

**BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
MEETING AGENDA
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Town Planning Department Conference Room (T222)
Regular Meeting
August 1, 2017
Noon**

<u>Item</u>		<u>Attachment</u>
1. Call To Order		
2. Approval of Agenda		
3. Citizen Concern	Vacation of Street	1
4. Water/Sewer Bill Adjustment	John H. Enders Volunteer Fire Company	2
5. Project Updates	Review of the updated project and budget document for the water tank painting project Swan Ave walking path Page and Liberty Street Drainage Project Academy Street Drainage Project Crosswalk Main/Hermitage Crosswalk Main/Lincoln Crosswalk Main/Washington Square Paving Public Works Pole Barn Other	
6. Closed Session	No Closed Session Scheduled	
7. Other		
8. Adjourn		

↑ Denotes an item on where a motion for action is included in the packet

Attachment 1

Citizen Concern regarding his desire to vacate a street

The Chair received a request to address the Streets and Utilities Committee regarding a street he would like to have vacated. The Chair noted that the citizen was Mr. Maples.

Staff assumes that the issue that will be discussed by Mr. Maples is “Wheeler Lane”

Please find attached the following information to provide some background on this matter:

Date	Document	Number of Pages
9/30/14	Letter KRD to CM	3
6/9/15	Letter KRD to CM (date in letter corrected to avoid confusion)	2
8/12/15	Letter JWF to NS	2
9/14/15	Letter NS to JWF	2
9/18/15	Letter NS to CM	1
9/22/15	Letter JWF to MH	2
6/24/15	S&U Committee Packet	14
6/24/15	S&U Committee Minutes	3
8/11/15	S&U Committee Minutes	2
8/23/16	Letter RTM to CM	1

If appropriate, a request to vacate a public street would be heard by the Town Council. The request would be reviewed in accordance with §15.2-2006 of the Code of Virginia (attached). The code section in question requires a public hearing. It also provides for the option of appointing viewers that would observe the area over a period of time and report whether they believe that the proposed vacation would cause any parties inconvenience.

The question in this matter is whether a vacation is an appropriate action for the Town to take in this instance. The Town’s legal counsel has advised the Town Council that it has no interest in “Wheeler Lane”.

Keith Dalton

From: Keith Dalton
Sent: Tuesday, September 30, 2014 3:55 PM
To: cmaplespaf@aol.com
Cc: Christy Dunkle; Rick Boor
Subject: Wheeler Lane
Attachments: 20140930154948381.pdf

Mr. Maples

We have completed our research. Please find attached the Town's determination in this matter.

Take care and let me know if you need additional information.

Keith

Keith R. Dalton, Town Manager
Town of Berryville, Virginia
101 Chalmers Court, Suite A
Berryville, VA 22611

V 540.955.1099
F 540.955.4524

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



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

www.berryvilleva.gov

30 September 2014

Mr. Carl H.E. Maples
207 Swan Drive
Berryville, VA 22611 (by email: cmaplespaf@aol.com)

Dear Mr. Maples:

It was a pleasure to speak with you last week. I hope to meet you in person soon.

When we spoke you voiced your concerns about "Wheeler Lane". Specifically, you stated that you had been told by your closing attorney that the lane was a public street and in fact there was a dedication of "Wheeler Lane" to the Town of Berryville. You kindly provided us with several documents, including a copy of a Dedication dated 9 July 1947 and recorded at Deed Book 35 at Page 93 in the Office of the Clerk of the Circuit Court of Clarke County.

As promised, we have reviewed the matter and remain confident in our position that the lane in question is not a public street. While there is a dedication of "Wheeler Lane" to the Town of Berryville, we find no evidence of the Town of Berryville accepting the dedication. We are of the opinion that the Town of Berryville would have had to accept the dedication to complete the transfer. Further, to the best of my knowledge the Town of Berryville has neither improved nor maintained the lane. It is important to note that the last survey of the parent tract (was Wheeler / now Slattery), which is recorded Deed Book 413 at Page 170 in the Office of the Clerk of the Circuit Court of Clarke County, shows the 30' wide sliver of land that would have been the right-of-way of "Wheeler Lane" as a pipe stem and as such a part of the property. The pipe stem is also seemingly confirmed in the survey of your parcel (Bowen 567/201). Lastly, the Tax Map maintained by the County of Clarke shows the same sliver of land as a part of the Slattery (formally Wheeler) parcel.

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitselman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

Maples
30 September 2014
Page 2

With regard to the right to access the west side of your property across the Slattery property, I suggest that you try to work that out with Mrs. Slattery. If disputes about encroachments, easements, or the like, can't be resolved by the property owners, then you may seek remedy through civil proceedings.

Thank you for contacting me about this matter. Please feel free to contact me again if you have any other questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'Keith R. Dalton', with a stylized, sweeping flourish extending to the right.

Keith R. Dalton
Town Manager

Cc: Town Council
Christy Dunkle, Assistant Town Manager
Rick Boor, Director of Public Works

Keith Dalton

From: Keith Dalton
Sent: Tuesday, June 09, 2015 2:44 PM
To: 'cmaplespaf@aol.com'
Subject: "Wheeler Lane"
Attachments: 20150609143131067.pdf

Mr. Maples:

Please find attached a letter regarding "Wheeler Lane". I hope this clears up any concerns that you have about the Town's position on this matter.

A hard copy of this letter is being mailed to you. Per your request, attached to that letter is the packet you provided me when we met. As agreed, I did not make a copy of the opinion but I did keep a copy of the rest of the information (I hope that is ok... let me know if it is not).

You will also note that a Cc: of the letter has been sent to Ms. Slattery. She contacted me a while back about this matter and I told her I would copy her on my correspondence in the matter.

Take care,

Keith

Keith R. Dalton, Town Manager
Town of Berryville, Virginia
101 Chalmers Court, Suite A
Berryville, VA 22611

V 540.955.1099
F 540.955.4524

From: Keith Dalton
Sent: Tuesday, June 02, 2015 1:30 PM
To: 'cmaplespaf@aol.com'
Subject: I have not forgotten you

Mr. Maples:

I just wanted to let you know that I have not forgotten you. I apologize for not getting you something on the "Wheeler Lane" matter.

I will be in touch soon.

Thanks

Keith

Keith R. Dalton, Town Manager

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



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

9 June 2015

www.berryvilleva.gov

Mr. Carl H.E. Maples
207 Swan Drive
Berryville, VA 22611

(by email: cmaplespaf@aol.com)

Dear Mr. Maples:

This letter is written to follow-up on our last conversation about "Wheeler Lane".

In my letter of 30 September 201⁴, I stated that it is the Town's position that "Wheeler Lane" is not a public street. When we last met, you asked that I re-examine this matter as it relates to the right of public access. I agreed to review the matter and respond in writing.

I remain confident in the statement that the Town of Berryville does not consider "Wheeler Lane" a public street. As such, the Town of Berryville will not maintain "Wheeler Lane".

The Town offers no opinion as to whether your property, or any other property in the area, has the benefit of an easement of ingress and egress and right of way across the entirety of "Wheeler Lane" in common with the general public.

If disputes regarding easements and the like arise that can't be resolved by the property owners involved, then you or other property owners may seek remedy through civil proceedings.

I hope that this letter better clarifies the Town's position regarding "Wheeler Lane".

Sincerely,

A large, bold, handwritten signature in black ink, appearing to be "Keith R. Dalton".

Keith R. Dalton
Town Manager

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Cc: Ms. Norma Slattery

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitselman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

Wheeler Lane



John W. Farrell
(703) 934-1182

A century of looking forward.

Writer's E-mail Address:
jfarrell@patriot.net

August 12, 2015

RECEIVED

AUG 17 2015

Ms. Norma Slattery
211 Swan Avenue
Berryville, VA 22611

Re: Wheeler Lane

Dear Ms. Slattery:

This firm has been retained by Carl and Patricia Maples to determine their rights to travel over "Wheeler Lane" that abuts your property and the Maples.

The Maples' property has the benefit of an easement of ingress and egress and right of way across the entirety of Wheeler Lane in common with the general public.

That right is based on the Dedication, dated July 9, 1947, and recorded among the land records of Clarke County in Deed Book 35 at page 393, which created three lots and a 30' right of way labeled "Wheeler Lane." That instrument references the applicable Virginia Code provisions in effect at the time, specifically §5219, which provided that the recordation of such a plat created "a public easement or right of passage over such portion of the premises platted as is on such plat set apart for streets"

This conclusion regarding the Maples' right to use Wheeler Lane is re-enforced by the Agreement, dated October 17, 1957 and recorded in Deed Book 98 page 387 among the same land records, in which a signatory to 1947 Dedication granted an easement over Wheeler Lane that is described in the 1957 Agreement as "a public street." The party receiving the easement in that 1957 Agreement owned land south of Wheeler Lane that was not part of the 1947 subdivision.

We understand that officials of the Town of Berryville may have asserted that the Town never "accepted the dedication" in 1947 or since. Whether the Town ever "accepted the dedication" of Wheeler Lane is irrelevant to the rights of the Maples and the general public to travel over Wheeler Lane. The State Code in effect in 1947 did not require local government to accept or approve the creation of a street in order for the public easement or right of passage to be created by the recordation of a subdivision plat. It was not until the adoption of The Subdivision Act in 1962 that the approval of a subdivision plat by a locality was required in order to create a public road.

Town approval of the plat that created Wheeler Lane was **not** required in 1947.

