



APPLICATION ACCEPTED: May 6, 2009  
DATE OF PUBLIC HEARING: August 4, 2009  
TIME: 9:00 a.m.

## County of Fairfax, Virginia

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July 28, 2009

### STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2009-DR-035**  
**Concurrent with VC 2009-DR-002**

### MOUNT VERNON DISTRICT

**APPLICANTS & OWNERS:** Douglas and Alison Duenkel

**ZONING:** R-1

**LOCATION:** 1143 Kettle Pond Lane

**SUBDIVISION:** Great Falls Hunt

**ZONING ORDINANCE PROVISION:** 8-914, 8-923, 10-104 & 18-401

**TAX MAP:** 12-1 ((13)) 17

**LOT SIZE:** 36,000 Square Feet

**SP PROPOSAL:** To permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 16.2 feet from side lot line, addition 35.4 feet from front lot line and deck 4.1 feet from the side lot line and 17.6 feet from the front lot line and fence greater than 4 feet in height to remain in the front yard of a corner lot.

**VC PROPOSAL:** To permit accessory structure to remain in the front yard of a lot containing 36,000 square feet or less.

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Shannon Caffee

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/](http://www.fairfaxcounty.gov/dpz/)



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

The approval of this 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.**

*O:\Scaff2\Case Files\SP with concurrent VC Cases\SP 2009-DR-035 & VC 2009-DR-002 DUENKEL\Duenkel\_COVER.doc*



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

# Special Permit

SP 2009-DR-035

**Applicant:** DOUGLAS & ALISON DUENKEL  
**Accepted:** 05/06/2009  
**Proposed:** PERMIT FENCE GREATER THAN 4.0 FEET IN HEIGHT IN FRONT YARD AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STRUCTURE TO REMAIN 16.2 FEET FROM SIDE LOT LINE, ADDITION 35.4 FEET FROM FRONT LOT LINE AND DECK 4.1 FEET FROM THE SIDE LOT LINE AND 17.6 FEET FROM THE FRONT LOT LINE OF A CORNER LOT

**Area:** 36,000 SF OF LAND; DISTRICT - DRANESVILLE

**Zoning Dist Sect:** 08-0914 & 08-0923  
**Art 8 Group and Use:** 9-22  
**Located:** 1143 KETTLE POND LANE  
**Zoning:** R-1  
**Overlay Dist:**  
**Map Ref Num:** 012-1- /13/ /0017

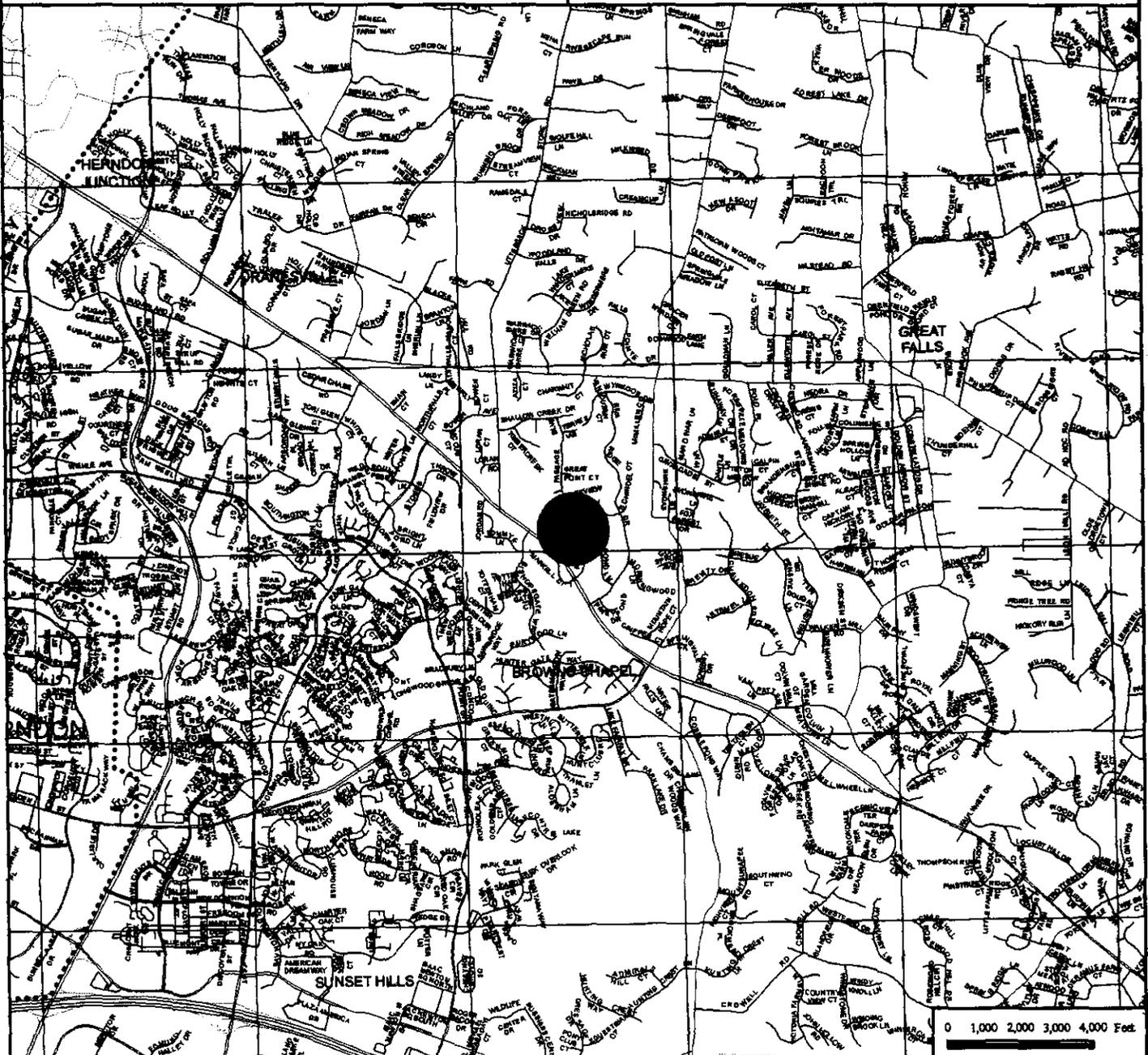
# Variance Application

VC 2009-DR-002

**Applicant:** DOUGLAS & ALISON DUENKEL  
**Accepted:** 05/06/2009  
**Proposed:** TO PERMIT ACCESSORY STRUCTURE/USE TO REMAIN IN THE FRONT YARD OF A LOT CONTAINING 36,000 SQUARE FEET OR LESS.

**Area:** 36,000 SF OF LAND; DISTRICT - DRANESVILLE

**Zoning Dist Sect:** 18-0401 10-0104  
**Paragraph:** 1 2C  
**Located:** 1143 KETTLE POND LANE  
**Zoning:** R-1  
**Overlay Dist:**  
**Map Ref Num:** 012-1- /13/ /0017



# Special Permit

SP 2009-DR-035

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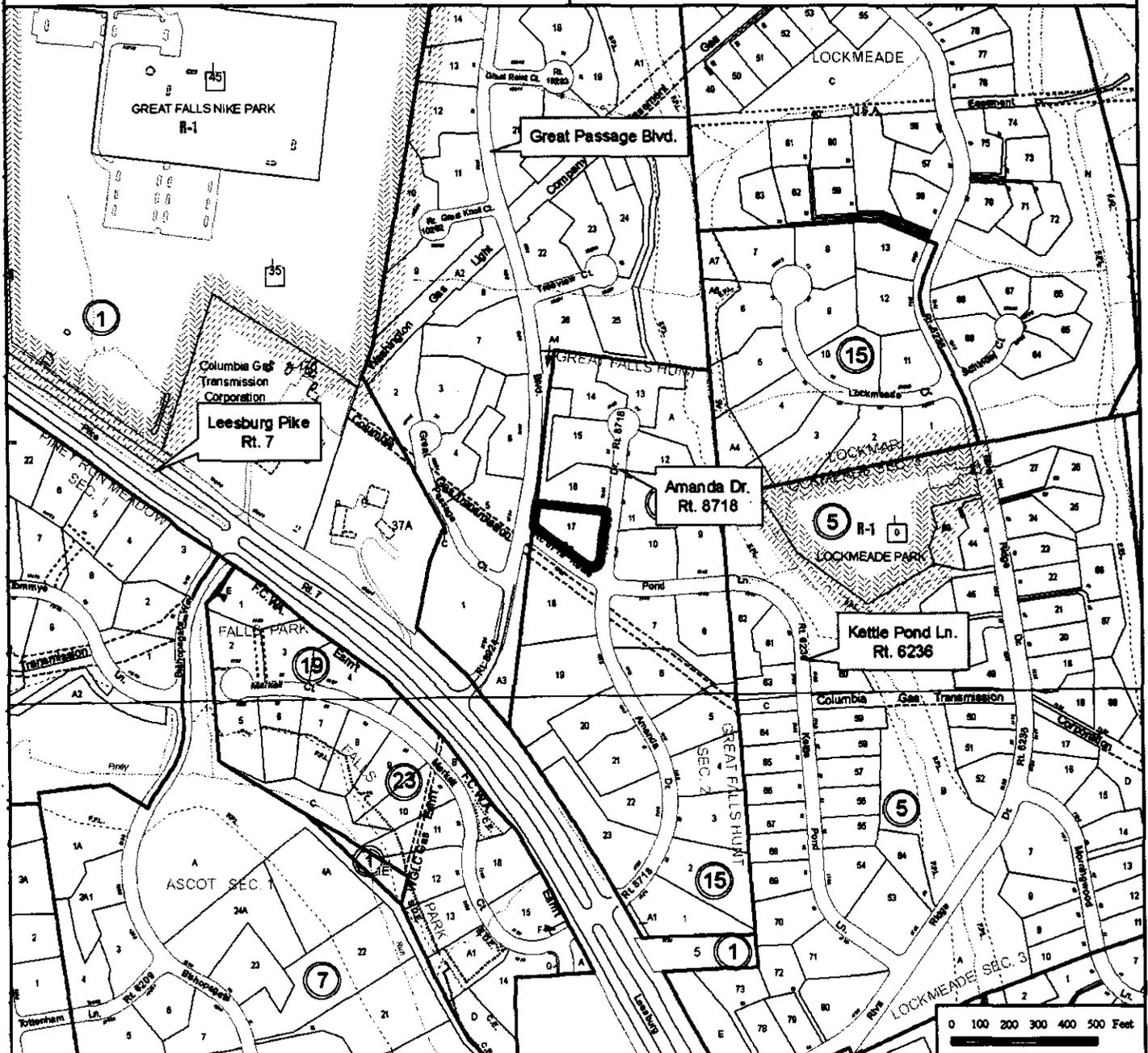
Area: 36,000 SF OF LAND; DISTRICT - DRANESVILLE  
 Zoning Dist Sect: 08-0914 & 08-0923  
 Art 8 Group and Use: 9-22  
 Located: 1143 KETTLE POND LANE  
 Zoning: R-1  
 Overlay Dist:  
 Map Ref Num: 012-1- /13/ /0017

