



County of Fairfax, Virginia

September 22, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-MA-064

MOUNT VERNON DISTRICT

APPLICANTS/OWNERS: Larry and Cheryl Moran

SUBDIVISION: Heywood Glen

STREET ADDRESS: 6224 Berlee Drive

TAX MAP REFERENCE: 72-2((9))96

LOT SIZE: 9,091 square feet

ZONING DISTRICT: R-3 (Cluster)

ZONING ORDINANCE PROVISIONS: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit addition to remain 5.4 feet from the rear lot line and 0.0 feet from a side lot line such that side yards total 11.4 feet.

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 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.

Susan Langdon

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.**



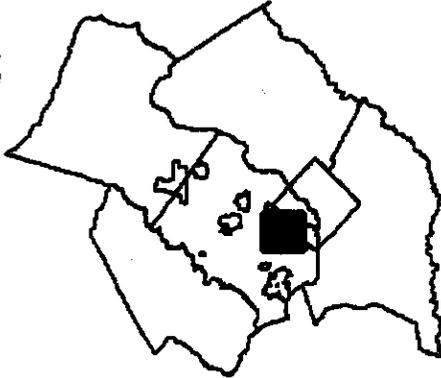
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

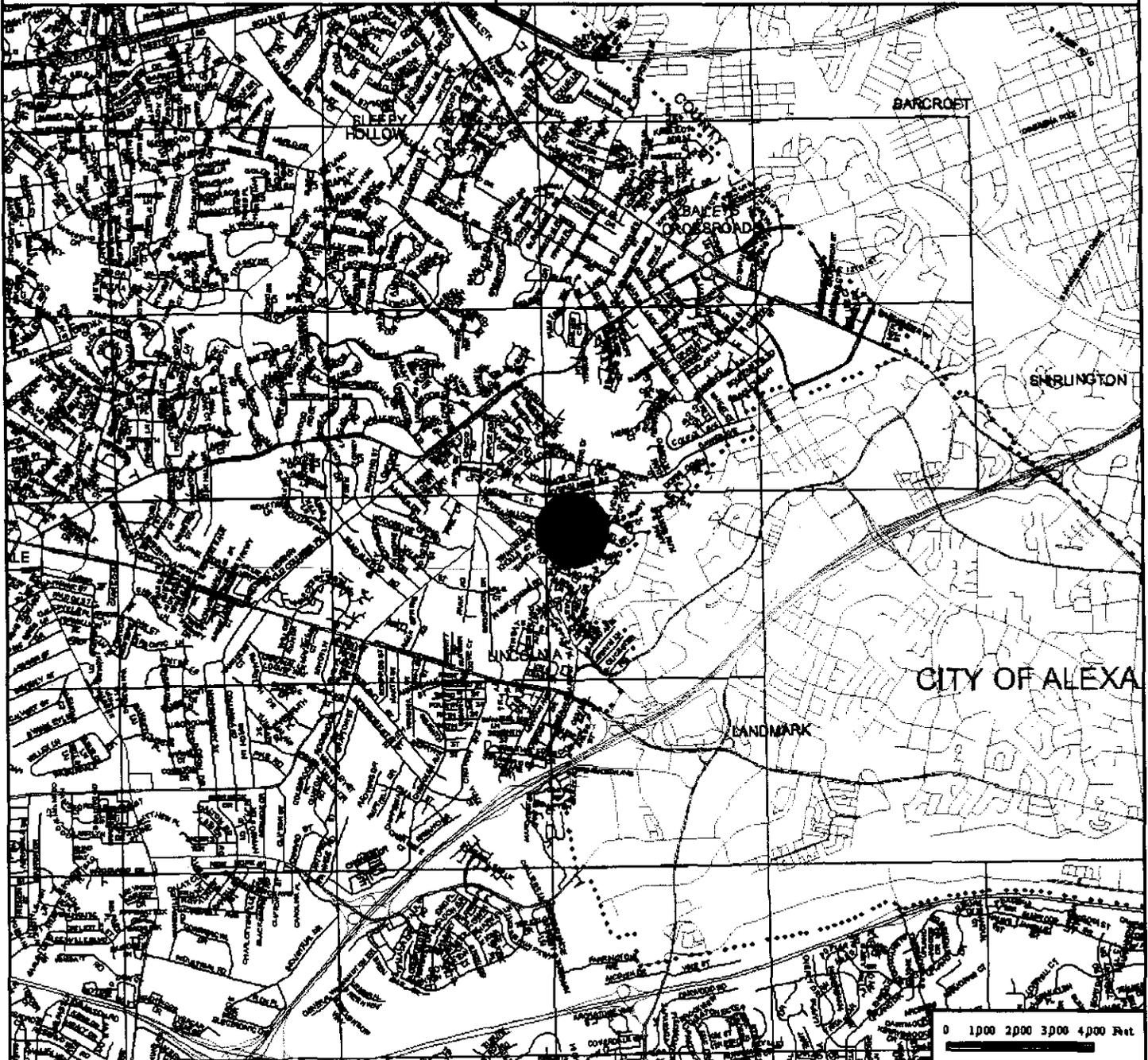
SP 2009-MA-064

Applicant:
Accepted:
Proposed:

LARRY & CHERYL MORAN
07/08/2009
REDUCTION IN THE MINIMUM YARD
REQUIREMENTS BASED ON ERROR IN
BUILDING LOCATION

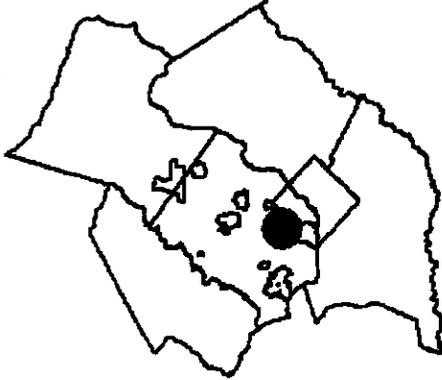


Area:
Zoning Dist Sect: 08-0914
Art 8 Group and Use: 9-13
Located: 6224 BERLEE DRIVE
Zoning: R- 3
Overlay Dist:
Map Ref Num: 072-2-109/ 10096

