



APPLICATION ACCEPTED: July 2, 2009
DATE OF PUBLIC HEARING: September 29, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 22, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2009-HM-055

HUNTER MILL DISTRICT

APPLICANTS & OWNERS: Vicky C. Urcuyo and Marco V. Urcuyo

ZONING: R-2 (Cluster)

LOCATION: 1843 Abbotsford Dive

SUBDIVISION: Eudora

ZONING ORDINANCE PROVISION: 8-914 & 8-922

TAX MAP: 28-4 ((20)) 3

LOT SIZE: 18,028 Sq. Feet

SP PROPOSAL: Reduction to the minimum yard requirements based on error in building location to permit accessory storage structure to remain 3.2 feet from the side lot line and reduction of certain yard requirements to permit an addition 6.6 feet from the side lot line such that side yards total 14.8 feet.

STAFF RECOMMENDATION: Staff recommends approval of SP 2009-HM-055 for the addition 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 applicant/owner from compliance with provisions of any applicable ordinances, regulations, or adopted standards.

O:\Scaff2\Case Files\Special Permits\SP 2009-HM-055 VICKY AND MARCO URCUYO\URCUYO_Cover.doc Shannon Caffee

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



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.

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

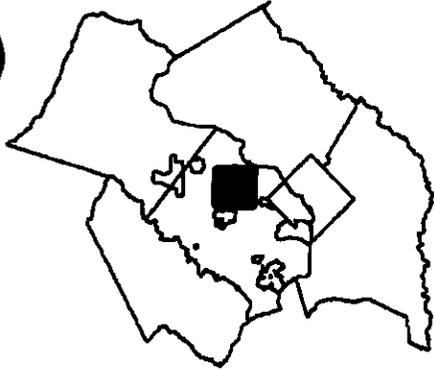
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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



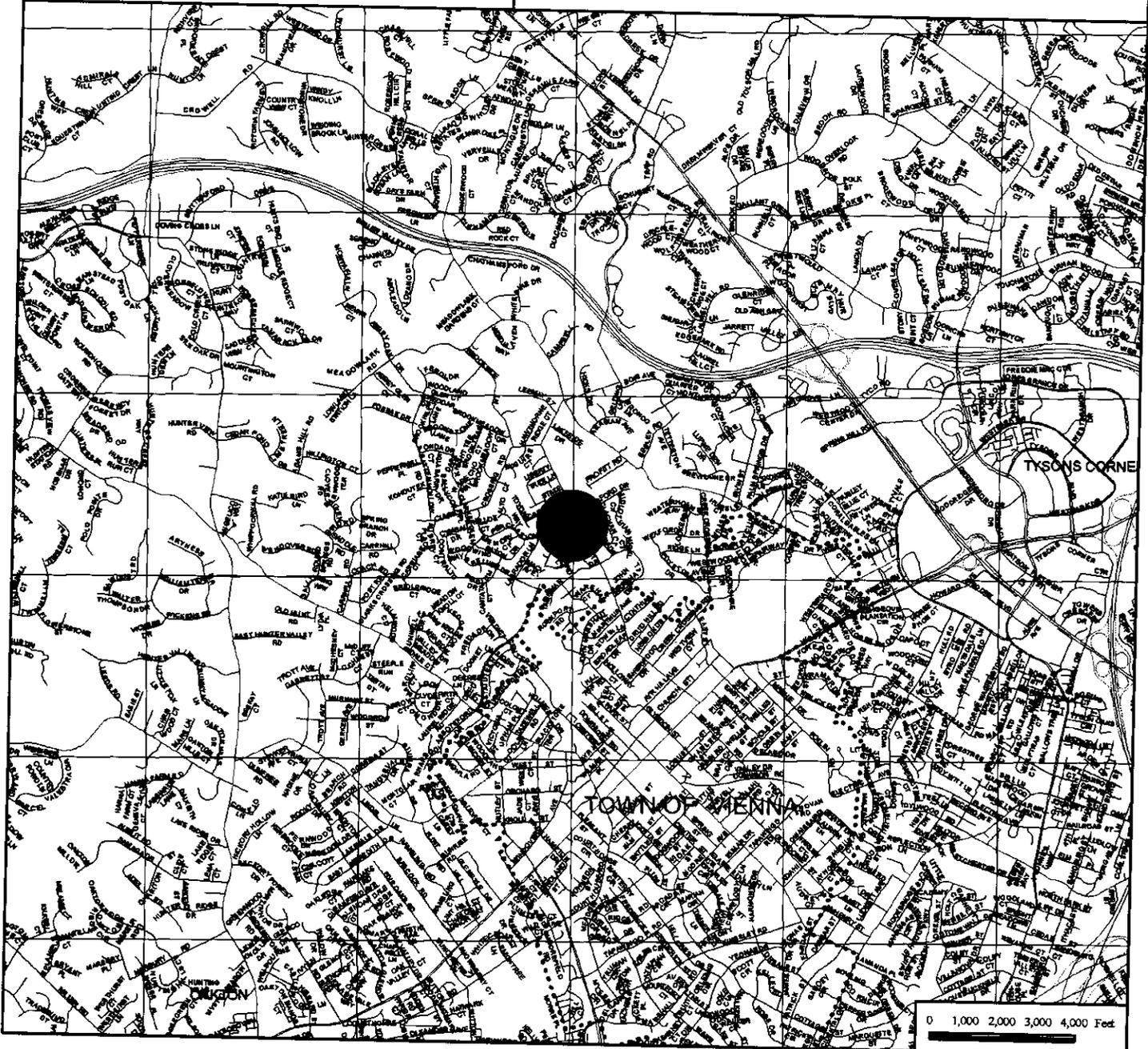
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2009-HM-055

Applicant: VICKY C. URCUYO AND MARCO V. URCUYO
Accepted: 07/02/2009
Proposed: REDUCTION TO CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION 6.6 FEET FROM SIDE LOT LINE SUCH THAT SIDE YARDS TOTAL 14.8 FEET AND REDUCTION TO THE MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 3.2 FEET FROM SIDE LOT LINE



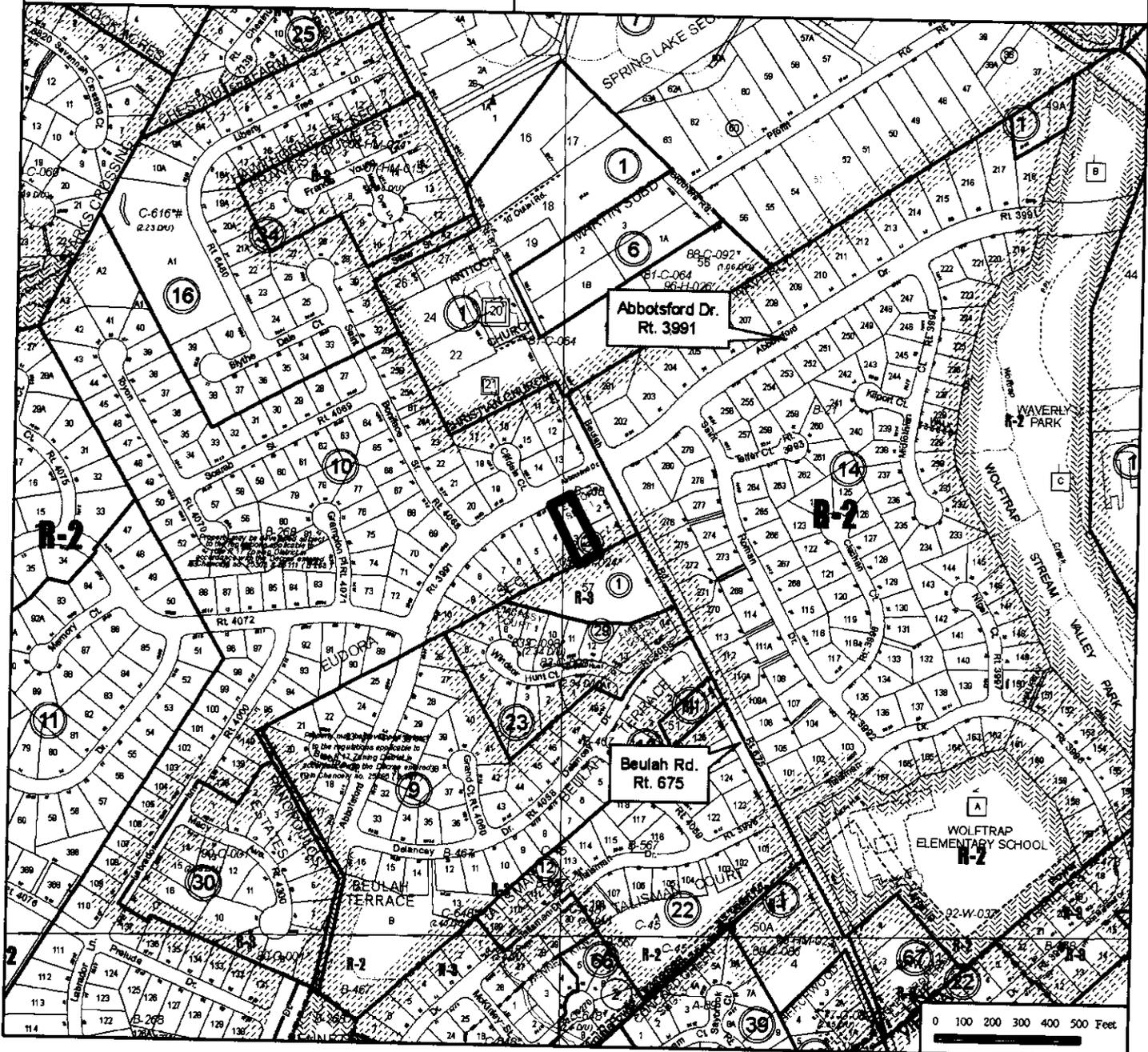
Area: 18,028 SF OF LAND; DISTRICT - HUNTER MILL
Zoning Dist Sect: 08-922 08-0914
Art 8 Group and Use: 9-21 9-13
Located: 1843 ABBOTSFORD DRIVE
Zoning: R- 2
Overlay Dist:
Map Ref Num: 028-4 /20/ /0003



