APPLICATION ACCEPTED: June 23, 2009
BOARD OF ZONING APPEALS: September 15, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 8, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-BR-049

BRADDOCK DISTRICT

APPLICANT/OWNER:	Douglas W. Hansen
SUBDIVISION:	Fairfax Villa
STREET ADDRESS:	11102 Byrd Drive
TAX MAP REFERENCE:	57-3 ((7)) 274
LOT SIZE:	12,000 square feet
ZONING DISTRICT:	R-3
ZONING ORDINANCE PROVISIONS:	8-914 and 8-918
SPECIAL PERMIT PROPOSAL:	To permit reduction to minimum yard requirements based on error in building location to permit an accessory storage structure to remain 4.6 feet from the rear lot line and to permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2009-BR-049 for the accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

Shelby Johnson

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/

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

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**.

O:\SMCKNI\SP\HANSEN SP 2009-BR-049 (Access DU)\Staff Report\Staff Report Hansen.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).

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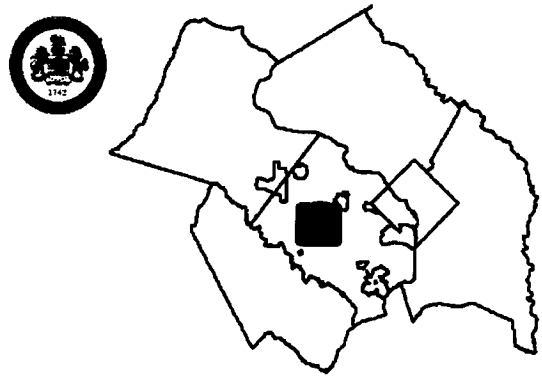
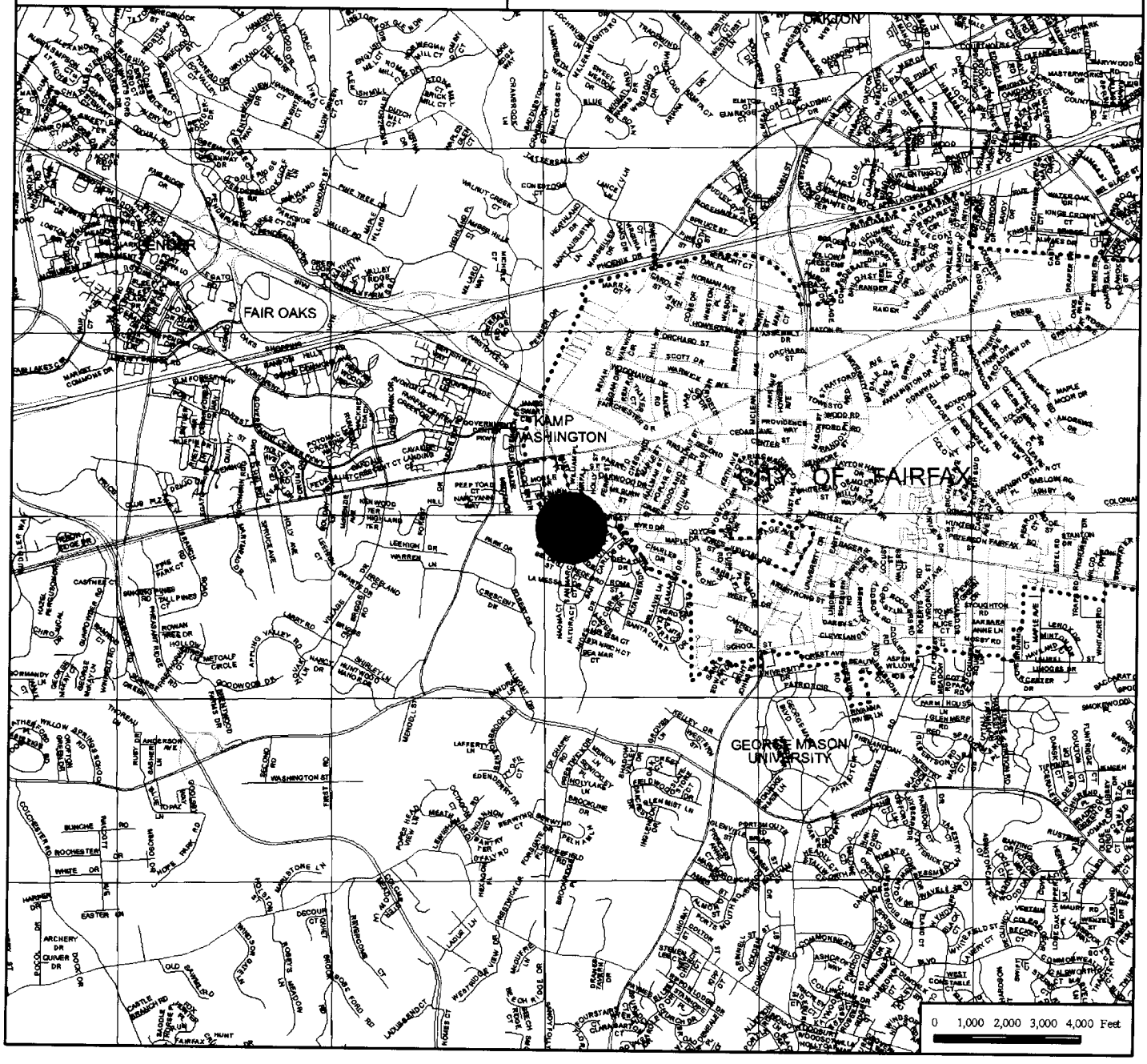
Special Permit

SP 2009-BR-049

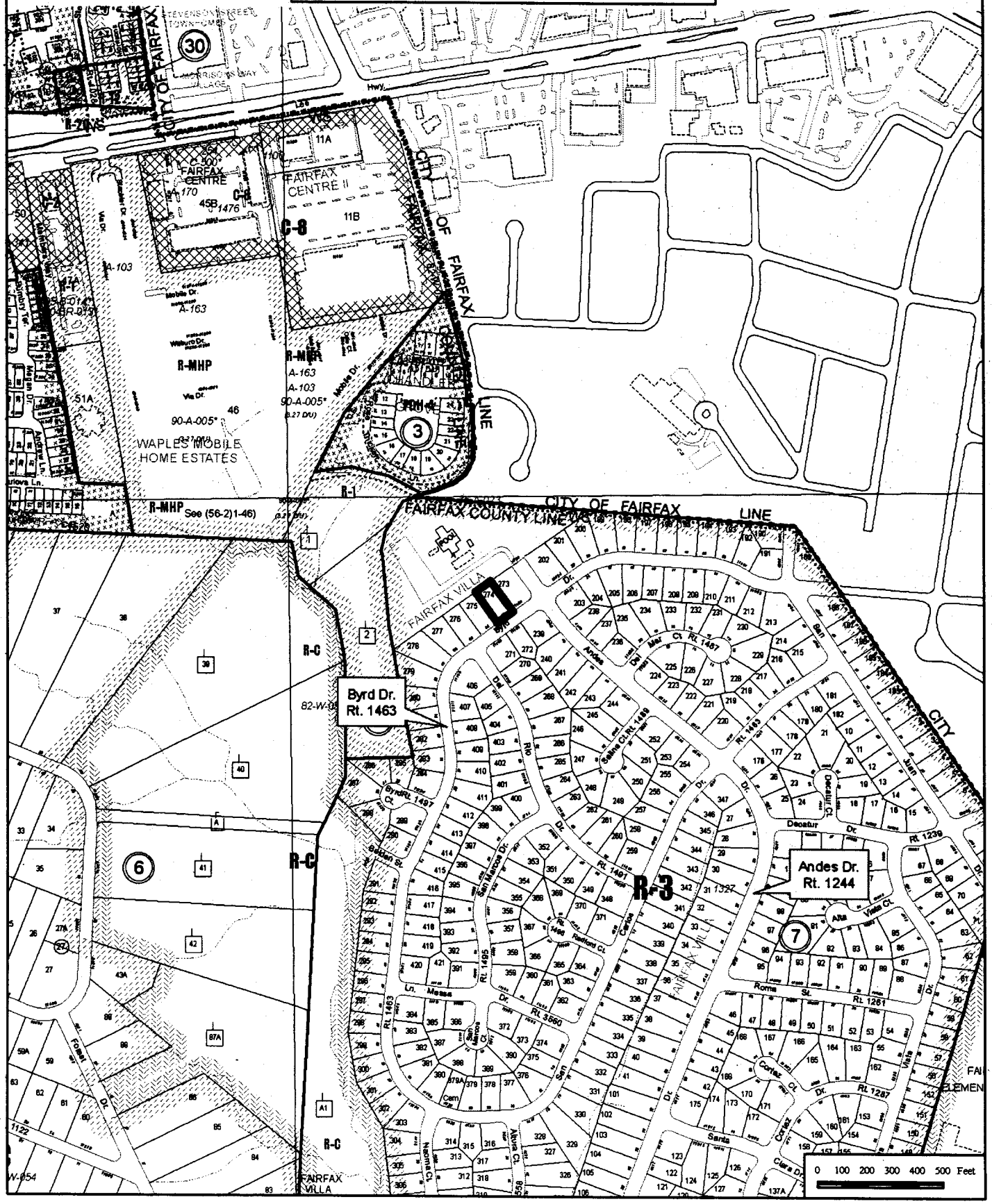


Applicant:	DOUGLAS W. HANSEN
Accepted:	06/23/2009
Proposed:	ACCESSORY DWELLING UNIT AND PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 4.6 FEET FROM REAR LOT LINE
Area:	12,000 SF OF LAND; DISTRICT - BRADDOCK
Zoning Dist Sect:	08-0914 08-0918
Art 8 Group and Use:	9-13 9-17
Located:	11102 BYRD DR
Zoning:	R- 3
Overlay Dist:	
Map Ref Num:	057-3- /07/ /0274

