



APPLICATIONS ACCEPTED: December 31, 2013
BOARD OF ZONING APPEALS: March 12, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

March 5, 2014

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-MA-114

MASON DISTRICT

APPLICANTS: Mohamad Ezz Eldine El-Achi
Rita El-Achi

OWNER: Mohamad Ezz Eldine El-Achi

SUBDIVISION: Forest Hills, Section 1

STREET ADDRESS: 4107 Mason Ridge Dr., Annandale 22003

TAX MAP REFERENCE: 61-3 ((15)) 65

LOT SIZE: 17,356 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction in the minimum yard requirements based on error in building location to permit addition to remain 3.2 ft. from side lot line and open deck to remain 2.9 ft from side 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 these applications 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 applications.

O:\rhorner\Special Permits\EI Achi\EI Achi Staff Report (error).doc

Rebecca Horner

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

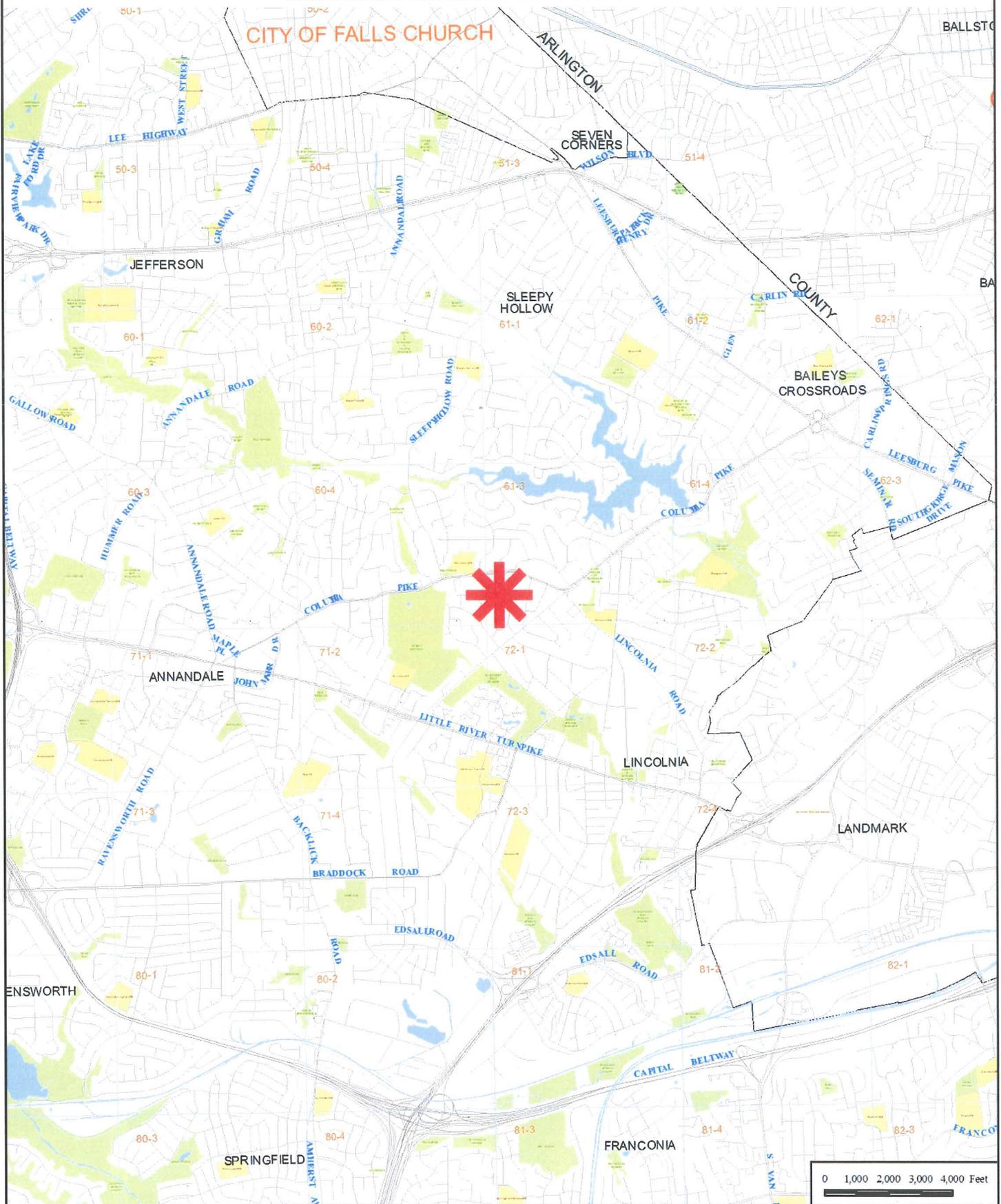


For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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

