**APPLICATION ACCEPTED**: January 12, 2009
**DATE OF PUBLIC HEARING**: March 31, 2009
**TIME**: 9:00 a.m.

# County of Fairfax, Virginia

March 24, 2009

## STAFF REPORT

## SPECIAL PERMIT APPLICATION No. SP 2009-BR-003

## BRADDOCK DISTRICT

| | |
|---|---|
| **APPLICANTS & OWNERS:** | Joel Martin Malina, Trustee & Nancy Corwin Malina, Trustee |
| **ZONING:** | R-3 |
| **LOCATION:** | 5004 Margaret Court |
| **SUBDIVISION:** | Woodland Forest |
| **ZONING ORDINANCE PROVISION:** | 8-922 |
| **TAX MAP:** | 70-3 ((17)) 17 |
| **LOT SIZE:** | 13,247 Sq. Feet |
| **SP PROPOSAL:** | Reduction of certain yard requirements to permit construction of addition 13.5 feet from the rear lot line. |

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2009-BR-003 for the addition subject to the proposed development conditions contained in Appendix 1.

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 provisions of any applicable ordinances, regulations, or adopted standards.



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

**Excellence * Innovation * Stewardship**
**Integrity * Teamwork * Public Service**

DEPARTMENT OF PLANNING & ZONING

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.

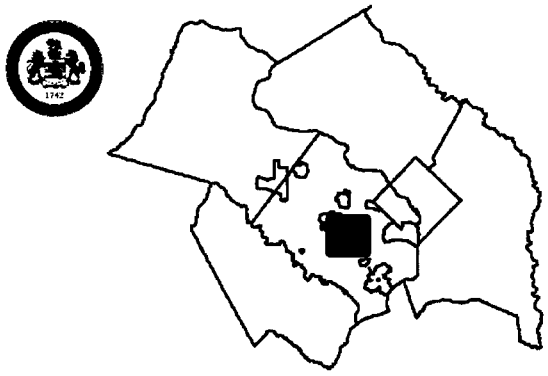
The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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

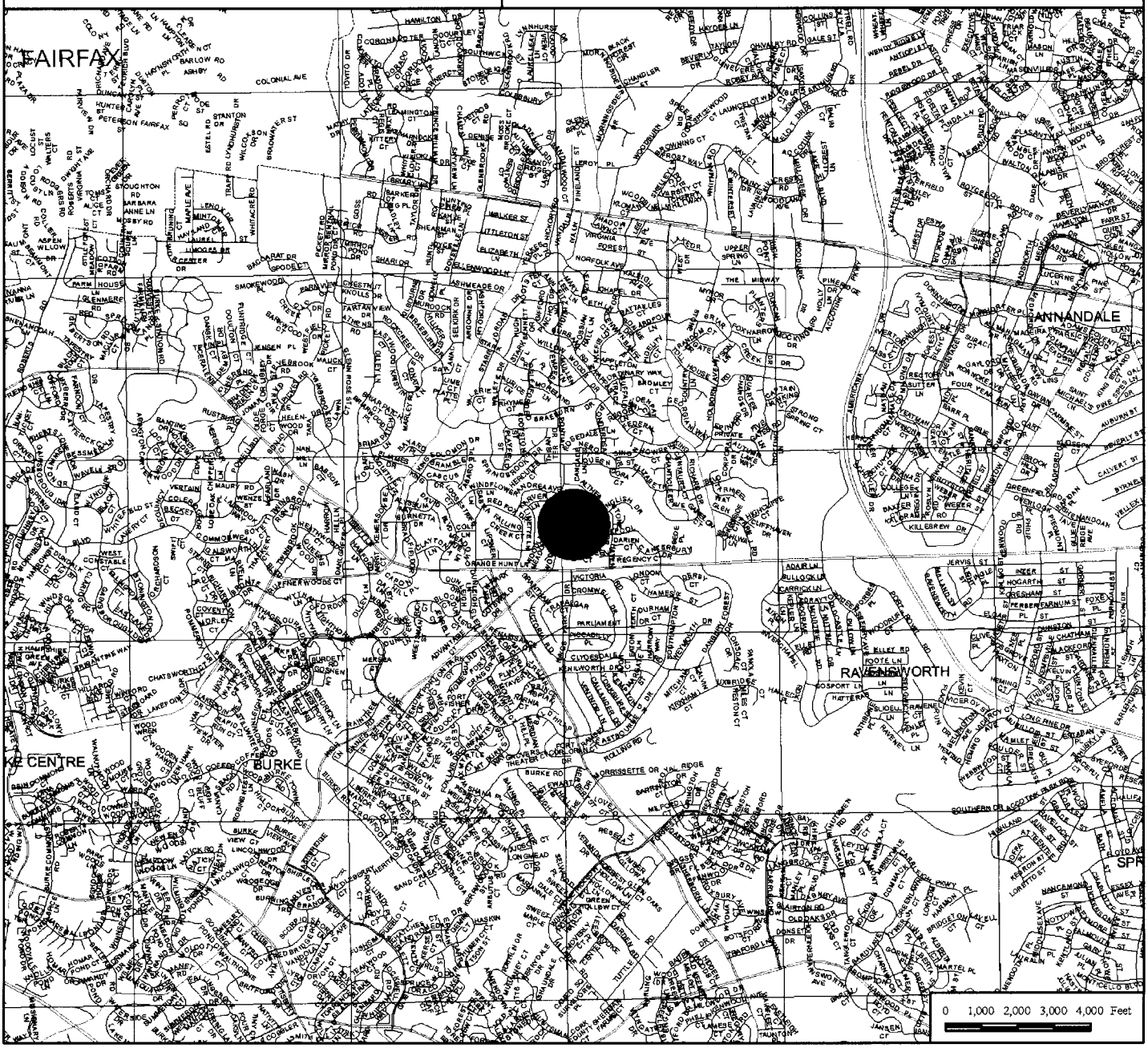
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

