



APPLICATION ACCEPTED: March 26, 2010
BOARD OF ZONING APPEALS: June 9, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 2, 2010

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-BR-021

BRADDOCK DISTRICT

APPLICANT: John G. Provost

OWNERS: John G. Provost
Shawn M. Provost

STREET ADDRESS: 5957 Burnside Landing Drive

SUBDIVISION: Burke Centre

TAX MAP REFERENCE: 77-4 ((7)) 10

LOT SIZE: 9,600 square feet

ZONING DISTRICT: PRC

ZONING ORDINANCE PROVISION: 8-924

SPECIAL PERMIT PROPOSAL: To permit certain additions to an existing single family detached dwelling to permit construction of a second story addition 8.6 feet from the front lot line of a pipestem lot.

STAFF RECOMMENDATION: Staff recommends approval of SP 2010-BR-021 for a second story addition subject to the proposed development conditions contained in Appendix 1.

O:\dhedr\Special Permits\6-9) SP 2010-BR-021 Provost\SP 2010-BR-021 Provost staff report.doc

Deborah Hedrick

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



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

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

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.**

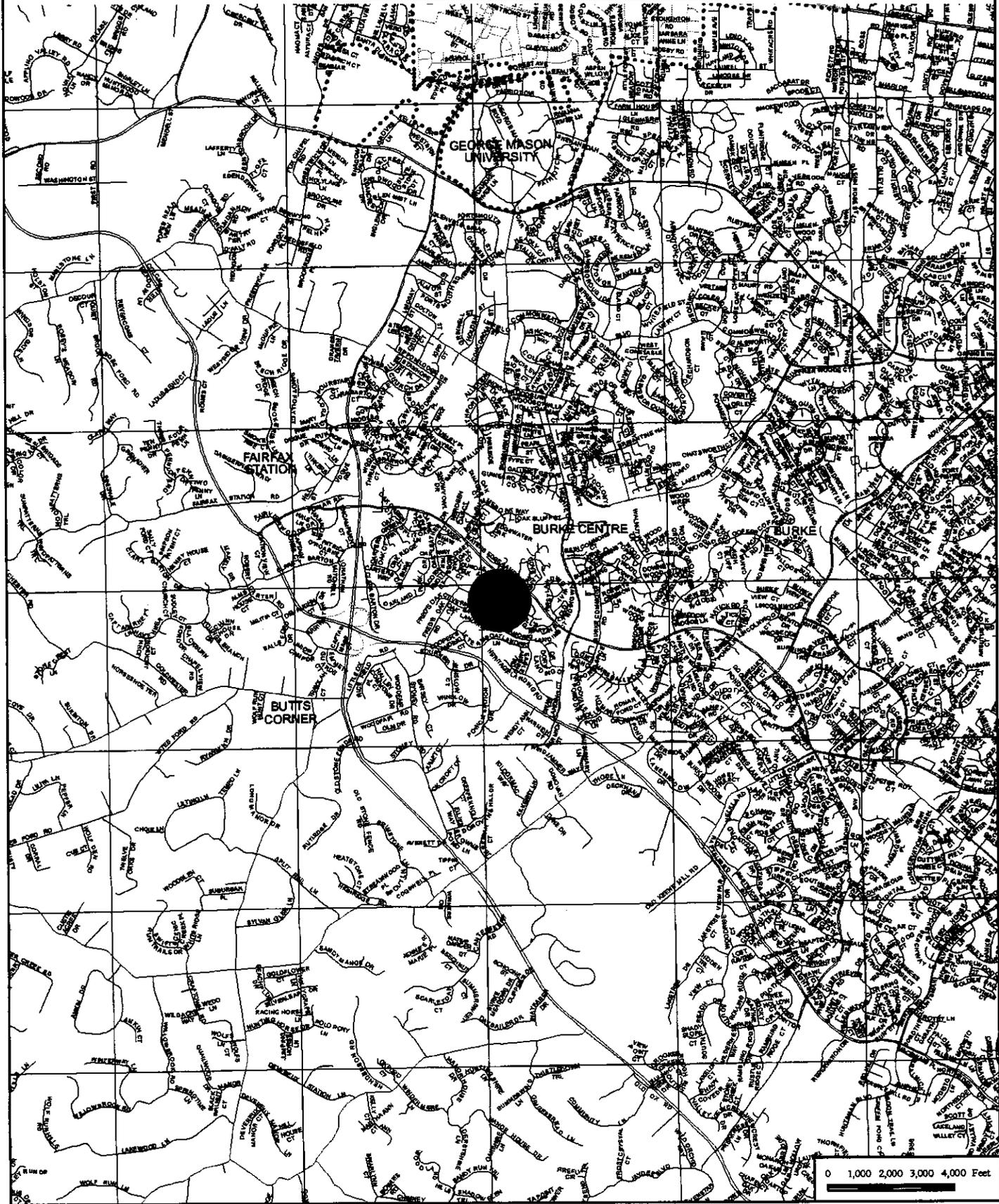


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2010-BR-021

JOHN G. PROVOST



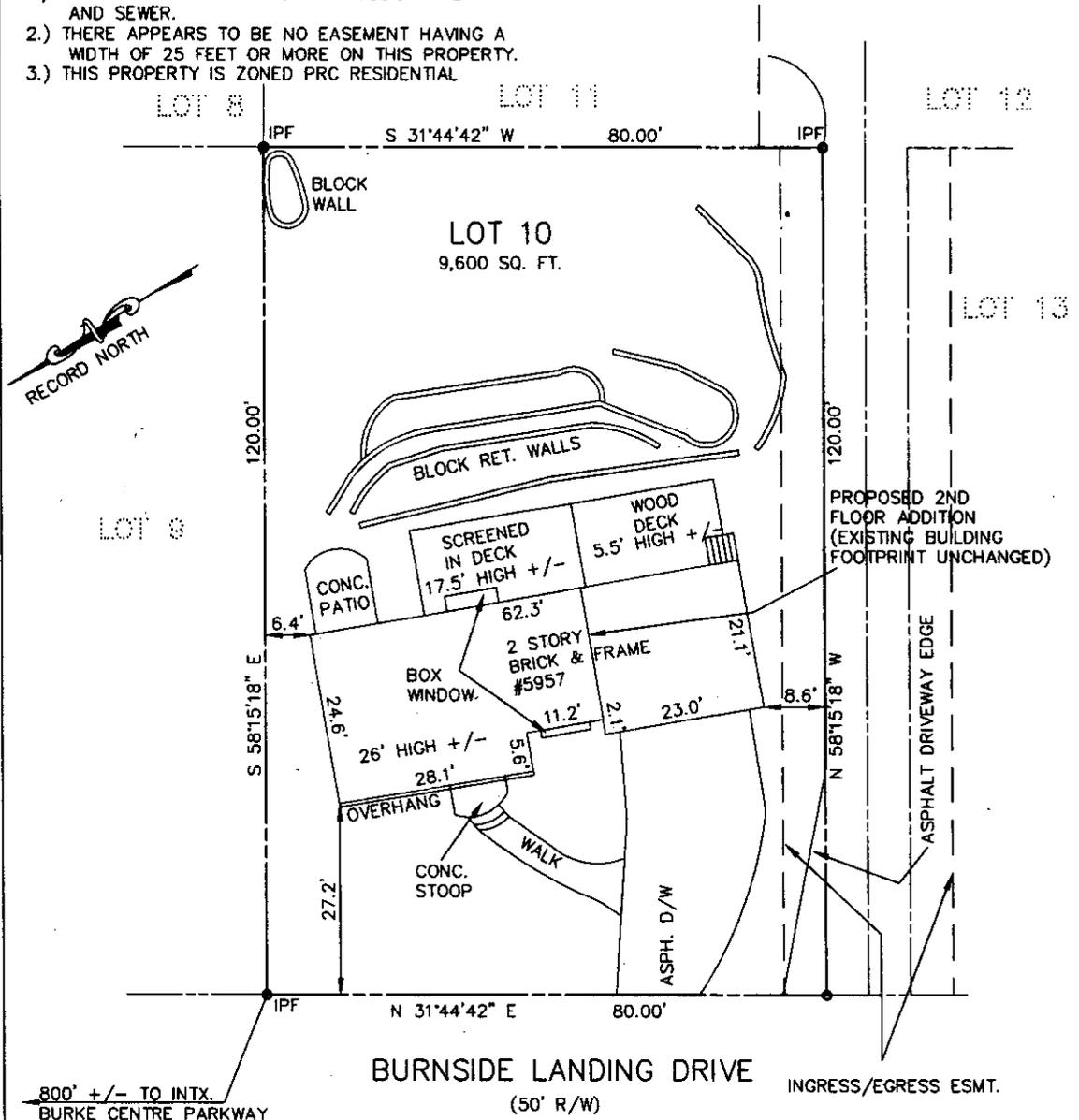
0 1,000 2,000 3,000 4,000 Feet

Special Permit SP 2010-BR-021

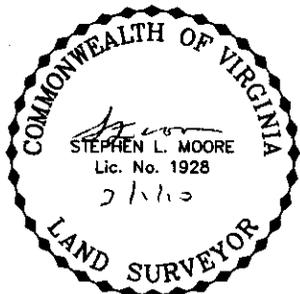
JOHN G. PROVOST



- NOTES:
- 1.) THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
 - 2.) THERE APPEARS TO BE NO EASEMENT HAVING A WIDTH OF 25 FEET OR MORE ON THIS PROPERTY.
 - 3.) THIS PROPERTY IS ZONED PRC RESIDENTIAL



