APPLICATION ACCEPTED: April 10, 2014
DATE OF PUBLIC HEARING: June 25, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 18, 2014

STAFF REPORT

SPECIAL PERMIT SP 2014-PR-039

PROVIDENCE DISTRICT

APPLICANT/OWNER:	Raymund M. Tembreull
LOCATION:	9143 Santayana Drive, Fairfax, 22031
SUBDIVISION:	Mantua Hills, Section 2
TAX MAP REFERENCE:	58-2 ((10)) 37
LOT SIZE:	10,502 square feet
ZONING DISTRICT:	R-3
ZONING ORDINANCE PROVISION:	8-914
SPECIAL PERMIT PROPOSAL:	To permit a reduction of the minimum rear yard requirements based on error in building location to permit an addition to remain 11.4 feet from the rear 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.

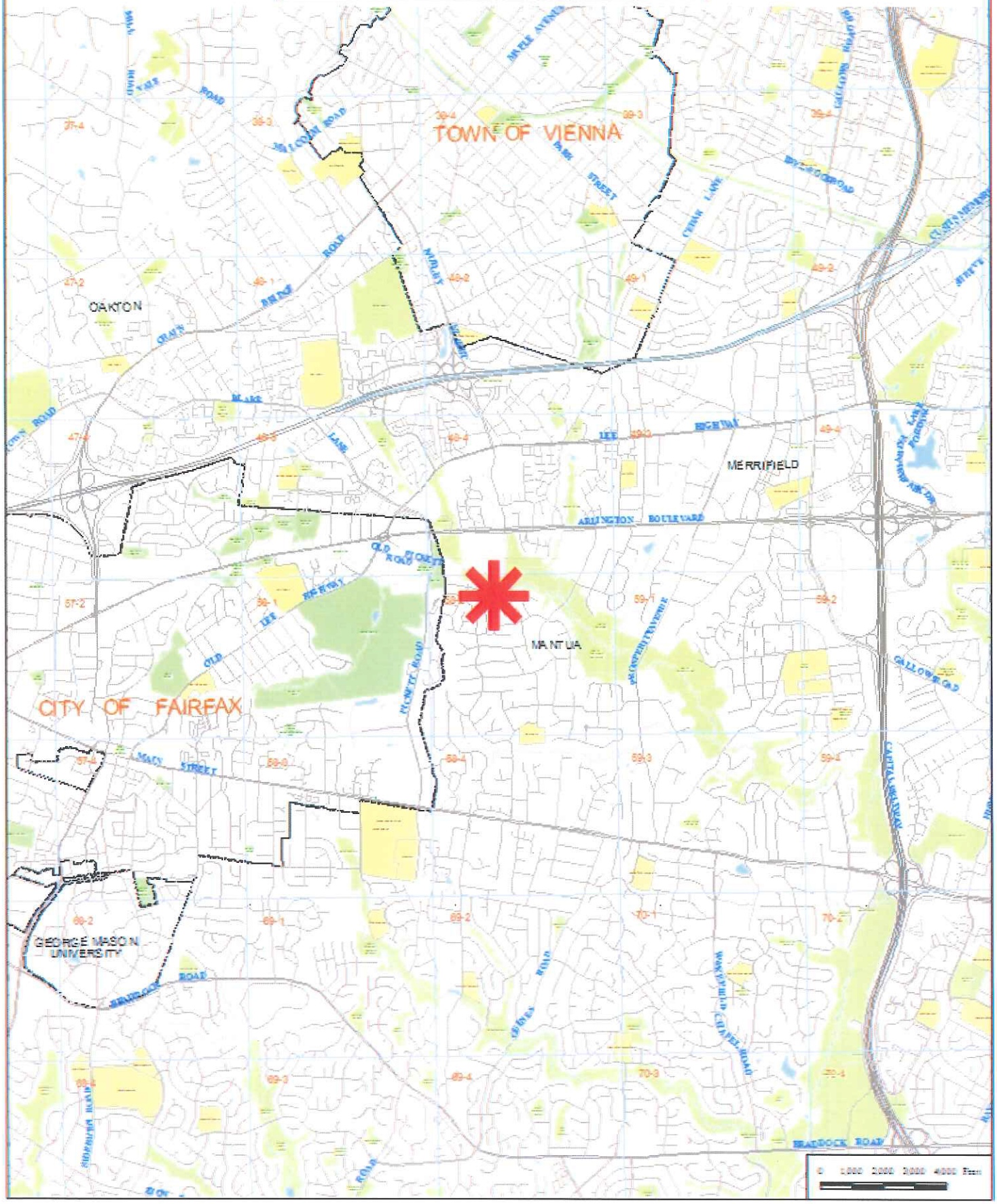
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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

