APPLICATION ACCEPTED: June 29, 2011
BOARD OF ZONING APPEALS: September 14, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 7, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-MA-066

MASON DISTRICT

APPLICANT:	Lucio Sejas
OWNERS:	Lucio Sejas Eva Sejas
STREET ADDRESS:	3911 Larchwood Road
SUBDIVISION:	Belvedere
TAX MAP REFERENCE:	61-3 ((11)) 203
LOT SIZE:	10,214 square feet
ZONING DISTRICT:	R2, HC
ZONING ORDINANCE PROVISIONS:	8-914 and 8-922
SPECIAL PERMIT PROPOSALS:	To permit reduction to minimum yard requirements based on errors in building locations to permit an addition to remain 9.5 feet and an open deck/patio to remain 1.42 feet from the side lot line and to permit reduction to certain yard requirements to permit construction of a second-story addition 8.0 feet from a side lot line.

O:\rhorner\Special Permits\Sejas 3911 Larchwood Rd\3911 Larchwood Staff Report.doc *Rebecca Horner*

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/

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

STAFF RECOMMENDATION: Staff recommends denial of SP 2011-MA-066 for the addition with adoption of the proposed development conditions contained in Appendix 1.

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

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.

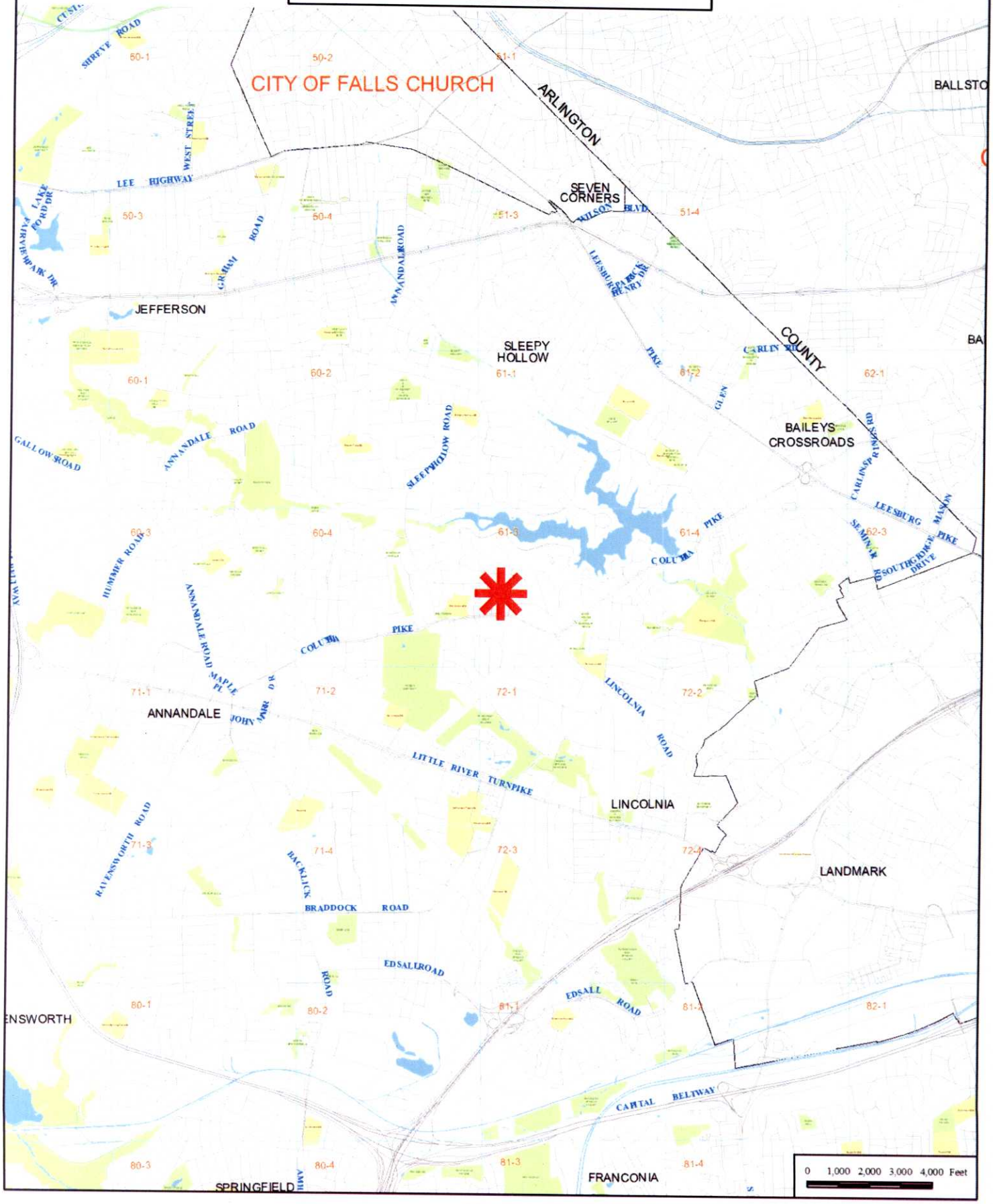
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government 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-MA-066

LUCIO SEJAS



Special Permit

SP 2011-MA-066

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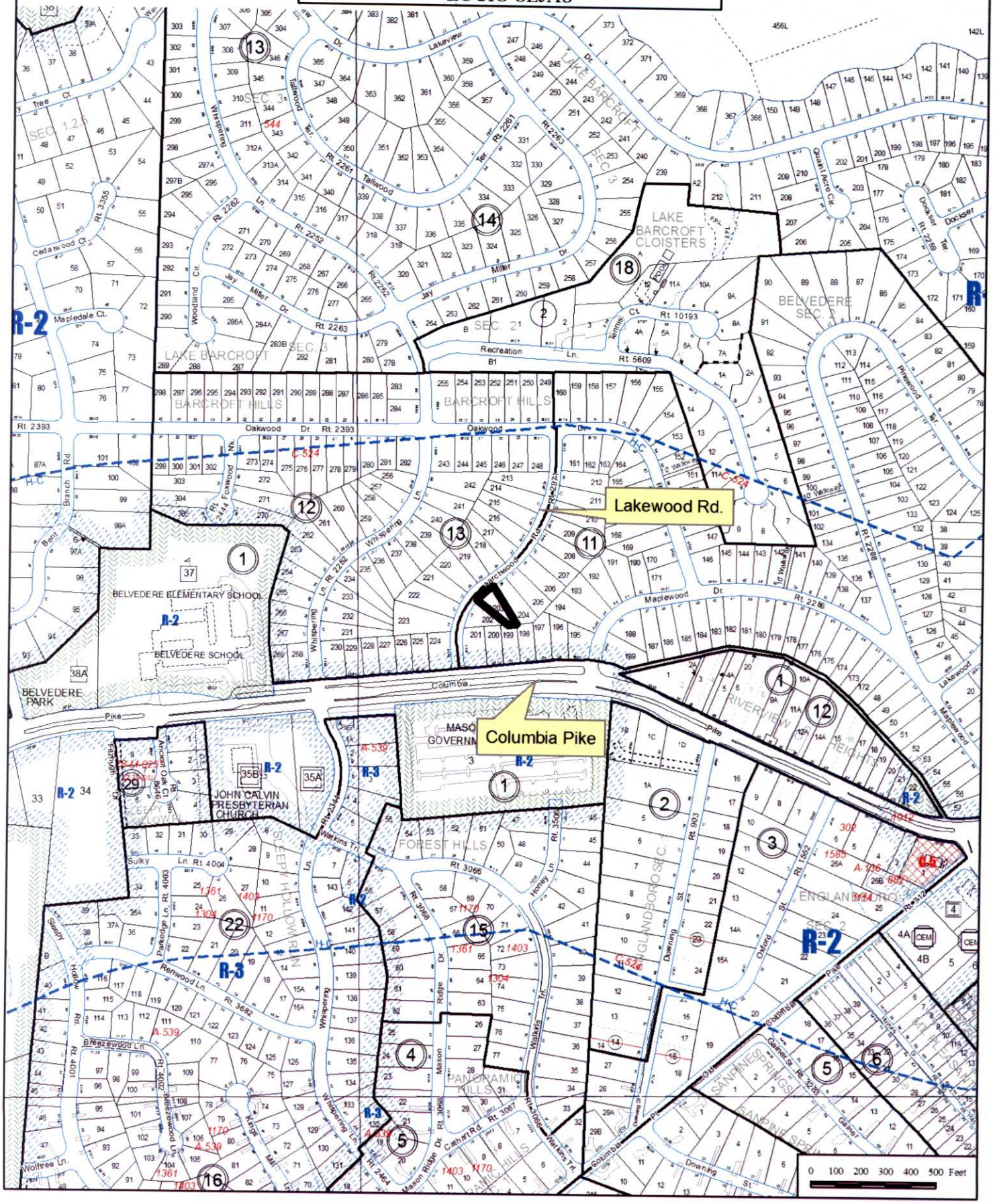
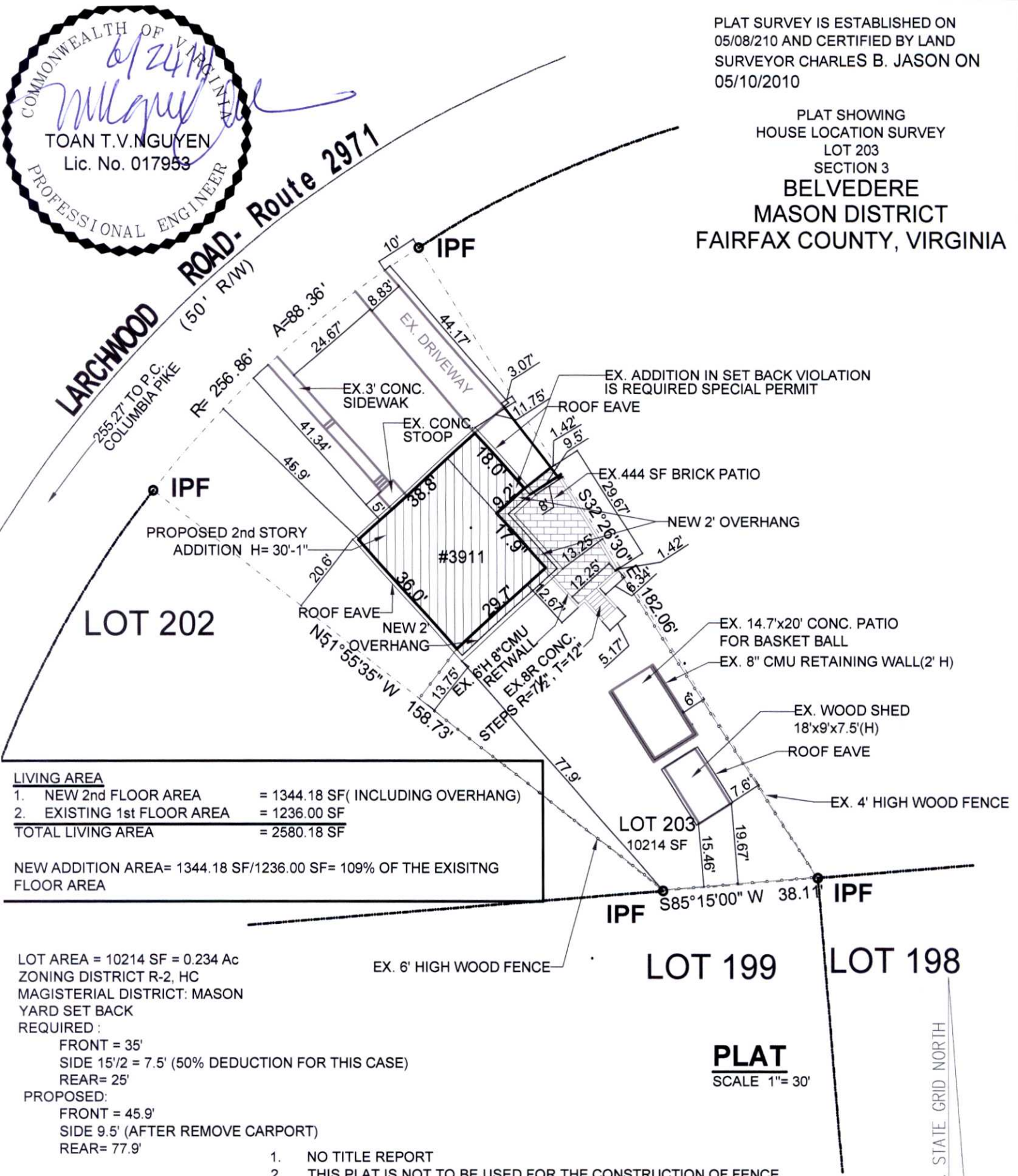


COMMONWEALTH OF VIRGINIA
6/24/11
TOAN T.V.NGUYEN
Lic. No. 017953
PROFESSIONAL ENGINEER

PLAT SURVEY IS ESTABLISHED ON 05/08/210 AND CERTIFIED BY LAND SURVEYOR CHARLES B. JASON ON 05/10/2010

PLAT SHOWING
HOUSE LOCATION SURVEY
LOT 203
SECTION 3
BELVEDERE
MASON DISTRICT
FAIRFAX COUNTY, VIRGINIA



LIVING AREA

1.	NEW 2nd FLOOR AREA	= 1344.18 SF(INCLUDING OVERHANG)
2.	EXISTING 1st FLOOR AREA	= 1236.00 SF
TOTAL LIVING AREA		= 2580.18 SF

NEW ADDITION AREA= 1344.18 SF/1236.00 SF= 109% OF THE EXISITNG FLOOR AREA

LOT AREA = 10214 SF = 0.234 Ac
ZONING DISTRICT R-2, HC
MAGISTERIAL DISTRICT: MASON
YARD SET BACK
REQUIRED :
FRONT = 35'
SIDE 15'/2 = 7.5' (50% DEDUCTION FOR THIS CASE)
REAR= 25'
PROPOSED:
FRONT = 45.9'
SIDE 9.5' (AFTER REMOVE CARPORT)
REAR= 77.9'

PLAT
SCALE 1"= 30'

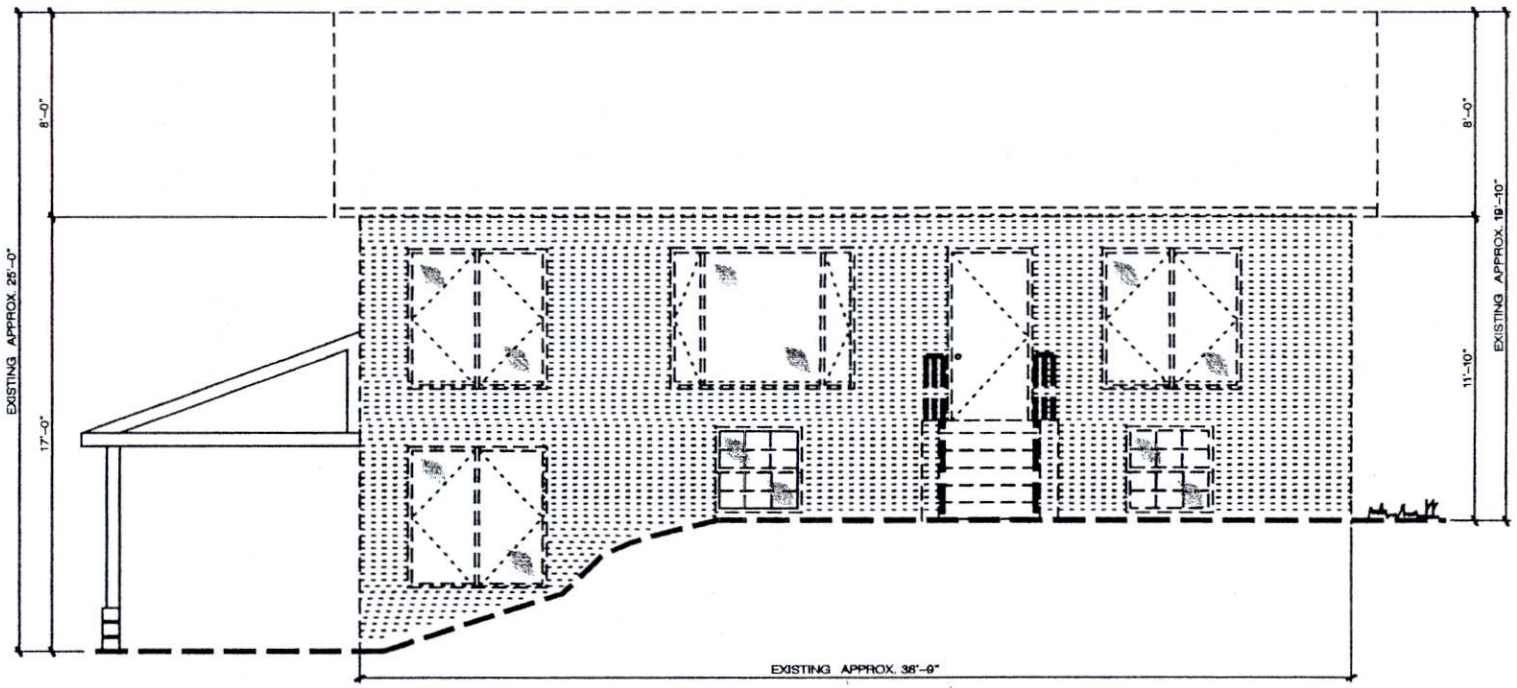
VA. STATE GRID NORTH

FLOOD ZONE "X"
COMMUNITY No. 5155250089 D
PANEL : 89 D

1. NO TITLE REPORT
2. THIS PLAT IS NOT TO BE USED FOR THE CONSTRUCTION OF FENCE
3. BOUNDARY INFORMATION OBTAINED FROM AVAILABLE RECORDS
4. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY OF LOT 203 ANY FENCES SHOWN ARE APPROXIMATELY
5. NO CORNER MARKERS SET.
6. NO SEPTIC TANK AND NO WATER WELL, THE PROPERTY HAS BEEN SERVED BY PUBLIC WATER AND PUBLIC SEWER

C-1 - REDUCTION SHEET

June 27, 2011



EXISTING FRONT ELEVATION

SCALE: 3/8" = 1'-0'

LEGEND:

- EXISTING WALL, PARTITION TO REMAIN
- EXISTING WALL, PARTITION TO BE REMOVE OR RELOCATE.
- EXISTING EXTERIOR CONCRETE BLOCK WALL TO REMAIN
- EXISTING INTERIOR 8" CONCRETE BLOCK BEARING WALL TO REMAIN.

