

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

THUAN NGUYEN, SP 2012-HM-048 Appl. under Sect(s). 8-914 and 8-922 of the Zoning Ordinance to permit reduction of minimum yard requirements based on error in building location to permit accessory storage structure to remain 2.9 ft. from side lot line and open deck to remain 9.0 ft. from side lot line and to permit reduction in certain yard requirements to permit construction of addition 28.3 ft. from front lot line. Located at 9938 Vale Rd., Vienna, 22181 on approx. 42,021 sq. ft. of land zoned R-1. Hunter Mill District. Tax Map 38-3 ((1)) 5. (Deferred from 10/24/12 at appl. req.) Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 5, 2012; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The Board has a favorable staff recommendation with respect to the addition, the Sect. 8-922 reduction, and adopts the rationale in the staff report.
3. With respect to the shed and the deck, it is an unusual situation. Based on the record before the Board, there would not be any significant negative impact on anyone by allowing the two structures to remain.
4. Staff has confirmed that there has been a determination that it was a side yard rather than a front yard.
5. This is certainly consistent with other similar approvals the Board has done.
6. The deck is kind of tucked behind a corner of the house.
7. Even though the back corner of the deck is a little closer to the side, it does not project out any further.
8. The shed is far removed from Vale Road, and no one should be bothered by it.
9. The standards in the Sect. 8-922 resolution have been met.
10. The Board has determined that the standards in Sect. 8-914 have been met.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property

owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;

- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
- 2. This special permit is approved for the location and size of an accessory storage structure, deck and an addition (778 square feet), as shown on the plat prepared by GeoEnv Engineers dated October 5, 2012, as submitted with this application and is not transferable to other land.

3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,622 square feet existing + 3933 square feet = 6,655 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Ms. Gibb seconded the motion, which carried by a vote of 7-0.

A Copy Teste:



 John W. Cooper, Deputy Clerk
 Board of Zoning Appeals

ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

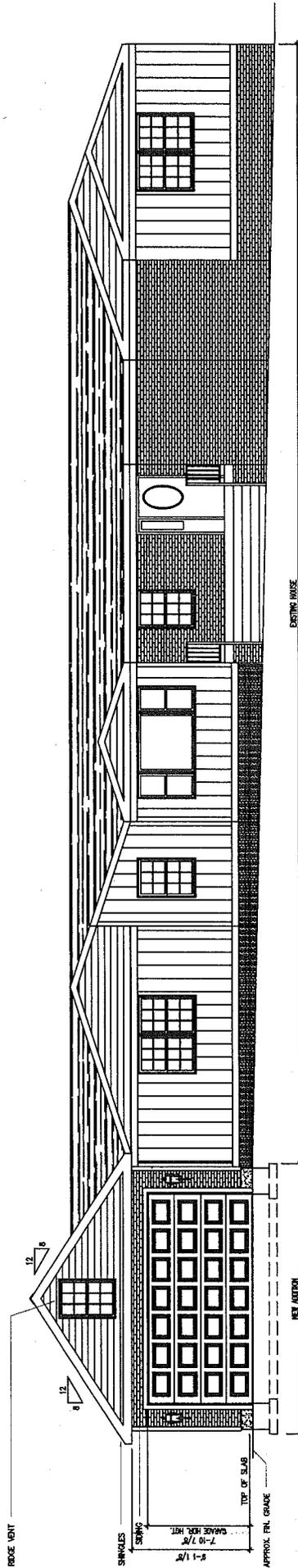
The foregoing instrument was acknowledged before me this 12 day of
December, 2012.



 Notary Public

My commission expires: Sept. 30, 2013





AL 3

DESIGNER:

NO.

