



APPLICATION ACCEPTED: March 18, 2014
BOARD OF ZONING APPEALS: September 10, 2014*
*date deferred due to notices
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 3, 2014

STAFF REPORT

VARIANCE VC 2014-MA-003

MASON DISTRICT

APPLICANTS/OWNERS: Abdul S. Ahmady
Amina Ahmady

SUBDIVISION: Lee Jackson

STREET ADDRESS: 6624 Tunlaw Court, Alexandria 22312

TAX MAP REFERENCE: 71-4 ((1)) 69

LOT SIZE: 51,136 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 18-401

VARIANCE PROPOSAL: To permit construction of dwelling 9.1 ft. from front lot line.

STAFF RECOMMENDATION: Staff recommends denial of VC 2014-MA-003 for the construction of a single family dwelling 9.1 feet from the front lot line. However, if it is the intention of the Board of Zoning Appeals to approve VC 2014-MA-003, staff recommends that such approval be conditioned upon 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.**

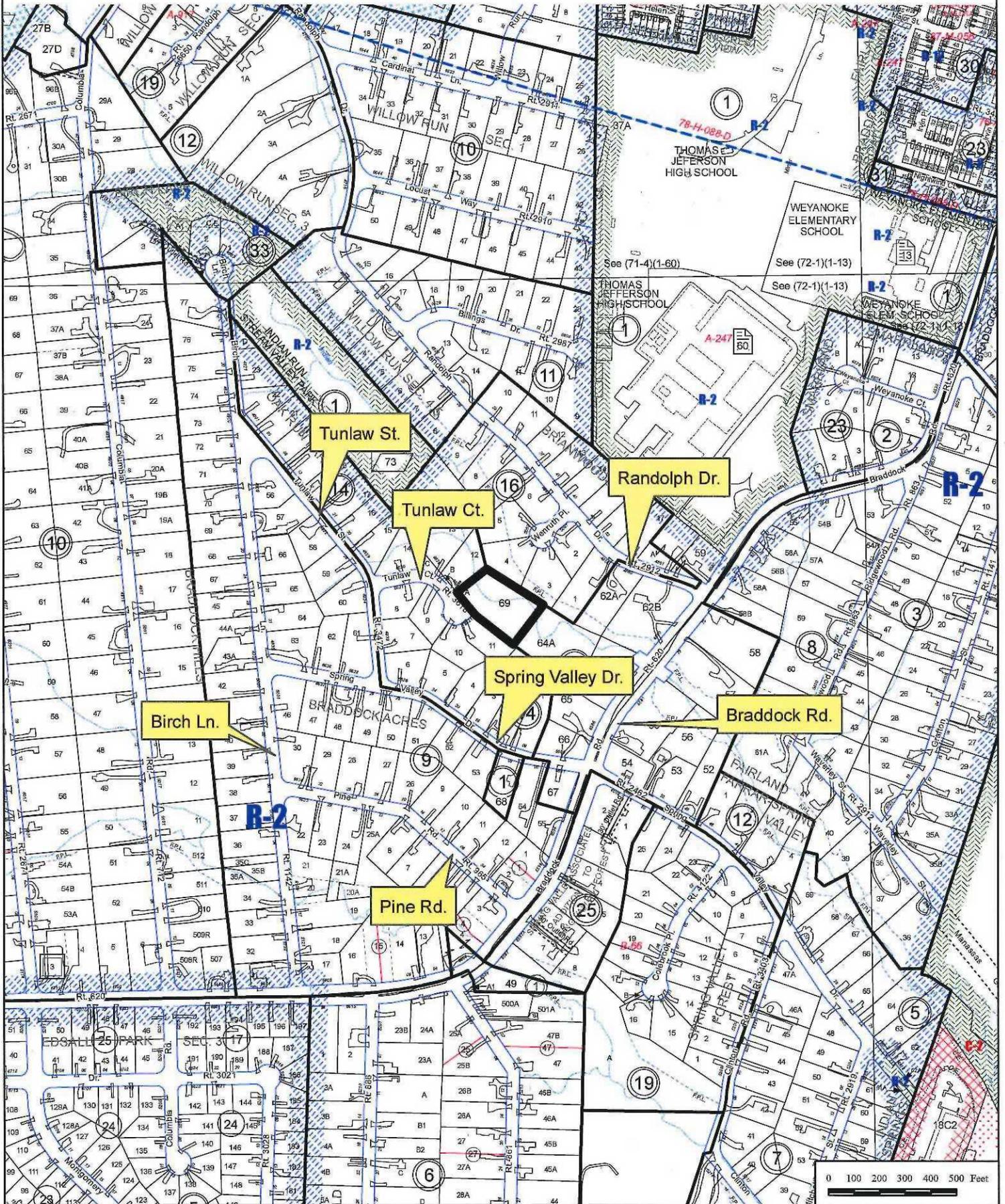


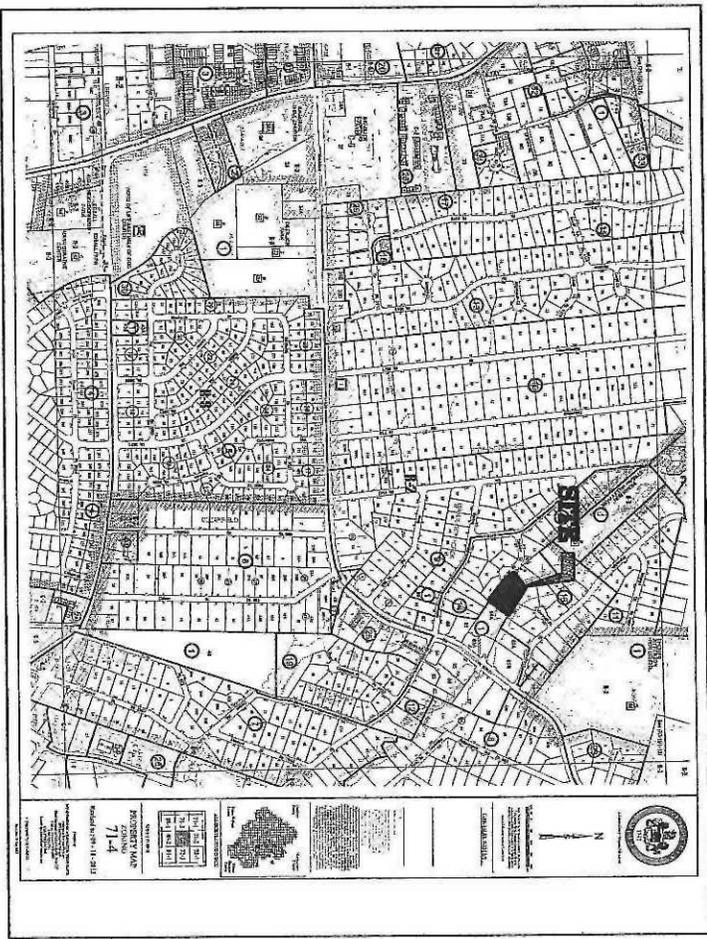
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Variance Application

VC 2014-MA-003

ABDUL S. AHMADY / AMINA AHMADY





FAIRFAX COUNTY ZONING MAP
SCALE: 1" = 500'

MINIMUM STANDARDS FOR INFORMATION FOR ZONING, SPECIAL EXCEPTION, SPECIAL PERMIT AND DEVELOPMENT PLAN REVIEW

The following information is required to be shown in all zoning applications, or a written request of the subdivision applicant with justification, shall be attached. Note: Where a "yes" or "no" response is required, the applicant shall indicate the response. Where a "yes" or "no" response is not required, the applicant shall indicate the response.

This information is required under the following zoning Ordinance paragraphs:

Special Permit (401.12.2.2.1) 100
