



APPLICATIONS ACCEPTED: October 25, 2013
BOARD OF ZONING APPEALS: January 15, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

January 8, 2014

STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2013-PR-092
CONCURRENT WITH VARIANCE APPLICATION VC 2013-PR-022**

PROVIDENCE DISTRICT

APPLICANTS/OWNERS: Joshua Gary
Kristen Gary

SUBDIVISION: Greenway Downs

STREET ADDRESS: 6940 Cavalier Trail, Falls Church, 22042

TAX MAP REFERENCE: 50-2 ((4)) 53

LOT SIZE: 9,790 square feet

ZONING DISTRICT: R-4, H-C

ZONING ORDINANCE PROVISIONS: 8-922, 8-923 & 18-401

SPECIAL PERMIT PROPOSAL: To permit reduction of certain yard requirements to permit construction of addition 5.0 ft. from side lot line, roofed deck 7.5 ft. from side lot line and 25.5 ft. from front lot line.

SPECIAL PERMIT PROPOSAL: To permit an existing fence greater than 4.0 ft. in height to remain in the front yard.

VARIANCE PROPOSAL: To permit an existing accessory structure to remain in the front yard of a lot containing 36,000 sq. ft. or less.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-PR-092 with adoption of the proposed development conditions contained in Appendix 1.

O:\ehaley\1-15-14\ SP 2013-PR-092 Gary (fence&yard&VC)\Gary Staff Report.doc

Erin M. Haley

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 applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. 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.

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-PR-092

JOSHUA GARY/KRISTEN GARY

Variance Application

VC 2013-PR-022

JOSHUA GARY / KRISTEN GARY



Special Permit

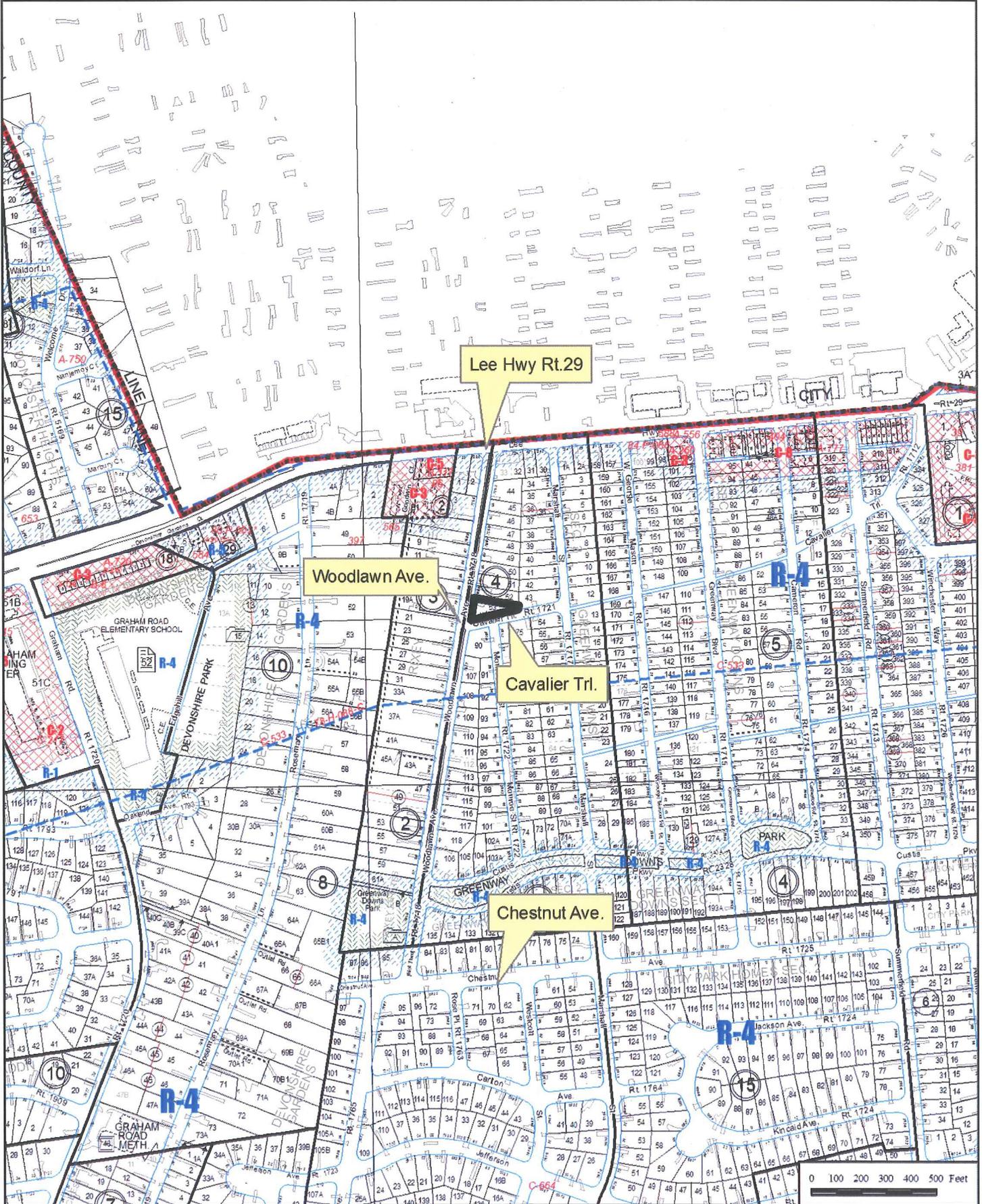
SP 2013-PR-092

JOSHUA GARY/KRISTEN GARY

Variance Application

VC 2013-PR-022

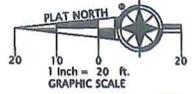
JOSHUA GARY / KRISTEN GARY



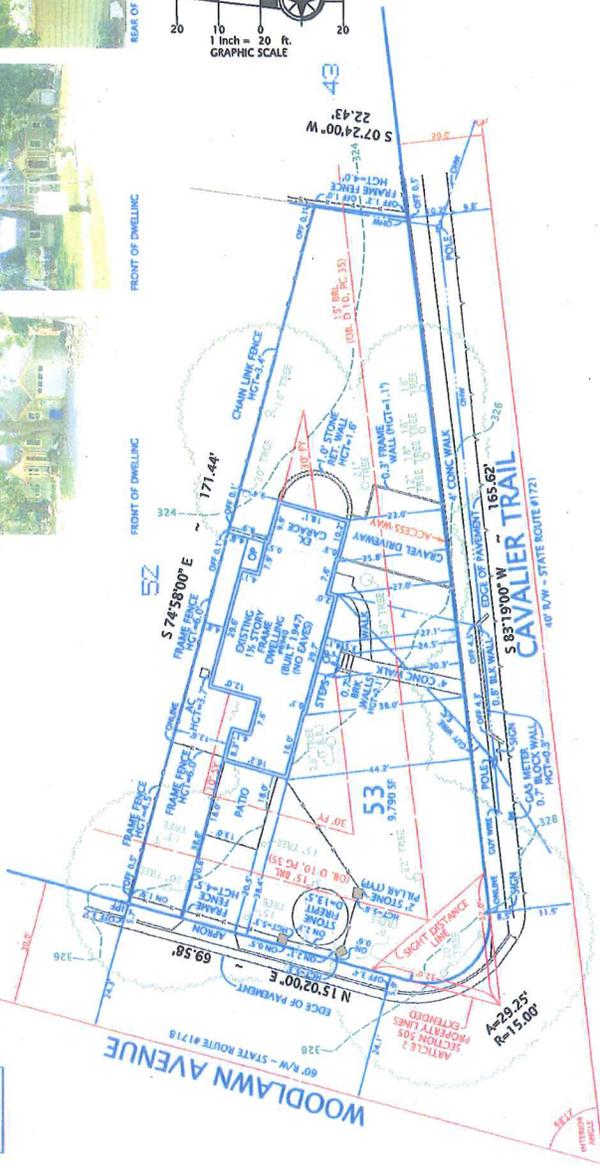
NOTES:

- TAX MAP: 50-2-04-0053
- ZONE: R-4 (RESIDENTIAL 4 DU/AC)
- LOT AREA: 9,790 SF (0.2247 ACRE)
- REQUIRED YARDS: (CORNER LOT)
FRONT: = 30.0 FEET
SIDE: = 10.0 FEET
- HEIGHTS:
EX. DWELLING = 16.0 FEET (MIDLINE OF ROOF)
EX. GARAGE = 11.5 FEET (MIDLINE OF ROOF)
PROPOSED ADDITION = 23.0 FEET (MIDLINE OF ROOF)
EX. FRONT OPEN PORCH = 14.9 FEET (MIDLINE OF ROOF)
PROP. OPEN PORCH = 12.4 FEET (MIDLINE OF ROOF)
FENCES = 13.9 FEET (RIDGELINE OF ROOF)
= 12.7 FEET (MIDLINE OF ROOF)
= AS NOTED
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
- THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
- ALL IMPROVEMENTS SHOWN ON THIS PLAN ARE EXISTING UNLESS DENOTED AS PROPOSED.
- THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
- TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL THIS PROPERTY.
- THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.

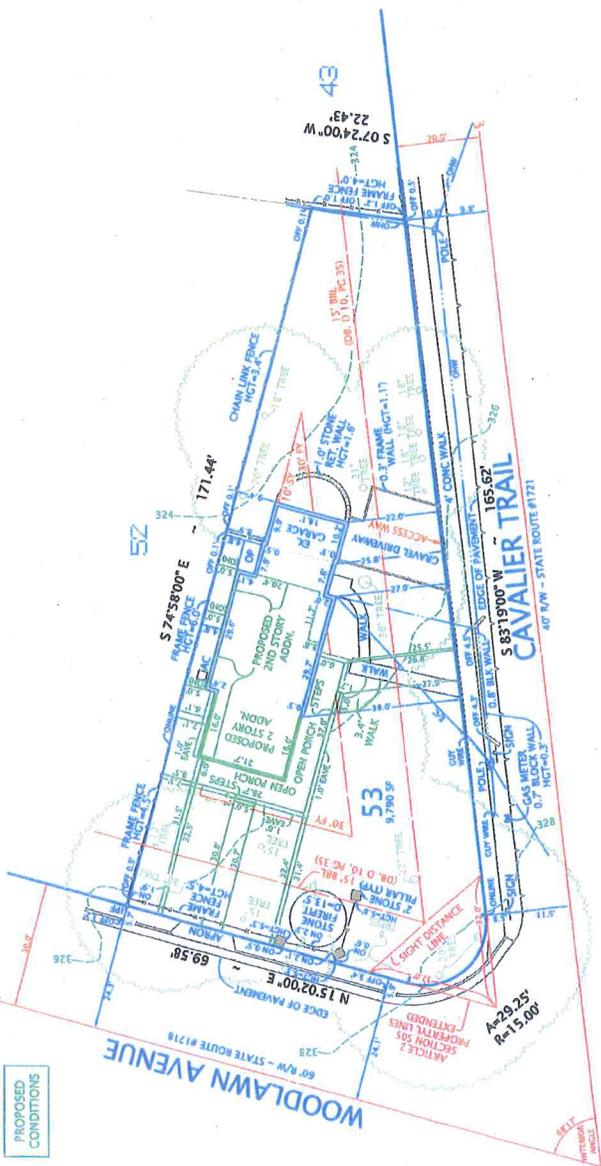
- AREAS:
EX. BASEMENT = 948 SF
EX. FIRST FLOOR = 1,271 SF
EX. GROSS FLOOR AREA = 2,219 SF
- FLOOR AREA RATIO: EX. GFA (2219) / LOT AREA (9790) = 0.23
- PROP. 2 STORY ADDITION = 971 SF. / EX. GFA (2219) = 0.44
- EX. BASEMENT = 948 SF
PROP. 1ST FLOOR = 1,391 SF
PROP. 2ND FLOOR = 852 SF
PROP. GROSS FLOOR AREA = 3,191 SF
- PROP. FLOOR AREA RATIO: PROP. GFA (3191) / LOT AREA (9790) = 0.33



EXISTING CONDITIONS



PROPOSED CONDITIONS



PLAT
SHOWING THE IMPROVEMENTS ON
LOT 53, SECTION TWO
GREENWAY DOWNS
(REED BOOK 10, PAGE 35)
FAIRFAX COUNTY, VIRGINIA
PROVIDENCE DISTRICT
SCALE: 1" = 20'
SEPTEMBER 01, 2013 (REV.)
OCTOBER 23, 2013 (REV.)

I HEREBY CERTIFY THAT THE PORTIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN SHOWN 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.

