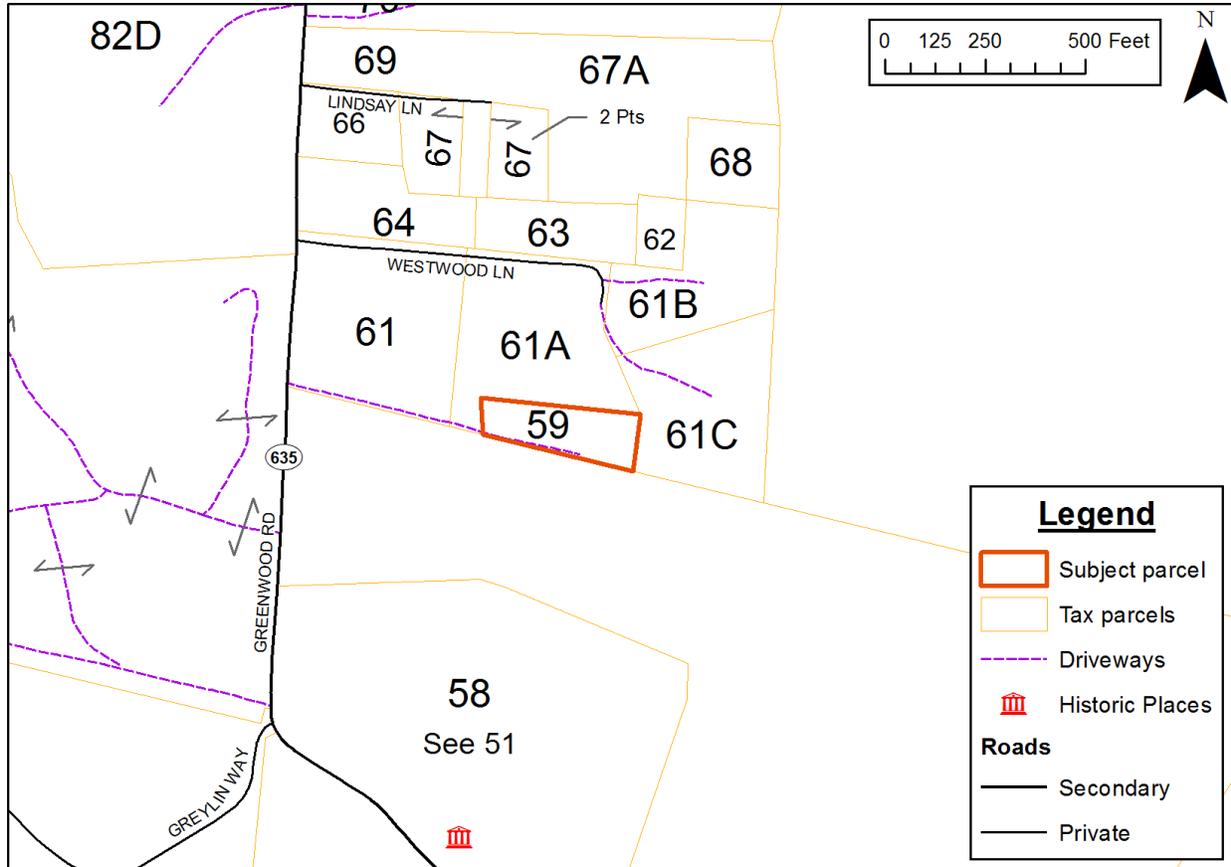
Request – David Waddill, on behalf of Rivendell Holdings LLC, has applied for an administrative variance for the property referenced by tax map 43-59, which is currently addressed as 12403 Greenwood Rd. The variance request is from Section 70-306(d), which requires a setback of 85 feet from the centerline of the road which runs along the southern boundary of the property. Rivendell Holdings LLC is requesting a setback of 52 feet from the southern property line, which is a reduction of approximately 40 feet. This administrative variance request was denied on December 4th, 2014 and has been forwarded to the Board of Zoning Appeals for a public hearing pursuant to Zoning Ordinance Sec. 70-71(b).

Location – Tax map 43-59 is east of Greenwood Rd (Route 635), 1 mile west of the Town of Orange and approximately 3,000 ft south of Constitution Hwy (Route 20).



