



APPLICATION ACCEPTED: August 6, 2013
BOARD OF ZONING APPEALS: November 6, 2013
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 30, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-MV-059

CONCURRENT WITH VARIANCE APPLICATION NO. VC 2013-MV-012

MOUNT VERNON DISTRICT

APPLICANTS/OWNERS: Robert F. Baldwin, Jr.
Anne G. Baldwin

SUBDIVISION: Belle Haven

STREET ADDRESS: 1901 Belfield Road, Alexandria 22307

TAX MAP REFERENCE: 83-4 ((3)) (2) 11

LOT SIZE: 10,980 square feet

ZONING DISTRICT: R-4, H-C

ZONING ORDINANCE PROVISIONS: 8-914, 8-923 & 18-401

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 2.9 ft. from side lot line and 14.5 ft. from front lot line and to permit fence greater than 4.0 ft. in height in front yard.

VARIANCE PROPOSAL: To permit greater than 30 percent minimum required rear yard coverage.

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

O:\gumk2\SP_VC Cases\11-6) SP 2013-MV-059_VC Baldwin (fence, error and coverage)\SP_VC Baldwin Staff Report.doc

Laura Gumkowski

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.**



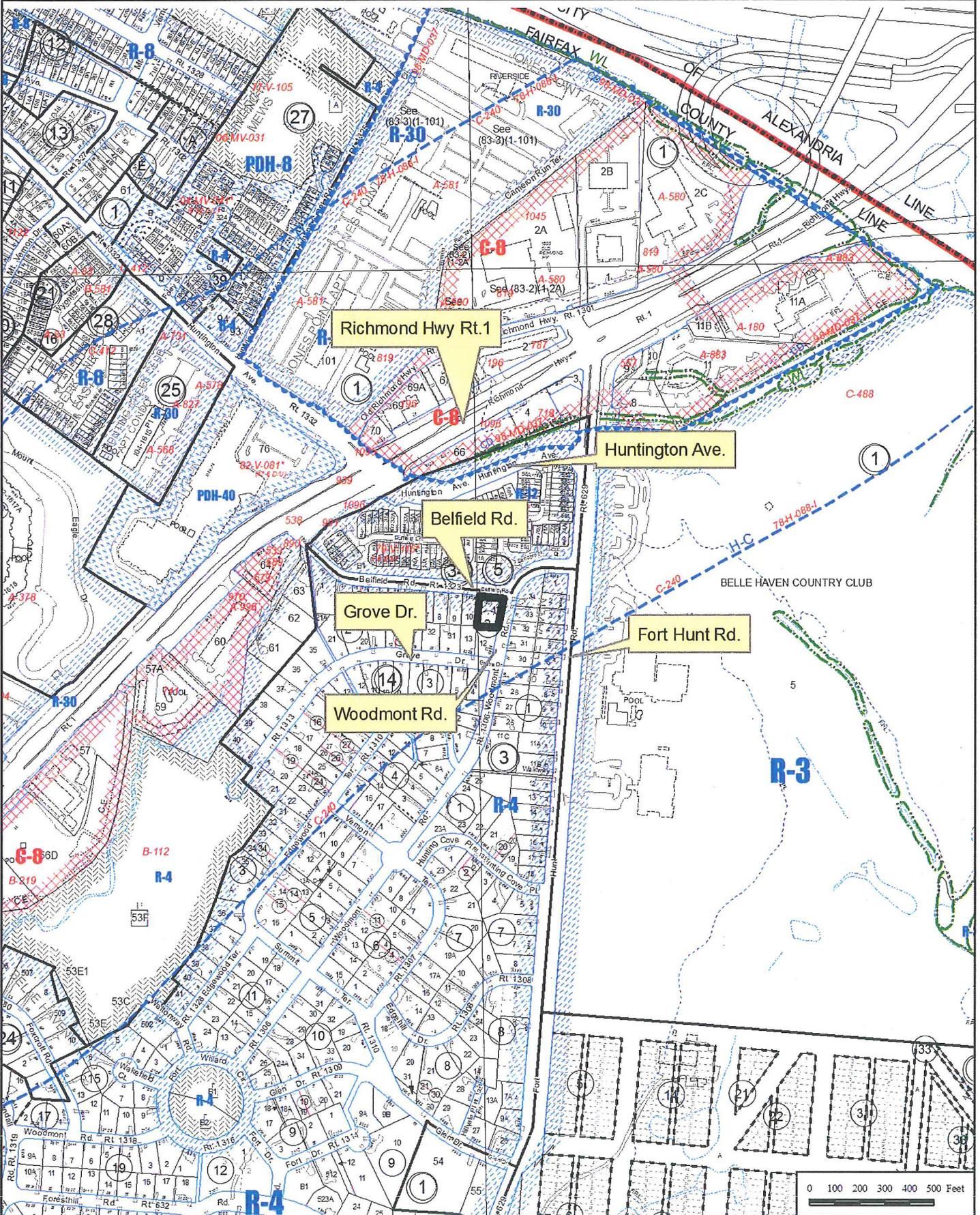
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit SP 2013-MV-059

ROBERT F. BALDWIN, JR. AND ANNE G. BALDWIN

Variance Application VC 2013-MV-012

ROBERT F. BALDWIN, JR. AND ANNE G. BALDWIN





View from our backyard showing the proximity of our Woodmont Road neighbors, the Hoskins.



