



VARIANCE ACCEPTED: July 22, 2013
BOARD OF ZONING APPEALS: October 9, 2013
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 2, 2013

STAFF REPORT

VARIANCE APPLICATION NO. VC 2013-SU-011

SULLY DISTRICT

APPLICANT: Mohammad Rahim

OWNERS: Mohammad Rahim and Debbie L. Rahim

SUBDIVISION: Crooked Creek

STREET ADDRESS: 16454 Glory Creek Trail, Centreville, 20120

TAX MAP REFERENCE: 52-2 ((5)) 3

LOT SIZE: 5.03 acres

ZONING DISTRICT: R-C

ZONING ORDINANCE PROVISIONS: 18-401

VARIANCE PROPOSAL: To permit dwelling greater than 35 feet in height.

A copy of the BZA's Resolution setting forth this decision will be mailed within five 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.

O:\ehaley\10-9) VC 2013-SU-011 Rahim\VC 2013-SU-011 Rahim staff report.doc

Erin M. Haley

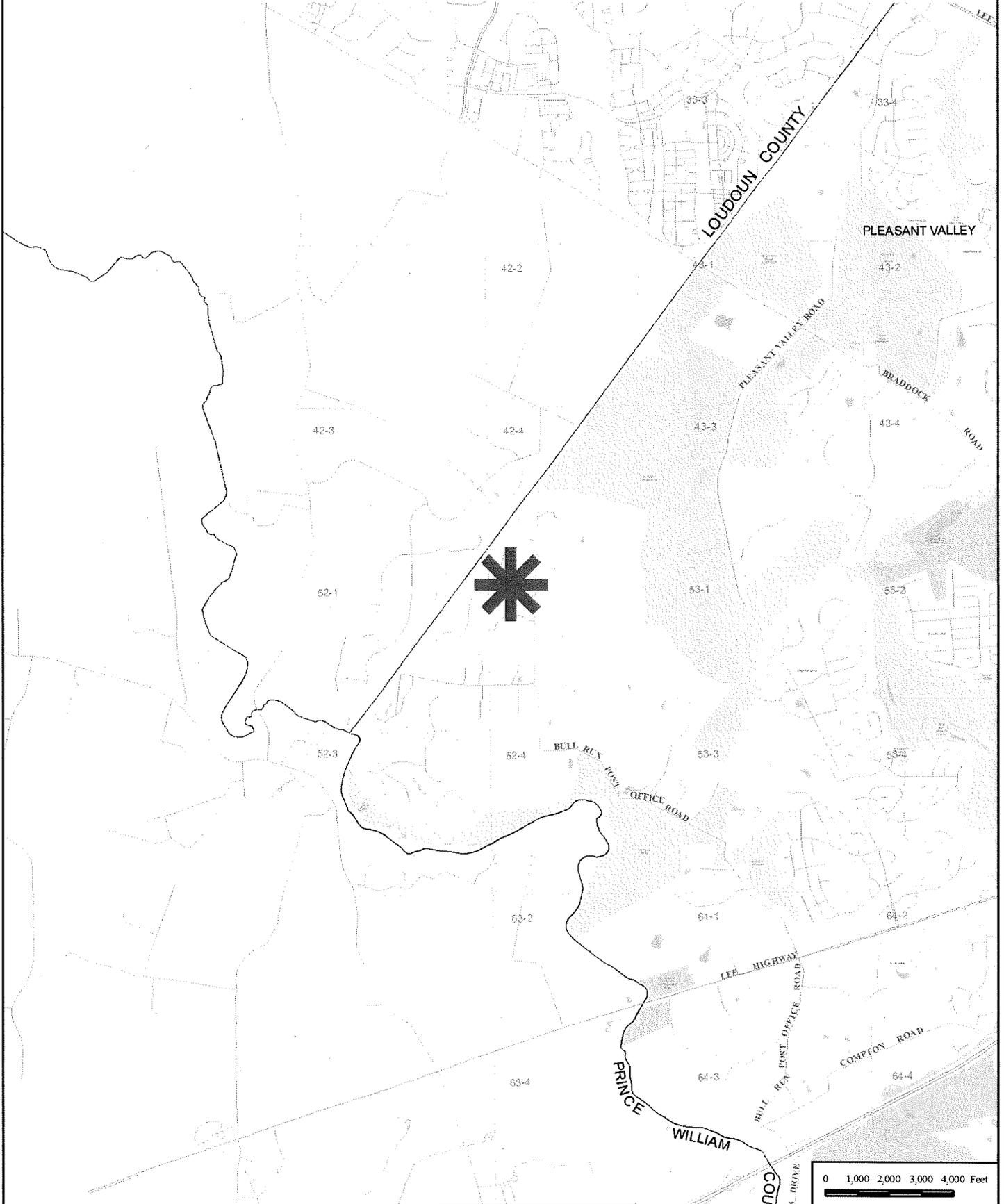
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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