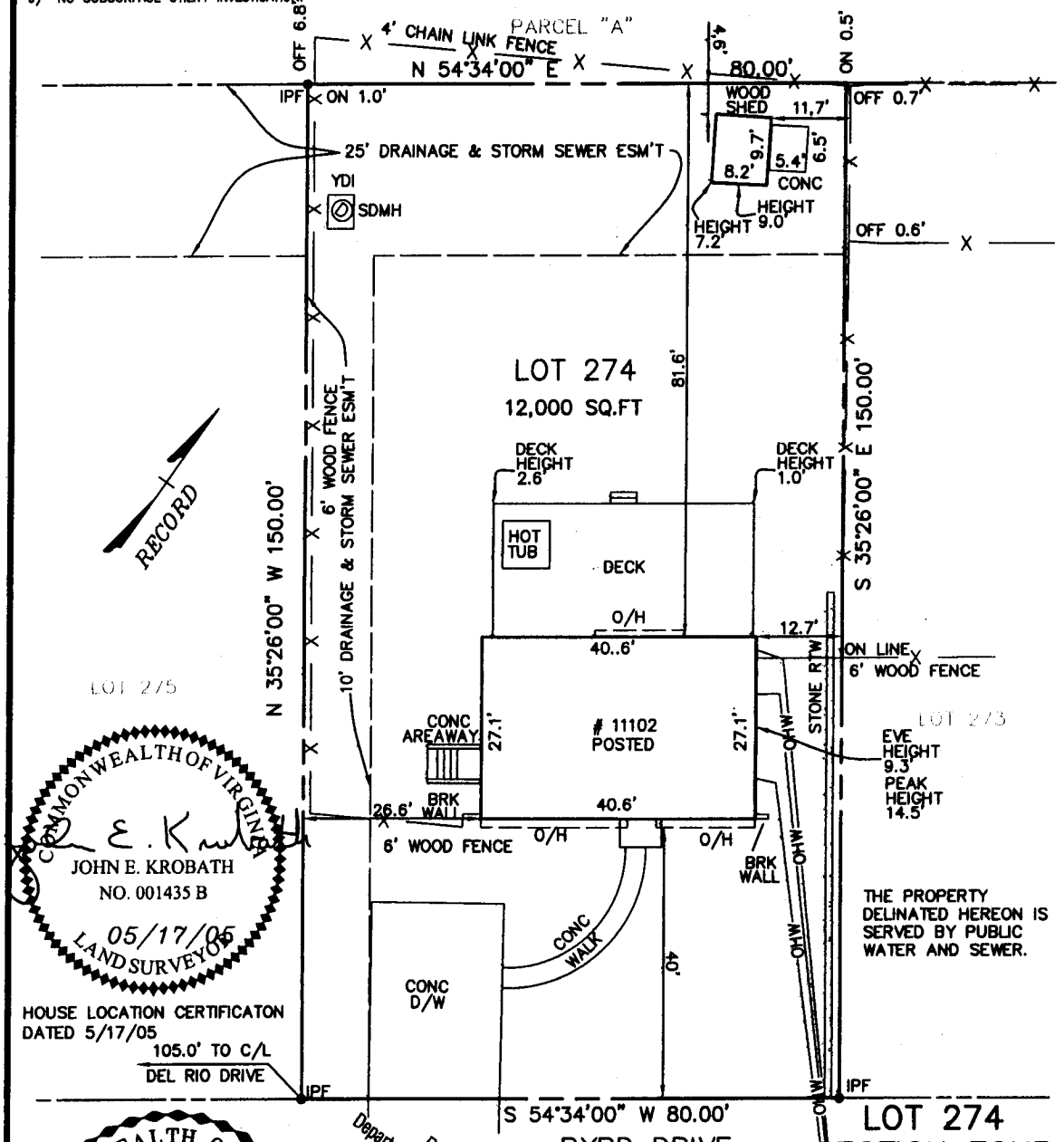


Special Permit

SP 2009-BR-049



NOTES:
1) NO TITLE REPORT FURNISHED.
2) BOUNDARY BY OTHERS.
3) THIS PLAT WAS FORWARDED ELECTRONICALLY IN READ ONLY FORMAT. ANY ATTEMPT AT ALTERATION INVALIDATES THE SEAL AND SIGNATURE. AN ORIGINAL HARD COPY REMAINS ON FILE AT RICE ASSOCIATES.
4) COPYRIGHT 2005, RICE ASSOCIATES - THIS IS A SERVICE DOCUMENT AND IS VALID FOR SIX MONTHS FROM DATE ISSUED.
5) LOCATION OF FENCES (IF SHOWN) ARE APPROXIMATE AND DO NOT CERTIFY OWNERSHIP.
6) THE SUBJECT DWELLING IS LOCATED IN F.I.R.M. ZONE 'X', AS SHOWN ON COMMUNITY PANEL NUMBER 515525 0075 D, DATED MARCH 5, 1990. AND DOES NOT WITHIN A RPA PER FAIRFAX COUNTY ASSESSMENT MAPS.
7) LOCATION OF IMPROVEMENTS BASED ON MONUMENTATION FOUND IN THE SUBDIVISION. DHF, IRF, IPF, PKF, NF DENOTES FOUND MONUMENTATION.
8) NOT FOR ANY CONSTRUCTION (INCLUDING FENCES).
9) NO SUBSURFACE UTILITY INVESTIGATION.



COMMONWEALTH OF VIRGINIA
JOHN E. KROBATH
NO. 001435 B
05/17/05
LAND SURVEYOR

HOUSE LOCATION CERTIFICATON
DATED 5/17/05

COMMONWEALTH OF VIRGINIA
WILLARD ROSS DICKERSON
Lic. No.1956
6/03/09
CERTIFIED LAND SURVEYOR

CERTIFICATION FOR SPECIAL PERMIT ONLY (DATED 6/3/09):
HOUSE LOCATION SURVEY PERFORMED 5/17/05 BY RICE ASSOCIATES. THIS SPECIAL PERMIT IS A COPY OF THE 5/17/05 PLAT HORIZONTALLY. THE SPECIAL PERMIT CERTIFIES ONLY HEIGHTS OF BUILDINGS AS OF THE SIGNATURE DATE.

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

LOT 274
SECTION FOUR
FAIRFAX VILLA
D.B. 2145, PG. 497
BRADDOCK DISTRICT
FAIRFAX COUNTY, VIRGINIA
TAX MAP #057-3-07-0274

SPECIAL PERMIT

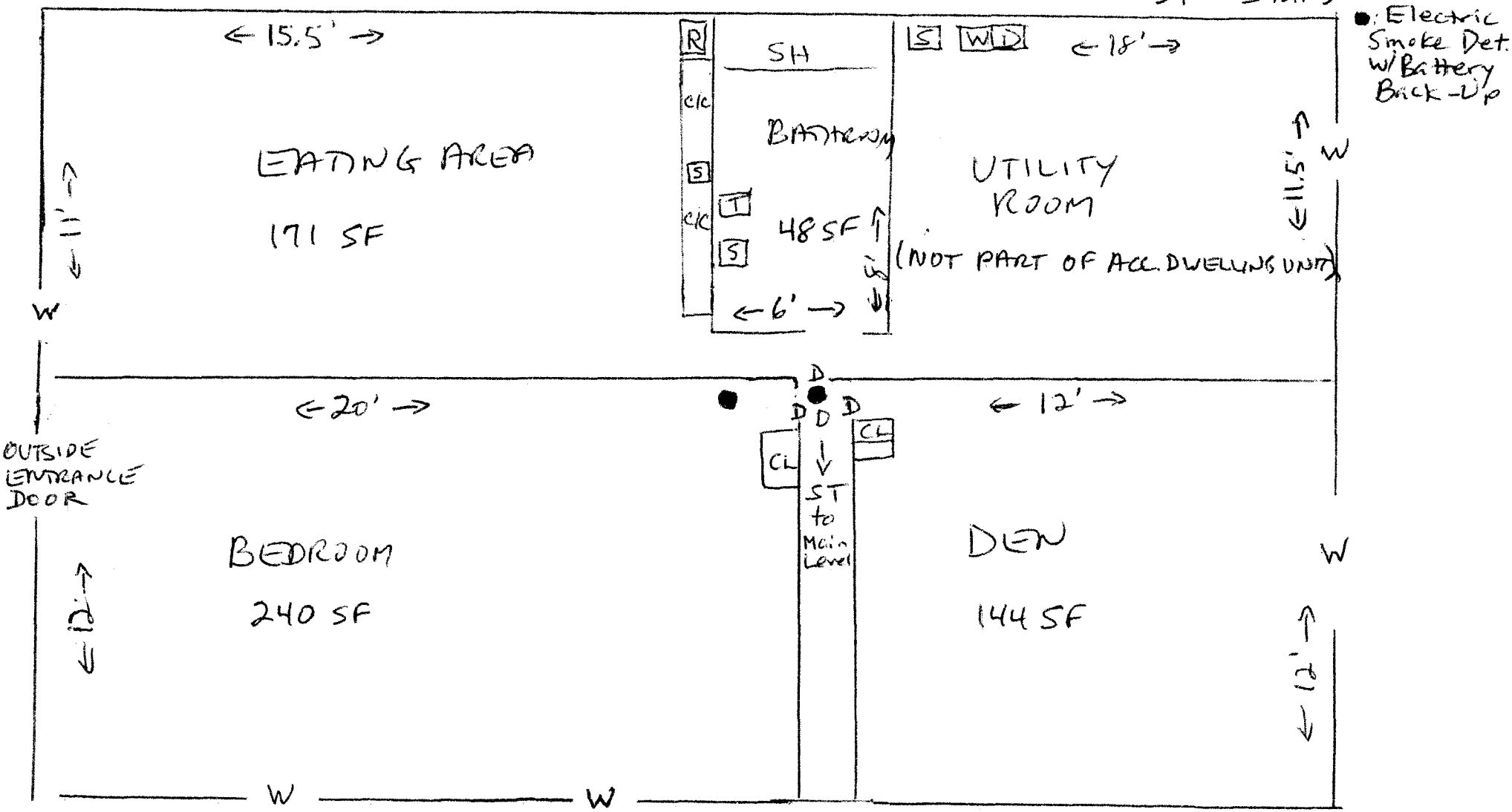
DATE: 5/12/05 SCALE: 1" = 20'
DRAWN BY: MS CHECKED BY: JEK

