



APPLICATION ACCEPTED: August 7, 2009  
DATE OF PUBLIC HEARING: November 3, 2009  
TIME: 9:00 a.m.

## County of Fairfax, Virginia

---

October 27, 2009

### STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2009-HM-077**  
**Concurrent with VC 2009-HM-003**

### HUNTER MILL DISTRICT

**APPLICANT & OWNER:** Pamela M. DeLillio

**ZONING:** PRC

**LOCATION:** 2405 Sweetbay Lane

**SUBDIVISION:** Reston

**ZONING ORDINANCE PROVISION:** 8-923 & 18-401

**TAX MAP:** 26-4 ((3)) 90

**LOT SIZE:** 17,981 Square Feet

**SP PROPOSAL:** To permit fence greater than 4 feet in height in the front yard of a corner lot.

**VC PROPOSAL:** To permit accessory structure to remain in the front yard of a lot containing 36,000 square feet or less.

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\SP with concurrent VC Cases\SP 2009-HM-077 & VC 2009-HM-003 DELILLIO\DELILLIO\_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

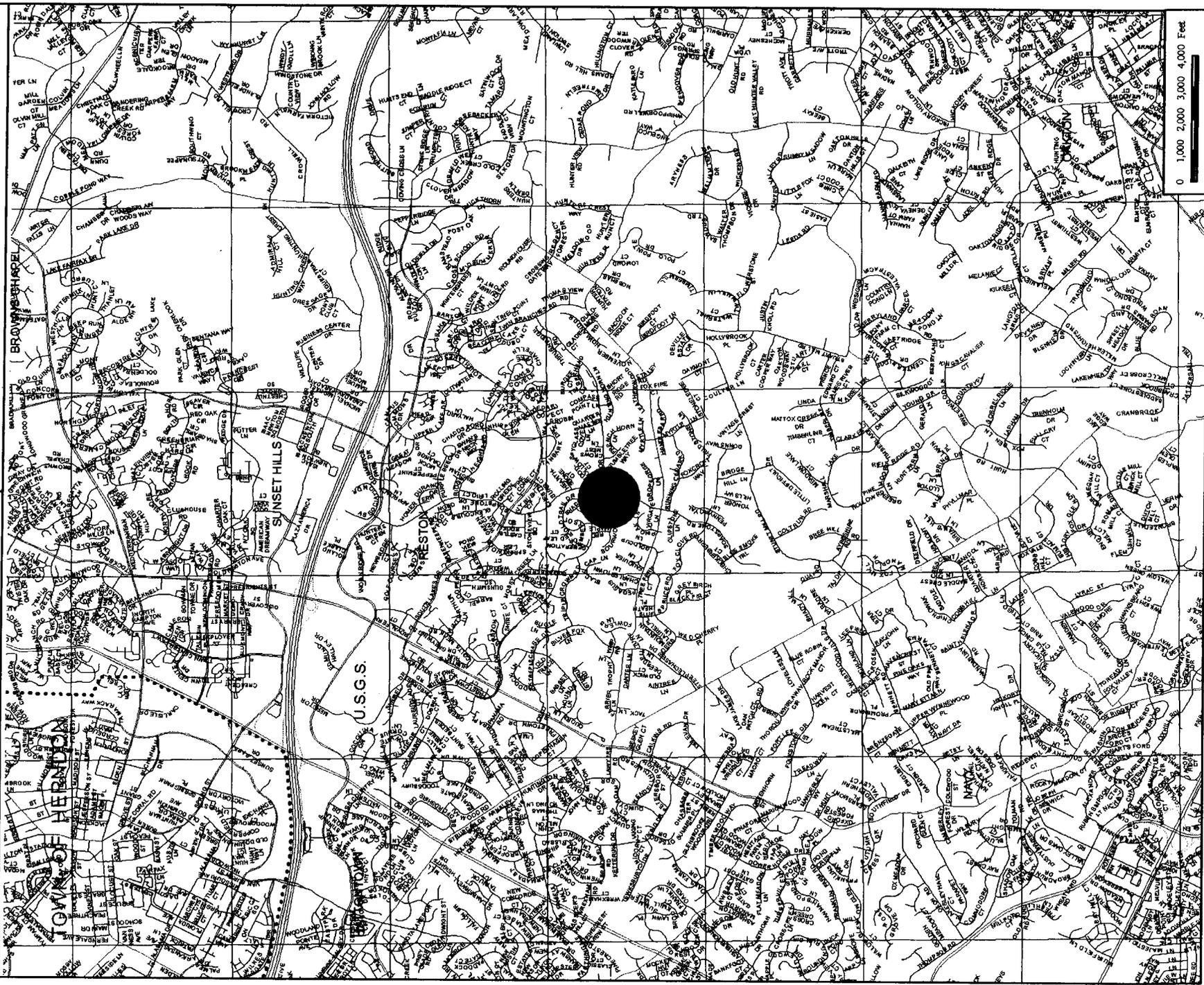
SP 2009-HM-077

PAMELA M. DELILLO

# Variance Application

VC 2009-HM-003

PAMELA M. DELILLO

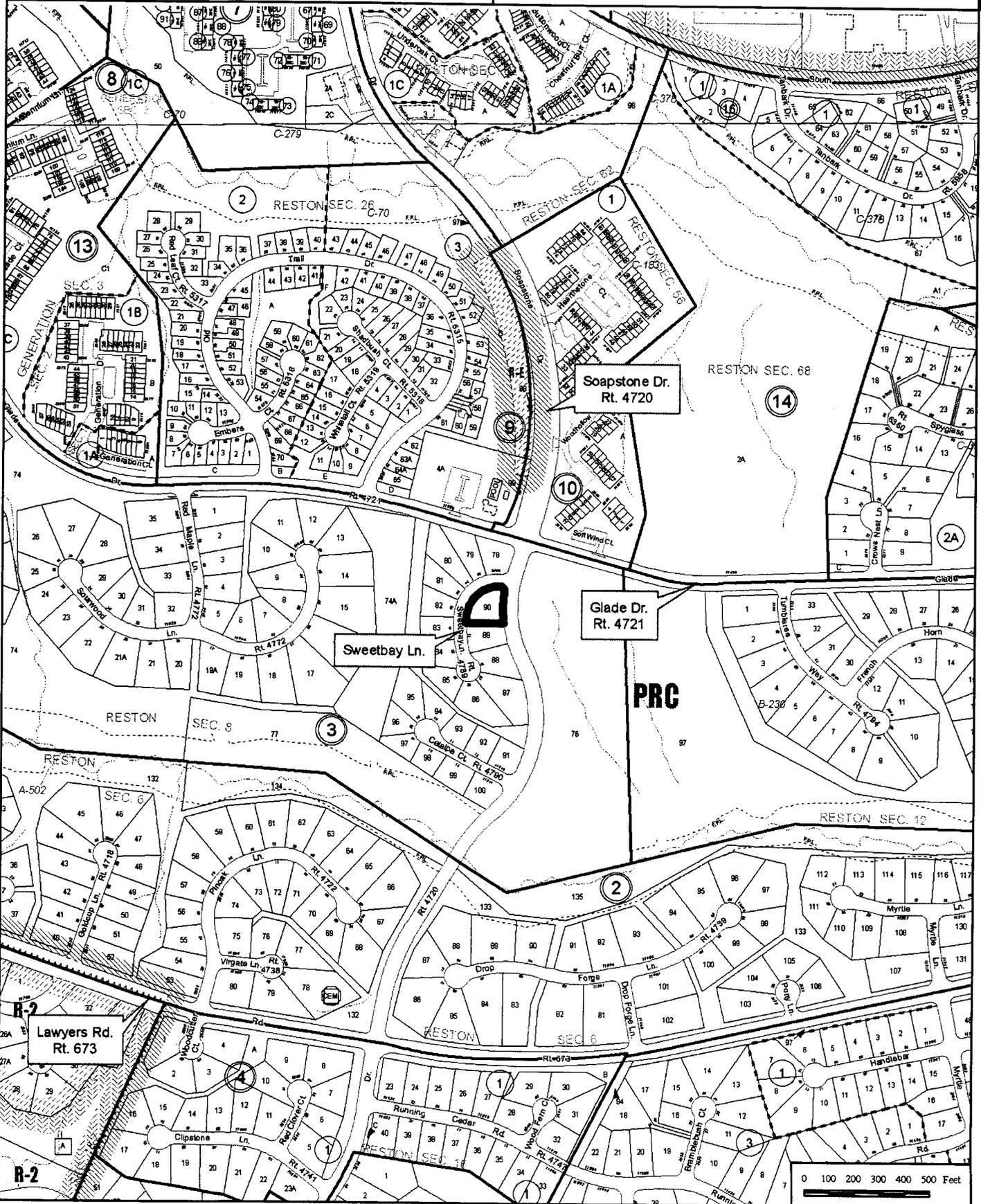


# Special Permit

SP 2009-HM-077  
PAMELA M. DELILLIO

# Variance Application

VC 2009-HM-003  
PAMELA M. DELILLIO





- (C1) RAD: 525.00'  
ARC: 20.63'  
CH: N 00° 39' 54" E  
20.63'
- (C2) RAD: 130.00'  
ARC: 194.78'  
CH: N 44° 42' 50" E  
177.06'
- (C3) RAD: 25.00'  
ARC: 42.99'  
CH: S 43° 05' 43" E  
37.89'
- (C4) RAD: 530.00'  
ARC: 117.82'  
CH: S 00° 11' 47" E  
117.58'