View showing the proximity of our backyard neighbors on Woodmont Road, the Cahills.



View of brick steps, walls and patio area.



Another view of the brick walls and patio area.



Rear of new fence on Woodmont Rd. — 2010



Extended view of back yard towards Woodmont Rd.



View of our yard that shows the trunk and bottom branches of the large oak tree whose root system was a factor in the placement of the shed.



An additional view.



View of shed looking towards the Cahill's property on Woodmont Road. The shed was placed behind their mature plantings to minimize their view of it.



View of our home from the Cahill's property. The shed cannot be seen through their camellia bushes.



View showing the planted area towards Woodmont Road that we cannot use in the calculation, due to our home's corner lot location.



View showing fence along Woodmont Road with the back inset joining fence between our property and the Cahill's.



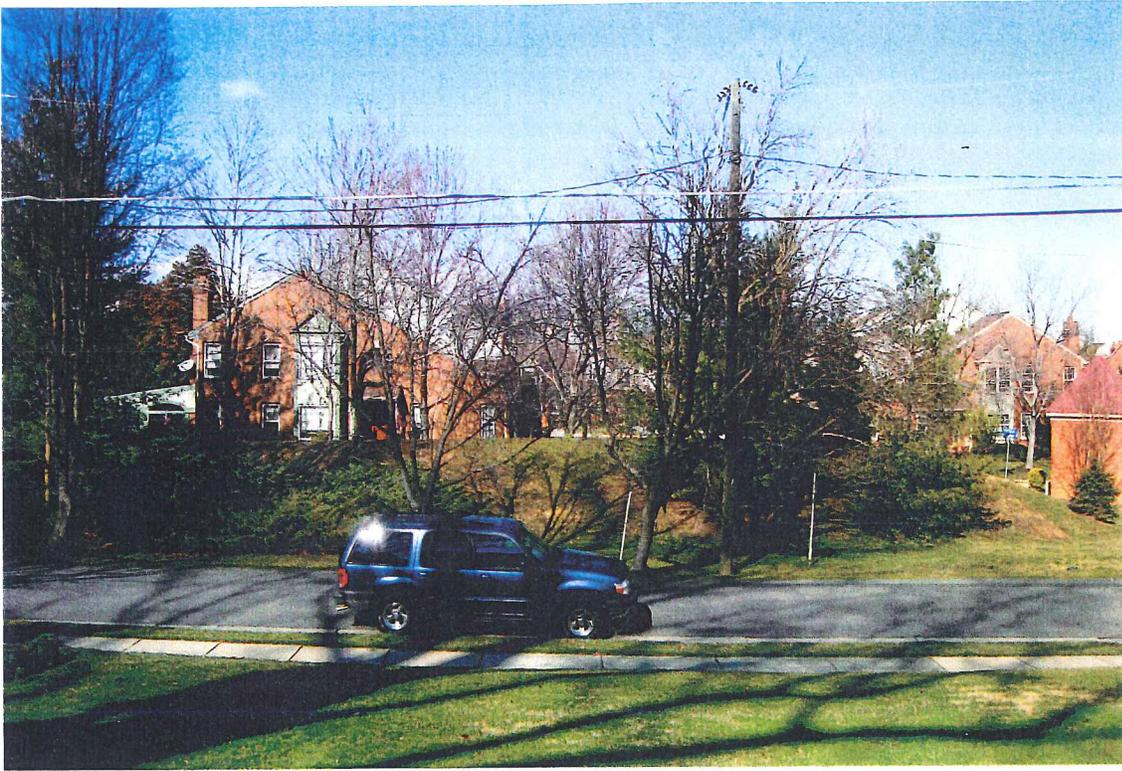
View showing the front of our home with the front fence inset slightly visible at the left corner of the house.



New fence in front of house, seen from Belfield Rd.



Back of fence in front of house, shown above



View from our front porch showing the proximity of the Belle Haven on the Green neighborhood.



View showing close proximity to the Longs, our Belfield Road neighbors.



View showing our location at the bottom of Woodmont Road which leads to Fort Willard Circle at the top of the Belle Haven neighborhood.



View showing our driveway which carries much of the runoff we receive as rain or snow melts and travels down the hill our neighborhood is located on to our home at the bottom.



