



APPLICATION ACCEPTED: September 26, 2011  
DATE OF PUBLIC HEARING: December 7, 2011  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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November 30, 2011

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-MV-089

### MOUNT VERNON DISTRICT

**APPLICANTS/OWNERS:** Thomas B. Bradley and Judith R. Starr

**LOCATION:** 2410 Stirrup Lane

**SUBDIVISION:** Stratford on the Potomac

**TAX MAP:** 102-3 ((11)) (6) 9

**LOT SIZE:** 12,794 square feet

**ZONING:** R-3

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit a reduction to minimum yard requirements based on error in building location to permit an addition to remain 6.5 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.

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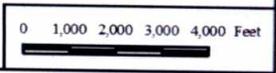
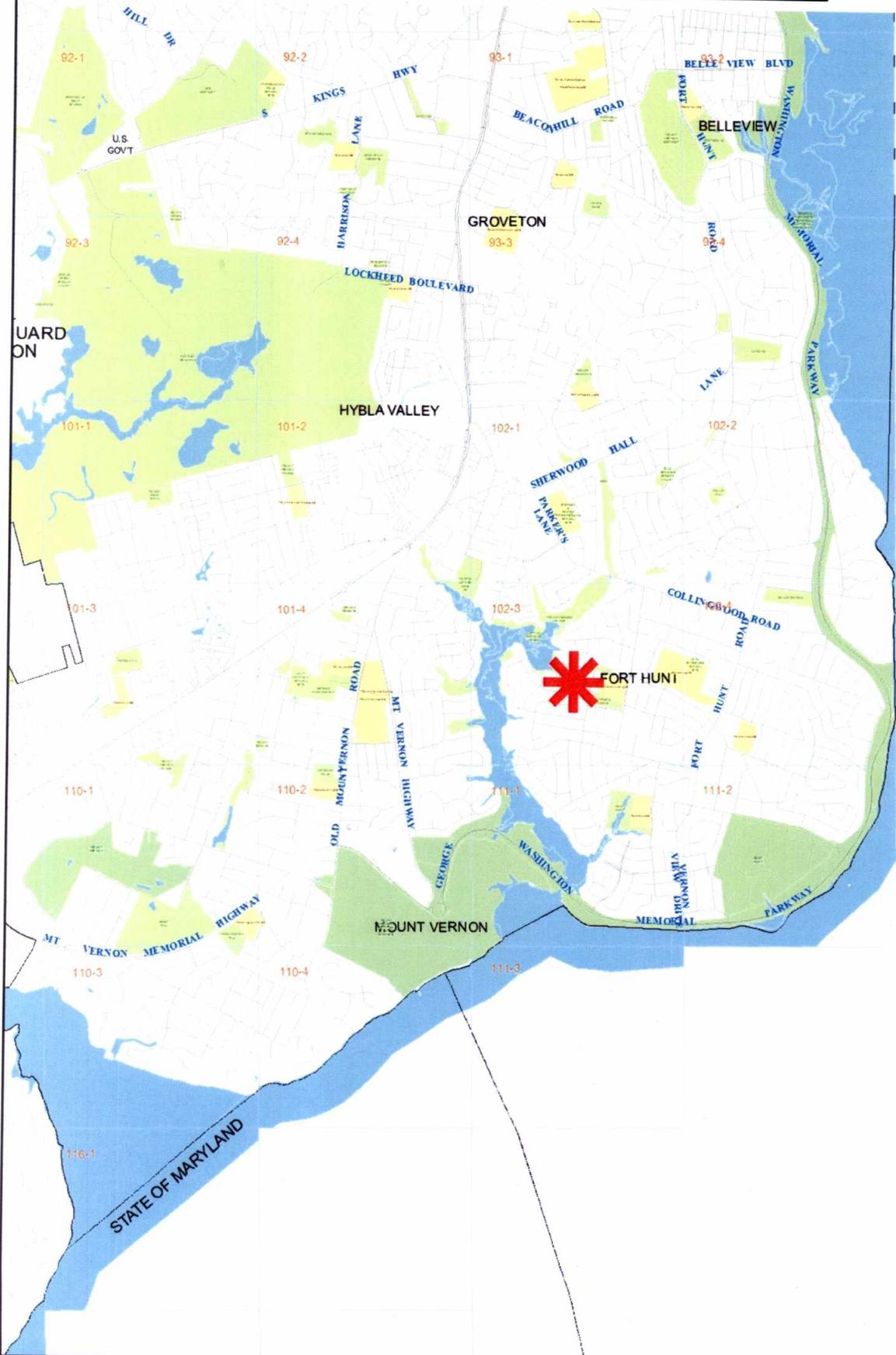
Brenda J Cho

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.**

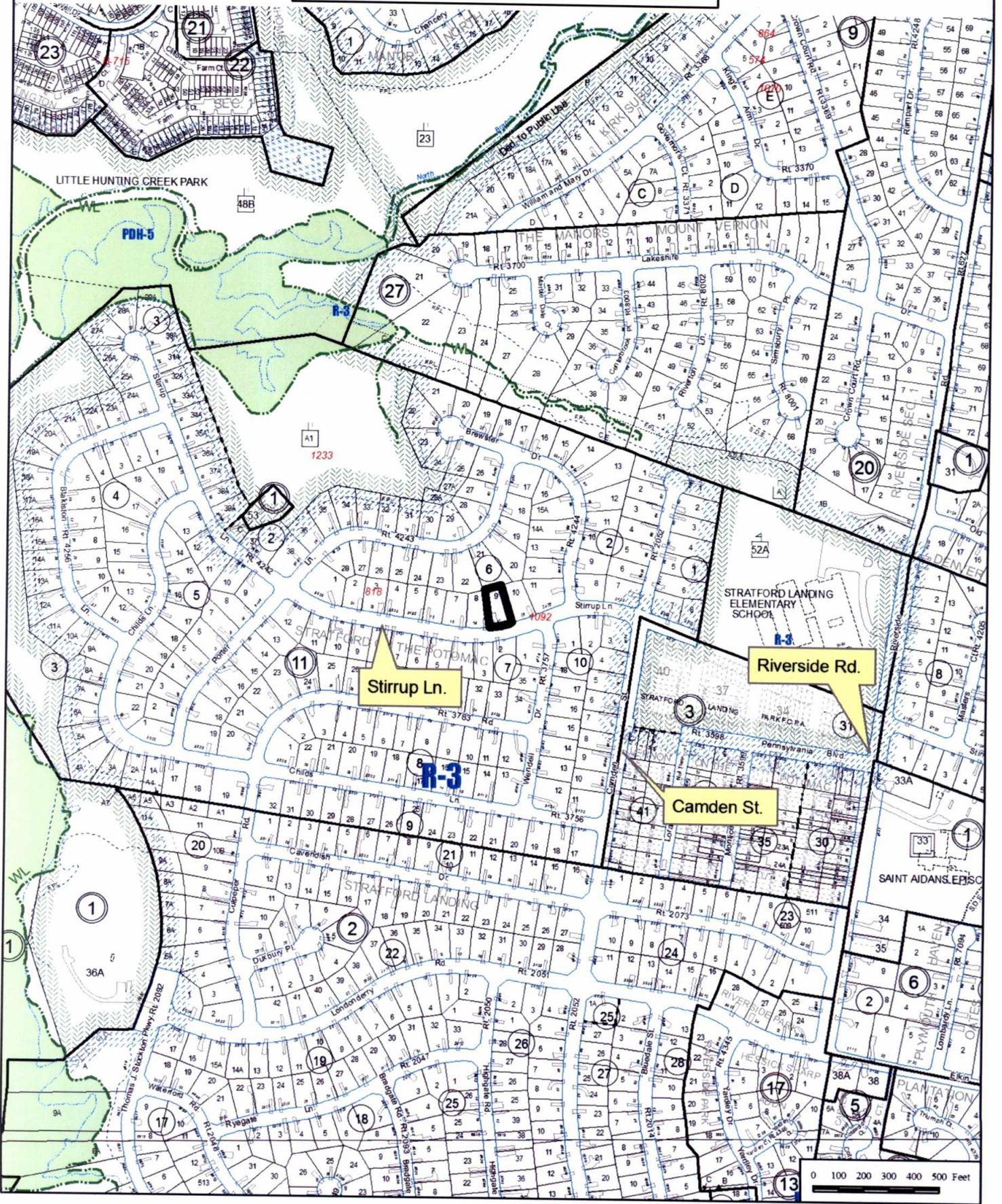


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2011-MV-089**  
THOMAS B. BRADLEY AND JUDITH R. STARR



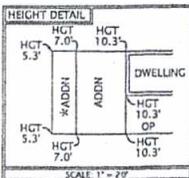
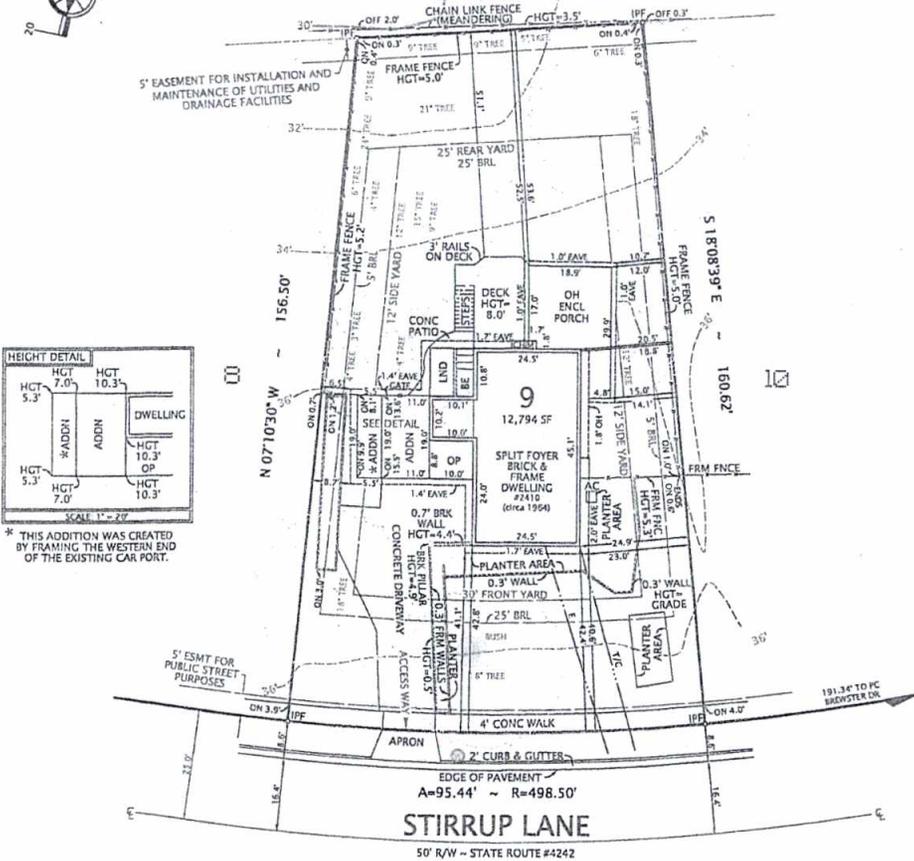
**Special Permit**  
**SP 2011-MV-089**  
THOMAS B. BRADLEY AND JUDITH R. STARR





SECTION 3  
LOT 21

N 73°44'04" E  
65.11'



\* THIS ADDITION WAS CREATED BY FRAMING THE WESTERN END OF THE EXISTING CAR PORT.

NOTES:

1. TAX MAP: 102-3-0011-06-0009
2. ZONE: R-3 (RESIDENTIAL 3 DU/AC)
3. LOT AREA: 12,794 SF (0.2937 ACRE)
4. REQUIRED YARDS:
 

FRONT:	= 30.0 FEET	BUILDING RESTRICTION LINES PER SUBDIVISION PLAT:
SIDE:	= 12.0 FEET	FRONT BRL = 25.0 FEET
REAR:	= 25.0 FEET	SIDE BRL = 05.0 FEET
		REAR BRL = 25.0 FEET
5. HEIGHTS:
 

DWELLING	= 17.7 FEET
OH ENCL PORCH	= 17.5 FEET
PLAYGROUND EQUIP	= AS NOTED
STORAGE AND CAR PORT	SEE DETAIL
FENCES AND WALLS	= AS NOTED
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY. THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 51059C0405E EFFECTIVE SEPTEMBER 17, 2010.
12. AREAS:
 

BASEMENT	= 1,105 SF
1ST FLOOR	= 103 SF
ENCL PORCH	= 406 SF
2ND FLOOR	= 1,149 SF
GROSS FLOOR AREA	= 2,763 SF

FLOOR AREA RATIO =  
EX GFA (2763) / LOT AREA (12794) = 0.22



PLAT  
SHOWING THE IMPROVEMENTS ON  
LOT 9, BLOCK 6, SECTION 2  
**STRATFORD ON THE POTOMAC**

(DEED BOOK 2400, PAGE 285)  
FAIRFAX COUNTY, VIRGINIA  
MOUNT VERNON DISTRICT  
SCALE: 1" = 20'  
MARCH 18, 2011  
JULY 01, 2011 (REV)

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE.		CASE NAME:
		TOM BRADLEY JUDITH STARR
THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.		8808-H PEAR TREE VILLAGE COURT ALEXANDRIA, VIRGINIA 22309 703-619-6535 FAX: 703-799-6412

FRONT OF DWELLING      DRIVEWAY, STORAGE, CARPORT, & OP      CARPORT, & OP      CARPORT

**2410 Stirrup Lane, Alexandria, VA 22308**

**Pictures emphasizing views toward and from  
the storage structure attached to the carport.**

**Photos taken February 19, 2011 by Tom Bradley**

Photo of inside of carport added March 7, 2011

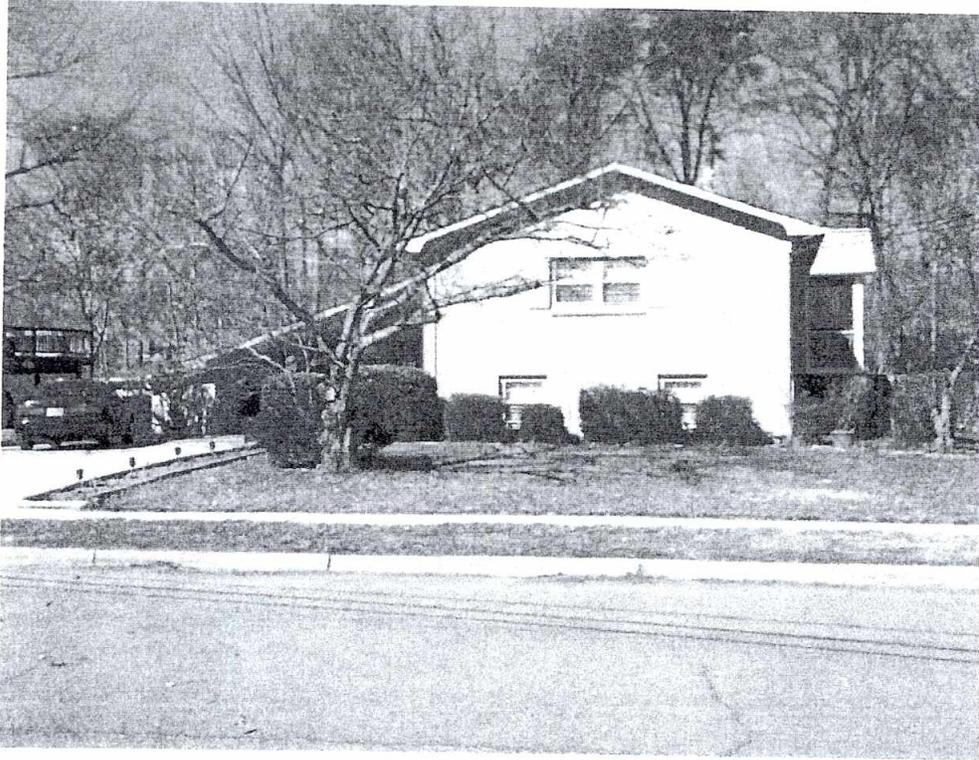
Additional views added June 7, 2011, to show neighbors' houses and yards, and  
to show all sides of our house and yard.