## SP 2009-BR-003

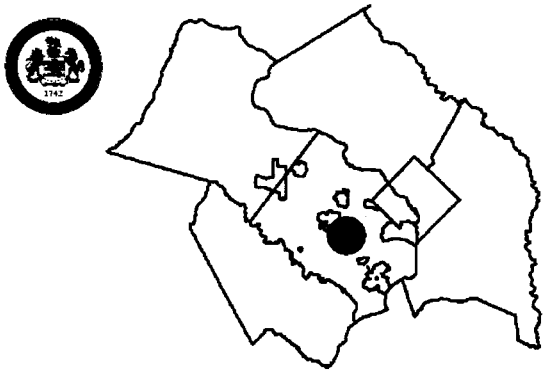


| | |
|---|---|
| Applicant: | JOEL MARTIN MALINA, TRUSTEE & NANCY CORWIN MALINA, TRUSTEE |
| Accepted: | 01/12/2009 |
| Proposed: | TO PERMIT REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF ADDITION 13.5 FEET FROM THE REAR LOT LINE |
| Area: | 13,247 SF OF LAND; DISTRICT - BRADDOCK |
| Zoning Dist Sect: | 08-922 |
| Art 8 Group and Use: | 9-21 |
| Located: | 5004 MARGARET COURT |
| Zoning: | R- 3 |
| Overlay Dist: | |
| Map Ref Num: | 070-3- /17/ /0017 |



