



APPLICATION ACCEPTED: April 12, 2010
BOARD OF ZONING APPEALS: June 30, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 23, 2010

**STAFF REPORT
SPECIAL PERMIT APPLICATION NO. SP 2010-PR-028
PROVIDENCE DISTRICT**

APPLICANT & OWNER: Armando Estrada Fernandez
SUBDIVISION: Prosperity Heights
STREET ADDRESS: 3416 Monarch
TAX MAP REFERENCE: 59-1 ((27)) 5
LOT SIZE: 11,445 Square Feet
ZONING DISTRICT: R-3 (Cluster)
ZONING ORDINANCE PROVISIONS: 8-918
SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval as outlined in the staff report of SP 2010-PR-028 for the accessory dwelling unit subject to the proposed development conditions contained in Appendix 1.

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

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

O:\Scaff2\Case Files\Special Permits\SP2010-PR-028 AMANDO FERNANDEZ\Fernandez_draft.doc

Shannon Caffee

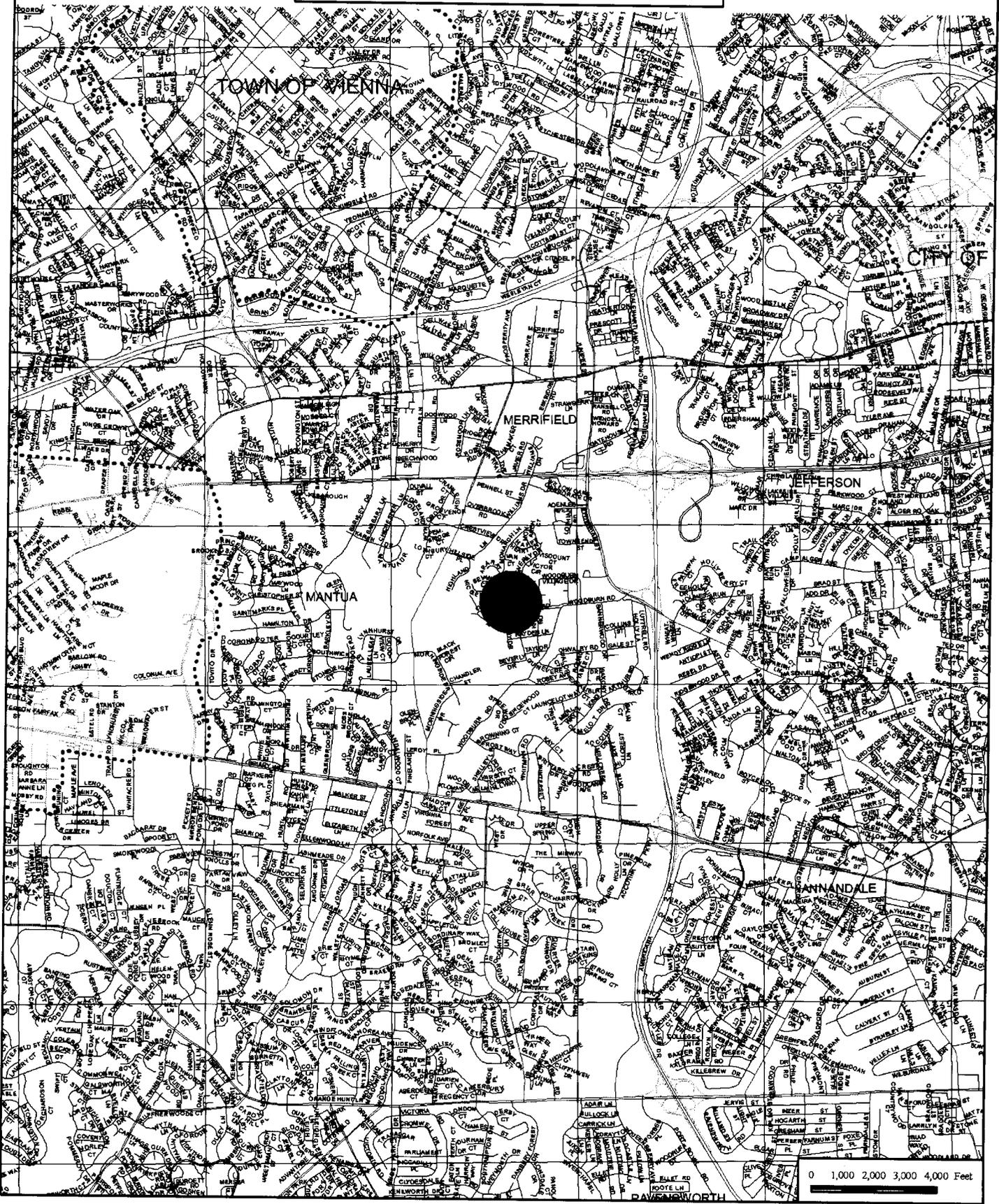
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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

