



APPLICATION ACCEPTED: September 18, 2008
BOARD OF ZONING APPEALS: June 23, 2009
ADMINISTRATIVELY MOVED AT APPLICANT'S REQUEST
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 16, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2008-MV-086

MOUNT VERNON DISTRICT

APPLICANTS/OWNERS: Geoffrey S. Deas
Edna C. Rosario-Munoz

STREET ADDRESS: 2002 Basset Street

SUBDIVISION: Stratford Landing

TAX MAP REFERENCE: 111-1 ((3)) (10) 9

LOT SIZE: 11,919 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914 and 8-917

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit open deck to remain 1.8 feet from side lot line and to permit modification to the limitations on the keeping of animals.

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

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

O:\dhedr\Special Permits(12-2) SP 2008-MV-086 Deas & Rosario-Munoz\SP 2008-MV-086 Deas & Rosario-Munoz staff report.doc

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

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/



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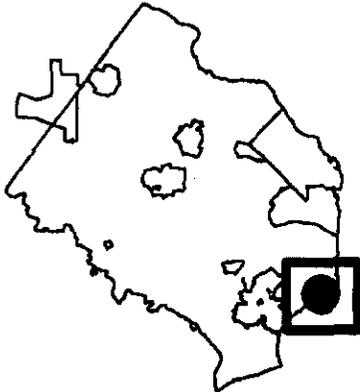
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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



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

Special Permit

SP 2008-MV-086



Applicant:

GEOFFREY S. DEAS AND EDNA C. ROSARIO-MUNOZ

Accepted:

09/18/2008

Proposed:

TO PERMIT MODIFICATIONS TO THE LIMITATIONS ON THE KEEPING OF ANIMALS AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT OPEN DECK TO REMAIN 1.8 FEET FROM SIDE LOT LINE

Area:

11,919 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-091408-0917

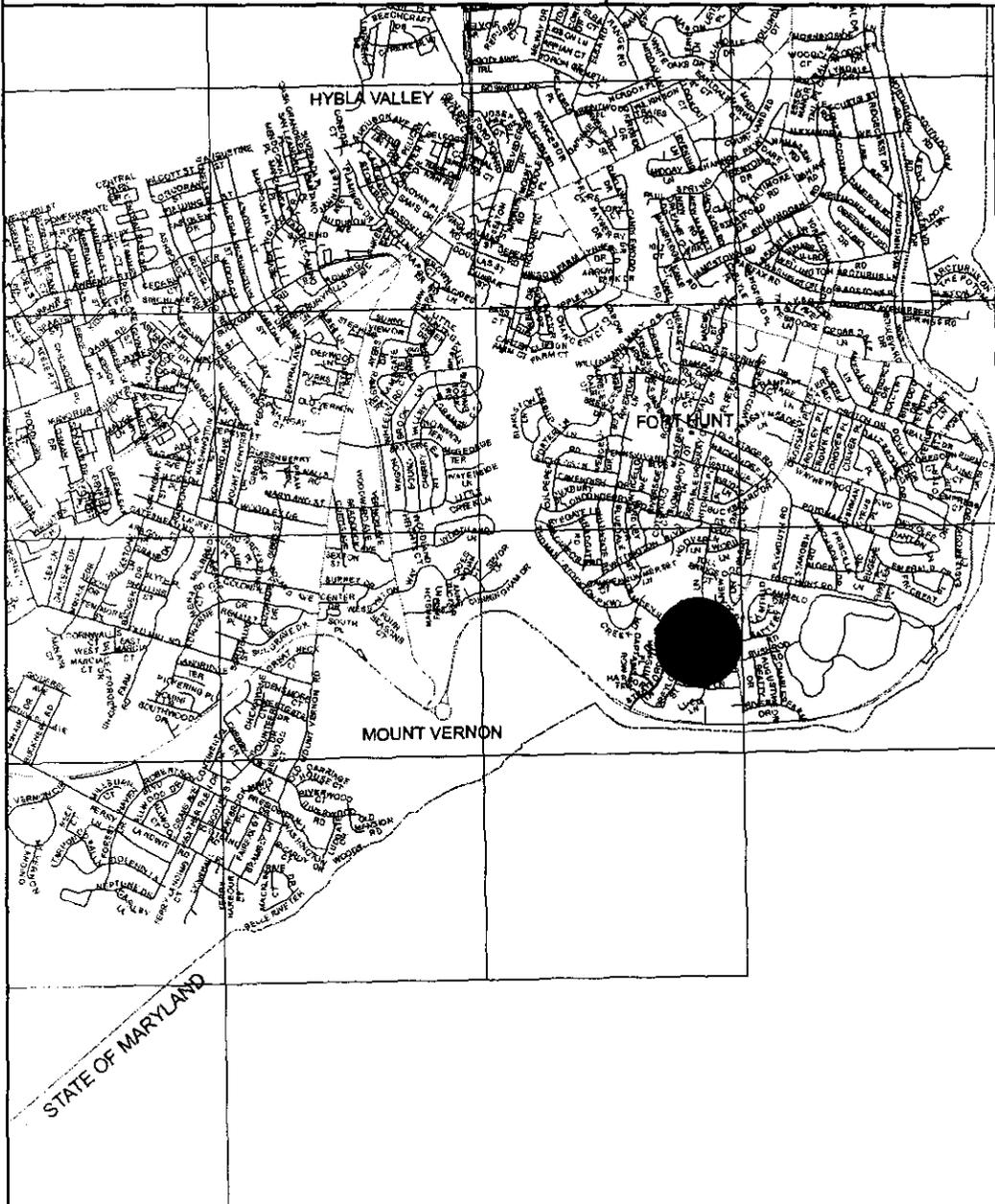
Art 8 Group and Use: 9-13 9-16

Located: 2002 BASSET STREET

Zoning: R- 3

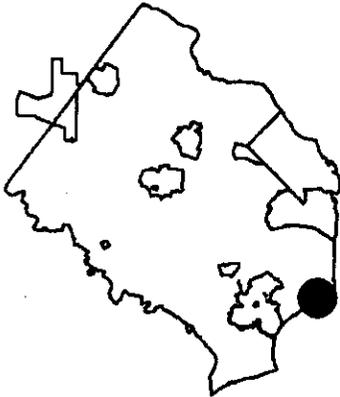
Overlay Dist:

