APPLICATION ACCEPTED: May 10, 2004
FROM INDEFINITE DEFERRAL
BOARD OF ZONING APPEALS: July 29, 2008
TIME: 9:00 a.m.

County of Fairfax, Virginia

July 22, 2008

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2004-DR-027

DRANESVILLE DISTRICT

APPLICANT/OWNERS:	Erin E. Shaffer, Trustee Blair G. Childs, Trustree
SUBDIVISION:	Franklin Park
STREET ADDRESS:	1885 Virginia Avenue
TAX MAP REFERENCE:	41-1 ((13)) (4) 44A
LOT SIZE:	14,910 square feet
ZONING DISTRICT:	R-2
ZONING ORDINANCE PROVISIONS:	8-914
SPECIAL PERMIT PROPOSAL:	To permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 7.7 feet from a side lot line and 1.6 feet from the rear 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.

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.

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).

O:\dhedri\Special Permits\(7-29) SP 2004-DR-027 Childs & Shaffer\SP 2004-DR-027 Childs & Shaffer staff report.doc
Deborah Hedrick

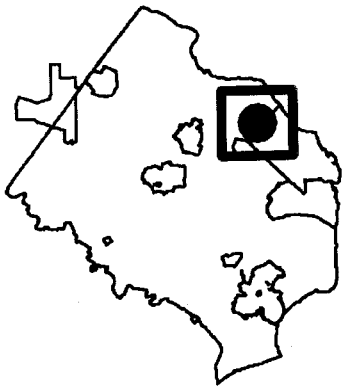
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

DEPARTMENT OF PLANNING & ZONING

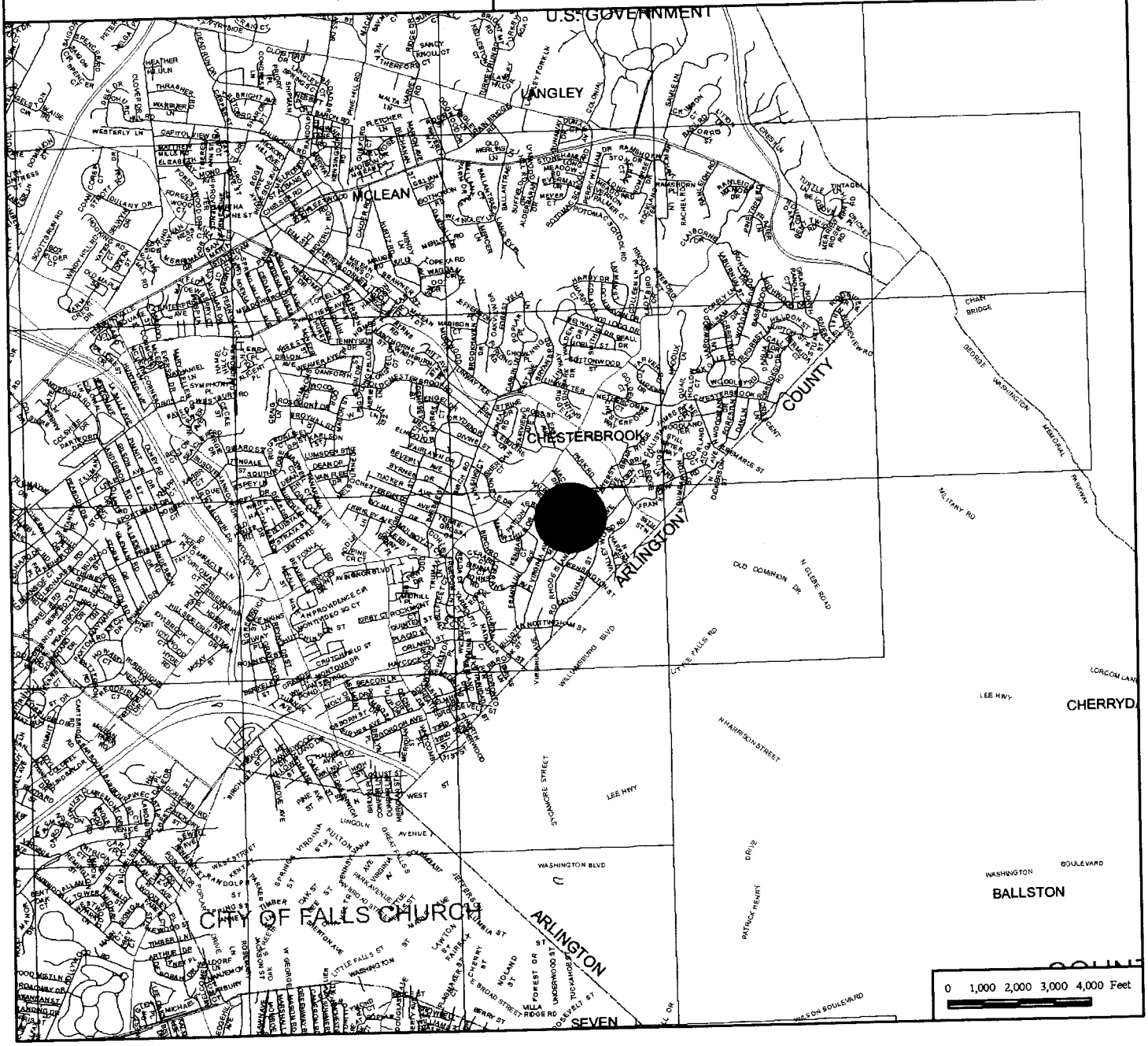
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**.

