



APPLICATION ACCEPTED: May 13, 2010  
BOARD OF ZONING APPEALS: August 4, 2010  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

---

July 28, 2010

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2010-SU-034**

### SULLY DISTRICT

**APPLICANT:** Helen L. McGuire

**OWNERS:** Helen L. McGuire  
John F. McGuire

**SUBDIVISION:** Timber Lake Property

**STREET ADDRESS:** 2787 Marshall Lake Drive

**TAX MAP REFERENCE:** 36-2 ((14)) 13

**LOT SIZE:** 36,111 square feet

**ZONING DISTRICT:** R-1

**ZONING ORDINANCE PROVISIONS:** 8-918

**SPECIAL PERMIT PROPOSAL:** To permit an accessory dwelling unit.

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2010-SU-034 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.

*O:\dhedri\Special Permits\8-4) SP 2010-SU-034 McGuire\SP 2010-SU-034 McGuire staff report.doc*

*Deborah Hedrick*

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.

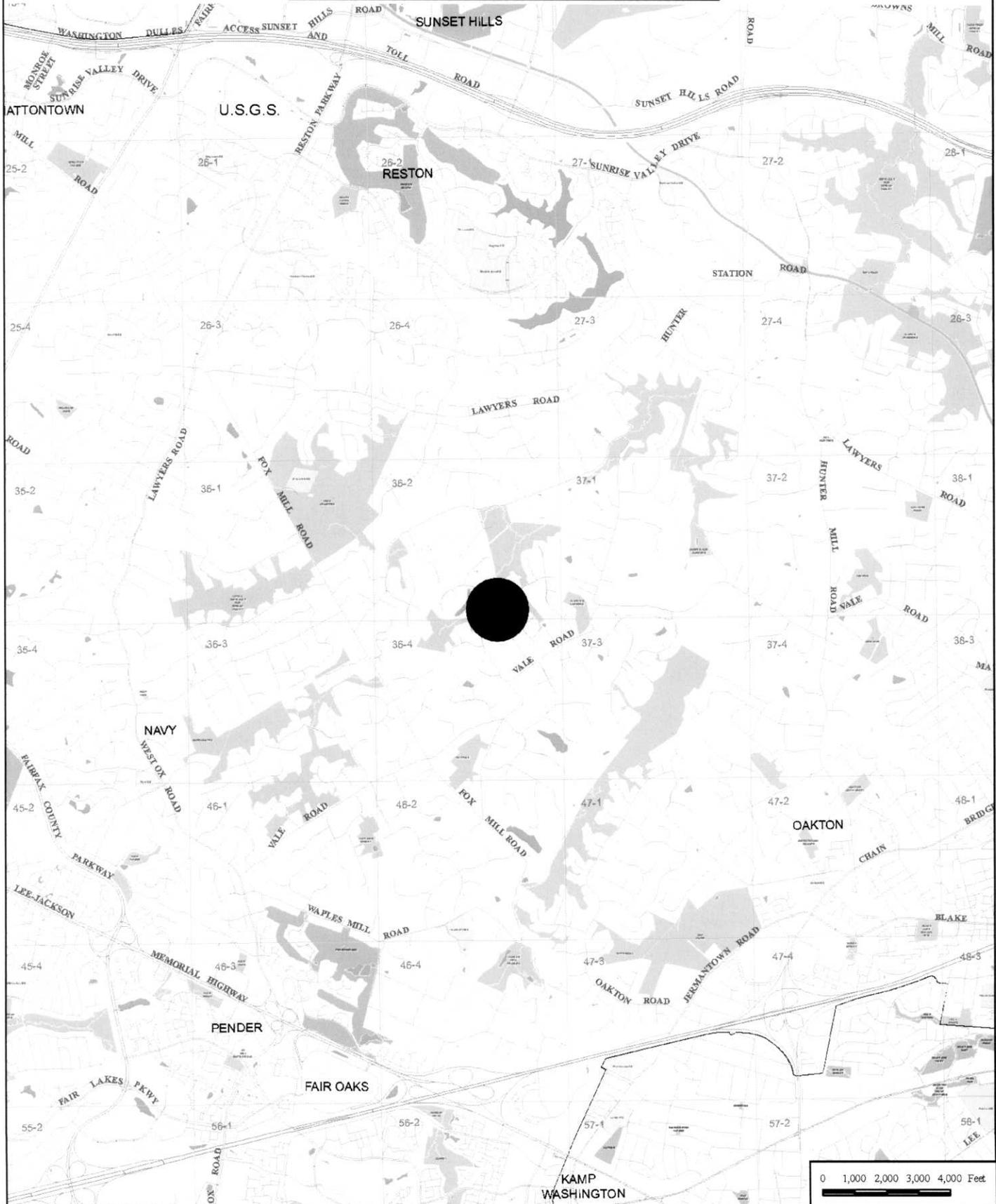
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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.**

