



APPLICATION ACCEPTED: October 8, 2010
DATE OF PUBLIC HEARING: December 8, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

December 1, 2010

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-SP-059

SPRINGFIELD DISTRICT

APPLICANTS/OWNERS: Jong Yeol Na
Kyung H. Na

LOCATION: 9723 Thorn Bush Drive

SUBDIVISION: The Estates at Roseland

TAX MAP: 97-3 ((15)) 51A

LOT SIZE: 5.27 acres

ZONING: R-C and WS

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to the minimum yard requirements based on error in building location to permit accessory structure to remain 13.8 feet with eave 12.7 feet from a side lot line.

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

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

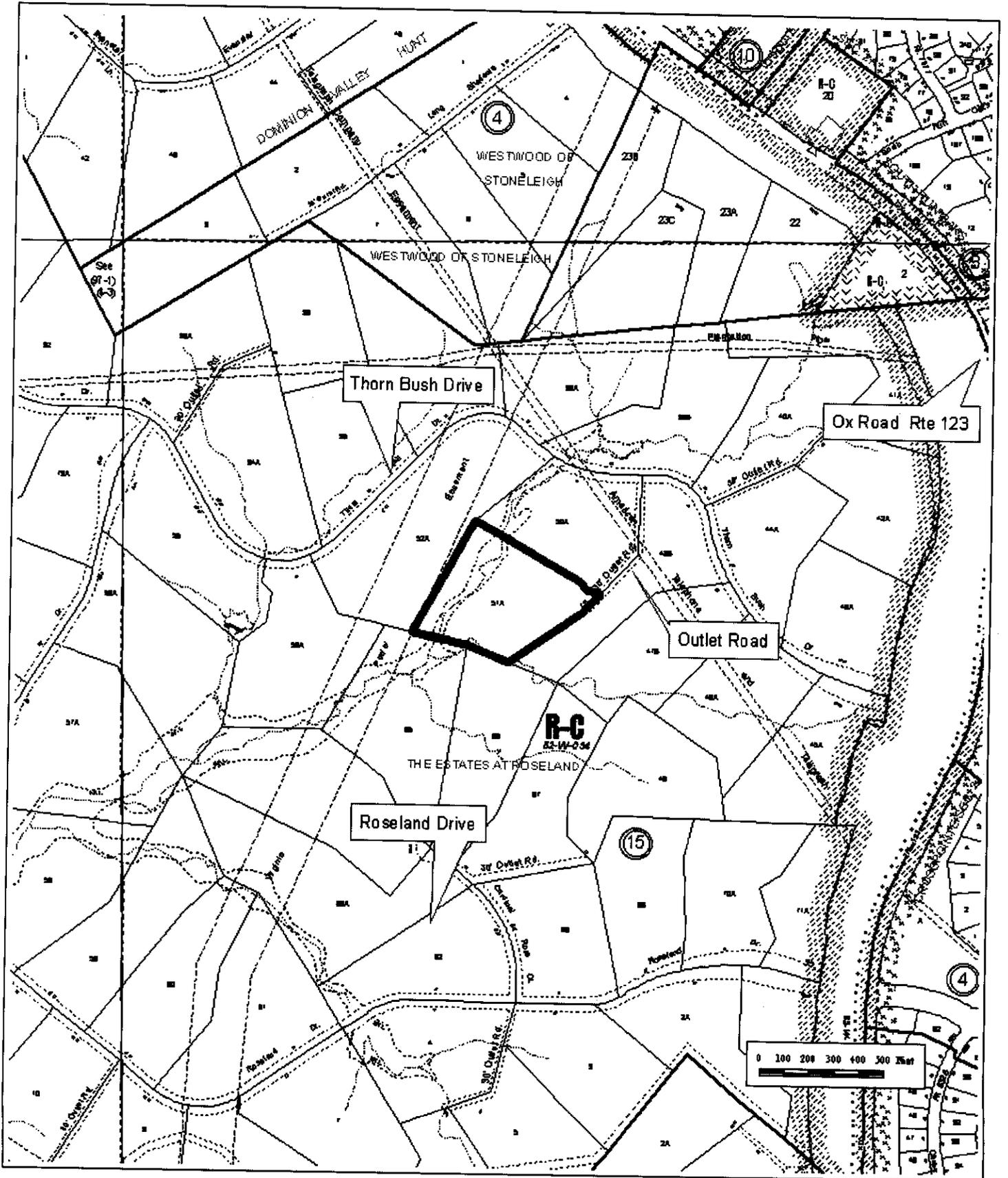
O:\dhedr\Special Permits\12-8) SP 2010-SP-059 Na (error)\SP 2010-SP-059 Na staff report.doc Deborah Hedrick

