



REVISED APPLICATION ACCEPTED: April 24, 2014  
BOARD OF ZONING APPEALS: July 16, 2014  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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July 9, 2014

## STAFF REPORT

**SPECIAL PERMIT SP 2014-MA-049**

### MASON DISTRICT

**APPLICANT:** Maria Fabiola Araujo,  
El Amanecer De Los Pitufos, Inc.

**OWNERS:** Maria F. Araujo  
Victor H. Araujo

**SUBDIVISION:** Hallran, Section 1

**STREET ADDRESS:** 3221 Hallran Rd., Falls Church, 22041

**TAX MAP REFERENCE:** 61-2 ((4)) 09

**LOT SIZE:** 10,255 square feet

**ZONING DISTRICT:** R-3

**ZONING ORDINANCE PROVISIONS:** 8-305, 8-914

**SPECIAL PERMIT PROPOSAL:** To permit a home child care facility and to permit reduction in minimum yard requirements based on error in building location to permit addition 1.2 feet from side lot line.

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2014-MA-049 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

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

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

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

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

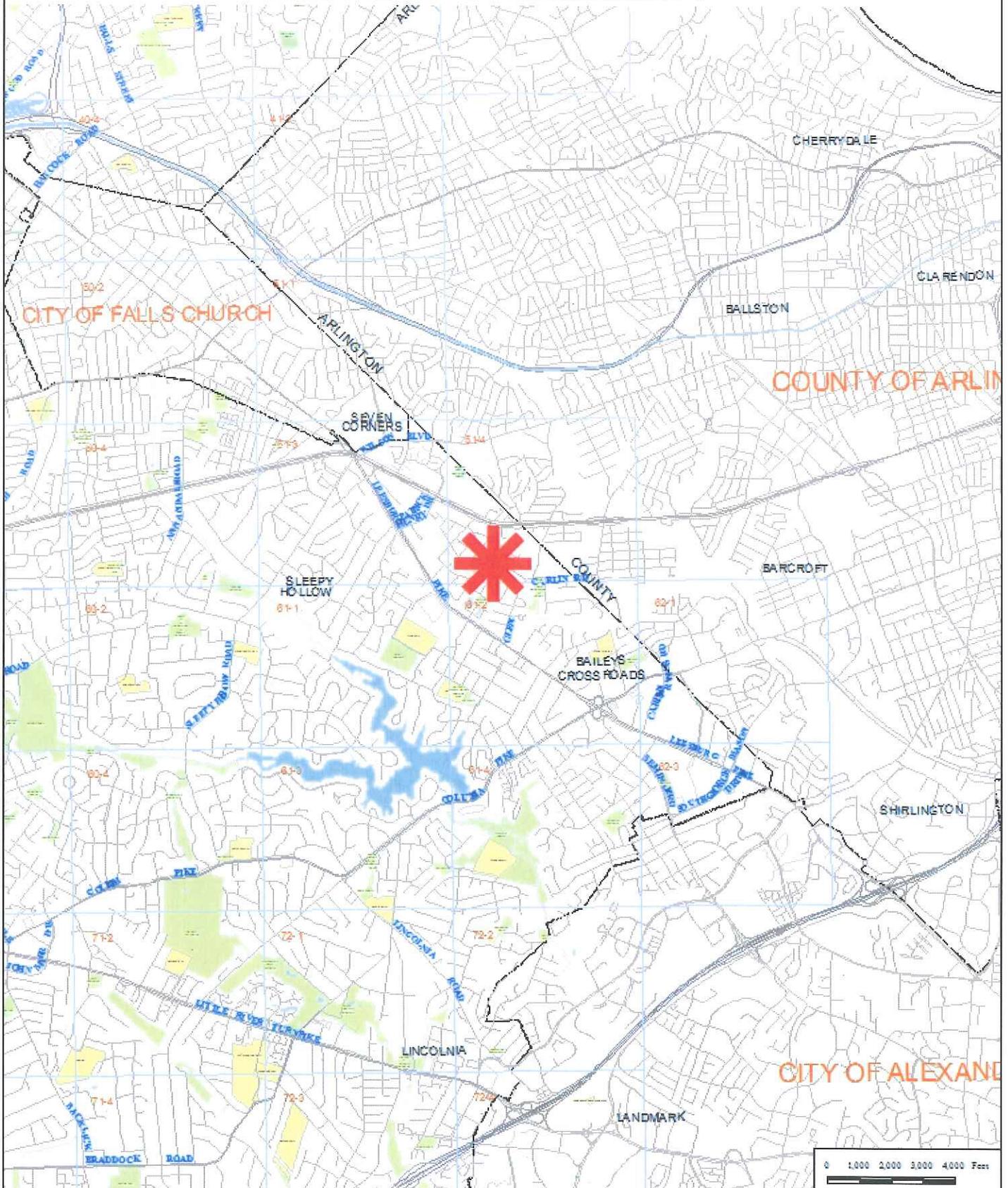


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

SP 2014-MA-049

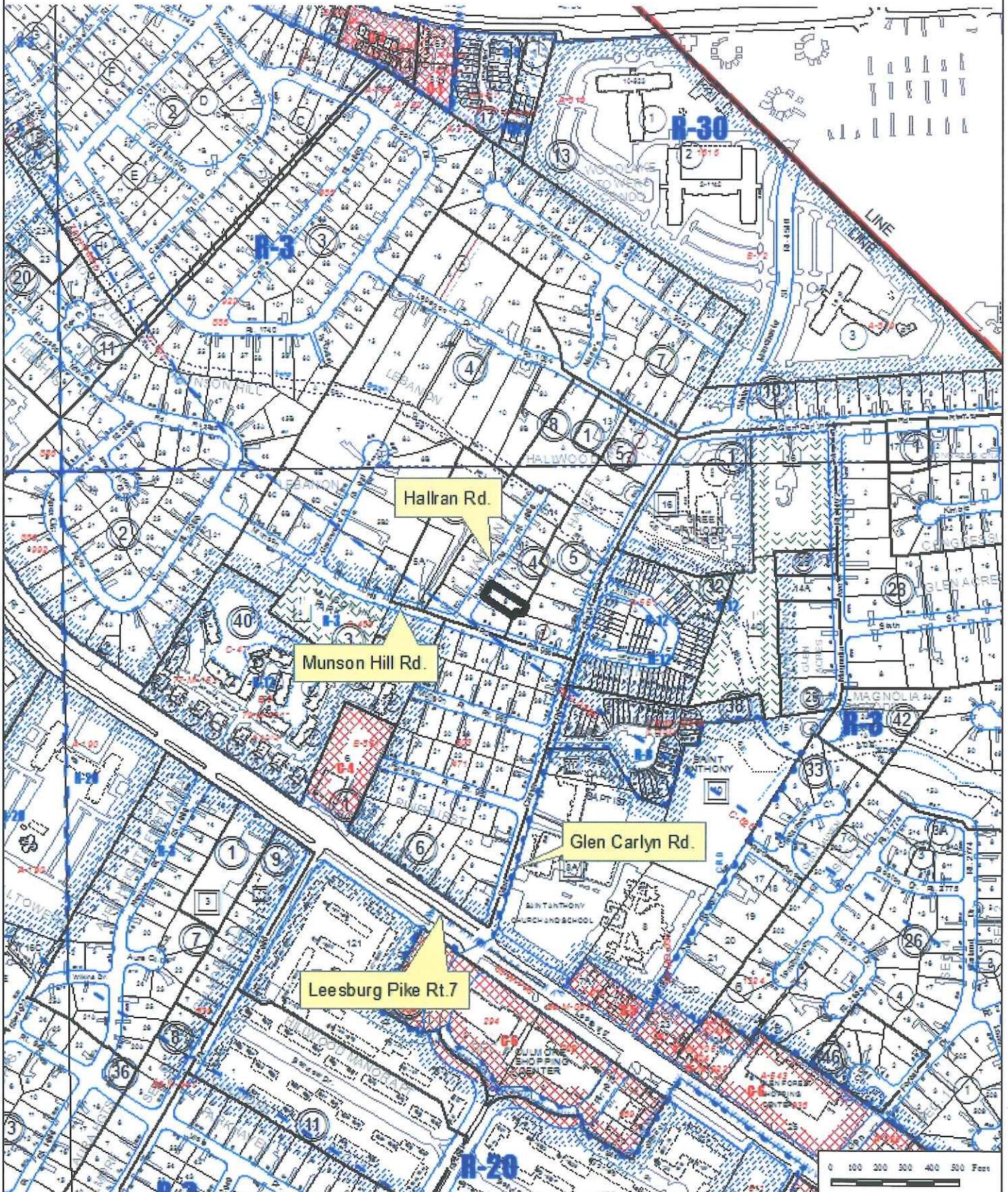
MARIA FABIOLA ARAUJO, EL AMANECER DE  
LOS PITUFOS INC.



# Special Permit

SP 2014-MA-049

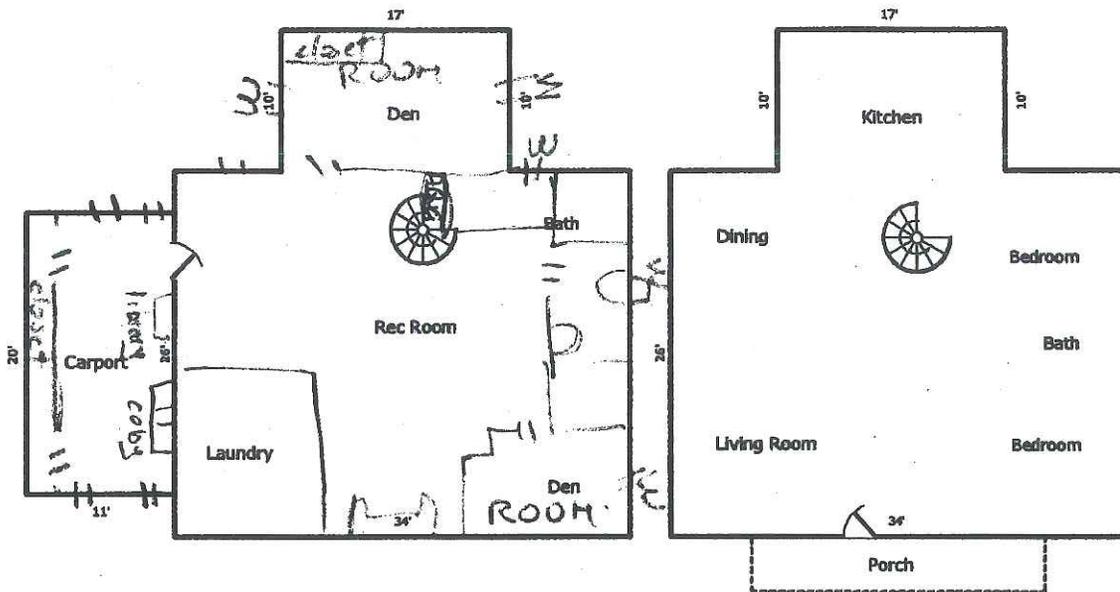
MARIA FABIOLA ARAUJO, EL AMANECER DE  
LOS PITUFOS INC.





