APPLICATION ACCEPTED: July 30, 2009
DATE OF PUBLIC HEARING: October 27, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 20, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2009-PR-073

PROVIDENCE DISTRICT

APPLICANT:	Giovanni Garcia
OWNER:	Giovanni and Roxana Garcia
ZONING:	R-1
LOCATION:	8432 Overbrook Road
SUBDIVISION:	Pine Ridge
ZONING ORDINANCE PROVISION:	8-914
TAX MAP:	49-3 ((8)) 16
LOT SIZE:	1 Acre (43,562.5 Sq. Feet)
SP PROPOSAL:	Reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 14.6 feet from side lot line.

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

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

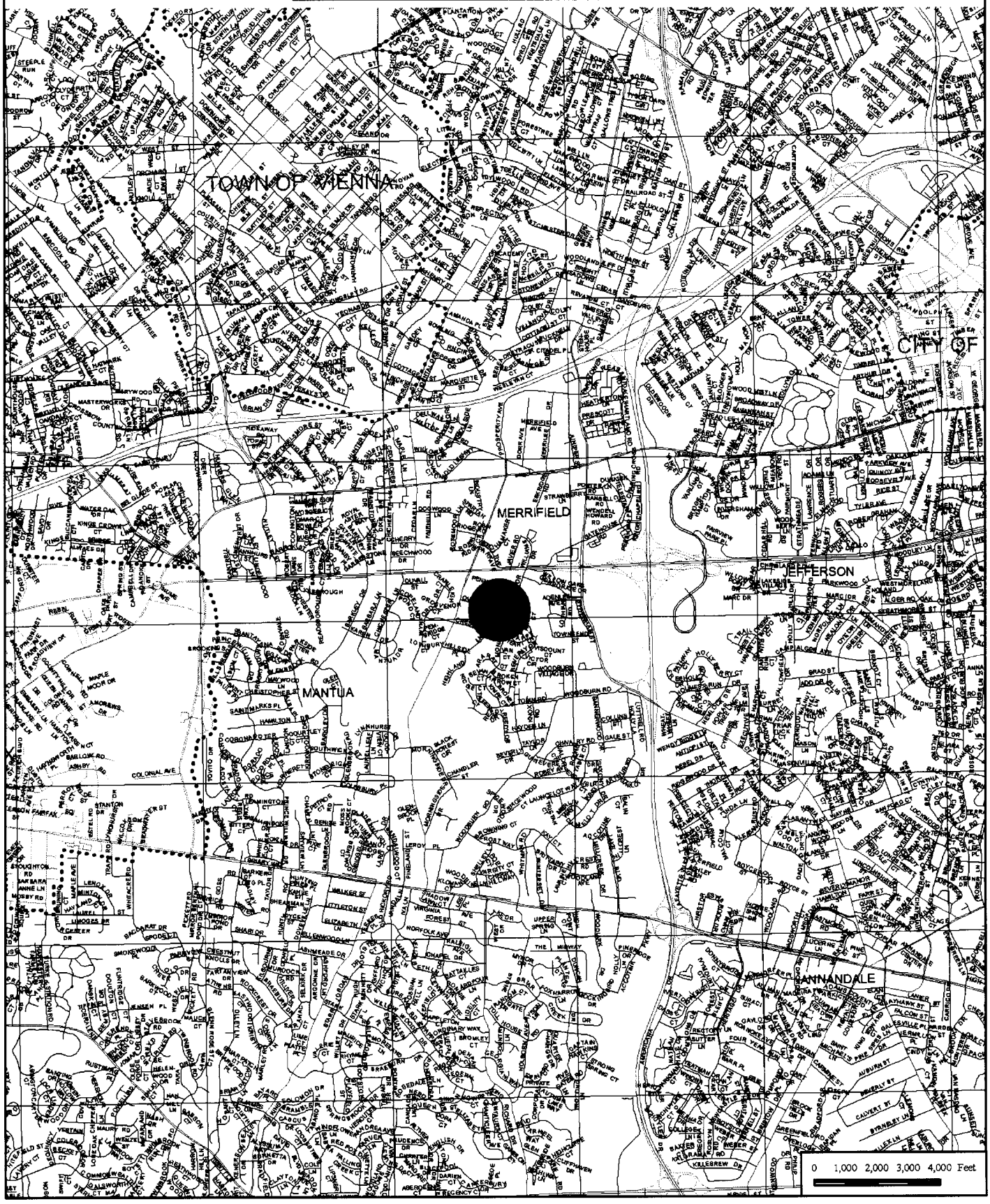
O:\Scaff2\Case Files\Special Permits\SP 2009-PR-073 GIOVANNI GARCIA\GARCIAi_cover.doc **Shannon Caffee**

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).