CASE NAME:
JOHN L. CARY
KUSTEN M. PROCKA

DOMINION ENGINEERS
8806 H HAYS WYEE VALLEY COURT
ALEXANDRIA, VIRGINIA 22304
703.819.8535
FAX: 703.799.6412

06/01/2013
GEORGE M. O'QUINN
LICENSE NO. 2300

George M. O'Quinn

DATE	REVISIONS
04/23/13	COMM. NO.
003	

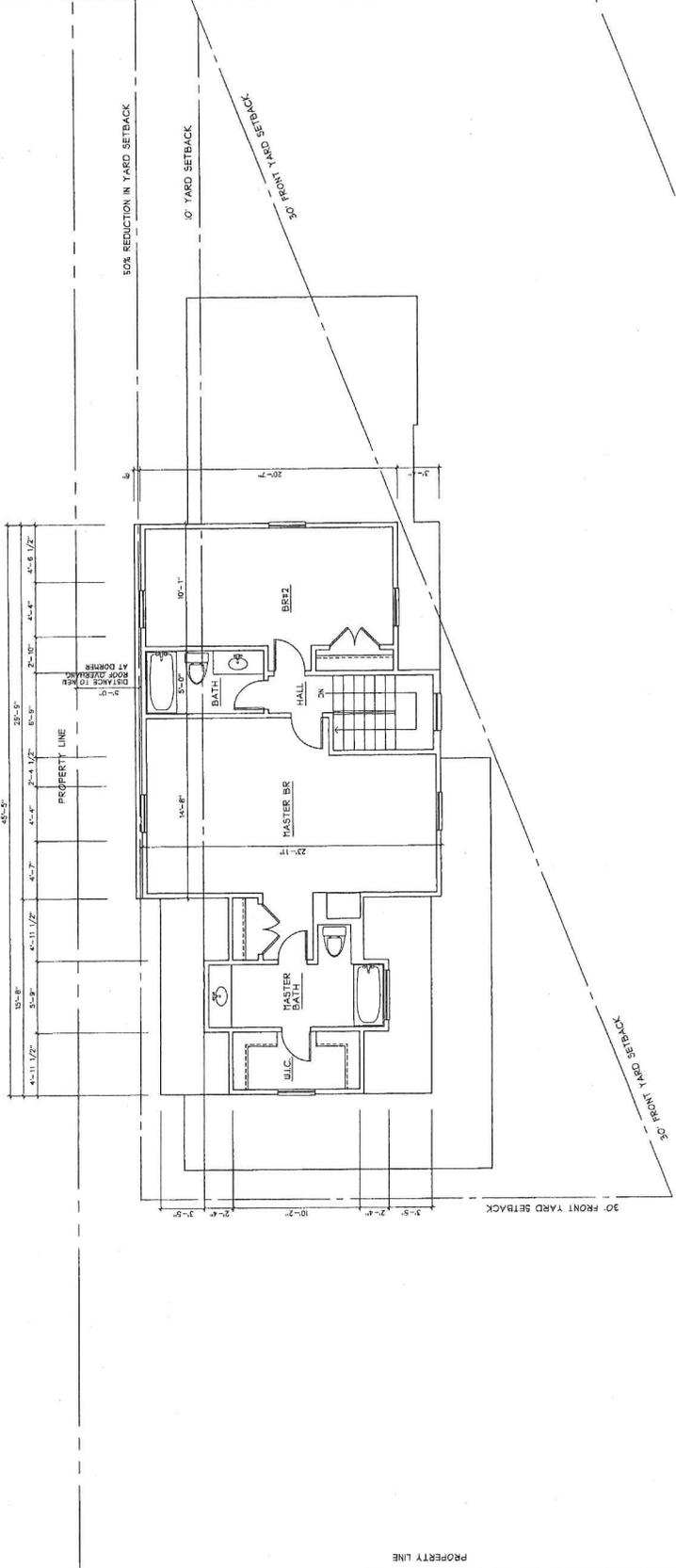
THIS DRAWING IS THE PROPERTY OF KOHLMARK ARCHITECTS. ANY REVISIONS TO THIS DRAWING MUST BE MADE BY KOHLMARK ARCHITECTS. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF KOHLMARK ARCHITECTS.

GARY ADDITION
 6940 CAVALIER TRAIL
 FARMEX COUNTY, VIRGINIA
 SECOND FLOOR PLAN



A2
 OF 3

RECEIVED
 Department of Planning & Zoning
 SEP 25 2013
 Zoning Evaluation Division



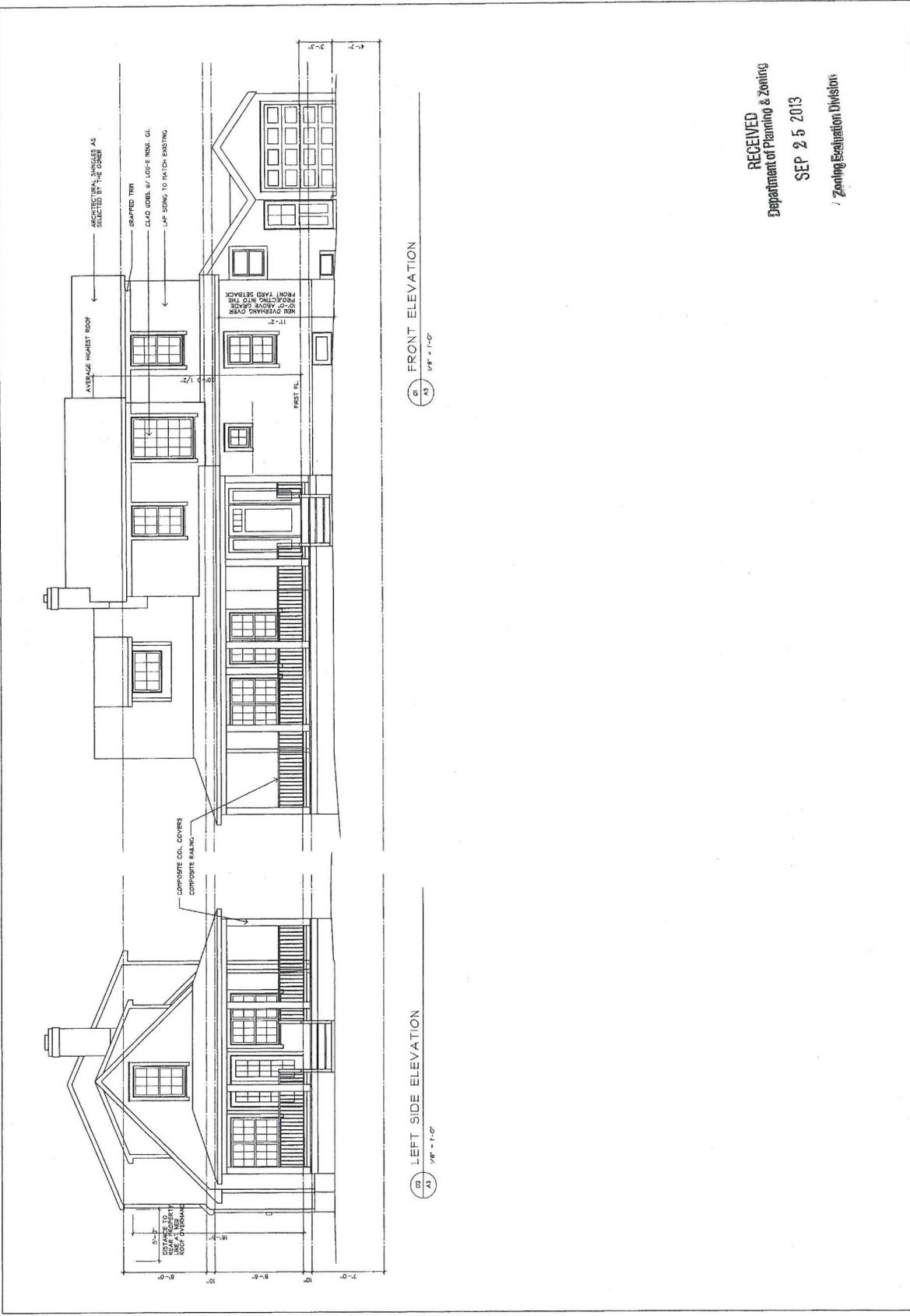
SECOND FLOOR PLAN
 1/8" = 1'-0"

DATE: 04/23/10
 COM. NO.:
 REVISIONS:

GARY ADDITION
 6940 CAVALIER TRAIL
 FAIRFAX COUNTY, VIRGINIA
 EXTERIOR ELEVATIONS



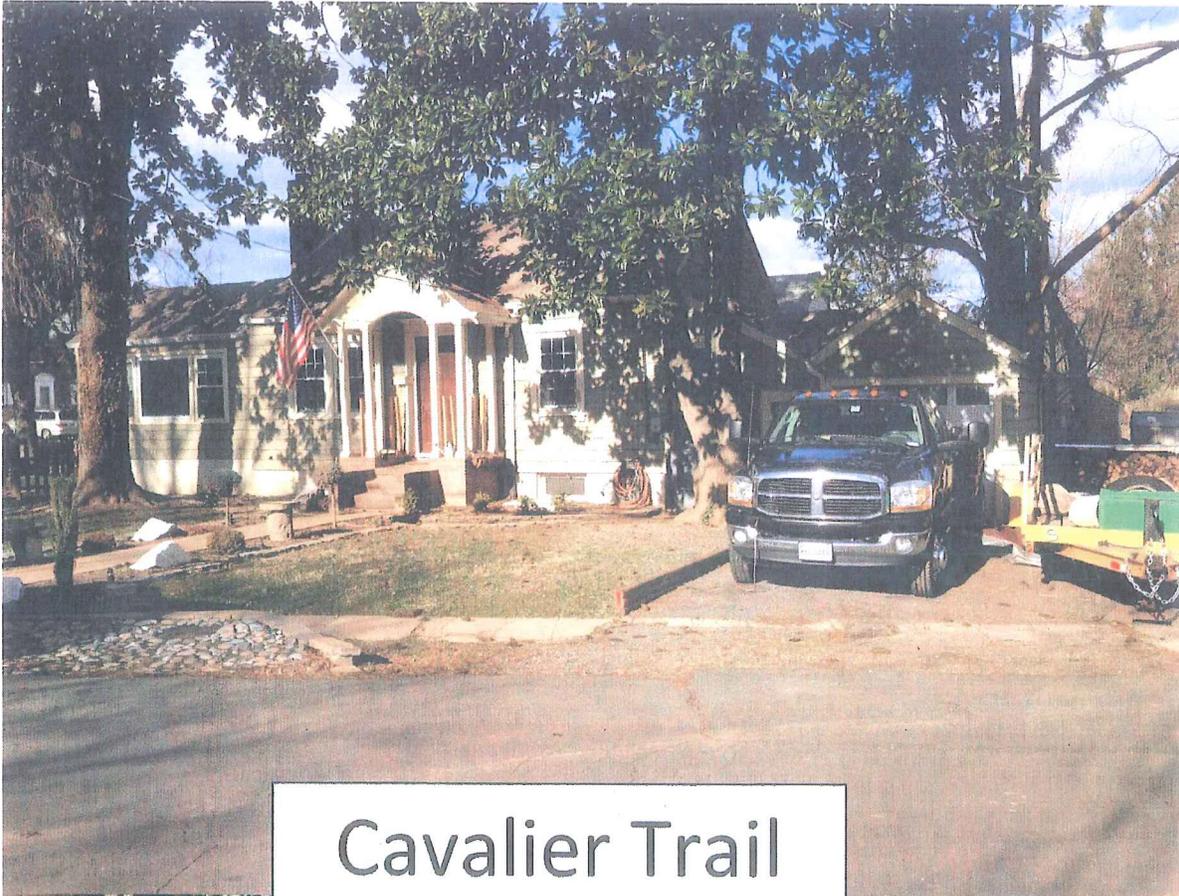
A3
 OF 3



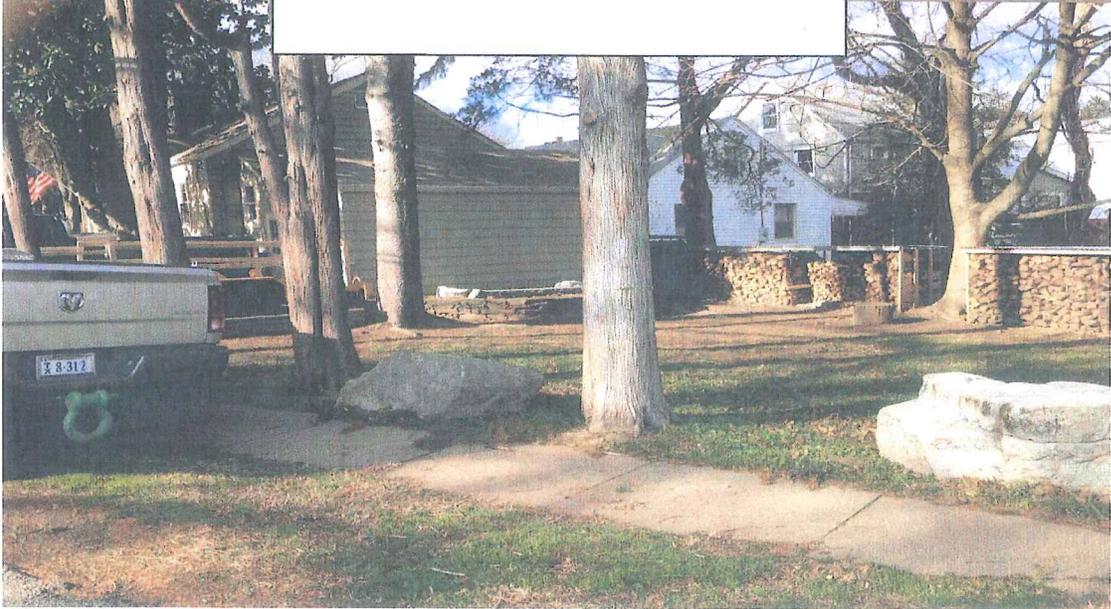
6 FRONT ELEVATION
 1/8" = 1'-0"

