

Department of Planning & Community Development



Franklin County Board of Zoning Appeals

Agenda

February 3, 2026

I. Call to Order

II. Roll Call

III. Consent Agenda

a) Approval of Minutes from December 2, 2026, Meeting

IV. Election of Chair and Vice-Chair

V. Public Hearing: **APPLICATION for VARIANCE** – Application of Melissa and Aaron Tolliver, Applicants and Owners, requesting a variance to Section 25 – 182 (b) (side setback), for a variance of 3'8" to reduce the side yard setback from 10' feet to 6'4" to allow for the construction of a 10'x27' bedroom extension and 8'x26' concrete covered entrance for ADA access, on an approximate 0.46 acres of property zoned A-1, Agricultural District. The property is located at 544 Power Dam Road in the Snow Creek election district of Franklin County and further identified by real estate records as Tax Map/Parcel # 0640006500 (VAR-01-26-18467).

VI. Open Floor Citizen Comment

VII. Adjourn

Department of Planning & Community Development



A meeting of the Franklin County Board of Zoning Appeals was held on December 2, 2025, in the Board of Supervisors room located at the Franklin County Government Center.

THOSE PRESENT:

Kevin Hunt
Brian Mangano
Wayne Worley
William D.S. Lee – Chair

OTHERS PRESENT:

Samantha Conner – Clerk
Lisa Cooper – Zoning Administrator
Chris Dadak-Zoning Administrator Counsel
Eric Ferguson – BZA Counsel
Tina Franklin – Planner II

THOSE ABSENT:

William Cooper
Billy Kingery-Vice Chair

The meeting was called to order by Chairman Lee at 6:02 p.m.

The first order of business was the approval of the November 6, 2025, minutes. All members agreed to approve the minutes as written.

The next item on the agenda was the continuation of the Shelhamer application that the BZA tabled at their November 6, 2025, meeting: **APPLICATION for VARIANCE** – Application of Thomas Shelhamer, Applicant and Owner, requesting a variance

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to Section 25 – 182 (b) (side setback), for a variance of 5'4" (five feet, four inches) to reduce the side yard setback from 12' (twelve) feet to 6'8" (six feet, eight inches) to allow for the construction of a single-family dwelling, on an approximate 1.17 acres of property zoned A-1, Agricultural District. The property is located at 409 Greenhouse Road in the Union Hall election district of Franklin County and further identified by real estate records as Tax Map/Parcel # 0460500500 (VAR-10-25-18411).

Ms. Franklin gave an update on the status of the application. She explained that the dispute between the neighbors had not been resolved. Mr. Gene Gress's attorney, Jim Gilbert, asked the BZA via email to table the matter until January or until the lawsuit was resolved.

Mr. Ferguson stated that there was no indication of when the lawsuit could be resolved; it could be 30 days or even longer.

Mr. Mangano stated that Mr. Shelhamer has not responded to the lawsuit. He explained that this could result in default judgement.

Mr. Ferguson agreed that the court could end the case with default judgment.

Mr. Mangano stated that the opposing counsel's email indicates that the case could result in default judgment sooner rather than later.

Mr. Lee asked Mr. Ferguson that if the BZA did not grant the variance if it would still go to court. Mr. Ferguson confirmed that it would still go to court.

Mr. Lee stated that he believed that the BZA needed to make a decision on this case tonight and let the case play out in court.

Mr. Lee made a motion to deny the variance request. Mr. Hunt seconded the motion.

A roll call vote was taken. The motion to deny the variance request was approved; 3-1-2-0 voting was as follows:

AYES: Hunt, Worley, Lee

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NAYES: Mangano

ABSENT: Cooper, Kingery

ABSTAIN: None

Mr. Shelhamer stated that only at 10:00am that morning did he receive an email from Mr. Dadak who was emailed by Mr. Gilbert asking the BZA to put the application on hold due to the pending litigation. He stated that he was not privy to any pending court action against him until that morning's email.

Mr. Shelhamer explained that the papers were served to someone at a residence in West Virginia that he hadn't lived at in three (3) months. He stated that he was not served. Mr. Shelhamer stated that if he had not gone to the Clerk's office this morning, he would not have known about the papers served to the wrong address.

Mr. Mangano asked Mr. Shelhamer if he had heard the BZA discussing the pending litigation at the November 6, 2025, meeting. Mr. Mangano argued that Mr. Shelhamer was made aware of the lawsuit at the November BZA meeting.

Mr. Shelhamer stated that he had not received or signed anything, though he was present for the November 6th BZA meeting. He stated he is working to hire an attorney.

Mr. Mangano asked if Mr. Shelhamer thought that the November 6th discussions of the pending litigation was inaccurate. Mr. Shelhamer stated that there was no documentation, only what was being shared by word of mouth. He explained that he tried to work toward a solution with Mr. Gress.

Mr. Shelhamer explained that Mr. Gilbert has not responded to any of Mr. Shelhamer's emails and the only email that made him aware of the lawsuit was the one sent by Mr. Dadak.

Mr. Lee asked Mr. Ferguson to explain what options Mr. Shelhamer had since the BZA had already taken action on the variance request.