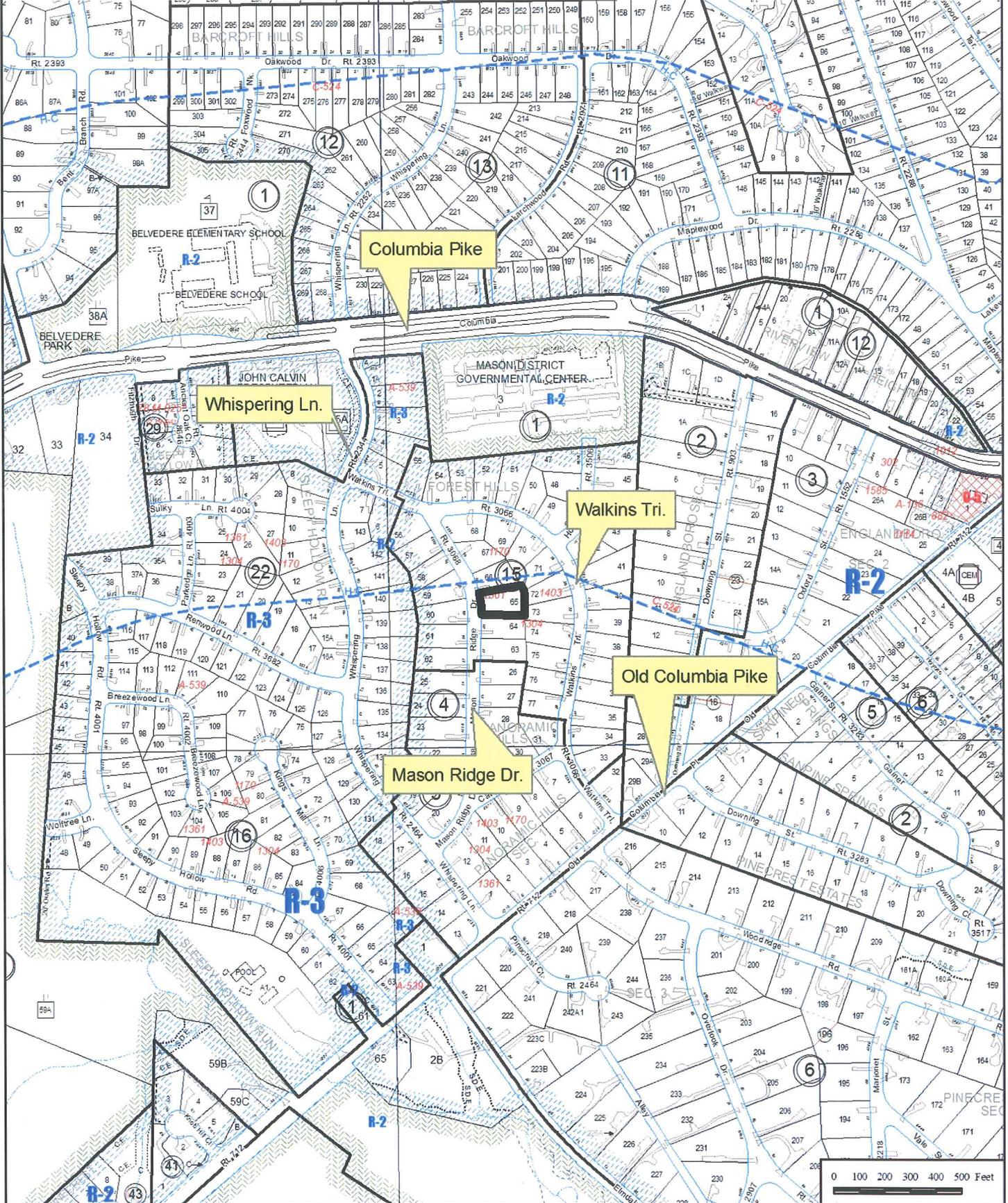


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2013-MA-114
MOHAMED EZZ ELDINE & RITA EL-ACHI