Plat excerpt

**ORANGE COUNTY**  
DEPARTMENT OF PLANNING AND ZONING



General location map

**FACTS PERTAINING TO THE PROPERTY**

- The parcel has been in existence since at least 1896; the parcel boundaries have not been altered since it was created. The original plat of the property is located in Deed Book 57 on Page 220.
- The parcel has a depth of 91’ on the western side and 144’ on the eastern side.
- The parcel has a length of approximately 400’, which tapers from east to west.
- The parcel is situated 500’ to the east of Greenwood Rd (Route 635) and served by an access road from that state route.
- Approximately half of the property is wooded; the other half is cleared. It slopes 30 feet from the northeastern portion of the property down to the southwestern portion.
- Rivendell Holdings LLC acquired the property for \$34,000 in September, 2013 via Instrument #130007530. Commissioner of Revenue records indicate there was an older mobile home on the property at that time, which was removed that same month. The property is currently vacant.
- Rivendell Holdings LLC applied for an administrative variance for setback reductions in October 2014. Adjoining property owners were notified pursuant to state code. Objections were received and the administrative variance request was denied and forwarded to the BZA, as presented, in accordance with county code.

**ORANGE COUNTY**  
DEPARTMENT OF PLANNING AND ZONING

**FACTS PERTAINING TO THE ZONING**

- The zoning is Agricultural (A). It is the original zoning of the property.
- The Zoning Ordinance defines the front yard as “a yard between a building and the lot line adjoining the road, extending across the full width of the lot.” Since the road which serves the property follows the southern property line, the southern portion of the property is considered the front yard. The northern property line, therefore, is considered the rear and the western and eastern property lines are considered the sides.
- Sec. 70-306 requires a setback of 85’ from the centerline of the road serving the property, 20’ (for the principal structure) from either side property line and 35’ (for the principal structure) from the rear property line.

**BZA CONSIDERATIONS (COUNTY AND STATE CODE)**

- The BZA may authorize variances from the Zoning Ordinance when, owing to special conditions a literal enforcement of the provisions would result in unnecessary hardship, provided that the spirit of the ordinance must be observed and substantial justice done.
- The applicant bears the burden of producing evidence to support the required findings and to establish that the requested variance satisfies all standards for a variance. He/she must demonstrate that the property was acquired in good faith and that special circumstances related to size, shape or configuration of the parcel, or exceptional topographical conditions, warrant the granting of a variance.
- Before granting a variance, the BZA **must** find the following:
  - The strict application of this Zoning Ordinance would produce undue hardship relating to the property;
  - Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - The authorization of such variance will not be of substantial detriment to an adjacent property and that the character of the district will not be changed by the granting of the variance;
  - The condition or situation of the property concerned is not of so general and recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this ordinance; **and**
  - The zoning requirements as applied to this parcel would be constitutionally impermissible, which means the regulation interferes with all reasonable beneficial uses of the property, taken as a whole.
- In authorizing a variance, the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it deems necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed will be complied with.

**Attachments:**

- A) Administrative variance application, dated 10/23/14
- B) Administrative variance denial letter, dated 12/4/14
- C) Objection letters, dated 12/3/14

ORANGE COUNTY  
DEPARTMENT OF PLANNING AND ZONING

RECEIVED  
OCT 30 2014  
BY: *Susan Conley*

COMMUNITY DEVELOPMENT BLDG.  
128 WEST MAIN STREET  
ORANGE, VA 22960



FEE  
PAID

OFFICE: (540) 672-4347  
FAX: (540) 672-0164  
orangecountyva.gov

APPLICATION FOR ADMINISTRATIVE VARIANCE

Applicant Name: David Waddill Phone: 212-782-7441  
Mailing Address: 14 Seville Ave, Rye NY 10580

Application must be made by the landowner or with his/her permission. If Applicant is not the landowner, complete the following and attach: <sup>1</sup> A letter of permission from the landowner OR <sup>2</sup> A copy of the contract to purchase the property, if applicable.

