



APPLICATION ACCEPTED: March 1, 2012  
BOARD OF ZONING APPEALS: May 23, 2012  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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May 16, 2012

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-MA-009

### MASON DISTRICT

**APPLICANT:** Daryl B. Settle

**OWNERS:** Daryl B. Settle  
Janice L. Settle

**SUBDIVISION:** Miracle Woods

**STREET ADDRESS:** 4114 Faith Court, Alexandria, 22311

**TAX MAP REFERENCE:** 61-4 ((38)) 11

**LOT SIZE:** 8,750 square feet

**ZONING DISTRICT:** R-3 (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-MA-009 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:\dhedr\Special Permits\5-23) SP 2012-MA-009 Settle (ADU)\SP 2012-MA-009 Settle staff report.doc*

*Deborah Hedrick*

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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/)



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.**

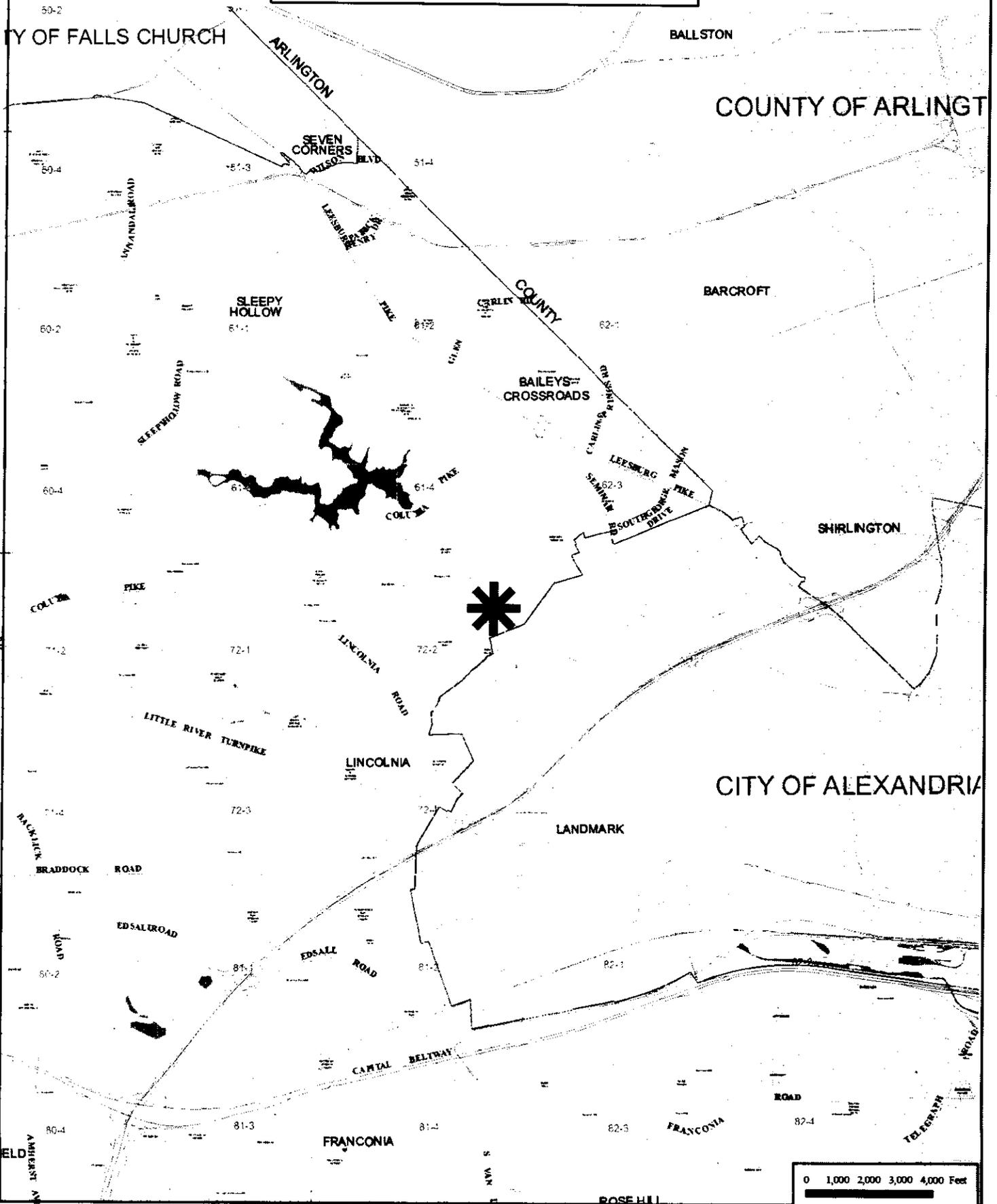


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

SP 2012-MA-009

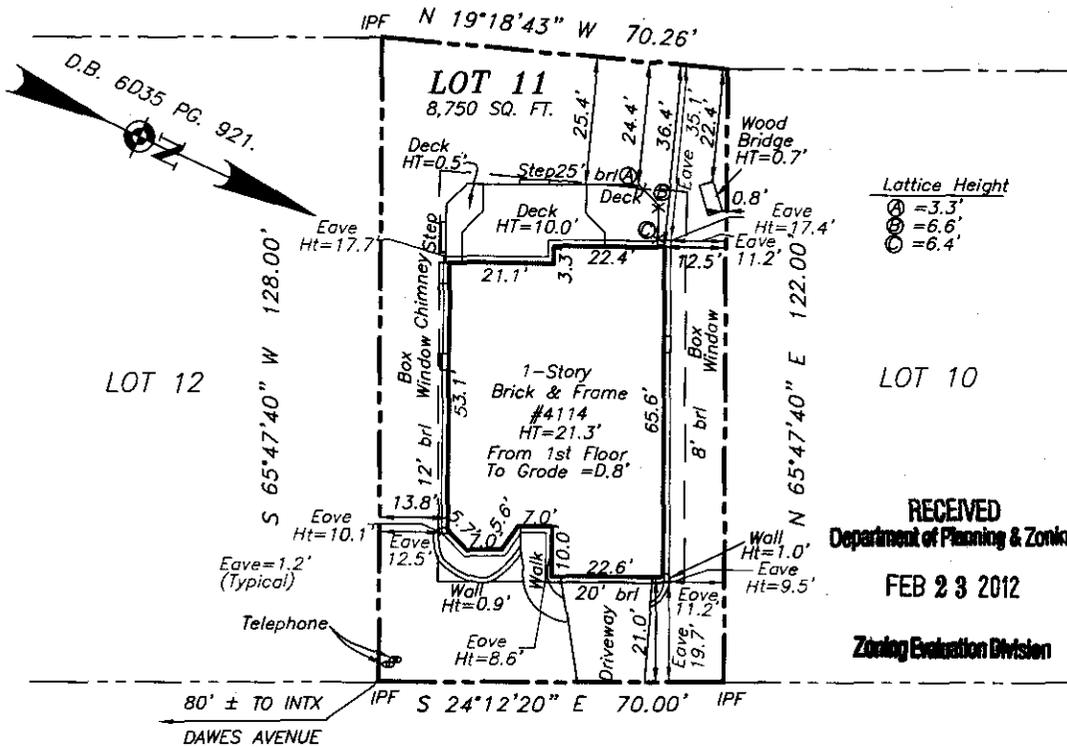
DARYL B. SETTLE





THIS SPECIAL PERMIT PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED AS AN AID FOR THE CONSTRUCTION OF FENCES OR ANY OTHER IMPROVEMENTS. FENCES SHOWN HEREON ARE APPROXIMATE AND ARE NOT TO BE USED FOR DETERMINATION OF PROPERTY LINES.

PARCEL "A"



Lattice Height	
⊙	= 3.3'
⊗	= 6.6'
⊙	= 6.4'

RECEIVED  
 Department of Planning & Zoning  
 FEB 23 2012  
 Zoning Evaluation Division

FAITH COURT

(50' WIOE)

GROSS FLOOR AREA  
 EXISTING TOTAL= 4,723 SQ. FT.  
 ACCESSORY DWELLING TOTAL= 1,471 SQ. FT.  
 1,471/4,723= .311X100=31.15%

NOTES:

1. CURRENT OWNER: DARYL B. AND JANICE L. SETTLE, O.B. 6833 PG. 1240.
2. THIS PROPERTY IS CLASSIFIED AS ZONE X, AN AREA OF MINIMAL FLOOD HAZARD IN ACCORDANCE WITH FLOOD HAZARD BOUNDARY MAP NO. 515525 0025D.
3. BEARINGS BASED ON THE RECORD PLAT OF MIRACLE WOODS, O.B. 6035 PG. 921.
4. IPF: DENOTES IRON PIPE FOUND.
5. THIS SURVEY IS A GRAPHIC DEPICTION OF THE LOCATION OF IMPROVEMENTS ONLY. NO CORNER MARKERS SET.
6. BRL: PER R-3C ZONE, FAIRFAX COUNTY, VIRGINIA.



