



APPLICATION ACCEPTED: August 19, 2013
DATE OF PUBLIC HEARING: December 11, 2013*
*Moved at the applicant's request
TIME: 9:00 a.m.

County of Fairfax, Virginia

December 4, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-LE-064

LEE DISTRICT

APPLICANT/OWNER: Gary L. Lyles

LOCATION: 7016 Forest View Dr., Springfield, 22150

SUBDIVISION: Beverly Forest

TAX MAP: 90-4 ((04)) 16

LOT SIZE: 27,092 square feet

ZONING: R-1

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 2.4 ft. from side lot line.

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 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.

O:\rhomert\Special Permits\Lyles error\Staff Report Lyles (error).docx

Rebecca Homer

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

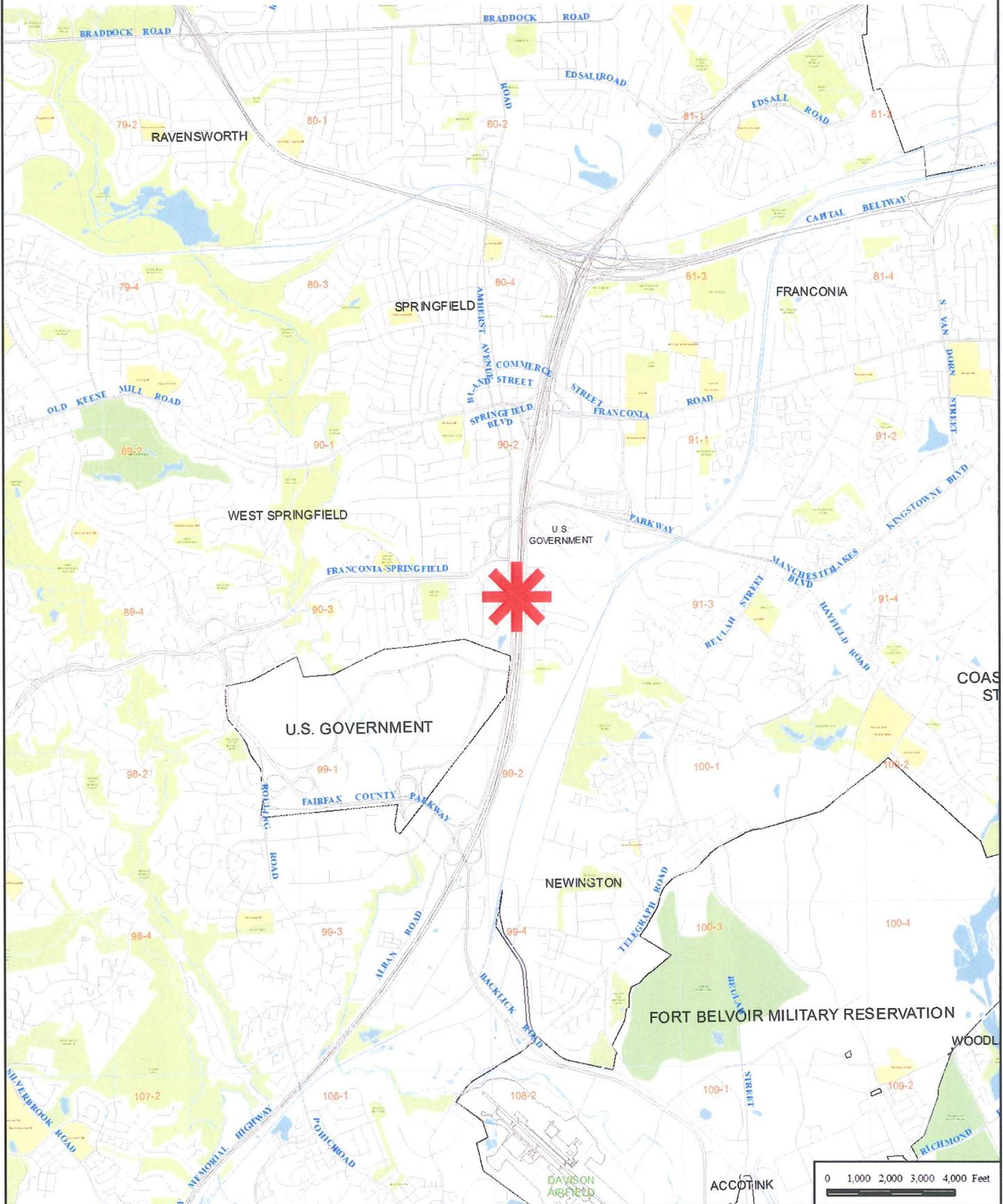


For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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

