



APPLICATION ACCEPTED: January 29, 2010  
BOARD OF ZONING APPEALS: May 4, 2011  
MOVED AT APPLICANT'S REQUEST  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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April 27, 2011

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-MA-011

### MASON DISTRICT

**OWNERS/APPLICANT:** Saresh Shah  
Rajinder Shah

**SUBDIVISION:** Englandboro

**STREET ADDRESS:** 6413 Columbia Pike

**TAX MAP REFERENCE:** 61-3 ((3)) 4

**LOT SIZE:** 18,475 square feet

**ZONING DISTRICT:** R-2, HC

**ZONING ORDINANCE PROVISIONS:** 8-918

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

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2010-MA-011 for the accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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

0:\bcho00\SP\SP 2010-MA-011 (Shah - ADU)\staff\_report.doc

Brenda J Cho

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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.**

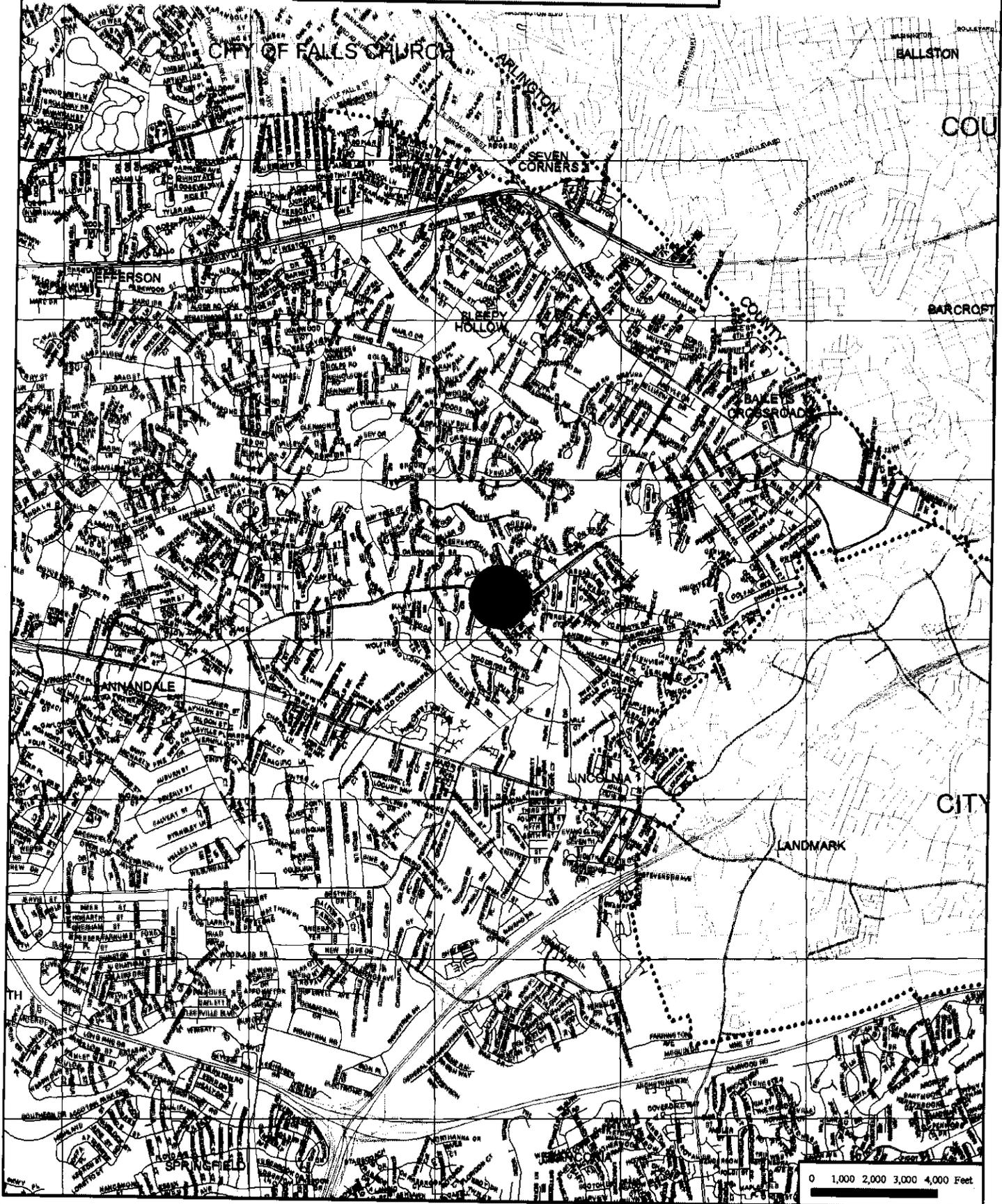


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

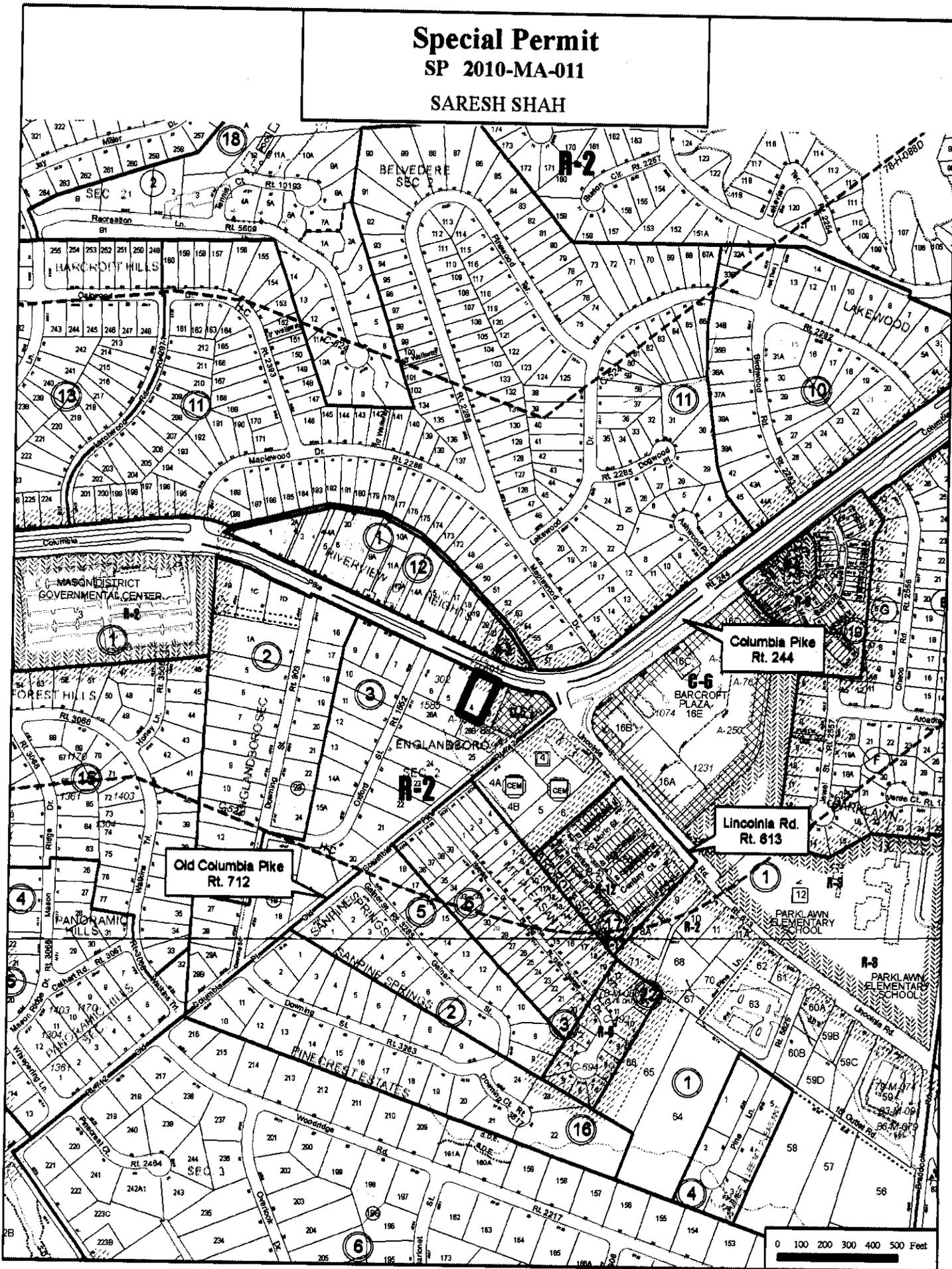
# Special Permit

SP 2010-MA-011

SARESH SHAH



**Special Permit**  
**SP 2010-MA-011**  
**SARESH SHAH**

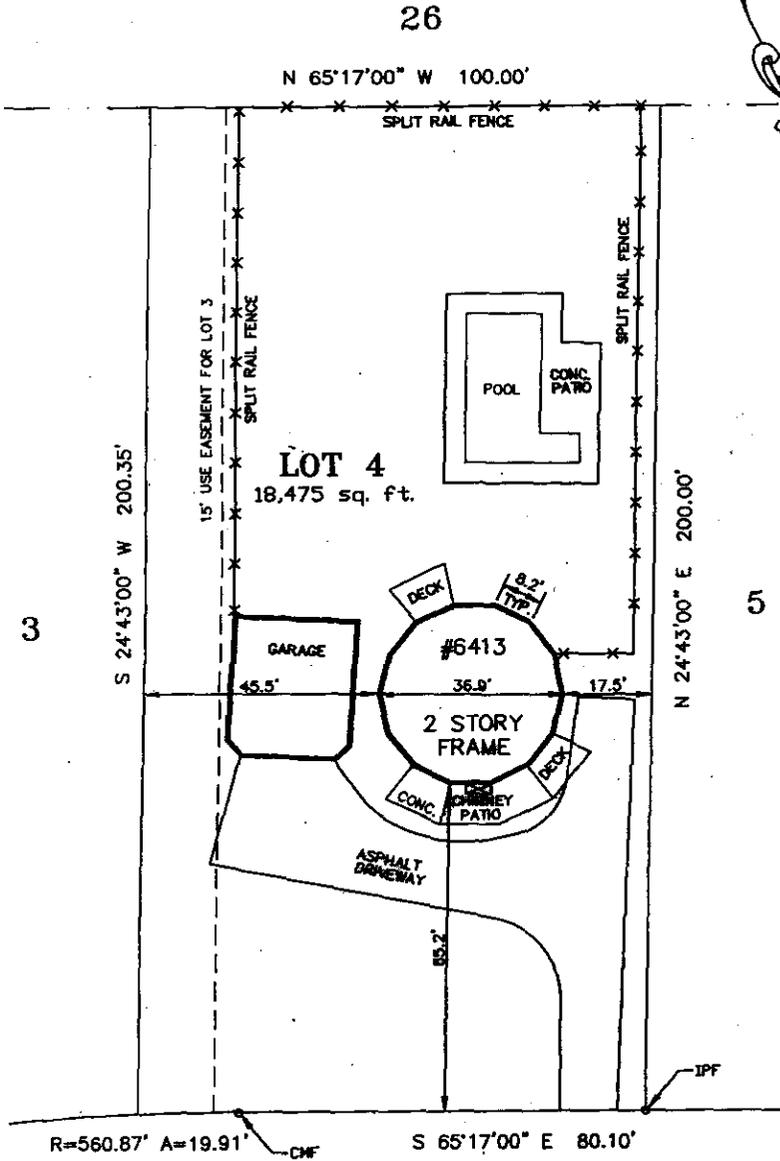


PROPERTY REPORT  
 LOT 4 SECTION 2  
**ENGLANDBORO**  
 FAIRFAX COUNTY, VIRGINIA  
 CLIENT: SHAH

JOB NUMBER: 03-4081

SCALE: 1"=30'  
 CASE NO.: 32483

THE SUBJECT PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA.



**COLUMBIA PIKE**  
 ROUTE 244

I hereby certify that the position of all existing improvements have been carefully located by a transit and/or tape or electronic measuring device & unless otherwise shown there are no encroachments.

This plat has been provided for a transaction on or about the date of this survey. This certification is limited to the parties of this transaction. This plat is furnished for informational purposes in the issuance of title insurance and is not to be used for any design or construction or to set property corners. The fence locations shown on this plat are approximate and are not certified as to relation to the property boundaries or ownership.

The settlement agent has requested this survey pursuant to the terms of a contract of sale or in conjunction with a re-finance of the subject property at the owner's, prospective purchaser's, and/or lender's direction. The settlement agent has requested that only that information required for title insurance purposes be shown and does not certify to the accuracy of any of the information shown hereon. No title report has been furnished.

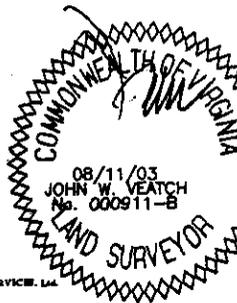
This plat is subject to restrictions and easements of record. Boundary and other site information has been provided by others.

o IPF indicates monuments used for location purposes. If no monuments were found the existing improvements were located from the occupation of existing features.

