



FAIRFAX COUNTY

AMENDED APPLICATION ACCEPTED: May 20, 2009
PUBLIC HEARING: July 28, 2009
ADMINISTRATIVELY MOVED AT APPLICANT'S REQUEST
TIME: 9:00 a.m.

V I R G I N I A

July 21, 2009

STAFF REPORT ADDENDUM

SPECIAL PERMIT APPLICATION SP 2008-MV-085

LYNN HARVEY TJEERDSMA AND MARY ELLEN TJEERDSMA

MOUNT VERNON DISTRICT

BACKGROUND

On January 27, 2009 the Board of Zoning appeals heard SP 2008-MV-085 concurrent with VC 2008-MV-006. The Board took action to defer decision to April 14, 2009 so that the applicant could have adequate time to amend their application and potentially resolve the issues associated with the variance for rear yard coverage in excess of 30%. Since that time the applicant has amended their application to include the adjacent parcel of land which changed the rear yard designation. As a result, VC 2008-MV-006 has been administratively withdrawn. The special permit request for an error in building location to permit an addition to remain 3.9 feet from the side lot line has not changed. A copy of the revised special permit plat including the added parcel of land can be found in attachment 3 of this addendum report.

ZONING ORDINANCE REQUIREMENTS (Attachment 5)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction to Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)

CONCLUSIONS

If it is the intent of the BZA to approve SP 2008-MV-085 the BZA should condition its approval by requiring conformance with the conditions set forth in Attachment 1 of this report addendum, Revised Proposed Development Conditions.

ATTACHMENTS

1. Revised Proposed Development Conditions
2. Revised Maps
3. Revised Special Permit Plat
4. Revised Special Permit Statement of Justification
5. Zoning Ordinance Provisions

REVISED PROPOSED DEVELOPMENT CONDITIONS

SP 2008-MV-085

July 21, 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~~ April 16, 2008 and signed through April 20, 2009 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.

Special Permit

SP 2008-MV-085

Applicant:

LYNN HARVEY TJEERDSMA AND MARY ELLEN TJEERDSMA

Accepted:

05/20/2009- AMENDED 09/05/2008

Proposed:

REDUCTION TO MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION
TO PERMIT ADDITION TO REMAIN 3.9 FT.
FROM SIDE LOT LINE

Area:

26,441 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-0914

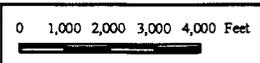
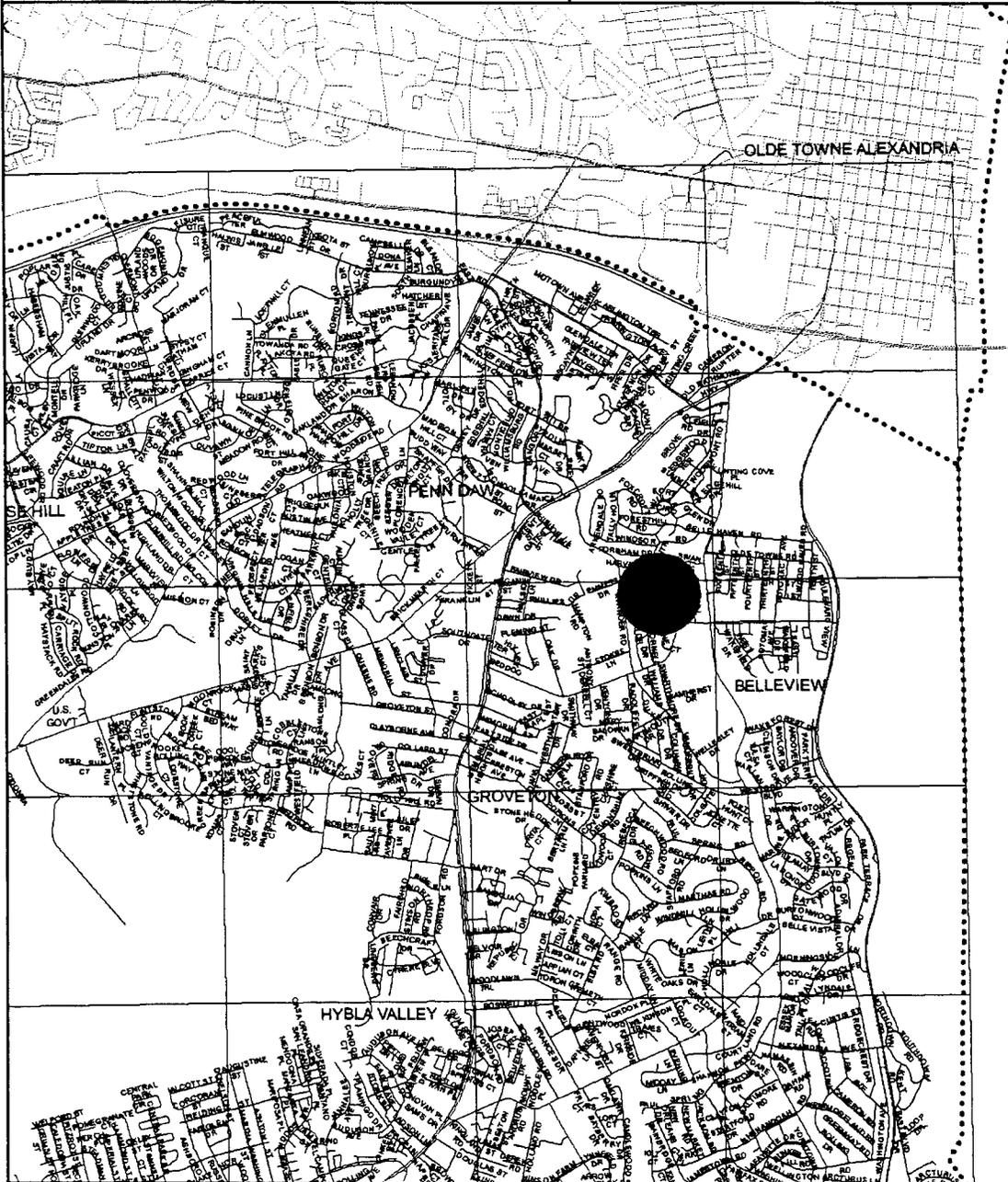
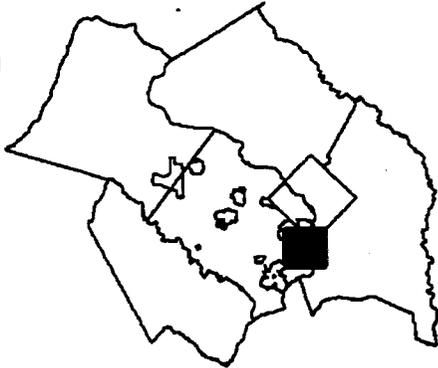
Art 8 Group and Use: 9-13

Located: 2106 AND 2108 YALE DRIVE

Zoning: R- 4

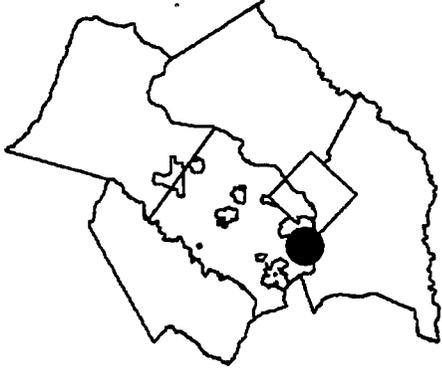
Overlay Dist:

Map Ref Num: 093-1- /01/ /0071B /28/03/0015



Special Permit

SP 2008-MV-085



Applicant: LYNN HARVEY TJEERDSMA AND MARY ELLEN TJEERDSMA

Accepted: 05/20/2009- AMENDED 09/05/2008

Proposed: REDUCTION TO MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION
TO PERMIT ADDITION TO REMAIN 3.9 FT.
FROM SIDE LOT LINE

