

Berryville – Clarke County
Government Center
101 Chalmers Court, Suite A
Berryville, VA 22611



**TOWN OF
BERRYVILLE
VIRGINIA**

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[E] info@berryvilleva.gov
www.berryvilleva.gov

**BERRYVILLE BOARD OF ZONING APPEALS
ORGANIZATIONAL MEETING
PUBLIC HEARING**

Tuesday, December 30, 2025 – 1:00 p.m.
Berryville-Clarke County Government Center
101 Chalmers Court – **Main Meeting Room** – Second Floor
Berryville, Virginia

AGENDA

1. Call to Order – Terry Russell, Zoning Administrator
2. Election of Officers – Chair, Vice Chair
3. Approval of Agenda
4. Approval of Minutes – May 23, 2024
5. Public Hearing – Variance

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

6. Other
7. Adjourn

Harry Lee Arnold, Jr.
Mayor

Erecka L. Gibson
Vice Mayor

Council Members

William Steinmetz
Ward 1

Paul Perez
Ward 2

Grant Mazzarino
Ward 3

Ryan Tibbens
Ward 4

Keith R. Dalton
Town Manager

**BOARD OF ZONING APPEALS
TOWN OF BERRYVILLE
MINUTES OF ORGANIZATIONAL MEETING
Thursday, May 23, 2024**

The organizational meeting of the Berryville Board of Zoning Appeals was held on Thursday, May 23, 2024. The meeting was called to order by Christy Dunkle, Zoning Administrator, at 1:00 p.m. in the Berryville – Clarke County Council Chambers located at 101 Chalmers Court in Berryville, Virginia.

ATTENDANCE

The members of the Board present were: Dandridge Allen, Jay Briggs, Gerald Dodson, Gwen Malone, Allen McWilliams

Absent: None

The following staff member was present: Christy Dunkle, Community Development Director

Press: None

Others in attendance: Barbara Peffer

Ms. Dunkle called the meeting to order at 1:10 p.m.

ELECTION OF OFFICERS

Mr. McWilliams nominated Ms. Gwen Malone as Chair and Mr. Dodson as chair and vice chair, respectively. The motion passed unanimously by voice vote.

APPROVAL OF AGENDA

Mr. McWilliams moved, seconded by Vice Chair Dodson, to approve the agenda as written. The motion passed unanimously by voice vote.

APPROVAL OF MINUTES

Mr. McWilliams moved, seconded by Mr. Briggs, to approve the minutes of January 19, 2023 meeting as written. The motion passed unanimously by voice vote.

PUBLIC HEARING

Bradley J. Gable and Melinda D. Gable, Owners, are requesting a variance from Section 604.5(b)(1), minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a minor subdivision of the property located at 512 and 516 South Church Street, identified as Tax Map Parcel number 14-((A))-43 zoned DR-4 Detached Residential-4. VR 01-24

Chair Malone opened the public hearing.

Ms. Dunkle read the public hearing notice. She said the ad was published in the Winchester Star on Thursday, May 9 and Thursday, May 16, 2024. She added that adjacent property notices were mailed on May 10, 2024. She said there were no comments in the Planning Office.

She said that the applicants are requesting a variance from a lot width requirement in the zoning ordinance. She said the ordinance requires 75 feet and the proposed lot width is 65.73 feet.

Chair Malone asked if there were any public comments. There were none.

Ms. Dunkle said that Mr. Gable was in attendance if anyone had any questions. Vice Chair Dodson asked Mr. Gable if there would be additional structures built on the property and he said no. There was a discussion about the use of 512 South Church Street that was formerly a store. Ms. Dunkle said that this structure would not be able to operate as a commercial use under current zoning. She said that Mr. Gable had extended a utility easement from South Church Street, between 512 and 516 South Church Street, through 504 South Church Street to 508 South Church Street in order for the property owner of 508 to connect to public utilities. She said that Mr. Gable would be required to pay availability fees on 512 prior to obtaining a Certificate of Occupancy.

Mr. McWilliams asked whether the underground gas tanks had been removed. Mr. Gable said they were removed by the Peffer family. There was a discussion about oil tanks and related environmental concerns. Mr. Gable said there are no environmental concerns.

Mr. Gable said that Mrs. Peffer has been very helpful, allowing them to use electricity and water from her home in order to start cleaning the site.

There being no other discussion, Chair Malone closed the public hearing at 1:15 p.m.

Vice Chair Dodson made the motion to approve the request for a variance from the lot width setback as presented. The motion was seconded by Mr. McWilliams. The motion was approved by voice vote.

OTHER

There was no other business.

ADJOURNMENT

There being no further business to come before the Board, on motion by Mr. Briggs, seconded by Vice Chair Dodson, the meeting was adjourned at 1:17 p.m.

Gwen Malone, Chair

Christy Dunkle, Recording Secretary

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

The request before you is for a variance from front lot width requirements for a parcel in the R-2 Residential zoning district.

The Code of Virginia identifies powers and duties of Boards of Zoning Appeals as follows in Section 15.2-2309. Powers and duties of boards of zoning appeals. (attached)

VA Code § 15.2-2201. Definitions.

“Variance” means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Requested Action

The applicants are requesting a variance from Section 202.5 of the Berryville Zoning Ordinance which establishes a minimum lot width at the setback line of 80 feet.

