



APPLICATION ACCEPTED: July 25, 2006  
BOARD OF ZONING APPEALS: February 27, 2007  
MOVED AT APPLICANT'S REQUEST  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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February 20, 2007

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2006-PR-038**

### PROVIDENCE DISTRICT

**APPLICANT/OWNERS:** Merrifield Garden Center

**STREET ADDRESS:** 8132 Lee Highway

**TAX MAP REFERENCE:** 49-2 ((11)) 26C

**LOT SIZE:** 3.02 acres

**ZONING DISTRICT:** C-8, HC

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit reduction to minimum yard requirements based on error in building location to permit building to remain 28.0 feet from front lot line.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

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Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

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### Department of Planning and Zoning

Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703 324-1290  
FAX 703 324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

## DESCRIPTION OF THE APPLICATION

The applicant requests approval to permit a reduction to minimum yard requirements based on error in building location to permit a 438 sq. foot portion of the 11,282 sq. foot retail sales building to remain 28.0 feet from front lot line along the right of way of Gallows Road.

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
<b>Special Permit</b>	Dwelling	Front (West)	40.0 feet	28.0 feet	12.0 feet	30%

\*Minimum yard requirement per Section 4-807

### Surrounding Are Description:

	Zoning	Use
<b>North</b>	C-8	Surface Parking
<b>East</b>	C-8, R-3, I-5	Plant Nursery
<b>South</b>	C-8, C-6	Service Station, Merrifield Plaza
<b>West</b>	C-6	Eating Establishments, Quick-service Food Store

## BACKGROUND

Records indicate the original building was constructed in 1976, and was in conformance with the ordinance that was in effect at that time. Sometime after the building's construction Gallows Road was widened which required additional right-of-way from this property. Over the ensuing thirty years, the intrusive portion of the building, which began as an overhang connection to the main building with the purpose of shading plants, was expanded and eventually evolved into a part of the year-round retail sales establishment.

## ANALYSIS OF THE APPLICATION

**Special Permit Plat** (Copy at front of staff report)

**Title of SP Plat:** Merrifield Garden Center, Providence District  
Fairfax County, Virginia

**Prepared By:** William H. Gordon Associates, Inc., dated October 2004 as  
revised through February 2007

**Error Made by:** Applicant

**Bldg Permit**

**Required:** Yes                      **Obtained:** No

## ZONING ORDINANCE REQUIREMENTS (Appendix 4)

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application meets all of the following standards, copies of which are attached as Appendix 4:

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Provisions for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

## CONCLUSION

If it is the intent of the BZA to approve SP 2006-PR-038, the BZA should condition its approval be requiring conformance with conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

## APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2006-PR-038**

**February 20, 2007**

1. This special permit is approved for the location and size (approximately 438 square feet) of the existing one story structure as shown on the plat prepared by William H. Gordon Associates, Inc. dated, March 2006, as submitted with this application and is not transferable to other land.
2. Other by-right, special permit and special exception uses on site shall be permitted without a special permit amendment if such uses do not affect this special permit use.
3. Building permits and final inspections for the accessory structure shall be diligently pursued within 60 days and obtained within 120 days of final approval or this Special Permit shall be null & void.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.