RICE ASSOCIATES
10625 GASKINS WAY
MANASSAS, VIRGINIA 20109
(703) 968-3200 FAX (703) 968-2705

HL006646

BASEMENT LAYOUT
11102 BYRD DRIVE
—NOT TO SCALE—

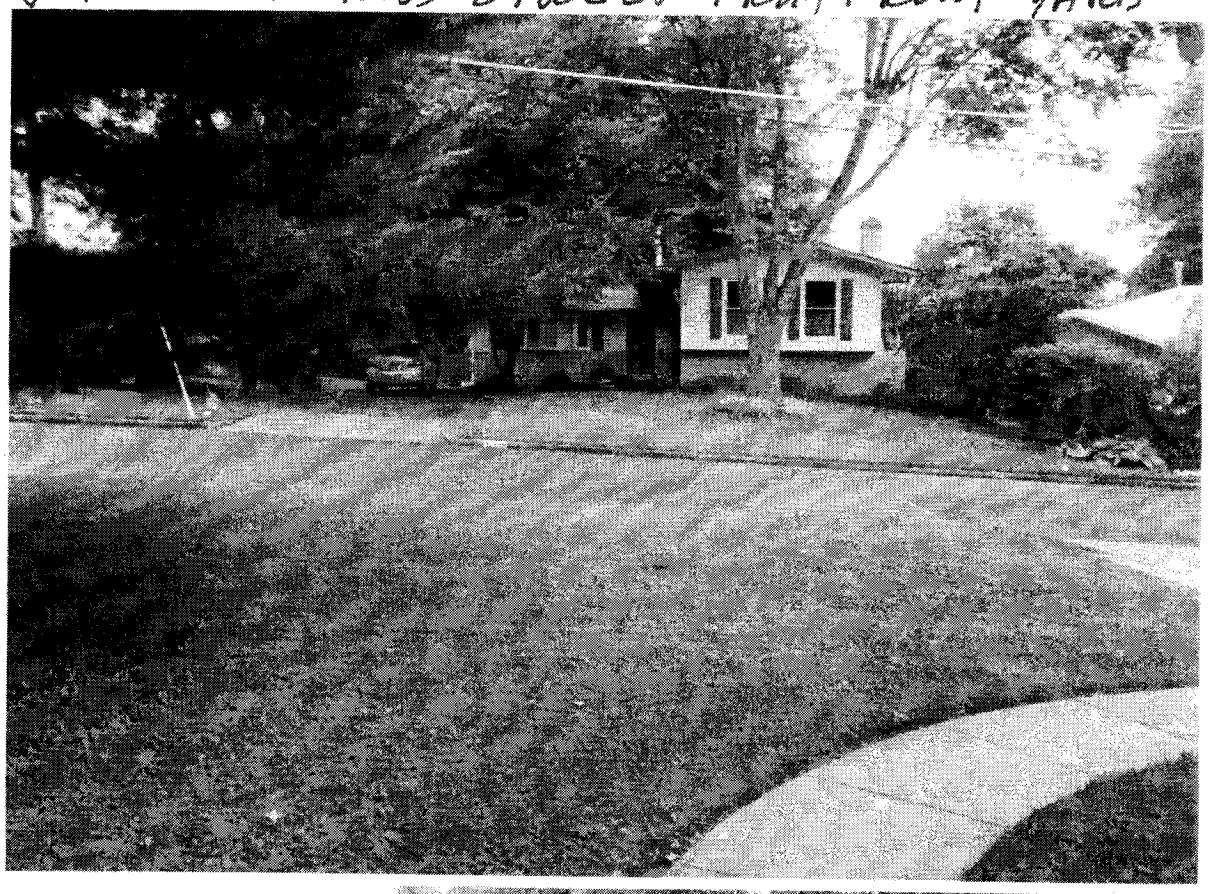
W = Window
W/D = Washer/Dryer
S = Sink
SH = Shower
T = Toilet
CL = Closet
R = Refrigerator
C/C = Counter/Cabinets
ST = Stairs