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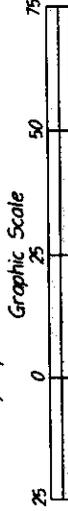
N/F David M. &
Charlotte H. Laughlin
T. M. #28-4-((1))-57
(DB 11502, PG 1931)

Special Permit Plat
Lot 3 - Section One

Eudora

(Deed Book 3173, Page 77)
Hunter Mill District
Fairfax County, Virginia

May 7, 2009 - Scale: 1" = 25'

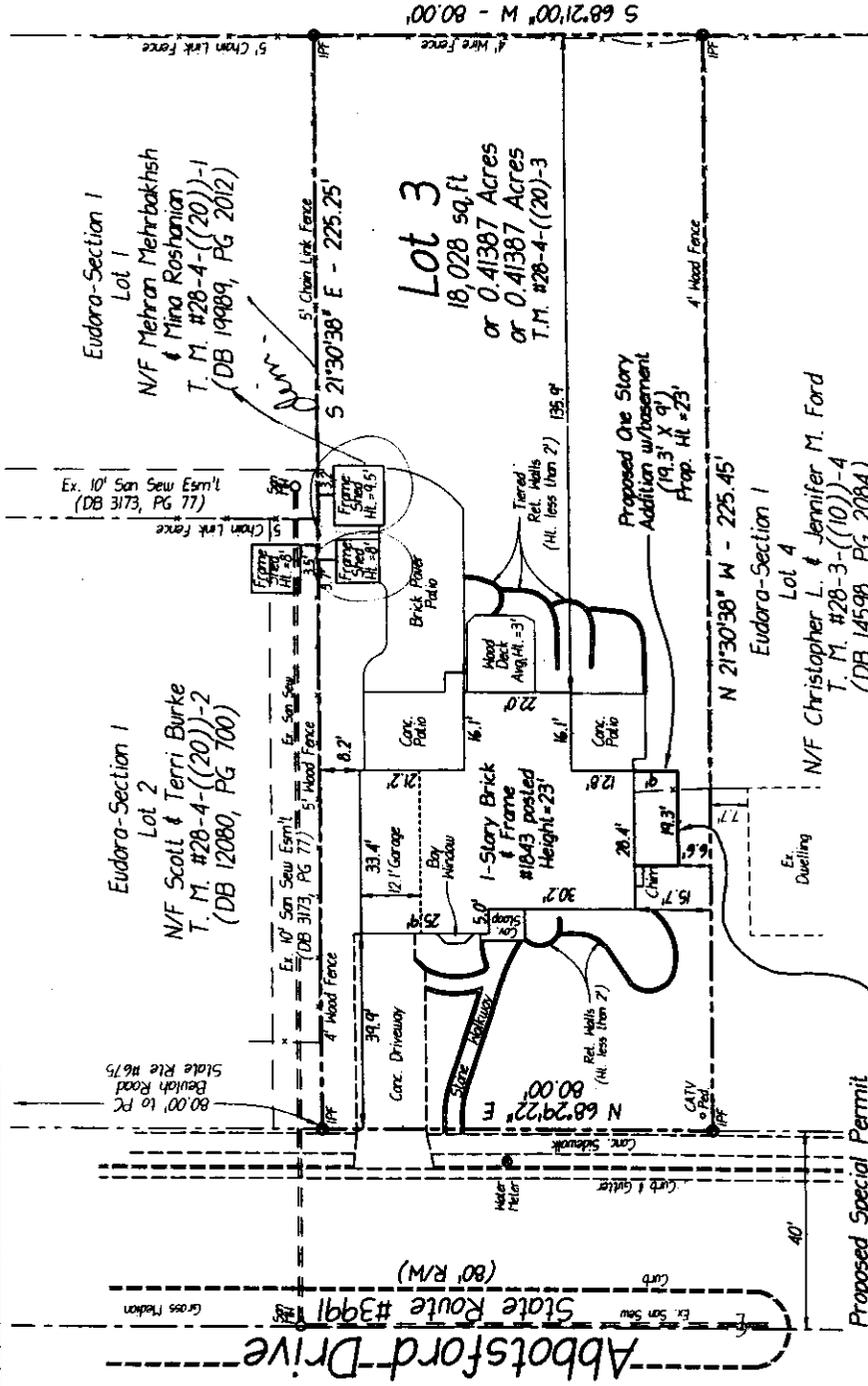


Kendall Consulting, Inc.

Land Surveying & Land Planning

P. O. Box 1569 - Fairfax, Virginia 22038

Ph: (703) 591-1157 Fax: (703) 591-1518



NOTES:

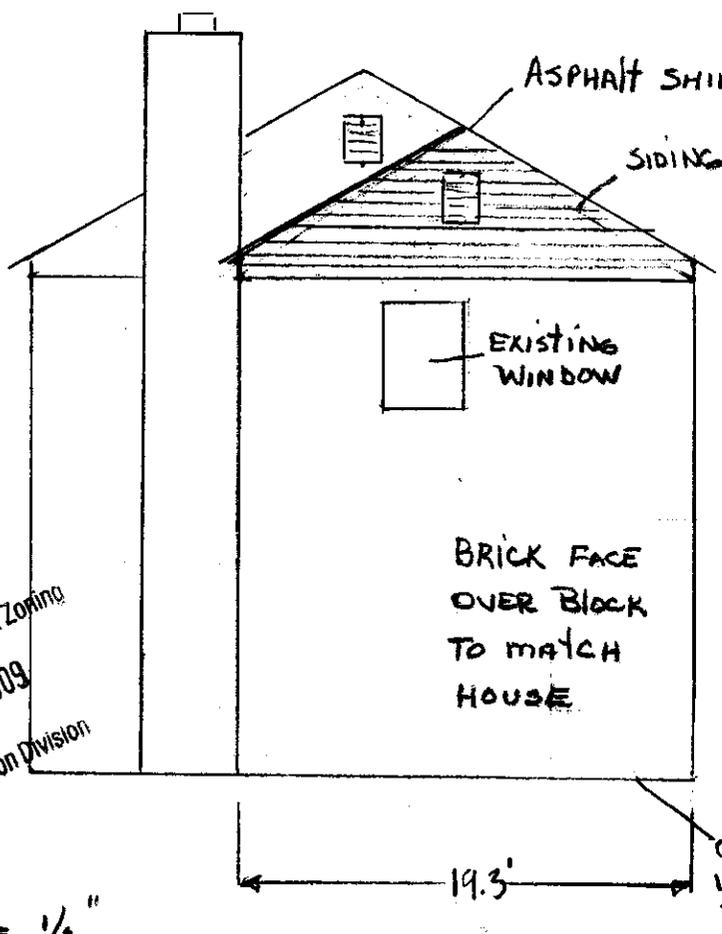
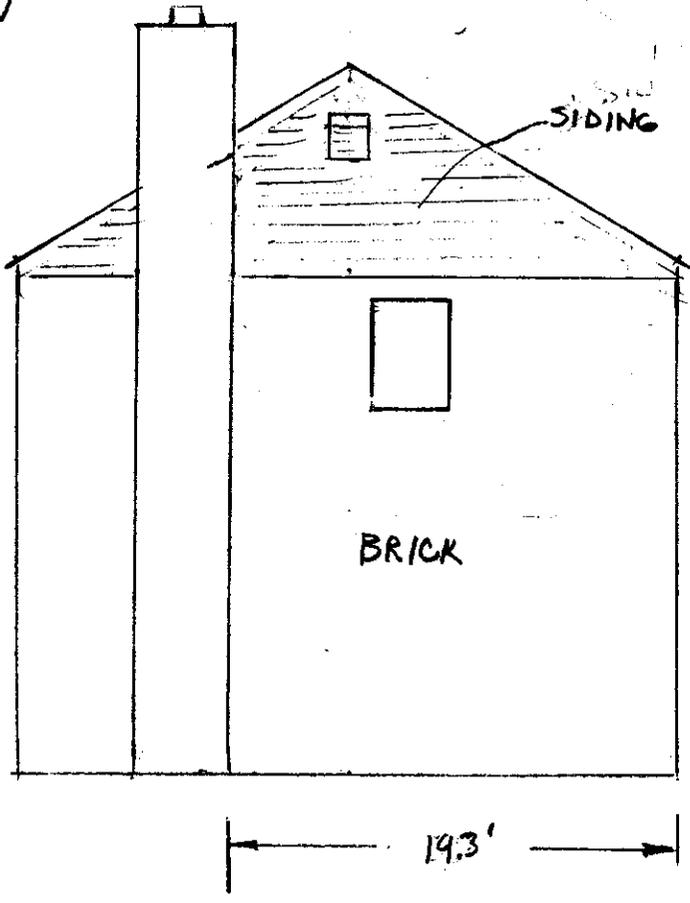
- 1) The property delineated hereon is located on Fairfax County Tax Assessment Map #28-4-((20)) parcel 3 and is zoned R-2 Cluster.
- 2) Current Owners: Marco V. & Vicki C. Urquyo acquired in Deed Book 5469, Page 140.
- 3) Property Address: #1843 Abbotsford Drive, Vienna, Virginia 22182.
- 4) Current required minimum yards for the R-5 zone:
Front - 25', Rear - 25', Side - 8' w/ total of 24'.
- 5) This parcel is served by public water and sewer.
- 6) There are no Flood plains or RPA's located on this parcel.
- 7) NO TITLE REPORT FURNISHED.
- 8) A search of the land records by this firm failed to locate any major utility easements or any utility easements having a width of 25' or more.