**LEGEND:**

- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- B.R.L. DENOTES BUILDING RESTRICTION LINES
- (15.0) DENOTES HEIGHT FROM GRADE
- (30.7) DENOTES PROPOSED SWING

**MINIMUM YARD TABLE**

ZONED PRC  
MINIMUM YARD REQUIREMENTS

YARD	REQUIRED SETBACK	PROPOSED SETBACK
FRONT	15'	N/A
SIDE	16'	N/A



**NOTES:**

- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- 2) THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, AS SHOWN ON F.E.M.A. MAP# 515525-0050-D EFFECTIVE DATE: MARCH 5, 1990
- 3) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 026-4-03-00-0090, ZONED PRC
- 4) PROPERTY SERVED BY PUBLIC WATER AND SEWER.
- 5) NO BURIAL SITES ON LOT PER RECORD PLAT RECORDED IN DEED BOOK 3032 PG. 546 AMONG LAND RECORDS OF FAIRFAX COUNTY.
- 6) NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT, RECORDED IN DEED BOOK 3032 PAGE 546
- 7) GROSS FIRST FLOOR AREA FOR EXISTING AREA IS 2,698 SQ. FT. WITH RATIO OF 0.15, WITH PROPOSED GROSS FIRST FLOOR AREA AT 3,380 SQ. FT. WITH RATIO OF 0.18

SPECIAL PERMIT PLAT  
**LOT 90**  
 RESUB. OF PARCEL 75  
 SECTION 8  
**RESTON**  
 HUNTERMILL DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

<b>B.W. SMITH AND ASSOCIATES, INC.</b>				FIELD CREW: D. CONRAD	
PROFESSIONAL LAND SURVEYING					
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996					
				JOB# 071299DH	
DFT: P.R.M.	CHK: T.J.F.	NO TITLE REPORT FURNISHED	SCALE= 1" = 30'	DATE: 4/3/09	



- (C1) RAD: 525.00'  
ARC: 20.63'  
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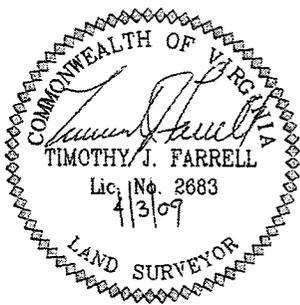
Pamela  
M. DeLillio  
2405 Sweetbay  
Reston, VA 20191  
Tax Map No.:  
26-4-03-0090

LEGEND:

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**B.W. SMITH AND ASSOCIATES, INC.**  
PROFESSIONAL LAND SURVEYING  
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996

FIELD CREW: D. CONRAD

JOB# 0712990H

DATE: 4/3/09

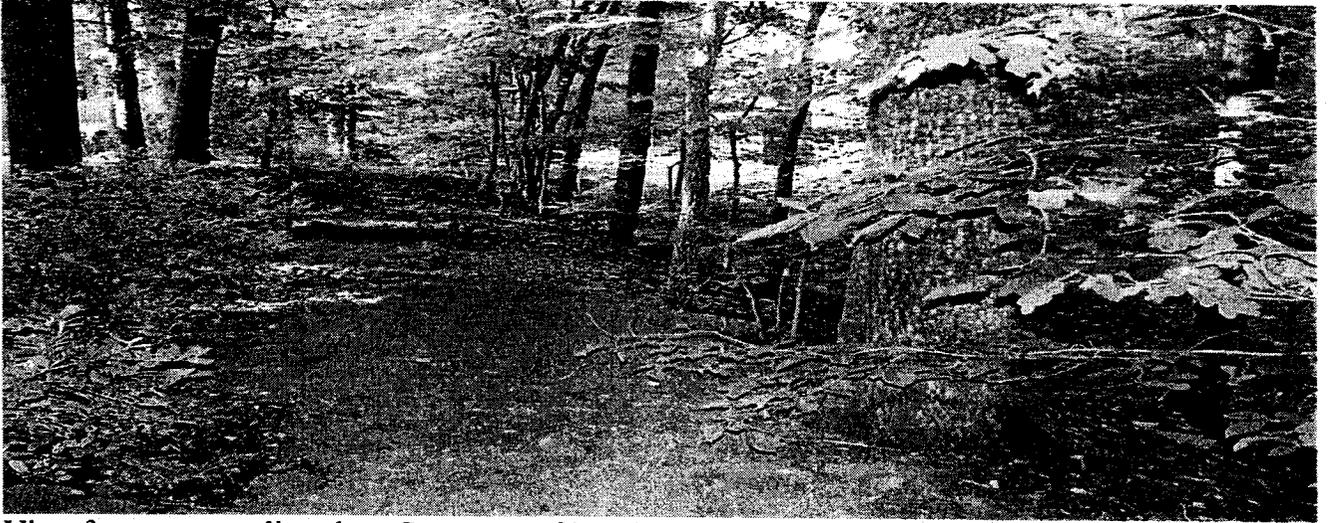
DFT: P.R.M. | CHK: T.J.F. | NO TITLE REPORT FURNISHED | SCALE = 1" = 30'

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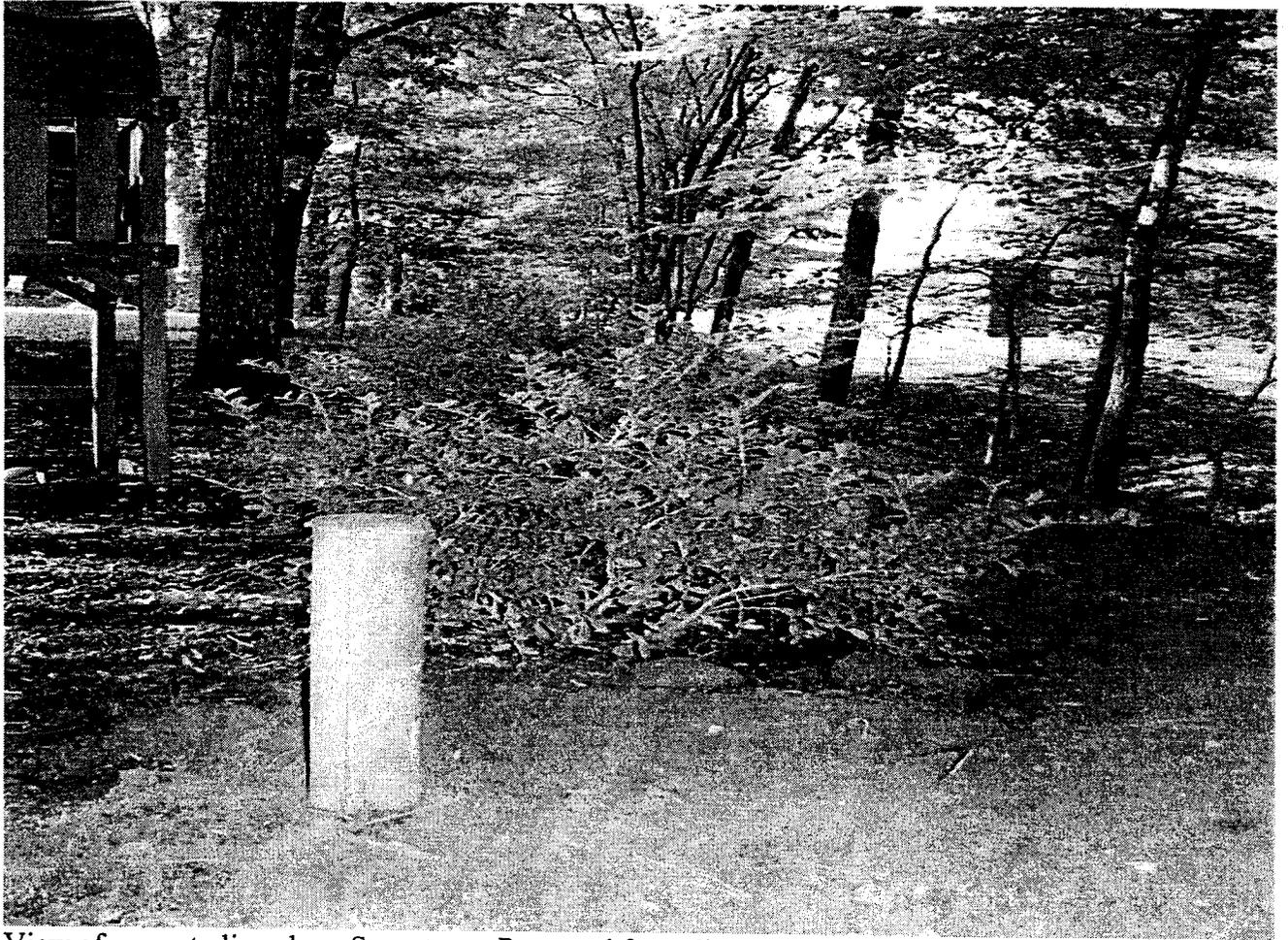
Pamela M. DeLillio

Pictures of 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No: 26-4-03-0090



View from property line along Soapstone of location of proposed fence behind play set and holly bushes in front of tree line to the right before property slopes down to Soapstone