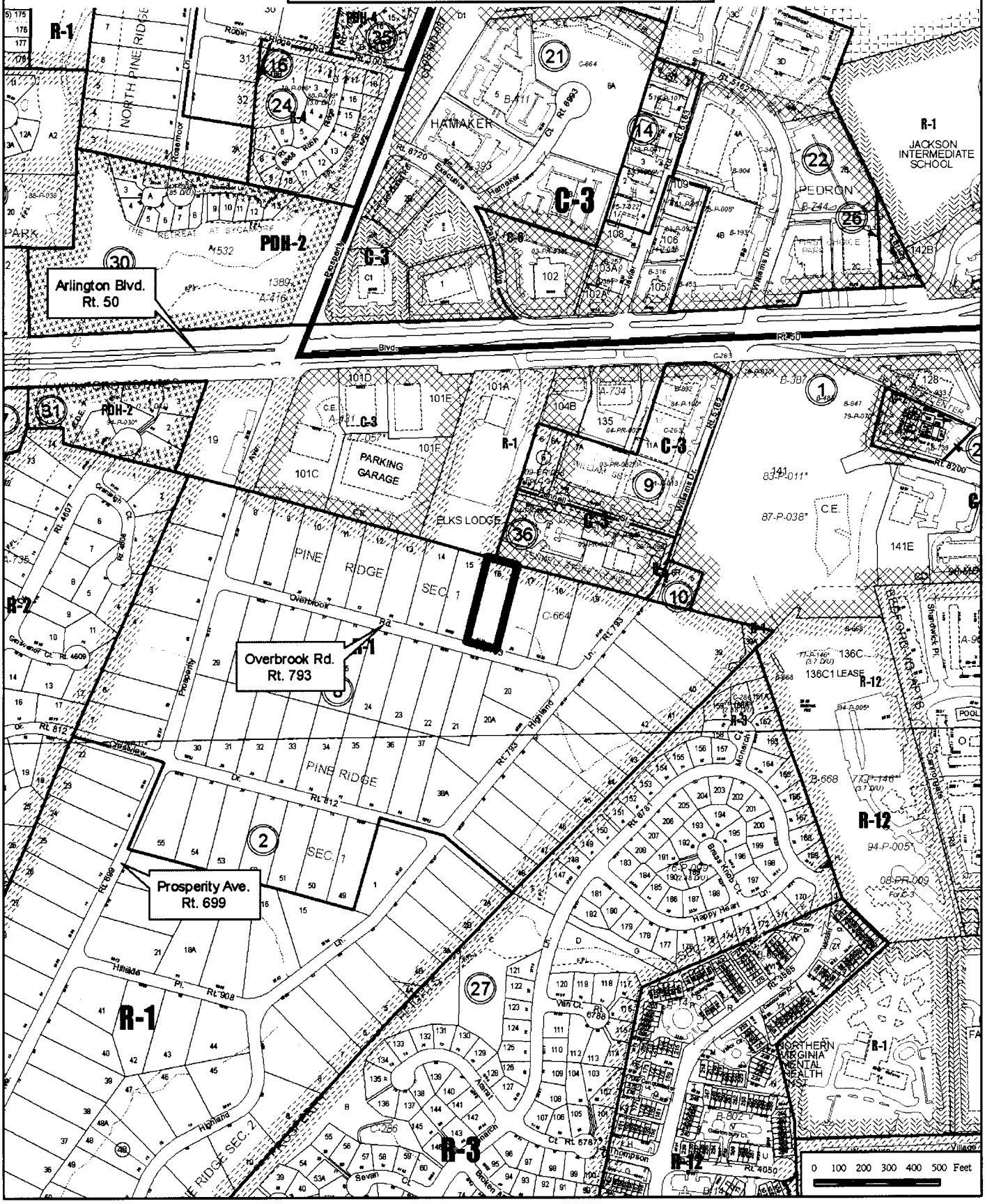
Special Permit

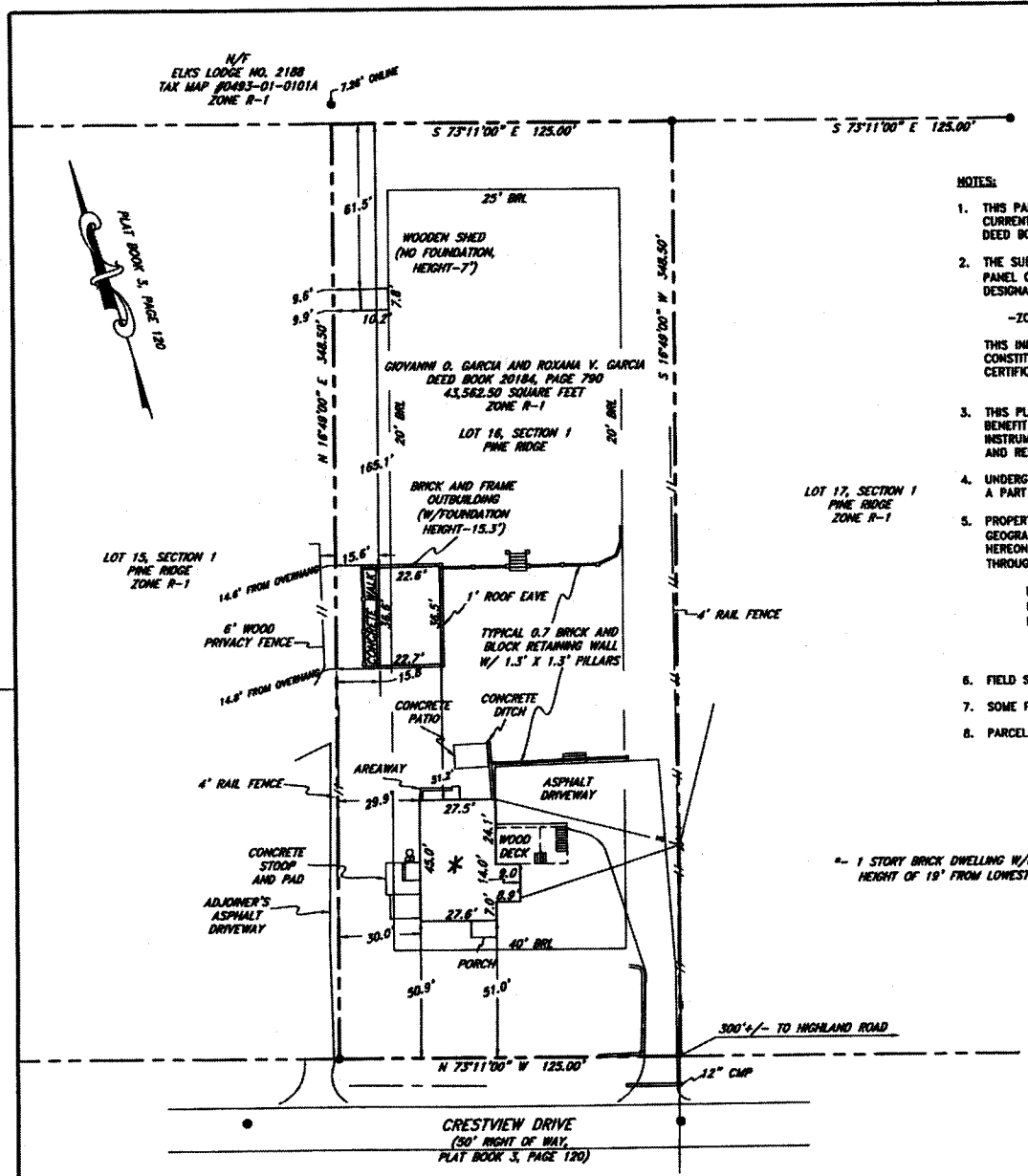
SP 2009-PR-073



Special Permit

SP 2009-PR-073





NOTES:

1. THIS PARCEL OF LAND IS DELINEATED BY FAIRFAX COUNTY TAX MAP NUMBER 0493-08-0016. CURRENT OWNERS OF RECORD IS GIOVANNI O. GARCIA AND ROXANA B. GARCIA RECORDED IN DEED BOOK 20184, PAGE 790, ALL AMONG THE RECORDS OF FAIRFAX COUNTY, VIRGINIA.

2. THE SUBJECT PROPERTY IS LOCATED ON FEMA FLOOD INSURANCE RATE MAP 515525, PANEL 0100 D, WITH AN EFFECTIVE DATE OF 3/5/1990. THE FOLLOWING FLOOD ZONE DESIGNATIONS APPEAR TO BE ON THE PROPERTY:

   -ZONE X - AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN

   THIS INFORMATION IS DERIVED SOLELY FROM THE FLOOD INSURANCE RATE MAP. IT DOES NOT CONSTITUTE THE RESULTS OF A FLOOD STUDY BY THIS FIRM, NOR IS IT A CERTIFICATION OF FLOOD ZONE.

