



APPLICATION ACCEPTED: November 7, 2014
DATE OF PUBLIC HEARING: February 11, 2015
ADMINISTRATIVELY MOVED AT APPLICANT'S REQUEST
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 4, 2015

STAFF REPORT

SPECIAL PERMIT SP 2014-MV-240

MOUNT VERNON DISTRICT

APPLICANT/OWNER: Nighia Tran

LOCATION: 9121 Backlick Road, Fort Belvoir, 22060

SUBDIVISION: Accotink

TAX MAP: 109-1 ((1)) 29

LOT SIZE: 10,206 square feet

ZONING: R-3

ZONING ORDINANCE PROVISION: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit a roofed deck (porch) to remain 13.7 feet from the front lot line

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

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

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

Megan Duca

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



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

Special Permit

SP 2014-MV-240

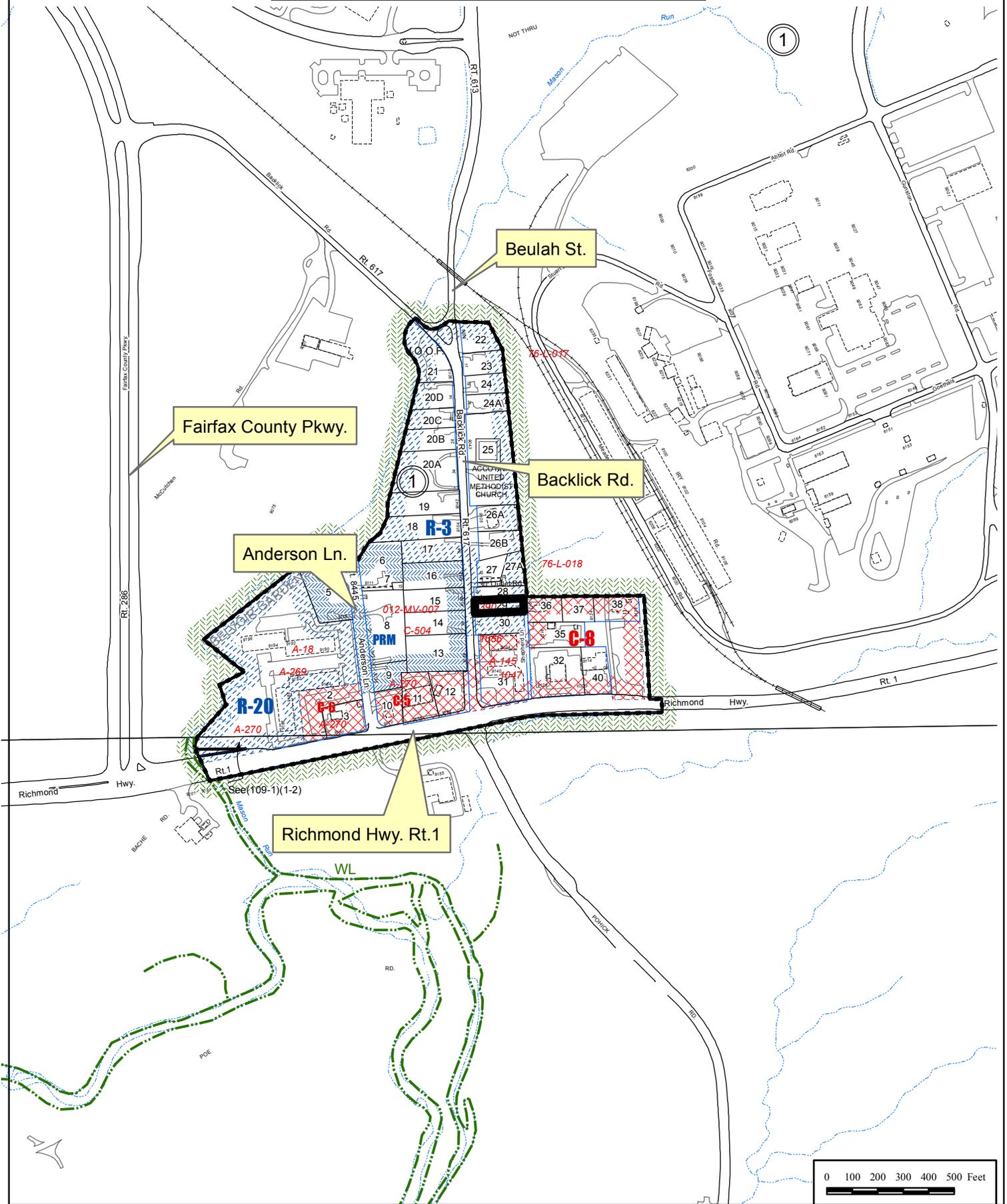
