



APPLICATION ACCEPTED: March 2, 2012
BOARD OF ZONING APPEALS: May 23, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

May 16, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-DR-010

DRANESVILLE DISTRICT

APPLICANTS AND OWNERS: Anthony Martoccia
Gwen Yandall

SUBDIVISION: Ciara Estates

STREET ADDRESS: 9459 Deramus Farm Court, Vienna, 22182

TAX MAP REFERENCE: 019-3 ((17)) 0024

LOT SIZE: 19,597 square feet

ZONING DISTRICT: R-2, Cluster

ZONING ORDINANCE PROVISIONS: 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit within an existing dwelling.

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-DR-010 for an accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

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

O:\vhomer\Special Permits\Martoccia\Staff Report.doc

Rebecca Homer

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

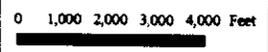
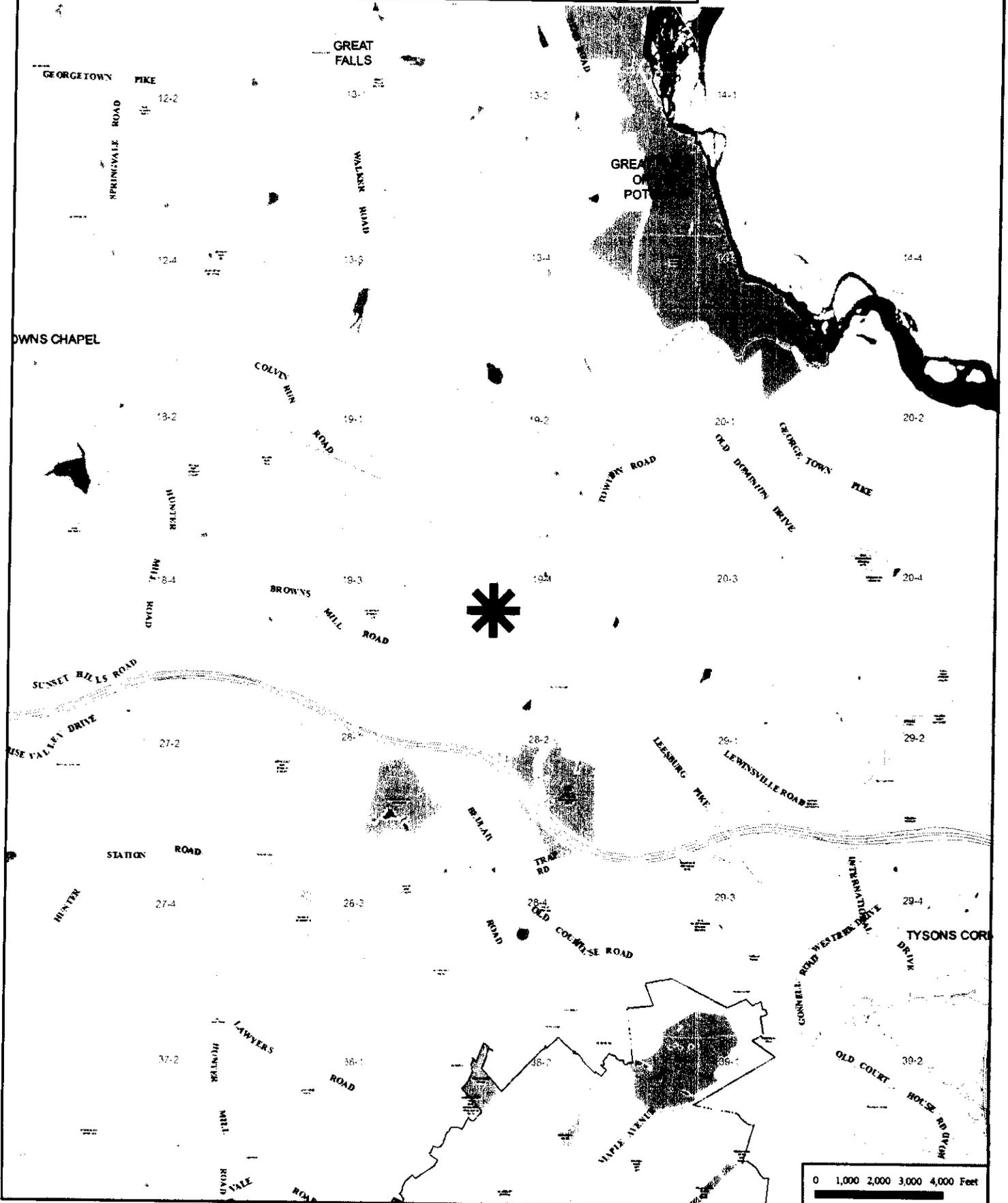