RECEIVED
 Department of Planning & Zoning
 MAR 15 2010
 Zoning Evaluation Division



HOUSE LOCATION SURVEY
 LOT 10 SECTION 14A
 BURKE CENTRE
 DEED BOOK 5365 PAGE 749
 BRADDOCK DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 DATE: MARCH 1, 2010 SCALE: 1" = 20'

LOCATION OF ALL EXISTING IMPROVEMENTS ON THIS PROPERTY HAS BEEN ESTABLISHED BY TRANSIT AND TAPE SURVEY AND UNLESS OTHERWISE NOTED THERE ARE NO ENCROACHMENTS EITHER WAY. THIS SURVEY HAS BEEN PREPARED WITHOUT A TITLE REPORT, THEREFORE ALL ENCUMBRANCES MAY NOT BE SHOWN. FENCE LOCATIONS ARE APPROXIMATE ONLY AND DO NOT CERTIFY AS TO OWNERSHIP. IPF DENOTES IRON PIPE FOUND.

FLOOD NOTE: THIS PROPERTY LIES IN FLOOD ZONE X, AN AREA OUTSIDE THE 500 YEAR FLOODPLAIN, AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 515525 0075 D DATED MARCH 5, 1990.

STEPHEN L. MOORE LAND SURVEYING, INC. 13554 MINNIEVILLE ROAD WOODBRIDGE, VA. 22192 (703) 878-6515 FAX: (703) 878-4594	OWNER: PROVOST WORK #2010-0079
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1 Dec 09

5957 Burnside Landing Dr. Burke VA 22015

John Provest



Facing SE



Facing S



Facing SE



Facing W



Facing N

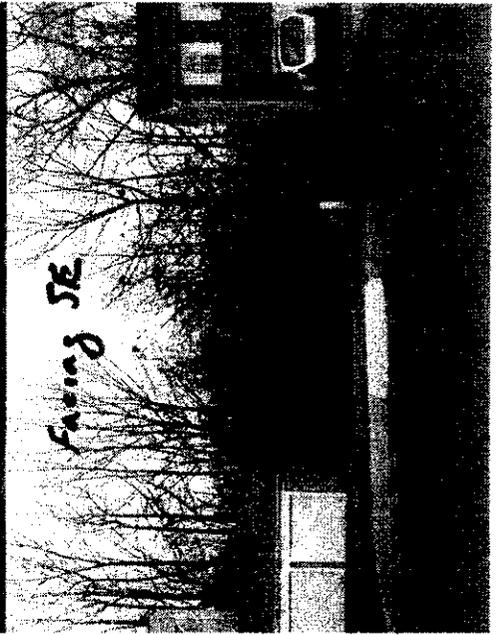


Facing NW



Facing NE

JOHN J. VHOFF / DEC 09

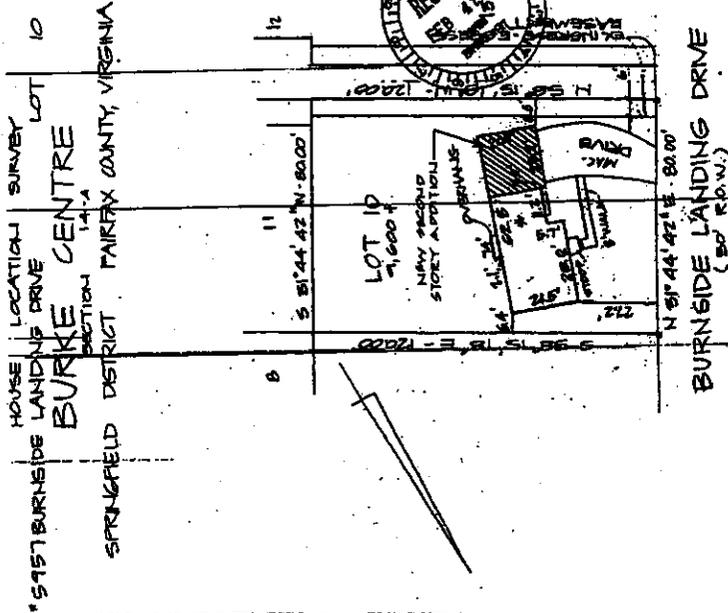


2009 DEC 10 10:09 AM

RECEIVED
Department of Planning & Zoning
DEC 10 2009
Zoning Evaluation Division

DRAWING LIST

- A-1 · Site Plans
- A-2 · Existing Partial Second Floor Plan
- A-3 · Existing Partial Elevations
- A-4 · Proposed Roof Plan
- Demolition and Removals Plan
- A-5 · Proposed Partial Second Floor Plan
- A-6 · Proposed Partial Elevations
- A-7 · Miscellaneous Details
- Section 'A-A'
- S-1 · Proposed Floor Framing Plan
- Proposed Roof Framing Plan
- E-1 · Electrical Plan



EXISTING SITE PLAN

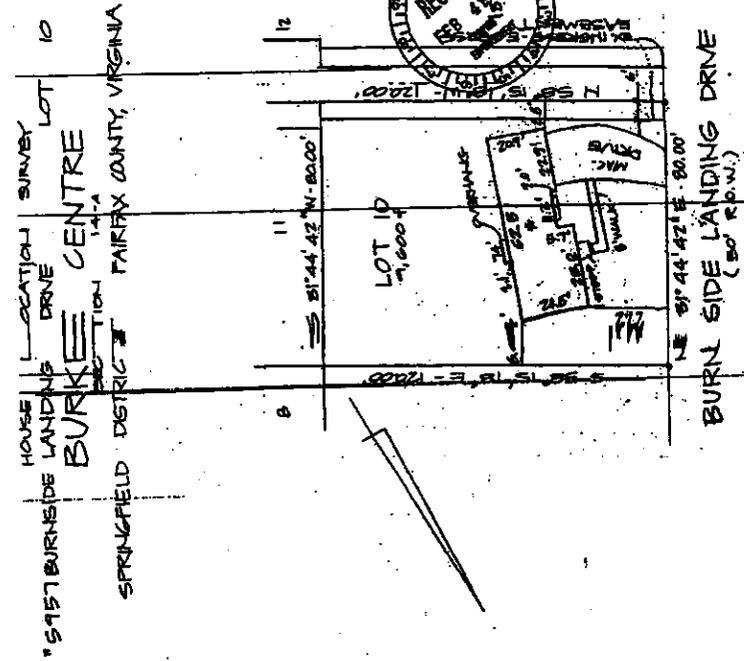
Scale 1" = 20'

Existing Footings:
Existing footings and soil conditions to meet all applicable building codes and to be confirmed by Contractor.