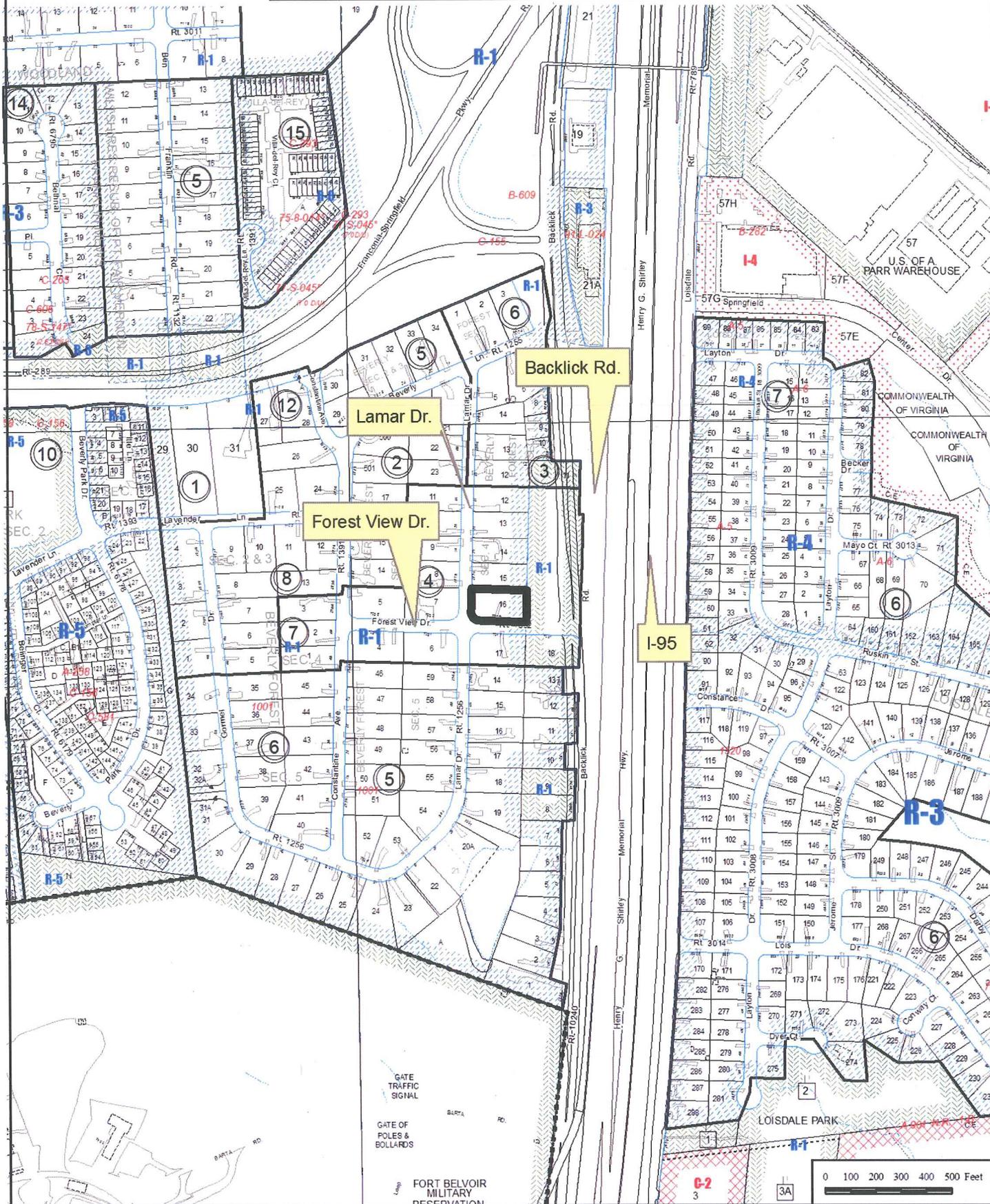
Special Permit
SP 2013-LE-064
GARY L. LYLES