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

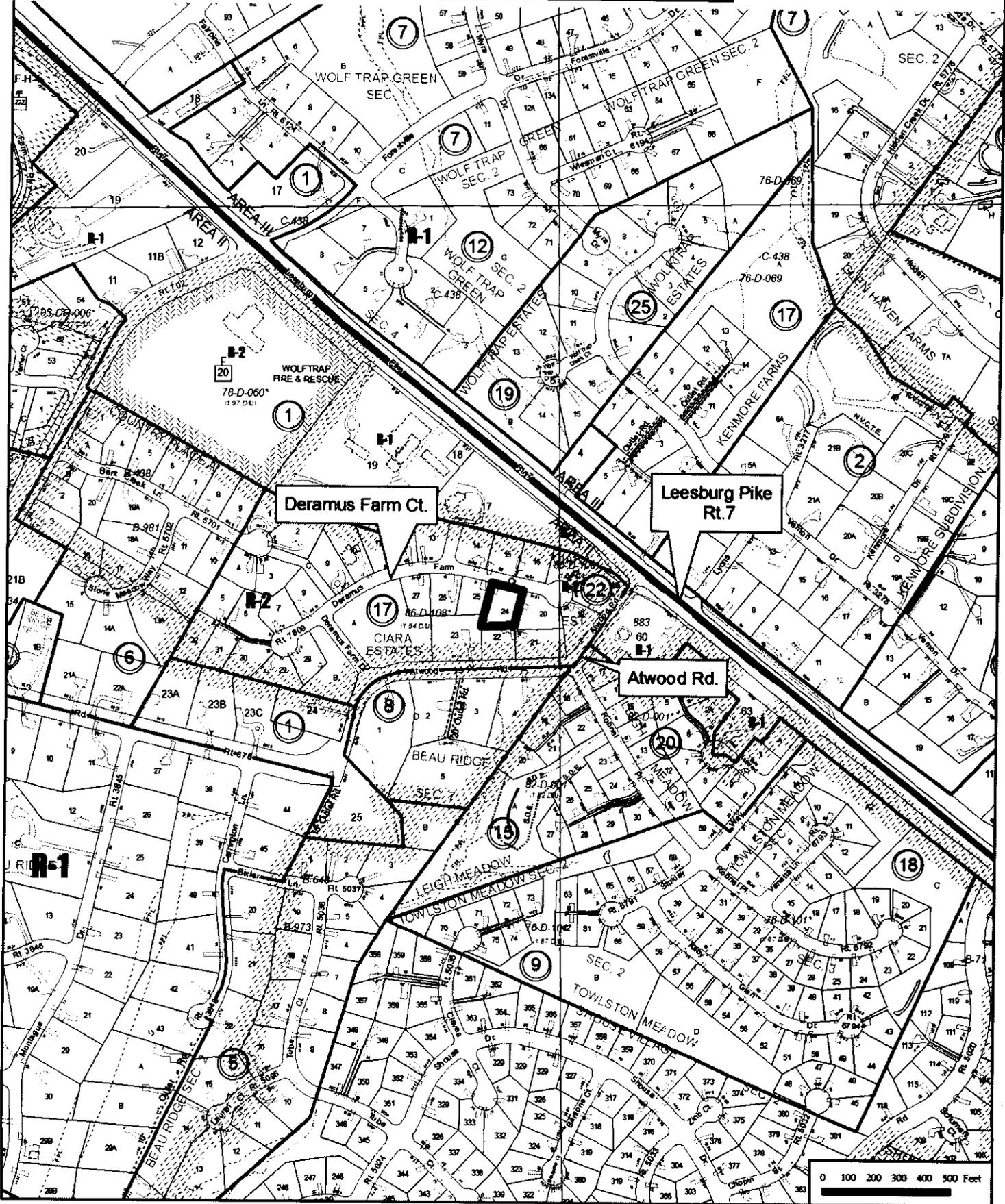
Special Permit

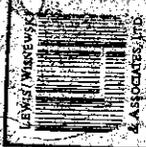
SP 2012-DR-010

ANTHONY MARTOCCIA AND GWEN YANDALL



Special Permit
SP 2012-DR-010
ANTHONY MARTOCCIA AND GWEN YANDALL





DEVELOPED BY:
TIPOCA HOMES
 12111 WILSON BLVD
 SUITE 100
 TUSTIN, CA 92680
 (714) 261-1111

A-1.1

BASMENT FLOOR
 FRONT BEDROOM OPTION

SUBMIT 3 COPIES OF TRUSS FABRICATORS SHOP
 DETAILS FOR APPROVAL PRIOR TO ERECTION
 AND ENGINEERED FRAMING PLANS
 FOR ALL FLAT CHORD TRUSSES.

PROPOSED LOTS REQUIRE ENGINEERING
 APPROVAL RELATIVE TO ACCESSIBILITY
 AND TRUSS FABRICATORS SHOP
 DETAILS FOR APPROVAL PRIOR TO ERECTION
 AND ENGINEERED FRAMING PLANS
 FOR ALL FLAT CHORD TRUSSES.

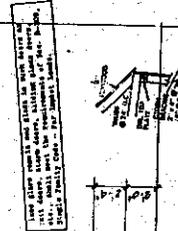
PROPOSED TRUSS FABRICATORS SHOP
 DETAILS FOR APPROVAL PRIOR TO ERECTION
 AND ENGINEERED FRAMING PLANS
 FOR ALL FLAT CHORD TRUSSES.

