



APPLICATION ACCEPTED: July 25, 2014  
BOARD OF ZONING APPEALS: October 8, 2014  
TIME: 9:00 a.m.

## County of Fairfax, Virginia

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October 1, 2014

### STAFF REPORT

VARIANCE VC 2014-MV-009

MOUNT VERNON DISTRICT

**APPLICANTS/OWNERS:** Louis M. Monroe and Brenda L. Monroe

**SUBDIVISION:** Yacht Haven Estates

**STREET ADDRESS:** 4752 Neptune Drive, Alexandria 22309

**TAX MAP REFERENCE:** 110-3 ((4)) (M) 1

**LOT SIZE:** 21,870 square feet

**ZONING DISTRICT:** R-2

**ZONING ORDINANCE PROVISIONS:** 18-401

**VARIANCE PROPOSAL:** To permit construction of an accessory structure (detached garage) 6.9 ft. from the front lot line, and greater than 25% coverage to remain in the front yard.

**STAFF RECOMMENDATION:** Staff recommends denial of VC 2014-MV-009 for the construction of a detached garage 6.9 feet from the front lot line and greater than 25% coverage to remain in the front yard. However, if it is the intention of the Board of Zoning Appeals to approve VC 2014-MV-009, 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

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



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).

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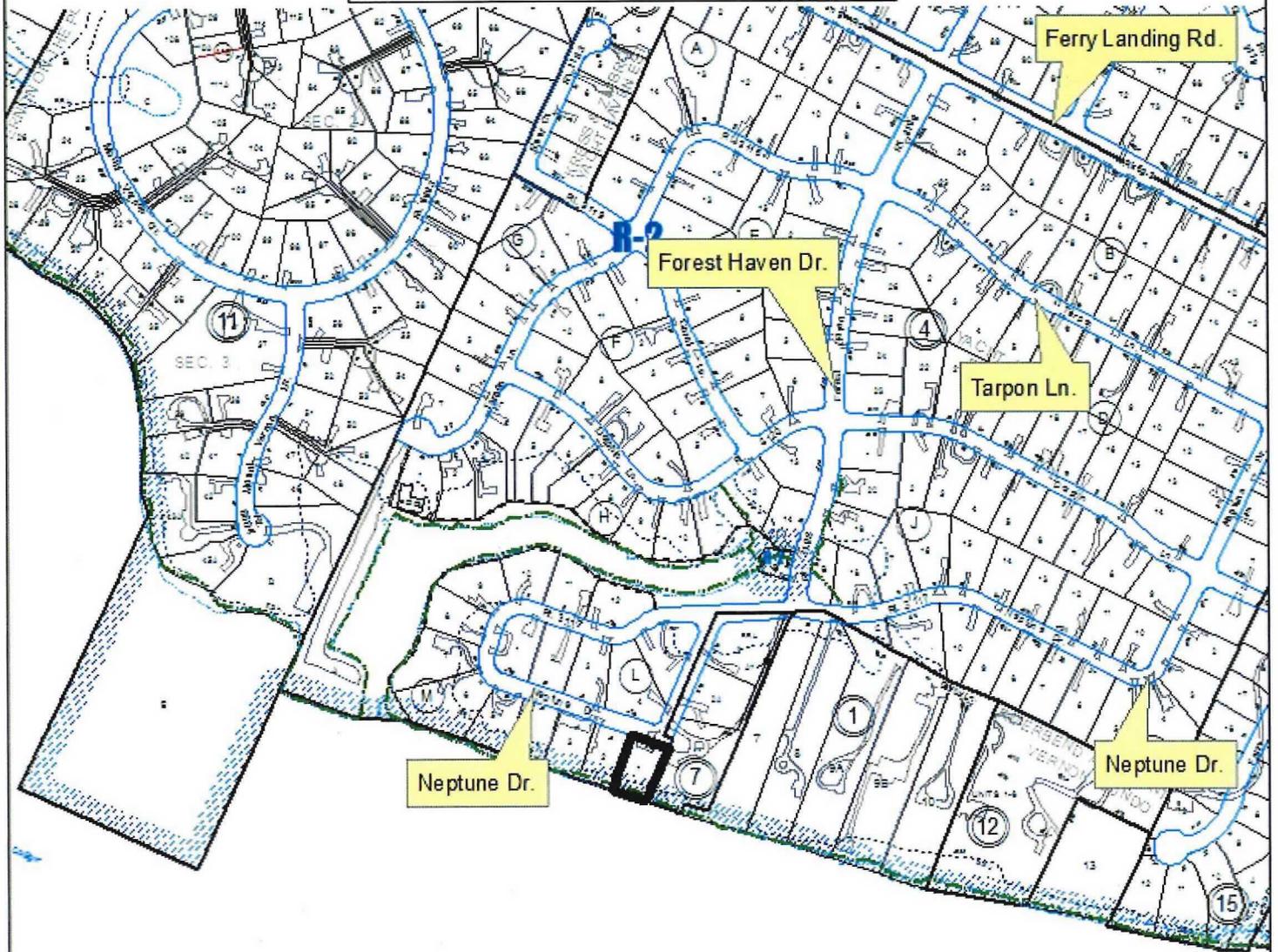
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# Variance Application

