



APPLICATION ACCEPTED: March 4, 2009  
BOARD OF ZONING APPEALS: May 12, 2009  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

May 5, 2009

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-SP-013

### SPRINGFIELD DISTRICT

**APPLICANT & OWNER:** Mary B. Duley  
**SUBDIVISION:** Cherry Run  
**STREET ADDRESS:** 6538 Koziara Dr.  
**TAX MAP REFERENCE:** 88-1 ((7)) 479A  
**LOT SIZE:** 9,296 square feet  
**ZONING DISTRICT:** R-3 Cluster  
**ZONING ORDINANCE PROVISIONS:** 8-918  
**SPECIAL PERMIT PROPOSAL:** Accessory Dwelling Unit

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2009-SP-013, 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 applicants/owners 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.

O:\Scaff2\Case Files\Special Permits\SP 2009-SP-013 DULEYDULEY\_draft.doc

Shannon Caffee

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.

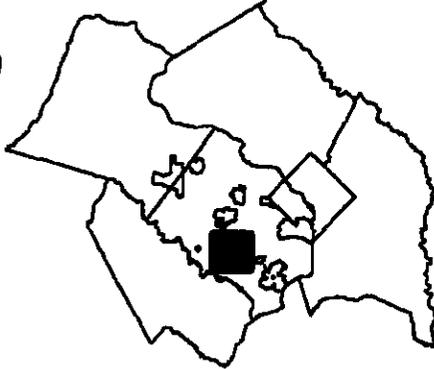
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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



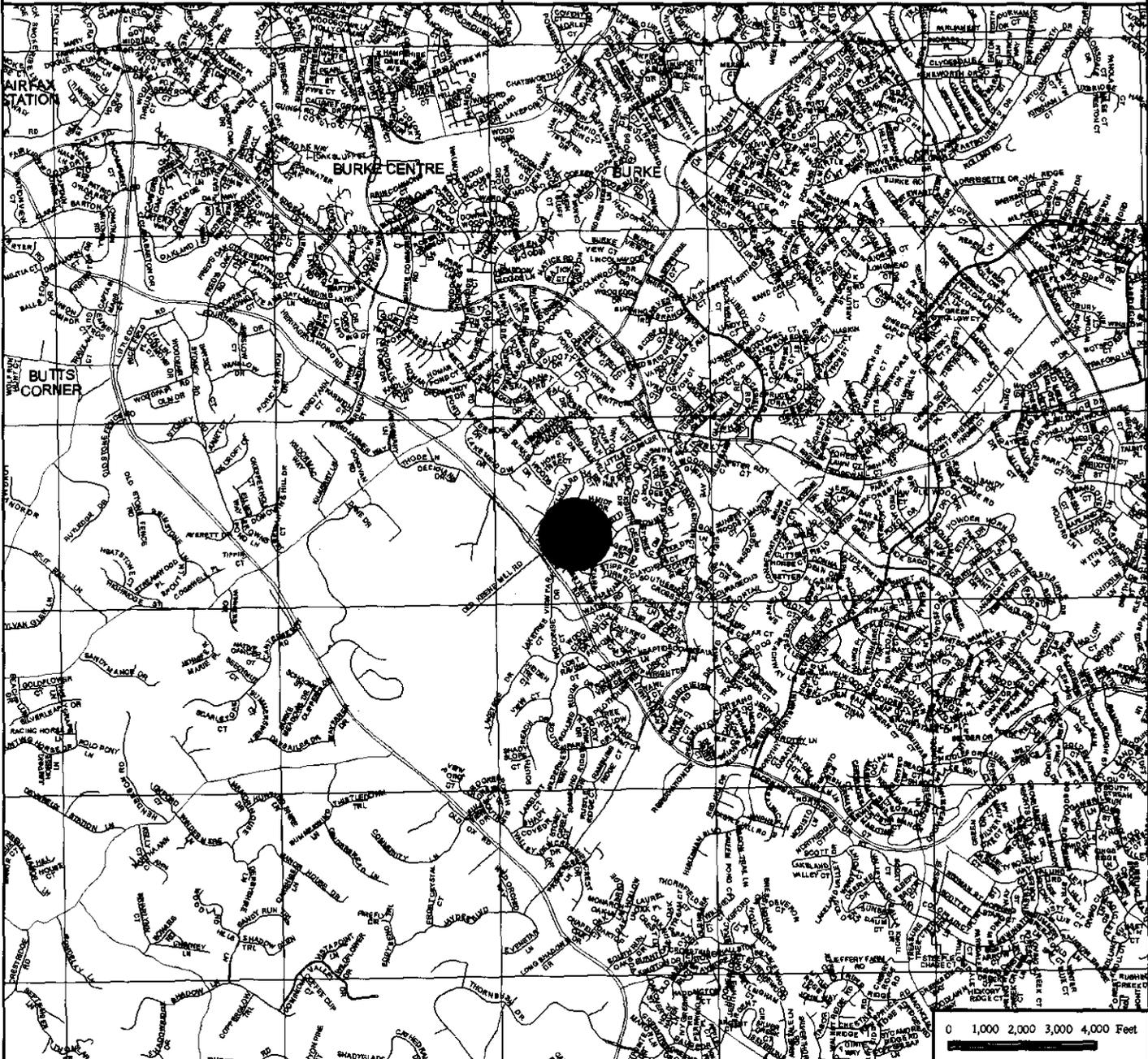
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2009-SP-013**

**Applicant:** MARY B. DULEY  
**Accepted:** 03/04/2009  
**Proposed:** ACCESSORY DWELLING UNIT  
**Area:** 9,296 SF OF LAND; DISTRICT - SPRINGFIELD



**Zoning Dist Sect:** 08-0918  
**Art 8 Group and Use:** 9-17  
**Located:** 6538 KOZIARA DRIVE  
**Zoning:** R-3  
**Overlay Dist:**  
**Map Ref Num:** 088-1- /07/ /0479A