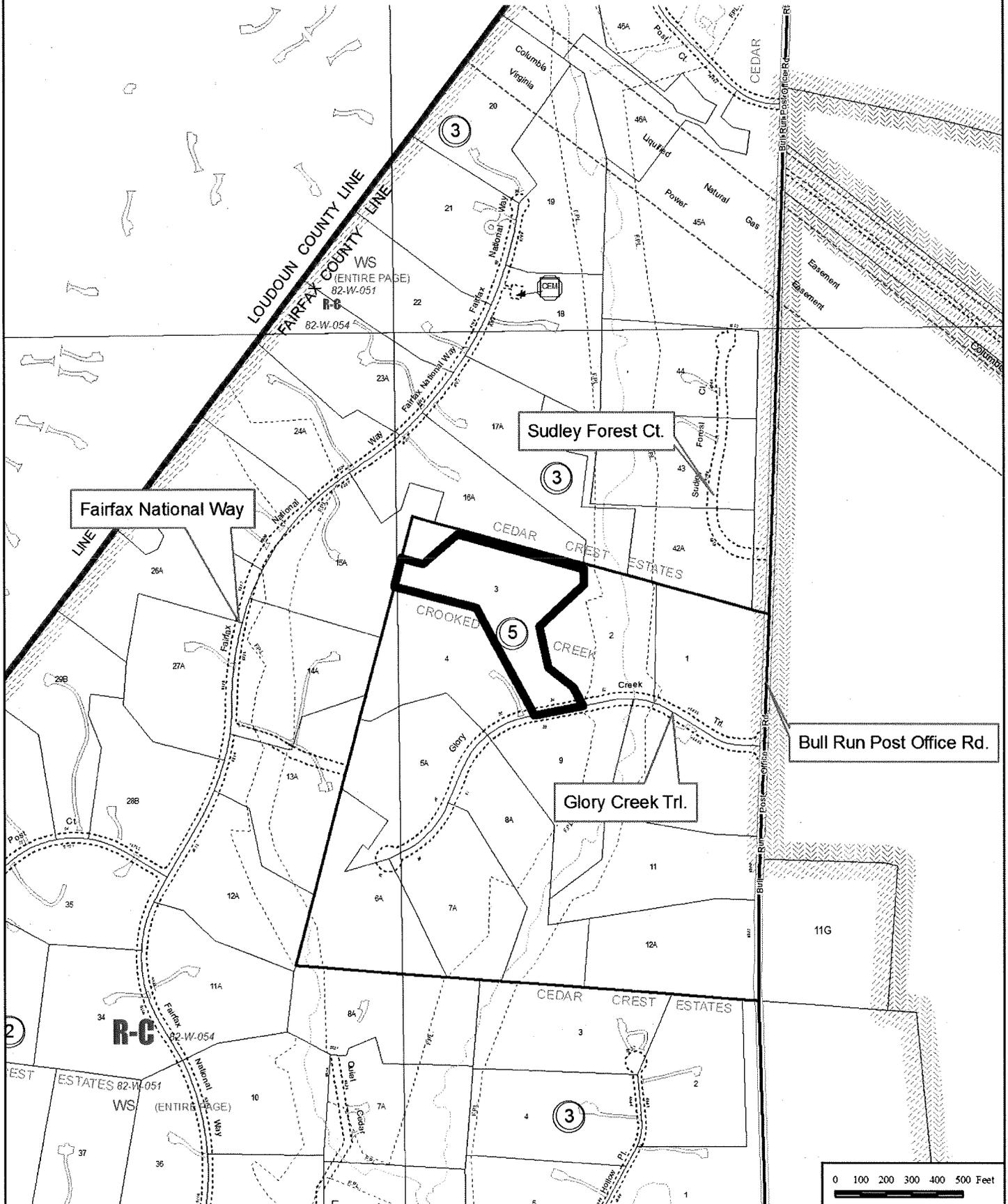
Variance Application

VC 2013-SU-011
MOHAMMAD RAHIM



Variance Application

VC 2013-SU-011
MOHAMMAD RAHIM



VARIANCE PLAT
CROOKED CREEK
LOT 3

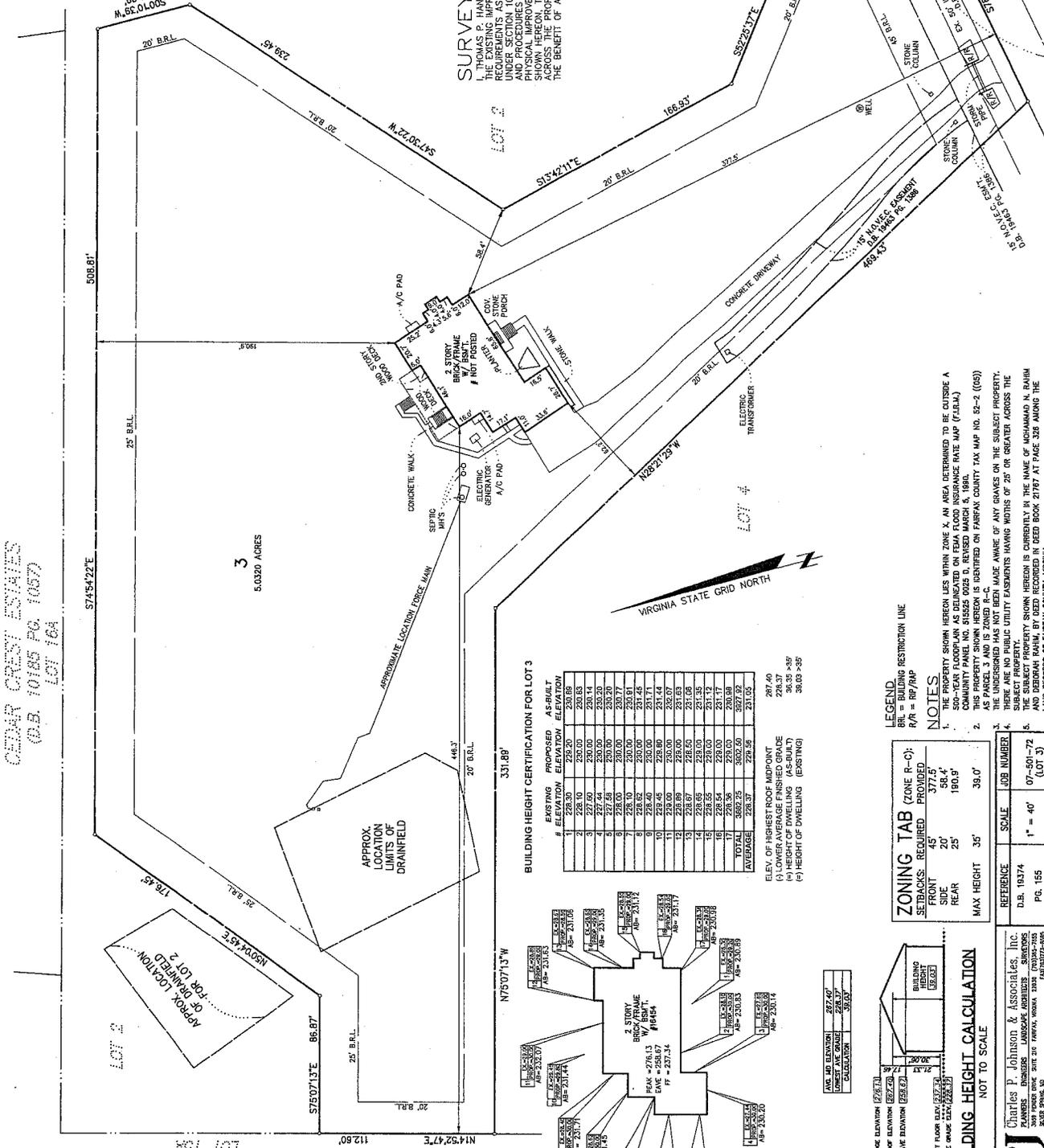
#16464 GORY CREEK TRAIL
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA

CEDAR CREST ESTATES
(O.B. 10185 PG. 1057)
LOT 16A

CEDAR CREST ESTATES
(O.B. 10185 PG. 1057)
LOT 15A



SURVEYOR'S CERTIFICATE
I, THOMAS P. HANNON, DO HEREBY CERTIFY THAT THE POSITION OF THE EXISTING IMPROVEMENTS SHOWN HEREON MEET THE MINIMUM REQUIREMENTS AS SET FORTH IN CHAPTER 15 OF THE VIRGINIA CODE OF REGULATIONS, AS WELL AS THE REQUIREMENTS OF THE LOCAL ORDINANCES AND PROCEDURES FOR SURVEYS DETERMINING THE LOCATION OF PHYSICAL IMPROVEMENTS. I FURTHER CERTIFY THAT UNLESS AS SHOWN HEREON THERE ARE NO VISIBLE ENCROACHMENTS EITHER WAY ON THE ADJACENT PROPERTY. THIS DRAWING WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.



BUILDING HEIGHT CERTIFICATION FOR LOT 3

| # | ELEVATION | PROPOSED AS-BUILT ELEVATION |
|---------|-----------|-----------------------------|
| 1 | 228.20 | 230.89 |
| 2 | 228.10 | 230.83 |
| 3 | 227.69 | 230.14 |
| 4 | 227.58 | 230.20 |
| 5 | 227.58 | 230.20 |
| 6 | 228.00 | 230.77 |
| 7 | 228.10 | 230.00 |
| 8 | 228.40 | 231.15 |
| 9 | 228.40 | 231.15 |
| 10 | 228.40 | 231.14 |
| 11 | 228.00 | 232.07 |
| 12 | 228.89 | 231.83 |
| 13 | 228.89 | 231.83 |
| 14 | 228.85 | 231.83 |
| 15 | 228.54 | 231.17 |
| 16 | 228.54 | 231.17 |
| 17 | 228.54 | 231.17 |
| TOTAL | 3692.25 | 3821.90 |
| AVERAGE | 228.37 | 231.05 |

ELEV. OF HIGHEST ROOF MIDPOINT 287.40
(A) HEIGHT OF DWELLING (AS-BUILT) 38.35 x35'
(B) HEIGHT OF DWELLING (EXISTING) 38.03 x35'

