



APPLICATION ACCEPTED: June 3, 2008
DATE OF PUBLIC HEARING: September 16, 2008
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 9, 2008

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2008-MV-060
VARIANCE APPLICATION No. VC 2008-MV-003

MOUNT VERNON DISTRICT

APPLICANTS & OWNERS: Bill and Wendy Turrene

ZONING: R-3

LOCATION: 8507 Hitching Post Lane

SUBDIVISION: Riverside Gardens

ZONING ORDINANCE PROVISION: 8-914, 18-401 & 10-103

TAX MAP: 102-3 ((10)) (5) 07

LOT SIZE: 12,751 Sq. Ft.

SP PROPOSAL: Reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 2.1 feet from rear lot line.

VC PROPOSAL: To permit greater than 30 percent minimum rear yard coverage.

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 special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

O:\scaffee\Case Files\9-16-08 BZA\SP 2008-MV-003 Sherry Brown

Shannon Caffee

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/



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 2008-MV-060

Variance Application

VC 2008-MV-003

Applicant: BILL AND WENDY TURENNE
 Accepted: 06/03/2008
 Proposed: REDUCTION TO MINIMUM YARD REQUIREMENTS
 BASED ON ERROR IN BUILDING LOCATION
 TO PERMIT ACCESSORY STRUCTURE TO
 REMAIN 2.1 FEET FROM REAR LOT LINE

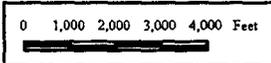
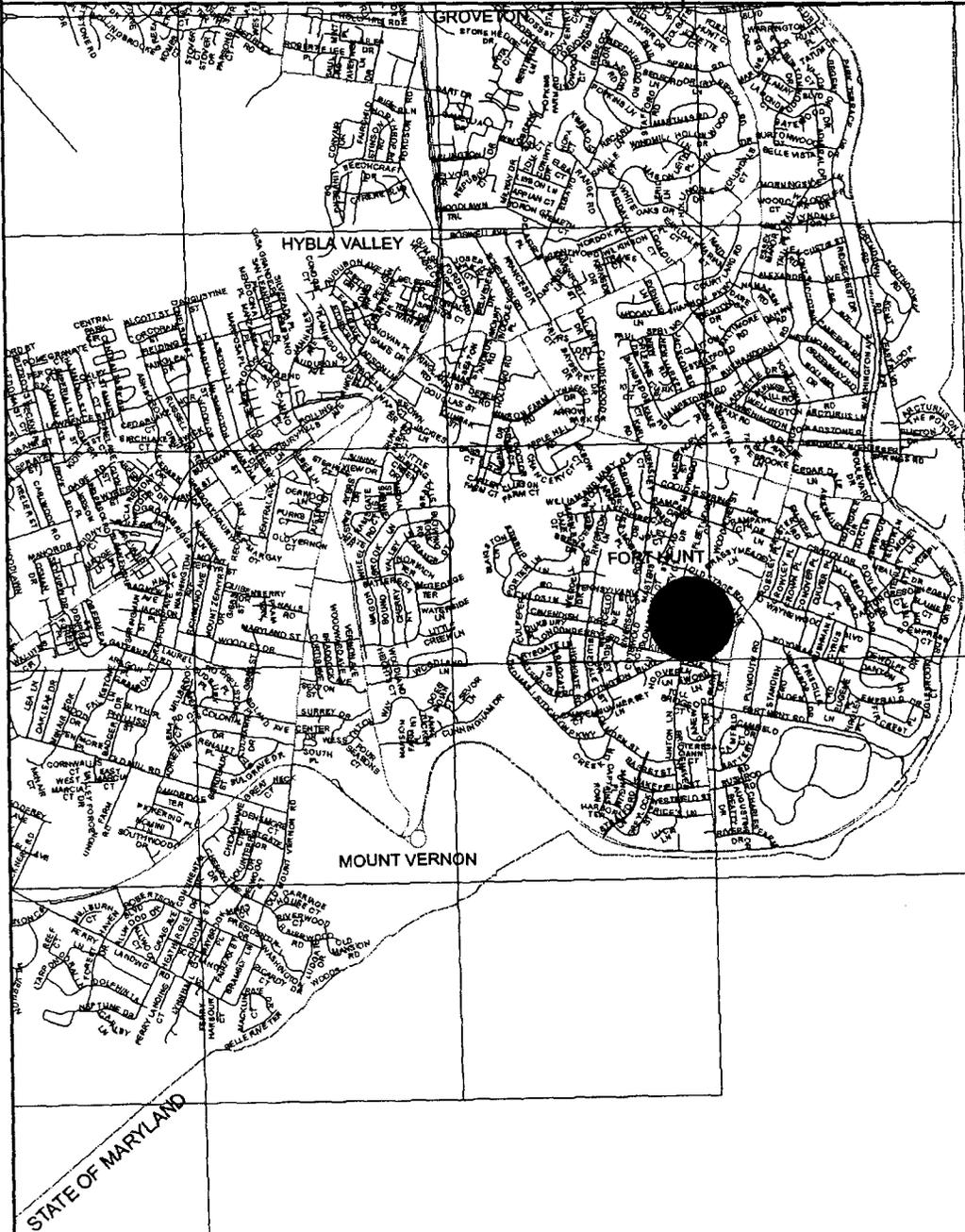
Area: 12,751 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-0914
 Art 8 Group and Use: 9-13
 Located: 8507 HITCHING POST LANE
 Zoning: R- 3
 Overlay Dist:
 Map Ref Num: 102-3- /10/05/0007

Applicant: BILL AND WENDY TURENNE
 Accepted: 06/03/2008
 Proposed: TO PERMIT GREATER THAN 30 PERCENT
 MINIMUM REAR YARD COVERAGE

Area: 12,751 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 18-0401 10-0103
 Paragraph: 1 03
 Located: 8507 HITCHING POST LANE
 Zoning: R- 3
 Overlay Dist:
 Map Ref Num: 102-3- /10/05/0007



