



APPLICATION ACCEPTED: November 18, 2013  
DATE OF PUBLIC HEARING: February 5, 2014  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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January 29, 2014

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-MV-097

### MOUNT VERNON DISTRICT

**APPLICANTS/OWNERS:** Shawn Berriman & Eva Berriman

**LOCATION:** 2504 Jamaica Drive, Alexandria 22303

**SUBDIVISION:** Fair Haven

**TAX MAP:** 83-3 ((9)) (2) 13

**LOT SIZE:** 6,145 square feet

**ZONING:** R-4, HC

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit reduction in minimum yard requirements based on an error in building location to permit addition to remain 25.9 ft. from a front lot line.

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

*O:\ehaley\2-5-14 SP 2013-MV-097 Beriman (Error)\SP 2013-MV-097 Berriman SR.docx*

*Erin M. Haley*

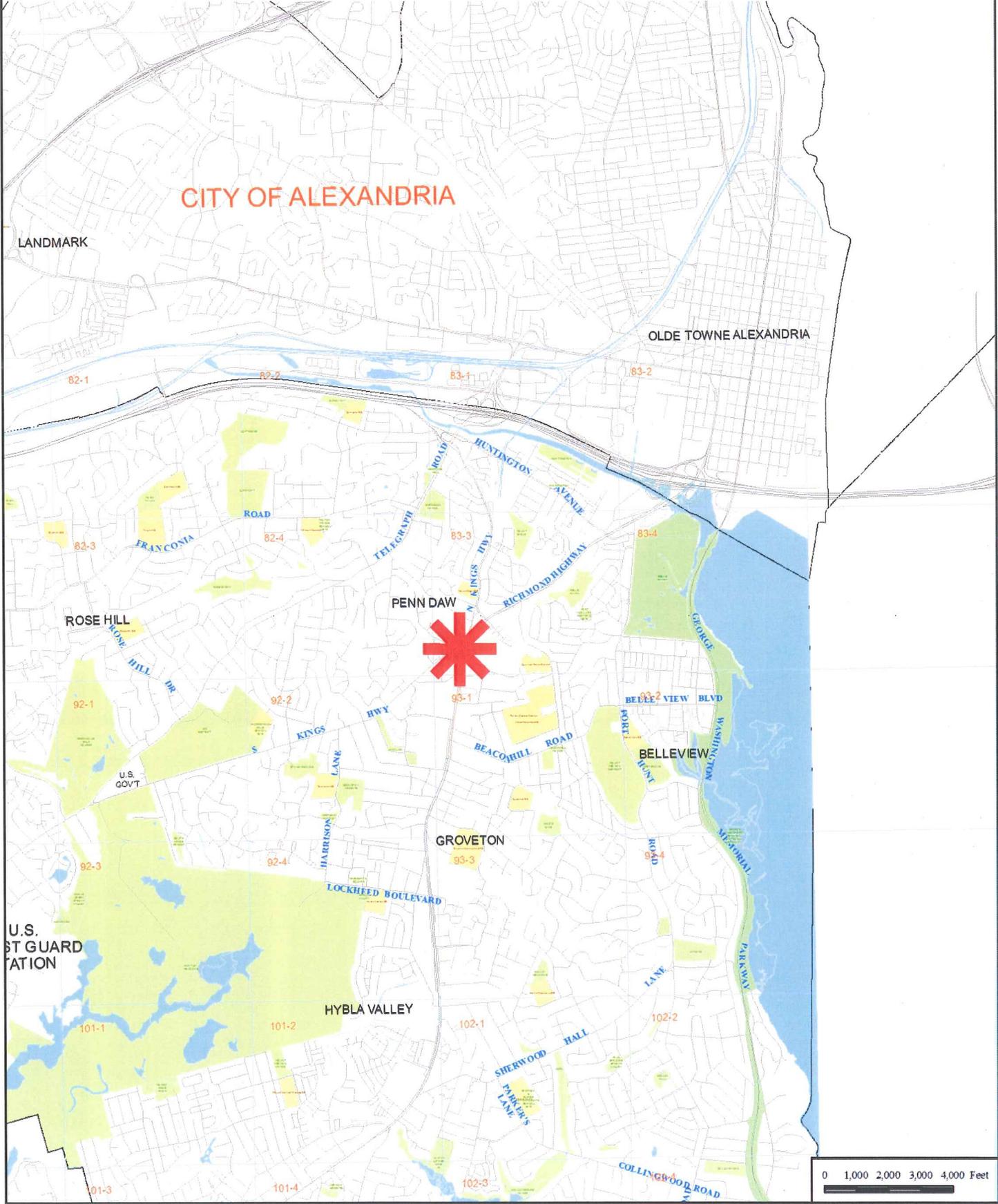
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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



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

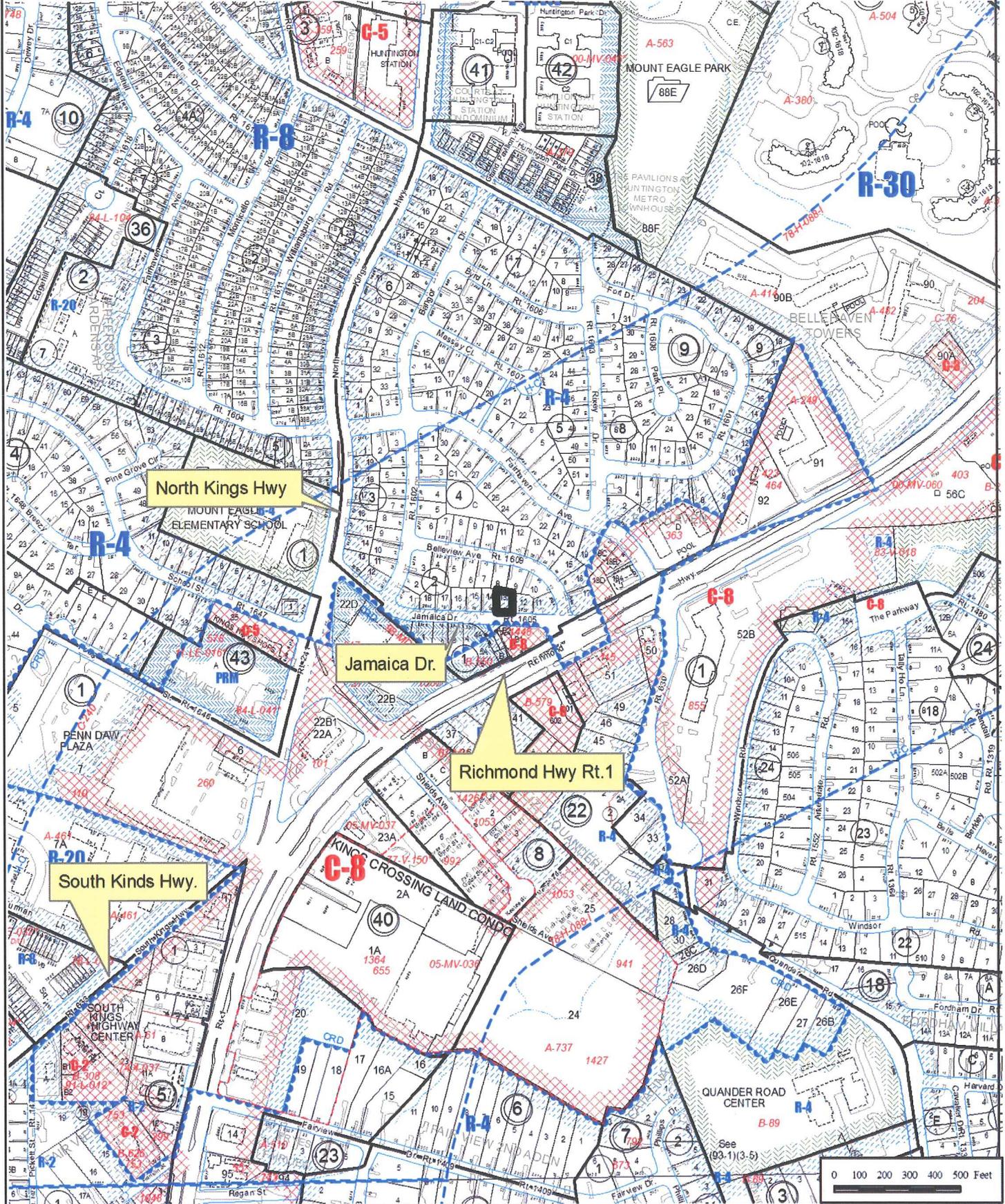
**Special Permit**  
**SP 2013-MV-097**  
**EVA & SHAWN BERRIMAN**