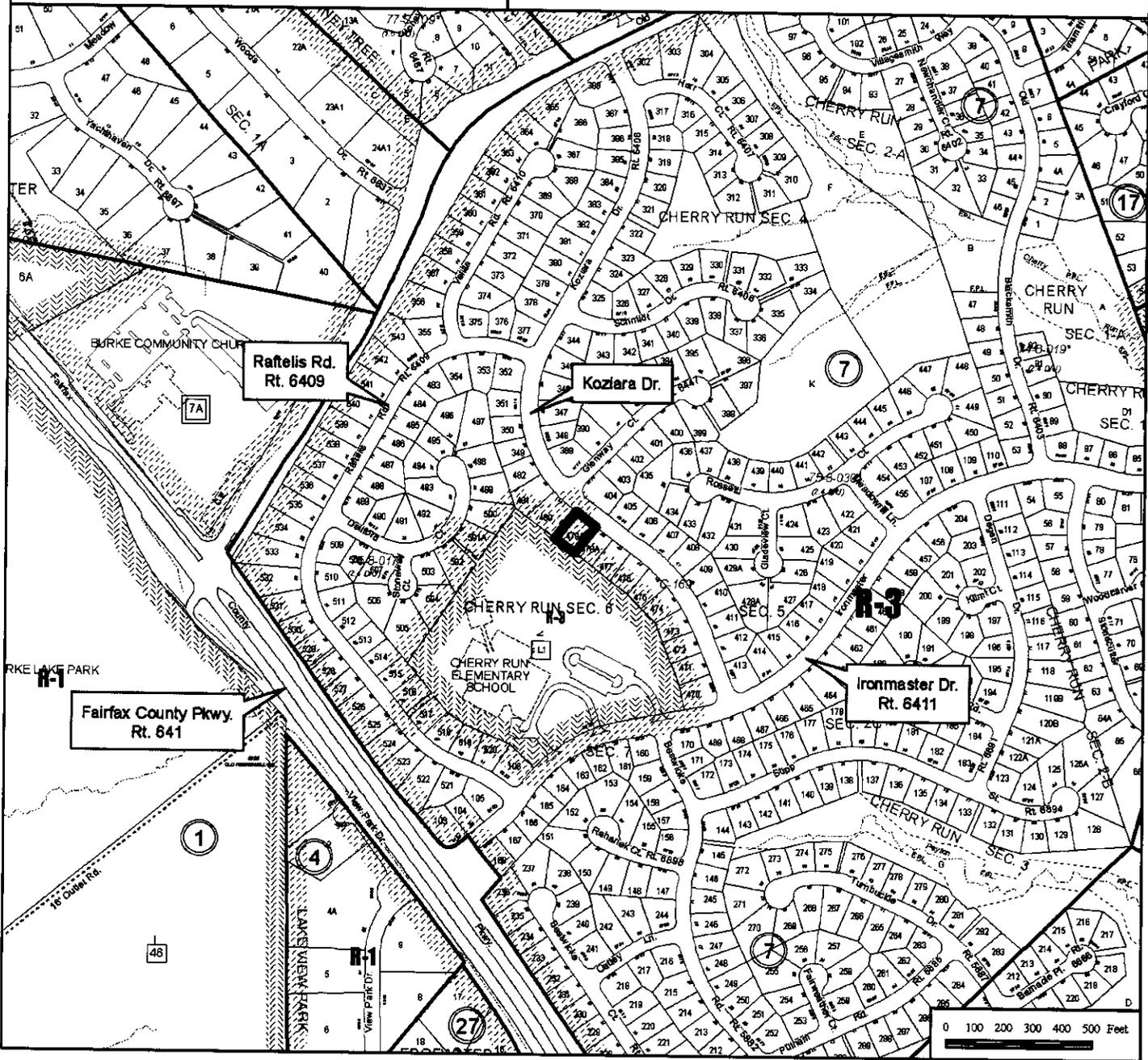


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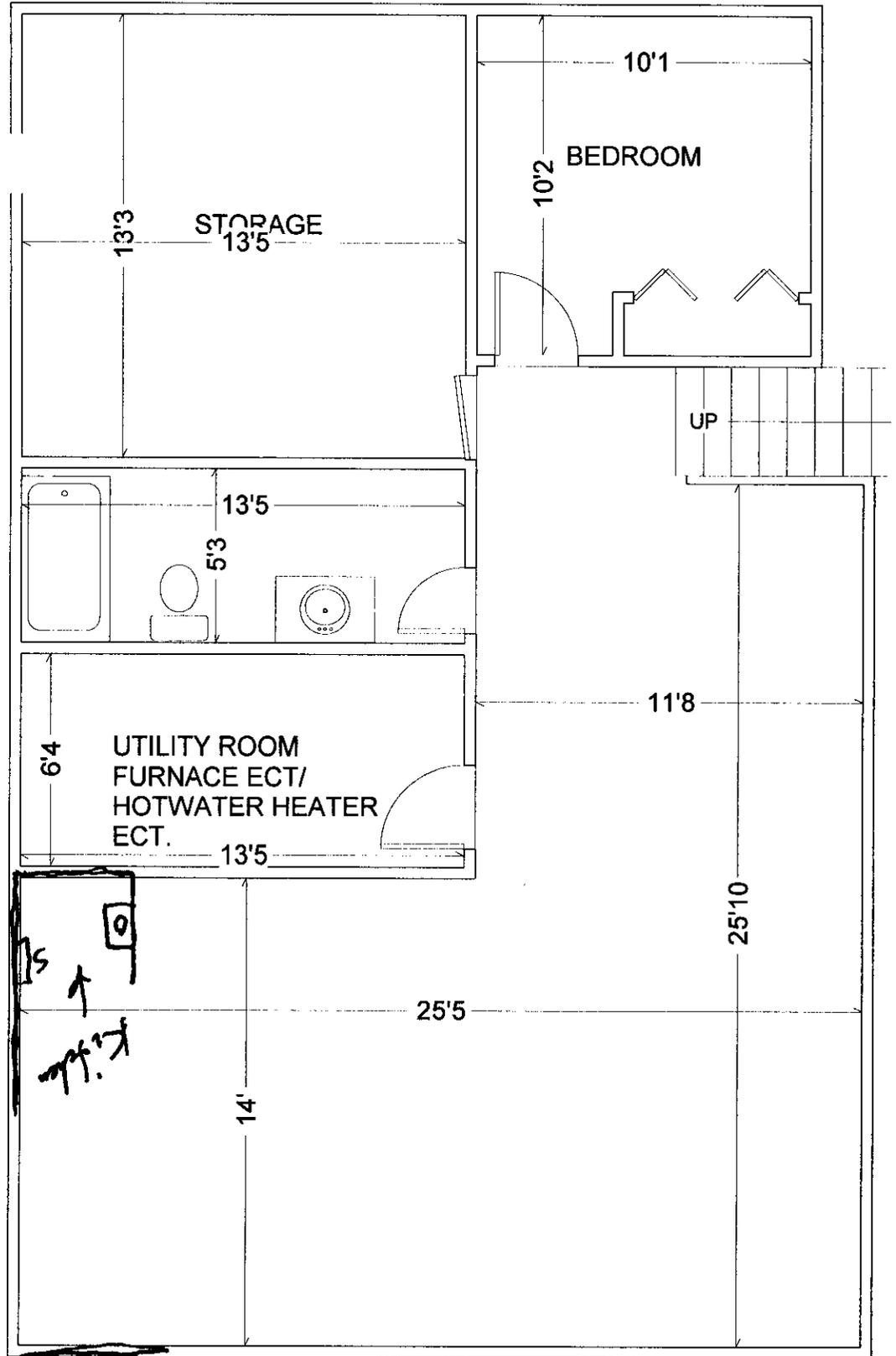


