



APPLICATION ACCEPTED: November 27, 2007
BOARD OF ZONING APPEALS: February 12, 2008
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 5, 2008

STAFF REPORT

SPECIAL PERMIT APPLICATION SP 2007-SP-147

SPRINGFIELD DISTRICT

APPLICANT: Maysa K. Moulhem
ZONING: R-5
LOCATION: 6126 Glen Oaks Court
ZONING ORDINANCE PROVISION: 3-503, 8-914, 8-923
TAX MAP: 79-3 ((23)) 22A
LOT SIZE: 7,493 square feet
PLAN MAP: Residential
SP PROPOSAL: To permit a home child care facility, reduction to minimum yard requirements based on error in building location to permit deck to remain 1.3 feet from the side lot line, and to permit an existing fence greater than 4.0 feet in height to remain in the front yard of a corner lot.

STAFF RECOMMENDATION: Staff recommends denial of SP 2007-SP-147 for the home child care facility.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within

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Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 200
Fairfax, Virginia 22033
Phone 703 321-3300
FAX 703 321-3301
www.fairfaxcountypa.gov

five (5) days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

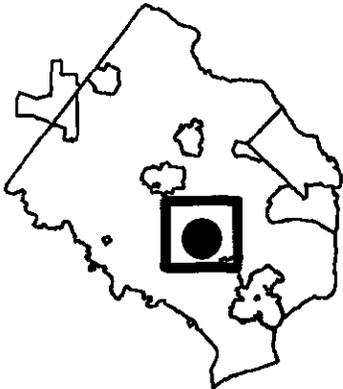
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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



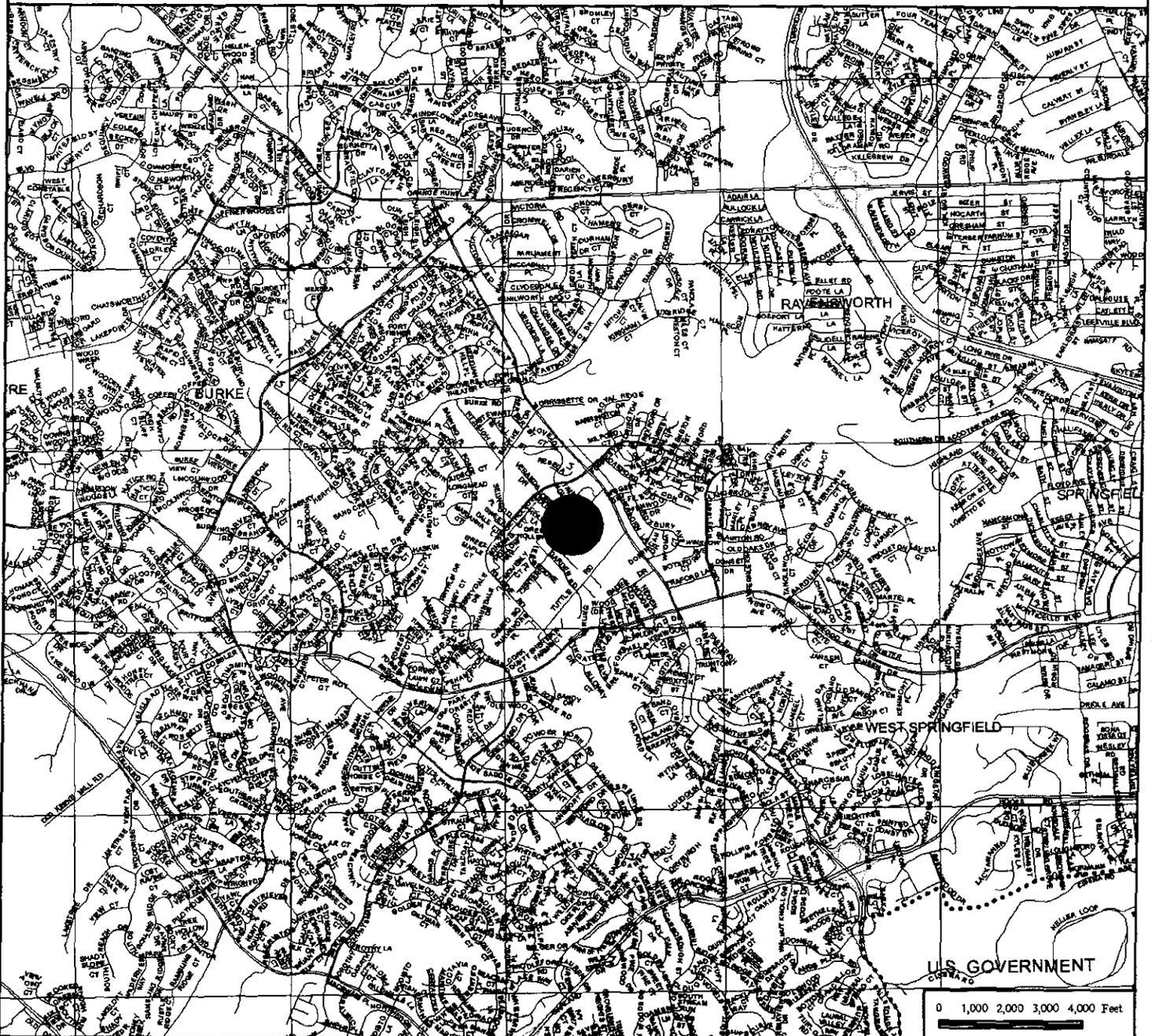
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2007-SP-147

Applicant: MAYSIA K. MOULHEM
Accepted: 11/27/2007
Proposed: TO PERMIT A HOME CHILD CARE FACILITY, REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT DECK TO REMAIN 1.3 FT. FROM SIDE LOT LINE AND TO PERMIT EXISTING FENCE GREATER THAN 4.0 FT. IN HEIGHT TO REMAIN IN FRONT YARD OF A CORNER LOT



Area: 7,493 SF OF LAND; DISTRICT - SPRINGFIELD
Zoning Dist Sect: 08-091408-092303-0503
Art 8 Group and Use: 9-13 9-22 3-05
Located: 6126 GLEN OAKS COURT
Zoning: R- 5
Overlay Dist:
Map Ref Num: 079-3- /23/ /0022A