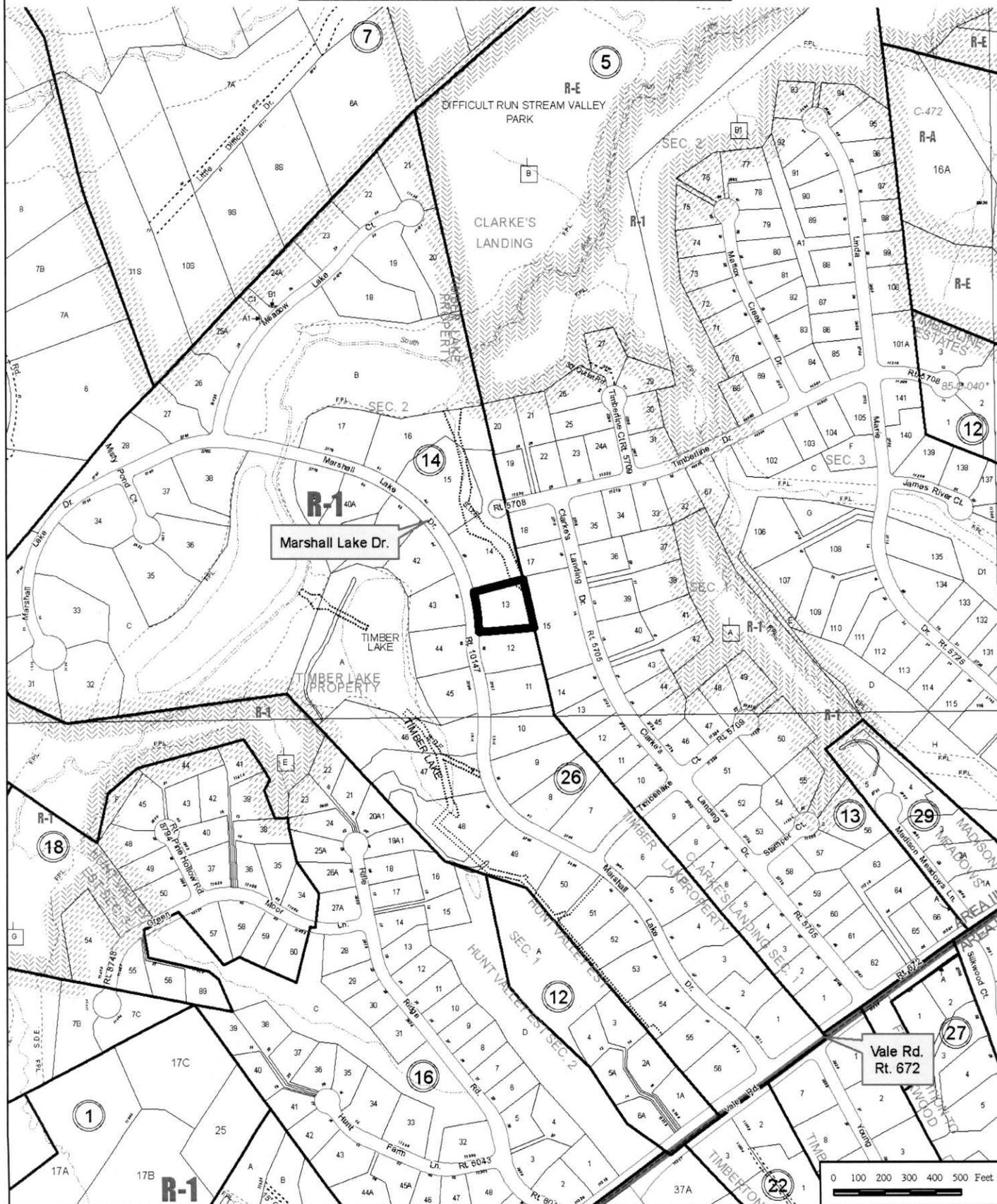


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2010-SU-034**  
HELEN MCGUIRE