Landowner Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Location and description of the proposed site:

Tax Map #: 0430000000590 Acreage: 1.04 Zoning: Agriculture

Street Address or Description of the Property: 12403 Greenwood Rd

Unusual conditions of the size, shape or topography of the land:

long, narrow, 1 acre lot, drainage issues when wet

Zoning requirement that is unfair as applied to this land:

A house cannot be built given required setbacks, and the shape and dimensions of the lot

Undue hardship caused by applying this requirement:

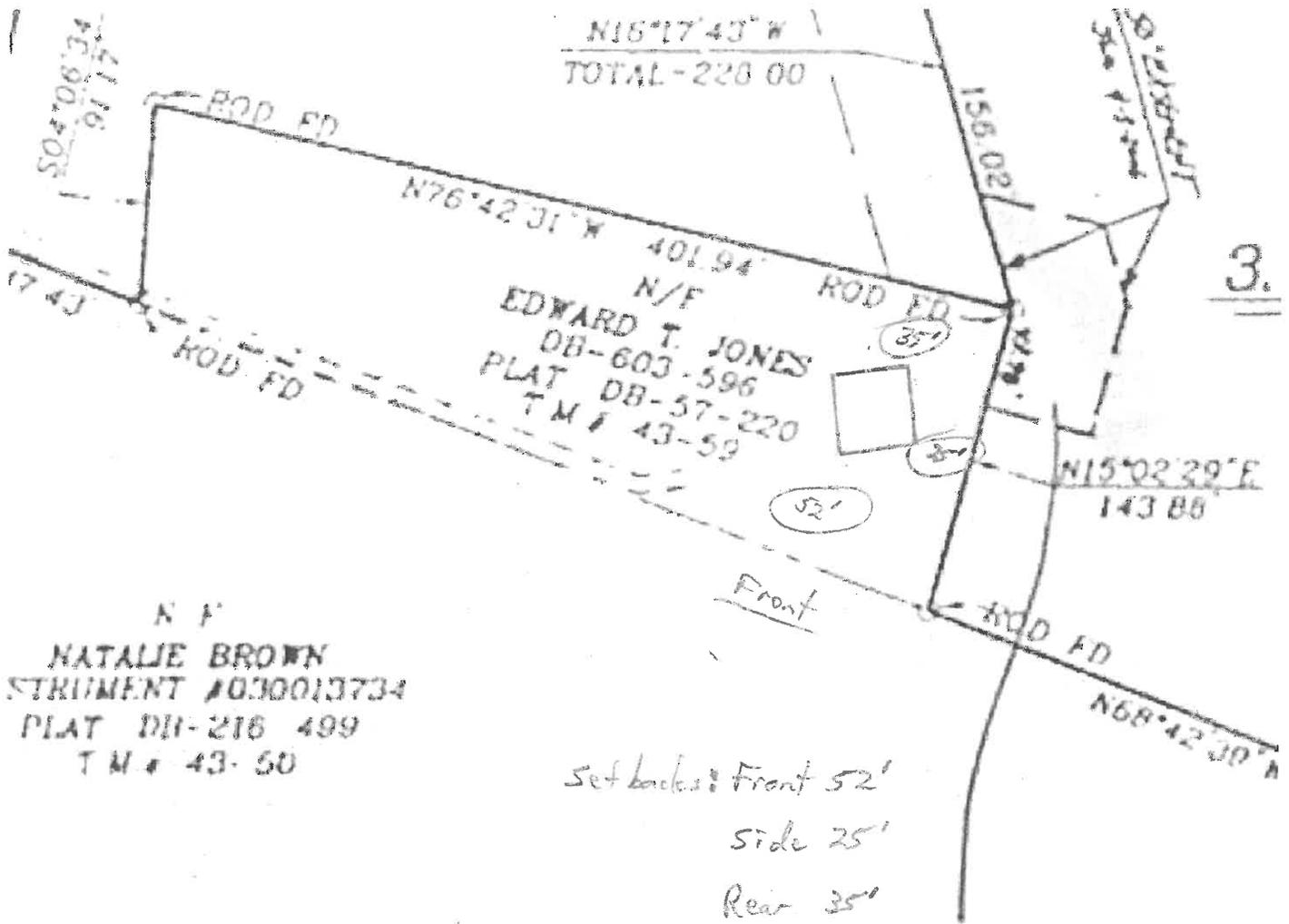
Setbacks restrict any building going on this lot

You must submit a plat of the property, showing the locations of structures and their setbacks (if applicable), and the requested variance and the conditions that justify it.

