



APPLICATION ACCEPTED: December 4, 2009
DATE OF PUBLIC HEARING: March 3, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 24, 2010

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2009-DR-111

DRANESVILLE DISTRICT

APPLICANT: Lisa Peters

OWNERS: Lisa & Jeffery Peters

ZONING: R-3

LOCATION: 6631 Kirkley Avenue

SUBDIVISION: Kent Gardens

ZONING ORDINANCE PROVISIONS: 8-914 & 8-922

TAX MAP: 40-2 ((9)) 25A

LOT SIZE: 13,953 Sq. Feet

SP PROPOSAL: Reduction to the minimum yard requirements based on error in building location to permit accessory storage structure to remain 7.1 feet from a side lot line and 4.6 feet from a rear lot line and reduction of certain yard requirements to permit construction of additions 12.7 feet from the rear lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2009-DR-111 for the additions subject to the proposed development conditions contained in Appendix 1.

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

any applicable ordinances, regulations, or adopted standards.

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

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

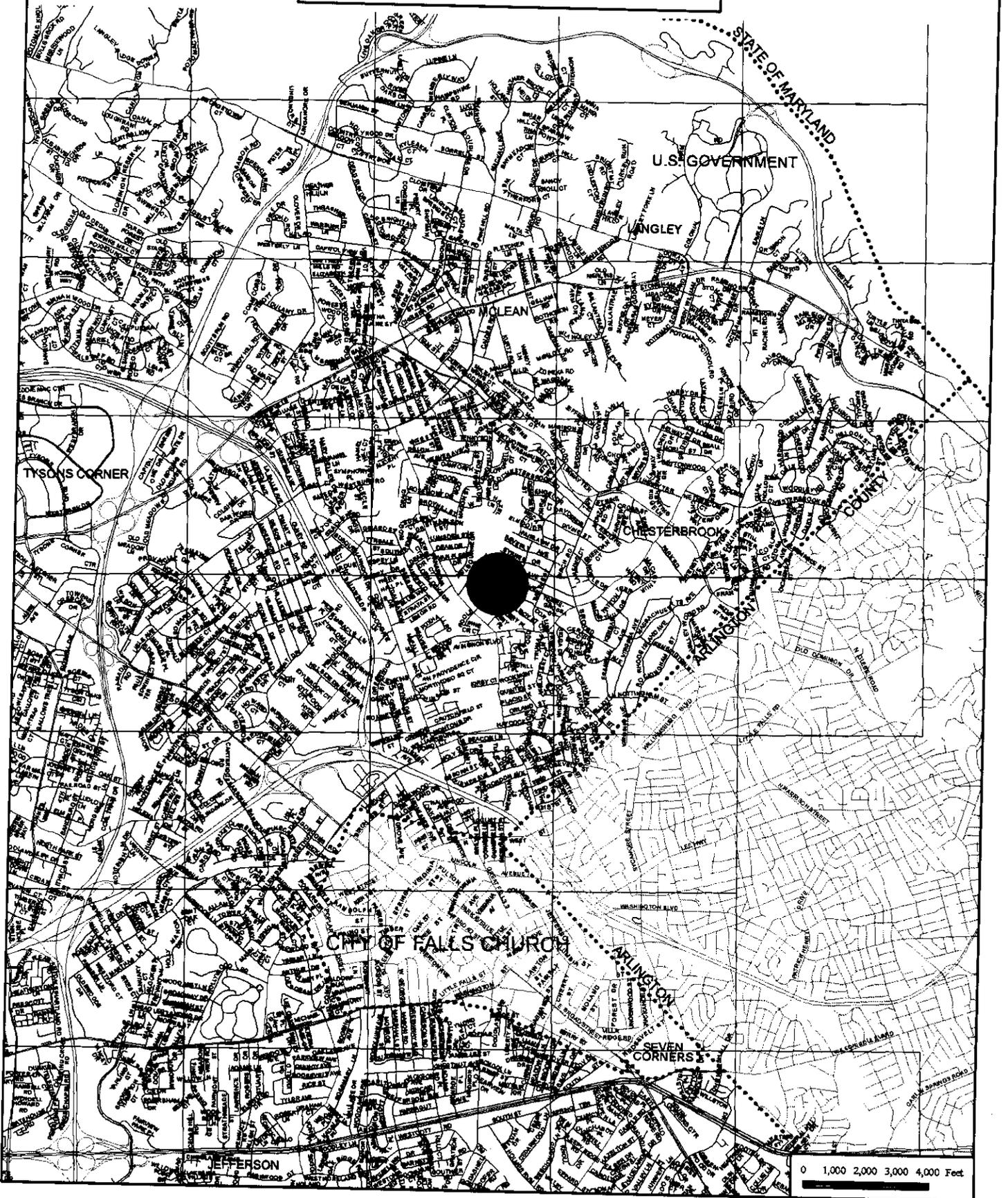
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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



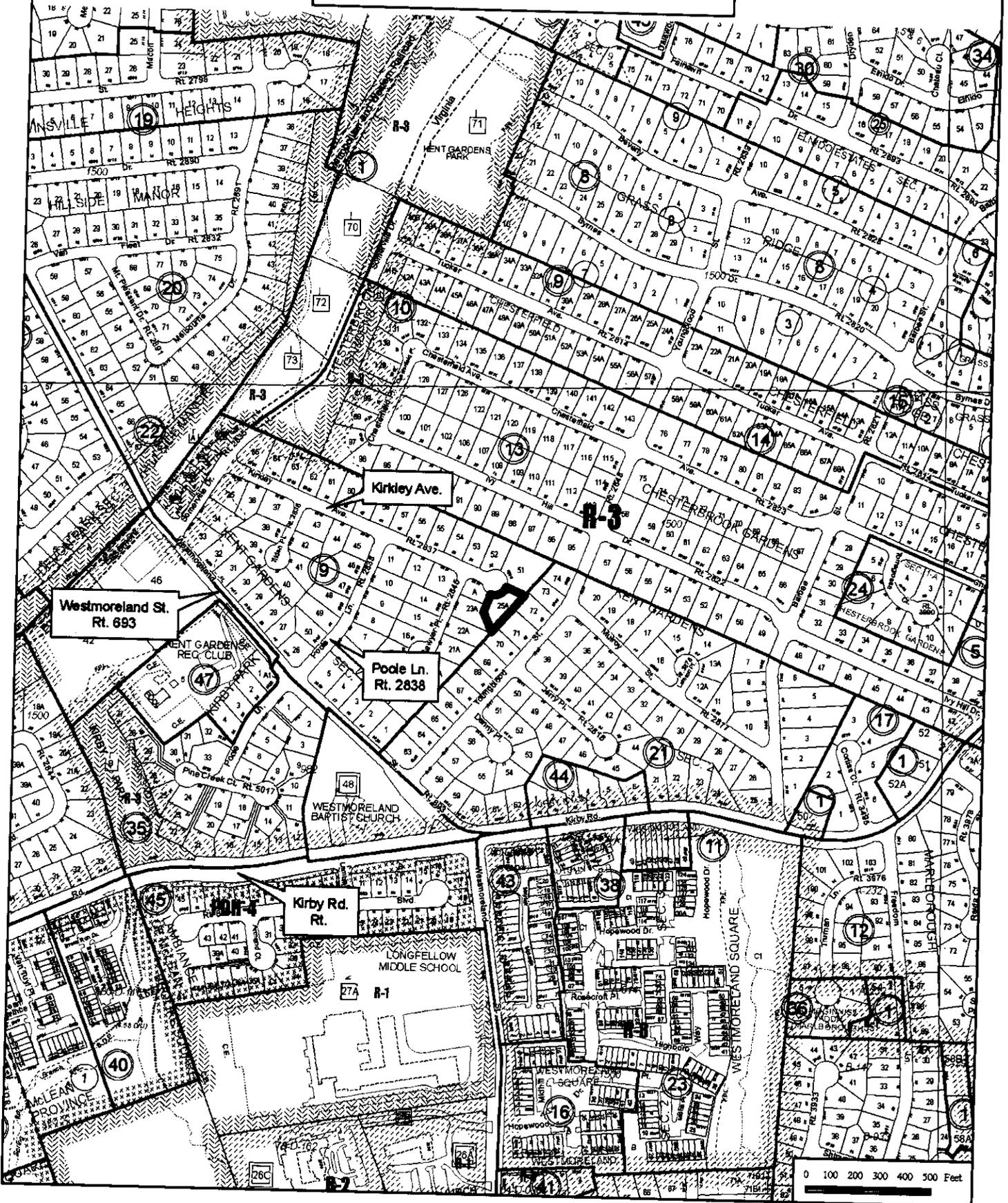
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit
SP 2009-DR-111**

