



APPLICATION ACCEPTED: April 2, 2009
BOARD OF ZONING APPEALS: June 23, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 16, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-MA-020

MASON DISTRICT

APPLICANT/OWNER: Nancy W. Longmyer, Trustee of the Nancy W. Longmyer Revocable Trust

SUBDIVISION: Sleepy Hollow

STREET ADDRESS: 3108 Sleepy Hollow Road

TAX MAP REFERENCE: 51-3 ((7)) 39

LOT SIZE: 23,487 square feet

ZONING DISTRICT: R-1

ZONING ORDINANCE PROVISIONS: 8-914 and 8-918

SPECIAL PERMIT PROPOSALS: To permit reduction to minimum yard requirements based on errors in building locations to permit an accessory storage structure to remain 2.0 feet from a side lot line and 0.4 feet from the rear lot line, dwelling to remain 14.1 feet with eave 13.8 feet from a side lot line and addition to remain 11.1 feet from other side lot line and to permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2009-MA-020, for the accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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Deborah Hedrick

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

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.

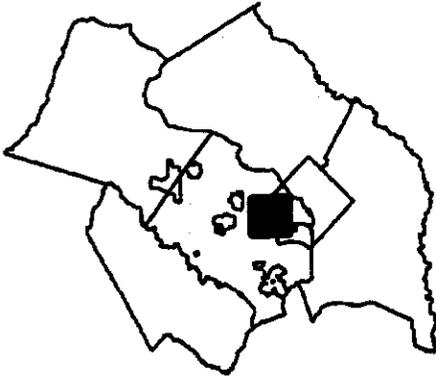
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035**O:\dhedri\Special Permits\7-7) SP 2009-SP-026 Youssef\SP 2009-SP-026 Youssef staff report.doc-5505.



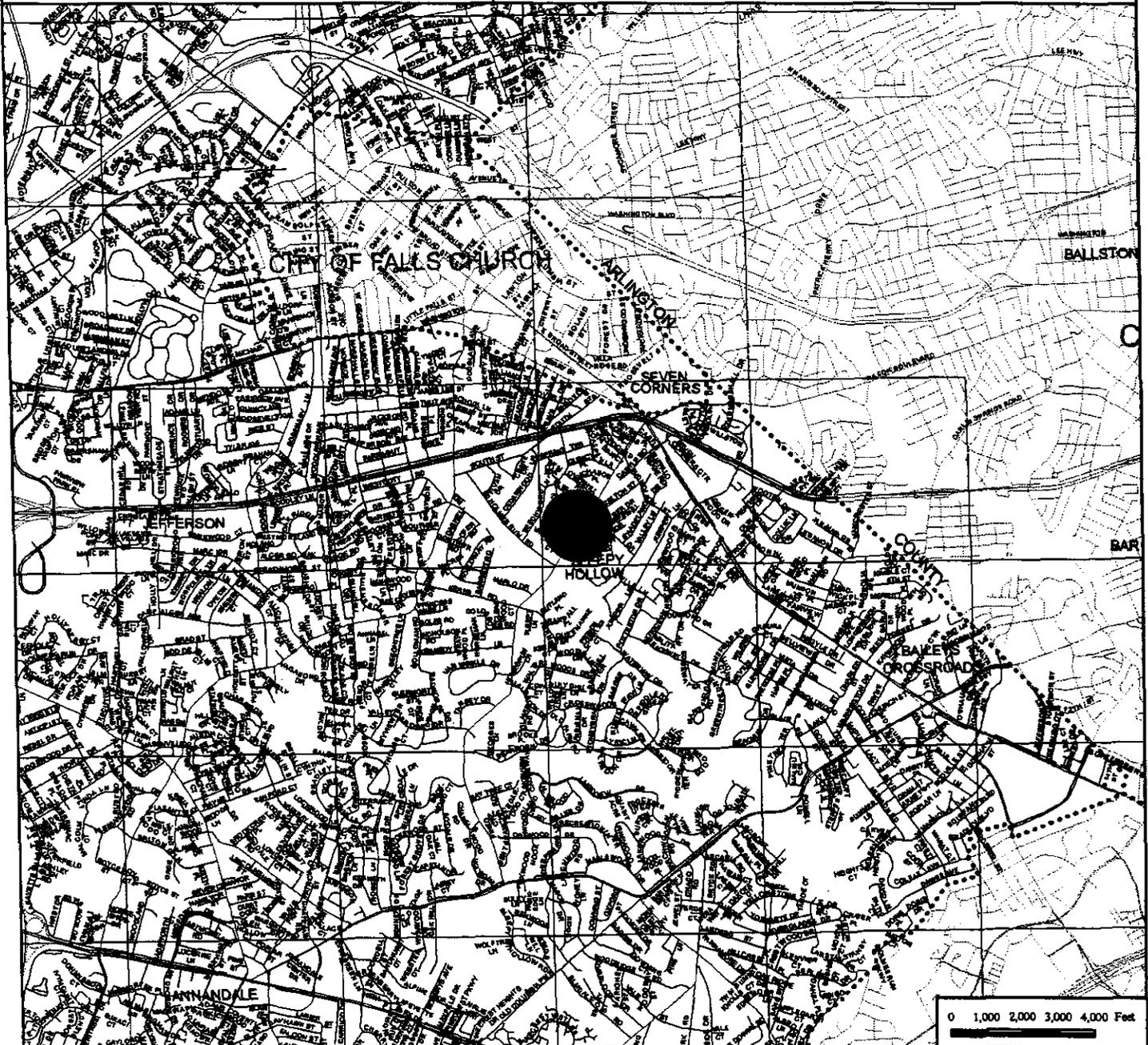
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2009-MA-020



Applicant: NANCY LONGMYER, TRUSTEE OF THE NANCY W. LONGMYER REVOCABLE TRUST
Accepted: 04/02/2009
Proposed: TO PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERRORS IN BUILDING LOCATIONS TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 2.0 FT. FROM SIDE LOT LINE AND 0.4 FT. FROM REAR LOT LINE, DWELLING TO REMAIN 14.1 FT. WITH EAVE 13.8 FT. FROM SIDE LOT LINE AND ADDITION TO REMAIN 11.1 FT. FROM SIDE LOT LINE AND TO PERMIT AN ACCESSORY DWELLING UNIT
Area: 23,487 SF OF LAND; DISTRICT - MASON
Zoning Dist Sect: 08-0918 08-0914
Art 8 Group and Use: 9-17 9-13
Located: 3108 SLEEPY HOLLOW ROAD
Zoning: R-1
Overlay Dist:
Map Ref Num: 051-3- /07/ /0039



Special Permit

SP 2009-MA-020

Applicant: NANCY LONGMYER, TRUSTEE OF THE NANCY W. LONGMYER REVOCABLE TRUST

Accepted: 04/02/2009

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Area: 23,487 SF OF LAND; DISTRICT - MASON

Zoning Dist Sect: 08-0918 08-0914

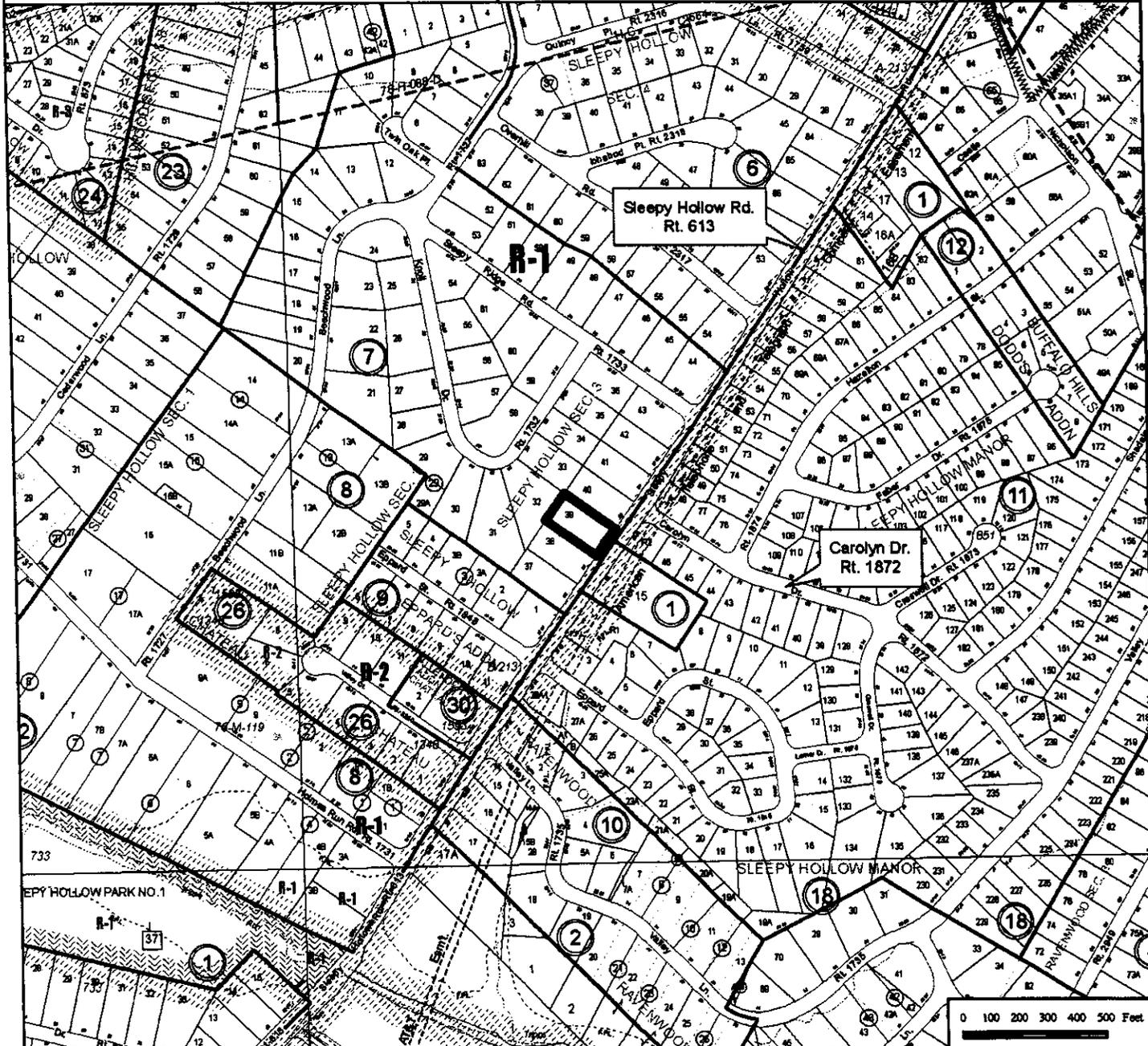
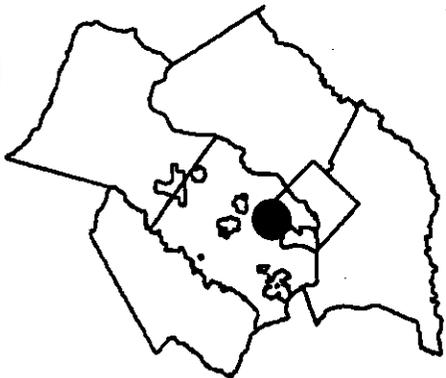
Art 8 Group and Use: 9-17 9-13