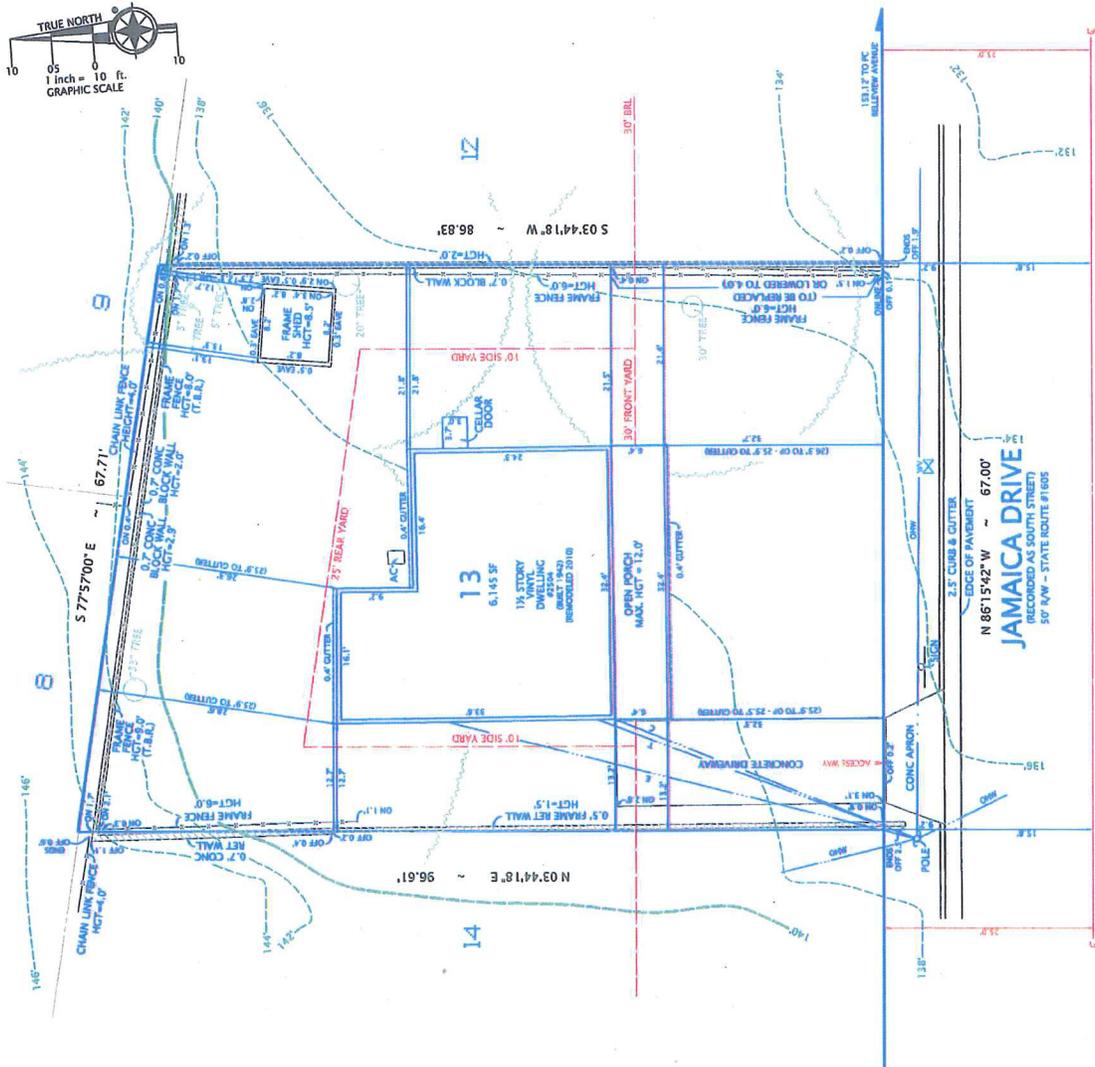
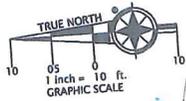
**CITY OF ALEXANDRIA**



0 1,000 2,000 3,000 4,000 Feet

**Special Permit**  
**SP 2013-MV-097**  
**EVA & SHAWN BERRIMAN**





**NOTES:**

- TAX MAP: 83-3-009-02-0013
- ZONE: R-4 (RESIDENTIAL 4 DU/AC)
- LOT AREA: 6,145 SF (0.1411 ACRE)
- REQUIRED YARDS:  
FRONT: = 30.0 FEET  
SIDE: = 10.0 FEET  
REAR: = 25.0 FEET
- HEIGHTS:  
DWELLING = 16.7 FEET  
SHED = 08.5 FEET  
WALLS = AS NOTED  
FENCES = AS NOTED  
OPEN PORCH = 12.0 FEET
- 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 PLAT 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.
- THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
- AREAS:  
1ST FLOOR = 933 SF  
2ND FLOOR = 392 SF  
GROSS FLOOR AREA = 1,325 SF  
FLOOR AREA RATIO = GFA (1325) / LOT AREA (6145) = 0.22  
OP = 207 SF
- THE RATIO OF IMPERVIOUS COVER IN THE FRONT YARD IS 0.22 %.
- THERE ARE NO EAVES ON THE DWELLING ONLY CUTTERS.
- THE MAXIMUM REMAINING REAR FENCE HEIGHT WILL BE 6.0'.

**PLAT**

SHOWING THE IMPROVEMENTS ON  
LOT 1.3, BLOCK 2, SECTION ONE  
**FAIR HAVEN**  
(DEED BOOK 0-15, PAGE 179)  
FAIRFAX COUNTY, VIRGINIA  
MOUNT VERNON DISTRICT  
SCALE: 1" = 10' NOVEMBER 04, 2011 (REV.)

