



APPLICATION ACCEPTED: January 26, 2009
DATE OF PUBLIC HEARING: April 14, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

April 7, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2009-LE-010

LEE DISTRICT

APPLICANT: Tina Le

OWNERS: Tina Le and Anh-Nguyet Thi Le

ZONING: R-1

LOCATION: 7421 Renee Street

SUBDIVISION: Lincoln Heights

ZONING ORDINANCE PROVISION: 8-914

TAX MAP: 91-3 ((7)) 9

LOT SIZE: 22,158 Sq. Ft.

SP PROPOSAL: Reduction to minimum yard requirements based on error in building location to permit an addition to remain 13.5 feet from a side lot line.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this 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.

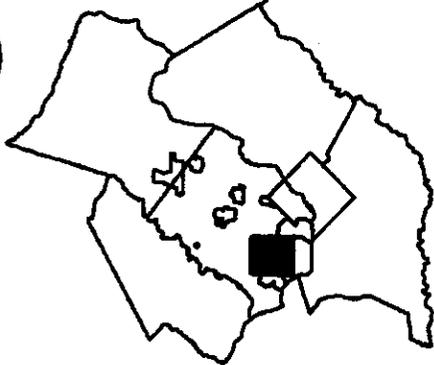
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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



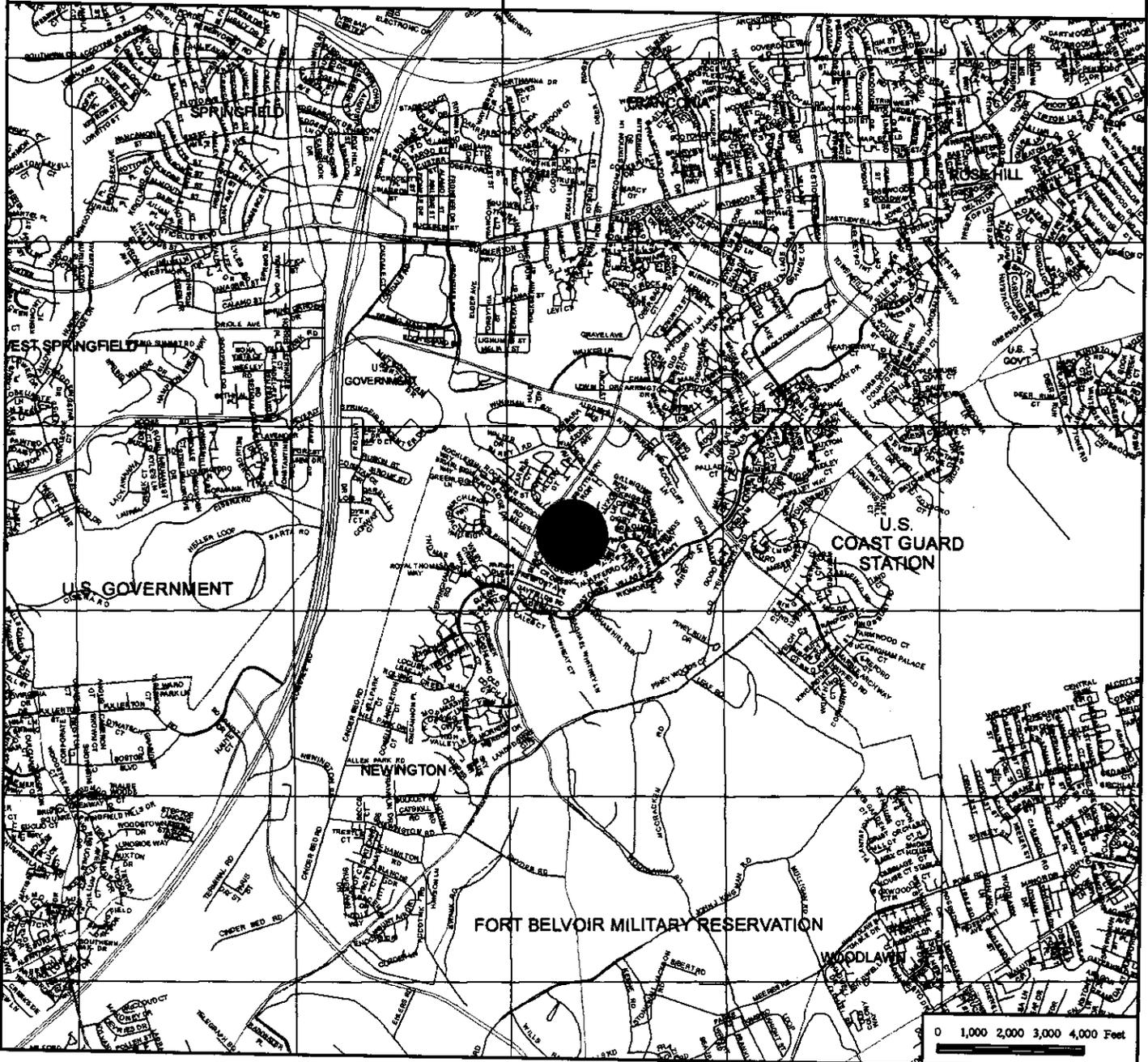
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2009-LE-010

Applicant: TINA LE
Accepted: 01/26/2009
Proposed: REDUCTION TO MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION
TO PERMIT ADDITION TO REMAIN 13.5
FEET FROM SIDE LOT LINE



Area: 22,158 SF OF LAND; DISTRICT - LEE
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 7421 RENEE STREET
Zoning: R-1
Overlay Dist:
Map Ref Num: 091-3- /07/ /0009