NOTE:
Existing building footprint to remain unchanged

Note
All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with

RECEIVED
Department of Planning & Zoning
DEC 10 2008
Zoning Enforcement Liaison



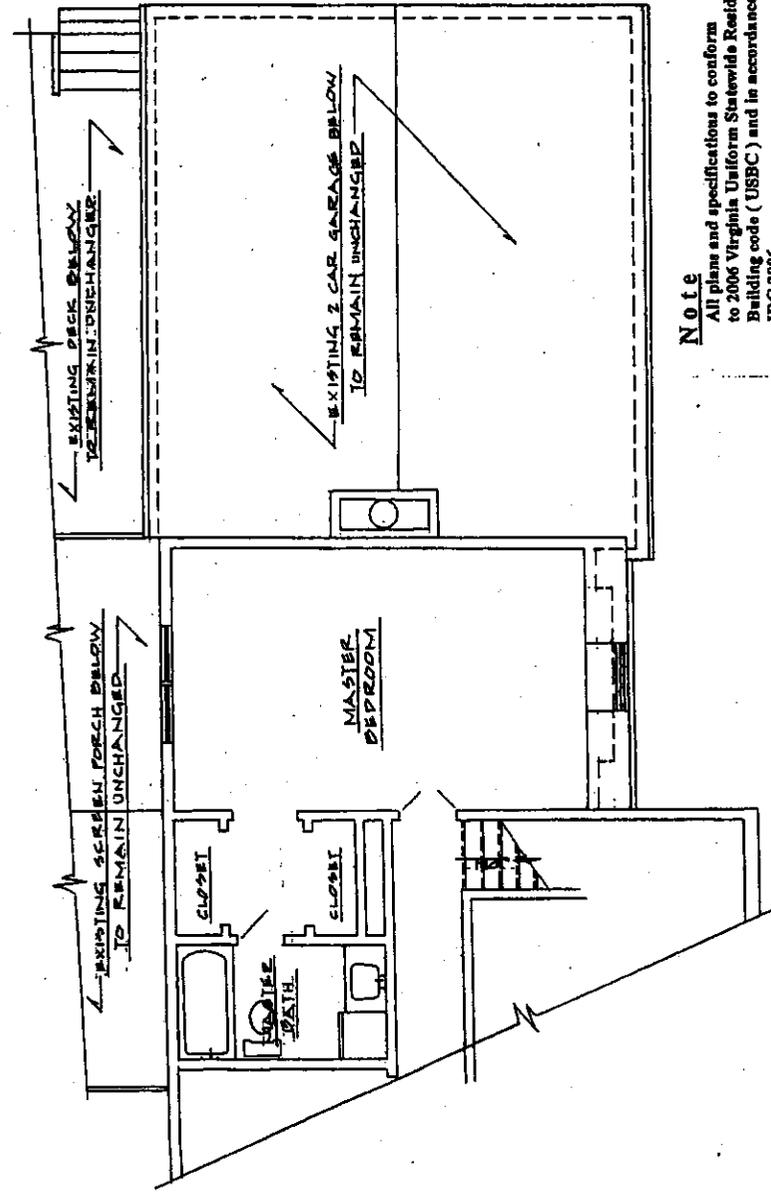
PROPOSED AREA OF NEW CONSTRUCTION

Scale 1" = 30'

Provost Residence

5957 Burnside Landing Drive, Burke, Virginia 22015

Existing Floor Plan



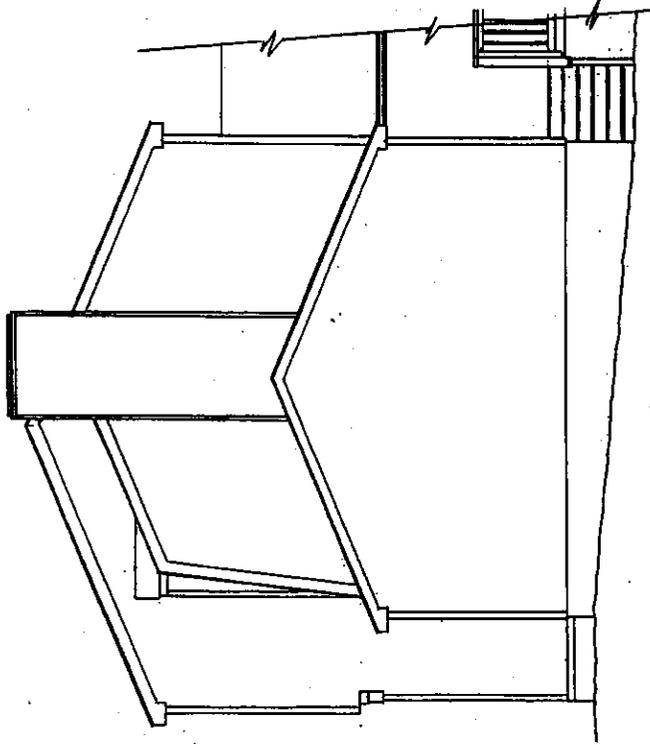
Note

All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with IRC 2006.

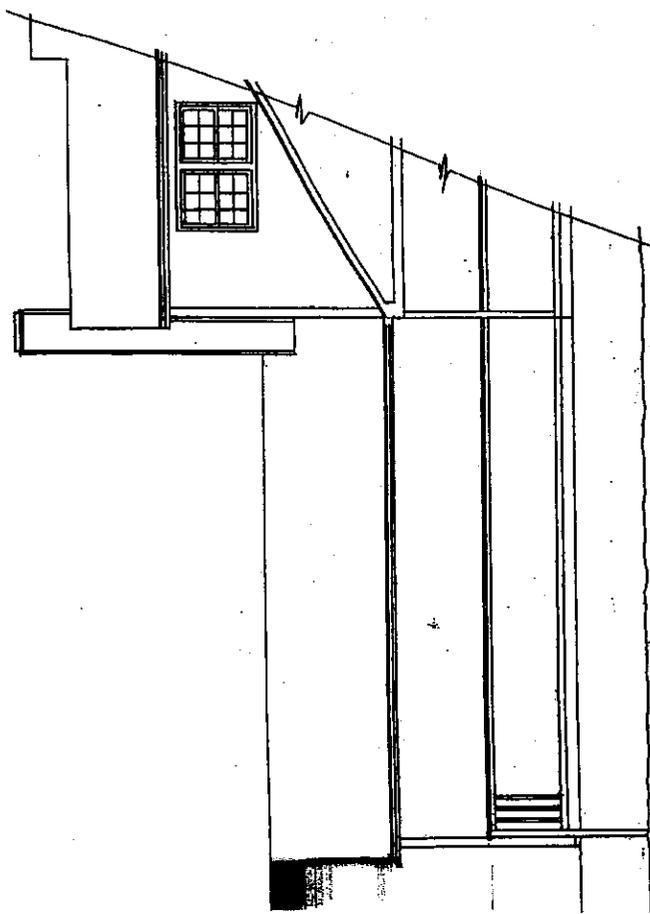
EXISTING PARTIAL SECOND FLOOR PLAN

Note
All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with IRC 2006.