Area: 26,441 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-0914

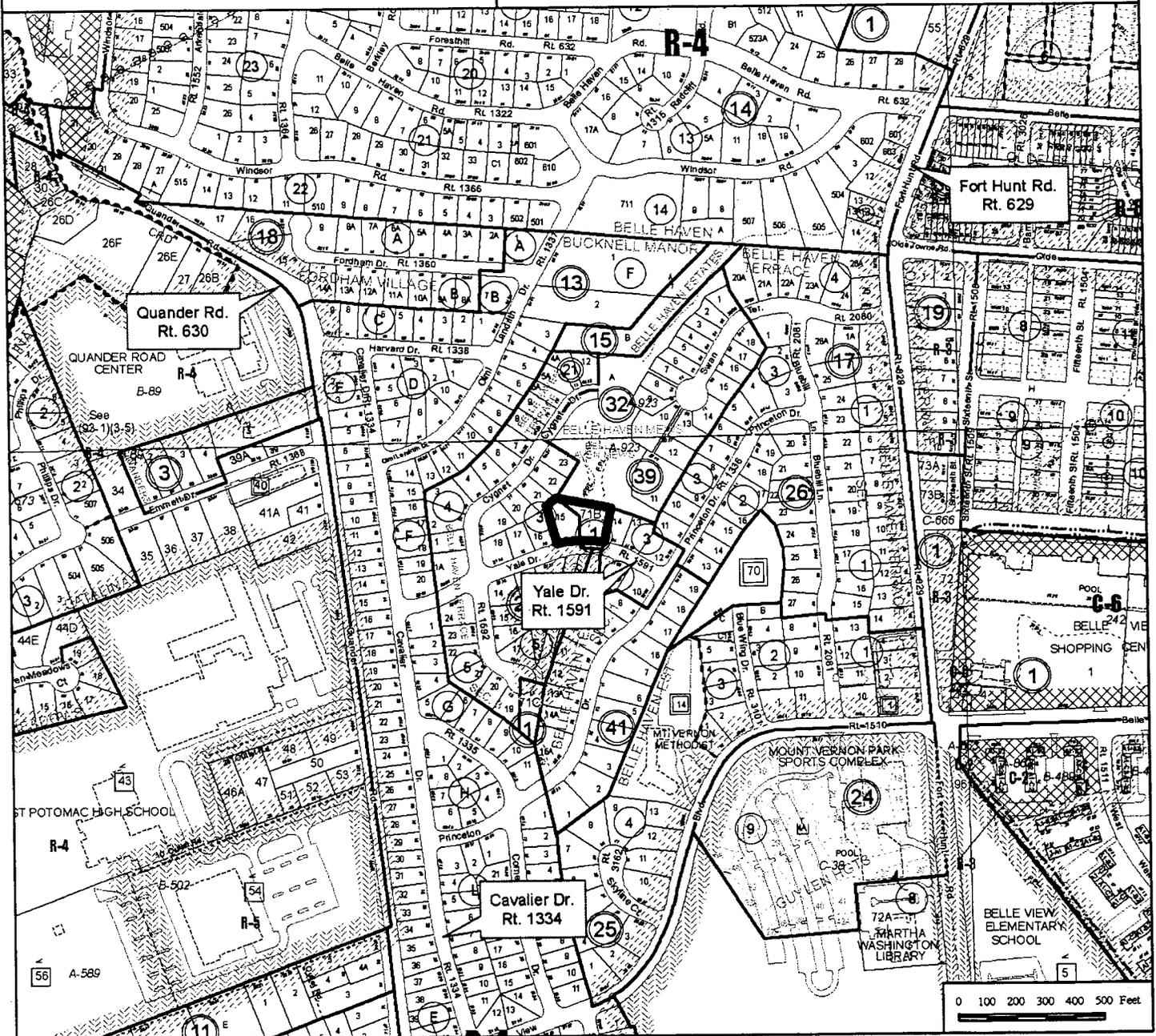
Art 8 Group and Use: 9-13

Located: 2106 AND 2108 YALE DRIVE

Zoning: R- 4

Overlay Dist:

Map Ref Num: 093-1- /01/ /0071B /28/03/0015

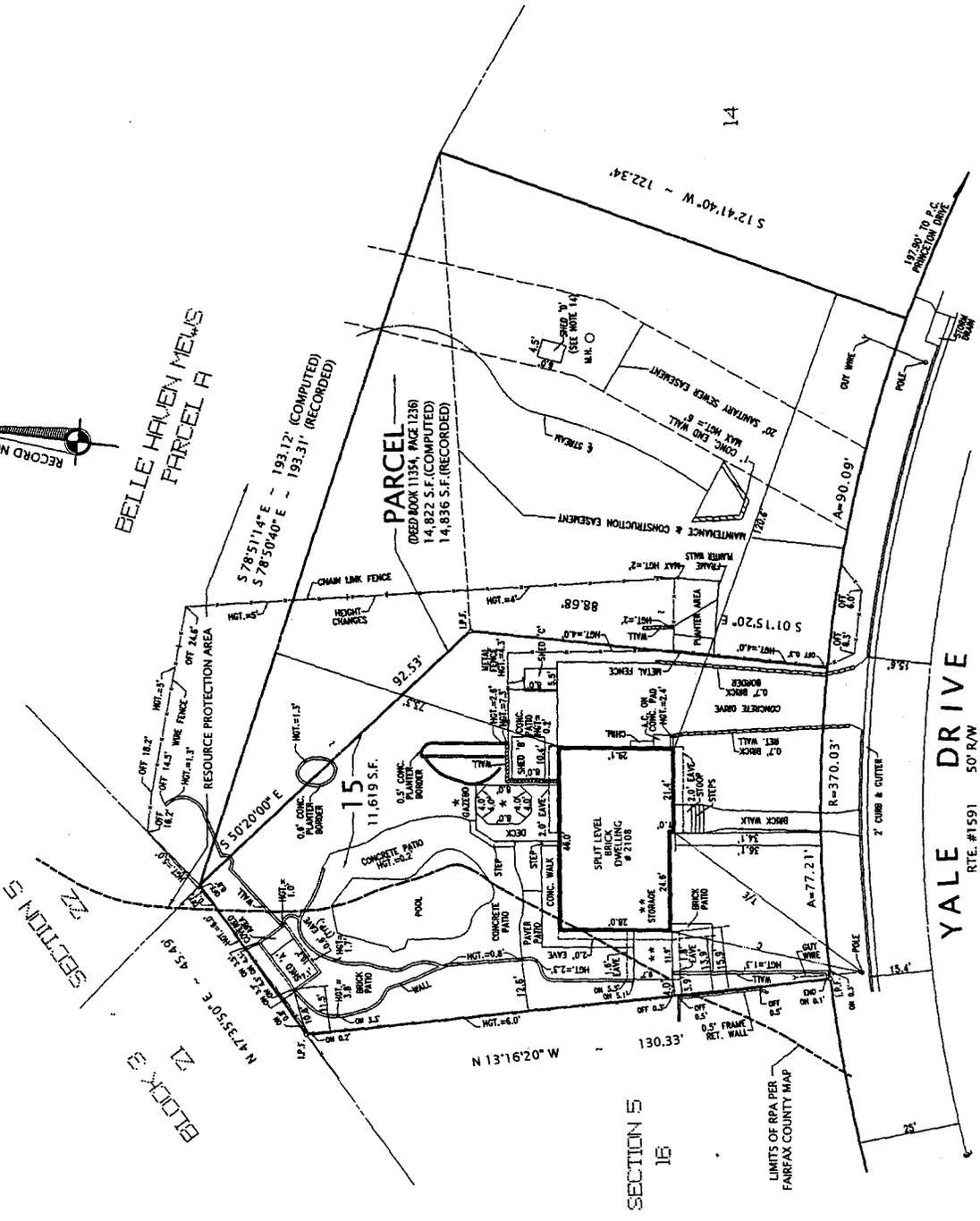




- NOTES**
1. TAX MAP: 093-1-28-03-15 AND 093-1-01-0071-B
 2. ZONE: R-4
 3. LOT AREA: LOT 15 = 11,619 SQUARE FEET
PARCEL = 14,822 SQUARE FEET
TOTAL = 26,441 SQUARE FEET
 4. REQUIRED YARDS:
FRONT: 30 FEET
SIDE: 10 FEET
REAR: 25 FEET
 5. HEIGHTS:
DWELLING: 19.7 FEET
DECK: 8.0 FEET
GAZEBO: 13.0 FEET
SHED 'A': 9.4 FEET
SHED 'B': 7.2 FEET
SHED 'C': 7.2 FEET
SHED 'D': 6.5 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. OTHER THAN AS SHOWN HEREON, THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENT 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 THE HIGHEST POINT FROM THE GROUND.
 12. RETAINING WALLS ARE 0.6' CONCRETE UNLESS OTHERWISE NOTED.
 13. FENCES ARE STOCKADE UNLESS OTHERWISE NOTED.
 14. SHED 'D' TO BE RELOCATED OUTSIDE OF THE SEWER EASEMENT AND MEET ZONING CODE PLACEMENT REQUIREMENTS.