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

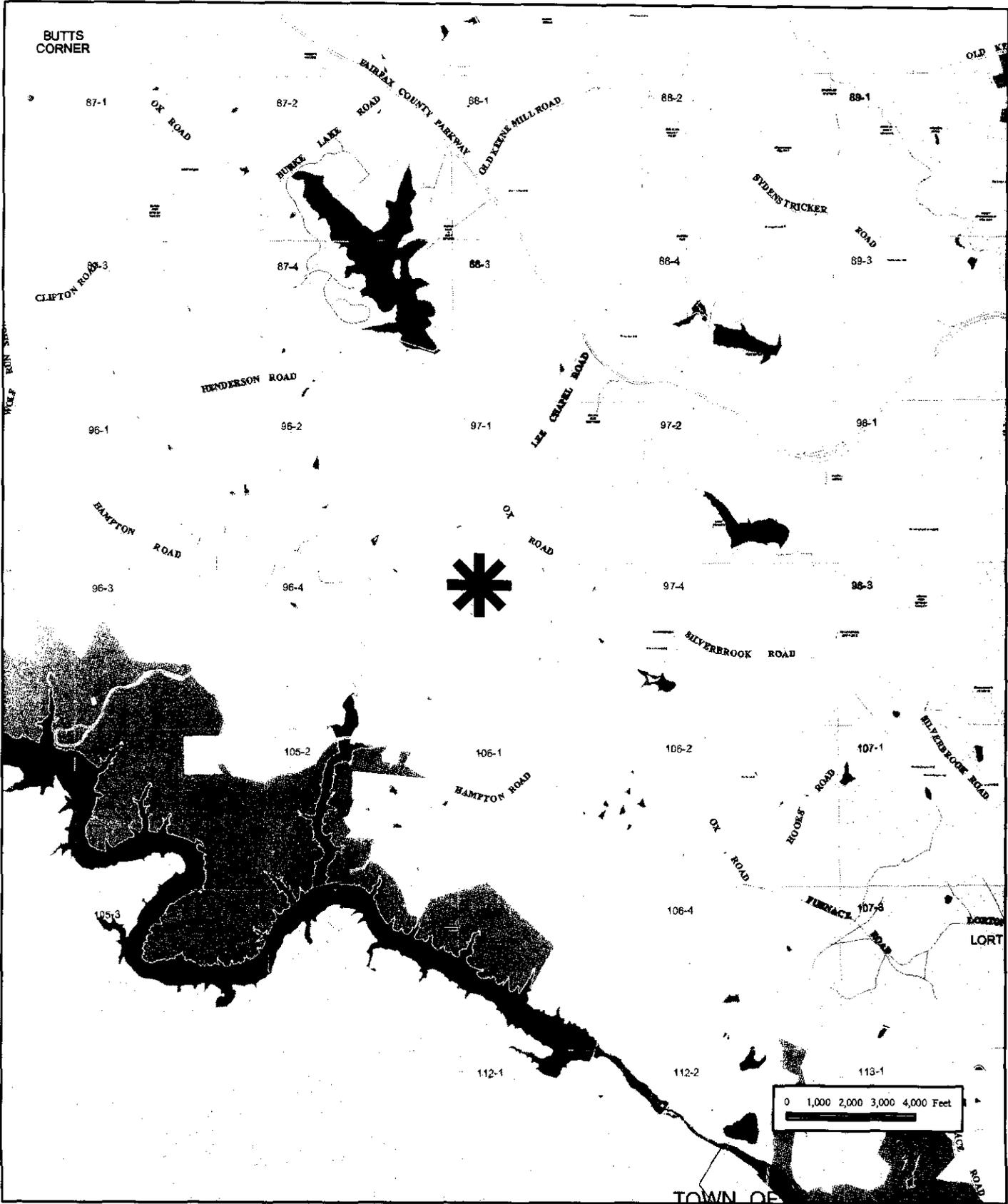


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit
SP 2010-SP-059**



Special Permit
SP 2010-SP-059



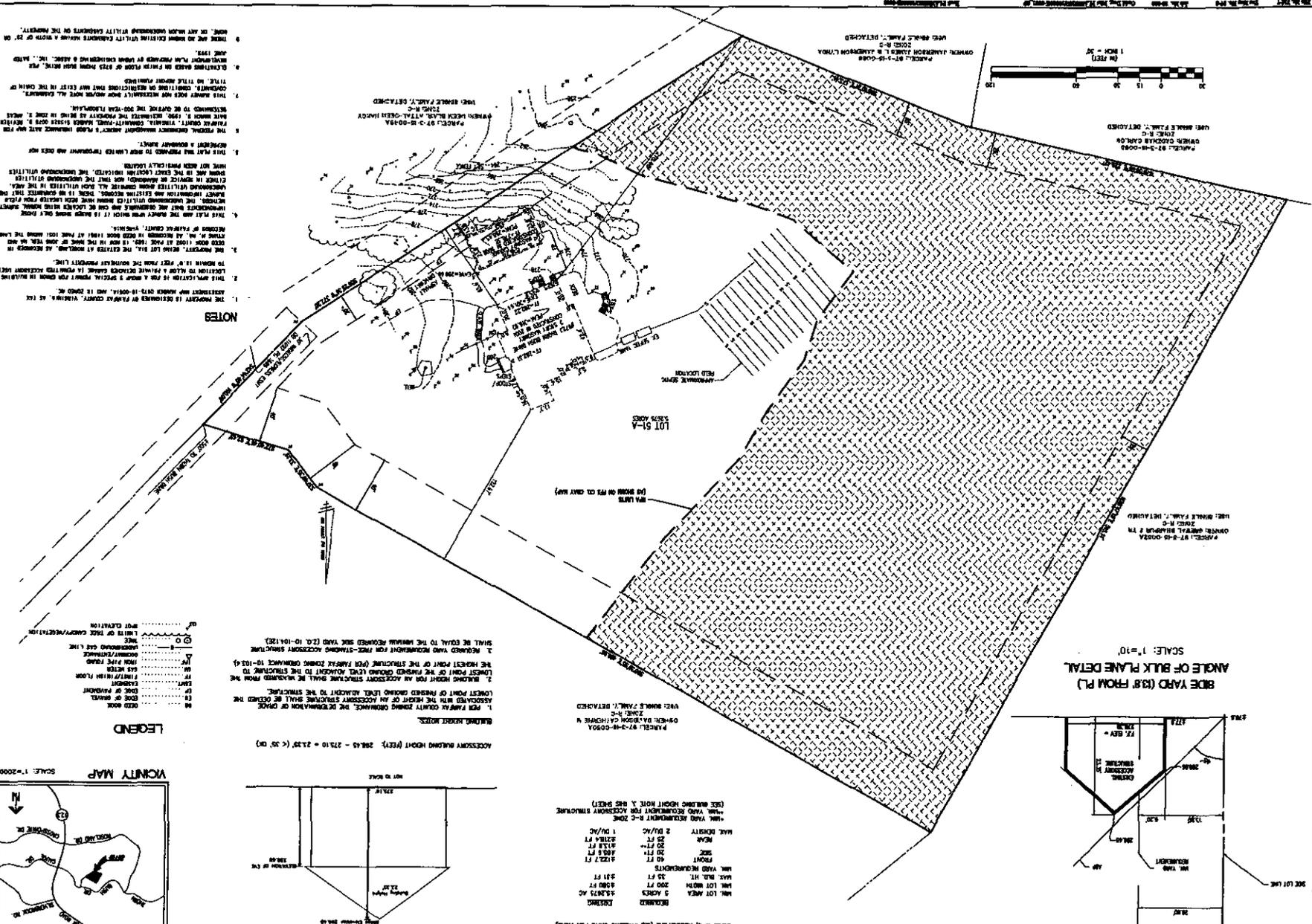


PARCEL: 87-3-18-0088
OWNER: GUYTON COOKSON CARLSON
FILE: 87-3-18-0088
SCALE: 1" = 20'

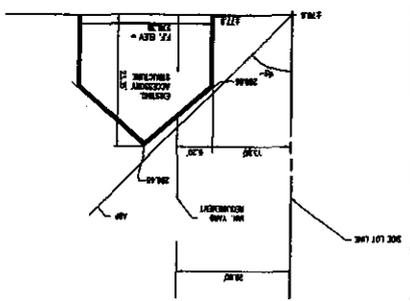
PARCEL: 87-3-18-0089
OWNER: GUYTON COOKSON CARLSON
FILE: 87-3-18-0089
SCALE: 1" = 20'

PARCEL: 87-3-18-0090
OWNER: GUYTON COOKSON CARLSON
FILE: 87-3-18-0090
SCALE: 1" = 20'

PARCEL: 87-3-18-0091
OWNER: GUYTON COOKSON CARLSON
FILE: 87-3-18-0091
SCALE: 1" = 20'



SCALE: 1" = 10'
SIDE YARD (38' FROM PL)
ANGLE OF BULK PLANE DETAIL



ZONING TABULATION

ZONE: R-1-C, RESIDENTIAL (2.5 BULKING UNITS PER ACRE)

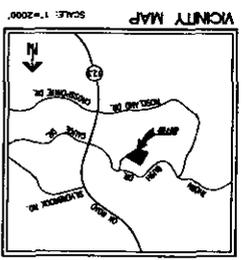
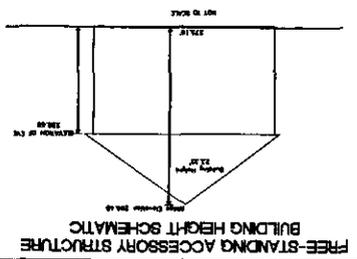
REMARKS

MIN. LOT AREA	5 ACRES	54,287.5 SQ. FT.
MIN. LOT WIDTH	200 FT.	5,280 FT.
MIN. SIDE YARD	35 FT.	5,311 FT.
MIN. FRONT	40 FT.	5,122.7 FT.
MIN. REAR	35 FT.	5,113.3 FT.
MIN. HEIGHT	35 FT.	5,218.4 FT.
MAX. HEIGHT	2 DU./AC	1 DU./AC

MAX. VARIOUS HEIGHTS FOR ACCESSORY STRUCTURE (SEE BUILDING HEIGHT NOTE 3, BSS SHEET)

MAX. VARIOUS HEIGHTS FOR ACCESSORY STRUCTURE

MIN. VARIOUS HEIGHTS FOR ACCESSORY STRUCTURE	2 DU./AC	1 DU./AC
MIN. HEIGHT	2 DU./AC	1 DU./AC
MIN. FRONT	40 FT.	5,122.7 FT.
MIN. REAR	35 FT.	5,113.3 FT.
MIN. HEIGHT	35 FT.	5,218.4 FT.
MIN. LOT AREA	5 ACRES	54,287.5 SQ. FT.
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MIN. REAR	35 FT.	5,113.3 FT.
MIN. HEIGHT	35 FT.	5,218.4 FT.
MAX. HEIGHT	2 DU./AC	1 DU./AC



- LEGEND**
- 1. 10' SIDE YARD
 - 2. 5' SIDE YARD
 - 3. 0' SIDE YARD
 - 4. 10' FRONT YARD
 - 5. 5' FRONT YARD
 - 6. 0' FRONT YARD
 - 7. 10' REAR YARD
 - 8. 5' REAR YARD
 - 9. 0' REAR YARD
 - 10. 10' CORNER YARD
 - 11. 5' CORNER YARD
 - 12. 0' CORNER YARD
 - 13. 10' SIDE YARD (38' FROM PL)
 - 14. 5' SIDE YARD (38' FROM PL)
 - 15. 0' SIDE YARD (38' FROM PL)
 - 16. 10' FRONT YARD (38' FROM PL)
 - 17. 5' FRONT YARD (38' FROM PL)
 - 18. 0' FRONT YARD (38' FROM PL)
 - 19. 10' REAR YARD (38' FROM PL)
 - 20. 5' REAR YARD (38' FROM PL)
 - 21. 0' REAR YARD (38' FROM PL)
 - 22. 10' CORNER YARD (38' FROM PL)
 - 23. 5' CORNER YARD (38' FROM PL)
 - 24. 0' CORNER YARD (38' FROM PL)
 - 25. 10' SIDE YARD (38' FROM PL) (38' FROM PL)
 - 26. 5' SIDE YARD (38' FROM PL) (38' FROM PL)
 - 27. 0' SIDE YARD (38' FROM PL) (38' FROM PL)
 - 28. 10' FRONT YARD (38' FROM PL) (38' FROM PL)
 - 29. 5' FRONT YARD (38' FROM PL) (38' FROM PL)
 - 30. 0' FRONT YARD (38' FROM PL) (38' FROM PL)
 - 31. 10' REAR YARD (38' FROM PL) (38' FROM PL)
 - 32. 5' REAR YARD (38' FROM PL) (38' FROM PL)
 - 33. 0' REAR YARD (38' FROM PL) (38' FROM PL)
 - 34. 10' CORNER YARD (38' FROM PL) (38' FROM PL)
 - 35. 5' CORNER YARD (38' FROM PL) (38' FROM PL)
 - 36. 0' CORNER YARD (38' FROM PL) (38' FROM PL)

NOTES

1. THE PROPERTY IS DESCRIBED AS PARCELS 87-3-18-0088, 87-3-18-0089, 87-3-18-0090, AND 87-3-18-0091, VISIBLE AS THE SHADING ON THE ATTACHED MAP.
2. THIS APPLICATION IS FOR A PERMITS SPECIAL PERMIT FOR CONSTRUCTION OF A FREE-STANDING ACCESSORY STRUCTURE ON THE PROPERTY.
3. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE SIDE YARD AS SHOWN ON THE ATTACHED MAP.
4. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE FRONT YARD AS SHOWN ON THE ATTACHED MAP.
5. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE REAR YARD AS SHOWN ON THE ATTACHED MAP.
6. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE CORNER YARD AS SHOWN ON THE ATTACHED MAP.
7. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE SIDE YARD (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
8. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE FRONT YARD (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
9. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE REAR YARD (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
10. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE CORNER YARD (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
11. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE SIDE YARD (38' FROM PL) (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
12. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE FRONT YARD (38' FROM PL) (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
13. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE REAR YARD (38' FROM PL) (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.
14. THE PROPOSED STRUCTURE SHALL BE LOCATED WITHIN THE CORNER YARD (38' FROM PL) (38' FROM PL) AS SHOWN ON THE ATTACHED MAP.