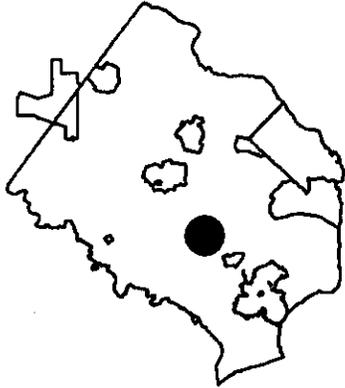


Special Permit
SP 2007-SP-147

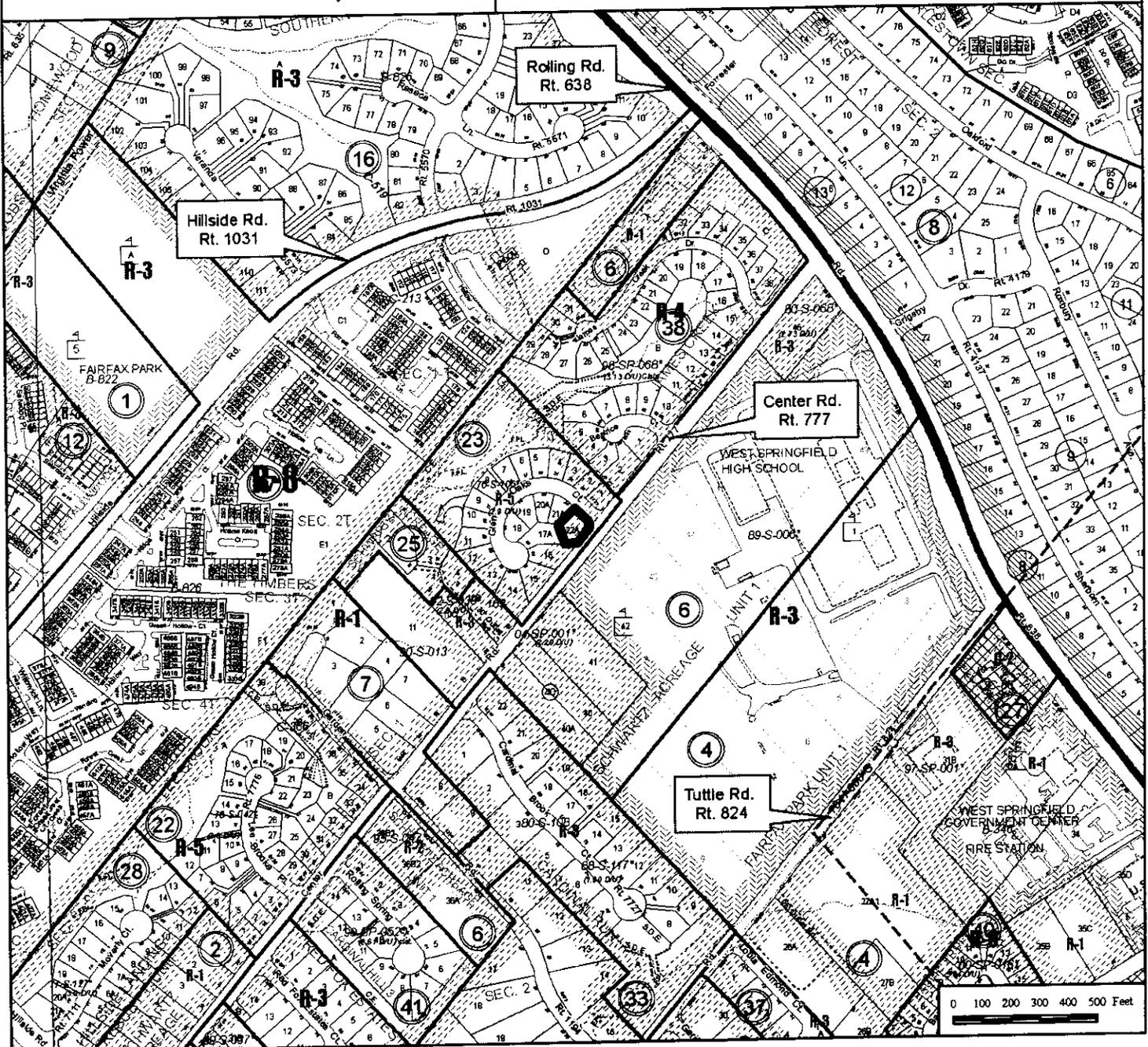
Applicant:
Accepted:
Proposed:

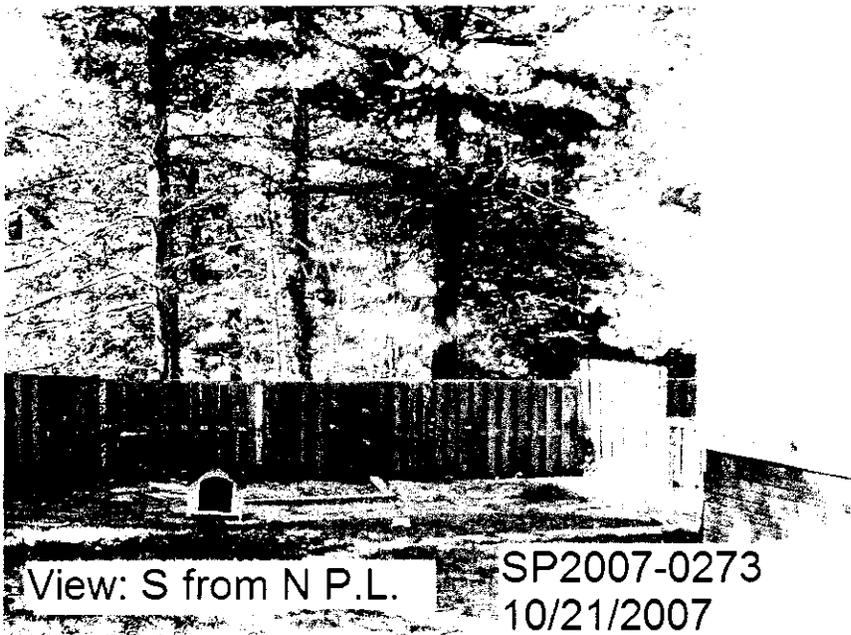
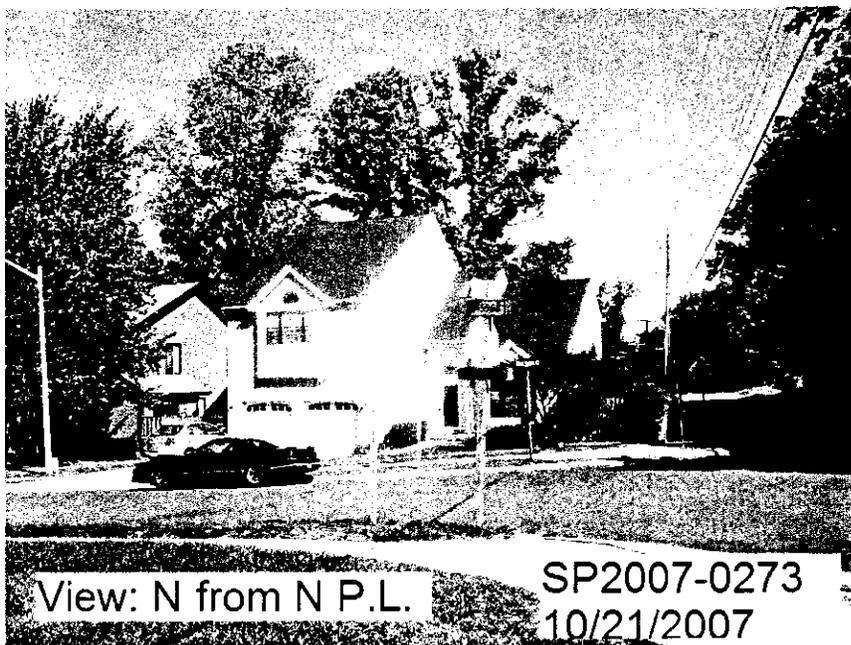
MAYSA K. MOULHEM
11/27/2007

