APPLICATION ACCEPTED: July 2, 2009
BOARD OF ZONING APPEALS: September 22, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 15, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-DR-057

DRAINESVILLE DISTRICT

APPLICANT & OWNER:	Raed (Rudy) Z. Rihani
STREET ADDRESS:	7419 Tillman Drive
TAX MAP REFERENCE:	30-3 ((1)) 8D
LOT SIZE:	23,526 Square Feet
ZONING DISTRICT:	R-4
ZONING ORDINANCE PROVISIONS:	8-918
SPECIAL PERMIT PROPOSAL:	To permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2009-DR-057 for the accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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

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

O:\Scaff2\Case Files\Special Permits\SP 2009-DR-057 RAED (RUDY) RIHANNRihani_draft.doc *Shannon Caffee*

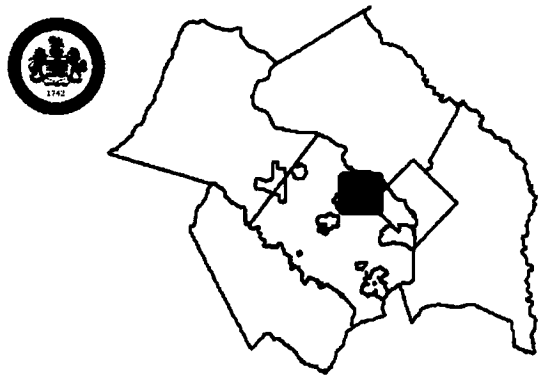
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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

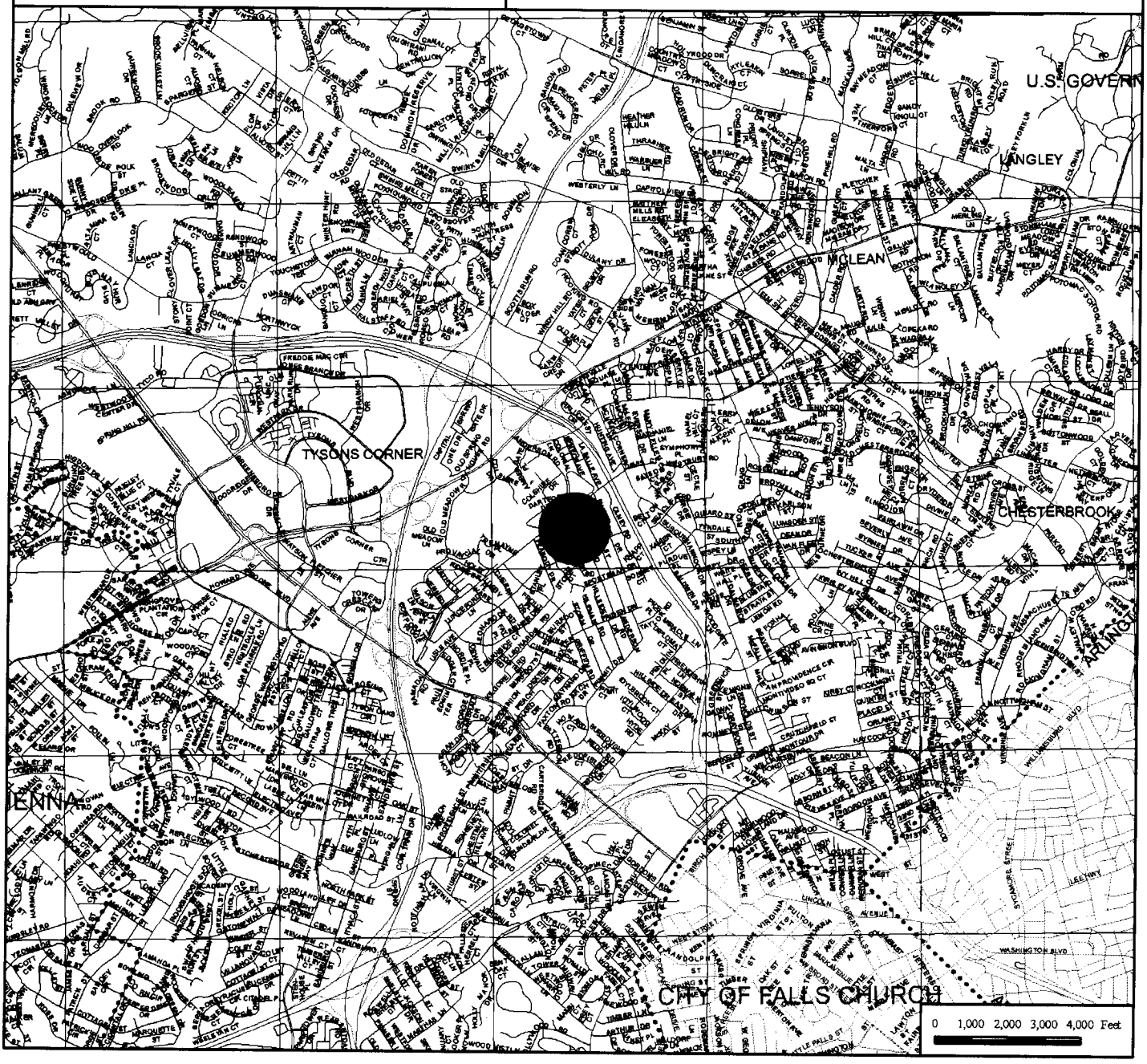
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2009-DR-057

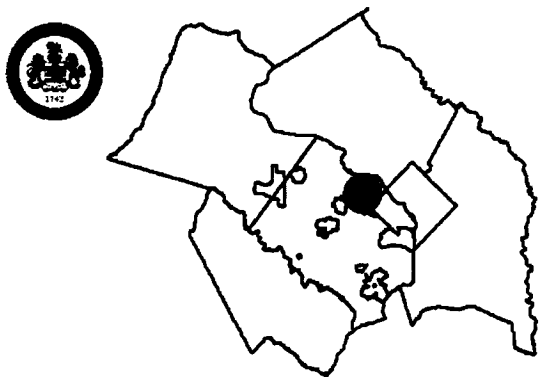


Applicant:	RAED (RUDY) Z RIHANI
Accepted:	07/02/2009
Proposed:	ACCESSORY DWELLING UNIT
Area:	23,526 SF OF LAND; DISTRICT - DRANESVILLE
Zoning Dist Sect:	08-0918
Art 8 Group and Use:	9-17
Located:	7419 TILLMAN DRIVE
Zoning:	R- 4
Overlay Dist:	
Map Ref Num:	030-3- /01/ /0008D