ALL STUDY ROOMS SHALL HAVE AT LEAST ONE OPERABLE
 WINDOW OR OTHER MEANS OF EGRESS. STUDY
 ROOMS SHALL BE PROVIDED WITH EGRESS
 DOORS WHICH SHALL BE AT LEAST 20" HIGH
 AND 32" WIDE. THE FLOOR AND WALLS SHALL
 BE FINISHED WITH NO DIMENSION LESS THAN
 1/2" GYP. BOARD.

RECEIVED
 Department of Planning & Building
 DEC 18 2011
 Building Engineering Division



PROVIDE SOIL PRETREATMENT
 PROPOSED TREATED SOIL PLATES
 REQUIRED FOR THE SLAB ON GRADE
 PER THE ASSOCIATION WHEN REQUIRED UNDER SLAB.



PROPOSED TRUSS FABRICATORS SHOP
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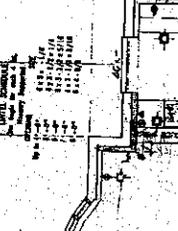
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NO OPERABLE WALL OF THIS PRESSURE IN APPROVED SET
 OF FRAME IS ON JOB SET.
 APPROVED APPROVAL
 ALL DIMENSIONS SHALL BE MADE TO THE CENTERLINE UNLESS
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 THE DISTANCE

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BASMENT FLOOR PLAN
 (FRONT BEDROOM OPTION)

ALL WOOD USED EXTERNALLY SHALL BE
 TREATED TO RESIST DECAY AND ALL OTHER
 REQUIREMENTS FOR THE SLAB ON GRADE
 PER THE ASSOCIATION WHEN REQUIRED UNDER SLAB.



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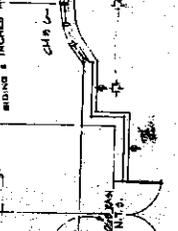
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SMOKE DETECTORS REQUIRED NEAR SLEEPING
 AREAS AND IN BATHROOM. ALL FLOORS
 CERTAINLY WHEN.