RECEIVED  
Department of Planning & Zoning

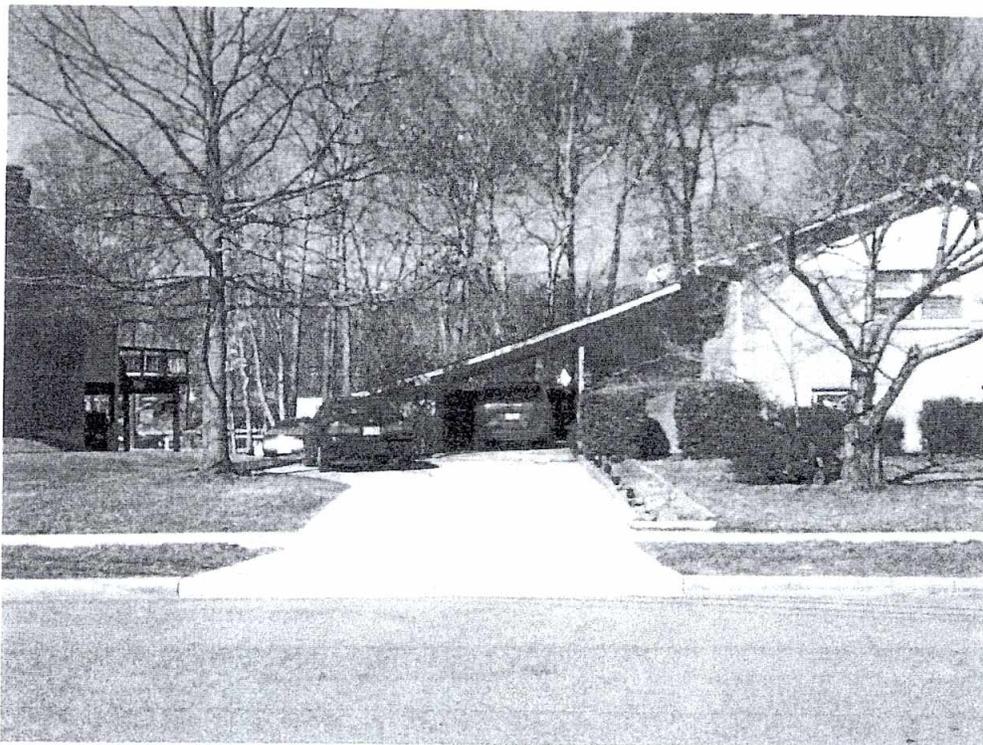
AUG 02 2011

Zoning Evaluation Division

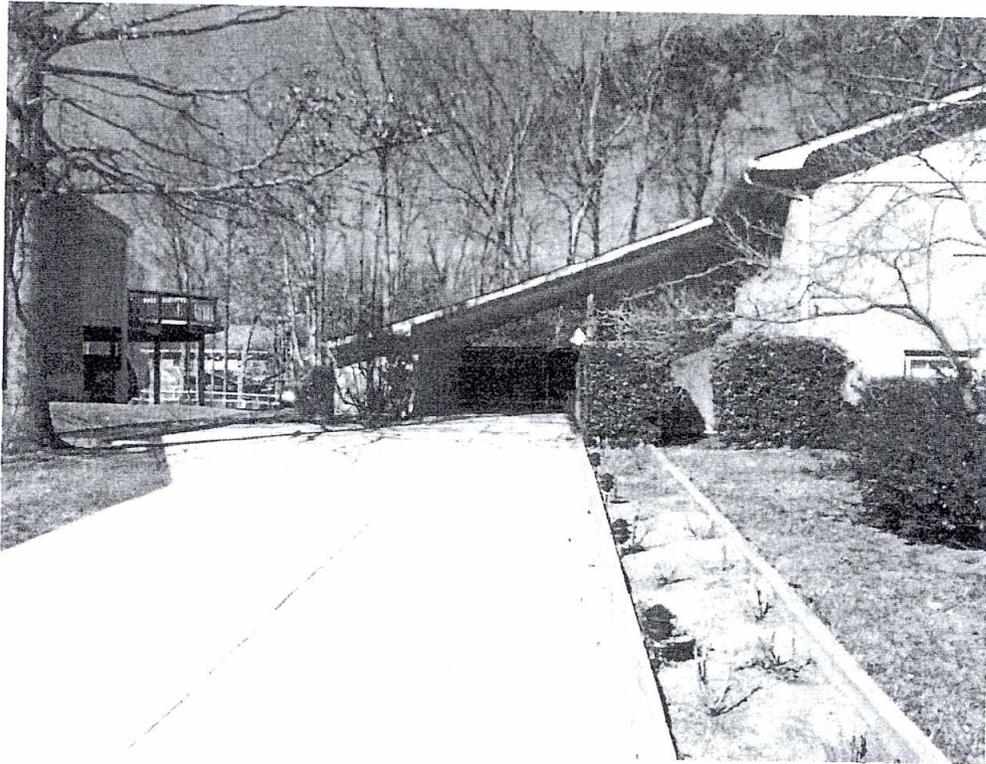
From across the street looking at our house.



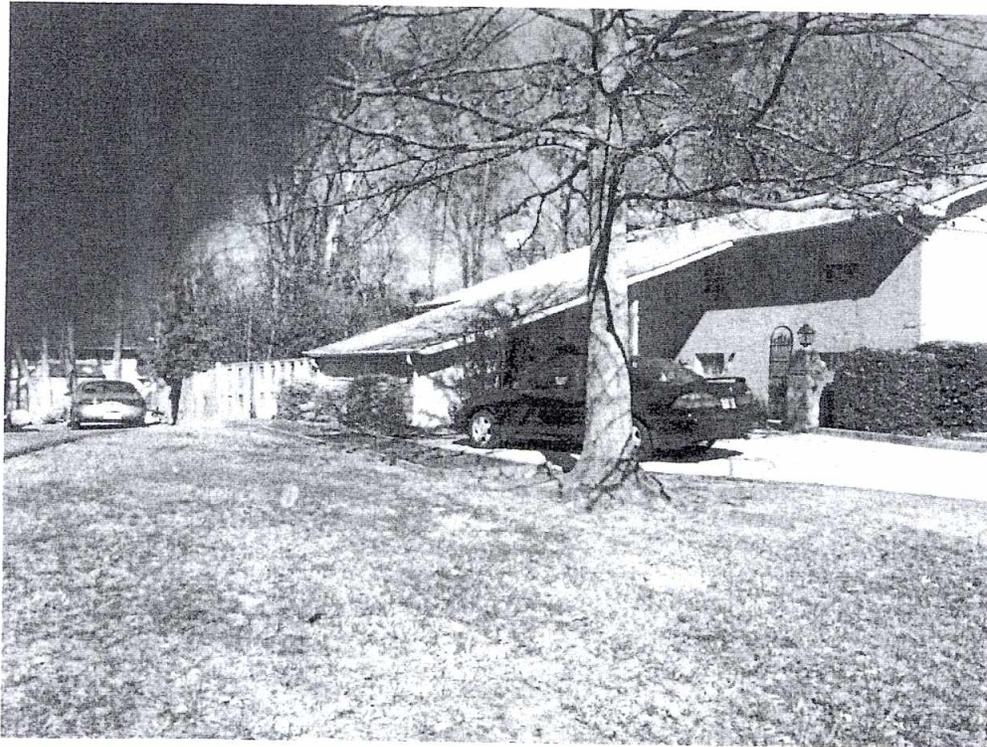
From across the street looking at our house, focusing on carport/storage structure (with cars in carport and driveway).



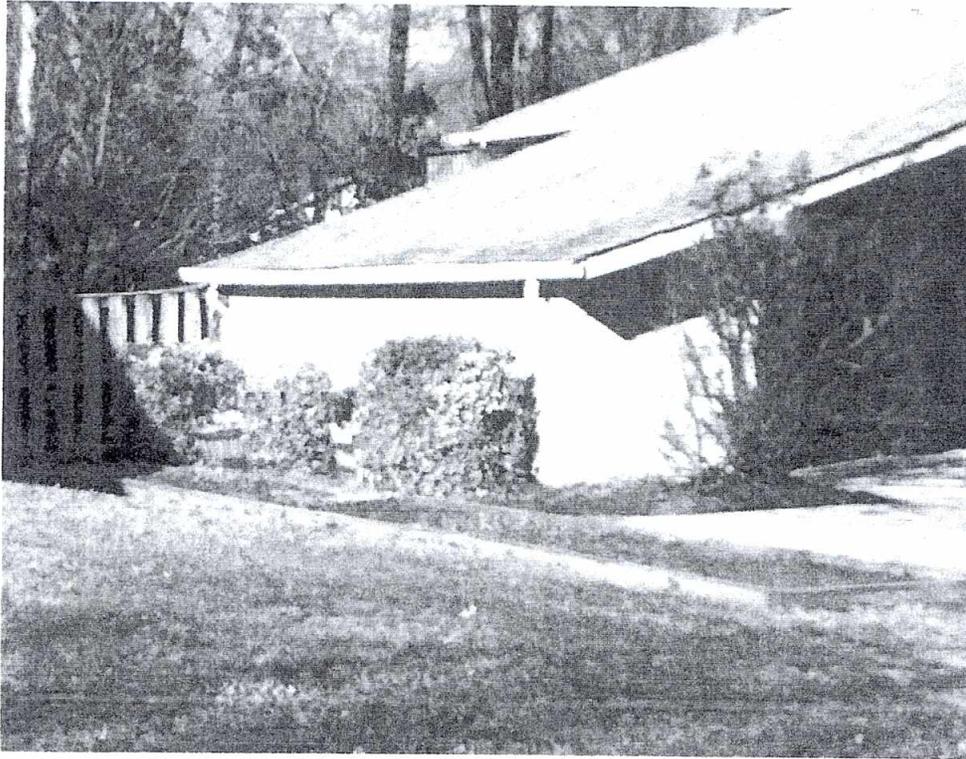
From sidewalk toward our house, focusing on carport/storage structure (without cars in carport and driveway).



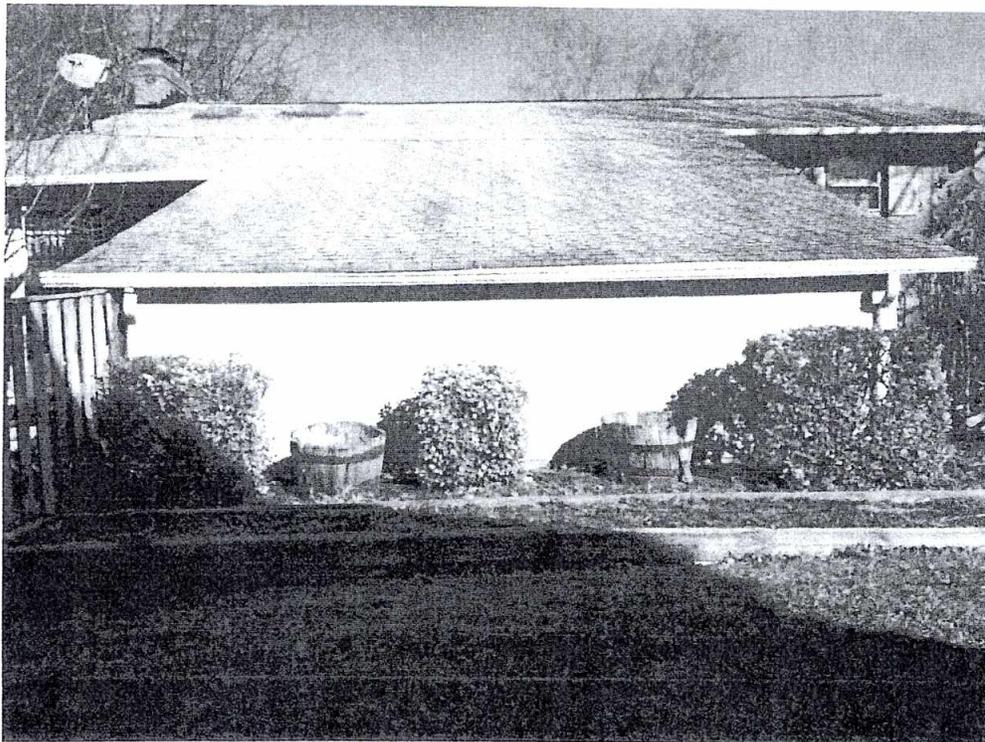
From street, looking down lot line.



From street end of neighbor's driveway, looking at carport/storage structure



From neighbor's driveway (next to their house), looking at carport/storage structure. Note bushes and raised-bed and barrel planters (which, admittedly, are not blooming during the middle of winter).