I HEREBY CERTIFY THAT THE PORTIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND THAT THE SAME ARE CORRECT AND TRUE TO THE VISIBLE RECORDS AND ASSETS OF THIS DATE.

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO OWNER NUMBERS SET.



*George M. Quinn*

CASE NAME:  
SHAWN S. BERGMAN  
EVA C. BERGMAN  
D.I. SERVICES

**DOMINION** Surveyors, Inc.  
8808-P2 PEAR TREE VILLAGE COURT  
ALEXANDRIA, VA 22304  
TEL: 703-419-8335  
FAX: 703-799-6412

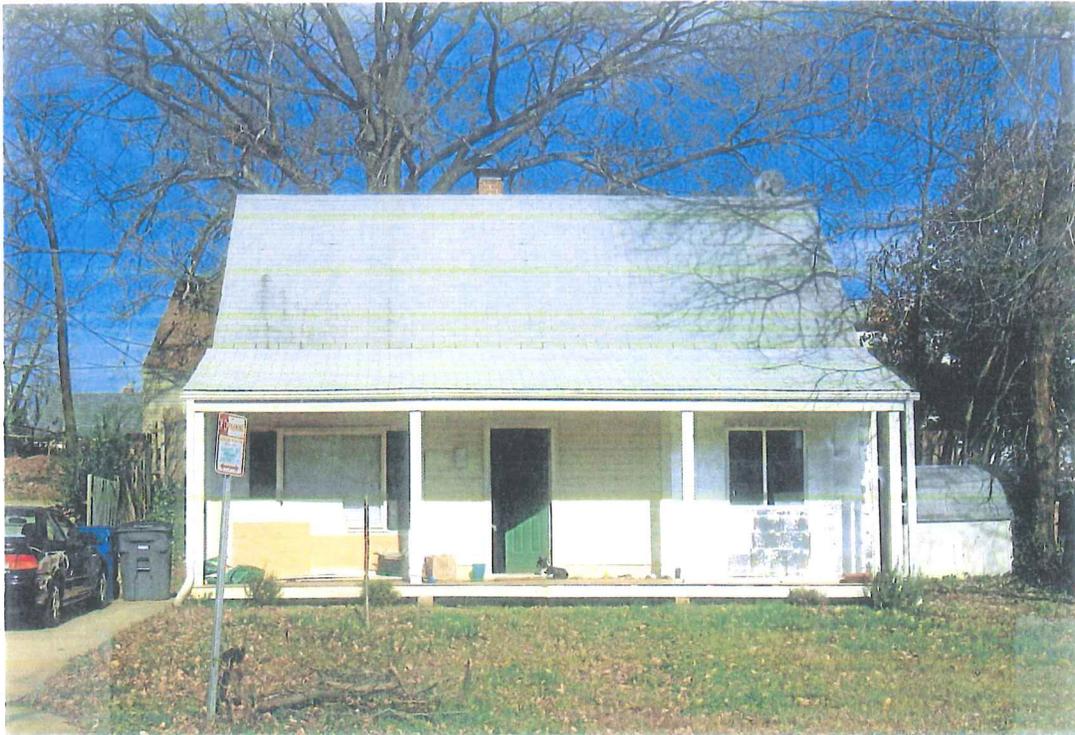












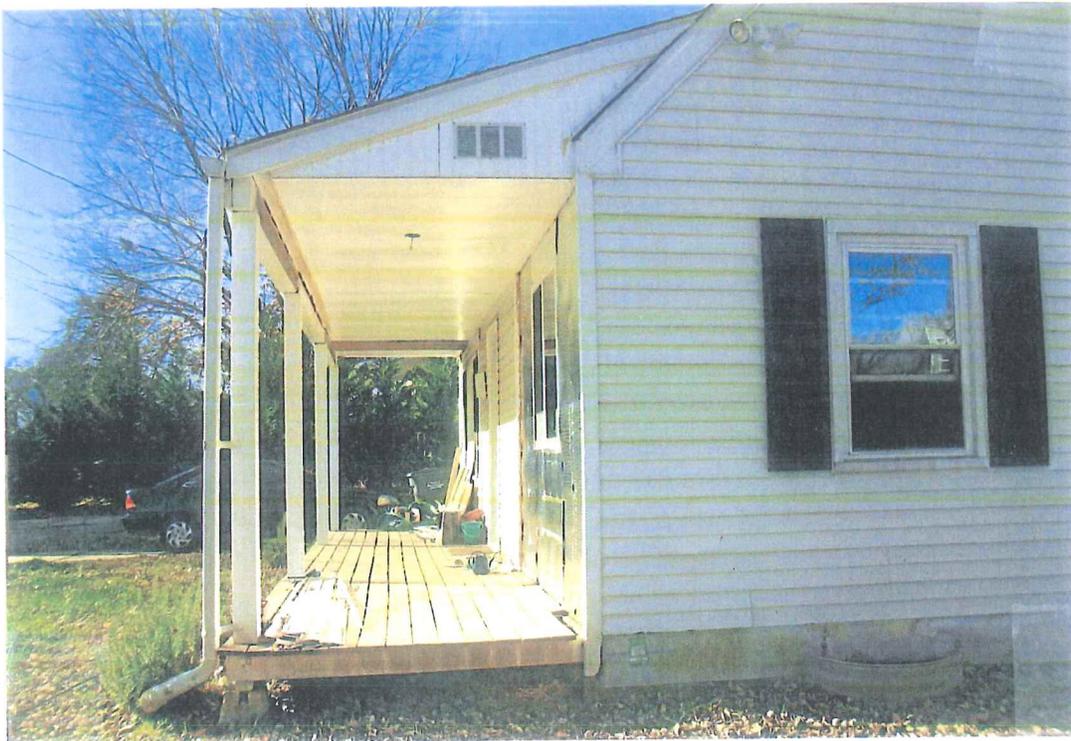
FRONT VIEW



FRONT VIEW & RIGHT SIDE

2504 JARZARICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



RIGHT SIDE AT FRONT



RIGHT SIDE AT REAR

21104 JARVIS DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



RIGHT REAR HOUSES BEYOND

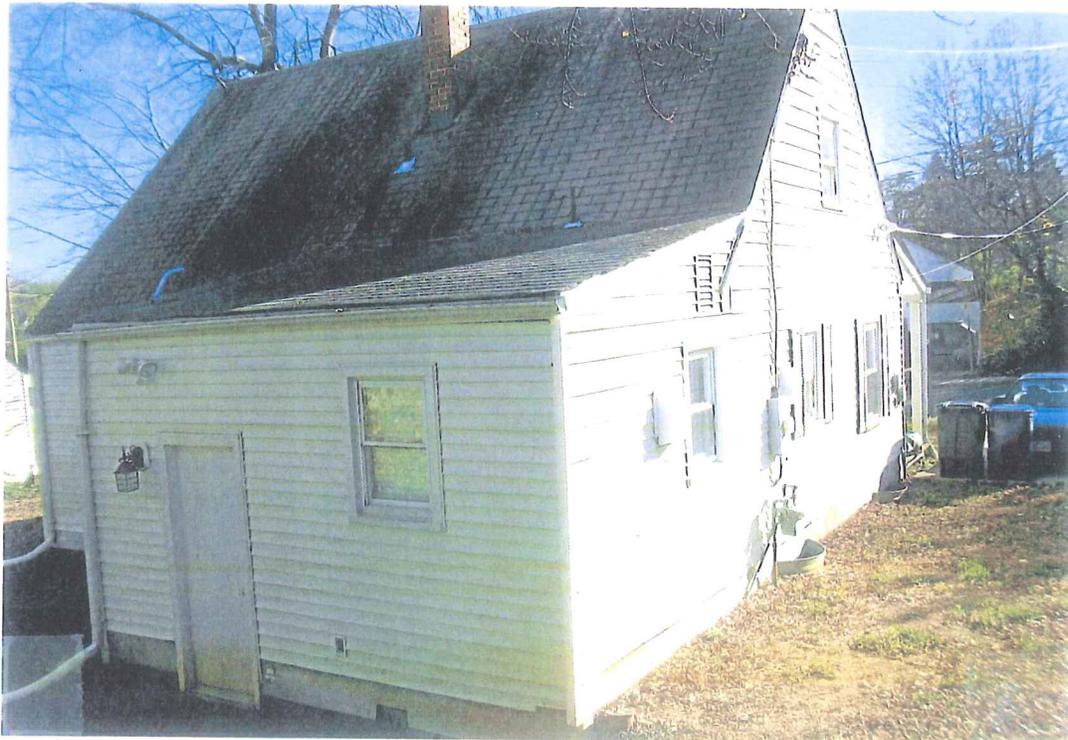


RIGHT AND REAR

2504 DARRIGER DRIVE



REAR ELEVATION



REAR AND LEFT SIDE