Map Ref Num: 111-1- /03/10/0009



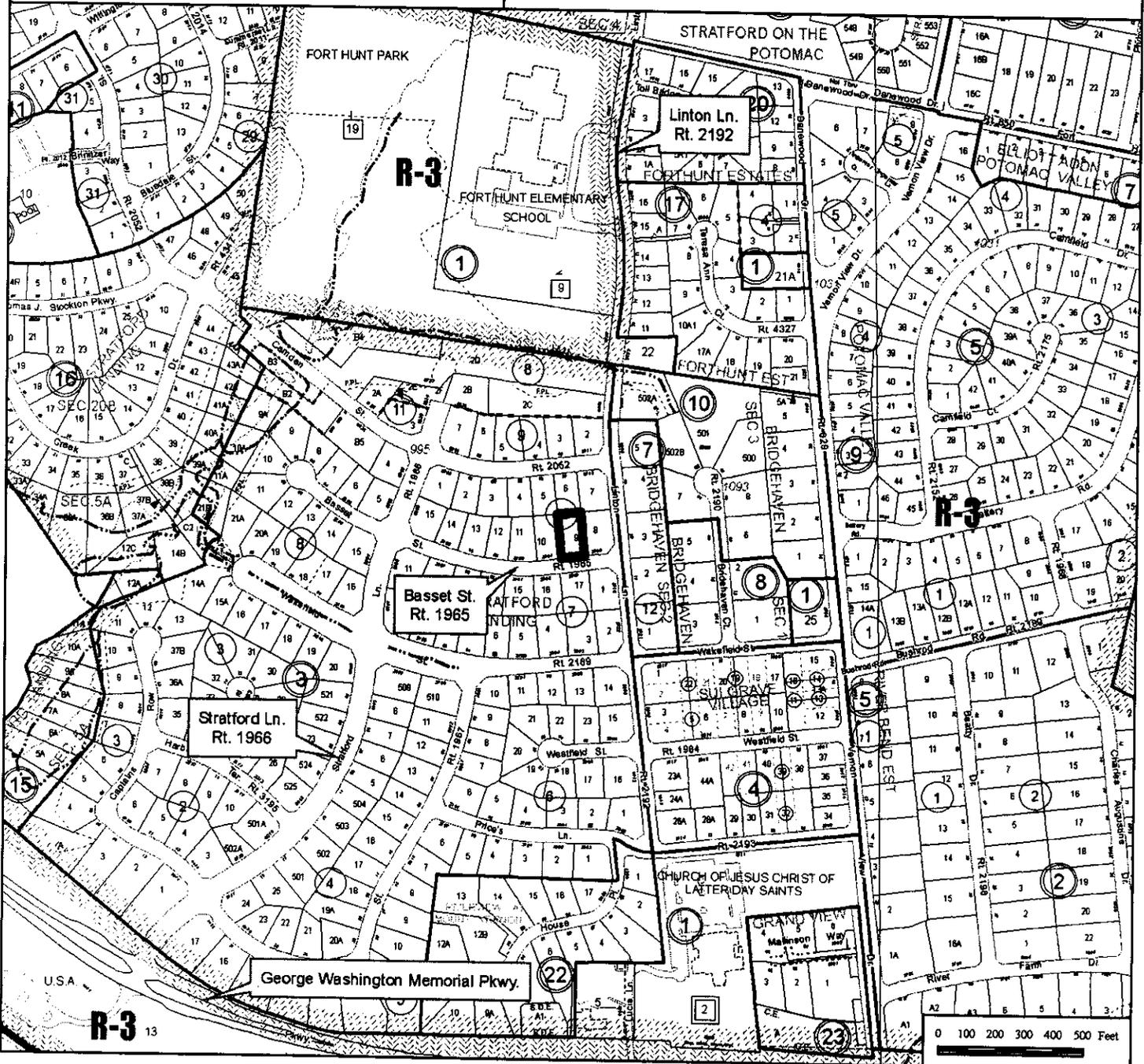
0 1,000 2,000 3,000 4,000 Feet

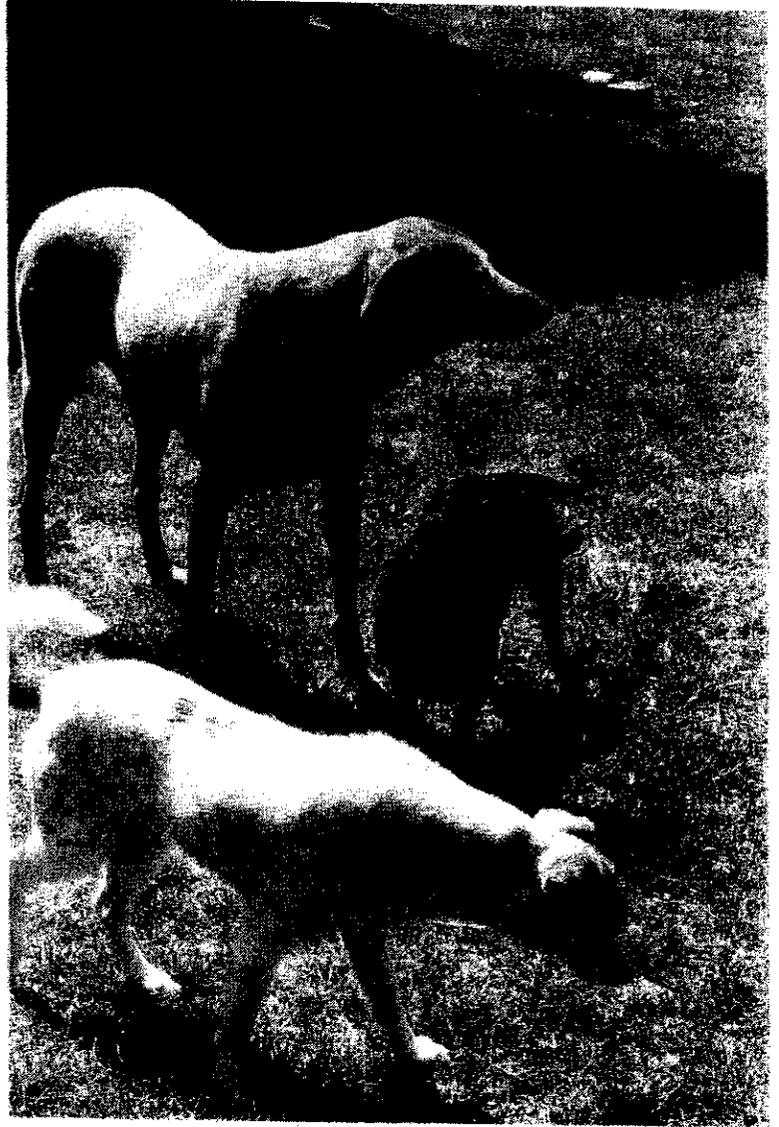
Special Permit
SP 2008-MV-086



Applicant: GEOFFREY S. DEAS AND EDNA C. ROSARIO-MUNOZ
Accepted: 09/18/2008
Proposed: TO PERMIT MODIFICATIONS TO THE LIMITATIONS ON THE KEEPING OF ANIMALS AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT OPEN DECK TO REMAIN 1.8 FEET FROM SIDE LOT LINE

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Zoning Dist Sect: 08-091408-0917
Art 8 Group and Use: 9-13 9-16
Located: 2002 BASSET STREET
Zoning: R-3
Overlay Dist:
Map Ref Num: 111-1- /03/10/0009





