



APPLICATION ACCEPTED: June 19, 2008
BOARD OF ZONING APPEALS: September 16, 2008
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 9, 2008

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2008-MA-062

MASON DISTRICT

APPLICANTS/OWNERS: Max Edward Gagermeier, Jr.
Bonnie Cosby Gagermeier

SUBDIVISION: Mill Creek Park

STREET ADDRESS: 4000 Lake Boulevard

TAX MAP REFERENCE: 59-4 ((2)) 8

LOT SIZE: 26,905 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 8-922 and 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction of certain yard requirements to permit construction of an accessory structure (garage) 7.5 feet from side lot line and to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure (shed) to remain 3.7 feet from side lot line and 3.0 feet from rear lot line.

STAFF RECOMMENDATION: Staff recommends denial of SP 2008-MA-062 for the garage.

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

*O:\dhedri\Special Permits\9-16) SP 2008-MA-062 Gagermeier\SP 2008-MA-062 Gagermeier staff report.doc
Deborah Hedrick*

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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

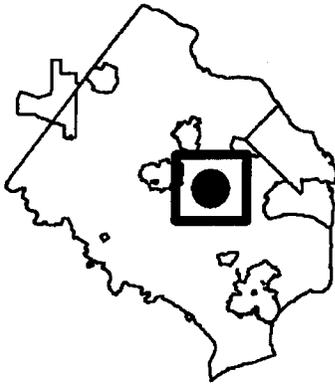
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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



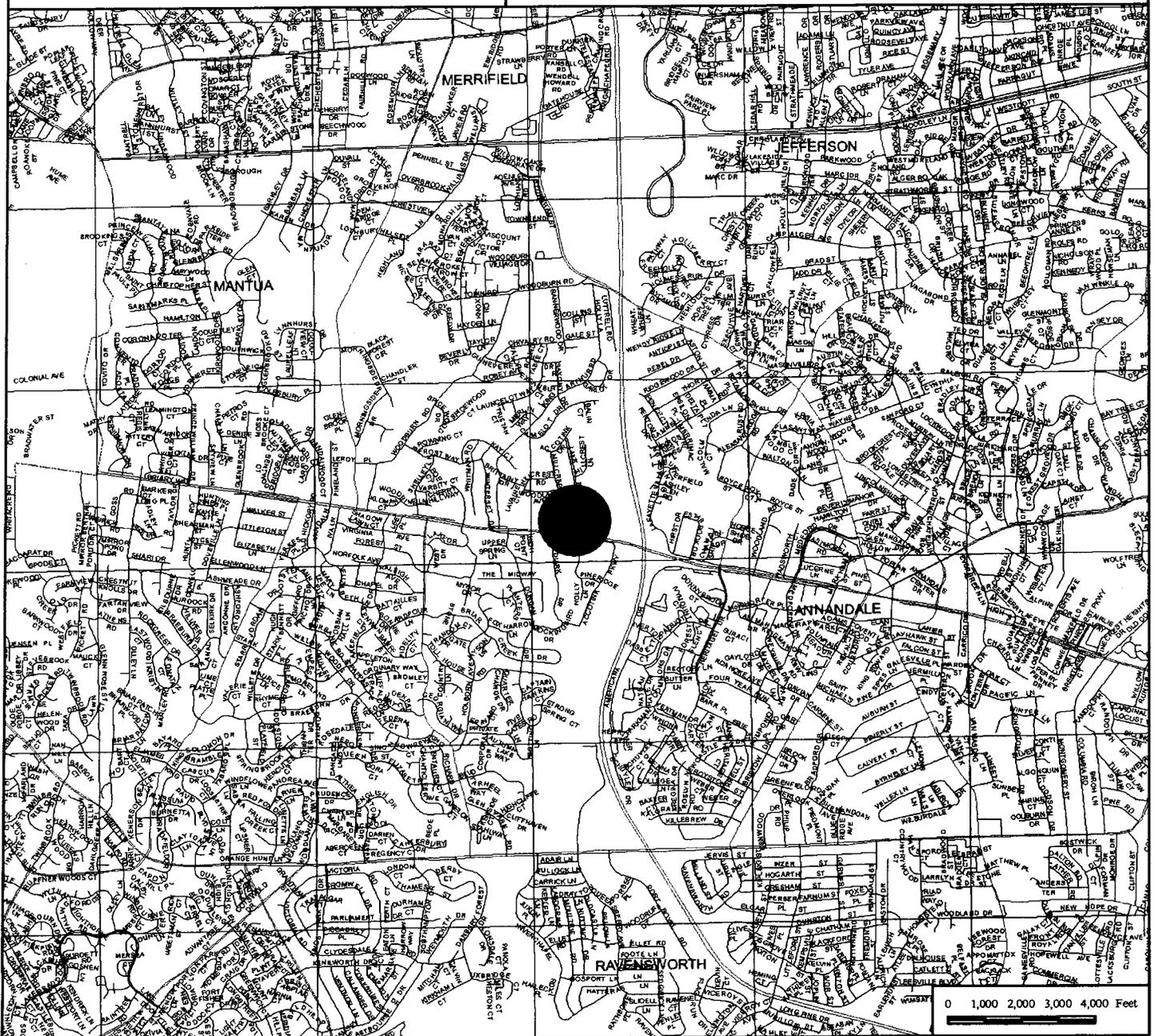
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

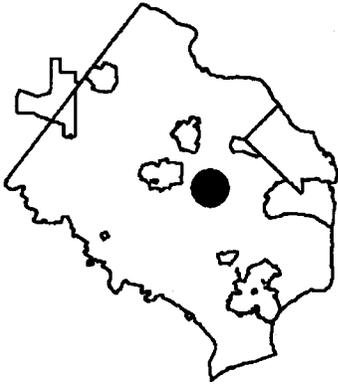
SP 2008-MA-062



Applicant: MAX E. GAGERMEIER, JR & BONNIE C. GAGERMEIER
Accepted: 06/19/2008
Proposed: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ACCESSORY STRUCTURE 7.5 FEET FROM SIDE LOT LINE AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 3.7 FEET FROM SIDE LOT LINE AND 3.0 FEET FROM REAR LOT LINE
Area: 26,905 SF OF LAND; DISTRICT - MASON
Zoning Dist Sect: 08-0914 08-922
Art 8 Group and Use: 9-13 9-21
Located: 4000 LAKE BOULEVARD
Zoning: R-2
Overlay Dist:
Map Ref Num: 059-4 /02/ /0008

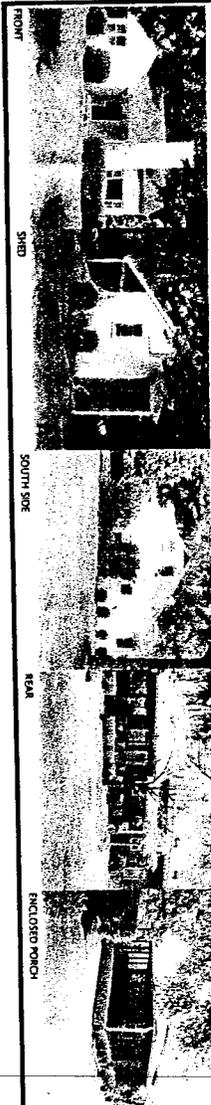
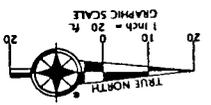
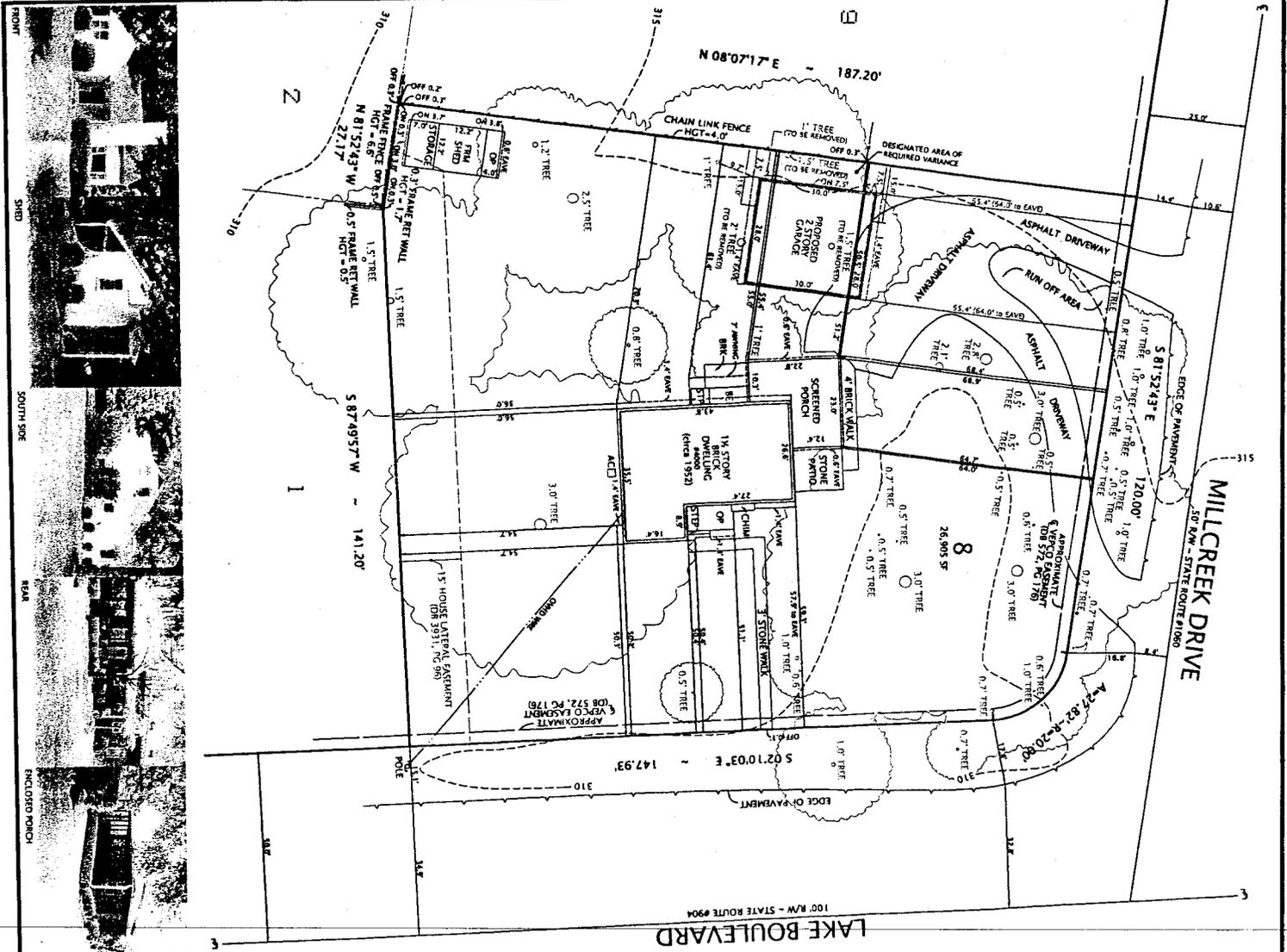


Special Permit
SP 2008-MA-062



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Zoning Dist Sect: 08-091408-922
Art 8 Group and Use: 9-13 9-21
Located: 4000 LAKE BOULEVARD
Zoning: R-2
Overlay Dist:
Map Ref Num: 059-4 /02/ /0008





- NOTES
1. TAX MAP: 59-4-02-0008
 2. ZONE: R-2 (RESIDENTIAL 2 DU/AC)
 3. LOT AREA: 26,905 SF
 4. REQUIRED YARDS:
 - FRONT: 35.0 FEET
 - SIDE: 15.0 FEET
 - REAR: 25.0 FEET
 5. HEIGHTS:
 - DWELLING: 16.3 FEET
 - SHED: 12.0 FEET
 - PROPOSED GARAGE: 17.5 FEET
 - TOTAL HEIGHT: 23.07
 - ENCLOSED PORCH: 12.0 FEET
 - FENCES: AS NOTED
 - OP: 1.4 FEET
 6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
 7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
 8. ALL IMPROVEMENTS SHOWN ON THIS PLAN ARE EXISTING UNLESS DENOTED AS PROPOSED.
 9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS, 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
 10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 5' INTERVALS, AND IS AERIAL.
 11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
 12. AREAS:
 - BASEMENT = 1314 SF
 - FIRST FLOOR = 1314 SF
 - SECOND FLOOR = 657 SF
 - GROSS FLOOR AREA = 3285 SF
 - PROPOSED 2 STORY GARAGE = 1680 SF

1. REVIEW CERTIFY THAT THE PORTION OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT REID SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THE DATE THIS PLAN IS SUBMITTED TO REVISIONS OR RECORD.

NO COMMON WALLS SET.

NO COMMON WALLS SET.

