



APPLICATION ACCEPTED: October 26, 2012
BOARD OF ZONING APPEALS: July 17, 2013*

*Moved at the applicant's request

TIME: 9:00 a.m.

County of Fairfax, Virginia

July 10, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2012-SP-075

SPRINGFIELD DISTRICT

APPLICANT: Sun Sook Lee

OWNERS: Sun Sook Lee
Eric Won Hong

SUBDIVISION: Greenbriar

STREET ADDRESS: 4103 Mount Echo Lane, Fairfax, 22033

TAX MAP REFERENCE: 45-4 ((3)) (29) 11

LOT SIZE: 8,639 square feet

ZONING DISTRICT: R-3 Cluster, WS

ZONING ORDINANCE PROVISIONS: 8-301 and 8-914

SPECIAL PERMIT PROPOSAL: To permit home child care facility and to permit reduction in minimum yard requirements based on error in building location to permit open deck to remain 0.4 ft. from a side lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2012-SP-075 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

O:\rhorner\Special Permits\Hong daycare\Staff Report Hong Home Daycare.doc *Rebecca Horner*

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/



It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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

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

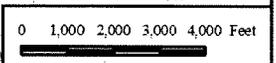
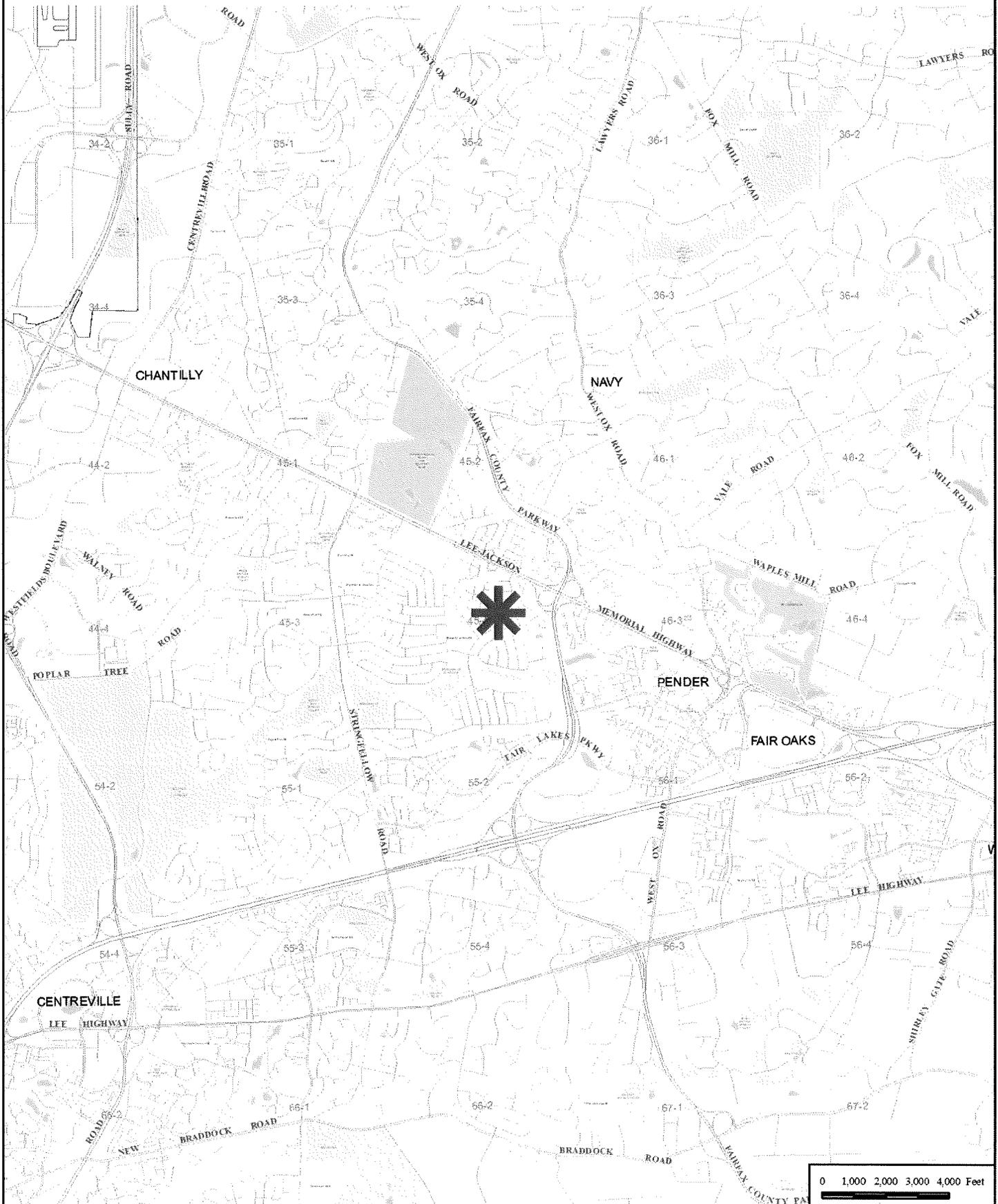