LEGEND
BR = BUILDING RESTRICTION LINE
R/A = R/P/R/AP

ZONING TAB (ZONE R-C)
SETBACKS: REQUIRED PROVIDED
FRONT 20' 54.4'
SIDE 20' 54.4'
REAR 25' 190.9'
MAX HEIGHT 35' 38.0'

NOTES
1. THIS PROPERTY IS WITHIN ZONE X, AN AREA DETERMINED TO BE OUTSIDE A 500-YEAR FLOODPLAIN AS DETERMINED ON FEMA FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 51522 0025 D, REVISED MARCH 5, 1981.
2. THIS PROPERTY SHOWN HEREON IS IDENTIFIED ON FAIRFAX COUNTY TAX MAP NO. 52-2 (09) AS PARCEL 3 AND IS ZONED R-C. MAKE AWARE OF ANY GRAVES ON THE SUBJ. PROPERTY. THERE ARE NO PUBLIC UTILITY EASEMENTS HAVING WIDTHS OF 20' OR GREATER ACROSS THE SUBJECT PROPERTY.
3. THE SUBJECT PROPERTY SHOWN HEREON IS CURRENTLY IN THE NAME OF MOHAMMAD N. RAHIM.
4. THIS PROPERTY IS SHOWN AS RECORDED IN USED BOOK 21787 AT PAGE 328 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

BUILDING HEIGHT CALCULATION
NOT TO SCALE



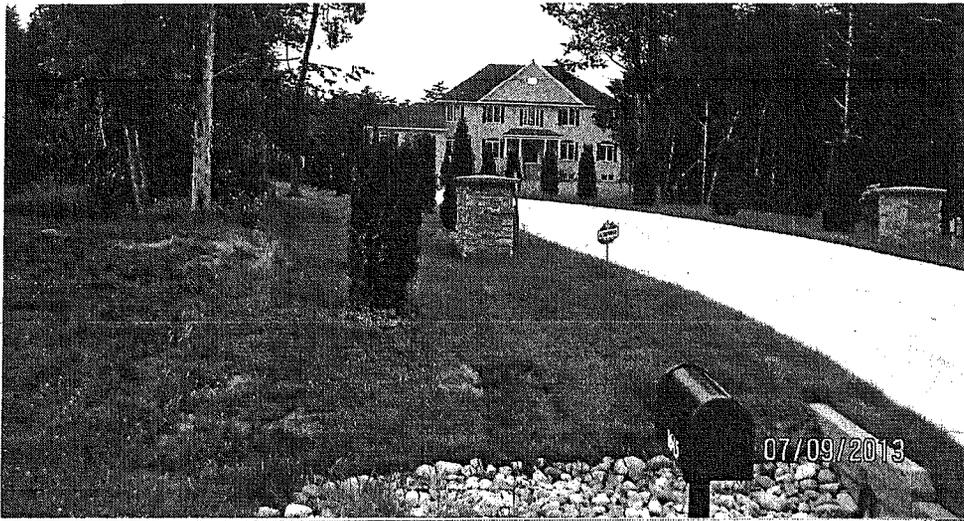
AVG. ROOF ELEVATION 227.70
FLOOR ELEVATION 228.37
GROUNDAVER. ELEVATION 228.07
CALCULATION

CPJ Charles P. Johnson & Associates, Inc.
SURVEYORS ENGINEERS LANDSCAPE ARCHITECTS - SITESPECIFIC DESIGNERS
3010 SULLY ROAD, SUITE 200, FAIRFAX COUNTY, VIRGINIA 22031
PHONE: 703-271-4500 FAX: 703-271-4500

REFERENCE: O.B. 10374 PG. 155
JOB NUMBER: 07-301-72 (LOT 3)
SCALE: 1" = 40'



GRAPHIC SCALE
SCALE: 1" = 40'



Front View of home from
Glory Creek Trail

Rahim
16454 Glory Creek Trail
Centreville 20120
7/9/13

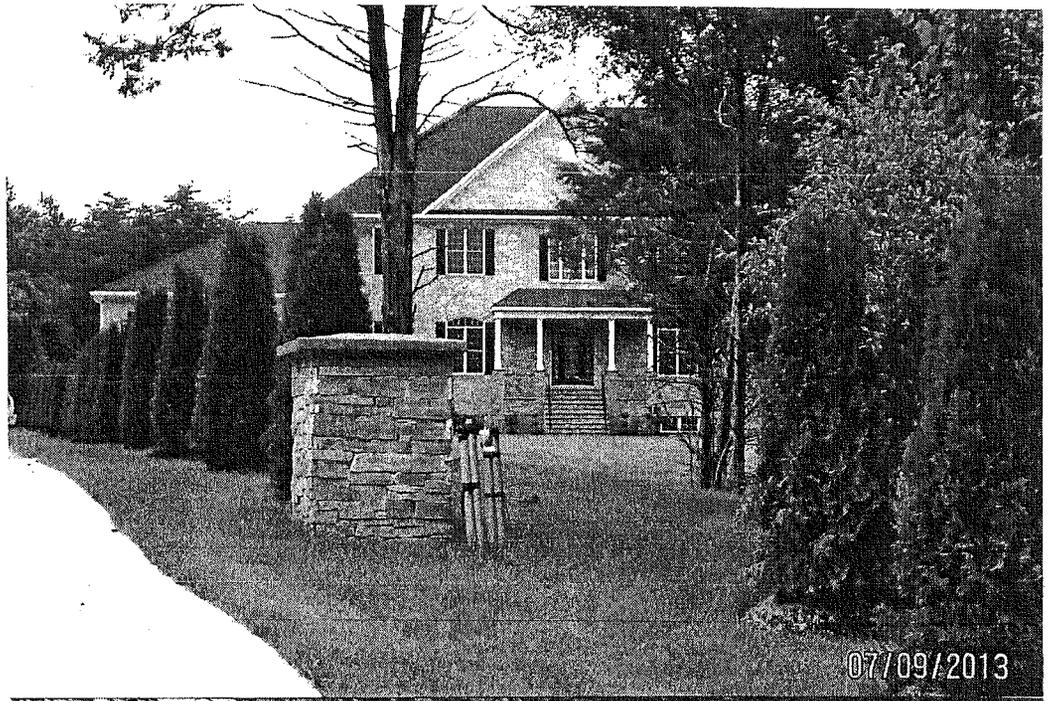


View from front of
home to Glory
Creek Trail



View from front of
home to front
yard

View from
Glory Creek Trail
to front of home
(the center)