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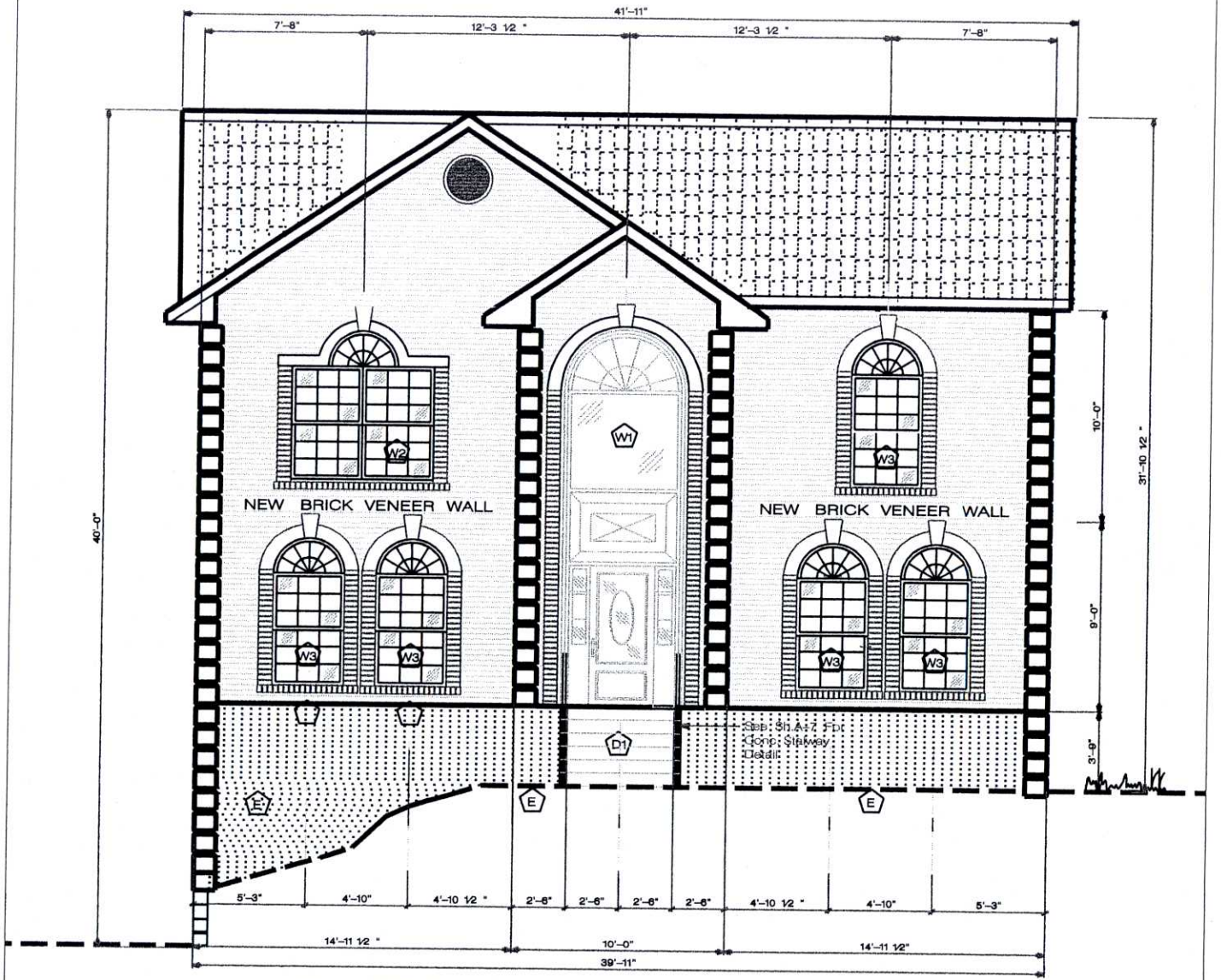

NEW FRONT MAIN ELEVATION

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

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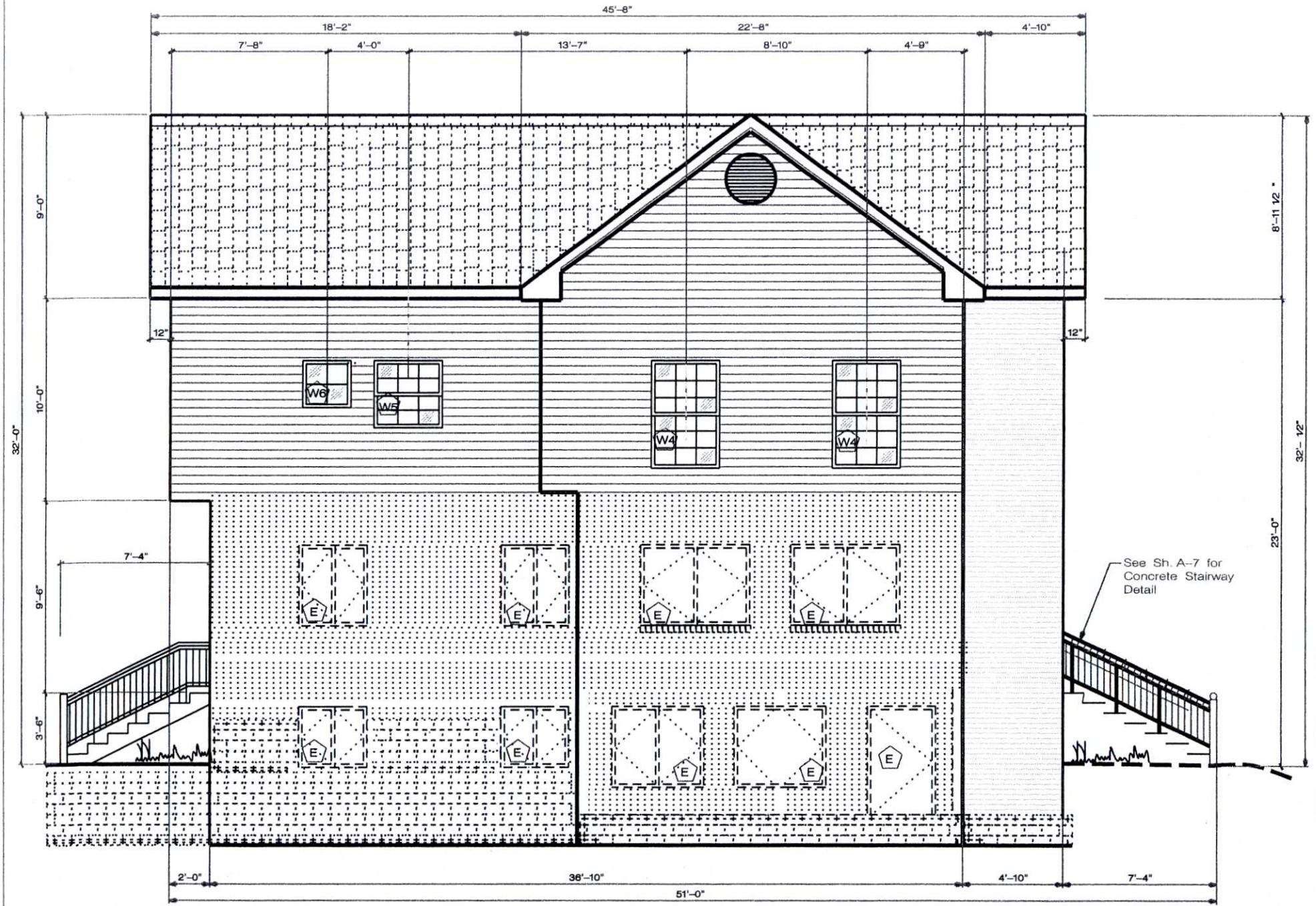

EXISTING AND NEW LEFT SIDE ELEVATION

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

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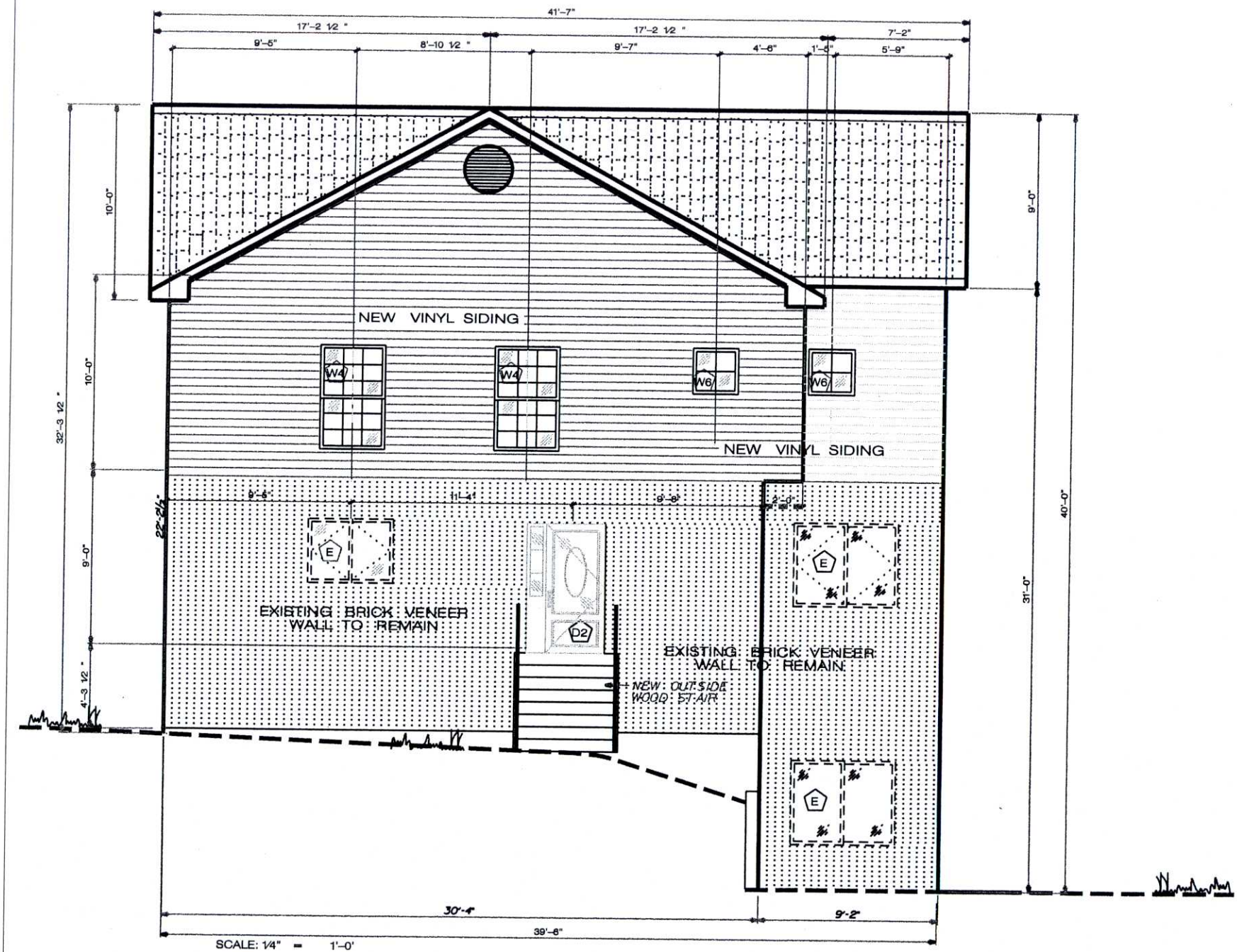

SCALE: 1/4" = 1'-0'

NEW AND EXISTING REAR ELEVATION

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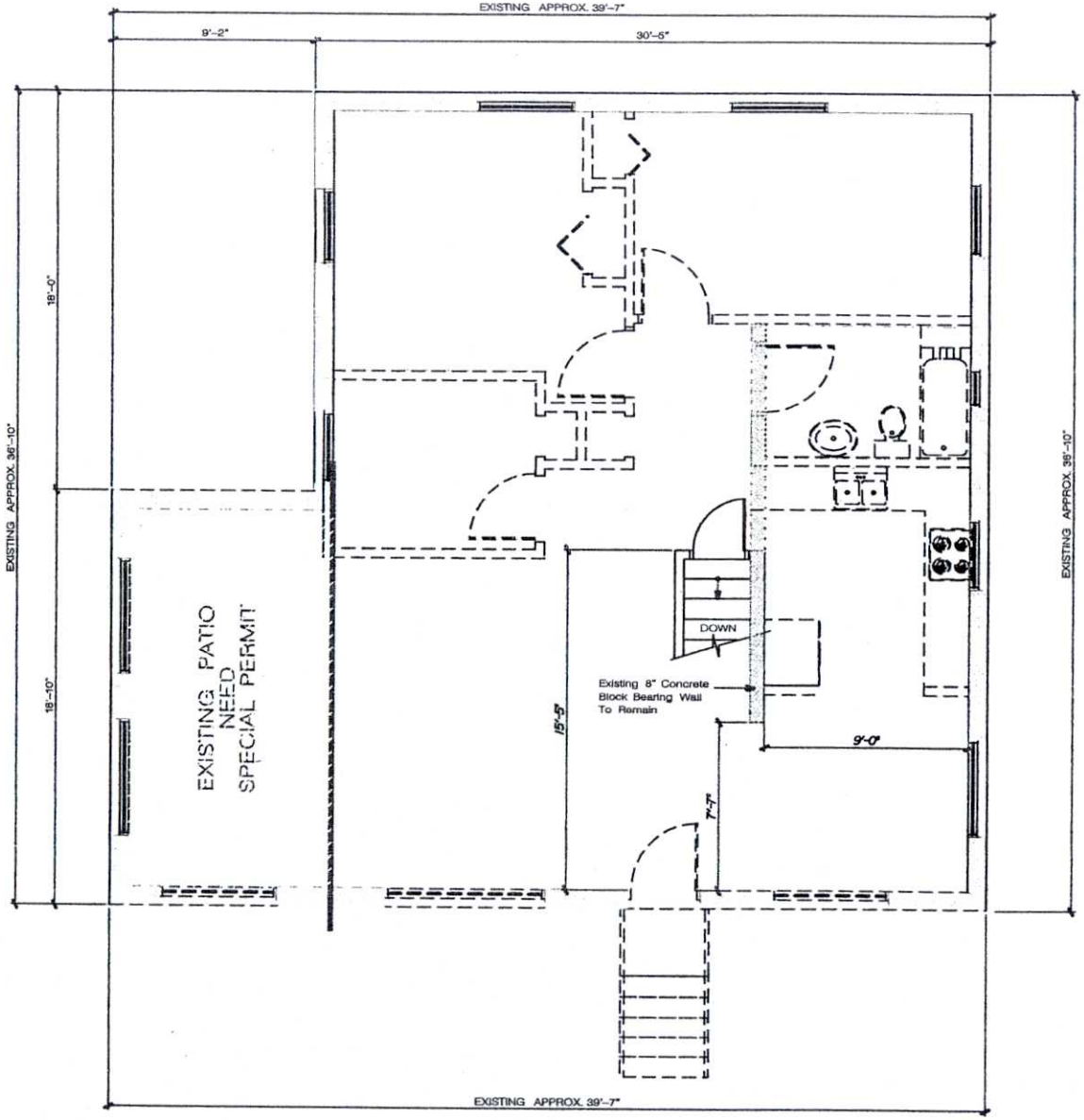