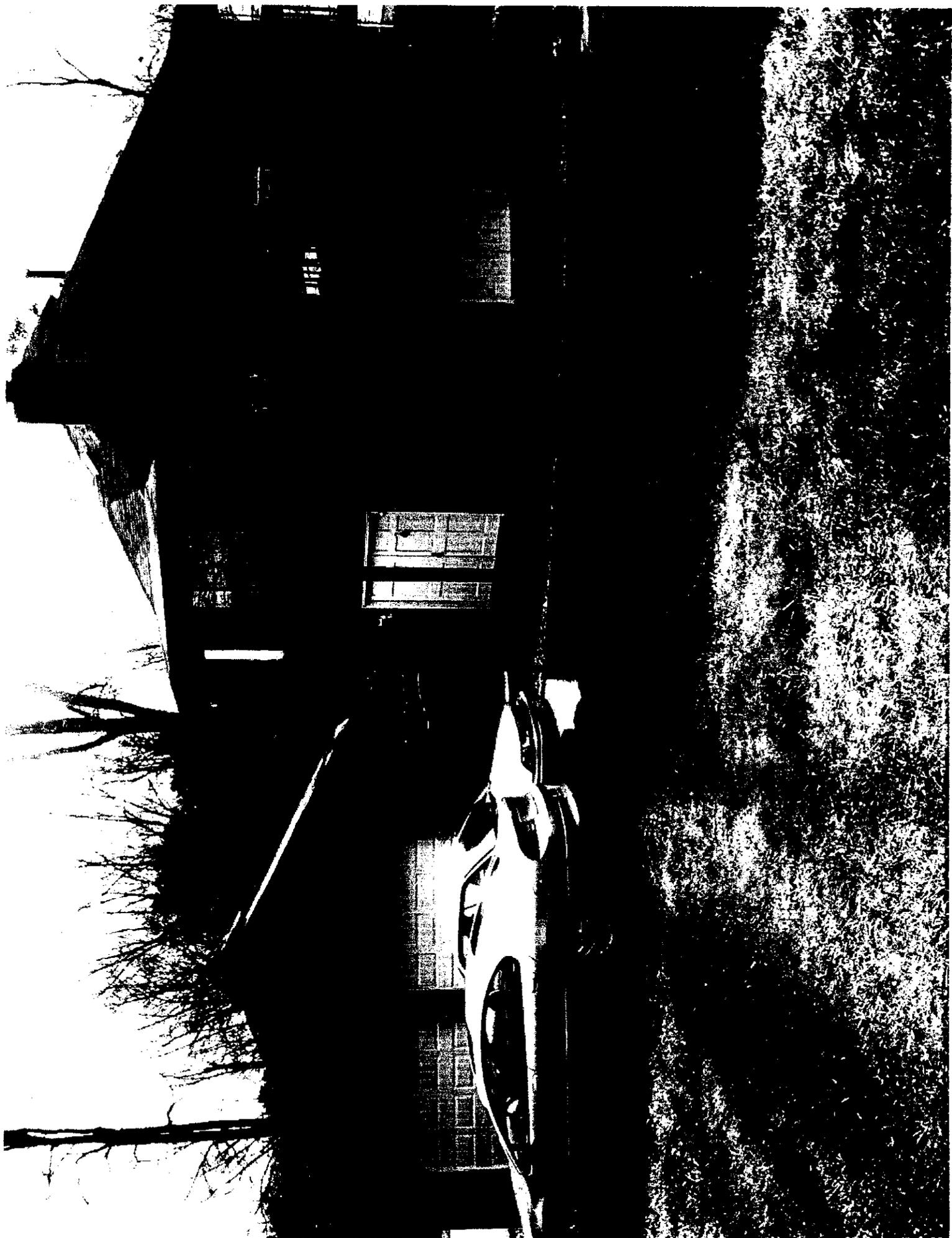
Any reproduction of this document that does not bear an original signature is an unauthorized copy and may violate U.S. copyright laws. Unauthorized copies may not be in conformance with current survey requirements under Virginia State law and shall not be used for insurance and/or mortgage under writing.

RECEIVED  
 Department of Planning & Zoning  
 DEC 30 2009  
 Zoning Evaluation Division

Surveyor:  
**CERTIFIED REAL ESTATE SERVICES, Ltd.**  
 1431 WHEEL AVENUE  
 SUITE 105  
 RESTON, VA. 20190  
 PHONE: 703.742.9105  
 FAX: 703.742.9104  
 Email: info@realsurvey.com

