



APPLICATION ACCEPTED: June 23, 2009
DATE OF PUBLIC HEARING: September 15, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 8, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2009-MV-052

MOUNT VERNON DISTRICT

APPLICANT & OWNER: Mary Ann R. Devine Mattern

ZONING: R-3 (Cluster)

LOCATION: 7920 Grimsley St.

SUBDIVISION: Mount Vernon Valley, Section 11

ZONING ORDINANCE PROVISION: 8-914

TAX MAP: 101-1 ((5)) (25) 6

LOT SIZE: 9,176 Sq. Ft.

SP PROPOSAL: Reduction to minimum yard requirements based on error in building location to permit an attached garage to remain 7.2 feet from side lot line such that the side yards equal 17.9 ft. and accessory storage structure to remain 3.9 feet from rear lot line.

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.

N:\SP\Devine Mattern SP 2009-MV-052\Mattern_cover.doc

Suzanne Lin

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

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



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



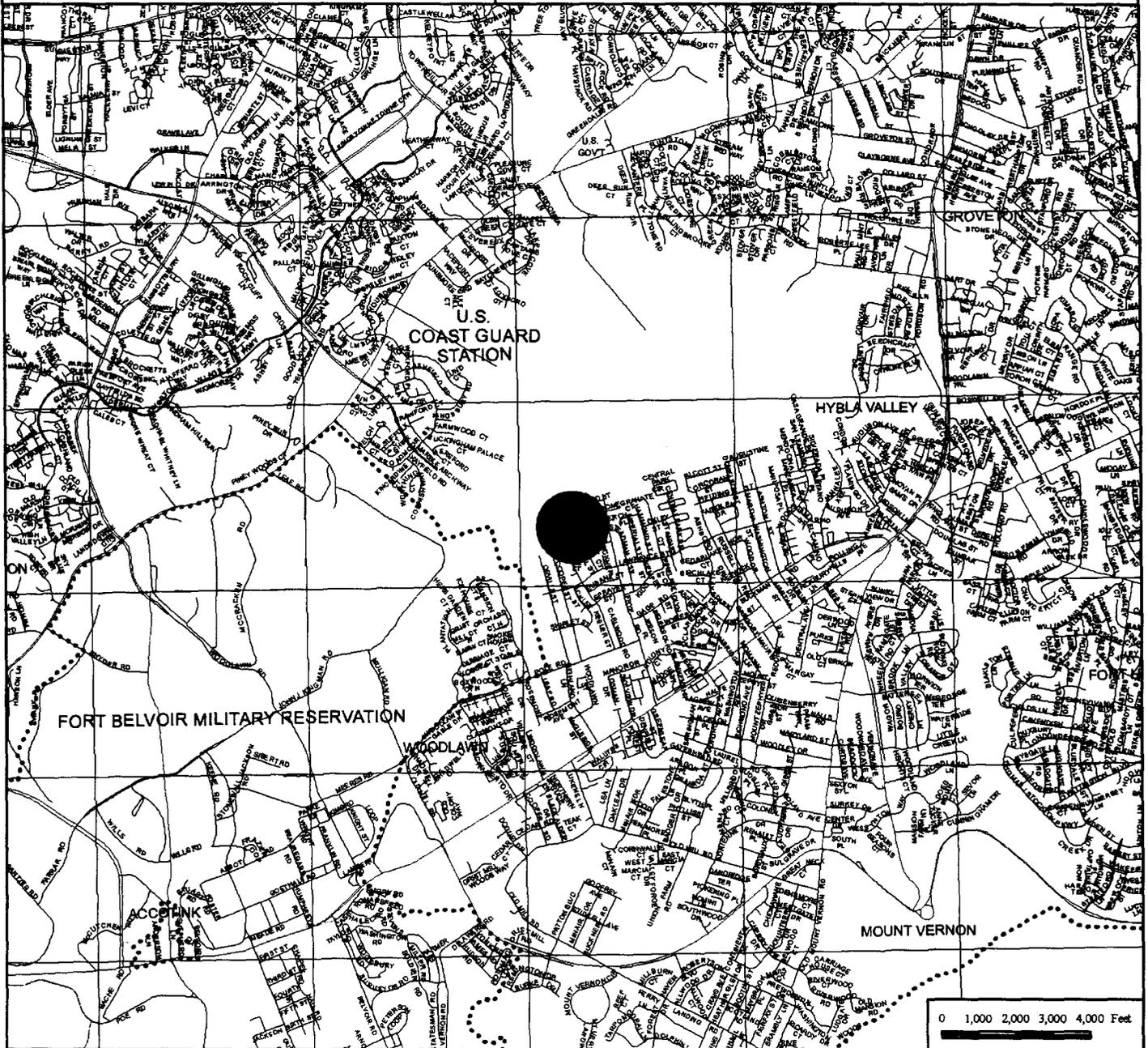
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2009-MV-052

Applicant: MARY ANN R. DEVINE MATTERN
Accepted: 06/23/2009
Proposed: REDUCTION TO MINIMUM YARD REQUIREMENTS
BASED ON ERROR IN BUILDING LOCATION
TO PERMIT ADDITION TO REMAIN 7.2 FEET
FROM SIDE LOT LINE SUCH THAT SIDE
YARDS TOTAL 17.9 FEET AND ACCESSORY
STORAGE STRUCTURE TO REMAIN 3.9 FEET
FROM REAR LOT LINE



Area: 9,176 SF OF LAND; DISTRICT - MOUNT VERNON
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 7920 GRIMSLEY STREET
Zoning: R-3
Overlay Dist:
Map Ref Num: 101-1-/05/25/0006