I HEREBY CERTIFY THAT THE POSITION OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN CAREFULLY ESTABLISHED BY ELECTRONIC EQUIPMENT AND/OR TRANSIT-TAPE SURVEY AND THAT UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

NOTES:

RESIDENTIAL USE - NO PARKING SPACES  
 NO WELL OR SEPTIC FIELD ON SITE.  
 RESIDENTIAL USE - NO FAR  
 THERE ARE NO UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE, AND NO MAJOR UNDERGROUND UTILITY EASEMENTS REGARDLESS OF WIDTH ON SITE.  
 PROPERTY NOT IN ANY OVERLAY DISTRICT.

SPECIAL PERMIT PLAT  
**LOT 11**  
**MIRACLE WOODS**  
 OEED BOOK 6035 PAGE 921  
 MASON DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

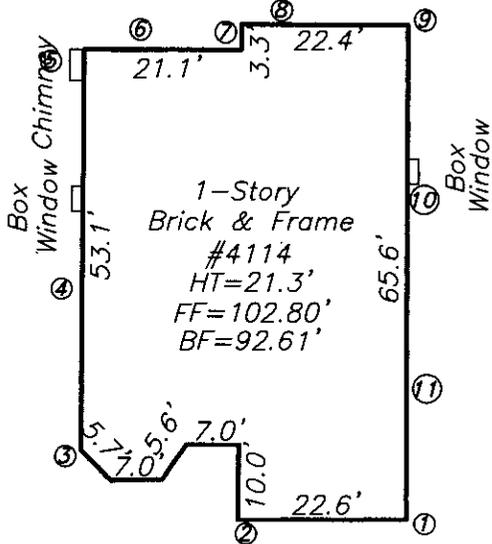
SCALE: 1"=30'  
 DATE: 12/13/11

DRAWN:  
 JRM  
 CHECKED:  
 FKP/RMA

**LS<sub>2</sub>PC**  
 LAND SURVEYING SERVICES  
 2890 EMMA LEE STREET SUITE 200  
 FALLS CHURCH, VIRGINIA 22042  
 703 • 241 • 5515 • FAX • 703 • 241 • 5516

# BASEMENT ABOVE GRADE CALCULATIONS

SCALE: 1" = 20'



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 Department of Planning & Zoning  
 FEB 23 2012  
 Zoning Evaluation Division

1-Story  
 Brick & Frame  
 #4114  
 HT=21.3'  
 FF=102.80'  
 BF=92.61'

## AVERAGE GRADE TABLE

LOCATION	ELEVATION
1	101.38
2	101.75
3	100.85
4	97.80
5	93.75
6	92.93
7	92.58
8	92.94
9	94.17
10	95.51
11	99.47
<b>TOTAL</b>	<b>1063.13</b>



$1063.13 / 11 = 96.65$  (AVERAGE GRADE)

FIRST FLOOR = 102.80  
 BASEMENT FLOOR = 92.61  
 DISTANCE FROM BF TO FF = 10.19

BASEMENT FLOOR ELEVATION = 92.61  
 $92.61 + 5.10 = 97.71$  (1/2 BASEMENT EXPOSED)

AVERAGE GRADE = 96.65

$96.65$  (AVERAGE GRADE)  $> 97.71$

AVERAGE GRADE ELEVATION IS LOWER THAN 1/2 BASEMENT EXPOSED GRADE, THEREFORE EXISTING BASEMENT IS AN ADDITIONAL STORY.

NOTE: VERTICAL DATUM WAS ASSUMED.

## STORY ABOVE GRADE CALCULATIONS

FIRST FLOOR = 102.80  
 BASEMENT FLOOR = 92.61  
 DISTANCE FROM BF TO FF = 10.19

$10.19 * 50\% = 5.10$  (HALF OF FF TO BF)

FIRST FLOOR - AVERAGE GRADE = CEILING EXPOSED ABOVE GRADE  
 $102.80 - 96.65 = 6.15'$  EXPOSED  
 $6.15'$  EXPOSED  $> 6.00'$  (ALLOWED)

PLAN VIEW: 1"=20'
DATE: 01/30/12
DRAWN BY: JRM
CHECKED BY: RMA

STORY ABOVE GRADE CALCULATIONS

LOT 11

**MIRACLE WOODS**

DEED BOOK 6035 PAGE 921  
 MASON DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

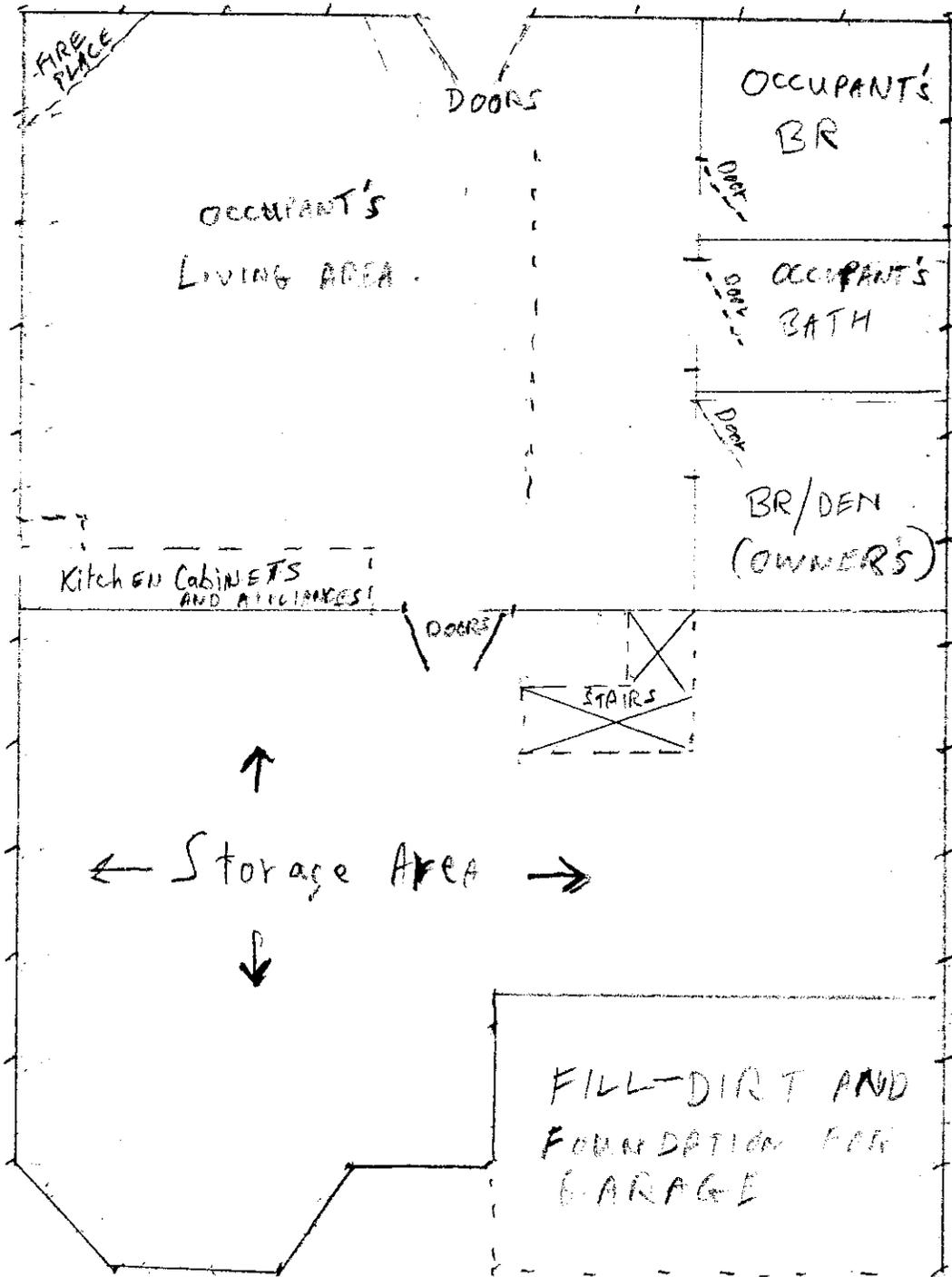
**LAND SURVEYING AND  
 CIVIL ENGINEERING SERVICES**  
 2890 EMMA LEE STREET SUITE 200  
 FALLS CHURCH, VIRGINIA 22042  
 703 • 241 • 5515 • FAX • 703 • 241 • 5516

↑ HOLMES RUN PARK ↑

BASEMENT LEVEL

4114 FAITH CT

(TOTAL LIVING AREA 1,471 ft<sup>2</sup>)



APPROXIMATELY 38 ft. of curb PARKING

← (TO DAVES AVENUE) FAITH CT.

