APPLICATION ACCEPTED: September 19, 2013
BOARD OF ZONING APPEALS: December 18, 2013
TIME: 9:00 a.m.

County of Fairfax, Virginia

December 11, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-BR-077

BRADDOCK DISTRICT

APPLICANT:	Kirsten H. Lukas
OWNERS:	Paul A. Lukas Kirsten H. Lukas
SUBDIVISION:	Wakefield Forest
STREET ADDRESS:	8704 Norfolk Ave, Annandale, 22003
TAX MAP REFERENCE:	59-3 ((10)) 112
LOT SIZE:	22,195 square feet (recorded) 22,911 (computed)
ZONING DISTRICT:	R-1
ZONING ORDINANCE PROVISIONS:	8-301 and 8-914
SPECIAL PERMIT PROPOSAL:	To permit a home child care facility and reduction in minimum yard requirement based on errors in building locations to permit accessory storage structure to remain 4.8 ft. from side lot line and accessory structures to remain 15.5 ft. with open deck 8.7 ft. and 6.0 ft. with open deck 3.6 ft. from side lot lines.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-BR-077 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

O:\rhomer\Special Permits\Lukas HCC and error\Staff Report Lukas Home Daycare.doc *Rebecca Homer*

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

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

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

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

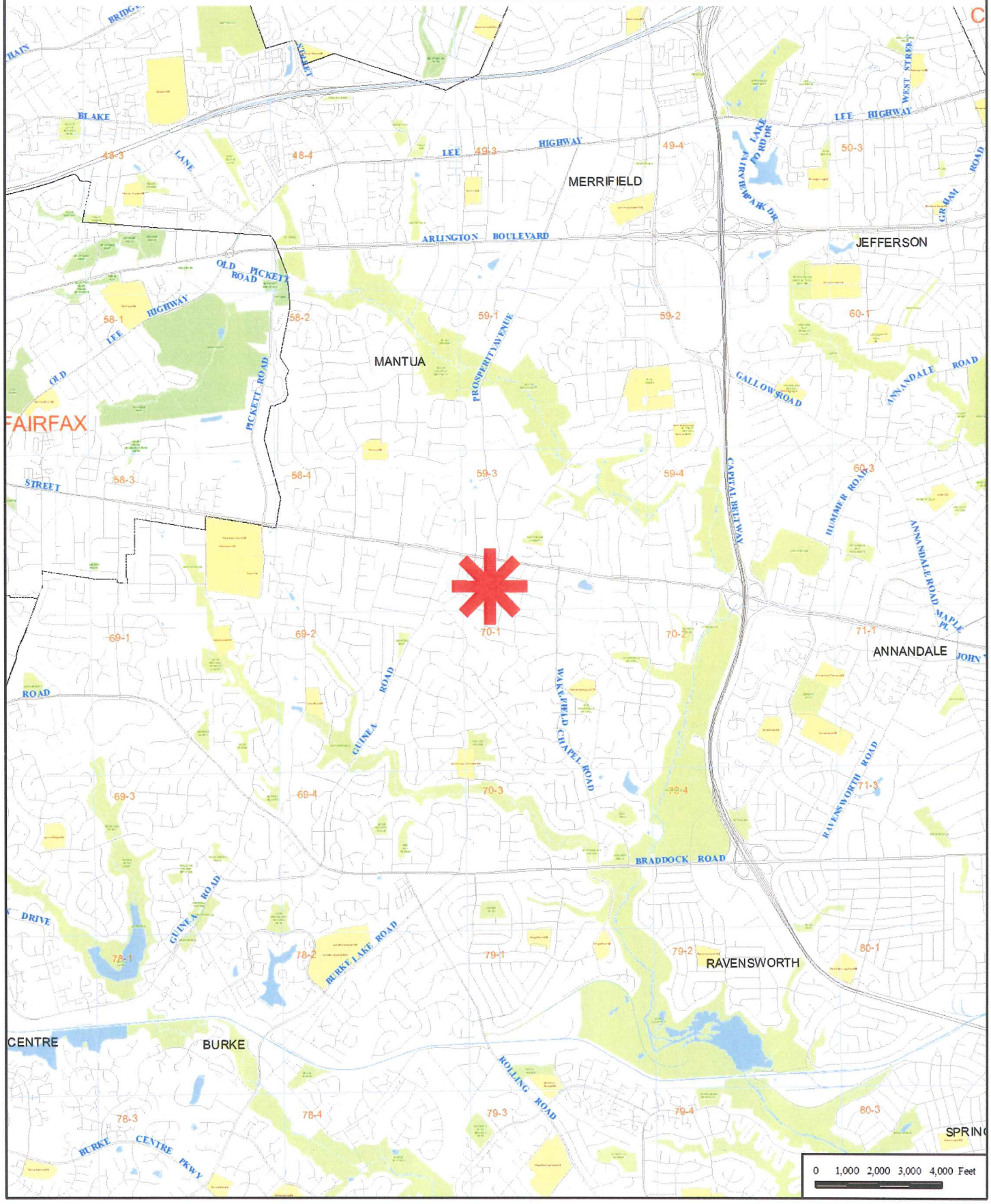
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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