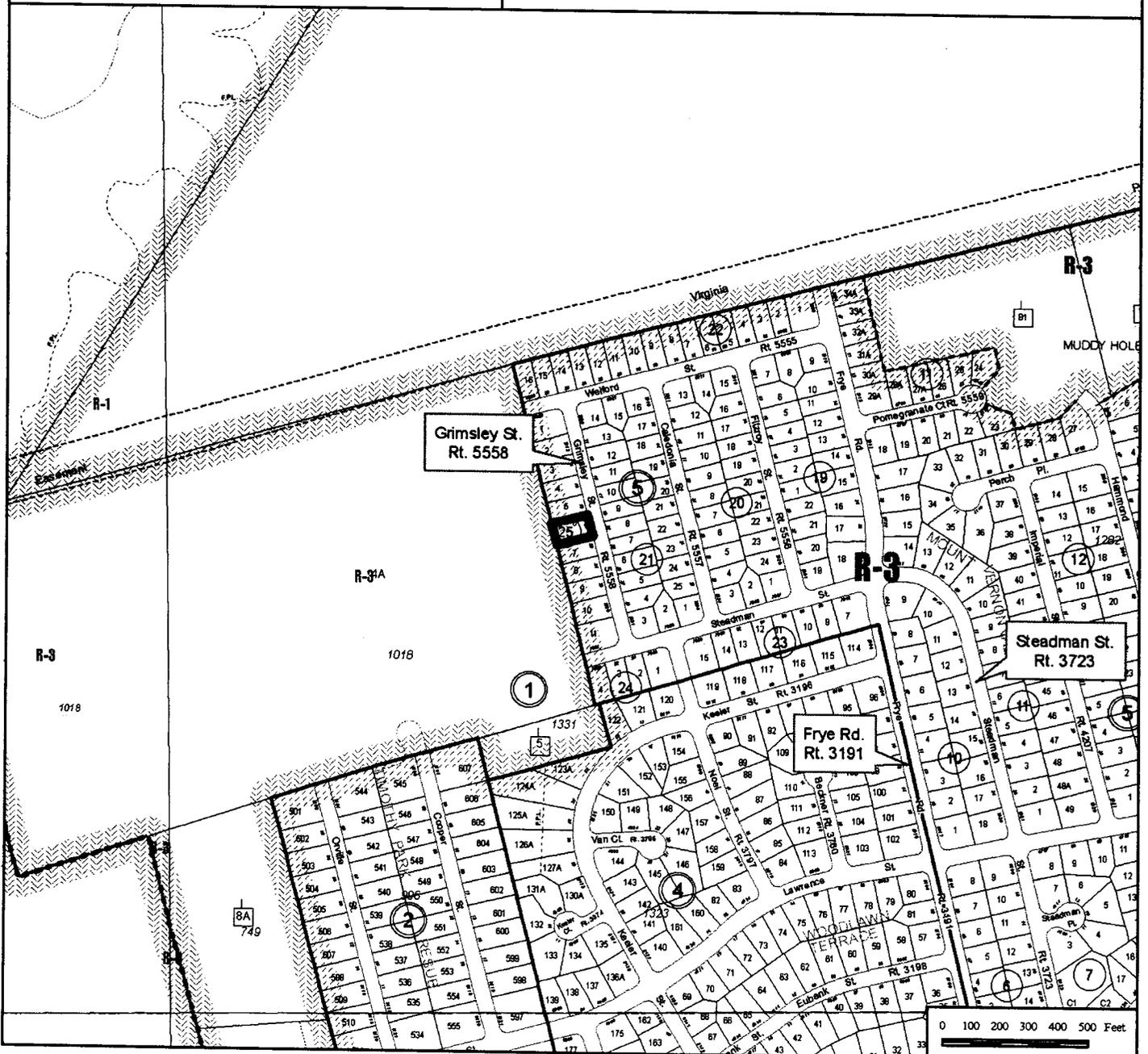


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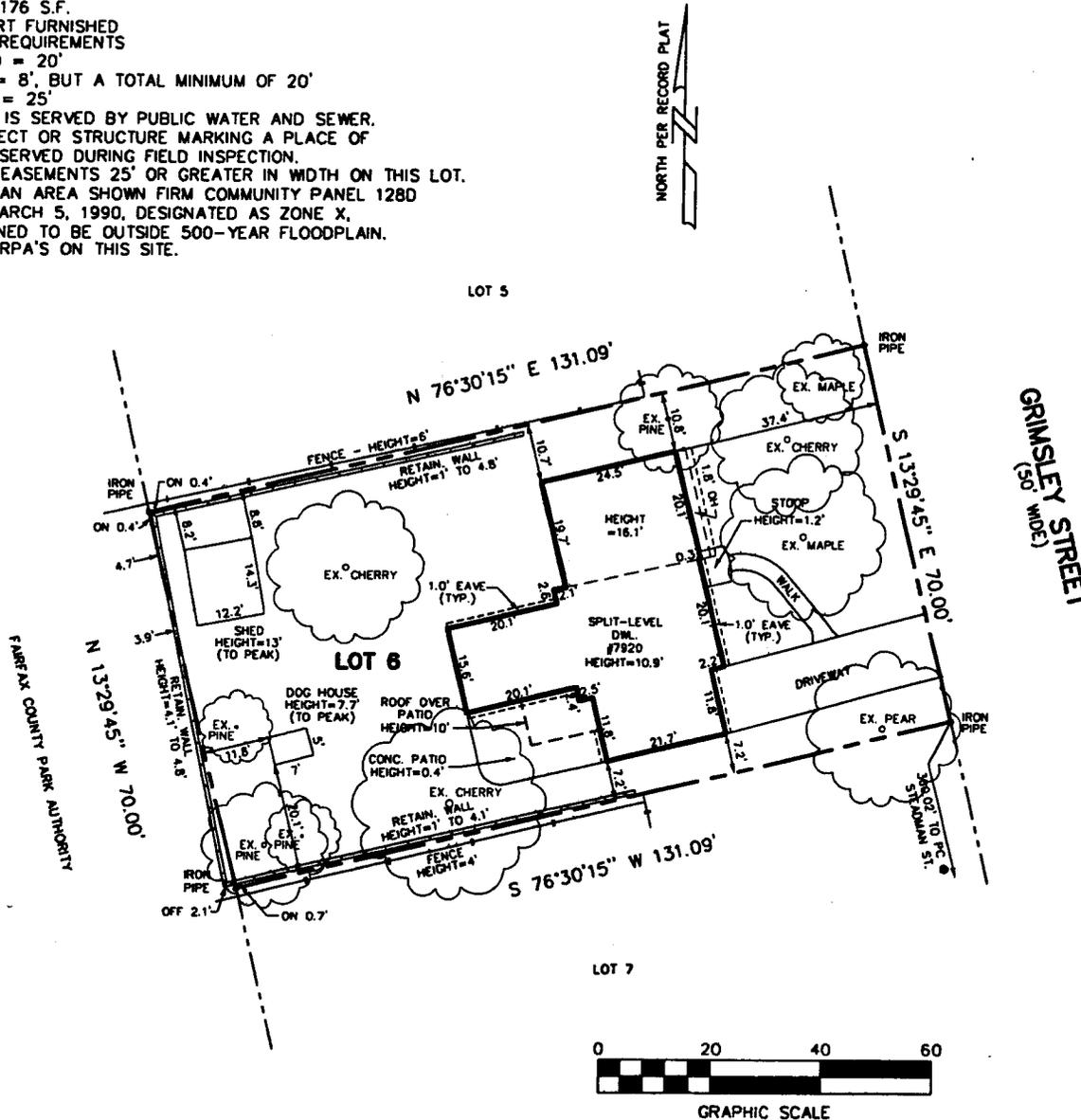


