



# County of Fairfax, Virginia

---

July 23, 2014

## STAFF REPORT

SPECIAL PERMIT NO. SP 2014-MA-059

### MASON DISTRICT

**APPLICANT/OWNER:** Gunther Imer

**STREET ADDRESS:** 4609 Brookside Drive, Alexandria 22312

**SUBDIVISION:** Pinecrest

**TAX MAP REFERENCE:** 72-1 ((6)) 25

**LOT SIZE:** 2.72 acres

**ZONING DISTRICT:** R-1

**ZONING ORDINANCE PROVISIONS:** 8-918, 8-922

**SPECIAL PERMIT PROPOSAL:** To permit reduction in certain yard requirements to permit accessory structure 13.0 ft. from side lot line and accessory dwelling unit in a proposed accessory structure.

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2014-MA-059 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 applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

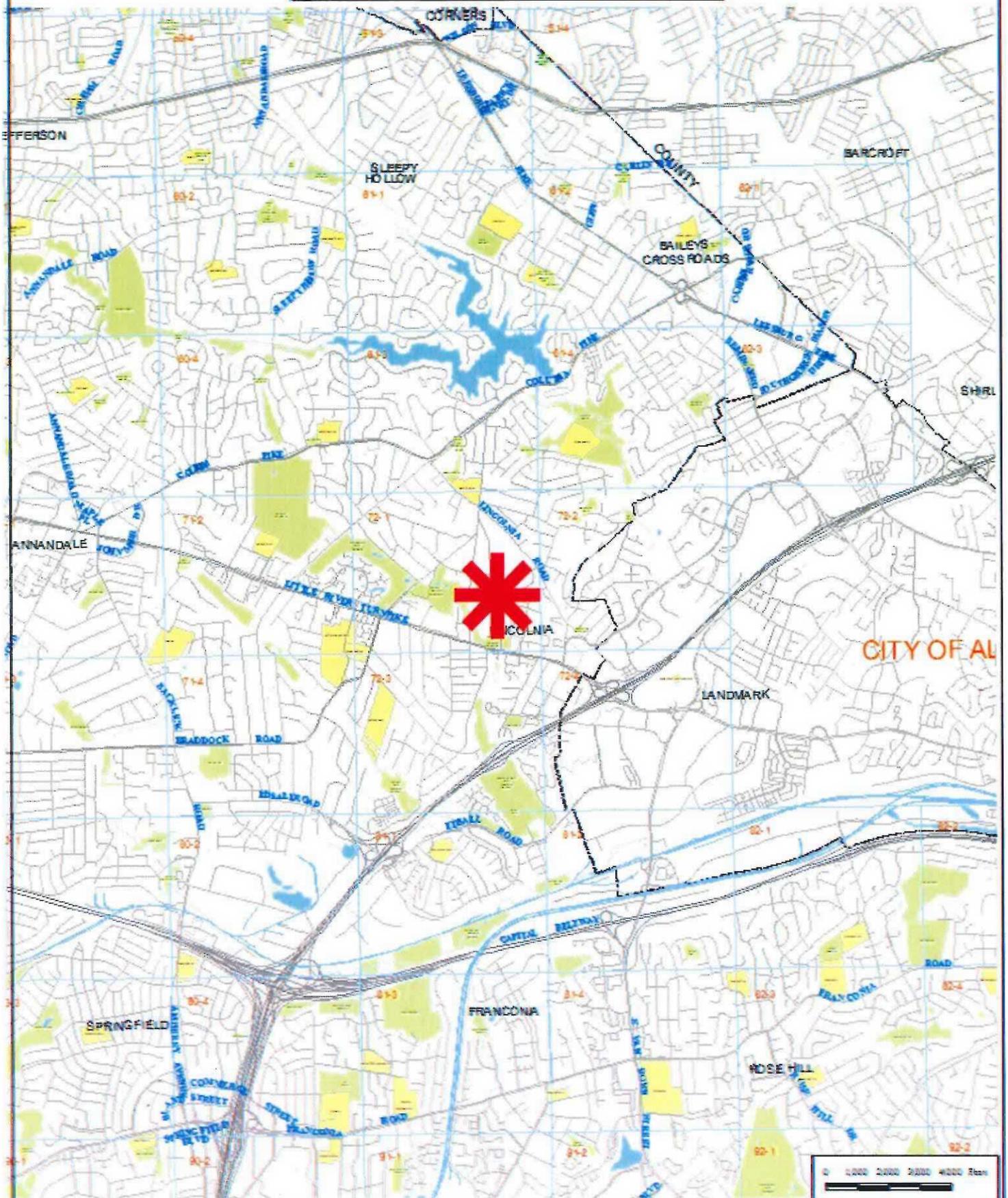


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

SP 2014-MA-059

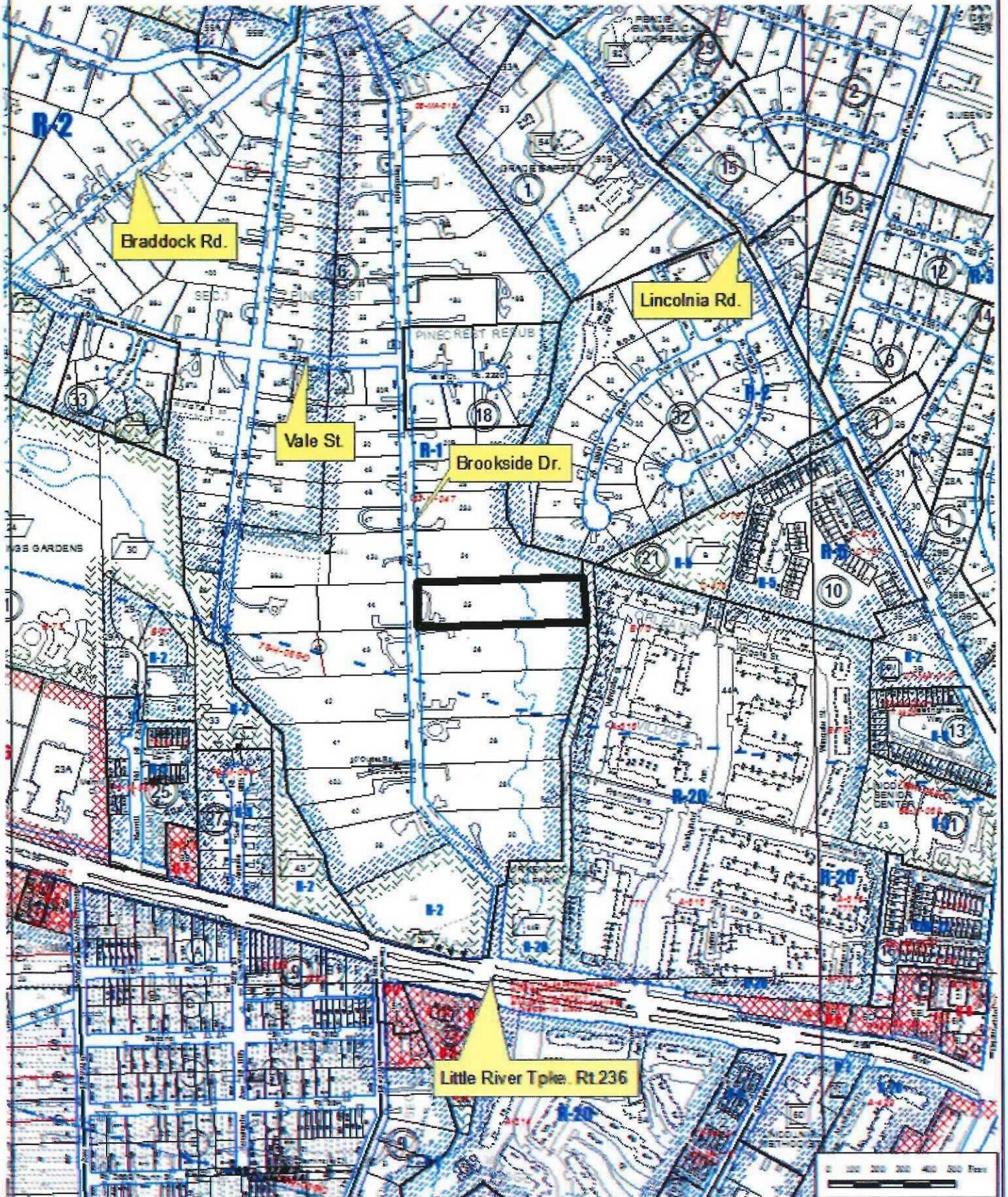
GUNTHER IMER



# Special Permit

SP 2014-MA-059

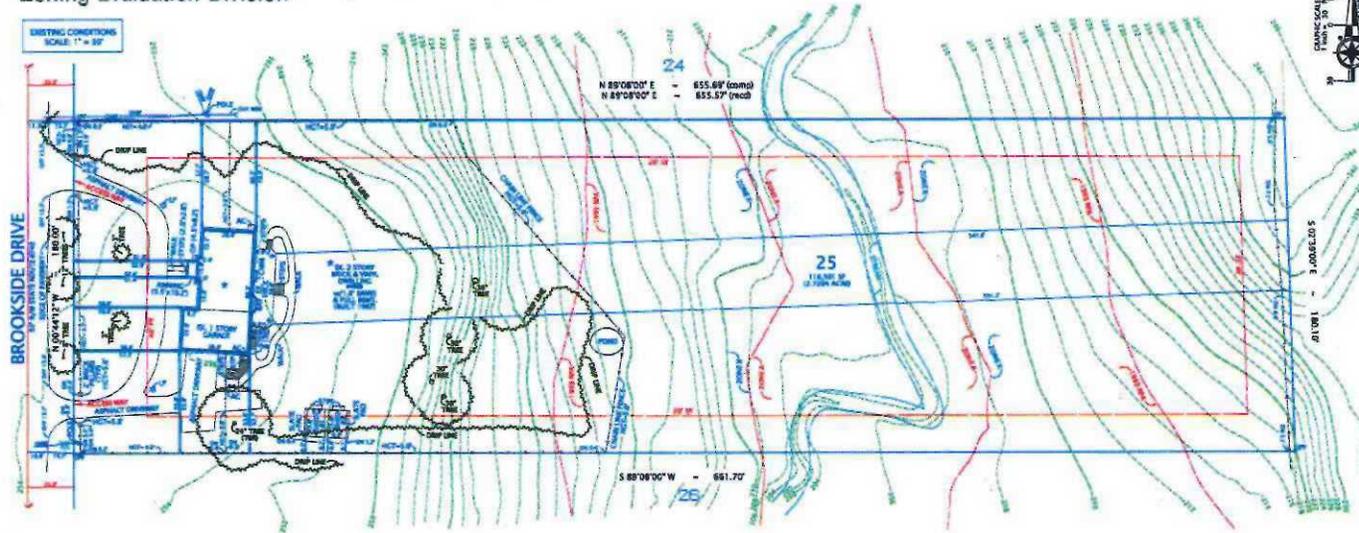
GUNTHER IMER



APR 15 2014

Zoning Evaluation Division

EXISTING CONDITIONS  
SCALE: 1" = 30'