# Variance Application

VC 2009-DR-002

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 Overlay Dist:  
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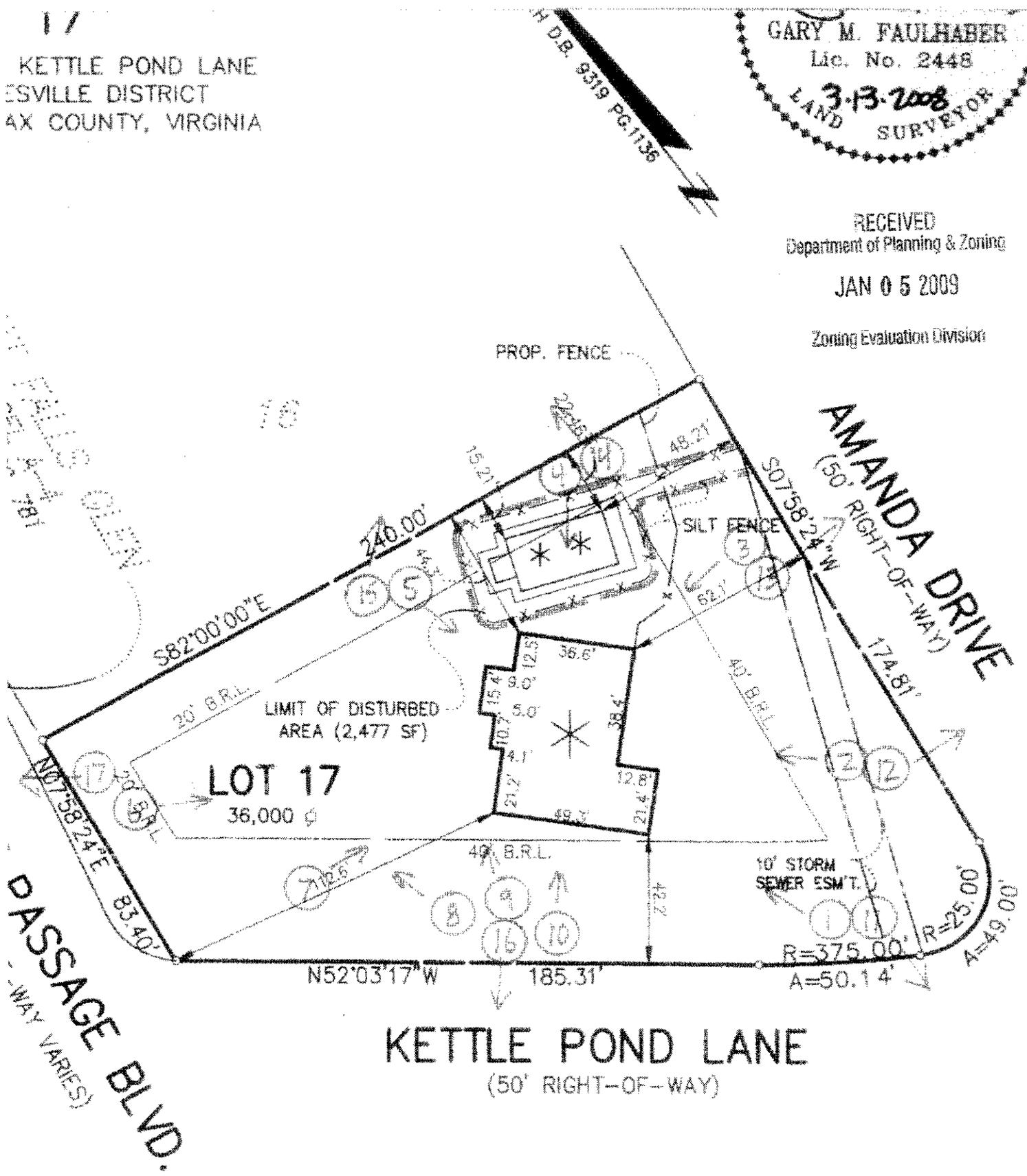




17  
 KETTLE POND LANE  
 ESSEXVILLE DISTRICT  
 HENRICO COUNTY, VIRGINIA

GARY M. FAULHABER  
 Lic. No. 2448  
 LAND SURVEYOR  
 3-13-2008

RECEIVED  
 Department of Planning & Zoning  
 JAN 05 2009  
 Zoning Evaluation Division



PASSAGE BLVD.  
 (WAY VARIES)

AMANDA DRIVE  
 (50' RIGHT-OF-WAY)

KETTLE POND LANE  
 (50' RIGHT-OF-WAY)

\* = PROPOSED SWIMMING POOL  
 \* = 2 STORY BRICK & FRAME WITH BASEMENT POSTED #1143

certify that the limit of disturbance delineated on this house  
 at prepared by Charles P. Johnson & Associates, dated March  
 for the property located at 1143 Kettle Pond Lane accurately  
 THE PROPERTY SHOWN HEREON LIES  
 WITHIN ZONE Y AN AREA DETERMINED

# General Property Pictures

## 1143 Kettle Pond Lane- December 9, 2008

1.



From front yard to house facade

2.



From front yard to house facade

General Property Pictures  
1143 Kettle Pond Lane- December 9, 2008

3.



From side yard

4.



From side yard to side of house, overlooking pool

General Property Pictures  
1143 Kettle Pond Lane- December 9, 2008

5.



From rear side yard overlooking patio and fireplace

6.



From rear yard showing fireplace, and pavilion

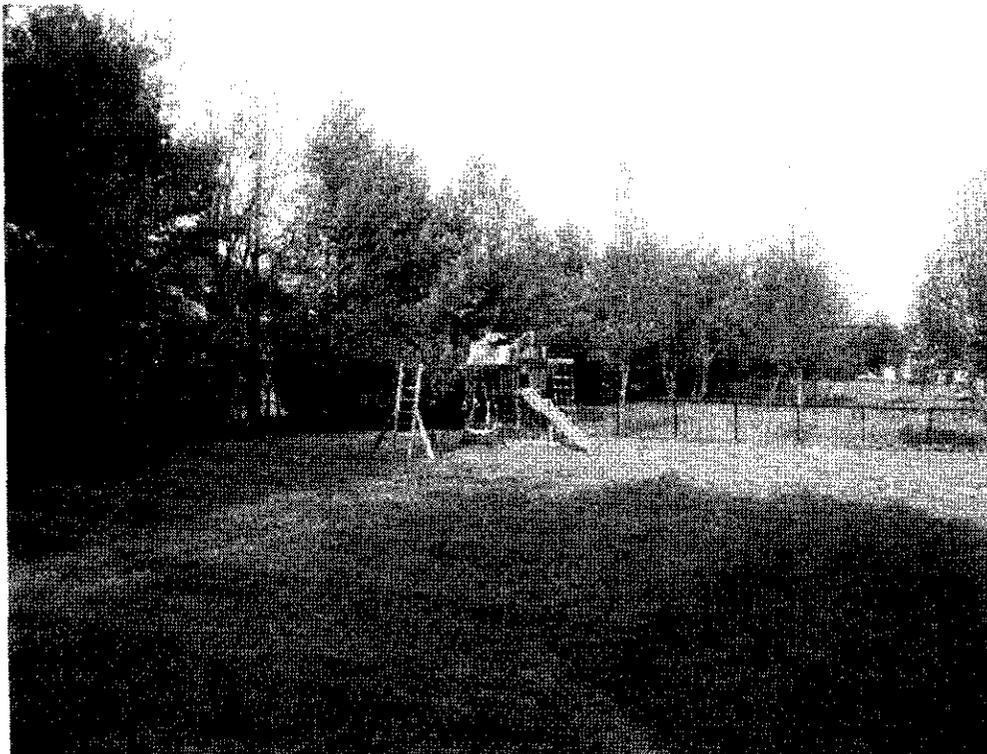
General Property Pictures  
1143 Kettle Pond Lane- December 9, 2008

7.



From rear yard overlooking pavilion

8.



From rear yard showing screening along property line on Kettle Pond

## General Property Pictures

1143 Kettle Pond Lane- December 9, 2008

9.



From front yard on Kettle Pond Ln. looking towards pavilion

10.



From front yard on Kettle Pond Ln. looking towards garage

## Surrounding Properties- April 8, 2008

11.



Looking towards adjacent property on Kettle Pond Lane

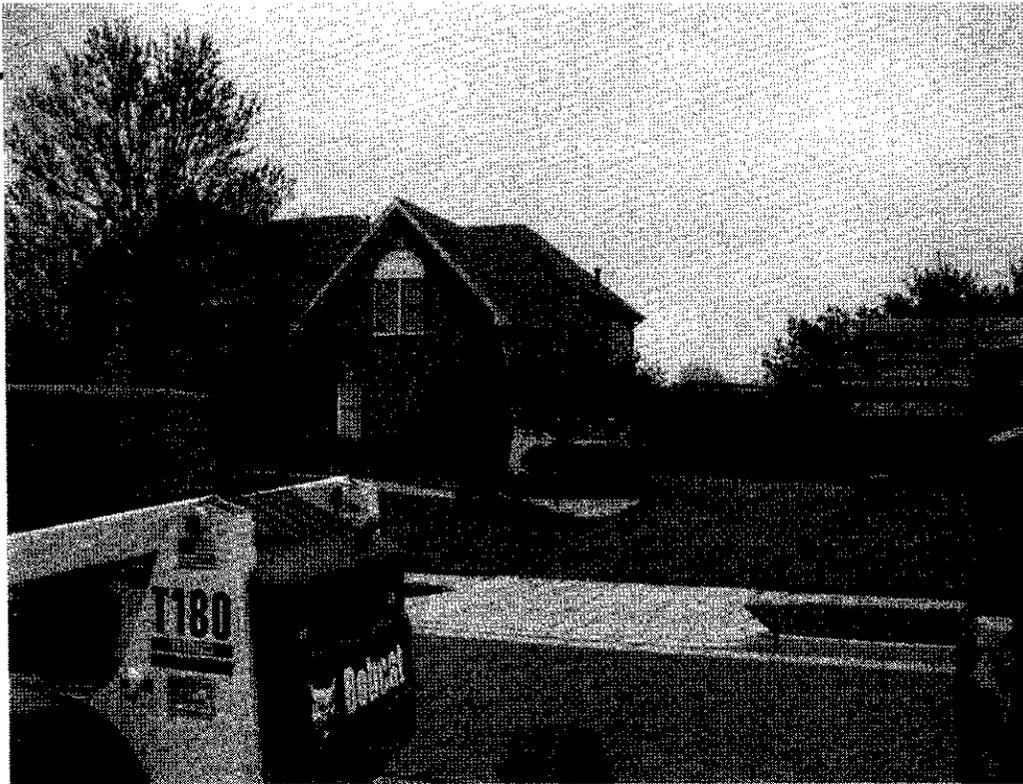
12.



1107 Amanda Drive

# Surrounding Properties- April 8, 2008

13.



1105 Amanda Drive

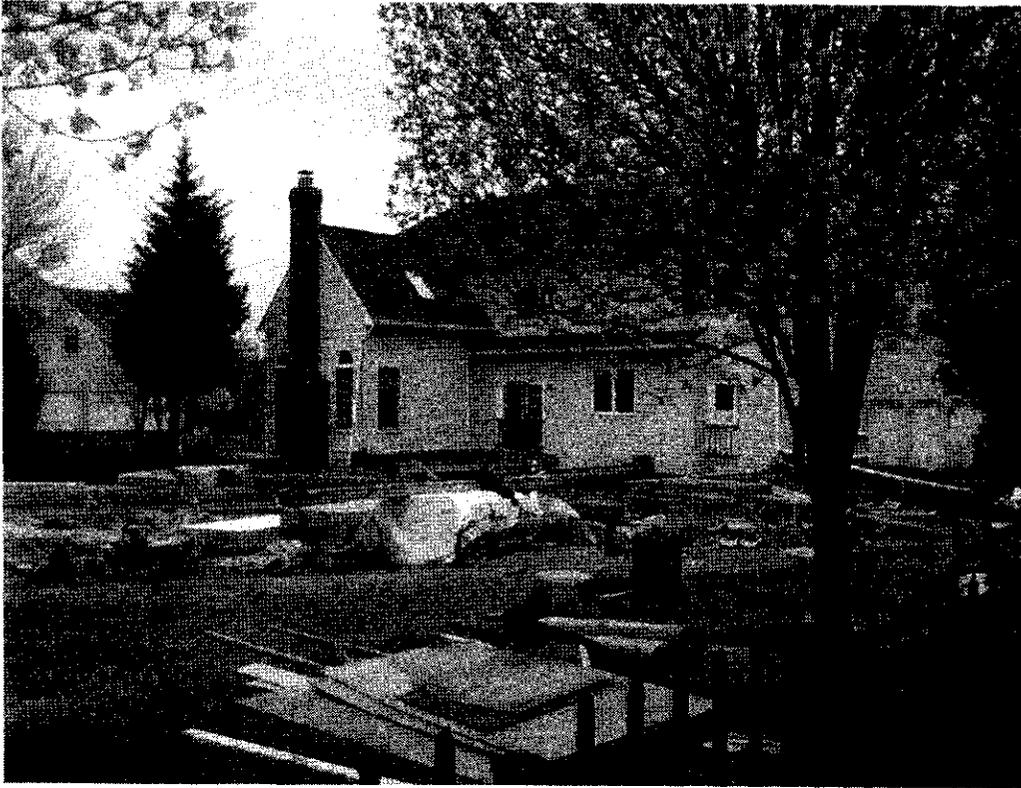
14.