NOTES

1. TAX MAP - 101-1-05-25-0006
2. ZONED - R-3C
3. LOT AREA = 9,176 S.F.
4. NO TITLE REPORT FURNISHED
5. MINIMUM YARD REQUIREMENTS
 FRONT YARD = 20'
 SIDE YARD = 8', BUT A TOTAL MINIMUM OF 20'
 REAR YARD = 25'
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. NO GRAVE, OBJECT OR STRUCTURE MARKING A PLACE OF BURIAL WAS OBSERVED DURING FIELD INSPECTION.
8. THERE ARE NO EASEMENTS 25' OR GREATER IN WIDTH ON THIS LOT.
9. THIS LOT IS IN AN AREA SHOWN FIRM COMMUNITY PANEL 128D MAP REVISED MARCH 5, 1990, DESIGNATED AS ZONE X, AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN.
10. THERE ARE NO RPA'S ON THIS SITE.

GROSS FLOOR AREA TABULATION

EXISTING DWELLING	= 1,995 S.F. GFA
EXISTING SHED	= 150 S.F. GFA
EXISTING DOG HOUSE	= 26 S.F. GFA



**SPECIAL PERMIT PLAT
 LOT 6
 BLOCK 25
 MOUNT VERNON VALLEY
 SECTION 11**

MT. VERNON DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 SCALE - 1" = 20' APRIL 24, 2009
DIGULIAN ASSOCIATES, P.C.
 LAND SURVEYORS
 7000-D NEWINGTON ROAD
 LORTON, VIRGINIA 22079
 703-339-7449

Photo taken 4/8/09

Accessory Structure - Front View

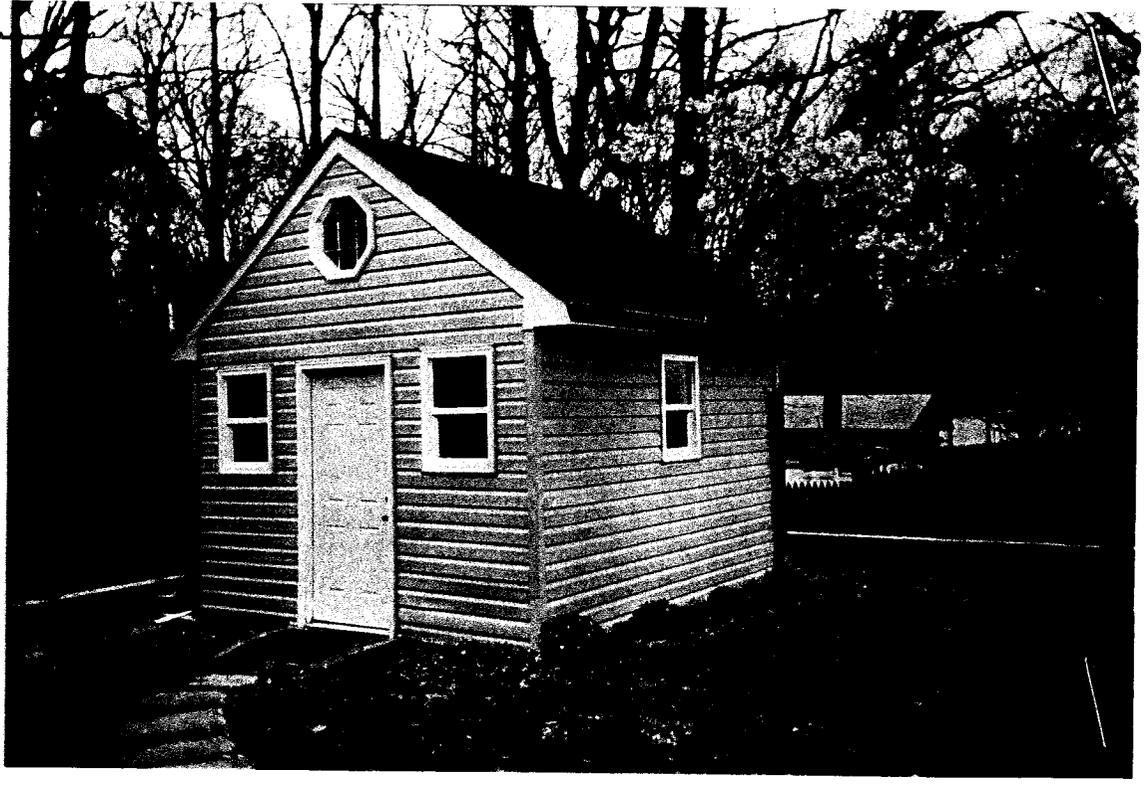
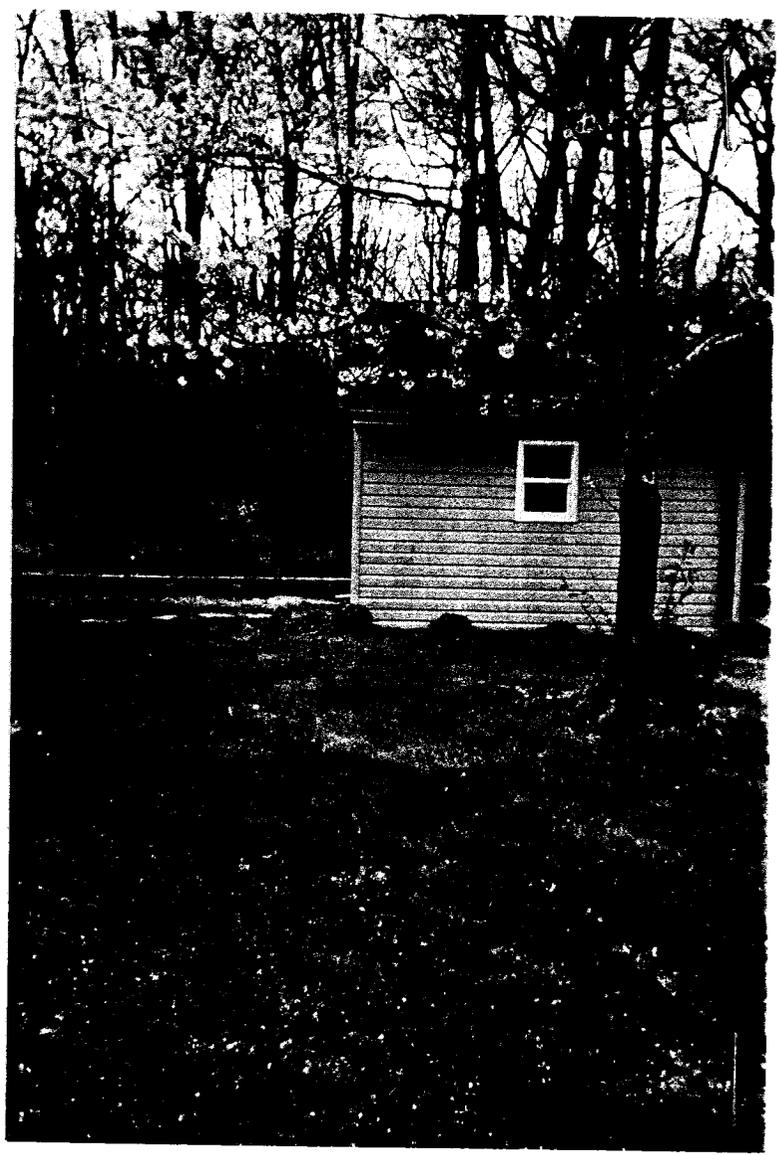