LISA PETERS



**Special Permit
SP 2009-DR-111
LISA PETERS**





NOTES

1. TAX MAP: 040-2-00-00-0021A
2. ZONE: R-3
3. LOT AREA: 13,952 SQUARE FEET
4. MINIMUM REQUIRED YARDS:

FRONT: 36 FEET
 SIDE: 12 FEET
 REAR: 25 FEET

5. HEIGHTS:

DWELLING: 20.5 FEET
 OPEN PORCH: 12 FEET (ROOF)
 SHED: 11.8 FEET
 PROPOSED ADDITION: 14 FEET
 PROPOSED SCREEN PORCH: 15 FEET
 FENCE: AS NOTED

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.

7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.

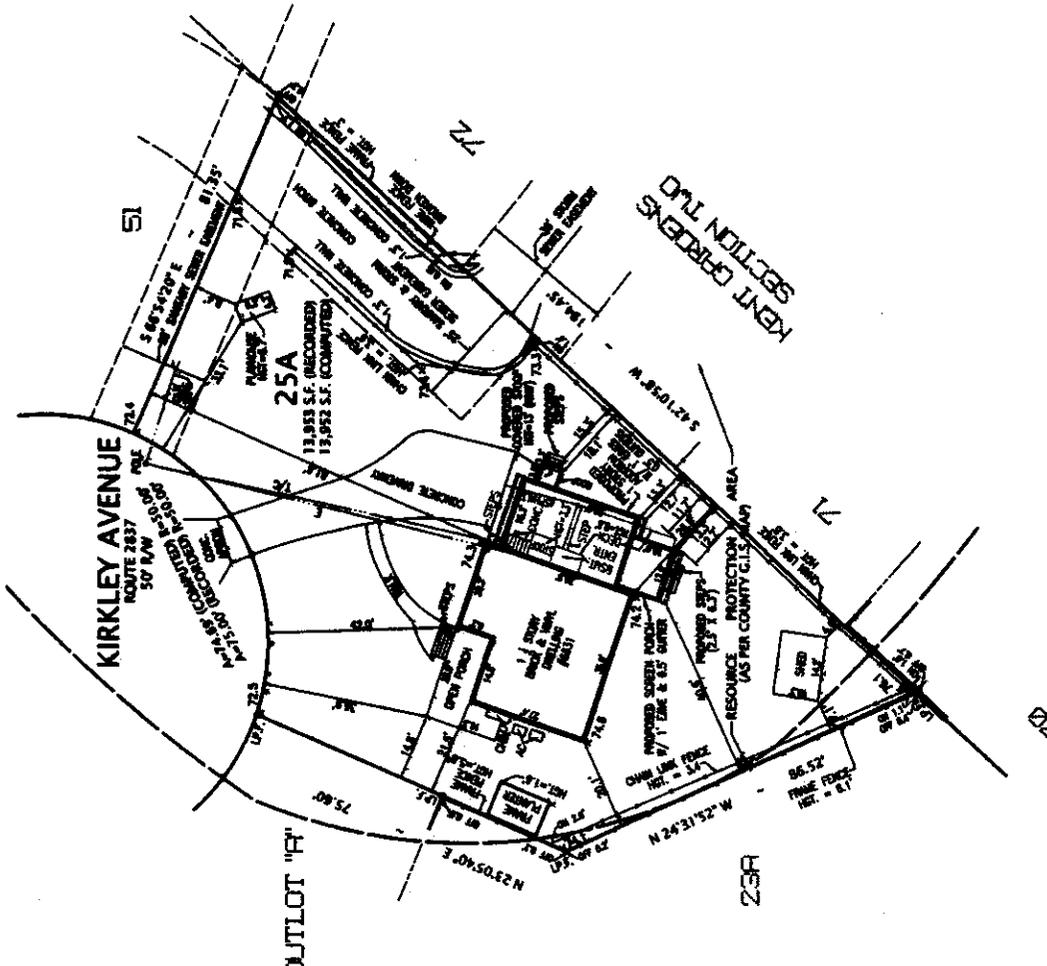
8. OTHER THAN THE SANITARY AND STORM SEWER EASEMENT SHOWN HEREON THE SURVEYOR IS NOT AWARE OF ANY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.

9. APPROXIMATE FLOOR AREAS (BASED IN PART ON EXTERIOR WALL DIMENSIONS) EXISTING DWELLING: 1,709 SQUARE FEET
 FLOOR AREA OF PROPOSED ADDITION/PORCH EQUALS 34.18 OF THE EXISTING FLOOR AREA

10. EXISTING IMPROVEMENTS WITHIN AREA OF PROPOSED NEW ADDITION ARE TO BE REMOVED.

11. PER LETTER OF MAP AMENDMENT FOR THIS PROPERTY DATED JUNE 23, 1968, CASE NO. 94-03-5444 THE EXISTING STRUCTURE IS OUTSIDE OF THE FLOOD HAZARD AREA. THE ELEVATION CERTIFICATE FOR THE CASE LISTS THE BASE FLOOD ELEVATION AS 272.0. ON SITE ELEVATIONS WERE RECORDED FOR THE CERTIFICATE. EXISTING SPOT ELEVATIONS ARE SHOWN THIS 71 IN. THE ELEVATION OF THE EXISTING FIRST FLOOR IS 278.0. THE FLOOR OF THE PROPOSED ADDITION WILL MATCH THE EXISTING FLOOR ELEVATION AND STEP DOWN TO THE PROPOSED PORCH AT AN ELEVATION OF 275.5.

12. ELEVATIONS ARE BASED ON NGVD 29.



PLAT
 SHOWING THE IMPROVEMENTS ON
 LOT 25A
 SECTION ONE
KENT GARDENS
 FAIRFAX COUNTY, VIRGINIA
 APRIL 23, 2009
 SCALE 1"=20'
 JANUARY 27, 2010 (REVISED)

CASE NO.:

FEET:

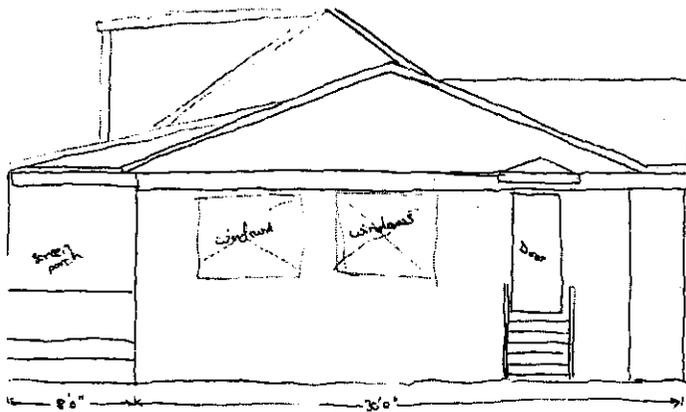
GRAPHIC SCALE

FOR PURPOSES OF THE ZONING MAP THE CORNER NUMBER AND IMPROVEMENT NUMBER FOR THIS PLAT ARE AS SHOWN ON THIS MAP AND SHALL BE THE BASIS FOR THE ZONING MAP.
 ALL THE CORNER NUMBERS AND IMPROVEMENT NUMBERS SHOWN ON THIS MAP ARE THE PROPERTY OF ALEXANDRIA SURVEYS, L.L.C. AND SHALL BE THE BASIS FOR THE ZONING MAP.
 THE ZONING MAP SHALL BE THE BASIS FOR THE ZONING MAP.