Special Permit

SP 2008-MV-060

Variance Application

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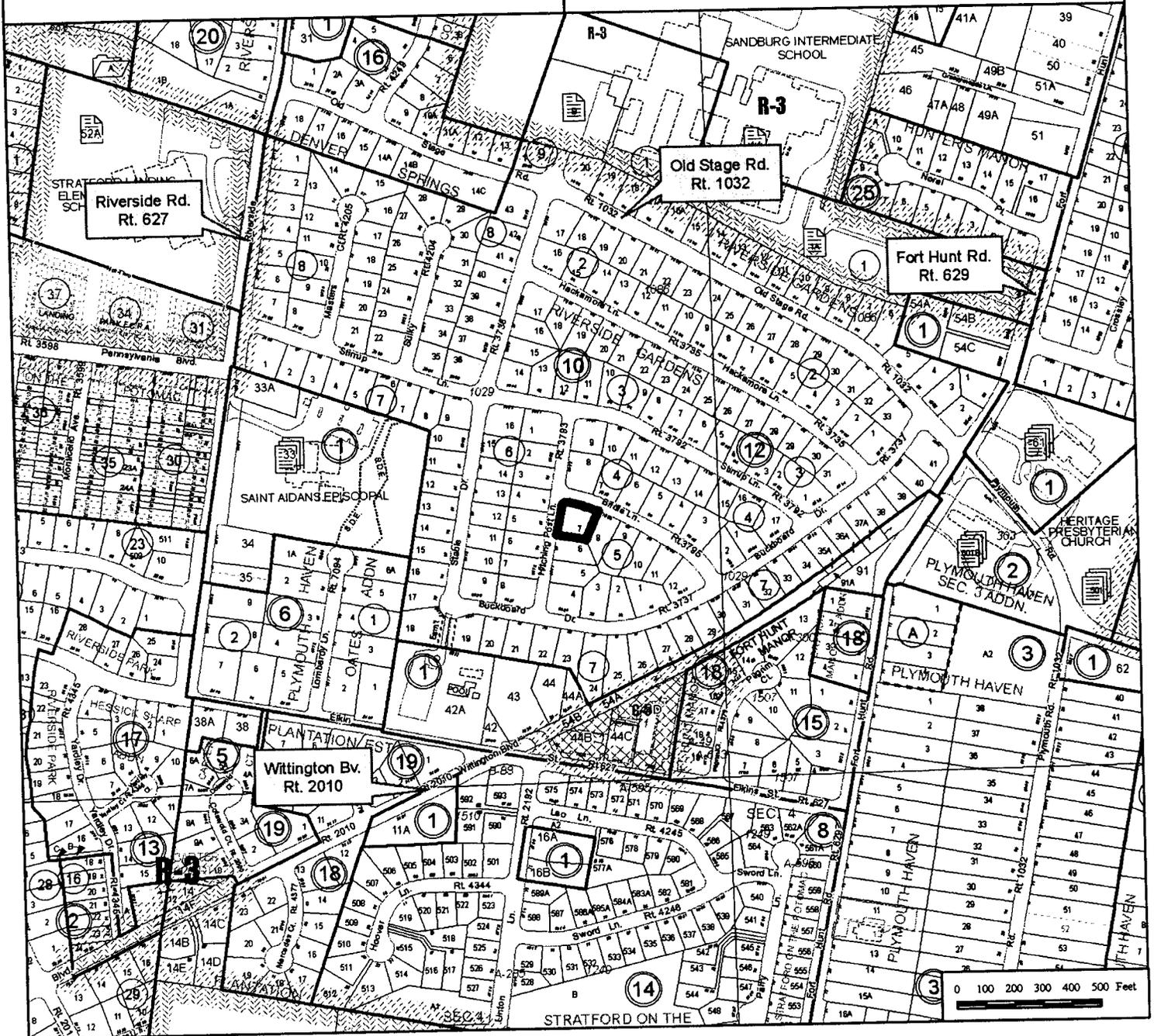
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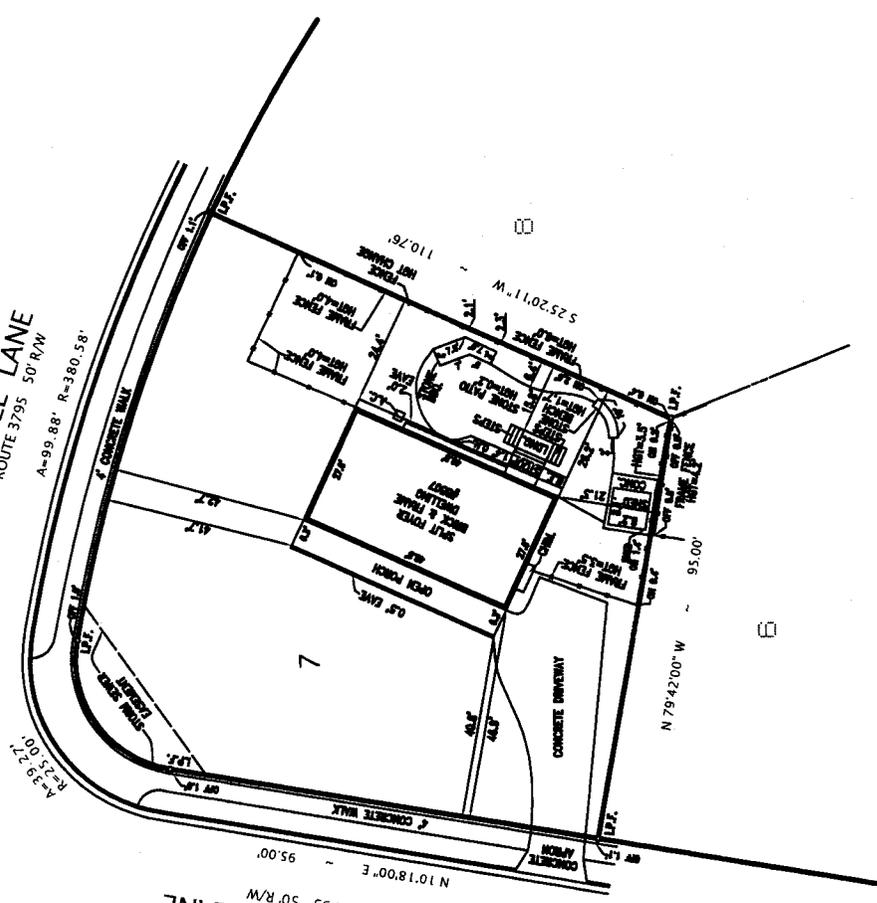
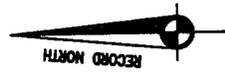
REAR YARD COVERAGE

PERCENTAGE OF IMPERVIOUS AREA WITHIN 25 FOOT WIDE PORTION OF THE LOT ADJACENT TO THE LOT LINE THAT IS OPPOSITE THE SHORTEST LENGTH OF STREET FRONTAGE

REAR YARD AREA = 2,846 S.F.
 IMPERVIOUS AREA WITHIN REAR YARD = 993 S.F. (35 %)

BRIDLE LANE
 ROUTE 3795 50' R/W
 A=99.88' R=380.58'

HITCHING POST LANE
 ROUTE 3793 50' R/W
 N 101.800° E 95.00'



NOTES

- TAX MAP: 102-3-10-05-0007
- ZONE: R-3
- LOT AREA: 12,751 SQUARE FEET
- REQUIRED YARDS:
 FRONT: 30 FEET
 SIDE: 12 FEET
 REAR: 25 FEET
- HEIGHTS:
 DWELLING: 19.0 FEET
 SHED: 7.7 FEET
 FENCES: 7.7 FEET
 WALLS: 8.0 FEET
 STONE BARBECUE: 10 FEET
 LANDING (LDNG.): 3.0 FEET
 STOOP: 4.5 FEET
 OPEN PORCH: 15.5 FEET
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
- THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
- ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
- THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
- THERE ARE NO FLOOD PLAINS, FLOOD HAZARD AREAS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
- THIS PROPERTY IS LOCATED IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 515525-0150 D. EFFECTIVE DATE MARCH 5, 1990.