Mr. Ferguson stated that he believed Mr. Shelhamer was aware of the pending litigation and it would be in his best interest to see an attorney. He explained that

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Mr. Shelhamer could also have legal action against the BZA.

Mr. Shelhamer asked if there was anything conditional that the BZA could do. Mr. Lee stated that there was not.

Mr. Ferguson stated that Mr. Shelhamer would need to proceed through the court system.

Mr. Shelhamer left the podium.

Ms. Conner made an announcement that Ms. Washington had resigned from the BZA and the Circuit Court was working toward finding a replacement.

The meeting adjourned at 6:13pm.

STAFF REPORT

Case # VAR-01-2026-18467



To: Franklin County Board of Zoning Appeals
From: Tina Franklin, Planner II
Date: January 23, 2026
Tax #s: 0640006800
District: Snow Creek Election District
Applicant: Melissa F. and Aaron L. Tolliver
Owner: Melissa F. and Aaron L. Tolliver

APPLICATION for VARIANCE – Application of Melissa and Aaron Tolliver, Applicants and Owners, requesting a variance to Section 25 – 182 (b) (side setback), for a variance of 3'8" to reduce the side yard setback from 10' feet to 6'4" to allow for the construction of a 10'x27' bedroom extension and 8'x26' concrete covered entrance for ADA access, on an approximate 0.46 acres of property zoned A-1, Agricultural District. The property is located at 544 Power Dam Road in the Snow Creek election district of Franklin County and further identified by real estate records as Tax Map/Parcel # 0640006800 (VAR-01-26-18467).

RECOMMENDATION:

Staff recommends that the Board of Zoning Appeals approve the variance request with the following three (3) conditions:

1. The use shall be developed in substantial conformance to the conceptual plan titled "House location with proposed additions", prepared by Gabriel Robertson and dated November 26, 2025.
2. The owner shall apply for a Land Use and Building Permit from the Planning and Building Departments prior to the construction of the proposed 10' x 27' bathroom and bedroom addition and a proposed 8' x 26' porch and ramp addition.
3. The applicant shall be required to provide at least a line survey prior to the issuance of a certificate of completion showing that the addition meets the variance approved by the Board of Zoning Appeals.

BACKGROUND

This is a petition of Melissa F. and Aaron L. Tolliver, owners, requesting a side yard setback from Section 25-182(b) Side Yard Setback of the Franklin County Zoning Ordinance to allow for a 10' x 27' bathroom and bedroom addition and a proposed 8' x 26' porch and ramp addition as shown on the concept plan prepared by Gabriel Robertson, Licensed Surveyor and the sketch prepared by the owners. The request is for a variance of three foot, eight inches (3' 8") to reduce the side yard setback from ten foot (10') to six foot, four inches (6'4").

While conducting research on this application, there is currently a discrepancy on the county GIS system regarding the location of the side property line. The existing home was constructed and is only eight (8') feet from the closest rear corner and six point eight (6'8") feet from the closest front corner of the home. The neighbor's home is shown across the side property line, which is not correct. The septic system is located behind the home. The owners stated in their letter of application that the variance will allow them to enlarge the existing primary bedroom and create an accessible bathroom to address significant health issues. The owner also indicated that the home's current bathrooms cannot safely accommodate mobility devices and present ongoing fall and navigation hazards. They stated that there is a physical hardship due to topographical, the lot width is narrow at only ninety (90') feet wide along with utility constraints that make compliance with the modern setback requirements impossible without relief. They indicated that the septic tank and drain field occupy the rear yard, eliminating any possibility of rear yard expansion. They included the need for safety and accessible ingress which the proposed 8' x 26' covered entrance would provide and that the proposed 10' x 27' bedroom enlargement and new accessible bathroom would create a fully ADA compliant bathroom. They also included benefits of the proposed addition that will provide cognitive safety and that without the proposed improvements the existing layout presents significant safety concerns.

The zoning ordinance section 25-182 (b) *Side setback*. States the minimum distance from the side property line of a lot to the nearest point on the house or principal structure (including porches, stoops, or accessory building), shall be ten (10%) percent of the road frontage distance, with a minimum of ten (10') feet and a maximum of twelve (12') feet. The subject property has 90.12' feet of road frontage according to the survey prepared by Gabriel Robertson which would require a ten (10') foot setback from the side property line.

DESCRIPTION OF PROPERTY

The property is located on a secondary state maintained fifty (50') foot right-of-way, Power Dam Road. According to County records, the home was constructed in 1965. The single-family dwelling was constructed prior to the adoption of zoning and setbacks. Lots within surrounding area share similar lot acreages.

The property is located in the Snow Creek Election District. The property is 0.463 acres and zoned A-1, Agricultural District.

The parcel does not meet the required minimum acreage that is allowed in today's regulations for subdivisions, which is 0.804 acres. The property is served by a private well and the septic system is located behind the home.

VARIANCES: DEFINITION AND CRITERIA FOR GRANTING

Section 15.2-2201 of the Code of Virginia defines a variance as follows:

“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.