SPECIAL PERMIT PLAT

LOT 51A

THE ESTATES AT ROSELAND

UNINCORPORATED DEVELOPMENT

FAIRFAX COUNTY, VA

WALTER I. PHILLIPS

REGISTERED PROFESSIONAL ARCHITECT

207 PARK AVENUE FALLS CHURCH, VIRGINIA 22046

(703) 532-3333 FAX (703) 532-3331

WWW.WALTERPHILLIPS.COM

SCALE: 1" = 2000'

DATE: 10/1/2008

PROJECT: THE ESTATES AT ROSELAND, LOT 51A

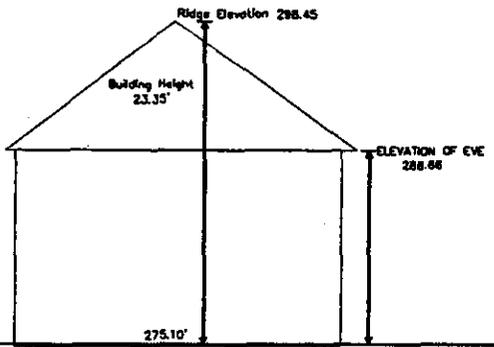
PLAT: 87-3-18-0088, 87-3-18-0089, 87-3-18-0090, 87-3-18-0091

OWNER: GUYTON COOKSON CARLSON

FILE: 87-3-18-0088, 87-3-18-0089, 87-3-18-0090, 87-3-18-0091

SCALE: 1" = 20'

FREE-STANDING ACCESSORY STRUCTURE BUILDING HEIGHT SCHEMATIC

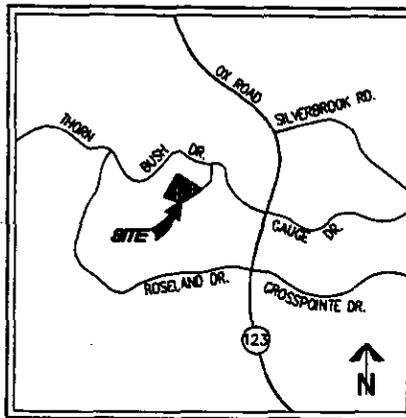


NOT TO SCALE

ACCESSORY BUILDING HEIGHT (FEET): $288.45 - 275.10 = 23.35' (< 35' \text{ OK})$

BUILDING HEIGHT NOTES:

- PER FAIRFAX COUNTY ZONING ORDINANCE, THE DETERMINATION OF GRADE ASSOCIATED WITH THE HEIGHT OF AN ACCESSORY STRUCTURE SHALL BE DEEMED THE LOWEST POINT OF FINISHED GROUND LEVEL ADJACENT TO THE STRUCTURE.
- BUILDING HEIGHT FOR AN ACCESSORY STRUCTURE SHALL BE MEASURED FROM THE LOWEST POINT OF THE FINISHED GROUND LEVEL ADJACENT TO THE STRUCTURE TO THE HIGHEST POINT OF THE STRUCTURE (PER FAIRFAX ZONING ORDINANCE 10-103.4).
- REQUIRED YARD REQUIREMENT FOR FREE-STANDING ACCESSORY STRUCTURE SHALL BE EQUAL TO THE MINIMUM REQUIRED SIDE YARD (Z.O. 10-104.12E).

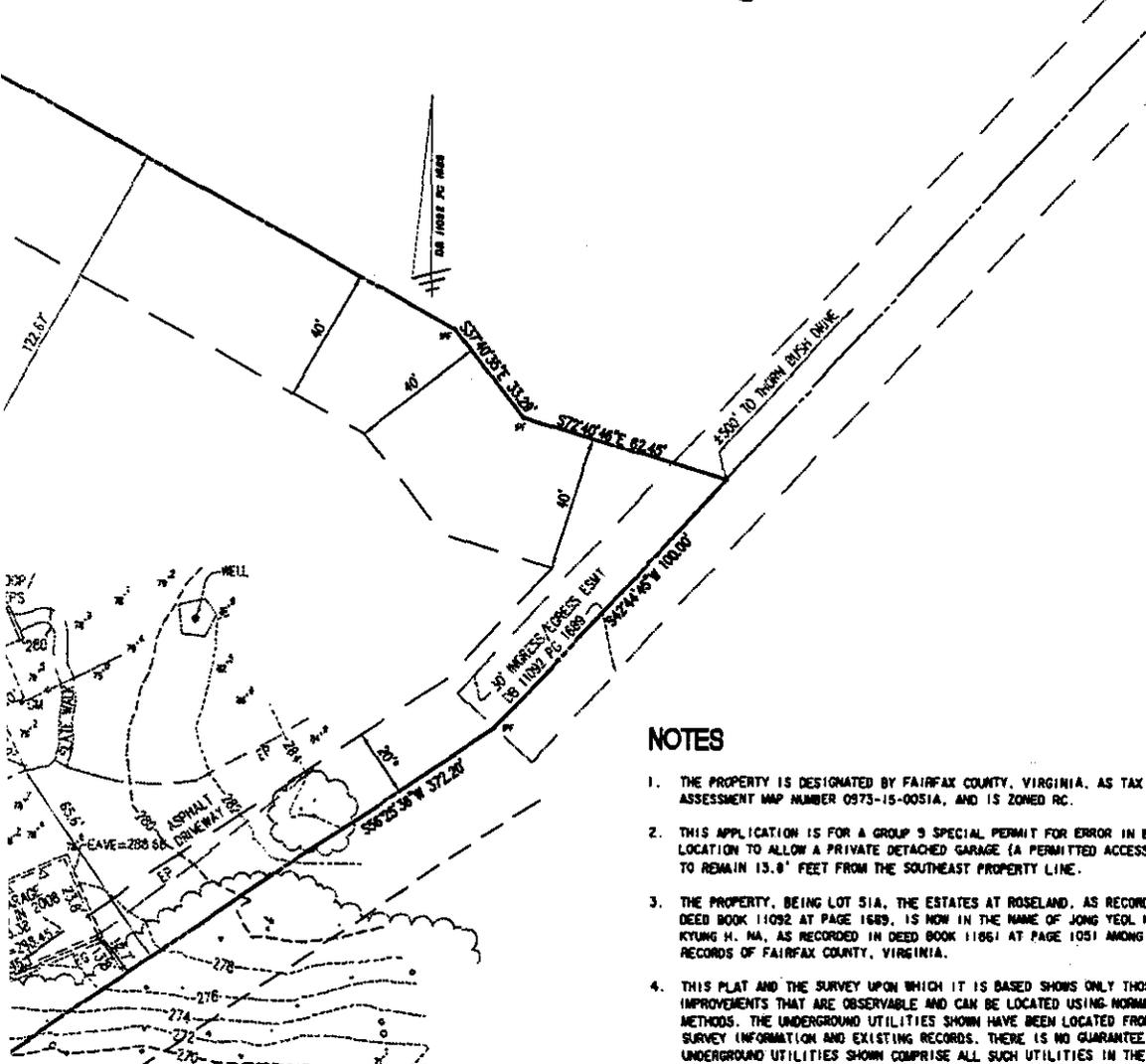


VICINITY MAP

SCALE: 1"=2000'

LEGEND

- DB DEED BOOK
- EG EDGE OF GRAVEL
- EP EDGE OF PAVEMENT
- ESMT EASEMENT
- FF FIRST/FINISH FLOOR
- GM GAS METER
- IPF IRON PIPE FOUND
- △ DOORWAY/ENTRANCE
- G UNDERGROUND GAS LINE
- TREE
- LIMITS OF TREE CANOPY/VEGETATION
- 12' SPOT ELEVATION

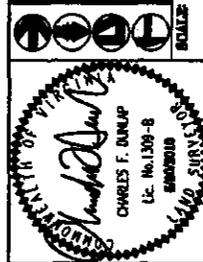


NOTES

- THE PROPERTY IS DESIGNATED BY FAIRFAX COUNTY, VIRGINIA, AS TAX ASSESSMENT MAP NUMBER 0573-15-0051A, AND IS ZONED RC.
- THIS APPLICATION IS FOR A GROUP 3 SPECIAL PERMIT FOR ERROR IN BUILDING LOCATION TO ALLOW A PRIVATE DETACHED GARAGE (A PERMITTED ACCESSORY USE) TO REMAIN 13.8' FEET FROM THE SOUTHEAST PROPERTY LINE.
- THE PROPERTY, BEING LOT 51A, THE ESTATES AT ROSELAND, AS RECORDED IN DEED BOOK 11092 AT PAGE 1689, IS NOW IN THE NAME OF JONG YEOL HA AND KYUNG H. HA, AS RECORDED IN DEED BOOK 11861 AT PAGE 1051 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.
- THIS PLAT AND THE SURVEY UPON WHICH IT IS BASED SHOWS ONLY THOSE IMPROVEMENTS THAT ARE OBSERVABLE AND CAN BE LOCATED USING NORMAL SURVEY METHODS. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING RECORDS. THERE IS NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED; NOR THAT THE UNDERGROUND UTILITIES