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

Special Permit

SP 2013-BR-077

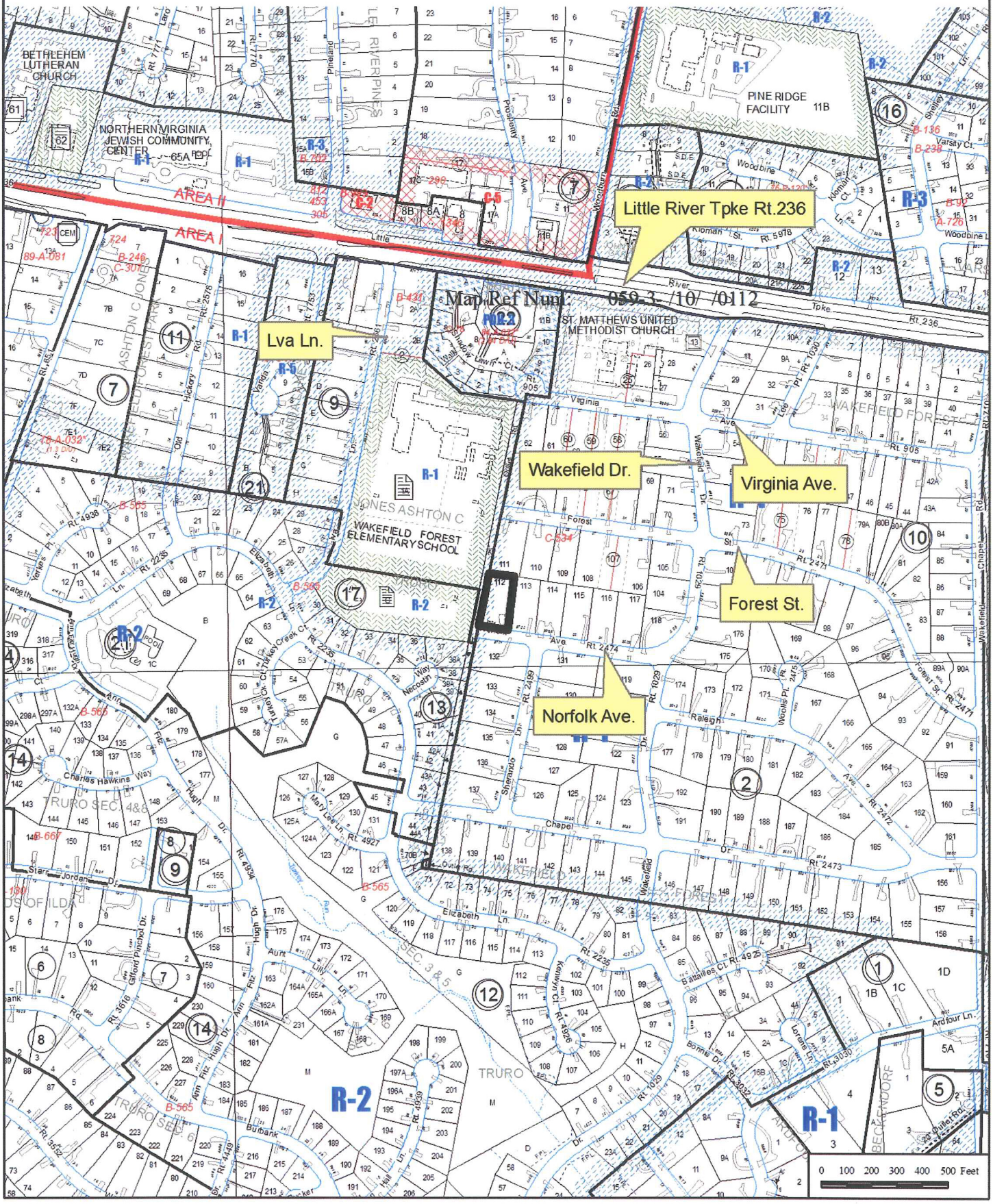
KIRSTEN H. LUKAS

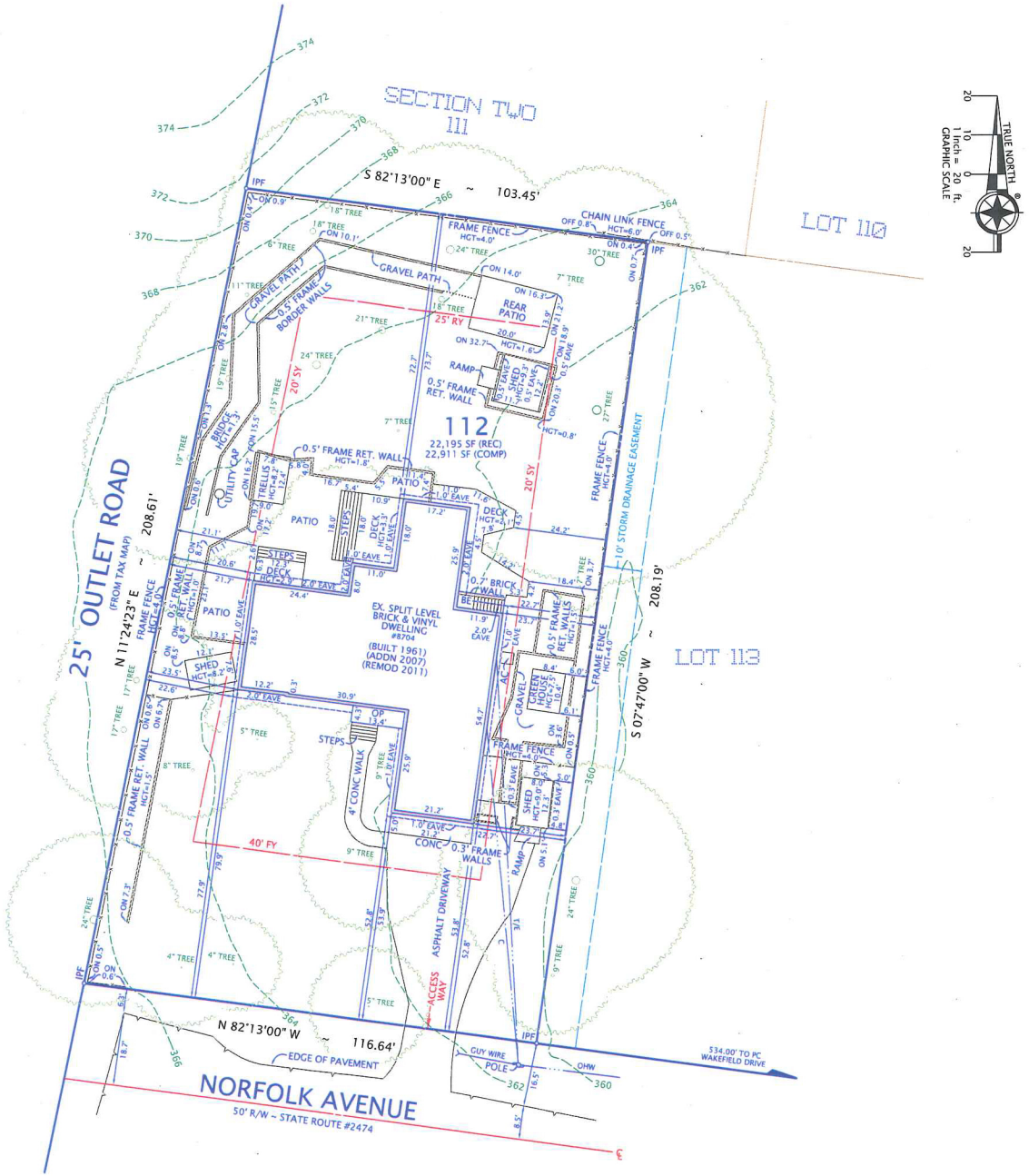


Special Permit

SP 2013-BR-077

KIRSTEN H. LUKAS





NOTES:

1. TAX MAP: 59-3-10-0112
2. ZONE: R-1 (RESIDENTIAL 1 DU/AC)
3. LOT AREA: 22,195 SF (REC) (0.5095 ACRE)
   22,911 SF (COMP) (0.5260 ACRE)
4. REQUIRED YARDS:

FRONT:	=	40.0 FEET
SIDE:	=	20.0 FEET
REAR:	=	25.0 FEET

5. HEIGHTS:

DWELLING	=	14.9 FEET
SHEDS	=	AS NOTED
OP	=	09.6
DECKS	=	AS NOTED
FENCES, ETC.	=	AS NOTED

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS:

BASEMENT	=	611 SF
FIRST FLOOR	=	2,927 SF
GROSS FLOOR AREA	=	3,538 SF

FLOOR AREA RATIO: GFA (3538) / LOT AREA (22911) = 0.15

13. MIN. REQUIRED 25' REAR YARD: 2,606 SQUARE FEET
    IMPERVIOUS COVERAGE: 573 SQUARE FEET
    (PART OF GRAVEL PATH, PART OF REAR PATIO)
    IMPERVIOUS COVERAGE CALC: 573 / 2606 = **0.22**

PLAT

SHOWING THE IMPROVEMENTS ON

LOT 112, SECTION THREE

WAKEFIELD FOREST

(DEED BOOK 1055, PAGE 224)

FAIRFAX COUNTY, VIRGINIA

BRADDOCK DISTRICT

SCALE: 1" = 20'

AUGUST 22, 2013
SEPTEMBER 03, 2013 (REV)
SEPTEMBER 10, 2013 (REV)
SEPTEMBER 11, 2013 (REV)
OCTOBER 28, 2013 (REV)

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
08/22/2013
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR

George M. O'Quinn

CASE NAME:

PAUL A. LUKAS
AND
KIRSTEN D. HILLGAARD LUKAS

DOMINION Surveyors Inc.®
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
FAX: 703-799-6412

#130809010

#90-13

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Lukas Basement floorplan 8704 Norfolk Ave. Annandale, VA

Figure 8 Southeast corner view north (3/7/13)

Figure 12 Northeast corner view south (3/7/13)

Figure 10 Eastern property line view to house (3/7/13)

Figure 11 Eastern property line view north (3/7/13)

Figure 1 Northeast corner view west (5/13/13)

Figure 14 Northeast corner view west (5/13/13)

Figure 15 Northwest corner view east (5/13/13)

Figure 16 Northwest corner view to house (3/7/13)

Figure 17 Northwest corner view south (3/7/13)

Figure 1 Western property line view of pergola (3/7/13)

Figure 8 Patio by garden (5/13/13)

Figure 1 Western property line view to house (3/7/13)

Figure 3 View of pergola towards the school property (5/13/13)

Figure 4 View from pergola to school property (5/13/13)

Figure 5 View from school of pergola (5/13/13)

Figure 6 View from school of pergola (5/13/13)

Figure 7 View from school of pergola (5/13/13)

Figure 2 Western property line view of pergola (5/13/13)

Figure 9 View of patio and greenhouse from north (5/13/13)

Figure 9 Eastern property line view south (3/7/13)

Figure 21 Nap room (3/7/13)

Figure 2 Northwest corner view south

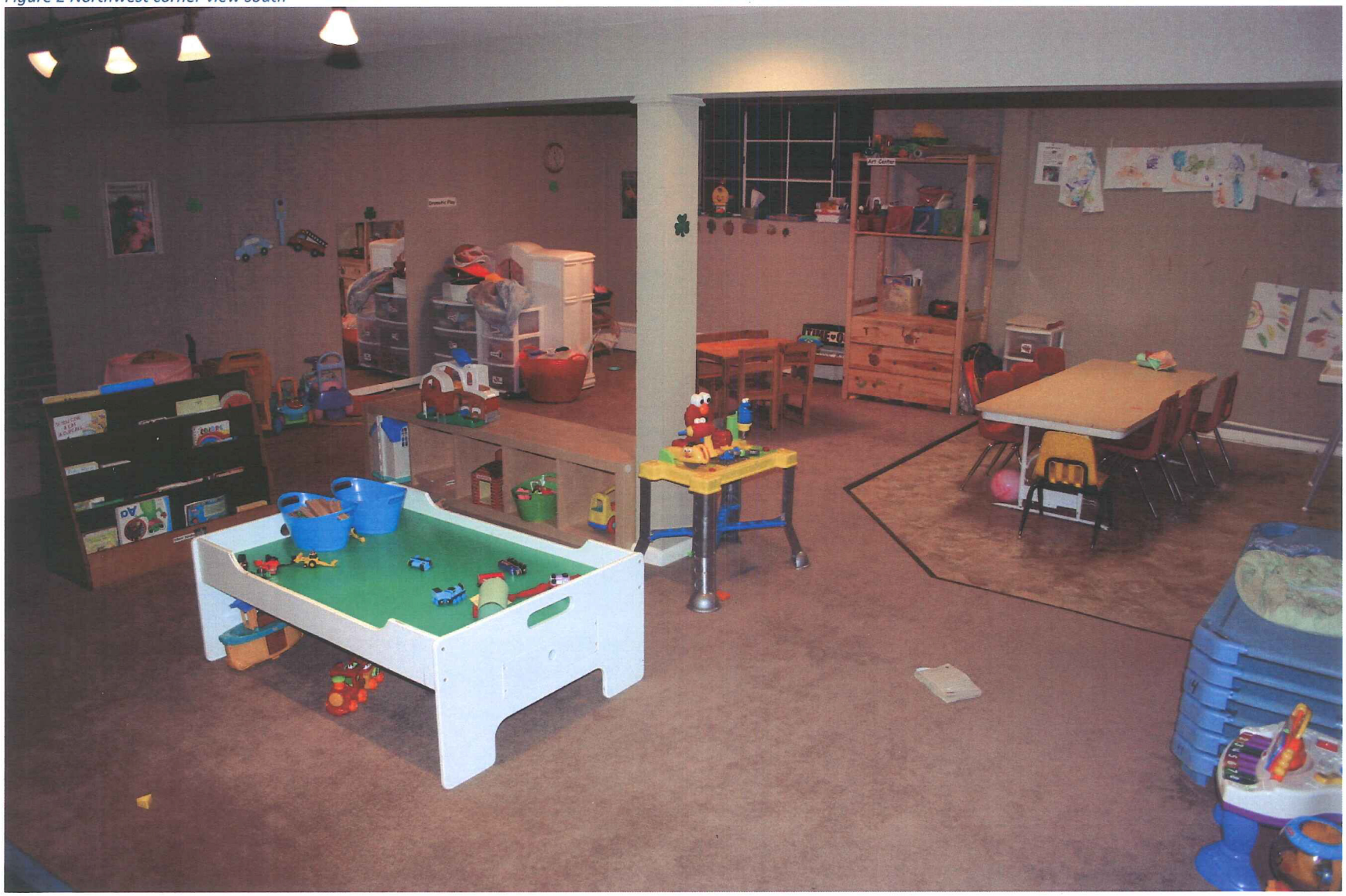


Figure 18 Daycare view 1 (3/7/13)