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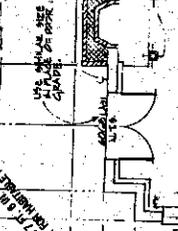
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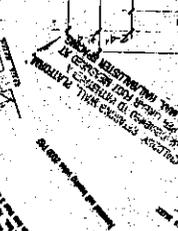
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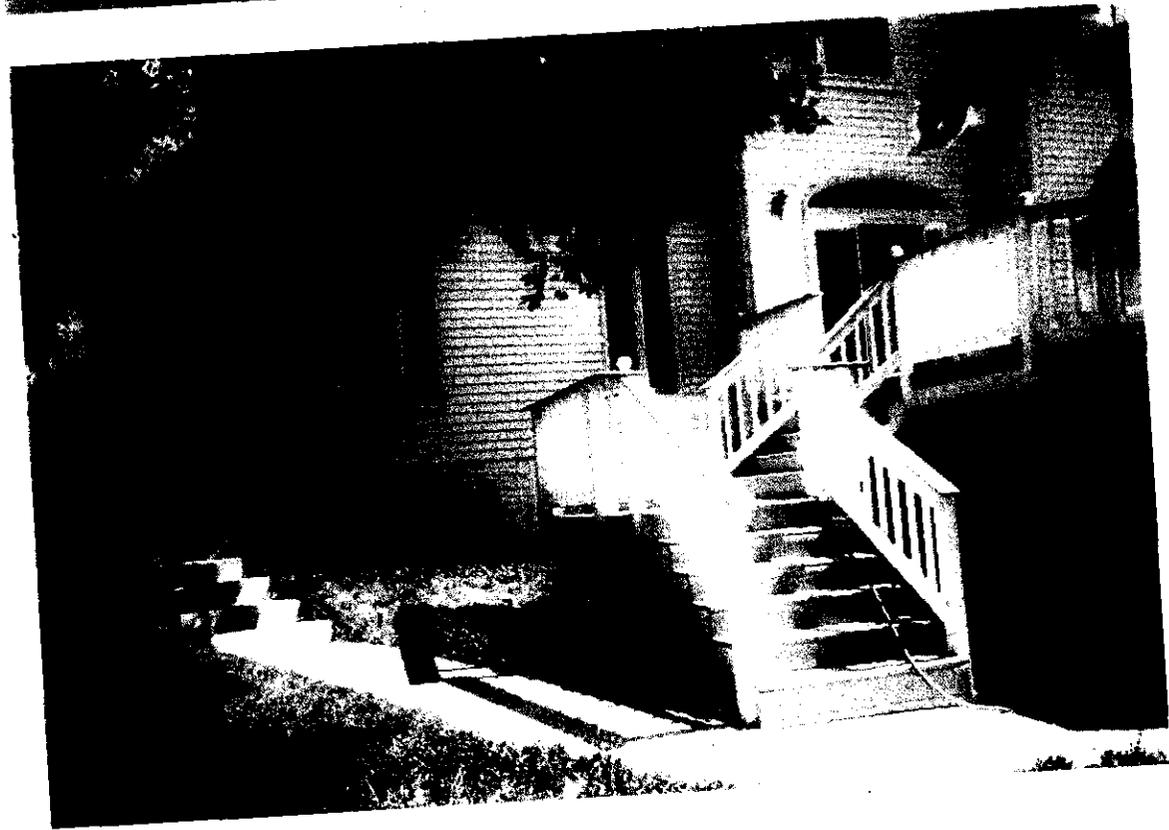
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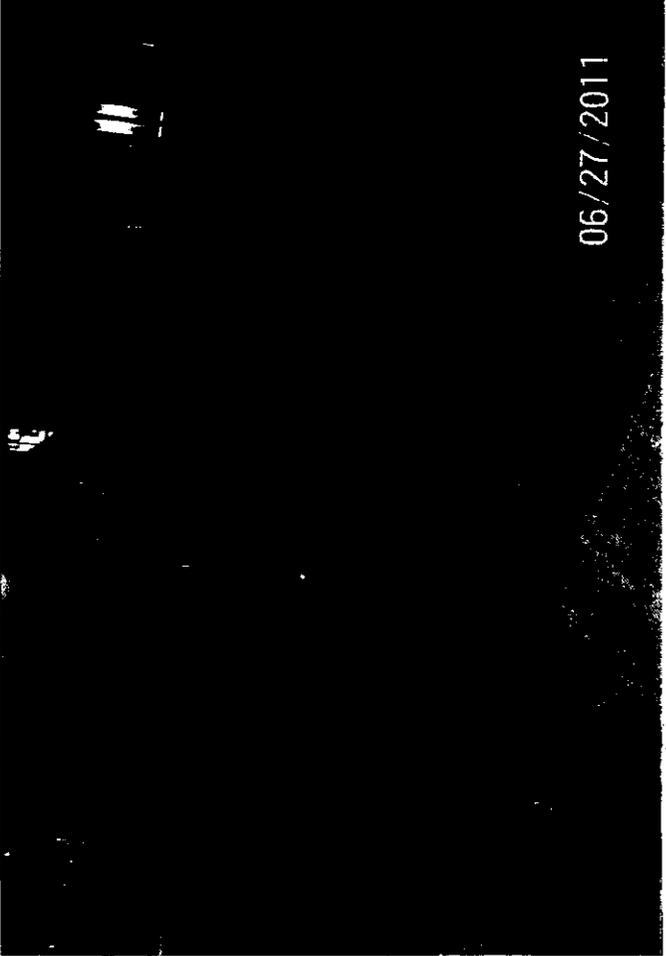
PR	24' 4" x 12' 5"	=	306.2 sq ft
Bk Clnd	4' 10" x 10' 6"	=	49.0 "
Bath Room	6' 10" x 5' 4"	=	43.2 "
1/2 Bath	7' 1" x 5' 4"	=	31.3 "
Hall Clnd	11' x 8'	=	88.0 "
LR	15' 5" x 13' 6"	=	208.0 "
Breakfast	15' 5" x 10' 3"	=	157.6 "







