



APPLICATION ACCEPTED: March 28, 2012
BOARD OF ZONING APPEALS: June 6, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

May 30, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-BR-012

BRADDOCK DISTRICT

OWNER/APPLICANT: Eddie Mitchell

SUBDIVISION: Oak Hill

STREET ADDRESS: 8512 Braeburn Drive

TAX MAP REFERENCE: 70-1 ((16)) 214

LOT SIZE: 11,904 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914 and 8-918

SPECIAL PERMIT PROPOSAL: To permit reduction to the minimum yard requirements based on error in building location to permit roofed deck to remain 9.6 ft. from side lot line and to permit an accessory dwelling unit in an existing dwelling

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-BR-012 for the 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.

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B. Cho

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-BR-012

EDDIE MITCHELL



Special Permit

SP 2012-BR-012

EDDIE MITCHELL

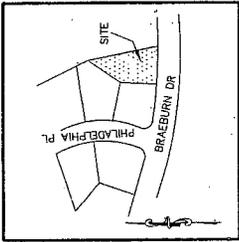




SCALE: 1" = 20' DATE: FEBRUARY 6, 2012

SPECIAL PERMIT PLAT
 LOT 214 SECTION 2
 OAK HILL
 FAIRFAX COUNTY, VIRGINIA
 BRADDOCK DISTRICT

JAMES D. THURBER, L.S.
 T.E.L.S.
 THURBER ENGINEERING & LAND SURVEYING
 10707 WOODLAND DRIVE
 FREDERICKSBURG, VIRGINIA
 TELEPHONE: 540-207-3348 EMAIL: jtm@telstid.com



VICINITY MAP

FLOOD PLAIN NOTE
 NO PORTION OF THE PROPERTY SHOWN HEREON LIES WITHIN A FLOOD HAZARD AREA.

GRAVES NOTE
 THERE ARE NO GRAVES LOCATED ANYWHERE ON THE PROPERTY SHOWN HEREON.

SEPTIC AND WELL NOTE
 THERE ARE NO SEPTIC FIELDS OR WELLS LOCATED ANYWHERE ON THE PROPERTY SHOWN HEREON.

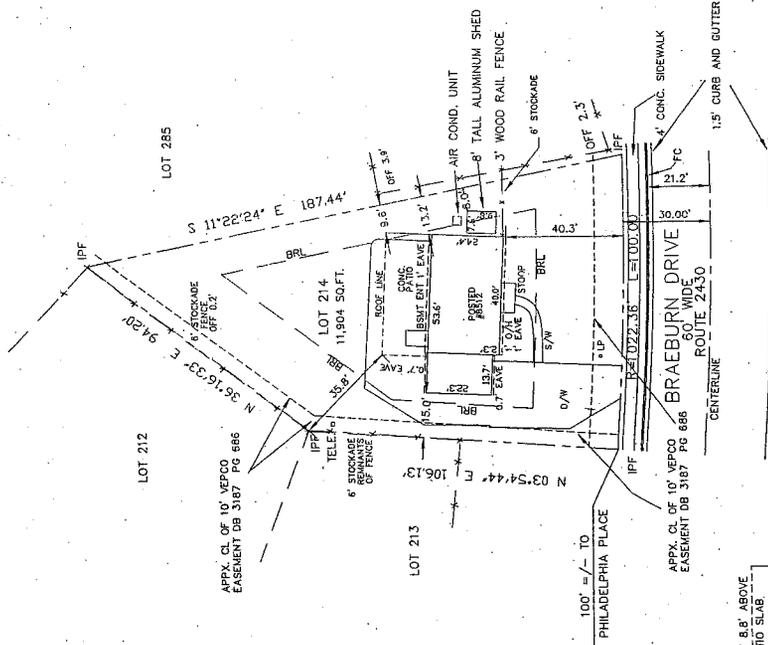
FLOOR AREA RATIO
 2 STOREYS ABOVE GRADE = 1,952 SQ.FT.
 GARAGE FLOOR = 1,055 SQ.FT.
 TOTAL FLOOR AREA = 2,257.5
 LAND AREA = 11,304
 FLOOR AREA RATIO = 19.07%
 GROSS FLOOR AREA = 3,233.5 (INCLUDES BASEMENT BELOW GRADE)

EASEMENT NOTE
 CAR EASEMENT SHOWN IN DEED BOOK 3245 PG. 309 IS LOCATED ON THE SUBJECT PROPERTY AND RUNS ALONG THE SOUTHERN PROPERTY LINE AND THE WESTERN PROPERTY LINES.

OWNER:
 EDDIE MITCHELL
 10307 WOODLAND DRIVE
 ANNANDALE, VA 22003
 DEED BOOK 13663 PAGE 1857
 TAX MAP 70-1-16-0214

ZONING TAB
 ZONE: R-3 (RESIDENTIAL 3 DU/AC)
 FRONT YARD: 30 FEET
 SIDE YARD: 12 FEET
 REAR YARD: 25 FEET
 BUILDING HEIGHT: 35 FEET

REVISIONS
 Description Location
 MAR 31 2012
 Zoning/Permit/Plan

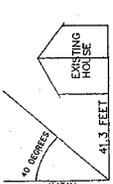


FLOOD NOTE

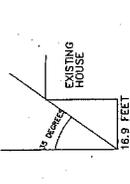
9) THIS PARCEL IS LOCATED IN FLOOD ZONE X, AS DETICED ON THE FLOOD INSURANCE RATE MAP, COMMUNITY # 51059C, PANEL # 0280E, AND IS DATED 08/17/2010.