WALTER L. PHILLIPS
INCORPORATED

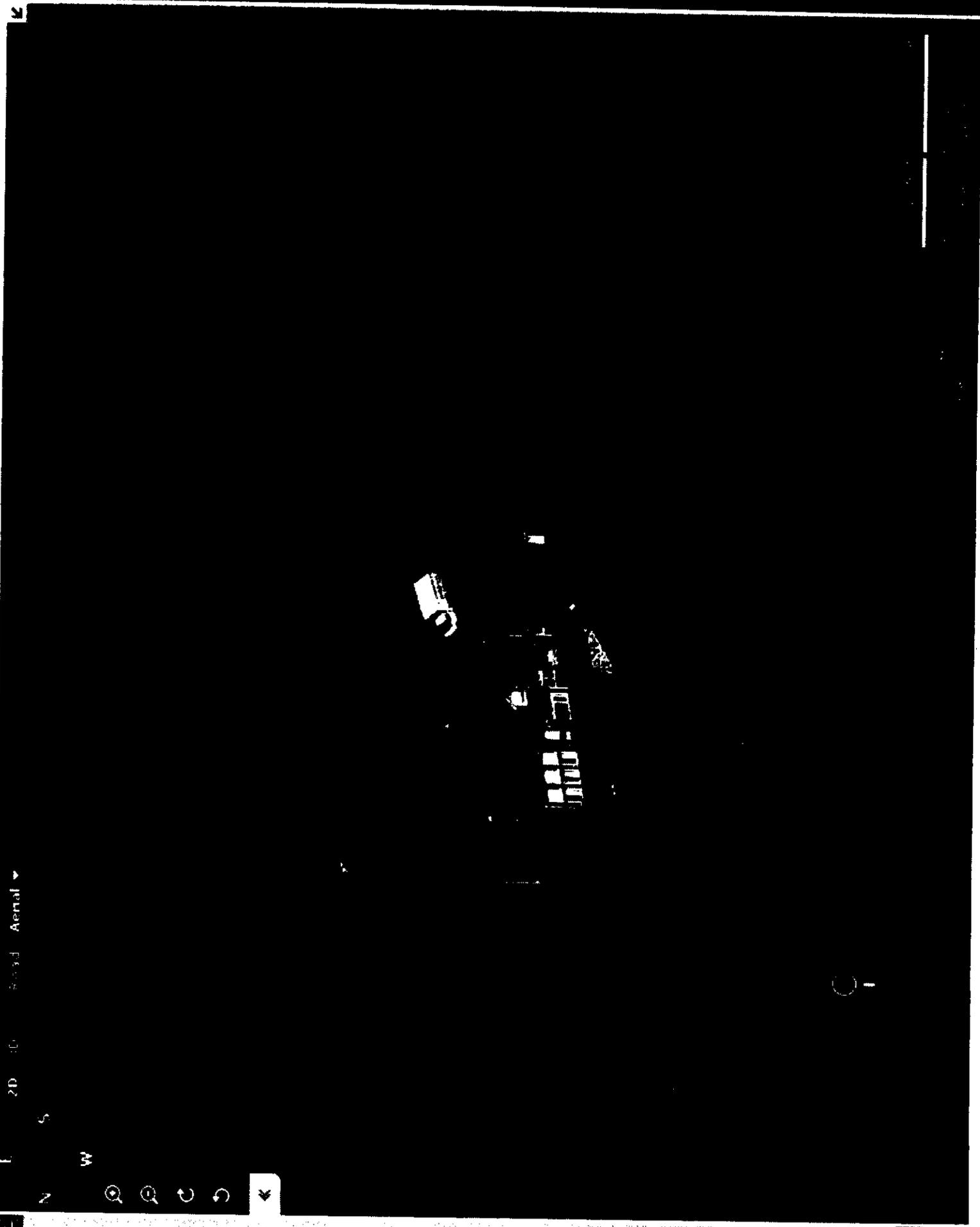
CIVIL ENGINEERS-LAND SURVEYORS-PLANNERS-LANDSCAPE ARCHITECTS
207 PARK AVENUE FALLS CHURCH, VIRGINIA 22046
(703) 532-6163 FAX (703) 593-1301
WLPINC.COM



NO.	DESCRIPTION	DATE	APPROVED BY	DATE

PERMIT PLAT

51A
AT ROSELAND
DISTRICT
COUNTY, VA



E 2D 3D Aerial

S

W



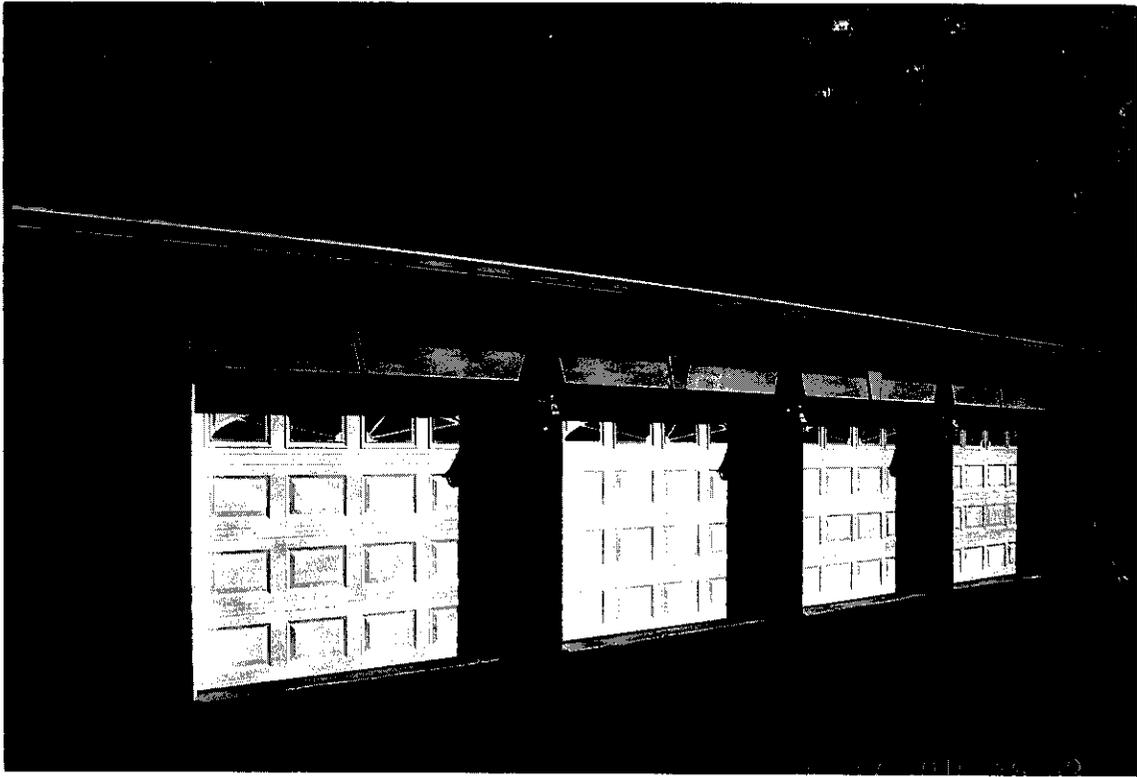
Traffic

More...

