



APPLICATION ACCEPTED: September 19, 2011
DATE OF PUBLIC HEARING: December 7, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

November 30, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-PR-085

PROVIDENCE DISTRICT

APPLICANTS/OWNERS: Carlota Lanchipa and Johan Cardenas Lanchipa

LOCATION: 2922 Johnson Road

SUBDIVISION: Tyler Park

TAX MAP: 50-3 ((9)) 192

LOT SIZE: 7,200 square feet

ZONING: R-4

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit a reduction to minimum yard requirements based on an error in building location to permit an addition to a single-family detached dwelling to remain 7.0 feet from the side lot line

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

O:\bcho00\SP\Dec 7 - SP 2011-PR-085 (Lanchipa)\staff_report.doc

Brenda J Cho

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/



For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

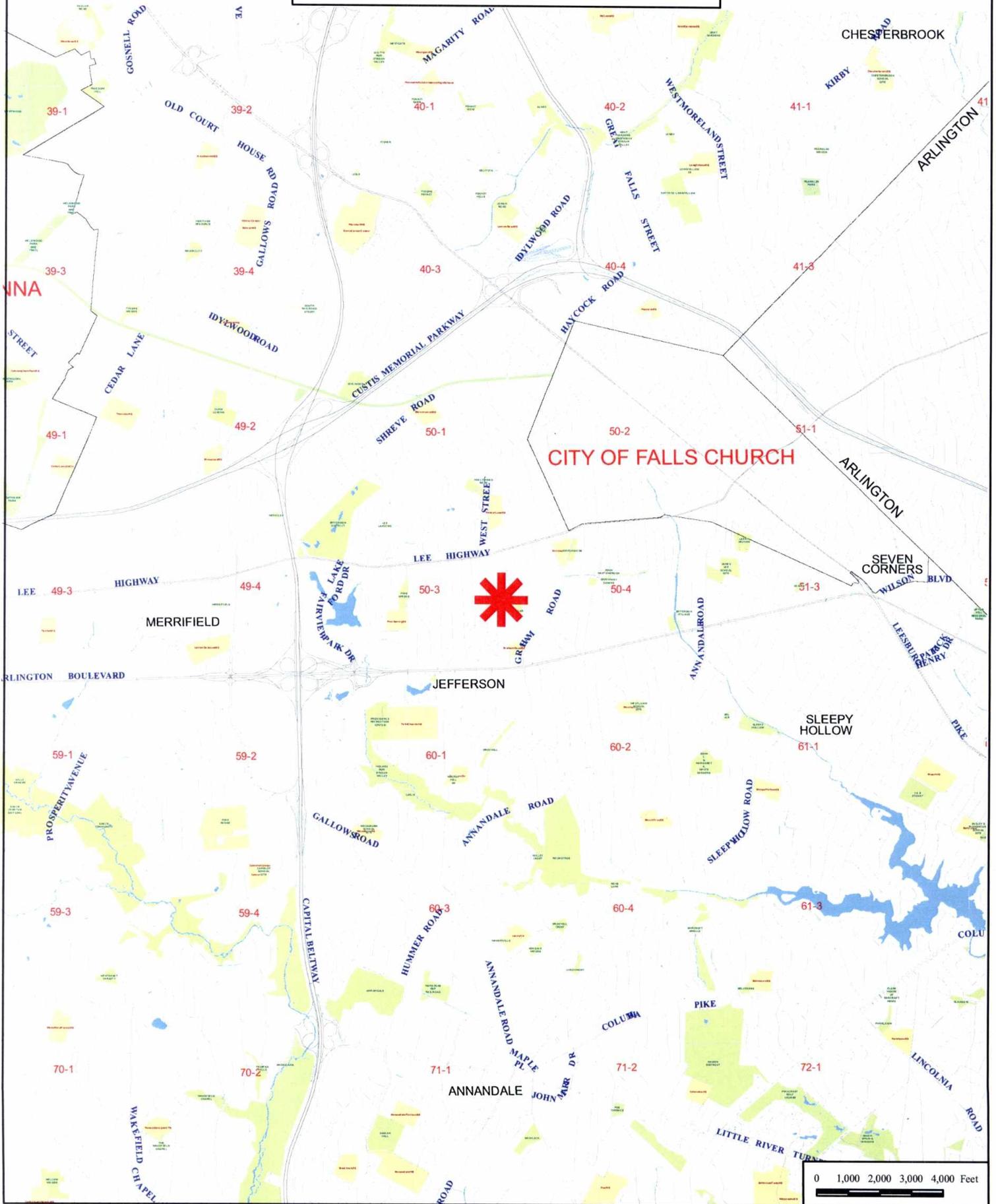


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2011-PR-085

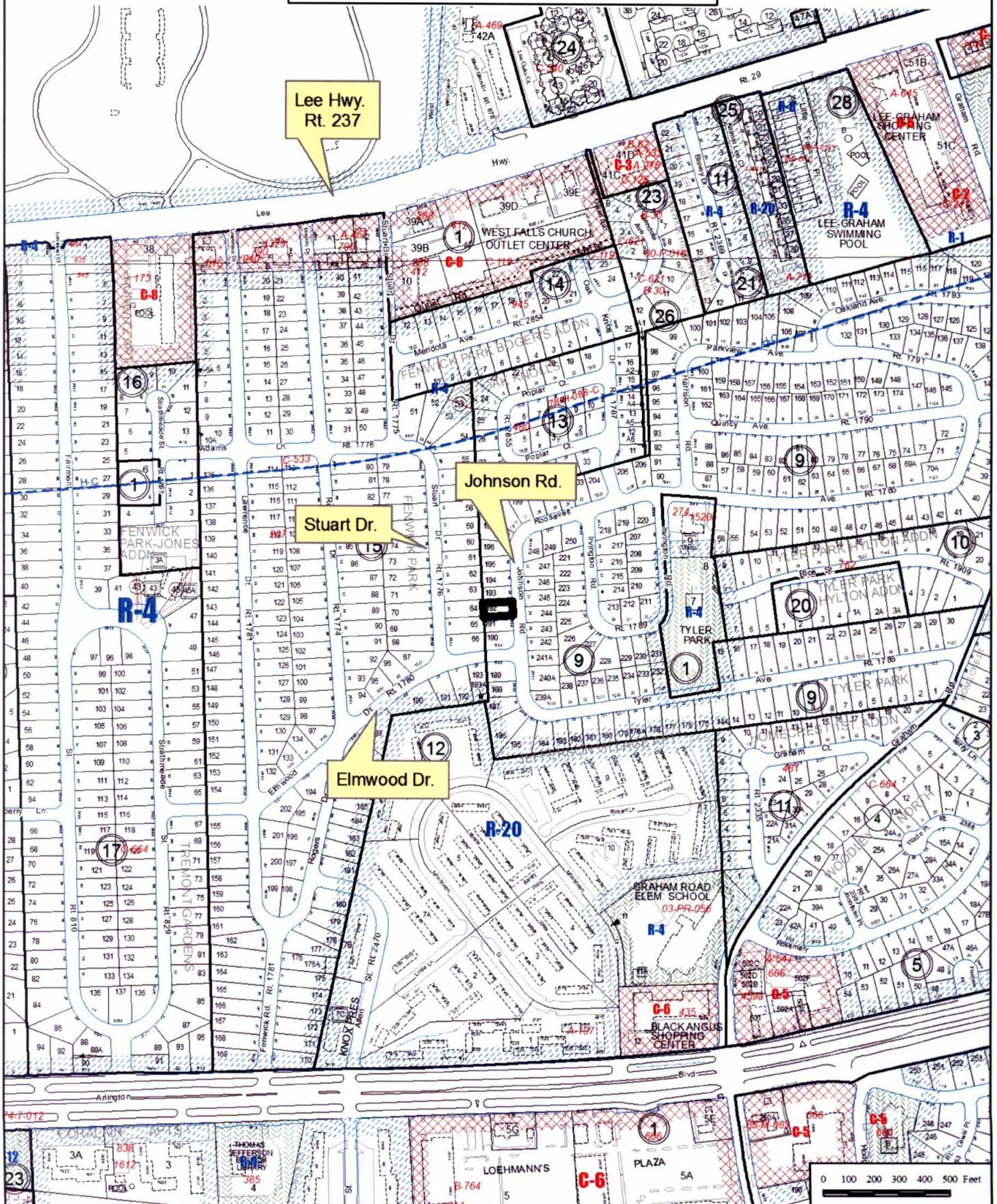
JOHAN CARDENAS LANCHIPA AND CARLOTA LANCHIPA

