



APPLICATION ACCEPTED: July 25, 2012
BOARD OF ZONING APPEALS: October 17, 2012
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 10, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-MA-045

MASON DISTRICT

APPLICANT: Johnny T. Le

OWNERS: Vinh Le
Hien Nguyen
Johnny T. Le

STREET ADDRESS: 6902 Columbia Pike, Annandale 22003

SUBDIVISION: Sleepy Hollow Woods

TAX MAP REFERENCE: 060-4 ((16)) (L) 0001A

LOT SIZE: 10,910 square feet

ZONING DISTRICT: R-3, HC

ZONING ORDINANCE PROVISIONS: 8-914, 8-923

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit addition to remain 5.7 ft. from side lot line and deck to remain 7.5 ft. from side lot line and to permit existing fence greater than 4.0 ft. in height to remain in front yard.

O:\gumk2\SP Cases\SP 2012-MA-045- Le\SP 2012-MA-045 Le staff report.doc

Laura Gumkowski

A copy of the Board of Zoning Appeals Resolution setting forth this decision will be mailed within five (5) days after the decision is final.

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

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

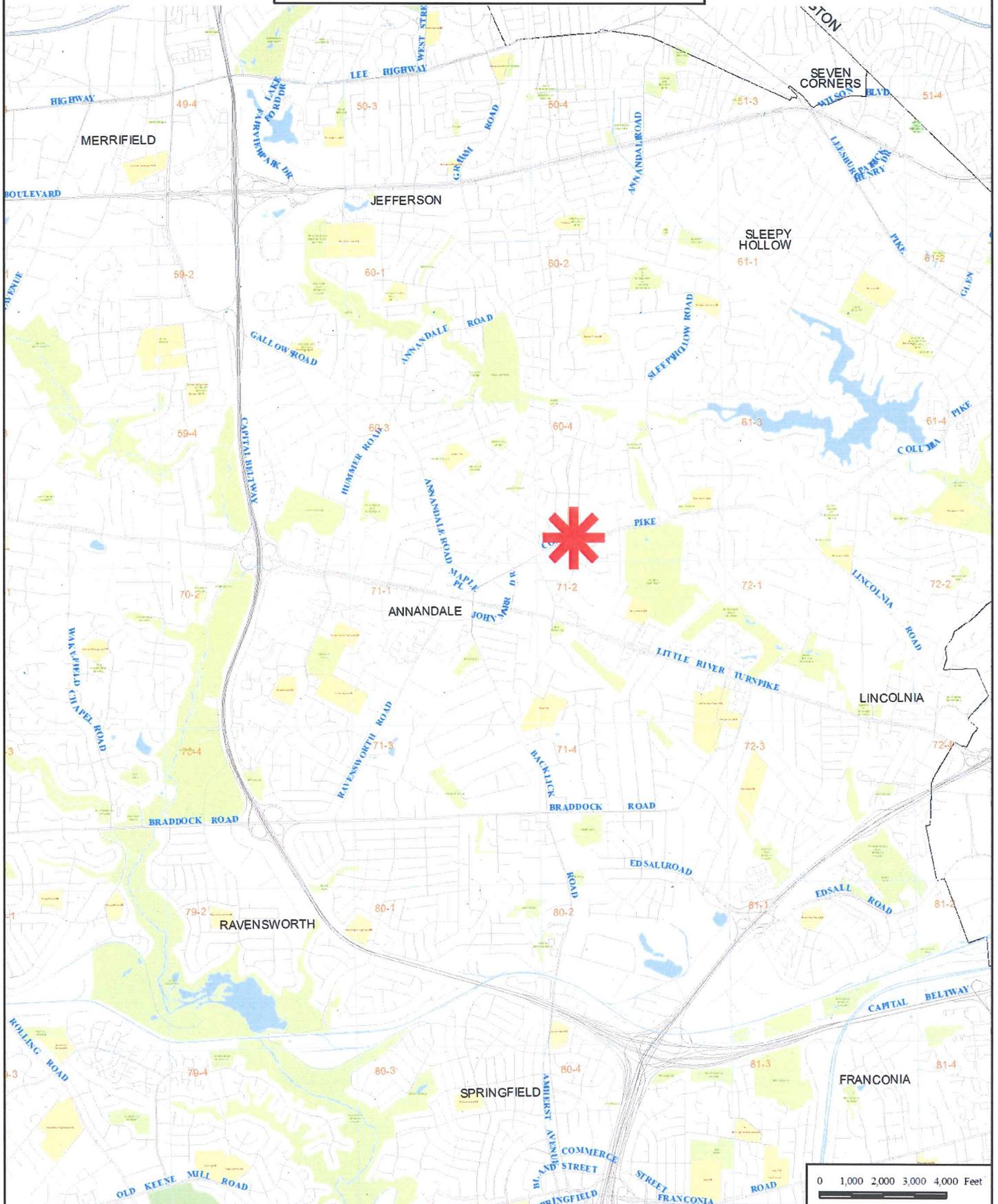


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-MA-045

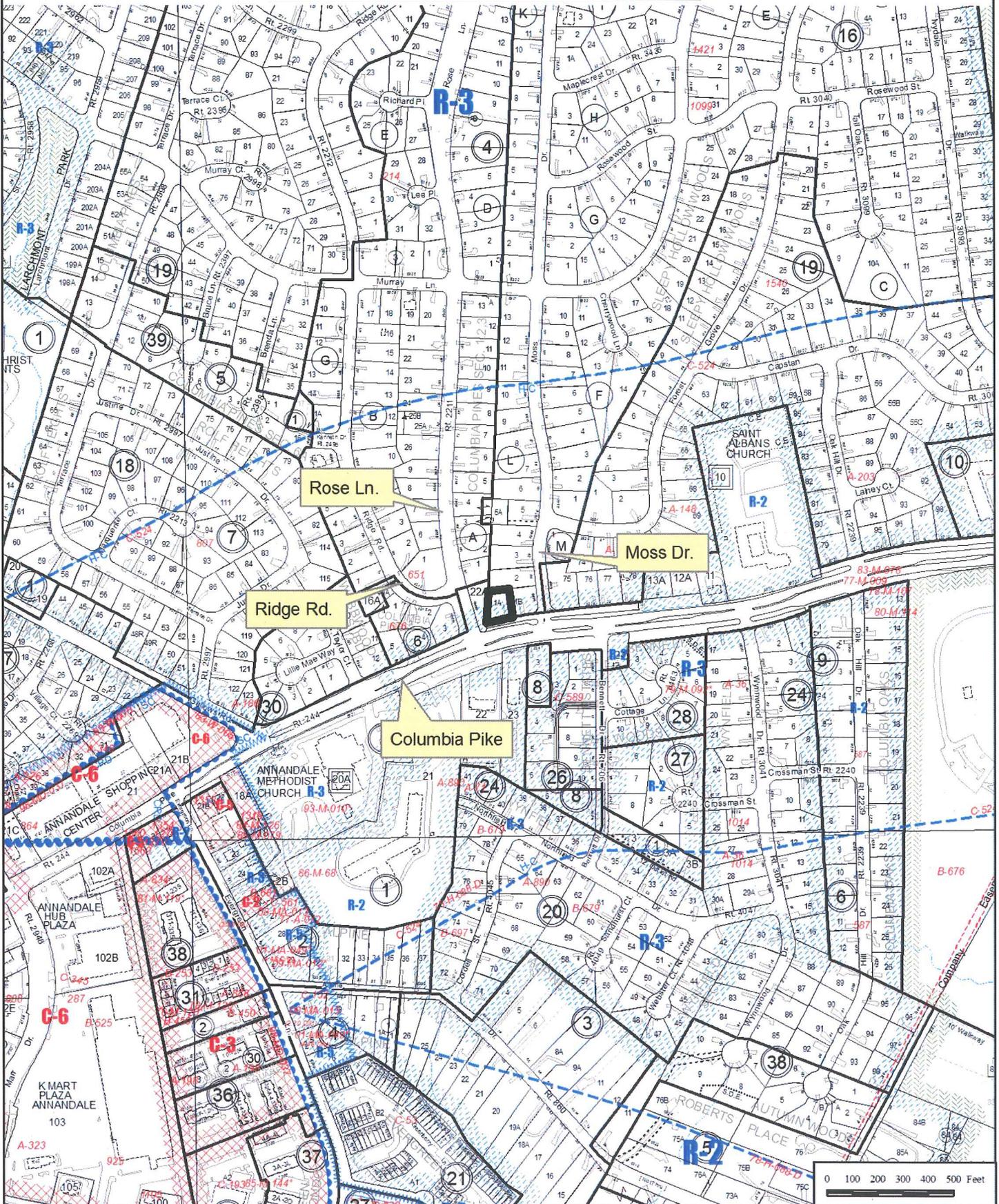
JOHNNY LE

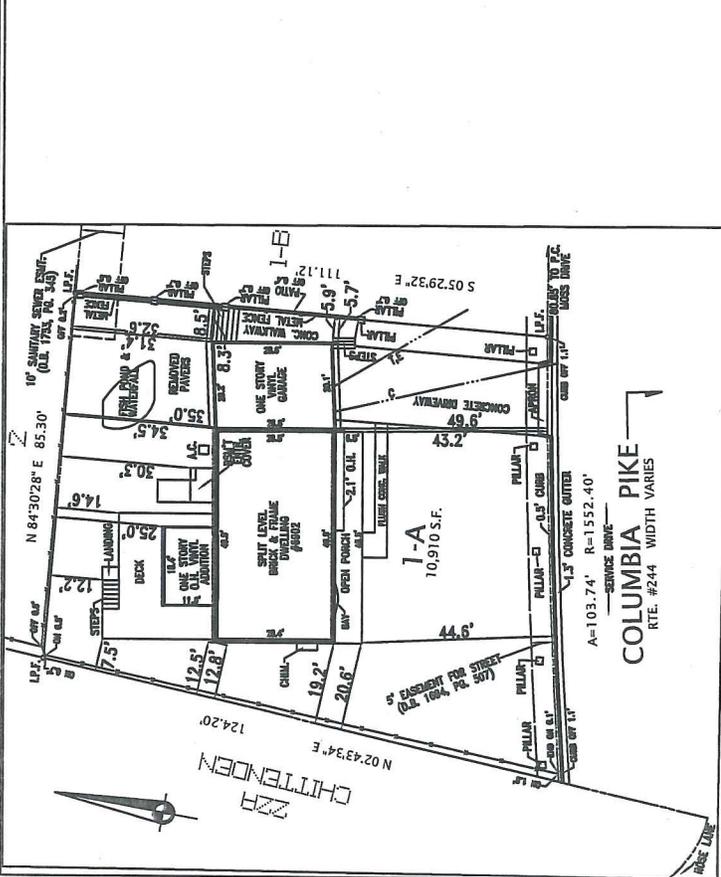
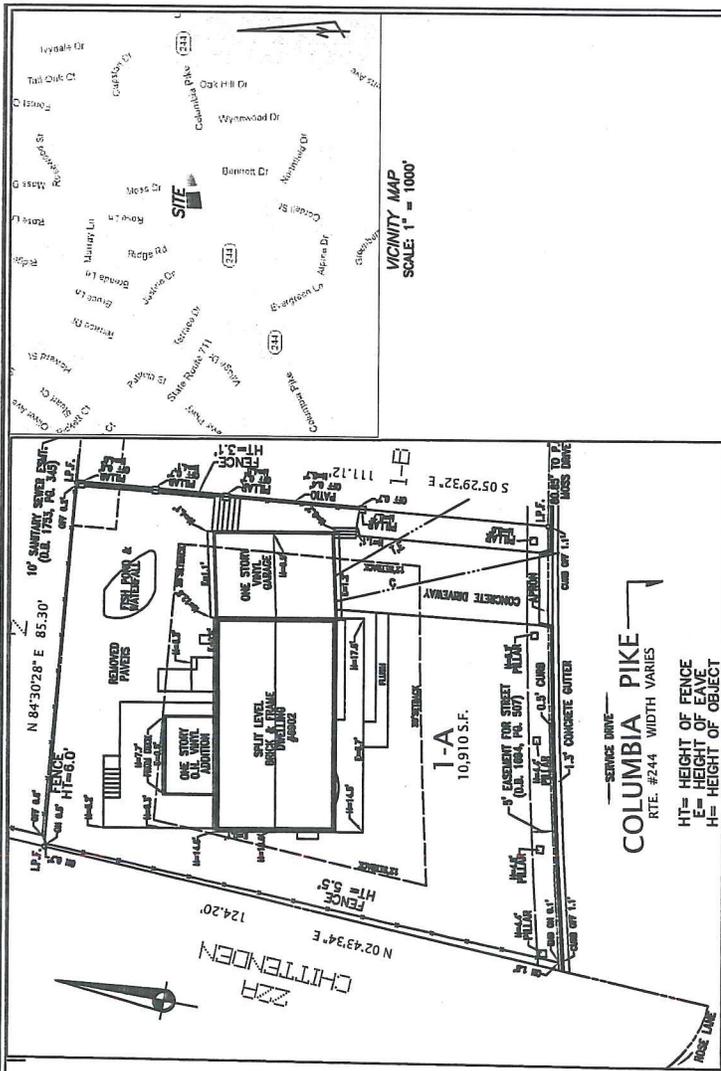


Special Permit

SP 2012-MA-045

JOHNNY LE





SPECIAL PERMIT PLAT
ON
LOT 1-A, BLOCK L, SECTION 6
SLEEPY HOLLOW WOODS

MASON DISTRICT
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20'