DATE FOR PERMIT SET

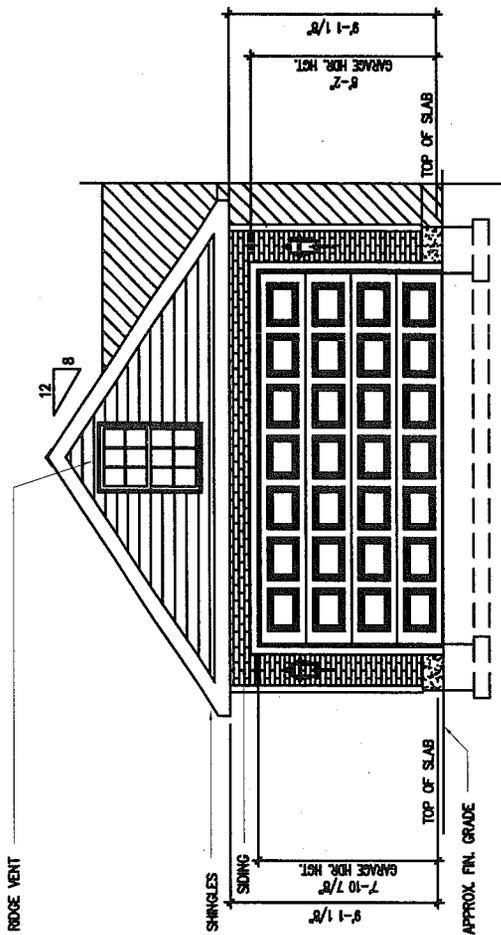
DATE OCTOBER 04, 2012

DATE

SCALE

ELEVATIONS

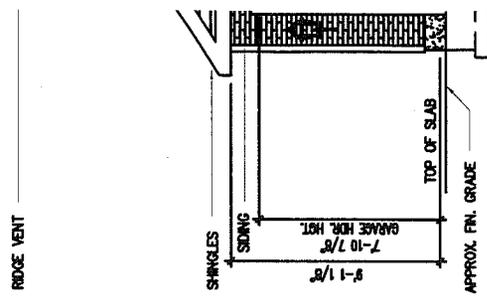
A-3



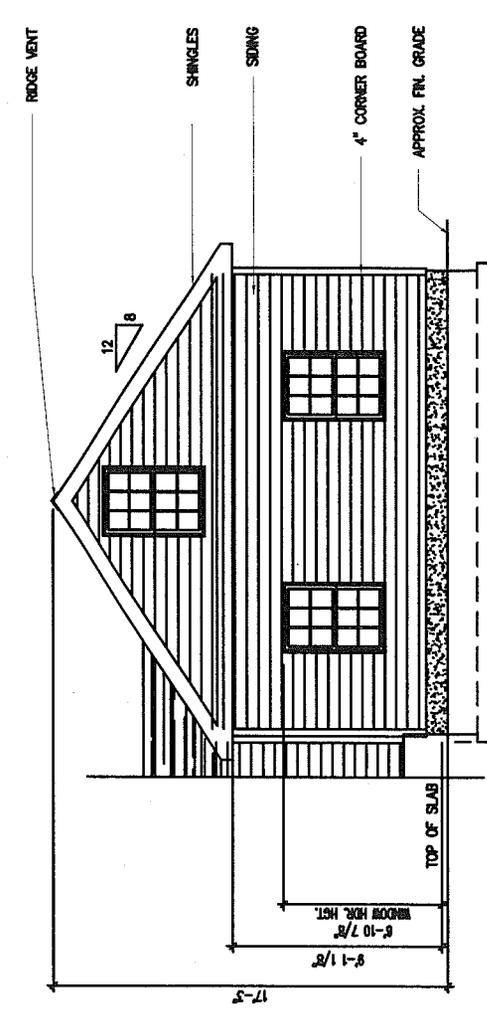
1 FRONT ELEVATION

SCALE: 1/4"=1'-0"

1'-0"



1 FRONT ELEVATION



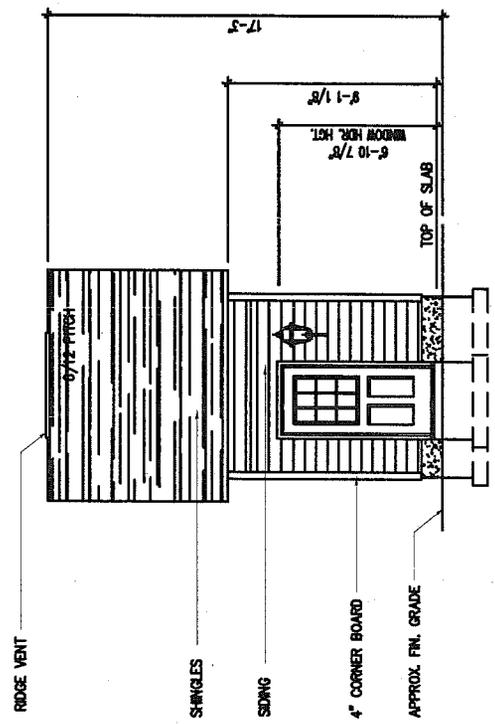
2 REAR ELEVATION

SCALE: 1/4"=1'-0"