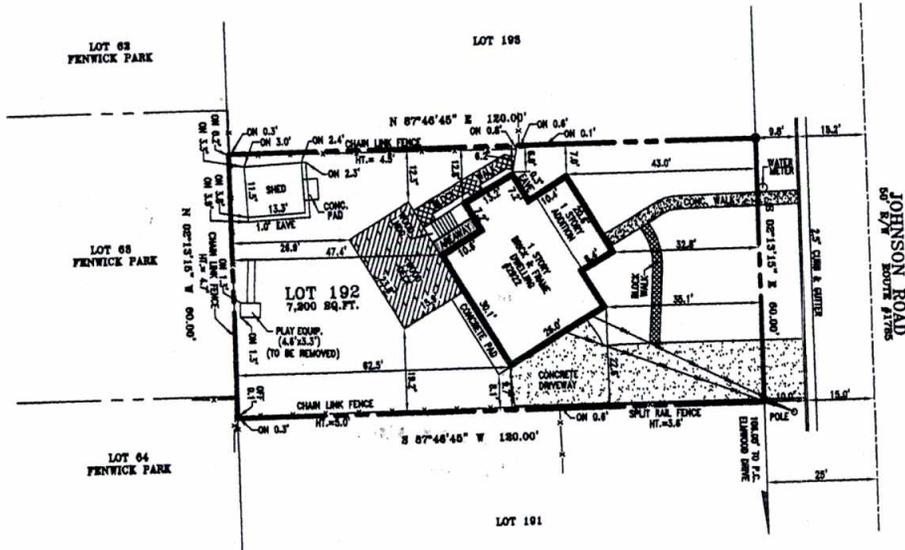


Special Permit

SP 2011-PR-085

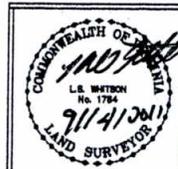
JOHAN CARDENAS LANCHIPA AND CARLOTA LANCHIPA





NOTES:

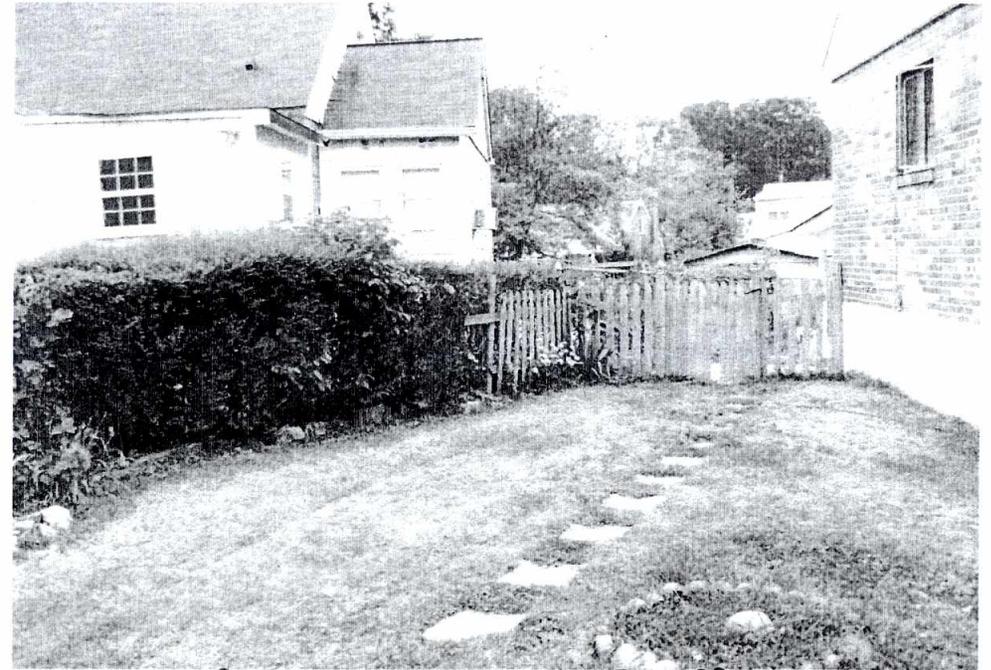
1. THIS PROPERTY IS LOCATED IN TAX MAP : 20-3-08-00-0182 AND IS ZONED R-4.
2. PROPERTY OWNERS: JORAN & CARLOTA LANCHIPA, AS RECORDED IN DEED BOOK 1087 PAGE 1082 OF THE FAIRFAX COUNTY LAND RECORDS.
3. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
4. NO TITLE REPORT FURNISHED AND ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.
5. ZONING YARD REQUIREMENTS:
FRONT = 30 FEET SIDE YARD = 10 FEET REAR = 25 FEET
6. HEIGHT REQUIREMENT: 35 FEET
7. HEIGHTS:
DWELLING = 22.8 FEET
ADDITION = 13.0 FEET
DECK = 1.8 FEET
SHED = 8.3 FEET
PLAY EQUIP. = 7.5 FEET
FENCES (AS NOTED)
8. THERE IS NO EVIDENCE OF A BURIAL SITE ON THIS PROPERTY.
9. THERE ARE NO EASEMENTS OF 25 FEET OR MORE IN WIDTH THAT AFFECTS THIS PROPERTY.
10. FRONT COVERAGE AREA = 401 SQ.FT. OR 22.3%



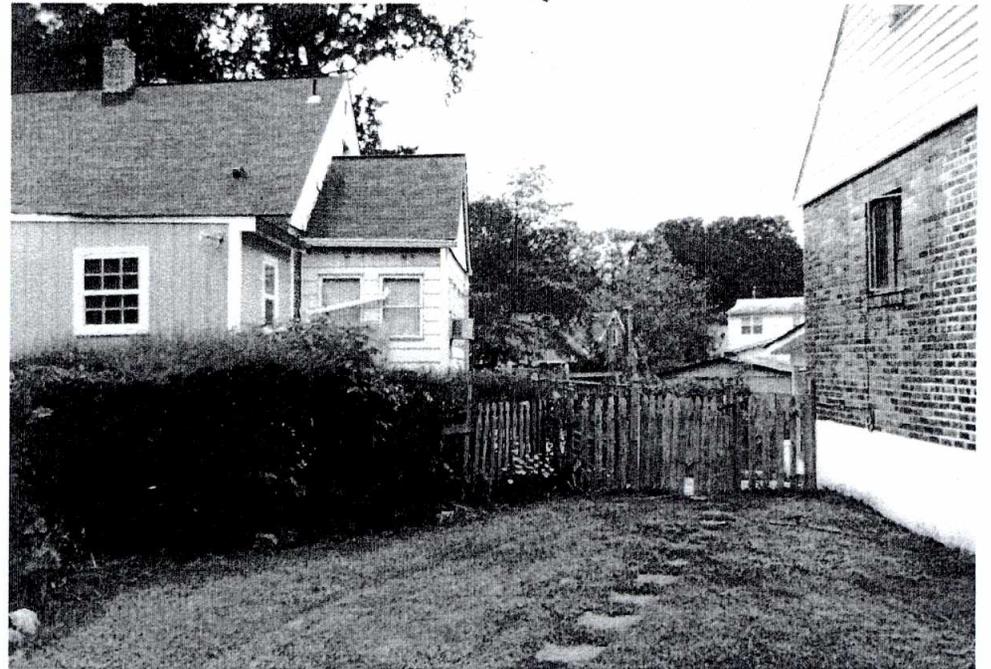
SPECIAL PERMIT PLAT
 LOT 192 SECTION FOUR
 TYLER PARK
 DEED BOOK 644 PAGE 303
 PROVIDENCE DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 DATE: NOVEMBER 11, 2010 SCALE: 1"=20'
 DATE: MARCH 25, 2011 (REVISED)
 DATE: SEPTEMBER 14, 2011 (REVISED)

OWNER: LANCHIPA
 W.O. #10-2167

SAM WHITSON LAND SURVEYING, INC.
 7041 GATEWAY COURT SUITE 100 MANASSAS, VIRGINIA 20108
 PHONE: (703)830-9628 FAX: (703)830-8776