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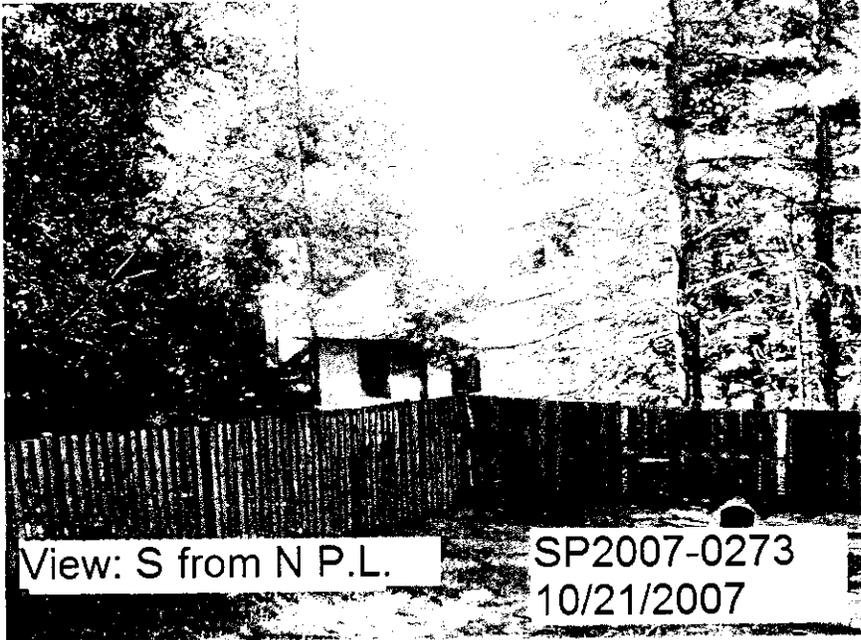


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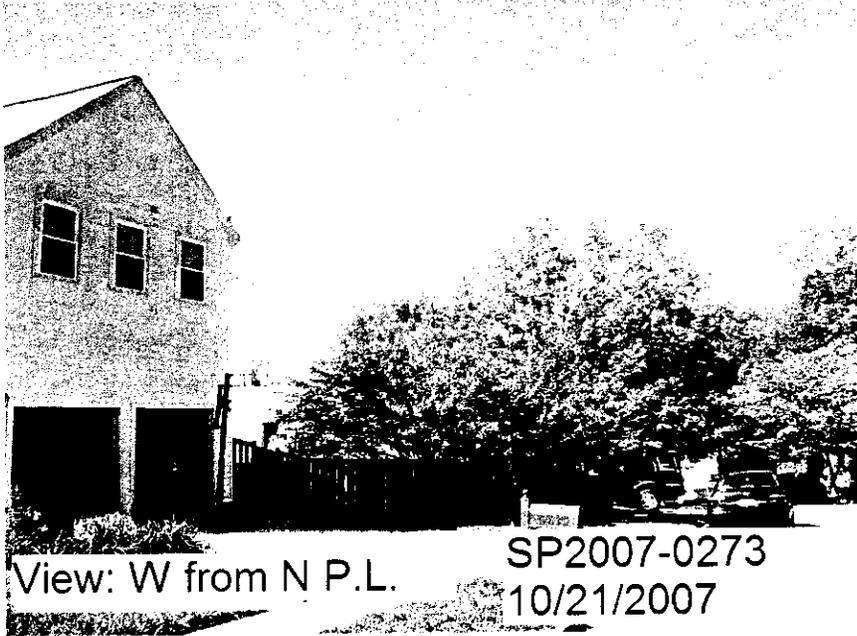


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View: S from N P.L.

SP2007-0273
10/21/2007



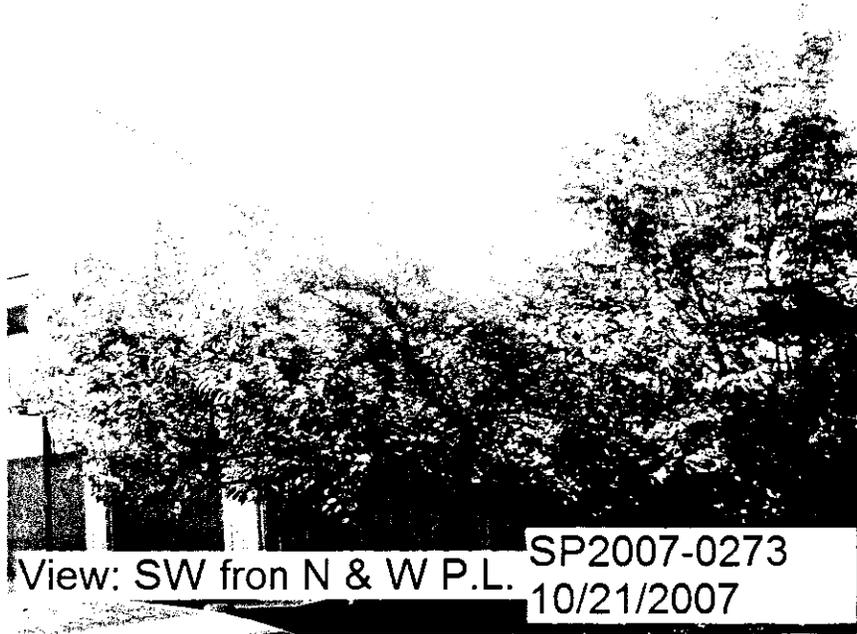
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SP2007-0273
10/21/2007