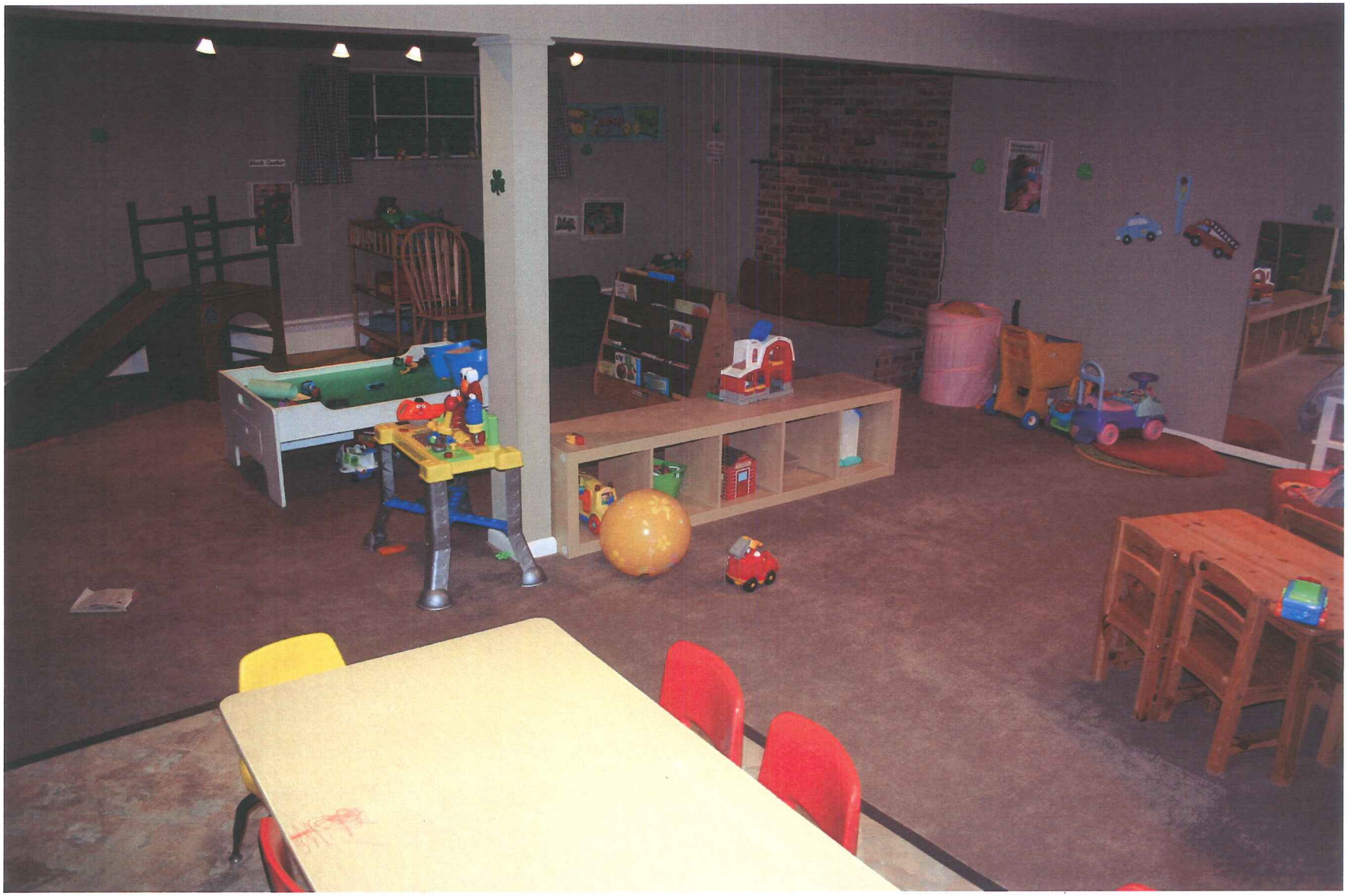


Figure 19 Daycare view 2 (3/7/13)