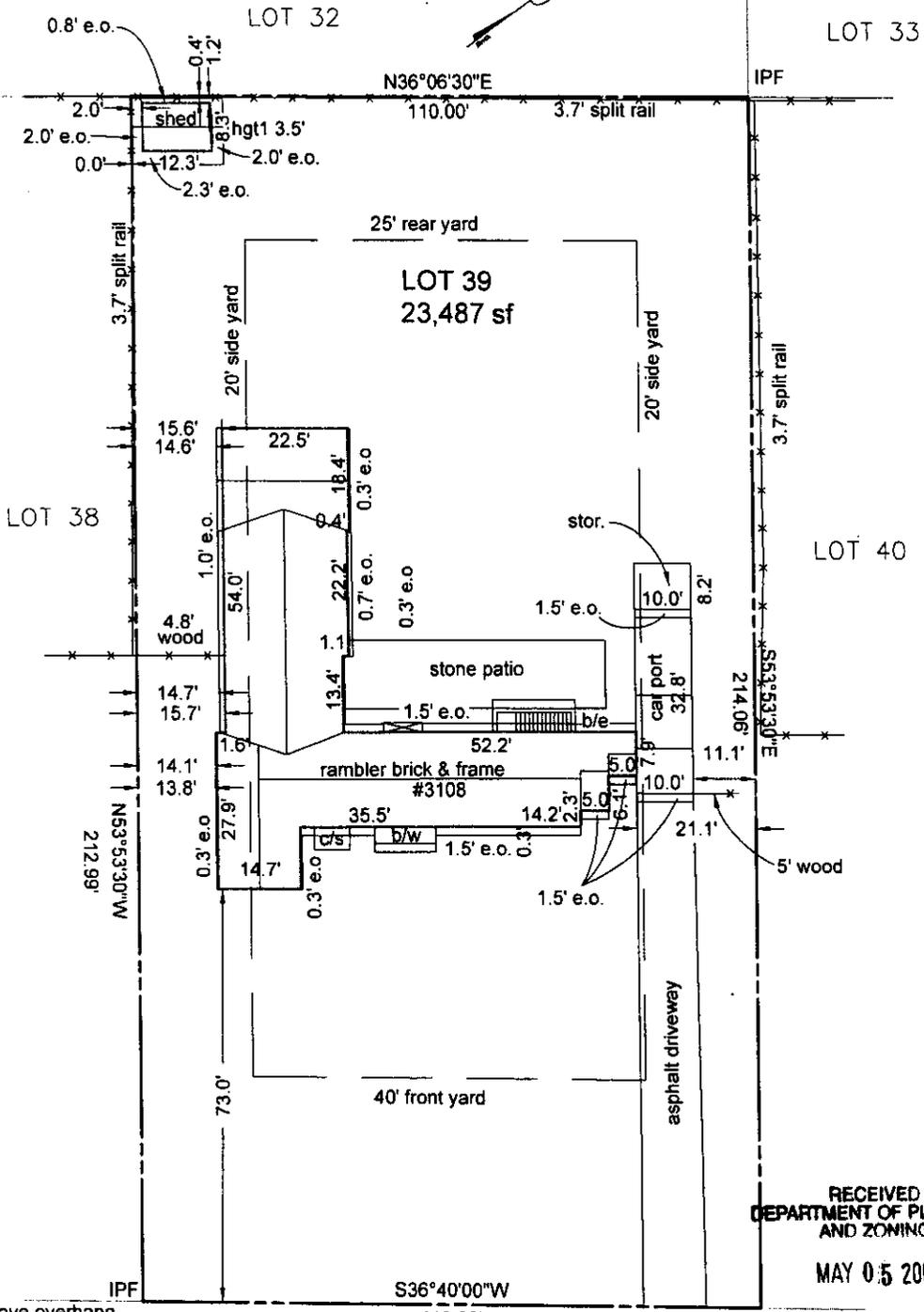
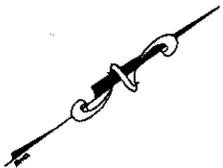
Located: 3108 SLEEPY HOLLOW ROAD

Zoning: R-1

Overlay Dist:

Map Ref Num: 051-3- /07/ /0039





RECEIVED
DEPARTMENT OF PLANNING
AND ZONING
MAY 05 2009
SPECIAL PERMIT &
VARIANCE BRANCH

e.o. eave overhang
c/s concrete stoop
b/w bay window
ipf iron pipe found
property is zoned R-1 and is connected to public sewer and water

/Longmyer HOUSE LOCATION SURVEY JOB #: 940458



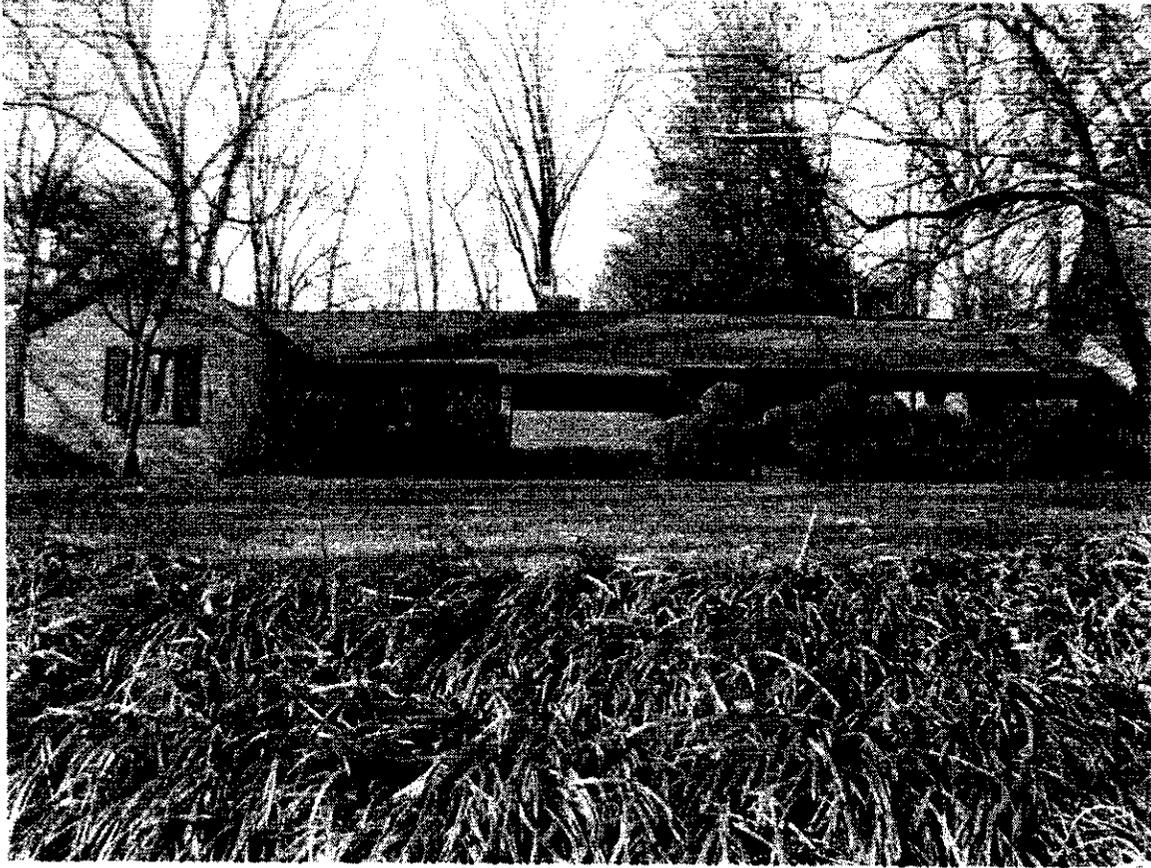
LOT 39, SECTION THREE
SLEEPY HOLLOW
MASON DISTRICT
FAIRFAX COUNTY, VIRGINIA
AUGUST 12, 1994 REV JANUARY 22, 2009 REV MAY 4, 2009 SCALE: 1"=25'

APEX SURVEYS 7720 VICEROY STREET 703 866-1236
SPRINGFIELD, VIRGINIA 22151

A-1: Eastern Midpoint

Looking Straight Into Property.

Picture take December 27, 2008



E: View of Shed from Center of Back Yard

Looking Southwest. Picture taken December 27, 2008.