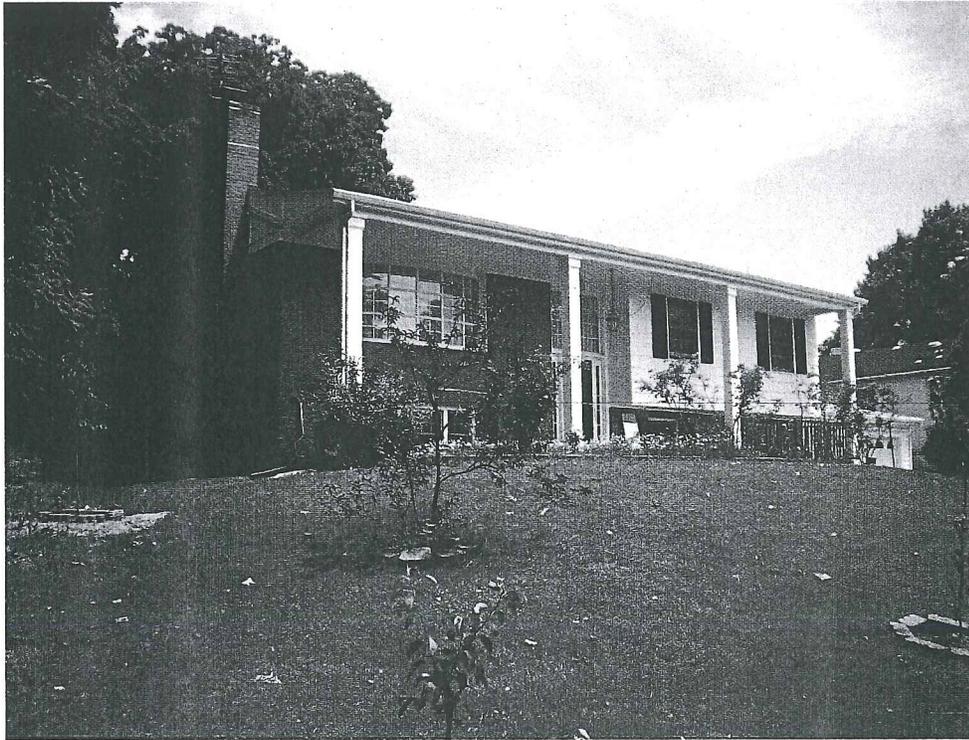
ALEXANDRIA SURVEYS, LLC
 3949 PENDER DRIVE, STE #105 FAIRFAX, VIRGINIA 22030
 TEL. NO. 703-660-6615 FAX NO. 703-768-7764

- NOTES:**
- THE PROPERTY DELINEATED HEREON IS LOCATED ON FAIRFAX COUNTY TAX ASSESSMENT MAP #080-4-161-0001A AND IS ZONED R-3 (3 LOTS PER ACRE, MIN. 14,520 SQUARE FEET). THIS SITE CONTAINS 10,910 SQUARE FEET.
 - THIS PLAT IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 - ALL PREVIOUSLY RECORDED RIGHTS-OF-WAY, EASEMENTS, INTERESTS OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SHOWN HEREON.
 - OWNER: VNH LE
 6902 COLUMBIA PIKE
 FAIRFAX, VIRGINIA 22003.
 - LOT ZONING R-3:
 FRONT = 30'
 SIDE = 12'
 REAR = 25'
 - THIS SITE HAS PUBLIC SEWER AND WATER. WELL AND SEPTIC DO NOT EXIST ON THIS LOT.
 - NO GRAVES ARE LOCATED ON THIS SITE.
 - NO UTILITY EASEMENTS ON THIS SITE.
 - AREA OF REAR YARD = 3,166 SF
 IMPERVIOUS AREA IN REAR YARD = 631 SF
 (937/3,166 = 0.29 OR) 29%

- NOTES:** (CONTINUED)
- LOT IS NOT LOCATED WITHIN A RESOURCE PROTECTION AREA (RPA) OR FLOOD PLAIN.
 - THERE ARE NO HAZARDOUS OR TOXIC SUBSTANCES ON OR NEAR THIS PROPERTY AS DESCRIBED IN TITLE 40 CODE OF FEDERAL REGULATIONS PARTS 118.4, 302.4 AND 355 OR OTHER STATE OR LOCAL REGULATIONS.
 - THE LOT CONFORMS TO THE PROVISIONS OF ALL APPLICABLE CODES OR ORDINANCES AND REGULATIONS.



6902 Columbia Pike Annandale
VA 22003

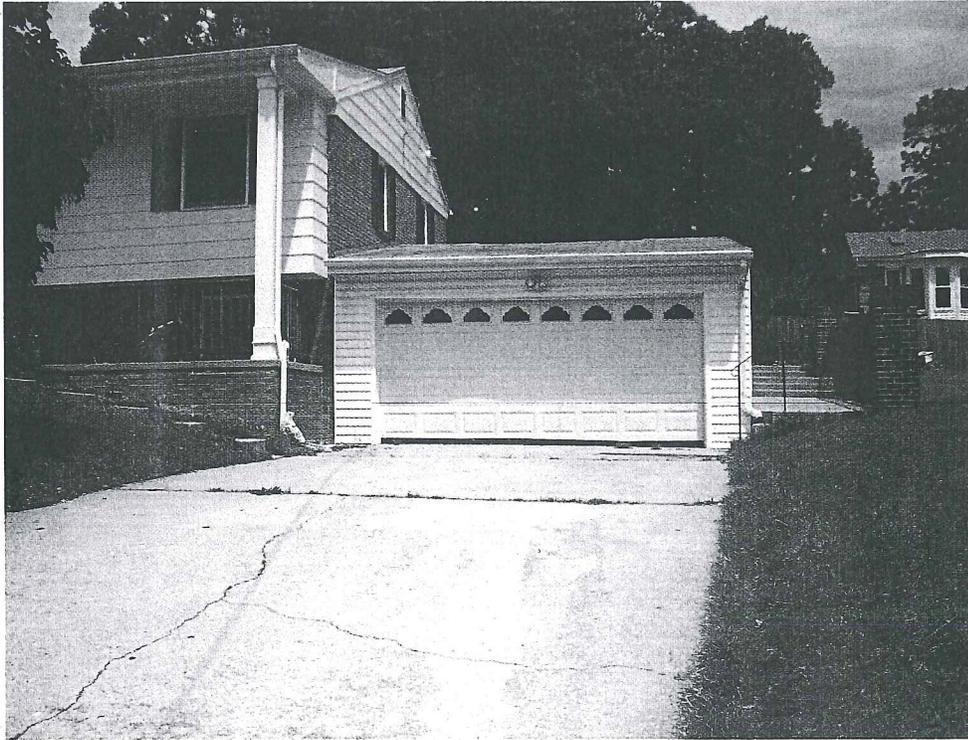


1 House Front-Left

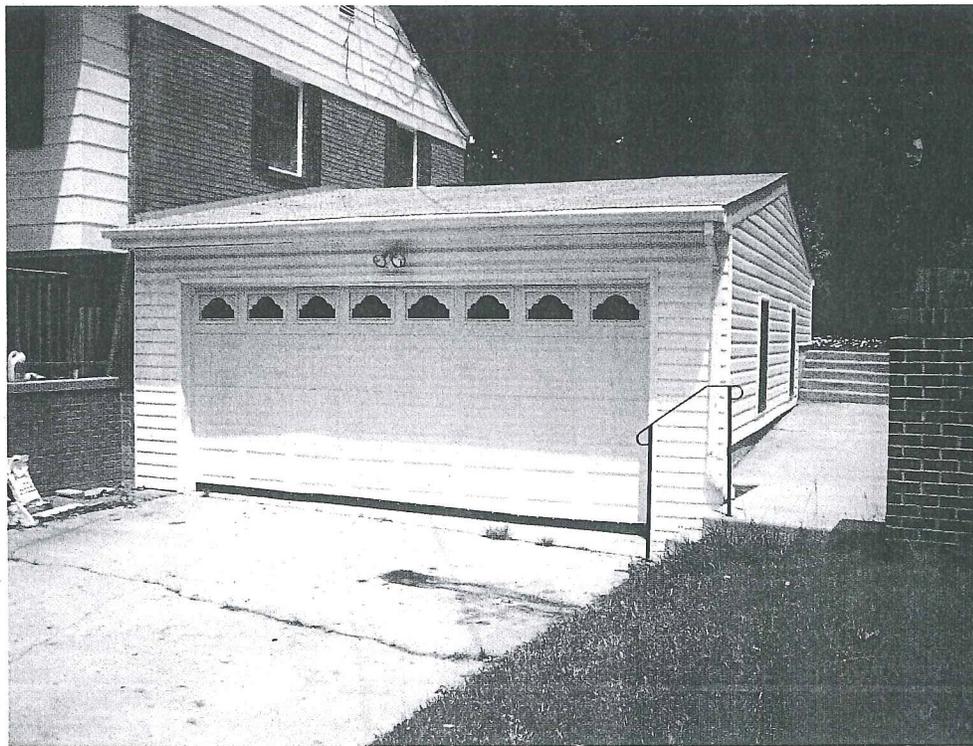


2 House Front-Middle

RECEIVED
Department of Planning & Zoning
JUN 06 2011
Zoning Evaluation Division

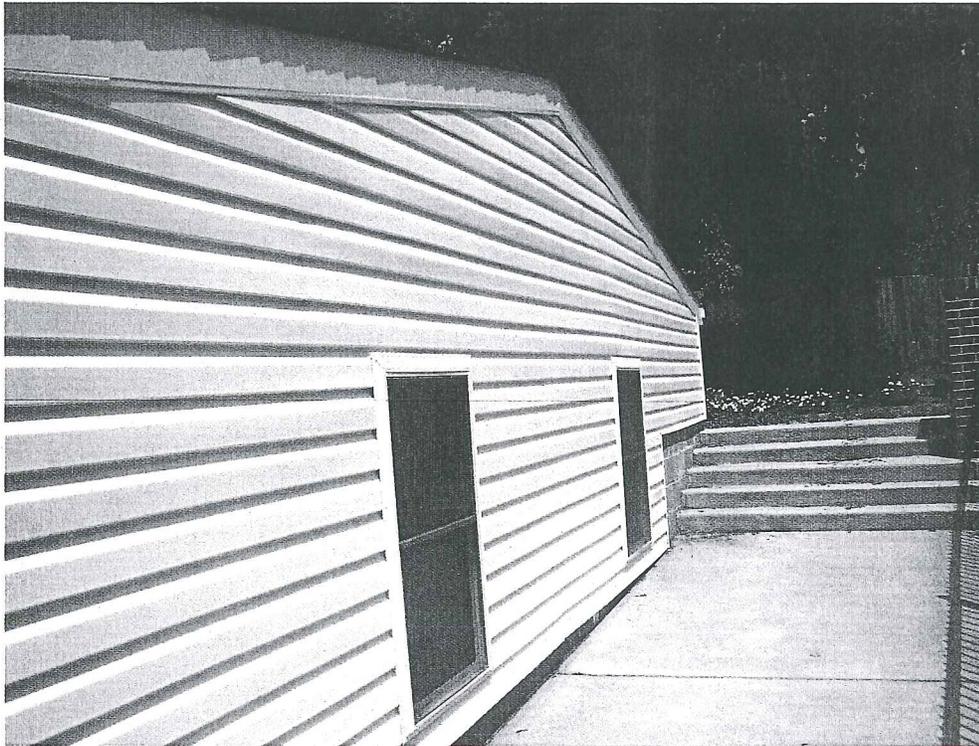


3 House Front-Right

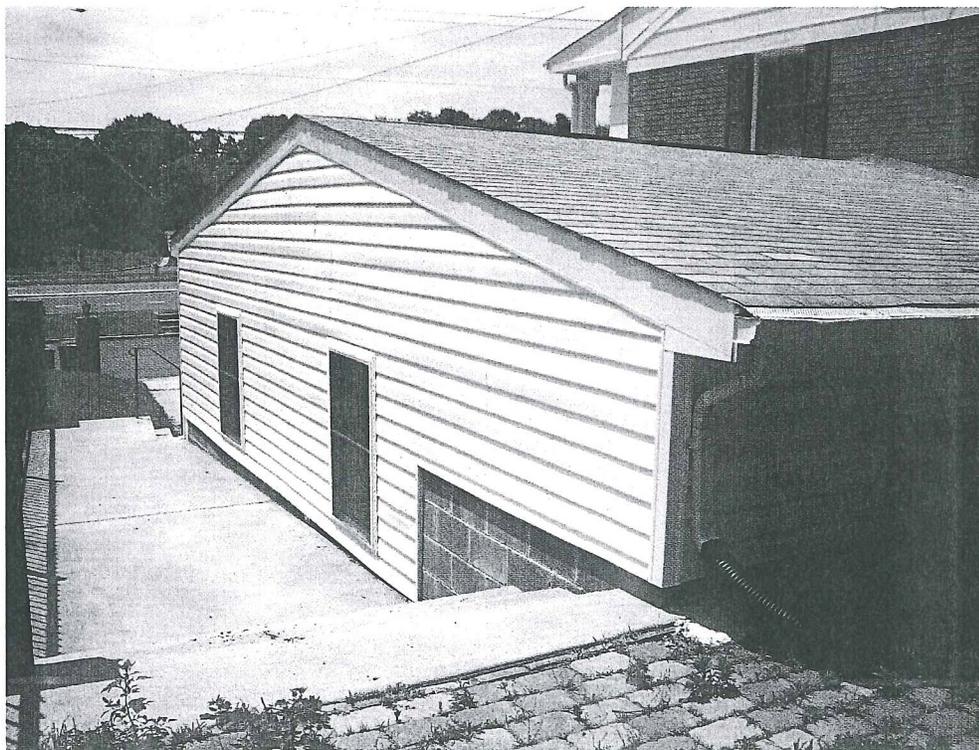


4 Garage Front

RECEIVED
Department of Planning & Zoning
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Zoning Evaluation Division

