



APPLICATION ACCEPTED: March 8, 2011
BOARD OF ZONING APPEALS: May 25, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

May 18, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-PR-019

PROVIDENCE DISTRICT

APPLICANT/OWNER: Diane Mandell Horwitz

SUBDIVISION: Five Oaks Estates

STREET ADDRESS: 2995 Steven Martin Drive

TAX MAP REFERENCE: 48-3 ((37)) 32

LOT SIZE: 5,637 square feet

ZONING DISTRICT: R-5

ZONING ORDINANCE PROVISIONS: 8-922

SPECIAL PERMIT PROPOSAL: To permit reduction of certain yard requirements to permit construction of an addition (screen porch) 12.9 feet and deck 12.9 feet from the rear lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2011-PR-019 for the addition and deck, subject to the proposed development conditions contained in Appendix 1.

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

O:\SMCKN\SP\MANDELL HORWITZ SP 2011-PR-019\Staff Report Mandell Horwitz.doc

Shelby Johnson

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.

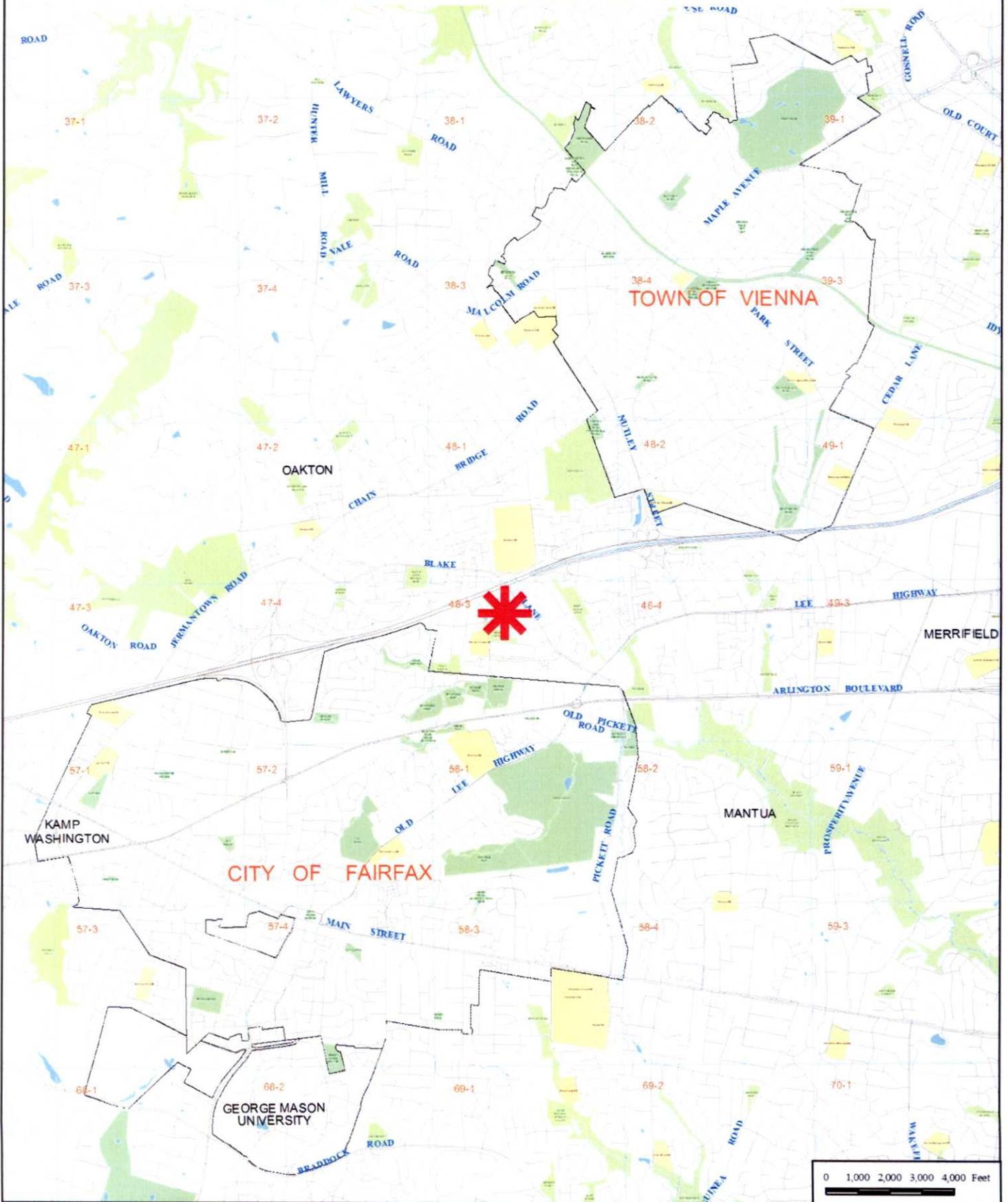
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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.**

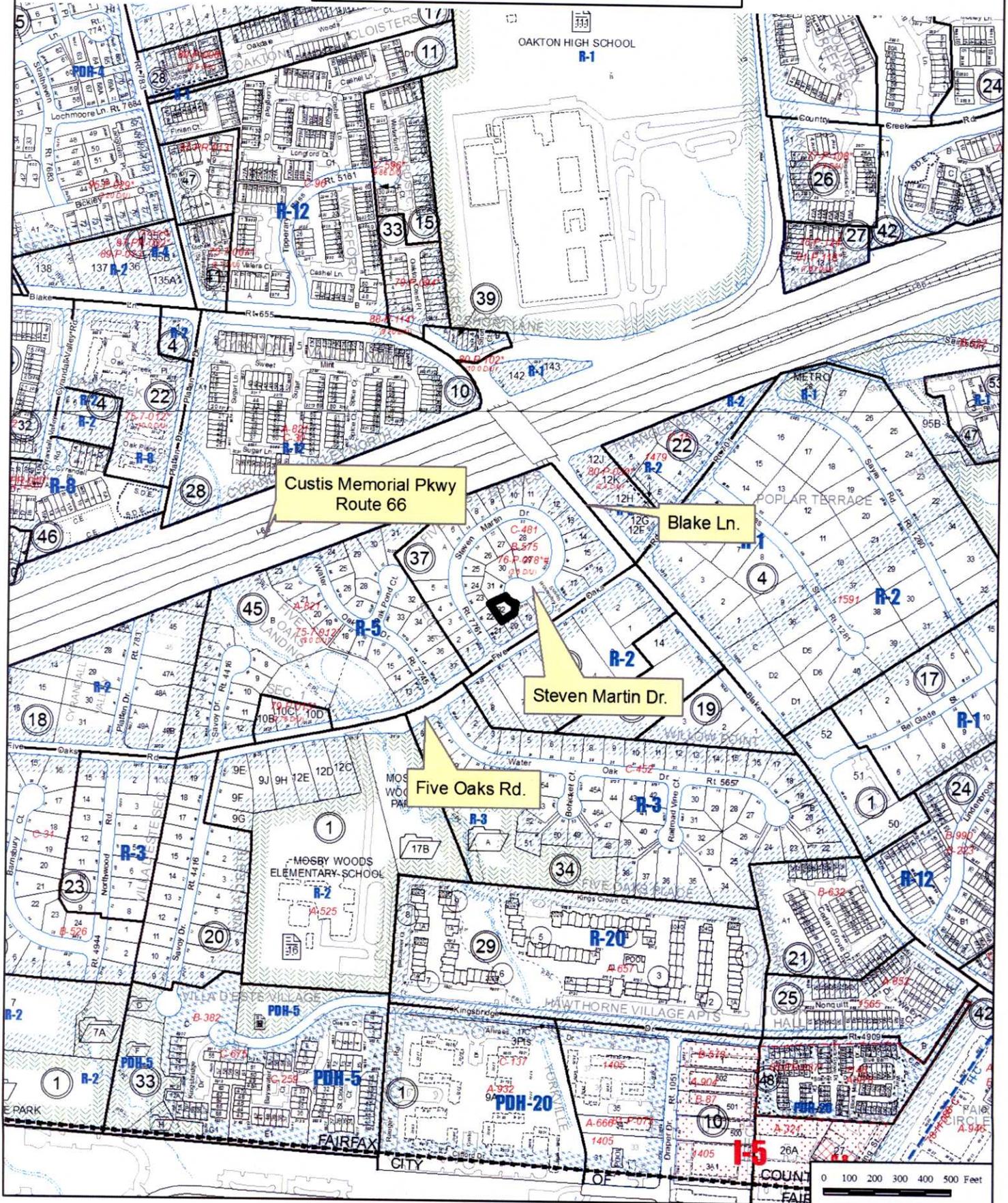


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2011-PR-019
DIANE MANDELL HORWITZ



Special Permit
SP 2011-PR-019
DIANE MANDELL HORWITZ



Custis Memorial Pkwy
Route 66

Blake Ln.

Steven Martin Dr.

Five Oaks Rd.



NOTES

1. THE PROPERTY DELINEATED HEREON IS LOCATED ON FAIRFAX COUNTY TAX MAP #048-3-37-0032 AND IS CURRENTLY ZONED R-5.
2. NO VISIBLE EVIDENCE OF CEMETERIES OR BURIAL GROUNDS ON THE SURVEYED PREMISES WERE FOUND.
3. THERE ARE NO EXISTING PUBLIC EASEMENTS WITH A WIDTH OF 25' OR GREATER ON THE SUBJECT PROPERTY. NO TITLE REPORT PROVIDED.
4. THE SUBJECT PROPERTY IS SERVED BY PUBLIC SEWER AND WATER.
5. FLOOR AREA RATIO:
 EXISTING FLOOR AREA: 1414 SQ. FT.
 PROPOSED FLOOR AREA: 1539 SQ. FT.
 FLOOR AREA RATIO: 109%
6. THE PROPOSED HEIGHT OF FINISHED FLOOR FROM FINISHED GROUND LEVEL:
 PROPOSED HEIGHT OF DECK AND SCREEN PORCH: 8.7'
 EXISTING DECK: 8.7'

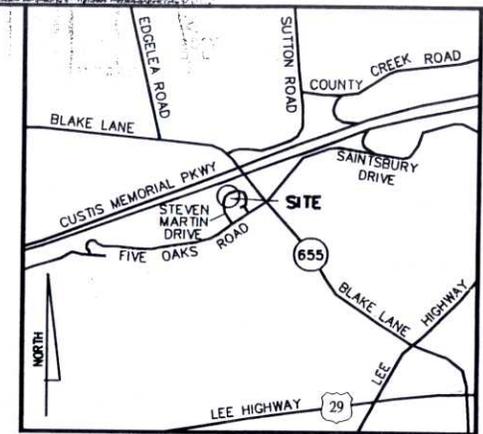
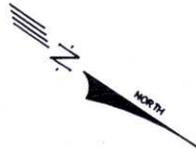
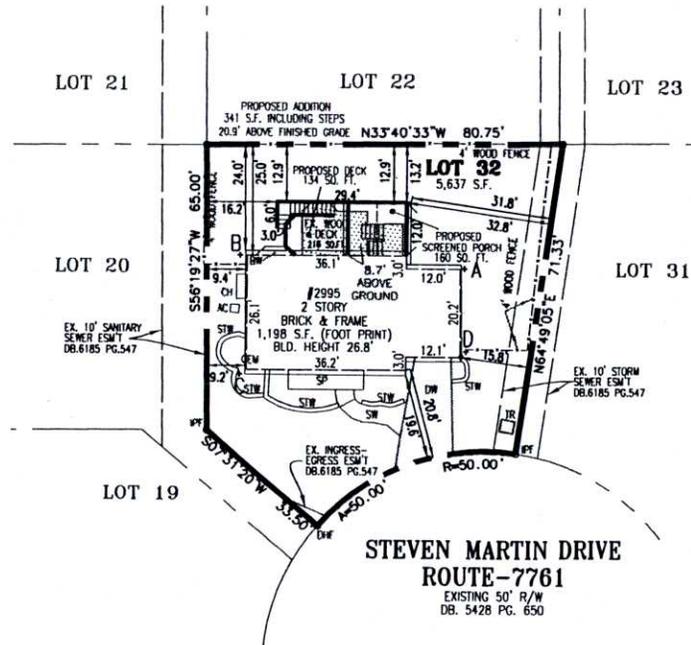
ZONING