1104 Amanda Drive

# Surrounding Properties- April 8, 2008

15.



1104 Amanda Drive

16.



1142 Kettle Pond Lane

# Surrounding Properties- April 8, 2008

17.



1104 Great Passage Blvd.

Pool & Spa Pictures  
1143 Kettle Pond Lane- December 9, 2008



Pool and Spa in side yard with paver decking



Pool and Spa in side yard with paver decking

# Aluminum Fencing Pictures

## 1143 Kettle Pond Lane- December 9, 2008



54" aluminum gate along Kettle Pond Lane



54" aluminum gate and fence along Amanda Drive

# Aluminum Fencing Pictures

## 1143 Kettle Pond Lane- April 8, 2008



54" aluminum fence along Kettle Pond Lane



54" aluminum fence along Kettle Pond Lane

Stucco & Stone Wall Pictures  
1143 Kettle Pond Lane- December 9, 2008



Stucco and stone wall along Kettle Pond Lane



Stucco and stone wall along Kettle Pond Lane

# Stucco & Stone Wall Pictures

1143 Kettle Pond Lane- December 9, 2008



Stucco and stone wall as viewed from rear yard



Stucco and stone wall as viewed from driveway

Evergreen Screening of Property  
1143 Kettle Pond Lane- December 9, 2008

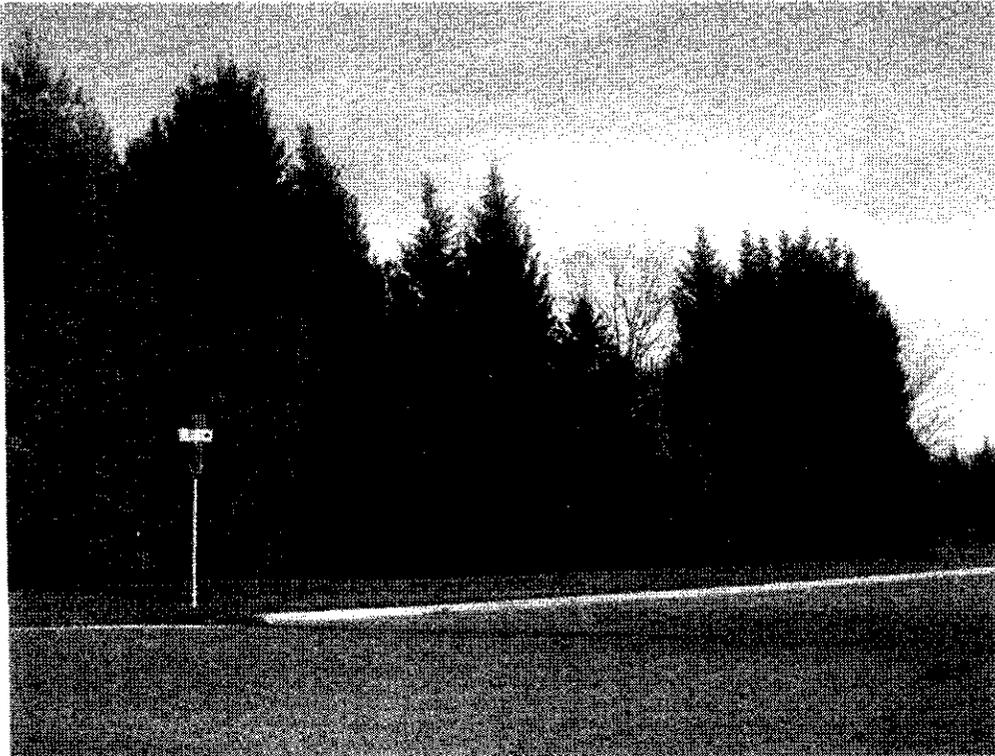


Evergreen screening along Kettle Pond Lane



Evergreen screening along Kettle Pond Lane

# Evergreen Screening of Property 1143 Kettle Pond Lane- December 9, 2008



Evergreen screening along Kettle Pond Lane



Evergreen screening along Great Passage Blvd.