FRONT OF HOUSE SOUTH SIDE FROM STREET

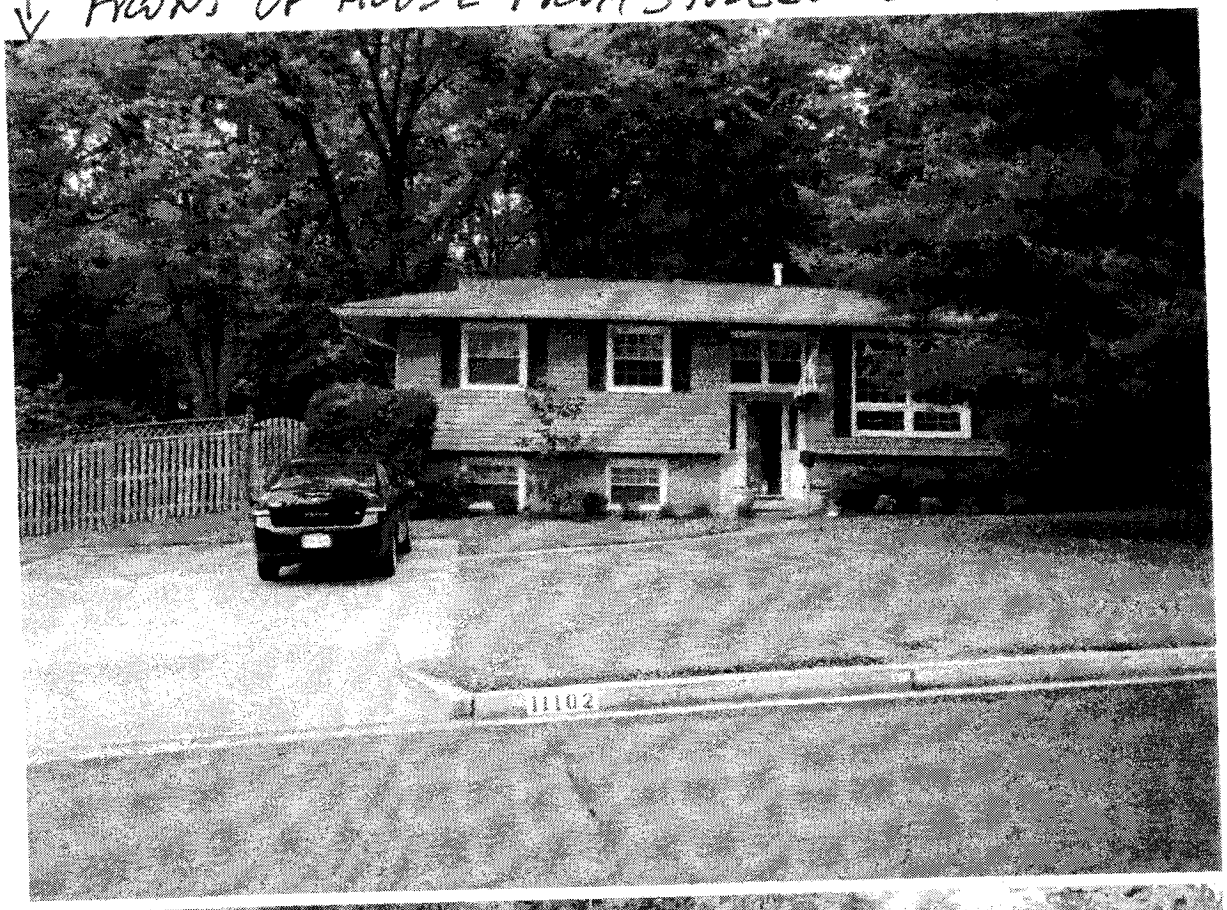
BACK OF HOUSE WITH DECK - NORTH SIDE

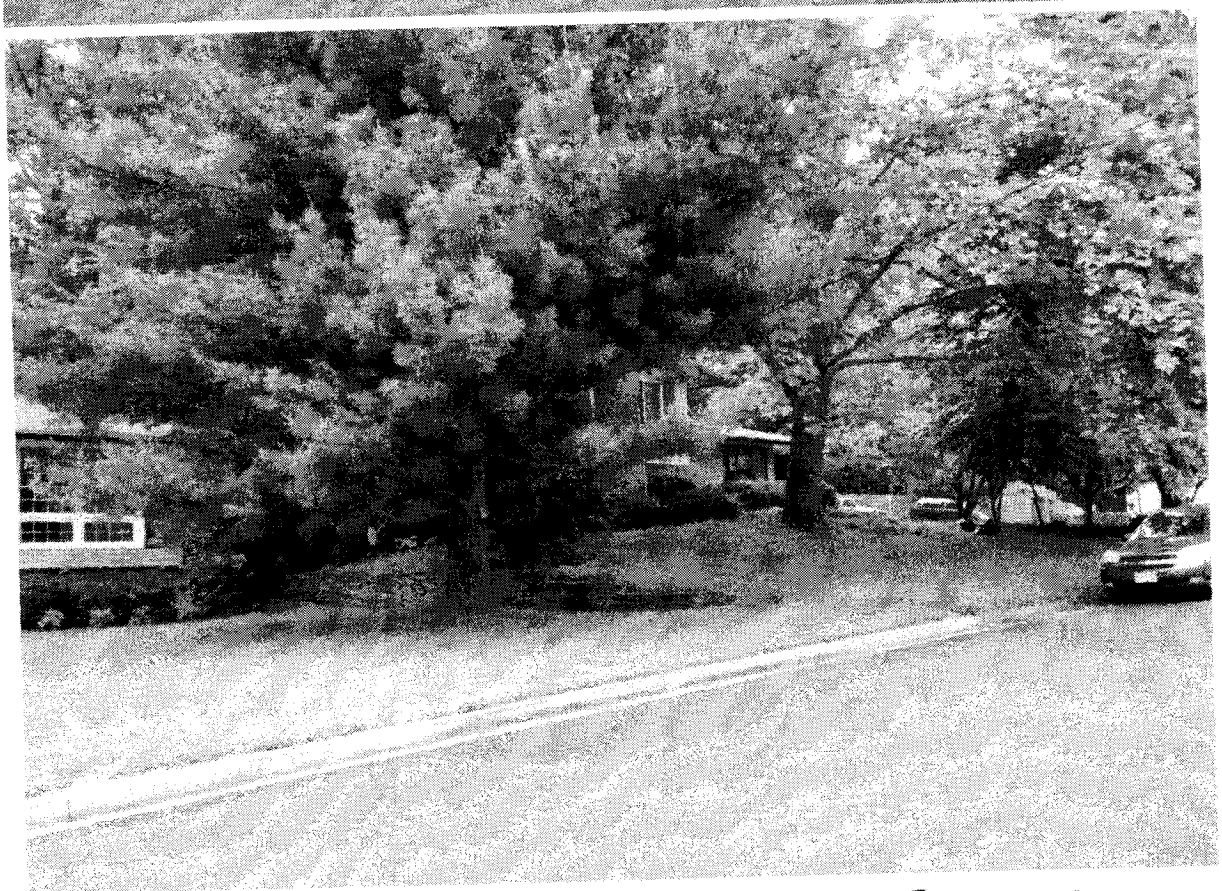
↓ HOUSE ACROSS STREET FROM FRONT YARD



↑ NEXT DOOR HOUSE WEST SIDE

↓ FRONT OF HOUSE FROM STREET - SOUTH SIDE



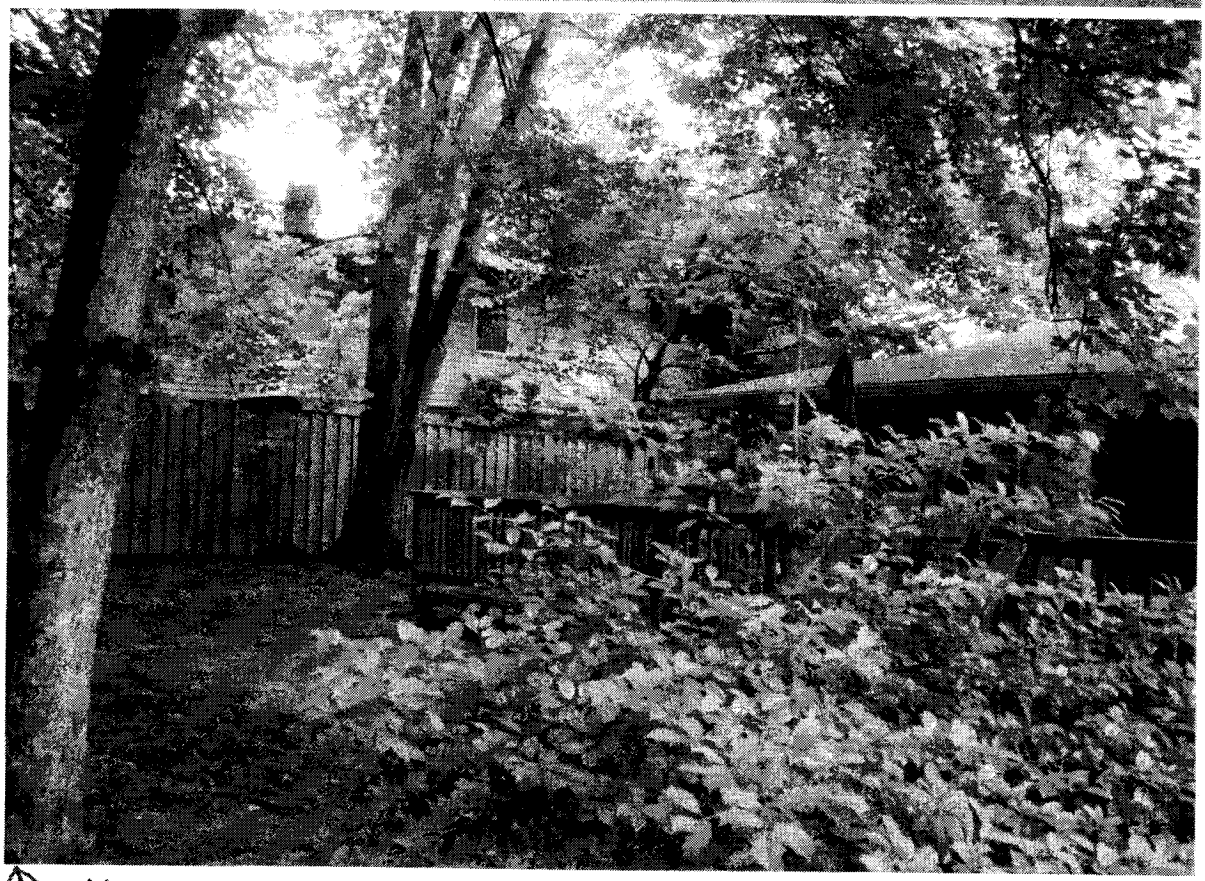


↑ HOUSE NEXT DOOR TO EAST FROM FRONT YARD

↓ HOUSE NEXT DOOR TO EAST FROM BACK YARD

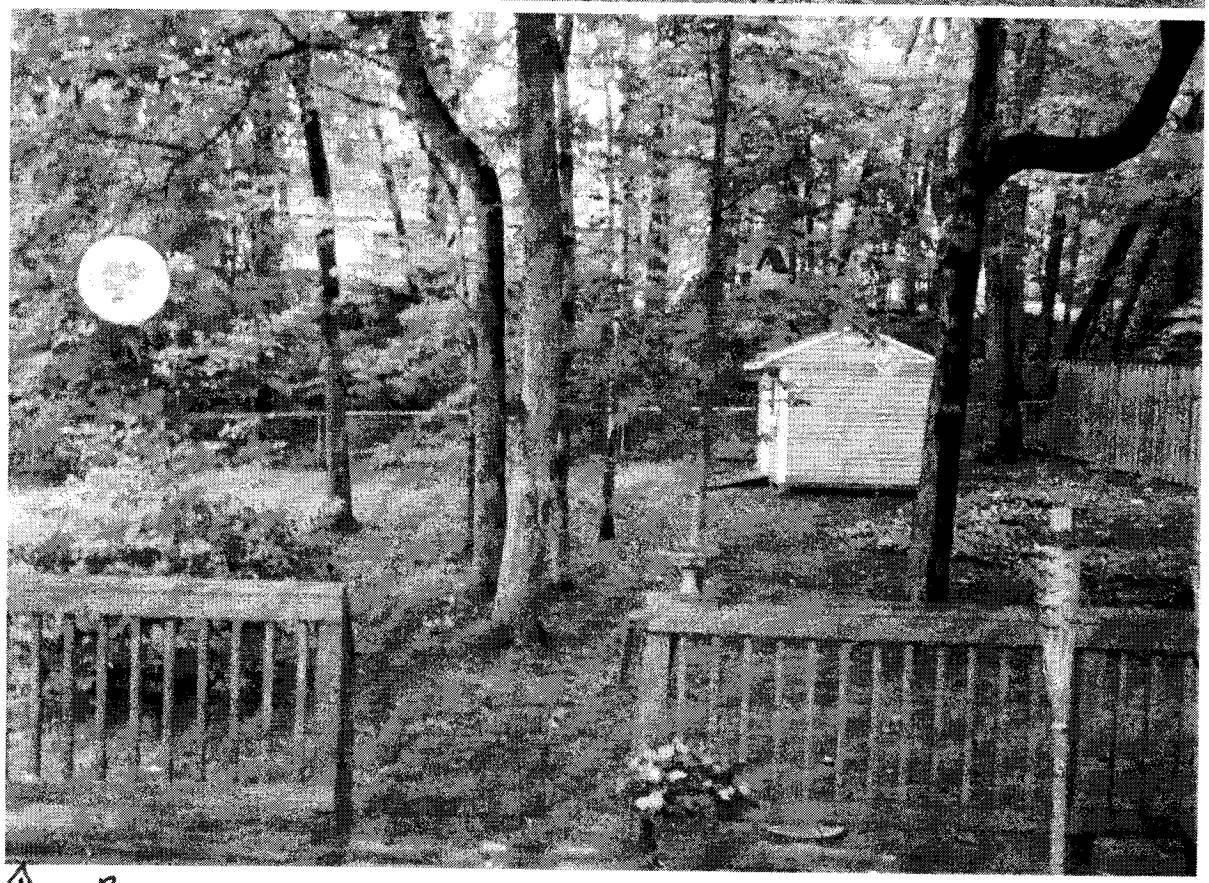