The variance is requested in order to facilitate a boundary line adjustment between 8 Swan Avenue (14A5((A))28) and 10 Swan Avenue (14A5((A))27). The request is for a reduction of width of 6.3 feet at 10 Swan Avenue from 78.79 feet to 72.49 feet. The existing dwelling at 10 Swan Avenue would have a conforming right side yard of 10.2 feet if the variance is granted. The left side yard of the dwelling at 8 Swan Avenue would increase to 6.3 feet. The applicant has also made application to the Berryville Architectural Review Board requesting the demolition of the existing dwelling at 10 Swan Avenue and the approval of a new single-family dwelling.

Existing Conditions

This parcel and all adjacent properties are zoned R-2 Residential District.

Advertisement

The public hearing notice was scheduled to be published in the Winchester Star on Tuesday, December 16 and Tuesday, December 23, 2025. Adjacent property owners were notified via first class mail on May 18, 2025. Staff has not received any comments.

Staff Comments

The lot area of 8 Swan Avenue would increase from 14,923 sq. ft. to 16,056 sq. ft. and the lot area of 10 Swan Avenue would decrease from 14,826 sq. ft. to 13,693 sq. ft. The minimum required lot area in the R-2 Residential District is 8,000 sq. ft., therefore both lots will be conforming to lot area if the variance is granted.

If the variance is granted, the Zoning Administrator may approve the boundary line adjustment administratively.

No additional non-conformance would be created by allowing the variance.

***In granting this variance, a precedent for future requests may be set.
It would be appropriate for the BZA to make a decision at this meeting.***

PLEASE NOTE:

Please note that State Code requires that a majority vote of the Board (three) is necessary to grant a variance. If there are only three members present, all three would have to vote in the affirmative to grant the variance.

APPLICATION FOR A ZONING VARIANCE

Applicant's Name Eric and Susan Jenkins Snyder for 10 Swan LLC

Address 5104 Shoreline CT, Williamsburg, VA 23185 Phone # 804-239-3962

Description of variance requested:

Hardship: Deceased father, Haskell Jenkins, owned both properties (10 and 8 Swan Ave) and had purchased them in the 1950's. Neither property had been surveyed since purchase and the heirs (Michael, Susan, Gary Jenkins) only had general idea of property lines. Over time, Haskell had expended the residence at 8 Swan Ave which had encroached on the property line between the properties. This boundary line adjustment request will allow for a buffer of 6' to the property on 8 Swan and maintain a 10' side setback from 10 Swan.

For property located at 10 Swan Ave Map # 14A5-A-27

Property Owner's Name 10 Swan LLC (Michael, Susan and Gary Jenkins)

(1) Please state how the strict application of the zoning ordinance creates an undue hardship for you. (Note: Financial loss, standing alone, does not establish an extraordinary or exceptional situation or hardship to justify granting a variance.)

Neither 10 or 8 Swan Ave lots meet correct definition of a "Conforming" lot as defined by the Berryville Zoning by needing to have an 80' road frontage. Not being defined as a "Conforming" lot restricts the Zoning Manager from making a minor boundary line adjustment on family owned properties without Board approval. The existing house on 8 Swan Ave should a buffer between it and the property line between it and 10 Swan Ave.

(2) Please state how your hardship is not shared generally by other properties in the same zoning district and the same vicinity.

It's a unique situation as both properties were owned by the late Haskell Jenkins. Now that the properties are owned by different heirs, a boundary line adjustment is requested to provide a buffer from the existing structure on 8 Swan while maintaining the 10' side setback on the 10 Swan lot. No surrounding properties are impacted.

(3) Please state why the granting of a variance will not be of substantial detriment to adjacent property, and why the variance will not change the character of the district:

Adjacent properties will not be affected by this minor 6' adjustment in the common property line between the two properties.

(4) To your knowledge, is the condition or situation of your property so general or recurring that the Zoning Ordinance ought to be changed so as to eliminate the need for other property owners with the same condition or situation to apply for a variance? Yes If yes, please explain:

There appears to be no differentiation in the Berryville Zoning Requirements with any latitude on defining "Conforming" lots between those older town lots in the Historic Area and those in the newer developments. Non-conforming lots have more restrictive zoning requirement than perhaps when first approved.

Signed Eric S. Snyder Susan Jenkins Snyder Date 11-19-25

PLEASE SUBMIT THIS FORM TO THE TOWN OF BERRYVILLE, 101 Chalmers Court, BERRYVILLE, VIRGINIA, 22611 WITH THE APPROPRIATE FEE(S). FOR FEE INFORMATION, PLEASE CALL (540) 955-4081.

LAND DEVELOPMENT APPLICATION TOWN OF BERRYVILLE

(Please print or type) 10 Swan LLC (Michael, Susan and Gary Jenkins)
Current Property Owner
Owner's Address 7265 Seashell CT, #609, Ocean Isle Beach, NC 28469
Phone 757-256-8011

Agent (Contact Person) Eric Snyder
Agent's Address 5104 Shoreline CT, Williamsburg, VA 23185
Phone 804-239-3962

Check Appropriate Request:

- Subdivision - creating more than 2 lots
- Minor Subdivision - single lot divided into 2 lots
- Boundary Line Adjustment
- Site Plan
- Rezoning
- Text Amendment: _____ Zoning or _____ Subdivision Ordinance
- ARB Certificate of Appropriateness
- Town of Berryville Utilities
- Other: _____

Complete As Applicable:

