

CASE NUMBER: 21AN0105

APPLICANT: James W. Gish



**STAFF'S ANALYSIS
AND
RECOMMENDATION**

Board of Zoning Appeals (BZA)

90 DAYS

Public Hearing Date:

OCTOBER 7, 2020

Applicant's Agent:

JENNIFER RESNICK

(804-536-8671)

Planning Department Case Manager:

AMY SOMERVELL

(804-748-1970)

CHESTERFIELD COUNTY, VIRGINIA

Magisterial District: **Matoaca**



7521 River Road – 12.8 acres

REQUEST

A variance to use a parcel of land which fronts on a dedicated, but unimproved public right of way (Kofron Drive) for dwelling purposes in an Agricultural (A) District.

Note:

Recommended conditions are located in Attachment 1.

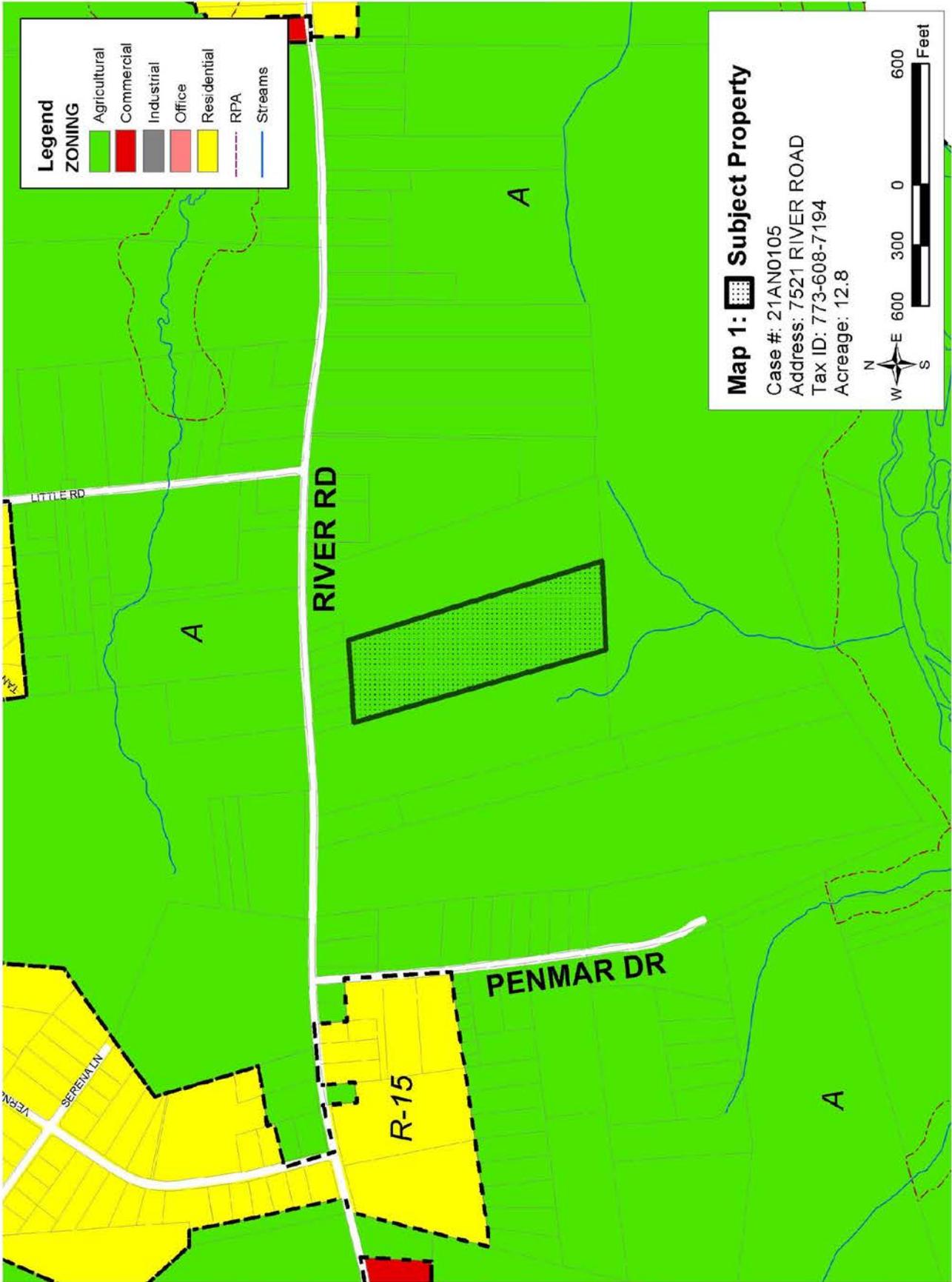
RECOMMENDATION

STAFF

RECOMMEND APPROVAL

- Strict application of the Ordinance requirements for public road frontage would unreasonably restrict use of the property.
- There are conditions upon which this request is based that is unique to the property.
- No practical alternative exist that would eliminate the need for this variance request.

SUMMARY OF IDENTIFIED ISSUES	
Department	Issue
CDOT	<ul style="list-style-type: none"> • A license agreement must be obtained from the Board of Supervisors to use Kofron Drive as a dedicated but unimproved right of way. • Although a license agreement requires private maintenance agreement, the County often is requested to preform road maintenance without budgeted funds. • Chesterfield Department of Transportation (CDOT) supports improvements and acceptance of Kofron Drive into the State system.