 Development from the District (401.12.2.2.2) 100
 Development from the District (401.12.2.2.3) 100
 Development from the District (401.12.2.2.4) 100
 Development from the District (401.12.2.2.5) 100

A graphic depicting the approximate location of the subject property on the site plan shall be attached to the application. The graphic shall include the street names, lot numbers, and the subject property location. The graphic shall also include the street names, lot numbers, and the subject property location.

1. The site shall be zoned in accordance with the zoning Ordinance.

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| ZONING MAP & SWM CHECKLIST LOT 69, LEE JACKSON 6624 TUNLAW COURT ALEXANDRIA, VIRGINIA 22310 MAJESTRAL DISTRICT: MASON FAIRFAX COUNTY, VIRGINIA | | REVISION BLOCK | |
| | | NO. _____ | DATE _____ |
| PREPARED BY: _____ CHECKED BY: _____ PROJECT # _____ SCALE: AS INDICATED | REVISION APPROVED BY: _____ OFFICE OF SITE DEVELOPMENT SERVICES | REV. BY: _____ APPROVED BY: _____ DATE: _____ | <p> GeoEnv Engineers Civil, Mechanical & Environmental Engineering 10375 Lake View, Suite 213 Fairfax, VA 22030 Tel. 703.261.7170 Fax. 703.261.7074 www.geoenvironment.com </p> |



FRONT ELEVATION

LOT 69, LEE JACKSON
 6624 TUNLAW COURT
 ALEXANDRIA, VIRGINIA 22310







DESCRIPTION OF THE APPLICATION

The applicant requests a variance to permit construction of a new dwelling 9.1 feet from the front lot line. A minimum front yard of 35 feet is required in the R-2 District; therefore a reduction of 25.9 feet is requested. The applicant proposes to reduce the front yard setback to 9.1 feet in order to provide the required 15.0 foot separation from the flood plain elevation.