ZONED: R-5 - (RESIDENTIAL DISTRICT, FIVE DWELLING UNITS/ACRE)

MAXIMUM BUILDING HEIGHT
 SINGLE FAMILY DWELLINGS 35 FEET

MINIMUM YARD REQUIREMENTS
 FRONT YARD: 20 FEET
 SIDE YARD: 8 FEET
 REAR YARD: 25 FEET

OWNER
 DIANE E MANDELL
 2995 STEVEN MARTIN DRIVE
 FAIRFAX, VA 22031
 DB.10518 PG.11



VICINITY MAP
 SCALE: 1" = 2000'

LEGEND

- AC AIR CONDITIONER
- BW BAY WINDOW
- CH CHIMNEY
- CD CLEANOUT
- DHF DRILL HOLE FOUND
- DW CONCRETE DRIVEWAY
- EM ELECTRIC METER
- FN FENCE
- FP IRON PIPE FOUND
- SP STONE PORCH
- STW STONE WALL
- SW SIDEWALK
- TR TRANSFORMER

EAVE HEIGHT

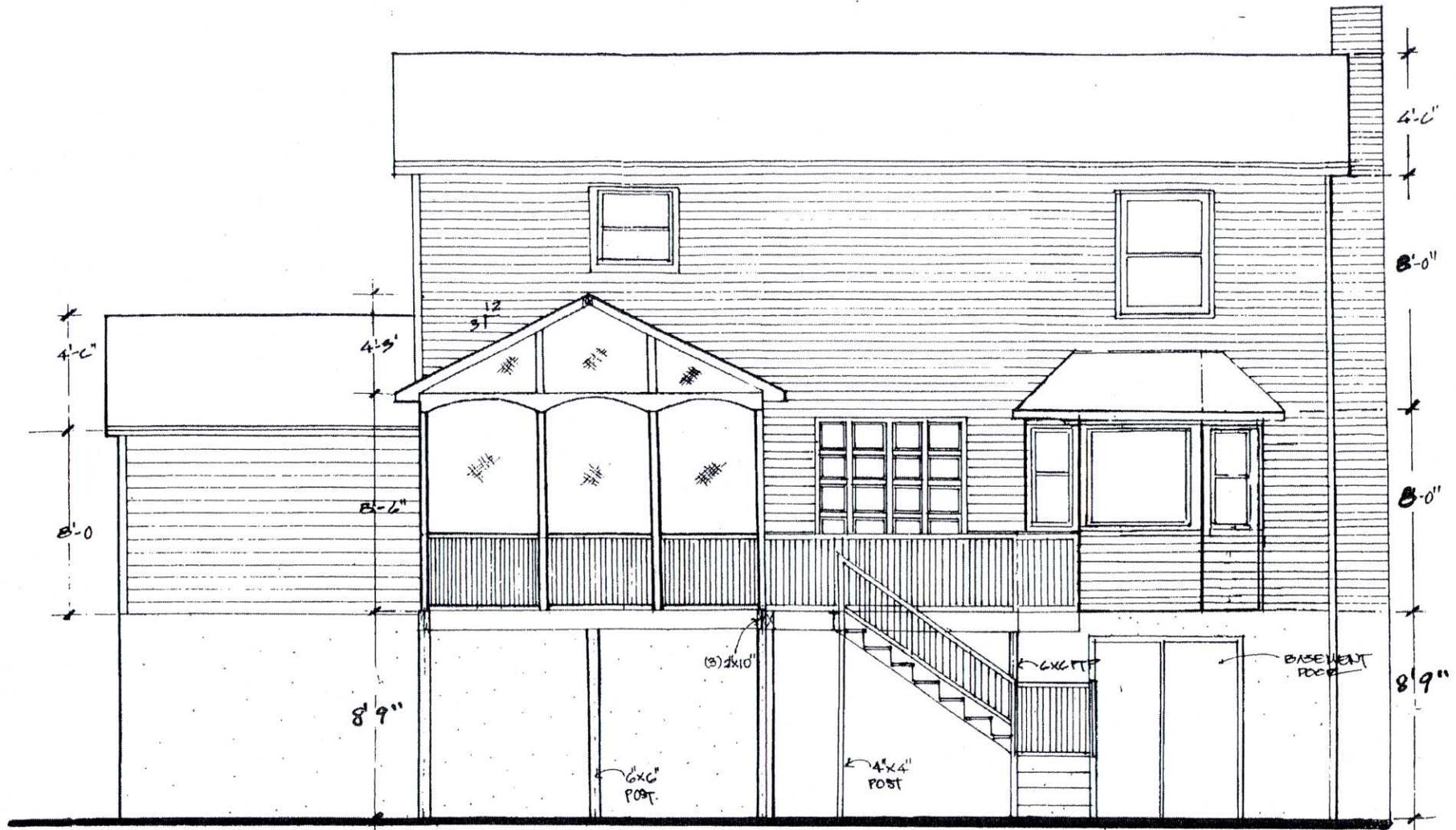
- A EAVE HEIGHT 14.41' ABOVE GROUND
- B EAVE HEIGHT 25.55' ABOVE GROUND
- C EAVE HEIGHT 21.72' ABOVE GROUND
- D EAVE HEIGHT 9.35' ABOVE GROUND



SPECIAL PERMIT PLAT
LOT 32
FIVE OAKS ESTATES
 DB. 5428 PG. 641
 PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20' DATE: FEBRUARY 2011



urban.
 Urban, Ltd.
 7712 Little River Turnpike
 Annandale, Virginia 22003
 Tel. 703.642.8080
 www.urban-ld.com
 Planners - Engineers - Landscape Architects - Land Surveyors



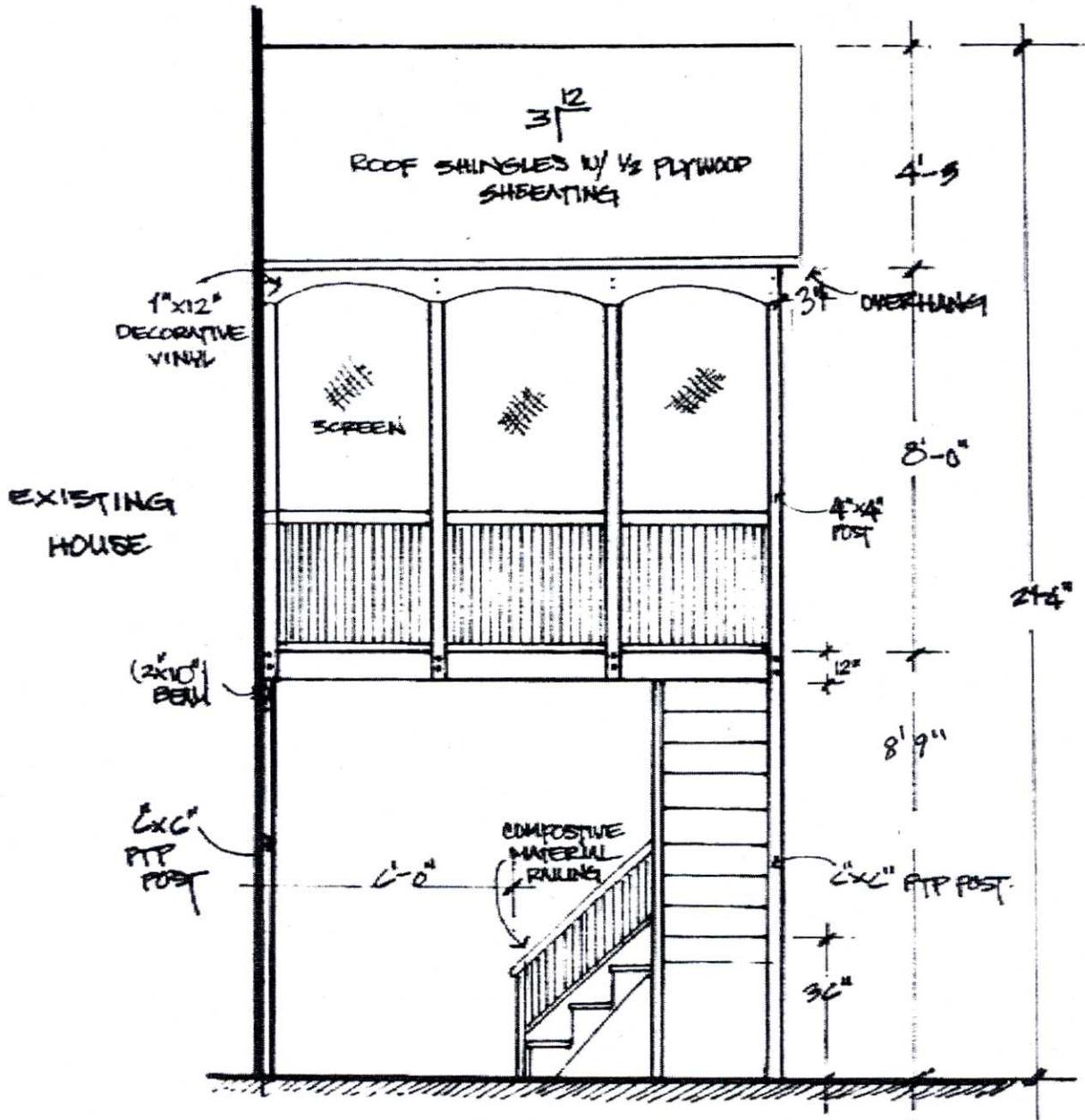
FRONT ELEVATION

SCALE $\frac{1}{4}'' = 1'-0''$

SP 2010-0284

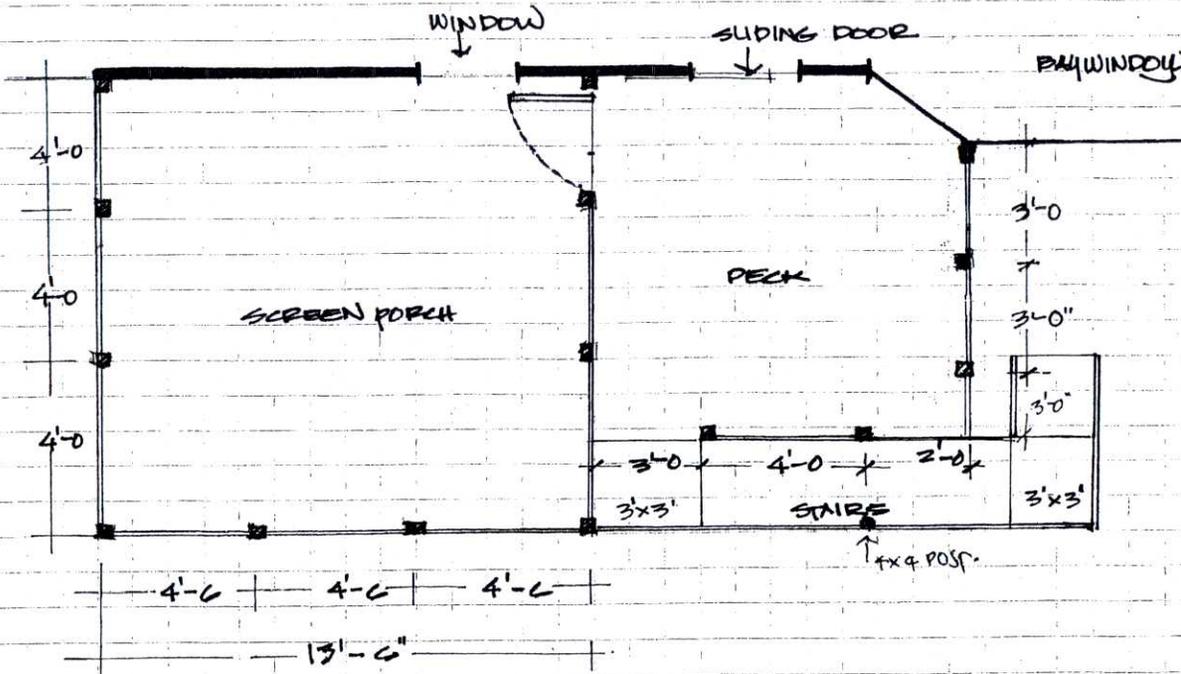
2995 Steven Martin Dr., Fairfax VA 22031