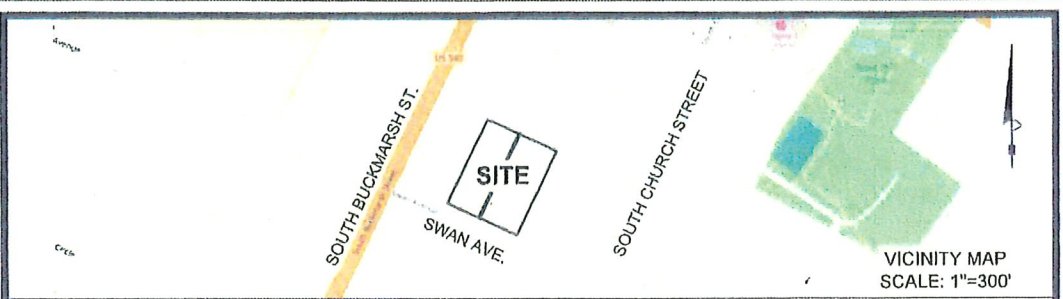
Nature of Request/Proposal: Boundary Line Adjustment
Tax Map & Parcel Number(s): 14A5-A-27 / 14A5-A-28
Size of Project Site: 13,693 Sq Ft / 16,056 Sq Ft
Proposed # of Lots: 2 Existing Zoning R-2

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.
Signature: Eric S. Snyder Date: 11-19-25

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense
Signature: _____ Date: _____

OFFICE USE ONLY

Public Hearing Required? YES Dates Advertised December 4 & 11, 2025
Adjoining Property Owners Notified? YES
Action Taken: _____



APPROVED BY

TOWN OF BERRYVILLE

DATE

OWNERS' CERTIFICATE

THE BOUNDARY LINE ADJUSTMENT OF THE PROPERTIES OF 10 SWAN, LLC [PIN 14A5-A-27], AND GARY H. JENKINS & AMY CALHOUN JENKINS [PIN 14A5-A-28] AS APPEARS IN THE ACCOMPANYING PLAT, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES, IF ANY.

DATE: _____, 2025 ON BEHALF OF 10 SWAN, LLC

DATE: _____, 2025 GARY H. JENKINS

DATE: _____, 2025 AMY CALHOUN JENKINS

NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA, AT LARGE,
CITY/COUNTY OF _____, TO-WIT:

THE FOREGOING OWNERS' CERTIFICATE WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2025, BY _____ ON BEHALF OF 10 SWAN, LLC.

MY COMMISSION EXPIRES _____.

NOTARY PUBLIC

NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA, AT LARGE,
CITY/COUNTY OF _____, TO-WIT:

THE FOREGOING OWNERS' CERTIFICATE WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____, 2025, BY GARY H. JENKINS & AMY CALHOUN JENKINS.

MY COMMISSION EXPIRES _____.

NOTARY PUBLIC

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PROPERTIES CONTAINED IN THIS BOUNDARY LINE ADJUSTMENT ARE AS FOLLOWS:

PIN 14A5-A-27

THE PROPERTY CONVEYED TO 10 SWAN, LLC BY DEED DATED APRIL 4, 2017 AND RECORDED IN DEED BOOK 615 AT PAGE 705 RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR CLARKE COUNTY, VIRGINIA.

PIN 14A5-A-28

THE PROPERTY CONVEYED TO GARY H. JENKINS AND AMY CALHOUN JENKINS BY DEED DATED NOVEMBER 2, 2019 AND RECORDED IN DEED BOOK 647 AT PAGE 34 RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR CLARKE COUNTY, VIRGINIA.

BOUNDARY LINE ADJUSTMENT PLAT
OF THE LANDS OF
10 SWAN, LLC [PIN 14A5-A-27]
and
**GARY H. JENKINS &
AMY CALHOUN JENKINS [PIN 14A5-A-28]**
TOWN OF BERRYVILLE
CLARKE COUNTY, VIRGINIA

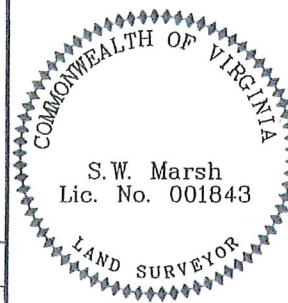
DATE: 10/30/2025

SHEET 1 OF 2



Marsh & Legge Land Surveyors, P.L.C.