Map

Satellite

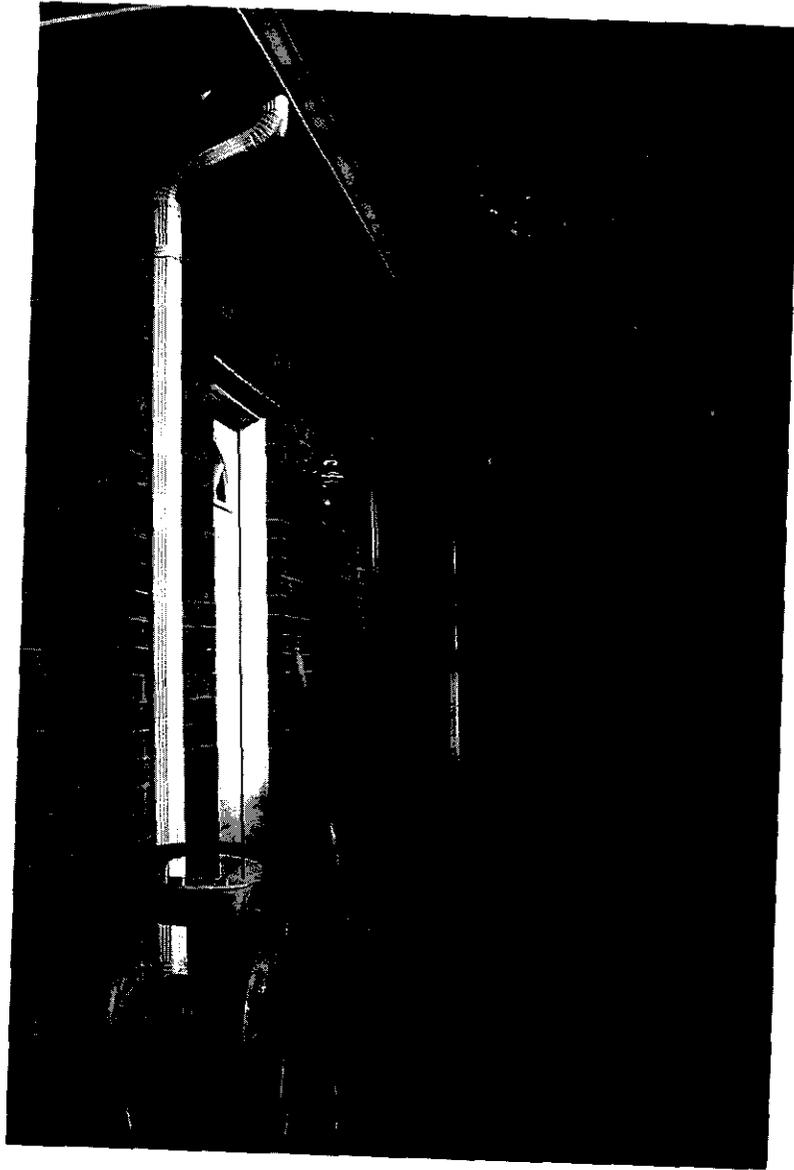




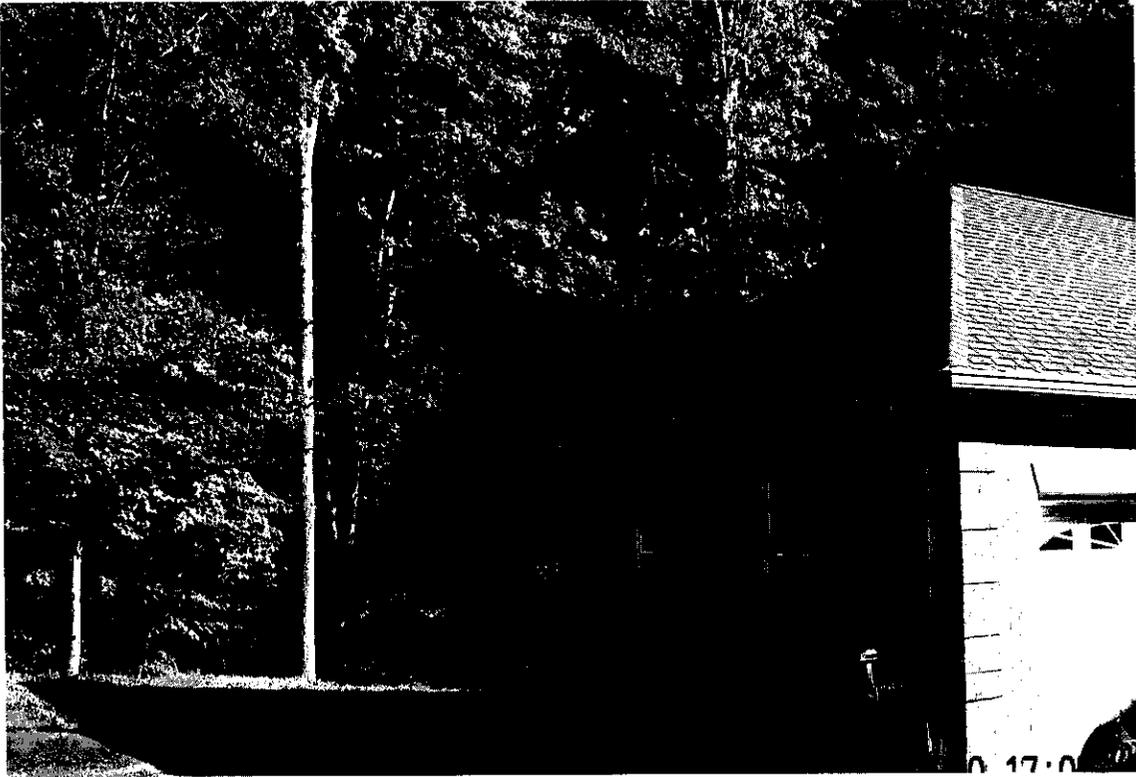
1. Front of detached garage, depicting overhead doors
(front faces northwest on plat)



2. Separate passage door entrance into garage, right side facing front of garage (west side of building as shown on plat).



3. Same as Photo 2, above; showing wooded area to rear of building.



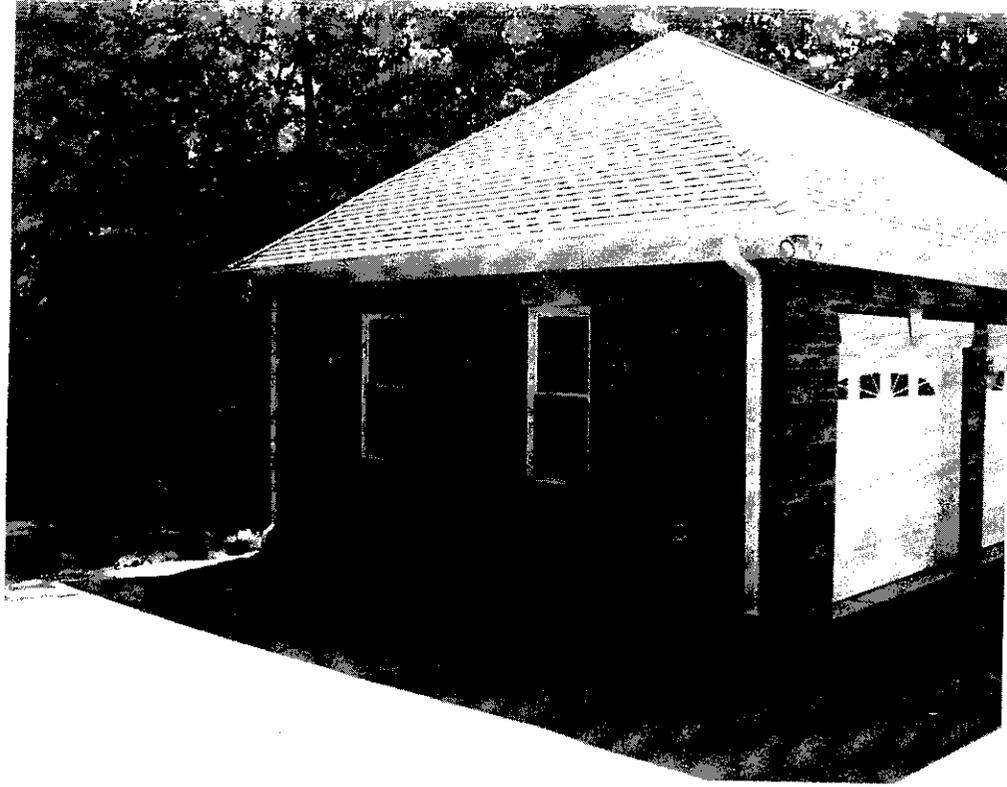
4. Left side facing garage; plat orientation is northeast. Photo depicts left rear corner which is 13.8' from lot line, instead of required 23.35'. Vegetative buffer shown at rear of garage.



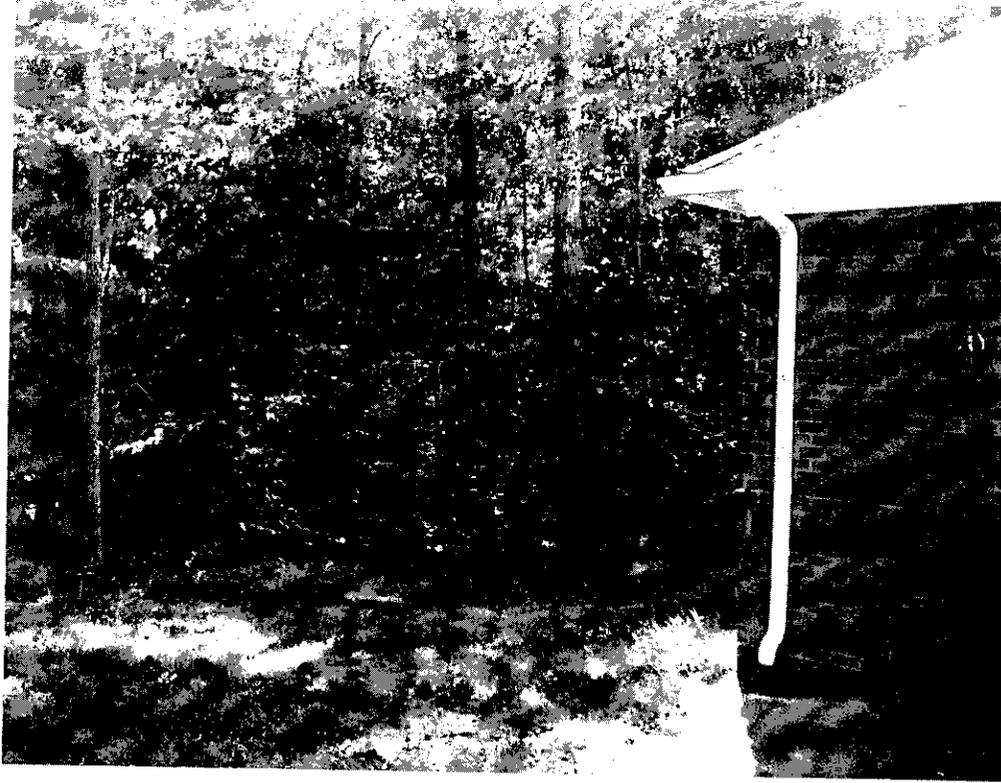
5. Another view of left side facing garage; same as No. 4.



1. View of garage from walkway to residence, looking south.



2. View of east side of garage, looking southwest. Erroneous corner placement to the left.



3. Same as No. 2; taken closer, showing relationship of erroneous placement to lot line (trees and grassed area) and adjoining property (the more distant area of trees).