## Building Sketch

|                  |                                 |                |                              |
|------------------|---------------------------------|----------------|------------------------------|
| Borrower         | Araujo, Victor                  |                |                              |
| Property Address | 3221 Hallran Rd                 |                |                              |
| City             | Falls Church                    | County Fairfax | State VA Zip Code 22041-2410 |
| Lender/Client    | First Ohio Banc & Lending, Inc. |                |                              |



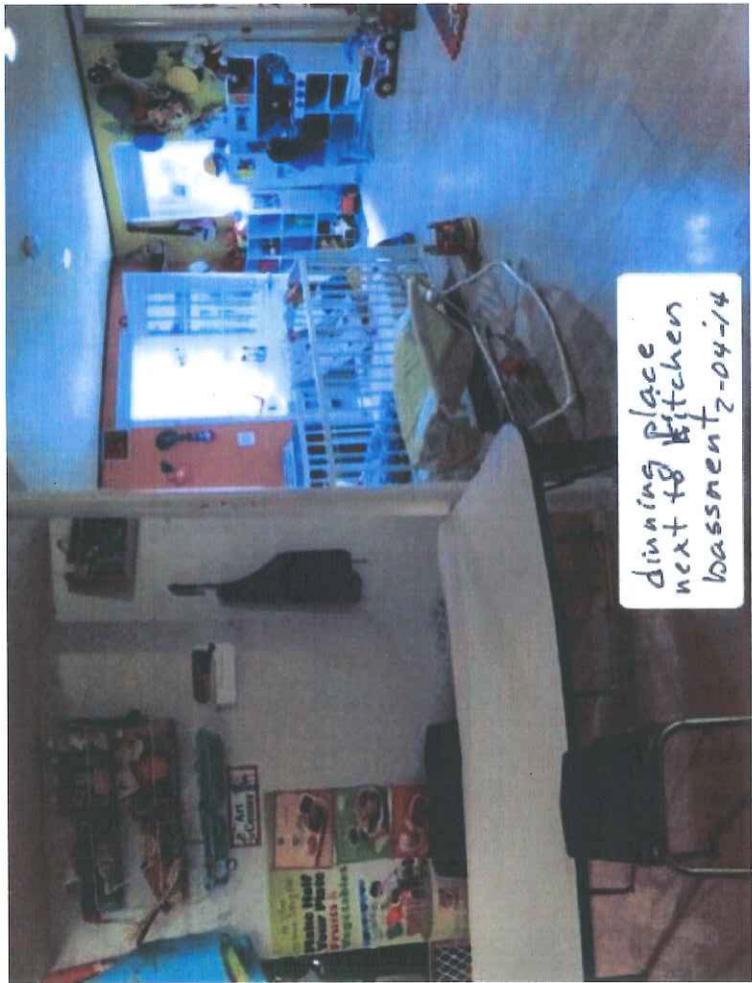
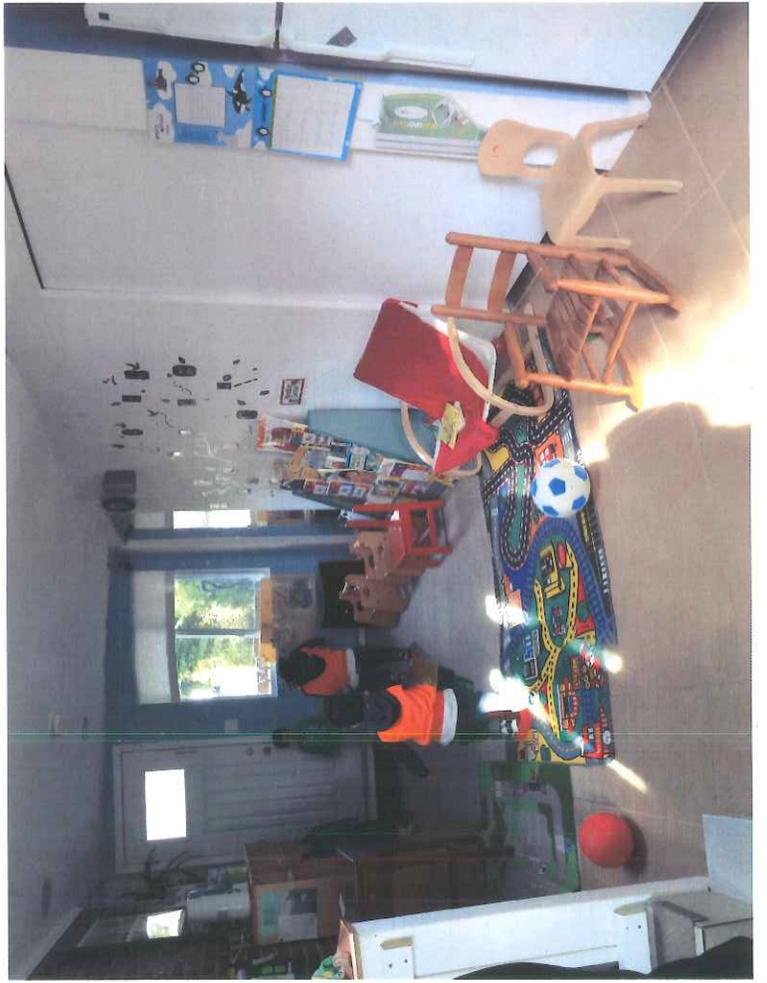
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 Department of Planning & Zoning  
 SEP 17 2013  
 Zoning Evaluation Division