2504 JARRICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



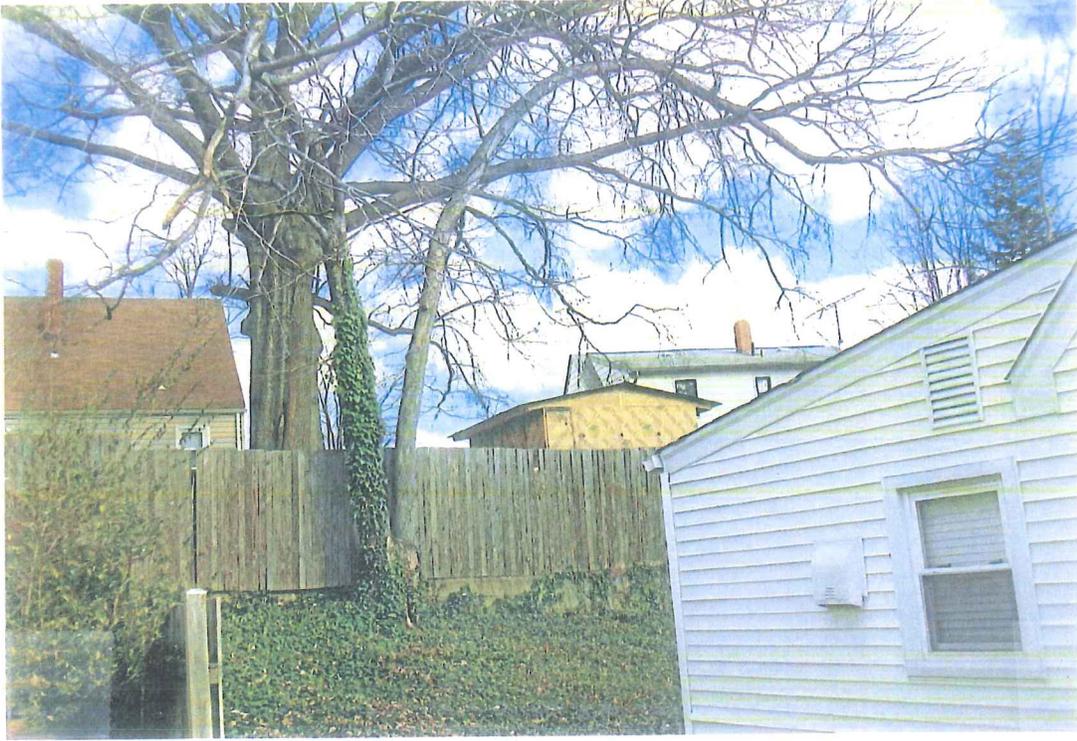
LEFT SIDE TO REAR



LEFT SIDE TO FRONT

504 LANSARIA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



HOUSES BEYOND LEFT REAR



HOUSES BEYOND RIGHT REAR

504 JAMAICA DRIVE

RECEIVED  
Department of Planning &  
OCT 24 2012  
Zoning Evaluation Division



JAMAICA DRIVE HOUSES TO LEFT



JAMAICA DRIVE HOUSES TO LEFT

250A JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



ACROSS STREET TO LEFT



ACROSS STREET TO RIGHT

504 JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



JAMAICA DRIVE HOUSE TO RIGHT

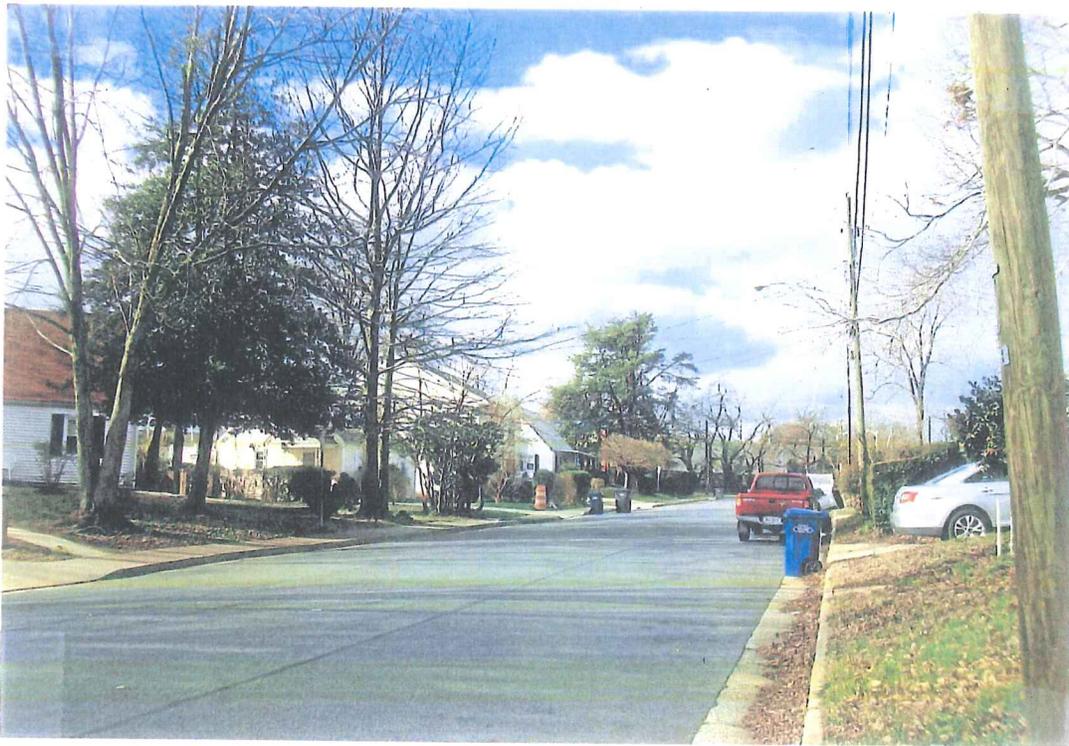


JAMAICA DRIVE HOUSES TO RIGHT

2504 JAMAICA DRIVE



JAMAICA DRIVE - EAST



JAMAICA DRIVE - WEST

504 JAMAICA DRIVE

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Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