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2012-SP-075

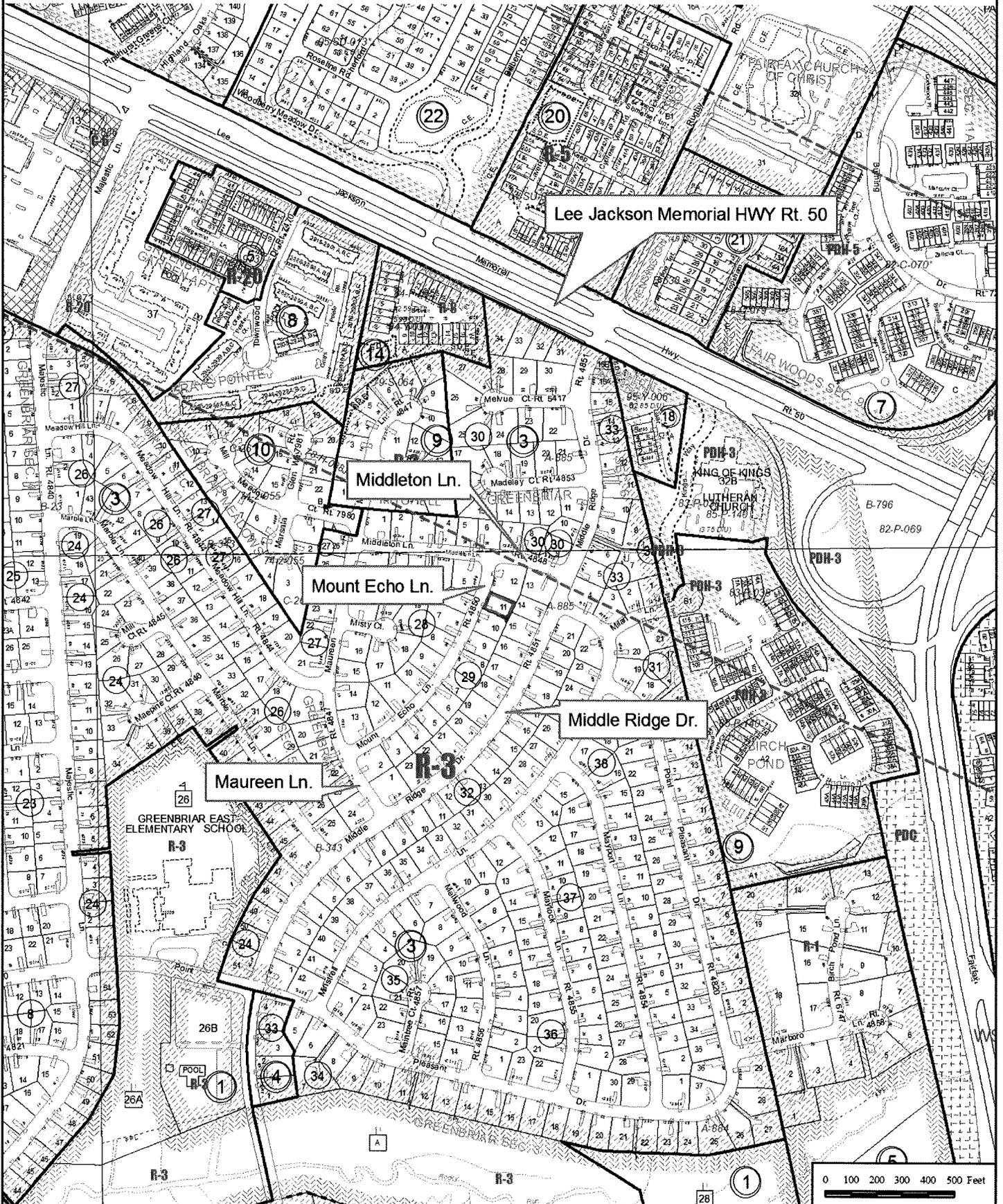
SUNSOOK LEE

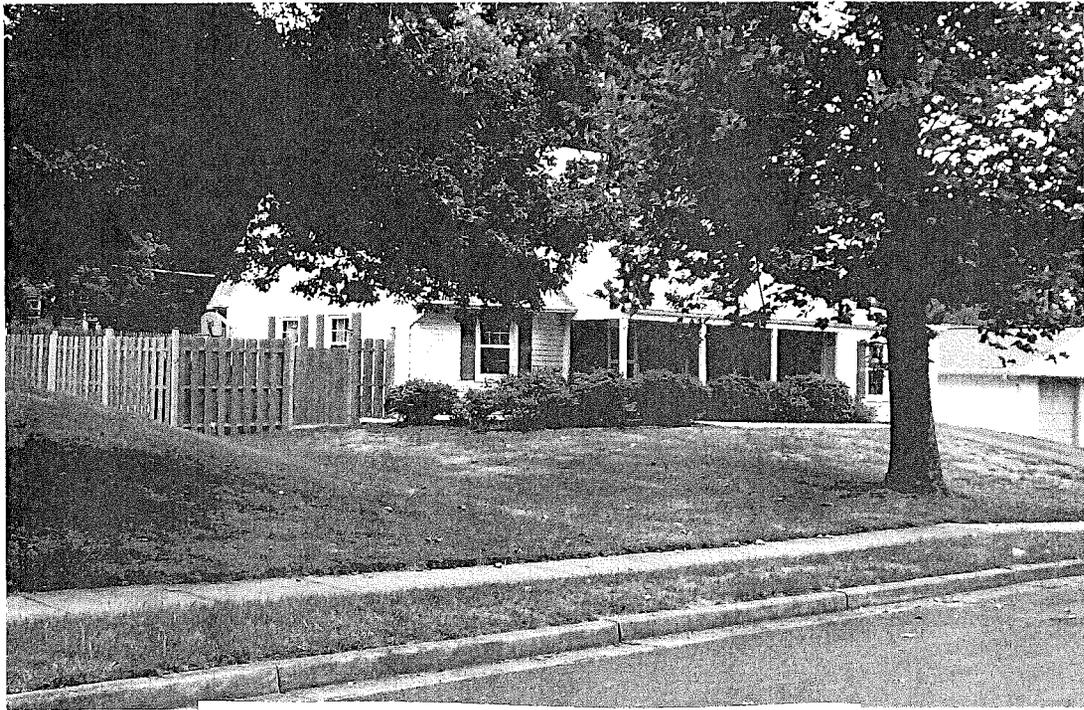


Special Permit

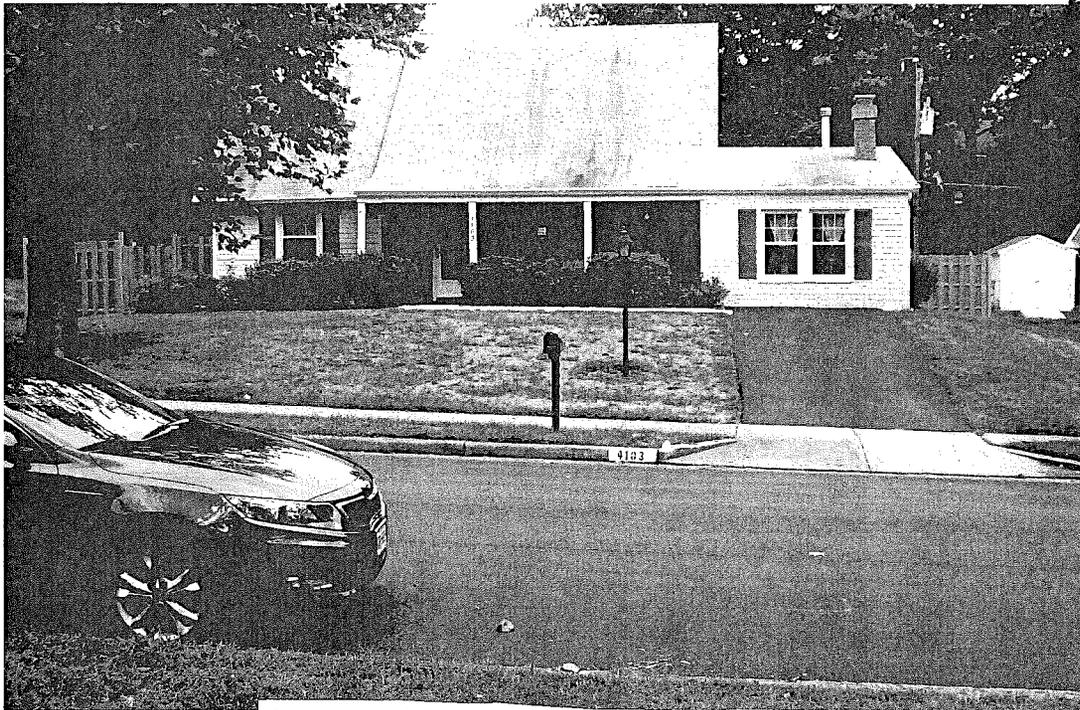
SP 2012-SP-075

SUNSOOK LEE

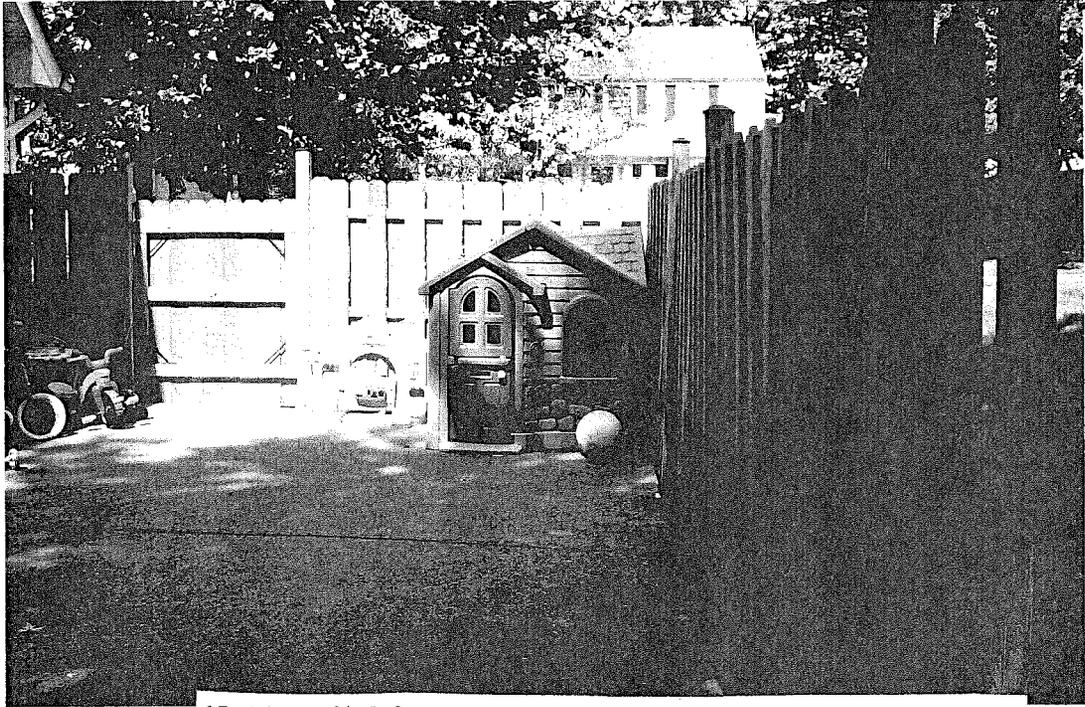




3. View of the house taken from north Mt Echo lane.



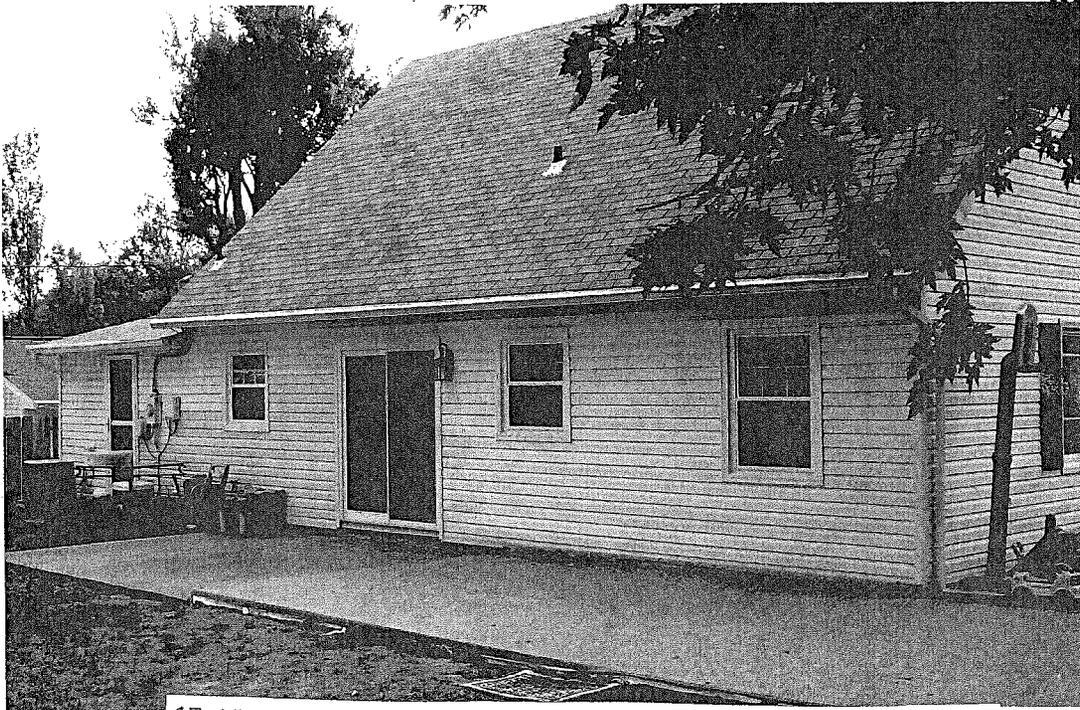
4. Front of the house taken from across the street.