Map 2: Surrounding Land Uses & Development



PLANNING

Staff Contact: Amy Somervell (804-748-1970) somervella@chesterfield.gov

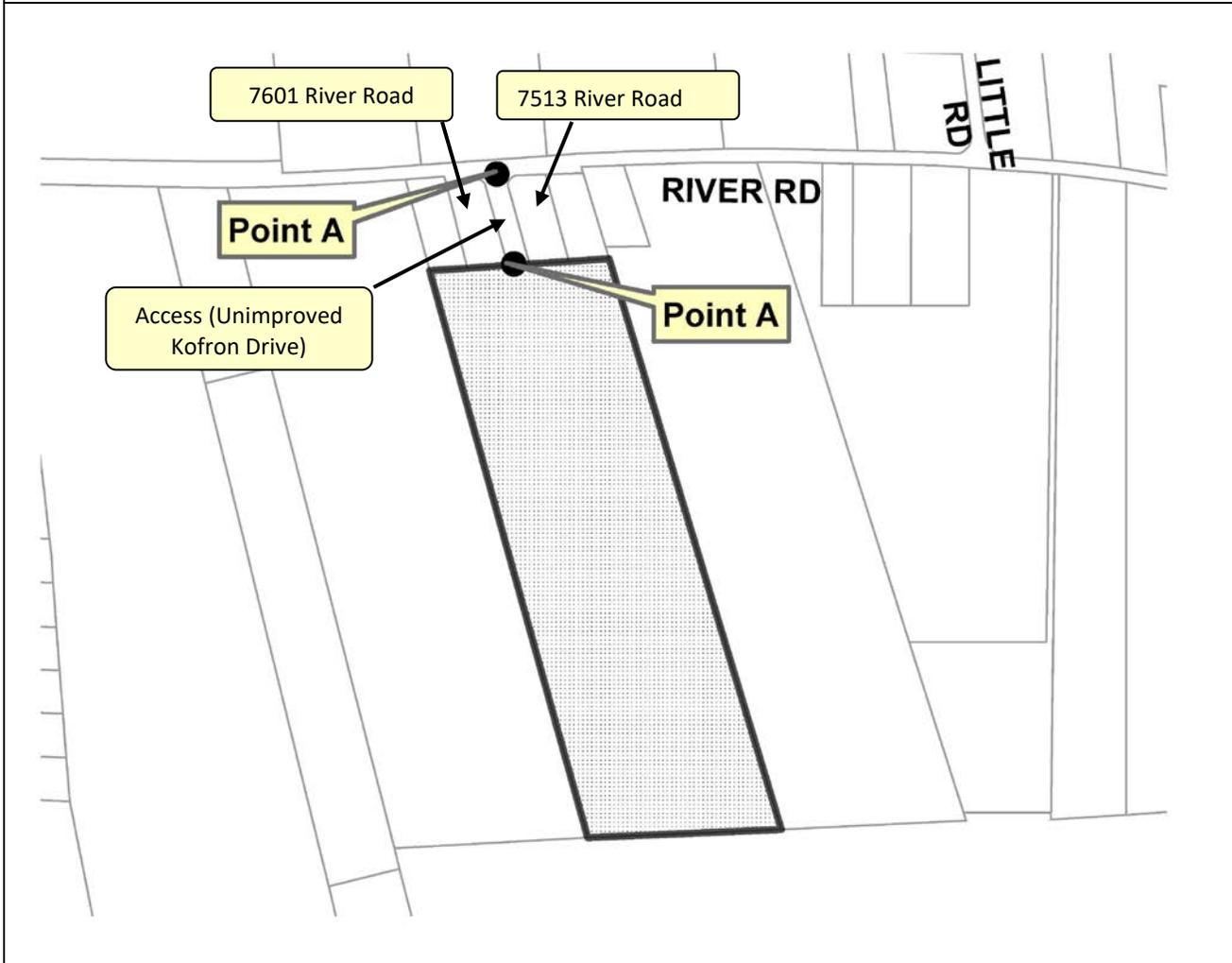
BACKGROUND

The Zoning Ordinance requires a property being used for dwelling purposes to have a minimum of fifty (50) feet of public road frontage (i.e., accepted into the State Highway System for maintenance).

- The Board of Zoning appeals hears requests for no public road frontage for parcels meeting one of the following criteria:
 - Recorded prior to April 1976
 - Subdivided for a member of the property owner's immediate family
 - Recorded through the plat validation process
- The subject property was created in 1964 prior to County road frontage requirements.
- Kofron Drive (proposed access) was recorded as a fifty (50) foot right of way as part of the Kofron Subdivision plat in 1964. Kofron Drive was never constructed and accepted into the State system.
- A license agreement must be obtained from the Board of Supervisors to use Kofron Drive as a dedicated but unimproved right of way.
- The lack of public road frontage may be rectified by either receiving a variance for no public road frontage or rezoning and subdivision approval to permit construction of a State road.

Map 3: Access Plan

The access is proposed over Kofron Drive that is dedicated but unimproved from Point A to Point B as shown on the map.



PROPOSAL

The applicant offers the following justification for this request:

"I have owned this parcel since 2000 and inherited it from my mother who purchased it in 1971. I incorrectly understood that I owned Kofron Drive and would be able to have a driveway to my property. As I'm approaching retirement, I want to sell the land and put that money toward my retirement. Not having the variance will decrease the usability of the land. The land is 12.39 acres and should provide adequate space for one single-family house. One house should have minimal impact on surrounding properties."

ACCESS

Staff's inspection of the property revealed the following:

- Kofron Drive is undeveloped and will require full construction to comply with access standards.
- Kofron Drive does not serve as access for any single-family dwelling.

This access does not meet standards typically imposed with requests such as this. Conditions ensure compliance with minimum access road standards from Point A to Point B (Access Plan) to support fire equipment and/or ambulances, as requested by the Chesterfield County Fire Department.

EXAMINATION OF ALTERNATIVES

Staff evaluated two alternatives to this variance request. The first involved improving Kofron Drive for State acceptance. The unimproved portion of Kofron Drive is dedicated right of way which allows for road construction. However, the subject property is zoned Agricultural and the amount of road construction needed to accommodate this use could not be contained within the dedicated right of way. Additionally, the criterion for acceptance by Virginia Department of Transportation (VDOT) requires the road be built to State standards and a minimum of three occupied dwellings use the road within the portion that is to be accepted into the State system. In this case, only the subject property would enjoy this access, not meeting VDOT's criteria for acceptance.