Front View of
home from the
Right Angle



Front View
from the left
angle



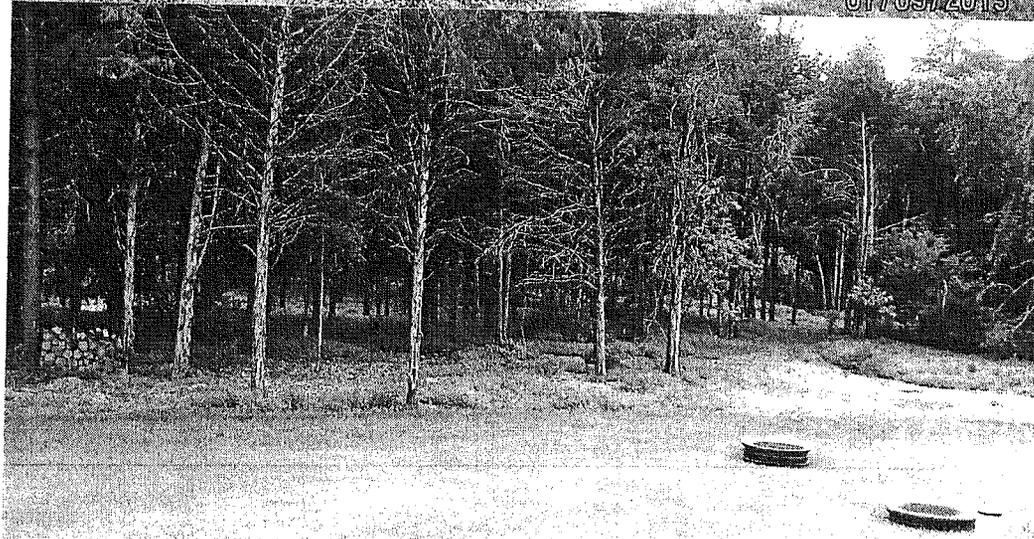
Side view
from trees
lining property



Drainfield
View



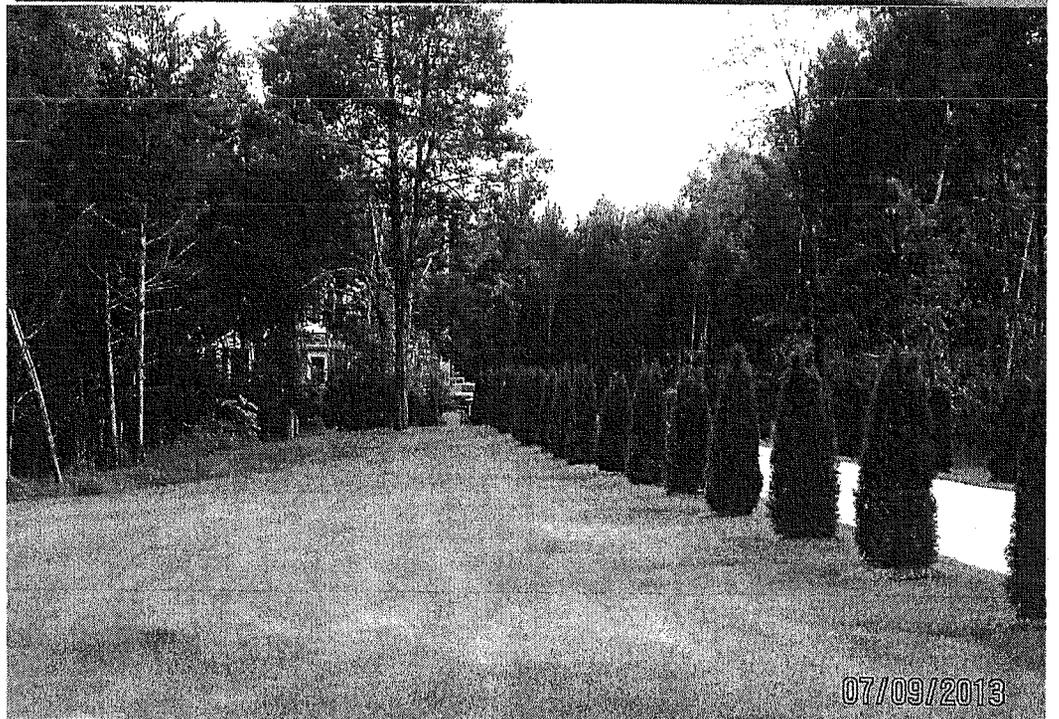
Drainfield
View



Side View
Roof Slope Lines



Mid section
of front yard
looking towards
adjacent
property



Trees
surrounding
property



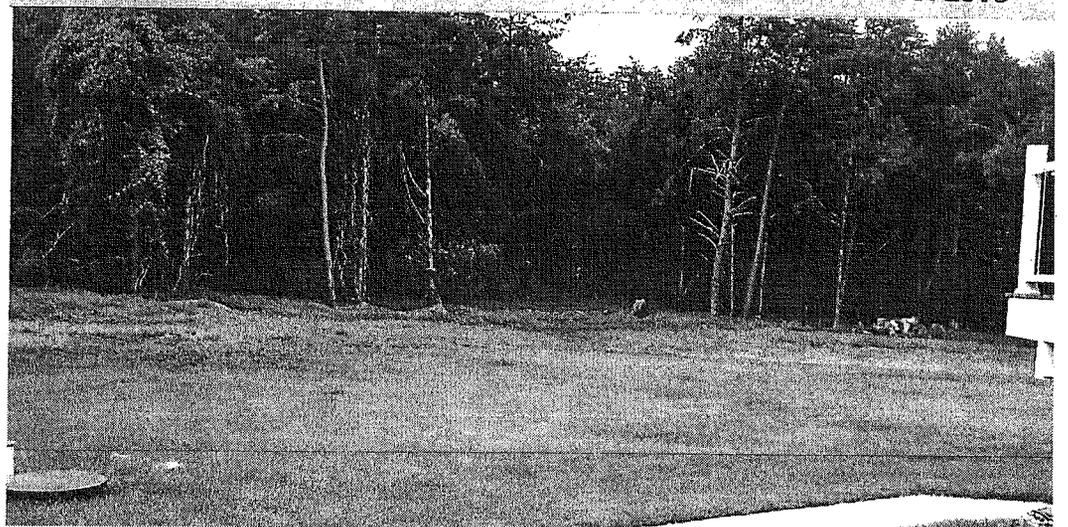
Backyard ditch
Low lying areas
where water
accumulates



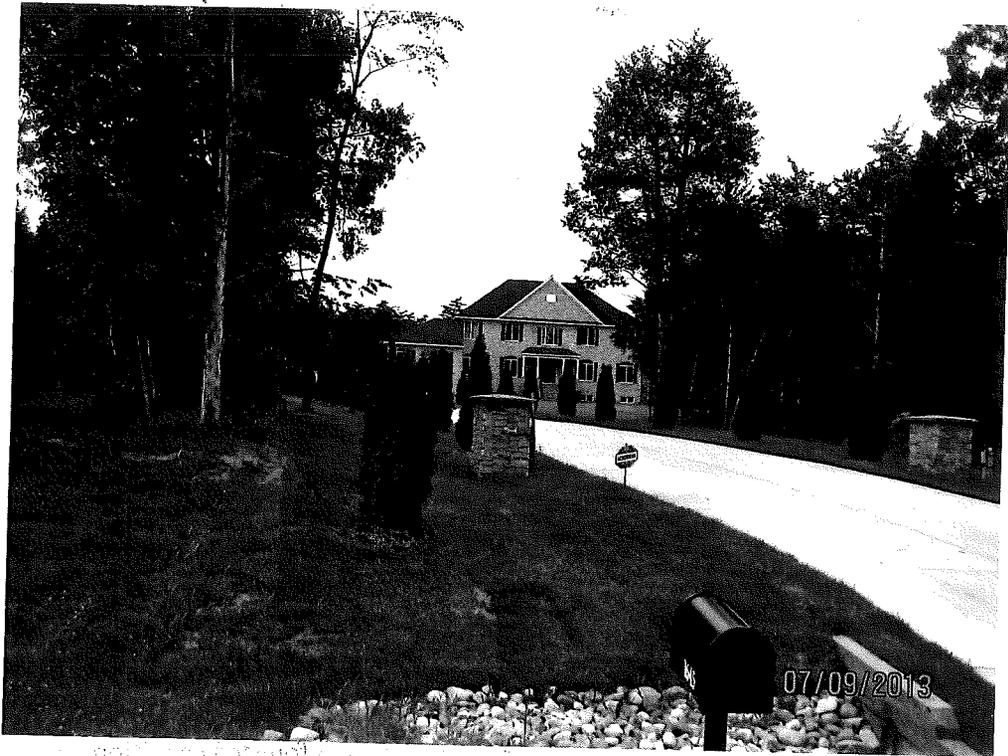
Backyard
Showing ditch
drain that we
dug to direct water
away from home