3/1/11



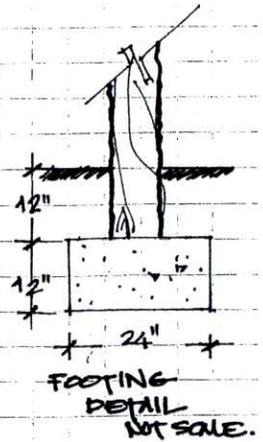
LEFT ELEVATION

SCALE 1/4" = 1'

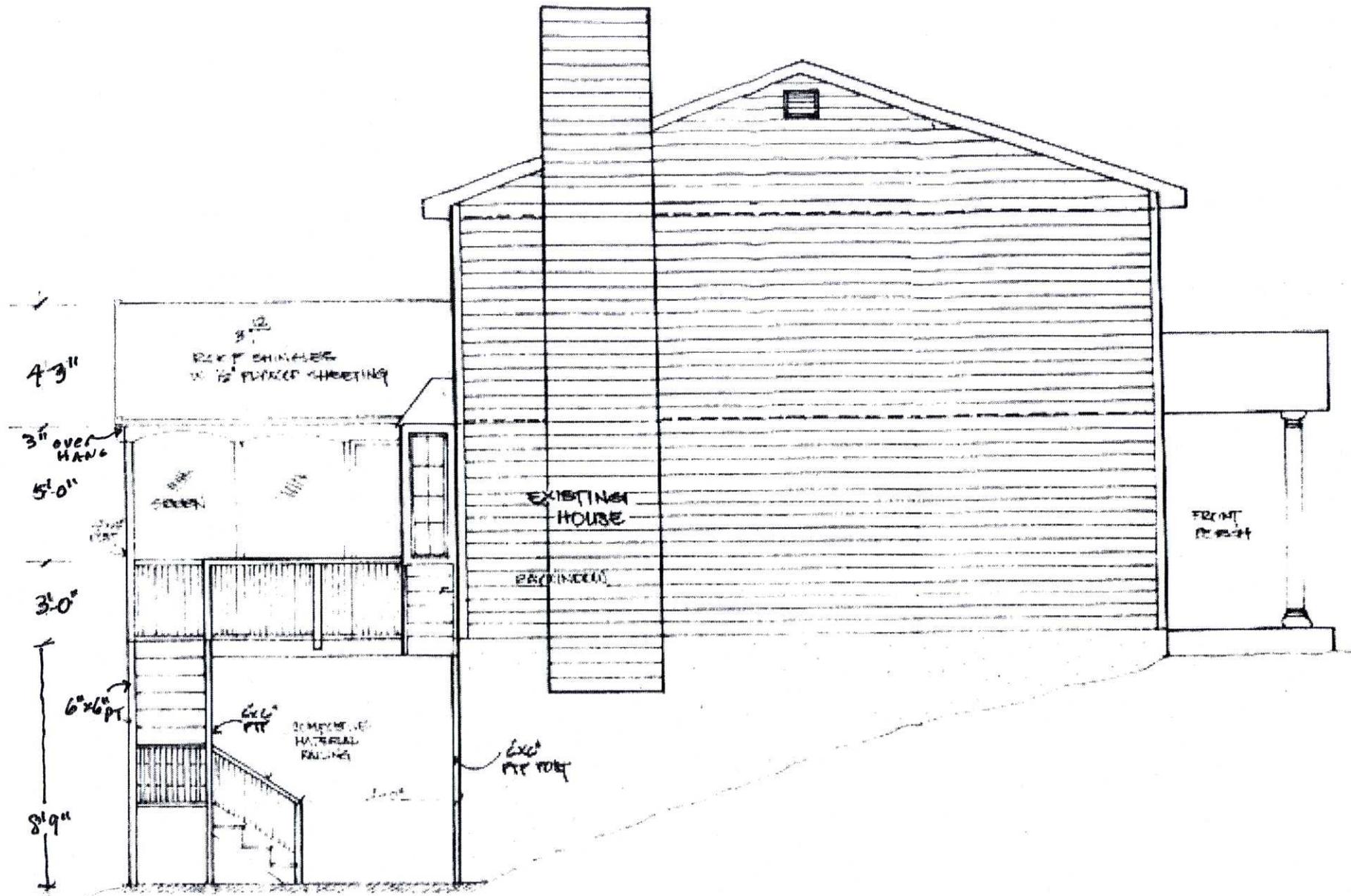


FLOOR PLAN

NOT SCALE



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Department of Planning & Zoning
DEC 21 2010
Zoning Evaluation Division

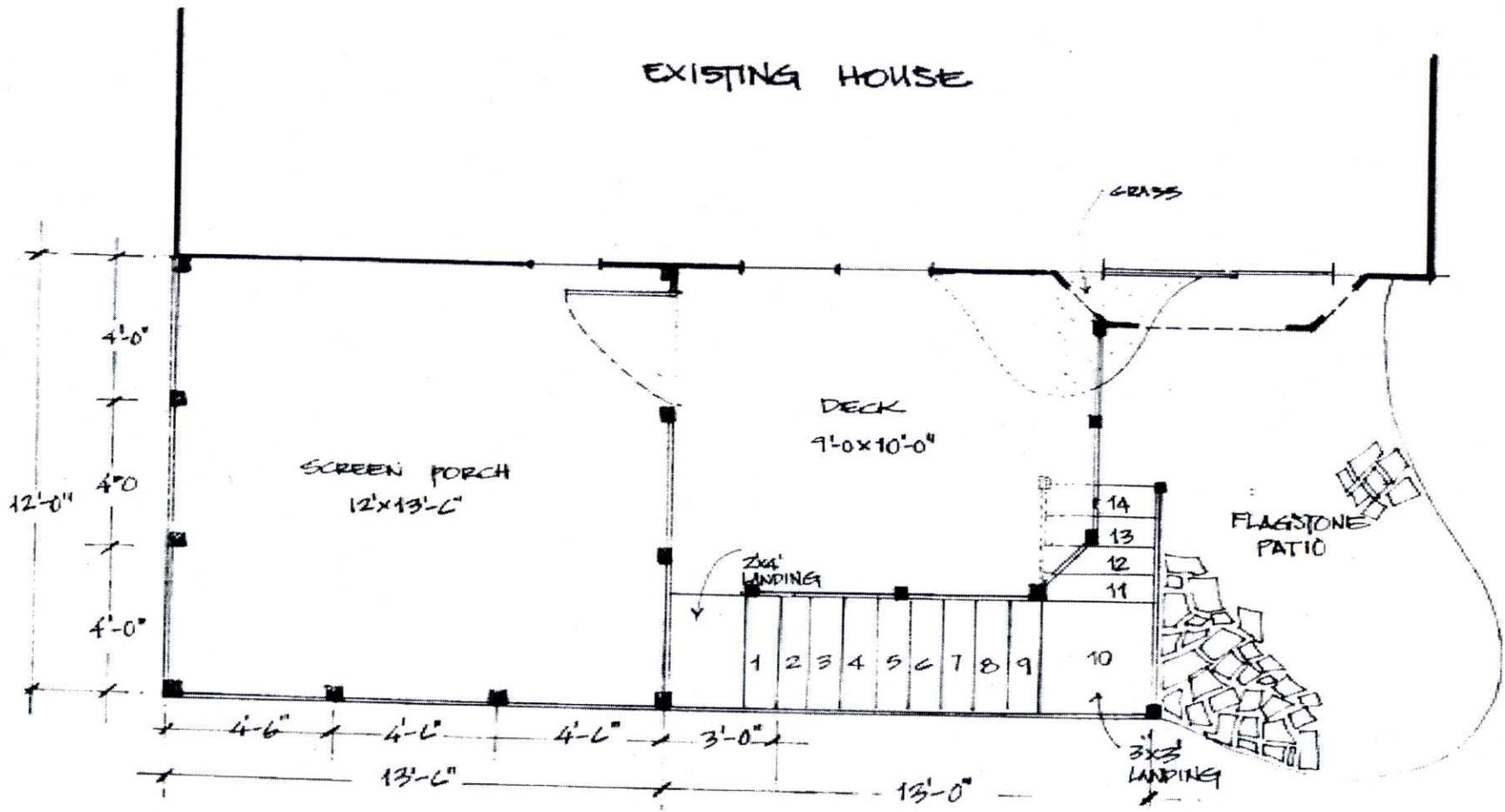


RIGHT ELEVATION

SCALE 1/4" = 1'-0"

