APPLICATION ACCEPTED: September 5, 2008
DATE OF PUBLIC HEARING: November 18, 2008
TIME: 9:00 a.m.

County of Fairfax, Virginia

November 11, 2008

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2008-MV-085
Concurrent with VC 2008-MV-006

MOUNT VERNON DISTRICT

APPLICANT:	Lynn Harvey Tjeerdsma
OWNERS:	Lynn Tjeerdsma, Mary Tjeerdsma
ZONING:	R-4
LOCATION:	2108 Yale Drive
SUBDIVISION:	Bellehaven Terrace
ZONING ORDINANCE PROVISION:	8-914, 18-401 & 10-103
TAX MAP:	93-1 ((28)) (3) 15
LOT SIZE:	11,619 Sq. Ft.
SP PROPOSAL:	To permit reduction to minimum yard requirements based on error in building location to permit addition and eave to remain 3.9 feet from side lot line.
VC PROPOSAL:	To permit greater than 30 percent minimum rear yard coverage.

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

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

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

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

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

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

Special Permit
SP 2008-MV-085

Applicant: LYNN HARVEY TJEERDSMA
Accepted: 09/05/2008
Proposed REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ADDITION AND EAVE TO REMAIN 3.9 FEET FROM SIDE LOT LINE.

Area: 11,619 SF OF LAND; DISTRICT - MOUNT VERNON

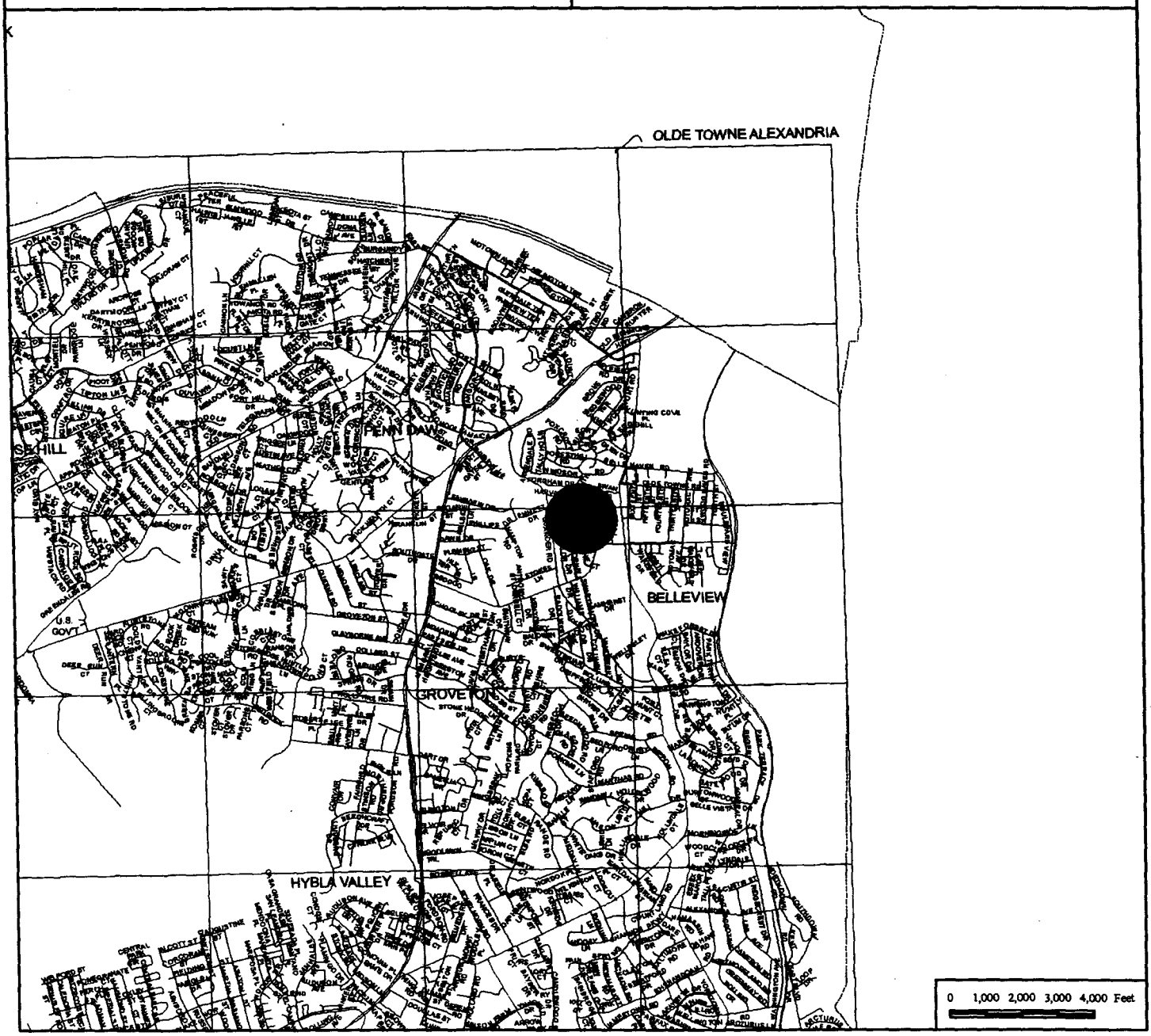
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 2108 YALE DRIVE
Zoning: R- 4
Overlay Dist:
Map Ref Num: 093-1- /28/03/0015

Variance Application
VC 2008-MV-006

Applicant: LYNN HARVEY TJEERDSMA
Accepted: 09/04/2008
Proposed: TO PERMIT GREATER THAN 30 PERCENT MINIMUM REAR YARD COVERAGE

Area: 11,619 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 18-0401 10-0103
Paragraph: 1 03
Located: 2108 YALE DRIVE
Zoning: R- 4
Overlay Dist:
Map Ref Num: 093-1- /28/03/0015