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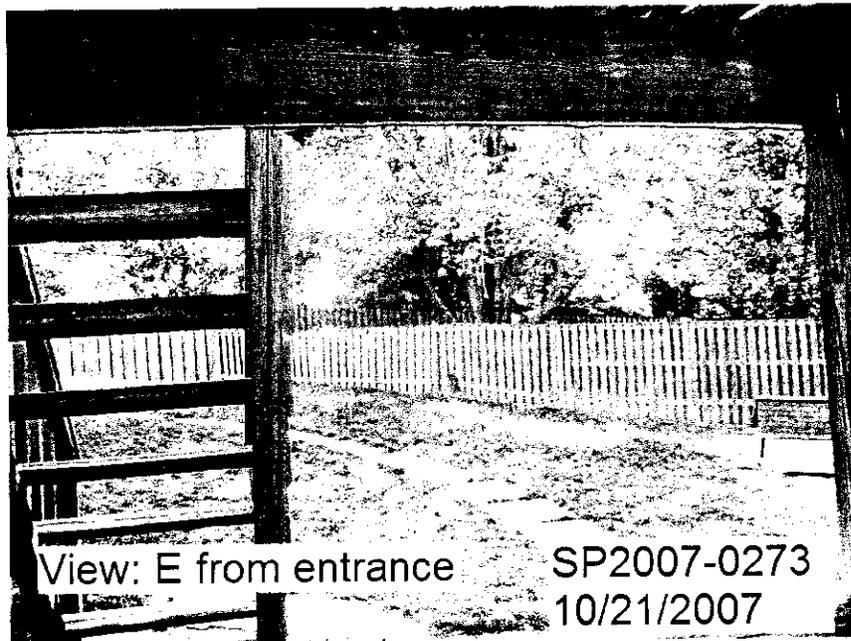
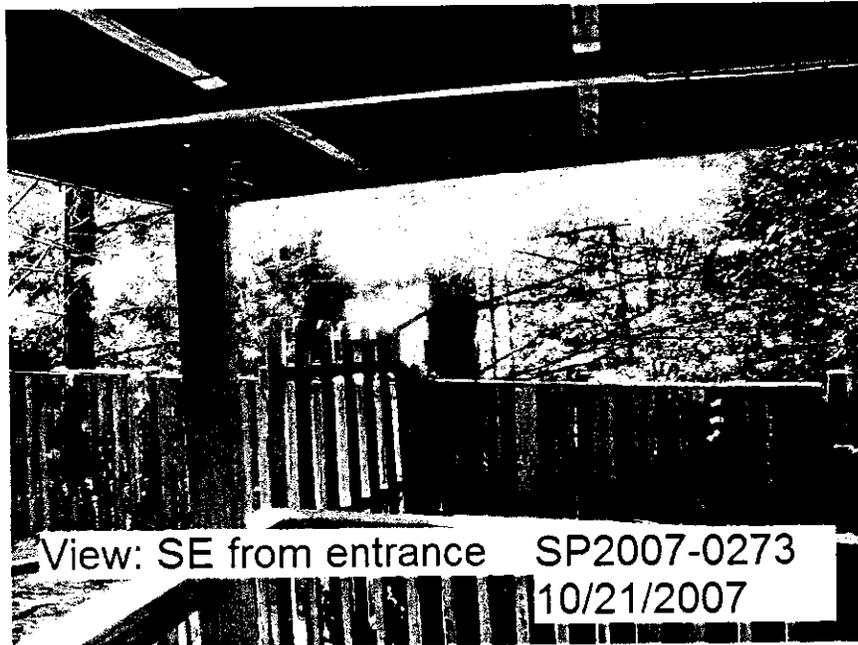
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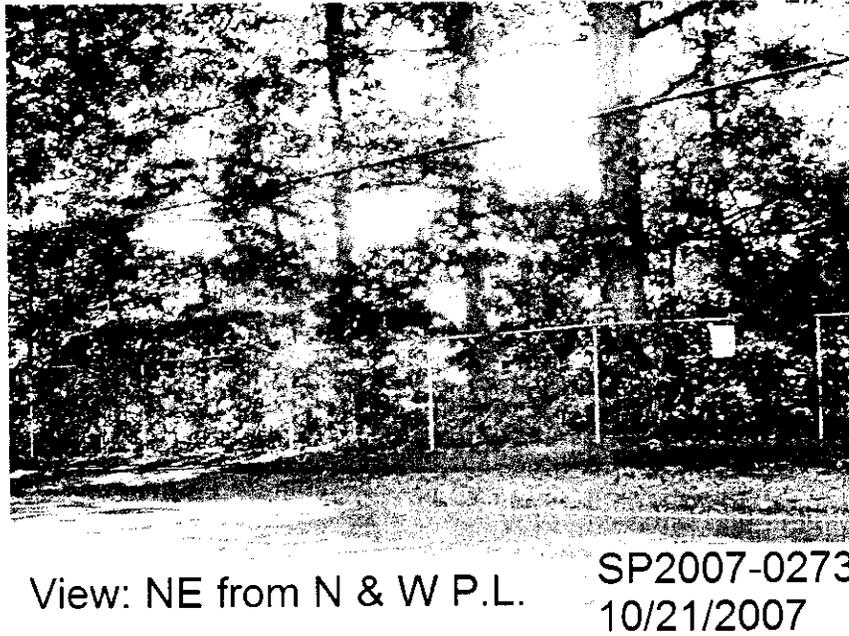
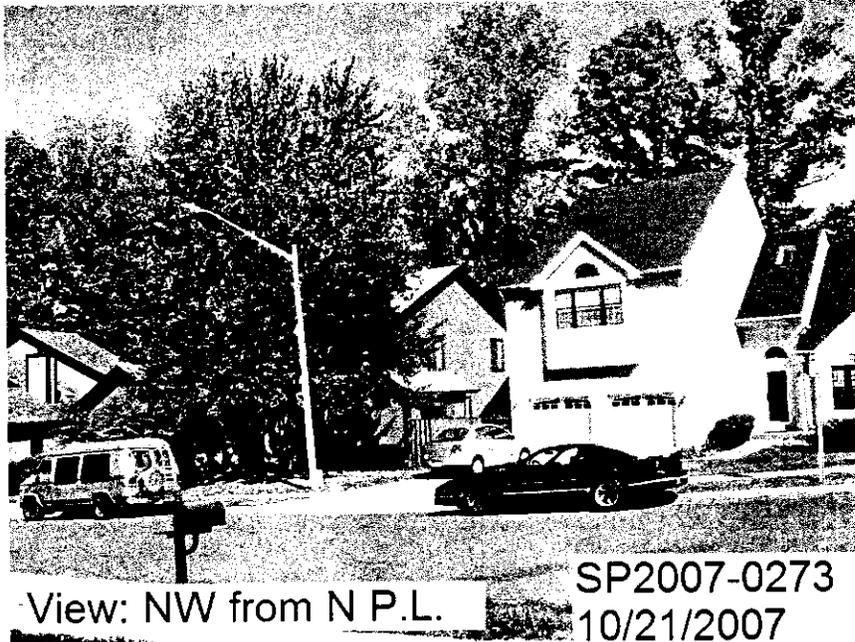
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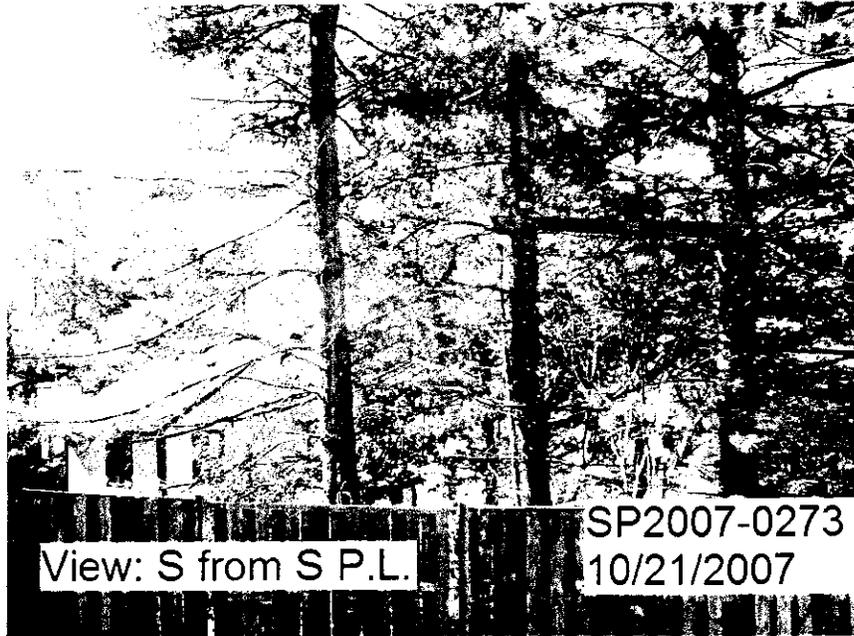
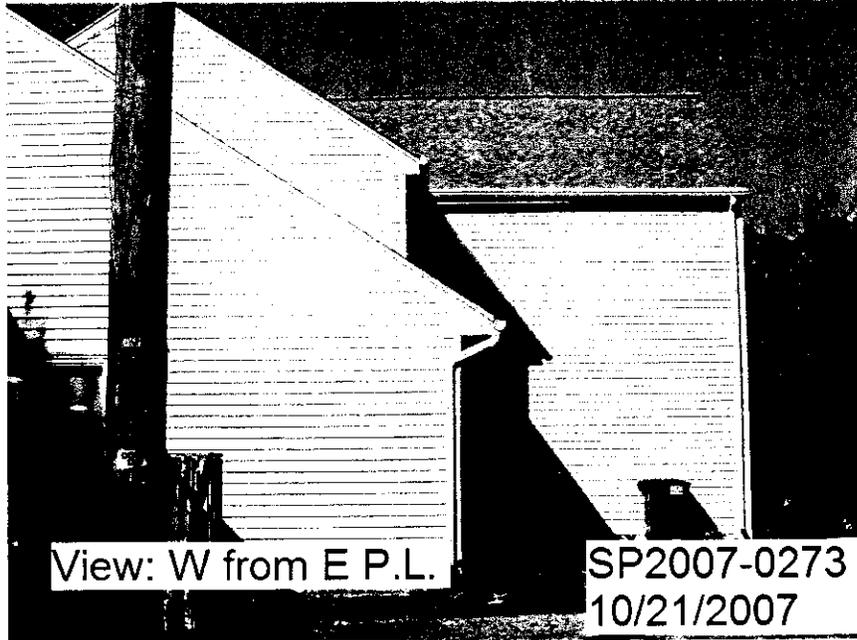
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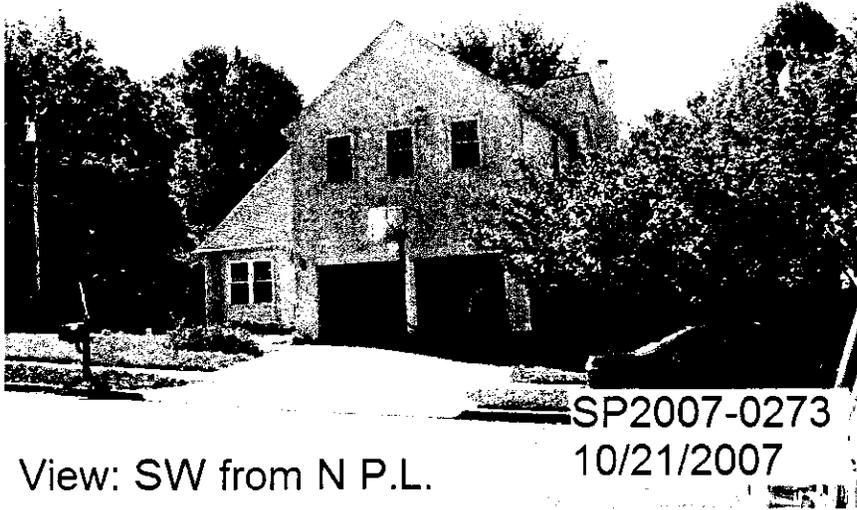
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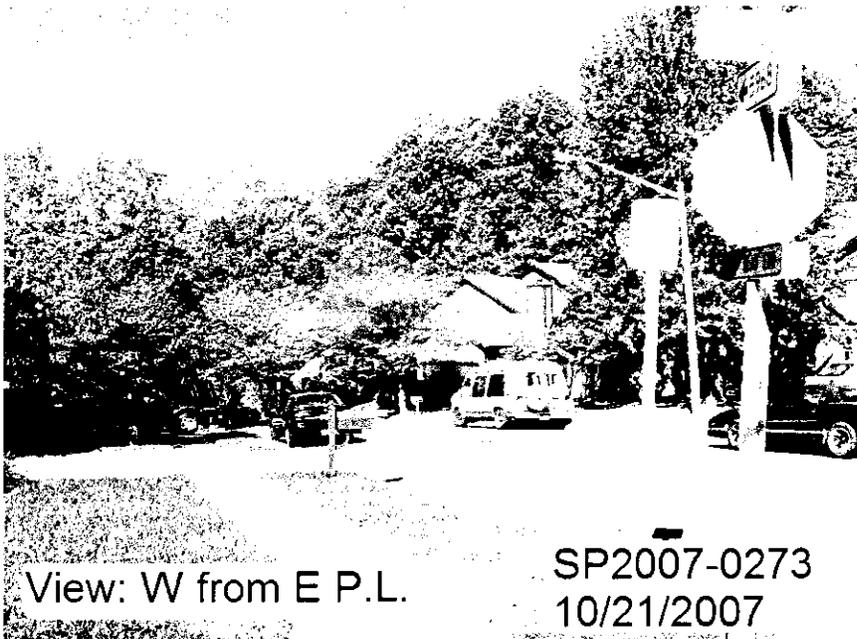
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Zoning Evaluation Division