County flood plain regulations require a 15.0 foot horizontal separation between structures and a flood plain and an 18-inch vertical separation from the lowest floor level of a dwelling. The applicant states that they have chosen to file an application for a variance to reduce the front yard setback to provide the required separation rather than obtain approval for a Special Exception for uses in the floodplain.

An architectural elevation depicting the front of the house has been provided but not the side and rear of the house. In addition, the elevation is reversed from the house footprint on the plat, so that the location of the garage is opposite the location shown on the plat.

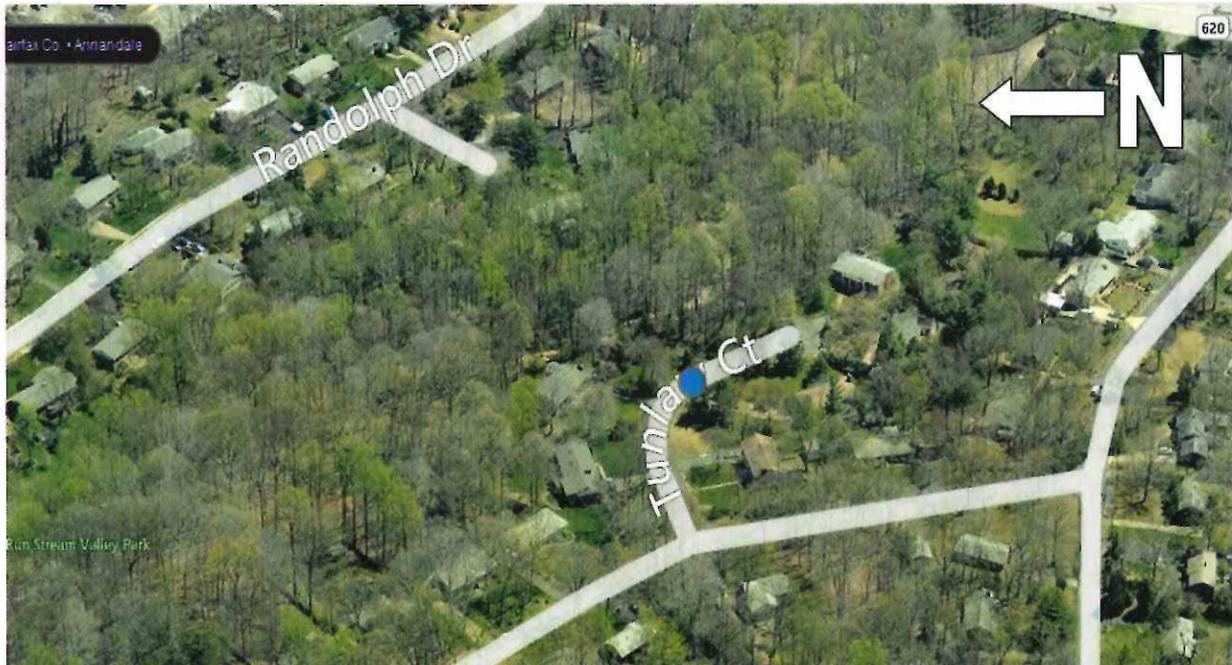
A copy of the variance plat, titled "Variance Application Plat for Lot 69, Lee Jackson, 6624 Tunlaw Court," prepared by Ibrahim A. Chehab, Professional Engineer of GeoEnv Engineers, dated March 10, 2014, is included in the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The application property is currently vacant land. Floodplain and Resource Protection Area (RPA) for the Indian Run Stream Valley encumbers the majority of the lot. The entire lot is located in an RPA Area, while floodplain covers all but the southwestern corner of the lot. The Indian Run Stream flows from west to east across the property. A sanitary sewer easement 20.0 feet in width passes through the property. The property is heavily wooded.

Surrounding properties are zoned R-2 without proffers and developed with single family detached dwellings. The property is located west of Braddock Road and south of Thomas Jefferson High School.