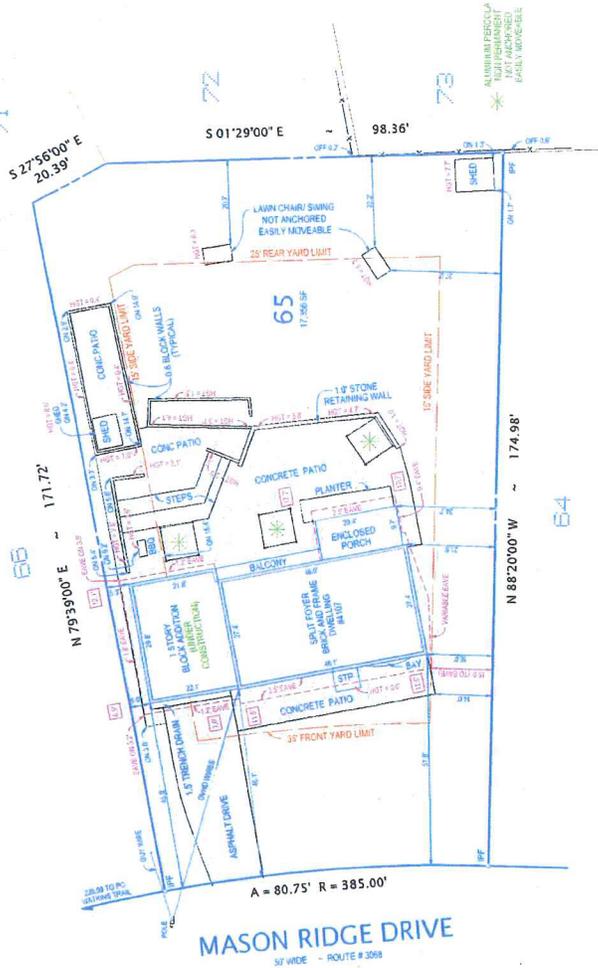


Special Permit
SP 2013-MA-114
MOHAMED EZZ ELDINE & RITA EL-ACHI



NOTES:

- TAX MAP: 0613 15 0065
- ZONE: R-2 (RESIDENTIAL 2 DU/AC)
- LOT AREA: 17,356 SF
- REQUIRED YARDS:
 - FRONT: = 35.0 FEET
 - SIDE: = 15.0 FEET
 - REAR: = 25.0 FEET
- HEIGHTS:
 - EX. DWELLING = 18.5 FEET
 - ADDITION UNDER CONST. = 27.7 FEET
 - ENCLOSED PORCH = 17.4 FEET
 - BALCONY = 7.0 FEET
 - CONC. PATIOS = 6.0 FEET
 - FENCES = 6.8 FEET
 - BBQ CHIMNEY = 2.6 FEET
 - PERGOLA = 7.3 FEET
 - PERGOLA = 7.0 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.
- THERE ARE NO FLOOD PLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
- AREAS:
 - EX. FIRST FLOOR = 1,318 SF
 - ENCLOSED PORCH = 108 SF
 - ADDITION UNDER CONSTRUCTION = 656 SF
 - GROSS FLOOR AREA = 1,974 SF
 - EX. FLOOR AREA RATIO: EX. GFA (1,974)/LOT AREA (17,356) = 0.11
- THE HEIGHTS EAVES ARE TO EXISTING GRADE AND SHOWN THUS: (E)
- FENCES ARE FRAME AND 5.8' IN HEIGHT.



PLAT
IMPROVEMENTS ON
LOT 65, SECTION 1

FOREST HILLS
FAIRFAX COUNTY, VIRGINIA
MASON CONTRACT
SCALE: 1" = 20'
DECEMBER 4, 2013



PROPERTY OWNER: THAT THE LOCATION OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND ARE SHOWN HEREIN. THERE ARE NO UNRECORDED ENCROACHMENTS.

THIS PLAT IS SUBJECT TO THE RECORDING OF RECORDS, NOTARIS RECORD NUMBER, A TITLE REPORT WAS NOT NUMBERED, NO COMBINED SET.

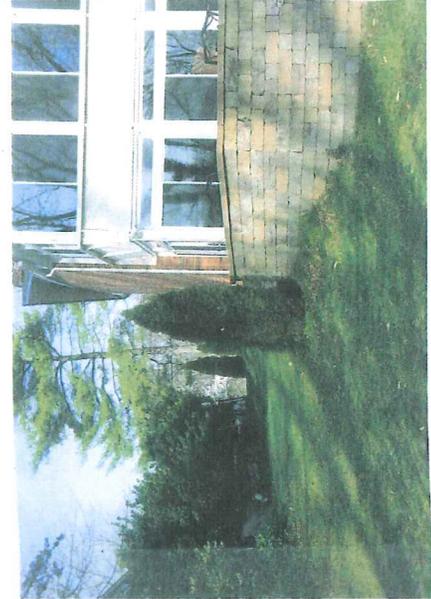
CREATED BY
MICHAEL ELLIOTT
NOVA SURVEYING
10000 WOODLAND AVENUE
FAIRFAX, VA 22031
703-688-4008
FAX: 703-688-4009