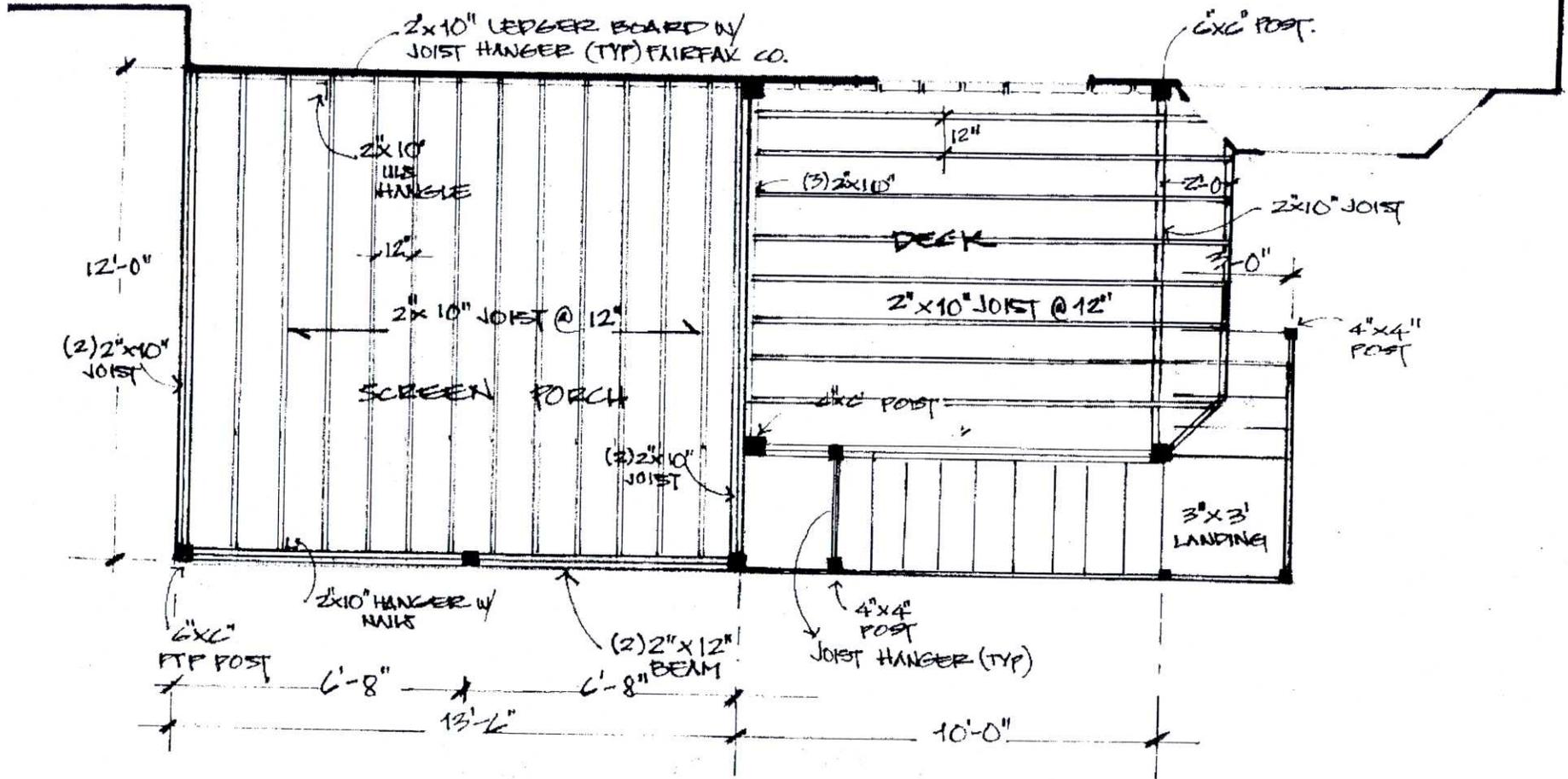
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SP 2010-0284



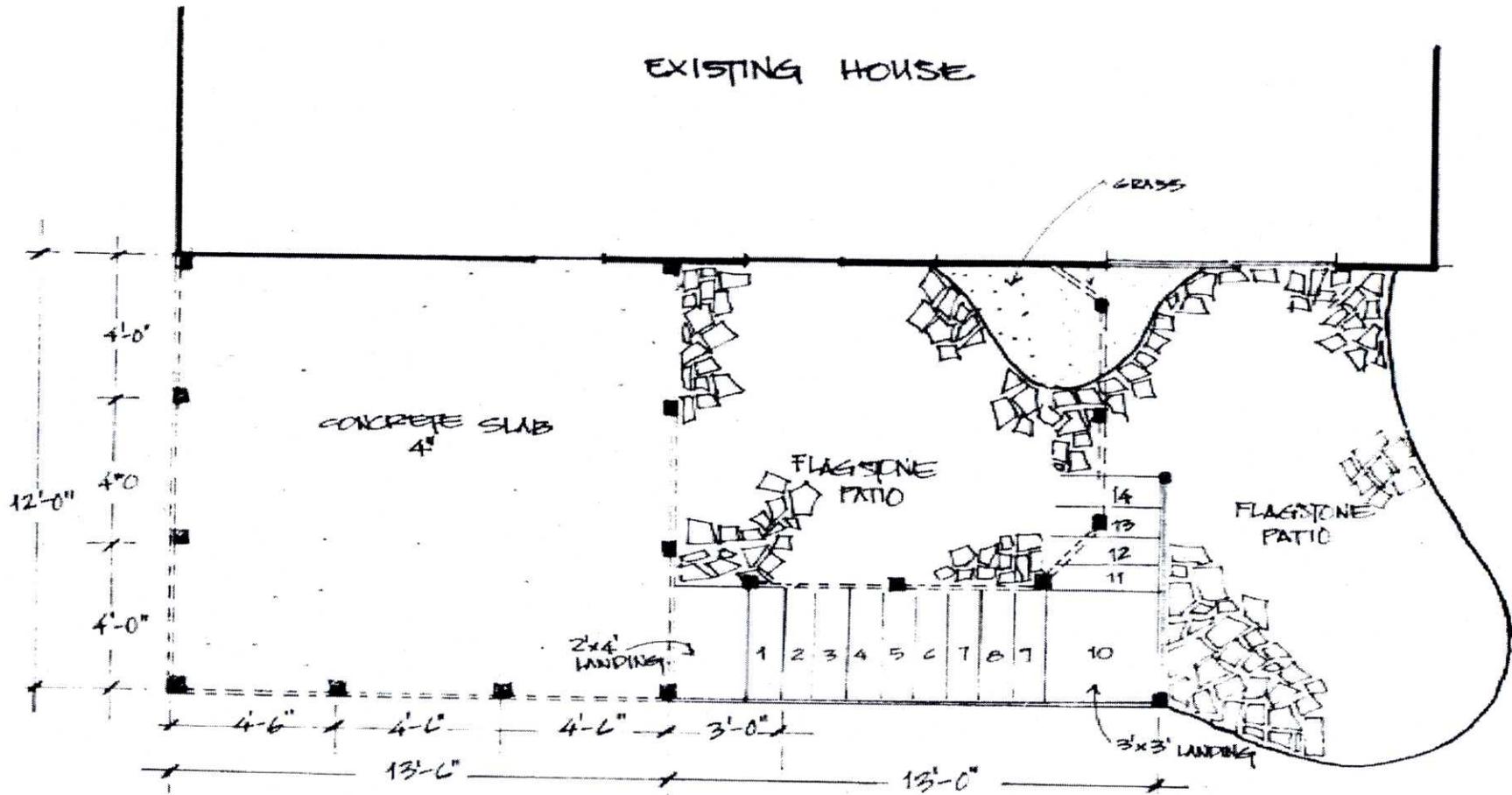
FLOOR PLAN
SCALE 1/4" = 1'-0"

EXISTING HOUSE



FLOOR FRAMING

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



LANDSCAPING PLAN

(GROUND LEVEL)

SCALE $\frac{1}{4}" = 1'-0"$

View down property line on Right side of house looking towards house behind ours



Rear of our house from right property line, current deck with "sunscreen" lattice
Note Rubbermaid "Shed", 4 foot wide, 8 feet tall, next to house



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Planning Evaluation Division

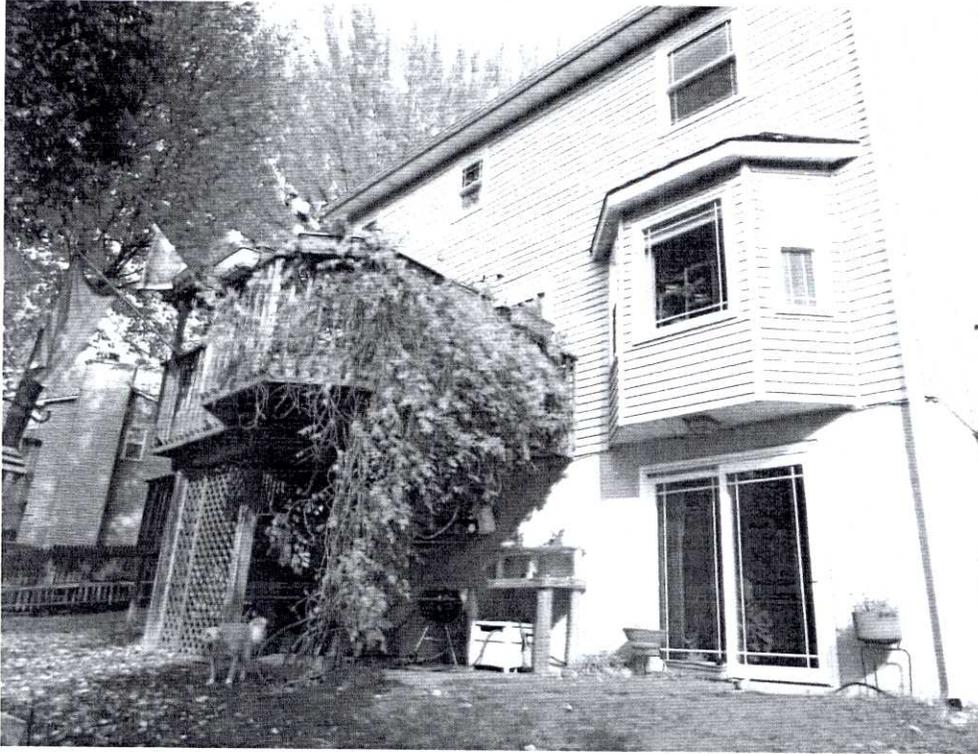
Current deck looking towards the rear of house – to be replaced by new deck and screen porch.

The screen porch will be on the left from this view and the deck on the right.
Screen porch to start about 5 feet left of window (at the edge of the corner).
The deck will be on the right side, and stairs will be installed at outside right edge of the new deck, with a 3x3 platform that turns the stairs toward our house, with stairway to end facing the house.

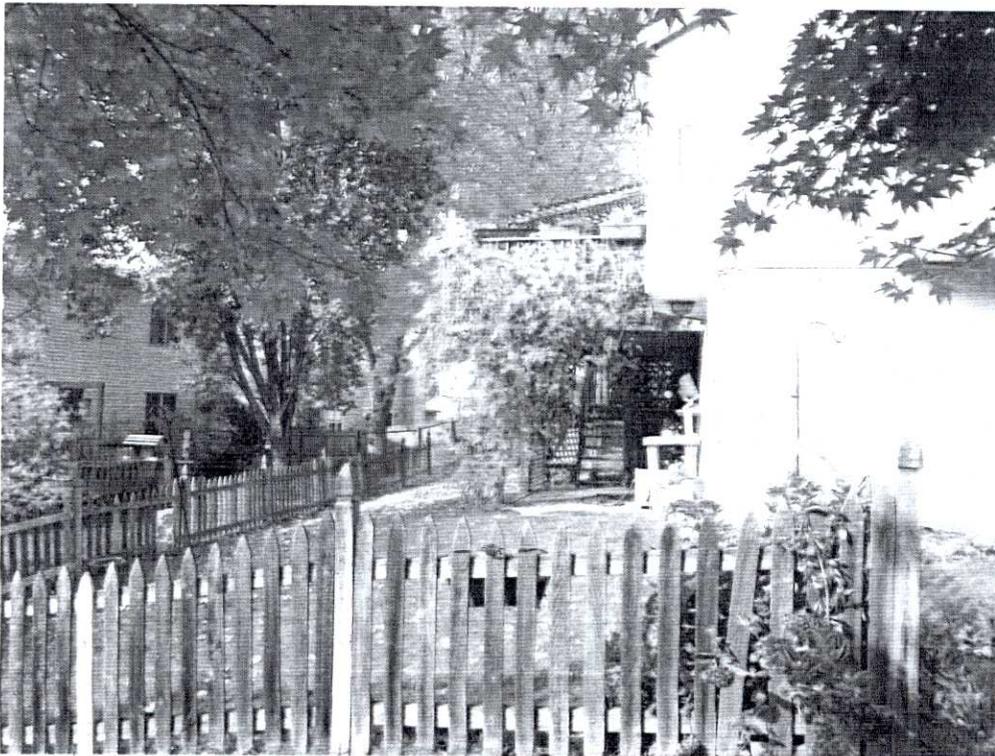


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Department of Planning & Zoning
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Planning Evaluation Division