**SETTLE, DARYL & JANICE  
4114 FAITH CT.  
ALEXANDRIA, VA 22311  
703-671-2213**

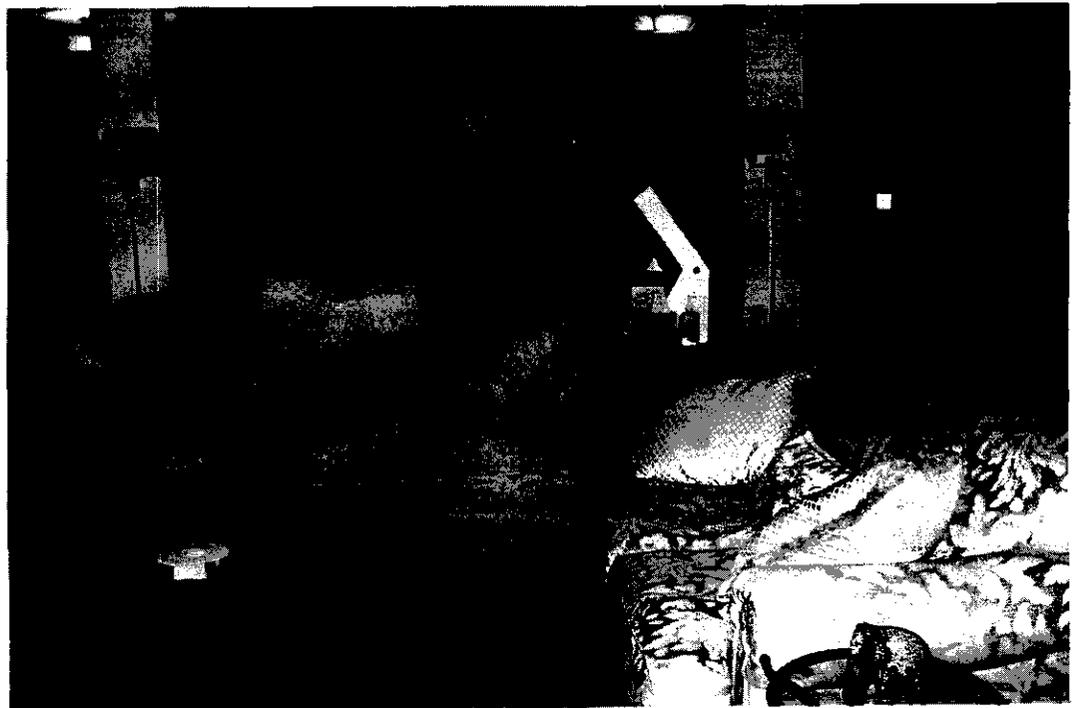
**Downstairs**

**January, 2012**



Kitchen area – doors to large storage area on left.

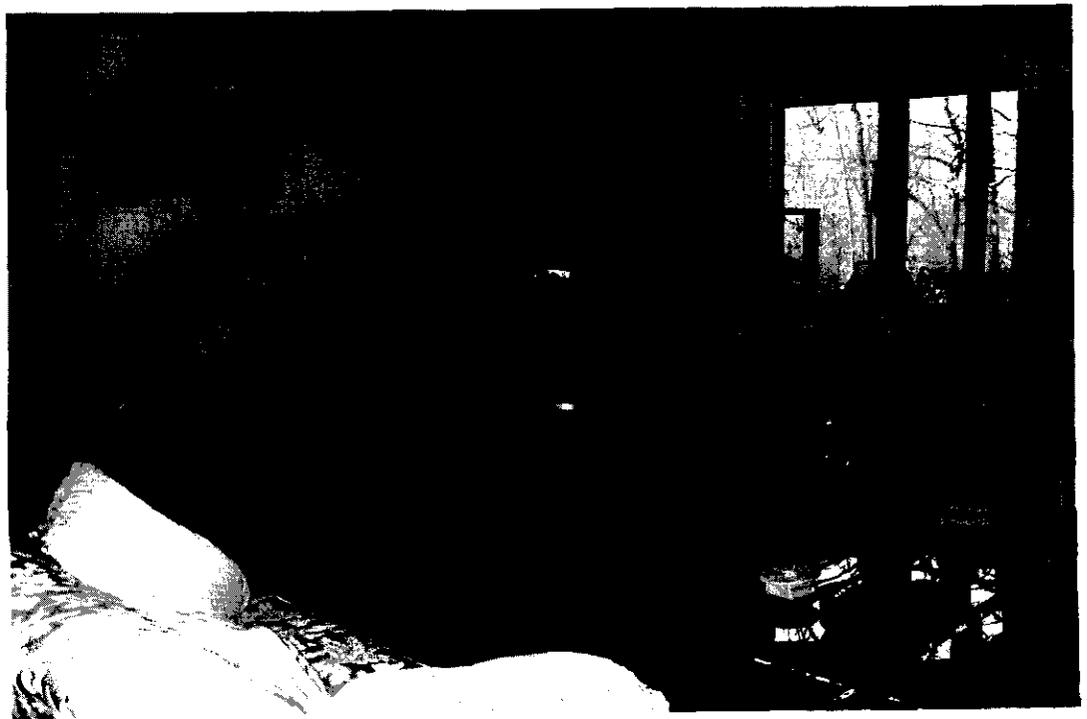
Right to left – den, bath,  
& occupant's bedroom.

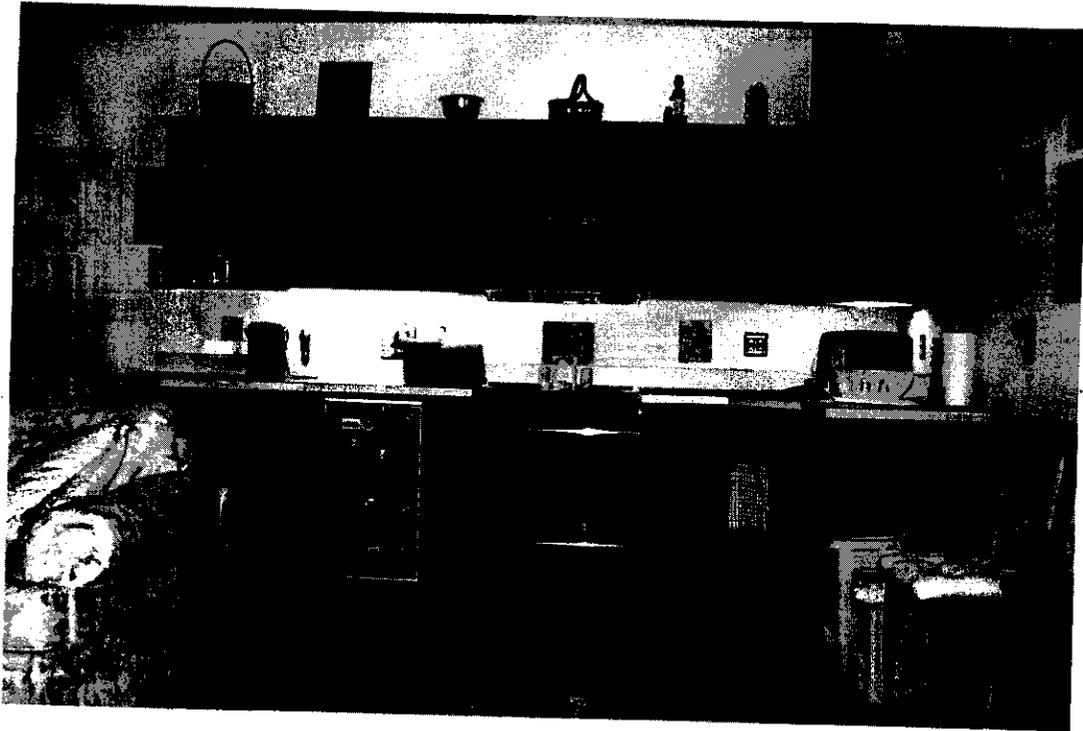




Opposite wall from kitchen area  
opening to backyard.  
Holmes Run Park in background.

