



APPLICATION ACCEPTED: November 7, 2008
BOARD OF ZONING APPEALS: March 3, 2009
ADMINISTRATIVELY MOVED AT APPLICANT'S REQUEST
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 24, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2008-MV-094 and VARIANCE APPLICATION NO. VC 2008-MV-007

MOUNT VERNON DISTRICT

APPLICANT/OWNER: Jeffrey K. Campbell

STREET ADDRESS: 4212 Old Mill Road

SUBDIVISION: Sulgrave Manor

TAX MAP REFERENCE: 110-1 ((11)) 102

LOT SIZE: 21,800 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 8-914, 8-918 and 18-401

SPECIAL PERMIT PROPOSAL: To permit reduction of minimum yard requirements based on errors in building locations to permit accessory storage structure to remain 3.6 feet from one side lot line, deck to remain 6.0 feet from other side lot line and to permit an accessory dwelling unit.

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

STAFF RECOMMENDATION: Staff recommends approval of SP 2008-MV-094 for the accessory dwelling unit subject to the proposed development conditions contained in Appendix 1.

O:\dhedri\Special Permits\3-3 SP 2008-MV-094 & VC 2008-MV-007 Campbell\SP 2008-MV-094 & VC 2008-MV-007 Campbell staff report.doc
Deborah Hedrick

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

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within 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-MV-094

Applicant: JEFFREY K. CAMPBELL
 Accepted: 11/07/2008
 Proposed: TO PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERRORS IN BUILDING LOCATIONS TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 3.6 FT. FROM ONE SIDE LOT LINE. DECK TO REMAIN 6.0 FT. FROM OTHER SIDE LOT LINE AND TO PERMIT AN ACCESSORY DWELLING UNIT

Area: 21,800 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-091808-0914
 Art 8 Group and Use: 9-17 9-13
 Located: 4212 OLD MILL ROAD
 Zoning: R-2
 Overlay Dist:
 Map Ref Num: 110-1- /11/ /0102

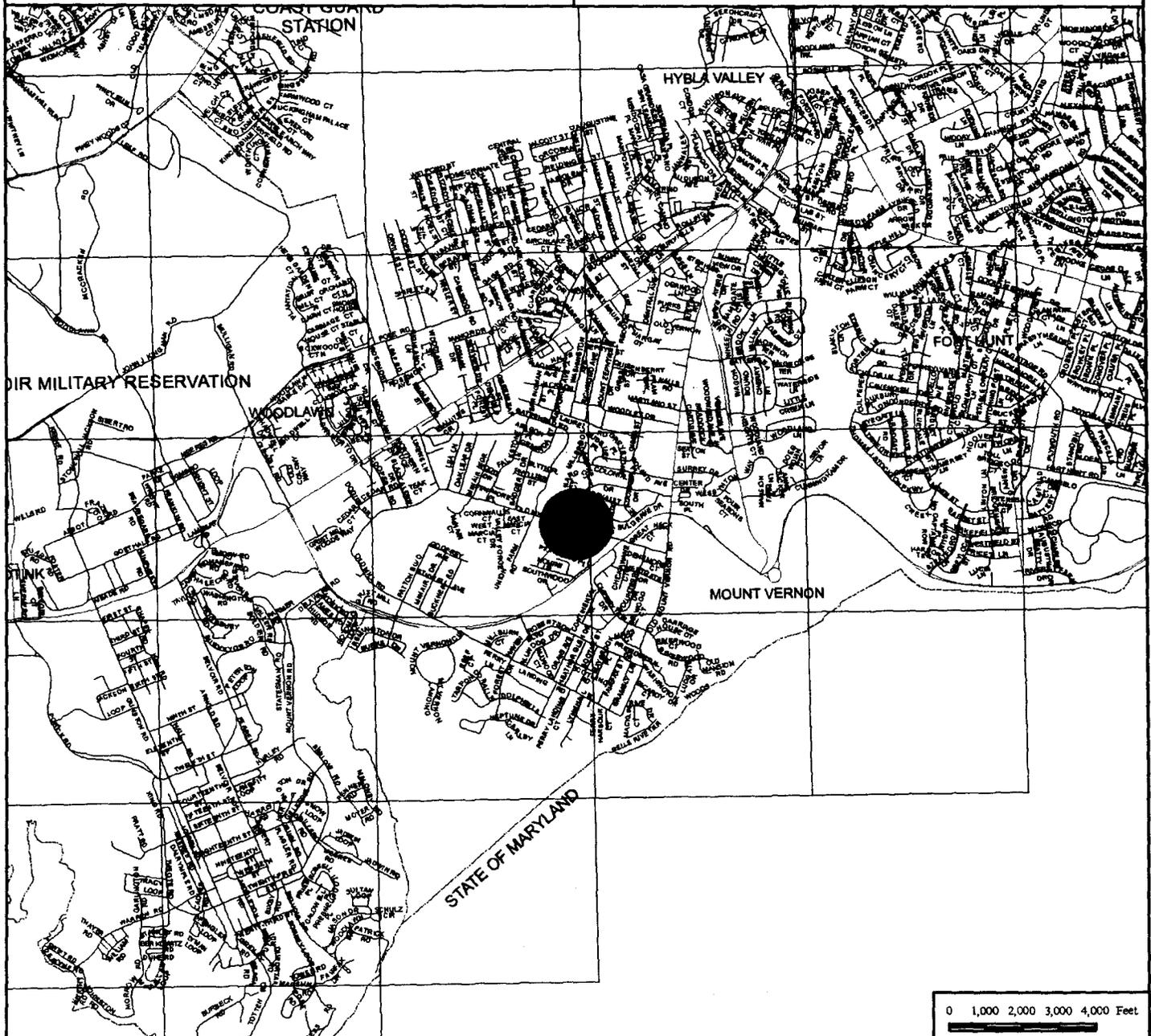
Variance Application

VC 2008-MV-007

Applicant: JEFFREY K. CAMPBELL
 Accepted: 11/07/2008
 Proposed: TO PERMIT GREATER THAN 30 PERCENT MINIMUM REAR YARD COVERAGE

Area: 21,800 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 18-0401 10-0103
 Paragraph: 1 03
 Located: 4212 OLD MILL ROAD
 Zoning: R-2
 Overlay Dist:
 Map Ref Num: 110-1- /11/ /0102



Special Permit

SP 2008-MV-094

Applicant: JEFFREY K. CAMPBELL
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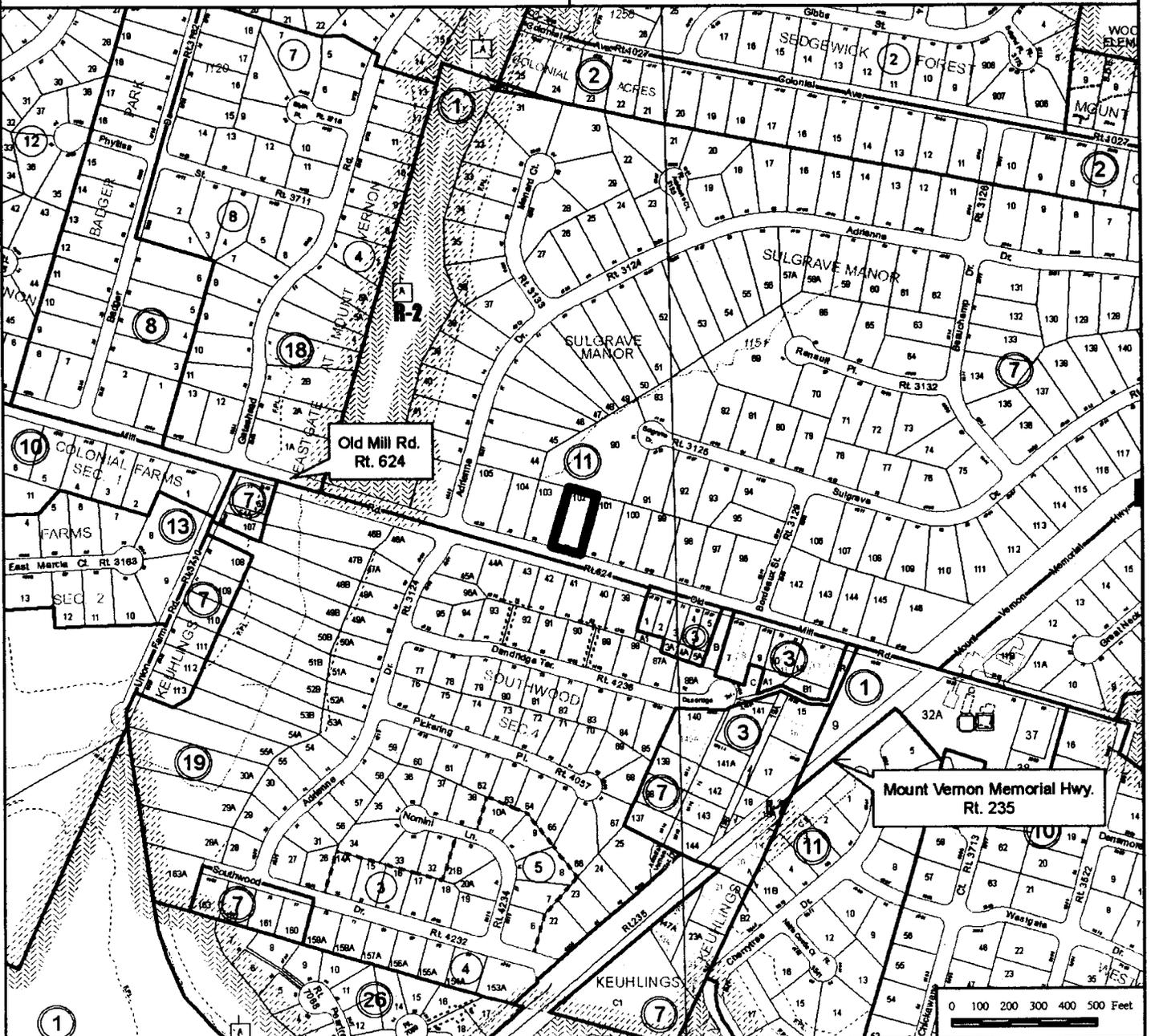
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Variance Application