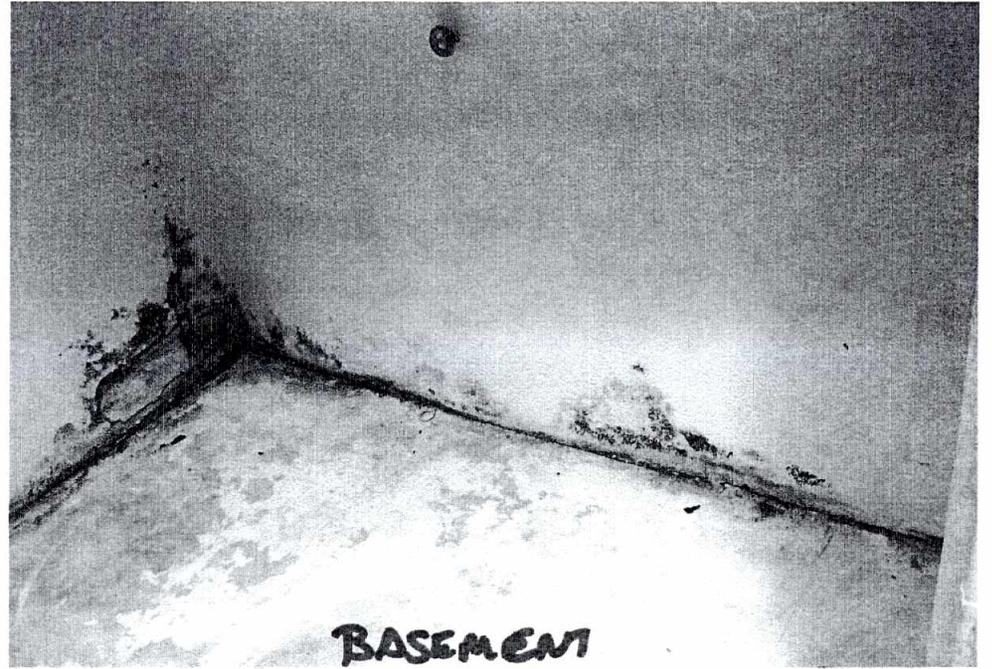
NEIGHBORS PROPERTY



NEIGHBORS PROPERTY



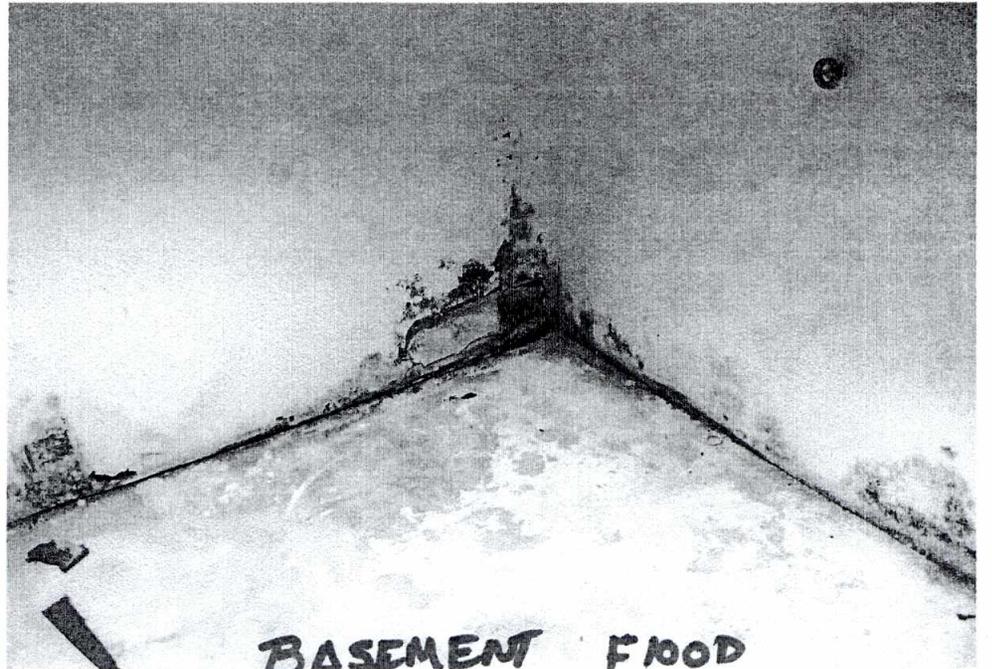
FRONT PORCH



BASEMENT



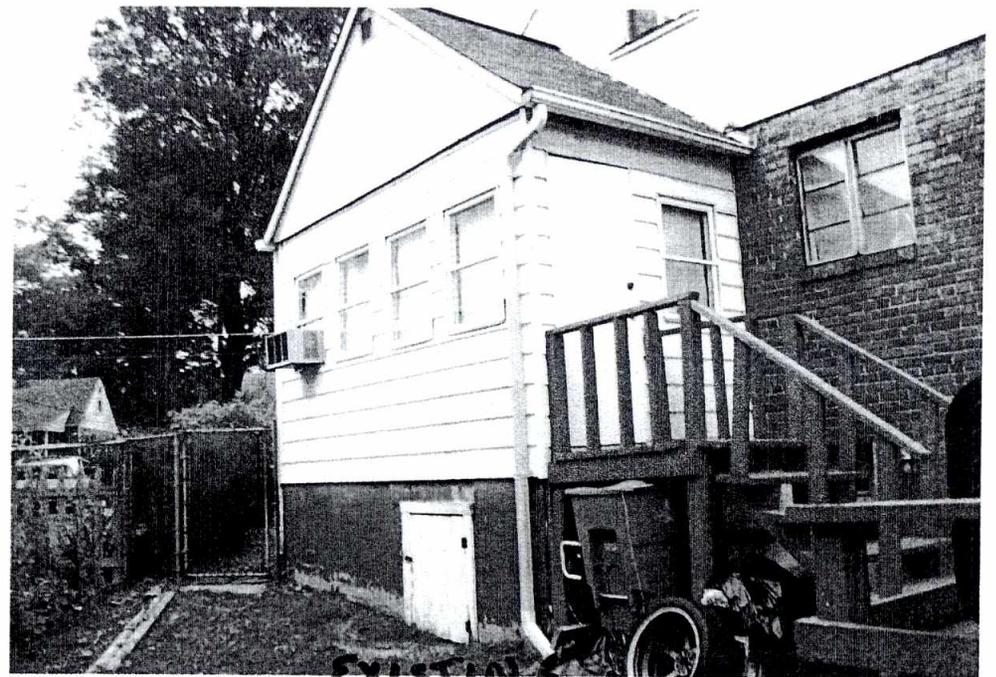
FRONT HOUSE



BASEMENT FLOOD
LEAK



FRONT PORCH ENCLOSE



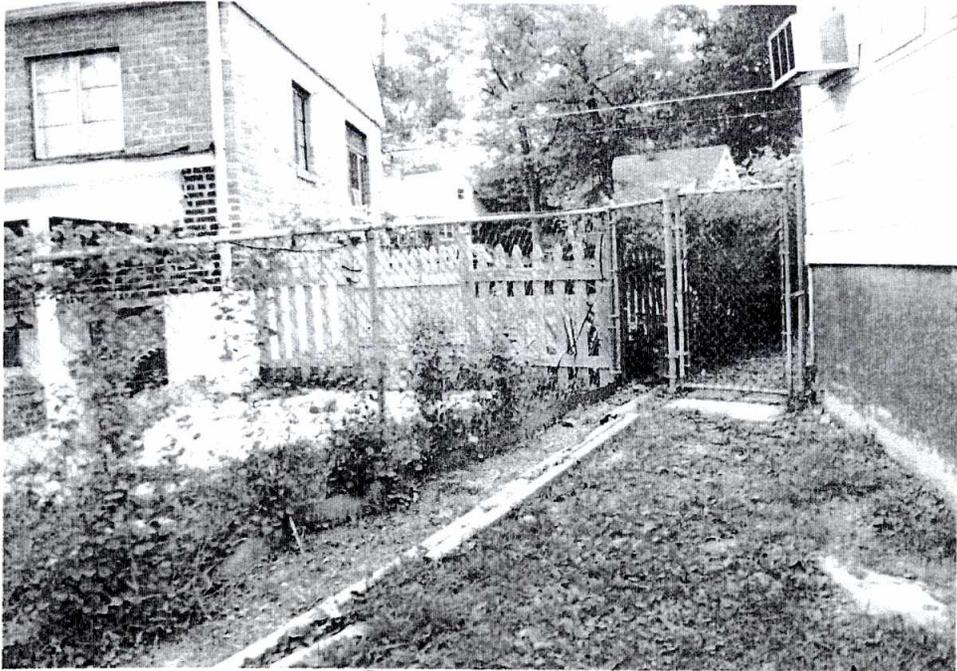
EXISTING ADDITION



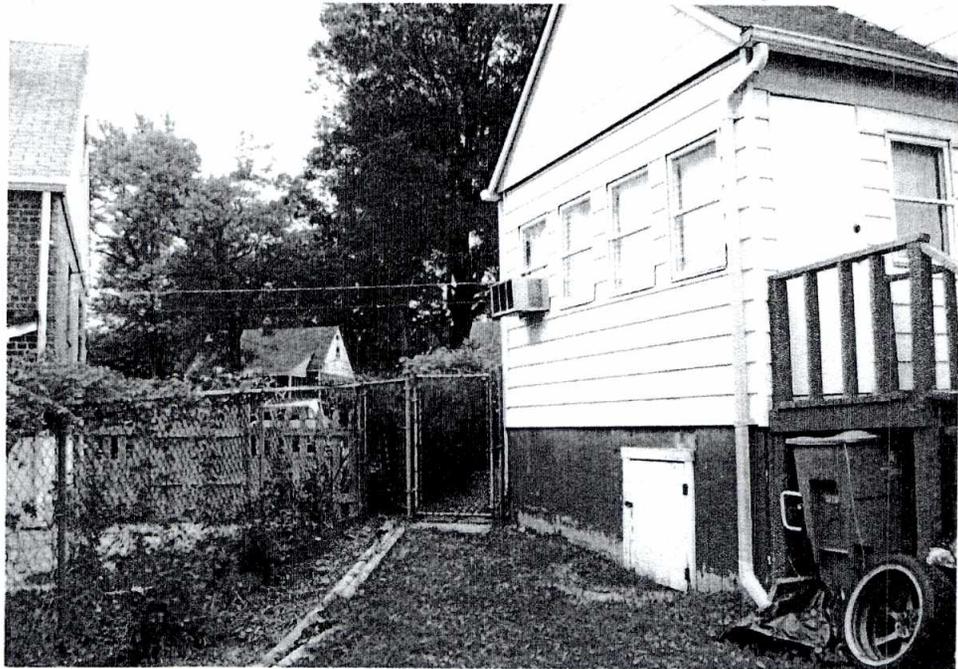
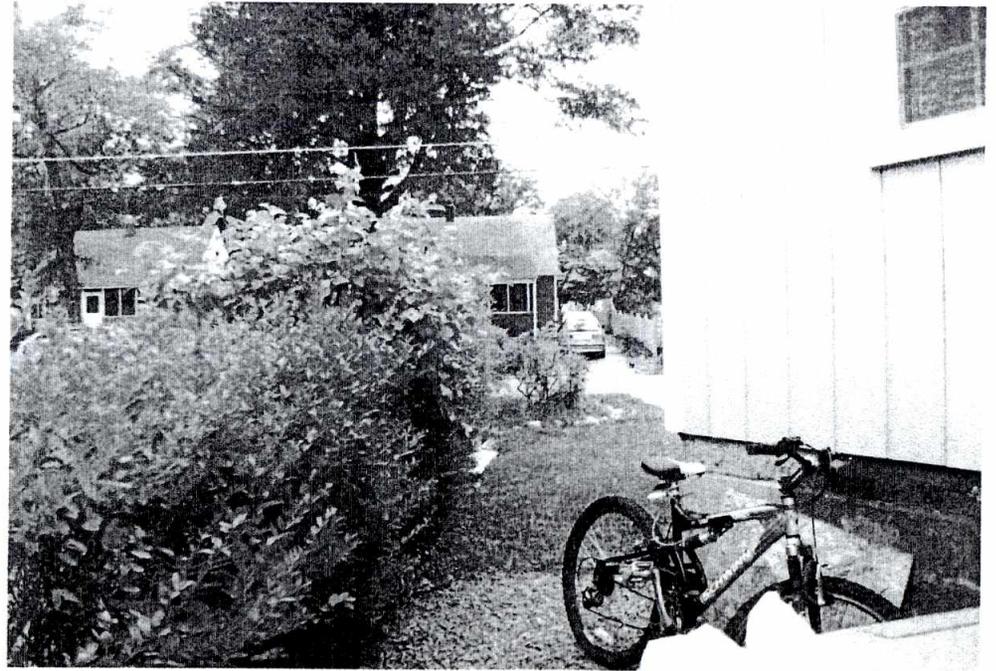
FRONT HOUSE