**Special Permit**  
**SP 2010-SU-034**  
**HELEN MCGUIRE**





**DESIGNER**

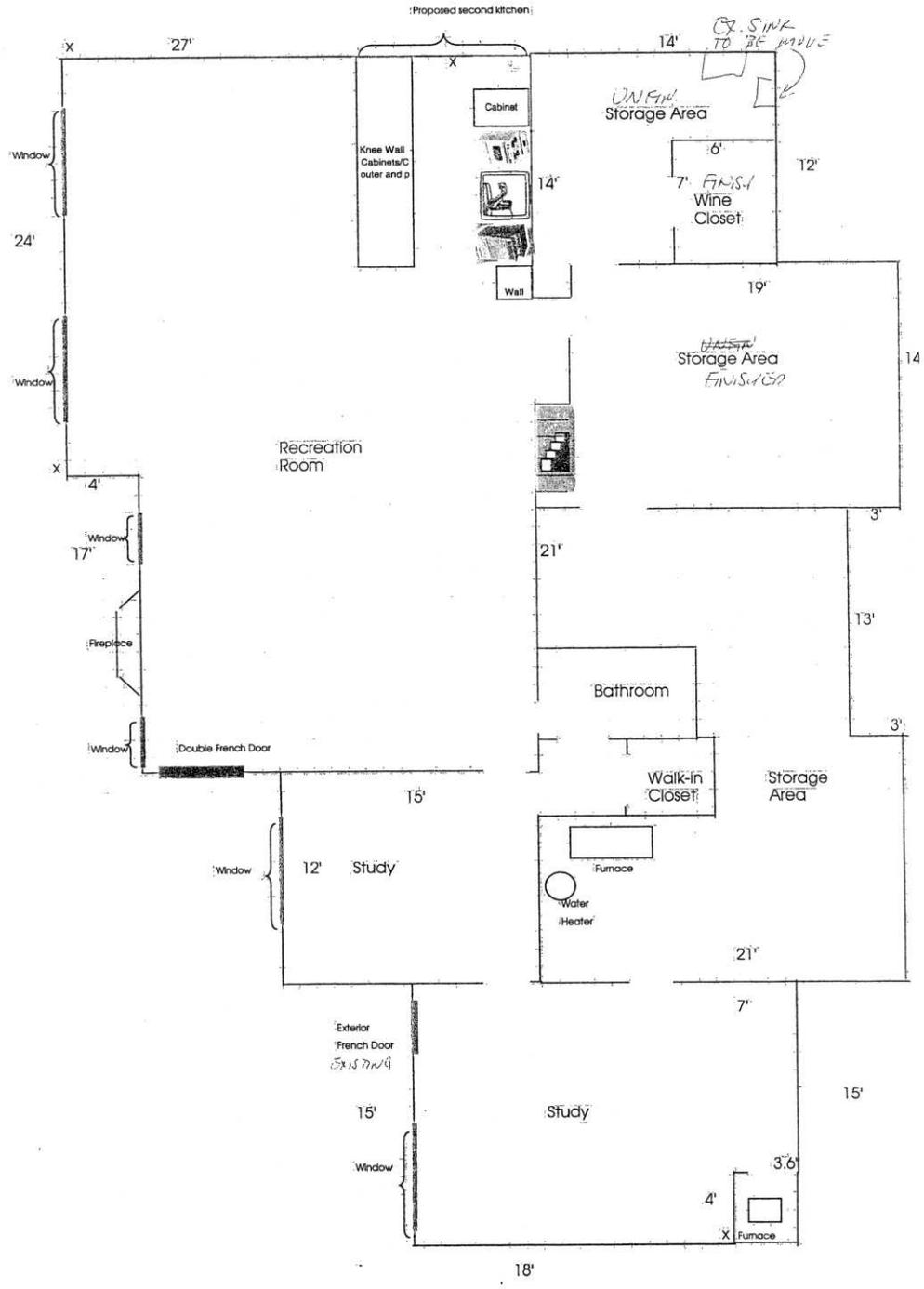
Name: D. L. McBride

Address: 2187 Marshall Lake Dr  
Oakton, VA 22124

Occupation: Architect

Job Address: 2187 Marshall Lake Dr  
Oakton, VA 22124

RECEIVED  
Department of Planning  
APR 02 2010  
Zoning Evaluation



**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

1) Photo #1



From rear yard of back yard

2) Photo #2



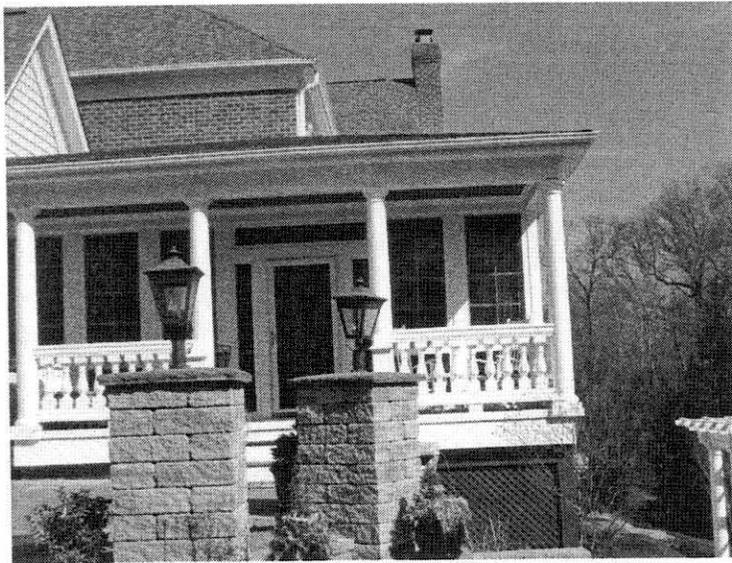
From rear yard of back yard

RECEIVED  
Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

3) Photo #3



From rear side yard of side

4) Photo #4



From side yard of front

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Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124  
**DATE:** 02 April 2010 (*Photos taken on Friday, 02 April 2010*)

5) Photo #5



From 2786 Marshall Lake Drive of 2787 Marshall Lake Drive front yard

6) Photo #6



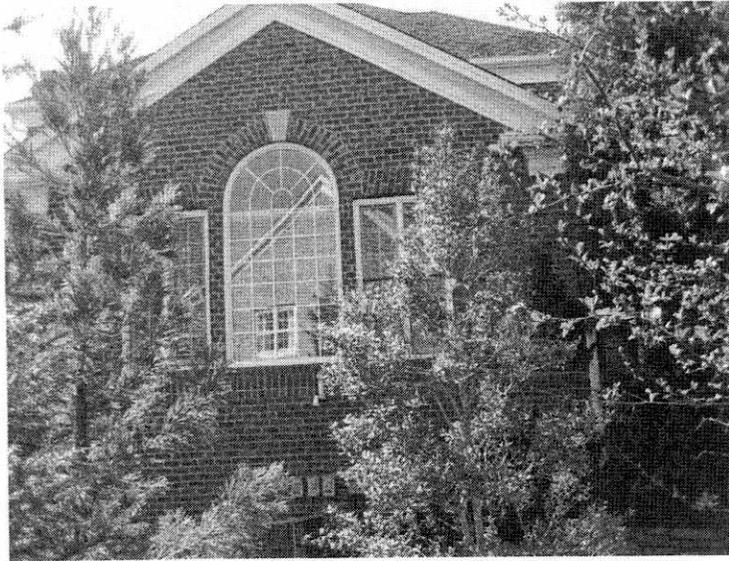
From front side yard of front

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Department of Planning & Zoning  
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Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

7) Photo #7



From 2785 Marshall Lake Drive of side yard

8) Photo #8



From rear yard of back yard

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Department of Planning & Zoning  
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Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

9) Photo #9A



From rear yard of 2714 Clarks Landing Drive back yard



Front view of 2714 Clarks Landing Drive

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Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (*Photos taken on Friday, 02 April 2010*)

9) Photo #9B



From rear yard of back yard

10) Photo #10

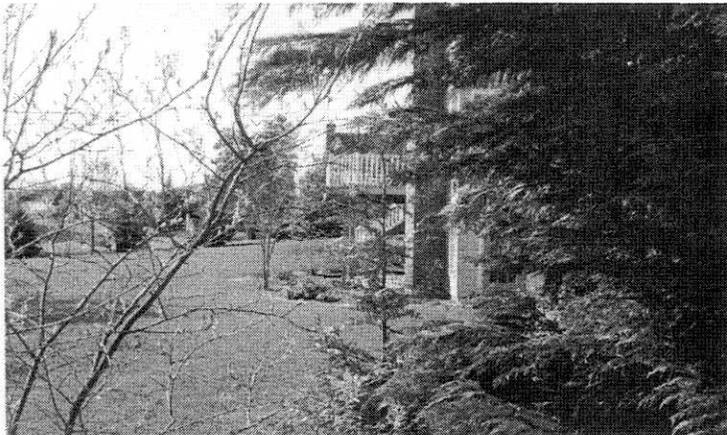


From rear yard of 2714 Clarks Landing Drive back yard

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Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124  
**DATE:** 02 April 2010 (*Photos taken on Friday, 02 April 2010*)

11) Photo #11



From side yard of 2789 Marshall Lake Drive back (side) yard



Front view of 2789 Marshall Lake Drive

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Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address: 2787 Marshall Lake Drive  
Oakton, VA 22124**

**DATE: 02 April 2010 (Photos taken on Friday, 02 April 2010)**

12) Photo #12



From front side yard across street of 2788 Marshall Lake Drive

13) Photo #13



From front yard across street of 2786 Marshall Lake Drive

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Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address: 2787 Marshall Lake Drive  
Oakton, VA 22124**

**DATE: 02 April 2010 (Photos taken on Friday, 02 April 2010)**

14) Photo 14



From front yard across street of 2784 Marshall Lake Drive



Front view of 2784 Marshall Lake Drive

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Department of Planning & Zoning

APR 02 2010

Zoning Evaluation Division

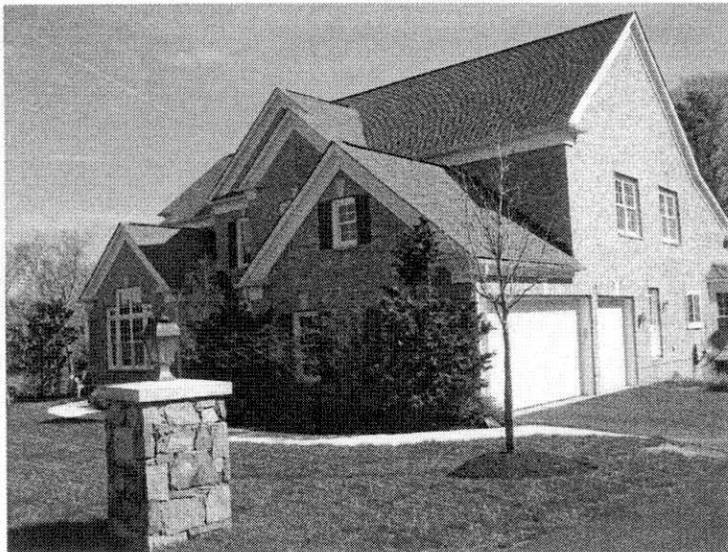
**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