Proposed Special Permit
Reduction in Total Min. Side Yard
from 24' to 14.8' and
Reduction in Min. Side Yard
from 8' to 6.6'

RECEIVED
Department of Planning & Zoning
MAY 11 2009
General Evaluation Division

SIDE VIEW

BEFORE



AFTER

- BRICK AND BLOCK
- 2X10 BEAMS
- 2X4 FRAME
- DRYWALL
- PLYWOOD FLOORING

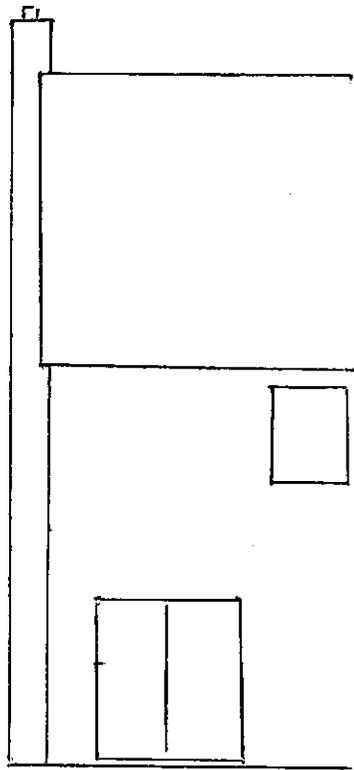
CONCRETE WITH STEEL RODS

FOOTING 2'

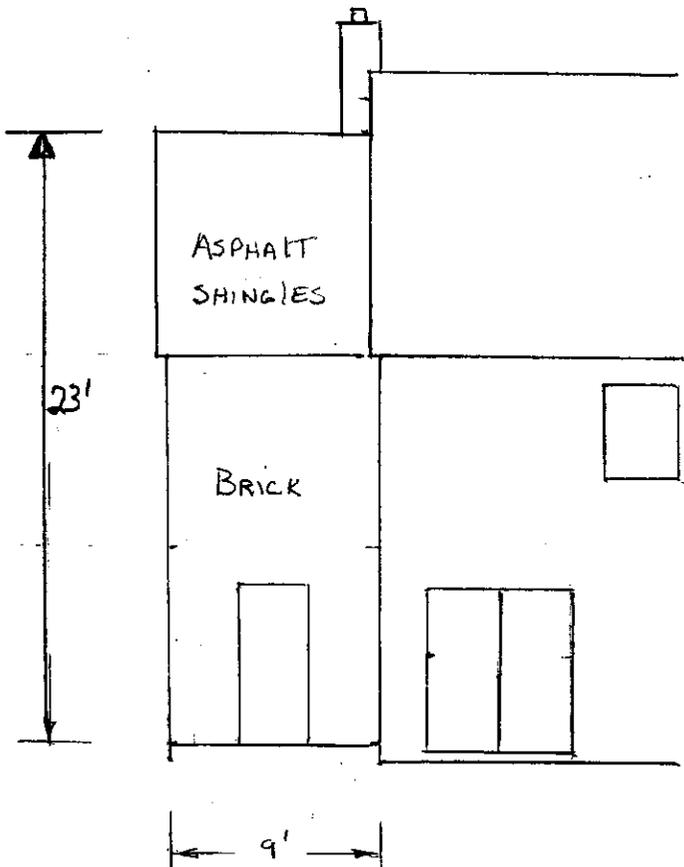
RECEIVED
 Department of Planning & Zoning
 MAY 11 2009
 Zoning Evaluation Division

scale = 1 FOOT = 1/8"

REAR VIEW



BEFORE

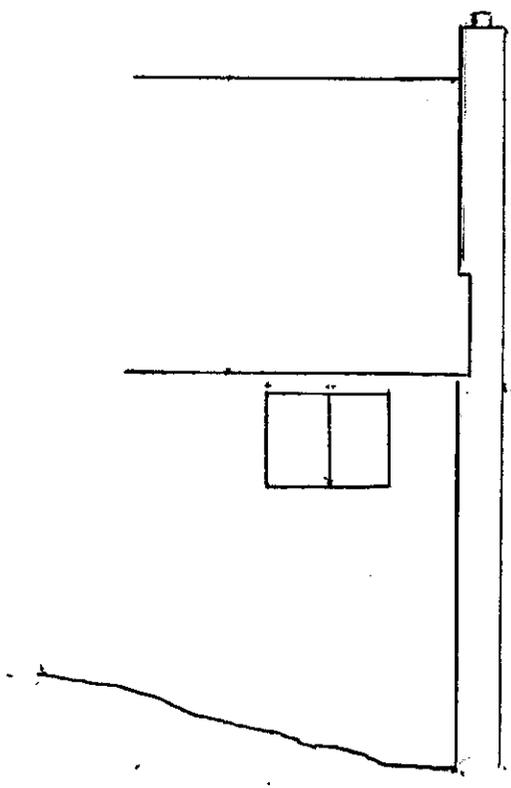


AFTER

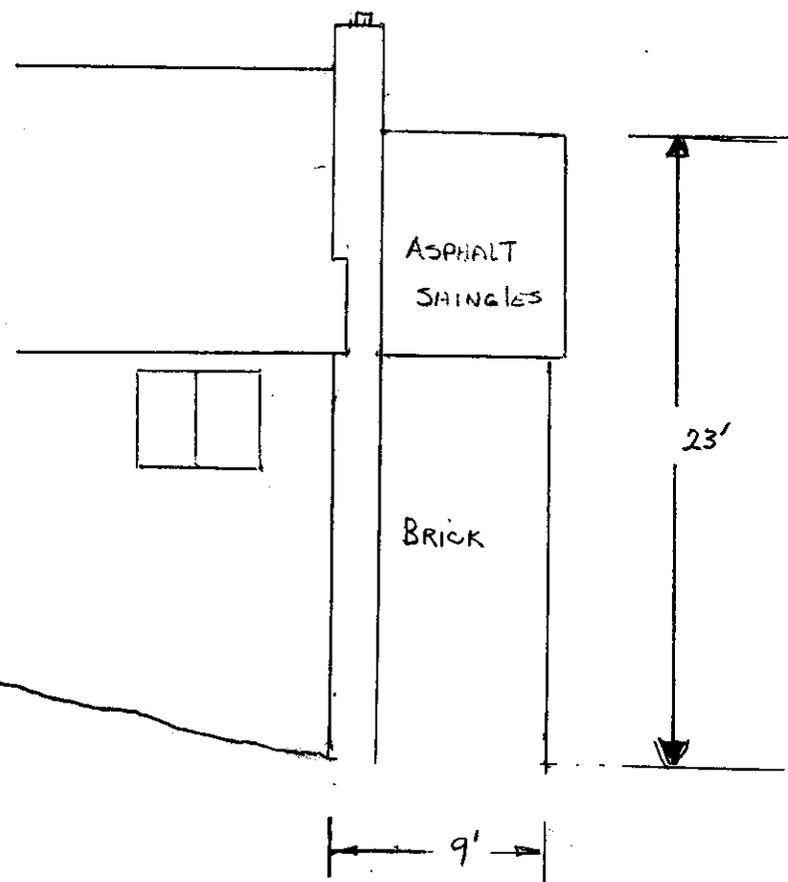
RECEIVED
Department of Planning & Zoning
MAY 11 2009
Zoning Evaluation Division

FRONT VIEW

BEFORE



AFTER

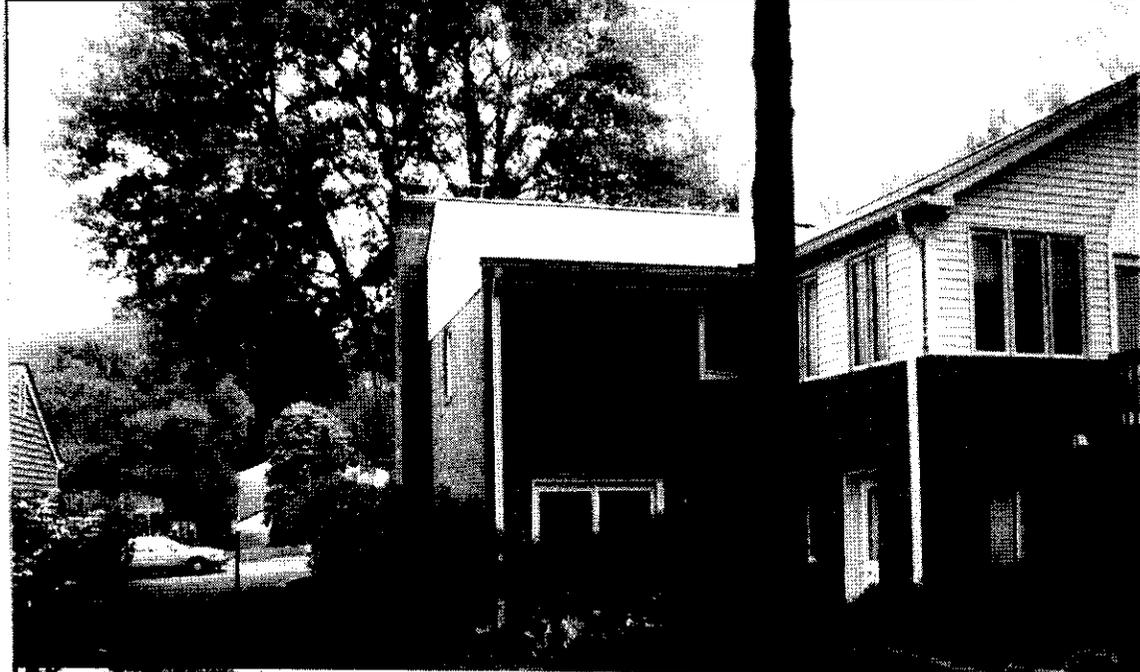


RECEIVED
Department of Planning
MAY 11 2009
Zoning Evaluation Division

MARCO/VICKY URUJO 1843 ABBOTSFORD DR. VIENNA, VA. 22182



FRONT
RIGHT



REAR
OF
RIGHT
SIDE



REAR
OF
RIGHT
SIDE

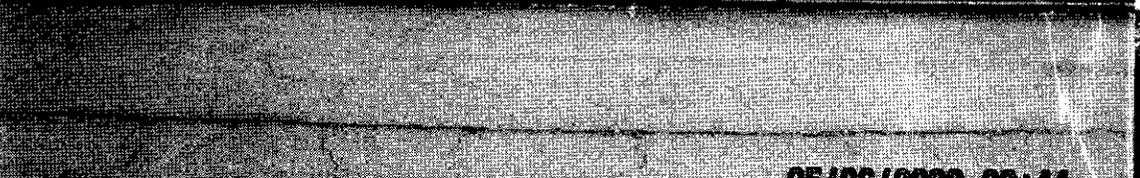
MARCO/VICKY URCUYO 1843 ABBOTSFORD DR. VIENNA, VA 22182



