



**APPLICATION ACCEPTED:** February 1, 2012  
**DATE OF PUBLIC HEARING:** April 18, 2012  
**TIME:** 9:00 a.m.

# County of Fairfax, Virginia

---

April 11, 2012

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2012-DR-006**

### DRANESVILLE DISTRICT

**APPLICANT/OWNER:** Margaretha Carroll McGrail, Trustee

**LOCATION:** 742 Lawton Street

**SUBDIVISION:** River Oaks

**TAX MAP:** 21-2 ((3)) 30

**LOT SIZE:** 21,781 square feet

**ZONING:** R-1

**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 accessory storage structure to remain 0.3 feet from the rear lot line and 0.1 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\Apr 18 - SP 2012-DR-016 (Carroll)\staff\_report.doc

Brenda J Cho

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

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/](http://www.fairfaxcounty.gov/dpz/)

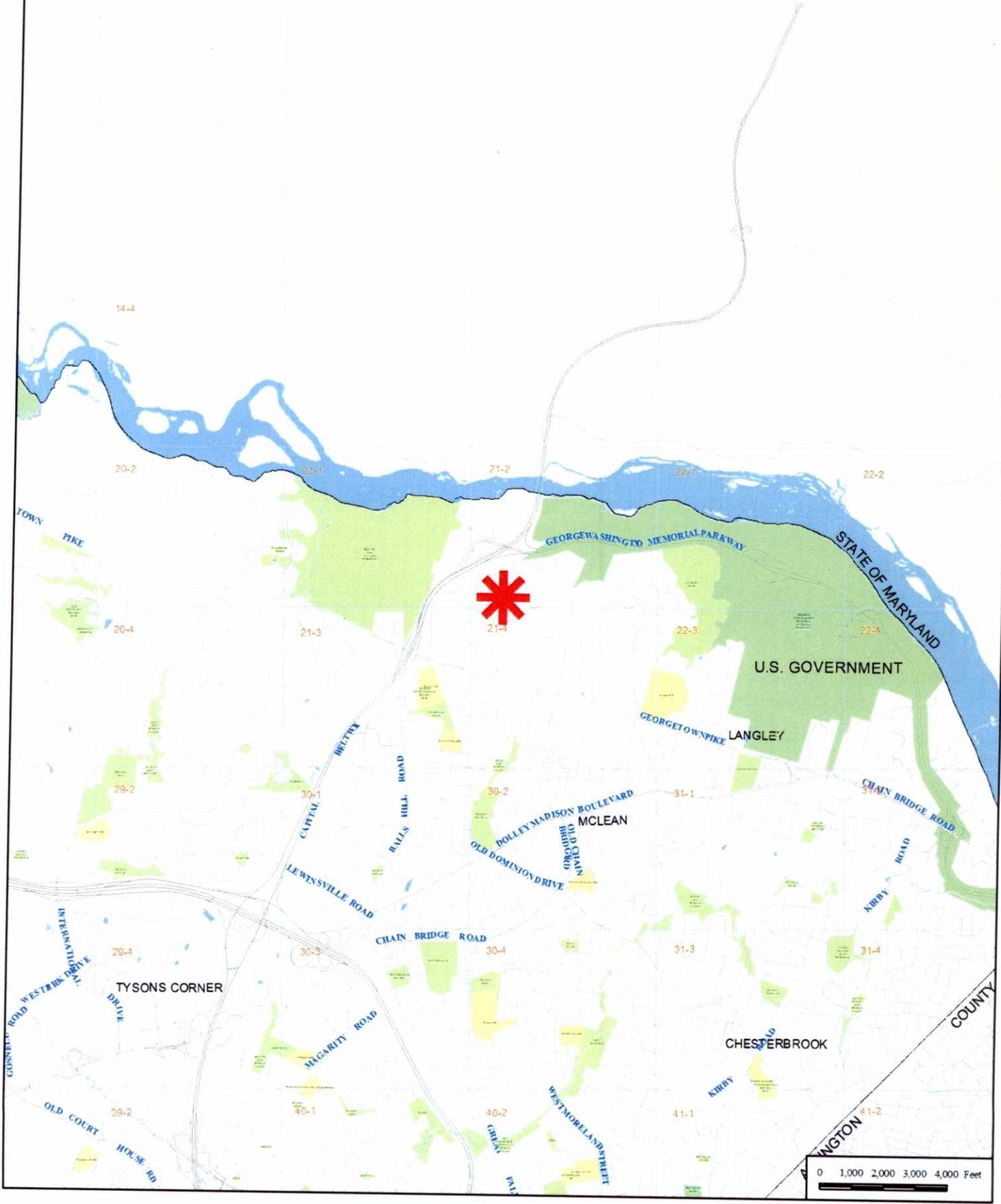


For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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

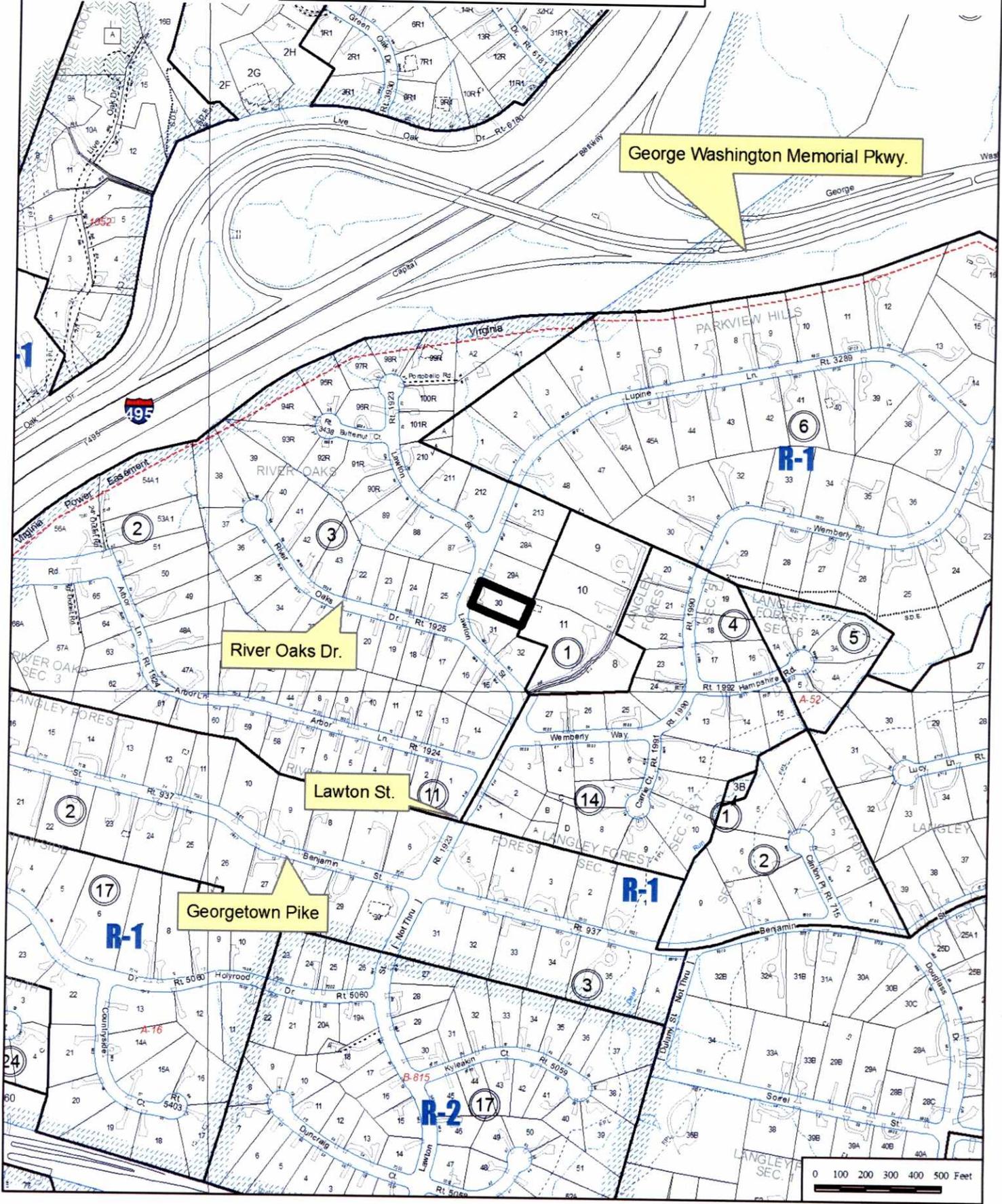


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2012-DR-006**  
MARGARETHA CARROLL MCGRAIL, TRUSTEE



**Special Permit**  
**SP 2012-DR-006**  
MARGARETHA CARROLL MCGRAIL, TRUSTEE



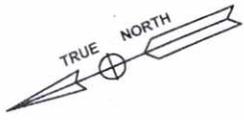
George Washington Memorial Pkwy.

River Oaks Dr.

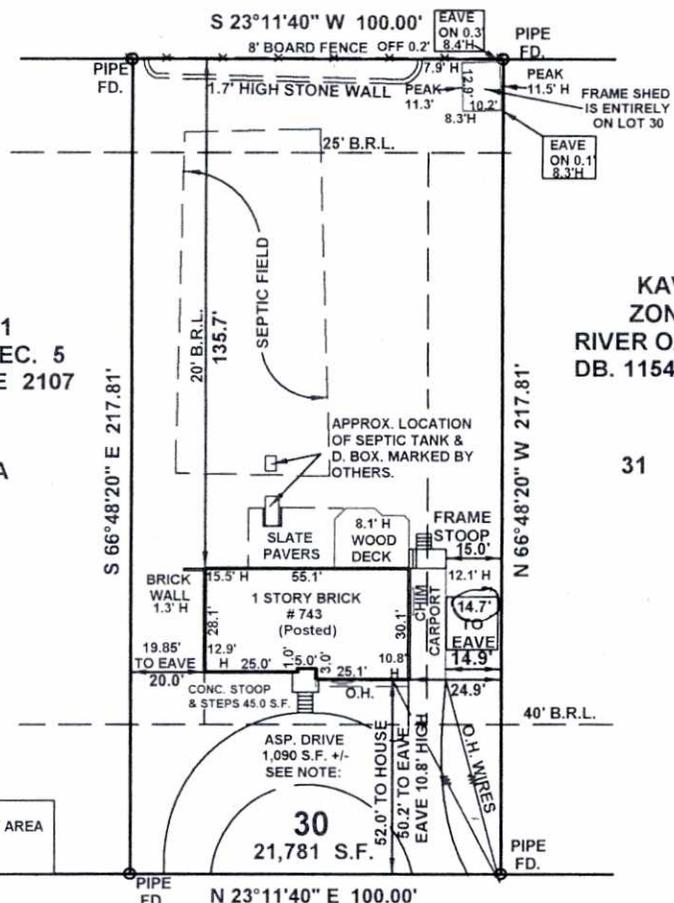
Lawton St.

Georgetown Pike

0 100 200 300 400 500 Feet



**FORMAN  
LOT 4 LOCUST HILL FARM  
ZONE R - 1  
DB. 10818 PAGE 1116**



**BLEE  
ZONE R - 1  
RIVER OAKS SEC. 5  
DB. 21121 PAGE 2107**

**KAVIANI  
ZONE R - 1  
RIVER OAKS SEC. 1  
DB. 11540 PAGE 800**

29 A

31

FRONT YARD COVERAGE  
DRIVEWAY COVERS 5.0% OF LOT AREA  
DRIVEWAY & STOOP COVERS  
21.0% OF FRONT YARD AREA

**LAWTON STREET**  
(50' Wide)

A 0.7 foot administrative reduction in the minimum required side yard has been GRANTED per Sect. 2-419 on March 13, 2012 by:

*Brian S. Parsons*  
Brian S. Parsons,  
Assistant to the Zoning Administrator

THE PROPERTY SHOWN IS ZONED R - 1 (1 DU PER ACRE)  
PROPERTY SERVED BY PUBLIC WATER  
PROPERTY FRONTS ON LAWTON STREET (PUBLIC STREET)

REVISED: JAN. 13, 2012

**SPECIAL PERMIT PLAT**

LOT 30 SECTION 1

**RIVER OAKS**

FAIRFAX COUNTY, VIRGINIA

RECEIVED  
Department of Planning & Zoning  
JAN 27 2012  
Zoning Evaluation Division

THE DWELLING SHOWN  
HEREON IS NOT LOCATED IN  
A SPECIAL FLOOD HAZARD AREA  
UNLESS OTHERWISE NOTED.

