



APPLICATION ACCEPTED: March 26, 2012
DATE OF PUBLIC HEARING: June 13, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 6, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-SP-013

SPRINGFIELD DISTRICT

APPLICANT: Philip L. Hoyle

OWNERS: Philip L. Hoyle
Tabitha A. Hoyle

LOCATION: 8818 Sweet Gum Place, Springfield, 22153

SUBDIVISION: Lakewood Hills

TAX MAP: 88-2 ((7)) 12

LOT SIZE: 11,699 square feet

ZONING: R-3, Cluster

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit existing accessory structure to remain 3.2 ft. from rear lot line and 5.9 ft. from side lot line and to permit open deck to remain 0.2 ft. from side lot line.

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

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

O:\rhomer\Special Permits\Hoyle Treehouse Error\Hoyle staff report.docx

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/



Excellence * Innovation * Stewardship
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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.**

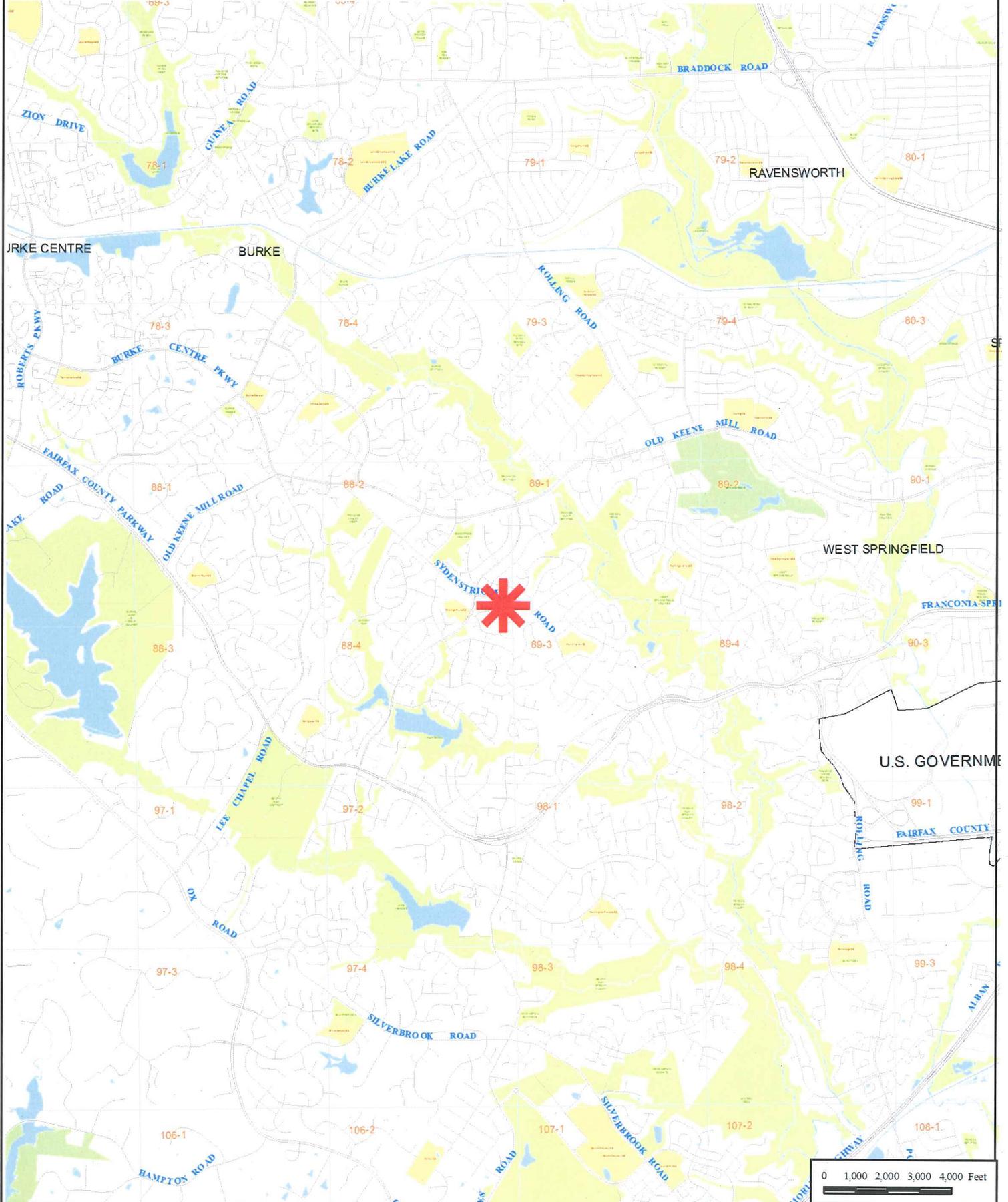


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-SP-013

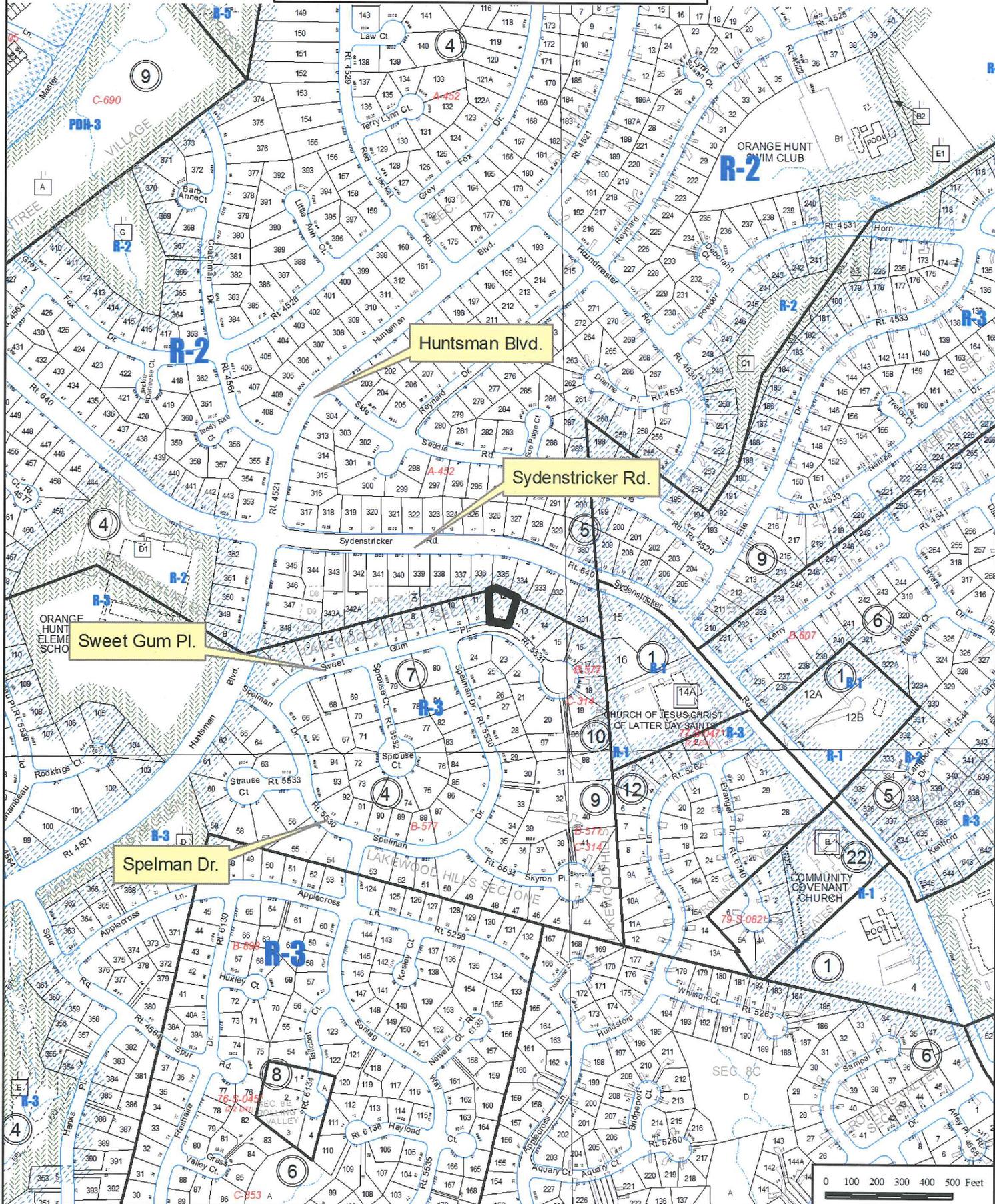
PHILIP L. HOYLE

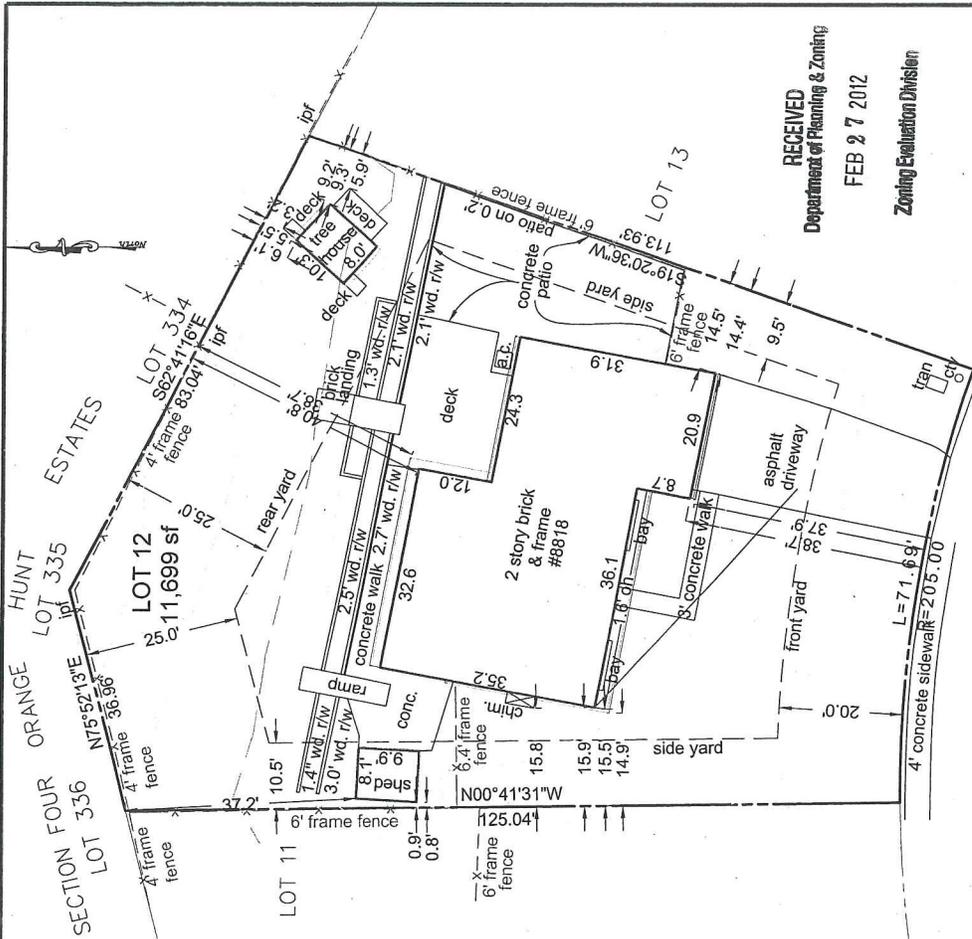


Special Permit

SP 2012-SP-013

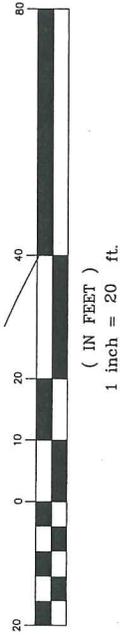
PHILIP L. HOYLE





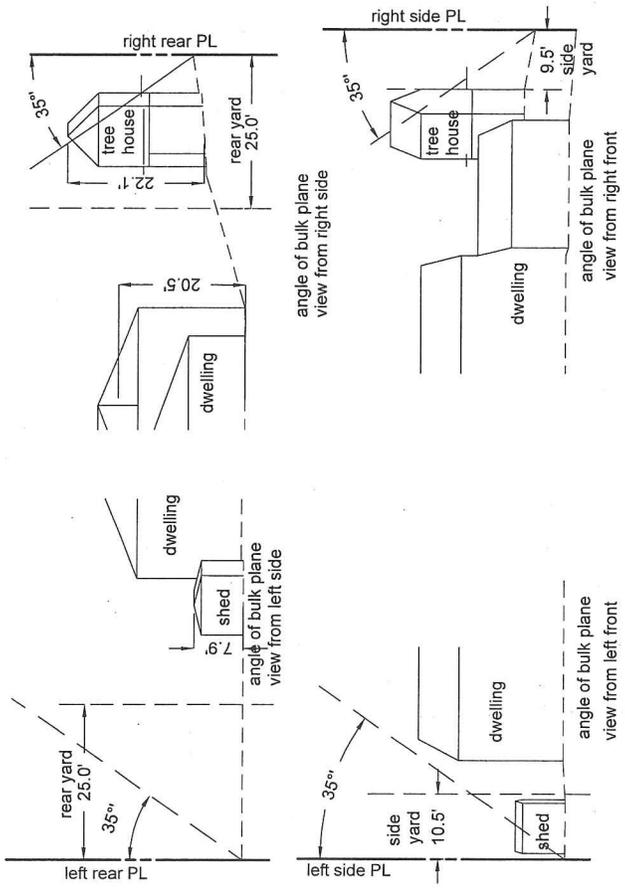
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 Department of Planning & Zoning
 FEB 27 2012
 Zoning Evaluation Division