Special Permit

SP 2009-DR-057



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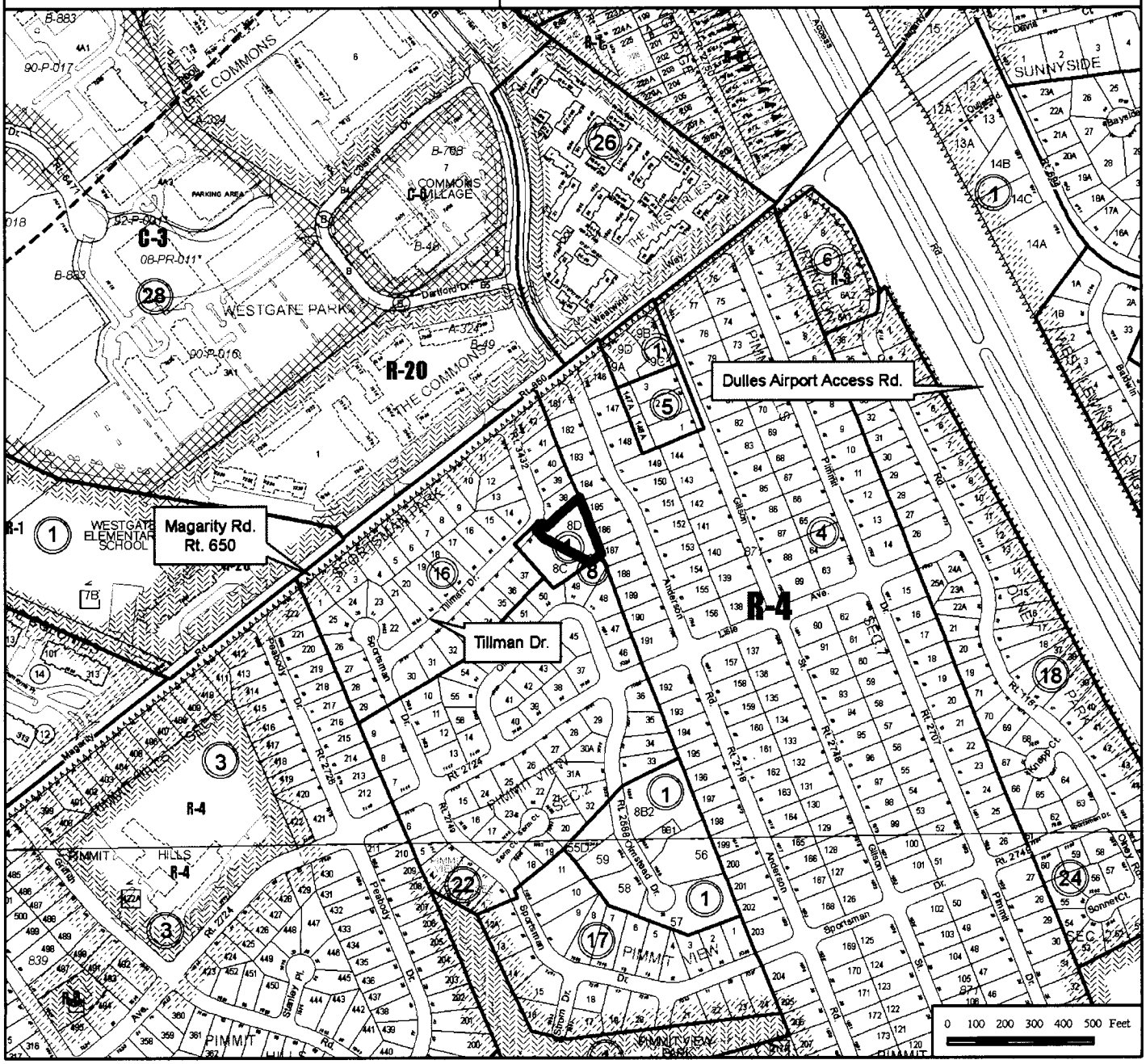
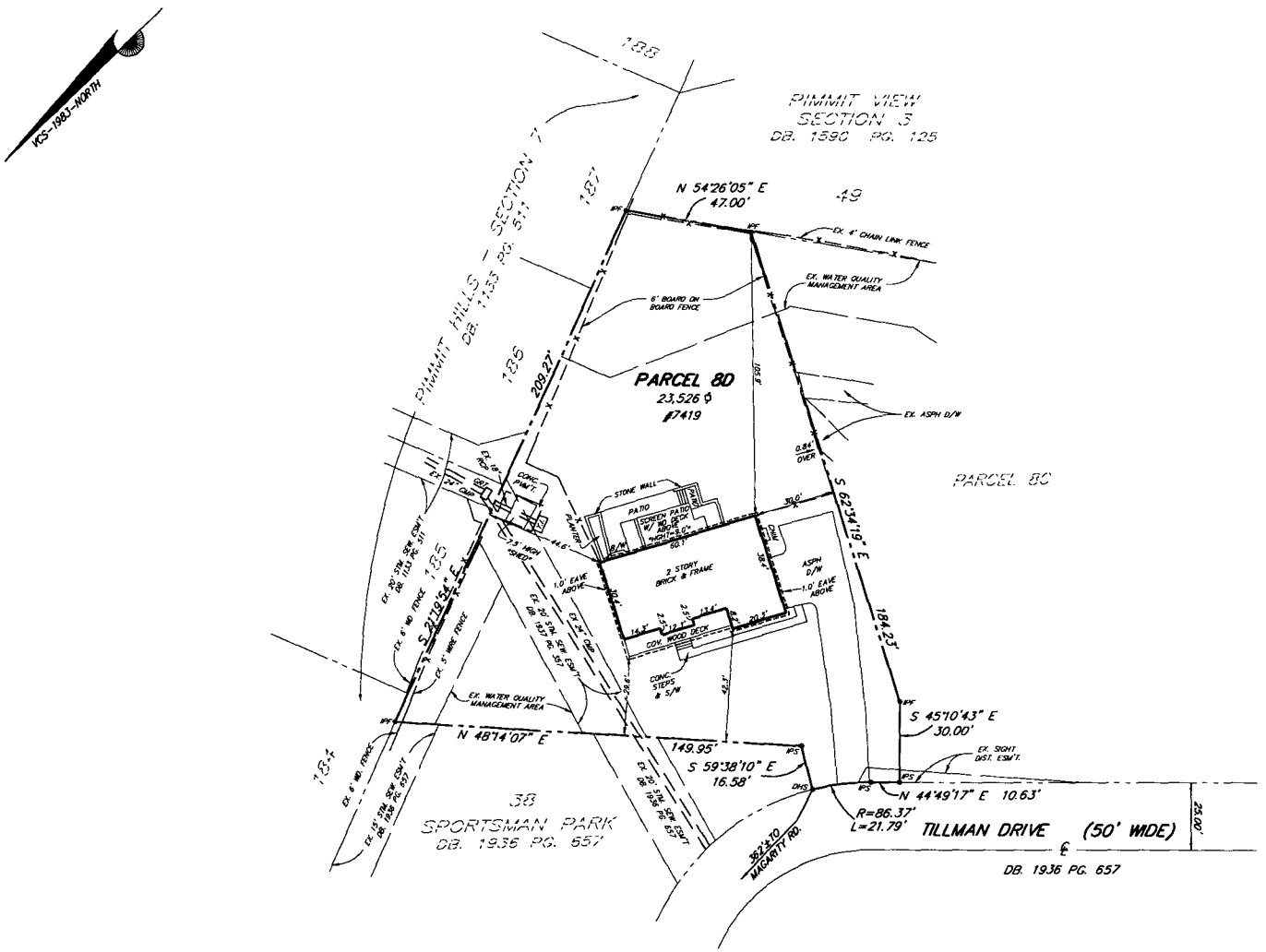




THE PROPERTY DELINEATED HEREON IS LOCATED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOODPLAIN) AS DELINEATED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S, FLOOD INSURANCE RATE MAP OF FAIRFAX COUNTY, VIRGINIA COMMUNITY-PANEL NUMBER 515525-100-D, REVISED MARCH 5, 1990.