FRONT
RIGHT



FRONT



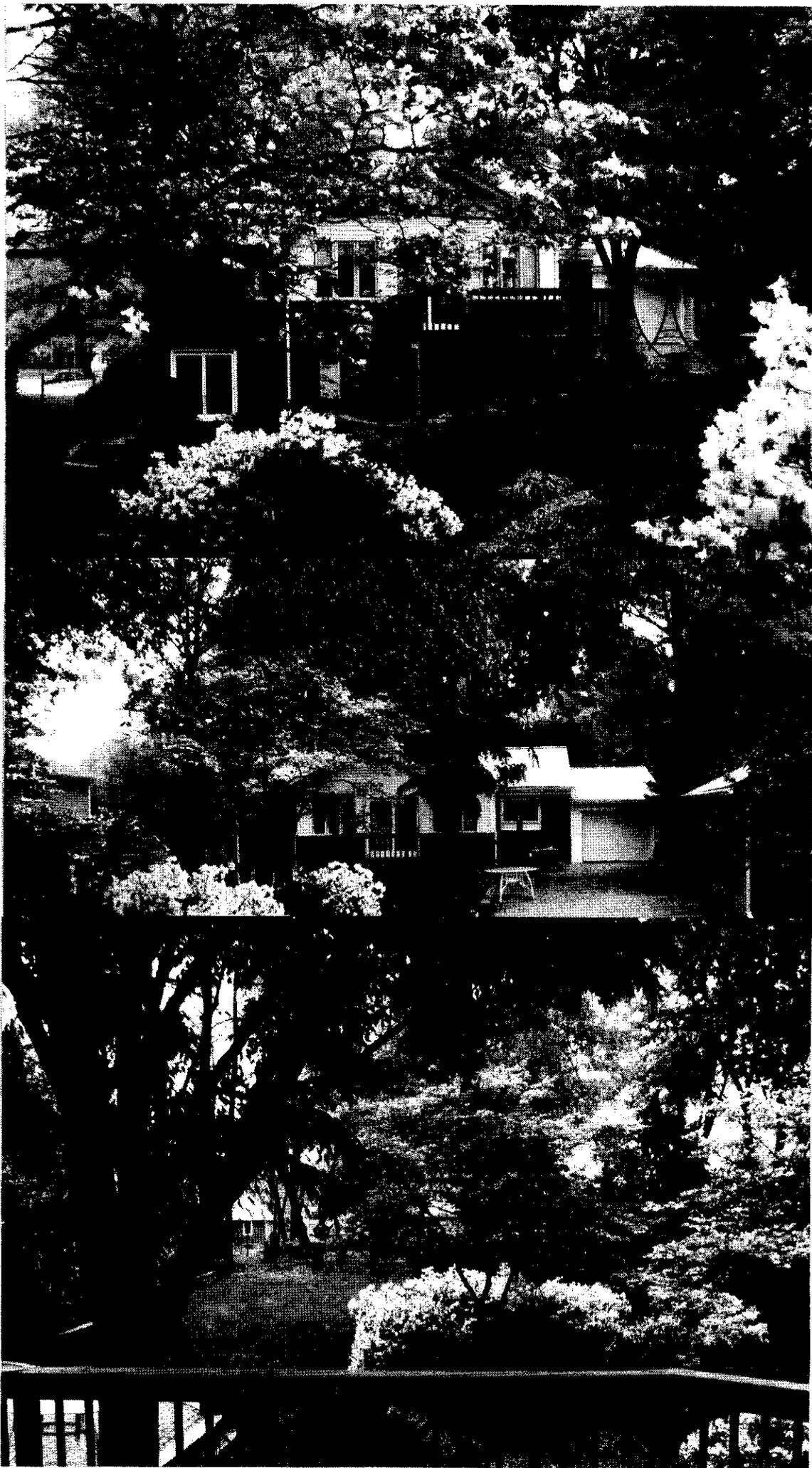
05/06/2008 22:44



FRONT
LEFT

05/06/2008 22:44

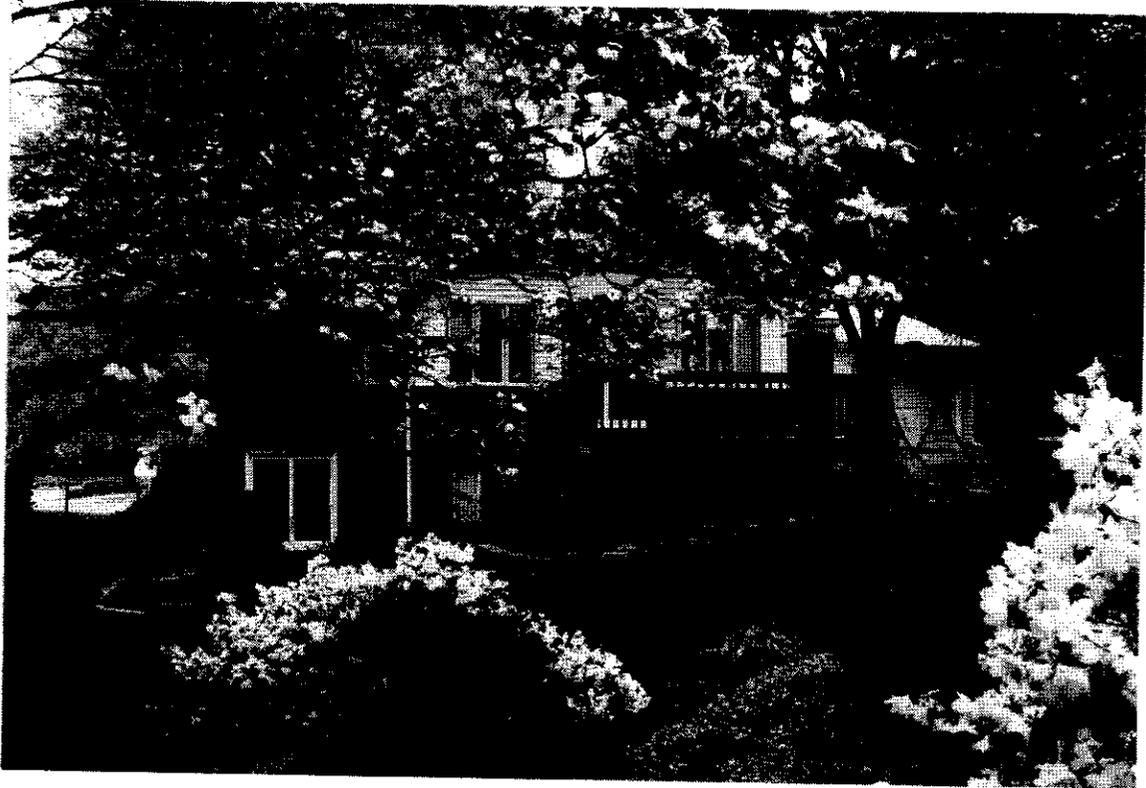
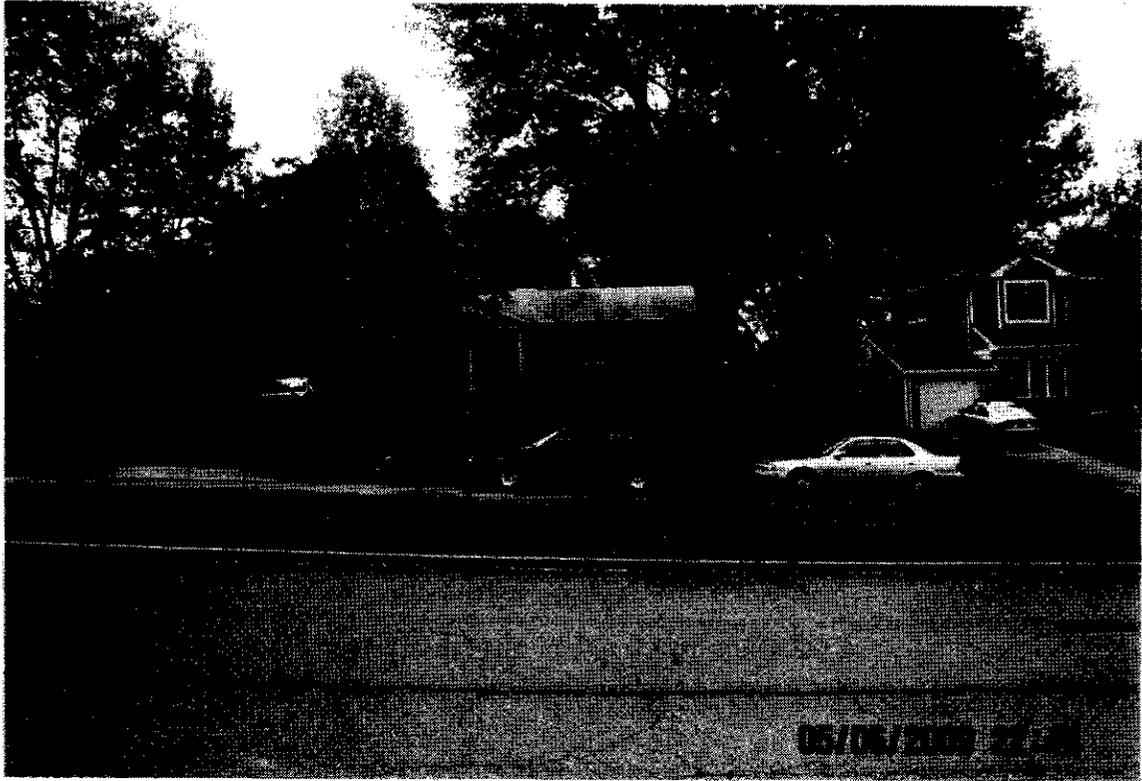
MARCO/VICKY URCUYO 1843 ABBOTSFORD DR. VIENNA, VA 22182

