1. Organizational Meeting
   Election of Chairman
   Election of Vice-Chairman
   Adoption of Rules of Order
   Establish Dates and Times for Regular Meetings
   Close Organizational Meeting

2. Call To Order

3. Approval Of Minutes

4. Public Hearings

4.I. V-03-2018 – Horstick, Jeremiah (CORELOT), Applicant; Fleming-Dahl, Arthur & Marie, Owner

   V-03-2018 – Horstick, Jeremiah (CORELOT), Applicant; Fleming-Dahl, Arthur & Marie, Owner: Request a variance to Article XV, Supplemental Regulations, Section 4 (Accessory Building & Uses), Paragraph 3, on tax map #67A2-1-1177, consisting of 1.3 acres, more or less, zoned R-1, Low-Density Residential. This property is located at 306 Lake Caroline Drive, Lot 1177 Lake Caroline Development, Ruther Glen, Madison Voting District. Proposed Variance: To allow an accessory structure (detached garage) to be constructed in the front yard of a single family dwelling lot where it is prohibited.

   Documents:

   V-03-2018 FLEMING-DAHL VARIANCE STAFF REPORT PACKET 01-10-19.PDF

5. Any And All Matters

6. Adjournment
CAROLINE COUNTY BOARD OF ZONING APPEALS     JANUARY 10, 2019 REGULAR MEETING

CASE NUMBER: V-03-2018
CASE NAME:  FLEMING-DAHL VARIANCE
LOCATION:  306 LAKE CAROLINE DR.
TAX MAP:  67A2-1-1177
ZONING:  R1
ACREAGE:  1+/- ACRES (TOTAL)
DISTRICT:  MADISON

REQUEST:
The applicant is requesting a variance to allow a detached garage to be built in the front yard of the parcel on which a single family dwelling is located. Accessory structures are required by Section 4, Article XV of the Caroline County Zoning Ordinance to be located in the rear or side yard.

DISCUSSION
The applicant is requesting a variance to allow a detached garage to be built in the front yard of the parcel on which a single family dwelling is located in the Lake Caroline subdivision.

The applicant would like to construct a detached garage for the storage of their personal vehicles and items to be stored. According to the survey provided by the applicant, there is RPA(Resource Protection Area) to the rear of the single family dwelling. Resource protection areas have a buffer of 100’ that should not be encroached upon. There is also a steep slope that surrounds the dwelling as the land slopes towards Lake Caroline. The property is also hindered by the drainfield location on the property as a structure cannot be built above the drainfield. The applicant is proposing that the detached garage will meet all other setbacks for the property and is only requesting a variance for the structure to be located in the front yard.

The applicant has responded to the variance statements from the Caroline County Zoning Ordinance in a separate document which is attached.
§ 15.2-2201 of the Code of Virginia states that a "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.

Excerpt from the Caroline County Zoning Ordinance, Article VIII, Board of Zoning Appeals: Section 4, Variances, Sub-Section B. Authorization and Standards

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 of the Code, 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 of the Code 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 this ordinance, and

(i) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
(ii) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
(iii) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
(iv) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
(v) The relief or remedy sought by the variance application is not available through the County's special exception process or the process for modification of the County's zoning ordinance at the time of the filing of the variance application.
**PLANNING & DEVELOPMENT APPLICATION**

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

233 WEST BROADDUS AVENUE

BOWLING GREEN, VA 22427

(804) 633-4303

(804) 633-1766

WWW.VISITCAROLINE.COM

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**Tax Map Number:** 2016

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**Date Submitted:** 10/30/18  
**Case Number:** __________

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**1. Type of Request**

- ☐ Rezoning: From _____ To _____
- ☐ Proffer Amendment __________
  (Rezoning Case #)
- ☐ Special Exception: __________
  (Ordinance Section)
- ☐ Site Plan: _____ Major _____ Minor
- ☐ Variance: __________
- ☐ Administrative Appeal __________
- ☐ Comp. Plan Amendment __________
- ☐ Other __________
- ☐ Subdivision (Major)
  - _____ Preliminary
  - _____ Final
  - _____ Concept
- ☐ Subdivision (Other)
  - _____ Minor
  - _____ BLA/Vacation
  - _____ Family