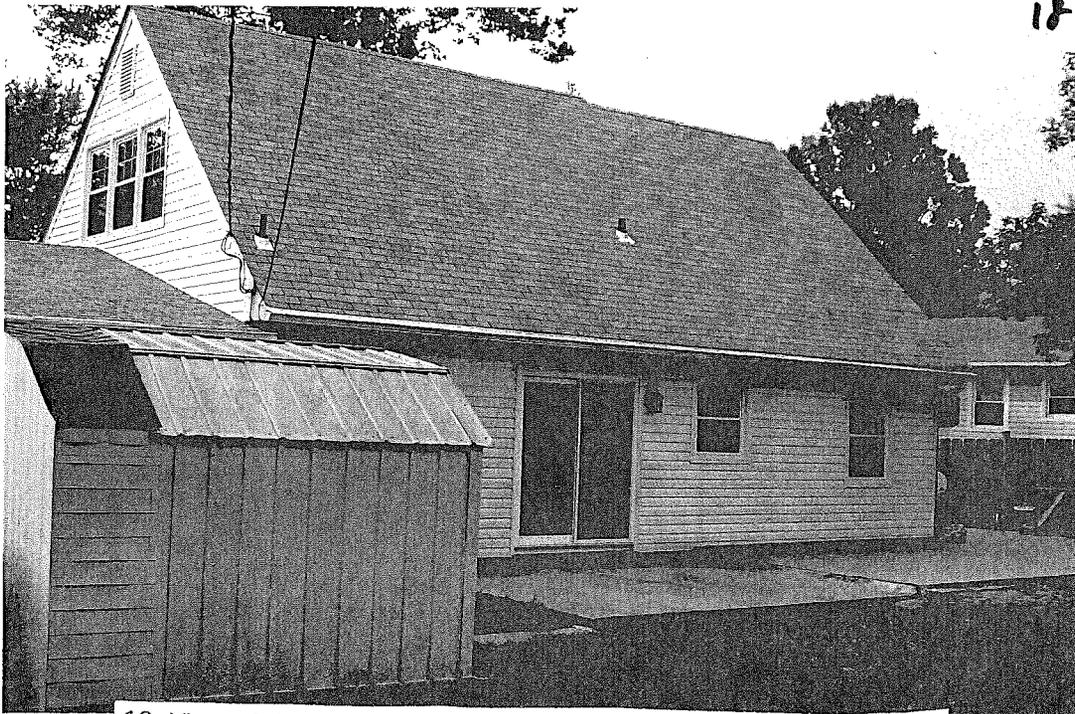
15. View of left fence entrance and outdoor carpet covered patio.



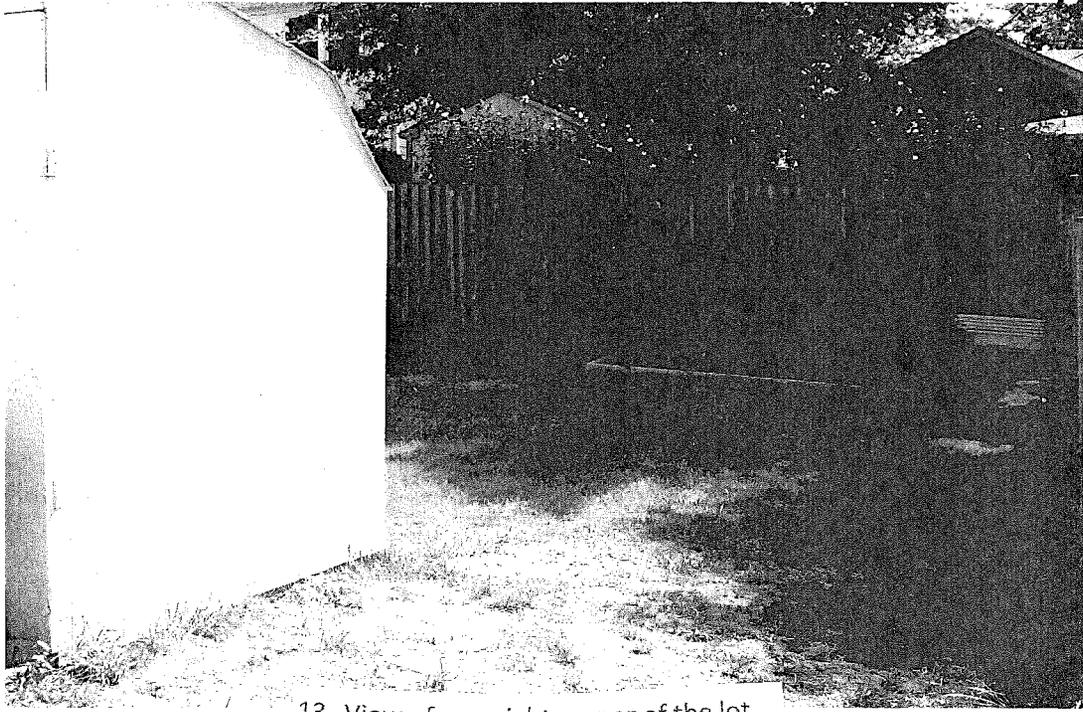
16. View of rear of the house taken from back of the lot.



17. View of rear of the house taken from rear left corner of lot.



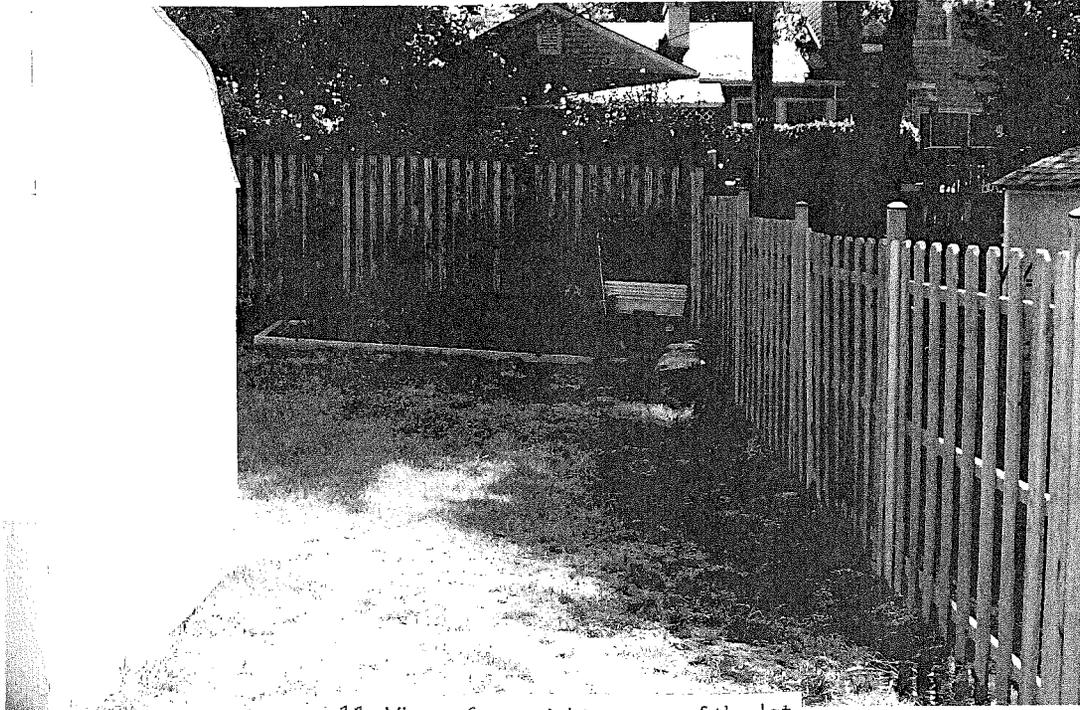
18. View of shed and rear of the house taken from rear right of lot.