↑ WEST SIDE HOUSE FROM BACK YARD

HOUSE NEXT DOOR TO WEST SIDE



HOUSE NEXT DOOR FROM BACKYARD LOOKING EAST

↓ HOUSE NEXT DOOR FROM BACK YARD LOOKING WEST

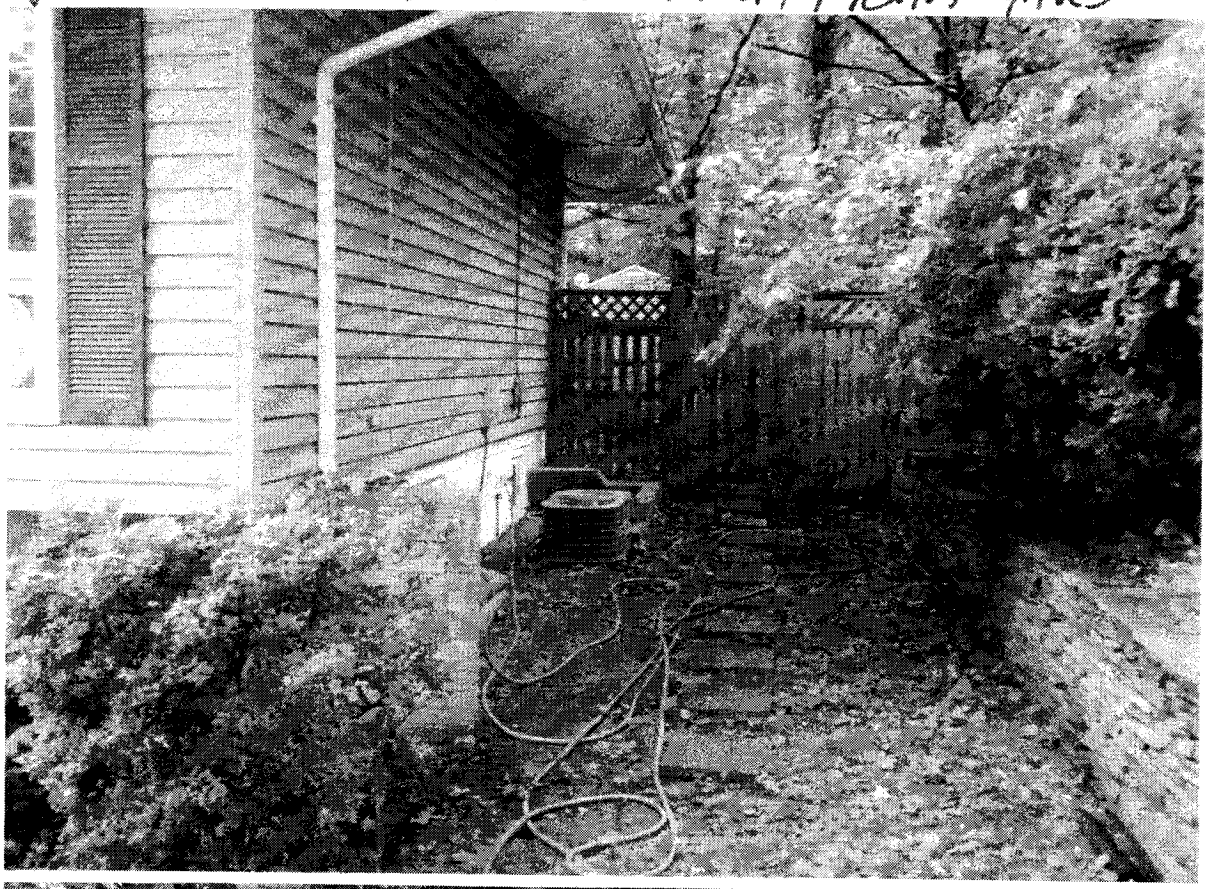


↑ BACK YARD AND SHED NORTH SIDE

↓ WEST SIDE OF HOUSE FROM BACK YARD

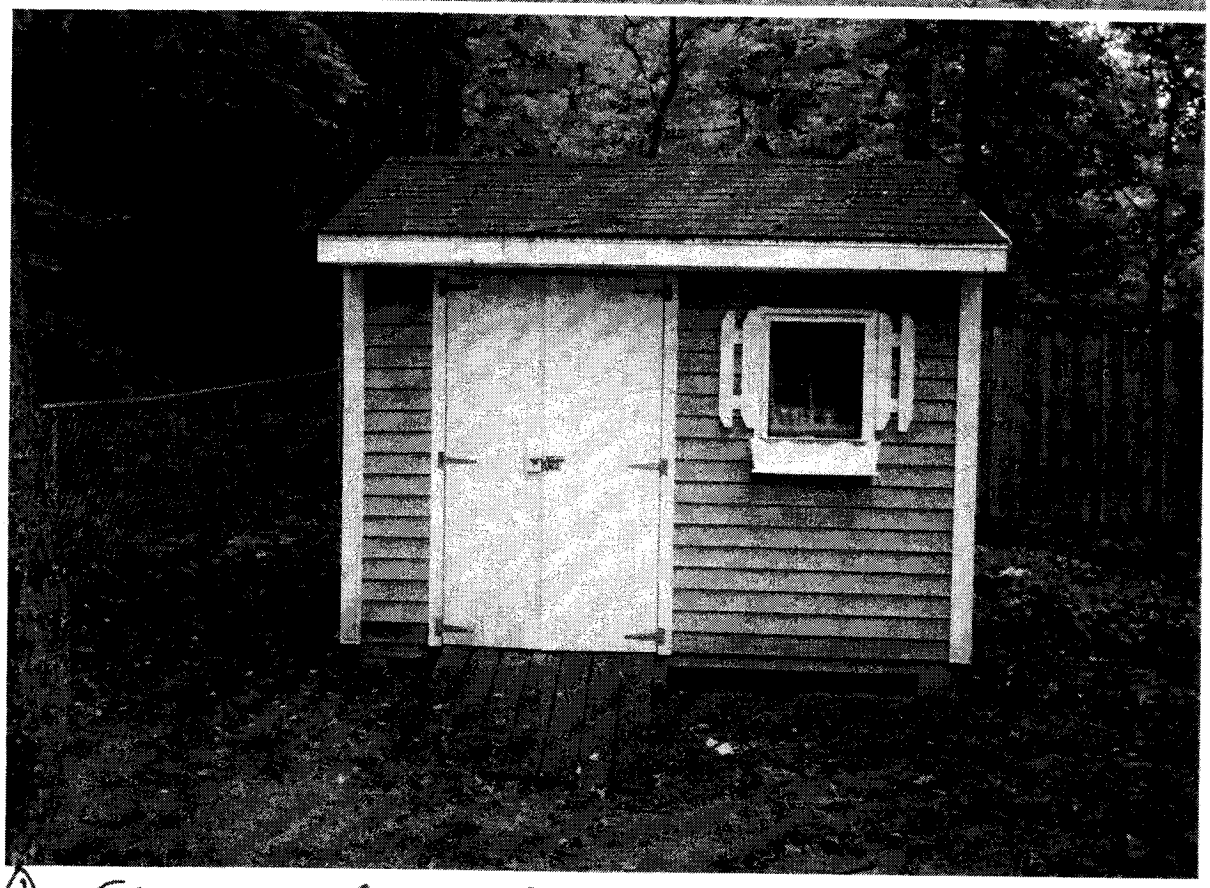
↑ EAST SIDE OF HOUSE FROM BACK YARD

↓ EAST SIDE OF HOUSE FROM FRONT YARD



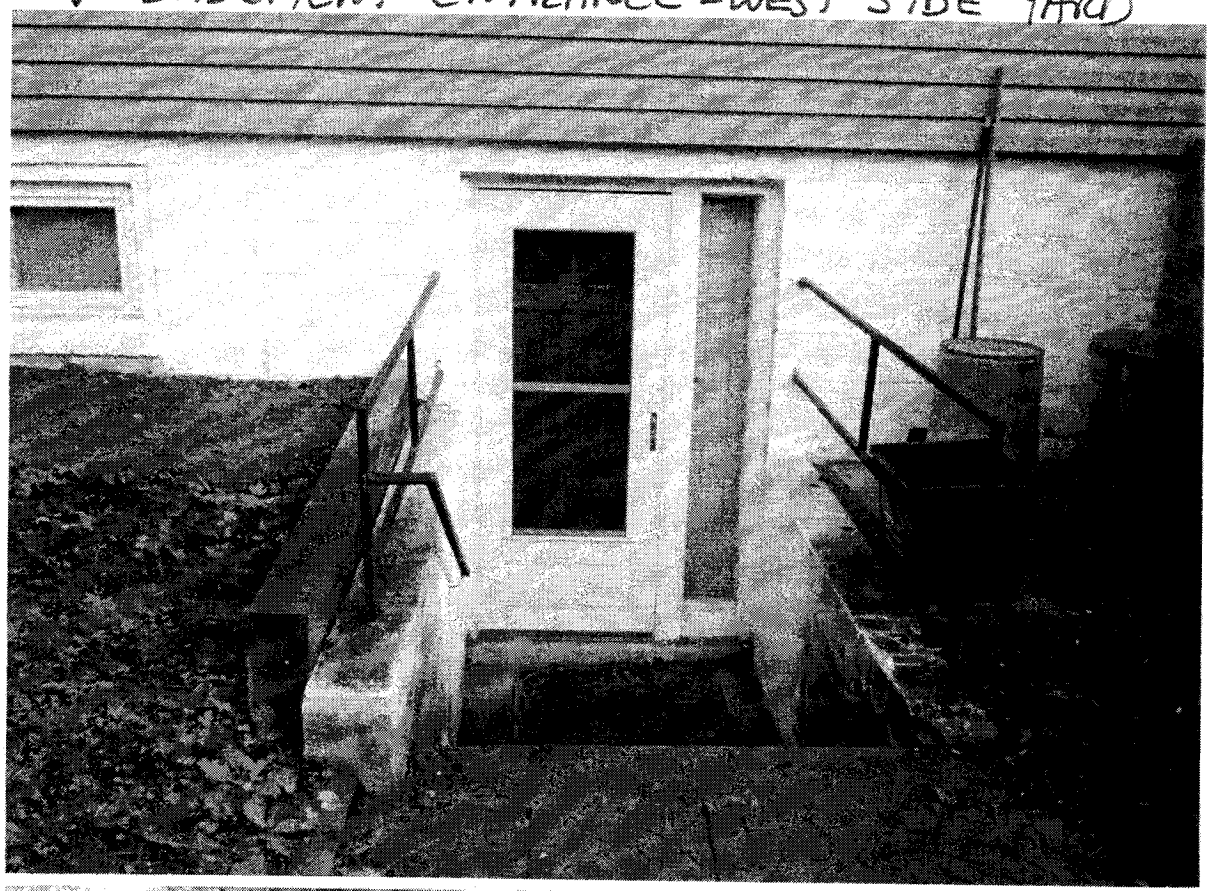
↑ WEST SIDE OF HOUSE LOOKING TO BACK YARD