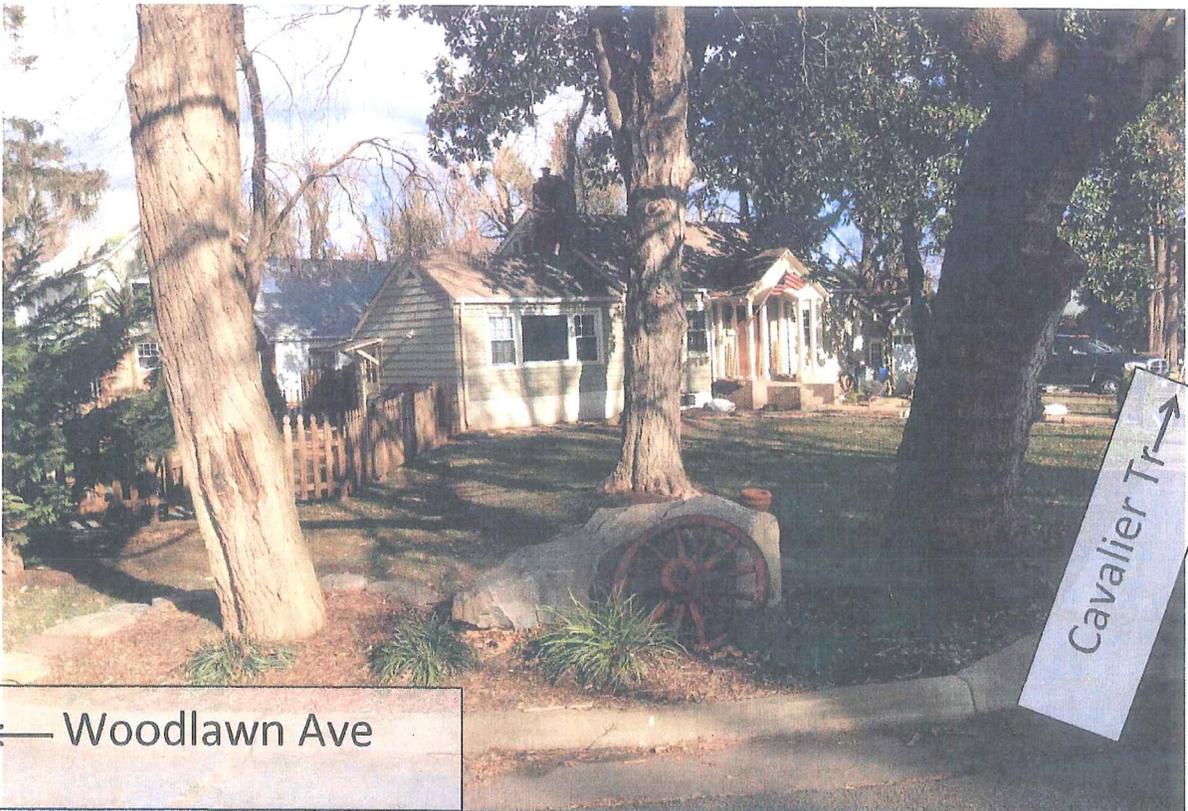
5 LEFT SIDE ELEVATION
 1/8" = 1'-0"

RECEIVED
 Department of Planning & Zoning
 SEP 25 2013
 Zoning Evaluation Division