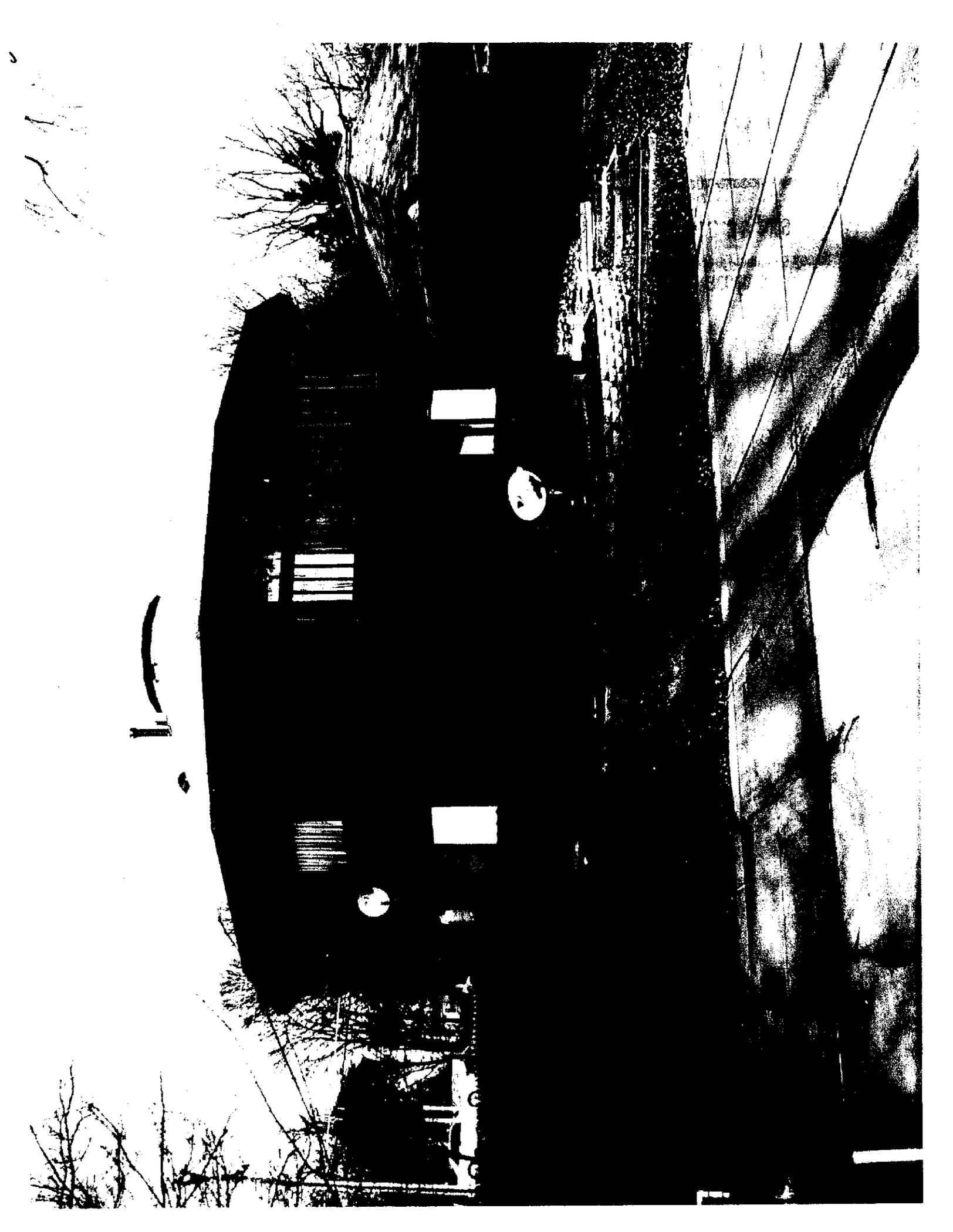




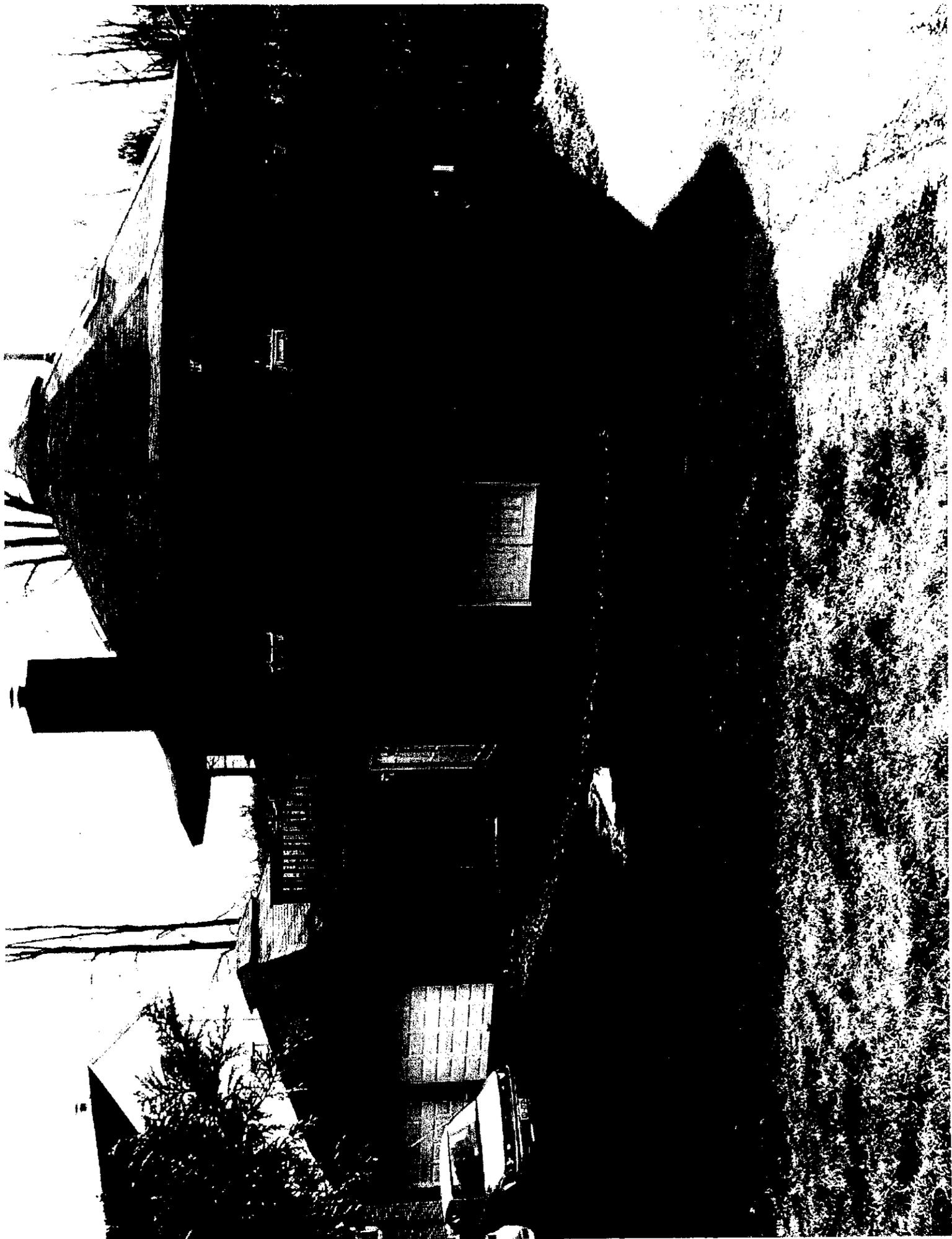






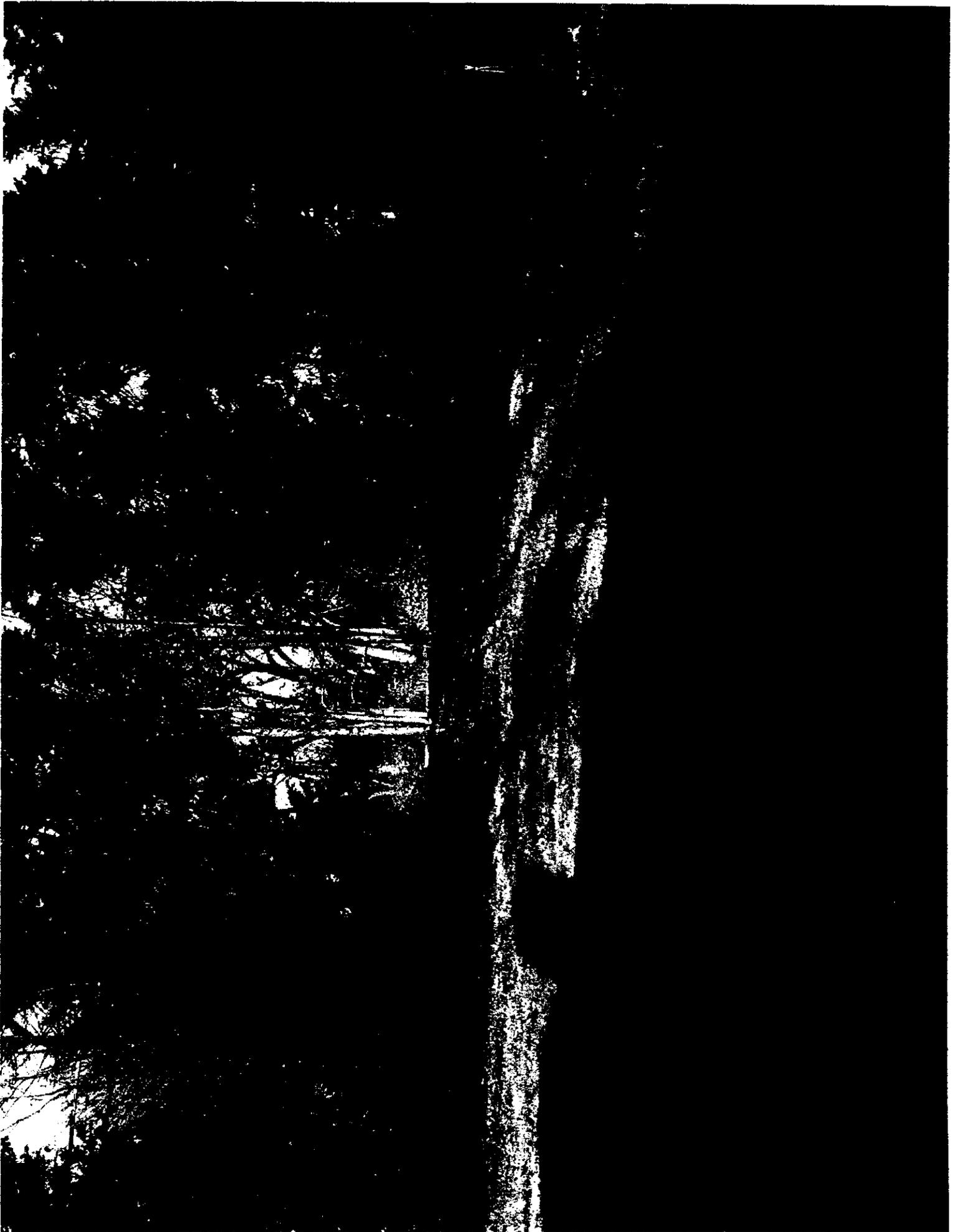












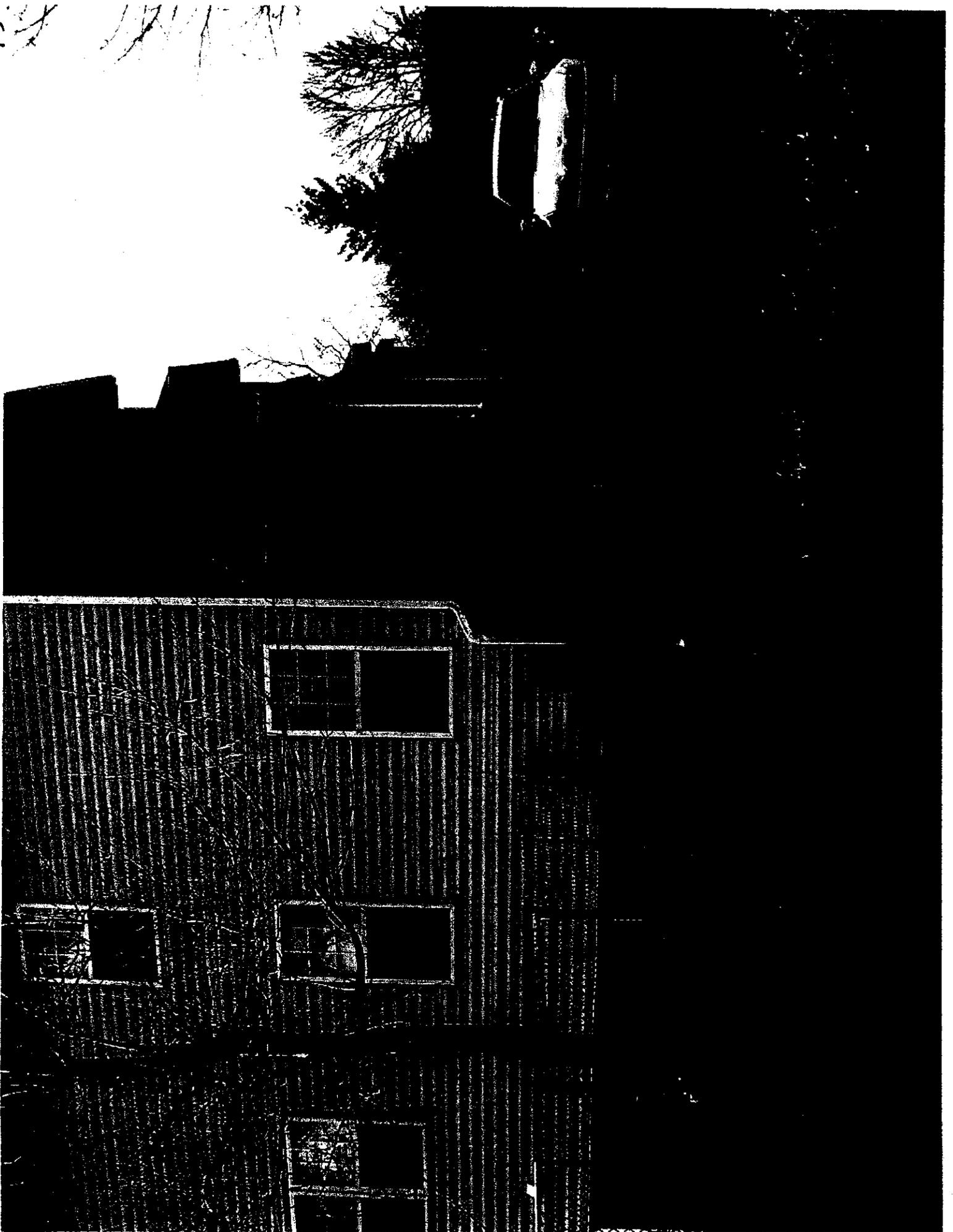


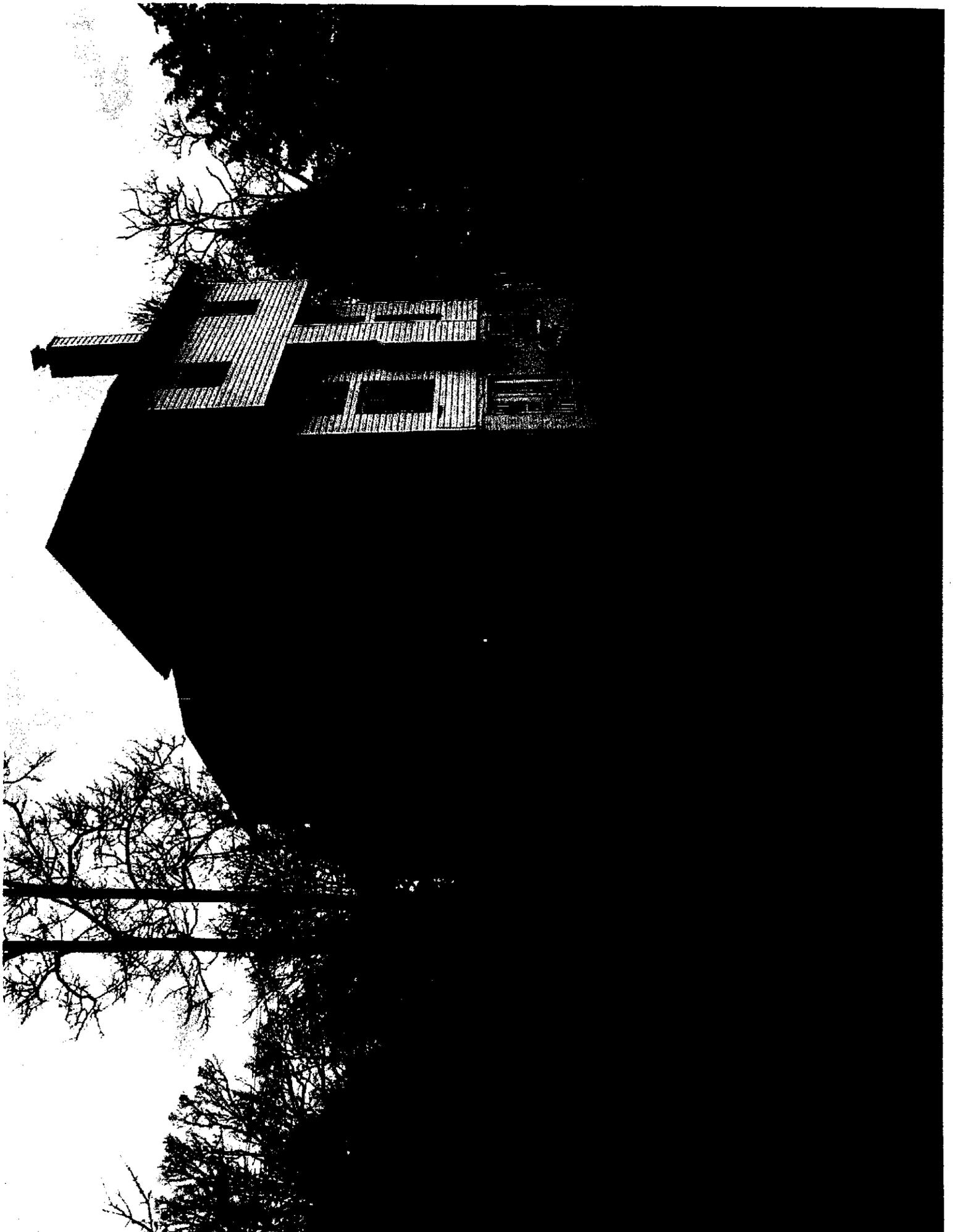






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**DESCRIPTION OF THE APPLICATION**

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

**Size of Principal Dwelling:** 1,978 square feet

**Size of Accessory Dwelling Unit:** 570 square feet

**Lot Size:** 18,475 square feet

\*The accessory dwelling unit will be located in a portion of the principal dwelling's ground floor. The proposed floor plan is included as Appendix 4. The unit will include one (1) bedroom, a full bathroom, kitchenette and living area.

**LOCATION AND CHARACTER**

**Existing Site Description**

The 18,975 square foot subject site is located along Columbia Pike near the intersection of Columbia Pike and Lincolnia Road in the Englandboro subdivision. The site is developed with a two-story single-family detached house, which is shaped as a tetradecagon (a polygon with 14 sides and angles), and a two-car garage. A swimming pool is located in the rear yard. An asphalt driveway extends from Columbia Pike along the front of the house and garage. Mature vegetation lines the front and side (east) of the lot, and the grade slopes downward towards the house from Columbia Pike.

**Surrounding Area Description**

<b>Direction</b>	<b>Use</b>	<b>Zoning</b>
<b>North</b>	Single Family Detached Dwelling	R-2
<b>South</b>	Single Family Detached Dwelling	R-2
<b>East</b>	Single Family Detached Dwelling	R-2
<b>West</b>	Single Family Detached Dwelling	R-2

## **BACKGROUND**

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