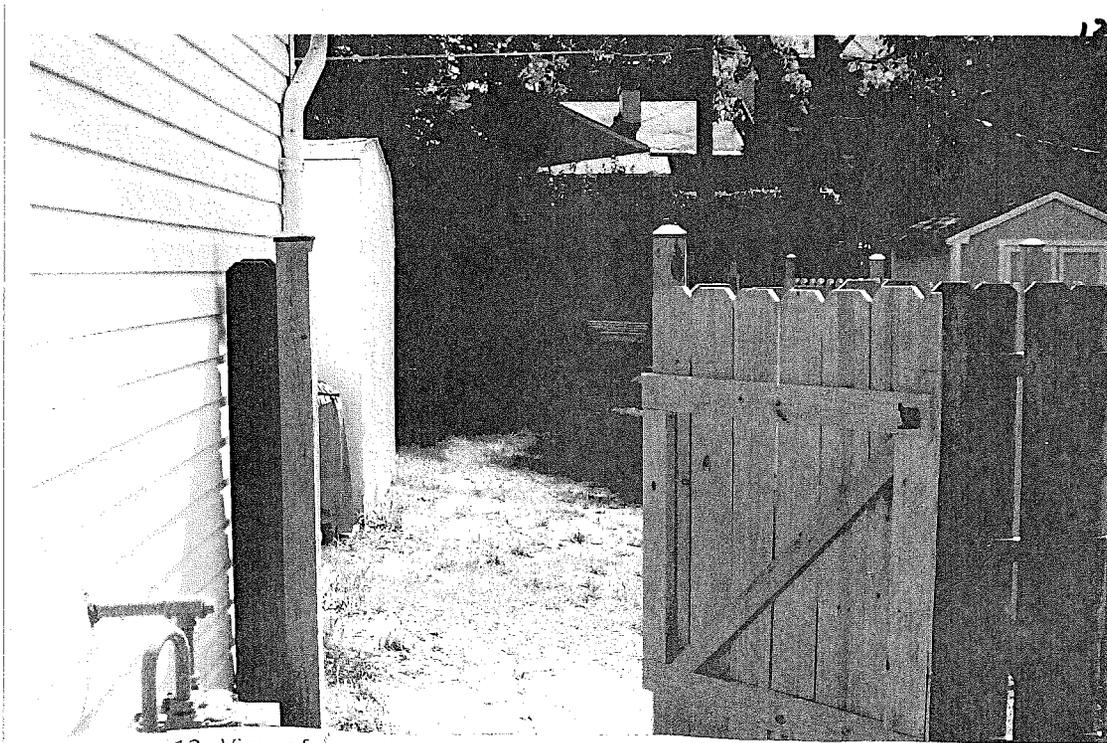
13. View of rear right corner of the lot.



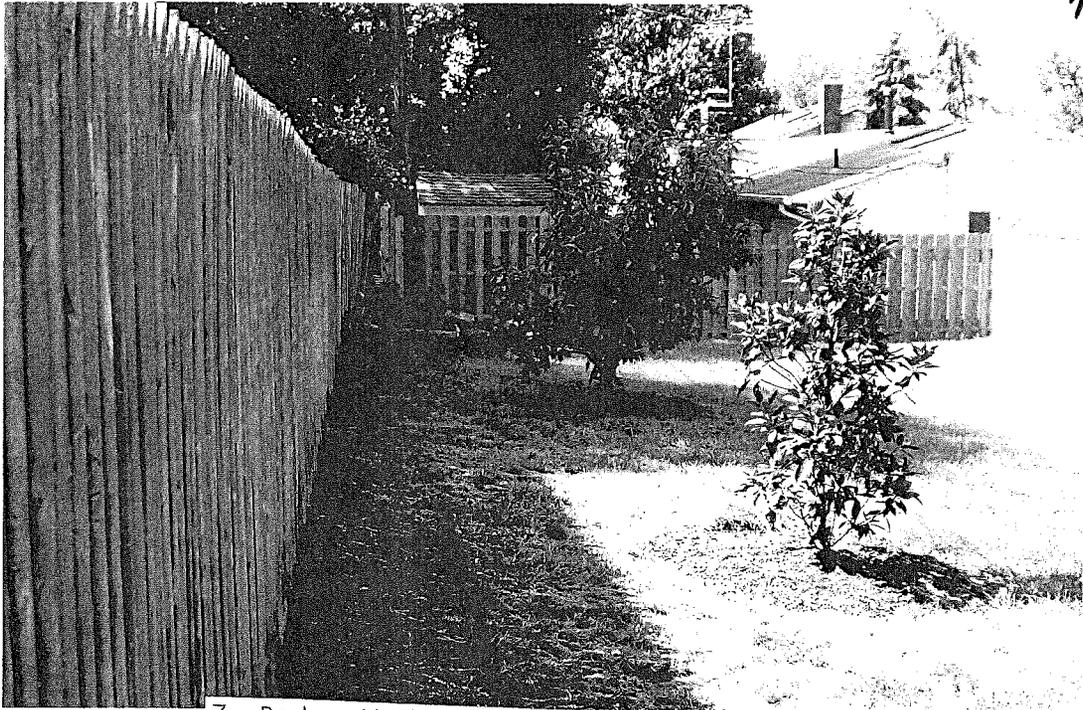
14. View of rear left corner of the lot taken from behind fence gate.



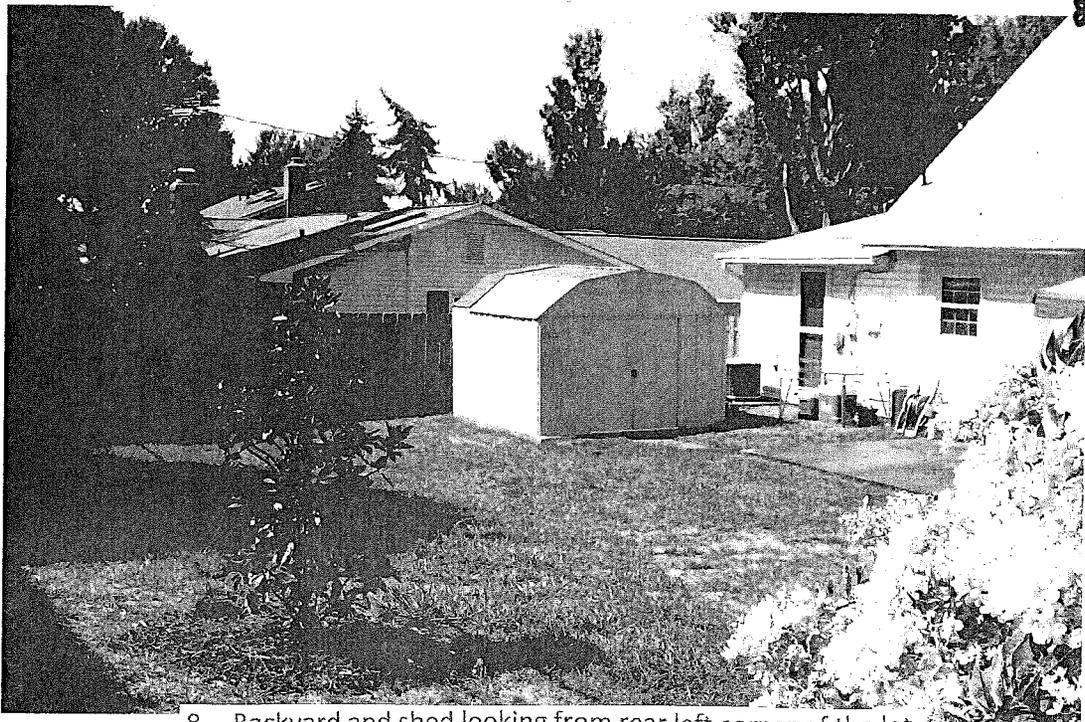
11. View of rear right corner of the lot.



12. View of rear right corner of the lot taken from behind fence gate.



7. Backyard looking from rear left corner of the lot.



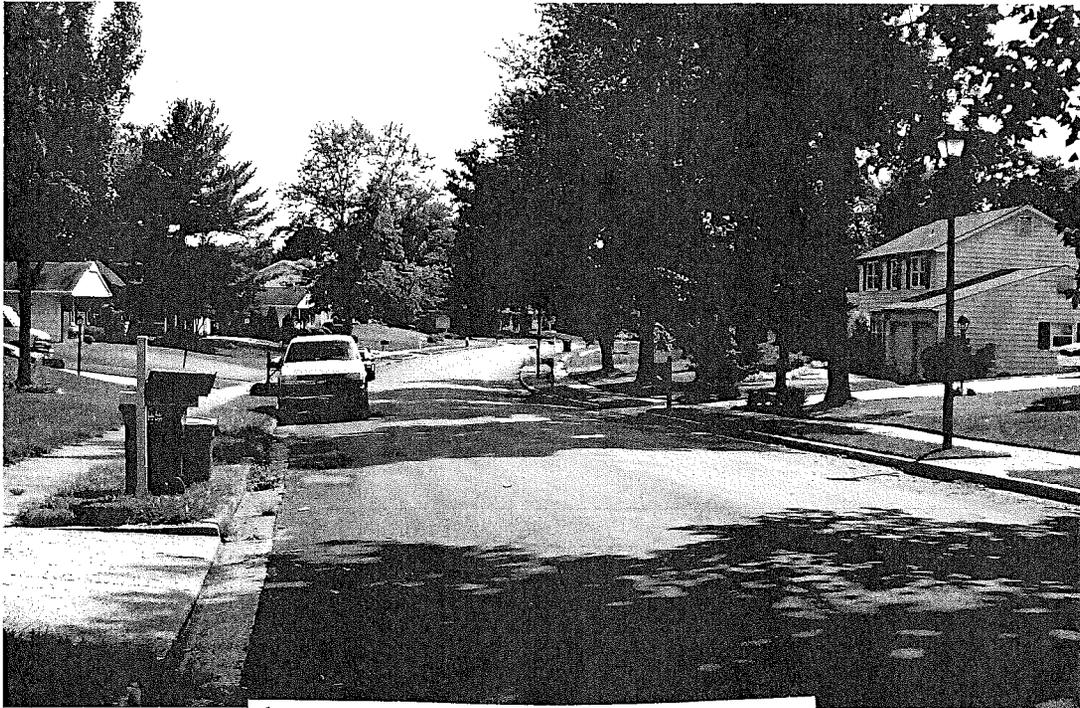
8. Backyard and shed looking from rear left corner of the lot.