VC 2008-MV-007

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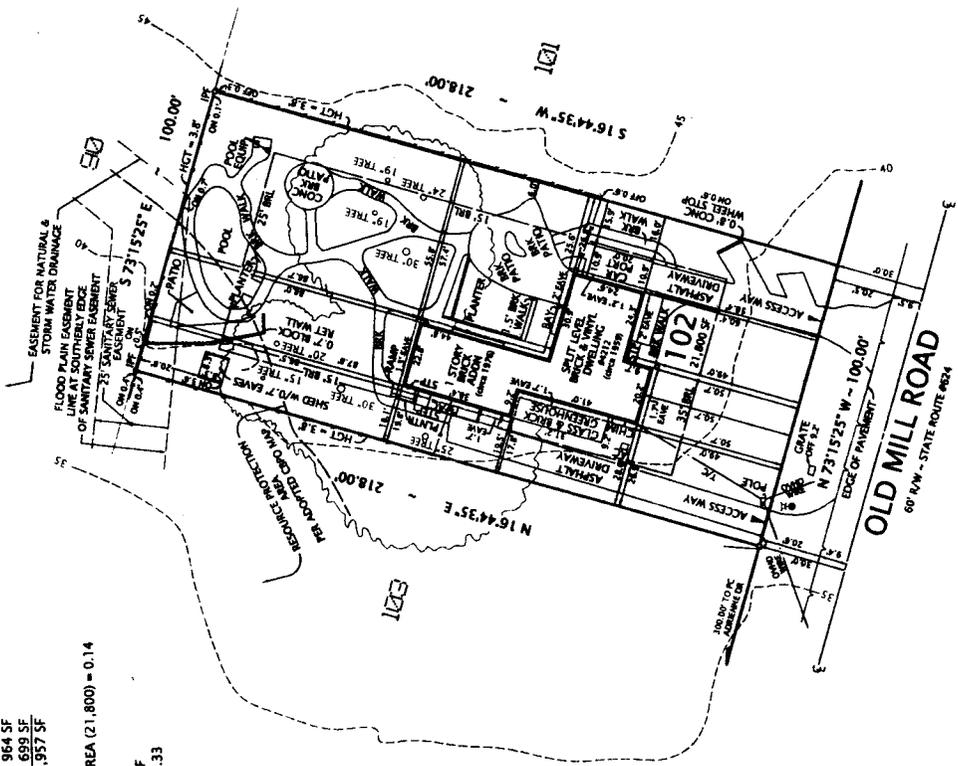
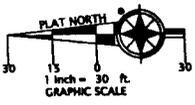
Zoning Dist Sect: 18-0401 10-0103
 Paragraph: 1 03
 Located: 4212 OLD MILL ROAD
 Zoning: R-2
 Overlay Dist:
 Map Ref Num: 110-1- /11/ /0102



AREA NOTES:

-	689 SF
-	595 SF
-	964 SF
-	689 SF
-	2,957 SF

EX FLOOR AREA RATIO
 EX FAR = EX GFA (2,957) / LOT AREA (21,800) = 0.14
 ADDN (964) / EX GFA (2,957) = 0.33

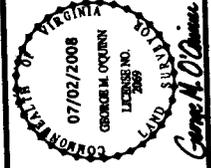


- NOTES**
- TAX MAP: 110-1-11-0102
 - ZONE: R-2 (RESIDENTIAL 2 DU/AC)
 - LOT AREA: 21,800 SQUARE FEET (0.5005 AC)
 - REQUIRED YARDS:

FRONT:	35.0 FEET
SIDE:	15.0 FEET
REAR:	25.0 FEET
 - HEIGHTS:

SPLIT LEVEL DWELLING	14.3 FEET
1 STORY ADDN	11.1 FEET
CAR PORT	09.4 FEET
SHED	09.2 FEET
0.7' BRICK RET WALLS	01.2 FEET
0.7' BLOCK RET WALLS	05.1 FEET
CHAIN LINK FENCES	03.8 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.
 - TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 5' INTERVALS, AND IS AERIAL.
 - THERE ARE FLOODPLAINS AND RESOURCE PROTECTION AREAS ON THIS PROPERTY.
 - FENCES ARE CHAIN LINK. RET WALLS ARE 0.7' BRICK UNLESS NOTED.
 - IMPERVIOUS COVER CALCULATION:
 REAR YARD = 25' X 100' = 2,500 SF
 IMPERVIOUS COVER (WITH SHED) = 1120 SF. 1120/2,500 = 45%
 (THE IN GROUND POOL IS INCLUDED AS IMPERVIOUS COVER).
 FRONT YARD = 35' X 100' = 3,500 SF
 IMPERVIOUS COVER = 873 SF. 873/3,500 = 25%.

PLAT
 SHOWING THE IMPROVEMENTS ON
 LOT 102, SECTION TWO
SULGRAVE MANOR
 (DEED BOOK 1574, PAGE 430)
 FAIRFAX COUNTY, VIRGINIA
 MOUNT VERNON DISTRICT
 JULY 02, 2008
 AUGUST 18, 2008 (REVISED)
 OCTOBER 08, 2008 (REVISED)
 JANUARY 16, 2009 (REVISED)
 SCALE: 1" = 30'



I HEREBY CERTIFY THAT THE PROVISIONS OF ALL THE RULES AND REGULATIONS OF THE BOARD OF LAND SURVEYING AND MAPPING HAVE BEEN FULLY COMPLIED WITH AND THAT THE SURVEY IS ACCURATE AND CORRECT AS OF THE DATE.

THIS PLAT IS SUBJECT TO THE RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO OTHER INTERESTS.