Per the Code of Virginia, compliance with one of the two following criteria is required to grant a variance:

1. Strict application of the ordinance would unreasonably restrict the utilization of the property, or.
2. The granting of the variance would alleviate a hardship due to the physical condition of the property or improvements thereon.

In addition, the following five criteria shall be met to grant a variance:

1. The hardship imposed by the ordinance was not created by the applicant (property owner) for the variance; and
2. The granting of the variance will not be of substantial detriment to adjacent and nearby properties; and
3. The variance does not correct a problem or condition that is so general and recurring in nature that a general ordinance amendment is reasonably practical; and
4. The granting of the variance will not result in the establishment of a land use that is not otherwise permitted in the A-1 zoning district; and
5. The relief sought by the variance cannot be achieved through a rezoning or special use permit process currently authorized by the ordinance.

STAFF ANALYSIS OF VARIANCE CRITERIA/IDENTIFICATION OF IMPACTS:

Staff's opinion by granting a variance for the proposed 8' x 26' covered entrance and 10' x 27' addition to the existing bedroom and bathroom would meet the criteria set out in the Code of Virginia for granting a variance. The lot size and home configuration as well as the location of the septic and drain field location behind the home, and the narrowness of the property does impose some challenges for the construction of an addition to the home. In addition, the new construction is in line with the existing house even though it is closer to the side property line.

The granting of the variance would alleviate a hardship due to the physical condition of the property; however, this is shared by other properties in the area.

The hardship imposed by the ordinance was not created by the owner/applicant. The owner did not impose the hardship of the ordinance. The county had not adopted the zoning ordinance regulating setbacks from property lines when the home was constructed in 1965. The proposed addition will be constructed at an angle to align the proposed addition with the existing home, shown on the conceptual plan submitted by the applicant and prepared by Gabriel Robertson. Because of the location the home was constructed and angled without the county having regulations this did create a hardship for the applicant to be able to make improvements to the home.

The granting of the variance would not be a substantial detriment to adjacent properties or properties nearby. Granting the three-point eight (3.8') foot variance would not be detrimental to the adjacent properties due to the location of the existing home on the property, the narrowness of the lot with only ninety (90') feet of road frontage and the drain field located in the rear yard of the home. Furthermore, the addition and covered porch are in line with the existing home.

The variance does not correct a problem or condition that is general and recurring that a general ordinance amendment is practical. There are other parcels in the surrounding area that share the same lot size issue with possibly not being able to meet the side yard setback. However, at this time staff is not seeing a pattern for an amendment to the ordinance.

The granting of the variance will not result in the establishment of a land use that is not otherwise permitted in the A-1 zoning district. Such variance would not result in a land use change in the A-1 zoning district. Additions to existing homes are land uses allowed in the A-1 district.

The relief sought by the variance cannot be achieved through a rezoning or special use permit process currently authorized by the ordinance. The variance cannot be granted by obtaining a rezoning and/or special use permit.

SUGGESTED MOTIONS:

The following suggested motions are sample motions that may be used. They include language found in Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended.

(Approve) Based upon the fact the applicant has demonstrated the ordinance would unreasonably restrict the utilization of the property and that the granting of the variance would alleviate the hardship of the physical condition of the property as shown on the concept plan and the applicant has demonstrated granting the variance meets all criteria identified in Sections 15.2- 2201 and 15.2-2309 of the Code of Virginia. I move to approve the variance requested to Section 25-182 (b) side yard setback of the Franklin County Code for a variance of 3'8" to reduce the side yard setback from 10' to 6'4" to allow for the construction of a 10' x 27' bedroom extension and 8' x 26' concrete covered entrance for ADA access.

OR

(Deny) Based on the fact the applicant has not demonstrated the required variance criteria identified in Sections 15.2-2201 and 15.2-2309 of the Code of Virginia have not been met, and the ordinance would not reasonably restrict the utilization of the property. The proposed 10' x 27' bedroom extension and 8' x 26' concrete covered entrance for ADA access could be located on the property without a variance. I move to deny the variance to Section 25-182 (b) side yard setback.

OR

(Table) I move that this item be tabled until the Board of Zoning Appeal's receives all the information it needs to make a final determination on this variance request.

FRANKLIN COUNTY
VARIANCE REQUEST APPLICATION

I/We Melissa and Aaron Tolliver is/are Owner(s), Contract Purchasers, or Owner's Authorized Agent of the property described below, hereby apply to the Franklin County Board of Zoning Appeals for a variance on the property described below:

Petitioner's Name: Melissa and Aaron Tolliver

Petitioner's Address: 544 Power Dam Rd Rocky Mount, VA

Petitioner's Phone Number: [REDACTED]

Petitioner's Email Address: [REDACTED]

Property Owner's Name: Melissa and Aaron Tolliver

Property Owner's Address: 544 Power Dam Rd Rocky Mount, VA 24151

Property Owner's Phone Number: [REDACTED]

Property Owner's Email Address: [REDACTED]

Property Information:

A. Proposed Property Address: 544 Power Dam Rd

B. Tax Map and Parcel Number: D 64 0006800

C. Election District: Snowcreek

D. Size of Property: 0.46 acre

E. Existing Zoning: A1

F. Existing Land Use: Residential

G. Is the property located within any of the following overlay zoning districts:

Corridor District Westlake Overlay District Smith Mountain Lake Surface District

H. Is any land submerged under water or part of Smith Mountain Lake?

YES

NO

I. If yes, please explain:

[REDACTED]

Proposed Variance Request Information:

J. Describe how the strict application of the Zoning Ordinance would unreasonably restrict the use of the property or how the granting of the variance would alleviate a hardship due to a physical condition of the property. Attach additional information if needed.