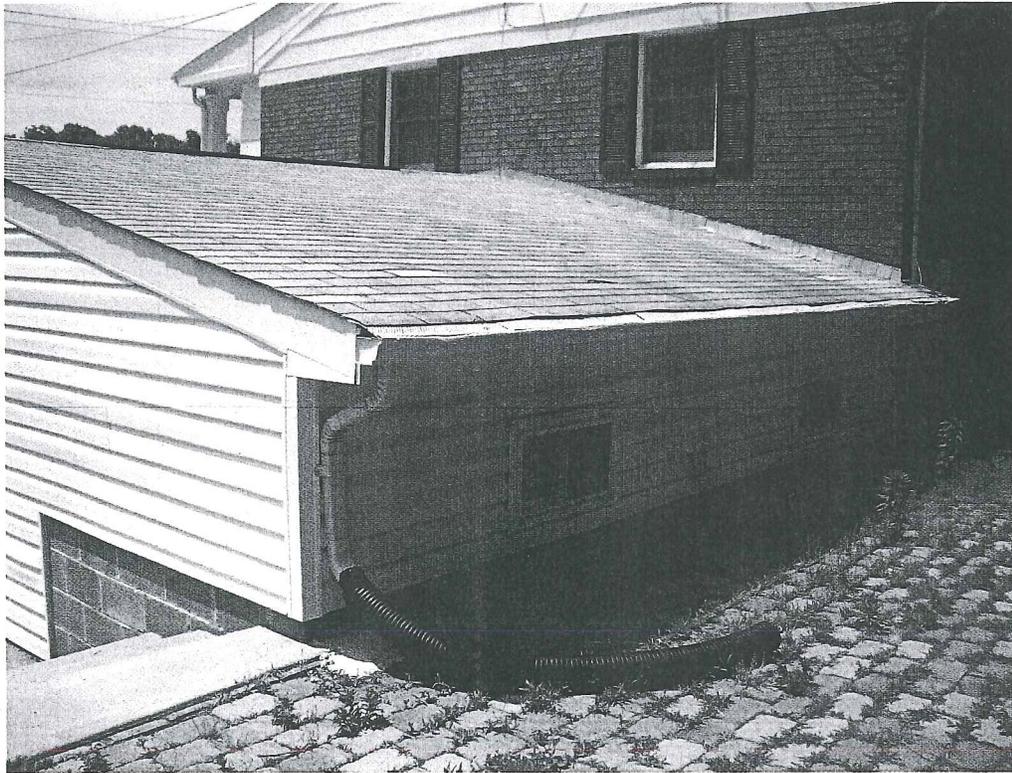


5 Garage Side Front

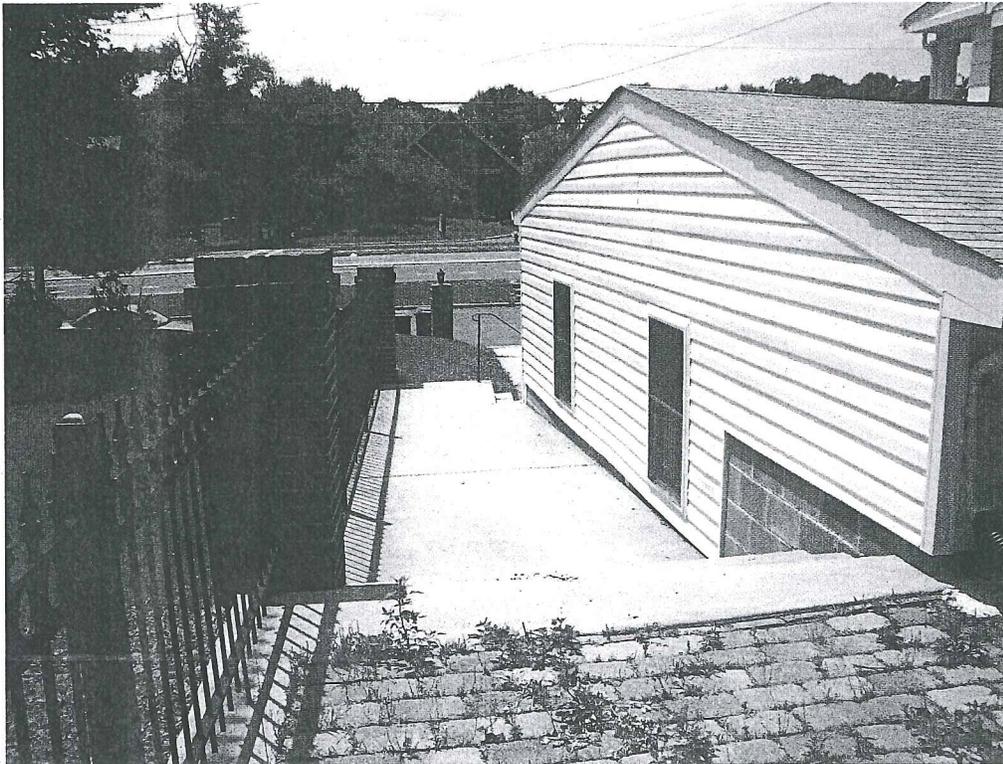


6 Garage Side Rear

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Department of Planning & Zoning
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Zoning Evaluation Division

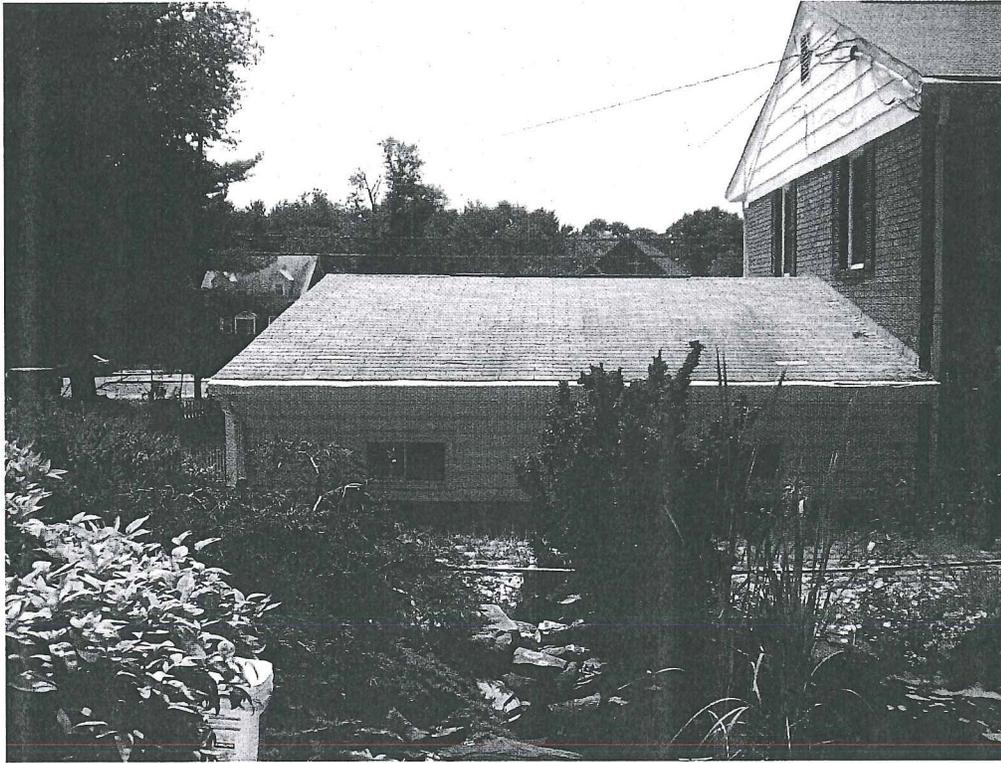


7 Garage Rear

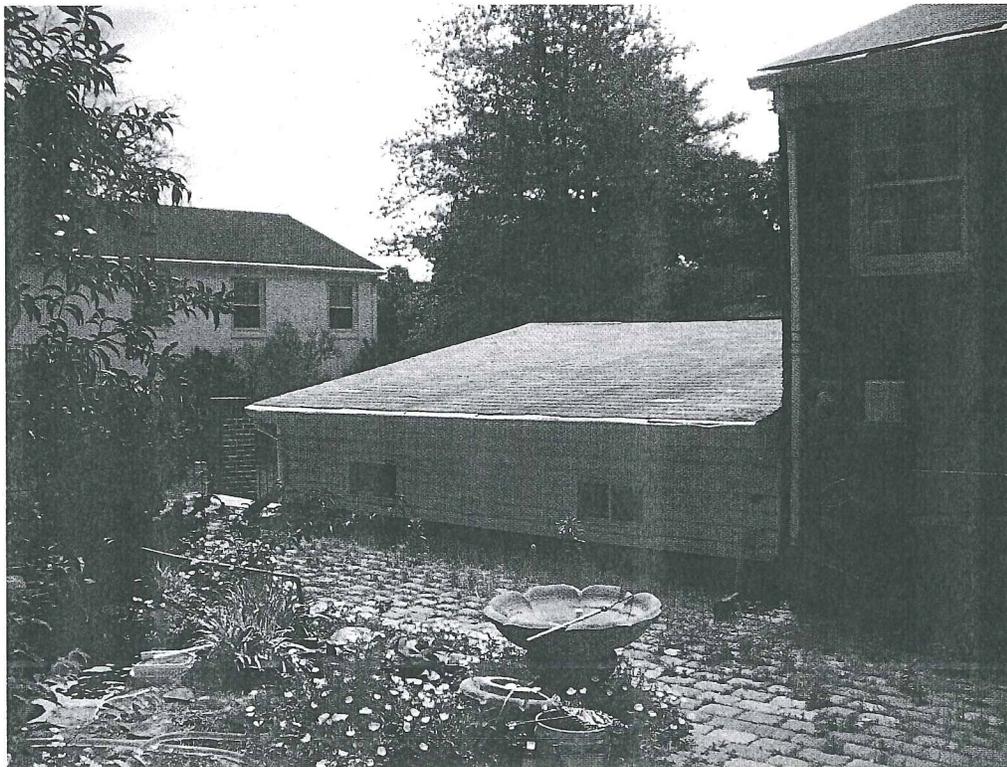


8 Garage Side

RECEIVED
Department of Planning & Zoning
JUN 06 2011
Zoning Evaluation Division

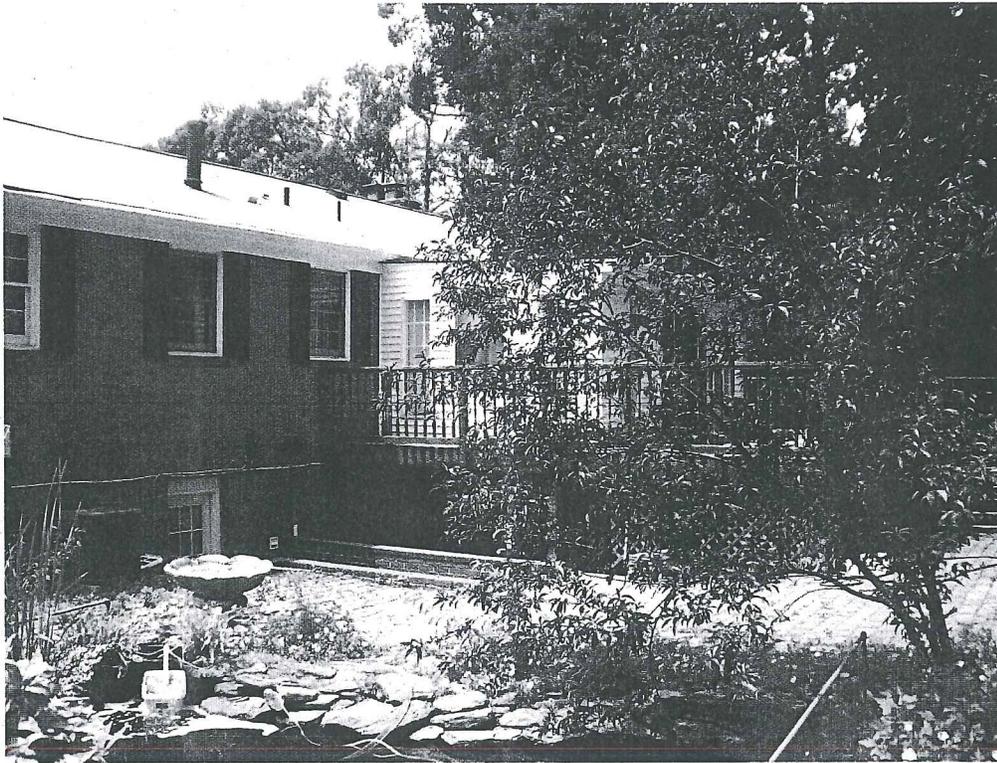


9 Koi Pond - Garage Rear

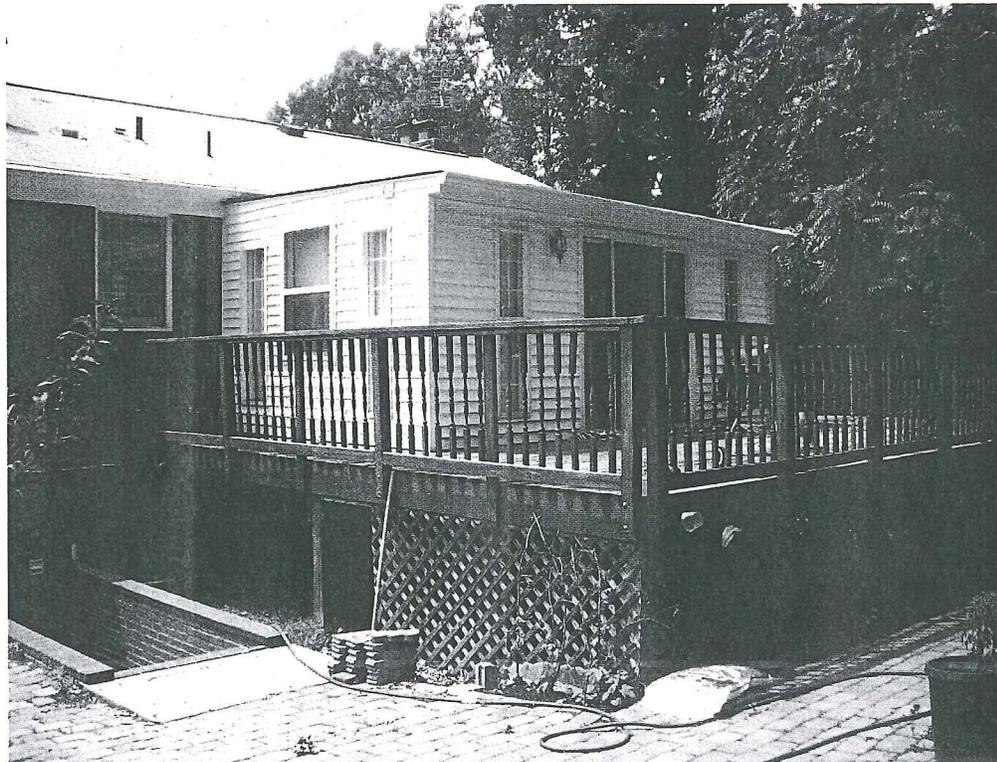


10 Koi Pond - Garage Rear

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Department of Planning & Zoning
JUN 06 2011
Zoning Evaluation Division

