APPLICATION ACCEPTED: April 29, 2011
DATE OF PUBLIC HEARING: July 20, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

July 13, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-LE-035

LEE DISTRICT

APPLICANTS/OWNERS:	Nelson Ramirez Noemy Ramirez
LOCATION:	6001 Clames Drive
SUBDIVISION:	Walhaven
TAX MAP:	81-4 ((16)) 5
LOT SIZE:	25,804 square feet
ZONING:	R-1
ZONING ORDINANCE PROVISION:	8-914 and 8-923
SPECIAL PERMIT PROPOSALS:	To permit reduction to minimum yard requirements based on error in building location to permit an accessory storage structure (shed) to remain 16.1 feet from a side lot line and to permit a fence greater than 4.0 feet in height to remain in the front yards of a corner lot.

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.

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

O:\dhedri\Special Permits\(7-20) SP 2011-LE-035 Ramirez (error & fence)\SP 2011-LE-035 Ramirez staff report.doc

Deborah Hedrick

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

DEPARTMENT OF PLANNING & ZONING

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.

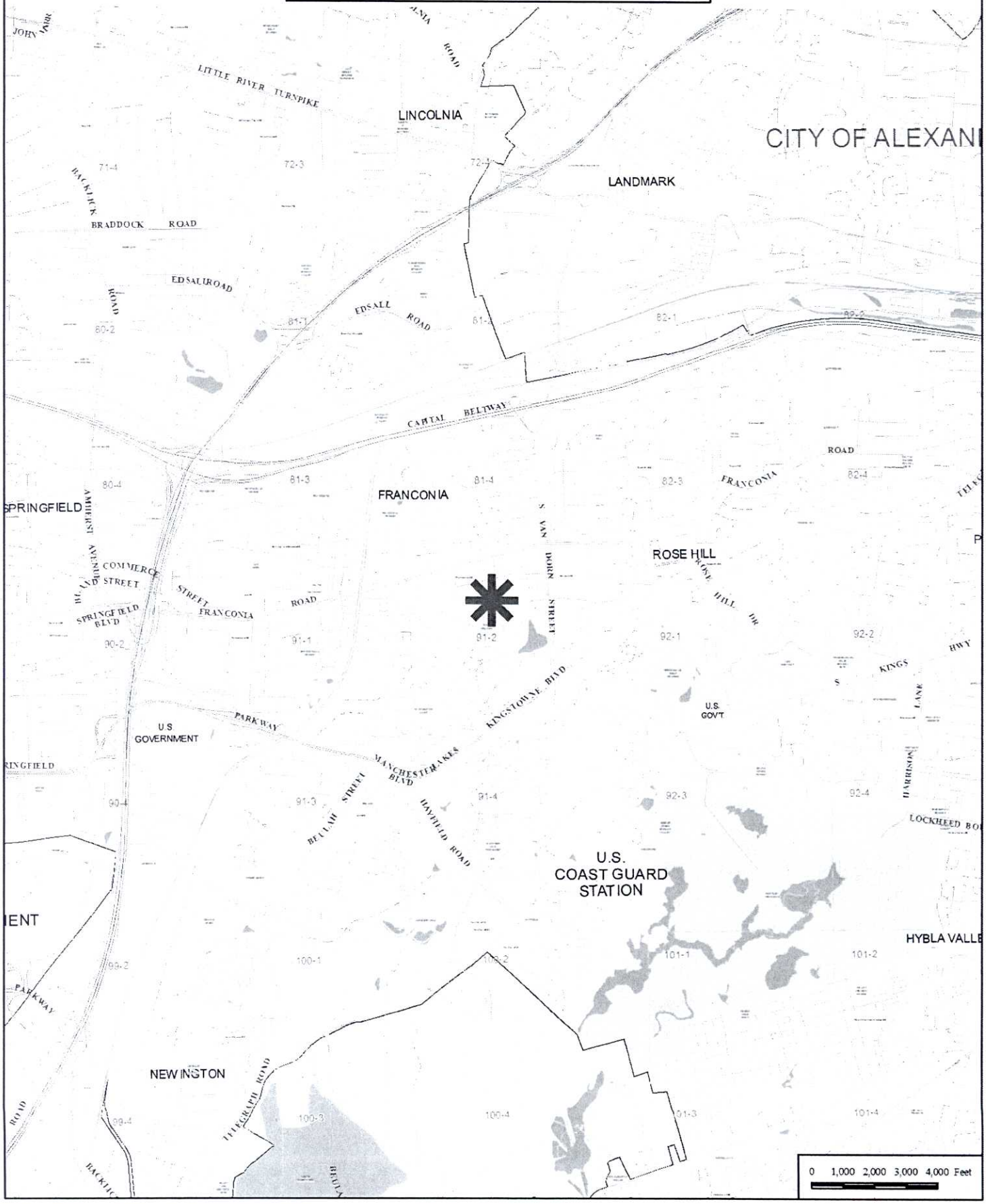
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government 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-LE-035