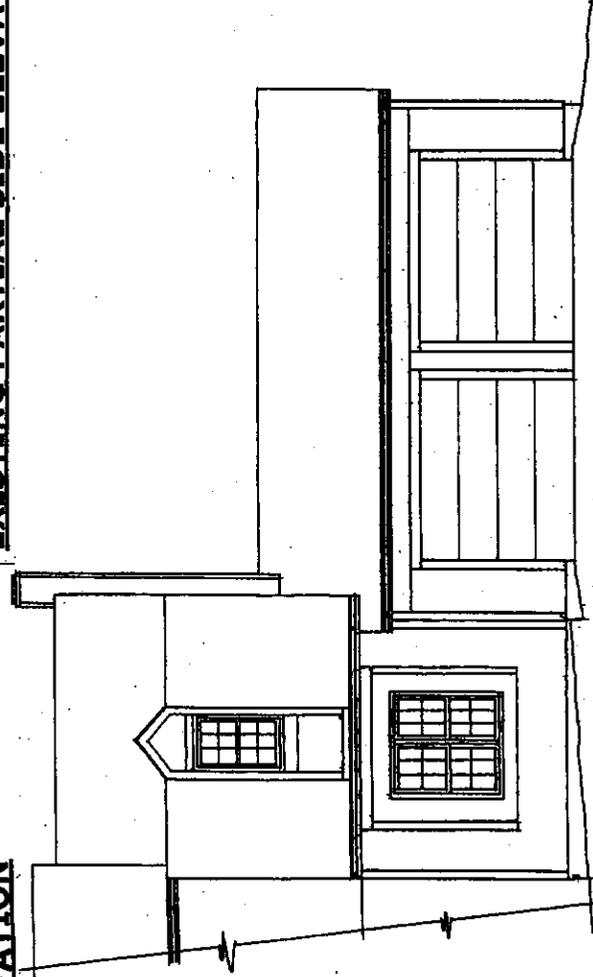
48PT. 15, 100A



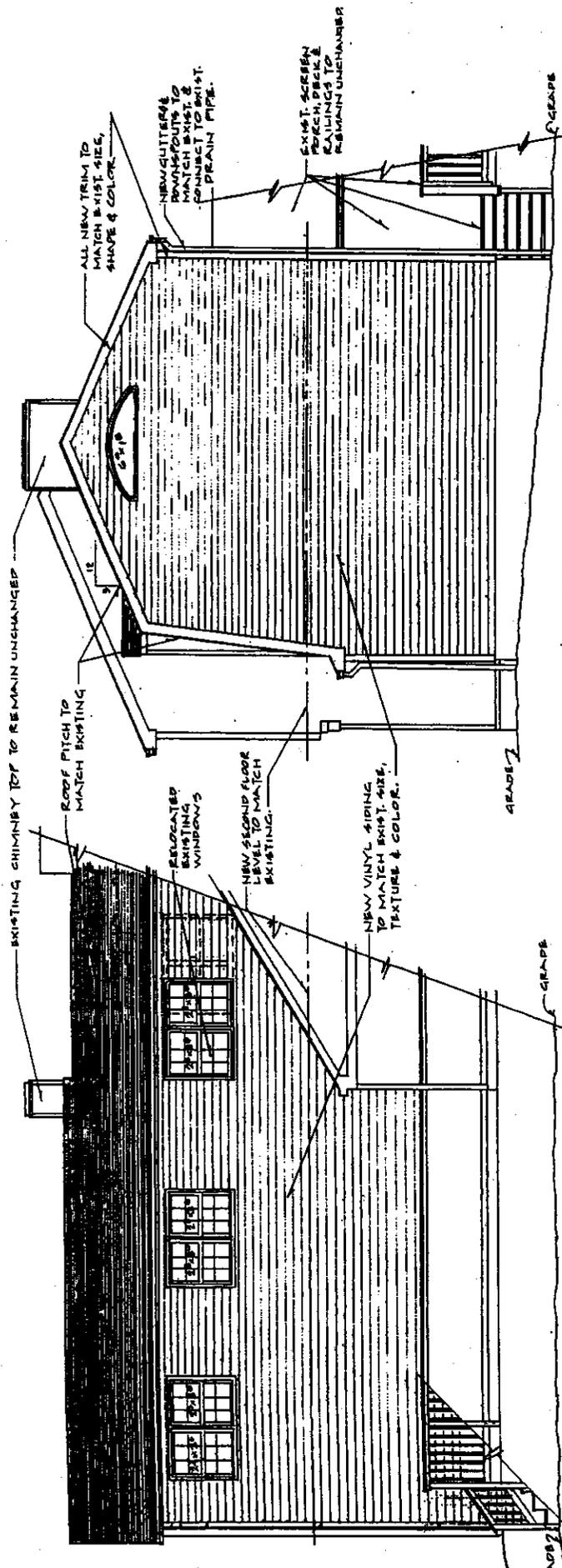
EXISTING PARTIAL SIDE ELEVATION



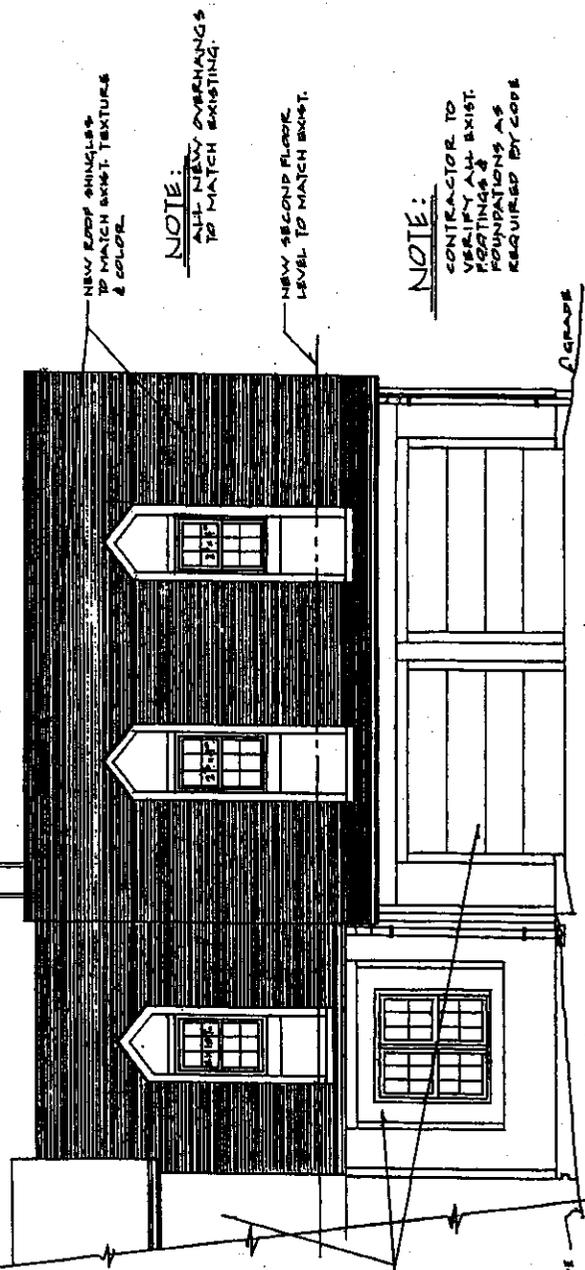
EXISTING PARTIAL REAR ELEVATION



EXISTING PARTIAL FRONT ELEVATION



PROPOSED PARTIAL REAR ELEVATION



PROPOSED PARTIAL FRONT ELEVATION

NOTE:
ALL NEW OVERHANGS
TO MATCH EXISTING

NOTE:
CONTRACTOR TO
VERIFY ALL EXIST.
FOUNDATIONS &
FOUNDATIONS AS
REQUIRED BY CODE

NOTE

ALL NEW WINDOWS TO
MATCH EXISTING MATERIAL,
COLOR & GRID STYLE.

NOTE

All plans and specifications to conform
to 2006 Virginia Uniform Statewide Residential
Building code (USBC) and in accordance with
IRC 2006.

Existing Footings:

Existing footings and soil conditions to meet
all applicable building codes and to be
confirmed by Contractor.

EXIST. ELEVATIONS
& FOOTPRINT TO REMAIN
UNCHANGED

ADB2

Provost Residence

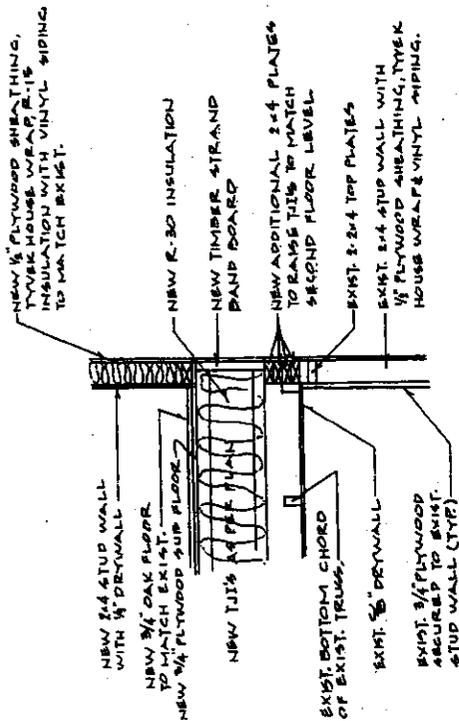
Construction Details

Section A-A

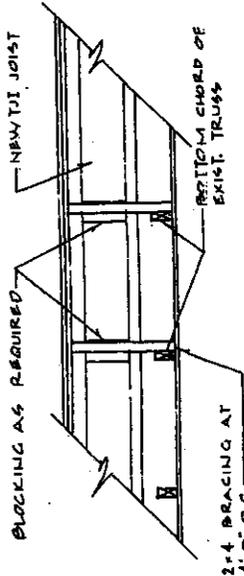
DRAWING NO.