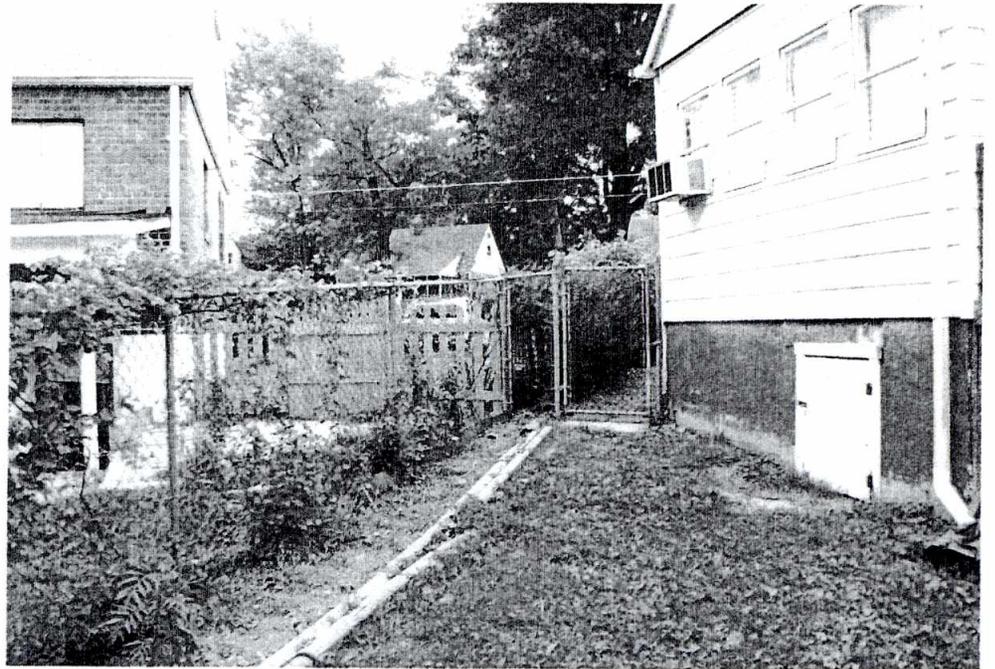
FRONT PORCH
COVER



EXISTING ADDITION



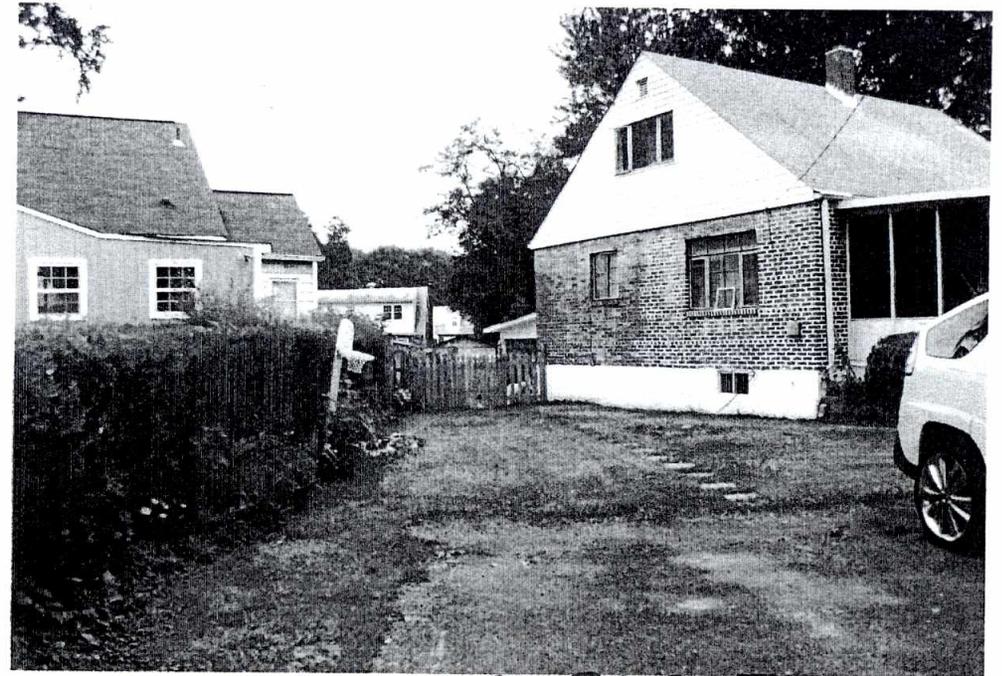
EXISTING ADDITION



EXISTING ADDITION



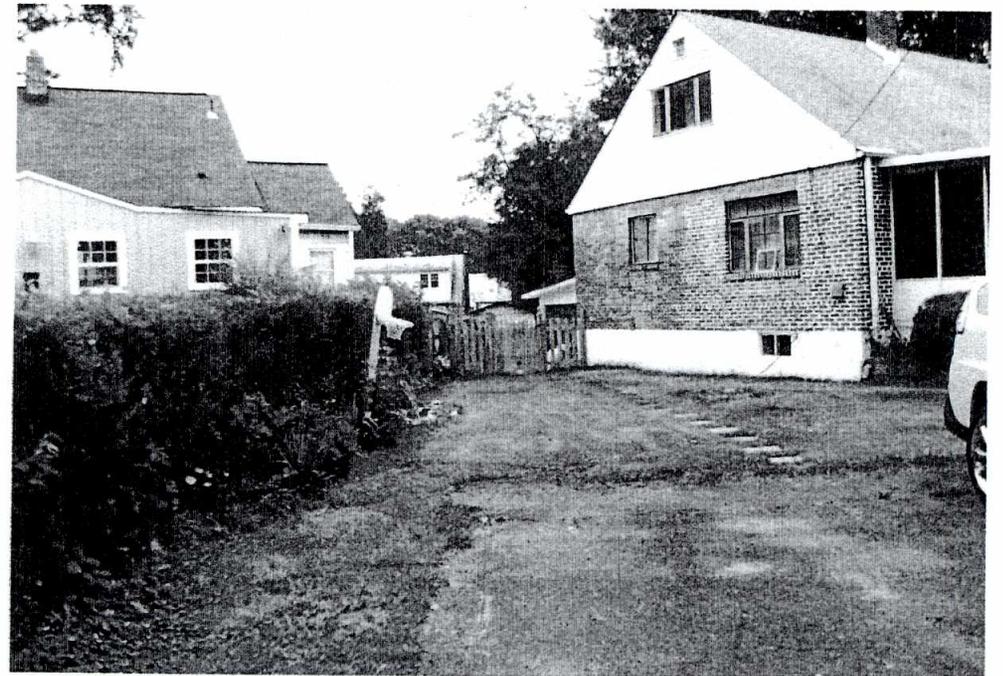
FRONT PORCH ENCLOSE



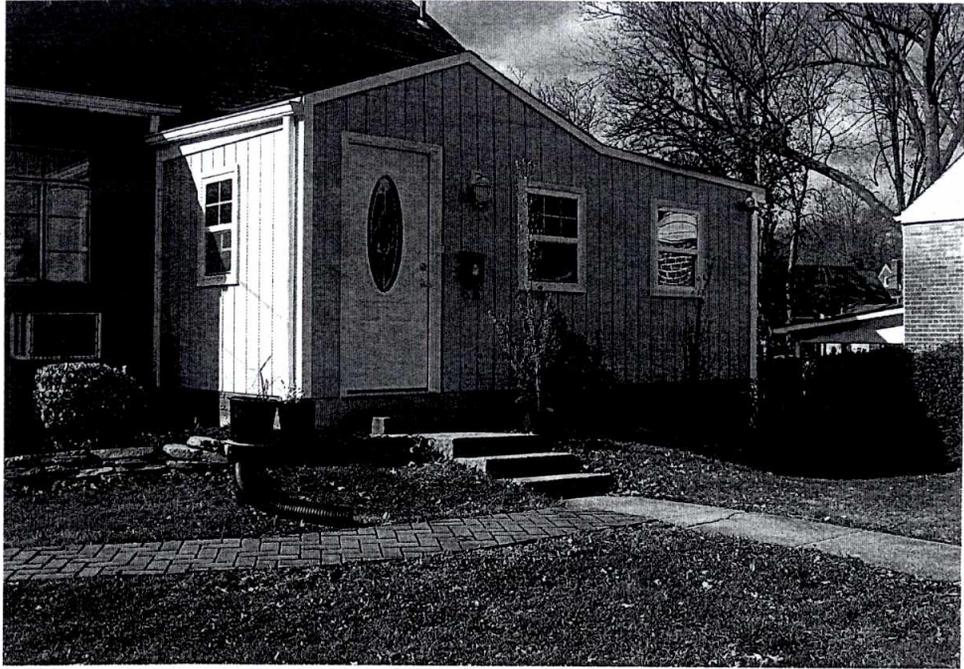
NEIGHBORS PROPERTY LINE

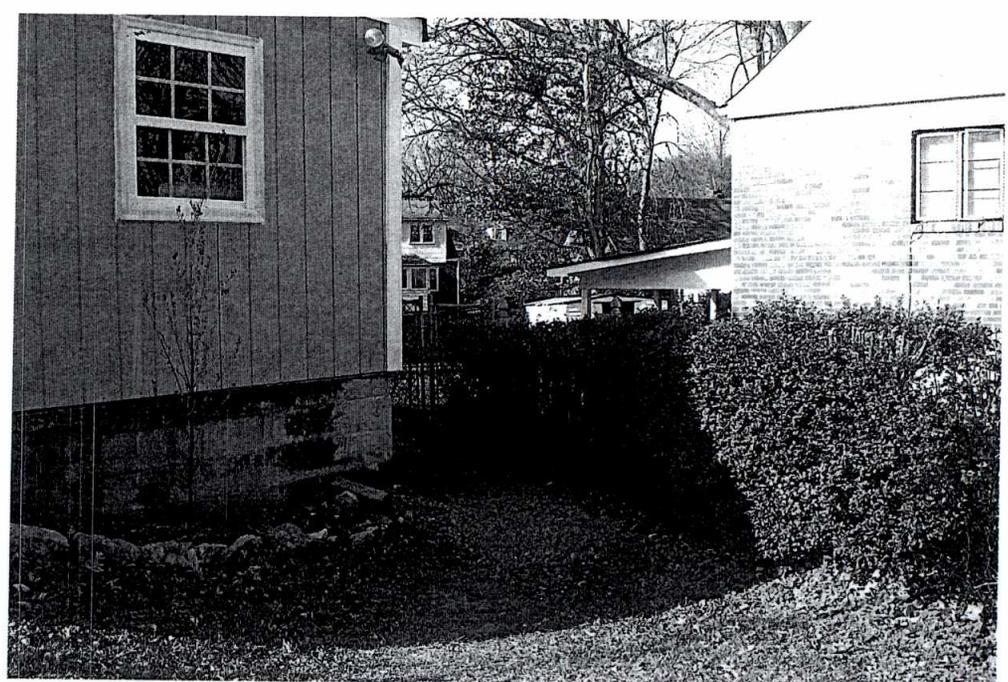
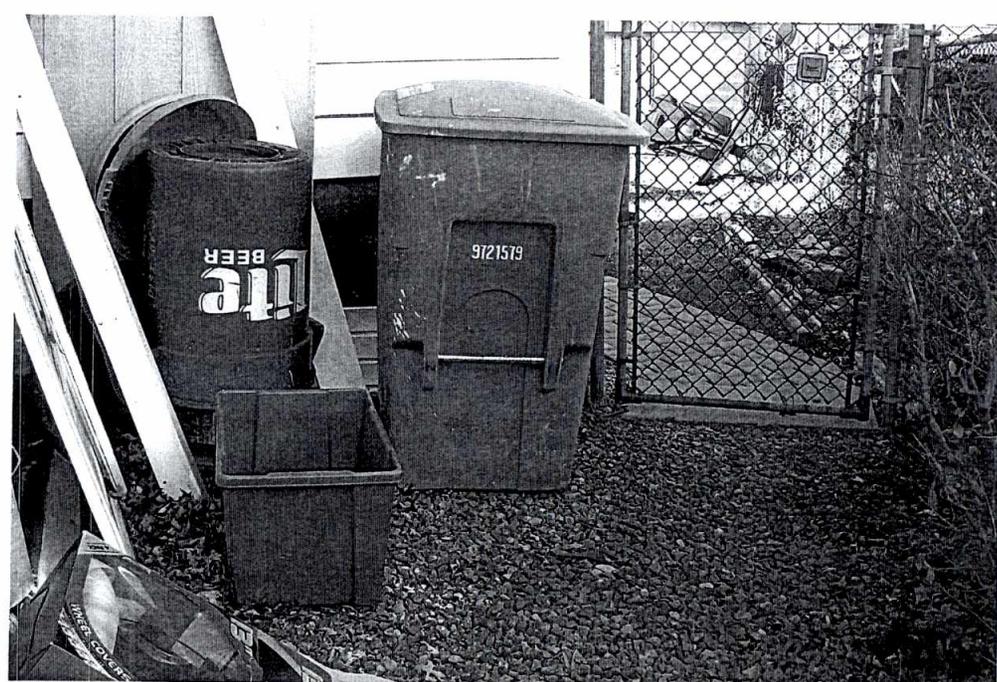


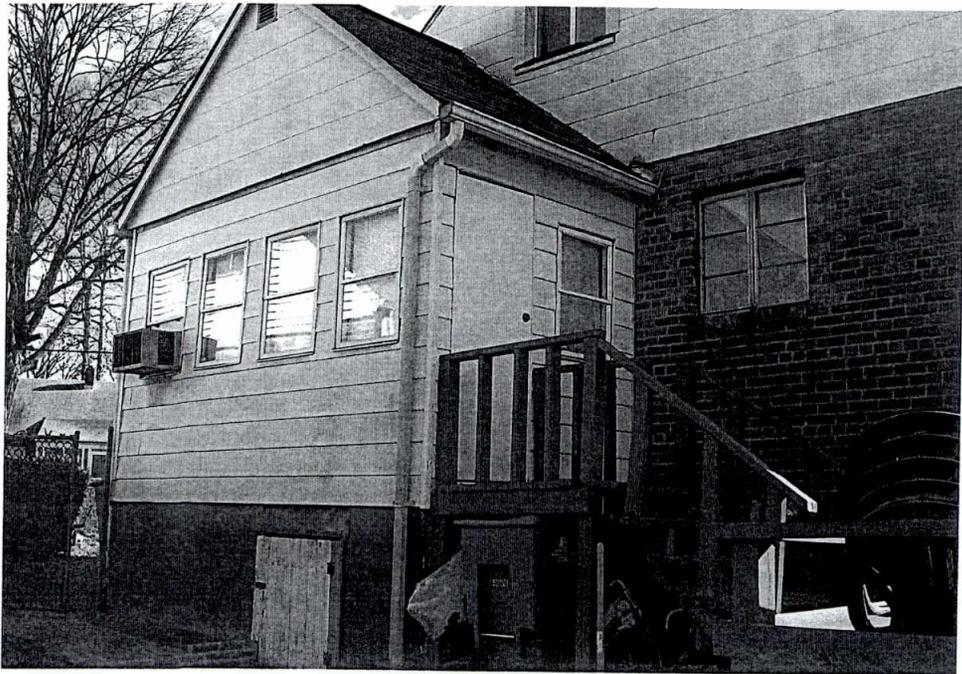
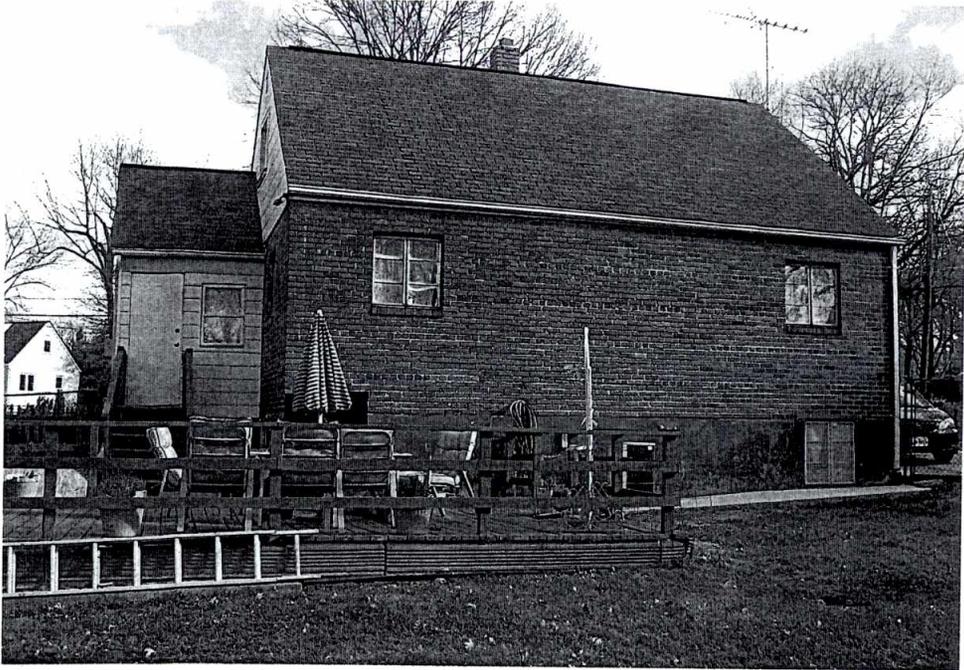
FRONT PORCH ENCLOSE



NEIGH: LAND PROPERTY









DESCRIPTION OF THE APPLICATION

The applicant requests approval of a special permit for an error in building location to permit a front porch addition to remain 7.0 feet from the northern side lot line. The front porch was expanded in 2010.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Addition (Front Porch)	Side	10.0 feet	7.0 feet	3.0 feet	30%

*The minimum required side yard in the R-4 District is 10 feet.