Living area – kitchen area  
is to the left behind the couch.





Kitchen area close-up.

**SETTLE, DARYL & JANICE**  
**4114 FAITH CT.**  
**ALEXANDRIA, VA 22311**  
**703-671-2213**

**Outside**

**January, 2012**



Enter Faith Ct. looking SW.  
4114 is 3<sup>rd</sup> house in with occupant's  
car parked in front.

Faith Ct. looking NW.  
4114 is behind basketball net.





4114 is center house.

4114 Faith Ct.  
Alexandria, VA 22311





Cars in front of 4110 & 4108.

4100 & 4101 at end of Court.





Backyard of 4100 David Lane.



4111 with 4113 behind trees.



4114 Faith Ct. – Front to back,  
right side



Rear of house.



Rear of house showing entrance to down stairs where occupant resides.

Other side of house looking NE.

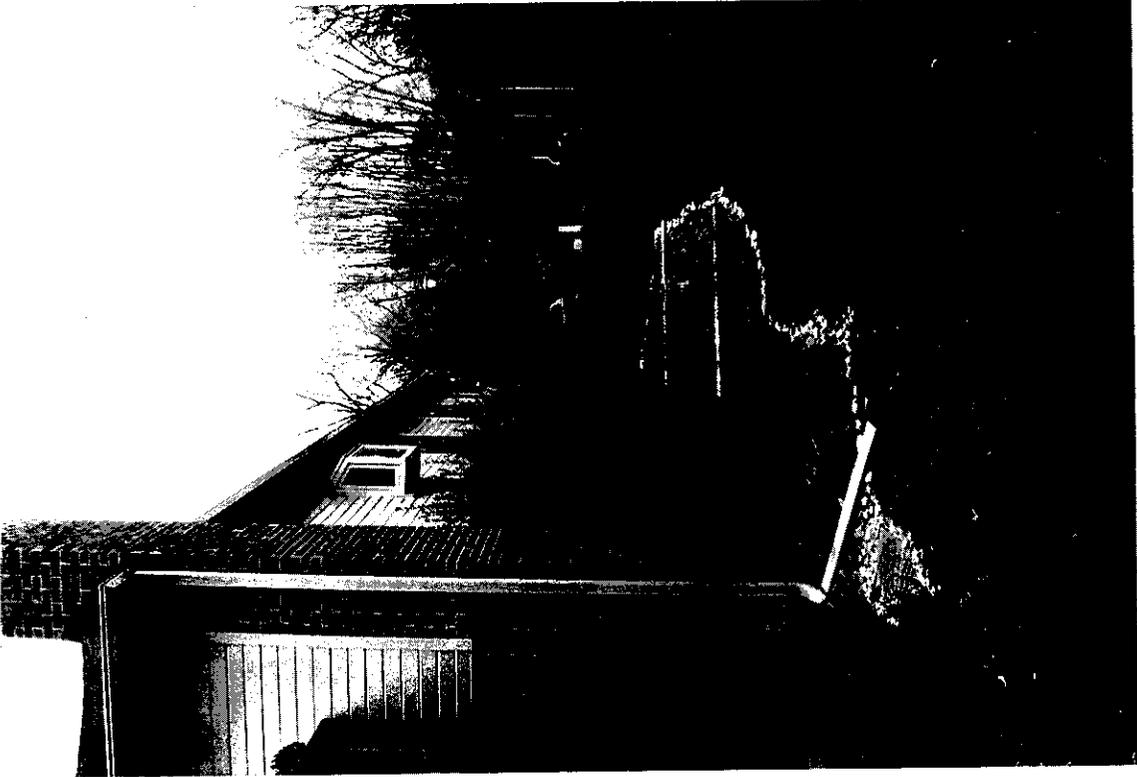




House from backyard.  
Occupant's B/R window on  
far left.



NW side of house from  
backyard.



SE side of house from  
backyard.

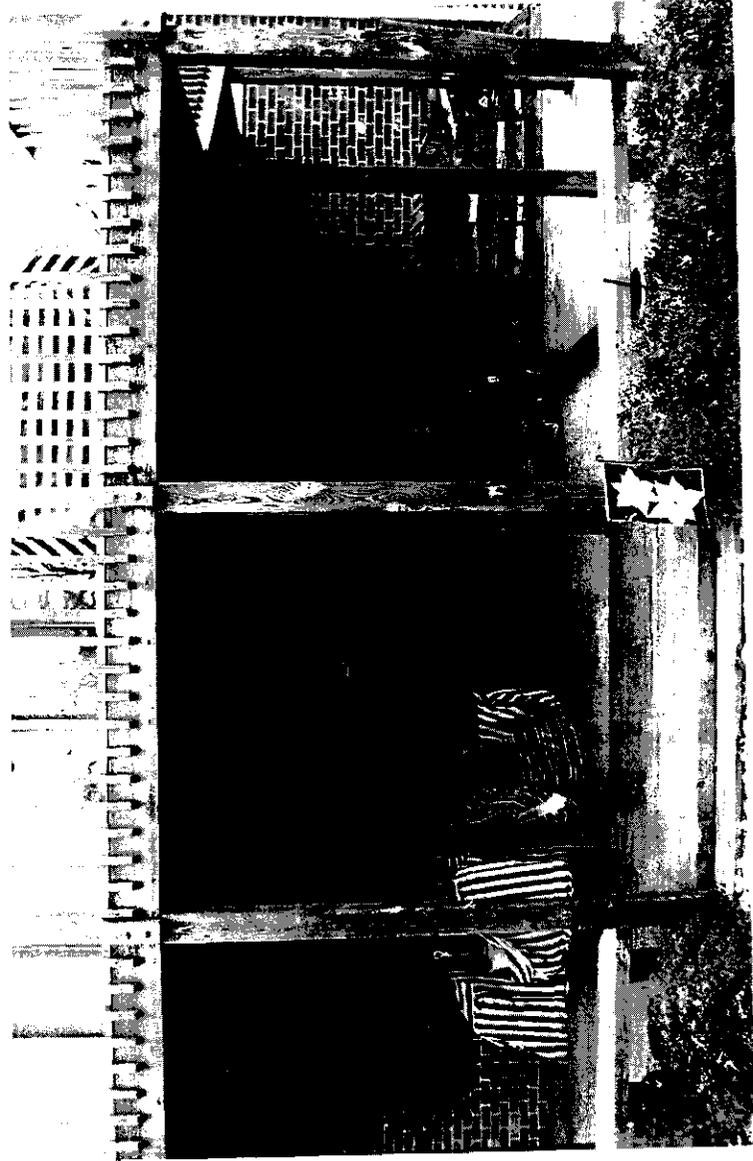
**RECEIVED**  
**Department of Planning & Zoning**

**FEB 23 2012**

**Zoning Evaluation Division**

Entrance to accessory dwelling unit.

RECEIVED  
Department of Planning & Zoning  
FEB 29 2012  
Zoning Evaluation Division



SW corner of house from backyard.