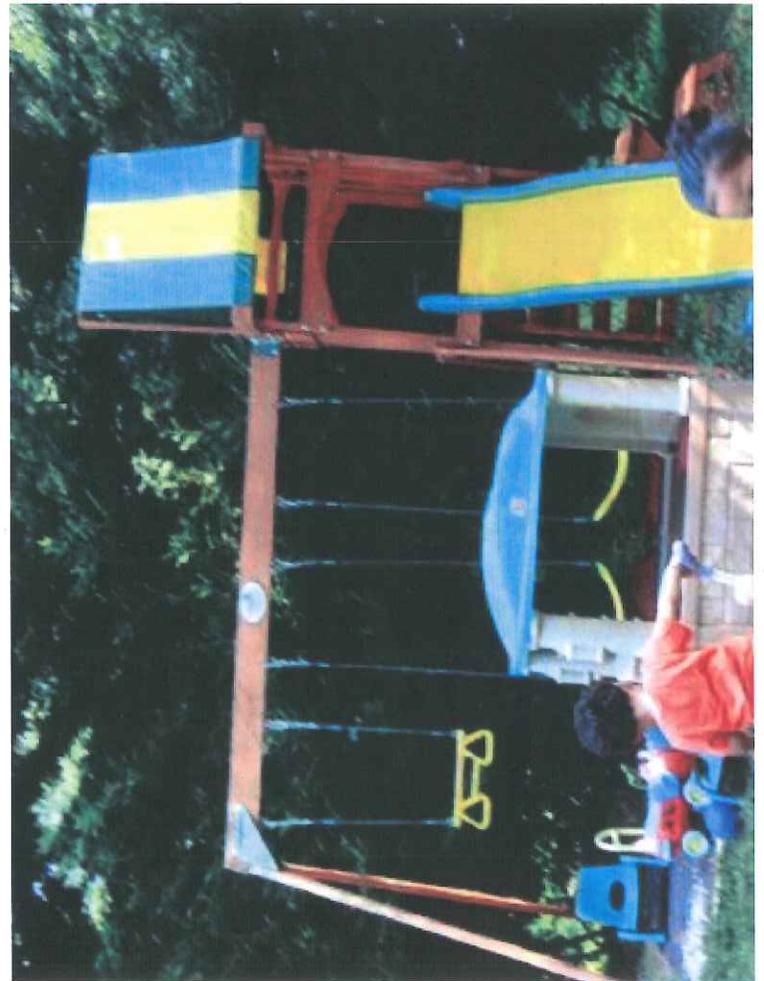
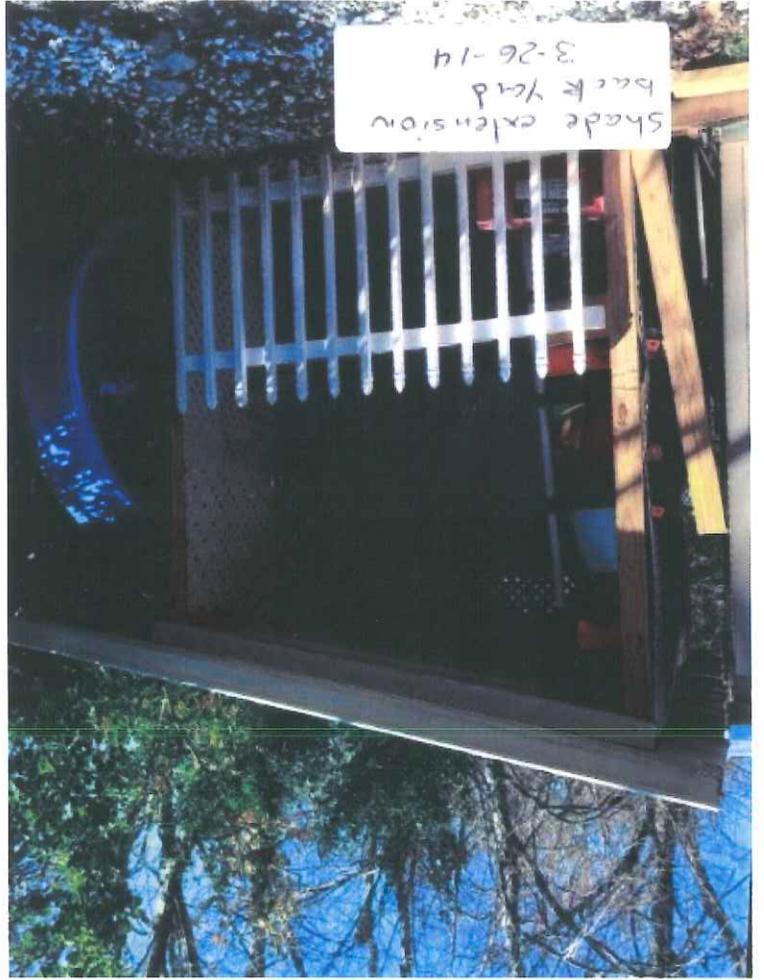
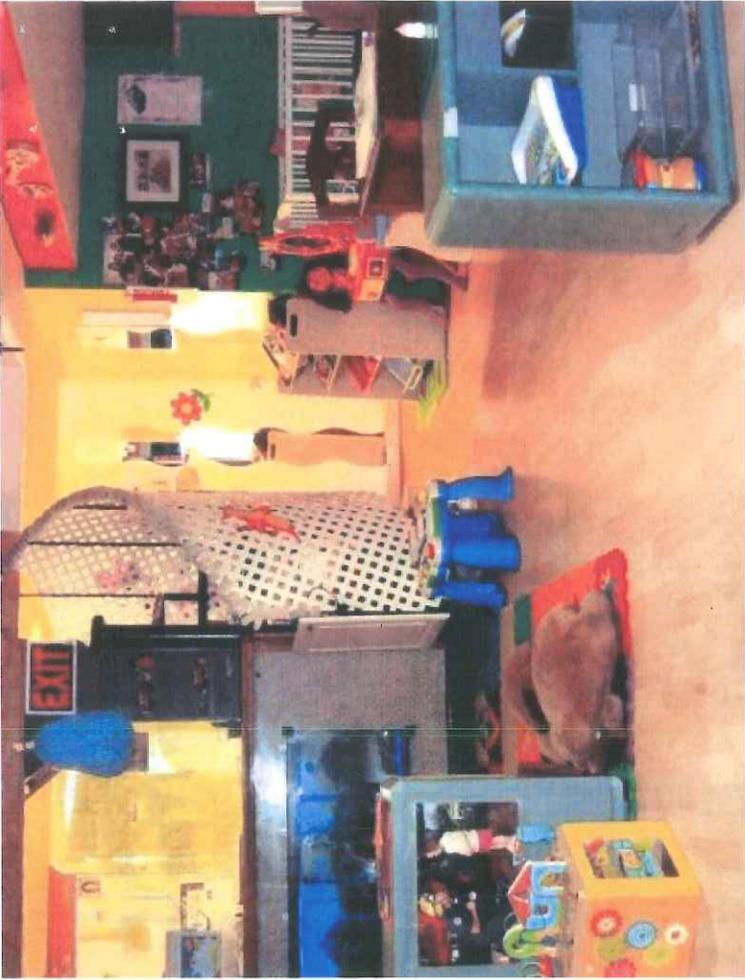
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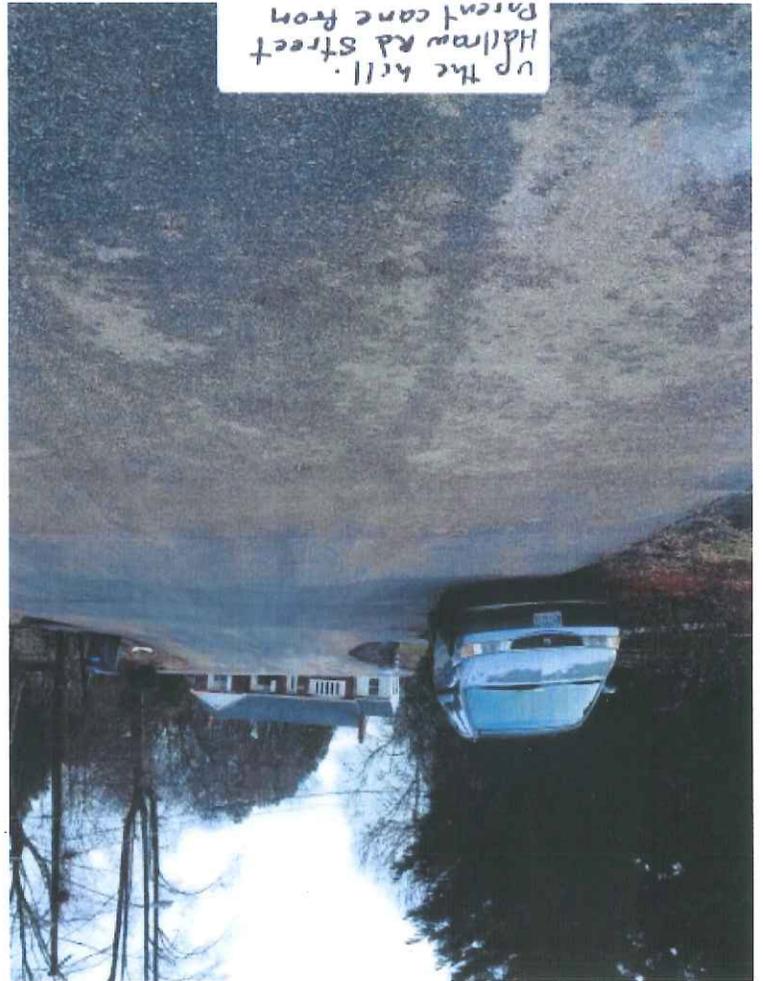
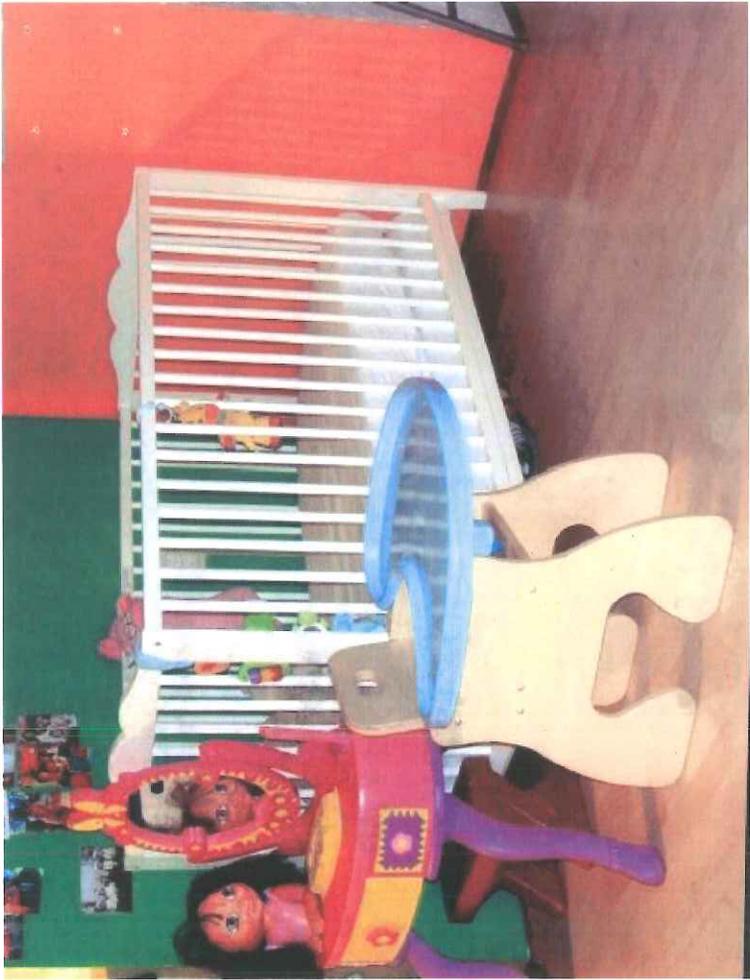
Comments:

| AREA CALCULATIONS SUMMARY |             |          |           |
|---------------------------|-------------|----------|-----------|
| Code                      | Description | Net Size | Net Total |
| GLAI                      | First Floor | 1054.0   | 1054.0    |