View of property line along Soapstone. Proposed fence line behind holly bushes

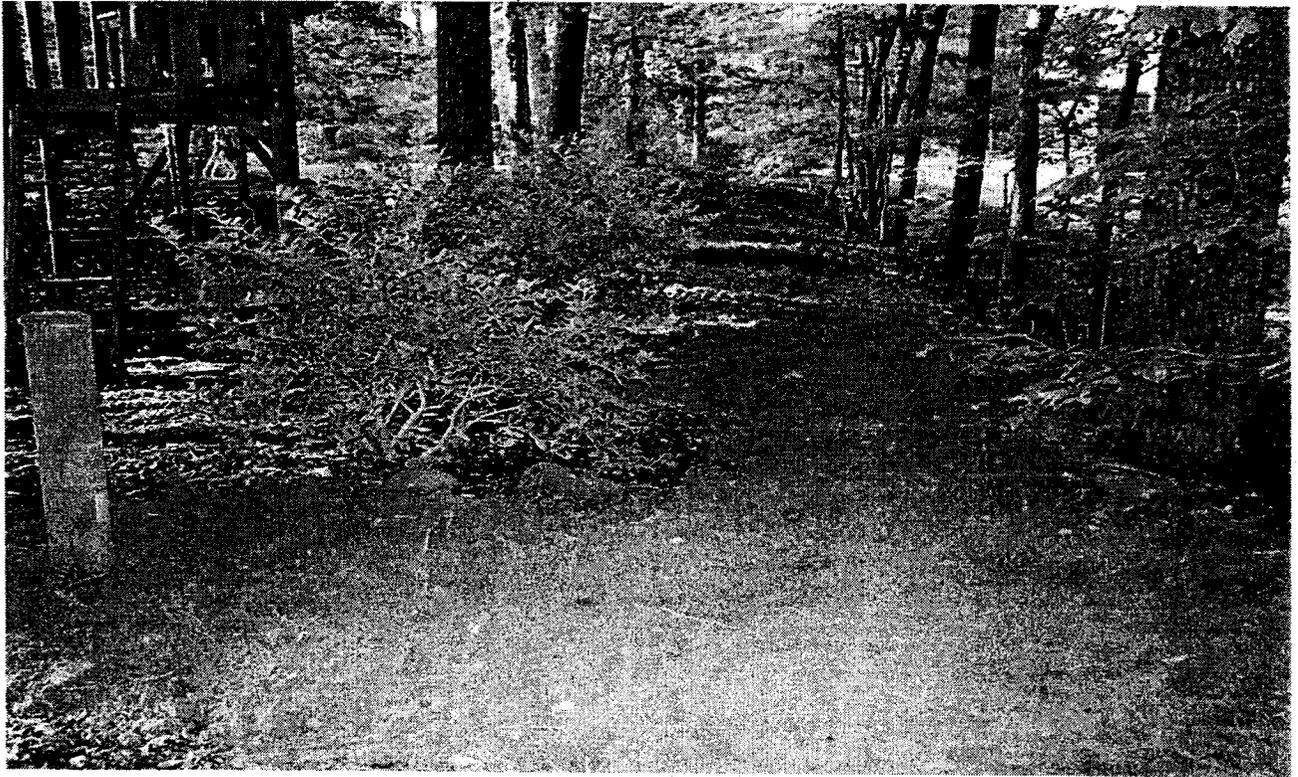
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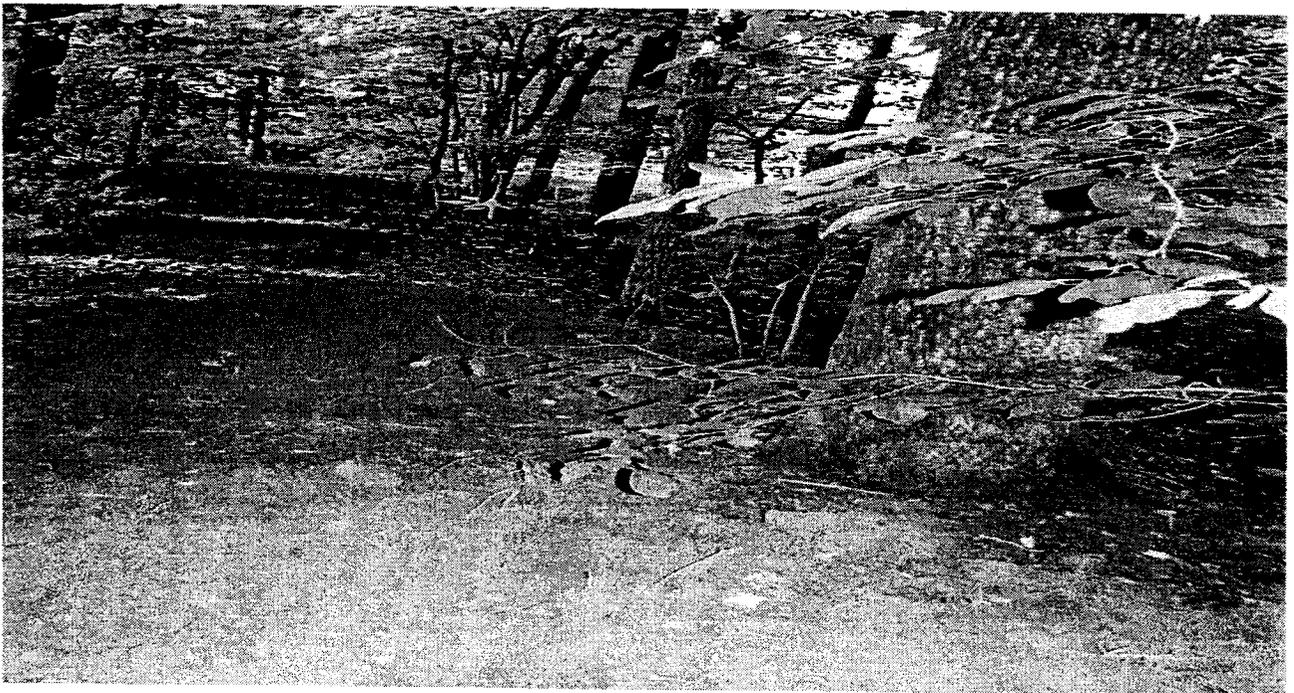
Zoning Evaluation Division

2

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Pictures of 2405 Sweetbay Lane, Reston, VA 20191  
Tax Map No: 26-4-03-0090



View from property line along Soapstone of proposed fence behind holly bushes down dirt walkway in front of tree line



Additional view of proposed fence line along Soapstone

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Pictures of 2405 Sweetbay Lane, Reston, VA 20191  
Tax Map No: 26-4-03-0090



View from Soapstone and property line of adjoining property at 2411 Sweetbay



View from 2411 Sweetbay's side yard of Soapstone and property line



View from property line of adjoining property at 2411 Sweetbay. Adjoining property has dense tree coverage in rear of property

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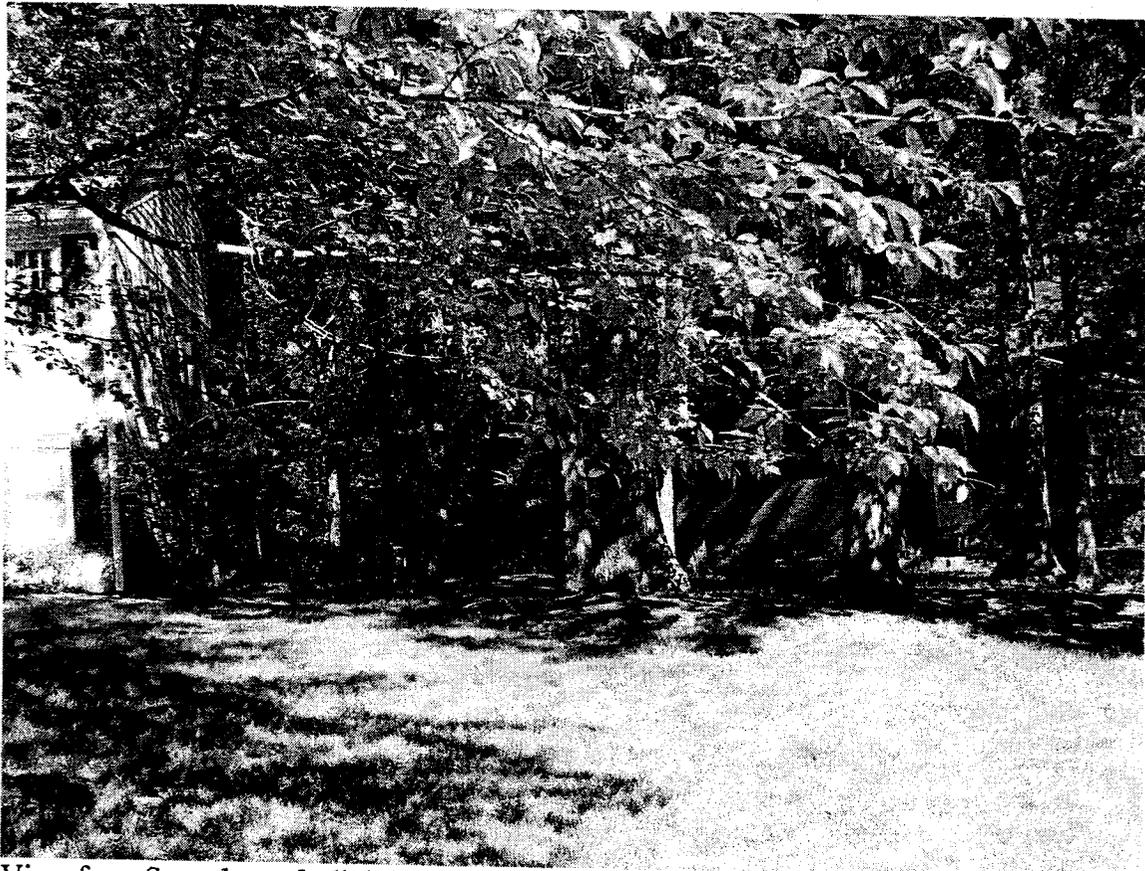
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Pictures of 2405 Sweetbay Lane, Reston, VA 20191  
Tax Map No: 26-4-03-0090