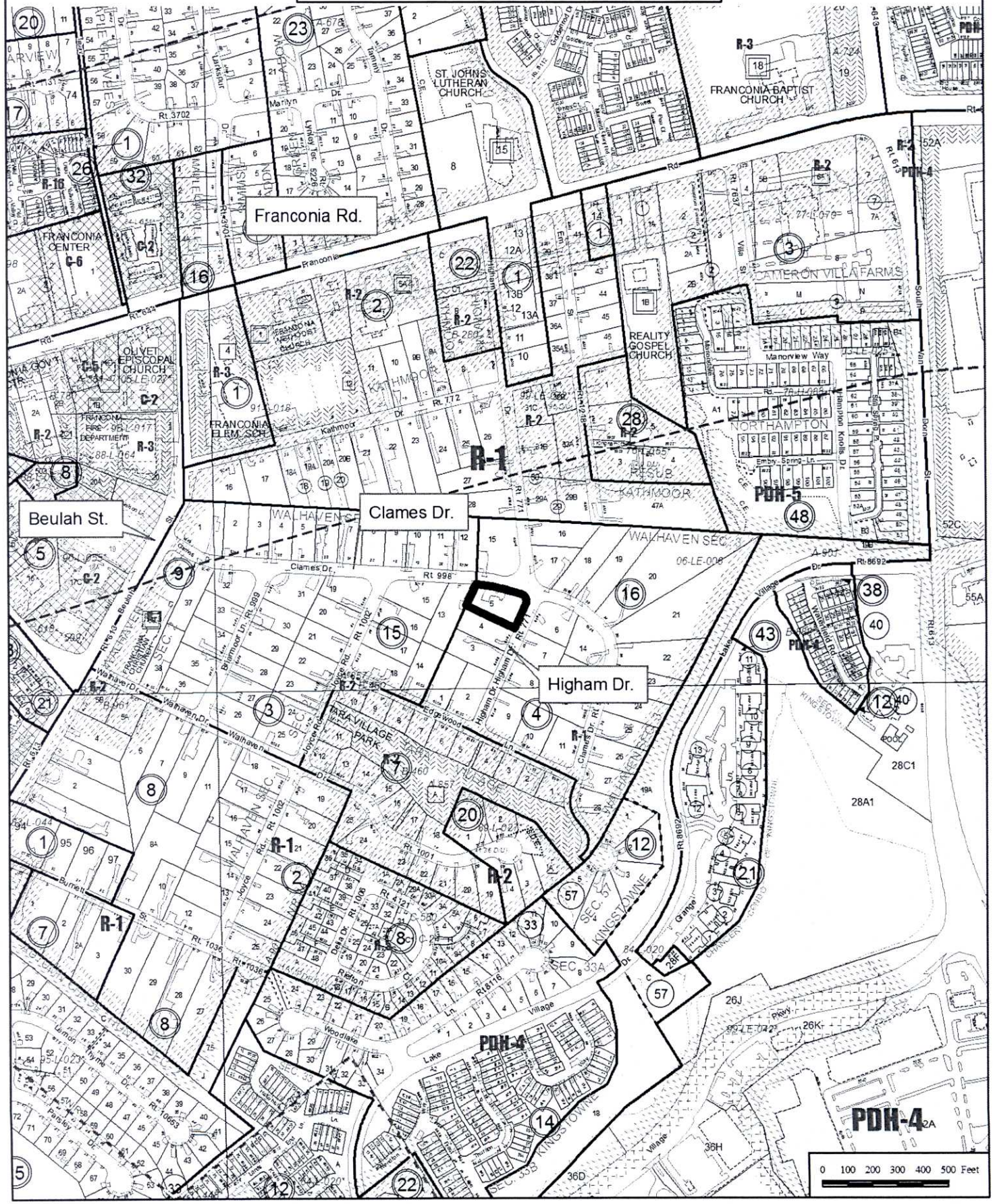
NELSON AND NOEMY RAMIREZ

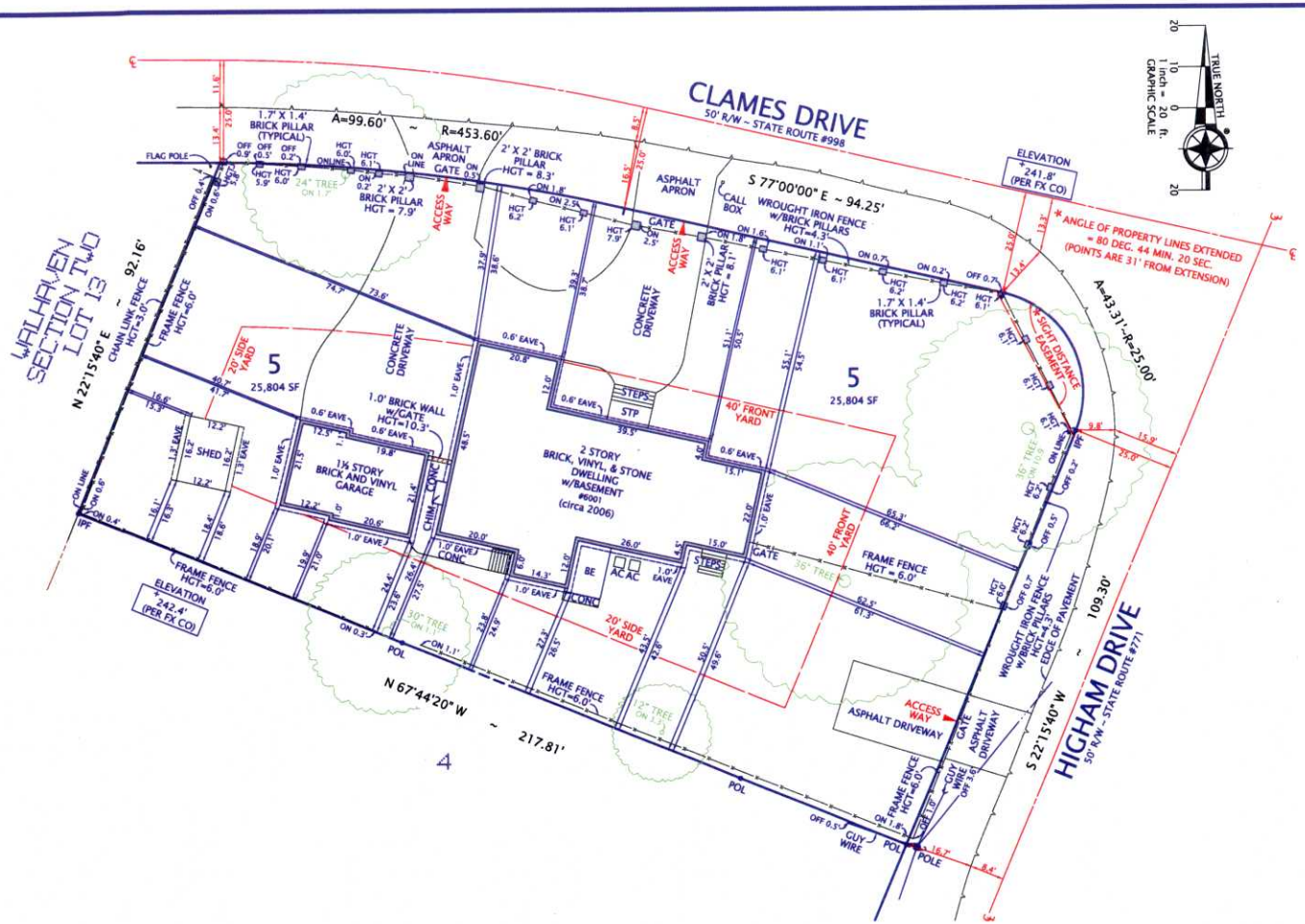


Special Permit

SP 2011-LE-035

NELSON AND NOEMY RAMIREZ





NOTES

1. TAX MAP: 81-4-16-0005
2. ZONE: R-1 (RESIDENTIAL 1 DU/AC)
3. LOT AREA: 25,804 SQUARE FEET
4. REQUIRED YARDS:

FRONT:	=	40.0 FEET
SIDE:	=	20.0 FEET
REAR:	=	25.0 FEET

5. HEIGHTS:

DWELLING	=	28.8 FEET
GARAGE	=	17.6 FEET
SHED	=	10.0 FEET
FENCES		AS NOTED

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY ON THIS SITE IS RELATIVELY FLAT. IT IS TAKEN FROM AVAILABLE COUNTY RECORDS. (AERIAL)
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS:

BASEMENT	=	2,382 SF
FIRST FLOOR	=	2,713 SF
SECOND FLOOR	=	1,886 SF
1½ STORY GARAGE	=	1,048 SF
GROSS FLOOR AREA	=	8,029 SF

FLOOR AREA RATIO = GFA (8029) / LOT AREA 25,804 = 0.31

13. UTILITIES ARE UNDERGROUND.
14. THE PILLAR HEIGHTS ARE TAKEN TO THE TOP OF THE LIGHT FIXTURE. NONE OF THE PILLARS (EXCLUDING THE 4 PILLARS FOR THE GATES) EXCEEDS 6 FEET IN HEIGHT.
15. THE FENCE HEIGHTS WILL BE REDUCED TO SIX FEET.

PLAT

SHOWING THE IMPROVEMENTS ON

LOT 5, SECTION THREE

WALHAVEN

(DEED BOOK 930, PAGE 81)

FAIRFAX COUNTY, VIRGINIA

LEE DISTRICT

SCALE: 1" = 20'

JULY 09, 2008
DECEMBER 14, 2010 (PILLAR HEIGHTS)
FEBRUARY 09, 2011 (NOTE #15)
JULY 11, 2011 (REV)

FRONT PILLARS

REAR

REAR

REAR

FRONT GATE AND PILLAR

REAR

REAR

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
07/09/2008
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR

George M. O'Quinn

CASE NAME:

NELSON RAMIREZ

DOMINION Surveyors Inc.®
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
FAX: 703-799-6412

#80618004

#42-08

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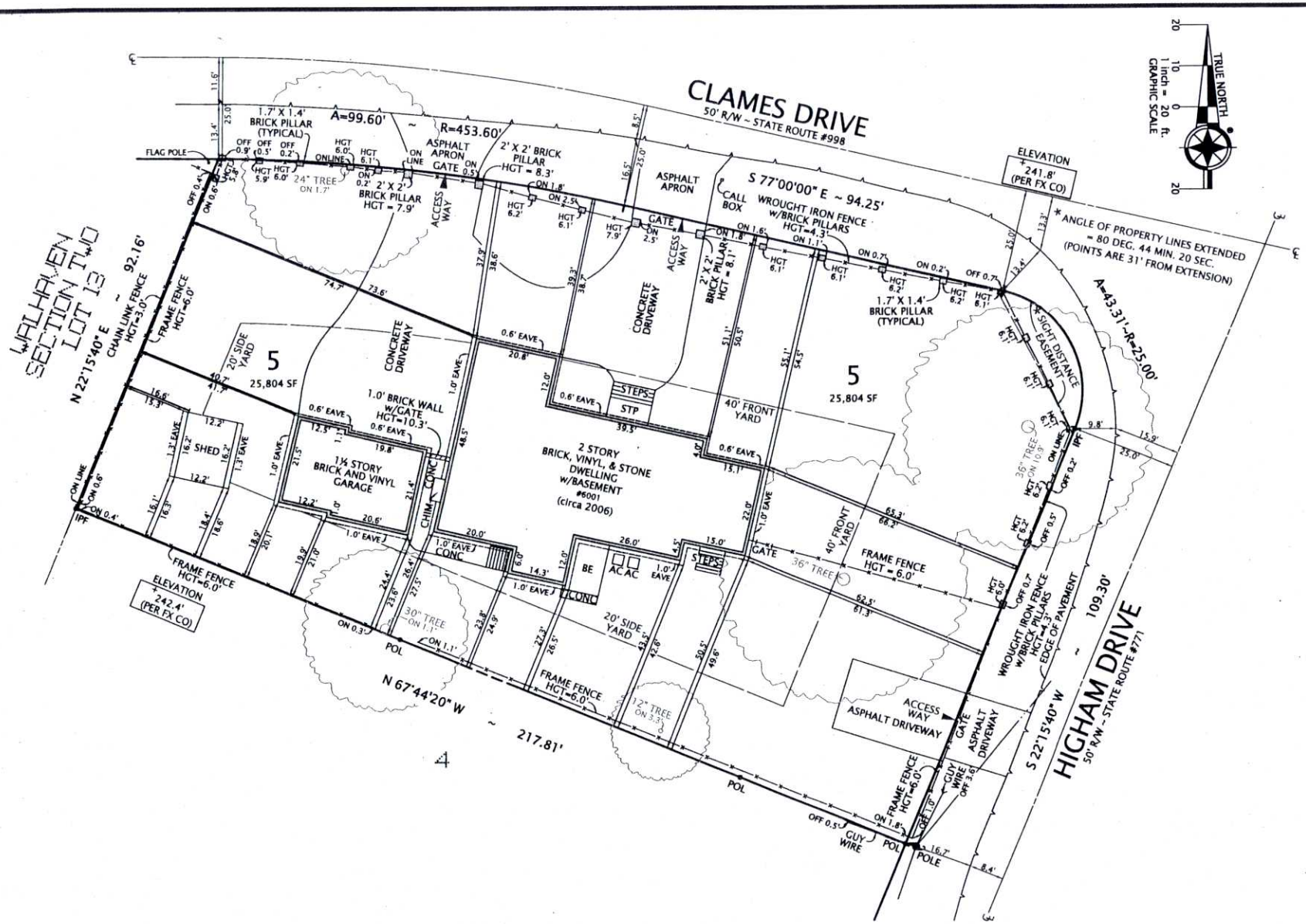

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3. LOT AREA: 25,804 SQU
4. REQUIRED YARDS:

   FRONT:
   SIDE:
   REAR:

5. HEIGHTS:

   DWELLING
   GARAGE
   SHED
   FENCES

6. THIS PROPERTY IS SERVE
7. THERE IS NO OBSERVABL BURIAL GROUNDS ON TH
8. ALL IMPROVEMENTS SHO DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT A 25 FEET IN WIDTH OR G
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    FLOOR AREA RATIO = GF

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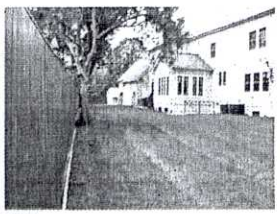
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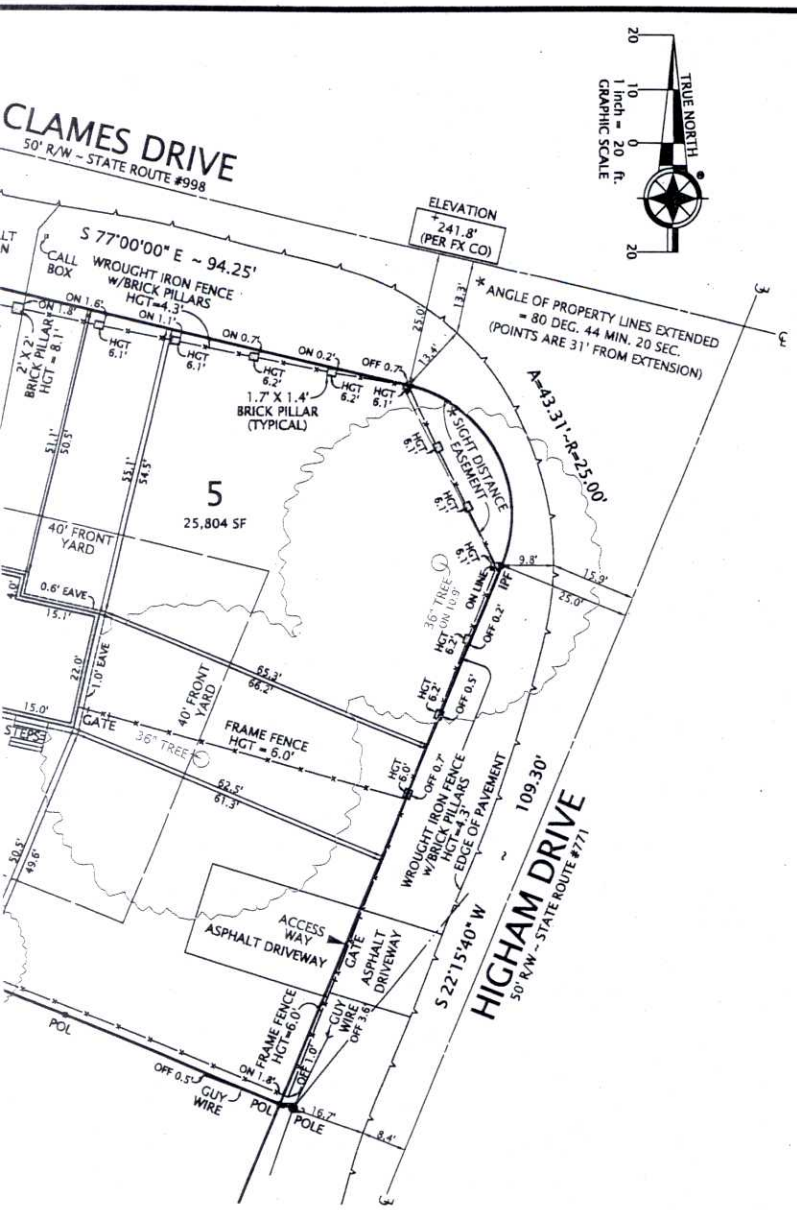

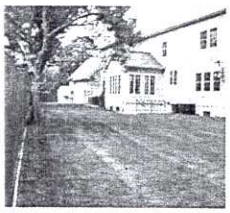

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SHOWING THE IMPROVEMENTS ON

LOT 5, SECTION THREE

WALHAVEN

(DEED BOOK 930, PAGE 81)

FAIRFAX COUNTY, VIRGINIA

LEE DISTRICT

SCALE: 1" = 20' JULY 09, 2008

DECEMBER 14, 2010 (PILLAR HEIGHTS)

FEBRUARY 09, 2011 (NOTE #15)

JULY 11, 2011 (REV)

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A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
07/09/2008
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR

George M. O'Quinn

CASE NAME:

NELSON RAMIREZ

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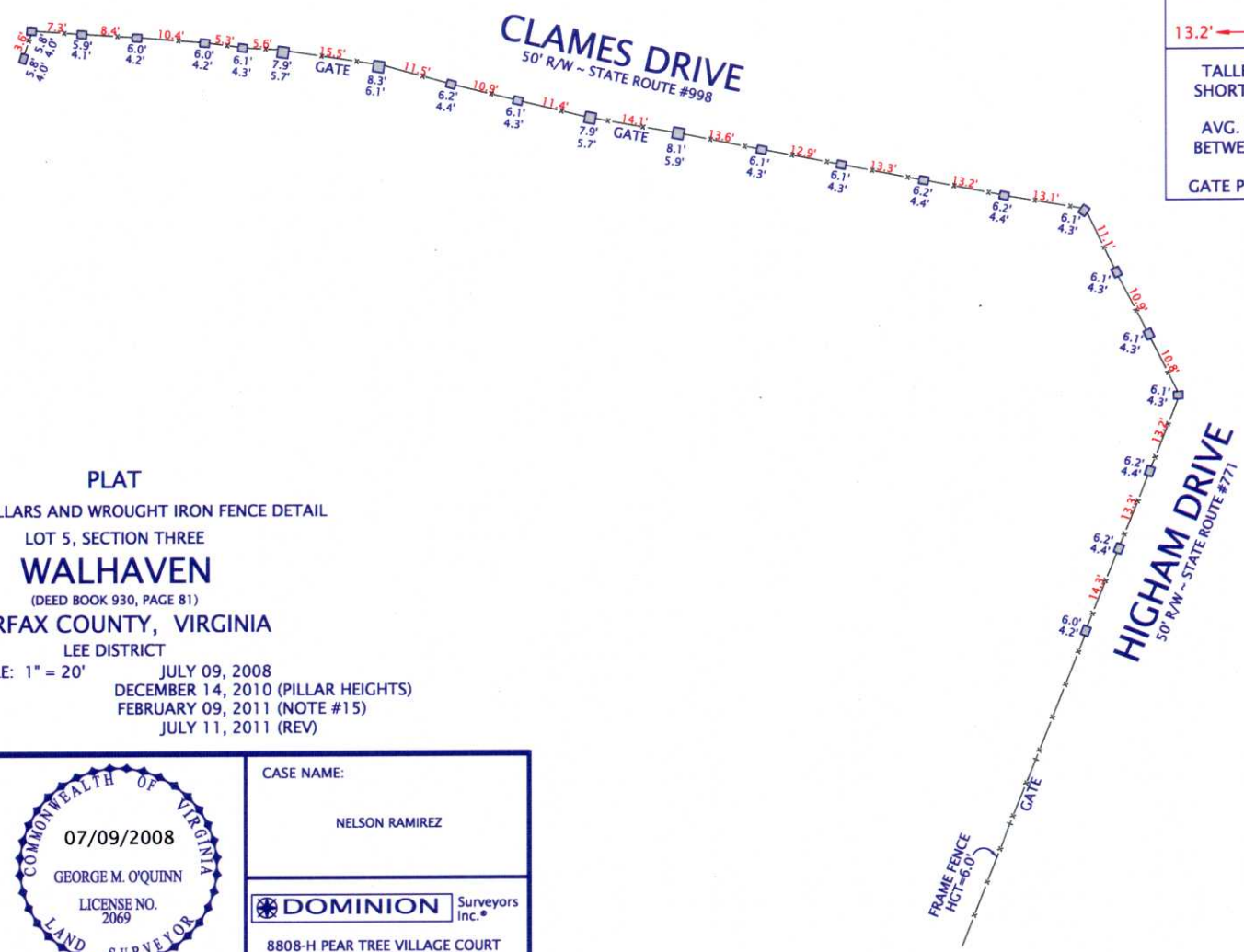

PILLAR, FENCE, & GATE DETAIL	
6.1' ← TOP OF LIGHT FIXTURE	
4.3' ← TOP OF PILLAR	
13.2' ← DISTANCE BETWEEN POSTS	
TALLEST PILLAR	6.1'
SHORTEST PILLAR	4.0'
AVG. DISTANCE BETWEEN PILLARS	11.1'
GATE PERCENTAGE	0.15

PLAT

SHOWING PILLARS AND WROUGHT IRON FENCE DETAIL

LOT 5, SECTION THREE

WALHAVEN

(DEED BOOK 930, PAGE 81)

FAIRFAX COUNTY, VIRGINIA

LEE DISTRICT

SCALE: 1" = 20'