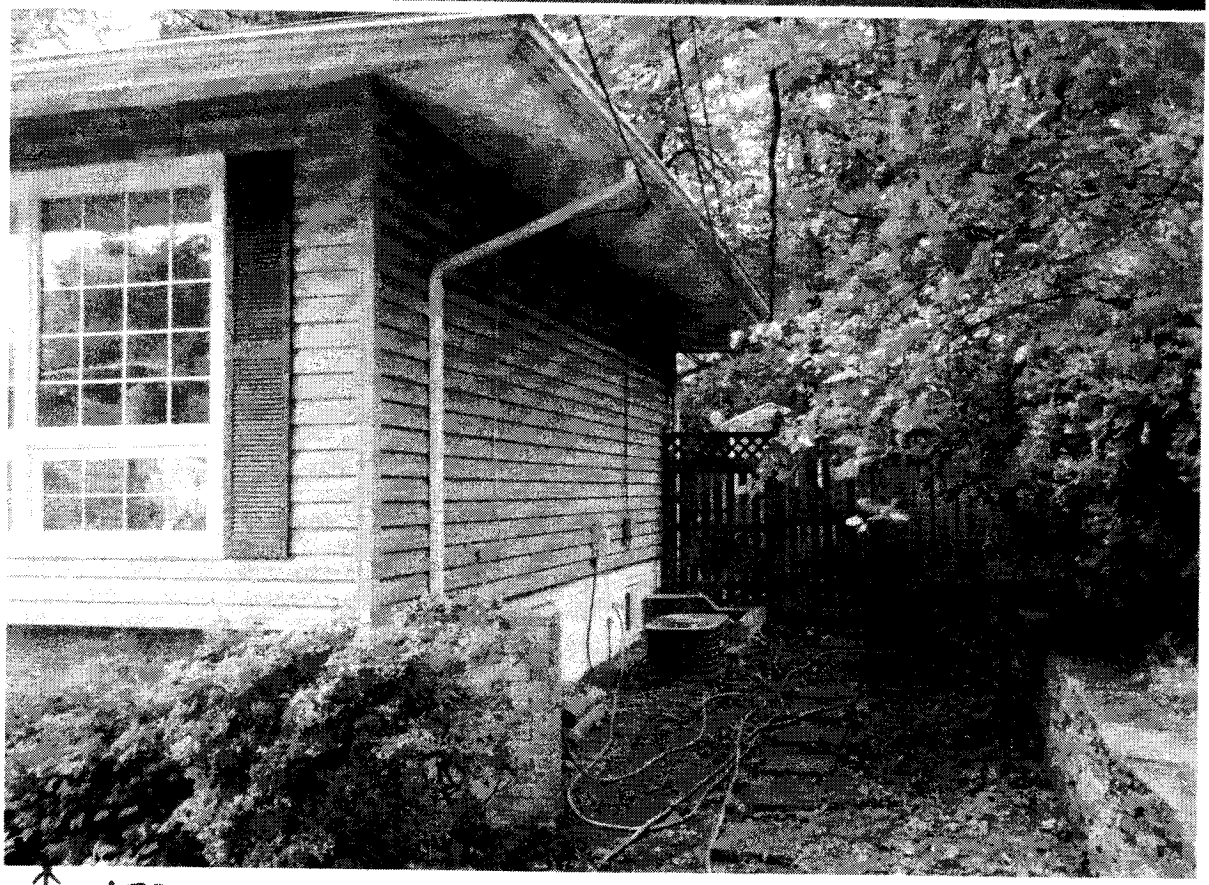
BACK OF HOUSE WITH DECK NORTH SIDE



FRONT OF SHED WEST SIDE

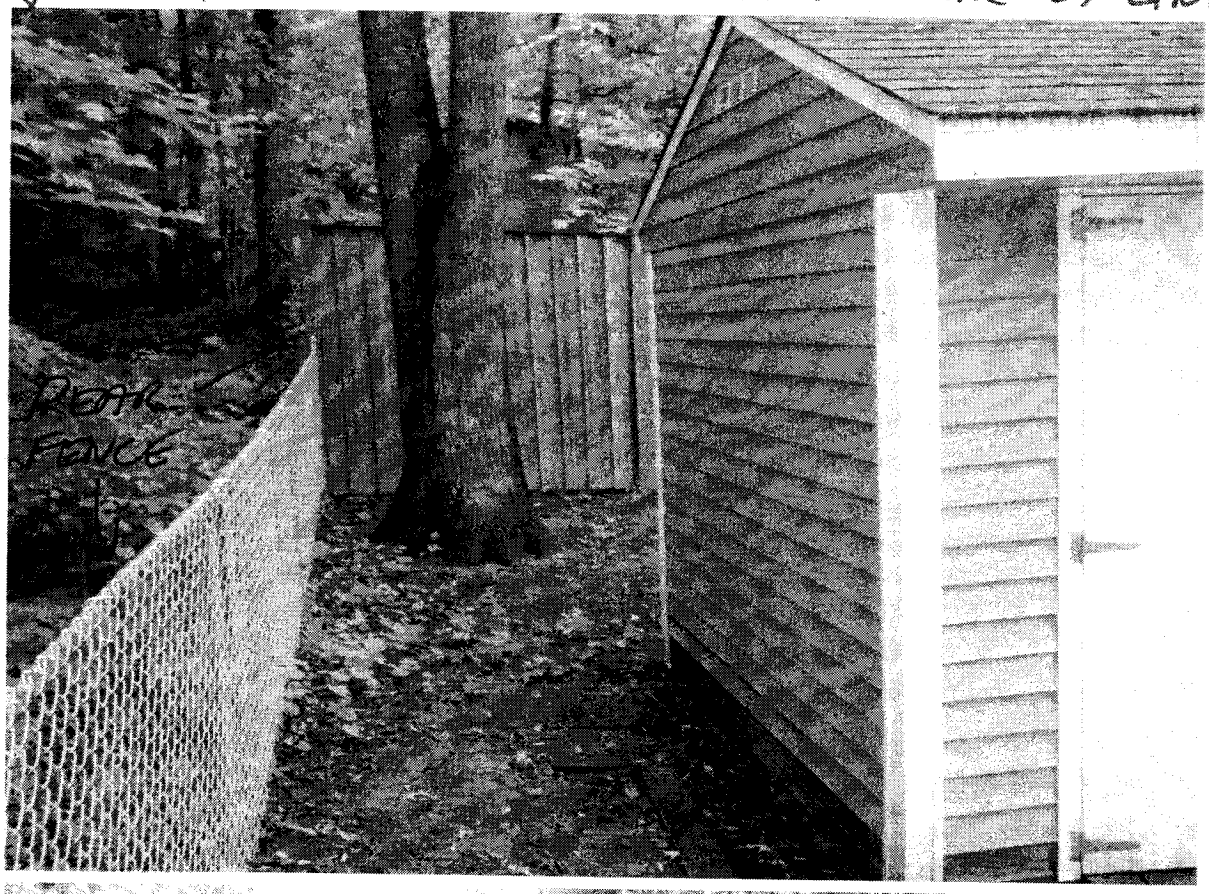
↓ BASEMENT ENTRANCE - WEST SIDE YARD

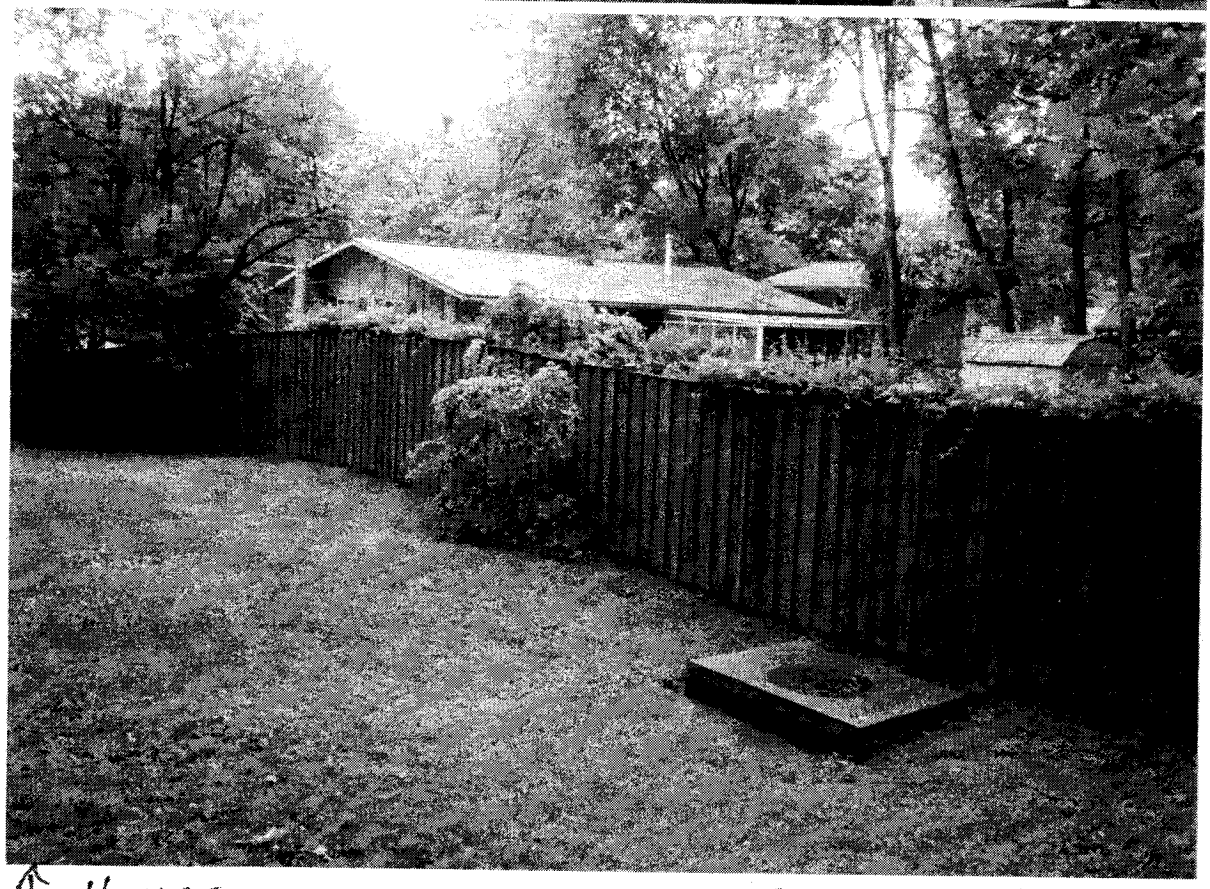




↖ EAST SIDE OF HOUSE FROM FRONT YARD

NORTH SIDE SHED CLOSEST TO REAR LOT LINE





HOUSE NEXT DOOR TO WEST FROM BACK YARD

DESCRIPTION OF THE APPLICATION

Description of Error in Building Location

The applicant requests a special permit to permit reduction of minimum yard requirements based on error in building location to permit an accessory storage structure (shed) to remain 4.6 feet from the rear lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit #1	**Shed**	Rear	9.0 feet	4.6 feet	4.4 feet	49%

*Minimum yard requirement per Section 10-104

Description of Accessory Dwelling Unit

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

Size of Principal Dwelling: 1,910 square feet

Size of Accessory Dwelling Unit: 603 square feet (Lower level is 810 s.f.)

Lot Size: 12,000 square feet

LOCATION AND CHARACTER

Existing Site Description:

The subject property is located on the north side of Byrd Drive at 11102 Byrd Drive, west of its intersection with Andes Drive. The City of Fairfax surrounds the property to the north and east. The 12,000 square-foot lot is developed with a half brick and wood, split-foyer, single-family, detached dwelling. The finished basement is the location of the proposed accessory dwelling unit which contains one bedroom, one bathroom, a den, and an eating area with a sink, counters, cabinets and a refrigerator. If the special permit is approved for an accessory dwelling unit, the applicant plans to install a stove and dishwasher to provide a complete kitchen. The outdoor entrance to the accessory dwelling unit is located on the western side of the dwelling providing direct access to the bedroom area of the accessory dwelling unit. Vehicular access to the site is provided via a concrete, two-car driveway from Byrd Drive. The driveway extends along the western side yard and terminates at the front of the dwelling. A 2.6-foot high open deck with stairs and a hot tub is located at the rear of the house. A concrete walkway extends from the driveway to the front entrance of the dwelling. A paver walkway extends from the driveway along the western property line through a wooden fence to the entrance of the proposed accessory dwelling unit. The application property has a

large landscaped front lawn and contains a large mature tree and a variety of small and medium deciduous trees, shrubs and foundation plantings. A shed measuring 9.0 feet in height and 79.5 square feet in area is located in the rear yard, 11.7 feet from the eastern side lot line and 4.6 feet from the rear lot line. In the R-3 Zoning District, the minimum required side yard is 12 feet; therefore, a reduction of 0.3 feet (or 2.5%) of the minimum required side yard is needed. Since the amount of the reduction is less than 10%, an administrative reduction of the minimum required yard must be obtained; therefore this reduction is not included in this special permit application. The Zoning Ordinance also requires accessory storage structures that exceed 8 ½ feet in height to be setback a distance equal to its height (9.0 feet) from the rear lot line. The shed is set back 4.6 feet from the rear lot line which is the basis for the error in building location request.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Pool (Villa Aquatic Club); City of Fairfax	R-3	Residential, 2-3 du/ac
South	Single Family Dwellings	R-3	Residential, 2-3 du/ac
East	Single Family Dwellings; City of Fairfax	R-3	Residential, 2-3 du/ac
West	Fairfax County Park Authority	R-1; R-C	Residential, 2-3 du/ac; Public Park

BACKGROUND

Site History

County records indicate that the dwelling was originally constructed in 1962. Building permit history indicates building permits were approved to permit construction of the open deck in 2003 and the subsequent installation of the hot tub in 2004.

Following adoption of the current Ordinance, the BZA heard the following similar special permit applications in the vicinity of the application parcel:

- *Special Permit SP 89-A-052* was approved on March 21, 1990 for Tax Map 57-3 ((7)) 14, zoned R-3, at 4226 San Juan Drive, to permit a reduction to minimum yard requirements based on error in building location to allow shed (10.5 feet in height) to remain 0.6 feet from rear lot line (10.5 feet minimum rear yard required).