View from Soapstone of adjoining property at 2411 Sweetbay

5



View from Sweetbay of adjoining property at 2411 Sweetbay facing Soapstone

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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191  
Tax Map No: 26-4-03-0090



From Soapstone front yard view of adjoining property on left and patio facing Sweetbay



From front yard on Soapstone, side view of adjoining property facing Sweetbay



View of play set, Soapstone and proposed fence location behind play set

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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No: 26-4-03-0090

7



Picture w/side view of Soapstone play set and proposed fence line behind holly bushes

8



Picture from back of house on Soapstone of patio in progress & adjoining property at 2411 Sweetbay Lane

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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No: 26-4-03-0090

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View from Soapstone of backyard sloping down and adjoining property at 2411 Sweetbay in distance

10



Additional view from patio in progress with play set to the right and Soapstone in the distance

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Pictures of Property located at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No.: 26-4-03-0090

11



View from yard facing adjoining property at 2411 Sweetbay of patio in progress, corner of 2405 Sweetbay property and beginning of driveway on the right



View from property of 2411 Sweetbay's, adjoining property, dense trees in backyard

12



View from property line of Soapstone to the right and proposed fence line area behind holly bushes on the left, at edge of yard prior to sloping down to Soapstone

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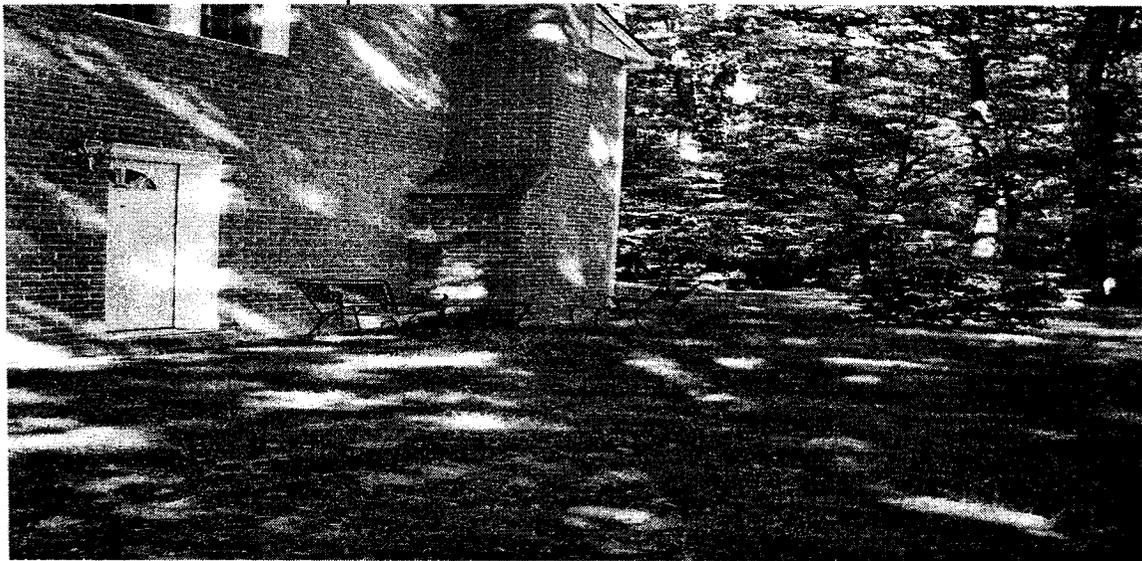
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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No. : 26-4-03-0090

13



View from Sweetbay of property back yard next to adjoining property at 2411 Sweetbay facing Soapstone

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View from property w/Soapstone to the right behind play set and holly bushes displaying leaf piles where proposed fence line is located before property slopes down to Soapstone

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Pictures of 2405 Sweetbay Lane, Reston, VA 20191  
Tax Map No.: 26-4-03-0090

15



View from Sweetbay of Soapstone and Glade intersection



View from Sweetbay of corner of property at Sweetbay

16



View from Sweetbay of property facing Soapstone

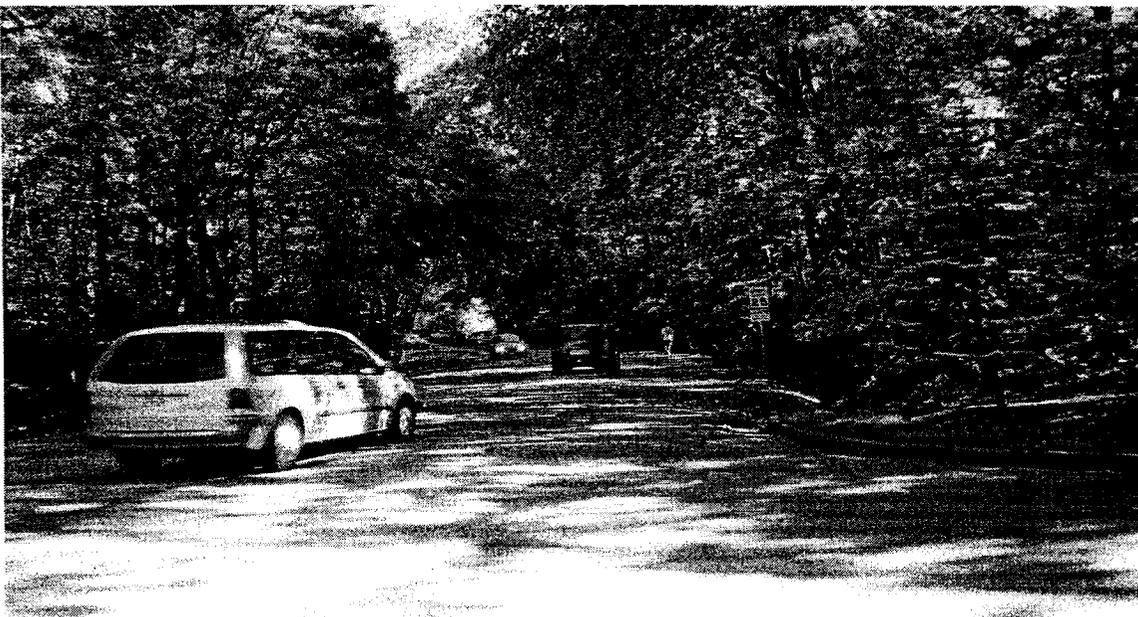
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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

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21



View from Soapstone & Sweetbay of corner of property showing passing traffic



View from Soapstone & Sweetbay of property and walking traffic

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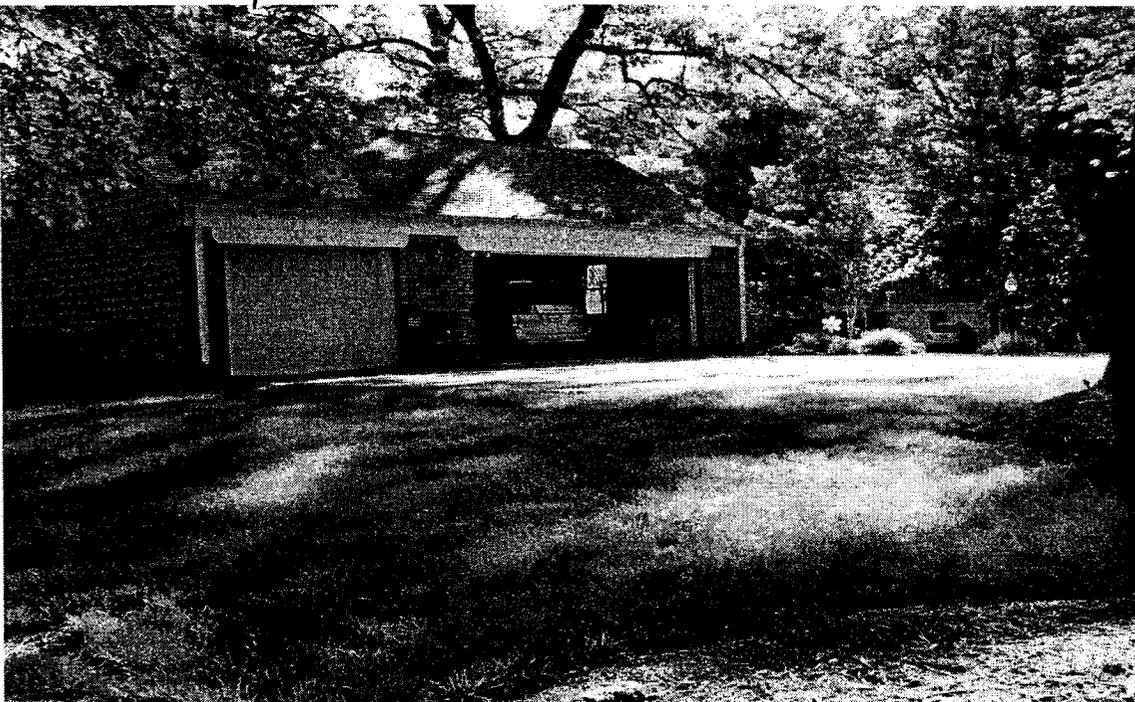
Zoning Evaluation Division