McCandlish Lillard  Legal Counsel

11350 Random Hills Road, Suite 500 • Fairfax, Virginia 22030-7421 • Main 703.273.2288 • Fax 703.352.4300

Loudoun Office: 201 Loudoun Street, S.E., Suite 201 Leesburg, Virginia 20175-3118 Main 703.737.0200 Fax 703.737.0165

www.mccandlishlawyers.com

Ms. Norma Slattery
August 12, 2015
page 2

We caused a search of the Clarke County land records to be undertaken and found no evidence that Wheeler Lane was ever vacated. If Wheeler Lane had been vacated, or if it were to be vacated in the future, pursuant to *Tidewater Area Charities, Inc. v. Harbor Gate Owners Association*, 240 VA. 221 (1990) and Va. Code §15.2-2274, the whole of Wheeler Lane would be part of the Maples property, subject to the easement granted to Wyatt in 1957, and, possibly, an ingress-egress easement in favor of the Slattery property.

We also understand that the Town does not maintain Wheeler Lane. However, whether the Town maintains Wheeler Lane has no bearing on the rights of the Maples and the general public to travel, unimpeded, over Wheeler Lane.

It is the sincerest wish of the Maples that this explanation of their rights in Wheeler Lane will allow you and the Maples to co-exist peacefully. The Maples also wish me to convey to you their interest in coming to an agreement regarding the costs of maintenance of Wheeler Lane.

If you have, or your counsel has, any questions regarding this matter, please feel free to call.

Very truly yours,



John W. Farrell

cc: Robert T. Mitchell, Esq.
Keith R. Dalton ✓
Carl & Patricia Maples

ml

14 September 2015

John W. Farrell
McCandlish Lillard Legal Counsel
11350 Random Hills Road, Suite 500
Fairfax, VA 22030-7421

RE: Your letter to me dated August 12, 2015

Dear Mr. Farrell,

This is my response to the issues you described in your letter noted above.

I don't dispute, and have never disputed, the Maples' right of ingress/egress over the northern section of my driveway, which you misidentify in your letter as "Wheeler Lane." I have verbally notified Mr. Maple of this in the past. The records are quite clear on the matter. And I respect the Maples' ownership of those rights of ingress/egress.

However, the following is also very clear -- those rights provided to the Maples are limited, by their very nature. They do not own the section of land you refer to as "Wheeler Lane." They do not own any rights over the land bordering the driveway beyond those of ingress and egress. This section of my property is simply that, my property. It is privately-owned -- by me, as shown on the recorded deed and survey. The referenced easement, with the rights and limitations it contains, has been in existence since the 1940's and has created no controversy since that time until these recent months.

Last Tuesday, 8 September 2015, I had a survey taken of the Maples and my common border on the driveway. It was completed with four stakes put into the grass to mark the boundary at 2:30 pm. I went out and came back at 4:45 pm and found Mr. Maples had not only mowed my grass but also removed the survey stakes. Removing these stakes was clearly not necessary for ingress/egress. Surveying my property -- especially given the current circumstances, is entirely within my rights. Please inform Mr. Maples to cease and desist all actions on my property outside the scope of his limited rights. Please inform the Maples that I expect them to reimburse me for the survey done 8 September since they destroyed the results of that survey illegally and before I had chance to make use of these results. I have just received this bill for \$150.00. I will pay it directly to Dunn Survey, Inc. since their agreement is with me. I expect the Maples to reimburse me as soon as I present the paid bill to them.

As I've stated before, I am not relinquishing ownership of my real property or any subsection thereof, nor will I convey any further rights related to said property to the Maples. Since the Maples' rights of use are limited, and will continue to be so, doing anything outside the scope of the easement will continue to be a violation of my ownership rights, something I do not take lightly. Any action not reasonably related to ingress/egress on the relevant land, like mowing the grass on my land bordering the driveway, otherwise changing or using the land in any other capacity is expressly forbidden. Further, the Maples may not interfere with the use, maintenance and quiet enjoyment of my property as I see fit.

RECEIVED

SEP 17 2015

I urge you to clarify these limitations to the Maples, since, even after repeated verbal requests to Mr. Maples to not mow the grass on land bordering the driveway, he has continued to do so. As you well know, using property bordering the driveway is clearly unrelated to ingress/egress over the driveway. As you well know, mowing is clearly unrelated to ingress/egress anywhere. As you well know, acting in such a capacity, outside the scope of the easement is clearly trespass. I take trespass seriously and my understanding is that I'm not alone in that view. The state of Virginia does too. There is no question of fact or law here. My hope is that you will urge Mr. Maples to come to his senses over the matter.

Moving on, you mentioned my right to vacate ownership of this section of my property and Mr. Maples has repeatedly pressed me on this potential line of action. I shall not follow that approach. I have no interest in vacating, transferring or in any way compromising ownership of any of my real property, including all of my rights, interests and responsibilities related to the easement. I hold and maintain ownership rights to all of the property I currently own per the 2004 deed and will continue to do so.

Regarding an agreement with the Maples concerning the costs of maintenance of the northern section of my driveway: I do not agree to such an arrangement. I retain all rights and responsibilities to maintain my property as I see appropriate. Barring only the rarest of natural events and acts of God, I have maintained the driveway in such a way that has never limited ingress/egress. I will continue to do so. I am not conveying any further rights or responsibilities regarding maintenance of the easement or its bordering land to the Maples.

It is also my sincerest wish to live in harmony with the Maples, my neighbors. This can be achieved simply, respect my ownership of my property as I respect their ownership of theirs. The driveway and bordering land should not be viewed or treated as their property. It is not. I have already communicated with them regarding this matter many times. I have been dragged to town meetings over this small section of my property that the Maples already enjoy limited rights over. Nonetheless, if they persist in violating the scope of the easement, operating outside physical confines of the easement, disrupting the quiet enjoyment of my home, disregarding my many communications with them on the matter, I will be forced to take further steps that I would rather not have to take.

I have made my positions clear on this matter many times. The deeds going back more than 70 years are clear. The town has made itself clear. And the criminal laws of Virginia are clear. I consider any further attempts to coerce me regarding the easement or the land bordering that easement, harassment. I hope the above clarifies my position. I look forward to having the matter behind us, so that I may get back to the reasonable and quiet enjoyment of my property and a mutually respectful relationship with my neighbor.

Sincerely,


Norma J. Slattery

Cc: Justin Maguire
Michael Hobart
Keith Dalton
Chief Neil White

18 September 2015

Dear Carl and Patty,

Enclosed is the bill from Dunn Land Surveys, Inc. for the survey I commissioned on 8 September 2015 in order to clarify our common boundary along my northern driveway. You pulled up the stakes placed by Dunn surveyors within an hour or so of them being placed in the ground nullifying their value to me. I expect you to reimburse me for their charge of \$150.00. Enclosed is a copy of the invoice showing that it has been paid in full by me. Please reimburse me as soon as possible.

For your information, the stakes put in by Dunn surveyors were not meant to be permanent, but I do feel a need to clarify this boundary line since you have repeatedly trespassed on my property to mow my lawn in spite of my repeated requests directly to you not to do this. Your easement on my driveway is only for ingress and egress and not for maintenance of any kind. If the grass grows to a height of more than 8 inches, you have a right to contact town offices who will then take me to task, but you have no right to trespass on my property and take matters into your own hands.

Thank you for your immediate attention to this matter.

Sincerely,



Norma Slattery

CC: John Farrell
Justin Maguire
Michael Hobart
Keith Dalton

RECEIVED

SEP 21 2015

September 22, 2015

Michael Hobert, Esq.
Hobart & Kerr, PC
24 East Main Street
Berryville, VA 22611

Re: Slattery/Wheeler Lane

Dear Mr. Hobert:

Based on our exchange of e-mails over the last two days, you know that I represent Carl and Patricia Maples regarding their rights in Wheeler Lane. You have a copy of my August 12 letter to Mrs. Slattery describing the Maples' rights in Wheeler Lane.

Ms. Slattery's September 14 and September 18 letters are received. Normal courtesy would expect me to reply directly to Ms. Slattery. I hope that you will explain to her that, once you disclosed your representation of her, the Code of Professional Responsibility compelled me to direct this letter to you and that no disrespect is intended toward her by addressing this letter to you and not her.

Mrs. Slattery's letters demonstrate that she holds substantially and demonstrably inaccurate beliefs concerning her rights, and the rights of the Maples, in Wheeler Lane.

The 1947 Dedication, referenced in my August 18 letter, created that 30 foot right of way, labeled that area "Wheeler Lane" and created "a public easement or right of passage over such portion of the premises platted as is on such plat set apart for streets"

If Wheeler Lane had been vacated, or if it were to be vacated in the future, pursuant to *Tidewater Area Charities, Inc. v. Harbor Gate Owners Association*, 240 VA. 221 (1990) and Va. Code §15.2-2274, the whole of Wheeler Lane would be become part of the Maples property, subject to the easement granted to Wyatt in 1957, and, possibly, an ingress-egress easement in favor of Ms. Slattery's property. Thus, the Maples own the underlying, reversionary, fee simple interest in Wheeler Lane and, her assertions to the contrary notwithstanding, Ms. Slattery does **not** own Wheeler Lane **nor** is it "her driveway."



Michael Hobert, Esq.
September 22, 2015
page 2

I have not analyzed Ms. Slattery's 2004 deed. However, if Anne Wheeler attempted to convey Wheeler Lane to Ms. Slattery, that grant was ineffective since neither Anne Wheeler nor Paul Wheeler owned Wheeler Lane after 1947 and could not convey it to Ms. Slattery.

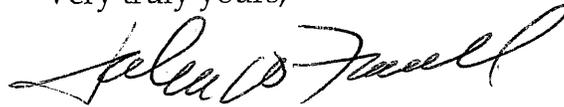
The Maples have the right to do anything within Wheeler Lane that is consistent with its service as a right of way including mowing grass, removing impeding vegetation, snow and ice, grading or paving the area. And they will continue to do so.