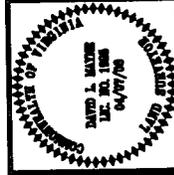
PLAT
 SHOWING THE IMPROVEMENTS ON
 LOT 7 BLOCK 5

RIVERSIDE GARDENS
 FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 20'
 AUGUST 30, 2007
 APRIL 7, 2008 (ADDED SHED DIMENSIONS AND REAR YARD COVERAGE)



CASE NAME:



WENDY M. TURENNE

ALEXANDRIA SURVEYS
 INTERNATIONAL, LLC
 8343 SOUTH LINDS HIGHWAY ALEXANDRIA, VIRGINIA 22306
 TEL. NO. 703-660-6615 FAX NO. 703-768-7764

#070629011

HITCHING POST LANE
ROUTE 3793 50' R/W

BRIDLE LANE
ROUTE 3795 50' R/W

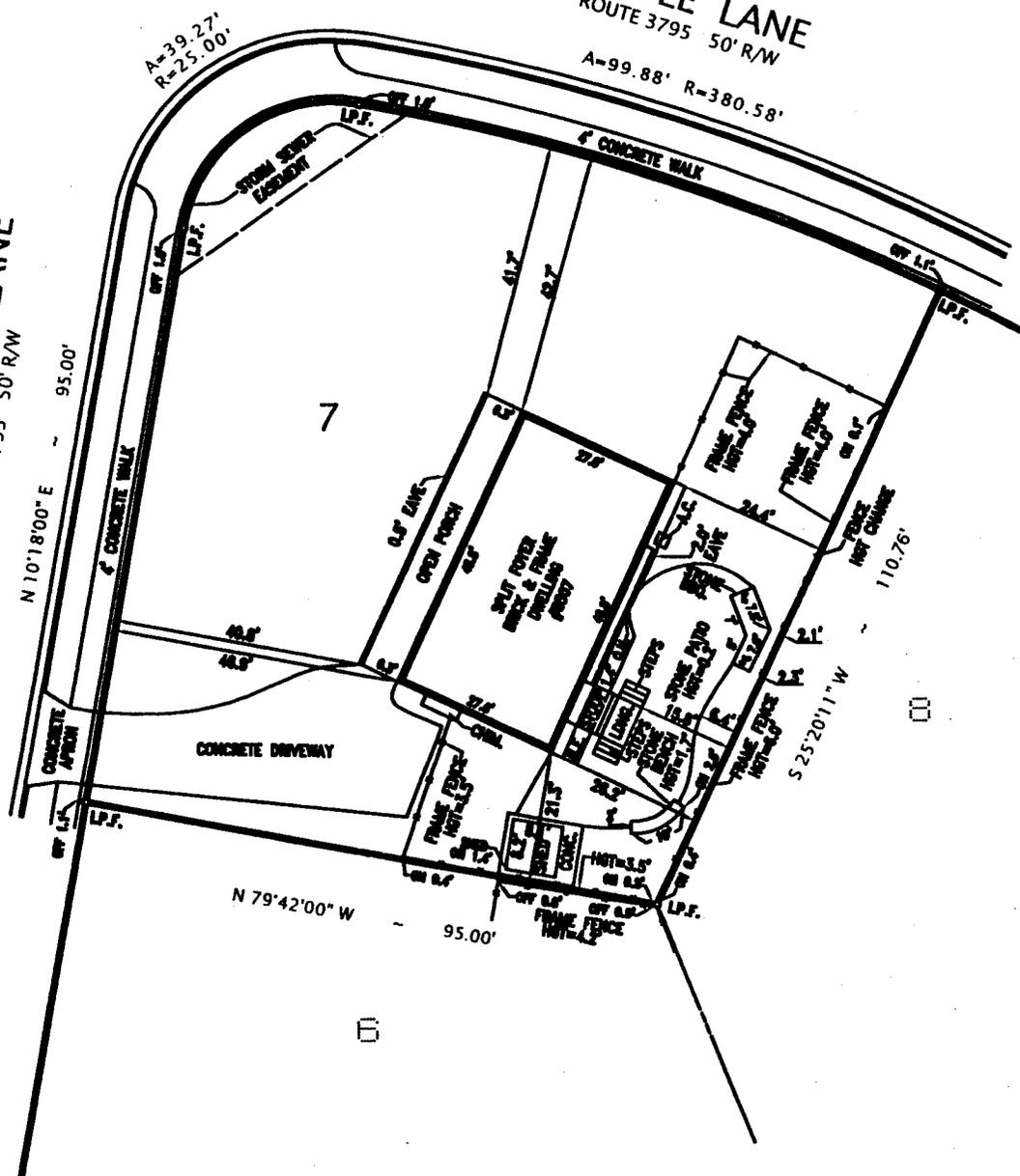


Figure 1 VIEW FROM FRONT / NEIGHBORING FRONT YARD OF RIGHT SIDE OF REAR YARD



Figure 2 RIGHT SIDE OF REAR YARD - PREVIOUSLY EXISTING SHED AND PATIO



Figure 3 VIEW OF LENGTH OF REAR YARD FROM RIGHT SIDE OF YARD (PATIO, FIREPLACE)