From our back yard, looking at carport/storage structure



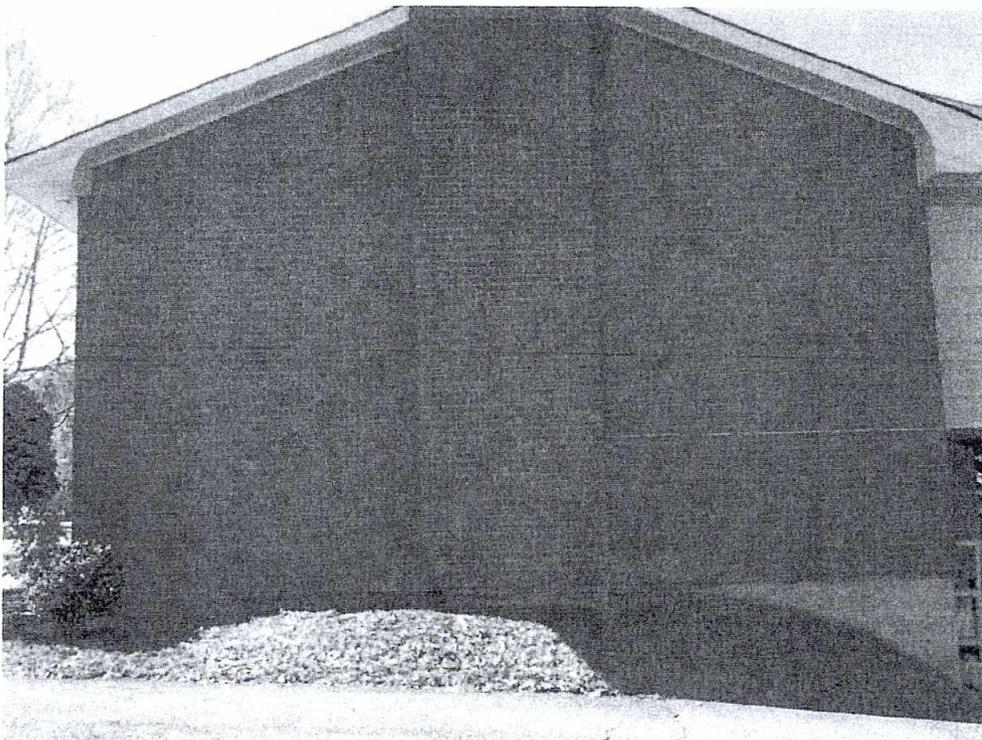
From front of carport/storage structure, looking across the street



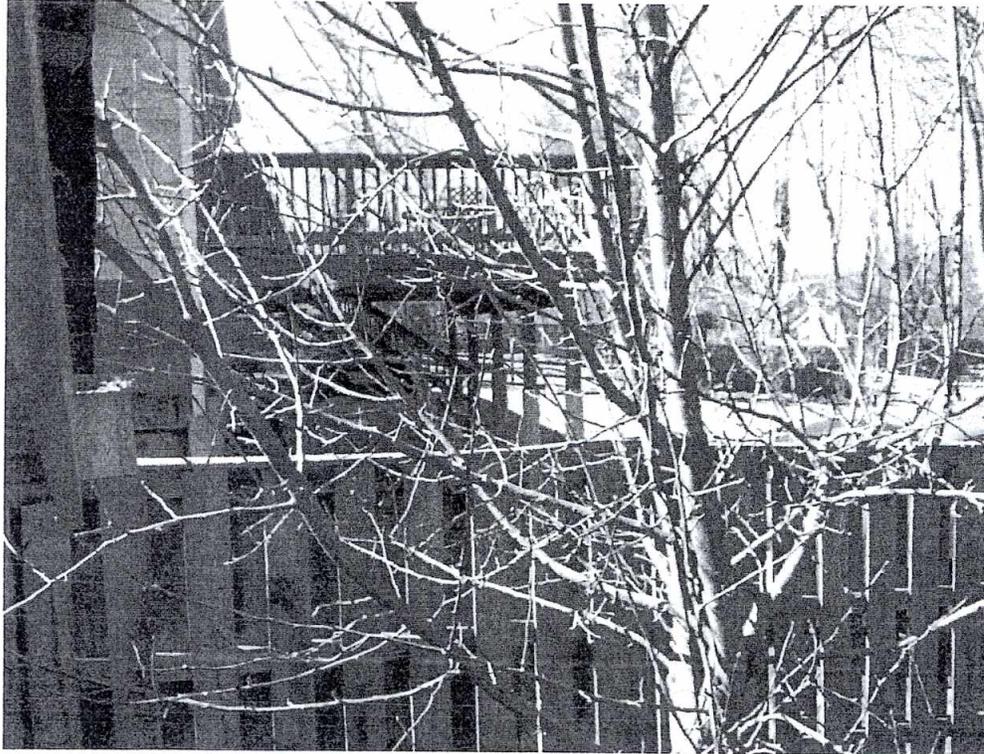
From front of carport/storage structure, looking toward street, panning to west (toward neighbor's house)



From side of storage structure, looking toward neighbor's house



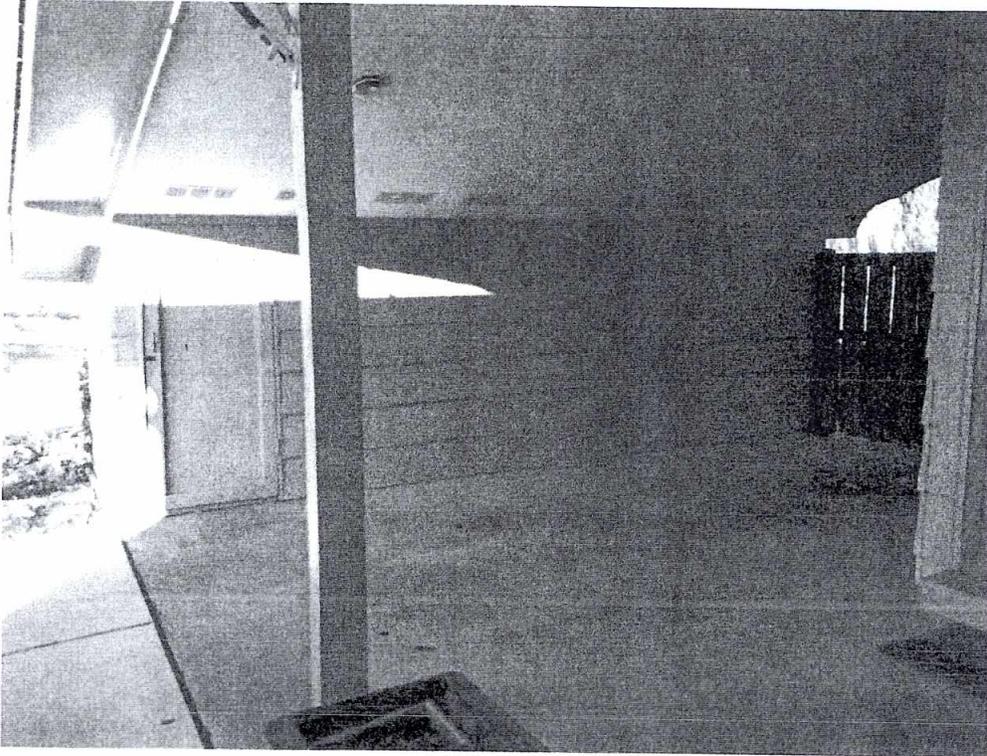
From back of storage structure, looking toward neighbor's house.



From back of storage structure, looking along fence between the back yards.

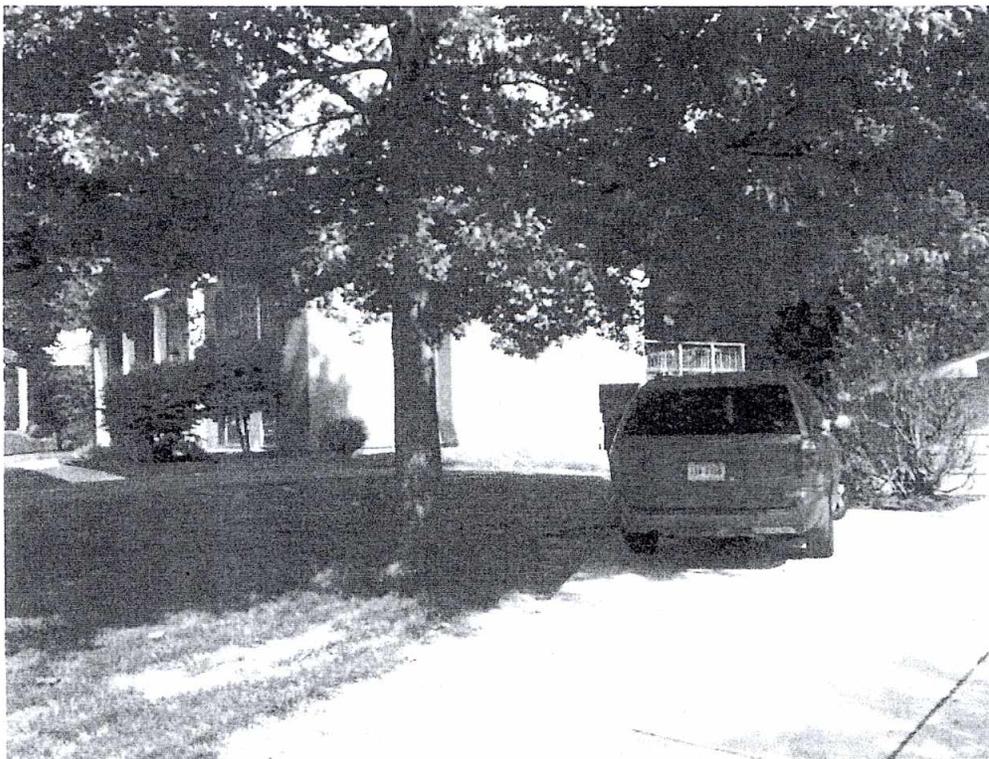


Picture of inside of carport, looking at the storage structure (picture taken and added to this document on March 7, 2011).

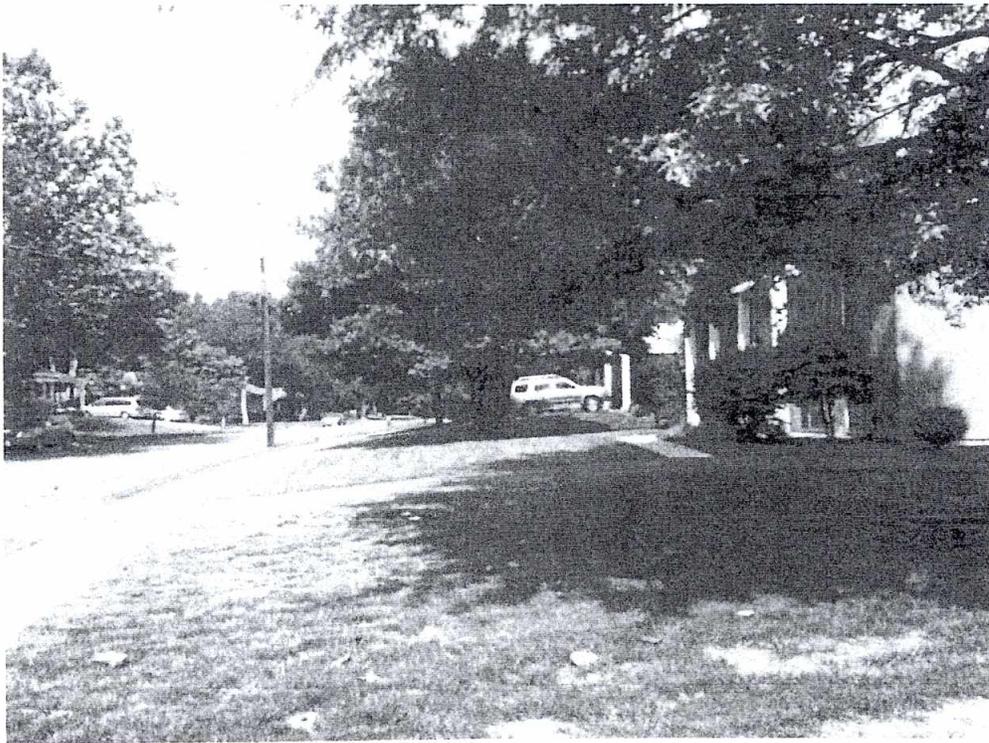


The following pages show additional views of other sides of the house and of neighboring houses. Those views were added to this document on June 7, 2011.

From driveway -- first of a series that pans from west thru south thru east. This picture looks at the house to the west (the neighbor on the side of the carport and storage area) .