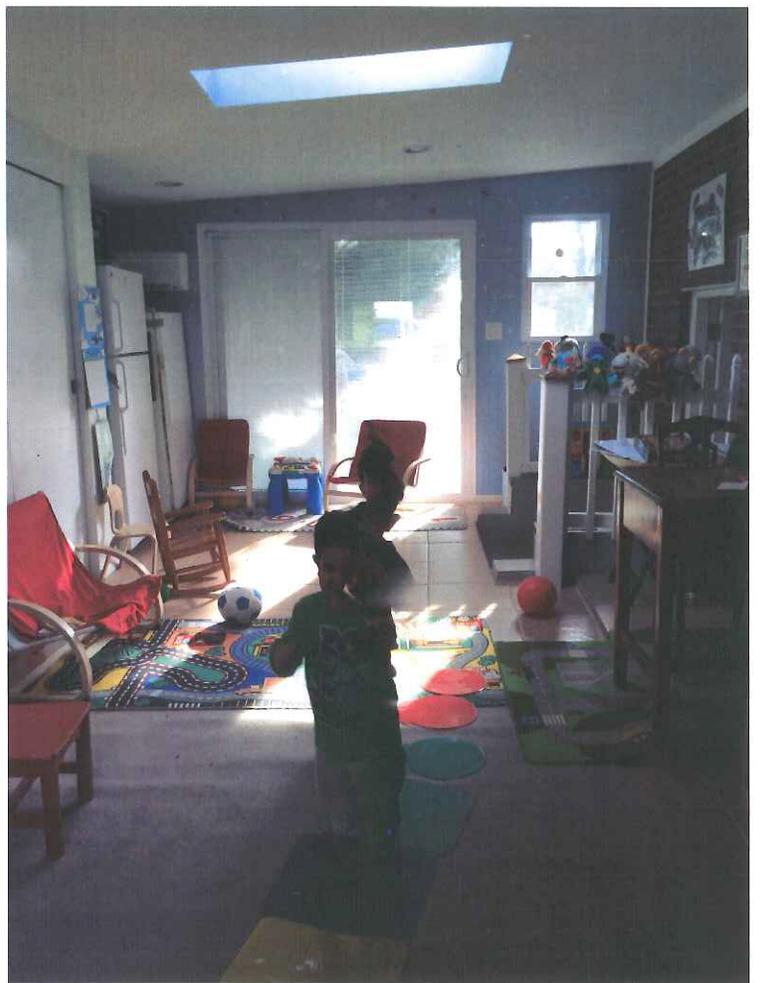
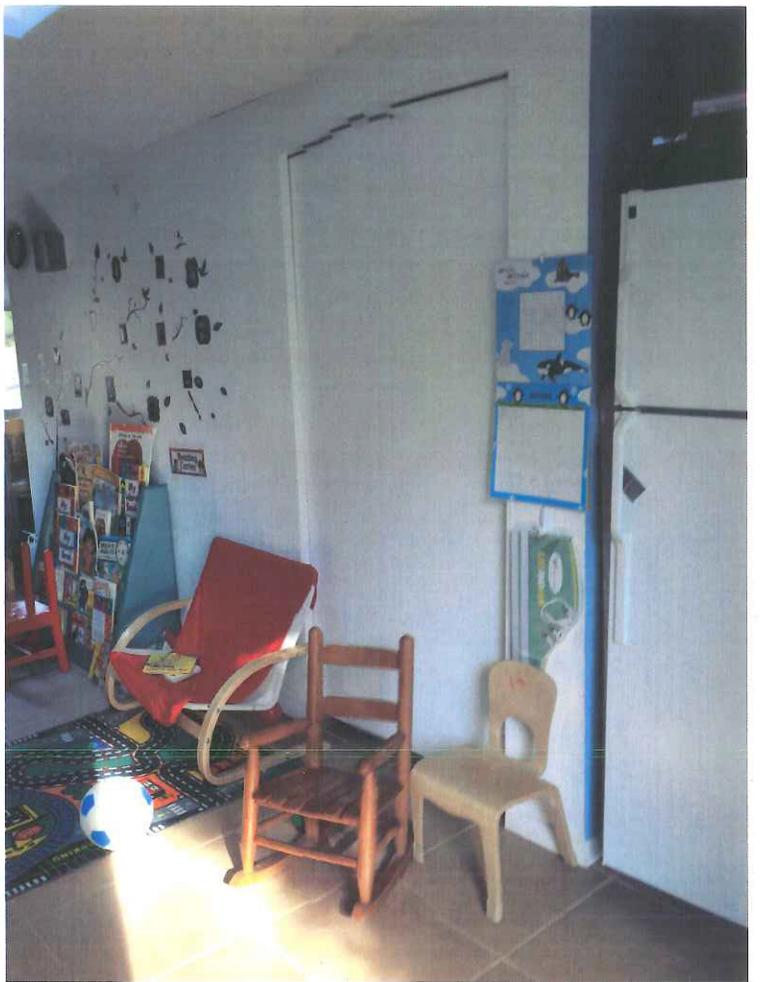
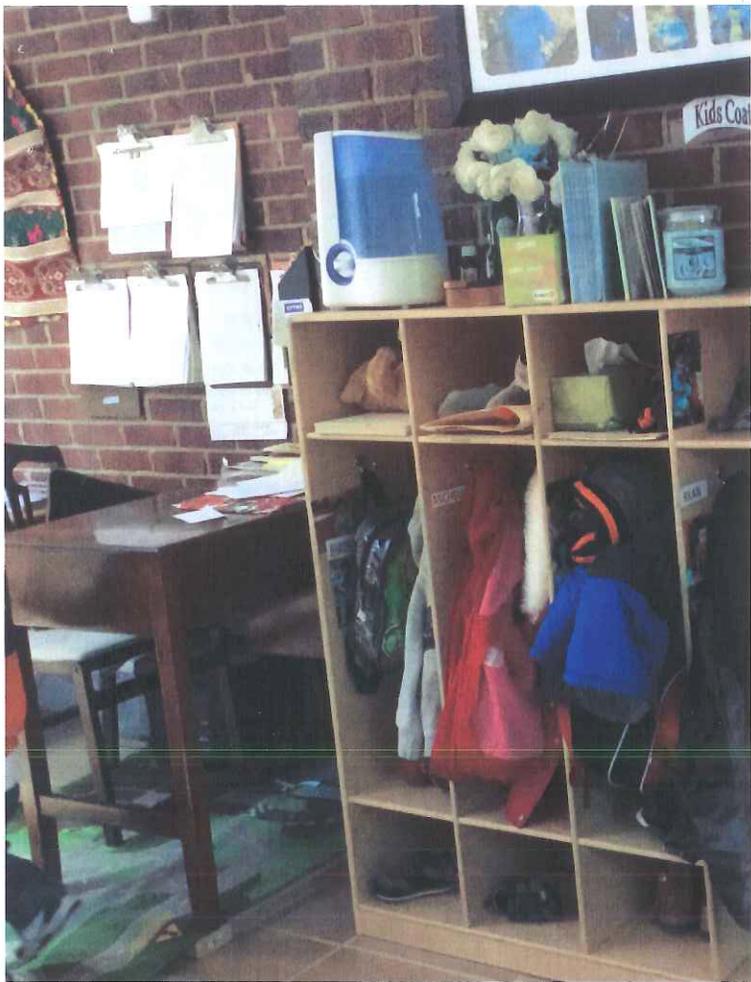
| LIVING AREA BREAKDOWN |          |
|-----------------------|----------|
| Breakdown             | Subtotal |
| First Floor           | 1054.0   |

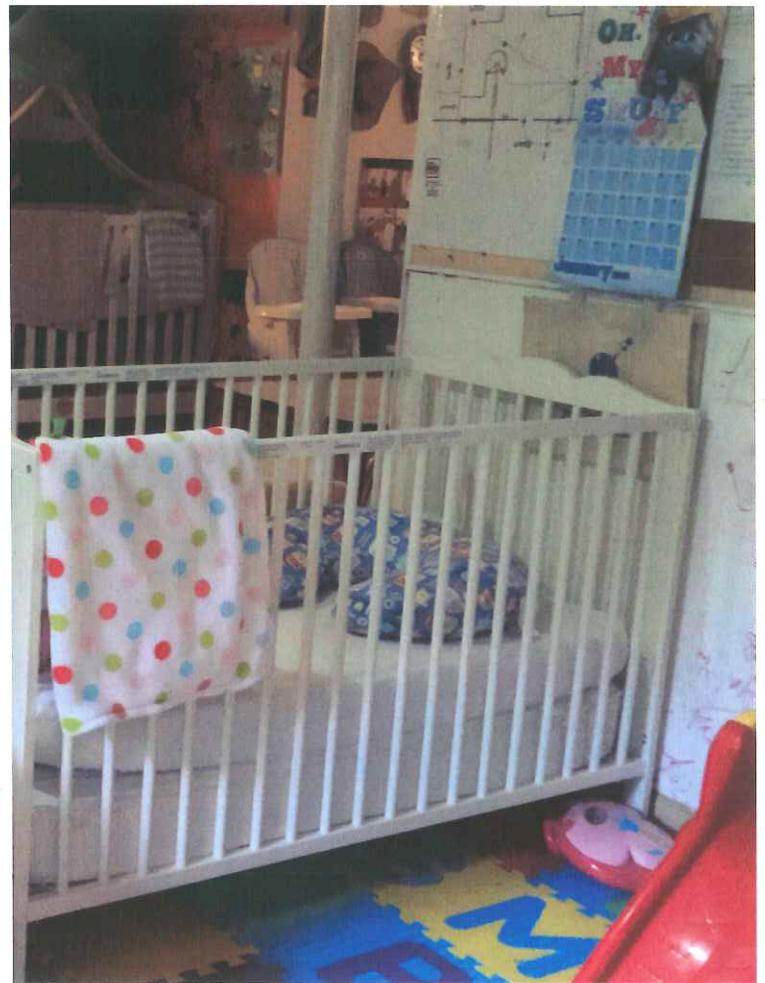
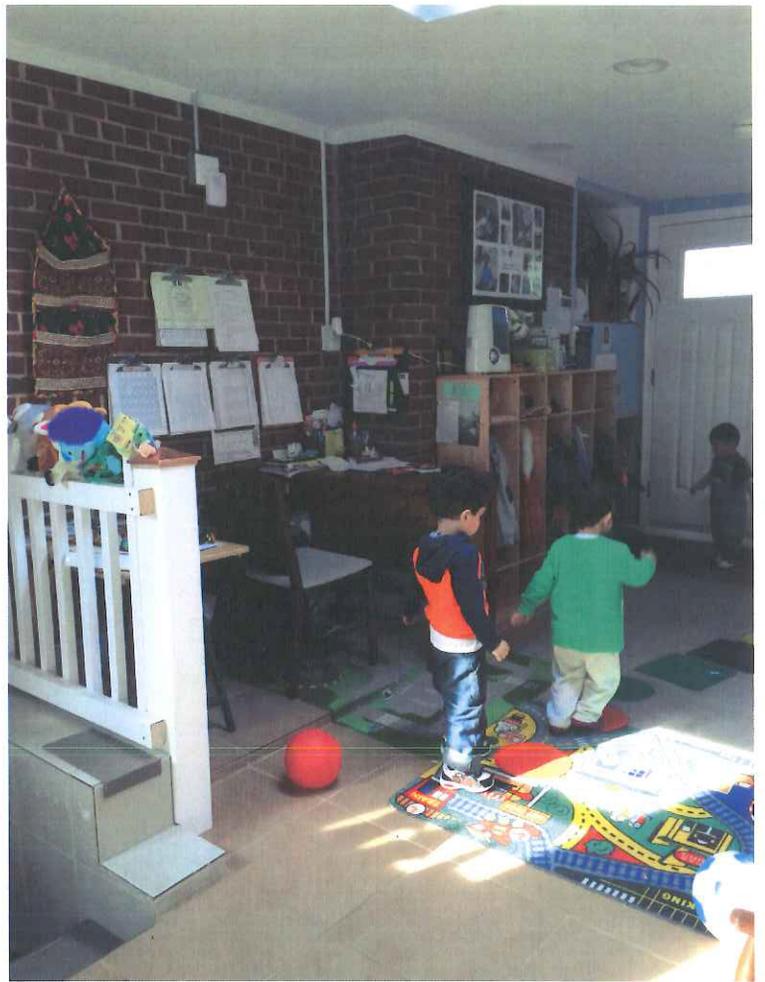
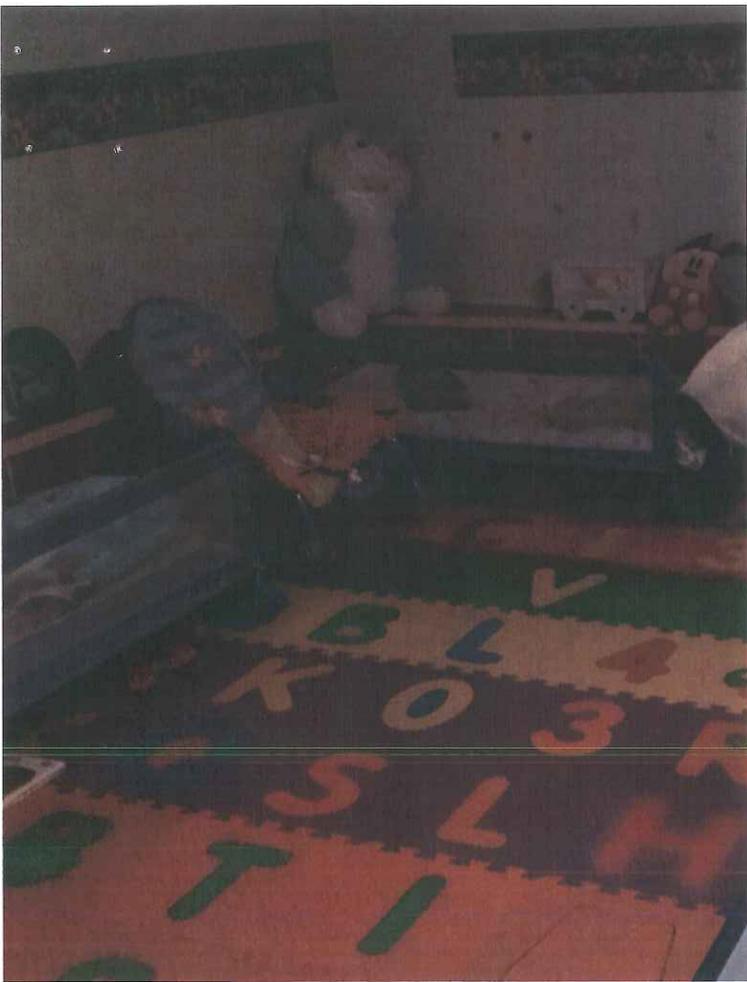