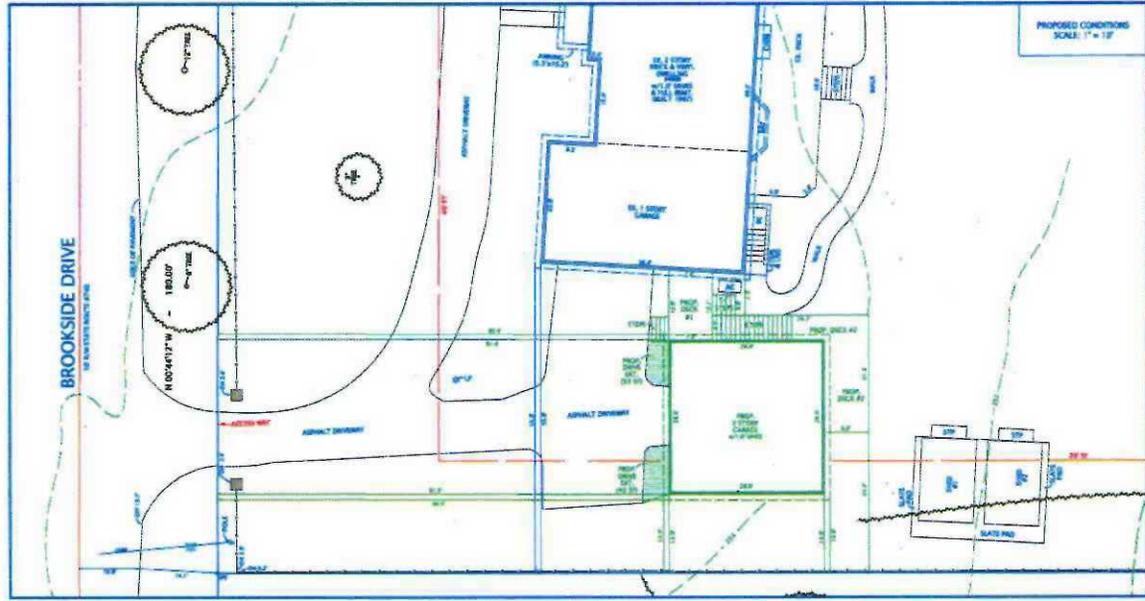


PARK CLARIFIETY  
FAIRFAX COUNTY

NOTES

1. TAX MAP: 72-1-06-0023
2. ZONE: R-1 (RESIDENTIAL 1 DUPLIC)
3. LOT AREA: 118,501 SF (2.7204 ACRES)
4. ACQUIRED YARDS:  
FRONT: 49.8 FEET  
SIDE: 23.8 FEET  
REAR: 25.8 FEET
5. HEIGHTS:  
EX. DWELLING: 26.8 FEET  
EX. OP: 81.3 FEET  
SHELF #1 & #2: 87.5 FEET  
PROP. GARAGE: 27.8 FEET  
EX. DECK: 84.5 FEET  
PROP. DECK #1: 84.8 FEET  
PROP. DECK #2: 16.8 FEET  
FENCES: AS NOTED  
BRICK PILLARS (6): 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 UNLESS DENOTED AS PROPOSED. SEE PROPOSED CONDITIONS DRAWING.
9. THE SURVIVOR 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 APPROX.
11. THERE ARE RESOURCE PROTECTION AREAS ON THIS PROPERTY. THIS PROPERTY IS IN ZONE A AND ZONE X OF THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 5105902895, EFFECTIVE SEPTEMBER 17, 2014.
12. AREAS:  
EX. BASEMENT: 1,249 SF  
EX. FIRST FLOOR: 2,588 SF  
EX. SECOND FLOOR: 2,429 SF  
EX. CIRCULAR FLOOR AREA: 1,494 SF  
EX. FLOOR AREA RATIO: EX. CFA (6,358) / LOT AREA (118,501) = 0.34  
PROP. 2 STORY GARAGE = 1,588 SF  
PROP. 2 STORY GARAGE (1,588) / EX. CFA (6,358) SF = 0.34  
PROP. CROSS FLOOR AREA:  
EX. CFA (6,358) + PROP. GARAGE (1,588) = 8,144 SF  
PROP. FLOOR AREA RATIO: PROP. CFA (6,154) / LOT AREA (118,501) = 0.25
13. TWO PARKING SPACES ARE REQUIRED AND PROVIDED WITH THIS APPLICATION.
14. THE AREA OF DISTURBANCE WILL NOT EXCEED 2,500 SQUARE FEET.
15. THE STP AND STEPS ON THE SOUTH SIDE OF THE EX. GARAGE WILL BE DEMOLISHED PRIOR TO CONSTRUCTION.

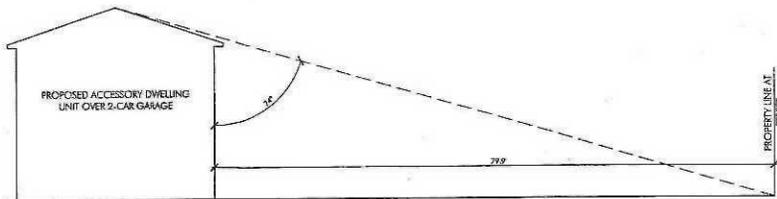
PROPOSED CONDITIONS  
SCALE: 1" = 10'



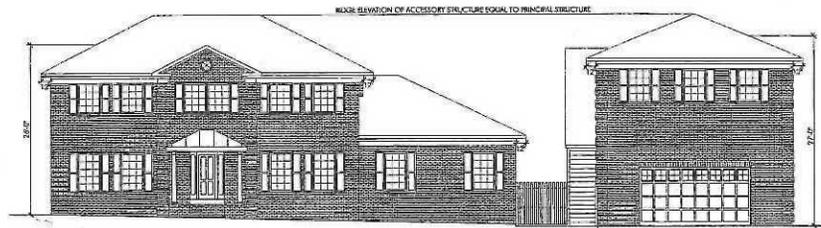
NOT TO SCALE

PLAT  
SHOWING HOUSE LOCATION ON  
LOT 25  
PINECREST  
PANEL NO. 51-05-002895  
FAIRFAX COUNTY, VIRGINIA  
MAJOR DISTRICT  
SCALE: 1" = 30' APRIL 1, 2014

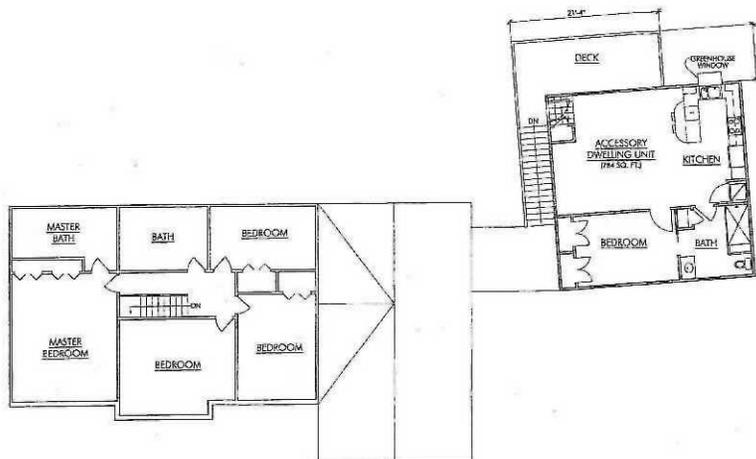
<p>OWNER CERTAINS HAVE THE RECORD OF ALL THE NEIGHBORING PROPERTIES AND HAS CAREFULLY EXAMINED THE SAME AND IS SATISFIED THAT THE PROPERTY AND ADJACENT PROPERTIES ARE SHOWN ACCURATELY AND TO SCALE.</p> <p>DATE: 04/01/2014 DRAWN BY: G. O'DONNELL CHECKED BY: G. O'DONNELL SCALE: 1" = 30'</p>	<p>04/01/2014 GEOGRAPHIC INFORMATION SYSTEMS SCALE: 1" = 30'</p>	<p>OWNER: [REDACTED] AGENT: [REDACTED]</p>
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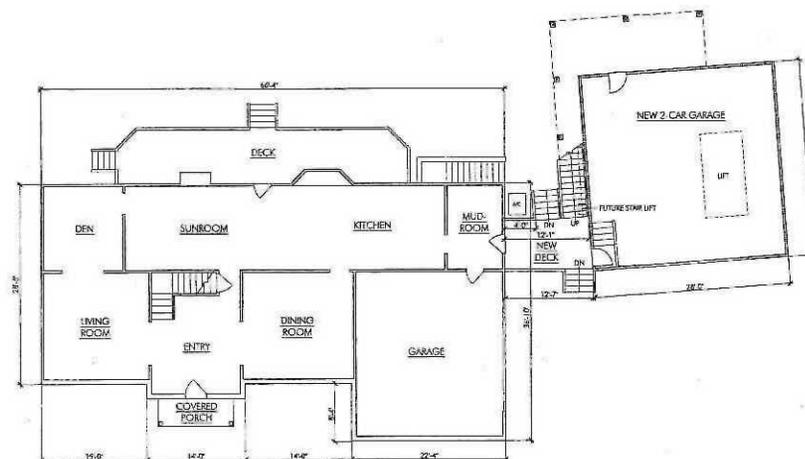
**ANGLE OF BULK PLANE**  
SCALE: 1/8" = 1'-0"



**PROPOSED WEST ELEVATION**  
SCALE: 1/8" = 1'-0"



**SECOND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"  
EXST. SECOND FLOOR SQ. FT. = 1,249 SQ. FT.  
PROP. ACCESSORY DWELLING UNIT = 784 SQ. FT.



**FIRST FLOOR PLAN**  
SCALE: 1/8" = 1'-0"  
EXST. FIRST FLOOR SQ. FT. = 2,088 SQ. FT.  
EXST. BASEMENT SQ. FT. = 1,249 SQ. FT.  
PROP. GARAGE ADDITION SQ. FT. = 784 SQ. FT.