15) Photo #15



From side yard of 2785 Marshall Lake Drive



Front view of 2785 Marshall Lake Drive

RECEIVED  
Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

**Address:** 2787 Marshall Lake Drive  
Oakton, VA 22124

**DATE:** 02 April 2010 (Photos taken on Friday, 02 April 2010)

16) Photo #16



From rear yard of 2706 Clarkes Landing Drive back yard



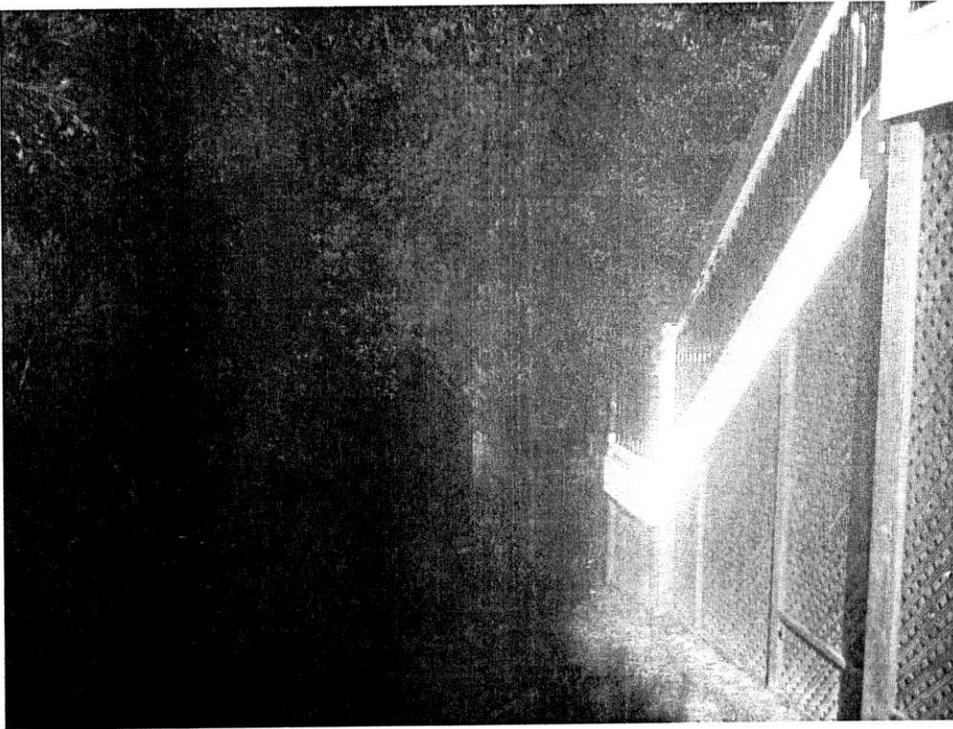
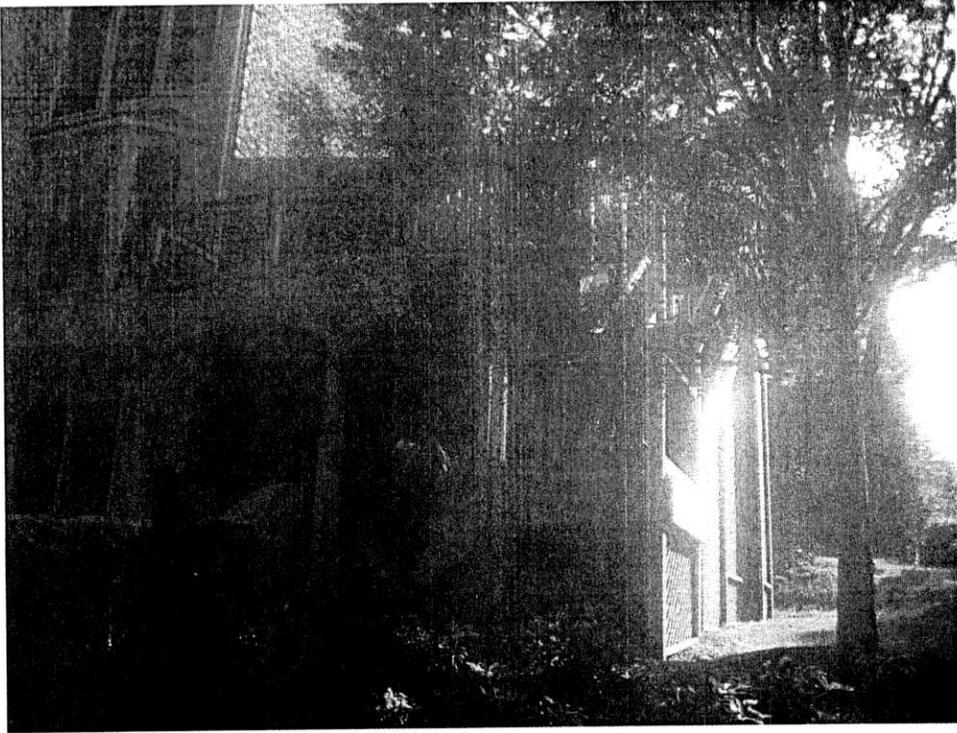
Front view of 2706 Clarkes Landing Drive