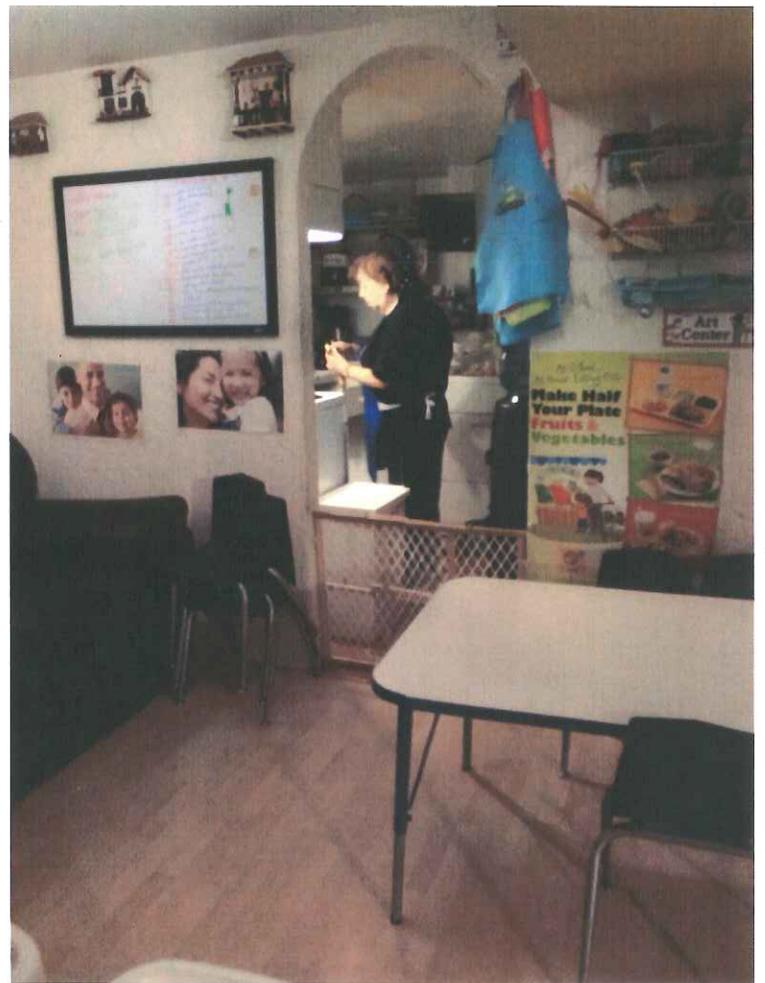
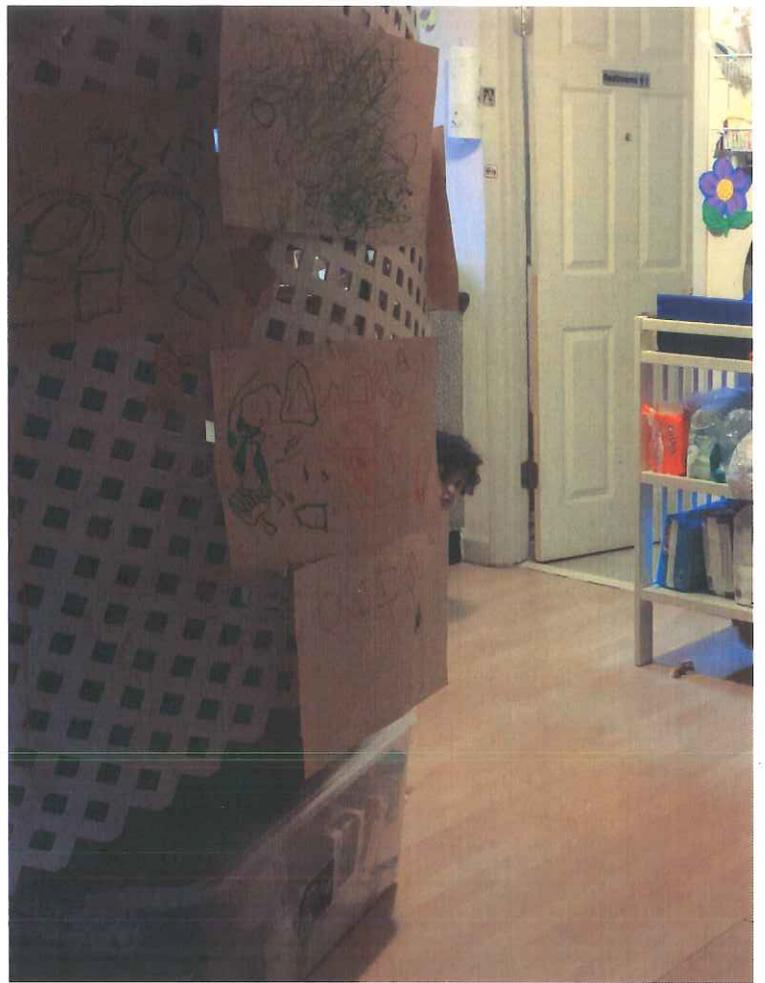