WALL CHECK: 03-28-06
FINAL: 08-17-06
RECERT: 05-04-09

ALL EXISTING ESM'T. SHOWN HEREON ARE RECORDED IN DB. 17308 PG. 581 UNLESS OTHERWISE NOTED.

HGHT. OF SHED MEASURED FROM GROUND TO PEAK OF ROOF SHED IS NOT A PERMANENT STRUCTURE

HGHT. OF SCREENED PATIO MEASURED FROM GROUND TO FLOOR OF WD. DECK ABOVE

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THE PROPERTY SHOWN HEREON IS CORRECT IN ACCORDANCE WITH DESCRIPTIONS OF RECORD, THAT THE POSITION OF THE IMPROVEMENTS SHOWN HAVE BEEN ESTABLISHED BY ACCEPTED SURVEY METHODS, AND THAT UNLESS OTHERWISE SHOWN, THERE ARE NO ENCROACHMENTS. THIS PLAT IS NOT INTENDED FOR USE IN ESTABLISHING PROPERTY LINES.

JOHN A. WALSH L.S. # 2778 DATE

COMMONWEALTH OF VIRGINIA
JOHN A. WALSH
Lic. No. 2778
LAND SURVEYOR

HOUSE LOCATION SURVEY

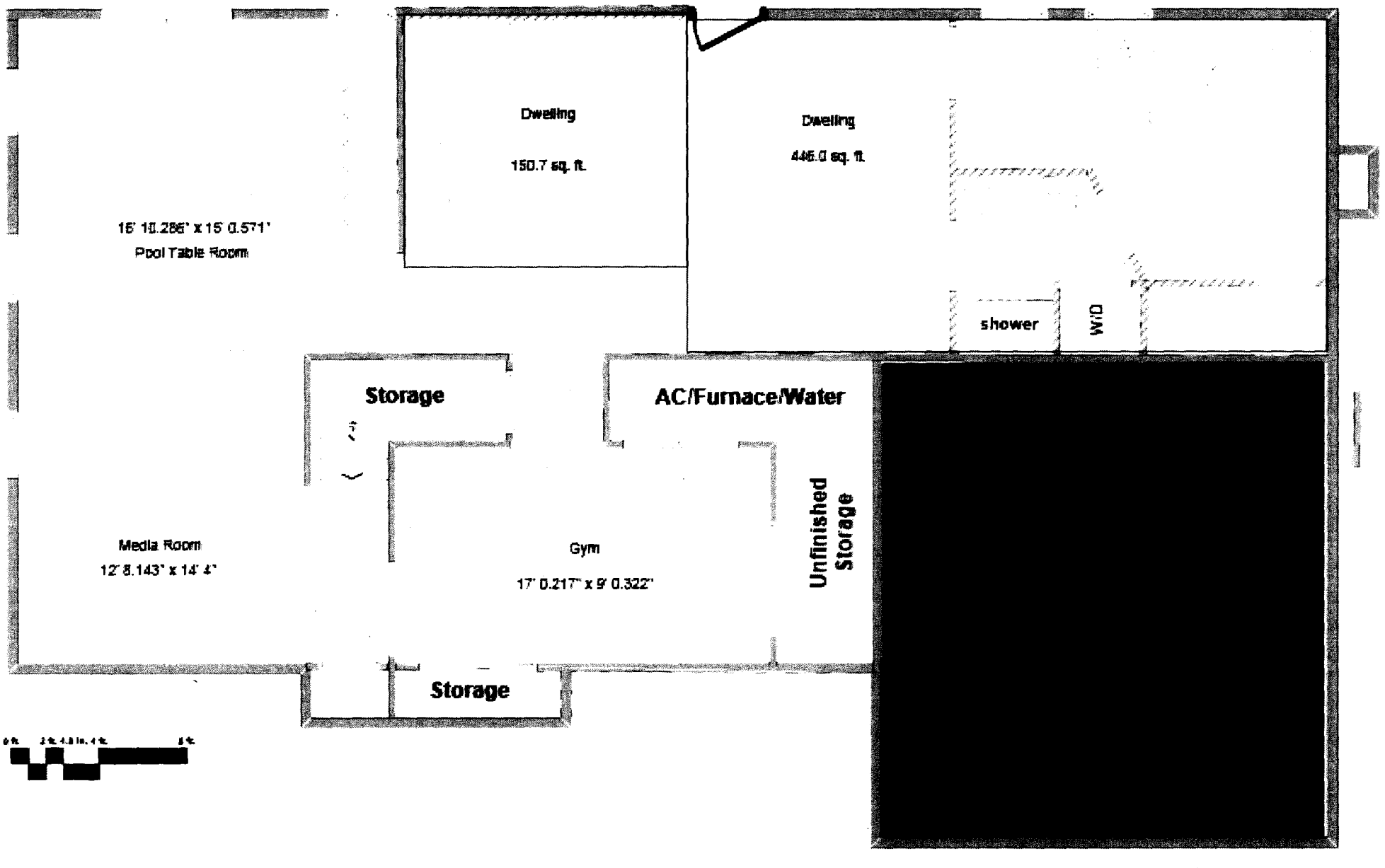
7419 TILLMAN DRIVE

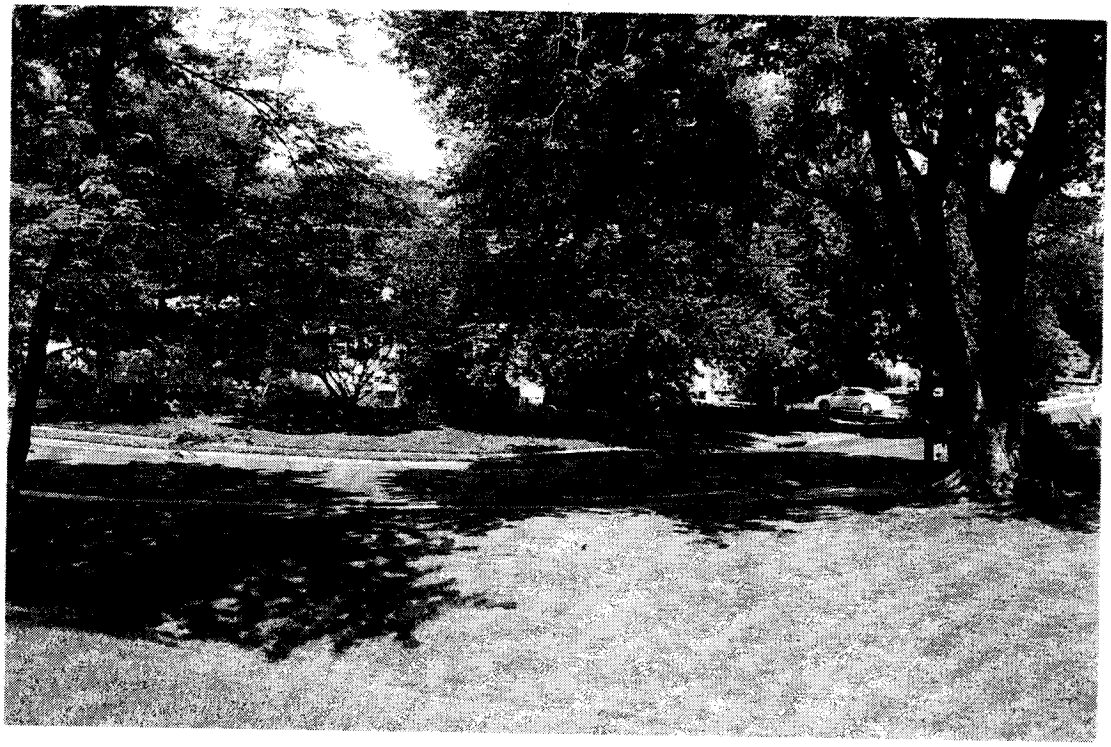
TAX MAP NO. 30-3-((1))
DEED BOOK 17308 PAGE 581
DRANESVILLE DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"= 30' DATE: MARCH 29, 2006
REV: 5-4-09 RECERT
REV: 6-25-09 PERMIT COMMENTS

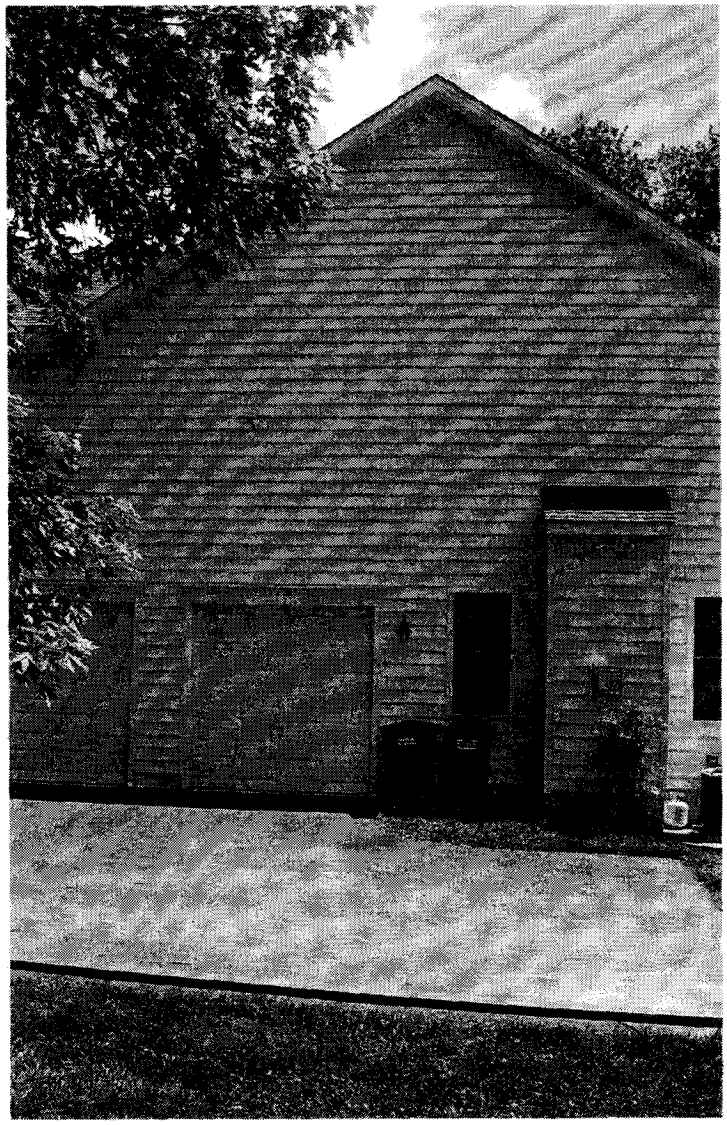
BC Consultants
Planners · Engineers · Surveyors · Landscape Architects
12600 Fair Lakes Circle, Suite 100, Fairfax, VA 22033
(703) 449-8100 (703) 449-8108 (Fax)
www.bcconsultants.com