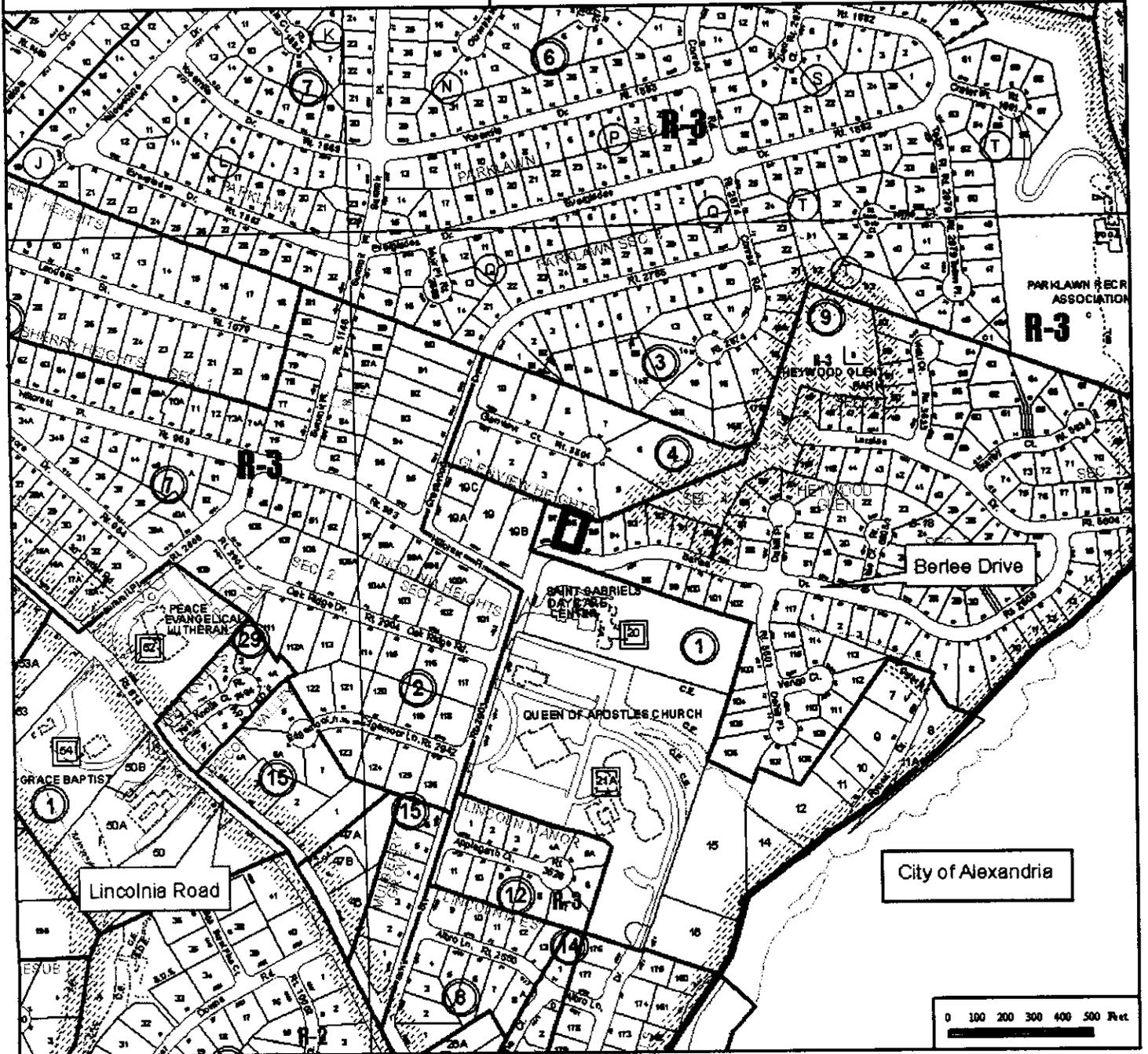


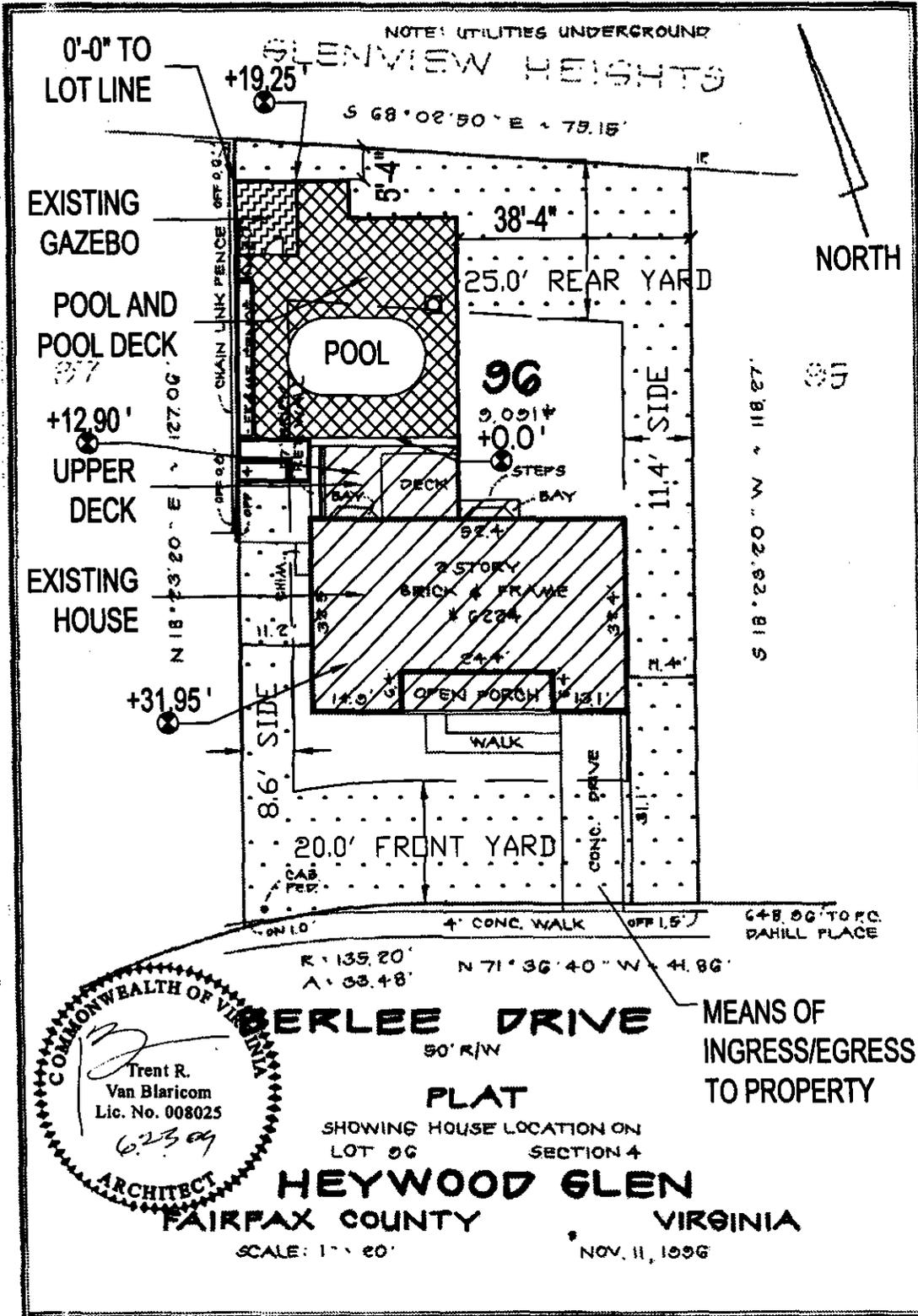
Special Permit
SP 2009-MA-064

Applicant: LARRY & CHERYL MORAN
Accepted: 07/08/2009
Proposed: REDUCTION IN THE MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION



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COMMONWEALTH OF VIRGINIA

Trent R. Van Blaricom
Lic. No. 008025
6.23.09

ARCHITECT

THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.

PLAT SUBJECT TO RESTRICTIONS OF RECORD.

TITLE REPORT NOT FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS.

Kenneth W. White
KENNETH W. WHITE L.S.