# Special Permit

## SP 2009-BR-003



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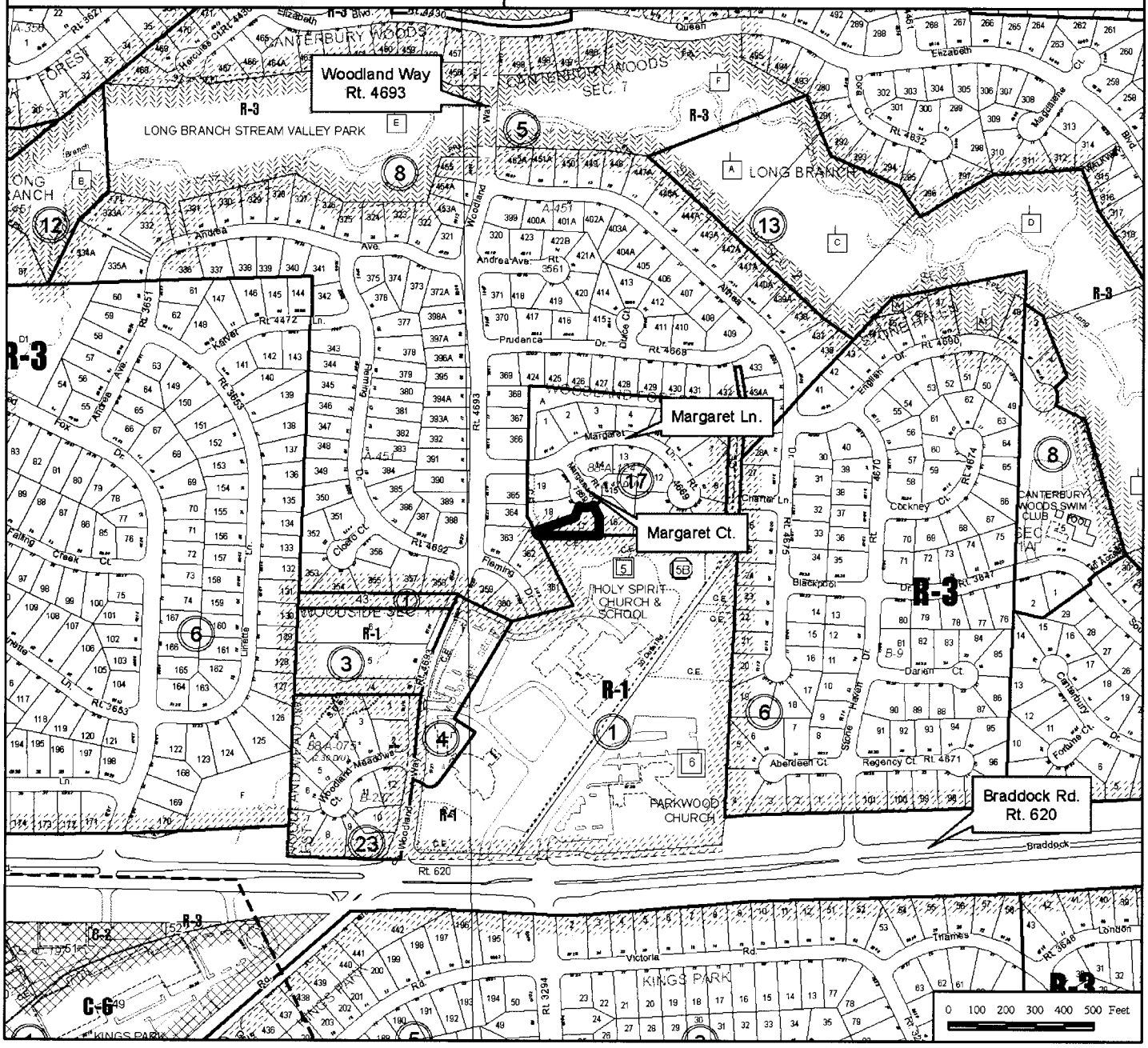
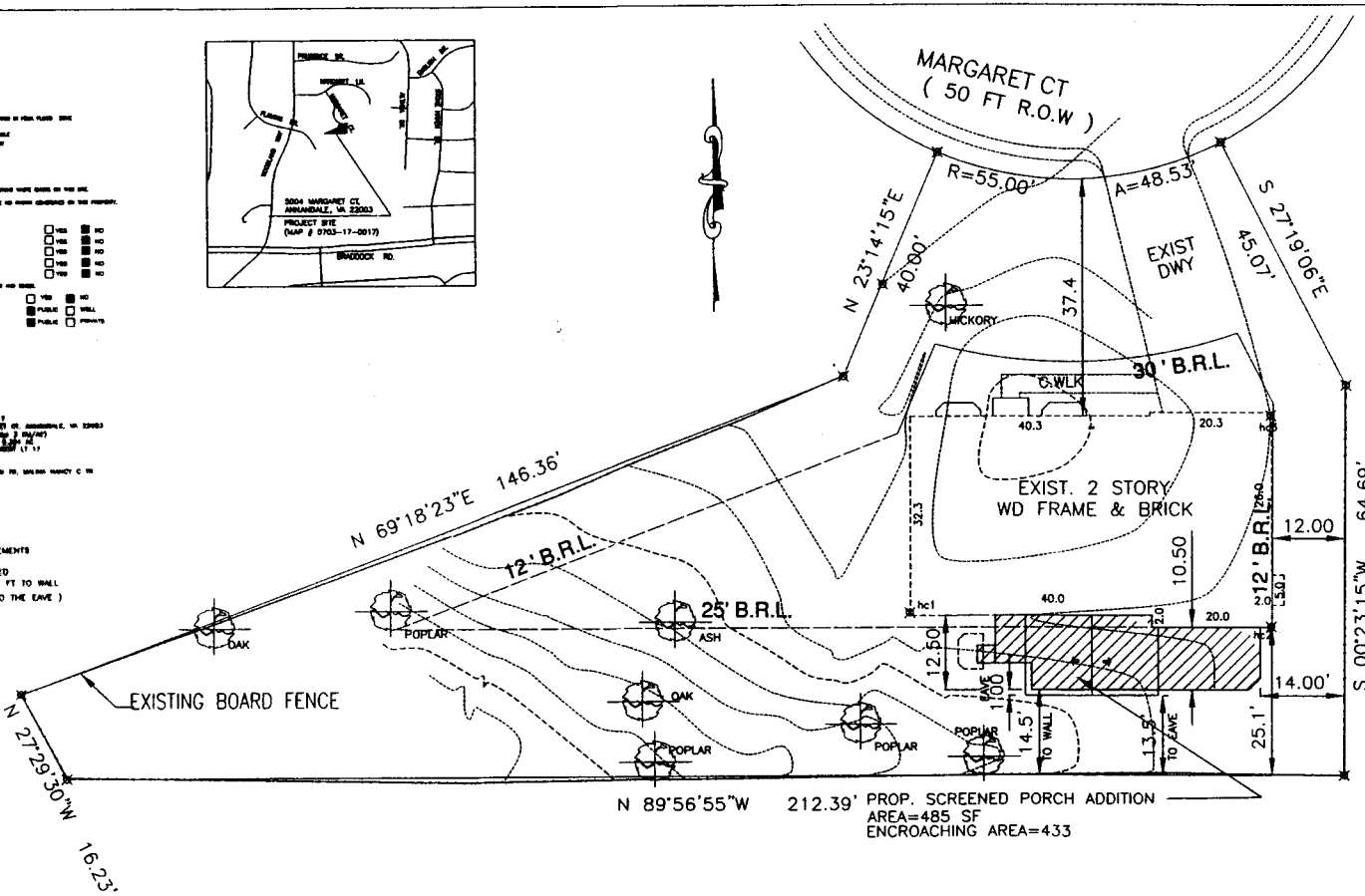