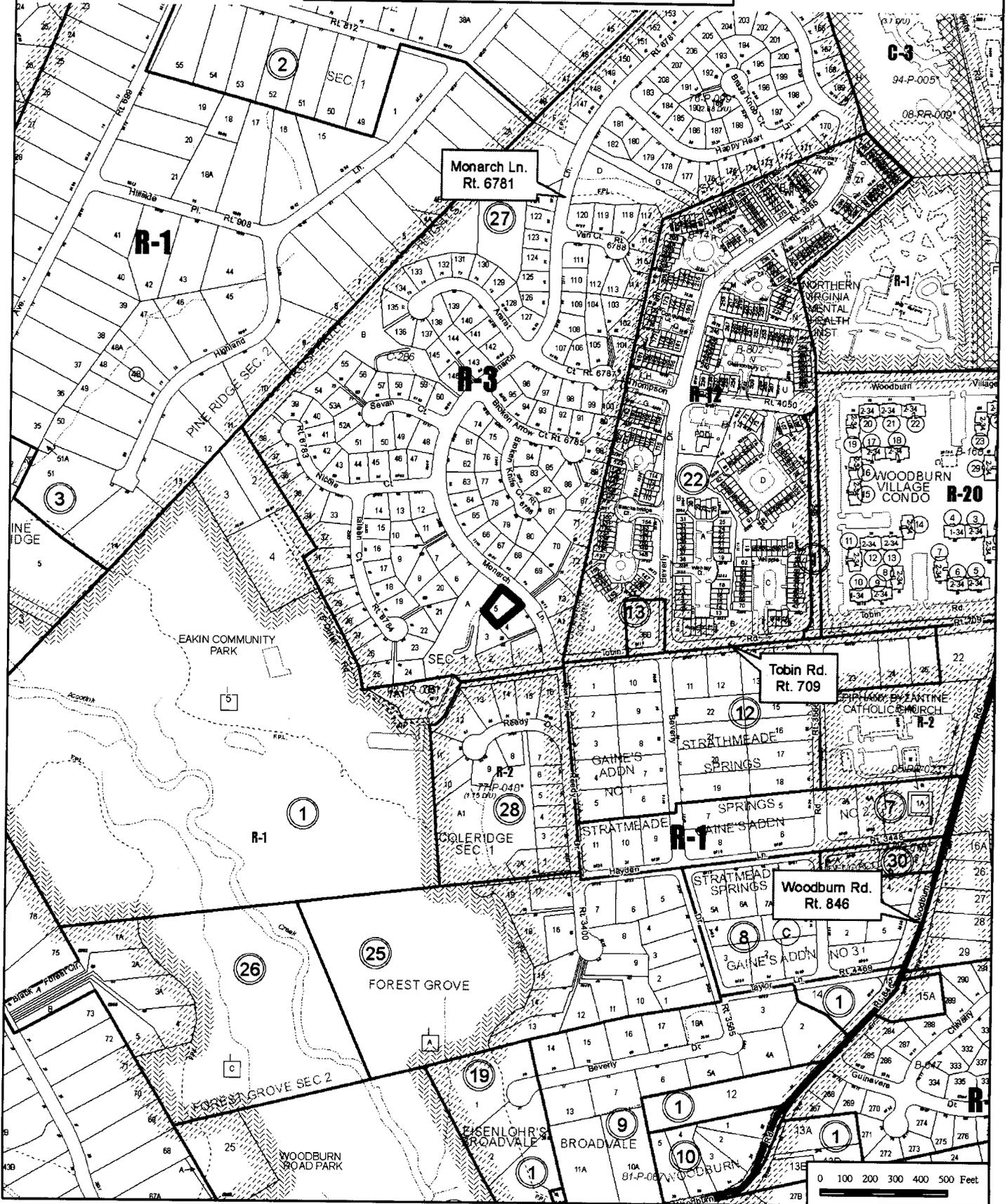


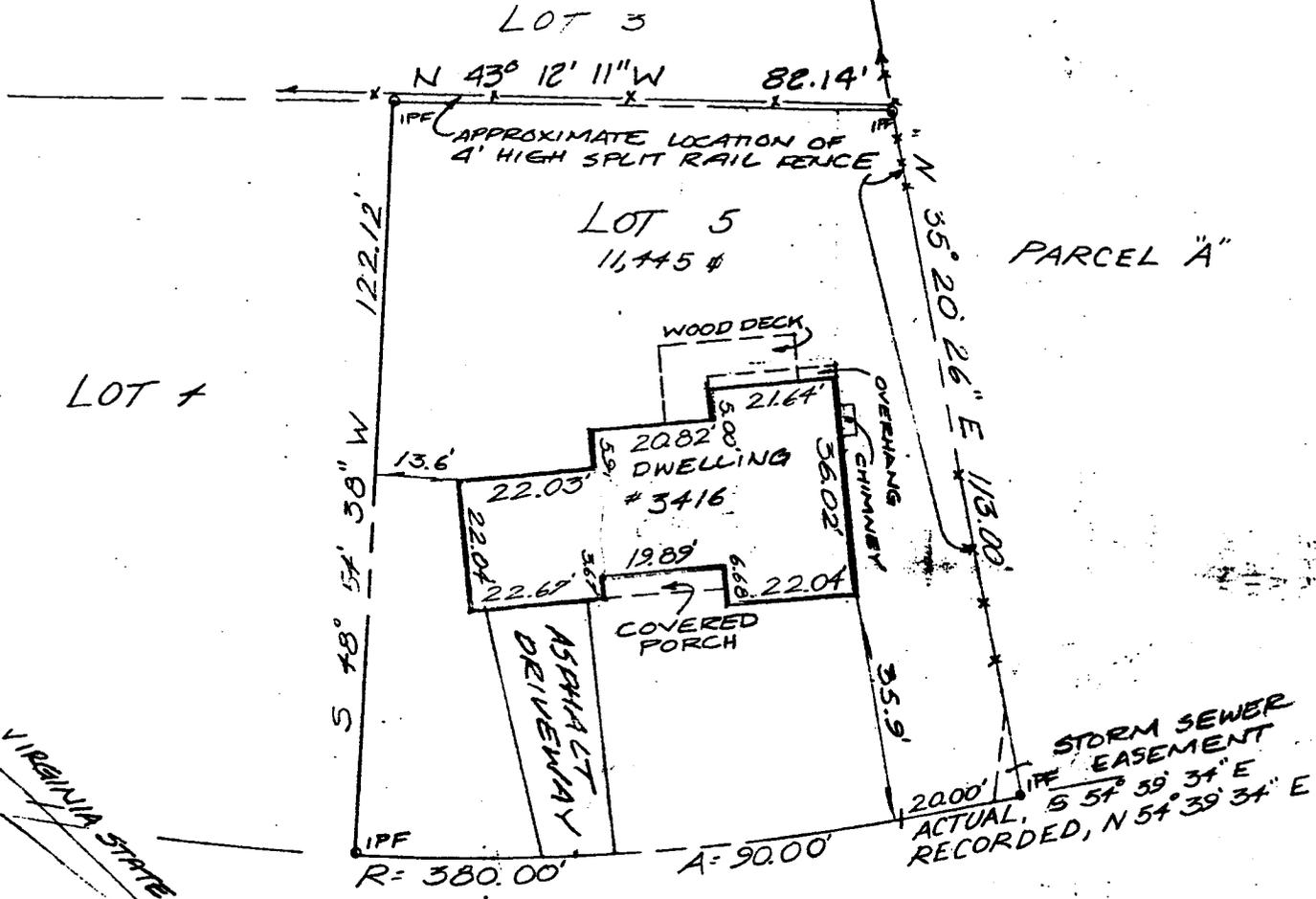
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2010-PR-028
ARMANDO ESTRADA FERNANDEZ



Special Permit
SP 2010-PR-028
ARMANDO ESTRADA FERNANDEZ





VIRGINIA STATE GRID NORTH

MONARCH LANE
60' R/W



THIS LOT IS NOT IN A HUD IDENTIFIED "SPECIAL FLOOD HAZARD" AREA AS PER THE FLOOD INSURANCE RATE MAP OF FAIRFAX COUNTY, VIRGINIA, DATED MAY 14, 1976.