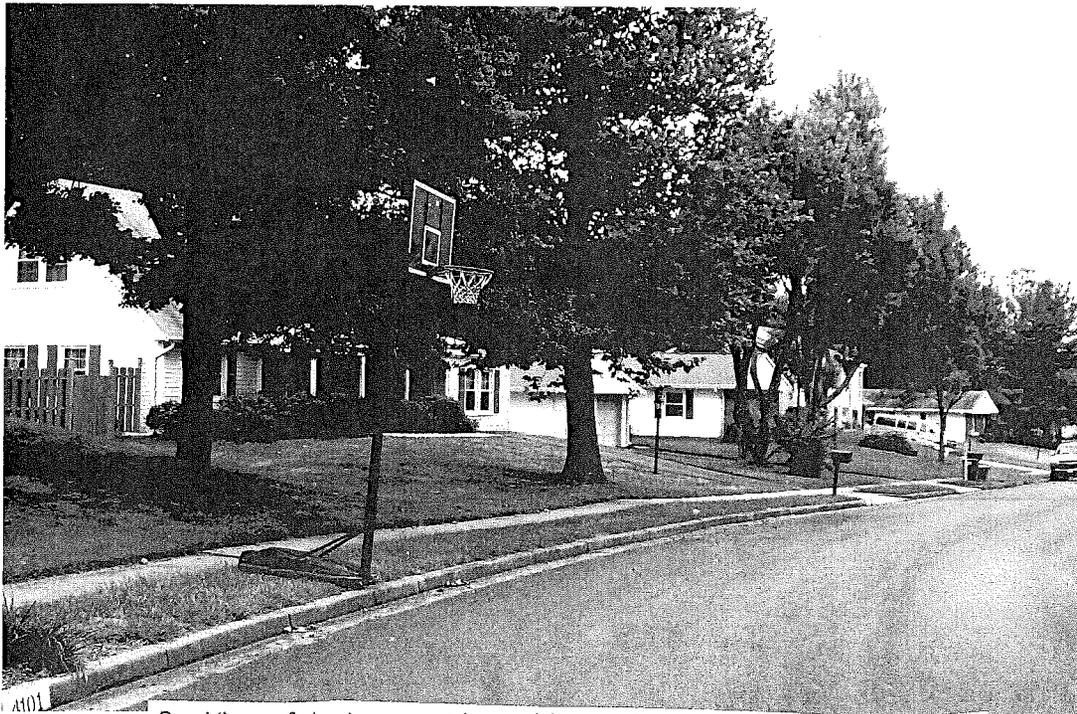
19. View of shed and rear of the house taken from rear right of lot.



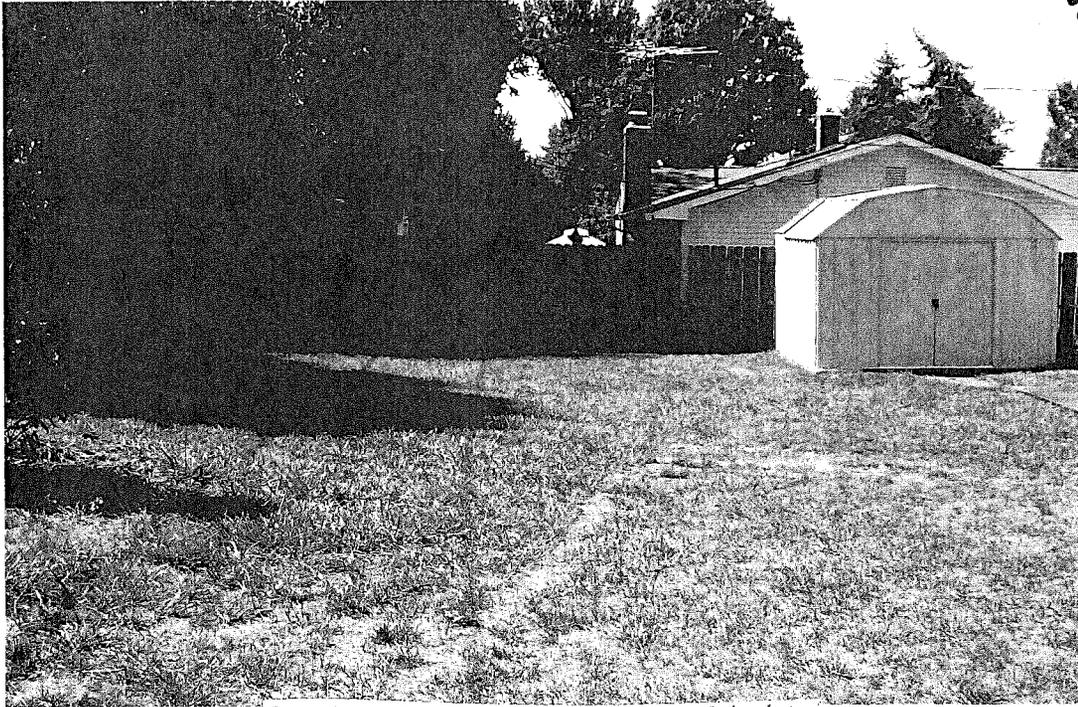
20. View of shed and rear of the house taken from rear left of lot.



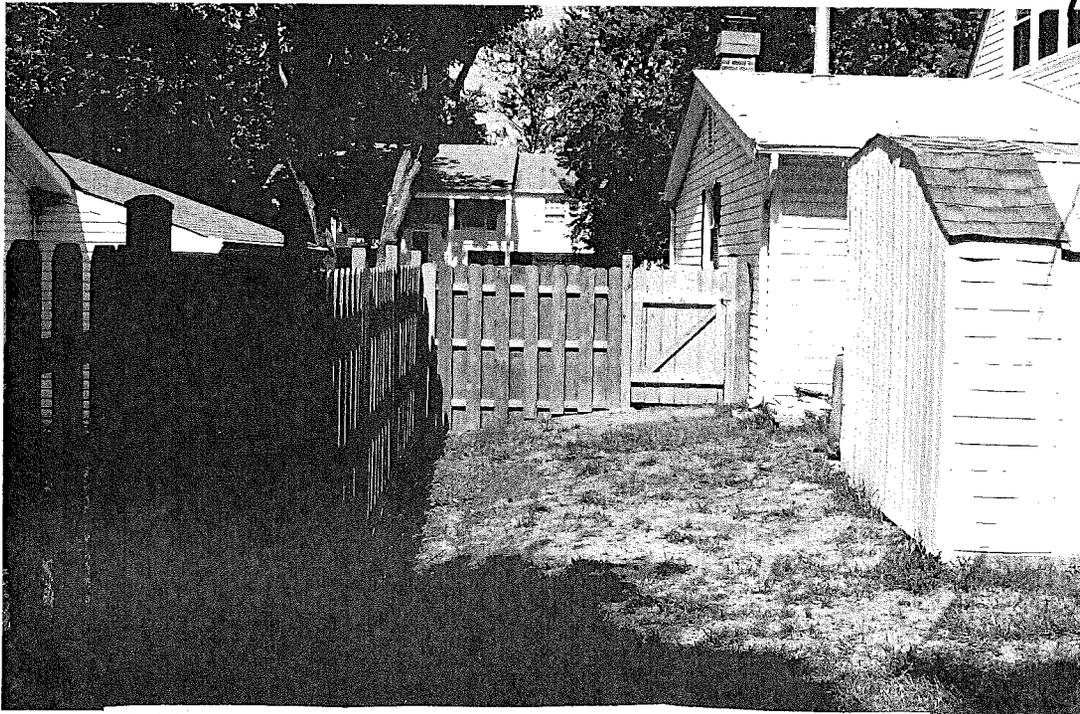
1. View of Mt Echo Lane looking from north.