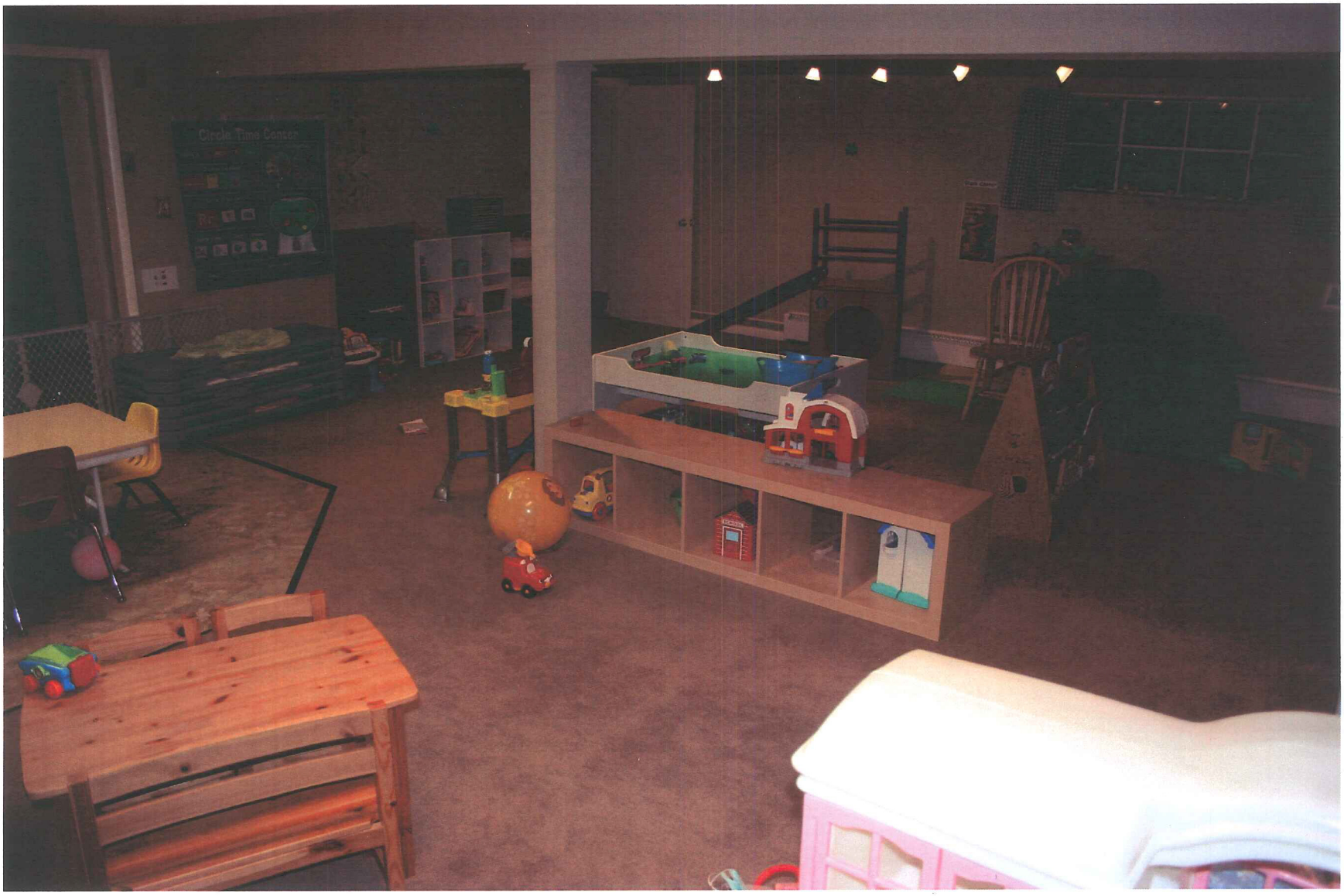


Figure 20 Daycare view 3 (3/7/13)

SPECIAL PERMIT REQUESTS

The applicant requests approval of a special permit is for a home child care facility for 12 children at any one time within an existing dwelling.

The applicant also requests approval of a special permit for errors in building locations to permit an accessory storage structure (shed) to remain 4.8 feet from the eastern side lot line, an accessory structure (trellis) to remain 15.5 feet with associted open deck 8.7 feet from the western side lot line and an accessory structure (greenhouse) to remain 6.0 feet with associated open deck 3.6 feet from the eastern side lot line.

A copy of the special permit plat titled "Plat, Showing the Improvements on, Lot 112, Section 3" prepared by Dominion Surveyors, Inc., dated August 22, 2013, as revised through October 28, 2013, signed by George M. O'Quinn, Land Surveyor, is included at the front of the staff report.

A detailed discussion of the request is included on page two and three.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 22,195 square foot lot (22,911 square feet computed) is located in the Wakefied Forest subdivision. The lot is zoned R-1 and developed with a one-story single family dwelling consisting of 2,322 square feet of floor area. The dwelling includes an attached garage. An open deck extends off the rear of the dwelling.

A nine-foot tall, 98 square foot, accessory storage structure (shed) is located east of the dwelling, 4.8 feet from the eastern side lot line. An 8.2 foot tall, 92 square foot, accessory storage structure (shed) is located west of the dwelling, 8.5 feet from the western side lot line. A 9.3 foot tall, 143 square foot, accessory storage structure is located north of the dwelling in the rear yard and at least 20 feet from the eastern side lot line.

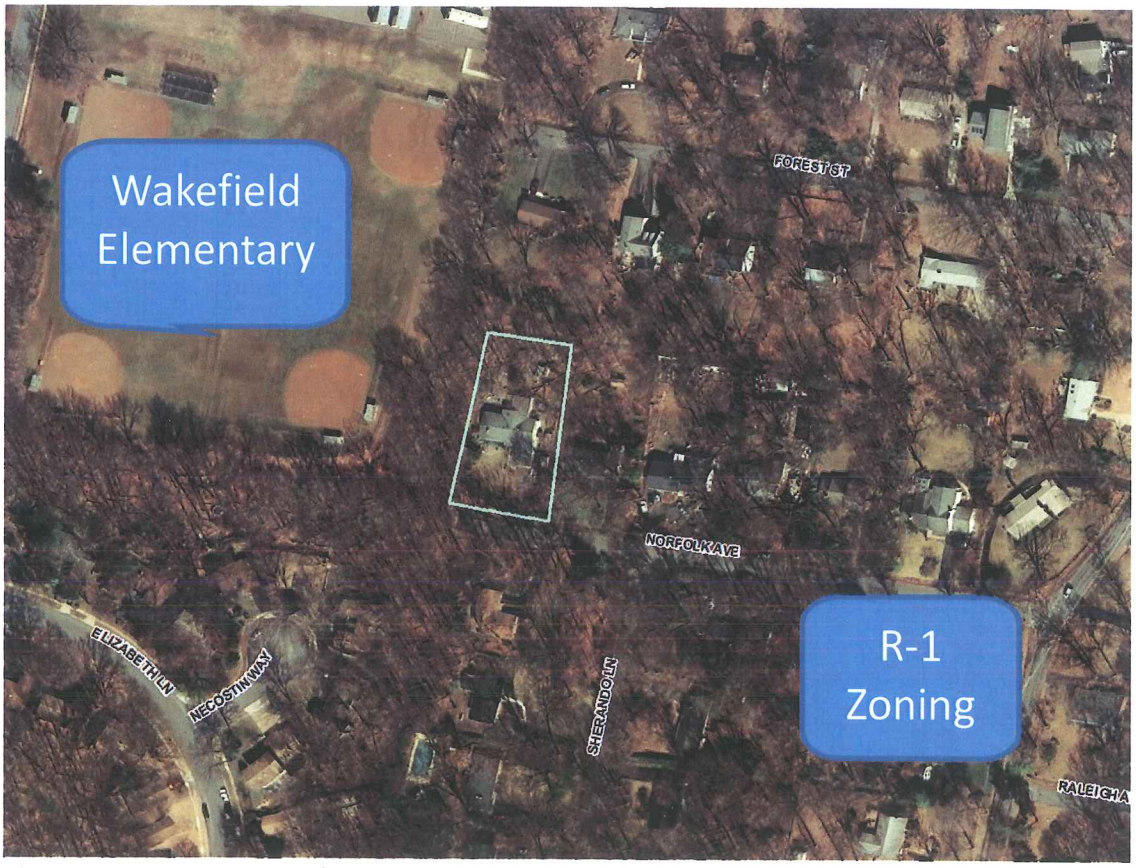
A 7.5 foot tall, 87 square foot, accessory structure (greenhouse) with associated open deck is located east of the dwelling 6.0 feet (greenhouse) and 3.6 feet (open deck) from the eastern side lot line. An 8.2 foot tall accessory structure (trellis) with associated open deck is located northwest of the dwelling 15.5 feet (trellis) and 8.7 feet (open deck) from the western side lot line.