Pamela M. DeLillio

Pictures of Property located at 2405 Sweetbay Lane, Reston, VA 20191

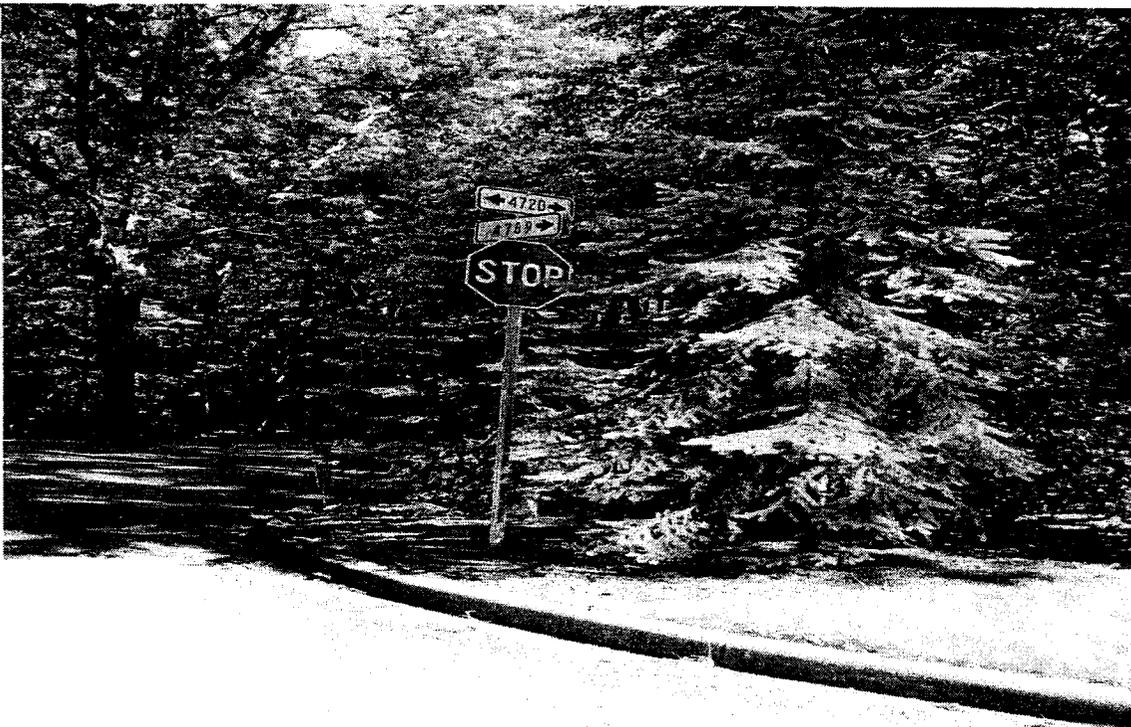
Tax Map No.: 26-4-03-0090

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View from corner of Sweetbay & Soapstone of garages & joining of 2 front yards

20



View from Sweetbay of property at corner of Soapstone & Sweetbay

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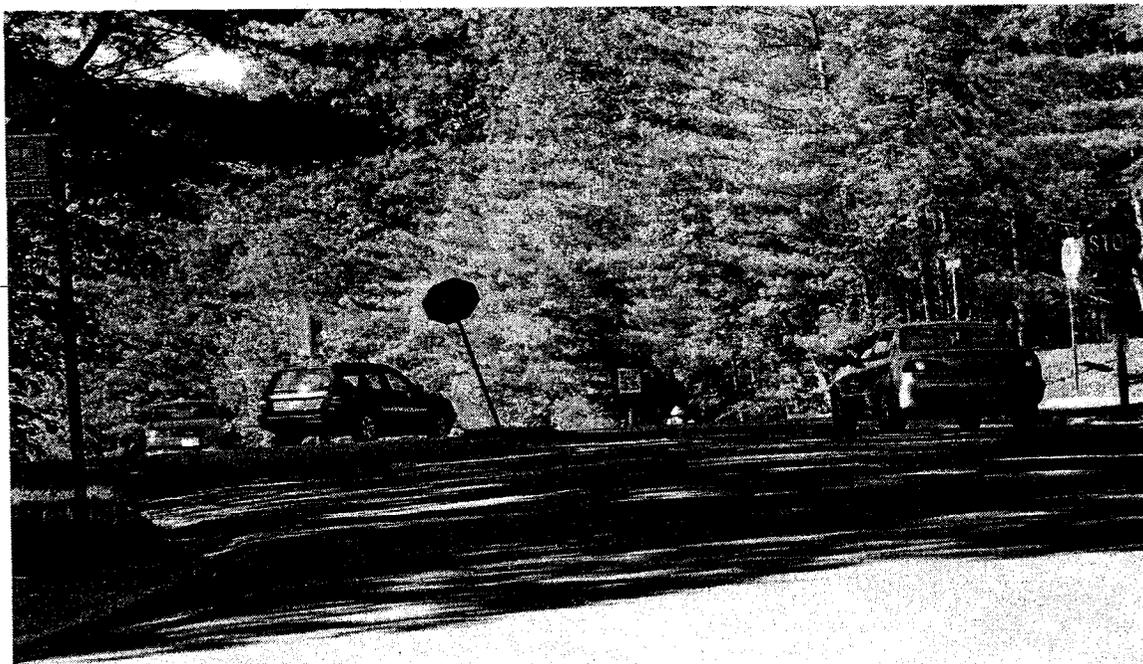
Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No.: 26-4-03-0090

22



View from Soapstone of yard sloping down to Soapstone, 25 mph speed sign with \$200 add'l fine -VDOT determined substantial traffic on road warranted add'l speeding fine



View from Sweetbay of intersection of Glade and Soapstone

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Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No.: 26-4-03-0090

23



View from patio in progress of Soapstone facing corner of Sweetbay & Soapstone

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View from Soapstone of corner of property facing Sweetbay

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Pictures of 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No.: 26-4-03-0090

17



View from Soapstone of play set and back of property

18



View from Sweetbay of front of property

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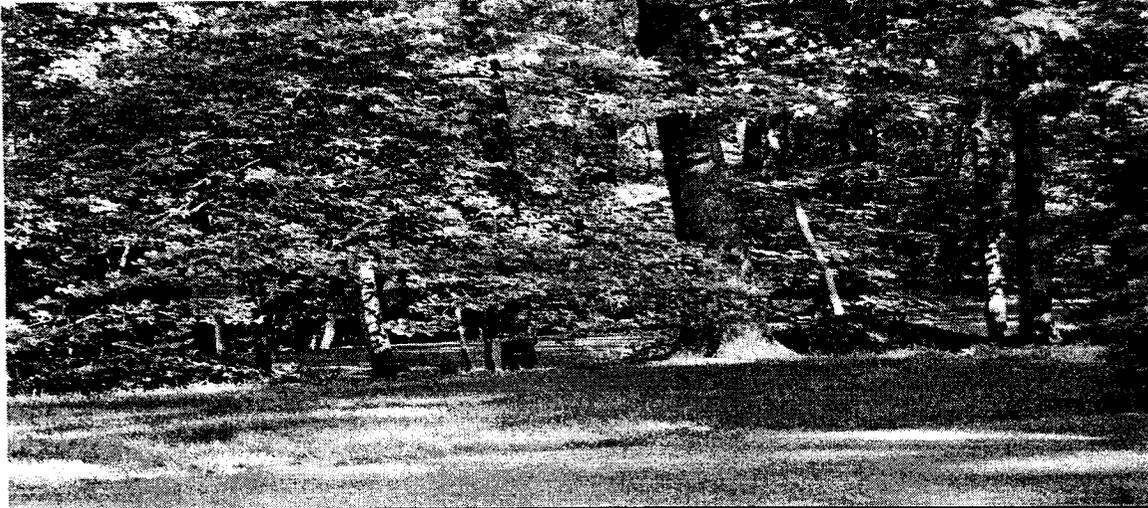
Zoning Evaluation Division

Pamela M. DeLillio

Picture of Property at 2405 Sweetbay Lane, Reston, VA 20191

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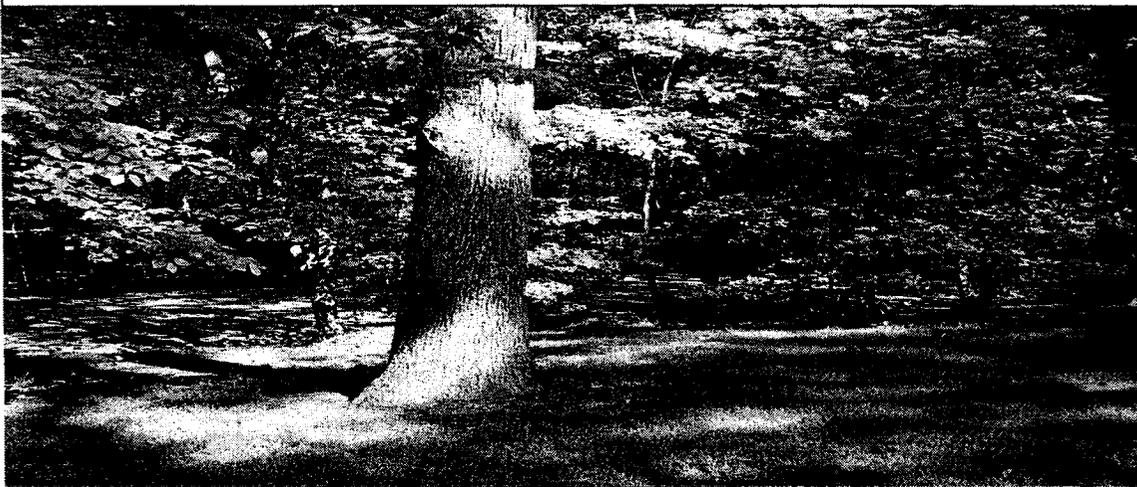
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Picture from driveway of yard facing Soapstone