Photo taken 4/8/09

Accessory Structure - Side View



RECEIVED
Department of Planning & Zoning
APR 10 2009
Zoning Evaluation Division

Photo taken 4/8/09

*Accessory structure -
Rear View*

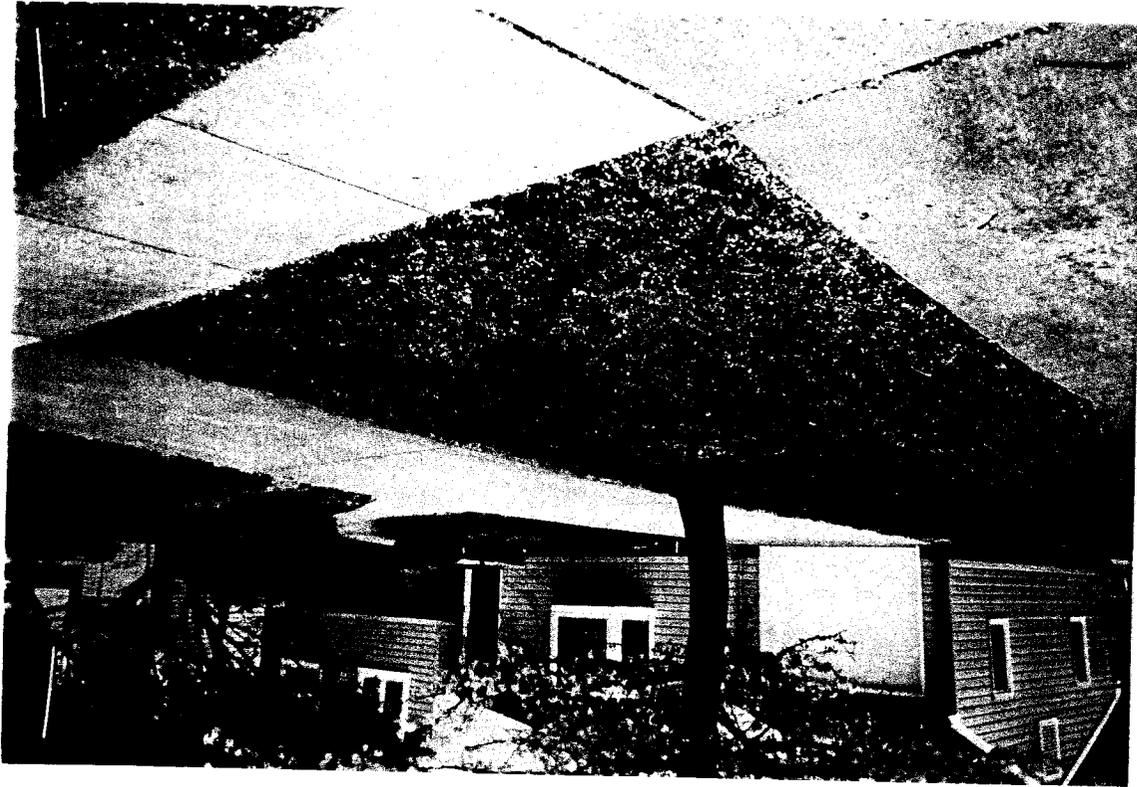


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Department of Planning & Zoning

APR 10 2009

Zoning Evaluation Division

Storage Shant Angle View from 1922 Burnley St.