- *Special Permit SP 2002-BR-064* was approved on March 5, 2003 for Tax Map 57-3 ((7))

148, zoned R-3, at 4405 Alta Vista Drive, to permit a reduction to minimum yard requirements based on error in building location to permit accessory to remain 2.0 feet from rear lot line and dwelling to remain 10.1 feet from side lot line.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Fairfax Planning District; Area II
Planning Sector: George Mason Community Planning Sector (F7)
Plan Map: Residential, 2-3 du/ac

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit, Lot 274, Section Four, Fairfax Villa

Prepared By: Rice Associates

Dated: May 12, 2005, signed by Willard Ross Dickerson, Certified Land Surveyor, June 3, 2009

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit. The proposed accessory unit will be located in the basement level of the existing dwelling and will include one bedroom, one bathroom, a den, and an eating area that currently contains a sink, counter cabinets and a refrigerator. If the special permit is approved for an accessory dwelling unit, the applicant plans to install a stove and dishwasher to provide a complete kitchen in this area. The above grade living space of the existing dwelling is 1,910 square feet, of which 35%, or 668 square feet, could be utilized for an accessory dwelling unit. The lower level of the principle dwelling consists of 810 square feet where the proposed accessory dwelling unit will consist of 603 square feet, or 32%, of the total above grade living space in the dwelling. The remaining 207 square feet of the lower level contains the utility room which serves the entire dwelling and is not counted towards the square footage of the accessory dwelling unit.

The driveway can accommodate two (2) on-site parking spaces. The applicant is the sole resident of the dwelling and meets the criteria of being 55 years of age or older. The tenant would occupy the basement space.

In addition, the applicant is also requesting approval of an error in building location to permit an existing accessory storage structure (shed) to remain, as discussed previously.

Land Use Analysis

The Comprehensive Plan recommends residential uses with a density of 2-3 dwelling units per acre. In staff's opinion, the proposed accessory dwelling is in harmony with the Comprehensive Plan recommendations for this site, and there are no design or compatibility issues posed by the development plan.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-3 Zoning District.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 4)

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

Summary of Zoning Ordinance Provisions

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

CONCLUSIONS

Staff concludes that the subject application for an accessory dwelling unit is in harmony with the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the Staff Report.

RECOMMENDATIONS

Staff recommends approval of SP 2009-BR-049 for an accessory dwelling unit, subject to the Proposed Development Conditions in Appendix 1.

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

It should be further noted that the content of this report reflects the analysis and

recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions with Attachment 1
2. Affidavit
3. Statement of Justification
4. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

September 8, 2009

If it is the intent of the Board of Zoning Appeals to approve SP 2009-BR-049 located at Tax Map 57-3 ((7)) 274, to permit an error in building location and an accessory dwelling unit under Sections 8-914 and 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval for the accessory dwelling unit is granted to the applicant only, Douglas W. Hansen, and is not transferable without further action of this Board, and is for the location indicated on the application, 11102 Byrd Drive (12,000 square feet), and is not transferable to other land.

2. This special permit is granted only for the purposes, structures and/or uses indicated on the house location survey plat, including the shed, prepared by Rice Associates, dated May 12, 2005, signed by Willard Ross Dickerson, Certified Land Surveyor, June 3, 2009, and approved with this application, as qualified by these development conditions.

3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

5. Prior to the installation of the second kitchen, the applicant shall obtain all applicable permits and final inspections for the kitchen located within the accessory dwelling unit.