The photograph on the following page illustrates the application property and the surrounding area. Construction of the dwellings in the area largely occurred in the 1960's. The subject property remains the only undeveloped lot in the area with access and it is served by public water and sewer.



BACKGROUND

According to tax records, the applicant purchased the property in 2010.

On April 26, 2011, the applicant filed application materials for a special permit (SP 2011-0121), to allow construction of a new dwelling 15.0 feet from a front lot line and 8.0 feet from a side lot line. On May 6, 2011 the applicant was informed that the special permit was not appropriate to the applicant's request since the proposed project involved all new construction of a dwelling. The applicant was also informed at that time that an engineer would be required to complete the application materials. Two subsequent conversations were held on November 23, 2011 reiterating the need for an engineer to complete a variance application.

Further contact with staff by the applicant did not occur until December 20, 2012, when staff from the Department of Planning and Zoning (DPZ) and the Department of Public Works and Environmental Services (DPWES) met with the applicant to discuss the issues pertaining to the presence of the floodplain and RPA over the majority of the site. The applicant was informed at that time that construction within a floodplain and RPA would require a Special Exception for fill in the floodplain and an RPA Exception, and would require appropriate studies to document assessment and mitigation of any adverse effects upon stormwater management and disturbance within the RPA.

On May 30, 2013 staff representatives from DPWES Stormwater Management and Zoning Administration Division met with the applicant and reiterated that any construction within the floodplain or RPA would require the permits identified above.

No similar case history exists in the area for the approval of a variance of this nature.

LAND USE ANALYSIS

The applicant proposes to construct a single family dwelling 9.1 feet from the front lot line abutting Tunlaw Ct., with the footprint of the proposed house located approximately one foot from the 15-foot setback required from the floodplain boundary as generally shown on the Federal Emergency Management Administration (FEMA) Map dated 2010. An architectural elevation showing the front of the proposed house has been submitted, but rear and side elevations were omitted, so it is unclear how the applicant proposes to enter and exit the rear of the house without constructing a structure such as a deck, patio, sidewalk or stairway that encroaches into the floodplain setback area.

Staff requested a floodplain study to validate the boundary of the floodplain, since the proposed house location is extremely close to the required 15-foot setback. The applicant has declined to submit a study, requesting instead that the study be included as a development condition. However, a change in the floodplain boundary of even two feet horizontally toward Tunlaw Ct. could result in an encroachment into the structural setback for the floodplain boundary, an inaccurate plat, and a building permit could not be approved. This issue remains unresolved.

In addition, the proposed location of the house 9.1 feet from the front lot line at its closest point results in a driveway location that does not allow for cars to be parked without overhanging into Virginia Department of Transportation (VDOT) right-of-way. The location of the house is inconsistent with the locations of other houses along Tunlaw Ct. and could detract from the more suburban land use pattern established within the area, as shown in the picture on the following page.



Finally, the applicant has chosen to apply for a variance, stating that the presence of the floodplain and RPA force the location of the house to be located 9.1 feet from the front lot line. However, the Zoning Ordinance specifically provides for a means of addressing proposed uses in a floodplain and encroachments into RPA's with approval of a Category 6 Special Exception accompanied with an RPA Exception that can be approved concurrently by the Board of Supervisors. The applicant was advised of this but has declined to use the special exception permit process available, stating in conversations with staff that the required studies and permit fees for the special exception permit are too detailed and costlier than the variance procedure.

The purpose of a variance is to provide a reasonable deviation from Zoning Ordinance standards when the application of such standards would result in an unnecessary or unreasonable hardship to the property owner and when the need would not typically be shared by other property owners. In this case the Board of Supervisors has provided for a means of evaluating single family dwellings and other uses on lots where floodplains and RPAs are prevalent, so that the presence of these conditions does not result in an unnecessary or unreasonable hardship.*

*Sect. 15.2-2201 (definition or variance) Code of Virginia, in part.

As a result of staff review of the application and conversations with the applicant's agent, there are a number of significant land use issues that remain unaddressed, many of which are the result of deficiencies in the information that the applicant has declined to address.

STORMWATER ANALYSIS (Appendix 4)

A review of the application by the Site Development and Inspections Division of DPWES indicated that the proposed location of the building in relation to Indian Run may extend into the 50 foot seaward buffer of the RPA, and a public hearing may be required to obtain an RPA exception approved by the Exception Review Committee, or by the Board of Supervisors in conjunction with a special exception for uses in the floodplain. A Water Quality Impact Assessment (WQIA) is submitted with the RPA exception application, and the RPA exception could be considered by the Exception Review Committee concurrent with the variance request.