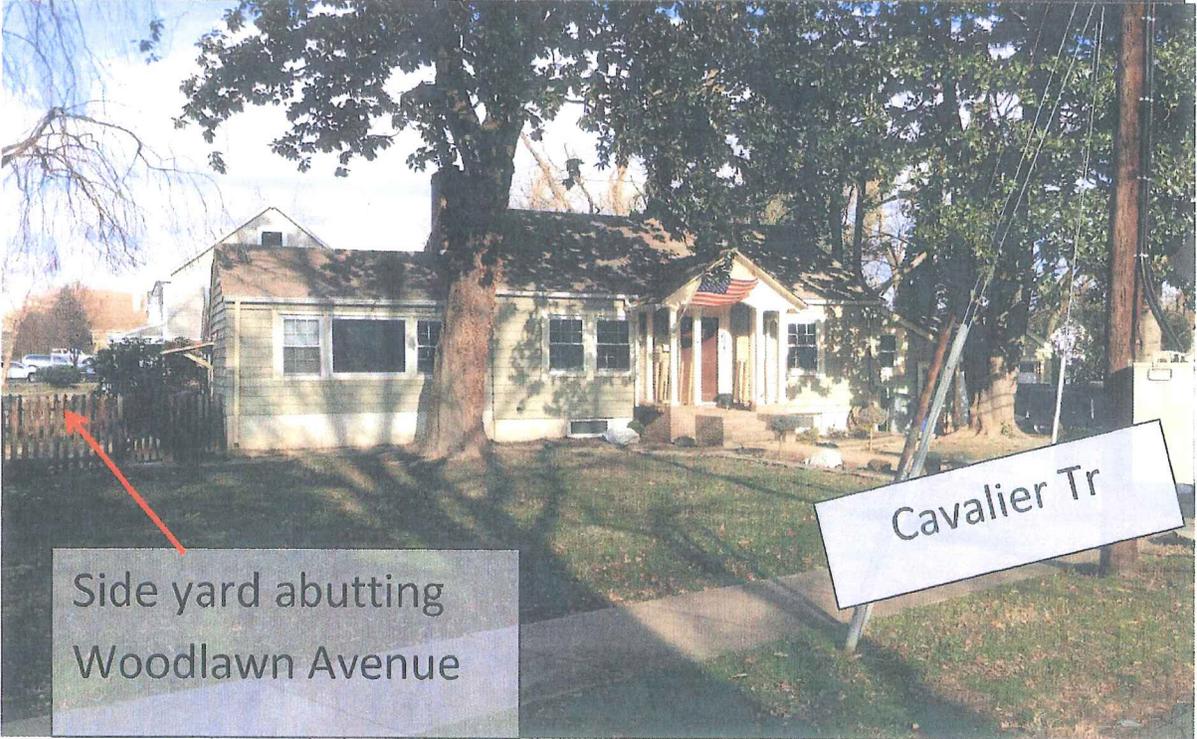
Cavalier Trail





← Woodlawn Ave

Cavalier Tr →

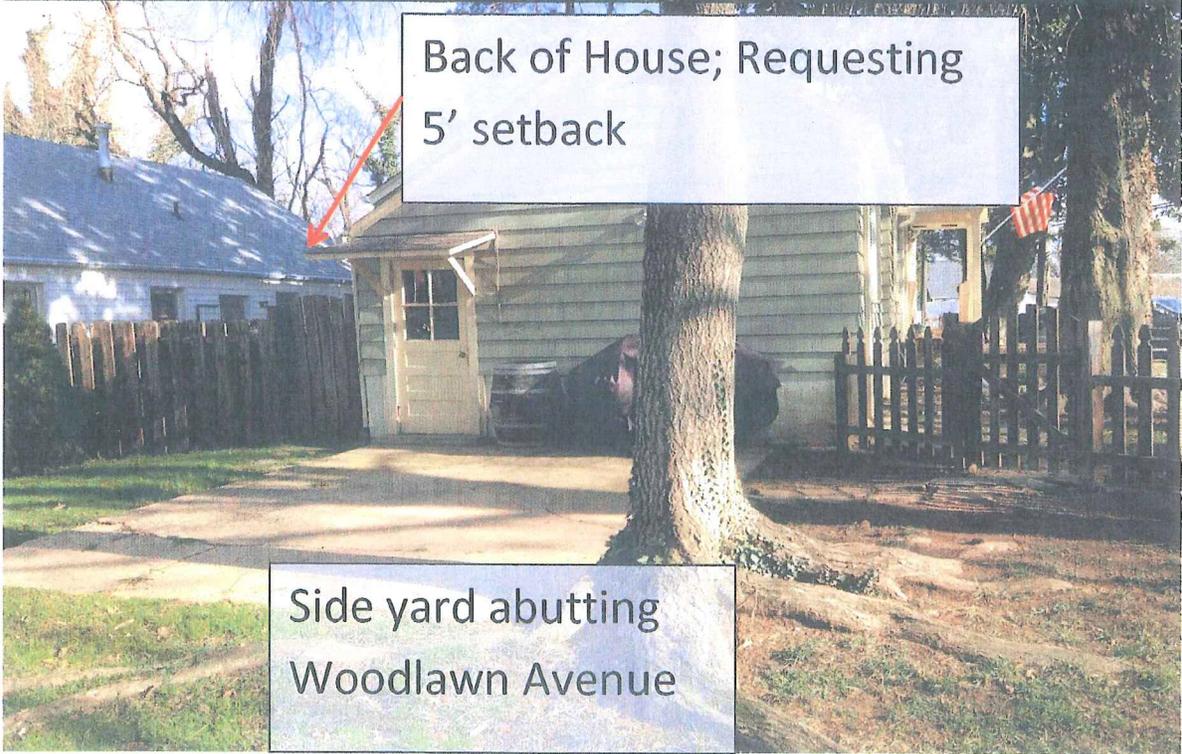


Cavalier Tr

Side yard abutting
Woodlawn Avenue



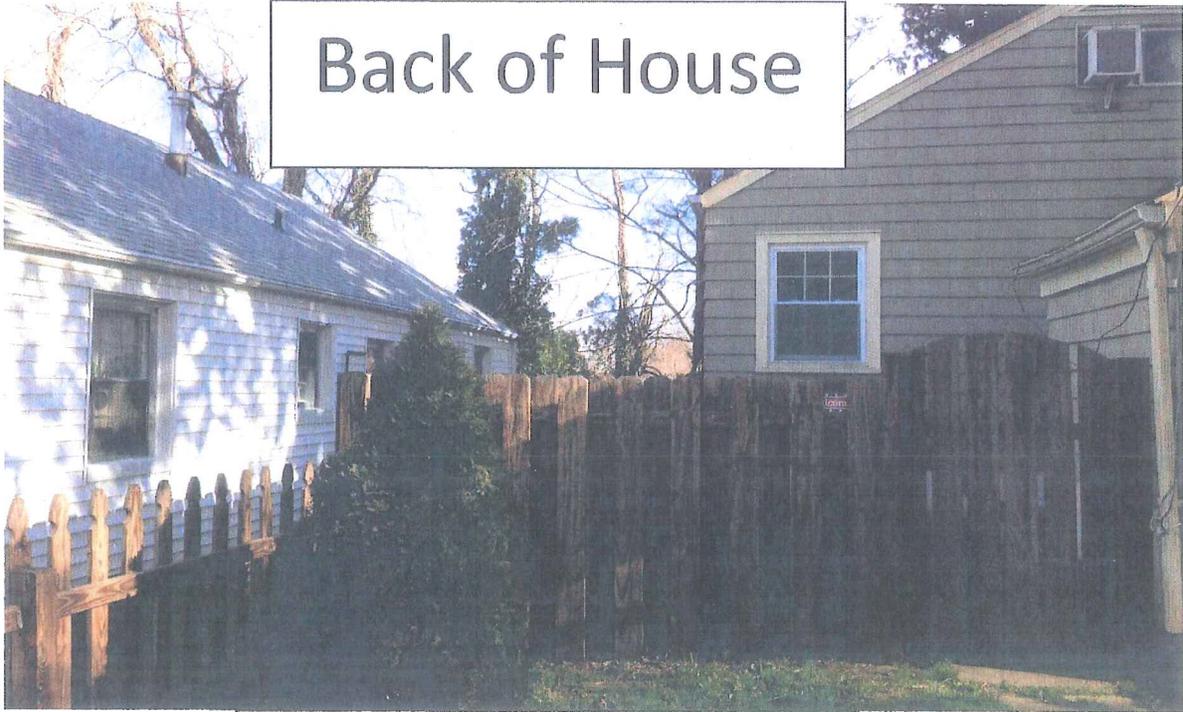
Side yard abutting
Woodlawn Avenue



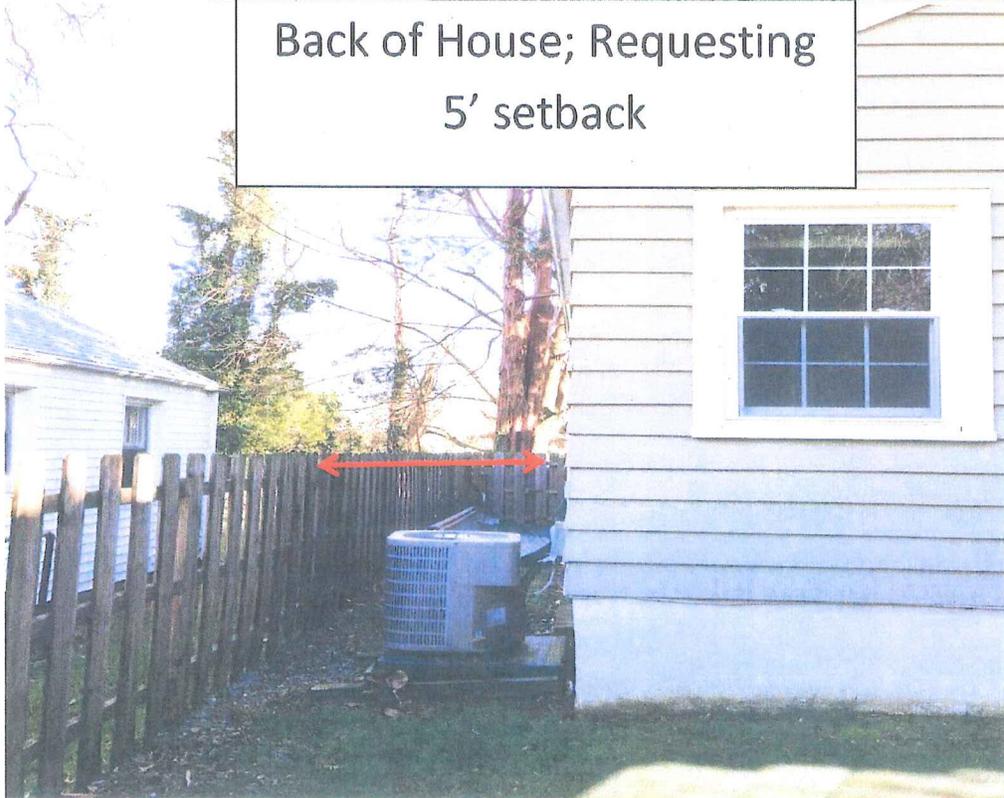
Back of House; Requesting
5' setback

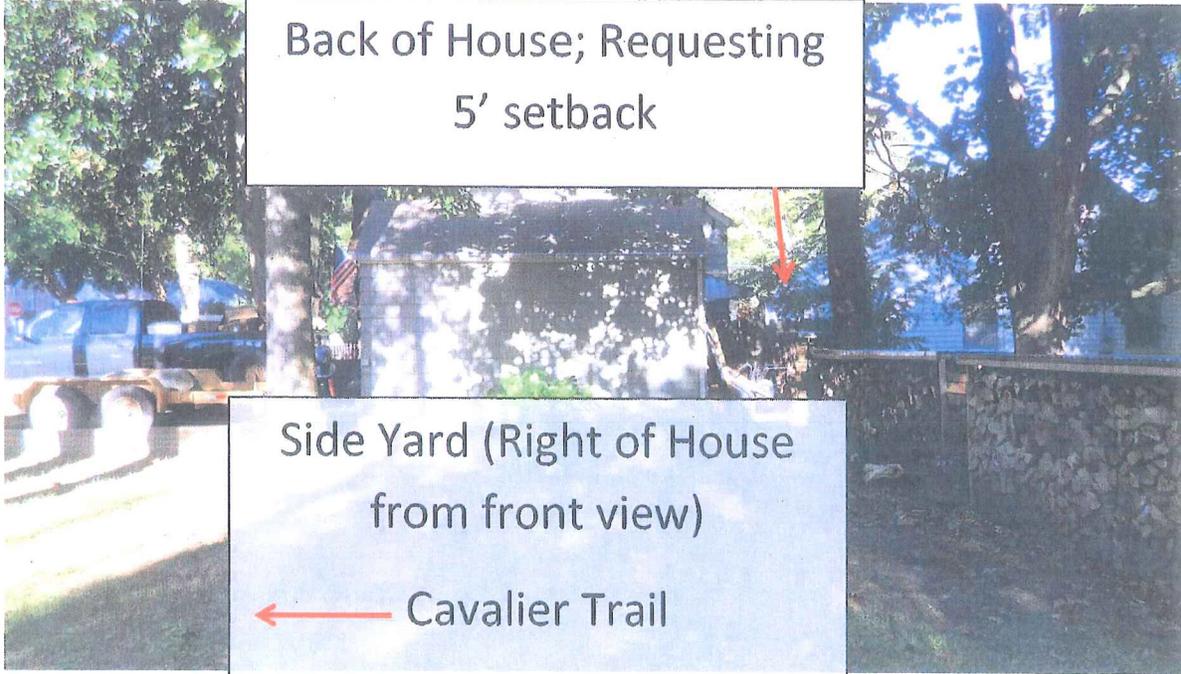
Side yard abutting
Woodlawn Avenue

Back of House



Back of House; Requesting 5' setback





Back of House; Requesting
5' setback

Side Yard (Right of House
from front view)
← Cavalier Trail











See all the nearby places available on the map by clicking the link next to the map.



© 2013 Google Image Date: June 2012

Report a problem





See all the details that are visible on the street view. Use the "Print" link next to the map.



K

Report a problem

SPECIAL PERMIT REQUEST

The applicants are requesting approval of two special permit requests. The first is for a special permit to allow a reduction of certain yard requirements to permit construction of an addition and a roofed deck. The second is for approval of a special permit to allow a fence greater than 4.0 feet in height to remain in the front yard of a corner lot.

VARIANCE REQUEST

The applicants are also requesting approval of a variance to permit an accessory structure, a fire pit, to remain in the front yard of a corner lot containing 36,000 square feet or less.

A copy of the plat titled "Plat Showing the Improvements on Lot 53, Section Two, Greenway Downs," prepared by George M. O'Quinn, Land Surveyor, of Dominion Surveyors, Inc., dated June 1, 2013, as revised through October 23, 2013, is included in the front of the staff report.

More detailed descriptions of the proposals are provided on page three.

CHARACTER OF THE SITE AND SURROUNDING AREA

As depicted in the picture on the following page, the subject parcel and surrounding properties are within the Greenway Downs subdivision and are developed with single family detached dwellings, zoned R-4. The application property is a corner lot with frontage on both Cavalier Trail and Woodlawn Avenue. The dwelling is one-story, wood frame, with 1,064 square feet of above grade living area and a total gross floor area of 2,170 square feet, including the basement and attic.

The existing dwelling contains an attic and attached one-car garage. A concrete patio exists to the west side of the dwelling and a 1.0 foot high stone retaining wall encloses a planter on the east side of the dwelling. Access to the lot is provided via a gravel driveway from Cavalier Trail terminating at the garage on the southern façade of the dwelling. A concrete walkway also extends from Cavalier Trail to a front porch. A stone fire pit 13.5 feet in diameter is located in the front yard of the property adjacent to Woodlawn Avenue on the west side of the dwelling. A wood frame fence extends from the west side of the dwelling, encloses the portion of the yard containing the fire pit, and attaches to the dwelling on the north side. The fence ranges from 4.5 feet to 6.0 feet in height. The portion of the fence in the front yard is 5.8 feet at its highest point.

The lot contains several mature trees and landscaping. The topography of the parcel is mostly level.



BACKGROUND

Fairfax County Tax Records indicate that the original dwelling was constructed in 1947. The applicants purchased the property in 2008. On July 16, 2012, the applicants requested that the Zoning Administrator make a Vested Rights Determination for the location of the original dwelling, subsequent additions, and the garage. The Zoning Administrator determined that while the original dwelling, additions, and garage are deemed vested, the covered front porch is not vested. The covered porch and open staircase both extend into the front yard adjacent to Cavalier Trail and must comply with the Zoning Ordinance location regulations. Finally, the Zoning Administrator noted that the patio in the front yard adjacent to Woodlawn Avenue extends too far into the required front yard and must also be reduced in size to comply with regulations. The Vested Rights Determination is attached as Appendix 5.

A copy of information outlining similar special permit and variance requests in the area is attached in Appendix 6.

DESCRIPTION OF THE APPLICATIONS

Special Permit

The applicant is requesting approval of two special permit applications. The first special permit request is for a reduction of certain yard requirements to permit the construction of a two-story addition 5.0 feet from the northern side lot line and a roofed deck 7.5 feet from the northern side lot line and 25.5 feet from the front lot line adjacent to Woodlawn Avenue. The addition and interior renovation would provide a bedroom and a master suite on the second story and an expanded kitchen and family room on the first story. The addition, including the roofed deck, is proposed to be 26.7 feet wide, 37.0 feet long and 23.0 feet tall. It is proposed to be a total of 971 square feet in size. The existing patio and front porch are proposed to be removed as part of the renovation. In an R-4 zone, there is a side yard requirement of 10.0 feet, so for the addition the applicant is requesting a reduction of 5.0 feet, or 50 percent. For the roofed deck, the applicant is requesting a reduction of 2.5 feet, or 25 percent. The front yard requirement is 30.0 feet, so the applicant is requesting a reduction of 4.5 feet, or 15 percent.

The second special permit request is to permit an existing fence greater than 4.0 ft. in height to remain in the front yard. The fence is wood frame, with slats 4.5 feet in height and three stone pillars that range in height from 5.3 feet to 5.8 feet. Each pillar is 2.0 feet by 2.0 feet square in size.

Variance

The applicant is also requesting approval of a variance to permit an accessory structure, a fire pit, with a diameter of 13.5 feet, to remain in the front yard of the property adjacent to Woodlawn Avenue. The fire pit is located 2.3 feet from the front lot line and has a maximum height of 4.0 inches. The subject property is 9,790 square feet in size. Accessory structures are not permitted in front yards of lots 36,000 square feet in size or less.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: I

Planning Sector: Jefferson, JE 09 Greenway Village

Plan Map: 4 dwelling units per acre

Zoning Ordinance Requirements

- Sect. 8-006 General Special Permit Standards

- Sect. 8-903 Group 9 Standards
- Sect. 8-922 Provisions for Reduction of Certain Yard Requirements
- 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 is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

Sect. 8-006 General Special Permit Standards

Staff believes that the application for the addition and roofed deck meets all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 3.

General Standard 3 requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *A number of properties located in this neighborhood have completed additions similar in location, scale and size. Staff believes by observation of the neighborhood through submitted photographs and aerial photography that the construction of the addition and roofed deck will not adversely affect the use or development of neighboring properties. Therefore, staff believes this standard has been met.*

Sect. 8-922 Provisions for Reduction of Certain Yard Requirements

This special permit application must satisfy all of the provisions contained in Sect. 8-922, Provisions for Reduction of Certain Yard Requirements. Standards 1, 2, 3, 11 and 12 relate to submission requirements and were satisfied at the time of submission. Standard 5 relates to accessory structures, which does not apply to this application and Standard 10 allows the BZA to impose development conditions. Staff believes that the application has met all of the remaining standards, specifically Standards 4, 6, 7, 8, and 9.

Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. *The existing dwelling is 2,170 square feet in size. Therefore 150% of the total gross floor area could result in additions up to 3,255 square feet in size for a possible total square footage at build out of 5,425 square feet. The proposed addition is approximately 971 square feet, for a total square footage of the*

house with the additions of 3,141 square feet. Therefore the application meets this provision.

Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The elevation drawings and pictures submitted indicate that the materials, size and scale of the proposed addition will be compatible with the dwelling. The height of the dwelling with the provision will be 23.0 feet, which is 7.0 taller than the existing dwelling's height of 16.0 feet, but still less than the allowed maximum height of 35 feet. Staff believes that the application meets this provision.

Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director. Through aerial photography and photos submitted by the applicant, staff has confirmed that the addition and roofed deck is similar to others in the neighborhood in terms of its height, size, and location on the lot. Therefore, staff believes the addition and roofed deck will be harmonious with surrounding off-site uses and meets this provision.

Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. Staff believes that the proposed addition, 971 square feet, and a roofed deck will not impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air or safety. Staff believes that the application meets the erosion and stormwater runoff portion of the standards since DPWES has indicated that there are no drainage complaints on file related to this property. Staff believes the addition will minimally increase runoff or erosion as a portion of the addition is being constructed on the site of an existing patio. Therefore, staff believes the application meets this provision.

Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. Staff believes the request to build the addition is a modest request. The construction and layouts of the addition and the roofed deck is minimal as the applicant is asking to increase the size of the screened porch area to make the space adequate for interior living. The Urban Forestry Management Division has indicated that there is sufficient existing vegetation

on site to provide adequate screening. Other issues of wells, floodplains and/or Resource Protection Areas, and historic resources are not applicable to this site. Staff believes the application meets this provision.

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2013-PR-092 for the addition and roofed deck with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners 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.