SHOWING THE IMPROVEMENTS ON
 LOT 8, SECTION 1.A
MILL CREEK PARK
 (ORSD BOOK 370, PAGE 375)
 FAIRFAX COUNTY, VIRGINIA
 MASON DISTRICT
 JUNE 28, 2007
 OCTOBER 10, 2007 (REVISED)
 MAY 29, 2008 (REV PROP LOC)
 SCALE: 1" = 20'

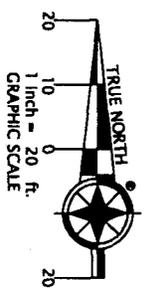
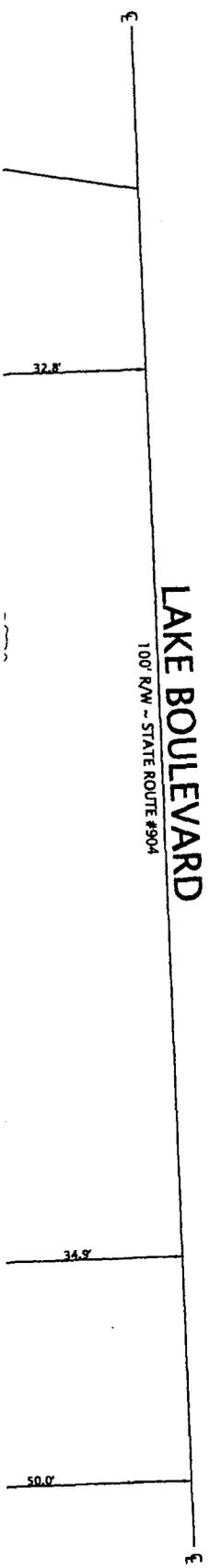
PLAT

COMMONWEALTH OF VIRGINIA
 06/28/2007
 GEORGE M. COVILIN
 LICENSE NO. 2009
 Surveyor

DOMINION Surveyors
 8000 H. PEAR TREE VILLAGE COURT
 ALEXANDRIA, VIRGINIA 22309
 TEL: 703-619-6555
 FAX: 703-799-9412

CASE NAME: CACSWEBER
 DIONHO ADAMS DESIGN ARCHITECTS

#72-07



NOTES

1. TAX MAP: 59-4-02-0008
2. ZONE: R-2 (RESIDENTIAL 2 DU/AC)
3. LOT AREA: 26,905 SF
4. REQUIRED YARDS:

FRONT:	=	35.0 FEET
SIDE:	=	15.0 FEET
REAR:	=	25.0 FEET
5. HEIGHTS:

DWELLING	=	16.3 FEET
SHED	=	12.0 FEET
PROPOSED GARAGE	=	17.5 FEET
(TOTAL HEIGHT = 23.0')		
ENCLOSED PORCH	=	12.0 FEET
FENCES	=	AS NOTED
OP	=	1.4 FEET
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
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. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 5' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS:

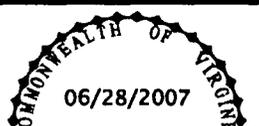
BASEMENT	=	1314 SF
FIRST FLOOR	=	1314 SF
SECOND FLOOR	=	657 SF
GROSS FLOOR AREA	=	3285 SF

PROPOSED 2 STORY GARAGE = 1680 SF

PLAT
 SHOWING THE IMPROVEMENTS ON
 LOT 8, SECTION 1-A
MILL CREEK PARK
(DEED BOOK 570, PAGE 375)
FAIRFAX COUNTY, VIRGINIA
 MASON DISTRICT

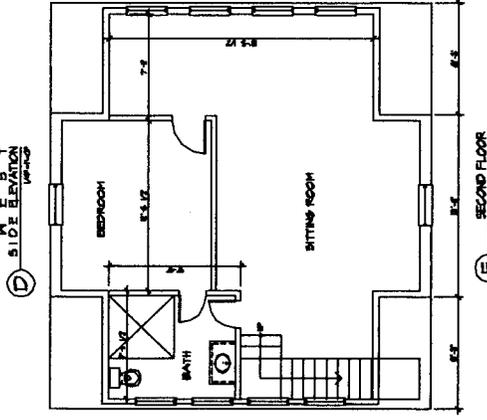
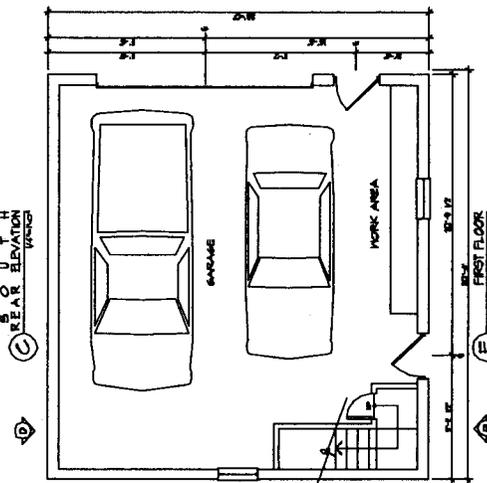
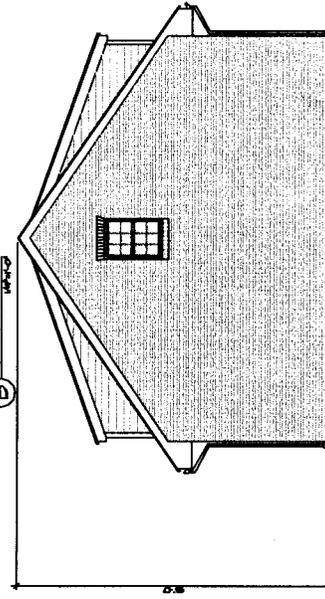
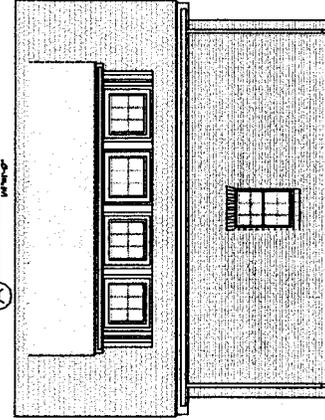
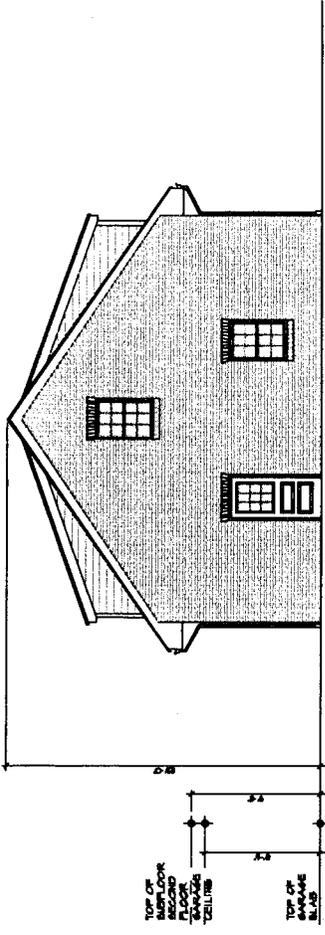
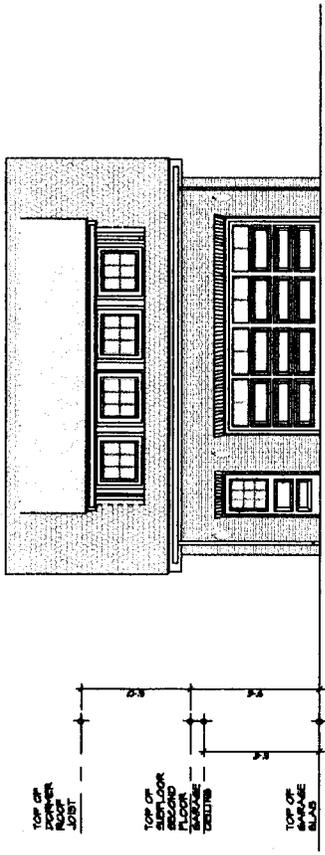
SCALE: 1" = 20'
 JUNE 28, 2007
 OCTOBER 10, 2007 (REVISED)
 MAY 29, 2008 (REV PROP LOC)

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:



CASE NAME:
 GAGERMEIER
 DIMOND ADAMS DESIGN ARCHITECTS

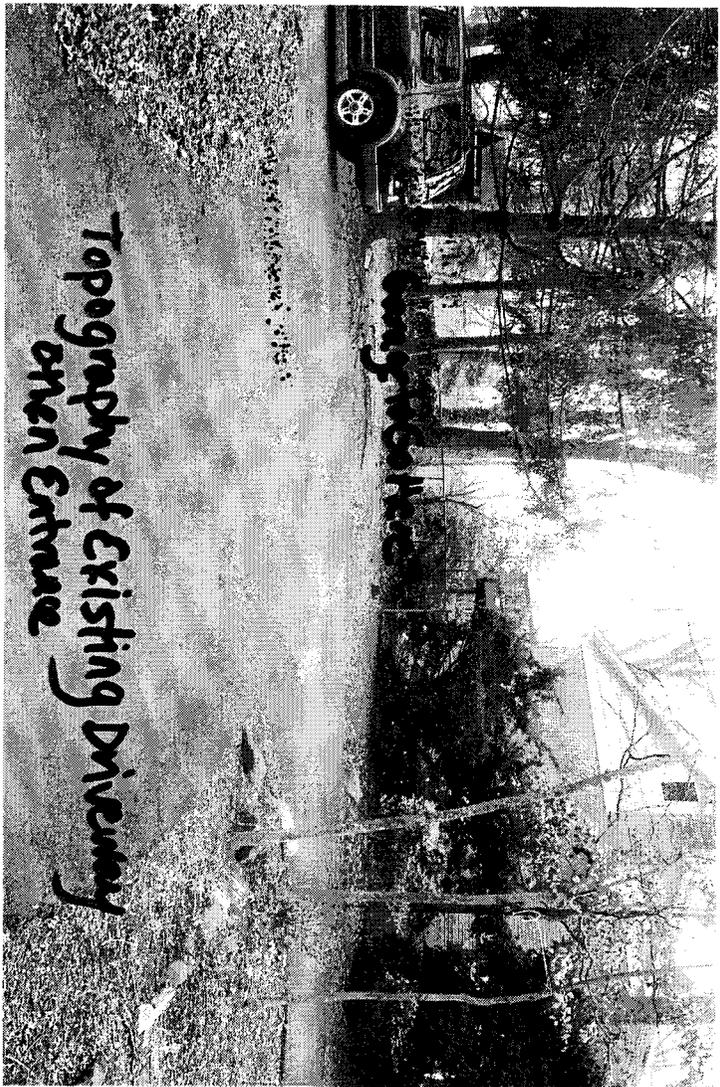




A-1	OPTIONS	DESIGN	EZA	8/18/07	BIRMINGHAM
	NEW ELEVATIONS NEW FLOOR PLANS	8/24/07			
		GAGERMEIER RESIDENCE		DIMOND & ADAMS	
		400 LAKE PULVERD		DESIGN ARCHITECTS	
		ANNANDALE, VIRGINIA		P.O. BOX 10000, ANNANDALE, VA 22020-1000	

For the best possible print results, click the printer icon on the Live Search Maps page.





Topography of Existing Driveway
over Entrance



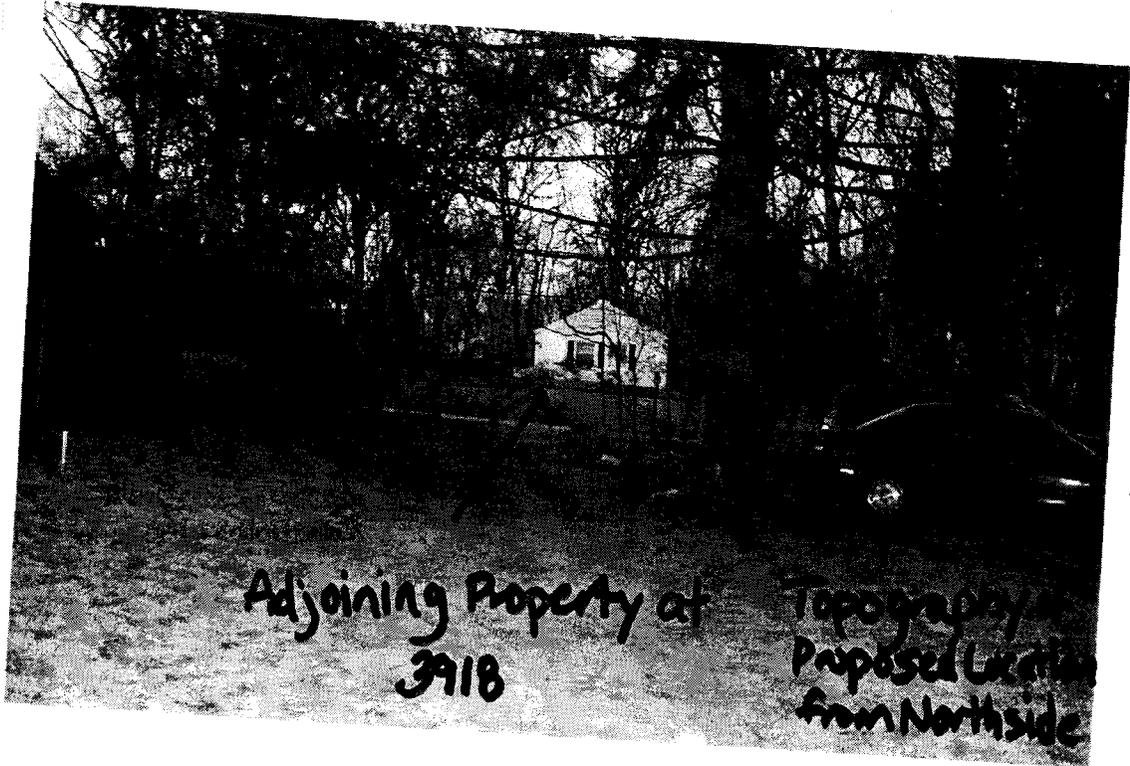
Shed on Built Southwest Corner of Property



Adjoining Property is 3920 Miller
3920 Miller for 4000 L.S.P.