JULY 09, 2008
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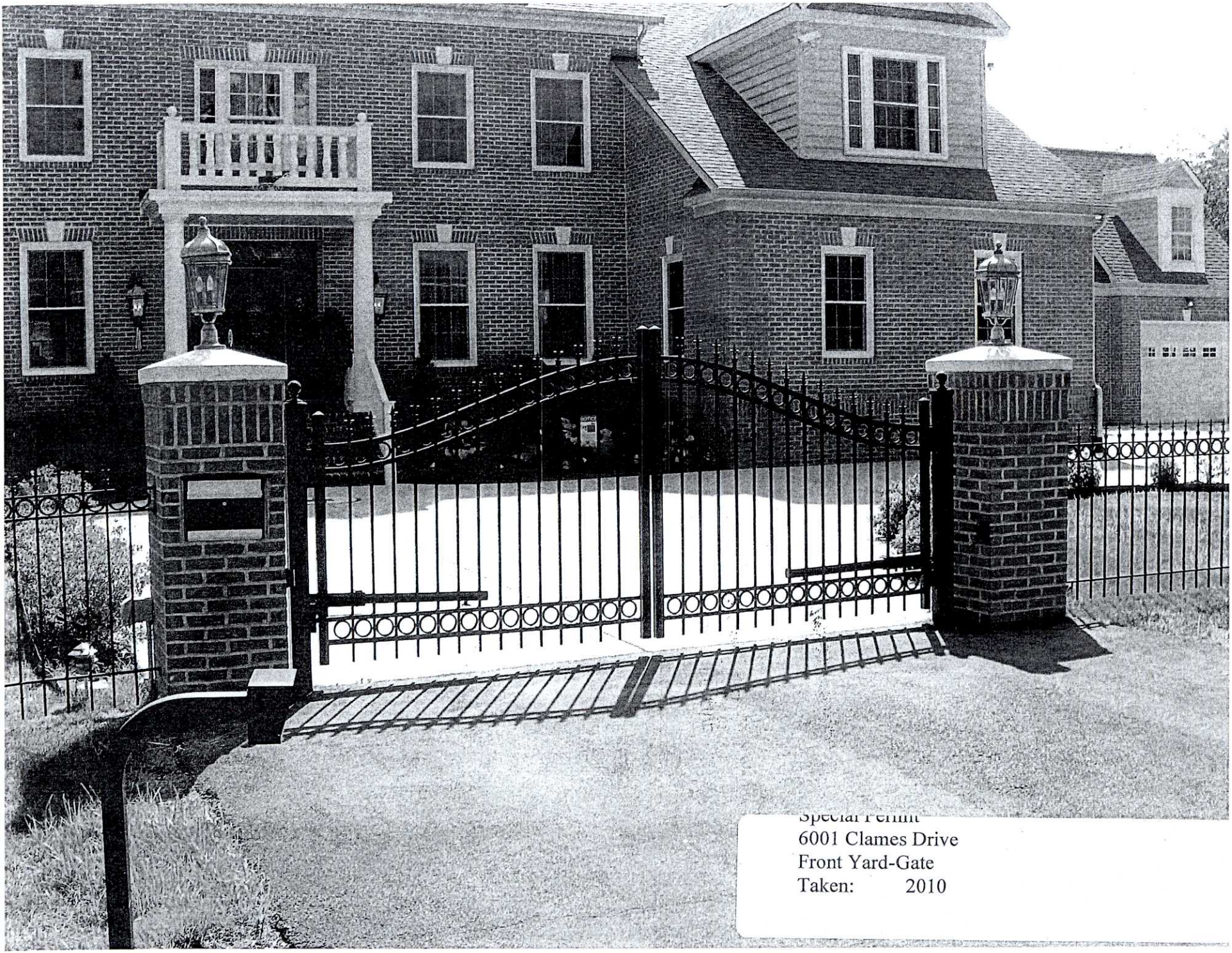
#42-08

Special Permit
6001 Clames Drive
Front Yard View
Taken 2010

Special Permit
6001 Clames Drive
Side Yard
Taken: 2010

Special Permit
6001 Clames Drive
Side Yard View
Taken: 2010



Special Permit
6001 Clames Drive
Front Yard-Gate
Taken: 2010

East Side of House –Corner and Fence
2/09/2011

6001 Clames Drive

Front Yard and Side of House
2/09/2011

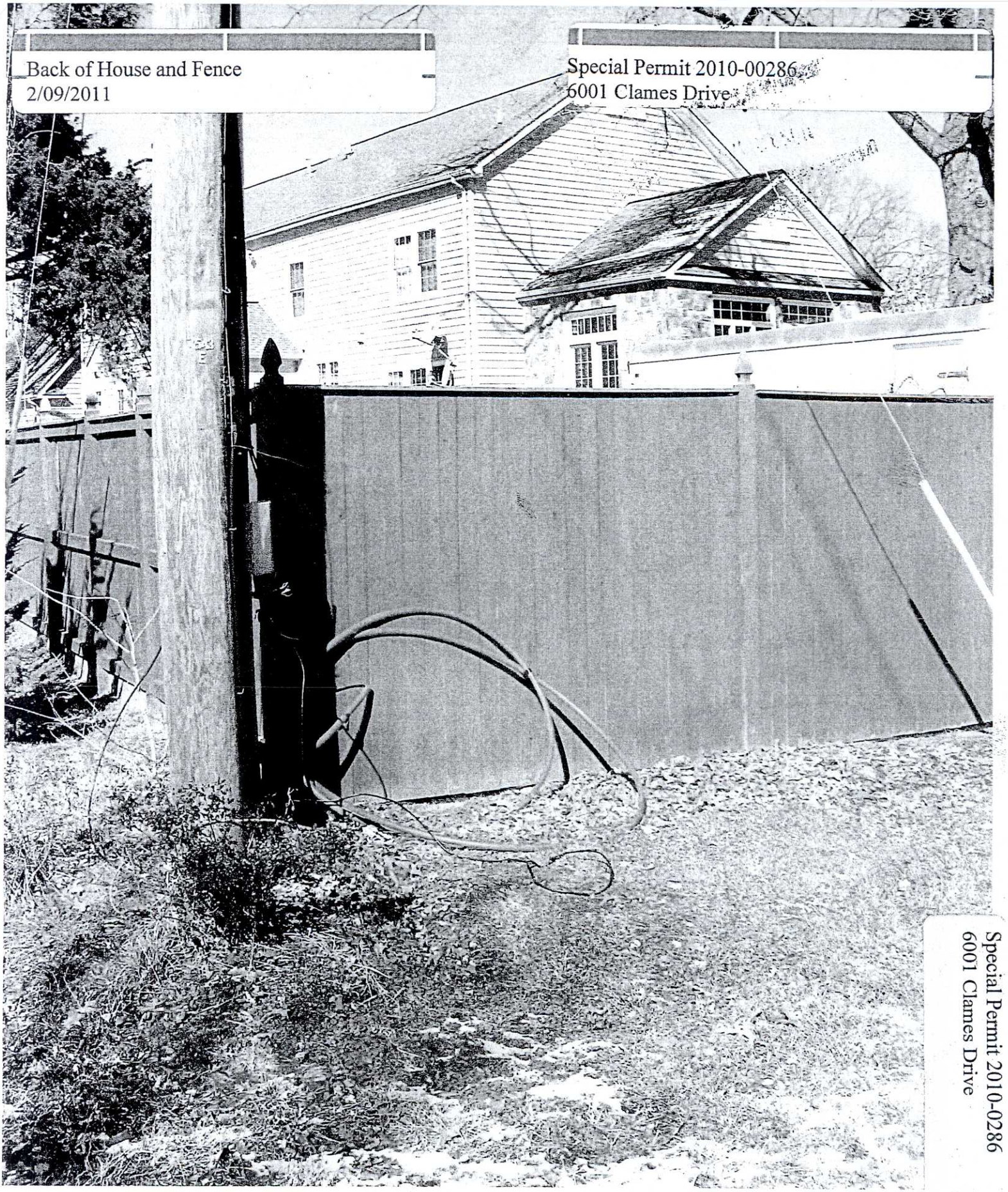
Special Permit 2010-0280
6001 Clames Drive

Fence in Sideyard(East Side)
2/09/2011

Special Permit 2010-0286
6001 Clames Drive

Garage and Shed
2/09/2011

Special Permit 2010-0286
6001 Clames Drive


Back of House and Fence
2/09/2011
Special Permit 2010-00286
6001 Clames Drive
Special Permit 2010-0286
6001 Clames Drive

DESCRIPTION OF THE APPLICATIONS

The applicants are requesting approval of two separate special permits. The first request is to allow a reduction to minimum yard requirements based on an error in building location to permit an accessory storage structure (shed), which measures approximately 198 square feet in size and 10.0 feet in height, to remain 16.1 feet to its eave from the southern side lot line.

Special Permit Request #1

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit Request #1	Accessory Storage Structure (Shed)	Side	20.0 feet	16.1 feet	3.9 feet	19.5%

* Minimum yard requirement per Section 10-104

The second special permit request is to permit existing fences greater than 4.0 feet in height to remain in the front yards of a corner lot. The combination frame wood fence and wrought iron fence with brick pillars is located in the front yards facing both Clames Drive and Higham Drive and the fences and pillars range in height from 4.1 feet to 8.3 feet. The applicants have indicated in their Statement of Justification, and included as Note 15 on the special permit plat, that the fence heights will be reduced to a maximum of 6.0 feet. It should be noted that Sect. 10-104.3(J) of the Zoning Ordinance permits decorative features, up to nine inches in height, in addition to the fence height, if they meet certain Ordinance regulations. As shown on the exhibit included with the special permit plat, located at the front of the staff report, the actual wood and wrought iron fences range in height from 4.3 feet to 6.0 feet, whereas the brick pillars including decorative light fixtures range in height from 5.8 feet to 6.2 feet. Additionally, the two gates with four gates posts are not regulated as to their heights; therefore, they are permitted as requested. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height. The Zoning Ordinance permits fences up to 7.0 feet in height in the side and rear yards.