Current deck from other side of back yard



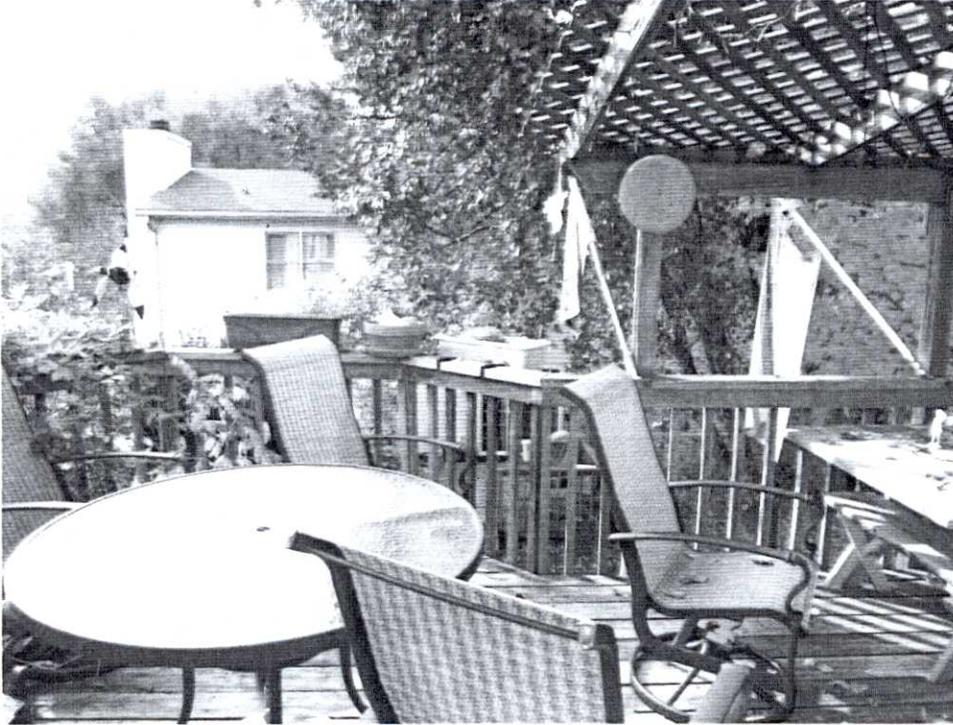
Another view, from side of yard in neighbor's yard walking towards the front of the house



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Zoning Evaluation Division

THESE VIEWS ARE FROM THE VANTAGE POINT OF OUR CURRENT DECK, LOOKING FROM THE DECK OUTSIDE TO THE NEIGHBOR'S YARDS. All of these neighbors have indicated that the deck and screen porch are acceptable (see Attachment 1 to Statement of Justification).

Current view straight back from deck



View towards neighbor on left



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Zoning Evaluation Division

Another view looking left towards neighbor's house



View of neighbor on the right side

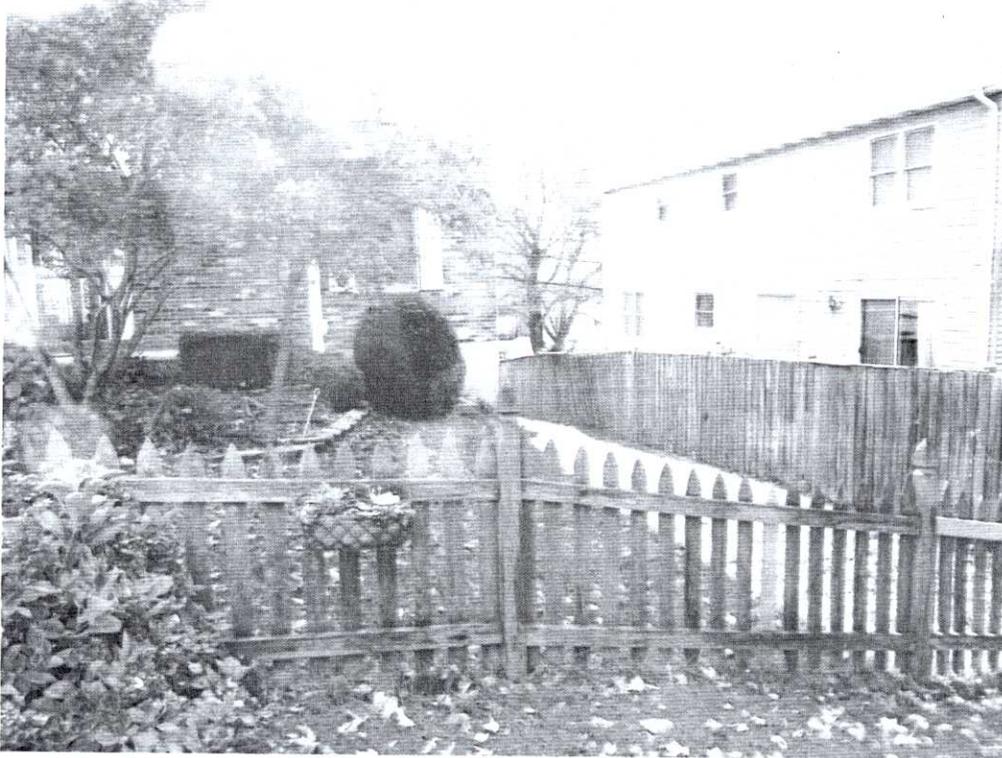


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View from our property on ground level towards the left



View from our house ground level straight back



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Department of Planning & Zoning

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Zoning Evaluation Division

View from our house at ground level towards the right



RECEIVED
Department of Planning & Zoning

DEC 21 2010

Zoning Evaluation Division

DESCRIPTION OF THE APPLICATION

The applicant is seeking approval of special permit requests for the reduction of certain yard requirements to permit the construction of an elevated screen porch addition and deck both of which are proposed to be located 12.9 feet from the rear lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Proposed Reduction	Percent of Reduction
Special Permit Req. #1	Addition (screen porch)	Rear	25.0 feet	12.9 feet	12.1 feet	48.4%

* Minimum yard requirement per Section 3-507

	Structure	Yard	Minimum By-right Yard with Permitted Extension	Proposed Location	Proposed Reduction	Minimum Yard Permitted per Section 8-922 Par. D	Percentage of Reduction Requested
Special Permit Request #2	Deck	Rear	13.0 feet**	12.9 feet	0.1 feet	7.0 feet***	0.77%

**Minimum yard requirement per Section 3-507 with permitted extension for an open deck with floor higher than 4.0 feet per Section 2-412.

***Note:

The R-5 District requires a minimum rear yard of 25.0 feet. Per Section 2-412 as noted above, an open deck with any part of its floor higher than 4.0 feet above finished grade is permitted to extend 12.0 feet into the minimum required rear yard which establishes a new rear yard requirement of 13.0 feet. Paragraph D, Section 8-922 then provides that an applicant can request a 50% reduction to the permitted extension set forth in Section 2-412. The permitted extension is 12.0 feet, so a reduction of 6.0 feet may be requested under Section 8-922, which means that the applicant can request a reduction to as close as 7.0 feet from the rear lot line (13.0 feet – 6.0 feet = 7.0 feet).

EXISTING SITE DESCRIPTION

The 5,637-square foot lot is currently zoned R-5 and developed with a two-story, single family detached dwelling. County records indicate that the dwelling was constructed in 1986 and consists of approximately 1,872 square feet of above-ground living area. The site is accessed via a concrete driveway that extends from the cul-de-sac on the east

side of Steve Martin Drive. The site contains mature vegetation consisting of deciduous trees, shrubs and ground cover located mostly in the front of the dwelling. A 10-foot wide storm sewer easement encumbers the length of the southern side lot line and a 10-foot wide sanitary sewer easement is located off-site, adjacent to the northern side lot line.

CHARACTER OF THE AREA

	Zoning	Use
North	R-5	Single-Family Detached Dwellings; Interstate 66
East	R-5	Single-Family Detached Dwellings
South	R-5; R-2	Single-Family Detached Dwellings
West	R-5	Single-Family Detached Dwellings

BACKGROUND

The Board of Zoning Appeals (BZA) has heard the following similar variance application in the vicinity of the application parcel:

- *Variance VC 01-P-010* was approved on April 18, 2001 for Tax Map 48-3 ((37)) 3, zoned R-5, at 3031 Steven Martin Drive, to permit addition 17.8 feet from rear lot line.

PLAT

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plat, Lot 32, Five Oaks Estates

Prepared By: Urban, LTD., dated February, 2011 and signed March 1, 2011 by Chad E. Jernigan, Land Surveyor

Proposal:

The applicant has two special permit requests. The first request is to permit the construction of an elevated screen porch addition measuring approximately 200 square feet in area and 21.0 feet in height to the highest point of the structure. The proposed screen porch addition will be located 12.9 feet, including eaves, from the rear lot line. The second special permit request is to permit the construction of a 144-square foot open deck at 8.9 feet in height to be located 12.9 feet from the rear lot line. The Zoning Ordinance requires a minimum rear yard of 25 feet in the R-5 Zoning District; therefore, a modification of 12.1 feet (48.4%) for the screen porch and, because an open deck can extend 12 feet into the rear yard, 0.1 feet (0.77%) for the proposed deck are requested.

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 meets all of the 8 General Special Permit Standards with notes regarding General Standards 3 and 5.

General Standard 3 requires that the proposed uses 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. *By observation of the neighborhood through submitted photographs, staff believes that the proposed screen porch addition and deck will not adversely affect the use or development of neighboring properties. Staff believes that the proposed structures will be located in the most logical location on the property as the screen porch addition extends the line of the existing deck along the width of the dwelling and the proposed deck replaces and slightly expands the footprint of an existing deck. The proposed construction appears to be in character with other structures in the neighborhood as seen in photos submitted by the applicant; therefore, staff believes 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 existing 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. *According to County records, the existing dwelling has 1,872 square feet of above-grade living area. Therefore 150% of the total gross floor area could result in an addition up to 2,808 square feet square feet in size for a possible total building size of 4,680 square feet at build out. The proposed screen porch addition is approximately 200 square feet in area, thereby realizing a total house size of*

2,072 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. The elevation drawings submitted indicate that the materials, size and scale of the proposed screen porch addition will be compatible with the existing structure. The addition is clearly subordinate in bulk and scale to the principal dwelling and the proposed addition will not create any additional height to the overall existing structure as the absolute height of the addition is proposed at approximately 21 feet and the existing roof line of the dwelling is approximately 26.8 feet. 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. With review of the photographs submitted, staff believes that the proposed improvements are compatible with the surrounding houses in the neighborhood. The surrounding neighborhood contains homes of similar size and height. The proposed exterior building materials are consistent with the on-site dwelling and compatible with those in the neighborhood. There is no significant vegetation that will be impacted by either the screen porch or deck. 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. The Department of Public Works and Environmental Services (DPWES) has confirmed that there is no Resource Protection Areas (RPA) or floodplains located on the property and no downstream drainage complaints have been found. Staff believes that this standard has been met.