COMMONWEALTH OF VIRGINIA

KENNETH W. WHITE

LICENSE NO. 1277 B

LAND SURVEYOR

CASE NAME:

LEISER & REEDER MARSHALL

ALEXANDRIA SURVEYS, INC.
8343 SOUTH KINGS HIGHWAY
ALEXANDRIA, VIRGINIA 22306
703-660-6615
FAX 703-766-7764



CAPITOL DESIGN GROUP
 1000 N. 10th St., Suite 100, Phoenix, AZ 85004
 Tel: 602-252-1234 Fax: 602-252-1235

OWNER:
 LARRY BOVANI

PROJECT:
 EXISTING CONDITIONS

RESIDENCE:
 624 BELLEVUE DRIVE
 ALHAMBRA, ARIZONA 85012

DATE:
 10/15/03

NO.	DATE	DESCRIPTION
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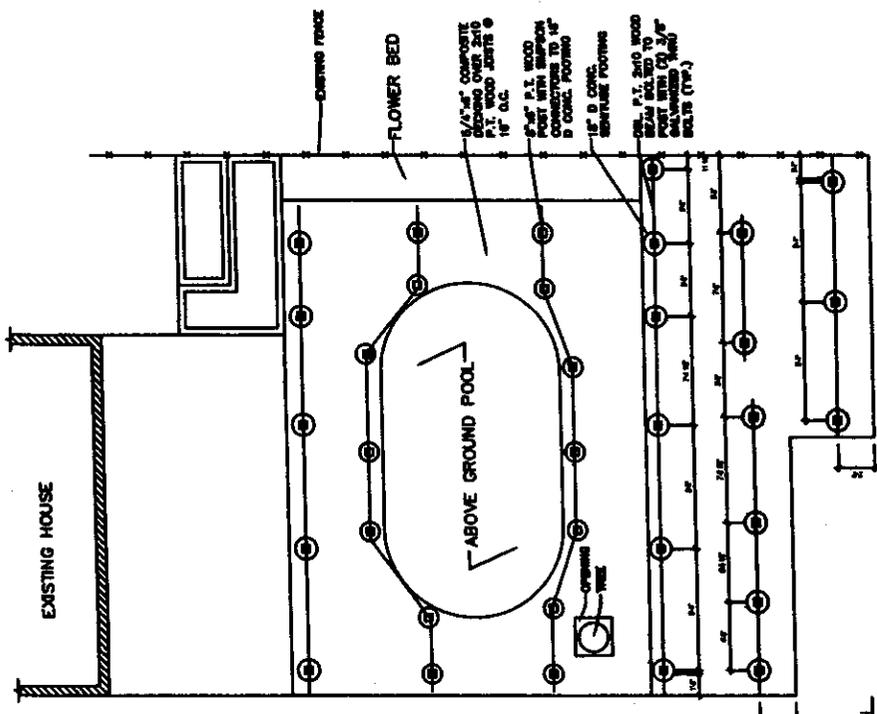
DESIGNED BY:
 LARRY BOVANI
DATE:
 10/15/03

SCALE:
 AS SHOWN

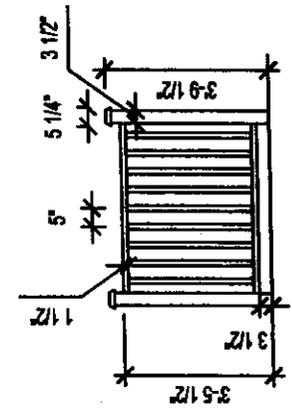
NOTES:
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF PHOENIX PERMITS AND ORDINANCES.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.
 5. THE CONTRACTOR SHALL MAINTAIN THE EXISTING GRASS AND LANDSCAPING.
 6. THE CONTRACTOR SHALL MAINTAIN THE EXISTING DRIVEWAY AND WALKWAYS.
 7. THE CONTRACTOR SHALL MAINTAIN THE EXISTING SIDEWALK AND CURB.
 8. THE CONTRACTOR SHALL MAINTAIN THE EXISTING FENCE AND GAZERO.
 9. THE CONTRACTOR SHALL MAINTAIN THE EXISTING PATIO AND STEPS.
 10. THE CONTRACTOR SHALL MAINTAIN THE EXISTING POOL AND SPA.
 11. THE CONTRACTOR SHALL MAINTAIN THE EXISTING LIGHTING AND ELECTRICAL SYSTEM.
 12. THE CONTRACTOR SHALL MAINTAIN THE EXISTING PLUMBING AND MECHANICAL SYSTEM.
 13. THE CONTRACTOR SHALL MAINTAIN THE EXISTING ROOFING AND INSULATION.
 14. THE CONTRACTOR SHALL MAINTAIN THE EXISTING FOUNDATION AND CONCRETE.
 15. THE CONTRACTOR SHALL MAINTAIN THE EXISTING STRUCTURAL FRAMEWORK.
 16. THE CONTRACTOR SHALL MAINTAIN THE EXISTING INTERIORS AND FINISHES.
 17. THE CONTRACTOR SHALL MAINTAIN THE EXISTING EXTERIORS AND FINISHES.
 18. THE CONTRACTOR SHALL MAINTAIN THE EXISTING PAINT AND STAINING.
 19. THE CONTRACTOR SHALL MAINTAIN THE EXISTING CARPETING AND FLOORING.
 20. THE CONTRACTOR SHALL MAINTAIN THE EXISTING CEILINGING AND LIGHTING FIXTURES.
 21. THE CONTRACTOR SHALL MAINTAIN THE EXISTING DOORS AND WINDOWS.
 22. THE CONTRACTOR SHALL MAINTAIN THE EXISTING HINGES AND LOCKS.
 23. THE CONTRACTOR SHALL MAINTAIN THE EXISTING HANDLES AND TRIM.
 24. THE CONTRACTOR SHALL MAINTAIN THE EXISTING BASEBOARDS AND MOLDINGS.
 25. THE CONTRACTOR SHALL MAINTAIN THE EXISTING STAIRS AND BALUSTRADES.
 26. THE CONTRACTOR SHALL MAINTAIN THE EXISTING PORCHES AND PATIOS.
 27. THE CONTRACTOR SHALL MAINTAIN THE EXISTING DECKING AND RAILINGS.
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A-1