3. THIS PLAT, AND THE SURVEY UPON WHICH IT IS BASED, HAVE BEEN PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE, COMMITMENT FOR TITLE INSURANCE, OR OTHER LIKE INSTRUMENT, AND THEREFORE MAY NOT INCLUDE ALL EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS AND RESERVATIONS OF RECORD.

4. UNDERGROUND IMPROVEMENTS OR UTILITIES HAVE NOT BEEN LOCATED AND ARE NOT SHOWN AS A PART OF THIS SURVEY.

5. PROPERTY CURRENTLY ZONED "R1" ACCORDING TO THE FAIRFAX COUNTY ONLINE GEOGRAPHIC INFORMATION SYSTEM. BUILDING RESTRICTION LINES/SETBACKS AS SHOWN HEREON ARE FROM THE FAIRFAX ZONING ORDINANCE AS AMENDED THROUGH 11/17/08. LOT REQUIREMENTS STATED THEREIN ARE AS FOLLOWS:

   MINIMUM FRONT YARD: 40'
   MINIMUM SIDE YARD: 20'
   MINIMUM REAR YARD: 25'
   MAXIMUM BUILDING HEIGHT: SINGLE FAMILY DWELLING: 35'
   ALL OTHER STRUCTURES: 60'

6. FIELD SURVEY COMPLETED ON 01/19/2009.

7. SOME FEATURES MAY BE EXAGGERATED FOR CLARITY.

8. PARCEL IS SERVED BY PUBLIC WATER AND SEWER.

*- 1 STORY BRICK DWELLING W/BASEMENT, #8432 POSTED ON MAILBOX HEIGHT OF 19' FROM LOWEST GROUND

LEGEND

These standard symbols will be found in the drawing.