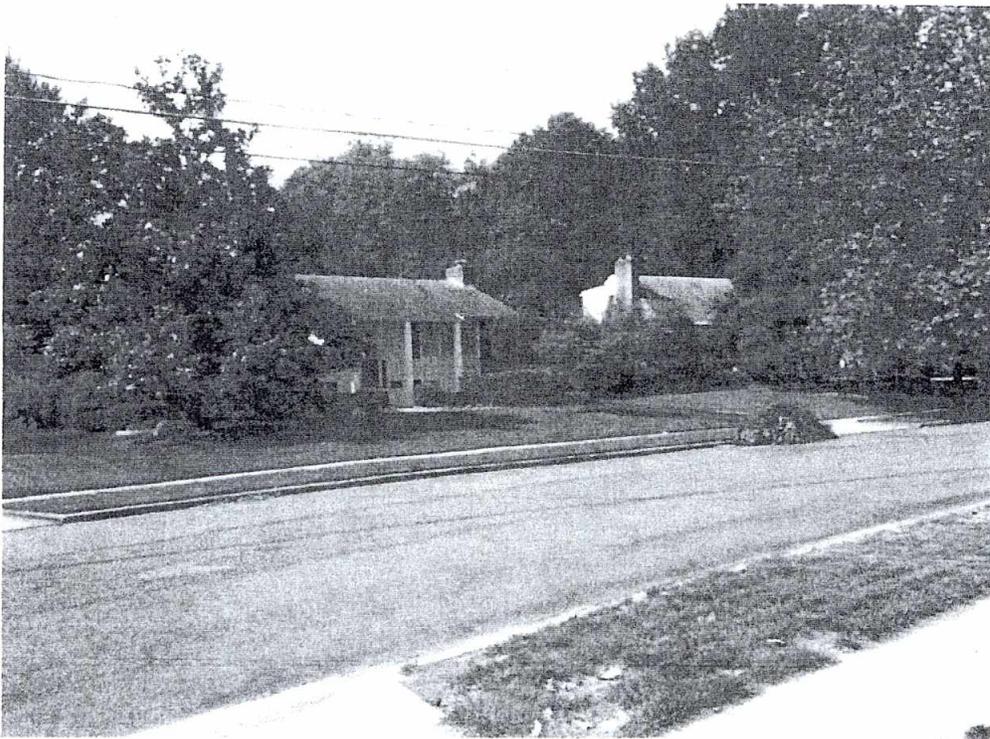
From driveway, panning west from the previous picture



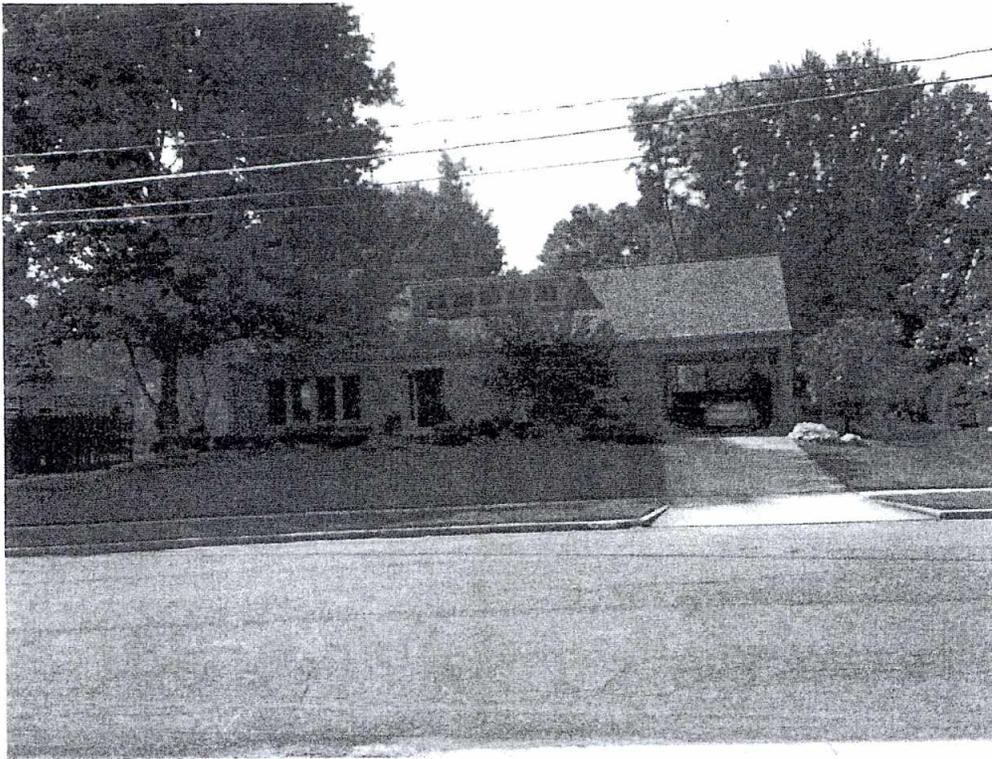
From driveway, still panning -- this time looking west with focus on the other side of the street.



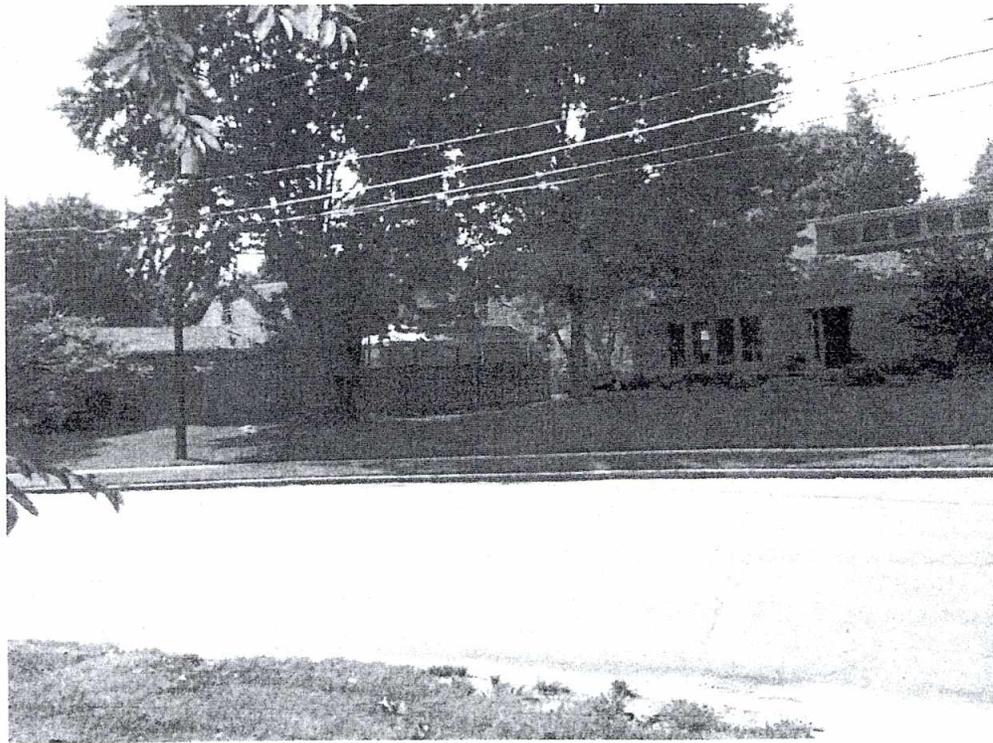
From driveway, continuing to pan -- focusing on house across the street from our next-door neighbor on the west side.



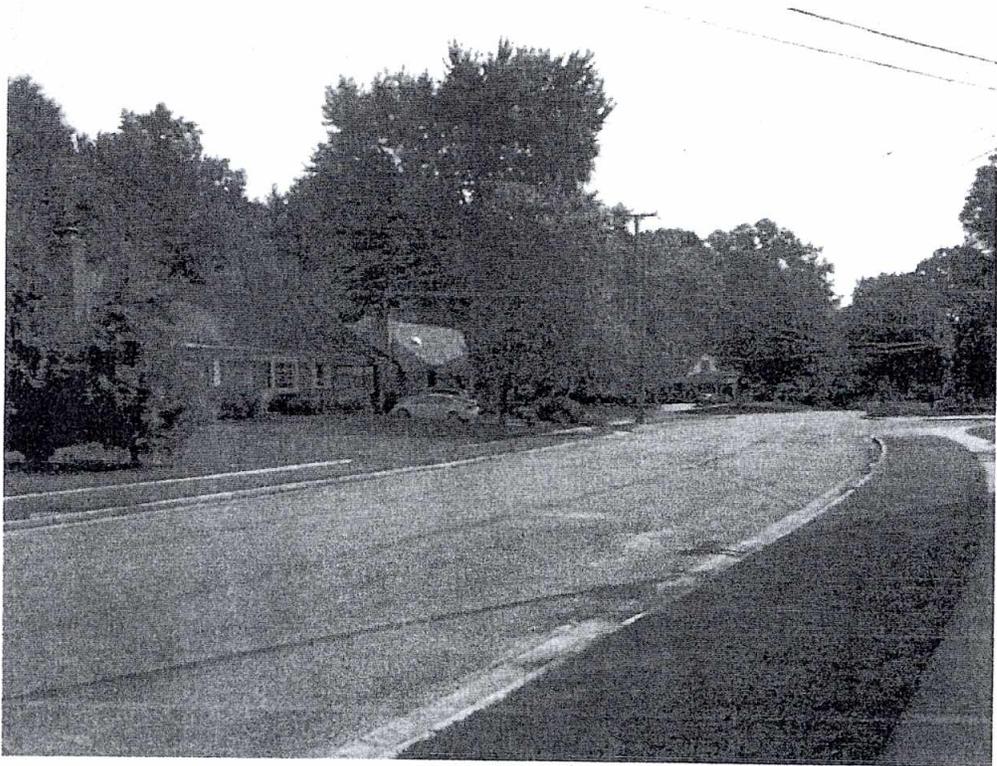
From driveway, continuing to pan -- focusing on house directly across the street from our house.



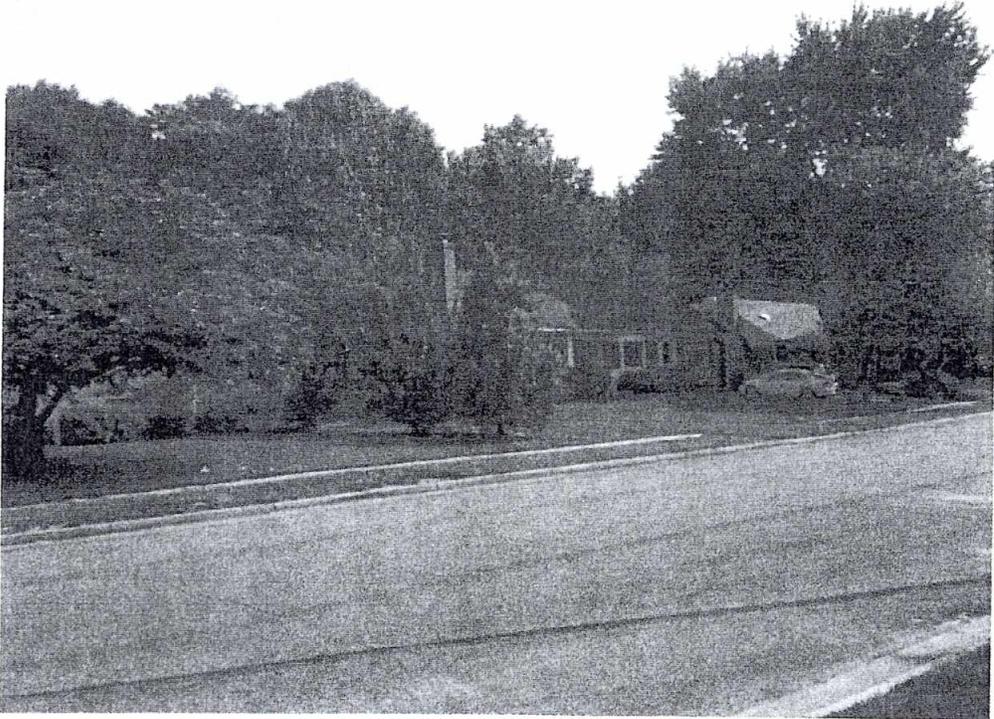
From driveway, continuing to pan -- the houses across the street from our house and to the east of that house.



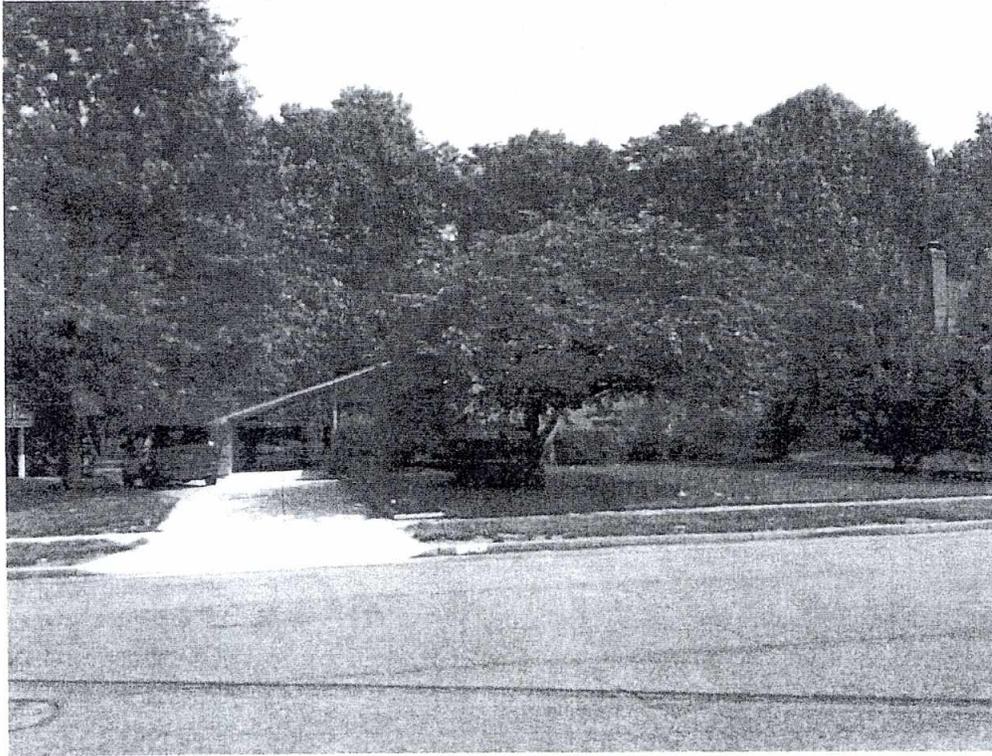
From across the street from our driveway, panning to east to show the house next door to us.



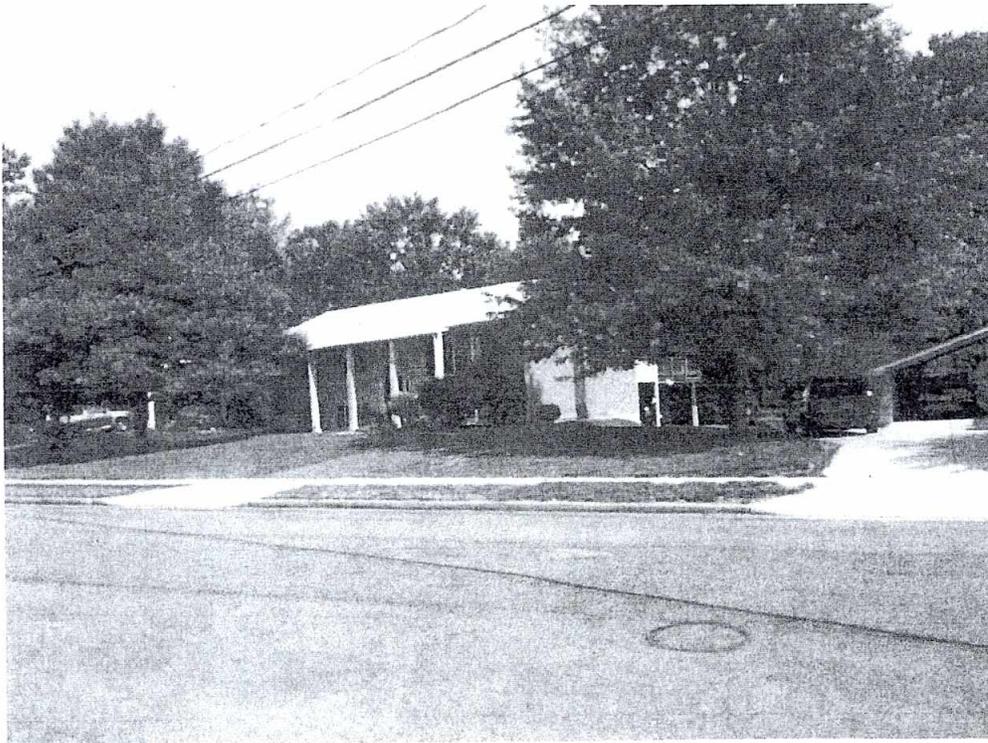
From across the street, showing house to the east of ours and our front yard.



