APPLICATION ACCEPTED: May 24, 2011
BOARD OF ZONING APPEALS: August 10, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

August 3, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-MV-047

MOUNT VERNON DISTRICT

OWNER/APPLICANT:	Ahmad H Bahabib
SUBDIVISION:	Cecil Case Estates
STREET ADDRESS:	5135 James Franklin Court
TAX MAP REFERENCE:	101-3 ((35)) 3
LOT SIZE:	20,215 square feet
ZONING DISTRICT:	R-2
ZONING ORDINANCE PROVISIONS:	8-918
SPECIAL PERMIT PROPOSAL:	To permit an accessory dwelling unit within an existing dwelling.

STAFF RECOMMENDATION: Staff recommends approval of SP 2011-MV-047 for the accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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

O:\SWILLI\SP\SP 2011-MV-047 Ahmad H Bahabib\Staff Report\Staff Report - Draft.doc

St. Clair Williams

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/

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.

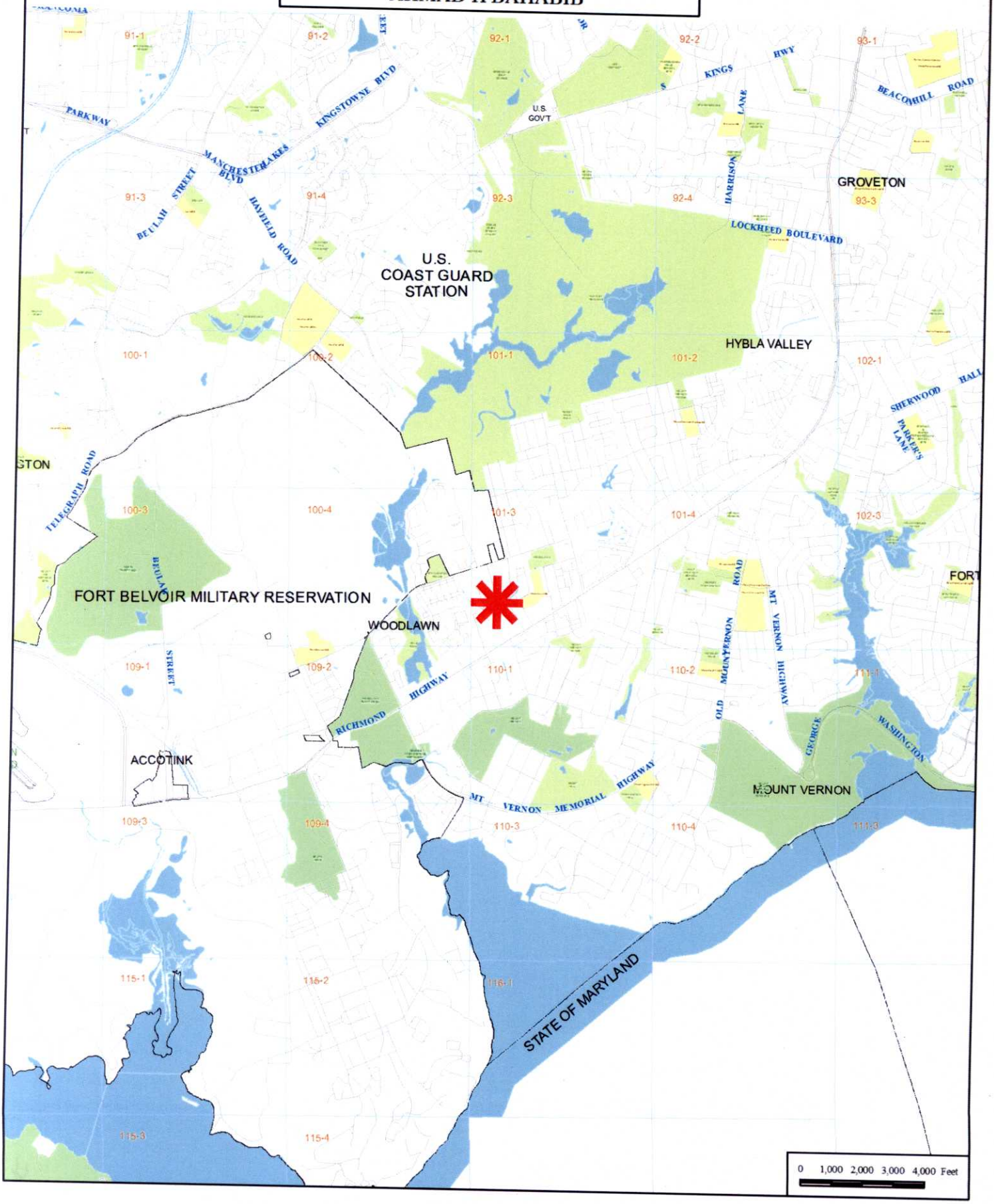
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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