Special Permit

SP 2004-DR-027

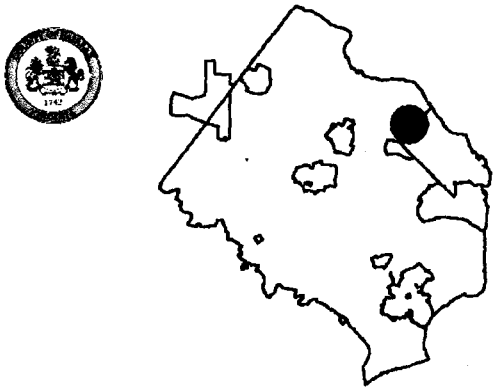


Applicant:	BLAIR G CHILDS TRUSTEE & ERIN E SHAFFER TRUSTEE
Accepted:	05/10/2004
Proposed:	REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STRUCTURE TO REMAIN 7.7 FEET FROM SIDE LOT LINE AND 1.6 FEET FROM REAR LOT LINE
Area:	14,910 SF OF LAND; DISTRICT - DRANESVILLE
Zoning Dist Sect:	08-0914
Art 8 Group and Use:	9-13
Located:	1885 VIRGINIA AVENUE
Zoning:	R- 2
Overlay Dist:	
Map Ref Num:	041-1- /13/04/0044A