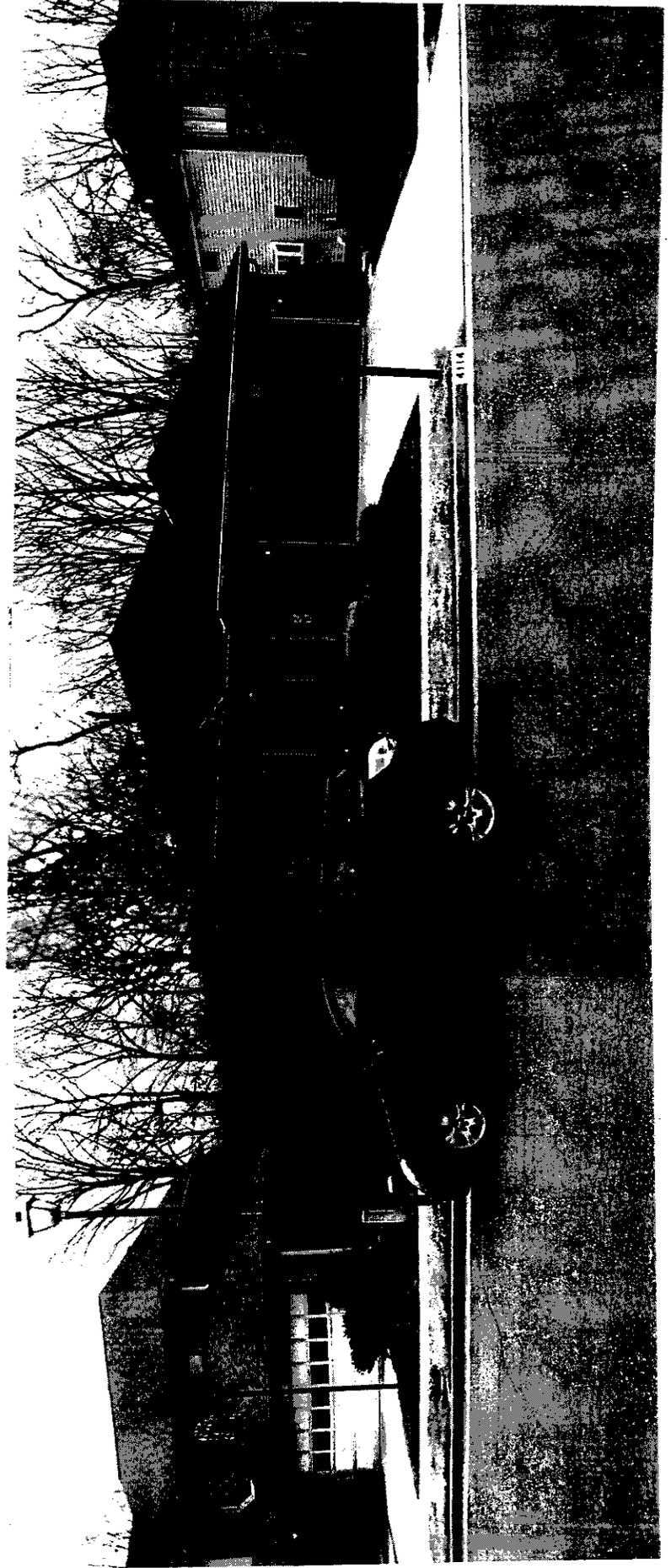
Parking, area in front of house.

**RECEIVED**  
Department of Planning & Zoning

FEB 28 2012

Zoning Evaluation Division

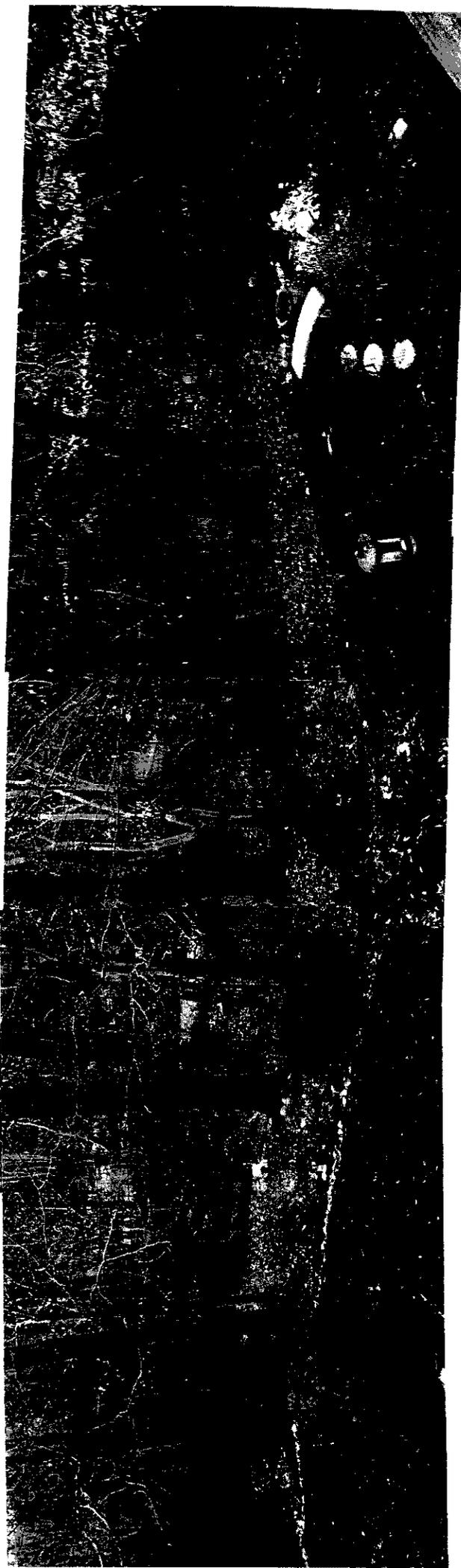
Occupant's car parked in front of house.



RECEIVED  
Department of Planning & Zoning

FEB 23 2012

Zoning Evaluation Division



Backyard seen from top deck.  
Fairfax County Park, Holmes Run,  
begins approximately at tree on  
right behind the bench.

Holmes Run shown about 100 yds.  
down the ravine.



**DESCRIPTION OF THE APPLICATION**

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

**Size of Principal Dwelling:** 4,723 square feet

**Size of Accessory Dwelling Unit:** 1,471 square feet (31.15 %)

**Lot Size:** 8,750 square feet

**LOCATION AND CHARACTER**

**Site History and Existing Site Description**

The application property is located at 4114 Faith Court, on a cul-de-sac located within the Miracle Woods subdivision. The 8,750 square foot site is developed with a single family detached one-story brick dwelling, with a walk-out basement, built in 1987. An existing concrete driveway is accessed from Faith Court and terminates at the homes two car garage. An above ground wood deck is located along the rear of the home with a wood patio located underneath the deck. The lawn is well manicured and contains some existing shrubs and trees throughout the lot. The rear yard adjoins the Fairfax County Holmes Run Park which is heavily wooded.

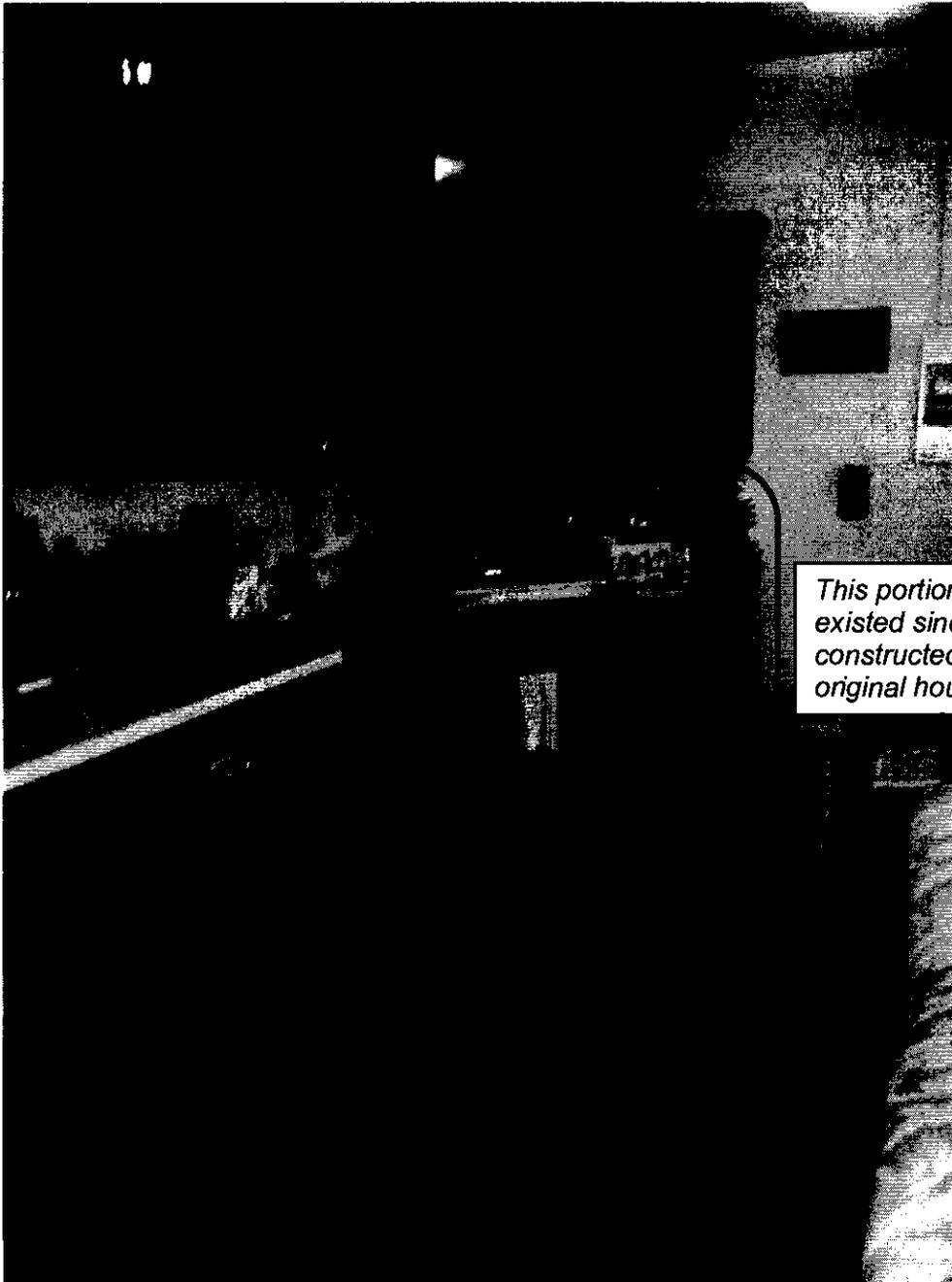
**Surrounding Area Description**

<b>Direction</b>	<b>Use</b>	<b>Zoning</b>
<b>North</b>	Single Family Detached Dwellings	R-3 (Cluster)
<b>South</b>	Single Family Detached Dwellings	R-3 (Cluster)
<b>East</b>	Single Family Detached Dwellings	R-3 (Cluster)
<b>West</b>	Fairfax County Park Authority – Holmes Run Park	R-3 (Cluster)