GRAPHIC SCALE



SWEET GUM PLACE
 50' WIDE

- r/w retaining wall
- eave
- gutter
- Building height 20.5'
- tree house height 22.1'
- shed 7.9'
- max building height allowed 35.0'
- oh overhang
- chl overhead lines
- c/s concrete stoop
- cl centerline
- ipf iron pipe found



1. The property shown here on is located on Fairfax County tax map no. 088-2-07-0012 and is zoned R-3C.
2. This property is serviced by public sewer and water.
3. The existing gross floor area is 3,050 sf (including garage area) for an FAR of 0.26.
4. There are no easement 25' or larger in width on this property.
5. There is no flood plain or resource protection area in the vicinity of this site.
6. There are no burial sites apparent on the property.
7. Proposed use is residential.
8. SWM plans will be submitted at such time as a grading plan is required.
9. Construction dates: Main House: 1974, Tree House: 2010, Retaining Wall (including ramp/brick landing): 2010, All others: Unknown.

JOB #: 12-0007

SPECIAL PERMIT PLAT

**LOT 12, SECTION ONE
 LAKEWOOD HILLS**

FAIRFAX COUNTY, VIRGINIA

SPRINGFIELD DISTRICT

rev FEBRUARY 20, 2012
 JANUARY 23, 2012

SCALE: 1"=20'

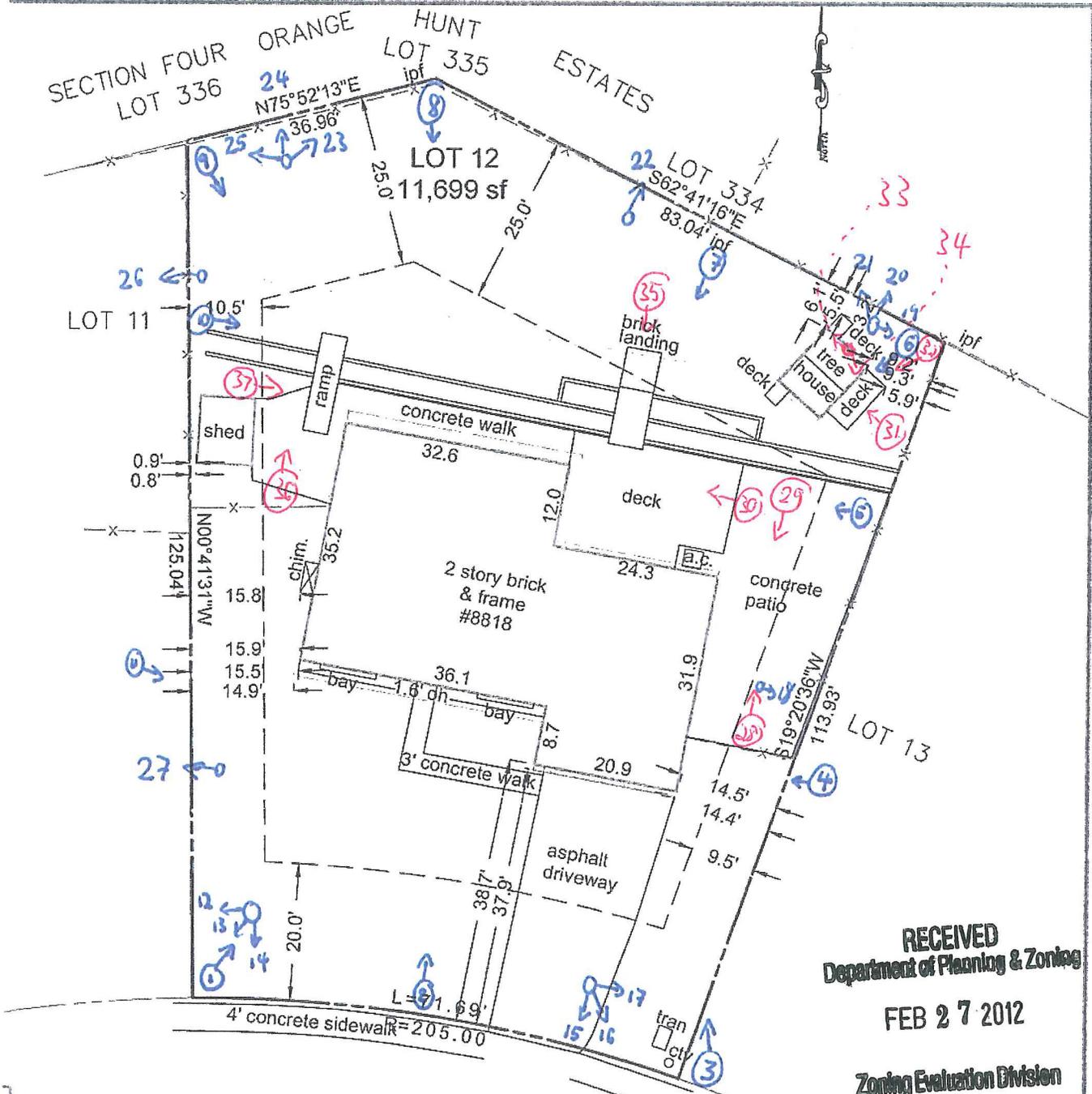
7720 VICEROY STREET 703 866-1236
 SPRINGFIELD, VIRGINIA 22151