EXISTING FIRST FLOOR FRAMING PLAN

SCALE: 3/8" = 1'-0"

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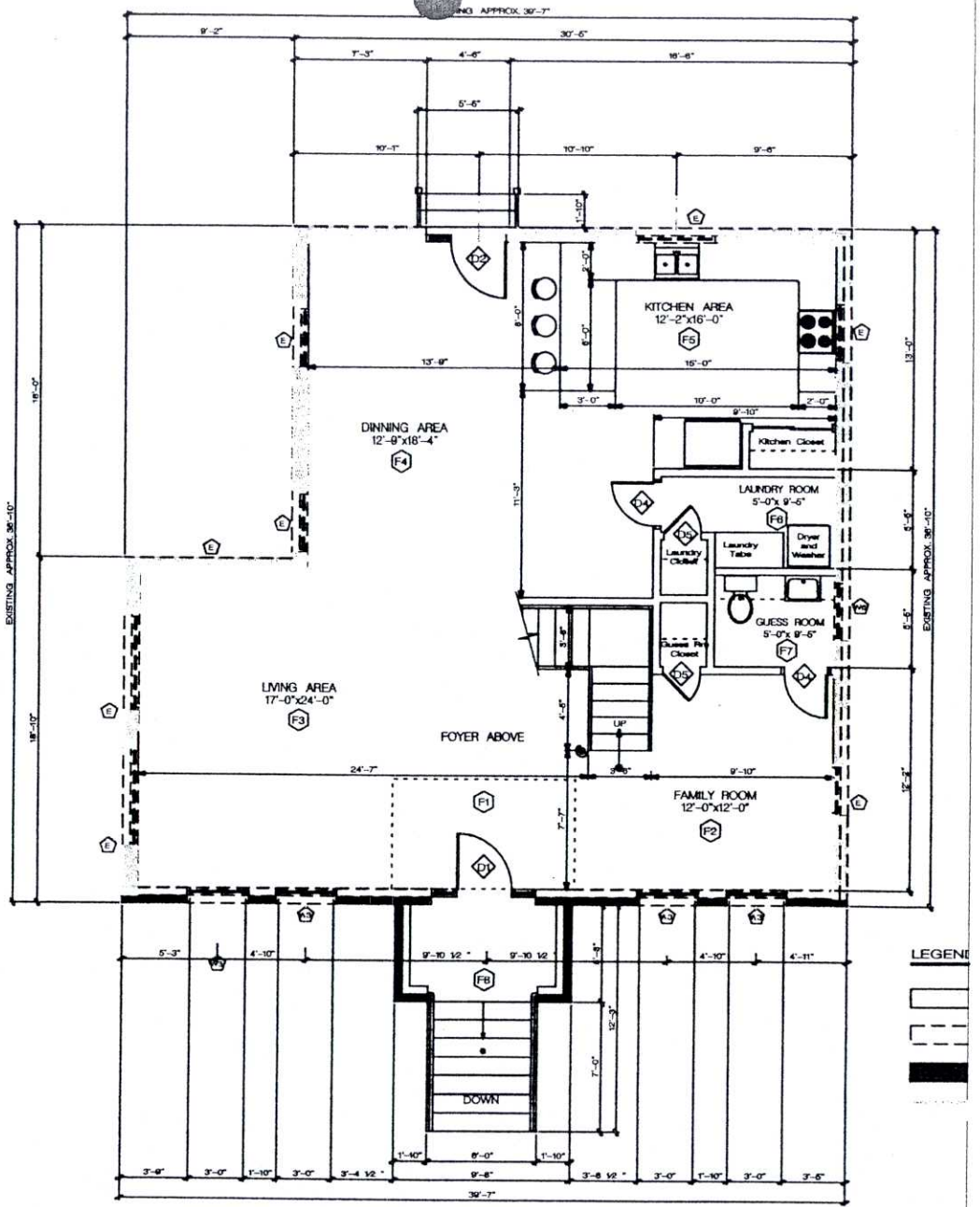

FIRST FLOOR LAYOUT PLAN

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

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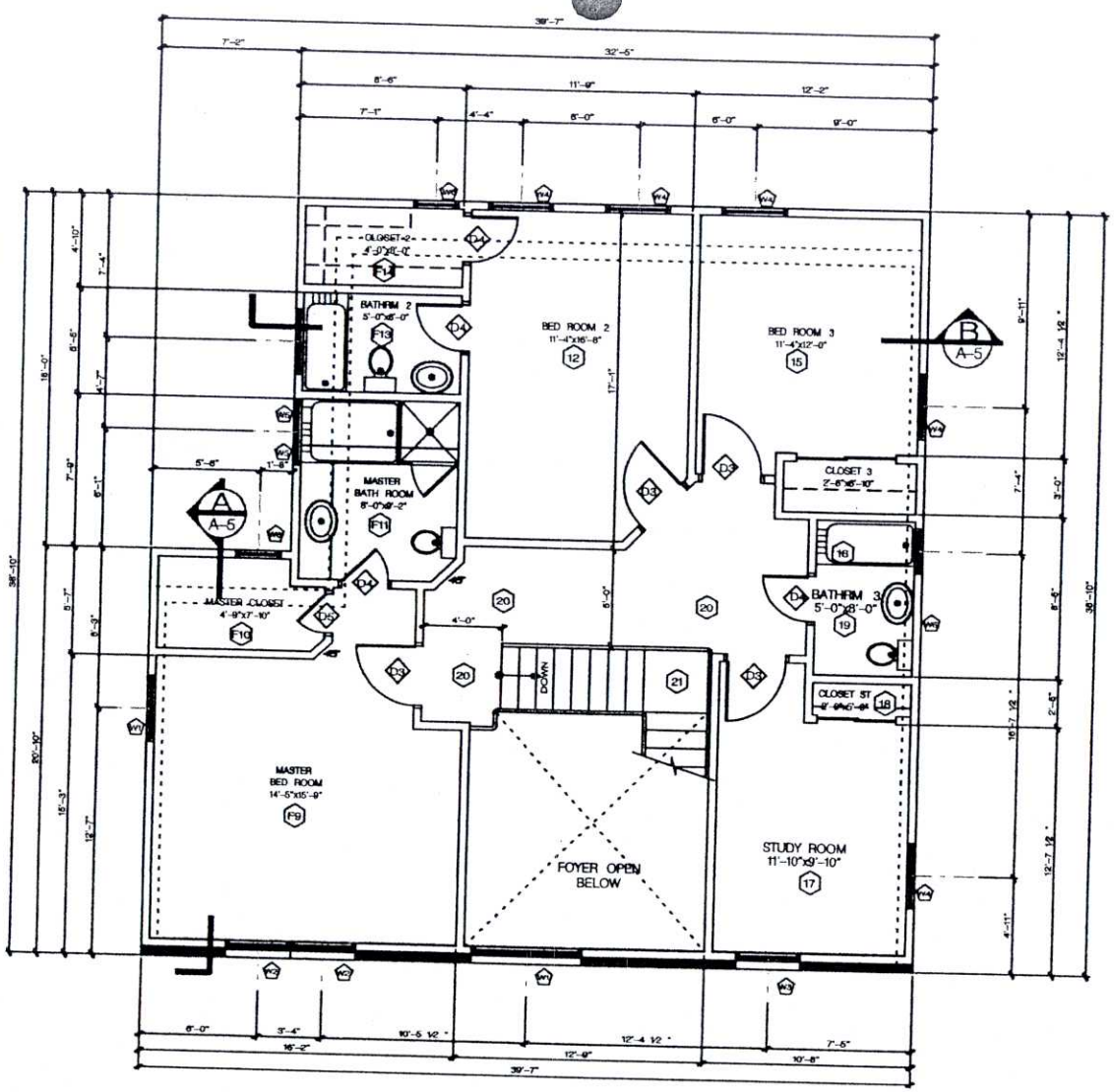

TO REMAIN

SECOND FLOOR LAYOUT PLAN

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

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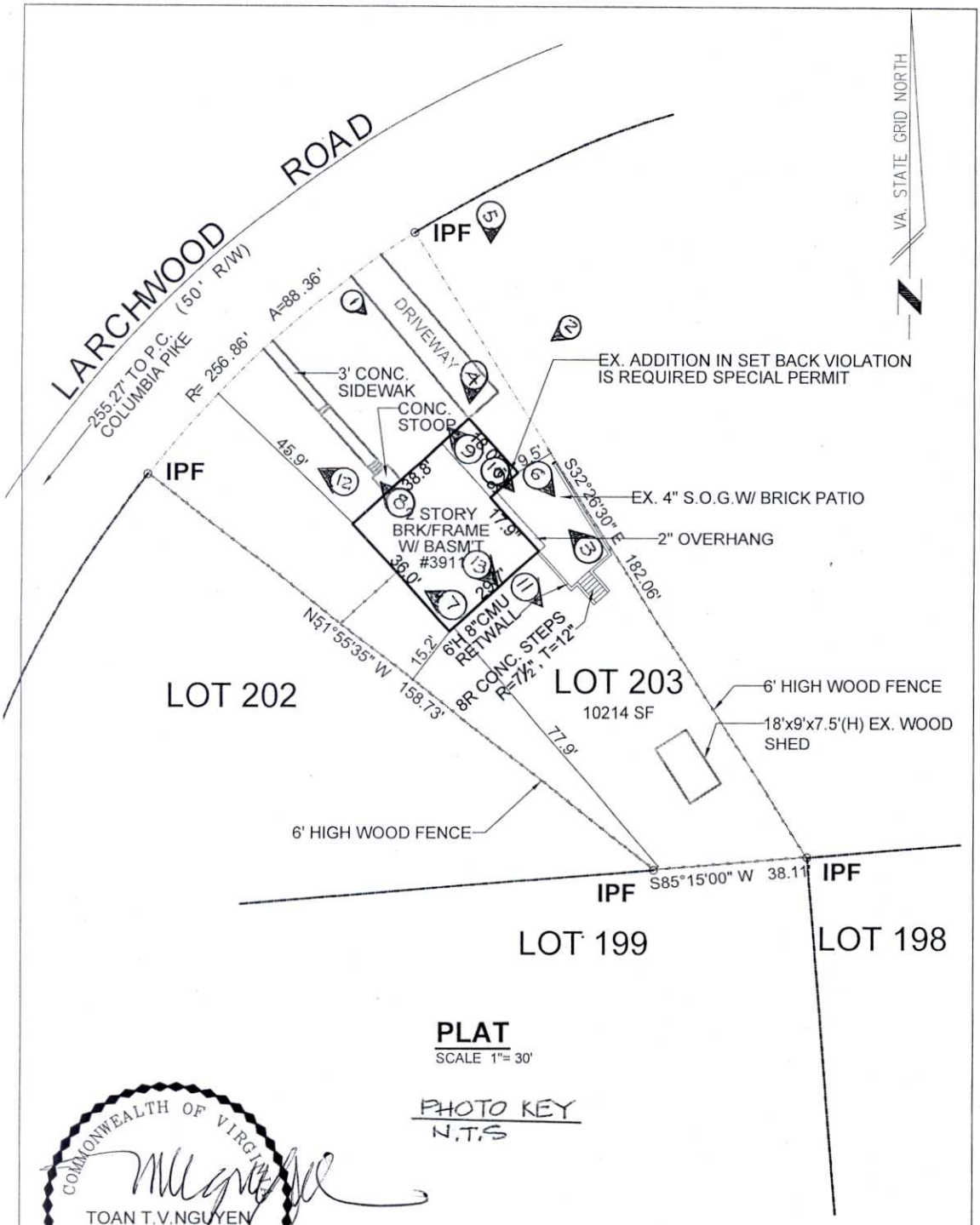

PLAT
SCALE 1"= 30'

PHOTO KEY
N.T.S

COMMONWEALTH OF VIRGINIA
TOAN T.V.NGUYEN
Lic. No. 017953
3/21/11
PROFESSIONAL ENGINEER

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FLOOD ZONE "X"
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PLAT SHOWING
HOUSE LOCATION SURVEY
LOT 203
SECTION 3
BELVEDERE
MASON DISTRICT
FAIRFAX COUNTY, VIRGINIA

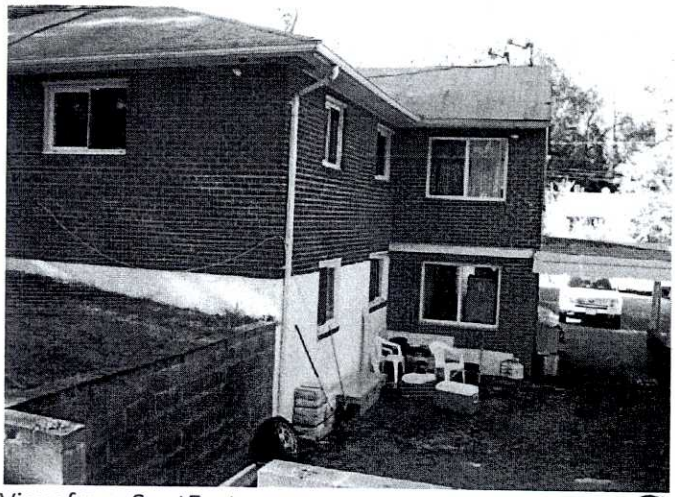
Pictures are to attach for special permit application

①

View from North :
Car port on the left of the house shall be removed to comply with side set back deduction of zoning ordinance is 15'/2= 7.5'< 9.5'(after carport to be removed)

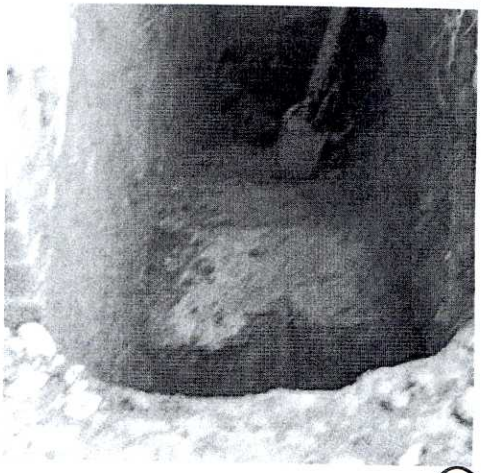
②

View from East
Carport with brick fence to be removed for set back compliance.



③

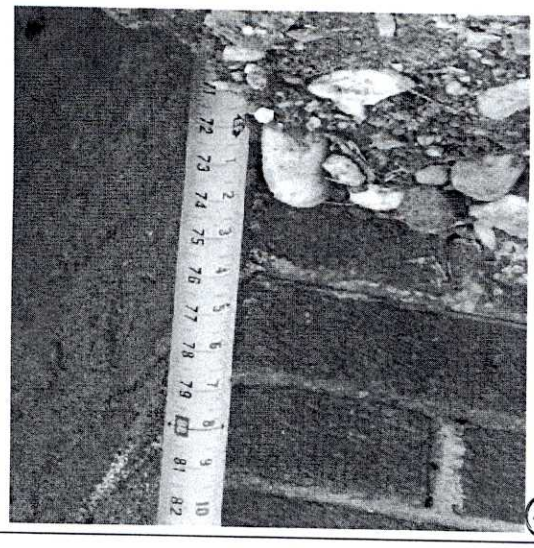
View from SoutEast
The back of the house at carport, the existing house addition is in set back violation, it needs the special permit for the the 2nd floor additional on the existing addition- see clarification above.



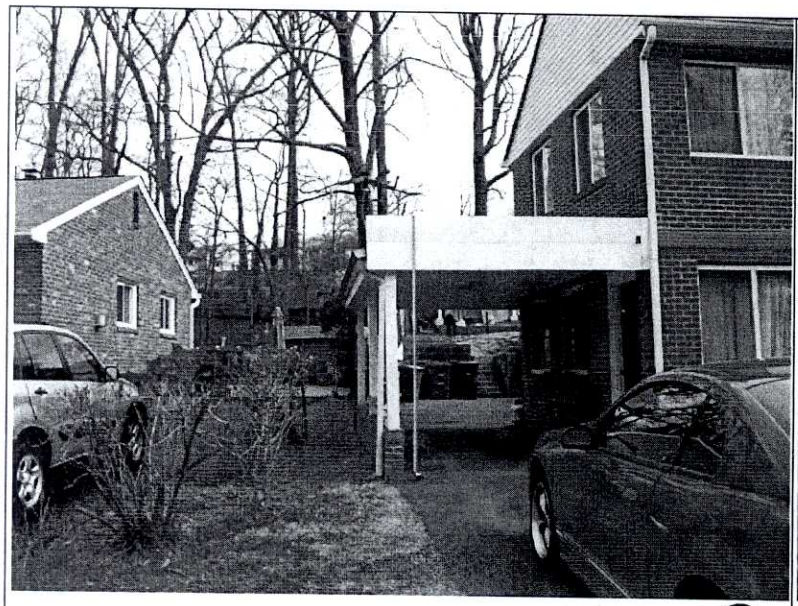
4

View from NorthEast
Footing inspection- Right view at front corner of the house for footing of existing addition.