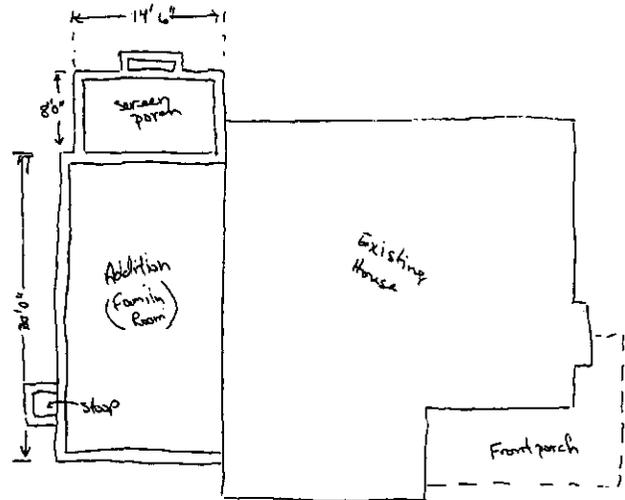


ALEXANDRIA SURVEYS
 L.L.C.
 6210 HUNTERS LANE, ALEXANDRIA, VIRGINIA 22304
 TEL. NO. 703-888-8811 FAX NO. 703-788-7764

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101



Side Elevation



Foundation Plan

- G. The proposed addition will in no way disrupt the surrounding structures or existing vegetation. It is harmonious with the current setting of the neighborhood. It is to be placed on a level area of property and will not interfere with any existing topology, vegetation, floodplains, RPAs (floodplains and RPAs are addressed; permits and authorization will be obtained when the building permit is pursued), steep slopes, wells, septic fields, easements or historic resources.
- H. The proposed addition will in no way adversely impact the use or enjoyment of any adjacent property and its construction is supported by the two closest resident families; Mr & Mrs. Oreste Grecco and Ms. Andrea Miller. The matters of safety, erosion, and storm water runoff are all addressed in the design of the proposed addition and will not impact the surrounding properties in any way.
- I. The proposed addition is within scale of the existing structure and harmonious with the neighborhood setting. It is sized to accommodate use as a functioning living space without imposing on adjacent properties.

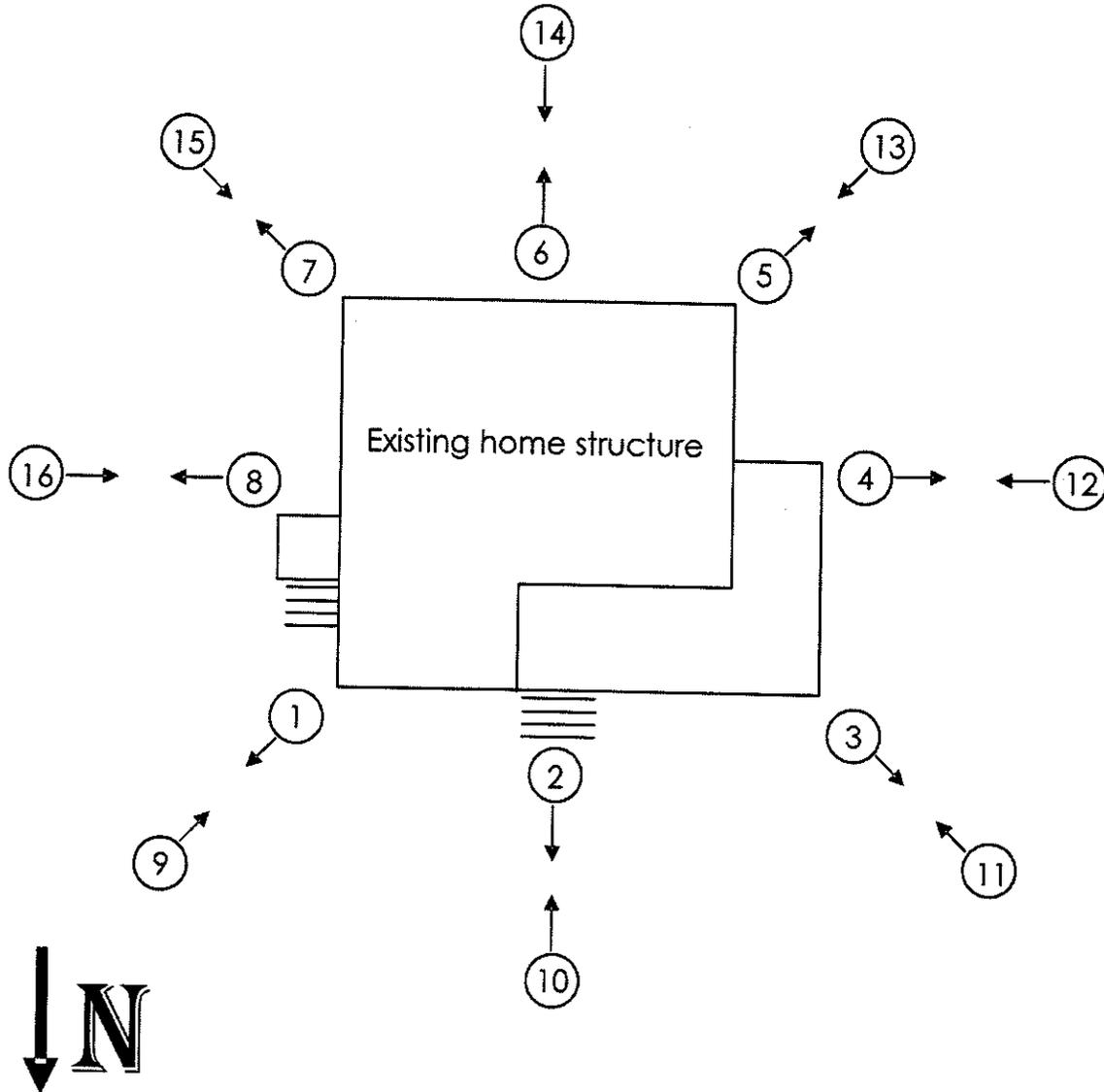
As Special Permit applicants and current residents of the existing house, we agree to satisfy any conditions deemed necessary by the Board of Zoning Appeals to meet all of their criteria.

Best Regards,

Lisa E. Peters

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



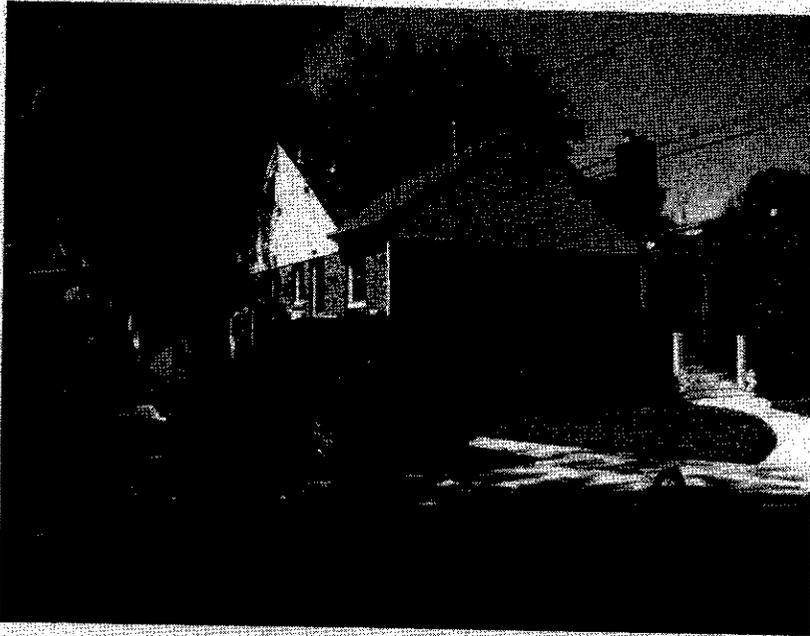
Application for Special Permit
Address: 6631 Kirkley Ave
McLean, VA 22101