EXISTING SITE DESCRIPTION

The subject site measures 7,200 square feet in area. The site is zoned R-4, and it is developed with a one story, brick and frame single family detached dwelling. The house is situated at an angle on the site, and it was built in 1946. There is a concrete driveway at the front, which covers approximately 22.3% of the front yard. A paved walkway connects the driveway to a concrete walk between the street and the front door. At the rear of the house, there is an open wood deck. In the northwest corner of the site, there is a shed, which measures 8.3 feet in height and 153 square feet in area. Along the rear property line, there is play equipment measuring approximately 7.5 feet in height, which will be removed. Chain link fencing surrounds the rear yard. There are a couple of mature trees along the rear property line, and the site is landscaped with grass and shrubs.

CHARACTER OF THE AREA

	Zoning	Use
North	R-4	Single Family Detached Dwelling
South	R-4	Single Family Detached Dwelling
East	R-4	Single Family Detached Dwelling
West	R-4	Single Family Detached Dwelling

BACKGROUND

On June 3, 2010, a complaint was filed with the Department of Code Compliance (DCC) regarding the front and side additions, and an inspection was conducted by DCC staff on June 10, 2010. A Notice of Violation (NOV) was issued on August 10, 2010 for a violation of minimum bulk regulations (see Appendix 4).

Additionally, on July 1, 2010, a Corrective Work Order (CWO) was issued for the front porch addition, which was completed without necessary permits and inspections. A subsequent NOV was issued on September 14, 2010 for the front porch addition due to a lack of requested permits (see Appendices 5 and 6). No action was taken by the applicants to address the violation in a timely manner, and a hearing was scheduled in Circuit Court on September 27, 2011 for this complaint (see Appendix 7).

The applicant requested a Vested Rights Determination in a letter dated August 3, 2011, and the Zoning Administration Division (ZAD) responded that the front and side additions had been taxed since at least 1996 and therefore vested. However, the Zoning Administration Division issued a revised determination dated September 7, 2011 (see Appendix 8), which stated that the side porch addition was vested, but the front porch addition is not vested due to its recent expansion. The front porch addition was previously taxed for 88 square feet in area, but it was recently expanded to approximately 190 square feet in area without a permit. The existing wood deck and playground equipment are not part of the application, but the applicant must pursue a building permit for the deck and remove or relocate the playground equipment to bring both structures into compliance. Development conditions for the deck and playground equipment are recommended by staff.

A copy of the submitted special permit plat titled "Special Permit Plat, Lot 192, Section Four, Tyler Park" prepared by Sam Whitson Land Surveying, Inc., dated November 11, 2010 and revised and sealed though September 14, 2011, is included at the front of the staff report.

Following adoption of the current Ordinance, the BZA heard the following special permit applications in the vicinity of the application parcel:

- Special Permit SP 1989-P-017 was approved on July 28, 1989 for Tax Map 50-3 ((9)) 227 and 228, zoned R-4 at 2928 Irvington Road, to permit a modification to minimum yard requirements based on an error in building location to allow an addition to a dwelling to remain 21.3 feet from the front lot line and 7.4 feet from a side lot line.
- Special Permit SP 1999-P-006 was denied on April 28, 1999 for Tax Map 50-3 ((9)) 195, zoned R-4 at 2916 Johnson Road, to permit a reduction to minimum yard requirements based on an error in building location to permit an addition to remain 5.0 feet from a side lot line and a covered porch 26.8 feet from the front lot line.

- Special Permit SP 2011-PR-029 was approved on June 29, 2011 for Tax Map 50-3 ((9)) 168, zoned R-4 at 7208 Quincy Avenue, to permit a reduction in minimum yard requirements based on an error in building location to permit an addition to remain 2.2 feet from a side lot line.

ZONING ORDINANCE REQUIREMENTS

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

This special permit is subject to Sects. 8-006, 8-903 and 8-914 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 9. Subject to development conditions, this special permit must meet these standards.

CONCLUSION

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated August 10, 2010
5. Corrective Work Order dated August 11, 2010
6. Notice of Violation dated September 14, 2010
7. Final Court Order
8. Vested Rights Revised Determination dated September 7, 2011
9. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-PR-085

November 30, 2011

1. This special permit is approved for the location and size of the front porch addition as shown on the plat prepared by Sam Whitson Land Surveying, Inc., dated November 11, 2010 and revised and sealed though September 14, 2011, as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections for the front porch addition and deck shall be diligently pursued and obtained within six months of final approval of this application.
3. The accessory structures (play equipment) shall be removed or relocated to comply with applicable Zoning Ordinance provisions within 90 days of this special permit approval.

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

Application No.(s): SP 2011-PR-085
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/14/2011
 (enter date affidavit is notarized)

I, Isabel I. Cardenas, 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

109474

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)
Johan Cardenas Lanchipa	2922 Johnson Road, Falls Church, VA 22042	Applicant/Title Owner
Carlota Lanchipa	(same)	Title Owner
Isabel I. Cardenas	(same)	Agent for Applicant/Title Owners

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

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

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

Application No.(s): SP 2011-PR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/14/11
(enter date affidavit is notarized)

109474

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)

N/A

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): SP 2011-PR-085
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/14/11
(enter date affidavit is notarized)

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

PARTNERSHIP INFORMATION

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

N/A

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

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

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

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

Application No.(s): SP 2011-PR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/14/11
(enter date affidavit is notarized)

109474

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SP 2011-PR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____ 109474
(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 [X] Applicant's Authorized Agent

ISABEL I. CARDENAS
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 14th day of July, 2011, in the State/Comm. of Virginia, County/City of Falls Church.

[Signature]
Notary Public

My commission expires: 5/31/2014



Johan J Cardenas & Carlota Lanchipa

2922 Johnson Rd.

Falls Church, VA 22042

703-629-2221

07/12/2011

Re: Fairfax County Zoning Ordinance

Property Address: 2922 Johnson Rd Falls Church, VA 22042

The BZA determines that:

- A. The error does exceeds ten (10) percent of the measurement involved

Yes this is the reason for filing the application.

- B. The noncompliance was done in good faith, or through no fault of the property owner because the addition on the side of the house was already there when we purchased the house on December 1998.

The front porch dimension are 8'(feet) by 16'(feet), the front porch was partially roofed with (A) type roof the portion cover with roof was 8' by 8' the remaining portion of the porch was with no roof, there was only two post on each corner to continue the roof this was done by the previous owner ,going forward the portion uncover was accumulating a lot of water every time it rained there was a puddle of water that slinked in from the porch to the basement walls some hard rains flooded up to 2"(inch)of water also create moisture to the basement and damage walls etc. We had to seal the porch by applying laid of flooring paint to the floor porch without any luck, we also seal the edge of the house right where the house wall lined up with the porch and nothing. Our main reason to do this enclosure was mainly to stop the water leak.

First I just extended the existing roof to cover the whole porch by using the existing roof and adding some 2x4 and ½ inch plywood to for the roof but the entire roof was shaking so I added some 2x6 for

the walls to make the structure more solid that work a lot better, it was not looking good but it was very solid, so to make it look a bit presentable for the neighborhood I added the finish plywood for exterior making it look better I even have some complements from some neighbors. As of today and from the day I finished this work and until now I can swear that my leaking problems to the basement has ended, but now the only issue I am facing today is that I did it without permission but I did not know the procedures and I did not want to get it done this way but things turn this way . This is why we are applying for this special permit. Thank you for your understanding and God bless you. faith, or through no fault of the property owner.

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

N/A

D. It will not be detrimental to the use and enjoyment of other property and public streets.

The enclosure (additions) were done on the front porch , I consider it will not be detrimental to the use and enjoyment of other property and public streets since I received some complements from some of our nearest neighbors addresses will be provided upon your request.

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

No I strongly believe it will not create an unsafe condition with respect to both other property and public streets because the enclosure has been done only the front porch far away neighbors properties.

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

To force compliance with the minimum yard requirements would cause unreasonable hardship upon us because to remove would cost more money that to leave structure in this location

removing the structure would cause water leaks in the basements that has stopped ever since we enclosure the front porch.

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

No The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations it will only reduce the walls but the concrete porch will remain attached to the house as you can see by your records and plats.



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: August 10, 2010

SHERIFF'S LETTER

CASE #: 201003248 **SR#:** 61332

SERVE: Carlota Lanchipa
2922 Johnson Road
Falls Church, VA 22042

LOCATION OF VIOLATION 2922 Johnson Road
Falls Church, VA 22042-1610
Tax Map #: 50-3 ((9)) 192
Zoning District: R-4

Dear Property Owners:

An inspection of the above referenced property on June 10, 2010 revealed the following violation of the Fairfax County Zoning Ordinance.