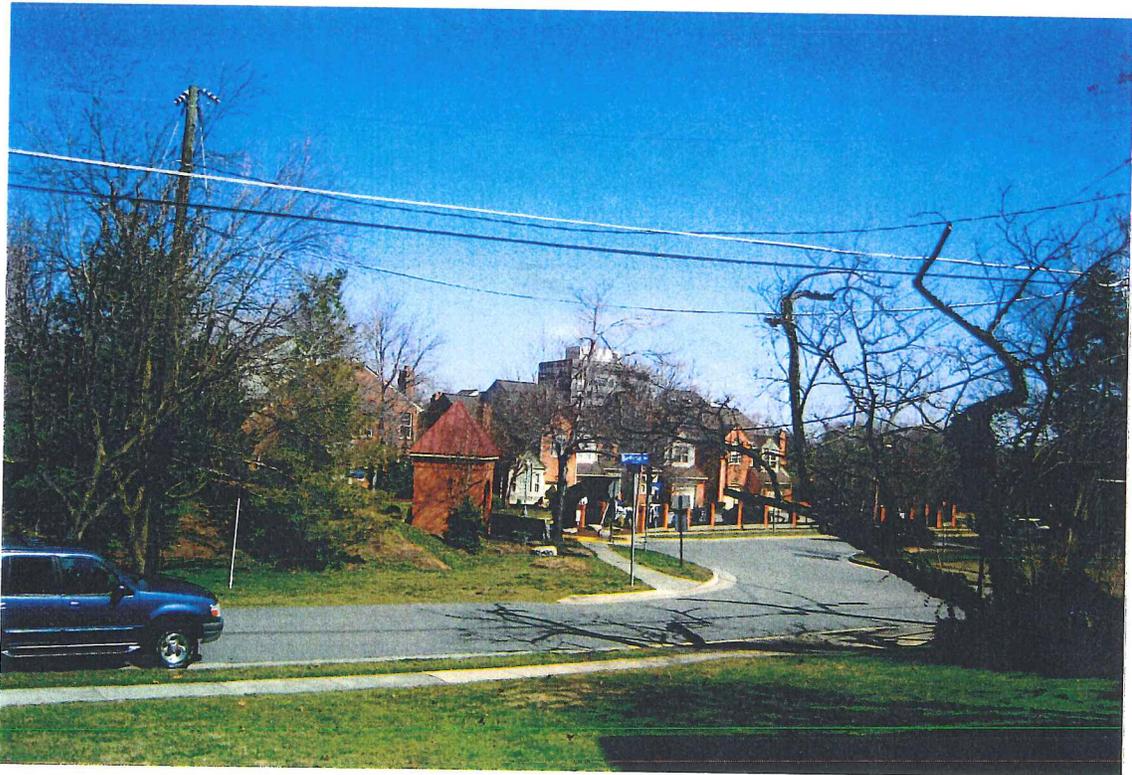
View showing fence along Woodmont Road with the front inset towards the house.



View showing this front inset from the side yard on Woodmont Road.



View from our property at the corner of Belfield Road and Woodmont Road showing Woodmont Road as it comes off the congested Fort Hunt Road.



View from our front door showing the proximity of the Belle Haven on the Green condos on the corner of Woodmont and Fort Hunt Roads.



Old stockade fence on Woodmont Rd — 2008 photo



New fence installed March 2010(on right)
Matching neighbor's fence installed 2011(on left)



Trash can enclosure, potting bench, compost heap, yard materials behind fence on Woodmont Rd.

DESCRIPTION OF THE APPLICATIONS

Special Permit Request

The applicants request special permit approval for a reduction to the minimum yard requirements based on an error in building location to permit a twelve foot high accessory storage structure, a shed, to remain 2.9 ft. from side lot line and 14.5 ft. from front lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit Request	Shed	Side	10.0 feet	2.9 feet	7.1 feet	71%
	Shed	Front	30.0 feet	14.5 feet	15.5 feet	51.7%

*Minimum yard requirement per Section 3-405

The applicants are also seeking a special permit to allow an existing fence greater than four feet in height to remain in the front yards of a corner lot. The fence located in the front yard along Belfield Road and ranges in height from 4.9 to 6.4 feet. A small portion of the fence in the southeast corner is over 6.0 feet in height and will have to be reduced to 6.0 feet. The portion of the fence in violation is approximately 135 feet in length.

	Structure	Yards	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit	Fence	Front	4.0 feet	6.0 feet	2.4 feet

Variance Request

The applicant also requests variance approval to permit greater than 30 percent minimum required rear yard coverage. The current coverage in the minimum required rear yard is 37.3% and includes a detached brick patio.

A copy of the special permit and variance plat depicting the structures on-site, titled "Plat, Showing the Improvements on Lot 11, Block 2, Section 1, Belle Haven," prepared by George M. O'Quinn of Dominion Surveyors Inc., dated December 20, 2011, as revised through April 2, 2013, is included at the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The application property is developed with a two story single-family detached dwelling. County records indicate that the dwelling was constructed in 1936, with an addition constructed in 1961 and a remodel in 1972. The applicant purchased the property in 1989.

As a corner lot, this property has two front yards, one along Belfield Road and another along Woodmont Road. The property has an open porch, steps and a brick walkway in the front yard along Belfield Road. An asphalt driveway also exists in this front yard and provides vehicular access. A brick walkway exists in the rear yard and extends to both sides of the dwelling. A 168 square foot stone patio, a pond and second brick patio exist in the rear yard. A 64 square foot shed which is 12 feet in height, and third patio (approximately 36 square feet) and a gravel area also exist in the rear yard. A wood fence, ranging from 4.9 feet to 6.9 feet (in the side yard) in height, encloses the rear yard. Mature trees exist along the eastern property line and a number of bushes are planted throughout the property. The property slopes down ten feet from the southern property line to the northern property line.

The property is south of Richmond Highway and west of Fort Hunt Road. The surrounding properties on the east, south and west are zoned R-4 and developed with single family detached dwellings. The property to the north is zoned R-12 and developed with single family attached dwellings. The application property and the surrounding properties are all in a highway corridor overlay district.