BELLE HAVEN MEWS
PARCEL A

PARCEL
(DEED BOOK 11354, PAGE 1236)
14,822 S.F. (COMPUTED)
14,836 S.F. (RECORDED)



PLAT
SHOWING THE IMPROVEMENTS ON
LOT 15, BLOCK 3, SECTION 6
BELLEHAVEN TERRACE
AND THE ADJOINING 14,822 S.F. PARCEL
(DEED BOOK 11354, PAGE 1236)
MOUNT VERNON DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1" = 20'
JUNE 27, 2008 (LAST REVISED)
APRIL 16, 2008

THEERSMA
CASE NAME
GRAPHIC SCALE
BY PROVISIONS OF THE VIRGINIA CODE, NO COPIES, MARKERS, ETC., INDICATING SURVEY NOT RECORDED.
PLAT SUBJECT TO RESTRICTIONS OF RECORD AND NO TITLE REPORT IS FURNISHED.

100% SURETY
I HEREBY CERTIFY THAT THE POSITION OF ALL THE CORNER MONUMENTS HAVE BEEN RECORDED IN THE FAIRFAX COUNTY SURVEY AND RECORDS OFFICE AS SHOWN. THERE ARE NO TRIBLE ENCUMBRANCES.

COMMISSIONER OF VIRGINIA
ANDREW W. WILSON
LIC. NO. 2074
04/20/08
LAND SURVEYOR

NO.	DATE	REVISION
1	MAY 12, 2008	UPDATED AND REVISED
2	OCTOBER 3, 2008	REMOVED GARAGE
3	APRIL 16, 2008	ADDED PARCEL AND REVISED

ALEXANDRIA SURVEYS
INTERNATIONAL, LLC
6210 NORTH DUNSMUIR HIGHWAY ALEXANDRIA, VIRGINIA 22309
TEL. NO. 703-660-6615 FAX NO. 703-667-1748

RECEIVED
Department of Planning & Zoning

APR 21 2009

Zoning Evaluation Division

Hynn Tjeerdsma

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.

The use of this structure which is attached to our home is for personal use as a workshop and storage and is in complete 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.

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. It 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 – which we will do.

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.

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. This structure is harmonious with and will not affect the use or development of neighboring properties in accordance with the

wynn Tjeerdsma

applicable zoning district regulations and the adopted comprehensive plan. The location of this structure is downhill from the immediate neighboring property and is nearly completely shielded from view of the neighboring property by trees that are taller than the structure.

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

This structure does not impact or affect any vehicular traffic in any way. Pedestrian use is limited to the owners of this property and their personal guests. With a walk-through, full-sized door on both side of the structure entering or exiting this structure poses no hazardous threat to pedestrian traffic.

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

This structure is harmonious with and will not affect the use or development of neighboring properties and is completely landscaped and screened from neighboring properties. The location of this structure is downhill from the immediate neighboring property and is nearly completely shielded from view of the neighboring property by trees that are taller than the structure.

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

Open space has been provided by the owners on the adjacent lot which is owned by the owners of 2108 Yale Drive.

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.

None of the above in item 7 are applicable to this structure.

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.

This is not applicable to this structure.

8-903 Standards for all Group 9 Uses

The structure meets all the applicable general standards set forth in 8-903.

Lynn Tjeerdsmo

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

The requirements of this provision are being met by Alexandria Surveys, which has been paid in advance for completing all necessary maps and copies to meet with this requirement.

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 assessment records, a copy of the contract to build the structure which in error, or a statement from a previous owner indicating how the error in building location occurred.

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.

APR 17 2009

SPECIAL PERMIT &
VARIANCE BRANCH

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.

The use of this structure which is attached to our home is for personal use as a workshop and storage and is in complete 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.

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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.

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This structure does not impact or affect any vehicular traffic in any way. Pedestrian use is limited to the owners of this property and their personal guests. With a walk-through, full-sized door on both side of the structure entering or exiting this structure poses no hazardous threat to pedestrian traffic.

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

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

Open space has been provided by the owners on the adjacent lot which is owned by the owners of 2108 Yale Drive.

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.

None of the above in item 7 are applicable to this structure.

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.

This is not applicable to this structure.

8-903 Standards for all Group 9 Uses

The structure meets all the applicable general standards set forth in 8-903.

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

The requirements of this provision are being met by Alexandria Surveys, which has been paid in advance for completing all necessary maps and copies to meet with this requirement.

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 assessment records, a copy of the contract to build the structure which in error, or a statement from a previous owner indicating how the error in building location occurred.

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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.

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.