RECEIVED  
Department of Planning & Zoning  
APR 16 2004  
Zoning Evaluation Division

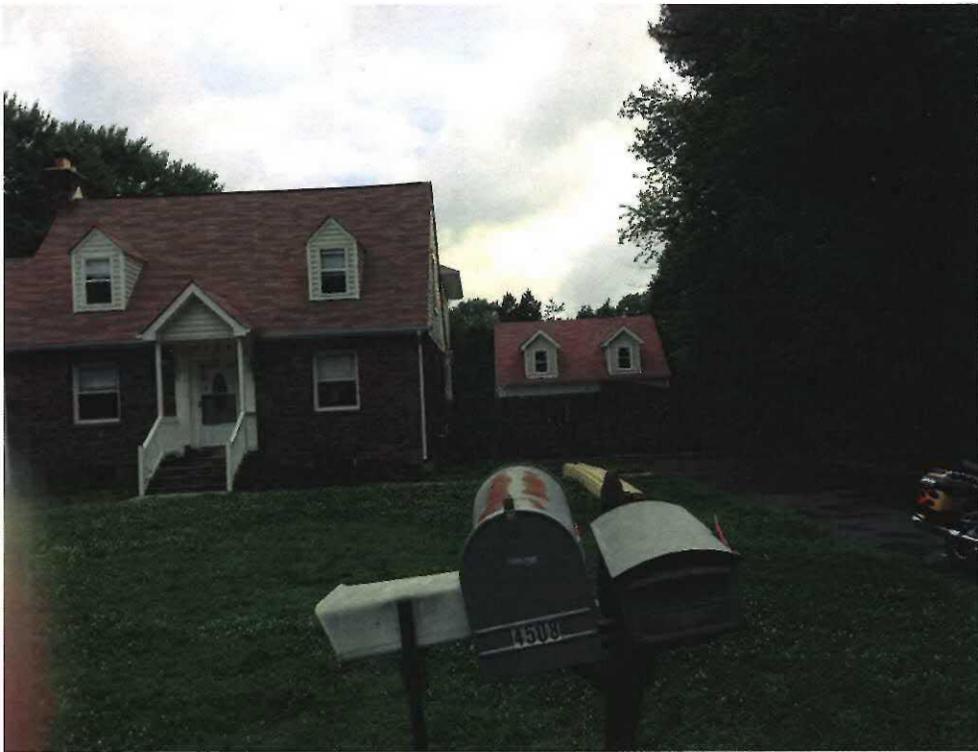
SCOTT W. STERL, AIA PLLC  
1473 WAGGAMAN CIRCLE  
MCLEAN, VA 22106  
703-734-6246

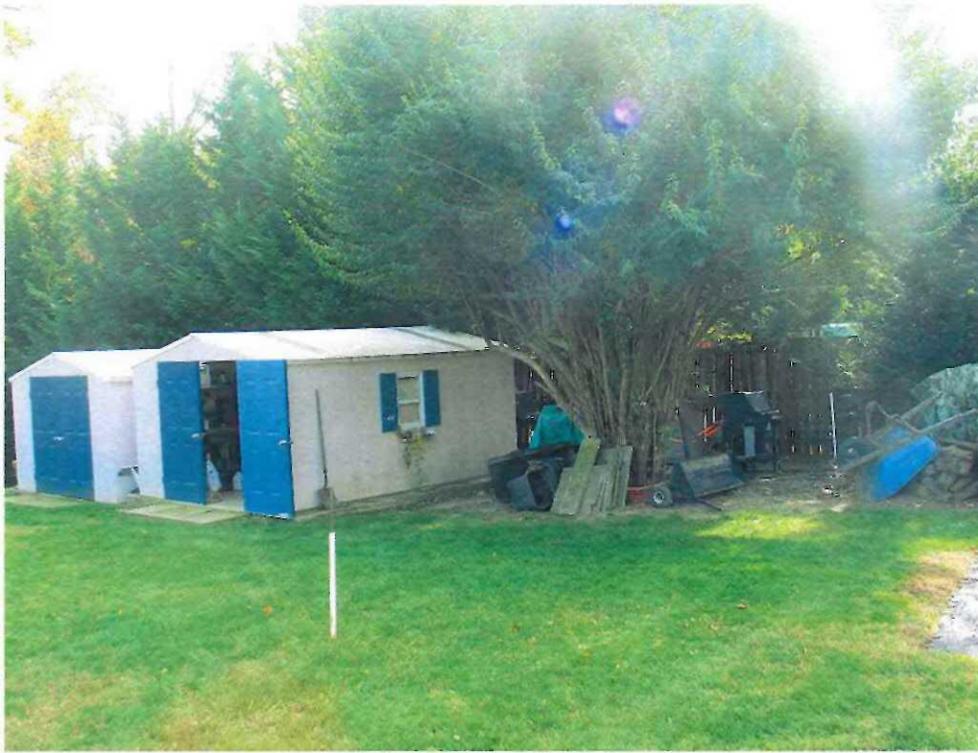
GARAGE ADDITION FOR:  
GUNTHER & CHARLOTTE IMER  
4609 BROOKSIDE DR.  
ALEXANDRIA, VA 22312