A-7

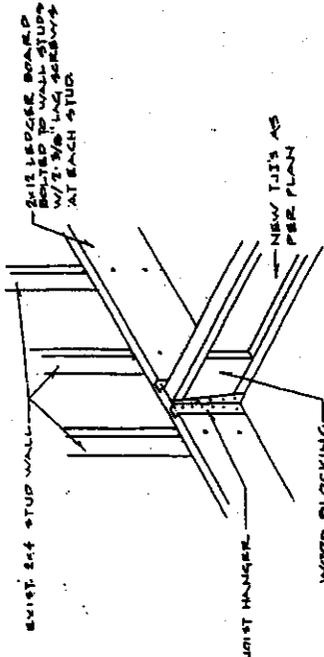
SEPT. 15, 2009



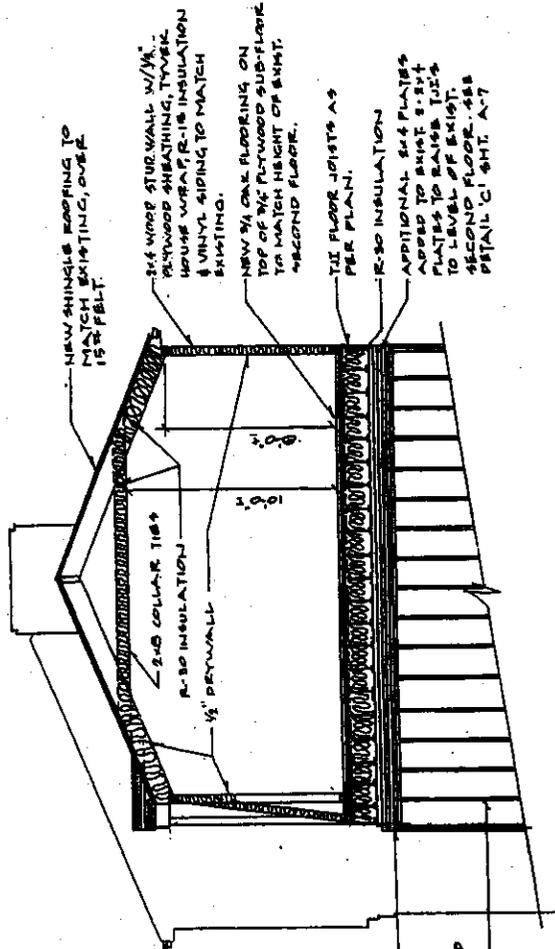
SIDE WALL FLOOR JOIST DETAIL 'C'
3/4" x 1-0"



EXISTING CEILING BRACING
3/4" x 1-0"



LEDGER DETAIL 'A'
3/4" x 1-0"



SECTION 'A-A'
3/4" x 1-0"

Note

All plans and specifications to conform to 2006 Virginia Uniform Residential Building code (USBC) and in accordance with IRC 2006.

ELECTRICAL NOTES & SYMBOLS

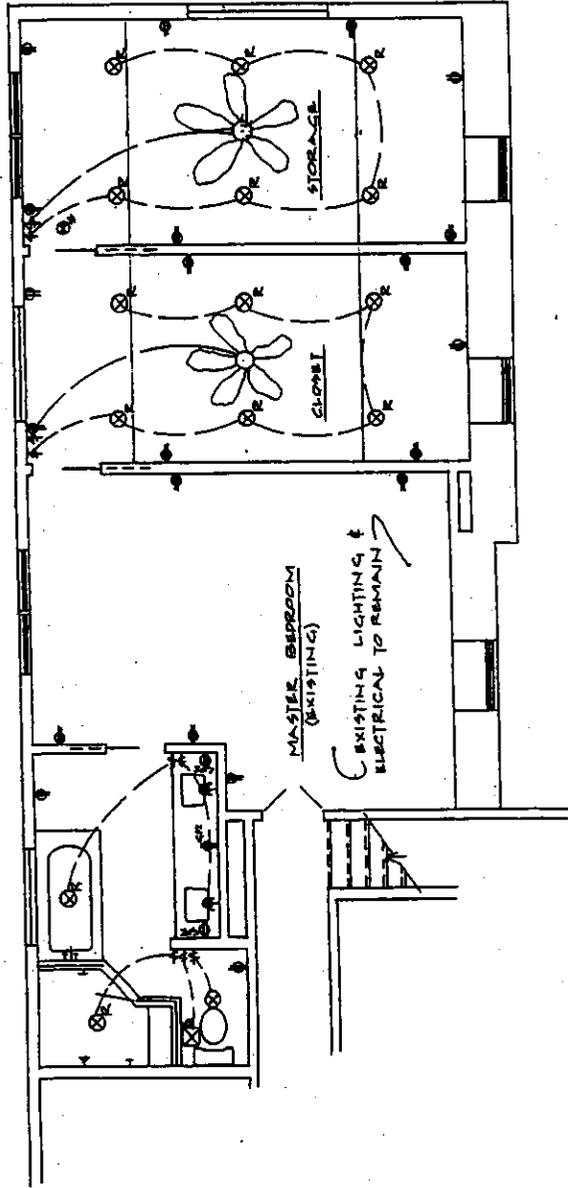
- SW SINGLE POLE SWITCH
- DUPLEX RECEPTACLE
- GFI GFI PROTECTED DUPLEX RECEPTACLE
- WM WALL MOUNTED LIGHT FIXTURE
- RM RECESSED LIGHT FIXTURE
- EF EXHAUST FAN
- HWB HARD WIRED BATTERY BACK-UP SMOKE DETECTOR



CEILING FAN

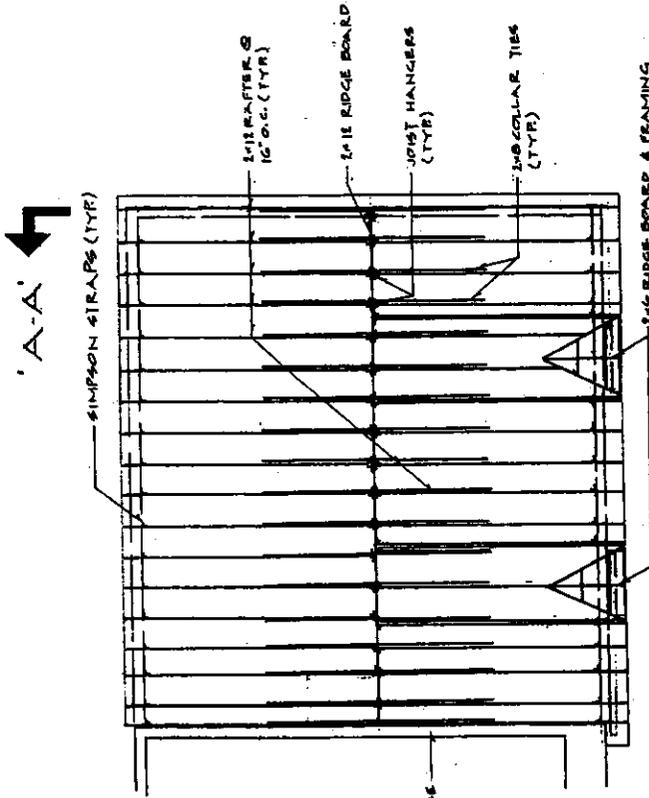
Note

All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with IRC 2006.



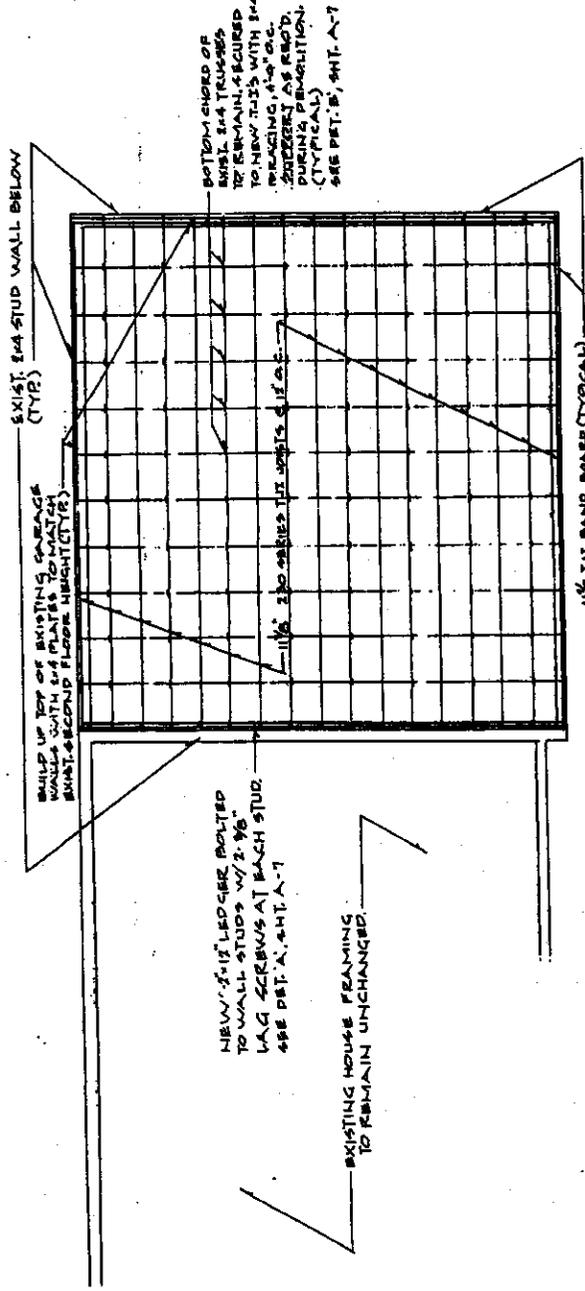
PROPOSED ELECTRICAL PLAN

SEPT. 19, 2009



ROOF FRAMING PLAN

Note
 All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with IRC 2006.