**Application Fee: \$100**  
Mailing and advertising fees are billed to you separately (nonrefundable)

Name: David Waddill  
Signature: *David Waddill*  
Date: 10/23/14

*Incomplete applications will not be accepted.*



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**December 4<sup>th</sup>, 2014**

Rivendell Holdings, LLC  
ATTN: David Waddill  
14 Seville Ave  
Rye, NY 10580

David,

On October 30<sup>th</sup>, the county received your application for an administrative variance for the property you own in Orange referenced by tax map 43-59. You specifically requested a variance from Section 70-306(d) of the Zoning Ordinance related to the setback of 85' from the centerline of the road serving the property.

In accordance with Zoning Ordinance Section 70-71, all adjoining property owners were mailed a notice of your request on November 12<sup>th</sup>, 2014 and allowed the opportunity to express an objection within 21 days. The county has received written objections to your request within the required time limit. Pursuant to Section 70-71, the county is required to deny your request for an administrative variance and to forward your case to the Board of Zoning Appeals (BZA) for a public hearing and a determination.

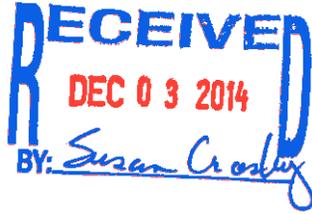
The BZA will hold their public hearing on your case on Wednesday, January 21<sup>st</sup>, 2015 at 7:00 pm. The hearing will be held in the basement meeting room of the Gordon Building located at 112 W Main Street in the Town of Orange; please plan to be available to represent your case. You will receive official notice of this public hearing at least 2 weeks prior to the hearing date. Advertising and mailing fees will be billed to you in accordance with the county's adopted fee schedule.

Please don't hesitate with any questions or if you need further assistance with this matter.

Respectfully,

Josh Frederick, Acting Director

Cc: R. Bryan David, County Administrator  
Thomas Lacheney, County Attorney  
R. Mark Johnson, District 1 Supervisor  
Objector(s)  
File



Anita and David Hasbury-Snogles

13377 Westwood Lane

Orange VA 22960

December 3<sup>rd</sup> 2014

Dear Josh Frederick

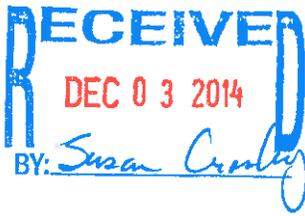
Please register our objection to the change in variance detailed in your communication dated 12<sup>th</sup> November 2014 and regarding tax parcel 43-59 owned by Rivendell Holdings LLC.

While we can see setback problems are a concern and do not allow very much of a building on this property, if any, we are very concerned by the encroachment of the proposed building location and it's size with relation to our property and also the relative size of the parcel upon which it would be built. A recent development by the Sedwicks on a similarly grandfathered in to the plan, small plot, asked they keep the same footprint as the original building, we feel this proposal is asking to depart from the general restrictions in the area.

I thank you for your time .

A handwritten signature in black ink, appearing to read 'Anita Hasbury-Snogles', written in a cursive style.

Anita Hasbury-Snogles



**D. Gregory and Linda B. Parkinson**  
**12490 Greylin Way**  
**Orange, VA 22960**

December 3, 2014

Mr. Josh Frederick  
Acting Director  
Orange County Department of Planning and Zoning  
128 West Main Street  
Orange, VA 22960

Dear Mr. Frederick:

In response to your letter dated November 12, 2014, regarding the variance requested by David Waddill for a project adjoining our property, we are **adamantly opposed** to his obtaining a variance to shoe-horn such a large home on one small side of the lot, as proposed. The former resident had a trailer home located in the center of the lot, and that was not objectionable. This proposed development is for a much larger home, NOT centered on the lot, and pushed up against the neighboring homeowners on Westwood Lane.

We will be happy to expound on this issue at the public hearing. If you require additional information or action on our part, please let us know immediately.

Sincerely,