# Evergreen Screening of Property 1143 Kettle Pond Lane- December 9, 2008



Evergreen screening of pool along Amanda Drive



Evergreen screening of pool along Amanda Drive

Miscellaneous Pictures of Property  
1143 Kettle Pond Lane- December 9, 2008

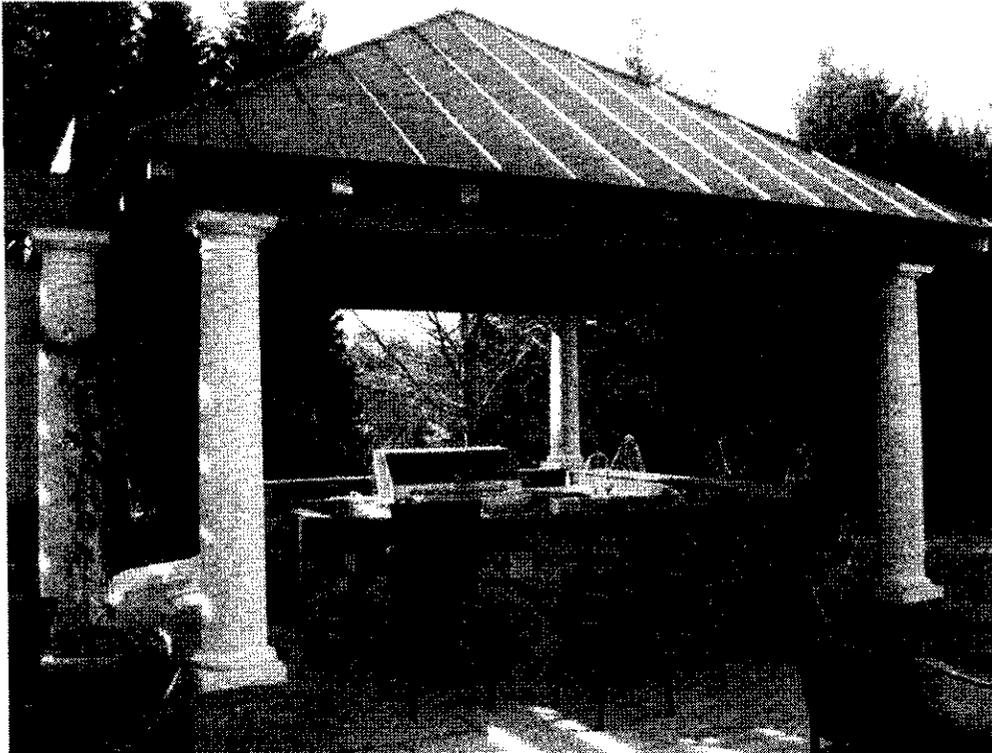


Rear patio and BBQ area

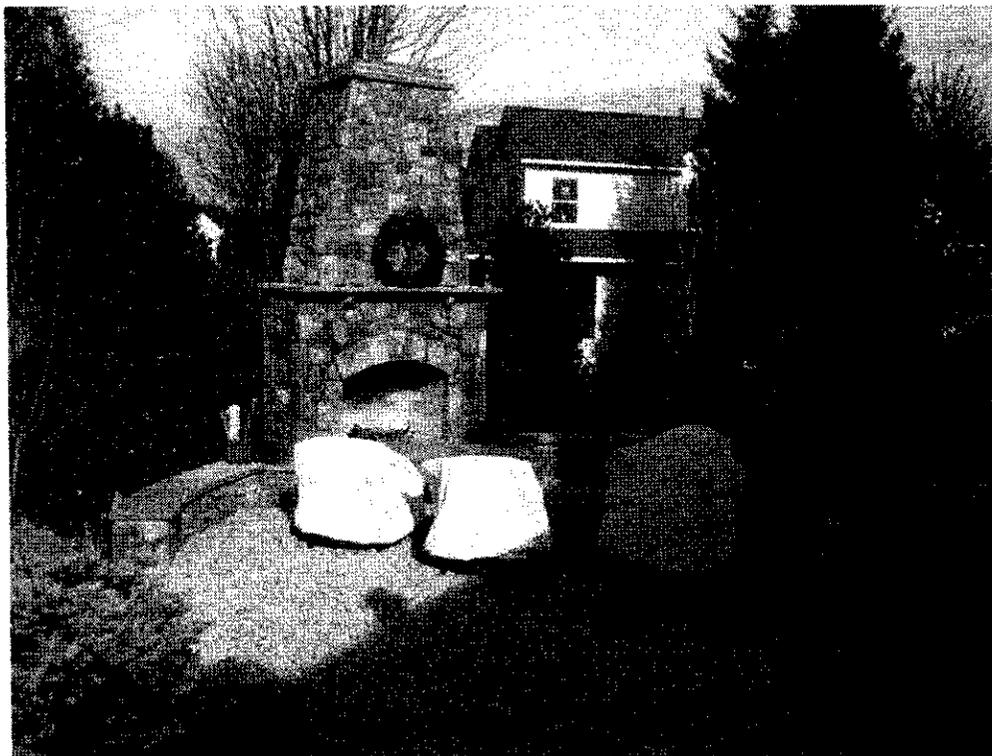


Stucco and stone wall with pergola

Miscellaneous Pictures of Property  
1143 Kettle Pond Lane- December 9, 2008



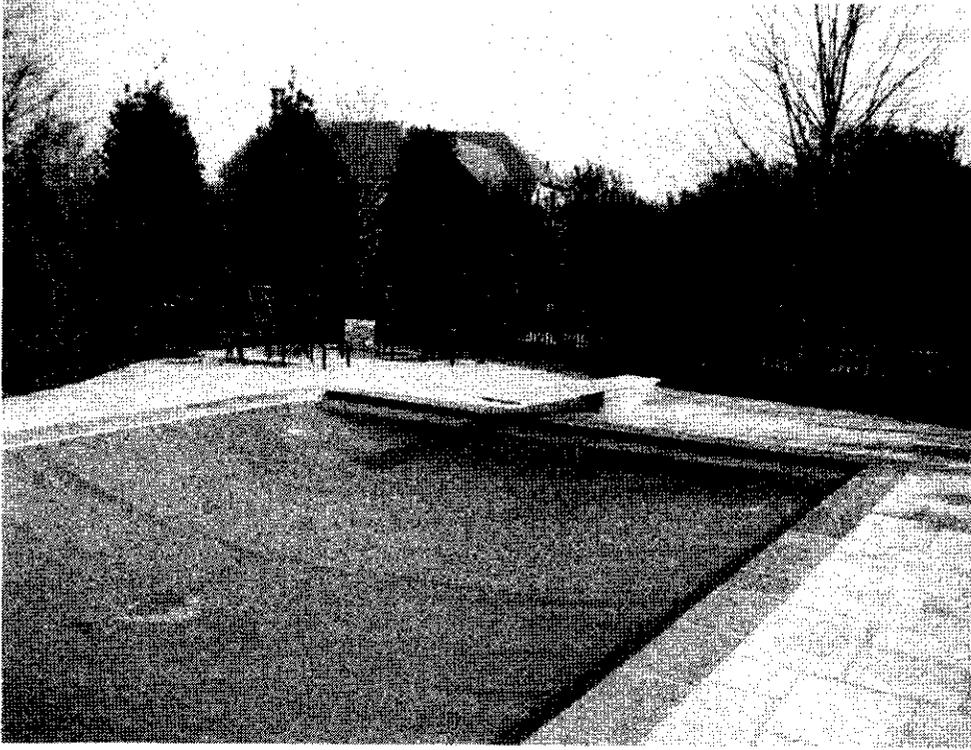
Outdoor BBQ and seating area



Outdoor Fireplace and seating area

# Pool Decking in Front Yard

1143 Kettle Pond Lane- March 3, 2009



Paver decking on concrete that extends into front yard

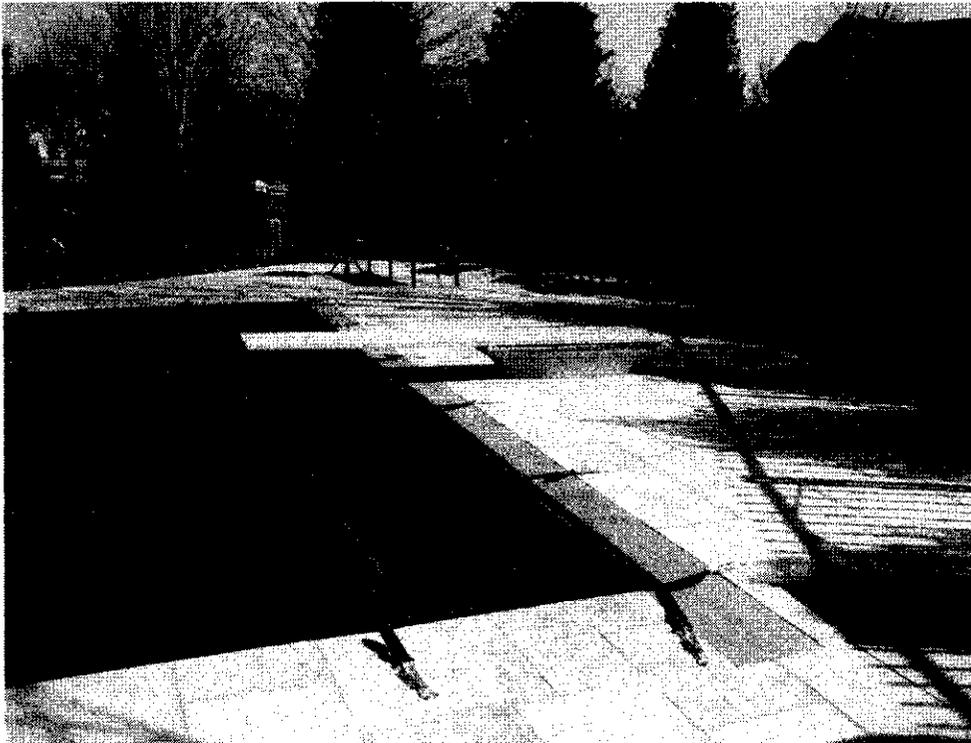


Paver decking on concrete that extends into front yard

Pool Decking in Front Yard  
1143 Kettle Pond Lane- March 3, 2009



Paver decking on concrete that extends into front yard



Paver decking on concrete that extends into front yard

Pool Decking in Front Yard  
1143 Kettle Pond Lane- March 3, 2009



Paver decking and screening as seen from Amanda Drive



Paver decking and screening as seen from Amanda Drive

**DESCRIPTION OF THE APPLICATIONS**

**Description of Special Permit Requests**

The applicant seeks approval of four special permit requests. The first special permit request is for a reduction to minimum yard requirements based on error in building location to permit an accessory structure (child’s playground equipment) to remain 16.2 feet from the northern side lot line.

The second special permit request is for a reduction to minimum yard requirements based on error in building location to permit an addition to remain 35.4 feet from the southern front lot line. This is a portion of the deck/patio which is covered by a trellis and roof with stone walls for screening.

	Yard	Min. Yard Req.*	Permitted Extension **	Min. Allowed	Structure Location	Amount of Error	Percent of Error
<b>Special Permit 1</b>	Side	20.0 ft.	None	20.0 ft.	16.2 ft.	3.8 ft.	19 %
<b>Special Permit 2</b>	Front	40.0 ft.	None	40.0 ft.	35.4 ft.	4.6 ft.	11.5 %

\* Minimum yard requirement per Section 3-107

\*\* Extensions per Section 2-412

The third special permit request is for a reduction to minimum yard requirements based on error in building location to permit a deck (at grade patio) to remain 4.1 feet from the northern side lot line and 17.6 feet from the eastern front lot line of a corner lot.

	Yard	Min. Yard Req.*	Permitted Extension **	Min. Allowed	Structure Location	Amount of Error	Percent of Error
<b>Special Permit 3</b>	Side	20.0 ft.	5.0 ft.	15.0 ft.	4.1 ft.	10.9 ft.	72.6 %
<b>Special Permit 3</b>	Front	40.0 ft.	6.0 ft.	34.0 ft.	17.6 ft.	16.4 ft.	48.2 %

\* Minimum yard requirement per Section 3-107

\*\* Extensions per Section 2-412

The fourth request is to permit fence greater than four (4) feet in height to remain in the front yard of a corner lot.

	Yard	Max. Ht. Permitted*	Height	Modification Requested
Special Permit 4	Front	4.0 ft.	4.5 ft.	0.5 ft.

\* Minimum fence height per Section 10-104.

**Description of Variance Request**

The variance request is to permit an accessory structure (pool) to remain in the front yard on the subject property. Currently the subject property has 36,000 square feet per tax assessment records and the plat prepared by Paul B. Johnson, Charles P. Johnson & Associates, Inc., dated March 2009, as revised and signed through June 5, 2009. Section 10-104 (12C) of the Zoning Ordinance states that no freestanding accessory structure or use shall be located in any front yard on a lot containing 36,000 square feet or less.

**CHARACTER OF THE AREA**

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

**ANALYSIS OF SPECIAL PERMIT APPLICATION**

- **Title of SP Plat:** Plat Showing the Improvements on Lot 15, Block 3, Section 6, Bellehaven Terrace
- **Prepared By:** Paul B. Johnson, Charles P. Johnson & Associates, Inc. dated March 2009, as revised and signed through June 5, 2009
- **Building Permit Required for Child’s Playground Equipment:** No

- **Location Error Made By:** Owners/Applicants
- **Building Permit Required for Addition:** Yes
- **Obtained:** Yes
- **Location Error Made by:** Owners/Applicants
- **Building Permit Required for Deck (At-Grade Patio):** No (However, was required to be depicted correctly on the plat corresponding to the building permit for the pool)
- **Location Error Made by:** Owners/Applicants
- **Building Permit Required for Pool:** Yes
- **Obtained:** Yes
- **Location Error Made by:** Owners/Applicants

## **BACKGROUND**

On March 18, 2008 a Notice of Violation (NOV) was issued on the subject property. The notice of violation was issued for a fence in excess of four feet in the front yard and for a freestanding fireplace within the minimum required side yard. It has since been determined that the freestanding fireplace is not within the minimum required side yard and is 20.7 feet from the side lot line per the special permit plat. A copy of the NOV can be found in Appendix 5.

Also in March of 2008, building permit #80650180 was issued for an in-ground pool with decking. However, it appears the permit was issued in error since the approved plat depicts the pool and the decking as detached and forward of the plane of the house. The zoning ordinance states that on a lot containing 36,000 square feet or less, no freestanding accessory structures can be located in the front yard. The subject property has exactly 36,000 square feet. The building permit has a note on it that it is okay to issue the permit because the lot has 36,000 square feet; however, this was a misunderstanding of the regulation.

It should also be noted that the structures depicted on the building permit plat are different than the special permit plat. Not only were existing structures not shown on the plat reviewed for the building permit, the decking around the pool was drawn as detached and to merely outline the pool. The special permit plat shows a different configuration and the decking is clearly attached; therefore, it is treated as an open deck versus a detached accessory structure. Copies of the approved permit and plat can be found in Appendix 6.

In December of 2007, building permit #73470016 was issued for a covered barbeque area and a pergola over an existing deck (at-grade patio). However, the approved plat depicts these structures to meet minimum yard requirements. These are the structures which are considered an addition and require an error in building location. None of these structures were drawn on the plat which corresponded to the building permit for the pool. Copies of the approved permit and plat can be found in appendix 7.

The Board of Zoning Appeals (BZA) has not heard any other similar applications in the neighborhood.

### **ZONING ORDINANCE REQUIREMENTS (See Appendix 8)**

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Provisions for Increase in Fence and/or Wall Height in Any Front Yard (8-923)
- Location Regulations (Sect. 10-104)
- Required Standards for Variances (Sect. 18-404)

### **CONCLUSION**

If it is the intent of the BZA to approve SP 2009-DR-035 and/or VC 2009-DR-002 the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 and 2 of this report, Proposed Development Conditions.

### **APPENDICES**

1. Special Permit Proposed Development Conditions
2. Variance Proposed Development Conditions
3. Applicant's Affidavits
4. Applicant's Statements of Justification along with Signatures from Neighbors
5. Notice of Violation
6. Building Permit #80650180 and approved plat
7. Building Permit #73470016 and approved plat
8. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2009-DR-035**

**July 28, 2009**

1. This special permit is approved for the location and size of an existing fence, accessory structure, addition and deck as shown on the plat prepared by Paul B. Johnson, Charles P. Johnson & Associates, Inc. dated March 2009, revised and signed through June 5, 2009 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.

**PROPOSED DEVELOPMENT CONDITIONS**

**VC 2009-DR-002**

**July 28, 2009**

1. This variance is approved for accessory structure (pool) to remain in the front yard as shown on the plat prepared by Paul B. Johnson, Charles P. Johnson & Associates, Inc. dated March 2009, revised and signed through June 5, 2009 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): SP 2009-DR-035  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: DECEMBER 9, 2008  
 (enter date affidavit is notarized)

I, DOUGLAS & ALISON DUENKEL, 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 99749a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
• DOUGLAS DUENKEL	1143 KETTLE POND LANE GREAT FALLS, VA 22066	APPLICANT/TITLE OWNER
• ALISON DUENKEL	1143 KETTLE POND LANE GREAT FALLS, VA 22066	APPLICANT/TITLE OWNER
• FINE LANDSCAPES, LTD.	21558 STONETREE COURT STERLING, VA 20166	AGENT
• NATE D. AMENT & CHARLES L. OWEN	21558 STONETREE COURT STERLING, VA 20166	AGENT

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

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

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

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99749a

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)  
FINE LANDSCAPES, LTD.  
21558 STONEMETREE CT.  
STERLING, VA 20166

**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)  
• CHARLES L. OWEN  
• ELIZABETH OWEN

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

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

Application No.(s): SP 2009-DR-035  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: DECEMBER 9, 2008 99749a  
(enter date affidavit is notarized)

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)

N/A

(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.

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99749a

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): SP 2009-DR-035  
(county-assigned application number(s), to be entered by County Staff)

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(enter date affidavit is notarized)

99749a

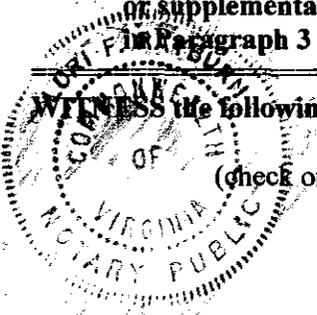
3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee,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

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

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

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

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



WITNESS the following signature:  
(check one)

Nate D. Amen FINE LANDSCAPES, LTD  
[ ] Applicant [X] Applicant's Authorized Agent  
- CHARLES L. OWEN OWNER / PRESIDENT  
- NATE D. AMEN PROJECT MANAGER  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 9th day of December 2008, in the State/Comm. of Fairfax, County/City of Virginia

Joni Z. Rayburn  
Notary Public  
Reg # 130434

My commission expires: 12/31/12

Application No.(s): VC 2009-DR-002  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 4/29/09  
(enter date affidavit is notarized)

I, DOUGLAS & ALISON DUENKEL, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)  applicant 105261  
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
• DOUGLAS & ALISON DUENKEL	1143 KETTLE POND LN. GREAT FALLS, VA 22066	<b>APPLICANT/TITLE OWNER</b>
• FINE LANDSCAPES, LTD.	21558 STONETREE COURT STERLING, VA 20166	<b>AGENT</b>
• NATE D. AMMENT & CHARLES L. OWEN	21558 STONETREE COURT STERLING, VA 20166	<b>AGENTS</b>

(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): VC 2009-DR-002  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 4/29/09  
(enter date affidavit is notarized)

105261

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)

FINE LANDSCAPES LTD,  
21558 STONE TRETZ CT.  
STERLING, VA 20166

**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)

- CHARLES L. OWEN
- ELIZABETH OWEN

(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): VC 2009-DR-002  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 4/29/09  
(enter date affidavit is notarized)

105261

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)

N/A

(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): VC 2009-DE-002  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 4/29/09  
(enter date affidavit is notarized)

105261

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

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

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

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

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

*NONE*

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 4/29/09  
(enter date affidavit is notarized)

105261

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

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

*NONE*

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

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

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

WITNESS the following signature:

(check one)

Nate D. Amert FINE LANDSCAPE, LTD.  
[ ] Applicant  Applicant's Authorized Agent  
CHARLES L. OWEN OWNER / PRESIDENT  
NATE D. AMERT PROJECT MANAGER  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 29 day of April, 2009, in the State/Comm. of Virginia, County/City of Loudoun.