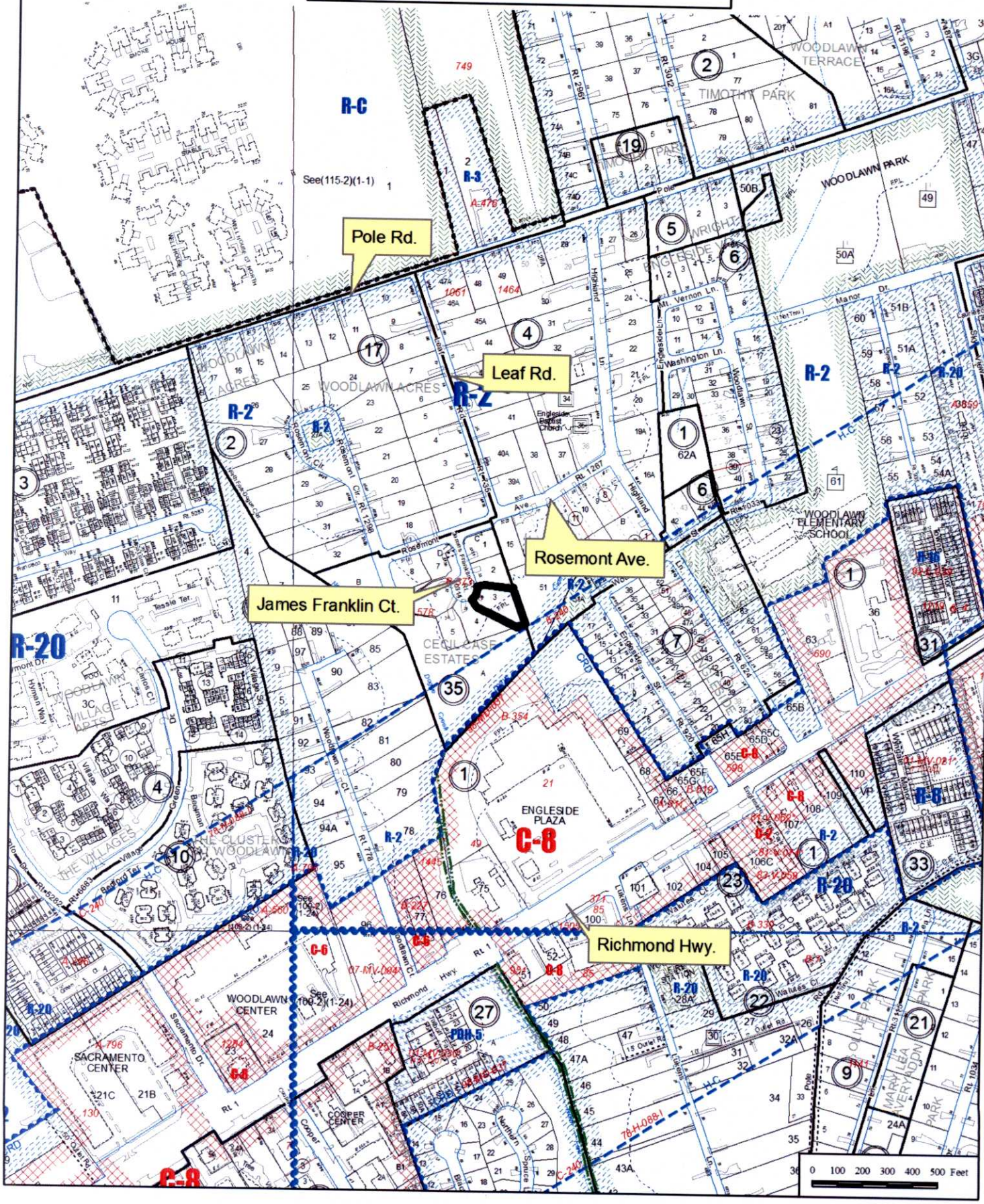
SP 2011-MV-047

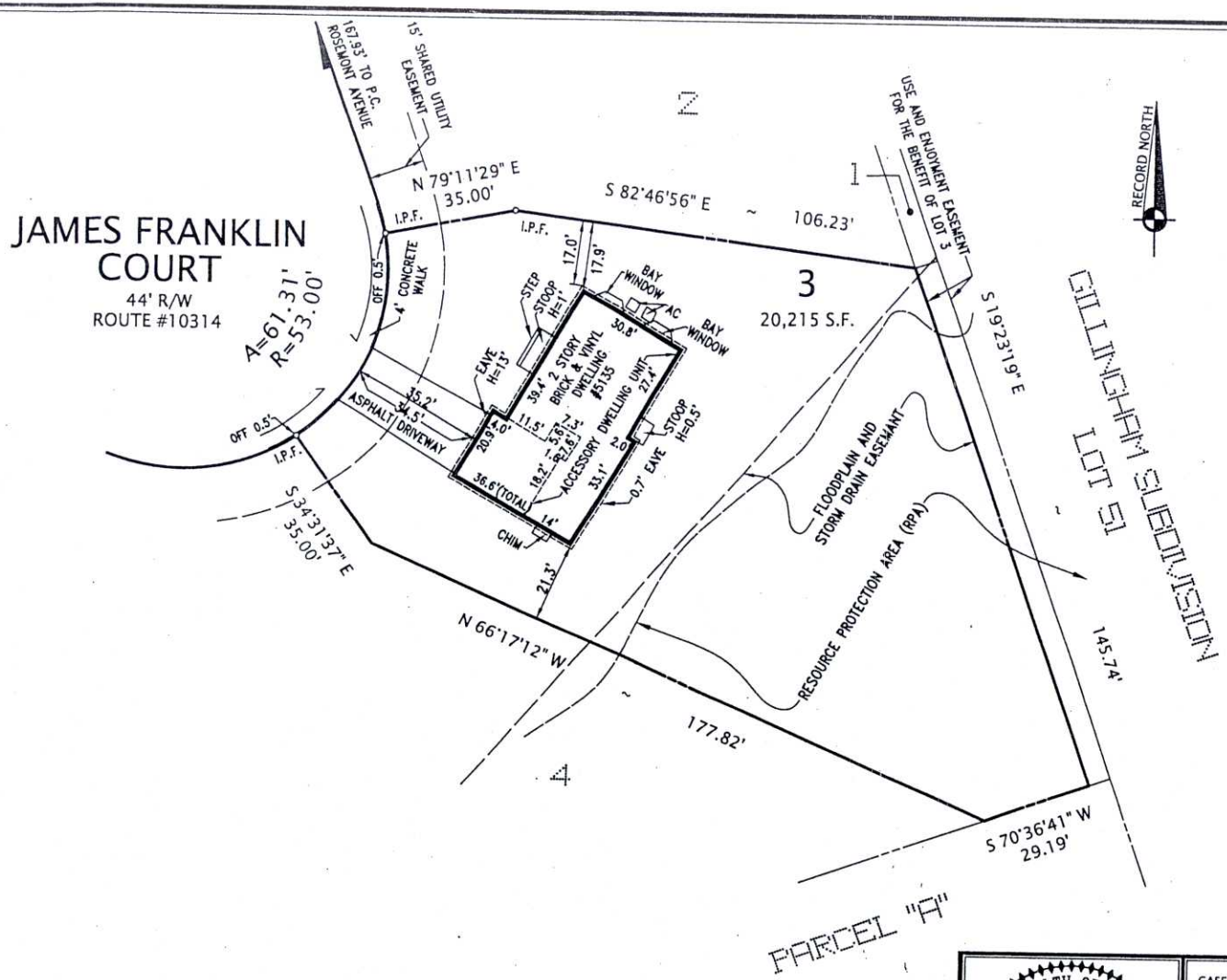
AHMAD H BAHABIB



Special Permit

SP 2011-MV-047
AHMAD H BAHABIB





NOTES

1. TAX MAP: 1013 35 0003
2. ZONE: R-2
3. LOT AREA: 20,215 SQUARE FEET
4. MINIMUM REQUIRED YARDS:
   DWELLING
   FRONT: = 35 FEET
   SIDE: = 15 FEET
   REAR: = 25 FEET
5. HEIGHTS:
   DWELLING = 33 FEET
   FENCES = AS NOTED ON DRAWING
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.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. FLOOD PLAIN AND RESOURCE PROTECTION AREAS ARE SHOWN PER THE RECORDED SUBDIVISION PLAT.
11. APROXIMATE FLOOR AREAS BASED IN PART ON EXTERIOR DIMENSIONS:
    TOTAL DWELLING INCLUDING BASEMENT/CELLAR 5,150 S.F.
    ACCESSORY DWELLING UNIT 1,400 S.F.
    FLOOR AREA OF ACCESSORY DWELLING UNIT EQUALS 27 % OF THE TOTAL DWELLING.
12. THERE ARE NO PROPOSED CHANGES TO VEGETATION.