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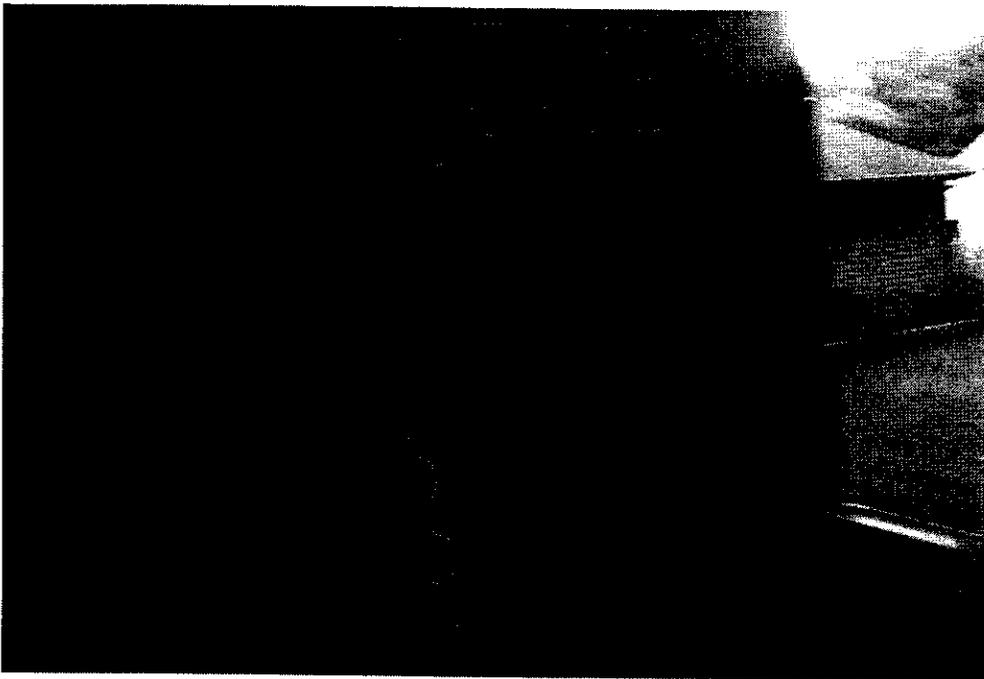
MARY DULEY  
6538 KOZIARA DRIVE  
BURKE, VA 22015



*Patio door*



#1 from middle yard of back yard



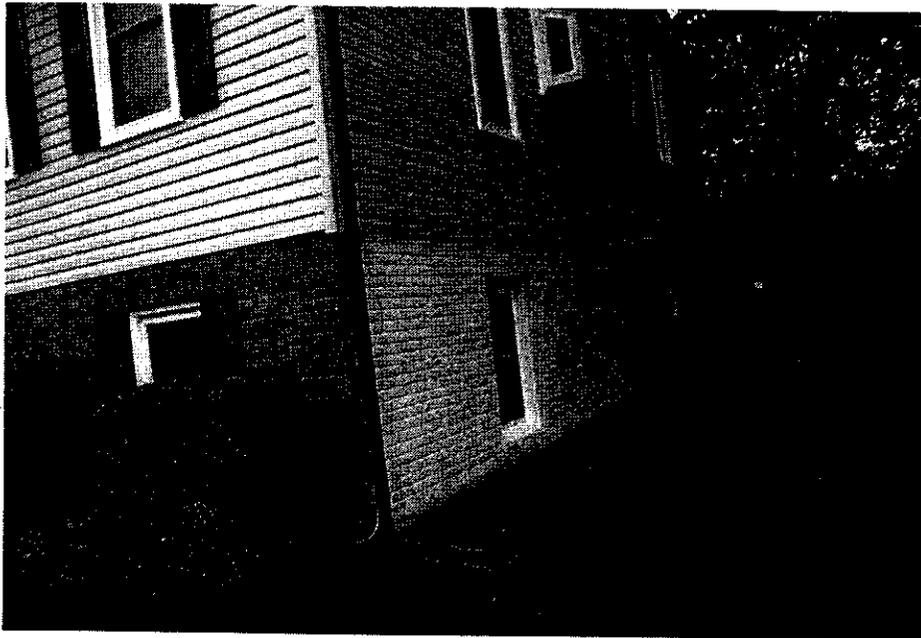
#2 from left of middle yard of back yard

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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SEP 12 2008  
Zoning Evaluation Division



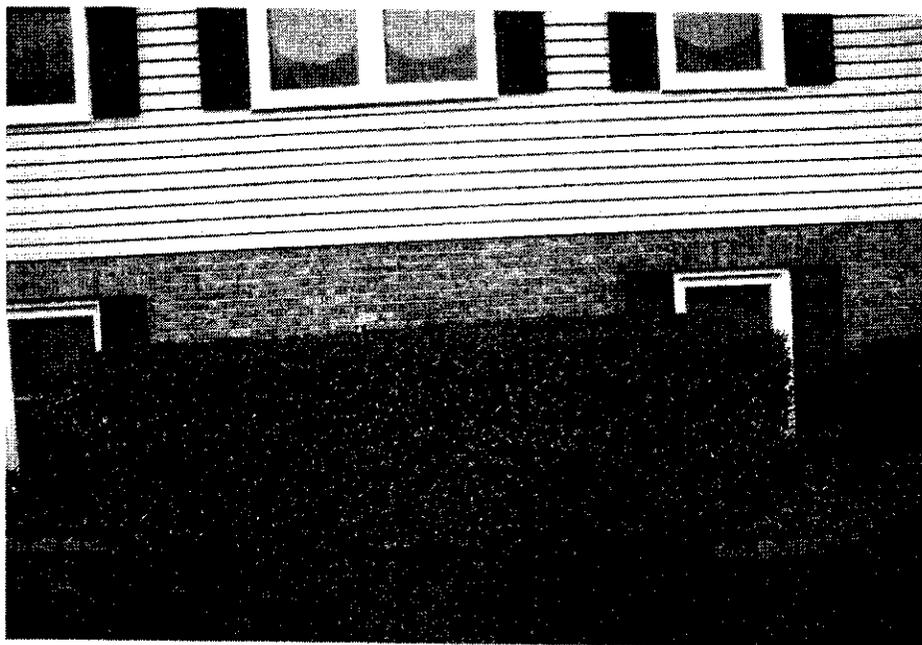
#3 from side yard of back yard



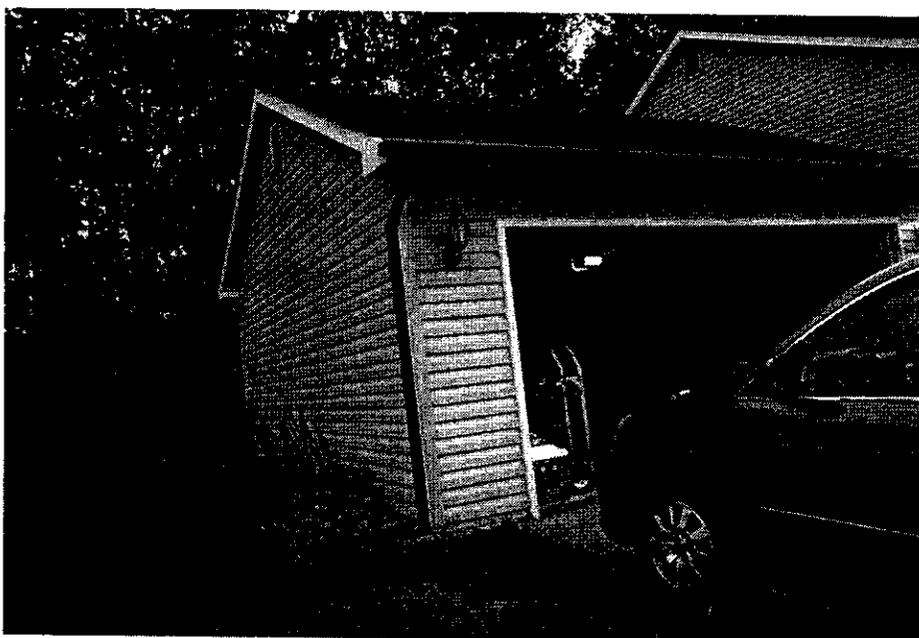
#4 from side yard of front yard

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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SEP 12 2008  
Zoning Evaluation Division