2nd Floor



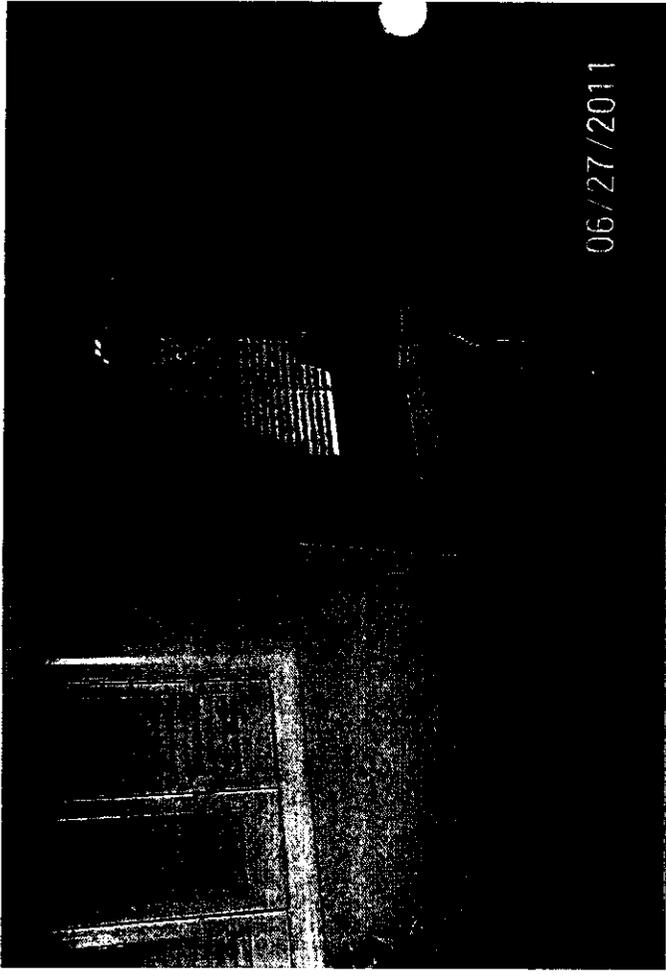
06/27/2011

2nd Floor



06/27/2011

2nd Floor



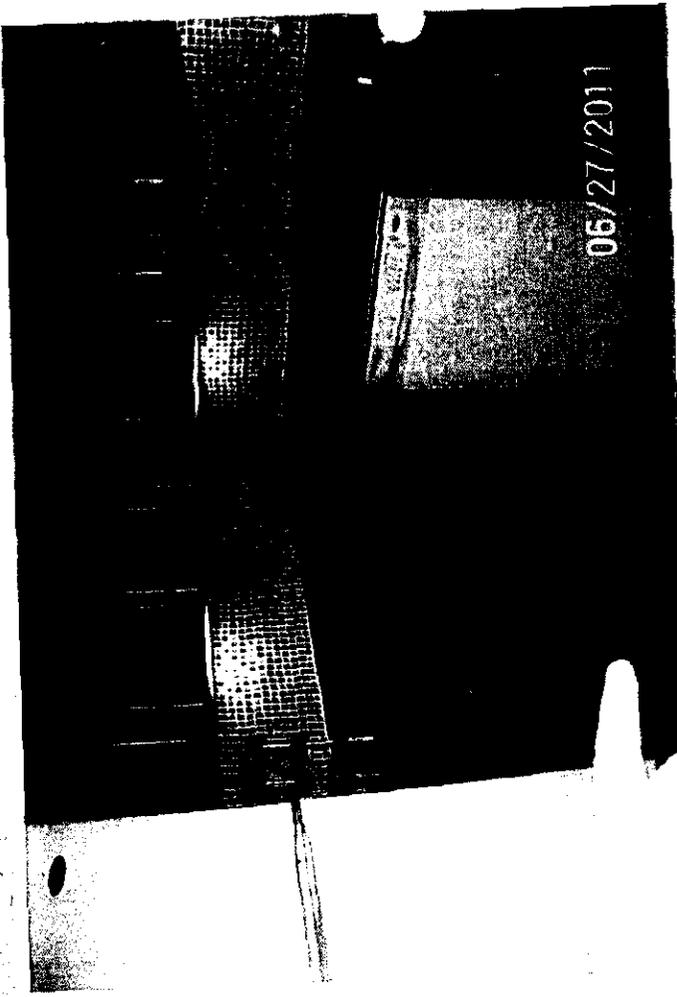
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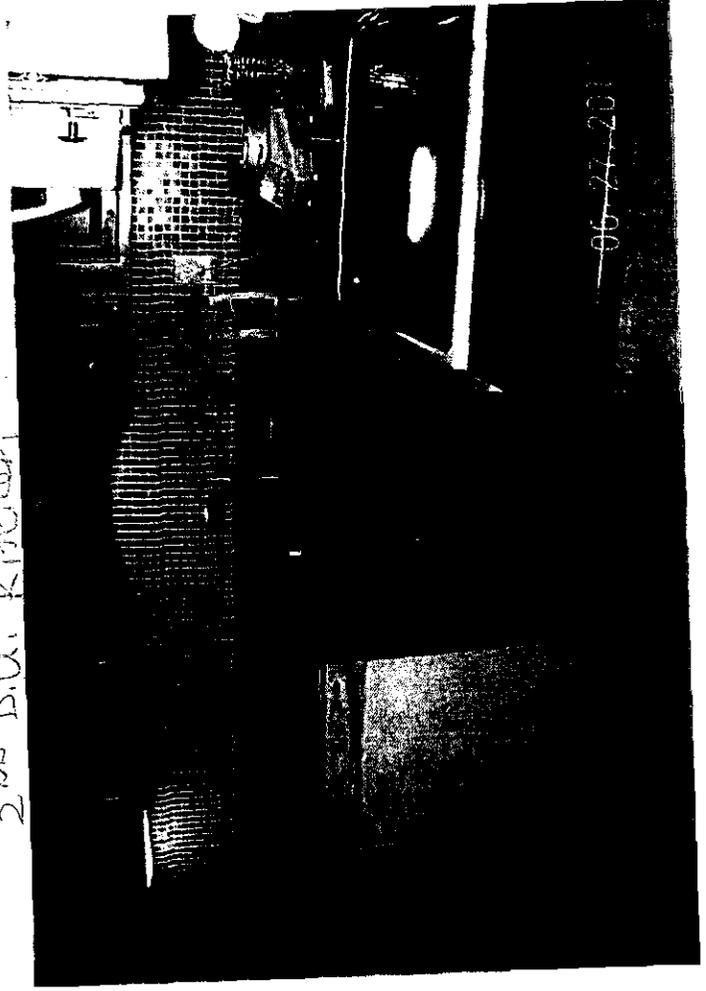
06/27/2011