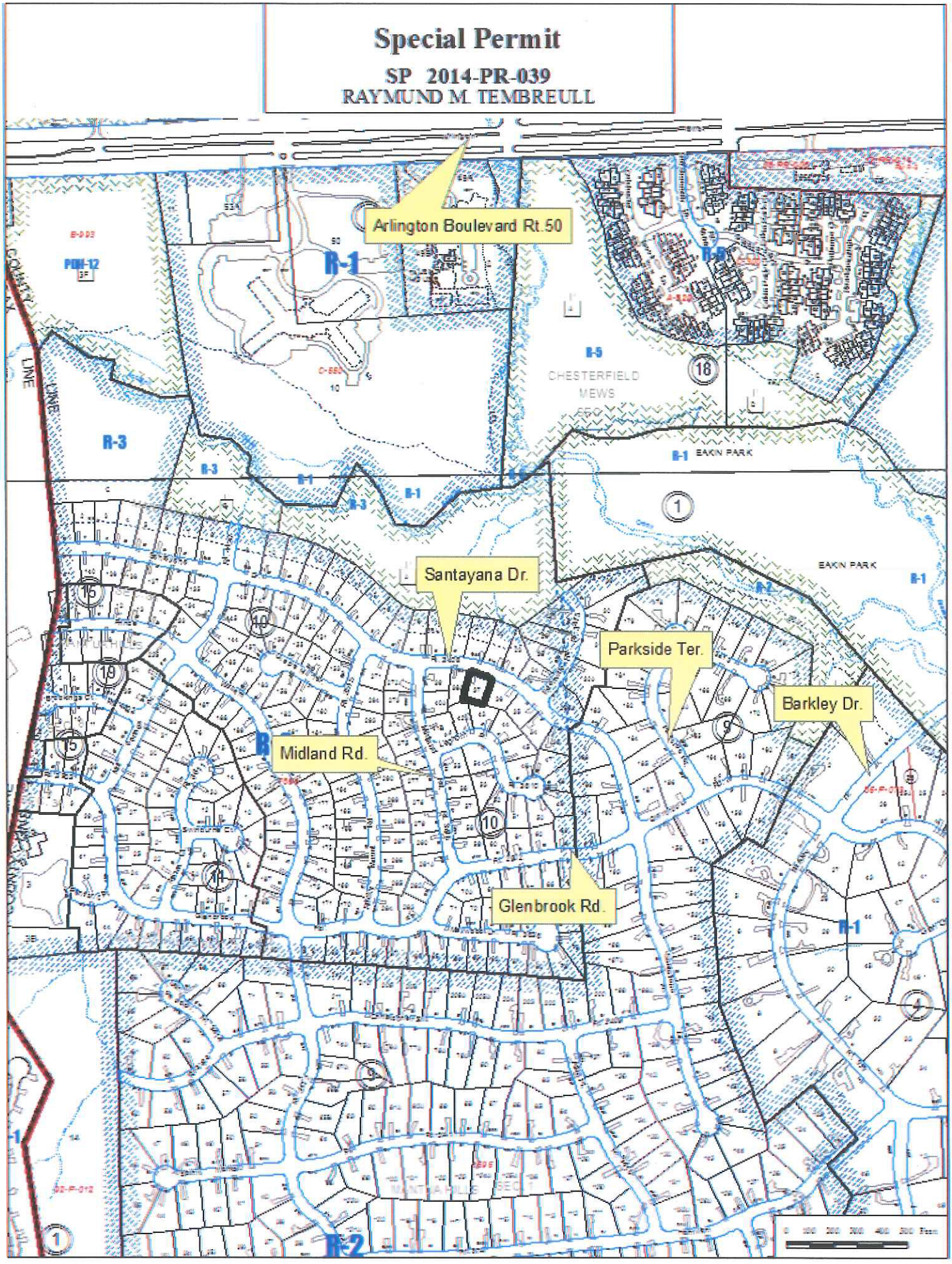
SP 2014-PR-039

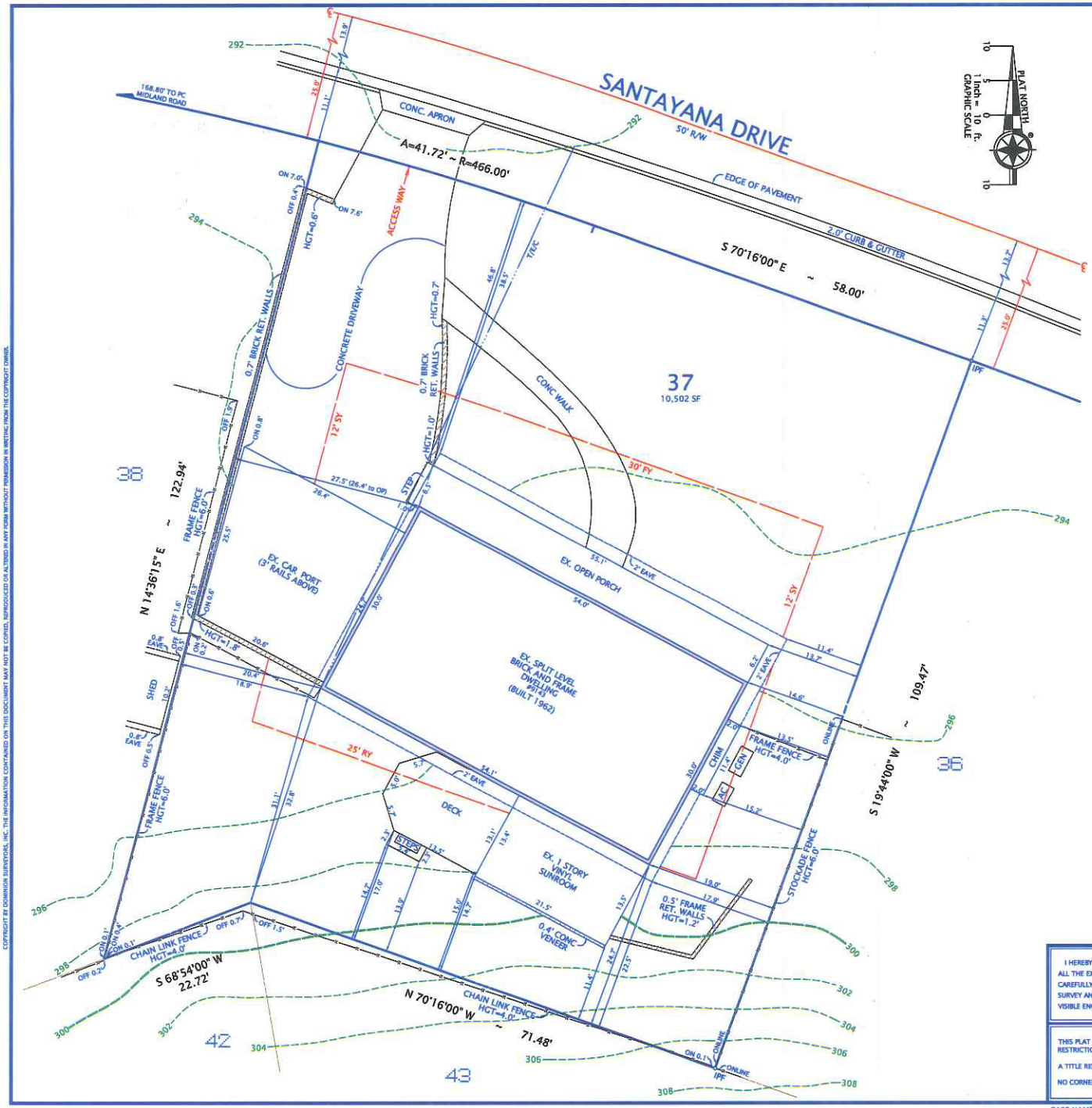
RAYMUND M. TEMBREULL



Special Permit

SP 2014-PR-039
RAYMUND M. TEMBREULL





NOTES:

1. TAX MAP: 58-2-10-0037
2. ZONE: R-3 (RESIDENTIAL 3 DU/AC)
3. LOT AREA: 10,502 SF (0.2411 AC)
4. REQUIRED YARDS:
   FRONT: = 30 FEET
   SIDE: = 12 FEET
   REAR: = 25 FEET
5. HEIGHTS:
   EX. DWELLING = 14.8 FEET (MIDLINE OF ROOF)
   EX. ENCLOSED PORCH = 11.8 FEET (TOP OF PORCH)
   EX. OPEN PORCH = 12.9 FEET (TOP OF PORCH)
   EX. CARPORT = 09.4FEET (TOP OF CAR PORT)
   EX. DECK = 02.0 FEET
   EX. FENCES, WALLS = AS NOTED
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS:
    EX. BASEMENT 1,620 SF
    EX. FIRST FLOOR 1,910 SF
    EX. GROSS FLOOR AREA 3,530 SF

EX. FLOOR AREA RATIO: EX. GFA (3530) / LOT AREA (10502) = 0.34

NOT TO SCALE

PLAT
SHOWING THE IMPROVEMENTS ON
LOT 37, SECTION TWO
MANTUA HILLS
(DEED BOOK 1972, PAGE 472)
FAIRFAX COUNTY, VIRGINIA
PROVIDENCE DISTRICT
SCALE: 1" = 10' NOVEMBER 11, 2013
JANUARY 06, 2014 (REVISED)

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

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

COMMONWEALTH OF VIRGINIA
11/11/2013
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR
George M. O'Quinn

ORDERED BY:
RAYMUND M. TEMBREULL
JONATHAN D. PUVAK

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

CASE NAME: TEMBREULL #131028014 #131-13

COPYRIGHT BY DOMINION SURVEYORS, INC. THE INFORMATION CONTAINED ON THIS DOCUMENT MAY NOT BE COPIED, REPRODUCED OR ALTERED IN ANY FORM WITHOUT PERMISSION IN WRITING FROM THE COPYRIGHT OWNER.

Photograph Exhibit
Proposed Special Permit Application
Applicant: Raymund M. Tembreull
Fairfax County Tax Map Reference: 58-2 ((10) 37

Photo 1: View of rear yard and western property line, photo taken from rear of sunroom facing west.

Photo 2: View of sunroom and deck, photo taken facing east.

Photo 3: View of deck and rear of dwelling, photo taken from property line facing east.

Photo 4: View of front yard and adjacent property, photo taken from northwest property line facing east.

Photo 5: View of sunroom and side of dwelling, photo taken facing northwest.

Photo 6: View of adjacent property across Santayana Drive, photo taken facing north.

Photo 7: View of front yard, photo taken from northeast property line facing south.

Photo 8: View of front yard and dwelling, photo taken from northwest property line facing south.

Photo 9: View of rear property line, photo taken facing south.

Photo 10: View of sunroom, photo taken facing north.

Photo 11: View of sunroom, photo taken facing east.

DESCRIPTION OF THE APPLICATION

The applicant requests approval of a special permit to allow a reduction in the minimum yard requirements based on an error in building location to permit an addition, a sunroom, to remain 11.4 feet from the southern rear lot line. The addition is for an existing sunroom 11.8 feet in height. A minimum rear yard of 25.0 feet is required in an R-3 zoned subdivision, therefore a modification of 13.6 feet is requested.

A copy of the special permit plat depicting the structures on site titled, "Plat, Showing the Improvements on Lot 37, Section Two, Mantua Hills," prepared by George M. O'Quinn, L.S., of Dominion Surveyors Inc., dated November 11, 2013, and as revised through January 6, 2014, is included at the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 10,502 square foot lot is developed with a split level, single family detached dwelling. An open porch, concrete walkway and concrete driveway are located to the north of the structure. A carport is located to the west of the structure and a deck and one story vinyl sunroom are located to the south of the structure. A chimney is located on the eastern side of the structure. The property slopes from the southeastern corner to the northwestern corner and has mature trees in the southern rear yard and eastern side yard.

As depicted in the picture below, the application property and surrounding lots are developed with single family detached dwellings. All of the properties are zoned R-3 and are within the Mantua Hills subdivision.

BACKGROUND

According to Fairfax County Tax Records the house was constructed in 1962 and purchased by the applicant in 2013. According to the applicant's statement of justification it is believed the sunroom was constructed in 1993. Staff supports this finding as county aerial photography records show the sunroom and the deck were constructed before 1997.

Variance application, V-27-69, was approved on February 25, 1969 for the construction of a carport to be located "closer to the side property line than allowed." According to the approved building permit obtained after the approval of the variance, the carport was 590 square feet in size and 10 feet in height (Appendix 4). The building permit did not list the distance from the side lot line to the proposed carport.

According to the agent, the applicant tried to make repairs to the sunroom and found there were no building permits in county records associated with the sunroom addition. Staff research of county files also found no building permits related to the sunroom addition or deck.

The applicant then filed for a Vested Rights Determination. The Vested Rights Determination was completed for the property by the Zoning Administration Division on September 16, 2013. It was determined that the existing sunroom and deck did not have building permits and have not been taxed for 15 years. Therefore, neither of these structures were determined to be vested (Appendix 5).

There have been a number of variance applications near this property that have allowed reductions in the minimum required rear yards to permit construction of additions. There have not been however, any applications based on an error in building location (Appendix 6).

ANALYSIS

Comprehensive Plan Provisions

Plan Area: II
Planning District: Fairfax
Planning Sector: Mantua Community Planning Sector (F2)
Plan Map: Residential 2-3 du/ac

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 7. 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. Variance Application VC-27-69 resolution and plat and associated building permit
5. Vested Rights Determination dated September 16, 2013
6. Similar Case History
7. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2014-PR-039

June 18, 2014

1. This special permit is approved for the location of the addition as shown on the plat prepared titled, "Plat, Showing the Improvements on Lot 37, Section Two, Mantua Hills," prepared by George M. O'Quinn, L.S., of Dominion Surveyors Inc., dated November 11, 2013, and as revised through January 6, 2014.