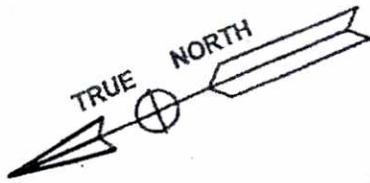


**HIGHLANDER SURVEYING SERVICES P.C.  
CURTIS L. McALLISTER, L. S.**

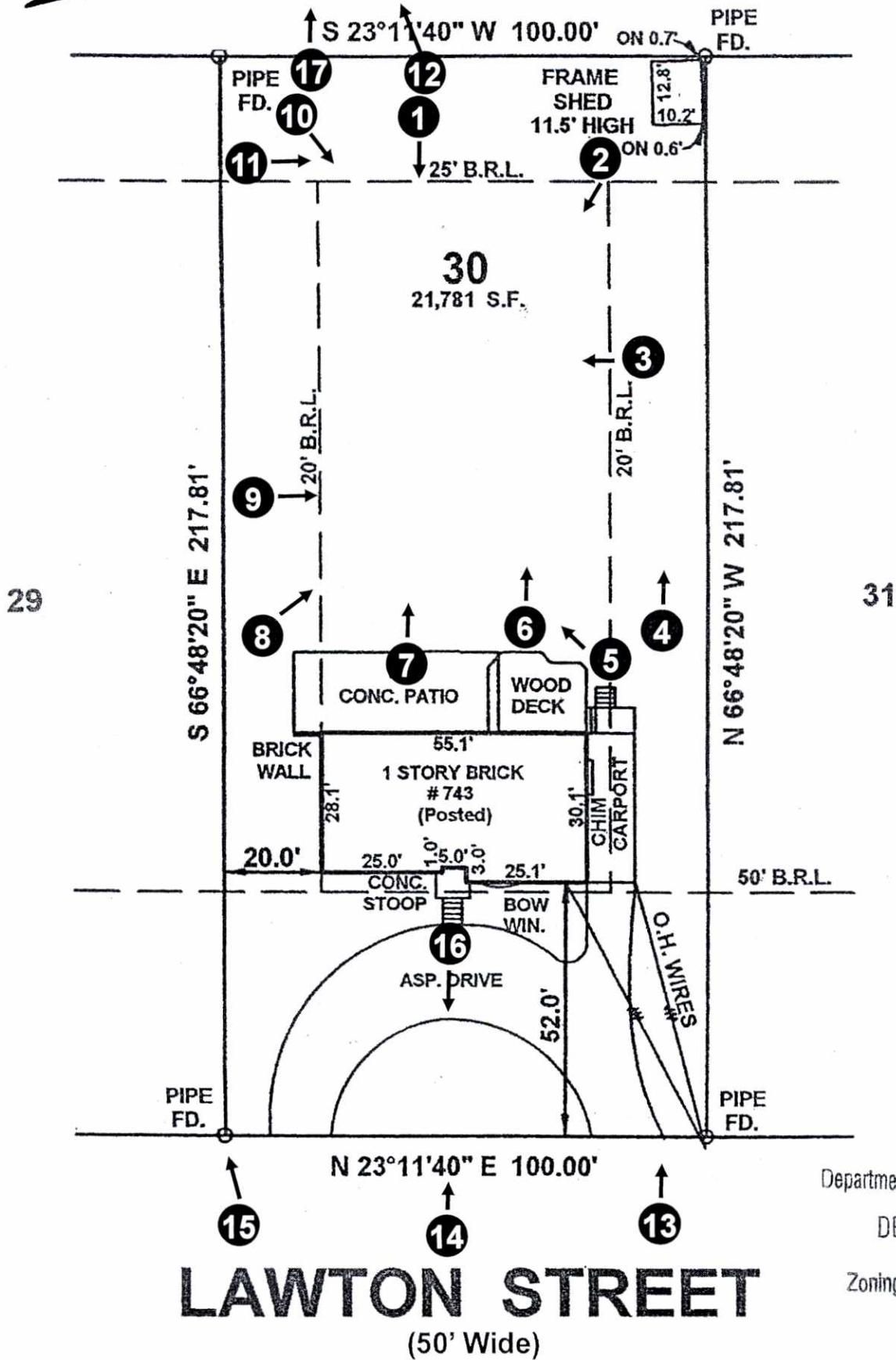
I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN ESTABLISHED BY A TRANSIT TAPE SURVEY AND THAT UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS.

SCALE: 1" = 40'	DRAWN WED / cadd
DATE: Sept 23, 2011	CHECK CLM
NO TITLE REPORT FURNISHED	PHONE # 703-273-1619
D.B. 1341 PAGE 91	MCGRAIL

REVISED: JAN. 13, 2012



N/F. BOWMAN

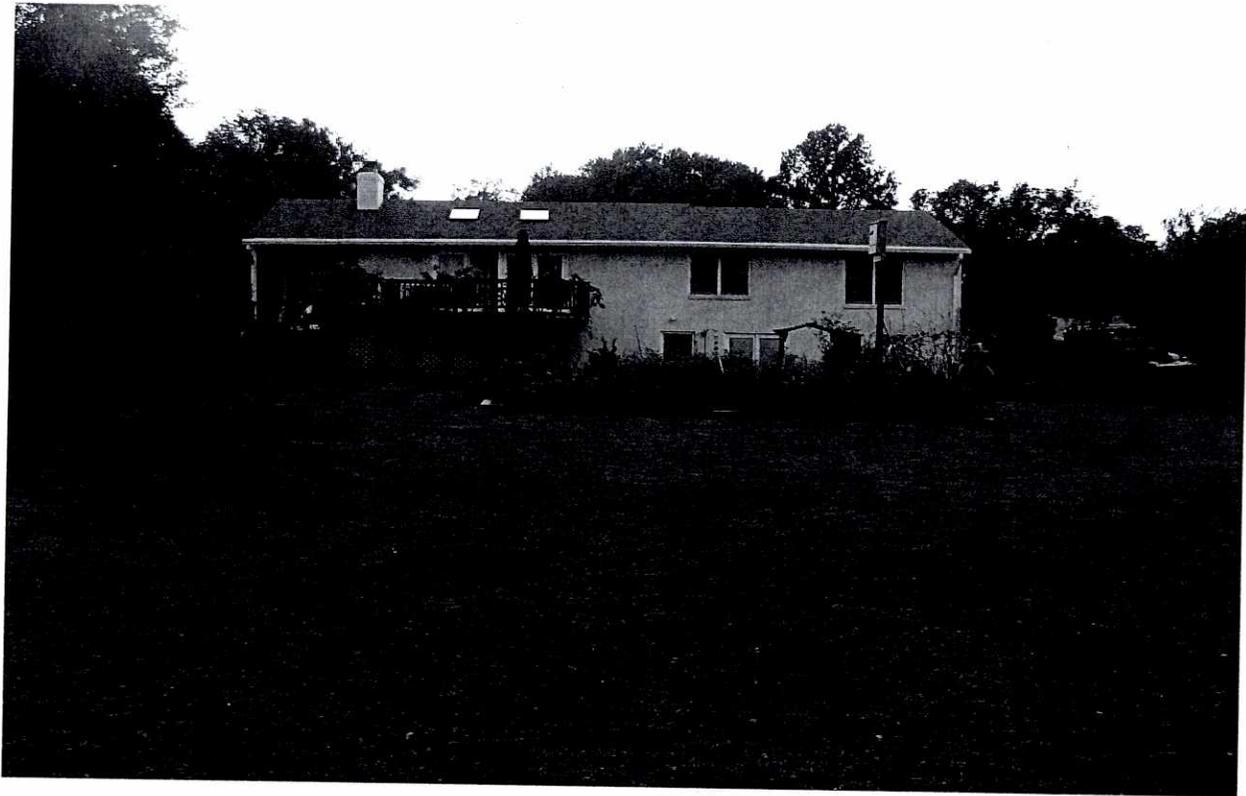


RECEIVED  
 Department of Planning & Zoning  
 DEC 22 2010  
 Zoning Evaluation Division

#1`

9-1-10

view or rear of house from rear property line



#2

9-1-10

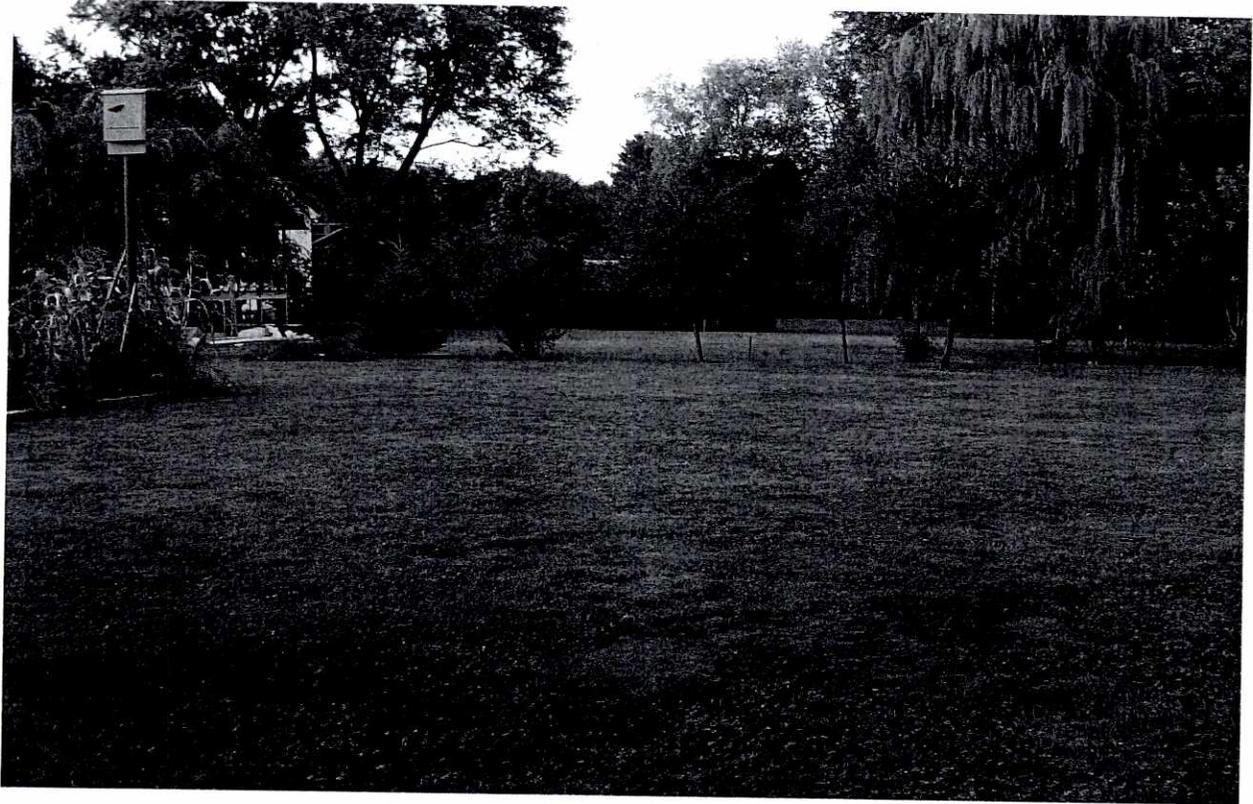
view from SE corner (shed corner) toward NW corner



#3

9-1-10

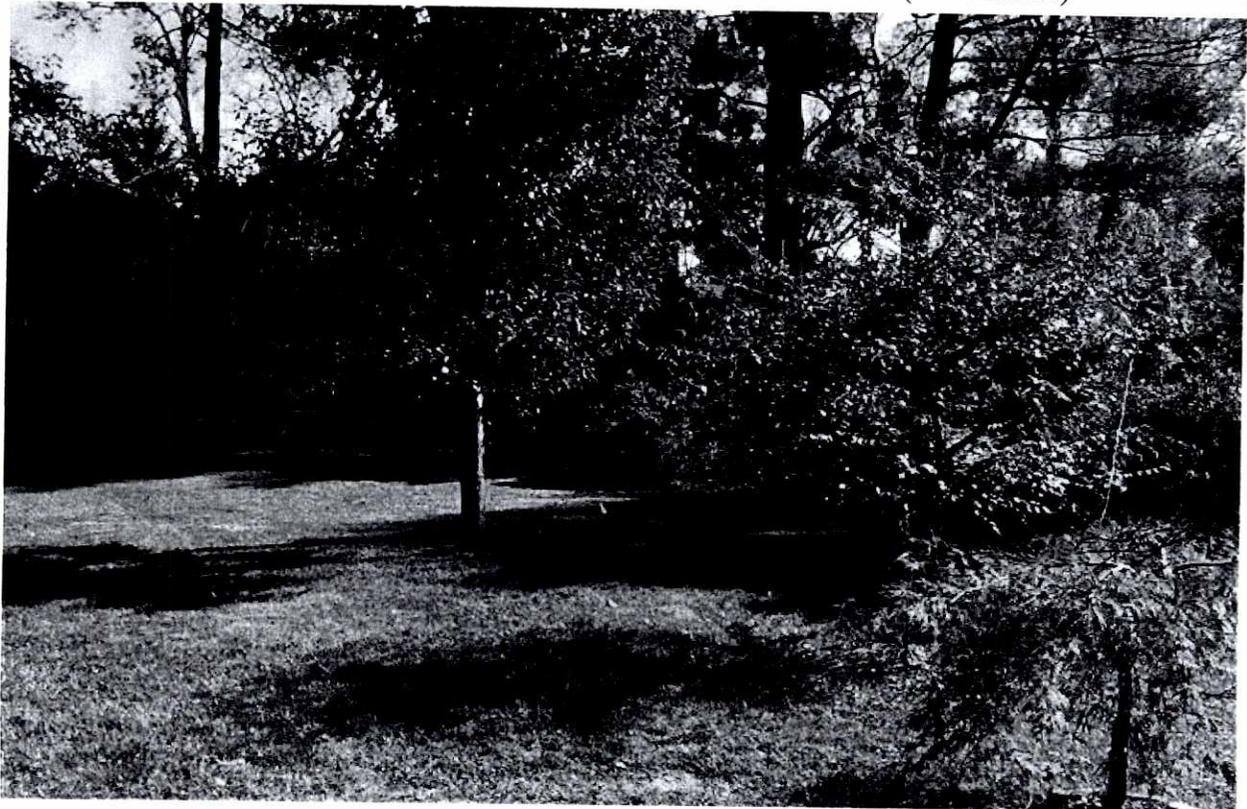
view looking north from south property lot line



#4

view from south side of house toward shed corner (SE corner)