View from North
Footing inspection- foundation wall of existing additon was built with 8" solid brick and its footing is 2' wide and more than 6' deep.



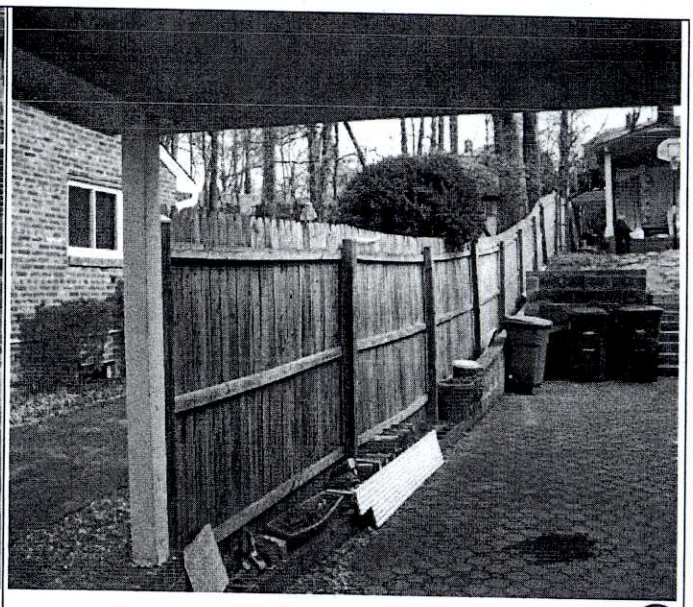
4



5

View from North at adjoining with left property.

Carport shall be removed because of set back violation

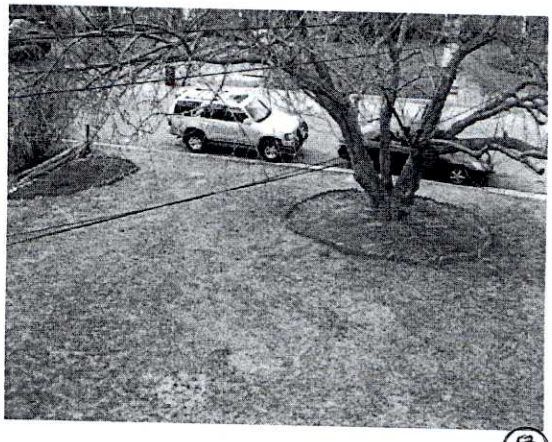


6

View from North thru carport at adjoing with left property .
6' 4" High wood fence to remain

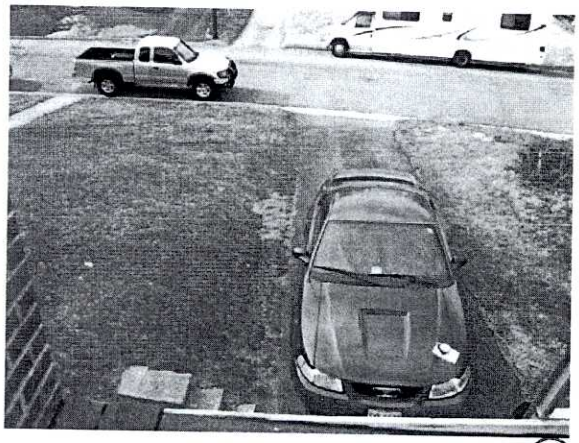
7

View from South West on the roof
Right property on the left



8

View from South West on the roof
Under story cherry tree in the right-left front



9

View from South West on carport roof

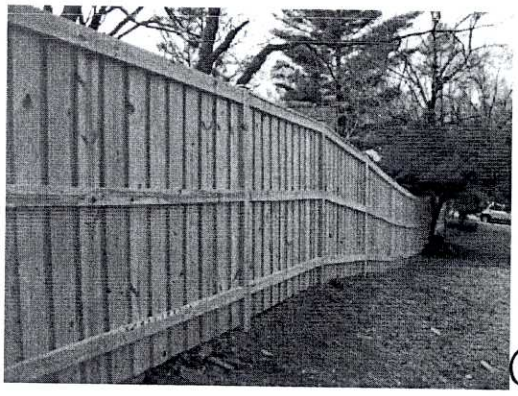
Existing asphalt drive way to remain

(10)

View from North thru carport toward back yard
6' high CMU retaining wall and 8 concrete step risers
To remain and exisitng wood shed behind

(11)

View from north toward back yard
Existing 12'x12' conc. patio to remain
Existing 12'x12'x8' hight wood shed to remain

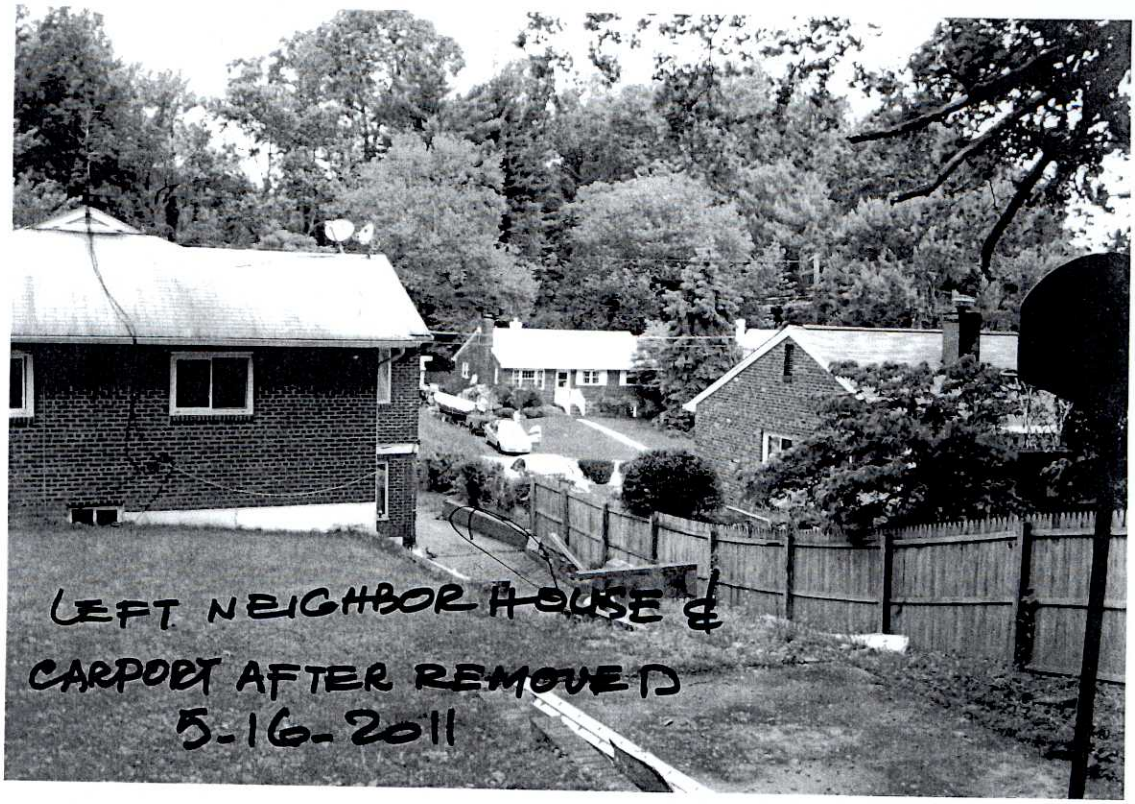


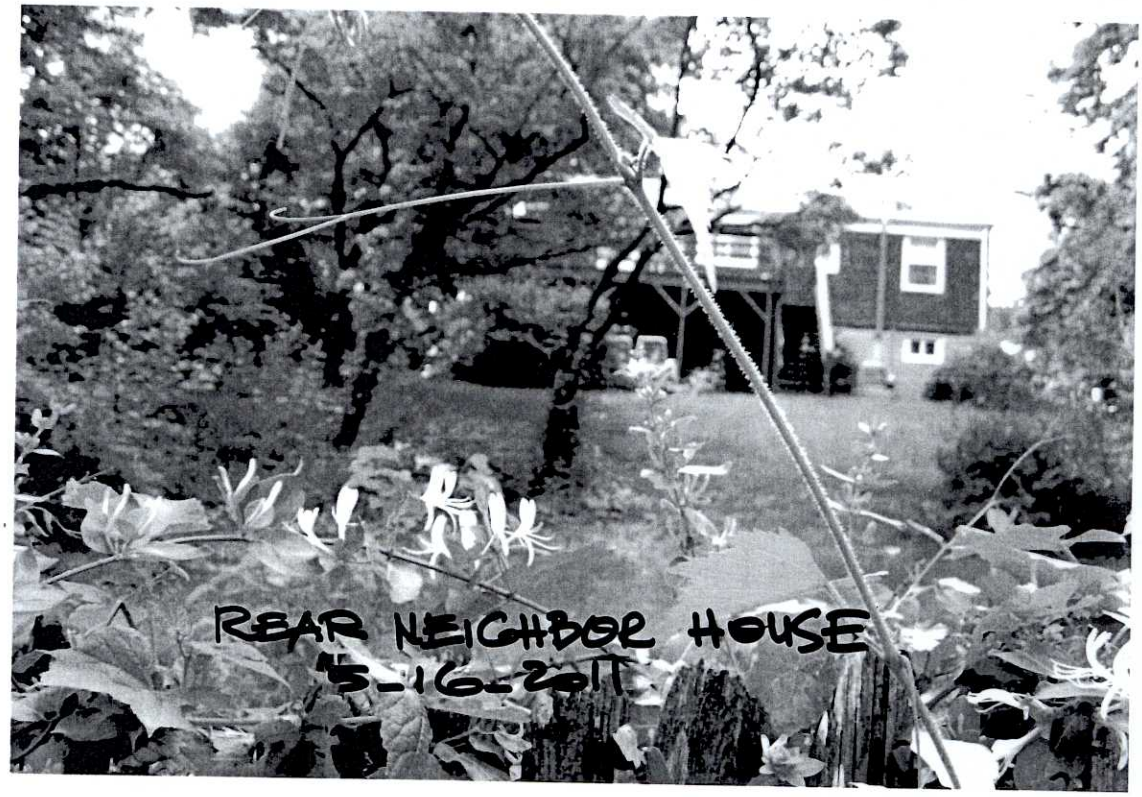
(12)

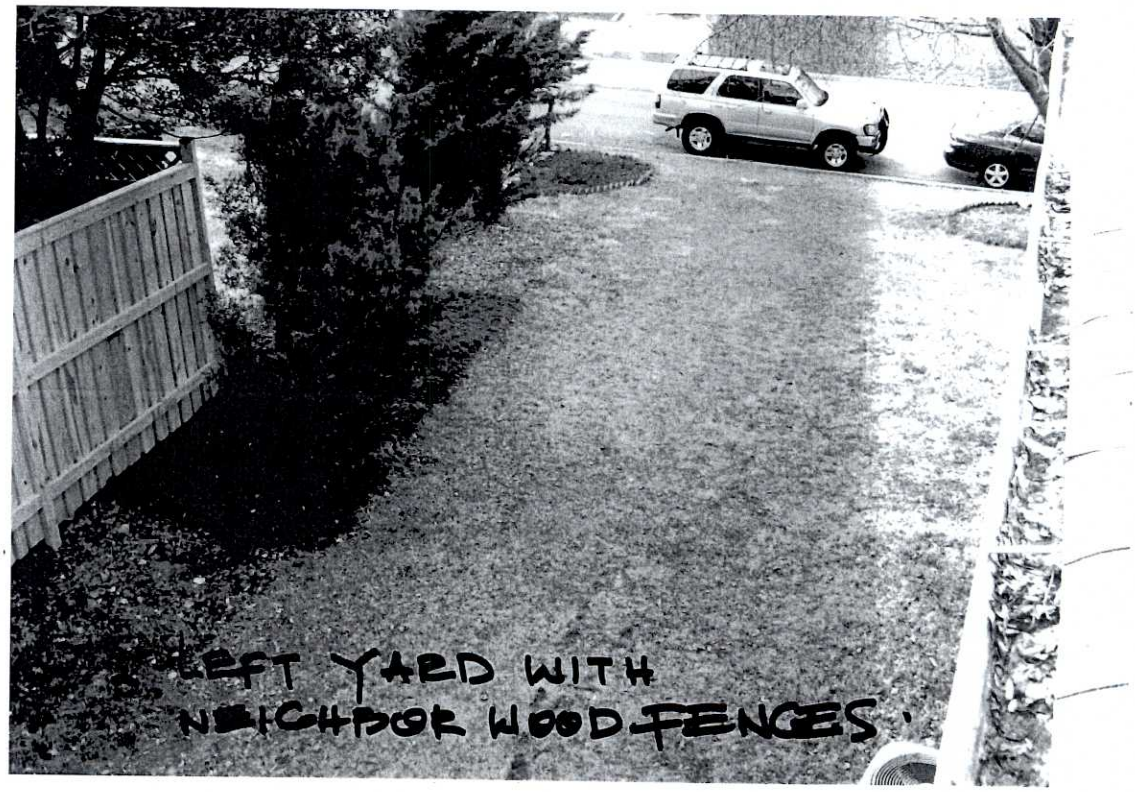
View from South East at back yard to adjoining right property

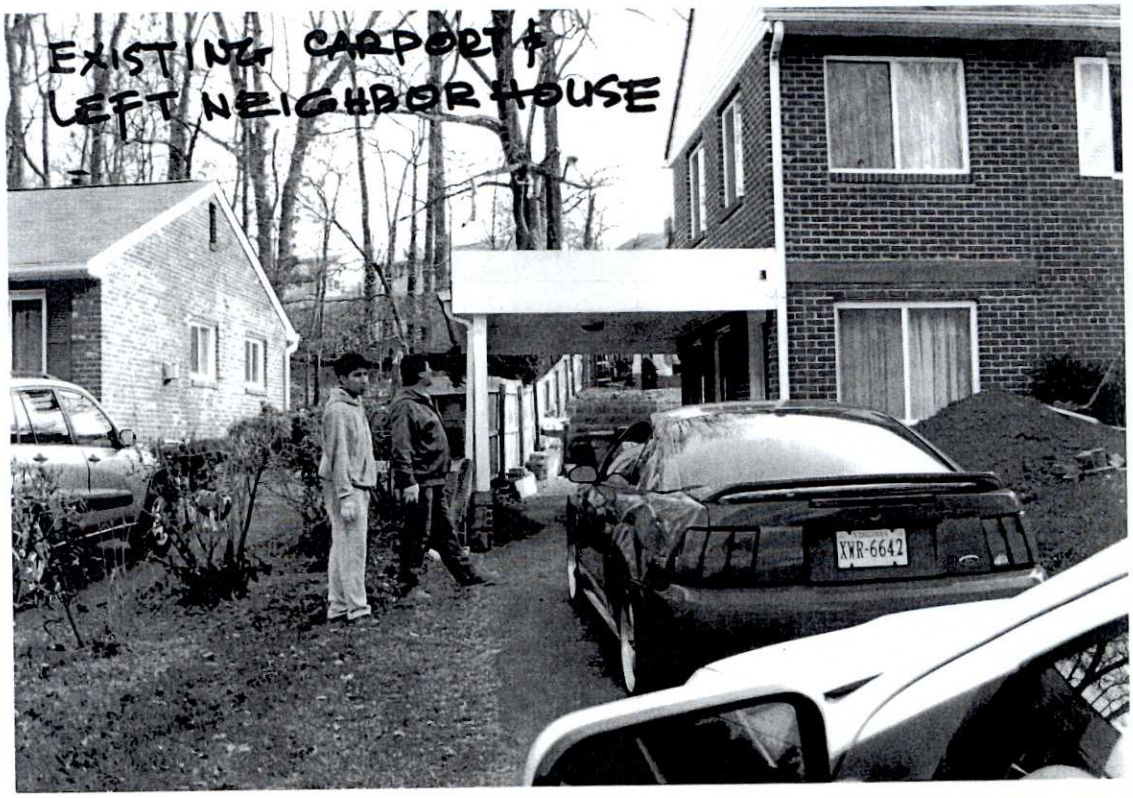
Existing 6' H wood fence

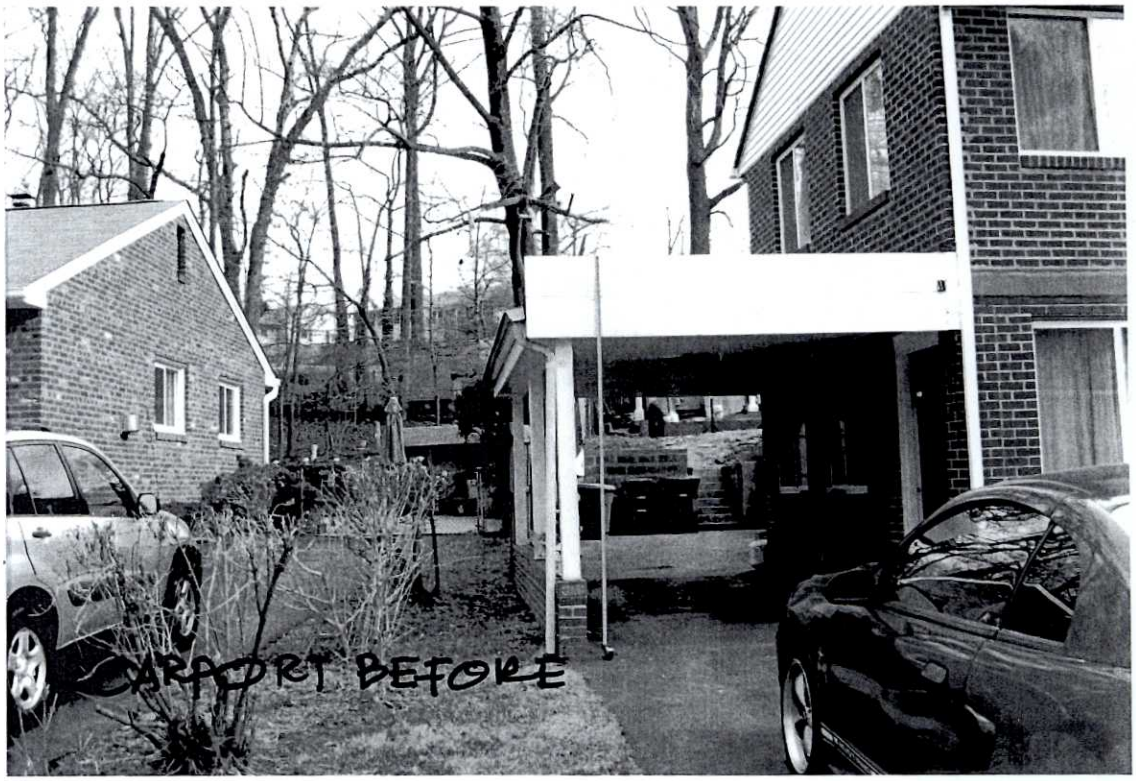
View from NorthWest on the Roof to back yard