2. View of the house with neighbors taken from north Mt Echo lane.



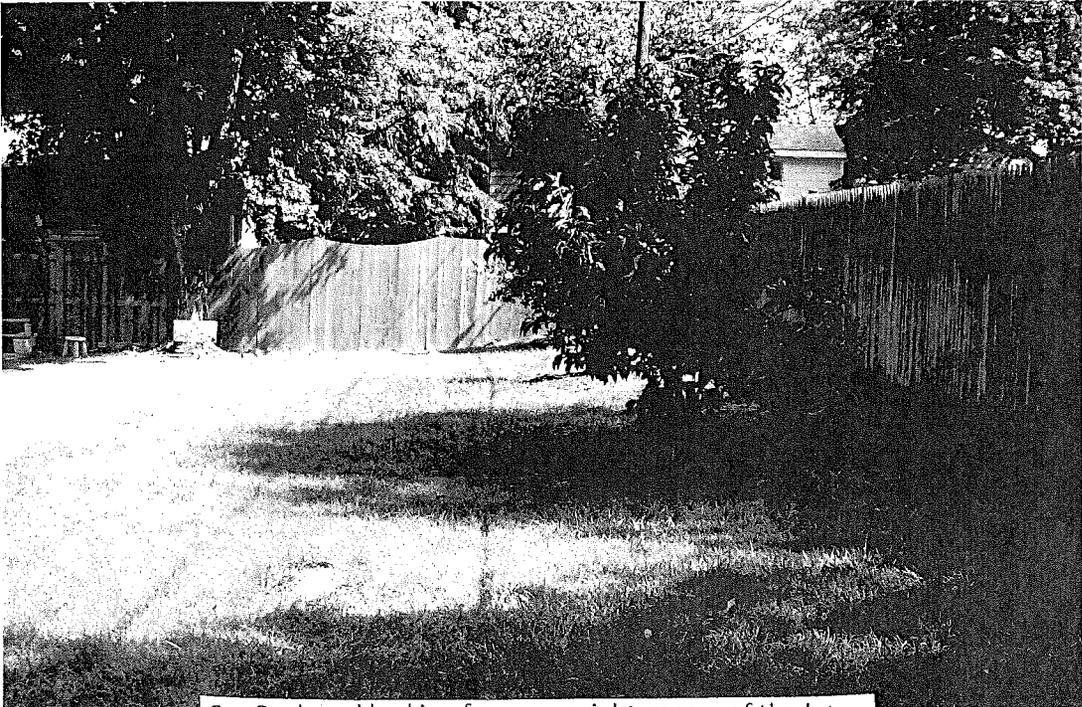
9. View of backyard from rear left of the lot.



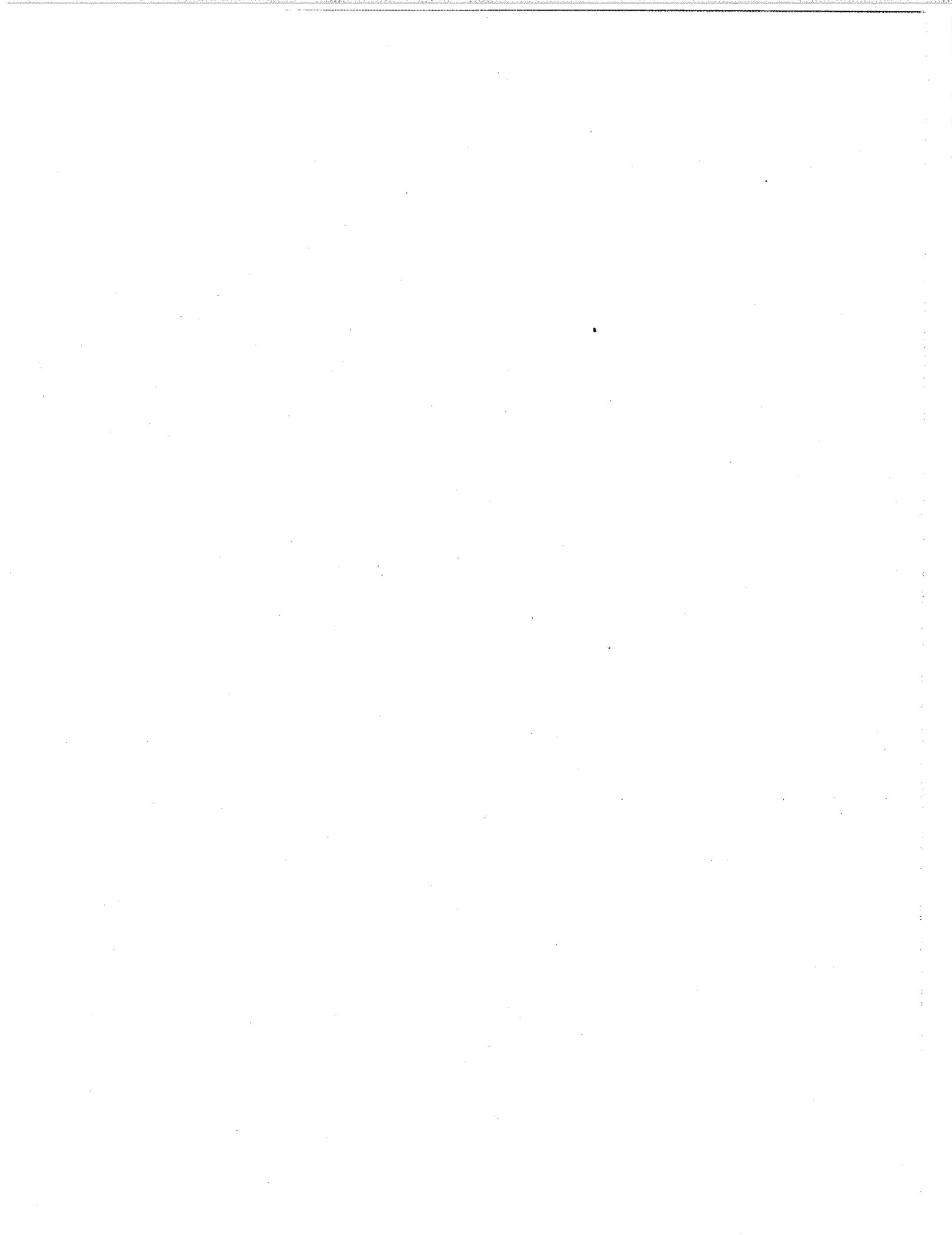
10. View from rear right to front of the house. Gate of the fence.



5. View of the house taken from south Mt. Echo lane.



6. Backyard looking from rear right corner of the lot.



DESCRIPTION OF THE APPLICATION

The applicant is seeking approval of two special permits. The first request is to permit a home child care facility for a total of up to 12 children at any one time in an existing dwelling. A detailed discussion of the request is included on page two and three.

The second request is for a special permit to allow a reduction in minimum yard requirements based on error in building location to permit an existing open deck to remain 0.4 feet from the northern side lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Proposed Reduction	Percent of Reduction
Special Permit #2	Open Deck	Side	8.0 feet	0.4 feet	7.6 feet	95%

* Minimum yard requirements per Section 3-307.

LOCATION AND CHARACTER OF THE AREA

Character of the Area

SURROUNDING AREA DESCRIPTION			
Direction	Use	Zoning	Plan
North	Single Family	R-3 C	Residential; 1 du/ac
South	Single Family	R-3 C	Residential; 1 du/ac
East	Single Family	R-3 C	Residential; 1 du/ac
West	Single Family	R-3 C	Residential; 1 du/ac

Existing Site Description

The 8,639 square-foot site is located in the Greenbriar Subdivision. The lot is zoned R-3 and was developed under the cluster provisions of the Zoning Ordinance. An existing 1 ½ story single family detached dwelling is located on the property and consists of approximately 1,800 square feet of above-grade living. The dwelling formerly contained an attached garage; however, the garage was converted to living space

A 7.4 foot tall aluminum shed is located southeast of the dwelling in the rear yard.

Ingress and egress to the site is provided via a driveway accessed from Mount Echo Lane and terminates at the dwelling. The driveway appears to be able to accommodate maximum of two compact vehicles. An open deck, attached to the north and east sides of the dwelling, is located 0.4 feet from the northern side lot line. The rear yard is enclosed with stockade fencing that ranges in height from 5.5 feet to 6.0 feet.

The site contains several mature trees, shrubs and foundation plantings.

BACKGROUND

County Records show that the dwelling was constructed in 1968. The applicant purchased the property in August 2012. The applicant indicates they started to operate the home child care facility approximately two years ago, for seven children. The applicant holds a current license (Lic. # FDH 1108239-L110), which is valid until May 1, 2014, from the Commonwealth of Virginia, Department of Social Services for a Family Day Home with a capacity of 12 children, aged two years through 12 years. The applicant has two helpers, in addition to herself. A portion of the existing home, including the former attached garage, was converted into the home child care facility

The applicant indicated they constructed the open deck after purchasing the property. No building permit was required for the ground level deck.

A copy of the special permit plat titled "Plat Showing House Location on Lot 11, Block 29, Section 6, Greenbriar" prepared by Dominion Surveyors, Inc., dated October 2, 2012, as revised through October 17, 2012, signed by George M. O'Quinn, Land Surveyor, is included at the front of the staff report.