GENERAL NOTES

SUMMARY OF SPECIAL PERMIT

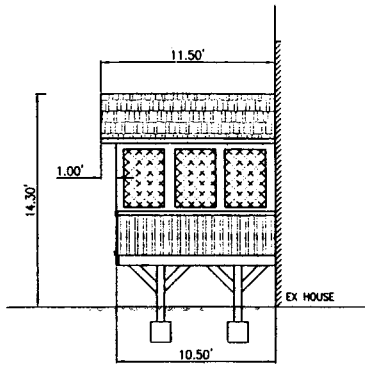
MIN. MINIMUM YARD REQUIREMENTS
SEC. 3-310- PAR 4 A (3)
REAR YARD = 25 FT REQUIRED
REAR YARD PROVIDED= 14.5 FT TO WALL
(13.5 FT TO THE EAVE )



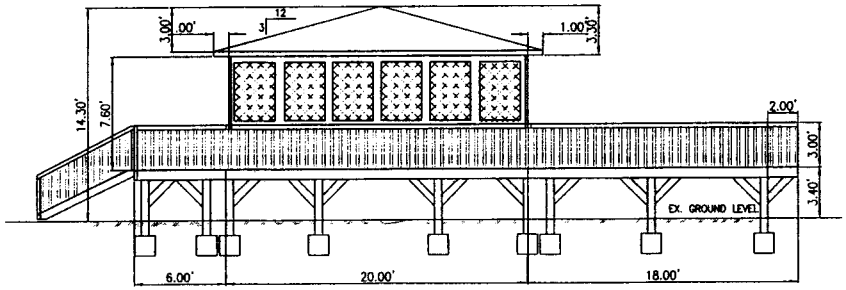




TOPOGRAPHIC SYMBOLS

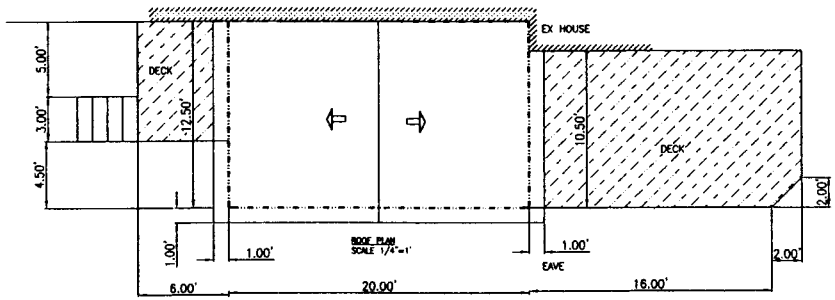
PROPERTY LINE
EASEMENT LINE
SETBACK LINE — B.R.L.
EXISTING FENCELINE — X — X —
EXISTING EDGE OF PAVEMENT — EX. E/P
EXISTING CURB AND GUTTER — EX C & G
EXISTING ROAD CENTER LINE
EXISTING DRIVEWAY LINE
NEW DRIVEWAY LINE
EXISTING ROAD R.O.W.
EXISTING WATERLINE W/ TEE
EXISTING FIRE HYDRANT — HYDRANT
EXISTING WATER VALVE — W
EXISTING TELEPHONE LINE — T — T —
EX. STM. SEWER — 24" RCP
EXISTING STORM SEWER MANHOLE — D
EXISTING SANITARY SEWER — S — FLOW ARROW
EXISTING ELECTRICAL LINE — E — E —
EXISTING TREE — 15" OAK
EXIST DRIP LINE
EX. SPOT ELEVATION — 255
EX. 5' CONTOUR LINE — 255
EX. 1' CONTOUR LINE — 254



PROP. SCREENED PORCH SIDE ELEVATION
SCALE 1"=4'



PROP. SCREENED PORCH REAR ELEVATION
SCALE 1"=4'



ROOF PLAN
SCALE 1/4"=1'

RECEIVED
Department of Planning & Zoning
DEC 22 2008
Zoning Evaluation

ADVANCE ENGINEERING GROUP, LLC.
CIVIL, STRUCTURAL & GEOTECHNICAL ENGINEERS / PLANNERS
REPRESENTED BY: ALEX E. FERNANDEZ, PE
10560 MAIN ST. SUITE 401, FAIRFAX VA 22030
PHONE: 703-273-8822 FAX: 703-273-8824
www.AEGCORP.NET INFO@AEGCORP.NET