The property's narrow lot width, the septic system is back yard, and the home's existing placement near the side setback line prevents compliance without a variance.

Requesting 41' foot variance 3'8" variance

to create an ADA accessible bathroom, enlarge existing primary bedroom and covered entrance for safe mobility.

K. Proposed Land Use: Zoned A-1

L. Size of Proposed Use: 10' x 27' bedroom Ext and 8' x 26' concrete entrance
M. Section of the Zoning Ordinance for which a variance is being requested: Sec. 25-182 property sideline setback
covered for ADA access

(Zoning Code section must be correct and all applicable code sections included in the request.)

Checklist for Completed Items:

- Application Form
- Letter of Application
- Concept Plan
- Application Fee

I certify that this application for a variance request and the information submitted is herein complete and accurate. I authorize County staff to access this property for purposes related to the review and processing of this application.

Petitioner's Name (Printed): Melissa and Aaron Tolliver

Petitioner's Signature: Melissa F. Tolliver Aaron I. Tolliver

Date: 1/1/2026

Mailing Address: 544 Power Dam Rd
Rocky Mount, VA 24151

Phone Number: ██████████

Email Address: ██████████

Owner's consent, if petitioner is not property owner:

Owner's Name: _____

Owner's Signature: _____

Date: _____

Date Received by Planning Staff: 1/15/2026 MF

Variance Request Letter: 544 Power Dam Rd.

To the Members of the Board of Zoning Appeals:

We respectfully submit this request for a variance from the required side yard setback for the property located at 544 Power Dam Rd. This variance is needed to allow:

- A 10' × 27' enlargement of the existing primary bedroom to accommodate a new accessible ADA bathroom, and
- An 8' × 26' covered entrance providing safe, ADA-appropriate access for a disabled veteran.

This project does not add a new bedroom. It enlarges the existing primary bedroom and creates an accessible bathroom to address significant mobility limitations, upcoming orthopedic surgeries, and newly diagnosed cognitive decline. The home's current bathrooms cannot safely accommodate mobility devices and present ongoing fall and navigation hazards.

Physical Hardship: Topographical and Utility Constraints

Our property contains long-standing physical limitations that make compliance with modern setback requirements impossible without relief:

Pre-Existing Narrow Lot Width

- The lot is only 90 feet wide, significantly narrower than current zoning standards.
- This nonconforming condition has existed since the home's construction in 1965.

Utility Restrictions

- The septic tank and drainfield occupy the rear yard, eliminating any possibility of rear expansion.
- The lot's narrow width prevents construction to either side without immediate encroachment into the setback area.

Given these restrictions, the only feasible, functional building direction is forward, following the home's existing building line.

Long-Term Residency and Community Commitment

We have lived in this home—and this neighborhood—for more than 30 years. This project is not for convenience or speculation; it is essential to allow a disabled veteran with mobility challenges, upcoming

hip replacement surgeries, and cognitive decline diagnosed in late 2025 to continue living safely and independently in his long-time community.

Safety and Accessible Ingress: Need for the 8' x 26' Covered Entrance

The covered entrance is critical for year-round safe access:

- Weather Protection: Prevents ice, snow, and rain from creating hazardous surfaces.
- ADA-Appropriate Width: The 8-foot width supports maneuvering for walkers, wheelchairs, and medical equipment.
- Safe Transition: The resident faces upcoming hip replacements, which will require months of limited mobility, assistive devices, and safe, stable entry into the home.
- EMS Compatibility: Provides emergency responders room for stretchers and equipment.
- Cognitive Safety: A protected, predictable entryway minimizes confusion and disorientation.

This feature is not aesthetic; it is a permanent accessibility and safety solution.

Bedroom Enlargement & New Accessible Bathroom

The 10'x27' addition enlarges the current primary bedroom and creates a fully ADA-compliant bathroom.

Existing Bathrooms Are Not Accessible

- The half bath has no shower, making it unusable for daily hygiene.
- The full bath cannot accommodate mobility devices or provide safe turning and transfer space.

The New Bathroom Will Provide

- Zero-entry shower
- 60-inch turning radius
- Clear transfer space
- Direct, safe access from the bedroom

Cognitive Safety: Necessity of Design for Cognitive Decline

In late 2025, the resident, a disabled veteran, was formally diagnosed with cognitive decline, increasing risks of disorientation, falls, and unsafe navigation inside and outside the home. The proposed addition addresses these needs directly.