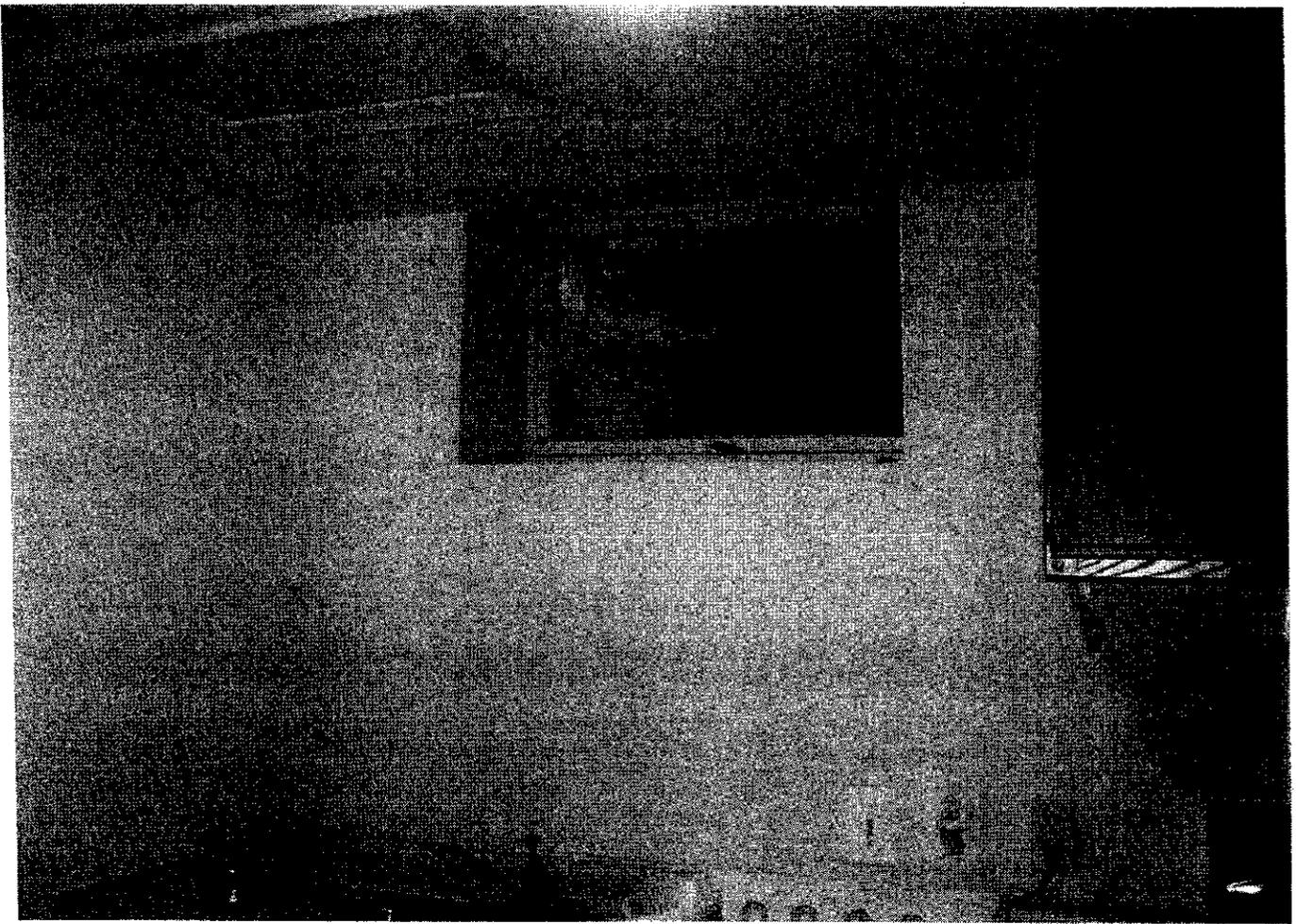


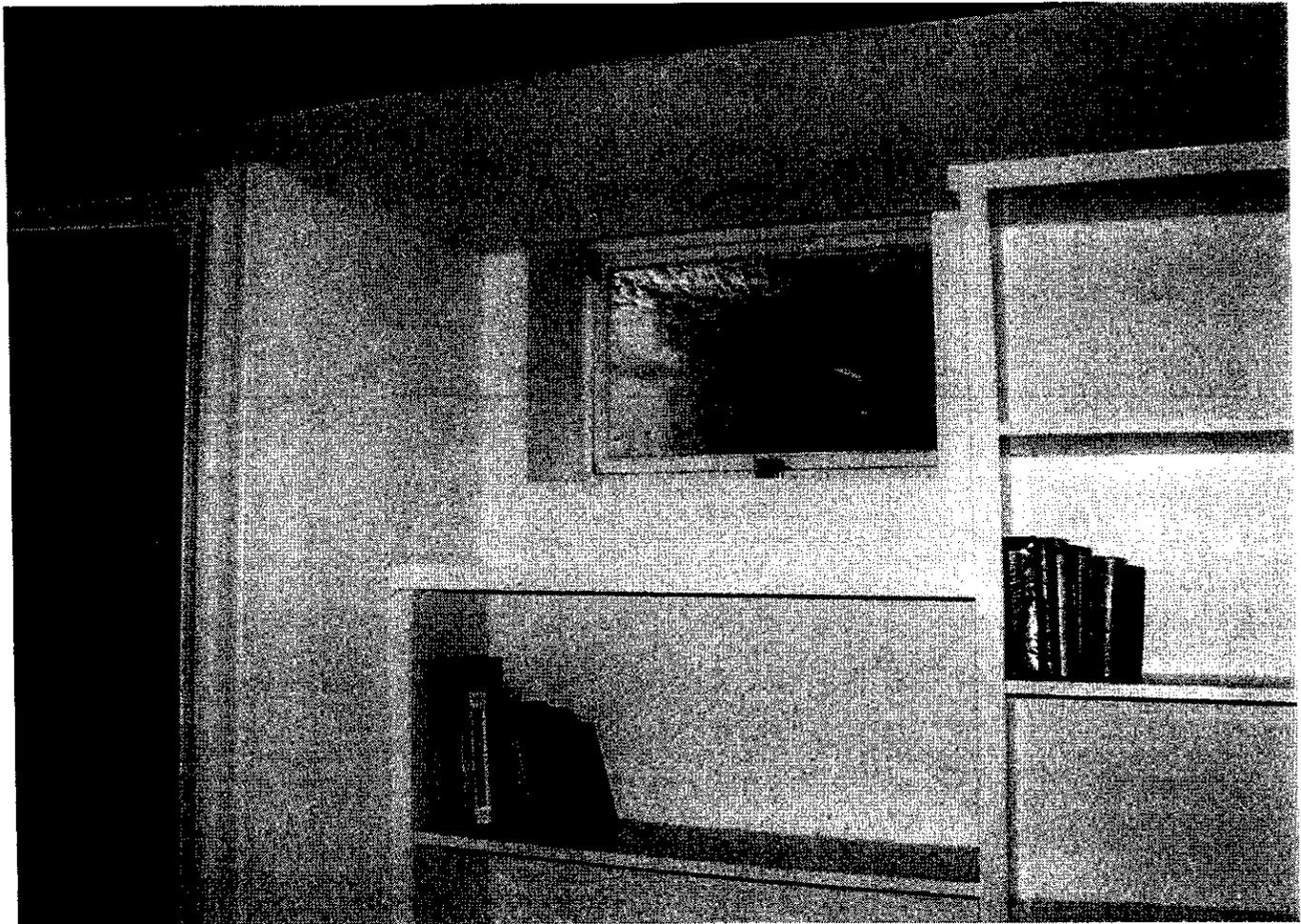
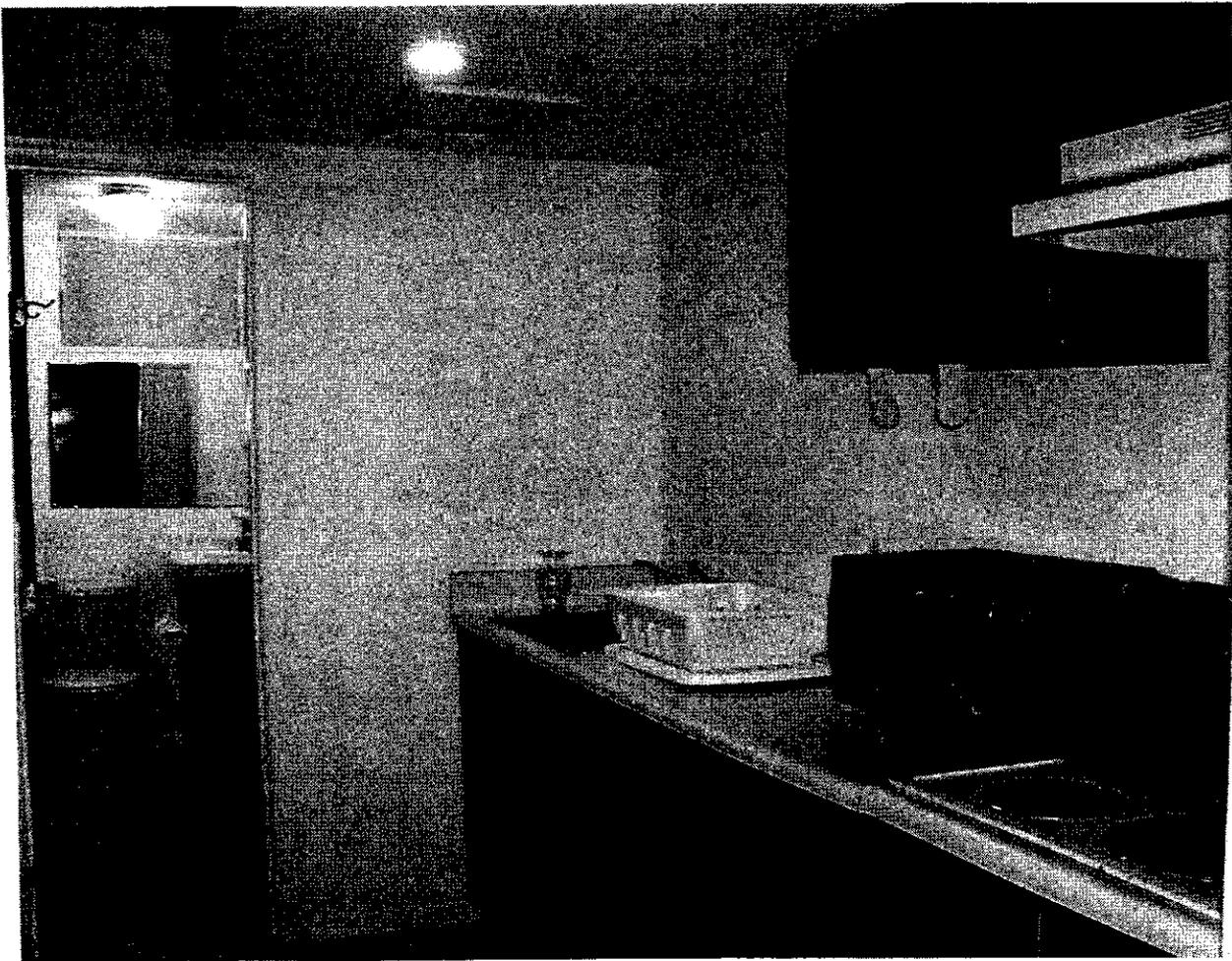
E-5: Southern Front Yard View

