



APPLICATION ACCEPTED: March 2, 2012
DATE OF PUBLIC HEARING: May 23, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

May 16, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-SP-011

SPRINGFIELD DISTRICT

APPLICANT: Claudia Borke

OWNERS: Claudia Borke and Erik Pohlmann

LOCATION: 11679 Havenner Road, Fairfax Station, 22039

SUBDIVISION: Fairfax Station

TAX MAP: 76-4 ((9)) 886

LOT SIZE: 2.31 acres

ZONING: R-C and WS

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit a reduction to minimum yard requirements based on error in building location to permit an addition to remain 34.4 feet from the front lot line

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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

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B. Cho

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



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

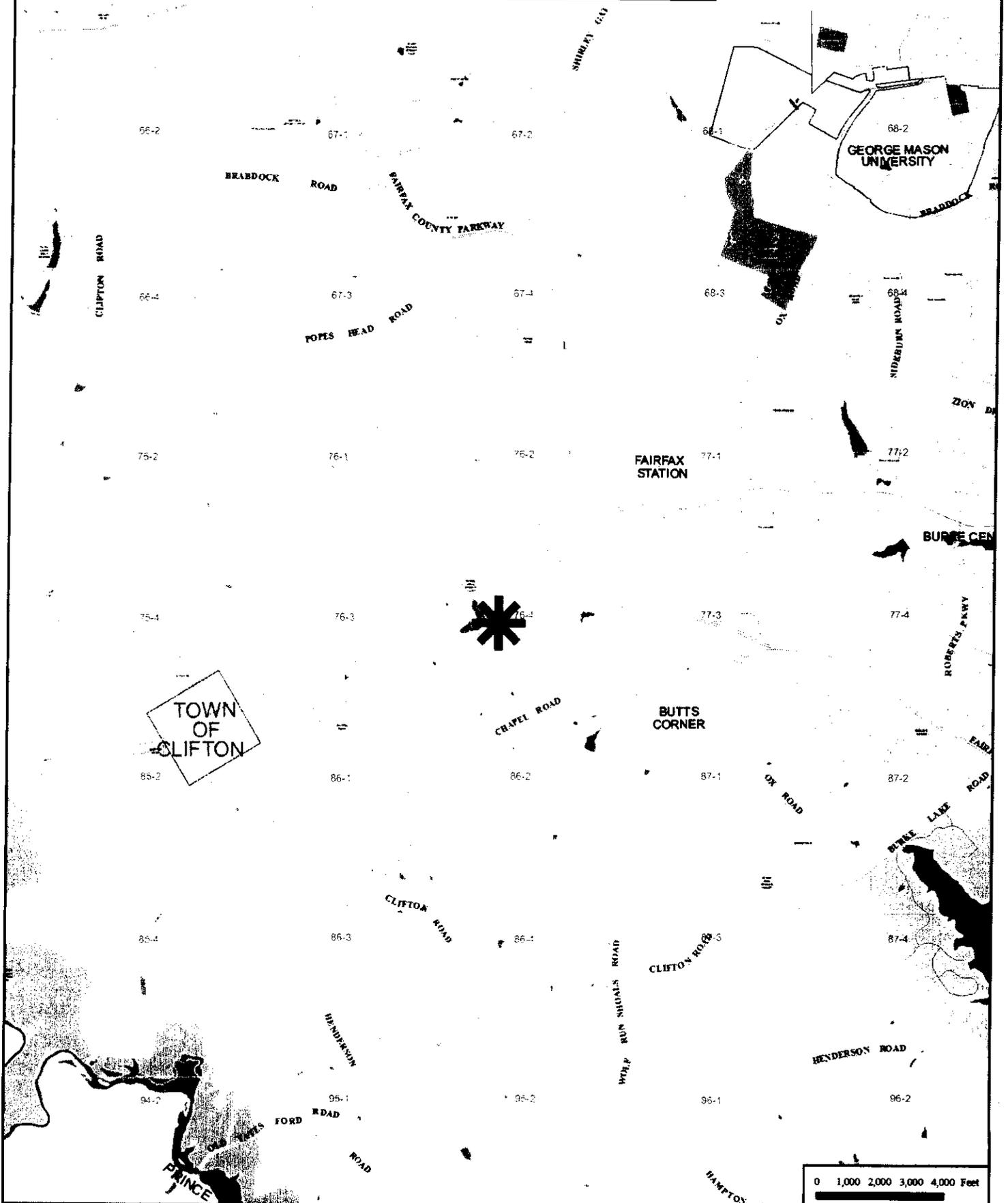


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-SP-011

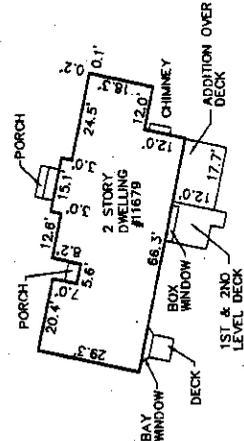
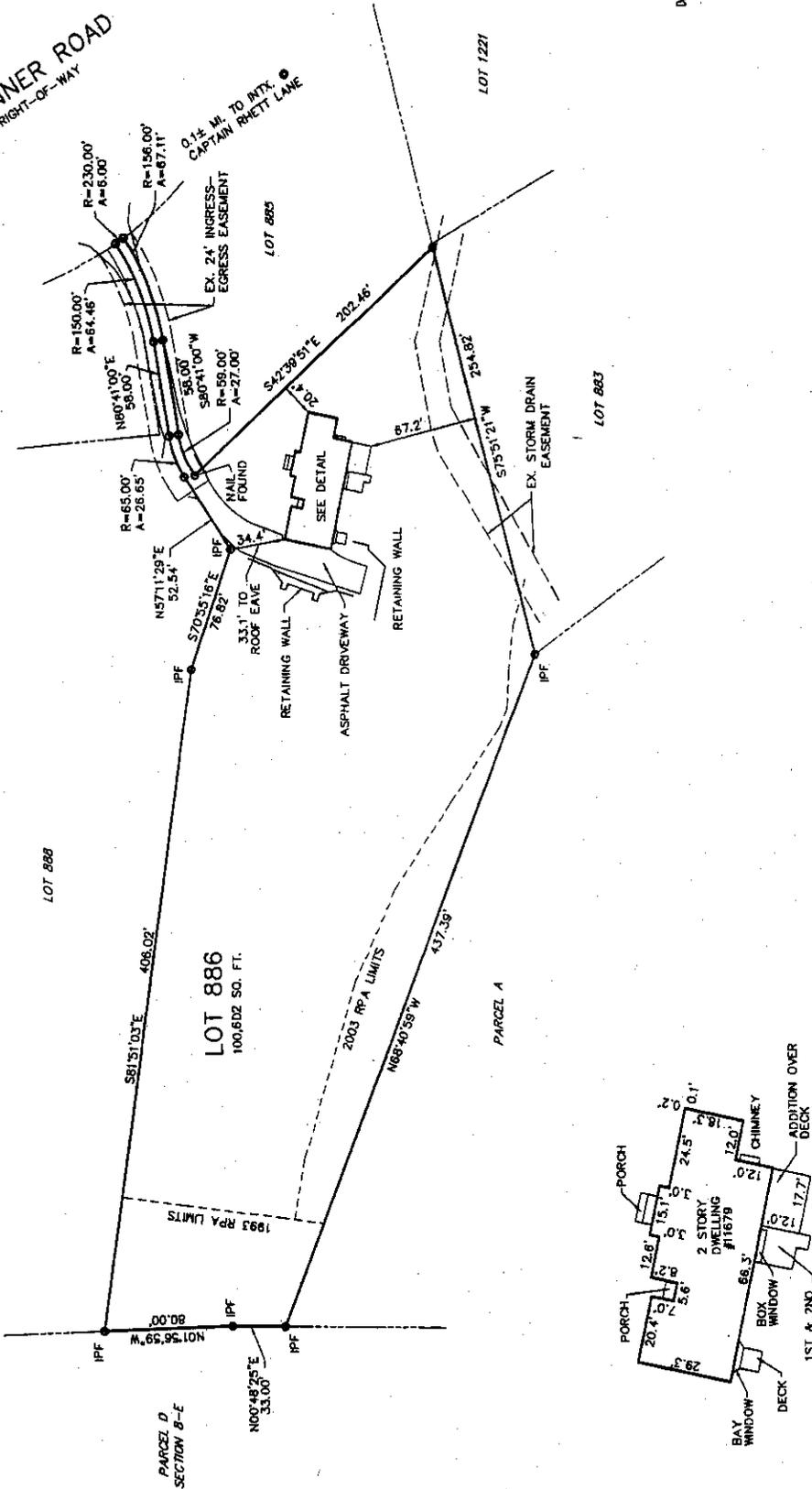
CLAUDIA BORKE