4/8/09
Photo Taken

ZONING & EVALUATION DIVISION

APR 10 2009

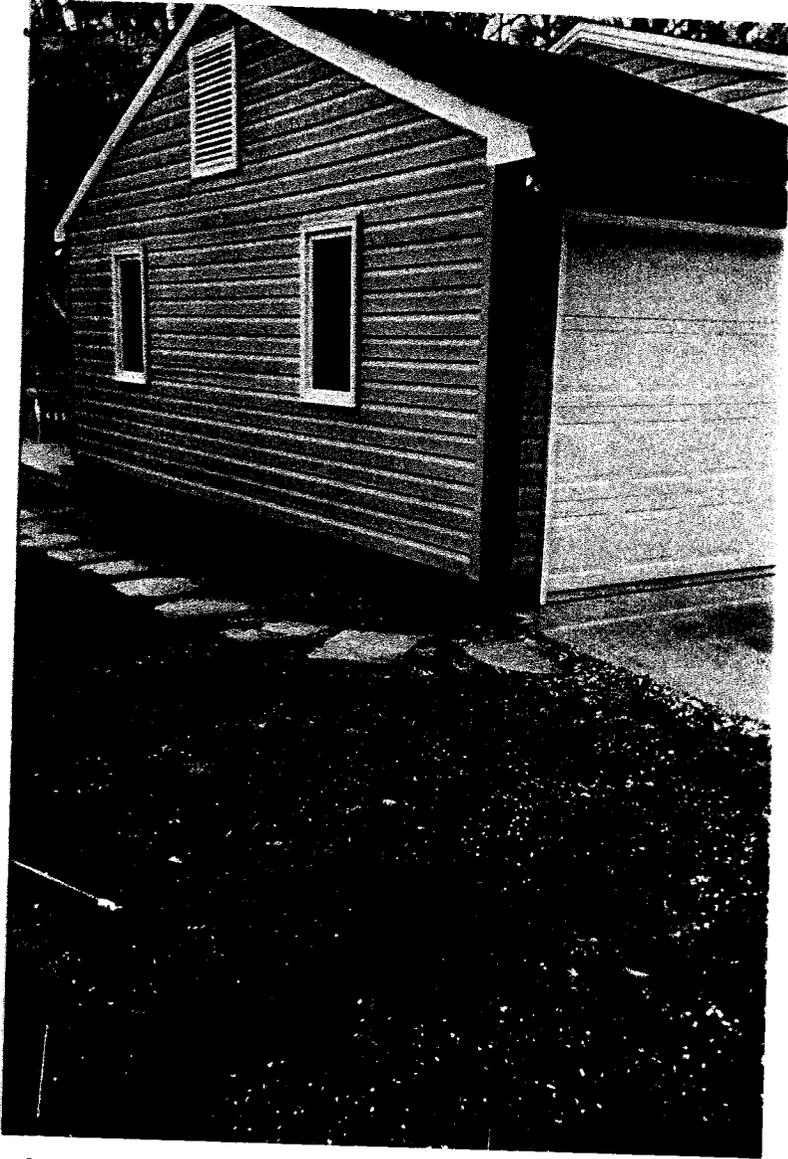
ED
TING & ZONING

Storage Shant View - Burnley Street (1922)



4/8/09
Photo Taken

Photo taken 4/8/09



Garage - Side View
from 7922 Gumsley St.

RECEIVED
Department of Planning
APR 10 2009
Zoning Evaluation Division

Photo taken 4/8/09



Garage -
Rear View
from
7922 Gumsley St.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for the subject property to permit reduction in yard requirements based on error in building location for both (1) an addition to the existing dwelling to remain such that side yards total 17.9 feet (the addition is located 7.2 feet from the southern side lot line with an 8 foot required side yard. That error is 10% and requires administrative approval by the Zoning Administrator); and, (2) an accessory storage structure (shed) to remain 3.9 feet from the rear lot line.

	Structure	Total Side Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit 1	Addition	Total Side Yards	20 feet	17.9 feet	2.1 feet	10.5%
Special Permit 2	Shed	Rear	13 feet	3.9	9.1 feet	70 %

* Minimum yard requirement per Section 3-307

** Minimum yard requirement per Section 10-104.

CHARACTER OF THE AREA

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

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Special Permit Plan, Lot 6, Block 25 Mount Vernon Valley, Section 11
- **Prepared By:** Joseph W. Bronder, DiGiulian Associations, P.C. dated April 24, 2009 as signed through April 30, 2009.
- **Building Permit Required for Shed:** No, shed is 150 square feet of gross floor area (as labeled on Special Permit Plat)
- **Building Permit Required for Addition:** Yes
- **Obtained:** No
- **Location Error Made By:** Applicant

BACKGROUND

The existing single family detached dwelling was constructed in 1974 based on real estate assessments. A Notice of Violation (NOV) was issued on March 17, 2009 for two extensions into required yards on this property. The NOV was issued for a detached accessory structure (shed) in excess of 8.5 feet in height within the minimum required rear yard and for the addition, which is most similar to an attached garage, within the required side yard. A copy of the NOV can be found in Appendix 4.

The Board of Zoning Appeals (BZA) has heard the following applications in the neighborhood:

- Special Permit SP 2004-MV-015, granted on August 11, 2004, on Tax Map Number 101-1 ((5)) (19) 9, at 7910 Frye Road, zoned R-3, east of the subject property to permit accessory structure to remain 1.9 feet from rear lot line and 1.6 feet with eave 0.2 feet from side lot line, deck 2.5 feet from rear lot line and addition 4.4 feet from side lot line such that side yards total 16.8 feet.
- Special Permit SP 2003-MV-014, granted on July 9, 2003, at 8003 Imperial Street, east of the subject property to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 2.1 feet from side lot line and eave 1.2 feet from side lot line.
- Special Permit SP 91-L-038, granted on October 16, 1991 on Tax Map 101-1((5)) (9) 5, at 4611 Lawrence Street, zoned R-3, southeast of the subject property to permit a reduction to minimum yard requirements based on error in building location to allow detached garage to remain 4.9 feet from side lot line and 4.1 feet from rear lot line. A storage shed was required to be removed.

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- 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)

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2009-MV-052****September 1, 2009**

1. This special permit is approved for the location of an existing attached garage and accessory structure (shed) as shown on the plat prepared by Joseph W. Bronder, DiGiulian Associates, PC dated April 24, 2009 and signed through April 30, 2009.
2. Permits and final inspections shall be obtained for the garage addition within 120 days of approval of this special permit or the garage shall be removed or brought into compliance with the Zoning Ordinance.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 10, 2009
 (enter date affidavit is notarized)

Mary Ann & Devine Mattern, 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

104354

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
MARY ANN R. DEVINE MATTERN	7920 GRIMSLEY ST. ALEXANDRIA, VA. 22309	APPLICANT/ TITLE OWNER

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

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
 ** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 10, 2009
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104354

(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)

N/A

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 10, 2009
(enter date affidavit is notarized)

104354

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): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 10, 2009
(enter date affidavit is notarized)

104354

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

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

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

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

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

NONE

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/09
(enter date affidavit is notarized)

104354

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:

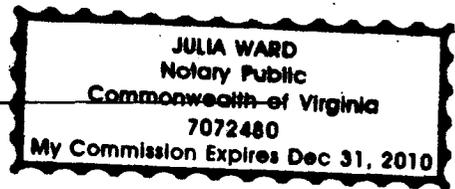
(check one) Mary Ann Devine Mattern
 Applicant [] Applicant's Authorized Agent

MARY ANN DEVINE MATTERN 4/10/09
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 10th day of April, 2009, in the State/Comm. of Virginia, County/City of Fairfax.