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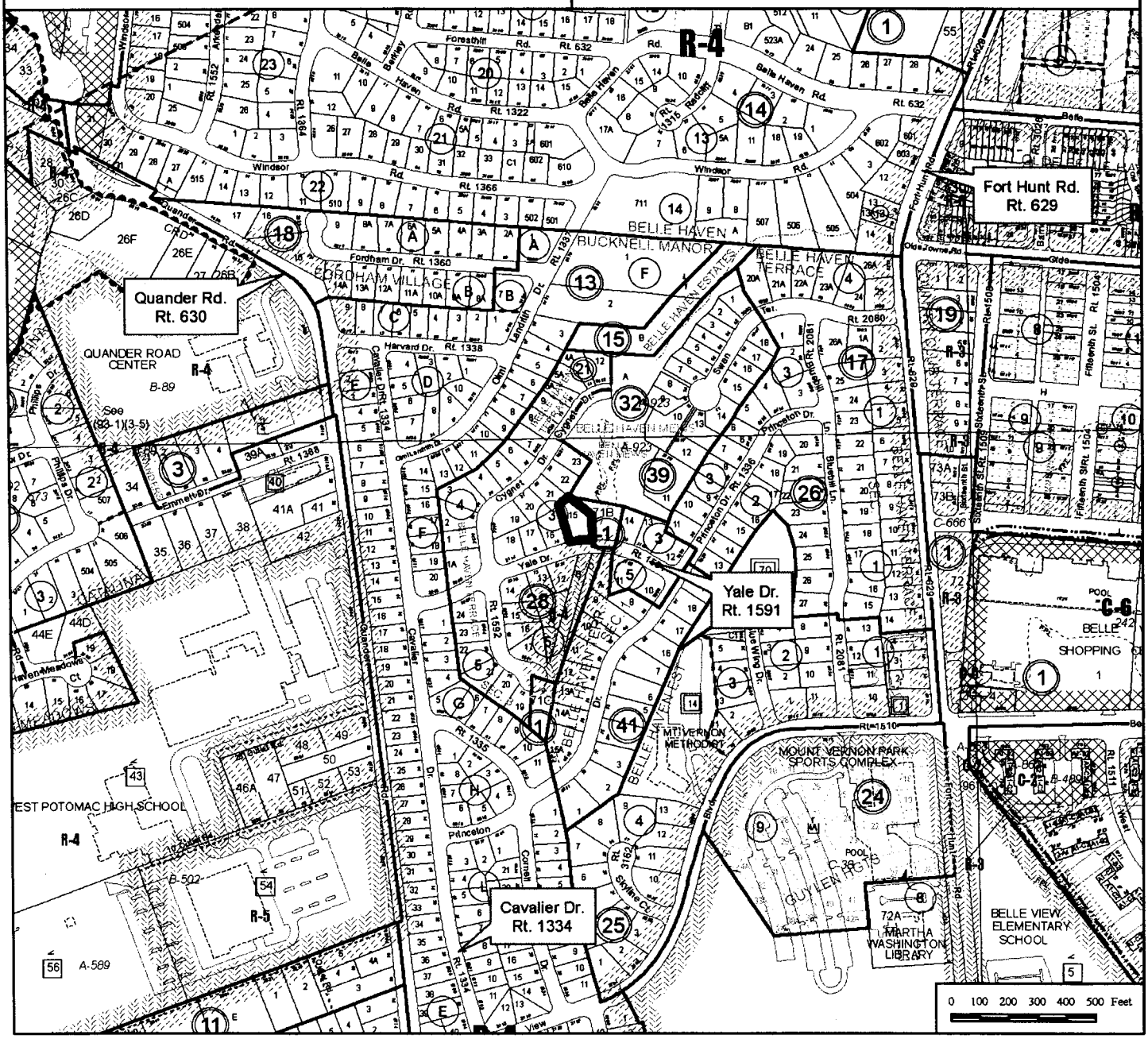
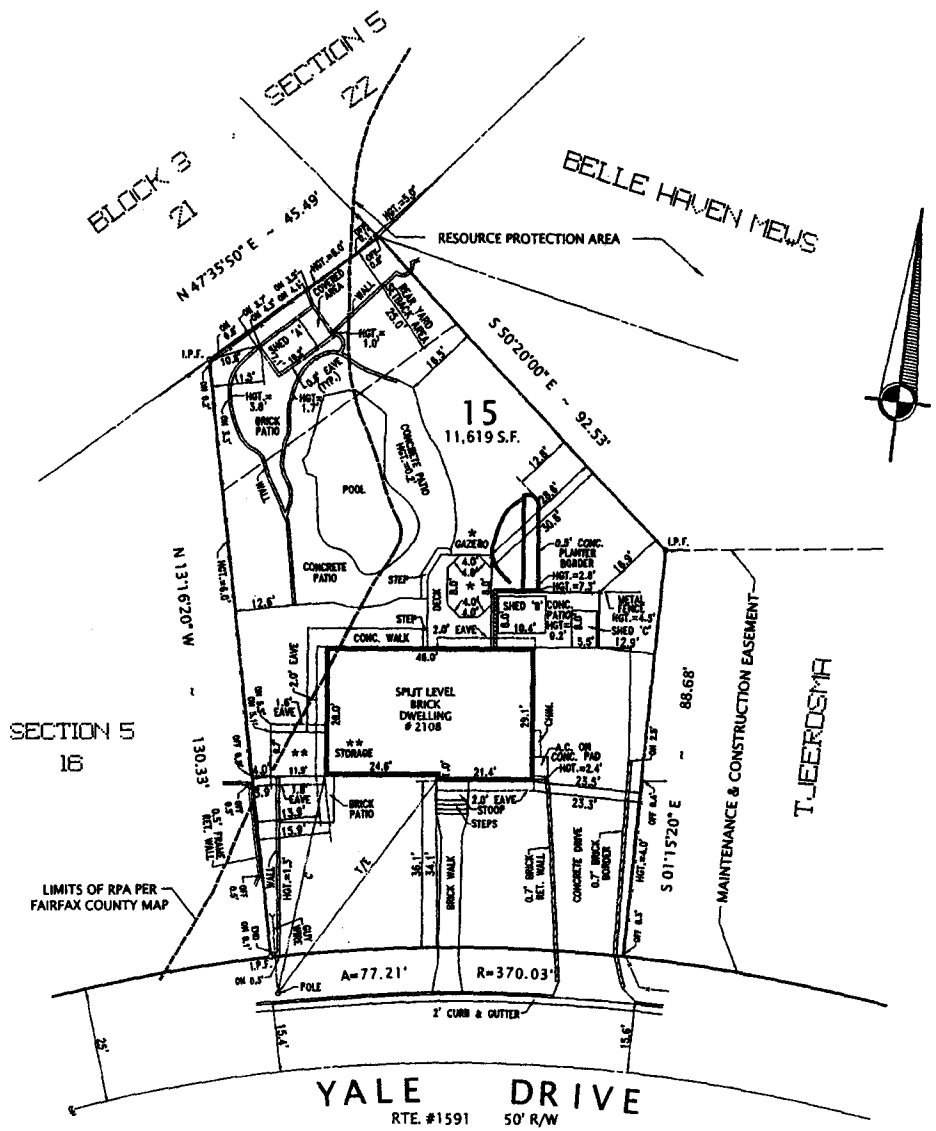




NOTES

1. TAX MAP: 93-1-0028-03-15
2. ZONE: R-4
3. LOT AREA: 11,619 SQUARE FEET
4. REQUIRED YARDS:

FRONT:	=	30 FEET
SIDE:	=	10 FEET
REAR:	=	25 FEET

5. HEIGHTS:

DWELLING	=	19.7 FEET
DECK	=	8.0 FEET
GAZEBO	=	13.0 FEET
SHED 'A'	=	8.4 FEET
SHED 'B'	=	7.2 FEET
SHED 'C'	=	7.2 FEET
STORAGE	=	11.0 FEET
FENCES	=	AS NOTED
WALLS	=	AS NOTED

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. RESOURCE PROTECTION AREA SHOWN ON THIS PLAT IS PER THE FAIRFAX COUNTY RPA MAP.
11. HEIGHT OF THE WALLS THAT ARE SHOWN ARE TO ITS HIGHEST POINT FROM THE GROUND.
12. RETAINING WALLS ARE 0.6' CONCRETE UNLESS OTHERWISE NOTED.
13. FENCES ARE STOCKADE UNLESS OTHERWISE NOTED.
14. REAR YARD SETBACK AREA COVERAGE:

REAR YARD	=	1,355 S.F.
COVERED AREA	=	592 S.F.
COVERAGE	=	44 %

PLAT
SHOWING THE IMPROVEMENTS ON
LOT 15, BLOCK 3, SECTION 6

BELLEHAVEN TERRACE

MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1" = 20' JUNE 27, 2006
MAY 12, 2008 (UDATED AND REVISED*)
OCTOBER 3, 2008 (REMOVED GARAGE)

CASE NAME: LYNN TJEERDSMA

GRAPHIC SCALE 0 20 40

COMMONWEALTH OF VIRGINIA
ANDREW L. WESTERMAN
LIC. NO. 2074
10/07/08
LAND SURVEYOR

BY PROVISIONS OF THE VIRGINIA CODE: NO CORNER MARKERS SET, BOUNDARY SURVEY NOT PERFORMED. PLAT SUBJECT TO RESTRICTIONS OF RECORD AND NO TITLE REPORT IS FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY, AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

LYNN TJEERDSMA

ALEXANDRIA SURVEYS
INTERNATIONAL, LLC
6210 NORTH KINGS HIGHWAY ALEXANDRIA, VIRGINIA 2230
TEL. NO. 703-660-6615 FAX NO. 703-768-7764

* SURVEY UDATED TO REFLECT CURRENT SITE CONDITIONS AND TO ADD REAR YARD COVERAGE CALCULATION.