RECEIVED  
Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Division

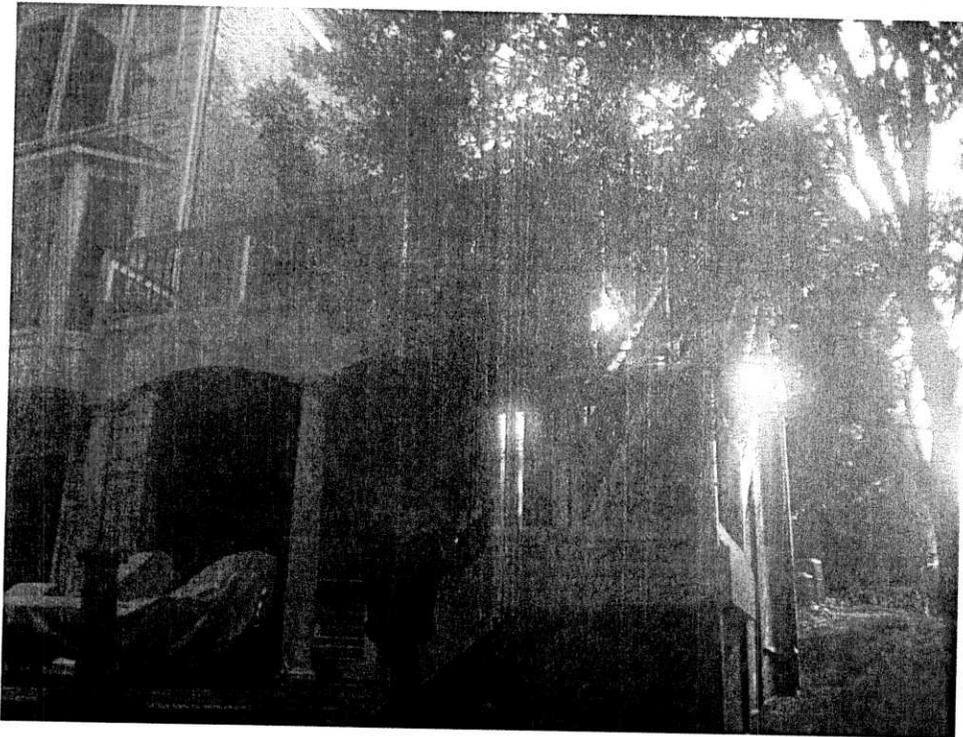
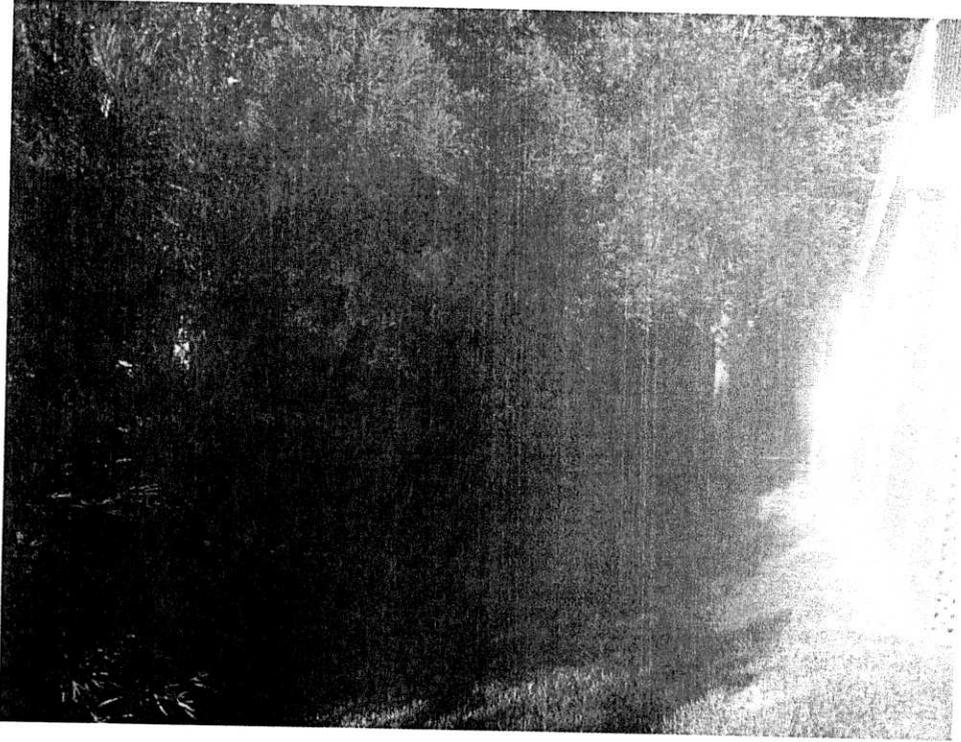
2787 Marshall Lake Drive  
Oakton, VA 22121  
(703) 620-2437



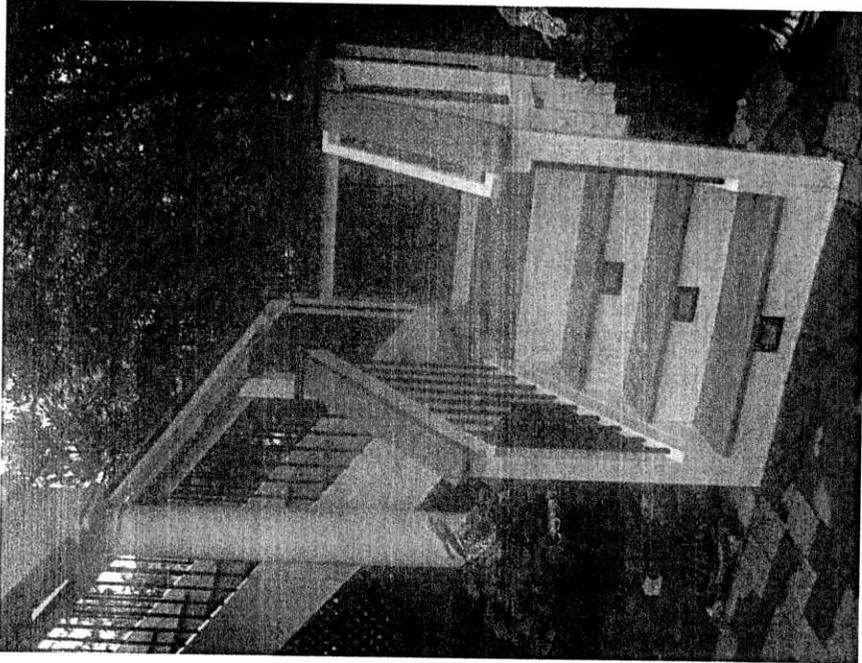
2787 Marshall Lake Drive  
Oakton, VA 22121  
(703) 620-2437