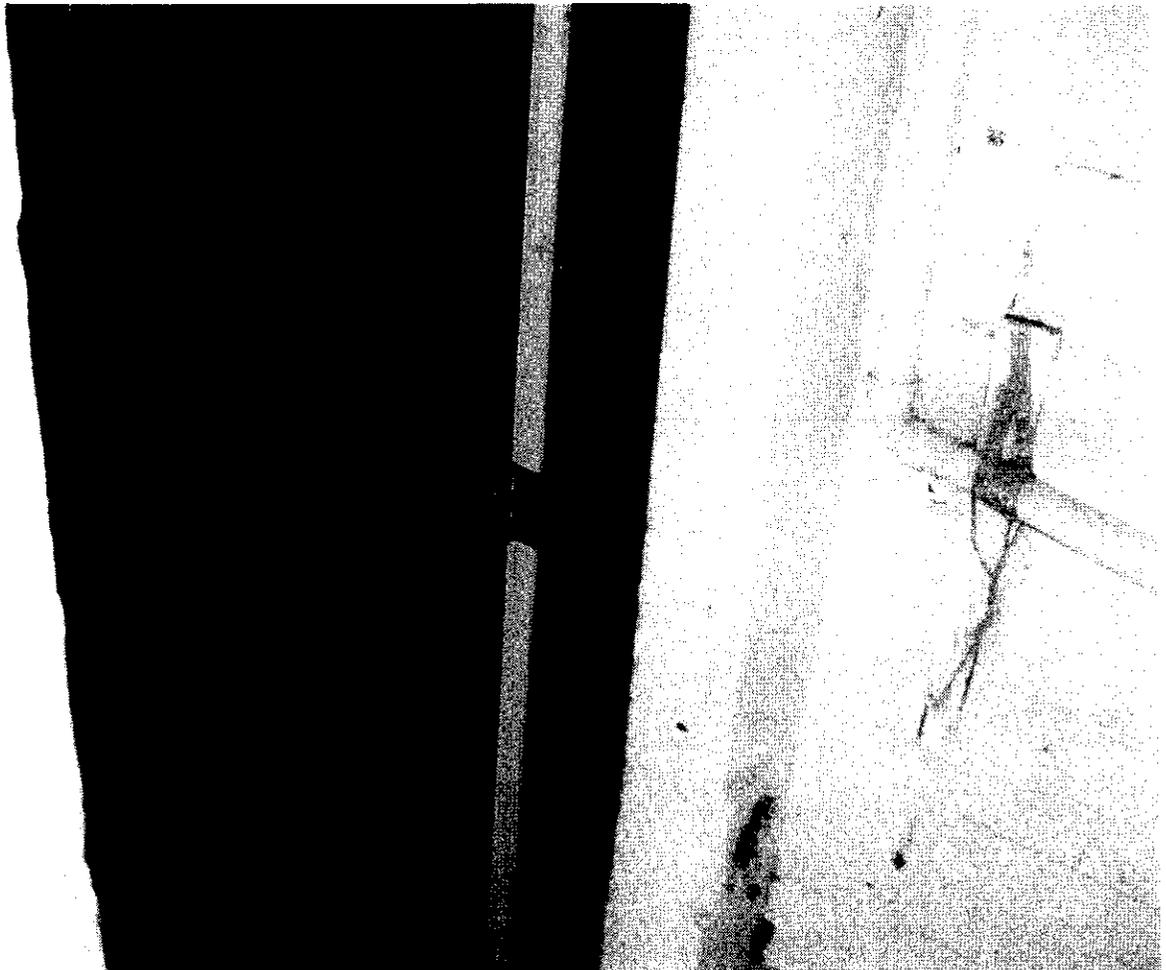
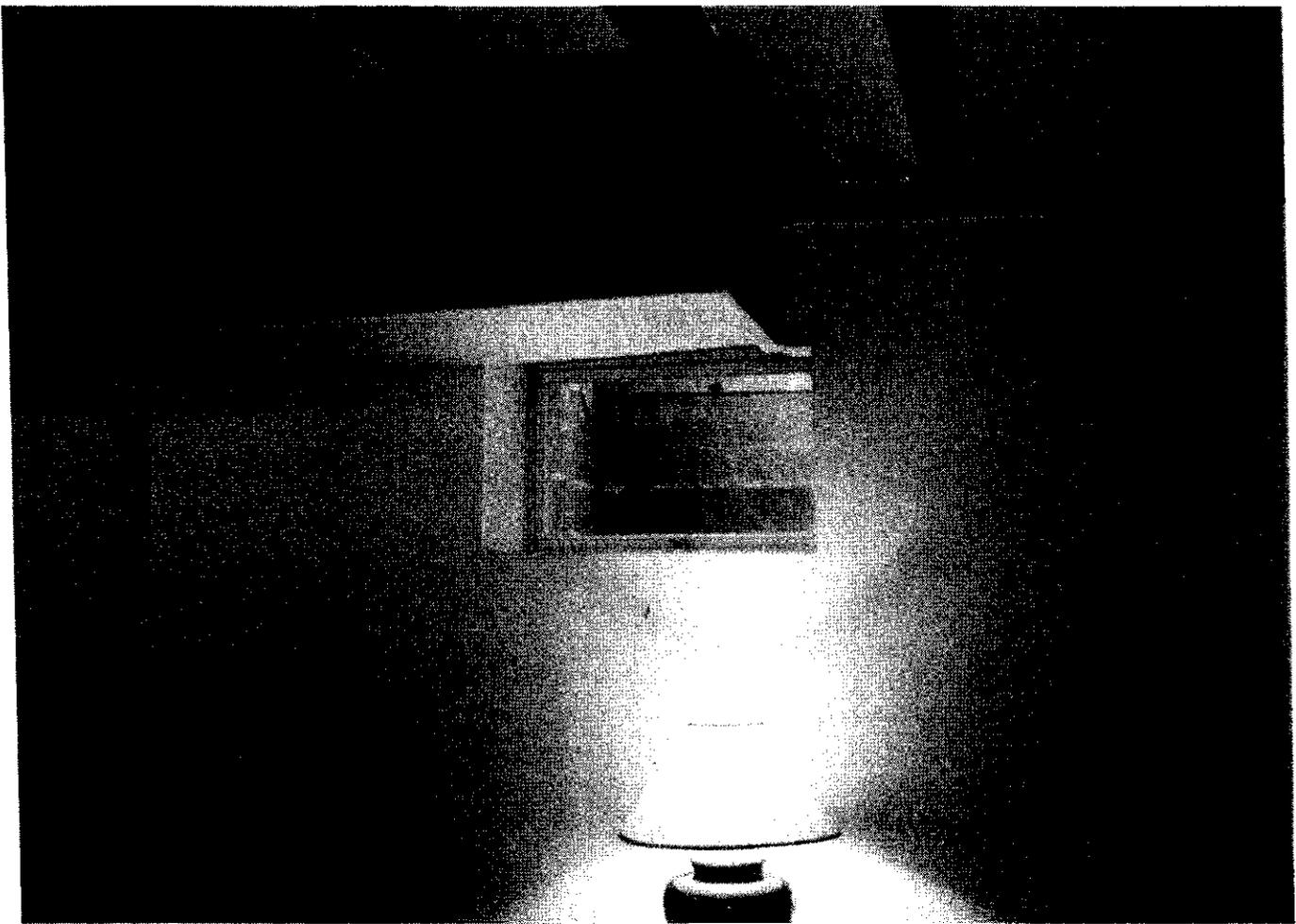
Looking Left into Property. Picture taken December 27, 2008.