DOGS

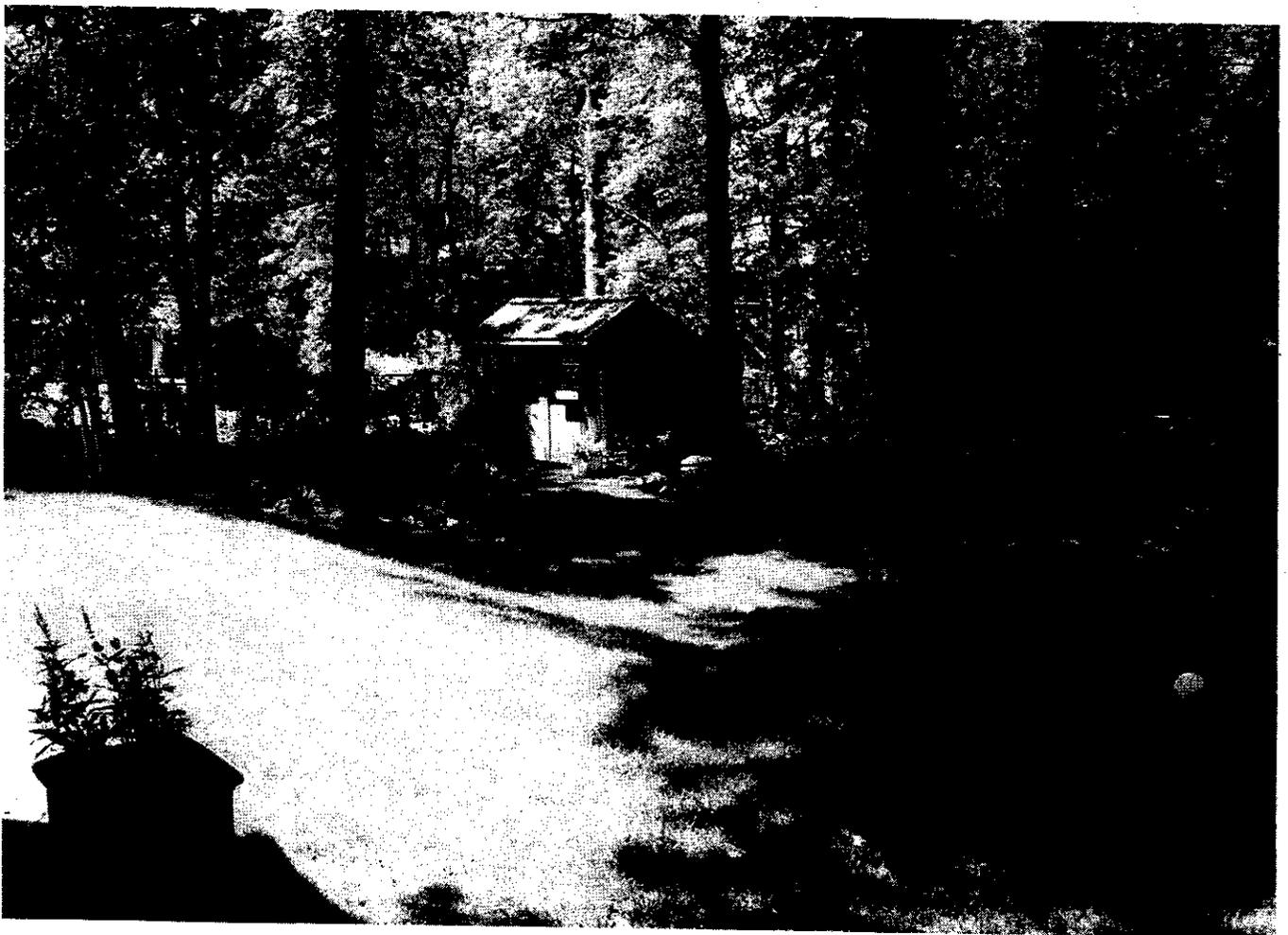
Pili - Brown

Nuki - White

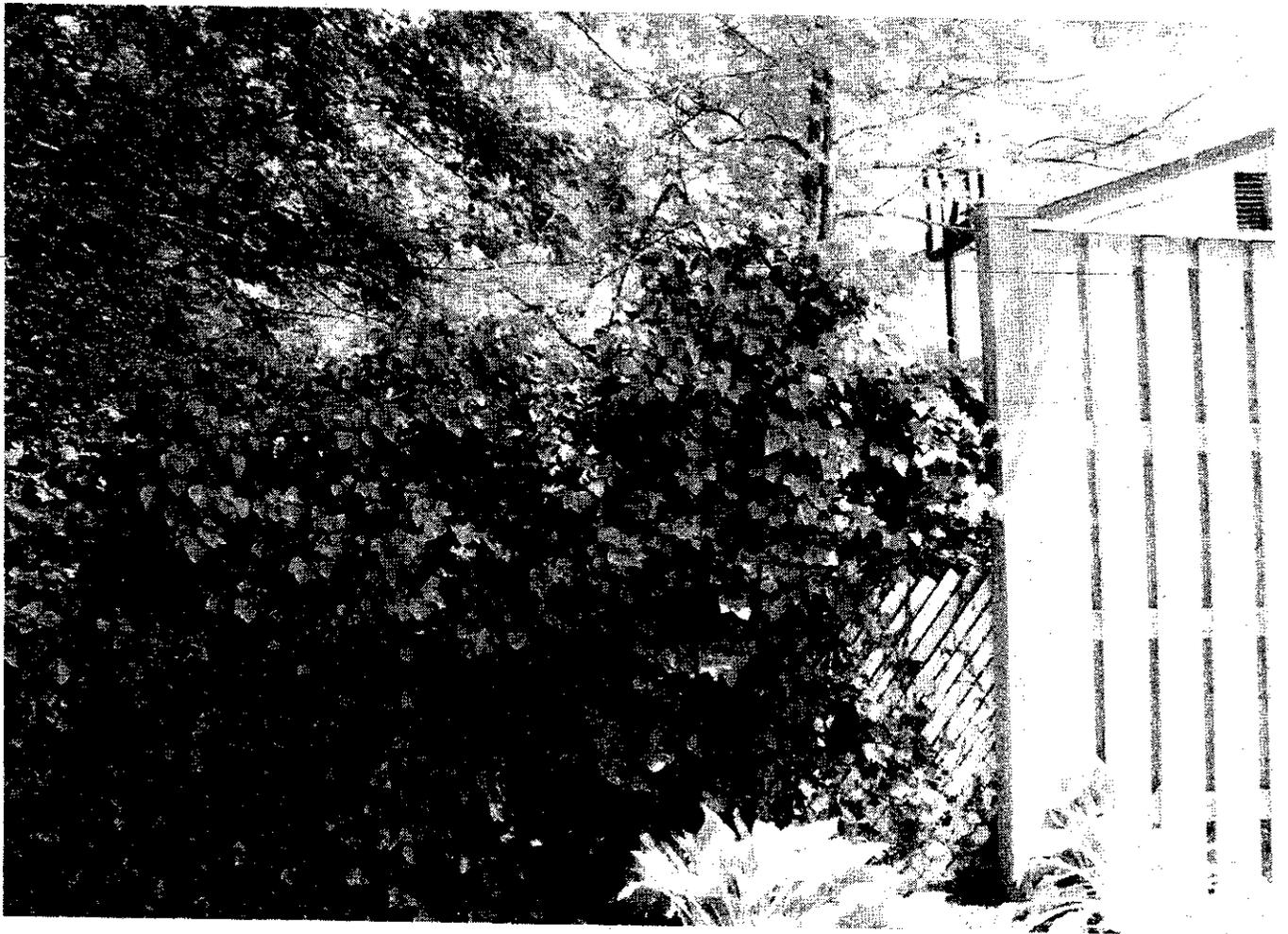
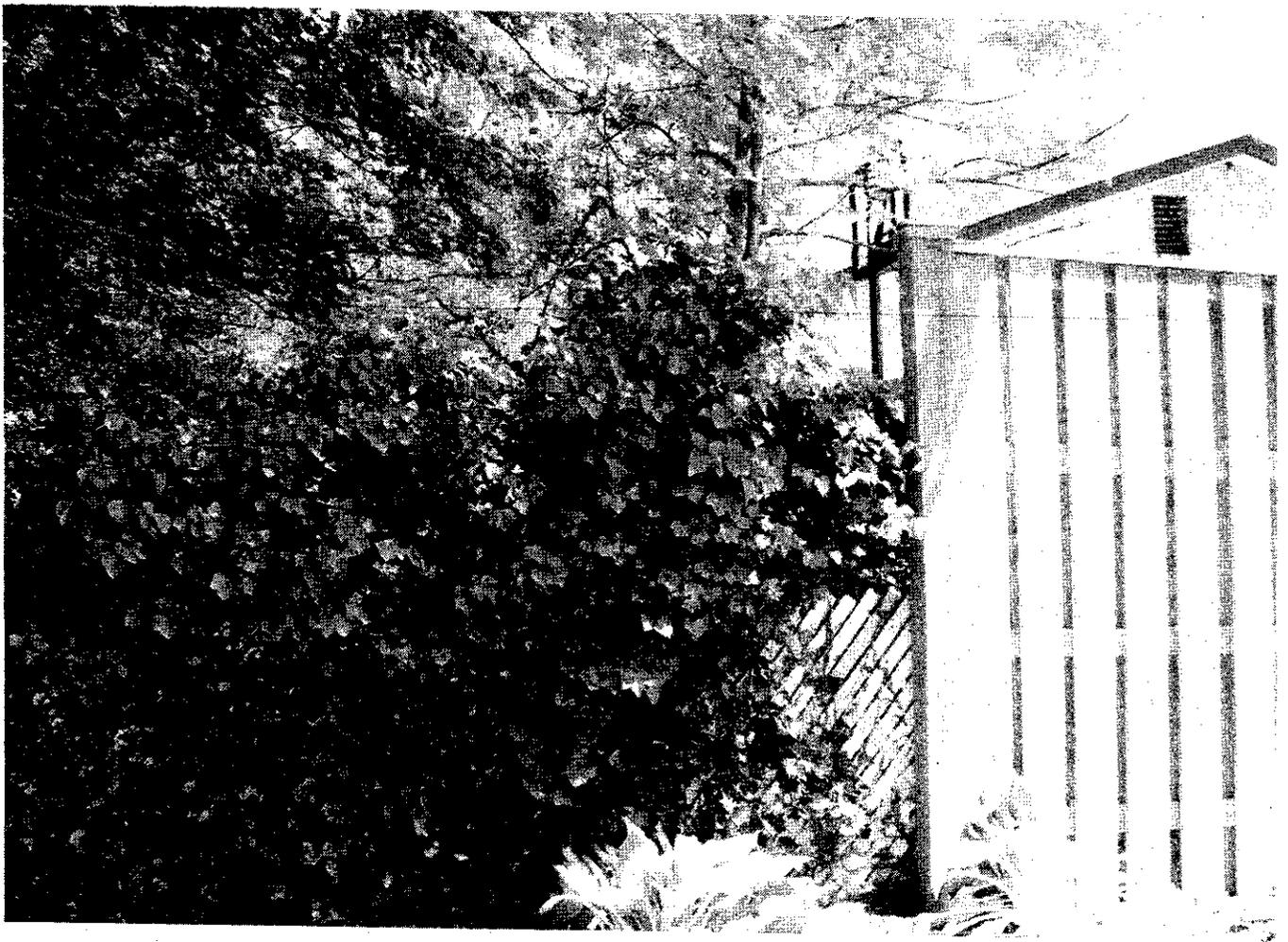
Don Tito - Black/Tan