Special Permit

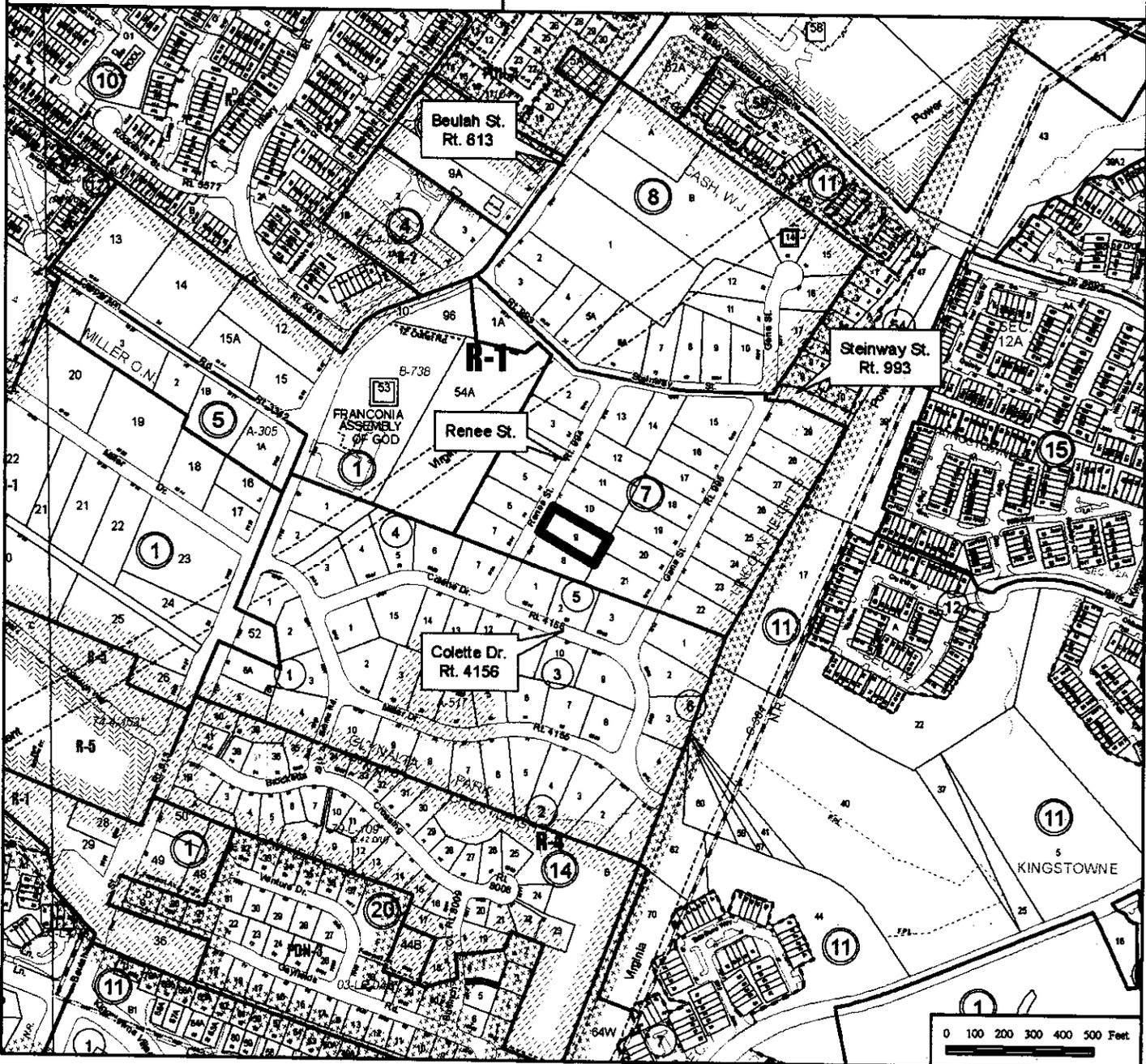
SP 2009-LE-010

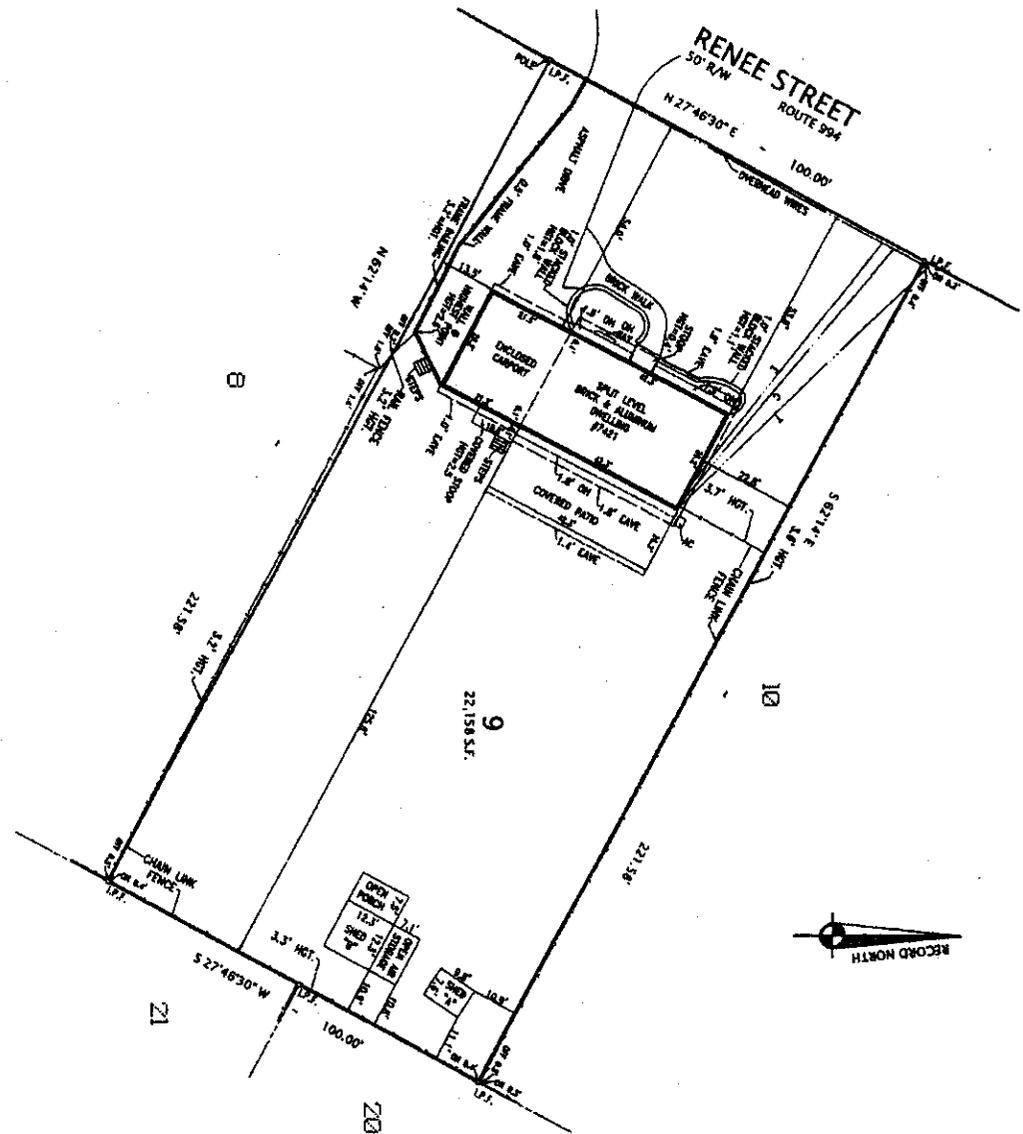
Applicant:
Accepted:
Proposed:

TINA LE
01/26/2009
REDUCTION TO MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION
TO PERMIT ADDITION TO REMAIN 13.5
FEET FROM SIDE LOT LINE



Area: 22,158 SF OF LAND; DISTRICT - LEE
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 7421 RENEE STREET
Zoning: R-1
Overlay Dist:
Map Ref Num: 091-3- /07/ /0009





- NOTES
1. TAX MAP: 0913-07-2009
 2. ZONE: R-1 (RESIDENTIAL) DU/AC
 3. LOT AREA: 22,158 SQUARE FEET
 4. REQUIRED YARDS:

FRONT:	40 FEET
SIDE:	30 FEET
REAR:	25 FEET
 5. HEIGHTS:

DWELLING:	19.0 FEET
DRIVEWAY:	12.0 FEET
SHED 'A':	7.0 FEET
SHED 'B':	11.6 FEET
STORAGE:	8.5 FEET
SHED PORCH (ROOF):	9 FEET
FENCES:	AS NOTED
WALKS:	AS NOTED
COVERED PATIO (ROOF):	11 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 INDICATED OTHERWISE.
 9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EXPOSURES 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
 10. THERE ARE NO FLOOD PLAINS, FLOOD HAZARD AREAS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.