#5 from middle yard of front yard



#6 from side yard of front yard

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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SEP 12 2008  
Zoning Evaluation



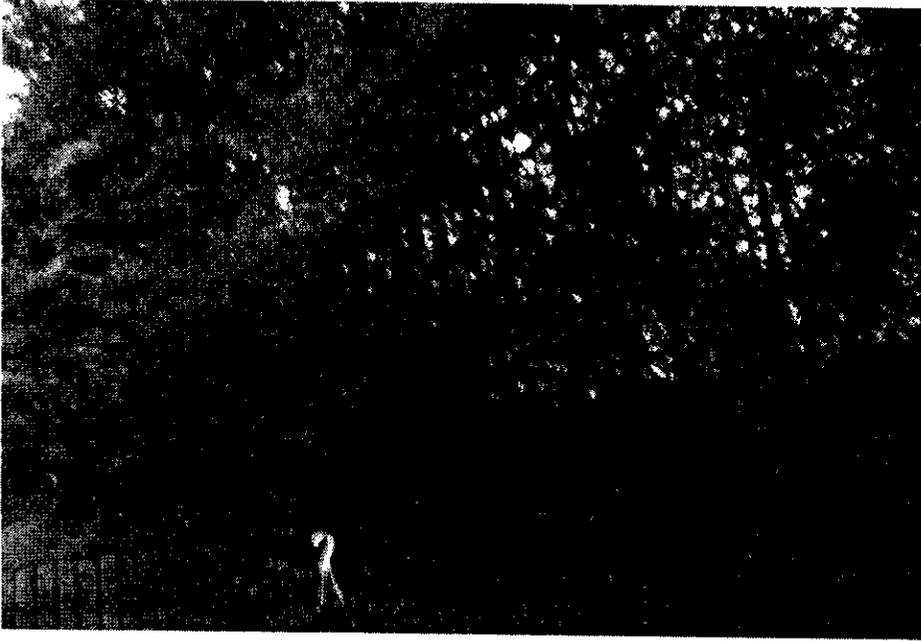
#7 from side yard of back yard



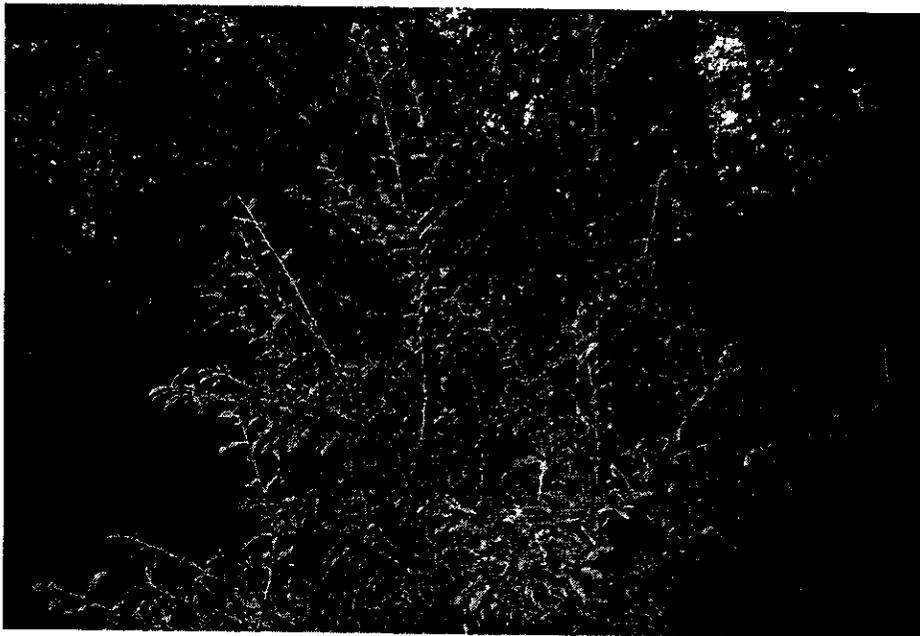
#8 from rear yard of back yard

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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SEP 12 2008  
Zoning Evaluation Division



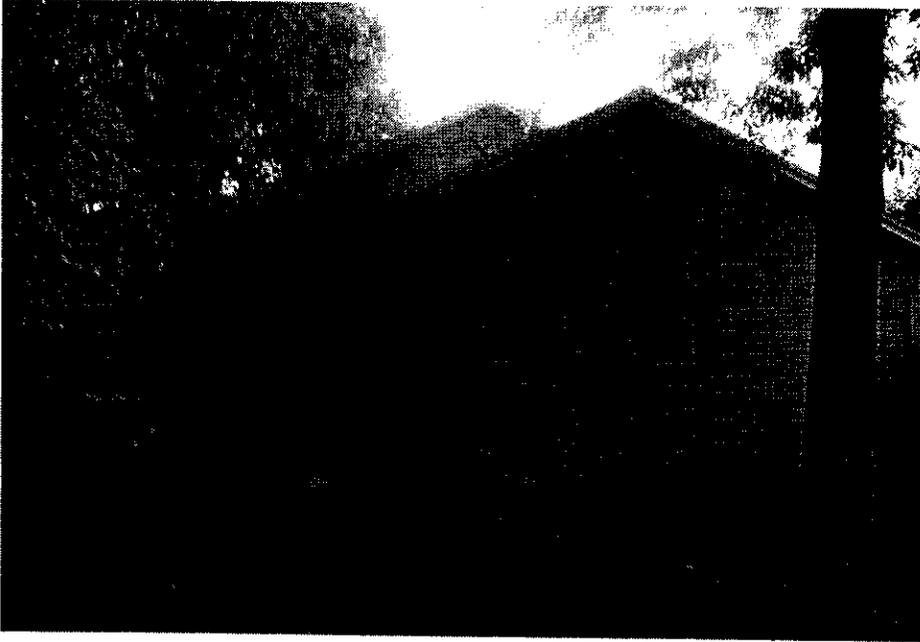
#9 from rear yard of back yard to adjacent woods



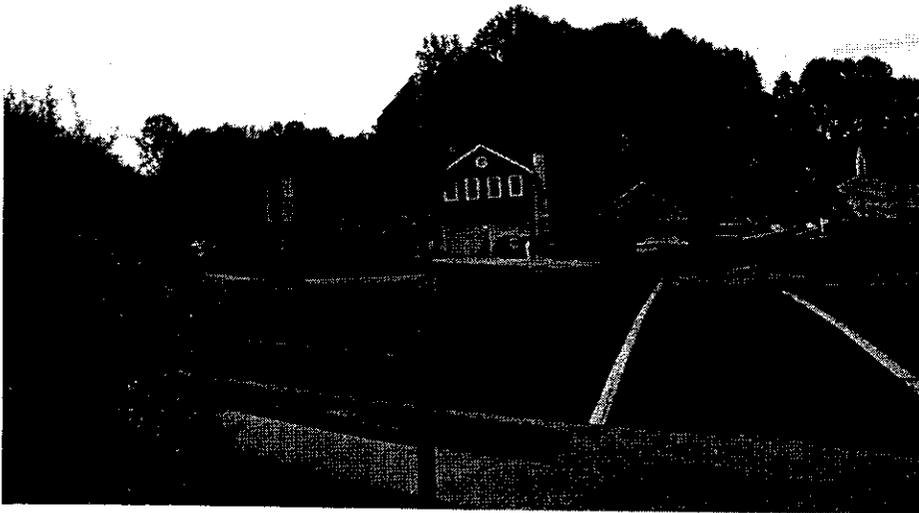
#10 from rear yard of side yard to adjacent woods