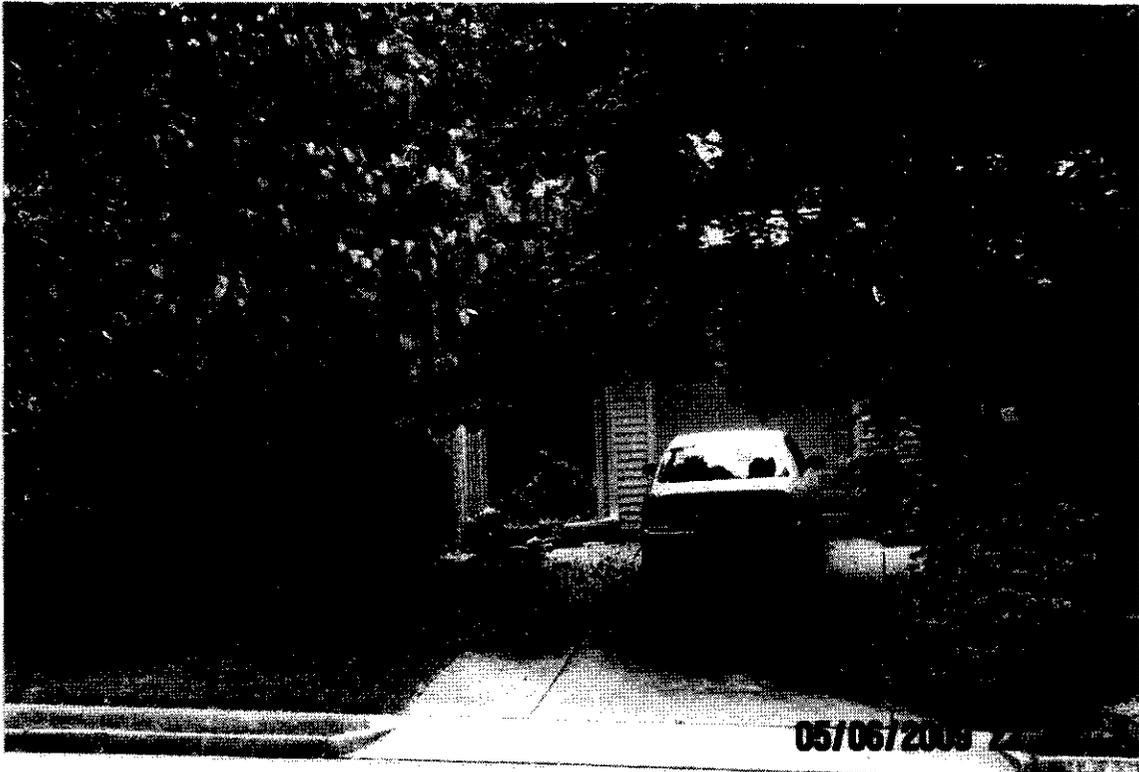


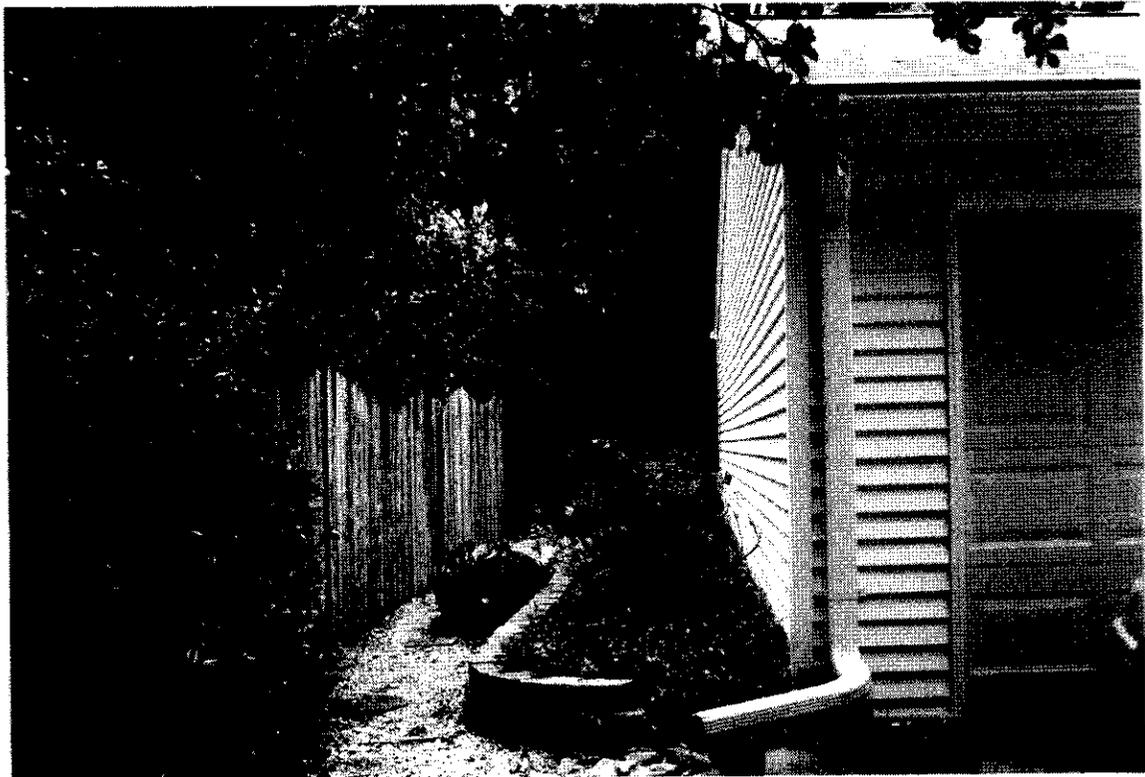
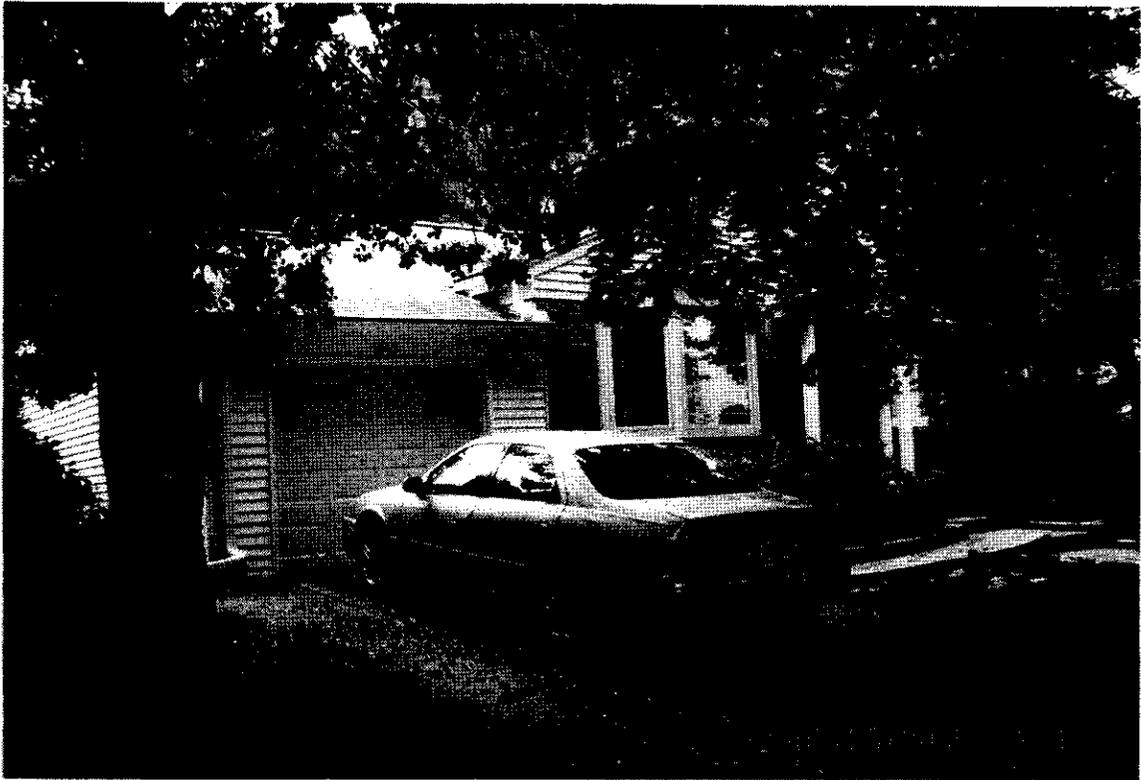
REAR