Front Of House Faces North

RECEIVED
Department of Planning & Zoning
OCT 23 2009
Zoning Evaluation Division

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



RECEIVED
Department of Planning & Zoning
OCT 23 2009
Zoning Evaluation Division

9. From north east front corner, toward the house



1. From north east front corner, away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



Zoning Evaluation Division
OCT 23 2009
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Department of Planning & Zoning

10. From directly in front of house, facing south, toward the house



2. From directly in front of house, facing north, away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



RECEIVED
Department of Planning & Zoning
OCT 23 2009
Zoning Evaluation Division

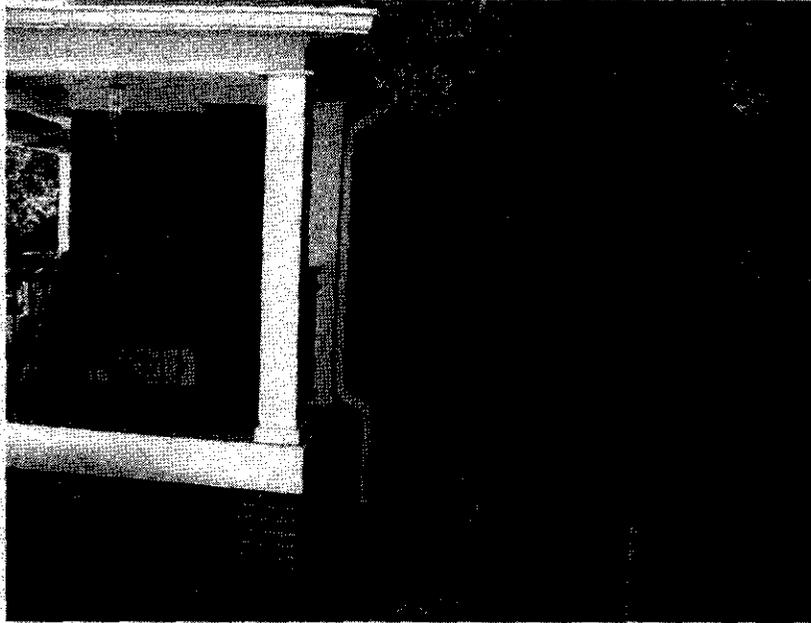
11. From north west front corner, toward the house



3. From north west front corner, away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



12. From west side of house, toward the house

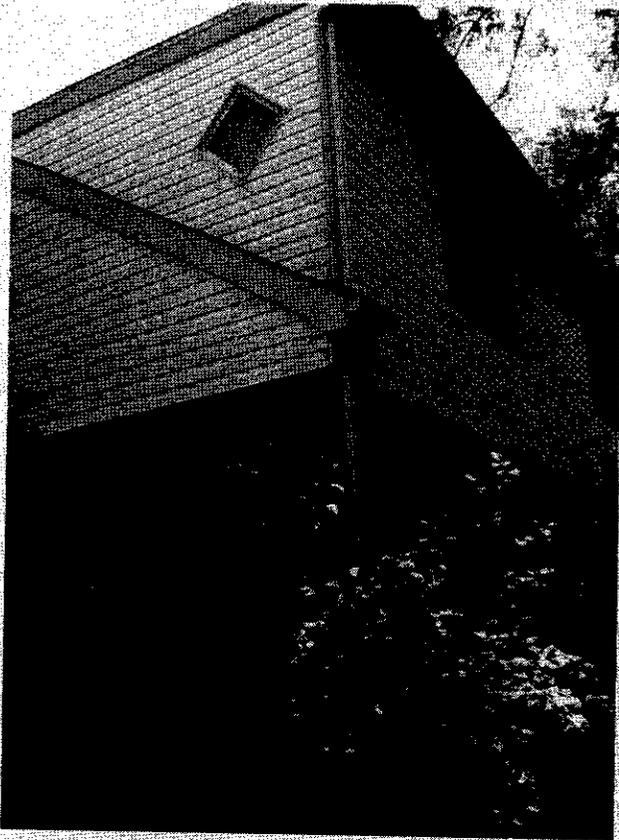
RECEIVED
Department of Planning & Zoning
OCT 23 2009
Zoning Evaluation Division



4. From west side of house, away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



RECEIVED
By: [illegible]
PLANNING & ZONING
OCT 23 2009
ZONING EVALUATION DIVISION

13. From south west back corner, toward the house



5. From south west back corner, away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



ZONING EVALUATION DIVISION
OCT 23 2009
Department of Planning & Zoning
RECEIVED

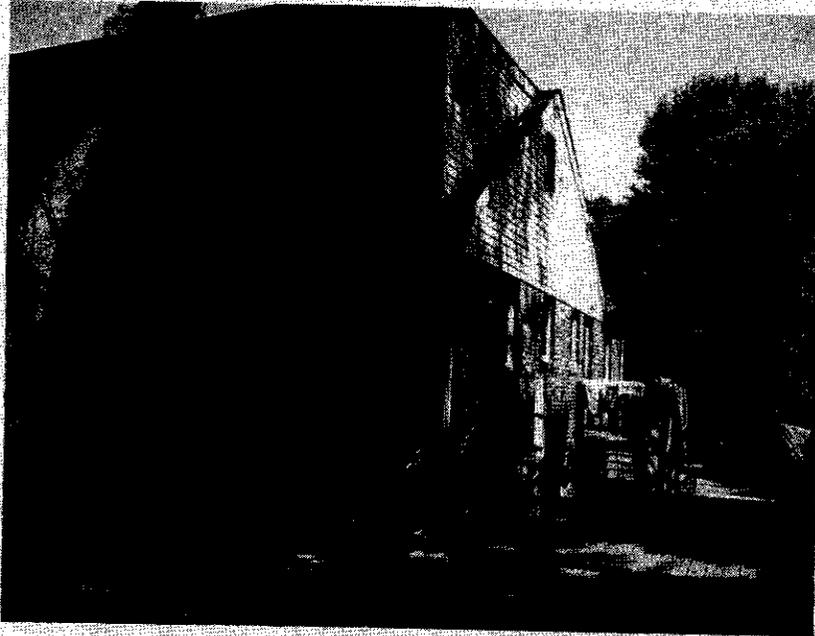
14. From directly behind house, facing north, toward the house



6. From directly behind house, facing north, away from house

**Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

Photographs of Property



15. From south east back corner, toward the house



7. From south east back corner , away from house

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

Photographs of Property



16. From east side of house, toward the house



8. From east side of house, away from house

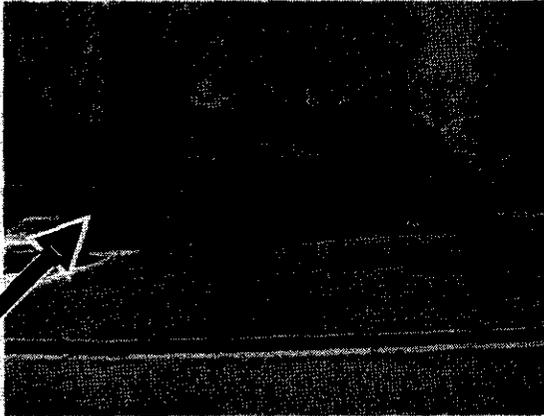
Zoning Evaluation Division

OCT 23 2009

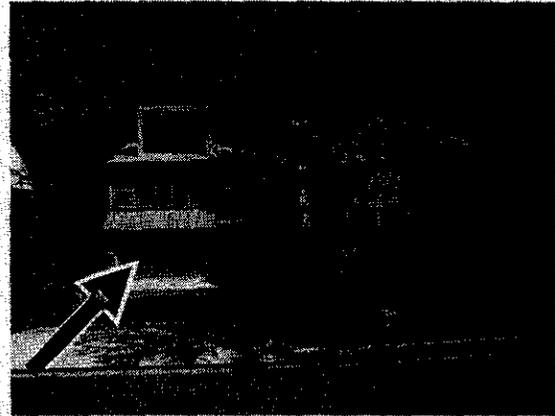
RECEIVED
Department of Planning & Zoning