Lori F. Rayburn  
Notary Public

My commission expires: 12/31/12

Lori F. Rayburn  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. # 130434  
My Commission Expires 12/31/2012

## Fine Landscapes, Ltd.

---

March 31, 2009

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

RECEIVED  
Department of Planning & Zoning  
APR 01 2009  
Zoning Evaluation Division

Re: Written Statement of Justification for a Variance  
Notice of Violation  
Dated March 18, 2008

1. The subject property of 1143 Kettle Pond Lane, Great Falls, VA, was acquired in good faith and is owned by Douglas and Alison Duenkel.
2. (F). The property of 1143 Kettle Pond Lane, Great Falls, VA, is a unique property in that it is surrounded on three sides by roads; Kettle Pond Lane, Great Passage Boulevard, and Amanda Drive. The property has one rear yard, one side yard, and two front yards, which considerably limits the space for any county approved construction on the site, let alone play area for the children.
3. The property is not of so general a 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 error made in sighting the pool and decking is a one time issue, and will not be repeated again. This mistake was not realized until after the patio surrounding the pool was poured in concrete and the area was surveyed.
4. The strict application of the Ordinance if enforced would produce undue hardship. If the owner were forced to comply with the minimum yard requirements stated by Fairfax County, it would result in a major disturbance to the yard and pool area of the homeowner. Noise, dust, and construction conditions would affect the owner and surrounding neighbors as well, if the pool and pool decking were to be removed. The quality and health of the vegetation surrounding the property would also be compromised if the plants surrounding the pool area need to be removed for the demolition of the pool and pool decking.
5. The undue hardship of enforcing the zoning requirements is not shared by other properties in the same zoning district and the same vicinity. It was an error in building location that will not happen again on the property.
6. (A). The strict application of the Zoning Ordinance would unreasonable restrict the use and enjoyment of the pool and spa area. The patio area would be significantly reduced, rendering the pool area nearly useless for enjoying the benefits a pool area should provide.

## **Fine Landscapes, Ltd.**

---

7. If the variance were to be authorized, it would not cause any substantial detriment to the adjacent properties. The property is beautifully landscaped and screened with evergreen vegetation, and is an asset to the property values and aesthetics in the neighborhood.
8. The character of the zoning district will in no way be changed if the variance is granted.
9. The variance, if granted, will be in complete harmony with the intended spirit and purposes of the Fairfax County Zoning Ordinance, and will not be contrary to the public's interest, especially the surrounding neighbors in the area.

# Fine Landscapes, Ltd.

---

April 14, 2008

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

RECEIVED  
Department of Planning & Zoning  
APR 15 2008  
Zoning Evaluation Division

Re: Written Statement of Justification  
Notice of Violation  
Dated March 18, 2008

## Freestanding Fireplace

A: Outdoor wood burning fireplace for use while homeowner is in attendance. Built with Firerock Manufacturing fireplace kit.

B: Hours of operation will vary with season.

C: Fireplace will be used by homeowners and their guests.

D: NA

E: NA

F: Rear yard of 1143 Kettle Pond Lane.

G: Fireplace built using Maryland wall-stone with Pennsylvania bluestone coping. 2" thick. White firebrick lines the interior of the fireplace. Includes damper and terra cotta fire rated flues. Please review attached plans and pictures.

H: NA

I: Fireplace was built with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The yard at 1143 Kettle Pond Lane has extensive screening around the perimeter, and after the construction of the pool area, the side yard will be heavily screened with large evergreen and deciduous plant material.

# Fine Landscapes, Ltd.

---

## 54" Pool Code Aluminum Fencing

A: To prevent unauthorized persons from entering the yard, and to meet county standards for fencing and protection around a swimming pool.

B: NA

C: NA

D: NA

E: NA

F: The fence is surrounding the rear yard and contains the swimming pool

G: Fencing is 54" tall, black, aluminum fence with pickets on top.

H: NA

I: This fence was installed with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The black aluminum fencing is in harmony with the general intent of pool code safety in Fairfax County.

# Fine Landscapes, Ltd.

---

March 3, 2009

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

RECEIVED  
Department of Planning & Zoning  
APR 01 2009  
Zoning Evaluation Division

Re: Written Statement of Justification  
Notice of Violation  
Dated March 18, 2008

## Outdoor Pool and Pool Decking

-Our intent is to allow an existing pool and decking to remain as it is installed. The pool and decking is heavily screened by evergreens from the road.

- A: Private, residential swimming pool to be used for recreational activities.
- B: Hours of operation will vary with season.
- C: Swimming pool will be used by homeowners and their guests.
- D: NA
- E: NA
- F: Side yard of 1143 Kettle Pond Lane.
- G: Underground swimming pool constructed of concrete, with concrete decking surrounding the pool. Concrete decking is covered with tan Peacock pavers. Pool has a mechanical cover for everyday use, and a winter cover to be used for safety in the winter season.
- H: NA
- I. The swimming pool was built with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The yard at 1143 Kettle Pond Lane has extensive evergreen screening around the perimeter, as to not have views into the property from the street.

---

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

- 2A. The error in building the pool deck does not exceed 10 percent of the front yard setback.
- 2B. The noncompliance was done in complete good faith and it was not the fault of the property owner. There was an error in sighting the original pool location which influenced the rest of the construction. The error was not realized until after the patio surrounding the pool was poured in concrete and the area was surveyed.
- 2C. The reduction of the minimum yard requirements does not impair the purpose and intent of the Fairfax County Zoning Ordinance.
- 2D. The reduction of minimum yard requirements will not in any way be detrimental to the use and enjoyment of other properties in the immediate vicinity.

## **Fine Landscapes, Ltd.**

---

2E. The reduction of minimum yard requirements will not create any unsafe conditions in respect to both other property and public streets.

2F. If the owner were forced to comply with the minimum yard requirements stated by Fairfax County, it would result in a major disturbance to the yard and pool area of the homeowner. Noise, dust, and construction conditions would affect the owner and surrounding neighbors as well, if the pool decking were to be removed.

2G. If a reduction of the minimum yard requirements was agreed to by Fairfax County, there would be no increase in density or floor area ration from that permitted by the applicable zoning district regulations.

# Fine Landscapes, Ltd.

RECEIVED  
Department of Planning & Zoning

APR 01 2009

Zoning Evaluation Division

## 54" Pool Code Aluminum Fencing

-Our intent is to allow an existing 54" pool code aluminum fence to remain in the front yard of the property.

A: This 54" black aluminum fencing is to prevent unauthorized persons from entering the yard that contains the swimming pool. This fencing meets county standards for fencing and protection around a swimming pool.

B: NA

C: NA

D: NA

E: NA

F: The fence is surrounding the rear yard and contains the swimming pool

G: Fencing is 54" tall, black, decorative aluminum fence with pressed pickets on top.

H: NA

I: This fence was installed with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The black aluminum fencing is in harmony with the general idea and intent of pool code safety in Fairfax County.

---

### **Response to 8-923 Standards (Provisions for Increase in Fence and/ or Wall Height in Any Front Yard:**

1. The maximum fence height does not exceed six (6) feet and the fence will not be eligible for an increase in fence height pursuant to Par.31 of Sect. 10-104.
2. The fence meets all sight distance requirements contained in Sect. 2-505.
3. The existing fence height of 54" was chosen to provide greater safety around the swimming pool, and although 48" height on fencing is required for pool code, the higher fence was installed out of concern for the numerous young children in the neighborhood.
4. While the fencing installed in the front yard is 54" tall, the decorative black aluminum is in complete harmony with the surrounding off-site uses and structures in terms of location, height, bulk, scale, and historic designations.
5. The installed fence does not adversely impact the use and enjoyment of other properties in the immediate vicinity.
6. Currently, the 54" black aluminum fencing in the front yard of Amanda Drive is concealed by a mix of hearty evergreens (Schip Laurels, Hollies), and on the Kettle Pond Lane side of the house, the fence is backed by large Leyland Cypress. The fencing blends in quite nicely with the evergreen backdrop.

# Fine Landscapes, Ltd.

---

December 9, 2008

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

RECEIVED  
Department of Planning & Zoning

JAN 05 2009

Zoning Evaluation Division

Re: Written Statement of Justification  
Notice of Violation  
Dated March 18, 2008

## Outdoor Pool

-Our intent is to allow an existing pool and decking to remain as it is installed. The pool and decking is heavily screened by evergreens from the road.

A: Private, residential swimming pool to be used for recreational activities.

B: Hours of operation will vary with season.

C: Swimming pool will be used by homeowners and their guests.

D: NA

E: NA

F: Side yard of 1143 Kettle Pond Lane.

G: Underground swimming pool constructed of concrete, with concrete decking surrounding the pool. Concrete decking is covered with tan Peacock pavers. Pool has a mechanical cover for everyday use, and a winter cover to be used for safety in the winter season.

H: NA

I. The swimming pool was built with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The yard at 1143 Kettle Pond Lane has extensive evergreen screening around the perimeter, as to not have views into the property from the street.

# Fine Landscapes, Ltd.

---

## 54" Pool Code Aluminum Fencing

-Our intent is to allow an existing 54" pool code aluminum fence to remain in the front yard of the property.

A: This 54" black aluminum fencing is to prevent unauthorized persons from entering the yard that contains the swimming pool. This fencing meets county standards for fencing and protection around a swimming pool.

B: NA

C: NA

D: NA

E: NA

F: The fence is surrounding the rear yard and contains the swimming pool

G: Fencing is 54" tall, black, decorative aluminum fence with pressed pickets on top.

H: NA

I: This fence was installed with great respect for the neighboring properties, and will not adversely affect the value and aesthetics of any of the adjacent properties. The black aluminum fencing is in harmony with the general and intent of pool code safety in Fairfax County.

Signatures of  
Neighbors that  
Support the project

JAN 05 2009

December 9, 2008

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

Zoning Evaluation Division

To Whom It May Concern:

This letter regards to the recent landscaping work completed at the Duenkel residence, 1143 Kettle Pond Ln, Great Falls VA. The landscaping work includes the following:

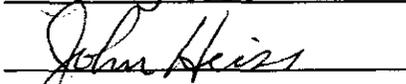
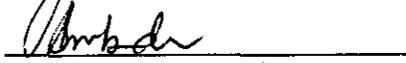
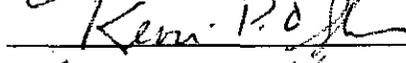
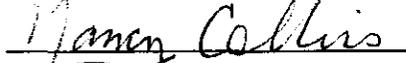
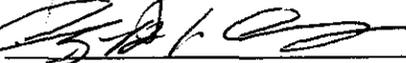
- Pool and spa
- Decking and seat walls surrounding pool
- Landscaping improvements (planting)
- Decorative aluminum fencing and gates
- Covered outdoor kitchen
- Outdoor fireplace and seating area
- Pergola and patio area in pavers
- Evergreen screening from street and surrounding properties

A final survey of the completed work reveals that some elements of the work encroach into the required county setbacks. Given that the property is on a corner lot, the regulations are more restrictive. We are seeking a special permit to allow the subtle encroachments, which include:

1. Pergola and associated wall +/- 30" into 40' front yard setback.
2. Pool encroaches +/- 2' into front yard setback.
3. Fence is 54" tall at the top of pickets, instead of 48" required for front yards.