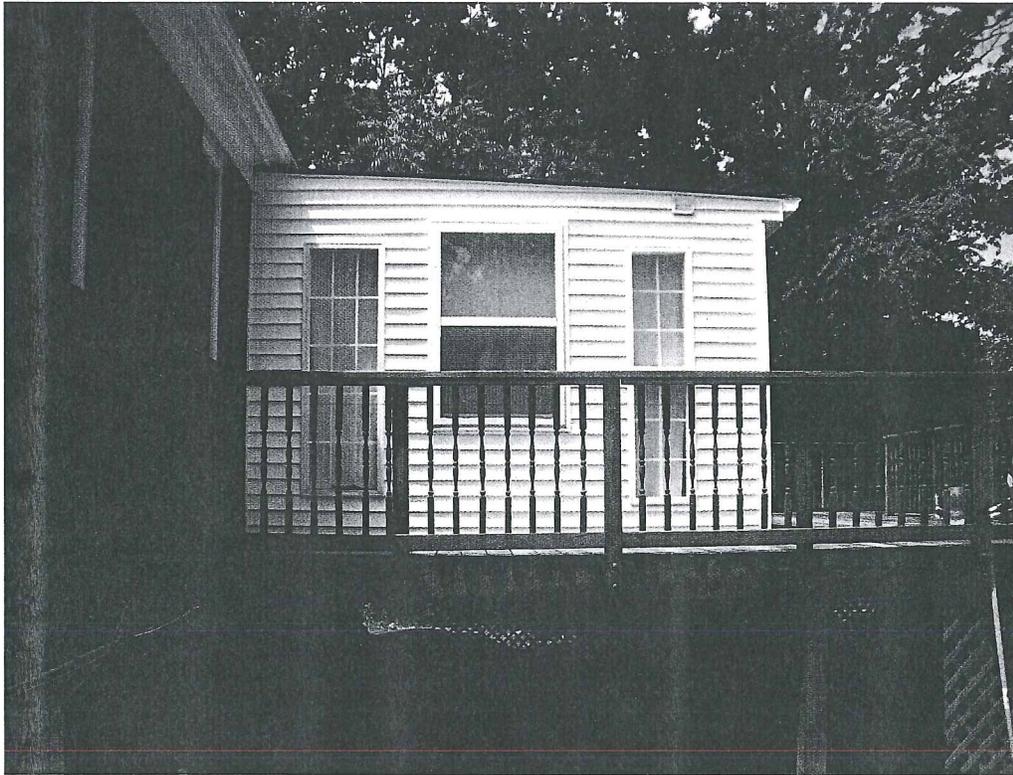


11 Koi Pond - Rear Lower Entrance – Sunroom

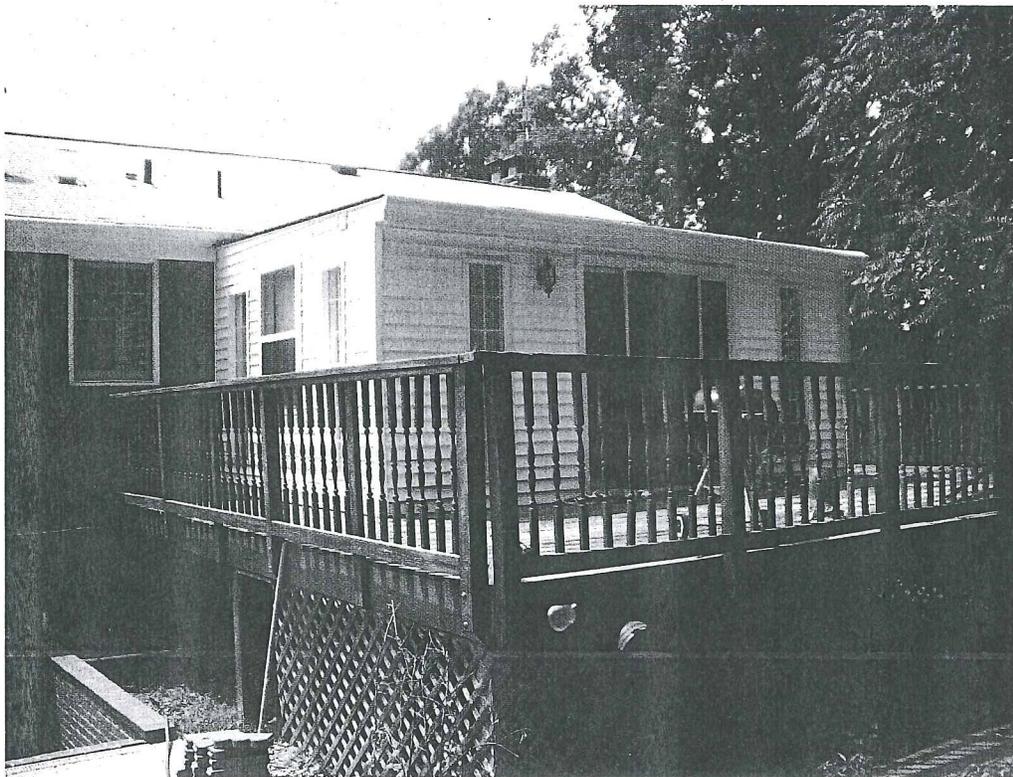


12 Patio - Sunroom Left

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Zoning Evaluation Division

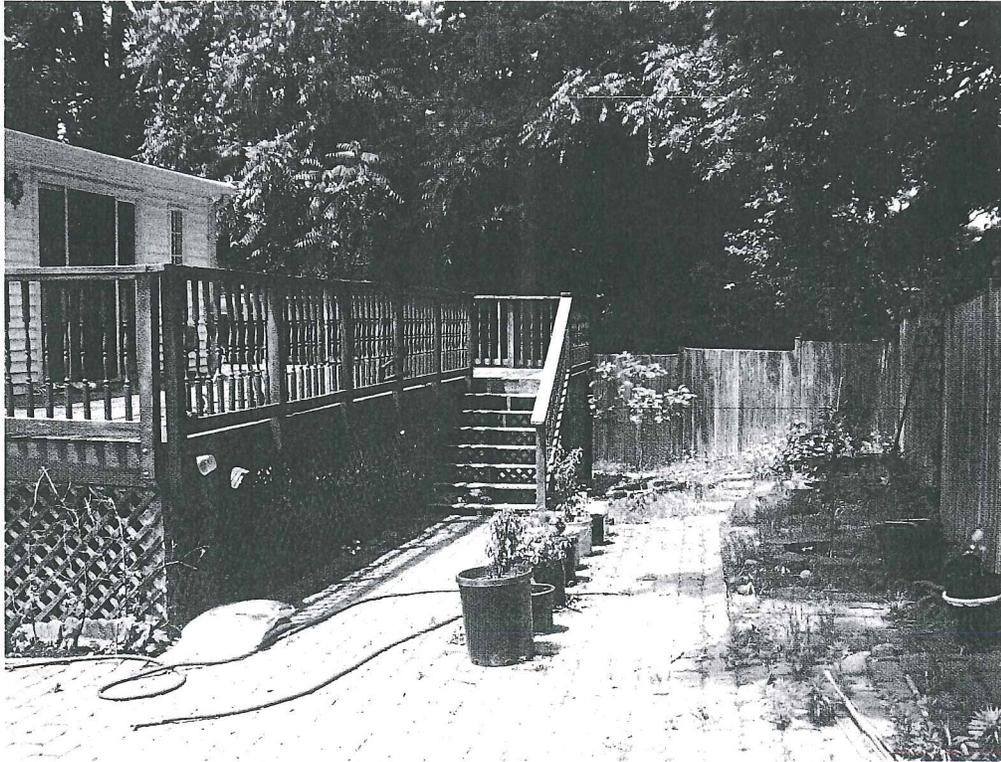


13 Patio - Sunroom Left

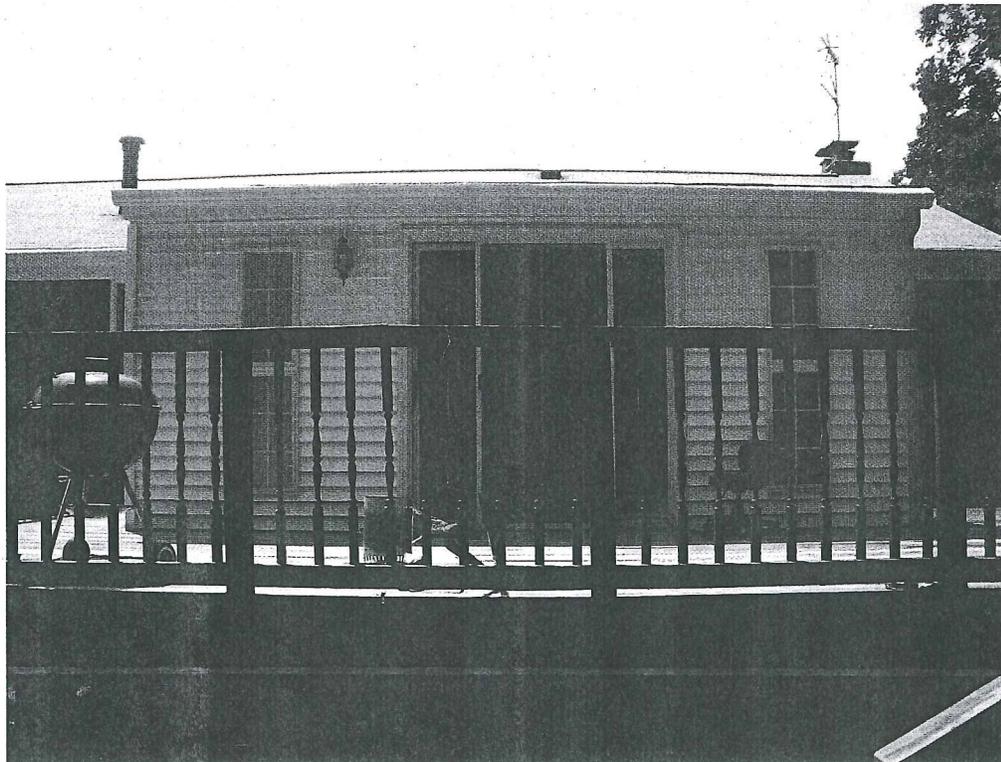


14 Patio - Sunroom Left

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Department of Planning & Zoning
JUN 06 2011
Zoning Evaluation Division



15 Patio - Sunroom - Rear Left Corner Yard

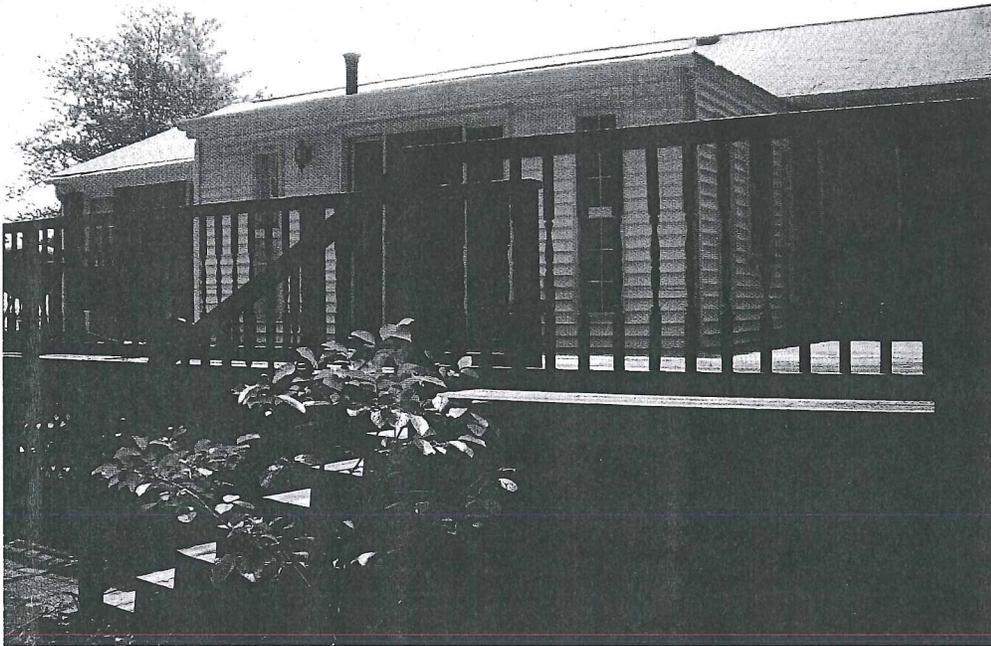


16 Patio - Sunroom Middle

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Department of Planning & Zoning