Please advise Ms Slattery to do nothing to interfere with my clients' rights in Wheeler Lane, as that would be trespass.

My clients did not remove the stakes referenced in Ms. Slattery's September 18 letter. As of this morning, they are still in place.

If you have any questions regarding this matter, please feel free to call.

Very truly yours,



John W. Farrell

cc: Keith R. Dalton ✓
Chief Neil White

ml

In September 2014, Mr. Carl Maples of 207 Swan Drive contacted the Town regarding the status of "Wheeler Lane". According to Mr. Maples, this closing attorney had informed him that "Wheeler Lane" was a public street but there seemed to be some dispute about the matter.

Please find attached a parcel boundary map from Maps Online that should assist in orienting you as this matter is discussed. On the parcel boundary map you will see a large parcel labeled as 211. That parcel is owned by Norma Slattery (transferred to Slattery in 2004 by Anne Wheeler). You will also see a parcel labeled as 207. That parcel is owned by Carl and Patricia Maples (transferred to Maples in 2013 by William and Heather Bowen). The pipe stem from 211 extending along the west side of 207 is the area of land that is the subject of this discussion.

Mr. Maples provided the Town with a dedication dated 9 July 1947 and recorded at Deed Book 35 Page 393 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question dedicates "Wheeler Lane" to the Town of Berryville as a public street (intended to serve several lots). The Town of Berryville was not a party to the dedication. The dedication is attached.

Mr. Maples asked whether the Town of Berryville considered "Wheeler Lane" a public street. Staff reviewed the matter with legal counsel then wrote to Mr. Maples. In a letter dated 30 September 2014, Keith Dalton, Town Manager, informed Mr. Maples that the Town of Berryville does not consider "Wheeler Lane" a public street. Mr. Dalton stated that while Mr. & Mrs. Wheeler dedicated the street to the Town, there was no evidence of acceptance by the Town and that in the absence of acceptance the transfer was incomplete. Mr. Dalton also referenced:

- A deed and plat dated 13 August 2004 and recorded at Deed Book 413 Page 168 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question transfers property from Anne M. Wheeler to Norma Slattery. The survey attached to the deed clearly shows what is considered "Wheeler Lane" as a portion of the Wheeler (now Slattery) parcel.
- A deed and plat dated 25 July 2013 and recorded at Deed Book 567 Page 200 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question transfers property from William and Heather Bowen to Carl and Patricia Maples. The survey attached to the deed clearly shows what is considered "Wheeler Lane" as a portion of the Slattery parcel (but does reference the 1947 dedication).

Both the letter and the deeds referenced are attached.

Mr. Maples reviewed Mr. Dalton's letter of 30 September 2014 with his attorney. In the opinion of his attorney, the Town did not have to accept the dedication in 1947 and that by virtue of that dedication 207 Swan Drive (as well as other parcels), has the benefit of an easement of ingress and egress and right of way across the entirety of "Wheeler Lane" in common with the general public. Mr. Maples was concerned about the position taken in the 30 September 2014 letter and asked Mr. Dalton to review the matter in light of his attorney's opinion. Mr. Dalton agreed to review the matter again.

In a letter dated 9 June 2015, Keith Dalton, Town Manager, informed Mr. Maples that he remained of the opinion that "Wheeler Lane" is not a public street and that the Town has no maintenance responsibilities for "Wheeler Lane". Mr. Dalton further stated that the Town offered no opinion as to whether 207 Swan Drive or any other property has the benefit of an easement of ingress and egress and

right of way across the entirety of "Wheeler Lane" in common with the general public. A copy of the letter is attached.

It is important to note that Ms. Slattery also contacted the Town regarding this matter. She was provided a courtesy copy of the 9 June 2015 letter.

Mr. Maples contacted Town after he received the 9 June 2015 letter. Mr. Maples remains concerned by the Town's position concerning acceptance of the 1947 dedication of "Wheeler Lane".

Ms. Slattery contacted the Town after she received the 9 June 2015 letter. Ms. Slattery has concerns about her property rights and any responsibilities/liabilities she may have if "Wheeler Lane" is in fact a public street.

Mr. Maples would like to speak with the Streets and Utilities Committee about his concerns.

John A. H. | Carl Maples
is wheeler pub Street? | ~~_____~~

0035
0393

393

~~_____~~

of the third part shall become a lien upon said real estate.

WITNESS the following signature and seal this the day and year first above written.

Walter D. Loper

(SEAL)

State of Virginia,

County of Clarke ss:

I, Roy E. Potts, a Notary Public in and for the County of Clarke, State aforesaid, do hereby certify that Walter D. Loper, unmarried, whose name is signed to the foregoing instrument in writing bearing date July 15, 1947, has personally appeared before me in my said County and acknowledged the same as and for his act and deed.

My commission expires June 11, 1951.

Given under my hand this 15 day of July, 1947.

Roy E. Potts, Notary Public.

Virginia,

Clarke County, act:

On the 15th day of July, 1947, the foregoing deed of trust, dated 15th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 1 o'clock, P. M.

Teste: Carl Maples Clerk.

Paul L. Wheeler and Alma Bruce Wheeler

To (Dedication

Town of Berryville

THIS DEDICATION made this 9th day of July, 1947 by Paul L. Wheeler and Alma Bruce Wheeler, his wife,

WITNESSETH, we the undersigned owners of the land abutting on Wheeler Lane as shown on the attached plats of lots # 1, # 2, and #3, of Paul L. Wheeler, do hereby grant, convey and dedicate so much of said land as is shown on the said plats as a public street to be known as Wheeler Lane, in compliance with Sections 5217, 5218, and 5219 of the Michie Code of Virginia of 1942 and Acts Amendatory thereto.

This dedication and conveyance is made with the free consent of the undersigned owners; it being their intention, purpose and desire to create a public easement or public right of passage over so much of said land as is designated as Wheeler Lane on the attached plats #1, # 2, and # 3 made by Richard U. Goode, Certified Surveyor.

WITNESS THE following signatures and seals this the day and year first above written.

Paul L. Wheeler

(SEAL)

Alma Bruce Wheeler

(SEAL)

State of Virginia

County of Clarke, to-wit:

I, Roy E. Potts, a Notary Public of and for the County aforesaid, in the State of Virginia, do certify that Paul L. Wheeler and Alma Bruce Wheeler, his wife, whose names are signed to the writing above, bearing date on the 9th day of July, 1947, have this day acknowledged the same before me in my County aforesaid.

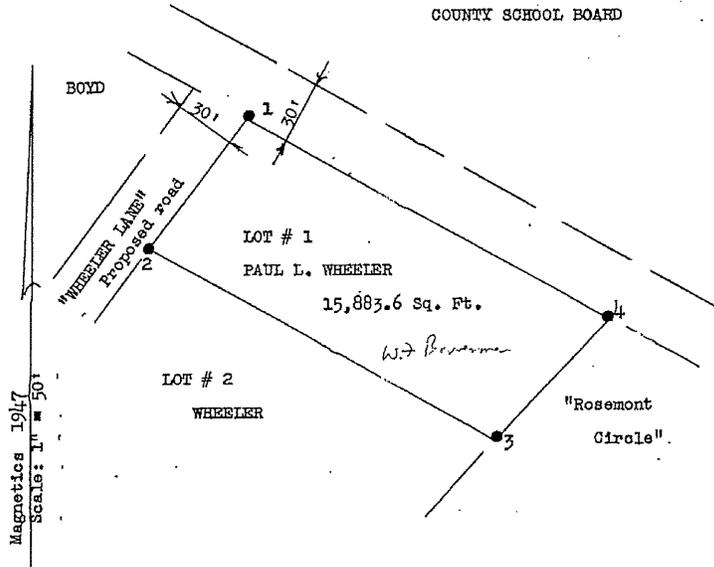
My term of office expires June 11, 1951.

Given under my hand this 15th day of July, 1947.

Roy E. Potts, Notary Public.

No Tax
Fee \$ 4.75
Paid

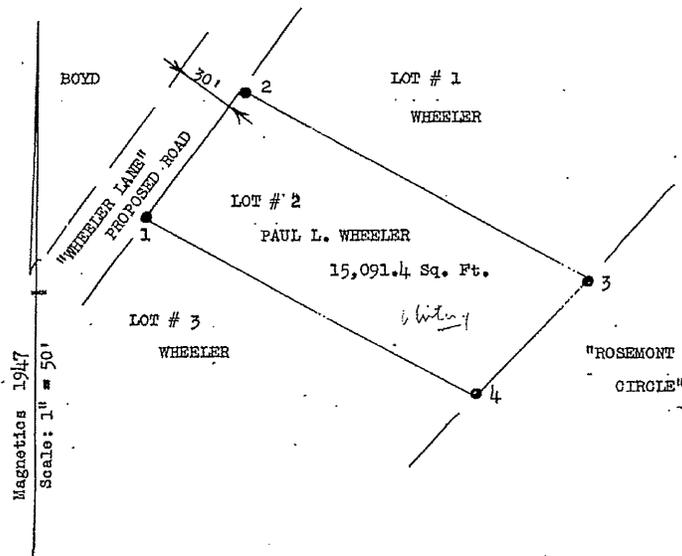
EXAMINED ...
7/18/47 and
mailed to
Town of
Berryville, Va



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey subdivision known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, and on the North by a roadway which separates said tract from the land of County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake at the intersection of the South side of a road, which runs along the South side of the County School Board property, with the East side of a proposed 30 ft. road leading to Wheeler's other land; thence with said proposed road S 36 deg. 08 Min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of Lot # 2; thence leaving road and with the North boundary of Lot # 2 S 62 Deg. E. 195.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a post at Northwest corner of "Rosemont Circle" and on the South side of a road which runs along the South side of the County School Board property; thence with the South side of said road N 62 deg. W 205.5 feet to the point of beginning, containing 15,883.6 square feet more or less.