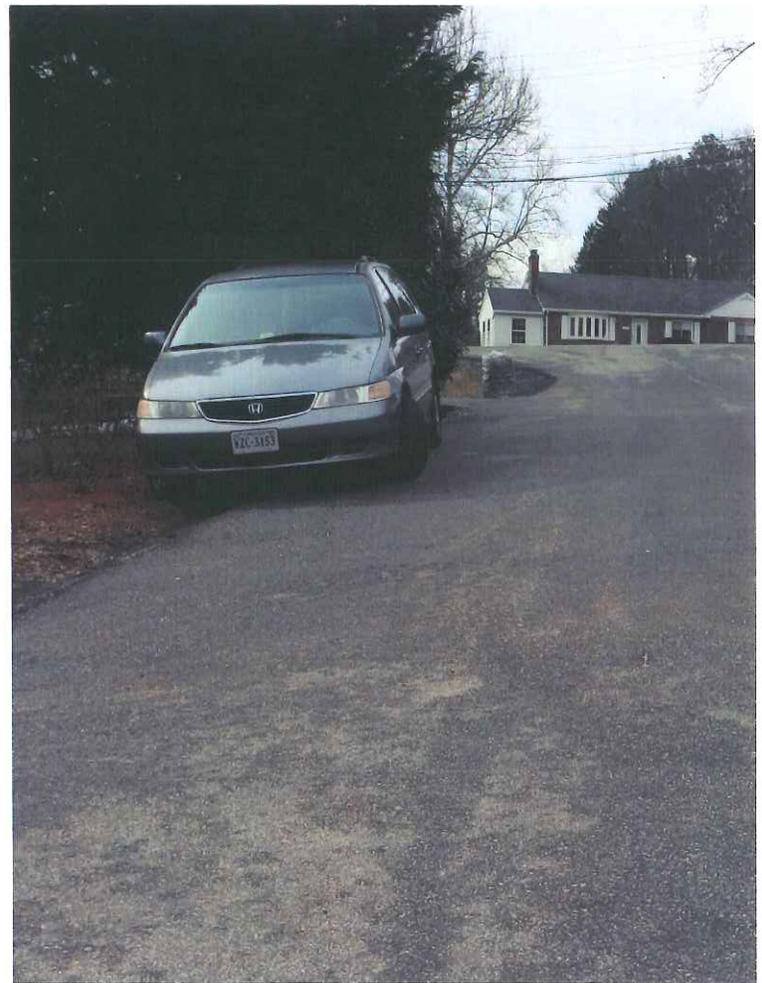
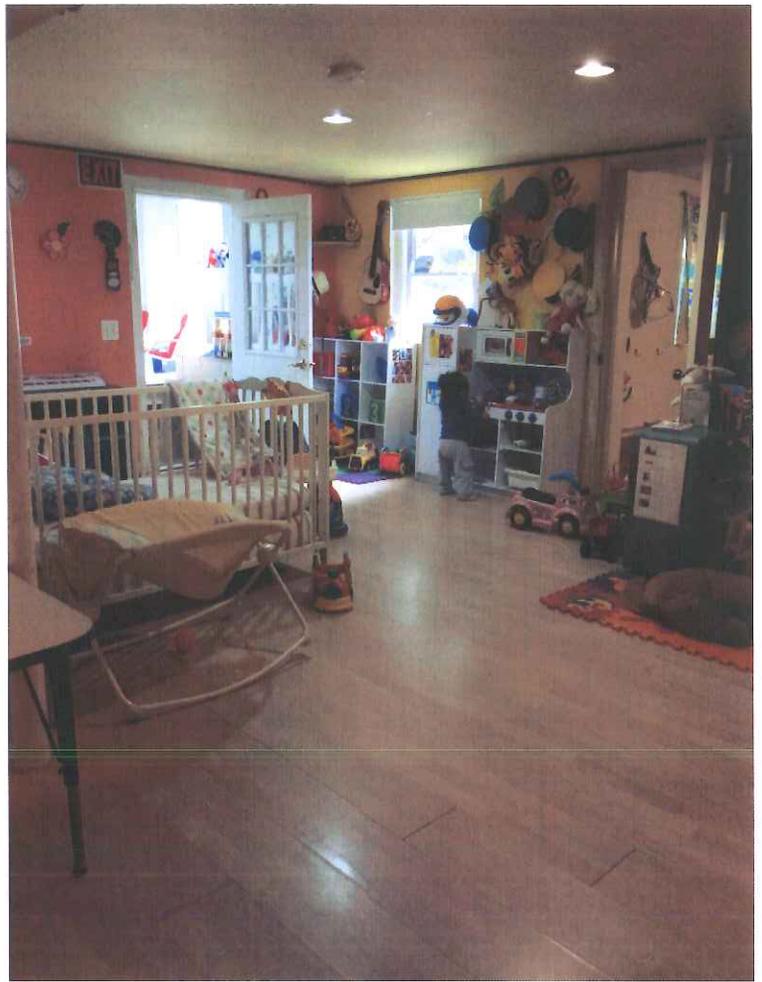
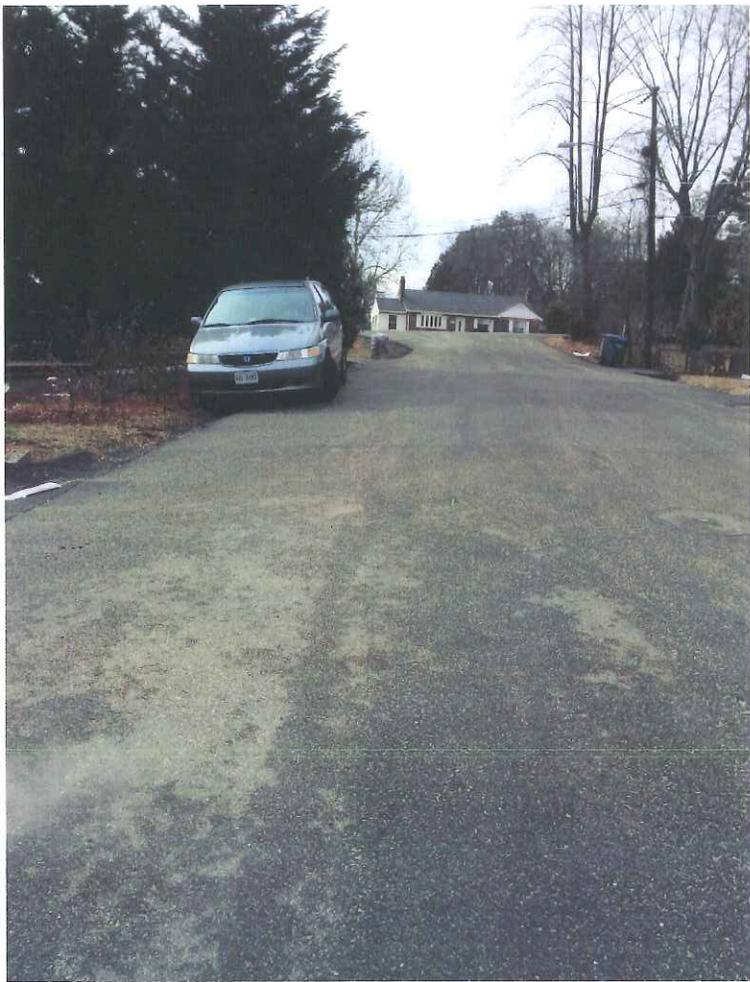


Up the hill.  
Hallman Rd Street  
Parent came from









## **SPECIAL PERMIT REQUEST**

The applicant requests approval of a special permit for a home child care facility for 12 children at any one time within an existing dwelling, as well as to permit a reduction in yard requirements based on error in building location to permit an addition 1.2 feet from the side lot line. The addition is the enclosure of a one-story carport into a play area and entrance for the daycare. A minimum side yard of 12 feet is required; a reduction of 10.8 feet is requested.

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

A copy of the plat titled "Special Permit Plat, Lot 9, Section 1, Hallran" prepared by Laura L. Scott, dated December 20, 2013 as revised through March 24, 2014, is included at the front of this report.

## **CHARACTER OF THE SITE AND SURROUNDING AREA**

The 10,255 square foot lot is developed with a single family dwelling with a one-story home with 884 square feet of floor area in addition to a finished basement of 552 feet. The property is located in Section One of the Hallran subdivision and is zoned R-3. The applicant enclosed a carport as an addition to her home child care, and it serves as the main entrance to the facility. A patio extends off the rear of the home, and the surrounding rear yard serves as the outdoor play area. The area is enclosed by a fence that has a maximum height of seven feet tall. Parents access the child care from the driveway accessing Hallran Road, and they enter through the enclosed carport addition to access the basement. The driveway is less than the 30% maximum front yard coverage permitted by the Zoning Ordinance.

The enclosed one-story carport is 7.6 feet in height and approximately 311 square feet in size located to the north of the property. The carport is vinyl and similar in nature and subordinate to the main dwelling.

As shown in Figure 1 on the following page, the site is surrounded by residential lots, zoned R-3, and developed with single family dwellings.



Figure 1: Lot location

## BACKGROUND AND HISTORY

County Records show that the dwelling was constructed in 1953. The applicant purchased the property in July 2003. The applicant operates a home child care facility and holds a current license, which is valid until February 25, 2015, from the Commonwealth of Virginia, Department of Social Services for a Family Day Home with a capacity of seven children, from birth through 12 years 11 months.

County records reflect that there are no similar cases for a home child care or a special permit of error in building location in the vicinity.

The applicant was issued a Notice of Violation and a Corrective Work Order on September 13, 2013 for the enclosed carport addition included in this application. The

Notice of Violation is included as Appendix 3, and the Corrective Work Order is included as Appendix 4.

## **DESCRIPTION OF THE APPLICATION**

The applicant is requesting approval of a special permit for a home child care facility for up to 12 children at any one time, to operate between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday. Drop-off of children is to be staggered between 7:30 a.m. and 9:30 a.m. with pick-up between 3:30 p.m. and 7:00 p.m. Employees include the applicant and two assistants at any one time.

The home child care facility is operated in the enclosed carport and the basement of the dwelling which includes: a large multi-purpose play room, a bathroom, a kitchen, and a nap room. The basement kitchen has a microwave and an oven, and this kitchen will need to be removed upon the discontinuance of the proposed use or otherwise be determined to comply with the provisions of the Zoning Ordinance, for which a development condition has been included in Appendix 1. Staff observed that windows in the sleeping area and play areas provide safe egress for the child care area. There is ample outdoor play area in the applicant's backyard.

The existing driveway appears to be able to accommodate two vehicles. The applicant plans to expand her driveway after she has completed the special permit process for her home child care, and she will abide by the Zoning Ordinance for a maximum of 30% coverage in the front yard. Parents use the driveway for parking during drop-off and pick-up times. Staff believes with staggered drop-offs and pick-ups there is sufficient parking in the driveway to accommodate the home child care use.

## **ANALYSIS**

### **Comprehensive Plan Provisions**

**Plan Area:** Area I, Baileys Planning District  
**Planning Sector:** Glen Forest Planning Sector (B2)  
**Plan Map:** Residential use at 3 dwelling units per acre (du/ac)

### **Zoning Ordinance Requirements**

- General Special Permit Standards (Sect. 8-006)
- Group 3 Uses (Sect. 8-303)
- Additional Standards for Home Child Care Facilities (Sect. 8-305)
- Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)

SP 2014-MA-049

This special permit is subject to the sections of the Zoning Ordinance outlined above, a copy of which is included in Appendix 8. Subject to the development conditions, the special permit must meet these standards.

### **Site Inspection**

During the site visit, staff observed minor violations of the 2009 Virginia Residential Building Code, and these violations are noted in Appendix 6. The applicant's enclosed carport is currently under violation for its proximity to the side yard, and the owners have included this addition in this Special Permit request to justify the error in building location. When staff arrived on-site, the applicant had parked her vehicle in the front yard of the dwelling on the grass. She was informed that this was a violation, and she plans to expand her driveway to accommodate her parking and increase the number of parents who can drop-off and pick-up children at the same time. Presently, as aforementioned, drop-offs and pick-ups are staggered to ensure adequate parking. Two small signs advertising the daycare were also noted during the site visit. The applicant has since removed these signs.

On the interior of the home child care, in the children's sleeping area, the pathway to the egress window was blocked by a crib. This pathway was cleared by the applicant, and now adequate emergency egress is available. The sleeping area also lacked a smoke alarm; the applicant was informed, and she will obtain and install a smoke detector in this room.

Prior to the Board of Zoning Appeals hearing, an additional inspection is scheduled by the Zoning Inspections Branch to ensure all of the previously mentioned violations have been cleared.

### **CONCLUSION**

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

### **RECOMMENDATION**

Staff recommends approval of SP 2014-MA-049, subject to the Proposed Development Conditions dated July 9, 2014.

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

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

**APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation Dated September 13, 2013
5. Corrective Work Order Dated September 13, 2013
6. Zoning Inspection Report
7. Virginia State License
8. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2014-MA-049****July 9, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-MA-049 located at Tax Map 61-2 ((4)) 09 for a home child care facility and a reduction in yard requirements based on error in building location pursuant to Section 8-305 and 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Maria Fabiola Araujo and El Amanecer de Los Pitufos, Inc., only and is not transferable without further action of the Board, and is for the location indicated on the application, 3221 Hallran Rd., and is not transferable to other land.
2. This special permit is granted only for the home child care facility and the location of the addition (enclosed carport) as indicated on the special permit plat prepared by Laura L. Scott., dated December 20, 2013 as revised through March 24, 2014 and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit **SHALL BE POSTED in a conspicuous place on the property of the use** and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.
5. The maximum number of children on site at any one time shall be 12, excluding the applicant's own children.
6. The number of non-resident assistants shall be limited to two.
7. All pick-up and drop-off of children shall take place in the driveway.
8. The dwelling that contains the child care facility shall be the primary residence of the applicant.
9. There shall be no signage associated with the home child care facility.
10. Upon the discontinuance of the proposed use, the second kitchen, located in the area of the child care facility, shall obtain a determination that the kitchen is in compliance with the provisions of the Zoning Ordinance, or be removed.