Special Permit

SP 2004-DR-027



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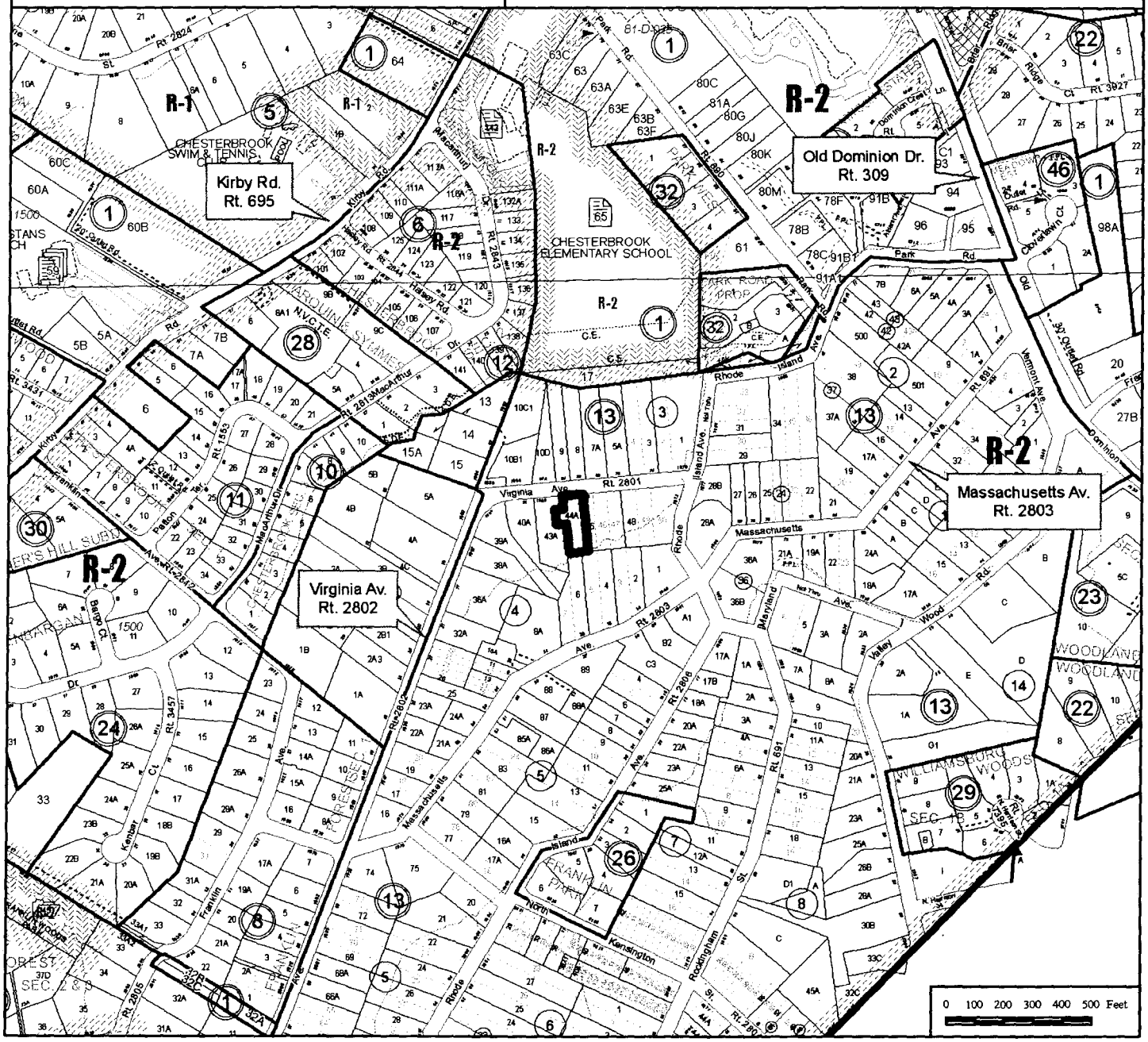

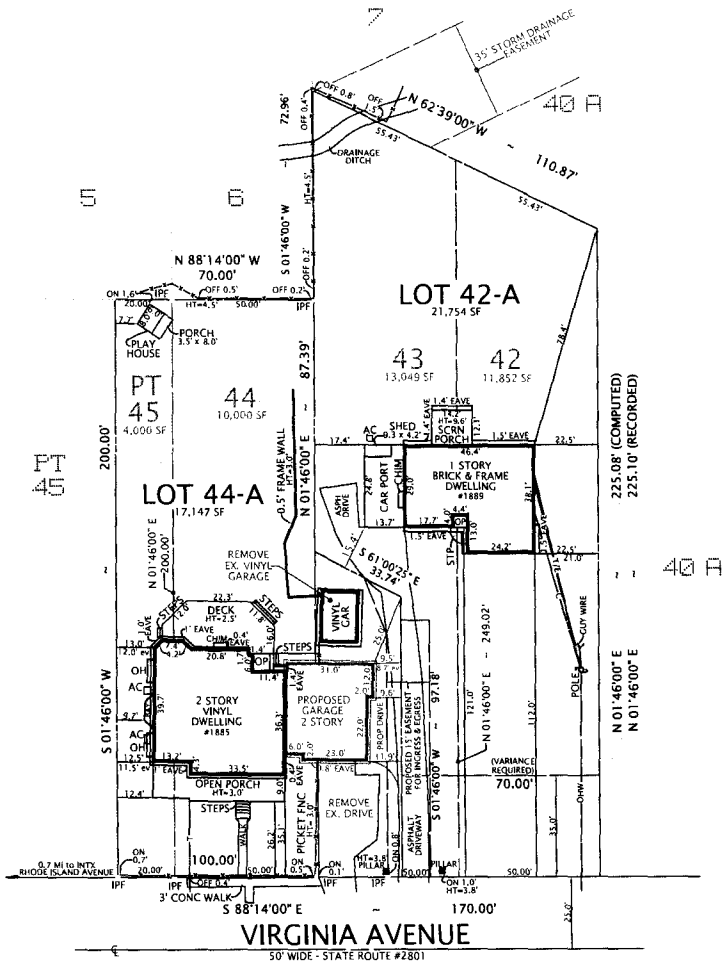

NOTES:

1. TAX MAP: 041-1-13-04-0042 & 44.
2. ZONE: R-2
3. LOTS 42 & 43 - 24,901 SF.
   LOTS 44 & PT. 45 - 14,000 SF. (LAND AREAS ARE BASED ON A CURRENT SURVEY)
4. REQUIRED YARDS:

FRONT	=	35 FEET
SIDE	=	15 FEET
REAR	=	25 FEET

5. HEIGHTS:

1885 VIRGINIA AVENUE:		
HOUSE	=	18.4 FEET
GARAGE	=	8.9 FEET
PROPOSED ADDITION	=	24.0 FEET
PLAY HOUSE	=	14.0 FEET

1889 VIRGINIA AVENUE:		
HOUSE	=	13.0 FEET
GARAGE	=	8.9 FEET

6. THERE ARE NO FLOOD PLAINS, RESOURCE PROTECTION AREAS OR ENVIRONMENTAL QUALITY CORRIDORS ON THIS LOT.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
10. SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS GREATER THEN 25 FEET IN WIDTH AFFECTING THIS PROPERTY.
11. THE PURPOSE OF THIS PLAT IS TO REQUEST A VARIANCE OF THE MINIMUM LOT WIDTH REQUIREMENT FOR PROPOSED LOT 42-A AND TO REQUEST A SIDE YARD VARIANCE FOR LOT 44-A FOR THE PROPOSED GARAGE.

PLAT
SHOWING
A CONSOLIDATION AND RESUBDIVSION
OF LOTS 42, 43, 44 AND PART OF LOT 45

FRANKLIN PARK

(DEED BOOK C-7, PAGE 181)

FAIRFAX COUNTY, VIRGINIA

DRANESVILLE DISTRICT

SCALE 1"=30' FEBRUARY 2, 2004
APRIL 19, 2004 (REVISED) MAY 7, 2004 (REVISED)
MAY 2, 2004 (REVISED)

COMMONWEALTH OF VIRGINIA
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR

George M. O'Quinn

DOMINION® Surveyors Inc.
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
FAX 703-799-6412