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 Special Permit Development Conditions
2. Proposed Variance Development Conditions
3. Applicants Affidavits
4. Applicants Statements of Justification
5. Vested Rights Determination, dated July 30, 2012
6. Similar Case History
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2013-PR-092****January 8, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2013-PR-092 located at Tax Map 50-2 ((4)) 53 to permit reduction of certain yard requirements pursuant to Section 8-922 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of the addition (971 square feet) and roofed deck, as shown on the plat titled "Plat Showing the Improvements on, Lot 53, Section 2, Greenway Downs," prepared by George M. O'Quinn, L.S, of Dominion Surveyors, Inc., dated June 1, 2013, as revised through October 23, 2013, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,170 square feet existing + 3,255 square feet (150%) = 5,425 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.

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, 30 months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may

grant additional time to commence construction 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.

DATE	04/23/13
COM. NO.	1003
REVISIONS	
<small>THIS DRAWING IS THE PROPERTY OF KOHLMARK ARCHITECTS AND IS NOT TO BE REPRODUCED OR USED FOR ANY PROJECT IN WHOLE OR IN PART, WITHOUT WRITTEN PERMISSION.</small>	

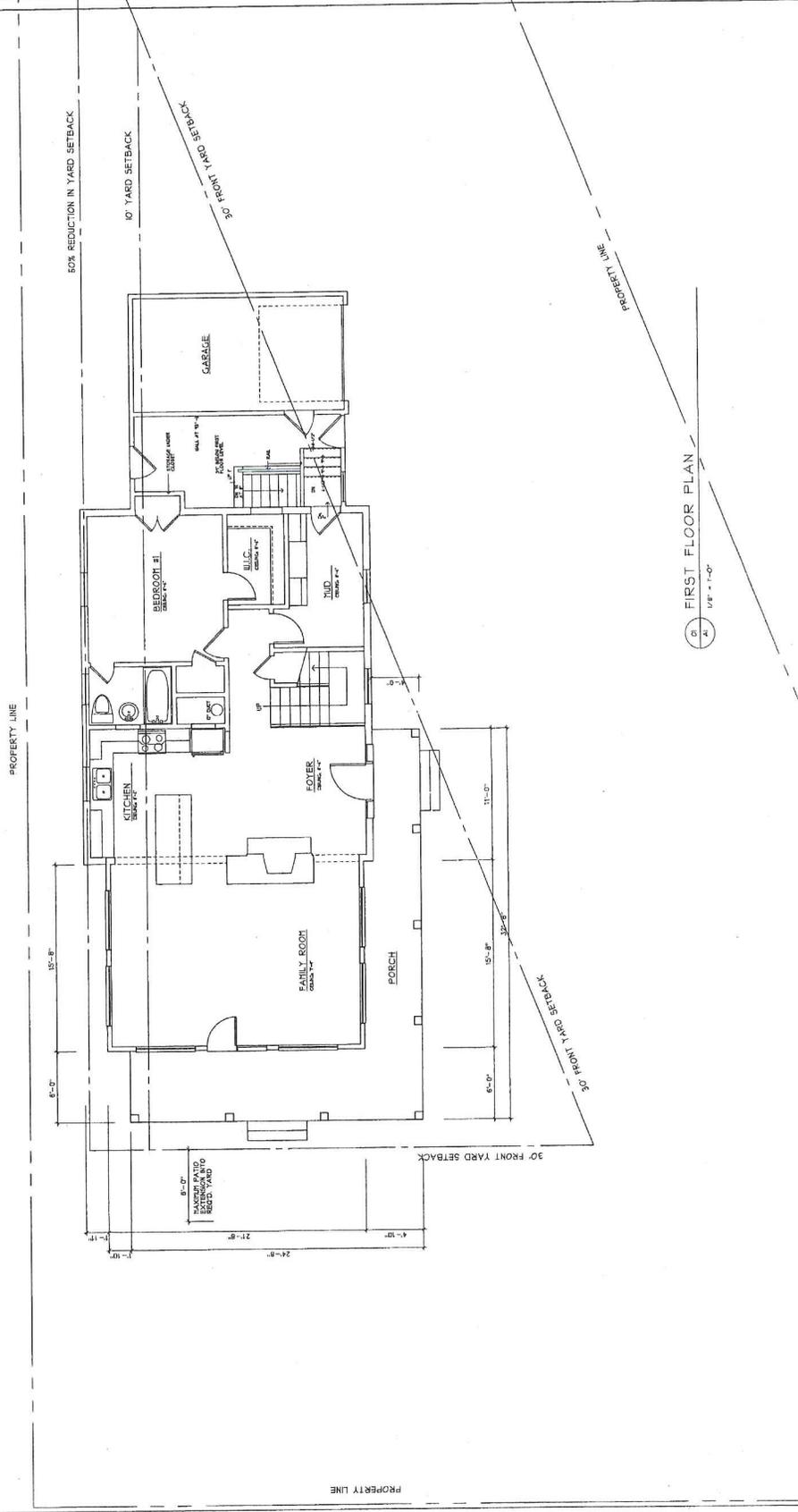
GARY ADDITION
 6940 CAVALIER TRAIL
 FAIRFAX COUNTY, VIRGINIA
 FIRST FLOOR PLAN



KOHLMARK
 ARCHITECTS
 10004 HOLLAND ROAD
 SUITE 1000A, WOODLAND, VIRGINIA 22181
 PHONE: (703) 544-1170
 FAX: (703) 544-1171

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 SEP 25 2013
 Zoning Evaluation Division



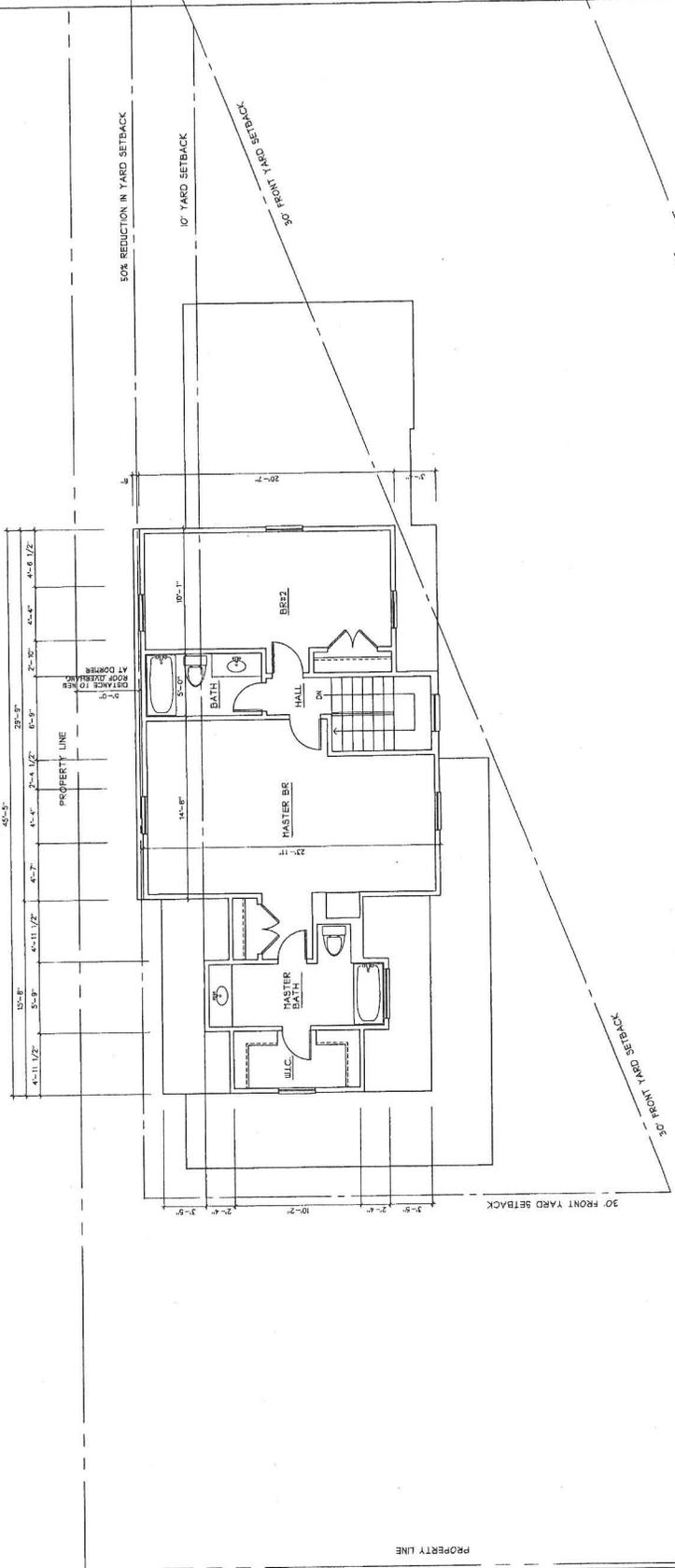
REVISIONS
 DATE 04/23/13
 COMM. NO. 103
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GARY ADDITION
 6940 CAVALIER TRAIL
 FAIRFAX COUNTY, VIRGINIA
 SECOND FLOOR PLAN



A2
 OF 3

RECEIVED
 Department of Planning & Zoning
 SEP 25 2013
 Zoning Evaluation Division



SECOND FLOOR PLAN
 1/4" = 1'-0"

PROPOSED DEVELOPMENT CONDITIONS

VC 2013-PR-022

January 8, 2014

1. This variance is approved to permit the accessory structure, a fire pit, to remain in the front yard of the property as shown on the plat "Plat Showing the Improvements on, Lot 53, Section 2, Greenway Downs," prepared by George M. O'Quinn, L.S, of Dominion Surveyors, Inc., dated June 1, 2013, as revised through October 23, 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-PR-092 & VC 2013-PR-022
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 23, 2013
 (enter date affidavit is notarized)

123077

I, Joshua Gary, 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

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)
Joshua K. Gary, also known of record as Josh K. Gary	6940 Cavalier Trail Falls Church, VA 22042	Applicant/Title Owner
Kristen M. Gary, also known of record as Kristen M. Procida	6940 Cavalier Trail Falls Church, VA 22042	Applicant/Title 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)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 23, 2013
(enter date affidavit is notarized)

123077

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.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 23, 2013
(enter date affidavit is notarized)

123077

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)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 23, 2013
(enter date affidavit is notarized)

123077

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: October 23, 2013
(enter date affidavit is notarized)

123077

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) Applicant [] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 23rd day of October 2013 in the State/Comm. of Virginia, County/City of Fairfax.

E. Michelle Haley
Notary Public

My commission expires: June 30, 2015



RECEIVED
Department of Planning & Zoning
JUL 02 2013
Zoning Evaluation Division

May 19, 2013

Zoning Evaluation Division
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway,
Suite 801
Fairfax, VA 22035

RE: Special Permit Application, Statement of Justification / Conforming to Standards

Dear Board Member,

This is supplemental to our special permit application, requesting to renovate our home located at 6940 Cavalier Trail, Falls Church, VA 22042, while requesting a 50% reduction in lot line minimum requirements.

Our current property is a one story, single family detached house with an attached garage and a framed-in attic. The property also includes a patio and a covered front porch with open stairs which were built prior to our purchasing the property. While these two structures are currently not in conformance, they will be removed during the renovation and any new construction in its stead will be in compliance of county regulations following the completion of the renovation. Our property is a corner lot which has a minimum required front yard of 30 feet and a minimum side yard of 10 feet as well as a minimum rear yard of 10 feet. The current structure, as it stands today, is 21.9 feet from the front line, abutting Cavalier Trail, 38.3 feet from the front lot line abutting Woodlawn Avenue and 4.7 feet from the side lot line, identified on the plat as S 74 58' 00" E and located directly behind the house.

In planning to renovate our home, we are requesting a 50% reduction from the minimum required lot line standoff distance. The current layout of the house, with only two main functional bedrooms and a kitchen that is 8' x 11', is not conducive to a raising a family with more than one child. When we purchased the home in 2008, we were impressed with an eclectic neighborhood with numerous freshly renovated homes; therefore, we never questioned a possible 5-year plan to renovate as we decided to grow our family.

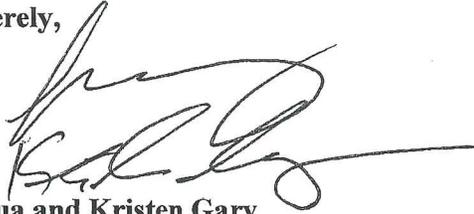
In our proposed plans, attached to this application, you will see that we will be in conformance with a 50% reduction on the rear of the house (requesting 5'). The original left side addition and all other additions, such as the garage have been deemed vested. We worked with an architect that has maintained the quaint roof lines in developing our addition that will provide us with two bedrooms in the upstairs level, one on the main level, and the re-location and expansion of our kitchen on the main level. With the proposed addition, the right front eave of the house shall remain at least 10' above grade and will not interfere with the new proposed second floor

addition, the right front eave of the house shall remain at least 10' above grade and will not interfere with the new proposed second floor addition which is in compliance with the 30' setback or the 50% reduction, if approved. Additionally, the expansion on the main level will provide more living space for family gatherings and will finally allow space for a kitchen table, which the current layout of the home does not allow for. Lastly, in renovating both the upstairs and the main level we will finally make the house efficient with heating and cooling systems, enabling us to use all rooms during all seasons, which we currently cannot do (our current addition does not have an HVAC system and the framed upstairs does not have an efficient HVAC system).