BACKGROUND

County records indicate that a building permit was approved on February 23, 1972 to enlarge and enclose a porch on the rear of the property. On May 30, 1990, a building permit was approved for this property to enclose a single-story bay addition on the rear of the dwelling. A third building permit was approved on October 23, 2006 for the construction of a two story addition to the western side of the dwelling with a footprint of 14 feet by 29 feet. A complaint for an accessory fence in a front yard was filed for this property in October of 2011 and a corresponding Notice of Violation was issued by the Department of Code Compliance on October 24, 2011 (Appendix 5).

A Vested Rights Determination was requested in November of 2011, for the existing six-foot tall privacy fence in the front yard along Woodmont Road. The Zoning Administration Division (ZAD) found that the fence did not have a building permit and was not taxed for at least 15 years and therefore is not considered vested (Appendix 6). A second Vested Rights Determination for the primary dwelling and the shed was researched by ZAD in August of 2012. It was found that the primary dwelling was vested and could remain but the shed was not vested (Appendix 7).

A copy of information outlining similar nearby special permit and variance requests is attached in Appendix 8.

VIRGINIA DEPARTMENT OF TRANSPORTATION ANALYSIS (Appendix 9)

The Virginia Department of Transportation (VDOT) staff states that the fence along Woodmont Road has been built in the VDOT right-of-way and needs to be removed or a permit, perpetual maintenance agreement and bond submitted to VDOT for their review and approval. Additionally, VDOT states that the gate located on this fence must swing inward to avoid conflict with pedestrians on the sidewalk. A development condition has been included to address this requirement.

ZONING ORDINANCE REQUIREMENTS

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard
- Sect. 18-401 Required Standards for Variances

This special permit and variance are subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 10. Subject to development conditions, the special permit and variance must meet these standards.

CONCLUSION

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 and Appendix 2 of this report, Proposed Development Conditions.

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

APPENDICES

1. Proposed Special Permit Development Conditions
2. Proposed Variance Development Conditions
3. Applicant's Affidavits
4. Applicant's Statements of Justification
5. Notice of Violation dated October 24, 2011
6. Vested Rights Determination dated November 22, 2011
7. Vested Rights Determination dated August 3, 2012
8. Similar Case History
9. VDOT Memo dated August 22, 2013
10. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2013-MV-059

October 30, 2013

1. This special permit is approved for the height and location of the shed and of the fences as shown on the plat titled "Plat, Showing the Improvements on Lot 11, Block 2, Section 1, Belle Haven," prepared by George M. O'Quinn of Dominion Surveyors Inc., dated December 20, 2011, and revised through April 2, 2013, as submitted with this application and is not transferable to other land.
2. The fence in the front yard along Woodmont Road located in the Virginia Department of Transportation's (VDOT) right-of-way shall be removed, moved onto the application property, or a permit request for the fence to remain in the right-of-way shall be submitted to VDOT's Fairfax Permits Office for review and approval.
3. Notwithstanding any VDOT approval, the portion of the fence over 6.0 feet in height shall be reduced to a maximum of 6.0 feet.

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.

PROPOSED DEVELOPMENT CONDITIONS

VC 2013-MV-012

October 30, 2013

1. This variance is approved for the 37.3% percent rear yard coverage on the property as shown on the plat titled "Plat, Showing the Improvements on Lot 11, Block 2, Section 1, Belle Haven," prepared by George M. O'Quinn of Dominion Surveyors Inc., dated December 20, 2011 and revised through April 2, 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): SP 2013-MV-059
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2013
 (enter date affidavit is notarized)

I, Robert F. Baldwin, Jr. and Anne G. Baldwin, 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

121897

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)
Robert F. Baldwin, Jr.	1901 Belfield Road Alexandria, VA 22307	Applicant
Anne G. Baldwin	1901 Belfield Road Alexandria, VA 22307	Applicant

(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).

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1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

n/a

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

n/a

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

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

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1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

n/a

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

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

n/a

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

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

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121897

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.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2013 (enter date affidavit is notarized)

121897

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.

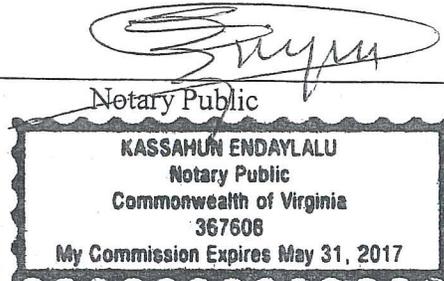
WITNESS the following signature:

(check one)

Robert F. Baldwin, Jr. Applicant
Anne G. Baldwin Applicant
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 10th day of JULY 2013, in the State/Comm. of VA, County/City of FAIRFAX.

My commission expires: 05/31/2017



Application No.(s):

VC 2013-MV-012

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

~~SPECIAL PERMIT~~ VARIANCE AFFIDAVIT

DATE: July 13, 2013
(enter date affidavit is notarized)

I, Robert F. Baldwin, Jr. and Anne G. Baldwin, 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

121898

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:

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(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).

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Page Two

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1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

n/a

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

n/a

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

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

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1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

n/a

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

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

n/a

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

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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):

VC 2013-MV-012

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2013 (enter date affidavit is notarized)

121898

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.