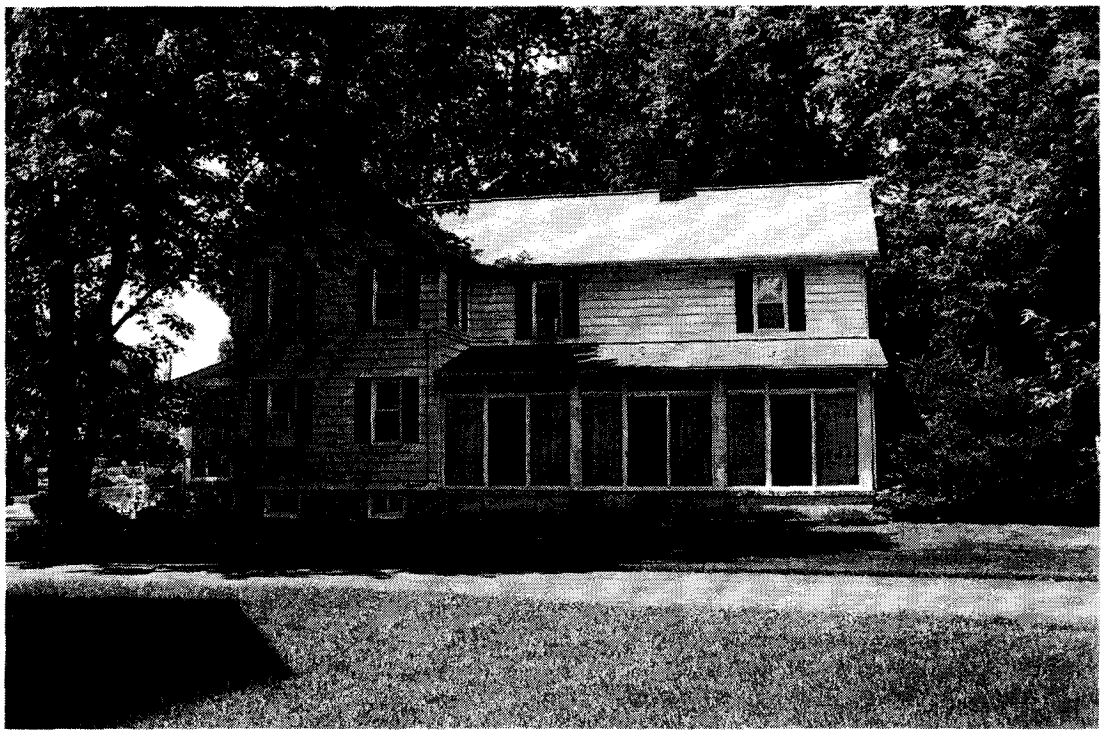
SHEET 1 OF 1

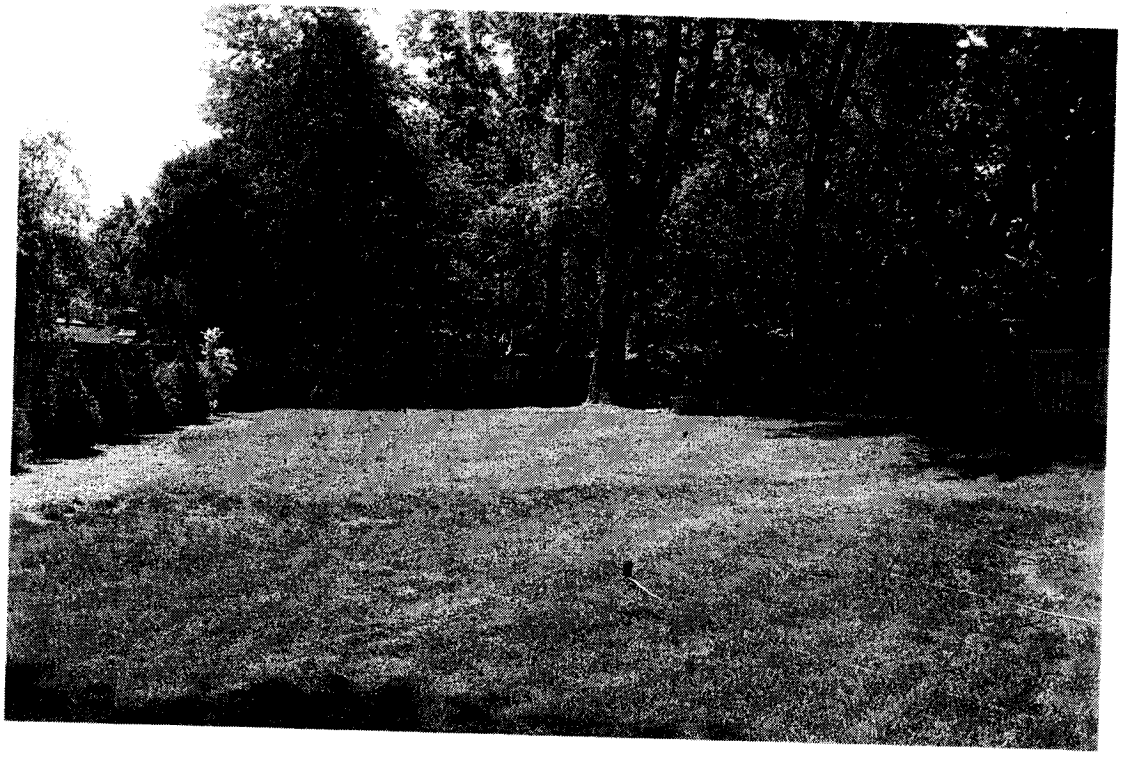
DRN: MSC CHK'D: ECC

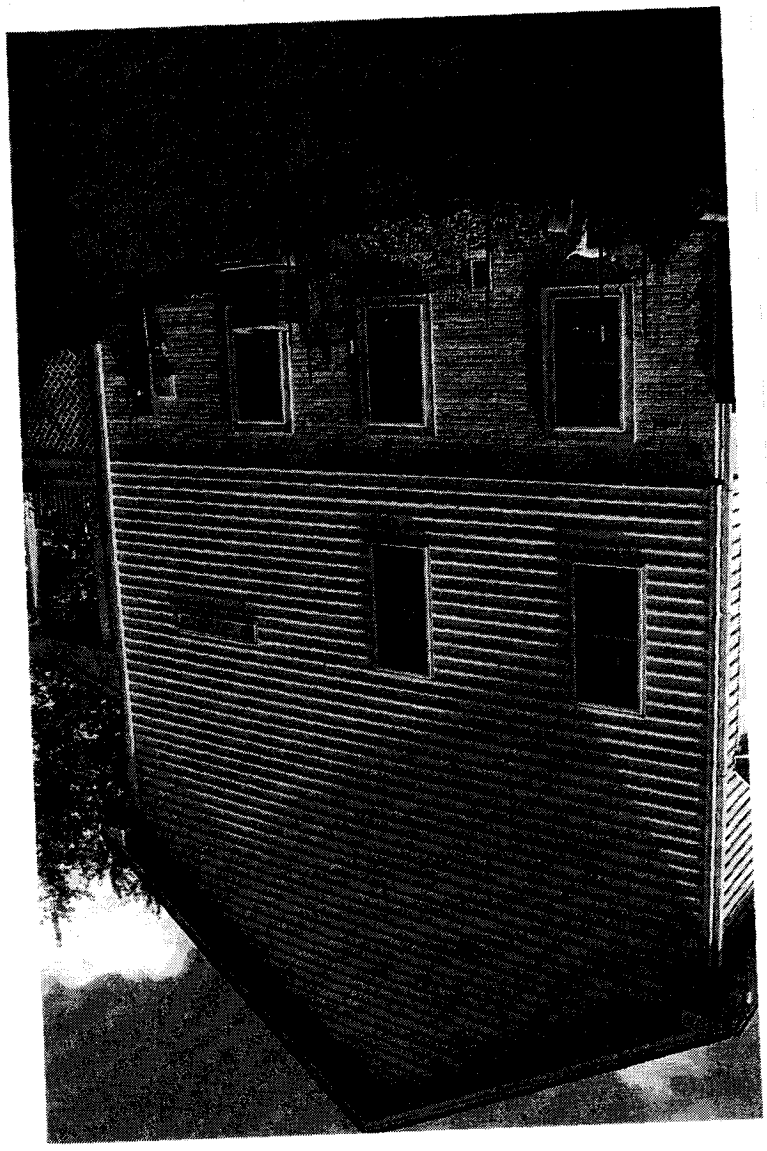

Dwelling
150.7 sq. ft.
Dwelling
446.0 sq. ft.
16' 10.286" x 15' 0.571"
Pool Table Room
shower
W/D
Storage
AC/Furnace/Water
Unfinished Storage
Media Room
12' 8.143" x 14' 4"
Gym
17' 0.217" x 9' 0.322"
Storage