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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SEP 12 2008  
Zoning Evaluation Division



#11 from middle yard of side yard to adjacent



#12 from back of side yard of front yard to adjacent

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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Zoning Evaluation Division



#13 from middle front of front yard to adjacent



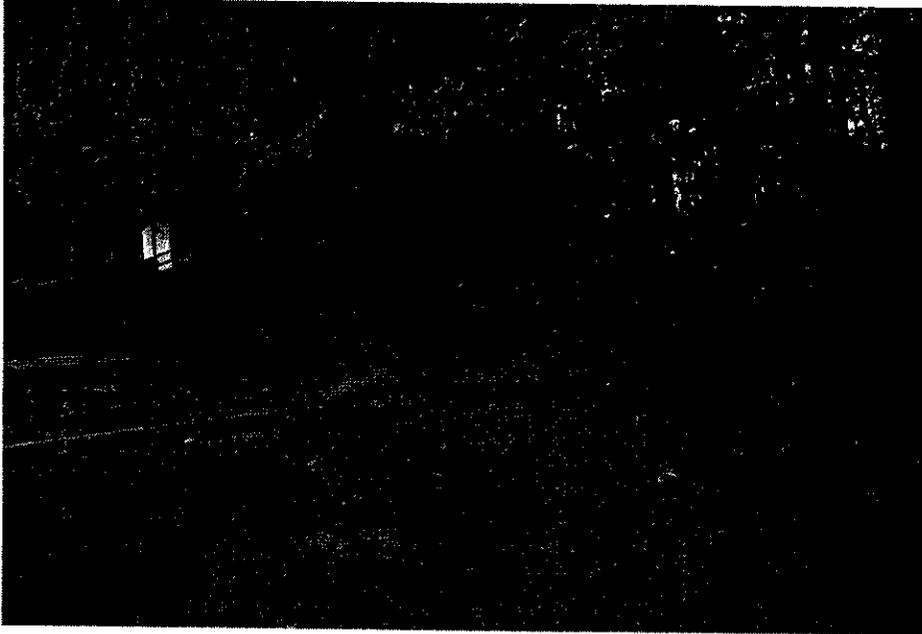
#14 from back of side yard of front yard to adjacent

6538 Koziara  
Drive Burke VA  
22015 9/11/08

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Department of Planning & Zoning  
SEP 12 2008  
Zoning Evaluation Division



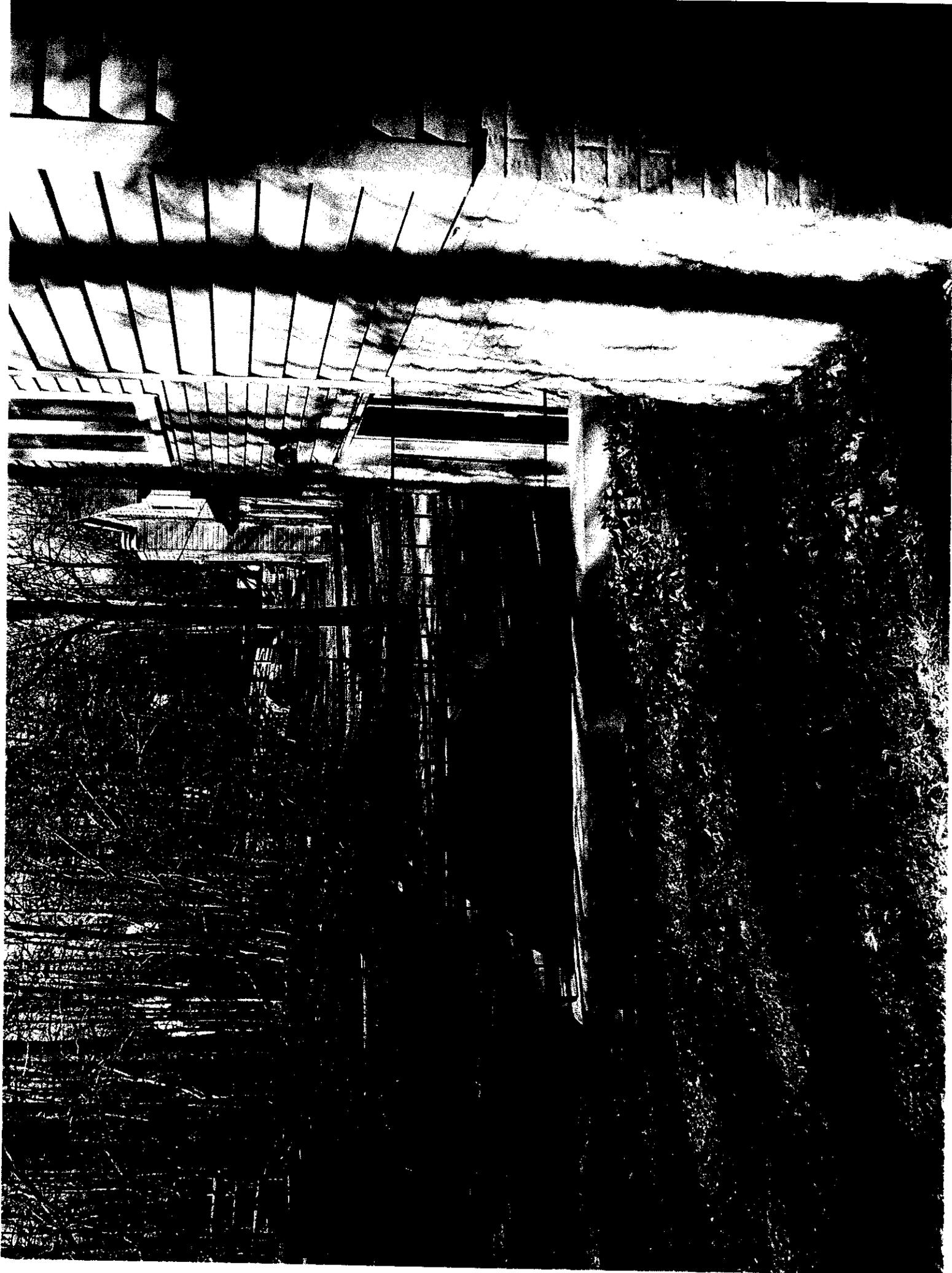
#15 from middle of side yard to adjacent