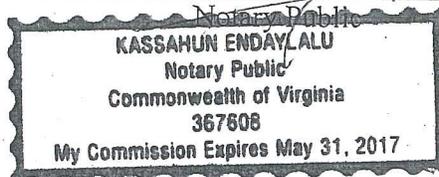
WITNESS the following signature:

(check one)

Signature of Robert F. Baldwin, Jr.
[X] Applicant [] Applicant's Authorized Agent
ROBERT F. BALDWIN, JR.
Anne G. Baldwin Applicant
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 10th day of JULY 2013, in the State/Comm. of VA, County/City of FAIRFAX

My commission expires: 05/31/2017



JUL 18 2013

Zoning Evaluation Division

Application No.: _____

DATE: July 13, 2013

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

Statement: We are hoping that the BZA will approve our application and grant a reduction to the minimum yard requirement for an accessory structure, allowing our garden shed to remain where it is located in our backyard.

A. The error exceeds ten (10) percent of the measurement involved

The garden shed now sits 3.1' and 2.9' at its back corners to the fence in our backyard. Since the Williamsburg style design we choose has a pitched roof that causes it to exceed 8', the distance from the fence is not sufficient with the requirement.

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

The selection of a garden shed and its location in our yard that caused it to be in noncompliance was done in good faith. We have no garage, so there was no suitable storage for our lawn mower and yard equipment. Bob, having earned his Master Gardener certification in Fairfax County, prides himself in mowing his own lawn and doing our yard work. He grew up in Norfolk, VA and had many family outings to Williamsburg, VA. It was his hope to locate a Williamsburg style out building that could house his yard equipment and also be an attractive addition to our yard. We have a large oak tree that several arborists have told us is over 250 years old. Many of our decisions for the yard involve trying to protect this tree and its root system that spans much of our existing backyard. When we found a suitable Williamsburg style garden shed, we knew that it could not be located near the oak or its roots would be compromised. There was also a brick patio that existed from the previous owner in the back corner of the lot, so we knew it could not go there. We selected a spot that took the oak and patio into account. It also was located on the other side of the fence from a dense amount of mature camellia bushes belonging to our backyard neighbors at 6026 Woodmont Road, then Harvey and Cathy Boltwood, and now owned by Jeff and Molly Cahill. We were not aware of the Fairfax County regulation on the location where we placed it.

C. Such reduction will not impair the purpose and intent of this Ordinance

We do not know any reason why such a reduction would impair the purpose and intent of this Ordinance.

D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity

Our adjoining neighbors on the Woodmont Road Side of our property, Jeff and Molly Cahill, and our adjoining neighbors on the Belfield Road side of our property, Jerry and Suzanne Long, and the closest neighbors across from us on Woodmont Road, Thomas and Amy Hoskins, have all written letters to say that our shed remaining in its current location does not have a detrimental impact on the use and enjoyment of their property.

E. It will not create an unsafe condition with respect to both other property and public streets

We hope that the BZA will see from these letters that are included from our neighbors that none of us believe that allowing the garden shed to stay in its current location is detrimental to the use and enjoyment of their property, and it is not creating any unsafe conditions for us or any others.

F. To force compliance with the minimum yard requirements would cause unreasonable hardship on the owner.

If the BZA were to force compliance with the minimum yard requirements, it would cause tremendous financial hardship for us. Having carefully considered where to place our garden shed in the first place, we do not know where it could be located that would not cause us to great expense in our backyard. We have been retired for over ten years. We had hoped that the majority of spending needs for our yard are behind us and now we can enjoy it in our retirement. It would be difficult for us financially to have to move or destroy this garden shed and begin again. It probably would result in our lawn mower and yard equipment sitting out in full view, which we think is less safe and definitely less attractive for us and our neighbors. We have no idea how the shed could be moved without great expense.

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

We do not know how this reduction would result in an increase in density or floor area ratio.

JUL 18 2013

Zoning Evaluation Division

Application No.: _____

DATE: July 13, 2013

8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

Statement: We are asking the BZA to allow us to our fence to remain as it is now, with the 18.4' and 14.3' sections that are located on the Woodmont Road side of our home in what is now considered a front yard by Fairfax County.

- 1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 31 of Sect. 10-104.**

The fence does not exceed six feet, and we would not want to increase the height of this fence at any time in the future.

- 2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.**

The fence is within the sight distance requirements contained in Sect. 2-505.

- 3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.**

When our home was built in 1936, it was situated on the lot before any of the current Fairfax County zoning regulations existed. We believe it was placed where it would be the most pleasing when viewed from Belfield Road. It would seem that the builder considered the Woodmont Road side of the property a side yard, not the current ruling as an additional front yard. When we purchased the home in 1989, there was a stockade fence already in place. We have learned from former back yard neighbor, Harvey Boltwood, that there was a fence in place on our 1901 Belfield Road property when the Boltwoods moved into their home at 6026 Woodmont Road in 1971. They knew our fence had been there already for a number of years, so there has been a fence in this location for over 45 years. When part of the fence deteriorated in 1996, we replaced it exactly with the stockade fence that had been in place. In 2001, an uninsured driver accidentally backed down Woodmont Road in reverse. Had it not been for the fence, the garbage containers and a tree, his car would have gone into our living room. We replaced the damaged fence at that time also with the stockade fence. This replacement fence did not last as long and in 2010, we knew that it all needed to be replaced. By that time, our next door neighbors, Suzanne and Jerry Long, and our then backyard neighbors, Cathy and Harvey Boltwood, had both installed identical fences by the same company. In an effort to make our fence fit in with theirs, we switched to the same style. We have always considered the fence an important part of our property. We are located where we can see Fort Hunt Road, and we are only a few blocks from the very busy US1