SPECIAL PERMIT PLAT
SHOWING THE IMPROVEMENTS ON
LOT 3

CECIL CASE ESTATES

FAIRFAX COUNTY, VIRGINIA
SCALE: 1" = 30' APRIL 28, 2011

COMMONWEALTH OF VIRGINIA
PATRICK A. ECKERT
LIC. NO. 2645
05/10/11
LAND SURVEYOR

CASE NAME: BAHABIB

GRAPHIC SCALE
0 30 60

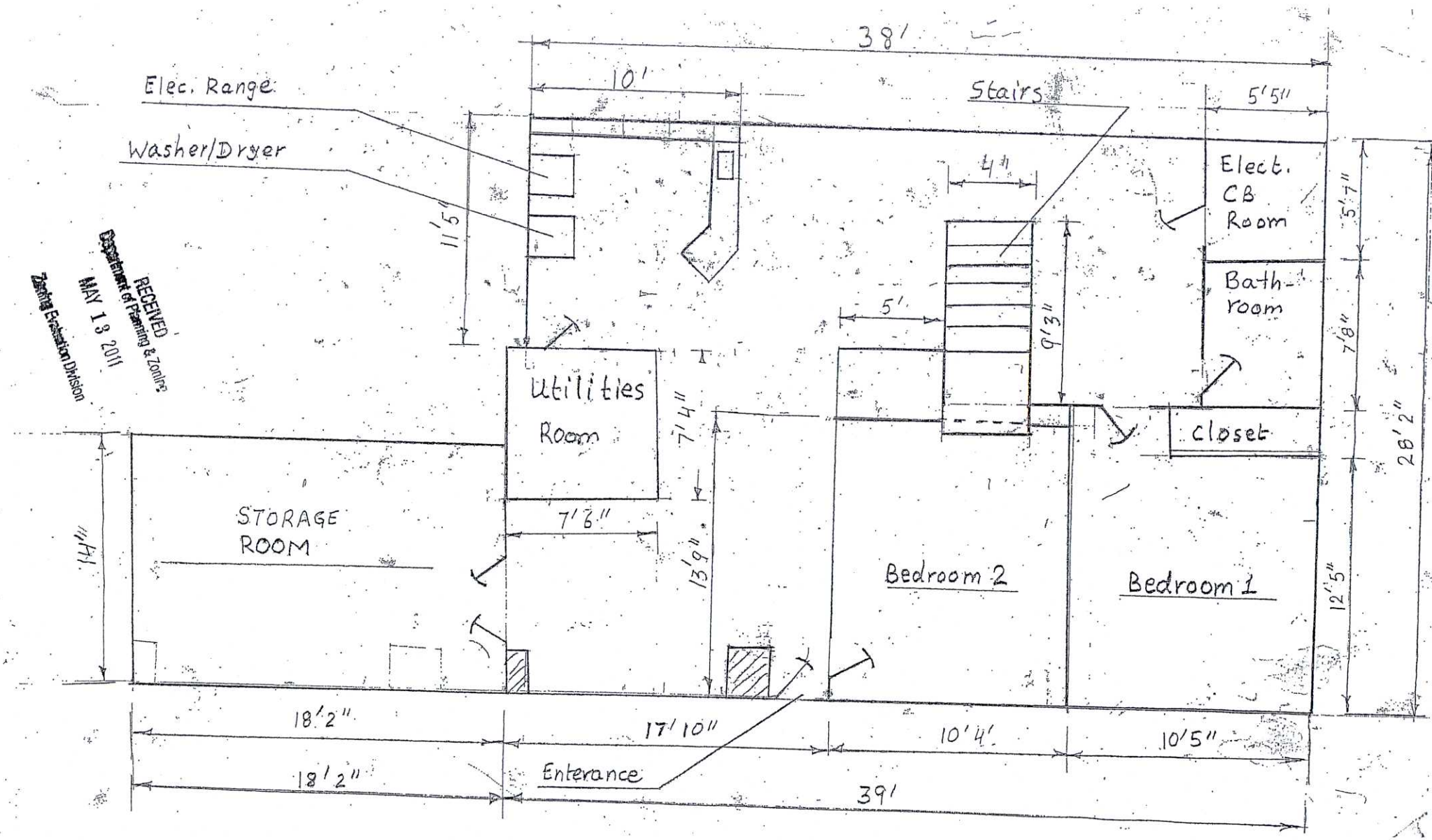
REQUESTED BY: AHMAD BAHABIB

PLAT SUBJECT TO RESTRICTIONS OF RECORD.
TITLE REPORT NOT FURNISHED.

ALEXANDRIA SURVEYS
INTERNATIONAL, LLC
11216 WAPLES MILL ROAD SUITE 102 FAIRFAX, VIRGINIA 22030
TEL. NO. 703-660-6615 FAX NO. 703-768-7764