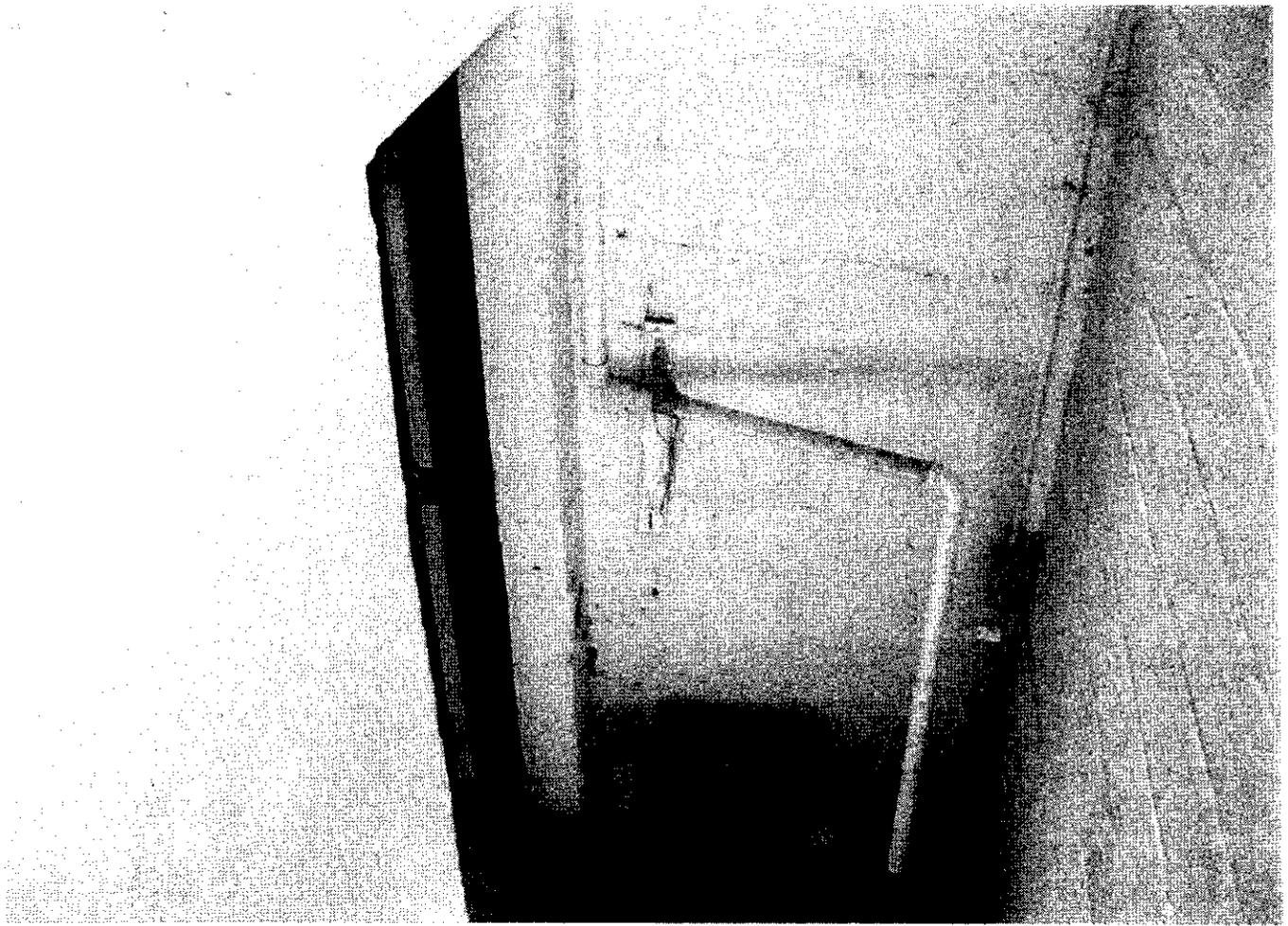


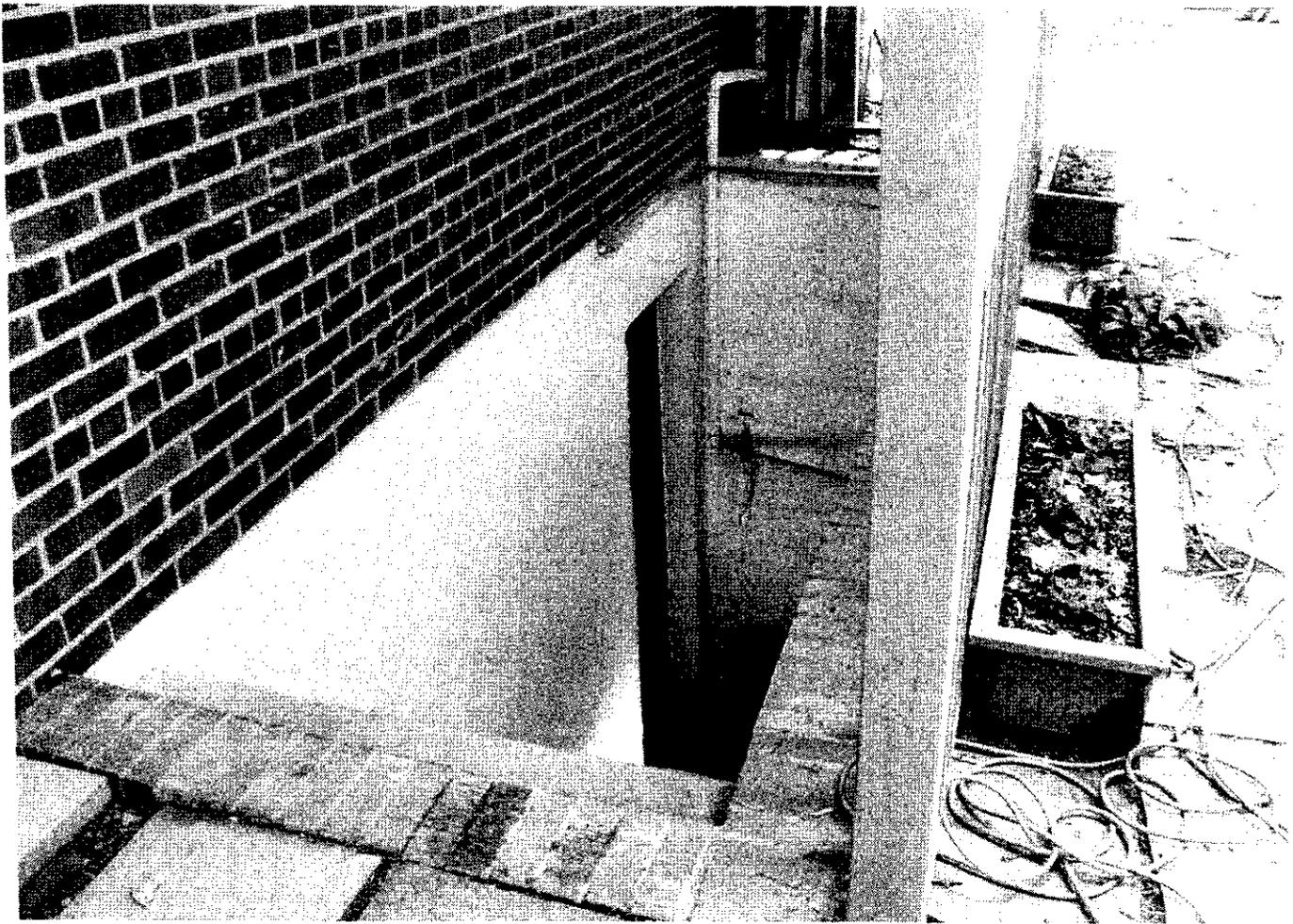




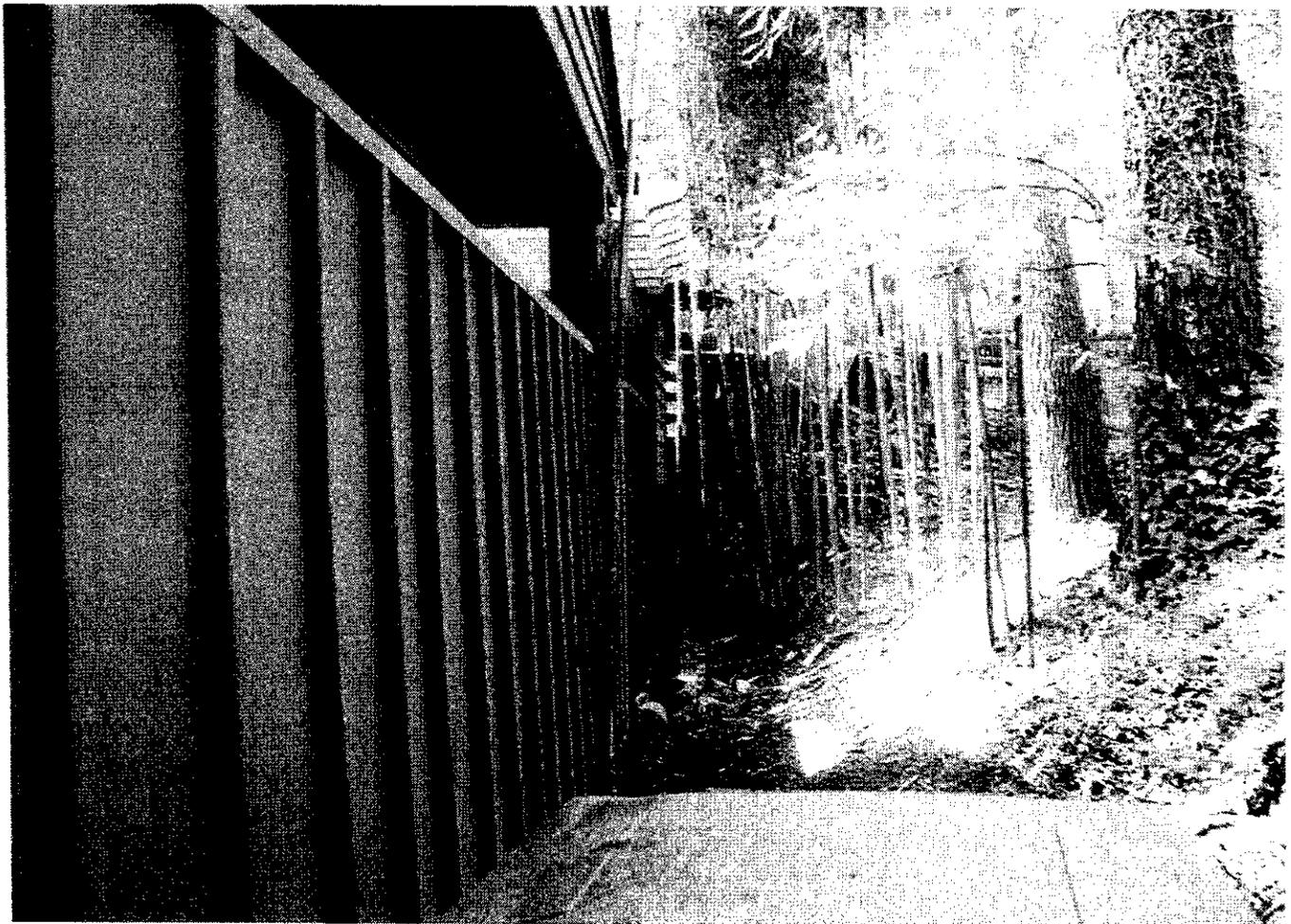












DESCRIPTION OF THE APPLICATION

Description of Errors in Building Locations

The applicant requests a special permit to permit reduction of minimum yard requirements based on errors in building locations to permit **1)** an accessory storage structure (shed) to remain 2.0 feet from the southern side lot line and 0.4 feet from the rear lot line; **2)** to permit the existing dwelling to remain 14.1 feet with eave 13.8 feet from the southern side lot line, and **3)** an addition, specifically, an existing carport with a storage shed attached at the rear, to remain 11.1 feet from the northern side lot line.

| | Structure | Yard | Min. Yard Req.* | Permitted Extension | Min. Allowed | Structure Location | Amount of Error | Percent of Error |
|-------------------|-----------|-----------------|-----------------|---------------------|--------------|--------------------|-----------------|------------------|
| Special Permit #1 | Shed | Side (southern) | 20.0 feet | N/A | 20.0 feet | 2.0 feet | 18.0 feet | 90% |
| Special Permit #1 | Shed | Rear | 13.5 feet | N/A | 13.5 feet | 0.4 feet | 13.1 feet | 97% |
| Special Permit #2 | Dwelling | Side (southern) | 20.0 feet | N/A | 20.0 feet | 14.1 feet | 5.9 feet | 30% |
| Special Permit #2 | Eave | Side (southern) | 20.0 feet | 3.0 feet | 17.0 feet | 13.8 feet | 3.2 feet | 19% |
| Special Permit #3 | Addition | Side (northern) | 20.0 feet | N/A | 20.0 feet | 11.1 feet | 8.9 feet | 45% |

*Minimum yard requirement per Section 3-107

**Permitted extensions per Section 2-412

Description of Accessory Dwelling Unit

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

Size of Principal Dwelling: 2,543 square feet above grade living space
Size of Accessory Dwelling Unit: 672 square feet (21%)
Lot Size: 23,487 square feet

LOCATION AND CHARACTER

Existing Site Description:

The application property is located at 3108 Sleepy Hollow Road in the Sleepy Hollow subdivision. The 23,487 square foot site is developed with a one level brick and frame rambler, with a cellar. An asphalt driveway is accessed from Sleepy Hollow Road which leads to an existing carport with a storage structure attached to the rear. A separate basement entry, accessible from the stone patio located in the rear yard provides an exterior entrance to the walkout cellar. The rear yard is sloped upward toward the rear lot line, and is heavily landscaped with existing mature vegetation. An approximate 103 square foot storage structure is located in the far western corner of the lot.

Character of the Area

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

BACKGROUND

Site History

County records indicate that the original one story rambler was constructed in 1949, with an attached carport with storage structure. Building permit history indicates that a buildable area for the application property depicted a 15 foot side yard; however, the dwelling is located 14.1 feet with eave 13.8 feet from the southern side lot line. A building permit was also approved to permit construction of the one story addition with a southern side yard of 20 feet in 1979; however, the current plat depicts the addition 14.6 feet to the eave. The applicant purchased the property in approximately 1971.

Although it has been determined that the dwelling and the addition have been taxed for at least 15 years and are considered not illegal under Sect. 15.2-2307 of the Code of Virginia, under this provision the dwelling can not be expanded or replaced in the future. Therefore, the applicant wishes to proceed with the errors in building locations. A copy of the determination has been included as Appendix 4.

On October 24, 2008, a Notice of Violation was issued to the applicant for having two (2) separate dwellings in a single family dwelling. The NOV is attached as Appendix 5. The separate dwelling, which is located in the cellar of the original structure, is equipped with a full kitchen with an electric stove, microwave oven, sink and cabinetry, a bedroom and a full bathroom. A building permit was obtained for the bathroom on the ground floor in 1986. The owner has stated that the second kitchen has existed since she purchased the home in 1971. There are currently no records on file for the second kitchen. Building permit history is attached as Appendix 6.