- WOODEN FENCE
- UTILITY POLE
- SANITARY MANHOLE
- CLEANOUT
- IRON PIPE FOUND
- OVERHEAD WIRES
- CMP CORRUGATED METAL PIPE
- BRL BUILDING RESTRICTION LINE

DRH Design Group, Inc.
ENGINEERS • PLANNERS • SURVEYORS
35 Rock Pointe Lane - Suite 200
Warrenton, Virginia 20186
540-349-8396
540-349-8588 fax
www.drhdesigngroup.com

THIS DRAWING IS A SERVICE DOCUMENT OF DRH DESIGN GROUP, INC. AND MAY NOT BE USED OR REPRODUCED WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER AND/OR SURVEYOR.

EXISTING UTILITIES SHOWN ON THIS PLAN ARE TAKEN FROM AVAILABLE RECORDS AND/OR FIELD OBSERVATIONS. FOR EXACT LOCATIONS OF EXISTING UNDERGROUND UTILITIES, NOTIFY "MISS UTILITY" AT 1-800-552-7777, 72 HOURS BEFORE THE START OF EXCAVATION OR CONSTRUCTION.

LOCATION AND DEPTHS OF ALL EXISTING UNDERGROUND UTILITIES TO BE VERIFIED BY CONTRACTOR PRIOR TO CONSTRUCTION. INTERFERENCE OR DISRUPTION OF SAME WILL NOT BE THE RESPONSIBILITY OF DRH DESIGN GROUP, INC.

SURVEYOR'S CERTIFICATE

I, DAVID R. HALL, A DULY LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA (REGISTRATION NO.2248) DO HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE SURVEY SHOWN HEREON IS BASED UPON AN ACTUAL SURVEY MADE ON THE GROUND AND MEETS ALL MINIMUM STANDARDS AND PROCEDURES FOR LAND BOUNDARY SURVEYING IN THE COMMONWEALTH OF VIRGINIA.

COMMONWEALTH OF VIRGINIA
DAVID R. HALL
Lic. No.2248
LAND SURVEYOR

HOUSE LOCATION SURVEY

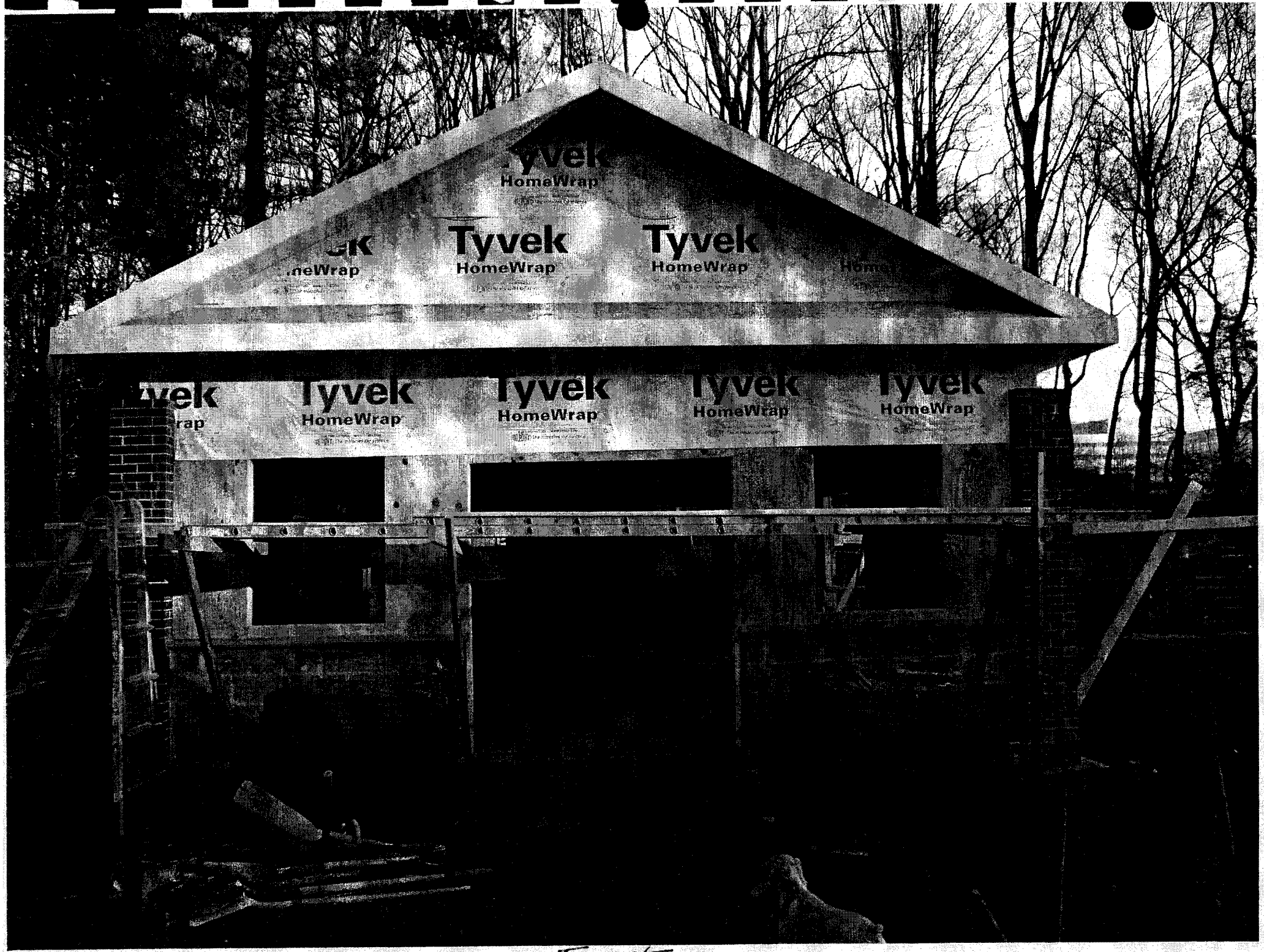
ON THE PROPERTY OF
GIOVANNI O. GARCIA AND ROXANA V. GARCIA
LOT 16, SECTION 1
PINE RIDGE SUBDIVISION
SITUATED IN PROVIDENCE MAGISTERIAL DISTRICT
FAIRFAX COUNTY, VIRGINIA