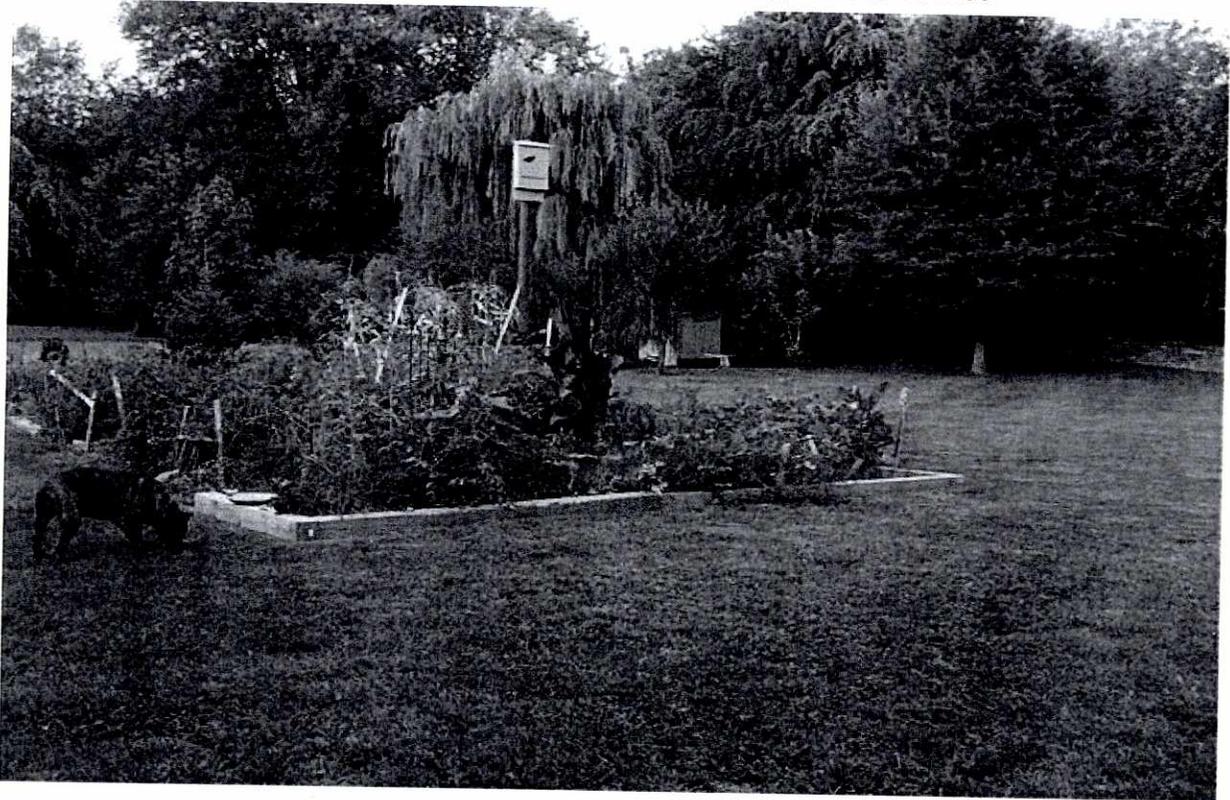
9-1-10



# 5

9-1-10

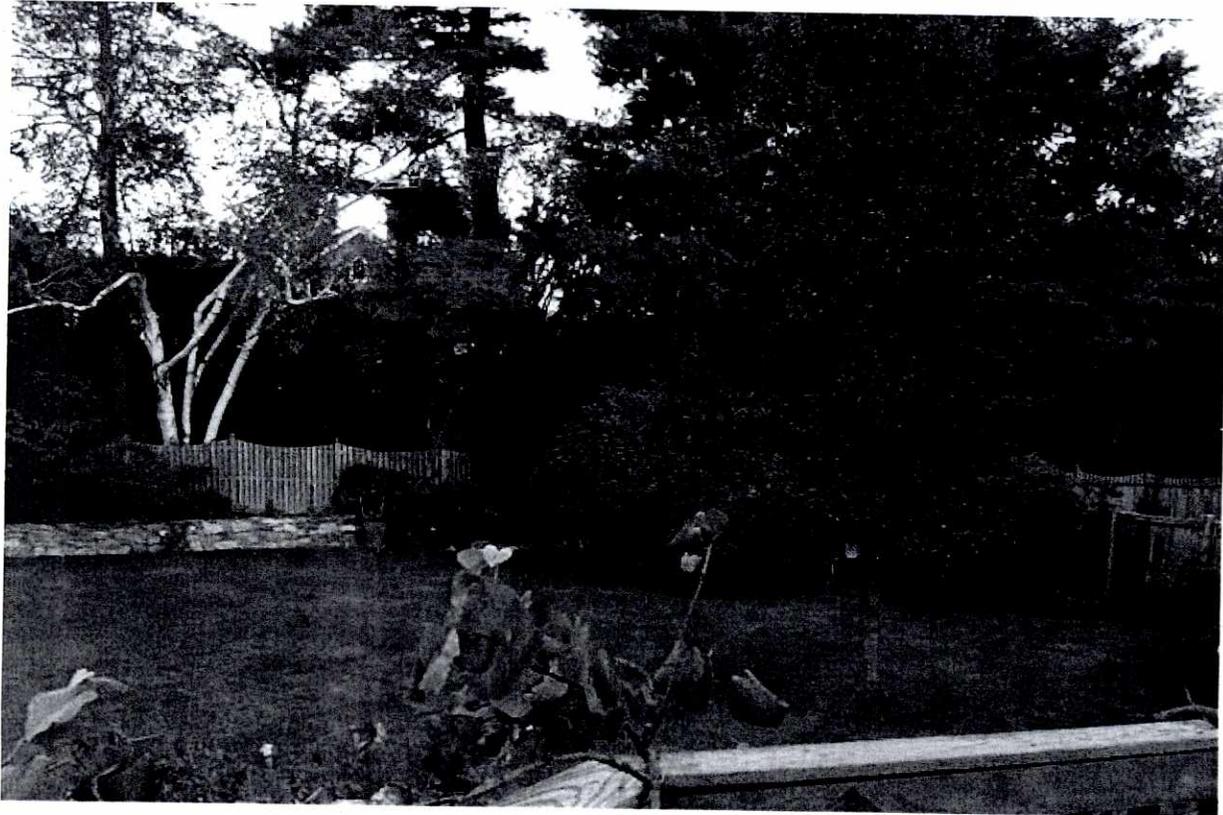
-view of NW corner of Lot from SW corner of Lot



# 6

9-1-10

view of SE corner of Lot (shed corner) from Property deck



#7

view of backyard from ground level & center of lot at house

9-1-10



#8

view of SE corner of lot (Shed corner) from NW( opposite) corner

10-2-10



# 9

view looking South from North side of lot

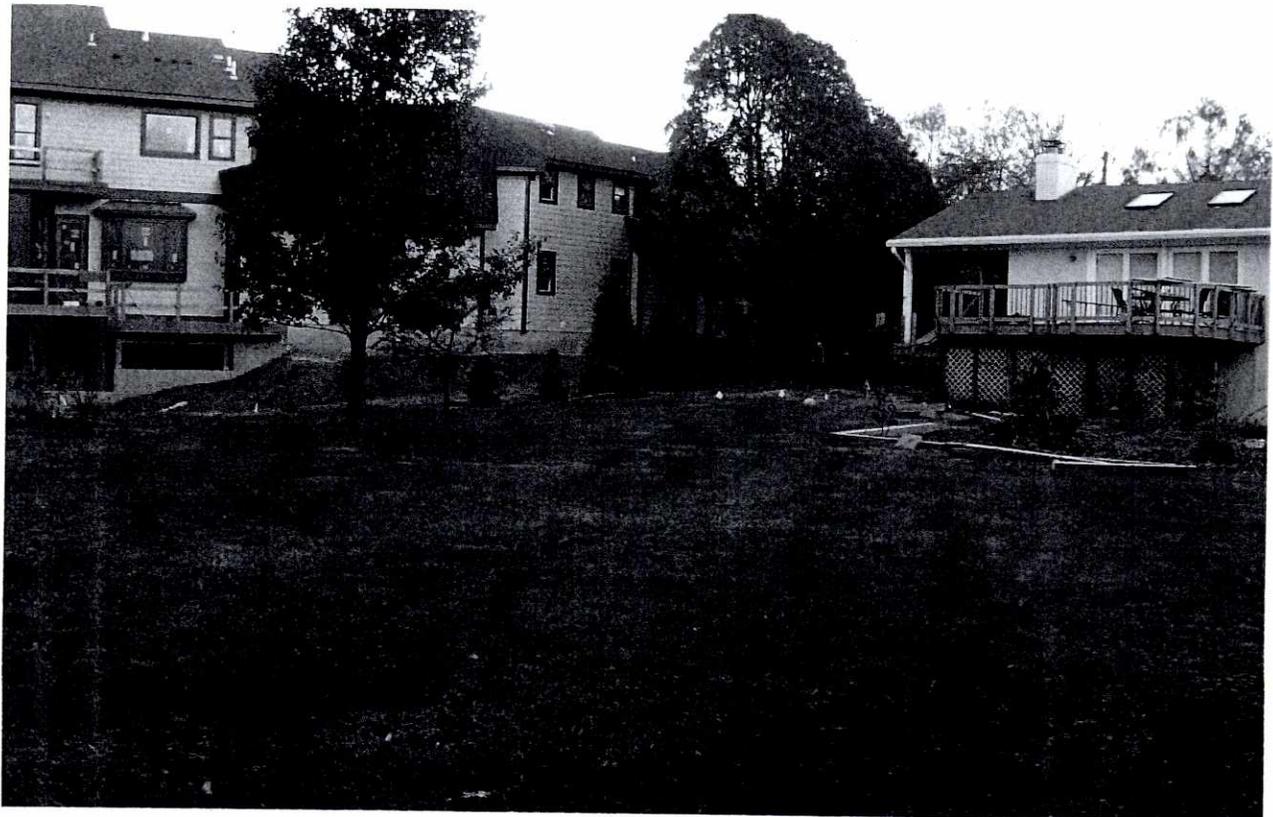
10-2-10



# 10

view of ~~SW~~ corner from ~~NE~~ corner of lot

9-7-10



# 11

view of shed from point directly opposite shed

9-1-18



# 12

view of lot/fence line between subject property and East (rear) neighbor

9-1-18

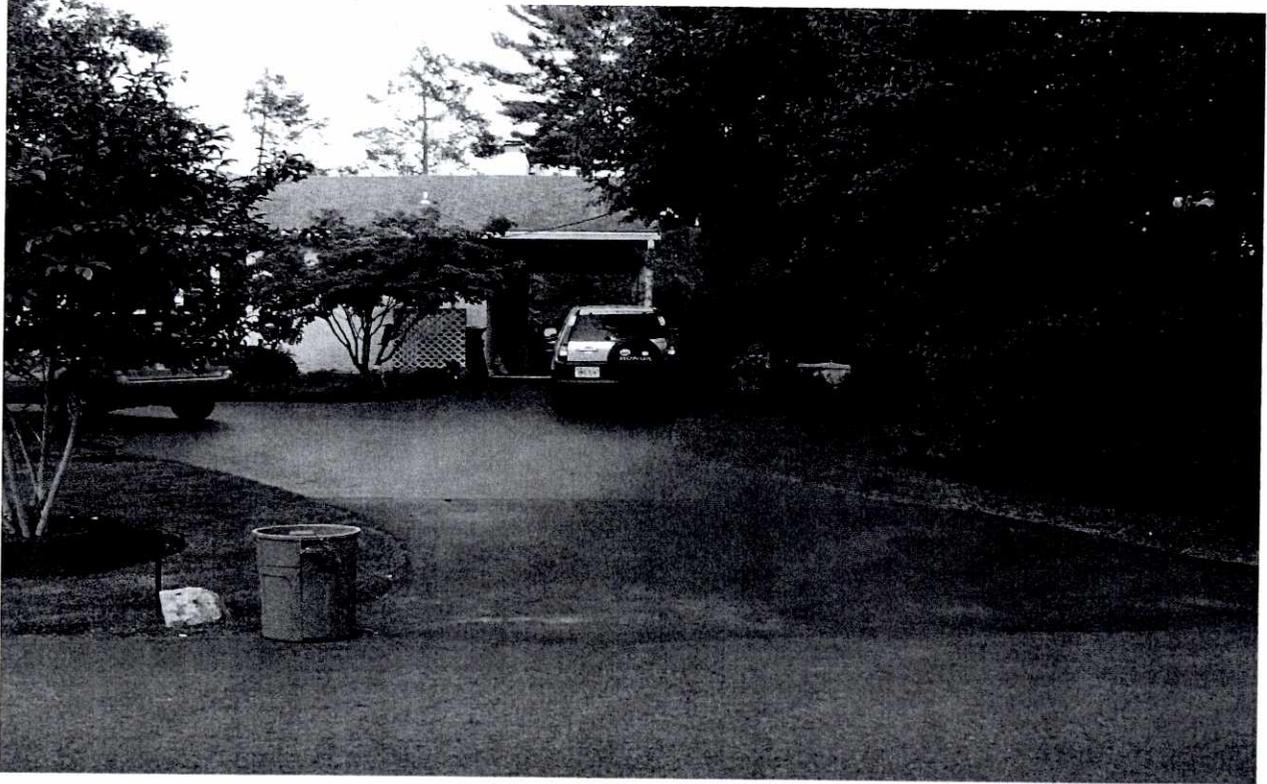


STONE WALL →

#13

view along right (South) side of house from Lawton St.