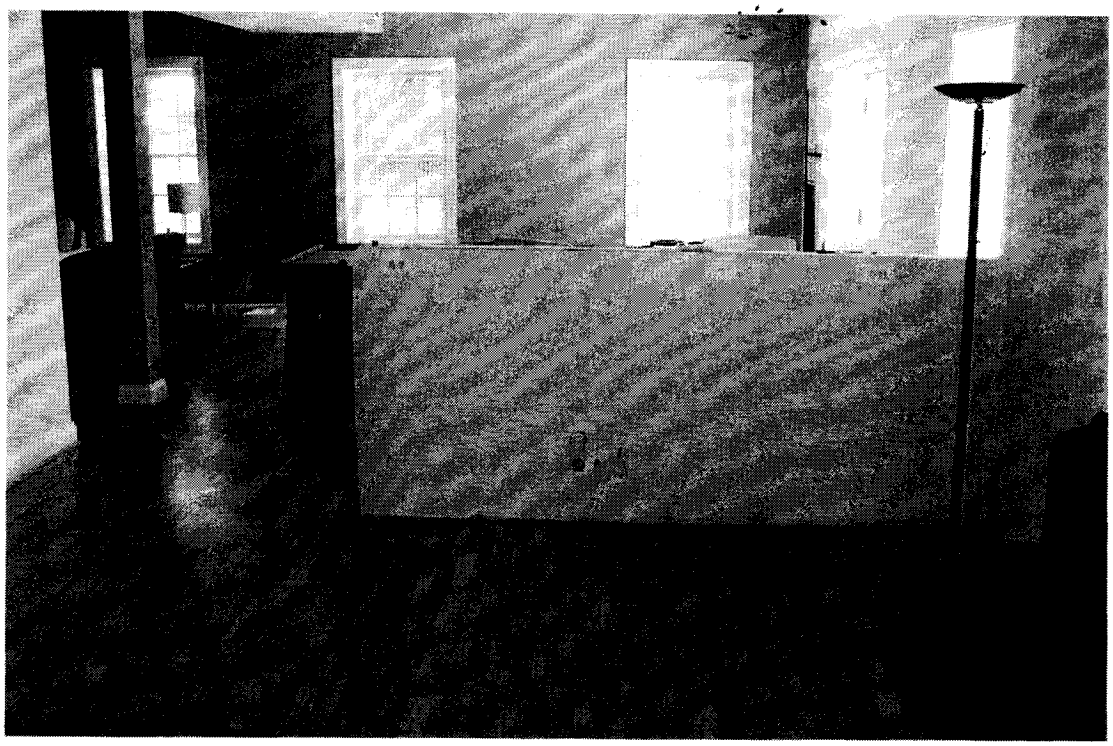


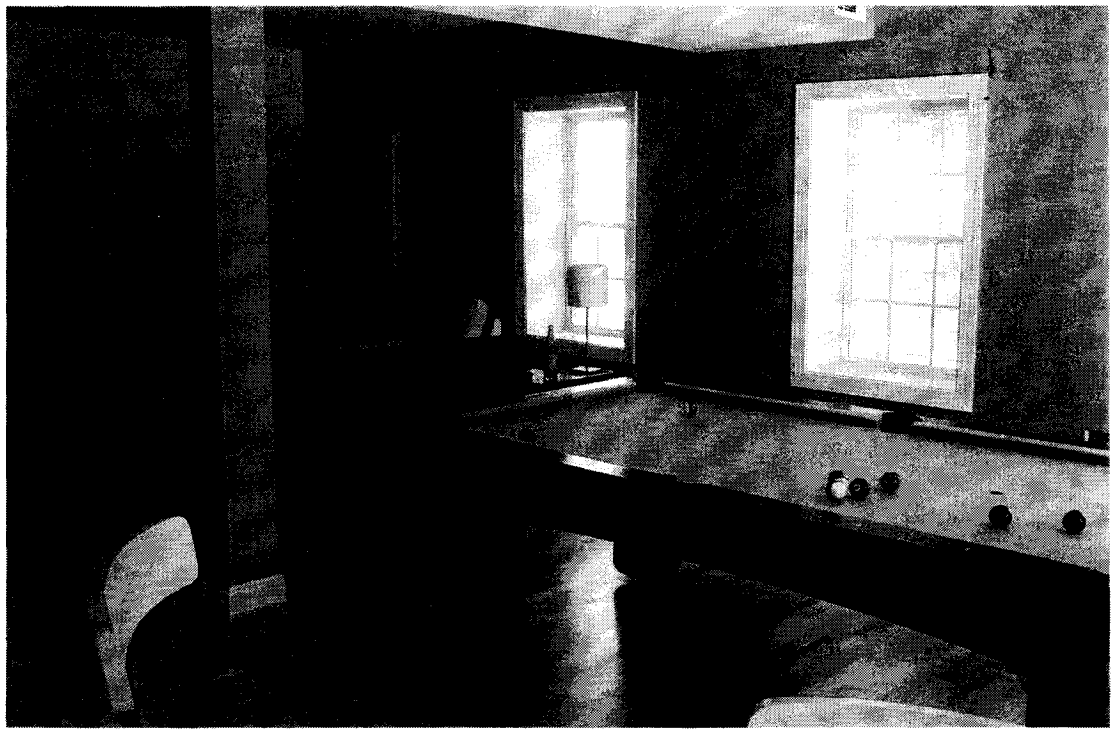


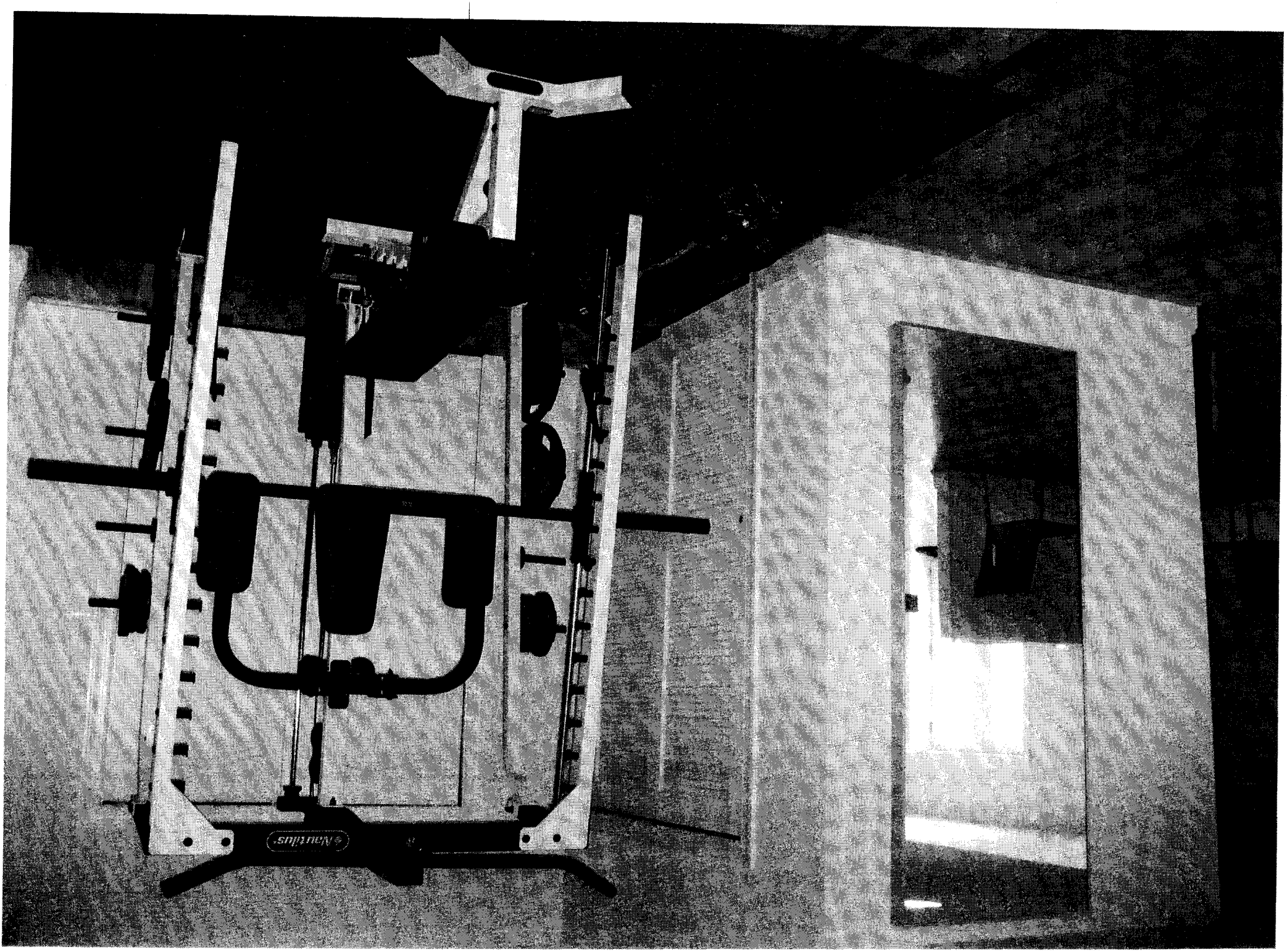











Nautilus

DESCRIPTION OF THE APPLICATION

The applicant requests to permit an accessory dwelling unit to be located within the basement of the existing dwelling.

Size of Principal Dwelling: 4,900 square feet

Size of Accessory Dwelling Unit: 1400 square feet

Lot Size: 23,526 Square Feet

LOCATION AND CHARACTER

Existing Site Description: The 23,526 square foot lot is developed with a two-story with full basement, single family detached dwelling. Vehicular access is provided via a paved driveway from Tillman Drive where there is a two car garage for the principle dwelling. The accessory dwelling unit will be located within the basement of the existing dwelling. There is a storm sewer easement which cuts through the property on the northern side. The 7.5 foot high shed is in compliance with Zoning Ordinance location regulations, however is within storm sewer easement. The applicant will be required to obtain a waiver for the structure to remain within the easement or relocate the structure outside of the easement.

Surrounding Area Description:

Direction	Use	Zoning
North	Single Family Detached Dwellings	R-4
South	Single Family Detached Dwellings	R-4
East	Single Family Detached Dwellings	R-4
West	Single Family Detached Dwellings	R-4

BACKGROUND

The existing two-story with basement single family detached dwelling was constructed in 2006. In March of 2009, building permit #90760083 was obtained to finish the basement. The permit allowed for the construction of a wet bar and a bedroom in the finished basement.

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

COMPREHENSIVE PLAN PROVISIONS

Plan Area: McLean Planning District; Area II
Planning Sector: Pimmit Community Planning Sector (M2)
Plan Map: Residential, 2-3 or 3-4 du/ac

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: House Location Survey, 7419 Tillman Drive

Prepared By: John A. Walsh, B.C. Consultants

Dated: March 29, 2006, revised through June 25, 2009

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit within the basement of the existing dwelling. Since the basement was designed to be open and have very few doors separating the rooms from the accessory dwelling unit; the entire square footage of the basement is considered part of the accessory dwelling unit. The accessory dwelling unit includes one bedroom, one