§ 2-307 (1) Meeting Minimum Bulk Regulations – Addition Added

The inspection revealed that two (2) additions have been built on to the single family detached dwelling; one in the front and one on the right side. These additions have thereby become a part of the principal building or dwelling on this lot line. The addition on the front of the house is approximately 7'6" from the side lot line and the addition on the right side of the house is approximately 8' from the side lot line.

The referenced property is located in the R-4 District. The bulk regulations (set back) for the R-4 District is specified in Par. 2 (A) 1 of Sect. 3-407 of the Fairfax County Zoning Ordinance, which states:

Minimum yard requirements

A. Single family dwellings

(1) Conventional subdivision lot

- (a) Front yard: 30 feet
- (b) Side yard: 10 feet
- (c) Rear yard: 25 feet

Because the additions do not meet the minimum (side, front, rear) yard requirement for the R-4 District, they are in violation of Par. 2(A) 1 of Sect. 3-407 and Par. 1 of Sect. 2-307 of the Fairfax County Zoning Ordinance, which states:

Except as may be qualified by provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all minimum bulk regulations presented for the zoning district in which such structure is located.

You are hereby directed to clear this violation within **thirty (30) days** of receipt of this notice. Compliance must be accomplished by:

- Obtain a Building Permit approved by the Zoning Administrator and remove the additions from the property entirely; or
- Obtain a Building Permit approved by the Zoning Administrator and reduce the size of the attached additions to meet minimum yard requirements; or
- Making an application for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an error in building location to allow the additions to remain at their present location on the property.

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

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

Carlota Lanchipa

August 10, 2010

Page 3

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

Sincerely,

Peggy Delean

Property Maintenance/Zoning Enforcement Inspector



County of Fairfax, Virginia

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

LEGAL NOTICE CORRECTIVE WORK ORDER: NOTICE OF INSPECTION

DATE OF ISSUANCE: August 11, 2010 COMPLAINT #: 201003248
SERVICE REQUEST #: 61397

LEGAL NOTICE ISSUED TO: Johan Cardenas Lanchipa
Carlota Lanchipa

ADDRESS: 2922 Johnson Road
Falls Church, VA 22042

PROPERTY OWNER(S): Johan Cardenas Lanchipa
Carlota Lanchipa

LOCATION OF VIOLATION: 2922 Johnson Road
Falls Church, VA 22042-1610

TAX MAP NUMBER: 0503 09 0192

I inspected the above premises on July 1, 2010, and observed the following:

VIOLATION(S)

A porch was enclosed located in the front portion of the above referenced single family dwelling unit which created habitable space without the required permits.

This construction activity requires permits as specified in the 2006 Virginia Uniform Statewide Building Code (VUSBC), effective May 1, 2008, Section 108.1, *When [Permit] applications are required*, which states that written application for permit(s) shall be made to the Building Official and said permit(s) shall be obtained before:

1. A demolition permit **shall be obtained prior to the removal** of any kitchen equipment, appliances, utilities and kitchen cabinets permanently attached to appliances [V]USBC.

Additionally, this construction project requires inspection(s) pursuant to Section 113.3, *Minimum inspections*, as follows:

- X 1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
- X 2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
- X 3. Inspection of preparatory work prior to the placement of concrete.

- X 4. Inspection of structural members and fasteners prior to concealment.
- X 5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.
- X 6. Inspection of energy conservation material prior to concealment.
- X 7. Final inspection

CORRECTIVE WORK ORDER: Pursuant to the VUSBC, Section 115, *Violations*, Section 115.2, *Notice of violation*, you are directed to immediately cease all unpermitted activities and correct these defects within twenty (20) days of receipt of this Corrective Work Order by:

- Applying for and obtaining the required permit(s) at the Permit Application Center at 12055 Government Center Parkway, Fairfax, VA, Suite 222, phone (703) 222-0801.
- Ensuring all required inspections are conducted and approved before continuing construction.

Failure to follow this order within the specified time may result in a Notice of Violation under the applicable State and County Codes.

RIGHT TO APPEAL THIS NOTICE: As provided by the VUSBC, Section 119.5, *Right of appeal; filing of appeal application*, you have the right to appeal this decision to the Local Board of Building Code Appeals (LBBCA), within thirty (30) calendar days of receipt of this Notice. You may call the Secretary to the BBBCA at 703-324-1780 for more information about the appeals process.

LEGAL NOTICE ISSUED BY: Scott Hagerty
TITLE: Combination Building Inspector

SIGNATURE: _____

NOTICE DELIVERED BY SHERIFF'S OFFICE.

cc: File



County of Fairfax, Virginia

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

LEGAL NOTICE NOTICE OF VIOLATION

DATE OF ISSUANCE: September 14, 2010

COMPLAINT NUMBER: 201003248

SERVICE REQUEST#: 61397

**NOTICE OF VIOLATION
ISSUED TO:**

Johan Cardenas Lanchipa
Carolota Lanchipa

ADDRESS:

2922 Johnson Road
Falls Church, VA 22042

PROPERTY OWNER:

Johan Cardenas Lanchipa
Carolota Lanchipa

LOCATION OF VIOLATION: 2922 Johnson Road
Falls Church, VA 22042

TAX MAP REF: 0503 09 0192

An inspection was performed at the above premises on September 14, 2010 and observed the following violations:

A porch was enclosed located in the front portion of the above referenced single family dwelling unit which created Habitable space without the required permits.

A corrective work order was issued on August 11, 2010 and delivered by sheriff on August 13, 2010. To date, no permit has been issued for this project. This is a continuing violation of the 2006 Virginia Uniform Statewide Building Code (VUSBC), effective May 1, 2008 Section 108.1, *When [Permit]applications are required*, which states that written application for permit(s) shall be made to the Building Official and said permit(s) shall be obtained before:

Additionally, this construction project requires inspection(s) pursuant to Section 113.3, *Minimum inspections*, as follows:

- X 1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
- X 2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.

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

- X 3. Inspection of preparatory work prior to the placement of concrete.
- X 4. Inspection of structural members and fasteners prior to concealment.

- X 5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.
- X 6. Inspection of energy conservation material prior to concealment.
- X 7. Final inspection

NOTICE OF VIOLATION: Pursuant to the VUSBC, Section 115, *Violations*, Section 115.2, *Notice of violation*, you are directed to immediately abate these violations by obtaining the required permits and inspections (Section 115.3) within twenty (20) days of receipt of this Notice. *Failure to follow this order within the specified time will result in additional enforcement action under the applicable State and County Codes. Pursuant to Section 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions to violate any such provisions. Any such violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of such a violation shall be punished by a fine of not more than \$2,500. In addition, each day the violation continues after conviction or court ordered abatement period has expired shall constitute a separate offense.*

RIGHT TO APPEAL THIS NOTICE: As provided by the VUSBC, Section 106.5, *Application for Appeal*, you have the right to appeal this decision to the local Board of Building Code Appeals (BBCA), within thirty (30) calendar days of receipt of this Notice. You may call the Secretary to the BBCA at 703-324-1960 for more information about the appeals process.

NOTICE OF VIOLATION ISSUED BY: Scott Hagerty
TITLE: Residential Combination Inspector
Combination Inspector



SIGNATURE: _____
NOTICE DELIVERED BY SHERIFF'S OFFICE

cc: File

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

EILEEN M. McLANE, FAIRFAX COUNTY
ZONING ADMINISTRATOR,

Plaintiff,

v.

CASE NO. CL-2011-0004000

JOHAN CARDENAS LANCHIPA,

and

CARLOTA LANCHIPA,

Defendants.

PLAINTIFF'S LIST OF WITNESSES AND EXHIBITS FOR TRIAL

COMES NOW Plaintiff Eileen M. McLane, Fairfax County Zoning

Administrator, by counsel, and identifies the following potential witnesses and exhibits for the trial of this case scheduled for September 27, 2011.

WITNESSES

Plaintiff may call the following witnesses to testify at the trial of this matter:

1. Peggy Delean
Property Maintenance/Zoning Enforcement Inspector
Department of Code Compliance
 2. Johan Cardenas Lanchipa
-
3. Carlota Lanchipa
 4. Any witnesses identified by Defendants and not objected to by Plaintiff

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Department of Planning & Zoning

SEP 19 2011

Zoning Evaluation Division

LIST OF EXHIBITS

Plaintiff may offer into evidence the following exhibits at the September 27, 2011, trial of this matter:

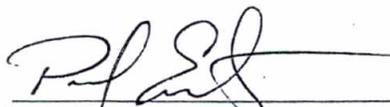
1. Property Map for 2922 Johnson Road
2. Site Survey
3. BZA Special Permit Application
4. Notice of Violation issued to Defendants dated August 10, 2010
5. Zoning Ordinance § 2-307
6. Photographs of the Subject Property

Respectfully submitted,

EILEEN M. McLANE, FAIRFAX
COUNTY ZONING ADMINISTRATOR

By: 
Counsel

DAVID P. BOBZIEN
COUNTY ATTORNEY

By: 
Paul T. Emerick (VSB No. 33443)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064
(703) 324-2421; (703) 324-2665 (fax)
Counsel for Plaintiff Eileen M. McLane, Fairfax County
Zoning Administrator

CERTIFICATE OF SERVICE

I hereby certify that the foregoing List of Witnesses and Exhibits for Trial was sent by first-class mail, postage prepaid on the 13th day of September, 2011 to:

Johan Cardenas Lanchipa
Carlota Lanchipa
2922 Johnson Road
Falls Church, Virginia 22042
Defendants *pro se*


Paul T. Emerick



County of Fairfax, Virginia

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

REVISED DETERMINATION

September 7, 2011

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Department of Planning & Zoning

SEP 08 2011

Johan Cardenas and Carlota Lancmipa
2922 Johnson Road
Falls Church, Virginia 22042

Zoning Evaluation Division

RE: Vested Rights Determination and Administrative Reduction
Tyler Park, Sect. 4, Lot 192
2922 Johnson Road
Tax Map Ref: 50-3 ((9)) 192
Zoning District: R-4

Dear Mr. Cardenas and Ms. Lancmipa:

This letter replaces the August 3, 2011 Vested Rights Determination made by Brian Parsons and is the result of additional analysis. The basic issue concerns the location of the two porch additions on the referenced property.