PLAT
 SHOWING THE IMPROVEMENTS ON
 LOT 9
 SECTION ONE
LINCOLN HEIGHTS
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20'
 OCTOBER 14, 2008
 FEBRUARY 28, 2009 (REVISED SHED HEIGHTS)

OUR NAME: LE

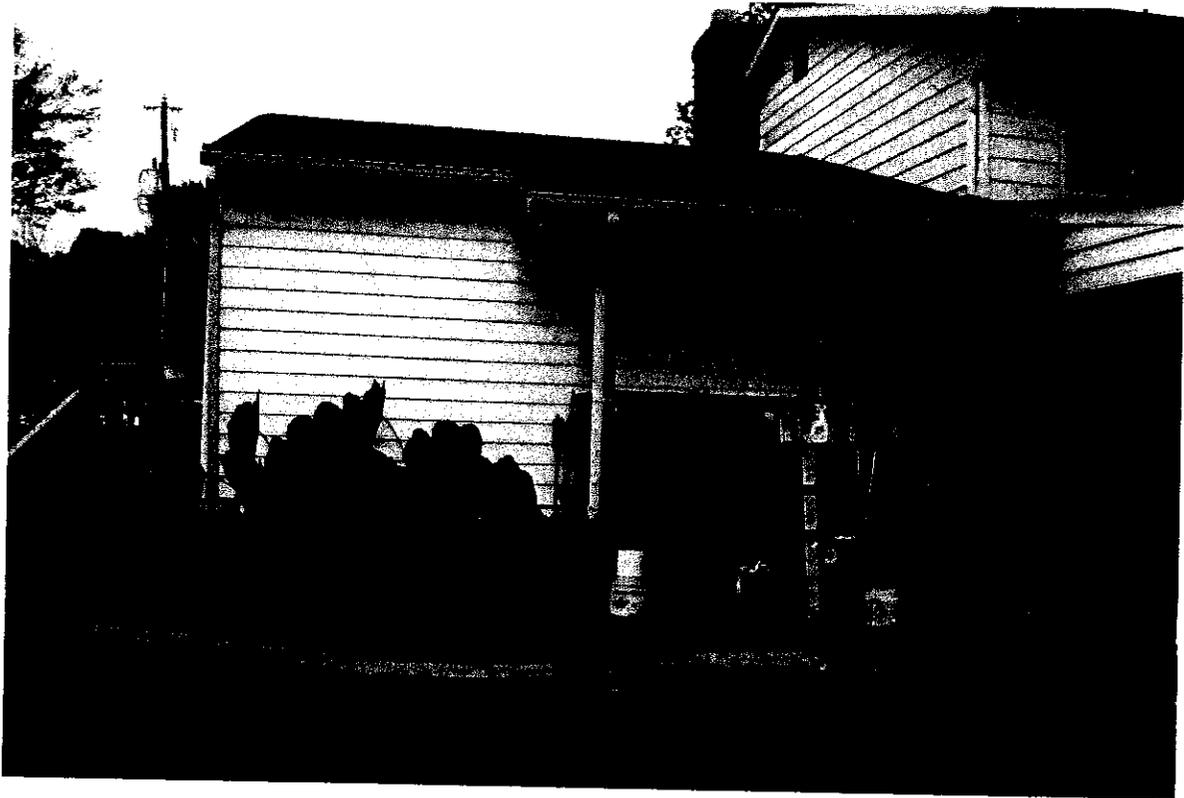
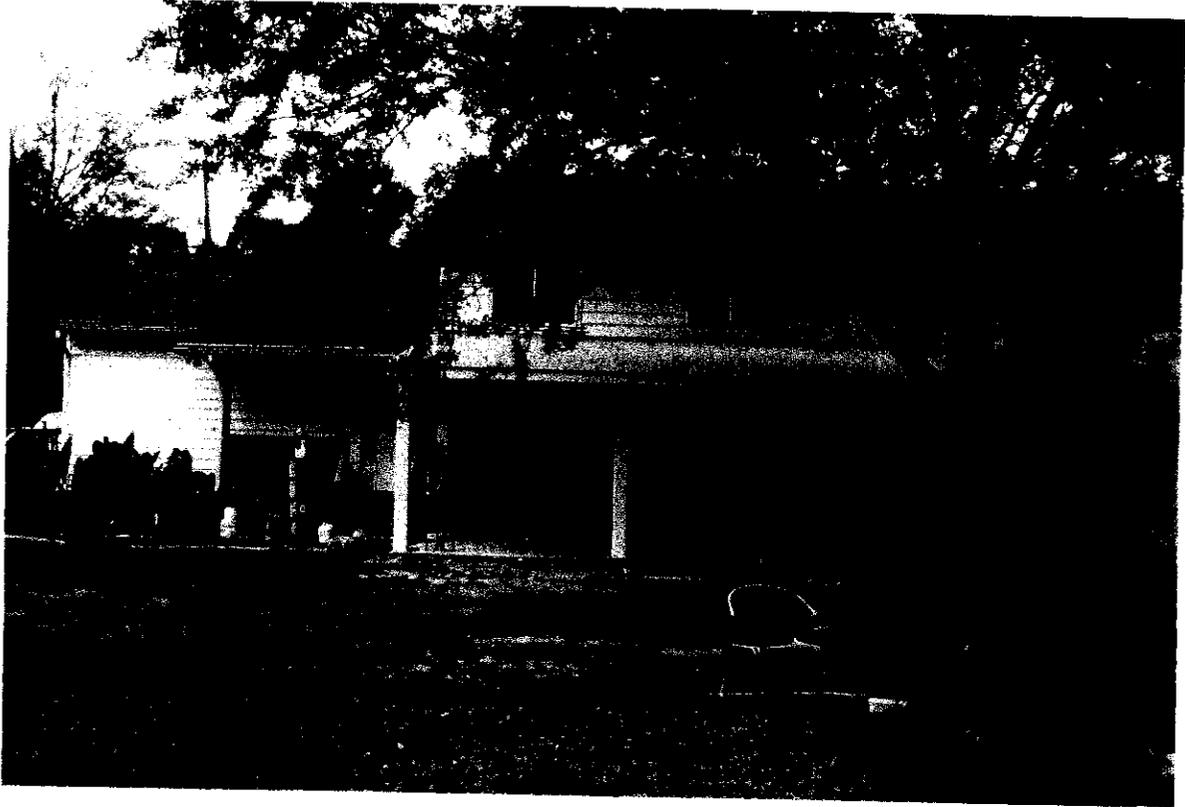
Alexander L. Verzeckian
 REGISTERED PROFESSIONAL SURVEYOR
 No. 100,000,000
 02/28/08

1. I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT I AM A REGISTERED PROFESSIONAL SURVEYOR IN THE STATE OF VIRGINIA.