Special Permit Request #2

	Structure	Yards	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit Request #2	Fences	Front	4.0 feet	6.0 feet	2.0 feet

EXISTING SITE DESCRIPTION

The 25,804 square-foot property is a corner lot with two front yards; one along Clames Drive and the other along Higham Drive. Access to the site is provided from two separate entrances from Clames Drive via an existing curved concrete driveway that extends to an existing detached garage located on the western side of the dwelling. The above referenced shed is located in the southwestern quadrant of the site. The yard is well manicured and contains existing mature trees.

CHARACTER OF THE AREA

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

BACKGROUND

Records indicate that the 2 ½ story vinyl and brick single-family detached dwelling was constructed in 2006. The applicants purchased the property in 2006 and installed the existing fencing. On September 29, 2006 and May 14, 2008, Notices of Violations (NOV) were issued to the applicants, which are included as Appendix 4. On October 29, 2010, the applicant's entered into an Agreed Final Order with the Circuit Court which required them to obtain special permit approval for the fences and fence posts by February 1, 2011, or reduce the height or remove the fences and fence posts from the property by not later than March 1, 2011. Staff from the Office of the County Attorney has entered an Amended Agreed Order with the Court to extend the date to provide the applicants additional time to obtain approval of this special permit. The Amended Agreed Order is proposed to extend that date to September 14, 2011 and if not obtained by that date the applicants will be required to reduce the height or remove the fences and fence posts from the property. At the time of the publication of this staff report, staff has not received a signed Amended Agreed Final Order permitting the extension of the date. A copy of the October 29, 2010, signed Order is attached as Appendix 5.

In a letter dated May 24, 2011, attached as Appendix 6, the Zoning Administration Division granted two Administrative Reductions on the property; one for the existing dwelling to be located 38.6 feet (40.0 feet required) from the front lot line and one for the detached garage to be located 18.9 feet (20.0 feet required) from the side lot line.

Records indicate that no other similar applications have been heard by the Board of Zoning Appeals (BZA) in the surrounding area. A copy of the special permit plat depicting the structures on site, titled "Plat Showing the Improvements on Lot 5, Section Three, Walhaven", prepared by Dominion Surveyors Inc., dated July 9, 2008, as revised through July 11, 2011, is included at the front of the staff report.

ZONING ORDINANCE REQUIREMENTS (See Appendix 7)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard
- Sect. 10-104 Location Regulations

This special permit is subject to Sects. 8-006, 8-903, 8-914 and 8-923 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

CONCLUSION

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notices of Violations dated September 29, 2006 and May 14, 2008
5. Agreed Final Order dated October 29, 2010
6. Zoning Administration Letter dated May 24, 2011
7. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-LE-035

July 13, 2011

1. This special permit is approved for the location of fences in the front yards, a maximum 6.0 feet in height, and pillars and decorative features at the maximum heights as shown on the special permit plat, and an accessory storage structure (shed) as shown on the plat prepared by Dominion Surveyors Inc. dated July 9, 2008 as revised through July 11, 2011, as submitted with this application and is not transferable to other land.

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

Application No.(s): SP 2011-LE-035
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

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

I, Robert L Calhoun, 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

110734

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)
Nelson and Noemy Ramirez	6001 Clames Drive, Alexandria Virginia 22310	Applicants
Redmon, Peyton & Braswell LLP	510 King Street #301 Alexandria, Va 22314	Attorneys/Agent for Applicants
Robert L. Calhoun	510 King Street #301 Alexandria, Va 22314	Attorney/Agent for Applicants

(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-LE-035

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: December 16, 2010 110734

(enter date affidavit is notarized)

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)
NA

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-LE-035

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: December 16, 2010 110734

(enter date affidavit is notarized)

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)
Redmon, Peyton & Braswell LLP 510 King Street #301 Alexandria, Virginia 22314

(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**)

John Braswell General Partner
John E. Coffey General Partner
Robert M. Gants General Partners
Richard E. Gutting General Partner
Paul Maloof General Partner
Robert M Merino General Partner
Gordon Peyton General Partner
Gant Redmon General Partner
Daniel F. Rinzel General Partner
John F. Rogers General Partner

Roy Snyder Of Counsel
Robert L. Calhoun Of Counsel

(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): SP 2011-LE-035

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

110734

DATE: December 16, 2010

(enter date affidavit is notarized)

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-LE-035
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

110734

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

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

Robert L. Calhoun
(type or print first name, middle initial, last name, and title of signee)

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

Notary Public

My commission expires:

IVOR TAFRO
Notary Public
Commonwealth of Virginia
7327947
My Commission Expires Apr 30, 2014

RECEIVED
Department of Planning & Zoning

APR 28 2011

Zoning Evaluation Division

SPECIAL PERMIT APPLICATION FOR INCREASE IN PERMITTED WALL HEIGHT AND GATE IN FRONT YARD/ APPROVAL OF ERRORS IN BUILDING LOCATIONS —6001 CLAMES DRIVE ALEXANDRIA, VIRGINIA 22310

STATEMENT OF JUSTIFICATION
(Revised 4/21/2011)

This Statement of Justification for the granting of a Special Permit for an increase in permitted height of wall and gate to six feet in the front yard is offered on behalf of Nelson and Noemy Ramirez as follows.

Mr. and Mr. Ramirez are the owners of a single family dwelling, located at 6001 Clames Drive, which they have owned since 2006. The house is a Colonial style (See attached pictures). The wall and gate a portion of which is the subject of this Application, conform to this style. The original wall and gate were constructed in 2007. The ornamental lights were added in 2008.. Applicants built the wall, the gate and the additional features in their present form in good faith and in ignorance of the requirements of the Zoning Ordinance until it was called to their attention by the County's Zoning inspector. Because Applicants misunderstood the steps necessary to secure compliance with the Zoning Ordinance, including the filing of a Special Permit Application, this matter became the subject of a Compliant against Applicants by Zoning Administrator in the Circuit Court of Fairfax County. To settle this litigation, Applicants and the Administrator entered into an Agreed Final Order which required the filing of this Application. A copy of that Order is attached hereto .

Pursuant to section 8-923 of Zoning Ordinance, Applicants are requesting permission to maintain the existing wall and gate to a maximum of six (6) feet in their front yard as permitted by that section and section 10-104. To the extent that the existing front yard wall may exceed that height, Applicants will lower it to the six-foot limit as a condition to the Board's approval. If required, Applicants will also make changes in the fence in the side and rear yards to bring them into compliance with the seven (7)foot limitation imposed by section 10-104(3)(B) of the Zoning Ordinance.

As shown in the enclosed pictures, the Applicant's wall meets the standards of section 8-92.

1. The wall/fence will not exceed 6 feet and, it is understood, that it will not be eligible for and increase under section 10-104, para. 31

2.. It will comply with the site distance requirements of section 2-305 of the Zoning Ordinance.

3.. It is compatible with, and in fact was designed to be, with the Applicant's existing dwelling, the topography (generally level) of the Applicant's lot (see pictures), and will not present a hazard to public safety or present noise issues

4. Applicant's dwelling and several others in the vicinity are newer and larger than others in the immediate neighborhood. However, it is on a large corner lot and, thus does not impose on other dwellings in the neighborhood. Thus, it will not be in conflict with any of the surrounding developments or other on-site uses and will not adversely impact the use or enjoyment of other properties in the immediate vicinity.

5.. The proposed fence increase will be in character with the existing dwelling unit of the Applicant Although the fence is of a different design and larger than some of those in adjacent properties, it is also on a large corner lot and will be harmonious the surrounding off-site uses and structures in terms of location, height, and scale

6. The Applicants are willing to reasonable and necessary conditions imposed by the BZA as conditions to its approval.

Staff has called the Applicant's attention to several errors in building locations as follows:

1. The northwest corner of dwelling—37.9 feet vs the required 40 feet or a deviation of slightly in excess of 5 percent; the detached garage–18.9 feet vs the required 20 feet side yard requirement; a deviation of 5.5 percent, and the shed 16.1 and 15.3 feet or 19.5 and 23 percent respectively vs the required 20 feet side yard requirement.. With the exception of the shed, none of the variance in the required setbacks exceeds 10 percent. .

With respect to the findings the Board of Zoning Appeals must make under section 8-914 A-G of the Zoning Ordinance, Applicants state the following:

A.-B. The erroneous building locations as to the dwelling and the detached garage were made, apparently post-building permit, were made by contractor in their construction without the knowledge or consent of the Applicants. In any event, they fairly minor deviations from the required setbacks. . As per the comments of staff, application will be made to the Zoning Administrator for administrative approval of these minor variations While the placement of shed, which as noted above has a side yard deviation in excess of 10 percent, was the decision of the Applicants, it was done in good faith and without knowledge of the requirements of the Zoning Ordinance.

C.. Approval of these deviations will not impair the purpose and intent of the Ordinance

D. Such approval will not be detrimental to the use and enjoyment of other property in the immediate vicinity. As noted, most of the deviations are minor. The shed is on a portion of the property next to a six foot fence that blocks from the view from the neighbouring property.

E.. None of these deviations will create an unsafe condition with respect either to other private property or public streets.

F. Forcing strict compliance with the minimum yard requirements would create an unreasonable hardship on the Applicants in that (1) they would have to make expensive and difficult alterations to their dwelling and garage, and (2) moving the shed is probably not possible within the lot and, in the alternative, would require the Applicants to remove or alter the shed at considerable expense.