View from
Back of home
(danger view)













07/09/2013 10:00 AM



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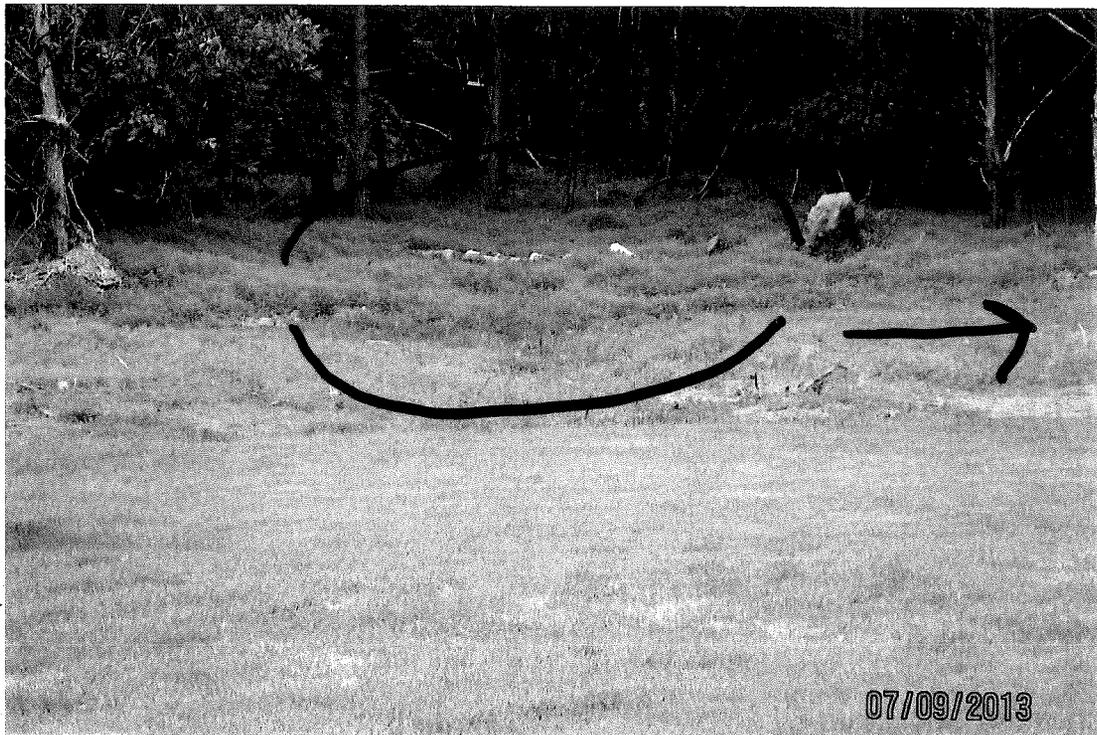
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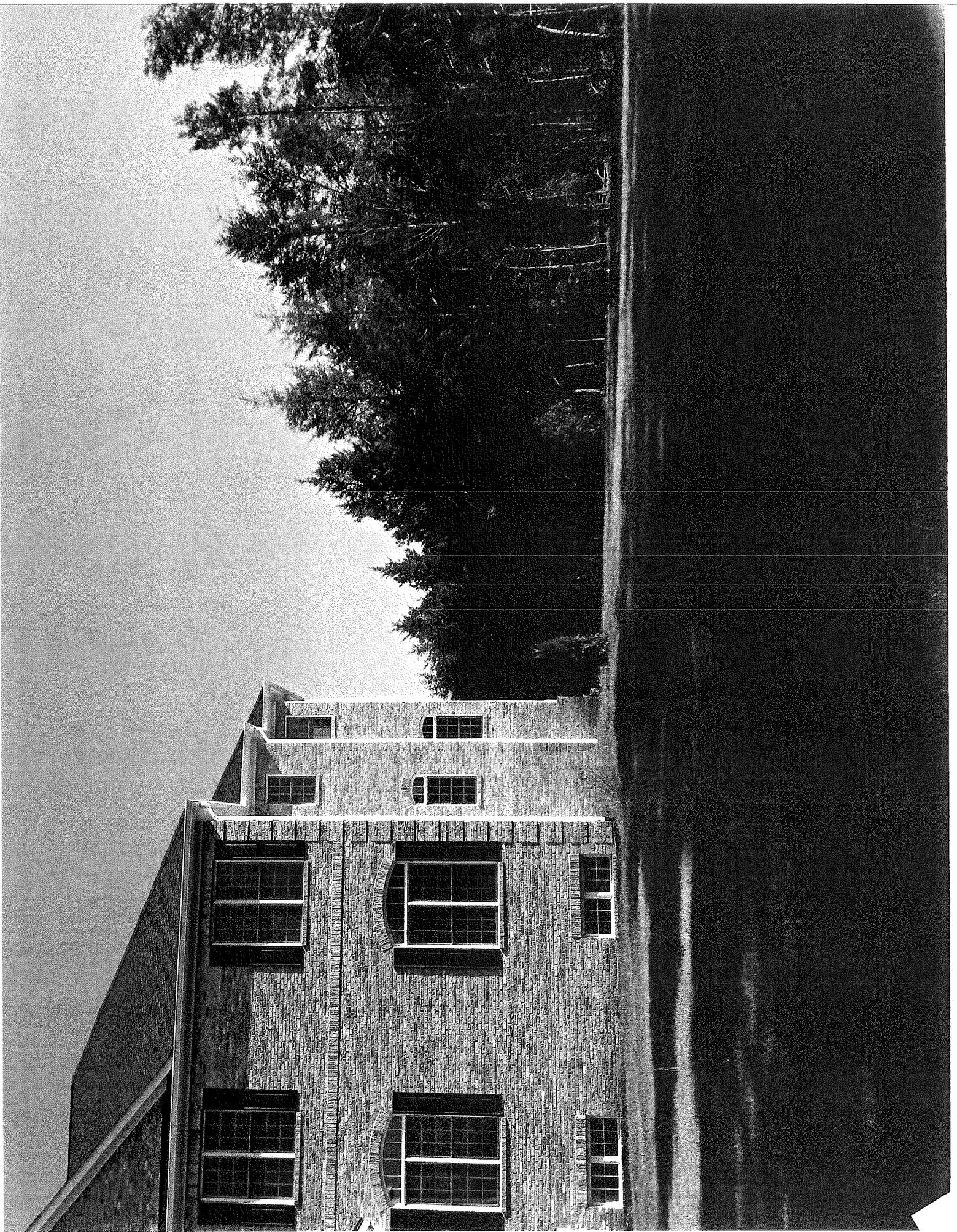