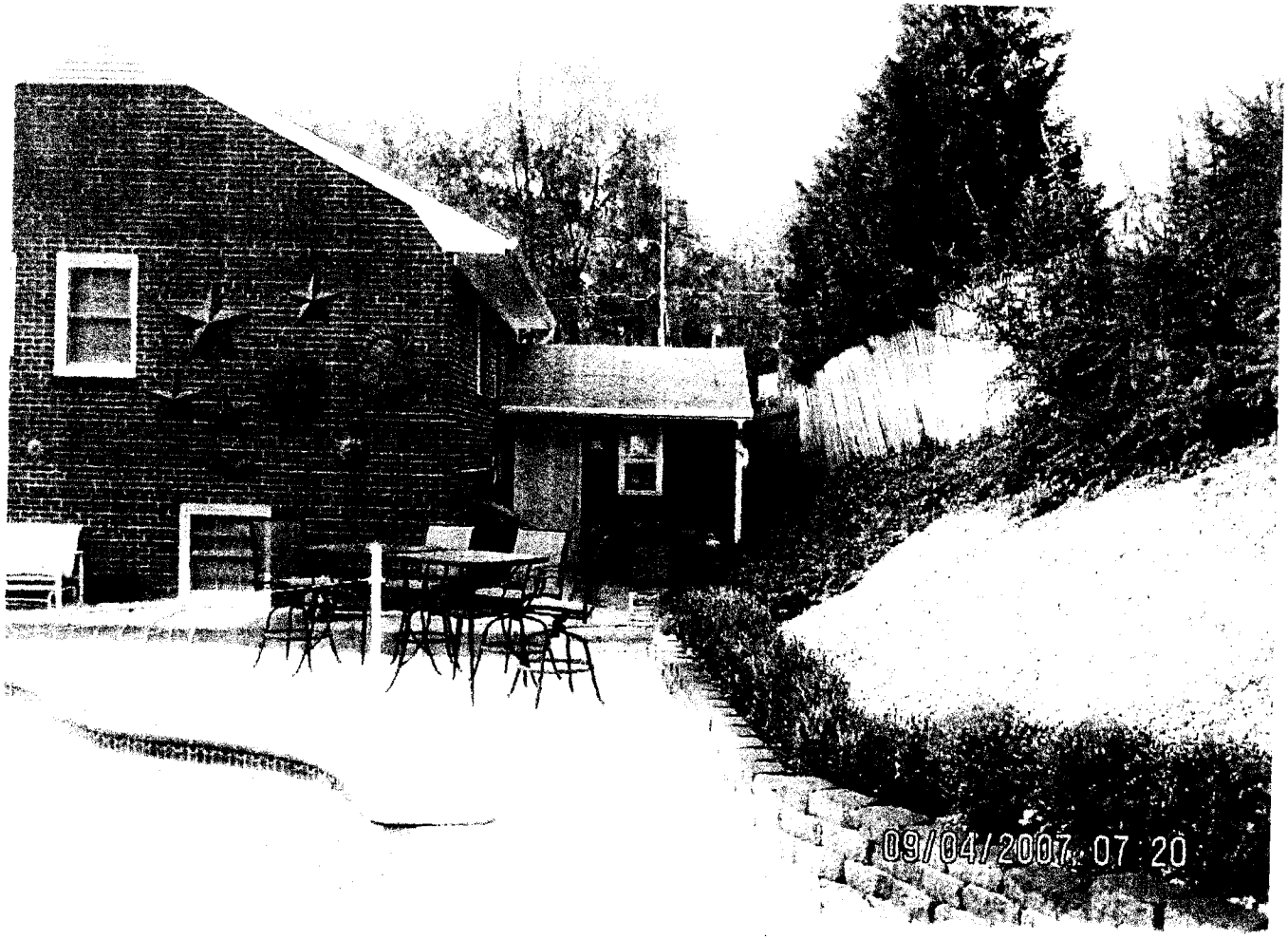
Taken From Street Looking N
Directly in Front of Property
2108 Yale Dr.
Tjeerdsma

Taken from driveway looking NW
Front or street side of property

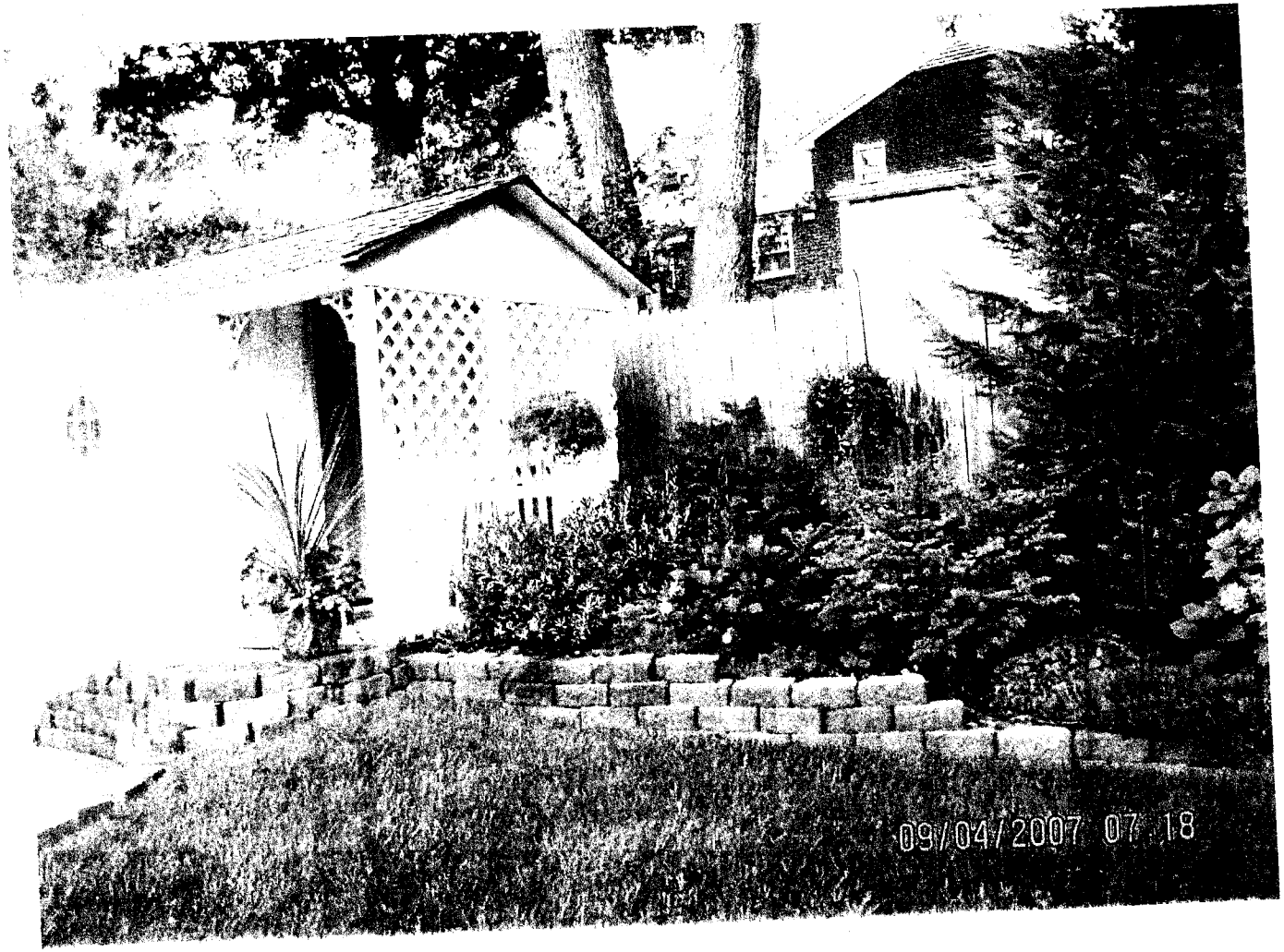
Tjeerdsma
2108 Yale Dr

Taken From Street Front of Property
looking NE
Tjeerd sma
2108 Yale Dr.

