



County of Fairfax, Virginia

January 5, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-SU-063

SULLY DISTRICT

APPLICANT: Sheldon D. Lu

OWNERS: Sheldon D. Lu
Elizabeth H. Lu

STREET ADDRESS: 12768 Flat Meadow Lane

SUBDIVISION: Franklin Farm

TAX MAP REFERENCE: 35-2 ((8)) 280

LOT SIZE: 8,800 square feet

ZONING DISTRICT: PDH-2

ZONING ORDINANCE PROVISION: 8-922

SPECIAL PERMIT PROPOSAL: To permit reduction of certain yard requirements to permit construction of an addition 6.0 feet from a side lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2010-SU-063 for a second story addition subject to the proposed development conditions contained in Appendix 1.

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

O:\dhedri\Special Permits\1-12) SP 2010-SU-063 Lu (50)\SP 2010-SU-063 Lu 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.**

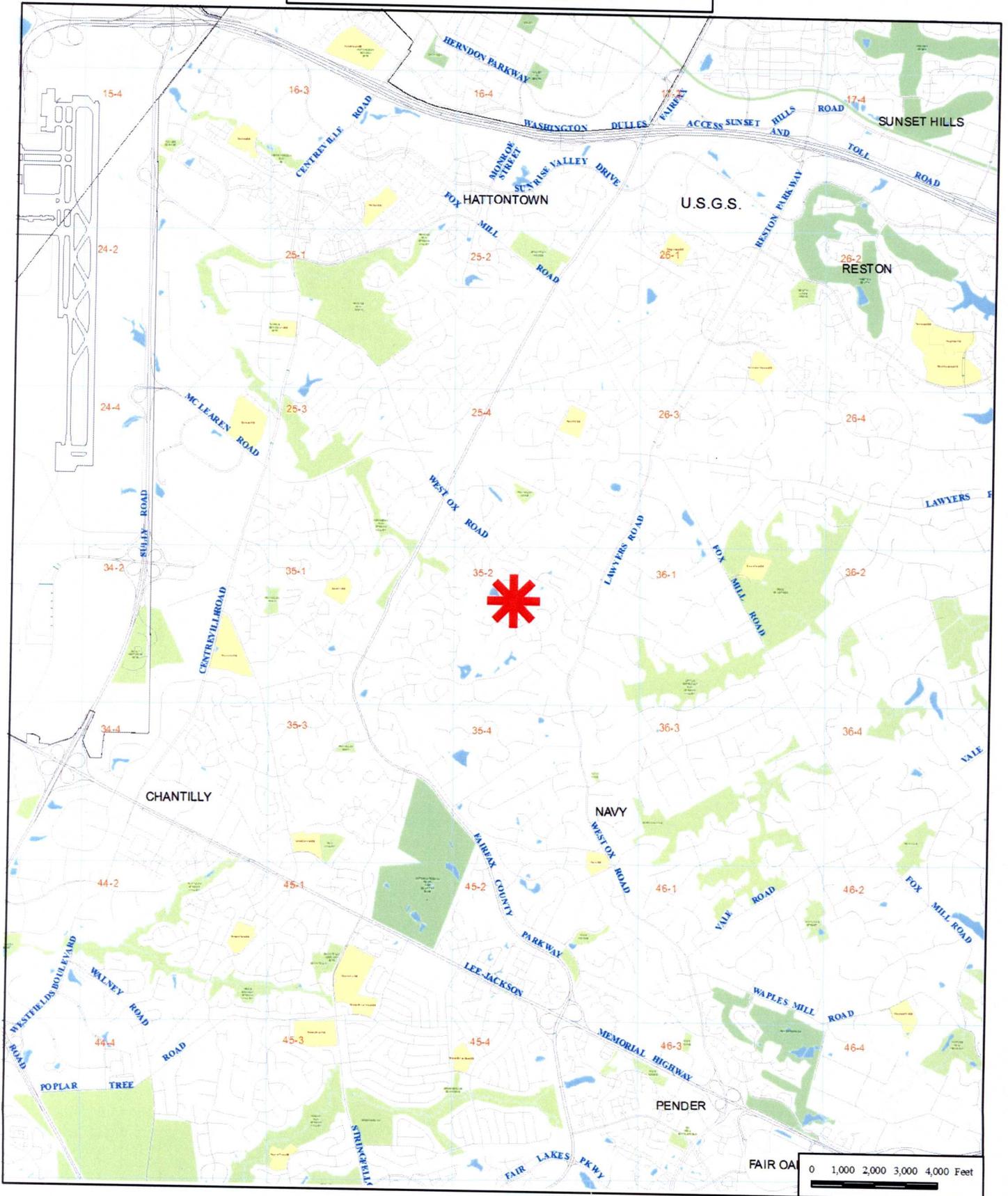


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

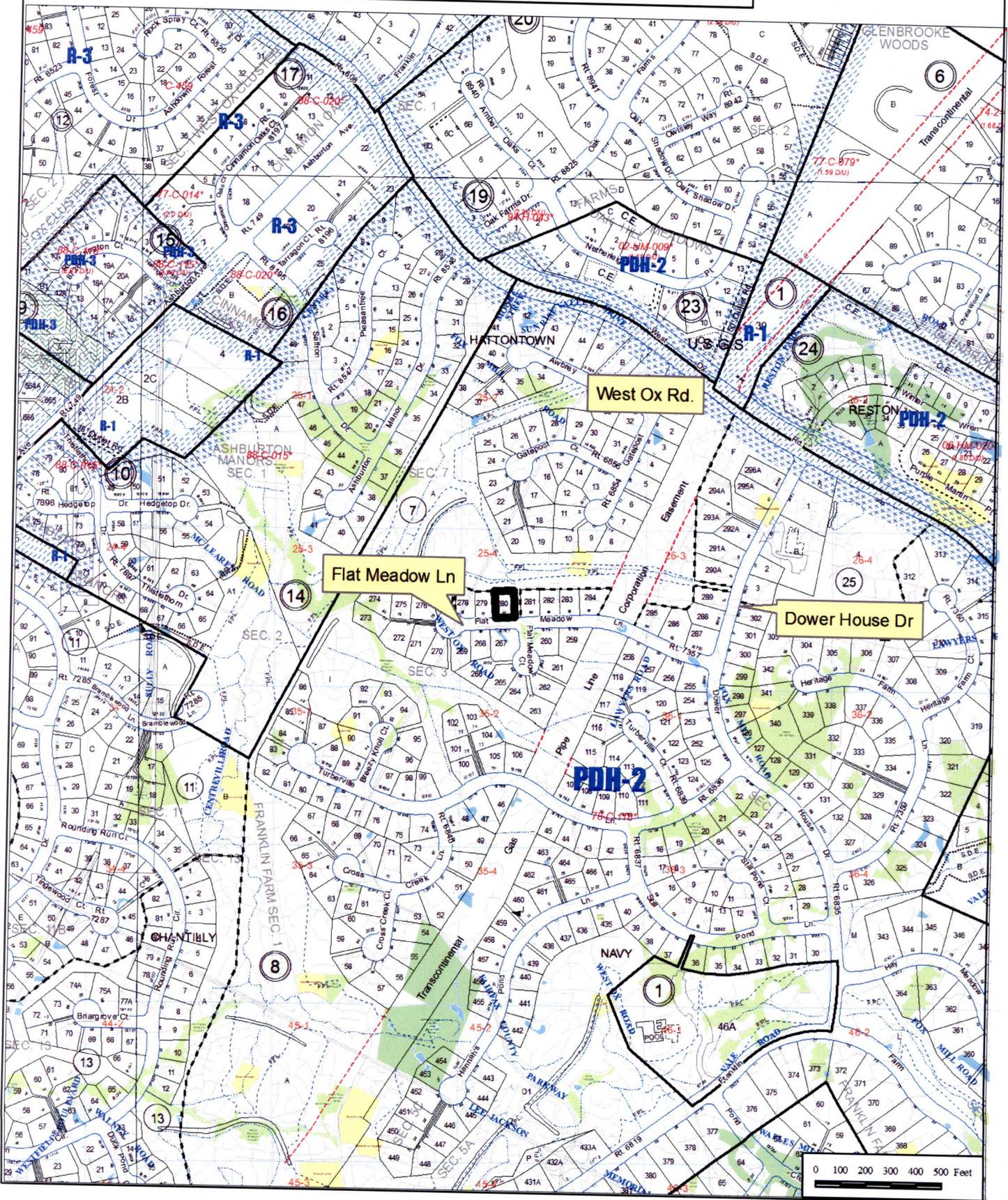
Special Permit

SP 2010-SU-063

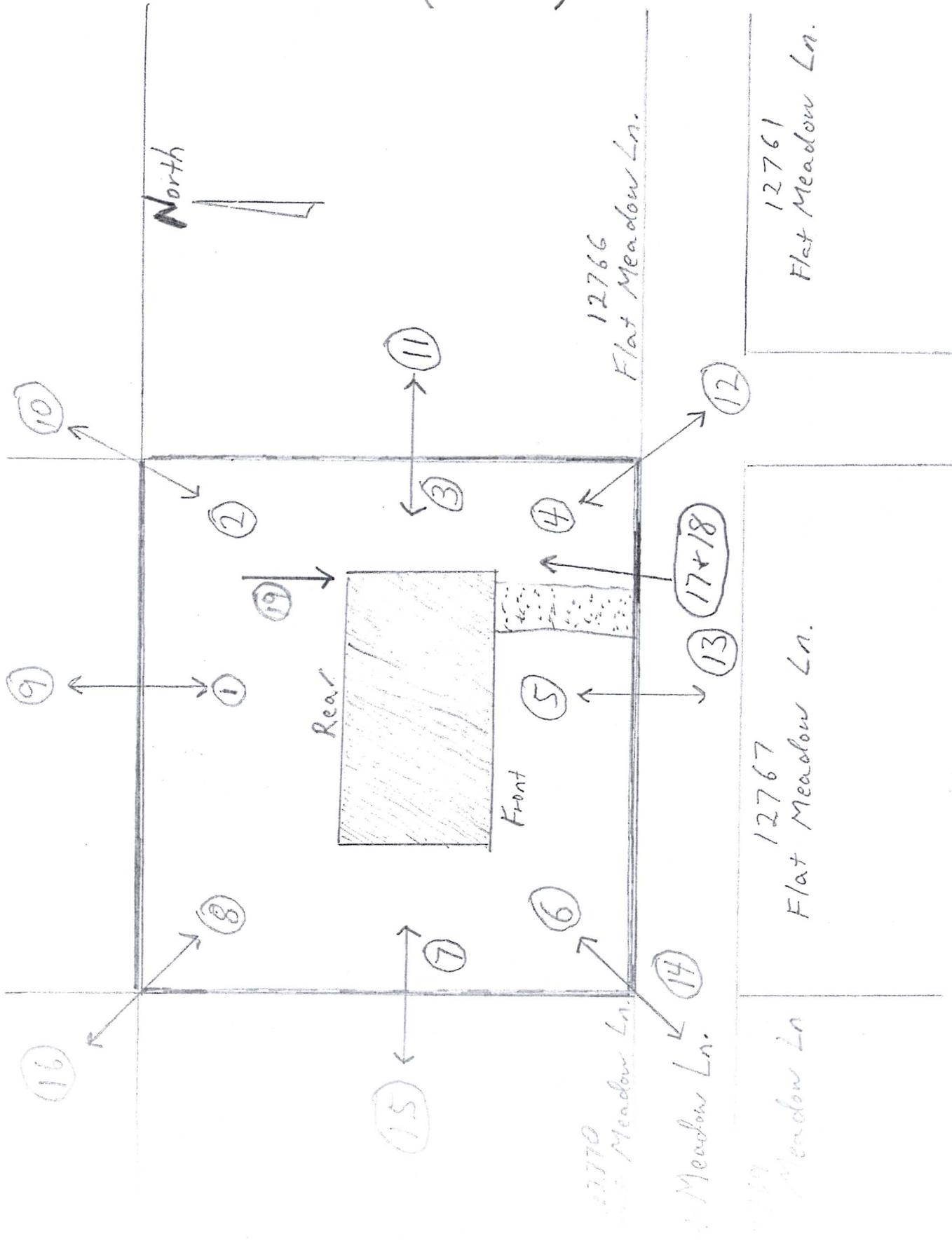
SHELDON D. LU



Special Permit
SP 2010-SU-063
SHELDON D. LU



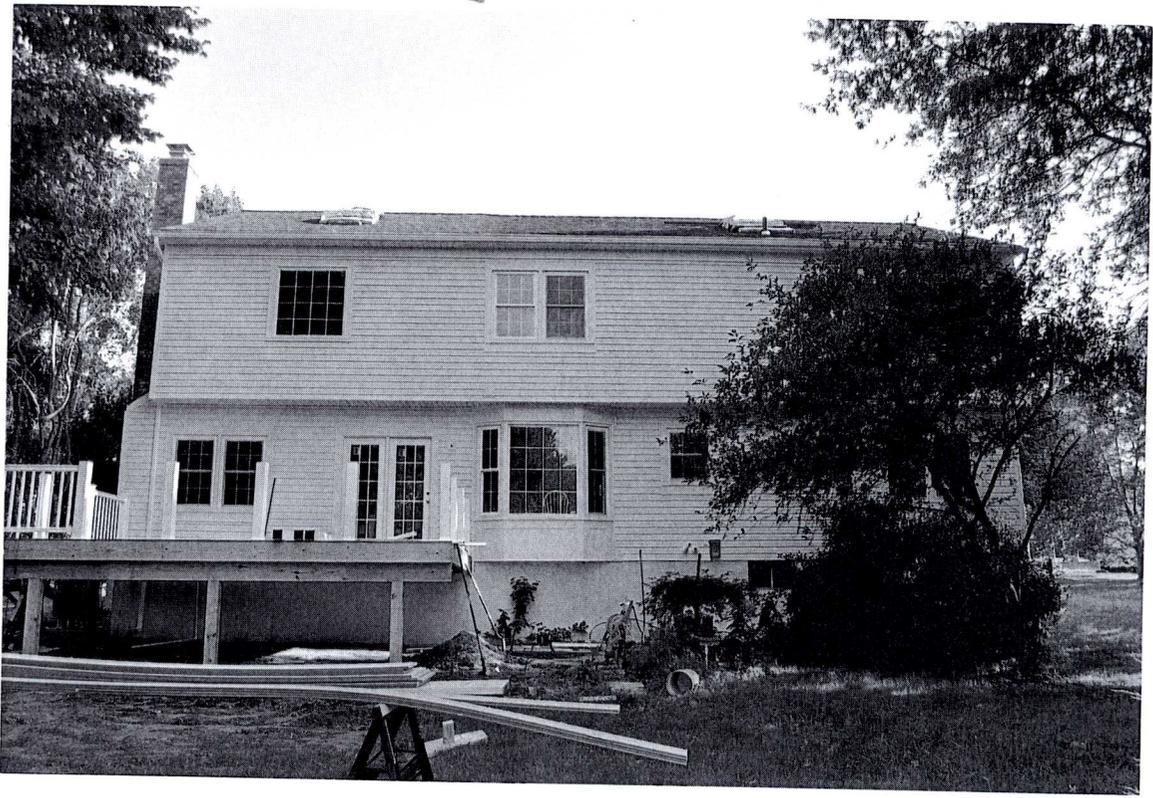
Photographs of 12768 Flat
 Meadow Lane, Oak Hill, VA 20171
 (Encl. 4)



12768 Flat Meadow Ln, Oak Hill, VA 20171

20 Aug 2010

①



From Rear yard of Back yard.

②



From N.E. Side yard of Rear yard.

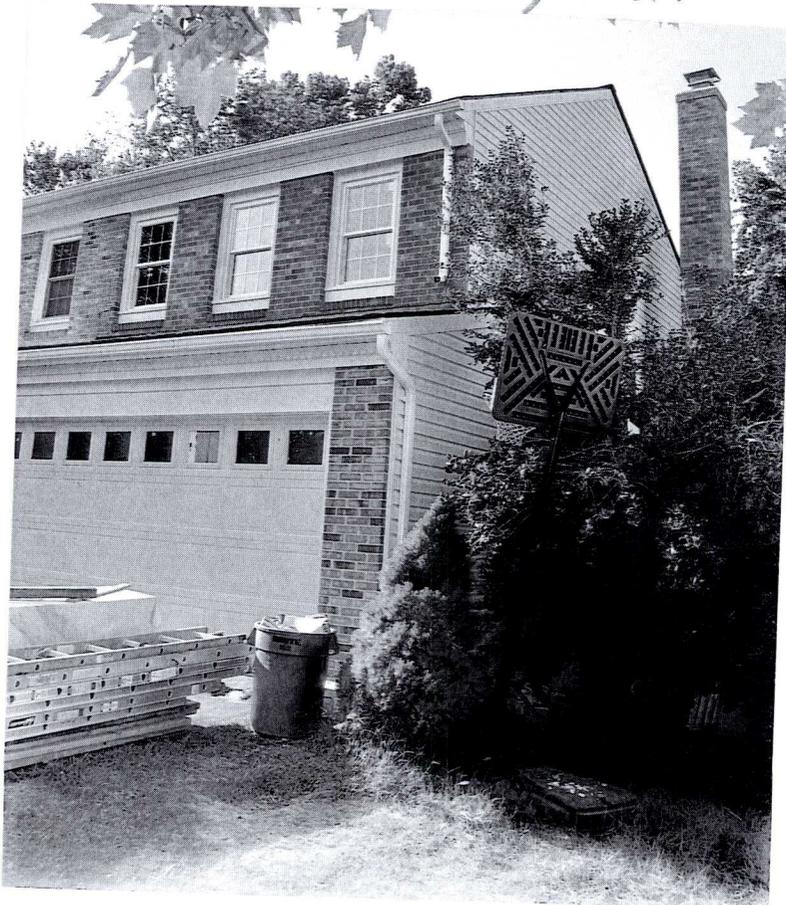
12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

③



From E. side yard.