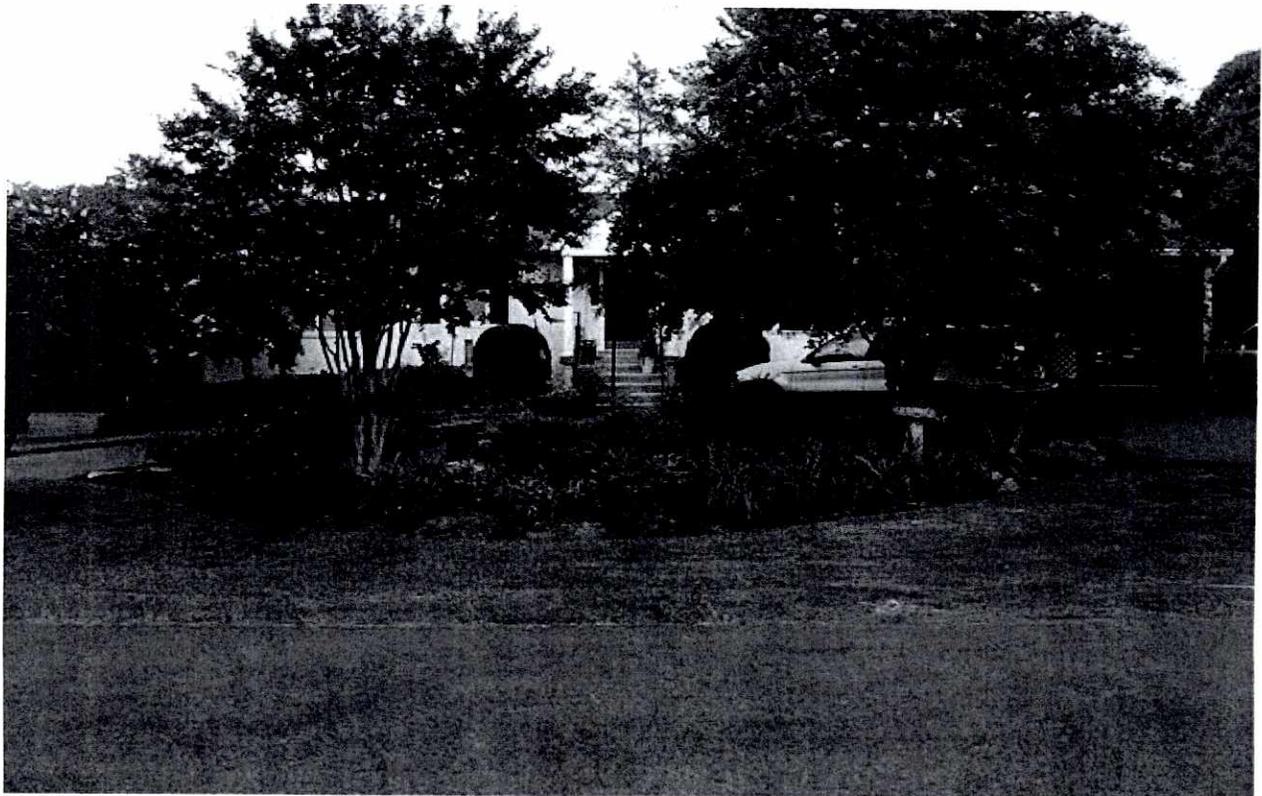
9-1-10



#14

view of house from across Lawton St

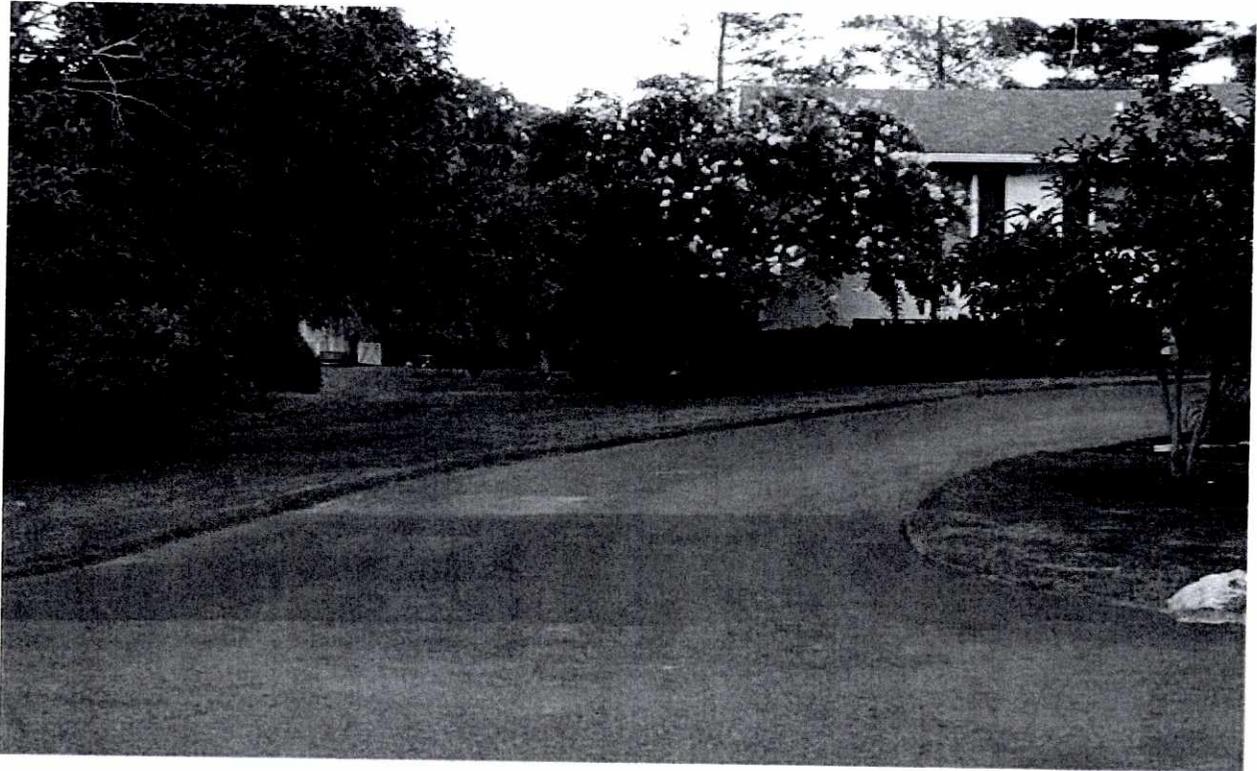
9-1-10



#15

-view from Lawton St. as you face property **AT** left (North) side of house

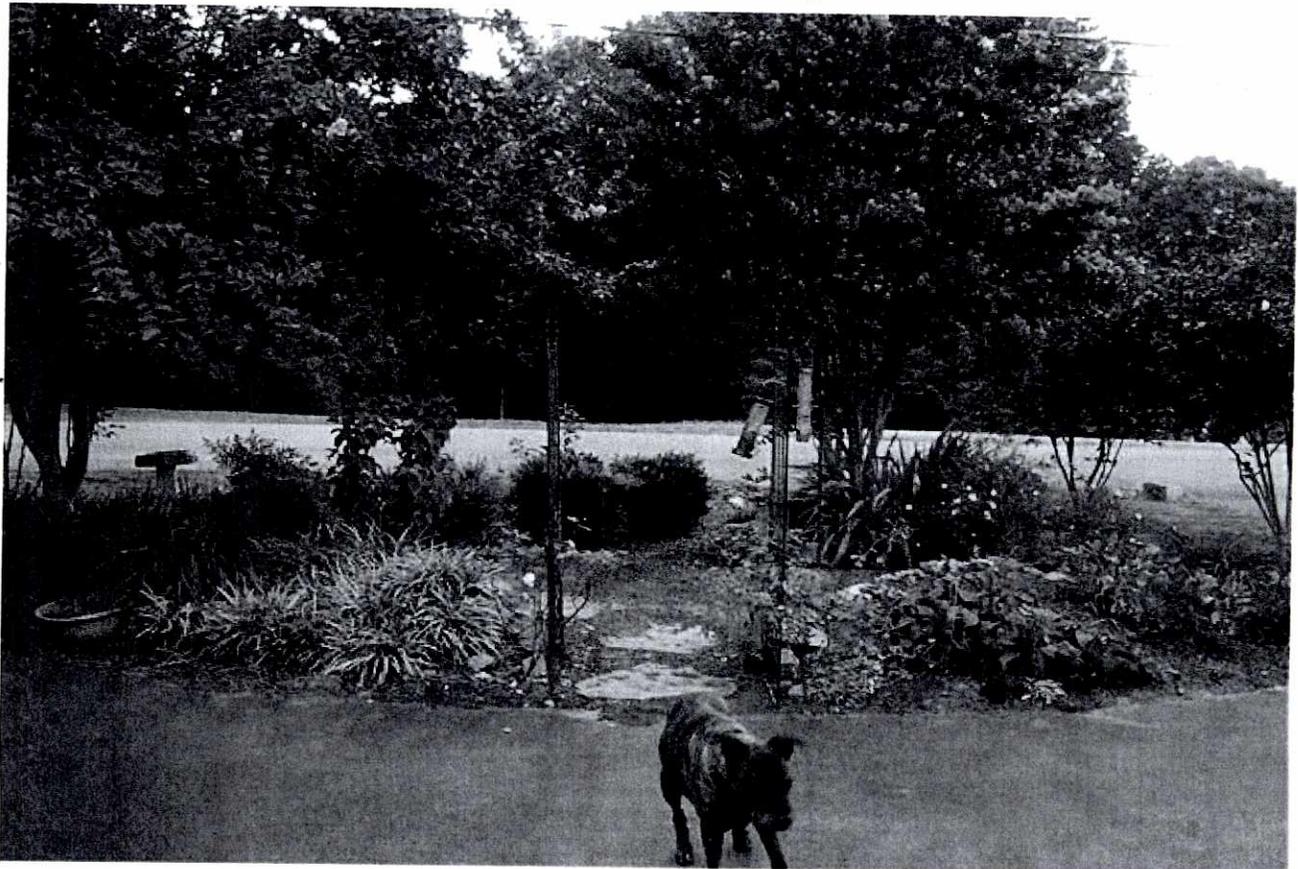
9-1-10



**FRONT** # 16

View from center of house facing Lawton St.