**BACKGROUND**

The applicant states that he has lived in the home since it was constructed in 1987. During its construction the applicant requested the builder to install a wet bar within the

basement area, which included a full sink, as well as additional electrical components with the intent to someday use the space as an in-law suite. In 1990, the applicant hired a contractor to install the components of the kitchen, which included the stove, built-in microwave, small under the counter refrigerator, and kitchen cabinets and countertops. Included as an attachment to the applicant's statement of justification contained in Appendix 3 is a copy of the contract obtained by the applicant for the kitchen installation. According to the applicant the contractor advised him that no additional permits would be required as the trade inspections would have taken place during the final inspections of the home.



*This portion of the kitchen has existed since the home was constructed in 1987 when the original house was constructed*

Staff discussed this scenario with the Department of Public Works and Environmental Services (DPWES) Permitting staff and was advised that although it would seem feasible that all permits and final inspections were obtained during construction of the home, when existing outlets were relocated and new outlets were installed, as shown in the contract, new permits and inspections would have been required at that time. Given the amount of time that has passed and that County records do not reflect the installation of a wet bar, staff believes that trade permits and final inspections of the kitchen components should be obtained if this application is approved. Therefore, a development condition has been included to address this concern.

The application property is currently not under Notice of Violation, as the violation was brought to the attention of the homeowner as a result of a mortgage refinancing in November 2011. The mortgage company declined the applicant's application due to the existence of the separate dwelling unit in the basement, which included the kitchen. The applicant had obtained three previous refinances without this violation being an issue.

Although the kitchen components have existed since 1990, according to the applicant the accessory dwelling unit space was not occupied until 2006 when his sister-in-law moved in. Both the applicant and his sister-in-law are over the age of 55.

Records indicate there have been no other applications for accessory dwelling units in the vicinity of the application site heard by the BZA.

## **ANALYSIS**

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

**Title of SP Plat:** Special Permit Plat, Lot 11, Miracle Woods

**Prepared By:** LS<sub>2</sub>PC Land Surveying Services

**Dated:** December 13, 2011, with Sheet 2 of 2 "Basement above grade calculations" dated January 30, 2012

### **Proposed Use**

The applicant proposes an accessory dwelling unit to be located within the basement of the existing single family detached dwelling. The existing one-story dwelling with a full walk-out basement consists of approximately 4,723 square feet, of which 1,471 square feet, or 31.15%, is utilized as the accessory dwelling unit. As shown on the floor plan at the front of the staff report, the basement space includes a large living area with the kitchen components included within this space, one bedroom and a full bathroom. The space also includes a second bedroom/den, which is currently used by the applicant as an office space and is not used by the occupant of the accessory dwelling unit. The

total square footage of 1,471 square feet, however, does include the second bedroom/den, which continues to be under the 35% maximum allowable for the accessory dwelling unit.



There is also a large unfinished storage area located within the basement of the home, as shown in the images below, which is utilized by the applicant and therefore not included in the overall calculation for the accessory dwelling unit.



The site can accommodate up to four vehicles, two within the driveway space and two within the enclosed garage space. There are no proposed 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-3 Zoning District.

## **OTHER ZONING ORDINANCE REQUIREMENTS**

### **Special Permit Requirements (See Appendix 5)**

- 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.

The applicant has expressed concern with a proposed development condition restricting the use to the applicant only, stating that the condition could be detrimental in his effort to sell the property at some point in the future. Staff does not object to the request that the use should run with the land and not the applicant only. The conditions must be recorded in the land records prior to approval of trade permits and the site will be inspected every five years as required by the Zoning Administrator. The conditions in Appendix 1 do not include the language referring to the use being granted only to the applicant nor the condition that the use be converted or removed if the property is sold.

If the Board chooses to approve the application restricting the use to the applicant only, an alternative set of proposed development conditions are contained as Appendix 2 of this report.

## **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. Staff recommends approval of SP 2012-MA-009 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
2. Alternative Proposed Development Conditions
3. Applicant's Affidavit
4. Applicant's Statement of Justification and Attachments
5. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2012-MA-009****May 16, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-MA-009 located at Tax Map 61-4 ((38)) 11 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 components of the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. 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.
3. 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.
4. The accessory dwelling unit shall contain a maximum of 1,471 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
5. The accessory dwelling unit shall contain a maximum of two bedrooms for a maximum of two persons.
6. All applicable 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 application.

7. 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.
8. 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.
9. 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.

**ALTERNATIVE PROPOSED DEVELOPMENT CONDITIONS****SP 2012-MA-009****May 16, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-MA-009 located at Tax Map 61-4 ((38)) 11 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.

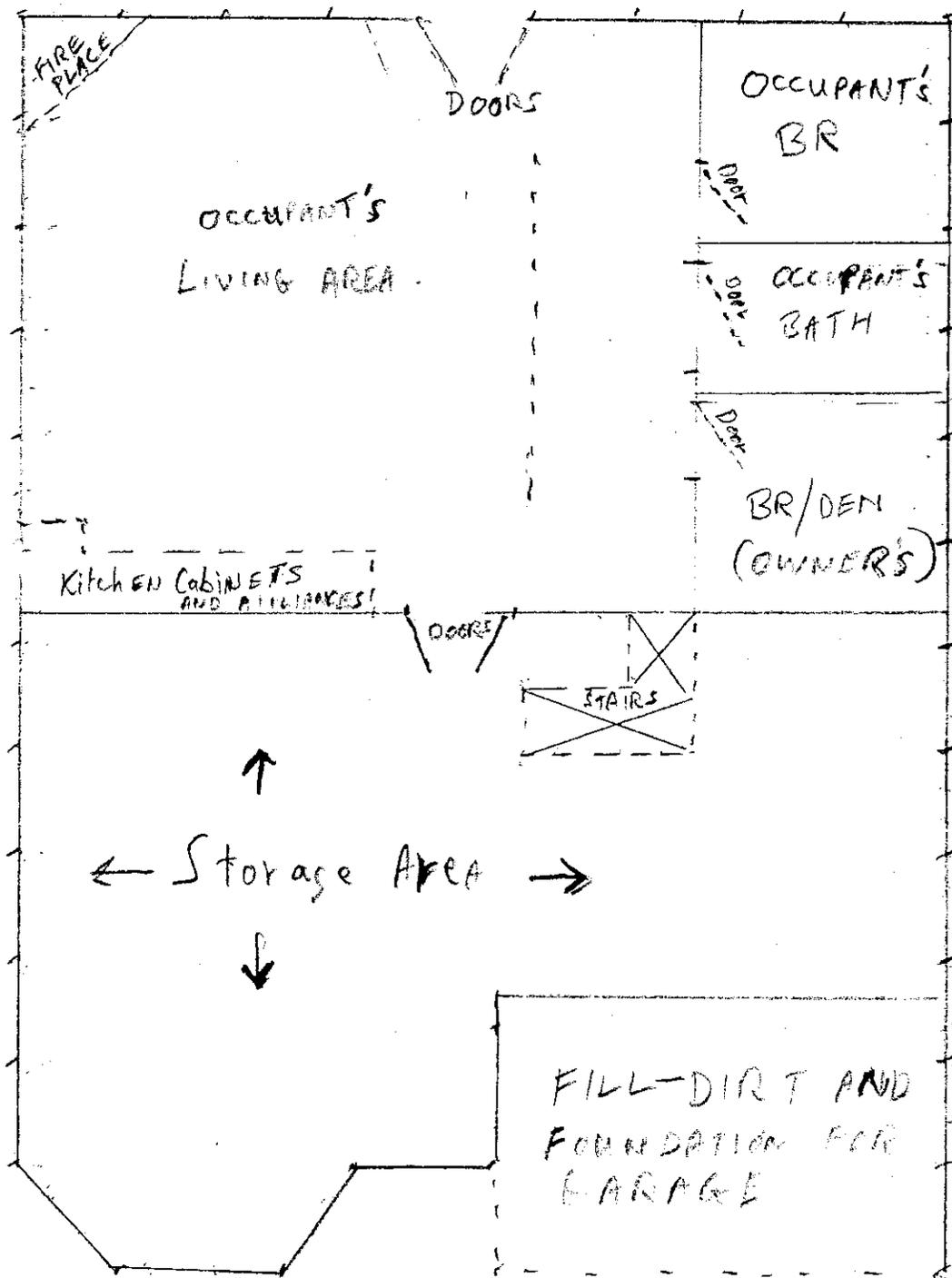
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen components of the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant and title owners only, Daryl B. Settle and Janice L. Settle, and is not transferable without further action of this Board, and is for the location indicated on the application, 4114 Faith Court, Alexandria, (8,750 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 1,471 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 two bedrooms for a maximum of two persons.