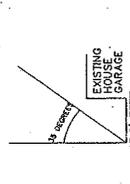
ANGLE OF BULK PLANE REAR



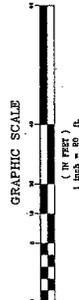
ANGLE OF BULK PLANE FRONT



ANGLE OF BULK PLANE EAST SIDE

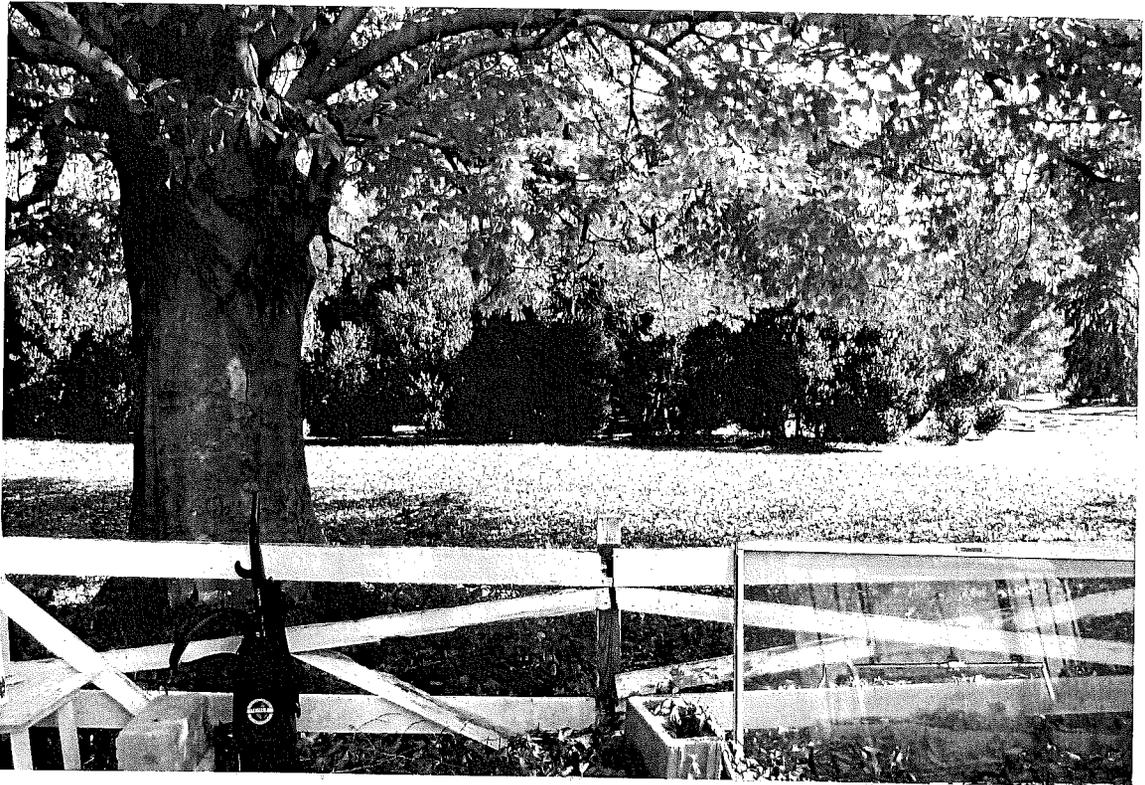


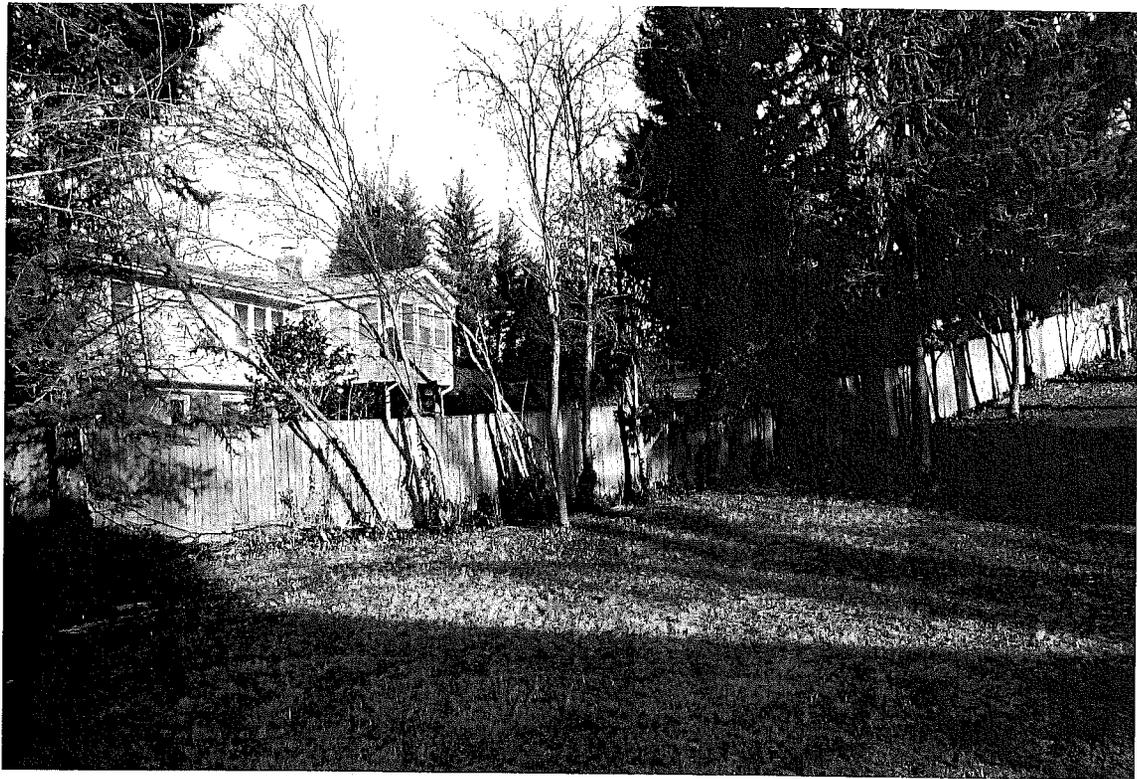