We have included pictures of the neighborhood to illustrate how our home will continue to fit in, while purely enhancing the neighborhood feel. All neighbors in abutting lot lines have given us their approval of the renovation, during an informal face to face inquiries, to include those neighbors that are across the streets on all sides.

The proposed plans are attached for your consideration. We appreciate your time and consideration for the renovation that will enable us to stay in a neighborhood that we have grown to know as home.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua and Kristen Gary", written over a horizontal line.

Joshua and Kristen Gary

September 24, 2013

Zoning Evaluation Division
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway,
Suite 801
Fairfax, VA 22035
RE: Special Permit Application, Statement of Justification / Conforming to Standards

Dear Board Member,

This is supplemental to our special permit application, requesting to renovate our home located at 6940 Cavalier Trail, Falls Church, VA 22042, while requesting:

- (a) Zoning Ordinance Section 8-922: Proposed Use: Reduction of certain yard requirements to permit addition 24.0 feet from front lot line and 5.0 feet from side lot line.
- (b) Zoning Ordinance Section 8-923: Proposed Use: Permit fence greater than 4.0 feet in height to remain in front yard.

Our current property is a one story, single family detached house with an attached garage and a framed-in attic. The property also includes a patio and a covered front porch with open stairs which were built prior to our purchasing the property. While these two structures are currently not in conformance, they will be removed during the renovation and any new construction in its stead will be in compliance of county regulations following the completion of the renovation. Our property is a corner lot which has a minimum required front yard of 30 feet and a minimum side yard of 10 feet as well as a minimum rear yard of 10 feet. The current structure, as it stands today, is 21.9 feet from the front line (at the closest point created by the angle of the street) abutting Cavalier Trail, 38.3 feet from the front lot line abutting Woodlawn Avenue and 4.7 feet from the side lot line, identified on the plat as S 74 58' 00" E and located directly behind the house.

In planning to renovate our home, we are requesting a 50% reduction from the minimum required lot line standoff distance. The current layout of the house, with only two main functional bedrooms and a kitchen that is 8' x 11', is not conducive to a raising a family with more than one child. When we purchased the home in 2008, we were impressed with an eclectic neighborhood with numerous freshly renovated homes; therefore, we never questioned a possible 5-year plan to renovate as we decided to grow our family.

In our proposed plans, attached to this application, you will see that we will be in conformance with a 50% reduction on the rear of the house (requesting 5') and the front of the house will be in conformance with a 50% reduction (requesting 15'). We have worked with an architect that has maintained the quaint roof lines in developing our addition that will provide us with two bedrooms in the upstairs level, one on the main level, and the re-location and expansion of our kitchen on the main level. Additionally, the expansion on the main level will provide more living space for family gatherings and will finally allow space for a kitchen table, which the current layout of the home does not allow for. Lastly, in renovating both the upstairs and the

main level we will finally make the house efficient with heating and cooling systems, enabling us to use all rooms during all seasons, which we currently cannot do (our current addition does not have an HVAC system and the framed upstairs does not have an efficient HVAC system). We have included pictures of the neighborhood to illustrate how our home will continue to fit in, while purely enhancing the neighborhood feel. All neighbors in abutting lot lines have given us their approval of the renovation, during informal face to face inquiries, to include those neighbors that are across the streets on all sides.

The proposed plans are attached for your consideration. We appreciate your time and consideration for the renovation that will enable us to stay in a neighborhood that we have grown to know as home.

Please find justifications statements below.

Sincerely,
Joshua and Kristen Gary

JUSTIFICATIONS

Submission Requirement 5.0:

Addressing Zoning Ordinance 8-922, items 4-10, the proposed structure will not increase the floor space of the existing principal structure by more than 150%. The existing addition will be replaced with a larger addition, while keeping within 150%, and there will be no removal of additions that would reduce the original structure by 50%. The proposed porch, represented in the submitted drawings, will be subordinate in use to the principal structure. The proposed development will be in keeping with the existing on-site development in terms of location, height, bulk and scale, and will be harmonious with surrounding off-site structures, topography, existing vegetation, and significant trees. The proposed development will not adversely impact the any adjacent property with regard to noise, light, air, safety, erosion, or storm water runoff. The requested reduction in minimum yard requirements will conform to the angular shape of the lot, while allowing the proposed addition to maximize useable space.

Addressing Zoning Ordinance 8-923, items 1-6, the existing picket fence is 4.5 feet in height. As confirmed by the submitted plat, the existing structure does not allow for a fenced in area in a side or back yard, and the existing fence provides a safe haven for children and family pets, while meeting the sight requirements in Sect. 2-505. The existing picket fence, in natural wood color, matches other existing fences on multiple neighboring properties in height, bulk, and scale.

Submission requirement 5.08

Addressing concerns for hazardous or toxic substances, an inspection has been completed by the architect/builder and no hazardous materials were found in the existing house, nor are they planned for use when adding the addition. Furthermore, no known hazardous materials will be generalized, utilized, stored, treated, and/or disposed of on site, per State and Federal regulations.

Submission requirement 5.09

The proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards, with the exceptions of special provisions sought under zoning ordinances 8-922 and 8-923, as described above.

Submission requirement 7

A reduction of the plat has been submitted.

Submission requirement 930.00

The resulting Gross Floor Area (GFA) of the addition to the existing structure will not exceed more than 150% of the total GFA of the principle structure that existed at the time of the first expansion request. Calculations provided below:

GARY RESIDENCE TABULATION
08/30/13

EXISTING

Basement	726.4 GSF
First Floor	1082.4 GSF
Second Floor	361.4 GSF

Total 2170.2 GSF

Allowable
Increase Ex. X 1.5 3255.3 GSF

PROPOSED

Basement	726.4 GSF
First Floor	1205.1 GSF
Second Floor	865.2 GSF

Total 2796.7 GSF is below the allowable increase

The existing garage (188.85 GSF) is not included in the above tabulation.
The existing front porch (50.0 GSF) is to be replaced with new porch (276.0 GSF). This number is also not included in the above tabulation.

Submission requirement 930.01

The resulting floor area will be clearly subordinate in principle, scale, use and intent to the principle structure on site.

Submission requirement 930.02

The proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.

Submission requirement 930.03

The proposed development will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the director.

Submission requirement 930.04

The proposed development will not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, erosion and storm water runoff.

Submission requirement 930.05

The proposed reduction will represent the minimum amount of reduction necessary to accommodate the proposed structure on the lot.

Submission requirement 930.06

(15) copies of the updated plat have been submitted.

Submission requirement 930.11

Plat has been updated to show proposed second level (over existing 4.8' setback) and provides setback distance to the lot line.

Submission requirement 930.17

Sight triangle has been provided on updated plat, per zoning ordinance Article 2 Section 505.

Submission requirement 930.19

Plat signature and date has been updated.

Submission requirement 930.20

Text and dimensions of architectural drawings have been increase to be legible.

October 24, 2013

Zoning Evaluation Division
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway,
Suite 801
Fairfax, VA 22035

RECEIVED
Department of Planning & Zoning
OCT 27 2013
Zoning Evaluation Division

RE: Variance Application / Statement of Justification

Dear Board Member,

This variance application is supplemental to our special permit application, requesting to renovate our home located at 6940 Cavalier Trail, Falls Church, VA 22042.

When the Planning and Zoning Department reviewed our plat associated with our special permit application for compliance, it was discovered that our stone fire pit was not in compliance. The below will address all nine (9) required standards for a variance set forth in Section 18-404 of the Zoning Ordinance.

1. The subject property was acquired in good faith: We purchased our home in 2008 in good faith. When we purchased our home, with a future family in mind, the current owners told us they already had plans for expanding the size of the home which were already approved per the county. It was never brought to our attention that there were any special rules / regulations with regard to renovating a home on a corner lot, therefore we purchased with the intention of an eventual renovation to match our growing family.
2. The subject property has the following characteristic: (F) An extraordinary situation or condition of the subject property. Since our home is a corner lot, with less than 5' in our back yard (behind the house), we only have our side yards to entertain (both are considered front due to corner lot status). This includes playing with children and allowing pets a safe space to be active – both of which our neighbors are allowed to do simply because their lots are designed differently. Also, with being a corner lot bordered by an angled street (Cavalier Trl as it connects Woodlawn Ave to Marshall St), yard usage is greatly restricted on the right side of the house, as you face the front door. The latter is less than 20' deep and is completely covered by the minimum front yard requirements. Regarding the fire pit, prior to purchasing the stones and beginning installation, we contacted the County both in person and via telephone to ensure the fire pit was within regulation and did not require any special permits. We knew we were planning a large renovation and therefore did not want to make any

Zoning Appeals

changes that might adversely affect future approvals from the County Board of Supervisors. We were informed that the desired location was within county restrictions and did not require any special permits. Relying on this initial approval from the County, we invested more than \$5200 in labor and cost to complete our fire pit. The fire pit was installed by the homeowner over a two month period, and each stone was laid by hand on a completely permeable base (does not affect water runoff). This fire pit has become the main entertaining point of our house during all seasons. Not only are we benefiting with our friends and family, our neighbors are frequently using and benefiting from the rustic fire pit that fits the neighborhood setting. Most days we simply sit at the fire pit talking, without a fire going, and thought we would like to do this in a back yard we do not have one due to the shape of the lot. In the winter months, we do use the fire pit more often to host family and friends and talk with neighbors as they walk by. The removal of the fire pit would be very costly and time consuming, and the monetary investment already made upon initial county approval would not be recoverable.

3. 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: No; we are not asking the Board to write any amendments to current Code.
4. The strict application of the Ordinance would produce undue hardship by leaving us with no outdoor area to gather around, as we are removing the existing patio slab to comply with county restrictions. We would also lose the considerable investment of the fire pit, which was only installed upon county approval, as well as need to invest further to replace it with new grass or flower beds. We now understand that the fire pit is being viewed as an accessory structure for use, though it is completely constructed of natural materials and rises no more than 4" above the ground at its highest point (this is only where the actual wood goes). The base of the fire pit is completely permeable and water drains between the stones. The stones were purchased locally and compliment the surrounding neighborhood. When not in use, the total fire pit presents itself as any other piece of landscape architecture that can be found in our neighborhood, with its multiple front yard fountains, above ground planters, and statues (though we never knew we were in a front yard – it's just a side yard to us). Again, this is our only yard to share in family experiences, as all of our neighbors already can without restriction.

accessory use in front yard of a lot containing less than 36,000 sq ft

5. Such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity since we have a corner lot with a street that angles severely inward to the property. Additional corner lot homes in our neighborhood are situated such on their land enabling them to still have a backyard, yet as previously stated, our only true backyard (actually behind the house) is less than 5' to our fence line.
6. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property. The fire pit is where our family gathers and is what brings people to our home year round. In the colder months, there is not a weekend that goes by that we are not making S'mores with neighborhood kids, friends, or family, and enjoying quality time away from a television. The warmer months find us talking around the pit, reading books, and listening to music. If the variance request is not granted, we will not have a yard to do any of this in.
7. The authorization of the variance will not be of substantial detriment to the adjacent property as it is more than 40' to the only abutting property.
8. The character of the zoning district will not be changed by the granting of the variance as we are simply contributing to the charm of the neighborhood.
9. The variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to public interest. The residential fire pit in a residential zone parallel the intended spirit.

We are currently expecting twins, and as first time parents we would love to be able to share this with our children. As we have sat with envy while our friends and neighbors share the experience of making s'mores and simply laughing around a fire, we finally are about to have our own moments after four long years of trying to expand our family. As we are approaching the renovation along with having twins, we not only want the space to entertain, but we hope to avoid incurring additional costs associated with the removal of the fire pit and out only area to gather. Please review the plat; you will find how limited we are in usable yard space given the small size of the lot and the front yard County required setbacks. The fire pit was installed with good faith, and is used responsibly.

Pictures are enclosed in the application to help illustrate that the fire pit truly does add to the charm of our home and neighborhood. Thank you for your consideration.