7. All applicable 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 application.
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 for the applicant's immediate family members and/or the property is sold or otherwise conveyed, the accessory structure 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.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

BASEMENT LEVEL  
4114 FAITH CT  
(TOTAL LIVING AREA 1,471 FT<sup>2</sup>)



← APPROXIMATELY 38 ft. of curb PARKING →

← (TO DAVES AVENUE) FAITH CT.

Application No.(s): SP 2012-MA-009  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 5, 2012  
 (enter date affidavit is notarized)

I, DARYL B. SETTLE, 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

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)
DARYL B. SETTLE	4114 FAITH CT, ALEXANDRIA, VA 22311	<b>Applicant / Title Owner</b>
JANICE L. SETTLE	4114 FAITH CT, ALEXANDRIA, VA 22311	<b>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-MA-009  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 5, 2012  
(enter date affidavit is notarized)

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit wh own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

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

**CORPORATION INFORMATION**

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

**DESCRIPTION OF CORPORATION:** (check one statement)

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

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

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

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated a 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-MA-009

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

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE:

January 5, 2012

(enter date affidavit is notarized)

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

**PARTNERSHIP INFORMATION**

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

(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-MA-009

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

Page Fo

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: January 5, 2012  
(enter date affidavit is notarized)

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 or 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-MA-009

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: January 5, 2012  
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

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

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, 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)

Daryl B. Settle  
 Applicant [ ] Applicant's Authorized Agent

Daryl B. SETTLE  
(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 5<sup>th</sup> day of Jan 2012, in the State/Comm. of VIRGINIA, County/City of Fairfax.

[Signature]  
Notary Public

My commission expires: Oct 31, 2013



SPECIAL PERMIT STATEMENT OF JUSTIFICATION

A. Type of Operation. Accessory Dwelling Unit.

B. Hours of Operation. The occupant of the accessory dwelling unit has lived there since the summer of 2006. The occupant, age 64, is the sister of the Applicant's spouse.

C. Estimated number of occupants. None, besides the current occupant.

D. Proposed number of occupants. None, besides the current occupant.

E. Estimate of traffic impact.

Faith Court has a single access/exit point. As a court, traffic consists mostly of the residents who live there in thirteen houses. Street parking is permitted, and residents regularly park extra cars on the street. All houses have a two-car garage. Applicant's two cars are parked in the garage; the dwelling unit occupant parks her automobile on the street. There is approximately 38 feet of parallel curb parking available in front of the house. There has never been a complaint about this arrangement. To the Applicant's knowledge, parking has never been an issue among the residents of Faith Ct.

F. Vicinity or general area to be served by the use. Only the immediate confines of the Applicant's house, and the adjacent street as explained in paragraph E., above.

G. Description of building facade. The house façade is 50/50% brick and pressed board. This application proposes no changes to the exterior (or interior) of the house.

H. Hazardous or toxic substances. None.

I. Statement of Permit Justification. The accessory dwelling unit will continue to conform to all applicable ordinances, especially the provisions in Section 8-918.

a. Zoning Board permit approval is needed for an already existing accessory dwelling unit. A potential zoning deficiency was brought to the Applicant's attention as the result of a mortgage refinancing effort in November 2011. Upon inspection, the mortgage company declined the Applicant's application due to the existence the separate dwelling unit in the basement, which has a kitchen.

a. It should be noted that the Applicant had successfully undertaken three prior refinancing efforts, in 1992, 1998, and 2002. None of the inspections by these mortgage companies identified any zoning problem with the downstairs living area.

b. The house was built and occupied by the Applicant and his spouse the end of August 1987. The builder offered flexibility on changing his plans for the interior of the house. Among the changes made by the applicant were a partially finished basement, with two bedrooms/den and a bathroom. The Applicant and his spouse declared their intention to eventually install a kitchen in the basement, to make it a potential "in-law suite." The builder agreed to install the necessary electrical outlets to support a kitchen. He also installed a sink. No potential zoning problems were raised by the builder regarding the Applicant's intentions for this basement.

c. The kitchen was installed in 1990 by a reputable contractor which is still in business. Again, no zoning issues were identified by this contractor. The kitchen consists of a sink (already installed), range, built-in microwave, small under-the-counter refrigerator, and cabinets/storage units. (Photos of the downstairs area are included in this application.)

d. The accessory dwelling unit had been used only intermittently (i.e., house guests, entertaining) until the summer of 2006, when the Applicant's sister-in-law moved in, noted in paragraph B., above. The surveyor's plat shows that the dwelling unit has 1,471 sq. ft. This is 31% of the gross square footage of

the house (4,723 sq. ft.), per the surveyor. In fact, much of this area is shared with the owner. The occupant has one of the two downstairs bedrooms and the bath. She primarily uses the living room area and kitchen. The other bedroom/den is used primarily by the owner. The owner also regularly goes downstairs to access the backyard and the storage area adjacent to the dwelling unit. This access area is also used for temporary storage by the owner. (See the enclosed downstairs floor-plan for a depiction of these arrangements.)

In conclusion, this accessory dwelling unit appears to meet the requirements of Zoning Ordinance Section 8-918 regarding standards for such units in a single-family detached house:

- located within the main house structure;
- has a separate entrance;
- occupies less than 35% of the gross floor area;
- contains just two permitted bedrooms, only one of which is used by the occupant;
- house is owner-occupied;
- all persons in the house are over age 55;
- the occupant of the unit is a blood relative; and
- parking apparently does not present a problem for the neighborhood.

RECEIVED  
Department of Planning & Zoning

FEB 23 2012

Zoning Evaluation Division

February 22, 2012

Megan Brady  
Dept. of Planning and Zoning  
12055 Government Center Parkway  
Suite 801  
Fairfax, VA 22035-5509

Re: Revisions to Special Permit Application – Daryl B. Settle (File SP2012-0006)

Dear Ms. Brady:

Enclosed are the revisions you required to the referenced application in your letter of January 18<sup>th</sup>:

Revised Application For A Special Permit, w/Floor Plan Layout attached;

Additional photographs of the property, with disc;

Revised justification statement, with new “conformity” wording, and updated sq. footage. Please note that the Floor Plan Layout illustrates the calculations;

Revised Special Permit Plat. I understand that you talked directly with the surveyor, Mr. James Milliorn of LS2PC Land Surveying Services, concerning the required revisions.

Sincerely,



Daryl Settle  
4114 Faith Ct.  
Alexandria, VA 22311  
703-671-2213  
[settledj@msn.com](mailto:settledj@msn.com)

Attachments: a/s

April 2, 2012

Ms. Debbie Hedrick  
County of Fairfax  
Department of Planning & Zoning  
FAX 703-324-3924

RECEIVED  
DEPARTMENT OF PLANNING  
AND ZONING

APR 3 2012

SPECIAL PERMIT &  
VARIANCE BRANCH

Re: 4114 Faith Ct., Draft Development Conditions

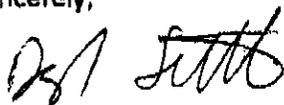
Dear Ms. Hedrick:

Thank you for relaying the results this afternoon of the favorable action by the planning staff on our application for an Accessory Dwelling Unit.