To date, the applicant has not prepared a WQIA, nor has an RPA exception application been submitted.

A major floodplain is also located within the property. Floodplain limits must be established from available recent floodplain studies in the vicinity prior to variance approval as the extent of the floodplain boundary will govern the 15-foot setback requirement established by the Public Facilities Manual. If no recent studies are available, the applicant must complete a floodplain study. As stated previously, the applicant has declined to complete a floodplain study, and there are no recent floodplain studies available within the vicinity of the subject property. Therefore this issue is not adequately addressed.

An overland relief narrative must also be provided on the plan showing the runoff flow path of the 100 year storm event. The applicant has not provided plans with an overland relief narrative; therefore this issue has not been addressed. The variance plat indicates that the limits of disturbance extend up to the purported floodplain boundary, however, only the existing topography is shown on the property. The plat does not provide any post development condition analysis in order to assess whether adequate protections would be in place to avoid subjecting downstream and upstream properties to increased flood risk.

Additional information is required but could be submitted at the time of grading plan submission, including detailed impervious area calculations, cross sections of the runoff flow path at key locations, and an adequate outfall narrative. Approval of a variance does not relieve the application from those requirements.

URBAN FORESTRY ANALYSIS (Appendix 5)

Comments received by the Forest Conservation Branch of DPWES identified concerns that the variance application did not clearly demonstrate compliance with the Tree Conservation Ordinance and the Chesapeake Bay Ordinance. In addition, clarification must be provided regarding the proposed removal of a tree from an adjacent outlot, and the disposition of invasive ivy along the front portion of the property. The applicant has submitted revised plans to the Urban Forestry Division; however, these revised plans have not been submitted in support of the variance application. With the submission of the revised plans, these issues will be addressed.

ZONING ORDINANCE REQUIREMENTS (Appendix 6)

- Sect. 18-404 Required Standards for Variances

Summary of Zoning Ordinance Provisions

This variance application must satisfy all of the nine enumerated requirements contained in Sect. 18-404, Required Standards for Variances. If the BZA determines that a variance can be justified, it must then decide the minimum variance that would afford relief as set forth in Sect. 18-405. A copy of these provisions is included as Appendix 6.

1. *That the subject property was acquired in good faith.*

From staff's evaluation of the Applicants statement of justification, staff believes that the property was acquired in good faith.

2. *That the subject property has at least one of the following characteristics:*

- A. *Exceptional narrowness at the time of the effective date of the Ordinance;*

The width of the lot exceeds the required lot width within the R-2 District; therefore the lot is not exceptionally narrow.

- B. *Exceptional shallowness at the time of the effective date of the Ordinance;*

The lot has a minimum depth of at least 150 feet, which is sufficient to accommodate a single family dwelling; therefore the lot is not exceptionally shallow.

C. Exceptional size at the time of the effective date of the Ordinance;

The total area of the lot of 51,136 square feet exceeds the required minimum lot area of 18,000 square feet for the R-2 Zoning District; therefore the lot is not exceptionally small.

D. Exceptional shape at the time of the effective date of the Ordinance;

The lot is roughly rectangular in shape, and can accommodate a single family dwelling.

E. Exceptional topographic conditions;

The majority of the site is relatively flat, sloping upward towards Tunlaw Ct.; however, an exceptional slope condition does not exist on the lot.

F. An extraordinary situation or condition of the subject property; or

G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

The lot was originally created in the 1940s and was zoned for residential use in the 1960's. The majority of the property is located within a floodplain, and the entire property is located within an RPA. While the location of the property presents a challenge to the construction of a house, the Zoning Ordinance accommodates properties with this condition by allowing development within a floodplain with approval of a special exception by the Board of Supervisors. The special exception application process is intended to allow a property to locate a structure while mitigating impacts from flooding to the site and preventing damage to upstream and downstream properties.

3. *That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.*

A situation or condition where property lies within a floodplain does recur in selected areas of the county where existing lots have already been zoned and lots recorded for development that lie within a floodplain, as is the case with the subject property. The Zoning Ordinance specifically contemplates this situation and provides relief through the special exception process to allow discretionary approval of the structure's location while ensuring that the development will not result in property damage to the site and surrounding areas. The subject application would have the effect of circumventing this process with approval of a variance without providing documentation that adverse impacts will not occur from flooding and environmental damage to the site and neighboring properties.

4. *That the strict application of this Ordinance would produce undue hardship.*

With approval of a special exception for uses in the floodplain, the strict application of the Ordinance will not result in undue hardship to the applicant.