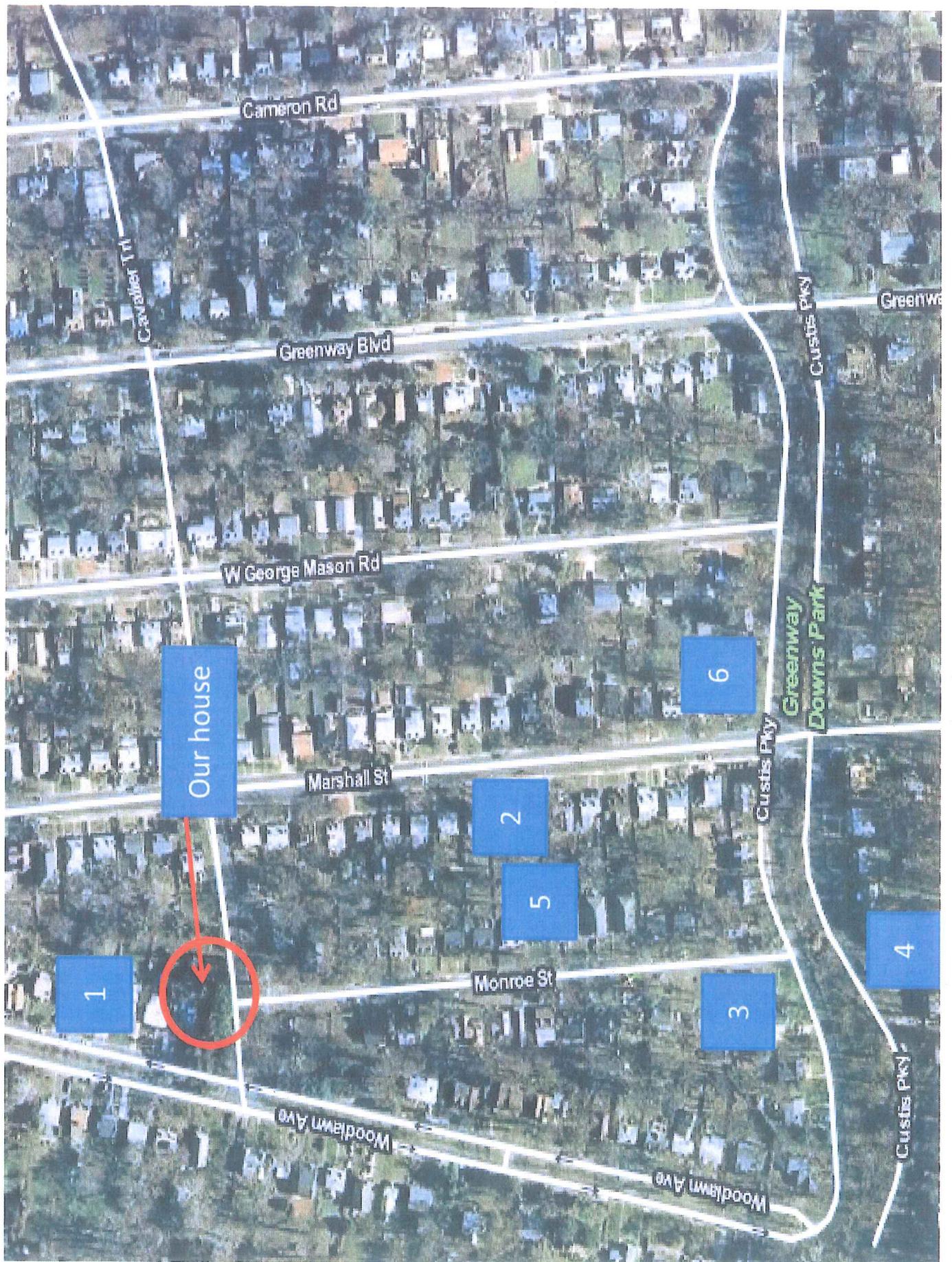
Sincerely,



Joshua and Kristen Gary

Renovated homes in the Greenway Downs
neighborhood

Our desired home plan will fit in with the
neighborhood



Our house

1

2

5

Monroe St

3

4

6

Greenway Downs Park

Cameron Rd

Greenway Blvd

W George Mason Rd

Marshall St

Cavalier Trl

Custis Pkwy

Greenway

Custis Pkwy

Woodlawn Ave

Woodlawn Ave

Custis Pkwy



Our house

2

1

W George Mason Rd

Marshall St

Monroe St

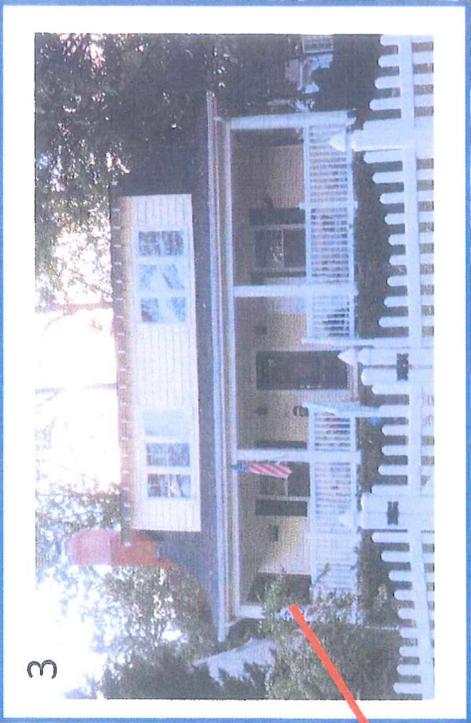
Woodlawn Ave

Wood St

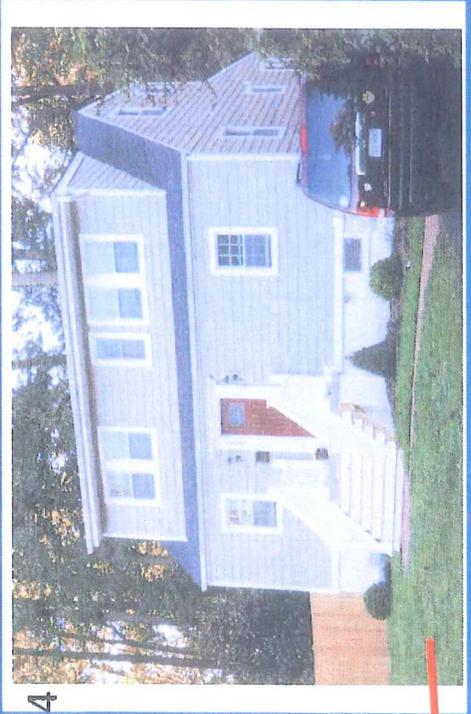
Wood St



W George Mar



3



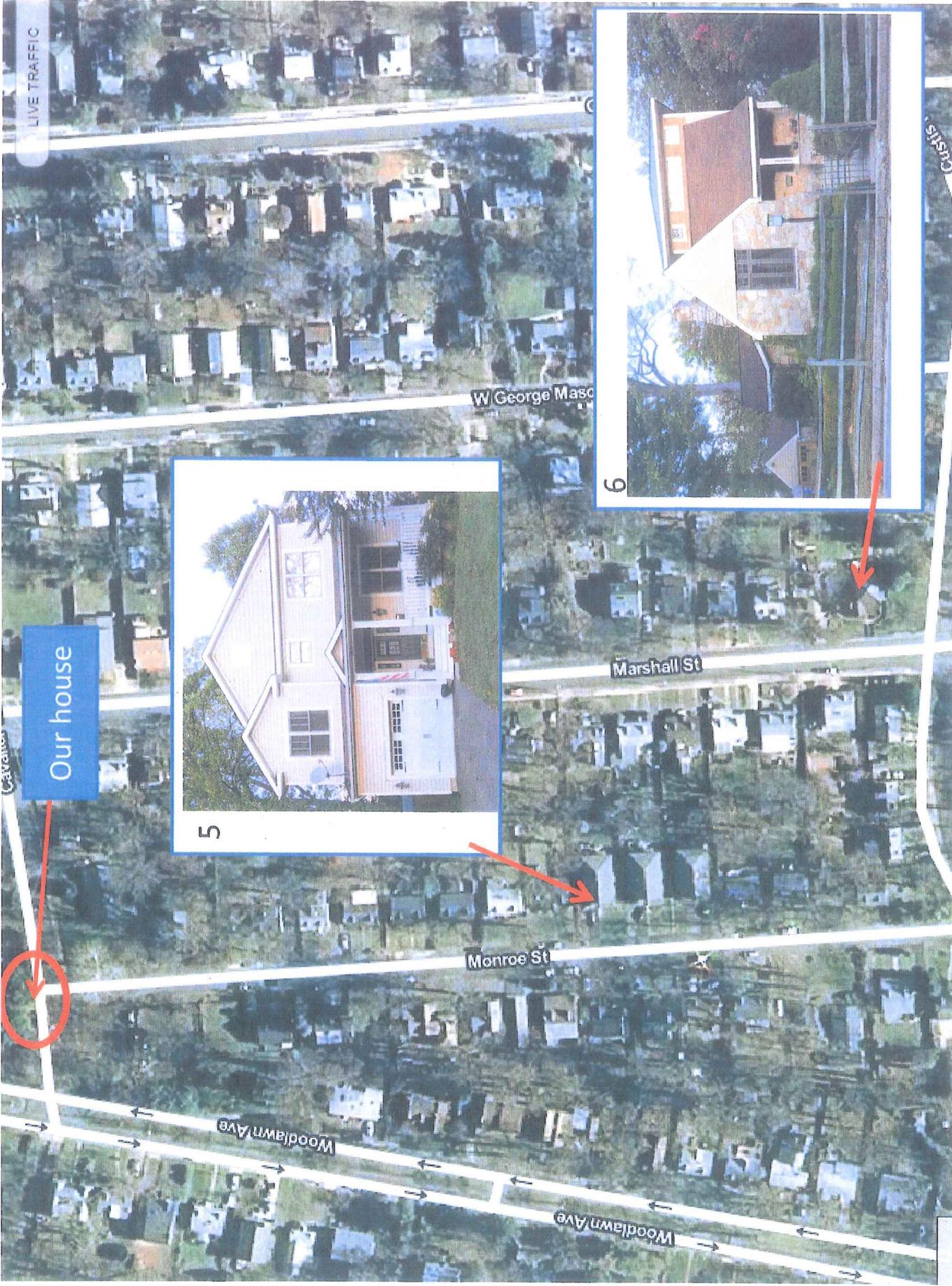
4

Our house

Monroe St

Woodlawn Ave

Custis Pkwy



LIVE TRAFFIC

W George Mason

6

Criss

Marshall St

Our house

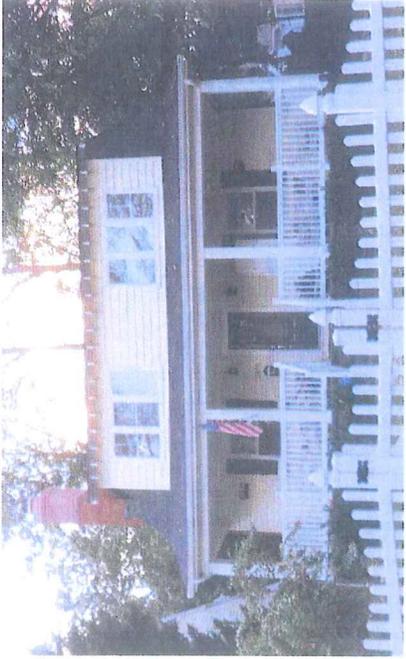
5

Monroe St

Woodlawn Ave

Woodlawn Ave

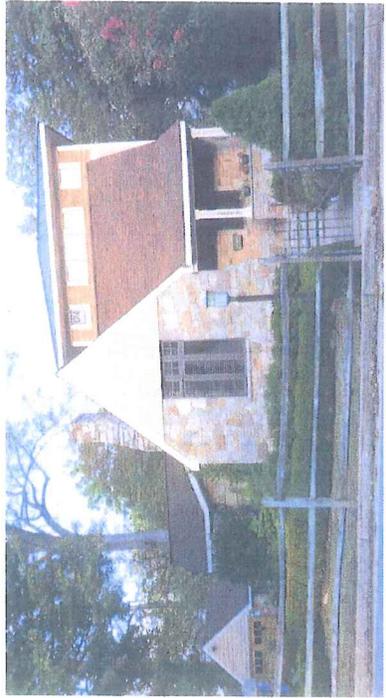
3



4



6



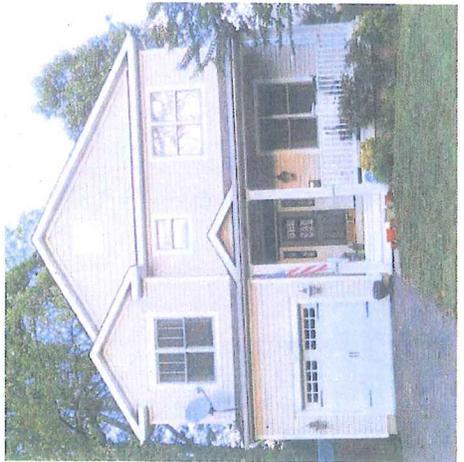
1



2



5





County of Fairfax, Virginia

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

July 30, 2012

Joshua Gary
6940 Cavalier Trail
Falls Church, VA 22042

RE: Vested Rights Determination Request
6940 Cavalier Trail
Greenway Downs, Lot 53, Section 2
Tax Map: 50-2 ((4)) 53
Zoning District: R-4

Dear Mr. Gary:

This is in response to your letter received on July 16, 2012, and subsequent conversation in which you requested a vested rights determination pursuant to Section 15.2-2307 of the Code of Virginia for the location of the original house, subsequent additions to the house, and for the garage on the above-referenced property.