APEX SURVEYS



/Hoyle

MAP OF PHOTOGRAPHS SUBMITTED



RECEIVED
Department of Planning & Zoning

FEB 27 2012

Zoning Evaluation Division

SWEET GUM PLACE
50' WIDE

- eave gutter
- Building height 20.5'
- tree house height 22.1'
- shed 7.9'
- max building height allowed 35.0'
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- ohl overhead lines
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- cl centerline
- ipf iron pipe found

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 1



View 2

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 3



View 4

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 5



View 6

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View 7



View 8

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(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 9



View 10

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View 11



View 12

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View 13



View 14

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View 15



View 16

View of house. See attached plat with photo locations and directions.
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View 17



View 18

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View 19



View 20

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View 21

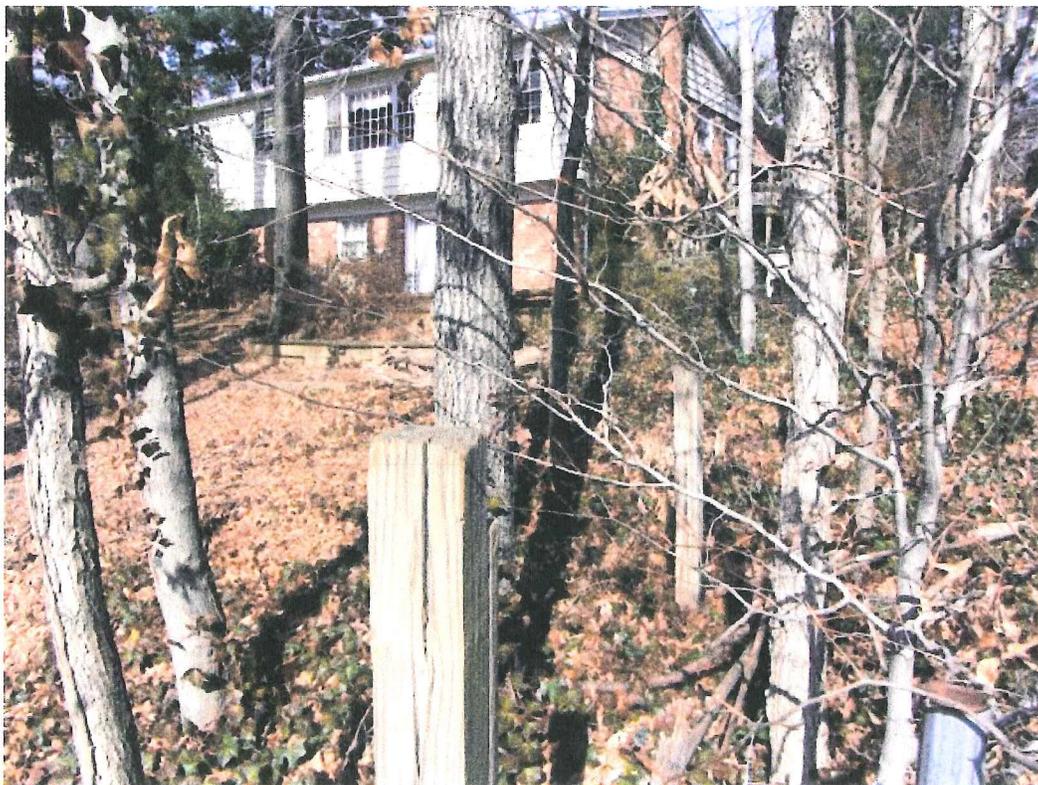