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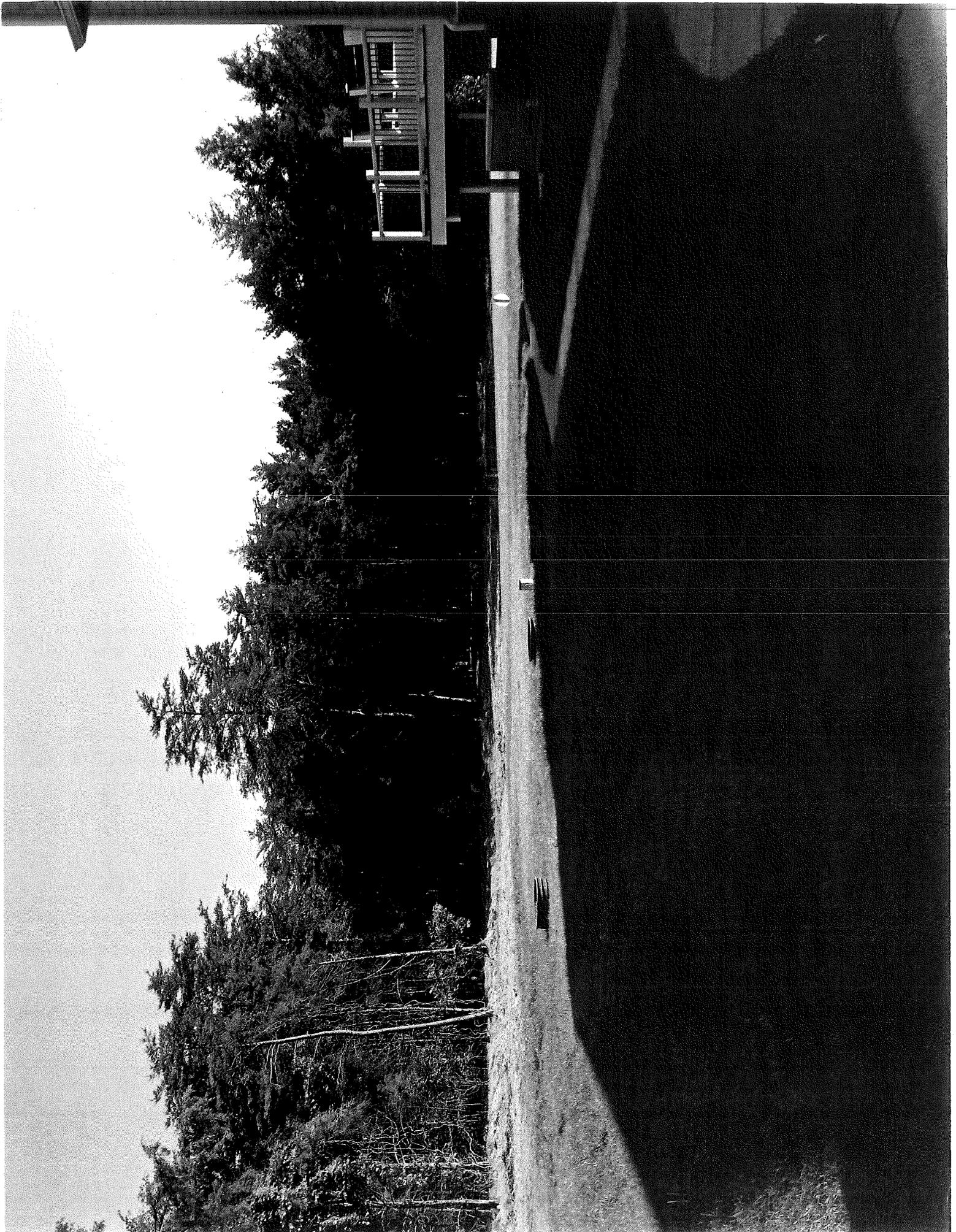












VARIANCE REQUEST

The applicant is seeking a variance to permit a dwelling measuring 39.0 feet in height to remain on the subject property. A maximum building height of 35.0 feet is permitted in this zoning district. The approved building permit as included in Appendix 4 states that the building height would be 34.96 feet. The applicant states that due to rocky terrain and water issues, the foundation of the dwelling had to be raised. The applicant's complete discussion of the reasons for the height discrepancy is detailed in the Statement of Justification included in Appendix 3.

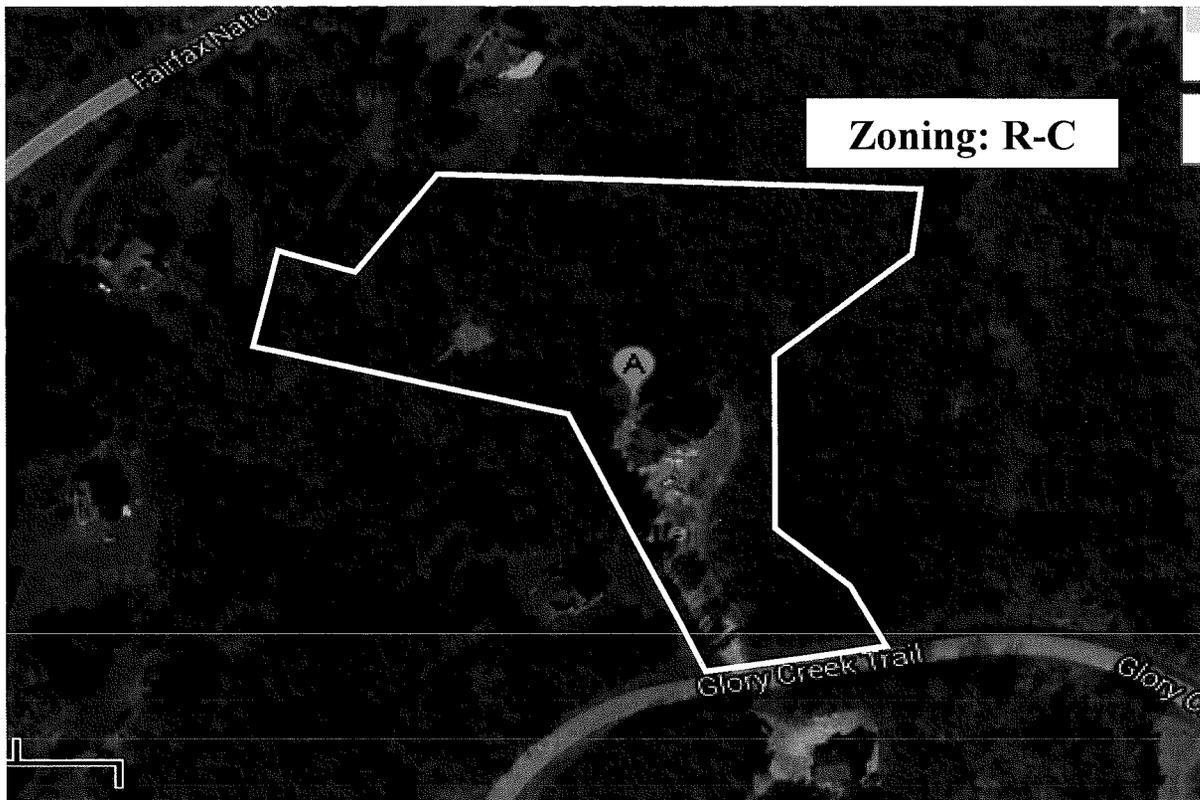
A copy of the special permit plat, titled "Variance Plat, Crooked Creek, Lot 3," prepared by CPJ Associates, dated June 21, 2013, is included in the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The application property is located at 16454 Glory Creek Trail within the Crooked Creek Subdivision. The property is developed with a two story single family brick and frame dwelling with a basement.

A concrete driveway provides access to the dwelling from Glory Creek Trail, which is a private roadway. A covered stone porch exists on the southern building façade. A concrete walkway extends around the western side of the dwelling to a two story wood deck on the northern building façade. Mature trees and grass exist on all sides of the dwelling. A drainfield is located in the northwestern portion of the property. A 50 foot wide ingress-egress easement runs along the front yard lot line adjacent to the private asphalt roadway. A 15 foot wide NOVEC easement extends along the driveway into the front yard where an electric transformer is located, and a 15 foot wide Verizon easement runs adjacent to the ingress-egress easement. The property is largely level in topography.