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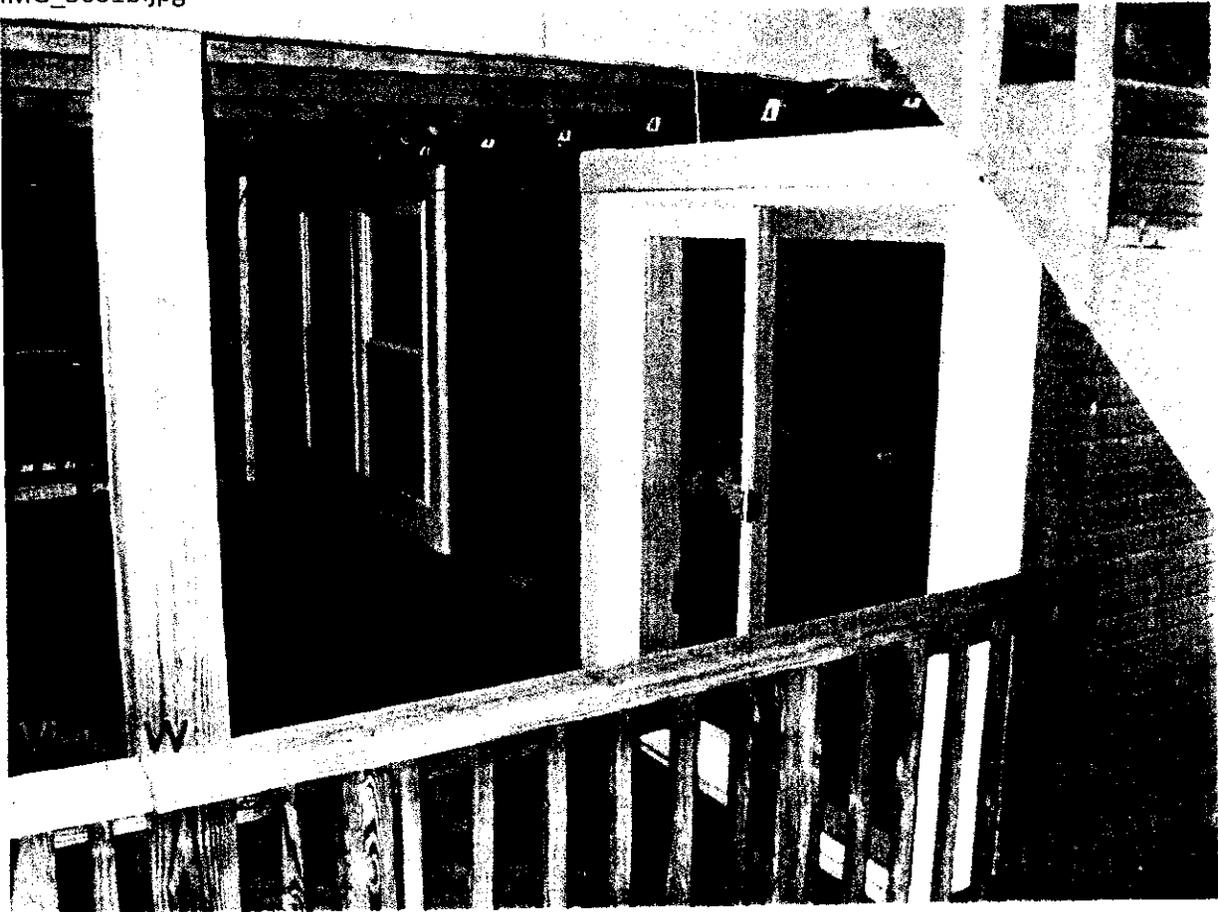
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Zoning Evaluation Division