11. All applicable permits and inspections shall be obtained prior to establishment of the use, to be demonstrated to the satisfaction of the Zoning Administration Division, including any electrical or plumbing inspections as may be required.
12. All applicable permits and final inspections shall be obtained for the addition (enclosed carport) 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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, 6 months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 10/3/13  
 (enter date affidavit is notarized)

122710

I, Maria F. Araujo, 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<br>(enter first name, middle initial, and last name) | ADDRESS<br>(enter number, street, city, state, and zip code) | RELATIONSHIP(S)<br>(enter applicable relationships listed in <b>BOLD</b> above) |
|---|--|---|
| Maria F. Araujo   | 3221 Hallran Road<br>Falls Church, VA 22041                  | Applicant/Title Owner   |
| El Amanecer De los Pitufos, Inc.                          | "  | Co-Applicant  |
| Victor H. Araujo  | "  | Title Owner   |

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

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

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

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

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 10/3/13  
(enter date affidavit is notarized)

172710

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)

El Amanecer De Los Pitufos, Inc.  
3221 Hallman Rd.  
Falls Church, VA 22041

**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)

Maria Fabiola Araujo

(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: 10/3/13  
(enter date affidavit is notarized)

122710

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

**PARTNERSHIP INFORMATION**

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

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

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

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

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

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

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 10/3/13  
(enter date affidavit is notarized)

122710

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

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

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

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

NONE.

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 10/3/13  
(enter date affidavit is notarized)

122710

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

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

NONE.

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

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

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

WITNESS the following signature:

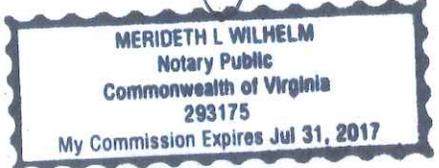
(check one)  Applicant Samuel Amf [ ] Applicant's Authorized Agent

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

Subscribed and sworn to before me this 3rd day of October 20 13, in the State/Comm. of Virginia County/City of Fairfax

Merideth L. Wilhelm  
Notary Public

My commission expires: July 31, 2017



FEB 10 2014

## STATEMENT OF JUSTIFICATION

Zoning Evaluation Division

## BOARD OF ZONING APPEALS

My name is Maria Fabiola Araujo, I'm a home care provider of the "Dawn of the Smurfs." I have been working with the Early Head Start program for two years for Fairfax County providing a service that is needed by the community. I am very proud to be part of this important initiative and to serve the working parents in the area. Listed below are some points of information about my daycare:

- A. I offer a very flexible schedule to working families in the area. My hours of operation are Monday through Friday from 7:00 a.m. to 7:00 p.m.
- B. I currently have five (5) children in care between the ages of 2 and 3 years of age. Every once in a while I also care for my grandson in my facility, which brings the total number of children to six (6). On November 18 I will welcome a new addition, which will bring the total number of regular customers to six (6).
- C. Currently I work the day care on a full-time basis and have part-time help with kitchen duties.
- D. The drop-off schedule is gradual. I have one child who comes in at 7:30 a.m., one who comes in at 8:00 a.m., two who come in at 9:00 a.m., and one at 9:30 a.m. Pick-up hours start at 3:30 p.m. when one child is picked, followed by one at 4:00 p.m., one at 5:00 p.m. one at 6:00 p.m. , and the last one at 6:30 p.m. At one time one the most children that are dropped off is 2, and the most that are picked up is 1.
- E. Of all the children under my care, one child lives in the neighborhood. The others come from families outside the area who work nearby the day care.
- F. Most of the children are dropped off by car. Parking in front of the house is not an issue since the drop-off and pick-up times vary. Additionally, the drive way in front of the house comfortably accommodates two parked vehicles.
- G. The dwelling in question is an enclosed carport which will be used as a gym and as an area dedicated to learning to read. Total square footage for the day care is 1,316 which includes the entire basement area and the enclosed porch.
- H. The backyard is used as the playground and recreational area. It is furnished with a swing set, slides and outdoor toys. Additionally, there is a sandbox and other playground toys for recreational activities. The children do not need to leave the property to reach the playground.
- I. There is no homeowners association in the neighborhood.

Thank you,

Maria Fabiola Araujo  
Owner  
Dawn of the Smurfs

STATEMENT OF JUSTIFICATION

BOARD OF ZONING APPEALS

My name is Maria Fabiola Araujo, I'm a home care provider of the "Dawn of the Smurfs." I have been working with the Early Head Start program for two years for Fairfax County providing a service that is needed by the community. I am very proud to be part of this important initiative and to serve the working parents in the area. Listed below are some points of information about my daycare:

- A. I offer a very flexible schedule to working families in the area. My hours of operation are Monday through Friday from 7:00 a.m. to 7:00 p.m.
- B. I currently have five (5) children in care between the ages of 2 and 3 years of age. In November 18 I will welcome a new addition, which will bring the total number of regular customers to six (6). *Also I'm requesting for 12 children.*
- C. Currently I work the day care on a full-time basis and have part-time help with kitchen duties.
- D. The drop-off schedule is gradual. I have one child who comes in at 7:30 a.m., one who comes in at 8:00 a.m., two who come in at 9:00 a.m., and one at 9:30 a.m. Pick-up hours start at 3:30 p.m. when one child is picked, followed by one at 4:00 p.m., one at 5:00 p.m. one at 6:00 p.m., and the last one at 6:30 p.m. At one time one the most children that are dropped off is 2, and the most that are picked up is 1.
- E. Of all the children under my care, one child lives in the neighborhood. The others come from families outside the area who work nearby the day care.
- F. Most of the children are dropped off by car. Parking in front of the house is not an issue since the drop-off and pick-up times vary. Additionally, the drive way in front of the house comfortably accommodates two parked vehicles.
- G. The dwelling in question is an enclosed carport which will be used as a gym and as an area dedicated to learning to read. Total square footage for the day care is 1,316 which includes the entire basement area and the enclosed porch.
- H. The backyard is used as the playground and recreational area. It is furnished with a swing set, slides and outdoor toys. Additionally, there is a sandbox and other playground toys for recreational activities. The children do not need to leave the property to reach the playground.
- I. There is no homeowners association in the neighborhood.

Thank you,

Maria Fabiola Araujo  
Owner  
Dawn of the Smurfs

RECEIVED  
Department of Planning & Zoning  
SEP 17 2013  
Zoning Evaluation Division

- A. I estimate that the measurement involved exceeds 10 percent.
- B. The enclosure of the carport was done in good faith. We thought about the well-being of my next door neighbor as well as the children under my care. Before enclosing the carport, we used plastic tarps to protect the children from the weather elements. Also, drainage from the carport roof when it rained was an issue since all the water drained in my neighbor's side yard, which caused wet conditions in his basement. No building permit was obtained prior to the construction. This was nothing more than oversight on my part, but more than that it was lack of knowledge about building ordinance in Fairfax County.
- C. The reduction will not impair the purpose and intent of this Ordinance.
- D. The enclosed carport in no way will be detrimental to the use and enjoyment of other property in the immediately vicinity. As a matter of fact, it adds to the aesthetics of the street.
- E. The carport enclosure does not create an unsafe condition with respect to both, other property and public streets. There is plenty of room on the outside (between my property and my neighbor's) to provide a comfortable walk way. It is set far enough from the street -- it is behind the driveway -- so as to not create unsafe conditions to the public street.
- F. If forced to comply with the minimum yard requirements would cause great hardship to me. Not only will I lose the money that has been invested in building the enclosure, it will have to be torn down which will involve hiring professionals to do it. Additionally, it will also reduce the amount of space dedicated to the day care, and the children will no longer have the enclosed gym and learning area.
- G. No, the reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.



# 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 Fairfax County Zoning Ordinance

**DATE OF ISSUANCE:** September 13, 2013

**METHOD OF SERVICE:** OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:** Victor H. Araujo,  
Maria F. Araujo

**ADDRESS:** 3221 Hallran Road  
Falls Church, VA 22041

**LOCATION OF VIOLATION:** 3221 Hallran Road  
Falls Church, Virginia 22041-2410

**TAX MAP REF:** 61-2 ((4)) 9

**ZONING DISTRICT:** R- 3

**CASE #:** 201305798 **SR #:** 98771

### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

| <b>§ 18-903(1):</b> | <b>Zoning Violation</b> | <b>First Offense</b> | <b>Each Subsequent Offense</b> |
|---------------------|-------------------------|----------------------|--------------------------------|
|                     | <b>§ 2-307 (1)</b>      | <b>\$ 200.00</b>     | <b>\$ 500.00</b>               |
| <b>TOTAL:</b>       |                         | <b>\$ 200.00</b>     | <b>\$ 500.00</b>               |

Dear Responsible Party:

An inspection of the above referenced property on September 4, 2013 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

#### **§ 2-307 (1) Meeting Minimum Bulk Regulations – Addition Added**

The inspection revealed an addition (carport enclosure) has been built on to the left side of the single family detached dwelling with the following dimensions: approximately 14 feet in width and approximately 12 feet in length. This addition, thereby, becomes part of the principal building or dwelling.

**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](http://www.fairfaxcounty.gov/code)

Victor H. Araujo,  
Maria F. Araujo  
September 13, 2013  
SR 98771  
Page 2

This addition is approximately 2 feet from the side lot line. This property is zoned R-3 District and bulk regulations for this district include minimum yard requirements for a single family attached dwelling, which is delineated in Par. 2(A) 1 of Sect. 3-307 of the Zoning Ordinance, which states:

Minimum yard requirements

A. Single family dwellings

- (1) Conventional subdivision lot
  - (a) Front yard: 30 feet
  - (b) Side yard: 12 feet
  - (c) Rear yard: 25 feet

Therefore, since the dwelling with the addition does not meet the minimum side yard requirement for the R-3 District, it is in violation of Par. 2(A) 1 of Sect. 3-307 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 which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance

Victor H. Araujo,  
Maria F. Araujo  
September 13, 2013  
SR 98771  
Page 3

cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

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.