We are seeking support for the special permit and zoning approval from our neighbors in the vicinity of the project. Your signature below and initials on the attached property plat indicate your approval and support of this application.

Thank you,

Signature	Address	Phone #
	1149 Kettle Pond Ln	703-757-5412
	1107 Amanda Drive	703-759-3255
	1104 Amade Dr	703-777-0783
	1121 Amade Dr	703-759-5949
	1118 Amanda Dr	703-759-4212
	1146 Kettle Pond Ln	540-226-9488
	1142 KETTLE Pond	703-759-9699

December 9, 2008

County of Fairfax, Virginia  
Department of Planning and Zoning  
12055 Government Center Parkway  
Suite 829  
Fairfax, VA 22035

To Whom It May Concern:

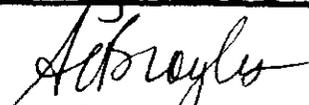
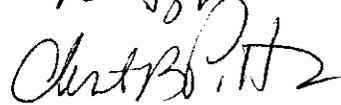
This letter regards to the recent landscaping work completed at the Duenkel residence, 1143 Kettle Pond Ln, Great Falls VA. The landscaping work includes the following:

- Pool and spa
- Decking and seat walls surrounding pool
- Landscaping improvements (planting)
- Decorative aluminum fencing and gates
- Covered outdoor kitchen
- Outdoor fireplace and seating area
- Pergola and patio area in pavers
- Evergreen screening from street and surrounding properties

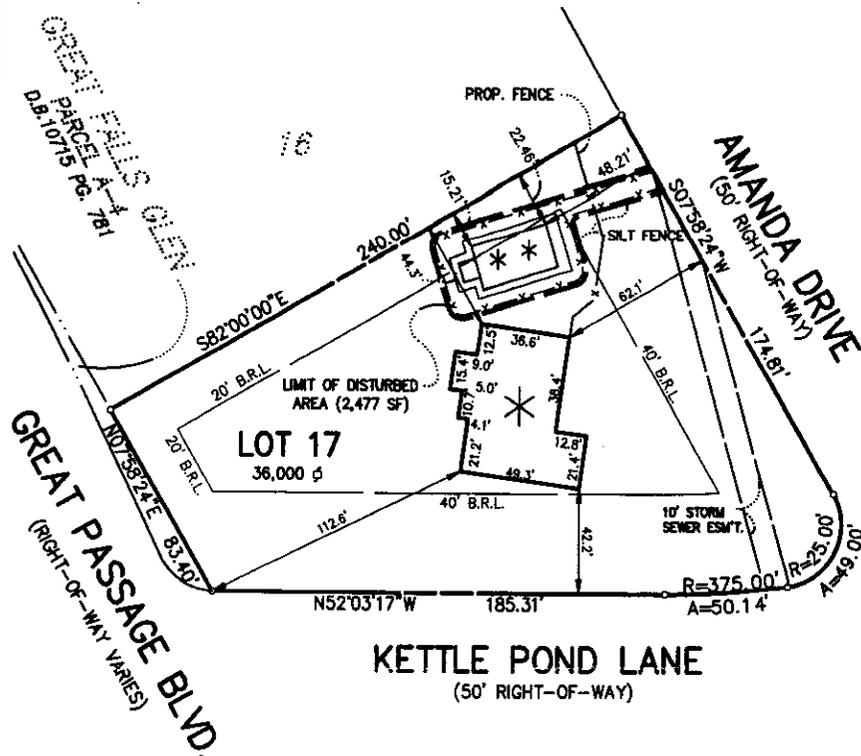
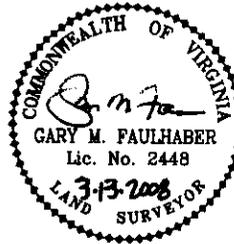
A final survey of the completed work reveals that some elements of the work encroach into the required county setbacks. Given that the property is on a corner lot, the regulations are more restrictive. We are seeking a special permit to allow the subtle encroachments, which include:

1. Pergola and associated wall +/- 30" into 40' front yard setback.
2. Pool encroaches +/- 2' into front yard setback.
3. Fence is 54" tall at the top of pickets, instead of 48" required for front yards.

We are seeking support for the special permit and zoning approval from our neighbors in the vicinity of the project. Your signature below and initials on the attached property plat indicate your approval and support of this application.

Signature	Address	Thank you,	Phone
	1104 Great Passage Blvd		703-438-3937
	1112 Amanda Dr.		703-757-7145
	1115 Amanda Dr		703-757-6689

HOUSE LOCATION SURVEY  
**GREAT FALLS HUNT**  
 SECTION TWO  
**LOT 17**  
 #1143 KETTLE POND LANE  
 DRANESVILLE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA



\* \* = PROPOSED SWIMMING POOL      \* = 2 STORY BRICK & FRAME WITH BASEMENT POSTED #1143

I hereby certify that the limit of disturbance delineated on this house location plat prepared by Charles P. Johnson & Associates, dated March 14, 2008 for the property located at 1143 Kettle Pond Lane accurately reflects the scope of the project and that the proposed work can be performed within the limit of disturbance as shown. I further certify that the total disturbed area of land that will be associated with the construction of the proposed swimming pool will not exceed 2,500 SF.

THE PROPERTY SHOWN HEREON LIES WITHIN ZONE X, AN AREA DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN AS DELINEATED ON FEMA FLOOD INSURANCE RATE MAP (F.I.R.M.) COMMUNITY PANEL NO. 515525 0050 DATED MARCH 5, 1990.

WALL CHECK	Drn. By : TJD	FINAL SURVEY	Drn. By :	RECERT	Drn. By :
Date : 3/13/08	Chk By : GMF	Date :	Chk By :	Date :	Chk By :

**SURVEYORS CERTIFICATE**  
 I hereby certify that the position of the existing improvements shown hereon have been carefully established by accepted land surveying practices and that unless shown, there are no visible encroachments either way across the property lines. The plan is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. The plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements. The plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. This drawing was prepared without the benefit of a title report.

**CPJ Associates**  
 Charles P. Johnson & Associates, Inc.  
 PLANNERS ENGINEERS LANDSCAPE ARCHITECTS SURVEYORS  
 2309 POWERS DRIVE SUITE 210 FAIRFAX VIRGINIA 22030 (703)360-7200  
 SILVER SPRING, MD FAX (703)573-8585

Reference	Scale	File No.
D.B. 9319	1" = 50'	08-500-78
PG. 1136		

*Handwritten notes:*  
 JTL  
 1121 Amanda (KRD) MLC  
 1118 Amanda 1146 Kettle Pond.  
 Schaefer - 1104 Great Passage  
 Kester - 1112 Amanda  
 Chris Pratt - 1115 Amanda



# County of Fairfax, Virginia

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

March 18, 2008

## NOTICE OF VIOLATION

### CERTIFIED MAIL

Return Receipt Requested

Receipt #7099 3400 0007 0873 9288

Douglas Duenkel  
Alison Duenkel  
1143 Kettle Pond Lane  
Great Falls, VA 22066

Re: 1143 Kettle Pond Lane  
Subdivision: Great Falls Hunt, Section 2, Lot 17  
Tax Map Ref: 12-1((13))17  
Zoning District: R-1

Dear Mr. and Mrs. Duenkel:

The purpose of this letter is to notify you that a zoning inspection, on March 11, 2008, revealed you have installed fences in excess of four (4) feet in height in a front yard. As your property is a corner lot, it is deemed to have two (2) front yards as defined, in part, in Article 20 of the Zoning Ordinance as:

**Yard, Front:** A yard extending across the full width of a lot and lying between the front lot line and the principal building.

**Lot, Corner:** A lot at the junction of and abutting on two (2) or more intersecting streets when the angle of the intersection does not exceed 135 degrees; provided, however, that when one of the intersecting streets is an interstate highway. The resultant lot shall not be deemed a corner lot.

A fence is permitted use in a front yard; however, it must comply with Par. 3B of Sect. 10-104 of the Zoning Ordinance that states in part:

In any front yard on any lot, a fence, or wall not exceeding four (4) feet in height is permitted.

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/](http://www.fairfaxcounty.gov/dpz/)

Douglas Duenkel  
Alison Duenkel  
March 18, 2008  
Page 2

Therefore, the fence as described above is in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance, which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

Additionally, this inspection revealed an accessory structure (freestanding fireplace) over seven (7) feet in height located approximately eighteen feet from the side lot line. Therefore, you are in violation of Par. 12F of Sect. 10-104, which states:

- F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:
- (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
  - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

The minimum required side yard setback, in the R-1 District, is twenty (20) feet.

Furthermore, this accessory structure (freestanding fireplace) has erected without having obtained the Zoning Administrator's approval of a Building Permit Application. Therefore, you are in violation of Sect. 18-601 of the Zoning Ordinance that states:

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 this violation within thirty (30) days of receipt of this Notice. Compliance can be accomplished by the following procedures:

- Regarding the fences in the front yards located on your property:

- Removing the fence from the property in its entirety; or
  - Reducing the height of the fence to four (4) feet or less; or
  - Making Application to, diligently pursue, and ultimately obtain special permit approval by the Fairfax County Board of Zoning Appeals (BZA), to allow the fence to remain at its present height and location.
- Regarding the accessory structure (freestanding fireplace) located on your property:
- Removing the detached accessory structure or use from the property in its entirety; or
  - Relocating and positioning the detached accessory structure on your property to meet the required minimum side yard (20 feet); or
  - Limiting the height of the detached accessory structure to no more than seven (7) feet in height, so as to allow the structure to remain at its present location; or
  - Applying to the Fairfax County Board of Zoning Appeals (BZA) and ultimately obtaining approval of a Group 9 Special Permit for an error in building location to allow the accessory structure (freestanding fireplace) to remain at its present height and at its present location; and
  - Obtaining a building permit approved by the Zoning Administrator.

A Special Permit Application has been provided, for your convenience, should you decide to pursue this option. If you have any questions regarding this application process, you may contact the Zoning Evaluation Division at (703) 324-1290.

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

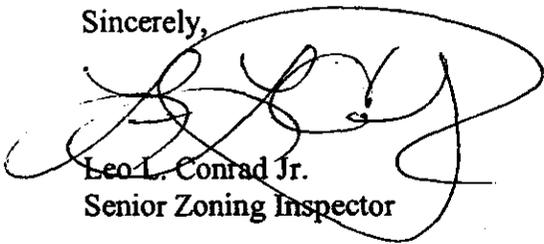
Douglas Duenkel  
Alison Duenkel  
March 18, 2008  
Page 4

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, shall 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) 324-1390 or (703) 324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo L. Conrad Jr.", is written over a large, loopy scribble. The signature is positioned above the printed name and title.