2. All applicable permits and final inspections shall be obtained for the addition and deck within 180 days of approval of this application.

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

Application No.(s): SP 2014-PR-039
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 5, 2014
(enter date affidavit is notarized)

I, Sara V. Mariska, attorney/agent, do hereby state that I am an
(enter name of applicant or authorized agent)

124145a

(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)
Raymund M. Tembreull Agent: Andrea Tembreull	9143 Santayana Drive Fairfax, VA 22031	Applicant/Title Owner of Tax Map 58-2 ((10)) 37
Dominion Surveyors, Inc. Agent: Roxana Gunnett	8808-H Pear Tree Village Alexandria, Virginia 22309	Surveyor/Agent

(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): SP 2014-PR-039
(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(a)

DATE: June 5, 2014
(enter date affidavit is notarized)

1241459

(**NOTE**: All relationships to the application are to 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)
• Walsh, Colucci, Lubeley & Walsh, P.C.	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent
Agents:		
Martin D. Walsh		Attorney/Agent
Lynne J. Strobel		Attorney/Agent
Timothy S. Sampson		Attorney/Agent
M. Catharine Puskar		Attorney/Agent
Sara V. Mariska		Attorney/Agent
G. Evan Pritchard		Attorney/Agent
• Jonathan D. Puvak (former)		Attorney/Agent
• Andrew A. Painter		Attorney/Agent
• Matthew J. Allman		Attorney/Agent
Elizabeth D. Baker		Planner/Agent
Inda E. Stagg		Planner/Agent
Elizabeth A. Nicholson		Planner/Agent

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

 • Added since 4/4/14 Submittal.

Application No.(s): SP 2014-PR-039

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 5, 2014

(enter date affidavit is notarized)

124145a

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)

Walsh, Colucci, Lubeley & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

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)

David J. Bomgardner, E. Andrew Burcher, Thomas J. Colucci, Michael J. Coughlin, Peter M. Dolan, Jr., Jay du Von, William A. Fogarty, John H. Foote, H. Mark Goetzman, Bryan H. Guidash, Michael J. Kalish, Michael D. Lubeley, J. Randall Minchew, G. Evan Pritchard, M. Catharine Puskar, John E. Rinaldi, Kathleen H. Smith, Lynne J. Strobel, Garth M. Wainman, Nan E. Walsh, Martin D. Walsh

(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 2014-PR-039

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

Special Permit/Variance Attachment to Par. 1(b)

12414Sa

DATE: June 5, 2014

(enter date affidavit is notarized)

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

Dominion Surveyors, Inc.
8808-H Pear Tree Village
Alexandria, Virginia 22309

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

George M. O'Quinn
Michael A. Clark

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

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

Application No.(s): SP 2014-PR-039

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

124145a

DATE: June 5, 2014

(enter date affidavit is notarized)

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

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)
None

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

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

(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 2014-PR-039
(county-assigned application number(s), to be entered by County Staff)

124145a

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: June 5, 2014
(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:

[✓] 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 2014-PR-039

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

124145a

DATE: June 5, 2014

(enter date affidavit is notarized)

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

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

None

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

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

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

WITNESS the following signature: Sara V. Mariska

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

Sara V. Mariska, attorney/agent

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

Subscribed and sworn to before me this 5 day of June 2014, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K Follin

Notary Public

My commission expires: 11/30/2015

KIMBERLY K. FOLLIN
Registration # 283945
Notary Public
COMMONWEALTH OF VIRGINIA

Jonathan D. Puvak
(703) 528-4700 Ext. 5455
jpuvak@arl.thelandlawyers.com
Fax: (703) 528-6050

WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

RECEIVED
Department of Planning & Zoning
JAN 24 2014
Zoning Evaluation Division

January 24, 2014

Via Hand Delivery

Barbara C. Berlin, Director
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Proposed Special Permit Application
9143 Santayana Drive, Fairfax, Virginia, 22031
Fairfax County Tax Map Reference: 58-2 ((10)) 37 (the "Subject Property")
Applicant: Raymund M. Tembreull

Dear Ms. Berlin:

Please accept this letter as a statement of justification for a special permit on the Subject Property.

The Subject Property contains approximately 10,502 square feet and is located at 9143 Santayana Drive, in the Mantua Hills subdivision of the Providence Magisterial District. Zoned to the R-3 District, the Subject Property is not governed by any proffers, but is subject to a variance approved by the Board of Zoning Appeals (the "BZA") on February 25, 1969 to permit the construction of a carport closer to the side property line. The Subject Property is currently improved with a single-family detached dwelling constructed in 1962.

The Subject Property is located in the Fairfax Planning District in the Mantua Community Planning Sector (F2) of the Area II Fairfax County Comprehensive Plan (the "Plan"). The Plan does not include any specific guidance for the Subject Property, but generally recommends retention of the single-family residential neighborhoods at their current intensities.

In the way of background, the Applicant purchased the Subject Property in June 2013 in good faith. As the dwelling was constructed in 1962, the Applicant reasonably believed that all existing structures conformed to all relevant Fairfax County ordinances and all necessary approvals and permits had been previously obtained. Soon after closing on the home, the Applicant hired a contractor to make repairs to the dwelling, including repairs to a sunroom addition at the rear of the dwelling. After some preliminary investigation, the Applicant was unable to obtain a record of an approved building permit for the sunroom addition. The variance plat approved by the BZA indicated that a patio was located in the area presently occupied by the sunroom. Based upon information and belief, the patio was converted to an enclosed sunroom in approximately 1993. In September 2013, the Applicant requested a determination as to the

vested rights of the Subject Property. In response, Getachew Tadesse of the Zoning Administration Division issued a memorandum dated September 16, 2013, which indicated that the sunroom did not meet the requirements for vesting and was located within the minimum required rear yard (the "Vested Rights Determination"). The Vested Rights Determination stated that no building permit had been obtained for the sunroom, but as a remedy the Applicant could pursue a special permit application in order to allow the sunroom to remain in its current location. A copy of the Vested Rights Determination is attached for your reference.