HOUSE LOCATION
LOT 5 SECTION 1
PROSPERITY HEIGHTS

PROVIDENCE DISTRICT, FAIRFAX COUNTY, VIRGINIA

Scale: 1" = 30' Date: Well Check: 5-26-79 Final Check: 6-11-80

RECERT: 3-10-87
MC [Signature]
Department of Planning & Zoning

DEWBERRY AND DAVIS
ENGINEERS - ARCHITECTS - SURVEYORS - PLANNERS
8401 ARLINGTON BOULEVARD, FAIRFAX, VIRGINIA

THIS HOUSE LOCATION SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED AS AN AID FOR THE CONSTRUCTION OF FENCES OR ANY OTHER IMPROVEMENTS.

FEB 05 2010
Zoning Evaluation Division

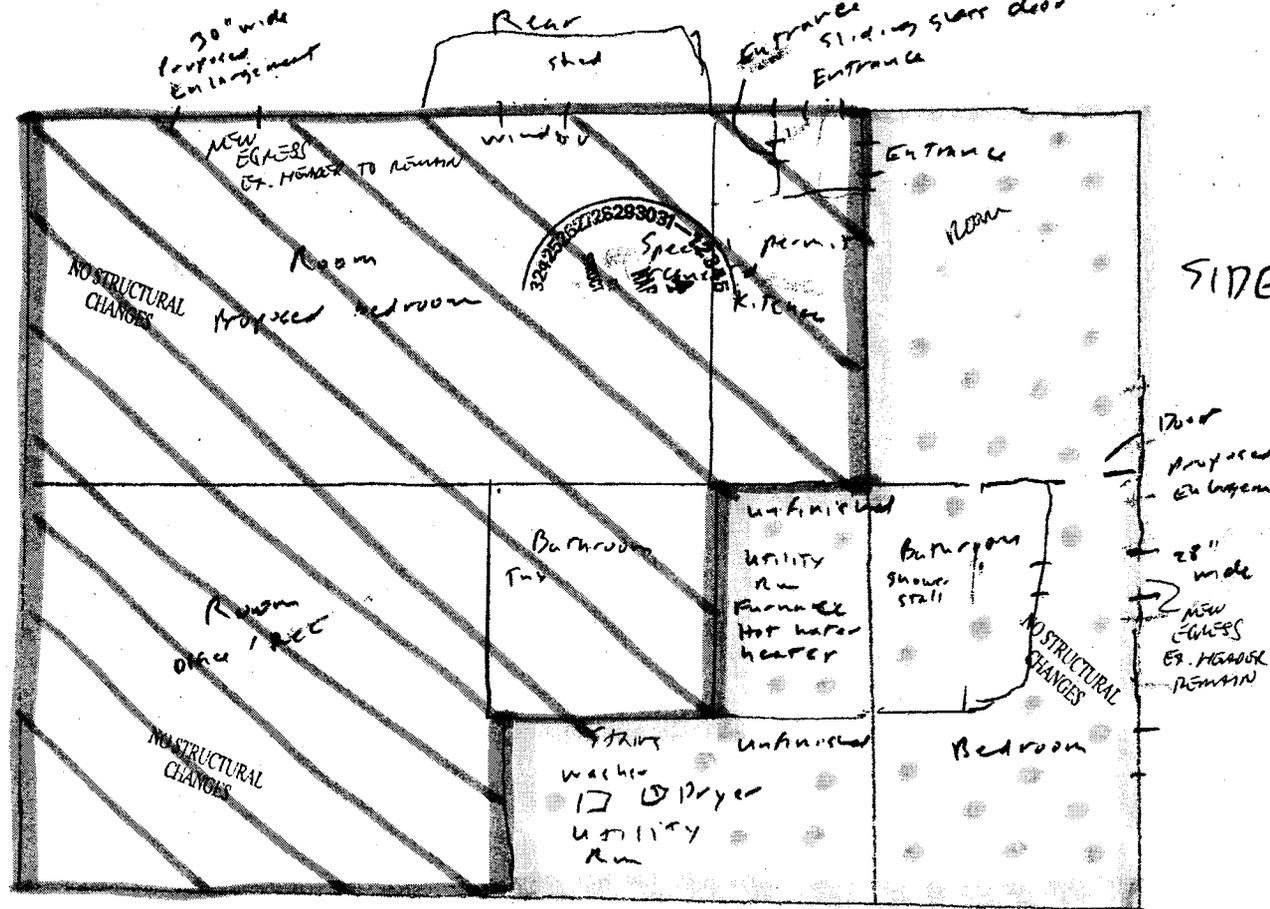
Reference: Draw by: RWE RWC
D.B. 5003 PG. 1/8 Checked by: [Signature] NRH

[Signature]

COPY

DESIGNER

Name: _____
 Address: _____
 Occupation: _____
 Job Address: _____



Accessory Dwell.



Part of Principal Dwelling

Front of House

Armanda E Fernandez
 3414 Marshall Lane
 Annandale, VA 22003
 Compliance Officer
 Dept of Labor -
 200 Const. Ave, NW
 Washington, DC 20210