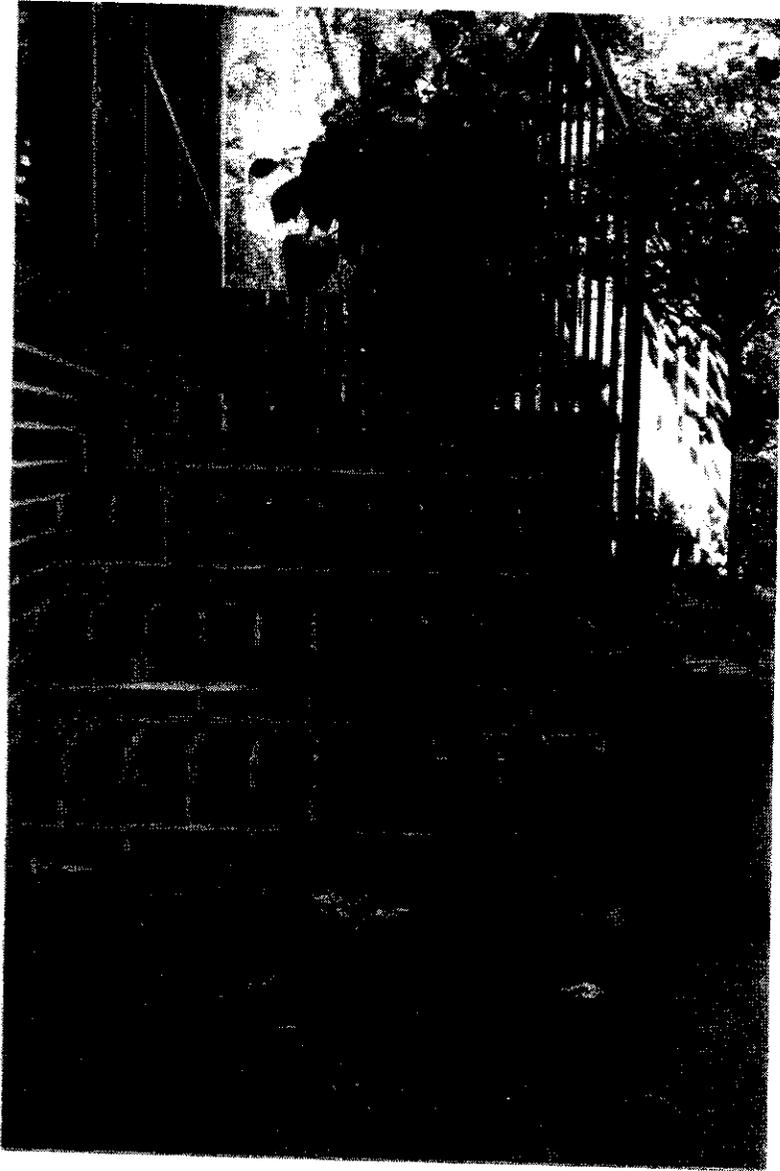












DESCRIPTION OF THE APPLICATION

Description of Error in Building Location

To permit reduction to minimum yard requirements based on error in building location to permit an open deck, at grade patio, to remain 1.8 feet from the eastern side lot line.

	Structure	Yard	Minimum Yard Required*	Permitted Extension	Minimum Yard Permitted	Structure Location	Amount of Error	Percent of Error
Special Permit	Deck	Side	12.0 feet	5.0 feet	7.0 feet	1.8 feet	5.2 feet	74%

*Minimum yard requirement per Section 3-307

Description of Keeping of Animals

The applicants are also requesting a special permit to permit modification to the limitations on the keeping of animals to permit the keeping of three (3) adult dogs on a lot consisting of 11,919 square feet. Section 2-512, Paragraph 2A of the Zoning Ordinance requires a residential lot of 12,500 square feet or more to keep up to four (4) dogs. The keeping of two (2) dogs would be permitted by-right on the applicant's property.