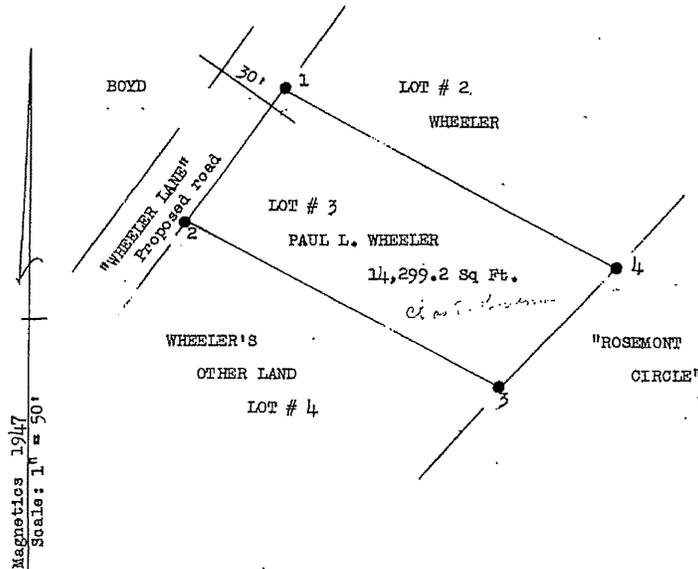
Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates said tract from the land of the County School Board of Clarke County. The above Lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Northwest corner of Lot # 3, said point being 160 feet Southwest from the South side of a road which runs along the South side of the County School Board property; thence with the proposed 30' road N 36 deg. 08 min. E. 80.0 feet to (2) a stake in the East side of said road and Southwest corner of Lot # 1; thence leaving road and with the South boundary of Lot # 1 S 62 deg. E. 195.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" S 42 deg. 52 min. W. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Northeast corner to Lot # 3; thence with the North boundary of Lot # 3 N 62 deg. W. 185.5 feet to the point of beginning, containing 15,091.4 square feet more or less.

Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates this tract from the land of the County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Southwest corner of Lot # 2, said point being 160' Southwest from the South side of a road which runs along the South side of the County School Board's property; thence with the East side of the proposed 30' road S 36 deg. 08 min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of Wheeler's other land; thence with the North boundary of said other land S 62 deg. E 175.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Southeast corner to Lot # 2; thence with the South boundary of Lot # 2 N 62 deg. W 185.5 feet to the point of beginning, containing 14,299.2 square feet more or less.

Richard U. Goode
Certified Surveyor.

Virginia,

Clarke County, sct:

On the 15th day of July, 1947, the foregoing deed of Medication, & Plat, dated 9th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 2 o'clock, P. M.

Teste: Spring M. Noble Clerk.

04-3027

Consideration: \$345,000.00
Tax Map #: 14-A-4-A-27 & 14-A-4-A-30
Grantee Address:
2 Wheeler Lane
Berryville, VA 22611
File #V0408001

BOOK 413 PAGE 168

Prepared by:
Hunzeker, Lyon & Leggett, P.C.
6862 Elm Street
Suite 220
McLean, VA 22101

Return to:
MBH Settlement Group, L.C.
Central Title
3050 Chain Bridge Road
Suite 200
Fairfax, VA 22030

D E E D

THIS DEED is made this 13th day of August, 2004, by and between Anne M. WHEELER, devisee under the Last Will and Testament of Paul L. Wheeler, Grantor, and Norma SLATTERY, unmarried, Grantee.

WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey, in fee simple and with General Warranty and English Covenants of Title, unto the Grantee, the following described property, situate, lying and being in the County of Clarke, Virginia, to wit:

Beginning at an iron pin in the southerly right-of-way line of Swan Avenue, said pin also marking the northeasterly corner of the property of Beverley Bigelow Byrd; thence with the said southerly right-of-way line of Swan Avenue, South 61 degrees 09'43" East 30.05 feet to a point marking the northwesterly corner of the property of William R. and Heather A. Bowen; thence departing Swan Avenue and running with the westerly line of the said property of Bowen, South 36 degrees 30'17" West 239.65 feet to a point; thence with the southerly line of Bowen and continuing with the southerly line of the property of Olivia R. Lee, South 61 degrees 49'43" East 180.00 feet (passing through an iron pin at 100.00 feet) to an iron pin in the northwesterly line of Lot 28A, Moore & Dorsey Subdivision; thence with the northwesterly line of Lot 27A, Moore & Dorsey Subdivision, South 42 degrees 22'17" West 287.96 feet (passing through an iron pin at 97.78 feet) to a point in the northeasterly line of Lot 6, Phase 1, Hermitage; thence with northeasterly line of said Lot 6, Phase 1, Hermitage, North 58 degrees 29'19" West 1.79 feet to an iron pin marking the most easterly corner of Lot 7, Phase 1, Hermitage; thence with the line common to said Lot 7, Phase 1, Hermitage, and the property herein described the following courses and distances; North 58 degrees 53'32" West 61.87 feet to an iron pin, South 31 degrees 06'28" West 8.00 feet to an iron pin and North 58 degrees 53'32" West 51.25 feet to an iron pin in the southeasterly line of Lot 8, Phase 1, Hermitage; thence with the southeasterly line of said Lot 8, Phase 1, Hermitage, North 31 degrees 06'28" East 8.00 feet to a point; thence with the northeasterly line of said Lot 8, Phase 1, Hermitage, North 58 degrees 53'32" West 90.78 feet to an iron pin and North 58 degrees 28'25" West 33.47 feet to an iron pin marking a corner common to Lot 9, Phase 1, Hermitage, and the aforementioned property of Beverley Bigelow Byrd; thence with the line common to the said property of Byrd and the property herein described the following courses and distances; North 36 degrees 28'00" East 269.56 feet to an iron pin, South 61 degrees 49'43" East 60.50 feet to an iron pin and North 36 degrees 30'17" East 239.92 feet to the point of beginning, containing 1.7777 acres, more or less, of land, as described on the attach survey marked Exhibit A.

RETURNED TO APPLE COUNTRY 8/17/04

HUNZEKER, LYON & LEGGETT, P.C.
5062 ELM STREET, SUITE 220
MCLEAN, VIRGINIA 22101
17031 734-9068

AND BEING the same property conveyed to Paul L. Wheeler, (no marital status stated), by virtue of Deeds recorded in Deed Book 35, Page 124, Deed Book 39, Page 387, and Deed Book 53, Page 5, among the Land Records of Clarke County, Virginia. NOTE: Paul L. Wheeler departed this life on July 8, 2001, leaving Anne M. Wheeler as his sole devisee (See Last Will and Testament of Paul L. Wheeler recorded in Will Book 69, Page 429).

This conveyance is made subject to the covenants, easements, conditions, restrictions, and rights of way of record.

WITNESS the following signature and seal:

Anne M. Wheeler (SEAL)
Anne M. WHEELER

State of Virginia

County of Loudoun, to wit:

I, the undersigned, a Notary Public for the State and County aforesaid, do hereby certify that on this 13th day of August, 2004, Anne M. WHEELER, whose name is signed to the foregoing Deed dated August 13, 2004, acknowledged the same before me in my State and County aforesaid.