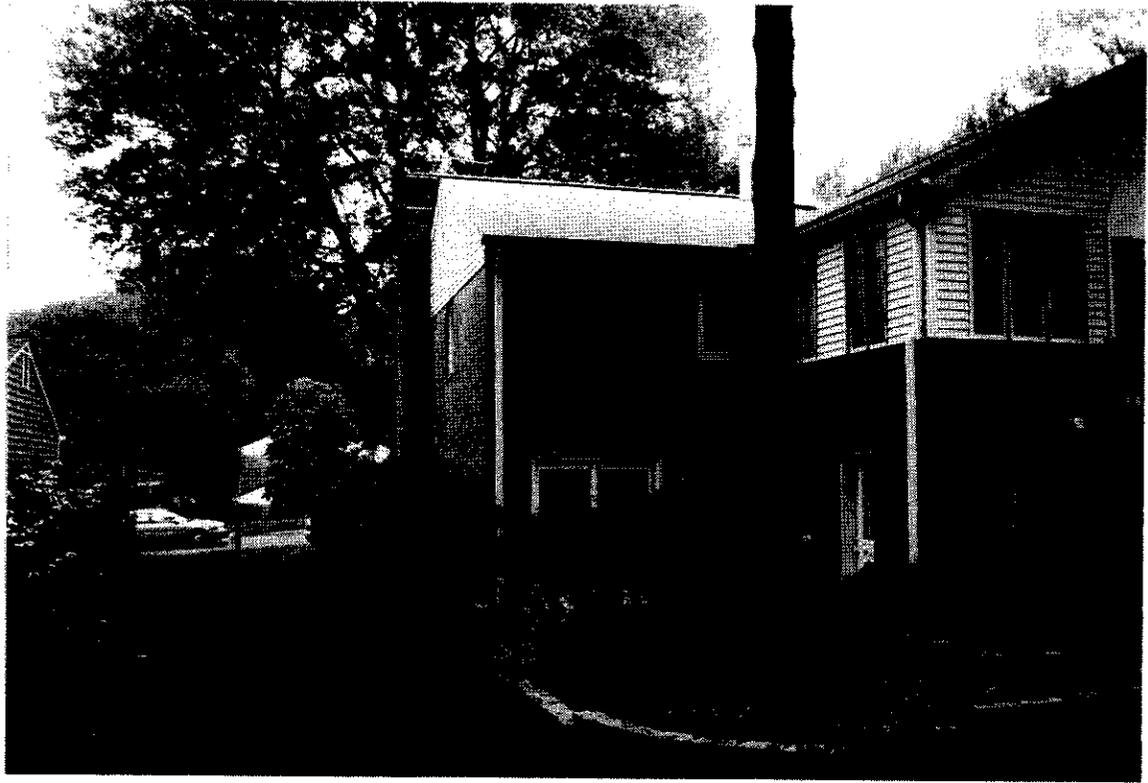
REAR

BACK
YARD
VIEW
FROM
DECK

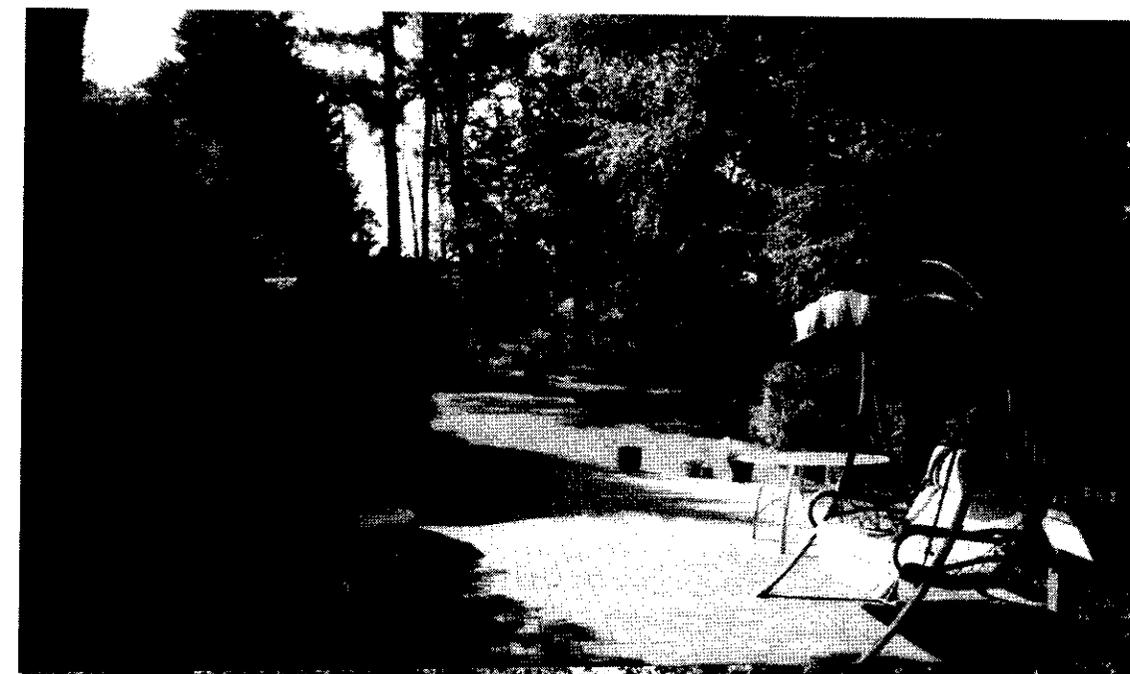








VIEW FROM REAR
OF HOUSE



VIEW FROM REAR
OF HOUSE



YARD BEHIND
FLOWER BED



RECEIVED
Department of Planning & Zoning

AUG 26 2009

Zoning Evaluation Division

SP 2007-1071-055

VIEW FROM REAR
YARD

VIEW FROM SIDE
NEIGHBORS
YARD

VIEW OF SHED
FROM DECK

RECEIVED
Department of Planning & Zoning

AUG 26 2009

Zoning Evaluation Division

41 2007 HM - 055

VIEW FROM DECK



VIEW FROM
SIDE NEIGHBORS
YARD



VIEW FROM REAR
NEIGHBOR'S YARD



RECEIVED
Department of Planning & Zoning

AUG 26 2009

Zoning Evaluation Division

DESCRIPTION OF THE APPLICATIONS

The applicant is requesting approval of two special permits for the subject property. The first is to permit reduction of minimum yard requirements based on error in building location for an accessory storage structure (shed) to remain 3.2 feet from the eastern side lot line.

	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit 1	Side	8 feet	3.2 feet	4.8 feet	60 %

* Minimum yard requirement per Section 10-104

The second special permit request is for a reduction of certain yard requirements to permit construction of an addition 6.6 feet from the western side lot line and such that side yards total 14.8 feet.

	Structure	Yard	Min. Yard Required*	Proposed Location	Proposed Reduction	Percent of Reduction Requested
Special Permit 2	Addition	Side	8 feet	6.6 feet	1.4 feet	17.5 %
Special Permit 2	Addition	Total	24 feet	14.8 feet	9.2 feet	38.3 %

* Minimum yard requirement per Section 3-207

LOCATION AND CHARACTER

Existing Site Description

The 18,028 square foot site is currently zoned R-2 Cluster and contains a one story with full basement single family detached dwelling which was built in 1969. The subject property is surrounded by single family detached homes on all sides. The lot has a steep downward slope from the eastern side of the lot towards the western side. The change in topography is such that the basement is exposed almost completely along the western side of the house. As a result, the existing dwelling appears to be two stories; however, it is only one story with a partially exposed basement.

Character of the Area

	Zoning	Use
North	R-2 Cluster	Single Family Detached Dwellings
South	R-3	Single Family Detached Dwellings
East	R-2 Cluster	Single Family Detached Dwellings
West	R-2 Cluster	Single Family Detached Dwellings

BACKGROUND

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

- Variance VC 95-H-105, granted on November 29, 1995, on Tax Map 28-4 ((14)) 263, on 9315 Telfer Court, zoned R-2 Cluster, east of the subject property to permit construction of addition 3.6 feet from side lot line such that side yards total 20.7 feet.

ANALYSIS OF SPECIAL PERMIT APPLICATION

Title of SP Plat: Special Permit Plat, Lot 3 – Section One, Eudora

Prepared By: Thomas W. Kendall, Kendall Consulting, Inc., dated May 7, 2009, revised and signed through June 9, 2009.

Building Permit Required for Shed: No (the shed is only 124.4 square feet)

Location Error Made By: Applicant's Contractor

Proposal

The applicants propose to construct a one story (with crawl space below) addition on the western side of the existing dwelling. The addition will be an expansion of the existing master bedroom in the dwelling. It will be 23 feet in height due to the steep downward slope of the lot from the east to the west. The overall size of the proposed addition will be 347.4 square feet; however, this includes the unheated crawl space at the basement level. The habitable space where the master bedroom expansion will be is only 173.7 square feet. The proposed addition will be constructed using materials to match the existing dwelling. For purposes of not restricting the applicants in case they later wish to convert the crawl space to habitable pace, the total square footage will be accounted for with this special permit request.

The applicants also seek approval for their existing 9.5 foot tall shed to remain 3.2 feet from the eastern side lot line.

ZONING ORDINANCE 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)
- Provisions for Reduction of Certain Yard Requirements (Sect. 8-922)

Sect. 8-006 General Special Permit Standards

Staff believes that the application meets all of the 8 General Special Permit Standards with notes regarding standard 3.

General Standard 3 requires that the proposed uses be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes that the special permit application satisfies this condition based the fact that this is a minimal request and many of the homes in the neighborhood are in close proximity to their side lot lines.*

Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application has met all the remaining standards, specifically Standards 4, 6, 7, 8, and 9.