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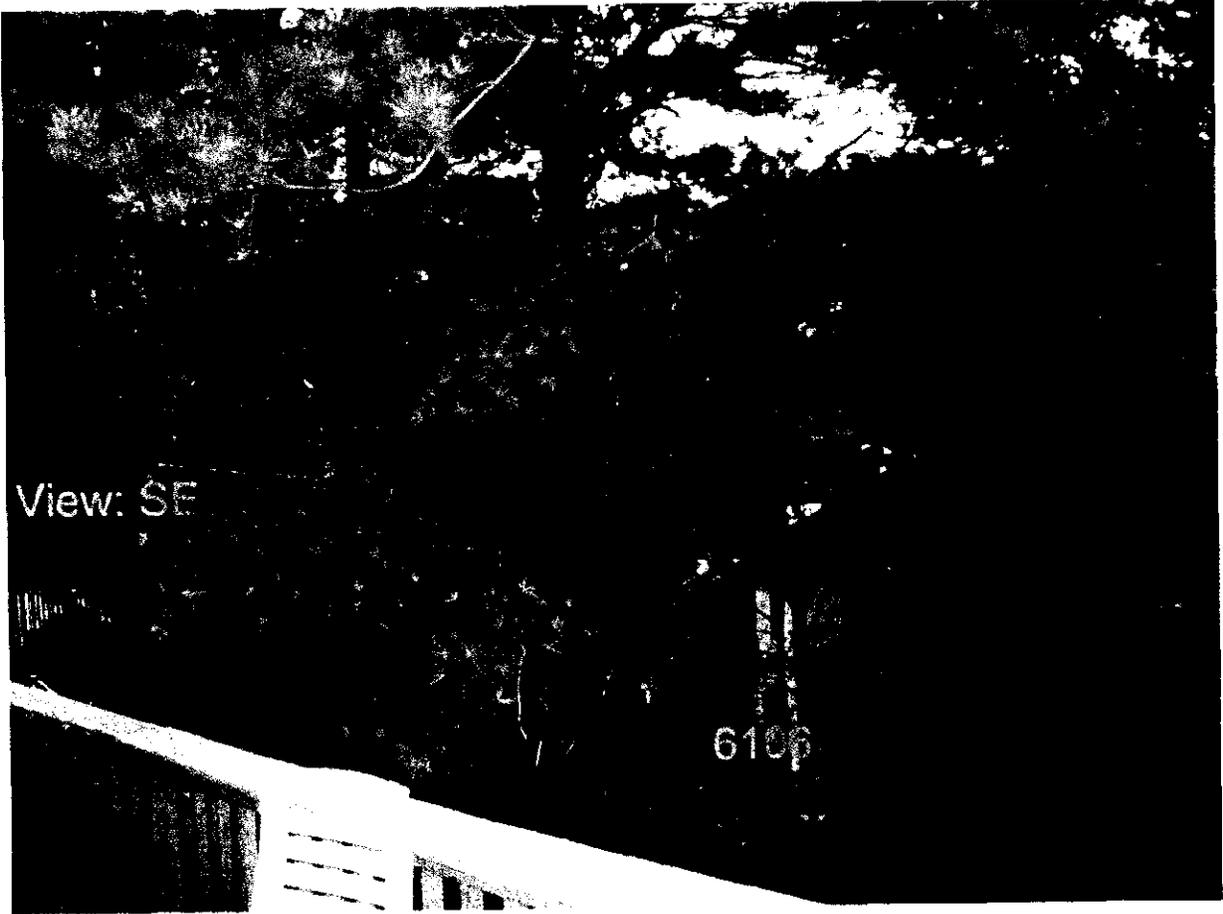
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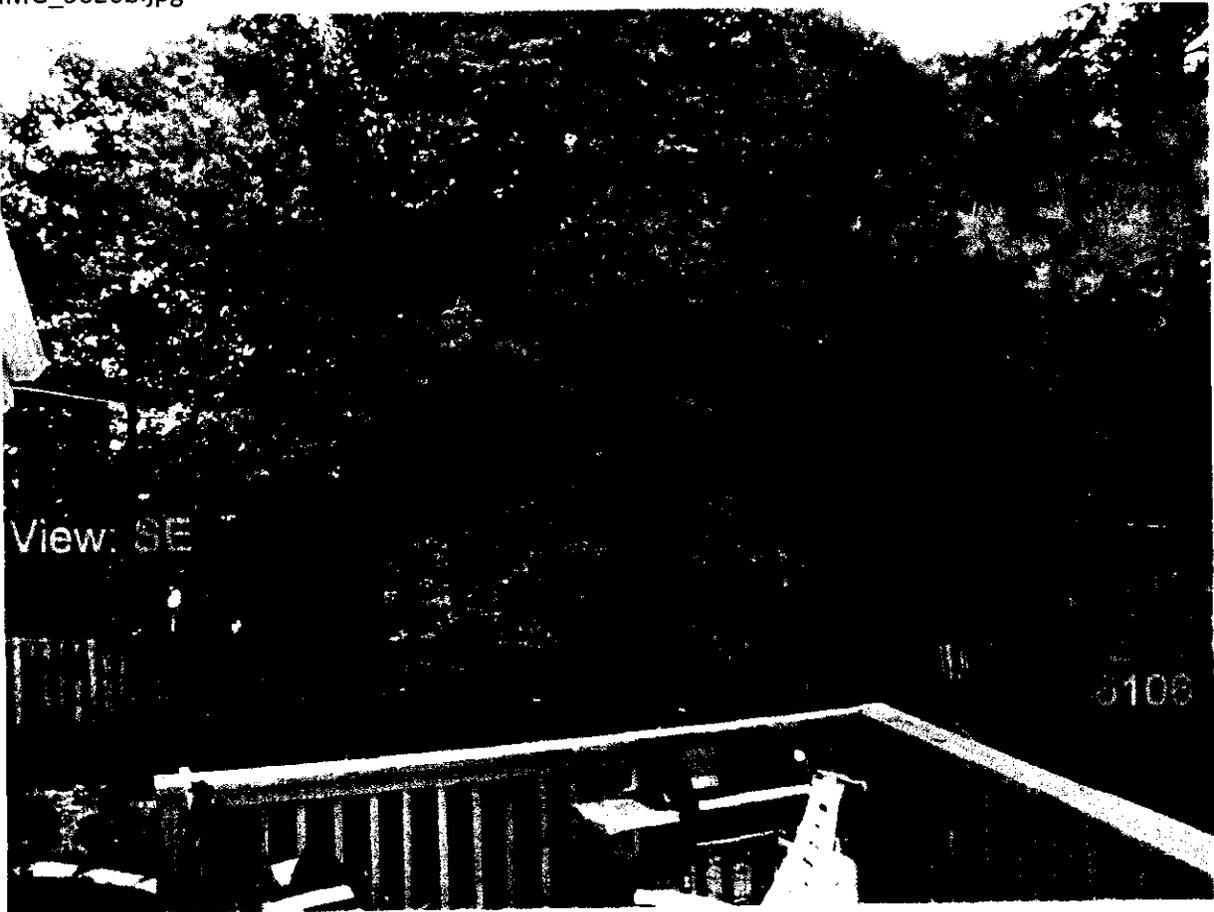
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DESCRIPTION OF THE APPLICATION

Special Permit Request: To permit a home child care facility, reduction to minimum yard requirements based on error in building location to permit deck to remain 1.3 feet from the side lot line, and to permit an existing fence greater than 4.0 feet in height to remain in the front yard of a corner lot. The fence ranges in height from 5.0 to 6.0 feet. A maximum of 4.0 feet is permitted.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Deck	Side	8.0 feet	1.3 feet	6.7 feet	83.0 %

*Minimum yard requirement per Section 3-507

Home Child Care Facility

Parking: Site can accommodate 2 spaces in the driveway and 2 spaces in the garage.