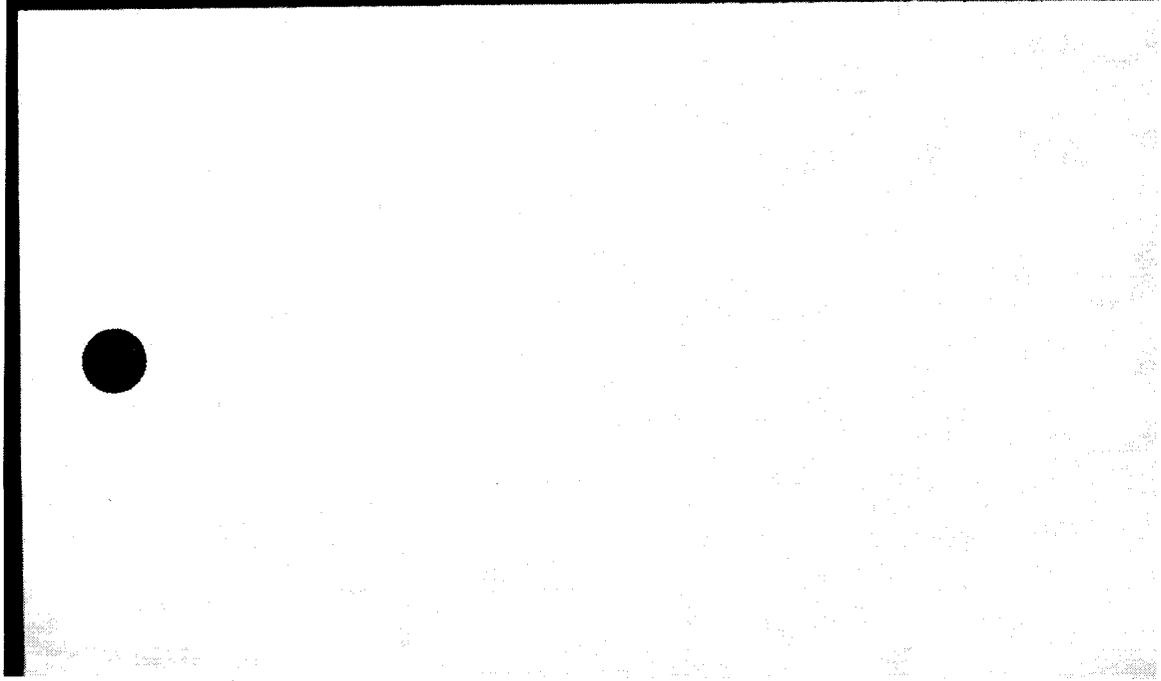
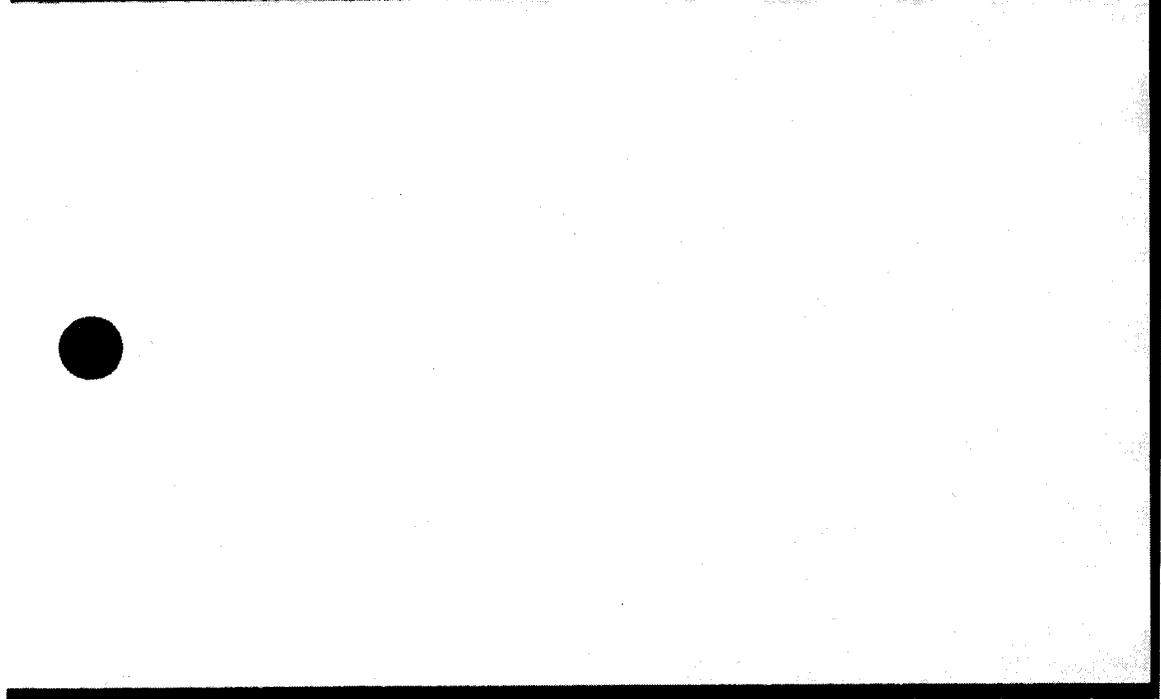
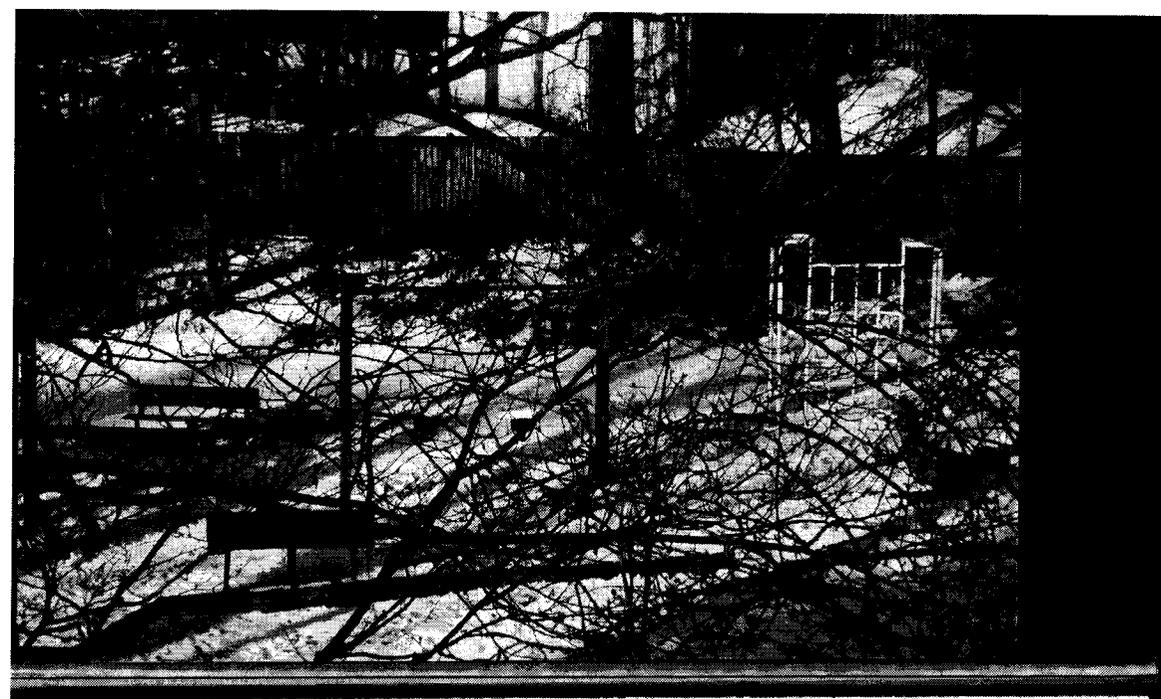