THE PROFESSIONAL SURVEYOR'S CERTIFICATE IS VALID FOR THE TERM OF TWO YEARS FROM THE DATE OF ISSUANCE AND MUST BE RENEWED BY THE SURVEYOR AND THE STATE BOARD OF PROFESSIONAL SURVEYORS.

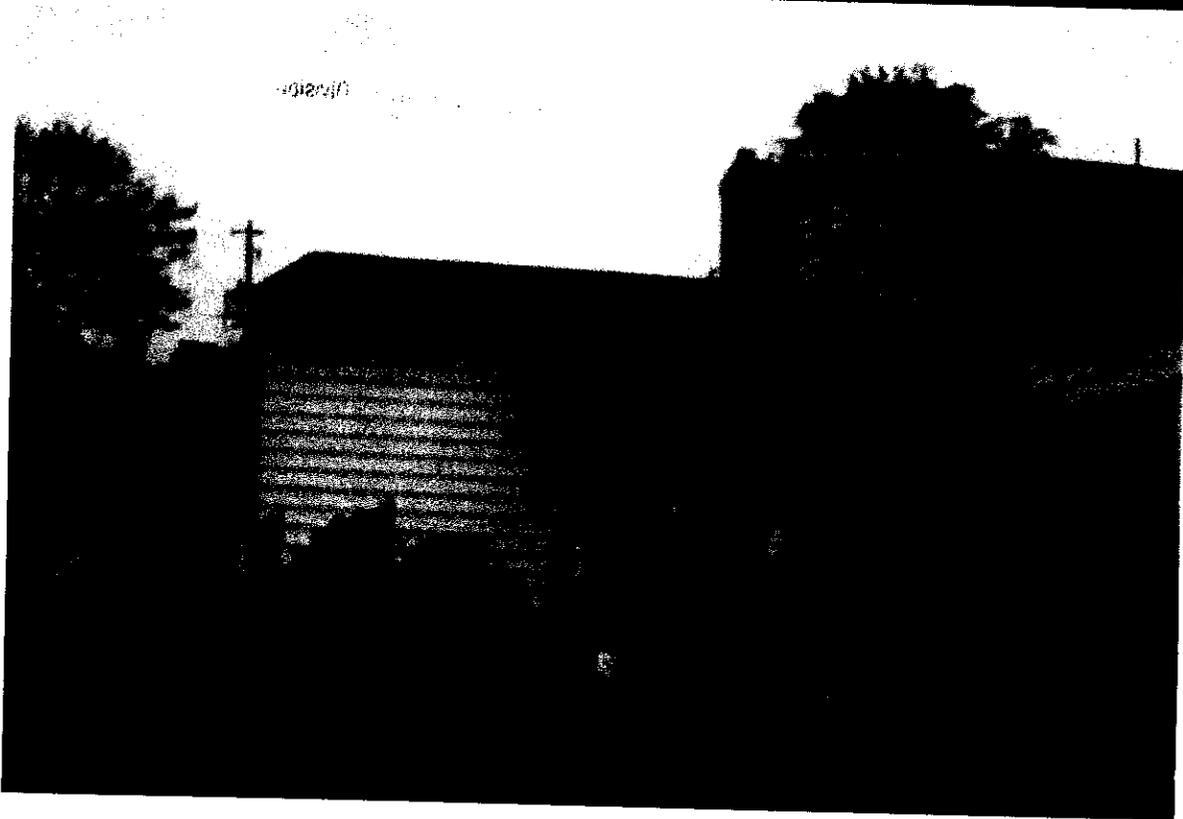
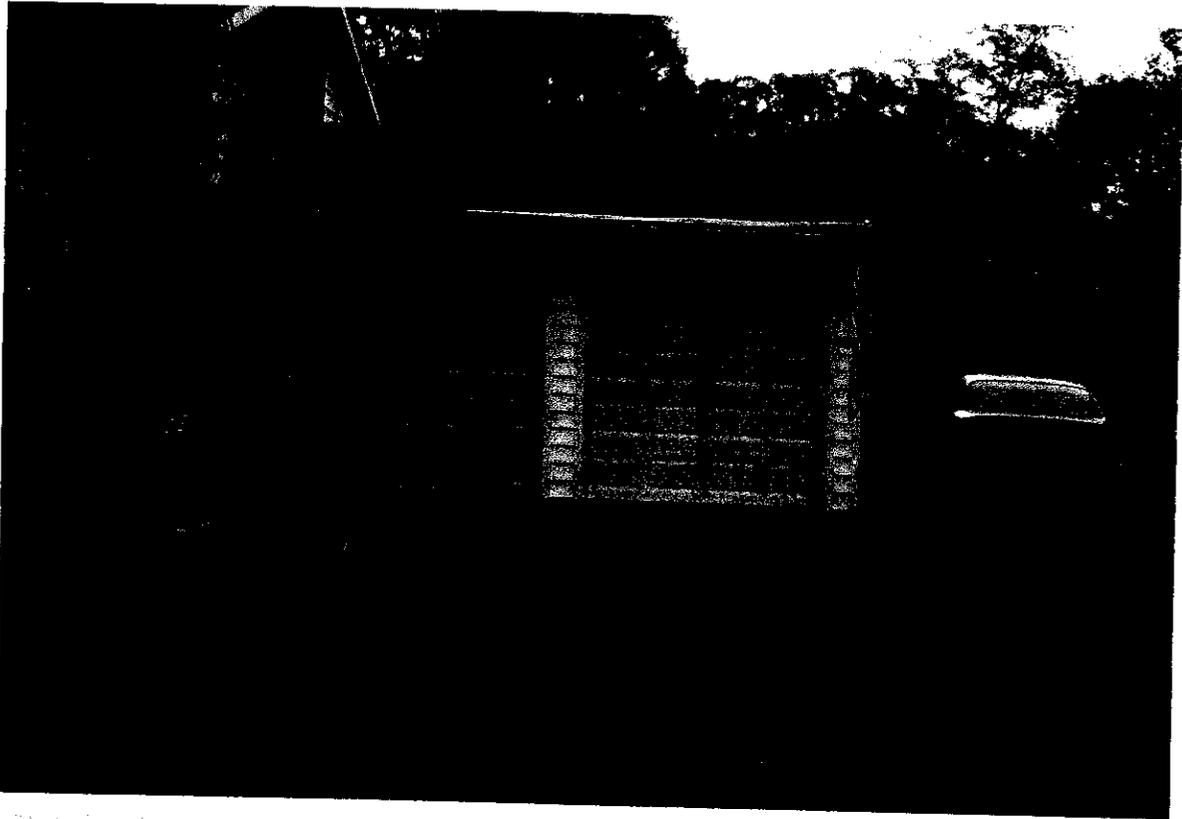
ALEXANDRIA SURVEYS INTERNATIONAL, LLC
 6210 NORTH BEACH HIGHWAY ALEXANDRIA, VIRGINIA 22304
 TEL: 703-574-0015 FAX: 703-574-7874

Back of house from back property line.