CASE NAME: CAMPBELL
 REDMOND, PETERSON & BRAMBELL, L.L.P.
DOMINION Surveyors Inc. LLC
 8808-H REAR TREE VILLAGE COURT
 ALEXANDRIA, VIRGINIA 22309
 FAX: 703-795-5412

AREA NOTES:

BASEMENT	=	699 SF
1st FLOOR	=	595 SF
ADDN (RENTAL UNIT)	=	964 SF
2nd FLOOR	=	699 SF
EX GROSS FLOOR AREA	=	2,957 SF

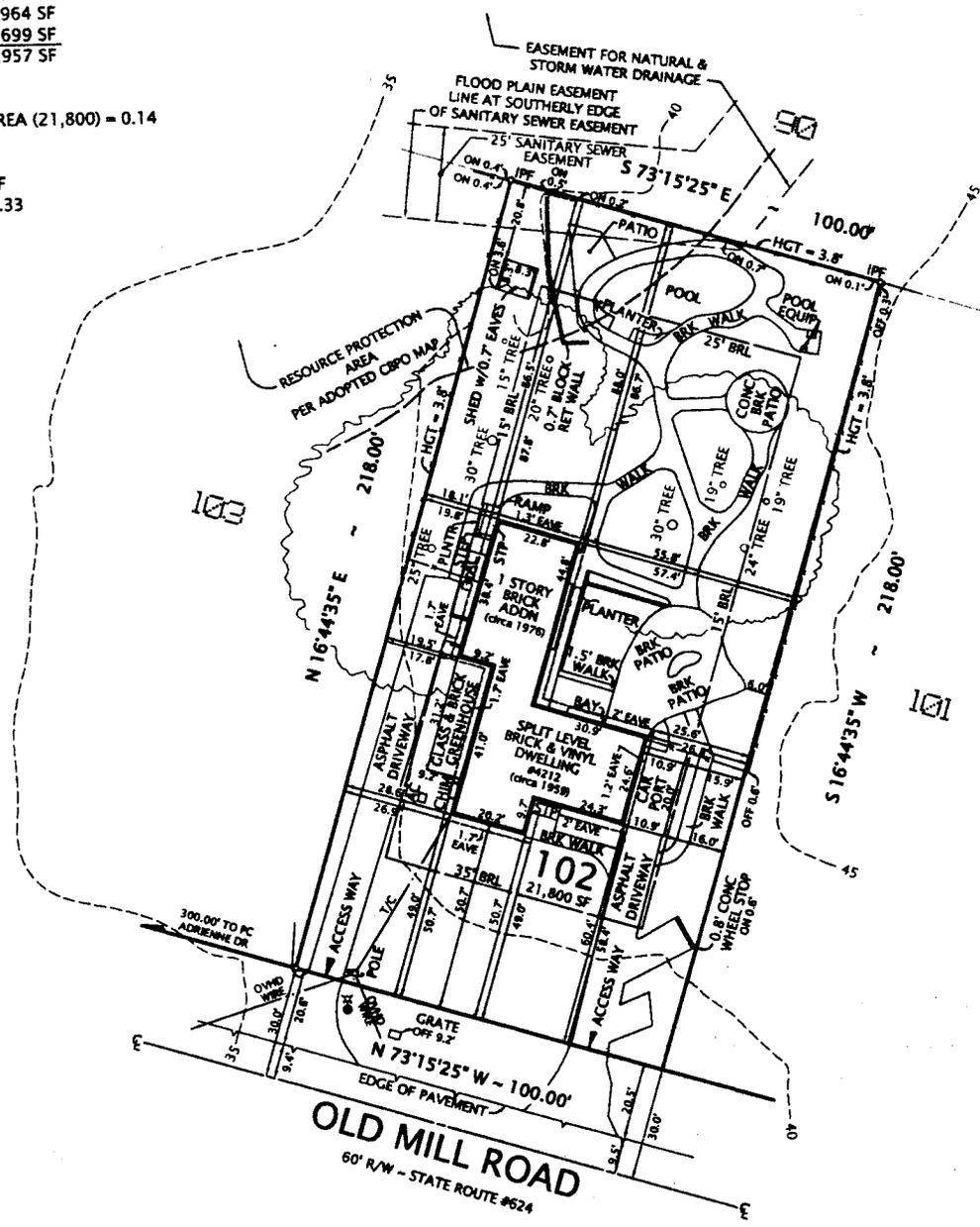
EX FLOOR AREA RATIO

EX FAR = EX GFA (2,957) / LOT AREA (21,800) = 0.14

ADDN = 964 SF (RENTAL UNIT)

EX GROSS FLOOR AREA = 2,957 SF

ADDN (964) / EX GFA (2957) = 0.33



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FRONT



REAR



POOL



CAR PORT

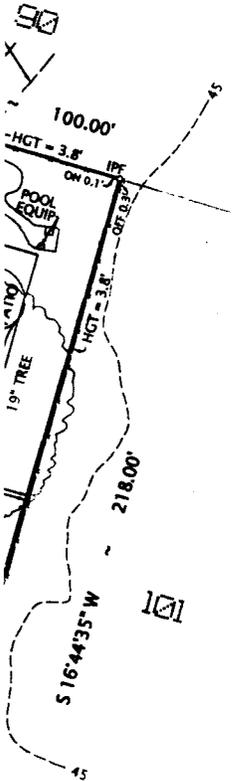
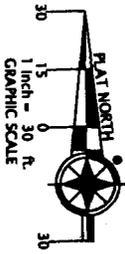
NOTES

1. TAX MAP: 110-1-11-0102
2. ZONE: R-2 (RESIDENTIAL 2 DU/AC)
3. LOT AREA: 21,800 SQUARE FEET (0.5005 AC)
4. REQUIRED YARDS:

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

SPLIT LEVEL DWELLING	=	14.3 FEET
1 STORY ADDN	=	11.1 FEET
CAR PORT	=	09.4 FEET
SHED	=	09.2 FEET
0.7' BRICK RET WALLS	=	01.2 FEET
0.7' BLOCK RET WALLS	=	05.1 FEET
CHAIN LINK FENCES	=	03.8 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 FLOODPLAINS AND RESOURCE PROTECTION AREAS ON THIS PROPERTY.
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13. IMPERVIOUS COVER CALCULATION:
 REAR YARD = 25' X 100' = 2,500 SF.
 IMPERVIOUS COVER (WITH SHED) = 1120 SF. 1120/2,500 = 45%.
 (THE IN GROUND POOL IS INCLUDED AS IMPERVIOUS COVER.)

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PLAT

SHOWING THE IMPROVEMENTS ON
 LOT 102, SECTION TWO
SULGRAVE MANOR
(DEED BOOK 1634, PAGE 430)
 FAIRFAX COUNTY, VIRGINIA
 MOUNT VERNON DISTRICT

SCALE: 1" = 30'
 JULY 02, 2008
 AUGUST 18, 2008 (REVISED)
 OCTOBER 08, 2008 (REVISED)
 JANUARY 16, 2009 (REVISED)



CAR PORT

<p>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</p>		<p>CASE NAME: CAMPBELL REDMOND, PEYTON & BRASWELL, L.L.P.</p>
<p>THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.</p>	<p><i>George M. O'Quinn</i></p>	<p>DOMINION Surveyors Inc.® 8808-H PEAR TREE VILLAGE COURT ALEXANDRIA, VIRGINIA 22309 703-619-6555 FAX: 703-799-6412</p>



Address **4214 Old Mill Rd**
Alexandria, VA 22309

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm



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Address **4212 Old Mill Rd**

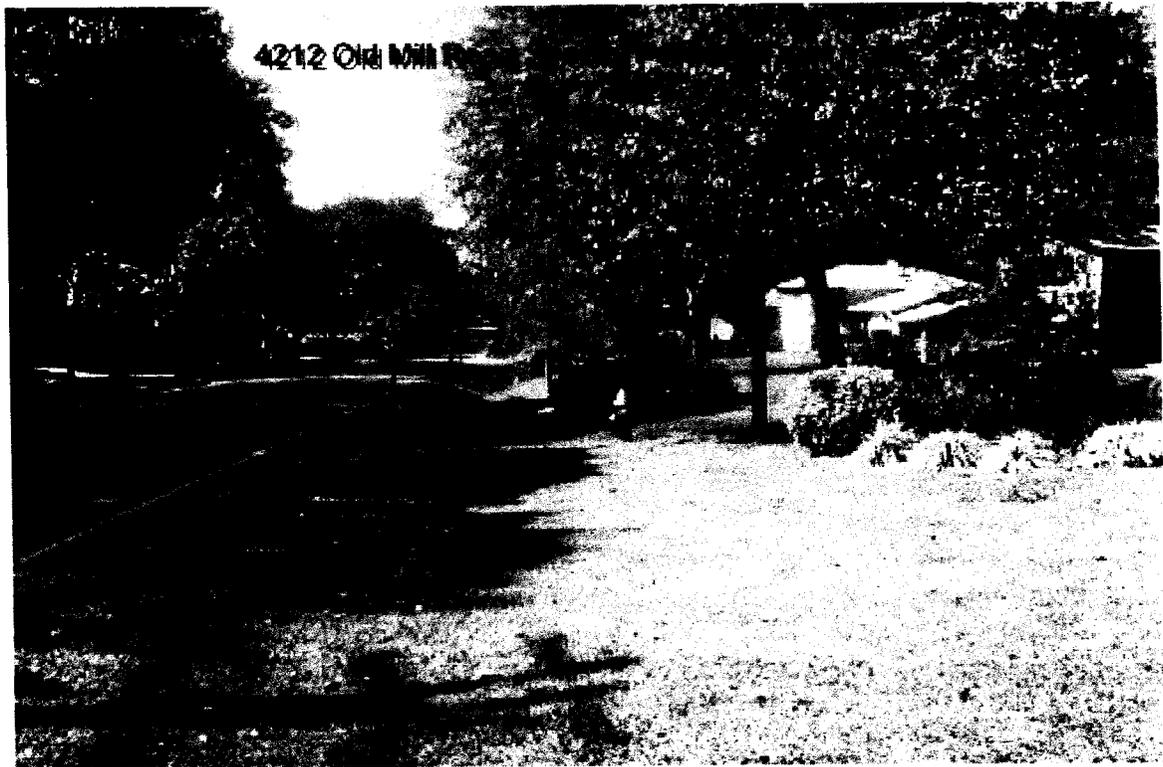
Address is approximate

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm







DESCRIPTION OF THE APPLICATIONS

Description of the Special Permit Applications:

The applicant requests a special permit to permit reduction of minimum yard requirements based on errors in building locations to permit **1)** an accessory storage structure (shed) to remain 3.6 feet from the western side lot line, and **2)** a deck to remain 6.0 feet from the eastern side lot line.

	Structure	Yard	Min. Yard Req.*	Permitted Extension	Min. Allowed	Structure Location	Amount of Error	Percent of Error
Special Permit #1	Shed	Side (western)	15.0 feet	N/A	15.0 feet	3.6 feet	11.4 feet	76%
Special Permit #2	Deck	Side (eastern)	15.0 feet	5.0 feet	10.0 feet	6.0 feet	4.0 feet	40%

*Minimum yard requirement per Section 3-207

**Permitted extensions per Section 2-412

The applicant also requests approval of a special permit to permit an accessory dwelling unit to be located within the existing single family detached dwelling.

Size of Principal Dwelling:

2,957 square feet

Size of Accessory Dwelling Unit:

964 square feet (33%)

Lot Size:

21,800 square feet

Description of the Variance Application:

The applicant seeks approval of a variance to permit greater than 30 percent minimum rear yard coverage. Currently 1,120 square feet or 45% of the minimum required rear yard is covered with impervious areas consisting of an in-ground swimming pool, at-grade patio, brick walkways and an accessory storage structure. 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."

According to County records, a building permit for the construction of the in-ground swimming pool was received October 6, 1970, however, there is not a plat associated to this building permit. On July 9, 1975, a building permit was received to construct an addition to the rear of the existing dwelling. Copies of these permits are attached as Appendix 6.

LOCATION AND CHARACTER

Existing Site Description: The subject property is located on Old Mill Road within the Sulgrave Manor Subdivision. The property consists of 21,800 square feet, and is developed with a single family detached dwelling built in 1959 with an addition constructed in 1976, which is the current location of the accessory dwelling unit. The dwelling is located in the center of the lot and has two driveways, one of which is dedicated to the accessory dwelling unit. The rear of the yard has an in-ground swimming pool and at grade brick walkways and decking. The subject property is landscaped in the front yard and contains mature trees throughout the lot. Staff from the Department of Public Works and Environmental Services (DPWES) has indicated the shed and the pool in the rear yard, which is located within a Resource Protection Area (RPA), predates the Chesapeake Bay Preservation Act and is therefore permitted to remain.

CHARACTER OF THE AREA

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

BACKGROUND

On June 19, 2008, a Notice of Violation (NOV) was issued by the Zoning Enforcement Branch, attached as Appendix 8, for an accessory dwelling unit located within an existing residential dwelling. As addressed in the applicant’s statement of justification, the accessory unit was initially used by a relative; however, it is now rented to two tenants of which he receives monthly rent payments.

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, in addition to the errors for the accessory storage structure and brick patio locations.

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

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Plat Showing the Improvements on Lot 102, Section Two, Sulgrave Manor
- **Prepared By:** Dominion Surveyors Inc., dated July 2, 2008, as revised through January 16, 2009
- **Building Permit Required for Patio:** No
- **Building Permit Required for Shed:** No, since the structure is less than 150 square feet in size.
- **Building Permit Required for In-ground Swimming Pool:** Yes and was received in 1970.
- **Location Errors Made By:** Previous homeowners

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit. The 964 square foot accessory unit is to be located in an addition which is attached to the rear of the existing dwelling. The total square footage of the living space is 33% of the total gross floor area. Jeffrey Campbell, the owner of the property, resides in the primary dwelling unit and is 56 years of age. The accessory dwelling unit is currently rented and Mr. Campbell receives income for the rental of the unit. The tenants have uninterrupted access through a secondary driveway and entrance located on the western side of the existing dwelling. The primary dwelling has four bedrooms, three baths and a full kitchen. The accessory unit has two bedrooms, one bath and a kitchen. County records indicated that permission for a second kitchen was granted on May 28, 1975. A copy of the letter is attached as Appendix 7.

In addition, the applicant is requesting approval of building in errors and to permit greater than 30% rear yard coverage as outlined at the beginning of the staff report.

Land Use Analysis

The Comprehensive Plan recommends residential uses with a density of 2-3 dwelling units per acre. Staff believes the proposed accessory dwelling is in harmony with the Comprehensive Plan recommendations for this site, and there are no design or compatibility issues posed by the development plan.

ZONING ORDINANCE REQUIREMENTS (See Appendix 9)

- 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)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)
- 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 Special Permit Affidavit
4. Applicant's Variance Affidavit
5. Applicant's Statement of Justification
6. Approved Building Permits and Plat
7. Approved "Second Kitchen" Letter
8. Notice of Violation dated June 19, 2008
9. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2008-MV-094****February 24, 2009**

If it is the intent of the Board of Zoning Appeals to approve SP 2008-MV-094 located at Tax Map 110-1 ((11)) 102, to permit an accessory dwelling unit under Section 8-918 and to permit errors in building locations under Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant only, Jeffrey K. Campbell, and is not transferable without further action of this Board, and is for the location indicated on the application, 4212 Old Mill Road (21,800 square feet), and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structures and/or use(s), 964 square foot accessory dwelling unit, accessory storage structure (shed) and brick patio, as shown on the special permit plat prepared by Dominion Surveyors, Inc., dated July 2, 2008, as revised through January 16, 2009, and approved with this application, as qualified by these development conditions.
3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.
5. The accessory dwelling unit shall contain a maximum of 964 square feet, including a maximum of two bedrooms.
6. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
7. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

8. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
9. Parking shall be provided as shown on the special permit plat.

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

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

PROPOSED DEVELOPMENT CONDITIONS

VC 2008-MV-007

February 24, 2009

1. This variance is approved for greater than 30% rear yard coverage as shown on the plat prepared by Dominion Surveyors, Inc., dated July 2, 200, as revised through January 16, 2009, as submitted with this application and is not transferable to other land.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 28, 2008
 (enter date affidavit is notarized)

I, ROBERT L. CALHOUN, 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

101037c

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)
JEFFREY K. CAMPBELL	4212 OLD MILL ROAD ALEXANDRIA, VA 22309	APPLICANT/TITLE OWNER
REDMON, PEYTON & BRASWELL LLP	510 KING STREET, #301 ALEXANDRIA, VA 22314	ATTORNEY/AGENT FOR APPLICANT/TITLE OWNER
ROBERT L. CALHOUN	(SAME)	ATTORNEY/AGENT FOR 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.

* 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 27, 2008
(enter date affidavit is notarized)

101037c

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 **None**

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 28, 2008
(enter date affidavit is notarized)

101037c

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)

REDMON, PEYTON & BRASWELL LLP
510 KING STREET, #301
ALEXANDRIA, VA 22314

(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)

LIMITED PARTNERS:

GANT REDMON
GORDON P. PEYTON
JOHN M. BRASWELL
JOHN E. COFFEY
ROBERT M. GANTS
RICHARD E. GUTTING
ELIZIBETH K. LYNCH
E. PAUL MALOOF
ROBERT M. MARINO
DANIEL F. RINZEL
JOHN F. ROGERS

ROBERT L. CALHOUN, OF COUNSEL
ROY D. SNYDER, OF COUNSEL

(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 28, 2008
(enter date affidavit is notarized)

101037c

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

DATE: August 28, 2008
(enter date affidavit is notarized)

101037c

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)

Robert L. Calhoun
[] Applicant [x] Applicant's Authorized Agent

ROBERT L. CALHOUN

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

Subscribed and sworn to before me this 28th day of August, 2008, in the State/Comm. of Virginia, County/City of Alexandria.