In discussion with staff from the Department of Public Works and Environmental Services (DPWES), Residential Building Plan Review and Residential Inspections, it has been determined that the accessory dwelling unit use will require structural changes, which would consist of enlarging windows to provide for adequate emergency ingress and egress from the bedroom, as well as possible electrical upgrades to the kitchen area. Development conditions have been included to address these issues.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: House Location Survey, Lot 39, Section Three, Sleepy Hollow, Mason District, Fairfax County, Virginia

Prepared By: APEX Surveys

Dated: August 12, 1994, as revised through May 4, 2009

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit. The 672 square foot accessory unit will be located in the basement level of the existing rambler and will include one (1) bedroom, a bathroom and a full kitchen. The above grade living space of the existing dwelling is 2,543 square feet, of which 35%, or 890 square feet, could be utilized for an accessory dwelling unit. The accessory dwelling unit proposed will consist of 672 square feet, or 26%, of the total above grade living space in the dwelling.

The driveway and carport can accommodate approximately three (3) on-site parking spaces. The applicant is the sole resident of the dwelling and meets the criteria of being 55 years of age or older. Her tenant would occupy the cellar space.

In addition, the applicant is also requesting errors in building locations to permit an existing accessory storage structure, dwelling and addition to remain, as discussed previously.

Land Use Analysis

The Comprehensive Plan recommends residential uses with a density of 1-2 dwelling units per acre. Staff believes the proposed accessory dwelling unit is in harmony with the Comprehensive Plan recommendations for this site, and there are no design or compatibility issues posed by the development plan.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 7)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Summary of Zoning Ordinance Provisions

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

CONCLUSION

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 of SP 2009-MA-020, for the accessory dwelling unit, 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
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Administration Determination Memorandum
5. Notice of Violation dated October 24, 2008
6. Building Permit History
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2009-MA-020****June 16, 2009**

If it is the intent of the Board of Zoning Appeals to approve SP 2009-MA-020 located at Tax Map 51-3 ((7)) 39, to permit errors in building locations and an accessory dwelling unit under Sections 8-914 and 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, Nancy Longmyer, Trustee of the Nancy W. Longmyer Revocable Trust, and is not transferable without further action of this Board, and is for the location indicated on the application, 3108 Sleepy Hollow Road (23,487 square feet), and is not transferable to other land.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the house location survey plat prepared by APEX Surveys, dated August 12, 1994, as revised through May 4, 2009, and approved with this application, as qualified by these development conditions.
3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.
5. Prior to occupancy of the accessory dwelling unit, the applicant shall bring the accessory dwelling unit into conformance with the Residential Building Code as required by the Department of Public Works and Environmental Services.
6. Prior to occupancy of the accessory dwelling unit, all applicable permits and final inspections shall be obtained for the kitchen located within the unit.
7. The accessory dwelling unit shall contain a maximum of 672 square feet, including a maximum of one (1) bedroom.
8. 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.

9. 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.
10. 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.
11. Parking shall be provided as shown on the special permit plat.

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

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

Application No.(s): SP 2009-MA-020
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/5/09
 (enter date affidavit is notarized)

I, Nancy W. Hongmyer, Trustee of the Nancy W. Hongmyer Revocable Trust, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant 103562a
 applicant's authorized agent listed in Par. 1(a) below

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) |
|-------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------|
| Nancy W Hongmyer Trustee of the Nancy W. Hongmyer Revocable Trust | 3105 Sleepy Hollow Rd Falls Church, Va. 22042 | Applicant/Title Owner |
| Katherine Hongmyer | 652 E. 6th Street Apt. 4B New York, N.Y. 10009 | Beneficiary |

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SP 2009-MA-020
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 5, 2009
(enter date affidavit is notarized)

103562a

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

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

CORPORATION INFORMATION

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

None

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): SP 2009-WA-020
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 5 2009
(enter date affidavit is notarized)

103562a

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)

none

(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): SP 2009-MA-020
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 5, 2009
(enter date affidavit is notarized)

103562a

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: March 5 2009
(enter date affidavit is notarized)

103562a

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:

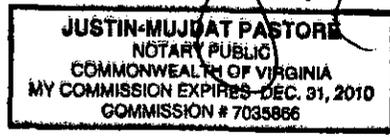
(check one)

Nancy W. Longmyer, Trustee of the
 Applicant Applicant's Authorized Agent
Nancy W. Longmyer, Trustee of the Nancy Longmyer Trust
(type or print first name, middle initial, last name, and title of signee) Revocable Trust

Subscribed and sworn to before me this 5th day of March 2009, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: Dec 31, 2010



RECEIVED
Department of Planning & Zoning

MAR 31 2009

Zoning Evaluation Division

Saturday, December 27, 2008

County of Fairfax
Zoning Evaluation Division, DPZ
12055 Government Center Parkway
Suite 801
Fairfax, Va. 22035**RE:** Application for a Special Permit for an Accessory Dwelling Unit Property: 3108
Sleepy Hollow Road, Falls Church, Va. 22042**Requirement #5**

A written statement of justification describing the proposed use and other pertinent data which complies with Section 8-918 contained in the provisions.

Written Statement of Justification

1. I am the property owner, requesting the permission to keep a single detached accessory dwelling unit with a kitchen in my single family home.
2. The unit is located in the basement of my single family home. An external entrance is located west of the house leading onto a patio.
3. The total square footage of the entire living space including the accessory dwelling unit is 3,215 sf. The square footage of the living space of the main floor is 2,543 sf. The single accessory dwelling unit is 672 sf. The total lot size is 23,487 sf.
4. The unit contains one bedroom/living room, a kitchen and a bath.
5. Occupancy
The unit will be occupied by a person or persons who will be available if and when I need assistance.
In April, 2005, I was diagnosed with a brain tumor called a meningioma. The tumor was removed at John Hopkins Hospital. Several days after returning home I had seizures and spent 8 more days in Fairfax Hospital, 4 of which I continued to have seizures. The seizures were brought under control and I still have periodic MRI's to insure that the tumor is not returning.
I am 72 years old and live alone. Having someone living in the house provides me with the feeling of security and safety in case I need sudden help for health reasons. The present tenants also help me with odd jobs when I need it.
6. The tenants have a separate, private entrance to the apartment from the patio in the back of the house. They also have access through the primary entrances on the first floor.
7. The tenants have a parking space in the driveway along with one other vehicle owned by myself, Nancy Longmyer. There is also space for one additional vehicle parked along the street in a manner that does not impede the flow of traffic.

8. There are no proposed changes to the exterior of the house and no proposed additions to the existing accessory dwelling unit.
9. When I bought the house in the summer of 1971, the basement contained a kitchen. I was not aware that having an additional kitchen was a violation of the Fairfax County Zoning code. In the late 1980's the dwelling was used by my mother-in-law. In 1998 I began to rent the basement apartment, partially to have someone else in the house, and partially to help pay for college for my daughter.
10. Provisions will be made to allow inspections of the property by County personnel during reasonable hours upon prior notice.

Property Owner

Nancy Longmyer, Trustee of the Nancy W. Longmyer
Revocable Trust
3108 Sleepy Hollow Road
Falls Church, Va. 22042
703 532 4694
nancylongmyer@gmail.com

Nancy Longmyer, Trustee of the
Nancy Longmyer, Nancy W. Longmyer
Revocable Trust

FEB 04 2009

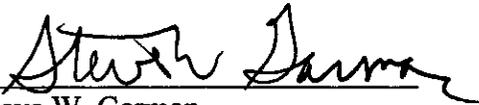
Zoning Evaluation Division

Sunday, January 3, 2008

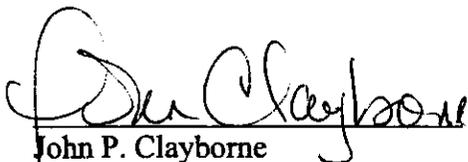
County of Fairfax
Zoning Evaluation Division, DPZ
12055 Government Center Parkway
Suite 801
Fairfax, Va. 22035

RE: Application for a Special Permit to keep a shed that was built with an error in height for a building located close to the plat boundary.

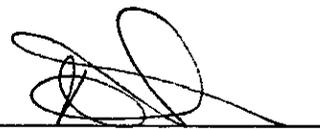
The building located in the southwest corner of the property owned by Nancy Longmyer at 3108 Sleepy Hollow Road, Falls Church, Va. 22042 is not objectionable to me and is not detrimental to my use and enjoyment. The shed does not affect or obscure the view from my property.



Steve W. Garman
3116 Knoll Drive
Falls Church, Va. 22042-3113
703 241 4093



John P. Clayborne
3106 Sleepy Hollow Road
Falls Church, Va. 22042-3127
703 533 0130



Danielle Clayborne
3106 Sleepy Hollow Road
Falls Church, Va. 22042-3127
703 533 0130



Sue Brown
3110 Sleepy Hollow Road
Falls Church, Va. 22042-3127
703 534 1522



County of Fairfax, Virginia

MEMORANDUM

DATE: May 13, 2009

TO: Debbie Hedrick
Zoning Evaluation Division

FROM: Leslie Johnson *LJ*
Senior Deputy Zoning Administrator

SUBJECT: SP 2009-MA-020
3108 Sleepy Hollow Road
Sleepy Hollow, Sect. 3, Lot 39
Zoning District: R-1

This is in response to your May 4, 2009 request for a determination as to whether the existing dwelling, which was built in 1948, respectively and an addition, which was built in 1980 can be considered a legal use based on §15.2-2307 of the Code of Virginia (State Code) and therefore does not need the approval of a Special Permit for an error in building location in addition to the Special Permit for approval of an Accessory Dwelling Unit. §15.2-2307 of the State Code provides, in pertinent part, that if the local government has issued a building permit, and the structure was constructed in accordance with the building permit and upon completion was issued a certificate of occupancy or use permit; or if the owner has paid taxes on the improvement for a period in excess of 15 years, a zoning ordinance shall not provide that such building or structure is illegal. While the existing dwelling and the addition were constructed pursuant to a building permit, the location of the existing dwelling and addition was not constructed in accordance with the left side setback shown on the plats associated with the building permit applications. However, based on a review of the property tax records, the structures have been assessed for tax purposes for a period in excess of 15 years. Therefore, it has been determined that the location of the existing dwelling and addition is not illegal and may remain, but may not be expanded or replaced unless brought into compliance with the minimum required side yard of 20 feet.

cc: Eileen McLane, Zoning Administrator
Diane Johnson-Quinn, Deputy Zoning Administrator, ZPRB, DPZ