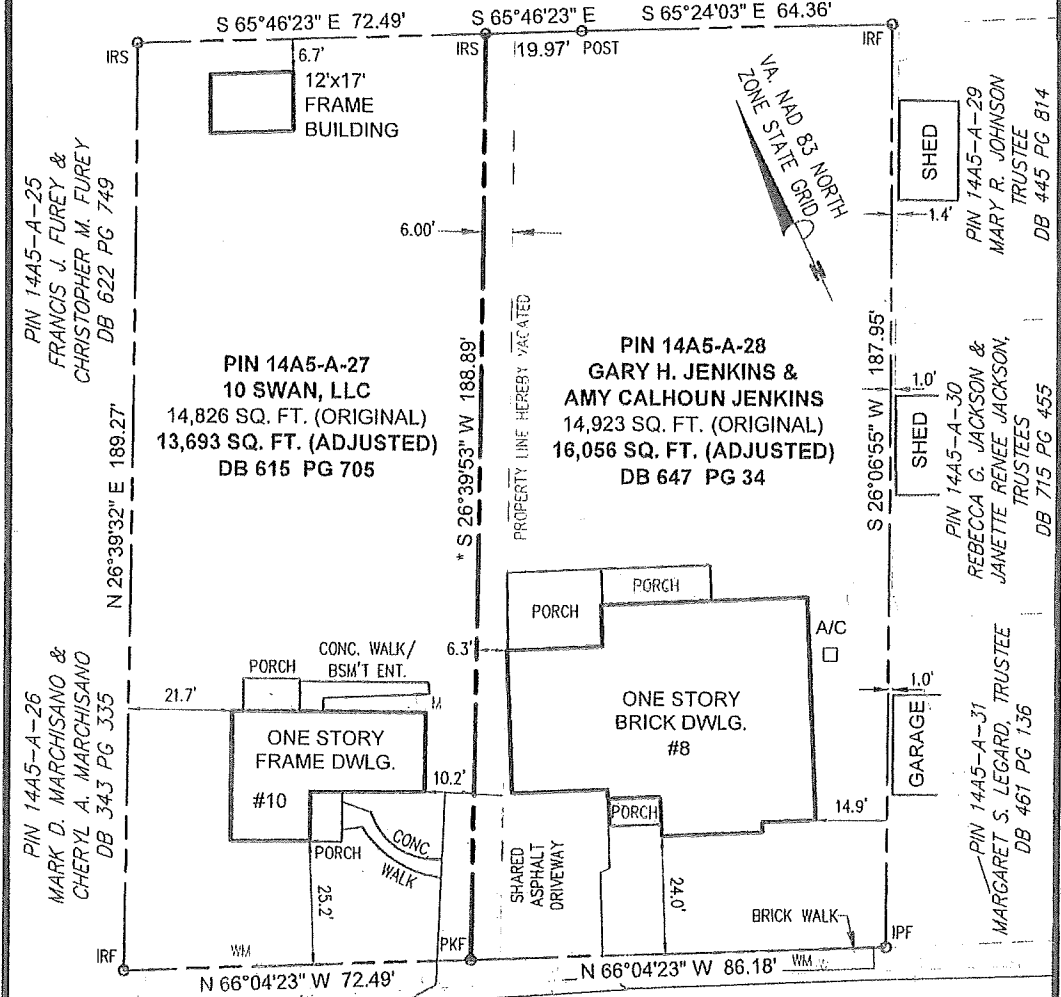
560 NORTH LOUDOUN STREET ~ WINCHESTER, VIRGINIA 22601
PHONE (540) 667-0468 ~ FAX (540) 667-0469 ~ EMAIL office@marshandlegge.com



DRAWN BY: CAJ

DWG NAME: ID12613-BLA

PIN 14A5-A-24
 BUCKMARSH STREET, LLC
 DB 721 PG 534



±99' TO INTX.
 BUCKMARSH ST.

SWAN AVENUE
 (ASPHALT SURFACE)

* DENOTES NEW PROPERTY LINE

NOTES:

1. NO TITLE REPORT FURNISHED.
2. EASEMENTS MAY EXIST THAT ARE NOT SHOWN ON THIS PLAT.
3. BOUNDARY AND PHYSICAL IMPROVEMENTS INFORMATION IS BASED ON AN ACTUAL FIELD SURVEY COMPLETED IN OCTOBER 2025.
4. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 51043C0063D, EFFECTIVE DATE OF 09/28/2007, THE PROPERTY SHOWN HEREON LIES WITHIN AN AREA DESIGNATED AS ZONE X WHICH IS AN AREA OF MINIMAL FLOODING.

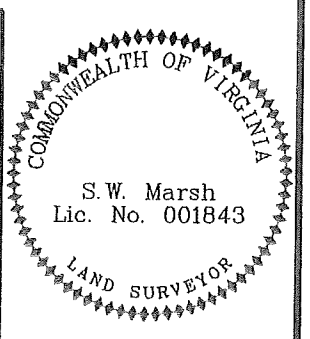
LEGEND

- A/C HEAT PUMP UNIT
- ESM ELEC. SERVICE METER
- IPF IRON PIPE FOUND
- IRF IRON ROD FOUND
- IRS IRON ROD SET
- PKF P-K NAIL FOUND
- WM WATER METER
- ⊙ WOOD POWER POLE
- O/H UTILITY LINE

BOUNDARY LINE ADJUSTMENT PLAT
 OF THE LANDS OF
10 SWAN, LLC [PIN 14A5-A-27]
 and
**GARY H. JENKINS &
 AMY CALHOUN JENKINS [PIN 14A5-A-28]**
 TOWN OF BERRYVILLE
 CLARKE COUNTY, VIRGINIA

DATE: 10/30/2025 SCALE: 1"=30' SHEET 2 OF 2

Marsh & Legge Land Surveyors, P.L.C.
 560 NORTH LOUDOUN STREET ~ WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0468 ~ FAX (540) 667-0469 ~ EMAIL office@marshandlegge.com



DRAWN BY: CAJ
 DWG NAME: JD12613-BLA



Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, or in a town with a population of 3,500 or less, either three, five, or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each, except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality, except that one may be a member of the local planning commission, any member may be appointed to serve as an officer of election as defined in § 24.2-101, and any elected official of an incorporated town may serve on the board of the county in which the member also resides. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman 24 hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years, except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Upon request of the board of zoning appeals, the governing body shall consider appropriation of funds so that the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical

services. If a board has needs that surpass the budgeted amount, the governing body shall review the board's request. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least 15 days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