TOWN OF CLIFTON



HAVENNER ROAD
30' Right-of-Way



HOUSE DETAIL SCALE: 1"=25'



RPA LIMITS TAKEN FROM FAIRFAX COUNTY
CHESAPEAKE BAY PRESERVATION MAP.
NO TITLE REPORT FURNISHED. ALL UNDERLYING
EASEMENTS MAY NOT BE SHOWN.

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Department of Planning & Zoning
APR 12 2012
Zoning Evaluation Division

HOUSE LOCATION SURVEY
LOT 886
SECTION 12-A
FAIRFAX STATION
SPRINGFIELD DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"=50'
JUNE 13, 2011
REVISED: AUGUST 8, 2011
REVISED: APRIL 6, 2012

JEFF WARNER LAND SURVEYING, INC.
9442 CARTER POINT LANE, MANASSAS, VA. 20110
(703) 369-5249 FAX (703) 369-5765

RECORD NORTH

PROPERTY CORNERS NOT SET
PER WAIVER REQUEST.

Figure A1. Views from front pipe stem, front lot line:



Figure A2. View from pipe stem, front and right corner



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JAN 12 2012
Zoning Evaluation Division

Figure A3. View from left front and side lot line



Figure A4. View from left corner back lot line



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Figure A5. View from back of house lot line



Figure A6. Right back side lot line



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Zoning Evaluation Division

Figure A7. View from right side of house lot line



Figure A8. View from right side closer to house



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JAN 12 2012
Zoning Evaluation Division

Pictures of properties visible from 11679 Havenner Road:



11681 Havenner Road viewed from driveway/front entrance of 11679 Havenner



11681 Havenner Road farther up the shared driveway



11677 Havenner Road viewed from front lot line



11677 Havenner Road viewed from side corner lot line



11676 Captain Rhett viewed from back of house



11678 & 11680 Captain Rhett viewed from back of house



Outward view from house toward Clifton from lot line, no visible properties



11683 viewed from halfway up the driveway



11684 Havenner Road viewed from halfway up the driveway



11683 & 11684 Havenner Road viewed from bottom of driveway



11682 Havenner Road viewed from top of driveway

DESCRIPTION OF THE APPLICATION

The applicant requests approval of a special permit for an error in building location to permit an addition to remain 34.4 feet from the front lot line. The two story addition on the north (left) side of the house was built in early 2011.

	Structure	Yard	Min. Yard Req.	Structure Location	Amount of Error	Percent of Error
Special Permit	Addition	Front	40.0 feet	34.4 feet	5.6 feet	14%

*The minimum required front yard in the R-C District is 40 feet.

EXISTING SITE DESCRIPTION

The subject site measures 2.31 acres in area and is zoned R-C and WS. The site is developed with a two story, single family detached dwelling, which measures approximately 4,082 square feet in size. The original dwelling was built in 1984 with an addition added in 2011. The site is a pipe stem lot and is accessed through a shared driveway via Havenner Road. There is an asphalt driveway in the front yard, which terminates next to the garage. The site is landscaped with grass, shrubs and trees, and at the rear of the house, the grade slopes down into a forested area.