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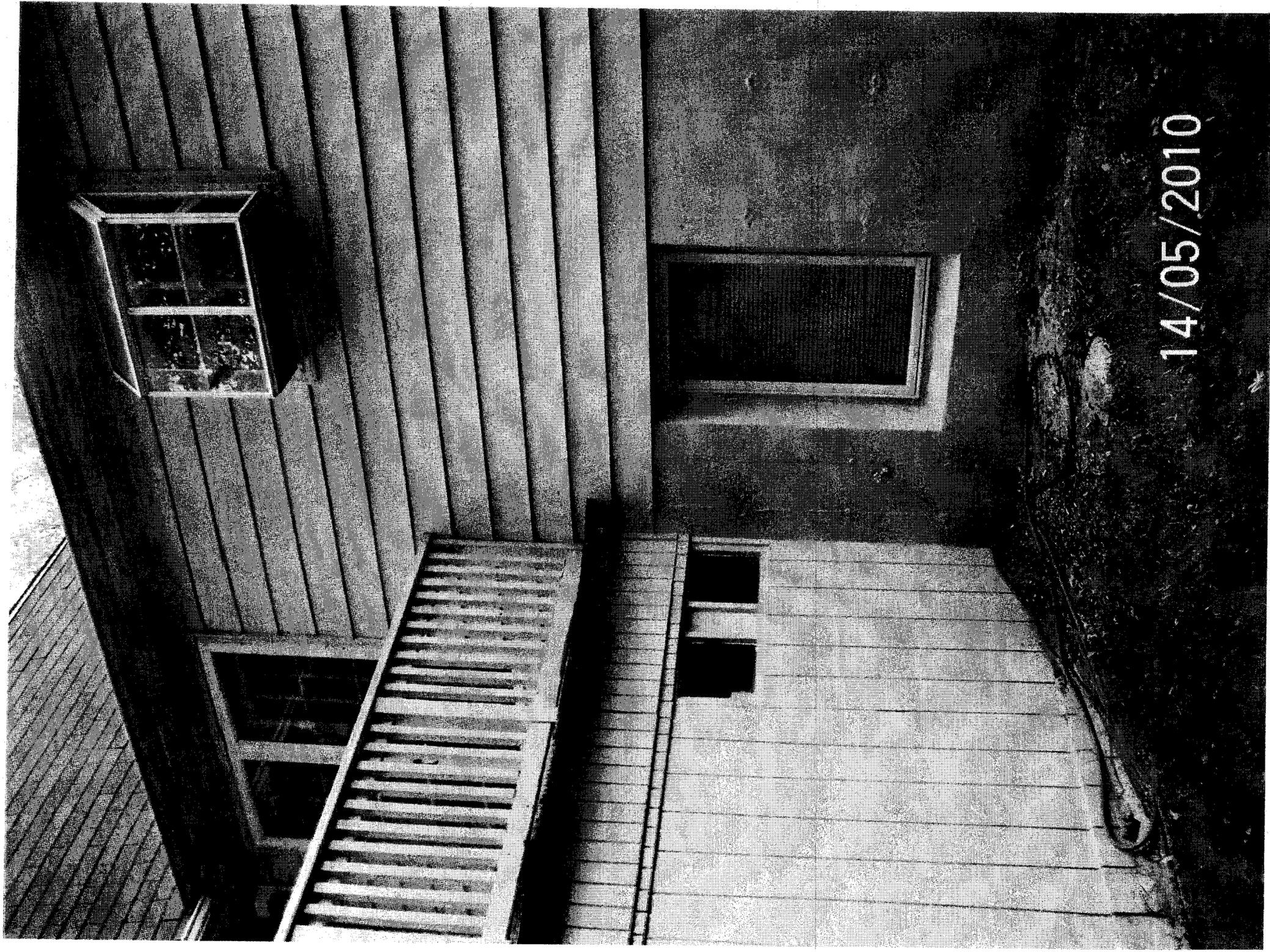


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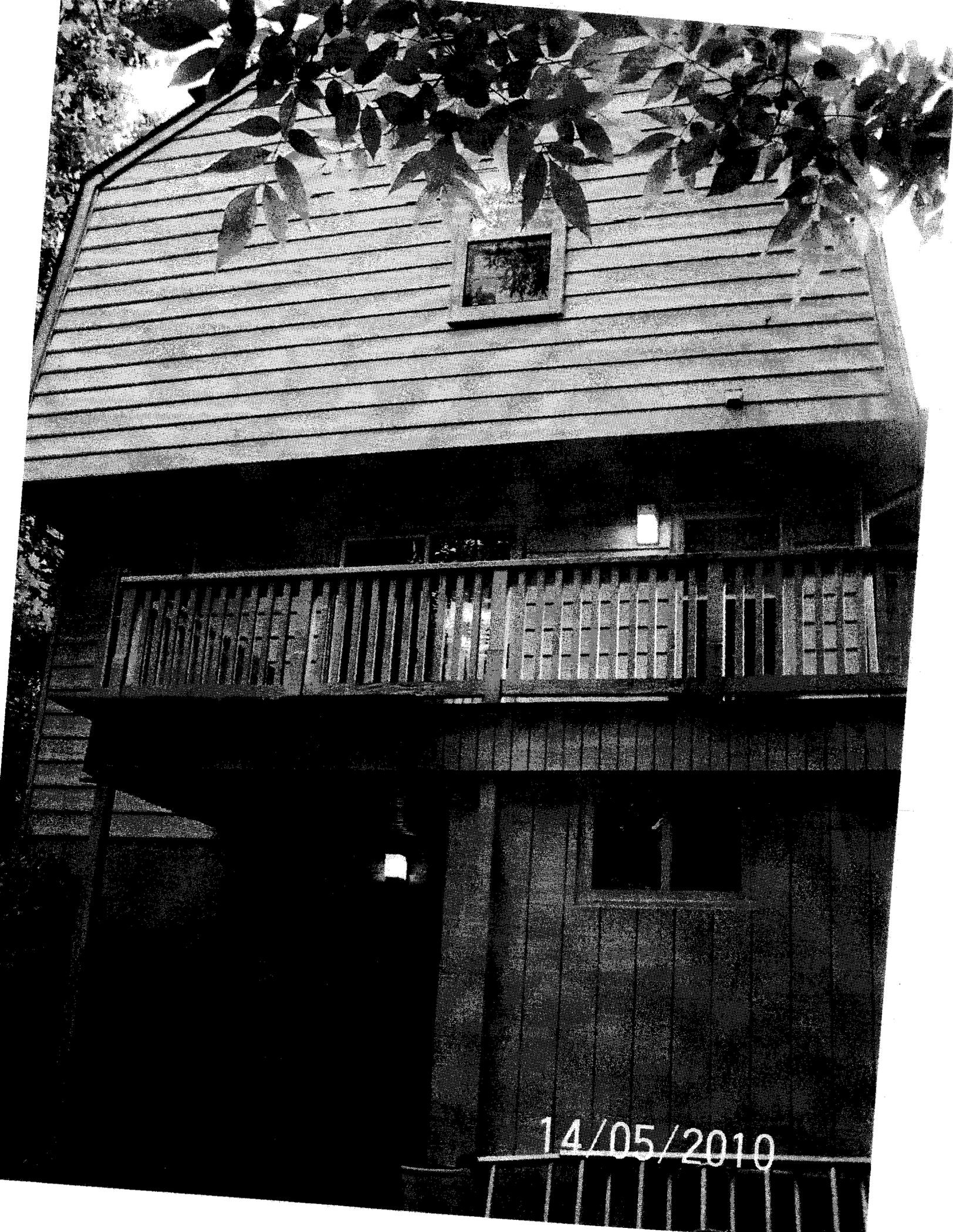