Julia Ward
Notary Public

My commission expires:



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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 10, 2009
(enter date affidavit is notarized)

I, Mary Ann Devine Mattern, 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

104354

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

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* 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).

SPECIAL PERMIT #2009-0093 STATEMENT OF JUSTIFICATION

I am requesting a special permit for an existing attached garage and accessory structure at my residence located at 7920 Grimsley Street, Alexandria, Virginia 22309.

By letter dated March 17, 2009, I received a notice of violation from the Department of Planning and Zoning that the attached garage built on my property did not meet the 8 feet side yard requirement on the left side lot line and the total combination of side yards of 20 feet for a single family dwelling. By the same letter, I was notified that the accessory structure was not set back far enough from the rear lot line due to the height. A description of the structures is as follows:

Attached Garage

The garage is attached to the single dwelling home. The walls are 8 feet in height nailed to 1-1/2" to 3-1/2" pressured treated lumber. The roof design is a gable roof. There is no eave on the left side. It is approximately 23 feet in length and 11 feet wide and 14 feet high. The trusses are supported in the center with a double 1-1/2" x 11-1/2" support beam. The interior is painted a cream color with custom white crown and base. The garage door is attached on both sides with each side consisting of eight 1-1/2" x 3-1/2" wooden studs 8 feet in length which are glued and screwed together. The header is comprised of two 1-1/2" by 11-1/2" boards 11 feet in length. They are also glued and screwed together.

The special permit plat shows 7.2 feet from the left side lot line instead of 8 feet. This was an error (.8) in construction that does not exceed 10 percent (.8). The current plat shows a right side lot line of 10.4. The combination of both sides total 17.6 feet. The garage was built approximately 16 years ago. Based on the attached surveys done in 1983 and 1991 which showed a right side lot line of 11.3 feet and 10.8 feet, the total combination of side yards would not have exceeded 10 percent (2.0).

The garage was built by a contractor approximately 16 years ago. At the time, I had no knowledge of the building and zoning requirements. I totally relied on the contractor's experience and knowledge as to what needed to be done. The garage is well built, and the photographs will show that it is well designed and fits well into the neighborhood. It is not detrimental to the use and enjoyment of other property in the immediate vicinity, and it does not create an unsafe condition with respect to both other property and public streets. There was no intent to construct a garage that did not comply with Fairfax County's zoning code. To force compliance with the minimum yard requirement would cause unreasonable financial hardship and would reduce the structure so that it could not be used as a one car garage.

Accessory Structure

The notice of violation stated that an accessory storage structure cannot be any higher than 8-1/2 feet unless the setback equals the height. The accessory structure is approximately 13 feet 6 inches in height. The building was constructed with 8 foot walls with a gable roof and loft. The loft is approximately 5 feet 6 inches in the center. It is at a maximum 4.7 feet from the rear lot

RECEIVED
Department of Planning & Zoning

JUN 11 2009

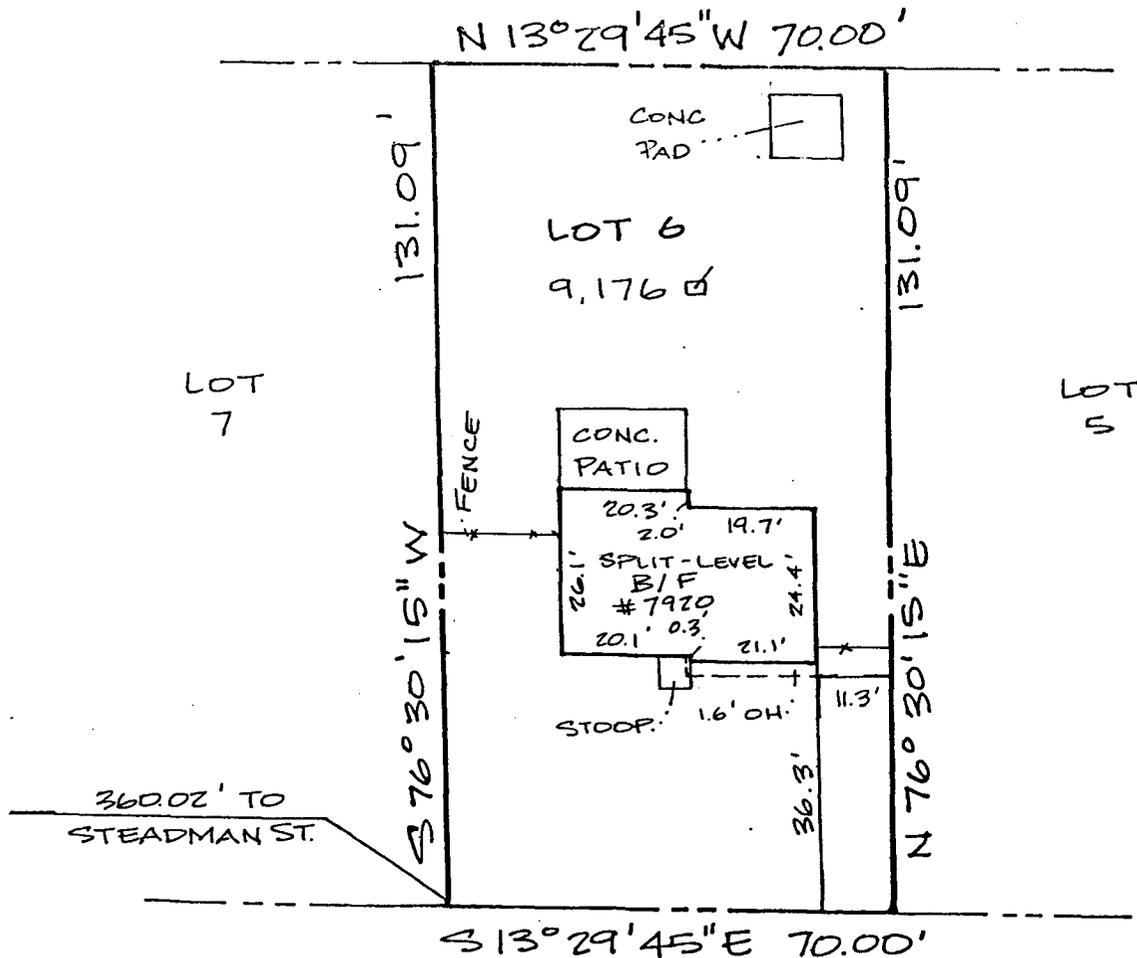
Zoning Evaluation Division

line and at a maximum 8.8 feet from the side lot. The accessory building was designed as a small replica of my home. The interior is painted pale yellow with custom white base and crown.