ANGLE OF BULK PLANE WEST SIDE

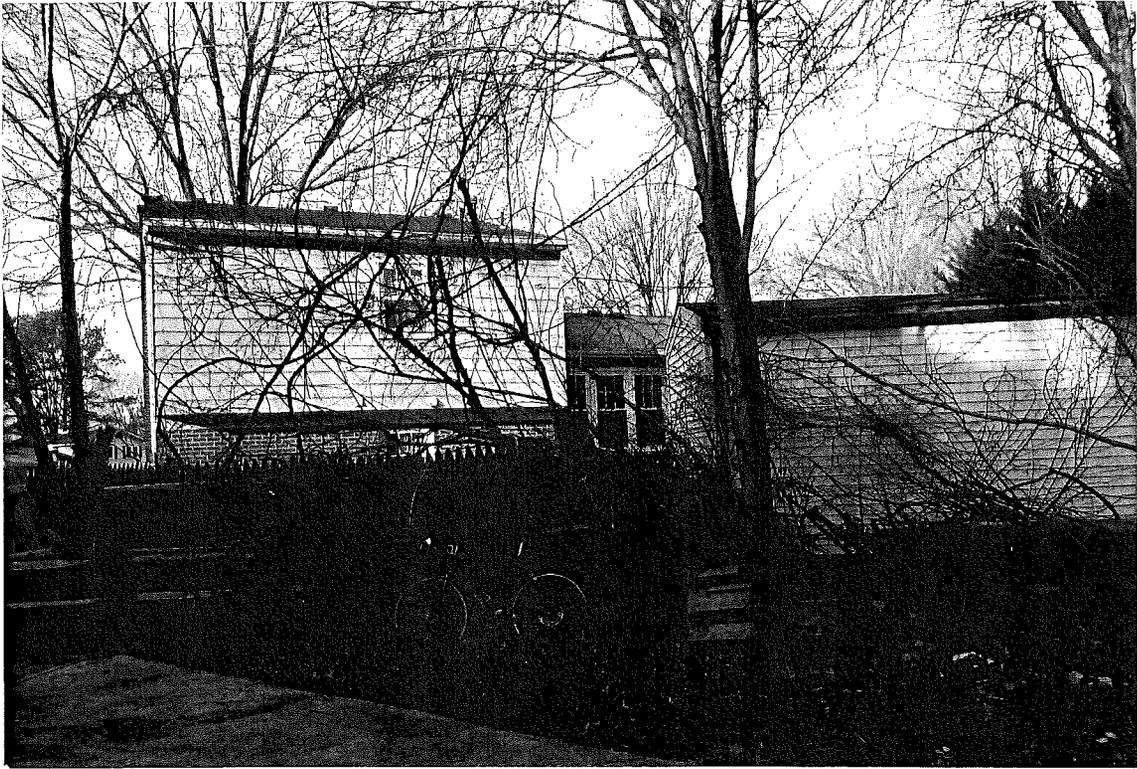


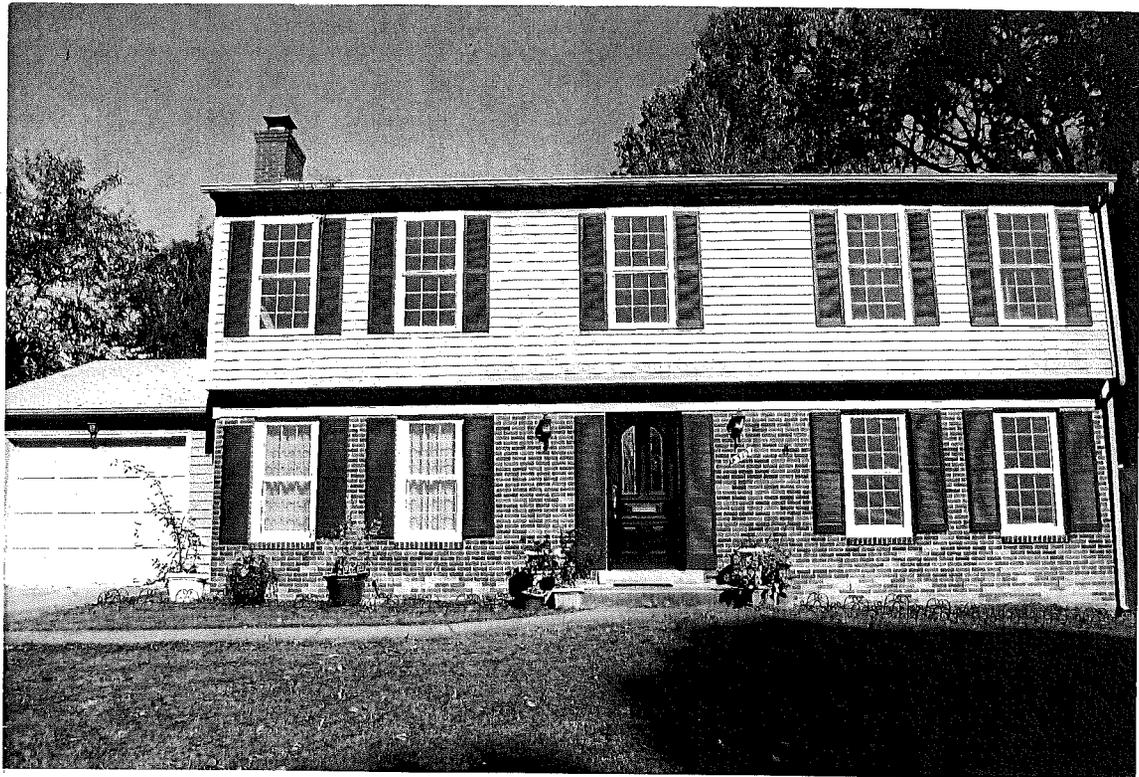
GRAPHIC SCALE
 (IN FEET)
 1 inch = 10 ft.

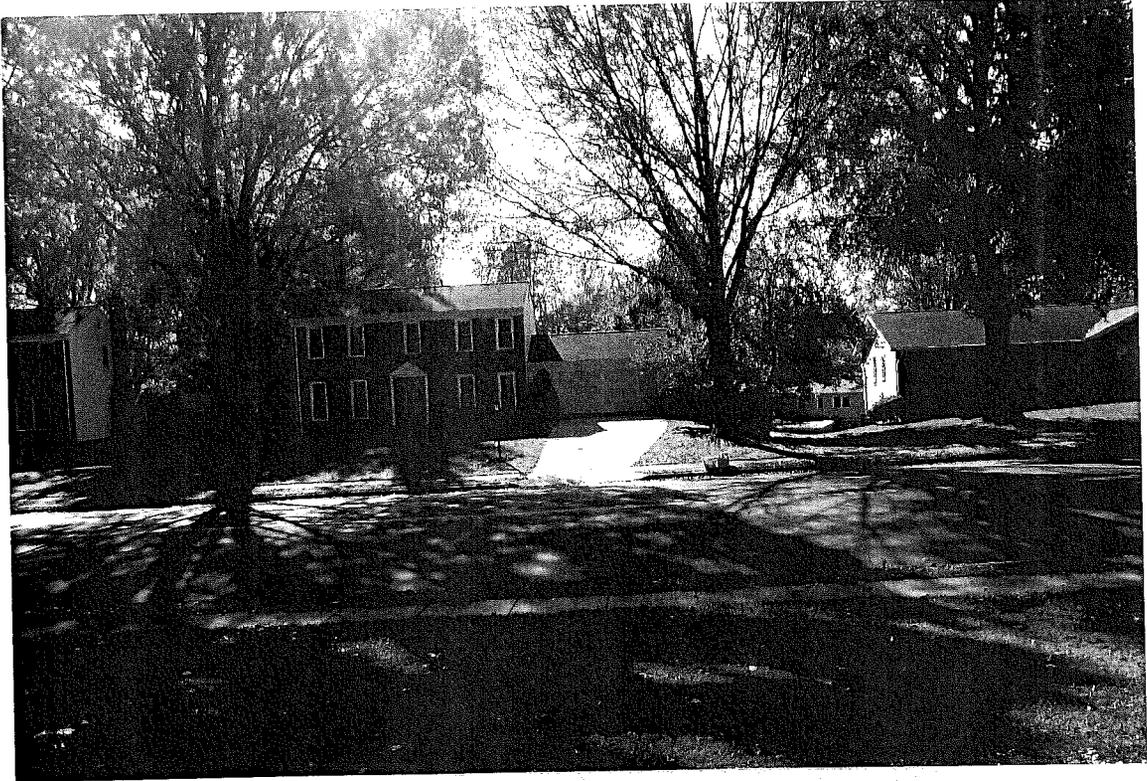
ROOF 8.8' ABOVE PATIO SLAB	
ROOF 12.6' ABOVE PATIO SLAB	