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

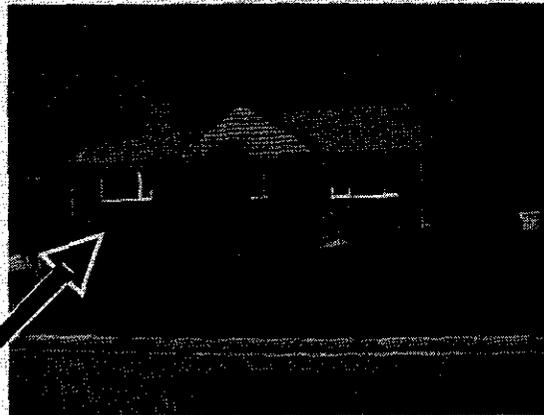
Sampling of the Houses on Kirkley Avenue with Additions Similar to the
Proposed Addition



6705 Kirkley
Similar addition on left.
Sunroom addition on right.



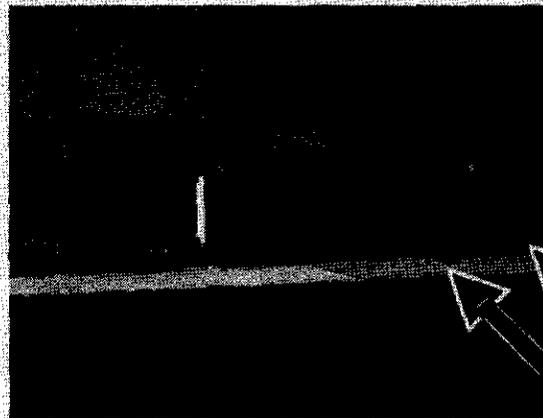
6652 Kirkley
On left, similar addition with bumped
up roof and garage below.



6704 Kirkley
Similar addition on left.



6648 Kirkley
Similar addition on left.



6701 Kirkley
Mirror image house - on right, similar
addition and detached garage.

DESCRIPTION OF THE APPLICATIONS

The applicant is requesting approval of two special permits for the subject property. The first is to permit reduction of minimum yard requirements based on error in building location for an accessory storage structure (shed) to remain 7.1 feet from the western side lot line and 4.6 feet from the rear lot line.

	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit 1	Side	12 feet	7.1 feet	4.9 feet	40.8 %
Special Permit 1	Rear	11.8 feet	4.6 feet	7.2 feet	61 %

* Minimum yard requirement per Section 10-104

The second special permit request is for a reduction of certain yard requirements to permit construction of a one story addition and a screen porch addition 12.7 feet from the rear lot line.

	Structure	Yard	Min. Yard Required*	Proposed Location	Proposed Reduction	Percent of Reduction Requested
Special Permit 2	One Story Addition	Rear	25 feet	12.7 feet	12.3 feet	49.2 %
Special Permit 2	Screen Porch Addition	Rear	25 feet	12.7 feet	12.3 feet	49.2 %

* Minimum yard requirement per Section 3-307

LOCATION AND CHARACTER

Existing Site Description

The 13,953 square foot site is currently zoned R-3 and contains a one and a half story with full basement single family detached dwelling which was built in 1954. The subject property is surrounded by single family detached homes on all sides. Almost the entire parcel is located within a Resource Protection Area (RPA) and a floodplain. There is

also a 20 foot wide sanitary sewer easement and a 25 foot wide sanitary and storm sewer easement located on the northern end of the property. There is little change in topography and there is minimal tree cover provided on the lot; however, there is dense vegetation on adjacent properties.

Character of the Area

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

BACKGROUND

Almost the entire application property is located within a Resource Protection Area (RPA). Attached in Appendix 4 is a memorandum from staff in the Department of Public Works and Environmental Services (DPWES) which states that an encroachment waiver for the addition will be required under the Chesapeake Bay Protection Ordinance. The applicant will be required to apply for and have the waiver approved prior to approval of any building permit for the addition.

The Forest Conservation Branch, DPWES has identified significant trees which are considered a priority for preservation and could be adversely impacted as a result of construction activities. A copy of the memo can be found in Appendix 5.

The existing playhouse located within the front yard of the property is proposed to be removed.

The Board of Zoning Appeals (BZA) heard no similar applications in the vicinity of the subject property.

ANALYSIS OF SPECIAL PERMIT APPLICATION

Title of SP Plat: Plat Showing the Improvements on Lot 25A, Section One, Kent Gardens

Prepared By: Andrew L. Westerman, Alexandria Surveys International, LLC, dated April 23, 2009, revised and signed through January 27, 2010.

Building Permit Required for Shed: No (the shed is only 146.3 square feet)

Location Error Made By: Current Owners

Proposal

The applicant proposes to construct a one-story addition to be utilized as livable space and a screen porch, 12.7 feet from the rear lot line. The one story addition will be approximately 28 ft. by 16.3 ft. and 16 feet in height. The screen porch will be 12 ft. by 10 ft. and 15 feet in height. The proposed addition and screen porch will be approximately 580 square feet in total size.

The applicant's also requests approval of an error in building location for an existing shed 11.8, feet in height and 146 square feet in size, to remain 7.1 feet from a side lot line and 4.6 feet from the rear lot line.

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Provisions for Reduction of Certain Yard Requirements (Sect. 8-922)

Sect. 8-006 General Special Permit Standards

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

General Standard 3 requires that the proposed uses be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes that the special permit application satisfies this condition based the fact that this is a minimal request given that the proposed addition will be constructed in proximity to the adjacent neighbor's rear yards. There is also an existing deck which is currently 11.7 feet from the rear lot line which the proposed addition will replace. Given this, staff believes the application meets this provision.*

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

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

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. The existing structure is 1,700 square feet. Therefore 150% of the total gross floor area could result in an addition up to 2,550 square feet; which makes a combined total of 4,250 square feet. The proposed addition and screen porch will be 580 square feet for a total of 2,280 square feet for the existing house and additions. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The proposed one story addition will be 16 feet in height and the proposed screen porch will be 15 feet in height and a total of 580 square feet for both. The existing single family detached dwelling is one and a half stories at 20.5 feet in height and 1,700 square feet in size. The addition and screen porch will be constructed with materials and an appearance similar to the existing dwelling. Staff believes the proposed addition will not be out of character with existing on-site development.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the director. The proposed addition will not adversely affect the neighboring properties due to its small size and scope. Very little land disturbance shall take place due to its small size and its replacement of an existing deck. No existing vegetation or significant trees on the subject property will be removed; however to address the concerns of the Forest Conservation Branch (Appendix 5) regarding potential adverse impacts on the adjacent properties, staff has imposed a development condition requiring tree protective fencing during the construction process. Therefore, staff believes the application satisfies this condition.

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

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains

and/or Resource Protection areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. *The proposed addition could not have been constructed by right on the western side of the existing house due to it's proximity to the side lot line. There will be no harm to existing trees on the property and little increase in impervious area due to the addition being constructed in place of an existing at grade patio (open deck). The subject property is located within an RPA and a floodplain which the applicant will have to address at the time of obtaining a building permit; however they have already confirmed that the proposed construction is above the floodplain elevation. If the proposed addition was constructed at the rear of the dwelling, it could result in the removal of a 28 inch in diameter maple tree which has been identified by the Forest Conservation Branch a priority for preservation.*

CONCLUSION

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

RECOMMENDATION

Staff recommends approval of special permit application SP 2009-DR-111 for the additions subject to the proposed development conditions contained in Appendix 1 of the staff report.

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Environmental and Site Review Division Memo
5. Forest Conservation Branch Memo
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2009-DR-111****February 24, 2010**

If it is the intent of the Board of Zoning Appeals to approve SP 2009-DR-111 located at Tax Map Number 40-2 ((9)) 25A (6631 Kirkley Ave.), to permit reduction of certain yard requirements pursuant to 8-914 & 8-922 of the Fairfax County Zoning Ordinance, staff recommends the Board condition the approval by requiring conformance with the following development conditions.