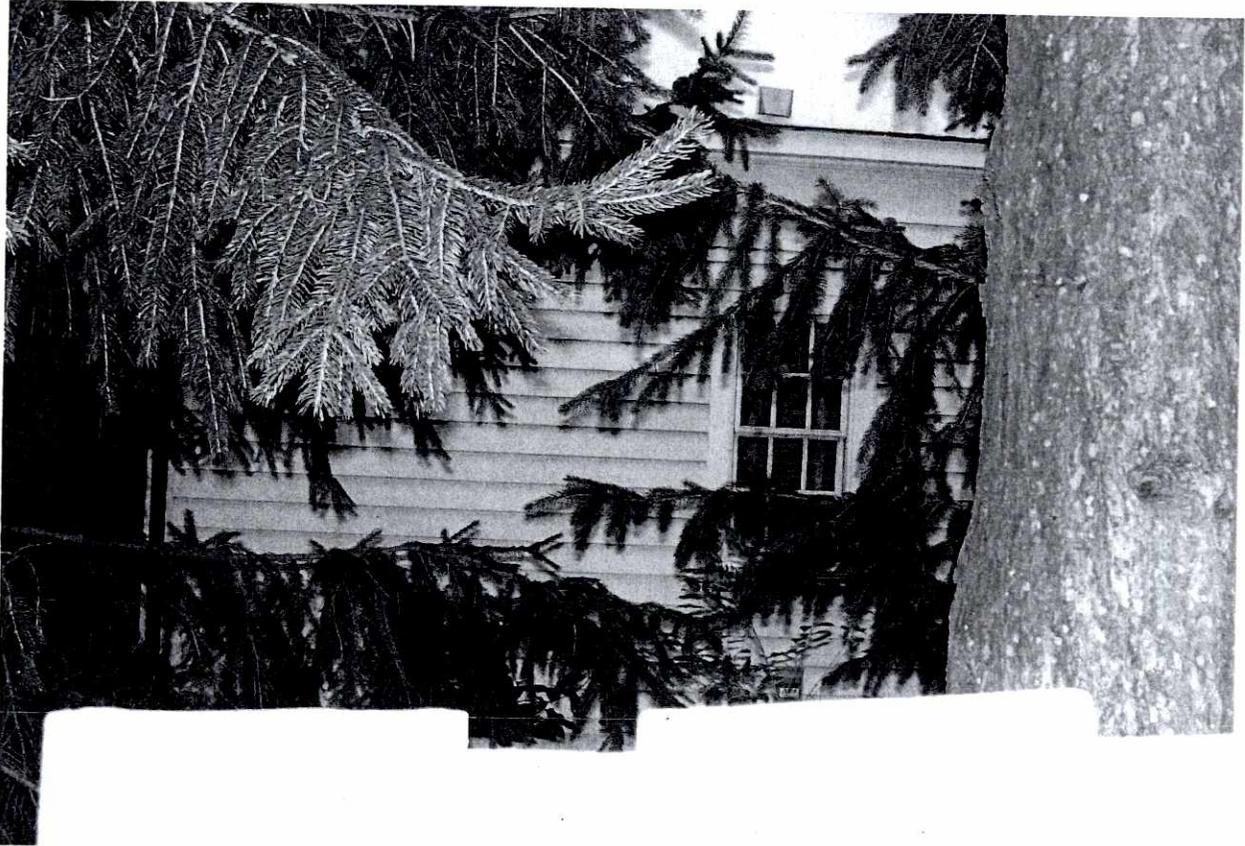
9-1-10



# 17

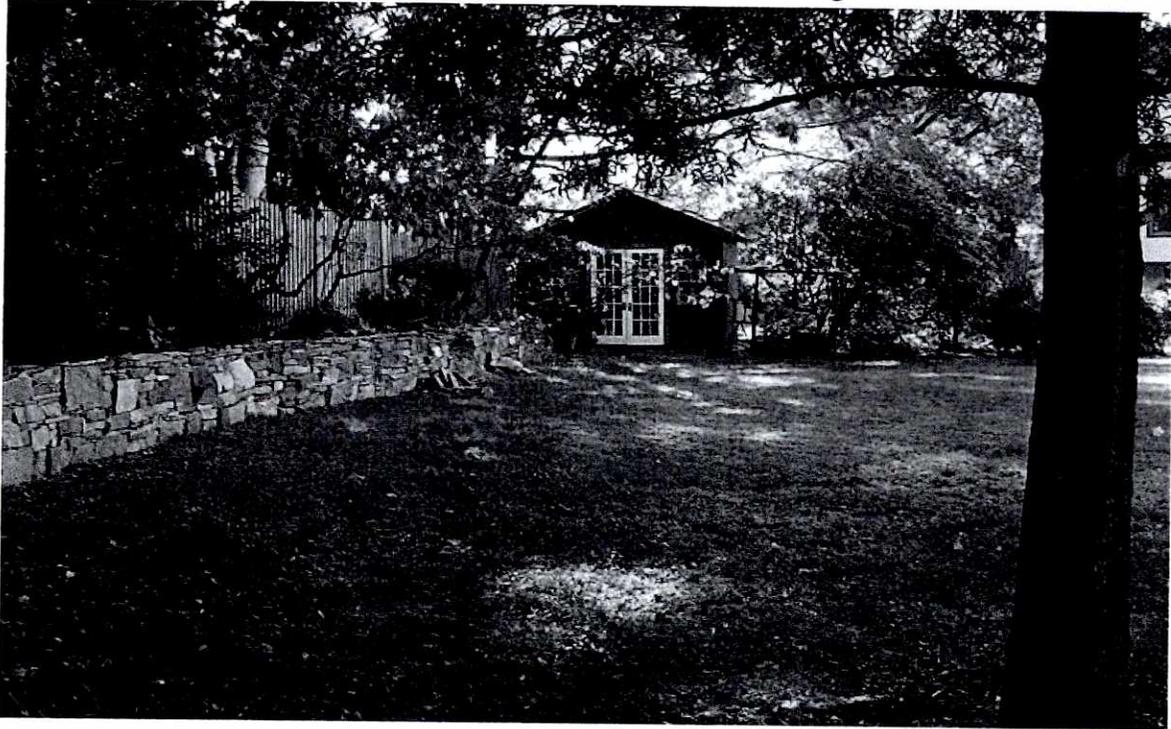
View of rear neighbors' pool house from the top of the rear fence, which also serves as the  
dividing line between mine and the rear properties  
(fence is in foreground)

Per aerial photo, the pool house is 3X larger and significantly taller than my shed.

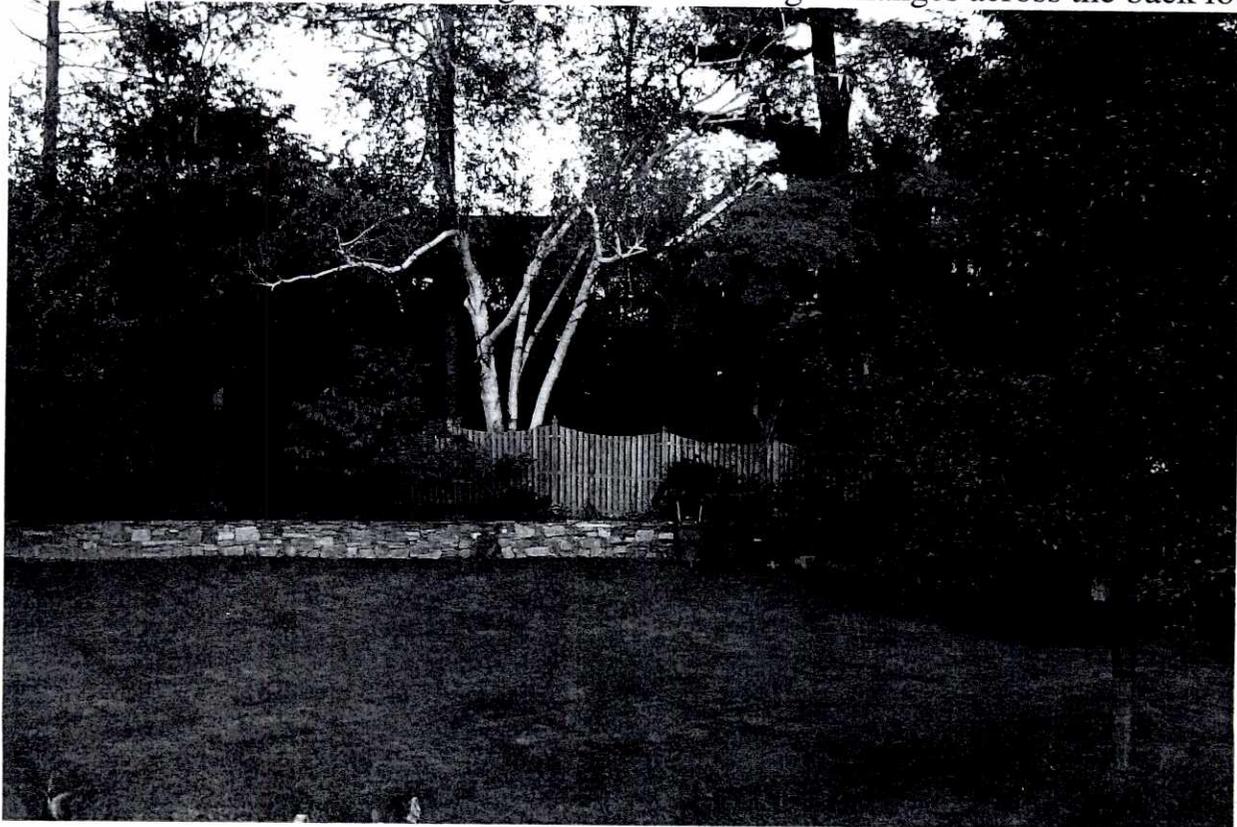


Picture of shed, (repeat of pic #11))

this shows that the shed base is approx. 3'-4' below the top of the stone wall, the rear fence which runs across the back of the lot, starts out level w/ the shed as it runs next to the shed, however, the fence jumps up where the stone wall begins and runs the remaining distance atop the wall, or approx. 3'-4' higher than the portion of fence running next to the shed.



View of fence from deck, showing how the fence height changes across the back lot



**DESCRIPTION OF THE APPLICATION**

The applicant requests approval of a special permit for an error in building location to permit an accessory storage structure to remain 0.3 feet from the rear lot line and 0.1 feet from the side lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Accessory Storage Structure	Rear	11.5 feet	0.3 feet	11.2 feet	98%
Special Permit	Accessory Storage Structure	Side	20.0 feet	0.1 feet	19.9 feet	100%

\*The minimum required rear yard is 11.5 feet, per Sect. 10-104 of the Zoning Ordinance, and the minimum required side yard is 20 feet in the R-1 District.

**EXISTING SITE DESCRIPTION**

The subject site measures 21,781 square feet in area. The site is zoned R-1, and it is developed with a one story, brick single family detached dwelling, which was built in 1959. At the front of the house, there is a circular asphalt driveway, which covers 21% of the minimum front yard. At the rear of the house, there is an open wood deck and patio. A large portion of the rear yard is dedicated to a septic field, as noted on the special permit plat. In the southeast corner of the site, there is a shed, which measures 11.3 feet in height and approximately 132 square feet in area. Along the rear property line, there is a raised landscape bed with a stone wall. There are mature trees, shrubs, and flowering plants around the site.

**CHARACTER OF THE AREA**

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

## **BACKGROUND**

Following a complaint, the Department of Code Compliance (DCC) issued a Notice of Violation (NOV) on August 26, 2010 for the location of the accessory storage structure. The applicant notes that the shed has been on the site for over 10 years. A copy of the NOV is attached in Appendix 4. A Default Judgment was issued on November 4, 2011 after a Declaratory Judgment and Injunctive Relief was filed on September 12, 2011. A copy of the Declaratory Judgment is included as Appendix 5. A Final Order has not been issued at this time.

Staff requested an administrative reduction on behalf of the applicant due to an error in construction for the carport, which was issued a permit in 1998 at a distance of 15.1 feet from the side lot line. The carport currently measures at a distance of 14.7 feet from the eave of the carport to the side lot line. An administrative reduction was granted on March 14, 2012, and a copy of the reduction letter is attached as Appendix 6.

The applicant submitted letters in support from adjacent neighbors at the time of the application's submission, and copies are attached in Appendix 7.

A copy of the submitted special permit plat titled "Special Permit Plat, Lot 30, Section 1, River Oaks" prepared by Highlander Surveying Services, P.C., dated September 23, 2011 and revised though January 13, 2012, is included at the front of the staff report.

There are no special permit or variance applications with a similar request in the vicinity of the application parcel.

## **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 8. 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 26, 2010
5. Declaratory Judgment and Injunctive Relief
6. Administrative Reduction Letter dated March 13, 2012
7. Letters of Support
8. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2012-DR-006**

**April 11, 2012**

1. This special permit is approved for the location and size of the accessory storage structure (frame shed) as shown on the plat prepared by Highlander Surveying Services, P.C., dated September 23, 2011 and revised though January 13, 2012, as submitted with this application and is not transferable to other land.

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

Application No.(s): SP 2012-02-006  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: March 11, 2011  
 (enter date affidavit is notarized)

I, Margaretha Carroll McGrail, Trustee, 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      11073/a

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)
Margaretha Carroll McGrail, Trustee and Beneficiary of the Margaretha Carroll McGrail Revocable Trust	743 Lawton Street, McLean, VA 22101	<b>APPLICANT / TITLE OWNER</b>

(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 2012 - DR - 006  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: March 11, 2011  
(enter date affidavit is notarized)

110731a

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)

Not Applicable (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 2012-OR-006  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: MARCH 11, 2011  
(enter date affidavit is notarized)

11073/a

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)

Not Applicable (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 2012 - OR - 006  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: March 11, 2011  
(enter date affidavit is notarized)

110731a

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 2012-OR-006  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: March 11, 2011  
(enter date affidavit is notarized)

110731a

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:

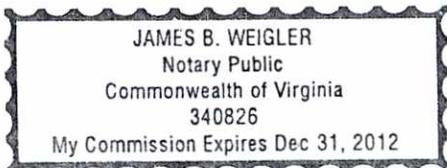
(check one)  Applicant Margaretha Carroll McGrail, Trustee  Applicant's Authorized Agent

Margaretha Carroll McGrail, Trustee  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 11<sup>th</sup> day of MARCH 2011, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]  
Notary Public

My commission expires: 12/31/2012



Statement of Justification <sup>1-27-13</sup> ~~12/15/10~~

Regarding Standards 8-914 – error in building location for shed.

I, Margaretha McGrail owner of **743 Lawton St. McLean, VA 22101**, respectfully request Fairfax County approval of a Group 9 Special Permit for an error in building location to allow an accessory storage structure (garden shed) to remain within minimum yard setbacks for Fairfax County. The garden shed is currently within 1' of the rear and side property lines and not in conformance since its height is greater than 8 ½ (it is 11.5'). It is approximately 131 square feet.

The shed has been in place for more than ten years as all each of my neighbors attest to in their attached notarized letters. Any noncompliance has been in good faith. Due to long term deterioration the pre-existing shed, which had been thoughtfully placed by the prior owners for minimum visibility, repaired and re-enforced. Fairfax County was called prior to doing any work and asked if the shed could/should remain at the far corner of lot and close to the lot lines. We were told it could remain at the property's corner close to the property line as long as the structure was no greater than 200 square feet and no more than one story which is the case.

The shed was located at this corner by the prior owners because that is the area/grade at which the property is lowest, providing the least visibility. In fact the grading at that corner is 3 ½ 'bellow the rear neighbor's property grade as evidenced by the attached plat and pictures. The shed is painted to be camouflaged and trees & bushes (including a very old 14' tall Rhododendron planted by the prior owners to hide the pre-existing shed) were planted to screen the shed from view. Great consideration was given by the prior owners to locate the shed where it would be least visible to the neighbors and much thought and care has been given since to further hide the shed from view. This serves the very purpose for which the County code is intended.

Relocating the shed elsewhere on the property would;

- make the currently concealed shed a visual encroachment and eyesore to the neighbors, which in turn would
- adversely affect the neighbors enjoyment of their outdoor spaces
- be out of character with the neighborhood and as such would
- be detrimental to property values of bordering properties by creating the very situation for which the code is intended to prevent, visibility to neighbors. My neighbor's notarized letter states such.

The shed is incongruence with the neighborhood. It is much smaller than most accessory structures in the neighborhood including the rear neighbor's pool house. Based on current construction costs forcing compliance would be an unreasonable financial hardship and would be counterproductive and detrimental to the neighborhood.

Attached are letters from all bordering properties homeowners. Each neighbor acknowledges the shed's long time existence and affirms its present location & height. Each supports and/or request County approval of a special permit that would allow the shed to remain at its current location and avoid the detrimental consequences they would suffer if the shed were moved. The shed would be significantly more visible and incongruent to the neighborhood and neighboring properties.

The approval of this application;

1. Does not interfere with, abrogate or annul any easements, covenants or other agreements between parties, as they may apply to the property subject to the application.
2. Will not impair the purpose and intent of this Ordinance
3. Will not result in an increase in density or floor area ratio
4. Will not create an unsafe condition to other properties or public streets
5. Will not be detrimental to the use and enjoyment of other property in the immediate vicinity

Enclosed documentation:

- Aerial photo of shed
- Photos of property from various property points
- Letters from neighbors
- Survey of property w/ shed dimensions

Sincerely



Margaretha McGrail

Owner

743 Lawton St. McLean, VA 22101



# 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 26, 2010

### SHERIFF'S LETTER

**CASE #:** 201004372 **SR#:** 62732

**SERVE:** Margaretha Carroll Mcgrail  
Margaretha Carroll Mcgrail Revocable Trust  
743 Lawton Street  
McLean, Virginia 22101

**LOCATION OF VIOLATION** 743 Lawton Street  
McLean, Virginia 22101-1512  
Tax Map #: 21-2 ((3)) 30  
River Oaks, Sec.1, Lot 30  
Zoning District: R-1

Dear Property Owner:

An inspection of the above referenced property on August 25, 2010, revealed the following violations of the Fairfax County Zoning Ordinance.