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. The existing structure is 2,889 square feet. Therefore 150% of the total gross floor area could result in an addition up to 4,334 square feet; which makes a combined total of 7,265 square feet. The proposed addition will be 347 square feet (two levels) for a total of 3,236 square feet for the existing house and addition. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The proposed addition will be 23 feet in height and only 347 square feet in size. The existing single family detached dwelling is also one story and also 23 feet in height and 2,889 square feet. The addition will be

constructed with materials and an appearance similar to the existing dwelling. Staff believes the proposed addition will not be out of character with existing on-site development.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the director. The proposed addition will not adversely affect the neighboring properties due to its small size and scope. Very little land disturbance shall take place due to its small size; no existing vegetation or significant trees on the subject property or the neighboring property will be removed.

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. No downstream complaints have been indicated by DPWES and there is little increase of impervious area due to the small size of the proposed addition. Therefore, staff believes that the proposed addition shall not have any adverse impact on neighboring properties.

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. The proposed addition could not have been constructed on the eastern side of the existing house due to its proximity to the side lot line and the presence of an existing garage. There will be no harm to existing trees on the property and little increase in impervious area due to the small size and scope of the proposed addition. If the addition were constructed at the rear of the property towards the western portion of the dwelling, the dripline of an existing significant tree could be compromised resulting in its removal. The roofline of the proposed addition will match that of the existing dwelling. There is not a resource protection area (RPA) or a floodplain located on site.

CONCLUSION

Staff believes that the subject application for the addition is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of special permit application SP 2009-HM-055 for the addition subject to the proposed development conditions contained in Appendix 1 of the staff report.

If it is the intent of the BZA to approve this application, Staff recommends the BZA 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. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2009-HM-055****September 22, 2009**

If it is the intent of the Board of Zoning Appeals to approve SP 2009-HM-055 located at Tax Map Number 28-4 ((20)) 3 (1843 Abbotsford Drive), to permit reduction of certain yard requirements pursuant to 8-914 & 8-922 of the Fairfax County Zoning Ordinance, staff recommends the Board condition the approval by requiring conformance with the following development conditions.

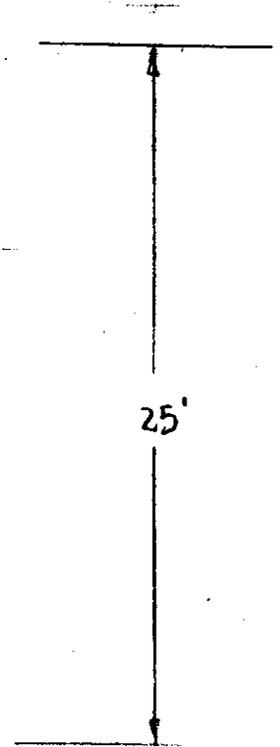
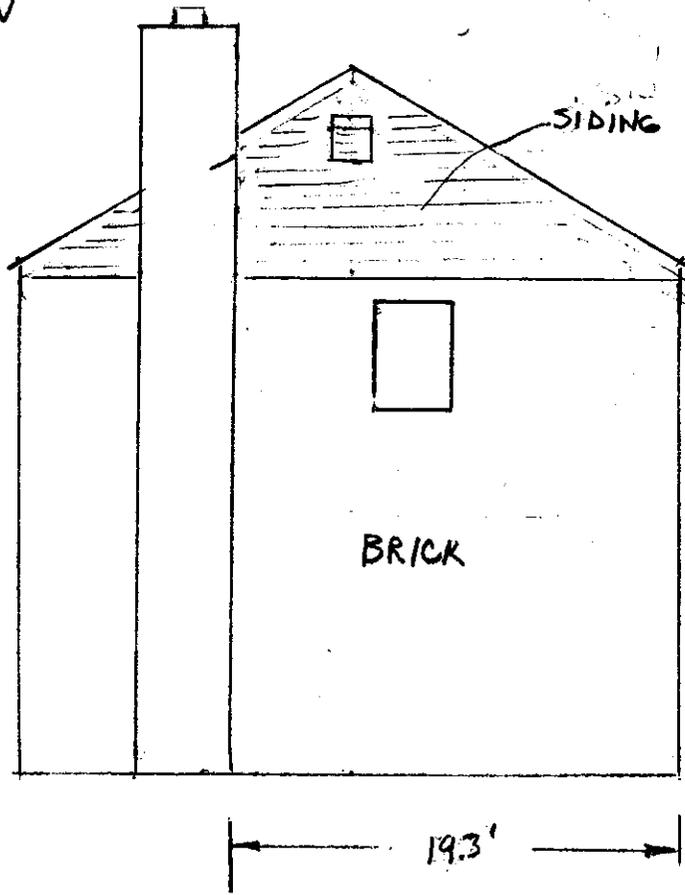
1. These conditions shall be recorded by the applicant among the land record of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of a proposed addition and shed as shown on the plat prepared by Thomas W. Kendall, Kendall Consulting, Inc., dated May 7, 2009, revised and signed through June 9, 2009, submitted with this application and is not transferable to other land.
3. Pursuant to Provision 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of the existing principle structures may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,889 square feet existing + 4,334 (150%) = 7,265 permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction, special permit or variance. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials depicted on the plat and included in Attachment 1 to these conditions.

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.

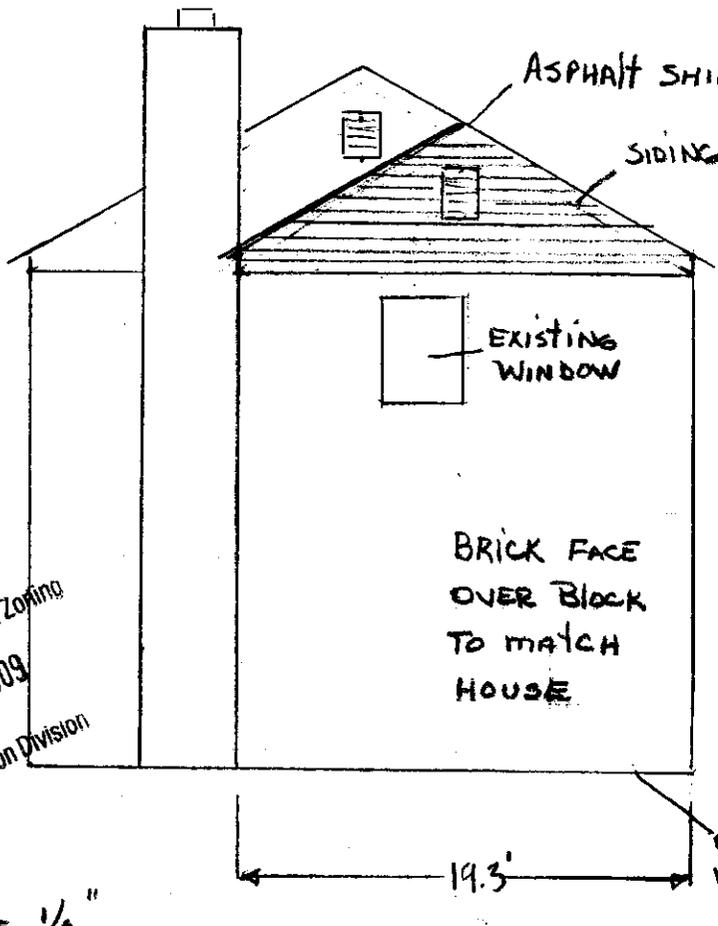
Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced for the addition and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction 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.

SIDE VIEW

BEFORE



AFTER



BRICK AND BLOCK
 2X10 BEAMS
 2X4 FRAME
 DRYWALL
 PLYWOOD FLOORING

23'

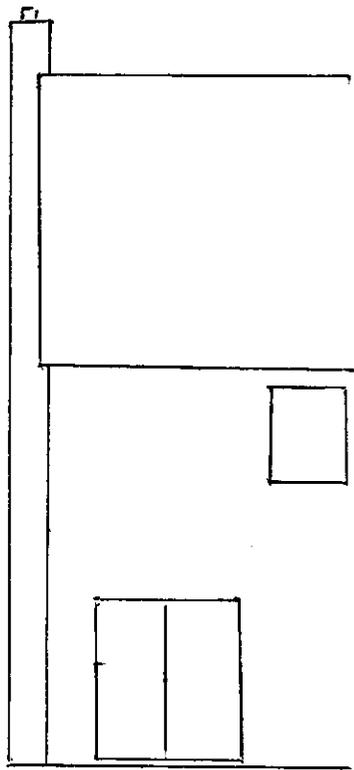
FOOTING 2'

CONCRETE
 WITH STEEL
 RODS

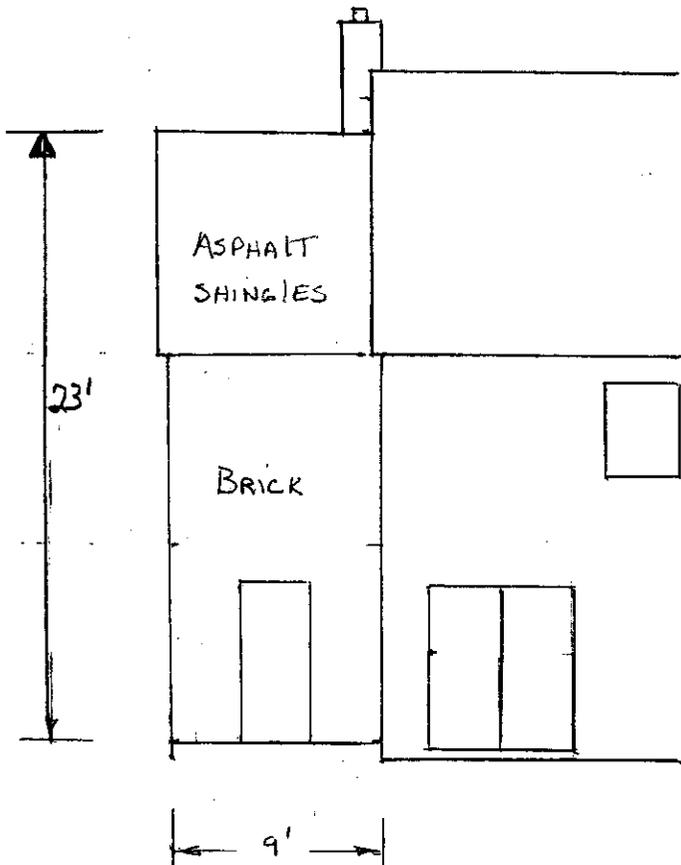
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 Department of Planning & Zoning
 MAY 11 2009
 Zoning Evaluation Division

scale = 1 FOOT = 1/8"