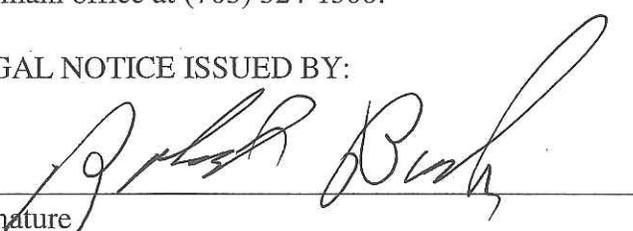
Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, 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. For information regarding an appeal contact:

Zoning Administration Division  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035  
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-1190. For any other questions, contact our main office at (703) 324-1300.

LEGAL NOTICE ISSUED BY:

  
\_\_\_\_\_  
Signature

Robert Burk  
Code Compliance Investigator  
(703) 324-1190

PERSONAL SERVICE \_\_\_\_\_

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.  
\_\_\_\_\_  
\_\_\_\_\_
- Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.  
 Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

DATE \_\_\_\_\_

PERSONAL SERVICE \_\_\_\_\_

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for \_\_\_\_\_

DATE \_\_\_\_\_

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Served on a Secretary of the Commonwealth.  
 Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

DATE \_\_\_\_\_



# County of Fairfax, Virginia

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

## CORRECTIVE WORK ORDER Virginia Uniform Statewide Building Code

**DATE OF ISSUANCE:** September 13, 2013

**METHOD OF SERVICE:** OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:** Victor H. Araujo  
Maria F. Araujo

**ADDRESS:** 3221 Hallran Road  
Falls Church, VA 22041

**LOCATION OF VIOLATION:** 3221 Hallran Road  
Falls Church, VA 22041-2410

**TAX MAP REF:** 61-2 ((4)) 9

**CASE #:** 201305798 **SR#:** 97903

In accordance with Part I of the Virginia Uniform Statewide Building Code (USBC) 2009 Edition, effective March 1, 2011, an inspection on September 04, 2013 revealed a violation or violations as listed below at the referenced location. The cited violation(s) must be corrected within 30 calendar days from receipt of this notice unless otherwise indicated.

**Explanation:** On September 4, 2013, County staff inspected the above referenced premises and discovered that a carport on the left side of the residence has been converted to living space without the issuance of the required permit or permits, inspections, and approvals.

**Order:** Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2009 edition, you are hereby directed to apply for and obtain the required permit or permits, inspections and approvals for the work described above or demolition of same at the above referenced address.

**Corrective Action Required:** Apply for and obtain all necessary County permits for the work described above within 30 calendar days from the date you receive this Order, or obtain a County permit to demolish the work described above within the same timeframe.

1. Schedule and pass the required County inspection(s) for the work described above within 20 calendar days from the date you are issued the required permit or permits for construction or demolition.

---

**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](http://www.fairfaxcounty.gov/code)

Victor H. Araujo  
Maria F. Araujo  
September 13, 2013  
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Page 2

2. Contact me at (703) 324-1190 within the timeframe established to confirm the violation(s) have been abated.
3. Call (703) 222-0455 to schedule all building inspections related to this matter. Please reference CASE #: 201305798.

Note:

\*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures as well as indicated distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed with the state of Virginia to do so.

Permit Application Center  
The Herrity Building  
12055 Government Center Parkway, 2nd Floor  
Fairfax, Virginia 22035  
Telephone: 703-222-0801

\*When work described above involves the removal of unpermitted features (including appliances, cabinets, plumbing/gas fixtures) a demolition permit will be required. Be advised that any zoning ordinance violations contained in a separate Notice of Violation must also be corrected prior to or in conjunction with the issuance of a demolition permit. If you have received a Zoning Notice of Violation, contact the inspector from the Department of Code Compliance at (703) 324-1300 who issued the Notice before coming to the Permit Application Center in the Herrity Building to obtain your permit. When coming to obtain your permit, bring this notice with you.

\*Additional fees for unpermitted work may apply.

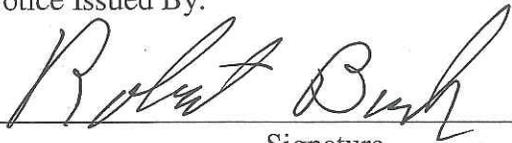
You are directed to notify Robert Burk by return correspondence to 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or telephone call to (703)324-1190 within three (3) working days from the date you receive this Order, of your election to accept or reject the terms of this Order. Failure to do so shall result in the immediate issuance of a Notice of Violation and the initiation of legal action to bring the above referenced property into compliance with the USBC.

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a

Victor H. Araujo  
Maria F. Araujo  
September 13, 2013  
SR 97903  
Page 3

site visit, please contact me directly at (703) 324-1190 or the main office at (703) 324-1300.

Notice Issued By:

  
\_\_\_\_\_  
Signature

Robert Burk  
(703) 324-1190  
Technical Assistant to the Building Official  
Department of Code Compliance

CC: Case File  
Chuck O'Donnell, Residential Inspections Branch Chief

PERSONAL SERVICE \_\_\_\_\_

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.  
\_\_\_\_\_  
\_\_\_\_\_

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

DATE \_\_\_\_\_

PERSONAL SERVICE \_\_\_\_\_

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Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

DATE \_\_\_\_\_



# County of Fairfax, Virginia

## MEMORANDUM

Date: May 29, 2014

To: Casey Gresham, Planning Technician I  
Zoning Evaluation Division  
Fairfax County Department of Planning and Zoning

From: Dawn Curry  
Senior Zoning Inspector  
Zoning Inspection Branch

Subject: Home Child Care Application

Applicant: Victor & Maria Araujo  
3221 Hallran Road, Falls Church, Virginia 22041  
Hallran, Lot 9 Section 1  
Tax Map#61-2 ((04)) 9      Zoning District: R-3      Magisterial District: Mason  
Mail Log # 2014-0133  
Date of Inspection: May 28th @ 2:00 p.m.

| Zoning:   | Use/Structure | Comment  | Provision    |
|---|---------------|--|--------------|
| Other Uses  |               |  |              |
| 2 <sup>nd</sup> Dwelling Unit   | No            |  |              |
| Permits   | No            |  | Sect. 18-601 |
| <b>Carport Enclosure</b>  | Yes           | Currently has an Open Notice of Violation, which was issued Sept 13, 2013. No building permit for the carport enclosure that is approx. 14' x 12' and 2' from side lot line. In R-3 Zoning District, minimum required side yard = 12 feet // Owners are requesting the addition to be part of the Special Permit with the justification error in building location |              |
| Other Additions   | n/a           |  |              |
| Garage Conversion?  | n/a           |  |              |
| Accessory Structure(s)<br># of Structures<br>Complies w/Location Regs.? | 2<br>Yes      | -114 square foot accessory structure/ 8' 3" in height/ approx. 5' 3" from rear lot line.<br>- 36 square foot accessory structure/ 7' 2" in height/ approx. 4' 3" from rear lot line.   | Article 10   |

Department of Planning and Zoning  
Zoning Administration Division  
Zoning Inspections Branch  
12055 Government Center Parkway, Suite 829  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 FAX 703-324-4300  
www.fairfaxcounty.gov/dpz/



|  |     |   |                         |
|--|-----|---|-------------------------|
| Fences or Walls<br>Complies with Location<br>Regs? | Yes | Approx. 7' tall fence located in the rear and<br>side yard  | Article 10              |
| 2 <sup>nd</sup> Kitchen                            | Yes | No Permits  |                         |
| Driveways  | No  | Sufficient for 2 cars // No on street parking<br>//Owner is parking in the grass                                  | Par. 8 of Sect. 11-102  |
| 30% Required Rear Yard                             | n/a |   |                         |
| Signs  | Yes | 2 small signs advertising the daycare in the<br>front yard  | Par. 6C of Sect. 10-103 |
| Easements  |     | Sanitary Sewer Easement   |                         |
| Other  |     | Owner mentioned that once the Special<br>permit has been approved they will be<br>installing a circular driveway. | Par. 8 of Sect. 11-102  |

| P/M:   | Hazard/Condition  | Location   | Comments  | Provision                       |
|--|---|--|---|---------------------------------|
| Emergency Egress                               | Yes   | Children's<br>sleeping area  | Pathway to<br>egress window<br>blocked by a<br>crib | VMC Sect. 702                   |
| Windows in Sleeping<br>Rooms                   | Yes   | Children's<br>Sleeping area  |   | VRC Sect. R310                  |
| Above Grade?                                   | No  |  |   |                                 |
| Sill Height Exceeds 44"                        | No  |  |   |                                 |
| Openable Area<br>24" x 20"?                    | Yes   |  |   |                                 |
| Overall Area?                                  |   |  |   |                                 |
| Window Well 3'x3'?                             | n/a   |  |   |                                 |
| Egress Doors                                   | Yes   |  |   | VRC Sect. 311                   |
| Door Locks                                     |   |  |   |                                 |
| Bedroom and other<br>Doors                     | No  |  |   |                                 |
| Door Locks                                     |   |  |   |                                 |
| Aisles   | n/a   |  |   |                                 |
| Smoke Alarms                                   | Yes   | Lacking required<br>smoke detector in<br>children's sleeping<br>area |   | VMC Sect. 704.2 and<br>VRC R314 |
| Electrical                                     |   |  |   |                                 |
| Service  |   |  |   |                                 |
| Receptacles                                    | Yes   |  |   |                                 |
| Switches                                       | Yes   |  |   |                                 |
| Other Hazards                                  | n/a   |  |   |                                 |
| Deck unsafe?                                   | n/a   |  |   |                                 |
| Other // DCC<br>Violations<br>(Case#201305798) | Unpermitted<br>addition and interior<br>work // error in<br>building location | Goes to the BZA –<br>July 16 <sup>th</sup>                           | Bob Burke –<br>DCC Inspector                        |                                 |

**Maria Araujo**  
3221 Hallran Road  
FALLS CHURCH, VA 22041  
(703) 341-6326

Facility Type: Family Day Home

License Type: One Year

Expiration Date: Feb. 25, 2015

Business Hours: 7am - 6:30pm  
Monday - Friday

Capacity: 7

Ages: Birth - 12 years 11 months

Inspector: Jessica Nalls  
(703) 359-1257

**8-006 General Standards**

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

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

**8-303****Standards for all Group 3 Uses**

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

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

**Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
  - A. The dimensions, boundary lines and area of the lot or parcel.
  - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
  - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
  - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

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

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

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

**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.