A 278 square foot open deck is located within the rear yard, 14.0 feet from the rear lot line. Gravel paths are located throughout the yard.

Ingress and egress to the site is provided via a driveway accessed from Norfolk Avenue, which is a dead end street. Several mature trees, shrubs and foundation plantings exist throughout the property.

As shown in the picture on the following page, the site is surrounded on the north, east

and south by single family residential, zoned R-1. Wakefield Elementary is located to the west.



BACKGROUND AND HISTORY

County Records show that the dwelling was constructed in 1961. The applicant purchased the property in August 2012. The applicant indicates she operates a home child care facility for seven children. The applicant holds a current license, which is valid until May 7, 2014, from the Commonwealth of Virginia, Department of Social Services for a Family Day Home with a capacity of seven children, aged one month through 12 years 11 months. A portion of the existing home, part of the lower level, was converted into the home child care facility. Kitchen components were added for the preparation of lunch and snacks. The applicant indicates she received a permit for a wet bar. A microwave was later added.

County records reflect that there have been several similar yard reduction cases in the vicinity, a summary of which is included in Appendix 4.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for a home child care facility for up to 12 children, at any one time to operate between the hours of 6:30 a.m. and 6:00 p.m., Monday through Friday. Drop-off of children is to be staggered between 6:30 a.m. and 8:30 a.m. and pick-up between 3:30 p.m. and 6:00 p.m. Employees include the applicant and two assistants.

The home child care facility is operated in a portion of the lower level of the dwelling which includes a nap room, a bathroom, a kitchenette, and a playroom. There is a fenced yard and open deck where the children play outside. Staff noted during the site visit that proper egress was not provided for the sleeping area. Since brought to the attention of the applicant, staff understands she is prepared to install a proper egress.

The existing driveway appears to be able to accommodate at least five vehicles in addition to the space in the enclosed garage. Parents access the child care facility from the rear of the dwelling, which has a walk-up access. During the acceptance process for the home child care facility, staff found several existing errors in building location on the property. The applicant requests special permits for the following:

	Structure	Yard	Min. Yard Req.*	Structure Location	Proposed Reduction	Percent of Reduction
Special Permit #1	**Accessory Structure (Trellis)**	Side	20.0 feet	15.5 feet	4.5 feet	22.5%
Special Permit #2	**Open Deck**	Side	20.0 feet	8.7 feet	11.3 feet	56.5%
Special Permit #3	**Accessory Structure (Green-house)**	Side	20.0 feet	6.0 feet	14.0 feet	70.0%
Special Permit #4	**Open Deck**	Side	20.0 feet	3.6 feet	16.4 feet	82.0%
Special Permit #5	**Accessory Storage Structure (Shed)**	Side	20.0 feet	4.8 feet	15.2 feet	76.0%

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area I, Annandale Planning District
Planning Sector: Wakefield Chapel Community Planning Sector (A-7)
Plan Map: Residential use at 1-2 dwelling units per acre (du/ac)

The Comprehensive Plan language does not dissuade or prohibit home child care facilities in this area.

ZONING ORDINANCE REQUIREMENTS

- General Special Permit Standards (Sect. 8-006)
- Group 3 Uses (Sect. 8-303)
- Additional Standards for Home Child Care Facilities (Sect. 8-305)
- Group 9 Uses (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 the sections of the Zoning Ordinance outlined above, a copy of which is included in Appendix 5. Subject to the development conditions, the special permit must meet these standards.

CONCLUSION AND RECOMMENDATIONS

The applicant worked with neighbors to come up with proposed conditions to alleviate neighbor concerns. The conditions proposed by the applicant, and supported by staff, are included in the proposed development conditions. Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with the adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. Staff recommends approval of SP 2013-BR-077.

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

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

APPENDICES

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

PROPOSED DEVELOPMENT CONDITIONS

December 11, 2013

If it is the intent of the Board of Zoning Appeals to approve SP 2013-BR-077 located at Tax Map 59-3 ((10)) 112 for a home child care facility pursuant to Section 3-303 and to permit a shed, greenhouse, trellis and associated open decks to remain pursuant to Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Kirsten Lukas, only and is not transferable without further action of the Board, and is for the location indicated on the application, 8704 Norfolk Ave., and is not transferable to other land.

2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special permit plat prepared by Dominion Surveyors, Inc., dated August 22, 2013, as revised through October 28, 2013, signed by George M. O'Quinn, Land Surveyor, and approved with this application, as qualified by these development conditions.

3. A copy of this Special Permit **SHALL BE POSTED in a conspicuous place on the property of the use** and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. The maximum hours of operation of the home child care facility shall be limited to 6:30 a.m. to 6:00 p.m., Monday through Friday.

5. The maximum number of children on site at any one time shall be 12, excluding the applicant's own children.

6. All drop-off of children shall take place in the driveway. Pick-up may occur within the driveway or the on-street parking.

7. The dwelling that contains the child care facility shall be the primary residence of the applicant.

8. There shall be no signage associated with the home child care facility.

9. The applicant shall install a new gate, to eliminate noise when used, for parents to access the home child care facility.

10. The applicant shall install evergreen shrubs to create a hedgerow along the fence line abutting the adjacent residential properties to the north and east within six months of approval of this special permit. The evergreen shrubs shall be shade tolerant varieties such as azaleas, holly, or rhododendrons.

11. The applicant shall install foot-lighting, to replace wall lights, along the eastern side of the dwelling along the path for parents to drop-off and pick-up children.

12. The applicant shall install a legal egress, consistent with current building code standards, for the sleeping room in the home child care facility within ninety days of approval.

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

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The number of children shall not be increased above seven until all conditions are met. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

APPENDIX 2

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, Kirsten H. Lukas, 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

121902

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)
Kirsten H. Lukas	8704 Norfolk Ave., Annandale, VA 22003	Self
Paul Lukas	8704 Norfolk Ave., Annandale, VA 22003	Husband

(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)

121902

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.