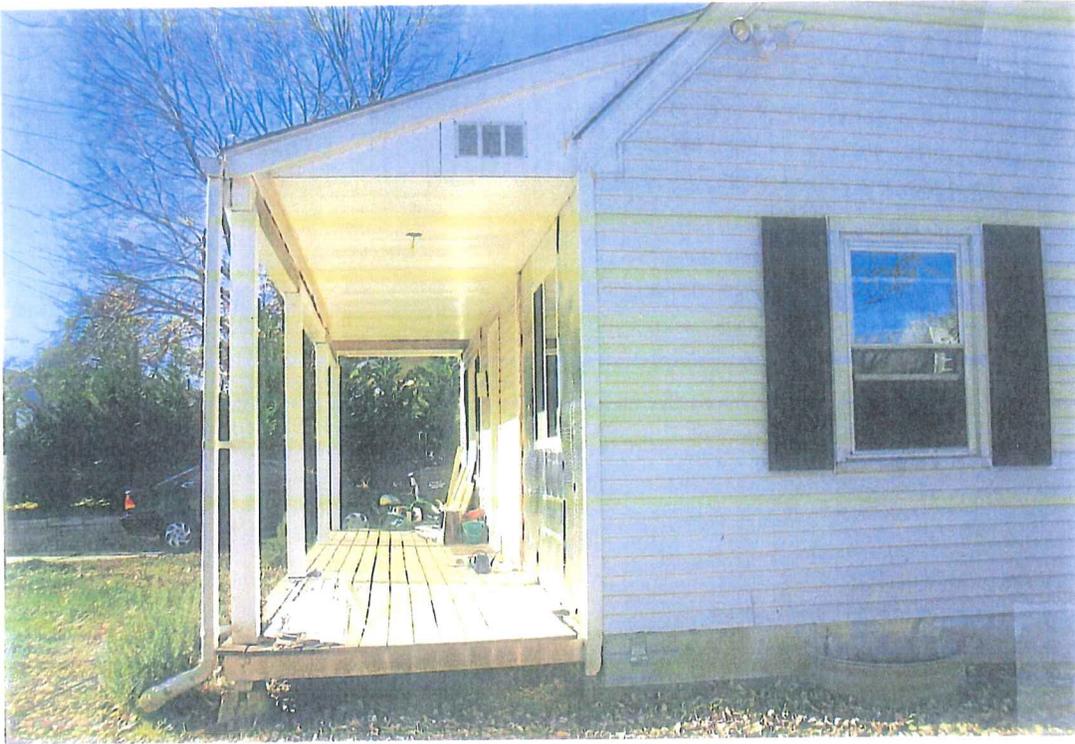
FRONT VIEW



FRONT VIEW & RIGHT SIDE

504 WARRIOR DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



RIGHT SIDE AT FRONT



RIGHT SIDE AT REAR

2504 JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoning  
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Zoning Evaluation Division