Hours: Monday through Friday: 7:00 am – 6:00 pm

Employees: Three: The applicant and two part-time assistants.

Existing Site Description: The property is located at the southwest corner of Center Road and Glen Oaks Court, just south of Rolling Road in the Springfield District. The subject property is developed with an existing two and a half story dwelling constructed in 1987. A board on board fence measuring between 5.0 and 6.0 feet in height encloses the rear yard and runs along the front lot line facing Center Road. The rear yard contains a wooden deck. A driveway with space for two vehicles leads to Glen Oaks Court. There are no easements located on site.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Single family detached dwellings	R-5	Residential, 4-5 du/ac
South	Single family detached dwellings	R-5	Residential, 4-5 du/ac
East	West Springfield High School	R-3	Public Facilities
West	Single family detached dwellings	R-5	Residential, 4-5 du/ac

BACKGROUND**Site History:**

The two and a half story home was constructed in 1987. The applicant has been conducting the child care center at the property since 2006 with an enrollment of seven children between the ages of 3-30 months, as permitted by right. The property is not encumbered with any development conditions from any existing special permits or special exceptions. Proffers approved under RZ 76-S-106 do not prevent the applicant's request.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Pohick; Area III
Planning Sector: Main Branch
Plan Map: Residential use at 4-5 dwelling units per acre

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

Title of SP Plat: Special Permit Plat, Lot 22A, Glen Oaks Subdivision
Prepared By: Lawrence H. Spilman III
Dated: October 4, 2007, as revised through November 21, 2007

Proposed Use

The applicant is requesting approval of a special permit for a home child care facility for up to 10 children between the ages of 3 and 30 months at any one time. The arrival and departure of the children are varied. Some arrive between 7:00 and 9:00 a.m., and

others arrive between 12:00 and 2:00 p.m. Children depart between 4:00 and 6:00 p.m. Employees include the applicant and a two part-time assistants.

The home is a two and a half story single family dwelling. The child care area is located on the first floor of the home, and access will be through the front door. The applicant is not proposing a play area due to the young ages of the children. The site contains parking for up to four vehicles: two in the garage and two in the driveway.

Second, the applicant is requesting permission to reduce the minimum yard requirements based on error in building locations to permit a 7.6 foot high, and approximately 285 square foot wooden deck to remain 1.3 feet from the side lot line.

Third, the applicant is requesting permission to permit an existing fence measuring between 5.0 and 6.0 feet in height to remain in the front yard of a corner lot. The maximum height for fences located in the front yard is 4.0 in height.

Transportation Analysis (Appendix 4)

Issue: On-site parking

According to the schedule, for the most part the children arrive at separate times and depart at separate times. However, the applicant does not appear to have adequate off-street parking to accommodate the proposed use. All parking for the proposed use should be contained on site. The width of the driveway (20 feet) can accommodate two spaces: one for an employee, and only one to use for children to be dropped off and picked up. The two-car garage provides storage space for the two required residential spaces. The applicant has indicated that two part-time employees will be employed in the functioning of the child care center. The applicant has stated that only one assistant will be on shift at any given time, thus requiring one parking space at a time.

Staff is concerned that the drop off and pickup times will overlap and there is inadequate space in the driveway for more than one patron at a time. The driveway is too short to provide space for a second car to park behind cars already in the driveway. Further, the subject property is located at the corner of Center Road and Glen Oaks Court. Because of the small size of the lot and the short distance between the driveway and the corner, there is very limited frontage and no opportunity for patrons to park on Glen Oaks Court in front of the subject property safely. With the driveway so close to the corner, patrons backing out of the driveway may cause backups onto Center Street. Patrons may be forced to park in front of neighboring properties, further causing congestion. These reasons present unsafe conditions for motorists and patrons alike.

Resolution

The applicant has stated that patrons arrive at, or very near to, their scheduled drop off and pick up times which are spread out to prevent dangerous conditions along Center

Road in the morning and afternoon. However, these issues cannot be solved because of limited frontage along the subject property and the small driveway located on site. Staff remains concerned regarding the lack of parking spaces provided on site, and safety issues associated with any parking which may occur along public streets. This issue is unresolved.

ZONING ORDINANCE PROVISIONS

R-5 DISTRICT REGULATIONS	REQUIRED	PROVIDED
Bulk Regulations R-5		
Lot Size	5,000 square feet	7,493 square feet
Lot Width (corner)	70 feet	Center Road: approx. 74 feet Glen Oaks Court: approx. 70 feet
Building Height	35 feet	Approx. 29 feet
Front Yard	20 feet	Center Road: 30.7 feet Glen Oaks Court: 20.0 feet
Side Yard	8 feet	9.7 feet
Rear Yard	25 feet	32.1 feet
Parking		
Parking Spaces	2 spaces for single family dwelling. Child care use parking to be determined by BZA.	4 spaces

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Standards for All Group 3 Uses (Sect. 8-303)
- Additional Standards for Home Child Care Facilities (Sect. 8-305)
- Group 9 Standards (Sect. 8-903)
- Provision for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

Summary of Zoning Ordinance Provisions

All special permits must meet all General Special Permit Standards (Sect. 8-006) of the Zoning Ordinance. General Standard 4 requires that the proposed use be such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

The applicant is proposing four total parking spaces: two for the owner, one for one part time employee at a time, and only one for child pick up and drop off. As stated previously, staff is concerned that this minimum amount of parking will not be adequate if more than one patron is dropping off or picking up a child. There is no where else on the site to park, therefore parking must be on the street, which is located at an intersection and presents safety issues for motorists and patrons.

CONCLUSIONS

Staff concludes that the subject application for the home child care facility is not in conformance with the applicable Zoning Ordinance provisions.