MW CONSTRUCTION
 00 NORTH WASHINGTON STREET
 SUITE 202
 EXPANDRAI, VIRGINIA 22314-2314
 703.838.9788
 DESIGNER: JOHN JONES

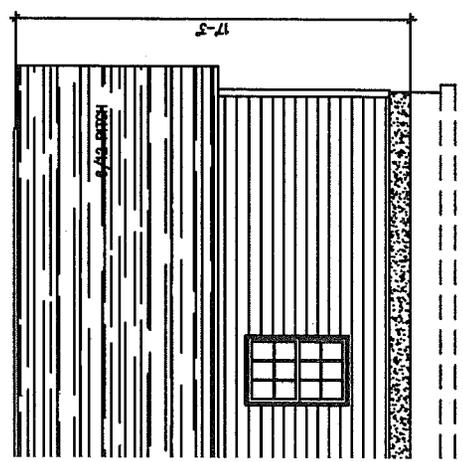
THUAN'S GARAGE
 9938 VALE ROAD
 VIENNA, VA. 22181

CLIENT:

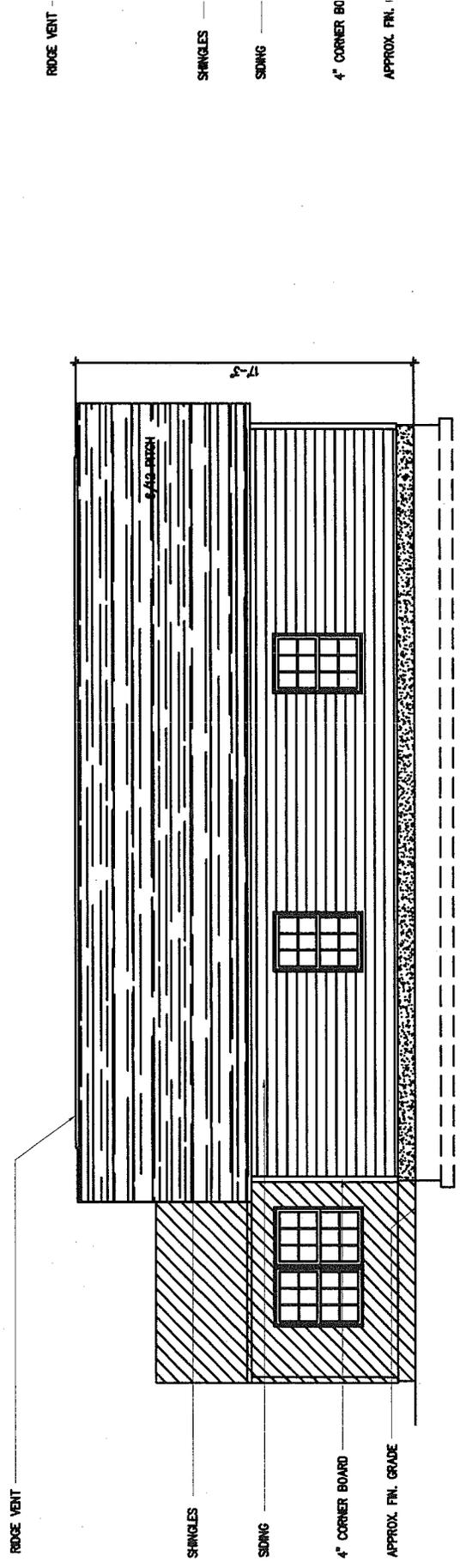


2 LEFT SIDE ELEVATION

SCALE: 1/4"=1'-0"



SCALE: 1/4"=1'-0"



RIDGE VENT

SHINGLES

SIDING

4" CORNER BOARD

APPROX. FIN. GRADE

RIDGE VENT

SHINGLES

SIDING

4" CORNER BO

APPROX. FIN. I

4 RIGHT SIDE ELEVATION

4

SCALE 1/4"=1'-0"

2 LEFT SIDE I

2