RIGHT REAR HOUSES BEYOND



RIGHT AND REAR

2504 HARRISON DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



REAR ELEVATION



REAR AND LEFT SIDE

2504 JARRICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



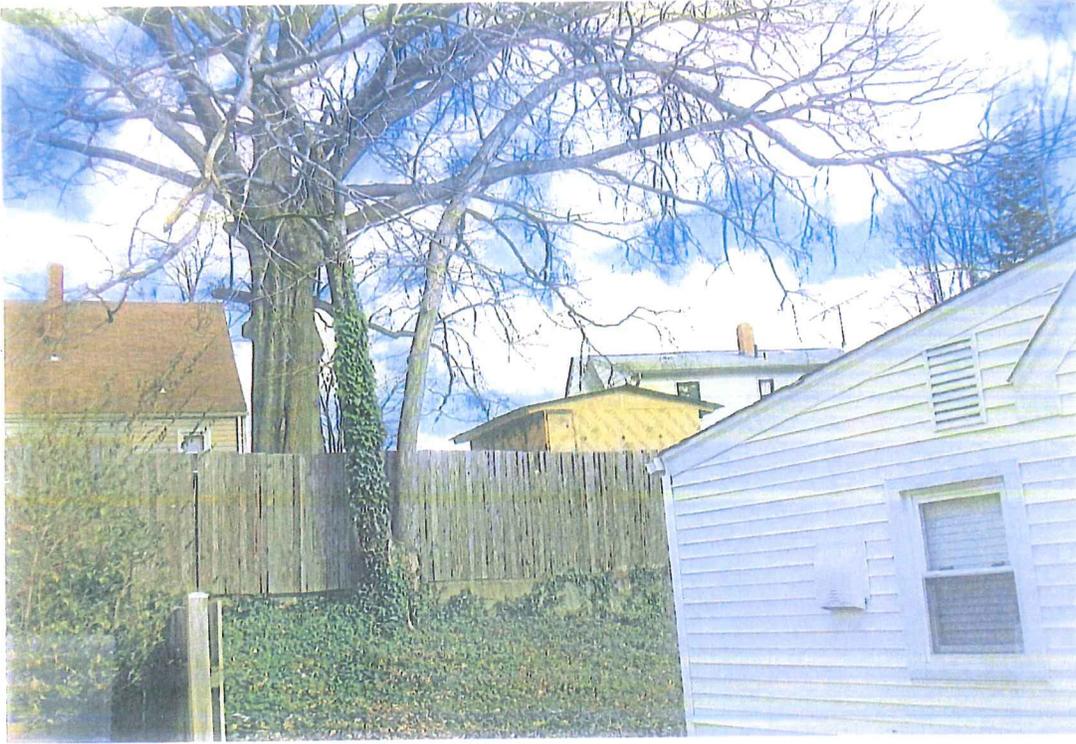
LEFT SIDE TO REAR



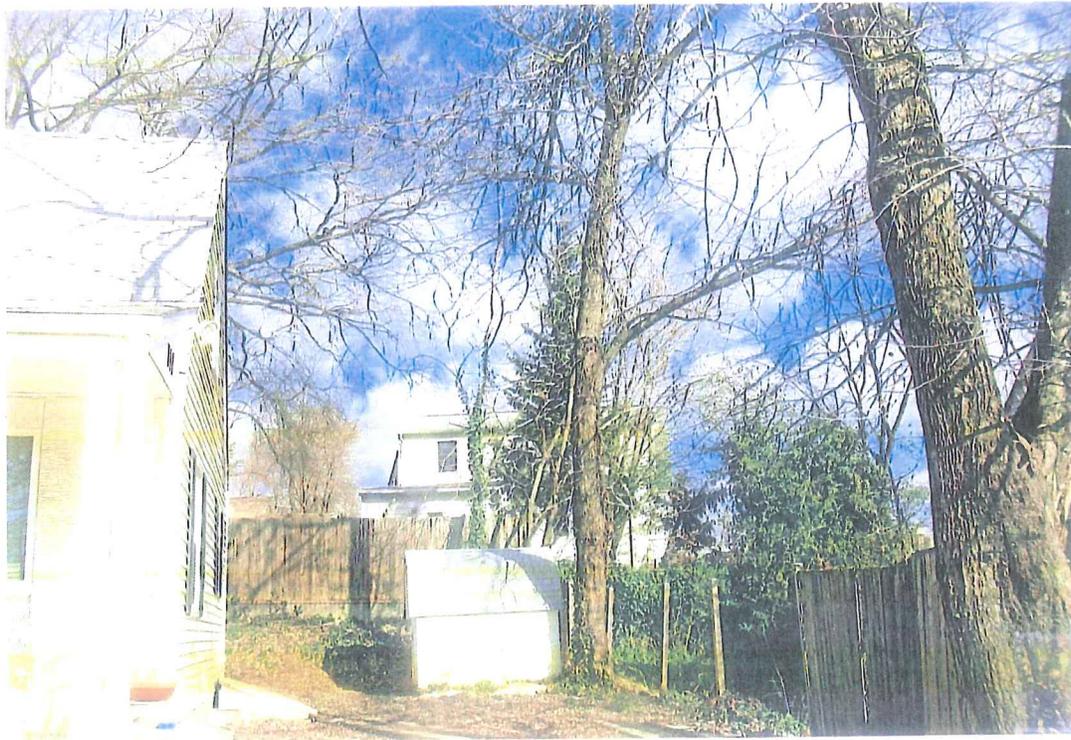
LEFT SIDE TO FRONT

1504 PARTRICK DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



HOUSES BEYOND LEFT REAR



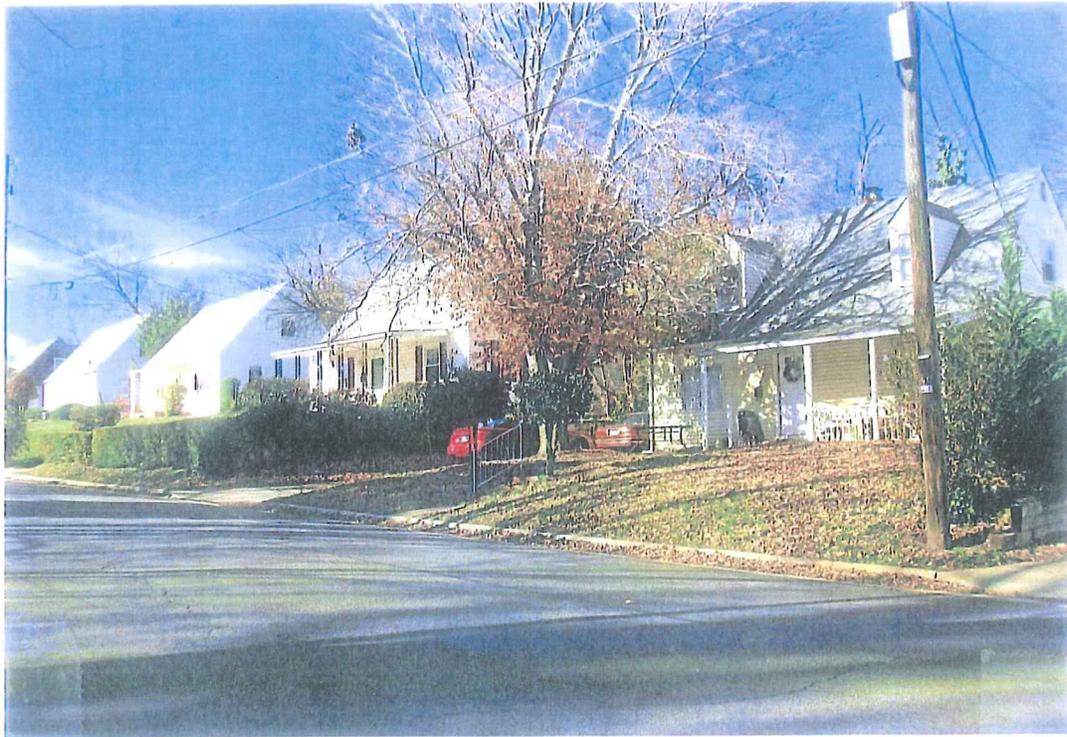
HOUSES BEYOND RIGHT REAR

2504 JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



JAMAICA DRIVE HOUSES TO LEFT



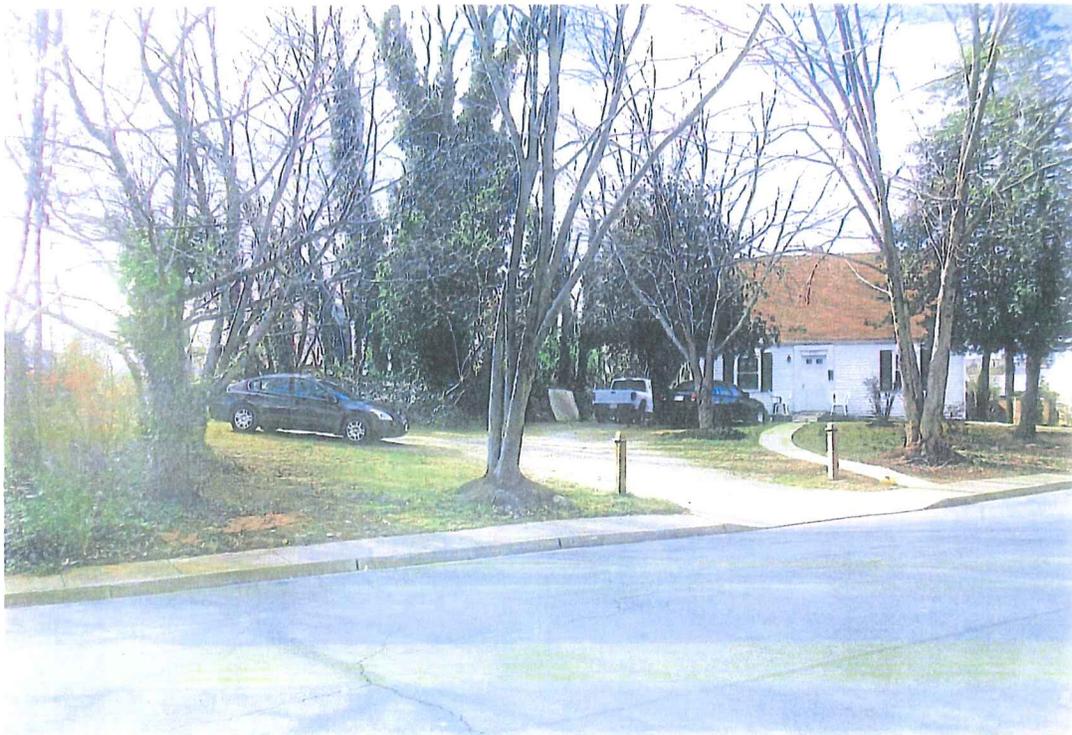
JAMAICA DRIVE HOUSES TO LEFT

250A JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoni.  
OCT 24 2012  
Zoning Evaluation Division