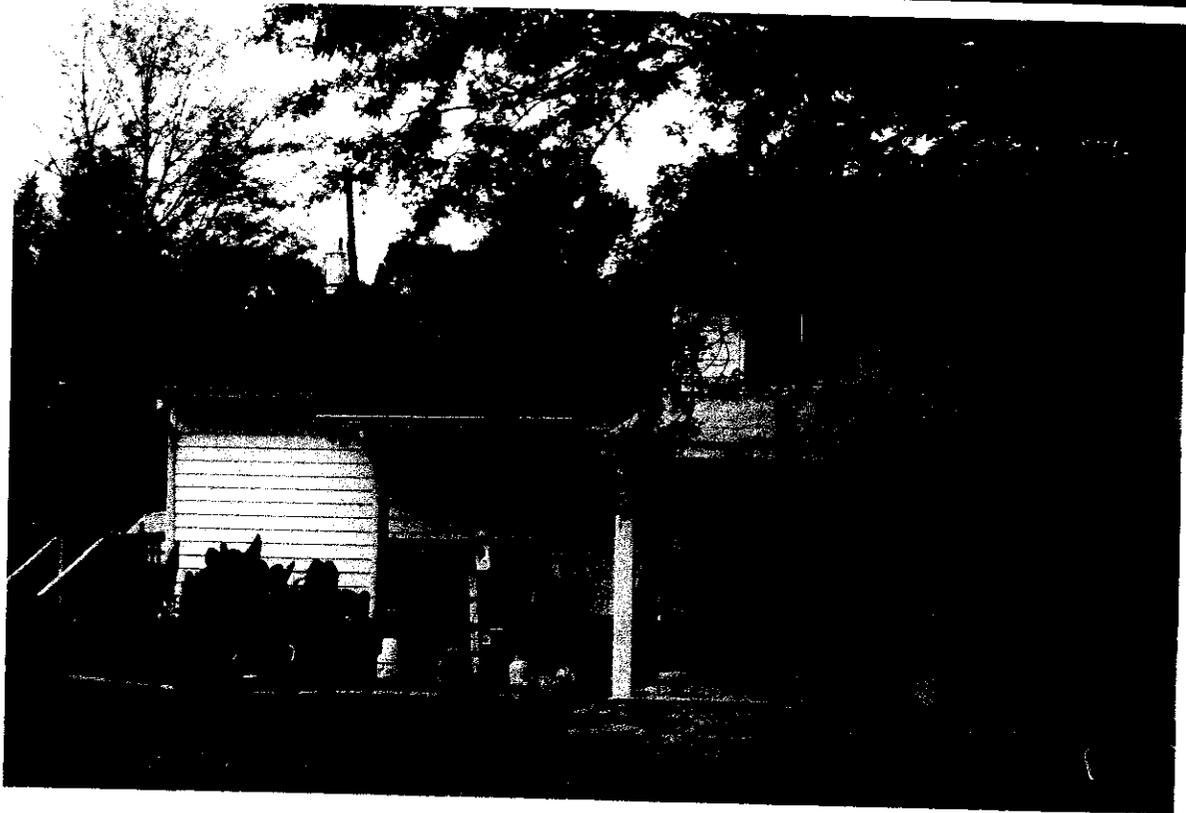
Back of garage from back yard.

Front of garage.



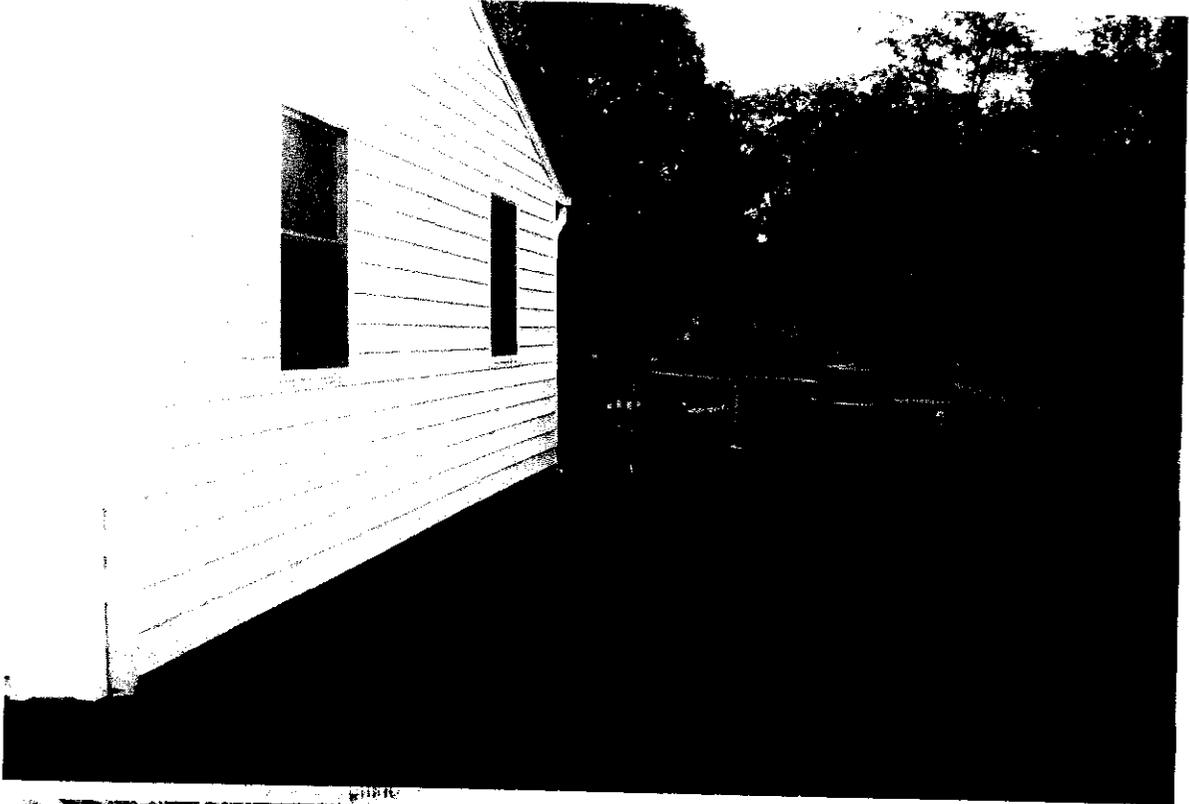
Back of garage.