VC 2014-MV-009

LOUIS M. MONROE & BRENDA L. MONROE



0 100 200 300 400 500 Feet



TRACE NORTH

DOGUE

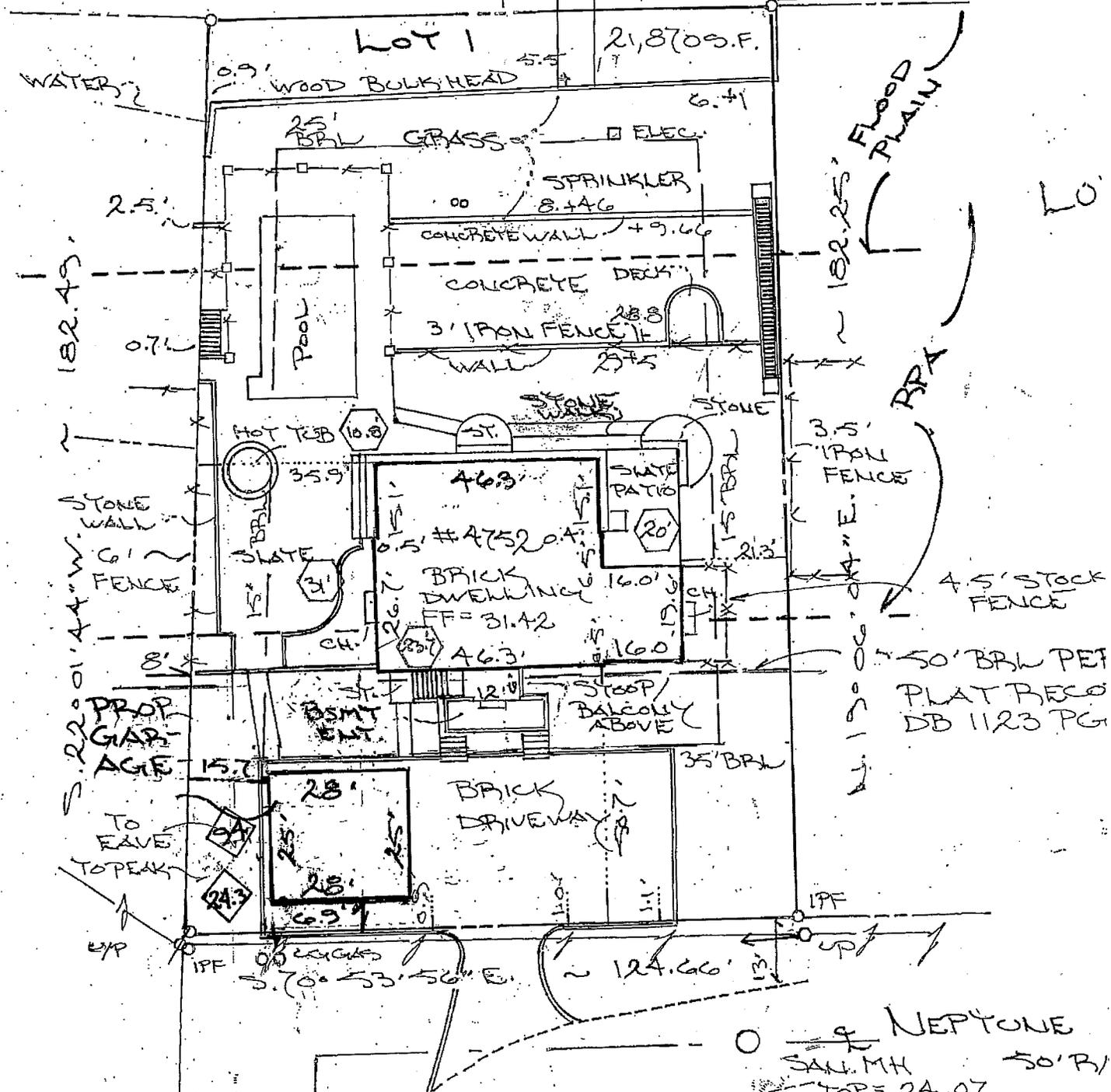
RIG.

CREEK

WOOD PIER

N. 70° 53' 56" W. ~ 115.34'

TO YACHT HAVEN ESTATES



NEPTUNE  
SALL.MH 50' B/P  
TAP=04.07



**FRONT ELEVATION**



**REAR ELEVATION**



**RIGHT ELEVATION**



**LEFT ELEVATION**



## **The Monroe's house**

Looking straight on at the Monroe's house from the driveway entrance



## **Monroe's house from Neptune Dr.**

Looking at the Monroe's home from the most common approach along Neptune Dr. (south bound) Note the landscaping that screens the left side of the drive. This is the area where the garage would be placed. Though the landscaping is in the right-of-way it is well maintained by the Monroe's.



## **View from Monroe's front stoop**

This is the current view as seen from the front landing of the house. The tent/garage was erected several years ago and has suffered some deterioration over time. This also shows on the county zoning maps and the aerial photography. The drive surface is a granite cobblestone laid over the previously placed asphalt driveway and was in place when the Monroe's bought the property.



### **Setback behind tent/garage**

Here we see the area behind the tent/garage and the 15.7' space between the proposed garage and the property line, and the landscaping that screens it from the neighboring property



**View of house from back corner of tent/garage**



## **From the river side**

Looking at the home from a point  $\frac{1}{2}$  way out the dock. The level area at the end of the dock is within the flood plain and the seawall is 15' back of the actual property line. The RPA actually runs through the house about 8' from the front wall.



## **Back Yard**

A closed look at the rear of the property showing the area in the flood plain and the patio/pool structure. The flood plain elevation actually is about 5' up the inclined concrete wall.



## **Home across Neptune Dr.**

View of side load garage of the home across the street as seen from the north / south portion of Neptune Dr.



## **South from back yard**

Looking south from the back yard, about 30' above the river.



## **The back yard**

This is the extent of the yard behind the house.



### **Line of RPA**

Approximate point that the RPA come through the house



## **Property line**

Approximate location of property line. As can be seen the landscaping is well tended and presents a dense screening.



## Neptune Dr. north bound

Looking north bound along Neptune Dr. from the driveway entrance of the Monroe's drive



## **West bound Neptune Dr.**

Looking west along Neptune Dr. from the Monroe's driveway



## **Neighboring home**

View of home north of the Monroe's on Neptune Dr.