[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.

[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

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

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

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

Application No.(s): _____

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13

(enter date affidavit is notarized)

121902

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

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

121902

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 7/18/13 12|902
(enter date affidavit is notarized)

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: K Lukas

(check one) [✓] Applicant [ ] Applicant's Authorized Agent

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

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

Robert Wyatt Harrison
Notary Public

My commission expires: 9/30/2013

Robert Wyatt Harrison
Commonwealth of Virginia
Notary Public
Commission No. 7260104
My Commission Expires 09/30/2013

APPENDIX 3

Department of Planning & Zoning

JUL 18 2013

Zoning Evaluation Division

Kirsten Hillgaard Lukas Statement for Special Permit

A. Type of operation: Home Child Care Facility

B. Hours of operation: Monday-Friday 6:30 a.m.-6:00p.m.

C. Estimated number of children and largest number present at one time, excluding the provider's own children: Maximum of 12 children present at one time

D. Proposed number of employees/attendants/teachers/etc.: Since I cater to many high school teachers, who must be at work at 7:00am, I must open at 6:30 a.m. Additionally, I am transitioning to care for before and after school children since I am right next door to an elementary school where the SACC program (before and after school program) has over a one year waiting list. Therefore, I will need two assistants, not including myself, to provide the best care possible.

E. Estimated drop off schedule and largest number of drop offs at any one time: About half of my children's parents are high school teachers, so they will arrive between 6:30 a.m.-7:00a.m. The rest will arrive between 7:00am-8:30am. I will have the children of teachers from the elementary school next door, so these parents will walk to my home from the school parking lot. Departures will occur between 3:30pm-6:00pm. Some parents will be walking from the elementary school next door. I will ensure that both arrivals and departures are staggered.

F. Vicinity or general area to be served by the use: Parents are coming from a variety of places: the elementary school next door, Annandale High School, Robinson High School, and they live in Arlington and Fairfax Counties.

G. Describe the dwelling and how the use will operate within the dwelling, , including square footage dedicated to the home child care facility. Include a floor plan to show how the use fits within the dwelling. Describe the outdoor play areas: My home is a two-level home. My family lives upstairs with minimal use of the basement. The basement, with the exception of the office is used by the day care (approximately 1,300 square feet). The majority of the back yard will be used for the family day home. My backyard has a very natural setting-I am trying to emulate the Nature Playce at Hidden Oaks in Annandale, VA (owned by Fairfax County). There is a gravel track that the children use for tricycles and wagons and to chase each other. There is an earth-toned gingerbread house in the middle of the play area. They like to draw with chalk on the many slate rocks. The mulched area by the shed is used for the sandbox, stepping logs, benches, etc. See CD for photos of day care areas.

RECEIVED
Department of Planning & Zo.
JUN 04 2013
Zoning Evaluation Division

8704 Norfolk Ave.
Annandale, VA 22003

June 3, 2013

Dear Board of Zoning,

I have completed my application for a special permit for home child care facilities, requesting that I may care for 12 children. During the process of completing my application, I learned that there appears to be two or three building location errors that existed when we purchased this home last year. We would like to request that the building errors remain. Further below, the three items are listed, but I would first like to explain overall why I would like these building errors to remain.

1: We purchased this property in good faith and were unaware that the items did not meet zoning regulations. All items listed were here when we purchased the property.
2: We are zoned R-1, which I understand means that there is one house per acre. However, our house is only .5 acres. If we were in fact zoned for .5 acres, these items would be well within the zoning regulations.

The following three structure locations appear to be in error, according to the attached letter from Cathy Belgin, dated April 8, 2013. For each item, I will also try to explain individually why I hope these will be approved.

#1: Pergola (see photos 1-7)
This beautiful, wisteria covered pergola is 15 feet, not 20 feet from the property line. The property closest to this pergola is commercial property (Wakefield Forest Elementary School). There are thick woods and a hill going up to the school, so our pergola can hardly be seen.

#2: Greenhouse (see photo 9)
This greenhouse is used not only for our personal use, but also for the day care. I have spoken to my neighbor that it is closest to and they do not have a problem with it.

#3: Stone patio (see photos 8-9)
There is an easement for storm drainage next to this patio and the stone patio appears to have been placed since nothing can grow there due to the water that often stands over the patio. If the patio was not there, it would just be a muddy mess.

Please grant approval of these errors in building location. If you have any questions, please contact me at 703-851-2919 or khillgaard@hotmail.com.

Sincerely,

K. Lukas

Kirsten Hillgaard Lukas

RECEIVED
Department of Planning & Zoning

SEP 05 2013

Zoning Evaluation Division

Kirsten Hillgaard
8704 Norfolk Ave.
Annandale, VA 22003
Application # SP 2013-0137

8-914, 2

The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved:
   a. The Pergola (trellis), which stands 8.2 ft tall, is about 25% outside the minimum side yard requirement.
   b. The greenhouse, which stands 7.5 ft tall, is 100% outside the minimum side yard requirement.
   c. The front shed (eastern side of property), which stands 9 ft tall, is 100% outside the minimum side yard requirement. The shed is 6" over the height restriction to have met the setback requirements.

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:
   a. We purchased this property in the summer of 2012, in part because of the beautiful outdoor landscaping and storage structures. At the time, we had no idea that any of the existing structures were located outside the minimum required setbacks. The large, landscaped backyard is ideal for a daycare. It was only during the special permitting process that we discovered that the trellis, greenhouse, and shed were in violation of our property's zoning requirements.

C. Such reduction will not impair the purpose and intent of this Ordinance:
   a. The R-1 zoning district provides for single family detached dwellings and tries to maintain the low density nature of the neighborhood.
   b. The pergola is only four posts and trellis top that is supporting a wisteria vine. It is barely visible as a structure and blends well into the wooded nature of the property. It is difficult to see from the wooded trail on the west side of the property that leads to Wakefield Forest Elementary.
   c. The left, front shed blends nicely with the architecture of the house and is aesthetically hidden from the side by woody bushes and small trees.
   d. The greenhouse is in an open area next to the garden and is only visible to our neighbors in Lot 113. They have not indicated that it is a problem for them, and is partially hidden by bushes and shrubs in the drainage easement between the properties.

D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity:
   a. Only the greenhouse is in full view of a neighboring property and they do not mind it.

b. The shed is only visible from the street, and it matches the houses architecture and finish.
c. The pergola is only barely visible from the trail on the west side of the property leading up to Wakefield Forest Elementary. It is hidden by leaves in the summer, and blends with the wooded character of the backyard in the winter.