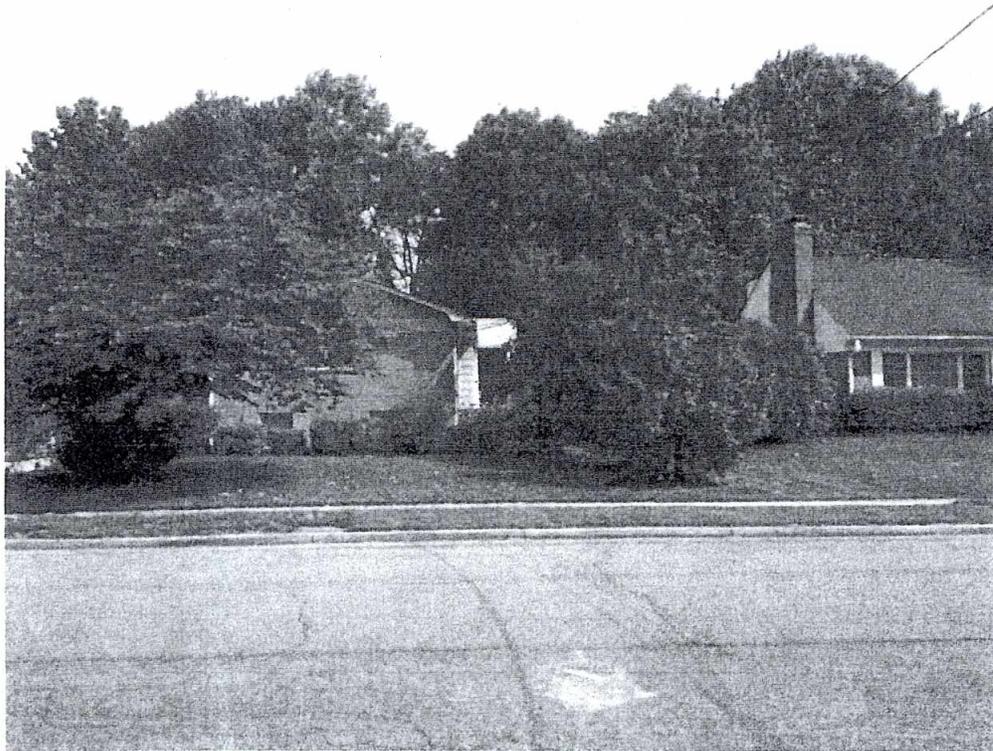
From across the street, looking at our house.



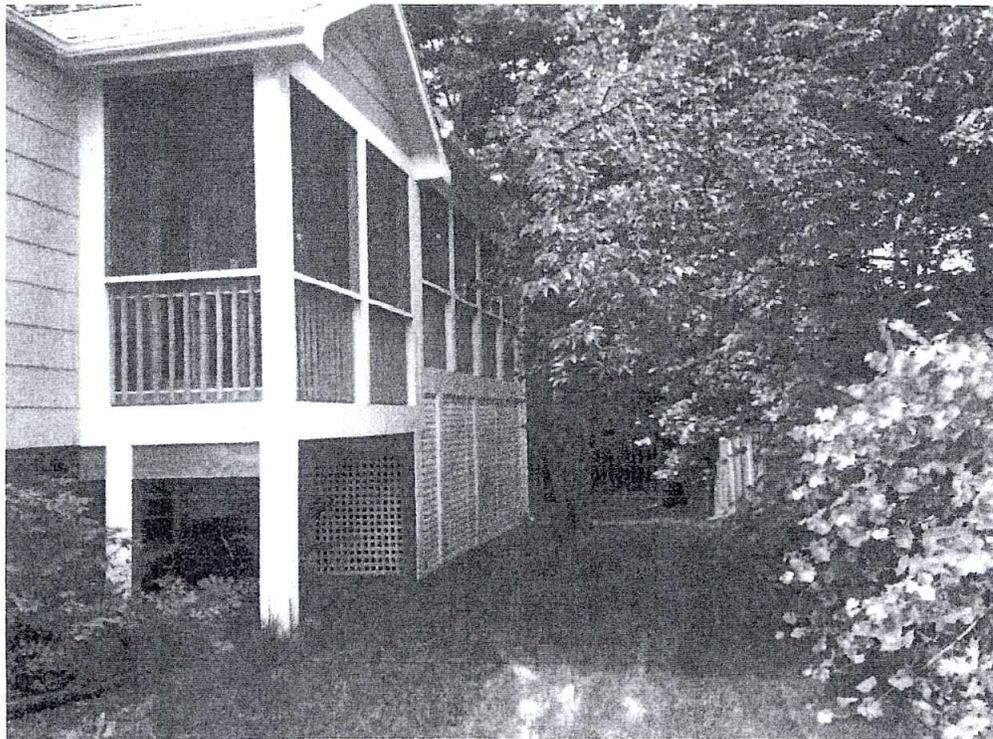
We've come full circle -- this is from across the street, looking at the house to the west of ours.



This is from across the street, facing north and looking down the east side of our house.



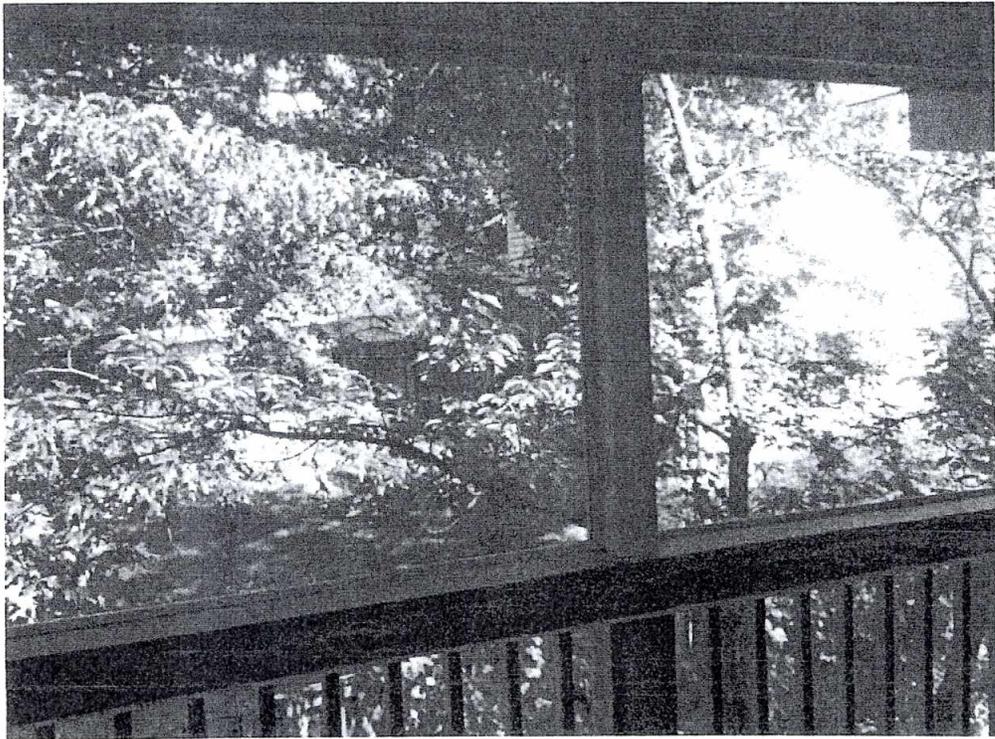
This is from the other side of the tree just to the right of center in the picture above, showing the east side of the porch and east sideyard.



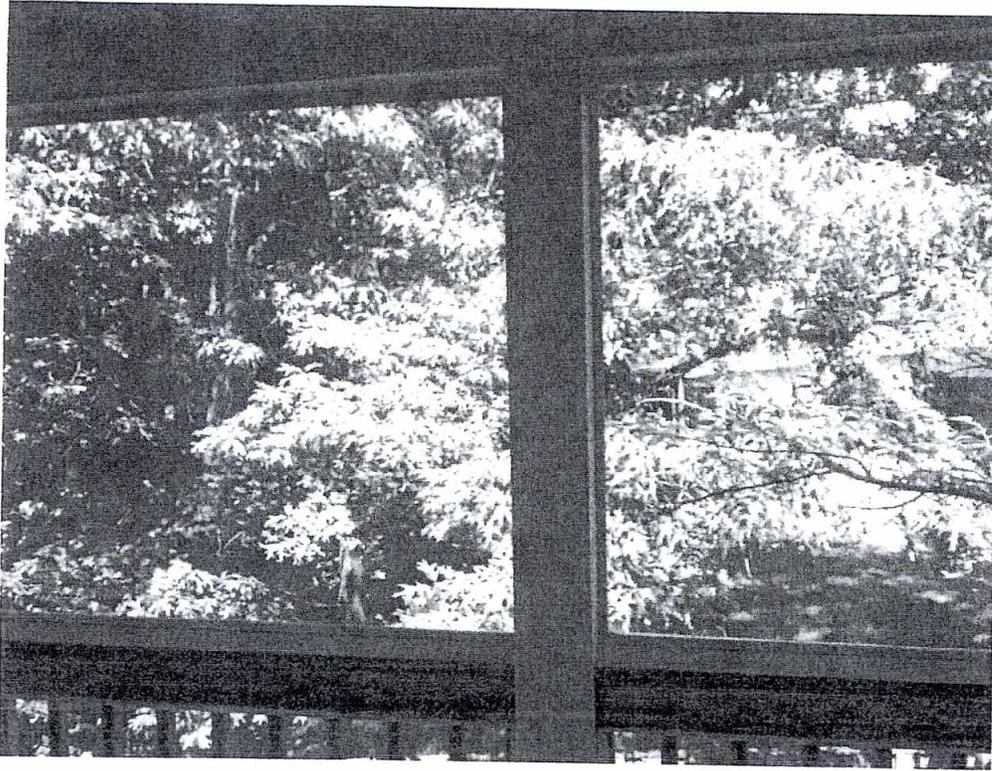
From inside the porch (northeast corner of our house), looking toward street and the house to the east.



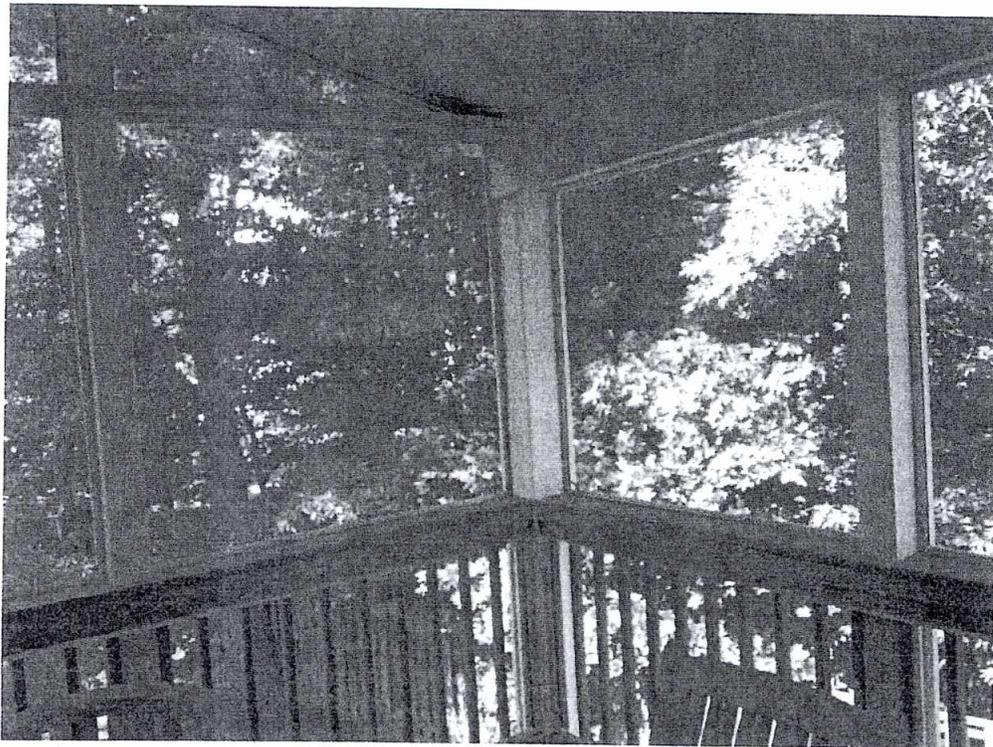
From inside the porch, looking east at our next-door neighbor's house.



From inside the porch, looking east into neighbor's backyard.



From inside the porch, looking northeast into backyards of our next-door neighbor and the houses behind ours.



From inside the porch, looking north into our backyard and that of our backyard neighbor.



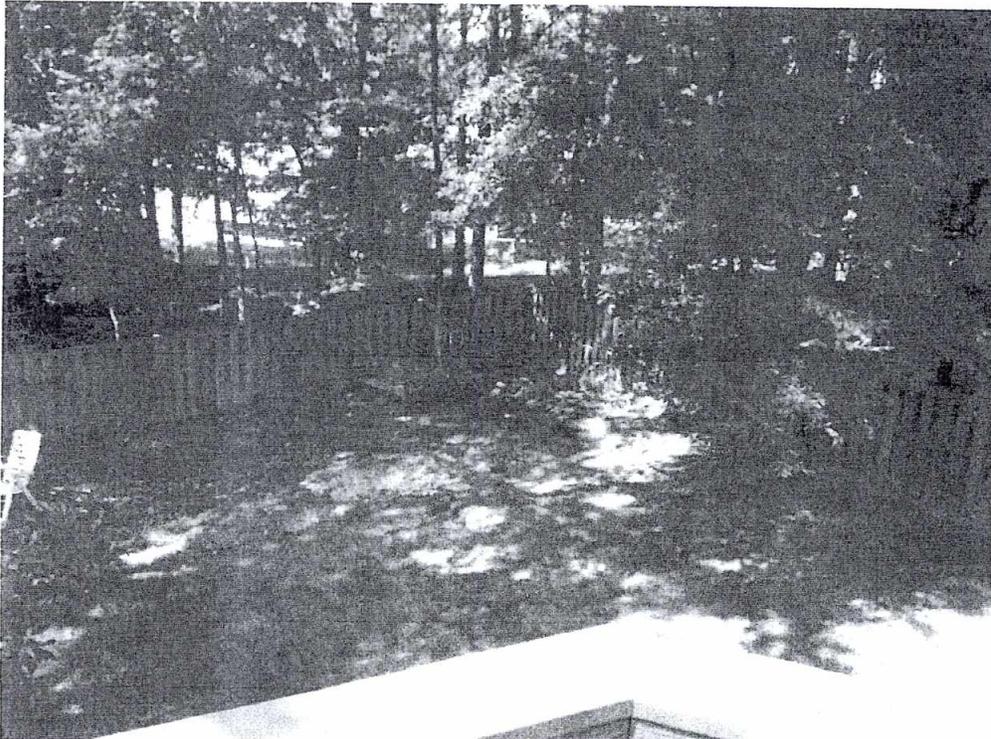
From inside of porch, looking northwest at deck and our backyard, and the backyards of the neighbors to west, northwest, and north.