2nd Floor

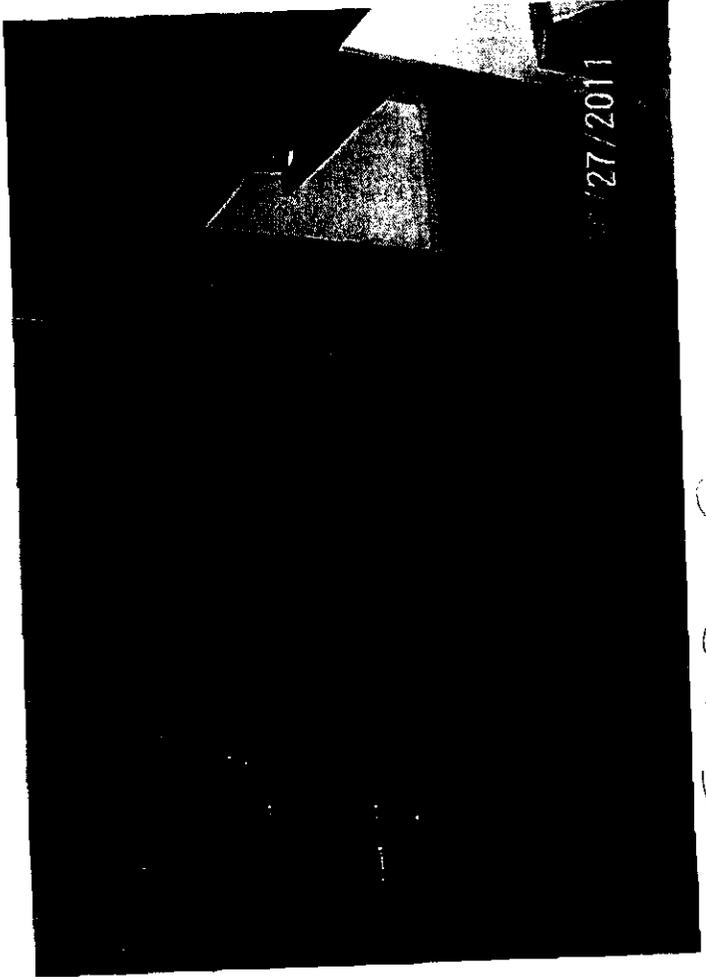
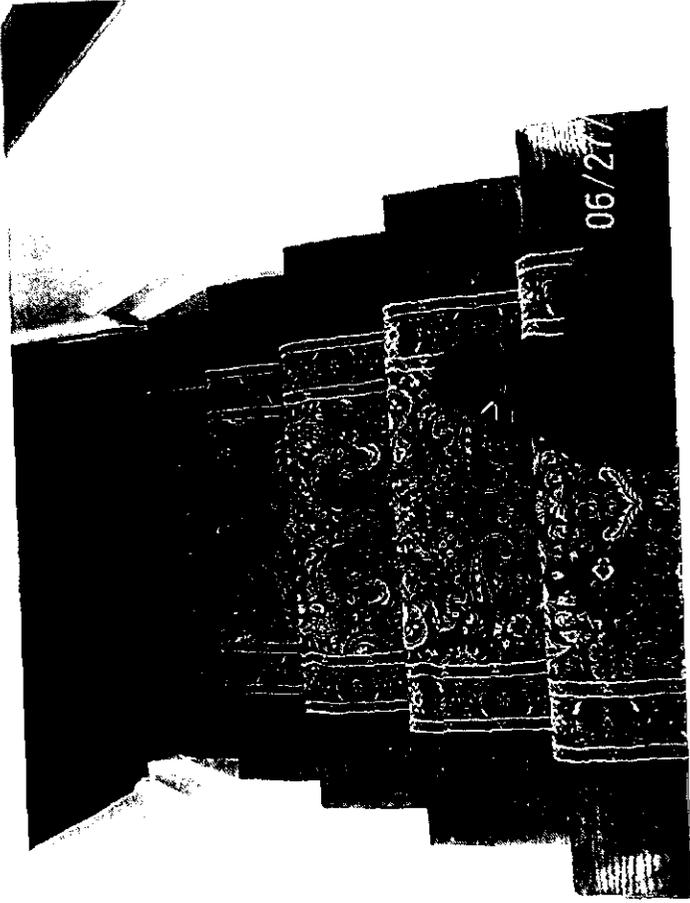
Banner



2nd D.U. Kitchen



2nd D.U. Kitchen



Family Room, Theater

DESCRIPTION OF THE APPLICATION

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

Size of Principal Dwelling: 7,736 square feet

Size of Accessory Dwelling Unit: 2,280 square feet (29.5%)

Lot Size: 19,597 square feet

LOCATION AND CHARACTER OF THE AREA

The application property is located at 9459 Deramus Farm Court located within the Ciara Estates subdivision. The 19,597 square foot site is developed with a single family detached two-story dwelling, with a walk out basement, built in 1993. An existing hard surfaced driveway is accessed from Deramus Farm Court and terminates along the northern side of the dwelling at a two car garage. The garage is used for the storage of vehicles and there is space in the driveway for two additional vehicles. There is a sidewalk extending from the driveway to the front of the dwelling and an area along the west side of the dwelling with steps and a path to the rear of the dwelling.