Right



Back yard



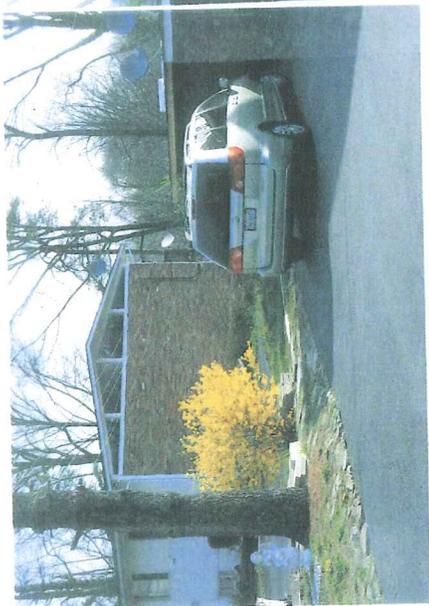
Back yard
view
4107 Mason Ridge
drive

Left

RECEIVED
Department of Planning & Zoning
APR 10 2013
Zoning Evaluation Division



Right



Left

Front view on
Mason Fudge drive.
4107

RECEIVED
Department of Planning & Zoning
APR 10 2013
Zoning Evaluation Division



FRONT left side

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



Back Left Side

RECEIVED
Department of Planning & Zoning

JAN 25 2013

Zoning Evaluation Division



Back Left Side

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

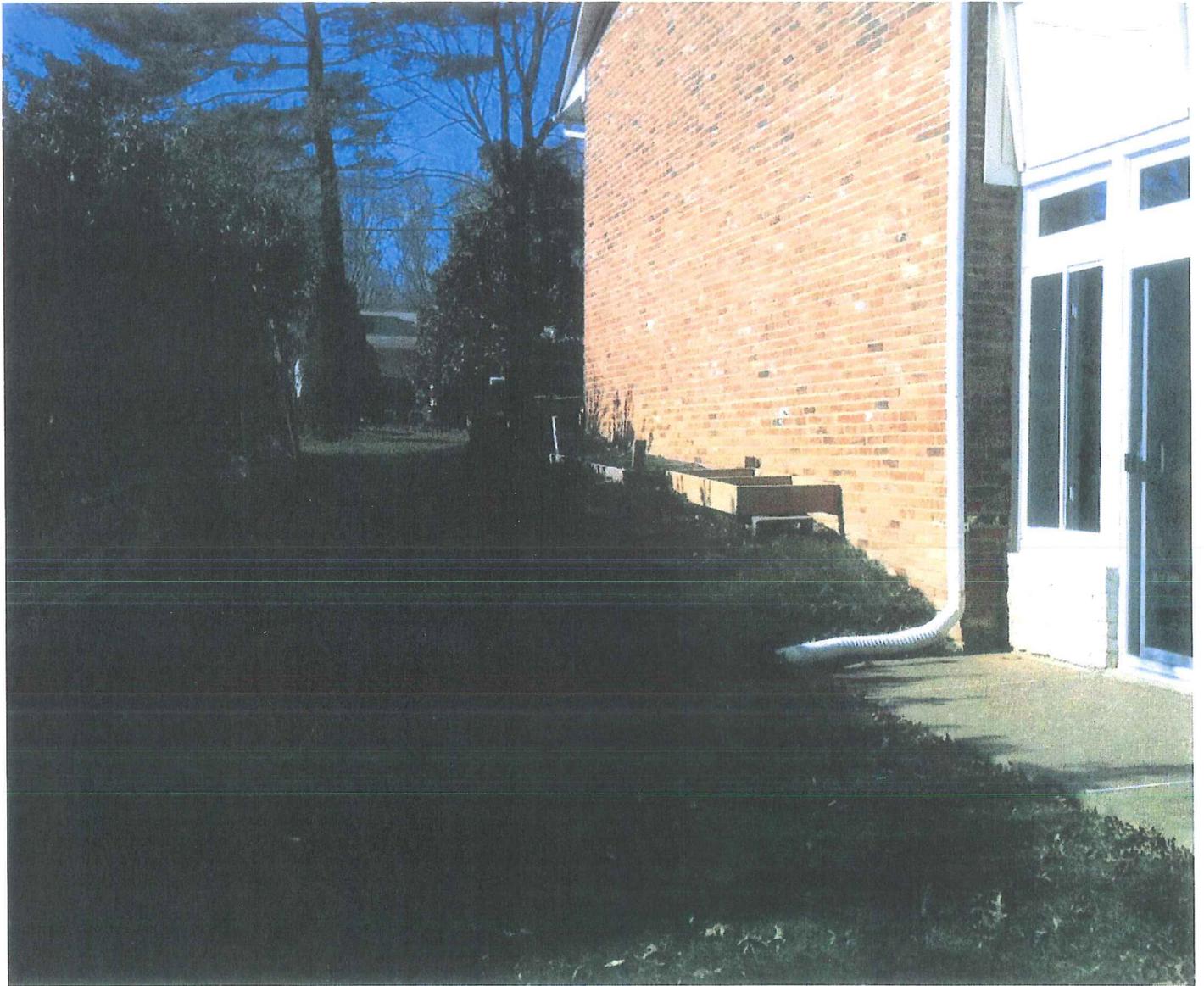


FRONT Right side

RECEIVED
Department of Planning & Zoning

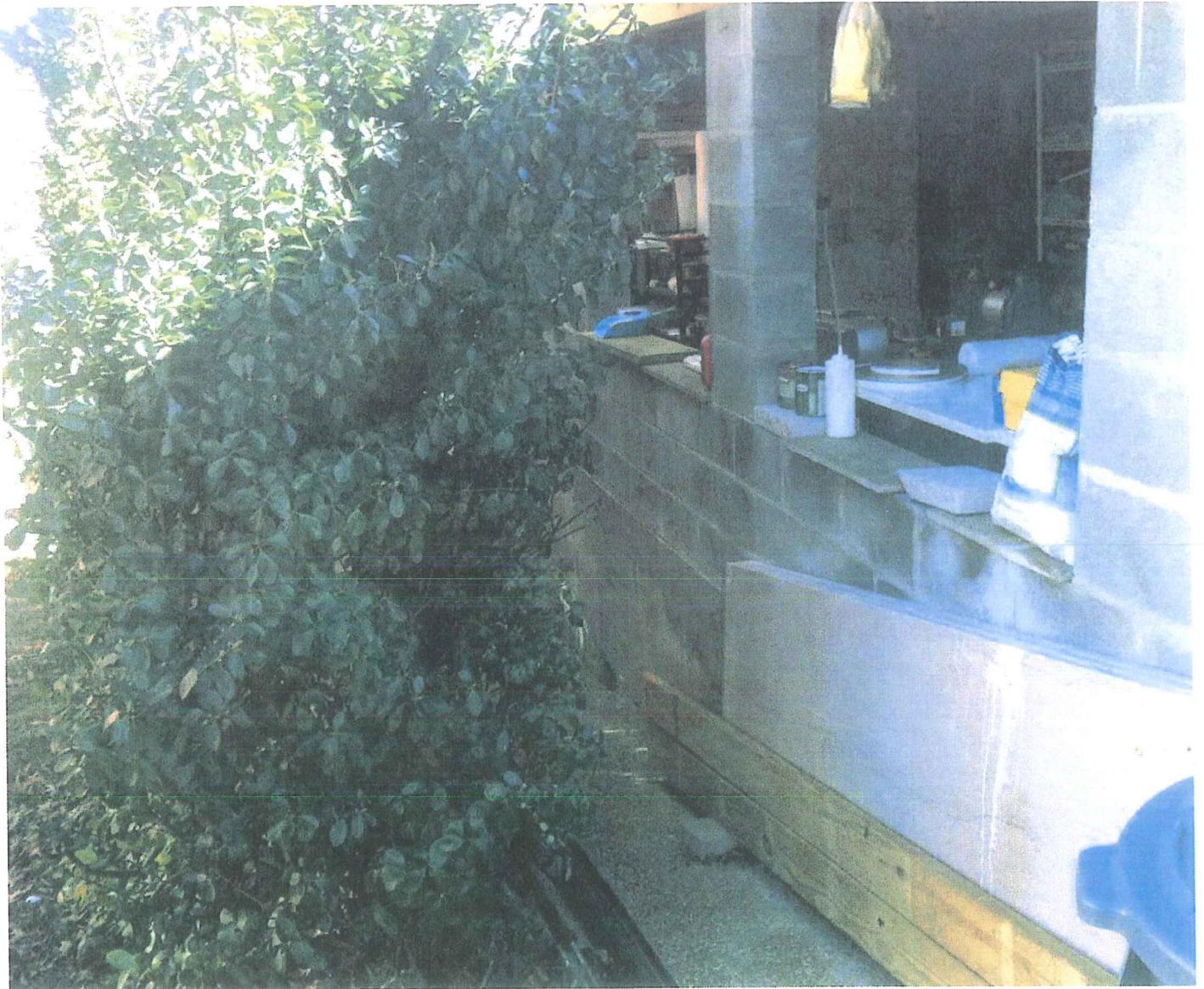
JAN 25 2013

Zoning Evaluation Division



Back Right Side

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



Left side



Back Right Side



In the front



Front Left Side

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



Back left

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



Back of the House

RECEIVED
Department of Planning & Zoning

JAN 25 2013

Zoning Evaluation Division



baked yard

4107 Mason Ridge D.R Ansonville VA
22003

SPECIAL PERMIT REQUEST

The applicants request approval of a special permit for a reduction in the minimum yard requirements based on errors in building locations to permit an addition to remain 3.2 feet from the northern side lot line and an open deck to remain 2.9 feet from the northern side lot line.

The applicants state that the addition is the reconstruction of a damaged carport, however based on the pictures submitted, the addition appears to be mostly enclosed. The open deck is a large, multi-level patio with attached walls.

A minimum side yard of 15 feet is required for the addition therefore a reduction of 11.8 feet is requested for the addition. A minimum side yard of 5.0 feet is required for the patio therefore a reduction of 2.1 feet is requested for the patio.