I've moved to the deck to show the backyard of the neighbor to the west.



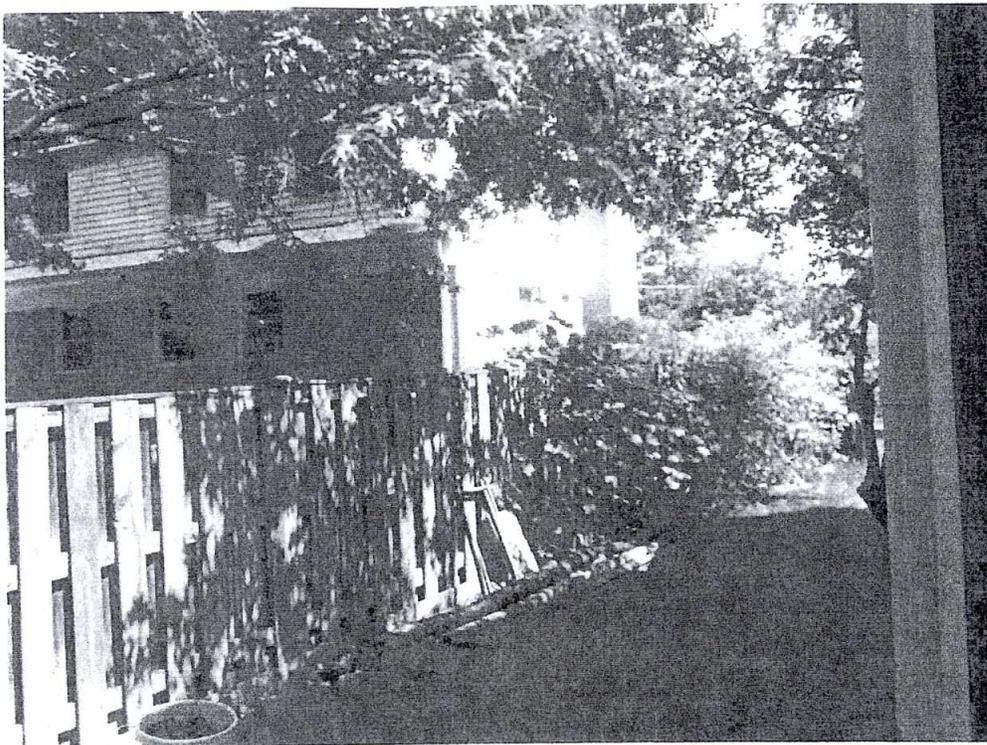
From the deck, looking northeast into our back yard.



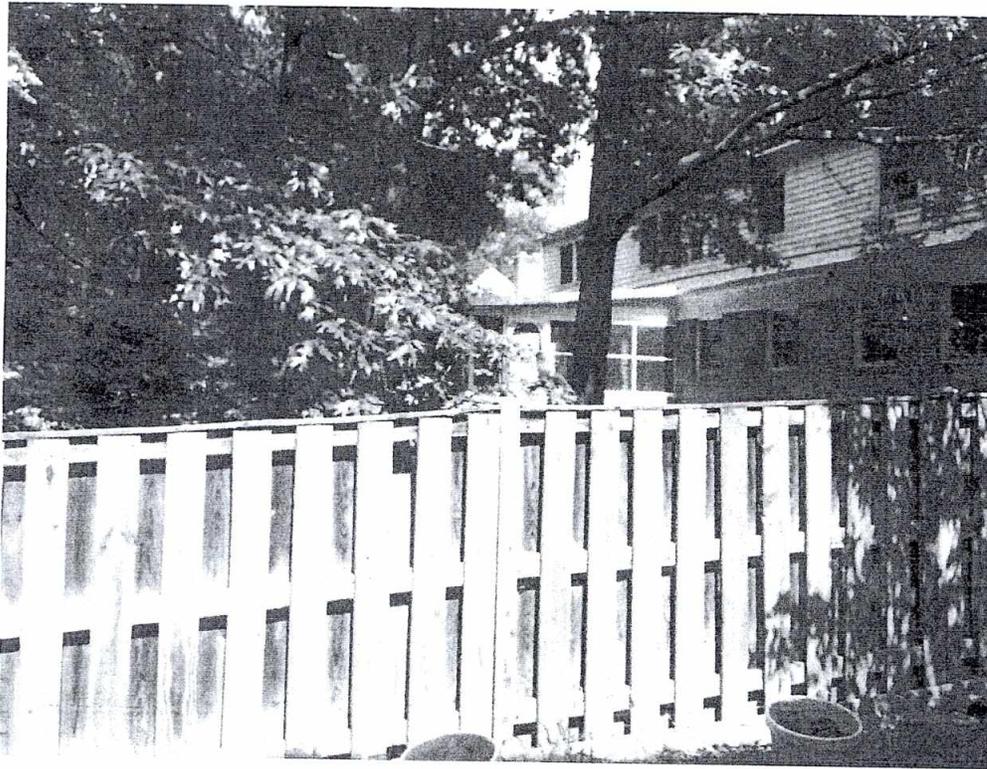
From deck, looking northwest into our backyard and our neighbors'.



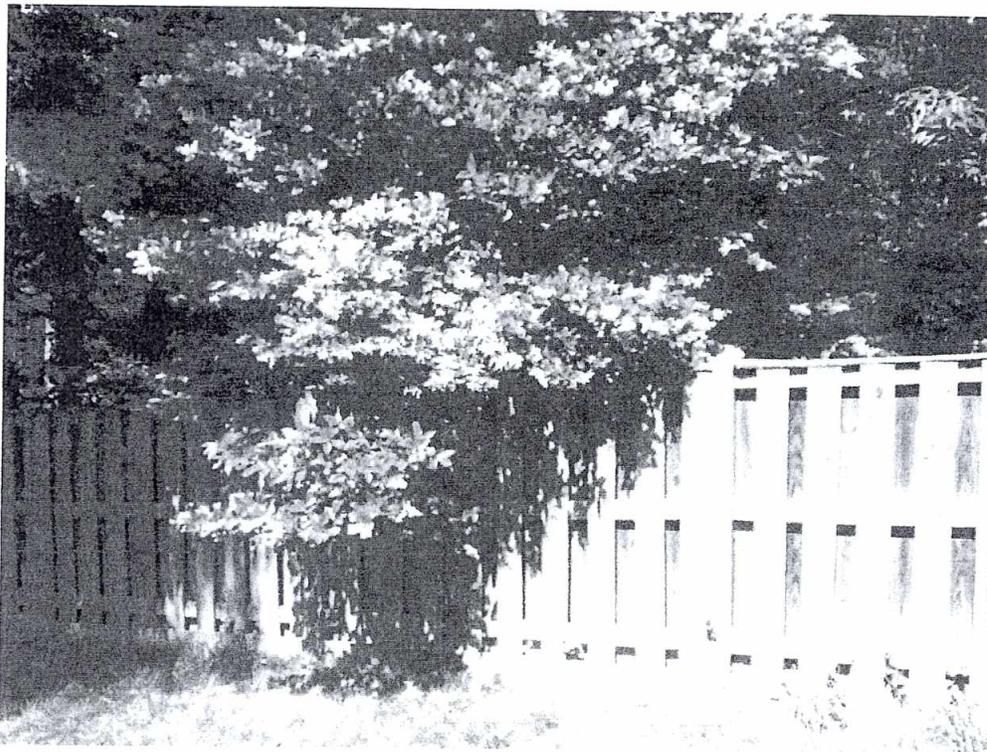
From ground level behind porch, looking southeast at the east side of our yard and the next-door neighbor's house.



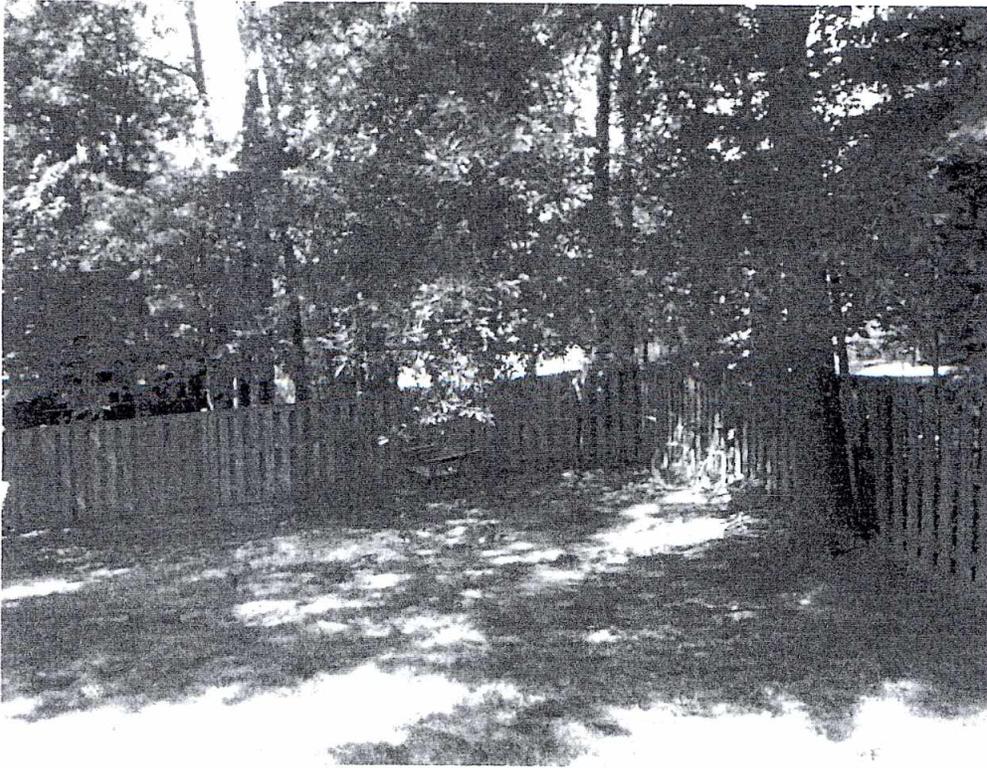
From ground level behind porch and deck, looking east toward neighbor's house.



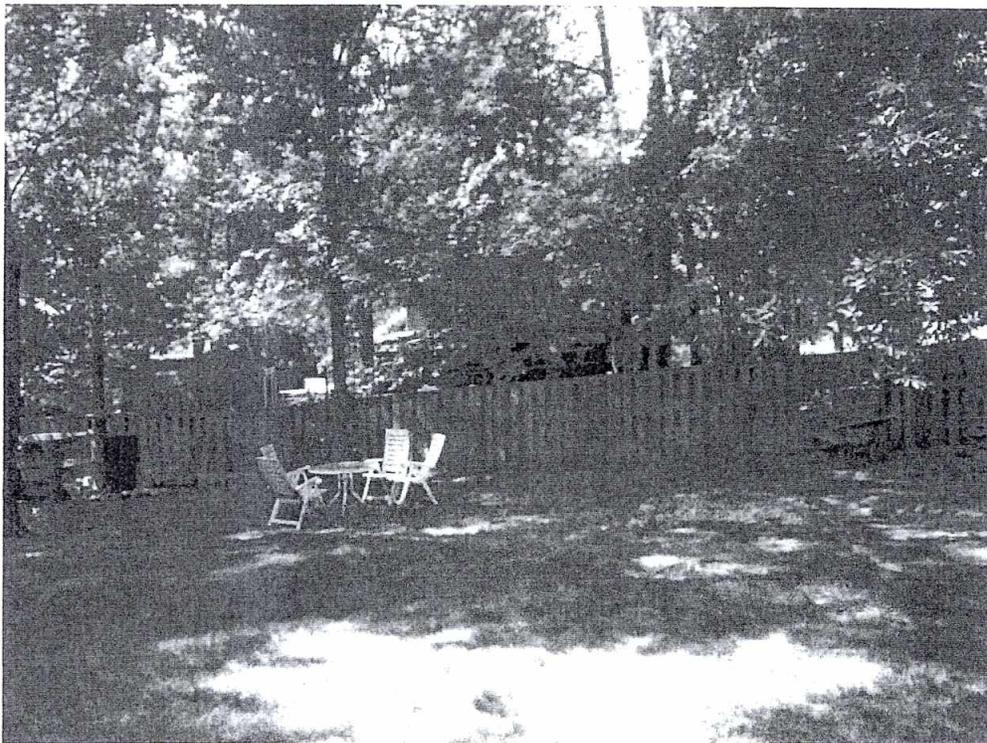
From ground level behind porch and deck, looking east toward neighbor's backyard.