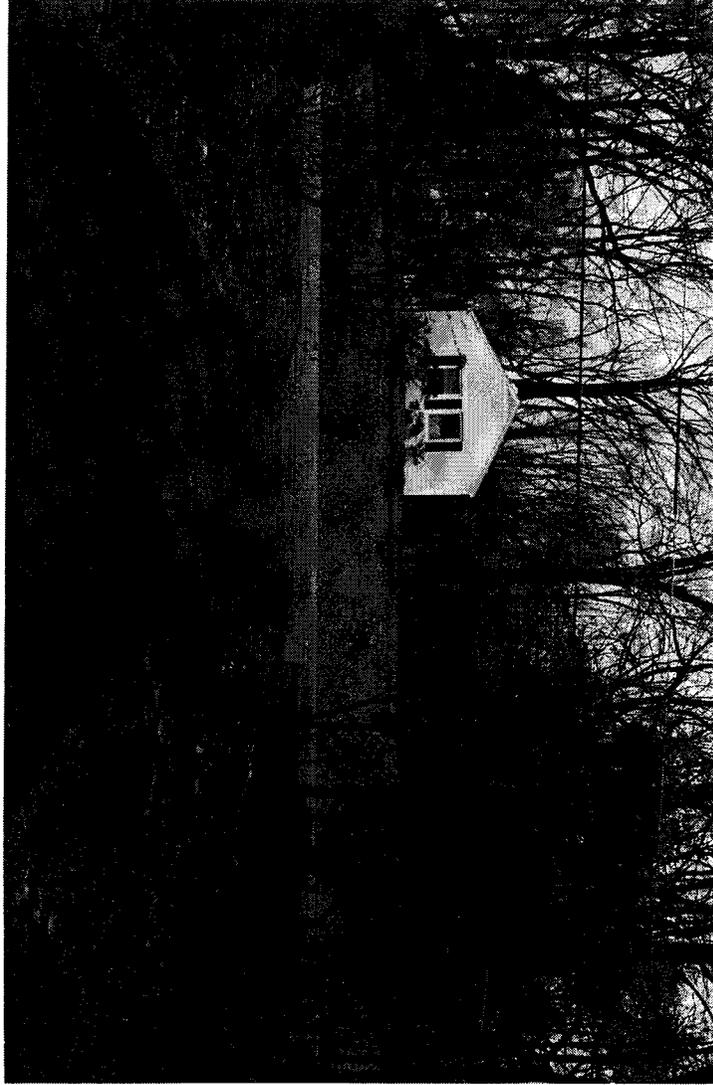


Adjoining Property Across
Lake at 4001



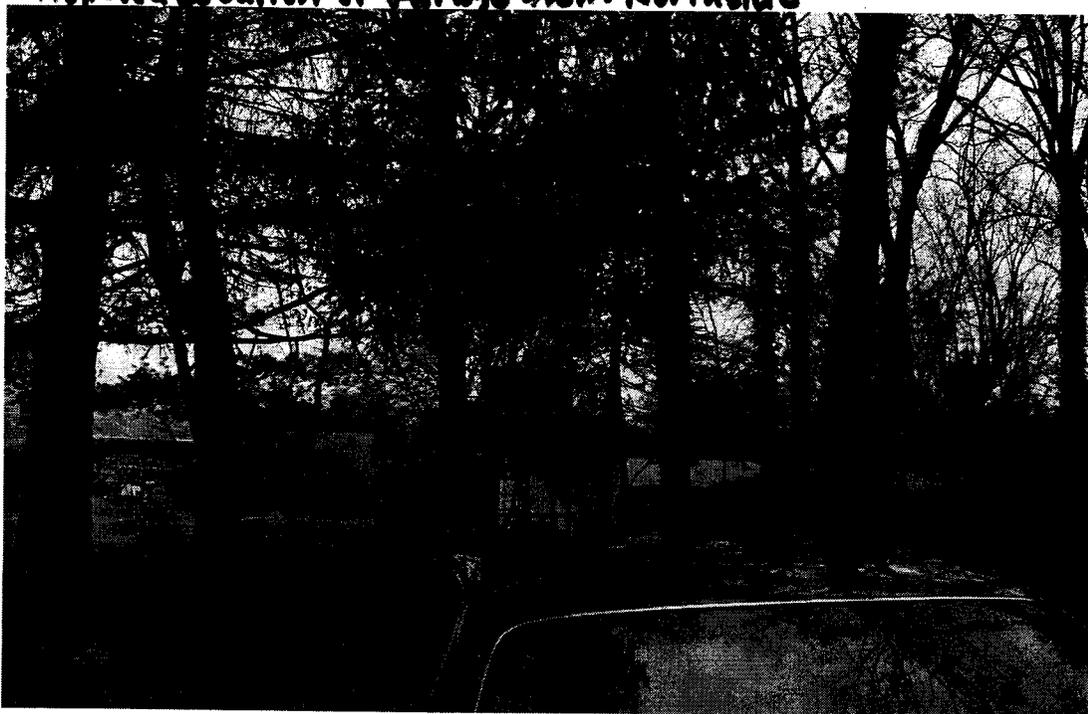
Adjoining Property at
3918

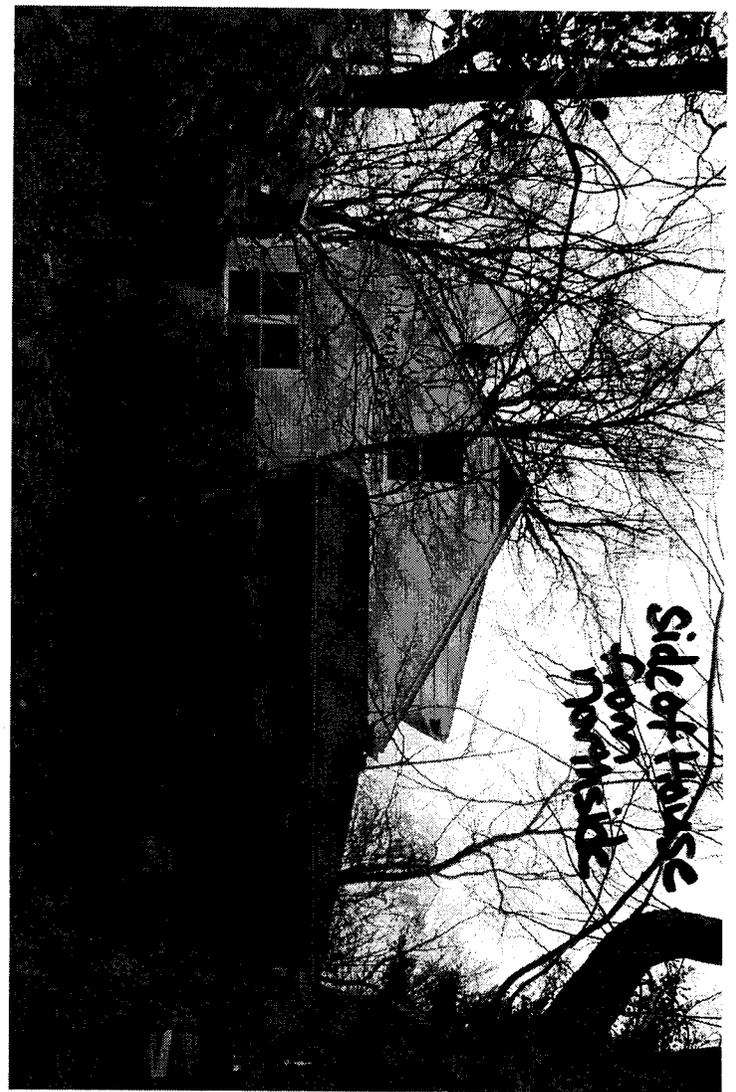
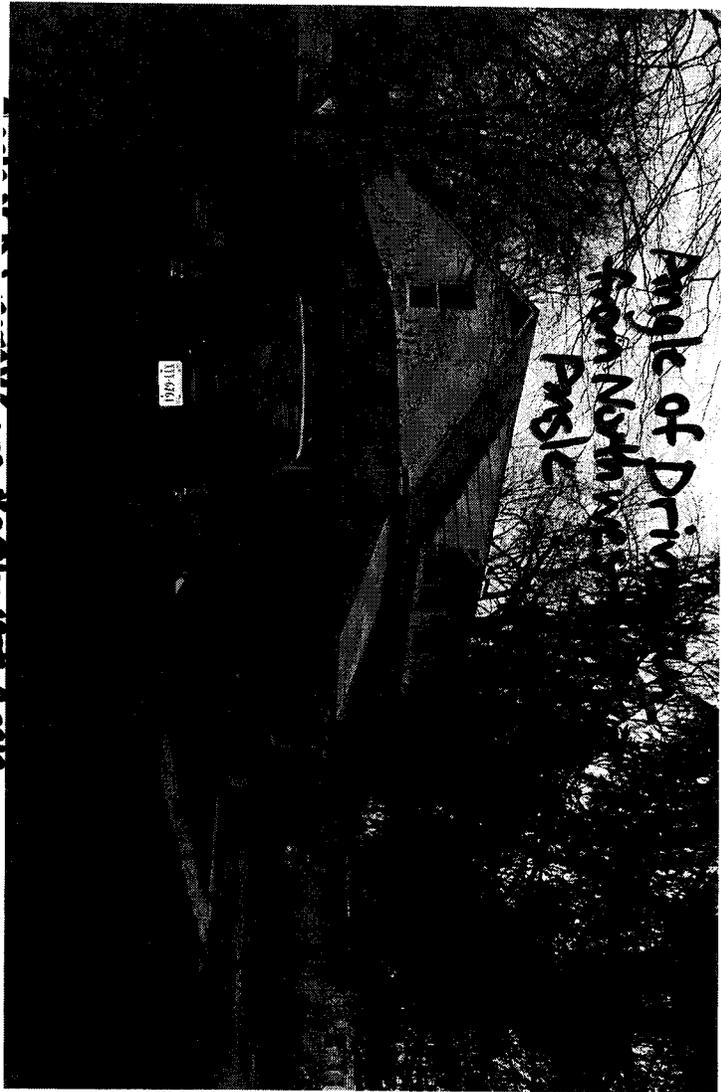
Topography of
Proposed Location
from Northside