A copy of the plat titled "Plat Improvements on Lot 65, Section 1, Forest Hills" prepared by NoVA Surveys, dated December 4, 2013, is included in the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The subject parcel and surrounding properties are developed with single family detached dwellings, zoned R-2.



The dwelling on the property is a brick and frame split foyer structure on a 17,365 square foot lot, with an attached patio extending off the rear. An enclosed porch extends off the rear of the dwelling. A barbeque structure and 8.0 foot tall shed are located on the patio adjacent to the northern side lot line. A 7.7 foot tall shed is located in the southeast corner of the property.

Access to the lot is provided via a driveway from Mason Ridge Drive terminating the dwelling. The lot contains scattered vegetation throughout.

BACKGROUND

The existing dwelling was constructed in 1960 and purchased by the applicants in 2005. Building permit records indicate the carport was added to the dwelling in 1964. In 1968, a roofed deck was added to the rear of the dwelling. At some point the roofed deck was enclosed.

On September 20, 2012, the Department of Code Compliance staff inspected the property and found that an addition to the home had been constructed within approximately one foot of the side lot line, in violation of the Zoning Ordinance provisions for the R-2 District. On September 25, 2012, a Notice of Violation (NOV) was sent to the property owner. A copy of the NOV is included in Appendix 4.

The applicants indicate in the statement of justification that a storm damaged the carport and in response to the damage, they reconstructed the carport, with an eave, located 3.2 feet from the northern side lot line. The applicant indicates they constructed the patio, which is located 2.9 feet from the northern side lot line.

Information outlining similar requests in the vicinity of the applicants' property is included in Appendix 5.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area I, Annandale Planning District
Planning Sector: Columbia Community Planning Sector
Plan Map: Residential 2-3 d.u./acre

ZONING ORDINANCE REQUIREMENTS

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

These special permits are subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

CONCLUSION

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

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

APPENDICES

1. Proposed Special Permit Development Conditions
2. Applicants Affidavits
3. Applicants Statement of Justification
4. Notice of Violation
5. Similar Case History
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2013-MA-114

March 5, 2014

1. This special permit is granted for the location and size of the addition and patio as shown on the plat "Plat Improvements on Lot 65, Section 1, Forest Hills" prepared by NoVA Surveys, dated December 4, 2013, and approved with this application, as qualified by these development conditions.
2. All applicable permits and final inspections shall be obtained for the addition within 180 days of approval of this application.

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

THE ATTACHED AFFIDAVIT

HAS NOT BEEN APPROVED

BY THE OFFICE OF THE COUNTY ATTORNEY

Aff. to Belle C
1/25/13

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

I, Mohamed El-Achi, 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	ADDRESS	RELATIONSHIP(S)
(enter first name, middle initial, and last name)	(enter number, street, city, state, and zip code)	(enter applicable relationships listed in BOLD above)

N/A

Mohamed Ezz El Achi
4107 Mason Ridge Dr Annandale VA 22003

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

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)

Mohamed El Aehi (sole proprietorship)
4107 Mason Ridge Dr Annandale VA 22003

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)

Mohamed El Aehi, sole proprietor

(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)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

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

PARTNERSHIP INFORMATION

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

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

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

N/A

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

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

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: _____
(enter date affidavit is notarized)

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:

N/A.

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

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

N/A.

(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: _____
(enter date affidavit is notarized)

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

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

(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)

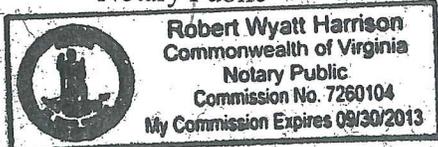
M. Elz
 Applicant [] Applicant's Authorized Agent

Mohamed Ezz EL Achi
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 25 day of January, 2013, in the State/Comm. of Virginia, County/City of Fairfax.

Robert Wyatt Harrison
Notary Public

My commission expires: 9-30-2013



4107 Mason ridge drive
Annandale VA 22003

RECEIVED
Department of Planning & Zoning

DEC 10 2013

Zoning Evaluation Division

To Whom It May Concern

The carport was in existence when I first moved to the house. It was 5 feet and one inch away from my neighbors' property line. One day, we had a storm and a tree fell on it. It was almost totally destroyed. I rebuilt it in using concrete blocks in order to make it look nicer and in order to prevent future storms from destroying it. I did talk to my neighbor and he was ok with it.

Rebuilding the carport was done in good faith. **It is not preventing my neighbors from enjoying their property and it is not creating an unsafe condition with respect to my neighbors or the public street.**

I urge you to please take in consideration that my intentions **were never to violate the law but to fix the carport since it has no effect on my neighbors.** I wanted the yard to look neater. **If I were to reduce the size of the carport, that would cause a financial hardship to me. I cannot afford to reduce its size. I would have to spend money that I do not have. My wife only works part-time and we can barely make ends meet at the end of the month.**

The reduction will not result in an increase in density or floor area ratio. The reduction will actually cause less usable space and would cause me to put a lot of my stuff outside, which will make the yard look awful. That would also prevent me from parking my car inside the driveway.