FLOOR FRAMING PLAN

Existing Footings:
 Existing footings and soil conditions to meet all applicable building codes and to be confirmed by Contractor.

EXISTING HOUSE FRAMING TO REMAIN UNCHANGED.

DESCRIPTION OF THE APPLICATION

The applicant is requesting special permit approval to permit construction of a second story addition 8.6 feet from the front lot line of a pipestem lot.

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Addition	Front	25.0 feet	8.6 feet	16.4 feet	66%

*Minimum yard requirement per Section 2-416

EXISTING SITE DESCRIPTION

The site is currently zoned PRC and contains a two-story single family detached dwelling with an attached deck and covered porch, built in 1981. The lot consists of 9,600 square feet and is surrounded by single family detached homes on all lot lines. The yard is well manicured with low lying shrubs and mature trees. The rear yard has a significant steep downward slope with several retaining walls.

CHARACTER OF THE AREA

	Zoning	Use
North	PRC	Single Family Detached Dwellings
East	PRC	Single Family Detached Dwellings
South	PRC	Single Family Detached Dwellings
West	PRC	Single Family Detached Dwellings

BACKGROUND

On February 12, 2010, the applicant received a Use Determination regarding Non-Conforming Status of a Garage and Deck, from the Zoning Administration Division, attached as Appendix 4. The applicant had requested the construction of a second story addition above the existing attached garage, which is located 8.6 feet from the front lot line of a pipestem lot. County records indicate that no minimum yards were shown on the approved development plan; however, under today's Ordinance, the

requirements set forth by Sect. 2-416 apply. This provision requires any new construction to be located a minimum of 25 feet from the pipestem.

Records indicate there were no other similar applications for properties in the vicinity of the application site heard by the BZA.

ANALYSIS

- **Special Permit Plat** (Copy at front of staff report)
- **Title of Plat:** House Location Survey, Lot 10, Section 14A, Burke Centre
- **Prepared by:** Stephen L. Moore Land Surveying, Inc., dated March 1, 2010

Proposal:

The applicant proposes to construct a second story addition, consisting of 479 square feet, above the existing garage of a single family detached dwelling, 8.6 feet from the front lot line of a pipestem lot. A minimum yard of 25 feet is required. This is the first application received under the Ordinance provision of Sect. 8-924. This provision permits additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line. This provision can only be used when the proposed addition is no closer to the lot line than the existing dwelling and the dwelling complied with minimum yards when it was constructed.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-924 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the addition meets all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 5.

General Standard 5 requires that 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. *The proposed addition will consist of a 479 square foot second story addition above an existing one story attached garage. No vegetation is proposed to be removed to accommodate the construction and the yard has ample existing mature vegetation. Therefore, staff believes no additional landscaping or screening would be required and this standard has been met.*

Sect. 8-924 - Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line

This special permit application must satisfy all of the provisions contained in Sect. 8-924, Provisions for Certain Additions to an Existing Single Family Detached Dwelling. Standards 1, 2, 3, 10 and 11 relate to submission requirements and were satisfied at the time of submission. Standard 9 allows the BZA to impose development conditions. Staff believes that the application has met all of the remaining standards, specifically Standards 4, 5, 6, 7 and 8.

Standard 4 states that the resulting gross floor area of an addition to an existing single family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling that existing 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 the 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. *The existing dwelling is 2,564 square feet in size. Therefore 150% of the total gross floor area could result in an addition up to 3,846 square feet in size for a possible total square footage at build out of 6,410. The proposed second story addition is 479 square feet, for a total square footage of the house with the addition of 3,043 square feet. Therefore the application meets this provision.*

Standard 5 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 elevation drawings and pictures submitted indicate that the materials, size and scale of the proposed second story addition will be compatible with the architecture of the existing dwelling on the lot. The second story addition will not extend beyond the footprint of the existing dwelling, nor higher than the existing two story portion of the house. Staff believes that the application meets this provision.*

Standard 6 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 applicant proposes to construct a second story addition above an existing one story attached garage. The addition proposed is alongside a pipestem driveway and the most affected property also has a second story above an existing garage; therefore, staff does not believe the addition would add the appearance of additional bulk, as it would be in keeping with other homes in the neighborhood. No vegetation is proposed to be removed, as the construction will be in the same footprint of an existing one story garage. Staff believes the addition will be harmonious with surrounding off-site uses and meets this provision.

Standard 7 states that no special permit shall be granted if the property is in violation of any provision of the Zoning Ordinance, including but not limited to the limit on the number of dwelling units per lot and/or the limits on the occupancy of any dwelling unit. The existing deck and covered porch on the rear of the dwelling were constructed by building permit, as was the original dwelling, and no violations exist on the property; therefore, this provision has been satisfied.

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. Staff believes that the application meets the erosion and stormwater runoff portion of the standards since DPWES has indicated that there are no drainage complaints on file related to this property. Staff believes that the addition of a second story addition, above an existing one story attached garage, while not creating any additional impervious surface, will not increase runoff or erosion. Since the lot is adjacent to a pipestem and there is over 30 feet to the house closest to the proposed addition, light and air between the houses will not be restricted. Staff believes that the application meets this provision.

CONCLUSION

Staff believes that the request 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 SP 2010-BR-021 for a second story addition subject to the Proposed Development Conditions contained in Appendix 1 of the staff report. 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.

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Administration Determination
5. Applicable Zoning Ordinance Provisions

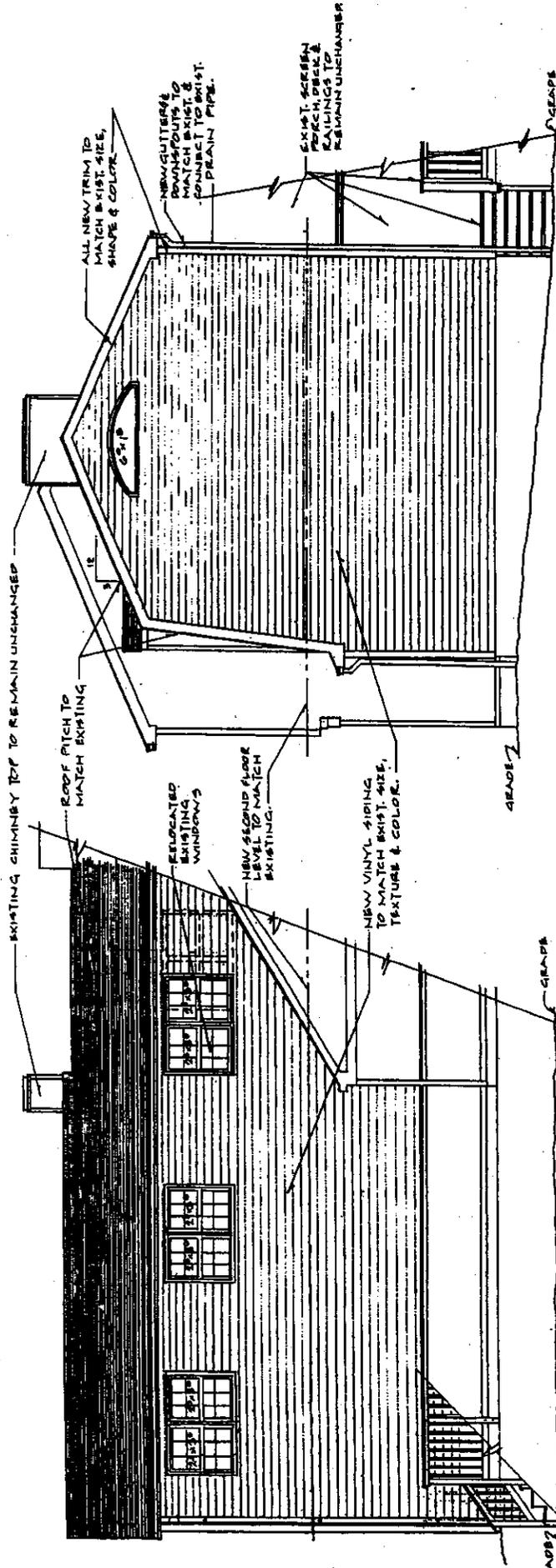
PROPOSED DEVELOPMENT CONDITIONS**SP 2010-BR-021****June 2, 2010**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-BR-021 located at Tax Map 77-4 ((7)) 10 to permit certain additions to an existing single family detached dwelling requirements pursuant to Sections 8-924 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