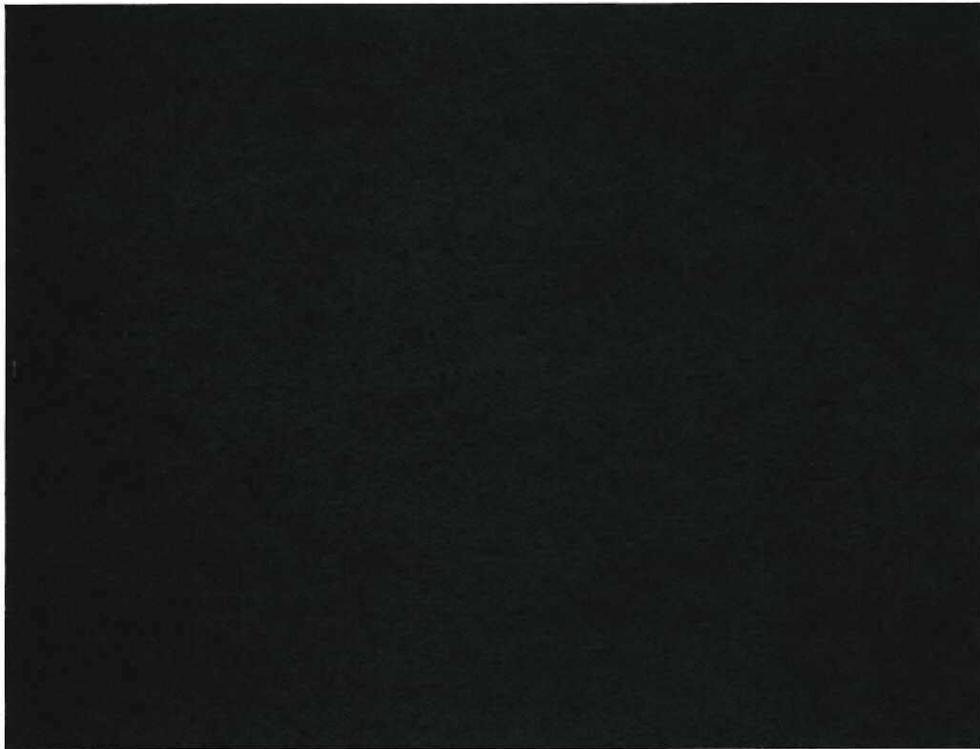
1  
OF 1  
4/15/14

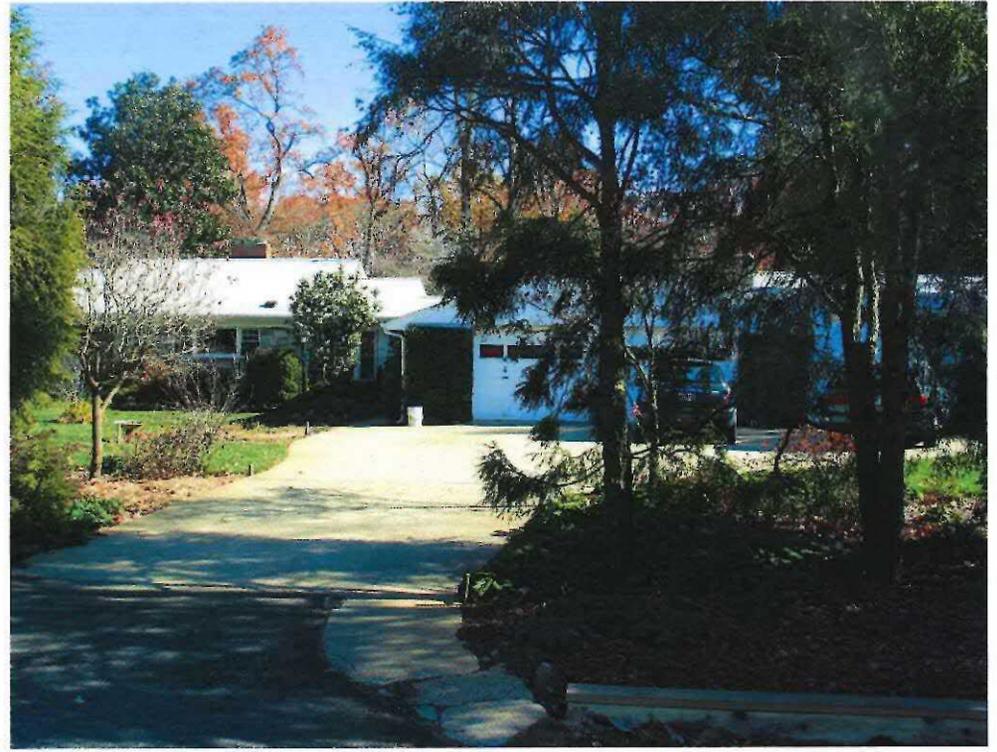




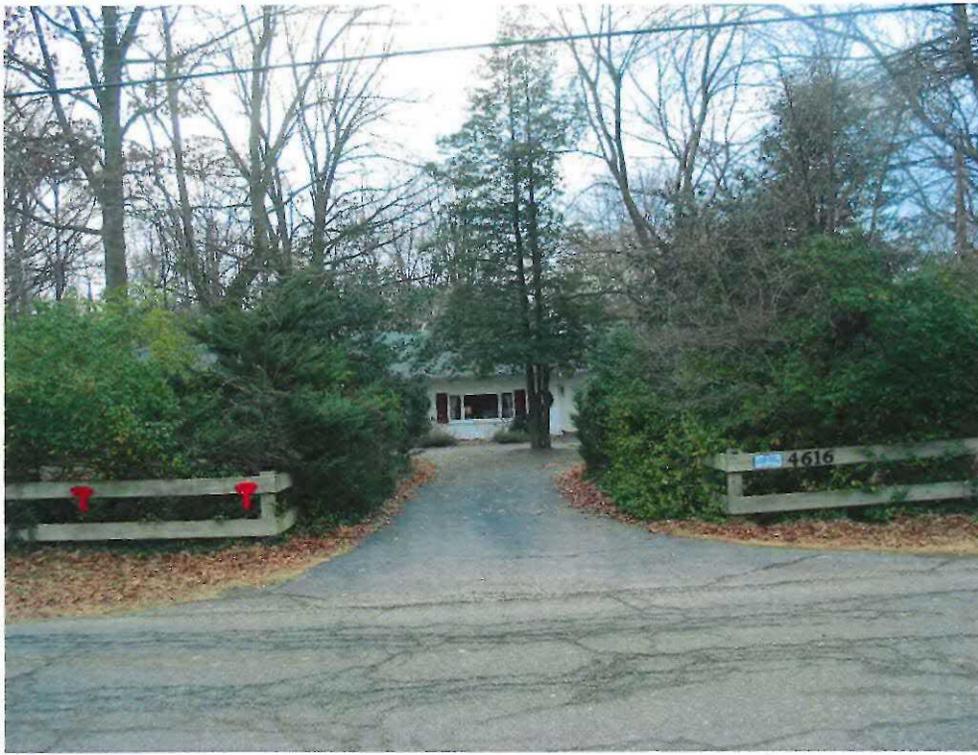












## **SPECIAL PERMIT REQUEST**

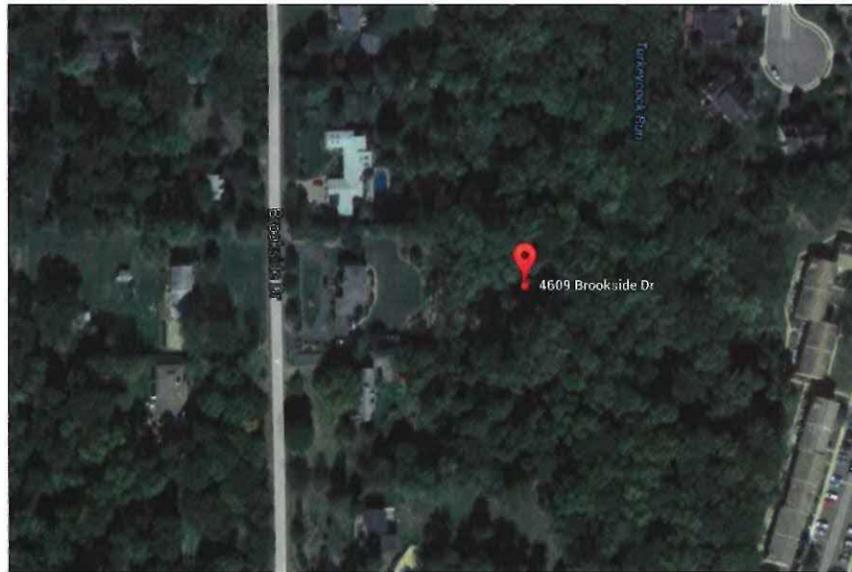
The applicant is seeking a special permit to allow an accessory dwelling unit in a proposed detached accessory structure. In addition, the applicant is also requesting approval to allow a reduction of certain yard requirements to permit the construction of the accessory dwelling and garage 13.0 feet from the side lot line.

A copy of the special permit, plat titled "Plat, Showing House Location on Lot 25, Pinecrest," prepared by George M. O'Quinn, Land Surveyor, of Dominion Surveyors, Inc., dated April 1, 2014, is included in the front of the staff report.

A more detailed description of the proposal is provided on page two.