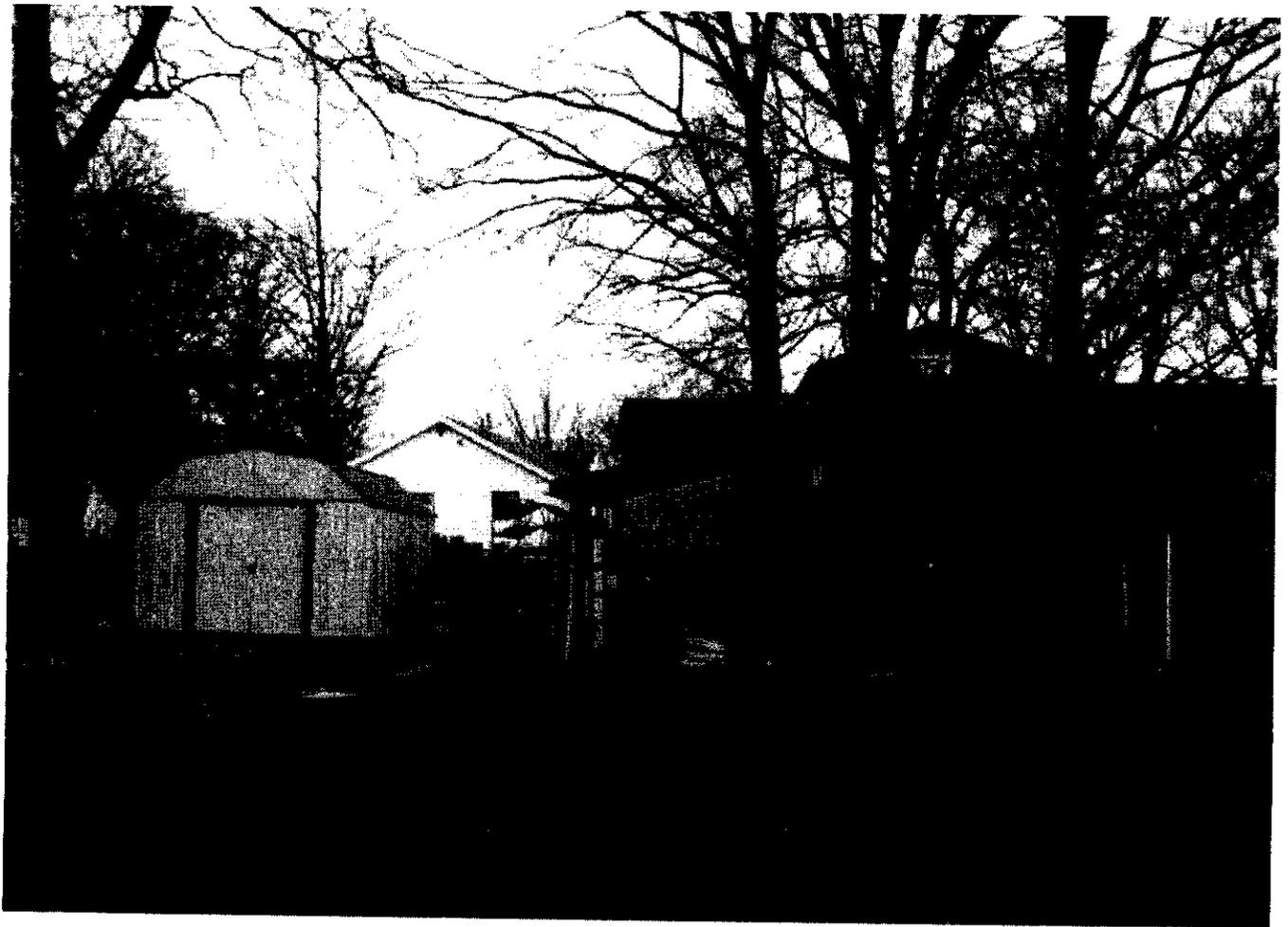
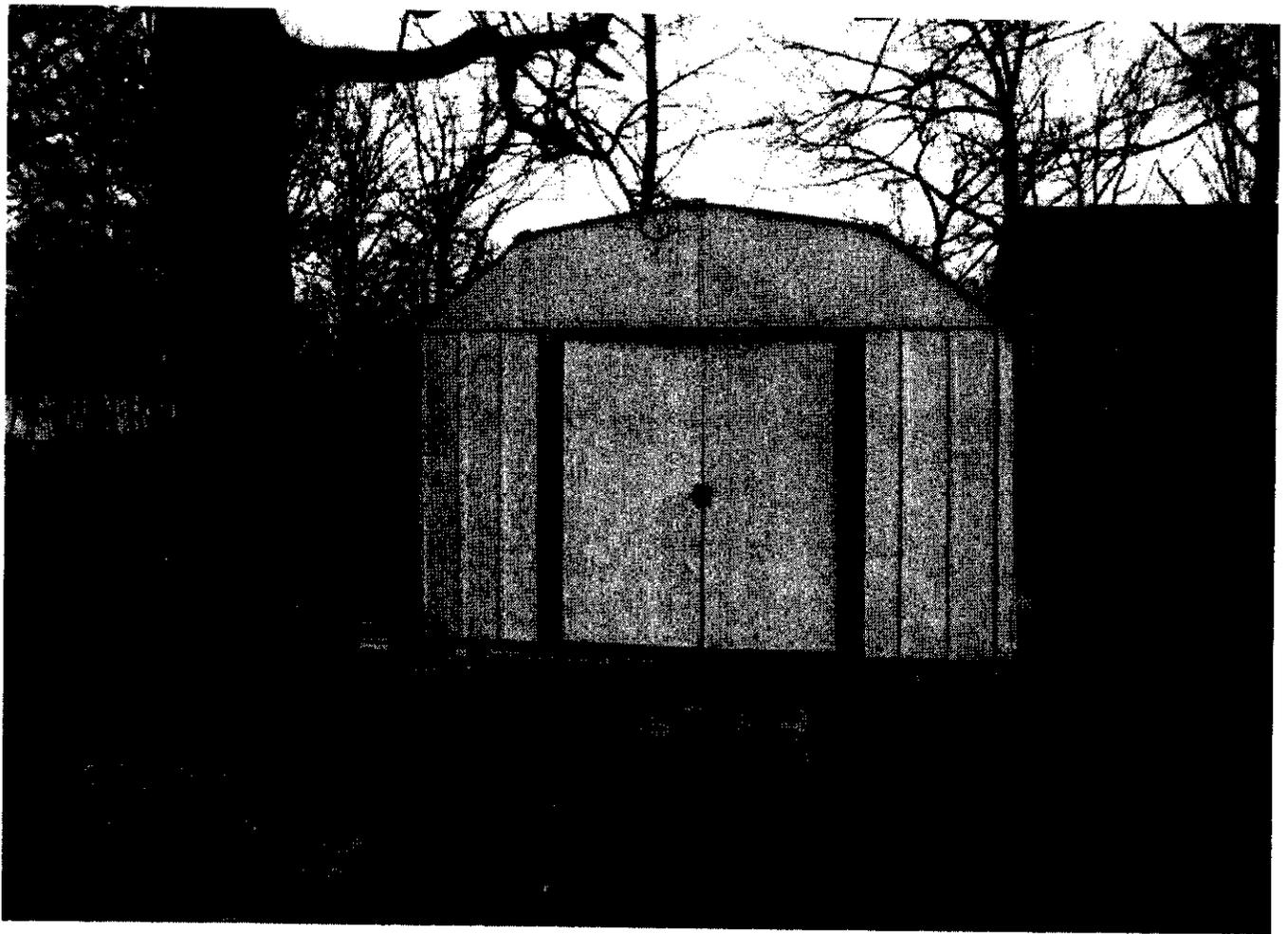
Right side of house, showing side of garage.