County of Fairfax, Virginia

MEMORANDUM

DATE: May 4, 2009

TO: Leslie Johnson
Zoning Administration Division

FROM: Debbie Hedrick *Deh*
Zoning Evaluation Division

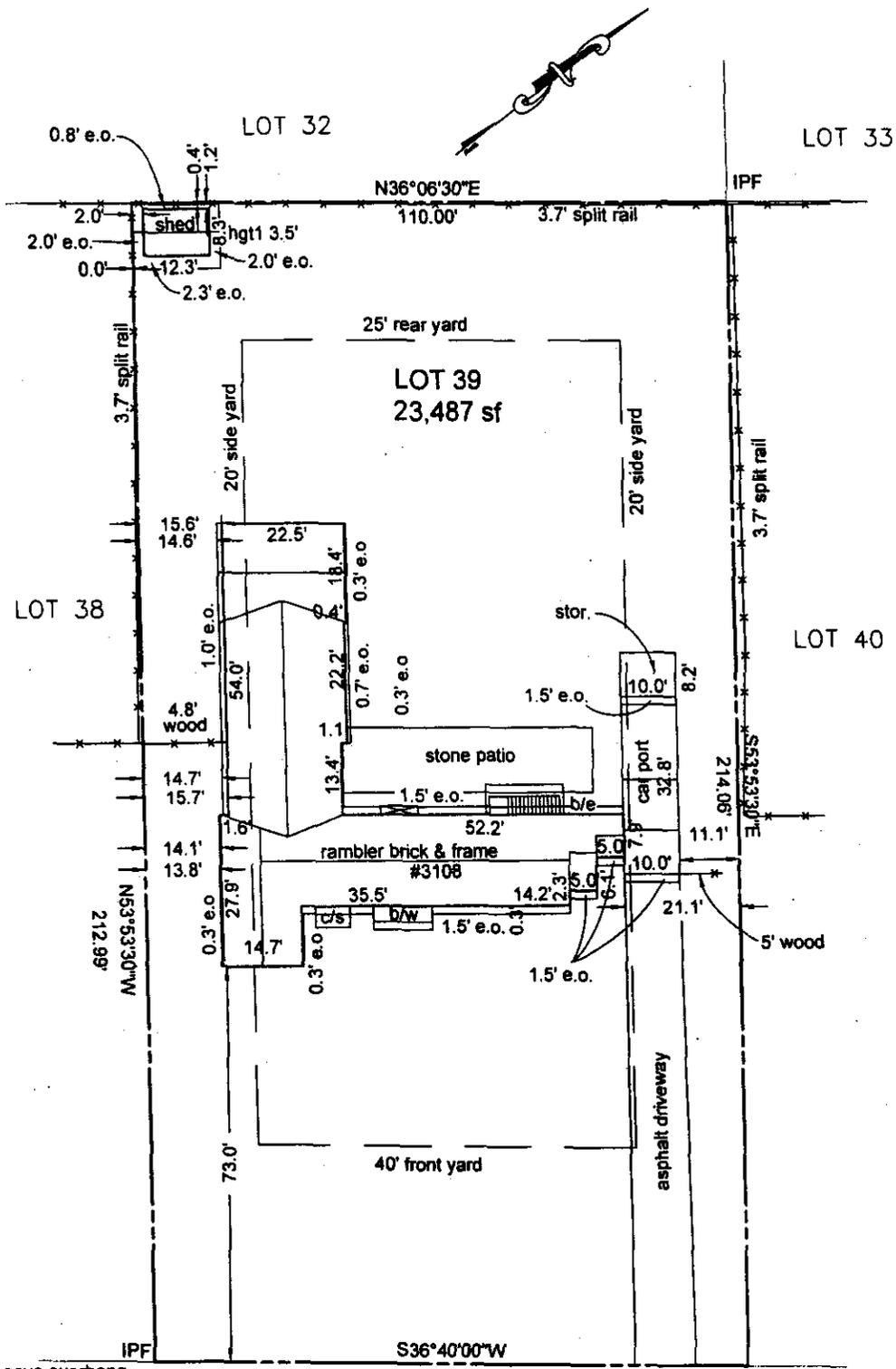
SUBJECT: Dwelling and Addition at 3108 Sleepy Hollow Road, Falls Church,
Lot 39, Section Three, Sleepy Hollow – SP 2009-MA-020

Upon review of the above referenced property, which seeks approval of an error in building location to permit an accessory storage structure to remain 2.0 feet from a side lot line and 0.4 feet from a rear lot line and to permit an accessory dwelling unit, it appears that the existing dwelling, which was built in 1948, and an addition, which was built in 1980, are too close to the southern side lot line. The 1948 building permit reflects a "buildable area" on the plat which provided a 15 foot side yard setback requirement. The original structure currently is located at 13.8 feet to its eave. It also appears that a building permit was obtained for the addition in 1980, to be located 20 feet from the side lot line; however, it appears to be located 14.6 to its eave, from the side lot line.

Neither of these issues are currently part of the special permit request and I am requesting an interpretation regarding the above mentioned issues to see if the dwelling and the addition will fall under 15.2-2307 of the State Code since they have been in existence in excess of 15 years.

I have enclosed the building permit history, tax records, and plat and property cards from real estate assessments for your review. We are in the process of reviewing legal notification and need to determine if these items should be added to the application as errors in building locations.

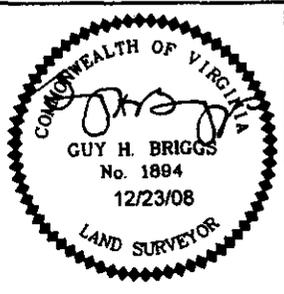
Please contact me at x41407 with any questions or if further clarification is needed.



e.o. eave overhang
 c/s concrete stoop
 b/w bay window
 ipf iron pipe found
 property is zoned R-1 and is connected to public sewer and water

SLEEPY HOLLOW ROAD

/Longmyer **HOUSE LOCATION SURVEY** JOB #: 940458



**LOT 39, SECTION THREE
 SLEEPY HOLLOW**
 MASON DISTRICT
 FAIRFAX COUNTY, VIRGINIA

AUGUST 12, 1994 REV JANUARY 22, 2009 REV MAY 4, 2009 SCALE: 1"=25'

APEX SURVEYS 7720 VICEROY STREET 703 866-1236
 SPRINGFIELD, VIRGINIA 22151



County of Fairfax, Virginia

Street

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



NOTICE OF VIOLATION

DATE OF ISSUANCE: October 24, 2008

CERTIFIED MAIL #: 7007 2680 0000 2820 9580

CASE #: 39701

SERVE: Nancy W. Longmyer
3108 Sleepy Hollow Rd
Falls Church, VA 22042

LOCATION OF VIOLATION 3108 Sleepy Hollow Road
Falls Church, VA 22042-3127
Tax Map #: 0513 070039
Zoning District: R-1

Dear Property Owner:

An inspection of the above referenced property on October 16, 2008 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Excessive Dwelling Units:

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

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

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1)

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/



lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within fifteen (15) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

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

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1330 or (703) 324-1300.

Sincerely,



Peggy Delean

Property Maintenance/Senior Zoning Inspector

County of Fairfax, Virginia

OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR ZONING APPROVAL

Magisterial District, Building Permit No., Name of Owner, Address, Name of Builder, Address, Subdivision, Lot No., Block, Section, Use of Building, No. of Families or Housekeeping Units, Plans, Cost, Size of Lot: Width, ft. Depth, ft. Area, sq. ft., Height of building, at front center to highest point of roof, ft., Set back from side line of street, Width of street, ft. (right of way), Name (No.) of street, Paving of street, Side yard, ft. Side yard, ft. Rear yard, ft., Are water and/or sewer available, Zone

Flat property to scale, showing ALL buildings and ALL distances to property lines, if plat is required, and attach hereto. When this is done preliminary (foundation) zoning permit shall be issued provided the requirements of the Fairfax County Zoning Ordinance are met.

No part of car port to be enclosed

I, the undersigned hereby certify that I understand the foregoing requirement and procedure. I understand that building construction cannot exceed the height of first floor joists until after Final Zoning Approval is issued. I understand that I am required to either furnish the Zoning Administrator with 2 copies of a certified surveyor's plat showing the exact location of the walls in relation to the property and street lines, or to notify him when foundation is ready for inspection before Final Zoning Approval may be obtained. I further certify that I have the authority to make this application, that the information given is correct, and that the use and construction, if permit is issued shall conform to the County Health Regulations, the Building and Zoning Ordinances and private deed restrictions if any, which may be imposed on the property.

Benjamin C. Russell
Applicant

7140
Telephone No.

Address
Date

INSPECTOR'S REPORT

Foundation location inspected and approved as being in conformance with the requirements of the Fairfax County Zoning Ordinance.

Date 12-19-61
Inspector

FINAL ZONING APPROVAL

In compliance with the Zoning Ordinance, effective as of this date, and by authority vested in me as Zoning Administrator by the Board of Supervisors, I hereby issue Final Zoning Approval for the above described use and building construction based on attached surveyor's plat or foundation inspection made as indicated by above inspector's report.

Date
Zoning Administrator

PRELIMINARY (FOUNDATION) PERMIT

Construction cannot exceed the height of 1st floor joists until final zoning approval is issued. Before Final Zoning Approval of building permit shall be issued the applicant is required to either furnish the Zoning Administrator with 2 copies of a certified surveyor's plat showing the exact location of the walls in relation to the property and street lines or to notify him when the foundation is ready for inspection.

Preliminary (Foundation) Permit issued based on attached plat. Final approval subject to above.