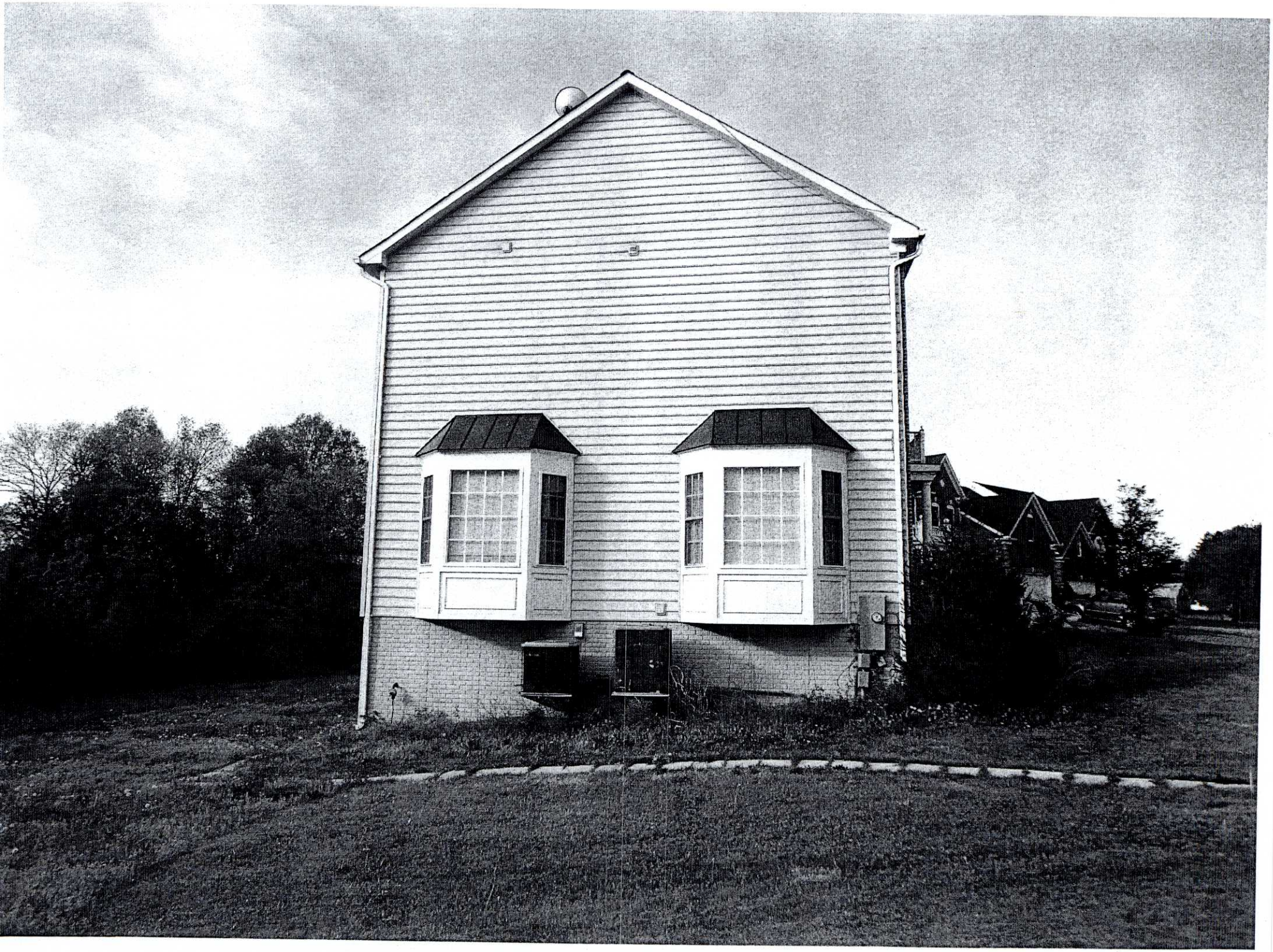
11-0374

RECEIVED
Department of Planning & Zoning
MAY 13 2011
Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning
MAY 13 2011
Zoning Evaluation Division

STOP



DESCRIPTION OF THE APPLICATION

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

Size of Principal Dwelling: 5,150 square feet

Size of Accessory Dwelling Unit: 1,400 square feet

Lot Size: 20,215 square feet

*The accessory dwelling unit will be located in the basement of the principal dwelling's ground floor. The proposed floor plan is included as Appendix 4. The unit will include two bedrooms, a full bathroom, kitchen and living area.

LOCATION AND CHARACTER

Existing Site Description

The 20,215 square foot subject site is located along the cul-de-sac at the end of James Franklin Court in the Ceil Case subdivision. The site is developed with a two-story single-family detached house and a two-car garage. An asphalt driveway extends from James Franklin Court along the front of the house and garage.

Surrounding Area Description

Direction	Use	Zoning
North	Single Family Detached Dwelling	R-2
South	Private Open Space	R-2
East	Vacant	R-2
West	Single Family Detached Dwelling	R-2

BACKGROUND

The applicant previously had an accessory dwelling unit in the basement. Following a complaint, the site was inspected on March 3, 2011, and a Notice of Violation (NOV) was issued on March 14, 2011 for excessive dwelling units. An accessory dwelling unit, which included a full kitchen, was constructed in the basement without the required

permits. After the inspection, the applicant removed the kitchen, which was confirmed by a second inspection. The case remains open at this time; however no further action has been taken, as the applicant has filed this special permit application in order to be in compliance with the Zoning Ordinance provisions for accessory dwelling units. A copy of the NOV is attached as Appendix 4.

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

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plat Showing the Improvements On, Lot 3, Cecil Case Estates

Prepared By: Alexandria Surveys International, LLC

Dated: April 28, 2011

Proposed Use:

The applicant requests a special permit to allow an accessory dwelling unit in the basement of the existing single family detached dwelling on the site. The single family detached dwelling has a total of 5,150 square feet of living area on two floors. There are five bedrooms, four full bathrooms, and one half bathroom in the principal dwelling. The 1,400 square foot basement of the dwelling will be used for the accessory dwelling unit. The accessory dwelling unit will have two bedrooms, one full bathroom, a kitchen, and living area, which will be 27.3% of the home's total living area. The proposed square footage is less than the 35% permitted maximum of the total gross floor area of the principal dwelling unit. A separate main entrance to the proposed accessory dwelling unit already exists. The applicant's parents, who are older than 55 years of age, will reside in the accessory unit.

ZONING ORDINANCE PROVISIONS

Special Permit Requirements (See Appendix 6)

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

Summary of Zoning Ordinance Provisions

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

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Therefore staff recommends approval of SP 2011-MV-047 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

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

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

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Notice of Violation dated March 14, 2011
5. Fairfax County Department of Transportation Analysis
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-MV-047

August 3, 2011

If it is the intent of the Board of Zoning Appeals to approve SP 2011-MV-047 located at Tax Map 101-3 ((35)) 3 to permit an accessory dwelling unit under Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen in the accessory unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.

2. This approval is granted to the applicant only, Ahmad H Bahabib, and is not transferable without further action of this Board, and is for the location indicated on the application, 5135 James franklin Court (20,215 square feet), and is not transferable to other land.

3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Alexandria Surveys International, LLC., dated April 28, 2011, and approved with this application, as qualified by these development conditions.

4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.

6. The accessory dwelling unit shall contain a maximum of 1,400 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.

7. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit prior to occupancy.

8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.