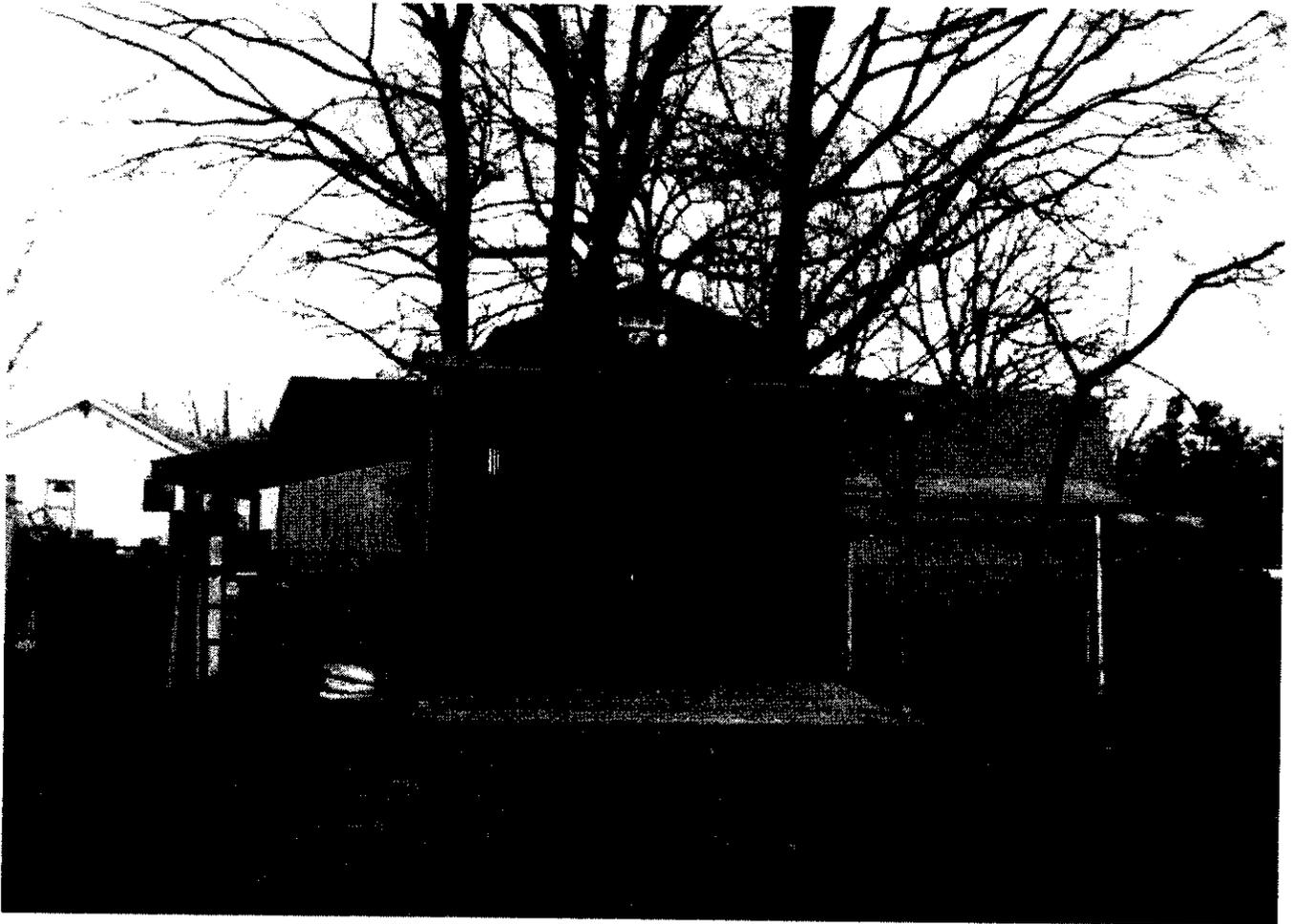


Back of house. Garage on left.

Right side of garage and driveway.







DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for a reduction to minimum yard requirements based on error in building location to permit an enclosed carport to remain 13.5 feet from the southern side lot line.

	Yard	Min. Yard Req.*	Permitted Extension **	Structure Location	Amount of Error	Percent of Error
Special Permit	Side	20	None	13.5	6.5	32.5%

* Minimum side yard requirement per Section 3-507

** Permitted Extensions per 2-412

CHARACTER OF THE AREA

	Zoning	Use
North	R-1	Single Family Detached Dwellings
South	R-1	Single Family Detached Dwellings
East	R-1	Single Family Detached Dwellings
West	R-1	Single Family Attached Dwellings

ANALYSIS

- **Title of SP Plat:** Plat Showing the Improvements on Lot 9, Section One, Lincoln Heights
- **Prepared By:** Andrew L. Westerman, Alexandria Surveys International, LLC. dated October 14, 2008, revised through February 26, 2009.
- **Building Permit Required for Enclosed Carport Addition:** Yes
- **Obtained:** No

BACKGROUND

The existing single family detached dwelling was constructed in 1974. On September 23, 2008 a Notice of Violation (NOV) was issued on the subject property for an addition (enclosed carport) constructed within the minimum required side yard and without a building permit. A copy of this NOV can be found in Appendix 4.

There are two existing sheds on the subject property, depicted as "Shed A" and "Shed B" on the special permit plat. Shed B required an administrative reduction due to its location within the minimum required rear yard which has been obtained. Shed A is less than 8.5 feet in height and can be located anywhere within the minimum required side and rear yards.

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

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- 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)

CONCLUSION

If it is the intent of the BZA to approve this application, staff suggests 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. Notice of Violation
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2009-LE-010

April 7, 2009

1. This special permit is approved for the location of the addition (enclosed carport) as shown on the plat prepared by Charles Andrew L. Westerman, Alexandria Surveys International, LLC. dated October 14, 2008, revised through February 26, 2009, submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, building permits for the addition shall be diligently pursued and obtained or the addition shall be removed or brought into compliance with Zoning Ordinance Requirements.