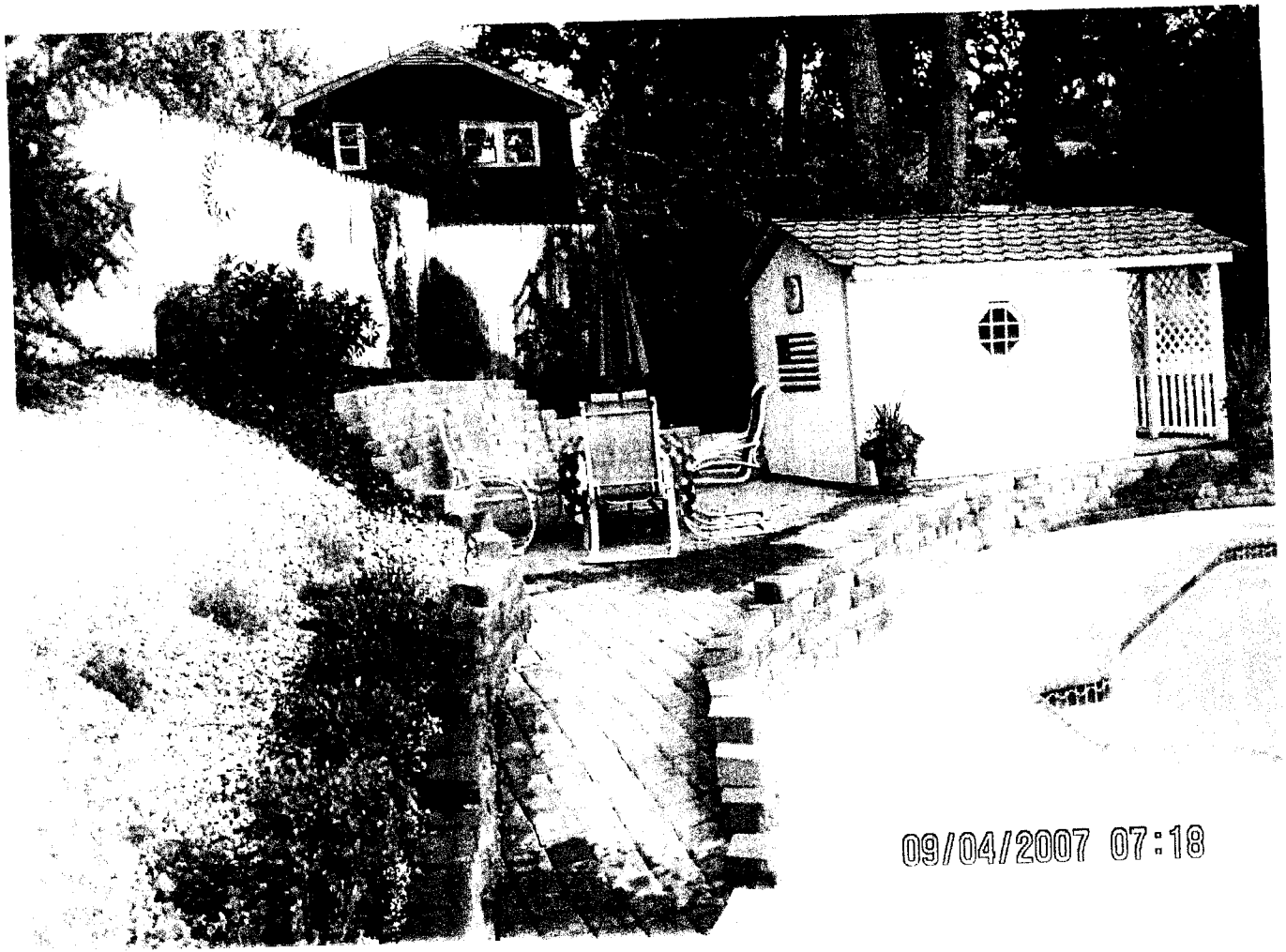
Taken From Rear Yard
looking Directly South
2108 Yale Dr.
Tjeerdsma



Taken From Rear Yard
Looking Directly South
Tjeerdsma
2108 Yale Dr.

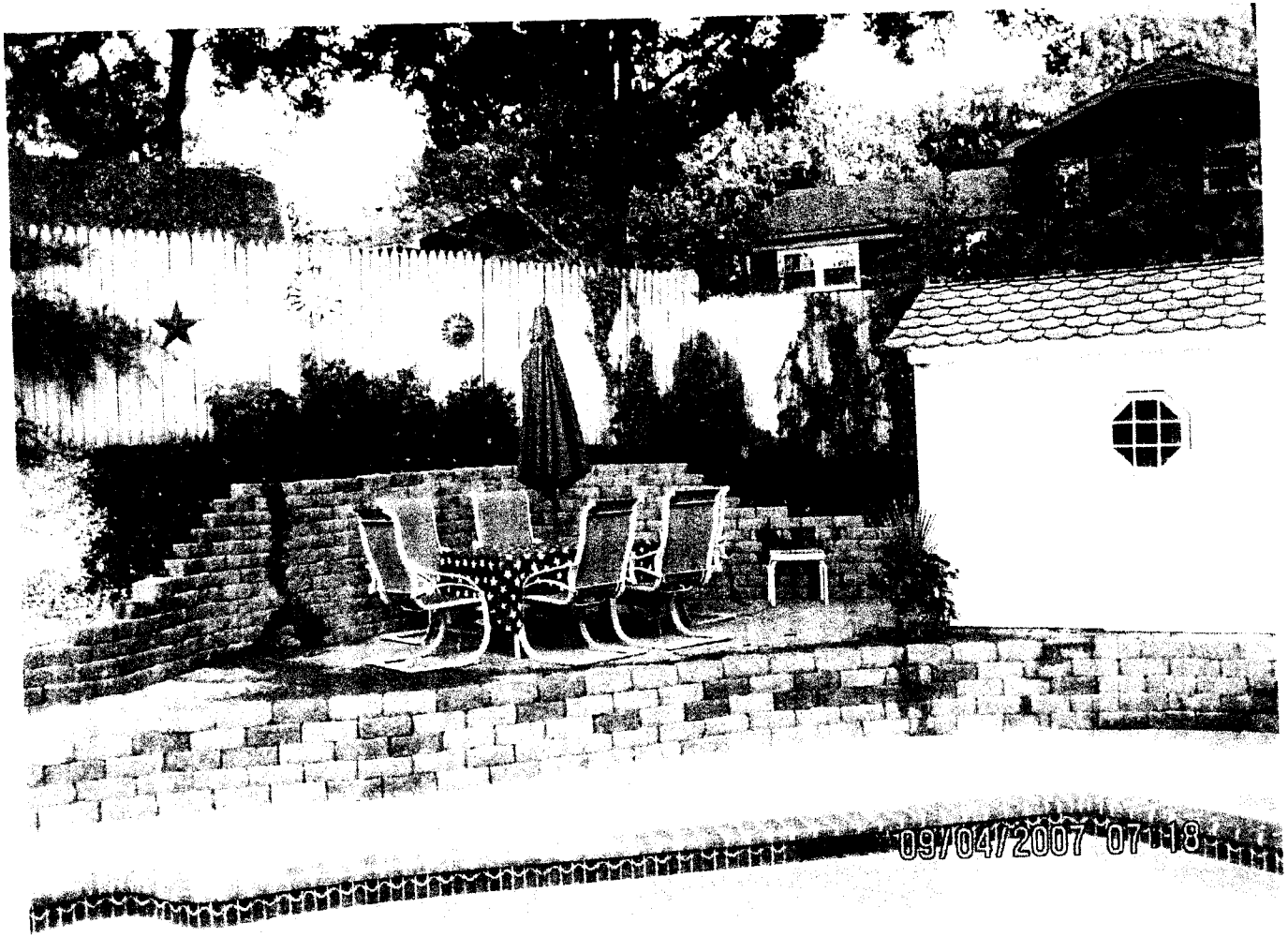


Lynn H Tjeerdsma
2108 Yale Dr
Alexandria VA 22307-1322



Lynn H Tjeerdsma
2108 Yale Dr
Alexandria VA 22307-1322

Lynn H Tjeerdsma
2108 Yale Dr
Alexandria VA 22307-1322



Lynn H Tjeerdsma
2108 Yale Dr
Alexandria VA 22307-1322

LYNN H. TJEERDSMA
MARY E. TJEERDSMA
2108 YALE DRIVE
ALEXANDRIA, VA 22307
703-768-1946

January 30, 2008

Ms. Marie Langhorne
Application Acceptance Section, ZED, DPZ
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509

RE:

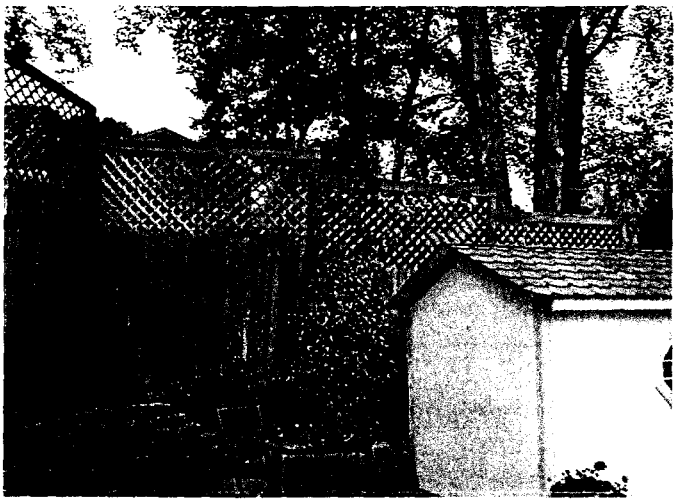
Dear Ms. Langhorne:

This letter is in regards to a telephone conversation earlier today in which we discussed the over height fence in the back yard of property located at 2108 Yale Drive, Alexandria, VA, owned by Lynn and Mary Tjeerdsma.

Please note, as evidenced by the pictures below that all over height fencing has been removed and that any remaining stockade fence is 6.0 feet or less in height, which brings this fence in compliance with current Fairfax County Code.