Elaine M. Dodge
Notary Public

My commission expires: 7-31-2009

ELAINE M. DODGE
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #254003
My Commission Expires July 31, 2009

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 7, 2008
 (enter date affidavit is notarized)

I, Robert L. Calhoun, 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

102010

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)
JEFFREY K. CAMPBELL	4212 OLD MILL ROAD ALEXANDRIA, VIRGINIA 22309	APPLICANT/TITLE OWNER
REDMON, PEYTON & BRASWELL LLP	510 KING STREET #301 ALEXANDRIA, VIRGINIA 22314	ATTORNEY/AGENT FOR APPLICANT
ROBERT L. CALHOUN	(SAME)	ATTORNEY/AGENT FOR APPLICANT

(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)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 7, 2008
(enter date affidavit is notarized)

102010

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)

NONE

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)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 7, 2008
(enter date affidavit is notarized)

102010

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)
REDMON, PEYTON & BRASWELL LLP
510 KING STREET #301
ALEXANDRIA, VIRGINIA 22314

(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**)

LIMITED PARTNERS
GANT REDMON
JOHN M. BRASWELL
JOHN E. COFFEY
ROBERT M. GANTS
RICHARD E. GUTTING
ELIZIBETH E. LYNCH
E. PAUL MALOOF
DANIEL E. RINZEL
JOHN F. ROGERS

OF COUNSEL

ROBERT L. CALHOUN
ROY D. SNYDER

(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)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 9, 2008
(enter date affidavit is notarized)

102010

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

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

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

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

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

NONE

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 7, 2008
(enter date affidavit is notarized)

102010

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:

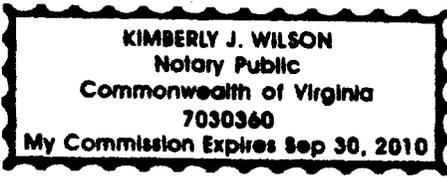
(check one) [] Applicant Robert L. Calhoun
[x] Applicant's Authorized Agent

Robert L. Calhoun Attorney for Applicant
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 7th day of October 2008, in the State/Comm. of Virginia, County/City of Alexandria

Kimberly J. Wilson
Notary Public

My commission expires: 9.30.10



(REVISED OCTOBER 8, 2008)

SPECIAL PERMIT APPLICATION FOR ACCESSORY
DWELLING UNIT AND REDUCTION OF MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION-4212 OLD MILL ROAD

STATEMENT OF JUSTIFICATION

This Statement of Justification for the granting of a Special Permit for an Accessory Dwelling Unit and for approval of a Reduction to the Minimum Yard Requirements Based on Error in Building Location is offered on behalf of Mr. Jeffrey K. Campbell, 4212 Old Mill Road, Alexandria 22309 as follows:

ACCESSORY DWELLING UNIT

1. Mr. Jeffrey K. Campbell (Mr. Campbell or Applicant) is the owner of a residential dwelling, located in the Sulgrave Manor Subdivision, Sec.2, Lot 102, Mount Vernon District, whose address is 4212 Old Mill Road, Alexandria, Virginia 22309. The original house was built in 1959. The addition which is the subject of this Application was built in 1976. He has owned this property since 1993 and has occupied it since that time. There is also a one car carport and off street parking for four cars. Pictures of the interior and exterior of Mr. Campbell's home are set out as part of the required survey and plat.

2. Mr. Campbell's dwelling is composed of two connected parts: 1. the main part of the house which has four bedrooms, three baths, and a full kitchen, and 2. an "accessory" unit, for which this permit is sought, has two bedrooms, one bath and a kitchen. It also has its own heating and air-conditioning unit, and its own separate entrance and driveway. These and other details are shown on the survey and plat of the property.

3. At the time, 1993, that Mr. Campbell purchased his home, he was assured by the realtor handling the transaction that the accessory unit could be rented. This was an important consideration to him for the additional income that a rental of this unit might provide.

4. Although the "accessory" unit was initially used by a relative of Mr. Campbell, in recent years, it is now rented to two tenants for a monthly rent of \$ 1500.00. Over the years, there have been no complaints concerning this use from his neighbours or others until the receipt of business card from Rebecca Goodyear of the Office of Zoning Administrator requesting a meeting with Mr. Campbell concerning alleged violations of the Zoning Code. Such a meeting was held on April 28, 2008 with Ms. Goodyear, Mr. Campbell and the undersigned to discuss the issues. This was followed by a formal Notice of Violation, dated May 6, 2008 (Exhibit A) which has prompted the filing of this Application.

5. This Application is filed under Part 9, sections 8-901.17 and 8-918, of the Zoning Ordinance. These sections permit the use and rental of an "accessory" unit with a Special Permit. Granting of such a permit requires the Applicant to satisfy certain requirements. Mr. Campbell has satisfied all of these as follows:

1. The Zoning Code, section 19-20, defines an "accessory dwelling unit" as "[a] secondary dwelling established in conjunction with and clearly subordinate to a single family detached

dwelling unit.” Mr. Campbell’s property clearly meets this definition.

2. With one exception, discussed below, Mr. Campbell’s “accessory” unit meets all of the specific requirements for a Special Permit for an “accessory” unit under section 8-918 of the Zoning Ordinance as follows:

A. The dwelling in question is a single family detached dwelling. There is only one “accessory” unit.

B. The “accessory” unit is located within and is a part of the dwelling, and contains only two bedrooms and is 964 square feet in size or 33 percent of the gross floor area, and, thus, is within the 35 percent standard specified in section 8-918. .

C. The primary dwelling unit is occupied by the owner, Mr. Campbell and his son.

D. He is 56 years old.

E. Only two tenants are presently using the “accessory” unit and such will continue to be the case.

F. There is adequate off street parking for Mr. Campbell and his tenant’s vehicles.

3. This Application also meets all of the general requirements for a Special Permit:

A. As required, there are attached fifteen(15) copies of a revised plat of Mr. Campbell’s property (Exhibit A) which meets all of the requirements for such surveys. As no ground will be disturbed by a grant of this Permit, no stormwater management plan is required. There are no known hazardous or toxic substances on the property.

B. Approval of this Special Permit would be consistent with the Comprehensive Plan and with the Policy of the Board of Supervisors (Zoning Ordinance, Appendix 5) concerning Accessory Dwelling Units in the context of the County’s policy concerning the maintenance of affordable housing. The proposed use is part of a single family-detached house and, as such, will be in harmony with the general purpose and intent of the zoning ordinances. The use contemplated by this Special Permit will continue an existing use and involve no new construction. As such it will be harmonious with adjacent property and not adversely affect the use and development of such properties.

C. The proposed use will not add materially to either vehicular or pedestrian traffic. As mentioned above, there are adequate off-street parking and access to the property (See Plat)

REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION

Subsequent to the filing of the Application for a Special Permit for the Accessory Apartment, the Zoning Evaluation staff's review noted that a shed located at the rear of Mr. Campbell's property did not comply with the minimum yard requirements of the zoning regulations. It is believed that the shed was constructed in 1976 or 1977. To correct this problem, Mr. Campbell was given the option (1) to move the shed or (2) amend this Application to request approval for a Reduction To Minimum Yard Requirements Based on Error in Building Location. Approval of this aspect of the Application would permit the shed to remain 3.6 feet from the side lot line. As the shed cannot be moved easily because of its proximity to the swimming pool (See plat), approval, pursuant to section 9-914, of a reduction in the minimum yard requirement is being sought.

As mentioned above, it is believed that the shed in question was constructed in 1976 or 1977 long before Mr. Campbell acquired the property. It is 328 square feet in size. He has no information as to how the shed came to be built in its present location and was unaware of its lack of compliance with the yard setback regulations until the staff evaluation of his Application for a Special Permit for an Accessory Apartment noted the deficiency. The Building Permit staff has no information as to how this shed came to be placed in this location and Mr. Campbell has none from other sources. The deviation from the minimum yard requirements occurs with respect to the side yard regulations. These require that the shed be located 15 feet from the side lot line. Since the shed is 3.6 feet from the side lot line, approval of reduction in the side yard requirement is requested.