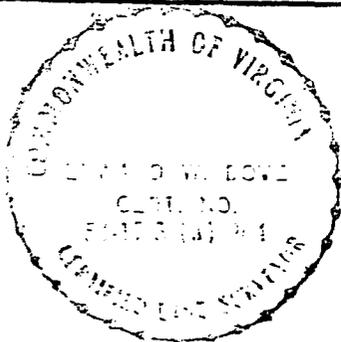
The accessory structure was built by a contractor approximately 16 years ago. It was built in the same location as a storage structure built by the previous owner. At the time, I had no knowledge of the building and zoning requirements. I totally relied on the contractor's experience and knowledge as to what needed to be done. The accessory structure is well built, and the photographs will show that it is well designed and fits well into the neighborhood. It is not detrimental to the use and enjoyment of other property in the immediate vicinity. It cannot be seen from my neighbor's 1st floor windows on the left side. My neighbor on the right side does not have 1st floor windows, and the structure is over 8 feet from the side lot line. There is no neighbor at the rear of the property. The rear adjoining property is owned by Fairfax County Park Authority known as Huntley Meadows. It does not create an unsafe condition with respect to both other property and public streets. There was no intent to construct an accessory structure that did not comply with Fairfax County's zoning code. To force compliance with the minimum height requirement would cause unreasonable financial hardship and would result in the loss of the loft. To relocate the structure would also cause unreasonable financial hardship, and the structure would have to be located in the middle of the yard and too close to the main residence.

Therefore, I respectfully request that I be granted the special permit.

N/F
BERMAN & GAREER TRUSTEES



GRIMSLEY STREET
(50' WIDE)



HOUSE LOCATION SURVEY
LOT 6 BLOCK 25 SECTION 11

MOUNT VERNON VALLEY

FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=30' DATE: JAN. 12, 1983



County of Fairfax, Virginia

Street File

APPENDIX 4

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

NOTICE OF VIOLATION

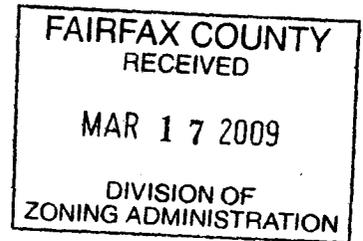
DATE OF ISSUANCE: March 17, 2009

CERTIFIED MAIL #: 7008 01830 0004 9542 4009

CASE #: 44056

SERVE: Mary Ann R. Devine
7920 Grimsley Street
Alexandria, VA 22309

LOCATION OF VIOLATION 7920 Grimsley Street
Mt. Vernon Valley, Lot 6, Block 25, Section 11
Tax Map #: 101-1 ((5)) (25) 6
Zoning District: R-3C



Dear Property Owner:

An inspection of the above referenced property on February 5, 2009 and February 12, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 3-307 (2A) (2) (b) Permitted Extensions into Side Yard
§ 2-412 (2C) Bulk Regulations

The inspections revealed that you have built or that you have allowed to be built an addition to the existing home which is deemed most similar to that of an attached garage. This structure is attached to the primary residence and is on the ground level. The structure is approximately six (6') from the left side lot line and the right side of the main house is approximately ten feet (18' 8") from the right side lot line. This gives the home a combination of side yards of approximately fifteen (15') feet.

This lot is zoned R-3 Cluster and accordingly, any additions or permitted extensions must meet the R-3C District regulations. For your information, the bulk regulations for this district include: minimum yard requirements for a single family attached dwelling, which are delineated in Par. 2A (2) (b) of Sect. 3-307 of the Fairfax County Zoning Ordinance, which states:

2. Minimum yard requirements

A. Single family dwellings

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/



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Integrity * Teamwork * Public Service

(2) Cluster subdivision lot

(a) Front yard: 20 feet

(b) Side yard: 8 feet, but a total minimum of 20 feet

(c) Rear yard: 25 feet

The Fairfax County Zoning Ordinance permits accessory structures to be located in the minimum required side yard, however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 2D of Section 10-104 of the Zoning Ordinance which states;

No structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.

The extension of the addition into the minimum required side yard does not satisfy the aforementioned provision, and therefore is a violation of Par. 6 of Sect. 2-302 of the Fairfax County 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.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Removing the offending addition from the property in its entirety;
or
- Obtaining the Zoning Administrator's approval of a Building Permit Application for the reduction of the accessory structure's height, and reducing its height to seven feet (7) feet to allow the addition to remain at it's present location; or
- Applying for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals that would allow for a reduction to the minimum yard requirements based on error in building location. (Enclosed)

§ 10-104 (12C) Accessory Structure

§ 2-302 (6) Accessory Use must comply with Article 10:

The inspection also revealed an accessory storage structure that has been erected in the rear yard.

Mary Ann R. Devine

March 17, 2009

Page 3

This structure is approximately twelve feet (12') by fourteen feet four inches (14' 4") (171 square feet in area) and is approximately twelve feet (12') in height. This accessory storage structure is approximately four feet six inches (4' 6") from the rear lot line.

Accessory storage structures are permitted as accessory uses in the R-3 Cluster District, subject to location regulations outlined in the Fairfax County Zoning Ordinance. However, if the structure exceeds eight and one-half (8 ½) feet in height, it must be located so as to comply with Par. 10E of Sect. 10-104 of the Zoning Ordinance which states:

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.

Therefore, since your accessory storage structure in the rear yard exceeds eight and one-half (8 ½) feet in height, and is located closer than a distance equal to its height to the rear lot line yard you are 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.

You are hereby directed to clear these violations within thirty (30) days of receipt of this Notice. Compliance can be accomplished by the following:

- Removing the accessory storage structure from the property in its entirety; or
- Reducing the height of the accessory storage structure in the rear yard to eight and one-half (8 ½) feet to allow it to remain at its present location; or
- Relocating all accessory structures to an area of the lot that provides the minimum yard requirements as stipulated in Part 1 of Article 10 of the Zoning Ordinance.