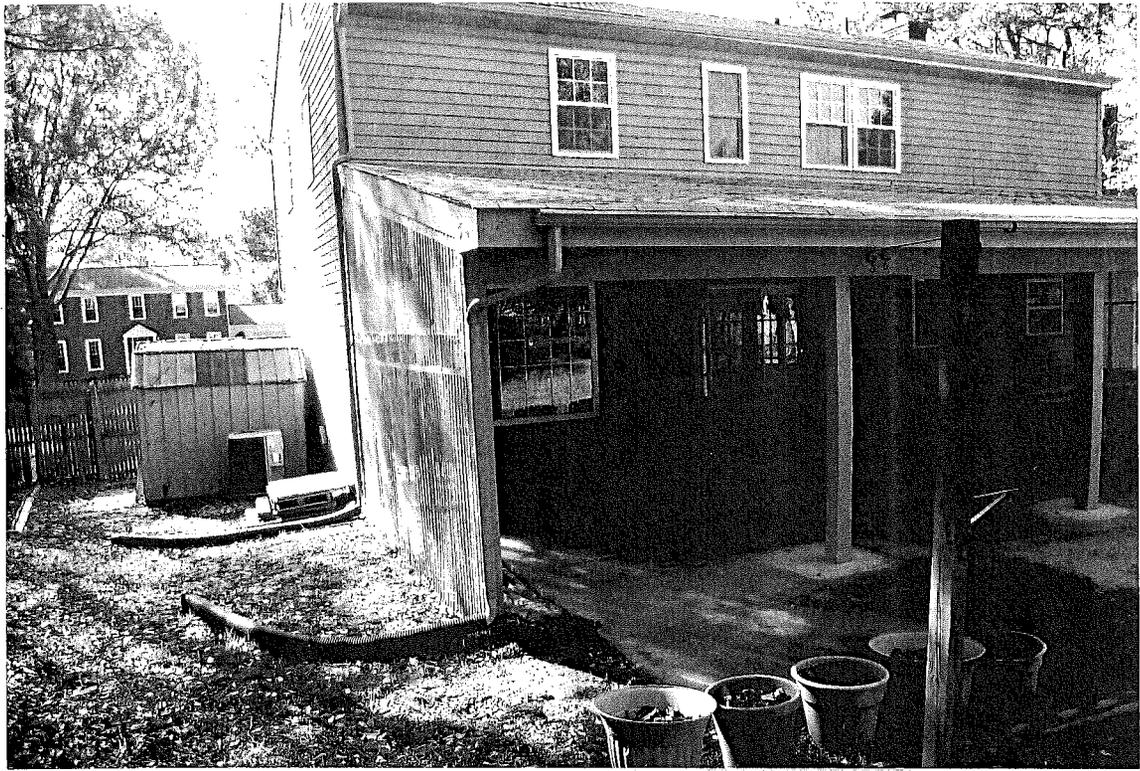


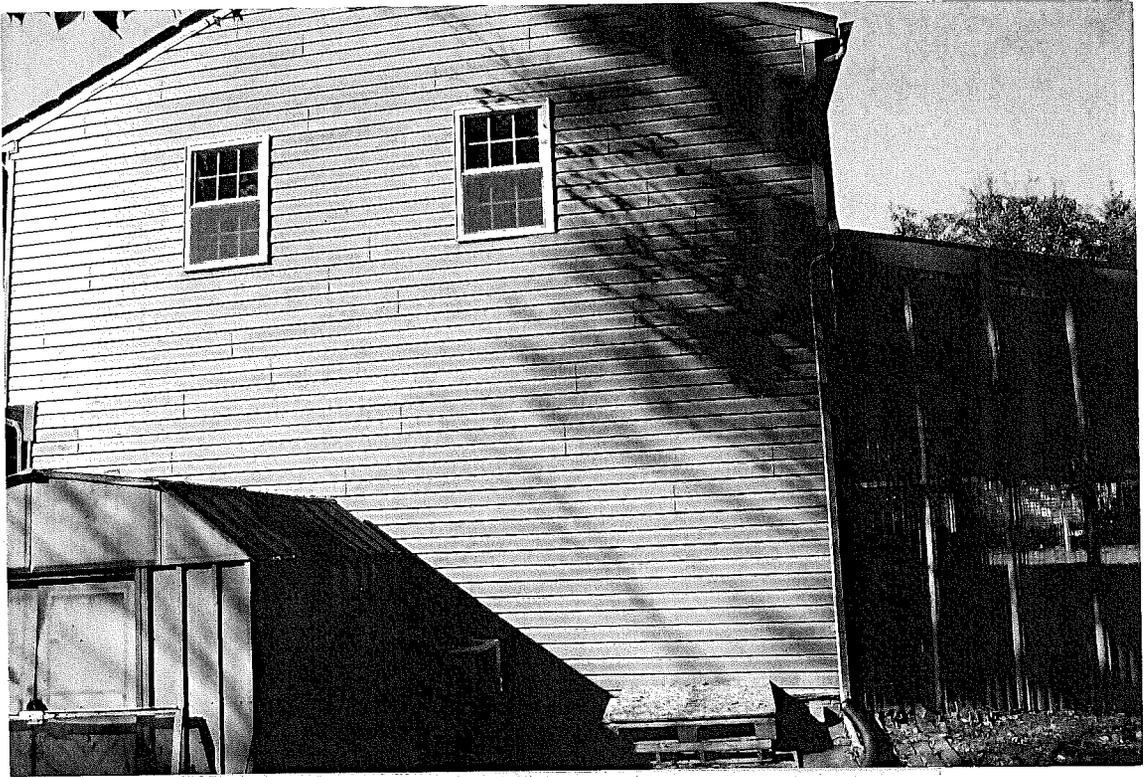


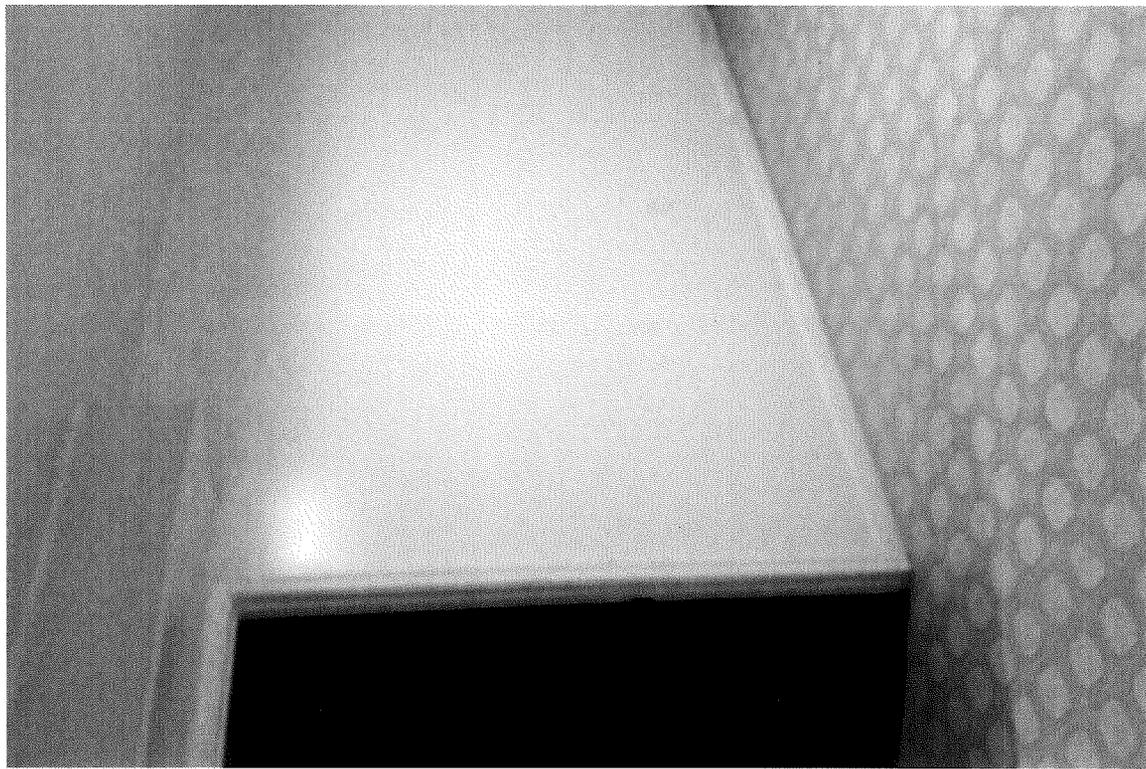