SHEET 1 OF 1 31106008 #276-03

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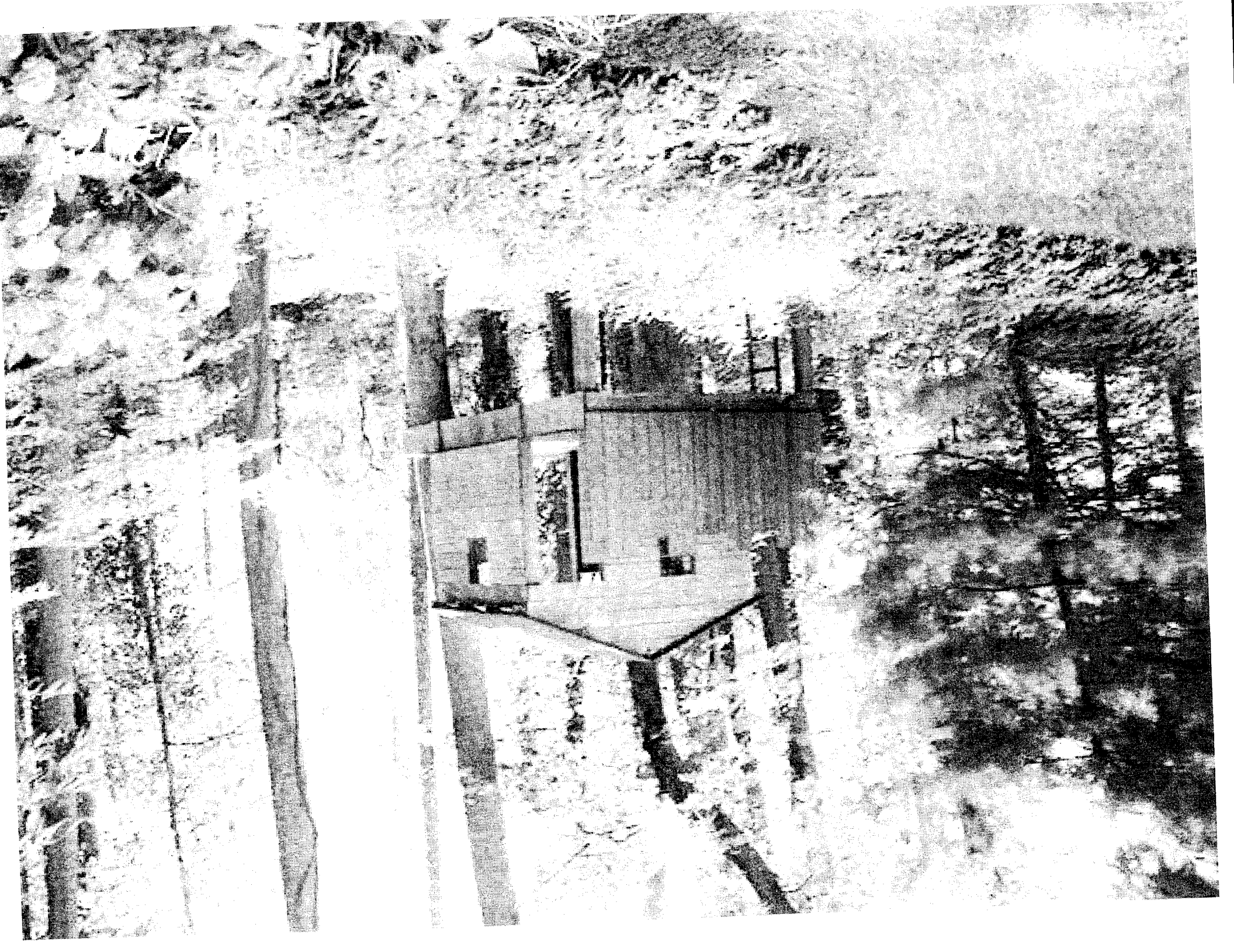