0' 30' 60' 90'
SCALE 1" = 30'

COMPUTED BY	RJB
DRAWN BY	RJB
CHECKED BY	DRH
DATE	1/22/09
JOB NO.	209028
SHEET	1 OF 1
REVISED	4/2/09

J:\209028\Survey\REVISED PLAT.dwg, 4/1/2009 2:59:00 PM, 1:1

Side


Tyvek
HomeWrap
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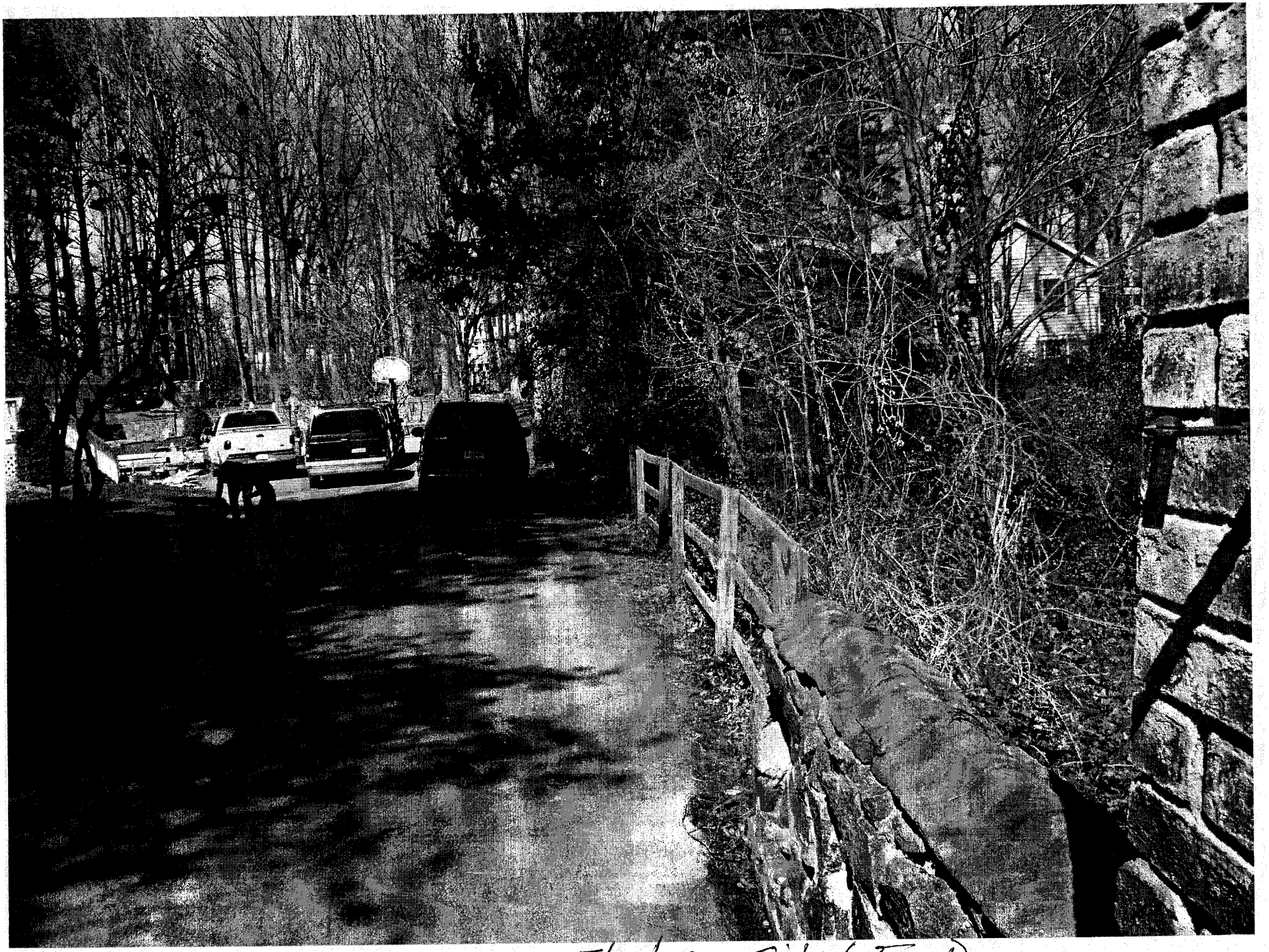
Front