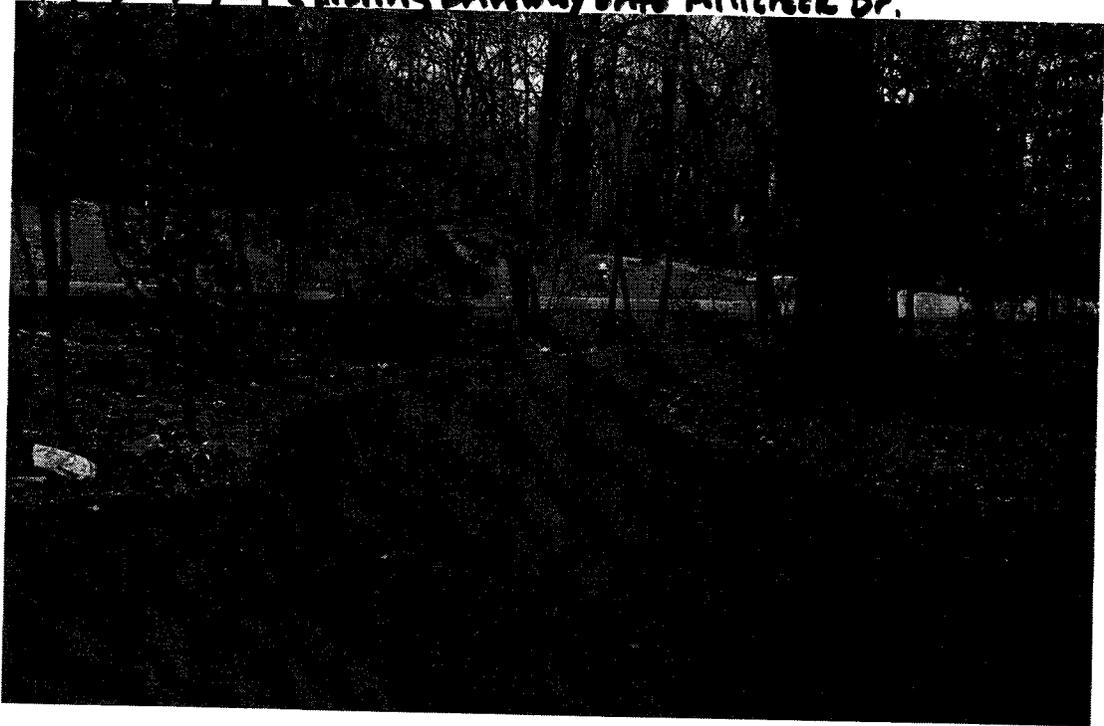
Topography of Existing Driveway

Proposed Location of Garage from Northside





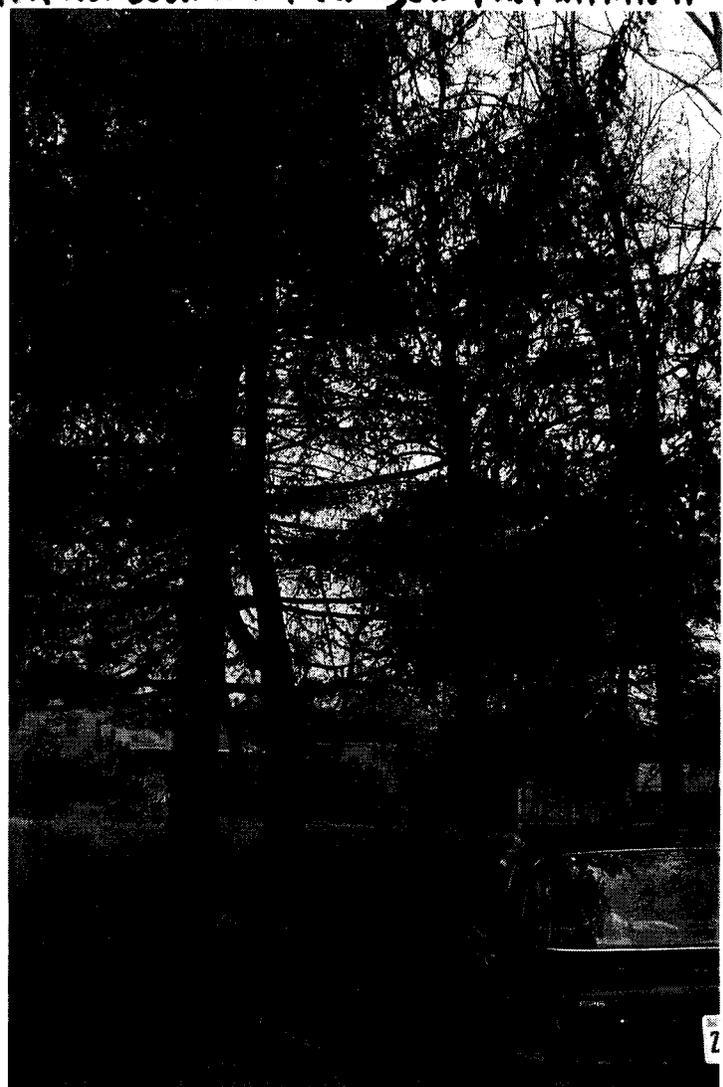
Topography of Existing Driveway onto Millcreek Dr.