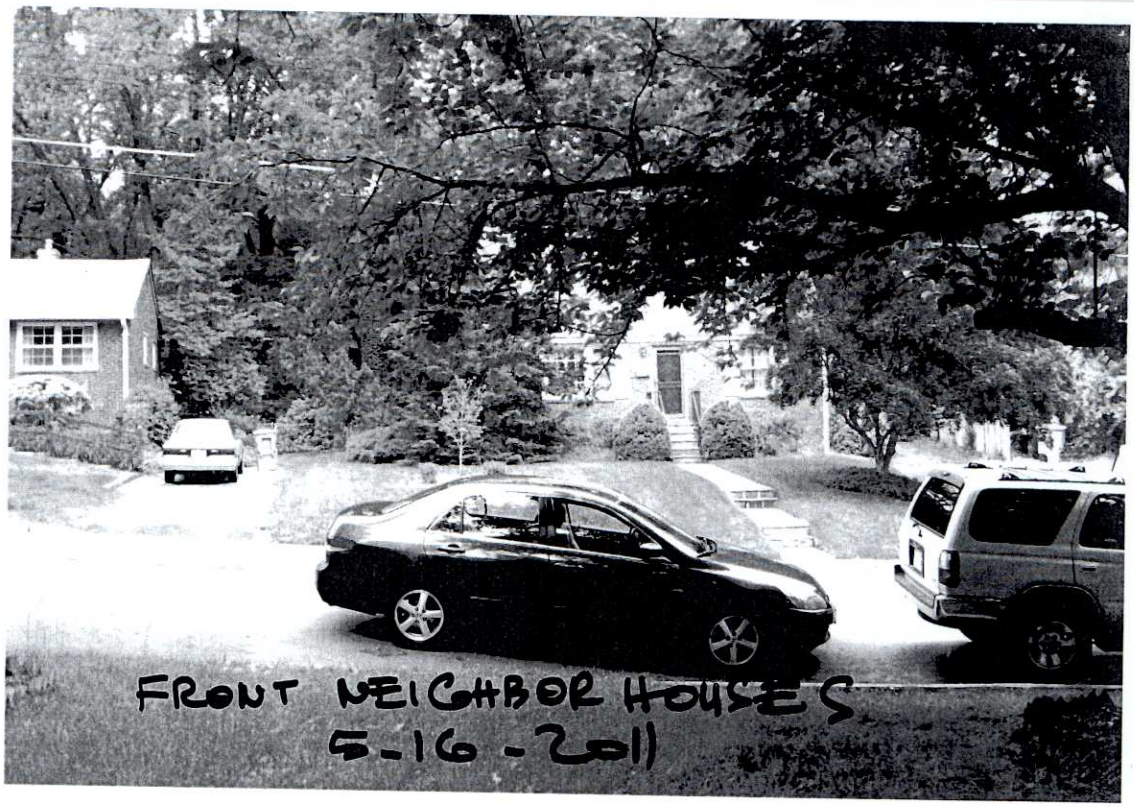

LEFT NEIGHBOR HOUSE &
CARPORT AFTER REMOVED
5-16-2011

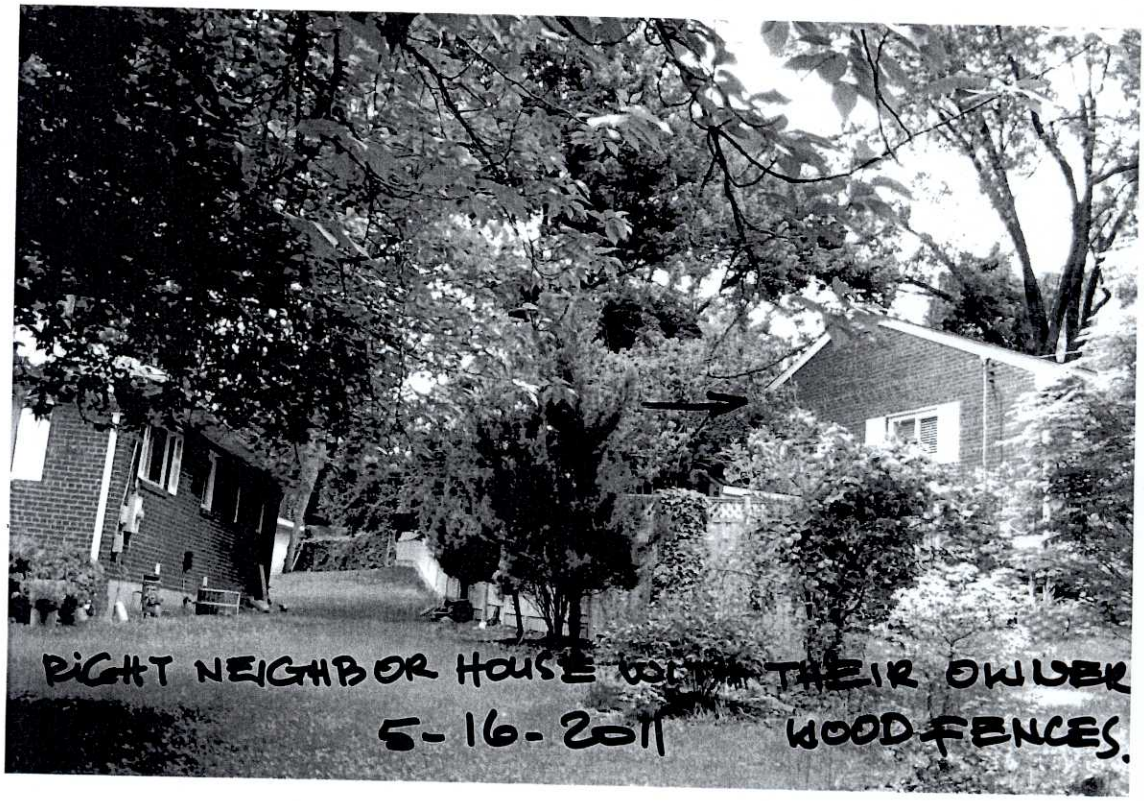

REAR NEIGHBOR HOUSE
5-16-2011

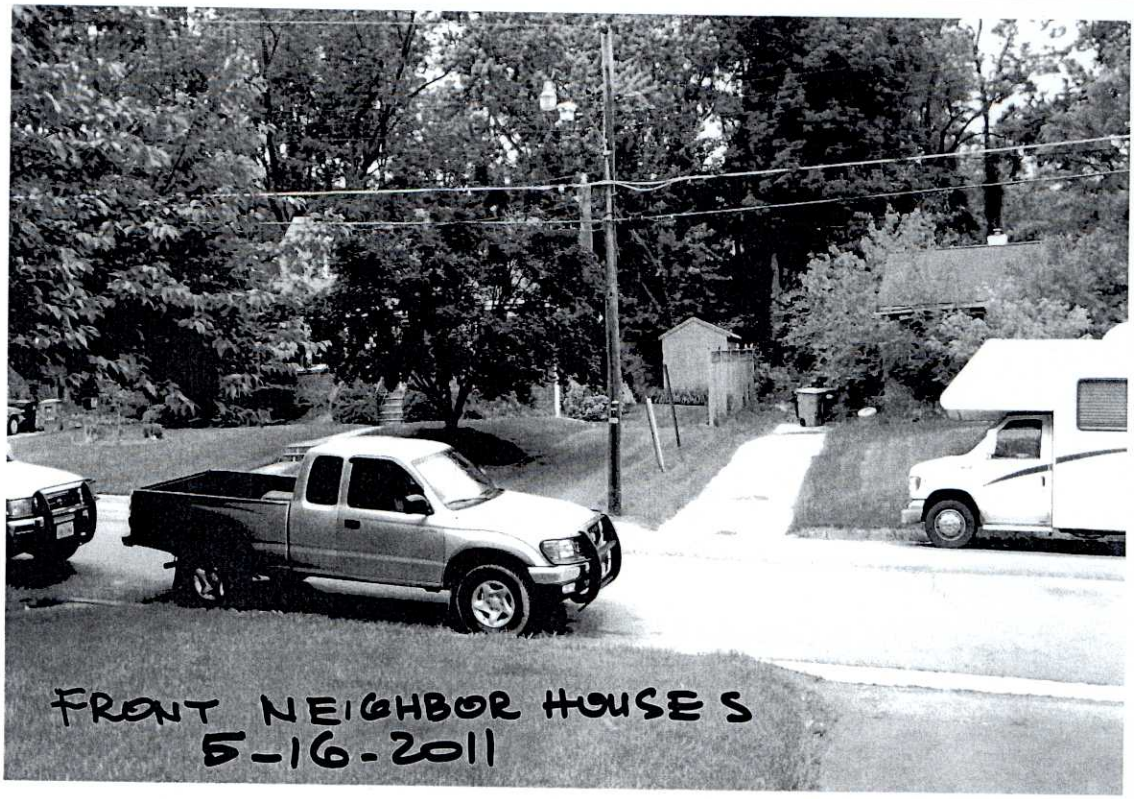

LEFT YARD WITH
NEIGHBOR WOOD FENCES

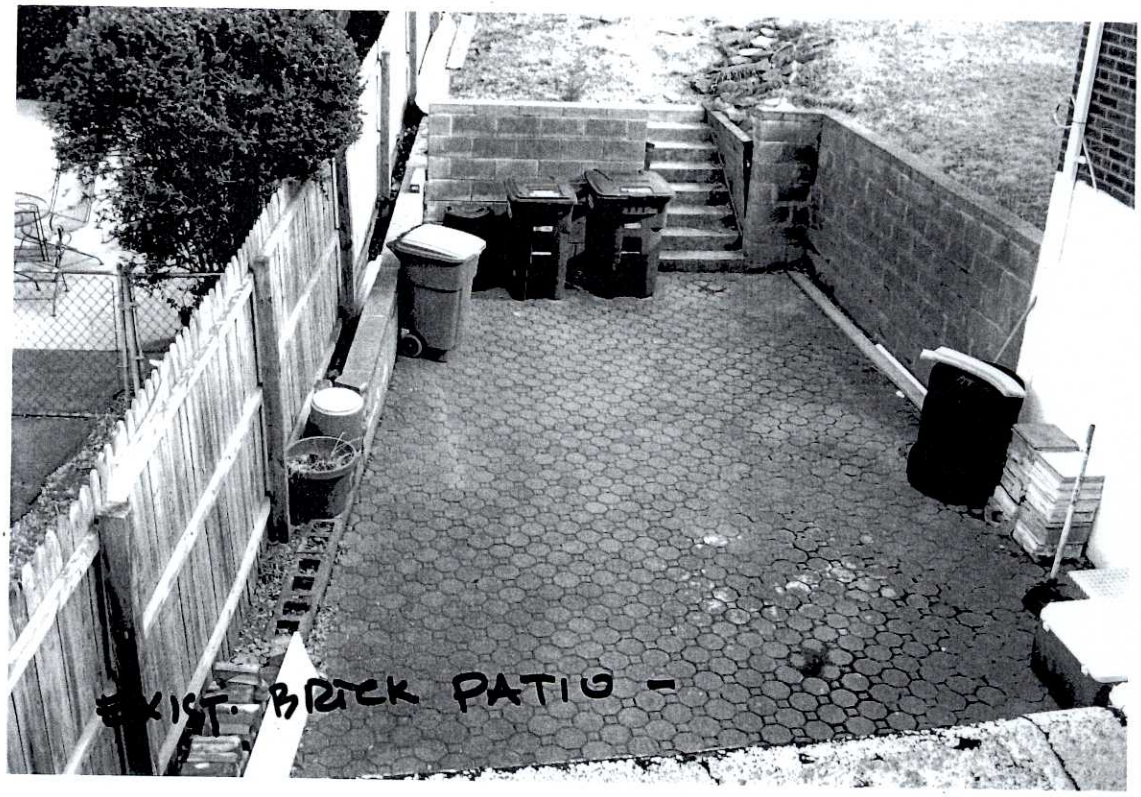

EXISTING CARPORT &
LEFT NEIGHBOR HOUSE
XWR-6642


CARPORT BEFORE

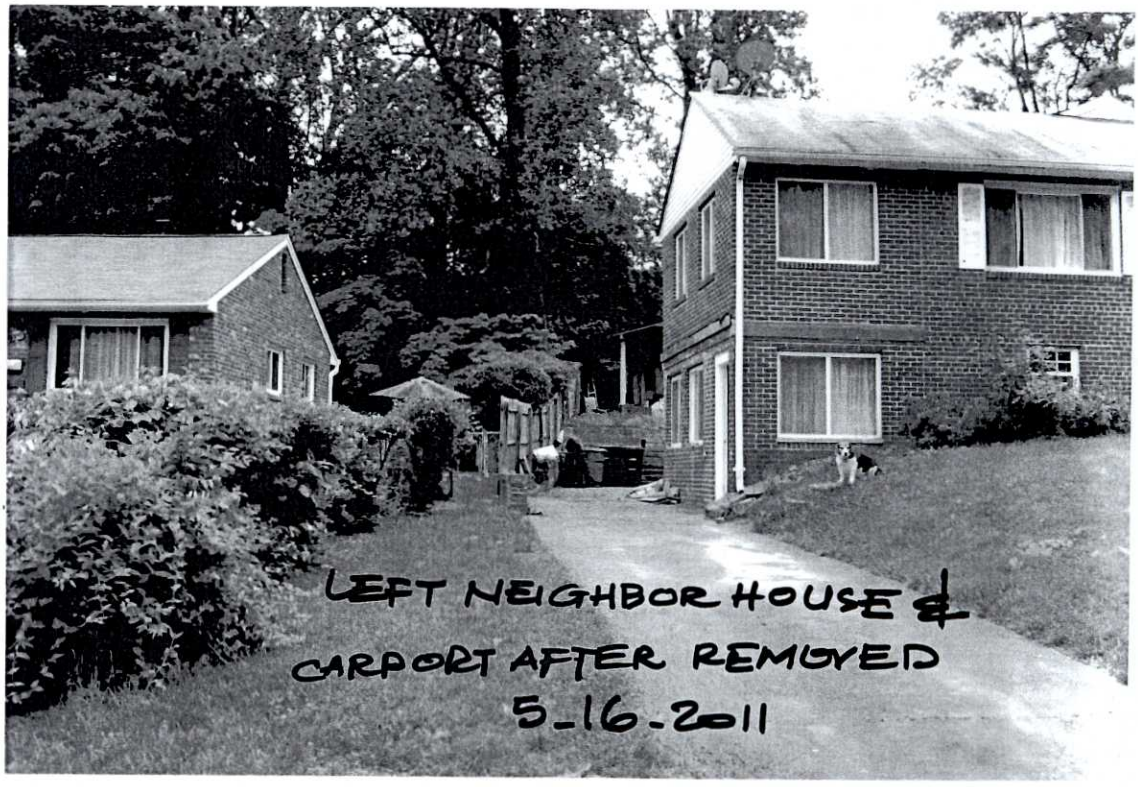

FRONT NEIGHBOR HOUSES
5-16-2011

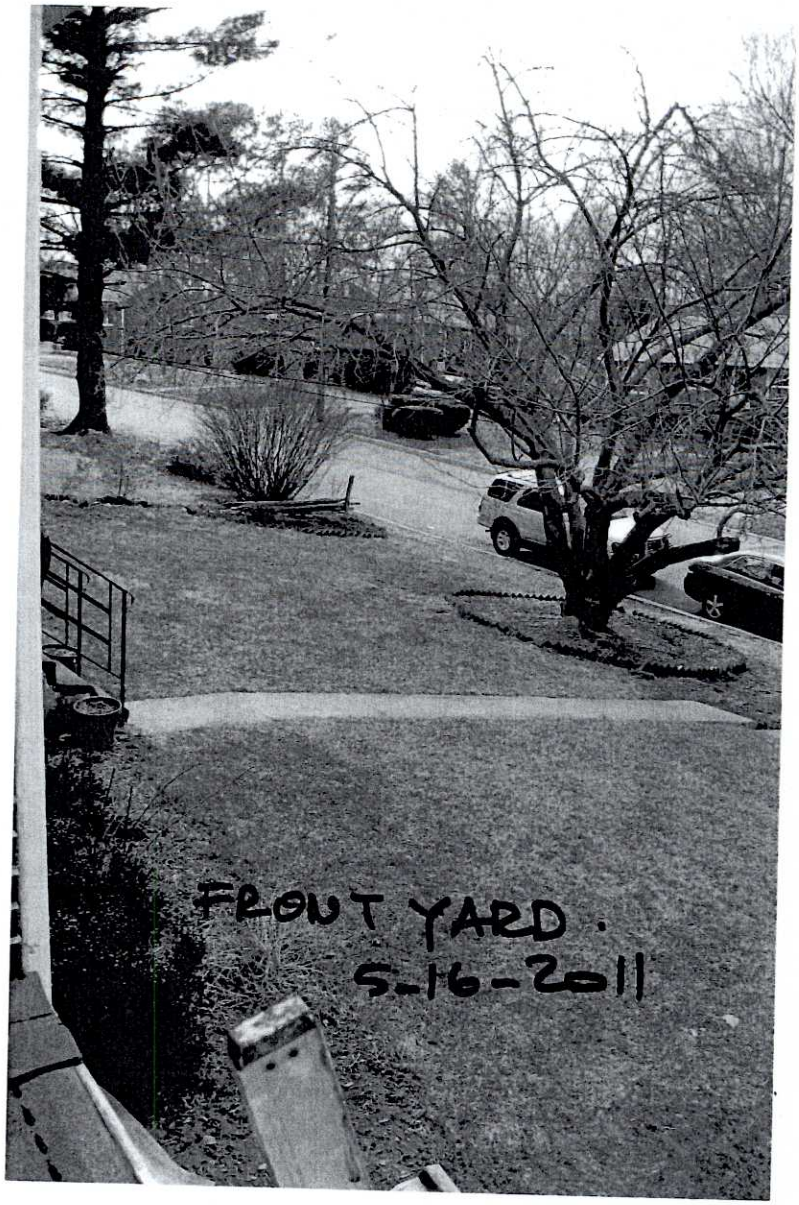

RIGHT NEIGHBOR HOUSE
5-16-2011
WOOD FENCES.


FRONT NEIGHBOR HOUSES
5-16-2011


EXIST. BRICK PATIO

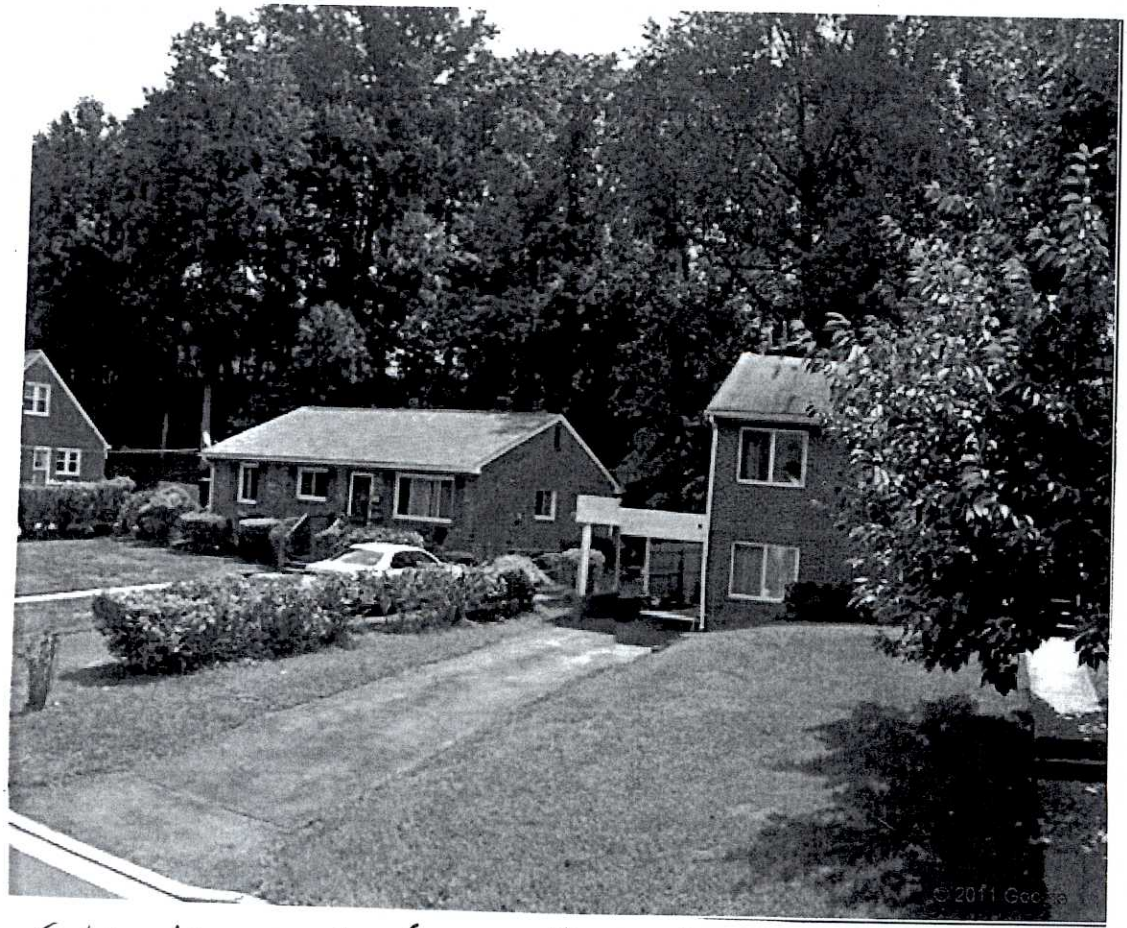
CARPORT BEFORE


LEFT NEIGHBOR HOUSE &
CARPORT AFTER REMOVED
5-16-2011

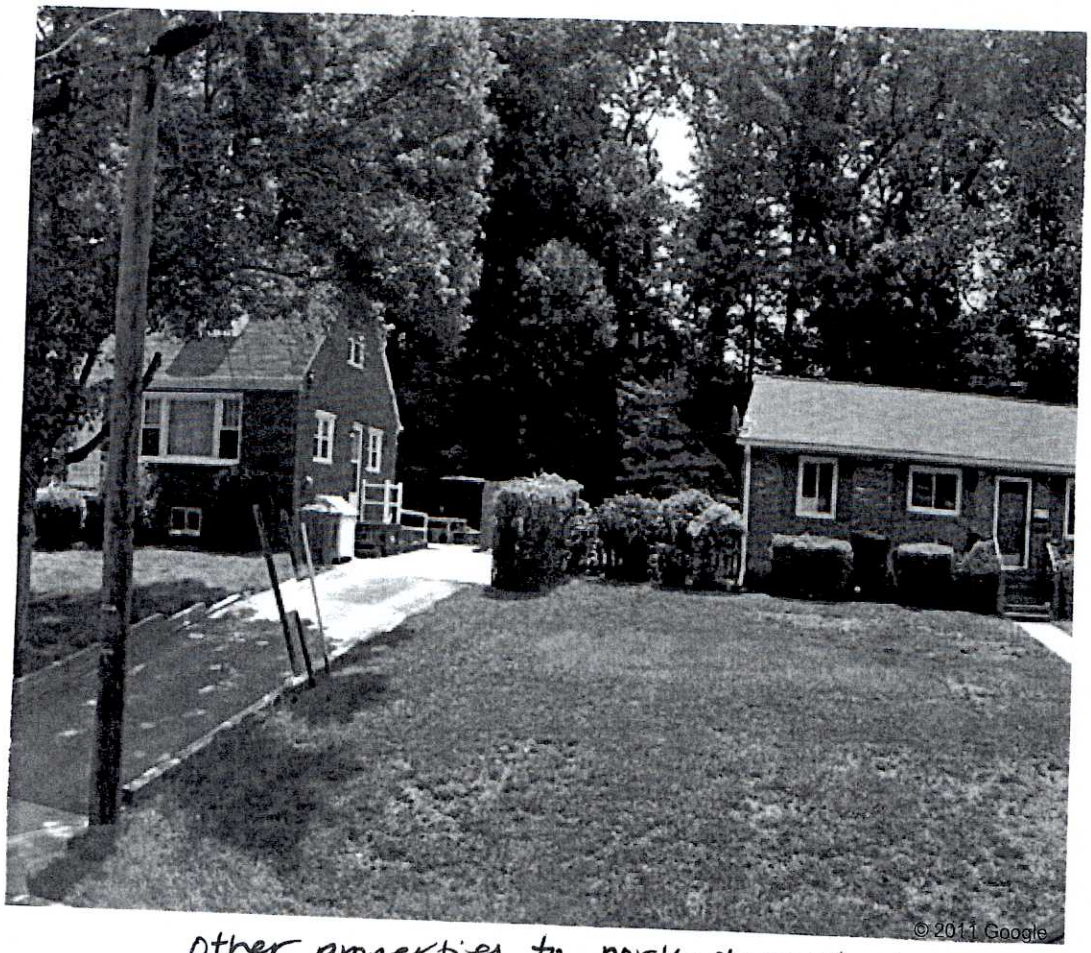

FRONT YARD.
5-16-2011

Provided by Staff