With respect to the findings the Board of Zoning Appeals must make under section 9-914:

A. As mentioned above, the shed is located 3.6 feet from the side lot line rather than the required 15 feet. This is a 24 percent difference and, thus, exceeds 10 percent standard in the Ordinance.

B. This error results from actions of a prior owner of the property. Mr. Campbell acquired this property without knowledge of the deviation and was unaware of it until it was brought to his attention by the Zoning Evaluation staff in conjunction with his Application for a Special Permit for an Accessory Apartment.

C. The deviation from the side yard requirements is fairly minor and its approval will not impair the purpose and intent of this Ordinance.

D. The shed has been in its present location since at least 1977 and is in the rear of Mr. Campbell's property. It has not been and is not detrimental to the use and enjoyment of other property in the immediate vicinity.

E. Approval of the deviation in question will not create an unsafe condition with respect to other property or public streets.

F. As mentioned above, the shed cannot readily be moved because of its proximity to the swimming pool. Mr. Campbell's only option is to remove the shed. Given the fact that the shed

has been place for many years without objections and that the amount of deviation from the side yard requirements is fairly small, it is unreasonable to require Mr. Campbell to incur the expense involved.

G. The reduction requested will not result in an increase in the density or the floor area ratio from that permitted by the applicable district regulations.

CONCLUSIONS

ACCESSORY APARTMENT

Mr. Campbell needs and depends on the income derived from the rental of these units. The area in which his home is located is a quiet subdivision of detached houses. A grant of a Special Permit will not alter that situation but will simply permit the continuance of a use that has continued for some years. In this connection, the letter, dated May 28, 1978 from the Zoning Administrator, appearing to forbid the use of the "accessory" unit, to a prior owner of his property (Exhibit B) does not call for a different result for several reasons. First, Mr. Campbell had no notice of this letter when he took possession of the property. It was not filed with the land records where a title search would have picked it up. He was unaware of this letter until it was called to his attention by the Zoning Administrator. Rather, as mentioned above, Mr. Campbell relied upon the realtor that he could use the additional unit as a rental. Second, there is no evidence that the prior owner ever sought a Special Permit (if such was permitted in 1978). Finally, the determination in this letter has been superseded by the Affordable Dwelling Policy of the Board of Supervisors and the Special Permit provisions of the Zoning Ordinance under which this Application is filed. The Special Permit should be granted.

SIDE YARD REQUIREMENT

The requested waiver from the side yard regulations should also be granted. As mentioned, the requested waiver is relatively small and its existence antedates Mr. Campbell's ownership of his property. Granting this waiver will not affect adversely any private or public interest.

Respectfully submitted,


Robert L. Calhoun

Redmon, Peyton & Braswell LLP
510 King Street
Suite 301
Alexandria, Virginia 22314
(703) 684-2000

Attorney for Applicant, Jeffrey K. Campbell

OCT 10 2008

Zoning Evaluation Division

**VARIANCE APPLICATION FOR
JEFFREY K. CAMPBELL
4212 Old Mill Road, Alexandria, Virginia 22309**

**STATEMENT OF JUSTIFICATION
(REVISED OCTOBER 8, 2008)**

In this Application, Mr. Jeffrey K, Campbell seeks the approval of the Board of Zoning Appeals for a variance from the requirement that the impervious ground cover not exceed 30 percent.

The need for this variance is occasioned by an Application by Mr. Campbell for a Special Permit, under section 8-918 of the Zoning Ordinance, for an Accessory Dwelling Unit which is being considered concurrently with this Application. The need for variance was called to Mr. Campbell's attention by the Zoning Evaluation staff in the course of reviewing this Application.

After evaluating the alternatives available to him, Mr. Campbell believes that this variance is the only feasible solution. He also believes that this Application meets the standards set by the Board of Supervisors for approving a variance as follows:

1. Mr. Campbell acquired his property in 1993 in good faith and without knowledge of the conditions which have lead to this Application. It should be noted that Mr. Campbell's house was built in 1959. The addition, which is the subject of the Accessory Dwelling Unit Application, and the swimming pool was constructed in 1975 or 1976.

2. Mr. Campbell's Application qualifies for a variance under section 2, subparagraph F in that he is faced with an extraordinary situation. As further set forth in his Application for a Special Permit and further herein, Mr. Campbell purchased his property in good faith and in the expectation that he could rent the Accessory Dwelling Unit. At no time since 1993 has any question been raised by his neighbours or the County until this year as to the use of that unit or the swimming pool (the major source of the need for a variance as to the excess in impervious land coverage)

3. Although it has not been possible to do extensive research, it believed that the departures from the Zoning Ordinance sought in this Application, while not unique, is not so general or recurring to require an amendment to the Zoning Ordinance.

4. Strict application of the Zoning Ordinance would inflict serious economic hardship on Mr. Campbell. Removal of the swimming pool could only be undertaken at great expense and would seriously devalue the remainder of his property.

5. To Mr. Campbell's knowledge, these hardships are not shared generally by other properties in the same zoning district or vicinity.

6. Approval of these variances will alleviate a clearly demonstrable hardship as described above. Mr Campbell is not seeking a special privilege or simple convenience;

Rather, he asking to maintain the status quo. Without this approval, his property is very likely to fall sharply in value.

7. Authorization of these variances will simply ratify the status quo and, as such, will not be of substantial detriment to adjacent properties.

8. The neighbourhood in which Mr. Campbell's property is located is an older single family area. Approval of these variances will not change that.

9. Approval of these variances will be in harmony with the spirit of the Zoning Ordinance and will not be contrary to the public interest. The swimming pool has been in existence for more than twenty-five years and was constructed at a time when concern over groundwater drainage was not as pronounced as it is today. In any event, there is no indication that its presence is causing any current problems in that regard

Respectfully submitted,

Robert L. Calhoun
Redmon, Peyton & Braswell LLP
510 King Street
Suite 301
Alexandria, Virginia 22314
(703) 684-2000
Attorney for Applicant, Jeffrey K. Campbell

CERTIFICATE OF OWNERSHIP—VARIANCE APPLICATION

I, Jeffrey K. Campbell, certify that I am the owner of the property known as 4212 Old Mill Road, Alexandria, Virginia 22309. I have owned this property in fee simple since 1993. I have authorized Mr Robert L. Calhoun of Redmon, Peyton, & Braswell LLP to submit and prosecute this Application.


Jeffrey K. Campbell

Dated: October 26, 2008

RECEIVED
Department of Planning & Zoning
OCT 28 2008
Zoning Evaluation Department

COUNTY OF FAIRFAX, VIRGINIA

SITE PLAN

BL

APPLICATION FOR BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

DEPARTMENT OF COUNTY DEVELOPMENT
DIVISION OF INSPECTION SERVICES

APPLICATION NO. 6-9029
DATE
PERMIT NO. 609540

MAP REFERENCE			
Plat Number	Subd. Des.	Blk. or Sec.	Parcel or Lot
110	1	11	102

IMPORTANT - Applicant to complete ALL items. Mark where applicable

I. LOCATION OF BUILDING

STREET: **4212 OLD MILL ROAD**

LOT NO. 102	BLOCK	SECTION 2	SUBDIVISION SULGAVE MANOR	MAG. DIS. MTV
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LEAVE BLANK FOR NEW CONSTRUCTION

PRESENT USE

DEPARTMENTAL USE ONLY

PLAN APPROVAL

Use Group of Building **M**

Type of Construction

Area of Bldg. _____ @ _____

Total Fee \$ **600**

Approved by Building Inspector **J. K. [Signature]**

DATE APPROVED **10/8/70**

II. TYPE AND COST OF BUILDING - Please check appropriate box

A. TYPE OF IMPROVEMENT

- New Structure
- Addition (if residential, enter number of new housing units added, if any, in Part D-2)
- Alteration (See 2 above)
- Repair
- Wrecking
- Moving (relocation)
- Foundation Only
- Other **Swimming Pool**

B. OWNERSHIP

Public		Private	
1. <input type="checkbox"/> Federal	6. <input checked="" type="checkbox"/> Taxable	3. <input type="checkbox"/> State	7. <input type="checkbox"/> Tax Exempt Inst.
2. <input type="checkbox"/> County		4. <input type="checkbox"/> City or Town	
5. <input type="checkbox"/> Other (International)			

Please Specify

C. COST (Estimate)

Cost of improvement **\$ 4000.00**

To be installed but not included in the above cost

a. Electrical _____

b. Plumbing _____

c. Heating, air conditioning _____

d. Other (elevator, etc.) _____

TOTAL COST OF IMPROVEMENT **\$ 4000.00**

D. PROPOSED USE

(For "Wrecking" show most recent use)

RESIDENTIAL

- One-family (Incl. Semi-detached, row, town)
- Two or more family
- Transient hotel, motel or dormitory
- Garage
- Carport
- Mobile Homes
- Other-Specify **Swimming Pool**

NON-RESIDENTIAL

- Amusement, recreational
- Church, other Religious
- Industrial
- Parking garage
- Service Station, Repair Garage
- Hospital, Institutional
- Office, Bank, Professional
- Public utility
- School
- Stores, Mercantile
- Tanks, Towers
- Other-Specify _____
- Structures other than buildings

E. Is this structure part of a larger complex such as a hospital, university, industrial plant, shopping center, office building complex, etc.