**§ 10-104 (10E) Accessory Storage Structure Location**  
**§ 2-302 (6) Accessory Use must comply with Article 10:**

The presence of an accessory storage structure which measured approximately 13' in height, is approximately 143 square feet in area and is located approximately 1' and approximately 1' respectively from the side and rear lot lines.

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10E of Sect. 10-104 of the Zoning Ordinance which states:

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

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

**EXHIBIT F**

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

The minimum required side yard distance in the R- 1 District is 20' as detailed in Par. 10 of section 10- 104 of the Zoning Ordinance.

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10E of Sect. 10-104 above, it is in violation of Par. 10E of Sect. 10-104 and Par 6. of Sect. 2-302 of the Zoning Ordinance which states:

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

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the height of the structure to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the rear and side lot lines in accordance with Par. 10E of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

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

Margaretha Carroll Mcgrail  
Margaretha C Mcgrail. Trust  
August 26, 2010  
Page 3

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.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-9327 or 703-324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Caudle", written in a cursive style.

Michael Caudle  
Property Maintenance/Zoning Enforcement Inspector

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

EILEEN M. McLANE, FAIRFAX COUNTY  
ZONING ADMINISTRATOR,

Plaintiff,

v.

Case No. CL-2011\_\_\_\_\_

MARGARETHA CARROLL  
MCGRAIL, TRUSTEE UNDER THE  
MARGARETHA CARROLL MCGRAIL  
REVOCABLE TRUST,

Serve:

743 Lawton Street  
McLean, Virginia 22101,

Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF

COMES NOW Plaintiff Eileen M. McLane, Fairfax County Zoning Administrator, by counsel, and requests this Honorable Court to grant the relief requested in this Complaint for Declaratory Judgment and Injunctive Relief and as grounds therefore states as follows:

1. The Board of Supervisors of Fairfax County, Virginia (“Board of Supervisors”), is the duly elected governing body of Fairfax County, Virginia, with the power to adopt ordinances to secure and promote the health, safety, and general welfare of the County and enforce the same under Va. Code Ann. §§ 15.2-2208 (2008), 15.2-2286(A)(4) (Supp. 2011), and Fairfax County Code § 1-1-12(c).

2. The Board of Supervisors has designated Plaintiff Eileen M. McLane as the Fairfax County Zoning Administrator (“Zoning Administrator”). Under the provisions of Va. Code Ann. § 15.2-2286(A)(4), the Zoning Administrator has all necessary authority to

administer and enforce the Fairfax County Zoning Ordinance (“Zoning Ordinance”), which includes the authority to issue written orders requiring that any condition found to be in violation of the Zoning Ordinance be remedied and bring legal action for injunctive relief to ensure compliance with the Zoning Ordinance.

3. Defendant Margaretha Carroll McGrail, Trustee under the Margaretha Carroll McGrail Revocable Trust (“Defendant”) is the owner of real property located at 743 Lawton Street, McLean, Virginia, by virtue of a Deed recorded on March 11, 2002, among the land records of Fairfax County, Virginia, in Deed Book 12744 at Page 1311. This parcel is also shown on the Fairfax County Real Property Identification Map as Tax Map No. 21-2((3)) parcel 30 (“the subject property”). A true and accurate copy of the Deed is attached hereto and incorporated herein by reference as Exhibit A.

4. The subject property contains approximately 21,781 square feet, is zoned to the R-1 District (Residential District, One Dwelling Unit/Acre), and is developed with a detached single-family dwelling. A true and accurate copy of Tax Map No. 21-2 showing the location and zoning of the subject property is attached hereto and incorporated herein by reference as Exhibit B.

5. Zoning Ordinance § 3-107(2)(A)(1)(b) provides that the minimum side yard for a conventional subdivision lot in the R-1 District, the zoning district applicable to the subject property, is 20 feet. A true and accurate copy of Zoning Ordinance § 3-107(2)(A)(1)(b) is attached hereto and incorporated herein by reference as Exhibit C.

6. Zoning Ordinance § 10-104(10)(E) provides that “[a]n accessory storage structure which exceeds eight and one-half (8½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the

minimum required side yard to the side lot line.” A true and accurate copy of Zoning Ordinance § 10-104(10)(E) is attached hereto and incorporated herein by reference as Exhibit D.

7. Zoning Ordinance § 2-302(6) provides that “[n]o accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.” A true and accurate copy of Zoning Ordinance § 2-302(6) is attached hereto and incorporated herein by reference as Exhibit E.

8. By Sheriff's Letter dated August 26, 2010, then Property Maintenance/Zoning Enforcement Inspector (now, Code Compliance Investigator) Michael Caudle (“Caudle”) issued a Notice of Violation to the Defendant for maintaining on the subject property an accessory storage structure that exceeds 8½ feet in height and is located within the minimum required side yard and closer than a distance equal to its height to the rear lot line in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6). The Defendant was directed to clear these violations from the subject property within 15 days after receiving the August 26, 2010, Notice of Violation. A true and accurate copy of the August 26, 2010, Notice of Violation is attached hereto and incorporated herein by reference as Exhibit F.

9. The August 26, 2010, Notice of Violation was served upon the Defendant on August 27, 2010. A true and accurate copy of the stamp establishing posted service by a deputy sheriff of the August 26, 2010, Notice of Violation upon the Defendant on August 27, 2010, is attached hereto and incorporated herein by reference as Exhibit G.

10. Va. Code Ann. § 15.2-2311 (2008) and Zoning Ordinance §§ 18-301 and -303 provide, among other things, that any person aggrieved by any decision of the Zoning Administrator or by any order, requirement, decision, or determination of any other

administrative officer made in the administration and enforcement of the Zoning Ordinance may appeal such decision, order, requirement, or determination to the Fairfax County Board of Zoning Appeals (“BZA”) within thirty days of the decision, order, requirement or determination. A true and accurate copy of Zoning Ordinance §§ 18-301 and -303 is attached hereto and incorporated herein by reference as Exhibit H.

11. The Defendant never appealed the determinations contained in the August 26, 2010, Notice of Violation to the BZA. The time for filing such appeals has expired.

12. As is more particularly set forth in the affidavit of Caudle, which is attached hereto and incorporated herein by reference as Exhibit I, the Defendant continues to violate Zoning Ordinance §§ 10-104(10)(E) and 2-302(6) in the manner described in paragraph 8 above and as set forth in the August 26, 2010, Notice of Violation.

13. The Court has jurisdiction to award declaratory judgments in this case pursuant to Va. Code Ann. § 8.01-184 (2007), and it also has jurisdiction to award injunctive relief in this case pursuant to Va. Code Ann. §§ 8.01-620 (2007), 15.2-2286(A)(4), and 15.2-2208.

WHEREFORE, the Zoning Administrator, by counsel, respectfully requests that this Honorable Court grant her the following relief:

a. Declare that maintaining and/or allowing the maintenance on the subject property of an accessory storage structure that exceeds 8½ feet in height and is located within the minimum required side yard and closer than a distance equal to its height to the rear lot line violates Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

b. Enter a mandatory injunction requiring the Defendant, within 15 days after the entry of a final order in favor of the Zoning Administrator in this case, to do the following:

(1) permanently remove from the subject property to a lawful site the accessory storage structure

that exceeds 8½ feet in height; (2) permanently reduce the height of the accessory storage structure to a height of no more than 8½ feet and leave it in its present location; or (3) permanently relocate the accessory storage structure to a lawful site on the subject property; and

c. Enter a prohibitory injunction permanently enjoining the Defendant, her tenants, agents, and/or employees from maintaining and/or allowing the maintenance on the subject property of an accessory storage structure that exceeds 8½ feet in height and is located within the minimum required side yard and/or closer than a distance equal to its height to the rear lot line at any time in the future in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

d. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance on the subject property of an accessory storage structure that exceeds 8½ feet in height and is located within the minimum required side yard and/or closer than a distance equal to its height to the rear lot line at any time in the future in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

e. Order that the Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times in the future for the purpose of inspecting and photographing the subject property to monitor compliance with the orders entered by the Court in favor of the Zoning Administrator in this case; and

f. Order the Clerk of the Fairfax County Circuit Court to record a copy of the final order entered in favor of the Zoning Administrator in this case among the land records of Fairfax County, Virginia, pursuant to Va. Code Ann. § 17.1-227 (Supp. 2011), to give notice of the prohibitions and restrictions contained therein to any successors-in-interest of the Defendants and index said final order as follows:

GRANTORS: Margaretha Carroll McGrail, Trustee; Margaretha Carroll McGrail Revocable Trust

GRANTEES: Eileen M. McLane; Fairfax County Zoning Administrator

g. Grant the Zoning Administrator such other relief as this Court may deem appropriate.

Respectfully submitted,

EILEEN M. McLANE, FAIRFAX COUNTY  
ZONING ADMINISTRATOR

By *Laura S. Gori*  
Counsel

DAVID P. BOBZIEN  
COUNTY ATTORNEY

By *Laura S. Gori*  
Laura S. Gori (VSB No. 68907)  
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

Consideration: \$ 0  
 Tax Map #: 021 - 2 - / 03 / 0000  
 Grantees Address:  
 743 Lawton Street  
 McLean, Va 22101  
 File # C01N110

Return to:  
 MBH Settlement Group, LLC  
 6852 Elm Street  
 Suite 200  
 McLean, VA 22101

### DEED

THIS DEED is made this 25th day of February, 2002 by and between Margaretha Carroll MCGRAIL, Unmarried, Grantor; and Margaretha Carroll MCGRAIL, Trustee under the Margaretha Carroll McGrail Revocable Trust dated July 1, 1999, Grantee.

### WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey, in fee simple and with General Warranty of Title, unto the Grantee, the following described property, situate, lying and being in Fairfax County, Virginia, to wit:

Lot 30, Section 1, RIVER OAKS, as the same appears duly dedicated, platted and recorded in Deed Book 1321, at page 91, among the land records of Fairfax County, Virginia.

AND BEING the same property conveyed to Margaretha Carroll McGrail, unmarried, by virtue of a Deed dated December 17, 2001, recorded December 27, 2001, in Deed Book 12522, at page 276, among the land records of Fairfax County, Virginia.

TO HAVE AND TO HOLD the property in fee simple, upon the trusts and for the uses and purposes set forth herein and in the Trust Agreement, including the following:

Full power and authority is hereby granted to the Trustees and their successors to protect and conserve the Property; to sell, contract to sell and grant options to purchase the Property and any right, title or interest therein on any terms; to exchange the Property or any part thereof for any other real or personal property upon any terms; to convey the Property by deed or other conveyance to any grantee, with or without consideration; to mortgage, execute a deed of trust on, pledge or otherwise encumber the Property or any part thereof; to lease, contract to lease, grant options to lease and renew, extend, amend and otherwise modify leases on the Property or any part thereof from time to time, for any period of time, for any rental, and upon any other terms and conditions; and to release, convey or assign any other right, title or interest whatsoever in the Property or any part thereof.

THE DEED IS EXEMPT FROM RECORDATION TAXES PURSUANT TO SECTION 58.1 811 12 OF THE VIRGINIA CODE

HUNZEKER, LYON & LEGGETT, P.C.  
 6852 ELM STREET, SUITE 200  
 MCLEAN, VIRGINIA 22101  
 (703) 734-9088

No party dealing with the Trustees in relation to the Property in any manner whatsoever (without limiting the foregoing) no party to whom the Property or any part thereof or any interest therein shall be conveyed, contracted to be sold, leased or mortgaged by the Trustees, shall be obliged (a) to see to the application of any purchase money, rent or money borrowed or otherwise advanced on the Property, (b), to see that the terms of the trust have been complied with, (c) to inquire into the authority, necessity or expediency of any act of Trustees, or (d) to be privileged to inquire into any of the terms of the Trust Agreement creating said trust. Every deed, mortgage, lease or other instrument executed by the Trustees in relation to the Property shall be conclusive evidence in favor of every person claiming any right, title or interest thereunder; (a) that at the time of the delivery thereof the said trust was in full force and effect, (b) that such instrument was executed in accordance with the trust, terms and conditions thereof and of the said Trust Agreement and is binding upon all beneficiaries thereunder, (c) that the Trustees were duly authorized and empowered to execute and deliver Every such Instrument, and (d) that if a conveyance has been made by a successor or successors in trust, that such successor or successors have been properly appointed and are fully vested with all the title, estate, rights, powers, duties and obligations of its, his and their predecessor in trust.

The Trustees shall have no individual liability or obligation whatsoever arising from Trustees' ownership as Trustees of the legal title to the property, or with respect to any act done or contract entered into or indebtedness incurred by said Trustees in dealing with said property, or in otherwise acting as Trustees, except only so far as said Property and any trust funds in the actual possession of the Trustees shall be applicable to the payment and discharge thereof.

The interest of every beneficiary under the Trust Agreement and of all persons claiming under any of them shall be only in the earnings, avails, and proceeds arising from the rental, sale or other disposition of the Property. Such interest is hereby declared to be personal property, and no beneficiary hereunder shall have any right, title or interest, legal or equitable, in or to the Property, as such, but only in the earnings, avails and proceeds thereof as provided in the Trust Agreement.

This Deed is governed by and is to be read and construed with reference to Section 55-17.1 of the Code of Virginia, 1950, as amended, from time to time.

This conveyance is made subject to the covenants, easements, conditions, restrictions, and rights of way of record.

The Grantor covenants that said Grantor has the right to convey the aforesaid property; that the Grantor has done no act to encumber said property; that the Grantee shall have quiet possession of said property; and that the said Grantor will execute such further assurances as may be requisite.