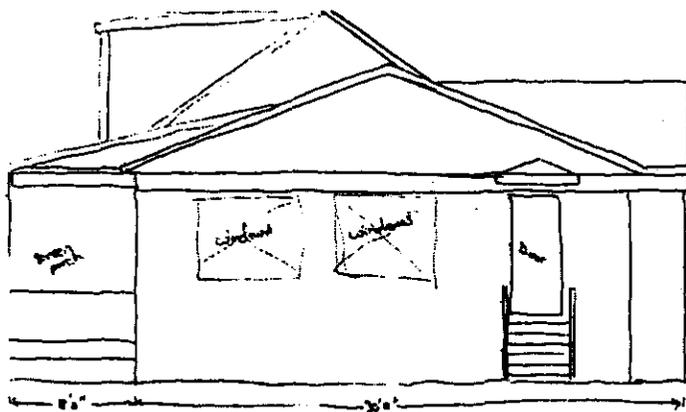
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of the proposed additions and shed as shown on the plat prepared by Andrew L. Westerman, Alexandria Surveys International, LLC, dated April 23, 2009, revised and signed through January 27, 2010, submitted with this application and is not transferable to other land.
3. Pursuant to Provision 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of the existing principle structures may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (1,700 square feet existing + 2,550 (150%) = 4,250 permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction, special permit or variance. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials depicted on the plat and included in Attachment 1 to these conditions.
5. The applicant shall obtain an encroachment exception for construction within the RPA in accordance with the memo provided by the Environmental and Site Review Division, DPWES.
6. Prior to commencement of and during the entire construction process, tree protective fencing shall be installed between the location of the proposed addition and the dripline of the significant trees outlined in the memo from the Forest Conservation Branch, DPWES. The protective fencing shall remain intact during the entire construction process, and shall be the maximum limit for clearing and grading. The applicant shall monitor the site to ensure that an

inappropriate activity such as the storage of construction equipment does not occur within these areas.

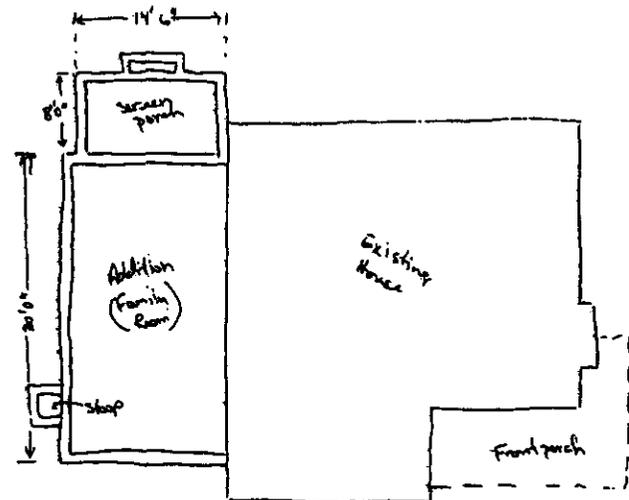
This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

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

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101



Side Elevation



Foundation Plan

- G. The proposed addition will in no way disrupt the surrounding structures or existing vegetation. It is harmonious with the current setting of the neighborhood. It is to be placed on a level area of property and will not interfere with any existing topology, vegetation, floodplains, RPAs (floodplains and RPAs are addressed; permits and authorization will be obtained when the building permit is pursued), steep slopes, wells, septic fields, easements or historic resources.
- H. The proposed addition will in no way adversely impact the use or enjoyment of any adjacent property and its construction is supported by the two closest resident families; Mr & Mrs. Oreste Grecco and Ms. Andrea Miller. The matters of safety, erosion, and storm water runoff are all addressed in the design of the proposed addition and will not impact the surrounding properties in any way.
- I. The proposed addition is within scale of the existing structure and harmonious with the neighborhood setting. It is sized to accommodate use as a functioning living space without imposing on adjacent properties.

As Special Permit applicants and current residents of the existing house, we agree to satisfy any conditions deemed necessary by the Board of Zoning Appeals to meet all of their criteria.

Best Regards,

Lisa E. Peters

Application No.(s): SP 2009-DR-111
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 9, 2009
 (enter date affidavit is notarized)

I, Lisa E. Peters, 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 106425a

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)
Lisa E. Peters	6631 Kirkley Ave McLean, VA 22101	Applicant/ Title Owner
Jeffery A. Peters	6631 Kirkley Ave McLean, VA 22101	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): SP 2009-DR-111
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 9, 2009
(enter date affidavit is notarized)

106425 a

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): SP 2009-PR-111
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 9, 2009
(enter date affidavit is notarized)

106425 a

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): SP 2009-DR-111
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 9, 2009
(enter date affidavit is notarized)

106 425 a

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: November 9, 2009
(enter date affidavit is notarized)

106 425 a

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:

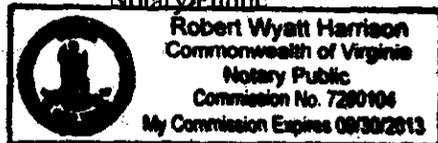
(check one) *Lisa E. Peters*
 Applicant [] Applicant's Authorized Agent

Lisa E. Peters
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 9 day of November 2009, in the State/Comm. of Virginia, County/City of Fairfax

Robert Wyatt Harrison
Notary Public

My commission expires: 9-30-2013



**Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

Lisa Peters
6631 Kirkley Ave
McLean, VA 22101
703-760-0820

November 15, 2009

Department of Planning and Zoning
Board of Zoning Appeals
Herrity Building
12055 Government Center Parkway
Fairfax, VA 22035

RECEIVED
Department of Planning & Zoning

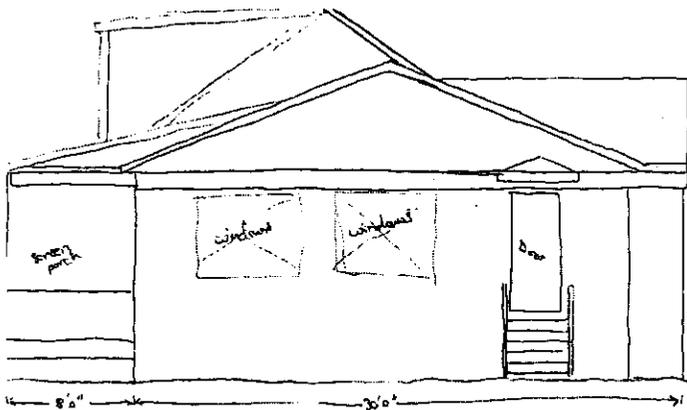
NOV 17 2009

Zoning Evaluation Division

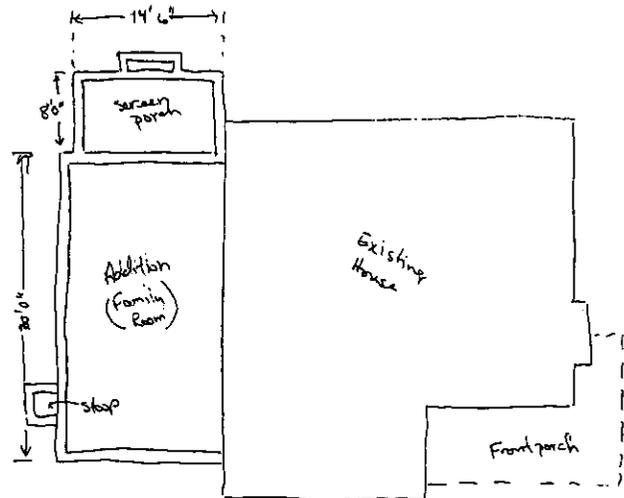
To Whom It May Concern:

- A. The proposed addition is sized to be used as an entry foyer and family room at 28' x 16'3" with a screen porch at 12' x 10', for a total of 580 square feet. It is to be composed of a concrete foundation, wood framing with brick and siding exterior.
- B. There is no accessory structure in the front yard, therefore this does not apply.
- C. The house was built in ~1954 and currently meets all existing setbacks of 12' on side property lines, 25' from rear property line, and 30' from front property line.
- D. Existing structure: 1700 square feet.
Proposed structure: 460 square feet – family room, 120 square feet – screen porch.
- E. The proposed addition's square footage is subordinate to the existing/principal structure. Existing structure = 1700 square feet, proposed addition = 580 square feet. The proposed addition is 34.1% the size of the existing structure.
- F. The proposed addition is in character with the existing house as well as the rest of the neighborhood. Many houses on Kirkley Avenue with the same footprint as ours have been updated with similar additions for decades (please refer to neighborhood photos on page 3). Also, the following sketches (side elevation and foundation plan) of the proposed addition show that it will be within character of the existing house in terms of location, height, bulk and scale on the lot. The proposed addition will be used solely by the residents for family purposes.