The purpose of the application is to reduce the rear yard requirement to permit the sunroom to remain 11.4 feet from the rear lot line, in lieu of the required 25 feet. The Applicant proposes a reduction of the minimum rear yard requirement by 13.6 feet. In accordance with the requirements of Section 8-914 of the Zoning Ordinance, please accept the following information regarding the sunroom addition and the Applicant's proposed use of the Subject Property:

- The sunroom extends into the required twenty-five (25) feet rear yard by 13.6 feet, which amounts to an error of approximately fifty-four percent (54%). Thus, the error exceeds ten (10) percent of the measurement involved.

- As noted above, the noncompliance was done in good faith and through no fault of the Applicant. The error occurred prior to the Applicant's purchase of the Subject Property.

- The sunroom is in keeping with the character of the existing dwelling and surrounding residential development in terms of bulk, scale, and surrounding structures and will not impair the purpose and intent of this Zoning Ordinance.

- The sunroom is not detrimental to the use and enjoyment to adjacent properties and is harmonious with the surrounding residential neighborhood in the context of the location, height, bulk and scale of surrounding houses, topography, and existing vegetation. Given the size of the Subject Property, a reduction in the minimum rear yard requirement by 13.6 feet will not change the relationship of the home to the neighborhood.

- The sunroom and reduction in the rear yard requirement will not create an unsafe condition to other property. The sunroom structure was constructed approximately twenty-years ago and to the best of the Applicant's knowledge has not created any issues with respect to other property.

- As the sunroom was constructed by a prior owner over twenty years ago, removal of the sunroom and compliance with the minimum yard requirement would cause unreasonable hardship upon the Applicant and require substantial alterations to the dwelling.

- The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations. No new construction is proposed with this application and no additional structures will be constructed in the minimum rear yard.

Except as otherwise noted, the Subject Property conforms to the provisions of all applicable ordinances, regulations and adopted standards. To the best of the Applicant's knowledge the Subject Property contains no hazardous or toxic substances as set forth in the applicable regulations.

The Applicant's proposes this application to reduce the rear yard requirement to bring the Subject Property into compliance with the Zoning Ordinance. The proposed reduction will allow the continued use of the sunroom, constructed over twenty years ago and prior to the Applicant's purchase of the Subject Property. The structure is harmonious with the neighborhood and will not adversely impact adjoining property owners.

Should you have any questions, or require additional information, please do not hesitate to give me a call. I would appreciate the acceptance of this application and the scheduling of a public hearing before the Board of Zoning Appeals at your earliest convenience. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Jonathan D. Puvak

Enclsoures

cc: Andrea Tembreull
John Rinaldi

V-27-69

APPENDIX 4

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX

FAIRFAX, VIRGINIA 22030

February 26, 1969

OFFICE OF
BOARD OF ZONING APPEALS

Lt. General and Mrs. Paul W. Caraway
9143 Santayana Drive
Fairfax, Virginia 22030

Dear Gen. and Mrs. Caraway:

This letter will confirm the decision of the Fairfax County Board of Zoning Appeals on Tuesday, February 25, 1969, granting your application.

In the application of Construction Enterprises - Jack L. Shaw (Gen. Paul W. Caraway), application under Section 30-6.6 of the Ordinance, to construct open carport closer to side property line than allowed, 9143 Santayana Dr., Mantua Hills, Providence District, Mr. Yeatman moved that the application be granted due to topography of the land and the way the house is situated on the lot and that it be built according to plats submitted. All other provisions of the Ordinance shall be met. Seconded, Mr. Barnes. Carried 3-1, Mrs. Henderson voting against the motion as she felt there was no hardship as defined by the Ordinance and that this is a purely personal consideration.

(Mrs.) ~~Betty~~ Haines, Clerk

If your application is granted, construction or operation must start within 12 months from the date of this hearing, otherwise the approval is no longer valid. Permit shall be issued if you fill out the necessary papers in this office. NO USE PERMIT SHALL BE VALID UNTIL AN OCCUPANCY PERMIT HAS BEEN OBTAINED. If your application is denied, an application for substantially the same subject cannot be filed for a period of 12 months.

February 25, 1969

CONSTRUCTION ENTERPRISES - JACK L. SHAW, application under Sec. 30-6.6 of the Ordinance, to construct carport closer to side property line than allowed, 9143 Santayana Dr., Mantua Hills, Providence District, (R-12.5), Map No. 58-2 ((10)) 37, V-27-69

General Carraway, owner of the property, and Mr. Jack L. Shaw, builder, were present.

General Carraway stated that the drive slopes down and it is 56 inches deep at the lower end. The driveway fills up with water and they were flooded last summer. They had their garage closed in and the exit door closed off to try to keep the water out. They need a carport to cover their two cars.

This is really an excessive request, Mrs. Henderson said. Hundreds ~~of thousands~~ of families in the County have only single carports and this is requesting a variance up to the property line which is rather excessive.

They are having to fill all of this so they felt it should be covered, Gen. Carraway said. All of the houses in Mantua Hills have carports or garages.

This is a hardship case, Mr. Shaw stated. He lost the use of the enclosed garage plus the adjacent room next to the garage which was flooded last summer. The driveway existing now will have to be built up and sloped toward the curb. It will solve the water problem.

A single carport would do this, Mrs. Henderson said.