View 22

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 23



View 24

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View 25



View 26

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View 27

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View 28

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(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)

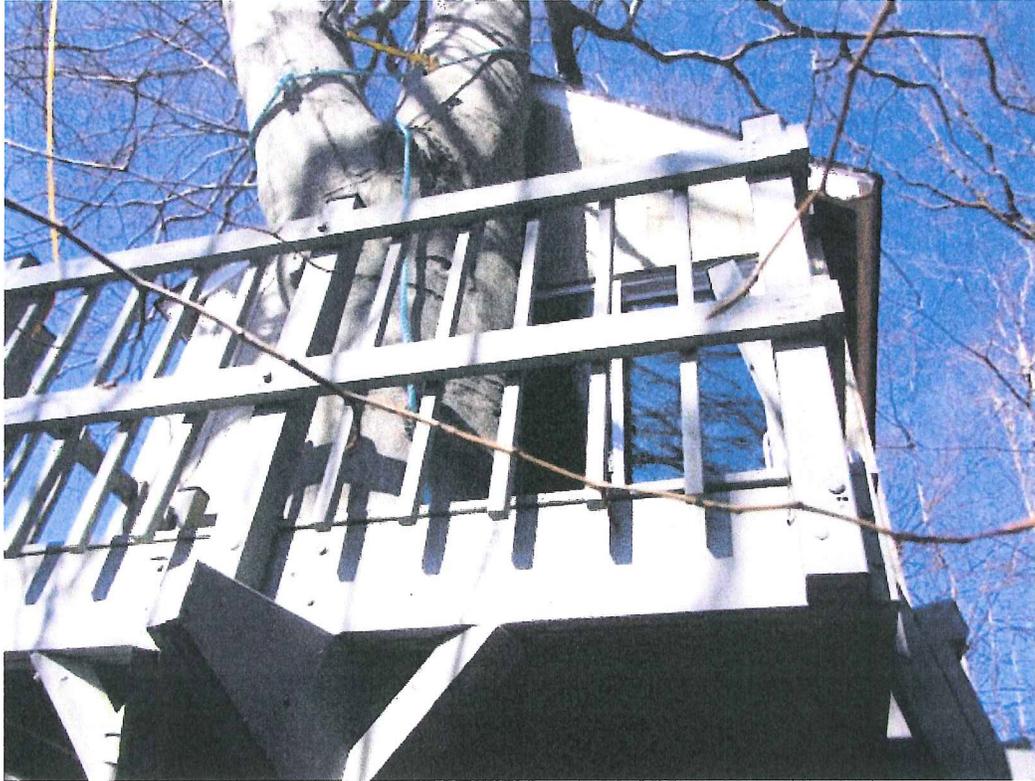


View 29



View 30

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 31



View 32

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 33



View 34

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 35



View 36

View of house. See attached plat with photo locations and directions.
(Photos 1-27 taken 1/28/12. Photos 28-37 taken 2/20/12)



View 37

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for errors in building locations to permit 1) an accessory structure, a tree house, to remain 3.2 feet from a rear lot line and 5.9 feet from a side lot line, and 2) an open deck/patio to remain 0.2 feet from a side lot line.

Special Permit	Type	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Request #1	Accessory Structure (Treehouse)	Side	8 feet**	5.9 feet	2.1 feet	26.2 %
Request #1		Rear	22.1 feet***	3.2 feet	18.9 feet	85.5%
Request #2	Deck	Side	5 feet	0.2 feet	4.8 feet	98%

* Minimum Yard Requirement per Section 3-307.