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101



Side Elevation



Foundation Plan

- G. The proposed addition will in no way disrupt the surrounding structures or existing vegetation. It is harmonious with the current setting of the neighborhood. It is to be placed on a level area of property and will not interfere with any existing topology, vegetation, floodplains, RPAs (floodplains and RPAs are addressed; permits and authorization will be obtained when the building permit is pursued), steep slopes, wells, septic fields, easements or historic resources.
- H. The proposed addition will in no way adversely impact the use or enjoyment of any adjacent property and its construction is supported by the two closest resident families; Mr & Mrs. Oreste Grecco and Ms. Andrea Miller. The matters of safety, erosion, and storm water runoff are all addressed in the design of the proposed addition and will not impact the surrounding properties in any way.
- I. The proposed addition is within scale of the existing structure and harmonious with the neighborhood setting. It is sized to accommodate use as a functioning living space without imposing on adjacent properties.

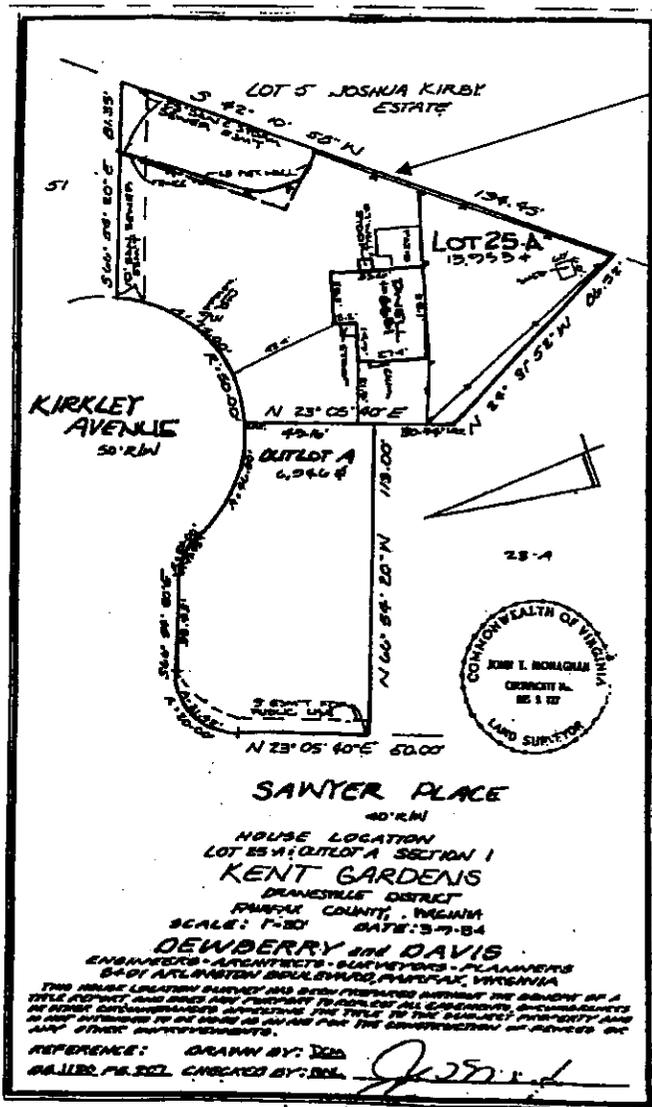
As Special Permit applicants and current residents of the existing house, we agree to satisfy any conditions deemed necessary by the Board of Zoning Appeals to meet all of their criteria.

Best Regards,

Lisa E. Peters

**Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

P.S. Please consider that due to the unique shape of our lot, the property line farthest from the curb (reference plat copy below) runs almost parallel to the side of our house and is deemed the rear property line. This imposes the 25' setback of a rear property line, verses the 12' setback of a side property line, despite the appearance of it being a side property line. When the proposed addition was designed, it was with the assumption that the adjacent property line was our side property line. We discovered during the permit process that for our particular lot, this was actually the rear property line. If it had been our side property line it would be in keeping with the other similar additions in the neighborhood which utilized the side property line setback of 12'.



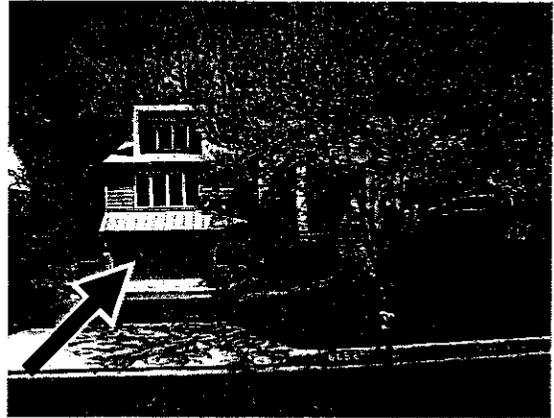
Property line in question = legal rear property line, yet apparent side property line

Statement of Justification – Peters Residence
6631 Kirkley Ave, McLean, VA 22101

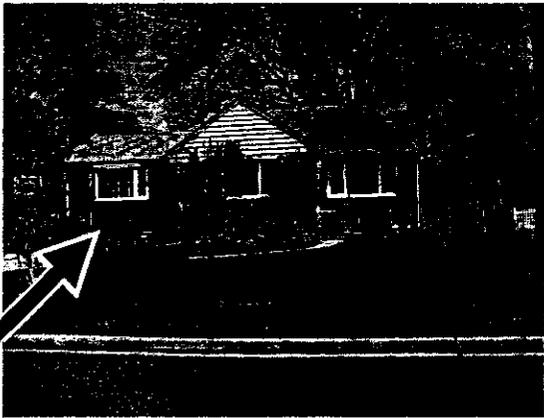
Sampling of the Houses on Kirkley Avenue with Additions Similar to the
Proposed Addition



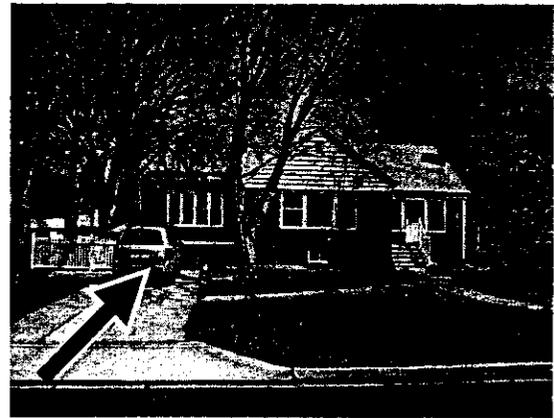
6705 Kirkley
Similar addition on left.
Sunroom addition on right.



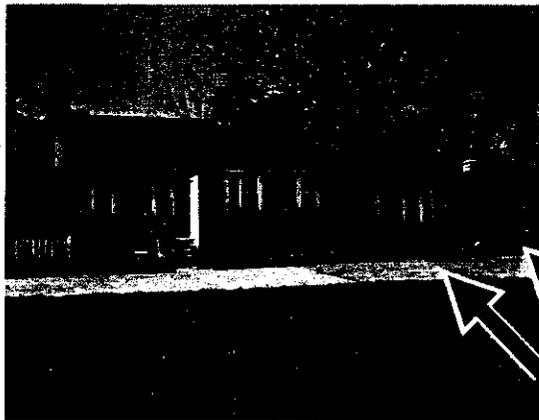
6652 Kirkley
On left, similar addition with bumped
up roof and garage below.