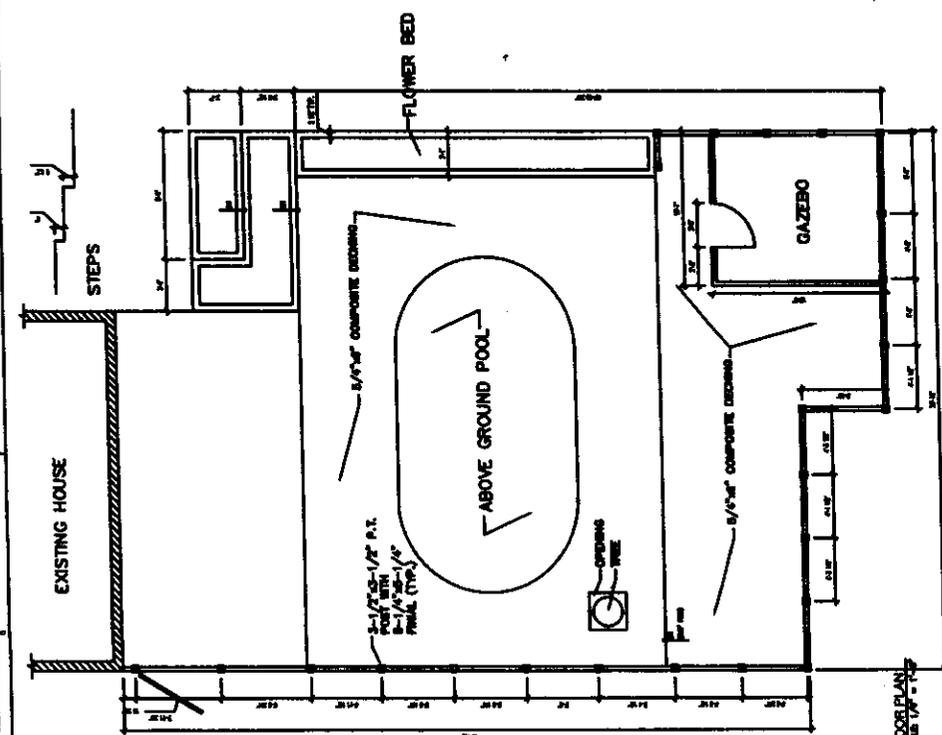
FLOOR PLAN'S A.C.P.



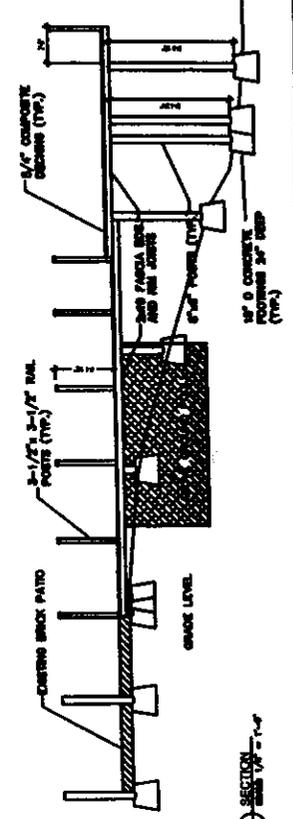
STRUCTURAL PLAN
 SCALE: 1/4" = 1'-0"



POOL DETAIL
 SCALE: 1/4" = 1'-0"



FLOOR PLAN
 SCALE: 1/4" = 1'-0"



SECTION
 SCALE: 1/4" = 1'-0"



1 IMG_0551 4/20/2009 Taken By: CHERYL



2 IMG_0553 4/20/2009 Taken By: CHERYL
SIDEVIEW FROM UPPER DECK OF HOUSE



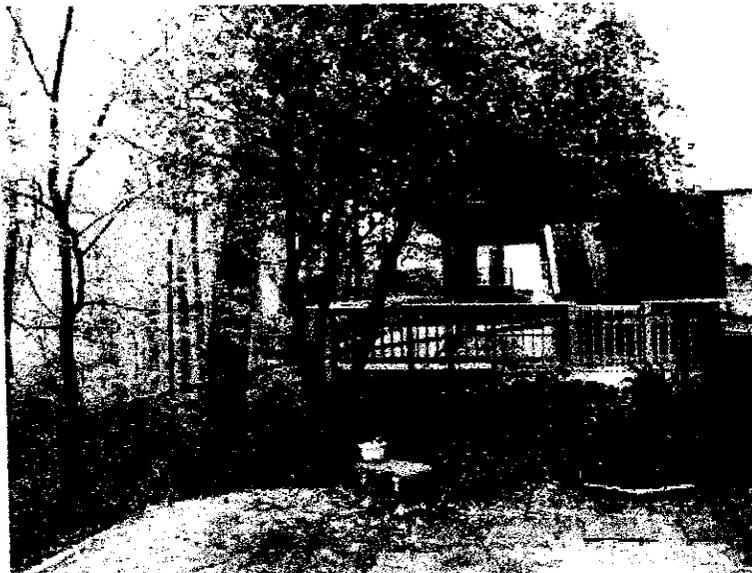
3 IMG_0554 4/20/2009 Taken By: CHERYL
UPPER DECK VIEW FACING VALDA ROJAS PROPERTY