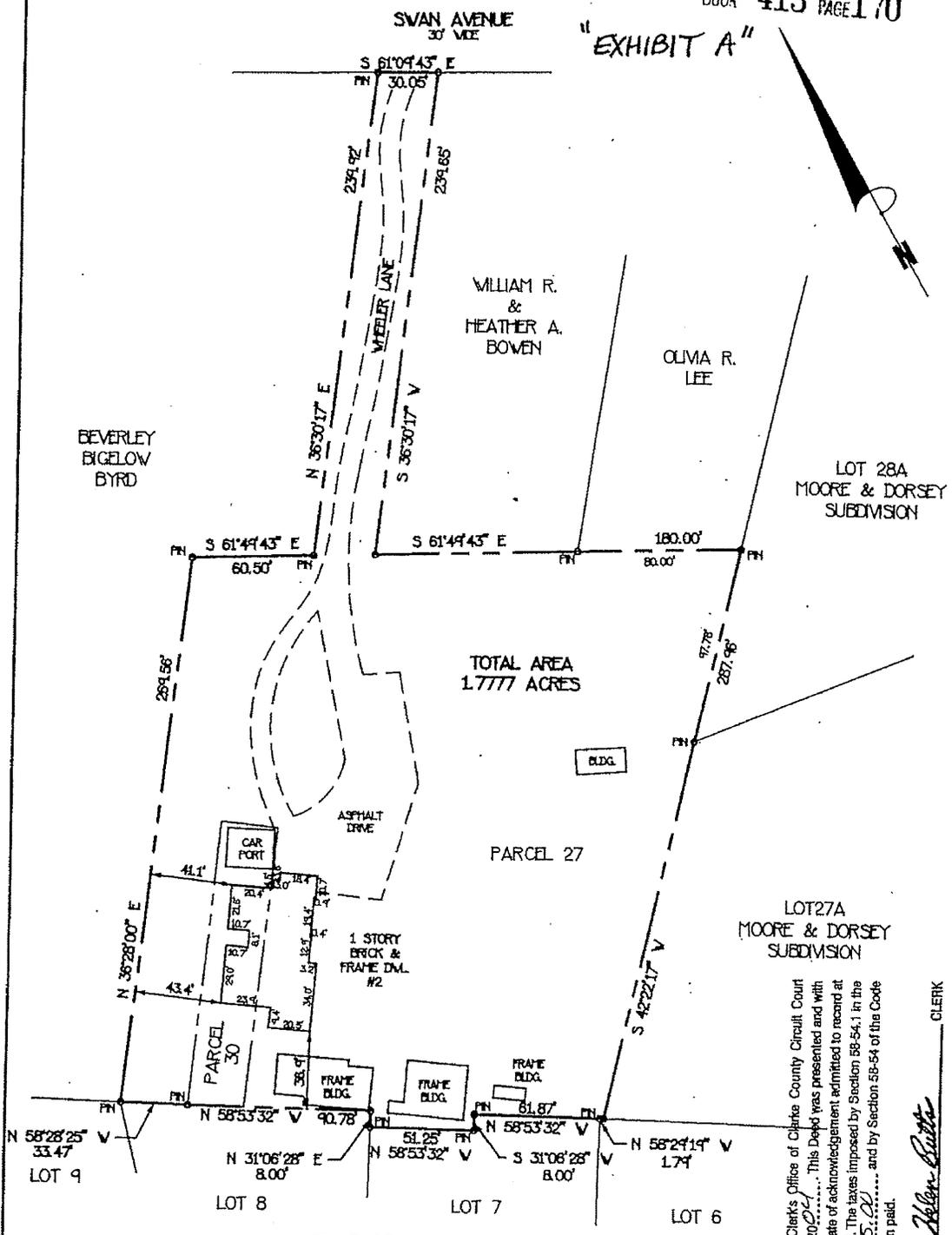


SEAN A. EVERHART
Notary Public
My commission expires 10/31/08

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT NECESSARILY SHOW ALL ENCUMBRANCES ON THE PROPERTY.
ACCORDING TO COMMUNITY-PANEL NO. 510037 B OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR THE TOWN OF BERRYVILLE, VIRGINIA, DATED APRIL 8, 1977, THE PROPERTY SHOWN HEREON APPEARS TO BE WITHIN FLOOD ZONE "413

BOOK 413 PAGE 170

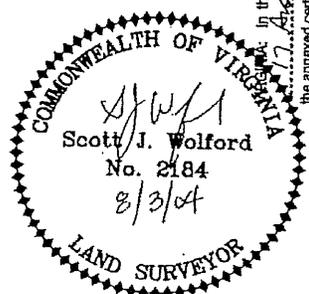
"EXHIBIT A"



In the Clerk's Office of Clarke County Circuit Court
this Deed was presented and with
the annexed certificate of acknowledgement admitted to record at
4:15 P.M. The taxes imposed by Section 58-54.1 in the
amount of \$5,500.00 and by Section 58-54 of the Code
of Virginia have been paid.

TESTE: *Helen Smith* CLERK

HOUSE LOCATION
PROPERTIES TO BE CONVEYED TO
NORMA SLATTERY
(TAX MAP 14A4-A, PARCELS 27 & 30)
TOWN OF BERRYVILLE
CLARKE COUNTY, VIRGINIA
SCALE: 1" = 60' DATE: AUGUST 3, 2004
WOLFORD LAND SURVEYING
106 MONROE'S CIRCLE, WINCHESTER, VA. 22802
(540) 542-1677 FAX (540) 542-1678



PREPARED FOR: MEH SETTLEMENT GROUP, L.C.

RE: SLATTERY

13-1641

THIS DEED, made this 25th day of July, 2013, by and between WILLIAM R. BOWEN and HEATHER A. BOWEN, husband and wife, parties of the first part, Grantors; and CARL H. E. MAPLES and PATRICIA K. MAPLES, husband and wife, parties of the second part, Grantees.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties of the first part do hereby grant, bargain, sell and convey unto the parties of the second part as Tenants by the Entirety with the common law right of survivorship, with General Warranty and English Covenants of Title, the following described real estate, to-wit:

All that certain lot or parcel of land, together with the improvements thereon and appurtenances thereunto belonging, located on the southwest side of Swan Avenue and the southeast side of Wheeler Lane in the Town of Berryville, Clarke County, Virginia, containing 24,559 square feet according to plat and survey thereof prepared by Lee A. Ebert, C.L.S., dated June 22, 1956 and recorded in Deed Book 49 at Page 261 in the Office of the Clerk of the Circuit Court of Clarke County, Virginia; and being more particularly described by plat of house location survey thereof prepared by W. Stuart Dunn, Land Surveyor, dated July 19, 2013, wherein the property is shown as containing 24,562 square feet, which plat is attached hereto and incorporated herein by this reference; the said lot being designated for street purposes as 207 Swan Avenue, Berryville, Virginia.

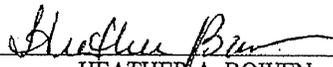
AND BEING the same property conveyed to William R. Bowen and Heather A. Bowen, husband and wife, by Deed from H. K. Benham, III, Executor of the Estate of Patricia K. Nalls, dated February 28, 2003 and recorded February 28, 2003 in Deed Book 370 at Page 215 in the aforesaid Clerk's Office.

This conveyance is made subject to conditions, valid restrictions and rights of way of record.

WITNESS the following signatures and seals:



WILLIAM R. BOWEN (SEAL)

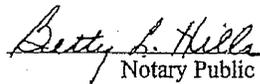


HEATHER A. BOWEN (SEAL)

STATE OF VIRGINIA
COUNTY OF CLARKE, to-wit:

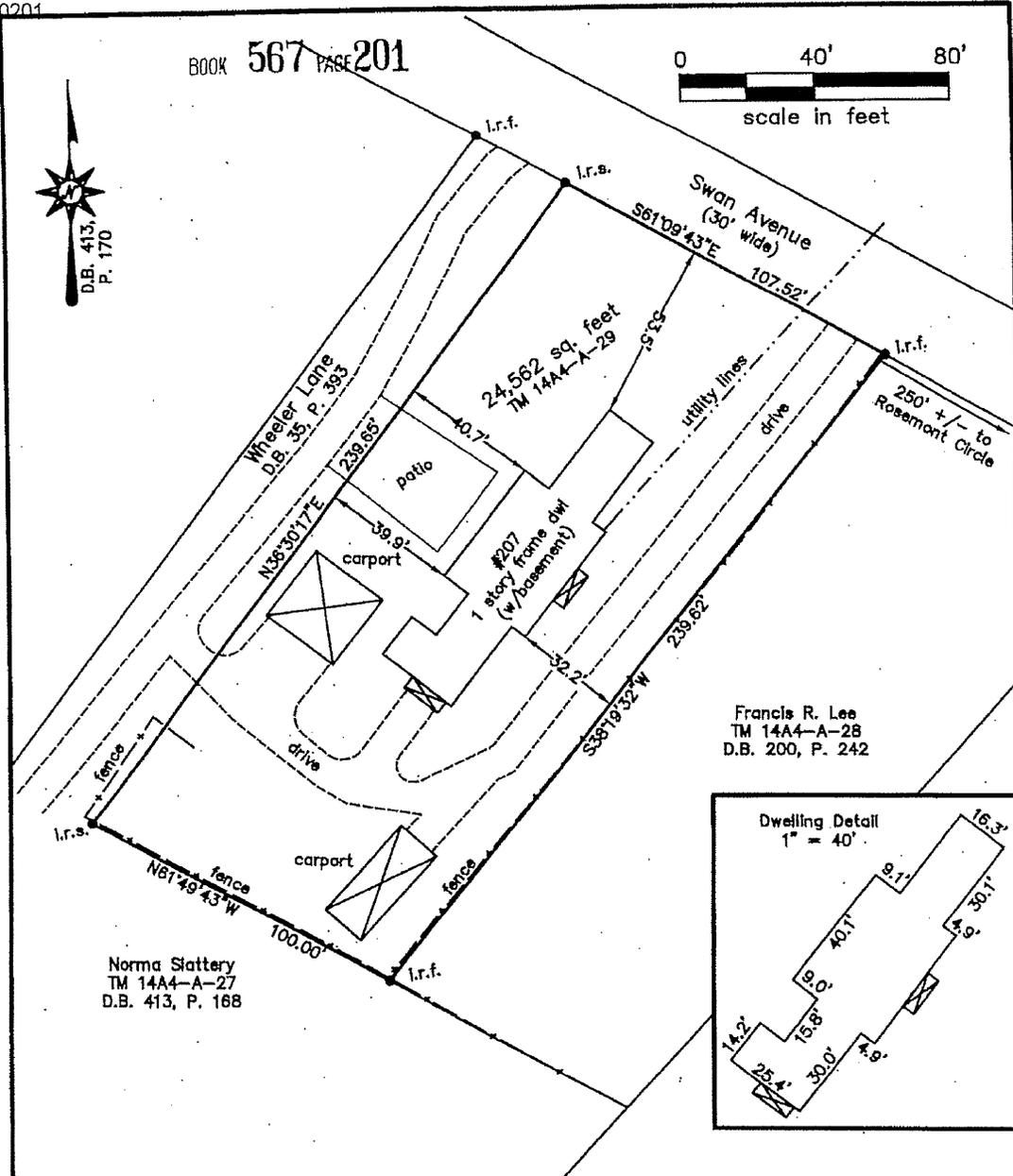
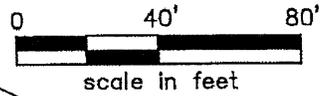
The foregoing DEED was acknowledged before me this 25th day of July, 2013, by WILLIAM R. BOWEN and HEATHER A. BOWEN, husband and wife.