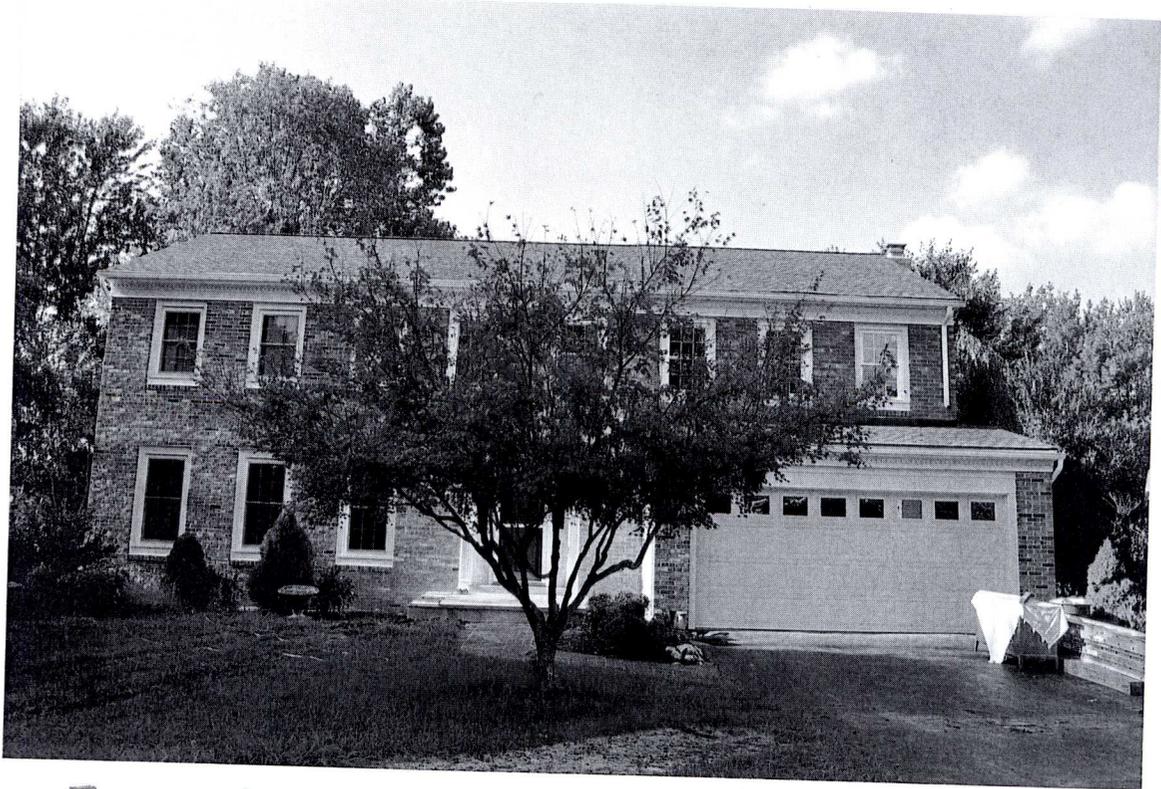
④



From S.E. side
yard of front
yard.

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

5



From front of front yard.

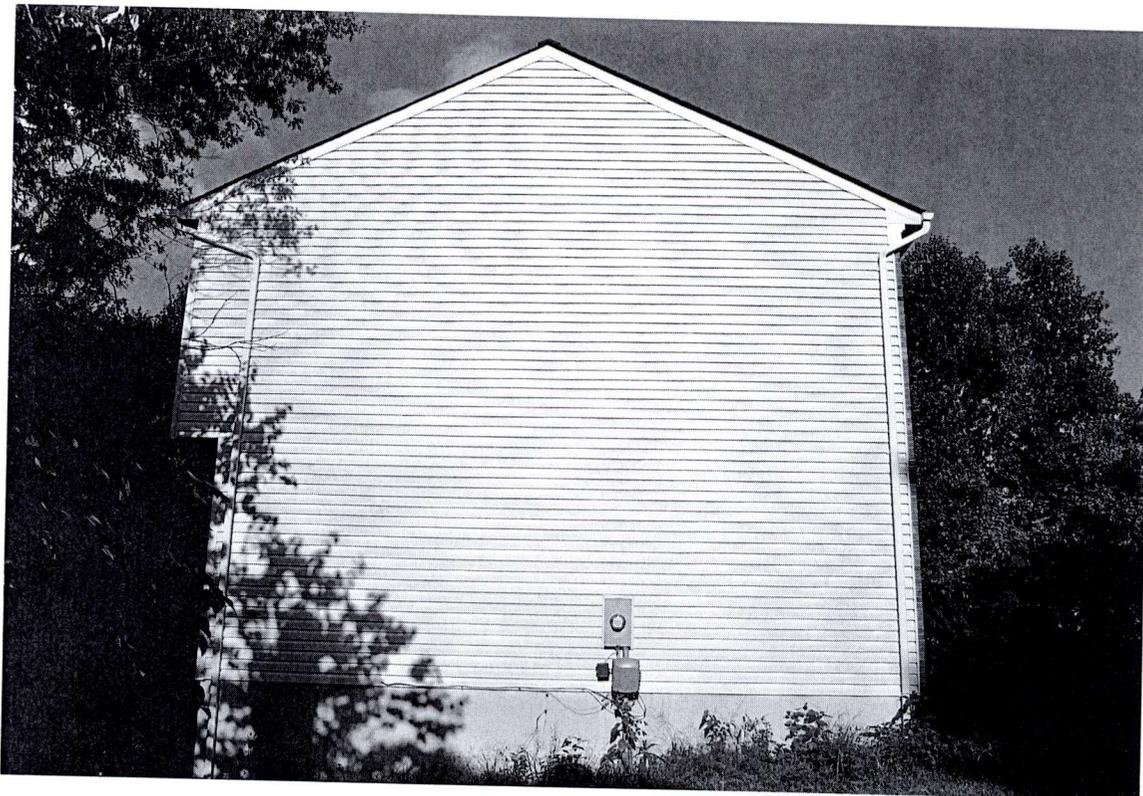
6



From S.W. side of front yard.

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

7



From W. side yard.

8



From N.W. side of rear yard.

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

9



Away from rear yard of back yard.