Picture from driveway of Soapstone at the corner of Sweetbay



Picture from yard facing Soapstone headed away from Sweetbay

Pamela M. DeLillio

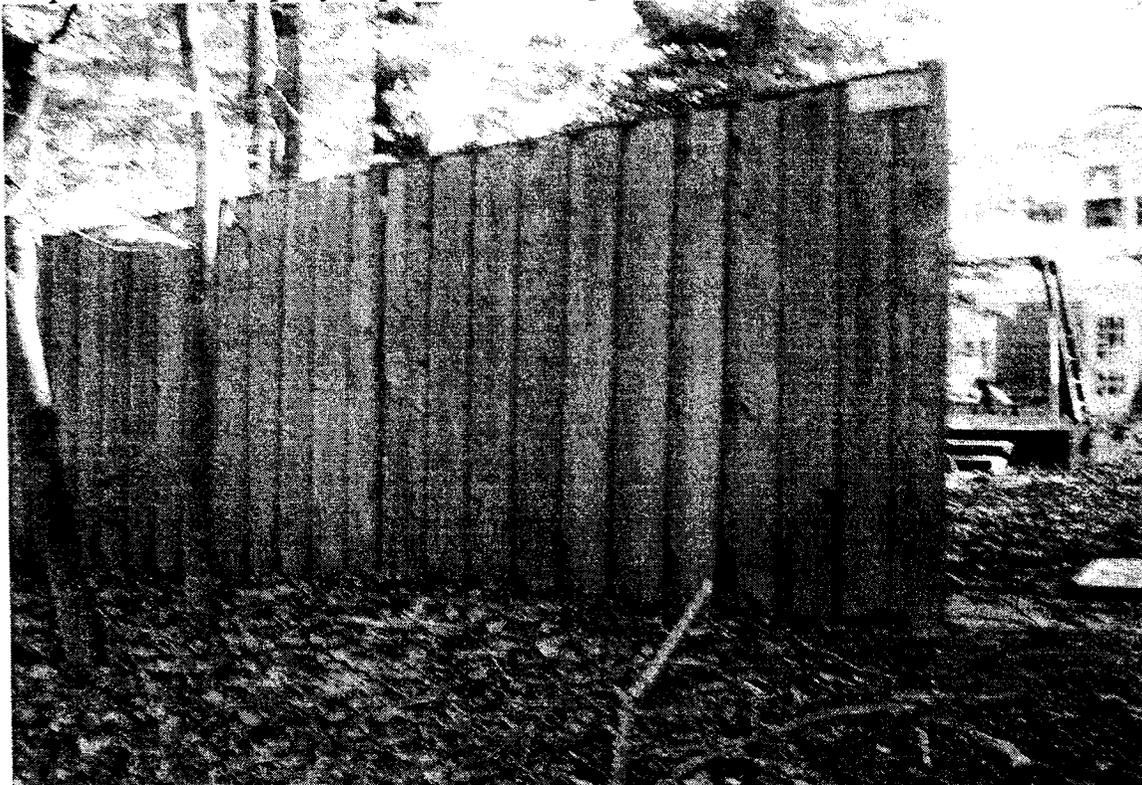
Pictures of Property at 2405 Sweetbay Lane, Reston, VA 20191

Tax Map No. : 26-4-03-0090

26

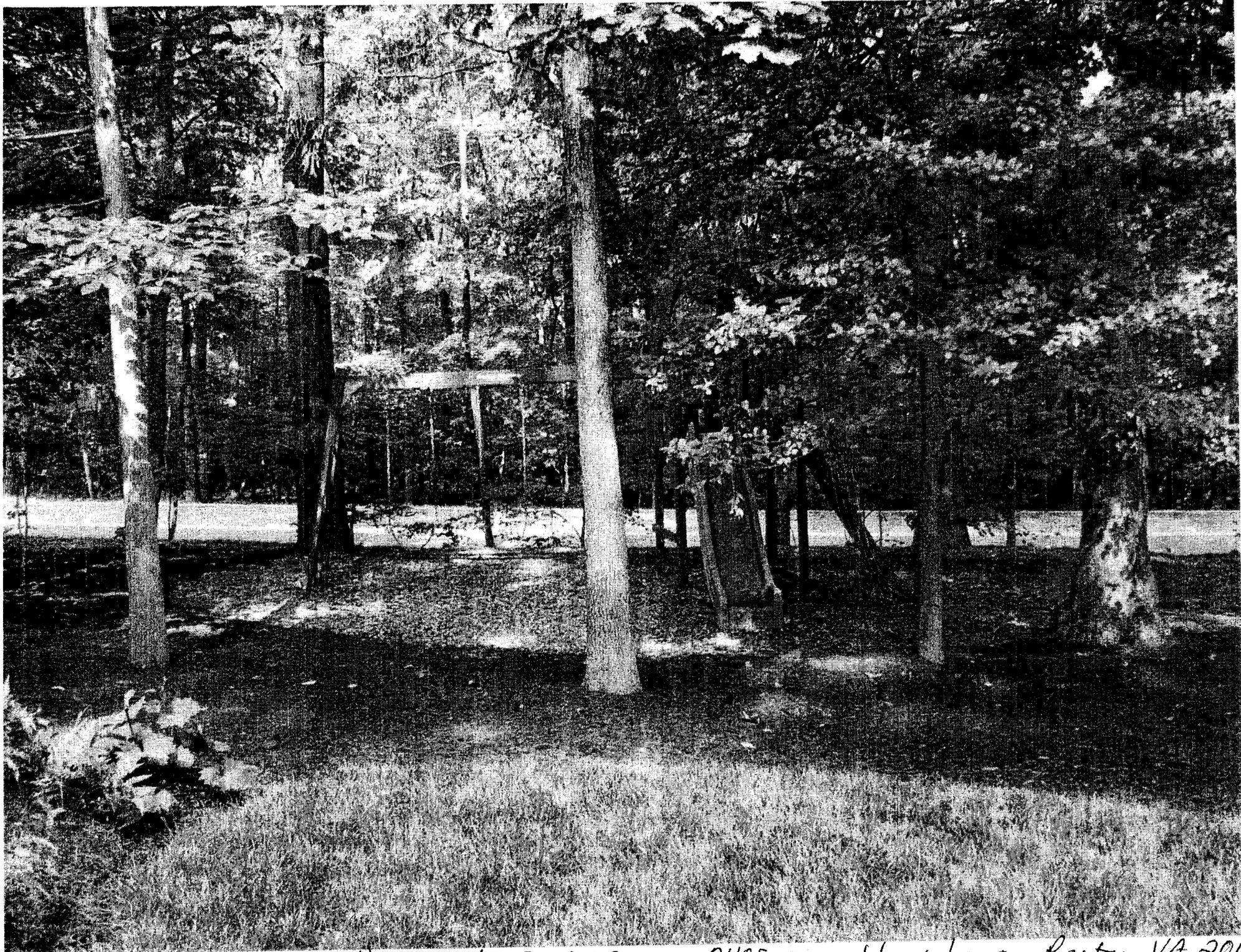


View from 2411 Sweetbay of 2413 Sweetbay's privacy board-on-board fence along Soapstone before property slopes down to Soapstone



Add'l view of 2413 Sweeybay's privacy fence

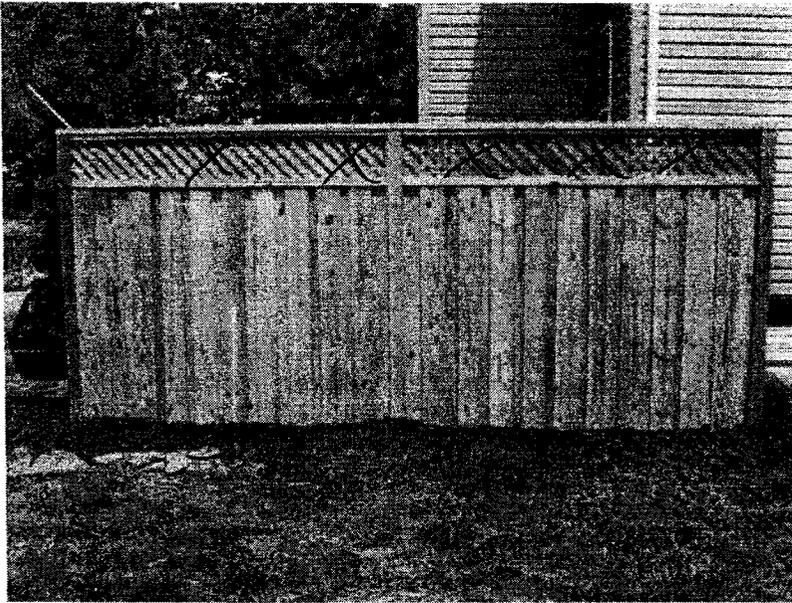
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Department of Planning & Zoning  
JUN 02 2009  
Zoning Evaluation Division



DeLillo

DeLillo, Thomas - Nov 21-02-2000 2405 S. Mathew Lane Reston, VA 20191

DEL11110  
Tax Map No: 26-4-03-0090  
2405 Sweetbay Lane, Reston, VA



exclude lattice

Photograph from — Loudoun Deck and Fence Company website:

Constructed fence materials:

Southern pine, with 4x4 posts including post caps

6 foot board-on board privacy fence

Also see pictures submitted on June 1 of neighbors privacy fence for a more representative picture of how the fence will appear in its environment.

**DESCRIPTION OF THE APPLICATIONS**

**Description of Special Permit Request**

To permit a fence greater than four (4) feet in height in the front yard of a corner lot.