and Fort Hunt Road intersection. The end of Belfield Road ends at the rear of the former Statesman Motel now the Sleep Inn, which fronts on US1, and has been the scene of criminal activity while we have lived here. Our home is clearly at a visible corner location as anyone enters our neighborhood using Woodmont Road. There is a town house community directly across the street from us as well. The fence enables us to maintain a sense of privacy and noise reduction from the cars that go up and down Woodmont Road, as well as from the many dog walkers from the townhouses and our neighborhood. We feel the fence at least is a deterrent to those who are not welcomed in our neighborhood and have brought criminal activity. Although our backyard has been designated a National Wildlife Habitat, the fence does help keep out unwanted wildlife like cats who would kill the birds, and also dogs not on leashes. Having received the Master Gardener designation through Fairfax County, Bob enjoys using much of his retirement time working in the yard. The fence allows us some privacy from the close location to Woodmont Road and to our neighbors, so that we can enjoy our yard and all of Bob's efforts.

- 4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site structures in terms of location, height, bulk, scale and historic designations.**

We hope that the attached photos will enable the BZA to see that the fence is in character with our existing home. As stated in #3 above, the style was chosen to be harmonious with the Long's fence at 1903 Belfield Road and the former Boltwood property, now owned by the Cahills at 6026 Woodmont Road. Since purchasing their Woodmont home, the Cahills also have added to the fencing. So, there is a unified look between the properties, as you go up and down Woodmont Road.

- 5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.**

We hope that the letters included from neighbors, some who serve in key positions on our neighborhood's Belle Haven Civic Association, as well as the support of Jerry Hyland and his office, will enable the BZA to see that they do not see our fence as adversely impacting their use or enjoyment of other properties in our neighborhood. In fact, many people stop to tell us how lovely the yard is and how they enjoy walking or driving past it.

- 6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.**

We hope that the BZA will be able to accept the fence as it is with the 18.4' and 14.3' sections that are located on the Woodmont Road side of the house in what is now considered a front yard by Fairfax County.

JUL 18 2013

Application No(s): _____

DATE: July 13, 2013

Zoning Evaluation Division

ZONING ORDINANCE STANDARDS FOR A VARIANCE

Statement: We are asking the BZA to grant a variance that would allow us to keep the additional 7% of impervious material, which is part of a brick patio with steps and walls and a garden shed, on the back of our property that exceeds the 30% regulation.

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

The impervious materials, a brick patio and a garden shed, on the back of our property were acquired and placed in good faith.

2. That the subject property has at least one of the following characteristics:

F. An extraordinary situation or condition of the subject property

Our home was built on a corner lot in 1936 before any of the current regulations from Fairfax County, and we believe was situated to give it the maximum appeal from Belfield Road. When we purchased it in 1989, there was an existing brick patio with steps and walls on the back right corner of the lot. Because we have no garage, we decided to add a garden shed to house the lawnmower and yard equipment used primarily by Bob, who received his Master Gardener certification from Fairfax County in 2003. In placing the shed in the back section of the lot, we did not know about the 30% restriction for impervious material on the back of the lot. We were placing it not to compromise the root structure of an oak tree older than 250 years and to be the least visible to our neighbors. Because of our home's corner location, the left back corner of the lot that is planted with trees and bushes cannot be included in this calculation. Also because of the corner location, the back section of the property with the 30% regulation is reduced and cannot take into consideration the majority of the yard which is grass, trees and bushes.

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.

We are asking the BZA to grant a variance just for our property at 1901 Belfield Road. It is a unique situation and should not require the formulation of a new general regulation to be adopted by the Board of Supervisors as an amendment.

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

The strict application of this Ordinance would produce undue economic hardship for us. We do not have anywhere we could move the shed, so a reduction of material would involve the removal of wall that is cement block covered with brick and mortar, a seating area of the same construction and a percentage of the brick patio. Because we are located at the bottom of the hill of the Belle Haven neighborhood, the wall and seating help to keep water from flowing adversely into our yard. The wall and seating also provide support to a water feature on the property. The removal of these would allow water to be able to stand in our yard, keeping us to

use and enjoy much of our backyard. Also, the increased amount of water pressure could possibly cause a collapse of the pond wall.

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

Our property is the only one that is a corner lot that is located at the bottom of Woodmont Road, a steep hill that goes to the top of our neighborhood. We are the ones who receive the runoff from the neighborhood and also have this percentage reduced because of our corner location.

6. A. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or

We believe that the strict application of this Zoning Ordinance would prohibit and restrict the utilization of our property. As stated in the answer to #4, if we are faced with making this 7% additional reduction, we believe the water runoff will be detrimental to the use of our property by increasing the amount of standing water after a rain and potentially the water pressure causing the collapse of our pond wall.

B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.

We also believe that granting this variance will alleviate the hardship of dealing with the water runoff, and that the cost of making these changes would be an economic hardship that would be difficult for us.