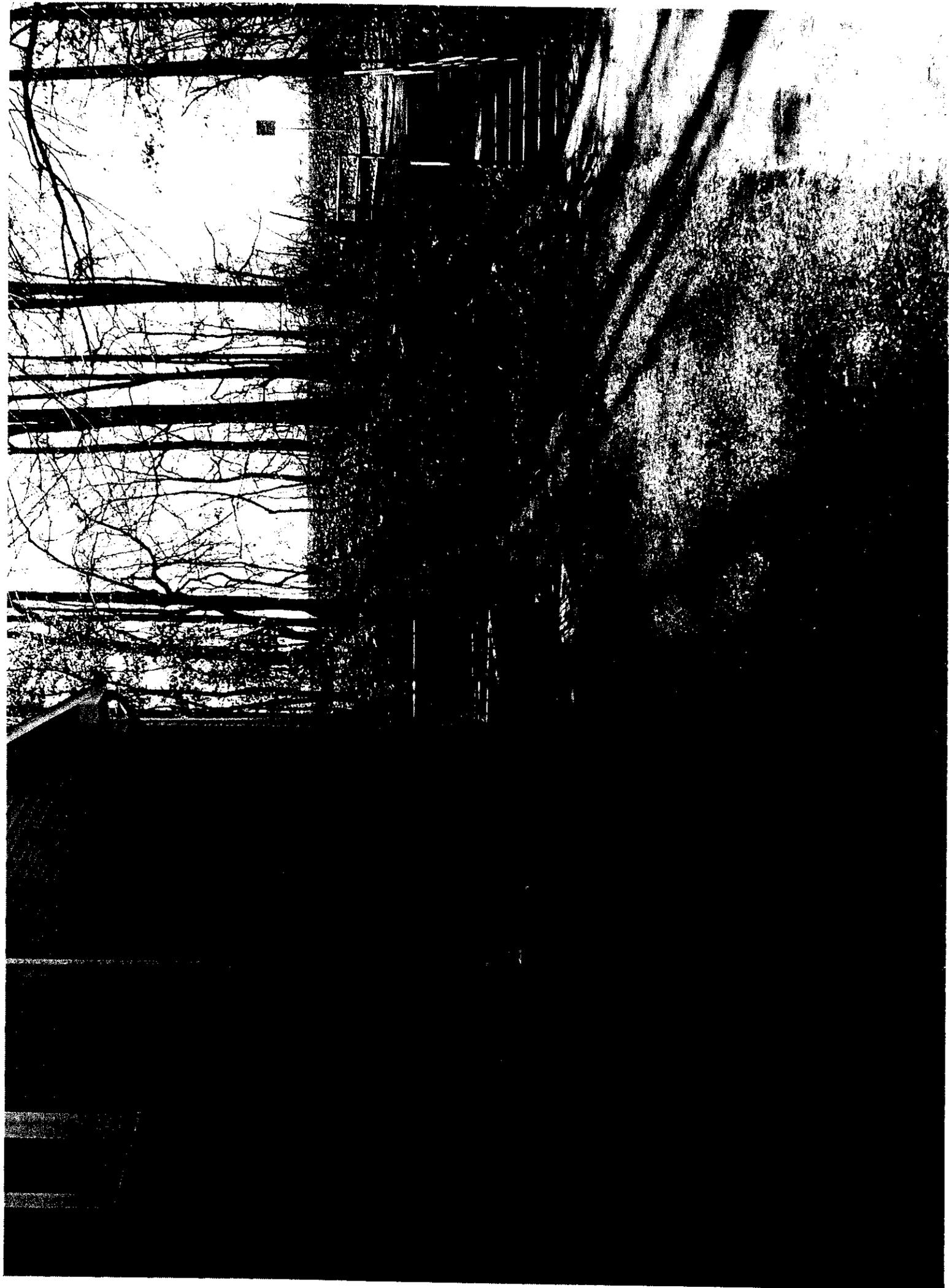


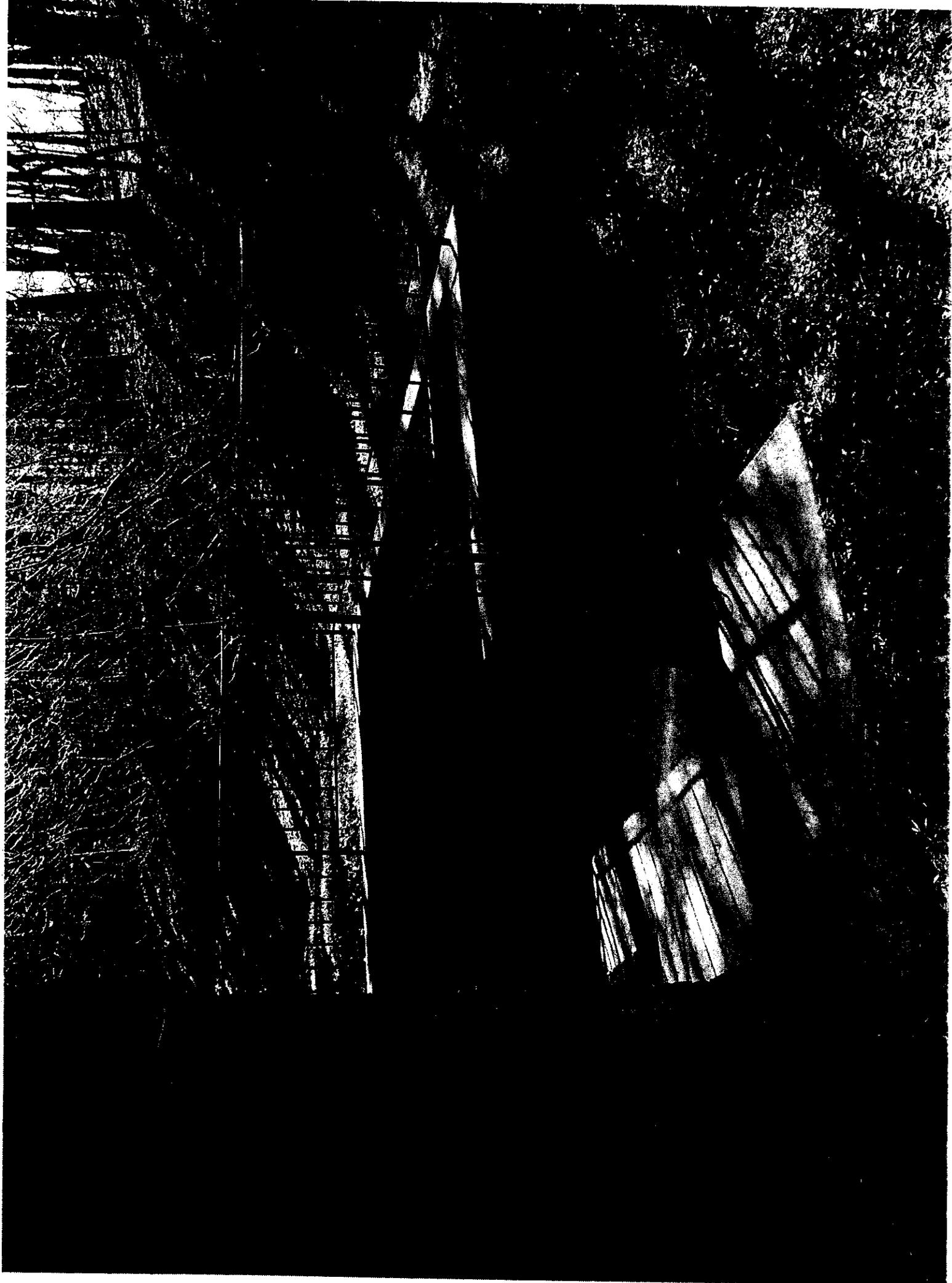
#16 from back of side yard of back yard to adjacent