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Zoning Evaluation Division



17 Patio Sunroom Right

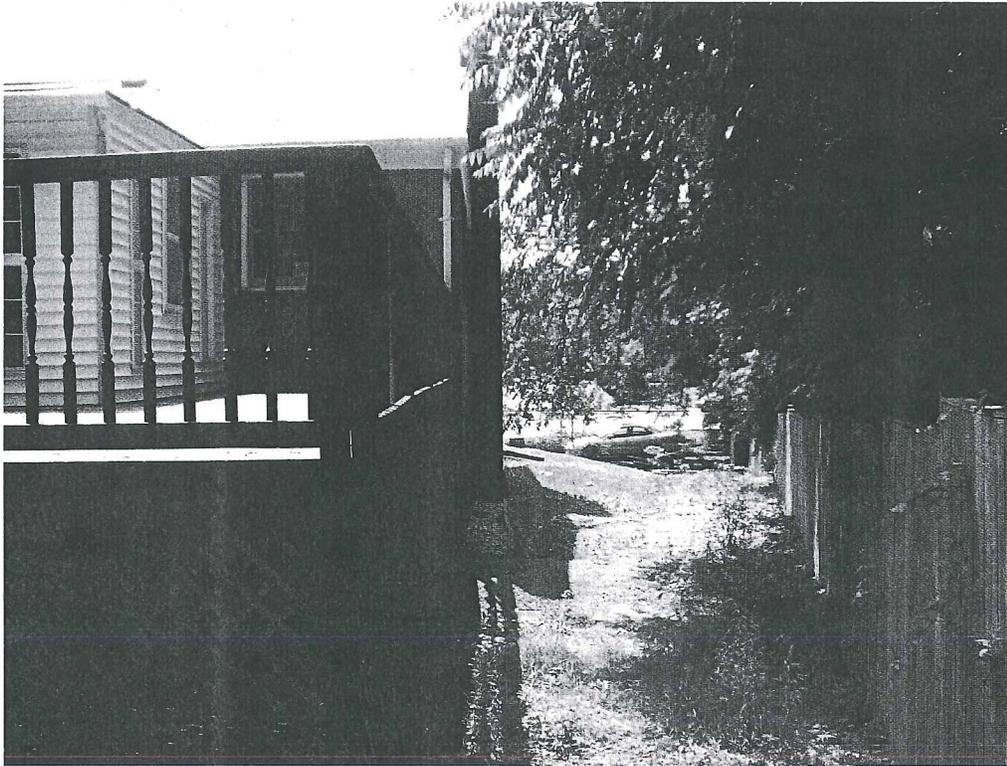


18 Patio Sunroom Right

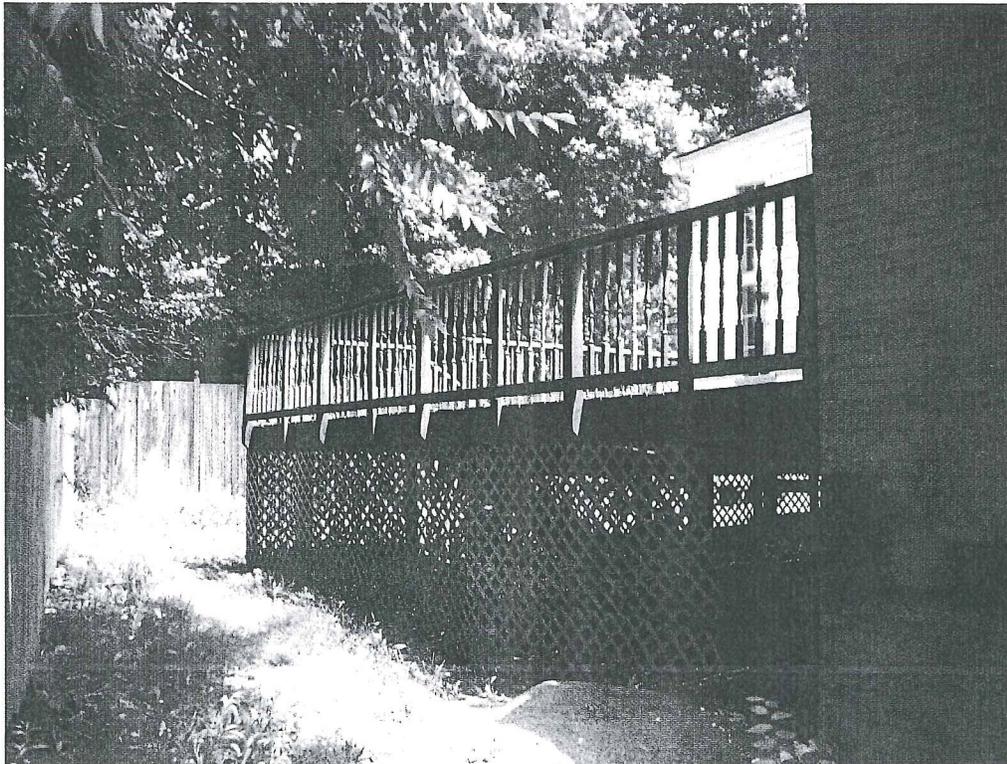
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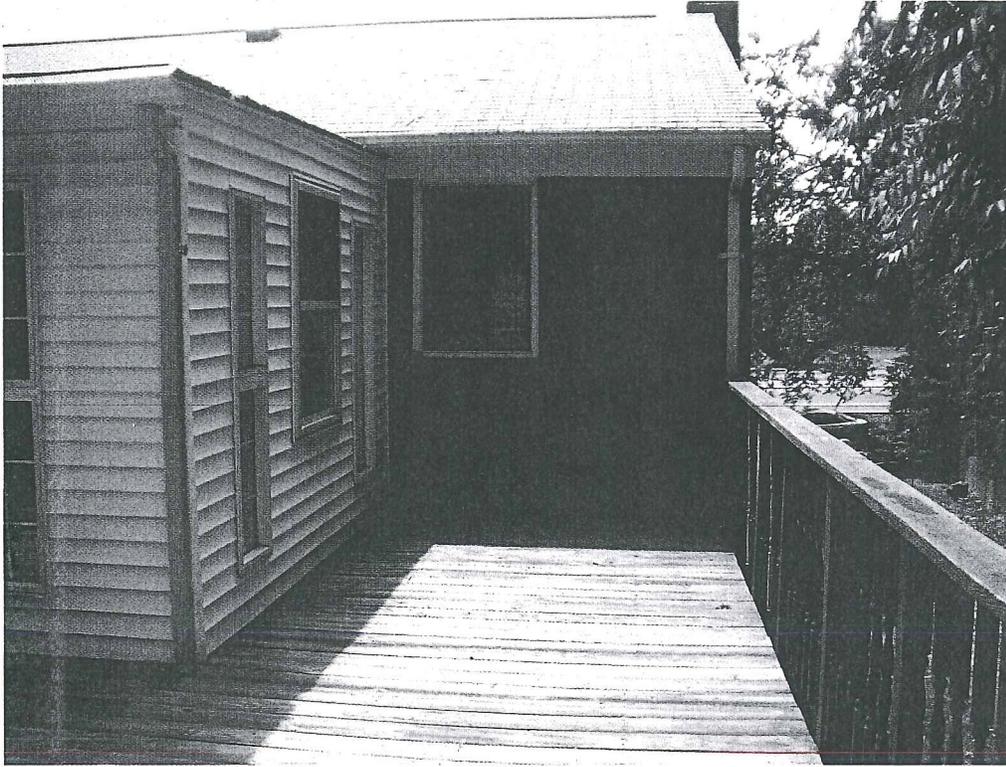


19 Patio - Sunroom - Left Side House

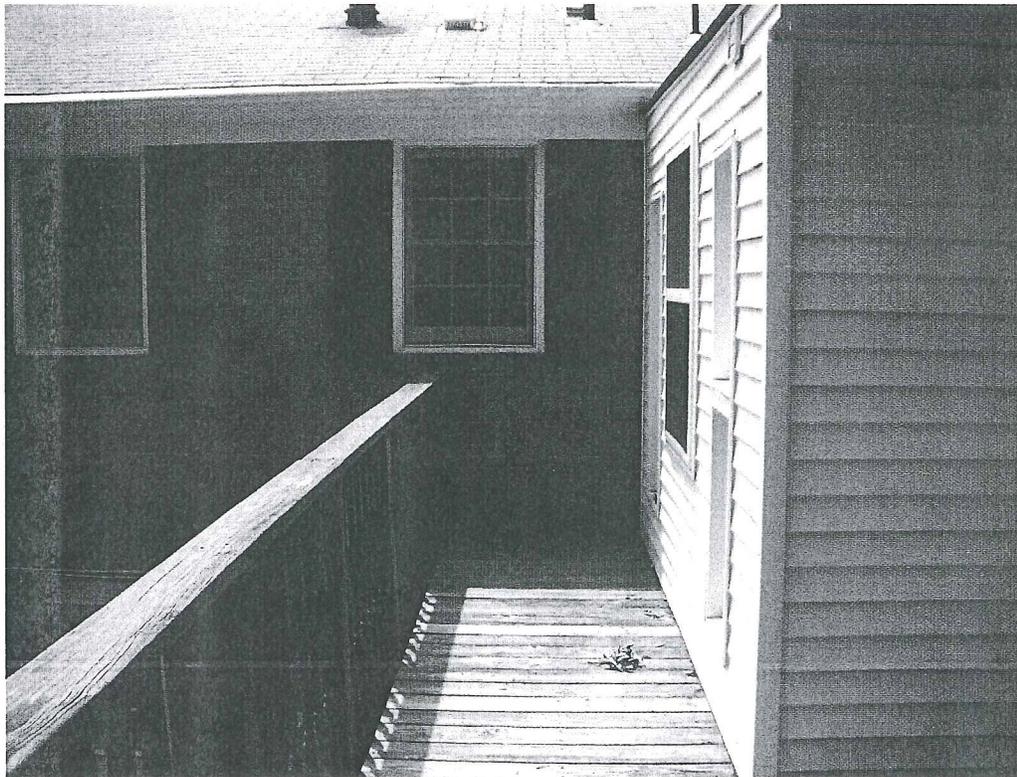


20 Rear Corner House - Patio - Sunroom

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JUN 06 2011
Zoning Evaluation Division

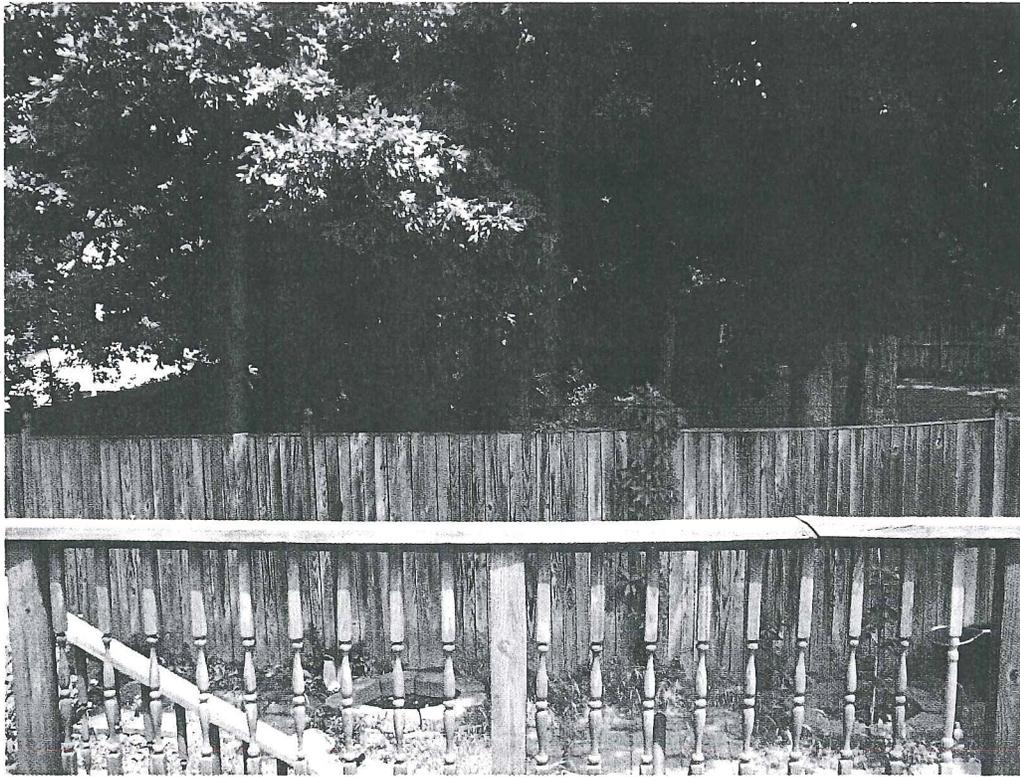


21 Right Side Patio - Sunroom



22 Left Side Patio - Sunroom

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JUN 06 2011
Zoning Evaluation Division