Leo L. Conrad Jr.  
Senior Zoning Inspector

LLCJr/seg  
Attachment: A/S

**BUILDING PERMIT APPLICATION**  
**FAIRFAX COUNTY GOVERNMENT**  
**PERMIT APPLICATION CENTER**  
 12855 Government Center Parkway, 2nd Floor  
 Fairfax, Virginia 22035-0964  
 Telephone: 703-223-0881  
 Web site: <http://www.fairfaxcounty.gov/permits>

**PERMIT #** 80650130  
 FOR INSPECTIONS CALL: 703-223-0455 (see back for more information)  
 OR VISIT US ON THE WEB AT  
[http://www.fairfaxcounty.gov/inspection\\_sched.asp](http://www.fairfaxcounty.gov/inspection_sched.asp)

Fill in all appropriate information in this column  
 (PLEASE PRINT OR TYPE)

**JOB LOCATION**  
 ADDRESS 1143 Kettle Pond Circle  
 LOT # 17 BUILDING \_\_\_\_\_  
 FLOOR \_\_\_\_\_ SUITE 1111H  
 SUBDIVISION Great Falls Sec 2  
 TENANT'S NAME \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 CONTACT ID \_\_\_\_\_

**OWNER INFORMATION** OWNER  TENANT   
 NAME Duenkel  
 ADDRESS 1143 Kettle Pond Circle  
 CITY Great Falls STATE VA ZIP 22066  
 TELEPHONE \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 CONTACT ID \_\_\_\_\_

**CONTRACTOR INFORMATION** SAME AS OWNER   
 CONTRACTORS MUST PROVIDE THE FOLLOWING:  
 COMPANY NAME H & C Pools  
 ADDRESS 11721 Yates Road  
 CITY Stafford STATE VA ZIP 22085  
 TELEPHONE \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 STATE CONTRACTORS LICENSE # 2705096904  
 COUNTY BPOL # 753454  
 CONTACT ID #323342

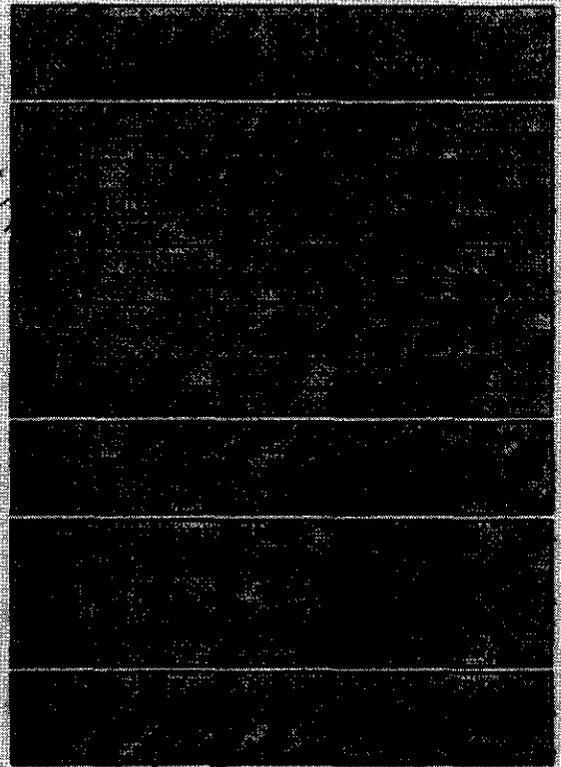
**APPLICANT**  
 NAME Kim Shanklin  
 ADDRESS 405 Glyndon St SE  
 CITY Lenexa STATE KS ZIP 66218  
 TELEPHONE 783-507-7679  
 EMAIL KShanklin  
 CONTACT ID AS 30908295

**DESCRIPTION OF WORK**  
Gunite Pool  
Inground w/decking  
17x30 Pool / 3 foot Decking

**HOUSE TYPE** \_\_\_\_\_  
**ESTIMATED COST OF CONSTRUCTION** 5000.00  
**USE GROUP OF BUILDING** \_\_\_\_\_  
**TYPE OF CONSTRUCTION** V/B

**DESIGNATED MECHANICS' LIEN AGENT**  
 (Mechanical Contractors Only)  
 NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

NONE DESIGNATED  PHONE \_\_\_\_\_



**ZONING REVIEW**  
 USE SFD  
 ZONING DISTRICT R-1 HISTORICAL DISTRICT \_\_\_\_\_  
 ZONING CASE # \_\_\_\_\_  
 GROSS FLOOR AREA OF TENANT SPACE \_\_\_\_\_

YARDS:	GARAGE	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
FRONT <u>45'</u>	OPTIONS	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
FRONT _____	REMARKS	<u>Construct inground pool w/ decking</u>		
L SIDE _____				
R SIDE <u>20'</u>				
REAR _____				

**REMARKS**  
Corner lot;  
lot has 36,000 sq ft - pool  
can be in front yard!  
Case # 298127 - ok to issue  
permit for ZEB lease  
was for fence)

SFD

Any and all information and stamps on the reverse side of this form are a part of this application and must be completed with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the contractor will be in compliance with the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Kim Shanklin 3/14/08  
 Signature of Owner or Agent Date

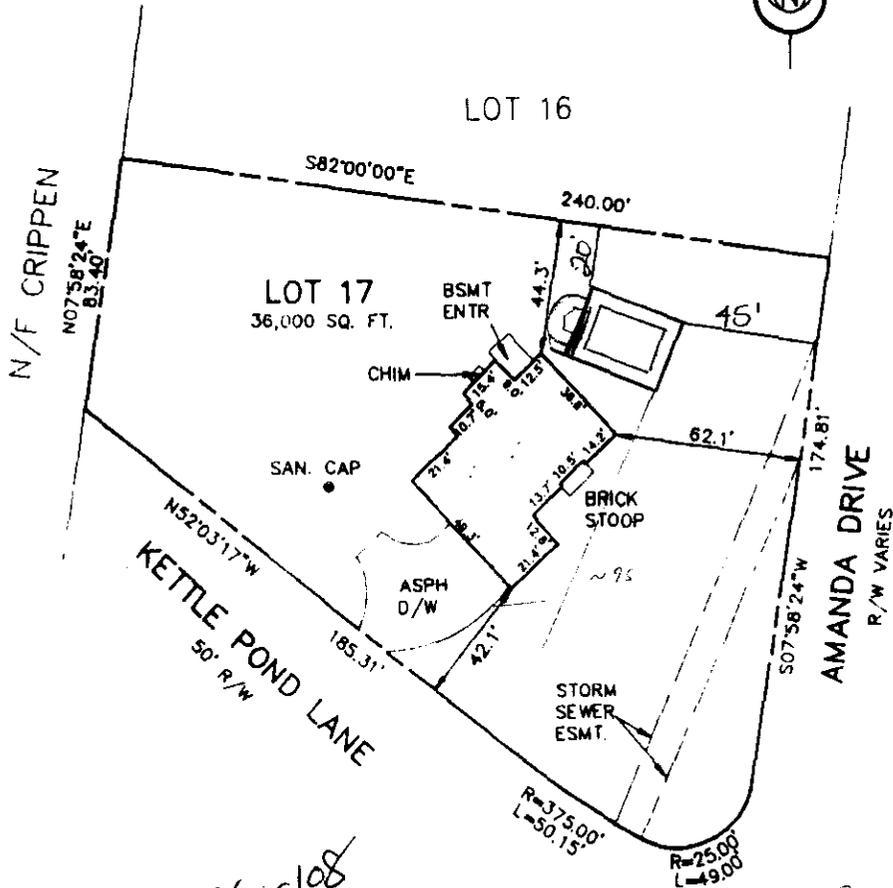
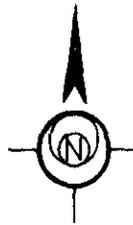
Kim Shanklin  
 Printed Name and Title

(Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

**NOTARIZATION (if required)**  
 I am (a notary or clerk) of \_\_\_\_\_  
 County (or city) of \_\_\_\_\_ to wit: I \_\_\_\_\_  
 Notary Public in the State and County aforesaid, do certify that \_\_\_\_\_  
 whose name is signed to this application, appeared before me in the State and County aforesaid, and executed this affidavit.  
 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_  
 (Notary Signature)

**Note:**

- 1) No title report furnished therefore all encumbrances may not be shown.
- 2) This parcel is located in Flood Zone X as depicted on Flood Insurance Rate Map Community-Panel Number 515525-00500
- 3) Fence locations are approximate and do not make representations as to ownership.
- 4) This survey is not to be used for construction purposes.
- 5) Authorized reproductions of this survey are affixed with an original seal and signature. Those reproductions not bearing an original seal and signature are not the product of the undersigned land surveyor and no consideration should be given to the information contained herein.



APPROVED *5/3/15/08*

*Gilson M. Helms*  
Zoning Administrator

HOUSE LOCATION SURVEY  
LOT 17 SECTION TWO  
GREAT FALLS HUNT  
DRANESVILLE DISTRICT  
FAIRFAX COUNTY, VIRGINIA

FILED APPROVAL

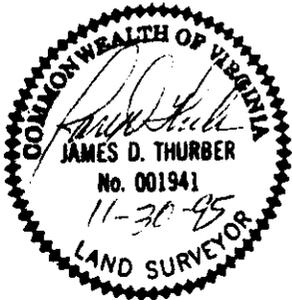
JAN 30 1995

21x17

23x23

29x29 = 841

CERTIFIED CORRECT



EASTERN STATES, INC.

1819T HUNTER MILL ROAD  
VIENNA, VIRGINIA 22182  
242-0830 FAX: 242-1958

SCALE: 1" = 50'    CHECKED: JDT    PROJECT:  
DATE: 11-29-95    FIELD BOOK 25    PAGE: 48    DB/PG:

**BUILDING PERMIT APPLICATION**

FAIRFAX COUNTY GOVERNMENT  
 PERMIT APPLICATION CENTER  
 12055 Government Center Parkway, 2nd Floor  
 Fairfax, Virginia 22035-5504

Telephone: 703-222-0801

Web site: <http://www.fairfaxcounty.gov/dpwes>

PERMIT #

73470016

FOR INSPECTIONS CALL 703-222-0455 (see back for more information)  
 OR VISIT US ON THE WEB AT

[http://www.fairfaxcounty.gov/itsnet/inspection\\_sched.asp](http://www.fairfaxcounty.gov/itsnet/inspection_sched.asp)

FILL IN ALL APPROPRIATE INFORMATION IN THIS COLUMN  
 (PLEASE PRINT OR TYPE)

**JOB LOCATION**

ADDRESS 1143 Kettle Pond Lane  
 LOT # 17 BUILDING \_\_\_\_\_  
 FLOOR \_\_\_\_\_ SUITE \_\_\_\_\_  
 SUBDIVISION Great Falls Hunt Sec 2  
 TENANT'S NAME \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 CONTACT ID \_\_\_\_\_

**OWNER INFORMATION**

OWNER  TENANT   
 NAME Duenkle, Douglas + Alison  
 ADDRESS 1143 Kettle Pond Lane  
 CITY Great Falls STATE VA ZIP 22066  
 TELEPHONE 703-757-6859  
 EMAIL \_\_\_\_\_  
 CONTACT ID \_\_\_\_\_

**CONTRACTOR INFORMATION**

SAME AS OWNER   
 CONTRACTORS MUST PROVIDE THE FOLLOWING:  
 COMPANY NAME Fine Landscapes LTD  
 ADDRESS 45714 Oakbrook Ct Ste. 160  
 CITY Sterling STATE VA ZIP 20166  
 TELEPHONE \_\_\_\_\_  
 EMAIL \_\_\_\_\_  
 STATE CONTRACTORS LICENSE # 2701-024484A  
 COUNTY BPOL # 02-4640  
 CONTACT ID 273632

**APPLICANT**

NAME COE  
 ADDRESS Po Box 477  
 CITY Fairfax STATE VA ZIP 22038  
 TELEPHONE 703-273-0397  
 EMAIL \_\_\_\_\_  
 CONTACT ID 3074524

**DESCRIPTION OF WORK**

15x15 Bored BBQ Area  
15x18 Pergola

**HOUSE TYPE**

SFD  
 ESTIMATED COST OF CONSTRUCTION 15,000.00  
 USE GROUP OF BUILDING \_\_\_\_\_  
 TYPE OF CONSTRUCTION \_\_\_\_\_

**DESIGNATED MECHANICS' LIEN AGENT**

(Residential Construction Only)

NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

NONE DESIGNATED  PHONE \_\_\_\_\_

DO NOT WRITE IN GRAY SPACES - COUNTY USE ONLY

PLAN # W-01-16703  
 TAX MAP # 0121 120017

ROUTING	DATE	APPROVED BY
LICENSING	<u>12/01/07</u>	<u>[Signature]</u>
ZONING	<u>12/01/07</u>	<u>[Signature]</u>
SITE PERMITS	<u>12/01/07</u>	<u>[Signature]</u>
HEALTH DEPT.	<u>12/01/07</u>	<u>[Signature]</u>
BUILDING REVIEW	<u>12/18/07</u>	<u>[Signature]</u>
SANITATION		
FIRE MARSHAL		
ASBESTOS		
PROFFERS		

FEE  
 FILING FEE = 50.00  
 AMOUNT DUE = 50.00

**BUILDING PLAN REVIEW**  
 REVIEWER \_\_\_\_\_ # OF HOURS \_\_\_\_\_  
 REVISION FEES \$ \_\_\_\_\_  
 FIRE MARSHAL FEES \$ \_\_\_\_\_  
 FEATURE UNITS \_\_\_\_\_ PLAN LOC:  R