6538 Koziara  
Drive Burke VA  
22015 9/11/08

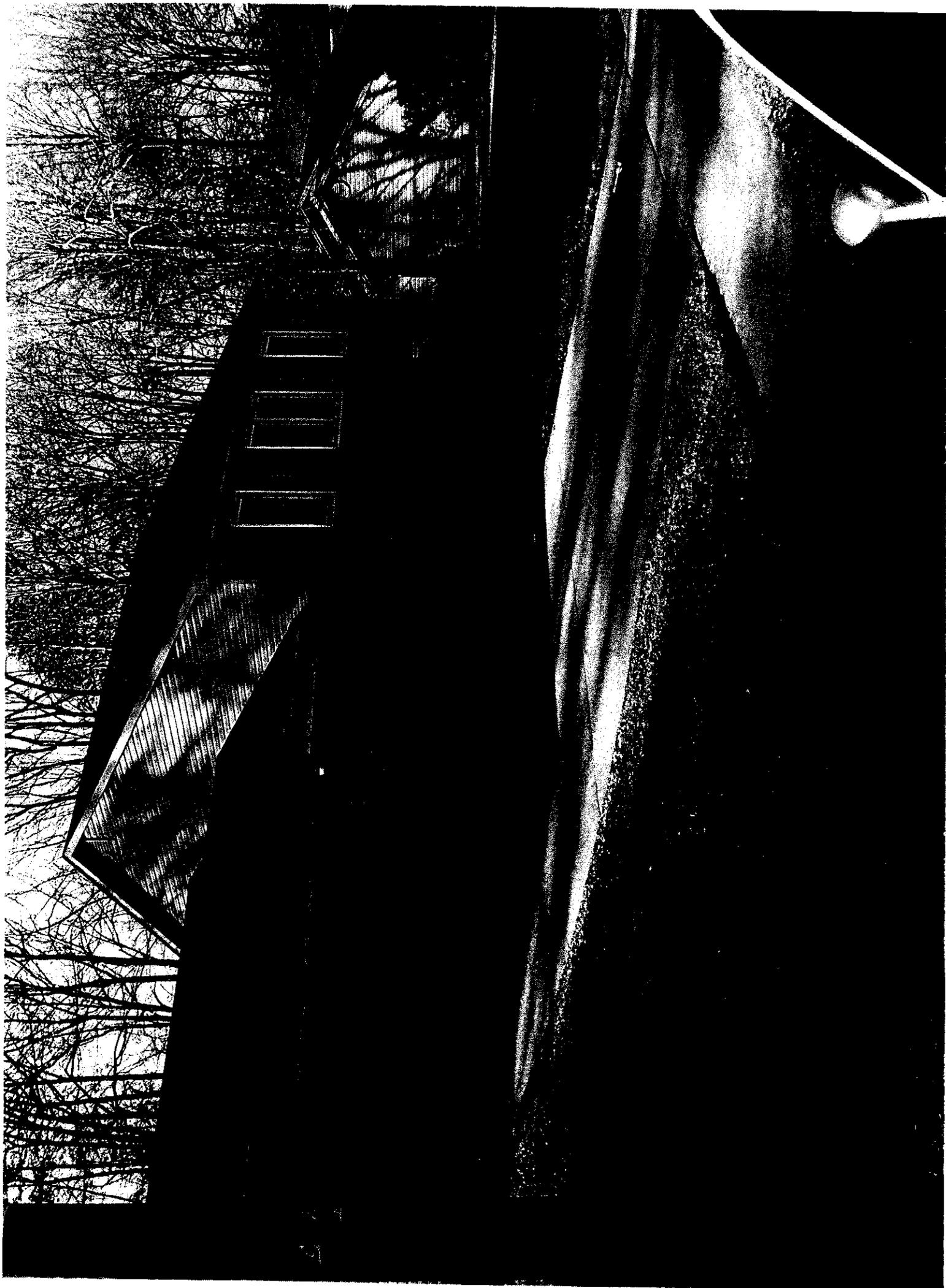
RECEIVED  
Department of  
SEP 12 2008  
Zoning Evaluation













**DESCRIPTION OF THE APPLICATION**

**Special Permit Request:** To permit an accessory dwelling unit to be located in the basement of the principle structure.

**Size of Principal Dwelling:** 2,219 square feet

**Size of Accessory Dwelling Unit:** 724 square feet (Lower level is 987 sq. ft.)

**Lot Size:** 9,296 square feet

**LOCATION AND CHARACTER**

**Existing Site Description:** The 9,296 square foot lot is developed with a one-story, single family detached dwelling, with a finished basement apartment. Vehicular access is provided via a paved driveway from Koziara Drive. The driveway extends from an existing two car garage and is able to accommodate two vehicles. A separate external entrance to the basement is located at the rear of the house on the north side where an existing concrete patio is located. The subject property is directly adjacent to open space for an elementary school in the rear which is buffered by dense woods.

**Surrounding Area Description:**

Direction	Use	Zoning
North	Single Family Dwellings	R-3 Cluster
South	School of General Education	R-3 Cluster
East	Single Family Dwellings	R-3 Cluster
West	Single Family Dwellings	R-3 Cluster

**BACKGROUND**

**Site History**

County records indicate that the dwelling was originally constructed in 1981 with a one story with full basement single family detached dwelling.

The BZA has not heard any other similar cases in the neighborhood.

## COMPREHENSIVE PLAN PROVISIONS

**Plan Area:** Pohick Planning District; Area III  
**Planning Sector:** Middle Run Community Planning Sector (P6)  
**Plan Map:** Residential, 2-3 du/ac

## ANALYSIS

### Special Permit Plat (Copy at front of staff report)

**Title of SP Plat:** House Location, Lot 479A, Section 5, Cherry Run, Springfield District, Fairfax County, Virginia

**Prepared By:** Dewberry & Davis

**Dated:** January 27, 1981, stamped through November 3, 1991

### Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit. The lower level of the principle dwelling consists of 987 square feet, of which 724 square feet will be utilized for the accessory dwelling unit. The accessory dwelling unit includes one bedroom, one bathroom, a living room area and a full kitchen; thus comprising 32.6 percent of the total square feet in the dwelling. A storage room and utility closet which are not part of the accessory dwelling unit are also located on this level. The applicant is 69 years old and currently resides at the residence with her daughter and her family. She wishes to create a mother-in-law suite for herself in the existing basement by constructing a kitchen. No exterior modifications to the site are proposed.

### Land Use Analysis

The Comprehensive Plan recommends residential uses with a density of 2-3 dwelling units per acre. In staff's opinion, 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 PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-3 Zoning District.

## **OTHER ZONING ORDINANCE REQUIREMENTS**

### **Special Permit Requirements (See Appendix 4)**

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

### **Summary of Zoning Ordinance Provisions**

All applicable standards for the accessory dwelling unit have been satisfied with the proposed development conditions.

## **CONCLUSIONS**

Staff concludes that the subject application for an accessory dwelling unit is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report.

## **RECOMMENDATIONS**

Staff recommends approval subject to the Proposed Development Conditions 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 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.