Secondly, staff evaluated the possibility of vacating Kofron Drive to achieve required road frontage off River Road by combining the vacated portion of right of way to the subject property. However, vacating Kofron Drive would split the right of way down the middle; giving ownership to adjacent lots 7513 & 7601 River Road further blocking the subject parcel from River Road (Map 3). Private agreements could be made to purchase the vacated right of way from the adjacent property owners to allow for a Parcel Line Modification achieving required road frontage off River Road. However, the applicant is not is not amenable to entering into such private agreements. As such, Staff has determined that a practical alternative is not available that would alleviate the need for this variance request.

COUNTY DEPARTMENT OF TRANSPORTATION

Staff Contact: Steve Adams (804-748-1037) adamsSt@chesterfield.gov

Traffic generated by this development will access a dedicated but unimproved county right of way (i.e., not in the State Highway System for maintenance). To use county rights of way, a license agreement must be obtained from the county. The license agreement usually requires the applicant to maintain the access road within the right of way. In similar situations throughout the county, residents often request the county to perform maintenance on the right of way even though a private maintenance agreement exists. County funds are not budgeted for this service. The unimproved right-of-way should be improved and accepted into the State System; therefore, a variance would not be required.

FIRE SERVICE

Staff Contact: Anthony Batten (804-717-6167) BattenA@chesterfield.gov

The Fire Dept recommends the owner provide a 15 foot all-weather road capable of supporting 75,000 lbs in order to provide access for fire apparatus and ambulances. This road should extend from the improved public road to the proposed dwelling.

Nearby Fire and Emergency Medical Service (EMS) Facilities

Fire Station	The Matoaca Station, Company Number 8
EMS Facility	The Ettrick-Matoaca Volunteer Rescue Squad

WATER AND WASTEWATER SYSTEMS

Staff Contact: Jamie Bland (804-751-4439) blandj@chesterfield.gov

Utilities supports the use of private well/septic as County wastewater is not available for connection, and the property line is greater than 200 feet to the nearest available water line located in River Road.

ENVIRONMENTAL ENGINEERING

Staff Contact: Rebecca Rochet (804-748-1028) RochetR@chesterfield.gov

Geography

The subject property generally drains from north to south to an unnamed tributary of the Appomattox River. The property and access are located within the Appomattox River Watershed.

Access

The property owner should obtain a license agreement from Chesterfield County to use the unimproved but dedicated right-of-way. The license agreement will include a condition to obtain a land disturbance permit if greater than 2,500 square feet of total land will be disturbed within the county right-of-way.

Erosion and Sediment Control

The building permit will serve as the land disturbance permit for the house and driveway within the limits of the parcel. A separate land disturbance permit must be obtained from the Department of Environmental Engineering if greater than 2,500 square feet of total land will be disturbed as a result of any necessary driveway improvements and/or construction outside the limits of the parcel.

Natural Resources

A Resource Protection Area (RPA) Designation must be submitted to and confirmed by the Department of Environmental Engineering – Water Quality Section prior to issuance of a building permit. All new construction shall have a minimum 25-foot setback from all RPA.

Access

Any driveway culverts which are currently installed and/or will be installed to cross any natural channel must be sized to adequately pass the 100-year storm peak discharge without overtopping the driveway. In addition, the 100-year backwater created from the installation of any culverts cannot negatively impact adjacent property.

VIRGINIA DEPARTMENT OF TRANSPORTATION

Staff Contact: Jonathan Phillippe (804-674-2800) Jonathan.Phillippe@VDOT.Virginia.gov

The proposed request will have minimal impact on this facility.

CONDITIONS

1. Prior to the approval of a building permit, the property owner shall provide a copy of the approved license agreement with the County to use the dedicated and unimproved County right-of-way from Point A to Point B, as shown on the plat attached to the staff report. (P)
2. A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B, extending to the proposed house location once the location has been determined, in accordance with the following standards:
 - (a) This roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone, if an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight and shall be maintained to this standard. The roadway shall not be approved if it is rutted or potholed.
 - (b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
 - (c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
 - (d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
 - (e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
 - (f) Any cross drains shall be designed per County standards and approved by the Department of Environmental Engineering. (P)
3. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine compliance as set forth above. (P)
4. The house number shall be installed on the mailbox or a pole and located at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers. (P)
5. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided. (P)