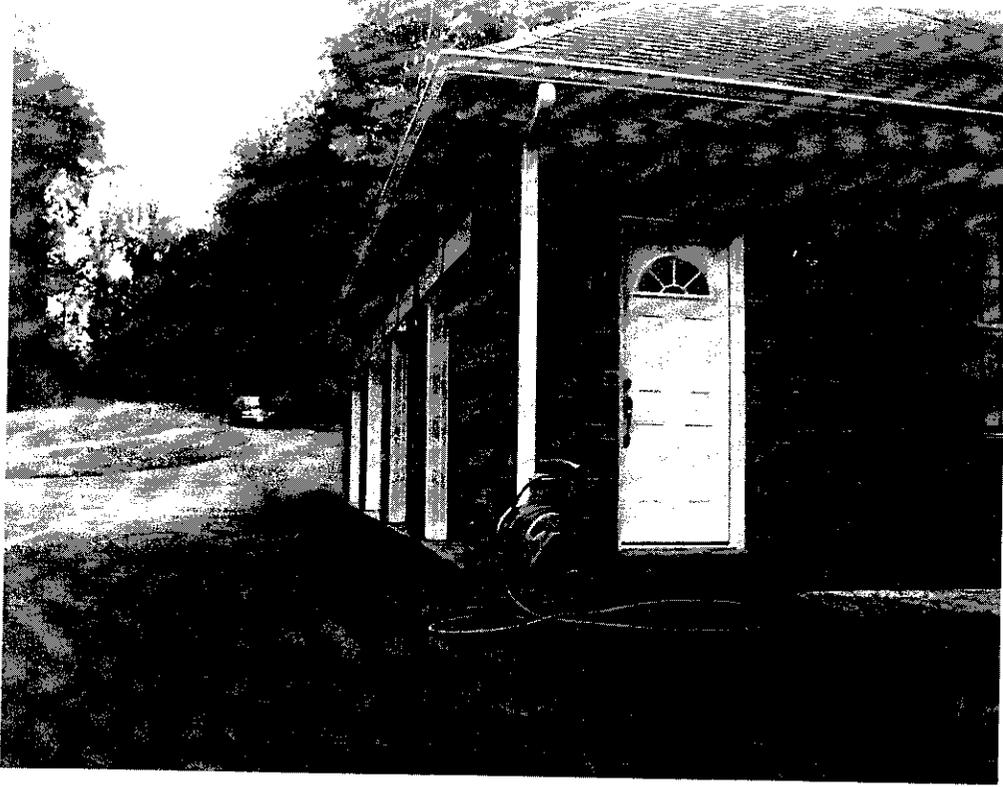
4. Looking west along subject property line. Rear of garage structure to the right.



5. View of front of garage (left), looking southwest. Depicts relation of garage to south end of the residence.



6. Looking southwest, depicting rear of garage and conforming corner, and relationship to lot line and adjoining property.



7. Looking north; depicts garage (front and southern end) and driveway leading to residence.

DESCRIPTION OF THE APPLICATION

The applicants are requesting a special permit to permit reduction to the minimum yard requirements based on an error in building location to permit an accessory structure, a detached garage, to remain 13.8 feet with eave 12.7 feet from the southern side lot line.

	Structure	Yard	Min. Yard Req.*	Permitted Extension **	Min. Allowed	Structure Location	Amount of Error	Percent of Error
Special Permit	Garage	Side	20.0 feet	N/A	20.0 feet	13.8 feet	6.2 feet	31%
Special Permit	Eave	Side	20.0 feet	3.0 feet	17.0 feet	12.7 feet	4.3 feet	25%

* Minimum yard requirement per Section 10-104

** Permitted extensions per Section 2-412

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Special Permit Plat, Lot 51A, The Estates at Roseland
- **Prepared by:** Walter L. Phillips Incorporated, dated May 30, 2010 as revised through October 25, 2010
- **Building Permit required:** Yes, a building permit was required and one was obtained.
- **Error Made by:** The applicants

EXISTING SITE DESCRIPTION

The 5.27 acre lot is developed with a two-story, masonry single family detached dwelling constructed in 2001. A deck with open stairs is located along the western side of the dwelling. A majority of the lot is located within a Resource Protection Area (RPA). The property is accessed via an approximately 500 feet in length, 30 foot wide ingress/egress easement from Thorn Bush Drive. The majority of the property is forested with mature deciduous trees.

CHARACTER OF THE AREA

	Zoning	Use
North	R-C and WS	Single Family Detached Dwellings
South	R-C and WS	Single Family Detached Dwellings
East	R-C and WS	Single Family Detached Dwellings
West	R-C and WS	Single Family Detached Dwellings

BACKGROUND

On August 26, 2008, the applicants' builder obtained a building permit to construct a 45 foot by 22.5 foot detached garage, 19.75 feet in height, to be located 21.0 feet from the southern side lot line. A copy of the building permit is attached as Appendix 4. As noted on the plat located at the front of the staff report, the garage as constructed is approximately 46.2 feet by 23.8 feet in size, 23.35 feet in height, and is located 13.8 feet with its eave 12.7 feet from the southern side lot line. A note on the approved building permit certified from the builder that the work performed would not exceed 2,500 square feet of disturbed area, with a maximum of 8 feet on all sides of the structure permitted for disturbance.

On August 4, 2009, the applicants were issued a Notice of Violation, attached as Appendix 5, for land disturbing activities in excess of 2,500 square feet without an approved conservation/grading plan. The applicants are unable to obtain the appropriate grading permits due to the location of the accessory structure. The Department of Public Works and Environmental Services (DPWES) has a pending case against the applicants with the Fairfax County Circuit Court awaiting the outcome of this special permit application. The Court date has been postponed until June, 2011.

Staff from DPWES has stated that although a building permit for the accessory structure was originally approved, since the applicants will be required to file a grading plan for land disturbing activities in excess of 2,500 square feet, and since the structure is larger than what was depicted on the approved building permit, approval of a new building permit will be required showing the size and location of the structure. A development condition has been included to address this issue.

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

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

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

CONCLUSION

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Building Permit History
5. Notice of Violation dated August 4, 2009
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2010-SP-059

December 1, 2010

1. This special permit is approved for the location of the accessory structure (detached garage) as shown on the plat prepared by Walter L. Phillips Incorporated, dated May 30, 2010 as revised through October 25, 2010, as submitted with this application and is not transferable to other land.
2. A building permit and final inspections for the accessory structure shall be diligently pursued and obtained within six (6) months of final approval of this application or this special permit shall be null & void.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 13, 2009
 (enter date affidavit is notarized)

I, Stephen K. Fox, Attorney at law, 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 109304a

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)
JONG YEOL NA and KYUNG H. NA	9728 THORN BUSH DRIVE FAIRFAX STATION, VA 22039	TITLE OWNERS/APPLICANTS
STEPHEN K. FOX, A PROFESSIONAL CORPORATION	10511 JUDICIAL DRIVE, SUITE 112 FAIRFAX, VA 22030	ATTORNEY/AGENT
STEPHEN K. FOX	10511 JUDICIAL DRIVE, SUITE 112 FAIRFAX, VA 22030	ATTORNEY/AGENT
WALTER L. PHILLIPS INCORPORATED	207 PARK AVENUE FALLS CHURCH, VA 22046	ENGINEER/SURVEYOR/AGNET
CHARLES F. DUNLAP MONICA R. WESTGATE MAX H. BURKHALTER	207 PARK AVENUE FALLS CHURCH, VA 22046	ENGINEER/SURVEYOR/AGENT ENGINEER/LAND PLANNER/AGENT ENGINEER/SURVEYOR/AGENT

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

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 13, 2009
(enter date affidavit is notarized)

109304a

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)
STEPHEN K. FOX, A PROFESSIONAL CORPORATION
10511 JUDICIAL DRIVE, SUITE 112
FAIRFAX, VA 22030

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)
STEPHEN K. FOX

(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 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: August 13, 2009
(enter date affidavit is notarized)

109304a

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
WALTER L. PHILLIPS, INCORPORATED
207 PARK AVENUE
FALLS CHURCH, VA 22046

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)

JEFFREY J. STUCHEL
BRIAN G. BAILLARGEON

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

INTENTIONALLY BLANK

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)

INTENTIONALLY BLANK

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 13, 2009
(enter date affidavit is notarized)

109304a

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)

(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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: August 13, 2009
(enter date affidavit is notarized)

109304 a

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

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

NONE

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: August 13, 2009
(enter date affidavit is notarized)

109304a

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 [x] Applicant's Authorized Agent

STEPHEN K. FOX, AGENT
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 13th day of August 2010, in the State/Comm. of Virginia, County/City of Fairfax.