CHARACTER OF THE AREA

	Zoning	Use
North	R-C and WS	Single Family Detached Dwelling
South	R-C and WS	Single Family Detached Dwelling
East	R-C and WS	Single Family Detached Dwelling
West	R-C and WS	Open space

BACKGROUND

A building permit (Permit #110250020) was issued on February 17, 2011 for a two story addition with garage. The addition was approved to measure 26 feet in length and 29 feet in width and to be located 42.2 feet from the front lot line. As part of the permit's issuance, a setback certification was required prior to the Residential Use Permit (RUP) issuance or final inspection. A copy of the permit is included as Appendix 4. On May 26, 2011, the contractor was notified that final inspection passed for the addition, but subsequently on June 6, 2011, the County noted that final inspection failed due to the lack of a setback certification. The contractor submitted the setback certification documents shortly afterwards. On June 22, 2011, a setback certification letter was issued, which noted that the certification failed due to the location of the addition 34.4 feet from the front lot line, which did not meet the minimum front yard requirement of 40 feet in the R-C District. A special permit application or remodeling the addition was recommended as a remedy to the certification failure. A copy of the letter is included as Appendix 5.

A copy of the submitted special permit plat titled "House Location Survey, Lot 886, Section 12-A, Fairfax Station" prepared by Jeff Warner Land Surveying, Inc., dated June 13, 2011 and revised and sealed through April 6, 2012, is included at the front of the staff report.

Records indicate there have been no special permit applications for a similar request in the vicinity of the application site.

ZONING ORDINANCE REQUIREMENTS

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

This special permit is subject to Sects. 8-006, 8-903 and 8-914 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, this special permit must meet these standards.

CONCLUSION

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

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Copy of Permit #110250020
5. Setback Certification Letter Dated June 22, 2011
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2012-SP-011

May 16, 2012

1. This special permit is approved for the location and size of the addition as shown on the plat prepared by Jeff Warner Land Surveying, Inc., dated June 13, 2011 and revised and sealed through April 6, 2012, as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections for the addition shall be diligently pursued and obtained within six months of final approval of this application.

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

Application No.(s): SP 2012-SP-011
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec. 9th 2011
 (enter date affidavit is notarized)

I, Claudia M. Borke, 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

114668

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)
Claudia BORKE	11679 Havenner Rd. Fairfax Station, VA 22039	Applicant/Title Owner
Erik Pohlmann	11679 Havenner Rd. Fairfax Station, VA 22039	Title Owner

(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).

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec 9th 2011
(enter date affidavit is notarized)

114668

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): SP 2012-SP-011
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec. 9th 2011
(enter date affidavit is notarized)

114668

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 - SP-011

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec. 9th 2011
(enter date affidavit is notarized)

114668

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

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

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

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

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

NONE

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

Application No.(s): SP 2012-SP-011
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: Dec 9th 2011
(enter date affidavit is notarized)

114668

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
g

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

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

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

Applicant Applicant's Authorized Agent

Claudia BORKE
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 9th day of Dec 20 11, in the State/Comm. of Virginia, County/City of Fairfax.

Svetlana Yurieva Yapparova
Notary Public

My commission expires: April 30 2014

SVETLANA YURIEVNA YAPPAROVA
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2014
COMMISSION # 7378829

RECEIVED
Department of Planning & Zoning

FEB 10 2012

Zoning Evaluation Division

2/3/2011

Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

Dear Madam or Sir,

We request your assistance to obtain a special permit for our recent home addition. Last February our contractor (Whitestone Home Improvement - WHI) obtained a building permit for our addition to our home located at 11679 Havenner Road, Fairfax Station, VA (see attached), and proceeded with construction. The addition was part of a whole-house renovation as our home was destroyed by a large oak tree and storm on September 30, 2010. Last June, after construction was complete, Fairfax County notified us that we were in violation of setback requirements. We understand this is in direct contradiction to written Fairfax County policy, that we should have been notified during the application process of a likely setback violation. We never saw the plans that were submitted to the county, as they were drawn on the land plat in the Fairfax County offices by our contractor. While we believe that our contractor knew about the setback violation, he never informed us, for reasons unknown to us.