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

The 2.72 acre lot contains a two-story brick and vinyl-sided single family dwelling with an attached 1-story, two car garage and a full basement. One wood deck is attached to the south side of the dwelling and one is attached to the rear of the dwelling and both are connected by a paved walkway. Two detached accessory storage structures (sheds) are located in the rear yard to the southeast of the dwelling. A circular asphalt driveway serves as access to Brookside Drive. A stoop and stairs are attached to the west façade of the dwelling at the front door. A chain link and wood frame fence, varying in height from 5.0 feet to 5.9 feet, encloses the rear yard. A wood fence, varying in height from 3.3 feet to 4.0 feet, runs along the front lot line except for where the driveway enters and exits the property. Brick pillars 5.6 feet in height are located on either side of each driveway access point. A pond is located in the rear yard to the east of the dwelling. Turkeycock Run stream runs across the rear yard of the property and is located within an area of flood plain. A portion of Resource Protection Area (RPA) is also located in the rear yard. The lot is fairly level with the exception of where it slopes down to the stream banks. A majority of the site is wooded and areas of lawn are located in the front and rear yards.



The image above illustrates the general character of the surrounding area. The subject property and surrounding lots to the north, west, and south are zoned R-1 and developed with single family detached dwellings on large lots. The property to the east is zoned R-20 and developed with attached townhomes.

## BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1987 and the property was purchased by the applicant in 1998.

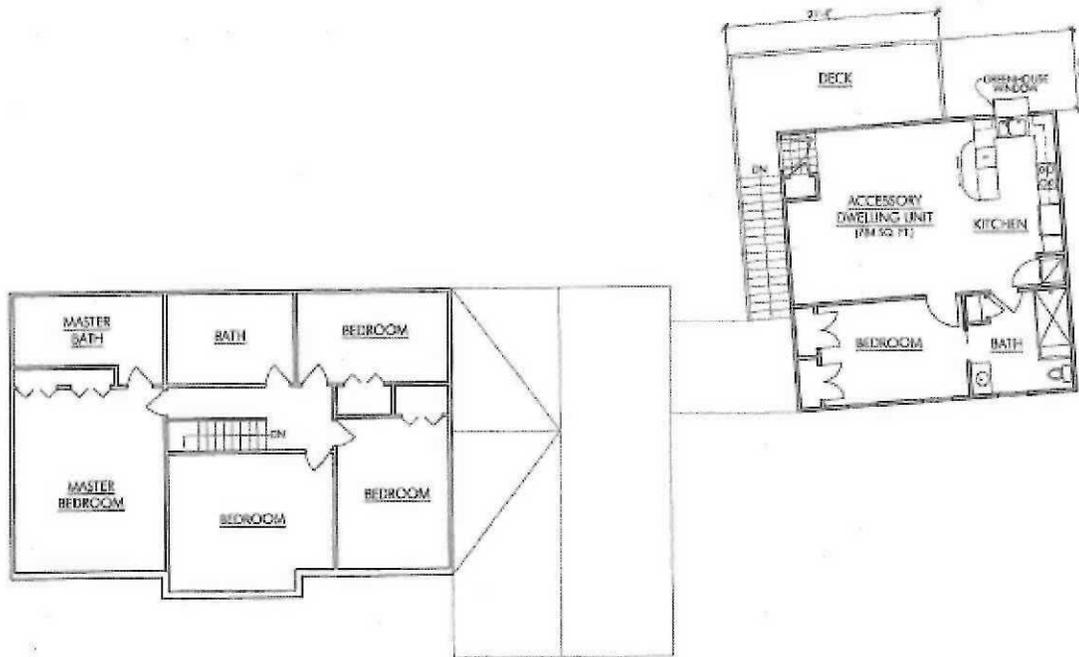
Records indicate that one other application for a reduction of certain yard requirements has been heard by the Board of Zoning Appeals (BZA) in the surrounding area. This information is included as Appendix 4.

## DESCRIPTION OF THE REQUEST

The applicant is requesting approval of a special permit for an accessory dwelling unit in a detached accessory structure (a detached garage). The property is greater than 2.0 acres in size; therefore an accessory dwelling unit in a detached accessory structure is permitted. The existing dwelling on the site is 4,586 square feet in size and the accessory structure is proposed to be 1,568 square feet in size. The accessory structure is proposed to be composed of the accessory dwelling unit on the second floor and a garage on the first floor. The accessory dwelling unit would account for 17 percent of the total gross floor area on site. The two story building will be 27 feet in height. The building will contain one bedroom, one bathroom, a kitchen, and living area. Additional details are provided in the architectural elevations contained at the front of the staff report.

A parent of the owner, over the age of 55, will be residing the accessory dwelling unit. Adequate parking is in the existing garage and driveway for both the residents of the home and the accessory unit.

The following diagram depicts the accessory dwelling unit's floor plan.



**SECOND FLOOR PLAN**

SCALE: 1/8"=1'-0"  
 EXST. SECOND FLOOR SQ. FT. = 1,249 SQ. FT.  
 PROP. ACCESSORY DWELLING UNIT = 784 SQ. FT.

The applicant also requests approval of a special permit for a reduction in certain yard requirements to permit construction of the two story garage and accessory dwelling 13.0 feet from the side lot line. The required rear yard setback in the R-1 District is 20 feet; therefore the applicant is requesting a reduction of 7 feet, or 35 percent.

**ANALYSIS**

**Comprehensive Plan Provisions**

- Plan Area:** I
- Planning Sector:** Lincolnia, LI 01 Pinecrest
- Plan Map:** 1 dwelling unit per acre

## **Zoning Ordinance Requirements**

- *Sect. 8-006* General Special Permit Standards
- *Sect. 8-903* Group 9 Standards
- *Sect. 8-918* Additional Standards for Accessory Dwelling Units
- *Sect. 8-922* Provisions for Reduction of Certain Yard Requirements

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

### **Sect. 8-006 General Special Permit Standards**

Staff believes that the application for the accessory structure meets all of the 8 General Special Permit Standards. Of particular note regarding this application is General Standard 3.

*General Standard 3* requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes by observation of the neighborhood through submitted photographs and aerial photography that the construction of the accessory structure will not adversely affect the use or development of neighboring properties. The structure is located on a large lot that is heavily wooded. Neighboring properties are also large with similar structures. The exterior will match the existing dwelling, which is of similar appearance and materials as neighboring dwellings. Therefore, staff believes this standard has been met.*

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

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

*Standard 5* states that the resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site. *The existing dwelling is 4,586 square feet in size. The proposed detached garage with an accessory dwelling unit is approximately 1,568 square feet, which is approximately 34 percent of the principal structure. Therefore the application meets this provision.*

*Standard 6* states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. *The elevation drawings and pictures*

*submitted indicate that the materials, size and scale of the proposed accessory structure will be compatible with the dwelling. Staff believes that the application meets this provision.*

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

*Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. Staff believes that the proposed detached garage and accessory dwelling will not impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air or safety. The structure would be to the side of the dwelling and the subject property is large and heavily wooded. According to the applicant, the owner of the property to the south which would be most affected by the proposed structure was apprised of the application. After review of the proposed plans the applicant agreed to remove all windows from the southern elevation to minimize any impact to the adjacent property. Therefore, staff believes the application meets this provision.*

*Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. Staff believes the request to build the garage is a modest request. The size of the structure will be subordinate to the existing dwelling. The applicant is requesting a reduction of 7 feet, which is less than the 10 feet that could be requested under the Zoning Ordinance. In response to comments from the Urban Forest Management Division, the applicant has agreed to consult a certified arborist regarding the removal of a 24 inch tree. A memo from the Urban Forest staff has been included as Appendix 5. No construction will be conducted in the areas of RPA or floodplain on the property. Other issues of wells, and/or historic resources are not applicable to this site. Staff believes the application meets this provision.*

## **CONCLUSION**

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

## **RECOMMENDATION**

Staff recommends approval of SP 2014-MA-059 for the accessory dwelling unit and reduction of certain yard requirements with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

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

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Similar Case History
5. Urban Forestry Memorandum, dated June 10, 2014
6. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2014-MA-059****July 23, 2014**

If it is the intent of the Board of Zoning Appeals to approve SP 2013-DR-053 located at Tax Map 72-1 ((6)) 25 to permit an accessory dwelling unit under Section 8-918 and to permit reduction of certain yard requirements pursuant to Section 8-922 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

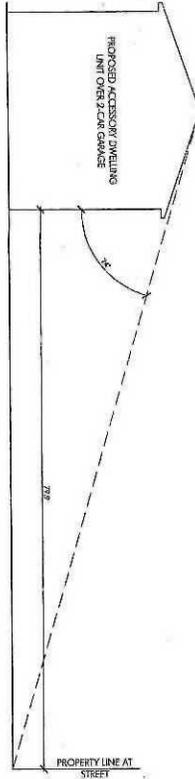
1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the accessory structure. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Gunther Imer, and is not transferable without further action of this Board, and is for the location indicated on the application, 4609 Brookside Drive (2.72 acres), and is not transferable to other land.
3. This special permit is approved for the location and size of the accessory structure (1,568 square feet in size, 27 feet in height), as shown on the plat prepared by George M O'Quinn, Land Surveyor dated April 1, 2014, as submitted with this application and is not transferable to other land.
4. The accessory structure shall be generally consistent with the architectural renderings and materials as shown on Attachment 1 to these conditions.
5. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
7. The accessory dwelling unit shall contain a maximum of 784 square feet, and the layout shall be generally as depicted on the floor plan included as

Attachment 1 to these conditions.

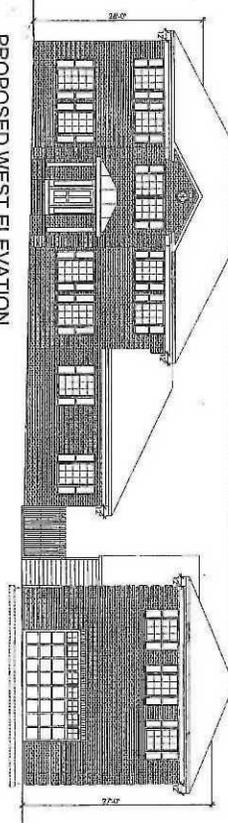
8. All applicable building permits and final inspections shall be obtained for the accessory structure.
9. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
10. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
12. All parking shall be provided on site as shown on the special permit plat.
13. The applicant shall contract a certified arborist for the removal of the existing 24 inch tree.
14. Any changes to the asphalt driveway shall be done in accordance with all Zoning Ordinance regulations.

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

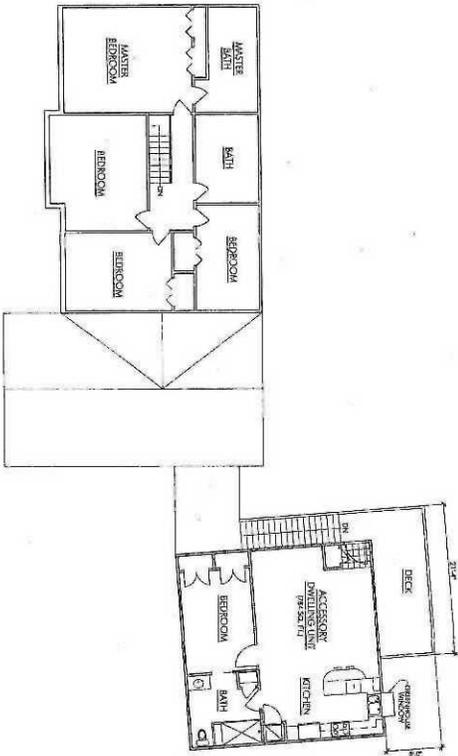
Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.



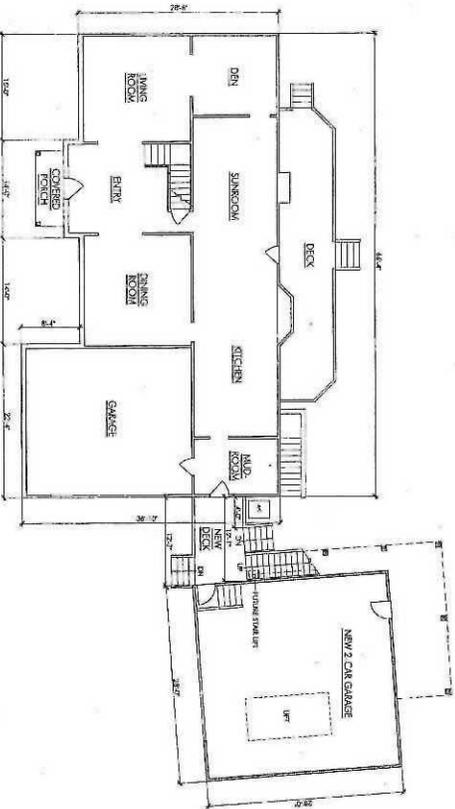
ANGLE OF BULK PLANE  
SCALE: 1/8" = 1'-0"



PROPOSED WEST ELEVATION  
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN  
SCALE: 1/8" = 1'-0"  
EXIST. SECOND FLOOR SQ. FT. = 1,249 SQ. FT.  
PROP. ACCESSORY DWELLING UNIT = 784 SQ. FT.



FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"  
EXIST. FIRST FLOOR SQ. FT. = 2,098 SQ. FT.  
EXIST. FIRST FLOOR SQ. FT. = 1,249 SQ. FT.  
PROP. GARAGE ADDITION SQ. FT. = 784 SQ. FT.

05/20/14  
D:\Projects\4609 Brookside\4609 Brookside.dwg  
APR 15 2014  
Zachary Dabrowski, Designer

<p>1 OF 1</p> <p>4/15/14</p>	<p>GARAGE ADDITION FOR: GUNTHER &amp; CHARLOTTE IMER 4609 BROOKSIDE DR. ALEXANDRIA, VA 22312</p>	<p>SCOTT W. STERL, AIA PLLC 1473 WAGGAMAN CIRCLE MCLEAN, VA 22106 703-734-6246</p>
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Application No.(s): SP 2014-MA-059  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2-24-2014  
 (enter date affidavit is notarized)

123903

I, Gunther F. Imer, do hereby state that I am an  
 (enter name of applicant or authorized agent)

(check one)  applicant  
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
Gunther F. Imer	4609 Brookside Drive Alexandria, VA 22312	Applicant/Titleowner

(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-MA-059  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-24-2014  
(enter date affidavit is notarized)

123903

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)**

**CORPORATION INFORMATION**

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

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

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

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

Application No.(s):

SP 2014-MA-059

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

2-24-2014

(enter date affidavit is notarized)

123903

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)

NONE

(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-MA-059  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-24-2014  
(enter date affidavit is notarized)

123903

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-MA-059

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2-24-2014  
(enter date affidavit is notarized)

123903

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)

[Signature]

Applicant [ ] Applicant's Authorized Agent

Gunther F. Imer  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 24<sup>th</sup> day of February 2014, in the State/Comm. of Virginia, County/City of Arlington.