TOP PHOTO LOCATED BY THE AGENT FOR THE BUYER

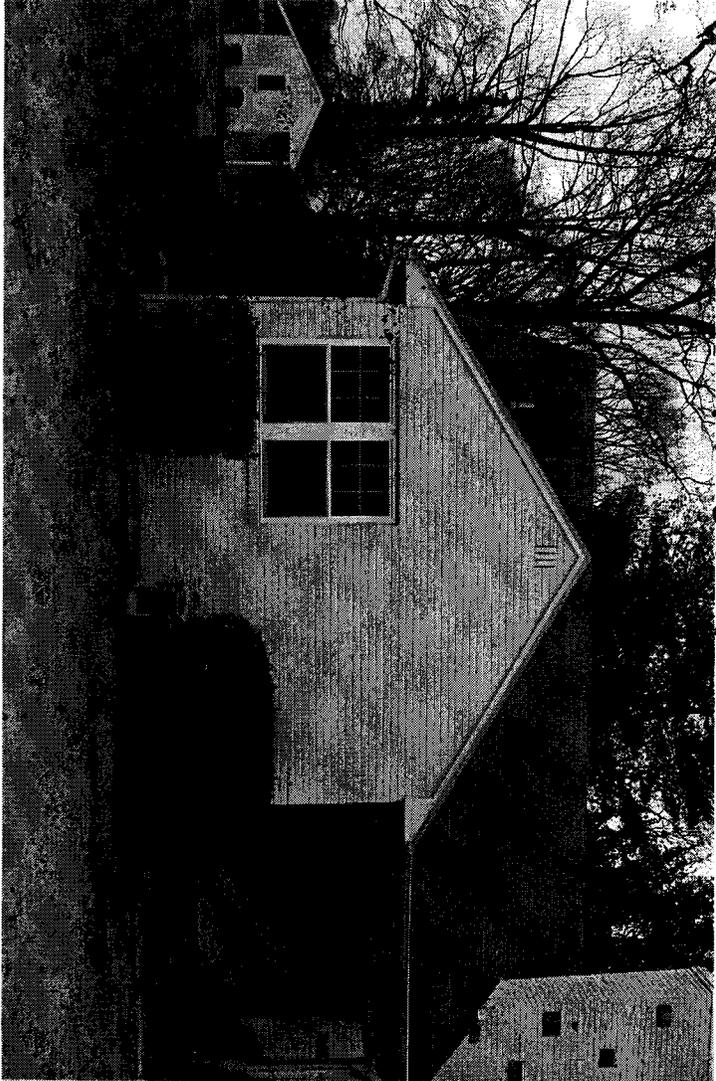


Topography of Lot Facing North Adjoining Property

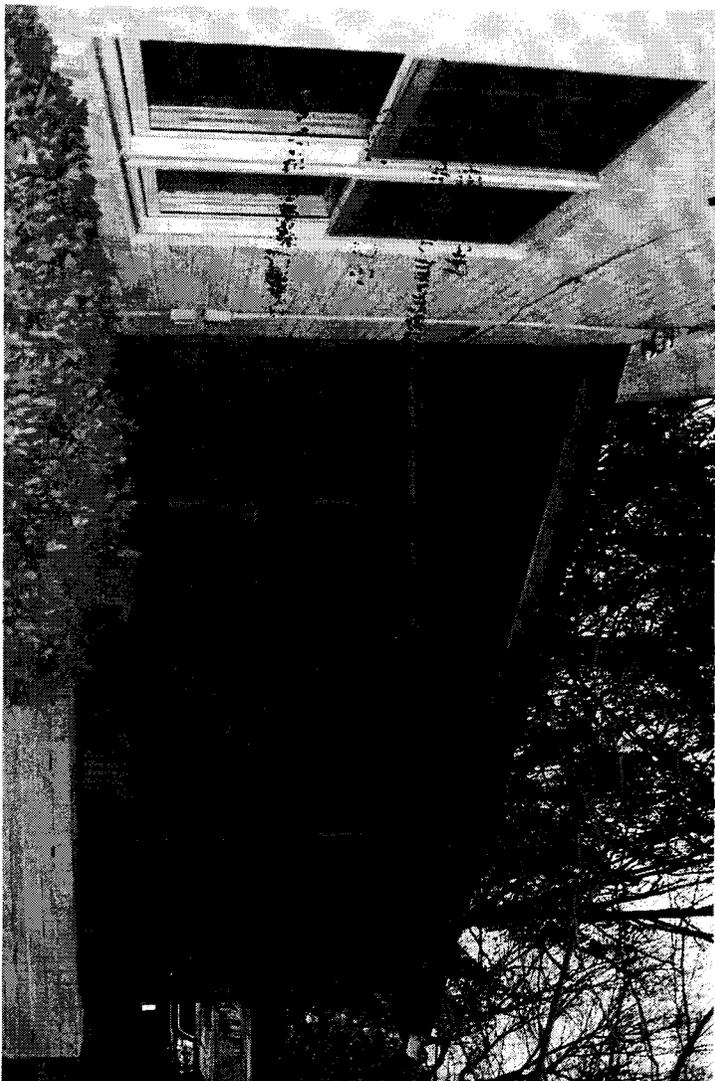


Adjoining Property at 3928 Millcreek





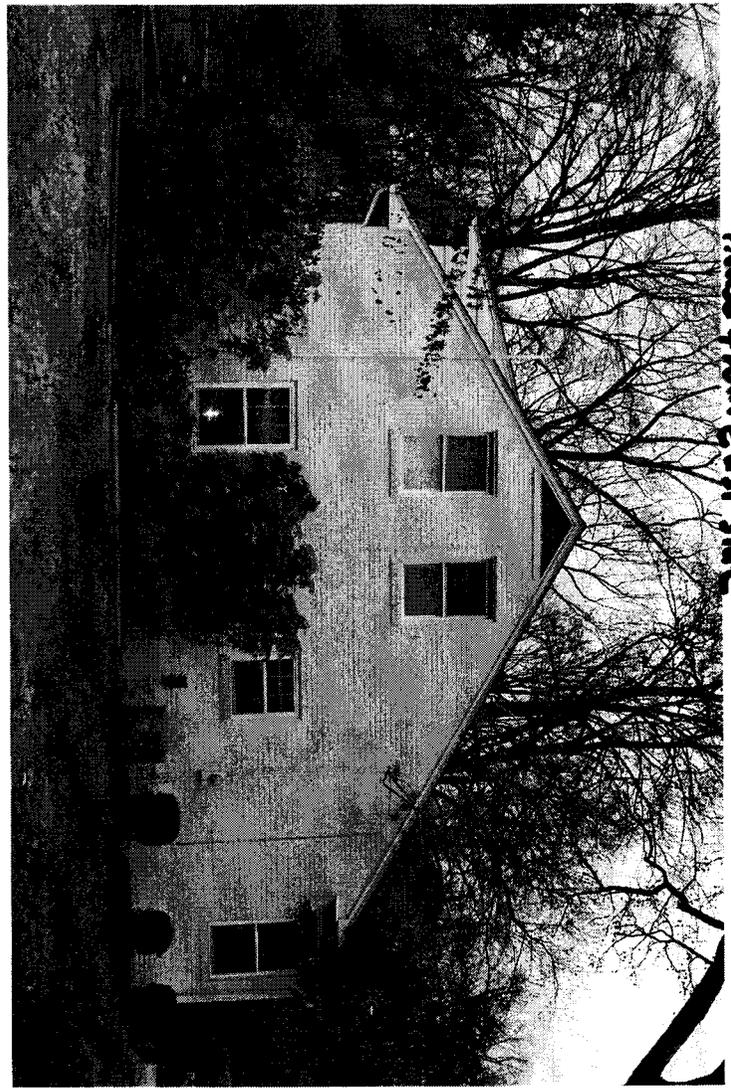
Front of house from East side



Screen porch taken from East side of house

Front of House

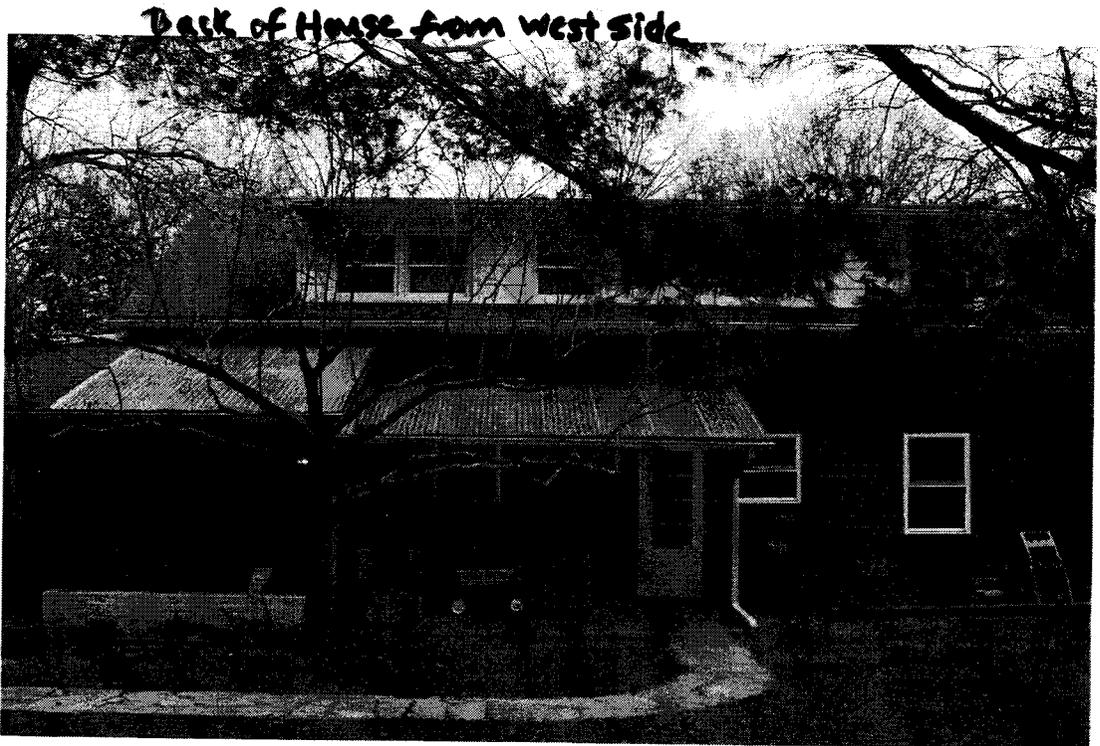




House from East Side



Screen Porch from North Side of House

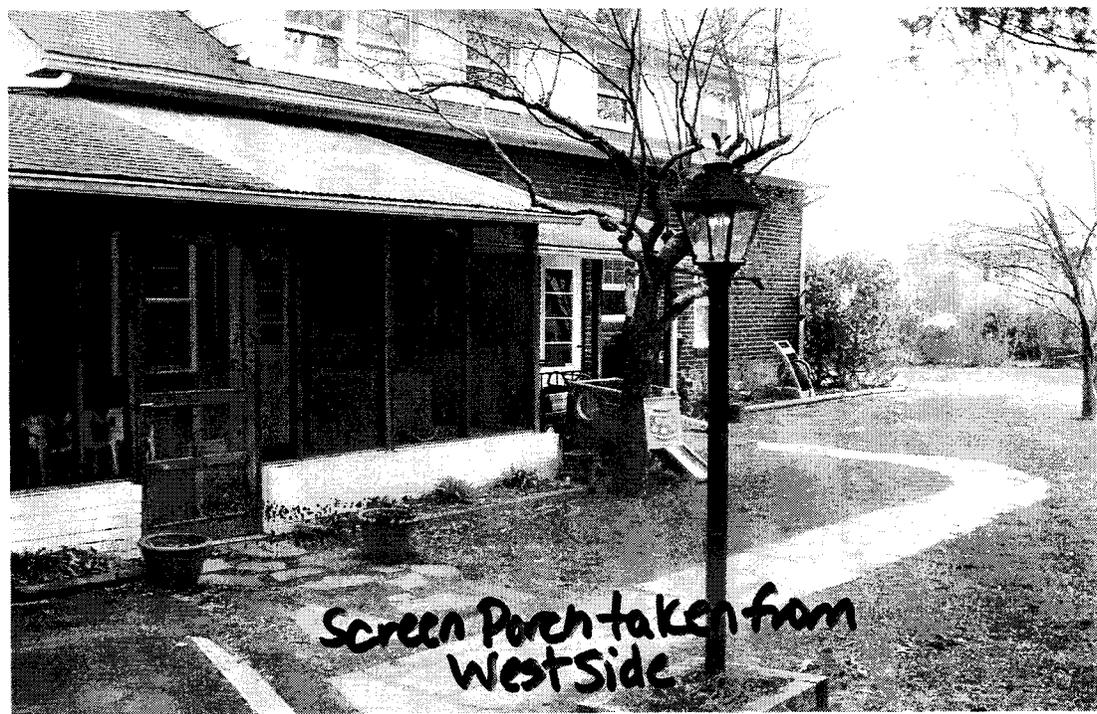
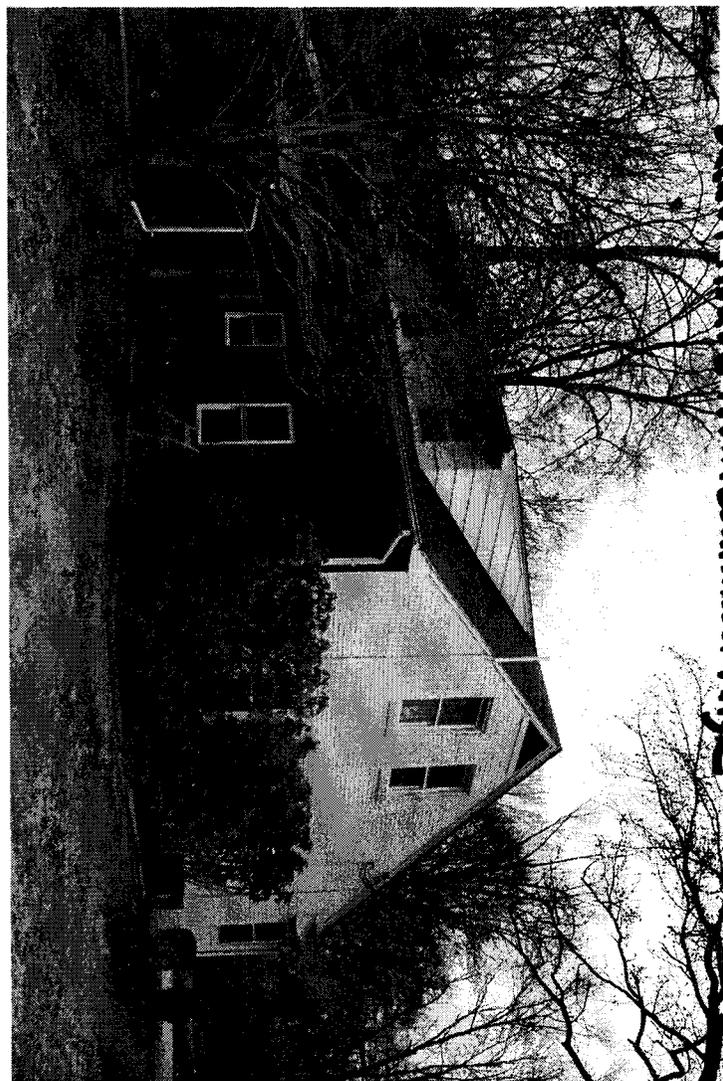


Back of House from West Side

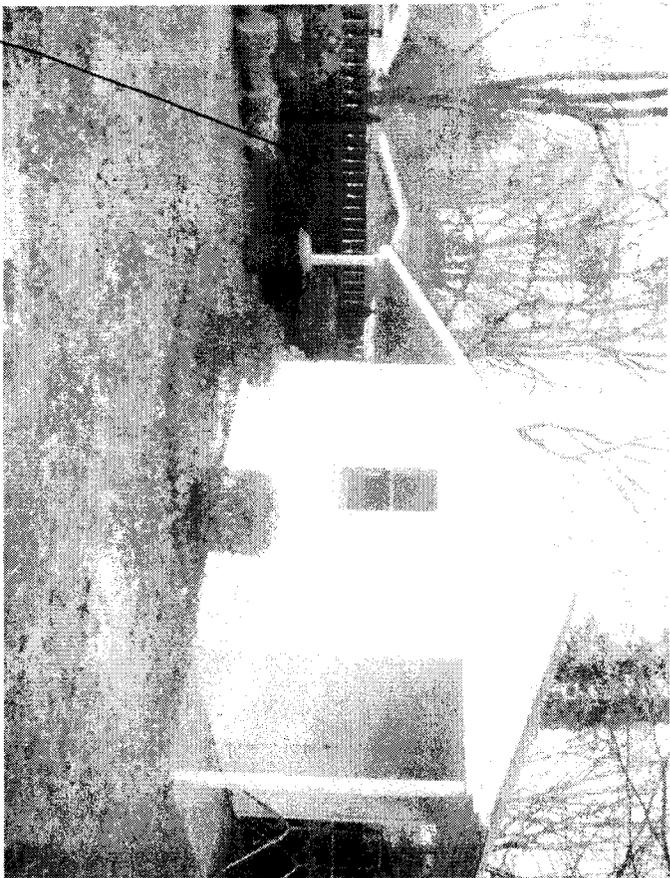
Back of house taken from South west Angle



Back of house from South west Angle



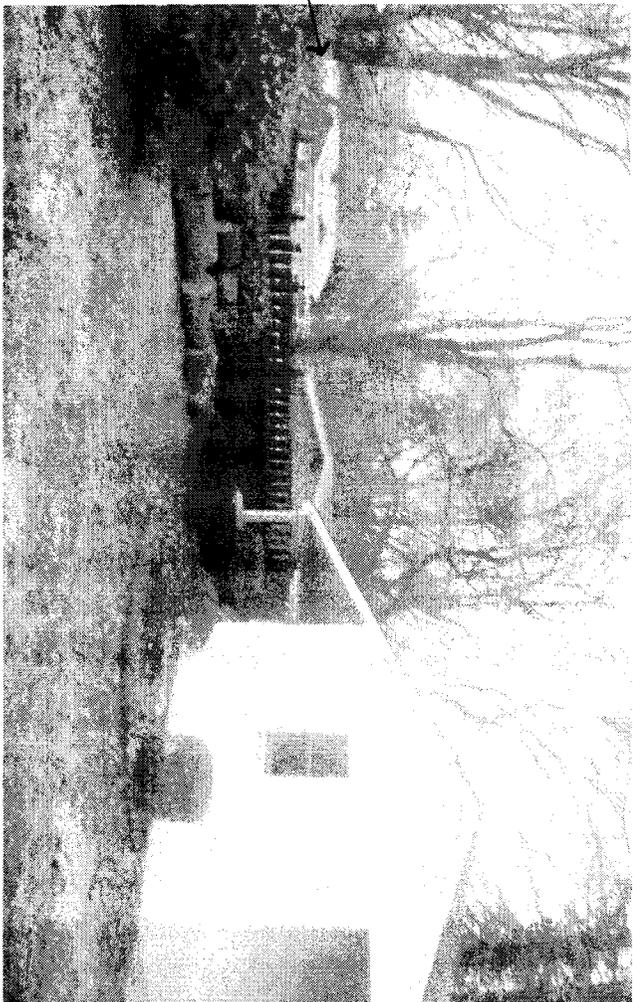
Screen Porch taken from West Side



6' fence on
property of
8104 Little River
Turnpike
next to their garage/shed

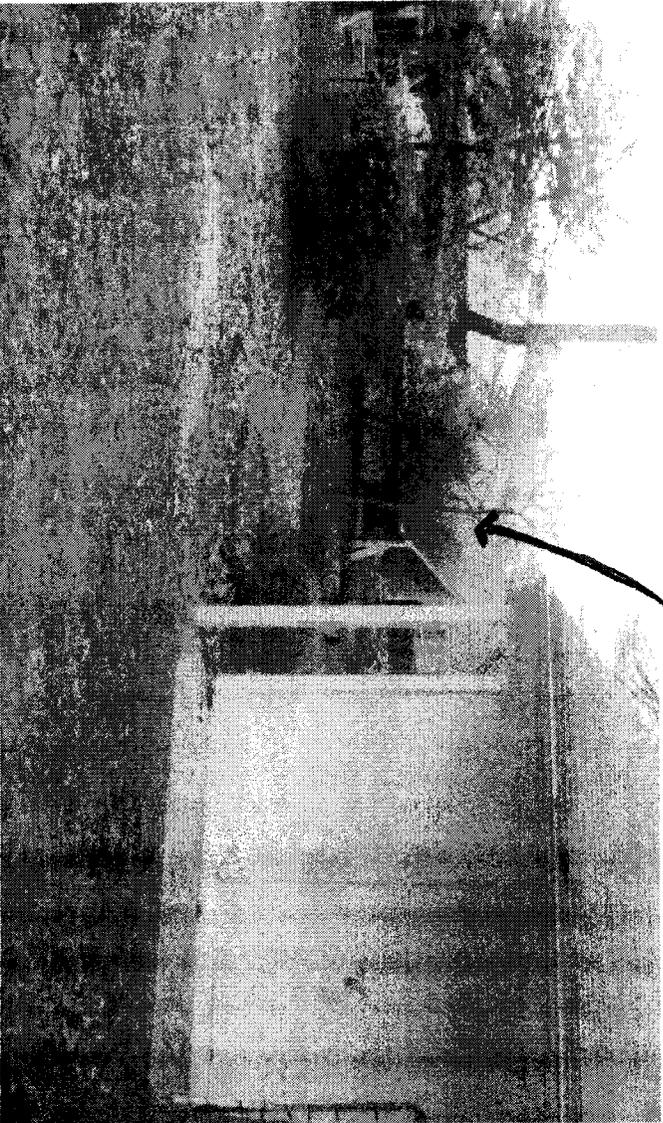


property
of
39208
Millerick
Drive
Shed on 8104
Little River Turnpike
from other side

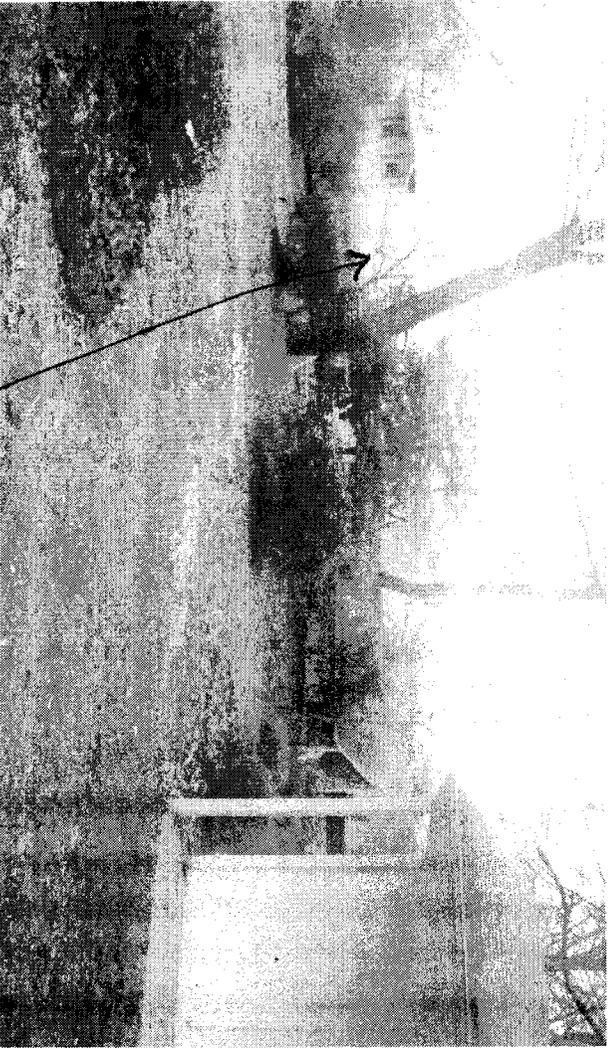


House on
8104 Little River
Turnpike

← Shed structure
on 4000 Lake
Boulevard



Shed structure
on 4006 Lake Boulevard property



House on 4006 Lake Boulevard



3928 Mill Creek Drive
Property

6'
Fence

Lean to
of shed

Shed on
8104 Little River
Turnpike

Back of
Shed on
4000 Lake Blvd.