5. *That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.*

The Indian Run Stream Valley flows through the back of several lots in the vicinity of the site. While most of the lots were previously developed with homes prior to Zoning Ordinance and Public Facilities Manual requirements regarding development in and adjacent to floodplains and RPAs, all of the lots are subject to these regulations. Any new construction would require similar compliance.

6. *That:*

- A. *The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or*

B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.

The strict application of the Zoning Ordinance would not unreasonably restrict or prohibit utilization of the subject property since the Ordinance provides for a special exception process to accommodate existing lots with floodplain and RPA conditions. It is staff's position that the granting of a variance, especially without adequate documentation that the proposed location provides environmental and stormwater management protections, constitutes a convenience to avoid the applicant's objection to the cost of the permit fees and studies required for this process.

7. *That authorization of the variance will not be of substantial detriment to adjacent property.*

The applicant proposes construction within one foot of the floodplain setback and has not presented realistic plans that demonstrate that the proposed construction will not encroach into the setback, or that post construction drainage for the site will not exacerbate flooding and environmental degradation within the RPA to adjacent properties.

8. *That the character of the zoning district will not be changed by the granting of the variance.*

The construction of the house only 9.1 feet from the front lot line at its closest point is out of character with the neighborhood's typical setback requirement of 35 feet; therefore it is staff's belief that the granting of the variance could change the general character of the zoning district in the neighborhood.

9. *That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.*

Staff believes that in this instance the variance application was intended as a convenience to circumvent the special exception process for uses in the floodplain without demonstrating that no adverse effects will occur to surrounding properties, and is contrary to the intended spirit and purposes of the Ordinance.

CONCLUSION AND RECOMMENDATION

Based on the findings stated above, staff recommends denial of VC 2014-MA-003. However, if it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

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 Variance Development Conditions
2. Applicant's Affidavits
3. Applicant's Statements of Justification
4. Storm Water Management Comments
5. Urban Forestry Comments
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**VC 2014-MA-003****September 3, 2014**

1. This variance is approved for the maximum size and location within the building envelope of the dwelling, as shown on the plat prepared by GeoEnv Engineers, dated March 10, 2014, and signed by Ibrahim A. Chehab, Professional Engineer as submitted with this application and is not transferable to other land.
2. All applicable building permits and final inspections shall be obtained for the single-family detached dwelling.
3. The applicant shall provide a flood plain study to document the location of the floodplain boundary and setback. If the boundary has changed as a result of the study, this variance approval shall be rendered null and void.
4. A site specific RPA boundary certification per Letter to Industry #08-12 shall be provided at the time of plan review. The applicant shall comply with all conditions regarding site restoration resulting from the provisions of the certification and/or RPA Exception, as may be required. In the event that an RPA Exception is denied, this variance shall be rendered null and void.

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 including requirements for building permits.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has 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 variance. 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): VC 2014-MA-003
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4-17-14
 (enter date affidavit is notarized)

123988

I, Amina Ahmady, 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 BOLD above) |
|--|---|--|
| Amina Ahmady | 5448 Cross Rail Ct., Burke, VA 22015 | Co-Applicant/Title Owner |
| Abdul S. Ahmady | 5448 Cross Rail Ct., Burke, VA 22015 | Co-Applicant/Title Owner |
| Abdullah Ahmady | 5448 Cross Rail Ct., Burke, VA 22015 | Agent for Applicants/Title Owners |
| GeoEnv Engineers & Consultants, LLC | 10875 Main St., Ste. 213 Fairfax, VA 22030 | Agent |
| Ibrahim A. Chehab, also known of record as Abraham Chehab and Abe Chehab | 10875 Main St., Ste. 213 Fairfax, VA 22030 | Agent |

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

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

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

Application No.(s): VC 2014-MA-003
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4-17-14
(enter date affidavit is notarized)

123988

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)
GeoEnv Engineers & Consultants, LLC
10875 Main St., Ste. 213
Fairfax, VA 22030

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)
Ibrahim A. Chehab, principle

(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): VC 2014-MA-003
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

123988

DATE: 4-17-14
(enter date affidavit is notarized)

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

PARTNERSHIP INFORMATION

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

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

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

(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): VC-2014-MA-003
(county-assigned application number(s), to be entered by County Staff)

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DATE: 4-17-14
(enter date affidavit is notarized)

123988

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):

VC 2014-MA-003

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

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

4-17-14

(enter date affidavit is notarized)

128988

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:

[Handwritten signature]

(check one)

[X] Applicant

[] Applicant's Authorized Agent

Amina Ahmady

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

Subscribed and sworn to before me this 17th day of April 2014, in the State of Virginia, County of Fairfax, City of Fairfax.