The accessory dwelling unit is accessed through a rear door that enters directly into the living room of the accessory dwelling unit in the basement. An existing patio and deck is located at the rear of the dwelling.

The applicant provided a certification from a registered land surveyor determining the basement is 50% or greater above the adjacent grade and a copy of the determination is included as Appendix 4.

The lot slopes from the front to the back providing for the walk-out basement. There are existing shrubs and trees located along the foundation and in the rear yard.

Surrounding Area Description

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

BACKGROUND

The area was zoned R-2, developed under the cluster provisions, pursuant to RZ 86-D-108, which was subject to proffers. The proffers do not preclude uses such as accessory dwelling units. The house was built in 1993. The applicant installed a second kitchen without a permit. Fairfax County received a complaint about a second dwelling and investigated the property on June 27, 2011. A notice of violation was sent on July 1, 2011 and is included as Appendix 5.

Records indicate there were no other applications for accessory dwelling units filed or approved for properties in the vicinity of the application site heard by the BZA.

ANALYSIS

Special Permit Plat: Attached at front of report

Title of SP Plat: Special Permit, Lot 24, Ciara Estates

Prepared By: William E. Ramsey, P.C., Land Surveyor

Dated: September 8, 2011, as signed and sealed on September 14, 2011, by William E. Ramsey, Land Surveyor

Proposed Use

The property owner proposes to establish an accessory dwelling unit in the basement of the existing two-story single family detached dwelling. A floor plan included at the front of the report shows how the basement space will be used. The existing two-story dwelling, including the basement, consists of approximately 7,520 square feet, and proposes the accessory dwelling unit to be 2,280 square feet, or 29.5% of the Gross Floor Area (GFA) of the structure. The applicant originally requested the accessory dwelling unit to be 883.3 square feet, however staff noted during the site visit that there was not a clear separation of owner/tenant spaces and determined the entire basement should be considered as the accessory dwelling unit. As shown on the floor plan, the unit consists of one bedroom, a bathroom, a kitchen and living spaces. The applicant indicates the requested accessory dwelling unit is for an intermittent tenant who comes into business a few days each month. The owner of the property is over the age of 55.

The site can accommodate up to two vehicles within the existing garage and two in the driveway. There are no proposed exterior site modifications with this application.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-2, Cluster, Zoning District.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 6)

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

Summary of Zoning Ordinance Provisions

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

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Therefore staff recommends approval of SP 2012-DR-010 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

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

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

APPENDICES

1. Proposed Development Conditions with Attachment 1
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Basement Determination
5. Notice of Violation
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**May 16, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-DR-010 located at Tax Map 019-3 ((17)) 0024 to permit an accessory dwelling unit under Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant and title owners only, Anthony R. Martoccia and Gwen Yandall, and is not transferable without further action of this Board, and is for the location indicated on the application, 9459 Deramus Farm Court, (19,597 square feet), and is not transferable to other land.
3. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
5. The accessory dwelling unit shall contain a maximum of 2,280 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
6. The accessory dwelling unit shall contain a maximum of one bedroom for a maximum of two occupants.
7. All applicable trade permits and final inspections shall be obtained for the kitchen components of the accessory dwelling unit within 120 days of approval of this special permit.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 28 2011
 (enter date affidavit is notarized)

I, Anthony Martoccia + Gwen Yandall do hereby state that ~~I~~ ^{WE ARE} am an
 (enter name of applicant or authorized agent)

(check one) applicant;
 applicant's authorized agent listed in Par. 1(a) below

112884

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS,** and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner,** etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Anthony R. Martoccia	9459 Perampus Farmct	Applicant/ owner
Gwen H. Yandall	Vienna VIRGINIA 22182	
	9459 Perampus Farmct	Applicant/ owner
	Vienna, Virginia 22182	

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

NONE

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 28, 2011
(enter date affidavit is notarized)

112884

(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:

N/A

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

CORPORATION INFORMATION

N/A

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

DESCRIPTION OF CORPORATION: (check one statement)

N/A

- 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.

N/A

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

N/A

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

N/A

*** 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 and that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 28 2011
(enter date affidavit is notarized)

112884

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

PARTNERSHIP INFORMATION

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

N/A

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

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

N/A

(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.

N/A

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 28, 2011
(enter date affidavit is notarized)

112884

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 N/A

(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.