Shed on
4000 Lake
Boulevard

House on
3928 Mill Creek
Drive property



DESCRIPTION OF THE APPLICATIONS

The applicants are requesting a special permit for a reduction to certain yard requirements to permit construction of an accessory structure, a two-story 23 foot high garage, to be located 7.5 feet from a side lot line.

Description of Special Permit #1

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Accessory Structure	Side	15.0 feet	7.5 feet	7.5 feet	50%

*Minimum yard requirement per Section 3-207

Description of Special Permit #2

The applicants are also requesting a special permit for a reduction to minimum yard requirements based on error in building location to permit an accessory storage structure (frame shed), which measures 12.0 feet in height, to remain 3.7 feet from a side lot line and 3.0 feet from the rear lot line.

	Structure	Yard	Minimum Yard Required	Structure Location	Amount of Error	Percent of Error
Special Permit	Accessory Storage Structure	Side	15.0 feet	3.7 feet	11.3 feet	75%
Special Permit	Accessory Storage Structure	Rear	12.0 feet	3.0 feet	9.0 feet	75%

*Minimum yard requirement per Section 3-207

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Plat Showing House Location on Lot 8, Section 1-A, Mill Creek Park, Deed Book 570, Page 375, Fairfax County, Virginia
- **Prepared by:** Dominion Surveyors Inc.
- **Dated:** June 28, 2007 as revised through May 29, 2008

EXISTING SITE DESCRIPTION

The site is currently zoned R-2 and contains a one and one-half story Cape Cod style single family detached dwelling built in 1952. The lot consists of 26,905 square feet and is surrounded by single family detached homes on all lot lines. The lot is a flat corner lot with many existing mature trees. The lot has two front yards and the existing dwelling is situated toward the middle of the lot.

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 there were no other similar applications for properties in the vicinity of the application site heard by the BZA.

Proposal:

The applicants are requesting a special permit to permit the construction of a 1,680 square foot two story detached garage to be located 7.5 feet from the side lot line.

The applicants are also requesting an existing frame shed to remain 3.7 feet from the side lot line and 3.0 feet from the rear lot line.

ZONING ORDINANCE REQUIREMENTS

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

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the garage does not meet all of the 8 General Special Permit Standards. Of particular note regarding this application are General Standards 3 and 5.

General Standard 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *The applicant has submitted a letter in support from the most affected property owner located on Lot 9, however staff believes that the construction of the 2-story 1,680 square foot detached garage proposed to be located 7.5 feet from the side lot line is not harmonious with the neighborhood or surrounding uses. The garage is proposed to be 23 feet high, 1.5 feet if measured at mid-roof. The dwelling on the lot is only 16.3 feet at mid-roof. Homes in the neighborhood range from 1, to 1.2 to 2 stores in height. This garage will be taller than a number of the homes in the area. There are other homes in the neighborhood which have accessory structures; however, it appears that those structures are smaller in scale and have been constructed within the minimum yard requirements, as no requests for variances or similar special permits have been granted. Therefore, staff does not believe this standard has been met.*

General Standard 5 requires that 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. *The proposed garage is a new two story 1,680 square foot accessory structure and is proposed to be located 7.5 feet from the side lot line. In a memorandum from the Forest Conservation Branch, DPWES, attached as Appendix 4, it is noted that several mature trees over 20" in diameter are proposed to be removed for the construction of the garage. The memorandum notes that the garage is shown to be over 50 feet from the rear of the house and if it were moved closer to the house, at least two (2) of the large maple trees could be saved. Staff believes that the accessory structure could be relocated closer to the existing dwelling, or reduced in size, so as not to affect existing vegetation to such a great extent. Therefore, staff does not believe this standard has been met.*

Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 4 relates to gross floor area of a principal structure, which does not apply to this application and Standard 10 allows the BZA to impose development conditions.

Staff believes that the application does not meet all of the remaining standards, specifically Standards 6, 7, 8 and 9.

Standard 5 states that the resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site. The house is a total of 3,285 square feet in size including the basement. Staff believes that the proposed 1,680 square foot accessory structure would be subordinate in purpose, use and intent to the principal structure on the site, based on square footage of the proposed garage. Therefore, staff believes this standard has been met.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The applicant is proposing an accessory structure to be utilized as a two car garage. Staff does not believe that the structure would be in character and scale with the existing structure on the lot. The existing single family dwelling is 1 ½ stories, measuring 16.3 feet in height, while the proposed accessory structure is two stories measuring 23.0 feet in height (17.5 feet at mid-point), which staff believes would not be proportionate to the house. The actual footprint of the proposed garage is approximately ½ the footprint of the house. In terms of height, bulk and scale, staff does not believe the proposed garage meets this provision.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. Due to the proposed placement of the garage, significant vegetation on site will be removed which will affect the screening along the common lot line with Lot 9. Although the applicant has support from the current owner of that lot, staff believes that the garage could be located closer to the existing dwelling, given that there is over 50 feet available between the two structures. This could not only preserve much of the existing vegetation, but could reduce or eliminate the need for this special permit request. The length of the garage is 30 feet adjacent to the lot line for a two-story structure. There are other accessory structures in the neighborhood, however none appear to be as tall or large and there are no approved variances or special permits on record for such structures. Staff does not believe this standard has been met.

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. Staff believes that the application may meet the erosion and stormwater runoff portion of the standards since the Department of Public Works and Environmental Services (DPWES) has indicated that there are no drainage complaints on file related to this property. However, we are uncertain of the amount of clearing required to locate such a large structure so close to the side lot line, and therefore staff is unable to determine what impact the proposed structure may have on erosion and stormwater runoff. The grade around the proposed structure must be carefully monitored so that future water runoff does not affect adjacent lots.

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. The subject property is a corner lot and therefore limits the applicant in potential locations for such a proposed structure. However, as currently proposed the garage is located over 50 feet from the principal structure and could easily be moved closer to the dwelling, thus requiring lesser of an intrusion into the side yard or non at all. Moving the garage may also create less new impervious area since more of the existing driveway could be used, and would result in fewer mature trees being removed from the site. The proposal may not be the minimum reduction necessary, and the garage could be reduced in size or reconfigured to minimize the intrusion into the side yard. There appears to be no reason that the garage could not be moved closer to the house, with the exception of personal preference and unlike an addition to a home, the location of existing windows, doors and rooms does not restrict the location of the garage. Staff believes that the application does not meet this provision.

CONCLUSION

Staff believes that the request to add the garage is not in conformance with the applicable Zoning Ordinance provisions.

RECOMMENDATION

Staff recommends denial of SP 2008-MA-062 for the detached garage.

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Memorandum dated July 16, 2008, from the Forest Conservation Branch, DPWES
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2008-MA-062****September 9, 2008**

If it is the intent of the Board of Zoning Appeals to approve SP 2008-MA-062 located at Tax Map 59-4 ((2)) 8 to permit reduction of certain yard requirements pursuant to Sections 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location and size (1,680 square feet) of an accessory structure (garage) and shed, as shown on the plat prepared by Dominion Surveyors Inc., dated June 28, 2007, as revised through May 29, 2008, as submitted with this application and is not transferable to other land.
2. The garage shall be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
3. Tree protection fencing shall be installed prior to commencement of any clearing and grading for the garage. The fencing shall be installed adjacent to the western side of the driveway, along the western lot line and at the northern dripline of the 2.5 foot tree south of the proposed garage. The fencing shall remain in place until all construction and final grading is complete.
4. A row of evergreen trees such as holly, arborvitae or cypress, a minimum of six feet in height at planting, shall be installed between the finished garage and the western lot line. These trees shall be planted a maximum of ten feet on center.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 31, 2007
(enter date affidavit is notarized)

Max E. Gagermeier, Jr. & Bonnie C. Gagermeier, 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

98274

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)
Max Edward Gagermeier, Jr.	4000 Lake Boulevard Annandale, VA 22003	Applicant/owner
Bonnie Cosby Gagermeier	4000 Lake Boulevard Annandale, VA 22003	Applicant & 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.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 31, 2007
(enter date affidavit is notarized)

98374

(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:

** not applicable **

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: August 31, 2007
(enter date affidavit is notarized)

98374

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

not applicable
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): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 31, 2007
(enter date affidavit is notarized)

98374

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.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

98374

DATE: August 31, 2007
(enter date affidavit is notarized)

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

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

None

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

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

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

WITNESS the following signature:

(check one) M. Edward Gagermeier, Jr. and Bonnie Cosby
[X] Applicant [X] Applicant's Authorized Agent

Max Edward Gagermeier, Jr. and Bonnie Cosby Gagermeier
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 31ST day of AUGUST, 2007, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

My commission expires: 2/29/08

#128454
Catherine Baker
Notary Public CATHERINE BAKER
NOTARY PUBLIC
COMMONWEALTH
OF VIRGINIA
My Commission Expires
February 29, 2008

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
bgagermeier@cox.net

Gagermeier

Memo

To: Debbie Hedrick	From: Bonnie Gagermeier and Max E. Gagermeier, Jr.
Fax: 703-803-7769	Pages:
Phone:	Date: 8/15/08
Re: SP 2008-MA-062	cc:

● **Comments:** Attached please a signed statement from our neighbor, Duc H Ho of 3928 Millcreek Drive (Tax Map 0594 02 0009), that identifies that he has read and has received a copy of the memorandum from Ineke Dickman from the Urban Forest Management Division.

Please note that he has previously signed a letter of consent with his approval to build the proposed garage and he has seen the certified plats that show the exact location of the structure, as well as the architectural plans created for this structure.

As stated in this current correspondence, he has no issue with the removal of the trees for the proposed location, as well as no issue with the loss of shade, potential energy savings and loss of privacy when the structure is built.

Thank you.

RECEIVED
DEPARTMENT OF PLANNING
AND ZONING

AUG 18 2008

SPECIAL PERMIT &
VARIANCE BRANCH

4000 Lake Boulevard
Annandale, VA 22003
0594 02 0008

Gagermeier

Statement of Acknowledgement

To: Zoning Evaluation Division
for Fairfax County; Debbie Hedrick

From: Bonnie Gagermeier and
Max E. Gagermeier, Jr.

Fax: 703-803-7769

Pages:

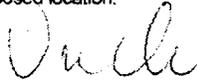
Re: SP 2008-MA-062

cc:

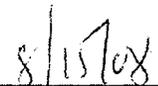
I, Duc H Ho of 3928 Millcreek Drive (Tax Map 0594 02 0009), have received a copy of the memorandum from Ineke Dickman from the Urban Forest Management Division dated July 16, 2008 as it relates to SP 2008-MA-062 and 003626-ZONA-001-1 (the memorandum with comments for the special permit sought by my neighbors at 4000 Lake Boulevard).

Please note that I do not have any issue with the removal of the trees for the proposed location of their garage. I do not have an issue with the loss of shade, potential loss of energy savings and the loss of privacy that will occur when the structure is built in the proposed location.

My signature below represents my acknowledgment and consent to the construction of this structure in the proposed location.