Figure 4 VIEW OF LEFT SIDE OF REAR YARD - GRASSY PLAY AREA



FRONT VIEW OF PROPERTY FROM HITCHING POST LANE

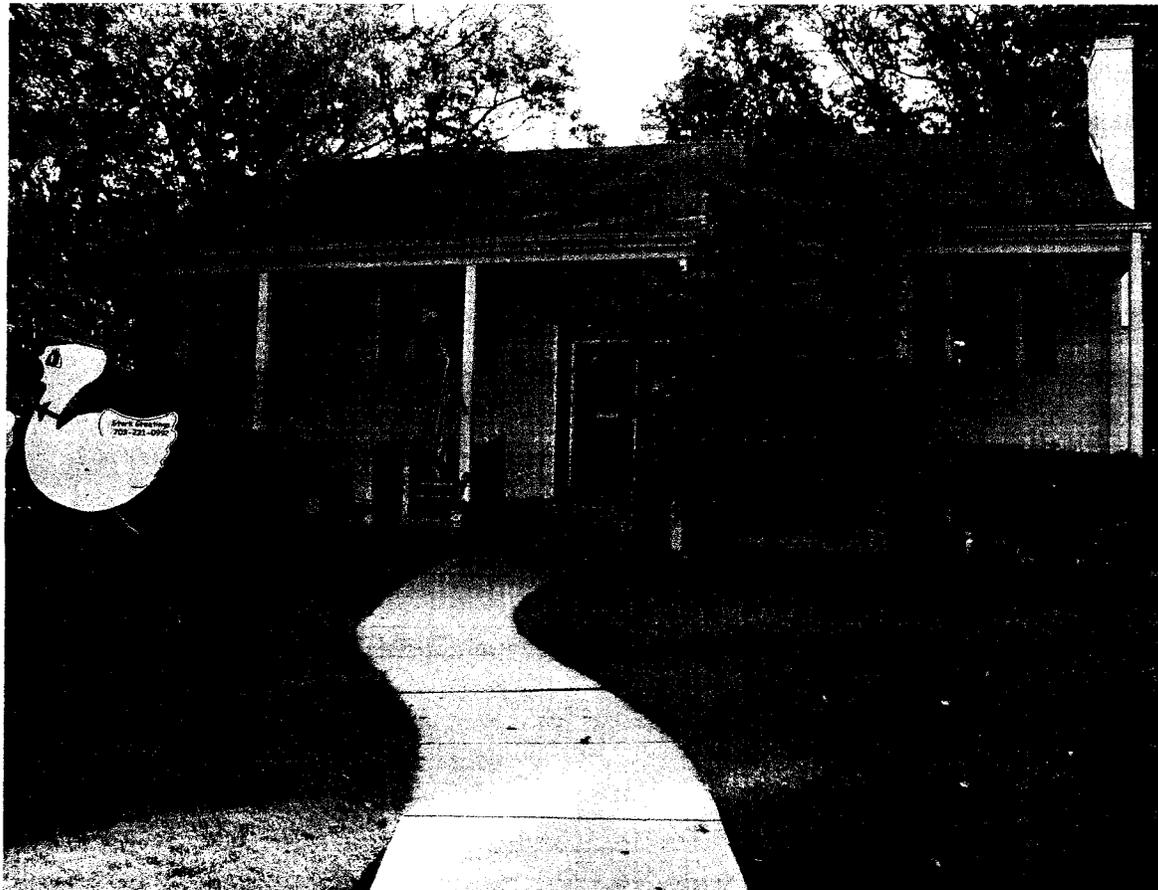


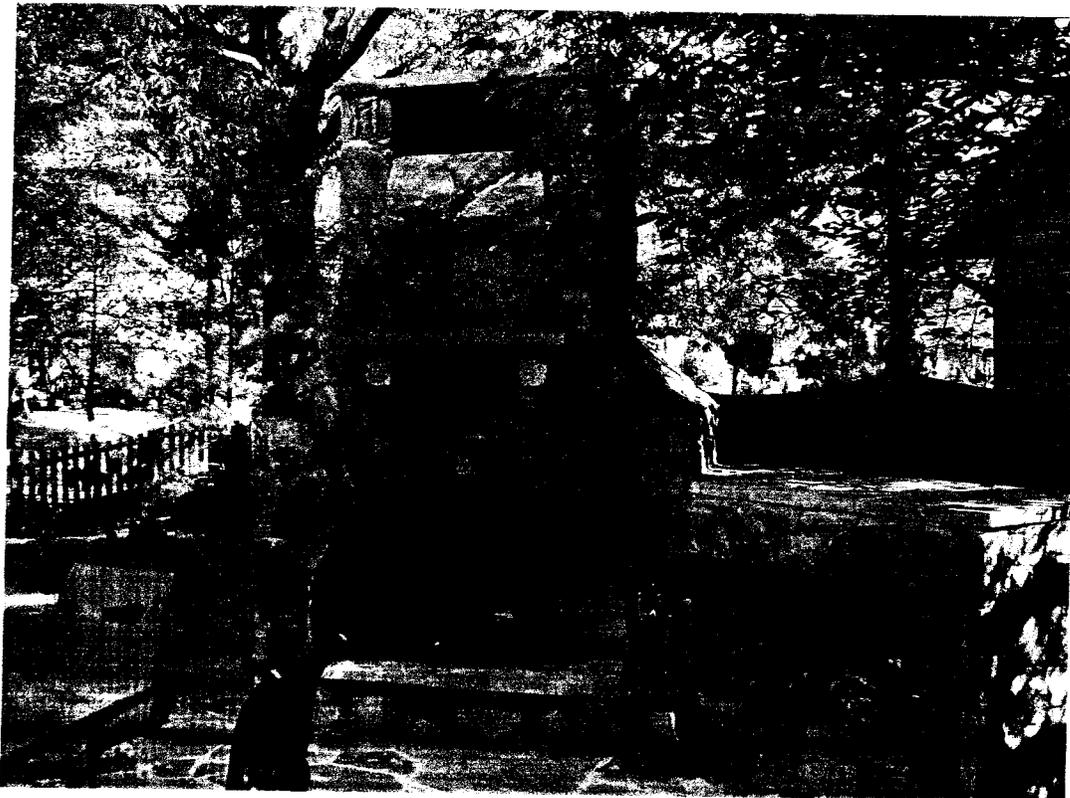
Figure 5 VIEW OF LEFT SIDE OF REAR YARD FROM OUTSIDE FENCE - FROM BRIDLE LANE