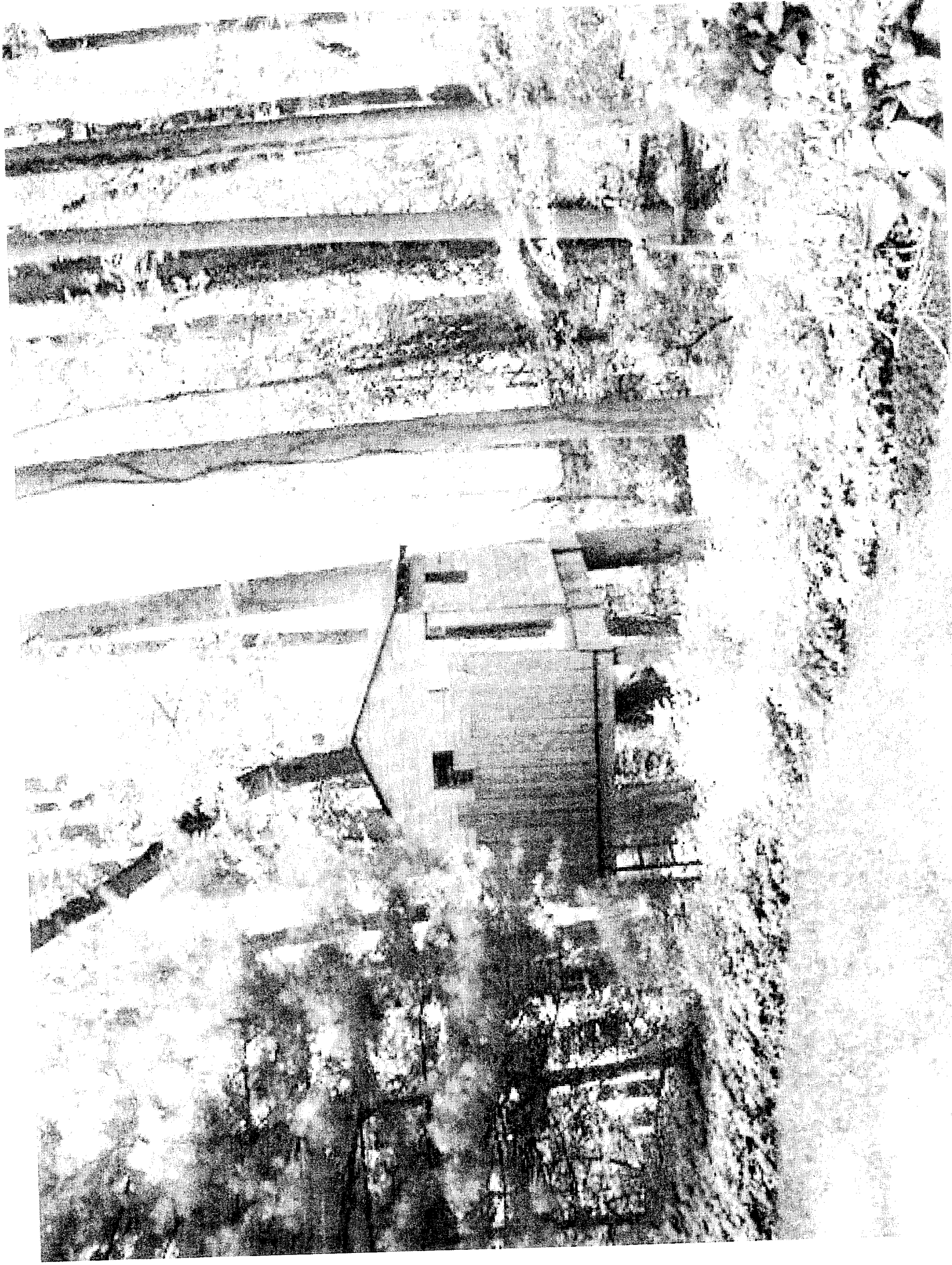

DESCRIPTION OF THE APPLICATION

To permit reduction to minimum yard requirements based on error in building location to permit an accessory structure, play equipment which measures 14.0 feet in height, to remain 7.7 feet from a side lot line and 1.6 feet from the rear lot line.

Description of Special Permits

	Structure	Yard	Minimum Yard Required*	Structure Location	Amount of Error	Percent of Error
Special Permit	**Accessory Structure**	Side	15.0 feet	7.7 feet	7.3 feet	49%
Special Permit	**Accessory Structure**	Rear	14.0 feet	1.6 feet	12.4 feet	89%

*Minimum yard requirement per Section 3-207

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Plat Showing a Consolidation and Resubdivision of Lots 42, 43, 44 and part of Lot 45, Franklin Park
- **Prepared by:** Dominion Surveyors Inc. dated February 2, 2004 as revised through May 7, 2004
- **Building Permit required:** No
- **Error Made by:** Applicants

CHARACTER OF THE AREA

	Zoning	Use
North	R-2	Single Family Detached Dwellings
East	R-2	Single Family Detached Dwellings
South	R-2	Single Family Detached Dwellings
West	R-2	Single Family Detached Dwellings

BACKGROUND

Records indicate the dwelling was originally constructed in 1922 and remodeled in 1999.

This application, along with a concurrent variance application VC 2004-DR-081, were deferred from August 3, 2004, July 27, 2004, September 28, 2004, November 30, 2004, February 15, 2005 and March 8, 2005 at the applicant's request. The applications were then indefinitely deferred from April 19, 2005. On May 8, 2007, the variance application was administratively dismissed since it was not being pursued by the applicants. On May 27, 2008, the special permit application was reactivated since it is in violation of the Zoning Ordinance provisions and continues to require resolution.

Following the adoption of the current Ordinance, the BZA has heard the following similar special permits or variances in the vicinity of the application parcel:

- Variance VC 97-D-006 was approved on April 9, 1997 for Tax Map 41-1 ((13)) (9) 33, zoned R-2, at 6249 North Kensington Street, to permit accessory structure 8.4 feet from side lot line and accessory structure in the front yard of a lot containing less than 36,000 square feet.

- Special Permit SP 2007-DR-151 was approved on February 26, 2008 for Tax Map 41-1 ((13)) (9) 39, zoned R-2, at 6253 North Kensington Street, to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 3.9 feet from side lot line and 1.0 foot from rear lot line.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 4)

- General Special Permit Standards (Sect. 8-006)
- 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)

CONCLUSION

If it is the intent of the BZA to approve SP 2004-DR-027 the BZA should condition its approval by requiring conformance with the 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 Special Permit Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2004-DR-027

July 22, 2008

1. This special permit is approved for the location of the accessory structure (play equipment) as shown on the plat prepared by Dominion Surveyors Inc., dated February 2, 2004 as revised through May 7, 2004, as submitted with this application and is not transferable to other land.