LOCATION AND CHARACTER

Site Description

The subject property consists of 11,919 square feet and is developed with a detached dwelling within the Stratford Landing subdivision. As depicted on the special permit plat, the entire side and rear yard is equipped with a combination of chain link and stockade wood fencing ranging in height from 5 feet to 6.6 feet. The rear yard has existing vegetation which consists of mature trees scattered throughout the yard, along with bamboo and ivy providing screening along a majority of the fencing, as shown in the photographs provided at the front of the staff report.

Surrounding Area Description

	Zoning	Use
North	R-3	Single Family Detached Dwellings
East	R-3	Single Family Detached Dwellings
South	R-3	Single Family Detached Dwellings
West	R-3	Single Family Detached Dwellings

BACKGROUND

On February 29, 2008, the applicants received a Notice of Violation (NOV) regarding the limitation on the keeping of animals. A copy of the NOV is included as Appendix 4 of this staff report. The location of the open deck, at grade patio, was discovered at the time of application acceptance.

ANALYSIS

Special Permit Plat Copy at front of staff report

Title of SP Plat: House Location Survey, Lot 9, Block 10, Section 4, Stratford Landing

Prepared By: Stephen L. Moore Land Surveying, Inc., dated March 8, 2009, as signed on July 8, 2009

Building Permit Required for Patio: No

Location Error Made By: Previous homeowners

Proposed Use:

The applicants wish to keep their existing three (3) adult dogs over 6 months in age on a residential lot containing 11,919 square feet. A lot consisting of a minimum of 12,500 square feet is required for the keeping of three to four dogs. The applicant's state that the dogs are kept indoors while they are not at home and are supervised when they are outside in the yard, which is equipped with fencing along the side and rear lot lines.

As referenced in the applicants' statement of justification, they currently own three (3) adult dogs which range in age from 9 to 11 years old and range in weight from 13 pounds to 47 pounds.

The applicants also request an existing open deck to remain 1.8 feet from the side lot line. As referenced in the applicants' statement of justification, the deck existed prior to their purchase of the home.

ZONING ORDINANCE REQUIREMENTS (Appendix 5)

- Limitations on the Keeping of Animals (Sect. 2-512)
- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provision for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Provisions for Modifications to the Limitations on the Keeping of Animals (Sect. 8-917)

Paragraph 1 of Sect. 8-917 states that the BZA shall consider the kinds and number is animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals shall be kept on the lot. The BZA may impose conditions as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor shall be detrimental to other property in the area.

Development conditions have been included in Appendix 1 that address the issues related to the keeping of animals on this site.

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification and Attachments
4. Notice of Violation dated February 29, 2008
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2008-MV-086****June 16, 2009**

1. This approval is granted to the applicants only, Geoffrey S. Deas and Edna C. Rosario-Munoz, and is not transferable without further action of this Board, and is for the location indicated on the application, 2002 Basset Street (11,919 square feet) and is not transferable to other land.
2. The applicants shall make this special permit property available for inspection to County officials during reasonable hours of the day.
3. This approval shall be for the applicants' existing three (3) adult dogs. If any of these specific animals pass away or are given away, the dogs shall not be replaced, except that two (2) dogs may be kept on the property in accordance with the Zoning Ordinance.
4. The yard area where the dogs are kept shall be cleaned of dog waste every day, in a method which prevents odors from reaching adjacent properties, and in a method approved by the Health Department.
5. At no time shall the dogs be left outdoors unattended for continuous periods of longer than 30 minutes.

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: MARCH 24, 2008
 (enter date affidavit is notarized)

I, Geoffrey S. Deas, 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

99442

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)
Geoffrey S. Deas	2002 Basset St., Alexandria, VA 22308	Applicant
Edna C. Rosario-Munoz	2002 Basset St., Alexandria, VA 22308	Applicant
AND NO OTHERS.		Title Owners

(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).

14

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 24, 2008
(enter date affidavit is notarized)

99442

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)

Not applicable.

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)

Not applicable.

(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: March 24, 2008
(enter date affidavit is notarized)

99442

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)

Not applicable.

(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: March 24, 2008
(enter date affidavit is notarized)

99442

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.

4

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 24, 2008
(enter date affidavit is notarized)

99442

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

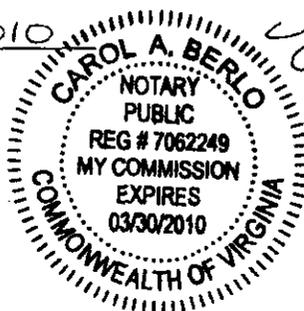
Applicant's Authorized Agent

Geoffrey S. DEAS.
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 24th day of March 2008, in the State/Comm. of Virginia County/City of Fairfax.

Notary Public

My commission expires: 3/30/2010



CAROL A. BERLO

GEOFFREY S. DEAS
2002 Basset St.
Alexandria, VA 22308-2707
(703) 780-1303

July 11, 2008

County of Fairfax
Department of Planning and Zoning
ATTN: Application Acceptance Section
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5509

Re: Submission of Error in Building Location for SP-2008-0090

In follow-up to your letter of June 11, 2008 which outlined discrepancies in our original submission package, I am enclosing a copy of a new certified plat for 2002 Basset Street dated June 27, 2008 and signed by a land surveyor in compliance with Section 8-914 of the Zoning Ordinances. Please advise if any additional documents are required in order to proceed with the Special Permit Application process referenced herein.

Sincerely,


Geoffrey S. Deas

RECEIVED
Department of Planning & Zoning

JUL 15 2008

Zoning Evaluation Division

STATEMENT OF JUSTIFICATION
(Error in Building Location)

- A. Type of operation(s): **Residential.**
- B. Hours of operation: **Not applicable.**
- C. Estimated number of patrons/clients/patients/pupils/etc: **None.**
- D. Proposed number of employees/attendants/teachers/etc: **None.**
- E. Estimate of traffic impact on the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day: **No impact.**
- F. Vicinity or general area to be served by the use: **2002 Basset St, Alexandria, VA 22308.**
- G. Description of building facade and architecture of proposed new building or additions: **No new structure proposed.**
- H. A listing, if known, of all hazardous or toxic materials...or proposed storage tanks or containers: **None.**
- I. Applicant also seeks a reduction to the minimum yard requirements based on an error on building location to permit an open deck to remain 1.8 feet from the side lot line. The deck has been in place since before the previous homeowner moved into the residence in 1993. As shown in the photos we submitted, the deck is comprised of brick, sits flush to the ground, and provides a stable and more decorative surface between the steps of the existing covered porch and the gate leading to the rear yard. Due to the heavy canopy created by the adjacent trees, it is virtually impossible to grow grass in this location and after any type of inclement weather this area would be extremely difficult to traverse. With the addition of a 2 ½ year old child, we are using the side gate more frequently to move from the rear of the property to the front further hampering our ability to grow even the most limited amount of grass in this area. The following information is also submitted.