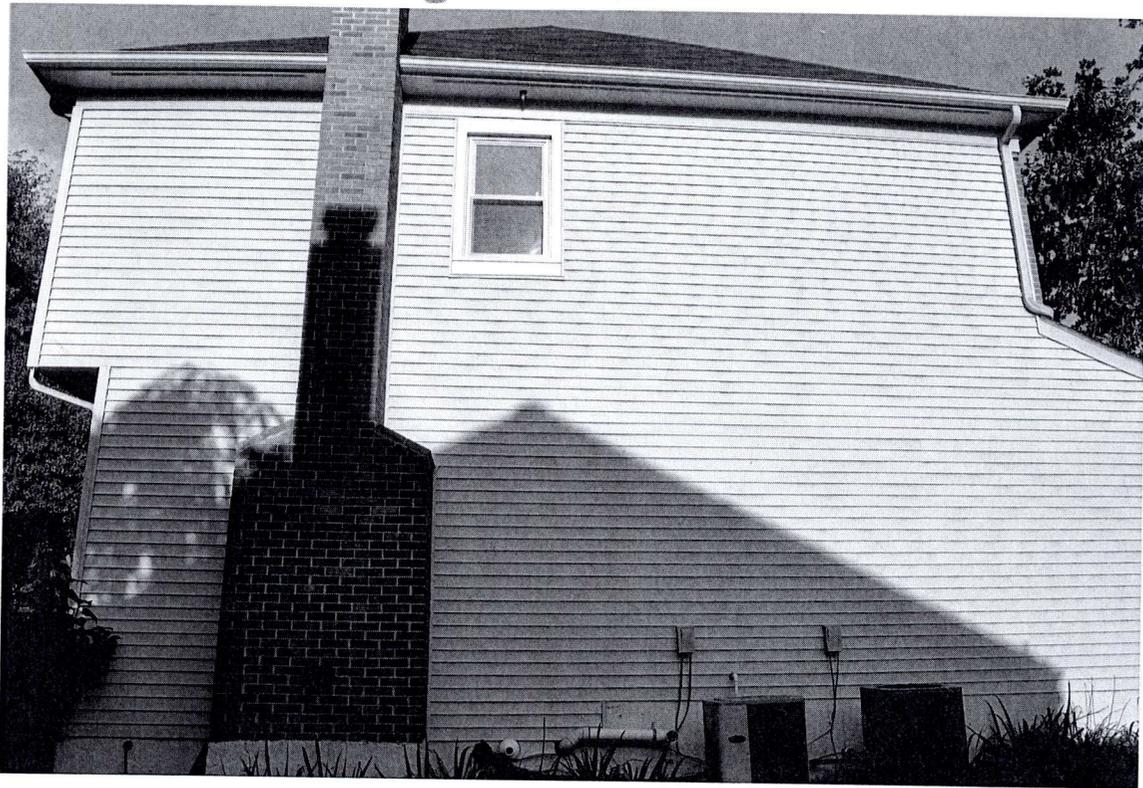
10



Away from N.E. side yard of rear yard.

12768 Flat Meadow Ln, Oak Hill VA 20171
20 Aug 2010

(11)



Away from E. side yard

(12)

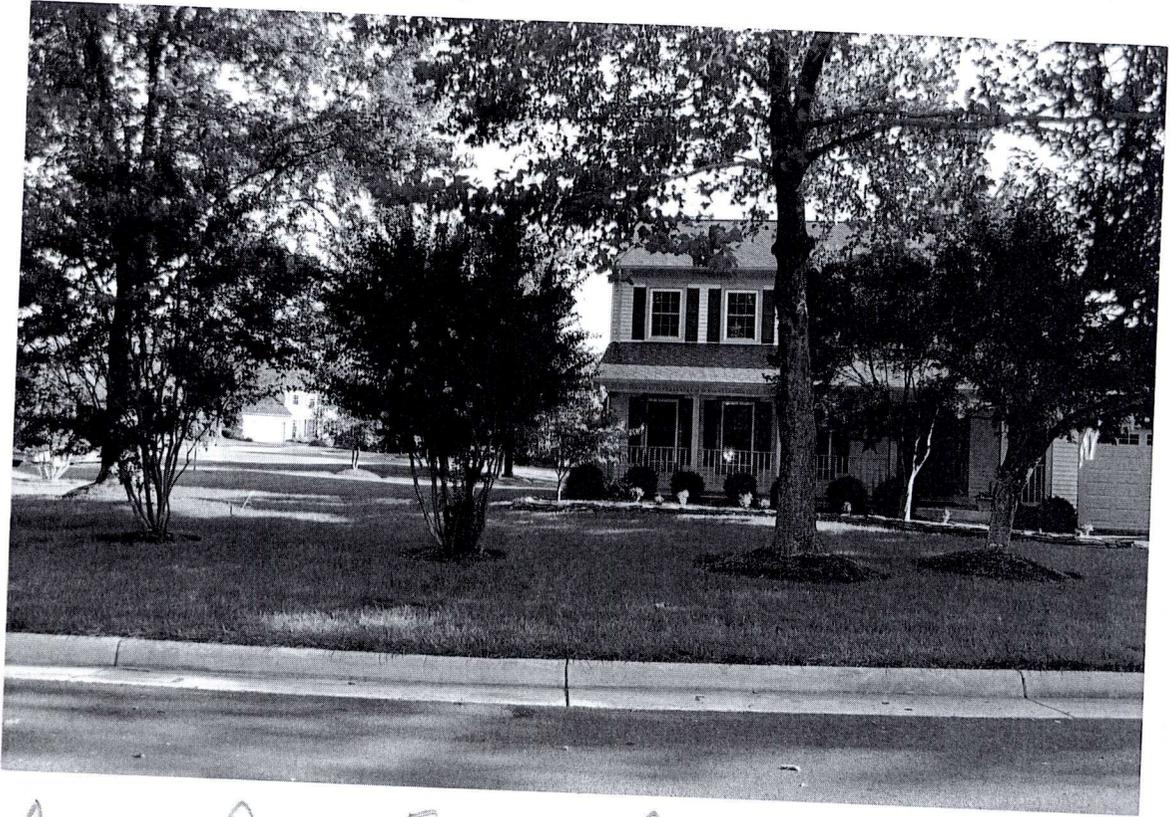


Away from S.E. side of front yard.

12768 Flat Meadow Ln, Oak Hill, VA 20171

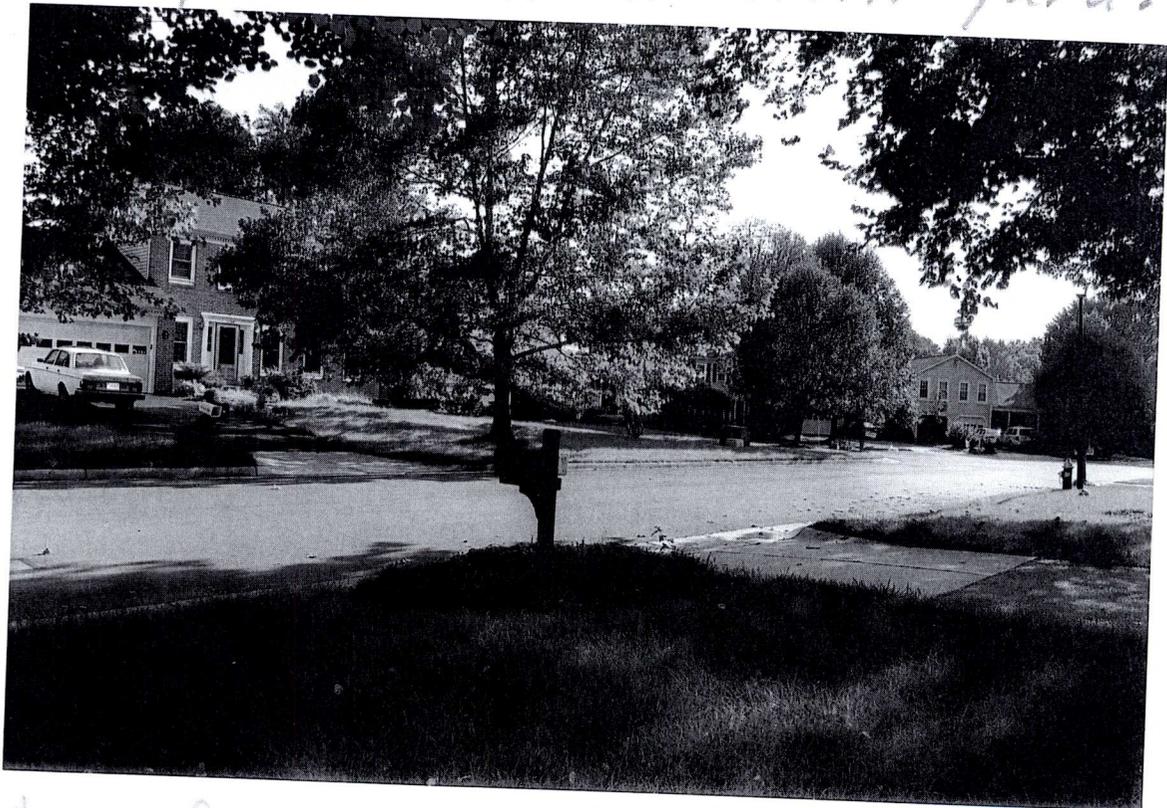
20 Aug. 2010

(13)



Away from Front of Front yard.