YES (enter principal activity of the complex, e.g. Hospital, University, etc.)

NO

ZONING-Identify use for which land is zoned, for example: residential, commercial, industrial, other.

NON-RESIDENTIAL-Describe in detail proposed use of buildings, e.g. laundry building at hospital, elementary school, parking garage - or department store, rental office building or office building at industrial plant. If use of existing building is being changed, enter proposed use.

DESCRIPTION & REMARKS:

III. SELECTED CHARACTERISTICS OF NEW BUILDINGS, ADDITIONS OR ALTERATIONS ONLY (Leave blank for repairs, wrecking, etc.)

G. PRINCIPAL TYPE OF FRAME

- Masonry (wall bearing)
- Wood frame
- Structural Steel
- Reinforced concrete
- Other-Specify _____

H. PRINCIPAL TYPE OF HEATING FUEL

- Gas
- Oil-Grade No. (circle) 1, 2, 3, 4, 5, 6
- Electricity
- Coal
- Other-Specify _____

I. TYPE OF SEWAGE DISPOSAL

- Public
- Private (septic tank, etc.)

J. TYPE OF WATER SUPPLY

- Public or Privately owned company
- Individual, well, cistern

K. TYPE OF MECHANICAL

AIR CONDITIONING

- Central-elec.
- Central-gas
- Individual room air conditioner
- None

INCINERATOR

- None
- Incinerator with air-pollution control
- Settling chamber
- Scrubber
- Precipitator
- Other _____
- Incinerator without air-pollution control

ELEVATOR(s)

Enter number (0, 1, 2, etc.) _____

L. DIMENSIONS

No. of Stories above street level _____

Basement Yes No

Height of Construction, Ft. _____

Width **42** Depth **42**

Total floor area, sq.ft. incl. basmt. _____

(All floors based on exterior dimensions)

Total Land Area, Sq. Ft. _____

M. NUMBER OF OFF STREET PARKING SPACES

Enclosed _____ Outdoors _____

N. RESIDENTIAL (Complete only for new Bldg.)

Single Family

Total Single Family Units _____

Total No. of Bedrooms _____

Bathrooms _____

Full _____

Half _____

Multi-family

Total No. Kitchens _____

Bathrooms: _____

Full _____

Half _____

Total Other Rooms _____

Total No. of Buildings _____

Total No. apartments by no. of bedrooms:

0 (efficiency) _____

1 _____

2 _____

3 _____

4 _____

5 or more-specify _____

Total No. Apartments _____

Name	Mailing address - Number, street, city, and state	ZIP code	Tel. No.
Owner	COL. MAXWELL JONAH 4212 OLD MILL ROAD		7504610
Contractor	ALEX 310 N. FAIRFAX ST		549-7772
Architect	ALEX State Reg. # _____ Cnty. Reg. # _____		
Engineer	State Reg. # _____		

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will conform to the regulations in the Building Code, the Zoning Ordinance or private building restrictions, if any, which may be imposed on the above property by deed.

[Signature] Date **10-6-70**

(Owner or Authorized Agent)

310 N. FAIRFAX ST

MAP REFERENCE			
Plot Number	Subd. Dist.	Blk. or Sec.	Parcel or lot
401	11		102

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE BUILDING INSPECTOR
Application for Building Permit
and Certificate of Occupancy

APPLICATION NO. 0263
DATE 19 75 80067 PERMIT NO.

To: BUILD ALTER OR REPAIR ADD TO DEMOLISH MOVE

JOB LOCATION
Street 4212 Old Mill Road
Lot No. 102 Block 2 Section 2
Subdivision Sulgrave Manor

OWNER
Corp. Name Maxwell
Name Maxwell V. Jonah
(Rep. Agent)
Address 4212 Old Mill Road
City Alexandria, Va Telephone Number 780-4010

ARCHITECT ENGINEER
Name None
Address _____
City _____ State Reg. No. _____

CONTRACTOR
Name Prime-Self ; subs to be retained
Address Exempt from license by City
City Leesville
County Reg. # _____ State Reg. # _____

DESCRIPTION
For: * General extension ; driveway & garage

No. of Bldgs. 1 Est. Const. Cost \$ 25,000
No. of Units 1 No. of Stories 1
No. of Kitchens 1 Penthouse _____
No. of Baths 1 Ht. of Bldg. 15'-16' ft.
No. of Rooms 4 Bldg. Area 600 ± sq. ft.
(Exclude Kit. & Bath)
Basement Slab Crawl Soil: Solid Fill

Ftg: Concrete Pile Casson
Ext. Walls: Wood Metal Brick
Int. Walls: Plaster Drywall Panel
Roof: Flat Pitch Shed
Roofing: Built-up Shingle Roll

Heat: Oil Gas Electric
Equipment: Boiler Furnace Heat Pump Air Cond.

Sewage: Public Community Septic Tank None
Water: Public Individual Well None

Remarks: _____

() good address - kitchen & bath
* moved
* kitchen title*

I hereby certify that I have the authority to make this application, that the information given is correct, and that the use and construction shall conform to the County Health Regulations, the Building and Zoning Ordinances, and private deed restrictions, if any, which are imposed on the property.

459-7370
780-4010
Phone No.

May 28, 1975
Date

Maxwell V. Jonah
Signature of Owner or Auth. Agent

APPLICANT: DO NOT WRITE BELOW THIS LINE

PLAN APPROVAL
Use Group of Building Single Area of Bldg. _____ @ _____ per Sq. Ft. \$ _____
Type of Construction 4-B @ _____ \$ _____
Fire District R @ _____ \$ _____
Date Checked 8/1 1975 By [Signature] TOTAL FEE \$ 22.00
Approved by Building Inspector [Signature]