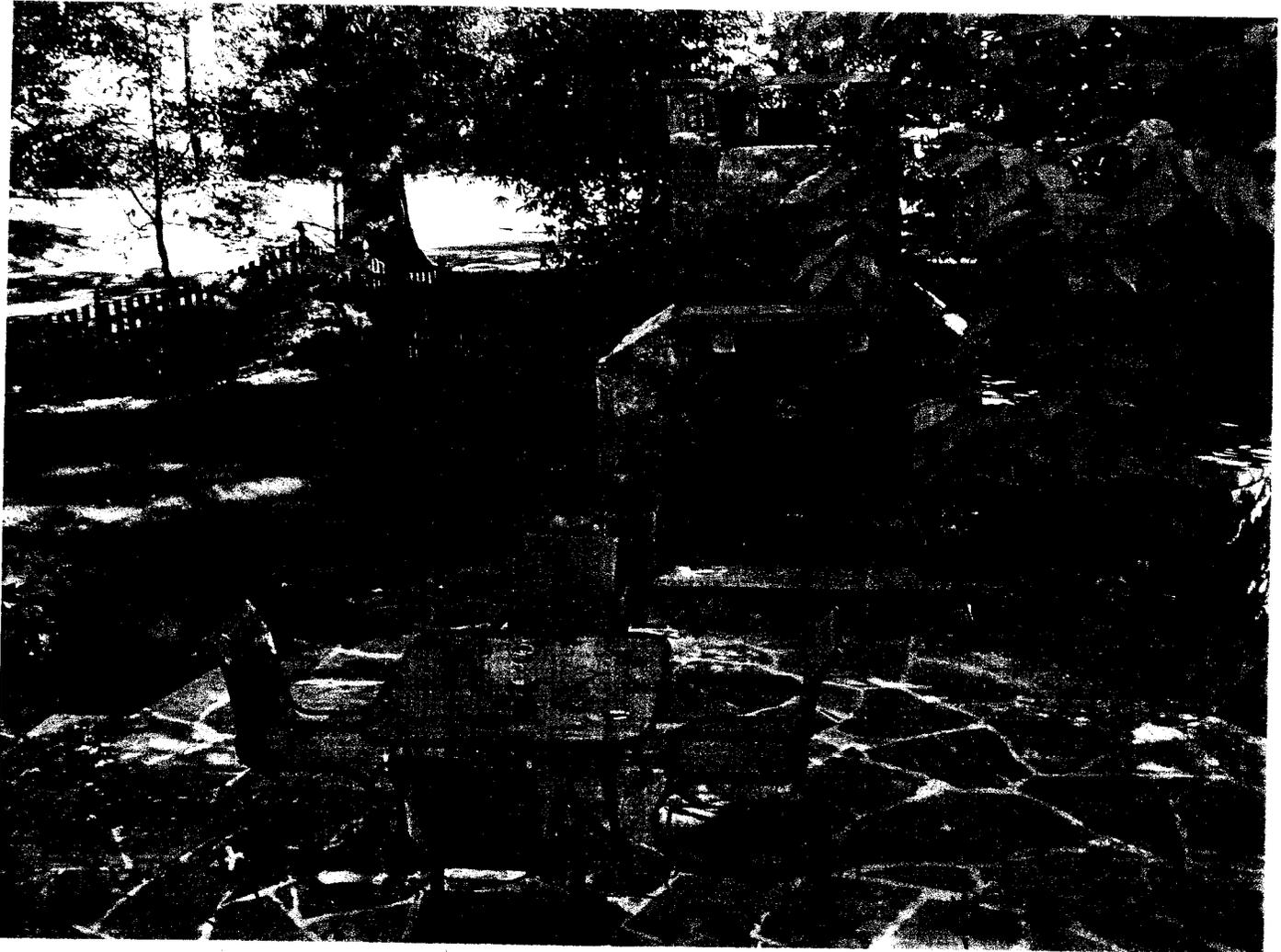
SIDE VIEW OF PROPERTY FROM BRIDLE LANE



FRONT VIEW OF FIREPLACE



"AERIAL" VIEW OF FIREPLACE / PATIO / YARD



10/17/51
1000 8 0 1000
1000 8 0 1000

VIEW OF FIREPLACE AND PROXIMITY TO REAR FENCE



**VIEW OF FIREPLACE AND PROXIMITY TO REAR FENCE
(CONTINUED)**



SIDE VIEW OF PROPERTY (CONTINUED)



DESCRIPTION OF THE APPLICATIONS

Description of the Special Permit Application:

The applicant seeks approval of a special permit for an error in building location to permit a detached accessory structure (stone fireplace), 10 feet in height to remain 2.1 feet from the rear lot line on a corner lot.

	Yard	Min. Yard Req.*	Permitted Extension **	Min. Allowed	Structure Location	Amount of Error	Percent of Error
Special Permit	Rear	10	None	10	2.1	7.9	79 %

* Minimum yard requirement per Section 10-104

Description of the Variance Application:

The applicant seeks approval of a variance to permit greater than 30 percent minimum rear yard coverage. Currently 993 square feet or 35% of the minimum required rear yard is covered with impervious areas consisting of an at-grade stone patio, a shed and a detached stone fireplace. Section 10-103 states that "All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard."

CHARACTER OF THE AREA

	Zoning	Use
North	R-3	Single Family Detached Dwellings
South	R-3	Single Family Detached Dwellings
East	R-3	Single Family Detached Dwellings
West	R-3	Single Family Detached Dwellings

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Plat Showing the Improvements on Lot 7, Block 5, Riverside Gardens
- **Prepared By:** David L. Mayne, Alexandria Surveys International, LLC., dated August 3, 2007 revised through April 7, 2008
- **Building Permit Required for Patio:** No
- **Building Permit Required for Shed:** No, since the structure is less than 150 square feet.
- **Building Permit Required for Stone Fireplace:** No since the structure is less than 150 square feet.
- **Location Error Made By:** Applicants/Owners

BACKGROUND

On June 27, 2007 a Notice of Violation (NOV) was issued by the Zoning Enforcement Branch, DPZ for the detached accessory structure which extended too far into the minimum yard based on its height. Since the structure exceeds 7 feet in height (currently 10 feet in height) it is not permitted any closer to the rear lot line than a distance equal to its height. As a result, the applicants have filed for a special permit for an error in building location to remedy the structure's location. A copy of the NOV is attached as Appendix 5.

The stone fireplace, due to its small size, would not have required a building permit and therefore did not receive an official zoning review which would have pointed out the issues of height and setback requirements.

Upon reviewing the application materials for the special permit, it was discovered that the applicant would also need to file a concurrent variance due to the minimum rear yard coverage exceeding the maximum allowed of 30 percent.

The Board of Zoning Appeals (BZA) heard the following applications in the neighborhood:

- Variance VC 84-V-012, granted on April 24, 1984, on Tax Map Number 102-3 ((10)) (6) 8, on 8628 Buckboard Drive, zoned R-3, south of the subject property to permit freestanding car shelter 3.9 feet from side lot line.

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Use Limitations (Sect. 10-103)
- Required Standards for Variances (Sect. 18-404)

CONCLUSION

If it is the intent of the BZA to approve the applications, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendices 1 and 2 of this report, Proposed Development Conditions.

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

APPENDICES

1. Proposed Development Conditions for Special Permit
2. Proposed Development Conditions for Variance
3. Applicant's Affidavit
4. Applicant's Statement of Justification
5. Notice of Violation issued on June 27, 2007
4. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2008-MV-060

September 9, 2008

1. This special permit is approved for the location of an existing detached accessory structure (free-standing fireplace) shown on the plat prepared by David L. Mayne, Alexandria Surveys International, LLC, dated August 30, 2007 revised through April 7, 2008 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.

PROPOSED DEVELOPMENT CONDITIONS

VC 2008-MV-003

September 9, 2008

1. This variance is approved for greater than 30% rear yard coverage as shown on the plat prepared by David L. Mayne, Alexandria Surveys International, LLC, dated April 7, 2008 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): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/27/08
(enter date affidavit is notarized)

I, Bill Turenne Jr, 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

99935

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)
William J. Turenne Jr and Wendy M. Turenne	8507 Hitting Post Ln Alexandria, VA 22308	Applicants/ Title Owners

(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: 4/27/08
(enter date affidavit is notarized)

I, Bill Turenne Jr, 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

99935

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)
---	--	---

William J. Turenne Jr
and
Wendy M. Turenne

8507 Hitting Post Ln
Alexandria, VA
22308

WJAT
Applicants/
Title Owners

(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): _____
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/27/08
(enter date affidavit is notarized)

99935

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)

N/A

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)

N/A

(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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/27/08
(enter date affidavit is notarized)

99935

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)

N/A

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/27/08
(enter date affidavit is notarized)

99935

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.)