OWNERS
JOEL & NANCY MALINA
3004 MARGARET CT.
ANNANDALE, VA 22003

SPECIAL PERMIT PLAT

| BY AEG | A.E.F |
|---|---|
| V.D. NO. | 08-VA-685 |
| DRAWN BY | A.E.F |
| ISSUE DATE | 8-25-2008 |
| CONTROL NO. | |

COMMONWEALTH OF VIRGINIA
12/19/08
Alex E. Fernandez
No. 19367
PROFESSIONAL ENGINEER
SEAL

| NO. | DATE | BY |
|---|---|---|
| | | |

685
SP1
SHEET 1 of 1

Back of House, Facing East

5004 Margaret Court

Front of House, Facing South

5004 Margaret Court

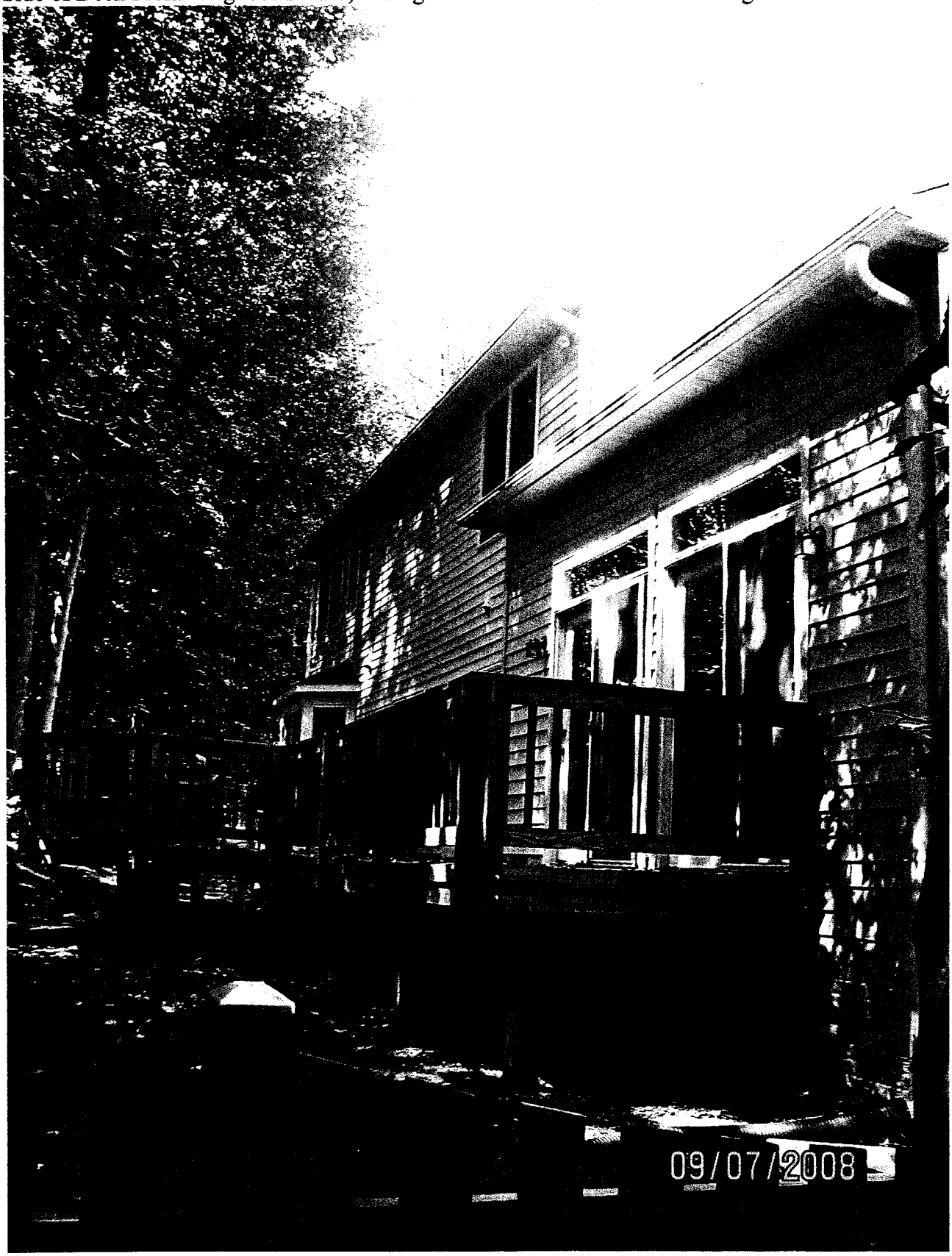
09/07/2008

Side of House, Facing East

5004 Margaret Court

Side of Deck From Neighbor's Yard, Facing West

5004 Margaret Court



View of Deck, Facing North 5004 Margaret Court

Back of House From Woods, Facing North 5004 Margaret Court

Back of House, Facing Southwest 5004 Margaret Court

Side of House From Neighbor's Yard, Facing West 5004 Margaret Court

## DESCRIPTION OF THE APPLICATION

The applicant seeks approval of a special permit for a reduction of certain yard requirements to permit construction of a screened porch addition 13.5 feet from the rear lot line.