BETTY L. HILLS
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #286206
My Commission Expires Aug. 31, 2015



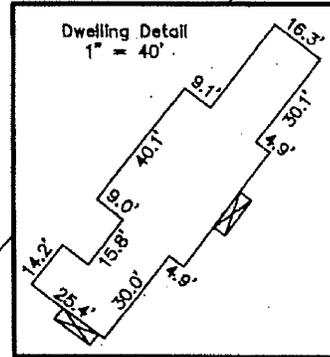
Notary Public

Grantees' Address: 2826 Berryland Drive
Oakton, Virginia 22124
\$455,000.00
Prepared by 7-25-13 John R. Friant, Jr./VSB #18277
Tax Map No. : #14A4-A-29 7-25-13



Norma Slattery
TM 14A4-A-27
D.B. 413, P. 168

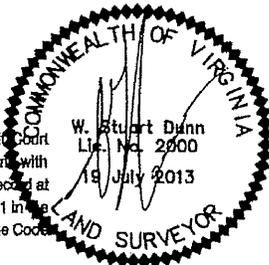
Francis R. Lee
TM 14A4-A-28
D.B. 200, P. 242



House Location Survey of the Land of
William R. Bowen and Heather A. Bowen
Deed Book 370, Page 215 Tax Map 14A4-A-29
Town of Berryville, Clarke County, Virginia

Notes:

- (1) Title inspection furnished by the Law Office of John R. Friant, Jr.
- (2) dwl = dwelling; l.r.f. = Iron rod found; l.r.s. = Iron rod set; TM = tax map identification
- (3) Deed of Dedication for Wheeler Lane recorded in Deed Book 35, Page 393.
- (4) This parcel is in Flood Zone X, established from FIRM Community Panel no. 51043C0063D, effective September 28, 2007.



VIRGINIA: State Clerk's Office, Clarke County Circuit Court
25 July 2013 This Deed was presented and with
the enclosed certificate of acknowledgement admitted to record at
... M. The taxes imposed by Section 58-54.1 in the
amount of \$ 455.00 and by Section 58-54 of the Code
of Virginia have been paid.

Dunn Land Surveys, Inc.
106 North Church Street
Berryville, Virginia 22611
Tel: 540-955-3388
July 19, 2013

TESTE: Helen Butta CLERK

May 6, 1947.

Present at the regular monthly meeting of the Council : The Mayor, Recorder, Secretary Treasurer, and Councilmen Russell, Potts, Allen, and O'Bryan.

The minutes of the last meeting were read and approved.

The following bills were ordered paid:

C & P Telephone Co.	8.30	W.D. Wisecarver & Son	43.35
J. Edward Thoma	3.75	John L. Logan	32.50
Baltimore Office Supply Co.	5.07	Fabric Fire Hose Co.	750.68
The Blue Ridge Press	23.65	H. B. Whiting Co.	32.09
Loring C. Kackley, Clerk	79.33	Locke Bros. Service Stat.	1.44
Penitentiary Industrial Dept.	73.68	Republic Oil Ref. Co.	5.70
Northern Va. Power Co.	113.75	Harry A. Simons	24.94
Ramsburg's Stores	1.00	Phillips Lumber Co.	3.20
Coiner's Dept. Store	3.02	George B. Thomas	13.00
H. N. Ritter	4.50	B. T. Crump Co.	19.57
Shenks Esso Station	14.67		

On motion a request of Mr. Paul Wheeler for water to his development was taken under consideration.

On motion the action at the last meeting directing the transfer of funds to bring the Water Debt Fund Surplus to \$36,666.66 was rescinded.

On motion the Secretary Treasurer was directed to transfer \$10,000 to the Water Debt Fund Surplus and in the future to transfer into this fund \$3,666.67 per year until the Water Bonds become due in 1957.

Councilmen Allen, O'Bryan, and Secretary Treasurer were appointed a committee to study and recommend to the council possible changes in Sewer Service Charges and Water Rates.

On motion Mayor and Secretary Treasurer were directed to request State Forester to investigate and advise whether damage could result from cutting timber on Reservoir property and if not they are hereby authorized to sell such timber to highest bidder and set aside receipts for purchase and planting of trees in the Town of Berryville.

On motion Treasurer was relieved of the following: Uncollectable Licenses - \$20.75; Erroneous Water Rent - \$17.40; Erroneous Sewer - \$7.05.

Councilman Allen, Secretary Treasurer, and Town Attorney were appointed a committee to Draft Ordinance covering installation of water and sewer lines to new development.

On motion Application of James Lichliter for allotment of space in front of Welcome Inn for taxi stand was disapproved.

As there was no further business the meeting was adjourned.

Leonard H. Wolf Mayor. Walter W. Wisecarver Recorder.

May 13, 1947.

Present at a Special meeting of the Council:
The Mayor, Recorder, and Councilmen Russell, Allen, O'Bryan and Potts.

On motion the following resolution was adopted:

Resolution accepting Offer of D. Blanton Allen to the Town of strip of land along the South side of Crow's Alley, Ordering Hard Surfacing of Same.

Be It Resolved by the Town Council of Berryville at Special meeting called for the purpose of considering the matter, that the offer to the Town of D. Blanton Allen to convey to the town a strip ~~xxxxxx~~ of land along the south side of Crow's Alley 12 ft. in width along Church Street and gradually narrowing to 10 ft. on Buckmarsh St. is hereby accepted in consideration for which the town agrees to widen and to hardsurface the present street with the exception of a strip of land 6 feet in width along the entire southern boundary, upon which latter mentioned portion of the property sidewalks shall be constructed upon the usual terms as buildings are erected along the said strip; the town further agrees to place the dirt from that portion of the strip from which it must be removed at low places on the adjacent property of D. Blanton Allen and to there grade same.

Leonard H. Ober
Mayor

Halter O. Huscaw
Recorder.

June 3, 1947.

Present at the regular monthly meeting of the Council:
The Mayor, Recorder, Secretary-Treasurer, and Councilmen Russell, Allen, Potts and O'Bryan.

The minutes of the last meeting were read and approved.

The following bills were ordered paid:

C&P Telephone Co.	\$ 13.50	Harry A. Simons	57.34
W. D. Wisecarver & Son	30.45	Phillips Lumber Co.	19.20
Pittsburg Equitable Meter Div.	130.72	Shackleford's Store	1.83
John A. Chew	78.75	Geo. B. Thomas	133.32
Shenks Essc Station	51.51	Loring C. Kackley, Clk.	60.02
Shirley Lichliter	135.30	Maria V. Morris, Agt.	25.00
Bowerman Bros.	75.00	Northern Va. Power Co.	113.75
Baltimore Office Supply Co.	86.11		

The following ordinance was introduced by Councilman Potts and read for the first time:

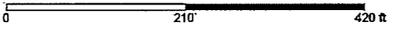
AN ORDINANCE PROVIDING FOR CONSTRUCTION OF WATER MAINS, LATERALS AND SEWER LINES ALONG NEW STREETS IN THE TOWN OF BERRYVILLE.

Be it ordained by the Town Council of Berryville this 3rd, day of June 1947, that upon application of the owner or owners of property situated in the Town along new streets for water mains, laterals and sewer lines to be laid for the purpose of connecting said properties to the Town water and sewer systems, and upon approval by the Town Council of the said application and advance to the Town of the cost in full of said work, the Town shall proceed as soon as practicable to lay the said water lines, laterals and sewer lines, provided, however, that if, at the expiration of 10 years from the date of said construction, the annual rentals from the same shall amount to ten percent (10%) of the cost price thereof, the Town shall refund to the person or persons advancing same, the cost of said construction, without interest. If at the expiration of 10 years after the date of said construction the annual




Public
 Points of Interest
 Parcels With Orths
 Clarke County Boundary
 Major Roads
 Interstate
 US Highway
 State Highway
 Surrounding Counties Opaque
 Surrounding Counties Not Op

The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 09/23/2014 at 10:47 AM

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
June 24, 2015
8:00 a.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Rick Boor, Director of Public Works; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: Val Van Meter, Winchester Star

Other: Alton Echols, Carl Maples, Norma Slattery

1. Call to Order

Committee Chairman Kirby called the meeting to order at 8:00 a.m. and reminded those wishing to speak that eight minutes would be the permitted speaking time.

2. Discussion: Chamberlain and McClellan Streets

Mr. Dalton's report included that efforts over the last 17 years to get these two streets into the VDOT system for maintenance have been unsuccessful. On April 14, 2015, the Town Council gave the developer 60 days to complete improvements and repairs necessary to have the streets brought into the public system for maintenance. At the June Town Council Meeting, the Council granted an additional 60 days. The Chairman recognized Alton Echols who distributed a map of the area in question. He referred to a plat at the Food Lion site with a similar dead end. Chairman Kirby said that the streets had been built in the 1990s, and added that they need to be up to VDOT standards. He said VDOT will not accept a barrier, but instead requires a temporary turnaround area. Chairman Kirby asked for staff input regarding past experience working with Mr. Echols to bring streets up to standard.

Mr. Dalton said numerous punch lists have been made over the years and there are two issues outstanding: slurry coating and the temporary cul-de-sac. He added that the cul-de-sac is essentially in place because the stone base is there, and the encroaching trees can be cut back to allow for the proper radius of the street. Mr. Boor agreed with that statement. Mr. Dalton noted that the Council has granted Mr. Echols an additional 60 days, ending on August 7, 2015, to complete the work covered by the bond.

Mr. Shaffer said it should be verified that the cul-de-sac is up to VDOT standards. Chairman Kirby agreed that when the Town accepts the finished street it needs to be up to VDOT standards. Mr. Shaffer asked if it is known for a fact if all other elements of the street are acceptable. He and Mr. Boor discussed the means of testing the acceptability of the street and cul-de-sac. Chair Kirby noted that August 7 is before the August Council meeting on August 11, and that if Mr. Echols has met his obligations by then, the Council could begin the acceptance process at the August meeting.