The image on the next page illustrates the general character of the surrounding area, which is developed with the Crooked Creek subdivision, zoned R-C. Lots in the subdivision are either developed with single-family detached dwellings or remain undeveloped.



BACKGROUND

According to Fairfax County tax records the single family dwelling was constructed in 2013. The applicants purchased the property in 2011.

A building permit was applied for on December 26, 2011, for the construction of a two story dwelling, three car garage, and covered front porch (Appendix 4). A separate permit for the deck was to be obtained by another contractor. The proposed height at the time of application was 34.96 feet. The application required that a Building Height Certification be obtained prior to issuance of the Residential Use Permit. The dwelling as constructed is currently 39 feet in height.

Records indicate there were no other applications for dwellings greater than 35 feet in height for properties in the vicinity of the application site that have been heard by the BZA.

ZONING ORDINANCE REQUIREMENTS

This variance is subject to Sect. 18-404 of the Zoning Ordinance, *Required Standards for Variances*, a copy of which is included in Appendix 5. Subject to development conditions, the variance 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.

APPENDICES

1. Proposed Variance Development Conditions
2. Applicants' Affidavit
3. Applicants' Statement of Justification
4. Building Permit History
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**VC 2013-SU-011****October 2, 2013**

1. This variance is approved for the location and height of the dwelling as shown on the plat prepared by CPJ Associates., titled "Variance Plat, Crooked Creek, Lot 3," dated June 21, 2013, as submitted with this application, and is not transferable to other land.

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

Application No.(s): VC 2013-80-011
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 21, 2013
 (enter date affidavit is notarized)

I, Mohammad N Rahim, 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

121575

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) |
|--|--|---|
| - Mohammad N Rahim | 13405 Marble Rock Dr Chantilly VA 20151 | owner/ |
| - Debbie L Rahim | same | Wife/owner |
| - Charles P. Johnson and Associates, Inc Agent: Thomas P. Hannon | 3959 Pender Dr Suite 210 Fairfax VA 22030 | Engineer/Agent |

(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): VC 2013-SU-011
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 21, 2013.
(enter date affidavit is notarized)

121575

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)
Charles V. Johnson + ASS, INC
3159 Pender Dr Suite 210
Fairfax, VA 22030

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)
Charles V. Johnson
Paul B. Johnson

(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): VC 2013-SU-011
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 21, 2013
(enter date affidavit is notarized)

121575

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)

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

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

N/A

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

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

Application No.(s): VC 2013-SU-011
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 21, 2013
(enter date affidavit is notarized)

121595

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

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

N/A

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

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

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

None

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

Application No.(s): VC 2013-SU-011
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 21, 2013
(enter date affidavit is notarized)

121575

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)

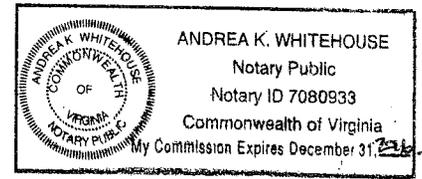
[X] Applicant [] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 21st day of June, 2013, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]
Notary Public

My commission expires: Dec 31, 2016



Rahim 16454 Glory Creek Trail, Centreville 20120
Variance Application Responses Page 1

ZONING ORDINANCE STANDARDS FOR A VARIANCE

Pursuant to Section 18-404 of the Zoning Ordinance, in considering a variance, the Board of Zoning Appeals (BZA) makes specific findings based on the evidence before it. The BZA can approve a variance only when it finds that the application satisfies **all of the following enumerated requirements**. *In support of a request for a variance, a detailed explanation of how each of these standards is met should be provided in writing and submitted with the application by the applicant.*

1. That the subject property was acquired in good faith.

The property was acquired June 7, 2012 as land to clear and build a new home that would be our family home.

2. That the subject property has at least one of the following characteristics (note: "the effective date of the Ordinance" is August 14, 1978):

- A. Exceptional narrowness at the time of the effective date of the Ordinance;
- B. Exceptional shallowness at the time of the effective date of the Ordinance;
- C. Exceptional size at the time of the effective date of the Ordinance;
- D. Exceptional shape at the time of the effective date of the Ordinance;
- E. Exceptional topographic conditions;

Due to the rocky terrain, which includes clay and stone, which we encountered during excavation, we could not dig any deeper than we did for the foundation. Water issues became an issue as we continued to dig and the water would sit on the dirt (mud) and would not penetrate back into the ground. If the foundation were to be placed at a deeper grade the home would then be sitting on the continual position of future water issues and flooding. We have had to restructure the entire back land to redirect the water away from the home to prevent this major problem even though the home is raised.

- F. An extraordinary situation or condition of the subject property; or
- G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

Rahim 16454 Glory Creek Trail, Centreville 20120
Variance Application Responses Page 2

We were told by the foundation company we hired that we would meet the height allowance even if we raised the foundation due the circumstances of the terrain. As we continued to dig, to avoid raising the height any more than possible, we continued to hit rock and enormous amounts of mud and water. The water would not penetrate back into the ground the deeper that the company dug. When we encountered this major issue we had to bring in over two hundred loads of dirt to assess the water, clay and rock issue. The dirt was used to grade the house and divert to water away from the house. We built trenches with the dirt to allow water to drain and have access to the house. Without the dirt it would not have been possible to continue the work on the home. Water would stand in areas at 2feet without reseeding. The water continued to flow into the basement and we had to build a separate trench to divert that water away from the home and fill more dirt in that area to build an upward wall to prevent water flow into the home. Until we had 2 foot of dirt just in the area to the basement access we continued to extract water from inside the home on a daily basis. Flooded basement are devastating financially and emotionally. We realized then that storms would a major issue for our future. We installed three sump pumps because of this issue. As of date we have still had to extract water and will still have to add more dirt. The soil conditions are not stable.

4. That the strict application of this Ordinance would produce undue hardship.

The house is 100% complete. If we were to take 4ft off of the roof we will be required to reconstruct the entire roof. We will have to deal with trusses, electrical, HVAC and brick, which could lead to thousands of dollars in reconstruction work. We are now under financial strain due to this issue. We have a construction loan on the home that matured on May 7, 2013. Now major penalties are due for the maturity date being overdue and we will have the property taken from us after a certain amount of time as they see fit. We have currently had to sell our current home because of the financial strain. We request from the board, if possible, that this variance hearing date be expedited to the fullest allowed extent. We are not allowed to move forward with our loan and prevent them from taking our home without an occupancy permit.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

No one else is experiencing this issue that we are facing.

6. A. That the strict application of the Zoning Ordinance would *effectively prohibit* or *unreasonably restrict all reasonable use* (emphasis added) of the subject property, or

B. That the granting of a variance will alleviate a clearly demonstrable hardship *approaching confiscation* (emphasis added) as distinguished from a special privilege or convenience sought by the applicant.

Variance is the only solution for our situation. Without this variance of 4ft, the existing roof will not remain as we have built it and the financial and living consequences would be dire for us.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

The adjacent property is 360ft from our property. This variance will not effect in any way, shape or form the adjacent property. The home is sitting on a 5 acre lot and is surrounded by trees.

8. That the character of the zoning district will not be changed by the granting of the variance.

The home is in a low density populated area.