My intentions were just to make the yard to look better which will help increase our home's values in the whole neighborhood.

As for the BBQ in the back of the house, it was in existence already. It does infringe on anyone's property. It is not a chimney, only a BBQ.

I did not build it. It was already there in deteriorating condition when I bought the house. I only fix it.

I only laid concrete in the backyard, to form a patio. I am only using it to enjoy having the swing on it and the shed. It is flat SLAB OF CONCRETE.

As for the gazebo shed, it is for my own personal use. I want to enjoy sitting out there in the shade.

Mohamed El Achi

A handwritten signature in black ink, appearing to be 'M. El Achi', written over a horizontal line.

Rita El Achi

A handwritten signature in black ink, appearing to be 'R. El Achi', written over a horizontal line.

JAN 25 2011

Zoning Evaluation

Special Permit Justification

- A. The error made on the property exceeds ten percent of the measurement involved.
- B. The non-compliance was done in good faith. I was unaware that I needed a permit because it was already on the property. I have made many improvements to the property and obtained the necessary permits.
- C. Such reduction will not impair the purpose and intent of this ordinance. The current structure has been in existence for over 5 years.
- D. The current structure will not be detrimental to the use or enjoyment of other properties in the immediate vicinity. Most neighbors in the surrounding properties do not mind me having this structure. The current structure looks good and is not encroaching toward any neighbors.
- E. These accessory will not create any unsafe condition with respect to all other properties and public streets.
- F. To force compliance with the minimum yard requirements would cause financial hardship on the owner. It is going to cost a lot of money that I do not have.
- G. The reduction will not result in an increase in density or floor area ratio from that of the permitted by the applicable zoning district regulation. The structure will not create any unsafe conditions with respect to all other properties and public streets.

- H. No hazardous or toxic substances will be generated, utilized, stored, treated, and or disposed of at this residence and the size and contents of any existing or proposed storage tanks. The stuff stored inside the structure are only used for lawn care storage.
- I. The structure is harmonious with neighboring structure. My neighbor next door does not object to the structure. I simply wish to keep my structure in its current location, with its current size.



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: September 25, 2012

SHERIFF'S LETTER

CASE #: 201206523 **SR#:** 87683

SERVE: Mohamad E. El-Achi
Rita El-Achi
4107 Mason Ridge Drive
Annandale, Virginia 22003

LOCATION OF VIOLATION: 4107 Mason Ridge Drive
Annandale, Virginia 22003
Tax Map #: 61-3 ((15)) 65
Zoning District: R-2

An inspection of the above referenced property on September 20, 2012, revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-307 Meeting Minimum Bulk Regulations – Addition Added

The inspection revealed an addition has been built and attached to the side of the single family detached home. This addition, thereby, becomes part of the principal building or dwelling.

This addition is approximately one (1) foot from the side lot line. This property is zoned R-2. The bulk regulations for this district includes minimum yard requirements for a single family attached dwelling, which is delineated in Par. 2(A) 1 of Sect. 3-207 of the Zoning Ordinance, which states:

Minimum yard requirements

A. Single family dwellings

- (1) Conventional subdivision lot
 - (a) Front yard: 35 feet
 - (b) Side yard: 15 feet

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

Mohamad E. El-Achi
Rita El-Achi
Alieh R. Batouli
September 25, 2012
Page 2

(c) Rear yard: 25 feet

Therefore, since the dwelling with the addition does not meet the minimum side yard requirement for the R-2 District, it is in violation of Par. 2(A) 1 of Sect. 3-207 and Par. 1 of Sect. 2-307 of the Zoning Ordinance, which states:

Except as may be qualified by provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all minimum bulk regulations presented for the zoning district in which such structure is located.

You are hereby directed to clear these violations within thirty (30) days after the date of this notice. Compliance must be accomplished by:

- Removing the addition from the property entirely; or
- Reducing the size of the addition to meet minimum required side yard requirements and obtaining approval for a Building Permit; or
- Making an application for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an error in building location to allow the addition to remain at its present location on the property and obtain approval of a Building Permit for the addition.

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

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

Mohamad E. El-Achi
Rita El-Achi
Alieh R. Batouli
September 25, 2012
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1388.