14/05/2010



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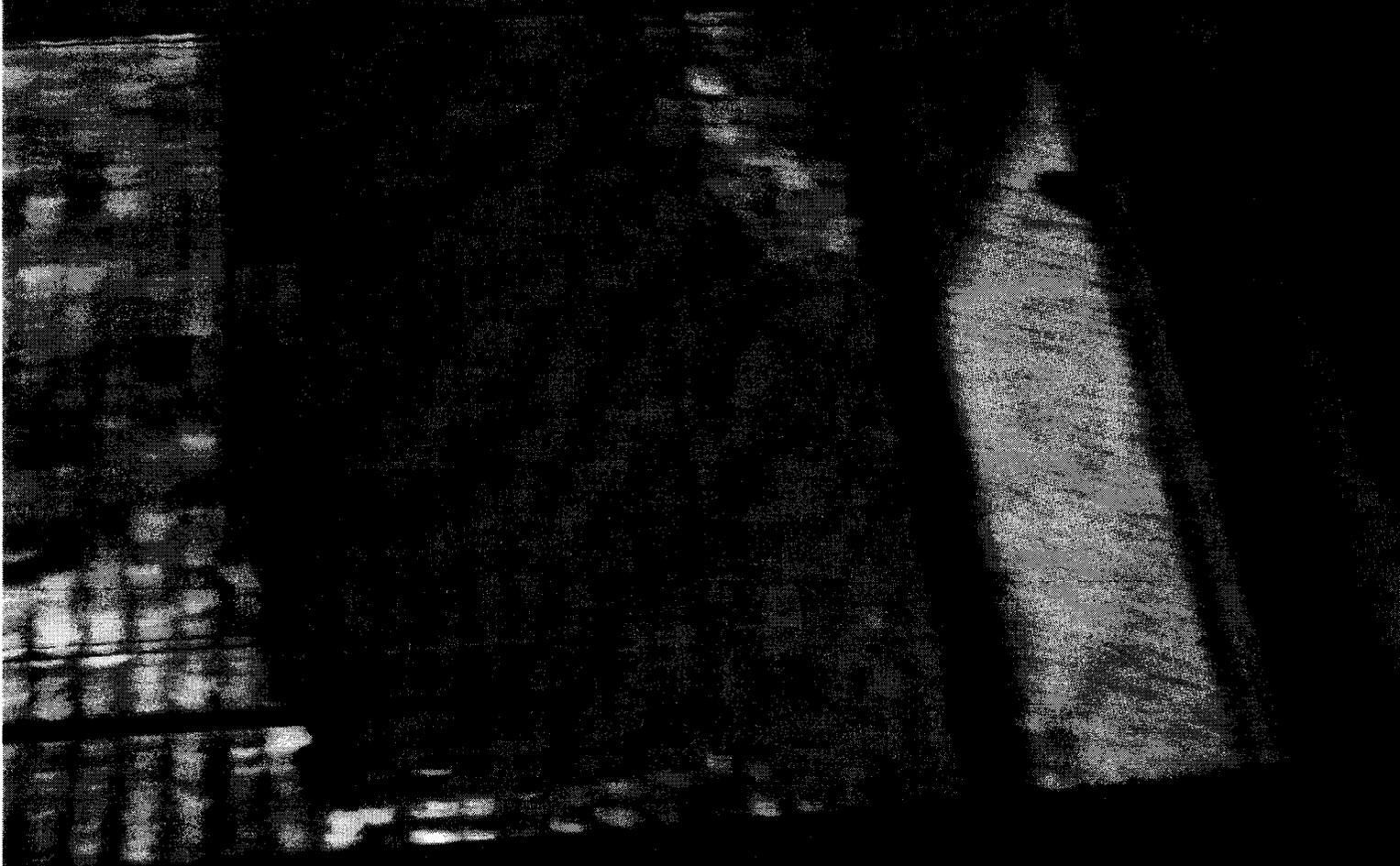
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DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an accessory dwelling unit located within a portion of the existing dwelling.

Size of Principal Dwelling:

1,842 square feet

Size of Accessory Dwelling Unit:

422 square feet (22.9% of Principal Dwelling Unit)

Lot Size:

11,445 square feet

LOCATION AND CHARACTER

Existing Site Description: The 11,455 square foot lot is developed with a split level with basement, single family detached dwelling which was originally constructed in 1979. Vehicular access is provided via a paved driveway from Monarch Lane. Parking is provided by the existing driveway and a two car garage.

The accessory dwelling unit will be located in a portion of the basement of the existing dwelling. Access to the accessory unit is provided by a door located in the rear of the basement level of the dwelling.

Surrounding Area Description:

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

BACKGROUND

The site is currently zoned R-3 cluster and is developed with a split level with basement single family detached dwelling which was constructed in 1979.

A Notice of Violation (NOV) (Appendix 4) was issued on January 5, 2010, to the applicant for the establishment of excessive dwelling units on the subject property. There was the main dwelling unit as well as two accessory units established in the

basement of the principal dwelling. The accessory dwelling unit associated with this application is located within the eastern portion of the basement. It was also deemed that another accessory unit was established in the other portion of the basement. The applicant has since cleared one of the accessory units and is requesting approval for one to remain. Based on a site visit performed May 14, 2010, both the staff coordinator and the Zoning Enforcement Inspector verified the removal of the second accessory unit.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Fairfax Planning District; Area II
Planning Sector: Mantua Community Planning Sector (F2)
Plan Map: Residential Development

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: House Location, Lot 5, Section 1

Prepared By: John T. Monaghan, dated June 11, 1980 and recertified on March 10, 1987

Proposed Use

The applicant is requesting approval of a special permit for an accessory dwelling unit within a portion of the basement of the existing single family dwelling. The accessory dwelling unit is proposed to include one bedroom, one bathroom, an office and a full kitchen; thus comprising 22.9 percent of the total square feet in the dwelling. A copy of the floor plan can be found at the front of this report. The applicant wishes to either have his mother reside in the accessory unit or to have a tenant. The resident and applicant of the principal dwelling unit is over 55 years of age as stated in his statement of justification (Appendix 3). The existing driveway and two car garage has adequate parking for the principal and accessory unit.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-3 Cluster Zoning District.