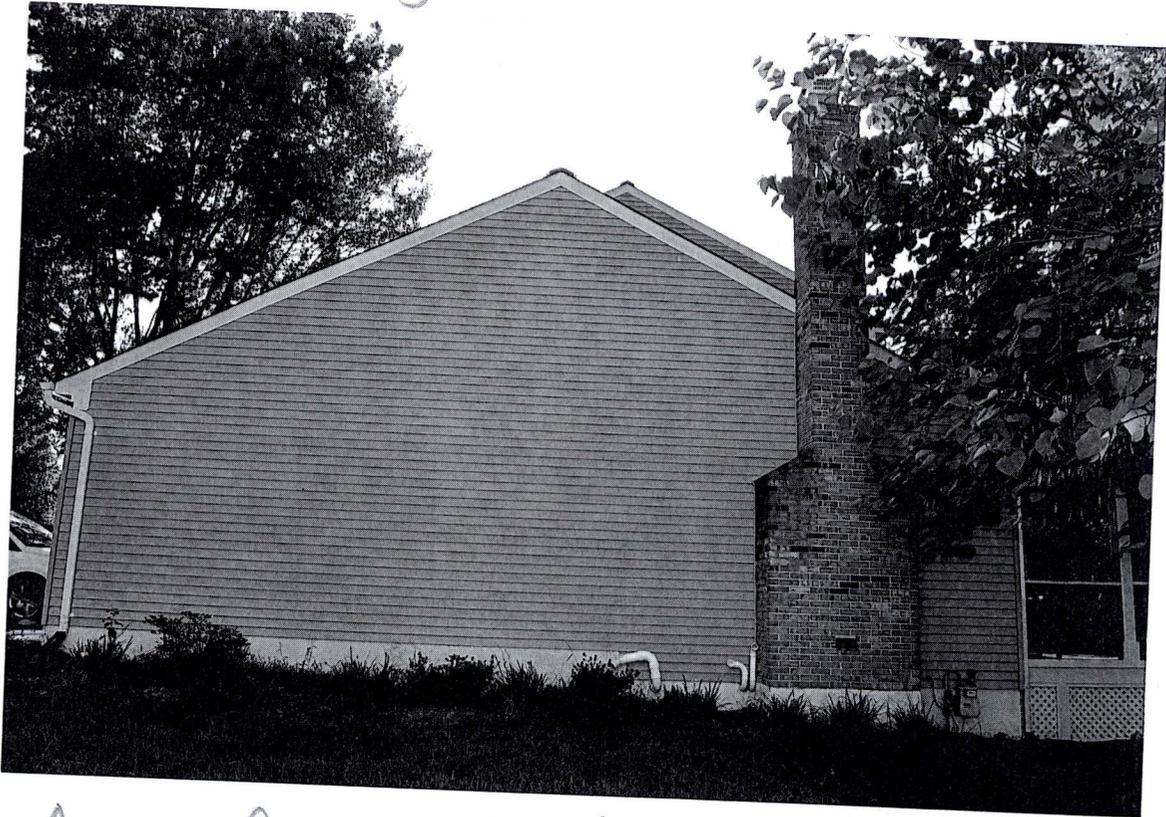
(14)



Away from S.W. side of front yard.

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

(15)



Away from W. Side Yard.

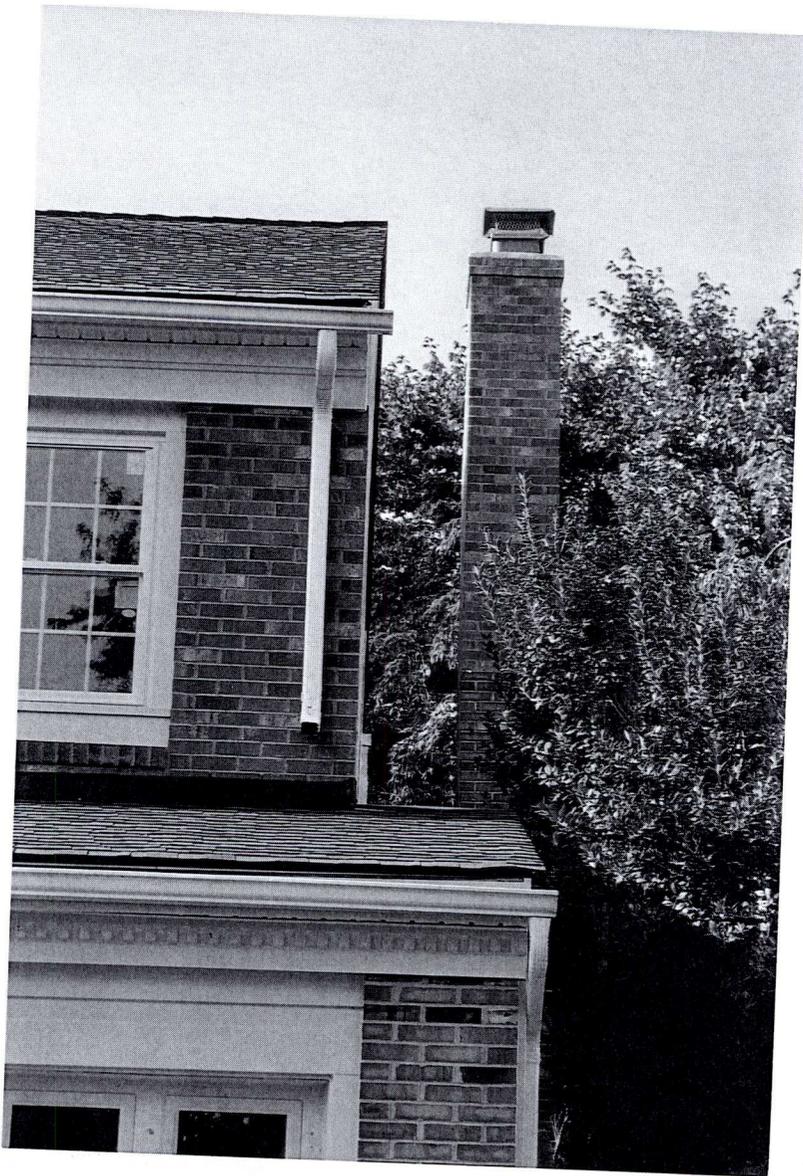
(16)



Away from N.W. side of rear yard

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

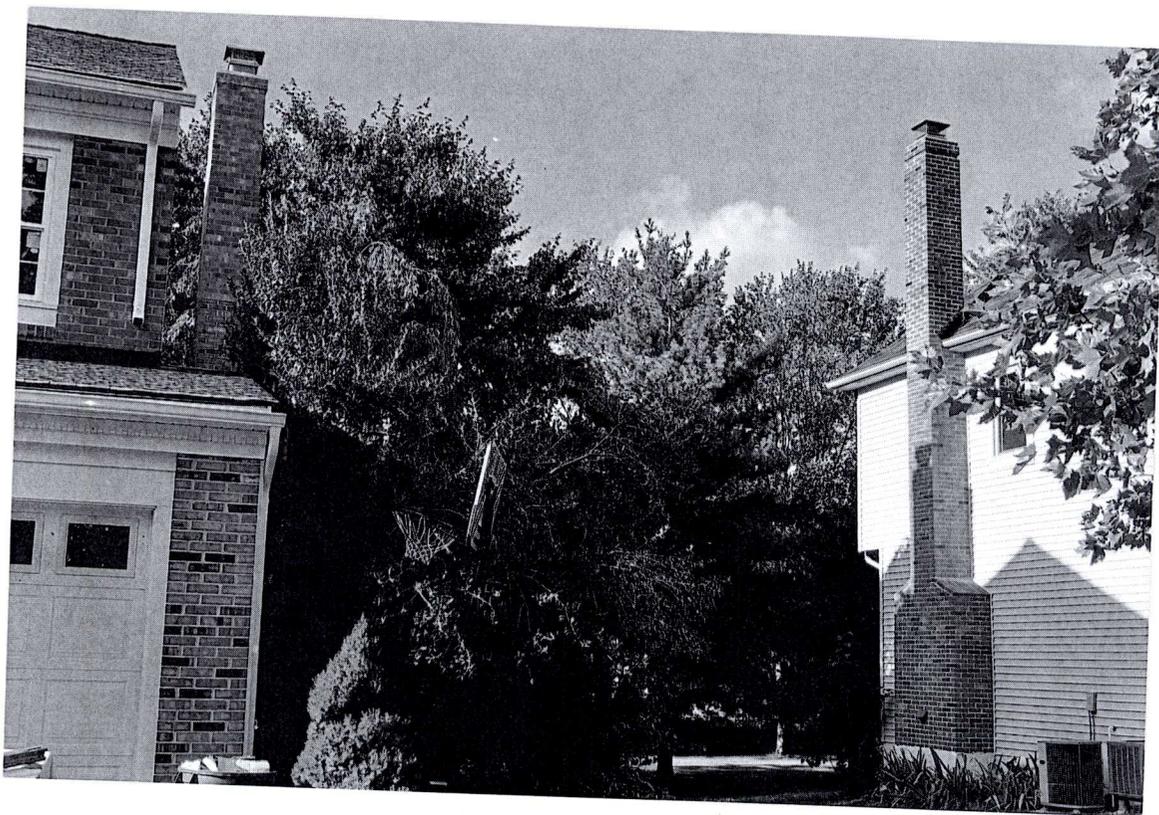
(17)



From Front E. Front Yard.
On-going construction showing 2 ft. gap
between chimney and 2nd level of house
built to current zoning rules (8 ft
set-back).