4 IMG_0555 4/20/2009 Taken By: CHERYL
VIEW OF YARD ADJACENT TO THE STRUCTURE ON THE



5 IMG_0558 4/20/2009 Taken By: CHERYL
VIEW FACING REAR OF PROPERTY FROM FRONT GATE OF THE



6 IMG_0559 4/20/2009 Taken By: CHERYL
VIEW FACING POPPELLS PROPERTY FROM THE STRUCTURE



7 IMG_0561 4/20/2009 Taken By: CHERYL
VIEW FROM POPPELLS YARD



8 IMG_0562 4/20/2009 Taken By: CHERYL
VIEW FROM POPPELLS DECK



9 IMG_0563 4/20/2009 Taken By: CHERYL
VIEW FROM SIDE OF OWNERS HOME



10 IMG_0564 4/20/2009 Taken By: CHERYL
VIEW FROM VALDA ROJAS DECK



11 IMG_0565 4/20/2009 Taken By: CHERYL
VIEW 2 FROM VALDA ROJAS DECK



12 IMG_0567 4/20/2009 Taken By: CHERYL
VIEW FROM FRONT OF PROPERTY



13 IMG_0568 4/20/2009 Taken By: CHERYL
VIEW OF REAR OF PROPERTY



14 IMG_0569 4/20/2009 Taken By: CHERYL
VIEW 2 FROM REAR OF PROPERTY



15 IMG_0570 4/20/2009 Taken By: CHERYL
CLOSE UP OF REAR OF STRUCTURE



16 IMG_0571 4/20/2009 Taken By: CHERYL
2ND VIEW OF REAR OF STRUCTURE



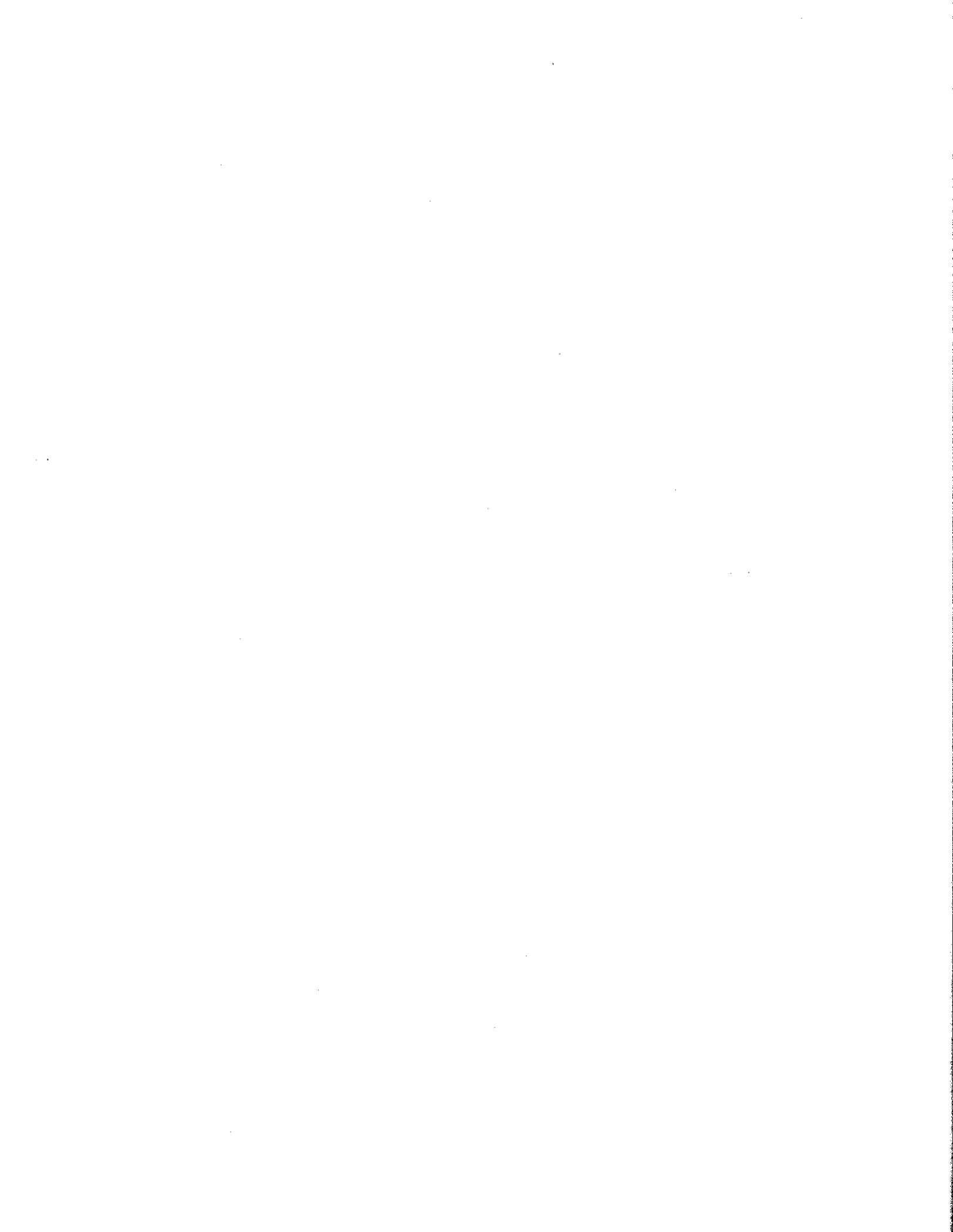
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IMG_0572

4/20/2009

Taken By: CHERYL

VIEW OF RAVINE BEHIND THE STRUCTURE



DESCRIPTION OF THE APPLICATION

To permit reduction to minimum yard requirements based on error in building location to permit an addition (a deck/gazebo) to remain 5.4 feet from the rear lot line and 0.0 feet from a side lot line such that side yards total side 11.4 feet.

	Structure	Yard	Minimum Yard Required	Structure Location	Amount of Error	Percent of Error
Special Permit	Deck/ Gazebo Addition	Rear	25.0 feet	5 ft. 4 in.	19 ft. 8 in.	79.3%
Special Permit	Deck/ Gazebo Addition	Side	8.0 feet	0.0 feet	8.0 feet	100%
Special Permit	Deck/ Gazebo Addition	Total Side Yards	20.0 feet	11.4 feet	8.6 feet	43%

*Minimum yard requirement per Section 3-307

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Plat Showing House Location on Lot 96, Section 4, Heywood Glen
- **Prepared by:** Alexandria Surveys, Inc., dated November 11, 1996, revised by Trent R. Van Blaricom, dated June 23, 2009
- **Building Permits required:** Yes; not obtained
- **Error Made by:** Applicants.

CHARACTER OF THE AREA

	Zoning	Use
North	R-3 (cluster)	Single Family Detached Dwellings
East	R-3 (cluster)	Single Family Detached Dwellings
South	R-3	Single Family Detached Dwellings
West	R-3 (cluster)	Place of Worship

BACKGROUND

Records indicate the dwelling was originally constructed in 1972.

Based on a complaint, staff from the Department of Public Works and Environmental Services (DPWES) performed a site visit on May 22, 2008. A Corrective Work Order was issued to the applicants on May 23, 2008, which states that a deck was constructed on the property without the required permit(s). A copy of the Order is attached in Appendix 4. The applicants were given 10 days to correct the defect. On June 23, 2008, a Notice of Violation was issued to the applicants stating that the defect had not been corrected within the required 10 days. A copy of the NOV is attached in Appendix 5. A summons was issued to the applicants on February 24, 2009, and a court hearing was held at which time the County agreed to a continuance to allow the applicant time to apply for a special permit.

The BZA has not heard any similar special permits or variances in the vicinity of the application parcel.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 6)

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

CONCLUSION

If it is the intent of the BZA to approve this application, staff suggests 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 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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Corrective Work Order
5. Notice of Violation
6. Applicable Special Permit Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2009-MA-064

September 22, 2009

1. This special permit is approved for the location of the addition (deck/gazebo) as shown on the plat prepared by Alexandria Surveys, Inc., dated November 11, 1996, as revised by Trent R. Van Blaricom, dated June 23, 2009, as submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, all permits and final inspections shall be obtained for the deck/gazebo addition.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/21/09
 (enter date affidavit is notarized)

Cheryl A Moran, 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

104429

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

(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)
Larry G Moran	6224 Berlec Dr	applicant/owner
Cheryl A Moran	Alexandria, VA 22312	owner/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: 4/21/09
(enter date affidavit is notarized)

104429

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)

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/21/09
(enter date affidavit is notarized)

104429

(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)

(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)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/21/09
(enter date affidavit is notarized)

104429

(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:

None

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

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

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

None

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/21/09 (enter date affidavit is notarized)

104429

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)

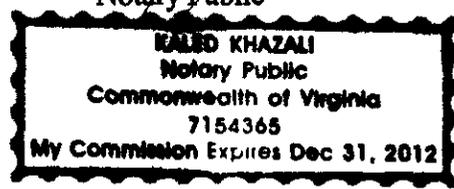
Cheryl AMORAN (signature) [X] Applicant [] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 21st day of April 2009, in the State/Comm of Virginia, County/City of Fairfax.

(signature) Notary Public

My commission expires: Dec 31, 2012



SPECIAL PERMIT STATEMENT OF JUSTIFICATION

Larry & Cheryl Moran, 6224 Berlee Dr. Alexandria, VA 22312

Proposed Use: Personal use of the pool area and surrounding structure by family members. The surrounding area of the pool was built to make otherwise unusable sloped property into a functional purpose both increasing Fairfax County tax base and the value of the property and neighboring properties. This accessory structure was constructed better than code requirements and with superior building supplies.