There have been no similar requests in the vicinity of the subject parcel.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area III, Bull Run Planning District
Planning Sector: Stringfellow Community Planning Sector (BR4)
Plan Map: Residential use at 2-3 dwelling units per acre (du/ac)

ANALYSIS

Proposed Use:

The applicant is requesting approval of a special permit for a home child care facility for up to twelve (12) children, at any one time, between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday as well as Saturday from 9:30 a.m. to 12:30 p.m. Drop-off of children is to be staggered between 7:30 a.m. and 10:00 a.m. and pick-up between

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3:00 p.m. and 6:00 p.m., Monday through Friday. Employees include the applicant, a full-time teacher and one assistant. The applicant indicates that only one assistant in addition to herself will be on site at any one time.

The home child care facility is operated throughout the first levels of the house which includes bedrooms, bathrooms, kitchen, and living spaces. There is a fenced yard and open deck where the children play outside.

LAND USE ANALYSIS

The Board of Supervisors (BOS) recently adopted a Zoning Ordinance Amendment, ZO-13-440, to the home child care provisions. Formerly, home child care providers could request a special permit to allow a maximum of ten children on site at any one time. Under the amended provisions, a provider can now request a maximum of 12 children on site at any one time. The BOS also amended the provisions to allow the BZA to consider on-street parking and/or alternative drop off and pick up areas located in proximity to the use. The new provisions became effective June 19, 2013. A copy of a summary of these changes is contained in Appendix 4.

On-site Parking and Site Circulation

The existing driveway appears to be able to accommodate one to two vehicles, depending on the size of the vehicles. The applicant indicates she currently utilizes on-street parking during the hours of the use for herself and the assistants and requests the continued utilization of on-street parking. The applicant indicates only one assistant is on-site at a time. The applicant, and the assistant(s), park on the street, which allows the driveway to be used for drop-off and pick-up of children.

Access to the site is provided from Mount Echo Lane. A concrete walkway connects the driveway to the front of the dwelling.

The addition of five children to the existing home child care facility will increase parking and circulation demand at the property. Staff recommends the applicant regulate conflict through the adoption of conditions that limit the number of assistants on-site at any one time to one, and a condition to require the applicant and assistants park on-street during the hours of the child care facility so that the driveway is open for use by the parents dropping off and picking up children.

ZONING ORDINANCE REQUIREMENTS (Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 3 Uses (Sect. 8-303)
- Additional Standards for Home Child Care Facilities (Sect. 8-305)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)

Summary of Zoning Ordinance Provisions

Only with adoption of the proposed development conditions does the application meet all special permit standards of the Zoning Ordinance.

CONCLUSION AND RECOMMENDATIONS

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with the adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. Staff recommends approval of SP 2012-SP-075.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Home Child Care Ordinance Amendments
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**July 10, 2013**

If it is the intent of the Board of Zoning Appeals to approve SP 2012-SP-075 located at Tax Map 45-4 ((3)) (29) 11 for a home child care facility and to permit an open deck to remain pursuant to Section(s) 3-303 and 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Sun Sook Lee, only and is not transferable without further action of the Board, and is for the location indicated on the application, 4103 Mount Echo Lane, and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special permit plat prepared by Dominion Surveyors, Inc., dated October 2, 2012, as revised through October 17, 2012, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:30 a.m. to 12:30 p.m., Saturday.
5. The maximum number of children on site at any one time shall be twelve (12), excluding the applicant's own children.
6. The applicant and assistants shall use on-street parking during the hours of operation of the child care facility. Pick up and drop off of children shall take place in the driveway.
7. The maximum number of employees shall be limited to one on-site at any one time in addition to the applicant.
8. The dwelling that contains the child care facility shall be the primary residence of the applicant.
9. There shall be no signage associated with the home child care facility.

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 the use has been established as outlined above. The number of children shall not be increased above seven (7) until all conditions are met. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): SP 2012 - SP - 075
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6/17/13
 (enter date affidavit is notarized)

SLV

I, Sun Sook Lee, 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

117827

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)
SUN SOOK LEE, also known of record as Sun Sook Hong <i>and SUNSOOK LEE.</i>	4103 Mount Echo Lane Fairfax, VA 22033	APPLICANT/TITLE OWNER
Eric Won Hong	(same)	TITLE OWNER

SLV

(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-SP-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6/17/13
(enter date affidavit is notarized)

117827

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)

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

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

Application No.(s): SP 2012-SP-075
(county-assigned application number(s), to be entered by County Staff)

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6/17/13
(enter date affidavit is notarized)

117827

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**)

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

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

Application No.(s):

SP 2012-SP-075

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

6/17/13

(enter date affidavit is notarized)

117827

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

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

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

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

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

NONE

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

Application No.(s): SP 2012-SP-075
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 6/17/13
(enter date affidavit is notarized)

117827

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)

[Signature]
 Applicant

[] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 17TH day of JUNE, 2013, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

My commission expires: 2/29/16

Charmayne Rolon
Notary Public



RECEIVED
 Department of Planning & Zoning
 AUG 27 2012
 08-20-2012
 Zoning Evaluation Division

Statement of Justification

To Whom It May Concern:

I am operating a Home family childcare at 4103 mount echo lane in Fairfax a single-family house.

It opens Monday through Friday 7:00 am until 6 pm and Saturday 9:30am~12:30pm.

The program provides pre-school, math, art and Korean classes 2 through 7 years old and we only do Korean and art lessons on Saturdays. We are applying for a special permit to be able to educate ~~ten~~¹² kids at this facility. Family daycare is licensed by the department of social services of the state of Virginia for a capacity of 12 children (License # FDH 1108239-L110) and has been operating for 2years.

In addition to myself I have 2 teachers to take care of the children. One is a full time teacher and another assistant may work with children if needed. All teachers have a background check, tuberculoses screen, and CPR training which state license required.

We will have ~~10~~¹² students who will drop off and pick up in the following schedule

Drop off 7:30am~10:00 am and pick up schedule 3:00pm~6:00 pm

Families during day in addition to provider up to two cars for assistant teachers will be park and pull into the available space in the driveway, and to the extent necessary my park on the street in front of the house. The family day care serves residents of Fairfax who want to learn in a bilingual (Korean –English) setting.

Family daycare was run at townhouse before and moved a single family home in May. The house has 2 floors and the Most of 1st floor area is operating daycare. The building façade is brick, and there are no additions or building proposed.

The house and the yard are free from hazardous or toxic substances and most of household cleaners for counter top, and bathroom in Second floors No hazardous materials will be generated, utilized, stored, treated, and/ or disposed of onsite and the size and contents of any existing or proposed storage tanks or containers.

The daycare is running and conforms to zoning ordinance of Fairfax County and regulations under daycare license from commonwealth of Virginia. We are serving parents and children living in northern Virginia area.



July 11 2013

The family home childcare conforms to provisions of zoning ordinance Section 8-004, Section 8-306 and Section 8-305. We seek a special permit for the number of children cared for in the childcare to be increased to ~~3~~¹² pursuant to the limitation of seven children as described in paragraph 6 of section 10-103 of the Zoning ordinance.

I am the owner of this house with my husband Eric Hong, and I've attached a copy of our deed to the property.

Thanks you for your consideration. We will be happy to provide additional references and other supporting materials. Please do not hesitate to contact us with any questions, suggestions or concerns by telephone at (703) 881 8349, or email at sunsooklee@hotmail.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'Sunsook Hong', written in a cursive style with a long horizontal flourish extending to the right.

Sunsook Hong,
The owner of the property

The letter submission requirement No #5, #912

The error exceeds ten (10) percent of the measurement involved, and

The noncompliance was done in good faith; I put in a wooden walkway for the kids to have a flat surface to ride tricycles in the fenced part of the yard. It is not attached to the house but no gap because that could result in a fall hazard for children and

Allowing the wood patio to remain will not impair the purpose and intent of the zoning ordinance because it is only within the fenced portion of the yard, and

Wood patio will not be detrimental to the use and enjoyment of other property in the immediate vicinity because it is only within the fenced portion of the yard and

Wood patio will not create an unsafe condition with respect to both other property and public streets because it is only within the fenced portion of the yard and

To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner because I need to provide a safe space for the children and this is the only portion of the fenced part of my yard.

The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

RECEIVED
Department of Planning & Zoning
OCT 23 2012
Zoning Evaluation Division

ZO-13-440



Child Care Facilities

Effective Date
June 19, 2013

ZO-13-440 - Home Child Care Facilities

Increases the maximum number of children allowed to be cared for in a home child care facility (HCCF) with special permit approval from 10 to 12; revises the special permit additional standards for HCCFs to also require conformance with the HCCF use limitations for by-right accessory uses (except for the numbers of children and non-resident employees); allows the Board of Zoning Appeals as part of its review of a HCCF special permit application to consider the availability of on-street parking and /or alternative drop off and pick up areas; and reduces the HCCF special permit application fee from \$1,100 to \$435. Adopted June 18, 2013; Effective June 19, 2013.

ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

18-104 Forms for Appeals and Applications

All appeals and applications as provided for in this Ordinance shall be submitted in writing on forms prescribed by the responsible official, body or committee and approved by the County Executive. Each appeal or application shall contain that specific information as may be required by the various provisions of this Ordinance.