The property is developed with a one-story, single family detached house with an attached garage. The property also includes a patio and a covered front porch with open stairs. The property is located in the R-4 District, which has a minimum required front yard of 30 feet and a minimum required side yard of 10 feet. Additionally, because the property is a corner lot, the minimum required rear yard may take on the dimension of the minimum required side yard. The submitted plat shows that the house is located 21.9 feet from the front line lot abutting Cavalier Trail, 38.3 feet from the front lot line abutting Woodlawn Avenue, and 4.7 feet from the side lot line, which is identified on the plat as S 74° 58' 00" E and located directly behind the house. Therefore, based on the preceding information, the house does not comply with the minimum required front yard abutting Cavalier Trail or with the minimum required side yard.

Under § 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. As noted on the attached form, our research indicates that a building permit was issued for the original left side addition and that the original house, all of the additions, and the garage appear in Tax Administration records for at least the last 15 years. Therefore, the above-mentioned structures are deemed vested pursuant to Section 15.2-2307 of the Code of Virginia.

Department of Planning and Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1374 FAX
www.fairfaxcounty.gov/dpz/



Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

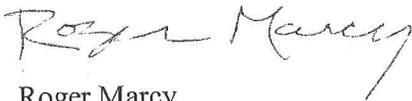
Mr. Gary
July 30, 2012
Page 2

However, according to our records a building permit has not been issued for the covered front porch with open stairs and this structure has not been taxed since 2006. As such, the porch cannot be vested. In addition, although the submitted plat is not to scale it appears that the porch may extend into the minimum required front yard abutting Cavalier Trail and the open stairs may encroach into the same minimum required front yard by more than 5 feet. The Zoning Ordinance considers a porch to be a deck and pursuant to Par. 2C of Sect. 2-412 of the Zoning Ordinance a covered deck may not extend into a minimum required front yard at all. In addition, pursuant to Par. 1C of Sect. 2-412 of the Zoning Ordinance open stairs that are less than 10 feet in width may extend no more than 5 feet into any minimum required yard. As such, if the porch and stairs do not comply with the location requirements of the Zoning Ordinance they should be reduced in size to comply with the requirements of Par. 2C of Sect. 2-412 and Par. 1C of Sect. 2-412 as described above. Failure to address this issue may impact your ability to obtain future permits for this property.

I further note that the submitted plat also shows a patio in the front yard that is approximately 20.3 feet from the front lot line abutting Woodlawn Avenue. A patio is considered by the Zoning Ordinance to be a deck and pursuant to Par. 2A of Sect. 2-412 of the Zoning Ordinance an open deck that is less than 4 feet in height may only extend into a minimum required front yard by 6 feet. As such, because the patio does not comply with the location requirements of the Zoning Ordinance it should be reduced in size to comply with the requirements of Par. 2A of Sect. 2-412, as described above. Failure to address this issue may impact your ability to obtain future permits for this property.

I trust that this correspondence fully responds to your request. If you have any additional questions, please feel free to contact me at 703-324-1396.

Sincerely,



Roger Marcy
Assistant to the Zoning Administrator

Enclosure A/S

cc: Joshua Gary, 6940 Cavalier Trail, Falls Church, VA 22042
Linda Q. Smyth, Supervisor, Providence District
Eileen M. McLane, Zoning Administrator
Mavis Stanfield, Deputy Zoning Administrator for Appeals
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch



County of Fairfax, Virginia

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

Vested Rights Determination under §15.2-2307 of the Code of Virginia

Property Tax Map Number:	50-2 ((4)) 53
Property Address:	6940 Cavalier Trail
Requestor's Name:	Joshua Gary
Requestors Address:	6940 Cavalier Trail
Requestor's Phone Number:	910-382-2432
Current Zoning:	R-4
Magisterial District:	Providence
Subdivision Name/Section/Block/Lot No.:	Greenway Downs, Lot 53, Section 2

Written Description of Structure that may be vested under §15.2-2307 of the Code of Virginia

The building in question is the existing one-story house with attached one-car garage. According to Tax Assessment records the original house was constructed in 1947. Building Permit #7238 was issued on May 5, 1950, to construct a 12 foot by 16 foot enclosed porch addition on the left side of the original house. Our records do not show that building permits were issued for the original house, for the garage (which appears to have been originally constructed as a detached structure) for the right side addition that connects the house to the garage or for the 8.2 foot by 4.2 foot addition to the rear of the 1950 addition. However, Tax Administration records show that all of the above-mentioned structures have been taxed for at least 15 years. Therefore, the original house, the garage, and the three additions are deemed to be vested pursuant to Section 15.2-2307 of the Code of Virginia.

The submitted plat also shows that the front of the house includes a covered porch with open stairs. According to our records a building permit has not been issued for the porch and this structure has not been taxed since 2006. As such, the porch cannot be vested.

Background Summary (check all that are applicable):

- A Building Permit has been issued for the left side addition constructed in 1950 and measuring 12 feet by 16 feet.
- No evidence that a Building Permit has been issued for the original house, for the garage, for the rear addition to the 1950 addition, for the right side addition connecting the house to the garage or for covered porch.
- A Non-Residential Use Permit/Residential Use Permit has been issued or, when a Non-RUP/RUP is not required, evidence that the structure(s) has passed final inspection.

- Department of Tax Administration records indicate that the original house, the garage, the 1950 addition, the rear addition to the 1950 addition, and the right side addition connecting the house to the garage have been taxed for at least 15 years.
- Department of Tax Administration records do not indicate that the covered porch has been taxed for at least 15 years.

Staff Determination:

- §15.2-2307 of the Code of Virginia is applicable for the original house, all three of the above-mentioned additions, and the garage. As such, these structures may remain; however, the structures must be brought into compliance with the Virginia Uniform Statewide Building Code. The structures may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located.
- ~~§15.2-2307 of the Code of Virginia is applicable for the structure and the structure(s) may remain; however, §15.2-23071 is not applicable for the use of the structure. A separate letter explaining the status and use of the structure(s) will be issued.~~
- §15.2-2307 of the Code of Virginia is not applicable for the covered porch. A separate letter explaining the status of the structures will be issued.

Reviewer's Signature:

Regan Macey
Zoning Administration Division
Department of Planning and Zoning

Date:

7-30-12

cc: Janet E. Coldsmith, Director, Real Estate Division, DTA
Eileen M. McLane, Zoning Administrator
Diane Johnson-Quinn, Deputy Zoning Administrator, for Zoning Permit Review Branch

Similar Case History

Group: 01-P-063

VC 01-P-063

APPLICANT: TOULME, PATRICK & FENELOPE
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/11/2001
ZONING DISTRICT: R-4
DESCRIPTION: TO PERMIT THE CONSTRUCTION OF SECOND STORY ADDITION 21.9 FEET FROM FRONT LOT LINE AND 7.3 FOOT HIGH FENCE TO REMAIN IN THE REAR YARD
LOCATION: 2829 WOODLAWN AVENUE
TAX MAP #S: 0502 04 0109

Group: 01-P-064

VC 01-P-064

APPLICANT: SULC, BRIAN AND CELESTE
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/18/2001
ZONING DISTRICT: R-4
DESCRIPTION: TO PERMIT THE CONSTRUCTION OF A SECOND STORY ADDITION 9.1 FEET FROM SIDE LOT LINE
LOCATION: 2835 WOODLAWN AVENUE, FALLS CHURCH, VA 22042
TAX MAP #S: 0502 04 0111

Group: 91-P-048

VC 91-P-048

APPLICANT: CLIFFORD, DAVID R.
STATUS: APPLICATION DENIED
STATUS/DECISION DTE: 07/10/1991
ZONING DISTRICT: R-4
DESCRIPTION: ALLOW CONSTRUCTION OF DETACHED GARAGE 6 FT. FROM REAR LOT LINE AND 3 FT. FROM SIDE LOT LINE (10 FT. MIN. SIDEYARD, 11.5 FT. MIN. REAR YARD REQ.)
LOCATION: 2820 MARSHALL STREET
TAX MAP #S: 0502 04 0058

Group: 91-P-067

VC 91-P-067

APPLICANT: SULLIVAN, JOHN P & CONNIE A
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 08/14/1991
ZONING DISTRICT: R-4
DESCRIPTION: ALLOW CONSTRUCTION OF ADDITION 15.1 FT. FROM FRONT LOTLINE AND 9.8 FT. FROM SIDE LOT LINE (30 FT. MIN. FRONTYARD REQ. AND 10 FT. MIN. SIDE YARD REQ.)
LOCATION: 2757 WOODLAWN AVENUE
TAX MAP #S:
0502 04 0046

Group: 93-P-016

VC 93-P-016

APPLICANT: ANTHONY, EDGAR O.
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 05/18/1993
ZONING DISTRICT: R-4
DESCRIPTION: ALLOW CONSTRUCTION OF CARPORT 15.4 FT. FROM FRONT LOT LINE (30 FT. MIN. FRONT YARD REQ.)
8 DAYS WAIVED
LOCATION: 2834 MONROE STREET
TAX MAP #S:
0502 04 0094

Group: 96-P-038

VC 96-P-038

APPLICANT: BOURBEAU, JOHN & YAGER, DAWN
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 06/19/1996
ZONING DISTRICT: R-4
DESCRIPTION: PERMIT CONSTRUCTION OF ADDITION 22.0 FT. FROM FRONT LOT LINE
LOCATION: 2816 CAMERON ROAD
TAX MAP #S:
0502 05 0057

Group: 97-P-029

VC 97-P-029

APPLICANT: LOUISE KITTI SMITH
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 06/04/1997
ZONING DISTRICT: R-4
DESCRIPTION: PERMIT CONSTRUCTION OF ADDITION 7.3 FT. FROM SIDE LOTLINE
LOCATION: 2805 MARSHALL STREET
TAX MAP #S:
0502 04 0010

Group: 99-P-126

VC 99-P-126

APPLICANT: JOSEPH, CHRISTOPHER & MAUREEN
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 12/15/1999
ZONING DISTRICT: R-4
DESCRIPTION: PERMIT CONSTRUCTION OF ADDITIONS 8.0 FT. FROM SIDE LOTLINE AND 22.5 FT. FROM FRONT LOT LINE
LOCATION: 2834 MARSHALL STREET
TAX MAP #S:
0502 04 0065

Group: 2003-PR-128

VC 2003-PR-128

[STAFF REPORT](#)

APPLICANT: JOHN ICE
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 11/04/2003
ZONING DISTRICT: R-4
DESCRIPTION: TO PERMIT CONSTRUCTION OF SECOND STORY ADDITION 7.4 FEET WITH EAVE 6.4 FEET FROM BOTH SIDE LOT LINES
LOCATION: 2807 WOODLAWN AVENUE
TAX MAP #S:
0502 04 0051

Group: 2012-PR-029

SP 2012-PR-029

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT: JAMES W. SEAMAN
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/25/2012
ZONING DISTRICT: R-4
DESCRIPTION: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION 15.8 FEET FROM FRONT LOT LINE AND 7.8 FEET FROM SIDE LOT LINE, REDUCTION IN MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT DECK TO REMAIN 7.0 FEET FROM SIDE LOT LINE AND ACCESSORY STRUCTURE TO REMAIN 4.9 FEET FROM SIDE LOT LINE AND 6.9 FEET FROM REAR LOT LINE AND SECOND ACCESSORY STRUCTURE TO REMAIN 3.2 FEET FROM SIDE LOT LINE AND 6.6 FEET FROM REAR LOT LINE
LOCATION: 2759 MARSHALL STREET, FALLS CHURCH, VA 22042
TAX MAP #S:
0502 04 0006

Group: 2012-PR-031

SP 2012-PR-031

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT: TIM AND CHRISTINE KATSAPIS

STATUS: APPLICATION APPROVED

STATUS/DECISION 07/25/2012

DTE:
ZONING DISTRICT: R-4

DESCRIPTION: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT SECOND STORY ADDITION 6.9 FEET AND 7.9 FEET FROM SIDE LOT LINES AND ERROR IN BUILDING LOCATION TO PERMIT EXISTING STOOP AND STAIRS TO REMAIN 20.5 FEET FROM FRONT LOT LINE

LOCATION: 2836 MARSHALL STREET, FALLS CHURCH, VA 22042

TAX MAP #:
0502 04 0066

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.

8-922 Provisions for Reduction of Certain Yard Requirements

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
 - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.
 - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.

3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed, no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed.
5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic

field; location of easements; and/or preservation of historic resources.

10. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of a maximum gross floor area, floor area ratio, lot coverage, landscaping and/or screening requirements.
11. 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, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
 - 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 and proposed 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. Existing and proposed 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.
12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.

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.