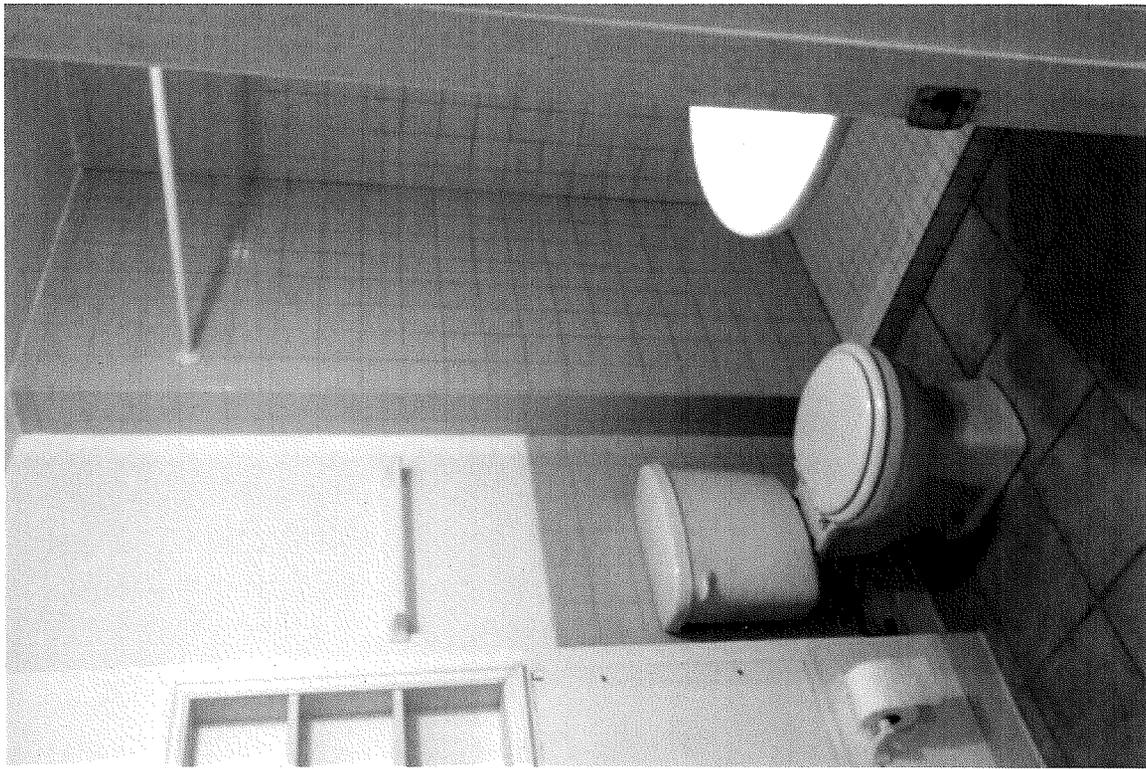




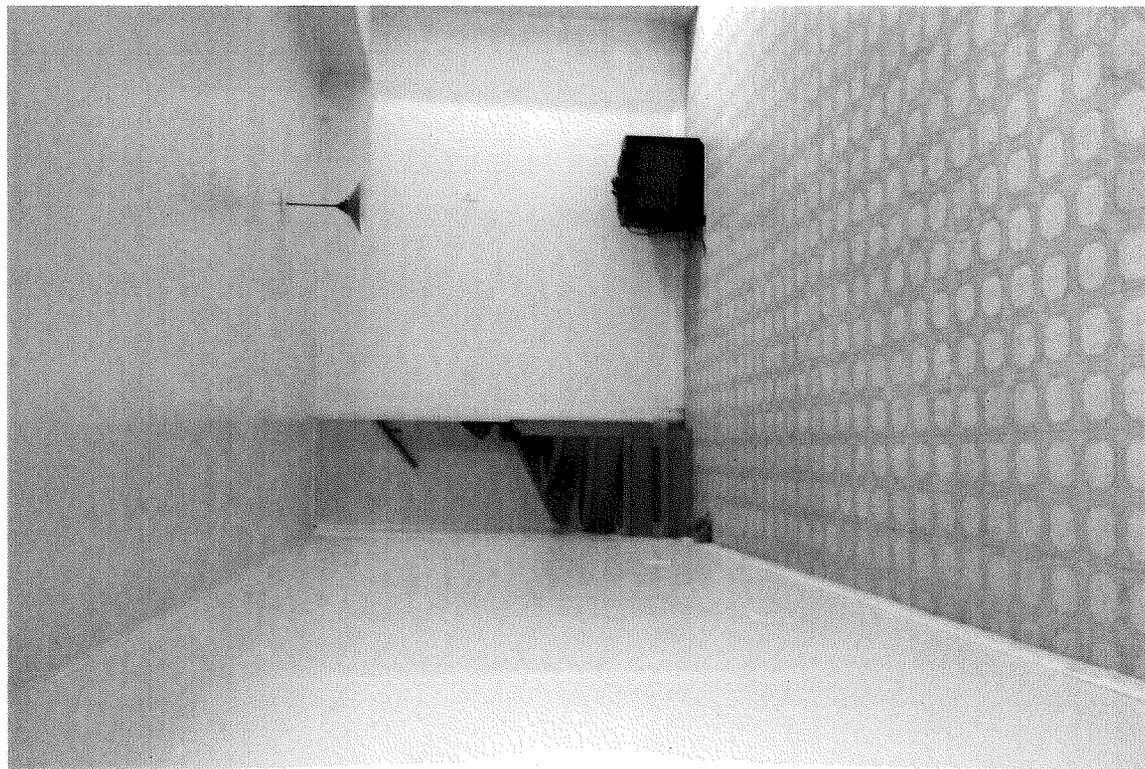
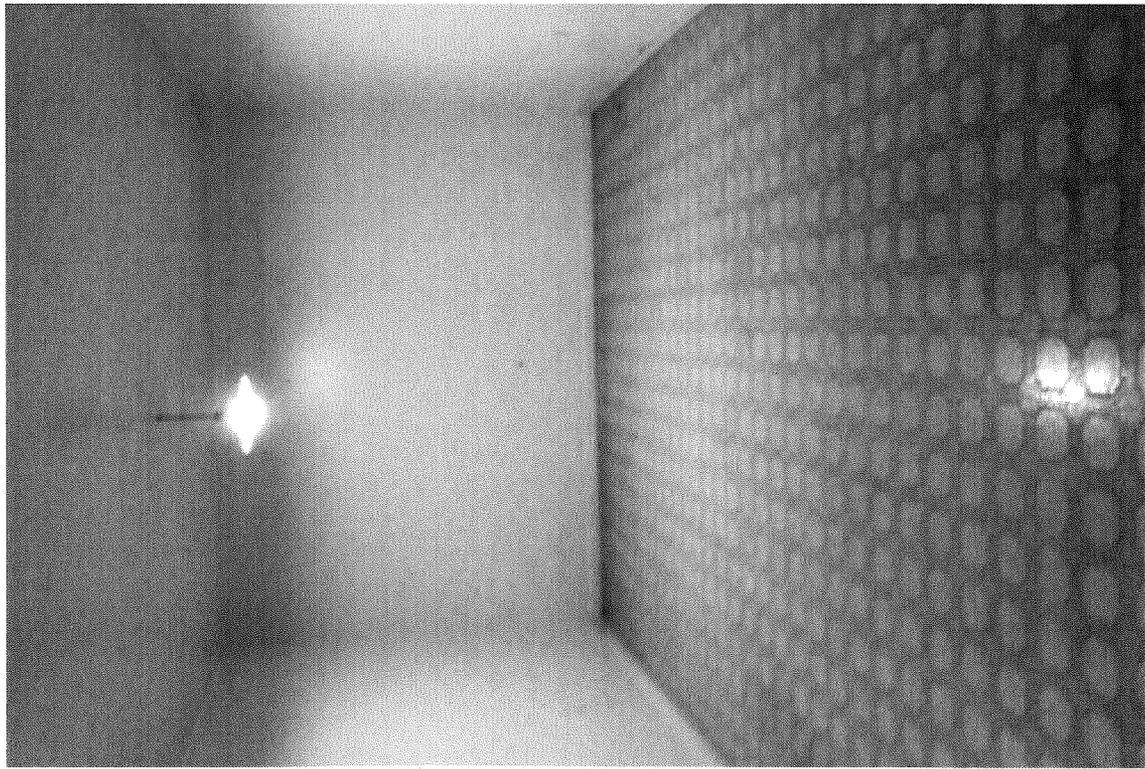