23 Patio - Abutting Property Backyard (Lot 2)



24 Patio - Abutting Property House (Lot 2)



25 Koi Pond - Abutting Property House (Lot 2)

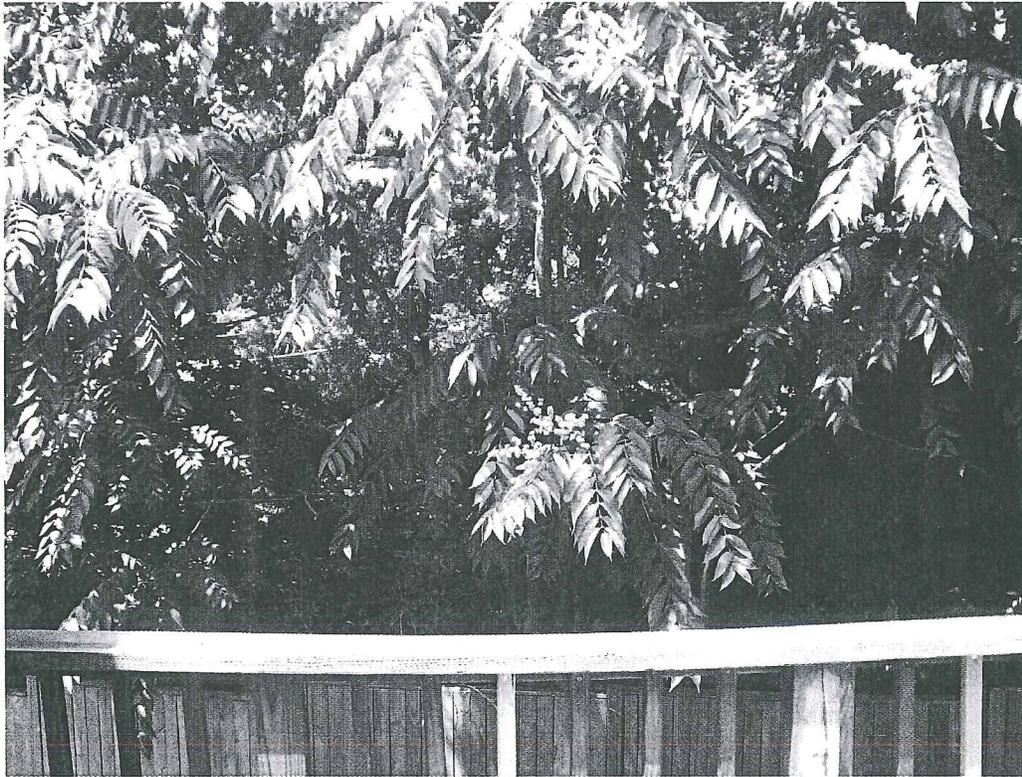


26 Koi Pond - Garage Rear - Abutting Property (Lot 1-B)

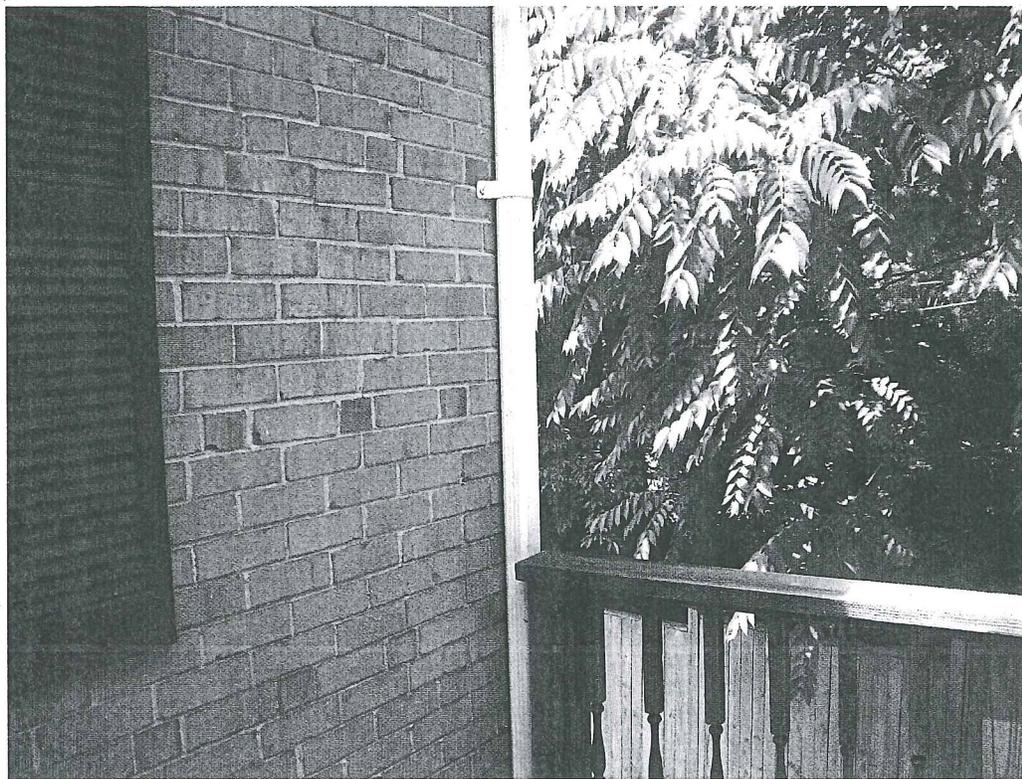
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JUN 06 2011

Zoning Evaluation Division



27 Abutting Property - West of Lot 1-A



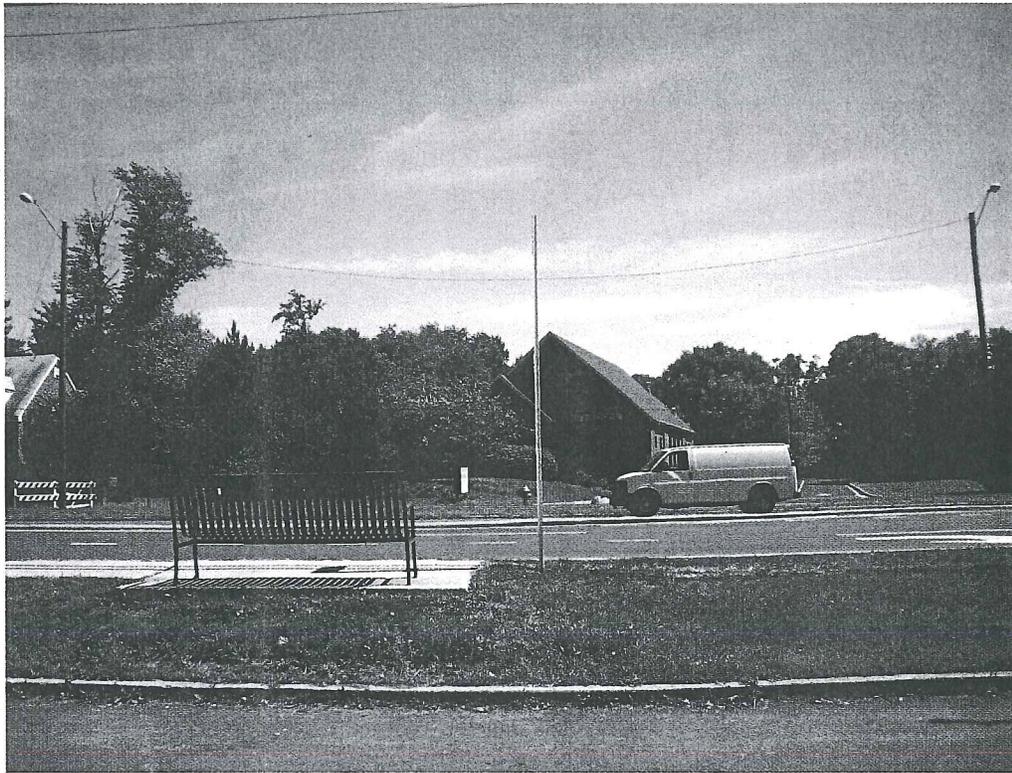
28 Abutting Property - West of Lot 1-A



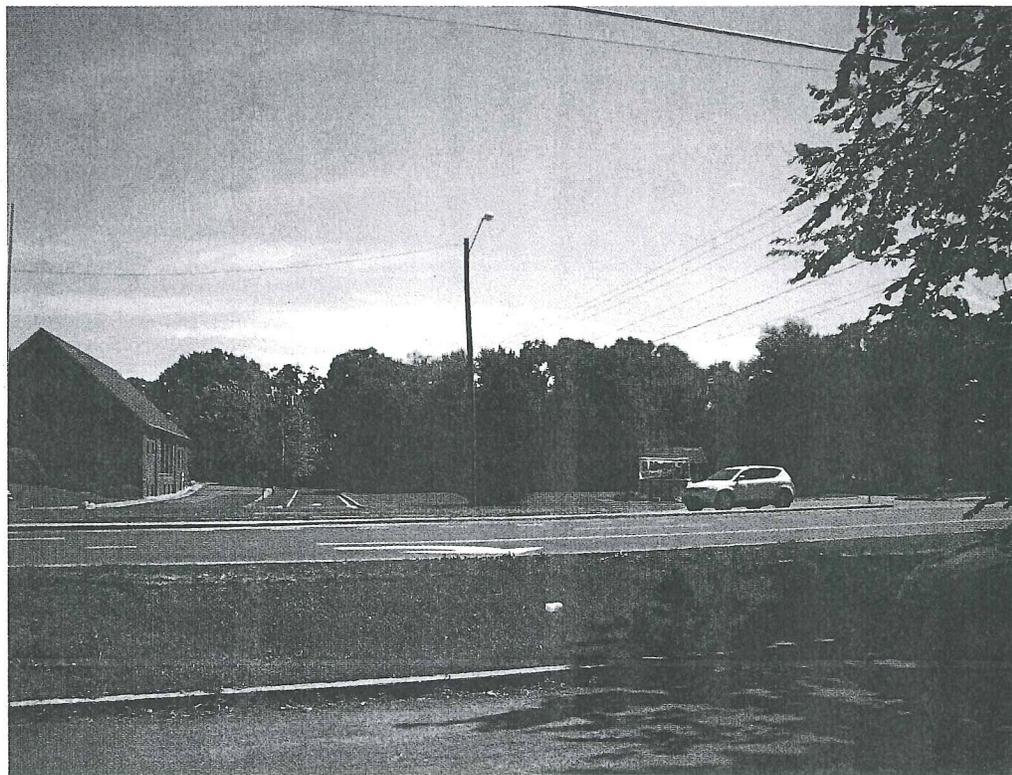
29 House to the N-NW (Not Directly Abutting Property)



30 Property Front-Left (Across the Street)



31 Property Front-Middle (Across the Street)



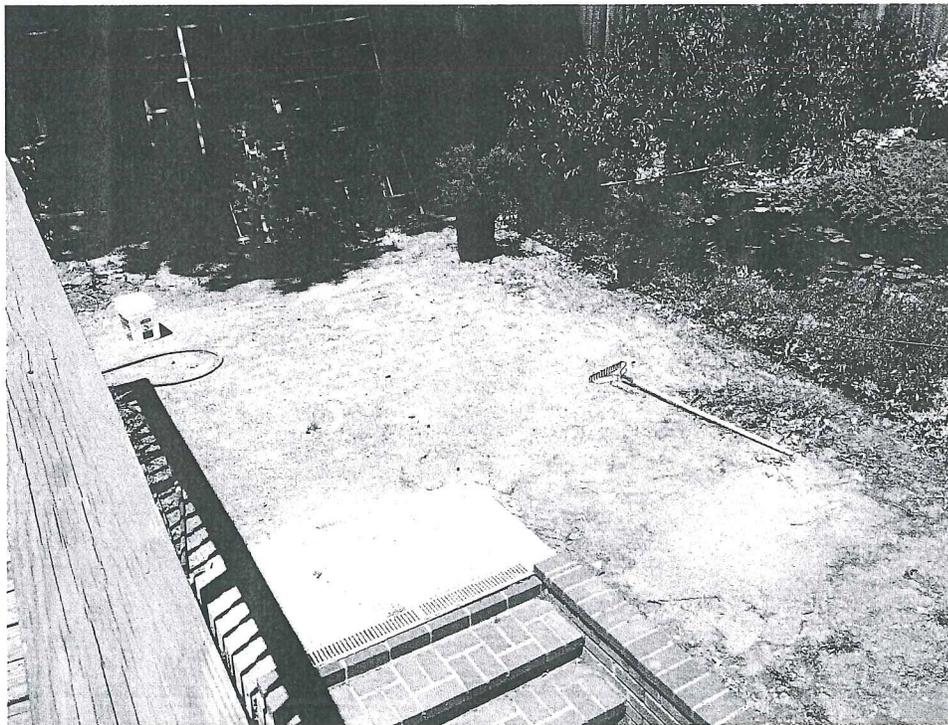
32 Property Front-Right (Across the Street)

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JUN 06 2011

Zoning Evaluation Division

Rear Yard (pavers removed)



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Department of Planning & Zoning
JUN 29 2012
Zoning Evaluation Division