Sarah Larson
Notary Public

My commission expires: 04/30/2012



STEPHEN K. FOX
 A PROFESSIONAL CORPORATION
 ATTORNEY AT LAW
 10511 JUDICIAL DRIVE
 SUITE 112
 FAIRFAX, VIRGINIA 22030

(703) 273-7220
 skfox@stephenkfoxpc.com

FAX (703) 273-7225

Eastern Shore Office
 718 Randolph Avenue
 Cape Charles, Virginia 23310
 (757)331-2884

September 29, 2010

Eileen McLane, Zoning Administrator
ATTN: Virginia Ruffner
 Department of Planning and Zoning
 12055 Government Center Parkway, Suite 801
 Fairfax, Virginia 22035

RECEIVED
 Department of Planning & Zoning
 SEP 30 2010
 Zoning Evaluation Division

Re: Amended Statement of Justification; JONG YEOL NA and KYUNG H. NA, 9723 Thorn Bush Drive, Fairfax Station, VA; Map. No. 97-3 ((15), 51A; 5.2675 acres, RC Zone; Request for Special Permit (Section 8-914), Error in Building Placement

Dear Ms. Ruffner:

This letter is written on behalf of the applicants, Jong Yeol Na and Kyung H. Na, owners of the above-described property to support their application for a Special Permit for Error in Building Placement as set forth in Section 8-914 of the Zoning Ordinance pertaining to the above property. Specifically, the request is to permit an existing free-standing garage which is constructed 13.8' from the side lot line to remain in place (extending into the side yard 9.55'). The side yard is 20.00' and, as noted, the encroachment into that yard is 9.55'.

Background

The residence constructed on the property lies in the RC Zoning District. After the principal structure was constructed, the detached garage was constructed pursuant to a Building Permit (No. 82390123) issued on August 26, 2008. The permit was issued to the Owners, but obtained by a licensed general contractor, MB Construction, Inc., on their behalf. The Owners had every reason to believe that the general contractor was in full compliance with the Zoning Ordinance, and relied upon the general contractor to do the same. The Permit Plan was approved, however, the general contractor, inexplicably, constructed the garage 13.8' from the eastern lot line, inconsistent with the Permit Plan, and, moreover, inconsistent with the Zoning Requirements. The Owners were wholly unaware of this circumstance, until the violation was noticed.

Request for Special Permit

It is submitted that the circumstances of this situation merit relief pursuant to Section 8-914 of the Zoning Ordinance. The garage was built in what the Owners believed to be the ordinary course of business. The property lies in a fairly secluded surrounding, and the garage's existing

location does not pose a problem to the nearest neighbors who, in fact, have written in support of this application. In accordance with the standards set forth in the Ordinance, we urge the Board of Zoning Appeals to review this matter in conjunction with the following criteria and to grant a Special Permit:

- A. *The error exceeds ten (10) percent of the measurement involved, and***
- * The garage stands 13.80 feet from the side lot line. It should, however, be constructed 23.35 feet from the side lot line, a distance equal to the height of the structure. The error is, thus, 9.55 feet, greater than 10% of the required measurement.
- B. *The non-compliance was done in good faith, or through no fault of the property owner or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and***
- * See above, Background. The Owners applied for a Building Permit and engaged a license contractor to build the same, relying upon its compliance with all requirements. The nearest neighbors do not object to its location..
- C. *Such reduction will not impair the purpose and intent of this Ordinance, and***
- * The reduction will not impair the purpose of the Ordinance inasmuch as the application of the Ordinance to this situation is mitigated by the rather remote location of the structure..
- D. *It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and***
- * See; B and C, above. The closest neighbor have written in support of the application.
- E. *It will not create an unsafe condition with respect to both other property and public streets, and***
- * See; C, above. The dimension does not create an unsafe condition relative to the street or other property.
- F. *To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner, and***
- * To force compliance will cause economic waste, and will not serve to provide a greater visual buffer which is significant, given the remote location of the structure..

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning density regulations.

* The current proposal does not exceed allowable density.

Additional Information

o Building facade: The facade of the garage is: 1 level brick structure (matching residence) constructed at grade on a concrete slab. The building has double hung windows and four (4) overhead garage doors. The front of the structure faces the south side of the residence.

o Statement Pertaining to Hazardous/Substances, etc.: There are no known hazardous or toxic substances, hazardous waste or petroleum products as described by the regulations generated, utilized, stored, treated and/or disposed of on site.

o Eave/overhang information: The structure's eave overhangs by approximately 18", extending to 12.3' of the side lot line at issue.

The proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards except as noted herein.

Request for Waiver of Submission Requirement (if necessary)

Applicant herewith submits 23 copies of a Special Permit Plat depicting the **accessory structure (garage)** in its relation to the side yard line. Applicant submits that the enclosed plats adequately depict the existing condition, as well as the request for the Special Permit to allow the **garage** to extend into the side yard. To the extent, if any, that the enclosed plat presents an adequate depiction for a determination of the issues presented, but does not meet all the technical requirements of the Ordinance, Applicant requests the Zoning Administrator to accept the enclosed plat, waiving any requirements unmet.

Conclusion

On behalf of the owner, we hereby request Zoning Staff to review this matter and the supporting materials submitted herewith, scheduling this request for hearing before the Board of Zoning Appeals with its recommendation for grant of a Special Permit for Error in Building Placement pursuant to Section 8-914 of the Zoning Ordinance.

Thank you for your review of this matter.

Very truly yours,



Stephen K. Fox

WALTER L. PHILLIPS, INCORPORATED

Est. 1945

October 15, 2010

Via email and delivery

Ms. Virginia Ruffner, Planner III
Application Acceptance Section, ZED
Department of Planning & Zoning
County of Fairfax
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035-5509

RECEIVED
Department of Planning & Zoning
OCT 19 2010
Zoning Evaluation Division

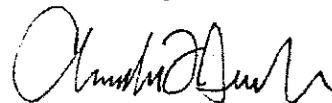
Re: Special Permit Application – Jong Yeol Na and Kyung H. Na

Dear Ms. Ruffner:

Pursuant to your discussions with Steve Fox regarding the acceptance of the above captioned application, a question has been generated as to the encroachment into the required yard by the detached garage roof overhang. Pursuant to Zoning Ordinance Section 2-412, 1.A, eaves may extend three (3) feet into any required minimum yard, if at least 10' above finished ground level. The roof eave for the garage that is the subject of this application has been field located as part of our survey of the property and determined to be 10.2-feet above the existing finished grade. Further, the roof eave measures approximately 18-inches wide. These dimensions will be shown on future plat revisions.

I trust that you will find this information helpful and will allow this application to be accepted for review. Please feel free to contact me should you have any questions or need additional information. As always, I look forward to speaking with you soon.

Sincerely,



Charles F. Dunlap, L.S.
Senior Project Manager

Cc: Ms. Kuk Na (email)
Mr. Stephen K. Fox, Esq. (email)
(10-009/FM-07)

207 Park Avenue
Falls Church, Virginia 22046
Telephone: (703) 532-6163
Facsimile: (703) 533-1301


60 YEARS OF PROFESSIONAL SERVICE

CIVIL ENGINEERS
LAND SURVEYORS
PLANNERS
LANDSCAPE ARCHITECTS

RECEIVED
DEPARTMENT OF PLANNING
AND ZONING

OCT 25 2010

SPECIAL PERMIT &
VARIANCE BRANCH

Date: July 5, 2010

To: Kyung Hee Na-Yang and Jong Yeol Na

From: Blair & Nancy Deem, owners of property located at
9709 Thorn Bush Drive,
Fairfax Station, Virginia 22039

Subject: Construction of Detached Garage encroaching on the Deem's Property Line.

As previously stated in our conversation, we do not have an issue with the location of your newly constructed garage in relationship to the proximity of our property line. Our only concern is whether the location of this structure will have a negative impact on our ability to transfer the property at a later time. If this is not an issue, because the structure is not on the actual property line, then this appears to be the simplest solution.

We are not interested in altering the existing property lines in any way with a land swap nor, are we in favor of having the structure removed – that would only serve as an incredible waste of resources. Having said this, we do not want any further construction/building to occur within this location that would further encroach on our property.

Sincerely,



Blair & Nancy Deem

82390123

BUILDING PERMIT APPLICATION

FAIRFAX COUNTY GOVERNMENT
 PERMIT APPLICATION CENTER
 12055 Government Center Parkway, 2nd Floor
 Fairfax, Virginia 22035-5504
 Telephone: 703-222-0801
 Web site: <http://www.fairfaxcounty.gov/dpwes>

PERMIT #

FOR INSPECTIONS CALL 703-222-0455 (see back for more information)
 OR VISIT US ON THE WEB AT
http://www.fairfaxcounty.gov/visanet/inspection_sched.asp

FILL IN ALL APPROPRIATE INFORMATION IN THIS COLUMN
 (PLEASE PRINT OR TYPE)

JOB LOCATION

ADDRESS 9723 Thorn Bush Dr
 LOT # 51A BUILDING _____
 FLOOR _____ SUITE _____
 SUBDIVISION Estates at Rosebud
 TENANT'S NAME _____
 EMAIL _____
 CONTACT ID _____

OWNER INFORMATION OWNER TENANT

NAME NA JONG YEOL
 ADDRESS 9723 THORN BUSH DR.
 CITY FAIRFAX STATION STATE VA ZIP 22039
 TELEPHONE _____
 EMAIL _____
 CONTACT ID _____

CONTRACTOR INFORMATION SAME AS OWNER

CONTRACTORS MUST PROVIDE THE FOLLOWING:
 COMPANY NAME MB CONSTRUCTION INC
 ADDRESS 2848 HIDEWAY RD
 CITY FAIRFAX STATE VA ZIP 22031
 TELEPHONE (703) 293-3338
 EMAIL _____
 STATE CONTRACTORS LICENSE # 2705 110269A
 COUNTY BPOL # 000-00-3490
 CONTACT ID _____

APPLICANT

NAME SUNGHON PARK
 ADDRESS 14702 DEER LAKE CT.
 CITY CENTREVILLE STATE VA ZIP 20120
 TELEPHONE (703) 222-2682
 EMAIL _____
 CONTACT ID _____