DESCRIPTION OF THE APPLICATION

Special Permit Request: To permit a roofed deck (covered porch) to remain 9.6 feet from a side lot line and to permit an accessory dwelling unit in the cellar of the existing dwelling

Size of Principal Dwelling: 2,257.5 square feet*

Size of Accessory Dwelling Unit: 718.8 square feet or 32%

Lot Size: 11,904 square feet

*The square footage of the principal dwelling is for above ground gross floor area, as identified on the special permit plat.

	Structure	Yard	Min. Yard Req.**	Structure Location	Amount of Error	Percent of Error
Special Permit	Roofed Deck (Covered Porch)	Side	12.0 feet	9.6 feet	2.4 feet	20%

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

LOCATION AND CHARACTER OF THE AREA

Existing Site Description

The subject property measures 11,904 square feet in size and is zoned R-3. There is a single-family detached dwelling with an attached garage on the site, which measures 2,257.5 square feet in above ground gross floor area. A concrete driveway is in the front yard, and the driveway is connected to a concrete patio, which is covered by a roof, that extends along the rear of the house. There is an ingress and egress point to the cellar at the rear of the house, and the rear yard is partially fenced by wood rail and stockade fencing. Along the rear property lines, there are mature trees, and the site is landscaped with grass. A 10 foot wide utility easement runs alongside the western rear and side property lines, as well as the front property line.

Surrounding Area Description

Direction	Use	Zoning
North	Single Family Detached Dwelling	R-3
South	Single Family Detached Dwelling	R-3
East	Single Family Detached Dwelling (Oak Hill)	R-3
West	Single Family Detached Dwelling	R-3

BACKGROUND

The applicant built the roof over the deck in 2011 without a permit, which was reported through a complaint. On August 31, 2011, a corrective work order (CWO) was issued to the applicant for a sunroom addition under construction without permits, inspections or approvals. In response, the applicant applied for a permit to allow a new open porch measuring 27 feet by 14 feet on August 31, 2011, but the permit was not approved due to the distance of the roofed porch from a side (east) property line. A notice of violation (NOV) was subsequently issued on October 6, 2011 for the "sunroom addition." Copies of the CWO and NOV are attached as Appendices 4 and 5. In December 2011, a summons was issued for the applicant to appear in General District Court in February 2012. On January 5, 2012, the applicant submitted a special permit application, and the judge extended the case until July 13, 2012 due to this application.

Following inspections on September 6, September 13 and October 15, 2011, a separate NOV was issued for the accessory dwelling unit on November 10, 2011, for a limitation on the number of dwelling units on a lot and meeting minimum bulk regulations for an added addition. The applicant previously rented the accessory dwelling unit to an unrelated tenant. A copy of the NOV is included as Appendix 6.

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

- Special Permit SP 2002-BR-049 was approved on December 4, 2002 for Tax Map 70-1 ((16)) 213, zoned R-3 at 4711 Philadelphia Place, to permit reduction in minimum yard requirements based on error in building location to permit an addition to remain 8.4 feet from the side lot line.
- Variance VC 1997-B-109 was approved on February 3, 1998 for Tax Map 70-3 ((9)) 138, zoned R-3 at 8607 Howrey Court, to permit construction of an addition 10.5 feet from the side lot line.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plat, Lot 214, Section 2, Oak Hill

Prepared By: James D. Thurber, L.S., Thurber Engineering & Land Surveying

Dated: February 6, 2012

Proposed Use:

The applicant is applying for two special permit requests, including a reduction to the minimum yard requirements based on error in building location to permit roofed deck to remain 9.6 ft. from side lot line and for an accessory dwelling unit in the cellar. The roofed porch is located on the rear of the dwelling and measures approximately 27 feet by 14 feet. The roofed deck (covered porch) is located 9.6 feet from the eastern side lot line where a minimum side yard of 12 feet is required.

The principal dwelling measures a total of 2,257.5 square feet in above ground gross floor area, and the proposed accessory dwelling unit will measure 718.8 square feet or 32% of the principal dwelling. The cellar is below grade, which by definition is not included in gross floor area calculations. The accessory dwelling unit will have a bedroom, living area, a kitchen and bathroom. The unit will be accessible through the principal dwelling and through a separate door to the outside at the rear of the dwelling. There is shared storage area in the basement, which is not counted in the accessory dwelling unit calculations.

The applicant originally proposed to use the accessory dwelling unit for his father, who passed away during the application process. The applicant now proposes to use the accessory dwelling unit for his mother, who is over 55 years of age. If the mother does not use the space, the applicant would rent out the space since the mother would then reside with the applicant in the main dwelling and would cause the age requirement to be met.

ZONING ORDINANCE PROVISIONS

Special Permit Requirements (See Appendix 7)

- * General Special Permit Standards (Sect. 8-006)
- * Group Standards for All Group 9 Uses (Sect. 8-903)
- * Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)
- * 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, 8-914 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

Par. 9 of Sect. 8-918 requires that "any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation." There is a small window in the bedroom, and an emergency escape and rescue opening may be required to meet residential code requirements. A development condition is included to address this issue.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903, 8-914 and 8-918 will be satisfied with adoption of the proposed development conditions. Therefore staff recommends approval of SP 2012-BR-012 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. Affidavit
3. Statement of Justification
4. Corrective Work Order Dated August 31, 2011
5. Notice of Violation Dated October 6, 2011
6. Notice of Violated Dated November 10, 2011
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2012-BR-012****May 30, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-BR-012 located at Tax Map 70-1 ((16)) 214 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 the building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Eddie Mitchell, and is not transferable without further action of this Board, and is for the location indicated on the application, 8512 Braeburn Drive (11,904 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by James D. Thurber, L.S., Thurber Engineering & Land Surveying, dated February 6, 2012, and approved with this application, as qualified by these development conditions.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. 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.
6. The accessory dwelling unit shall contain a maximum of 719 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable trade permits and final inspections shall be obtained for the kitchen components and the window/emergency escape opening if required, in the accessory dwelling unit prior to occupancy.