WITNESS the following signature and seal:

Margaretha Carroll McGrail (SEAL)  
Margaretha Carroll MCGRAIL  
\_\_\_\_\_  
(SEAL)

STATE OF VIRGINIA,  
COUNTY OF FAIRFAX, to wit:

I, the undersigned, a Notary Public for the State and County aforesaid, do hereby certify that Margaretha Carroll MCGRAIL, whose name is signed to the foregoing Deed dated February 25, 2002, has acknowledged the same before me in my State and County aforesaid.

Given under my hand and seal this 25th day of February, 2002.

Margaret Kay Stewart (SEAL)  
Notary Public

My commission expires:



File # C01N110

HUNZIKER, LYON & LEGGETT, P.C.  
8062 ELM STREET, SUITE 220  
MCLEAN, VIRGINIA 22101  
(703) 734-8088



A Public County - Official Publication



Map Scale: 1" = 100 Feet

This map was prepared by the Planning Department of Prince William County, Virginia, under the supervision of the Board of Supervisors. It is based on the official records of the County and is subject to change without notice.

GENERAL NOTES

1. This map is a preliminary map and is subject to change without notice.

2. The boundaries shown on this map are based on the official records of the County.

3. The names of the streets and other features shown on this map are based on the official records of the County.

4. The names of the sections shown on this map are based on the official records of the County.

5. The names of the lots shown on this map are based on the official records of the County.

6. The names of the owners shown on this map are based on the official records of the County.

7. The names of the adjacent owners shown on this map are based on the official records of the County.

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Administrative Index

Location: Langley Oaks  
 Precinct: Williams  
 County: Prince William

Administrative Index

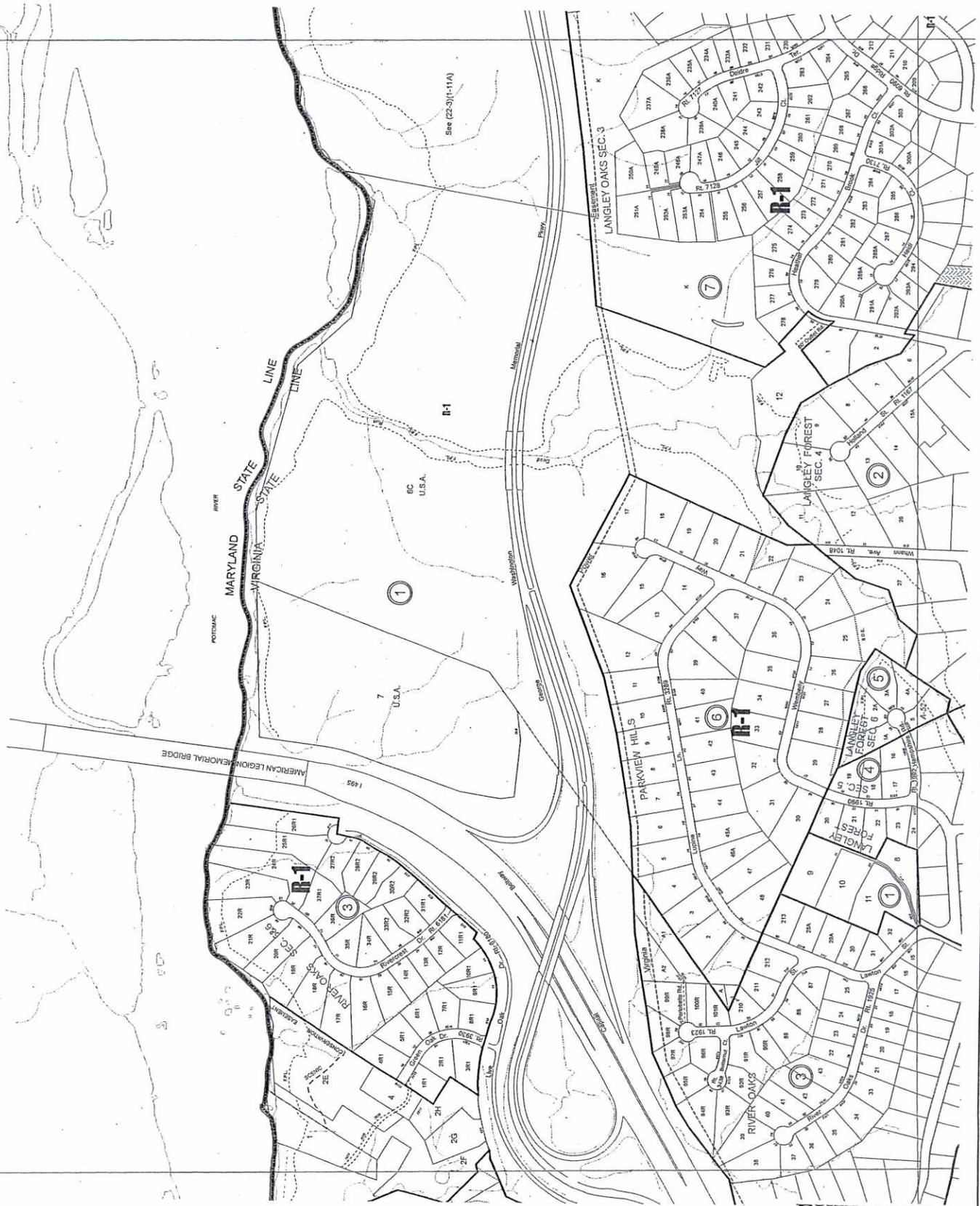
21-1	22-1
21-3	21-4
22-3	

PROPERTY MAP ZONING  
**21-2**

Revised to: 01-01-2011

Prepared by:  
 THE COUNTY OF PRINCE WILLIAM  
 Planning Department  
 17000 Old Dominion Road, Suite 117  
 Fairfax, Virginia 22031-2408  
 FAX: (703) 212-5937

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 Printed on: 24 Jan 2011



**EXHIBIT B**

## RESIDENTIAL DISTRICT REGULATIONS

### 3-105

#### Use Limitations

1. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted, special permit or special exception use.
2. All uses shall comply with the performance standards set forth in Article 14.
3. Cluster subdivisions may be permitted in accordance with the provisions of Sect. 9-615.

### 3-106

#### Lot Size Requirements

1. Minimum district size for cluster subdivisions: 10 acres
2. Average lot area: No Requirement
3. Minimum lot area
  - A. Conventional subdivision lot: 36,000 sq. ft.
  - B. Cluster subdivision lot: 25,000 sq. ft.
4. Minimum lot width
  - A. Conventional subdivision lot:
    - (1) Interior lot - 150 feet
    - (2) Corner lot - 175 feet
  - B. Cluster subdivision lot:
    - (1) Interior lot - No Requirement
    - (2) Corner lot - 125 feet
5. The minimum district size requirement presented in Par. 1 above may be waived by the Board in accordance with the provisions of Sect. 9-610.

### 3-107

#### Bulk Regulations

1. Maximum building height
  - A. Single family dwellings: 35 feet
  - B. All other structures: 60 feet
2. Minimum yard requirements
  - A. Single family dwellings

FAIRFAX COUNTY ZONING ORDINANCE

- (1) Conventional subdivision lot
  - (a) Front yard: 40 feet
  - (b) Side yard: 20 feet
  - (c) Rear yard: 25 feet
- (2) Cluster subdivision lot
  - (a) Front yard: 30 feet
  - (b) Side yard: 12 feet, but a total minimum of 40 feet
  - (c) Rear yard: 25 feet

B. All other structures

- (1) Front yard: Controlled by a 50° angle of bulk plane, but not less than 40 feet
- (2) Side yard: Controlled by a 45° angle of bulk plane, but not less than 20 feet
- (3) Rear yard: Controlled by a 45° angle of bulk plane, but not less than 25 feet

3. Maximum floor area ratio:

- A. 0.15 for uses other than residential or public
- B. 0.20 for public uses

**3-108 Maximum Density**

- 1. Conventional subdivisions: One (1) dwelling unit per acre.
- 2. Cluster subdivisions: 1.1 dwelling units per acre for cluster subdivisions approved by special exception and one (1) dwelling unit per acre for cluster subdivisions that are the result of a proffered rezoning from a district that allows a permitted maximum density of less than one (1) dwelling unit per acre.

**3-109 Open Space**

In subdivisions approved for cluster development, 30% of the gross area shall be open space.

**3-110 Additional Regulations**

## FAIRFAX COUNTY ZONING ORDINANCE

Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.

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

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

- 10. The following regulations shall apply to the location of freestanding accessory storage structures:
  - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
  - B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.
  - C. An accessory storage structure which does not exceed eight and one-half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2-505.
  - D. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located in any part of any minimum required side yard.
  - E. An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.
  - F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
    - (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
    - (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.
- 11. Solid waste and recycling storage containers may be located in any yard, provided that any container located in a minimum front yard shall be located no closer than fifteen (15) feet to a front lot line and shall be screened from view from the abutting street by either plantings or solid fencing. Notwithstanding the provisions of Par. 3 above, the maximum height of such solid fencing shall not exceed one (1) foot above the solid waste and

## GENERAL REGULATIONS

### **PART 3 2-300 INTERPRETATION OF DISTRICT REGULATIONS**

The Sections that follow present a brief statement of interpretation of the district regulations set forth in Articles 3-7.

#### **2-301 Statements of Purpose and Intent**

The purpose and intent statement presented for each zoning district sets forth the underlying and primary purpose and intent of a given district; although it is not to be concluded that a district is created solely for the fulfillment of a singular stated purpose.

#### **2-302 Permitted Uses**

1. It is the intent of this Ordinance to permit any use, not otherwise prohibited by law, to locate in a specified zoning district(s), either as a permitted use, a special permit use or a special exception use. In the event there is not a particular use listed in the Ordinance that corresponds with the use in question, then it shall be interpreted that the use in the Ordinance having the most similar characteristics as the use in question shall govern. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions of Sect. 18-103.
2. Notwithstanding that a given use might be construed to qualify as a use permitted in a district, if such use has characteristics more similar to a particular use listed or defined elsewhere in the Ordinance, then it shall be interpreted that the latter listing or definition shall govern. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions of Sect. 18-103.
3. The term 'permitted uses' represents only those uses which are permitted by right in a given district and does not apply to uses otherwise allowed by special permit or special exception.
4. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.
5. No use shall be allowed in any district which is not permitted by the regulations for the district.
6. No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.
7. No accessory service use, as defined in Article 20, shall hereafter be established, altered or enlarged unless such accessory service use complies with the provisions of Part 2 of Article 10.
8. No home occupation shall hereafter be established, altered or enlarged unless such home occupation complies with the provisions of Part 3 of Article 10.



Return Copy

# 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 26, 2010

### SHERIFF'S LETTER

**CASE #:** 201004372 **SR#:** 62732

**SERVE:** Margaretha Carroll Mcgrail  
Margaretha Carroll Mcgrail Revocable Trust  
743 Lawton Street  
McLean, Virginia 22101

**LOCATION OF VIOLATION** 743 Lawton Street  
McLean, Virginia 22101-1512  
Tax Map #: 21-2 ((3)) 30  
River Oaks, Sec.1, Lot 30  
Zoning District: R-1

Dear Property Owner:

An inspection of the above referenced property on August 25, 2010, revealed the following violations of the Fairfax County Zoning Ordinance.

**§ 10-104 (10E) Accessory Storage Structure Location**  
**§ 2-302 (6) Accessory Use must comply with Article 10:**

The presence of an accessory storage structure which measured approximately 13' in height, is approximately 143 square feet in area and is located approximately 1' and approximately 1' respectively from the side and rear lot lines.

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10E of Sect. 10-104 of the Zoning Ordinance which states:

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

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

**EXHIBIT F**

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

The minimum required side yard distance in the R- 1 District is 20' as detailed in Par. 10 of section 10- 104 of the Zoning Ordinance.

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10E of Sect. 10-104 above, it is in violation of Par. 10E of Sect. 10-104 and Par 6. of Sect. 2-302 of the Zoning Ordinance which states:

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

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the height of the structure to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the rear and side lot lines in accordance with Par. 10E of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

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

Margaretha Carroll Mcgrail  
Margaretha C Mcgrail. Trust  
August 26, 2010  
Page 3

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.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-9327 or 703-324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Caudle", written in a cursive style.

Michael Caudle  
Property Maintenance/Zoning Enforcement Inspector

PERSONAL SERVICE

Being unable to make personal service a copy was delivered in the following manner:

Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information of its purport. List name, age of recipient, and relation to recipient to party named above.

Posted on front door and other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

Served on a Secretary of the Commonwealth.

Not found

*S.S. Consoles*

SERVING OFFICER

*Stan G. Barry, Sheriff*  
*Fairfax County, VA*

*8-27-10*

DATE

ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

**PART 3 18-300 APPEALS**

**18-301 Initiation**

Any person aggrieved or any officer, department, board, commission or authority of the County affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance may appeal such decision to the BZA, except an appeal which relates to a proffered condition shall be taken to the Board as provided for in Par. 10 of Sect. 204 above.

**18-302 Authorization**

The Zoning Administrator shall administer and interpret the Zoning Ordinance. The BZA shall hear and decide all cases of appeal by persons as set forth in Sect. 301 above. The BZA shall also hear and decide applications for interpretation of any district boundary if uncertainty remains after application by the Zoning Administrator of the rules specified in Sect. 2-204.