We also understand it is Fairfax County policy to not grant building permits where the building plans are clearly in violation of setback requirements. As unknowing homeowners, we were never aware of setback requirements, we never realized we were encroaching on our front lot line (as the line at the point of encroachment is actually at the side of the house). Fairfax County issued us a building permit without reservation or condition. It is also Fairfax County policy to notify the parties involved in this process by printing on the building permit that a setback verification would be required if the zoning department determines there is a likelihood of a setback issue. This notice does not appear on our building permit.

We note that it is unfortunate that neither our contractor, nor Fairfax County, at any time, notified us of the need for the setback certification, nor does our building permit have the requirement printed on it. While these procedures may be clear and obvious to county employees and builders, as homeowners, we had no idea the builder was violating any requirements. Based on our over 100' setback from the street, and irregular front lot line, it is reasonable that we had no idea we would be violating any setback requirements. We attended all inspections, and at no time was this issue raised by Mr. Vannoy (our Fairfax County inspector), at no time did the county attempt to inform us of any likely violations, and indeed, the county issued a final inspection "passed" (see attachment) note to our builder, who used this as proof to obtain final payment from us.

The land plat clearly shows that our house is setback from the street by over 100 feet. Our front yard is irregularly shaped, with only one small corner of the lot, on the far side of our driveway, which is technically within the setback requirement. This is simply an anomaly due to the odd front lot line that does not interfere with safety, ingress/egress into the home and driveway, and appearance from any angle of view.

As employees in Fairfax County repeatedly failed to notify us of the possible setback issue, we did not have the opportunity to build within the requirements. We had three different addition plans - two of the three designed would not have violated setback. We simply did not know. So:

1. Given that the zoning office authorized the building permit;
2. Given that the zoning office did not ensure that either the homeowner or contractor was informed of the setback issue;
3. Given that the building permit office issued the building permit without reservation or exception;
4. Given that the building inspector never consulted the building plat throughout the entire inspection process;
5. Given that Fairfax County scheduled and conducted the final inspection;
6. And given that Fairfax County APPROVED the final inspection;

We ask that Fairfax County grant us an exception to policy for setback as laid out in the Special Permit for Approval of Reduction to Minimum Yard Requirements Based on Error in Building location under Sect. 8-914 of the Zoning Ordinance.

Additional extenuating circumstances:

- Upon issuance of the final notification of passing the final inspection, we issued the contractor, WHI, their final payment for the project. We have been in negotiation with WHI for them to complete the special permit process, or reimburse us for hiring an attorney to complete it. Their conditions to complete our project included so many additional provisions, our attorney recommended against us using WHI, and against signing any additional agreements with them. This leaves us in a position whereby our contractor caused this situation, and Fairfax County directly contributed to this current state of affairs. We do not have a passed final inspection, and our contractor has payment that he will not return and abandoned this project.

Enclosed are the correspondence with the Zoning Department, a copy of the building permit showing there is no requirement for setback certification, and the "passed final inspection notification" from Fairfax County. We have the original print - out of the building permit.

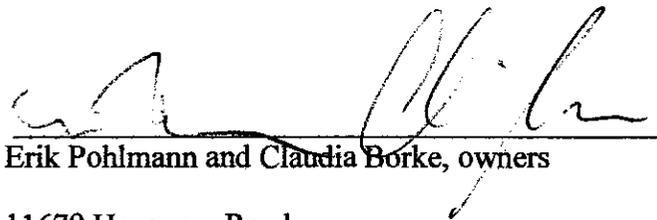
The use of our addition is residential. Its facade is stone and vinyl siding and was approved by the local homeowners association.