NONE

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 28, 2011
(enter date affidavit is notarized)

112884

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 - N/A

(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. - NONE

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)

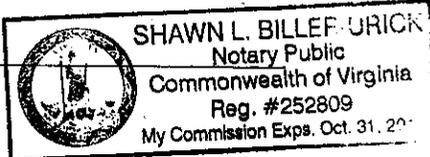
Applicant [Signature]
 Applicant's Authorized Agent

ANTHONY R. MARTOCCIA + Gwen H. Yandall
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 28 day of July, 2011, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

Commission expires:



File No. SP 2011-0277

December 10, 2011

Subject: Proposed Use 8-918 Standards

1. Single family home with only one proposed accessory dwelling.
2. The dwelling will be treated within the structure of the detached single family dwelling.
3. The dwelling will be 883.3 square feet in the "basement" level. The total square footage of the house is 7520 square feet. This is 23% of the gross floor area of the single family dwelling.
4. There shall only be one bedroom.
5. The other 77% of the single family dwelling shall be occupied by the owners. Both owners of the home are Anthony Martoccia, 63 years of age and Gwen Yandall, 55 years of age.
6. The accessory dwelling will not be occupied by a disabled person.
7. Parking will be sufficient to meet the needs of the principal and accessory dwelling unit.
8. The accessory dwelling will not change, modify or disrupt the predominant character of the neighborhood.
9. The accessory dwelling shall meet all applicable regulations for building, safety, health and sanitation.

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

Horner, Rebecca D.

From: Anthony Martoccia <tonymartoccia@aol.com>
Sent: Monday, April 30, 2012 10:09 AM
To: Horner, Rebecca D.
Subject: Re: square footages

Made mistake last item (3rd) should be top floor-- 2540 sq ft

-----Original Message-----

From: Horner, Rebecca D. <Rebecca.Horner@fairfaxcounty.gov>
To: 'Anthony Martoccia' <tonymartoccia@aol.com>
Sent: Mon, Apr 30, 2012 9:34 am
Subject: RE: square footages

Ok great! That is wonderful! ☺

Thank you,

Rebecca Horner, AICP
Senior Staff Coordinator
Zoning Evaluation Division

P: (703)324-1259
F: (703)324-1207

From: Anthony Martoccia [<mailto:tonymartoccia@aol.com>]
Sent: Monday, April 30, 2012 9:34 AM
To: Horner, Rebecca D.
Subject: Re: square footages

Rebecca

Basement-- 2280 sq ft,
Main Floor--2916 sq ft -- includes garage.
basement- 2280 sq ft

Basement Cert will be e mailed later today -- it is to be delivered to my house today by sureyor.

Tony

-----Original Message-----

WILLIAM E. RAMSEY, P.C.
LAND SURVEYOR
3905 RAILROAD AVE., SUITE LL100
FAIRFAX, VIRGINIA 22030
(703) 385-4499
FAX (703) 273-9349
wersurvey@pcgalaxy.com

April 17, 2012
Revised: April 24, 2012

Fairfax County Zoning Evaluation Division
12055 Government Center Parkway
Suite 801-Herrity Building
Fairfax, Va. 22035

Reference: Anthony Martoccia Basement/Cellar Determination
9459 Deramus Farm Court, Vienna Va. 22182
Lot 24, Ciara Estates

To whom it may concern:

I have field surveyed the existing ground/grade elevations around the portion of the dwelling that is underground. Dividing the sum of all of the elevations by 10 grade points yields an Average Grade Plane Elevation of: 323.7.

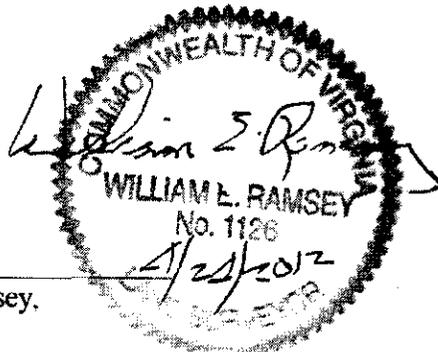
The existing Basement Floor Elevation is: 320.31

The existing Basement Ceiling Height is: 328.21 (7.9' High)

Half of the Clear Height for this dwelling is: 324.26

For this dwelling, the Average Grade Plane Elevation of 323.7 is LOWER than half of the Clear Height of 324.26 and meets the definition of a BASEMENT as defined in the Fairfax County Zoning Ordinance, Article 20, Ordinance Structure, Interpretations and Definitions, PART 3, 20-300.

William E. Ramsey,
Land Surveyor





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: July 1, 2011

SHERIFF'S LETTER

CASE #: 201102941 **SR#:** 71609

SERVE: Anthony R. Martoccia
Gwen Yandall
9459 Deramus Farm Ct.
Vienna, VA 22182

LOCATION OF VIOLATION: 9459 Deramus Farm Ct.
Vienna, VA 22182-1499
Tax Map Ref: 19-3 ((17)) 24
Zoning District: R-2

Dear Property Owners:

An inspection of the above referenced property on June 27, 2011, revealed the following violation of the Fairfax County Zoning Ordinance.

§ 2-501 Excessive Dwelling Units:

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

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

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

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

X

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

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

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

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

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Anthony R. Martoccia
Gwen Yandall
July 1, 2011
Page 3

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

Sincerely,

A handwritten signature in black ink, appearing to read "Peggy Delean". The signature is fluid and cursive, with the first name "Peggy" being more prominent than the last name "Delean".

Peggy Delean
Code Compliance Investigator

PMD/

8-006 General Standards

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

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

8-903 Standards For All Group 9 Uses

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

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

8-918 Additional Standards for Accessory Dwelling Units

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

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad

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

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

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.
- 7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is

insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.

8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.