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 proposed scale of the screen porch addition and deck is consistent with the dwelling and is proposed in a logical location utilizing, in part, the existing footprint of the previously constructed deck. There should be minimal impact to existing vegetation. Staff believes that the application meets this provision. Other issues of well, floodplains and/or Resource Protection Areas are not applicable to this site.

CONCLUSION

Staff believes that the subject application 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 2011-PR-019 for the addition and deck, 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 with Attachment 1
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-PR-019

May 18, 2011

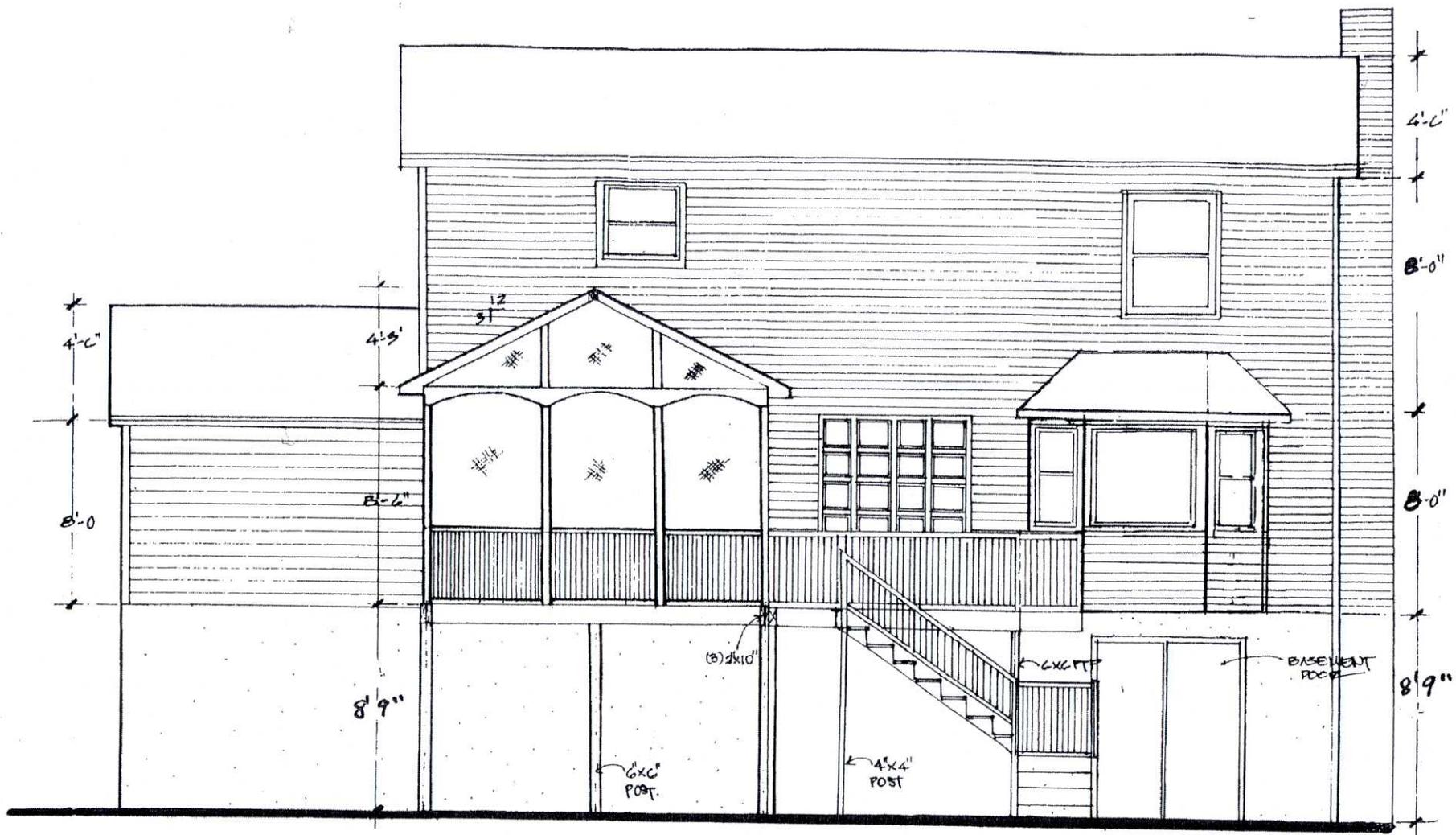
If it is the intent of the Board of Zoning Appeals to approve SP 2011-PR-019 located at 2995 Steven Martin Drive, Tax Map 48-3 ((37)) 32 to permit reduction of certain yard requirements pursuant to Section 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval 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 (approximately 200 square feet) of the screen porch addition and deck, as shown on the plat prepared Urban, LTD., dated February, 2011 and signed March 1, 2011 by Chad E. Jernigan, Land Surveyor, 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 (1,872 square feet existing + 1,808 square feet (150%) = 3,680 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 generally 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.

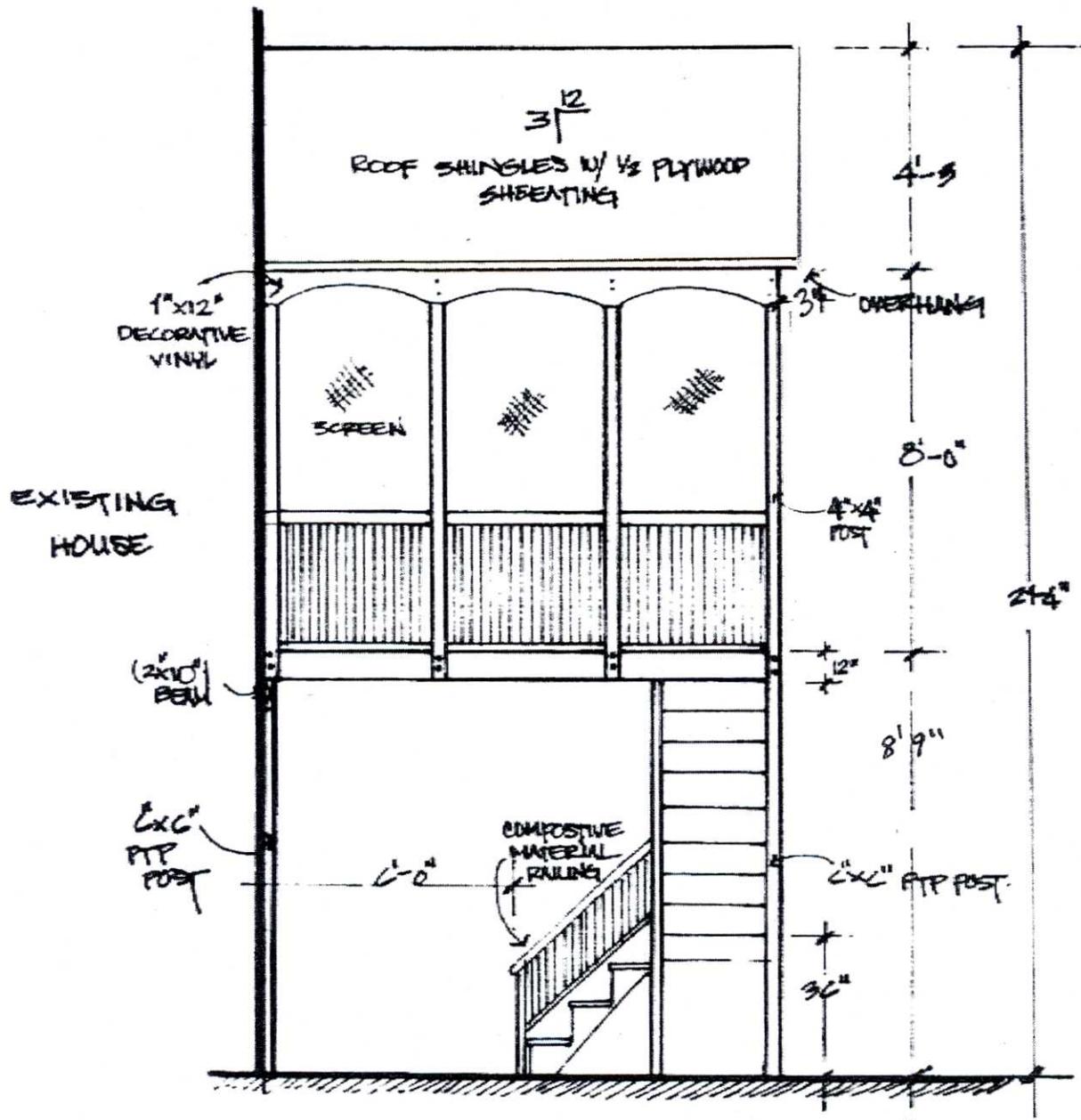


FRONT ELEVATION

SCALE 1/4" = 1'-0"

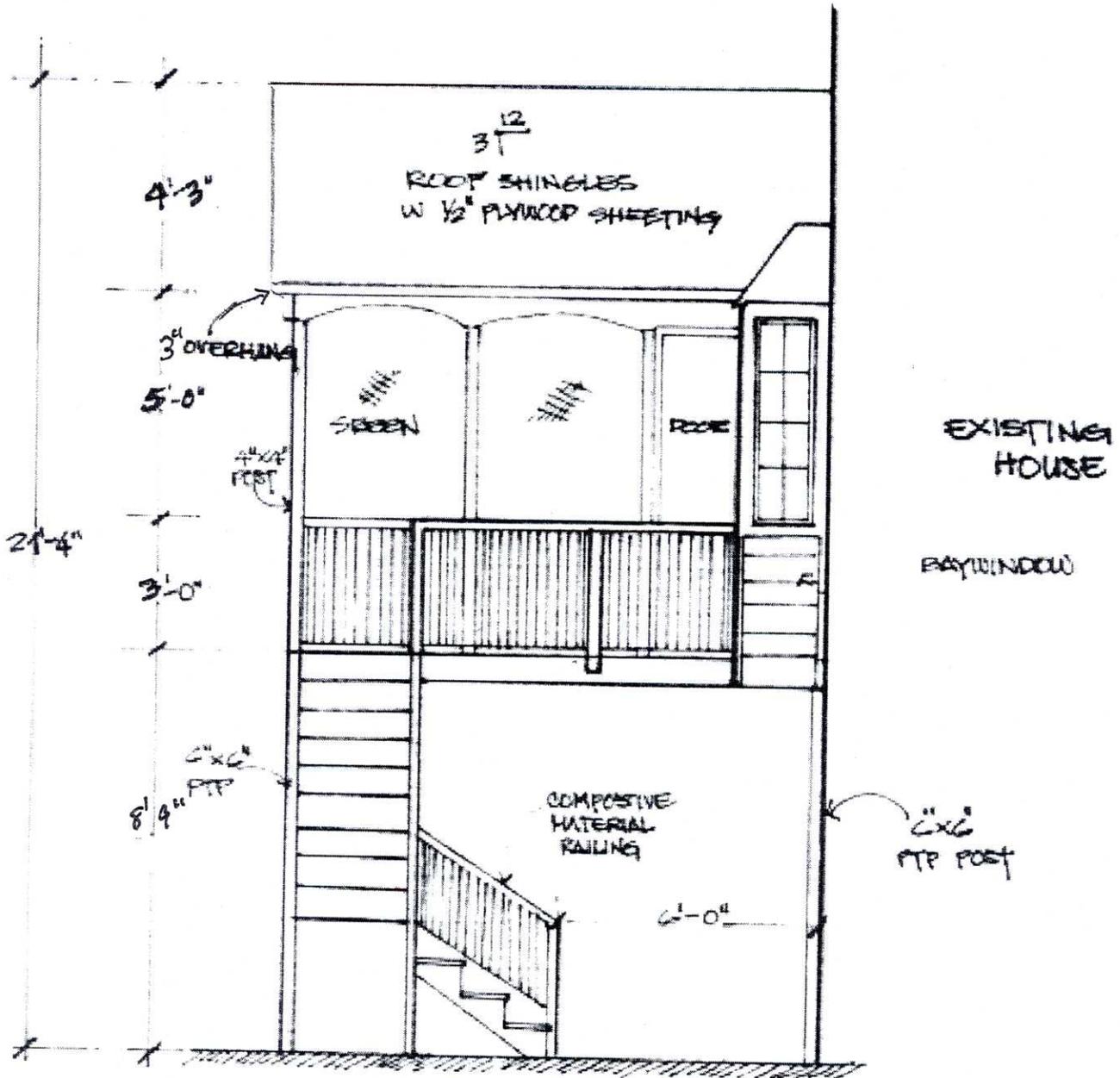
SP 2010-0284
 2995 Steven Martin Dr., Fairfax VA 22031