18-105 Filing of Applications

Every application required under the provisions of this Ordinance shall be filed with the Zoning Administrator. No application shall be accepted unless it is in accordance with the applicable provisions of this Ordinance and no application shall be officially on file with the County unless and until the application and all required accompanying submissions, with the exception of a development plan, conceptual development plan or generalized development plan, as otherwise provided for in this Ordinance, are submitted to and accepted by the Zoning Administrator. Upon acceptance, an application shall be transmitted to the officer, body or agency having jurisdiction to act on the same, and such official shall promptly notify the Zoning Administrator of the action taken on the application.

18-106 Application and Zoning Compliance Letter Fees

ZO-13-440
6-19-13

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Application for a variance

- Increase in maximum fence and/or wall height in residential districts \$435
- Increase in maximum fence and/or wall height in non-residential districts \$2500
- Residential minimum yard variance; modification of location regulations or use limitations for residential accessory structures or uses; modification of grade or increase in building height for single family detached dwellings \$910
- All other variances \$8180

Appeal under Sections 18-204 and 18-301 \$600

Application for a:

Group 1 special permit \$16375

Group 2 special permit \$16375

Group 3 special permit

ZO-13-440
6-19-13

1. Application for a variance, appeal, special permit or special exception:

Application for a:

Group 3 special permit

- Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily \$11025
- Home child care facilities \$435
- All other uses \$1100

Group 4 special permit

\$4085

Group 5 special permit

\$16375

Group 6 special permit

- Riding and boarding stables \$8180

- All other uses \$16375

Group 7 special permit

\$16375

Group 8 special permit

- Temporary portable storage containers approved by the Zoning Administrator. \$0

- All other uses approved by the Zoning Administrator \$205

- Temporary portable storage containers approved by the BZA \$0

- All other uses approved by the BZA. \$16375

Group 9 special permit

- Open air produce stand \$1810

- Accessory dwelling unit; modification to the limitations on the keeping of animals \$435

- Increase in fence and/or wall height in any front yard on a single family dwelling lot \$435

- Increase in fence and/or wall height in any front yard on all other uses \$2500

- Modification to minimum yard requirements for R-C lots \$185

- Error in building location; reduction of certain yard requirements on a single family dwelling lot; modification of minimum yard requirements for certain existing structures and uses; certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line; noise barriers on a single residential lot; modification of grade for single family detached dwellings \$910

- Reduction of certain yard requirements on all other uses \$8180

- All other uses \$16375

SPECIAL PERMITS

PART 3 8-300 GROUP 3 INSTITUTIONAL USES

8-301 Group 3 Special Permit Uses

1. (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
2. Churches, chapels, temples, synagogues and other such places of worship.
3. Convents, monasteries, seminaries and nunneries.
4. (Deleted by Amendment #83-72, Adopted January 31, 1983)
5. Home child care facilities.
6. Group housekeeping units.
7. (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
8. (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
9. (Deleted by Amendment #01-337, Adopted June 25, 2001, Effective October 24, 2001)
10. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education.

8-302 Districts in Which Group 3 Uses May be Located

1. Group 3 uses may be permitted by right in the following districts:
 - R-12, R-16, R-20, R-30, R-MHP Districts: Limited to use 2
 - PDH, PDC, PRC, PTC Districts: All uses when represented on an approved development plan
 - PRM District: Limited to uses 2, 5 and 10 when represented on an approved development plan
 - C-1, C-2, C-3, C-4 Districts: Limited to uses 2 and 10
 - C-5, C-6, C-7, C-8, C-9 Districts: Limited to use 2
 - All I Districts: Limited to use 2
2. Group 3 uses may be allowed by special permit in the following districts:
 - R-A District: Limited to use 5
 - R-P, R-C Districts: Limited to uses 2, 5 and 10
 - R-E, R-1, R-2, R-3, R-4, R-5, R-8 Districts: All uses
 - R-12, R-16, R-20, R-30, R-MHP Districts: Limited to uses 3, 5, 6 and 10
 - C-5, C-6, C-7, C-8 Districts: Limited to uses 3 and 10

FAIRFAX COUNTY ZONING ORDINANCE

C-9 District: Limited to use 10

I-I District: Limited to use 10

I-1, I-2, I-3 Districts: Limited to uses 3 and 10

I-4, I-5, I-6 Districts: Limited to use 10

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
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, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-304 (Deleted by Amendment #83-72, Adopted January 31, 1983)

8-305 Additional Standards for Home Child Care Facilities

ZO-13-440 1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.

6-19-13

ZO-13-440 2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.

6-19-13

3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.

4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:

A. The dimensions, boundary lines and area of the lot or parcel.

ORDINANCE STRUCTURE, INTERPRETATIONS AND DEFINITIONS

HEIGHT, BUILDING: The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten (10) feet distant from the front lot line, or from the GRADE in all other cases. (Reference Illustration 2 in Appendix 2)

HEIGHT, EFFECTIVE BUILDING: The vertical distance from that elevation on a lot line where the angle of bulk plane is established to the highest point on any building. (Reference Illustration 1 in Appendix 2)

HELIPORT: An area designed to accommodate all phases of operation of helicopters with suitable space and facilities for a terminal, loading, unloading, service and storage of such aircraft, to include facilities for such accessory uses as are commonly associated with an airport terminal.

HELISTOP: An area designed to accommodate touch-down and lift-off of helicopters, for the purpose of picking up and discharging passengers or cargo. Such an area shall contain no operation facilities other than one (1) tie down space and such additional facilities as are required by law, ordinance or regulation.

HISTORIC PROPERTY: A property that has been determined through the establishment of a Historic Overlay District to be key or pivotal to the historic, architectural or archaeological significance of a Historic Overlay District. For purposes of applying the floodplain regulations contained in Part 9 of Article 2, an HISTORIC PROPERTY shall be based on the HISTORIC STRUCTURE definition contained in Sect. 2-906.

ZO-13-440
6-19-13 **HOME CHILD CARE FACILITY:** A dwelling or mobile home where twelve (12) or fewer children receive care, protection and supervision during only part of a twenty-four (24) hour day unattended by parent or legal guardian. Such use shall be permitted in accordance with the provisions of Part 1 of Article 10 or Part 3 of Article 8. For purposes of this Ordinance, when such a use is located in a structure other than a dwelling, it shall be deemed a CHILD CARE CENTER.

HOME PROFESSIONAL OFFICE: The offices, studios or occupational rooms which are located within the single family detached residence of a duly licensed or certified physician practicing human medicine, chiropractor, osteopath, physical therapist or massage therapist, duly licensed practitioner of behavioral sciences, attorney, civil or professional engineer, accountant, architect, real estate appraiser or broker, insurance agent, or similar professional person.

HORSE SHOW: Any aggregation of horses where there occurs the exhibiting, judging, showing or racing of horses.

HOSPITAL: Any institution receiving in-patients and rendering medical, surgical or obstetrical care, to include general hospitals and specialized institutions in which care is oriented to cardiac, eye, ear, nose, throat, pediatric, orthopedic, skin and cancer and obstetric cases.

HOTEL, MOTEL: A building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile

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court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations for transients on a short-term basis, such as an apartment hotel. A hotel or motel may contain one or more eating establishments as a subordinate use, provided that such establishment is located within the principal hotel/motel structure, and meeting rooms and/or conference facilities.

HOUSING UNIT, MODERATELY-PRICED: See MODERATELY-PRICED HOUSING UNIT.

IMPACT: See definitions under VIBRATION.

INDEPENDENT LIVING FACILITY: A residential development that is primarily limited to occupancy by elderly persons and/or by persons with handicaps (disabilities), as defined in the Federal Fair Housing Amendments Act of 1988. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

INDUSTRIAL/FLEX: Any structure occupied by two (2) or more of the following uses: contractor's offices and shops; establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products; warehousing establishments; wholesale trade establishments; and offices; provided however that the combined area of all office, both as a principal use and as an accessory use, shall not exceed thirty-five (35) percent of the total gross floor area of the structure. For the purpose of this Ordinance, when any of the above uses are permitted by right in the applicable zoning district, such uses may be combined within a single structure in accordance with the provisions of that district, and shall not be deemed INDUSTRIAL/FLEX.

INDUSTRIAL PARK: A planned coordinated development of a tract of land with two (2) or more separate industrial buildings that contain a combined total of at least 50,000 square feet of gross floor area and are occupied by not less than five (5) different tenants. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation and open space.

INFRACTION: Any violation of this Ordinance which has been declared an infraction pursuant to Par. 1 of Sect. 18-903. For purposes of this Ordinance, an 'infraction' is a civil offense, and an admission of guilt or a finding of guilt thereof is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

INSTITUTION OF HIGHER LEARNING: For the purpose of this Ordinance, an institution of higher learning shall be deemed to include a proprietary school that is approved, licensed, and bonded by the Proprietary School Service Office of the State Department of Education.

INTERPRETATION OF APPROVED ZONING APPLICATIONS: A determination made by the Zoning Administrator or agent that a proposed minor modification to a zoning application approved by the Board of Supervisors, the Planning Commission or the Board of Zoning Appeals is in substantial conformance with the approved zoning. Such determinations are

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.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
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, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305**Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - A. The dimensions, boundary lines and area of the lot or parcel.
 - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
 - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

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 1/2" 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.