** With a total minimum side yards of 20 feet.

*** Setback equal to the height of the structure.

LOCATION AND CHARACTER OF AREA

Character of the Area

	Zoning	Use
North	R-3, cluster	Single Family Detached Dwellings
South	R-3, cluster	Single Family Detached Dwellings
East	R-3, cluster	Single Family Detached Dwellings
West	R-3, cluster	Single Family Detached Dwellings

Existing Site Description

The existing single family detached dwelling was built in 1974 on an 11,699 square foot lot which was developed under the R-3 Cluster regulations. There is an existing 7.9 foot tall shed, an open deck/patio and a 22.1' tall tree house. The rear of the property is enclosed with a fence ranging from 4' to 6.4' in height. The lot slopes from the rear of the lot to the street. There are retaining walls constructed in the rear yard of the property. The property has foundational plantings and mature trees in the rear. The site

is accessed via a hard surfaced driveway from Sweet Gum Place.

BACKGROUND

In 2005, the applicant purchased the property. The applicant states that at the time he purchased the home, there was an existing open deck/patio. In 2010, the applicant constructed a tree house in a tree in the rear and side yards. A building permit was not required because the tree house is less than 150' in gross floor area and is not equipped with utilities; however, the tree house was constructed within a required rear and side yard.

A notice of violation (NOV) was sent to the property owner on January 18, 2012, after a site investigation. The applicant responded to the notice of violation by submitting an application for special permit to allow the treehouse to remain. A copy of the NOV is attached as Appendix 4.

The applicant indicates that the only tree in the yard that can support a tree house is the one in which the current structure is located and there are no other options for relocation.

Following the adoption of the current Ordinance, the BZA has heard the following request in the vicinity of the application parcel:

- Special Permit SP 90-S-028 was approved on July 18, 1990 for Tax Map 88-2 ((6)) 71, zoned R-2, at 9213 Antelope Place, to permit detached shed/playhouse (19' in height) to remain 6.1 feet from a side lot line.

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- 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)

CONCLUSION

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

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. Violation Letter dated January 18, 2012
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2012-SP-013

June 6, 2012

1. This special permit is approved only for the location of the accessory structure (tree house) and open deck as shown on the plat prepared Apex Surveys, dated January 23, 2012, as revised through February 20, 2012, signed by Guy H. Briggs, submitted with this application and is not transferable to other land.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/27/2012
(enter date affidavit is notarized)

I, PHILIP L. HOYLE, 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

114979

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)
PHILIP L. HOYLE	8818 SWEET GUM PL. SPRINGFIELD, VA 22153	APPLICANT, TITLE OWNER
TABITHA A. HOYLE	8818 SWEET GUM PL. SPRINGFIELD, VA 22153	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).

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

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1 / 27 / 2012
(enter date affidavit is notarized)

114979

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)

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/27/2012
(enter date affidavit is notarized)

114979

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.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1 / 27 / 2012
(enter date affidavit is notarized)

114979

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): _____

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

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Department of Planning & Zoning
Page Five
FEB 03 2012
114979
Zoning Evaluation Division

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 1/27/2012
(enter date affidavit is notarized)

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

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

NONE

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

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

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

PHILIP L. HOYLE

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

Subscribed and sworn to before me this 27 day of JANUARY 20 12, in the State/Comm. of VIRGINIA, County/City of STAFFORD.



Notary Public

My commission expires: 01-31-2015

MOHAMMED RASHED AMIN
NOTARY PUBLIC 7084819
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES 01-31-2015

Written statement of Justification

In Spring of 2010, a tree house was installed on the one tree in our backyard. The purpose was to provide a place for children to play. At the time, we surveyed our immediate neighbors and everyone we spoke with supported the project. The inside dimensions are 9.5' by 7.5', and the tree house is roughly 10' above the ground, depending on where the measurement is taken (the ground slopes) It has fixed railings, and is built with safety in mind. There are no utilities provided to the structure. The structure is quite sturdy and has easily survived several violent storms and one large snow which damaged many trees in the area.

The concrete patio deck existed on the property when I purchased the home in 2005. I do not know when it was built. Until recently I did not know that it encroached on the minimum yard requirements.

This application requests that the tree house be permitted to remain in place. The standards of 8-914 for the tree house are addressed below.