The subject property (on the right) and adjacent neighbor.

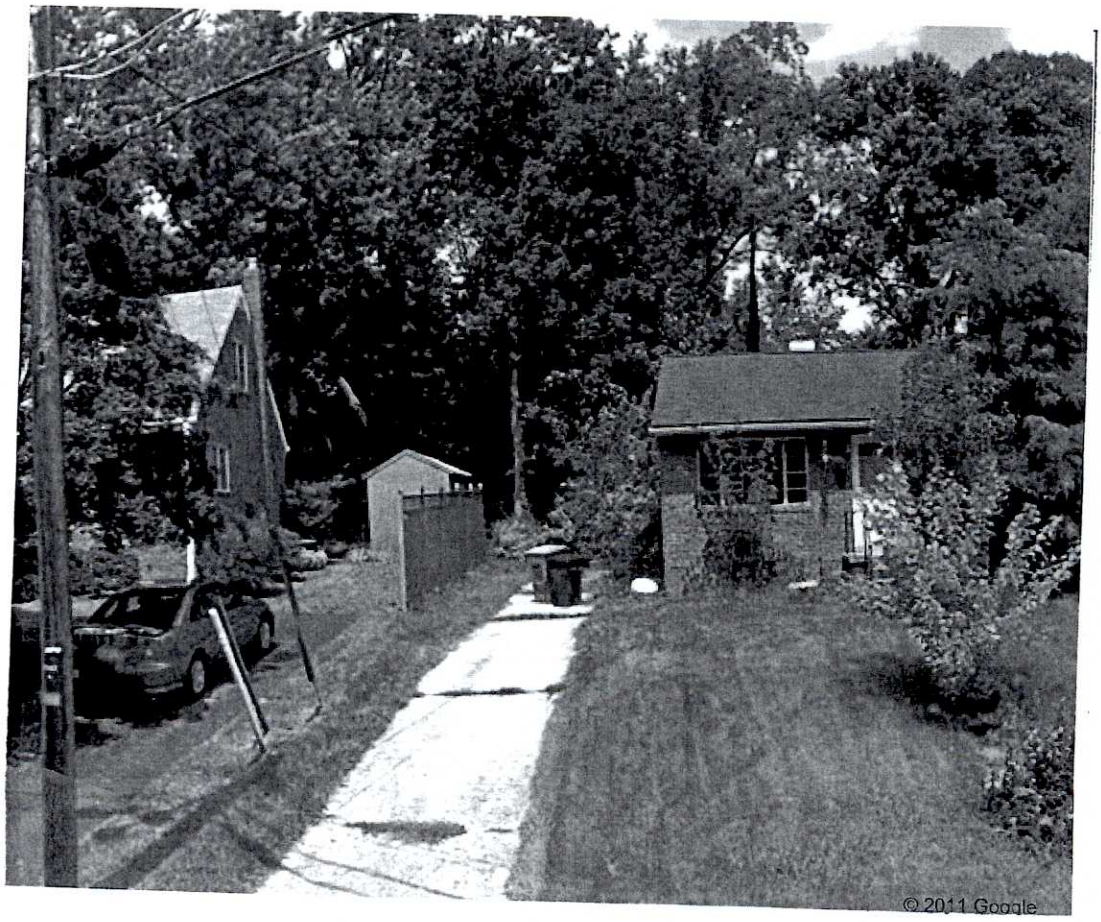


Subject property (on right) and neighbor



Other properties to north + east

properties along Larchwood Rd



Neighboring properties on Larchwood

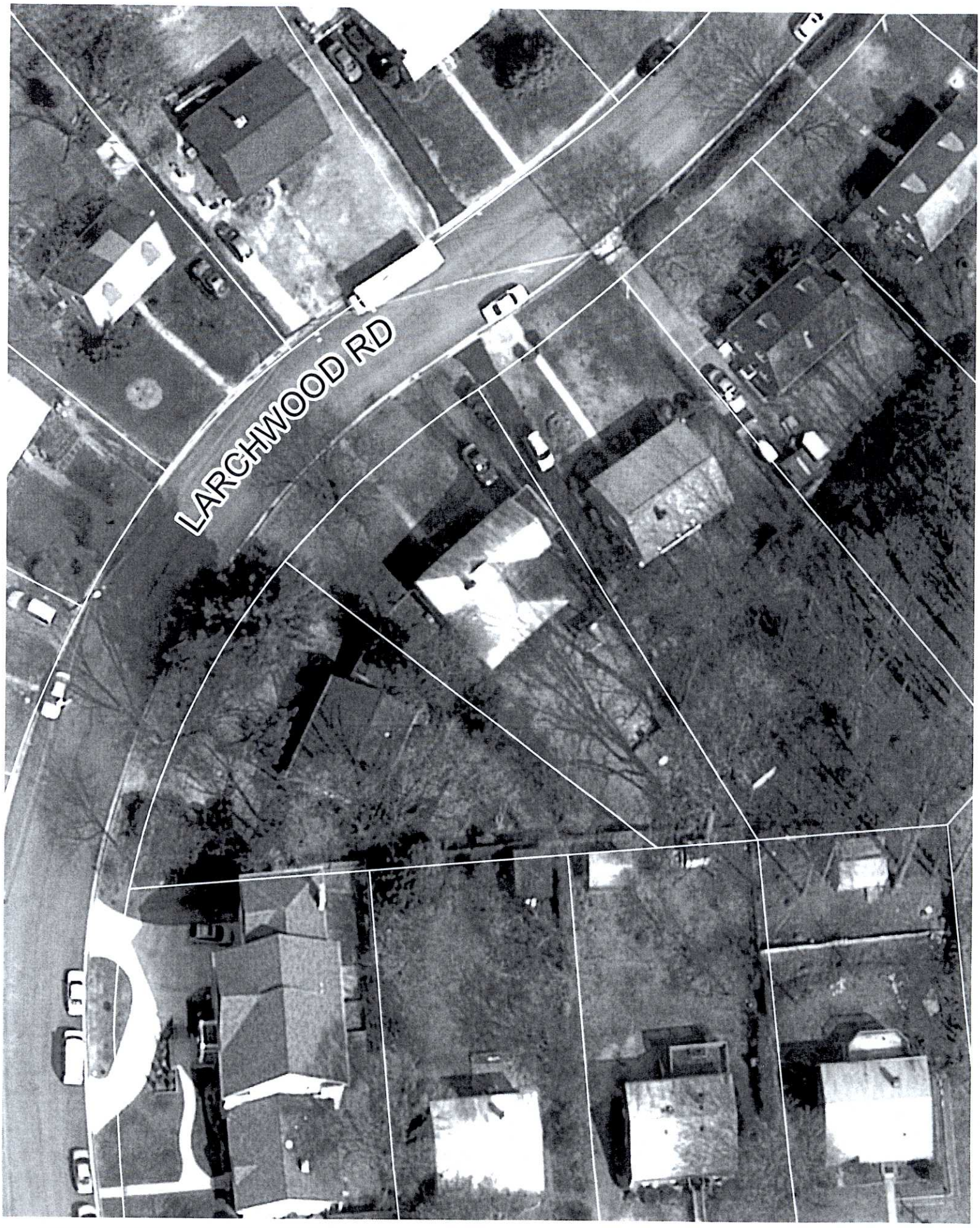
properties along Larchwood

Subject property (on Left) and Southwest neighboring property

Property across street from subject property and west

By-Right property on corner of Larchwood +

Adjacent by-right dwelling at corner of Larchwood + Columbia Pike



N
W E

SP 2011 SU 048
3911 Larchwood Road
50% Reduction and Errors

1 inch = 41 feet

DESCRIPTION OF THE APPLICATIONS

The application contains two special permit requests based on errors in building locations and one request for a reduction of certain yard requirements.