**APPROVED FOR ISSUANCE OF BUILDING PERMIT**  
 (LOG OUT)  
 BY \_\_\_\_\_ DATE \_\_\_\_\_

**ZONING REVIEW**  
 USE \_\_\_\_\_  
 ZONING DISTRICT R-1-D HISTORICAL DISTRICT \_\_\_\_\_  
 ZONING CASE # \_\_\_\_\_  
 GROSS FLOOR AREA OF TENANT SPACE \_\_\_\_\_

YARDS: GARAGE  1  2  3   
 FRONT 45' OPTIONS YES  NO   
 FRONT \_\_\_\_\_ REMARKS all cancel  
 L SIDE 85' big area - pergola  
 R SIDE \_\_\_\_\_  
 REAR \_\_\_\_\_

REMARKS  
 \_\_\_\_\_  
 \_\_\_\_\_  
Cancel BBQ Area. Pergola front - 4'  
Pergola rear - 10'

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Signature of Owner of Agent [Signature] Date 12-12-07  
Brad Zambro Agent  
 Printed Name and Title

(Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

**NOTARIZATION** (if required)

State (or territory or district) of \_\_\_\_\_  
 County (or city) of \_\_\_\_\_, to wit: \_\_\_\_\_

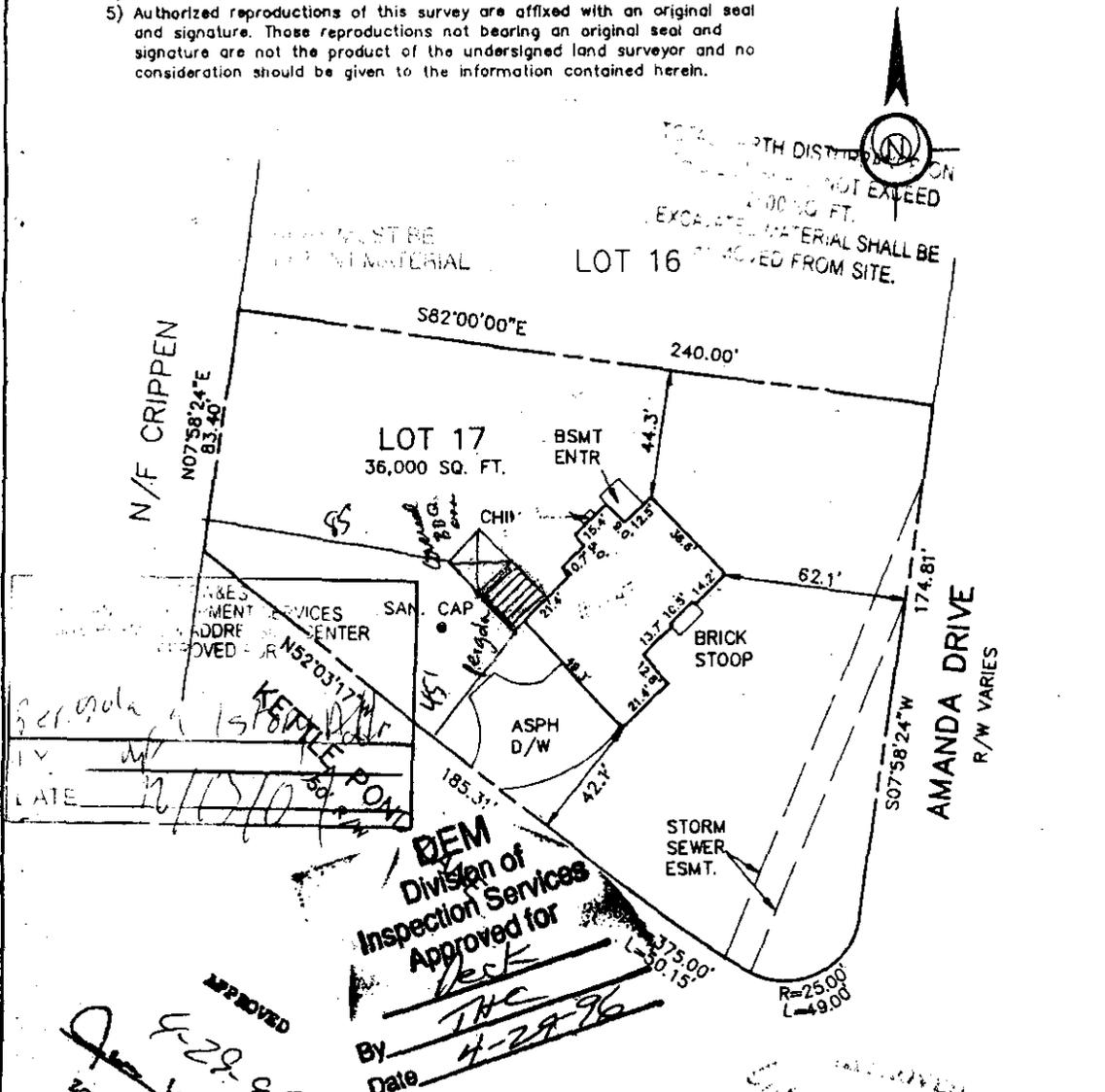
Notary Public in the State and County aforesaid, do certify that:

whose name is signed to this application, appeared before me in the State and County aforesaid and executed this affidavit.  
 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Notary Signature)

**Note:**

- 1) No title report furnished therefore all encumbrances may not be shown.
- 2) This parcel is located in Flood Zone X as depicted on Flood Insurance Rate Map Community-Panel Number 515525-0050D
- 3) Fence locations are approximate and do not make representations as to ownership.
- 4) This survey is not to be used for construction purposes.
- 5) Authorized reproductions of this survey are affixed with an original seal and signature. Those reproductions not bearing an original seal and signature are not the product of the undersigned land surveyor and no consideration should be given to the information contained herein.



**BEM**  
 Division of  
 Inspection Services  
 Approved for  
*Deck*  
 By *JHC*  
 Date *4-29-96*

HOUSE LOCATION SURVEY  
 LOT 17 SECTION TWO  
 GREAT FALLS HUNT  
 DRANESVILLE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

**FINAL APPROVAL**

JAN 30 1995

ZONE: [unclear] DIVISION  
 OFFICE OF COMPREHENSIVE PLANNING

**APPROVED**  
 FAIRFAX COUNTY HEALTH DEPARTMENT  
*BBQ Area and Pergola*  
*Jones*  
 Date *11/3/07* Health Official

**CERTIFIED CORRECT**  
 COMMONWEALTH OF VIRGINIA  
*James D. Thurber*  
 JAMES D. THURBER  
 No. 001941  
 11-30-95  
 LAND SURVEYOR

**EASTERN STATES, INC.**  
 1819T HUNTER MILL ROAD  
 VIENNA, VIRGINIA 22182  
 242-0830 FAX: 242-1958

SCALE: 1" = 50' CHECKED: JDT PROJECT:  
 DATE: 11-29-95 FIELD BOOK 25 PAGE: 48 DB/PG:

**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.

**Provisions for Increase in Fence and/or Wall Height in Any Front Yard**

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) 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. 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. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.

- E. All required minimum yards to include front, side and rear, 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 a well and/or septic field.
  - I. If applicable, existing gross floor area and floor area ratio.
  - 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. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.

**10-104**

**Location Regulations**

1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building, except as qualified in Sect. 2-412.
2. The required minimum yards referenced in this Section shall refer to the minimum yards in the applicable zoning district for the principal building(s) with which the accessory-type building is associated.
3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

- A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.
- B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:
- (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
  - (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

- C. In any side or rear yard on any lot, a fence or wall not exceeding seven (7) feet in height is permitted. However, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, is permitted:
- (1) In any side or rear yard of a reverse frontage lot; or
  - (2) For that portion of a side or rear yard of a residential lot where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space, where such open space is located between the lot line and the major thoroughfare.
- D. In any yard of an industrial use permitted by the provisions of this Ordinance, a fence or wall not exceeding eight (8) feet in height is permitted.
- E. Notwithstanding the above provisions, a fence or wall which is an integral part of any accessory use, such as a tennis court or swimming pool, shall be subject to the location regulations of Par. 12 below. However, a modification to the location regulations may be permitted with approval of a special permit by the BZA in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a rezoning or a special exception in accordance with Part 6 of Article 9 for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses that are

not constructed in association with a privately used playing field/court on a lot containing a single family dwelling.

- F. In addition, for noise barriers which reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduce noise impacts of commercial and industrial uses on adjacent properties, an increase in height and/or modification to the corresponding location regulations set forth above may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a proffered rezoning or a special exception in accordance with the following:
- (1) A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.
  - (2) The Board shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.
  - (3) Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.
- G. Notwithstanding the above, a fence or wall which is to be provided in conjunction with a public use may be of such height and location as approved by the Board.
- H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:
- (1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.

- (2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.
  - I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a five (5) percent increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:
    - (1) The sight distance requirements of Sect. 2-505 shall be met.
    - (2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.
    - (3) Any existing noncompliance was done in good faith and through no fault of the property owner.
    - (4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
    - (5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.
  - J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of not less than six (6) feet apart and a minimum distance of not less than three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.
4. Trellises, gates and gate posts may be located within any required minimum front yard as follows:
    - A. Two (2) trellises, not to exceed eight (8) feet in height nor four (4) feet in width.
    - B. Four (4) gate posts without limit as to height or width.

- C. Two (2) gates not to exceed eight (8) feet in height.
  - D. Gates and gate posts exceeding four (4) feet in height shall not exceed in maximum width fifteen (15) percent of the lot width.
5. Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any R district as follows:
- A. Structures seventy-five (75) feet or less in height shall not be located closer to any lot line than a distance equal to one-fifth (1/5) of their height.
  - B. Structures greater than seventy-five (75) feet in height shall not be located closer to any lot line than a distance equal to their height.
6. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 11.
7. Signs shall be located in accordance with the provisions of Article 12.
8. Wayside stands shall be located in accordance with the provisions of Par. 28 of Sect. 102 above.
9. The following regulations shall apply to the location of structures for the housing of animals:
- A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.
  - B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2-512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that any such structure used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.
  - C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer than three (3) feet to any lot line. Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.

- D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

- 10. The following regulations shall apply to the location of freestanding accessory storage structures:
  - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.
  - C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.
  - D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.
  - E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
    - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
- 11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and

recycling storage containers. In addition, no containers shall be located in any required parking space, driveway, parking aisle, open space or landscaped area.

12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:
  - A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory structure or use, which does not exceed seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Sect. 2-505.
  - C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.
  - D. No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.
  - E. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
    - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
13. Except as may be qualified by Sect. 2-505, conventional television antennas and satellite dish antennas designed to receive television or video programming with a diameter or diagonal measurement of 39 inches (one meter) or less shall be permitted in any yard on any lot.
14. Except for lighting fixtures mounted on poles that are associated with outdoor recreation/sports facilities playing fields/courts and as noted below, the mounting height of lighting fixtures on light poles shall not exceed a

maximum height of forty (40) feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture. Light poles mounted on the top of parking decks or parking structures shall not exceed a maximum height of twenty (20) feet as measured from the top of the pole to the surface on which the pole is mounted. Light poles shall be located in accordance with the following:

- A. On lots developed with single family dwellings:
  - (1) Light poles that are no greater than seven (7) feet in height may be located in any yard;
  - (2) Light poles that exceed seven (7) feet in height shall be subject to the location regulations of Paragraphs 12C, 12D, 12E and 12F above.
- B. On all other lots:
  - (1) Light poles that do not exceed seven (7) feet in height may be located in any yard;
  - (2) Light poles greater than seven (7) feet in height shall be subject to the minimum yard requirements, with the exception of angle of bulk plane, of the zoning district in which located.

The above locational provisions shall not be applicable to parking lot light poles, which may be located in any yard. All light poles, to include parking lot light poles, shall be subject to the provisions of Part 9 of Article 14.

- 15. Temporary portable storage containers shall be located in accordance with the provisions of Sect. 102 above.

**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.