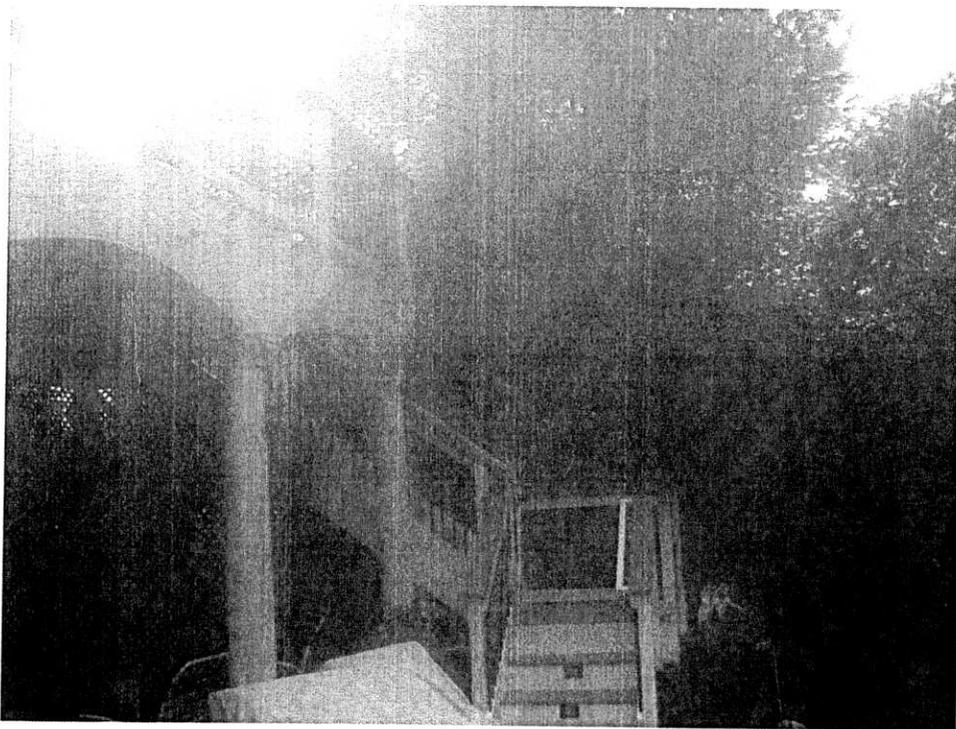
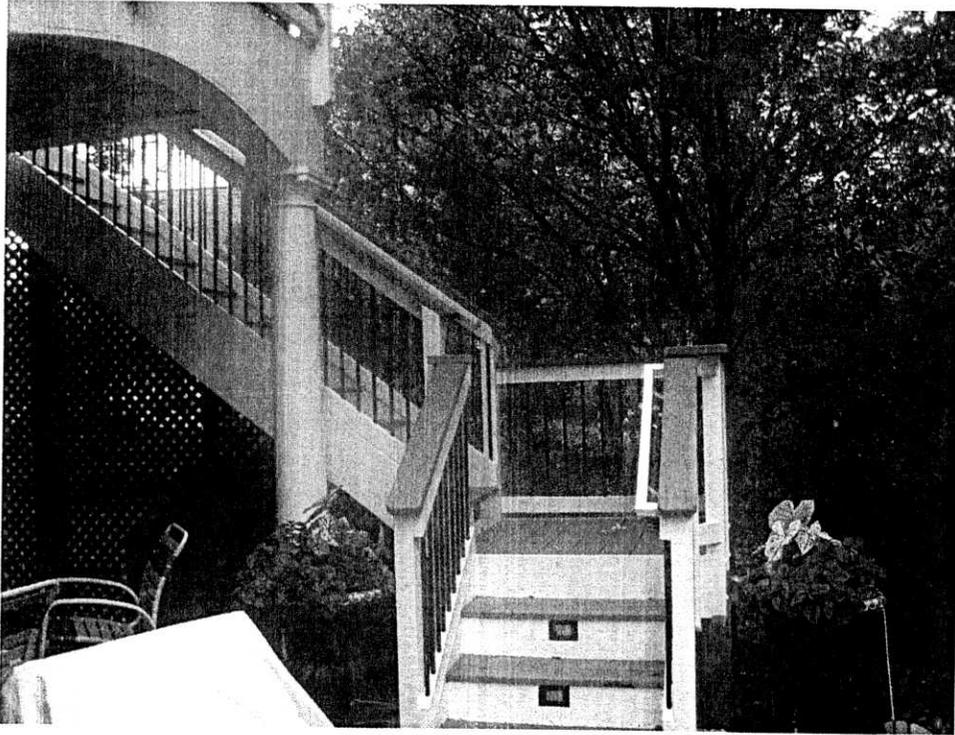
2787 Marshall Lake Drive  
Oakton, VA 22121  
(703) 620-2437



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Oakton, VA 22121  
(703) 620-2437



2787 Marshall Lake Drive  
Oakton, VA 22121  
(703) 620-2437





**DESCRIPTION OF THE APPLICATION**

**Special Permit Request:** To permit an accessory dwelling unit.

**Size of Principal Dwelling:** 4,894 square feet

**Size of Accessory Dwelling Unit:** 840 square feet

**Lot Size:** 36,111 square feet

**LOCATION AND CHARACTER**

**Existing Site Description**

The application property is located at 2787 Marshall Lake Drive in the Timber Lake Property subdivision. The 36,111 square foot site is developed with a single family detached dwelling, built in 2000. An asphalt driveway is accessed from Marshall Lake Drive and terminates at a side loading garage at the dwelling. The lot is flat with a well manicured lawn with shrubs and mature vegetation along the rear property boundary.

**Surrounding Area Description**

Direction	Use	Zoning
North	Single Family Detached Dwellings	R-1
South	Single Family Detached Dwellings	R-1
East	Single Family Detached Dwellings	R-1
West	Single Family Detached Dwellings	R-1

## **BACKGROUND**

### **Site History**

County records indicate that the application dwelling was constructed in 2000.

On April 5, 2010, the applicant received a building permit to finish the existing unfinished areas of the basement to include a wet bar; however, a note on the permit stated that a second kitchen was not permitted.

On July 8, 2010, an Administrative Reduction was granted, as depicted on the plat located at the front of the staff report, to permit an existing deck to remain 19.0 feet from the northern side lot line. The deck was constructed by building permit in 2006; however, due to the configuration of the stairs on the side of the deck, it exceeds the minimum 20.0 foot side yard setback requirement.

## **ANALYSIS**

### **Special Permit Plat** (Copy at front of staff report)

**Title of SP Plat:** Special Permit Plat, Lot 13, Section 1, Timber Lake Property

**Prepared By:** Stephen L. Moore Land Surveying, Inc.

**Dated:** June 26, 2010

### **Proposed Use**

The applicant proposes an accessory dwelling unit to be located in the basement of the single family detached dwelling. The existing 3 level dwelling consists of 4,894 square feet of above grade living space. The applicant is requesting the accessory unit to occupy only a portion of the existing basement, within the current "recreation room" area, which would comprise of 17.1%. However, if the entire basement is utilized, at 1,630 square feet, the accessory unit would consist of 33.3%. In either instance, the application meets the criteria not to exceed 35% of the overall gross floor area. The basement doorway is at ground level which leads to a stone patio in the rear yard. The applicants' elderly mother will live in the accessory dwelling unit. The applicant proposes a kitchen within the recreation room and the room will be utilized as an efficiency apartment.