Special Permit Requirements

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

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

The first standard under Sect. 8-918 of the Zoning Ordinance states that there can only be one accessory dwelling unit per single family detached dwelling unit. Staff's site visit confirmed that the second accessory unit has been removed and this standard has been met. Staff believes that all other standards noted above have been met.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the Proposed Development Conditions contained in Appendix 1 of this 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.

APPENDICES

1. Proposed Development Conditions with Attachment 1
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated January 30, 2009
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2010-PR-028****June 23, 2010**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-PR-028 located at Tax Map 59-1 ((27)) 5, to permit an accessory dwelling unit under Section 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval for the accessory dwelling unit is granted to the applicant only, Armando Estrada Fernandez, and is not transferable without further action of this Board, and is for the location indicated on the application, 3416 Monarch Lane (11,445 square feet), and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structures and/or use(s) indicated on the house location survey plat prepared by John T. Monaghan, dated June 11, 1980 and recertified on March 10, 1987, as qualified by these development conditions.
3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
5. All applicable permits and final inspections required for the accessory dwelling unit, including the kitchen, shall be approved prior to occupancy of the unit.
6. The accessory dwelling unit shall contain a maximum of 422 square feet with a maximum of one bedroom as depicted on the floor plan included as Attachment 1 to these conditions.
7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
8. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use

permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

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

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

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

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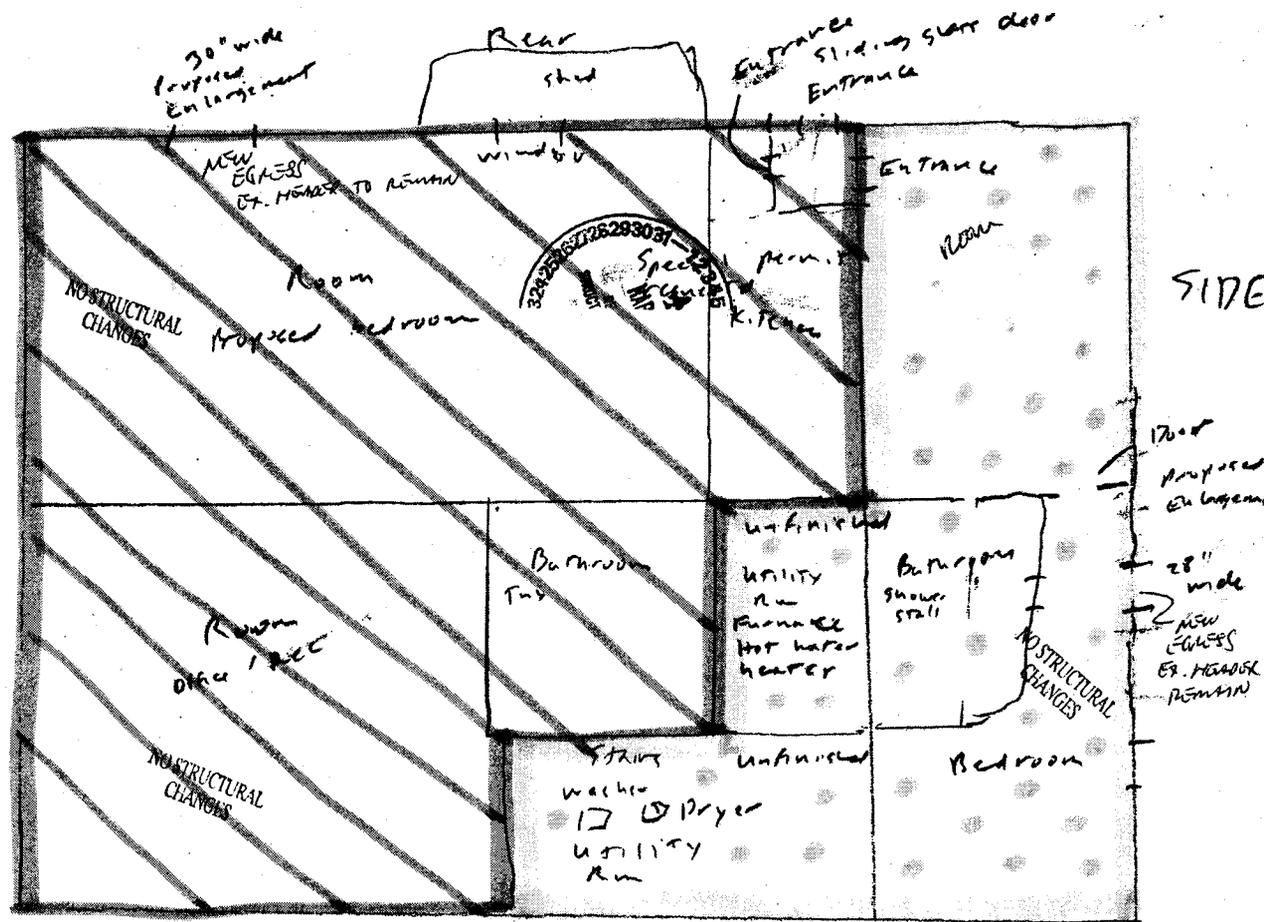
DESIGNER

Name: _____

Address: _____

Occupation: _____

Job Address: _____



Accessory Dwell.



Part of Principal Dwelling

Front of House

Armando E Fernandez
 3416 Monarch Lane
 Alexandria, VA 22003
 Compliance Officer
 Dept of Labor
 200 Const. Ave, NW
 Washington, DC 20210

Application No.(s): SP 2010-PR-028
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/10
(enter date affidavit is notarized)

I, Armando Estrada Fernandez, 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 107453

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)
Armando E. Fernandez	3416 Monarch Lane, Annandale, VA 22003	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 2010-PR-028
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/10
(enter date affidavit is notarized)

107453

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Not applicable

- 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)
Not applicable

(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-PR-028
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/10
(enter date affidavit is notarized)

107453

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)
Not applicable

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

NONE

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2010-PR-028
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/10
(enter date affidavit is notarized)

107453

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:
Not applicable

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-PR-028
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/1/10
(enter date affidavit is notarized)

107453

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

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

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

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

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

WITNESS the following signature:

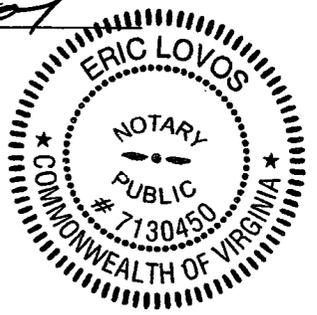
(check one) Applicant Armando Estrada Fernandez [] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 1st day of February 2010, in the State/Comm. of Virginia, County/City of Fairfax.