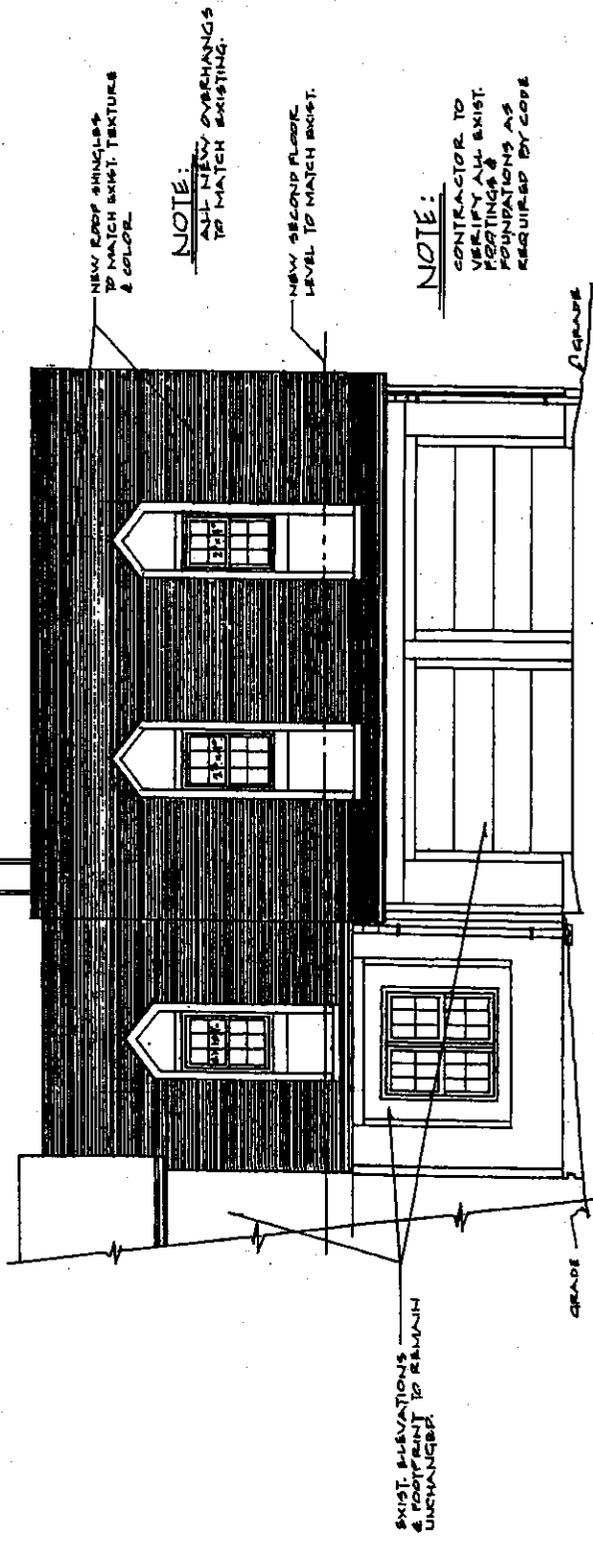
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of a second story addition (479 square feet), as shown on the plat prepared by Stephen L. Moore Land Surveying, Inc., dated March 1, 2010, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-924 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,564 square feet existing + 3,846 square feet (150%) = 6,410 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. 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 as shown on Attachment 1 to these conditions.

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 and has 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.



PROPOSED PARTIAL REAR ELEVATION



PROPOSED PARTIAL FRONT ELEVATION

NOTE:
ALL NEW OVERHANGS TO MATCH EXISTING.

NOTE:
CONTRACTOR TO VERIFY ALL EXIST. FOOTINGS & FOUNDATIONS AS REQUIRED BY CODE

NOTE

ALL NEW WINDOWS TO MATCH EXISTING MATERIAL, COLOR & GRID STYLE.

Note

All plans and specifications to conform to 2006 Virginia Uniform Statewide Residential Building code (USBC) and in accordance with IRC 2006.

Existing Footings:

Existing footings and soil conditions to meet all applicable building codes and to be confirmed by Contractor.

Application No.(s): SP 2010-BR-021
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4 Dec 09
(enter date affidavit is notarized)

I, John G. Provost, 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

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)
John G. Provost	5957 Burnside Landing Dr, Burke, VA 22015	Applicant / Title Owner
Shawn M. Provost	5957 Burnside Landing Dr, Burke, VA 22015	Wife

(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 2010-BR-021
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4 Dec 09
(enter date affidavit is notarized)

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)
None

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 2010-BR-021
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4 Dec 09
(enter date affidavit is notarized)

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)
None

(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 2010-BR-021
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4 Dec 09
(enter date affidavit is notarized)

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

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

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

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

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

NONE

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

Application No.(s):

SP 2010-BR-021

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

4 Dec 09

(enter date affidavit is notarized)

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

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

NONE

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

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

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

WITNESS the following signature:

[Handwritten signature]

(check one)

[X] Applicant

[] Applicant's Authorized Agent

John G. Provost, Mr.

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

Subscribed and sworn to before me this 4th day of December, 2009, in the State/Comm. of Virginia, County/City of Arlington.

[Handwritten signature] ID# 361874
Notary Public

My commission expires: 30 Apr 2013



FEB 18 2010

Planning Evaluation Division

SPECIAL PERMIT STATEMENT OF JUSTIFICATION (MODIFIED 15 FEB 10)

John Provost
5957 Burnside Landing Dr
Burke, VA 22015

The addition above my garage will be used as a closet and for storage off our master bedroom.

A. Type of operation(s). Personal use

B. Hours of operation. N/A

C. Estimated number of patrons/clients/patients/pupils/etc. N/A

D. Proposed number of employees/attendants/teachers/etc. N/A

E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day. N/A

F. Vicinity or general area to be served by the use. Master bedroom

G. Description of building facade and architecture of proposed new building or additions. Construction of a 22'9"X 20'9" second-story addition with a mansion-style roof, over the existing attached garage at the right side of our single-family residence, with 3-tab shingle roofing, vinyl clapboard siding, gutters and downspouts, aluminum trim wrap for all exterior wood rim, all to match the residence, with vinyl double-hung windows, with colonial mullions/grids, color "white" for the front and rear of the addition, and (1) fan-style transom window, approximately 6"H x 18"L, color "white" to the right side of the proposed upper level addition, with no change to the existing garage doors, chimney, or rear wood deck located to the right rear of the residence.

H. A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers. N/A

I. A special permit is requested because our existing garage is within twenty-five feet of the lot line on a Pipestem per 2-416 of the Fairfax County Zoning Ordinance. Addition is in accordance with the Burke Centre Planned Residential Community (PRC) and Burke Centre Conservancy guidelines (See attached Burke Centre ARB review).

J. 930.01: The gross floor area of the addition is 478.61 sq ft and is subordinate to and complements the existing 9600 sq ft structure with a 20:1 ratio.

K. 930.02: The proposed development is in character with the existing on-site development in style, height, bulk or scale of the existing structure and was approved by the Burke Centre Architectural Review Board (ARB) (Attached).

L. 930.03: The proposed development is harmonious with the surrounding off-site residential structures in bulk and scale and fits with the topography of the area. No trees or vegetation is affected by this construction. These elements were also considered by the Burke Centre ARB (Attached).