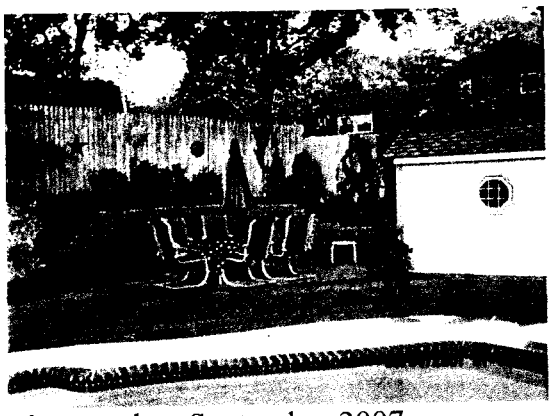
Accordingly, we withdraw any request for a variance regarding this fence.

Regarding the fence located in the rear yard, immediately below is a picture of the fence with the privacy extension on it. This picture was taken in May 2007.



Picture taken May 2007

Below are pictures of the stockade fence as it currently is constructed today. Please note that the current height of any of the fence does not exceed the 6.0 feet height of the stockade fence. Accordingly we do not believe that any violation exists because of the existing fence, and furthermore, that any variance is required. Please contact us if we are in error on this assessment of the rear fence.



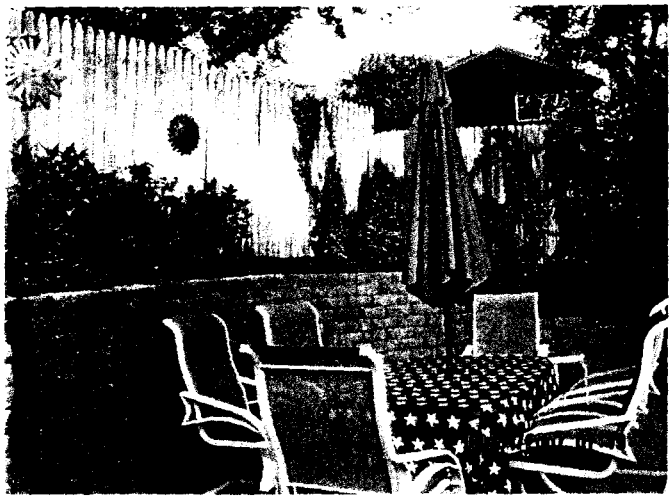
Picture taken September 2007

Rear Yard looking at NW corner of property – Stockade fence is 6.0 ft. in height

Looking at north edge of property – Stockade fence is 6.0 ft. in height.

Looking due north along west property line in rear yard – stockade fence is all 6.0 ft. tall

1 16 '06



Closer view of rear fence in NW corner of property – stockade fence is 6.0 ft. in height.

Point of contact is Lynn Tjeerdsma – 703-768-1946 (home), 202-228-5383 (office), 202-360-7657 (cell).

Please do not hesitate to contact Lynn at any time with any questions or request for additional information.

Please advise us as to next steps required to obtain approval for the special permit application we have on file.

Thanks very much, Ms. Langhorne for your consideration and assistance. We welcome any inspection of this property to verify compliance of this fence.

Sincerely,

/s/ Lynn Tjeerdsma

Lynn H. Tjeerdsma

/s/ Mary E. Tjeerdsma

Mary E. Tjeerdsma

PROPOSED DEVELOPMENT CONDITIONS

SP 2008-MV-085

November 11, 2008

1. This special permit is approved for the location and size of an existing addition as shown on the plat prepared by Andrew L. Westerman, Alexandria Surveys International, LLC, dated June 27, 2006, revised through October 3, 2008 and signed through October 7, 2008 submitted with this application and is not transferable to other land.

2. Building permits and final inspections for the addition shall be diligently pursued and obtained within 6 months of final approval of this application or the addition shall be removed or brought into compliance with Zoning Ordinance Requirements.

3. Prior to the issuance of a building permit for the addition, the applicant shall apply for and gain approval for an RPA exception and/or waiver for any applicable structures on site if determined necessary by DPWES.

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 including requirements for building permits.

PROPOSED DEVELOPMENT CONDITIONS

VC 2008-MV-006

November 11, 2008

1. This variance is approved for greater than 30 percent rear yard coverage for the structures as shown on the plat prepared by Andrew L. Westerman, Alexandria Surveys International, LLC, dated June 27, 2006, revised through October 3, 2008 and signed through October 7 submitted with this application and is not transferable to other land.

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 including requirements for building permits.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/19/2007
(enter date affidavit is notarized)

I, Lynn Harvey Tjeerdsma, 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 97903a

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)
Lynn H. Tjeerdsma	2108 Yale Drive, Alexandria, VA, 22307	Title Owner/Applicant
Mary E. Tjeerdsma	2108 Yale Drive, Alexandria, VA 22307	Title Owner

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/19/2007
(enter date affidavit is notarized)

97903a

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.

[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.

[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/19/2007
(enter date affidavit is notarized)

97903a

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/19/2007 97903a
(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

[ ] In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land:

[✓] Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

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

NONE

(check if applicable) [ ] There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

97903a

DATE: 11/19/2007
(enter date affidavit is notarized)

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

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

NONE

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

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

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

WITNESS the following signature: Lynn H. Tjeerdsma

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

Lynn H. Tjeerdsma Applicant / Title Owner
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 19 day of November 2007, in the ~~State/Comm.~~ District of Columbia, ~~County~~/City of Washington.

My Commission Expires November 14, 2011

Notary Public

My commission expires: _____

NOTARY PUBLIC
DISTRICT OF COLUMBIA

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/20/2006
(enter date affidavit is notarized)

I, Lynn Harvey Tjeerdsma, 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

93893

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)
Lynn H. Tjeerdsma	2108 Yale Drive	Owner
Mary E. Tjeerdsma	2108 Yale Drive	Owner

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/20/2006 93893
(enter date affidavit is notarized)

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.

[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.

[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/20/2006
(enter date affidavit is notarized)

93893

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/20/2006
(enter date affidavit is notarized)

93893

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 (LNT)

(check if applicable) [ ] There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/20/2006 93893
(enter date affidavit is notarized)

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

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

None (LHT)

(**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: Lynn H. Tjeerdsma

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

Lynn H. Tjeerdsma
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20th day of November 2006, in the ~~State/Comm.~~ DISTRICT of COLUMBIA, ~~County/City of~~ _____.

Elizabeth Taylor
Notary Public

My commission expires: Elizabeth Taylor
Notary Public, District of Columbia
My Commission Expires 12-14-2006

Lynn H. Tjeerdsma
Mary E. Tjeerdsma
2108 Yale Drive
Alexandria, VA 22307
703-768-1946

November 21, 2006

Fairfax County Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

RE:	Special Permit Submission – 2108 Yale Drive Belle Haven Terrace, Sec. 6, Blk. 3, Lot 15
Tax Map Ref:	93-1 ((28)) (3) 15
Zoning District:	R-4

Written Statement of Justification

To Whom It May Concern:

In accordance with Requirement "6" of the SYNOPSIS OF SUBMISSION REQUIREMENTS FOR A SPECIAL PERMIT APPLICATION, I am providing you with this written statement of justification requesting that you approve our application for a special permit.

We purchased the property at 2108 Yale Drive in 2000, which is the first real estate we have owned in Fairfax County. We currently own two farms in South Dakota both of which Lynn has resided on for a total of 35 years. Several improvements were made to these properties by Lynn, which did not require previous approval nor were they subject to any zoning restrictions.

In 2001, we erroneously and without knowledge of Fairfax County zoning rules built the 10' X 12' structure on the west side of the house at 2108 Yale Drive. Without knowledge of the setback requirements this structure was built attached to the house as it seemed to be the most aesthetically appealing and presentable to the street and neighborhood – rather than a detached structure. This structure replaced a smaller one that was rotted and badly in need of repair. Greg Copeland, who at that time lived in the house beside the new structure, and Wally Adams the next door neighbor on the other side of the property, assisted me with the construction. The intended, current and future use of the structure is that of storage and workshop, as it is mostly unfinished and contains a workbench the width of the building, and unfinished concrete floor.

We were not aware of any code or other violation until we were notified by Rebecca Goodyear, Senior Zoning Inspector, and upon receipt of a "Notice of Violation" letter.

Please do not hesitate to contact us if you have any further questions or need additional information. We look forward to working with you to correct and rectify this mistake.