Front / 8432 Overbrook Rd, Fairfax VA

Eliolna Back of lot

5/10/09 Side Set back

5/10/09 Page 1 of 1



5/10/09 Side (Front)

5/10/09

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for the subject property to permit reduction in minimum yard requirements based on error in building location for an accessory structure (workshop) to remain 14.6 feet from the western side lot line.

	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Side	20 feet	14.6 feet	5.4 feet	27 %

* Minimum yard requirement per Section 10-104

CHARACTER OF THE AREA

	Zoning	Use
North	C-3	Commercial/Office Space
South	R-1	Single Family Detached Dwellings
East	R-1	Single Family Detached Dwellings
West	R-1	Single Family Detached Dwellings

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** House Location Survey on the Property of Giovanni O. Garcia and Roxana V. Garcia, Lot 16, Section 1, Pine Ridge Subdivision
- **Prepared By:** David R. Hall, DRH Design Group, Inc., dated January 22, 2009, revised April 2, 2009 and signed through April 1, 2009
- **Building Permit Required for Structure:** Yes
- **Obtained:** No, however the applicant came in to get a building permit after the structure was constructed but was denied due to the need of a special permit.
- **Location Error Made By:** Applicant

BACKGROUND

The existing single family detached dwelling was constructed in 1947 with a one story with basement single family dwelling based on real estate assessments. A Notice of Violation (NOV) was issued on May 30, 2006 for the subject property for the operation of a business in a residential district. The violation has since been cleared and no other Notices of Violation have been issued for the subject property. A copy of the NOV can be found in Appendix 4.

The applicant attempted to obtain a building permit for the detached structure (workshop) after it had been constructed to come into compliance; however, was denied due to its location to the side lot line. A copy of the permit application can be found in Appendix 5.

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

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

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

CONCLUSION

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation
5. Building Permit Application for Workshop
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2009-PR-073

October 20, 2009

1. This special permit is approved for the location of an existing detached accessory structure (workshop) as shown on the plat prepared by David R. Hall, DRH Design Group, Inc., dated January 22, 2009, revised April 2, 2009 and signed through April 1, 2009, submitted with this application and is not transferable to other land.

2. Within 120 days of approval of this application, a building permit and final inspections for the detached structure (workshop) shall be obtained or the structure shall be removed or brought into compliance with Zoning Ordinance requirements.

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: 02/10/2009
(enter date affidavit is notarized)

I, Giovanni Garcia, 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 103625

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)
Giovanni O. Garcia	8432 Overbrook Road, Fairfax, VA 22031	Applicant Title Owner
Roxana V. Garcia	8432 Overbrook Road, Fairfax, VA 22031	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: 02/10/2009
(enter date affidavit is notarized)

103625

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)
NOT A CORPORATION

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)
NONE

(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: 02/10/2009
(enter date affidavit is notarized)

103625

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)
NOT A PARTNERSHIP

(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)**

NONE

(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: 02/10/2009
(enter date affidavit is notarized)

103625

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: 02/10/2009 103625

(enter date affidavit is notarized)

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

Giovanni O. Garcia/ Applicant Title Owner

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

Subscribed and sworn to before me this 11 day of Feb 2009, in the State/Comm. of VA, County/City of Fairfax.

Notary Public

My commission expires: Sep 30 2011

AHMED FAROUK
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES SEP. 30, 2011
COMMISSION #7114683

AHMED FAROUK COMMONWEALTH OF VIRGINIA NOTARY PUBLIC

GIOVANNI GARCIA
8432 OVERBROOK ROAD, FAIRFAX, VA 22031

Fairfax County Zoning
Mrs. Virginia H. Ruffner

07/20/09

Dear Sir or Madam:

I want to thank you taking my call to answer some of the questions that I had about the special permit application we filed some time ago. I am enclosing 10 copies 24x36 revised special permit plats and one 8.5 x 11 reduction copy of same, I have revised the zoning application (4 copies) also I am enclosing 6 photographs that show abutting properties.