NIGHIA TRAN



Special Permit

SP 2014-MV-240

NIGHIA TRAN



NOTES:

1. TAX MAP: 1091 01 0029
2. ZONE: R-3(RESIDENTIAL 3 DU/AC)
3. LOT AREA: 10,206 SF

4. REQUIRED YARDS:
- FRONT: = 30.0 FEET
 - SIDE: = 12.0 FEET
 - REAR: = 25.0 FEET

5. UNLESS NOTED, EAVES HEIGHTS ARE GREATER THAN 10 FEET TO EXISTING GRADE.
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. THERE ARE NO FLOOD PLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.

11. AREAS:

EX. FIRST FLOOR	=	977 SF
EX. SECOND FLOOR	=	776 SF
EX. WORKSHOP	=	414 SF
GROSS FLOOR AREA	=	2,167 SF

EX. FLOOR AREA RATIO:

EX. GFA (2,167)/LOT AREA (10,206) = 0.21

BACKLICK ROAD
VARIABLE WIDTH - ROUTE #617
N 10°29'37" E
50.00'

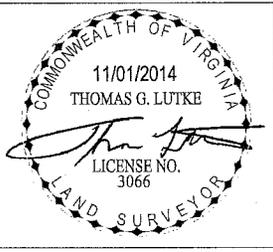


I HEREBY CERTIFY THAT THE LOCATIONS OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

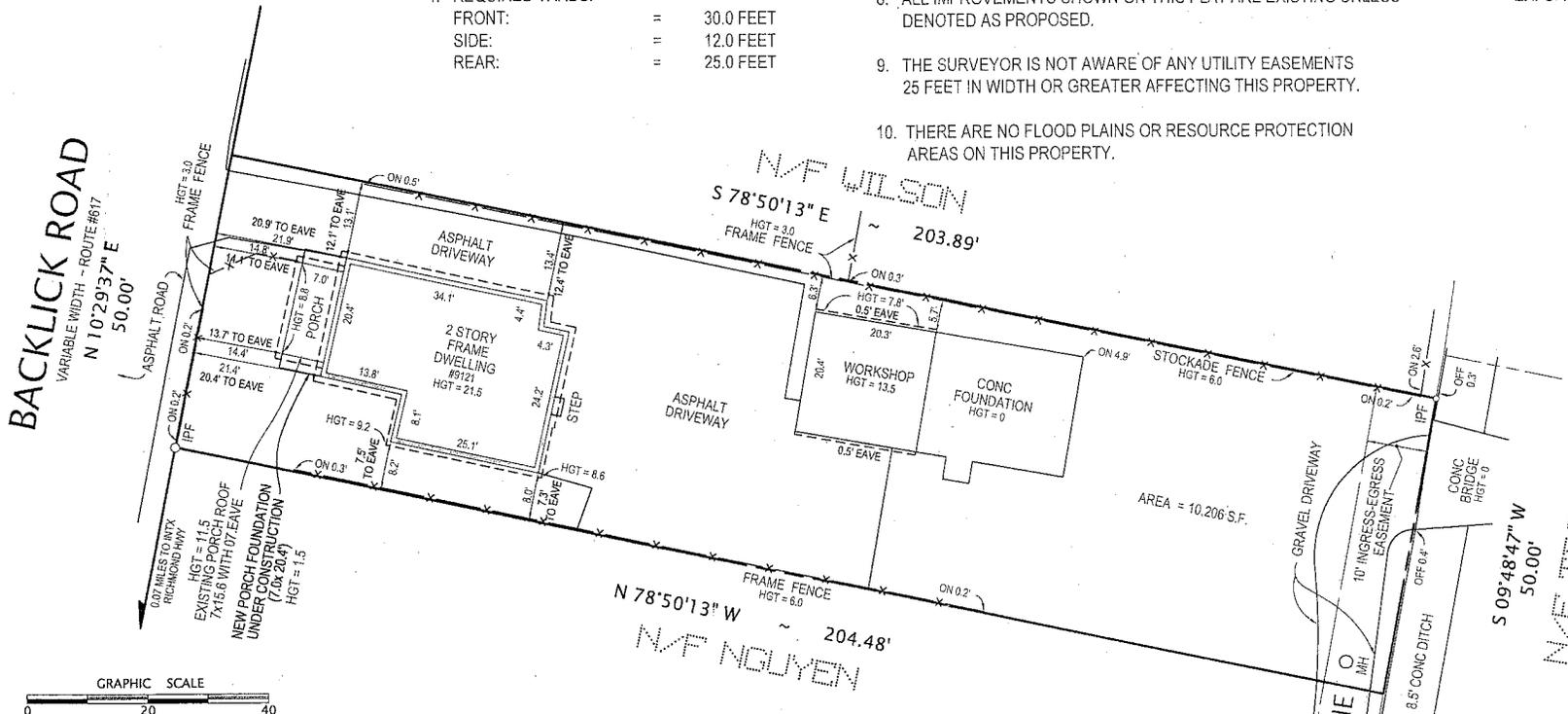
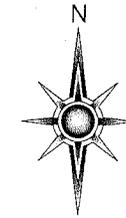
NO CORNER MARKERS SET