Special Permit

SP 2013-LE-064

GARY L. LYLES



SETBACK TABLE
ZONED R1

SETBACK REQUIREMENTS	
YARD	SETBACK
FRONT	40'
REAR	25'
SIDE	20'

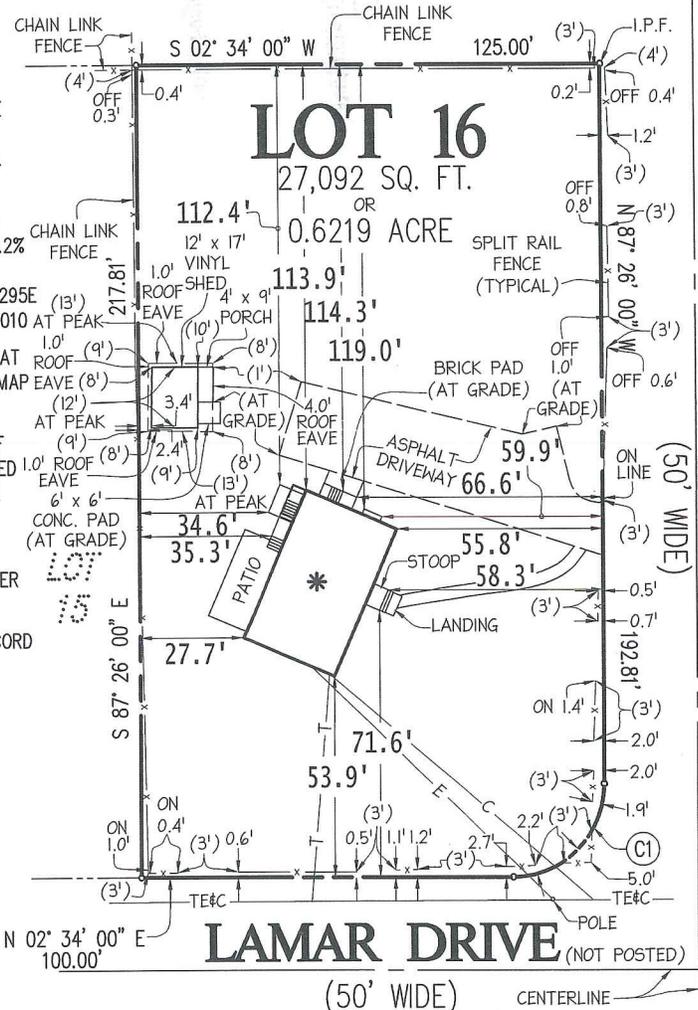
LEGEND:

- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- T,E&C- DENOTES OVERHEAD TELEPHONE, ELECTRIC, AND CABLE LINES
- (1')

BACKLICK ROAD 1 STORY
ROUTE 617 *DWELLING
(VARIABLE WIDTH) # 7016
(SEE DETAIL)

NOTES:

- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- 2) THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON F.E.M.A. MAP# 51059C0295E EFFECTIVE DATE: SEPTEMBER 17, 2010 AT PEAK
- 3) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 90-4-04-0016
- 4) EASEMENTS, B.R.L.S & MERIDIAN, IF SHOWN HEREON, ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 1247, PAGE 268 (UNLESS NOTED OTHERWISE).
- 5) PROPERTY SERVED BY PUBLIC WATER AND SEWER.
- 6) NO BURIAL SITES ON LOT PER RECORD PLAT.
- 7) NO EXISTING UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE FEET OR MORE PER RECORD PLAT.

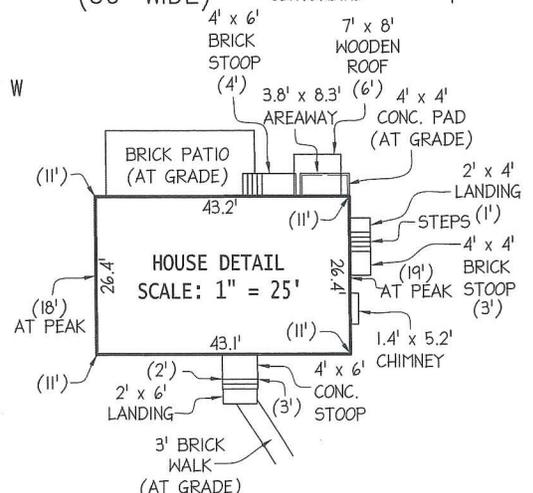


FOREST VIEW DRIVE



SPECIAL PERMIT PLAT
LOT 16
SECTION 4
BEVERLY FOREST
LEE DISTRICT
FAIRFAX COUNTY, VIRGINIA

(C1) RAD: 25.00'
ARC: 39.27'
CH: N 42° 26' 00" W
35.36'