Sincerely,

Lynn and Mary Tjeerdsma
2108 Yale Drive

LYNN H. TJEERDSMA
MARY E. TJEERDSMA
2108 YALE DRIVE
ALEXANRIA, VA 22307

RECEIVED
Department of Planning & Zoning
SEP 06 2007
Zoning Evaluation Division

September 3, 2007

Virginia H. Ruffner, Planner III
Application Acceptance Section, ZED DPZ
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509

RE: Special Permit Application – Lynn Harvey Tjeerdsma
File – SP 2006-0344

Dear Ms. Ruffner:

We are in receipt of your letter in which you provided that you have reviewed the Special Permit Application submitted on behalf of Lynn Harvey Tjeerdsma, for compliance with the provisions of Section 80911 of the Fairfax County Zoning Ordinance. Based on your review it was determined that the Special Permit Application did not meet minimum submission requirements and therefore was not accepted for processing. You attached to the letter a listing of the deficiencies that must be addressed before the application can be accepted.

Below is documentation derived from an electronic bank statement which verifies that we have paid the required $295.00 according to the Fee Schedule your office provided me for "Group 9 – Error in Building Location," effective July 1, 2005. (A copy of the cashed check can be provided to you upon request.)

12-05-2006	006246	Draft 006246	-295.00	3,016.90

The purpose of this letter and attachments is to address the deficiencies in the order as set forth in the attachment (copy attached) to the aforementioned letter:

1.00 – Comment:

Applicant must update proposed use as follows: to permit reduction to minimum yard requirements based on error in building location to permit addition to remain 4.0 feet from side lot line and accessory storage structure to remain 4.1 feet with eave 3.5 feet from rear lot line. Applicant must provide calculation amount of rear yard coverage. If coverage exceeds 30% a variance will be required.

Response:

According to our measurements and calculations based on a line extending horizontally across the front face (south side) of the dwelling:

Total square footage of lot = 11,619 square feet

Square footage of front yard coverage = 3,082.94 square feet

Square footage of back yard coverage = 11,619 – 3,082.94 square feet = 8,536.06 sq. ft.

30 percent of back yard coverage = .3 X 8,536.06 = 2,560.8 square feet

Rear yard coverage reductions:

Dwelling – 46.0 X 29.1 = 1,338.6 sq. ft.
Shop on west side of dwelling – 11.9 X 9.7 = 115.43 sq. ft.
Concrete walk on west and north side of dwelling – 4 X 45 = 180 sq. ft.
Deck on rear of dwelling – 14 X 20 = 280 sq. ft.
Concrete pad (driveway) on east side of dwelling – 20.1 X 29.1 = 584.9 sq. ft.
Concrete pad on north side of dwelling and north end of driveway – 23.2 X 12 = 278.4 sf
Swimming pool and deck – 50 X 30 (irreg. shape average l X w) = 1,500 sq ft.
Shed north of pool (houses pool pumps and equipment) 10.2 X 7.1 = 72.42 sq. ft.
Brick patio N.W. of pool (4" brick with sand between – allows water to pass through – irregular shape) 200 sq. ft.

Total of rear yard coverage reductions = 4,549.75 square foot rear yard coverage
Total of rear yard not covered = 3,986.31 square foot rear yard not covered

Percentage of rear yard covered = 53.3% of rear yard (using the south face of the dwelling as the boundary for the rear yard.

In response to the above comment it appears that a variance will be required due to the coverage exceeding 30% of the rear yard.

Important Note: *The swimming pool and decking in the rear yard were installed in 1972, as was the pad on which the north shed is placed. Also, nearly all of the pad on the east side of the dwelling and the sidewalk on the west and north sides of the dwelling*

were all in place at the time the house was purchased by us in 2000. There is a very small percentage of the rear yard this is covered that was not covered when this property was purchased by Lynn and Mary Tjeerdsma in 2000.

Please contact us regarding the next course of action we must pursue in order to obtain the required variance to exceed the 30 percent coverage in the rear yard.

3.00 – Comment:

Please provide additional photos to include all yards, structures and abutting properties per zoning ordinance amendment. (copy attached)

Response:

Required pictures are included separately, and date stamped according to requirements:

> **"4. Photographs of the application property and abutting properties showing existing structures, terrain and vegetation as viewed from all lot lines and street lines of the application property. The photographs shall be clearly dated and labeled as to the location and direction from which the photographs were taken. The use of digital photography is preferred in which case a disk containing those digital photographs shall also be provided."**

(Diskette containing photographs is included.)

5.00 – Comment:

Applicant must provide updated statement to include accessory storage structure (shed) and also add proposed use to statement.

Response:

In our original application we provided a written statement describing the proposed use of the 9.7' X 11.9' structure on the west (left) side of the dwelling – which always has since it was built in 2001 and continues to be that of a workshop and storage area for tools and lawn and garden equipment and tools. It is unfinished and contains a workbench the width of the building and an unfinished concrete floor.

If this deficiency is referring to the 7.1' X 11.5' structure at the rear of the property, this structure is used to house the swimming pool equipment (two pumps, one for the skimmer and one for the Polaris vacuum, and the diatomaceous earth filter). In addition this shed is also used for tool and lawn and garden equipment and miscellaneous storage. This structure was built in 2001 to replace an existing badly deteriorated and rusting metal structure on the same concrete pad. The original pad and metal building were built

in 1972 to house the swimming pool equipment when the swimming pool was built that same year.

5.07 – Comment:

No comment for this deficiency, however, the "Submission Requirement provides: Description of building façade and architecture of the proposed new building or additions.

Response:

The façades of both the 9.7' X 11.9' structure on the west (left) side of the dwelling the 7.1' X 11.5' structure at the rear of the property consist of painted T1 grooved plywood housing grade plywood siding (4' X 8' sheets) installed with the grooves running vertically. Both have been primed and painted with peaked roofs covered by asphalt shingles, and include standard housing grade windows and doors. Construction of both is of 2 X 4 frame with 45-year guaranteed treated lumber placed on all surfaces touching concrete or in contact with soil.

5.09 – Comment:

No comment for this deficiency, however, the "Submission Requirement provides: A statement that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought by the applicant, such shall be specifically noted with the justification for such modification.

Response:

We are uncertain as to specifically what is required to meet this deficiency. It was and continues to be our intent to obtain the necessary variance from the existing setback requirement by submission of the Special Permit Application. It is our understanding that upon successfully obtaining this variance that we must also request a late-filed building permit for the 11.9' X 9.7 addition.

Please advise if we must concurrently request the building permit for this structure and provide the necessary forms and instructions for us if this is required in order for us to meet this deficiency.

910.00 – Comment

This is noted on Page 3 of 4 as "deficient" however, both the Submission Requirement and Comment are both left blank. Accordingly, I have no response for this deficiency.

912.00 – Comment

Provide updated statement. After reviewing plat applicant must reduce fence located in rear yard to the height of 8.0 feet. Per Fairfax County zoning ordinance any fence located in any side or rear yard may not be any higher than 8.0 feet. Applicant may choose to reduce fence height or file a variance application.

Response:

In my original application for Special Permit I provided the following written statement of justification:

"We purchased the property at 2108 Yale Drive, Alexandria, VA, in 2000, which is the first real estate we have owned in Fairfax County. We also currently own two farms in South Dakota both which Lynn has resided on for a total of 35 years. Several improvements were made to these properties by Lynn, which did not require previous approval nor were they subject to any zoning restrictions.

In 2001, we erroneously and without knowledge of Fairfax County zoning rules built the 10' X 12' structure on the west side of the house at 2108 Yale Drive. Without knowledge of the setback requirements this structure was built attached to the house as it seemed to be the most aesthetically appealing and presentable to the street and neighborhood – rather than a detached structure. This structure replaced a smaller one that was rotted and badly in need of repair. Greg Copeland, who at that time lived in the house beside the new structure, and Wally Adams the next door neighbor on the other side of the property, assisted me with the construction. The intended, current and future use of the structure is that of storage and workshop, as it is mostly unfinished and contains a workbench the width of the building, and unfinished concrete floor.

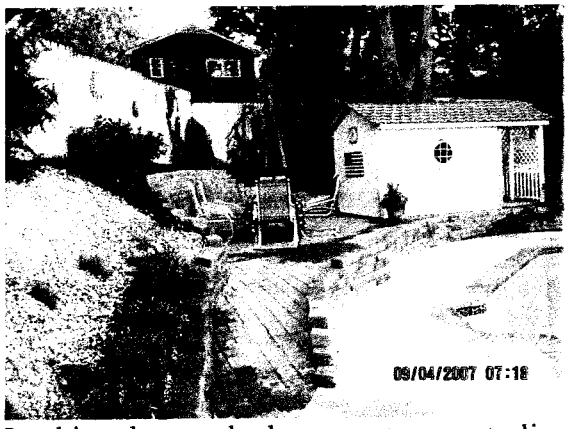
We were not aware of any code or other violation until we were notified by Rebecca Goodyear, Senior Zoning Inspector, and upon receipt of a "Notice of Violation" letter – five years after the structure was built and placed into use."