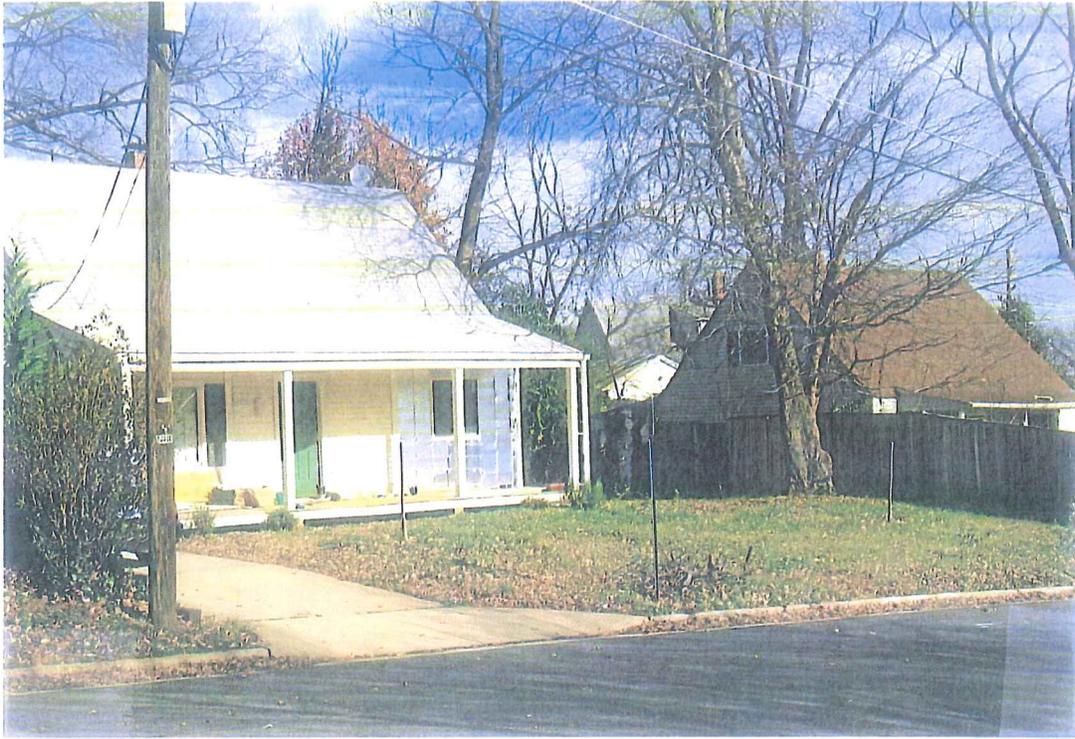


ACROSS STREET TO LEFT



ACROSS STREET TO RIGHT

2504 JARRIGA DRIVE



JAMAICA DRIVE HOUSE TO RIGHT



JAMAICA DRIVE HOUSES TO RIGHT

1504 JAMAICA DRIVE

RECEIVED  
Department of Planning &  
OCT 24 2012  
Zoning Evaluation Division



JAMAICA DRIVE ~ EAST



JAMAICA DRIVE - WEST

2504 JAMAICA DRIVE

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division



## DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit to allow a reduction to minimum yard requirements based on an error in building location to permit an addition to remain 25.9 feet from the front lot line. The addition is an open porch with roof on the front of the dwelling. A minimum front yard of 30.0 feet is required; therefore a reduction of 4.1 feet is requested.

A copy of the special permit plat depicting the structures on site, titled "Plat Showing Improvements on Lot 13, Block 2, Section One, Fair Haven," prepared by George M. O'Quinn, Land Surveyor of Dominion Surveyors, dated April 6, 2011, is included at the front of the staff report.

## CHARACTER OF THE SITE AND SURROUNDING AREA

The 6,145 square foot lot is developed with a cape cod style vinyl sided single family detached dwelling, constructed in 1942, and remodeled in 2010. A concrete driveway provides access to the property from Jamaica Drive. An open porch with roof is located at the front of the dwelling. A shed 8.5 feet in height and approximately 67.2 square feet in size is located in the rear yard. A frame retaining wall 1.5 feet in height runs along the western side lot line. A concrete block wall with a height varying from 0.7 feet to 2.9 feet in height runs along the rear and eastern side lot lines. A frame fence 6.0 feet in height begins in the western side yard, continues along the top of the concrete block wall, and runs along the eastern side lot line to end at Jamaica Drive. The property has a lawn with shrubs and mature trees.

The subject property is located to the northwest of Richmond Highway (Rt. 1) and to the east of North Kings Highway. As depicted in the picture on the following page, the application property and the lots to the north, east, and west are zoned R-4 and are developed with single family detached dwellings. The subject property and the properties to the east and west are within a Highway Corridor Overlay District. The property to the south is zoned C-8 and is developed with a carry-out pizza restaurant.



## BACKGROUND

According to Fairfax County Tax Records the applicants purchased the property in September of 2010. According to testimony of the applicant, in the fall of 2010, they hired a contractor who told them that no permits would be needed to convert the sunroom on the front façade of the dwelling into an open porch. No building permits were found for the construction of the open porch. Upon being notified by Fairfax County that the work on the open porch is in violation of the Zoning Ordinance, the owners ceased work on the porch, obtaining permits for all interior work, and filed an application for a special permit.

A portion of fence in the front yard is over 4.0 feet in height and a note on the plat indicates the height will be lowered. Proposed Development Condition to this affect has been included by staff.

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

## **ZONING ORDINANCE REQUIREMENTS**

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

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

## **CONCLUSION**

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

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

## **APPENDICES**

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

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2013-MV-097**

**January 29, 2014**

1. This special permit is approved for the location of the addition (open porch), as shown on the plat prepared titled, "Plat Showing Improvements on Lot 13, Block 2, Section One, Fair Haven," prepared by George M. O'Quinn, Land Surveyor of Dominion Surveyors, dated April 6, 2011.
2. All portions of fencing over 4.0 feet in height in the front yard shall be reduced to a maximum height of 4.0 feet.
3. All applicable permits and final inspections shall be obtained for the addition (roofed porch).

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 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.

Application No.(s): SP 2013-MV-097  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 9, 2013  
(enter date affidavit is notarized)

6/23/13  
93/6/23/13

I, ~~David A. Isaac~~ EVA G. BERRIMAN  
SHAWN S. BERRIMAN, 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      118368

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 <b>BOLD</b> above)
Eva G. Berriman	2504 Jamaica Dr, Alexandria, VA 22303	Applicant/Title Owner
Shawn S. Berriman	2504 Jamaica Dr, Alexandria, VA 22303	Applicant/Title Owner
David A. Isaac	3033 Silent Valley Drive, Fairfax, VA 22031	Agent for Applicants/Owners

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

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 9, 2013  
(enter date affidavit is notarized)

118368

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)

**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): SP 2013-MV-097  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 9, 2013  
(enter date affidavit is notarized)

118368

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

**PARTNERSHIP INFORMATION**

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

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

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

(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): SP 2013-MV-097  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 9, 2013  
(enter date affidavit is notarized)

118368

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): SP 2013-MV-097  
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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: June 9, 2013  
(enter date affidavit is notarized)

118368

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)

Eva G. Berriman Shawn S. Berriman  
 Applicant [ ] Applicant's Authorized Agent

Eva G. Berriman, Shawn S. Berriman, Applicants/Owners  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 9<sup>th</sup> day of June 2013, in the State/Comm. of Virginia, County/City of Fairfax.