[Handwritten signature of Notary Public]

Notary Public

My commission expires:

July 31, 2017

MERIDETH L WILHELM
Notary Public
Commonwealth of Virginia
293175
My Commission Expires Jul 31, 2017

JAN 14 2014

Zoning Evaluation Division

DATE: JANUARY 07, 2013

Dear Sir/Madam:

I am requesting a variance for the front yard setback requirements. The subject lot is identified as lot 69, Lee Jackson subdivision and is located at 6624 Tunlaw Ct, Mason District, Alexandria, Virginia. The subject lot is zoned R-2 and contains a total area of 51,136 square feet. The lot is currently vacant and wooded. A site plan showing the lot with proposed improvements is attached. As per the attached plan, the lot is constrained by the existing 100-year flood plain which is severely limiting the area available for construction. Also, due to the constraints imposed by the Public Facility Manual (PFM), the new dwelling must be located a minimum of 15 feet from the 100-year flood plain limit which has severely narrowed the buildable area.

I have been working with the county staffs for over three years trying to get an approval based on all the constraints and restrictions imposed by different departments to construct a single family dwelling to accommodate my growing family. Back in early 2011, I submitted a Special Permit Application, and after review and correcting submission requirements, I was told that the SP-2011-0121 was not going to be approved.

I then consulted with the Reviewer and Planner of the day at Fairfax County to seek new guidance to elevate my hardship and seek more ways for approval of more land usage and I was advised to apply for a Variance Application.

Due to the constraints imposed by the existing 100-year flood plain limit, RPA area, and R-2 Zone, the only available option is to extend the structure and construct a reasonable size single-family dwelling into the front yard beyond the front setback. Therefore, I am requesting a variance to extent the dwelling 25 feet into the front yard building restriction line. I believe that this requested setback variance is reasonable and will afford me and my family with a reasonable area of living space.

The variance application plat will be in compliance with the following:

1. The proposed variance will not negatively impact adjacent properties.
3. All the standards as mentioned in Zoning Ordinance (Z0-18-404) will be met.
4. The new dwelling will be consistent in height of the adjacent dwelling.

JAN 14 2014

Zoning Evaluation Division

ZONING ORDINANCE SECTION 18-404 STATEMENT OF JUSTIFICATIONS

1. That the subject property was acquired in good faith.

The property was purchased in good faith. The property is recorded in Deed Book # 22830, Page # 0538.

2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

The conditions at the site fall under characteristics F of this Standard. The property has an extraordinary situation or condition resulting from the presence of the 100-year flood plain limits and setback and RPA AREA covering almost the entire lot. The requested front yard setback variance is the minimum relief required in order to construct a single family dwelling compatible in size with other dwellings and current construction standards.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

As per the letter, the conditions at the site are specific to this property and will not result in the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

As stated in the letter, I have tried all the options that I have available and all the requests were denied, so the only option that I have left is to apply this Variance application. Due to Flood Plain Limit, the available buildable land is too small to construct the reasonable size dwelling for a growing family. The site specific condition would produce an undue hardship if the requested variance is not granted.

5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

Based on our review of the other properties in the area, the conditions at the site are specific to this property.

6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or

JAN 14 2014

Zoning Evaluation Division

B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.

Yes, the application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, and granting of the variance will improve a clearly demonstrable hardship imposed by the loss of buildable area due to the presence of a 100-year flood plain limit. Granting of this variance would not grant a special privilege or convenience, since that all other standing codes and requirements will be enforced.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

Yes, the authorization of the requested variance would not negatively impact the adjacent properties.

8. That the character of the zoning district will not be changed by the granting of the variance.

This is a one-time request specific to this property only, and I do not believe that granting of this variance would change the character of standing zoning district.

9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

This requested variance is for a hardship conditions imposed by the mapped 100-year flood plain limit. I believe that granting of this variance will be in harmony with intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

Your review and approval of this request is greatly appreciated. You may contact me at 703-474-1739 at any time to discuss this request. We look forward to hearing from you.

Very truly yours,



Ahmady Abdul S.
5448 Cross Rail Ct
Burke, VA 22015
PH. # (703)426-2725



County of Fairfax, Virginia

MEMORANDUM

DATE: May 5, 2014

TO: Erin Haley
Staff Coordinator
Special Permit and Variance Branch
Department of Planning and Zoning

FROM: Bel Pachhai, PE, CFM, Senior Engineer III
Site Development and Inspections Division
Department of Public Works and Environmental Services

SUBJECT: Variance Application #VC 2014-MA-003; Lee Jackson Lot 69; VA Plat dated January, 2014; Cameron Run Watershed; LDS Project # 24530-ZONA-001-1; Tax Map #71-4-01-0069; Mason District

We have reviewed the subject application and offer the following stormwater management comments.