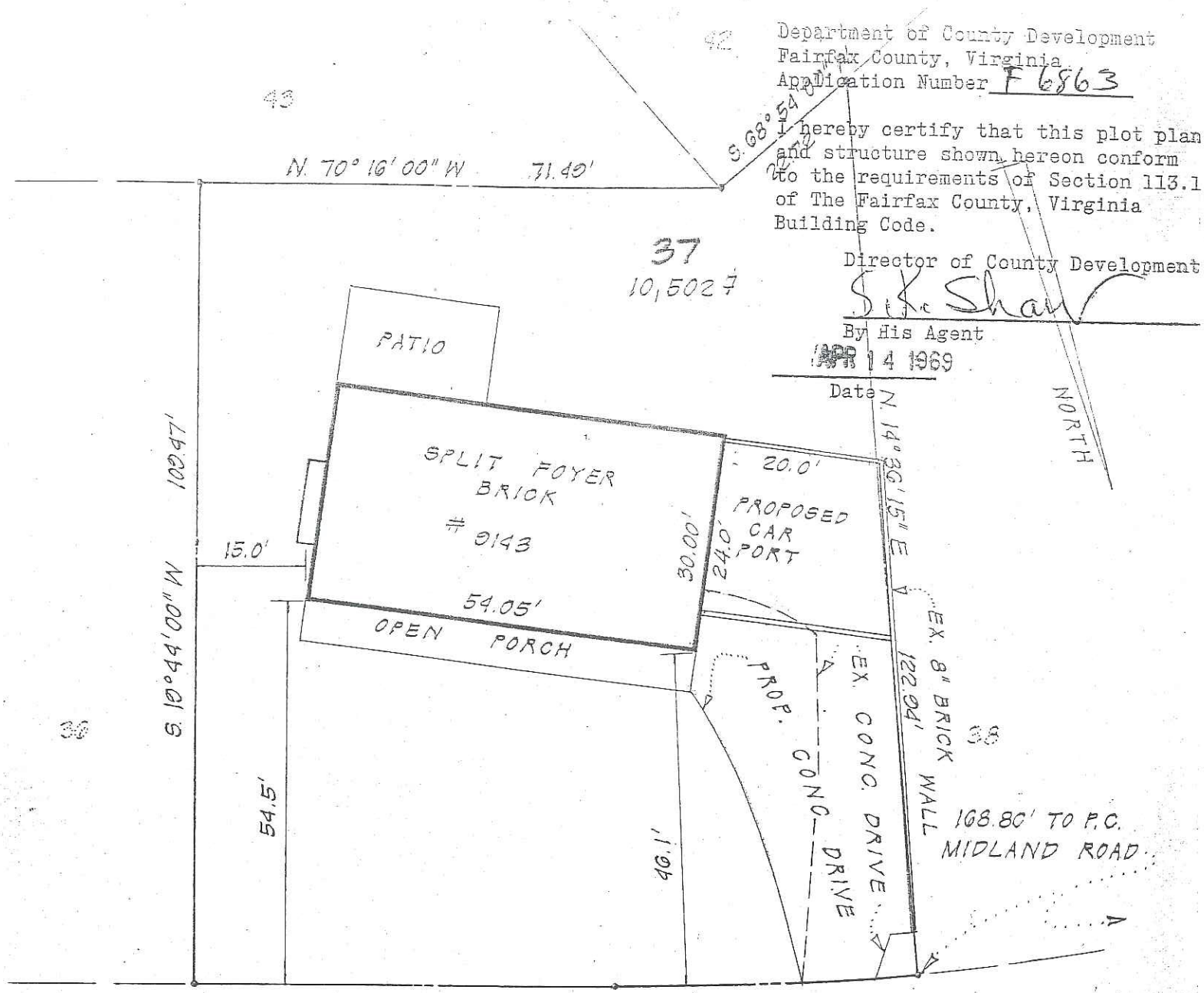
A single carport would not enhance the sale of the house, Mr. Shaw replied.

There is nothing in the Ordinance which allows the Board to consider esthetics, Mrs. Henderson pointed out.

No opposition.

In the application of Construction Enterprises - Jack L. Shaw (Gen. Paul W. Carraway), application under Section 30-6.6 of the Ordinance, to construct open carport closer to side property line than allowed, 9143 Santayana Drive, Mantua Hills, Providence District, Mr. Yeatman moved that the application be granted due to topography of the land and the way the house is situated on the lot and that this be built according to plats submitted. All other provisions of the Ordinance shall be met. Seconded, Mr. Barnes. Carried 3-1, Mrs. Henderson voting against the ~~property~~ CB[illegible] as she felt this was purely a personal consideration.

//



Department of County Development
Fairfax County, Virginia
Application Number F 6863

I hereby certify that this plot plan and structure shown hereon conform to the requirements of Section 113.1 of The Fairfax County, Virginia Building Code.

Director of County Development

S. K. Shaw

By His Agent

APR 14 1969

Date

Approved for proposed location of building as shown. Final approval subject to wall check.

Date APR 14 1969

J. A. Woodson

Zoning Administrator
FAIRFAX COUNTY, VIRGINIA

SANTAYANA DRIVE

THIS APPLICATION WAS APPROVED BY ACTION OF THE BOARD OF ZONING APPEALS

ON 2.25.69

Date

VARIANCE FOR PROP. CAR PORT

J. A. Woodson

LOT	BLOCK	SECTION	SUBDIVISION
37		2	MANTUA HILLS

SCALE 1" = 20'

GEN. PAUL W. CARAWAY
JACK SHAW, BUILDER

COPELAND & WATSON
CIVIL ENGINEERING AND LAND SURVEYING
711 NORTH FAYETTE STREET
ALEXANDRIA, VIRGINIA

DATE JAN. 2, 1969
CERTIFIED CORRECT

Alfred Copeland
CERTIFIED LAND SURVEYOR

Approved, VKK - 5-14-69 P56832

MAP REFERENCE			
Plat Number	Subd. Des.	Blk. or Sec.	Parcel or lot
73	3	10	37

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE BUILDING INSPECTOR
Application for Building Permit

APPLICATION NO. F6864
DATE 19 4-14-69 PERMIT NO. 56832

To: BUILD ☒ ALTER OR REPAIR ☐ ADD TO ☐ DEMOLISH ☐ MOVE ☐ ..... ☐

JOB LOCATION
Street 9113 Centreville Drive
Lot No. 37 Block 10 Section 3
Subdivision Manassas Hills

OWNER
Corp. Name
Name (Reg. Agent) Lt. Col. & Mrs. P. W. Crowley
Address 9113 Centreville Drive
City Fairfax County Telephone Number

ARCHITECT ENGINEER
Name
Address
City State Reg. No.