---

**2. Property Information**

**Tax Map Number:** 67A2-1-1177  
**Current Zoning:** R-1

**Acreage of Request:** 1.34  
**Total Acreage:** 1.34

**Physical Address/Location:** 306 Lake Caroline Dr, Ruther Glen, VA 22546

**Voting District:** South Madison  
**Utilities:** _____ Public  
_____ Private  
_____ Existing  
_____ New

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**3. Contact Information**

**Applicant Name:** Jeremiah Horstick, CORELOT  
540.785.7500

**Mailing Address, City, State, Zip Code:** 1320 Central Park Blvd, Suite 200, Fredericksburg VA, 22401

**Owner(s) Name (Attach separate sheet(s) if necessary):** Marie & Art Fleming-Dahl  
703.582.9694 / 571.280.5762

**Mailing Address, City, State, Zip Code:** 306 Lake Caroline Dr, Ruther Glen, VA 22546

**Main Point of Contact:** Jeremiah Horstick  
540.369.3243 / 540.785.7500

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**Daytime Phone Number:**
4. Fee Schedule

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee Structure</th>
<th>Total</th>
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<tr>
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<tr>
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<td>Special Exception</td>
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<td>Base Fee x Acreage</td>
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<tr>
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<tr>
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<tr>
<td>Subdivision: Minor</td>
<td>$250 - Minor + $200 - BLA + $100 - Vacation + $200 + $50 per new lot - Family</td>
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<td>Concept Plan</td>
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<tr>
<td>Other</td>
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<td>Total</td>
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</tr>
</tbody>
</table>

Check # 1247

Cash

Charge

Receipt #

Review by / Comments: ____________________________

5. I/we read this completed application, understand its intent and freely consent to its filing. The information provided is accurate to the best of my/our knowledge. I understand that the County may approve, conditionally approve, or deny the request for which I am applying. Furthermore, I grant permission to the Department of Planning and Community Development and other authorized government agents to enter the property and make such investigations as they deem necessary to evaluate the request.

Arthur Fleming-Dahl
Owner Signature

Agent/Applicant Signature

Arthur Fleming-Dahl
Owner's Name

29 Oct 2018
Date

Jeremiah Horstick
Agent/Applicant Name

10/29/18
Date

*Note: An application shall not be deemed officially filed until all required plans, plats, fees and supporting documentation are submitted to this Department.*
67A2-1-1177 - 306 Lake Caroline – Application for Variance

Subject Property: 67A2-1-1177

Property Address: 306 Lake Caroline Dr, Ruther Glen, VA 22546

Owners: Marie & Arthur Fleming-Dahl

Narrative:

1. The specific provision(s) of the Ordinance from which a variance is sought:
   Article XV Supplemental Regulations, Section 4 Accessory building and Uses, subsection 3:
   “3. An accessory use or structure is permitted in a rear yard of a single family dwelling in a Residential or Rural Residential District subject to the following:

2. The natures and extent of the variance sought
   The Fleming-Dahls would like to build a garage in their front/side yard.

3. The special conditions of the property or the nature of the use and/or development of immediately adjacent property which would make such a variance necessary
   a. The property is largely covered by a non-buildable Resource Protection Area (RPA)
   b. The drainfield design on file at the Environmental Health Department inaccurately reflects the location of drainfield components while the true as-built conditions make it impracticable to access any area in the back or immediate side yard.
   c. The property is largely comprised of exceptional topographical conditions in the form of high slopes over the entire lot with exception to the house site, drainfield site and proposed accessory structure site.

4. Description of the proposed use
   The Fleming-Dahls intend to use the accessory structure to park their vehicles and store their personal belongings.

5. Copy of the deed verifying ownership of the property
   *See Attached “Exhibit A”

6. Recent boundary survey
   *See Attached “Exhibit B”
Article XVIII Board of Zoning Appeals

Section 4 VARIANCES

A. Initiation

A property owner, an owner acting jointly with a lessee of the property involved, or any person under bona fide contract to purchase same, may apply to the Board of Zoning Appeals for a variance of the strict application of the terms of this Ordinance.

B. Authorization and Standards

1. 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 of the Code, 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 of the Code 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 this ordinance, and

(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
(iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
(v) the relief or remedy sought by the variance application is not available through the County’s special exception process or the process for modification of the County’s zoning ordinance at the time of the filing of the variance application.

No variance shall be considered except after notice and hearing as required by § 15.2-2204 of the Code. 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.

2. The concurring vote of a majority of the Board of Zoning Appeals shall be required to authorize a variance.
In response to the county ordinance Article XVIII, Sec 4, B, 1, i-v:

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;

The Fleming-Dahls acquired their property in good faith, under the assumption that they would be able to build a garage. Aside from the topographical issues and RPA on the property, the incorrect information at the Environmental Health Department demonstrates the potential to build a garage on the right side of the house. This hardship is not self-inflicted. Furthermore, the existence of several properties in the community reflects what would appear to be a de facto right to build an accessory structure in a front yard.