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug 2010

18



From Front E. Front Yard.

Relationship between property (on left),
and neighboring property (on right, 12766 Flat
Meadow Ln).

Please note "36 Foot" separation between
structures.

12

12768 Flat Meadow Ln, Oak Hill, VA 20171
20 Aug. 2010

(19)



From E. side of rear yard
On-going construction showing 2ft. gap
between chimney and 2nd level of
house, built to current zoning rules
(8 ft set-back).

08/20/10



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

Drawing II



RIGHT SIDE ELEVATION

SCALE: 1/4" = 1'-0"

DESCRIPTION OF THE APPLICATION

The applicant is requesting special permit approval for a reduction of certain yard requirements to permit the construction of a second story addition to be located 6.0 feet from the eastern side lot line.

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	Addition	Side	8.0 feet	6.0 feet	2.0 feet	25%

*Minimum yard requirement per Section 3-207

Note: On October 22, 1979, the Board of Supervisors approved RZ 78-C-118 which rezoned approximately 828 acres from the R-1 District to the PDH-2 District with a density of 2 dwelling units per acre (du/ac). Bulk regulations for the PDH District are regulated under the provisions of Sect. 16-102 of the Zoning Ordinance. Design Standards are those which are approved by the Board of Supervisors on the final development plan for the subdivision. Subsequent additions, according to Sect. 16-403, must conform to that conventional zoning district which most closely characterizes the development under consideration provided, however, that the desired alteration is in substantial conformance with the approved final development plan. This subdivision is developed under the PDH-2 regulations but is most similar to the R-2 Cluster regulations, which requires a minimum side yard of 8 feet with total side yards of 24 feet.

EXISTING SITE DESCRIPTION

The site is currently zoned PDH-2, developed under the R-2 cluster regulations, and contains a two-story, brick and frame single family detached dwelling built in 1982. An attached deck is currently under construction located at the rear of the dwelling. The lot consists of 8,800 square feet and is surrounded by single family detached homes to the south, east and west. The Franklin Farm Foundation private open space is located to the north and between the subject property and the adjacent property on Lot 281 to the east. There is an existing 20 foot in width storm drainage easement located adjacent to the entire eastern side lot line. The property is accessed via a concrete driveway on Flat Meadow Lane. The yard is well manicured with mature trees and shrubs.

CHARACTER OF THE AREA

	Zoning	Use
North	PDH-2	Single Family Detached Dwellings
East	PDH-2	Private Open Space
South	PDH-2	Single Family Detached Dwellings
West	PDH-2	Single Family Detached Dwellings

BACKGROUND

On June 21, 2010, the applicant's contractor obtained a building permit to permit the construction of a second story addition over the existing garage. The existing dwelling is located 6.0 feet from the eastern side lot line, which was the established side yard at the time of the final development plan for the approved rezoning application. The addition as proposed was approximately 20 x 27, consisting of 540 square feet of additional living space to provide the applicant with a new master bedroom, bathroom and closet. At the time of building permit application, the contractor was informed that the side yard requirement was 8.0 feet with total side yards of 24.0 feet. According to the applicant's statement of justification, without the applicant's consent, the contractor modified the building plans to construct the second story addition 8.0 feet from the side lot line to meet the minimum side yard requirement, leaving a 2.0 foot gap between the addition and the existing chimney.

Following the adoption of the current Ordinance, the BZA has heard the following similar variance applications in the vicinity of the application parcel:

- Variance VC 94-Y-083 was approved on October 5, 1994 for Tax Map 35-2 ((8)) (7) 12, zoned PDH-2, at 3012 Gatepost Lane, to permit construction of addition 12.3 feet from a side lot line such that side yards total 18.3 feet.
- Variance VC 96-Y-048 was approved on July 10, 1996 for Tax Map 35-2 ((8)) 46, zoned PDH-2, at 12769 Turberville Lane, to permit construction of addition 6.4 feet from a side lot line such that side yards total 17.0 feet.

Other additions have been constructed with approval of a variance within the Franklin Farm neighborhood; however, affected only the front and rear lot lines and therefore were not included in this background information.

ANALYSIS

- **Special Permit Plat** (Copy at front of staff report)
- **Title of Plat:** Special Permit Plat, Lot 280, Section Three, Franklin Farm
- **Prepared by:** William E. Ramsey, P.C., Land Surveyor
- **Dated:** August 12, 2010 as revised through October 14, 2010

Proposal:

The applicant proposes to complete the construction of the second story addition referenced in the Background section above. This will consist of approximately 60 square feet of new construction. As noted, the second story addition was constructed 8.0 feet from the side lot line leaving a 2.0 foot open area between the second story addition and an existing chimney. The applicant requests approval to enclose that 2.0 foot area to complete the master bedroom as proposed under their building permit submitted in June 2010. Pictures #17, 18 and 19 at the front of the staff report depict the area to be enclosed.

ZONING ORDINANCE REQUIREMENTS

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

The application must meet all of the following standards, copies of which are attached as Appendix 4:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the addition meets all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 3.

General Standard 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. As contained in an attachment to the applicant's statement of justification, the most affected property owners have provided written support of the applicant's proposal indicating that the current construction of the second story addition, located 8.0 feet from the side lot line, is not harmonious with neighboring properties. Additionally, as noted in the background, two other properties in the immediate vicinity have

constructed additions along the sides of their dwellings requiring variance approval. Therefore, staff believes the additional 60 square foot of living space would not adversely affect the use or development of neighboring properties and this standard has been met.

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

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

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. The existing dwelling is 2,397 square feet in size. Therefore 150% of the total gross floor area could result in an addition up to 3,595.5 square feet in size for a possible total square footage at build out of 5,992.5. The proposed addition is 60 square feet, for a total square footage of the house with the addition of 2,457 square feet. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. As shown by the elevation drawings and photographs located at the front of the staff report, the materials, size and scale of the addition will be compatible with the architecture of the existing dwelling on the lot. Staff believes that the application meets this provision.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. The applicant proposes to complete the construction of an existing second story addition to ensure the dwelling will be harmonious with off-site structures. The addition as it exists today is in fact not harmonious with off-site structures, as noted in letters received from adjoining homeowners and the Franklin Farm Foundation Architectural Review Board. Therefore, staff believes that the application meets this provision.

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. Staff believes that the application meets the erosion and stormwater runoff portion of the standards since the DPWES has indicated that there are no drainage complaints on file related to

this property. Staff believes that the addition is modest in size and scale and will not impact the use and/or enjoyment of adjacent properties as it will merely enclose a 60 square foot opening from the existing dwelling to the chimney. Staff believes that the addition will not impact issues such as stormwater runoff, noise, light, air, safety or erosion and application meets this provision.

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. The request to construct a 60 square foot addition which would complete construction of an existing second story addition is the minimum amount of reduction necessary and the addition will not exceed the plane of the existing dwelling which was constructed in 1982. Staff believes the application meets this provision. Other issues of well, floodplains and/or Resource Protection Areas and preservation are not applicable to this site.

CONCLUSION

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

RECOMMENDATION

Staff recommends approval of SP 2010-SU-063 for an addition subject to the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

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

APPENDICES

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

PROPOSED DEVELOPMENT CONDITIONS**SP 2010-SU-063****January 5, 2011**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-SU-063 located at Tax Map 35-2 ((8)) 280 to permit reduction of certain yard requirements pursuant to Sections 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of a second-story addition, as shown on the plat prepared by William E. Ramsey, P.C., dated August 12, 2010, as revised through October 14, 2010 as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,397 square feet existing + 3,595.5 square feet (150%) = 5,992.5 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.

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

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



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 Sep 2010
 (enter date affidavit is notarized)

I, Sheldon D. Lu, 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 109644a

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)
Sheldon D. Lu	12768 Flat Meadow Ln. Oak Hill, VA 20171	Applicant/Title Owner
Elizabeth H. Lu	12768 Flat Meadow Ln. Oak Hill, VA 20171	Title Owner

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 Sep 2010
(enter date affidavit is notarized)

109644a

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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 Sep. 2010
(enter date affidavit is notarized)

109644a

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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 22 Sep 2010
(enter date affidavit is notarized)

109644a

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: 22 Sep 2010
(enter date affidavit is notarized)

109644

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 Applicant's Authorized Agent

Sheldon D. Lu Lieutenant Colonel
(type or print first name, middle initial, last name, and title of signee) USMC

Subscribed and sworn to before me this 22 day of SEP 20 10 in the State/Comm. of VA, County/City of Fairfax.