We have no supporting material such as aerial photographs, building permit applications, county assessment records, copy of the contract to build the structure which is in error, or statement from a previous owner indicating how the error in building location occurred, because, as stated above, these are not applicable – due to the fact that we were unaware that we were in violation of any code or zoning requirements when this structure was built.

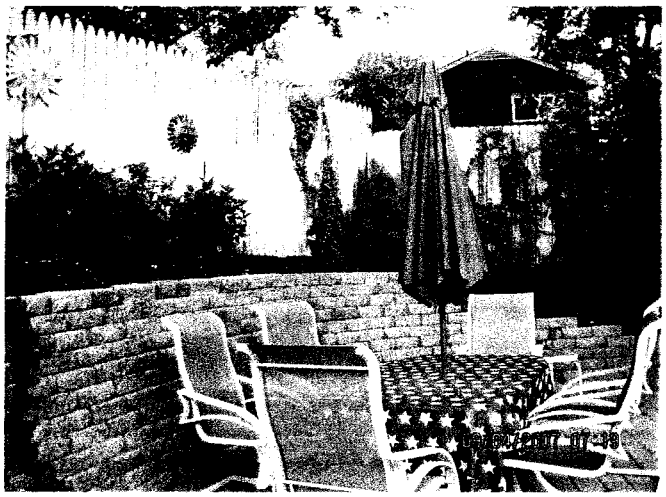
Regarding the fence located in the rear yard, pictures of the fence as it currently is constructed today are provided on pages 6 and 7.. Please note that the current height of any of the fence does not exceed the 6.0 feet height of the stockade fence. Accordingly we do not believe that any violation exists because of the existing fence, and furthermore, that any variance is required. Please contact us if we are in error on this assessment of the rear fence.

Rear Yard looking at NW corner of property – Stockade fence is 6.0 ft. in height

Looking at north edge of property – Stockade fence is 6.0 ft. in height.



Looking due north along west property line in rear yard – stockade fence is all 6.0 ft. tall



Closer view of rear fence in NW corner of property – stockade fence is 6.0 ft. in height.

Point of contact is Lynn Tjeerdsma – 703-768-1946 (home), 202-228-5383 (office), 202-557-4190 (cell).

Please do not hesitate to contact Lynn at any time with any questions or request for additional information.

As stated previously, pleas advise as to next steps required to obtain a variance for the rear yard coverage, and also if we need to immediately begin application for a late-filed building permit on the subject addition.

Thanks very much for your consideration and assistance.

Sincerely,

Lynn H. Tjeerdsma

Mary E. Tjeerdsma

RECEIVED
Department of Planning & Zoning

AUG 20 2008

Zoning Evaluation Division

ZONING ORDINANCE STANDARDS FOR A VARIANCE
Lynn and Mary Tjeerdsma
File: VC 2007-0336

Pursuant to Section 18-404 of the Zoning Ordinance, in considering a variance, the Board of Zoning Appeals (BZA) makes specific findings based on the evidence before it. The BZA can approve a variance only when it finds that the application satisfies all of the following enumerated requirements. In support of a request for a variance, a detailed explanation of how each of these standards is met should be provided in writing and submitted with the application by the applicant.

1. **That the subject property was acquired in good faith.**

My wife, Mary Tjeerdsma, and I purchased this property in 2000 from the Renault's. The swimming pool in the back yard which seems to be the reason the backyard violates the 30 percent backyard coverage rule had been in place since 1974. There was no indication of anything wrong with zoning laws when we purchased the property in 2000.

2. **That the subject property has at least one of the following characteristics (note: "the effective date of the Ordinance is August 14, 1978.):**

   A. **Exceptional narrowness at the time of the effective date of the Ordinance;**
   B. **Exceptional shallowness at the time of the effective date of the Ordinance;**
   C. **Exceptional size at the time of the effective date of the Ordinance;**
   D. **Exceptional shape at the time of the effective date of the Ordinance;**
   E. **Exceptional topographic conditions;**
   F. **An extraordinary situation or condition of the subject property; or**

The subject property was experiencing an extraordinary situation or condition at the time of the Ordinance (August 14, 1978), as the swimming pool in the back yard and the building which houses the pool equipment, the backyard deck and sidewalk surrounding the house and the carport were all in place and had been built at that time. The swimming pool was built by Anthony Pools in 1972.

   G. **An extraordinary situation or condition of the subject property immediately adjacent to the subject property.**

3. **That the condition of the subject property or the intended use of the subject property is not of a general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.**

The condition of the subject property is that it is currently a landscaped backyard, which includes a swimming pool. This backyard and swimming pool are used and enjoyed

privately by the owner, Lynn Tjeerdsma and his wife, Mary Tjeerdsma, for personal use and pleasure only. There is no visible reason for the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance due to any conditions or intended use of the subject property.

4. That the strict application of this Ordinance would produce undue hardship.

The strict application of this Ordinance without a variance would result in forcing the owners, Lynn and Mary Tjeerdsma to destroy all or part of the swimming pool and surrounding decking, which has been in place since 1972. This would create undue financial hardship, devaluation of property, and loss of enjoyment of the backyard and swimming pool.

5. That such undue hardship is not shared generally other properties in the same zoning district and the same vicinity.

There are no other backyards in this vicinity or neighborhood that I am aware of that would violate the 30 percent backyard coverage restriction due to a swimming pool or due to any other reason. Therefore, this undue hardship would not be shared by anyone else in this same zoning district or in this same vicinity.

6. A. That the strict application of the Zoning Ordinance would *effectively prohibit or unreasonably restrict all reasonable use* (emphasis added) of the subject property, or

The strict application of this ordinance, which would result in the removal of all or part of the existing back yard swimming pool and surrounding decking would effectively prohibit and unreasonably restrict all reasonable use of this back yard of its intended purpose as a private backyard to be enjoyed for the private use of its owners – which is why this house was purchased, because it had an existing backyard swimming pool in place.

B. That the granting of a variance will alleviate a clearly demonstrable hardship *approaching confiscation* (emphasis added) as distinguished from a special privilege or convenience sought by the applicant.

The granting of a variance would alleviate the clearly demonstrable hardship of forcing destruction of the existing backyard swimming pool and surrounding decking, resulting in extreme cost and hardship and loss of enjoyment of the backyard for its intended purpose and for what the property was purchased for. The variance requested is not for the purpose of and should not be considered a special privilege or convenience. The violation posed by the swimming pool already in place in the backyard when the house was purchased by its present owners was an unintended consequence of purchasing the property.

7. That authorization of the variance will not be of substantial detriment to the adjacent property.

The adjacent lot on one side of the property is owned by the current owners of the subject property. The subject property slopes in that direction and any runoff would flow into a creek which crosses the adjacent property. The adjacent property on the other side of the subject property is on an elevation above the subject property, as are any other adjacent **properties; therefore the authorization of a variance will not be of substantial detriment to any adjacent property.**

8. That the character of the zoning district will not be changed by the granting of the variance.

This backyard violation is a completely isolated occurrence in this district. Accordingly, granting of this variance will not change in any manner the character of the zoning district.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and not be contrary to the public interest.

The granting of this variance will rectify an unintended consequence that occurred when the current owners purchased subject property with a swimming pool, deck, and sidewalks in place which were installed prior to the effective date of the Ordinance. The owners would be forced to undertake costly and value lowering activities by destroying the existing completely functional backyard swimming pool if this variance is not granted. The variance would be in complete harmony with the intended spirit and purpose of this Ordinance and would not be contrary to public interest in any manner.

1.0 – Comment:

Applicant must update proposed use as follows: to permit reduction in minim yard requirements based on error in building location to permit addition to remain 4.0 feet from side lot line and accessory storage structure to remain 4.1 feet with eave 3.5 feet from rear lot line. If coverage exceeds 30% a variance will be required.

Response:

The total square footage of the lot is 11,619 square feet.