No part of car port to be enclosed

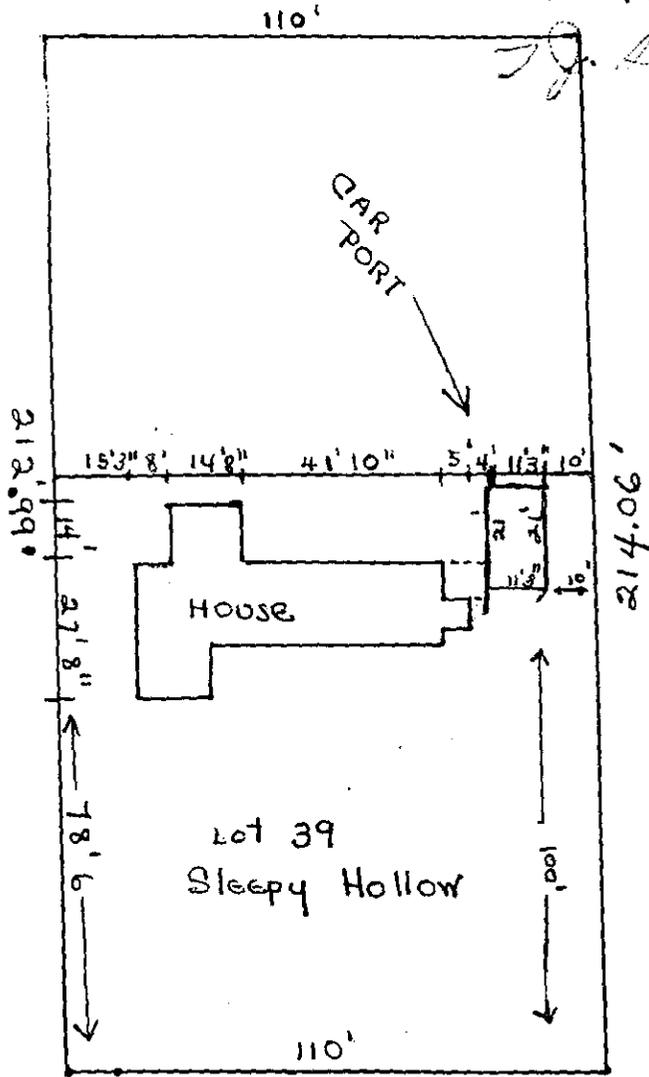
Date 12/13/69
Zoning Administrator

Benj. C. Lussell

part of car port to
closed

19/12/49

J. H. H. H.



Sleepy Hollow Road

To: BUILD ALTER OR REPAIR ADD TO DEMOLISH MOVE

| | | |
|--------------------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| JOB LOCATION | Street <u>3108 SLEEPY HOLLOW RD</u> | 5 DESCRIPTION |
| | Lot No. <u>39</u> Block <u>3</u> | |
| OWNER | Subdivision <u>Sleepy Hollow</u> | for <u>footings & foundation for future addition</u> |
| | Corp. Name _____ | |
| ARCHITECT ENGINEER | Name <u>KENNETH LONGMYER</u> | No. of Bldgs. _____ Est. Const. Cost \$ <u>3000.00</u> |
| | Address <u>3108 SLEEPY HOLLOW RD</u> | No. of Units _____ No. of Stories _____ |
| CONTRACTOR | City _____ Telephone Number _____ | No. of Kitchens _____ Penthouse _____ |
| | Name <u>LANSBURGH CONST. CORP.</u> | No. of Baths _____ Ht. of Bldg. _____ ft. |
| | Address <u>2828 WILSON BLVD</u> | No. of Rooms _____ Bldg. Area _____ sq. ft. |
| | City <u>ARLINGTON</u> | (Exclude Kit. & Bath) Basement <input type="checkbox"/> Slab <input type="checkbox"/> Crawl <input type="checkbox"/> Soil: Solid <input checked="" type="checkbox"/> Fill <input type="checkbox"/> |
| | County Reg. # <u>2173</u> State Reg. # _____ | Fig: Concrete <input checked="" type="checkbox"/> Pile <input type="checkbox"/> Carsson <input type="checkbox"/> |
| | | Ext. Walls: Wood <input type="checkbox"/> Metal <input type="checkbox"/> Brick <input type="checkbox"/> |
| | | Int. Walls: Plast <input type="checkbox"/> Drywall <input type="checkbox"/> Panel <input type="checkbox"/> |
| | | Roof: Flat <input type="checkbox"/> Pitch <input type="checkbox"/> Shed <input type="checkbox"/> |
| | | Roofing: Built-up <input type="checkbox"/> Shingle <input type="checkbox"/> Roll <input type="checkbox"/> |
| | | Heat: Oil <input type="checkbox"/> Gas <input type="checkbox"/> Electric <input type="checkbox"/> |
| | | Equipment: Boiler <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Air Cond <input type="checkbox"/> |
| | | Sewage: Public <input checked="" type="checkbox"/> Community <input type="checkbox"/> Septic Tank <input type="checkbox"/> None <input type="checkbox"/> |
| | | Water: Public <input checked="" type="checkbox"/> Individual Well <input type="checkbox"/> None <input type="checkbox"/> |
| | | NOTICE: The request for and use of personal information contained on this form is subject to the provisions of the Privacy Protection Act of 1976. |
| | | Remarks: _____ |

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

Phone No. 525-4490 Date 10/24/79 Signature of Owner or Authorized Agent Thomas A. Hutchins, Vice Pres.

APPLICANT: DO NOT WRITE BELOW THIS LINE

| | |
|---------------|------------------------------------------------------------------------------------------|
| PLAN APPROVAL | Use Group of Building <u>R-3</u> Area of Bldg. _____ @ _____ per Sq. Ft. \$ _____ |
| | Type of Construction <u>F-B</u> @ _____ \$ _____ |
| | Fire District _____ @ _____ \$ _____ |
| | Date Checked <u>10/24</u> 19 <u>79</u> By <u>[Signature]</u> TOTAL FEE \$ <u>1500.00</u> |

| | OFFICE | DATE | APPROVED BY | OFFICE | DATE | APPROVED BY |
|---------|----------------------|-----------------|--------------------|-------------------|-----------------|--------------------|
| ROUTING | Land Office | <u>10-24-79</u> | <u>[Signature]</u> | Fire Marshal | | |
| | Zoning Administrator | <u>10/24/79</u> | <u>[Signature]</u> | Design Review | <u>10/21/79</u> | <u>[Signature]</u> |
| | Public Works | | | Housing & License | <u>10/24/79</u> | <u>[Signature]</u> |
| | Health Dept. | | | Assessments | <u>10-24-79</u> | <u>RB</u> |
| | | | | | | |

I hereby certify to the following statement:

- All materials used for work performed under this permit will be paid directly to the supplier by the property owner.
- All compensation will be on an hourly basis and paid by the property owner directly to the person(s) performing work under this permit.

Date _____ 19 _____ Property Owner _____ By _____ Authorized Agent _____

Supervisor of Assessments [Signature]

Property is listed in name Kenneth Longmyer

Magisterial District District 1 Deed Book Reference 13650-219

Subdivision Sleepy Hollow Supervisor Arnold A. Patterson, Jr.

Street Address 3108 Sleepy Hollow Rd Lot No. _____ Block _____ Section _____ Zone R-1

Use of Bldg. add. bed room & family room No. Families 1

BZA MC SITE PLAN [Signature] Zoning Administrator [Signature]

Set Back: Front _____ Rt. Side 103 Left Side _____ Rear 354

NOTICE REVISSED

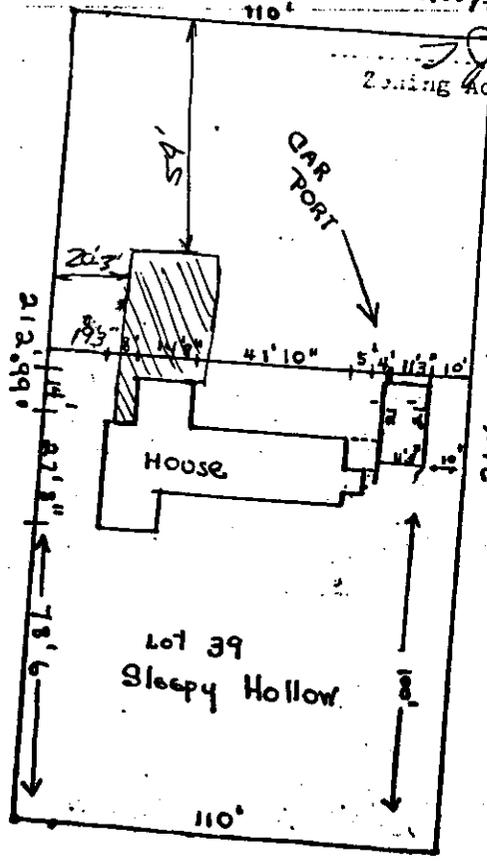
No part of car port to be enclosed

Borg C. Lunsell

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

Date 10/13/79

J. J. Heckler
Zoning Administrator



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

OCT 23 1979

J. J. Heckler
Zoning Administrator

By *Borg C. Lunsell*
Date 10-29-79

Sleepy Hollow Road

**BUILDING
 PERMIT APPLICATION**

APPLICATION NO
 8-1-1986
 Date

JOB LOCATION
 Street 3108 Sleepy Hollow Rd
 Building _____ Floor _____ Suite _____
 Subdivision _____
 Tenants Name _____

DO NOT WRITE IN THIS SPACE
 Permit No. 8621730520
 Map Reference 51-3-27-39
 Building Permit No. _____ Control No. _____
 Std. _____ Mag. _____ Plan _____ Census _____

OWNER
 Name LONGMILL
 Address (Mailing) 3108 Sleepy Hollow Rd
 City VA State VA Zip 22042
 Telephone 532-4194

CONTRACTOR
 Company Name DAVE DILLIARD
 Master LOVEY
 Address 1774 Main St
 City VA State VA Zip 22051
 Telephone 852-5011 License No. _____
 State Contractors License No. 12437
 County Business Account No. 010-022-635

For Interior work only - no new walls, construction limited to electrical & plumbing only
Description
 Model/Use NO STRUCT. CHANGES
 Sewage: Public Community Septic Tank None
 WATER: Public Individual Well None
 N-New D-Demolish
 R-Alter or Repair M-Move
 A-Add To O-Other

ROUTING

| | Date | Approved By: |
|-------------------|----------------|--------------|
| Health Review | | |
| Site Review | | |
| Zoning Review | <u>8/15/86</u> | <u>SAE</u> |
| Sanitation Review | | |
| Building Review | <u>8-15-86</u> | <u>JAF</u> |
| Fire Review | | |

REMARKS:
BUILDING DESCRIPTION **QUANTITY**
 # Units _____
 # Stories _____
 # Rooms _____
 # Bedrooms _____
 # To be Added _____
 # Baths _____
 # Half Baths _____
 # Kitchens _____
 # Fireplaces _____
 Basement _____
 % Basements to Finish _____

Use Group of Building RA
 Type of Construction 50
 Building Area _____
 Estimated Const. Cost \$500.00
ZONING REVIEW
 Zoning Proffers Building R-1
 Zoning Class _____
 Zoning Case # _____
BUILDING CHARACTERISTICS
 Building Height _____
 Exterior Walls _____
 Interior Walls _____
 Roofing Material _____
 Flooring Material _____
 Heating Fuel _____
 Heating System _____
GRADING AND DRAINAGE REVIEW
 Soils _____
 Historical _____
 Plan # _____
 Retaining Wall _____

BUILDING DIMENSIONS

| No. Stories | Width | Depth | Sq. Ft. |
|-------------|-------|-------|---------|
| | x | = | |
| | x | = | |
| | x | = | |
| | x | = | |

YARDS Front Front Left Side Right Side Rear
N/A Interior Only - no changes
REMARKS:
Bathroom only - ground level
Sleepy Hollow
Sec - 3
Kit - 39

FOR COUNTY USE ONLY:

| | |
|------------------------------------------|-------------------------|
| Date <u>8/15/86</u> By <u>lee</u> | Fee _____ |
| Approved for issuance of Building Permit | Filing Fee <u>30.25</u> |
| | Amount Due _____ |

The request for and use of personal information on this form is subject to the provisions of the Privacy Protection Act of 1976 and the Freedom of Information Act.
 I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that if a permit is issued the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations including private building restrictions, if any, which relate to the property. He/She and the company or organization named and represented herein is duly registered or exempt from registration in accord with the provisions of Chapter 7 of the Code of Virginia.
 Signature of Owner or Agent _____ Date _____ Notary Signature _____ Date _____

8-006 General Standards

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

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

8-903 Standards for all Group 9 Uses

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

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

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

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

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

8-918 Additional Standards for Accessory Dwelling Units

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

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

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

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

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

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

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

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