Key Cognitive Safety Benefits

- Direct pathways reduce confusion and nighttime disorientation.
- Wider, unobstructed circulation eliminates narrow “pinch points” that trigger hesitation or missteps.
- Improved lighting and sightlines reduce shadows, glare, and depth-perception issues.
- Bathroom safety is dramatically improved with a predictable, open layout and zero-threshold access.
- Simplified movement patterns reduce anxiety and hesitation.

Without these changes, the existing layout presents significant and increasing risk of falls, injury, and hospitalization.

Minimal Impact: No Change to Existing Building Line

- The addition and entrance remain entirely within the home’s current longitudinal building line.
- No part of the structure will be closer to the side property lines than it already exists today.
- Neighbor access to light, air, and privacy remains unchanged.

Required Legal Findings

- Unique Physical Conditions: Extremely narrow pre-existing lot; fixed septic system; mobility and cognitive medical needs.
- Minimum Necessary Relief: Requested dimensions reflect the smallest area that achieves ADA-compliant and medically safe circulation.
- Permitted Use: Home remains a single-family residence; materials match existing structure.
- Not a New Bedroom: The project enlarges one existing bedroom and adds a medically necessary accessible bathroom.

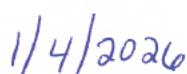
Conclusion

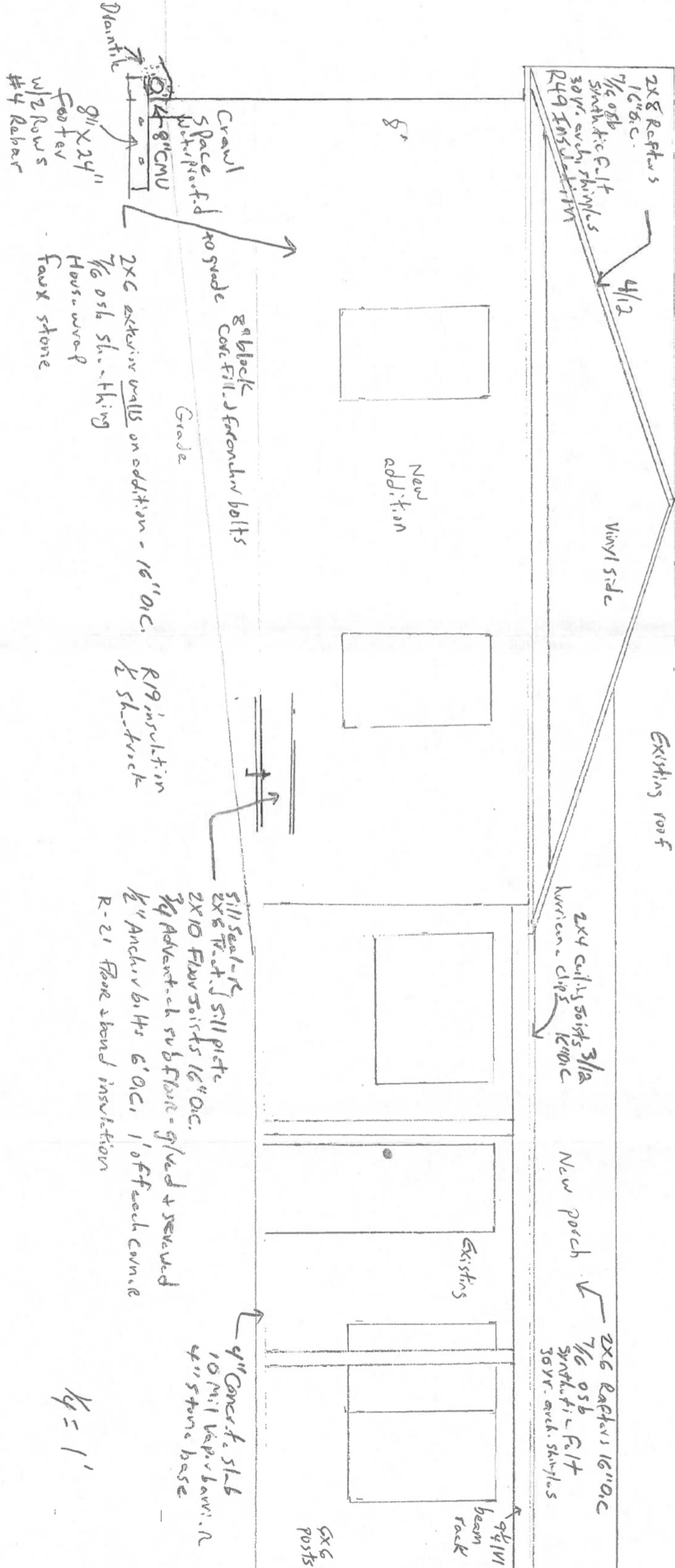
For these reasons, we respectfully request approval of this variance to complete essential safety and accessibility improvements for a disabled veteran who has lived in this home—and this community—for over 30 years. This addition represents the least intrusive, most reasonable solution to the property's unique constraints and urgent medical needs.