| | Structure | Yard | Min. Yard Required* | Proposed Location | Proposed Reduction | Percent of Reduction Requested |
|---|---|---|---|---|---|---|
| **Special Permit** | Addition | Rear | 25 feet | 13.5 feet | 11.5 feet | 46 % |

* Minimum yard requirement per Section 3-307

## LOCATION AND CHARACTER

### Existing Site Description

The site is currently zoned R-3 and contains a two story single family detached dwelling which was built in 1994. The property also has an existing deck on the rear of the dwelling which was constructed in 1994 along with the existing dwelling. The lot consists of 13,247 square feet and is surrounded by single family detached homes to the north, east and west. To the south, the rear of the property backs up to open space provided by a place of worship and school.

### Character of the Area

| | Zoning | Use |
|---|---|---|
| **North** | R-3 | Single Family Detached Dwellings |
| **South** | R-1 | Place of Worship & School |
| **East** | R-3 | Single Family Detached Dwellings |
| **West** | R-3 | Single Family Detached Dwellings |

## BACKGROUND

The Board of Zoning Appeals (BZA) has not heard any other applications in the neighborhood.

## ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Special Permit Plat, Owners Joel and Nancy Malina

- **Prepared By:** Alex E. Fernandez, Advance Engineering Group, LLC. Dated August 25, 2008, revised through December 19, 2008.

### Proposal

The applicant proposes to construct a screen porch over an existing deck. The proposed screen porch will be approximately 485 sq. feet in sizeand 14.3 feet in height.

## ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

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

### Sect. 8-006 General Special Permit Standards

Staff believes that the application meets all of the 8 General Special Permit Standards with notes regarding standard 3.

General Standard 3 requires that the proposed uses 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. *Staff believes that the special permit application satisfies this condition based the fact that there is no proposed extension further into the rear yard than what currently exists. The screen porch is proposed to be constructed over a portion of an existing deck. With the screening proposed, the addition will still appear to be open. The property directly adjacent to the proposed screen porch contains a place of worship with their open space behind the subject property.*

### 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 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application has met all the remaining standards, specifically Standards 4, 6, 7, 8, and 9.

*Standard 4* states that 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. *The existing structure is 3,465 square feet. Therefore 150% of the total gross floor area could result in an addition up to 5,197.5 square feet; which makes a combined total of 8,662.5 square feet. The proposed addition will be 485 square feet for a total of 3,950 square feet for the existing house and addition. Therefore the application meets this provision.*

*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 proposed screened porch addition will extend on the existing footprint of the deck and is proposed at a height of 14.3 feet and only 485 square feet. The existing single family detached dwelling is two stories in height and 3,465 square feet. The proposed screen porch will be constructed with materials similar to the existing dwelling. Staff believes the proposed addition will not be out of character with existing on-site development.*

*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. *The proposed addition will not adversely affect the neighboring properties due to the small size and scope. No land disturbance shall take place because of its location on an existing deck; therefore there will be no harm to existing vegetation or significant trees on the subject property or the neighboring property.*

*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. *No downstream complaints have been indicated by DPWES and there is no increase of impervious area due to the proposed addition being constructed over an existing deck. Currently there is dense vegetation along the rear property line which is where the proposed addition will take place. This vegetation is provided by the adjacent property which is open space for a place of worship and a school and it will serve as a buffer between the proposed addition and the church. Therefore, staff believes that the proposed addition shall not have any adverse impact on neighboring properties.*

*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. *Since the proposed addition is not extending any further into the minimum required side yard than what currently exists, staff believes this proposed screened porch is a minimal addition. There are potential alternate locations for a screened porch; however other locations would not be logical and require removal of the vegetation which exists on the subject property.*

## CONCLUSION

Staff believes that the subject application for the addition is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

## RECOMMENDATION

Staff recommends approval of special permit application SP 2009-BR-003 for the addition subject to the proposed development conditions contained in Appendix 1 of the staff report.

If it is the intent of the BZA to approve this application, Staff recommends the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

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

## APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Ordinance Provisions

# PROPOSED DEVELOPMENT CONDITIONS

## SP 2009-BR-003

## March 24, 2009

If it is the intent of the Board of Zoning Appeals to approve SP 2009-BR-003 located at Tax Map Number 70-3 ((17) 17 (5004 Margaret Court), to permit reduction of certain yard requirements pursuant to 8-922 of the Fairfax County Zoning Ordinance, staff recommends the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land record of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.