B.W. SMITH AND ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYING
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996

FIELD CREW: D. CONRAD

JOB# 20122710

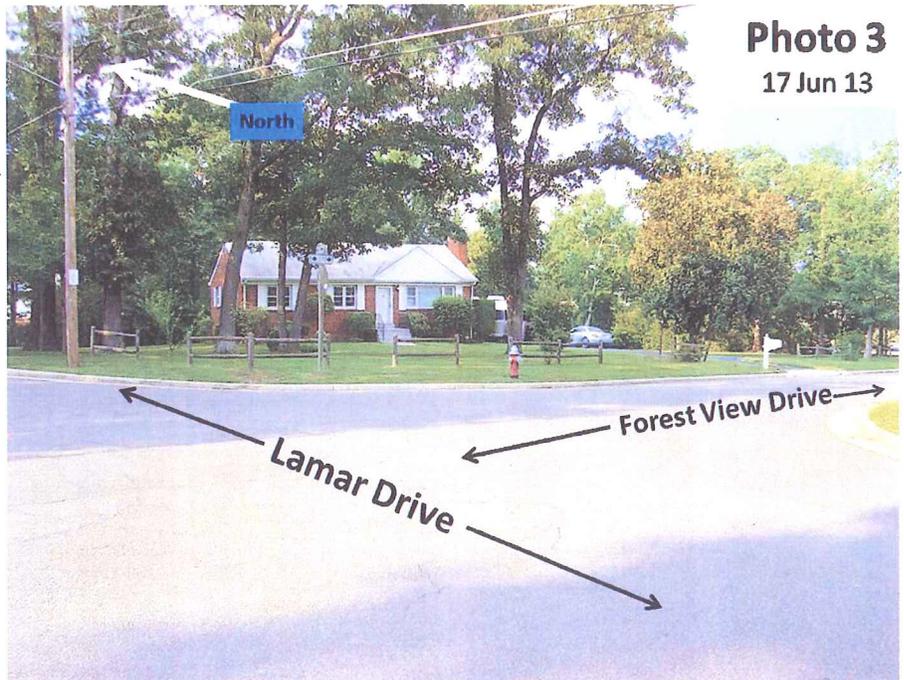
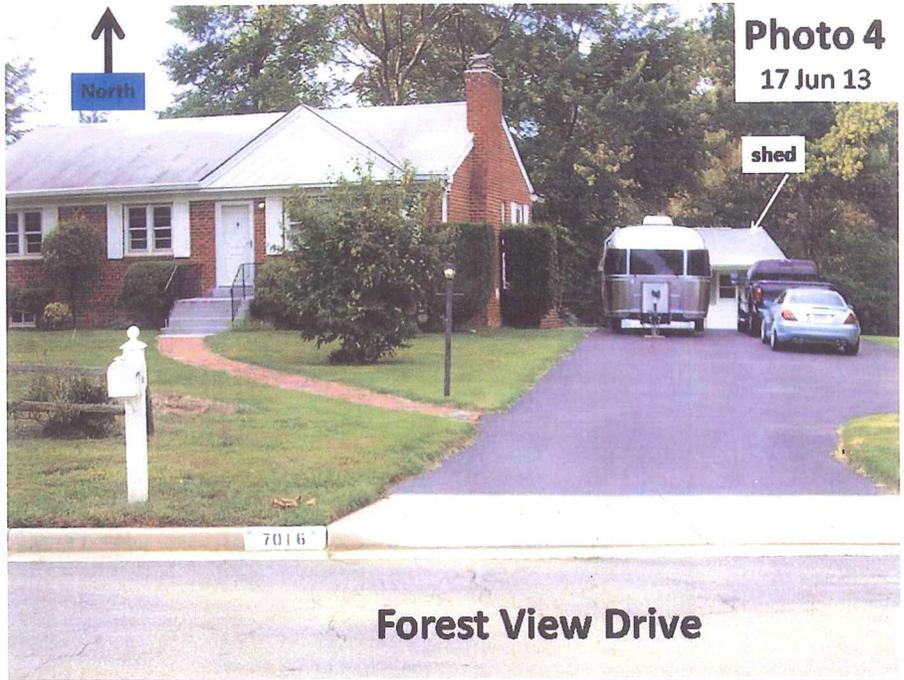
DFT: M.K.S.