G. Approval of these deviations will not result in an increase in density or floor area ratios permitted by the applicable zoning regulations.

For the reasons stated it is respectfully requested that the Special Permit be granted and that the Board find that the several errors in building locations be found to meet the standards of section 8-914 of the Zoning Ordinance.

Respectfully submitted,

Robert L. Calhoun
Attorney/Agent for Applicants
Nelson and Naomi Ramirez

County of Fairfax, Virginia

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

May 14, 2008

SF

NOTICE OF VIOLATION

SHERIFF'S LETTER

FAIRFAX COUNTY
RECEIVED
MAY 16 2008
DIVISION OF
ZONING ADMINISTRATION

Nelson Ramirez
Noemy Ramirez
6001 Clames Drive
Alexandria, Virginia 22310

Re: 6001 Clames Drive
Subdivision: Walhaven, Lot 5, Section 3
Tax Map Ref: 081-4 ((16)) 0005
Zoning District: R-1

Dear Mr. and Mrs. Ramirez:

A zoning inspection and investigation, by this office, has established there is a fence located in the front yard of the property in excess of four feet in height on a lot containing less than 36,000 square feet. Your lot is a corner lot and has two (2) front yards; one front yard is located between the house and Clames Drive, and the other front yard is located between the house and Higham Drive. Part 3 of Article 20 of the Fairfax County Zoning Ordinance defines a corner lot and front yard as follows:

> **LOT, CORNER:** A lot at the junction of and abutting on two (2) or more intersecting streets when the interior angle of the intersection does not exceed 135 degrees; provided, however, that when one of the intersecting streets is an interstate highway, the resultant lot shall not be deemed a corner lot.
>
> - **YARD, FRONT:** A yard extending across the full width of a lot and lying between the front lot line and the principal building.
>
> - On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.

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/

Par. 3B of Sect. 10-104 of the Fairfax County Zoning Ordinance, states in part:

> In any front yard on any lot, a fence, or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:
>
> (1) The driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
>
> (2) The lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

Therefore, you are in violation of Par. 6 of Sect. 2-302 of the Fairfax County Zoning Ordinance, which states:

> 6. No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

On October 23, 2006, the Board of Supervisors of Fairfax County approved an amendment to the Zoning Ordinance, which became effective on October 24, 2006; creating an additional option which would allow a fence to exceed four (4) feet in the front yard. Specifically, Sect. 8-923 of the Zoning Ordinance provides:

> 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

The BZA may approve a Special Permit to allow an increase in fence and/or wall height in any front yard, subject to all of the following:

> 1. The maximum fence and/or wall height shall not exceed six (6) feet, and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.

2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.

3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.

4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development, and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale, and any historic designations.

5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.

7. 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 or structure to include existing or proposed fences and/or walls.

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 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. If applicable, existing 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, Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

8. Architectural depictions of the proposed fence and/or wall to include height, building materials, and any associated landscaping shall be provided.

You are, hereby, directed to clear these violations within thirty (30) days receipt of this Notice. Compliance can be accomplished by the following:

- Applying to and ultimately obtaining approval of a Group 9 Special Permit, from the BZA pursuant to Par. 22 of Article 8-923, which would allow an increase in the height of the fence in the front yard; or

- Reducing the fence and fence posts to no greater than four (4) feet in height in the front yard, and no greater than seven (7) feet in the side and rear yard; or

- Removing the fence in its entirety.

A follow-up inspection will be made at the expiration of this time period. Failure to comply, with this Notice, shall result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance. You 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, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information you may wish to submit and a **$375.00** filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1335 or (703) 324-1300.

Sincerely,

W. B. Moncure
Senior Zoning Inspector

O:\wmoncu\Notices\2008\32391fence.doc

Shee.

County of Fairfax, Virginia

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

September 29, 2006

NOTICE OF VIOLATION

SHERIFF'S LETTER

FAIRFAX COUNTY
RECEIVED
OCT 04 2006
DIVISION OF
ZONING ADMINISTRATION

Nelson Ramirez
Noemy Ramirez
6001 Clames Drive
Alexandria, Virginia 22310

Re: 6001 Clames Drive
Subdivision: Walhaven, Lot 5, Sec.3
Tax Map Ref: 081-4 ((16)) 0005
Zoning District: R-1

Dear Mr. and Mrs. Ramirez:

A zoning inspection and investigation, by this office, has established that there is an accessory storage structure located in the front yard of the property in excess of eight and one-half (8 ½) feet in height on a lot containing less than 36,000 square feet. Your lot is a corner lot and has two (2) front yards; one front yard is located between the house and Clames Drive, and the other front yard is located between the house and Higham Drive. Part 3 of Article 20 of the Fairfax County Zoning Ordinance defines a corner lot and front yard as follows:

> LOT, CORNER: A lot at the junction of and abutting on two (2) or more intersecting streets when the interior angle of the intersection does not exceed 135 degrees; provided, however, that when one of the intersecting streets is an interstate highway, the resultant lot shall not be deemed a corner lot.
>
> - YARD, FRONT: A yard extending across the full width of a lot and lying between the front lot line and the principal building.
>
> - On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.

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/

- Removing the fence from the property; or
- Reducing the height of the fence in the front yard to that of four (4) feet; or
- Relocating the fence to the side and rear yard.

A follow-up inspection will be made at the expiration of this time period. Failure to comply, with this Notice, shall result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance. You 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, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information you may wish to submit and a $375.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1335 or (703) 324-1300.

Sincerely,

W. B. Moncure
Senior Zoning Inspector

WBM/seg

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

EILEEN M. McLANE, FAIRFAX COUNTY ZONING ADMINISTRATOR,	:	
Plaintiff,	:	
v.	:	**CASE NO.: CL-2010-0006225**
NELSON RAMIREZ,	:	
and	:	
NOEMY RAMIREZ,	:	
Defendants.	:	

AGREED FINAL ORDER

THIS CAUSE came before the Court by the consent of the Plaintiff, Eileen M. McLane, Fairfax County Zoning Administrator ("Zoning Administrator") and Defendants Nelson Ramirez and Noemy Ramirez ("Defendants"), for the entry of this Agreed Final Order; and

IT APPEARING TO THE COURT that the Zoning Administrator filed a Complaint for Declaratory Judgment and Injunctive Relief ("Complaint") in this case against the Defendants on April 29, 2010, alleging, *inter alia*, that the Defendants are in violation of the Fairfax County Zoning Ordinance ("Zoning Ordinance") in connection with the Defendants' use of the property located at 6001 Clames Drive, Alexandria, Virginia, which is shown on the Fairfax County Real Property Identification Map as Tax Map No. 81-4((16)) parcel 5 ("subject property"); and

RECEIVED
Department of Planning & Zoning
DEC 17 2010
Zoning Evaluation Division

IT FURTHER APPEARING TO THE COURT that the parties hereto agree that the terms of this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the Plaintiff and the Defendants with the approval of this Court; and

IT FURTHER APPEARING TO THE COURT that this Agreed Final Order should be entered; now, therefore, it is hereby

ADJUDGED AND ORDERED THAT:

1. The Defendants' installation and/or maintenance of a fence and fence posts in the front yards of the subject property that exceed four (4) feet in height violates Zoning Ordinance §§ 2-302(6) and 10-104(3)(B).

2. Within forty-five (45) days after the date this Agreed Final Order is entered by the Fairfax County Circuit Court, the Defendants shall submit a full and complete application for a Group 9 Special Permit to the Fairfax County Board of Zoning Appeals ("BZA"), which, if approved, would allow the existing fence and fence posts to remain in excess of four (4) feet in height in the front yards of the subject property as well as addressing any portion of the fence and fence posts that exceeds seven (7) feet in height in the side and rear yard of the subject property.

3. In the event that the Defendants fail to submit an application for a Group 9 Special Permit within the timeframe set forth in Paragraph 2 above, or in the event that the BZA refuses to accept or denies the Defendants' application for a Special Permit referenced in Paragraph 2 above, then within thirty (30) days of such failure, refusal, or denial, whichever first occurs, the Defendants shall (1) permanently reduce the fence and fence posts to a height of no greater than four (4) feet in the front yards of the subject property, and any other portion of the fence and fence posts on the subject property that exceed the

height limitation set forth in the Zoning Ordinance, or (2) remove such fence and fence posts from the subject property to a lawful site.

4. Any Special Permit as set forth above shall be obtained by the Defendants by February 1, 2011, and if not obtained by that date the Defendants shall complete the height reduction and/or fence removal as set forth in Paragraph 3 above, by no later than March 1, 2011.

5. To the extent that the use of the subject property and the violations regarding the installation and maintenance of the fence and fence posts in the front yards of the subject property are not resolved by a Special Permit as set forth in Paragraph 2 above, the Defendants, their agents, employees, tenants, and/or any successors-in-interest are permanently enjoined from placing and/or allowing to be placed on the subject property at any time in the future any fence and/or fence posts that exceeds four (4) feet in height in the front yards, and any other portion of the fence and fence posts on the subject property that exceed the height limitation set forth in the Zoning Ordinance, in violation of Zoning Ordinance §§ 2-302(6) and 10-104(3)(B).