DESCRIPTION OF WORK

45' x 22'5" GARAGE

HOUSE TYPE

ESTIMATED COST OF CONSTRUCTION \$0.000.
 USE GROUP OF BUILDING _____
 TYPE OF CONSTRUCTION _____
 DESIGNATED MECHANICS LIEN AGENT
 (Residential Construction Only)
 NAME _____
 ADDRESS _____

NONE DESIGNATED PHONE _____

ZONING REVIEW

USE SFD
 ZONING DISTRICT RC HISTORICAL DISTRICT No
 ZONING CASE # _____
 GROSS FLOOR AREA OF TENANT SPACE _____

YARDS:	GARAGE	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
FRONT <u>N/C</u>	OPTIONS	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
FRONT <u>N/C</u>	REMARKS	<u>One-Story</u>		
L SIDE <u>21'</u>		<u>Detached garage</u>		
R SIDE <u>N/C</u>				
REAR <u>N/C</u>		<u>Existing above grade</u>		

REMARKS Living area - 5,484# per acre
(No other detached structures
1012.5# for garage
19/15' tall

OK to approve per Darryl
DI. SD
* construction is outside
RPA and Floodplain. S

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be compiled with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Signature of Owner or Agent Sunghon Park Date 8-26-2008

Printed Name and Title SUNGHON PARK

(Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

NOTARIZATION (if required)

State (or territory or district) of _____
 County (or city) of _____, to wit: _____

Notary Public in the State and County aforesaid, do certify that

whose name is signed to this application, appeared before me in the State and County aforesaid and executed this affidavit.

Given under my hand this _____ day of _____, 20____
 My commission expires the _____ day of _____, 20____

(Notary Signature)

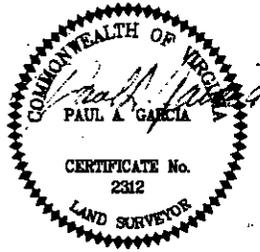
101601631651

HOUSE LOCATION SURVEY 82390123
 LOT 51-A
 THE ESTATES AT ROSELAND
 SPRINGFIELD DISTRICT
 FAIRFAX COUNTY, VIRGINIA

The limits of clearing and grading shown near and/or within the Resource Protection Area (RPA) shall be observed and enforced. Any encroachment or disturbance of the RPA not shown on this survey is considered a violation of the Chesapeake Bay Preservation Ordinance (CBPO) and is subject to the penalties of CBPO Article 9 (Violations and Penalties).

Date: 8/26/08
 ESRD Stormwater Runoff:

No Second Kitchen or Wet Bar

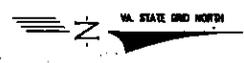


N.C. 8-10-00

APPROVED
 08-26-08
 Eileen M. McPherson
 Zoning Administrator

DETAIL SCALE
 1" = 30'

APPROX. LOCATION
 EX. VEPCO EASEMENT
 DB. 554 PG. 127



"I hereby certify that the limits of clearing and grading delineated on this house location plat prepared by URBAN ENGINEERING & ASSOC., INC. dated 8/26/2008 for the property located at 9723 THORN BUSH DRIVE accurately reflects the scope of this project and that the proposed work can be performed within the limits of clearing and grading as shown. I further certify that the total disturbed land area that will be associated with the construction of the proposed 45' x 22.5' GARAGE will not exceed 2,500 sq. ft."

FOOTINGS AND PIERS MUST BE PLACED ON COMPETENT MATERIAL
 DAMP PROOFING/WATERPROOFING REQUIRED IN ACCORDANCE WITH BUILDING CODES?

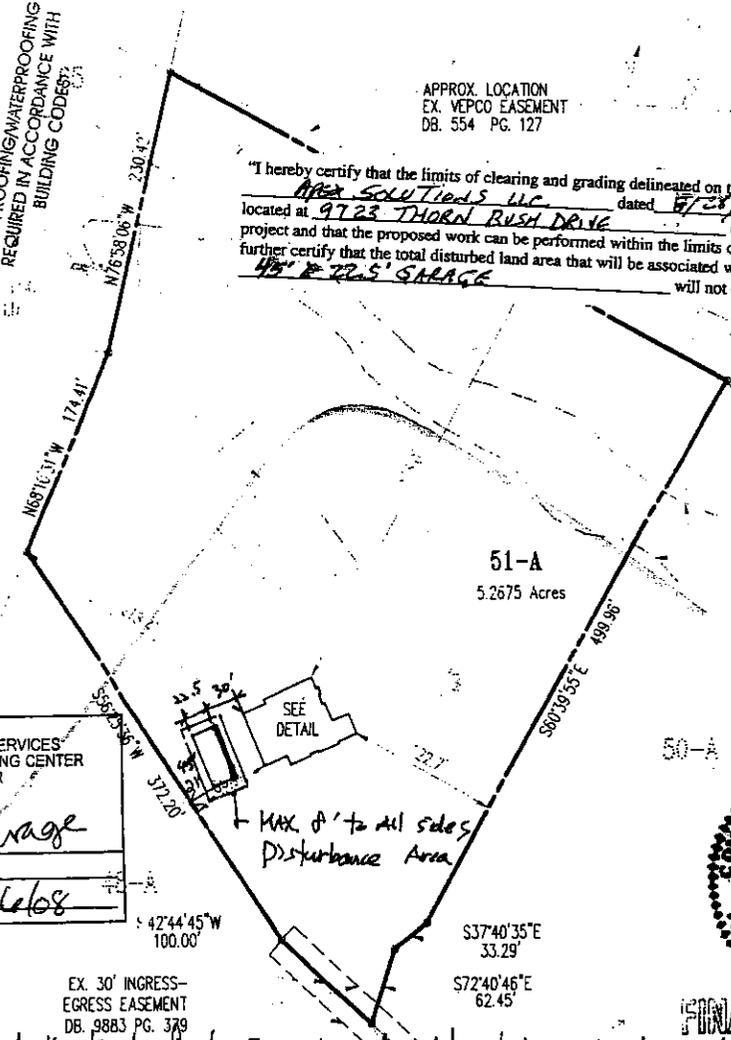
TOTAL EARTH DISTURBANCE ON THIS LOT SHALL NOT EXCEED 2,500 SQ. FT. EXCESSIVE DISTURBANCE SHALL BE REMOVED FROM SITE

OPW&S
 LAND DEVELOPMENT SERVICES
 SITE PERMITS & ADDRESSING CENTER
 APPROVED FOR
 detached garage
 BY: [Signature]
 DATE: 8/26/08

"I hereby certify that the limits of clearing and grading delineated on this house location plat prepared by URBAN ENGINEERING & ASSOC., INC. dated 8/10/2008 for the property located at 9723 THORN BUSH DR. accurately reflects the scope of this project and that the proposed work can be performed within the limits of clearing and grading as shown. I further certify that the total disturbed area and area that will be associated with the construction of the proposed 45' x 22.5' GARAGE will not exceed 2,500 sq. ft."

1" = 100'

08-23-00
 BY: E. MATTISON



FINAL APPROVAL

URBAN ENGINEERING & ASSOC., INC.

CIVIL ENGINEERS LANDSCAPE ARCHITECTS LAND SURVEYORS

7712 LITTLE RIVER TURNPIKE
 ANNANDALE, VIRGINIA 22003



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

VIOLATION ISSUED TO: Kyung H. & Jong Yeol Na
9723 Thorn Bush Drive
Fairfax Station, Virginia 22039

LOCATION OF VIOLATION: 9723 Thorn Bush Drive

COMPLAINT NUMBER: 200904393

MAP REFERENCE: 0973 15 0051A

On August 3, 2009, I inspected the above referenced site and found the following violation:

Land-disturbing activity in excess of 2500 square feet without an approved conservation/grading plan.

This is a violation of Section 104-1-2 of the Fairfax County Code which requires:

No person may engage in land-disturbing activity until he has submitted to the County a conservation plan for the land-disturbing activity and the plan has been reviewed and approved by the Director.

You are directed to correct this violation within thirty (30) days of receipt of this Notice of Violation. No additional work is permitted until the required corrective action is completed. The following corrective action is required:

- 1. Immediately, cease and desist all land disturbing activities.**
- 2. Immediately, install erosion and sediment control measures to protect waterways and off-site properties.**
- 3. Immediately, seed and mulch all denuded areas.**
- 4. Submit and obtain the required permit and grading plan approved by Fairfax County to remedy the violation. Documents should be hand delivered to Plan and Document Control, Suite 506, 12055 Government Center Parkway, Fairfax, Va. You may call 703-324-1730 if there are any questions regarding submission fees.**

Failure to correct the violation within the prescribed time limit may result in further legal action under the applicable state and county codes.

ISSUED BY: _____

Antonio Torrico, Senior Engineering Inspector
12055 Government Center Parkway
Fairfax, Virginia 22035-5503
Phone: (703) 324-1937
Email: antonio.torrico@fairfaxcounty.gov

DATE ISSUED: August 4, 2009

Department of Public Works and Environmental Services
Land Development Services, Environmental and Facilities Inspections Division
12055 Government Center Parkway, Suite 334
Fairfax, VA 22035-5503
Phone: 703-324-1950, TTY: 711, Fax: 703-324-1822



8-006 General Standards

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

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

8-903 Standards For All Group 9 Uses

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

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

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

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

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

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

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