Julianne Hatfield
Notary Public

My commission expires: 09/31/2013



Re: Special Permit Application
 Sheldon Lu, House Addition
 12768 Flat Meadow Lane
 Oak Hill, VA 20171

27 August 2010

Statement of Justification

The purpose of this addition is to increase living space by adding a 2nd story master bedroom, bathroom and closet over the existing 1st floor garage which was originally built with a 6 foot set back from the right side (East) property line.

I am currently serving in the US Marine Corps and have just returned from a 2 year overseas deployment with my family. I have been working (long distance emails and a short trip to the US) with a building contractor, my neighbors and my homeowners association to design an addition (see drawings I and II) with the hope of having most of the work completed upon my Aug 2010 return to my home.

When I arrived back in the US on 4 Aug, I found out that the contractor had modified the design (see drawings III) to comply with changes made by Fairfax County on the initial Permit #101720239 (see enclosure 1.). Fairfax County officials had ruled that an 8 foot set back is now required for a new 2nd story addition over the original structure that had been built with a 6 foot set back..

The existing house is two stories on a very small lot. In order to construct the addition over the garage in a manner acceptable to my neighbors/homeowners association and efficiently make the most of the lot I need to "continue" to encroach on the right side yard set back requirement by 2 feet. I have been advised by the County that a minimum allowed side yard set back on the right (East) side of the lot is 8 feet with a total of no less than 24 feet (Note: there is a currently a 21.9 foot set back on the left side of the property and a 6 foot set back on the right side for a total of 27.9 feet). The distance from the neighboring home on the right side is 36 feet.

The following is the required pertinent data which complies with Section 8-011:

- A. Type of Operation: Residential Property
- B. Hours of Operations: 24/7
- C. Estimated numbers of residence: 4
- D. Proposed number of employees: None
- E. Estimate of traffic impact of the proposed used: None
- F. Vicinity or general area to be served: Flat Meadow Ln., Franklin Farm neighborhood, Oak Hill, VA
- G. Description of building façade and architecture of proposed new addition: 2nd Floor extended flush with existing chimney and first floor garage. Brick front to match existing façade, roof extended out over new addition to match existing shingles. Chimney extended up vertically, flush with new 2nd floor addition.
- H. Listing of Toxic substances: None

RECEIVED
 Department of Planning & Zoning

AUG 30 2010

Zoning Evaluation Division

I. Statement and justification of variance to 8-922 related to set-back yard requirements:

- a. Contractor began construction in compliance with modified Permit (see enclosure 1.) issued by Fairfax County without advising the homeowner or homeowners association of the County's modifications.
- b. Upon homeowner return from US Military overseas assignment and becoming aware of modified design, homeowner ordered the contractor to cease work on the affected segment of the addition.
- c. Homeowner believes the purpose of the enforcement of the existing 8 foot set-back is to protect overcrowding to adjacent structures. The current structure is 36 feet from the neighboring structure at 12766 Flat Meadow Ln, and is greater than the 24 foot total side minimums for PDH-2 setbacks. The proposed addition will not adversely impact the use and/or enjoyment of any adjacent property.
- d. Letters of protest (see enclosure 2.) have been delivered to the homeowner from affected neighbors regarding the design modifications forced by the county zoning requirements. On 7 Sep 2010, the Homeowners Association is scheduled to take up the issue of the eccentric design which resulted from the current interpretation of county zoning requirements on this project, (homeowner anticipates adverse action from the Homeowners Association due to modifications to original ARB approval, enclosure 3.).
- e. Homeowner, neighbors and homeowners association believe the design of the new addition under the current interpretation of the county zoning regulations has resulted in an eccentric design, that is out of character and not compatible with the existing structures in the neighborhood. The chimney with an unsupported two foot gap from the 2nd floor of the new addition appears comical.
- f. Homeowner is losing over 50 square feet of finished living space in order to comply with the current interpretation of the 8 foot set-back requirements. Homeowner believed the interpretation of this requirement does not take into account the design of the existing structure, the current 36 foot setback from neighboring structure and the eccentric design resulting from the zoning ordinance.
- g. House was built in 1982, with the following setbacks:
Front: 29.8 Ft.
Left (West) Side: 21.9 Ft.
Right (East) Side: 6.0 Ft.
Rear: 47.9 Ft.
Existing Square Footage: 1917. Proposed Square Footage: 2457.
- h. New structure will be compatible with existing structure, matching 1st floor design by having the new addition built to match the original buildings' footprint on the property.
- i. New structure is compatible with surrounding off-site uses: Structure will be similar in character, location, height, bulk and scale to other residential houses in the area.

- j. New structure will have no impact on adjacent properties, as its design matches the existing footprint.

I would really appreciate if you can approve this Special Permit, and essentially "grandfather in" the existing 1st floor's set backs for the new 2nd story addition. This will allow better living space in the house and adhere to the design conventions of my neighborhood.

The 5-6 month of delays involved with this Special Permit Process will cause my wife and two young daughters, 10 and 15 yrs old, to suffer through the hardship of living in a home through the winter months that is now essentially a half finished construction site. This delay is being caused by the wait for a decision from the Board of Zoning Appeals (BZA) and the follow-on consequences of that decision. Our only alternative is to live in a Hotel until this issue is resolved. That would impose an even greater financial hardship on my family when added to the significant costs associated with the Special Permit process.

If you have any questions, please contact me at home: (703) 476-0722, on my cell: (571) 268-9688 or via email: sdlufamily@yahoo.com

Respectfully,



Lieutenant Colonel Sheldon Lu
United States Marine Corps

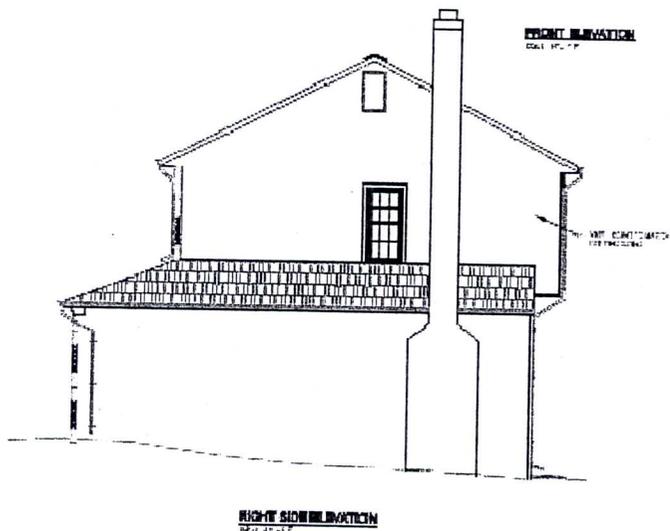
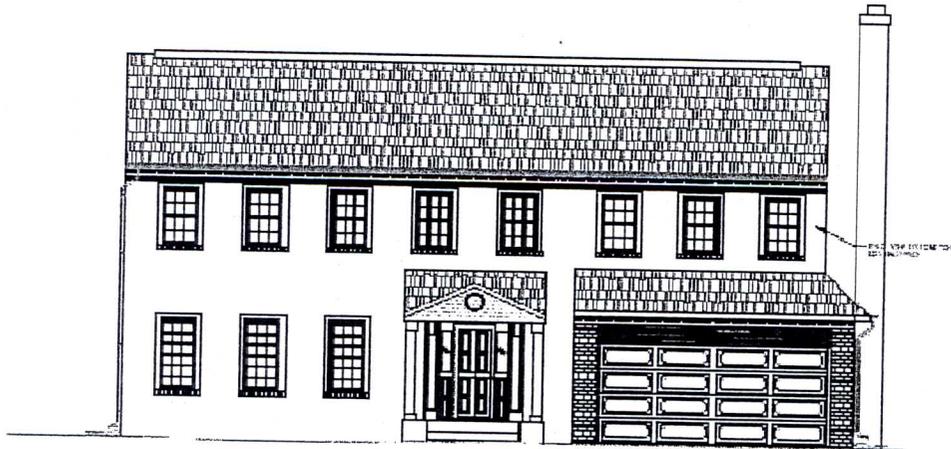


FRONT ELEVATION
SCALE: 1/4" = 1'-0"



RIGHT SIDE ELEVATION

SCALE: 1/4" = 1'-0"