6704 Kirkley
Similar addition on left.



6648 Kirkley
Similar addition on left.



6701 Kirkley
Mirror image house - on right, similar
addition and detached garage.

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Department of Planning & Zoning
NOV 17 2009
COURTESY: WASHINGTON POST

**Special Permit Application Addition – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

Lisa Peters
6631 Kirkley Ave
McLean, VA 22101
703-760-0820

November 15, 2009

Department of Planning and Zoning
Board of Zoning Appeals
Herrity Building
12055 Government Center Parkway
Fairfax, VA 22035

Ms. Virginia H. Ruffner, Planner III:

This letter addresses the addition of an accessory storage structure (shed) to the Special Permit Application on behalf of Lisa E. Peters as sighted in the letter from County of Fairfax, dated November 05, 2009 (a copy of the letter is attached for reference). The applicant/home owner is requesting a reduction to the minimum yard requirements for an existing shed structure. In addition, the existing shed structure will be added to the Special Permit Application as an error in building location.

Please note that a reduction to the minimum yard requirements will not impair the purpose and intent of Ordinance 8-914. As advised by Special Permit office staff, section 2 of Ordinance 8-914 will be addressed below.

Ordinance 8-914, Section 2

The existing shed structure was erected and has been in place since spring 1999. While constructed in error, it was built in good faith, without the knowledge of the requirement for set backs. With the awareness of the current neighbors and without a single complaint, the shed has been in place for over 10 years.

The existing shed structure is in no way detrimental to the use or enjoyment of the other properties. It in no way creates an unsafe condition with respect to other properties or public streets. As mentioned, it has been in place and active use, without complaint or detriment, for over 10 years and to move or remove it would cause tremendous adverse impact to the owner.

Best Regards,



Lisa E. Peters

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Department of Planning & Zoning

NOV 17 2009

Zoning Evaluation Division

**Special Permit Checklist Report – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

Lisa Peters
6631 Kirkley Ave
McLean, VA 22101
703-760-0820

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Department of Planning & Zoning

NOV 17 2009

Zoning Evaluation Division

November 15, 2009

Department of Planning and Zoning
Board of Zoning Appeals
Herrity Building
12055 Government Center Parkway
Fairfax, VA 22035

Ms. Virginia H. Ruffner, Planner III:

This letter addresses the listing of deficiencies for the Special Permit Application on behalf of Lisa E. Peters as they appear in the letter from County of Fairfax, dated November 05, 2009 (a copy of the letter is attached for reference). Each deficiency will be addressed in order as it appears on the letter.

Submission Requirement:

1.0 The playhouse currently shown on the plat and located in the front yard will be removed in its entirety. The plat will be updated to reflect this change and submitted to the Special Permit office.

In response to the 8-923 standard regarding the fence greater than 4.0 feet in height; the fence in question is not the home owner's fence. At no point is it located on the home owner's property. Upon review of the plat, Special Permit office staff concurred.

In response to the 8-914 standard regarding the accessory storage structure (shed); the structure will be added to the Special Permit Application as an error in building location.

5.0 The Statement of Justification submitted by the home owner will be corrected and all square footage information will be made consistent with the plat documentation.

7.0 The plat will be updated to reflect the home owner's plans to remove the playhouse located in the front yard. The fence in question is not located on the home owner's property. The shed structure will be added to the Special Permit Application.

**Special Permit Checklist Report – Peters Residence
6631 Kirkley Ave, McLean, VA 22101**

Additional Submission Requirement:

- 930.00 The Statement of Justification submitted by the home owner will be corrected and all square footage information will be made consistent with the plat documentation to address items 930.00, 930.01 and 930.15.
- 930.10 The plat will be updated to reflect the home owner's plans to remove the playhouse located in the front yard.
- 930.15 After speaking with the Special Permit office staff I believe this deficiency listing is an error.
- 930.17 After speaking with the Special Permit office staff I believe this deficiency listing is an error.
- 930.19 Revised, signed, sealed and dated plats will be provided.
- 930.20 Copies of the side and rear elevations of the proposed structure will be provided.

Best Regards,



Lisa E. Peters



County of Fairfax, Virginia

MEMORANDUM

DATE: December 21, 2009

TO: Shannon Caffee, Staff Coordinator
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Beth Forbes, Stormwater Engineer
Environmental and Site Review Division
Department of Public Works and Environmental Services

SUBJECT: Special Permit Application #SP 2009-DR-111, Peters Property at 6631 Kirkley Avenue, Plat dated November 16, 2009, LDS Project #13308-ZONA-001-1, Tax Map #40-2-09-0025A, Dranesville District

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DEPARTMENT OF PLANNING
AND ZONING

JAN . 4 2010

SPECIAL PERMIT &
VARIANCE BRANCH

We have reviewed the subject application and offer the following stormwater management comments.

Chesapeake Bay Preservation Ordinance (CBPO)

There is Resource Protection Area (RPA) on this site. An encroachment exception for a minor addition will be required under CBPO 118-5-5a. Since an infill grading plan will not be required for the addition, water quality controls will not be required.

Floodplain

There are regulated floodplains on the property. The floodplain boundary must be shown on the plat. Any portion of the addition within the floodplain must meet the requirements in Paragraph 8 of Zoning Ordinance Section 2-903.

Downstream Drainage Complaints

There are no downstream drainage complaints on file.

Stormwater Detention & Outfall

Since an infill grading plan will not be required, an outfall analysis or detention will not be required.

Please contact me at 703-324-1720 if you require additional information.

BF/

cc: Craig Carinci, Director, Stormwater Planning Division
Jeremiah Stonefield, Chief, Stormwater & Geotechnical Section, ESRD, DPWES
Zoning Application File

Department of Public Works and Environmental Services
Land Development Services, Environmental and Site Review Division
12055 Government Center Parkway, Suite 535
Fairfax, Virginia 22035-5503
Phone 703-324-1720 • TTY 711 • FAX 703-324-8359





County of Fairfax, Virginia

MEMORANDUM

December 29, 2009

TO: Shannon Caffee, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Craig Herwig, Urban Forester III 
Forest Conservation Branch, DPWES

SUBJECT: Kent Gardens Section 1 Lot 25A (6631 Kirkley Avenue), SP 2009-DR-111

RE: Request for assistance dated December 23, 2009

This review is based on the Special Permit application SP 2009-111 stamped as "Received, Department of Planning and Zoning November 17, 2009" and the special permit plat showing the proposed addition to the existing dwelling at 6631 Kirkley Avenue, Mclean Virginia. A site visit was conducted on December 28, 2009.

Site Description: This site is developed with a one story, brick and vinyl single family dwelling and associated concrete driveway. There is an existing shed located at the southwest property corner, behind the existing dwelling. The property, including the existing dwelling and proposed addition is primarily located within a Resource Protection Area (RPA). There is a 13-inch diameter white pine tree located near the western property boundary adjacent to the proposed addition, as well as several off-site trees located on the adjacent lot, west of the proposed addition. There is a 28-inch diameter maple located at the left rear of the dwelling approximately 18-20 feet from the dwelling and a 38-inch diameter silver maple at the southern portion of the property, at the left of the existing shed. All of these trees appear to be in fair condition.

- 1. Comment:** There is a 13-inch diameter white pine tree, two 28 and 38-inch diameter maple trees and off-site trees along the western property boundary and adjacent to the proposed addition and screened porch that appear to be in fair condition. These trees should be consider a priority for preservation due to there location within the RPA and should be protected during the construction activities.

Recommendation: A tree preservation area and tree protection fencing should be provided along the western property boundary to protect the off-site trees and the existing white pine tree. A tree preservation area and tree protection fencing should be provided between the two maple trees behind the dwelling and the proposed addition and screened porch to protect the trees from construction activities.

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes



Kent Gardens Section 1, Lot 25A
SP-2009-DR-111
December 29, 2009
Page 2 of 2

Please feel free to contact me at 703-324-1770 if you have any questions.

CSH/
UFMID #: 148341

cc: RA File
DPZ File

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes



8-006 General Standards

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

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

8-903 Standards for all Group 9 Uses

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

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

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

8-914

Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-922 Provisions for Reduction of Certain Yard Requirements

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

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

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

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

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

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

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