1. The plat is the same attached.
2.
 - A. As noted on the plat, the tree house encroaches on the minimum yard requirements by more than ten percent.
 - B. We were advised by the county that a structure less than 150 square feet did not need a building permit. The tree house is less than half that at 70 square feet, and therefore we did not realize it would require county approval.
 - C. Allowing this tree house to remain will not impair the purpose or intent of the Ordinance.
 - D. The tree house is small and high off the ground, and therefore does not affect the use or enjoyment of any other property in the immediate area. Several neighborhood children have been able to enjoy use of the tree house in addition to our own children, and in that way it enhances enjoyment of the property.
 - E. The tree house is small and although it is high off the ground, it has been built with safety in mind with measures to prevent falling. It does not create an unsafe condition or affect anyone or anything on the ground.
 - F. This is the only tree in which a tree house could be safely secured. If the minimum yard requirements were to be enforced, the tree house would have to be removed and destroyed. There are no other locations on the property to install one.

Written statement of Justification (continued)

- G. The square footage is not living, storage, or space used for anything other than children playing.

5.08 There are no hazardous or toxic substances, hazardous waste, or petroleum products to be generated, utilized, stored, treated, and/or disposed of in, on, or around the tree house.

5.09 With the exception of previously noted minimum yard requirement, the tree house as an accessory structure conforms to the provisions of all applicable ordinances, regulations, and adopted standards. This special permit application is proposing a reduction in minimum yard requirement based on error in building location to permit the accessory structure to remain 5.9 feet from the side lot line and 3.2 feet from the rear lot line.

This application also requests that the concrete deck be permitted to remain in place. The standards of 8-914 for the deck are addressed below.

1. The plat is the same attached.
2.
 - A. As noted on the plat, the deck encroaches on the minimum yard requirements by more than ten percent.
 - B. The deck existed on the property when I purchased the home in 2005. I do not know when it was built. Until recently I did not know that it encroached on the minimum yard requirements.
 - C. Allowing the deck to remain will not impair the purpose or intent of the Ordinance.
 - D. The deck is enclosed with fencing and is not seen from the neighbors property, and therefore does not affect the use or enjoyment of any other property in the immediate area.
 - E. The deck does not create an unsafe condition or affect anyone or anything on the ground.
 - F. The deck was preexisting when we purchased the home. If the minimum yard requirements were to be enforced, the concrete would have to be removed and destroyed at a fairly large cost.
 - G. The square footage is not living or storage.

Written statement of Justification (continued)

5.08 There are no hazardous or toxic substances, hazardous waste, or petroleum products to be generated, utilized, stored, treated, and/or disposed of in, on, or around the deck.

5.09 With the exception of previously noted minimum yard requirement, the deck conforms to the provisions of all applicable ordinances, regulations, and adopted standards. This special permit application is proposing a reduction in minimum yard requirement based on error in building location to permit the accessory structure to remain 0 feet from the side lot line.



FILE COPY

County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: January 18, 2012

SHERIFF'S LETTER

CASE #: 201006603 SR#: 65762

SERVE: Philip L. Hoyle
Tabitha A. Hoyle
8818 Sweet Gum Pl.
Springfield, VA 22153-1236

LOCATION OF VIOLATION 8818 Sweet Gum Pl.
Springfield, VA 22153-1236
Tax Map #: 88-2 ((7)) 12
Zoning District: R-3

Dear Property Owners:

An inspection of the above referenced property on May 17, 2011 and January 18, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (12D) Accessory Structure Location in the Side Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of an accessory structure (treehouse) which measured approximately twenty feet (20') in height, is approximately 150 square feet in area, and is located approximately three feet (3') and approximately three (3') respectively from the side and rear lot lines.

The Fairfax County Zoning Ordinance permits accessory structures to be located in minimum required yards; however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 12D of Sect. 10-104 of the Zoning Ordinance which states:

No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.

The Fairfax County Zoning Ordinance permits accessory structures to be located in minimum

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

required yards; however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 12E of Sect. 10-104 of the Zoning Ordinance which states:

No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.

The minimum required side yard distance in the R-3 District is ten feet (10') as detailed in Par. 2(B)2 of Sect. 3-307 of the Zoning Ordinance.

Therefore, as this accessory structure exceeds seven (7) feet in height and is not located in accordance with the provisions of Par. 12D and Par. 12E of Sect. 10-104 above, it is in violation of Par. 12D and Par. 12E of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

- Removing the accessory structure from the property in its entirety; or
- Reducing the height of the structure to seven (7') feet in height or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the side lot lines in accordance with Par. 12D and Par. 12E of Sect. 10-104 of the Zoning Ordinance as outlined above.

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

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

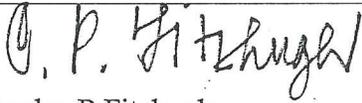
You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to

Hoyle Philip L
January 18, 2012
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appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

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

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.