In reference to the checklist report that you sent me, these are the answers I would have to the best of my knowledge.

Item 5.08 -No hazardous waste or toxic substances are stored in this structure

Item 5.09-Proposed reduction to minimum yard requirements based on error in building location to permit building to exist 14.6 feet from side lot line, this is including the roof eave.

Item 912.00- 8-914 Provisions of approval requirements

1. Revised special permit plat enclosed (10 copies 24x36, one 8.5x11 copy)

2A Error exceeds 10 percent of the measurement involved

2B The noncompliance was done in good faith, neighbor fence is built 4.5 feet inside property line so measurements were taken from neighbor's wood fence.

2C,D This reduction does not detriment to the use and enjoyment of other property in the immediate vicinity.

2E The structure does not create a unsafe conditions to both property and public street

2F To force compliance with minimum yard requirement will cause unreasonable hardship to owner

2G The reduction does not create a increase in density of floor area ratio from permitted by the applicable zoning district regulations.

Sincerely,
Giovanni Garcia/ Applicant

RECEIVED
Department of Planning & Zoning
JUL 24 2009
Zoning Evaluation Division

Special Permit Justification **07/20/09**

Applicant: Giovanni Garcia/ Owner

Property Owner: Giovanni Garcia, Roxana Garcia
Property Address: 8432 Overbrook Road, Fairfax, VA 22031

Reason for Application for Special Permit:
Reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 15.6 feet from neighbor side lot line and 14.6 feet including roof eave.

Violation
Side set back Zoning District is R1, 20 feet

Building Description:
Concrete Slab, Cinder block, Wood Framing, Cement Fiber Siding, Windows, Doors, Engineered Asphalt Shingle,

Building Use:
Storage-Workshop
There are many storage-workshop, garage structures alike in neighborhood with same if not bigger area

Explanation
Structure was measured and built 20 feet from the neighbor's (3500 Overbrook Rd. Fairfax, VA) existent wood fence.

Finding
When applying for a permit to legalize already built structure we come to find out that structure is built at 15 feet 6 inches from the neighbor's property line. This is according to a new special permit plat.

The main purpose of this letter is to justify that the measurement taken of the neighbor side set back to build the structure in question was done not to cause any harm but instead in mistake.

For your consideration, please contact me if you have any questions

Subscribed and sworn to before me, in my presence, this 23 day of July 2009, a Notary Public in and for the Fairfax of Virginia.

Notary Public

My commission expires _____ 20___

ANA CECILIA BONILLA
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JAN. 31, 2011
COMMISSION # 7084801

Giovanni Garcia
8432 Overbrook Road
Fairfax, VA 22031
703-731-4037
Applicant Owner

APPENDIX 4

County of Fairfax, Virginia

Street

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

May 30, 2006

NOTICE OF VIOLATION

SHERIFF'S LETTER

FAIRFAX COUNTY
RECEIVED
MAY 26 2006
DIVISION OF
ZONING ADMINISTRATION

Giovanni Garcia
Roxana V. Garcia
Oscar B. Garcia
8432 Overbrook Road
Fairfax, VA 22031

Re: 8432 Overbrook Road
Subdivision: Pine Ridge, Sec. 1, Lot 16
Tax Map Ref.: 49-3 ((8)) 168
Zoning District: R-1

Dear Misters Garcia and Ms. Garcia:

A zoning inspection of the above-referenced, including a conversation with Mr. Garcia on April 25, 2006, revealed that you are operating the office component of a cleaning business (Super Clean) at your residence. Mr. Garcia also stated that there is more than one employee associated with the business who reports to the referenced property. This use is deemed to be an office which is a use not permitted by right, special permit or special exception at the above-referenced property and as such, you, as the property owners, are in violation of Par. 5 of Sect. 2-302 of the Fairfax County Zoning Ordinance, which states:

> No use shall be allowed in any district which is not permitted by the regulations for the district

Additionally, while a home occupation for an office is permissible under Article 10 of the Fairfax County Zoning Ordinance, a Home Occupation Permit must be obtained from Fairfax County. A review of Home Occupation Permit records, maintained by the Department of Planning and Zoning (Zoning Administration Division), confirmed that no such permit has been issued for the office operation located at 8432 Overbrook Road even though a Home Occupation Permit application was faxed to you on April 25, 2006, for your convenience.

Department of Planning and Zoning
Zoning Administration Division
Zoning Enforcement Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/

As set forth in the provisions of Sect. 10-304 of the Zoning Ordinance, in addition to the use limitations applicable in the zoning district in which located, all home occupations shall be subject to the following use limitations:

1. A home occupation must be conducted by the home occupation permit applicant, within the dwelling, which the primary residence of the applicant or in an accessory building thereto which is normally associated with a residential use, and shall be clearly subordinate to the principal use of the lot as a dwelling.