Code 1950, §§ 15-825, 15-850, 15-968.8; 1950, pp. 176, 489; 1952, c. 688; 1962, c. 407, § 15.1-494; 1975, c. 641; 1976, c. 642; 1977, c. 172; 1982, c. 3; 1989, c. 27; 1992, c. 47; 1997, cc. 570, 587; 1998, cc. 346, 520, 528; 1999, c. 838; 2002, cc. 205, 545; 2007, c. 813; 2009, c. 734; 2010, c. 705; 2015, cc. 406, 407, 597; 2019, c. 703; 2020, cc. 11, 1006; 2021, Sp. Sess. I, c. 355; 2022, c. 249.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. Altering the order of evidence is a reversible error only if the appellant lodges an objection citing this section and the board subsequently refuses to reorder the hearing. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.
2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § [15.2-2201](#), provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § [15.2-2201](#) and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted 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, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, 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 that is authorized in the ordinance pursuant to subdivision 6 of § [15.2-2309](#) or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § [15.2-2286](#) at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § [15.2-2204](#). However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across

the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such 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. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. [555](#); 1997, c.; 2000, c. [1050](#); 2002, c. [546](#); 2003, c. [403](#); 2006, c. [264](#); 2008, c. [318](#); 2009, c. [206](#); 2015, c. [597](#); 2018, c. [757](#); 2025, c. [512](#).

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall identify the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published twice in some newspaper published or having general circulation in the locality, with the first notice appearing no more than 28 days before and the second notice appearing no less than five days before the date of the meeting referenced in the notice; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. One notice sent by registered, certified, or first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to

zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ [15.2-2240](#) et seq.) where such lots are less than 11,500 square feet. One notice sent by first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local planning commission to give written notice to the owner, owners, or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department, or division of the local governing body, or their representative, such notices may be sent by first-class mail; however, a representative of such agency, department, or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric

utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § [15.2-2311](#) or [15.2-2314](#), is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. [774](#); 1995, c. [178](#); 1996, cc. [613](#), [667](#); 1997, c.; 2001, c. [406](#); 2002, c. [634](#); 2004, cc. [539](#), [799](#); 2005, c. [514](#); 2007, cc. [761](#), [813](#); 2011, c. [457](#); 2012, c. [548](#); 2013, cc. [149](#), [213](#); 2022, c. [478](#); 2023, cc. [506](#), [507](#); 2024, cc. [225](#), [242](#); 2025, cc. [52](#), [171](#).

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2310. Applications for special exceptions and variances.

Applications for special exceptions and variances may be made by any property owner, tenant, government official, department, board or bureau. Applications shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No special exceptions or variances shall be authorized except after notice and hearing as required by § [15.2-2204](#). The zoning administrator shall also transmit a copy of the application to the local planning commission which may send a recommendation to the board or appear as a party at the hearing. Any locality may provide by ordinance that substantially the same application will not be considered by the board within a specified period, not exceeding one year.

Code 1950, §§ 15-828 through 15-830, 15-832, 15-833, 15-850, 15-968.10; 1950, p. 176; 1962, c. 407, § 15.1-496; 1966, c. 256; 1975, cc. 521, 641; 1989, c. 407; 1997, c. 587.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2314. Certiorari to review decision of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. Once the writ of certiorari is served, the board of zoning appeals shall have 21 days or as ordered by the court to respond. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings in the circuit court. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § ~~15.2-2286~~, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality or the governing body, unless it shall appear to the court that the locality or the governing body acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality or the governing body may request that the court hear the matter on the question of whether the appeal was frivolous.

Code 1950, §§ 15-834 through 15-839, 15-850, 15-958.11; 1950, p. 176; 1962, c. 407, § 15.1-497; 1975, c. 641; 1988, c. 856; 1994, c. 705; 1996, c. 450; 1997, c. 587; 2001, c. 422; 2003, c. 568; 2005, cc. 625, 677; 2006, c. 446; 2010, c. 241; 2015, c. 597; 2017, c. 661; 2020, c. 86.

**TOWN OF BERRYVILLE
BOARD OF ZONING APPEALS
PUBLIC HEARING NOTICE**

The Berryville Board of Zoning Appeals will hold a public hearing at 1:00 p.m., or as soon after as this matter may be heard, on **Tuesday, December 30, 2025**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

Copies of the variance application and related documents may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Terry Russell at 540/955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

Terry Russell, Zoning Administrator

+++++

Please publish in the Winchester Star on Tuesday, December 16 and
Tuesday, December 23, 2025.

Call Terry with questions – 540-955-4081

CLASSIFIED

The Winchester Star

Miscellaneous

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Legal Notices

Request for Qualifications

Delta Airport Consultants, Inc. invites interested professional services firms to submit their Statements of Qualifications for future airport-related engineering, planning and development projects. Qualified firms will be considered for teaming and sub-consulting opportunities throughout the year. Please complete the online form at www.deltaairport.com/RFQ by January 31, 2026. DBE/MBE/WBE firms are strongly encouraged to respond.