According to a professional required survey completed by Alexandria Surveys (maps have been provided to Fairfax County) the rear coverage is 44 percent. ***Accordingly a variance requesting 44 percent rear yard coverage is requested.***

Important Note: *The swimming pool and decking in the rear yard were installed in 1972, as was the pad on which the north shed is placed. Also, nearly all of the pad on the east side of the dwelling and the sidewalk on the west and north sides of the dwelling were installed prior to the current owners' purchase of the property*

VC 2007-0336

CHECKLIST REPORT

6.00 **A written statement of justification which specifically addresses how the application complies with the required standards set forth in Sect. 18-404**

Deficient **Correct percent of rear yard coverage listed in statement of justification to 44 percent as listed by engineer on plat.**

Statement of justification

The specific variance which is sought on the subject property is one that would permit greater than 30 percent yard coverage.

A swimming pool, decking surrounding the swimming pool, a wooden deck, sidewalk around the perimeter of the house, and a carport and concrete beneath the carport were all in existence when the current owners purchased the subject property in 2000. The swimming pool was built on the subject property in 1972 which is prior to the date the Ordinance went into effect. The other subject structures were also built prior to 1978 and were all in place when the property was purchased by the current owners.

A variance is sought to allow the current structures to remain in place. No further backyard coverage expansion will be done.

A variance to allow 44 percent rear yard coverage is requested. The 44 percent rear yard coverage is calculated by professional engineers at Alexandria Surveys.

Lynn H. Tjeerdsma

Mary Ellen Tjeerdsma

RECEIVED
Department of Planning & Zoning

AUG 20 2008

Zoning Evaluation Division

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Department of Planning & Zoning
NOV 01 2007
Zoning Evaluation Division

VC 2007-0336
CHECKLIST REPORT

Deficient

5.00 Written Statement Detailing the Specific provision or provisions of the ordinance from which a variance is sought and the nature and extent of the variance sought

The specific variance which is sought on the subject property is one that would permit greater than 30 percent rear yard coverage.

A swimming pool, decking surrounding the swimming pool, a wooden deck, sidewalk around the perimeter of the house, and a carport and concrete beneath the carport were all in existence when the current owners purchased the subject property in 2000. The swimming pool was built on the subject property in 1972 which is prior to the date the Ordinance went into effect. The other subject structures were also built prior to 1978 and were all in place when the property was purchased by the current owners in 2000.

A variance is sought to allow the current structures to remain in place. No further backyard coverage expansion will be done.

Using the south face of the dwelling as the boundary for the rear yard a variance allowing 53.3 percent of the rear yard coverage is requested. See attached.

1.00 – Comment:

Applicant must update proposed use as follows: to permit reduction to minimum yard requirements based on error in building location to permit addition to remain 4.0 feet from side lot line and accessory storage structure to remain 4.1 feet with eave 3.5 feet from rear lot line. Applicant must provide calculation amount of rear yard coverage. If coverage exceeds 30% a variance will be required.

Response:

According to our measurements and calculations based on a line extending horizontally across the front face (south side) of the dwelling:

Total square footage of lot = 11,619 square feet

Square footage of front yard coverage = 3,082.94 square feet

Square footage of back yard coverage = 11,619 – 3,082.94 square feet = 8,536.06 sq. ft.

30 percent of back yard coverage = .3 X 8,536.06 = 2,560.8 square feet

Rear yard coverage reductions:

Dwelling – 46.0 X 29.1 = 1,338.6 sq. ft.
Shop on west side of dwelling – 11.9 X 9.7 = 115.43 sq. ft.
Concrete walk on west and north side of dwelling – 4 X 45 = 180 sq. ft.
Deck on rear of dwelling – 14 X 20 = 280 sq. ft.
Concrete pad (driveway) on east side of dwelling – 20.1 X 29.1 = 584.9 sq. ft.
Concrete pad on north side of dwelling and north end of driveway – 23.2 X 12 = 278.4 sf
Swimming pool and deck – 50 X 30 (irreg. shape average l X w) = 1,500 sq ft.
Shed north of pool (houses pool pumps and equipment) 10.2 X 7.1 = 72.42 sq. ft.
Brick patio N.W. of pool (4" brick with sand between – allows water to pass through – irregular shape) 200 sq. ft.

Total of rear yard coverage reductions = 4,549.75 square foot rear yard coverage
Total of rear yard not covered = 3,986.31 square foot rear yard not covered

Percentage of rear yard covered = 53.3% of rear yard (using the south face of the dwelling as the boundary for the rear yard.

In response to the above comment it appears that a variance will be required due to the coverage exceeding 30% of the rear yard.

Important Note: *The swimming pool and decking in the rear yard were installed in 1972, as was the pad on which the north shed is placed. Also, nearly all of the pad on the east side of the dwelling and the sidewalk on the west and north sides of the dwelling*

11- 05 19

APPENDIX 5

County of Fairfax, Virginia

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

January 4, 2006

NOTICE OF VIOLATION

Certified Mail
Return Receipt Requested
Receipt #7099 3400 0007 0874 6316

Lynn Tjeerdsma
Mary Tjeerdsma
2108 Yale Drive
Alexandria, Virginia 22307

Re: 2108 Yale Drive
Belle Haven Terrace, Sec. 6, Blk. 3, Lot 15
Tax Map Ref: 93-1 ((28)) (3) 15
Zoning District: R-4

Dear Mr. and Mrs. Tjeerdsma:

A zoning inspection of the above-referenced property on December 13, 2005, revealed that you have constructed an addition to the left side of your dwelling. This addition is approximately one foot from the side lot line.

The minimum required side yard in the R-4 District is ten (10) feet. Therefore, you are in violation of Par. 1 of Sect. 2-307 of the Fairfax County Zoning Ordinance, which states:

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

Furthermore, research of the County records confirmed that no Building Permit approved by the Zoning Administrator was obtained for this construction as required by Sect. 18-601 of the Zoning Ordinance which states:

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/

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

You are hereby directed to clear these violations within ninety (90) days of receipt of this notice. Compliance can be accomplished by:

- Removing the addition from the property in its entirety; or
- Reducing the size of the addition in order to maintain the ten (10) foot minimum required side yard; or
- Applying for and diligently pursuing approval of a special permit for an error in building location from the Fairfax County Board of Zoning Appeals (BZA) to allow the addition to remain at its current size and location; and
- Applying for and obtaining an approved Building Permit from the Department of Public Works and Environmental Services (DPWES) for the construction of the addition.

A Special Permit Application and a copy of Sec. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, of the Zoning Ordinance is enclosed for your convenience should you wish to pursue that option. Information and submission requirements for the Special Permit Application may be obtained by contacting the Zoning Evaluation Division of the Department of Planning and Zoning at 703-324-1290 during regular business hours.

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.

Failure to comply with this notice may result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

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
Enclosures: A/S

8-006 General Standards

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

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for all Group 9 Uses

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

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

2. All uses shall comply with the performance standards specified for the zoning district in which located.

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

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

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

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:

   A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.

   B. Total area of the property and of each zoning district in square feet or acres.

   C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

   D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

   E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.

   F. Means of ingress and egress to the property from a public street(s).

   G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

   H. If applicable, the location of well and/or septic field.

   I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

   J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

   K. Seal and signature of professional person certifying the plat.

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

2. The BZA determines that:

   A. The error exceeds ten (10) percent of the measurement involved, and

   B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

   C. Such reduction will not impair the purpose and intent of this Ordinance, and

   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

   E. It will not create an unsafe condition with respect to both other property and public streets, and

   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

10-103 Use Limitations

1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.

3. All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard.

4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure.

5. The following use limitations shall apply to fences:

   A. Barbed wire fences are prohibited in all zoning districts except on lots exceeding two (2) acres or more in size in the R-A through R-1 Districts. Barbed wire strands may be used to enclose storage areas, other similar industrial or commercial uses or swimming pools where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six (6) feet from the nearest ground level.

   B. It shall be unlawful for any person to construct, install, maintain, or allow or cause to be constructed, installed, or maintained, an electric fence upon any lot of two (2) acres or less in area, located within a subdivision as defined in Chapter 101 of The Code, The Subdivision Ordinance.

6. The following use limitations shall apply to home child care facilities:

   A. The maximum number of children permitted at any one time shall be as follows:

      (1) Seven (7) when such facility is located in a single family detached dwelling.

      (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

      The maximum number of children specified above shall not include the provider's own children.

   B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation.

C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.

D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.

E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.

F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.

2. That the subject property has at least one of the following characteristics:

   A. Exceptional narrowness at the time of the effective date of the Ordinance;

   B. Exceptional shallowness at the time of the effective date of the Ordinance;

   C. Exceptional size at the time of the effective date of the Ordinance;

   D. Exceptional shape at the time of the effective date of the Ordinance;

   E. Exceptional topographic conditions;

   F. An extraordinary situation or condition of the subject property; or

G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

6. That:

   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.