~~NA~~ NONE WMT
[Signature]

(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:

(check one)

Applicant

Applicant's Authorized Agent

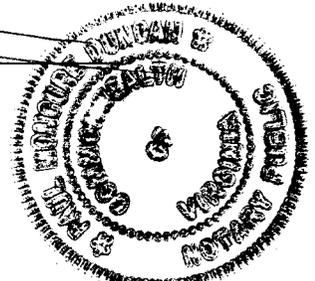
WENDY TURENNE

William J. Turenne Jr.
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 27th day of APRIL 2008, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

[Signature]
Notary Public

My commission expires: 9/30/09
308136



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

6

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/5/07
(enter date affidavit is notarized)

Bill and Wendy Turenne, 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

97933

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

(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)
Bill J. Turenne, JR ^(*)	8507 Hitching Post Ln Alexandria, VA 22308	Applicant / Title Owner
Wendy Turenne, JR	8507 Hitching Post Ln Alexandria VA 22308	Applicant / Title Owner

(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.

^(*) ALSO KNOWN OF RECORD as William J. Turenne, Jr.

* 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).

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DATE: 11/5/07
(enter date affidavit is notarized)

97933

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/5/07
(enter date affidavit is notarized)

97933

(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.

~~NAME 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): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/5/07
(enter date affidavit is notarized)

97933

(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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/5/07
(enter date affidavit is notarized)

97933

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 Paragraph 3 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 Paragraph 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.

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:



(check one)

Applicant

Applicant's Authorized Agent

William Joseph Turenne

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

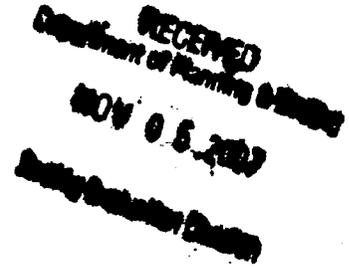
Subscribed and sworn to before me this 5th day of November 2007, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

Linda J Wood Reg # 362734
Notary Public

My commission expires: 7-31-2009

November 1, 2007

Zoning Administration Division
 Zoning Enforcement Branch
 12055 Government Center Parkway, Suite 829
 Fairfax, VA 22035-5508



RE: 8507 Hitching Post Lane
 Alexandria, VA 22308
 Special Permit Application

STATEMENT OF JUSTIFICATION

Dear Sir or Madam:

As part of our Special Permit Application, we are submitting this Statement of Justification describing our situation. We are requesting an "Error in Building Location" permit for a freestanding outdoor fireplace we recently had built in our backyard. We are requesting that the fireplace is allowed to remain at its current 10 foot height and remain in its current location (at its nearest point 2 feet and its furthest 7.5 feet from the rear lot line).

When we bought our home in March 2007, the outside yard areas around the house had been neglected. In our efforts to begin improving the property, we contracted with a landscape architect who designed a comprehensive long term plan for the entire property that included possible later additions, hardscaping and landscaping elements. We were assured the plans were drawn "to code" and even had specific conversations about zoning codes that would govern any planned addition we might attempt in the future. We then had a stone mason build the patio and fireplace according to those landscape plans. Our builder, who has built several freestanding outdoor fireplaces around Fairfax County, explained he had never needed a permit to build an outdoor fireplace.

We also did some of our own research into zoning ordinances on the Fairfax County website. Our research focused on searching for outdoor fireplace codes and all we found were safety and/or fire codes that would apply to the actual design of the fireplace. So we relied on the stated compliance of our landscape architect's plans for the locations of various elements around the yard.

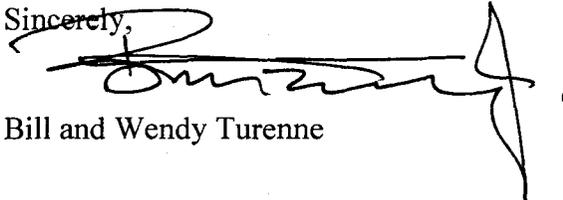
As the plans were developed and before the stonework began we discussed the plan with several neighbors and no one voiced any opposition to our plans. As you can see from the attached photographs, the entire rear yard area turned out beautifully and we have had many comments from surrounding neighbors who are pleased with the improvements. We have used the fireplace several times and the chimney draws extremely effectively. We are concerned that any reduction in the height of the chimney would decrease its ability to draw the smoke up and away from nearby yards and streets. We are mindful that the fireplace is a tall structure, and have plans to include landscape screening

elements (e.g. a large evergreen tree) to shield the view of the structure from our neighbor's yard and the street, which we were forced to put on hold until the issue with the fireplace is resolved.

In summation, we realize this was an oversight on our part. The non-compliant structure was built with the best of intentions, and we maintain that the zoning violation was not our fault, but the result of an error made by our landscape architect. The fireplace will not be detrimental to the neighborhood or cause any unsafe condition for our or any surrounding property. Further, it would create unreasonable hardship to force compliance with the ordinance as it would be extremely difficult and expensive to either move the fireplace and/or reduce the height. We feel that the approval of our Special Permit request will not impair the purpose and intent of the Zoning Ordinance, and have certainly learned to contact the County Zoning Office personally before making any additional improvements or changes to the property. Because of our own inexperience with the County Zoning Ordinances and the error in the plans provided by our landscape architect, we ask that our Special Permit request be approved and our fireplace considered compliant.

We hope that in considering our request you will take into account our good faith efforts to improve our property and our neighborhood. When we were alerted of our violation we discussed the situation with several neighbors, to gauge support and general neighborhood sentiment since Riverside Gardens is a very close knit community with a very active and outspoken Citizens Association. Several of those neighbors offered to write letters of support of this application and we have included those with our application. We thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill and Wendy Turenne". The signature is written in a cursive style with a large, sweeping flourish at the end.

Bill and Wendy Turenne

A handwritten signature in black ink, appearing to read "Wendy Turenne". The signature is written in a cursive style with a large, sweeping flourish at the end.

April 17, 2008

Zoning Administration Division
Zoning Enforcement Branch
12055 Government Center Parkway, Suite 829
Fairfax, VA 22035-5508

RECEIVED
Department of Planning & Zoning

APR 29 2008

Zoning Evaluation Division

RE: 8507 Hitching Post Lane
Alexandria, VA 22308
Variance Application (submitted in conjunction with SP 2007-0407)

STATEMENT OF JUSTIFICATION FOR VARIANCE

Dear Sir or Madam:

In the process of requesting an "Error in Building Location" permit for a freestanding outdoor fireplace we recently had built in our backyard, we have discovered that 35% of our yard is now covered as opposed to the allowed 30%. The overage is the result of a combination of a stone patio that we commissioned upon acquiring the property and a previously existing shed along the side of the yard. We are requesting a variance allowing the patio and shed to remain intact, in spite of the 5% excess coverage. This variance application is submitted in conjunction with our previous Special Permit Application SP 2007-4070.

We believe our situation satisfies the required conditions pursuant to Section 18-404:

1) That the subject property was acquired in good faith.