TOWN OF BERRYVILLE BOARD OF ZONING APPEALS PUBLIC HEARING NOTICE

The Berryville Board of Zoning Appeals will hold a public hearing at 1:00 p.m., or as soon after as this matter may be heard, on Tuesday, December 30, 2025, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

Copies of the variance application and related documents may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Terry Russell at 540/955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

Terry Russell, Zoning Administrator

VIRGINIA:

IN THE CIRCUIT COURT OF FREDERICK COUNTY

IN RE: ESTATE OF PHYLLIS DEAN ALTROGGE, Deceased

Case No. CL25000770-00 Will File: 23-104

SHOW CAUSE ORDER

Legal Notices

Services

JIM'S COMPLETE LANDSCAPE

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- Pruning / Trimming
- Dead Wood Removal
- Mulch
- Stump Removal
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- For a Free Estimate Call 540-322-3332

Services

STORE: 18 N. CHALMERS COURT
 Berryville
 540-955-4081
 EMAIL: Familytrustnumis@comcast.net

Berryville – Clarke County
Government Center
101 Chalmers Court, Suite A
Berryville, VA 22611



**TOWN OF
BERRYVILLE
VIRGINIA**

[T] 540/955-1099
[F] 540/955-4524
[E] info@berryvilleva.gov
www.berryvilleva.gov

RESCHEDULED MEETING DATE

Property Owner or Resident:

The Town of Berryville Board of Zoning Appeals has set a public hearing for the following request:

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

The meeting has been **rescheduled for Tuesday, December 30, 2025 at 1:00 p.m.** in the Main Meeting Room at the Berryville – Clarke County Government Center at the address above. You are receiving this notice because you are a property owner or resident nearby the subject site. The meeting is open to the public and public testimony will be heard.

Please let me know if you have additional questions. I can be reached at 540 955-4081 or planner@berryvilleva.gov.

Sincerely,

Terry Russell
Zoning Administrator
Community Development Director

Harry Lee Arnold, Jr.
Mayor

Erecka L. Gibson
Vice Mayor

Council Members

William Steinmetz
Ward 1

Paul Perez
Ward 2

Grant Mazzarino
Ward 3

Ryan Tibbens
Ward 4

Keith R. Dalton
Town Manager

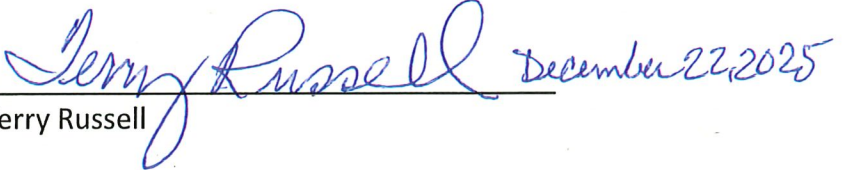
AFFIDAVIT:

Mailing of Public Hearing Notices to Adjacent and Affected Property Owners

I, Terry Russell, Zoning Administrator for Berryville, Virginia, hereby attest and certify that I did cause to be mailed by First Class U.S. Mail (15.2-2309.7) on December 18, 2025, notices of the **December 30, 2025** Board of Zoning Appeals Public Hearing as follows:

Eric and Susan Jenkins Snyder, Agents, for 10 Swan LLC, Owner, are requesting a variance from Section 202.5, minimum lot width for an interior lot, of the Town of Berryville Zoning Ordinance in order to allow a boundary line adjustment of the properties located at 8 and 10 Swan Avenue, identified as Tax Map Parcel number 14A5((A))-27 zoned R-2 Residential District. VR 01-25

Sent to all adjacent property owners, mailed to their last known address as shown on the real estate tax lists of Clarke County and/or the Town of Berryville. The notice and complete mailing list are attached to this document.


Terry Russell

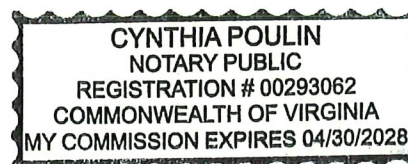
STATE OF VIRGINIA
COUNTY OF CLARKE, to wit:

I, the undersigned, a Notary Public in and for the aforesaid jurisdiction, do hereby certify that Terry Russell, whose name is signed to the foregoing instrument, bearing the date of December 22, 2025, has this day personally appeared before me and acknowledge the same in the County of Clarke, Virginia.

Given under my hand this 22nd day of December.

Notary Public Cynthia Poulin

My Commission Expires 04/30/2028



Todd & Cathy Brown Living Trust

121 South Church Street

Berryville, VA 22611

May R Johnson Trust

113 Battletown Drive

Berryville, VA 22611

Rebecca G Jackson Living Trust

P.O. Box 345

Berryville, VA 22611

Margaret S. Legard Trustee

127 South Church Street

Berryville, VA 22611

Janet M and Ronald L Fabin

201 South Church Street

Berryville, VA 22611

Emily Ludwig

11 Swan Avenue

Berryville, VA 22611

Sharon Y & Mark M Kelley
200 South Buckmarsh Street
Berryville, VA 22611

Mark D & Cheryl A Marchisano
120 South Buckmarsh Street
Berryville, VA 22611

Francis J & Christopher M. Farrey
116 South Buckmarsh Street
Berryville, VA 22611

Buckmarsh Street LLC
20943 Furr Road
Round Hill, VA 20141

SECTION 202 - R-2 RESIDENTIAL DISTRICT

202 STATEMENT OF INTENT

The R-2 District is composed of medium density residential uses and open areas where similar development appears likely to occur. The standards for this district are designed to stabilize and protect the essential character of the area so designated, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. Development is, therefore, limited to low-to-medium density, and permitted uses are limited to single- and two-family dwellings plus selected additional uses, such as schools, parks, churches, and certain public facilities that serve the residents of the district.

202.1 USES PERMITTED BY RIGHT

Only one use and its accessory buildings and/or uses may be erected on any lot or parcel of land in the Residential R-2 District.