CHK: T.J.F.

NO TITLE REPORT FURNISHED

SCALE= 1" = 40'

DATE: 9/20/12



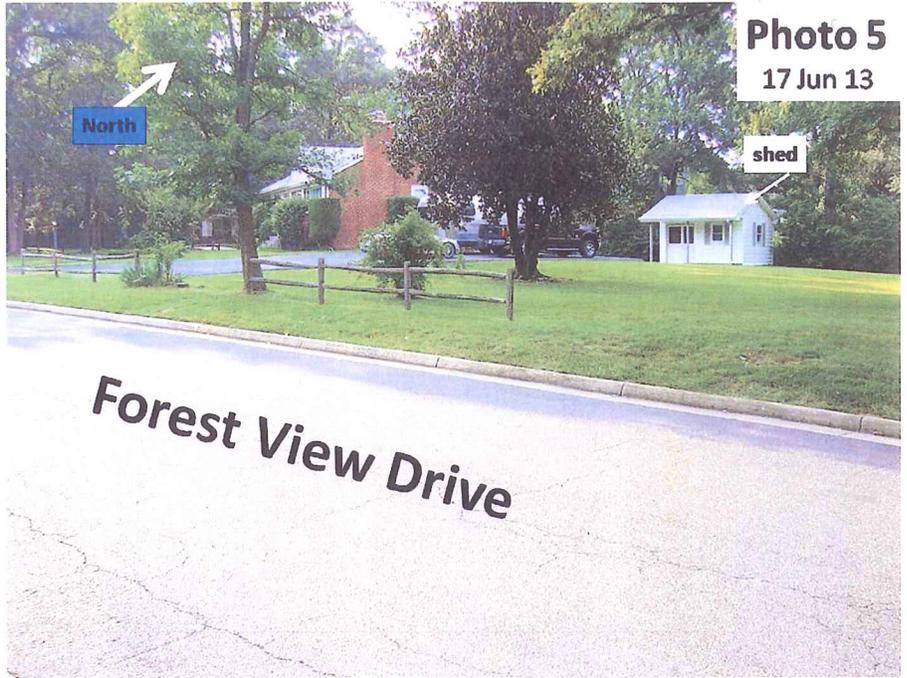


Photo 5
17 Jun 13

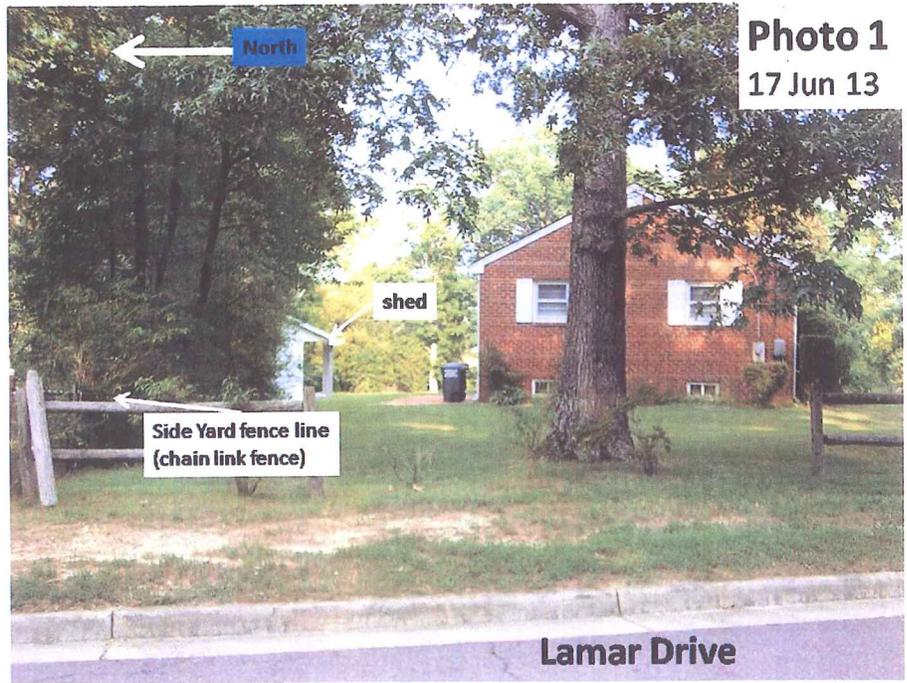


Photo 1
17 Jun 13

Turn over for location on map

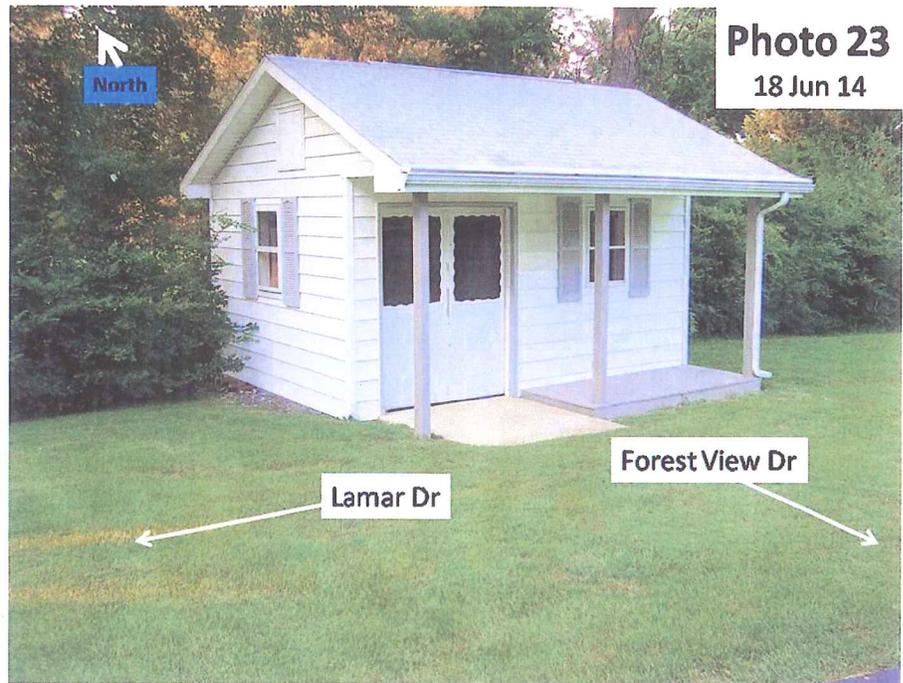




Photo 26
18 Jun 14



Photo 7
17 Jun 13

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for a reduction to minimum yard requirements based on an error in building location to permit a nine foot tall accessory storage structure (shed) to remain 2.4 feet from the side lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Accessory Storage Structure	Side	20.0 feet	2.4 feet	17.6 feet	88%

*Location requirements per Section 10-104.

A copy of the special permit plat depicting the structures on site, titled "Special Permit Plat, Lot 16, Section 4, Beverly Forest" prepared by B.W. Smith and Associates, Inc., dated September 20, 2012, is included at the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 27,092 square foot lot is developed with a one-story brick single family detached dwelling constructed in 1955. The lot has frontage on Lamar Drive and Forest View Drive. The lot backs onto Backlick Road right-of-way. A concrete patio and roofed deck extend off the rear of the dwelling.

A 12 foot by 17 foot accessory storage structure is located northeast of the dwelling within the side yard located 2.4 feet from the side lot line. A 3.0 foot tall split rail fence extends along all property lines.

A concrete driveway provides access to the lot from Forest View Drive. A brick-paver walkway extends from the front of the house to the driveway. The property has a manicured lawn with mature trees and shrubs.

The image on the following page illustrates the general character of the surrounding area, which is developed with the Beverly Forest Subdivision, zoned R-1. All surrounding lots contain single family detached dwelling and lot sizes are consistent throughout the neighborhood.



BACKGROUND

According to Fairfax County Tax Records the applicant purchased the property in 2009. The applicant indicates the shed was constructed by the previous owner. Neighbors recounted to the applicant that the shed was constructed in the 1990's. There is no size limitation for sheds in the R-A through R-1 Zoning Districts.