bathroom, a living room area, a gym, media and pool table room and a full kitchen; thus comprising 28.5 percent of the total square feet in the dwelling. The resident of the accessory dwelling is the applicant's mother and is greater than 55 years of age. The applicant wishes to construct the kitchen in the basement so that his mother may have an independent living area within the home.

Land Use Analysis

The Comprehensive Plan recommends low density residential uses with a density of either 2-3 dwelling units per acre or 3-4 dwelling units per acre. In staff's opinion, the proposed accessory dwelling is in harmony with the Comprehensive Plan recommendations for this site, and there are no design or compatibility issues posed by the development plan.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-4 Zoning District.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 4)

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Summary of Zoning Ordinance Provisions

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

CONCLUSIONS

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

RECOMMENDATIONS

Staff recommends approval subject to the Proposed Development Conditions in Appendix 1.

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

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

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

PROPOSED DEVELOPMENT CONDITIONS

SP 2009-DR-057

September 15, 2009

If it is the intent of the Board of Zoning Appeals to approve SP 2009-DR-057 located at Tax Map 30-3 ((01)) 8D, to permit an accessory dwelling unit under Sections 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval for the accessory dwelling unit is granted to the applicant only, Raed (Rudy) Z. Rihani, and is not transferable without further action of this Board, and is for the location indicated on the application, 7419 Tillman Drive (23,526 square feet), and is not transferable to other land.

2. This special permit is granted only for the purpose(s), structures and/or use(s) indicated on the house location survey plat prepared by John A. Walsh, B.C. Consultants dated March 29, 2006, revised through June 25, 2009, as qualified by these development conditions.

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

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

5. The accessory dwelling unit shall contain a maximum of 1400 square feet, including a maximum of one bedroom as shown on Attachment 1.