Respectfully submitted,

The image shows two handwritten signatures in blue ink. The first signature on the left is "Melissa Tolliver" and the second signature on the right is "Aaron L Tolliver".

Melissa & Aaron Tolliver

The image shows a handwritten date in blue ink, "1/4/2026", written in a cursive style.





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Letter of Support from the Lockhart family: 552 Power Dam Road

To the Members of the Board:

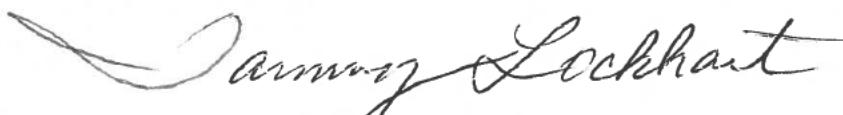
I am writing this letter to formally support the variance request submitted by my neighbors, Aaron (Leo) and Melissa Tolliver of 544 Power Dam Road, Rocky Mount, VA 24151.

As the owner of the property at 552 Power Dam Road, I have come to know the Tollivers as dedicated members of this community since moving here in 2022. I fully support their proposal to construct a 10'x27' handicap-accessible addition and an 8'x22' covered porch (serving as a handicap ramp) for the following reasons:

- Pre-Existing Physical Hardship: The exceptional narrowness of their lot is a physical condition that has existed for decades. This is a hardship not of the homeowners' making; they have lived in and cared for this home for over 35 years and are simply trying to adapt to changing health needs on a lot with inherent physical limitations.
- No Increased Impact on Neighbors: The addition extends straight off the front of the home and maintains the current side-yard clearance. It does not encroach any further toward my property line than the existing structure. Consequently, the addition will not interfere with my privacy, light, or air.
- Medical & Veteran Necessity: I am aware of the mobility challenges my neighbor Leo, a disabled veteran, faces. It is vital that the Tollivers be allowed to modify their home to ensure a safe, accessible environment so they can continue to live in the neighborhood they have been a part of for over three decades.

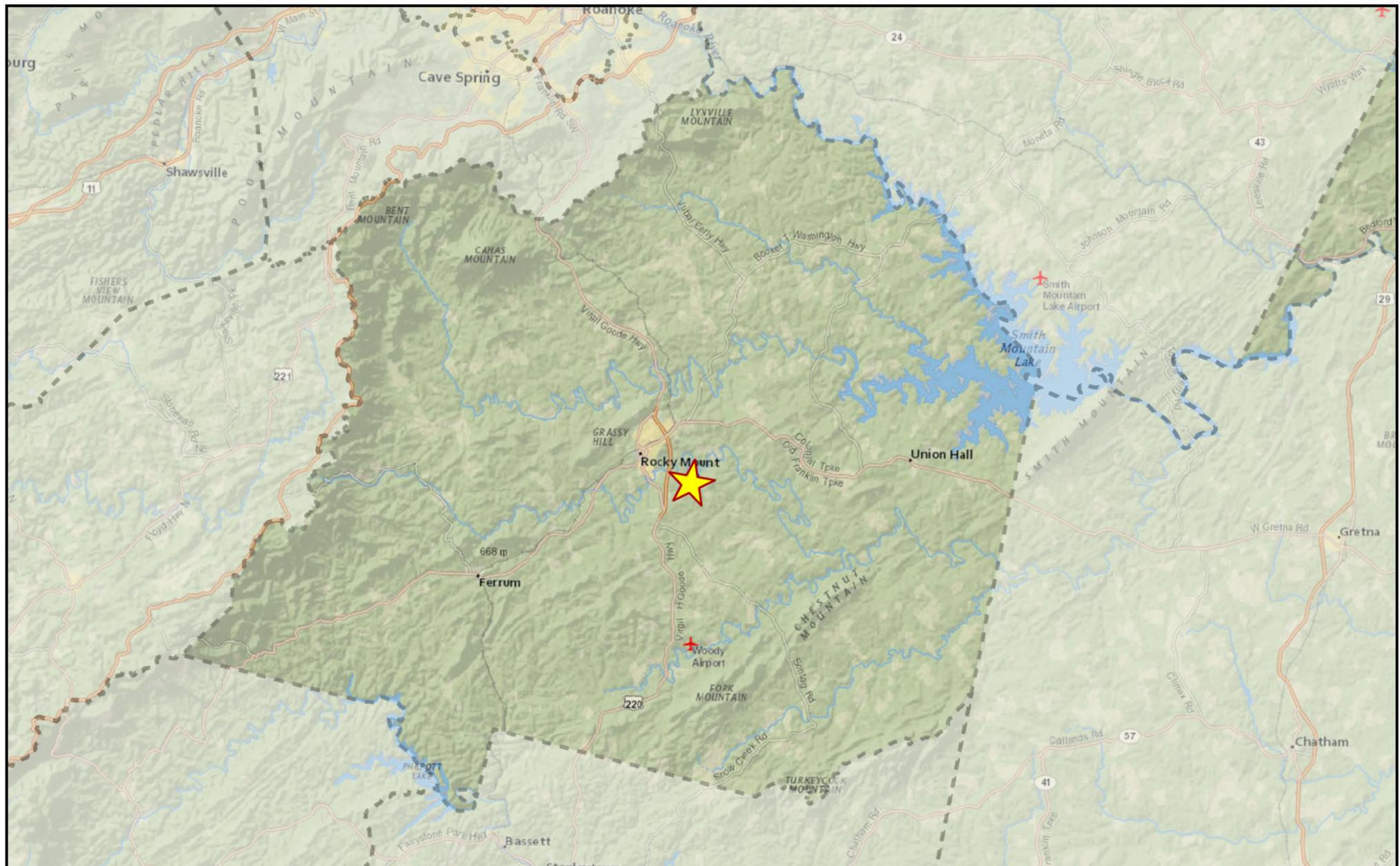
As the most immediate neighbor, I have absolutely no concerns regarding this project. I believe this is the minimum relief necessary for my neighbors to remain safely in their home and I urge the Board to approve this variance.