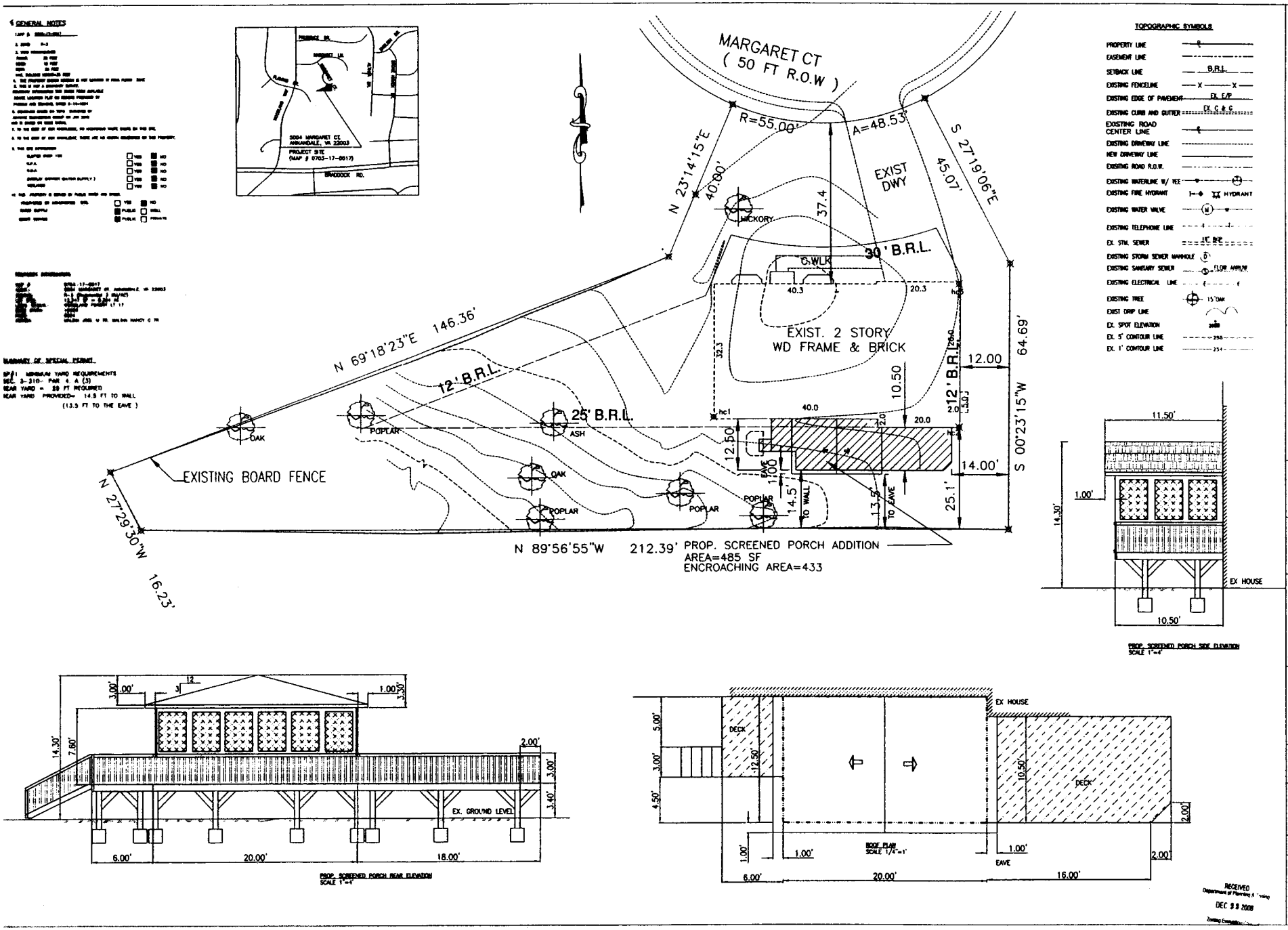
2. This special permit is approved for the location and size of a proposed screen porch addition as shown on the plat prepared by Alex E. Fernandez, Advance Engineering Group, LLC. Dated August 25, 2008, revised through December 19, 2008, submitted with this application and is not transferable to other land.

3. Pursuant to Provision 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of the existing principle structures may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,593 square feet existing + 3,889.5 (150%) = 6,485.5 permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction, special permit or variance. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.

4. The addition shall be consistent with the architectural renderings and materials depicted on the plat and included in Attachment 1 to these conditions.

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 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.