3/1/11



LEFT ELEVATION

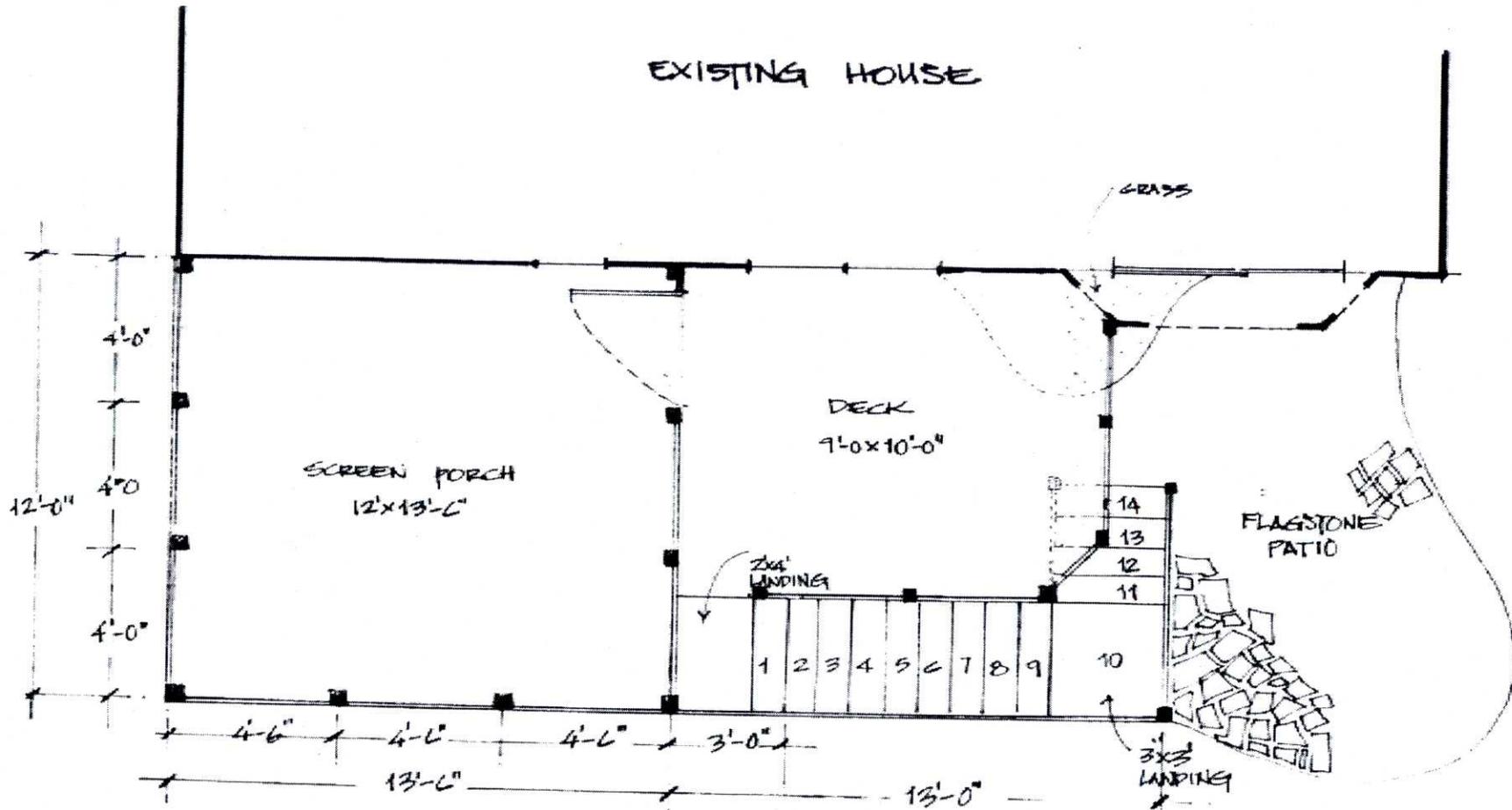
SCALE 1/4" = 1"



RIGHT ELEVATION

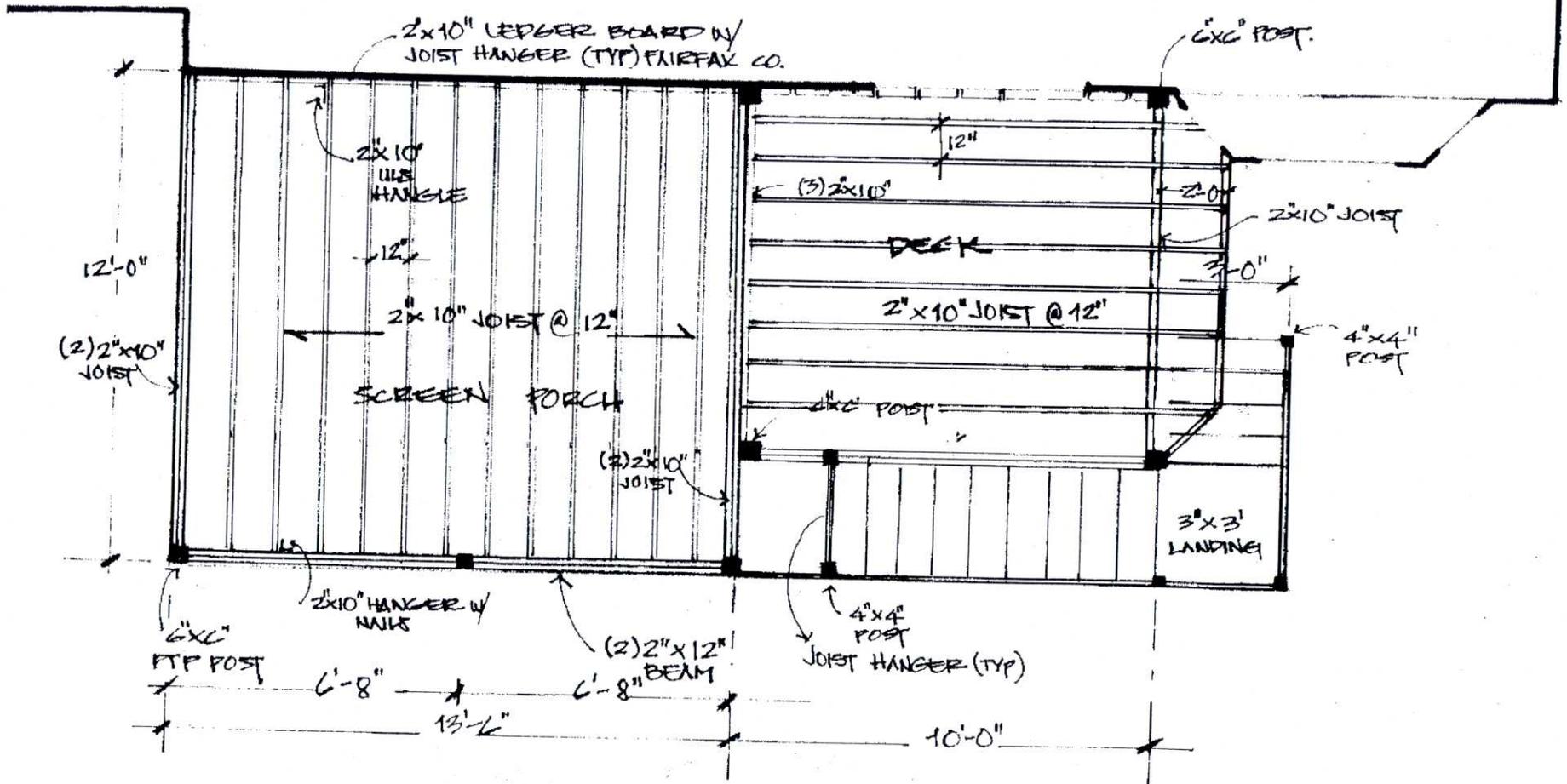
SCALE 1/4" = 1'-0"

EXISTING HOUSE



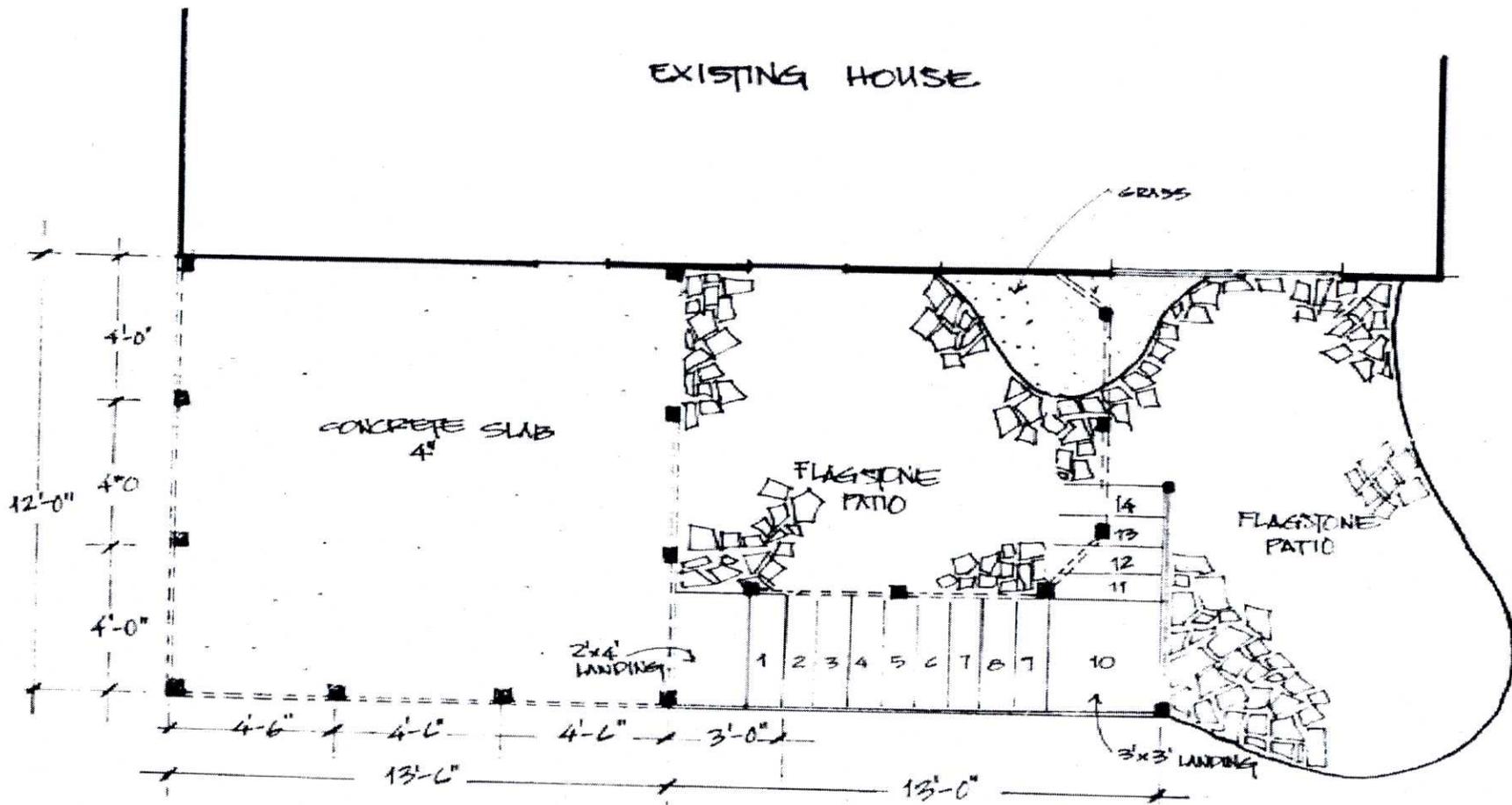
FLOOR PLAN
SCALE 1/4" = 1'-0"