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: 12/01/08
 (enter date affidavit is notarized)

I, Tina Le, 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 1023816

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)
Tina Le	7421 RENEE ST ALEXANDRIA, VA 22315	Applicant / Title Owner
ANH-NGUYET THI LE	7421 RENEE ST ALEXANDRIA, VA 22315	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)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 12/01/08
(enter date affidavit is notarized)

1023816

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 12/01/08
(enter date affidavit is notarized)

1023816

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

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 12/01/08
(enter date affidavit is notarized)

1023816

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: 12/01/08
(enter date affidavit is notarized)

1023816

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.

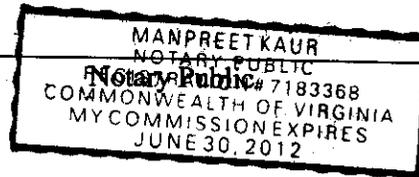
WITNESS the following signature:

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

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

Subscribed and sworn to before me this 1 day of Dec 2008, in the State/Comm. of Virginia, County/City or Fairfax.

My commission expires: June 30, 2012



M. Kaur

SPECIAL PERMIT STATEMENT OF JUSTIFICATION

7421 Renee Street
Alexandria, VA 22315-3517
Tax Map #:0913 07 0009
Zoning District: R-1

RECEIVED
Department of Planning & Zoning

JAN 22 2009

Zoning Evaluation Division

To whom it may concern,

The carport enclosure to a garage on the above referenced property is to be used as additional living space for the family and as such is not associated with any business. The property was purchased in May, 2008. The carport was enclosed to a garage shortly after purchase in June, 2008. We, the homeowners were unaware that enclosing the carport would change the minimum required side yard requirement to 20 feet. The enclosed carport is 13.5 feet from the side lot line. Also located on the property is a shed that is located 10.9 feet from the side lot line, and 11.1 feet from the rear lot line. This shed was already in place at the time of purchase. At this time it would be a financial hardship to remove these improvements. As such, we are now requesting a Group 9 Special Permit from the Board of Zoning Appeals in accordance with the Notice of Violation from the County of Fairfax, Virginia, Case #: 39703.

As this is not a place of business, there are no hours of operation, patrons, clients, employees, etc. There will be no traffic impact and no area is served by the use. The additional living space is for the personal use of the family only.

The building facade and architecture of the enclosed carport is aluminum siding with wood framed trim and matches with the rest of the house. The building facade and architecture of shed A as labeled on the survey is typical of other sheds in the development. Shed A is constructed of corrugated sheet metal.

There are not and will not be any hazardous or toxic substances generated, utilized, stored, treated, and/or disposed of on this site.

With the exception of the minimum yard requirements, the development conforms to the provisions of all applicable ordinances, regulations and adopted standards.

As explained above, we, the homeowners are seeking a reduction of the minimum yard requirement for the enclosed carport from the side lot line from 20 feet to 13.5 feet for the enclosed carport. We are also seeking a reduction of the minimum yard requirements for shed A of the side lot line from 20 feet to 10.9 feet, and for the rear lot line from 25 feet to 11.1 feet. Thank you for your consideration in this matter.

Sincerely,

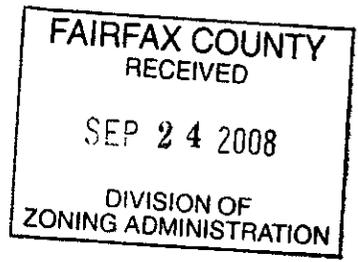


Tina Le



County of Fairfax, Virginia

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



NOTICE OF VIOLATION

DATE OF ISSUANCE: September 23, 2008

SHERIFF'S LETTER

CASE #: 39703

SERVE: Anh-Nguyet Thi Le
Tina Le
7421 Renee Street
Alexandria, VA 22315

LOCATION OF VIOLATION 7421 Renee Street
Alexandria, VA 22315-3517
Tax Map #: 0913 07 0009
Zoning District: R-1

Dear Property Owner(s):

An inspection of the above referenced property on September 18, 2008 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-307 (1) Meeting Minimum Bulk Regulations – Addition Added

The inspection revealed an addition (garage) has been built on to the right side of the single family detached dwelling with the following dimensions: approximately 20 feet in width and approximately 26 feet in length. This addition, thereby, becomes part of the principal building or dwelling.

This addition is approximately 15 feet from the side lot line. This property is zoned R-1 District and bulk regulations for this district includes minimum yard requirements for a single family attached dwelling, which is delineated in Par. 2(A) 1 of Sect. 3-107 of the Zoning Ordinance, which states:

- Minimum yard requirements
- A. Single family dwellings



- (1) Conventional subdivision lot
 - (a) Front yard: 40 feet
 - (b) Side yard: 20 feet
 - (c) Rear yard: 25 feet

Therefore, since the dwelling with the addition does not meet the minimum side yard requirement for the R-1 District, it is in violation of Par. 1 of Sect. 2-307 of the Zoning Ordinance, which states:

Except as may be qualified by provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all minimum bulk regulations presented for the zoning district in which such structure is located.

You are hereby directed to clear these violations within thirty (30) days after the date of this notice. Compliance must be accomplished by:

- Returning the garage back into a carport, which was approved with Building Permit 03279B0280; or
- Reducing the size of the addition to meet minimum required side yard requirements and obtaining approval for a Building Permit; or
- Making an application for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an error in building location to allow the addition to remain at its present location on the property and obtain approval of a Building Permit for the addition.

§ 18-601 Building Permit

§ 18-603 Compliance with Other Codes:

A review of Fairfax County Land Development records indicates that a Building Permit was never obtained for the construction/erection of addition (garage) as required by Sect. 18-601 of the Zoning Ordinance; and therefore is in violation of Sect. 18-601 of the Zoning Ordinance which specifies:

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit Application has been approved by the Zoning Administrator.

In addition, you are advised a Building Permit cannot be issued for the garage until the property is in compliance with Par. 1 of Sect. 18-603 of the Zoning Ordinance which states:

No Building Permit shall be issued for the erection of any building or structure on a lot or addition or modification to a building or structure that is in violation of any of the provisions of Chapter 101, Chapter 116 or Chapter 118 of The Code, this Ordinance, all other applicable laws and ordinances, any proffered conditions, or any development conditions of any approved rezoning, special permit, special exception or variance. Appeals of decisions made pursuant to Chapter 118 of The Code which are appealable shall be processed in accordance with Article 8 of Chapter 118.

You are hereby directed to clear these violations within thirty (30) days after the date of this notice. Compliance must be accomplished by:

- Removing the garage from the property; or
- Applying for and obtaining the Zoning Administrator's approval of a Building Permit for the garage.

A follow-up inspection will be made at the expiration of the time period[s] outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action 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, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$375.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Anh-Nguyet Thi Le
Tina Le
September 23, 2008
Page 4

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1414 or (703) 324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Adams". The signature is fluid and cursive, with a prominent initial "M" and a long, sweeping tail.

Michael Adams
Property Maintenance/Senior Zoning Inspector

MAA/seg

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for all Group 9 Uses

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

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

3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914

Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

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

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
- 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
- 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.