On our property, there are no known hazardous or toxic substances as set forth in title 40, code of federal regulations parts 116.4, 302.4 and 355; no known hazardous waste as set forth in Commonwealth of Virginia Department of Waste Management Regulations VR 672-10-1-Virginia Hazardous Waste Management Regulations; and/or no known petroleum products as defined in title 40, code of Federal regulations part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.

The addition conforms to the provisions of all applicable ordinances, regulations, and adapted standards. The addition received final inspection approval by Fairfax County on 05/26/2011. Only on review was this final inspection rescinded due to the setback encroachment.

Applicants are the owners and occupants of 11679 Havenner Road. Our intent was to expand a bedroom and enlarge the garage for personal use.

Sincerely,



Erik Pohlmann and Claudia Borke, owners

11679 Havenner Road
Fairfax Station, VA 22039
703-250-6163 (home)
703-226-9233 (cell)
erik_pohlmann@hotmail.com
claudia_borke@hotmail.com

Department of Public Works and Environmental Services
Permit Application Center
12055 Government Center Parkway
Fairfax, Virginia 22035-5504

RESIDENTIAL ADDITION

Permit Number: 110250020

Issue Date: 02/17/2011

Tax Map ID: 076-4 / 09 / 0886

Job Address: 11679 Havenner Rd
Fairfax Station, VA22039-1232

Plan No: R-11-1047

Issued To:

BORKE CLAUDIA
11679 Havenner Rd
Fairfax Station, Va 22039
(703)250-6163

Contractor:

WHITESTONE HOME IMPROVEMENT IN
5211 Lyngate Court Suite B
Burke, Va 22015-0000
(703) 426-8000

Mechanic's Lien Agent: None Designated

Structure: SINGLE FAMILY DWELLING

GROUP: R5

Code: (USBC 2006) : IRC 2006

Type of Construction: VB

HAS PERMISSION, ACCORDING TO APPROVED PLANS, APPLICATION AND RESTRICTIONS OF RECORD
TO: BUILD 2 STORY ADDITION

**P
E
R
M
I
T**

110250020

076 - 4

Note to Property Owner: In accordance with Chapter 102 of the Code of the County of Fairfax, the property address must be displayed on the property in such a manner as to be visible from the public right of way. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed. Prior to beginning construction, contact your Homeowners' Association regarding any restrictive covenants governing property improvements. Sometimes, covenants may be more restrictive than the Fairfax County Code. Furthermore, requirements of covenants are not addressed by the issuance of your building permit.

The permittee is required to notify all utilities before commencing any underground construction and must receive the proper clearances from the utilities as prescribed in the Code of the County of Fairfax. (Miss Utility - 1-800-257-7777)

BUILDING OFFICIAL



To Schedule an Inspection:

Internet - www.fairfaxcounty.gov/fido
Call Center - 703-222-0455

AIRS - 703-222-2474
TTY, VA Relay - 711

Desiree Smallwood

From: Fairfax County Government [DoNotReply@FairfaxCounty.gov]
Sent: Thursday, May 26, 2011 10:40 AM
To: herb@whitestonehomeimprovement.com
Subject: Fairfax County Inspection Status Notification: Inspection Result

This is a notification from Fairfax County of your recent inspection result for:

Permit Number: 110250020 *addition*
Address: 11679 HAVENNER RD FAIRFAX STATION VA 22039-1232
Inspection Number: 5374928
Type of Inspection: (RESIDENTIAL FINAL)

Result of Inspection: PASSED
Inspection Date: 05-26-2011
Inspected By: JOHNNY VANNOY

Comments related to this inspection:

For additional information or to schedule additional inspections, please visit the FIDO web site at www.fairfaxcounty.gov/FIDO . For questions regarding this particular inspection please contact 703-631-5101, TTY 711 for residential inspections or 703-324-1910, TTY 711 for commercial inspections.