3. Discussion: "Wheeler Lane"

Mr. Dalton said that Carl Maples and Norma Slattery were present and referred to the maps, letters, and deeds in the agenda packet. The Chairman recognized Carl Maples. Mr. Maples said that in 1947, Wheeler subdivision was created under the Plat Act of 1888 which was a tool used to protect property ownership rights. He referenced sections 52-17, 52-18, and 52-19 of the Michie Code of Virginia of

1942, which he said addressed a requirement for public access if dividing a parcel into three or more lots. Mr. Maples added that the act said the public access must be recorded with a dedication, and that once recorded, it would be difficult to revoke. Mr. Maples then referenced a letter from the Town and noted that under section 52-19, the Town would not have to maintain the public access if it were not using it. He said the grantor of the access would be responsible for maintenance. Mr. Maples said he had hired an attorney to research the matter, and urged the Town to ask the Town attorney to review the legal opinion he has received from his attorney.

Mr. Shaffer said the Committee cannot respond and said an opinion from the Town attorney, Bob Mitchell, should be sought.

Mr. Dalton asked Mr. Maples to encapsulate what he is seeking from the Town of Berryville. Mr. Maples replied that he wants the Town to recognize the street dedication as being valid and that the street is a public street.

Chairman Kirby recognized the adjoining property owner, Norma Slattery, who said there had been no problem with the previous owners, the Bowens. She said she gave Mr. Maples and the previous owners a right of way to use "Wheeler Lane" which is also her driveway. Ms. Slattery said that if Wheeler Lane is a public street, then she expects the Town to maintain it and she wants to be repaid for the taxes she has paid in it for the last 11 years.

Chairman Kirby said he can't imagine recommending to the Council that Wheeler Lane be made a public street and he wants Bob Mitchell to examine the three documents in regard to public right of way, etc. and Virginia law.

Mr. Dalton said he would contact Bob Mitchell, and will also check to see if this topic qualifies to go to closed session. Chairman Kirby said that Committee meetings are not on a set schedule, and suggested that 60 days would give time for attorney review and opinion before the next meeting.

4. Discussion: Parking Restriction at East Main and Virginia Avenue

Mr. Dalton said that the new owner of 227 East Main Street is unhappy with the parking restriction in front of his home. The owner says that 70' is too long, and he can't park in front of his house. The Committee discussed sight distance for turning on to East Main from Virginia Avenue. Mr. Dalton said a stake had been placed marking an approximately 13' shorter restricted area, providing two parking spaces to the east of the driveway entrance just west of 227 East Main Street. The Committee agreed this was a reasonable reduction, and Chief White concurred. Mr. Dalton noted that VDOT would also be reviewing the reduced restricted area later in the day.

5. Discussion: Reported Speeding Concerns on Page Street

Mr. Dalton said that Patrick Falconi had planned to come to the meeting, but was unable to attend. He said that after Mr. Falconi's previous reports of speeding, traffic studies had been completed in January 2014, July 2014, and May 2015. Mr. Dalton said Mr. Falconi had disagreed with the results of the May 2015 study, and in checking the counting equipment, a problem was found. He said after the problem was addressed, a study was completed in June 2015.

The results for study period December 20, 2013, through January 2, 2014, showed the 85th percentile rate to be 22 m.p.h. The results for study period May 13, 2014, through May 28, 2014, showed the 85th

percentile rate to be 20 m.p.h. The results of the last study period, June 10, 2015, through June 22, 2015, showed the 85th percentile rate to be 24 m.p.h.

Mr. Dalton said that Mr. Falconi has reported "random but surely out of control speeding" on Page Street, and has asked that the speed limit on the wider portion of Page Street be lowered from 25 m.p.h. to 15 m.p.h. Mr. Dalton said he was given a ballpark estimate of \$7000 for the necessary traffic engineering study involved in lowering a speed limit on a state street. Mr. Dalton added that Mr. Falconi had also asked for a speed hump or humps to be installed, and the ballpark estimate for that is \$3000 each.

Chair Kirby asked if other neighbors had complained about speed. Mr. Dalton said a petition had been signed by many neighbors last year. Chief White said he has been there often on patrol, and no residents have complained. He added that it is a calm area with low traffic volume.

Mr. Shaffer said no action needed to be taken, and that repeated requests for review are using time and manpower needed elsewhere. The Committee confirmed the determination of Town Council from the summer of 2014. Mr. Dalton said he will contact Mr. Falconi and let him know that his street will continue to get the same attention and patrol as other Town streets.

6. Other

Mr. Shaffer asked about sidewalk requirements noting the differences in Battlefield Estates. Mr. Dalton said that Town streets have been built under different statutes. Battlefield Estates streets were approved when the area was in the County, but some of the newer streets were built under Town standards which require sidewalk, curb and gutter on all streets. He said a compromise had been made in Darbybrook for Fairfax Street with sidewalk on one side.

Mr. Shaffer asked if there is a standard for handicapped access ramps, noting that there are five or six different styles in Town. Mr. Dalton said there were state inspections of the ramps until 2012 and added that he will clarify the standards. Mr. Shaffer said there is a VDOT approved concrete mix for each structure such as sidewalks, ramps, etc. that would ensure uniformity of the colors and materials across Town if used. Mr. Boor stated that he would examine the standards and address the issue.

Chair Kirby said he was at Rose Hill Park Friday night, and noticed a pickup truck at the gazebo. Mr. Dalton and Mr. Boor said that for loading and unloading of equipment for events in the gazebo, vehicle access is permitted via Smithy Lane ensuring no vehicles will need to cross sidewalks. Mr. Dalton offered to contact "Music in the Park" and ask them to review the permission requirements with participants.

Mr. Shaffer asked if there was any information about a gravel connection off Virginia Avenue going to the old Boise Cascade parking lot. Mr. Dalton and Mr. Boor both stated that they had seen the connection but did not know who had made it. Mr. Dalton discussed having a conversation with the landowner to see if a turnaround of some sort could be constructed at the end of Virginia Avenue.

7. Adjourn

There being no other business, upon motion of Mr. Shaffer, seconded by Chairman Kirby, the meeting was adjourned at 9:54 a.m.

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
August 11, 2015
6:45 p.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager; Ann Phillips, Town Clerk

Other: Carl Maples, Patricia Maples, Norma Slattery

1. Call to Order

Committee Chairman Kirby called the meeting to order at 6:45 p.m.

2. Discussion: "Wheeler Lane"

Chairman Kirby stated the purpose of the meeting was to cover any new information regarding Wheeler Lane. He asked Mr. Dalton to review the history of the topic provide information learned from the Town's attorney.

Mr. Dalton said that he had sent two letters in response to Mr. Maples' inquiries, with the first letter addressing Mr. Maples' concerns about Wheeler Lane being sent after discussion with attorney Michelle Jones because attorney Robert Mitchell was out of town. He said the second letter was reviewed by Mr. Mitchell. Mr. Dalton said that Mr. Mitchell agrees with the Committee that the issue is a land title issue between land owners which does not involve the Committee and confirms that Wheeler Lane is not a public street requiring Town maintenance.

Chairman Kirby said the Committee has never gone against legal advice. He offered the summation that the issue is between two landowners and there is nothing the Committee can do other than say it is a civil case not involving the Town. Mr. Shaffer agreed, saying the matter should be worked out between the two landowners.

3. Other

A. Mr. Dalton said the parking meters have arrived. They will be installed beginning this week starting on Church and Crow Streets.

B. Mr. Dalton said that bids have been received for paving on Walnut and Liberty Streets and that they are favorable.

C. Mr. Dalton explained that cleaning and inspection of culverts in Town is underway. He said the culvert on Chalmers Court at Town Run is in bad shape with bowing and the bottom is out of the pipe. Mr. Dalton said there are two options for repair: insertion and lining (which may be the better option price-wise) or open cut. He added that staff will be meeting with Pennoni to discuss the options, and asked the Committee to plan on meeting after the proposals are in.

D. Mr. Dalton said the VDOT paving of Buckmarsh St. has been moved back to late September or early October which allows the Town to complete a few more things prior to paving.

E. Regarding crosswalks, Mr. Dalton said that with paving being delayed, the crosswalk repair and replacement will probably be pushed back to spring. He said that he will confirm that the prices quoted will hold until spring.

F. Mr. Dalton said that VDOT now plans to mill the whole street when paving Rt. 340, so the manhole rings ordered previously are now surplus.

G. Mr. Dalton said with the parking meter installation, Public Works will defer the Battletown Drive water line project until September. He said there is also a water project on South Buckmarsh being deferred that can be done over the winter if the weather is mild.

4. Adjourn

There being no other business, upon motion of Mr. Shaffer, seconded by Chairman Kirby, the meeting was adjourned at 7:05 p.m.

HALL, MONAHAN, ENGLE, MAHAN & MITCHELL

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

WILBUR C. HALL (1892-1972)

THOMAS V. MONAHAN (1924-1999) 7 & 307 EAST MARKET STREET

SAMUEL D. ENGLE

O. LELAND MAHAN

ROBERT T. MITCHELL, JR.

JAMES A. KLENKAR

LEESBURG, VIRGINIA

TELEPHONE 703-777-1050

9 EAST BOSCAWEN STREET

WINCHESTER, VIRGINIA

TELEPHONE 540-662-3200

FAX 540-662-4304

E-MAIL lawyers@hallmonahan.com

PLEASE REPLY TO:

P. O. Box 848

WINCHESTER, VIRGINIA 22604-0848

September 23, 2016

Mr. Carl Maples
207 Swan Avenue
Berryville, VA 22611

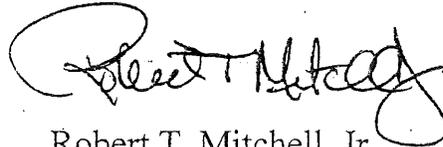
Re: "Wheeler Lane"

Dear Mr. Maples:

I am counsel for Clarke County, and I have been asked to respond to your letter of September 8, 2016 to Gordon Russell, Director of Information Technology, and your related discussion with Commissioner of Revenue Donna Peake.