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 regulations for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory 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.
12. All applicable permits and final inspections for the roofed deck shall be diligently pursued and obtained within six months of final approval of this application.

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.

Application No.(s): SP 2012 - BR - 012
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/2/11
(enter date affidavit is notarized)

I, Eddie Mitchell, 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

114568

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)
Eddie Mitchell	8512 Braeburn Drive Annandale, VA 22003	Applicant/Title own

(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-BR-012
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/2/11 114568
(enter date affidavit is notarized)

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.)

N/A CORPORATION INFORMATION

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

N/A

DESCRIPTION OF CORPORATION: (check one statement)

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

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

N/A

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

*** 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-BR-012
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/2/11
(enter date affidavit is notarized)

114568

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

PARTNERSHIP INFORMATION

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

N/A

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

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

N/A

(check if applicable) [] There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** 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-BR-012
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/2/11
(enter date affidavit is notarized)

114568

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:

N/A

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-BR-012
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11/2/11 114568
(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, 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 E. Mitchell Applicant's Authorized Agent

Mitchell, Eddie
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 2 day of November 2011, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: 07-31-2012

Commonwealth of Virginia
Homaira Amin - Notary Public
Commission No. 7196278
My Commission Expires 07/31/2012

Department of Planning and Zoning

Atte: Mrs Virginia H. Ruffner

12055 Government Center Parkway, Suite 801

Fairfax, VA 22035

Additional Information for Fairfax County's Department of Planning and Zoning to Support the Special Permit Application for Eddie Mitchell

This additional information is being submitted to address the "deficiencies" identified in your letter of January 11, 2012 concerning my request for a special permit on my property on 8512 Braeburn Drive in Annandale, Virginia. It addresses both (1) the "error" in the location of the outer northeast post supporting our porch roof addition, as shown in the attached plat, and (2) the additional standards and other requirements set forth in 8-918 for the "accessory dwelling unit." The revised plat, with the necessary measurements, along with the required photographs, copies, and other data are also attached, and hopefully, in combination, address all the comments noted by your office. I believe the development, with your approval for the exceptions noted, conforms with the provisions of all applicable ordinances, regulations and adopted standards for this property.

Error Exception for the Roof Addition

The supporting post in the outer northeast corner of the porch roof addition was positioned in a location measured, and thought to be, 12 feet from the adjoining fence line. The roof addition was constructed along the lines of the existing house, as shown by the enclosed plat and pictures, in order to deal with a water drainage problem in the basement. A later survey of the property showed the actual property line to be inside the fence, only 9.6 feet away from the outer post. This exceeds the required distance by 2.6 feet, and also exceeds the 10 percent allowance normally permitted. Thus an exception has been requested.

Accessory Dwelling Unit

My elderly father, who is 85 years old, occupies a portion of the basement in our single family detached dwelling unit as an "accessory dwelling unit," in accordance with the conditions indicated below. It essentially consists of a bedroom and bathroom, with adjacent closet and storage area, located in the basement of my home. I, along with my mother, who is 79 years of age, occupy the principal dwelling unit. Both my mother and father eat with me and use the kitchen, living and family rooms, and other facilities located upstairs in the principal dwelling unit.

- 1--There is only one accessory dwelling unit in our single family detached dwelling unit, located on a lot of less than 2 acres.
- 2--The accessory dwelling unit is located within the structure of our single family detached dwelling unit.
- 3--The gross floor area of the accessory dwelling unit does not exceed 35 percent of the total floor area of the principal dwelling unit. The detailed measurements are specified on the plat provided with this application.
- 4--The accessory dwelling unit contains only one bedroom.
- 5--I, as the owner, and my mother occupy the principal dwelling unit and my elderly father (age 85) occupies the accessory dwelling unit.
- 6--Neither of my parents are classified as disabled.
- 7--The parking area is sufficient and is not altered by my father occupying the accessory dwelling unit, since he does not have a car.
- 8--Having my father living in the accessory dwelling unit in no way modifies or disrupts the predominant character of the neighborhood.
- 9--I believe the accessory dwelling unit meets the applicable regulations for building, safety, health and sanitation.

Additional Comments

Both the principal and accessory dwelling units have residential uses only. There are no hazardous or toxic substances, or wells or septic fields, the easements are noted on the attached plat on, or associated with the property, to my knowledge.

Sincerely



Eddie Mitchell

Department of Planning and Zoning

Atte: Mrs. Virginia H. Ruffner

12055 Government Center Parkway, Suite 801

Fairfax, VA 22035

Revised Information for Fairfax County's Department of Planning and Zoning to Support the
Special Permit Application for Eddie Mitchell

This Revised statement is being submitted to address the "deficiencies" identified in your letter dated February 23, 2012 concerning my request for a special permit on my property on 8512 Braeburn Drive in Annandale, Virginia. It addresses (1) a revised statement for accessory dwelling Unit. Item #3 to state the actual percentage.

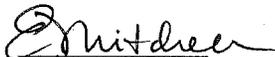
The total floor area of the main level and the 1st level are 2,178.51sqf, and the total of the basement is 718.8 sqf with a total percentage of 33%. This does not exceed the thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.

Also (2) addresses a statement which confirms the ownership of the subject property. I will attach a copy of the Deed confirming the ownership of the subject property.

(3) Also addresses one copy of 8 ½" X 11" reduction of the special Permit Plat. Which we also submitted.

The purpose of this request is to get approved for a Special Permit Application.

Sincerely


Eddie Mitchell

Zoning Evaluation Division

MAR 05 2012

RECEIVED
Department of Planning & Zoning

SP-2012-0003



County of Fairfax, Virginia

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

CORRECTIVE WORK ORDER Virginia Uniform Statewide Building Code

DATE OF ISSUANCE: August 31, 2011

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Mitchell Eddie
ADDRESS: 8512 Braeburn Drive
Annandale, VA 22003

LOCATION OF VIOLATION: 8512 Braeburn Drive
Annandale, VA 22003-4414

TAX MAP REF: 70-1 ((16)) 0214

CASE #: 201102217 **SR#:** 70582

In accordance with Part I of the Virginia Uniform Statewide Building Code (USBC) 2009 Edition, effective March 1, 2011, an inspection on August 31, 2011 revealed a violation or violations as listed below at the referenced location. The cited violation(s) must be corrected within 10 calendar days from receipt of this notice unless otherwise indicated.

Explanation: On August 31, 2011, County staff inspected the above referenced premises and discovered that a sunroom addition is being constructed and is attached at the rear of the residential dwelling structure. All of this regulated construction is being performed without the issuance of the required permit or permits, inspections, or approvals.

Order: Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2009 edition, you are hereby directed to apply for and obtain the required permit or permits, inspections and approvals for the work described above or demolition of same at the above referenced address.

Corrective Action Required: Apply for and obtain all necessary County permits for the work described above within 10 calendar days from the date you receive this Order, or obtain a County permit to demolish the work described above within the same timeframe.