Regarding the referenced Development Conditions, I request that the Zoning Board provide relief from Item #2 of the draft conditions. Specifically, I would ask, instead, that this condition be granted to the property, not solely to me as the applicant. My concern is that this condition could be detrimental to our efforts in selling the property at some point in the future. Potential buyers could be discouraged if faced with potential burdensome additional paperwork and an uncertain outcome involved in obtaining a new dwelling unit permit. I understand that these conditions must be adhered to regardless of ownership, but item #2, as written seems unnecessarily restrictive.

Thank you for your consideration of this request.

Sincerely,



Daryl Settle  
4114 Faith Ct.  
Alexandria, VA 22311  
703-671-2213  
[settledj@msn.com](mailto:settledj@msn.com)

April 2, 2012

Ms. Debbie Hedrick  
County of Fairfax  
Department of Planning & Zoning  
FAX 703-324-3924

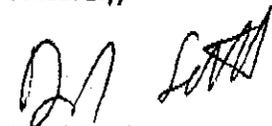
Re: Info on 2<sup>nd</sup> Kitchen

Dear Ms. Hedrick:

Per our conversation this afternoon please find paperwork, including a drawing, from Cabinet Discounters on the referenced kitchen. On closer examination, it appears that some switches, an outlet, and a 110V circuit were installed that were not preexisting. However, the work order and the drawing make numerous references to moving existing circuits, including the 220V one for the range.

Whether this circuitry was inspected after installation for the kitchen I do not know. I contacted Cabinet Discounters a few months ago to see if they had paperwork on this project. I was told that they keep such files only for about 3 years. However, Cabinet Discounters is a reputable contractor, which is still in business. I would be surprised if they did not obtain any required county approval for this kitchen. If they did not, they may have concluded that the changes they made were within the parameters of the existing circuitry and needed no approval.

Sincerely,



Daryl Settie  
4114 Faith Ct.  
Alexandria, VA 22311  
703-671-2213  
[settiedj@msn.com](mailto:settiedj@msn.com)



**CARPENTRY**

**CABINETS & TOPS**

- REMOVE OLD CABINETS, COUNTERS, APPLIANCES AND HALL AWAY
- INSTALL KITCHEN CABINETS AS PER APPROVED DRAWING
- INSTALL HARDWARE ON CABINETS
- INSTALL COUNTERTOPS (TYPE) Laminate
- INSTALL MOLDING (TYPE) Crown

**SOFFITS**

- BUILD NEW SOFFITS \_\_\_\_\_ LINEAR FT.
- REMOVE EXISTING SOFFITS \_\_\_\_\_ LINEAR FT.
- ADD TO EXISTING SOFFITS \_\_\_\_\_ LINEAR FT.
- REDUCE EXISTING SOFFITS \_\_\_\_\_ LINEAR FT.
- DIAGONAL CORNER SOFFIT \_\_\_\_\_ LINEAR FT.

**WALLS**

- WALLS ARE MADE OF PLASTER
- WALLS ARE MADE OF DRYWALL
- REMOVE WALL \_\_\_\_\_ LINEAR FT.
- BUILD WALL \_\_\_\_\_ LINEAR FT.
- BUILD PASS THRU \_\_\_\_\_ LINEAR FT.
- INSTALL CERAMIC TILE ON WALL \_\_\_\_\_ LINEAR FT.
- INSTALL FORMICA ON WALL \_\_\_\_\_ LINEAR FT.
- REMOVE TILE ON WALL \_\_\_\_\_ LINEAR FT.
- REPAIR WALL AFTER MOVING OUTLETS OR SWITCHES
- REPAIR CEILING AFTER MOVING LIGHTS

CABINEIRY CONT.

DUCT WORK

- VENTED RANGE HOOD
- VENTED MICROWAVE *recir. Type*
- BLOCK UP THRU WALL FAN
- RELOCATE REGISTER THRU TOEKICK
- MOVE WALL REGISTER
- MOVE FLOOR REGISTER
- BLOCK UP REGISTER

APPLIANCES

NOTE: PLEASE LIST THE MAKE AND MODEL # OF ALL NEW APPLIANCES.

REFRIGERATOR Reuse undercounter

SUBZERO \_\_\_\_\_

WALL OVEN \_\_\_\_\_

GAS STOVE \_\_\_\_\_

ELECTRIC STOVE \_\_\_\_\_

GAS COOKTOP \_\_\_\_\_

ELECTRIC COOKTOP \_\_\_\_\_

VENTED MICROWAVE \_\_\_\_\_

\_\_\_\_\_ VENT EXISTS \_\_\_\_\_ NEW VENT (SIDING) \_\_\_\_\_ NEW VENT (BRICK)

NONVENTED MICROWAVE JVM 150

VENTED RANGE HOOD \_\_\_\_\_

\_\_\_\_\_ VENT EXISTS \_\_\_\_\_ NEW VENT (SIDING) \_\_\_\_\_ NEW VENT (BRICK)

TRASH COMPACTOR \_\_\_\_\_

DISHWASHER \_\_\_\_\_

Also to install Instant Hot water

**ELECTRICAL**

*move 2 (see Drawing)  
① Reg*

NEW OUTLET FOR \_\_\_\_\_  
\_\_\_\_\_ GAS STOVE  
\_\_\_\_\_ GAS WALL OVEN  
\_\_\_\_\_ GAS COOKTOP  
\_\_\_\_\_ MICROWAVE  
\_\_\_\_\_ TRASH COMPACTOR

#OF \_\_\_\_\_ LOCATION OF \_\_\_\_\_

NEW SWITCHES FOR \_\_\_\_\_  
\_\_\_\_\_ UNDERCABINET LIGHTS  
\_\_\_\_\_ OVERHEAD LIGHTS  
\_\_\_\_\_ GARBAGE DISPOSAL

#OF \_\_\_\_\_ LOCATION OF \_\_\_\_\_

NEW 110 CIRCUIT FOR \_\_\_\_\_  
\_\_\_\_\_ DISHWASHER  
\_\_\_\_\_ GARBAGE DISPOSAL  
\_\_\_\_\_ UNDER CABINET LIGHTS  
\_\_\_\_\_ TRASH COMPACTOR  
\_\_\_\_\_ MICROWAVE

NEW 220 CIRCUIT FOR \_\_\_\_\_  
\_\_\_\_\_ ELECTRIC WALL OVEN  
\_\_\_\_\_ ELECTRIC STOVE *Exist but needs*  
\_\_\_\_\_ ELECTRIC COOKTOP *TO move ②*  
\_\_\_\_\_ DRYER

\_\_\_\_\_  
#OF \_\_\_\_\_ LOCATION OF \_\_\_\_\_

\_\_\_\_\_  
#OF \_\_\_\_\_ LOCATION OF \_\_\_\_\_

\_\_\_\_\_  
#OF \_\_\_\_\_ LOCATION OF \_\_\_\_\_

INSTALL UNDERCABINET LIGHTS  
#OF 2 LOCATION OF Cust supplied lights

\_\_\_\_\_  
REMOVE AND REPLACE EXISTING LIGHT FIXTURE

\_\_\_\_\_  
RELOCATE TELEPHONE

\_\_\_\_\_  
SUBPANEL

\_\_\_\_\_  
HEAVY UP

\_\_\_\_\_  
RELOCATE CABLES IN SOFFIT

*? All order for Kit water  
Dispenser installation*

PLUMBING

*single bowl*

SINK IS CURRENTLY SB WILL STAY THE SAME  
SINK IS CHANGING TO \_\_\_\_\_

DISCONNECT AND RECONNECT SINK, GARBAGE DISPOSAL, ~~AND DW~~

CHANGE FROM SINGLE TO DOUBLE BOWL SINK *A new installation (not under)*

CHANGE TO CORNER SINK

RELOCATE WASTE AND WATER

LOWER WASTE LINE (TO ALLOW FOR NEW GARBAGE DISPOSAL

SNAKE LINE TO ALLOW FOR NEW DW, GARBAGE DISPOSAL

DISCONNECT AND RECONNECT GAS APPLIANCE

CAP GAS LINE

RUN GAS LINE FOR GAS APPLIANCE (FINISHED BASEMENT)

RUN GAS LINE FOR GAS APPLIANCE (UNFINISHED BASEMENT)

CONNECT ICE MAKER \_\_\_\_\_ NEW \_\_\_\_\_ REUSE

INSTALL VANITIES \_\_\_\_\_ #

REMOVE TOILET

REINSTALL TOILET

INSTALL NEW TOILET



**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.