Eric Lovos
Notary Public

My commission expires: 9-30-11



**ARMANDO ESTRADA FERNANDEZ
SPECIAL PERMIT STATEMENT OF JUSTIFICATION**

A written statement from the applicant describing the proposed use, and other pertinent data.

This special permit application is for one attached accessory dwelling unit and it is being made under the provisions of Section 8 of the Fairfax County Zoning Ordinance, particularly Section 8-918, "Additional Standards for Accessory Dwelling Units."

The objective for my having an accessory dwelling unit was to enable my disabled mother, Rosa Sabellico, who is 86 years old, to live in it. She is permanently and totally disabled as defined under Section 8-918-5.B.(2). I am the owner, living in the main unit of the subject property. I am 67 year old, which meets the requirement of Section 8-918-B.(1), and a disabled Vietnam era veteran with 42 years of federal government service, including 10 years in the armed forces. My plan was to retire and have my mother live with me has been delayed because of the losses incurred in my Thrift Savings Program (401k equivalent). In the meantime, I would like to rent the accessory dwelling unit to one person with a maximum of two persons to supplement my income. [

for any reason, my mother, who is in Florida, does not like to live. All references to I refers to the owner/applicant and all Section in this citations refer to the Fairfax County Zoning Ordinance. *once, I would like to rent the unit*

- A. Type of operation(s): Attached accessory dwelling unit.
- B. Hours of operation: residence - 24 hours
- C. Estimated number of patrons/clients/patients/pupils/etc.

Estimated no. of patrons: One tenant with a maximum of two.

- D. Proposed number of employees/attendants/teachers/etc.

Not applicable (NA). There are no employees involved.

- 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.

One car, maximum of two to be parked in front of house. Insignificant traffic or parking impact.

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

RECEIVED
Department of Planning & Zoning
FEB 05 2010
Zoning Evaluation Division

Location: Prosperity Heights, Annandale, near the intersection of and Woodburn Rd. and Tobin Rd. About ½ mile to the rear of the INOVA Fairfax Hospital.

G. Description of building facade and architecture of proposed new building or additions.

Part of the building façade of the existing single family dwelling unit is made of bricks, with a covered porch that has siding and a garage. There is no proposed new building; only the accessory dwelling unit which is inside an existing house and there will not be any change in the building facade or architecture.

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.

There are no hazardous, toxic substances or petroleum products in or on the subject property.

I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification.

1. The application is for one accessory dwelling unit. (Section 8-918-1)
2. The accessory dwelling unit is located within the structure of the subject single family detached dwelling unit. The external entrance for the accessory dwelling unit is located on the rear of the structure, but a tenant(s) may use the front door as well. (Section 8-918-2)
3. The gross floor area of the accessory dwelling unit is 422 square feet (22.9%) of the 1842 square feet total gross floor area of the principal dwelling unit. (Section 8-918-3)
4. The accessory dwelling unit will have one (1) bedroom. (Section 8-918-4).

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

A. One of the dwelling units is owner occupied. (Section 8-918-5.A.)

B. The owner is over fifty-five years of age or over. The owner is 67 years old. [Section 8-918-5.B.(1)]

C. The principal single family dwelling unit is currently occupied by the owner and one unrelated person (Section 8-918-5.C and pursuant to the Fairfax County Zoning Ordinance 8-62.

6. Although not required at this time, the accessory dwelling unit is currently suitable for a disabled person. This is for the future since I do not anticipate that a disabled tenant(s) will occupy the premises in the immediate future (Section 8-918-6).

A. Currently, there is uninterrupted access to one (1) entrance; and

B. There is one (1) toilet room.

7. The anticipated future disabled tenant will be my mother and she does not drive; therefore the requirements for parking under this section is not anticipated to apply (Section 8-918-7)

8. The proposed accessory dwelling unit will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood and there will not be any changes in the exterior of the building (single family dwelling).

The addition of one with a maximum two tenants with one car and a maximum of two cars will have a negligible effect on pedestrian and vehicular traffic. This is consistent with Section 8-006 "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."

The front yard of the house is 113 feet which provides adequate street parking to accommodate more than two cars. The owner has one car which is kept in a garage. This is consistent with Section 8-006: "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."

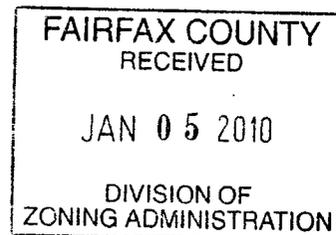
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County of Fairfax, Virginia

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

January 5, 2010



NOTICE OF VIOLATION

SHERIFF'S LETTER

SERVE: Armando Estrada Fernandez
 Marta Castillo Fernandez
 3416 Monarch Lane
 Annandale, Virginia 22003-1155

Case # 55493

LOCATION OF VIOLATION:

Address: 3416 Monarch Lane
 Subdivision: Prosperity Heights, Sec. 1, Lot 5
 Tax Map Ref: 59-1 ((27)) 5
 Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on December 3, 2009 revealed the following violation of the Fairfax County Zoning Ordinance:

§ 2-501 Excessive Dwelling Units:

The December 3, 2009 inspection revealed that the basement or first floor level of your residence has been converted into two separate independent living facilities which includes permanent provisions for living, sleeping, eating, cooking, and sanitation. On the date of inspection, the basement or lower level contained two separate apartment units, each with a bedroom, bathroom, living room, and a kitchen with a refrigerator, sink, kitchen cabinets, dishwasher, microwave, and oven. There was also a common utility room separating these two apartment units, and both units had rear access doors, separate keyed locks, and also locked doors between the basement and first floor levels of the residence.

For your information and review, a dwelling unit is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, and used or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking,



and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, you are in violation of Sect. 2-501 of the Zoning Ordinance that states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building.

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the microwave, ovens, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

Please contact the Fairfax County Department of Public Works and Environmental Services (DPWES) about obtaining a demolition permit for this work. DPWES Permits Application Center can be reached by calling (703)-222-0801. A follow-up inspection to determine compliance with this notice will be made at the expiration of the 30-day period. If you have failed to comply, with this notice, it may result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those

Armando Estrada Fernandez

Marta Castillo Fernandez

January 5, 2010

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provisions require the submission of an application form, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party, and any other information you may wish to submit and a \$2455.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

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

Sincerely,



Charles P. Fitzhugh

Property Maintenance/Senior Zoning Inspector

CPF/seg

8-006**General Standards**

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

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

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

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

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

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

8-918

Additional Standards for Accessory Dwelling Units

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

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written

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

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

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.
- 7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
- 8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.

9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.