When we bought our home in March 2007, the outside yard areas around the house had been neglected. In our efforts to begin improving the property, we contracted with a landscape architect who designed a comprehensive long term plan for the entire property that included possible later additions, hardscaping and landscaping elements. We were assured the plans were drawn "to code" and even had specific conversations about zoning codes that would govern any planned addition we might attempt in the future. We then had a stonemason build the patio and fireplace according to those landscape plans. We did not know about the ordinance stating that only 30% of the yard could be covered, and we have inadvertently covered more of the yard than allowed.

2) That the subject property has at least one of the listed characteristics.

F. An extraordinary situation or condition of the subject property.

When we acquired the property the rear yard was virtually unusable. A set of wood stairs was unsafe to use, falling away from the house, and practically falling down. The cement patio was cracked and broken and the remaining yard around it was filled with rocks and roots so that it would be dangerous for our young son to even be in the backyard. After even a small amount of rain, the yard turned into a small pond. The uneven terrain, broken and protruding roots and constant standing water left the area useless. We had the stone patio built to level the area and make it a yard we could actually use again. The

patio was built so that the grading facilitated proper drainage. Not only can we use our backyard again, but it is much more attractive for the surrounding properties as well.

- 3) That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulations to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.**

The use of the subject property is simply for our own personal use of our backyard.

- 4) That the strict application of this Ordinance would produce undue hardship.**

We were admittedly naïve about county zoning ordinances, and our landscape architect did not strictly adhere to them in the plans he provided for us. However, now that the patio is built, reducing the covered area in our yard from 35% to 30% would mean destroying part of the flagstone patio or removing a large shed standing on a concrete foundation. Either of those options would be destructive and expensive.

- 5) That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.**

The excess coverage in our yard does not infringe on other properties adjoining ours or in the neighborhood.

- 6) B) That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience.**

As noted above, granting this variance would avoid the undue hardship and expense of destroying the flagstone patio and/or removing the previously existing shed and its concrete foundation.

- 7) That the authorization of the variance will not be of substantial detriment to adjacent property.**

Neither the patio nor the shed are of any detriment to either of the adjacent properties.

- 8) That the character of the zoning district will not be changed by the granting of the variance.**

The 5% excess coverage of our yard will not affect the character of the zoning district.

9) That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

The over-coverage of our rear yard was a mistake that we made inadvertently. We were under the impression that the plans drawn by our landscape architect were all specifically measured and met all applicable Fairfax County ordinances. After having a new patio constructed, the patio and the previously existing shed now constitute 35% coverage our yard. We by no means intended to be purposefully non-compliant. We did not just pave over our yard, but tried to improve the usability and appearance of an area that was long neglected and eroding. The new hardscaping is not contrary to public interest, but is a major improvement to the yard and property.

We hope that in considering our request you will take into account our good faith efforts to improve our property and our neighborhood. When we were alerted of our violation we discussed the situation with several neighbors, to gauge support and general neighborhood sentiment since Riverside Gardens is a very close knit community with a very active and outspoken Citizens Association. Several of those neighbors offered to write letters of support of our application and those letters were included with our Special Permit application (SP 2007-0407). We thank you for your time and consideration.

Sincerely,


Bill and Wendy Turanne

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Division

Brian and Caroline Tringali
8509 Hitching Post Lane
Alexandria, Virginia 22308

November 2, 2007

County of Fairfax
Department of Planning and Zoning
Evaluation Division
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035
Attn: Fairfax County Board of Zoning Appeals

To Whom It May Concern:

We are writing in support of our neighbors, Bill and Wendy Turenne who reside at 8507 Hitching Post Lane, Alexandria, Virginia 22308. They are making an application for a special permit from the Board of Zoning Appeals for an Error in Building Location Permit.

The Turenne's moved into our neighborhood earlier this year. From the start they began to improve the property. We were and remain thrilled.

The Turenne's home had been a rental property throughout the ten year period that we have lived in Riverside Gardens. Although some of those who rented took better care than others, the property had been neglected. The Turenne's told us early on that, like ourselves, they were planning to make their home here for quite some time.

When the Turenne's began to think about improvements around their property, they invited us over to view the plans. The landscaping was in bad enough shape that they could not allow their young son to play in his own yard. Part of their renovation included a nice little outdoor fireplace. The entire renovation of the back yard has been very tastefully done and really improved the look of their home.

To my knowledge, we are the only property with a direct view into their yard and we could not be more thrilled with the result. Our home is directly next door to theirs and we have a direct view from our family room into their back yard.

Please consider their application for this special permit. Again, we could not be more pleased with the result of their initial renovations to the property. We are hopeful that they will continue to make improvement to their property.

Thank you in advance for your kind consideration of this request and for taking our feelings on this matter into consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Charles Tringali". The signature is fluid and cursive, with a prominent horizontal stroke across the middle.

Brian Charles Tringali

A handwritten signature in black ink, appearing to read "Caroline Benson Tringali". The signature is cursive and elegant, with a large initial "C".

Caroline Benson Tringali

November 4, 2007

Fairfax County Board of Zoning Appeals

To Whom It May Concern:

We moved into the neighborhood just a week or so before the Turennes. so we aren't overly familiar with the condition of the property before it was theirs.

We can, however, vouch for the fact that we love the changes they have made. We have taken many a walks past their house; particularly the section that looks into their backyard. We don't find their fireplace to be obtrusive or offensive, to say the least.

We ask that you please approve for them to keep their fireplace in its original form and place.

Thank you so much for considering their application.

Sincerely,
The Shaw Family
1905 Bridle Lane

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Division

Andrew & Sharon Theodore
8616 Buckboard Drive
Alexandria, VA 22320

November 2, 2007

Fairfax County Board of Zoning Appeals
Herrity Building
12055 Government Center Parkway
Fairfax, Virginia 22035

To Whom it may concern:

We are writing to urge that you adhere to the original decision re county codes on improvements made to the residence of William and Wendy Turrenes located at 8507 Hitching Post Lane, Alexandria VA 22308.

Part of what drew us to this neighborhood is the commitment of people like the Turrenes to improving the physical and aesthetic quality of their homes. The Turrenes have not only taken great lengths to improve a home that is pleasing and functional to them; they have done so in a way that lends a high degree of attractiveness to a compact lot and that is also very unobtrusive to their neighbors.

To request that they dismantle their fireplace is both unfair to their situation, but also detrimental to their efforts to create a pleasant backyard for themselves and their neighbors. We would respectfully ask that the board in their deliberations take into account what is the goal here; to allow a family to live in a pleasant environment that is in accord with the social compact of a neighborhood; or to enact a technicality so stringent and narrow; that it's enforcement will not only create unnecessary expense but will also create a potential safety and health risk to others in the neighborhood.

To the best of our knowledge; the Turrene's immediate neighbors have been supportive of the improvements made to their property. We ask that the board takes this, as well as the above points into consideration.

Sincerely,

 
Andrew P. Theodore & Sharon Theodore

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Div.