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PROPERTY LINE
EASEMENT LINE
SETBACK LINE — B.R.L.
EXISTING FENCELINE
EXISTING EDGE OF PAVEMENT — EX. E/P
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EXISTING DRIVEWAY LINE
NEW DRIVEWAY LINE
EXISTING ROAD R.O.W.
EXISTING WATERLINE W/ VEE
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EXISTING SANITARY SEWER — FLOW ARROW
EXISTING ELECTRICAL LINE
EXISTING TREE — 15" OAK
EXIST DRIP LINE
EX. SPOT ELEVATION
EX. 5' CONTOUR LINE
EX. 1' CONTOUR LINE

SUMMARY OF SPECIAL PERMIT

SP#1 MINIMUM YARD REQUIREMENTS
SEC. 3-310- PAR. 4. A (3)
REAR YARD = 25 FT REQUIRED
REAR YARD PROVIDED= 14.5 FT TO WALL
(13.5 FT TO THE EAVE)

ADVANCE ENGINEERING GROUP, LLC.
CIVIL, STRUCTURAL & GEOTECHNICAL ENGINEERS / PLANNERS REPRESENTED BY: ALEX E. FERNANDEZ, PE
12560 MAIN ST SUITE 401, FAIRFAX VA 22030
PHONE: 703-272-8822 FAX: 703-272-8824
WWW.AEGCORP.NET INFO@AEGCORP.NET

GROUP

OWNERS
JOEL & NANCY MALINA
5004 MARGARET CT
ANNANDALE, VA 22003

SPECIAL PERMIT PLAT

| BY AEG | AEF |
|---|---|
| V.O. NO. | 08-VA-685 |
| DRAWN BY | AEF |
| ISSUE DATE | 8-25-2008 |
| CONTROL NO. | |

COMMONWEALTH OF VIRGINIA
12/19/08
Alex E. Fernandez
No. 19367
PROFESSIONAL ENGINEER
SEAL

| NO. | DATE | BY |
|---|---|---|
| | | |

SHEET 1

ATTACHMENT 1

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

## SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10-6-08
(enter date affidavit is notarized)

I, Nancy Corwin Malina, Trustee, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) [X] applicant
[ ] applicant's authorized agent listed in Par. 1(a) below 101925a

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) |
|---|---|---|
| Joel Martin Malina and Nancy Corwin Malina, Trustees of the Joel Martin Malina Trust Agreement and The Nancy Corwin Malina Trust Agreement | 5004 Margaret Ct. Annandale, VA 22003 | Applicants/Title Owners |
| Nancy Corwin Malina | 5004 Margaret Ct. Annandale, VA 22003 | Beneficiary |
| Joel Martin Malina | 5004 Margaret Ct. Annandale, VA 22003 | Beneficiary |

(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: 10-6-08
(enter date affidavit is notarized)

101925a

---

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 N/A

**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: 10-6-08
(enter date affidavit is notarized)

101925a

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 N/A

**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): _____
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## SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 10-6-08
(enter date affidavit is notarized)

101925a

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: 10-6-08 (enter date affidavit is notarized) 10/925

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:** Nancy Corwin Malina
Nancy Corwin Malina, Trustee

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

Nancy Corwin Malina, Trustee
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 6 day of October 2008, in the State/Comm. of Virginia, County/City of Fairfax.

S Dinkins
Notary Public

My commission expires: _____

SUZI DINKINS
Notary Public
Commonwealth of Virginia
7148286
My Commission Expires Apr 30, 2011

FORM SP/VC-1 Updated (7/1/06)

Special Permit Application Statement

RECEIVED
Department of Planning & Zoning
DEC 22 2008
Zoning Evaluation Division

5004 Margaret Court
Annandale, VA 22003

We are seeking this special permit to allow us to add a screened-in-porch to the southern side of our house. Due to the unique layout of our lot, most of our property extends from the west side of our house, the side containing our living room and dining room, from which there is no outdoor access. In order to locate a screened-in porch that would be practical and accessible from our kitchen, we would need to build the porch on the site of our existing deck.

Currently, there are 25 feet from the back (south side) of our house to our property line. If we were to build a porch extending out from our kitchen (as we hope to be able to do), there would remain 13 ½ feet from the eave of the roof of the new porch to our property line and 14.5 feet to the rear wall. The gross square footage of the existing structure is 3,465 and the proposed area of the screened in porch is 485 square feet. This is within the limits of the 150 percent allowed for an addition to the gross square area of the overall structure.

Our southern property line backs up on a wooded area. As such, the addition of a porch on the southern side of our house will not infringe on any neighboring residential lots. The design of the proposed screened-in porch is particularly aimed at blending into its surrounding landscape, particularly the woods. The height is lower than the main structure of the house so that it will not be visible from the front of the house. The overall size of the porch will be within the space of the structure as well.

There will be no need for a detached accessory structure in this venture. The special permit will only apply to the existing, permanent structure at 5004 Margaret Court.

No trees will need to be removed to accommodate the new porch. Some decorative bushes (that were planted by the us, the owners) will be moved so that they can better compliment the new structure. In addition, as the porch will be in the back of the existing house, it will not impact any of our neighbors. There will be no additional noise, no elimination of light, nor will there be a reduction of air. Additionally, the proposed plan will not affect safety concerns, erosion or storm water runoff. The area contains no septic tank (the property is served by public water and sewage), easements, or necessity for preservation of historic resources.

Nancy and Joel Malina

**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 expansion request. The resulting gross

floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.

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.