REAR VIEW



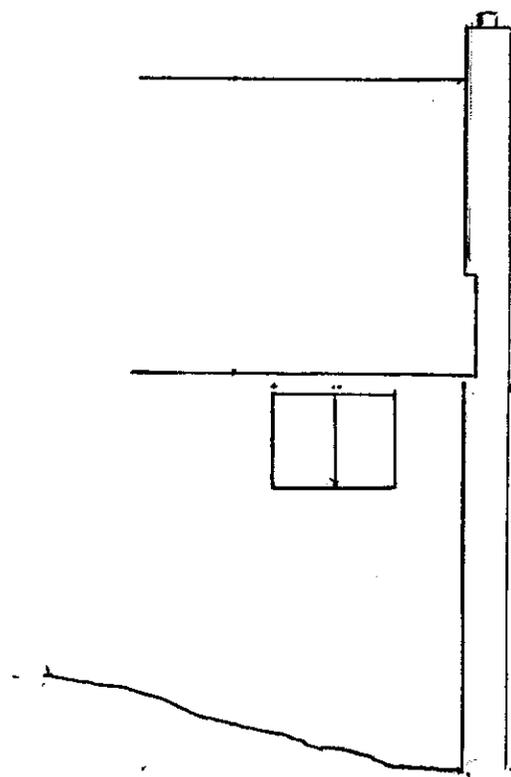
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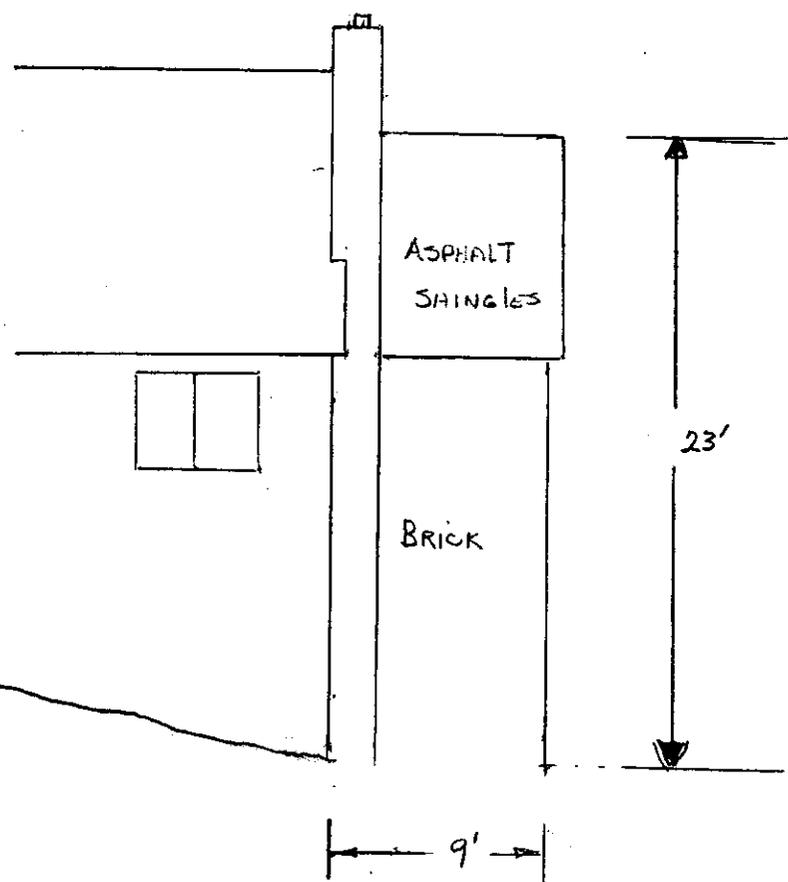
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Zoning Evaluation Division

FRONT VIEW



BEFORE



AFTER

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Department of Planning & Zoning
MAY 11 2009
Zoning Evaluation Division

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5-11-09
(enter date affidavit is notarized)

I, Vicky Urcuyo, 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

104638

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)
Vicky C. Urcuyo	1843 ABBOTSFORD DR VIENNA, VA 22182	APPLICANT/TITLE OWNER
MARCO V. Urcuyo	1843 ABBOTSFORD DR. VIENNA, VA 22182	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: 5/11/09
(enter date affidavit is notarized)

104638

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)

(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: 5/11/09
(enter date affidavit is notarized)

104638

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: 5/14/09
(enter date affidavit is notarized)

104638

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

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

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

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

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

NONE

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/14/09
(enter date affidavit is notarized)

104638

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)

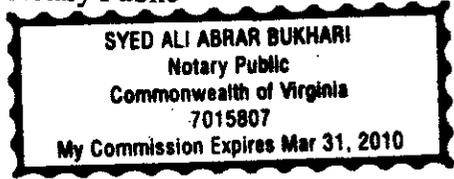
Vicky C. Urcuyo
 Applicant Applicant's Authorized Agent

VICKY C. URUYO
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 11th day of MAY 2009, in the State/Comm. of VIRGINIA, County/City of FAIRFAX

Syed Ali Abrar Bukhari
Notary Public

My commission expires: MARCH 31, 2010



Application for Special Permit

File:

Applicant: Marco V. and Vicky C. Urcuyo

Address: 1843 Abbotsford Drive, Vienna, VA 22182

RECEIVED
Department of Planning & Zoning

MAY 11 2009

Zoning Evaluation Division

Written statement of justification describing the proposed use and other pertinent data which complies with Section 8-011

The special permit is requested to reduce the side yard from 15.7 feet to 6.6 feet and the R-2 cluster requirement for 24 feet to 14.8 feet in order to build a two-story addition to the side of our detached family home. The remaining setback on the side of the house will exceed the minimum 5 foot requirement and the cluster requirement will be reduced by less than 50 percent.

This reduction of the side yard setback would provide us with sufficient space to add a walk-in closet on the top level to be accessed from the Master Bedroom, which will update and contemporize our home that was built in 1969. The lower level will provide stability to the structure and enhance the appearance of the addition. It will not be heated, livable space.

The current square footage of the building is as follows:

- First floor: 1242.64 square feet
- Basement: 1242.64 square feet
- Garage: 404.14 square feet

The total square footage for the addition which includes the roof overhang is 347.4 square feet - 173.7 square feet heated space and 173.7 square feet unheated space.

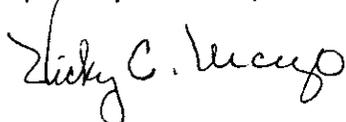
The proposed addition will not have an impact on the current use of the family home. Nor will the number of people living in the house (two adults) increase as a result of the building of the addition for which the special permit is requested.

We note further that, as shown on the plans and pictures filed with the Department of Zoning and Planning:

- the proposed addition will be in character with the existing on-site development in terms of the location, height, bulk, and scale of the existing structure(s) on the lot;
- the proposed addition is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, and scale of the surrounding structures, topography, existing vegetation. No trees will be taken down as a result of the construction.
- the proposed addition will not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, erosion and storm water runoff.

Finally, the proposed addition represents the minimum amount of reduction necessary to accommodate this addition. There are no alternate locations for the addition given the existing building design.

Respectfully submitted,



028-4-20-0003

2. In addition, the application shall contain a statement OD 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 locating occurred.

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

Zoning requires 8 feet but the actual measurement is 3 feet 2 inches.

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

It was done in good faith. At the time, we were told by the person that built it that there were no requirements.

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

This reduction will not impair the health, safety, and welfare of the public nor will it impede the implementation of the Comprehensive Plan.

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

It has been there for many years and there have been no complaints from the neighbors. In fact, one neighbor has a similar shed behind ours in his yard.

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

It has had no negative impact on the safety of other property and is not near public streets.

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

The existing vegetation will not permit moving the building to any other portion of the yard.

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

The reduction will not exceed the density and floor area ratio permitted by the zoning district regulations.

RECEIVED
Department of Planning & Zoning

JUN 10 2009

Zoning Evaluation Division

MARCO & JICKY

WIZCOYD

1875 ABBOTSFORD DR
VIENNA VA 22182

SV-2009-0112

028-4-20-0003

Justification

A shed currently sits on the property. Zoning requires 8 feet but the actual measurement is 3 feet 2 inches. Its placement was done in good faith. At the time, we were told by the person that built it that there were no requirements.

This reduction in setback will not impair the health, safety, and welfare of the public nor will it impede the implementation of the Comprehensive Plan. The building has been there for many years and there have been no complaints from the neighbors. In fact, one neighbor has a similar shed behind ours in his yard. There has been no negative impact on the safety of other property and it is not near public streets.

The existing vegetation will not permit moving the building to any other portion of the yard. The reduction will not exceed the density and floor area ratio permitted by the zoning district regulations.

Vicky & MARCO CIRCUGO

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.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.
 - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard

requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.