ORDERED BY:
NIGHIA TRAN

NOVA SURVEYS
6655 ROCKLEIGH WAY
ALEXANDRIA, VA 22315
703-688-4038
FAX: 703-649-6038
WWW.NOVA-SURVEYS.COM

PLAT
SHOWING HOUSE LOCATION ON
#9121 BACKLICK ROAD
(DEED BOOK 23703, PAGE 2200)
FAIRFAX COUNTY, VIRGINIA
MOUNT VERNON DISTRICT
SCALE: 1" = 20' NOVEMBER 1, 2014



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CASE NAME: TRAN

#140808001

RECEIVED
Department of Planning & Zoning
NOV 04 2014
Zoning Evaluation Division

SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a reduction to the minimum yard requirements based on error in building location to permit a roofed deck (porch) to remain 13.7 feet from the front lot line.

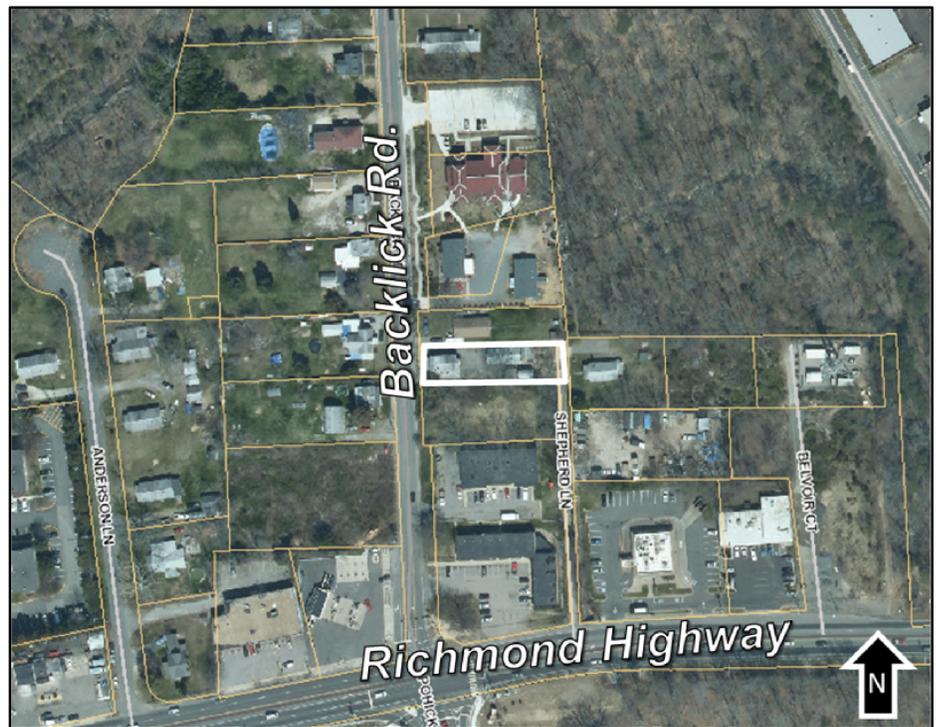
	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percentage of Reduction Requested
Special Permit	Roofed Deck	Front	30.0 feet	13.7 feet	16.3 feet	54.3%