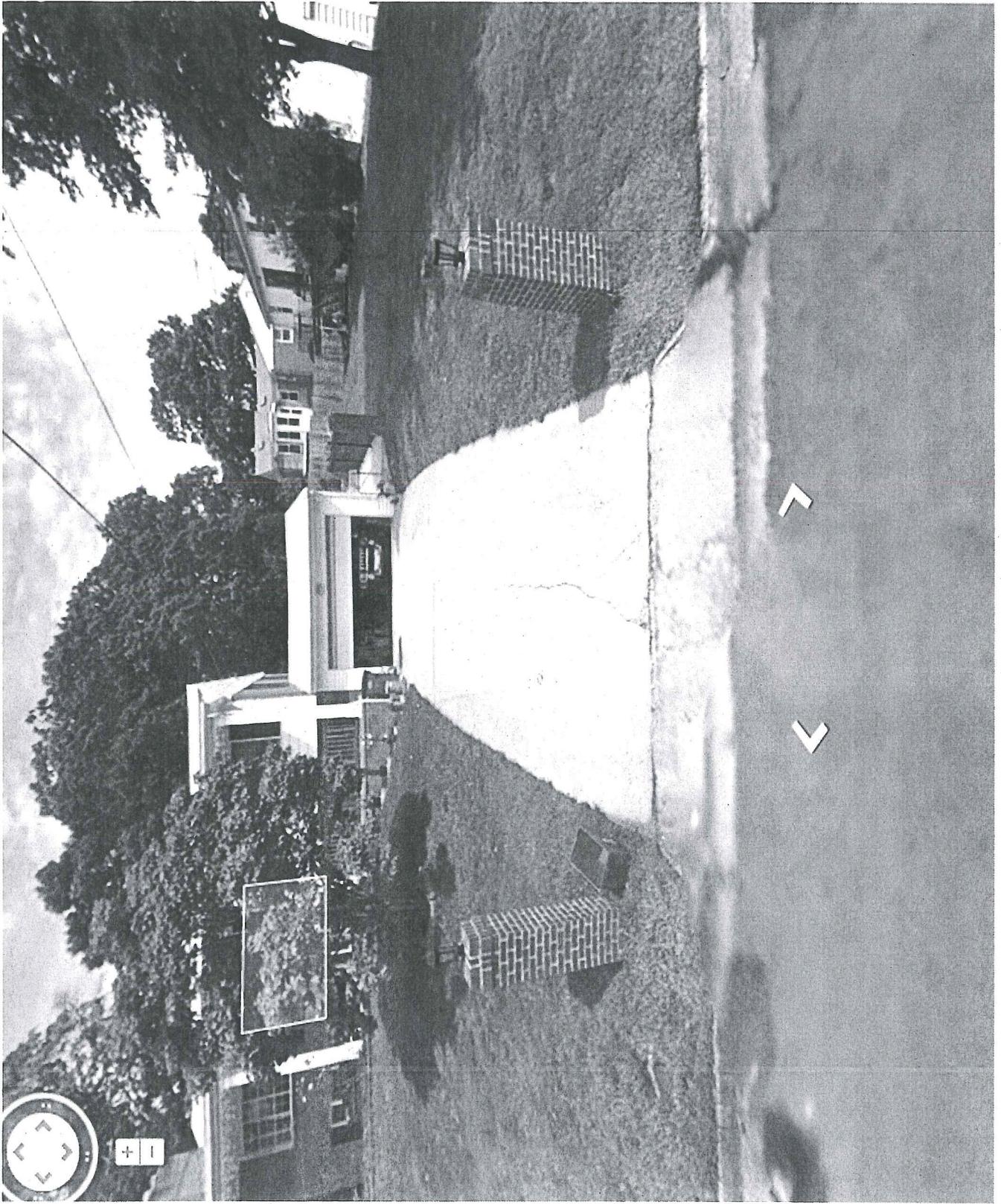
RECEIVED
Department of Planning & Zoning
JUN 29 2012
Zoning Evaluation Division

Google Maps
8/29/2012

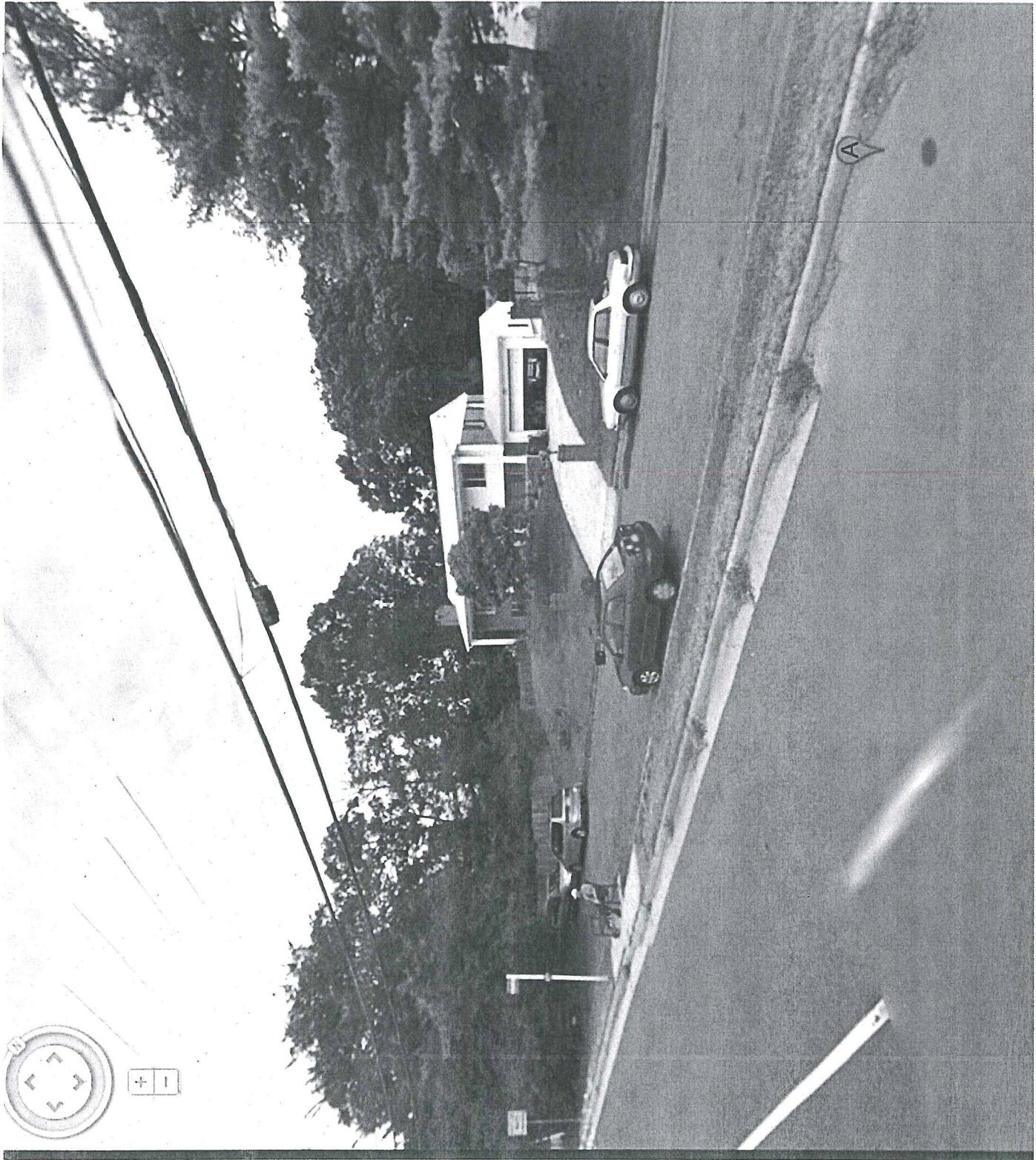


Google Maps

8/29/2012



Google Maps
8/29/2012



DESCRIPTION OF THE APPLICATIONS

The applicant is seeking approval of three special permit requests. The first request is to permit a reduction of certain yard requirements based on an error in building location to permit an addition, a one story vinyl garage to remain 5.7 feet from the eastern side lot line.

Special Permit Request #1

	Structure	Yard	Min. Yard Req.*	Structure Location	Proposed Reduction	Percent of Reduction
Special Permit	Garage Addition	Eastern Side	12.0 feet	5.7 feet	6.3 feet	52.5 %

* Minimum yard requirement per Section 3-307

The second special permit request is to permit an existing deck up to 6.3 feet in height to remain 7.5 feet from the western side lot line.

Special Permit Request #2

	Structure	Yard	Min. Yard Req.*	Structure Location	Proposed Reduction	Percent of Reduction
Special Permit	Deck	Side	12.0 feet	7.5 feet	4.5 feet	37.5%

* Minimum yard requirement per Section 3-307

The third special permit request is to permit an existing fence and existing pillars greater than 4.0 feet in height to remain in the front yard. A 5.5 foot fence is located along the western property line in the front yard facing Columbia Pike. Additionally five brick pillars in the front yard, of varying height between 4.4 feet and 5.3 feet, have been determined by the Zoning Administration Division to be considered a fence. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height. The Zoning Ordinance permits fences up to 7.0 feet in height in the side and rear yards.

Special Permit Request #3

	Structure	Yards	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit	Fences	Front	4.0 feet	5.5 feet	1.5 feet

EXISTING SITE DESCRIPTION

The 10,910 square foot lot is currently zoned R-3 and developed with a split-level single family detached dwelling constructed in 1966. A 577.7 square foot one story addition, an attached vinyl garage, exists on the eastern side of the home. According to Fairfax County aerial photography, the addition was constructed between 2002 and 2003 (See Appendix 4). A concrete walkway exists between the addition and the side property line. Another one story addition exists to the north of the home. A wooden deck also exists in the rear yard of the property. A fish pond and waterfall exist in the rear yard of the house. An open front porch is located along the entire front façade of the home. A concrete walkway leads from the open front porch to the driveway to the concrete driveway which accesses Columbia Pike. A 5.5 foot wooden fence exists along the entirety of the western side lot line. A 6.0 foot wooden fence exists along the rear property line. Additionally another fence, with brick pillars and iron fencing exists on about half of the eastern side property line. The front yard contains a set of five brick pillars measuring from 4.4 feet to 5.3 feet in height. The yard is well manicured and contains mature trees, shrubs and ornamental grasses. The brick pavers that existed in the rear yard have been removed as evidenced in photographs of the rear property dated June 29, 2012.

CHARACTER OF THE AREA

	Zoning	Use
North	R-3	Single-Family Dwellings
East	R-3	Single-Family Dwellings
South	R-2	Presbyterian Church
West	R-3	Vacant Lot

BACKGROUND

Department of Tax Administration records indicate that the two story vinyl and brick single-family detached dwelling was constructed in 1966 and remodeled in 2002.

On December 16, 2010 a Corrective Work Order was issued to the Yufeng Zhao, a Registered Agent at Innovative Holdings, LLC. Code Compliance staff found that an unpermitted garage addition existed on the east of the primary dwelling, as well as an unpermitted partially enclosed portion of the rear deck and an unpermitted finished basement. (See Appendix 5)

On February 3, 2011 a Notice of Violation was issued to Yufeng Zhao, and directed him to apply for and obtain the required permits and required inspections for the garage enclosure and the deck enclosure or to demolish the structures. (See Appendix 6)

A deck over 4 feet in height is permitted to be as close as 13.0 feet from the rear lot line. The deck is 12.2 feet from the rear lot line, which is less than 10% of the permitted extension; therefore under Section 2-412 in the Zoning Ordinance the deck needs the Zoning Administrator's approval to remain that close to the lot line. After the determination of the Board of Zoning Appeals the applicant needs to seek an administrative reduction for the deck extension into the rear lot line. A development condition is included in Appendix 1 that addresses this concern.

The current applicant, Johnny T. Le, and his parents Vinh Le and Hien Nguyen, purchased the property on March 21, 2011.

Records indicate there were no other applications for properties in the vicinity of the application site heard by the BZA.

ZONING ORDINANCE REQUIREMENTS (See Appendix 7)

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

This special permit is subject to Sects. 8-006, 8-903 and 8-914 and 8-923 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.

CONCLUSION

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, 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. Aerial Photography from 2002 and 2003
5. Corrective Work Order dated December 16, 2010
6. Notice of Violation dated February 3, 2011
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2012-MA-045

October 10, 2012

1. This special permit is approved for the one story garage addition located 5.7 feet from the side lot line, location of fences in the front yard, and pillars at the maximum heights as shown on the special permit plat, prepared by Alexandria Surveys, LLC dated January 2, 2012 as sealed through June 11, 2012 as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the addition within 6 months of approval of this special permit.
3. The applicant shall obtain approval from the Zoning Administrator for a reduction of minimum yard requirements for a deck in the rear yard or the deck shall be removed or brought into conformance with the Zoning Ordinance.

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

Application No.(s): SP 2012-MA-045
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 2, 2011
(enter date affidavit is notarized)

I, Johnny T. Le, 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

112257

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)
Johnny T. Le	6902 Columbia Pike, Annandale, VA 22003	Applicant, Title Owner
Vinh Le	6902 Columbia Pike, Annandale, VA 22003	Title Owner
Hien Nguyen	6902 Columbia Pike, Annandale, VA 22003	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): SP 2012-MA-045
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 2, 2011
(enter date affidavit is notarized)

112257

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):

SP 2012-MA-045

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

June 2 2011
(enter date affidavit is notarized)

112257

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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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 2, 2011
(enter date affidavit is notarized)

112257

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

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

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

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

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

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

Application No.(s): SP 2012-MA-045
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 2, 2011
(enter date affidavit is notarized)

112257

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

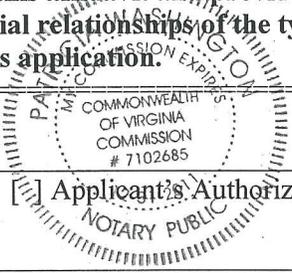
(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(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 [Signature] Applicant's Authorized Agent
Johnny T. Le
(type or print first name, middle initial, last name, and title of signee)



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

[Signature]
Notary Public

My commission expires: 12/31/2011
#7102685

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

Special Permit Statement of Justification

- A. Type of operation(s): **Garage, deck, and fence**
- B. Hours of operation: **Throughout the day**
- C. Estimated number of patrons/clients/patients/pupils/etc.: **N/A**
- D. Proposed number of employees/attendants/teachers/etc.: **N/A**
- E. Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day: **None beyond current, typical impact**
- F. Vicinity or general area to be served by the use: **Residential property**
- G. Description of building façade and architecture of proposed new building or additions: **Single family home with modern exterior that is in harmony with that of the rest of the Sleepy Hollow community**
- H. A listing, if known, of all hazardous or toxic substances: **No hazardous or toxic substances**
- I. A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be noted with the justification for any such modifications:

The Subject Property contains approximately 10,910 square feet and is located on a service road off of Columbia Pike and its intersection with Moss Drive. The Subject Property is developed as a single family home with an attached garage. On April 5, 2011, a notice of violation was issued by Peggy Delean, Property Maintenance/Zoning Enforcement Inspector, to the Applicant regarding the Subject Property. An inspection of the Subject Property on January 4, 2011 revealed the presence of an addition (garage) approximately five (5) feet or less from the side lot line and a second addition (deck) approximately seven (7) feet or less from the side lot line. The Subject Property is zoned to the R-3 District and is required to have a minimum side yard of twelve (12) feet. Because the accessory structures are less than twelve (12) feet from the side lot line, they are in violation of Paragraph 1 of Section 2-307 of the Ordinance.