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

There is no other property that would suffer any detriment if the BZA authorizes this variance. Our property is located at the bottom of a hill which makes up the majority of the Belle Haven neighborhood. The water runoff is coming all the way downhill to our property and from there into Belfield Road and then into the storm drain. The amount of impervious materials on our property are only affecting our property. Our backyard neighbor, the Cahills at 6026 Woodmont Road, is uphill and not affected by us. Our next door neighbor, the Longs at 1903 Belfield Road, state that they are not affected by runoff from our property. In fact, we have allowed a downspout from their property to come onto our property and drain down our driveway into Belfield Road.

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

We do not believe that the character of the zoning district would be changed by the granting of this variance by the BZA. As stated above, we are at the bottom of the Belle Haven hill and our run off is not affecting any other properties in our neighborhood. By allowing the additional 7% of impervious material to stay in place, the character of our district should not be changed.

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.

We believe that the granting of the variance by the BZA is taking into account the intended spirit and purpose of this Ordinance.



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: October 24, 2011

SHERIFF'S LETTER

CASE #: 201107283 **SR#:** 77395

SERVE: Robert F. Baldwin, Jr.
Anne G. Baldwin
1901 Belfield Road
Alexandria, VA 22307

LOCATION OF VIOLATION 1901 Belfield Road
Alexandria, VA 22307-1109
Tax Map #: 83-4 ((3)) (2) 11
Zoning District: R-4

Dear Property Owners:

An inspection of the above referenced property on October 19, 2011, revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of a 6'1"-6'4" tall accessory fence in the front yard of this property which is less than two (2) acres in area. The Fairfax County Zoning Ordinance permits accessory fences in the front yard so long as they are in conformance with Par. 3B of Sect. 10-104 of the Zoning Ordinance which states:

Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

- A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

- (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
- (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

Therefore, as this accessory fence exceeds four feet (4') in height in the front yard contrary to the provisions of Par. 3B of Sect. 10-104 of the Zoning Ordinance, you are in violation of Par. 3B of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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

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

- Removing the fence from the property in its entirety; or
- Reducing the height of the fence to four feet (4') in the front yard.

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

Robert F. Baldwin, Jr.
Anne G. Baldwin
October 24, 2011
Page 3

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

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1317 or (703)324-1300.

Sincerely,

Nancy Stallings
Code Compliance Investigator



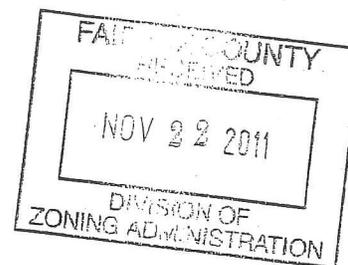
County of Fairfax, Virginia

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

Sent Via Regular Mail and Facsimile 540-743-2422

November 22, 2011

Mr. David L. Chamowitz
Hart, Calley, Gibbs & Karp, P.C.
307 North Washington Street
Alexandria, Virginia 22314-2557



RE: Belle Haven, Section 1, Block 2, Lot 11
1901 Belfield Road
Tax Map Ref.: 83-4 ((3)) (2) 11
Zoning District: R-4

Dear Mr. Chamowitz:

This letter is in response to your November 9, 2011 letter to Eileen M. McLane, Zoning Administrator, in which you requested a vested rights determination under §15.2-2307 of the Code of Virginia for an existing six-foot tall privacy fence located on the referenced property. Included with your letter is a survey plat, several photographs of the fence and three notarized affidavits from the property owners and a neighbor.

Attached to your letter is a plat entitled "Physical Survey, Lot 11, Block 2, Section 1, Belle Haven on the Mt. Vernon Memorial Highway," dated June 17, 1992 and prepared by Curtis L. McAllister, L.S. This plat shows a fence within the side and rear yard and within the front yard along Woodmont Road. In addition, the portion of the fence that is parallel to the house on Woodmont Road side of the property is located within the street right-of-way. Except in limited circumstances, which are not applicable here, fences located in the front yard cannot exceed 6 feet in height.

Under §15.2-2307 of the *Code of Virginia*, if (a) local government has issued a building permit, the structure was constructed in accordance with the building permit, and a certificate of occupancy was issued, or (b) the owner of the building has paid taxes for the structure for more than 15 years, the structure is not illegal and may remain. There is no evidence in the Department of Planning and Zoning files that a building permit was issued for the fence. Furthermore, there is no evidence that the fence has been taxed for at least 15 years. Although the photographs and affidavits may indicate that the fence existed for 15 years, that evidence does not meet either of the 2 criteria listed above that is required for vesting under §15.2-2307. As such, §15.2-2307 is not applicable and the fence is subject to the current requirements.

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/

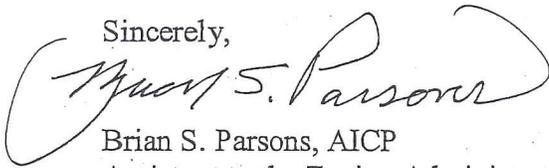


In response, the portion of the fence located in the road right-of-way must be removed from the road right-of-way. In addition, the fence in the front yard must be reduced to no more than 4 feet in height or special permit approval from the Board of Zoning Appeals for an increase in fence height in the front yard up to 6 feet may be obtained.

All special permits require the submission of an application, plat and fee; notification of adjacent property owners and a public hearing before the Board of Zoning Appeals (BZA). Information pertaining to the special permit process is available by contacting the Zoning Evaluation Division at 703- 324-1290.

I understand that this is not the answer you were anticipating. However, if you have questions or need additional information, please contact me at 703-324-1314.