[Signature]  
Notary Public

My commission expires: 06/30/2016



APR 15 2014

Zoning Evaluation Division

**Statement of Justification**

- A. N/A
- B. N/A
- C. The Accessory Dwelling Unit will be occupied by the applicant's mother-in-law who is at least 55 years of age and will be planned to be accessible.
- D. The principal dwelling unit is occupied by two adults.
- E. N/A
- F. N/A
- G. Existing and proposed style is two-story brick colonial with a hip roof
- H. Hazardous or toxic chemicals stored on site are limited to usual household liquids (gasoline, solvents, etc.)
- I. This Special Permit request has two parts, first for a side yard reduction to construct a two-story garage and second for an accessory dwelling unit occupying that second floor. The Accessory Dwelling Unit is allowed by Special Permit per Section 8-901, Group 9 Uses. Per Section 8-918 (Additional Standards for Accessory Dwelling Unit), the proposed Accessory Dwelling Unit meets all of the requirements as noted below:
  - 1. This is a single family detached dwelling unit with one proposed Accessory Dwelling Unit.
  - 2. This lot exceeds 2 acres.
  - 3. GFA of existing structure plus proposed accessory freestanding structure is  $4586 \text{ s.f.} \times 35\% = 1605 \text{ s.f.}$  Proposed Accessory Dwelling Unit is 784 s.f.
  - 4. Proposed Accessory Dwelling Unit will have one bedroom.
  - 5. The proposed Accessory Dwelling Unit will be occupied by one person a minimum of 55 years old and the principal Single Family Dwelling is occupied by one family.
  - 6. The Accessory Dwelling Unit will be planned for use by a disabled person, implemented as necessary.

Request for side yard reduction of 6.0' from the requirement of 20'. This request is less than 50% of the minimum required.

APR 15 2014

Zoning Evaluation Division

**Statement Addressing 8-922 Standards**

4. Area of Principal Structure = 4586 sf  
Area of Proposed Accessory Structure = 1568 sf (34%)
5. The proposed accessory structure is detached from the principal structure, is smaller in bulk and no taller than same.
6. The proposed accessory structure will match the architectural character and materials of the principal structure and will be in scale with same.
7. There is a mix of one and two story homes in the surrounding area, with an increase in new, larger two story homes replacing the older one story residences. The proposed structure will be in harmony with the neighborhood. All trees and vegetation will be preserved and the existing tall and dense evergreens will shield the view from the south of the proposed structure.
8. The proposed accessory structure will conform to existing drainage patterns. Noise, light, air and safety issues will not be affected.
9. The proposed accessory structure has been positioned to minimize the proposed yard reduction, allowing for clearance at the existing condenser and the width of stairs to accommodate a future stair lift. It has also been placed to utilize the existing driveway.
10. Any conditions imposed by the BZA will be implemented.

## Statement of Justification

Letters A - F seem to be directed at commercial establishments and not applicable to this single-family use.

- G. existing and proposed style is two-story brick colonial with a hip roof
- H. Hazardous or toxic chemicals stored on site are limited to usual household liquids (gasoline, solvents, etc.)
- I. This Special Permit request has two parts, first for a side yard reduction to construct a two-story garage and second for an accessory dwelling unit above the garage. The accessory dwelling unit (ADU) is allowed by Special Permit per Section 8-901, Group 9 Uses. Per Section 8-918 (Additional Standards for ADU), the proposed ADU meets all of the requirements as noted below:
  - 1. This is a single family detached dwelling unit with one proposed ADU.
  - 2. This lot exceeds 2 acres.
  - 3. GFA of existing structure plus proposed accessory freestanding structure is  $4100 \text{ s.f.} \times 35\% = 1435 \text{ s.f.}$  Proposed ADU is 784 s.f.
  - 4. Proposed ADU will have one bedroom.
  - 5. The proposed ADU will be occupied by one person a minimum of 55 years old and the principal SFD is occupied by one family.
  - 6. The ADU will be planned for use by a disabled person, implemented as necessary.

Request for side yard reduction of 6.9' from the requirement of 20'. This request is less than 50% of the minimum required.

**RECEIVED**  
Department of Planning & Zoning  
**JAN 08 2014**  
Zoning Evaluation Division

# Similar Case History

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**VC 89-M-006**

**APPLICANT:** MITCHELL, ARTHUR & ELIZABETH DALLAM KOPPELMAN  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 05/03/1989  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** ALLOW CONSTRUCTION OF ADDITION TO DWELLING TO 7.8 FT. FROM SIDE LOT LINE (15 FT. MIN. SIDE YARD REQ.)  
**LOCATION:** 4521 PARK ROAD  
**TAX MAP #5:**  
0721 06 0085

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# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** June 10, 2014

**TO:** Erin M. Haley, Planner II  
Zoning Evaluation Division, DPZ

**FROM:** Nicholas J. Drunasky, Urban Forester II  
Forest Conservation Branch, UFMD

**SUBJECT:** Pinecrest Lot 25, SP 2014-MA-059

I have reviewed the above referenced Special Permit application including a Statement of Justification and a Special Permit plat of the subject property, stamped as received by the Zoning Evaluation Division on February 24, 2014. The following comments and recommendations are based on this review.

**Comment:** The proposed construction of the accessory structure will require the removal of an existing 24" tree.

**Recommendations:** UFMD recommends contracting a certified arborist for the removal of the existing 24" tree.

If you have any further questions, please feel free to contact me at 703-324-1770.

NJD/

UFMDID #: 191701

cc: DPZ File

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Department of Public Works and Environmental Services  
Urban Forest Management Division  
12055 Government Center Parkway, Suite 518  
Fairfax, Virginia 22035-5503  
Phone 703-324-1770, TTY: 711, Fax: 703-803-7769  
[www.fairfaxcounty.gov/dpwes](http://www.fairfaxcounty.gov/dpwes)



**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.

**8-918 Additional Standards for Accessory Dwelling Units**

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.  
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
  - A. One of the dwelling units shall be owner occupied.
  - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
    - (1) Any person fifty-five (55) years of age or over and/or
    - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
  - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
  - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
  
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
  - A. Uninterrupted access to one (1) entrance; and
  - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

### 8-922 Provisions for Reduction of Certain Yard Requirements

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

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

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

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

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in

effect when the use or structure was established.

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

11. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. The location, dimension and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level.
  - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of a well and/or septic field.
  - I. Existing and proposed gross floor area and floor area ratio.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. The location, type and height of any existing and proposed landscaping and screening.

- L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
12. Architectural depictions of the proposed structure(s) as viewed from all lot lines and street lines to include building materials, roof type, window treatment and any associated landscaping and/or screening shall be provided.