The dwelling currently has a three (3) car side load garage and a large driveway, which provides adequate parking on site. There are no proposed site modifications. The owner has stated that the request is to add a full second kitchen to accommodate her elderly mother residing in the dwelling. Since a wet bar was previously approved by building permit, most of the components currently exist, without the benefit of a stove. The applicant and her mother are both over 55 years of age.

## **ZONING ORDINANCE PROVISIONS**

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-1 Zoning District.

## **OTHER ZONING ORDINANCE REQUIREMENTS**

### **Special Permit Requirements** (See Appendix 4)

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

### **Summary of Zoning Ordinance Provisions**

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 4. Subject to development conditions, the special permit must meet these standards.

## **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. Therefore staff recommends approval of SP 2010-SU-034 subject to 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
2. Applicant's Affidavit
3. Applicant's Statement of Justification and Attachments
4. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2010-SU-034****July 28, 2010**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-SU-034 located at Tax Map 36-2 ((14)) 13 to permit an error in building location and an accessory dwelling unit under Section 8-918 to 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 for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Helen L. McGuire, and is not transferable without further action of this Board, and is for the location indicated on the application, 2787 Marshall Lake Drive (36,111 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Stephen L. Moore Land Surveying, Inc., dated June 26, 2010, and approved with this application, as qualified by these development conditions.
4. 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.
5. The occupants 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.
6. The accessory dwelling unit shall contain a maximum of 840 square feet, and the layout shall be as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit prior to occupancy.

8. 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.
9. 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.
10. 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.
11. 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, thirty (30) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

DESIGNER

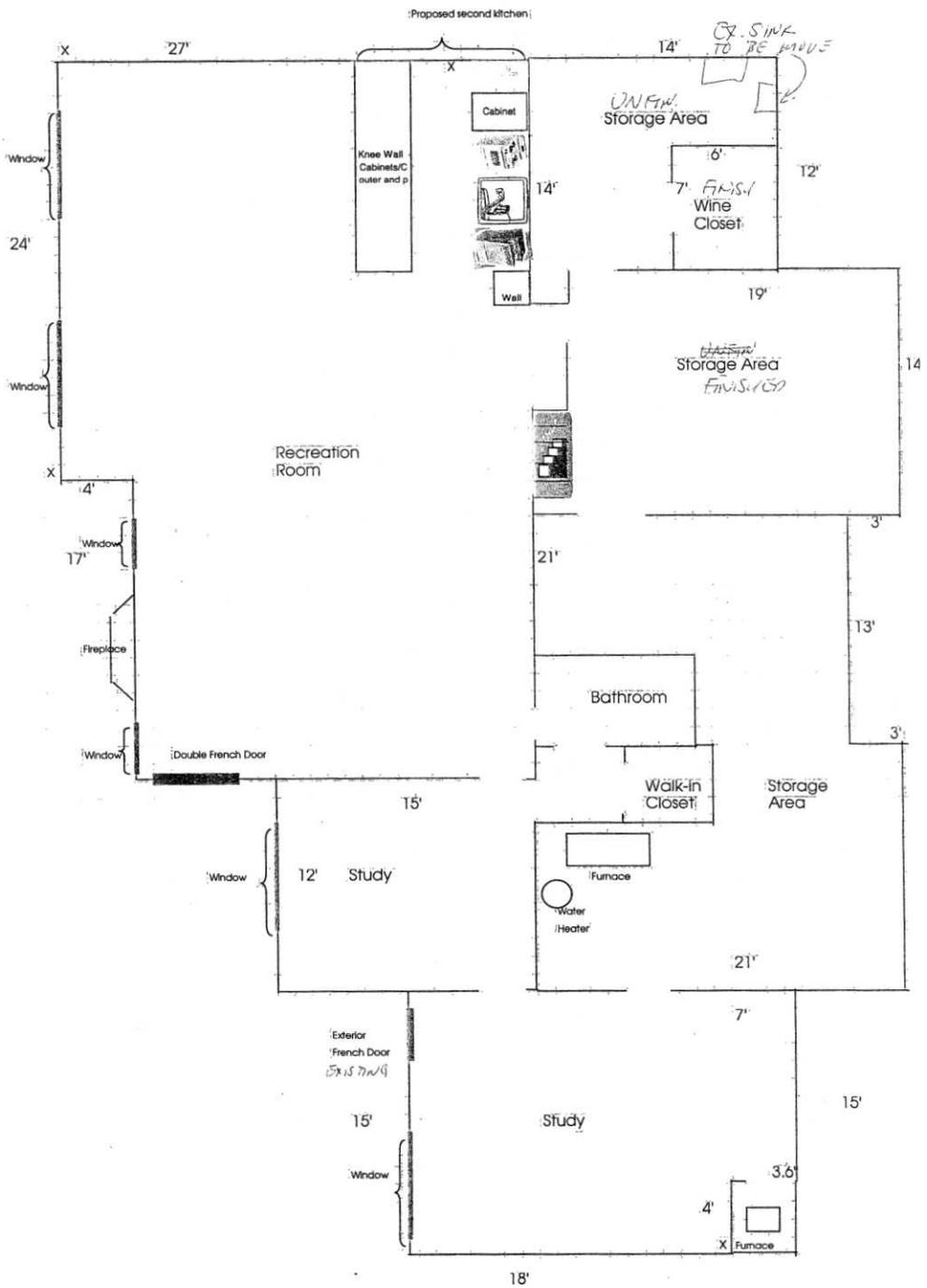
Name: D.L. BOBULE

Address: 2787 Marshall Lake Dr  
Roanoke, VA 22104

Occupation: Architect

Job Address: 2787 Marshall Lake Dr  
Roanoke, VA 22104

RECEIVED  
Department of Planning & Zoning  
APR 02 2010  
Zoning Evaluation Unit



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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 3/20/10  
 (enter date affidavit is notarized)

I, Helen McGuire, 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      108063

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 <b>BOLD</b> above)
Helen L. McGuire	2787 Marshall Lake Dr Oakton, VA 22124	<b>Applicant/</b> <b>Title Owner</b>
John F. McGuire	2787 Marshall Lake Dr Oakton, VA 22124	<b>Title Owner</b>