1

- A. There are no operations
- B. There are no operations to be conducted
- C. No patrons/clients/pupils
- D. No employees or attendants
- E. Family members will visit on a typical manner. No change in traffic
- F. Vicinity to be served by the use; The screened in gazebo and surrounding pool area at the rear of the property
- G. Description; The building and surround is existing. There is a screened in gazebo and a composite structure surrounding the pool. None of the structure is attached to the house. It is freestanding and is constructed equal to or better than code requirements. Drawings of the existing structure are attached.
- H. None known hazardous or toxic substances
- I. The proposed use of the screened gazebo and pool surround by the residents and family members conforms with the provisions of all applicable ordinances with the exception of the requirement to have a 25' setback in the rear of the yard. This is the reason for the request of the special permit. I have attached letters from 3 neighbors that exhibit their support of our existing structure.
- J. The gazebo & pool surround is in character of the neighborhood. They are positioned on the lot as to compliment the view to all neighbors that are able to see the structure. This is confirmed by the attached letters and photos.
- K. The structure is harmonious to the surrounding site and off site uses in terms of location, height, bulk, and scale, in comparison to the surrounding structures, topography, existing vegetation(preserved and enhanced) and preserved the significant tree. The structure replaces vacant sloped unusable, unlandscapable property.
- L. The structures do not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as, noise, light, air, erosion, stormwater runoff, traffic, or appearance.
- M. The structure has added beauty to an otherwise unsightly yard. It has enhanced the landscape and view for the neighboring properties. The Moran's have tastefully enhanced the forested areas to compliment the structure and retained the existing vegetation on the property. The shape of the structure and heights were constructed to enhance the use of an otherwise sloped backyard. The yard was not conducive to planting grass. It harbored moss and mold and was unusable for

children. The new structure created usable family space while enhancing the views for the neighbors. The structure does not impede on any floodplains or runoff areas. There are no wells, septics, or historical resources on the lot.

2.

A. It appears that the only problem is the setback requirements. We are inside the required 8' side setback and 19' rear setback. The structure was built within a ~~0-~~ ^{5'} side setback and 5' ~~4"~~ rear setback. The structure is built better than code requirements of an accessory structure and is solely located within the boundaries of our property lines.

B. The error in building site was done in good faith after believing that the accessory structure was permitted. Early in 2008, our contractor Palm Pools, was hired to install a pool with an accessory structure to be added after it's completion. Only after we applied for a pool heater permit, did we learn that Palm Pools did not complete the required pool final inspections, apply for a needed electrical permit and the accessory structure permit. Much to our dismay, we have had to pursue legal remedies for Palm Pools Inc to finish the install work. It was unknown to us that they did not finish the needed permit work that was their responsibility by contract.

A second contractor went to Fairfax County to pull an accessory structure permit and was advised that we did not need a permit due to this being an accessory structure to the pool. The FFC approved pool drawing (attached), to us, included the accessory structure. We were surprised that we were not permitted when Mr. Miller sent us a notice after he was here to inspect the heater. We trusted our pool contractor. The result of being diligent in securing a permit for our pool heater that the building site error on our accessory structure was discovered.

This err in building site problem was exasperated when despite my "good faith" visit on 7/1/08 (8 hours) to 4 departments at the Fairfax County Zoning and Permit offices I left without answers and much confusion. This was the same for my contractor. I was sent to Zoning, Special Permits, The Engineer of the Day, and Permits Departments. No one could give a clear answer on what permit was required or what was needed for compliance. I was even issued a permit for Accessory Structure at \$65 but then another Department did not accept the payment. They said that I needed a special permit but the special permit department sent me to the regular permit department.

We have enclosed the dates and nature of dozens of phone calls, emails, and visits for information needed and assistance for us to resolve this accessory structure matter. Furthermore, we have been met with rudeness, unanswered emails, and a hang up from Frank Miller when asked for his assistance. Our contacts have been many due to many vacation days by the Fairfax County employees as indicated on our log contacts.

Hopeless, we contacted an architect in November. He advised us to sit tight until Fairfax County made it clear on what the problems are and how to proceed. Despite his advise we have been pursuing a Special Permit in order to resolve the matter. Additionally, our neighbors have enclosed letters confirming their support to keeping the structure intact to protect the safety of children, add value to their properties, and enhance the beauty of the neighborhood. There have been no neighbors opposing the accessory structure.

- C. Such a 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 the removal of the structure will cause the permitted above ground pool to look unflattering and decrease the value of our property and neighboring properties. The accessory structure was built to create beauty in a neighborhood where only an ugly steep graded property existed, as indicated by letters from 3 adjacent neighbors as attached and
- E. It will not create an unsafe condition with respect to both other property and public streets. In fact, the grade of the yard prior to the project was so steep that is created unsafe conditions for children. The removal of the structure will create an unsafe environment for citizens.
- F. To force compliance with the minimum yard requirements would cause unreasonable financial and valuation of property hardships upon the owner . additionally, the removal of the structure would devalue the neighboring properties due to the ugly steep lot that would remain and a County approved above ground pool without a complimentary accessory structure. The accessory structure is built of composite materials and the financial loss to the owner of the materials, labor to install the structure, the cost to have the structure removed and loss of property value as per a realtor, would be excessive.
- G. the reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.



1 IMG_0551 4/20/2009 Taken By: CHERYL



2 IMG_0553 4/20/2009 Taken By: CHERYL
SIDEVIEW FROM UPPER DECK OF HOUSE



3 IMG_0554 4/20/2009 Taken By: CHERYL
UPPER DECK VIEW FACING VALDA ROJAS PROPERTY



4 IMG_0555 4/20/2009 Taken By: CHERYL
VIEW OF YARD ADJACENT TO THE STRUCTURE ON THE



5 IMG_0558 4/20/2009 Taken By: CHERYL
VIEW FACING REAR OF PROPERTY FROM FRONT GATE OF THE



6 IMG_0870 6/16/2009 Taken By: CHERYL
BACK CORNER OF STRUCTURE OVER 5' FROM COUNTY RIGHT OF



7 IMG_0559 4/20/2009 Taken By: CHERYL
VIEW FACING POPPELLS PROPERTY FROM THE STRUCTURE



8 IMG_0561 4/20/2009 Taken By: CHERYL
VIEW FROM POPPELLS YARD



9 IMG_0562 4/20/2009 Taken By: CHERYL
VIEW FROM POPPEL'S DECK



10 IMG_0563 4/20/2009 Taken By: CHERYL
VIEW FROM SIDE OF OWNERS HOME



11 IMG_0564 4/20/2009 Taken By: CHERYL
VIEW FROM VALDA /ROJAS DECK



12 IMG_0565 4/20/2009 Taken By: CHERYL
VIEW 2 FROM VALDA ROJAS DECK



13 IMG_0567 4/20/2009 Taken By: CHERYL
VIEW FROM FRONT OF PROPERTY



14 IMG_0568 4/20/2009 Taken By: CHERYL
VIEW OF REAR OF PROPERTY FROM BACK NEIGHBORS YARD-CANT



15 IMG_0569 4/20/2009 Taken By: CHERYL
VIEW 2 FROM REAR OF PROPERTY



16 IMG_0570 4/20/2009 Taken By: CHERYL
CLOSE UP OF REAR OF STRUCTURE



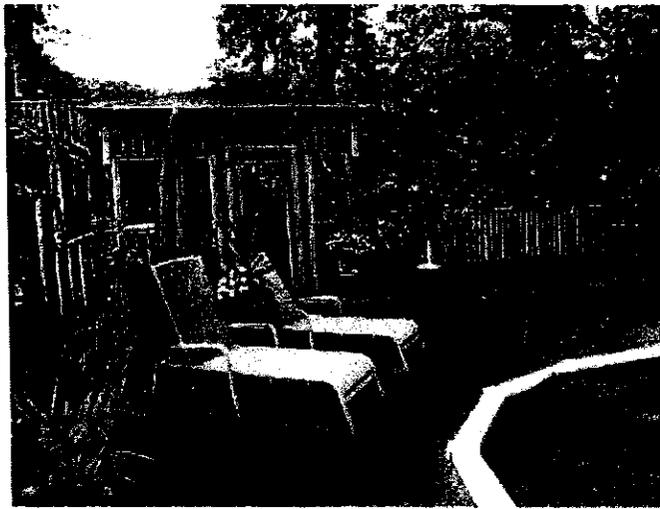
17 IMG_0571 4/20/2009 Taken By: CHERYL
2ND VIEW OF REAR OF STRUCTURE / SHOWING HEIGHT