Sincerely,



Brian S. Parsons, AICP
Assistant to the Zoning Administrator

cc: Robert F. and Anne G. Baldwin; 1901 Belfield Rd., Alexandria, VA 22307
Gerald W. Hyland, Supervisor, Mount Vernon District
Eileen M. McLane, Zoning Administrator
Lorrie Kirst, Deputy Zoning Administrator for Ordinance Administration Branch
✓ Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Nancy Stallings, Investigator, Department of Code Compliance

O: bparso\Use Determinations\1901 Belfield Road Fence.doc



County of Fairfax, Virginia

MEMORANDUM

DATE: August 3, 2012

TO: Kevin Guinaw, Branch Chief
Special Projects and Applications Management Branch, ZED

FROM: *LK* Lorrie Kirst
Deputy Zoning Administrator
for Ordinance Administration Branch

SUBJECT: Vested Rights Determination – Dwelling and Shed
Submitted Special Permit Application SP 2012-0076
Belle Haven, Section 1, Block 2, Lot 11
1901 Belfield Road
Tax Map Ref: 83-4 ((3)) (2) 11
Zoning District: R-4

On March 23, 2012 special permit application (SP 2012-0076) was submitted to ZED to allow a fence greater than four feet in height in the front yard on the referenced property. The submitted special permit plat shows that the existing house is located 14.3 feet from the front lot line along Woodmont Road, and a minimum front yard of 30 feet is required in the R-4 District. As such, the dwelling does not meet the current minimum front yard requirement. In addition, the plat shows a 6 ½ foot tall shed in the minimum required front yard. Sheds less than 8 ½ feet in height cannot be located in the front yard on a lot less than 36,000 square feet in size, but may be located in any side or rear yard. Therefore, the shed does not meet the accessory structure front yard locational requirements.

Under Section 15.2-2307 of the *Code of Virginia*, if (a) a local government has issued a building permit, the structure was constructed in accordance with the building permit, and a certificate of occupancy was issued, or (b) the owner of the building has paid taxes for the structure for more than 15 years the structure is not illegal and may remain. Department of Tax Administration (DTA) records show that taxes have been paid on the house in its current size and configuration for at least 15 years. As such, Section 15.2-2307 is applicable for the house and the dwelling may remain. However, the dwelling cannot be replaced or enlarged unless the replacement or expansion complies with all applicable zoning regulations. Concerning the shed, there is no evidence in our files that a building permit has been obtained for the shed. Furthermore there is no evidence in the DTA records that the shed has been taxed for at least 15 years. As such, Section 15.2-2307 is not applicable for the shed and the shed must either be removed/relocated to meet the above location requirements, or special permit or variance approval is required.

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz



Kevin Guinaw
August 3, 2012
Page 2

cc: Eileen McLane, Zoning Administrator
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Nancy Stallings, Code Compliance Investigator, DCC
Virginia Ruffner, Applications Acceptance, Zoning Evaluation Division, DPZ ✓
Robert F. and Anne G. Baldwin; 1901 Belfield Road; Alexandria, VA 22307 (property
owners)

Similar Case History

Group: 95-V -107**VC 95-V -107**

APPLICANT: FAY, MR. & MRS. R. C.
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 12/13/1995
ZONING DISTRICT: R-4
DESCRIPTION: PERMIT CONSTRUCTION OF ACCESSORY STRUCTURE 6.7 FT. FROM REAR LOT LINE AND TO COVER MORE THAN 30% OF THE MINIMUM REQUIRED REAR YARD
LOCATION: 6108 FORT HUNT ROAD
TAX MAP #S:
0834 03070007

Group: 2003-MV-018**SP 2003-MV-018**

APPLICANT: MARVIN & MARGARET BUSH
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 08/06/2003
ZONING DISTRICT: R-4
DESCRIPTION: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT PATIO AND ACCESSORY STRUCTURE TO REMAIN 0.2 FEET FROM SIDE LOT LINE
LOCATION: 6202 FORT HUNT ROAD
TAX MAP #S:
0834 03080003



COMMONWEALTH of VIRGINIA
DEPARTMENT OF TRANSPORTATION

GREGORY A. WHIRLEY
COMMISSIONER

4975 Alliance Drive
Fairfax, VA 22030

August 22, 2013

To: Ms. Barbara Berlin
Director, Zoning Evaluation Division

From: Paul J. Kraucunas, P.E.
Land Development Program Manager

Subject: SP 2013-MV-059, VC 2013-MV-012
Robert F. Baldwin, Jr and Anne G. Baldwin
Tax Map #83-4-003-02-0011

I have reviewed the subject application received on August 21, 2013 and provide the following comments.

1. The plat provided with this application indicates that the existing fence along Woodmont Road has been inappropriately constructed within the VDOT ROW. The fence needs to be removed or a permit, perpetual maintenance agreement and bond must be submitted to VDOT's Fairfax Permits Office for review and approval.
2. If allowed to remain, the gate along this fence MUST swing inward so as to not conflict with pedestrian walking along the sidewalk.

Please contact me if you have any questions.

Sincerely,

Paul J. Kraucunas

Paul J. Kraucunas
Land Development Program Manager

cc: Ms. Susan C. Langdon, ZED
Ms. Angela Rodeheaver, FCDOT
Mr. Michael Davis, FCDOT

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

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

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.

- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.

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.