(check if applicable)       There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.  
 \*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 3/20/10  
(enter date affidavit is notarized)

108063

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

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

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

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

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

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

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 3/20/10  
(enter date affidavit is notarized)

108063

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

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

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

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

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

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

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

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 3/20/10  
(enter date affidavit is notarized)

108063

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: March 20, 2010  
(enter date affidavit is notarized)

108063

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:

*[Signature]*  
John F. McGuire

(check one)

Applicant

Applicant's Authorized Agent

*[Signature]*  
John F. McGuire

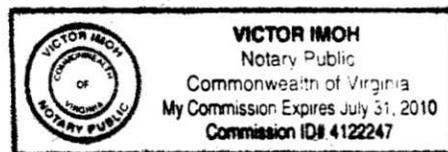
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20 day of March, 2010, in the State/Comm. of Virginia, County/City of Fairfax.

*[Signature]*

Notary Public

My commission expires: July 31, 2010



2787 Marshall Lake Drive  
Oakton, VA 22121  
(703) 620-2437

SPECIAL PERMIT STATEMENT OF JUSTIFICATION

**A. Description of what you are applying for with dimensions and materials of the structure.**

This application is for a second kitchen. The second kitchen will be built with cherry cabinets and includes gas or electric oven/range combination, refrigerator, sink, dishwasher. The second kitchen will be built utilizing existing finished space. The dimensions are 10'Wide x 12'Long (120 Square Feet).

**B. If you don't have an accessory structure in the front yard state that this does not apply.**

This does not apply.

**C. State the year the house was built and the existing setbacks from the front, side(s) and rear yard to the house**

House was built in 2000. Setbacks from the front, side(s) and rear yard to the house are provided in Attachment #1.

**D. State the existing square footage off the structure and the proposed square footage.**

The above-grade living area is 4,894 square feet.

The basement recreation room size is 840 square feet. The second kitchen will be 120 square feet of the existing 840 square foot finished basement.

**E. State if the square footage will be subordinate to the principal structure and use both number and percentage change.**

The square footage of the house will not be increased. The second kitchen will be built in the existing basement recreation room space. There is no increase in square footage.

**F. State how the new structure is compatible with the existing structure.**

The second kitchen will be built in existing basement recreation room space.

**G. State how the new structure is compatible with the surrounding off-site uses.**

The new structure is internal: hence, no compatibility issues exist with the surrounding off-site uses.

**H. Specify how the new structure will not create an adverse impact on the adjacent properties.**

As the new structure is internal, the structure will not create an adverse impact on the adjacent properties.

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SPECIAL PERMIT STATEMENT OF JUSTIFICATION (continued)

**I. Specify how the new structure is creating the minimum reduction necessary to accommodate the proposed structure.**

The new structure will have no impact on the existing structure. The second kitchen will be built in existing basement recreation room space.

**J. Type of operation(s)**

Second kitchen in the walk-out basement recreation room.

**K. Hours of operation**

Second kitchen will be continually available.

**L. Estimated number of patrons/clients/patients/pupils/etc.**

The second kitchen is primarily intended serve as the means of providing for my elderly mother who is 90 years old. It will ...

- Allow and provide her with independence in the comfort of my home
- Provide her the dignity to gracefully age surrounded by her family
- Reduce and/or eliminate the financial burden of living in a retirement community, assisted living or nursing home: especially, in light of the soaring costs, it will prevent her re-location to an area in this country which would be more cost effective but without her family
- Be with her family and provided care by those who love her

Additionally, the second kitchen will serve as a convenient option for my family when we enjoy family time in the finished basement.

**M. Proposed number of employees/attendants/teachers/etc.**

This does not apply.

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

No traffic impact is expected.

**O. Vicinity or general area to be served by the use.**

The second kitchen will be located in the basement recreation room of the home. The walk-out basement has two outside entrances: a double French door and a single French door.

SPECIAL PERMIT STATEMENT OF JUSTIFICATION (continued)

**P. Description of building façade and architecture of proposed new building or additions**

There will be no changes to the building face and architecture of the existing building. The second kitchen will have a single oven with range top, refrigerator, microwave/convection oven combination, sink, and dishwasher. The second kitchen will be built to complement the elegance and beauty of the home.

**Q. 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.**

No known hazardous or toxic substances are known to be generated, utilized, stored, treated, and/or disposed of on site.

**R. 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.**

- The second kitchen will be in accordance to all applicable Fairfax County codes and regulations.
- Respectfully requesting a **waiver** of *Special Permit Plat Submission Requirements*

STATEMENT OF JUSTIFICATION

This justification requests a special permit to allow the existing deck structure including stairs to remain in its present location. The initial plans submitted by the builder showed the stairs of the deck structure located a distance greater than twenty (20) feet from the side lot line in order to comply with Ordinance requirements. During the construction of the deck structure, it was discovered that the stairs would terminate up against the back of the existing house. If the stairs were moved to protrude from the center of the deck into the back yard, the stairs would extend a great distance into the back yard due to the existing grade. At some time the location of the existing house on the plat may have been moved, and may have resulted in an error in calculation of the minimum yard requirement. The property owner discovered the error when the property owner, acting as a general contractor, applied for a permit to have further work done in accordance with Fairfax County codes, requirements, regulations, and ordinances.

- The Fairfax County minimum yard requirement is twenty (20) feet: the error is one (1) foot or five (5) percent of the minimum yard requirement. This is only for a portion of the deck stairs as reflected on the attached plat. It does not apply to the entire length of the deck stairs.
- At the top of the stairs leading off the deck the stairs measure nineteen (19) feet from the side yard lot line: fourteen (14) feet down the stairs, the distance is twenty (20) feet from the side yard lot line.
- The side yard setback is nineteen (19) feet instead of the required twenty (20) feet, and was the result of a building error that occurred during the construction of the deck. The property owner believes that this error was done in good faith.
- The deck structure and the one (1) foot reduction of the minimum yard requirement will not impair the purpose and intent of the Ordinance.
- The deck structure will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
- The deck structure does not create an unsafe condition with respect to both other adjacent or nearby properties and public streets.
- To force compliance with the minimum yard requirement would cause unreasonable hardship on the property owner. Tearing down the current deck stairs would be a significant expense to the property owner. As the property owner requires that all building be in accordance with Fairfax County requirements and permits obtained accordingly, this noncompliance was done in good faith.
- The one (1) foot reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

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**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.