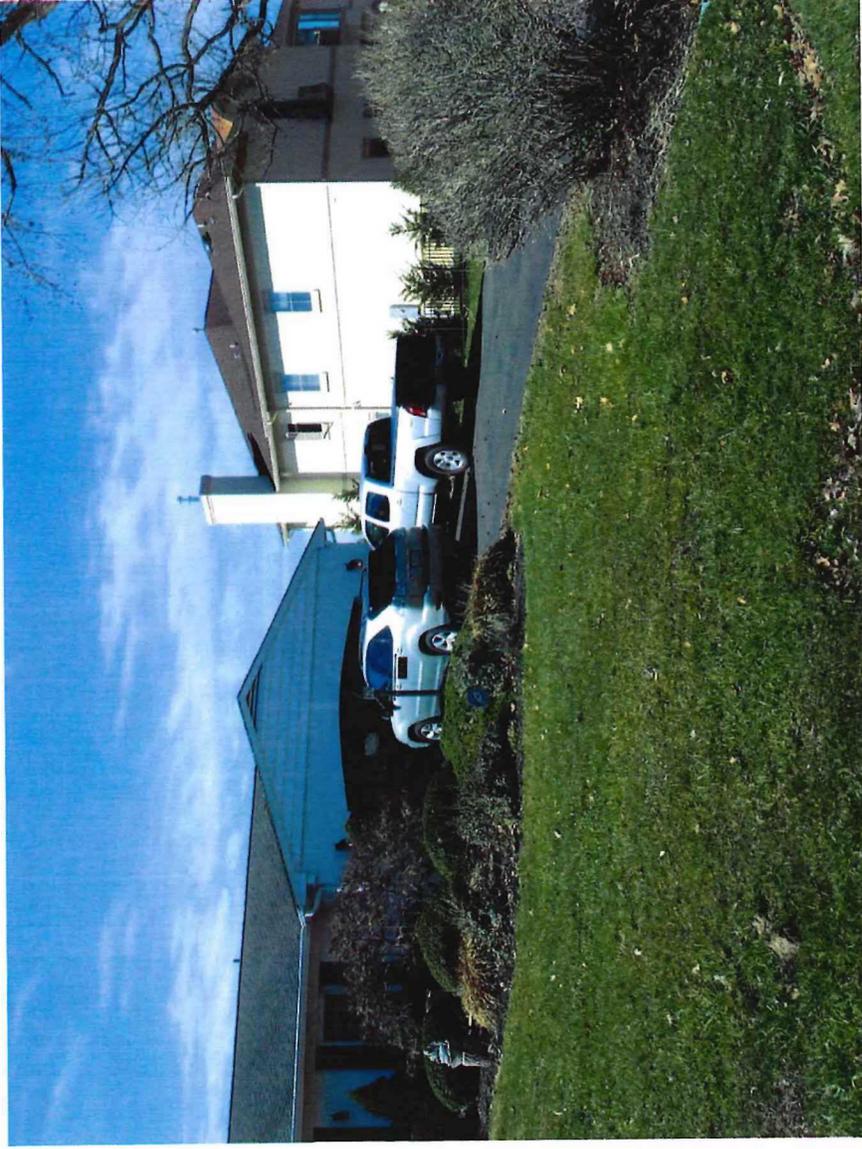
## **Home across Neptune Dr.**

As seen from the corner of the north/south and east/west portions of Neptune Dr.



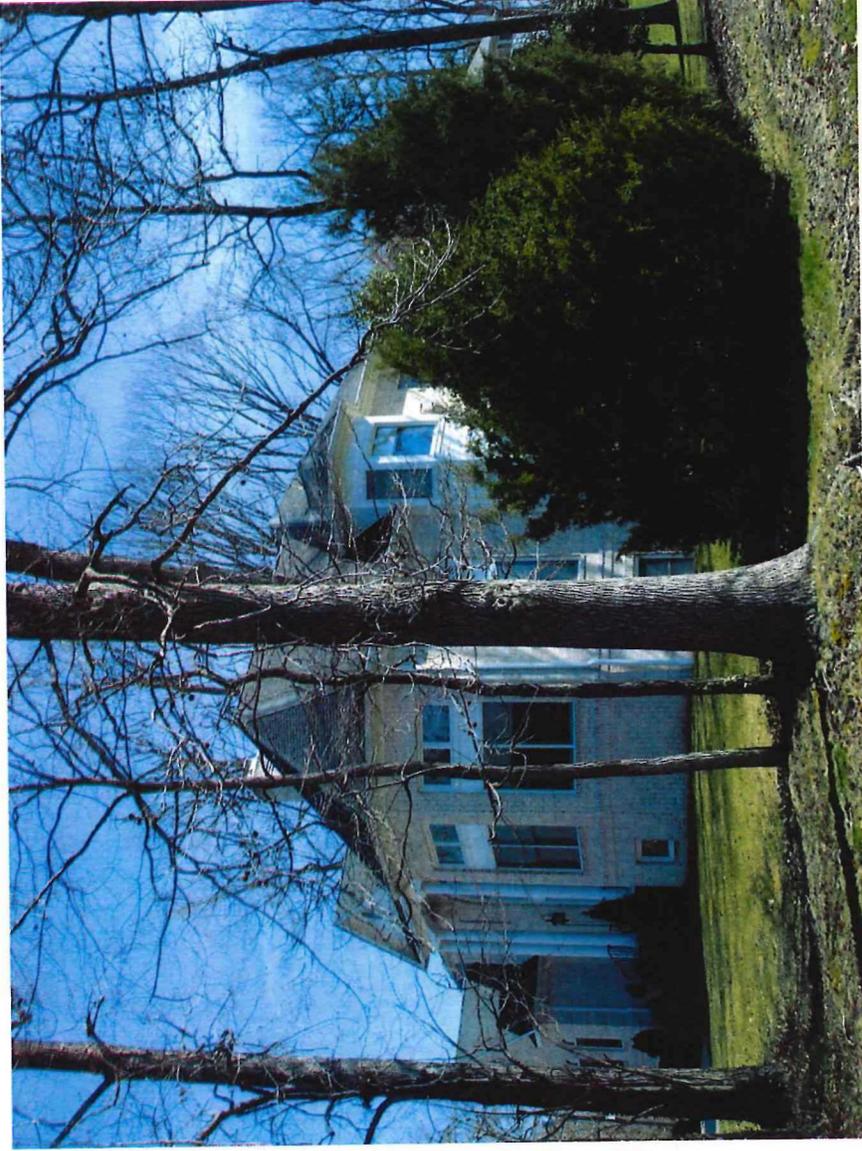
## **Another home on Neptune Dr.**

This may be the largest home on the street and is on of the youngest. It also is on the river side of the street.