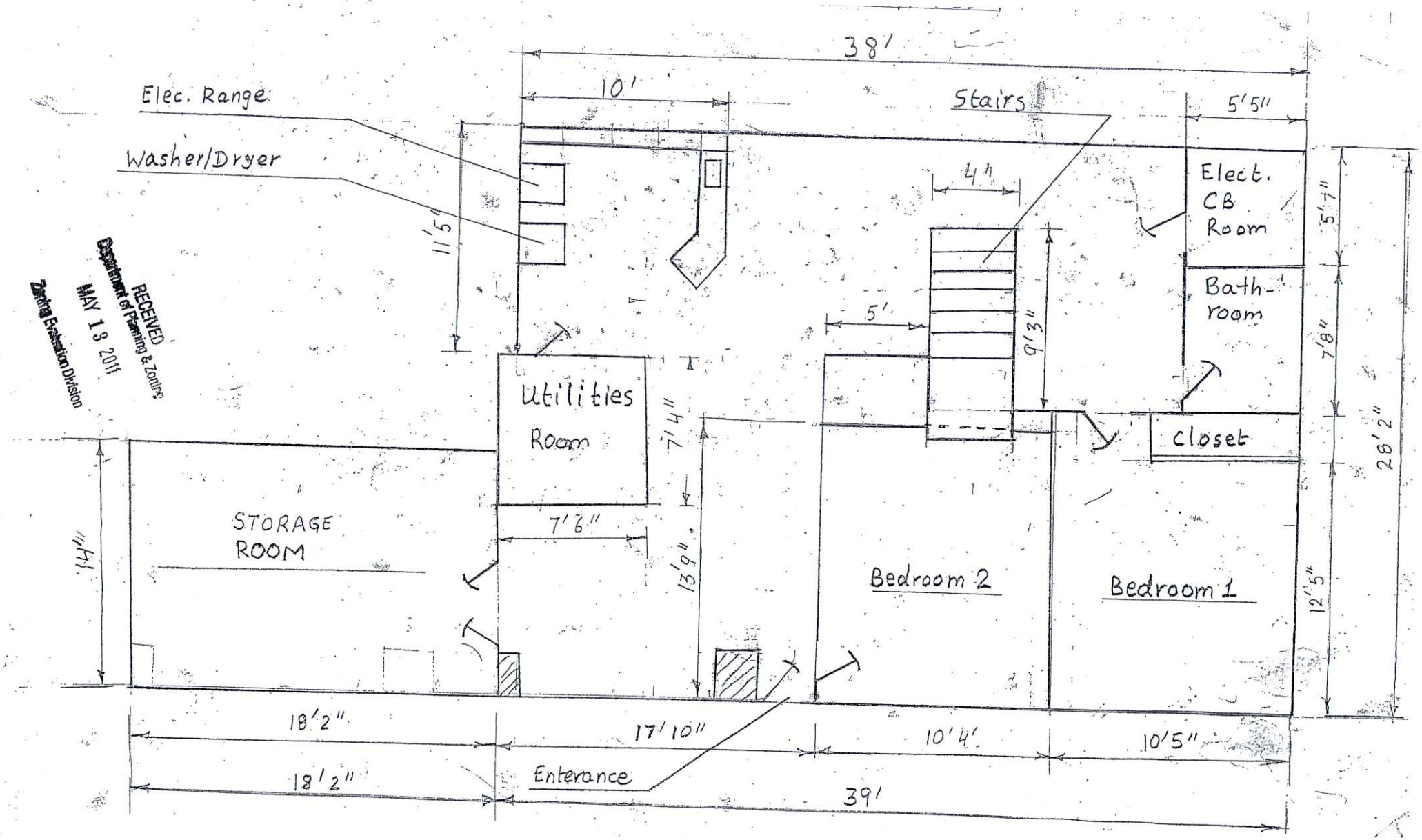
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.

11. All parking shall be provided on site as shown on the special permit plat.

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

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



RECEIVED
Department of Planning & Zoning
MAY 13 2011
Zoning Enforcement Division

ATTACHMENT 1

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/16/2011
(enter date affidavit is notarized)

I, Ahmad H Bahabib, 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

111448

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)
Ahmad H Bahabib	5135 James Franklin Ct Alexandria, VA 22309	Title Owner
Buthaina Adam abbas	5135 James Franklin Ct Alexandria, VA 22309	Title Owner
Shams Bahabib	5135 James Franklin Ct Alexandria, VA 22309	Title Owner
Iman Bahabib	5135 James Franklin Ct Alexandria, VA 22309	Title Owner

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

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

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/16/2011 111448

(enter date affidavit is notarized)

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.