E. It will not create an unsafe condition with respect to both other property and public streets:
   a. The errors do not create any unsafe conditions.

F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner:
   a. The pergola and sheds are part of the reason we purchased the property. Removing them would eliminate storage space for outdoor toys used by our own children, as well as for the daycare and affect the beauty and character of the backyard.
   b. We have already spent $1,000 on surveyors and $1,100 for application fees, the additional cost of removing the structures would add to the financial burden already incurred.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations
   a. We do not believe that the existence of these structures increases the floor area ratio above 0.15, as specified in the R-1 ordinance.

9/4/13

RECEIVED
Department of Planning & Zoning
NOV 04 2013
Zoning Evaluation Division

Kirsten Hillgaard Lukas Statement for Special Permit

A. Type of operation: Family Day Home

B. Hours of operation: Monday-Friday 6:30 a.m.-6:00p.m.

C. Estimated number of children and largest number present at one time, excluding the provider's own children: Maximum of 12 children present at one time

D. Proposed number of employees/attendants/teachers/etc.: Since I cater to many high school teachers, who must be at work at 7:00am, I must open at 6:30 a.m. Additionally, I am transitioning to care for before and after school children since I am right next door to an elementary school where the SACC program (before and after school program) has over a one year waiting list. Therefore, I will have to have more than one assistant to provide the best care possible.

E. Estimated drop off schedule and largest number of drop offs at any one time: About half of my children's parents are high school teachers, so they will arrive between 6:30 a.m.-7:00a.m. The rest will arrive between 7:00am-8:30am. I will have the children of teachers from the elementary school next door, so these parents will walk to my home from the school parking lot.

F. Vicinity or general area to be served by the use: Indoors, the basement, with the exception of the office, will be used for day care. Outdoors, the majority of the back yard will be used for day care.

G. Describe the dwelling and how the use will operate within the dwelling, including square footage dedicated to the home child care facility. Include a floor plan to show how the use fits within the dwelling. Describe the outdoor play areas: My home is a two-level home. My family lives upstairs with minimal use of the basement. The basement, with the exception of the office is used by the day care (approximately 1,300 square feet). The majority of the back yard will be used for the family day home. My backyard has a very natural setting-I am trying to emulate the Nature Playce at Hidden Oaks in Annandale, VA (owned by Fairfax County). There is a gravel track that the children use for tricycles and wagons and to chase each other. There is an earth-toned gingerbread house in the middle of the play area. They like to draw with chalk on the many slate rocks. The mulched area by the shed is used for the sandbox, stepping logs, benches, etc. See CD for photos of day care areas.

H. A statement of how the proposed use conforms to the General Standards: Since I cater to many high school teachers, their drop off is before many neighbors are on the road. My drop-offs for other parents are spread throughout the day. I have enough parking in my driveway for 6 cars

and enough street parking directly in front of my house for another 6 cars. I am keeping my playground very natural, using as many natural toys, such as logs, rocks, mulch, natural wood sandbox, etc., as well as keeping many bushes and trees to maintain the value of my and my neighbors' property. I do not have any signs up.

I. A statement of how the proposed use conforms to the special standards for home child care facilities.: I have proactively done everything, to the best of my abilities, to ensure that the proposed use conforms to the special standards for home child care facilities.

H. A statement of how the proposed use conforms to the General Standards: Since I cater to many high school teachers, their drop off is before many neighbors are on the road. My drop-offs for other parents are spread throughout the day. I have enough parking in my driveway for 6 cars and enough street parking directly in front of my house for another 6 cars. I am keeping my play ground very natural, using as many natural toys, such as logs, rocks, mulch, natural wood sandbox, etc., as well as keeping many bushes and trees to maintain the value of my and my neighbors' property. I do not have any signs up. There are no known hazardous or toxic substances in reach of children. Chemicals, such as paints, propane, etc. are locked away and out of reach of children.

I. A statement of how the proposed use conforms to the special standards for home child care facilities.: I have proactively done everything, to the best of my abilities, to ensure that the proposed use conforms to the special standards for home child care facilities. There are no known hazardous or toxic substances in reach of children. Chemicals, such as paints, propane, etc. are locked away and out of reach of children.

Similar Case History

Group: 88-A -105

SP 88-A -105

APPLICANT:	RONALD G MILLER
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	03/22/1989
ZONING DISTRICT:	R- 1
DESCRIPTION:	REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO ALLOW 8 FT. HIGH SHED TO REMAIN4.0 FT. FROM SIDE LOT LINE (20 FT. MIN. SIDE YARD REQ.)
LOCATION:	8513 VIRGINIA AVENUE
TAX MAP #S:	

0593 10 0048

Group: 97-M -001

SP 97-M -001

APPLICANT:	EVE R. MILLS AND DAVID E. MILLS
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	04/02/1997
ZONING DISTRICT:	R- 2
DESCRIPTION:	REDUCTION TO MINIMUM YARD REQUIREMENT BASED ON ERROR IN BUILDING LOCATION TO PERMIT DECK TO REMAIN APPROX. 9.4 FT. FROM SIDE LOT LINE
LOCATION:	3732 SPICEWOOD DRIVE
TAX MAP #S:	

0593
0202000384

Group: 99-B -053

VC 99-B -053

APPLICANT:	PAUL NELSON
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	07/14/1999
ZONING DISTRICT:	R- 1
DESCRIPTION:	PERMIT CONSTRUCTION OF ADDITION 9.0 FT. FROM SIDE LOT LINE AND AN ACCESSORY STRUCTURE 10.0 FT. FROM REAR LOT LINE AND 7.0 FT. FROM SIDE LOT LINE
LOCATION:	8602 NORFOLK AVENUE
TAX MAP #S:	

0593 10 0117

Group: 2003-BR-053

SP 2003-BR-053 STAFF REPORT

APPLICANT:	JOSEPH F. CRISP
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	03/17/2004
ZONING DISTRICT:	R- 1
DESCRIPTION:	REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STRUCTURE TO REMAIN 1.7 FEET WITH EAVE 0.6 FEET FROM SIDE LOT LINE
LOCATION:	4107 WAKEFIELD DRIVE
TAX MAP #S:	

0593 10 0175

8-006 General Standards

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

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

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

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

2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305 Additional Standards for Home Child Care Facilities

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

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

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

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

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

   B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.

   C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.

   D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.

5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

8-903 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.