November 5, 2007

Fairfax County Board of Zoning Appeals
12055 Government Center Parkway
Fairfax, VA 22035

TO WHOM IT MAY CONCERN:

My name is Sabrina Scanlon and my husband, Martin, and I live at 8625 Buckboard Drive. It has come to our attention that our neighbors, Bill and Wendy Turenne, must apply for a special permit from the Board of Zoning Appeals - specifically an "Error in Building Location Permit". We would like to show our support for the Turennes that they be granted the special permit to keep their outdoor fireplace as is.

The Turenne's property is a corner lot. In order to make the backyard a usable space, the Turennes put in an outdoor fireplace, which utilizes every inch of the limited space. The fireplace itself is beautiful and shows the Turenne's interest in making their property a showplace. As a huge fan of the latest trend in outdoor fireplaces, I feel it would be a shame to remove such a beautiful piece of work.

Additionally, as a resident of Fairfax County, I find it disconcerting that a resident can hire a reputable landscape architect to add value to his/her property only to discover that the updates made will have to be destroyed. The Turennes were assured that all county codes had been met and moved forward accordingly. Perhaps a review of how Fairfax County disseminates zoning information on the latest landscape trends would be beneficial. I would hate to learn of other residents suffering the same fate, particularly knowing that outdoor fireplaces are the current trend in landscape design.

Our neighborhood is filled with homeowners who take pride in their yards and the Turennes are no exception. I have seen the fireplace in question and have no issue with its placement or its height and would like to ensure that no changes are made to the structure.

Please do not hesitate to contact me should you have further questions or need additional information. I can be reached at:

Sabrina Scanlon
8625 Buckboard Drive
Alexandria, VA 22308
703.751.2373

Sincerely,



Sabrina G. Scanlon

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Division

Nov. 5, 2007

Fairfax County Board of Zoning Appeals:

I have been a homeowner in Riverside Gardens, located at 8512 Hitching Post Ln Alexandria, VA 22308, since 1999 and have seen numerous family owners occupy the 8507 address. I have seen the house on fire and grass that was neglected which grew over the height of one's knees. I have been pleased with all the improvements that Bill & Wendy Turenne have made over the past eight months. I have no complaints regarding the outdoor fireplace.

Regards,

Diane Lynn Lero - Downey

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Division

Bert and Mindy Fortier
8508 Hitching Post Lane
Alexandria, VA 22308
(703) 360-5674

To: Fairfax County Board of Zoning Appeals

It has come to our attention that our neighbors, Bill and Wendy Turenne, at 8507 Hitching Post Lane, intend to apply for a special permit with reference to the present height and location of their outside fireplace. We strongly recommend that the Board approve this request.

Prior to the Turenne's arrival to the neighborhood, the house, and particularly the entire yard areas were neglected and quite unsightly. They have made numerous improvements around the house, seemingly on a constant basis since their arrival this past March. Their efforts have significantly enhanced the appearance of not only their property, but of the neighborhood as a whole as well.

Again, we strongly urge the Board to grant the Turenne's the requested waiver.

Sincerely,



Bert & Mindy Fortier

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation District

Jim and Carrie Garland
8503 Hitching Post Lane
Alexandria, VA 22308

To whom it may concern,

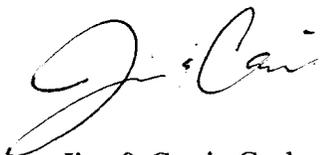
We have lived in our house located at 8503 Hitching Post Lane which is located across the street from the Turenne's for the past 4 ½ years. During the time we have lived here the Turennes' current residence has been an occupied rental property, a vacant rental property after a fire, and a privately owned residence. On all occasions only a minimum was ever done to improve the property.

Since Bill, Wendy and their young family have occupied the residence; they have swiftly become part of our neighborhood and have done a wonderful job improving their front yard, which now is covered with grass and not weeds as in the past. They have also had the house painted and completely redone the backyard by adding a slate patio, new staircase, new fence and attractive fireplace.

We appreciate the time, creativity; effort and money the Turennes have invested in their new home. They have enhanced Hitching Post Lane for all of us and we look forward to joining them on many occasions at their back patio to share fun times with our families.

Please feel free to contact us if any further information is needed.

Kind Regards,



Jim & Carrie Garland

RECEIVED
Department of Planning & Zoning
NOV 05 2007
Zoning Evaluation Division



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 27, 2007

NOTICE OF VIOLATION

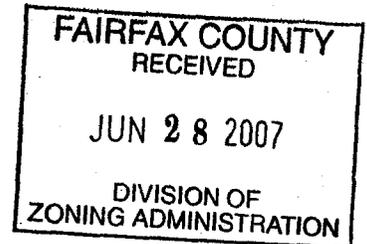
CERTIFIED MAIL

Return Receipt Requested

Receipt #7007 0220 0004 2194 1436

William J. Turenne
Wendy M. Turenne
8507 Hitching Post Lane
Alexandria, Virginia 22306

Re: 8507 Hitching Post Lane
Subdivision: Riverside Gardens, Lot 7, Blk. 5
Tax Map Ref.: 102-3 ((10)) (5) 7
Zoning District: R-3



Dear Mr. and Mrs. Turenne:

A zoning inspection of the above-referenced property, on June 21, 2007, revealed that you have constructed or allowed to be constructed an accessory structure, a freestanding fireplace, in the rear yard of this corner lot. The structure exceeds seven (7) feet in height and is located less than twelve (12) feet to the rear lot line.

The Fairfax County Zoning Ordinance permits accessory structures to be located in minimum required yards; however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 12F(1) of Sect. 10-104 of the Zoning Ordinance which states:

On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:

1. Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

William J. Turenne
Wendy M. Turenne
June 27, 2007
Page 3

Should you have any questions regarding this notice or need additional information, please do not hesitate to contact me at 703-324-1322 or 703-324-1300.

Sincerely,


Rebecca J. Goodyear
Senior Zoning Inspector

RJG/seg

Attachments: A/S

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.

10-103

Use Limitations

1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
3. All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard.
4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.
5. The following use limitations shall apply to fences:
 - A. Barbed wire fences are prohibited in all zoning districts except on lots exceeding two (2) acres or more in size in the R-A through R-1 Districts. Barbed wire strands may be used to enclose storage areas, other similar industrial or commercial uses or swimming pools where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six (6) feet from the nearest ground level.
 - B. It shall be unlawful for any person to construct, install, maintain, or allow or cause to be constructed, installed, or maintained, an electric fence upon any lot of two (2) acres or less in area, located within a subdivision as defined in Chapter 101 of The Code, The Subdivision Ordinance.
6. The following use limitations shall apply to home child care facilities:
 - A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.
 - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.
 - B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the

primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation.

- C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
- D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.
- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

- 1. That the subject property was acquired in good faith.
- 2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;

- E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
 4. That the strict application of this Ordinance would produce undue hardship.
 5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
 7. That authorization of the variance will not be of substantial detriment to adjacent property.
 8. That the character of the zoning district will not be changed by the granting of the variance.
 9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.