RECOMMENDATIONS

Staff recommends denial of SP 2005-SP-147 for the home child care center.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any

easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Transportation Analysis
5. Applicable Zoning Ordinance Provisions Checklist

PROPOSED DEVELOPMENT CONDITIONS**February 5, 2008**

If it is the intent of the Board of Zoning Appeals to approve SP 2005-SP-147 located at Tax Map 79-3 ((23)) 22A to permit a home child care facility, reduction to minimum yard requirements, and existing fence greater than 4.0 feet in height in a front yard, pursuant to Sects. 8-305, 8-914, and 8-923 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Maysa K. Moulhem, only and is not transferable without further action of this Board, and is for the location indicated on the application, 6126 Glen Oaks Court, and is not transferable to other land.
2. This Special Permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by Lawrence H. Spilman III, dated October 4, 2007 as revised through November 21, 2007, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
5. The maximum number of employees shall be limited to one (1) on-site at any one time in addition to the applicant.
6. The dwelling that contains the child care facility shall be the primary residence of the applicant.
7. Parking shall be limited to two (2) spaces for the dwelling, and two (2) spaces in the driveway for the child care facility. All parking shall be on-site.
8. A maximum of ten (10) children shall be on site at any one time.
9. There shall be no signage associated with the home child care facility.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for establishing the use as outlined above, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically

expire, without notice, thirty (30) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): _____
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 3, 2007
 (enter date affidavit is notarized)

I, Maysa K. Moulhem, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Maysa K. Moulhem	6126 Glen Oaks Court Springfield, Virginia 22152	Owner/Applicant
William M. Baskin, Jr., Esquire	Baskin, Jackson, Hansbarger & Duffett, PC 301 Park Avenue Falls Church, Virginia 22046	Attorney/Agent

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 3, 2007
(enter date affidavit is notarized)

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Baskin, Jackson, Hansbarger & Duffett, PC
301 Park Avenue
Falls Church, Virginia 22046

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

William M. Baskin, Jr.
John G. Jackson
William H. Hansbarger
Robert J. Duffett

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 3, 2007
(enter date affidavit is notarized)

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

NONE

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 3, 2007
(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

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DATE: August 3, 2007
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

Maysa K. Moulhem

(check one)

Applicant

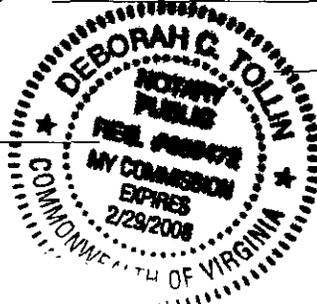
Applicant's Authorized Agent

Maysa K. Moulhem

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 3rd day of August 2007, in the State/Comm. of Virginia, County/City of Falls Church.

My commission expires: 2/29/08



Deborah C. Tuck

Notary Public

**SPECIAL PERMIT
STATEMENT OF JUSTIFICATION**

RECEIVED
Department of Planning & Zoning
NOV 02 2007

Zoning Evaluation Division

I. Home day care facility (3-503(1)(E))

The applicant, Maysa K. Moulhem, is licensed by the Commonwealth of Virginia provide home child care services for up to twelve (12) children. She is seeking a special permit to allow her to operate a home day care facility from her home at 6126 Glen Oaks Court, Springfield, Virginia 22152 to serve up to ten (10) infants and toddlers. The proposed use and other pertinent data are set forth below:

A. Type of Operation: The proposed use is an in-home child care facility for up to ten (10) babies between the ages of 3-30 months. Because of the young age of the children, all regular day care activities will occur indoors and there will be no outdoor play equipment in the yard.

B. Hours of Operation: The hours of the proposed use would be between 7:00 a.m. and 6:00 p.m., Monday through Friday.

C. The estimated number of children served would not exceed ten (10).

D. The number of employees/attendants would not exceed one full time and two part time employees.

E. The estimated traffic impact of the proposed use would include a maximum expected trip generation of twelve (12) inbound and ten (10) outbound trips between the hours of 7:00 a.m. and 9:00 a.m., six (6) inbound and six (6) outbound trips between the hours of 12:00 p.m. and 2:00 p.m., and ten (10) inbound and twelve (12) outbound trips between the hours of 4:00 p.m. and 6:00 p.m. All trips will be by single family private vehicle with provision for on-site off-street pickup and drop-off.

F. The vicinity or general area to be served by the use is the general Springfield vicinity of Fairfax County.

G. The use will be conducted entirely indoors within the existing two and one-half story framed house with a full daylight/English basement, and will have no unfavorable impact on adjacent residential properties. The above grade floor area of the existing house is 2,104 feet. The daycare use will be limited to the lower level.

H. An existing readily-accessible grade-level walk-out rear entrance for exclusive daycare use is completely screened from view by a fence and landscaping at the Eastern and Southern property boundaries. There will be no signage on the property and no external visual or auditory evidence of child daycare activity. There will be no structural alterations to the house to accommodate the proposed use.

I. To the best of applicant's knowledge there are no hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations parts 116.4, 302.4, and 355; nor does any hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations exist on site; nor any petroleum products as defined in Title 40, Code of Federal Regulations, part 280; to be generated, utilized, stored, treated, and/or disposed of on site. No storage tanks or containers existing or are proposed.

J. The proposed use at the specified location is in harmony with the adopted comprehensive plan and is further in harmony with the general purpose and intent of the applicable zoning district regulations. The proposed use will not adversely affect the use or development of neighboring properties.

K. The proposed use shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous nor will it unfavorably impact or conflict with existing and anticipated traffic in the neighborhood.

L. Adequate utility, drainage, parking, loading and other necessary facilities to serve the use shall be provided.

II. Error in building location (deck) (8-914)

When the applicant acquired the subject property with her husband in 1994, it was purchased as it exists today, with the deck and fence in the same location and with the same dimensions as exist today. The property was acquired in good faith without knowledge of the noncompliance.

The error exceeds ten (10) percent of the measurement involved, but will not impair the purpose and intent of the Zoning Ordinance. It will not create an unsafe condition with respect to other property or public streets.

To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner. The reduction will not result in an increase in density or floor area from that permitted by the Zoning Ordinance.

III. Increase in fence height in front yard. (8-923)

The existing fence was built prior to acquisition of the property by the applicant. Its height is 6 feet. Because the lot is a corner lot the fence is in one of the two front yards. However, since it terminates before reaching the front plane of the house the sight distances are not impaired.

The fence is warranted based on the orientation of the house, location on the lot and presence of multiple front yards. The fence is in character with the existing on-site development and is harmonious with the surrounding uses. The height does not adversely impact other properties in the immediate area.

By: 
William M. Baskin, Jr., Attorney and Agent

2/12/08



County of Fairfax, Virginia

MEMORANDUM

DATE: December 12, 2007

TO: Regina Coyle, Director
 Zoning Evaluation Division
 Department of Planning and Zoning

FROM: Angela Kadar Rodeheaver, Chief *AKR*
 Site Analysis Section
 Department of Transportation

FILE: 3-6 (SP 2007-SP-147)

SUBJECT: Transportation Impact

REFERENCE: SP 2007-SP-147: Maysa K. Moulhem
 Land Identification Map: 79-3 ((23)) 22A

Transmitted herewith are the comments of the Department of Transportation with respect to the referenced application. These comments are based on plats made available to this department dated November 21, 2007.

This department has reviewed the proposed application, to permit a home child care facility and reduction to certain yard requirements, and offers the following comment:

- Adequate parking is not provided on the subject site for the proposed request; therefore, until this is provided (and this department can review the location) we can not support approval of the subject application.

AKR



5V

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for All Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

- 1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
- 2. All uses shall comply with the performance standards specified for the zoning district in which located.
- 3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305 Additional Standards for Home Child Care Facilities, Child Care Centers and Nursery Schools

- 1. For home child care facilities the following standards shall apply:**
 - A. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed ten (10).
 - B. No such use shall be permitted unless it is determined by the County Department of Health Services that the location does not pose any hazard to the health, safety and welfare of the children.
 - C. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
 - D. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
 - E. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - (1) The dimensions, boundary lines and area of the lot or parcel.
 - (2) The location, dimensions and height of any building, structure, or addition, whether existing or proposed.
 - (3) The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - (4) The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
 - F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Sect. 63.1-196 of the Code of Virginia.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-923 *Provisions for Increase in Fence and/or Wall Height in Any Front Yard*

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

- B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.