CONTRACTOR
Name Custom Enterprises
Address 4000 Block Lee Highway
City Arlington, Virginia
County Reg. # 768 State Reg. #

DESCRIPTION
For: Open Carport

No. of Bldgs. 1 Est. Const. Cost $ 1500.-
No. of Units Stories
No. of Kitchens Penthouse
No. of Baths Ht. of Bldg. 10 ft.
No. of Rooms Bldg. Area 540 sq. ft.
(Exclude Kit. & Bath)
Basement ☐ Slab ☐ Crawl ☐ Soil: Solid ☐ Fill ☐

Ftg: Concrete ☐ Pile ☐ Caisson ☐
Ext. Walls: Wood ☐ Metal ☐ Brick ☐
Int. Walls: Plast ☐ Drywall ☐ Panel ☐
Roof: Flat ☐ Pitch ☐ Shed ☐
Roofing: Built-up ☐ Shingle ☐ Roll ☐

Heat: Oil ☐ Gas ☐ Electric ☐
Equipment: Boiler ☐ Furnace ☐ Heat Pump. ☐ Air Cond. ☐

Sewage: Public ☐ Community ☐ Septic Tank ☐ None ☐
Water: Public ☒ Individual Well ☐ None ☐

Remarks:

I hereby certify that I have the authority to make this application, that the information given is correct, and that the use and construction shall conform to the County Health Regulations, the Building and Zoning Ordinances, and private deed restrictions, if any, which are imposed on the property.

273-2327 Phone No. 5, Apr. '69 Date Signature of Owner or Auth. Agent

APPLICANT: DO NOT WRITE BELOW THIS LINE

PLAN APPROVAL
Use Group of Building I-3 Area of Bldg. @ per Sq. Ft. $
Type of Construction II-B @ $
Fire District @ $
Date Checked 4-14-, 19 69 By TEG TOTAL FEE $ 9.00
Approved by Building Inspector Jack P. Burrell

ROUTING

	OFFICE	Rm. No.	DATE	BY		OFFICE	Rm. No.	DATE	BY
✓	Land Office	112	4-14-69	AH		Fire Marshall			
✓	Zoning Administrator	210	4-14-69		✓	Streets & Drainage			
	Sanitary Engineer				✓	Housing & License	139	4-14-69	
	Health Officer	Rt. 237				Dsgn. Review		4-14-69	SLC

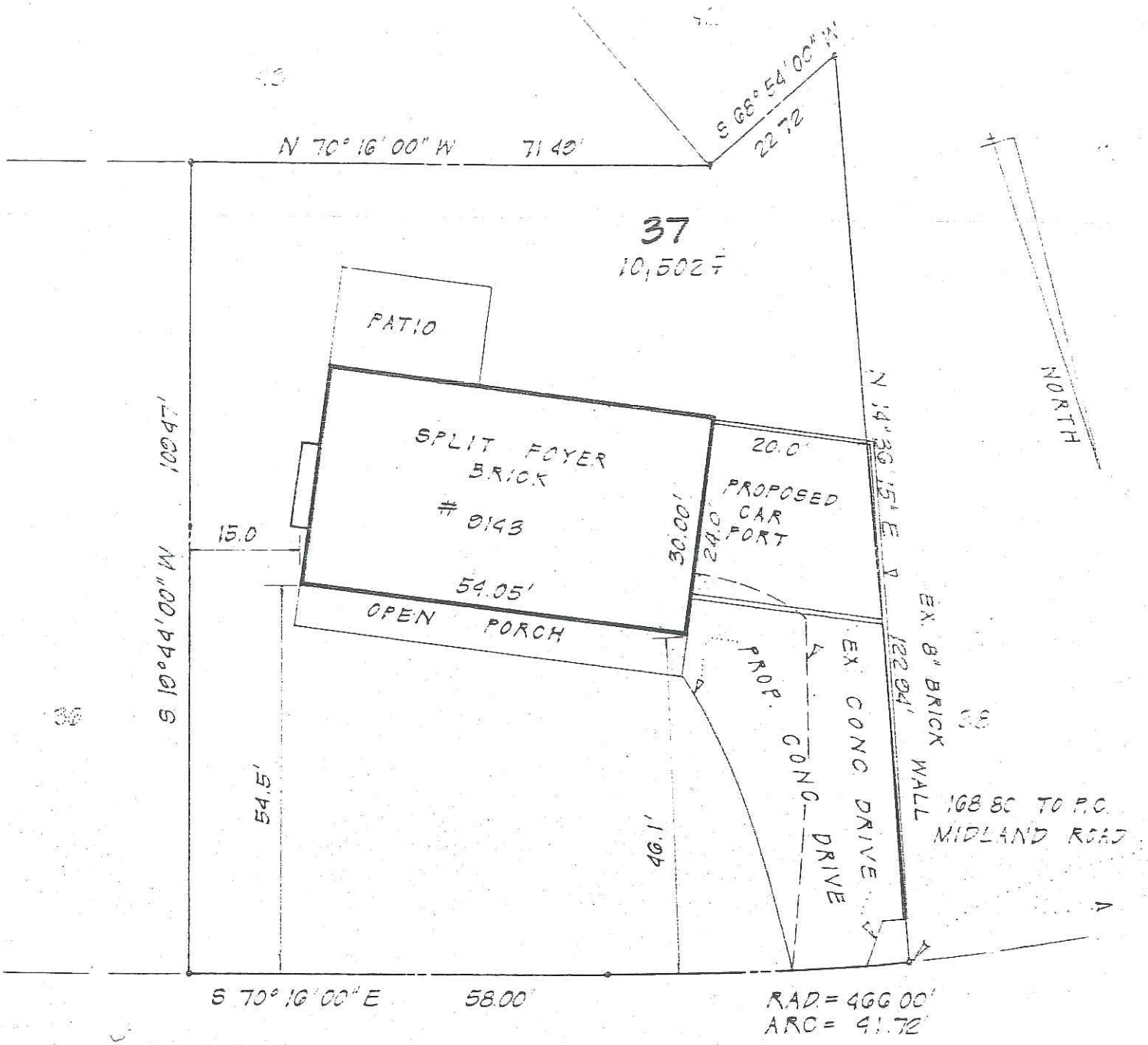
CERTIFICATION
I hereby certify to the following statement:
1. All materials used for work performed under this permit will be paid directly to the supplier by the property owner.
2. All compensation will be on an hourly basis and paid by the property owner directly to the person(s) performing work under this permit.