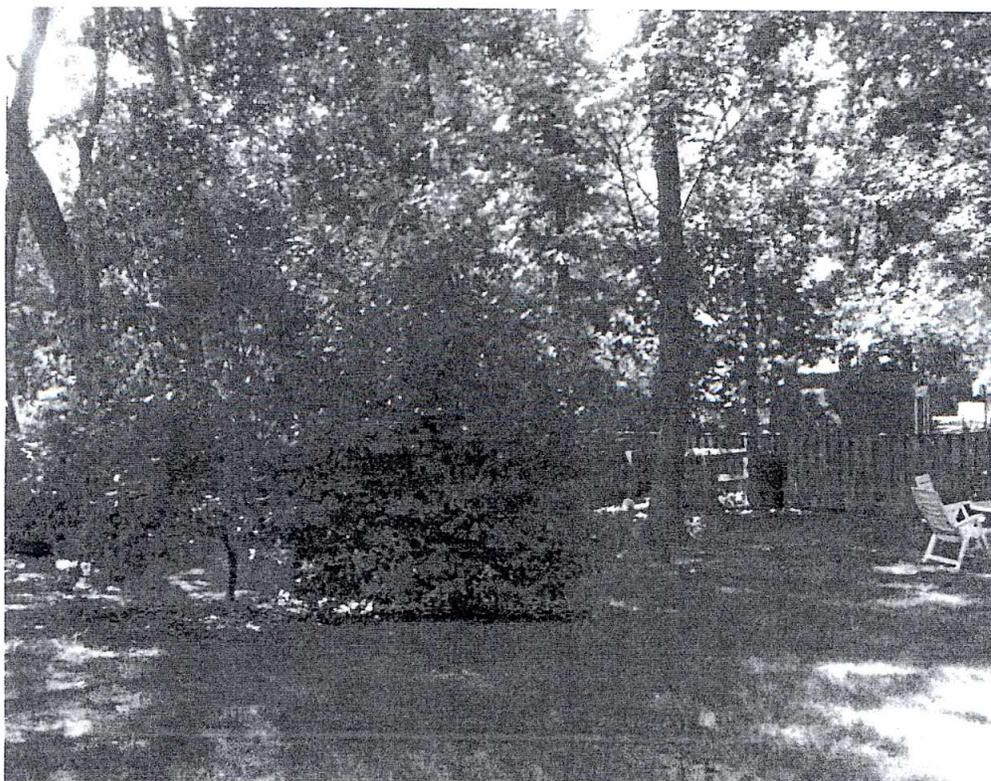
From ground level behind porch and deck, looking toward northeast corner of our backyard.



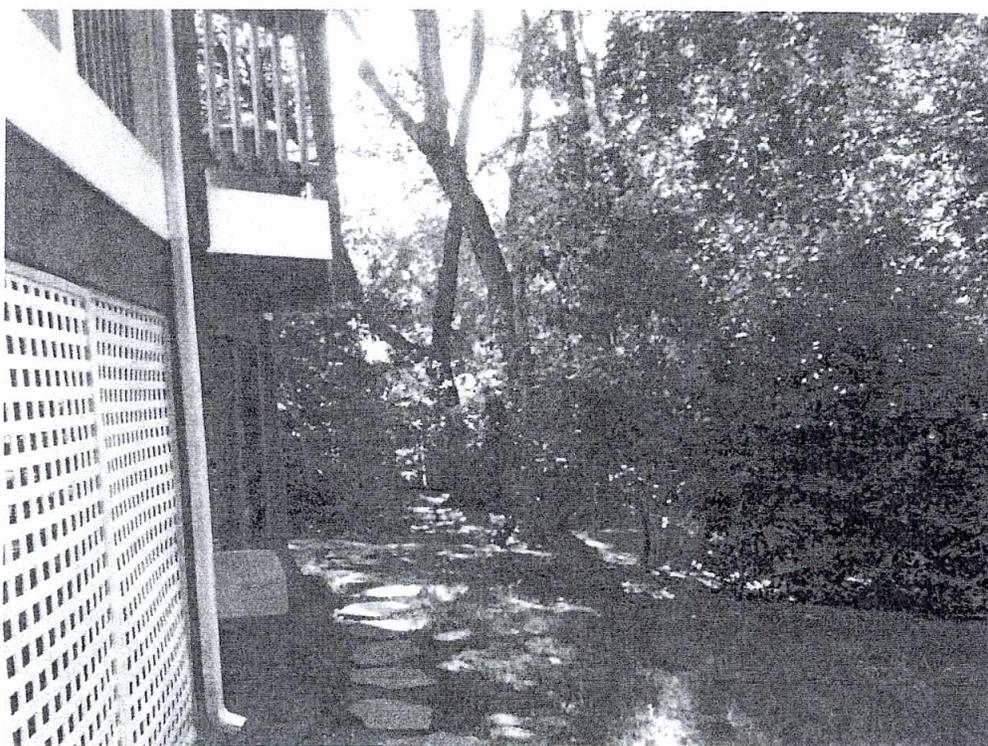
From ground level behind porch and deck, looking north at our backyard.



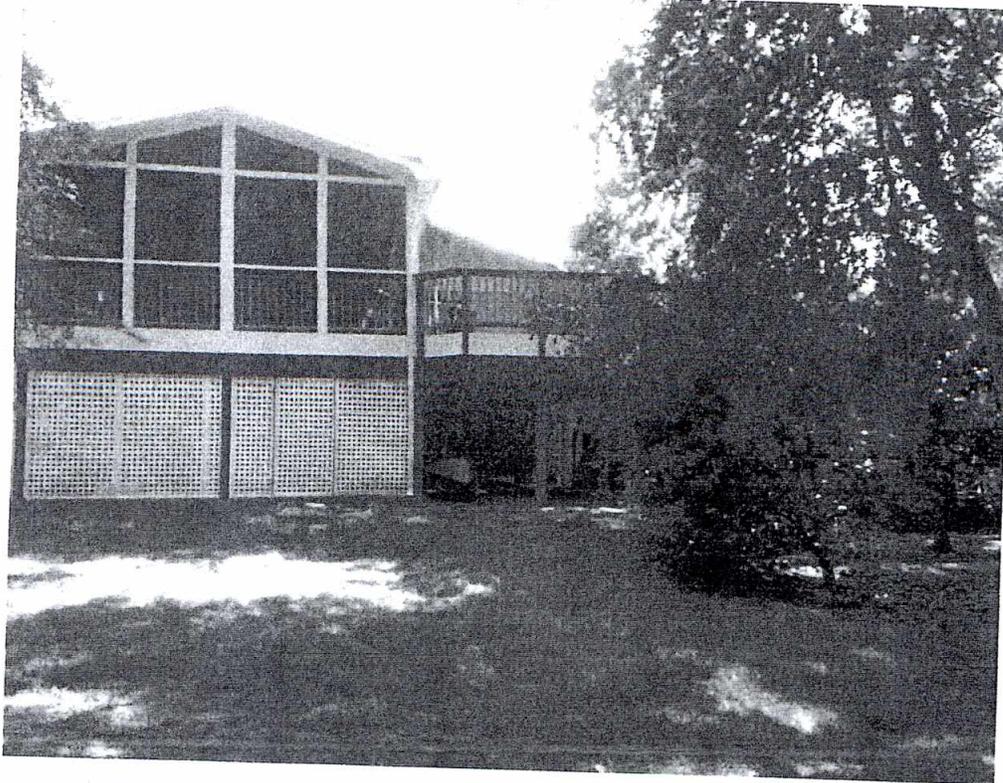
From ground level behind porch and deck, looking northwest at our backyard.



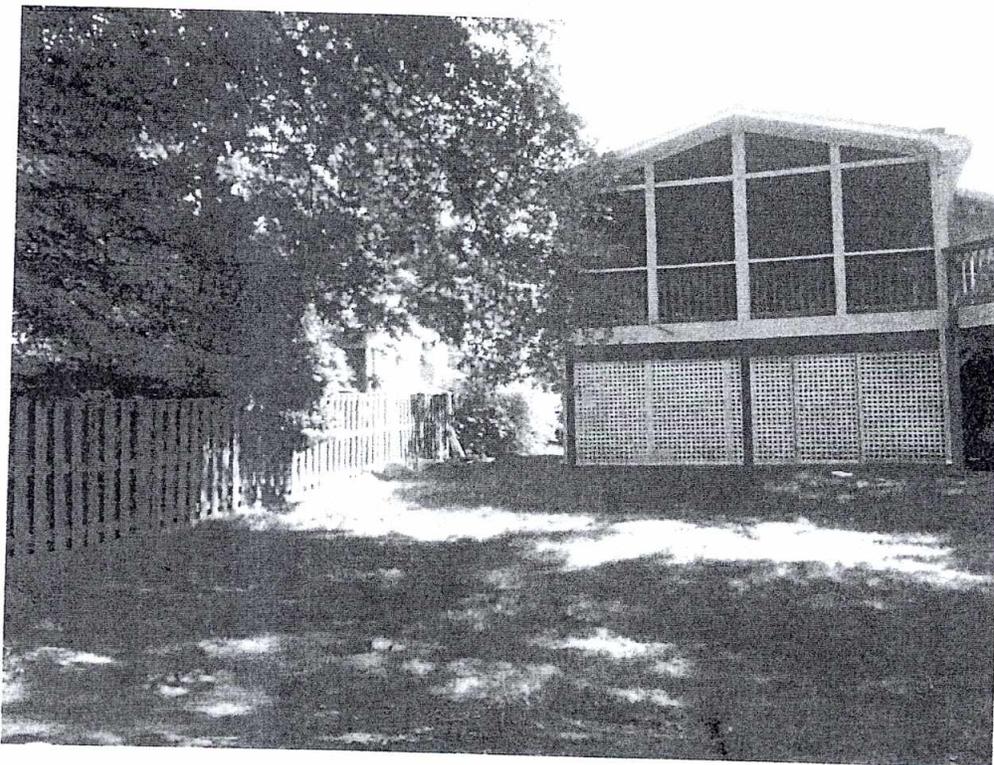
From ground level behind porch and deck, looking west.



From end of backyard, looking south at our porch, deck, and house.



From end of backyard, panning a little to the southeast to show porch, fence and next-door neighbor's house.



From end of backyard, panning a little to the southwest to show deck and backyard.



**DESCRIPTION OF THE APPLICATION**

The applicant requests approval of a special permit for an error in building location to permit a partially enclosed carport addition to remain 6.5 feet from the western side lot line. A storage area has been constructed within the footprint of the carport, thereby making the carport an addition because it is not open on three sides. The addition measures approximately 314 square feet in area and 10.3 feet at its peak height.

	<b>Structure</b>	<b>Yard</b>	<b>Min. Yard Req.</b>	<b>Structure Location</b>	<b>Amount of Error</b>	<b>Percent of Error</b>
<b>Special Permit</b>	<b>Addition</b>	Side	12.0 feet	6.5 feet	5.5 feet	46%

\*The minimum required side yard in the R-3 District is 12 feet.

**EXISTING SITE DESCRIPTION**

The subject site measures 12,794 square feet in area and is zoned R-3. There is a split level, brick and frame single-family detached dwelling on the site which measures approximately 2,763 square feet in area. The dwelling was built in 1964. A concrete driveway is in the front yard, which connects to an enclosed one car carport. The carport is enclosed with a storage area, which measures approximately 105 square feet in area. A four (4) foot wide concrete sidewalk runs along the frontage of the property. There are planting areas in the front and side yards, and there are several mature trees on site. At the rear of the house, there is an enclosed porch addition and open wood deck with steps leading down to a landing area and entrance to the basement. Five (5) foot tall frame fencing surrounds the rear yard. There are five (5) foot wide public easements along the front and rear property lines on the site.

**CHARACTER OF THE AREA**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R-3	Single Family Detached Dwelling
<b>South</b>	R-3	Single Family Detached Dwelling
<b>East</b>	R-3	Single Family Detached Dwelling
<b>West</b>	R-3	Single Family Detached Dwelling

## **BACKGROUND**

A building permit, dated July 2, 2010, was issued for the rear deck and addition, and as part of the permit's issuance, a setback certification was required prior to the Residential Use Permit (RUP) issuance or final inspection. A setback certification plat, dated August 13, 2010, was submitted for review.

On October 1, 2010, the setback certification letter was issued, which noted that the certification failed due to the existing storage structure's (within the carport) lack of compliance with the minimum side yard requirement. The enclosed porch addition and deck meet the required rear and side yard requirements. The applicant states that the storage structure was already part of the carport when they purchased the property in 1991. There is no record of a building permit for the storage structure's enclosure. A special permit application or removal of the storage structure was recommended as a remedy to the certification failure. A copy of the letter is included as Appendix 4.

A copy of the submitted special permit plat titled "Plat Showing the Improvements on Lot 9, Block 6, Section 2, Stratford on the Potomac" prepared by Dominion Surveyors, Inc., dated and sealed March 18, 2011 and revised through July 1, 2011, is included at the front of the staff report.

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

- Variance VC 1985-V-036 was approved on July 11, 1985 for Tax Map 102-3 ((11)) (2) 20, zoned R-3 at 8303 Brewster Drive, to permit construction of a garage addition to a dwelling 3 feet from the side lot line.
- Special Permit SP 2002-MV-035 was approved on August 13, 2002 for Tax Map 102-3 ((11)) (3) 9A, zoned R-3 at 8430 Blakiston Lane, to permit a reduction to minimum yard requirements based on an error in building location to permit an addition to remain 7.0 feet from the 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 5. 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. Setback Certification Letter Dated October 1, 2010
5. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2011-MV-089****November 30, 2011**

1. This special permit is approved for the location and size of the partially enclosed carport addition with storage structure as shown on the plat prepared by Dominion Surveyors Inc., dated and sealed March 18, 2011 and revised through July 1, 2011, as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections for the addition shall be diligently pursued and obtained within six months of final approval of this application.

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-NV-089  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: August 8, 2011  
 (enter date affidavit is notarized)

I, Ronald C. McCormack, 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      111707-6

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 <b>BOLD</b> above)
Thomas B. Bradley	2410 Stirrup Lane Alexandria, Virginia 22308	Applicant/Title Owner
Judith R. Starr	2410 Stirrup Lane Alexandria, Virginia 22308	Applicant/Title Owner
Ronald C. McCormack, Esq., Ronald C. McCormack, P.C.	2740 Chain Bridge Road, #106 Vienna, Virginia 22181	Attorney/Agent

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

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

Application No.(s): SP 2011-MV-089  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: August 8, 2011  
(enter date affidavit is notarized)

11170745

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)  
Ronald C. McCormack, P.C.  
2740 Chain Bridge Road, #106  
Vienna, Virginia 22181

**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)  
Ronald C. McCormack

(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-MV-089  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: August 8, 2011  
(enter date affidavit is notarized)

111707-6

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): SP 2011-MV-089  
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DATE: August 8, 2011  
(enter date affidavit is notarized)

1117076

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-MV-089  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: August 8, 2011  
(enter date affidavit is notarized)

11707 ✓

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

Ronald C. McCormack, Attorney/Agent  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 8th day of August 2011, in the State/Comm. of Virginia, County/City of Stafford

Samantha Rose Turner  
Notary Public

My commission expires: 8/31/2013



---

Application Number

**STATEMENT OF JUSTIFICATION**  
**FOR SUBMISSION OF APPLICATION**  
**FOR SPECIAL PERMIT FOR ERROR**  
**IN BUILDING LOCATION**

RECEIVED  
Department of Planning & Zoning  
APR 14 2011  
Zoning Evaluation Division

This application pertains to a residence with 1,465 sq. ft. of above grade living area, located on a 12,794 sq. ft. lot in the subdivision known as Stratford on the Potomac, Section 2, Block 6, Lot 9, in Alexandria, Virginia, Mt. Vernon Magisterial District, currently zoned R-3. The applicants, Thomas B. Bradley and Judith R. Starr, purchased the property in 1991. At the time of the purchase, the house had a carport located on its west side which included a 5.5 x 19.1 ft. framed in storage area that was located on the west end of the carport and 8.3 feet from the side boundary of the lot. At the time of the purchase, Mr. Bradley and Ms. Starr were not informed that the framed in storage area portion of the carport was in violation the 12 ft. County set back requirement for a side boundary line. The Owners only recently learned that the framed in shed was in violation of the 12 ft. set back requirement when they had a screened in porch and deck added on to the north and east side of their house and submitted a setback certification plat to the Department of Planning and Zoning. Apparently the carport by itself would not be in violation, but the added framed in area is.