Chesapeake Bay Preservation Ordinance (CBPO)

There is Resource Protection Area (RPA) on this site. RPA delineation for this property could be incorporated in the grading plan.

Based on the location of building in relation to Indian Run shown on Sheet#1, the encroachment may extend into 50 feet of seaward buffer. In that case public hearing may be required to get the RPA special exception approval by Exception Review Committee or by the Board.

Water Quality Impact Assessment could be submitted with the exception application.

Floodplain

There is a major flood plain located within the property. A floodplain limits shall be established based on the base flood elevation determined from available recent floodplain studies in the vicinity prior to the variance approval as the extent of floodplain boundary will govern the 15 feet setback requirement. (PFM 6-1401.1)

Water Quality Control

Applicant stated on sheet #1 that the proposed impervious area will be below 5% of lot area. No stormwater quality control is required unless the proposed impervious area exceeds 18% of lot area.

In grading plan submission, a detail impervious area calculation must be provided.

Erin Haley, Staff Coordinator
Variance Application #VC 2014-MA-003; Lee Jackson Lot 69
LDS Project #24530-ZONA-001-1
Page 2 of 2

Onsite Major Storm Drainage System and Overland Relief

Applicant needs to provide an overland relief narrative and arrows showing runoff flow path of the 100-year storm event. Cross-sections at key locations must be shown on the grading plan.

Downstream Drainage System

An outfall narrative shall be provided. Adequacy of outfall system shall be shown on the grading plan.

Please contact me at 703-324-1698 if you require additional information.

BP/

cc: Fred Rose, Chief, Watershed Planning & Assessment Branch, Stormwater Planning Division, DPWES
Don Demetrius, Chief, Watershed Evaluation Branch, SPD, DPWES
Bijan Sistani, Chief, South Branch, SDID, DPWES
Zoning Application File





County of Fairfax, Virginia

MEMORANDUM

DATE: June 11, 2014

TO: Erin M. Haley, Staff Coordinator
Zoning Evaluations Division, DPZ

FROM: Jay Banks, Urban Forester II
Forest Conservation Branch, DPWES

SUBJECT: Lee Jackson-Lot 69, VC 2014-MA-003

At the request of the Department of Planning and Zoning, staff from the Urban Forest Management Division (UFMD) completed a review of the Variance application stamped, "Received, Department of Planning and Zoning, January 14, 2014"; a Statement of Justification stamped "Received, Department of Planning and Zoning, January 14, 2014" and a Variance Application Plat stamped "Received, Department of Planning and Zoning, March 11, 2014. A site visit was conducted on June 10, 2014.

Site Description: From just off the road the site drops steeply toward the northeast, toward the water course. A number of very large, mature trees exist within the proposed house footprint. English ivy covers most of the entire front portion of the site.

1. **Comment:** It is not clear if the application will comply with all requirements of the Tree Conservation Ordinance and the Chesapeake Bay Ordinance.

Recommendation: The applicant should demonstrate that all sections of the Tree Conservation Ordinance can be met. This will include, but not limited to, sections 12-0501 and 12-0502 of the County's Public Facilities Manual.

2. **Comment:** Existing tree number 3, listed on the Tree Inventory as a 13 inch diameter red oak, is shown to be removed from Out Lot A. It is not clear if Out Lot A is considered to be included with Parcel 69 of this application.

Recommendation: Clarify if existing tree number 3 is considered an on-site tree or an off-site tree. If it is an off-site tree it shall not be removed without permission from the tree's owner.

3. **Comment:** There is a large expanse of invasive ivy along the front portion of the site that will have a negative impact to the forest resources within the RPA.

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



Lee Jackson-Lot 69

VC 2014-MA-003

June 11, 2014

Page 2 of 2

Recommendation: A statement acknowledging the type and extent of invasive plants on site should be added to the Existing Vegetation Map, sheet 2 of 5. Further, an invasive management plan should be included with the application.

JSB/

UFMDID #: 190360

cc: DPZ File

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.

18-405 Conditions

Upon a determination by the BZA that the applicant has satisfied the requirements for a variance as set forth in Sect. 404 above, the BZA shall then determine the minimum variance that would afford relief. In authorizing such variance the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be met.