Sincerely,

John Rumley
Code Compliance Investigator

Similar Case History

Group: 89-M-151

VC 89-M-151

APPLICANT: MEHDI & AKHTAR MIRSHAHI
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 02/21/1990
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION OF SIDE YARD REQUIREMENT TO 2 FEET (MINIMUM OF 15 FT. SIDE YARD REQ.) FOR DWELLING (BOARD APPROVED 11 FEET FROM SIDE LOT LINE) PLATS SUBMITTED 8/90
LOCATION: 6407 COLUMBIA PIKE
TAX MAP #S:
 0613 03 0003

Group: 2009-MA-028

SP 2009-MA-028

[STAFF REPORT](#)
[LOCATOR MAP](#)

APPLICANT: CARROL MCCARREN & MICHAEL STERNAD
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/14/2009
ZONING DISTRICT: R- 2
DESCRIPTION: TO PERMIT REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF ADDITION 12.6 FT. AND 14.5 FT. FROM SIDE LOT LINES AND 12.5 FT. AND 13.1 FT. FROM REAR LOT LINE.
LOCATION: 6319 LAKEVIEW DRIVE
TAX MAP #S:
 0613 14 0022

Group: 97-M-042

SP 97-M-042

APPLICANT: BUSHI, NANCY S.
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 12/09/1997
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT CARPORT TO REMAIN 5.2 FT. FROM SIDE LOT LINE
LOCATION: 3804 LAKEVIEW TERRACE
TAX MAP #S:
 0613 14 0117

Group: 2007-MA-105

SP 2007-MA-105

STAFF REPORT

APPLICANT: ELIZABETH WADLE
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 11/27/2007
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION 7.8 FEET FROM SIDE LOT LINE
LOCATION: 3814 LAKEVIEW TERRACE
TAX MAP #S:
0613 14 0112

Group: 98-M-010

SP 98-M-010

APPLICANT: CASTRO, CARLOS A.
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 06/17/1998
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT DWELLING TO REMAIN 15.5 FT. FROM SIDE LOT LINE AND ACCESSORY STRUCTURE TO REMAIN 9.7 FT. FROM SIDE LOT LINE
LOCATION: 6452 HOLYOKE DRIVE
TAX MAP #S:
0613 06 0008 0613 06 0009

Group: 98-M-020

SP 98-M-020

APPLICANT: FRAME, RODNEY W. & KAY
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/08/1998
ZONING DISTRICT: R- 2
DESCRIPTION: MODIFICATION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO ALLOW AN ADDITION TO REMAIN 12.0 FT. FROM SIDE LOT LINE
LOCATION: 6408 LAKEVIEW DRIVE
TAX MAP #S:
0613 14 0146

Group: 2011-MA-021

SP 2011-MA-021

[STAFF REPORT](#)

APPLICANT: WALDO D. & DIANE R. FREEMAN AS TTEES OF THE FREEMAN FAMILY TRUST
STATUS: APPLICATION APPROVED
STATUS/DECISION DATE: 05/25/2011
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION 12.0 FEET FROM SIDE LOT LINE
LOCATION: 6201 LAKEVIEW DRIVE
TAX MAP #S:
0613 14 0061

Group: 2011-MA-066

SP 2011-MA-066

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT: LUCIO SEJAS
STATUS: APPLICATION APPROVED
STATUS/DECISION DATE: 10/26/2011
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ADDITION TO REMAIN 9.5 FEET FROM SIDE LOT LINE AND OPEN DECK 1.42 FEET FROM SIDE LOT LINE AND REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF SECOND STORY ADDITION 8.0 FEETFROM SIDE LOT LINE
LOCATION: 3911 LARCHWOOD ROAD
TAX MAP #S:
0613 11 0203

Group: 2011-MA-109

SP 2011-MA-109

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT: MARIA ARRIETA
STATUS: APPLICATION DENIED
STATUS/DECISION DATE: 03/14/2012
ZONING DISTRICT: R- 3
DESCRIPTION: REDUCTION TO THE MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STRUCTURE TO REMAIN 0.9 FEET FROM SIDE LOT LINE
LOCATION: 6323 EVERGLADES DRIVE
TAX MAP #S:
0613 07J 0021

Group: 2008-MA-072

SP 2008-MA-072

[STAFF REPORT](#)

[STAFF REPORT ADDENDUM 1](#)

APPLICANT: AHMED GARMA AND KADIJA NOURY
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 09/30/2008
ZONING DISTRICT: R- 2
DESCRIPTION: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ADDITION TO REMAIN 9.2 FEET FROM SIDE LOT LINE AND ROOFED DECK TO REMAIN 31.6 FEET FROM FRONT LOT LINE
LOCATION: 6384 LAKEVIEW DRIVE
TAX MAP #S:
0613 14 0135

SPA 2008-MA-072

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT: ALFREDO & MARY AUNON
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 08/03/2011
ZONING DISTRICT: R- 2
DESCRIPTION: AMEND SP 2008-MA-072 PREVIOUSLY APPROVED FOR REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ADDITION TO REMAIN 9.2 FEET FROM SIDE LOT LINE TO PERMIT REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT GARAGE 32.75 FEET FROM FRONT LOT LINE AND 9.0 FEET FROM SIDE LOT LINE
LOCATION: 6384 LAKEVIEW DRIVE
TAX MAP #S:
0613 14 0135

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.