[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.

[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/16/2011
(enter date affidavit is notarized)

11/448

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

PARTNERSHIP INFORMATION

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

(check if applicable) [ ] The above-listed partnership has no limited partners·

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

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

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/16/2011

(enter date affidavit is notarized)

11448

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 3/16/2011 111448
(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: Ahmad Bahabib

(check one) [✓] Applicant [ ] Applicant's Authorized Agent

Ahmad H Bahabib
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16th day of March 2011, in the State/Comm. of VA, County/~~City~~ of FAIRFAX.

Notary Public

My commission expires: 31 DEC 2012

EDWIN T. REID
Notary Public
Commonwealth of Virginia
My Comm. Expires 31 Dec. 2012
#296477

Ahmad H Bahabib
5135 James Franklin Ct
Alexandria, VA 22309
(703) 819-0547

RECEIVED
Department of Planning & Zoning
MAR 17 2011
Zoning Evaluation Division

Special Permit Statement of Justification

March 16, 2011

A. Type of Operation – Accessory Dwelling at the basement of a detached single family house
B. Hours of Operation – Residence -24 hours/day
C. Estimated number of patrons/clients - 2 elderly residents
D. Proposed number of employees – None
E. Traffic impact – None. The house is located at a court with a cluster of 8 similar houses. There is no through traffic.
F. Vicinity or general area to be served by the use – basement
G. Building façade and architecture of proposed new building or additions – not applicable
H. Listing of hazardous or toxic substances – none
I. Statement of how proposed use conforms to the provisions of all applicable ordinances:-

The proposed use conforms to the provisions of Section 8-011 as well as Section 8-918 of part 9 of article 8 as follows:

1. The accessory dwelling unit is in the basement of and associated with a single family detached dwelling.
2. The accessory dwelling meets the 35% gross floor principal dwelling criteria
3. The accessory dwelling has 2 bedrooms only
4. One of the dwelling units (principal dwelling) shall be owner occupied
5. One of the dwelling units (accessory dwelling) shall be rented to and occupied by one or two elderly persons 55 years of age or older
6. The accessory dwelling shall not be occupied by more than 2 persons
7. The principal single family dwelling unit shall be occupied by one family (my wife and I, and our children)
8. The principal dwelling has a two car garage, 4-car drive way. There is also street parking in front of the house
9. The owner shall abide by any other applicable Fairfax County regulations for building, safety, health and sanitation.

County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: March 14, 2011

SHERIFF'S LETTER

CASE #: 201100806 **SR#:** 68617

SERVE: Ahmad H. Bahabib
Buthaina Adam Abbas
Shams A. Bahabib
Iman A. Bahabib
5135 James Franklin Court
Alexandria, VA 22309

LOCATION OF VIOLATION 5135 James Franklin Court
Alexandria, VA 22309-0000
Tax Map #: 101-3 ((35)) 3
Zoning District: R-2

Dear Property Owners:

An inspection of the above referenced property on March 3, 2011, revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Excessive Dwelling Units:

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

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

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

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

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

- Applying for and obtaining approval from the Fairfax County Building Official, (12055 Government Center Parkway, Second Floor, Permit Application Center) of a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, dishwashers, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

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

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

submit and a $600.00 filing fee. Once an appeal application is accepted, it will be 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 703-324-1317 or 703-324-1300.

Sincerely,

Nancy Stallings
Property Maintenance/Zoning Enforcement Inspector

County of Fairfax, Virginia

MEMORANDUM

DATE: June 24, 2011

TO: Barbara Berlin, Director
Zoning Evaluation Division
Department of Planning and Zoning

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

SUBJECT: Transportation Impact

REFERENCE: SP 2011-MV-047; Ahmad Bahabib
Land Identification Map: 101-3((35))0003

Transmitted herewith are the comments of the Department of Transportation with respect to the referenced application. These comments are based on the informational packet made available to this department on June 13, 2011.

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

AKR/mdd

Fairfax County Department of Transportation
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8-006 General Standards

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

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

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

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

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

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

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

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

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

8-903 Standards For All Group 9 Uses

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

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

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

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

8-918 Additional Standards for Accessory Dwelling Units

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

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.

2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

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

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.

4. The accessory dwelling unit shall contain not more than two (2) bedrooms.

5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:

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

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

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

      (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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