The Clarke County land records show that the area referred to as "Wheeler Lane" is a portion of Tax Parcel No. 14A4-A-27. While the portion of Tax Parcel 14A4-A-27 which is known as "Wheeler Lane" may be subject to a "public easement or public right of passage" as set forth in the 1947 Dedication recorded in the land records in Deed Book 35 at Page 393, it nevertheless is a portion of Tax Parcel No. 14A4-A-27 and properly assessed and taxed as a portion of that parcel.

Very truly yours,



Robert T. Mitchell, Jr.

RTM/ks

CC: Gordon Russell, Director of Information Technology
Donna Peake, Commissioner of Revenue
David Ash, County Administrator

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 20. Streets and Alleys

§ 15.2-2006. Alteration and vacation of public rights-of-way; appeal from decision.

In addition to (i) the powers contained in the charter of any locality, (ii) any powers now had by such governing bodies under the common law or (iii) powers by other provisions of law, public rights-of-way in localities may be altered or vacated on motion of such governing bodies or on application of any person after notice of intention to do so has been published at least twice, with at least six days elapsing between the first and second publication, in a newspaper having general circulation in the locality. The notice shall specify the time and place of a hearing at which persons affected may appear and be heard. The cost of publishing the notice shall be taxed to the applicant. At the conclusion of the hearing and on application of any person, the governing body may appoint three to five people to view such public right-of-way and report in writing any inconvenience that would result from discontinuing the right-of-way. The governing body may allow the viewers up to fifty dollars each for their services. The sum allowed shall be paid by the person making the application to alter or vacate the public right-of-way. From such report and other evidence, if any, and after the land owners affected thereby, along the public right-of-way proposed to be altered or vacated, have been notified, the governing body may discontinue the public right-of-way. When an applicant requests a vacation to accommodate expansion or development of an existing or proposed business, the governing body may condition the vacation upon commencement of the expansion or development within a specified period of time. Failing to commence within such time may render the vacation, at the option of the governing body, void. A certified copy of the ordinance of vacation shall be recorded as deeds are recorded and indexed in the name of the locality. A conditional vacation shall not be recorded until the condition has been met.

Any appeal shall be filed within sixty days of adoption of the ordinance with the circuit court for the locality in which the public right-of-way is located.

Code 1950, § 15-766; 1950, p. 725; 1952, c. 580; 1956, c. 487; 1958, c. 196; 1962, c. 623, § 15.1-364; 1964, c. 13; 1972, c. 357; 1973, c. 71; 1980, c. 236; 1982, c. 381; 1983, c. 33; 1984, c. 175; 1986, c. 41; 1997, c. 587.

Attachment 2

Water/Sewer Bill Adjustment – John H. Enders Volunteer Fire Company

The John H. Enders Volunteer Fire Company experienced a significant leak between the water meter and the fire hall building. The location of the leak made the repair a challenge to repair and while the Company immediately notified the Town of the leak and worked to secure the services of a plumbing contractor to repair the leak, the time the leak was active spanned two reading cycles. In a typical situation, the service would have been disconnected but given the nature of the use, the lateral remained active until the repair was completed.

The Town provided an adjustment to the May bill (for 88,000 gallons of usage) in accordance with the Town of Berryville Water and Sewer Billing Adjustment Policy. That policy will not permit a further adjustment as requested by the John H. Enders Volunteer Fire Company.

Please find attached the Town of Berryville Water and Sewer Adjustment Policy. Please also find attached a letter from John H. Enders Fire Company requesting that the second bill be adjusted as well.

The usage in the billing period in question was 34,000 gallons. If the adjustment criteria in the policy were applied to this bill, then the billed sewer usage would drop to 9,000 gallons and the billed water usage would drop to 21,500 gallons of usage.

TOWN OF BERRYVILLE
Water and Sewer Billing Adjustment Policy

Purpose:

This policy applies to the adjustment of unusually high water and sewer bills resulting from water leaks or other circumstances resulting in abnormally high water usage. This policy enumerates the authority of the Town Manager, or designee, to grant adjustment of unusually high water and sewer bills upon request of the person or entity responsible for a water account.

Background:

Where properties are connected to the Town of Berryville's water and sewer systems, the customer is responsible for: 1) the proper provision, monitoring, operation, maintenance, repair, and replacement of all water lines and components of the system from the customer's side of the water meter and 2) the proper provision, monitoring, operation, maintenance, repair, and replacement of all sewer lines and components of the system from where it intersects the Town's main.

Procedure:

All requests for bill adjustment must be made within ten days of the billing date utilizing the Town of Berryville Water and Sewer Billing Adjustment Request Form. The customer must also provide a plumber's certification and, when the abnormal usage is greater than three-times the account's average usage, a letter from the property owner's insurance company verifying that a claim has been made in this matter and providing what portion of the water/sewer bill will be paid by the insurance company.

The Town Manager, or designee, will review the request and provide written notice of his/her decision. Most decisions will be rendered within ten days of receipt of the adjustment request.

Only one bill adjustment may be made for any account in any given twelve month period.

Review Criteria:

The Town Manager, or designee, will review adjustment requests in accordance with the following criteria:

- For leaks occurring in the service line between the water meter and the building the meter serves, the Town may approve adjustment to the sewer usage if it is found that the leaking water did not enter the sewer system. Such adjustment

may not exceed the difference between the account's average usage over the past twelve months and the high usage resulting from the leak. The Town may approve adjustment to the water usage if it finds that the leak was repaired in a timely fashion after discovery. Such adjustment may not exceed one-half of the difference between the account's average usage over the past twelve months and the high usage resulting from the leak.

- For leaks or unintended usage from exterior hose connections, the Town may approve adjustment to the sewer usage if it finds that the leaking water did not enter the sewer system. Such adjustment may not exceed the difference between the account's average usage over the past twelve months and the high usage resulting from the leak.
- For abnormal water usage attributable to usage in or by faucets, pipes, water heaters, furnaces or other interior plumbing facilities within the building the water meter serves, the Town may adjust the sewer usage if it finds that the leaking water did not enter the sewer system. Such adjustment may not exceed the difference between the account's average usage over the past twelve months and the high usage resulting from the leak.
- The Town will not approve adjustments for abnormal water usage attributable to filling of pools or watering of lawns or landscaping.
- The Town will not approve adjustments for abnormal water usage which has not or cannot be sufficiently explained.

When reviewing adjustment requests the Town will take into account, among other factors, whether any of the usage resulted from another party's negligence. Where negligence is found the Town may determine that no adjustment is warranted. As a part of request reviews the Town will also consider the insurance claim determination as a part of establishing an adjustment amount.

Meter Testing:

Customers may at any time request that their water meter be tested for accuracy. If a customer wants to have the water meter that serves their account to be tested, then they must contact the Town Business Office and request the test. At the time of the request the customer must pay a meter testing fee as established by the Town Council. The fee in question will be refunded if it is found that the meter in question does not meet American Water Works Association standards for accuracy. Further, if it is found that

the meter does not meet American Water Works Association standards for accuracy then the Town will review the account for possible adjustment.

Appeals:

If the customer requesting the bill adjustment believes that the Town has erred in making the adjustment decision or has not made a determination on an adjustment request in a timely manner, then he/she may appeal the matter to the Town Council. This appeal must be made in writing within ten days of the date of the decision on the adjustment or within thirty days of the original request if the appeal is based on the Town's failure to render a decision on the review request. If the appeal is based on the belief that the Town erred in making its decision on the bill adjustment request, then the appeal request must specify the finding of fact or policy application the requester believes was made in error.

Adjustment determinations made because a meter has been found to be inaccurate (after testing) may be appealed to the Town Council if the customer believes that the adjustment is not sufficient.

The Town Council will review all adjustment appeals and will provide written notice of their decision to the customer.

Customer Responsible for Payment during Review:

While an adjustment request and/or appeal is being processed, the customer is responsible for payment of the entire amount due within the normal payment period or the customer may enter into a payment agreement with the Town. If the customer neither makes full payment during the normal payment period nor enters into a payment plan with the Town, then the customer is subject to all applicable collection activities and termination of service.

Burden of Proof:

The implicit burden of proof in the adjustment request pursuant to these policies rests with the customer, not the Town of Berryville. Failure to comply with the requirements of this policy will result in the denial of the adjustment request.

Effective Date:

March 12, 2015



JOHN H. ENDERS FIRE CO., INC. & RESCUE SQUAD

9 South Buckmarsh Street
Berryville, Virginia 22611



July 25, 2017

Keith Dalton
Town Council
Town of Berryville
101 Chalmers Court Suite A
Berryville VA 22611

RE: Water Main Leak at John H. Enders Fire and Rescue

Dear Mr. Dalton and Members of the Town Council:

We are respectfully requesting an exception to the town's policy of granting one water/sewer bill adjustment in a calendar year.

As you are aware we had a major leak with the water main that services our building. It was first discovered when our meter was read and then because of the complexity of getting access to the water main under our front apparatus apron it took several days to get the repairs made. Also, the size of the main servicing our building is larger than normal residential service lines.

Because we needed to maintain water at the station until the repairs could be made, we have incurred a second large bill.

We greatly appreciate all the Town of Berryville's help with identifying the source of the leak and all the help with the first bill adjustment and we are asking for your help through this current billing cycle.

Enclosed is an estimated payment based on our normal average usage of \$280 per month. Thank you for any assistance you can give in adjusting our current bill.

Sincerely,

Chris Shipe
President