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

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

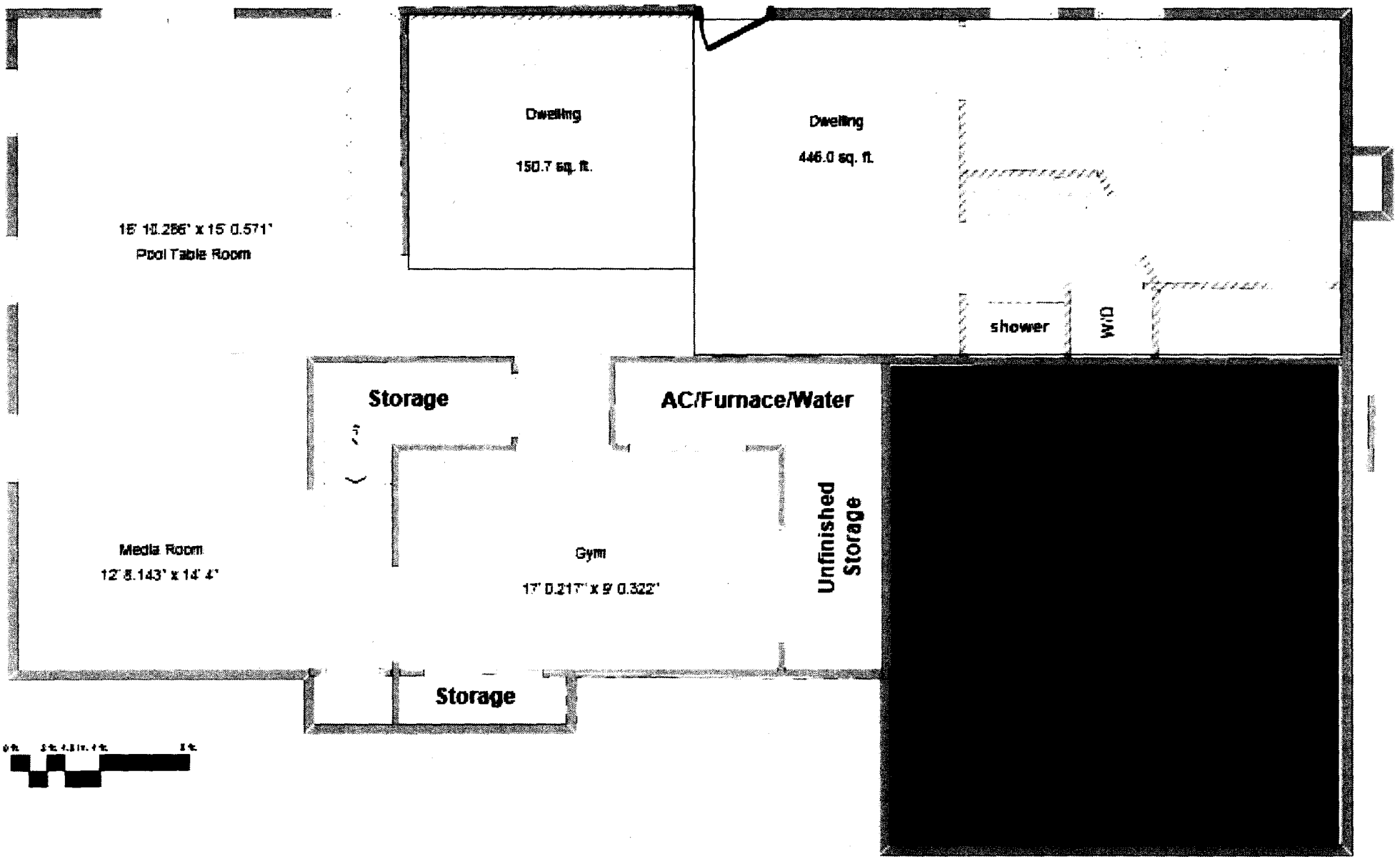
8. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

9. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit.

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

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

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



ATTACHMENT 1

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/4/2009
(enter date affidavit is notarized)

I, RAED RIHANI, do hereby state that I am an
(enter name of applicant or authorized agent)

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

104845a

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)
RAED (Rudy) Rihani	7419 Tillman Dr. Falls Church, VA 22043	Applicant/Title owner
Jessica Rihani; also known of record as Jessica Burgess	7419 Tillman. Dr. Falls Church, VA 22043	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: 8/4/2009
(enter date affidavit is notarized)

104845a

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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/4/2009
(enter date affidavit is notarized)

104845a

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): _____

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/4/2009
(enter date affidavit is notarized)

104845a

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

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

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

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

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

NONE

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/4/2009 (enter date affidavit is notarized)

104845a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than $100, singularly or in the aggregate, with any of those listed in Par. 1 above.

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

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature: _____

(check one) [X] Applicant [ ] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 4 day of Aug 2009, in the State/Comm. of Fairfax, County/City of Va

_____
Notary Public

My commission expires: Nov 30, 2009

VICKI KRAUSE NOTARY PUBLIC COMMONWEALTH OF VIRGINIA Registry No. 358586

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

RECEIVED
Department of Planning & Zoning
MAY 29 2009
Zoning Evaluation Division

Rudy Rihani (Home Owner)
7419 Tillman Dr.
Falls Church, VA 22043

Dear Sir or Madam,

I am writing you this letter to petition for your permission to grant me a permit to build a second kitchen in the basement of my home. The kitchen is to serve two purposes. In the first instance, the kitchen is intended to provide my wife and I with a convenient option for when we are hanging out with our son in the basement. We recently invested over $120,000 in home renovations including a screened-in patio, a patio, and finishing the basement. This screened in patio is accessible through a new door in the basement and is intended to be the focal point of our renovations, and as such, we wished to have a kitchen nearby for convenience when we want to make breakfast, lunch, or dinner and serve it in the patio.

The second and more important reason for the basement kitchen is to serve as the means of providing my aging mother with some independence as she enters retirement. Both my parents are still alive, my father is retired and my mother is only 3 years away from retirement. I have been subsidizing their incoming for the past seven years. My wife and I provide my parents with $600/mo. to cover their expenses as their income is not enough to cover their current household expenses (proof can be furnished upon request). My father is in very poor health and as much as it pains me to admit it, I don't suspect that he will be with us too much longer. When my mother retires in three years, her financial burden will be even greater and I'm afraid that my wife and I will not be in a position to support her financially beyond what we are currently providing. As such, I would like to be able to allow my mother to come live with us in our basement. My mother is fiercely independent and very proud. Providing her with her own space where she has some measure of independence will go a long ways to ensuring that the great relationship that she currently enjoys with my wife can be sustained. Nobody knows what the future holds, but I want to be prepared and provide my family with options when the time comes.

I understand that one of the primary concerns for limiting homeowners from building a second kitchen is to avoid situations where the basement could be turned into a rental. Let me assure you that my wife and I have no intentions of renting. Although we both come from humble beginnings, we have been blessed with the means to support our family and do not require any additional financial assistance. We live within our means and plan for the worst. As such, our home mortgage accounts for less than 20% of our gross household income. We have decided to make a substantial investment in our house and absolutely have no interest in renting any part of it out.

Sincerely,

Rudy Rihani

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.

8-918 Additional Standards for Accessory Dwelling Units

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

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

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

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

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

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

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

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

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

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

      (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written

statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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