Danielle Lemoine  
Notary Public

My commission expires: 04/30/2016



APPENDIX 3

2504 Jamaica Dr  
Alexandria, VA 22303

In the fall of 2010, Shawn and Eva Berriman contracted for work to be done on their house. This work included the alteration from a pre-existing sun room into an open front porch. The contractor told them that no permits were needed to do the work. The contractor stated over 30 years of work experience in the U.S. and several years in Fairfax County.

When the owners were notified by Fairfax County that the work was in violation of permit and zoning regulations, work on the front porch was stopped immediately. The owners obtained permits in their name for the interior work.

The owners now wish to obtain a permit in their name to finish the front porch.

The front porch extends 3.7 feet into a 30 foot front yard setback. With gutter it extends 4.1 feet into the setback.

This noncompliance was the fault of the contractor. The owners were acting in good faith.

We believe that such reduction will not impair the purpose and intent of the ordinances.

It will not be detrimental to the use and enjoyment of other property in the immediate vicinity. Most houses on this street have front porches similar in size and design.

This front porch will not create an unsafe condition with respect to other property and public streets.

To force compliance with the minimum front yard requirement would cause hardship on the owners by forcing them to demolish the structure and loose the money they invested to build it.

The Berrimans were new to the neighborhood when this error in building occurred. They were hoping for the work to improve the value of their home.

This reduction in the front yard setback will not result in an increase in the density or floor area ratio from that permitted by the applicable zoning district regulations.

RECEIVED  
Department of Planning & Zoning

OCT 24 2012

Zoning Evaluation Division

2504 Jamaica Drive  
Alexandria, VA 22303

For error in building location of front porch.

- A. The front porch as built sits 3.7' into a 30' setback. With current gutter it sits 4.1' into setback.
- B. The non-compliance was done in good faith by the property owners. The owners hired a builder who was not licensed and told them that no permits were required. The owners were not aware that they were in any violation.
- C. We believe this reduction will not impair the purpose and intend of this ordinance.
- D. The front porch as it is built is not detrimental to the use and enjoyment of other property in the immediate vicinity.
- E. The porch does not create an unsafe condition with respect to other property and public streets.
- F. Forced compliance with minimum yard requirements would cause unreasonable hardship upon the owners. They would be forced to pay to remove a structure that they paid in good faith to have built. No modification can be made to bring the porch into compliance. The new porch replaced a previously existing sunroom of the same depth. The sunroom was in disrepair. Forced compliance would also leave the home with no covered entrance.
- G. This reduction will not result in an increase in density or floor ratio from that permitted by the applicable zoning district regulations.

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division

2504 Jamaica Drive  
Alexandria, VA 22303

For having a 6' high fence in front yard

The owners will agree to have the fence removed

RECEIVED  
Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division

2504 Jamaica Drive  
Alexandria, VA 22303

For error in building location of Frame Shed.

- A. The error in location is that the shed sits 2.8' from side property lines. The eave is 2.3'. The shed height is 8.5'.
- B. The shed was at this location when the owners purchased the property in good faith.
- C. We believe the reduction will not impair the purpose and intent of this ordinance.
- D. To allow the shed to remain in this location will not be detrimental to the use and enjoyment of other property in the immediate vicinity.
- E. To allow the shed to remain in this current location will not create an unsafe condition with respect to both owner property and public streets.
- F. To force compliance would cause a hardship on the owners by forcing them to pay costs of relocating the shed.
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations

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Department of Planning & Zoning  
OCT 24 2012  
Zoning Evaluation Division

Fairfax County  
Department of Planning and Zoning

RE: Special Permit Application  
Eva & Shawn Berriman  
Response to Checklist Report  
SP 2012-0241

The proposed structure is a covered front porch addition to a 1 ½ story SFD house. The façade of the existing house is vinyl siding with asphalt shingle roof.

The proposed front porch is wood frame with wood posts, a wood frame ceiling, and roof with asphalt shingles.

The dimensions of the porch are 32' feet 7" inches wide and 6' foot 6" inches deep.

The height of floor above grade is 1' foot 5" inches. The maximum height of the shed roof above grade is 12' feet 4" inches.

This porch is the same depth as the front sunroom that was existing when the owners purchased the house.

No hazardous or toxic substances are to be used in the construction of this porch. No hazardous storage tanks or containers will exist on this property. No hazardous waste or petroleum products will be generated, utilized, stored, treated and/or disposed of on this site.

It has been brought to the owner's attention that the setback dimensions for the porch do not meet all applicable zoning ordinances. The owners were trying to repair and improve upon a pre-existing sunroom by converting it into a covered front porch with the same appearance of many of the other houses on their street.

The builder that they hired led them to believe that permits were not necessary. Since the owners have been made aware of the regulations, they now wish to apply for an exception through the Zoning Department so that this structure may be legally completed.

The owner's request is to allow the porch to remain and be finished later with a separate building permit. In addition, the owner will comply with the County to adjust the fence to meet zoning regulations.

The owner believes all other structures on this property are within the zoning regulations.

# Similar Case History

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## Group: 90-V-003

### SP 90-V-003

**APPLICANT:** RANDALL J LECLAIRE  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 04/04/1990  
**ZONING DISTRICT:** R-4  
**DESCRIPTION:** TO PERMIT DWELLING TO REMAIN 20 FT. FROM FRONT LOT LINE. GARAGE WAS DENIED.  
**LOCATION:** 2506 MASSEY COURT  
**TAX MAP #5:**  
 0833 09050027

## Group: 2012-MV-038

### SP 2012-MV-038

[STAFF REPORT](#)

[LOCATOR MAP](#)

**APPLICANT:** ERIC NORLAND, LEAKHENA AU  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 09/12/2012  
**ZONING DISTRICT:** R-4  
**DESCRIPTION:** REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT SECOND FLOOR ADDITION 24.9 FEET FROM FRONT LOT LINE AND ERROR IN BUILDING LOCATION TO PERMIT EXISTING DWELLING TO REMAIN 15.2 FEET FROM FRONT LOT LINE AND 4 FEET FROM SIDE LOT LINE AND ACCESSORY STRUCTURE TO REMAIN 6.1 FEET FROM SIDE LOT LINE AND 6.8 FEET FROM REAR LOT LINE  
**LOCATION:** 2501 FORT DRIVE, ALEXANDRIA, VA 22303  
**TAX MAP #5:**  
 0833 09060020

### **8-006 General Standards**

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

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

**8-903 Standards for All Group 9 Uses**

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

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

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

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

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

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

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