Some of the properties in the community with accessory structures in the front yard include:

   “See Attached “Exhibit E”

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;

The location of the proposed garage is within the usual setbacks and falls on what used to be another lot. The current property is the result of two consolidated lots. The adjacent lot to the Fleming-Dahl property is uninhabited and utilized for storm-water management by Lake Caroline. The proposed location is relatively far from any other dwellings taking into consideration the typical lot size and proximity in the community.

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;

The conditions of the Fleming-Dahl property are unique and not of a general or recurring nature. This situation has not been presented to the BZA in at least the past 3 years per the meeting minutes available on the county’s website.

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

The granting of this requested variance does not result in a use that is not otherwise permitted in the R-1 zoning district nor does it result in a change of the zoning classification of the property.

v. the relief or remedy sought by the variance application is not available through the County’s special exception process or the process for modification of the County’s zoning ordinance at the time of the filing of the variance application.

No special exception process exists to administratively approve a variance such as this. The process for modification of the county’s zoning ordinance does not relieve the hardship endured by the Fleming-Dahls.
Article XVIII Board of Zoning Appeals

Section 4  VARIANCES

D.  Prohibited Variances & Limitations

No variance shall be authorized by the Board of Zoning Appeals that would:

1. Permit the establishment of a use not otherwise permitted in the zoning district as set forth in this ordinance.

2. Result in an increase in density from that permitted by the applicable zoning district regulations as set forth in this ordinance.

3. Relate to signs, except as specifically qualified by the provisions of this ordinance (sign regulations).

4. Whenever an application for a variance has been denied by the Board, at least one (1) year shall elapse before reconsideration of the same application or one substantially similar.

In response to the county ordinance Article XVIII, Sec 4, D, 1-4:

No variance shall be authorized by the Board of Zoning Appeals that would:

1. Permit the establishment of a use not otherwise permitted in the zoning district as set forth in this ordinance.

   The proposed use is permitted in the R-1 zoning district.

2. Result in an increase in density from that permitted by the applicable zoning district regulations as set forth in this ordinance.

   The proposed garage will not be considered living space now will it house any additional occupants. The proposed variance will in no way result in an increase in density from that permitted by the R-1 zoning district.

3. Relate to signs, except as specifically qualified by the provisions of this ordinance (sign regulations).

   The proposed variance is not related to signs.

4. Whenever an application for a variance has been denied by the Board, at least one (1) year shall elapse before reconsideration of the same application or one substantially similar.

   No application for a variance pertaining to this issue has been presented nor denied by the Board in the last year.
Conclusion:

The long & short of this request is that the ordinance unreasonably restricts the utilization of the property. In other circumstances, the propose location of the accessory structure would by all measures be an acceptable location to build a single-family home because it is within the prescriptive set-backs. Given the hypothetical circumstance of this being a vacant lot, a house could be built in what is currently the front yard and the detached garage could be built in the proposed location per the current ordinance.

The garage will be built with similar exterior finishes to the existing structure creating a result harmonious with the surrounding community.

In this special and unique case, having exhaustively explored any alternative to produce a reasonable and practical solution to the Fleming-Dahl’s hardship, we have determined that no other options are available.

Attachments:

Exhibit A: Deed
Exhibit B: Survey
Exhibit C: Drainfield File from the Environmental Health Department
Exhibit D: GIS Snip
Exhibit E: Properties in the Community with Accessory Structures in the Front Yard

Respectfully,

Jeremiah Horstick
CORELOT
NOTES:
1. NO TITLE REPORT FURNISHED
2. EASEMENTS NOT SHOWN MAY EXIST
3. UNDERGROUND UTILITIES AND SUB-
SURFACE FACILITIES NOT LOCATED
4. THIS SURVEY DOES NOT ADDRESS
WETLANDS, TOXIC OR CONTAMINATED
WASTE OR SOIL CONDITIONS NOR HAVE
ANY REPORTS, STUDIES, ETC... BEEN
FURNISHED TO THIS SURVEYOR OTHER
THAN THOSE NOTED.
5. ZONE "X" PER FLOOD INSURANCE RATE
MAP, COMMUNITY—PANEL NO. 510249
0150 B; DATED: AUGUST 15, 1989

PLAT OF CONSOLIDATION
LOTS #1177 & 1178
LAKE CAROLINE
RESORT DEVELOPMENT
MADISON DISTRICT
CAROLINE CO., VA.

SCALE 1" = 40' DECEMBER 14, 1998
REVISED DECEMBER 22, 1998
WEBB AND ASSOCIATES
10729 TIDEWATER TRAIL
FREDERICKSBURG, VA. 22408
DISCLAIMER: This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and Caroline County is not responsible for its accuracy or how current it may be.
67A2-1-1177 - 306 Lake Caroline – Application for Variance - "Exhibit E"

PG2of3

206 Lake Caroline Dr