EXISTING HOUSE



FLOOR FRAMING

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

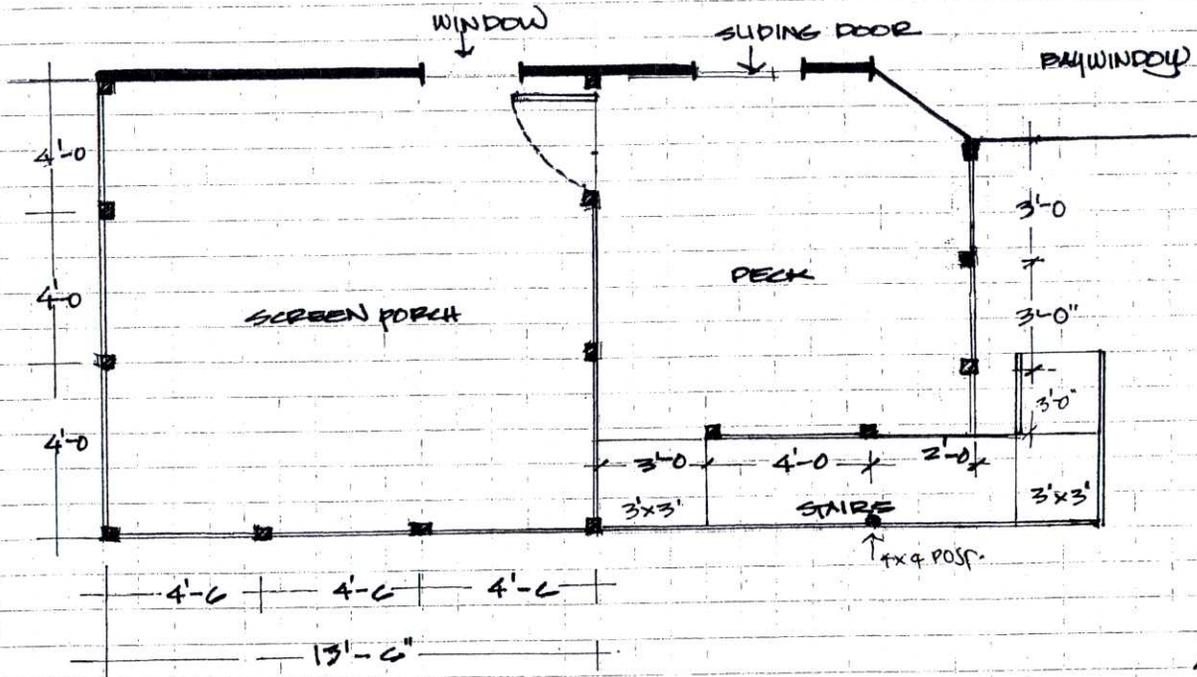


LANDSCAPING PLAN

(GROUND LEVEL)

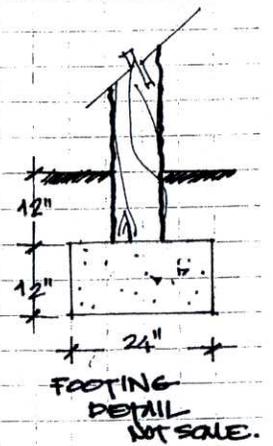
SCALE 1/4" = 1'-0"

SP 2010-0284
 2995 Steven Martin Dr., Fairfax VA 22031



FLOOR PLAN

NOT SCALE



RECEIVED
Department of Planning & Zoning
DEC 21 2010
Zoning Evaluation Division

Application No.(s): SP 2011-PR-019
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: NOV. 16, 2010
 (enter date affidavit is notarized)

I, Diane Mandell Horwitz, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant 110729
 applicant's authorized agent listed in Par. 1(a) below

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)
Diane Mandell Horwitz, also known of record as Diane Eliades Mandell	2995 Steven Martin Dr., Fairfax, VA 22031	Applicant/Title owner
Alexander Horwitz	2995 Steven Martin Dr., Fairfax, VA 22031	Agent

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

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

Application No.(s): SP 2011-PR-019
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Nov. 16, 2010
(enter date affidavit is notarized)

110729

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

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

CORPORATION INFORMATION

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

Not Applicable

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): SP 2011-PR-019
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Nov. 16, 2010
(enter date affidavit is notarized)

110729

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

PARTNERSHIP INFORMATION

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

Not Applicable

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

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

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

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

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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): SP 2011-PR-019
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Nov. 16, 2010
(enter date affidavit is notarized)

110729

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.)

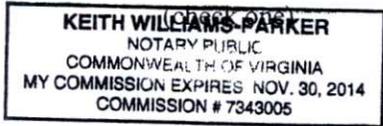
NONE

(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:



Danell Mandell Horwitz
 Applicant [] Applicant's Authorized Agent
Diane Mandell Horwitz
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16th day of November 2010, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: Nov. 30, 2014

STATEMENT OF JUSTIFICATION

This Special Permit application is a request for Reduction of Certain Yard Requirements. As such, Article 8-922 applies. Therefore, the statement of justification will address each section of this article.

Description of Deck and Screen Porch:

We are proposing to replace a currently existing deck with a new deck and screen porch of approximately the same dimensions. We would like to add a new deck and screen porch to the same location at the back of our house. Description when emerging from the back of the house looking outside,

- Emerge from house onto outside deck, dimensions are approximately 12 x 12 feet including the stairs (excluding the stairs, the usable portion of the outside deck is 9 x 12 feet);
- Screen porch adjoining with a doorway to the right, dimensions of screen porch are approximately 13.33 x 12 feet (kitchen window opens into screen porch);
- Screen porch has open rafter design, roof is shingle material to match house, roof is pitched in center;
- Gutters and downspouts from screen porch to exit on ground level next to house;
- Stairs leading down from open part of deck in line with outside edge of deck, 3 x 3 foot landing and stairs turn toward house to open on flagstone poured-cement patio under the deck;
- The edge of the deck (not the screen porch side, but the outside portion) has a 2-foot cantilevered portion with a 45 degree angle decorative corner. The stairs are situated below and mostly outside of the cantilevered overhang so that there is adequate head clearance under the deck. Only the first two steps (14 inches height) are at the corner where the 45 degree corner is. Care was taken to ensure adequate head clearance;
- Patio is in area under deck, additional flagstone from under stair area to connect with back French door of walk-out basement;
- Dry space under screen porch (poured concrete).

The planned deck and screen porch (including eaves and overhangs) will be 12 foot 9 inches from the back property line of our house. While the yard requirement for setback of the deck would be acceptable at this distance, a screen porch requires a 25-foot setback. Therefore, we are submitting this Special Permit to obtain permission to reduce the yard requirements, and the reduction is less than 50%.

The proposed structure and use are in harmony with the general purpose and intent of the residential zoning regulations, as the deck and screen porch will be used for leisure time and family activities. There will be no adverse effect on the use or development of the neighboring properties, and the location and height of the deck and screen porch will be architecturally pleasing and similar to what is currently in place. There will be no effect on pedestrian or vehicular traffic as the deck is on the back of the house. The deck and screen porch fit the general standards for a special permit pursuant to Section 8-006.

Neighbors who can see the porch, and a Five Oaks Homeowner's Association Architectural Committee member, were given a description of the plans, the intended location and a drawing of the planned deck and screen porch. All neighbors (both renters and owners) have signed a document stating that they approve of these plans (**Attachment 1**).

The proposed deck and screen porch also satisfy the requirements of Section 8-922 as shown below.

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.

This applies to 2995 Steven Martin Drive, the property of interest

B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.

Not applicable, as there is no pipestem on this property or involved in the permit

B. Accessory structure location requirements set forth in Sect. 10-104.

Not applicable, as this is not an accessory structure

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.

The requested reduction does not result in a 50% reduction of the requirement (structure is 12 foot 9 inches from property line and requirement for screen porch is 25 feet).

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.

Not applicable, as the special permit relates to a deck and screen porch located on the back of the property

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.

This is true for this property – the principle structure complies with the minimum yard requirements

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 expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition

of gross floor area, as set forth in this 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. Below are the values for current and proposed gross floor area, using only the area of the footprint of the house, as well as using both floors of the house (the basement is not finished, it is a 2 story dwelling).

	square foot area
House floor area (footprint only)	1198
House floor area considering both stories	2396
Old deck	216
New proposed deck + screen porch	341

House (both floors) + old deck	2612
House (both floors) + proposed deck	2737
Ratio proposed/current	104.79%

House (footprint only) + old deck	1414
House (footprint only) + proposed deck	1539
Ratio proposed/current	108.84%

The ratio of the proposed to the existing gross floor area for the footprint is 109% of the total gross floor area of the principal structure that existed at the time of the yard reduction request if the footprint only is used. If both stories of the house are used for this calculation, the ratio is 105%. In both cases, the increase is less than the limit of 150% of the total gross floor area.

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.

This is true – the deck and screen porch are subordinate to the intended use of the house.

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.

The location of the proposed deck and screen porch is to replace a (shorter) deck currently in place, the height of the proposed roof on the screen porch is the same height as a current "sunscreen" above part of the current deck, the front dimension of the proposed deck and screen porch is approximately the same as the front dimension of the current deck. The style of the proposed deck and screen porch will blend with the style of the house.

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.

No vegetation will be destroyed with the proposed deck and screen porch; one wisteria plant will be temporarily removed (then replaced) during the building of the deck.

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.

The deck and screen porch will be used in the same manner as the current deck, which does not negatively impact any of the above issues.

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.

The proposed deck and screen porch is in the same location as the current deck and will not affect any of the above.

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.

This is understood.

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" 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 Emergency Management Agency, 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.

The plat is attached in Attachment 6 (8x10 and 24x36 inch sizes are provided)

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.

Depictions of the screen porch are found in Attachment 7.

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.