ADDITIONAL STANDARDS REQUIRED IN SECTION 8-914

- 2A. We do not dispute the findings of the survey showing the deck in question extends to within 1.8 feet of the side lot line.
- 2B. This noncompliance was done through no fault of the property owner. I discussed the presence of the brick walkway in a telephone conversation with Mr. William Bloom who owned the house from 1993 until we purchased it from him in mid-2003. He stated that the patio and walkway were existing when his family moved into the house. Neither

he nor I were aware the walkway was not in compliance with the zoning regulations and in the more than 15 years since it's installation, its presence had never been a cause for concern for the adjacent property owners or the County.

2C. Allowing this deck to remain in its current form is reasonable and in keeping with the intent of this Ordinance due to the fact that it has never been a cause for concern for the adjacent property owners, has never caused identifiable harm to their person or property and is not visible from the public thoroughfare.

2D. The presence of this brick walkway is indiscernible to people on the public thoroughfare and not visible to people on the property itself save for a small area between the porch and existing landscaping.

2E. The presence of this brick walkway provides for a safer, more stable walkway from the base of the porch steps to the rear gate and subsequent patio. The presence of trees over this area prevents the effective planting of grass so without the brick walkway, the area would be primarily dirt or, in inclement weather, mud, and thus make it unsafe to walk on considering we have a toddler. The presence of the walkway creates an esthetics atmosphere to an area which without it would be barren and ugly, thus in detriment of the hardscape and landscape of our property. Based on the location of this walkway, it has no adverse impact on a public street and/or the adjacent property.

2F. Forcing compliance with the minimum yard requirement would cause unreasonable hardship upon the property owner because it would require the total elimination of the deck affecting the esthetics of the landscape and hardscape. It would also pose a financial burden because of the cost associated with the removal of the brick and having to replace it with some other durable alternative. Finally, as discussed above, removal of the brick patio will create a potentially dangerous situation during periods of inclement weather. In light of the fact that compliance would require the removal of the deck, approval for a reduction in the minimum yard requirements is a reasonable alternative.

2G. The actual purpose of this deck is that of a walkway and therefore does not increase the density or floor area ratio from that permitted by the applicable zoning district regulations.

STATEMENT OF JUSTIFICATION

RECEIVED
Department of Planning & Zoning
MAR 25 2008
Zoning Evaluation Division

- A. Type of operation(s): **Residential.**
- B. Hours of operation: **Not applicable.**
- C. Estimated number of patrons/clients/patients/pupils/etc: **None.**
- D. Proposed number of employees/attendants/teachers/etc: **None.**
- E. Estimate of traffic impact on the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day: **No impact.**
- F. Vicinity or general area to be served by the use: **2002 Basset St, Alexandria, VA 22308.**
- G. Description of building facade and architecture of proposed new building or additions: **No new structure proposed.**
- H. A listing, if known, of all hazardous or toxic materials...or proposed storage tanks or containers: **None.**

I. Applicant seeks a Group 9, Special Permit, Modifications to the limitations on the keeping of animals, to allow 3 adult dogs to remain on the property in response to a Notice of Violation dated February 29, 2008. From August 12, 2003 until February 29, 2008 we were unaware of any zoning regulations which prohibited us from maintaining 3 dogs on our property. Geoffrey S. Deas and his wife, Edna C. Rosario-Munoz (Applicants) respectfully request the Board take into consideration the following factors regarding our request for a Special Permit so that we can keep a third dog as part of our family for the remaining years of the third dog's life.

Applicants have resided at 2002 Basset Street since late August 2003. During the initial telephone conversation with Senior Zoning Inspector Rebecca J. Goodyear on February 26, 2008, we confirmed to her that we possessed 3 dogs. She informed us of the fact that we were in violation of the Ordinance by having a 3rd dog and that our options were to get rid of 1 of our dogs or apply for a Special Permit. Applicant inquired as to the source of the complaint and was told that the identity of the complainant had to be kept anonymous. Applicant further inquired whether the complainant raised an issue of the dogs being a nuisance or creating excessive noise and she said no. It should be noted that in the 5 years we have here we have never received a notice, warning or complaint that our dogs were a nuisance to any of the neighbors.

The three dogs in our family are:

1. **Pili:** Fairfax County 2008 License Number 3055, 11 years old, brown, mixed breed, 47 lbs.

2. **Nuki:** Fairfax County 2008 License Number 3054, 11 years old, white with spots, mixed breed, 13 lbs.
3. **Don Tito:** Fairfax County 2008 License Number 3053, 9 years old, black and tan, Dachshund, 15 lbs.

All three dogs have resided with Applicant for their entire lives and have formed a very tight knit pack. As background, the dogs were obtained by the applicant in the late 1990's while assigned to the Commonwealth of Puerto Rico as Federal employees. Pili, and her deceased sister Mili, were rescued by the Applicant on January 1, 1997, within a few weeks of being born. They were found abandoned on a beach and close to death with significant malnourishment as well as heavy flea and worm infestation. Applicant took the injured puppies into her custody and during the deworming process, Mili passed away, making Pili the sole survivor of a pair. Nuki was rescued in March 1997 after being born to a stray dog that gave birth to a litter of puppies on a neighbor's property. She successfully underwent a deworming process which was required as a result of the unsanitary conditions during her birth. As with Pili, Nuki would most certainly have died shortly after birth due to the wide range of medical problems that plague stray and abandoned dogs. Don Tito was purchased from a commercial pet store in the Fall of 1999 at over 6 months of age when Applicant was informed that the Dachshund would be put down because he was considered too old to be purchased as a puppy. After 9 and 11 years respectively, all three dogs are showing signs of old age. It would not only be traumatic for the applicants and their 2 year old child to separate the dogs at this advanced stage in their lives, but we argue it would be equally traumatic for the dogs to be separated after 9 to 11 years of living together.

Our property is 11,919 square feet or 581 square feet (4.6%) below the minimum lot size required by the Ordinance to possess 3 dogs. Based on property sizes garnered from the Fairfax County Department of Tax Administration, Real Estate Division, web site (data listed below) of the 8 properties immediately surrounding ours (highlighted in yellow), 6 of these properties exceed the minimum lot size of 12,500 square feet from anywhere between 156 square feet to as much as 2,833 square feet. The remaining 2 properties that do not meet the minimum are all less than 5% shy of the requirement. Specifically, 8910 Camden St which is only 600 square feet (4.8%) below the minimum and 8908 Camden St which is only 175 square feet (1.4%) below the minimum. Expanding this area to include all properties in an approximately 500ft radius from the perimeter of our property (approximately 43 properties), the average lot size is 13,112 square feet or 105% of the size required by the Ordinance to possess up to 4 dogs. The data from which this was derived is summarized as follows:

Grid	Number	Lot sqft	% of Min	Grid	Number	Lot sqft	% of Min
9	2	13,412	107.30%	7	2	14,840	118.72%
9	3	13,717	109.74%	7	3	13,915	111.32%
9	4	12,882	103.06%	7	4	13,741	109.93%
9	5	15,077	120.62%	7	5	13,827	110.62%
9	6	11,781	94.25%	7	6	10,975	87.80%
9	7	15,402	123.22%	7	7	14,110	112.88%

10	1	13,531	108.25%		7	8	12,108	96.86%
10	2	11,781	94.25%		7	9	13,491	107.93%
10	3	13,896	111.17%		7	10	16,866	134.93%
10	4	11,672	93.38%		7	11	15,847	126.78%
10	5	12,250	98.25%		7	12	13,831	110.65%
10	6	11,250	90.25%		7	13	12,470	99.76%
10	7	12,250	98.25%		7	14	13,128	105.02%
10	8	12,250	98.25%		7	15	14,768	118.14%
10	9	11,250	90.25%					
10	10	11,250	90.25%					
10	11	13,401	107.21%		12	1	21,787	174.30%
10	12	11,066	88.53%		12	2	21,781	174.25%
10	13	12,496	99.97%		12	3	21,781	174.25%
10	14	11,528	92.22%		12	4	21,781	174.25%
10	15	13,433	107.46%		12	5	21,940	175.52%
7	1	11,652	93.25%			Average	13,112	104.90%

Notes: Applicant's property highlighted in red. Applicant's property and those immediately adjacent to it are highlighted in yellow.