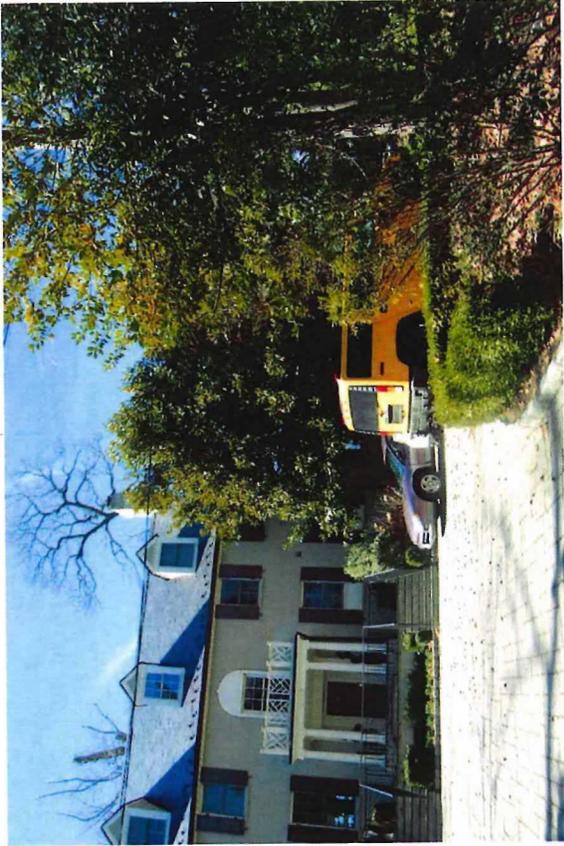
## **Another home on Neptune Dr.**

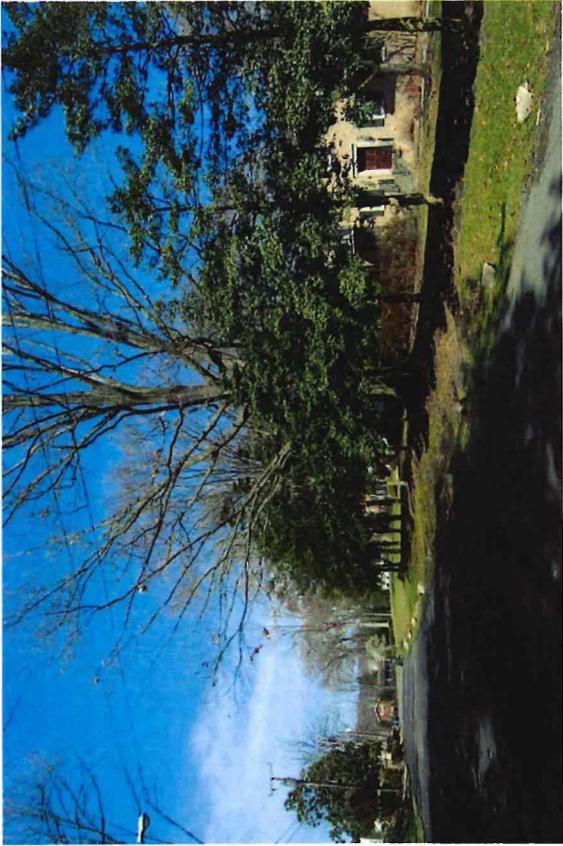
This home is the next one east, towards Monroe's, along Neptune Dr.



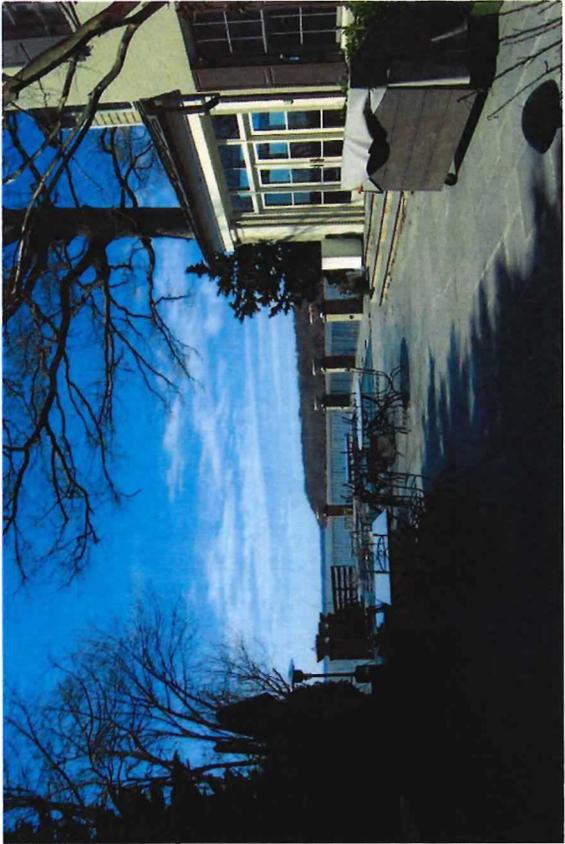
## **Home on the loop end of Neptune Dr.**

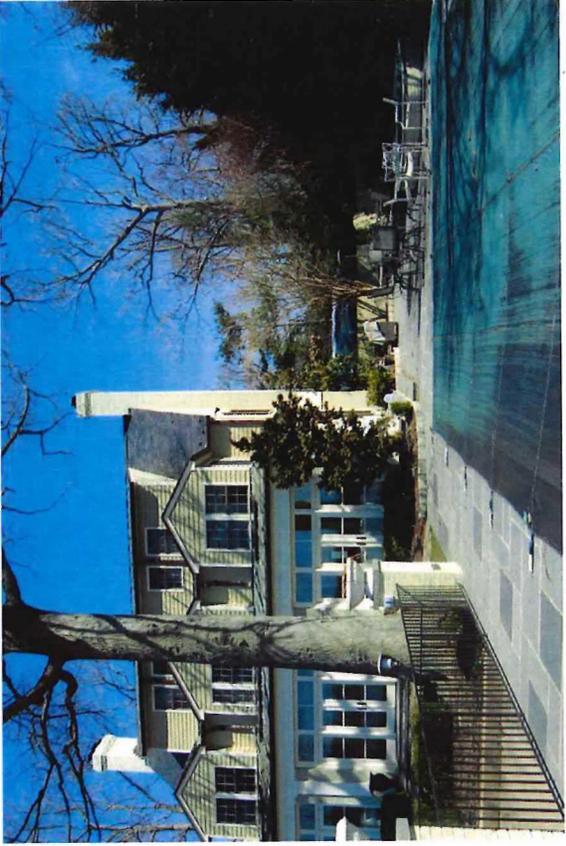
Another of the larger homes along Neptune Dr., this one is not water front.