	Yard	Max. Ht. Permitted*	Height	Modification Requested
<b>Special Permit</b>	Front	4.0 ft.	6 ft.	2 ft.

\* Minimum fence height per Section 10-104.

**Description of Variance Request**

The variance request is to permit an accessory structure (swing set and play equipment) to remain in the front yard on the subject property. Currently the subject property has 17,981 square feet per tax assessment records and the plat prepared by Timothy J. Farrell, B.W. Smith and Associates, Inc., dated April 3, 2009. Section 10-104 (12C) of the Zoning Ordinance states that no freestanding accessory structure or use shall be located in any front yard on a lot containing 36,000 square feet or less.

**LOCATION AND CHARACTER**

**Character of the Area**

	Zoning	Use
<b>North</b>	PRC	Single Family Detached Dwellings
<b>South</b>	PRC	Single Family Detached Dwellings
<b>East</b>	PRC	Private Open Space owned by the Reston Homeowners Association
<b>West</b>	PRC	Single Family Detached Dwellings

**Existing Site Description**

The site is currently developed with a split level with full basement single family detached dwelling constructed in 1969. The subject property is a corner lot with little change in topography and is densely wooded with trees and ground vegetation. The applicant has provided in the statement of justification descriptions of the various species of trees and plants located on the subject property. (The statement can be found in Appendix 4)

There is a ten (10) foot wide easement depicted on the special permit and variance plat in which the existing playground equipment sits. This appears to be associated with a private entity, the C & P Company. Staff has suggested to the applicant that they may want to contact the easement owner about the location of the play equipment to determine if the equipment can remain in the easement.

## **ANALYSIS OF SPECIAL PERMIT APPLICATION**

- **Title of SP Plat:** Special Permit Plat, Lot 90, Resub. Of Parcel 75, Section 8, Reston
- **Prepared By:** Timothy J. Farrell, B.W. Smith and Associates, Inc., dated April 3, 2009
- **Building Permit Required for Child's Play Equipment:** No
- **Location Error Made By:** Owner/Applicant

## **BACKGROUND**

There is currently no Notice of Violation on file for the subject property in relation to the special permit and various requests.

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

## **ZONING ORDINANCE REQUIREMENTS (See Appendix 5)**

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Increase in Fence and/or Wall Height in Any Front Yard (8-923)
- Location Regulations (Sect. 10-104)
- Required Standards for Variances (Sect. 18-404)

## **CONCLUSION**

If it is the intent of the BZA to approve SP 2009-HM-077 and/or VC 2009-HM-003 the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 and 2 of this report, Proposed Development Conditions.

## **APPENDICES**

1. Special Permit Proposed Development Conditions
2. Variance Proposed Development Conditions
3. Applicant's Affidavits
4. Applicant's Statements of Justification and attachment
5. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2009-HM-077****October 27, 2009**

1. This special permit is approved for the location and size of a proposed fence as shown on the plat prepared by Timothy J. Farrell, B.W. Smith and Associates, Inc., dated April 3, 2009 submitted with this application and is not transferable to other land.

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 including requirements for building permits.

**PROPOSED DEVELOPMENT CONDITIONS****VC 2009-HM-003****October 27, 2009**

1. This variance is approved for the accessory structure (playground equipment) to remain in the front yard as shown on the plat prepared by Timothy J. Farrell, B.W. Smith and Associates, Inc., dated April 3, 2009 submitted with this application and is not transferable to other land.

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 including requirements for building permits.

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 29, 2009  
 (enter date affidavit is notarized)

I, Pamela M. DeLillio, 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

104841

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.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Pamela McTheny DeLillio	2405 Sweetbay Lane Reston, VA 20191	<b>Applicant/owner</b>

(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)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 29, 2009  
(enter date affidavit is notarized)

104841

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: May 29, 2009  
(enter date affidavit is notarized)

104841

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)

(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: May 29, 2009  
(enter date affidavit is notarized)

104841

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.

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 29, 2009  
(enter date affidavit is notarized)

104841

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)

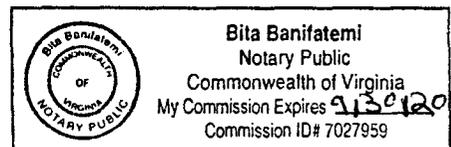
Pamela M. DeLillio  
 Applicant [ ] Applicant's Authorized Agent

Pamela M. DeLillio, applicant/owner  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 29 day of May 2009, in the State/Comm. of Virginia, County/City of Fairfax.

Bo Boils  
Notary Public

My commission expires: sep 30, 2010



## STATEMENT OF JUSTIFICATION

Pamela M. DeLillio  
2405 Sweetbay Lane  
Reston, VA 20191  
Tax Map No.: 26-4-03-0090  
703-390-1392  
July 22, 2009

RECEIVED  
Department of Planning & Zoning

JUL 24 2009

Zoning Evaluation Division

Re: Special Permit File SP 2009-0138 - Deficiencies

I, Pamela M. DeLillio, am the owner of the above noted property, constructed in 1969, by rights of survivorship. My husband (deceased 2/18/05) and I acquired the property in 1999 in good faith.

According to Fairfax County regulations (Part 3 of Article 20 of the Zoning Ordinance) my property is deemed to be a corner lot with two (2) to three (3) front yards. I am submitting this application to request a variance to allow the existing swing set (17 ft L x 6 ft W and 12.5 W with slide) installed in 2002 remain in the front yard along Soapstone. The application is submitted in conjunction with the above referenced Special Permit application filed on June 1, 2009. The swing set was installed in good faith after receiving approval from Reston Association's Design Review Board per the enclosed copy of their October, 2002 letter. As an owner of the property and knowing we are required to comply with Reston Association guidelines, we assumed these guidelines were derived from Fairfax County Code with an additional strictness to keep the Reston Community within its original plan. We had no knowledge that Reston Association would not ensure compliance with Fairfax County ordinances.

The extraordinary condition, which created the violation of the Fairfax County ordinance is the approval by Reston Association of the swing set location to allow the most tree coverage to screen the swing set from Soapstone, in addition to locating the swing set within the trees (see enclosed photo) to avoid removing any mature trees. The condition caused by Reston Association's approval of our play set on our property having multiple front yards in a front yard with less than 36,000 square feet does not appear to be recurring to require an amendment to the Zoning Ordinance. There are approximately 30 mature trees in the front yard along Soapstone, which adequately screens the swing set, in addition to the Pine and Holly trees at the corner of Sweetbay and Soapstone. The play set is wooden and blends in with its environment along Soapstone next to the one abutting property line. The front yard along Soapstone has exceptional narrowness and would not enable the swing set to be relocated closer to the house. In addition, the backyard along the abutting property line is also exceptionally narrow and has no space for a play set. The majority of the property's square footage is in the front yard along Sweetbay, which is viewed by all my neighbors as my front yard.

Reston Association's approval of the swing set approximately seven years ago has now caused an undue hardship (which does not seem to be shared generally by other properties in the zoning district) on my family due to their lack of diligence in not ensuring their Design Review Board's Property guidelines comply with Fairfax County Zoning ordinances. My children, now 7 and 9 use the play set almost daily and removal of the swing set would restrict their recreational activity that they have known all their lives. The narrowness of the backyard and all the mature trees does not allow for playing ball or other recreational activities where the swing set provides them with a small fort, a climbing rope, slide and swings. The strict application of this ordinance

would restrict the use of this part of our yard for recreational activities. The undue hardship to my family's budget to remove the swing set is not my main concern. My main concern is the hardship to my children. They would not be able to comprehend why something approved by our Community is now required to be removed because the Community's governing body did not ensure compliance with the County's ordinances. I do not anticipate having the swing set for more than an additional six years at which time we will disassemble the play set.

The swing set would not cause a detriment to the abutting property. The property owner of the abutting property approved my swing set as required by the Reston Association's Design Review Board's process, in addition to requiring the signature of three other neighbors. Due to the swing set being screened very well and its colors blending in with the trees and environment the swing set would not change the character of the zoning district. The swing set would not be contrary to public interest as evidenced by my neighbors' approval of the swing set and the Reston Association's board meeting attended by my husband along with over 50 other community members. The meetings allow for public opposition and the process allows for neighbors to file as disinterested parties. Not one community member opposed the swing set.

**Additional Special Permit requirements – 930.17:** No landscaping including trees or bushes were removed to install the proposed patio. The property when purchased included approximately 30 mature oaks at least 50 feet tall and Holly trees at least 8-10 feet tall and other landscaping as follows:

- 2 Japanese maples – 5 feet
- 4 Pine trees – 7 feet
- 8 Holly trees – 7 feet
- 1 Dogwood – 10 feet
- 8-10 Azaleas – 3 feet
- 1 Magnolia 7 feet

**Proposed landscaping added near patio:**

- 5 Skip Laurels – 4 feet
- 1 Acuba – 4 feet
- 2 Euonymus – 3 and 4 feet
- 8 Hosta – 1 feet
- 10-15 Astilbes – 1 foot
- 5-7 Bleeding Heart s – 2 feet
- 1 Holly – 5 feet

**Additional Special Permit requirements – 930.20 :** Photographs of the property lines and one abutting property line were included with the original Special Permit submission on June 1, 2009, as well as pictures of the neighbors board-on-board, 6 foot fence and a description of the fence including size and materials, which I would like to install. I have included a color photograph of a similar fence from Loudoun Deck and Fence's website.

Per discussion with Marie Langhorn of the Department of Planning and Zoning, I am submitting a check for \$295 for the Variance application. She discussed the situation with her Office and because I filed the application on June 1 she was able to grandfather the Variance application with the Special Permit application under the previous fee structure. Other required variance application submissions including copies of plat, zoning section sheet, photographs, and an affidavit were submitted with the Special Permit application referenced above.