OUR DOGS ARE INSIDE DOGS. Our dogs are outside 3-4 times per day to relieve themselves (approximately 5 minutes per event) and occasionally when we are outside with our 2 year old child which accounts for another 30 minutes per day. In total, our dogs may be outside a total of 50 minutes (3.5% of the day). If you consider the amount of time during the day that someone who works from Monday to Friday, 7:30 AM to 6:00 PM would be exposed to our dogs when they are outside, we estimate it is 10 minutes per day - a grand total of 0.7% of the entire day! Also, when we go on vacation, the dogs are housed at commercial kennels at significant expense and not left in the residence to be cared for by friends. All three dogs receive all required vaccinations and regular check-ups to ensure they remain healthy. Two examples of how we employ management techniques to minimize our dogs impact, we feed the dogs and let them outside to relieve themselves at 5:00 PM which ensures they are back inside before our neighbors come home from work. At night, we try to take the dogs outside individually to minimize the potential for barking, however when 4 of 5 adjacent properties that touch our back yard fence have dogs, there will always be a potential for dogs to bark. Regardless of the weather conditions, Applicants are with the dogs outside at night to immediately put a stop to any barking that may occur. Furthermore, you will note in the attached photos of our property that the back yard is completely fenced in with a combination of chain link and wood-slat fence. The wood-slat fence blocks our dogs view to the front of the property while the chain link fence is covered with ivy, plastic straps or a thick cover of bamboo. With respect to the side of our property adjacent to the suspected complainant, it provides complete privacy for both residences. Neither the neighbor nor the dogs can see through the combination of plastic slats and ivy. With a small child, we are constantly picking up after the dogs ensuring both a safe play area for him and that there is no emission of odor or waste runoff to other properties in the area. The advanced age of our dogs does not allow them to scale the fence nor have they ever dug under - they are content going outside, relieving themselves and coming back in.

It should be noted that applicant is required to frequently travel overnight as an employee of the Department of Justice and as a military reservist who has, and can be called upon again, to deploy overseas in support of Operation Iraqi Freedom. The presence of our three dogs provides applicant's spouse with a significant sense of security when home alone for extended periods.

We have attached for your review a petition that was circulated through the neighborhood explaining the nature of our zoning violation and the reasons why we were requesting a Special Permit. You will note that 7 of the 8 adjacent neighbors and several others (who happened to be home as we went through the neighborhood) have indicated their support for our Special Permit application. We did not approach the neighbor we suspect was the originator of the complaint.

In closing, we understand the criterion in Sections 006 and 917 of Article 8 that will guide your decision in this matter and feel that we have met the requirements for a Special Permit. Furthermore, in light of the fact that there has NEVER been a noise or nuisance complaint against our dogs, this matter deals strictly with the number of dogs on our property. The fact that we have 3 dogs on our property which are kept indoors over 96.5% of the day does not pose any type of identifiable burden on our neighbors (as indicated in the petition discussed above). The burden of caring for these 3 dogs falls entirely on the Applicants and it is a task we have taken very seriously for 11 years. With the average lifespan of a dog being only 12-14 years, and the deteriorating health of the dogs, we do not envision this Special Permit being needed for a long period of time. To provide perspective, it is not as if we have an excessive number of young dogs that were acquired after we started living on this property. Based on all of the above, we respectfully request the Board issue the Special Permit so that we can be in compliance with the Ordinance and allow us to keep our dogs together for the last 9 and 11 years, respectively.

GEOFFREY S. DEAS
2002 Basset St.
Alexandria, VA 22308-2707
(703) 780-1303

May 20, 2008

County of Fairfax
Department of Planning and Zoning
ATTN: Application Acceptance Section
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5509

Re: Submission of Error in Building Location for SP-2008-0090

In follow-up to your letter of April 8, 2008 which outlined discrepancies in our original submission package, I am enclosing a copy of a new certified plat for 2002 Basset Street dated May 15, 2008 and signed by a land surveyor in compliance with Section 8-914 of the Zoning Ordinances. Please advise if any additional documents are required in order to proceed with the Special Permit Application process referenced herein.

Sincerely,


Geoffrey S. Deas

RECEIVED
Department of Planning & Zoning

MAY 23 2008

Zoning Evaluation Division

GEOFFREY S. DEAS
2002 Basset St.
Alexandria, VA 22308-2707
(703) 780-1303

August 11, 2008

County of Fairfax
Department of Planning and Zoning
ATTN: Ms. Virginia H. Ruffner
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5509

RECEIVED
Department of Planning & Zoning

AUG 12 2008

Zoning Evaluation Division

Subj: Correction of Discrepancies for SP-2008-0090

In follow-up to our telephone conversation on Friday afternoon, August 8, 2008, I am enclosing the photos you requested of the brick stoop and steps which lead out of our screen porch on the east side of our property. I have also included a photo of the brick patio in the rear of the property, also along the east side of the property.

I understand that with these photos your office will be better able to determine whether or not an Error in Building Location application is required and whether or not we need to call back our land surveyor for additional measurements.

I would like to advise you that all the structures depicted in these photos were already constructed, and had been for many years, by the time we purchased the house in 2003.

Sincerely,



Geoffrey S. Deas

STATEMENT OF OWNERSHIP

The document has been prepared to satisfy the submission requirements for a Special permit application whereby a Statement of Ownership must accompany the application package. By our signatures, below, Mr. Geoffrey S. Deas and his wife, Edna C. Rosario-Munoz affirm to the Board that they are both the applicants and owners of the residence at 2002 Basset St., Alexandria, VA 22308.

 3/21/08
Geoffrey S. Deas

 3-21-08
Edna C. Rosario-Munoz

MAR 25 2008

Zoning Evaluation Division

Mr. and Mrs. Deas, of 2002 Basset St., Alexandria, VA have been notified by the Fairfax County Zoning Board that the possession of 3 dogs on their property is in violation of Para 2A of Sect. 2-512 of the Fairfax County Zoning Ordinance which states that 3 dogs require a minimum lot size of 12,500 square feet. Our lot is 11,919 square feet or 95.35% of the required size so we are requesting a Special Permit that will allow us to keep our 3rd dog on the property.

Two of our dogs are 11 years old and one is 9. All three are showing their advanced age. Of note, two of the three dogs are rescue dogs. We have never received any noise complaints about these dogs and their time outside is limited to brief periods to relieve themselves or infrequently when our family is out in the yard. They spend virtually all day indoors. With a 2 year old child, we are constantly keeping the yard clean to ensure a sanitary play area.

We ask for your signature in support of our Special Permit application so we can keep these three dogs together as a pack as they have lived for over 9 years - 5 of which have been at the present location.