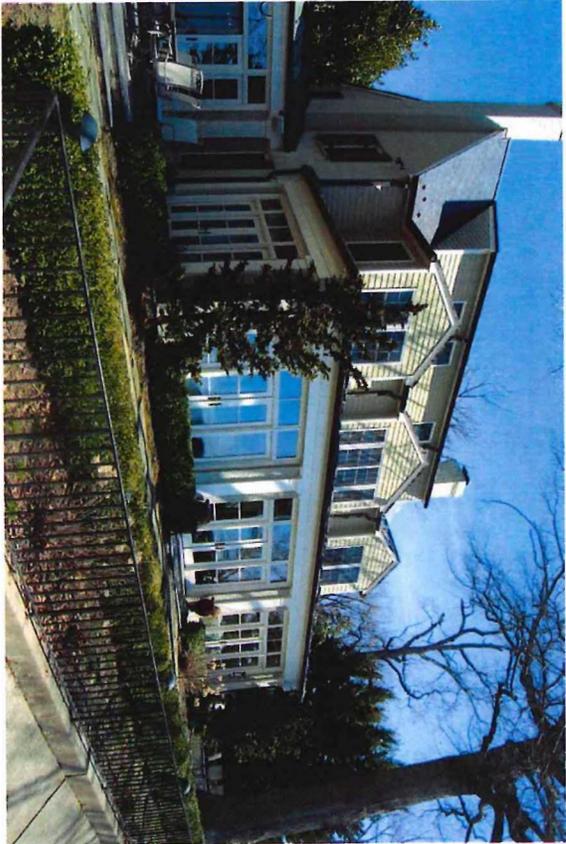


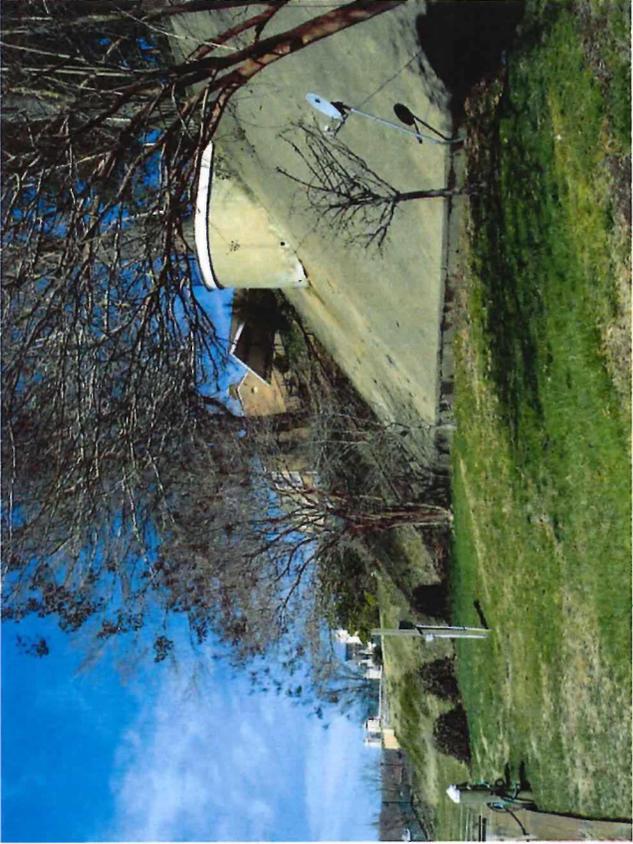


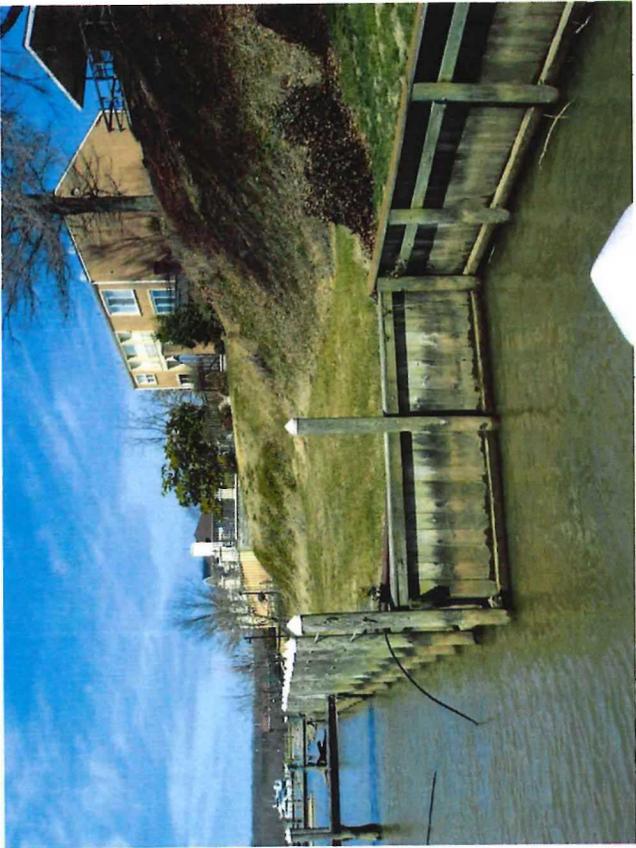
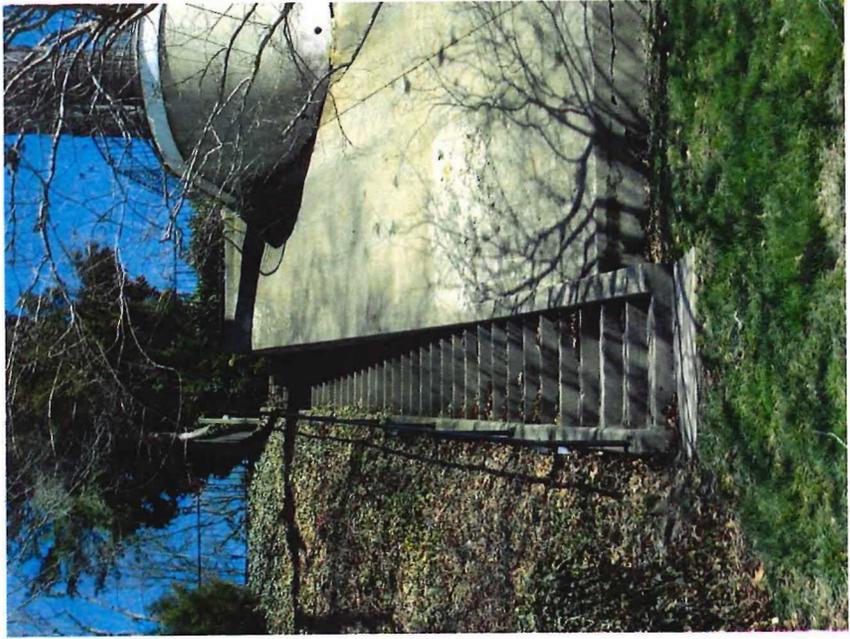