Based on a plat entitled, "Special Permit Plat, Tyler Park, Section Four, Lot 192," prepared by Sam Whitson, L.S., dated November 11, 2010 and revised March 25, 2011, the subject property contains a 782 square foot, one-story single family detached dwelling with side and front porch additions, a 153 square foot shed, and play equipment.

The property is zoned R-4 District and is subject to a 30 foot minimum required front yard, 10 foot minimum required side yards and a 25 foot minimum required rear yard. The side and front porches are located 6' and 7' from the north side lot line, respectively, and the southwestern corner of the dwelling is located 9.7' from the south side lot line. The dwelling and porch additions, do not meet the minimum required 10 foot side yard. The 8.3' tall shed located in the rear yard complies with the locational requirements for accessory storage structures as accessory storage structures up to 8 ½' in height can locate in any side or rear yard. The 7.5' tall play equipment is located 1.3' from the rear lot line. Accessory structures taller than 7' in height must be setback a distance of their height from the rear lot line. It is my understanding that you will remove the play equipment, thereby addressing this issue.

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



Our records show that Building Permit No. 8115 was issued on June 22, 1954 for a screen porch addition on the north side of the house that was located not less than 5' from the side lot line. The plat submitted in conjunction with this permit also depicted a small front porch of approximately 8' by 11' that met the minimum front yard requirement and showed the house as being located 10' from the south side lot line. The Department of Tax Administration records also indicate an 88 square foot front porch addition. However, the 2010 plat referenced above shows the front porch having been approximately doubled in size (190 sq. ft.) and being located within 7' of the side lot line.

Under §15.2-2307 of the *Code of Virginia*, if (a) local government has issued a building permit, the structure was constructed in accordance with the building permit, and a certificate of occupancy was issued, or (b) the owner of the building has paid taxes for the structure for more than 15 years, the structure is not illegal and may remain. In this instance, the side porch has been shown in the real estate assessments for the last 15 years. As such, §15.2-2307 is applicable and the side porch may remain; however, the side porch must meet the Virginia Uniform Statewide Building Code that was in effect at the time of construction, if any. The side porch may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located. Given that there has been no building permit to expand the front porch which is approximately 190 square feet in size and is being taxed as 88 square feet in size, §15.2-2307 is not applicable for the front porch. The porch must either be modified to meet the minimum yard requirements, or special permit approval for an error in building location or reduction in minimum required yards or variance approval must be obtained from the Board of Zoning Appeals. It is my understanding that you have submitted a special permit application for an error in building location to the Zoning Evaluation Division which could address this issue.

As previously was noted, the existing house is located 9.7' from the side lot line and does not meet the 10' minimum side yard requirement. Furthermore, the plat submitted in conjunction with a Building Permit application showed a 10 foot side yard. Under Sect. 2-419 of the Zoning Ordinance, the Zoning Administrator has the authority to reduce the minimum required yard for any building wherein the error does not exceed 10% of the measurement involved, was the result of an error in the location of a building subsequent to the issuance of a Building Permit and/or the noncompliance was done in good faith or through no fault of the property owner. Therefore, as a duly authorized agent of the Zoning Administrator, I have determined that the requirements for an administrative reduction are applicable as set forth in Sect. 2-419 have been met. There, a 0.3 foot administrative reduction in the minimum required side yard is granted.

The plat shows a 15.9' by 23.8' wood deck off the rear of the dwelling which complies with the locational requirements for decks. However, our records do not contain a building permit for this deck. You may contact Tina Gum, Permits Ombudsman, at 703-324-1876 for Building Code information as it pertains to the deck.

Johan Cardenas and Carlota Lancmipa

September 7, 2011

Page 3

I trust this adequately responds to your request. If you have any additional questions, please feel free to contact me at 703-324-1314.

Sincerely,



Lorrie Kirst, AICP
Deputy Zoning Administrator
for Ordinance Administration Branch

Attachments: A/S

cc: Linda Q. Smyth, Supervisor, Providence District
Eileen M. McLane, Zoning Administrator
Barbara A. Berlin, Director, Zoning Evaluation Division
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
✓ Michael Chauncey, Zoning Evaluation Division

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Department of Planning & Zoning

SEP 08 2011

Zoning Evaluation Division



County of Fairfax, Virginia

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

REVISED DETERMINATION – REPLACES THE 8/3/11 DETERMINATION

Vested Rights Determination under §15.2-2307 of the Code of Virginia

Property Tax Map Number:	50-3 ((9)) 192
Property Address:	2922 Johnson Road
Requestor's Name:	Johan Cardenas/Carlota Lancmipa
Requestors Address: (if different than above)	
Requestor's Phone Number:	703-629-2221
Current Zoning:	R-4
Magisterial District:	Providence
Subdivision Name/Section/Block/Lot No.:	Tyler Park, Sect. 4, Lot 192

Written Description of Structure that may be vested under §15.2-2307 of the Code of Virginia (See Attached Instruction Sheet)

Based on a plat entitled, "Special Permit Plat, Tyler Park, Section Four, Lot 192," prepared by Sam Whitson, L.S., dated November 11, 2010 and revised March 25, 2011, the subject property contains a 782 square foot, one-story single family detached dwelling with side and front porch additions, a 153 square foot shed, and play equipment.

The property is zoned R-4 District and is subject to a 30 foot minimum required front yard, 10 foot minimum required side yards and a 25 foot minimum required rear yard. The side and front porches are located 6' and 7' from the north side lot line, respectively and the southwestern corner of the dwelling is located 9.7' from the south side lot line. The dwelling and porch additions, do not meet the minimum required 10 foot side yard.

Building Permit No. 8115 was issued on June 22, 1954 for a screen porch addition on the north side of the house that was located not less than 5' from the side lot line. The plat submitted in conjunction with this permit also depicted a small front porch of approximately 8' by 11' that met the minimum front yard requirement and showed the house as being located 10' from the south side lot line. The Department of Tax Administration records indicate that the dwelling, including the side porch, had been taxed since at least 1996 and that an 88 square foot front porch has been taxed since at least 1996. However, the 2010 plat referenced above shows the front porch having been approximately doubled in size and being located within 7' of the side lot line.

The 8.3' tall shed located in the rear yard complies with the locational requirements for accessory storage structures as accessory storage structures up to 8 ½' in height can locate

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



in any side or rear yard. The 7.5' tall play equipment is located 1.3' from the rear lot line. Accessory structures taller than 7' in height must be setback a distance of their height from the rear lot line. The property owner has indicated that the play equipment will be removed.

The plat shows a 15.9' by 23.8' wood deck off the rear of the dwelling which complies with the locational requirements for decks. However, our records do not contain a building permit for this deck.

Background Summary (check all that are applicable):

- No evidence of a Building Permit having been issued for the front porch addition or deck.
- A Non-Residential Use Permit/Residential Use Permit has been issued or, when a Non-RUP/RUP is not required, evidence that the structure(s) has passed final inspection.
- Department of Tax Administration records indicate that the dwelling and side porch addition have been taxed for at least 15 years.
- Department of Tax Administration records do not show that the 190 sq. ft. front porch has been taxed for at least 15 years.
- A 0.3 foot administrative reduction in the minimum required side yard has been granted for the dwelling pursuant to Sect. 2-419 of the Zoning Ordinance. See separate letter.

Staff Determination:

- §15.2-2307 of the Code of Virginia is applicable to the side porch. This structure is subject to the Building Code requirements in effect at the time of its construction. This structure may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located and Building Permits are obtained. Questions pertaining to the Building Code requirements may be addressed to Tina Gum of the Department of Public Works and Environmental Services at 703-222-0801.

In addition, Building Permit approval may be required for the deck and this issue must also be addressed with Tina Gum. Finally, the play equipment must be removed to meet the accessory structure location requirements.

- §15.2-2307 of the Code of Virginia is applicable for the structure and the structure(s) may remain; however, §15.2-2307 is not applicable for the use of the structure. A separate letter explaining the status and use of the structure(s) will be issued.

- §15.2-2307 of the Code of Virginia is not applicable for the front porch addition.
A separate letter explaining the status of the structure will be issued.

Reviewer's Signature: Lorrie Kirst **Date:** 9/7/11
Lorrie Kirst, Deputy Zoning Administrator
for Ordinance Administration Branch
Department of Planning and Zoning

cc: Janet E. Coldsmith, Director, Real Estate Division, DTA
Eileen M. McLane, Zoning Administrator
Michael Congleton, Department of Code Compliance
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Michael Chauncey, Zoning Evaluation Division

ZONING ORDINANCE PROVISIONS

8-006 General Standards

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

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

8-903 Standards for all Group 9 Uses

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

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

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

8-914 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.