Please do not reply to this email.

Email dated 16 July 2011 from Fairfax County Zoning:

Erik: We pulled up on the computer what the permit should have looked like if printed and it had the requirement for the setback cert on it. We do not have the actual permit that was printed. I do recall that there was a time in the recent past when updates were made to the FIDO system and there was a window of time in which the statement for the setback cert requirement was not printed on the permit. It was quickly identified and fixed but your permit may have been issued in that time frame. I am looking into it. However, it is clear from the permit application that a setback certification was required and the computer system does show that it was required. Again, whether there was a computer glitch or not, the garage does not meet the setback and you will need a Special Permit for an Error in Building Location to correct.

Leslie B. Johnson
Senior Deputy Zoning Administrator
Department of Planning and Zoning
703-324-1223



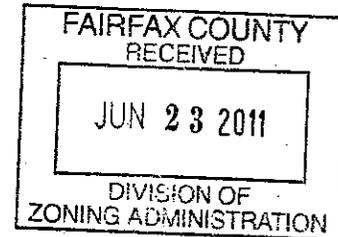
County of Fairfax, Virginia

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

June 22, 2011

Ms. Desiree Smallwood
5211 Lyngate Court Suite B
Burke, Virginia 22015

Re: Setback Certification – Building Permit #110250020
11679 Havenner Road
Fairfax Station, Section 12-A, Lot 886
Tax Map Ref: 76-4 ((9)) 886
Zoning District: R-C



Dear Ms. Smallwood:

This letter is in response to your request for approval of the setback certification for an addition pursuant to Building Permit #110250020. The property is zoned R-C District, which has a minimum front yard requirement of 40 feet, minimum side yard requirement of 20 feet and minimum rear yard requirement of 25 feet.

The setback certification shows an addition with an approximate dimension of 29 foot by 26 foot, which is located at 34.4 feet from the front lot line. Pursuant to Sect. 2-419 of the Zoning Ordinance, the Zoning Administrator has the authority to reduce the minimum required yard for any building wherein the error does not exceed 10% of the measurement involved, was the result of an error in the location of the building subsequent to the issuance of a Building Permit and/or the noncompliance was done in good faith or through no fault of the property owner. However, the addition encroaches into the minimum required front yard by 5.6 feet, which exceed the 10%; therefore, the setback certification has been failed, and a copy of the plat is enclosed.

For the setback certification to be approved, the addition could be remodeled not to encroach into the minimum required 40 feet front yard. Alternatively, a reduction of the minimum required yard or an error in building location special permit could be sought from the Board of Zoning Appeals (BZA). All special permits require the submission of an application, plat and fee; notification of adjacent property owners; and a public hearing before the BZA. Information pertaining to the special permit process is available from the Zoning Evaluation Division by calling 703-324-1290. If you choose to modify the structure, a revised building permit will be required. With all options, a new setback certification will be required. For information related to building permits, please call 703-222-0801.

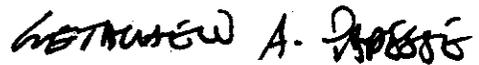
11679 Havenner Road

June 22, 2011

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Your cooperation in this matter is greatly appreciated. Please be advised that an inspection hold has been placed on the Building Permit. If you have any questions regarding this response, please feel free to contact me at 703-324-1314.

Sincerely,



Getachew A. Tadesse

Assistant to the Zoning Administrator

cc: Pat Herrity, Supervisor Springfield
Eileen McLane, Zoning Administrator
Michelle M. O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Charles O'Donnell, Residential Inspections Division, DPWES
Jack W. Weyant, Director, Environmental and Facilities Inspections Division, DPWES
Claudia Borke, 11679 Havenner Road Fairfax Station, VA 22039

ZONING ORDINANCE PROVISIONS

8-006 General Standards

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

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

8-903 Standards for all Group 9 Uses

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

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

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

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
- 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
- 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.