## **DESCRIPTION OF THE APPLICATION**

The applicant requests a variance to permit construction of a detached two-story, two-car garage 6.9 feet from the front lot line and for greater than 25% coverage to remain in the front yard. A minimum front yard of 35 feet is required in the R-2 District; therefore a variance of 28.1 feet is requested for the detached garage. The existing driveway is proposed to remain, covering 45% of the front yard; therefore a variance to have an additional 20% is requested.

An architectural elevation depicting the detached garage and "carriage house" has been provided, and shows the proposed 700 square foot structure with a pitch roof and a height of approximately 24.4 feet. The elevation depicts a second floor and the agent for the applicant states that the space would be used for storage.

A copy of the variance plat, titled "Special Permit Plat, Lot 1 Block M Yacht Haven Estates, Mount Vernon District, May 15, 2008, revised through July 16, 2014, prepared by Laura L. Scott, is included in the front of the staff report.

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

The application property is developed with a single family home with a wood pier and dock adjacent to Dogue Creek in the Yacht Haven Estates subdivision. The rear portion of the property lies within a floodplain and Resource Protection Area (RPA). Surrounding properties are zoned R-2 without proffers and developed with single family detached dwellings. The property and subdivision is located east of Mt. Vernon Memorial Highway and south of Mt. Vernon.

The photograph on the following page illustrates the application property and the surrounding area. Construction of the dwellings in the area largely occurred over time from the 1950's to the 1970's.



## BACKGROUND

The subject lot was created with the Yacht Haven Estates subdivision, which was recorded in 1953. The subdivision plat was recorded with a 50 foot building restriction line applied to all lots in the subdivision. The house was built in 1959, and according to tax records, additions were constructed on the property in 1976. On March 3, 1977, a swimming pool with a concrete retaining wall was approved adjacent to a concrete seawall within the rear yard. The improvements noted within the floodplain were approved prior to the adoption of the Floodplain District in June of 1977. Further regulations were incorporated with the adoption of the Ordinance in 1978, and Zoning Ordinance Amendment ZO-85-115 deleted the Floodplain Overlay District and created the special exception provisions required today for uses and structures in the floodplain.

The side yard on the east side of the home contains a slate patio, a stone wall, landscaping and a hot tub. The 2,822 square foot driveway constructed with brick

pavers is located in the front yard, along with a temporary carport structure. The applicant purchased the property in 2006.

One similar case exists in the area for the approval of a variance for an accessory structure in a front yard. VC 01-V-172 was approved on December 11, 2001 for a freestanding accessory structure in a front yard less than 36,000 square feet in area, for the property at 4749 Neptune Drive, tax map 110-3 ((4)) (L) 4.

## **LAND USE ANALYSIS**

The applicants, in their statement of justification maintain that the variance request to construct a detached garage with storage space on a second floor 6.9 feet from the front lot line is justified since the property is adjacent to Dogue Creek and contains a floodplain on a portion of the property along with a county mapped RPA. The applicants state that since a substantial area of the rear yard contains bulkheads and a sloping concrete wall, there is no other space available to construct a garage. The applicants also maintain that it is not possible to construct the garage as an attached garage to the dwelling without encroaching into a side yard.

Although large areas of the lot lie within an area of county mapped RPA, the property was fully developed prior to adoption of current floodplain regulations, and there are no areas left to be preserved as RPA. The applicant has not demonstrated that a smaller attached garage cannot be constructed on the east side of the house where the land area has already been disturbed and contains a slate patio. The plat shows a 35 foot wide side yard provided while a 15 foot side yard is required, allowing for the possibility of expansion.

In staff's evaluation, the applicant has not sufficiently justified the granting of a variance to construct a two-story 700 foot detached garage and carriage house only 6.9 feet from the front lot line, nor is there any stated justification for a paved driveway in excess of 25% of the front yard of the house. The elevations show a detached garage with a second story that presents a massive appearance in close proximity to the lot line.

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 request appears to be one of convenience, since without approval of the variance it appears to be possible to construct an attached garage in an area already disturbed with a slate patio and a hot tub.

The Chesapeake Bay Ordinance provides procedures whereby owners of existing homes located within an RPA can still make improvements, and the owners can request a special permit for modification to yards approved by the BZA if the remaining side

yard allowance proves insufficient for the construction of a two car garage. Therefore, the presence of these conditions does not result in an unnecessary or unreasonable hardship.