A copy of information outlining similar special permit requests in the area is attached in Appendix 4.

ZONING ORDINANCE REQUIREMENTS

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit 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 of this report, Proposed Development Conditions.

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Similar Case History
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2013-LE-064

December 4, 2013

1. This special permit is approved for the location of the shed as shown on the plat prepared by B.W. Smith and Associates, Inc., dated September 20, 2012 as submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the shed within 180 days of approval of this application.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13
(enter date affidavit is notarized)

I, Gary Lee Lyles, 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

121893

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)
Gary L. Lyles	7016 Forest View Dr. Springfield, VA 22150	Owner

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13
(enter date affidavit is notarized)

121893

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)

NONE

DESCRIPTION OF CORPORATION: (check one statement) N/A

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13 121893
(enter date affidavit is notarized)

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)

NONE

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13
(enter date affidavit is notarized)

121893

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:
NONE

^{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): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13
(enter date affidavit is notarized)

121893

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

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

NONE

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

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[Signature]

Applicant

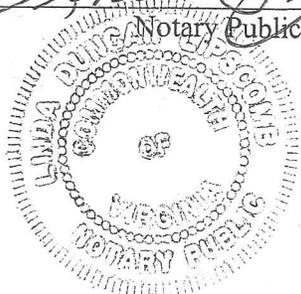
Applicant's Authorized Agent

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

Subscribed and sworn to before me this 18th day of July, 2013, in the State/Comm. of Virginia, County/City of Fairfax.

Linda D. Lipscomb
Notary Public #369140

My commission expires: 30 Nov. 2017



JUL 18 2013

Zoning Evaluation Division

SPECIAL PERMIT STATEMENT OF JUSTIFICATION

The proposed use of the building structure is to store household items such as lawn equipment, tools, cleaning equipment, etc. for personal homeowner's use.

- A. **Type of Operation:** No commercial operation will be conducted. Storage shed is for homeowner's personal use to store household items necessary to maintain the primary structure, storage shed, and yard of the property.
- B. **Hours of Operation:** N/A. No commercial operation or use will occur.
- C. **Estimated number of patrons/clients/patients/pupils/etc:** None
- D. **Proposed number of employees/attendants/teachers/etc:** None. Structure is for homeowner's use to store household items.
- E. **Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day:** No public traffic will be impacted. Storage shed is self-contained upon property owner's land.
- F. **Vicinity or general area to be served by the use:** The area that storage shed use shall serve is restricted to lot on which the building sits.
- G. **Description of building façade and architecture of proposed new building or additions:** Building is stick frame on concrete slab foundation. Exterior façade is white vinyl siding with porch. There is no proposed new building or addition to existing structure.
- H. **Listing of all hazardous substances:** There are no hazardous substances to be stored in building other than gasoline (for lawn equipment), household cleaning products (i.e. power washer detergent, automobile cleaning supplies), and insect repellent. There will be no hazardous waste products destroyed and disposed of on site. Gasoline storage will be contained in a single 5 gallon, gasoline approved container. Household cleaning products and insecticides will be stored in the original commercial containers.
- I. **Waiver/Exception/Variance sought:** The storage building was constructed by the previous home owner in the early 1990's according to other neighbors that I, Gary Lyles, interviewed. Therefore, when I purchased the home in the early spring of 2009, the building had been in existence for well over 15 years. The previous owner apparently did not apply or receive a permit from the County of Fairfax prior to constructing the structure. The existing structure is subject to location requirements under Article 10 of the Zoning Ordinance. The shed does not meet the minimum required side yard requirements of the R-1 District, which requires structure to be 20 feet from the side property line. This is due to the height of the structure exceeding 8.5 feet. The structure is 3 feet from the side property line. The purpose of this request for special permit, is due to this violation.



Gary L. Lyles

Similar Case History

Group: 2004-LE-051

SP 2004-LE-051

APPLICANT:	JAMES NAPIER
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	07/31/2007
ZONING DISTRICT:	R-1
TAX MAP #S:	0904-04
DESCRIPTION:	REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 8.0 FEET FROM SIDE LOT LINE.
LOCATION:	7124 LAMAR DRIVE

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.