The applicants are asking for a special permit for error in building code that would allow them to keep the framed in portion of the carport. It would be extremely expensive and would pose a hardship on the applicants if they had to have the framed in portion of the carport removed. The framing structurally holds up the west end of the carport, and as can be seen in the enclosed photograph, there is a substantial roof over the carport. In addition, the carport with the framed in area has been in existence for more than 20 years. The Applicants have owned the property for over 19 years and no one in their neighborhood has ever complained to them about the appearance of the framed in area of the carport or its location. The applicants truly believe that the framed in portion of the carport actually enhances the appearance of their home.

SEP 01 2011

Zoning Evaluation Division

---

Application Number

**STATEMENT OF PROPOSED USE**

A. This application pertains to a residence with 1,465 sq. ft. of above grade living area, located on a 12,794 sq. ft. lot in the subdivision known as Stratford on the Potomac, Section 2, Block 6, Lot 9, in Alexandria, Virginia, Mt. Vernon Magisterial District, currently zoned R-3. The applicants, Thomas B. Bradley and Judith R. Starr, purchased the property in 1991. At the time of the purchase, the house had a carport located on its west side which included a 5.5 x 19.1 ft. framed-in area that was a part of the west end of the carport and located 6.5 feet from the side boundary of the lot. The applicants only recently learned that the framed-in portion of the carport was 5.5 feet too close to the side boundary line violating the Counties 12 feet set back requirement for a side boundary line. The 5.5 feet error exceeds 10 percent of the required 12 feet side boundary set back.

B. The non-compliance was done in good faith and through no fault of the applicant/owners. At the time of the purchase, Mr. Bradley and Ms. Starr were not informed that the framed-in storage area portion of the carport was in violation of the 12 ft. County set back requirement for a side boundary line. The Owners only recently learned that the framed-in portion of the carport was in violation of the 12 ft. set back requirement when they had a screened in porch and deck added on to the north and east side of their house and submitted a setback certification plat to the Department of Planning and Zoning.

C. The reduction in the side yard set back will not impair the purpose and intent of the set back ordinance. The carport being located 6.5 feet from the side boundary line by itself would not be a violation of the side yard set back requirement. The added framing at the one end of the carport is what causes it to be in violation.

D. The reduction in the side yard set back requirement will not be detrimental to the use and enjoyment of other properties in the immediate vicinity of the applicant's residence. The carport with the framed-in area has been in existence for more than 20 years. The Applicants have owned the property for over 19 years and no one in their neighborhood has ever complained to them about the appearance of the framed-in area of the carport or its location. There are three large shrubs located between the framed-in portion of the carport and the side property line that conceals the neighbors' view of the side of the structure.

E. The reduction in the side yard set back requirement and allowing the framed-in portion of the carport to remain in its current location will not create an unsafe condition

with respect to the property of others and/or the public streets. It has been in existence for 20 years and the applicant/owners are not aware of threats to public safety. The framed-in portion of the carport is approximately 57 feet from the street that the property fronts on.

F. To force compliance with the minimum set back requirement would cause unreasonable hardship on the applicant/owners. It would be extremely expensive and would pose a hardship on the applicants if they had to have the framed-in portion of the carport removed. The framed-in area structurally holds up the west end of the carport, and as can be seen in the enclosed photograph, there is a substantial roof over the carport.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulation. The floor area ratio for the residence will stay the same.



# County of Fairfax, Virginia

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

October 1, 2010

David Isaac  
3033 Silent Valley Drive  
Fairfax, Virginia 22031



RE: Building Permit #101830133  
2410 Stirrup Lane  
Stratford On The Potomac, Section 2, Block 6 Lot 9  
Zoning District: R-3  
Tax Map Ref.: 102-3 ((11)) (6) 9

Dear Mr. Isaac:

This is in response to your September 22, 2010 submission of a setback certification for the screened enclosed porch and deck, which are under construction on the referenced property. Based on the submitted setback certification plat, the screened enclosed porch under construction is 53.6 feet from the rear property line and 12 feet from the right side property line. In addition, a 5.5 feet by 19 feet storage structure is located about 8.0 foot from the left side property line. The storage structure is an enclosed structure, which is under the extended roof of the existing carport. The property is zoned R-3 and the R-3 District has a minimum side yard requirement of 12 feet. As such, the storage structure does not meet the minimum left side yard requirement. Although the screened porch and the deck meet the rear and right side yard requirements, the setback certification has been failed because the existing storage structure encroaches into the required left side yard. There is no building permit on file associated with the storage structure and the Department of Tax Administration records do not indicate that the structure has been taxed for at least 15 years. Therefore, Section 15.2-2307 of the Code of Virginia is not applicable and the storage structure must either be removed or a special permit for error in building location must be approved by the Board of Zoning Appeals.

If you choose to remove the storage structure, a revised setback certification will be required. Your cooperation in this matter is greatly appreciated. In addition, this information is being forwarded to the Department of Code Compliance for the appropriate enforcement action.

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

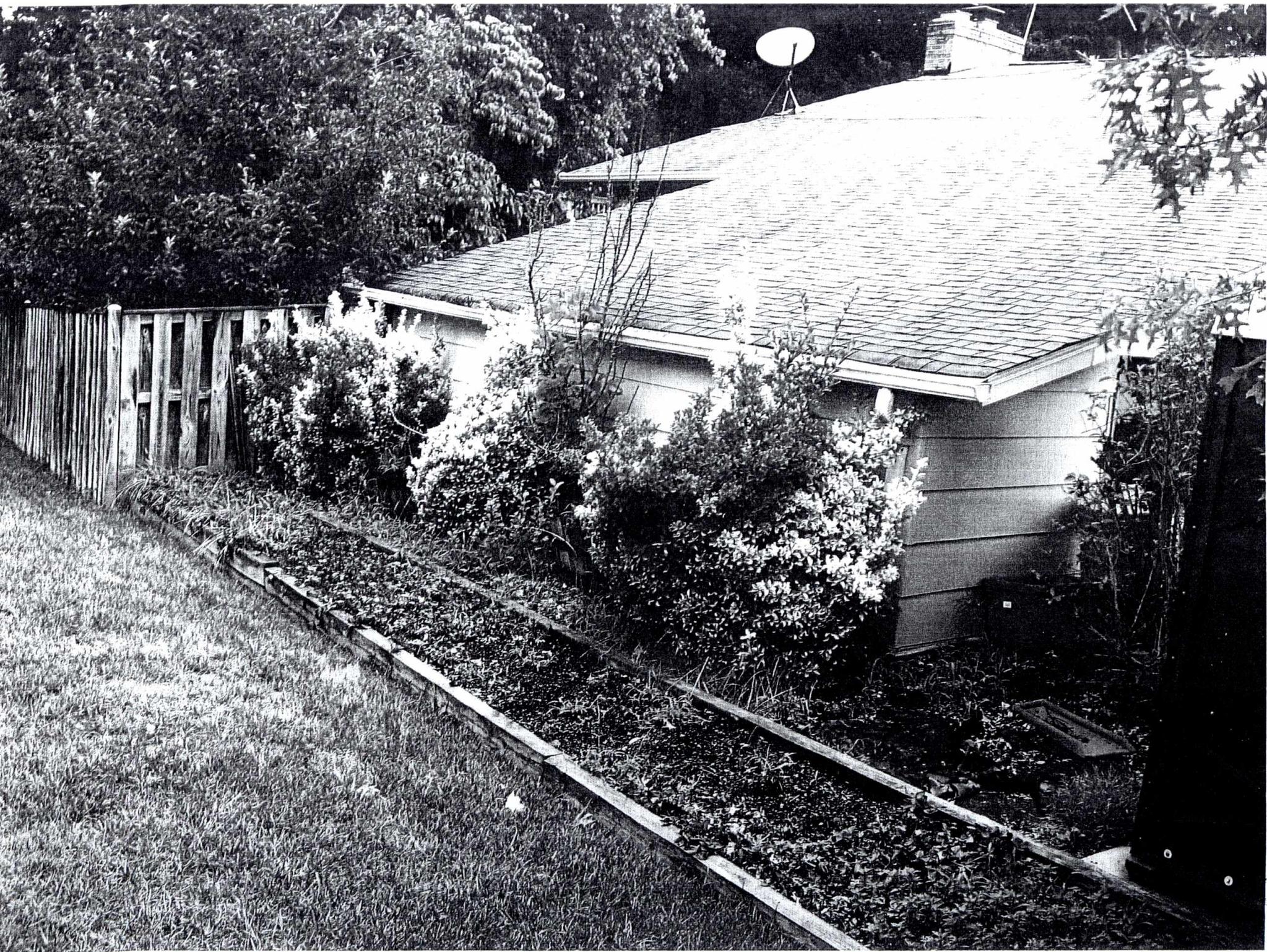
David Isaac  
October 1, 2010  
Page 2

Sincerely,



Getachew A. Tadesse  
Assistant to the Zoning Administrator  
Enclosure

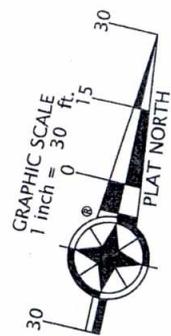
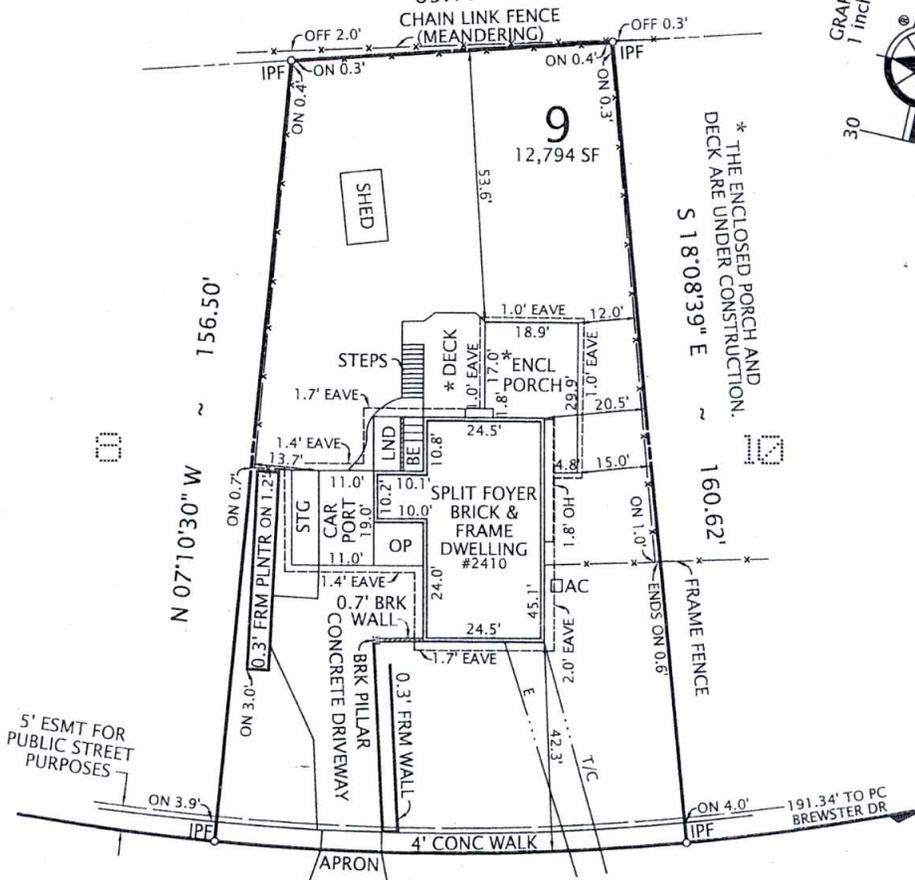
cc: Gerald W. Hyland, Mt. Vernon District Supervisor  
Eileen M. McLane, Zoning Administrator  
Michelle M O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch  
Michael Congleton, Senior Deputy Zoning Administrator/Property Maintenance Code  
Official, Department of Code Compliance  
Regina Coyle, Director, Zoning Evaluation Division  
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch  
Paul Lynch, Director, Residential Inspections Division, DPWES



NOTES: 1. FENCES ARE FRAME UNLESS NOTED.  
 2. EAVES SHOWN FOR PORCH UNDER CONSTRUCTION ARE A MIN. OF 10 FEET ABOVE GRADE.

SECTION 3  
 LOT 21

N 73°44'04" E  
 65.11'



5' ESMT FOR PUBLIC STREET PURPOSES

A=95.44' ~ R=498.50'

STIRRUP LANE

50' R/W ~ STATE ROUTE #4242

*Setback Certification failed.*  
*[Signature]*  
 10/01/10

PLAT

SHOWING HOUSE LOCATION ON  
 LOT 9, BLOCK 6, SECTION 2

STRATFORD ON THE POTOMAC

(DEED BOOK 2400, PAGE 285)

FAIRFAX COUNTY, VIRGINIA

MOUNT VERNON DISTRICT

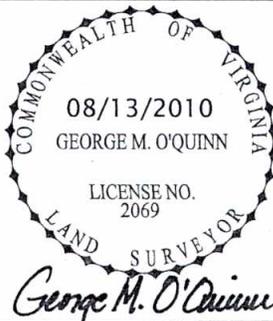
SCALE: 1" = 30'

AUGUST 13, 2010

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

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.  
 A TITLE REPORT WAS NOT FURNISHED.



ORDERED BY:  
 BRADLEY/STARR  
 DAVID ISAAC

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

## 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.