## **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 Applicant's 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 182 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 21,870 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 graded and developed with structures including bulkheads and concrete walls; however, an exceptional slope condition does not exist on the lot that precludes the construction of an attached garage.

*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 1953 and was zoned for residential use. The majority of the rear yard for the property is located within a floodplain, and county mapped RPA is present on roughly half the lot. While the location of the property presents a challenge to the construction of a garage for the house, there appears to be sufficient space to construct an attached garage without encroaching into the required front yard, therefore the condition of the property does not justify the request.

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 for several lots within the Yacht Haven Estates subdivision; most homes

with this condition contain attached garages within the setbacks required in the R-2 District. There was no justification presented to retain a paved driveway in excess of 25% of the lot.

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

The strict application of the Ordinance would not preclude the construction of reasonable garage and parking facilities on the lot, therefore an undue hardship does not exist.

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

Since there is no undue hardship demonstrated with the request, this standard does not apply.

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 there appears to be sufficient area on the lot to construct an attached garage. In addition, the Zoning Ordinance does not require a garage, only that two parking spaces are available on-site for the single family dwelling. It is staff's position that the granting of a variance for this case constitutes a convenience rather than alleviate a hardship. Also, as stated previously, no justification has been presented to retain the driveway in excess of 25% coverage of the front yard.

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

The applicant proposes construction of a structure with two floors only 6.9 feet from the front lot line. Although existing vegetation is located within the right of way for Neptune Drive that might shield the view of the structure from the street in the summer months, the structure would

present a massive appearance during the winter that could be visually disruptive to neighboring properties.

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

The construction of a detached garage and carriage house only 6.9 feet from the front lot line at its closest point is out of character with the neighborhood's typical setback requirement of 35 feet, as well as the recorded 50 foot building restriction line for the all lots in the subdivision; 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, 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-MV-009. 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. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**VC 2014-MV-009**

**October 1, 2014**

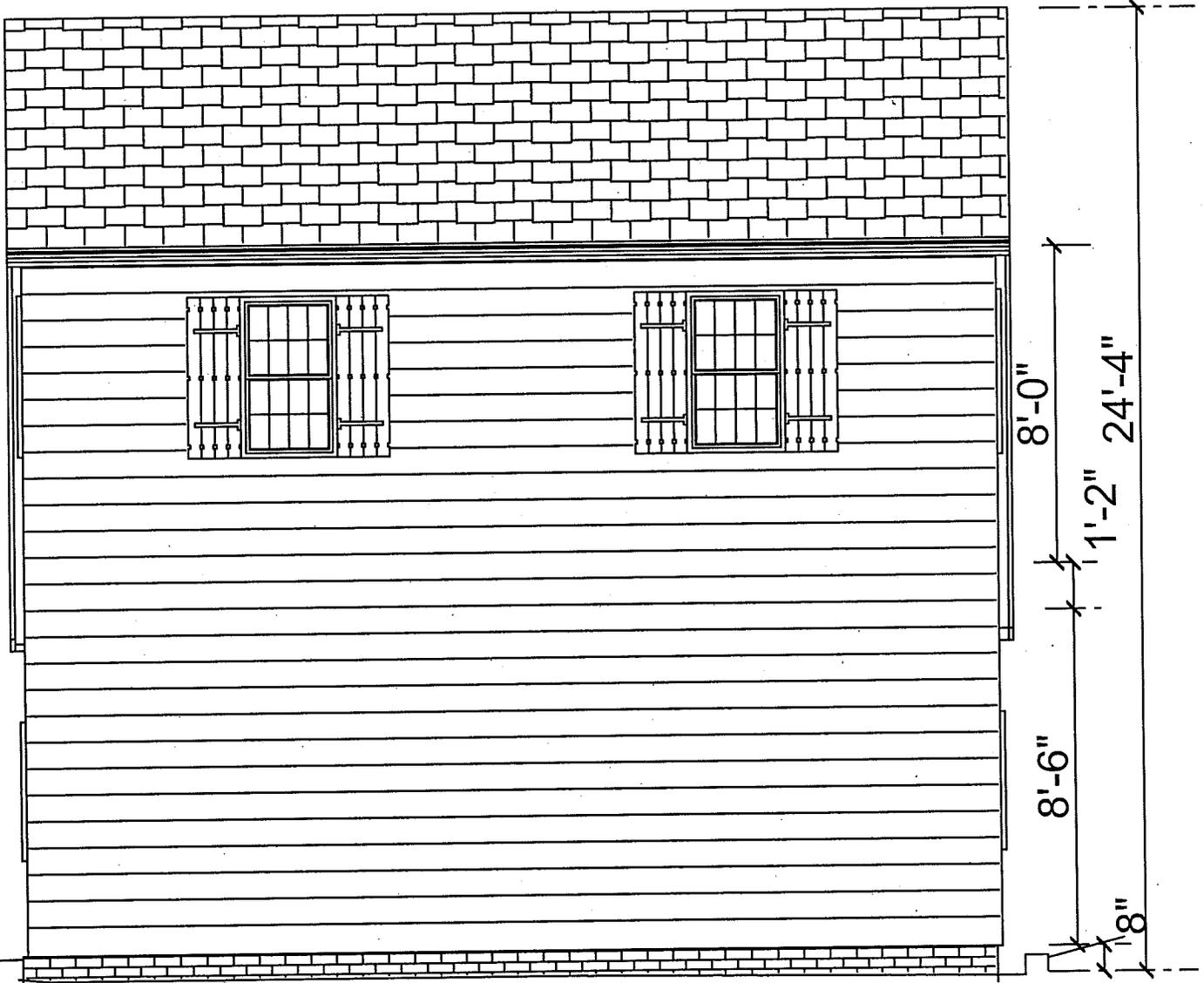
1. This variance is approved for the location of a detached garage, and for the paved parking area to remain as shown on the plat prepared by Laura Lee Scott, revised through July 16, 2014, as submitted with this application and is not transferable to other land.
2. All applicable building permits and final inspections shall be obtained for the single-family detached dwelling.
3. The detached garage shall be constructed in accordance with the elevations contained in Attachment 1 of these conditions.
4. The area located on the second floor of the garage shall be used for storage only; no living space shall be permitted.