18 IMG_0572 4/20/2009 Taken By: CHERYL
VIEW OF COUNTY OWNED RAVINE BEHIND THE STRUCTURE/CANT



19 IMG_0843 6/16/2009 Taken By: CHERYL
UNDERNEATH DECK AND THE STEEP SLOPE THAT WONT GROW



20 IMG_0844 6/16/2009 Taken By: CHERYL
GAZEBO 2' FROM NEIGHBORS FENCE



21 IMG_0845

6/16/2009

Taken By: CHERYL

SPACE BETWEEN NEIGHBORS FENCE AND OUR GAZEBO



22 IMG_0846

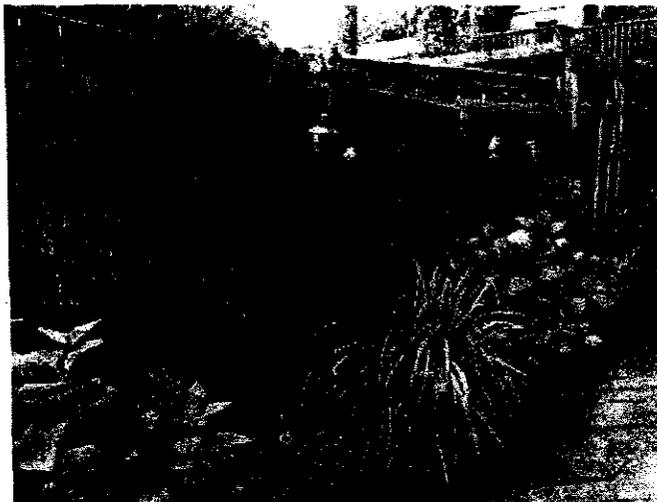
6/16/2009

Taken By: CHERYL

3.5' FLOWER BED BETWEEN OUR ACCESSORY STRUCTURE AND THE



23 IMG_0847 6/16/2009 Taken By: CHERYL
2ND VIEW OF FLOWER BED SEPARATION



24 IMG_0848 6/16/2009 Taken By: CHERYL
3RD VEIW OF FLOWER BED SEPARATION

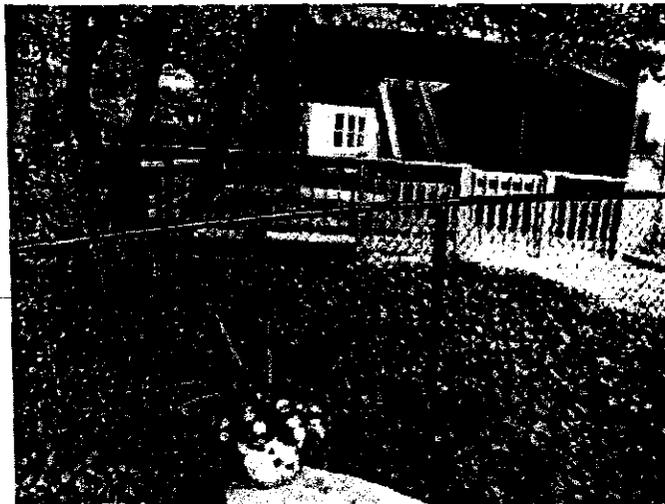


25 IMG_0851

6/16/2009

Taken By: CHERYL

VIEW FROM POPPELLS PROPERTY LINE THIS STRUCTURE IS ON THE

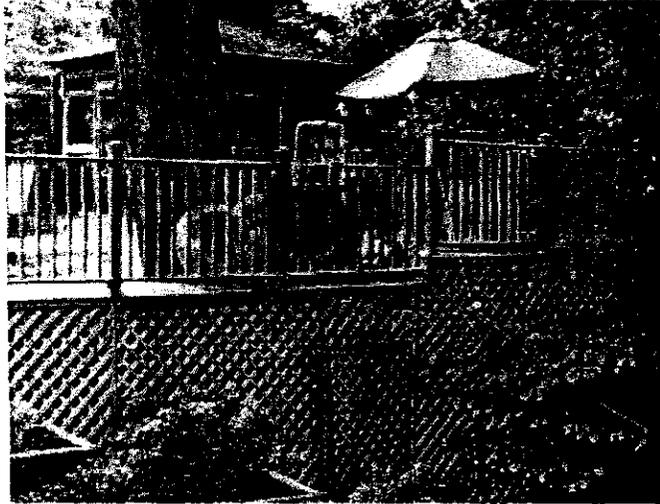


26 IMG_0849

6/16/2009

Taken By: CHERYL

MORAN LAWN FACING POPPELL



27 IMG_0850

6/16/2009

Taken By: CHERYL

SIDE OD ACCESSORY STRUCTURE TO PROTECT ENTRY BY CHILDREN



28 IMG_0852

6/16/2009

Taken By: CHERYL

HEIGHT OF ACCESSORY STRUCTURE WITH VEGETATION FROM



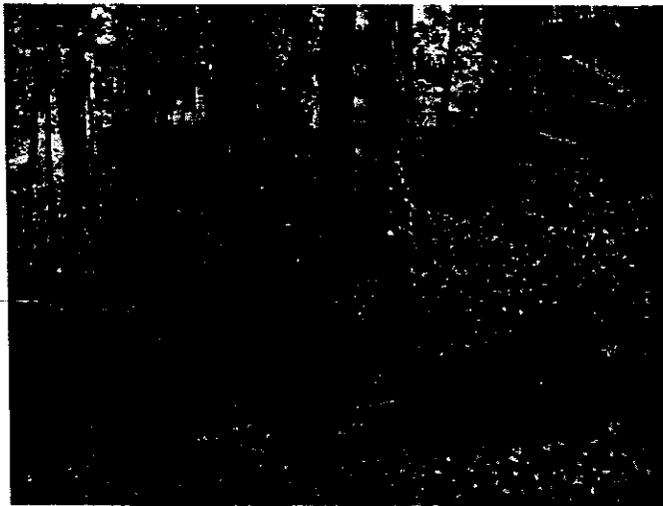
29 IMG_0853 6/16/2009 Taken By: CHERYL



30 IMG_0857 6/16/2009 Taken By: CHERYL
VIEW UPWARD FROM BOTTOM BACK OF STRUCTURE



31 IMG_0858 6/16/2009 Taken By: CHERYL
ADJACENT POPPELLS YARD SHOWING SLOPE OF YARDS IN



32 IMG_0859 6/16/2009 Taken By: CHERYL
SLOPED YARDS UP THE HOLLOW AT REAR OF PROPERTIES



33 IMG_0865

6/16/2009

Taken By: CHERYL

TOP VIEW OD ACCESSORY STRUCURE SHOWING UNUSABLE LAND

April 15, 2009

Fairfax County Zoning Evaluation Division
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035

Reference: 6224 Berlee Drive

Dear Sir or Madame:

I am writing in support of Larry and Cheryl Moran's request for variance in zoning for their property located at 6224 Berlee Drive, Alexandria VA 22312. My property is adjacent to the Moran's. While I was not aware that the deck was in violation of the County's zoning code, I believe it is a welcomed addition to their property. The area behind our homes is a steep ravine and is not functional without additions such as that constructed by the Morans. Their deck appears to be well built and is tasteful in appearance. I believe it enhances both their property and mine. I encourage you to approve their request for a variance to the existing code.