6. To the extent that the use of the subject property and the violations regarding the installation and maintenance of the fence and fence posts in the front yards of the subject property are not resolved by a Special Permit as set forth in Paragraph 2 above, the placement on the subject property and/or allowing to be placed on the subject property at any time in the future any fence and/or fence posts that exceeds four (4) feet in height in the front yards, and any other portion of the fence and fence posts on the subject property that exceed the height limitation set forth in the Zoning Ordinance, in violation of Zoning Ordinance §§ 2-302(6) and 10-104(3)(B) is permanently enjoined.

interest fail to comply with any provisions set forth in this Agreed Final Order, he/she/they shall pay the sum of $100 per day to the County of Fairfax (delivered to the Office of the County Attorney in the form of a certified check made payable to the "County of Fairfax") for every day the Court finds a violation. Payment of this amount shall be in addition to any additional sanctions the Court may impose upon a finding of contempt for any violation of this Agreed Final Order.

8. The Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times to inspect the subject property for the purpose of monitoring compliance with this Agreed Final Order.

9. The terms set forth in this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the parties hereto with the approval of this Court.

10. Pursuant to Va. Code Ann. § 17.1-227 (Supp. 2010) the Clerk of the Fairfax County Circuit Court shall record a copy of this Agreed Final Order among the land records of Fairfax County, Virginia, to give notice of the prohibitions and restrictions contained herein to any successors-in-interest to the Defendants and shall index said Agreed Final Order as follows:

GRANTORS:	Nelson Ramirez; Noemy Ramirez
GRANTEES:	Eileen M. McLane; Fairfax County Zoning Administrator

AND THIS CAUSE IS FINAL.

ENTERED October 29, 2010.

JUDGE, FAIRFAX COUNTY CIRCUIT COURT

WE ASK FOR THIS:

DAVID P. BOBZIEN
COUNTY ATTORNEY

By: _____

Paul T. Emerick (VSB No. 33443)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
Ph.: (703) 324-2421; Fax: (703) 324-2665
Counsel for Plaintiff Eileen M. McLane,
Fairfax County Zoning Administrator

SEEN AND AGREED

_____

Daniel F. Rinzel (VSB No. 47618)
REDMON, PEYTON & BRASWELL, L.L.P.
510 King Street, Suite 301
Alexandria, Virginia 22314
Ph.: (703) 684-2000; Fax: (703) 684-5109
Counsel for Defendants

A COPY ...
JOHN ...
BY: Krishnaveni Tanaleida
Date: 11/5/2010
Original ... the Clerk ... Court of
Fairfax County, Virginia

County of Fairfax, Virginia

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

May 24, 2011

Robert L. Calhoun, Attorney
Redmon, Peyton & Braswell, L.L.P.
510 King Street, Suite 301
Alexandria, Virginia 22314

Re: Administrative Reduction
Walhaven, Section 3, Lot 5
6001 Clames Drive
Tax Map Ref.: 81-4 ((16)) 5
Zoning District: R-1

Dear Mr. Calhoun:

This is in response to your letter dated May 12, 2011 requesting approval of administrative reductions for the subject property to allow the dwelling to remain 38.6 feet (with eave 37.9 feet) from the northern (Clames Drive) front lot line, and for the detached garage which is 17.6 feet in height to remain 18.9 feet from the southern side lot line. The minimum front yard requirement for dwellings in the R-1 District is 40 feet, and eaves over 10 feet in height are permitted to extend up to 3 feet into the minimum required yard. The eave is over 10 feet in height; therefore it meets the Zoning Ordinance requirements. The dwelling was shown on the building permit to be located 40 feet from the front lot line; however it was constructed at 38.6 feet, extending 1.4 feet into the minimum required yard, which is approximately a 3.5% error. Freestanding accessory structures which exceed 7 feet in height must meet the minimum side requirement, which for the R-1 District is 20 feet. The garage was shown on the building permit to be located 20 feet from the side yard; however it was constructed at 18.9 feet, extending 1.1 feet into the minimum required yard, which is approximately a 5.5% error.

Given that the proposed construction of the dwelling and garage was intended to meet the minimum yard requirements and as a duly authorized agent of the Zoning Administrator, I have determined that the requirements set forth in Sect. 2-419 of the Zoning Ordinance, which allow the Zoning Administrator to grant administrative reductions for minimum yard requirements in certain circumstances, have been met. Therefore a 1.4 foot administrative reduction in the minimum required front yard is granted for the existing dwelling, and a 1.1 foot administrative reduction in the minimum required side yard is granted for the existing detached garage. Please note that these reductions are only applicable to the dwelling and the detached garage, and does not validate other structures on the property which do not meet the minimum Zoning Ordinance requirements. If you have any questions regarding these administrative reductions please feel free to contact me at 703-324-1314.

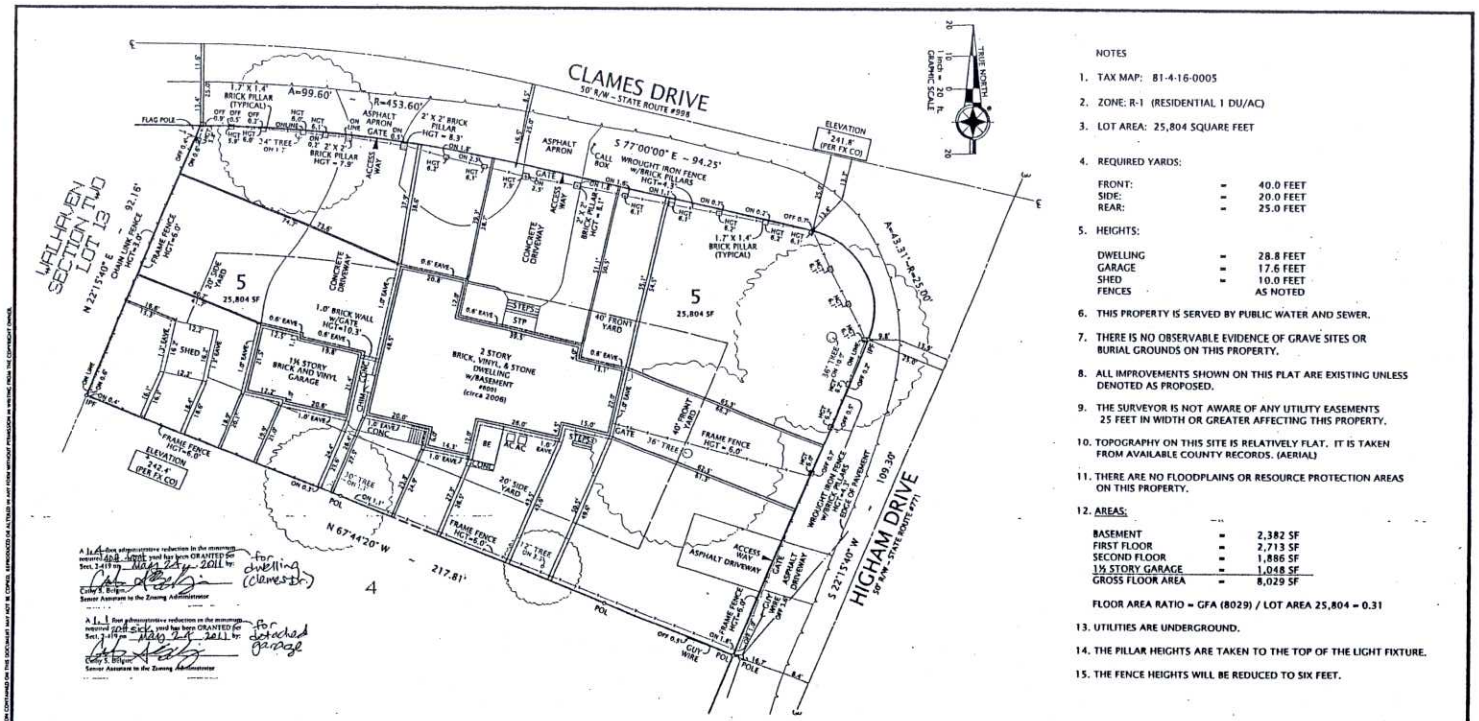
Department of Planning and Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1374 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/

DEPARTMENT OF PLANNING & ZONING

Sincerely,

Cathy S. Belgin, AICP
Senior Assistant to the Zoning Administrator

cc: Eileen McLane, Zoning Administrator
Jeffrey C. McKay, Supervisor, Lee District
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Debbie Hedrick, Staff Coordinator, Zoning Evaluation Division
Nelson Ramirez, 6001 Clames Drive, Alexandria, Virginia 22310 (property owner)



NOTES

1. TAX MAP: 81-4-16-0005
2. ZONE: R-1 (RESIDENTIAL 1 DU/AC)
3. LOT AREA: 25,804 SQUARE FEET
4. REQUIRED YARDS:

FRONT:	=	40.0 FEET
SIDE:	=	20.0 FEET
REAR:	=	25.0 FEET

5. HEIGHTS:

DWELLING	=	28.8 FEET
GARAGE	=	17.6 FEET
SHED	=	10.0 FEET
FENCES		AS NOTED

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY ON THIS SITE IS RELATIVELY FLAT. IT IS TAKEN FROM AVAILABLE COUNTY RECORDS. (AERIAL)
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS:

BASEMENT	=	2,382 SF
FIRST FLOOR	=	2,713 SF
SECOND FLOOR	=	1,886 SF
1½ STORY GARAGE	=	1,048 SF
GROSS FLOOR AREA	=	8,029 SF

FLOOR AREA RATIO = GFA (8029) / LOT AREA 25,804 = 0.31

13. UTILITIES ARE UNDERGROUND.
14. THE PILLAR HEIGHTS ARE TAKEN TO THE TOP OF THE LIGHT FIXTURE.
15. THE FENCE HEIGHTS WILL BE REDUCED TO SIX FEET.