Duc Ho, Owner
3928 Millcreek Drive



Date

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
059-4-02-0008/ SP 2007-04309



RECEIVED
Department of Planning & Zoning

MAR 25 2008

Zoning Evaluation Division

Statement

To:	Department of Planning and Zoning / Virginia Ruffner	From:	<i>M.E.G.</i> Max E. Gagermeier, Jr. & Bonnie C. Gagermeier (property owners) <i>BCG</i>
Date:	March 21, 2008	Pages:	2

Enclosed please find our reply to your listing of deficiencies that must be addressed before our Special Permit Application can be accepted. This statement is meant to address **Items 930.02 – 930.05:**

Items 930.02 and 930.03: The proposed accessory structure was designed by a professional architect specifically to take into account the other existing structures on the property. As such, the garage is planned to be in character with the existing on-site development. For example, the existing house is a two-story Cape Cod with shed dormers and an asphalt shingle pitched roof. The existing house is constructed of brick and has off-white/cream color siding. The proposed garage is planned to match the existing house structure in a variety of ways. It is planned to be a two-story, wood framed detached garage with brick and siding. The planned garage's brick and siding will match the existing house. Furthermore, the garage structure will have shed dormers and an asphalt shingle pitched roof. In addition, the shed structure on our property is painted off-white/cream. We believe the proposed structure is, therefore, in character with the existing on-site structures. The proposed building materials, color and overall design were created to be harmonious with the existing structures.

The proposed garage structure location near Millcreek Drive was selected as it maintains the existing vegetation and preserves significant trees. The plat survey prepared by Dominion Surveyors denotes the variety of large trees that exist on our property and would remain. If the proposed structure is allowed in the suggested position, two 1.5' trees and one 1.0' tree would need to be removed. However, our property has approximately 30 trees of various sizes on it. It is our objective to remove the least number of trees possible to complete the construction of our garage. The survey plat prepared by Dominion Surveyors and submitted in the original application denotes many of the larger trees on our property, but there are other trees that are not shown. In general, our property is heavily wooded. Please also note that if the garage was placed on the Lake Boulevard side of our property, a large 3' tree would have to be removed.

Item 930.04: The proposed garage structure location near Millcreek Drive does not adversely impact the use and/or enjoyment of the adjacent property (specifically the property at 3928 Millcreek Drive that the structure would be closest to). Please note in the original package submitted that this property owner signed a statement advising that he is not opposed to the proposed garage structure. **Noise/Light:** As shown in the photography previously provided, the house on 3928 Millcreek Drive does not have any windows on the side of their house that the proposed garage would be built next to. As such, there is no issue with noise or light. There is also no entrance into their home on this same side that is adjacent to our property line. **Erosion/Stormwater Runoff:** There is an existing drainage pipe underneath the existing driveway that drains into a large runoff area. It is our intention that the proposed garage structure's gutters will tie into the existing drainage pipes, and will, therefore, drain into this large runoff area. We also plan to add landscaping bushes once the proposed garage structure is built. And, there is an existing large hedge between the property at 3928 Millcreek Drive and ours that would remain.

March 21, 2008

Item 930.05: As previously discussed in our Statement of Justification from December 6, 2007, Item I, the proposed location of the garage structure is the best location for our property for the following reasons: It allows us to better utilize the existing paved driveway; the current large runoff area remains intact; it avoids the removal of several large trees; it keeps the garage from impeding on the existing screened porch attached to our home; there are no utility easement issues; and it does not require an additional right-of-way entrance to be built on Lake Boulevard or the removal of a large tree on this side of our house.

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
059-4-02-0008/ SP 2007-04309

Gagermeier

RECEIVED
Department of Planning & Zoning

MAR 25 2008

Zoning Evaluation Division

Statement

MEC

To: Department of Planning and Zoning / Virginia Ruffner

From: Max E. Gagermeier, Jr. & Bonnie C. Gagermeier (property owners) *BCS*

Date: March 21, 2008

Pages: 2 plus 3 photo pages

Enclosed please find our reply statement to your listing of deficiencies that must be addressed before our Special Permit Application can be accepted. This statement is meant to address Item 5 and Item 912.00 as they address the additional standards in the 8-914 Items 2A through 2G Ordinance;

Standard 8-914 Items 2A Thru 2G

- A. The error in building location does not exceed 10% of the measurement involved. The shed structure in question is 12.2 feet. Our total property is 26,905 square feet. The structure is approximately 50 feet away from our home and would be approximately 90 feet away from the proposed garage structure.
- B. We believe the BZA should conclude that the error resulted in no fault of ours as the current property owners. The shed in question was erected prior to our purchase of the property. Enclosed, please find a physical survey that was prepared for the property sale which shows the shed already in existence. Furthermore, it was not disclosed to us at the purchase that the shed's location did not comply with Fairfax County Zoning Ordinances, and, as such, the error was through no fault of us as the current property owners.
- C. We believe the BZA should conclude that the reduction does not impair the purpose and intent of this Ordinance. The shed structure in question has existed in its current location for at least 11 years and has not been detrimental to any of the adjacent property owners. (Please note that the exact erection date of the shed structure is unknown. We have owned the property since 1998; the property was for sale for almost a year prior to the sale and the structure was in place during that time).
- D. The location of the shed is not detrimental to the use and enjoyment of other property in the immediate vicinity. The shed structure is located in the back corner of our property that adjoins 8104 Little River Turnpike, 4006 Lake Boulevard, and 3928 Millcreek Drive's property.

As it pertains to the property on 8104 Little River Turnpike, the shed structure is next to an approximately 6 ft. high fence that mostly obscures our shed structure from that property owner's view. Furthermore, the property owner also has erected an accessory garage/shed structure in the corner of their property that further obscures our shed structure from their view. Our shed structure is located in the most distant corner of their property away from their home.

As it pertains to the property on 4006 Lake Boulevard, our shed structure is very similar to the shed structure erected on their property as was likely erected at the same time. Their shed structure is also located in the corner of their property. Our shed structure is over 50 feet from their shed structure and is also located away from their home.

As it pertains to the property on 3928 Millcreek Drive, the shed structure in question is located in the most distant corner of their property away from their home.

See attached photography of the existing shed structure's location as it pertains to the adjacent properties.

March 21, 2008

- E. The current shed structure does not create an unsafe condition with respect to other property and public streets. It is located in the farthest corner of our property, is not immediately next to any other structures (the closest structures are two of our neighbor's sheds that exist on their respective properties), and no public streets are located near the shed structure.
- F. Forced compliance with the minimum yard requirement for this shed structure would cause unreasonable hardship if we were asked to move it or remove it, because the structure is in good shape and the cost and inconvenience of moving it would be unreasonable since the shed is not disturbing any of our neighbors.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
059-4-02-0008/ SP 2007-04309

Gagermeier

Reply

To: Department of Planning and Zoning / Virginia Ruffner
From: Max E. Gagermeier, Jr. & Bonnie C. Gagermeier (property owners) ^{MEG}
Date: March 21, 2008
Pages: 1 _{BB}

Enclosed please find our reply to your listing of deficiencies that must be addressed before our Special Permit Application can be accepted based on your January 2, 2008 correspondence:

Item 1: It was requested that we add the accessory storage structure (shed) located in the side yard to this application. As requested, we have complied with your request; however, we have also included a copy of the land survey completed at the time we purchased the property. Please note that this structure was erected by the previous owners of the property.

Item 5: Enclosed please also find our revised statement at your request that also addresses additional standards 8-914 Items 2A thru 2G. Please note that 8-914 #1 was addressed in the original plat submitted for the Special Permit Application for the garage structure.

Item 911.01 and Item 911.05: You requested eave information. Please note that eave information is provided for the on-site development on the original plat submitted for the Special Permit Application, with the exception of the proposed garage structure (1.4 feet for the house; .6 feet for the shed). It is our intention that the eaves on the proposed garage structure will match the house and will be 1.4 feet on the North and the South side of the structure). Please see the enclosed plat where this has been marked accordingly.

Item 912.00: Enclosed please find our revised statement at your request that also addresses additional standards 8-914.

Items 930.02 - 930.05: Enclosed please find our revised statement addressing your request.

Please advise if you need any additional information to process our request. Thank you.

RECEIVED
Department of Planning & Zoning

MAR 25 2008

Zoning Evaluation Division

March 21, 2008

Item 930.05: As previously discussed in our Statement of Justification from December 6, 2007, Item I, the proposed location of the garage structure is the best location for our property for the following reasons: It allows us to better utilize the existing paved driveway; the current large runoff area remains intact; it avoids the removal of several large trees; it keeps the garage from impeding on the existing screened porch attached to our home; there are no utility easement issues; and it does not require an additional right-of-way entrance to be built on Lake Boulevard or the removal of a large tree on this side of our house.

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
bgagermeier@cox.net

Gagermeier

Memo

To: Virginia Ruffner, Planner III

From: Bonnie and Ed Gagermeier *BB-MES*

Date: 6/13/08

File: SP 2007-0430

● **Comments:** Enclosed please find 4 original applications that have been signed, per your request. In addition, we have provided new original copies of plats that have been revised, per your suggestion. The proposed accessory structure has now been relocated to be parallel with the addition (screen porch). The above information along with the enclosures is meant to address your March 26, 2008 letter advising us of specific deficiencies. We believe we have addressed all of these.

Please advise if you need additional information to continue to move the process forward. Thank you.

RECEIVED
Department of Planning & Zoning

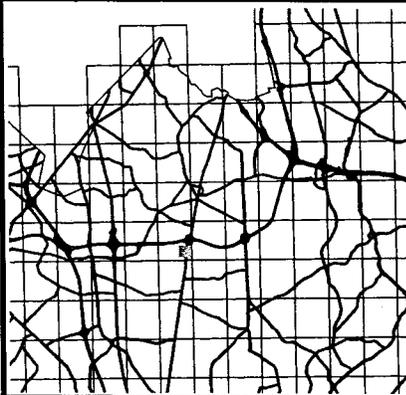
JUN 13 2008

Zoning Evaluation Division

Property Map



1 inch equals 96 feet



Legal Disclaimer:

The information contained on this page is NOT to be construed or used as a "legal description". Fairfax County does not provide any guarantee of accuracy or completeness regarding the map information. Any errors or omissions should be reported to the Fairfax County Geographic Information Services Branch, 12000 Government Center Parkway, Suite 117, Fairfax, VA 22035-0010. The County is not liable for any damages, including but not limited to loss of data, lost profits, business interruption, loss of business information or any other pecuniary loss that might arise from the use of this map or information it contains.

Virginia State Plane Coordinate System, North Zone
North American Datum 1983/93 (1996 NAD03)

Compiled by digital photogrammetric methods
from 1:9250 scale aerial photographs taken March 1997

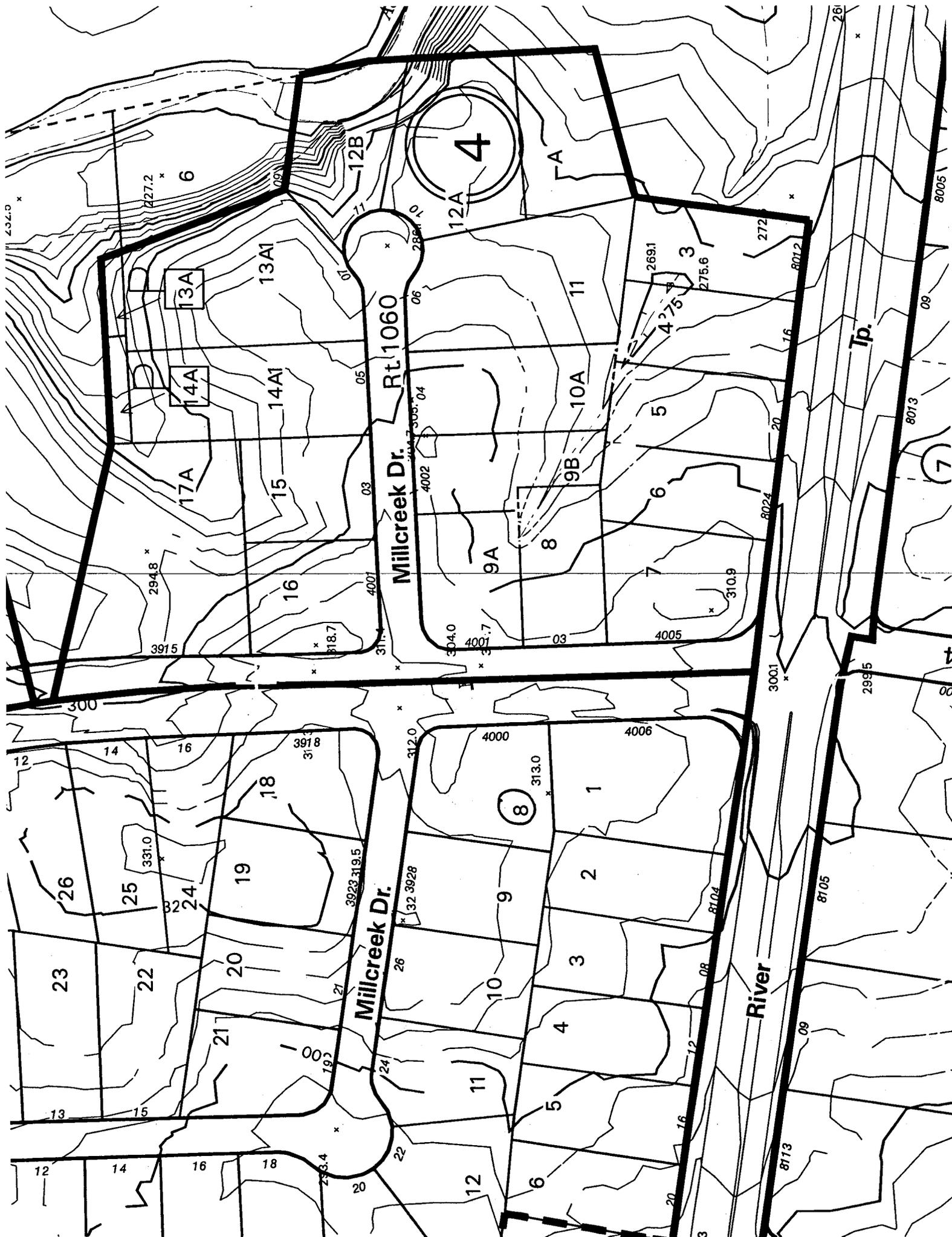
Planimetric mapping meets ASPRS Accuracy Standard for Large Scale Maps
for 1:1,000 map scale (Class I)
Contour Interval 3 Feet
National Geodetic Vertical Datum 1929