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.



FRONT ELEVATION



**REAR ELEVATION**



**RIGHT ELEVATION**



**LEFT ELEVATION**

Application No.(s): VC 2014-MV-009  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: July 1, 2014  
 (enter date affidavit is notarized)

125 657

I, Robin Cox, 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.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
Robin Cox d/b/a Leprechaun Associates	1508 S Walter Reed Dr Arlington, Va 22204	Agent
Brinda Monroe and Louis Monroe	4752 Neptune Drive Alexandria, Va 22309	Applicant / Title Owners

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

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

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

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

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: July 1, 2014  
(enter date affidavit is notarized)

125657

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)

N/A

**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): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: July 1, 2014  
(enter date affidavit is notarized)

125657

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)

N/A

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

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

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

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

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

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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

125651

DATE: July 1, 2014  
(enter date affidavit is notarized)

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

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

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

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

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

NONE

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: July 1, 2014  
(enter date affidavit is notarized)

125657

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

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

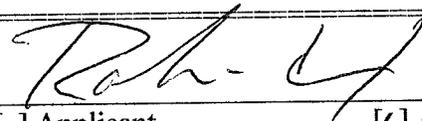
NONE

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

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

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

WITNESS the following signature:



(check one)

Applicant

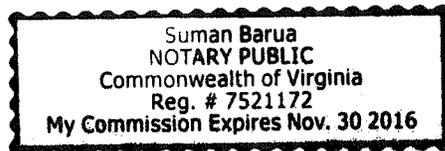
Applicant's Authorized Agent

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

Subscribed and sworn to before me this 1st day of July, 2014, in the State/Comm. of VIRGINIA, County/City of Fairfax County.

  
Notary Public

My commission expires: NOV. 30 2016



MAY 27 2014

Zoning Evaluation Division

## Zoning ordinance standards for a variance

The BZA can approve variance only when it finds that the application satisfies all of the following enumerated requirements.

1. The applicants, the Monroe's, purchased the property in July of 2006 in good faith and with confidence that the home would serve their needs.
2. The house was built in 1959 with an addition to it in 1976. Additions to the house included the enclosure of a portion on the rear and Right side, a large deck including a swimming pool, spa and associated amenities to the left and rear of the house proper. The house was built without a carport or garage. This was in fact somewhat unusual for an upper end house, even in 1976.
  - A. The property is not exceptionally narrow as it is in-line with the width of other properties along Neptune Drive
  - B. The property is not exceptionally shallow but the building area of the lot is restricted by topography, the existence of floodplain on the waterside, and by restrictions placed on it via the implementation of the Chesapeake Bay preservation and the existence of resource protection areas on the property. This effectively reduces the buildable area on the lot and would make it exceptionally shallow in buildable area, considering current restrictions.
  - C. The lot is not of exceptional size and it contains 21,870 ft.<sup>2</sup> or approximately 1/2 acre complying with the R-2 zoning of two residential units per acre.
  - D. Property is of standard rectangular shape approximately 182 feet deep and 120 feet wide.
  - E. The property possesses some unique topographic conditions. As a waterfront property the property line to the rear of the property along the water is actually about 15 feet into the river. From the water's edge, the property continues for approximately 25 feet level where there begins a sloped concrete wall that rises diagonally to a point approximately 30 feet above river level. This encroaches on the rear of the property approximately 65 feet from property line and 50 feet from the bulkhead. Thus the house is approximately 90 feet back of it to rear property line and 30 feet above the lowest point. The property is then approximately level to its front property line for distance of approximately 90 feet. Of this approximately 60 is occupied by the house proper, front porch and stairs. This leaves approximately 30 feet from the house to the front property line. That 30 feet has an asphalt parking area that is approximately 30' x 85'. In conjunction with the last remodeling of the house this parking area was paved over with pavers and a granite stone border installed on all edges and along the sides of the driveway apron that connects it to Neptune Drive. The edge of pavement is approximately 20 feet from the property line on the right side and 30 feet on the left. All areas from the property line to the edge of pavement are totally landscaped and maintained by the applicant. The landscaping is mature and fully screens the subject area of this request from general view when approached from the most commonly used access along Neptune Drive.
  - F. The extraordinary situation or condition that exists on this property is the fact that there is no practical way to construct a garage or carriage house within the confines of current

zoning regulations without destroying major elements of the design that attracted the applicant to purchase it.

- G. There is currently no development or condition on adjacent properties.
3. The proposed construction of a garage/carriage house is not of so general or recurring nature that it would be practical to amend the zoning ordinance and much as this situation does not generally occur within the County.
  4. The strict application of the zoning ordinance creates a situation that places an undue burden on the applicant's ability to fully enjoy the use of their property in a manner consistent with that of their neighbors. This includes a reasonable ability to protect and preserve their vehicles within an enclosed space.
  5. Generally, other properties in the vicinity enjoy the ability to protect their vehicles within an enclosed space
  6. A. The strict application of the zoning ordinance would effectively prohibit the construction of anything on the property without removing a significant portion of some of the features that make this a great home for the applicants. Additionally almost any attempt to build a garage would most assuredly encroach in some manner on other zoning restrictions.
  7. The granting of this variance would have no detrimental impact on the adjacent properties.
  8. As this is an R-2 zoning district, and is fully built out with moderately upper end and upper end single-family homes, there would be no change in the character of the zoning district or the nearby community.
  9. The granting of this variance would be in the spirit of this ordinance and not contrary to the public interest in as much as it would enhance the appearance of the neighborhood, the usability of the property, and in general enhance property values. Though this property is not for sale in the foreseeable future, the proposed accessory structure would greatly enhance its sale ability.

Additionally, for many years, there has existed a "temporary" structure, i.e. a 24' x 27' steel frame "tent", occupying the same space as the proposed garage. The photographs submitted with this application clearly show its location. This tent also appears as a building outline on the counties tax map 110-3-04M-0001, as well as current aerial photography. This application is also therefore to replace a structure that has seen some significant weather damage due to this winters severity.

**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.