**18-303 Time Limit on Filing**

1. Except as set forth below, all appeals shall be filed within thirty (30) days from the date of the decision appealed by filing a notice of appeal with the Zoning Administrator and the BZA.
2. Appeals for notices of violation involving the following violations shall be filed within ten (10) days from the date of the notice with the Zoning Administrator and the BZA:
  - A. Occupancy of a dwelling unit in violation of Sect. 2-502.
  - B. Parking of inoperative motor vehicles, as defined in Chapter 110 of The Code, in violation of Par. 13 of Sect. 10-102.
  - C. Parking a commercial vehicle in an R district in violation of Par. 16 of Sect. 10-102.
  - D. Parking of vehicles on an unsurfaced area in the front yard of a single family detached dwelling in the R-1, R-2, R-3 or R-4 Districts in violation of Par. 8 of Sect. 11-102.
  - E. Erection of prohibited signs on private property in violation of Paragraphs 1, 4, 5, 6, 7, 11, 12, 13 or 14 of Sect. 12-104.
  - F. Erection, alteration, refacing or relocation of a sign on private property in violation of Sect. 12-301.
  - G. Other short-term, recurring violations similar to those listed in Paragraphs 2A through 2F above.

## FAIRFAX COUNTY ZONING ORDINANCE

3. A notice of appeal filed pursuant to Paragraphs 1 and 2 above shall specify the grounds for such appeal, and shall be filed in accordance with the provisions of Sect. 304 below.

### **18-304 Submission Requirements**

Every application to appeal shall contain all of the following information:

1. Four (4) copies of an application on forms provided by the County, completed and signed by the appellant. Such application shall not require the execution of an affidavit.
2. Four (4) copies of a statement signed by the appellant setting forth the following information:
  - A. The order, requirement, decision or determination which is the subject of the appeal.
  - B. The date upon which the decision was made.
  - C. The appellant's grounds for the appeal and the reasons therefor. If the appellant is a County officer, department, board or bureau, the statement shall specify how the appellant is affected; otherwise, the statement shall specify how the appellant is an aggrieved person.
3. Such other supportive data as the appellant may desire in the record, including plats, plans, drawings, charts or related material.
4. An application fee as provided for in Sect. 106 above.

### **18-305 Processing**

1. Upon receipt of an appeal, the Zoning Administrator shall immediately transmit a copy to the BZA.
2. Prior to the public hearing, the Zoning Administrator shall forward to the BZA copies of the application for appeal and all of the papers constituting the records upon which the decision being appealed was based.
3. The BZA shall process all applications for appeal in accordance with the provisions of Part 2 of Article 19.

### **18-306 Decision on Appeals**

1. The BZA may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from.
2. The concurring vote of four (4) members of the BZA shall be required to reverse any order, requirement, decision or determination of the Zoning Administrator or any other administrative officer under this Ordinance.

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

<b>EILEEN M. McLANE, FAIRFAX COUNTY</b>	:
<b>ZONING ADMINISTRATOR,</b>	:
	:
<b>Plaintiff,</b>	:
	:
<b>v.</b>	: <b>Case No. CL-2011_____</b>
	:
<b>MARGARETHA CARROLL</b>	:
<b>MCGRAIL, TRUSTEE UNDER THE</b>	:
<b>MARGARETHA CARROLL MCGRAIL</b>	:
<b>REVOCABLE TRUST,</b>	:
	:
<b>Defendant.</b>	:

**AFFIDAVIT**

**STATE OF VIRGINIA** :  
: **to-wit**  
**COUNTY OF FAIRFAX** :

THIS DAY, I, Michael Caudle, personally appeared before the undersigned notary public in the state and county aforesaid and being duly sworn according to law, made oath that:

1. I am currently employed by the Fairfax County Department of Code Compliance as a Code Compliance Investigator. My responsibilities include, among other things, the investigation of violations and enforcement of the Fairfax County Zoning Ordinance (“Zoning Ordinance”).

2. I inspected the property located at 743 Lawton Street, McLean, Virginia (Tax Map No. 21-2((3)) parcel 30) (“subject property”), on August 25, 2010, June 23, 2010, and September 6, 2011. During these inspections, I observed that the subject property continues to be in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6) for the reasons described in

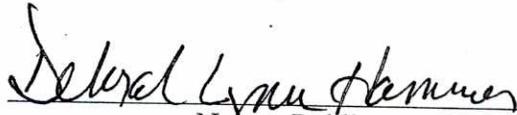
paragraph 8 of the Complaint and as set forth in the August 26, 2010, Notice of Violation, a copy of which is attached to the Complaint as Exhibit F.

3. The photograph attached hereto as Attachment 1 fairly and accurately depicts the condition of the subject property during my inspections of the subject property on August 25, 2010, June 23, 2010, and September 6, 2011.



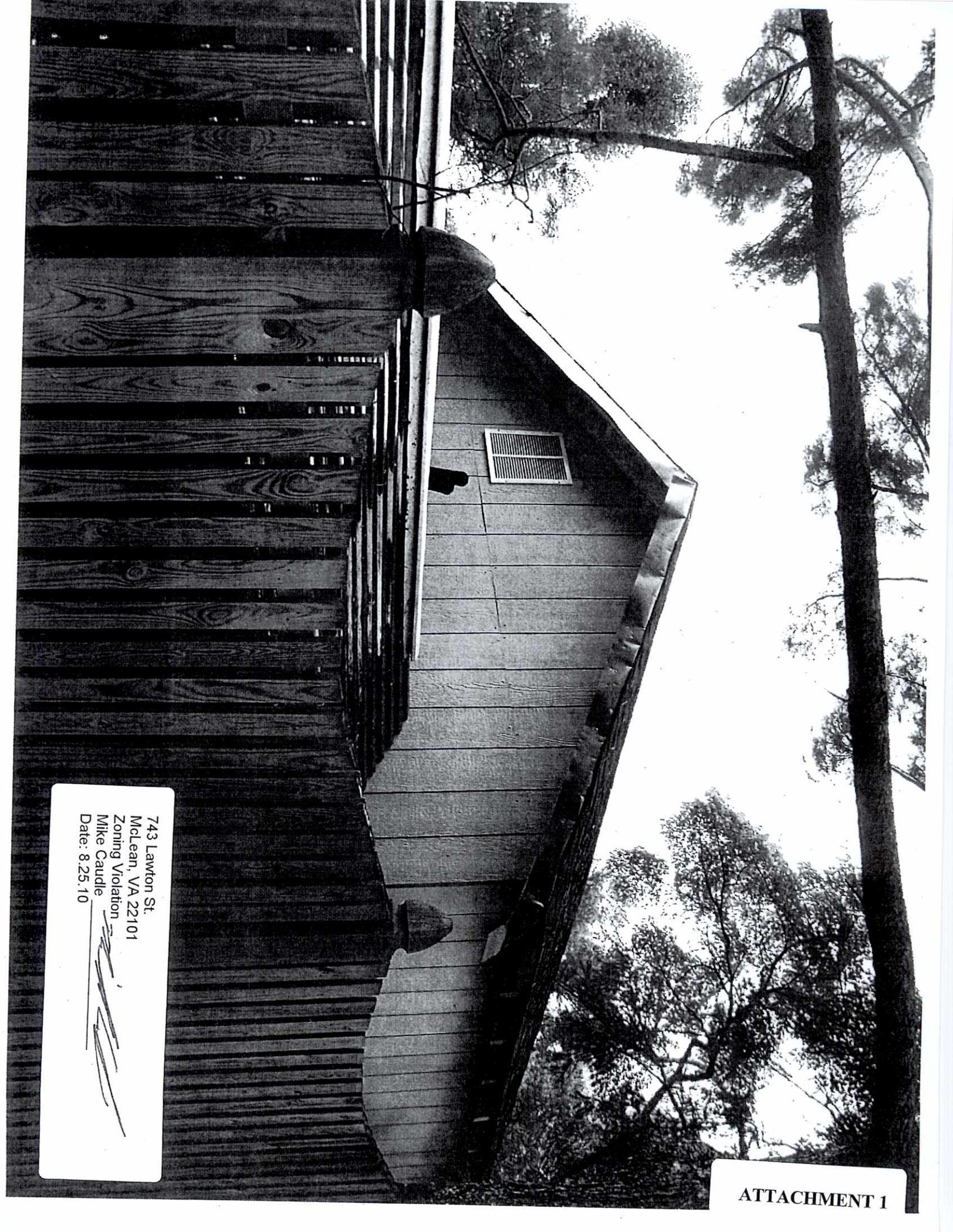
Michael Caudle

Subscribed and sworn to before me, a Notary Public in the County and State aforesaid, this 12<sup>th</sup> day of September 2011.

  
Notary Public

My commission expires: 4/30/2012





ATTACHMENT 1

743 Lawton St.  
McLean, VA 22101  
Zoning Violation  
Mike Caudle  
Date: 8.25.10



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 14, 2012

**TO:** Brenda Cho  
Zoning Evaluation Division

**FROM:**  Brian S. Parsons, AICP  
Zoning Administration Division  
Ordinance Administration Branch

**SUBJECT:** River Oaks, Section 1, Lot 30  
743 Lawson Street  
Tax Map Ref.: 21-2 ((3)) 30  
Zoning District: R-1

This is in reference to your March 12, 2012 memorandum in which you requested a determination on whether an administrative reduction can be granted for an existing carport located on the referenced property.

The property is zoned R-1 District which has a minimum side yard requirement of 20 feet. Under Sect. 2-412 of the Zoning Ordinance, carports (including associated eaves) can encroach 5 feet into any minimum required side yard but not closer than 5 feet to any side lot line.

Based on a plat submitted in conjunction with SP 2012-DR-012 for an error in building location for a shed, the eave of the existing carport was constructed 14.7 feet from the right side lot line instead of 15 feet as indicated on the Building Permit application. Therefore, the carport does not meet the minimum side yard requirement.

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. Therefore, a 0.3 foot administrative reduction in the minimum required side yard is granted for the carport.

cc: Lorrie Kirst, Deputy Zoning Administrator for Ordinance Administration Branch w/ plat  
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch w/ plat

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](http://www.fairfaxcounty.gov/dpz)



Margaretha McGrail  
743 Lawton Street  
McLean, VA 22101

November 1, 2010

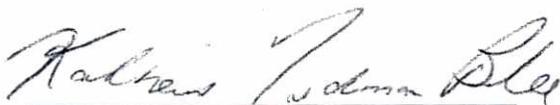
TO: Department of Planning & Zoning

- Reference: Permit Application
- Location: 743 Lawton Street; McLean, VA 22101
- Owner: Margaretha McGrail
- Purpose of Permit: To permit reduction to the minimum yard requirements based on errors in building location to permit existing shed to remain within 1 foot from side and rear lot lines

I am the neighbor whose property abuts the north side of Margaretha McGrail's property. I am aware that the height of the shed on Margaretha's property exceeds 8 ½ feet and is within one foot of her property's rear and side lot lines.

There has been a shed at the southeast corner of Margaretha's property for many years. The shed's height and location have not and do not affect me negatively. The shed's location and height are fine with me.

Sincerely,



Katherine Tidman Blee  
741 Lawton St.  
McLean, VA 22101

date

RECEIVED  
Department of Planning & Zoning

DEC 22 2010

Zoning Evaluation Division

Margaretha McGrail  
743 Lawton Street  
McLean, VA 22101

TO: Department of Planning & Zoning

- Reference: Permit Application
- Location: 743 Lawton Street; McLean, VA 22101
- Owner: Margaretha McGrail
- Purpose of Permit: To permit reduction to the minimum yard requirements based on errors in building location to permit existing shed to remain within 1 foot from side and rear lot lines

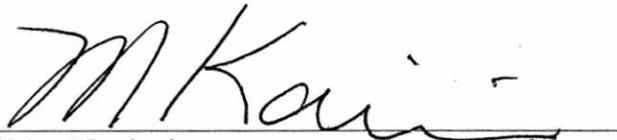
We have been neighbors of Margaretha McGrail for more than 10 years. Our property joins Margaretha's at the south side of her lot. The side to which her garden shed is closest. Her shed has existed at its current location as long as we can remember. It does not and has never bothered us or affected us negatively in any manner. The shed is hardly noticeable to us.

We understand the height of Margaretha's shed exceeds 8 ½ feet and thus, per Fairfax County Zoning Regulations, is considered too close to our property line. Please know that neither the shed's height or the sheds' proximity to our property line concern or bother us. The height & location of the shed are fine and in fact are preferable to us.

Were the shed to be moved to any other location in her backyard in order to conform to Fairfax County guidelines that change in location would cause the shed to be significantly more visible from our lot which would impinge on our current view and affect us and our property adversely. We therefore request that you allow Margaretha to keep her shed as it is and in its current location.

Feel free to contact about this matter any time. #703-489-4464

Sincerely,



Moe Kaviani  
801 Lawton St.  
McLean, VA 22101

 10.30.10

Arezoo Kaviani  
801 Lawton St.  
McLean, VA 22101

RECEIVED  
Department of Planning & Zoning  
DEC 22 2010  
Zoning Evaluation Division

Margaretha McGrail  
743 Lawton Street  
McLean, VA 22101

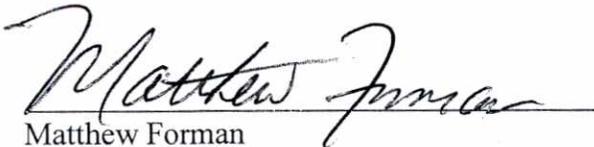
November, 2010

To: *Department of Planning & Zoning*

- Reference: Permit Application
- Location: 743 Lawton Street, McLean, VA 22101
- Owner: Margaretha McGrail
- Purpose of Permit: To permit reduction to the minimum yard requirements based on errors in building location to permit existing shed to remain within one foot from side and near lot lines.

I am the neighbor whose property borders the rear of Margaretha McGrail's property. I am aware that the shed at the back right corner of her property exceeds 8-½ feet in height and is within a foot of my property line and as such does not conform to Fairfax County Zoning Regulations. The height of the shed and the shed's proximity to my property does not adversely affect me at this time, and I do not object to its current location.

Sincerely,



Matthew Forman  
809 Lawton St., McLean, VA 22101

12/7/10  
Date

RECEIVED  
Department of Planning & Zoning  
DEC 22 2010  
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.