2. Except for articles produced, on the premises, no stock in trade shall be stored, displayed or sold on the premises.

3. There shall be no exterior evidence that the property is used in any way other than for a dwelling.

4. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home, associated with a hobby, or avocation not conducted for gain or profit, or customary for a small office.

5. No outside display or storage of goods, equipment, or materials used in connection with the home occupation shall be permitted.

6. The home occupation permit applicant and other persons, who use the dwelling, as their primary residence, may be involved in the home occupation use. In addition, one (1) non-resident person, whether or not paid for their services, may be involved in the home occupation use on the property provided that there is only one (1) such person on the property and the hours, of such attendance, shall be limited to 8:00 AM to 5:00 PM, Monday through Friday.

7. Only one commercial vehicle shall be permitted, per dwelling unit, subject to the provisions of Sect. 102 above.

8. The dwelling, in which the home occupation is being conducted, shall be open for inspection to County personnel during reasonable hours.

9. A permit, for a home occupation, is valid for only the original applicant and is not transferable to any resident, address or any

> other occupation. Upon termination, of the applicant's residency, the Home Occupation Permit shall become null and void.

10. No sign shall be permitted.

11. There shall be no customers or clients.

Operating the office component of the cleaning business without a Home Occupation Permit is a violation of Paragraph 8 of Sect. 2-302, which states as follows:

> No home occupation shall hereafter be established, altered, or enlarged unless such home occupation complies with the provisions of Part 3 of Article 10.

Therefore, you are in violation of the aforementioned provisions. You are, hereby, directed to clear these violations within thirty (30) days of the receipt of this notice. Compliance can be accomplished by:

- Ceasing to operate the cleaning business from the above-referenced property; or
- Obtaining a Home Occupation Permit for operating the office component of the cleaning business, and
- Complying, on a permanent basis, with all limitations of the Home Occupation Permit, including no more one (1) non-resident person, whether or not paid for their services home occupation use on the property.

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

Failure to comply, with this Notice, **shall** result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1388 or (703) 324-1300.

Sincerely,

Susan M. Epstein
Senior Zoning Inspector

SME/seg/jrs

APPENDIX 5

BUILDING PERMIT APPLICATION

FAIRFAX COUNTY GOVERNMENT
PERMIT APPLICATION CENTER
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035-5504
Telephone: 703-222-0801
Web site: http://www.fairfaxcounty.gov/dpwes

PERMIT # 9012 0058

FOR INSPECTIONS CALL 703-222-0455 (see back for more information)
OR VISIT US ON THE WEB AT
http://www.fairfaxcounty.gov/inet/inspection_sched.asp

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

JOB LOCATION
ADDRESS 8432 Overbrook Rd
LOT # 16 BUILDING
FLOOR SUITE
SUBDIVISION Pine Ridge
TENANT'S NAME Pt 1
EMAIL
CONTACT ID

OWNER INFORMATION OWNER ☐ TENANT ☐
NAME Giovanni Garcia
ADDRESS 8432 Overbrook Rd
CITY Fairfax STATE VA ZIP 22031
TELEPHONE (703) 731-4037
EMAIL ggarcia@Superdeanteam.com
CONTACT ID

CONTRACTOR INFORMATION SAME AS OWNER ☒
CONTRACTORS MUST PROVIDE THE FOLLOWING:
COMPANY NAME
ADDRESS
CITY STATE ZIP
TELEPHONE
EMAIL
STATE CONTRACTORS LICENSE #
COUNTY BPOL #
CONTACT ID

APPLICANT
NAME Giovanni Garcia
ADDRESS 8432
CITY Fairfax STATE VA ZIP 22031
TELEPHONE (703) 731-4037
EMAIL ggarcia@
CONTACT ID

DESCRIPTION OF WORK:
Workshop Storage Shed One Floor, Wood Structure and Cinder block on Slab foundation. Shell of fiber Cement Siding and Shingle roof

HOUSE TYPE
ESTIMATED COST OF CONSTRUCTION ~~18,000~~ 15,000
USE GROUP OF BUILDING
TYPE OF CONSTRUCTION

DESIGNATED MECHANICS' LIEN AGENT
(Residential Construction Only)
NAME
ADDRESS
NONE DESIGNATED ☐ PHONE

ZONING REVIEW
USE SD
ZONING DISTRICT R1 HISTORICAL DISTRICT
ZONING CASE #
GROSS FLOOR AREA OF TENANT SPACE 21 x 35 = 735

YARDS:	
FRONT	
FRONT	
L SIDE	
R SIDE	
REAR	

GARAGE 1 ☐ 2 ☐ 3 ☐
OPTIONS YES ☐ NO ☐
REMARKS Build detached acc. garage

REMARKS

No Zoning Cases open. 1/12/09 AS

1/12/09 - Per FDC for follow AS
Also an informal Waived Special permit for reduced building location to allow structure to stay closer to side property line than permitted by right. Doug says it was SP, he will approve AS

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

Signature of Owner or Agent — Date 1/7/09

Giovanni Garcia, Owner
Printed Name and Title
(Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

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

(Notary Signature)

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.