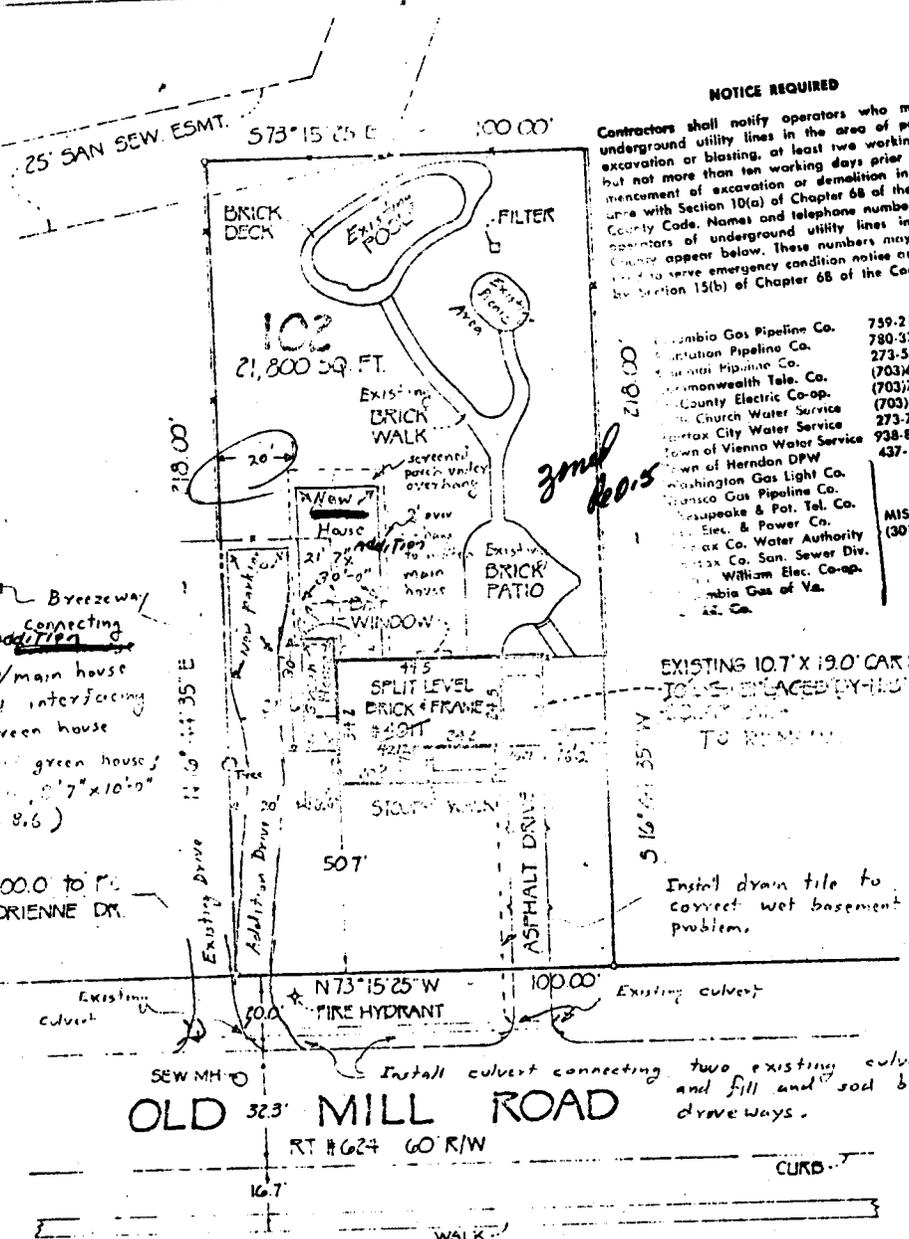
ROUTING	OFFICE	FLOOR	DATE	APPROVED BY	OFFICE	FLOOR	DATE	APPROVED BY
	Land Office			7.3.75	<i>[Signature]</i>	Fire Marshall		
Zoning Administrator					Design Review			
Sanitation					Housing & License			<i>[Signature]</i>
Health Dept.					Assessments	3	7.5.75	<i>[Signature]</i>

CERTIFICATION
I hereby certify to the following statements:
1. All materials used for work performed under this permit will be paid directly to the supplier by the property owner.
2. All compensation will be on an hourly basis and paid by the property owner directly to the person(s) performing work under this permit.

Date _____ 19 75 By [Signature] Property Owner
By [Signature] Authorized Agent

Supervisor of Assessments
Property is listed in name of Maxwell V. Jonah
Magisterial District Mt Vernon Deed Book Reference 2701-114
Supervisors: [Signature]

ZONING
Subdivision Sulgrave Manor Lot No. 102 Block _____ Section 2 Zone RC-O.5
Street Address _____
Use of Bldg. garage & kitchen Use Other Alteration _____ No. Families 1
BZA _____ SITE PLAN Plat attached
Set Back: Front 10' Side 20' Rear 25' Zoning Administrator _____



Breezeway connecting addition w/ main house and interfacing w/ green house
 (3rd Comp. green house 21'7" x 10'0" x 8'6")

NOTICE REQUIRED
 Contractors shall notify operators who maintain underground utility lines in the area of proposed excavation or blasting, at least two working days, but not more than ten working days prior to commencement of excavation or demolition in accordance with Section 10(a) of Chapter 68 of the Fairfax County Code. Names and telephone numbers of the operators of underground utility lines in Fairfax County appear below. These numbers may also be used to serve emergency condition notice as required by Section 15(b) of Chapter 68 of the Code.

- Virginia Gas Pipeline Co. 759-2113
- Sanitation Pipeline Co. 780-3350
- Water Pipeline Co. 273-5525
- Commonwealth Tele. Co. (703)670-3118
- County Electric Co-op. (703)777-2041
- Church Water Service (703)532-0800
- Warrenton City Water Service 273-7900
- Town of Vienna Water Service 938-8007 ex. 241
- Town of Herndon DPW 437-1000
- Washington Gas Light Co.
- Manassas Gas Pipeline Co.
- Shenandoah & Pot. Tel. Co.
- Elec. & Power Co.
- Manassas Co. Water Authority
- Fairfax Co. San. Sewer Div.
- William Elec. Co-op.
- Virginia Gas of Va.

MISS UTILITY
 (301)559-0100

EXISTING 10.7' X 19.0' CARPORT
 TO BE REPLACED BY 10.7' X 19.0' CARPORT
 TO REMAIN

Install drain tile to correct wet basement problem.

APPROVED
 DIVISION OF DESIGN REVIEW
 BY *[Signature]*
 DATE *[Signature]* DIV. DIRECTOR OR HIS AGENT

Approved for proposed location of building as shown. Final approval subject to wall check.

SHOWING HOUSE LOCATION ON
 LOT 102, SEC. 2

Date JUL 9 1975

SULEYMANE MANOR
 FAIRFAX COUNTY, VIRGINIA
 SCALE 1"=40'

[Signature]
 Zoning Administrator

MAR 15 1974

NO TITLE REPORT FURNISHED
 PLAT SUBJECT TO RESTRICTIONS OF RECORD

CASE NAME: MR. MAXWELL V. JONAH

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS

ALEXANDRIA SURVEYS
 1603 King Street
 Alexandria, Virginia

[Signature]
 R. C. JACKSON, CERTIFIED SURVEYOR

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
 FAIRFAX, VIRGINIA 22030



Date May 28, 1977

Map Ref. 110-1

Subdivision Sulgrave Manor, Sec 2, Lot 102

Letter for Second Kitchen or Apartment

Maxwell V. Jonah

4212 Old Mill Road

Alexander, Va 22309

This is to certify that the intended use of the second kitchen or apartment is granted solely on the condition that the second kitchen or apartment shall never be rented, leased, nor shall any consideration be received for the use thereof; nor shall the second kitchen or apartment be advertised for sale along with the house and lot. The second kitchen or apartment is for the sole use of the occupant for which it was intended; and shall be removed once the intended use is no longer needed.

A copy of this letter shall be placed in the files along with the building permit.

A. B. Stewart
 Zoning Administrator

I certify that the second kitchen or apartment proposed on this permit will be operated in accordance with conditions stated above.

[Signature]
 Signature

780 - 4010

Phone No.



County of Fairfax, Virginia

SINCE 1742
SF

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

June 19, 2008

NOTICE OF VIOLATION

CERTIFIED MAIL

Return Receipt Requested

Receipt #7006 2150 0001 9366 1386

Jeffrey K. Campbell
4212 Old Mill Road
Alexandria, Virginia 22309-2819

Re: 4212 Old Mill Road
Subdivision: Sulgrave Manor, Lot 102, Section 2
Tax Map Ref.: 110-1 ((11)) 102
Zoning District: R-2

Dear Mr. Campbell:

A zoning investigation and a conversation with you, on April 28, 2008, confirmed you are maintaining two dwelling units on the above-referenced property. A dwelling unit is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, you are in violation of Sect. 2-501 of the Zoning Ordinance which provides, in part, that:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building.

You are hereby directed to clear this violation within sixty (60) days receipt of this Notice. Compliance can be accomplished by the following:

- Reducing the number of dwelling units to one by removing the second kitchen, in its entirety, from the property; and

Jeffrey K. Campbell

June 19, 2008

Page 2

- Providing interior access throughout the entire dwelling in such a manner that the entire structure is arranged, designed and used or intended for use as a single, independent living facility; or
- Applying for and diligently seeking approval of Group 9 Special Permit for an Accessory Dwelling Unit from the Fairfax County Board of Zoning Appeals (BZA).

An application for a Special Permit is enclosed, for your convenience, should you wish to avail yourself of that option. Submission requirements and information regarding filing of the Special Permit Application may be obtained by contacting the Zoning Evaluation Division at 703-324-1290 during regular business hours.

A follow-up inspection will be made at the expiration of this time period. If you have failed to comply with this Notice at that time, this office will have no alternative but to seek legal remedies to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information you may wish to submit and a \$375.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Should you have any questions 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

Enclosure: 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. 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.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical

information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.
7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

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.

18-405 Conditions

Upon a determination by the BZA that the applicant has satisfied the requirements for a variance as set forth in Sect. 404 above, the BZA shall then determine the minimum variance that would afford relief. In authorizing such variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be met.