STATEMENT OF JUSTIFICATION

Pamela M. DeLillio  
2405 Sweetbay Lane  
Reston, VA 20191  
Tax Map No.: 26-4-03-0090  
703-390-1392  
May 29, 2009

RECEIVED  
Department of Planning & Zoning  
JUN 02 2009  
Zoning Evaluation Division

I, Pamela M. DeLillio, am the owner of the above noted property, constructed in 1969, by rights of survivorship (per enclosed copy of my deed). I have also enclosed a certified copy of my husband, Joseph F. DeLillio's, death certificate.

According to Fairfax County regulations (Part 3 of Article 20 of the Zoning Ordinance) my property is deemed to be a corner lot with two (2) to three (3) front yards. I am submitting this Special Permit application to request an increase in fence height from four (4) to six (6) feet in accordance with Article 10, Part 1, Section 10-104, Paragraph 3, Sub-paragraph B: "In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8." The proposed fence will be located along Soapstone running south to north towards Sweetbay.

The increase in fence height to six (6) feet will provide an additional level of safety and security, both in terms of personal and property safety. Soapstone has a substantial amount of traffic including vehicle, walking and bicycling. In addition, there is a bus stop at the intersection of Soapstone and Glade. The Department of Transportation in cooperation with Supervisor Hudgins' office placed a 25 mph speed restriction and a \$200 speeding violation sign due to the significant traffic on Soapstone. I have enclosed photograph 22 of the area along Soapstone. With the addition of the new patio, I would like to feel safe and secure to allow my children, ages 9 and 6, to gather and play with friends in that area of our yard..

I have included photographs identified as number 26 of my neighbor's, at 2413 Sweetbay Lane, six (6) foot, board on board privacy fence. I would construct a similar fence of southern pine, with 4 x 4 posts including post caps for a finished look. The finished side of the fence would face Soapstone and the fence would be approximately 56 to 60 feet in length. The fence would be harmonious with the property surroundings due to many six (6) foot privacy, board on board fences located throughout Reston, Virginia including my neighbor, one house over on Soapstone as noted above. In addition, due to many trees on the property, including trees growing along Soapstone in front of and behind the proposed fence location, as identified in the attached photograph number two (2), the fence will blend in well with the wooded surroundings. In addition, the holly and pine trees located at the corner of Sweetbay and Soapstone, as displayed in the attached photographs numbers 15, 16, 20, and 21, will provide additional screening and landscaping. The fence will not adversely impact the adjoining property due to the compatible surroundings in the adjoining yard including dense tree coverage. The property minimum setbacks are stated on the enclosed plat, which was prepared while taking into consideration the sight distance requirements in Section 2-505.

Other than the exception noted above in paragraph two (2) , the proposed fence will conform to the provisions of all applicable Fairfax County ordinances, regulations, adopted standards and applicable conditions.

## Design Review Board Decision

July 15, 2009

Joseph Delillio / Pamela Delillio  
2405 Sweet Bay Ln  
Reston VA 20191

**RE: 2405 SWEET BAY LN 22091 (Section 8, Lot 90)**

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**Review Date:** ~~October 29, 2002~~

**Design Category:** Play Equipment : Swingsets/Slides/Climbers

**Reviewed By:** Design Review Board Panel

**The following decision was made on your recent application to the Design Review Board:**

Approved play equipment with the stipulation that a minimum of six "Nellie Stevens" hollies, 3-4 feet in height at the time of planting, be installed outside of the future fence line. If the proposed fence is not installed within one year the DRB reserves the right to re-evaluate the screening and determine if additional plantings are needed.

The applicant is reminded to make application for the fence prior to installation.

---

RECEIVED  
Department of Planning & Zoning

JUL 24 2009

Zoning Evaluation Division

**8-006****General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

**8-903****Standards for all Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

**8-923**

**Provisions for Increase in Fence and/or Wall Height in Any Front Yard**

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) 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. 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. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
  - E. All required minimum yards to include front, side and rear, 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 a well and/or septic field.
  - I. If applicable, existing gross floor area and floor area ratio.
  - 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. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.

**10-104 Location Regulations**

- 1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building, except as qualified in Sect. 2-412.
- 2. The required minimum yards referenced in this Section shall refer to the minimum yards in the applicable zoning district for the principal building(s) with which the accessory-type building is associated.

3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

(1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and

(2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

C. In any side or rear yard on any lot, a fence or wall not exceeding seven (7) feet in height is permitted. However, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, is permitted:

(1) In any side or rear yard of a reverse frontage lot; or

(2) For that portion of a side or rear yard of a residential lot where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space, where such open space is located between the lot line and the major thoroughfare.

D. In any yard of an industrial use permitted by the provisions of this Ordinance, a fence or wall not exceeding eight (8) feet in height is permitted.

E. Notwithstanding the above provisions, a fence or wall which is an integral part of any accessory use, such as a tennis court or swimming pool, shall be subject to the location regulations of Par. 12 below. However, a modification to the location regulations may be permitted

with approval of a special permit by the BZA in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a rezoning or a special exception in accordance with Part 6 of Article 9 for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses that are not constructed in association with a privately used playing field/court on a lot containing a single family dwelling.

- F. In addition, for noise barriers which reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduce noise impacts of commercial and industrial uses on adjacent properties, an increase in height and/or modification to the corresponding location regulations set forth above may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a proffered rezoning or a special exception in accordance with the following:
- (1) A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.
  - (2) The Board shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.
  - (3) Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.
- G. Notwithstanding the above, a fence or wall which is to be provided in conjunction with a public use may be of such height and location as approved by the Board.
- H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:

- (1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.
  - (2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.
- I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a five (5) percent increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:
- (1) The sight distance requirements of Sect. 2-505 shall be met.
  - (2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.
  - (3) Any existing noncompliance was done in good faith and through no fault of the property owner.
  - (4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
  - (5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.
- J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of not less than six (6) feet apart and a minimum distance of not less than three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.
4. Trellises, gates and gate posts may be located within any required minimum front yard as follows:

- A. Two (2) trellises, not to exceed eight (8) feet in height nor four (4) feet in width.
  - B. Four (4) gate posts without limit as to height or width.
  - C. Two (2) gates not to exceed eight (8) feet in height.
  - D. Gates and gate posts exceeding four (4) feet in height shall not exceed in maximum width fifteen (15) percent of the lot width.
5. Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any R district as follows:
- A. Structures seventy-five (75) feet or less in height shall not be located closer to any lot line than a distance equal to one-fifth (1/5) of their height.
  - B. Structures greater than seventy-five (75) feet in height shall not be located closer to any lot line than a distance equal to their height.
6. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 11.
7. Signs shall be located in accordance with the provisions of Article 12.
8. Wayside stands shall be located in accordance with the provisions of Par. 28 of Sect. 102 above.
9. The following regulations shall apply to the location of structures for the housing of animals:
- A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.
  - B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2-512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that any such structure used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.
  - C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer

than three (3) feet to any lot line. Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.

- D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

- 10. The following regulations shall apply to the location of freestanding accessory storage structures:
  - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.
  - C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.
  - D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.
  - E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
    - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
- 11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located

no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and recycling storage containers. In addition, no containers shall be located in any required parking space, driveway, parking aisle, open space or landscaped area.

12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:

A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.

B. An accessory structure or use, which does not exceed seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Sect. 2-505.

C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.

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

E. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.

F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:

(1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

(2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

13. Except as may be qualified by Sect. 2-505, conventional television antennas and satellite dish antennas designed to receive television or video programming with a diameter or diagonal measurement of 39 inches (one meter) or less shall be permitted in any yard on any lot.

14. Except for lighting fixtures mounted on poles that are associated with outdoor recreation/sports facilities playing fields/courts and as noted below, the mounting height of lighting fixtures on light poles shall not exceed a maximum height of forty (40) feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture. Light poles mounted on the top of parking decks or parking structures shall not exceed a maximum height of twenty (20) feet as measured from the top of the pole to the surface on which the pole is mounted. Light poles shall be located in accordance with the following:

A. On lots developed with single family dwellings:

- (1) Light poles that are no greater than seven (7) feet in height may be located in any yard;
- (2) Light poles that exceed seven (7) feet in height shall be subject to the location regulations of Paragraphs 12C, 12D, 12E and 12F above.

B. On all other lots:

- (1) Light poles that do not exceed seven (7) feet in height may be located in any yard;
- (2) Light poles greater than seven (7) feet in height shall be subject to the minimum yard requirements, with the exception of angle of bulk plane, of the zoning district in which located.

The above locational provisions shall not be applicable to parking lot light poles, which may be located in any yard. All light poles, to include parking lot light poles, shall be subject to the provisions of Part 9 of Article 14.

15. Temporary portable storage containers shall be located in accordance with the provisions of Sect. 102 above.

#### **18-404 Required Standards for Variances**

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
  - A. Exceptional narrowness at the time of the effective date of the Ordinance;

- B. Exceptional shallowness at the time of the effective date of the Ordinance;
  - C. Exceptional size at the time of the effective date of the Ordinance;
  - D. Exceptional shape at the time of the effective date of the Ordinance;
  - E. Exceptional topographic conditions;
  - F. An extraordinary situation or condition of the subject property; or
  - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
  4. That the strict application of this Ordinance would produce undue hardship.
  5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
  6. That:
    - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or
    - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
  7. That authorization of the variance will not be of substantial detriment to adjacent property.
  8. That the character of the zoning district will not be changed by the granting of the variance.
  9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.