Sincerely,

Evelyn Poppell
6222 Berlee Drive
Alexandria, VA 22312

RECEIVED
Department of Planning & Zoning
APR 21 2009
Zoning Evaluation Division

April 6, 2009

Fairfax County Zoning Division
Fairfax County Virginia

To whom it may concern:

Ladies and Gentlemen:

We are neighbors of Larry and Cheryl Moran. Our address is 6220 Berlee Drive, Alexandria, Virginia, just two doors down for the Morans.

We have been residents of this neighborhood for 25 years and since the Moran's moved in they have continuously been improving their property. We believe that the pool and deck complex is visually very nice from our backyard view. We have no objections to the addition and actually believe it will help our neighborhood property values.

Sincerely,

Terry and Sarah Ashe
6220 Berlee Drive
Alexandria, VA 22312

RECEIVED
Department of Planning & Zoning

APR 21 2009

Zoning Evaluation Division

March 31, 2009

Fairfax County Zoning Division
Fairfax County Virginia

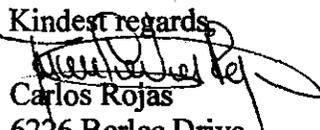
To whom it may concern:

Ladies and Gentlemen:

My name is Carlos Rojas and I am an immediate neighbor of Larry and Cheryl Moran whose residence is located at 6224 Berlee Drive, Alexandria, VA 22312.

Please be advised that the pool /deck complex that they have established in their back yard is not in any way objectionable to me or my family or other neighbors to whom I have talked. In fact, we believe it has helped beautify the neighborhood and added value to all of our homes. We would vote in favor of any variance they are seeking to keep this valuable neighborhood asset.

Kindest regards,


Carlos Rojas
6226 Berlee Drive
Alexandria, VA 22312

RECEIVED
Department of Planning & Zoning
APR 21 2009
Zoning Evaluation Division



County of Fairfax, Virginia

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

SHERIFF'S LETTER

LEGAL NOTICE CORRECTIVE WORK ORDER

DATE OF ISSUANCE: May 23, 2008 COMPLAINT #: 32197
 CORRECTIVE WORK ORDER ISSUED TO: Moran Larry G LICENSE #:
 ADDRESS: 6224 Berlee Dr
 Alexandria, Va 22312
 PROPERTY OWNER(S): ✓ Moran Larry G
 Moran Cheryl A
 LOCATION OF VIOLATION: 6224 Berlee Dr
 Alexandria, Va 22312-1224
 TAX MAP NUMBER: 0722 09 0096 PERMIT #:

I inspected the above premises on 05/22/2008 and observed the following:

a deck has been constructed without the required permit(s).

This is a violation of Section 108.1 of the 2006 Virginia Uniform Statewide Building Code (VUSBC) effective May 1, 2008. This section states:

108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure, including the installation or altering of any equipment regulated by the USBC. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.
2. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.
3. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

RECEIVED
MAY 23 2008
COUNTY OF FAIRFAX

Department of Public Works and Environmental Services
 Land Development Services, Code Enforcement
 12055 Government Center Parkway, Suite 210
 Fairfax, VA 22035-5500
 Phone: 703-324-1937, TTY: 711, Fax: 703-968-2886
www.fairfaxcounty.gov/dpwes

CORRECTIVE WORKORDER: Pursuant to the VUSBC, Section 115, Violations, Section 115.2, Notice of Violation, you are directed to correct this defect within 10 days of receipt of this Corrective Work Order. Failure to follow this order within the specified time may result in a Notice of Violation under the applicable State and County Codes.

RIGHT TO APPEAL THIS NOTICE: As provided by the VUSBC, Section 119.5, Right of appeal; filing of appeal application, you have the right to appeal this decision to the Local Board of Building Code Appeals (LBBCA), within thirty (30) calendar days of receipt of this Notice. You may call the Secretary to the BBCA at 703-324-1980 for more information about the appeals process.

LEGAL NOTICE ISSUED BY: Francis Miller
TITLE: Combination Inspector
Code Enforcement Investigation Team

SIGNATURE: Francis Miller 6/25/08
NOTICE DELIVERED BY CERTIFIED MAIL NO: 70073020000249833879



County of Fairfax, Virginia

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

SHERIFF'S LETTER

LEGAL NOTICE NOTICE OF VIOLATION

DATE OF ISSUANCE:	June 23, 2008	COMPLAINT #:	32197
LEGAL NOTICE ISSUED TO:	Moran Larry G Moran Cheryl A	LICENSE #:	
ADDRESS:	6224 Berlee Dr Alexandria, Va 22312		
PROPERTY OWNER(S):	Moran Larry G Moran Cheryl A		
LOCATION OF VIOLATION:	6224 Berlee Dr Alexandria, Va 22312-1224		
TAX MAP NUMBER:	0722 09 0096	PERMIT #:	

On **May 23, 2008**, a Corrective Work Order was issued directing you to correct the following item within **10 days** of receipt of that order:

a deck has been constructed without the required permit(s).

This is a continuing violation of Section 108.1 of the 2006 Virginia Uniform Statewide Building Code (VUSBC) effective May 1, 2008. This section states:

108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure, including the installation or altering of any equipment regulated by the USBC. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.
2. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.
3. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

Department of Public Works and Environmental Services
 Land Development Services, Code Enforcement
 12055 Government Center Parkway, Suite 210
 Fairfax, VA 22035-5500
 Phone: 703-324-1937, TTY: 711, Fax: 703-968-2886
www.fairfaxcounty.gov/dpwes

NOTICE OF VIOLATION: Pursuant to the VUSBC, Section 115, **Violations, Section 115.2, Notice of Violation,** you are directed to correct this defect within **10 days** of receipt of this Notice.

Failure to follow this order within the specified time may result in additional enforcement action under the applicable State and County Codes.

RIGHT TO APPEAL THIS NOTICE: As provided by the VUSBC, Section 119.5, **Right of appeal; filing of appeal application,** you have the right to appeal this decision to the Local Board of Building Code Appeals (LBBCA), within thirty (30) calendar days of receipt of this Notice. You may call the Secretary to the BBCA at 703-324-1980 for more information about the appeals process.

LEGAL NOTICE ISSUED BY: Francis Miller
TITLE: Combination Inspector
Code Enforcement Investigation Team

SIGNATURE: Frank Miller 7/30/08

NOTICE DELIVERED BY CERTIFIED MAIL NO: 70073020000249834050

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.