Rahim 16454 Glory Creek Trail, Centreville 20120

9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

Allowing this variance (current roofing structure) would be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

RECEIVED
Department of Planning & Zoning

JUN 21 2013

Zoning Evaluation Division

Mohammad & Deborah Rahim
16454 Glory Creek Trail
Centreville, VA 20120
571-238-4716
mo@mwmrestoration.com
June 14, 2002

Dear Board of Zoning Appeals,

We are writing this letter for a request for review and understanding of mitigating circumstances surrounding the opposition of the grading and height code of our residence.

We began planning and building our home in which we have dreamed of in May of 2012. We followed all of the correct steps to assure that the home would be secure and well-built and the structure would follow code throughout. Every process that required inspection was passed with no opposition and we continued to follow code. As we started building the home we encounter issues with grading and water problems in which we had to make the correct adjustment to prevent future water damage to our home. I was told by the foundation company that we will meet the height allowance. Since we have never built a house, our understanding was that it is normal procedure to use the proposed grading. They told us that with the size of the house and the surrounding condition close to 1' difference in the foundation depth would be fine. We have also recently discovered that there is an issue between the architect and the manufactured truss company. With this issue we have recently discovered that the architect plans shows different trusses than the actual trusses that the manufacturer sent to us. The floor joist should have been 1'6" but it is 2'. The roof height should have been 16.34" but it is 17.46". Due to these various reasons we are in this situation, which is devastating to us. We passed the Health Department and the Building inspection thinking we were 100% complete. Unfortunately, and not known to us, we were told that we need to have height calculation for a final inspection and then we learned that we are over the max height allowance of 35'. Due to the extraordinary situation and condition of the property we tried to take the necessary measures to correct the issue. Alternatives are now not a choice.

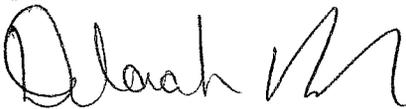
1. We cannot use the proposed grading plan due to county regulations.
2. Structurally we tried to make changes to the roof but that will not meet the code requirement of 35' height. We would have to take 9' off of the roof. This restructuring would cause extreme financial difficulties and hardship.

We are asking for your review and understanding of this situation, being not intentional for cosmetic looks of the home, that you please consider our plea and review this case.

We have thoroughly explained our reasoning and we are asking for leniency in this circumstance. Because of this delay that we never expected to run into or knew about we are now in financial stress. We had planned our finances according to all aspects of the final inspection to pass for this time frame. This is much

unexpected and now everything that we have is in jeopardy. Our construction loan matured on May 7, 2013. We have signed agreements to have this house completed by the maturity date and now we have surpassed that agreement and the home is on the verge of being taken away from us. For every day we don't have our Occupancy permit, we are one step closer to losing our home. The home we currently live in is sold and we have to be gone by end of this month. The fact that we were not aware of the height issue we thought that we would be moving into our new home. This takes a toll on someone's life especially with kids and their Grandparents involved. Their Grandparents are elderly and depend on us. They reside with us and we are responsible for their wellbeing. We would never intentionally have made this mistake. If we do not get this approval we do not know where we will go or turn to. We are honest people that have dreamed of this home and have worked hard to get it and we as anyone would do not want to lose it over mistakes that were made out of our control and over a decision we made not knowing the outcome that has now happened. Please consider our request and the effect it will have on us.

Sincerely,



Mohammad & Deborah Rahim

BUILDING PERMIT APPLICATION

Permit Application Center
 12055 Government Center Parkway
 Suite 200
 Fairfax, Virginia 22035-5504
 703-222-0801 TTY 711
 www.fairfaxcounty.gov/buildingpermits



Permit # 113630186
 Plan # R-12-1055
 Tax Map # 0522 05 0003

JOB LOCATION

STREET ADDRESS 16454 Glory Creek Trail Centerville, VA 20121
 LOT # 3 BUILDING _____ FLOOR _____ SUITE _____
 SUBDIVISION Crooked Creek
 TENANT'S NAME _____

OWNER INFORMATION

OWNER TENANT

NAME Mohammad Naim Rahim
 ADDRESS 13405 Marble Rock Ln Chantilly VA 20151
 CITY Chantilly STATE VA ZIP 20151
 PHONE _____ E-MAIL _____

CONTRACTOR INFORMATION

SAME AS OWNER

COMPANY NAME MWM cleaning + restoration CONTACT ID _____
 ADDRESS 142402 Swiftfield Cir
 CITY Chantilly VA STATE VA ZIP 20151
 PHONE _____ E-MAIL _____
 STATE CONTRACTOR'S LICENSE # 2705 095173A COUNTY BPOL # 200759 9000 1/23/12

APPLICANT

NAME Mohammad Naim Rahim CONTACT ID _____
 ADDRESS 13405 Marble Rock Ln
 CITY Chantilly STATE VA ZIP 20151
 PHONE 571-233-4716 E-MAIL M2@mwrestoration.com

DESIGNATED MECHANICS' LIEN AGENT (Residential Construction Only)

NONE DESIGNATED

NAME _____ PHONE _____
 ADDRESS None
 CITY _____ STATE _____ ZIP _____

DESCRIPTION OF WORK

Build House
24871-INF-0032
2/6/12
 HOUSE TYPE _____
 MASTERFILE NUMBER _____
 ESTIMATED COST OF CONSTRUCTION \$ 450,000.00

APPLICANT AGREEMENT

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be complied with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Mohammad Naim Rahim 12-26-2011
 Signature of Owner, Master, or Agent Date
Mohammad Naim Rahim owner
 Name and Title (please print)

An Affidavit of Permit Authorization (located on reverse side of application) must be completed by the property owner if the permit is to be issued in the owner's name and another party is submitting the application on behalf of the owner. Please read the note to property owners on this application prior to signing the affidavit.

COUNTY USE ONLY

| ROUTING | DATE | APPROVED BY |
|-----------|---------|-------------|
| LICENSING | 1/26/12 | |
| ZONING | | |
| SITE | 2/8/12 | |

| ROUTING | DATE | APPROVED BY |
|------------|---------|-------------|
| HEALTH | 1/26/12 | |
| SANITATION | | |
| BUILDING | | |

APPROVED FOR ISSUANCE BY _____

DATE _____

FEE \$

106.52
553.26

DNING - NEW SFD



A/P # 113630186

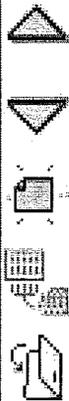
New SFD with finished basement with guest study and full bath, three car garage, and covered front porch. No wet bar or second kitchen. Per approved plan, 24871-INF-003-2, on file.

This permit does not include the deck shown on the grading plan. According to the property owner, a separate permit will be obtained later by another contractor.

Building Height is 34.96'. Building Height Certification is required prior to issuance of RUP.

Comments

ZONING - NEW SFD



A/P # 113630186

Zoning District R-C Zoning Use SFD Proffers?

Height Zoning Case

Wet Bar? N Wet Bar language will be printed on permit upon issuance.

Second Kitchen? N If YES, add letter to file.

Cluster Subdivision? N

ADU Subdivision? N

Setback Certification? N

Yard/Setbacks

| Type | Number |
|------|--------|
| | |

| Structure No. | Front (A) | Front (B) | Front (C) | Left Side | Right Side | Rear |
|---------------|-----------|-----------|-----------|-----------|------------|-------|
| NEW SFD | 00 | 00 | 353.1 | 62.4 | 58.4 | 211.9 |

Additional Info / Comments

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

18-405 Conditions

Upon a determination by the BZA that the applicant has satisfied the requirements for a variance as set forth in Sect. 404 above, the BZA shall then determine the minimum variance that would afford relief. In authorizing such variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be met.