Best regards,



Tammy and Bob Lockhart

December 31, 2025



Tax Map # 0640006800
VAR-01-26-18467
Melissa & Aaron Tolliver

Subject Property Location

0 1.5 3 6 9 12 Miles



The data layers provided herein were compiled from various sources within a geographic information system (GIS) for the primary use of Franklin County. The data provided herein are believed to be accurate but are provided for reference purposes only. These GIS data are in no way meant as a replacement for a legal survey, legal description, or standard due diligence. No guarantee, expressed or implied, is made regarding their accuracy, currency, adequacy, usefulness, or reliability. These data are provided "as is" and neither Franklin County nor its employees shall be held responsible for their inappropriate use.

Date: 1/15/2026



Legend

- Tax Parcels
- Road Centerlines
- Subject Parcel

2024 Eagleview Imagery

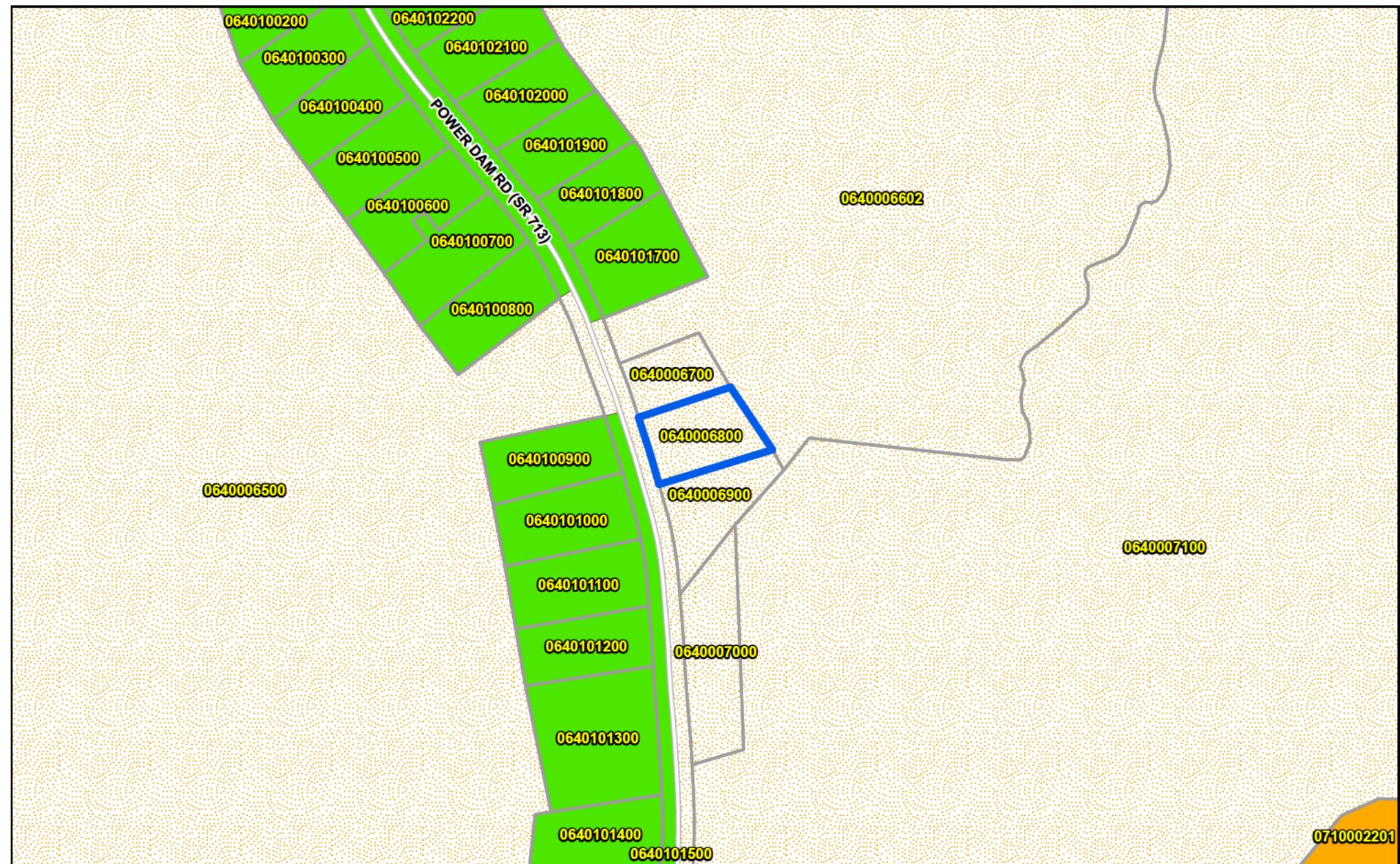
Tax Map # 0640006800
VAR-01-26-18467
Melissa & Aaron Tolliver