M. 930.04: The additional two rooms (Closet and Storage Room) over the garage will not adversely impact the adjacent properties. The footprint nor roof area of the existing structure is not being changed and there is no impact on light, air, erosion and storm water runoff. These considerations were also taken into account by Burke Centre ARB review (Attached).

N. 930.05: The addition is conforming with the footprint of the existing structure minimizing the impact on the surrounding area to the maximum extent possible. Alternate locations for the addition would adversely impact the character of the existing structure both externally and internally in the structure and increase its footprint impacting the topography and vegetation in the area. The site does slope significantly off the back of the house. No wells or septic are present nor are historical resources.

John G. Provost

5957 Burnside Landing Dr

Burke, VA 22015

703-239-9652

Subject: Request for waiver of Special Permit Plat submission requirements.

1. The special permit is required because I am building on top of my existing garage that is built within 25ft of the lot line of a lot that is contiguous to a pipestem driveway (Fairfax County Zoning Ordinance 2-416 2.). Since taxes have been paid on the building for 15 years the garage may be nonconforming but not illegal (15.2-2307).
2. My lot is part of Burke Centre Conservancy a recognized Residential Planned Community (Fairfax County Comprehensive Plan, Page 74, and Figure 35). The area has been built out since the 1980s and no overhead utility lines are allowed. I requested and obtained approval of the conservancy Architectural Review Board that included notification of my neighbors (See attachment Special Permit Statement of Justification).
3. My addition of two rooms over my garage does not alter the current footprint of my garage, its use as a garage, require the removal/trimming of any vegetation, the second story structure will conform to the same perimeter size as the existing garage and the height of the existing house.
4. In my opinion, the requirements outlined in the special permit plat do not provide any value added for your ruling on my request nor put community or county interests at risk. I am submitting for your review the required 23 copies of my current plat and supporting graphics of my proposed addition.
5. Respectfully request your favorable consideration for my waiver of Special Permit Plat submission requirements.



John G. Provost

RECEIVED
Department of Planning & Zoning
DEC 10 2009
Zoning Evaluation Division



County of Fairfax, Virginia

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

February 12, 2010

Mr. John Prevost
5759 Burnside Landing Drive
Burke, Virginia 22015

RECEIVED
Department of Planning & Zoning
FEB 18 2010
Zoning Evaluation Division

RE: Use Determination: Non-Conforming Status of Garage and Deck
5759 Burnside Landing Drive
Tax Map Ref.: 77-4 ((7)) 10
Zoning District: PRC

Dear Mr. Prevost:

This is in response to your email dated January 14, 2010 to Eileen McLane. In your email you stated that you have applied for a special permit to build two additional rooms over your existing attached garage. The garage is located within the 25 feet minimum required front yard of the referenced property, which is a lot abutting a pipestem driveway. It is my understanding that you would like to get a determination from our office as to whether the structures which are within the minimum required front yard are legally nonconforming.

The referenced property is zoned (PRC) Planned Residential Community District. The lot is 9,600 square feet in size and currently contains a single family detached dwelling with attached two-car garage, covered porch and open deck. According to our records the property was developed under the Development Plan Amendment DPA C-546-4, which was approved by the Board of Supervisors on April 9, 1979. Our records further indicate that a grading plan and building permits were subsequently approved for improvements to your property. Grading Plan #2428-SD-01-0010-3, which was approved on March 13, 1980 shows the single family detached dwelling on the property located approximately 9 feet from the property line, which is abutting the pipestem driveway. In addition, Building Permit #8002B0572 was approved on April 17, 1980 to build the single family dwelling 8.8 feet from the lot line abutting the pipestem driveway and Building Permit 03160B1280 was approved on June 9, 2003 to build a covered porch and open deck on the referenced property. The house location plat, which is attached with Building Permit #03160B1280, shows the deck being located 14 feet from the property line which abuts the pipestem driveway, thus encroaching into the 25 feet minimum required front yard.

Minimum yard requirements in the PRC District are regulated by Sect. 6-307 of the Zoning Ordinance. As our records indicate it appears that no minimum yards were shown on the approved development plan, therefore, the yard requirements for the referenced property are as follows:

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



- No single family detached dwelling shall be erected closer than sixteen (16) feet to any other single family dwelling.
- No single family detached or attached dwelling or accessory structure shall be erected closer than fifteen (15) feet to any public street right-of-way line.

Additionally pursuant to Par. 2 of Sect. 2-416 of the Zoning Ordinance, the referenced property is subject to a 25 feet minimum required front yard along the pipestem driveway. Par. 2 of Sect. 2-416 states as follows:

2. On a lot contiguous to a pipestem driveway serving more than one pipestem lot, in addition to the minimum front yard requirements of the district in which located, the yard contiguous to the pipestem driveway shall also be deemed a minimum required front yard and shall be a minimum of twenty-five (25) feet. The required twenty-five (25) feet shall be measured from the lot line formed by the pipestem or the edge of the pipestem driveway pavement, whichever is the greater distance; provided, however, that such lot shall not be deemed a corner lot. In an affordable dwelling unit development, either twenty-five (25) feet or the minimum front yard requirement of the zoning district in which located shall apply, whichever is the lesser distance.

Par. 2 of Sect. 2-416 became part of the Zoning Ordinance when it was adopted by the Board of Supervisors on April 28, 1980. Based on the information above, the development of the existing house with the garage was approved before the adoption of Sect. 2-416 of the Zoning Ordinance and pursuant Par. 1 of Sect. 15-101 of the Zoning Ordinance, the encroachment of the existing house with the attached garage into the minimum required front yard is not nonconforming and may continue. However, building the proposed two-room addition by encroaching into the 25 feet minimum required front yard requires approval of a Group 9 special permit for reduction of certain yard requirements from the Board of Zoning Appeals.

In addition, under § 15.2-2307 of the *Code of Virginia*, in pertinent parts, if a local government has issued a building permit, the structure was constructed in accordance with the building permit and a certificate of occupancy was issued, the structure is not illegal and may remain. Therefore, the open deck and covered porch which were approved on June 9, 2003 with Building Permit #03160B1280 are not considered illegal and may stay at the present location.

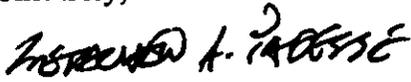
I trust that this correspondence adequately responds to your request. If you have any additional questions, please feel free to contact me at (703) 324-1314.

5759 Burnside Landing Drive

February 12, 2010

Page 3

Sincerely,



Getachew A. Tadesse

Assistant to the Zoning Administrator

cc: John C. Cook, Supervisor, Braddock District
Eileen M. McLane, Zoning Administrator
Mavis E. Stanfield, Deputy Zoning Administrator, Zoning Administration Division
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Maria Langhorn, Zoning Evaluation Division

8-006 General Standards

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

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

8-903 Standards for All Group 9 Uses

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

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-924 Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line

The BZA may approve certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line, but only in accordance with the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential in Article 3, 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 special exception plat, special permit plat or variance plat or on a proffered generalized development plan.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.
2. The applicant shall demonstrate that the existing single family detached dwelling complied with the minimum required yards in effect when the dwelling was constructed and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
3. When the existing single family detached dwelling and the proposed addition extend into a minimum required yard by a distance greater than fifty (50) percent of the minimum required yard and/or is closer than five (5) feet to a lot line, no portion of the proposed addition shall extend closer to the lot line associated with such yard than any portion of the existing dwelling. In addition, any eaves or other extensions associated with such building addition shall not extend beyond the point of the existing single family detached dwelling that is closest to the affected lot line.

4. The resulting gross floor area of an addition to an existing single family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling 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 the 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 BZA shall determine that the proposed addition 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.
6. The BZA shall determine that the proposed addition 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.
7. No special permit shall be granted if the property is in violation of any provision of this Ordinance, including but not limited to the limit on the number of dwelling units per lot and/or the limits on the occupancy of any dwelling unit.
8. The BZA shall determine that the proposed addition 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 may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the addition on adjacent properties.
10. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x

36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- D. The location, dimension and height of any existing building or structure and of the proposed addition. In addition, for decks, the height of the finished floor above finished ground level.
- E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and the proposed addition to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. If applicable, the location of a well and/or septic field.
- H. 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.
- I. The location, type and height of any existing and proposed landscaping and screening.
- J. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality

corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

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

11. Architectural depictions of the proposed addition as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.