FRONT PILLARS

REAR

REAR

REAR

FRONT GATE AND PILLAR

REAR

REAR

PLAT

SHOWING THE IMPROVEMENTS ON
LOT 5, SECTION THREE
WALHAVEN
(DEED BOOK 930, PAGE 81)
FAIRFAX COUNTY, VIRGINIA
LEE DISTRICT
SCALE: 1" = 20' JULY 09, 2008
DECEMBER 14, 2010 (PILLAR HEIGHTS)
FEBRUARY 09, 2011 (NOTE #15)

RECEIVED
Department of Planning & Zoning
APR 04 2011
Zoning Evaluation Division

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE.

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.
A TITLE REPORT WAS NOT FURNISHED.
NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
07/09/2008
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR
George M. O'Quinn

CASE NAME:
NELSON RAMIREZ

DOMINION Surveyors Inc.
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-819-6555
FAX: 703-799-6412

#80518004

#42-08

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REDMON, PEYTON & BRASWELL, L.L.P.
510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314

TELEPHONE (703) 684-2000
FACSIMILE (703) 684-5109

FAIRFAX COUNTY
RECEIVED
MAY 16 2011
DIVISION OF
ZONING ADMINISTRATION
2011-0533

May 12, 2011

Eileen M. McLane
Zoning Administrator
County of Fairfax
12055 Government Center Parkway
Fairfax, Virginia 22035

Request for Approval of Erroneous
Building Locations–6001 Clames Drive

Dear Ms.McLane:

Pursuant of section 2-419 of the Zoning Ordinance, your approval is requested of several erroneous building locations on the above-described property on behalf of the owners, Nelson and Naomi Ramirez(Owners). These errors in building locations were disclosed in connection with an Application for Special Permit which is now pending in SP-2011-LE-035.

The building locations in error are shown on the enclosed plat of the property as follows:

1. Northwest corner of main dwelling–37.9 feet vs. the required sideyard of 40 feet or a deviation of slightly in excess of 5 percent and;

2. The detached garage –18.9 feet vs. the required sideyard of 20 feet or deviation of 5.5 percent.

In support of this request, please consider the following:

1. Neither of the errors exceeds 10 percent.

2. It is believed that these errors were made at the time the dwelling and garage were constructed by builder without the knowledge or consent of the Owners.

3. These deviations are minor and approval will not impair the purpose or intent of the Ordinance.

4. These errors in building location have been present since the Owners' dwelling and garages were constructed. Thus, approval of these deviations will not be detrimental to the use

and enjoyment of other public or private property in the immediate vicinity. Likewise, it will not create any unsafe conditions with respect to other property.

5. Strict compliance with the minium sideyard requirements would cause an unreasonable hardship on the Owners in that they would have to make expensive and difficult alterations to their dwelling and garage.

6. Approval of these deviations will not result in an increase in the density or floor area ratios permitted by the applicable zoning regulations.

Thank you for your consideration.

Sincerely yours,

Robert L. Calhoun

Robert L. Calhoun
Attorney for Nelson and Naomi Ramirez

8-006 General Standards

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

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

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

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

2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

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

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

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:

   A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.

   B. Total area of the property and of each zoning district in square feet or acres.

   C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

   D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

   E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.

   F. Means of ingress and egress to the property from a public street(s).

   G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

   H. If applicable, the location of well and/or septic field.

   I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

   J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

   K. Seal and signature of professional person certifying the plat.

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

2. The BZA determines that:

   A. The error exceeds ten (10) percent of the measurement involved, and

   B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and

   C. Such reduction will not impair the purpose and intent of this Ordinance, and

   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

   E. It will not create an unsafe condition with respect to both other property and public streets, and

   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

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

3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-923 ***Provisions for Increase in Fence and/or Wall Height in Any Front Yard***

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3l of Sect. 10-104.

2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.

3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.

4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.

5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.

7. 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 or structure, to include existing or proposed fences and/or walls.

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 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. If applicable, existing 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.

8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.

PART 1 10-100 ACCESSORY USES AND STRUCTURES

10-104 Location Regulations

1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building, except as qualified in Sect. 2-412.

2. The required minimum yards referenced in this Section shall refer to the minimum yards in the applicable zoning district for the principal building(s) with which the accessory-type building is associated.

3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

   A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.

   B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

      (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and

      (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

      The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

      In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

   C. In any side or rear yard on any lot, a fence or wall not exceeding seven (7) feet in height is permitted. However, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, is permitted:

(1) In any side or rear yard of a reverse frontage lot; or

(2) For that portion of a side or rear yard of a residential lot where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space, where such open space is located between the lot line and the major thoroughfare.

D. In any yard of an industrial use permitted by the provisions of this Ordinance, a fence or wall not exceeding eight (8) feet in height is permitted.

E. Notwithstanding the above provisions, a fence or wall which is an integral part of any accessory use, such as a tennis court or swimming pool, shall be subject to the location regulations of Par. 12 below. However, a modification to the location regulations may be permitted with approval of a special permit by the BZA in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a rezoning or a special exception in accordance with Part 6 of Article 9 for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses that are not constructed in association with a privately used playing field/court on a lot containing a single family dwelling.

F. In addition, for noise barriers which reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or which reduce noise impacts of commercial and industrial uses on adjacent properties, an increase in height and/or modification to the corresponding location regulations set forth above may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Part 9 of Article 8, or by the Board of Supervisors in conjunction with the approval of a proffered rezoning or a special exception in accordance with the following:

(1) A noise impact study shall be submitted with the application. The study shall demonstrate the need for such a barrier and the level of mitigation to be achieved, and shall include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming and landscaping.

(2) The Board shall determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation

of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.

(3) Before establishment, the noise barrier shall be subject to the provisions of Article 17, Site Plans or other appropriate submission as determined by the Director.

G. Notwithstanding the above, a fence or wall which is to be provided in conjunction with a public use may be of such height and location as approved by the Board.

H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:

(1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.

(2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.

I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a five (5) percent increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:

(1) The sight distance requirements of Sect. 2-505 shall be met.

(2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.

(3) Any existing noncompliance was done in good faith and through no fault of the property owner.

(4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.

(5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.

J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of not less than six (6) feet apart and a minimum distance of not less than three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.

4. Trellises, gates and gate posts may be located within any required minimum front yard as follows:

A. Two (2) trellises, not to exceed eight (8) feet in height nor four (4) feet in width.

B. Four (4) gate posts without limit as to height or width.

C. Two (2) gates not to exceed eight (8) feet in height.

D. Gates and gate posts exceeding four (4) feet in height shall not exceed in maximum width fifteen (15) percent of the lot width.

5. Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any R district as follows:

A. Structures seventy-five (75) feet or less in height shall not be located closer to any lot line than a distance equal to one-fifth (1/5) of their height.

B. Structures greater than seventy-five (75) feet in height shall not be located closer to any lot line than a distance equal to their height.

6. Off-street parking and loading spaces shall be located in accordance with the provisions of Article 11.

7. Signs shall be located in accordance with the provisions of Article 12.

8. Wayside stands shall be located in accordance with the provisions of Par. 28 of Sect. 102 above.

9. The following regulations shall apply to the location of structures for the housing of animals:

   A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.

   B. Barns and other structures used for the confining or sheltering of livestock and domestic fowl, as permitted by the provisions of Sect. 2-512, shall be located no closer than fifty (50) feet to any lot line; provided, however, that any such structure used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.

   C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer than three (3) feet to any lot line. Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.

   D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

   The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

10. The following regulations shall apply to the location of freestanding accessory storage structures:

   A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.

B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.

C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.

D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.

E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.

F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:

(1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

(2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and recycling storage containers. In addition, no containers shall be located in any required parking space, driveway, parking aisle, open space or landscaped area.

12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:

A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.

B. An accessory structure or use, which does not exceed seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Sect. 2-505.

C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.

D. No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.

E. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.

F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located:

(1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

(2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

13. Except as may be qualified by Sect. 2-505, conventional television antennas and satellite dish antennas designed to receive television or video programming with a diameter or diagonal measurement of 39 inches (one meter) or less shall be permitted in any yard on any lot.

14. Except for lighting fixtures mounted on poles that are associated with outdoor recreation/sports facilities playing fields/courts and as noted below, the mounting height of lighting fixtures on light poles shall not exceed a maximum height of forty (40) feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture. Light poles mounted on the top of parking decks or parking structures shall not exceed a maximum height of twenty (20) feet as measured from the top of the pole to the surface on which the pole is mounted. Light poles shall be located in accordance with the following:

A. On lots developed with single family dwellings:

(1) Light poles that are no greater than seven (7) feet in height may be located in any yard;

(2) Light poles that exceed seven (7) feet in height shall be subject to the location regulations of Paragraphs 12C, 12D, 12E and 12F above.

B. On all other lots:

(1) Light poles that do not exceed seven (7) feet in height may be located in any yard;

(2) Light poles greater than seven (7) feet in height shall be subject to the minimum yard requirements, with the exception of angle of bulk plane, of the zoning district in which located.

The above locational provisions shall not be applicable to parking lot light poles, which may be located in any yard. All light poles, to include parking lot light poles, shall be subject to the provisions of Part 9 of Article 14.

15. Temporary portable storage containers shall be located in accordance with the provisions of Sect. 102 above.