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Date: 1/15/2026



- Tax Parcels
- A1 - Agricultural
- R1 - Residential Suburban Subdivision

- RC1 - Residential Combined Subdivision
- Subject Parcel

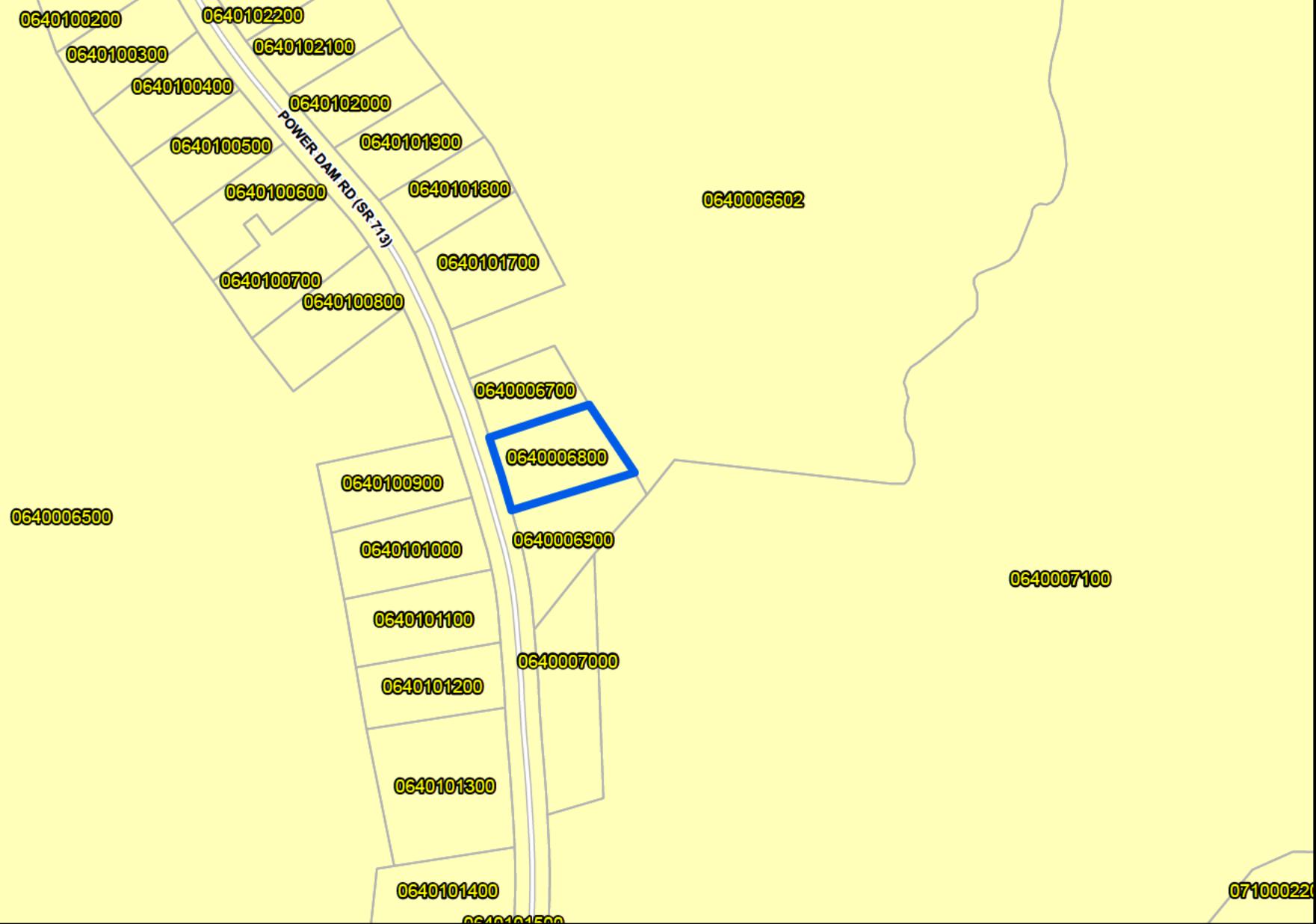
Tax Map # 0640006800
VAR-01-26-18467
Melissa & Aaron Tolliver

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Date: 1/15/2026



- Tax Parcels
- Road Centerlines
- Low Density Residential - County

Tax Map # 0640006800
VAR-01-26-18467
Melissa & Aaron Tolliver

0 125 250 500
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Date: 1/15/2026