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Rooming houses.
- (d) Tourist homes.
- (e) Boarding houses.
- (f) Schools.
- (g) Churches.
- (h) Playgrounds
- (i) Home occupations.
- (j) Public, semi-public, or governmental buildings.
- (k) Off-street parking for permitted uses in the district as set forth in Section 305.
- (l) Accessory buildings and Temporary Family Health Care Structures permitted as defined; however, garages and other accessory structures, such as carports, porches, and stoops attached to the main building shall be considered part of the main building. Accessory buildings shall not be located closer than five (5) feet from any property line or to any other structure. **(11/10)**
- (m) Public utilities: poles, lines, distribution transformers, booster and relay stations, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage systems.
- (n) Signs as set forth in Section 307.
- (o) Travel trailers, which shall not be stored within the front setback area, and which shall be prohibited from occupancy.
- (p) Fences as set forth in Section 303.

202.2 USES PERMITTED BY SPECIAL PERMIT

- (a) Nursing, convalescent, or rest homes, pursuant to Section 311.
- (b) Professional offices as set forth in Section 312. **(10/94)**
- (c) Day care centers, barber, and beauty shops. **(5/95)**
- (d) Short-term rentals **(10/23)**

202.3 AREA REGULATIONS

- (a) The minimum lot area shall be eight thousand (8,000) square feet for all permitted uses.
- (b) Each unit in a two-family structure arranged side by side shall be given four thousand (4,000) square feet of lot area.

202.4 SETBACK REGULATIONS

Structures shall be located thirty (30) feet or more from any street right-of-way fifty (50) feet or greater in width **(5/94)**, or forty-five (45) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line.” **(10/00)**

202.5 FRONTAGE REGULATIONS

The minimum lot width at the setback line shall be eighty (80) feet.

202.6 YARD REGULATIONS

- (a) Side - Each side yard for structures less than three (3) stories shall be at least ten (10) feet. Each side yard for three-story buildings shall be at least fifteen (15) feet.
- (b) Rear - The minimum rear yard shall be twenty-five (25) feet.

202.7 LOT COVERAGE

Any structure, or structures, shall not occupy more than thirty-five (35) percent of the total area of the lot.

202.8 HEIGHT REGULATIONS

- (a) Buildings may be erected up to three (3) stories, but not exceed thirty-five (35) feet in height.
- (b) A public or semi-public building such as a school, church, or library may be erected to a height of sixty (60) feet from grade, provided that required front, side, and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.
- (c) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.
- (d) Accessory buildings over one story in height shall be at least ten (10) feet from any lot line. All accessory buildings shall be less than the main building in height.

202.9 SPECIAL PROVISIONS FOR CORNER LOTS

- (a) Of the two sides of a corner lot fronting on streets, the shortest shall be deemed to be the front.
- (b) Each corner lot shall have a minimum width at the setback line of ninety (90) feet.

(02/16) **SECTION 505 – BOARD OF ZONING APPEALS**

There shall be established a Board of Zoning Appeals (Board) that shall consider appeals, variances, and zoning map interpretations.

505.1 ORGANIZATION AND PROCEDURES

(a) **Membership**

The Board shall consist of five residents of the Town of Berryville, appointed by the Circuit Court of Clarke County. Members of the Board shall hold no other public office in the locality except that one may be a member of the Berryville Planning Commission.

(b) **Alternate Members**

The Town Council may request the Circuit Court of Clarke County to appoint not more than three alternates to the Board of Zoning Appeals, pursuant to the provisions of Virginia Code § 15.2-2308(A).

(c) **Terms of Office**

The terms of office for members of the Board shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The Secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the Court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his/her successor is appointed and qualifies.

(d) **Officers**

With the exception of its Secretary and the alternates, the Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The Board may elect as its Secretary either one of its members or a qualified individual who is not a member of the Board, excluding alternate members. A Secretary who is not a member of the Board shall not be entitled to vote on matters before the Board.

(e) **Quorum**

For the conduct of any hearing, a quorum shall not be less than a majority of all the members of the Board.

(f) **Procedures**

The Board may make, alter, and rescind rules and forms for its procedures consistent with Town ordinances and general laws of the Commonwealth.

(g) **Records**

The Board shall keep minutes and a full record of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records.

(h) **Report**

The Board shall submit a report of its activities to the governing body at least one a year.

(i) **Witnesses**

The Chairman of the Board, or the acting Chairman in the Chairman's absence, may compel attendance of witnesses and administer oaths of witnesses.

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- (j) **Employees**
Within the limits of funds appropriated by the Town Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- (k) **Compensation**
Members of the Board may receive such compensation as may be authorized by the Town Council.
- (l) **Removal**
Any Board member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the Court that appointed the member or alternate, after a hearing held after at least fifteen (15) days notice.
- (m) **Meetings**
The Board by resolution may fix a schedule or regular meetings, and may also fix the day or days to which any meeting shall be continued if the Chairman, or Vice Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previous advertised for such meeting in accordance with Virginia Code § 15.2-2312 shall be conducted at the continued meeting and no further advertisement shall be required.
- (n) **Hearings – Procedures**
 1. The non-legal staff of the Town council may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. The applicant, landowner, or their agent or attorney may be ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other part as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussion prior to a public meeting to which staff of the governing body, the applicant, landowner, or their agent or attorney are all invited. For purposes of this section, “non-legal staff of the Town Council” shall mean any staff who is not in the office of the attorney for the Town, or fore the Town Council, or who is appointed by special law or pursuant to Virginia Code § 15.2-1542. Nothing in this section shall preclude the Board from having ex parte communications with any attorney or staff where such communication is protected by the attorney-client privilege or protection of confidentiality.
 2. Any materials relating to the case before the Board, including a staff recommendation or report furnished to a member of the Board, shall be made available without cost to an applicant, appellant, or other person aggrieved under Virginia Code § 15.2-2314, as soon as practicable thereafter, but in no event less than three business days providing such materials to a member of the Board. If the applicant, appellant, or other person aggrieved under Virginia Code § 15.2-2314 requests additional documents or materials to be provided by the locality

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other than those materials provided to the Board, such request shall be made pursuant to Virginia Code § 2.2-3704. Any such materials furnished to a member of the Board shall be made available for public inspection pursuant to Subsection F of Virginia Code § 2.2-3707.