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.

Application No.(s): SP 2004-DR-027
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/~~VARIANCE~~ AFFIDAVIT

DATE: Aug 18, 2004
(enter date affidavit is notarized)

I, Erin E. Shaffer, Trustee, 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

830176

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)
Erin E. Shaffer, Trustee of the Erin E. Shaffer Revocable Trust and Co-Trustee of the Blair G. Childs Revocable Trust	1885 Virginia Drive McLean, VA 22101	Applicant/Title Owner of TM 041-1((13))(4) parcel 44
Erin E. Shaffer & Blair G. Childs		Beneficiaries
Blair G. Childs, Trustee of the Blair G. Childs Revocable Truste and Co-Trustee of the Erin E. Shaffer Revocable Trust		Co-Owner
Erin E. Shaffer & Blair G. Childs		

(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.

* 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): SP 2004-DR-027
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Aug 18, 2004
(enter date affidavit is notarized)

8301 7th

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)

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)

(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): SP 2004 - DR-027
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Aug 18 2007
(enter date affidavit is notarized)

8/30/07

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)**

(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): SP 2004-DR-027

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Aug 18, 2004

(enter date affidavit is notarized)

830176

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): SP 2004-DR-027
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Aug 18, 2004 830176
(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 $200 or more, 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: x Erin E Shaffer Trustee

(check one) [✓] Applicant [ ] Applicant's Authorized Agent

ERIN E. SHAFFER, TRUSTEE
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 18 day of Aug 2004 in the State/Comm. of VA, County/City of Fairfax

Notary Public

My commission expires: 03-31-07

FORM SP/VC-1 Updated (3/24/03)

APPENDIX 3

RECEIVED
Department of Planning & Zoning

APR 2 0 2004

Zoning Evaluation Division

Planning Evaluation Division
Fairfax County Department of Planning and Zoning

RE: Request for Reduction in Minimum Yard Requirements Based on Error in Building Location
Special Permit Application
Lot 44, part Lot 45, 041-1((13)) (4) 44 and part lot 45.

To Whom It May Concern:

A. Rear setback required is 25 feet, side yard set back requirement is 15 feet in our R-2 zone. The tree-house is in fact 7.7' from the side lot line and 1.6' from the rear lot line.
B. The noncompliance was done in good faith. The play house is actually a tree-house built spanning two large trees at the rear of our property. We were not totally certain where the back property line was at the time we built the tree-house, however, we thought it went back further than it turns out that it does. There have been several purchases of property that abutt ours, in the rear, and the property line is now staked out more clearly. Our recent survey indicates that the rear corner of the tree-house is very near the back property line. We do not have any other trees on the property where we could have built a tree-house as most of the large trees are actually very near to the property lines.
C. and
D. The reduction in rear lot setback requirement for this tree-house will not impair the purpose of this Ordinance as it is a small tree-house and does not impair the use and enjoyment of the other property. In fact, the tree-house is built on the down slope at the very rear of our property, near to the drainage area, land that is not useful for any other purpose. In fact, both of the property owners to our rear have fenced in their yard and their back fence is quite a distance from the tree-house. The property to our side, part Lot 45 and Lot 46, also has a significant downhill slope and the tree-house is barely visible from the majority of their property.
E. The tree-house is in the rear of the property, nowhere near a public street. It does not create an unsafe condition with respect to other properties or to public streets.
F. To force compliance with the minimum yard requirements would cause unreasonable hardship as we would have to tear down the tree-house. There is no other place on our property that we could build it and have it meet side or rear setback requirements due to the location of the trees that we would need to use to build the tree-house.
G. The reduction will not result in density or floor area ratio from that permitted by the applicable zoning district regulations. The structure in question is a small tree-house in the back of our property.

Thank You

Erin E. Shaffer Blair G. Childs

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.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.

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, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

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. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) 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 and 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. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

   E. All required minimum yards to include front, side and rear, and 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 well and/or septic field.

   I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

   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. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. 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 relocation 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.

3. 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.

4. 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.

5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.