## **ANALYSIS**

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

**Title of SP Plat:** Property Report, Lot 4, Section 2, Englandboro

**Prepared By:** Certified Real Estate Services, Ltd.

**Dated:** August 11, 2003

### **Proposed Use:**

The applicant requests a special permit to allow an accessory dwelling unit in a portion of the existing single family detached dwelling's ground floor area. The single family detached dwelling has a total of 1,978 square feet of living area on two (2) floors. There are two (2) bedrooms, one full bathroom and a living area on the ground floor. 570 square feet of the dwelling's ground floor will be separated by a wall within the main residence to create the accessory dwelling unit. The accessory dwelling unit will have one (1) bedroom, the full bathroom, a kitchenette, and living area, which will be 28.8% of the home's total living area. The proposed square footage is less than the 35% permitted maximum of the total gross floor area of the principal dwelling unit. A separate main entrance to the proposed accessory dwelling unit already exists.

The applicant previously had an accessory dwelling unit on the ground floor. Following a complaint, the site was inspected on December 4, 2009, and a Notice of Violation (NOV) was issued on December 7, 2009 for excessive dwellings. A second dwelling unit, which included a kitchen, was constructed on the ground floor without the required permits. After the inspection, the applicant removed the kitchen, which was confirmed with a second inspection on December 11, 2009. The case was then closed due to the applicant's compliance with the NOV. The applicant also filed this special permit application at that time.

## **ZONING ORDINANCE PROVISIONS**

### **Special Permit Requirements (See Appendix 8)**

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

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

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

## **CONCLUSIONS AND RECOMMENDATIONS**

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Therefore staff recommends approval of SP 2010-MA-011 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

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

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

## **APPENDICES**

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Proposed Accessory Dwelling Unit Floor Plan
5. Notice of Violation dated December 7, 2009
6. Fairfax County Department of Transportation Analysis
7. Urban Forest Management Analysis
8. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2010-MA-011****April 27, 2011**

If it is the intent of the Board of Zoning Appeals to approve SP 2010-MA-011 located at Tax Map 61-3 ((3)) 4 to permit an accessory dwelling unit under Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen in the accessory unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Saresh Shah and/or Rajinder Shah, and is not transferable without further action of this Board, and is for the location indicated on the application, 6413 Columbia Pike (18,475 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Certified Real Estate Services, Ltd., dated August 11, 2003, and approved with this application, as qualified by these development conditions.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 570 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit prior to occupancy.

8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. All parking shall be provided on site as shown on the special permit plat.