3. At a hearing the Board shall offer an equal amount of time to the applicant, appellant, or any other person aggrieved under Virginia Code § 15.2-2314, and the Town staff.

505.2 APPEAL OF DECISION OF BOARD

Any person or persons jointly or severally aggrieved by any decision of the Board, or any aggrieved taxpayer, or any officer, department, board, or bureau of the locality, may file with the Clerk of the Clarke County Circuit Court a petition specifying the grounds on which aggrieved within 30 days after the final decision of the Board.

505.3 APPEALS OF ADMINISTRATIVE DETERMINATIONS

- (a) The Board shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance. The decision on such appeal shall be based on the Board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for their determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The Board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, "determination" means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the Board shall be in compliance with this section, notwithstanding any other provision of law, general or special.
- (b) An appeal to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Zoning Administrator, or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Zoning Ordinance, or any modification of zoning requirements pursuant to Virginia Code § 15.2-2286.
- (c) Any written notice of a zoning violation of any written order or administrative determination of the Zoning Administrator shall include a statement informing the recipient of the of the recipient's right to appeal the notice of zoning violation or the written order or administrative determination within 30 days, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record based upon which the action appealed from was taken.
- (d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the

certificate a stay would in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

- (e) The Board shall fix a reasonable time for hearing an appeal, and shall give public notice and hold a public hearing as provided by Virginia Code § 15.2-2204. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.
- (f) The Board shall make its decision within 90 days of the filing of the appeal, unless the appellant and the Board mutually agree upon an extended period.
- (g) In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination appealed from.
- (h) The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer.

505.4 VARIANCES

The Board shall hear upon appeal or original application in specific cases requests for variances, as defined in Virginia Code § 15.2-2201, from the terms of this ordinance. A variance shall not include a change in use.

- (a) Any property owner, tenant (with the written consent of the property owner), government official, department, board or bureau may make application for a variance. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the Board. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board, who shall place the matter on the docket to be acted upon by the Board.
- (b) The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- (c) No variance shall be considered except after public notice and hearing as required by Virginia Code § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first class mail rather than by registered or certified mail.
- (d) Action on Variance Application
 1. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in Virginia Code § 15.2-2201 and the criteria set out in this section.
 2. Notwithstanding any other provision of law, general or special, a variance shall be granted 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

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relating to the property or improvements thereon at the time of the effective date of the ordinance, and;

- (a) 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;
- (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;
- (c) 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;
- (d) 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
- (e) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.
- (f) The concurring vote of a majority of the membership of the Board shall be necessary to approve a variance.
- (g) In granting a variance the Board shall tailor the variance to provide the minimum variance necessary to alleviate the hardship, and the Board may impose such conditions regarding the location, character, and other features of the proposed structure or use, as it may deem necessary in the public interest. The Board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (h) The Board will not consider substantially the same application within one (1) year of previous Board action.

505.5 ZONING MAP INTERPRETATIONS

The Board shall hear and decide applications for interpretations of the zoning district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Virginia Code § 15.2-2204, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance. The concurring vote of a majority of the membership of the Board shall be necessary to decide in favor of the applicant.

505.6 LIMITATIONS ON POWERS OF BOARD

The Board shall not have the power to rezone property or to base Board decisions on the merits of the purpose and intent of Town ordinances duly adopted by the Town Council.

506 MODIFICATIONS

- (a) The Zoning Administrator may grant a modification from any provision contained in the Zoning Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements if the Administrator finds in writing that:
 - 1. the strict application of the ordinance would produce undue hardship;
 - 2. such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
 - 3. the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.
- (b) The Zoning Administrator may not grant a modification that is more than 10% of a regulation standards.
- (c) Before the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. Before the granting of a modification, the Zoning Administrator shall consult with the Chair and Vice Chair of the Board of Zoning Appeals.
- (d) The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The Zoning Administrator shall provide a copy of a written decision to the Board of Zoning Appeals within five working days from making the decision.
- (e) The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals as provided in Section 505.3 of this Ordinance.

**BERRYVILLE BOARD OF ZONING APPEALS
MOTION FOR APPROVAL
OF VARIANCE VR 01-25**

Date: December 30, 2025

Motion By:

Second By:

I move that the Berryville Board of Zoning Appeals **APPROVE** the request for a Variance from the minimum lot width requirement under Section 202.5 of the Berryville Zoning Ordinance for the property located at 10 Swan Avenue, identified as Tax Map Parcel number 14A5-((A))-27 zoned R-2 Residential.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Terry Russell, Recording Secretary

**BERRYVILLE BOARD OF ZONING APPEALS
MOTION FOR DENIAL
OF VARIANCE VR 01-25**

Date: December 30, 2025

Motion By:

Second By:

I move that the Berryville Board of Zoning Appeals **DENY** the request for a Variance from the minimum lot width requirement under Section 202.5 of the Berryville Zoning Ordinance for the property located at 10 Swan Avenue, identified as Tax Map Parcel number 14A5-((A))-27 zoned R-2 Residential.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Terry Russell, Recording Secretary