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

1. Schedule and pass the required County inspection(s) for the work described above within 30 calendar days from the date you are issued the required permit or permits for construction or demolition.
2. Contact me at (703) 324-9321 within the timeframe established to confirm the violation(s) have been abated.
3. Call (703) 222-0455 to schedule all building inspections related to this matter. Please reference CASE #: 201102217.

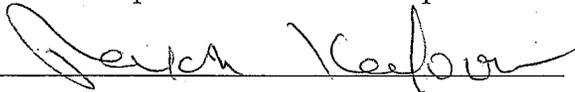
You are directed to notify Rakesh Kapoor by return correspondence to 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or telephone call to (703) 324-9321 within three (3) working days from the date you receive this Order, of your election to accept or reject the terms of this Order. Failure to do so shall result in the immediate issuance of a Notice of Violation and the initiation of legal action to bring the above referenced property into compliance with the USBC.

Be advised that any Zoning Ordinance violations contained in a separate Notice of Violation must also be corrected prior to or in conjunction with the issuance of a Building Permit. If removal of unpermitted features (including appliances, cabinets and plumbing fixtures) is required, a separate demolition permit will be required for this work. **If you have received a Zoning Notice of Violation, contact the inspector from the Department of Code Compliance at (703) 324-1300 who issued the Notice before coming to the Herrity Building to obtain your permit. When coming to obtain your permit, bring this notice with you.**

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703) 324-9321 or the main office at (703) 324-1300.

Notice Issued By: Rakesh Kapoor
Department of Code Compliance Investigator III

Signature: _____



CC: Case File
Michelle Brickner, Building Official
Debra McMahon, Permit Application Center
Paul Lynch, Director, Inspections Division



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Virginia Uniform Statewide Building Code

DATE OF ISSUANCE: October 06, 2011

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Mitchell Eddie
ADDRESS: 8512 Braeburn Drive
Annandale, VA 22003

TAX MAP REF: 70-1 ((16)) 0214

LOCATION OF VIOLATION: 8512 Braeburn Drive
Annandale, VA 22003-4414

CASE #: 201102217 **SR#:** 70582

You were issued a Corrective Work Order on August 31, 2011 (copy enclosed) for violations of the Virginia Uniform Statewide Building Code (USBC) 2009 Edition, effective March 1, 2011. Staff confirmed on October 05, 2011 that the violations itemized below remain.

Explanation: On October 05, 2011 County staff inspected the above referenced premises and discovered that a sunroom addition is being constructed and is attached at the rear of the residential structure without the issuance of a Building Permit, inspections, or approvals.

Order: Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2009 edition, you are hereby directed to apply for and obtain the required permits, inspections and approvals for the work described above at the above referenced address or demolition of same.

Corrective Action Required:

1. Apply for and obtain all necessary County Permits for the work described above within 14 calendar days from the date you receive this Notice, or obtain a County permit to demolish the work described above within the same timeframe.
2. Schedule and pass the required County inspection(s) for the work described above within 30 calendar days from the date you received this notice.

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

3. Contact me at (703) 324-9321 within the timeframe established to confirm the violation(s) has/have been abated.
4. Call (703) 222-0455 to schedule all inspections related to this matter. Please reference CASE #: 201102217.

You have the right to appeal this decision within 30 days to the Fairfax County Board of Building and Fire Prevention Code Appeals. Appeal application forms may be obtained by contacting:

Fairfax County Board of Building and Fire Prevention Code Appeals
Attention:
Secretary to the Fairfax County Board of Building and Fire Prevention Code Appeals
Office of Building Code Services
Department of Public Works and Environmental Services
12055 Government Center Parkway
Fairfax, Va. 22035-5504
Telephone: (703) 324-1780

Failure to submit an application for appeal within the time limit established shall constitute acceptance of the code official's decision. Failure to correct these defects within the time limits specified shall result in enforcement action being taken under the applicable State and County Codes.

Be advised that any Zoning Ordinance violations contained in a separate Notice of Violation must also be corrected prior to or in conjunction with the issuance of a Building Permit. If removal of unpermitted features (including appliances, cabinets and plumbing fixtures) is required, a separate demolition permit will be required for this work. **If you have received a Zoning Notice of Violation, contact the Zoning inspector at (703) 324-1300 who issued the Notice before coming to the Herrity Building to obtain your permit. When coming to obtain your permit, bring this notice with you.**

If you have any questions, would like to schedule an appointment to meet with me, or schedule a site visit, please contact me directly at (703) 324-9321 or the main office at (703) 324-1300.

Notice Issued By: Rakesh Kapoor
Department of Code Compliance Investigator III

Signature: _____

CC: Case File
Michelle Brickner, Building Official
Debra McMahon, Permit Application Center
Paul Lynch, Director, Inspections Division



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: November 10, 2011

SHERIFF'S LETTER

CASE #: 201102217 **SR#:** 73237

SERVE: Eddie Mitchell
8512 Braeburn Dr.
Annandale, VA 22003

LOCATION OF VIOLATION 8512 Braeburn Dr.
Annandale, VA 22003-4414
Tax Map Ref.#: 70-1 ((16)) 214
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on September 6, 2011, September 13, 2011 and October 15, 2011 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Limitation on the Number of Dwelling Units on a Lot:

The inspection revealed there are two complete and separate dwellings in this single family dwelling unit on the above-referenced property. The basement level has a separate dwelling unit that consists of a bedroom, bathroom, living room, and kitchen facility with a sink, cabinets, refrigerator, toaster oven, hot plate, and microwave oven. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

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

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

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

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

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

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
- Applying for and obtaining approval for an application for a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an accessory dwelling unit on the property and obtain approval of a Building Permit for the changes made to the basement level.
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

§ 2-307 (1) Meeting Minimum Bulk Regulations – Addition Added

The inspection revealed an addition of a covered patio or deck which has been built on to the rear of the single family detached dwelling with the following dimensions: approximately fourteen (14') feet in width and approximately thirty six (36') feet in length. This addition, thereby, becomes part of the principal building or dwelling.

This addition is approximately ten (10') feet from the side lot line. This property is zoned R-3 District and bulk regulations for this district include minimum yard requirements for a single

family attached dwelling, which is delineated in Par. 2(A)1 of Sect. 3-307 of the Zoning Ordinance, which states:

Minimum yard requirements

A. Single family dwellings

- (1) Conventional subdivision lot
 - (a) Front yard: 30 feet
 - (b) Side yard: 12 feet
 - (c) Rear yard: 25 feet

Therefore, since the dwelling with the addition does not meet the minimum side yard setback requirement for the R-3 District, it is in violation of Par. 2(A)1 of Sect. 3-307 and Par. 1 of Sect. 2-307 of the Zoning Ordinance, which states:

Except as may be qualified by provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all minimum bulk regulations presented for the zoning district in which such structure is located.

You are hereby directed to clear these violations within thirty (30) days after the date of this notice. Compliance must be accomplished by:

- Removing the addition from the property entirely; or
- Reducing the size of the addition to meet minimum required side yard requirements and obtaining approval for a Building Permit; or
- Making an application for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an error in building location to allow the addition to remain at its present location on the property and obtain approval of a Building Permit for the addition.

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

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those

Mitchell Eddie
November 10, 2011
Page 4

provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1395.

Sincerely,

Charles P. Fitzhugh
Code Compliance Investigator II

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.

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.