6. The accessory dwelling unit shall contain a maximum of 603 square feet, including a maximum of one (1) bedroom, as shown in Attachment 1.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.

8. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a

special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

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

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

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

BASEMENT LAYOUT
11102 BYRD DRIVE
—NOT TO SCALE—

W = Window
W/D = Washer/Dryer
S = Sink
SH = Shower
T = Toilet
CL = Closet
R = Refrigerator
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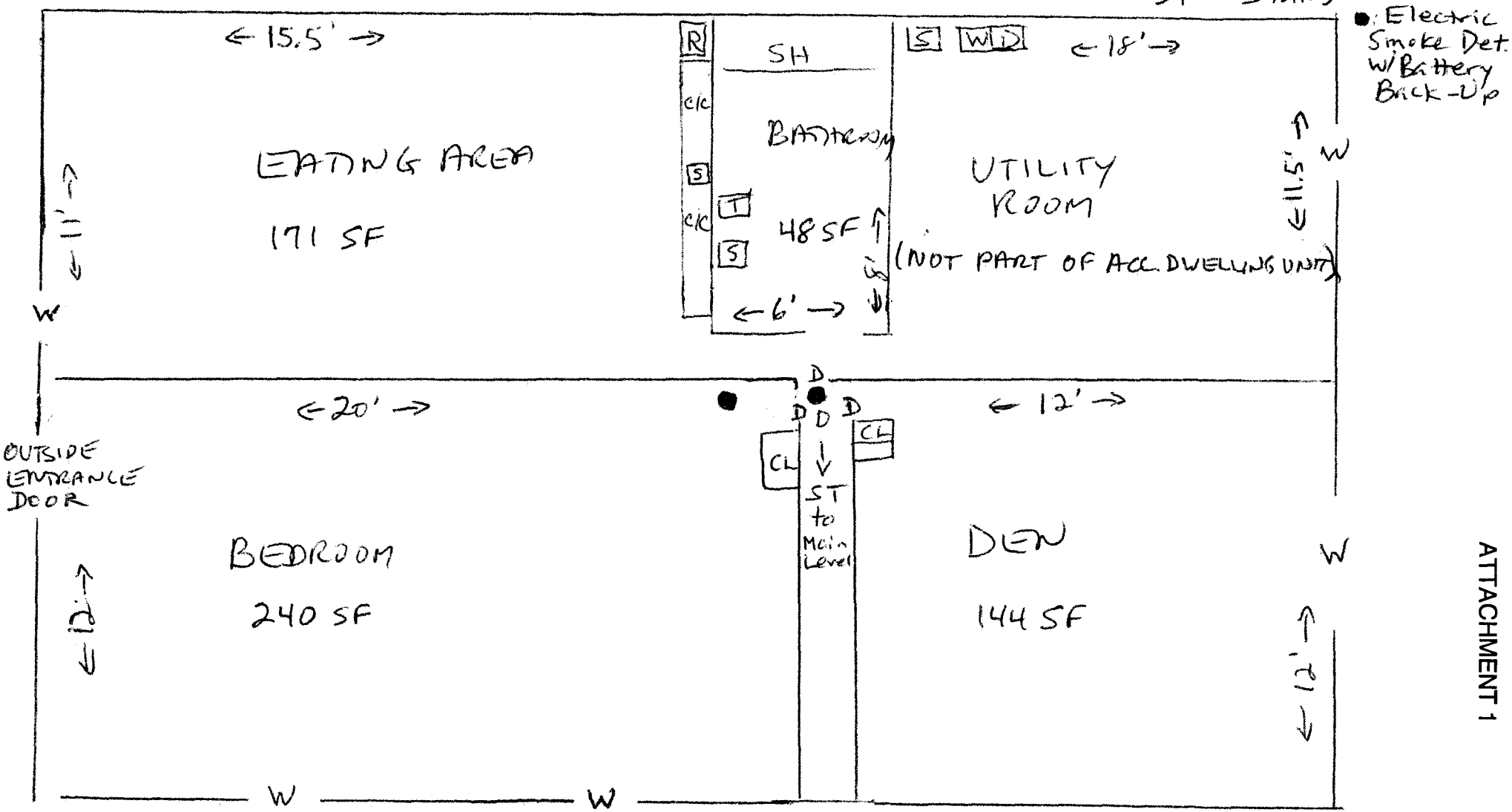

ATTACHMENT 1

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/28/09
(enter date affidavit is notarized)

I, DOUGLAS W. HANSEN, do hereby state that I am an
(enter name of applicant or authorized agent)

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

104817

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)
DOUGLAS W. HANSEN	11102 BYRD DRIVE FAIRFAX, VA 22030	APPLICANT

(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: 5/28/09 104817

(enter date affidavit is notarized)

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

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

CORPORATION INFORMATION

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

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)

N/A

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

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/28/09 104817

(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) [X] 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)**

N/A

(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): _____

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/28/09 (enter date affidavit is notarized)

10481?

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:

[X] 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: 5/28/09 (enter date affidavit is notarized)

104817

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) [X] Applicant [ ] Applicant's Authorized Agent

DOUGLAS W. HANSEN, APPLICANT

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 28th day of May 20 09, in the State/Comm. of Virginia, County/City of Fairfax.

Ashella M. Langhorne
Notary Public

My commission expires: June 30, 2012

Ashella M. Langhorne
Commonwealth of Virginia
Notary Public
Commission No. 230418
My Commission Expires 06/30/2012

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

STATEMENT RE. PROPOSED DEVELOPMENT -- SHED ERROR IN BUILDING LOCATION AND REDUCTION IN MINIMUM YARD REQUIREMENTS

I am requesting a reduction in Minimum Yard Requirements and approval for an Error in Building Location for the shed. No waiver is being sought. By approving the Reduction in Minimum Yard Requirements and approving an Error in Building Location for the shed, I will then be in conformance with the provisions of all applicable ordinances, regulations and adopted standards for the shed and its location.

The shed was already on the property when I bought the house in May 2005. Since the shed is 9 feet tall, it needs to be 9 feet from the rear property line but is only 41/2 feet from the rear property line.

The noncompliance was through no fault of myself as the property owner; I had no knowledge of the fact that the shed was too close to the rear property line until I started working for the Department of Planning and Zoning.

Such a reduction will not impair the purpose and intent of this Ordinance in general.

The error in building location for the shed will not be detrimental to the use and enjoyment of other property in the immediate vicinity. Most especially, the property on the other side of the rear property line is a wooded area owned by the local swim club.

The error in building location for the shed will not create an unsafe condition with respect to both other property and public streets.

To enforce compliance with the minimum yard requirements would cause unreasonable hardship upon me as the owner as it would cost a substantial sum to move the shed, plus the fact, as previously stated, the area on the other side of the rear property line is a wooded area.

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

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Department of Planning & Zoning
JUN 16 2009
Zoning Evaluation Division

STATEMENT OF JUSTIFICATION -- SHED

The error in building location for the shed occurred prior to my buying the house in May 2005. I have no knowledge of what prompted the previous owner to place the shed less than the minimum required distance to the rear property line. It was probably due to lack of knowledge with the county's Zoning Ordinance. As the Special Permit plat shows, the shed is 41/2 feet from the rear property line.

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Department of Planning & Zoning
JUN 16 2009
Zoning Evaluation Division

ACCESSORY DWELLING UNIT

The proposed use conforms to Section 8-918 of the Zoning Ordinance for an Accessory Dwelling Unit. In particular:

A. The Accessory Dwelling Unit would be in association with a single family house.
B. The Accessory Dwelling Unit would be located within the single family house.
C. The gross floor area of the rental unit would not exceed 35%. There is a large room with an outdoor entrance for the bedroom (240 SF), a smaller room for a den (144 SF), a room with a refrigerator, sink, counter and cabinets for the eating area (170.5 SF) [with eventual installation of a stove and dishwasher, etc., for a regular kitchen with approved Special Permit], and a bathroom (48 SF), for a total of 602.5 SF. As shown on the plat, the house footprint is 1100 SF x 2 (to account for full basement) = 2200 SF. 602.5 SF / 2200 SF = 27.4%.
D. There would be only one bedroom for the Accessory Dwelling Unit.
E. The owner is 56 years old and fulfills the age requirement of the ordinance.
F. The bedroom of the Accessory Dwelling Unit has an outdoor entrance for access (west side of house) which aids emergency ingress/egress. In addition, there are two windows in the bedroom. Also, there are two smoke alarms, one in the bedroom and one in the adjacent hallway, connected to both AC and battery.
G. Parking is sufficient. There is a two car driveway and the owner has just one vehicle. In addition, public street parking is available but is not intended as the primary means for parking.
H. The Accessory Dwelling Unit will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood as the Accessory Dwelling Unit is internal to the house.
I. Any future modification for the accessory dwelling unit shall meet the applicable regulations for building, safety, health, and sanitation.

RECEIVED
Department of Planning & Zoning
JUN 16 2009
Zoning Evaluation Division

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. Boun daries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.

   B. To tal 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 a nd 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. Th e error exceeds ten (10) percent of the measurement involved, and

B. Th e 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.

8-918 Additional Standards for Accessory Dwelling Units

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

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.

2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

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

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor

area of the accessory freestanding structure and the principal dwelling unit.

4. The accessory dwelling unit shall contain not more than two (2) bedrooms.

5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:

   A. One of the dwelling units shall be owner occupied.

   B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:

      (1) Any person fifty-five (55) years of age or over and/or

      (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

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

   C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:

(1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.

(2) A group of not more than four (4) persons not necessarily related by blood or marriage.

6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:

   A. Uninterrupted access to one (1) entrance; and

   B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.

8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.

9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.

11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.

12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.

13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.