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 # 10112043

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

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

JOB LOCATION	
ADDRESS <u>12768 Flat Meadow Ln</u>	
LOT # <u>980</u> BUILDING _____	
FLOOR _____ SUITE _____	
SUBDIVISION <u>Franklin Farm</u>	
TENANT'S NAME <u>Sec 3</u>	
EMAIL _____	
CONTACT ID _____	
OWNER INFORMATION OWNER <input checked="" type="checkbox"/> TENANT <input type="checkbox"/>	
NAME <u>Sheldon Li</u>	
ADDRESS <u>Unit 9800 Box 402</u>	
CITY <u>Opoo</u> STATE <u>VA</u> ZIP <u>96303</u>	
TELEPHONE _____	
EMAIL _____	
CONTACT ID _____	
CONTRACTOR INFORMATION SAME AS OWNER <input type="checkbox"/>	
CONTRACTORS MUST PROVIDE THE FOLLOWING:	
COMPANY NAME <u>M & M General Contracting</u>	
ADDRESS <u>921 Fishburn Rd</u>	
CITY <u>Benningville</u> STATE <u>VA</u> ZIP _____	
TELEPHONE <u>703 932-2644</u>	
EMAIL _____	
STATE CONTRACTORS LICENSE # <u>2705 05 22937</u>	
COUNTY BPOL # <u>17-4920</u>	
CONTACT ID _____	
APPLICANT	
NAME <u>Steve Keenan</u>	
ADDRESS <u>702 C - Lane Ct</u>	
CITY <u>Stafford</u> STATE <u>VA</u> ZIP <u>20166</u>	
TELEPHONE <u>703-742-0330</u>	
EMAIL _____	
CONTACT ID <u>AB3074564</u>	
DESCRIPTION OF WORK	
<u>Build 2nd Story Addition Above garage (20x27)</u>	
<u>Covered Front Stoop (10x7)</u>	
<u>Deck per Cox Detail (14x20)</u>	
HOUSE TYPE <u>SFD</u>	
ESTIMATED COST OF CONSTRUCTION <u>40,000</u>	
USE GROUP OF BUILDING <u>RS</u>	
TYPE OF CONSTRUCTION <u>RS</u>	
DESIGNATED MECHANICS' LIEN AGENT (Residential Construction Only)	
NAME _____	
ADDRESS _____	
NONE DESIGNATED <input checked="" type="checkbox"/> PHONE _____	

DO NOT WRITE IN GRAY SPACES / COUNTY USE ONLY

PLAN # _____	TAX MAP # _____
ROLLING	DATE
APPROVED BY	
LICENSING	
ZONING	
SPECIAL PERMITS	
HEALTH DEPT	
BUILDING REVIEW	
SANITATION	
FIRE MARSHAL	
ASEBESTOS	
PROFESSION	
FILE	
OPENING FILE	
VOID NUMBER	
BUILDING PLAN REVIEW	
REVIEWER _____	OFF HOURS _____
REVISION FEES _____	
FIRE MARSHAL FEES _____	
INSURANCE UNITS _____	PLANS NO. <u>10112043</u>
APPROVED FOR ISSUANCE OF BUILDING PERMIT	
DATE _____	DATE _____

ZONING REVIEW

USE SFD (R-2C)

ZONING DISTRICT PDH-2 HISTORICAL DISTRICT N/A

ZONING CASE # _____

GROSS FLOOR AREA OF TENANT SPACE _____

YARDS:	GARAGE 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input type="checkbox"/>
FRONT 31'	OPTIONS YES <input type="checkbox"/> NO <input type="checkbox"/>
FRONT -	REMARKS <u>2nd story</u>
L SIDE 55'	<u>addn over porch of</u>
R SIDE 8.5'	<u>garage - 17.8' x 27'</u>
REAR 45'	<u>24' tall at midpt</u>

REMARKS Build front covered
Stoop and build deck with no steps
Stoop - 10' x 6' - 11' tall at
midpt
Deck - 14' x 20' Rear - 33.5'
Right - 5.9'

**A SETBACK CERTIFICATION BASED
 ON FIELD SURVEY IS REQUIRED
 PRIOR TO RUP ISSUANCE OR
 FINAL INSPECTION**

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied 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 Steve Keenan Date 6/21/10
 Printed Name and Title Agent
 (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: I, _____
 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)

Enclosure 1

11 Aug 2010

From: Neighbors of property at 12768 Flat Meadow Ln, Oak Hill, VA 20171

To: Sheldon and Elizabeth Lu, owners of property at 12768 Flat Meadow Ln, Oak Hill, VA 20171

To: Fairfax County Department of Planning and Zoning, Herrity Bldg, 12055 Govt. Center Pkwy, Fairfax, VA 22035

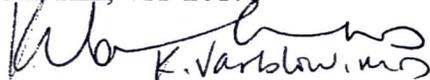
CC: Franklin Farm Foundation, 12700 Franklin Farm Rd., Oak Hill, VA 20171

Subj: Protest of Construction Design Changes Imposed by Interpretation of Fairfax County Zoning Regulations

1. We, the immediate neighbors of the property at 12768 Flat Meadow Ln, Oak Hill VA 20171, wish to lodge a protest on the construction design changes for the on-going residential improvement project at the Lu home.
2. The current project has been altered significantly from what was proposed to the neighborhood and approved by the Franklin Farm Foundation Architectural Review Board (ARB). We understand that these changes were made by the building contractor in an attempt to comply with an interpretation of current Fairfax County Zoning Regulations.
3. The changes to the original design have resulted in a structure that is eccentric in appearance, does not conform with and is at odds with the profile of all residential structures in the neighborhood. We believe that this eccentric design will significantly impact the nature and value of the neighborhood.
4. Please make every effort to complete the project as originally proposed and approved by the neighborhood and Franklin Farm Foundation Architectural Review Board. This project should be built as originally proposed allowing the grandfathering in of the older zoning requirements for the new construction over the existing building's layout/footprint and stand-offs.

Sincerely,

Roland & Karen Varblow
12766 Flat Meadow Ln.
Oak Hill, VA 20171



Richard & Kathryn Kammier
12767 Flat Meadow Ln.
Oak Hill, VA 20171

Bob & Sharon Toy
12770 Flat Meadow Ln.
Oak Hill, VA 20171

Bernie & Debbie Kagan
12761 Flat Meadow Ln.
Oak Hill, VA 20171

Enclosure 2. (pg 1 of 4)

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Mr. and Mrs.
Robert Toy

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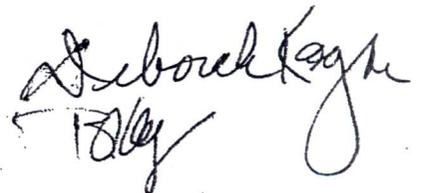
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(pg 3 of 4)

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Oak Hill, VA 20171

Kathryn Kammier

(pg 4 of 4)

The Franklin Farm Foundation

12700 FRANKLIN FARM ROAD, OAK HILL, VIRGINIA 20171
703/620-6230
FAX: 703/620-9021



A Heritage
for your Family
to Enjoy

June 2, 2010

Sheldon and Beth Lu
12768 Flat Meadow Lane
Oak Hill, VA 20171

RE: DH Lot 280 – 12768 Flat Meadow Lane
Notice of Architectural Review Board Action

Dear Mr. and Mrs. Lu,

The following decision was made on your recent application to the Architectural Review Board:

APPROVED: 1. 2nd Floor Addition over Garage, Install Portico, Replace Siding, Windows, and Rear Deck per the Submitted Application

The review of your application was done by the Franklin Farm Architectural Review Board in accordance with the procedures set forth in the *Architectural Review Procedures & Architectural Standards*, page 4 of Policy Resolution 2E, Part III, sections 1 and 2, as follows:

Part III – Project Start Date and Project Revocation

Section 1. Project Start Date. No project may be commenced prior to receipt of mailed notice of ARB approval. If a project is started which subsequently is disapproved, the applicant will be responsible for restoring the property and/or taking all actions necessary for compliance with the architectural standards at the applicant's expense.

Section 2. Revoked Applications.

- A. **Failure to Start a Project.** ARB approval of an application will be revoked automatically if the alteration is not commenced within 90 days of application approval date. In such case, a new application must be filed and approved, and the project may not be commenced prior to receipt of notice of ARB approval of the new application. Nothing in this subsection shall be deemed to require ARB approval of the new application.
- B. **Failure to Complete a Project.** ARB approval will be revoked automatically if the alteration is not completed within 30 days after the completion date specified in the approved application. If an extension of time is required to complete an exterior alteration previously approved by the ARB and absolutely no changes to the original application are proposed, a written request to the ARB may be submitted to revise the completion period. Written ARB approval of any extension is required.

If you have any questions about the decision or need further information, please contact the Franklin Farm office at (703) 620-6230.

Sincerely,

Mary Koditek
Architectural Review Administrator

Enclosure 3.

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.

8-922 Provisions for Reduction of Certain Yard Requirements

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

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

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

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

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.
5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic

field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed 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 a well and/or septic field.
 - I. Existing and proposed gross floor area and floor area ratio.
 - 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. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.