Date 19 Property Owner By Authorized Agent

Supervisor of Assessments
Property is listed in name of Lt. Col. Crowley
Magisterial District Dis. 5 Deed Book Reference 2984 pg 1
Supervisor: Lt. Col. Harry J. Haddaway, USA

ZONING
Subdivision Manassas Hills Sec. Block Section Zone R-12.5
Street Address
Use of Bldg. Open Carport Use after Alteration No. Families 1
BZA 9-25-69 SITE PLAN
Set Back: Front 45 Rt. Side 0 Left Side 15 Rear 25-1 Zoning Administrator

RETURN THIS COMPLETED APPLICATION TO THE BUILDING INSPECTOR'S OFFICE FOR ISSUANCE OF BUILDING PERMIT.



VARIANCE FOR PROP CAR PORT

FAIRFAX COUNTY, VIRGINIA

LOT	BLOCK	SECTION	SUBDIVISION
37		2	MANTUA HILLS

SCALE 1" = 20'

GEN. PAUL W. CARAWAY
JACK SHAW, BUILDER

COPELAND & WATSON
CIVIL ENGINEERING AND LAND SURVEYING
711 NORTH FAYETTE STREET
ALEXANDRIA, VIRGINIA

DATE JAN 2, 1969
CERTIFIED CORRECT
Alfred Copeland
CERTIFIED LAND SURVEYOR

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:	58-2 ((10)) 37
Property Address:	9143 Santayana Drive, Fairfax, VA 22031
Requestor's Name:	Raymund and Andrea Tembreull
Requestors Address: (if different than above)	
Requestor's Phone Number:	703-280-2850
Current Zoning:	R-3
Magisterial District:	Providence
Subdivision Name/Section/Block/Lot No.:	Mantua Hills, Section 2, Lot 37

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

Based on the house location plat prepared by John Krobath, dated June 20, 2013, the structures in question are the 13.6 foot by 21.5 foot sunroom, approximately 17 foot by 13.6 foot wood deck, and approximately 552 square foot carport. The submitted plat shows the sunroom at 11.3 feet and the wood deck at 14.6 feet from the rear lot line and the carport at 0 feet from the side lot line. As such, the sunroom encroaches into the minimum required rear yard by 13.7 feet and the carport encroaches into the minimum required side yard by 12.0 feet. However, our records indicate that Variance Application V-27-69 was approved by the Board of Zoning Appeals on February 25, 1969 to construct the carport.

The referenced property is zoned R-3, Residential District, 3 Dwelling Unit per Acre. The minimum yard requirements are: 30 feet in the front, 12 feet in the side and 25 feet in the rear.

Background Summary (check all that are applicable):

☒ No evidences of Building Permits having been issued for the sunroom and the wood deck.

☐ 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 structures been taxed for at least 15 years.

☒ Department of Tax Administration records do not indicate that the sunroom and the wood deck on the referenced property have been taxed for at least 15 years.

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/

Staff Determination:

☒ §15.2-2307 is not applicable to the sunroom, which encroach into the minimum required 25 feet rear yard by 13.7 feet and has no building permit on file. §15.2-2307 is not also applicable to the wood deck, which does not have a building permit on file. Pursuant to Par. 2A1c of Sect. 3-307 of the Zoning Ordinance, the minimum rear yard requirement for a sunroom, which is part of a single family dwelling, is 25 feet. In addition, pursuant Sect. 18-601 of the Zoning Ordinance, no building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit application has been approved by the Zoning Administrator.

To meet the Zoning Ordinance requirements, the sunroom should be relocated to comply with the minimum yard requirement as stated above and a building permit should be obtained both for the sunroom and the wood deck. Alternatively, special permit for a reduction to the minimum yard requirement could be sought from the Board of Zoning Appeals (BZA). All special permits require the submission of an application, plat and fee; notification of adjacent property owners; and a public hearing before the BZA. Information pertaining to the special permit process is available from the Zoning Evaluation Division by calling 703-324-1290.

Information pertaining tax records may be obtained from Department of Tax Administration by calling 703-222-8234.

This determination is based upon the facts presented in your request and the applicable Fairfax County Zoning Ordinance provisions in effect as of the date of this letter. If the facts as presented change or if the applicable provisions of the Zoning Ordinance change subsequent to the issuance of this determination, the determination may be subject to modification.

Reviewer's Signature: GETACHEW A. TADESSE **Date:** 09/16/2013
Zoning Administration Division
Department of Planning and Zoning

cc: Tim Shirocky, Director, Real Estate Division, DTA
Leslie B. Johnson, Zoning Administrator
Michelle M. O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator, for Zoning Permit Review Branch

Similar Case History

#	Record		Status
1	ZAPS - VC - VC 87-P -147		APPLICATION APPROVED
	Application Desc ...:	ALLOW CONSTRUCTION OF ADDITION TO DWELLING TO 19.5 FT. FROM REAR LOT LINE (25 FT. MIN. REAR YARD REQ.)	
2	ZAPS - VC - VC 89-P -130		APPLICATION APPROVED
	Application Desc ...:	TO PERMIT A ROOM ADDITION AND ENCLOSURE OF DECK FOR SCREENED PORCH TO BE 18 FT. FROM REAR LOT LINE	
3	ZAPS - VC - VC 89-P -055		EXPIRED
	Application Desc ...:	ALLOW CONSTRUCTION OF GARAGE AND ROOM ADDITIONS TO DWELLING TO 10.4 FT. FROM SIDE LOT LINE AND 18.9 FT. FROM REAR LOT LINE, RESPECTIVELY (12 FT. MIN. SIDE YARD, 25 FT. MIN. REAR YARD REQ.) BZA GRANTED GARAGE ADDITION ONLY	

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, or

   B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and

   C. 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

   D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and

   E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

   F. It will not create an unsafe condition with respect to both other property and public streets, and

   G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

   H. The reduction or modification 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.