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

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



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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/3/2016  
 (enter date affidavit is notarized)

I, SARESH SHAM, 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      107116a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
SARESH SHAM	6413 COLUMBIA PIKE ANNANDALE VA 22003	<b>OWNER/APPLICANT</b>
RAJINDER SHAM	6413 COLUMBIA PIKE ANNANDALE VA 22003	<b>OWNER</b>
A. TAYLOR HOLLAND ESQ.	405 WASHINGTON ST. SUITE 101 FOLLS CHURCH VA 22046	<b>ATTORNEY</b>

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

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

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

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/5/2010  
(enter date affidavit is notarized)

107116a

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

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

**CORPORATION INFORMATION**

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

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

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

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

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

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

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

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2 | 3 | 2010.  
(enter date affidavit is notarized)

107116a

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)

N/A

(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: 2/5/2010  
(enter date affidavit is notarized)

107116a

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: 2/5/2010  
(enter date affidavit is notarized)

107116a

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

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

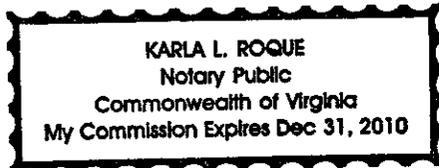
Subscribed and sworn to before me this 5<sup>th</sup> day of FEBRUARY 2010, in the State/Comm. of ARLINGTON/VIRGINIA County/City of ARLINGTON



Notary Public

My commission expires: DEC. 31<sup>st</sup> 2010

#7033060.



February, 16th 2010

Mary Ann Godfrey, Senior Staff Coordinator  
Zoning Evaluation Division, DPZ  
6413 Columbia Pike,  
Annandale, VA 22003  
Phone: 703-3241280

Revised -Statement of Justification – For a Special Permit

Re: Application No: SP-2010-MA-011 - 6413 Columbia Pike Annandale VA 22003

There is no addition being proposed in respect of the Special Permit Application.

However, we are proposing safety since we now have a need to travel out of the USA many times during a year on business, very often over periods exceeding more than 2 months at a time and the property remains unoccupied during this period. This poses a great risk to our property since various perils covered under our hazard insurance become voided.

Therefore, we need the second dwelling which can be rented out so that the building is occupied and hence preserves our hazard insurance with full coverage because the insurers will not pay out a claim on unoccupied properties and our house is our biggest financial asset. In the event of an unfortunate incident, insurer not paying out a claim for an unoccupied property we would suffer a loss and not be able to restore the building and by rights could become even homeless. This could also mean a loss to the Fairfax County and the spoilage to neighborhood.

However, there is need to enact a 2<sup>nd</sup> kitchen on lower ground floor so that it can be rented out as a second dwelling to a tenant. Since tenants need privacy we need to give them a self-contained dwelling to their satisfaction. Therefore we are Applying for a special permit.

We qualify for the special dwelling permit by satisfying all the conditions listed below:

- 1) Our House is a Single Family Dwelling Unit
- 2) The accessory dwelling unit is within the structure of the structure of the main building with its own entrance door.
- 3) The accessory dwelling unit has 2 Bedrooms, a full bath and an extra area living area where it is intended to build a small kitchenette to make it rentable.
- 4) The Gross Floor area of the accessory dwelling unit does not exceed 35% of the total gross floor area of the principal main dwelling. \*\*

\*\* The Measurements are 1978 (as per tax records) and the accessory dwelling unit 651 sq ft which represents 33.42% of the total Living area of the entire house 1948 sq.

\*\*\*Please see the enclosed attachment of the measurements done by Weichert Realtors original document, however, one was already E-mailed to Virginia Ruffner.

- 5).The upper dwelling unit is used by us as owners, (me and my wife) and it has its own separate entrance.
- 6) I am over the age of 55 and herewith enclose a notarized copy of my driver's license as a proof for the same.
- 7) The accessory dwelling unit shall meet the applicable regulations for building safety, health and regulations.
- 8) The tenant will be assigned a separate parking space on our driveway.

Furthermore, we have well water and this requires continuous injection of Iron-Fighting salt. If the property is rented out we can get the Tenant to inject this Iron-Fighting salt. Should this not be done timely all our plumbing for the whole house will erode during our absence. Having tenants who will be assigned such tasks of water treatment etc, including lawn care (to comply with county rules) as a condition of their lease will eliminate such risks and secure safety.

Please note that as a result of putting in a second Kitchen on the ground floor, there will be no additional impact on the adjacent properties, such as noise, light, air erosion, storm water runoff because we are merely proposing internal modification within the original structure of the main building which is already safe by putting in a second Kitchen.

We have our own self contained specific driveway with adequate space for a few cars and a garage. As listed on page 1 the tenant will be assigned a car parking space of their own in their lease terms on the side of the house on our driveway. Hence, there would be no parking problems what so ever that can cause neighborhood parking issues either.

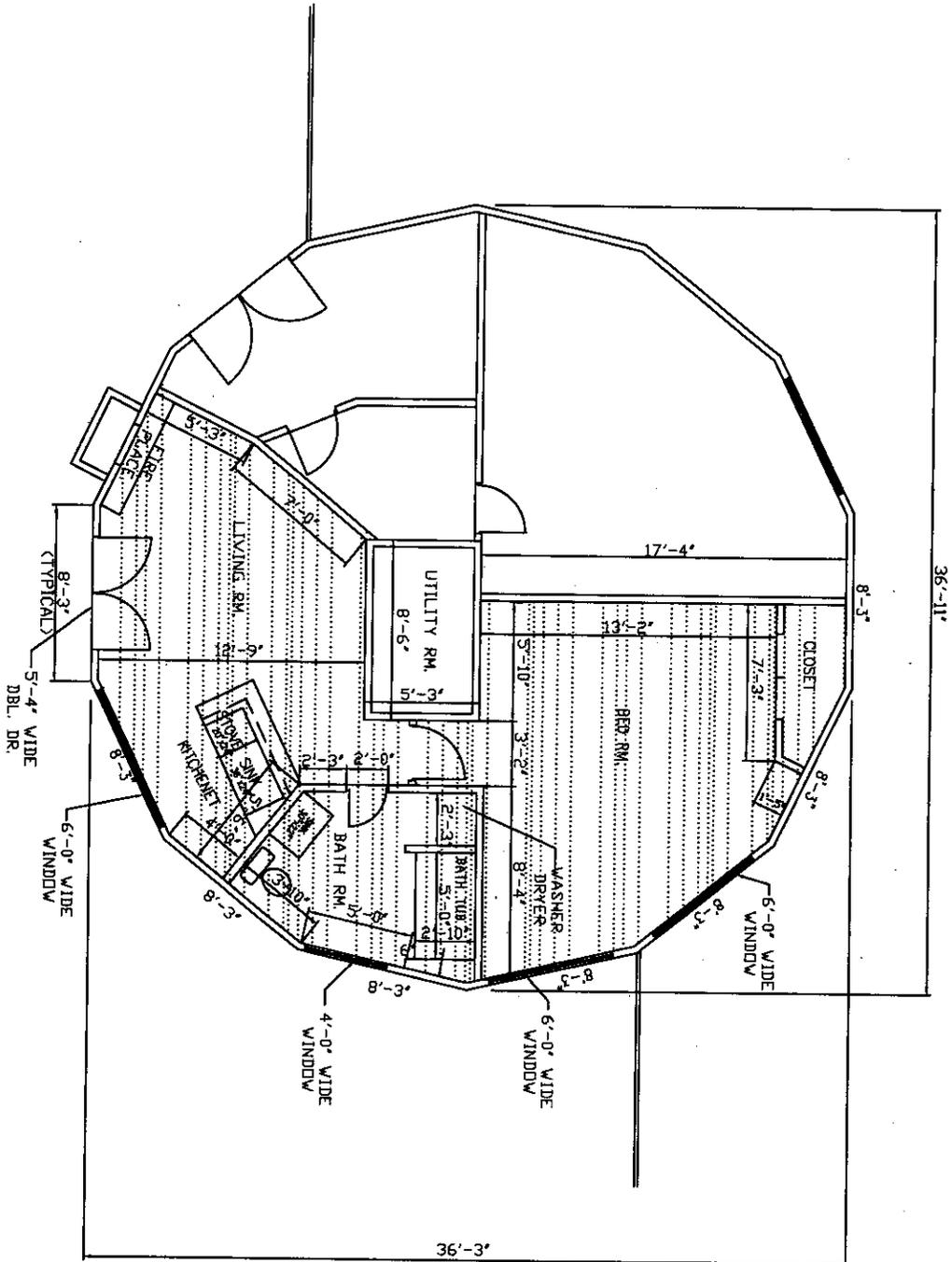
Whilst our special permit application is in progress, we suffered a water leak just this month and were able to attend to sort out the claim and emergency repairs with the All State because I was here and had not traveled out of the USA and with that recent experience we would appreciate if you could approve this Special Permit, as soon as possible so that our property remains occupied for safety.