§ 18-601 Building Permits Required:

The inspection also revealed that you have erected or that you have permitted to be erected a retaining wall encompassing the entire rear yard that is in excess of two feet in height.

A review of records maintained by both the Department of Public Works and Environmental Services and Department of Planning and Zoning verified that no Building Permits were applied for or approved. This is a violation of the Sect. 18-601, which states;

Mary Ann R. Devine

March 17, 2009

Page 4

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

You are hereby directed to clear these violations within thirty (30) days of receipt of this Notice. Compliance can be accomplished by the following:

- Applying for and ultimately obtaining a Building Permit for the erection and construction of the retaining wall as is deemed appropriate by the Building Official per the Virginia Uniform Statewide Building Code (VUSBC), or
- Demolishing the retaining wall in its entirety.

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

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

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1323 or (703) 324-1300.

Sincerely,



Chuck Cohenour
Senior Zoning Inspector

CAC/seg

Attachment: Group 9 Special Permit

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mary Ann R. Devine
 7920 Grimsley Street
 Alexandria, VA 22309

2. Article Number

(Transfer from service)

7008 1830 0004 9542 4009

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

PLEASE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, PAID AT POSTED LINE
CERTIFIED MAIL™



7008 1830 0004 9542 4009
7008 1830 0004 9542 4009

Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage		

Postmark here

Sent To
 Street, Apt. No.
 or P.O. box No.
 City, State, ZIP

Mary Ann R. Devine
 7920 Grimsley Street
 Alexandria, VA 22309

PS Form 3811

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.

PART 6 18-600 BUILDING PERMITS

18-601 Permit Required for Erection of Buildings and Structures

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.

18-602 Application for a Permit

Applications for a Building Permit shall be on forms provided by the County and shall be approved by the Zoning Administrator prior to issuance. An application shall be accompanied by one of the following:

1. An approved site plan, when the building or structure is required to be shown on a site plan that has been approved under the provisions of Article 17 of this Ordinance, and an approved agreement and security package required pursuant to Sect. 17-112 to ensure completion of the physical improvements as shown on the approved site plan, including any revisions thereto, or such plans and agreements as may be required by the Director for the approval of a partial Building Permit pursuant to the Virginia Uniform Statewide Building Code, or
2. When the building or structure does not require site plan approval, four (4) copies of a plat certified by a land surveyor, engineer, landscape architect or architect authorized by the State to practice as such, except that plats submitted for additions to an existing single family detached or attached dwelling or accessory structures related to an existing single family detached or attached dwelling may be prepared by other than a land surveyor, engineer, landscape architect or architect. Each such plat shall indicate the following information:
 - A. The dimensions of the lot or parcel, the lot lines thereof, and the area of land contained therein.
 - B. Delineation of any major underground utility easements and the location of any water, storm and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation.
 - C. The location, dimensions and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level and for

- accessory structures, the height of the highest point of the structure from finished ground level.
- D. The distance from all property lines to the proposed building, structure or addition, shown to the nearest one-tenth of a foot.
 - E. The proposed elevation of the first floor level and of the lowest floor level of any proposed new building. Such elevations shall not be required for additions unless the proposed elevation of the lowest floor level of such addition is below the lowest floor elevation of the structure to which it is added.
 - F. The existing and intended use of each building or structure or part thereof, including the number of dwelling units within a dwelling.
 - G. The location and configuration of any existing or proposed off-street parking space(s), the number of spaces proposed to be provided, and information as to the proposed surfacing of such areas.
 - H. The signature and certification number, if applicable, of the person preparing the plat.
 - I. Delineation of any Resource Protection Area and Resource Management Area.
 - J. Such other information with regard to the lot, existing and proposed buildings, and existing and proposed uses thereof and such other information with regard to contiguous lots as may be prescribed by resolution of the Planning Commission and approved by the County Executive as being necessary to the proper enforcement of the provisions of this Ordinance.
 - K. When the Building Permit application is for a new single family detached dwelling, a statement, where applicable, that the lot is subject to the affordable dwelling unit development zoning district regulations.
3. Where applicable, any other information as may be required by the provisions of Article 7.

18-603 Limitations on Approval of Building Permits

- 1. No Building Permit shall be issued for the erection of any building or structure on a lot or addition or modification to a building or structure that is in violation of any of the provisions of Chapter 101, Chapter 116 or Chapter 118 of The Code, this Ordinance, all other applicable laws

and ordinances, any proffered conditions, or any development conditions of any approved rezoning, special permit, special exception or variance. Appeals of decisions made pursuant to Chapter 118 of The Code which are appealable shall be processed in accordance with Article 8 of Chapter 118.

2. If required by Chapter 104 of The Code, no Building Permit shall be issued for any structure until a Conservation Plan has been approved by the Director in accordance with the provisions of Chapter 104 and the Public Facilities Manual.
3. No Building Permit shall be issued for the erection of any building or structure subject to site plan approval as required by the provisions of Article 17 except in strict conformance with such approved site plan and approval of any required agreements under Sect. 17-112. However, buildings or structures exempt from site plan approval in accordance with Sect. 17-104 shall be approved in accordance with the provisions of Sect. 602 above, and partial Building Permits shall be approved in accordance with the Virginia Uniform Statewide Building Code and no such partial Building Permit approval shall guarantee the approval of a site plan or subsequent Building Permits.
4. Approval of any Building Permit shall not be deemed to authorize construction within any recorded easement to which the Board of Supervisors or the County of Fairfax is a party.
5. No Building Permit shall be issued for the erection of any building or structure within any major underground utility easement except in conformance with Sect. 2-515.

18-604 Enforcement of Performance Standards

In the enforcement of the performance standards set forth in Article 14, before a Building Permit is issued, the Zoning Administrator may require evidence that the applicant is able to conform to such performance standards. Whereas enforcement shall be the responsibility of the County, where a violation has been established, the Zoning Administrator may:

1. Require the applicant to submit, at the expense of the applicant, reports or the certified results of tests with respect to any current or proposed operation of the use that is involved in relation to conformity to such standards, which reports or test shall be made by a laboratory or other agency of recognized competence.
2. Refer the application to the BZA for a determination of whether or not any operation of the use that is involved conforms to such standards as may call for a conclusion of judgment rather than the application of specified measurement.