This application requests a special permit to allow the existing attached garage and deck to remain in their present locations. The Applicant purchased the Subject Property on March 21, 2011. Subsequent to the purchase of the house, the Applicant discovered the error in location of the garage and deck.

Special Permit Statement of Justification (Garage)

In accordance with Sections 8-006, and 8-914, Paragraph 2 of the Ordinance, please accept the following information with respect to the error in building location on the Subject Property:

- The attached garage is required to be twelve (12) feet from the side yard lot line. In this instance, the foundation of the garage was constructed 5.7 feet from the side yard lot line. Based on these measurements, the error exceeds 10% of the measurement involved.
- The noncompliance was made through no fault of the current property owner. The error in building location occurred under a previous owner.
- The reduction of the required side yard setback will not impair the purpose and intent of the Ordinance.
- Allowing the garage to remain in its current location will not be detrimental to the use and enjoyment of other property in the immediate vicinity. Moreover, the attached garage on the Subject Property is not immediately adjacent to a single family dwelling, nor would it impede the use and enjoyment of the adjacent property by its owner. A letter signed by the neighbor/owner of the adjacent property which supports this claim is also enclosed.
- The attached garage will not create an unsafe condition with respect to the surrounding properties or the public street.
- To enforce compliance with the Ordinance's minimum yard requirements would cause unreasonable hardship for the property owner. Removing the structure would be a substantial expense for the Applicant. The Applicant is attempting to comply with all County requirements by applying for a Special Permit.
- The reduction in minimum yard requirement will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

Special Permit Statement of Justification (Deck)

In accordance with Sections 8-006, and 8-914, Paragraph 2 of the Ordinance, please accept the following information with respect to the error in building location on the Subject Property:

- The deck is required to be twelve (12) feet from the side lot line. In this instance, the foundation of the deck was constructed 7.5 feet from the side yard lot line and 12.2 feet from the rear lot line. Based on these measurements, the exceeds 10% of the measurement involved.
- The noncompliance was made through no fault of the current property owner. The error in building location and failure to obtain the necessary permits occurred under a previous owner.
- Allowing the deck to remain will not impair the purpose and intent of the Ordinance.

- Allowing the deck to remain will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
- Allowing the deck to remain will not create an unsafe condition with respect to the surrounding properties or the public street.
- To enforce compliance with the Ordinance would cause unreasonable hardship for the property owner. Removing the structure would be a substantial expense for the Applicant. The Applicant is attempting to comply with all County requirements by applying for a Special Permit.
- Allowing the deck to remain will not result in an increase in density of floor area ratio from that permitted by the applicable zoning district regulations.

Special Permit Statement of Justification (Fence)

In accordance with Sections 8-923 of the Ordinance, please accept the following information with respect to fence height in the front yard of the Subject Property:

- The fence in question exceeds six (6) feet and measures 6.6 feet at its highest point.
- The fence meets the sight distance requirements contained in Section 2-505 of the Ordinance.
- The proposed fence height increase is warranted based upon, but not limited to, the topography of the lot. The fence gradually decreases in height from the back of the property towards the front of the property. The slope of the front yard increases at a higher rate than the back of the property. This difference in slope causes the fence height to increase to its highest point in the front yard in order for the fence to maintain its rate of decreasing gradation.
- The proposed fence height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
- The proposed fence height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

In sum, a special permit is requested so that the attached accessory structure is allowed to remain 5.7 feet from the side yard lot line, the deck be allowed to remain 7.5 feet from the side lot line and 12.2 feet from the rear lot line, and the fence be allowed to remain at its current height of 6.6 feet. The granting of the special permit will not detrimentally affect adjacent properties and requiring the

removal and reconstruction of the attached garage, deck, and fence will be a substantial hardship on the Applicant.

Should you have any questions regarding this application, or require additional information, please do not hesitate to contact me. I would appreciate the acceptance of this application and the scheduling of a public hearing before the Fairfax County Board of Zoning Appeals at your earliest convenience. As always, I appreciate your cooperation and assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnny Le". The signature is written in a cursive style with a long horizontal stroke at the end.

Johnny Le

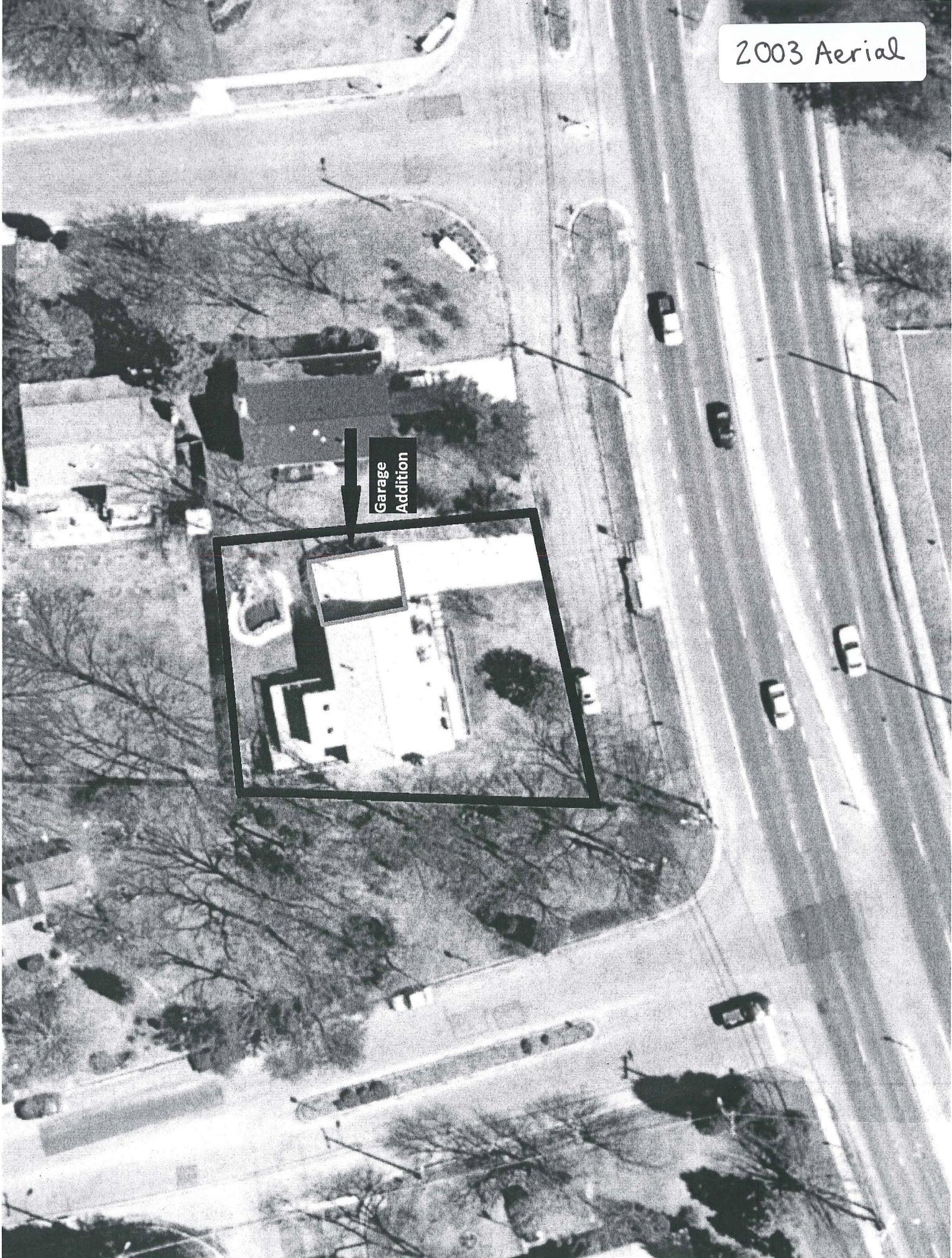
Appendix 4

2002 Aerial



2003 Aerial

Garage
Addition





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: December 16, 2010

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Yufeng Zhao, Registered Agent
Innovative Holdings, LLC

ADDRESS: 14080 Sullyfield Circle, Suite F
Chantilly, VA 20151

LOCATION OF VIOLATION: 6902 Columbia Pike
Annandale, VA 22003-3434

TAX MAP REF: 60-4 ((16)) (L) 1A

CASE #: 201001179 **SR#:** 63619

In accordance with Part I of the Virginia Uniform Statewide Building Code (USBC) - 2006 Edition effective May 1, 2008, an inspection on November 2, 2010 revealed a violation or violations as listed below at the referenced location. The cited violation(s) must be corrected within 20 calendar days from receipt of this notice unless otherwise indicated.

Explanation: On November 2, 2010 County staff inspected the premises and discovered that a garage addition has been built on the north side of the above referenced dwelling, the basement has been finished and the rear deck has been partially enclosed without the issuance of the required permit or permits and without required inspections.

Order: Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2006 edition, you are hereby directed to apply for and obtain the required permit or permits and required inspections for building a garage addition, finishing the basement and partially enclosing the rear deck at the above address.

Corrective Action Required:

1. Apply for and obtain all necessary County permits for the work described above within 20 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 Public Works and Environmental Services
Land Development Services, County Building Official
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035

Phone: 703-324-1780, 703-324-1980 TTY: 711, Fax: 703-324-1847
www.fairfaxcounty.gov/dpwes/lds

2. Schedule and pass the required County inspection(s) for the work described above within 20 calendar days from the date you are issued the required permit or permits for construction or demolition.
3. Contact me at (703) 324-1190 within the timeframe established to confirm the violation(s) have been abated.
4. Call (703) 222-0455 to schedule all building inspections related to this matter. Please reference CASE #: 201001179.

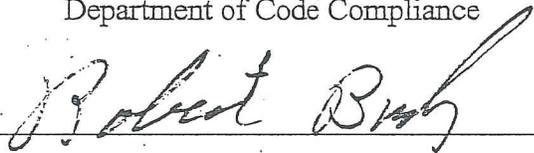
You are directed to notify Robert Burk by return correspondence to 12055 Government Center Parkway, Suite 1016, Fairfax, VA 22035 or telephone call to (703) 324-1190 within three (3) working days from the date you receive this Order, of your election to accept or reject the terms of this Order. Failure 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) 324-1190 or the main office at (703) 324-1300.

Notice Issued By: Robert Burk
Technical Assistant to the Building Official
Department of Code Compliance

Signature: _____



CC: Case File
Ray Pylant, 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: February 3, 2011

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Yufeng Zhao, Registered Agent
Innovative Holdings, LLC

ADDRESS: 14080 Sullyfield Circle, Suite F
Chantilly, VA 20151

TAX MAP REF: 60-4 ((16)) (L) 1A

LOCATION OF VIOLATION: 6902 Columbia Pike
Annandale, VA 22003-3434

CASE #: 201001179 **SR#:** 63619

You were issued a Corrective Work Order on December 16, 2010 (copy enclosed) for violations of the Virginia Uniform Statewide Building Code (USBC) 2006 Edition, effective May 1, 2008. Staff confirmed on February 2, 2011 that the violations itemized below remain.

Explanation: On November 2, 2010 and January 4, 2011 County staff inspected the above referenced premises and discovered that a garage addition has been built on the north side of the above referenced residential dwelling and the rear deck has been partially enclosed without the issuance of a Building Permit, inspections and approvals.

Order: Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2006 edition, you are hereby directed to apply for and obtain the required permits and required inspections for the garage enclosure and the deck enclosure or demolition of same at the above referenced address.

Corrective Action Required:

1. Apply for and obtain all necessary County Permits for the work described above within 20 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 20 calendar days from the date you received this notice.

Department of Public Works and Environmental Services
Land Development Services, County Building Official
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035

Phone: 703-324-1780, 703-324-1980 TTY: 711, Fax: 703-324-1847
www.fairfaxcounty.gov/dpwes/lds

3. Contact me at (703) 324-1190 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 #: 201001179.

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:

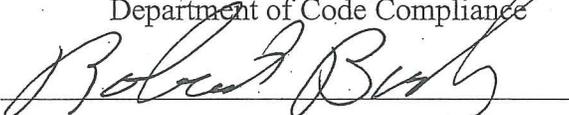
Fairfax County Board of Building and Fire Prevention Code Appeals
Attention: Secretary to the Fairfax County Board of Building and Fire Prevention Code Appeals
Office of Building Code Services
Department of Public Works and Environmental Services
12055 Government Center Parkway
Fairfax, Va. 22035-5504
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) 324-1190 or the main office at (703) 324-1300.

Notice Issued By: Robert Burk
Technical Assistant to the Building Official
Department of Code Compliance

Signature: 

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

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.

8-923

Provisions for Increase in Fence and/or Wall Height in Any Front Yard

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) 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. 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. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, 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 a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - 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. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.