Contours meet National Map Accuracy Standards, accurate to 3.5 feet.
Prepared by Fairfax County Geographic Information Services Branch
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Department of Information Technology
GIS and Mapping Services
12000 Government Center Parkway
Suite 117
Fairfax, VA 22035-0010

(703) 324-2712
(703) 324-3937 - FAX
www.fairfaxcounty.gov/maps/map.htm
e-mail: gis_help@fairfaxcounty.gov





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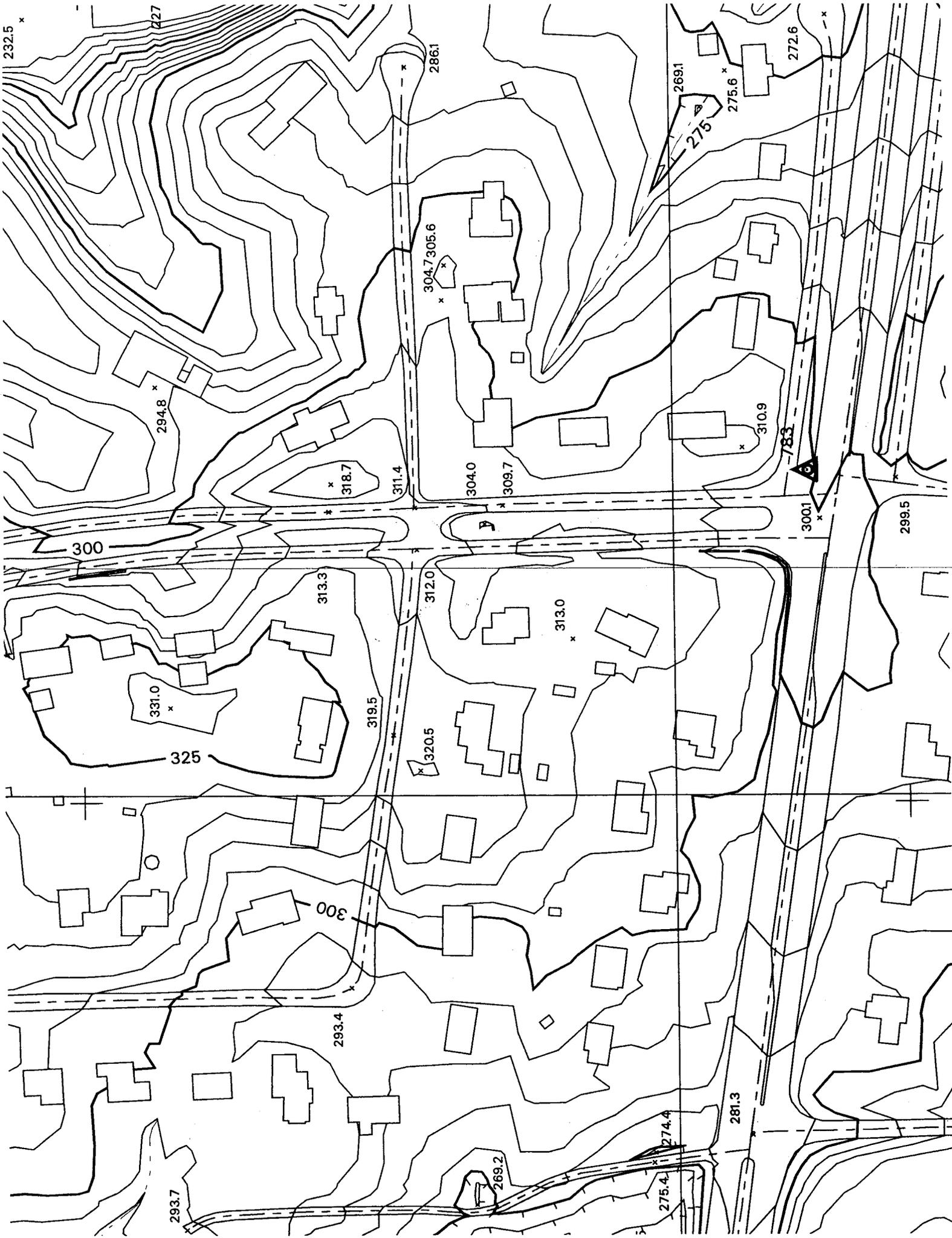
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4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
059-4-02-0008

Gagermeier

RECEIVED
Department of Planning & Zoning

DEC 06 2007

Zoning Evaluation Division

Statement

To: Zoning Evaluation Division for
Fairfax County

From: Max E. Gagermeier, Jr. & Bonnie
C. Gagermeier (property owners)

Date: December 6, 2007

Pages:

In compliance with the submission requirements for a Special Permit by the Zoning Evaluation Division for Fairfax County, please find our written Statement of Justification describing the proposed use and other pertinent data which complies with Section 8-011 contained on page 14 of the Special Permit application package. This statement is meant to fulfill Requirement Number 5.

We intend to build a detached garage/accessory structure on our 4000 Lake Boulevard property. The Special Permit we are applying for utilizes Fairfax County Zoning Ordinance 8-922 which allows a structure to extend into a minimum required yard. Below please find the answers to the questions asked on page 14 of the Special Permit application package:

- A. Type of operation: **Detached garage for private use by residents only.**
- B. Hours of operation: **Not applicable.**
- C. Estimated number of patrons/clients/patients/pupils, etc.: **Not applicable.**
- D. Proposed number of employees/attendants/teachers/etc.: **Not applicable.**
- E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day.: **No impact to existing traffic pattern.**
- F. Vicinity or general area to be served by the use: **Not applicable.**
- G. Description of building façade and architecture of proposed new building or additions.: **The proposed accessory structure is planned to be a two-story, wood framed detached garage with brick and siding and an asphalt shingle pitched roof (to match existing house).**
- H. A listing, if known of all hazardous or toxic substances.....**There are no known hazardous or toxic substances on the property as noted in Requirement H in the Special Permit Statement of Justification.**
- I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought..**The provisions put forth in the 8-922 Zoning Ordinance allow for granting a Special Permit for extension into the minimum required yard. Our property (4000 Lake Boulevard) is located on the corner of Millcreek Drive and Lake Blvd. The proposed placement of the garage is on the Northwest side of the property off of Millcreek Dr. The proposed location at 7.5 feet from the side yard setback (versus 15 feet) allows us to better utilize the existing paved driveway entrances from Millcreek Dr. This allows the current run off area to remain intact and avoids removal of several large trees. We do not wish to place the garage on the Southeast side of the property facing Lake Blvd. This would require an additional right-of-way entrance to be built into the roadway from our property onto Lake Blvd. It would also require the removal of a large tree. Furthermore, there is not a natural entrance to our home if the garage was placed on this side of the property. In addition, the proposed placement of the accessory structure at 7.5 feet from the side yard setback (as noted on the enclosed Special Permit Plat) keeps the garage from impeding on the existing screened porch (located on the Southwest side of the property).**

4000 Lake Boulevard
Annandale, VA 22003
703-876-0611
059-4-02-0008

Gagermeier

Statement

To:	Zoning Evaluation Division for Fairfax County	From:	Max E. Gagermeier, Jr. & Bonnie C. Gagermeier (property owners)
Date:	December 6, 2007	Pages:	2

In compliance with the submission requirements for a Special Permit by the Zoning Evaluation Division for Fairfax County, please find our written Statement of Ownership of the subject property and the nature of our interest in the property. This Statement is meant to fulfill Requirement Number 7 of the Special Permit application package.

4000 Lake Boulevard on Lot 8 Section 1A in the Mill Creek Park subdivision in Fairfax County is owned by Max E. Gagermeier, Jr. and Bonnie C. Gagermeier (the applicants for the Special Permit). This property is located on the tax map in the Mason District at 59-4-02-0008. We intend to build a detached garage/accessory structure on our 4000 Lake Boulevard property.

A copy of the Fairfax County Profile of the property is also attached.

RECEIVED
Department of Planning & Zoning

DEC 06 2007

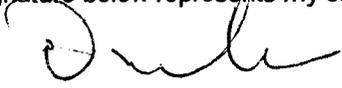
Zoning Evaluation Division

Letter of Consent

To: Zoning Evaluation Division for Fairfax County
From: Max E. Gagermeier, Jr. & Bonnie C. Gagermeier (property owners)

Date: 5/26/2007 **Pages:** 1

I, Duc Ho, am aware and have spoken to my neighbors (Max Edward Gagermeier, Jr. (Ed) and Bonnie Gagermeier), who live at 4000 Lake Blvd, about their plans to build a garage with a room on the second level of the structure on their property. I also understand that they will be applying for a special permit to build the garage 7.5 feet from the property line, and I have reviewed the plans for this structure. My signature below represents my consent to the construction of this structure in the proposed location.



Duc Ho, Owner
3928 Millcreek Drive

5/27/07

Date

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Department of Planning & Zoning

DEC 06 2007

Zoning Evaluation Division



County of Fairfax, Virginia

MEMORANDUM

July 16, 2008

TO: Debbie Hedrick, Staff Coordinator
Department of Planning and Zoning, Zoning Evaluation Division

FROM: Ineke Dickman, Urban Forester II *AD*
Forest Conservation Branch, DPWES

SUBJECT: Mill Creek Park Section 1-A Lot 8 (4000 Lake Boulevard), SP 2008-MA-062
003626-ZONA-001-1

The following comments are based on a review of the above referenced Special Permit request date stamped as received by the Department of Planning and Zoning March 25, 2008, an accompanying Plat date stamped June 13, 2008, and a site visit by Urban Forest Management Division (UFMD) staff on July 11, 2008.

- 1. Comment:** The proposed location of the garage will require removal of a 22" dbh Norway spruce, a 22" dbh white pine, a 14" dbh red maple and a potentially co-owned 20" dbh red maple. It is UFMD's opinion that the removal of these mature trees will have a significant impact on the adjacent property at 3928 Mill Creek Drive. Although there are no windows or entrances at 3928 Mill Creek Drive on the side that the garage will be build, the loss of shade and energy savings, as well as privacy within the adjacent yard provided by these mature trees will be significant.

A variance is requested even though the garage could easily be moved closer to the house as there is between 51.2 and 55 feet distance between the screened porch and the proposed 2 story garage. Moving the garage closer to the porch could potentially save the two maples.

Recommendation: UFMD staff recommends that Applicant evaluates the potential of moving the garage closer to the house and the screened porch in order to save the two red maples. Root pruning, mulching and tree protection fencing will need to be provided.

If the variance is granted, UFMD recommends planting of screening material, such as dark green arborvitae, Nellie Stevens holly or Foster's holly adjacent to the garage to reduce the building's impact to the adjacent homeowners.

- 2. Comment:** It is not clear if the 20"dbh red maple is entirely on lot 8 (the subject of the variance). If the tree is co-owned, it cannot be removed without the express written permission from the adjacent homeowner at 3928 Mill Creek Drive.

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes



Recommendation: Establish if the 20" dbh red maple is a co-owned tree, and if so obtain written permission from the adjacent homeowner to remove this tree, if the variance is granted and the tree needs to be removed.

3. **Comment:** UFMD is assuming that access to build this garage (and remove trees and excavate foundation if planned) will be over the asphalt driveway. We are concerned that large heavy equipment will damage the existing trees alongside the driveway.

Recommendation: UFMD requires 14 gauge welded wire tree protection fencing along the driveway access points as well as any other location that trees are present in close proximity to the proposed work. Additionally, we strongly recommend that prior to start of construction the applicant hire a private Certified Arborist to prune overhanging branches from trees alongside the driveway to avoid damage to these trees from construction vehicles.

Please call me at 703-324-1770 if you have any questions.

AID/

UFMID #: 138321

cc: RA File
DPZ File



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.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.
 - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.
5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.

11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
- E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
- H. If applicable, the location of a well and/or septic field.
- I. Existing and proposed gross floor area and floor area ratio.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

- K. The location, type and height of any existing and proposed landscaping and screening.
- L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
- M. Seal and signature of professional person certifying the plat.

12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

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.