1. The first request is to permit an addition which matches the height of the existing structure to remain 9.5 feet from the side lot line.

2. The second request is to permit an open deck/patio to remain 1.42 feet from the side lot line.

	Structure	Yard	Minimum Setback/ Yard Required*	Structure Location	Amount of Error	Percent of Error
Special Permit #1	**Addition (error)**	Side	15.0 feet	9.5 feet	5.5 feet	63%
Special Permit #2	**Open deck/patio (error)**	Side	5 feet	1.42 feet	3.58 feet	72%

*Minimum yard/setback requirements per Section 3-207 and Section 2-412

The applicant is also requesting approval of a special permit for a reduction of certain yard requirements to permit construction of a second story addition to match the footprint of the existing dwelling.

	Structure	Yard	Minimum Yard Required*	Proposed Location	Proposed Reduction	Percentage of Reduction Requested
Special Permit	**Addition**	Side	15.0 feet	8.0 feet	7.0 feet	36%

*Minimum yard requirement per Section 3-207

EXISTING SITE DESCRIPTION

The existing single family dwelling is a one-story brick house with a partially exposed basement/cellar. The lot consists of 10,214 square feet and is surrounded by single-family detached dwellings. The property is accessed via a hard surfaced driveway from Larchwood Road which terminates at an existing brick patio/open deck and retaining wall. The lot is sloped north toward the street and contains some limited existing vegetation consisting of mature trees. An existing accessory structure is located at the rear of the lot, along with an existing concrete patio/open deck. A carport was located

on the property but was recently removed by the property owner. A combination of 4' and 6' high wood fencing is located along the eastern and western side lot lines and along the rear yard lot line.

The existing brick dwelling is approximately 1,236 square feet in area, as stated by the applicant. The one story with basement dwelling was built in 1954. At some point in the 1960's an addition was constructed along the northeast side of the dwelling, projecting into the side yard, leaving a setback of 9.5' to the outside wall of the structure. There are no building permits on file to substantiate the exact date of construction of the addition. According to historic aerials the addition existed in 1999, prior to the transfer of ownership of the current owners. Tax records were researched and did not show that the addition has been taxed for the last 15 years therefore the addition is not vested per Statute 15-2307, Code of Virginia.

The prick patio/open deck was constructed by the owner, which does not require a building permit, however the patio/open deck projects further into the required side yard than permitted by the current regulations, leaving a setback of 1.42'. In order to remain, these two errors in building location (addition and patio/open deck) require special permit approval.

The neighborhood was developed in the 1950's and consists primarily of all brick exterior one story dwellings, with some dwellings including a half-story with dormers. The architectural style in the neighborhood is predominately post-war 1950s construction, with approximately 1,100 square foot dwellings. Dwellings on either side of the subject property are each one story brick houses. Because the grade slopes downward toward the northeast, the subject property sits higher than the abutting northeastern one-story property. Larchwood Road, except for one property two lots to the southwest of the application property, has a very consistent architectural style and house type (single story, some with dormers). Further out in the neighborhood there is a mixture of styles and types, however that is not the case with Larchwood Road.

CHARACTER OF THE AREA

	Zoning	Use
North	R-2	Single Family Detached Dwellings
East	R-2	Single Family Detached Dwellings
South	R-2	Single Family Detached Dwellings
West	R-2	Single Family Detached Dwellings

BACKGROUND

Records indicate that the dwelling was originally constructed in 1954. The current owner purchased the property in 2000. Historical aerial records show that the addition was existing in 1999, meaning the addition was built prior to the current owners'

acquisition of the property.

Following the adoption of the current Ordinance, the BZA has heard the following similar special permits or variances in the vicinity of the application parcel:

- Variance VC 87-M-072 was approved July 31, 1987 for Tax Map 61-3 ((11)) 046, zoned R-2, at 6388 Lakewood Drive, to permit construction of an addition to a dwelling 28 feet from the front lot line of a corner lot.

- Variance VC 85-M-059 was approved on November 12, 1985 for Tax Map 61-3 ((12)) 017, zoned R-2, at 6424 Columbia Pike, to permit construction of a dwelling 11 feet from both side lot lines.

- Variance VC 83-M-039 was approved on May 24, 1983 for Tax Map 61-3 ((13)) 282, zoned R-2, at 6513 Oakwood Drive, to permit construction of an addition plus deck addition 10.2 feet from a side lot line.

ANALYSIS

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

- **Title of Plat:** Plat Showing House Location Survey on Lot 203, Section 3, Belvedere, Mason District, Fairfax County, Virginia

- **Prepared by:** Toan R.V. Nguyen dated June 27, 2011

- **Permits required:** Building permits are required for any addition(s) that occurred after 1954. A building permit was not obtained for an addition to the dwelling.

- **Errors made by:** unknown.

Proposal:

The applicant proposes to construct a second-story addition above the existing dwelling. The proposed addition would match the existing building footprint of the first level, with a slight overhang and will consist of 1,344.18 square feet of additional living space. Though the addition is considered a second level addition, on the eastern end of the house where the modification is requested the basement is exposed, which will give the appearance of a three level home. The applicant also requests an existing first level addition over a portion of the basement and open deck/patio to be permitted to remain in a portion of the side yard setback.

ZONING ORDINANCE REQUIREMENTS

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

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the second story addition does not meet all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 3.

General Standard 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes that the special permit application does not satisfy this condition since the proposed addition will be located above an existing one-story addition and will slightly extend beyond the already established footprint of the dwelling. The closest neighboring structure most affected is located approximately 20 feet away from the existing and proposed structure. The predominate style in the immediate vicinity, and generally in the neighborhood is 1950's all brink single story (some with dormers) dwellings. The proposed addition changes the style of the dwelling, does not use all brick and is taller than the rest of the homes on the street and in most of the neighborhood. To grant a special permit to reduce the side yard requirement will allow the proposed structure to be located closer to a single story dwelling. The basement is exposed on the northeast side of the dwelling, which means the proposed structure would, in effect, be a three level structure immediately adjacent to a single story home that, due to grade, is already slightly lower than the subject property. The subject property does not have enough room on the northeastern side of the property to plant any kind of landscaping in order to mitigate the impact. Staff believes this standard is not met and that a significant and adverse impact will be caused to the harmony of the neighboring properties.*

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

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 4 relates to additional square footage, which does not apply to this

application. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. *Staff believes that the application has not met all of the remaining standards, specifically Standards 6, 7, 8, and 9. Standard 4, relative to floor area, is met.*

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. *The existing dwelling is 1,236 square feet in size. Therefore 150% of the total gross floor area could result in an addition up to 1,854 square feet in size for a possible total square footage at build out of 3,090. The proposed addition is 1,344.18 square feet (109%), for a total square footage of the house with the addition of 2,580.18 square feet. Therefore the application meets this provision.*

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. *The elevation drawings and pictures submitted indicate that the materials, size and scale of the proposed second-story addition will not be compatible with the architecture of the existing dwelling on the lot. Although the existing dwelling measures approximately 25 feet in height and the proposed addition measures 40 feet in height on one side of the dwelling (side facing the adjacent single story property to the northeast), the addition will create a two to three level appearance and will not be in character with the existing on-site development. The existing dwelling is brick, as are the other structures in the neighborhood. The applicant proposes vinyl siding on portions of the structure. While brick veneer is proposed on the front façade of the structure, the architectural style is completely different from the prevailing style in the neighborhood. Therefore, not only are some of the exterior materials inconsistent, so too is the architectural style of the proposed addition. Staff believes that the application does not meet this provision.*

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. *The applicant proposes to construct a second level above an existing one-story addition. No vegetation is proposed to be removed to accommodate the proposed addition because no vegetation exists near the structure. The lack of existing vegetation and inability to plant vegetation as mitigation for the significant impact of the proposed structure is problematic. As shown in the photographs located at the front of the staff report, most of the other dwellings on this street are single story (some with dormers), the exception being a by-right addition on a lot to the southwest of the subject property. Staff believes the addition will not be harmonious with surrounding off-site uses in the neighborhood and does not meet this provision.*

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. T*here are no known drainage complaints on file related to this property. Staff believes that the second-story addition, consisting of 1,344.18 square feet, will impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air or safety as the addition will increase height, potentially block sun to the adjacent neighbor, and does not have any existing vegetation or the ability to plant vegetation in order to mitigate the significant increase in height and bulk so close to the adjacent property to the northeast. The closest affected dwelling is located approximately 20 feet to the northeast. Staff believes that the application does not meet this provision.*

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. *The subject property may construct a second-story addition, by right, within the existing side yard setbacks. There appears to be opportunity to construct upward or toward the back of the property without granting a special permit. Staff believes the application does not meet this provision. Other issues of well, floodplains and/or Resource Protection Areas are not applicable to this site.*

CONCLUSION

Staff believes that the request for the new second story addition is in not conformance with the applicable Zoning Ordinance provisions for the reasons outlined above.

RECOMMENDATION

Staff recommends denial of SP 2011-MA-066 for the second-story addition. However, if the BZA intends to approve the application in total or in part, then staff suggests the BZA adopt the Proposed Development Conditions in Appendix 1 of the staff report. The conditions will require modification if the application is approved in part. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

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

APPENDICES

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

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-MA-066

September 7, 2011

If it is the intent of the Board of Zoning Appeals to approve SP 2011-MA-066 located at Tax Map 61-3 ((11)) 203 to permit reduction of minimum yard requirements pursuant to Sections 8-914 and 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

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

2. This special permit is approved for the location of the additions and open deck/patio, as shown on the plat prepared by Toan R.V. Nguyen dated June 27, 2011, submitted with this application and is not transferable to other land.

3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (1,236 square feet existing + 1,854 square feet (150%) = 3,090 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.

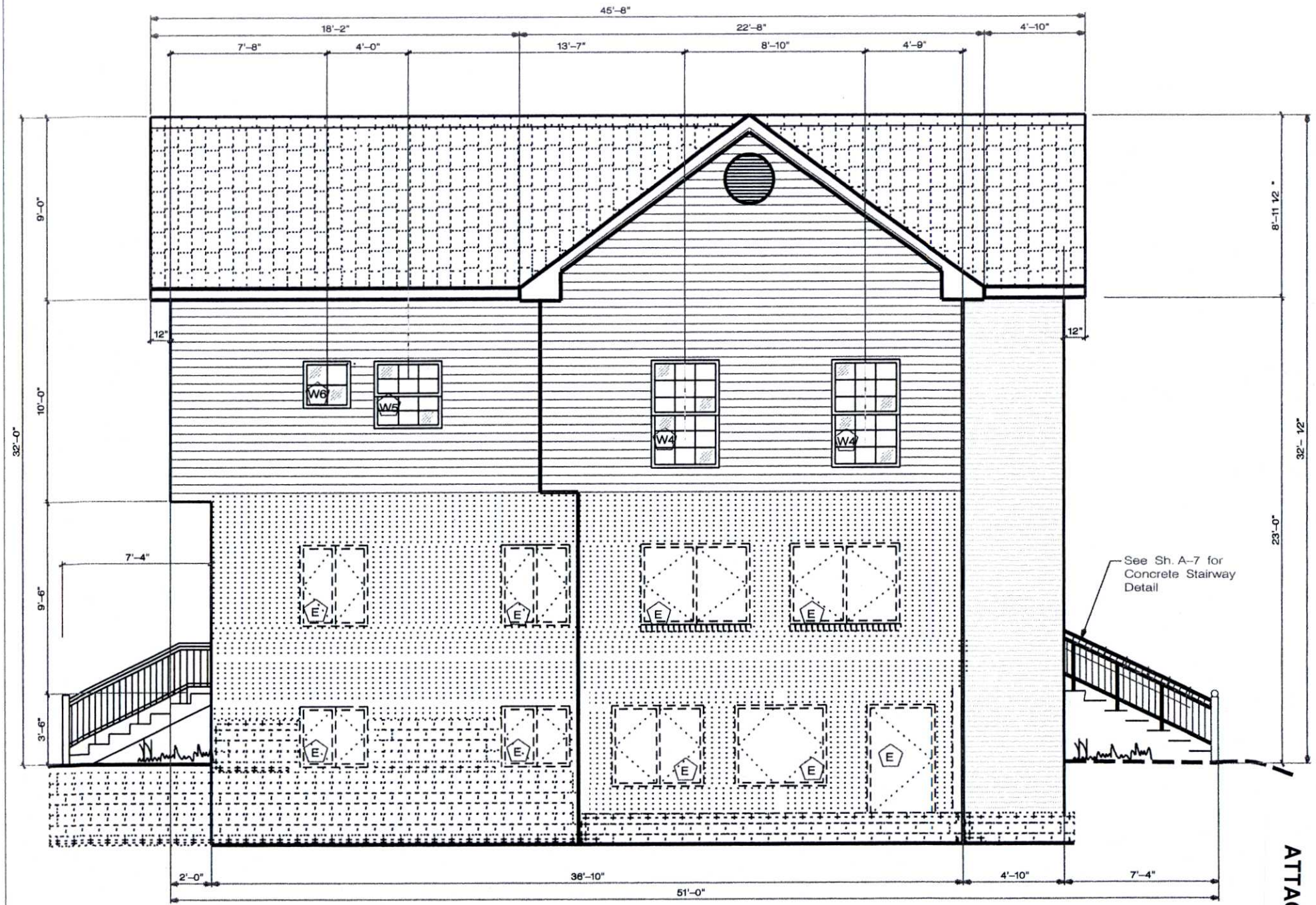
4. The new addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.

5. All applicable permits and final inspections shall be obtained for the existing first floor addition within six months of approval of this special permit.

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

or adopted standards.