## **APPENDICES**

1. Proposed Development Conditions with Attachment 1
2. Affidavit
3. Statement of Justification
4. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2009-SP-013****May 5, 2009**

If it is the intent of the Board of Zoning Appeals to approve SP 2009-SP-013 located at Tax Map 88-1 ((7)) 479A, to permit an accessory dwelling unit under Section 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

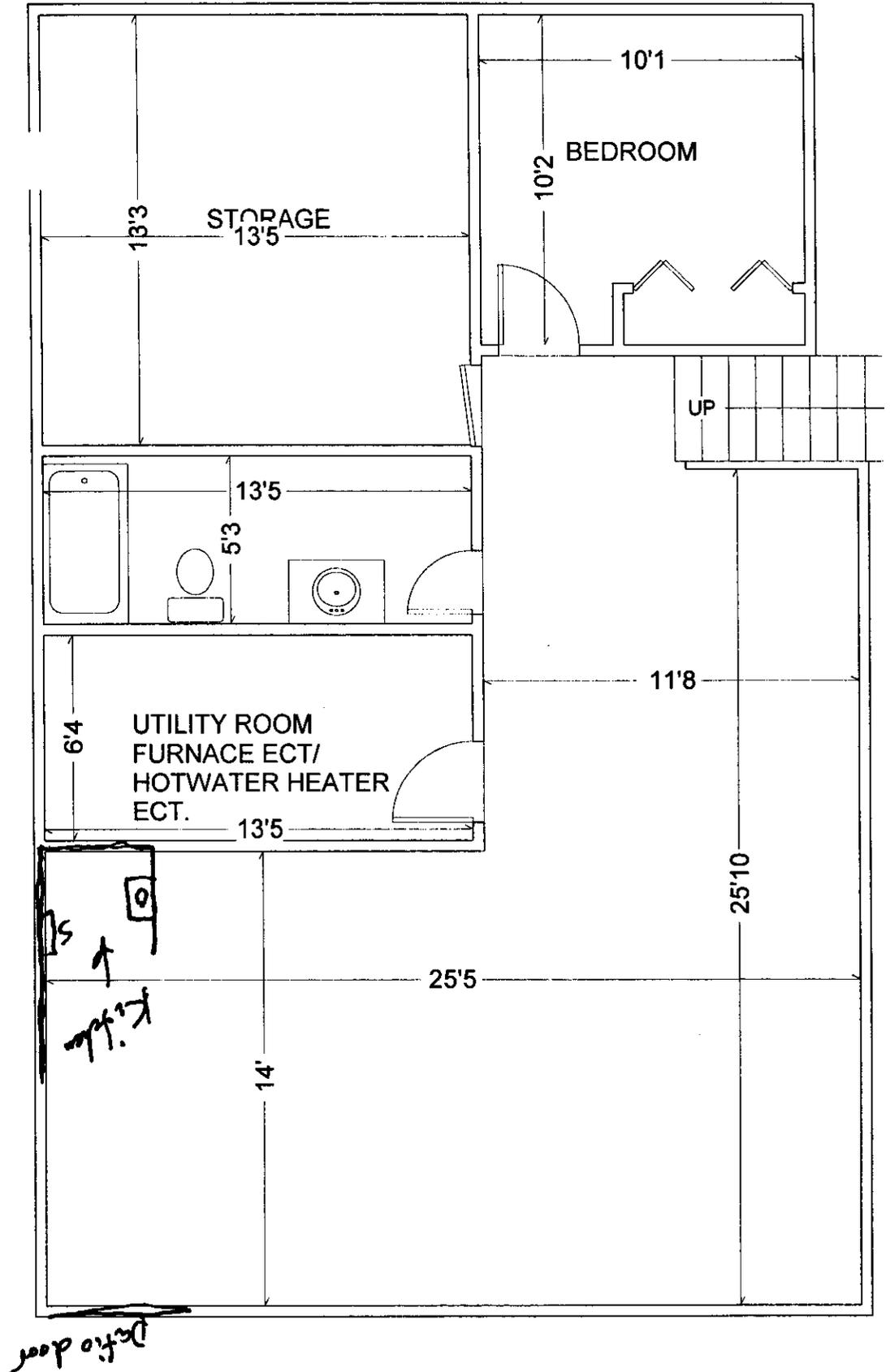
1. This approval is granted to the applicant only, Mary B. Duley, and is not transferable without further action of this Board, and is for the location indicated on the application, 6538 Koziara Drive (9,296 square feet), and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structures and/or use(s) indicated on the house location survey plat prepared by Dewberry & Davis dated January 27, 1981, stamped through November 3, 1991, 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 724 square feet, including a maximum of one bedroom as shown on Attachment 1.
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. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit.

10. 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. 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.

MARY DULEY  
6538 KOZIARA DRIVE  
BURKE, VA 22015



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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: SEPTEMBER 26 2008  
 (enter date affidavit is notarized)

I, Mary B. Duley, 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 101688a

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 <b>BOLD</b> above)
Mary B. Duley	6538 Koziana Dr. Burke VA 22015	Applicant/Title Owner
Steve Endress	8934 Burke Lake Road Springfield VA 22151	Agent
Nicely Done Kitchens, LLC	8934 Burke Lake Rd Springfield VA 22151	Agent

(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: SEPTEMBER 26 2008  
(enter date affidavit is notarized)

101688a

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)

Nicely Done Kitchens, LLC  
8934 Burke Lake Road  
Springfield VA 22151

**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)

Evelyn R. Nicely  
Kip W. Nicely

(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: SEPTEMBER 26 2008.  
(enter date affidavit is notarized)

101688a

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)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: SEPTEMBER 26 2008  
(enter date affidavit is notarized)

101688a

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: SEPTEMBER 26 2008 101688a  
(enter date affidavit is notarized)

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

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

None

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

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

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

WITNESS the following signature:

(check one) Mary B. Duley  
[  ] Applicant [  ] Applicant's Authorized Agent

MARY B. DULEY -  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 26 day of SEPTEMBER 2008, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

Joe M. [Signature]  
Notary Public

My commission expires: JUNE 30 2011



Mary Duley  
6538 Koziara Drive  
Burke, VA 22015

### **Special Permit Statement of Justification**

I am applying for an accessory dwelling unit that will be located in my single family detached dwelling unit. I am a 69 year-old county resident who resides with my daughter and her family in the home I have owned and lived in for the past 25 years. There will be no additional external entrances. The proposed dwelling area measures 350 sq. ft. while the principal dwelling unit measures 1,232 sq. ft.

I would like to remodel part of my living space to include a small kitchen with an oven, dishwasher, and sink. An accessory structure in the front yard does not apply. The house was built in 1981 and the setbacks are: front yard 20', side yard 8' total of 20' and rear yard 25'. The new construction is compatible with the existing structure as very few interior modifications will be made. The construction will not cause and adverse impact on the adjacent properties since the modifications will be to the interior and no additional people will be residing in the home than are presently living there.

RECEIVED  
Department of Planning & Zoning  
SEP 12 2008  
Zoning Evaluation

Special Permit Statement of Justification

Updated 1/28/09

This special permit is being applied for in order to build an accessory dwelling unit of a mother-in-law suite in my basement. I am a 69 year-old county resident who resides with my daughter and her family in the home I have owned and lived in for the past 25 years. I would like to remodel part of my living space in order to include a small kitchen with an oven. There will be no additional external entry points. The proposed dwelling area measures 350 sq. ft. and *includes one bedroom. ONE person will reside in this space.* The principal dwelling unit measures 1,232 sq. ft. This space will not be rented out and is not intended for any more people to reside in my home than already do. The modifications are all internal and will have no effect on neighboring houses.

*Mary Huley*

RECEIVED  
Department of Planning & Zoning  
FEB 11 2009  
Zoning Evaluation Division

**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.

**8-918**

**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.