MAR 25 2008

Zoning Evaluation Division

LAST NAME	SIGNATURE	ADDRESS	DATE
HALLER	<i>Patricia E. Haller</i>	2003 BASSET ST.	3-20-2008
MILLER	<i>Don Miller</i>	8912 CAMDEN ST.	3/20/2008
LUTON	<i>Lee Luton</i>	8908 CAMDEN ST.	3/20/08
WALKER	<i>Amy Walker</i>	8904 CAMDEN ST.	3/21/08
McNeil	<i>Kathleen A. McNeil</i>	2105 Basset St.	3/21/08
Weibe	<i>Linda Weibe</i>	2103 Basset St.	3/21/08
Burnett	<i>Shana B. Burnett</i>	8916 Linton Ln	3/21/08
Miller	<i>Linda Miller</i>	8912 Camden St	3/21/08
COCHRAN	<i>Bryce Cochran</i>	2101 BASSET ST.	3/21/08
Merker	<i>Robert Merker</i>	2106 BASSET ST.	3/21/08

Zimmerman *[Signature]* 2004 Basset St. 3/21/08

WIRTH *[Signature]* 8910 CAMDEN ST 3/22/08

GRANAHAN *[Signature]* 2104 Basset 3/24/08



ST

County of Fairfax, Virginia



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

February 29, 2008

STB

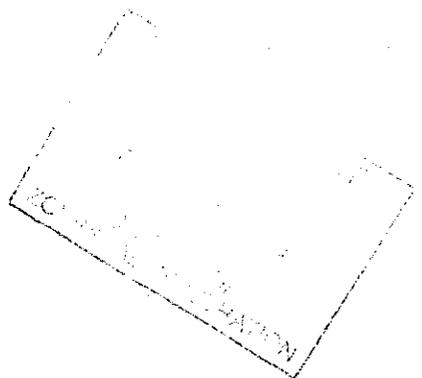
NOTICE OF VIOLATION

CERTIFIED MAIL

Return Receipt Requested

Receipt #7099 3400 0007 0873 9196

Geoffrey S. Deas
Edna C. Rosario-Munoz Deas
2002 Basset Street
Alexandria, Virginia 22308



Re: 2002 Basset Street
Subdivision: Stratford Landing, Lot 9, Block 10, Section 4
Tax Map Ref.: 111-1 ((3)) (10) 9
Zoning District: R-3

Dear Mr. and Mrs. Deas:

A zoning inspection was conducted, on February 26, 2008, in reference to the number of dogs currently being housed at the above-referenced property. During a telephone conversation, on February 26, 2008, Mrs. Deas confirmed that there are presently three adult dogs on the property which contains 11,919 square feet of land.

Therefore, you are in violation of Par. 2A of Sect. 2-512 of the Fairfax County Zoning Ordinance which states:

The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

Number of Dogs

Minimum Lot Size

1 to 2

No requirement

3 to 4

12,500 square feet

5 to 6

20,000 square feet

7 or more

25,000 square feet plus 5,000 square feet for each additional dog above 7

Department of Planning and Zoning

Zoning Administration Division

Zoning Enforcement Branch

12055 Government Center Parkway, Suite 829

Fairfax, Virginia 22035-5508

Phone 703-324-1300 FAX 703-324-1343

www.fairfaxcounty.gov/dpz/

Geoffrey S. Deas
Edna C. Rosario-Munoz Deas
February 29, 2008
Page 2

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

- Reducing the number of dogs to two, or
- Applying for and diligently seeking approval of a Group 9, Special Permit, Modifications to the Limitations on the Keeping of Animals, to allow the three adult dogs to remain on the property.

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

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

Should you have any questions or need additional information, please do not hesitate to contact me at 703-324-1322 or 703-324-1300.

Sincerely,



Rebecca J. Goodyear
Senior Zoning Inspector

RJG/seg

Attachment: A/S

2-512 Limitations on the Keeping of Animals

1. The keeping of commonly accepted pets shall be allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for any commercial purpose. Dogs shall be subject to the provisions of Par. 2 below.
2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:

- A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

- B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:

- (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
- (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41 of The Code.

3. The keeping of livestock or domestic fowl shall be allowed as an accessory use on any lot of two (2) acres or more in size. The keeping of such livestock or domestic fowl shall be in accordance with the following:

- A. The number of livestock kept on a given lot shall not exceed the ratio of one (1) animal unit per one (1) acre, with an animal unit identified as follows:

2 head of cattle	= 1 animal unit
5 sheep	= 1 animal unit
3 horses	= 1 animal unit
5 swine	= 1 animal unit
5 goats	= 1 animal unit
5 llamas	= 1 animal unit
5 alpacas	= 1 animal unit

Horses shall include ponies, mules, burros and donkeys. In determining the number of livestock permitted, only horses six (6) months or older in age and cattle, sheep, goats, and swine one (1) year or older in age shall be counted. In addition, in determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one (1) animal unit per one (1) acre is maintained.

- B. The number of domestic fowl kept on a given lot shall not exceed the ratio of one (1) bird unit per one (1) acre, with a bird unit identified as follows:

32 chickens	= 1 bird unit
16 ducks	= 1 bird unit
8 turkeys	= 1 bird unit
8 geese	= 1 bird unit

In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted.

4. The keeping of honeybees in four (4) beehives or less shall be allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four (4) beehives may be kept, provided there is an additional lot area of 2500 square feet for each hive. In all instances, there shall be one (1) adequate and accessible water source provided on site and located within fifty (50) feet of the beehive(s). In addition, if the landing platform of a hive faces and is within ten (10) feet of any lot line, there shall be a flight path barrier, consisting of a fence, structure or plantings not less than six (6) feet in height, located in front of the hive.

5. The keeping of racing, homing, or exhibition (fancy) pigeons shall be allowed as an accessory use on any lot 10,000 square feet or more in size.
6. All accessory structures associated with the keeping or housing of animals shall be located in accordance with the provisions of Part 1 of Article 10.
7. The BZA may approve a special permit to modify the provisions of Paragraphs 1 through 6 above, but only in accordance with Part 9 of Article 8; provided, however, that a kennel, animal shelter or riding or boarding stable shall be subject to the provisions of Part 6 of Article 8.
8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41 of The Code.

8-006 General Standards

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

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

8-903 Standards for All Group 9 Uses

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

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

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

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

8-917 Provisions for Modifications to the Limitations on the Keeping of Animals

The BZA may approve a special permit to allow the keeping of animals that are not commonly accepted pets, to allow the keeping of animals in numbers greater and/or on lots smaller than permitted by Sect. 2-512, or to allow modifications to the location regulations of Par. 9 of Sect. 10-104, but only in accordance with the following:

1. In reviewing an application, the BZA shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals will be kept on the lot. The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor detrimental to other property in the area.
2. Such modification may be approved if it is established that the resultant use will be harmonious and compatible with the adjacent area.
3. Notwithstanding the requirements set forth in Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat, which may be prepared by the applicant and shall contain the following information:
 - A. The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
 - B. The dimensions, height and distance to all lot lines of any existing or proposed building, structure or addition where such animals are to be kept.
 - C. The delineation of any Resource Protection Area and Resource Management Area.
 - D. The signature and certification number, if applicable, of the person preparing the plat.