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



EXISTING AND NEW LEFT SIDE ELEVATION

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

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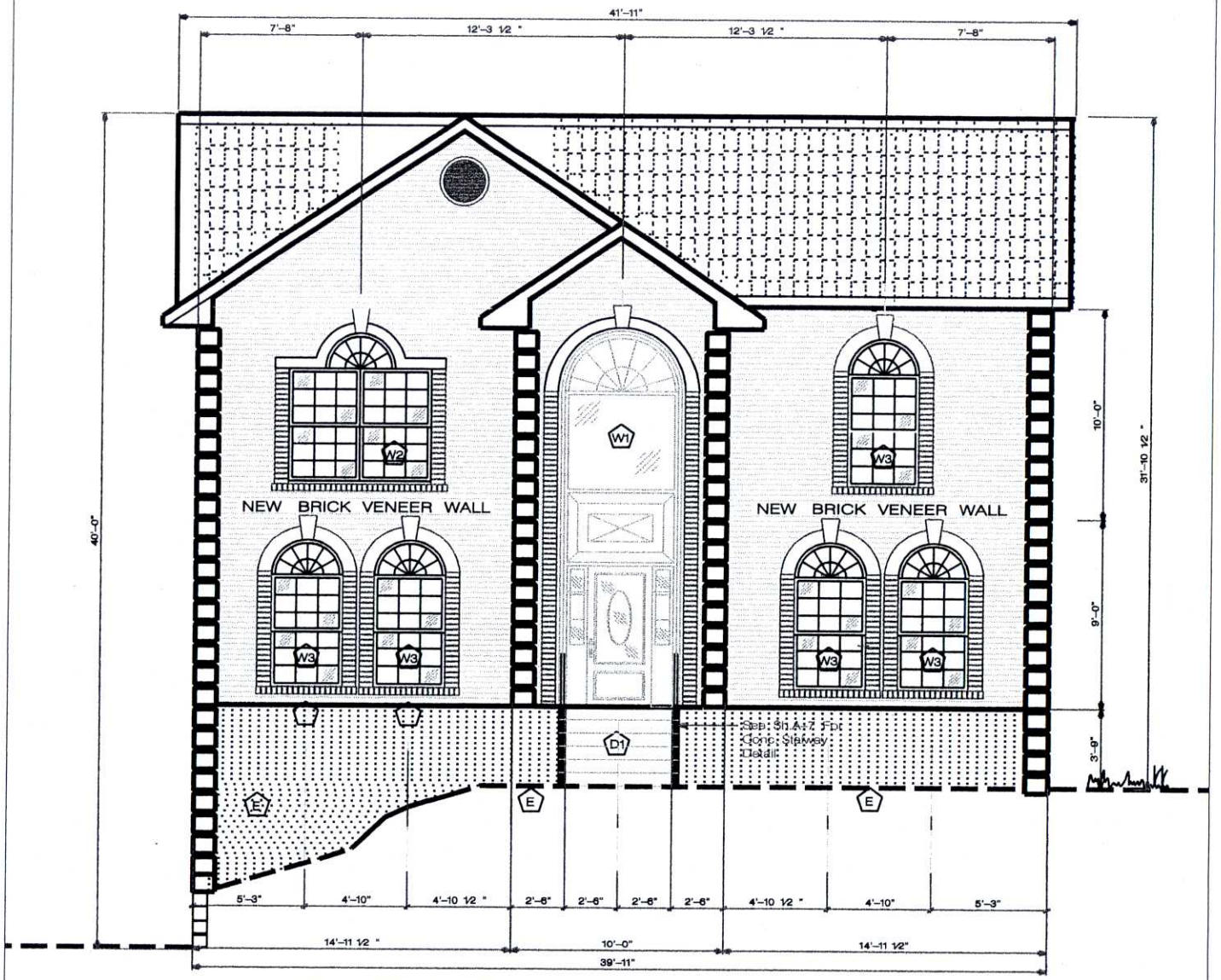
ATTACHMENT 1



NEW FRONT MAIN ELEVATION

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

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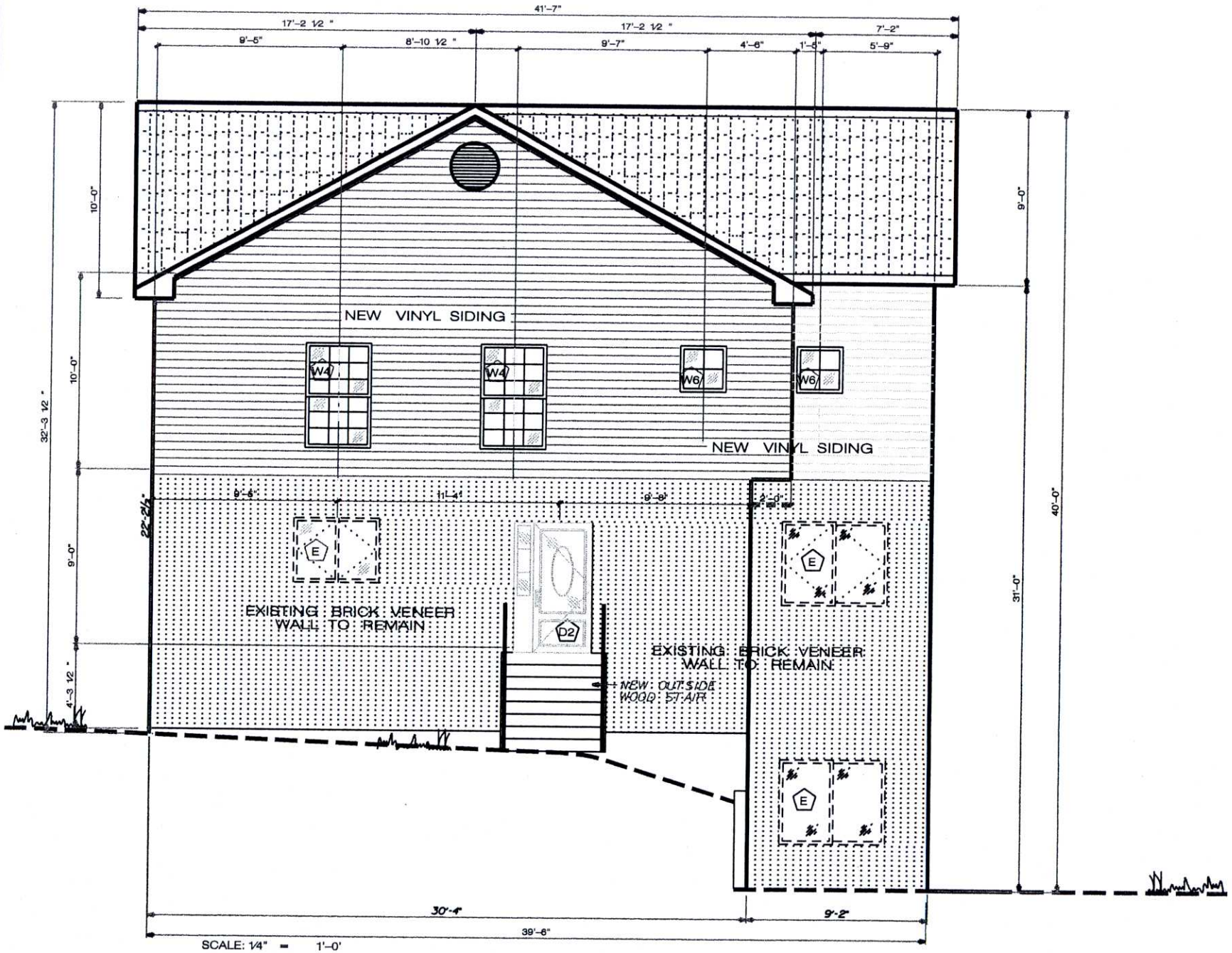

SCALE: 1/4" = 1'-0'

NEW AND EXISTING REAR ELEVATION

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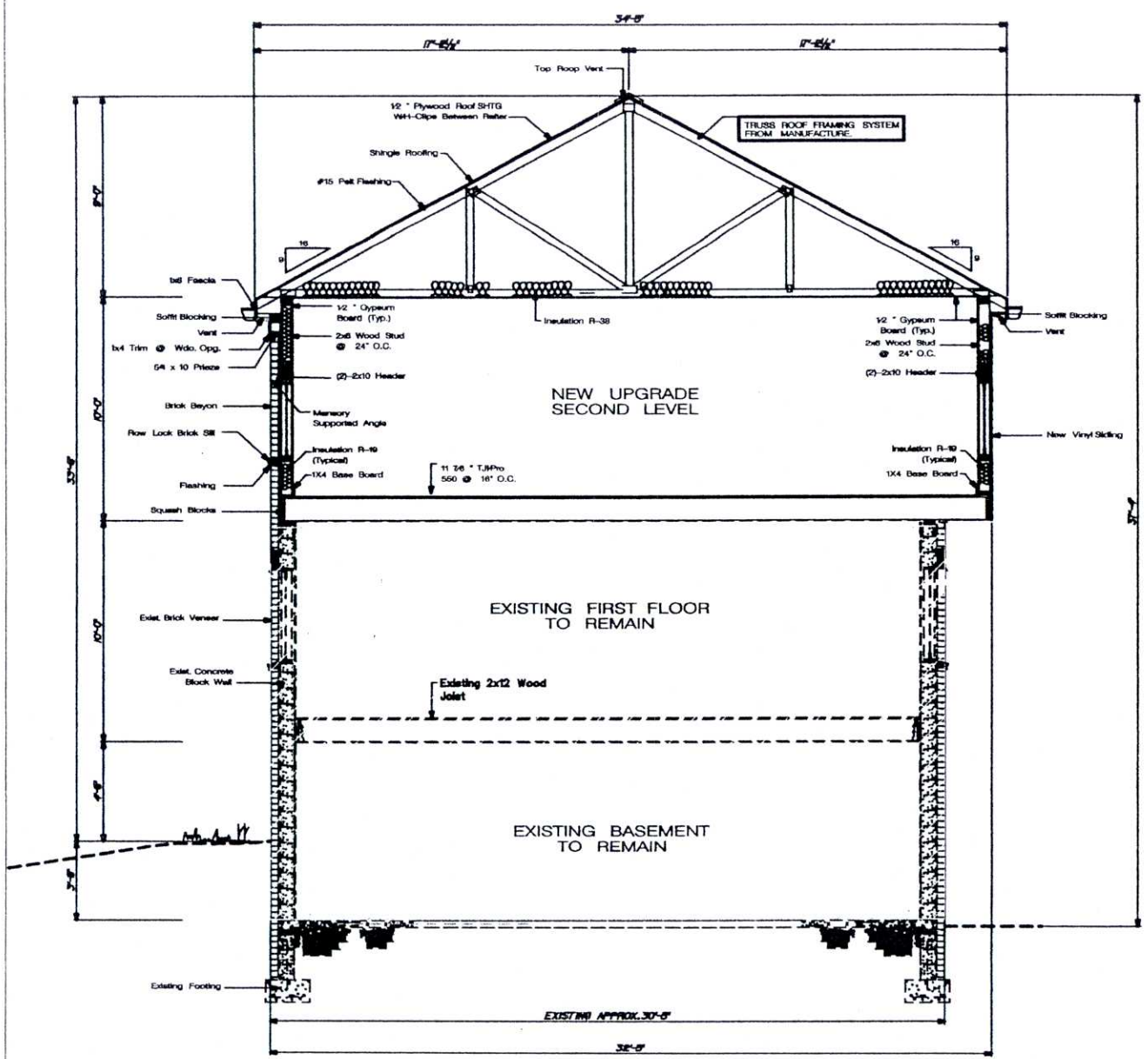
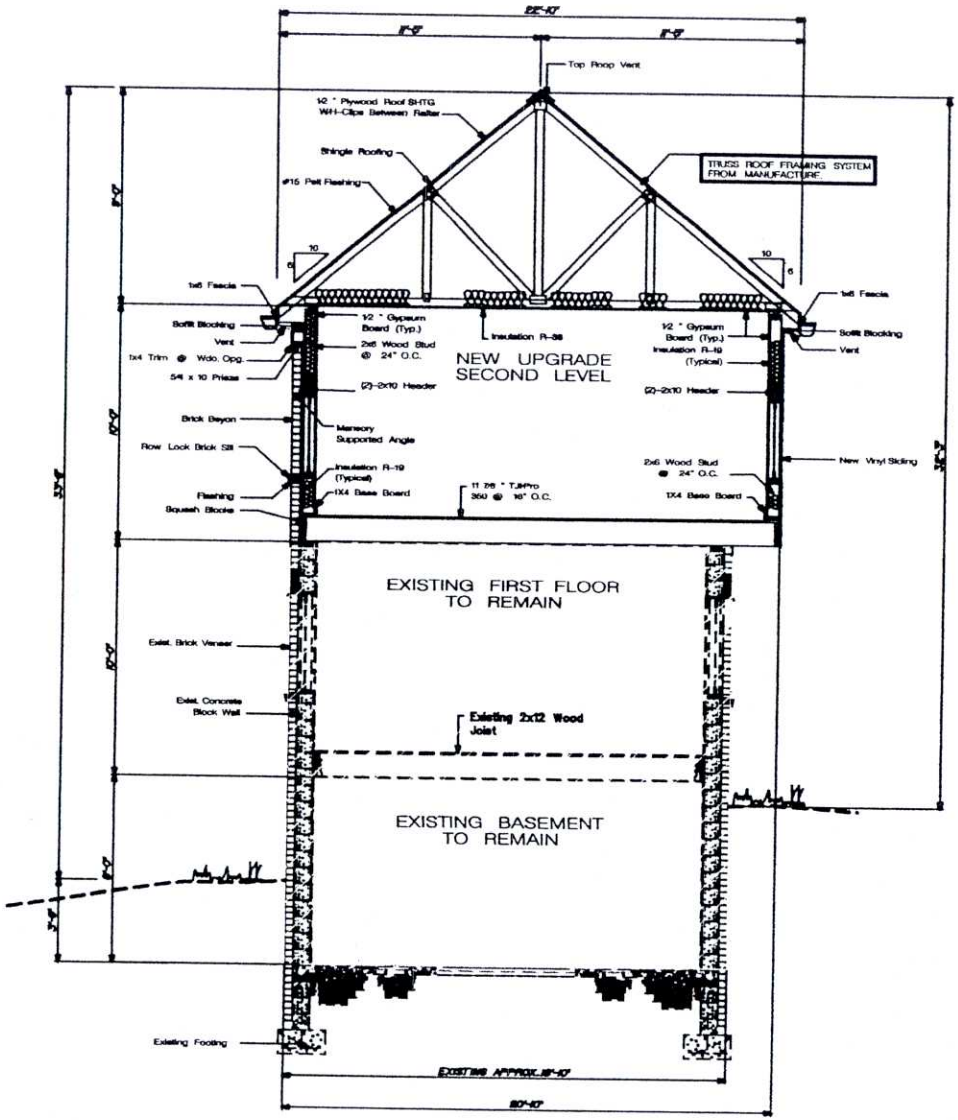


SECTION B

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

...\Projects\H_SEJAS'S HOUSE.DGN 12/16/2010 10:06:20 AM



SECTION A

...\Projects\H_SEJAS'S HOUSE.DGN 12/16/2010 10:06:05 AM

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: MARCH 24, 2011
(enter date affidavit is notarized)

I, TAM THANH NGUYEN, 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 110757a

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)
LUCIO SEJAS	3911Larchwod Rd, Falls Church, VA 22041	APPLICANT/TITLE OWNER
EVA SEJAS	Same As Above	TITLE OWNER
TAM THANH NGUYEN	5488 Joseph Johnston Ln, Centreville, VA 20120	AGENT

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

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

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: MARCH 24, 2011

(enter date affidavit is notarized)

110757a

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: MARCH 24, 2011

(enter date affidavit is notarized)

110757a

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: MARCH 24, 2011

(enter date affidavit is notarized)

110757a

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: MARCH 24, 2011 110757a

(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

AGENT, TAM T NGUYEN

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

Subscribed and sworn to before me this 24th day of March 20 11, in the State/Comm. of Virginia, County/City of Alexandria.

Notary Public

My commission expires: 11/30/2014

CHRISTINA MARIE MIPLEASANT NOTARY PUBLIC REG. #7365753 MY COMMISSION EXPIRES 11/30/14 COMMONWEALTH OF VIRGINIA

Special Permit Statement of Justification

1. The error of side setback exceeds = (15'-9.79')/15'= 35 % of measurement. The required the side setback is 15' but the field check for it is 9.79'. The non compliance was done in faith, through no fault of property owner for relocation of building subsequent to the issuance of a building permit. Such reduction will not impair the purpose and intent of this Ordinance and it will not be detrimental to the use and enjoyment of other property in the immediate vicinity and it will not create an unsafe condition with respect to both other property and public street, and to force compliance with the minimum yard requirements would cause the unreasonable hardship upon the owner because of spending money a much and time for reconstruction and messing up the living. The reduction will not result in an increase density or floor area ratio from that permitted by the applicable zoning district regulations.
2. Reduction of certain yard requirements to permit 2nd story addition with 9.79 feet from side lot line.
3. The special permit requested is to get the grant from the Fairfax County zoning for a reduction of side yard requirement by the resulting gross floor area of an additional 2nd floor to an existing principal structure may be up to = 1344.18 SF/1236 SF= 109 %<150% of total gross area of principal structure that existed at the time of the first expansion request.
4. The resulting gross floor area of an existing accessory structure and any addition to it shall be clarified by the design drawings submitted for construction on the site - Lot 203 Section 3, Belvedere Mason District, and Fairfax County, Virginia.
5. The proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structures on the lot.
6. The proposed development is harmonious with the surrounding off site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing and preservation of significant trees.
7. The proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and storm water runoff.
8. The proposal reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot.
9. The specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition ; orientation of the structures on the lot; shape of the lot and the associates yard designations on the lot; environmental characteristic of the site, including presence of the steep slopes, flood plains and /or Resource Protection Areas ; preservation of existing vegetation and significant trees; location of a well and/or septic field; location of easement; and/or preservation of historic resource.

Sincerely yours

Date May 17 2011

SP 2010-0292

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.

8-922 Provisions for Reduction of Certain Yard Requirements

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

1. Only the following yard requirements shall be subject to such special permit:

   A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.

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

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

   D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

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

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

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

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.

4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.

6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.

7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.

8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.

9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.

11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

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

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

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

    D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.

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

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

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

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

    I. Existing and proposed gross floor area and floor area ratio.

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

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

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

12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.