Since we travel out of the USA for periods many times during a year the, best way to contact us is via the phone which works overseas at the USA local USA rate i.e. 703-738- 0514 and the E-mail: [fsg@saresh.com](mailto:fsg@saresh.com) .

Although our contact point is our Attorney Taylor Holland of 405, North Washington St, Suite 101, Falls Church VA 220461, Phone 703-568-9088 (and we attach a letter herewith our special permit application to put him as our agent acting on our behalf for the purposes of helping us get the permit), we would like to copied via E-mail also on the progress of our application and called also.

Prepared by,

**DR SARESH SHAH**



LOWER LEVEL FLOOR PLAN

NOTES:

TOTAL EXISTING RESIDENTIAL LIVING SFT. = 1978  
 SFT (2 LEVELS)

TOTAL LOWER LEVEL SQUARE FOOTAGE = 1034  
 SFT.

PROPOSED RENTAL SPACE SQUARE FOOTAGE =  
 570 SFT IS 28.8% OF THE TOTAL LIVING AREA



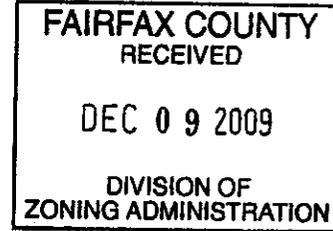
# County of Fairfax, Virginia

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

## NOTICE OF VIOLATION

**DATE OF ISSUANCE:** December 7, 2009

### SHERIFF'S LETTER



**CASE #:** 200907456 **SR#:** 56502

**SERVE:** Saresh Shah  
Rajinder Shah  
6413 Columbia Pike  
Annandale, VA 22003

**LOCATION OF VIOLATION** 6413 Columbia Pike  
Annandale, VA 22003-2028  
Englandboro, Sec. 2, Lot 4  
Tax Map #: 0613 03 0004  
Zoning District: R-2

Dear Property Owners:

An inspection of the above referenced property on December 4, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

#### **§ 2-501 Excessive Dwelling Units:**

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in

Department of Planning and Zoning  
Zoning Administration Division  
Zoning Enforcement Branch  
12055 Government Center Parkway, Suite 829  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 FAX 703-324-1343  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

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

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

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

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A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$2455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Saresh Shah  
Rajinder Shah  
December 7, 2009  
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Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1330 or 703-324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Peggy Delean". The signature is fluid and cursive, with the first name "Peggy" being more prominent and the last name "Delean" following in a similar style.

Peggy Delean  
Property Maintenance/Zoning Enforcement Inspector

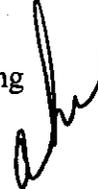


## County of Fairfax, Virginia

**MEMORANDUM**

DATE: March 3, 2010

**TO:** Regina Coyle, Director  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Angela Kadar Rodeheaver, Chief   
Site Analysis Section  
Department of Transportation

**SUBJECT:** Transportation Impact

**REFERENCE:** SP 2010-MA-011; Saresah Shah  
Land Identification Map: 61-3((3))4

Transmitted herewith are the comments of the Department of Transportation with respect to the referenced application. These comments are based on the informational packet made available to this department dated February 24, 2010 and the plat contained within dated August 11, 2003.

Although the proposed application for an accessory dwelling unit would not create any significant additional impacts on the surrounding public street system; adequate "on-site" parking needs to be provided for the use. Other than including the parking notation, this department would not object to the approval of the subject application.

AKR/mdd



## County of Fairfax, Virginia

**MEMORANDUM**

March 3, 2010

**TO:** Mary Ann Godfrey, Zoning Evaluation Division, Department of Planning and Zoning

**FROM:** Ineke Dickman, Urban Forester II  
Forest Conservation Branch, DPWES

**SUBJECT:** Englandboro Section 2 Lot 4 (6413 Columbia Pike), SP 2010-MA-011  
9470-ZONA-002-1

Urban Forest Management Division staff has reviewed the above referenced Special Permit request for an accessory dwelling unit within the existing single family residence, stamped as received by the Department of Planning and Zoning, Zoning Evaluation Division, December 30, 2009. There are no tree issues related to this project and we recommend approval of this SP request.

Please let me know if you have any questions.

AID/  
UFMID #: 148803

cc: RA File  
DPZ File



## **ZONING ORDINANCE PROVISIONS**

### **8-006 General Standards**

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

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

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

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

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

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

### **8-918 Additional Standards for Accessory Dwelling Units**

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

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

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:

A. One of the dwelling units shall be owner occupied.

B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:

(1) Any person fifty-five (55) years of age or over and/or

(2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration

signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

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

C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:

(1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.

(2) A group of not more than four (4) persons not necessarily related by blood or marriage.

6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:

A. Uninterrupted access to one (1) entrance; and

B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.

8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.

9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.

11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.

12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.

13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.