A copy of the special permit plat titled, "Plat Showing House Location On 9121 Backlick Road," prepared by Thomas G. Lutke, of NoVA Surveys, dated November 1, 2014, is included in the front of the staff report.

The proposed development conditions, applicant’s statement of justification with select photographs, and affidavit are contained in Appendices 1 to 3, respectively.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 10,206 square foot lot is developed with a single family detached dwelling, which is accessed via an asphalt driveway from Backlick Road. The porch that is the subject of the current application is located at the front of the dwelling approximately 13.7 feet from the front lot line. A detached garage labeled as "Workshop" that is approximately 13.5 feet in height is located to the rear of the dwelling. A concrete foundation is located to the east of this garage.



Source: Fairfax County GIS

The subject property and adjacent property to the north are zoned R-3 and developed with single family detached dwellings. The parcel to the south of the application property

is zoned R-3 and is currently vacant, while the property to the east of the application property is zoned C-8. The properties to the west of the application property are zoned PRM and approved for a multifamily structure.

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1900 and purchased by the applicant in 2014.

On June 13, 1978, a building permit was approved for an addition to the rear of the dwelling (Appendix 4). The approved plat associated with this building permit depicted a frame garage with dimensions of 20.3 feet by 20.4 feet and located 5.8 from the side lot line. This structure is also depicted on the current SP Plat.

On August 27, 2012, a Notice of Violation was issued to the previous property owner regarding numerous violations on the property, including occupancy limitations, a rooming house, multiple dwelling units, outdoor storage, and various accessory structures on the property (Appendix 5). This matter became the subject of a Circuit Court Case. On February 28, 2014, a building permit was issued for work described as follows: remove and demo gazebo, demo 2 sheds, demo ½ garage to original state per case 200907601 (the Notice of Violation). On April 2, 2014, a letter was issued to the previous owner describing that after an investigation of the property subsequent to the Circuit Court Case, the issues were resolved and the complaint was closed out. A copy of this letter is also contained in Appendix 5. The previous property owner came into compliance by removing the uses and structures that were found to be in violation. As stated in the Notice of Violation, the detached garage that is still currently located on the property has existed on-site and has been taxed by the Fairfax County Department of Tax Administration (DTA) for a period greater than 15 years. As such, this structure is vested in accordance with Section 15.2-2307 of the *Code of Virginia*.

On July 31, 2014, a building permit was issued for interior renovations to the first floor of the existing single family detached dwelling.

On September 11, 2014, a Vested Rights Determination was issued to the applicant for the roofed deck (porch) (Appendix 6). As described in the letter to the applicant, the 1965 plat for the property showed a front porch located 14 feet from the front lot line, which does not meet the current minimum yard requirement of 30 feet. It was noted that a portion of the front of the property was acquired by the Commonwealth of Virginia on August 9, 1943 for right-of-way for Backlick Road, thereby reducing the front yard in depth. As such, Sect. 2-417 of the Zoning Ordinance is applicable to the property, which allows for a 20% reduction in a current minimum required yard to be permitted where a yard was reduced in dimension below the minimum requirements. Therefore, a minimum required front yard of 24 feet would be permitted for subsequent additions to the dwelling. The DTA records for the last 15 years reflect the front porch and, therefore, the structure was vested in accordance with Section 15.2-2307 of the *Code of Virginia* and could remain. However, the front porch could not be replaced or enlarged unless such replacement or enlargement complies with all regulations of the Zoning

District. The applicant broke up the concrete slab of the front porch in order to do foundation waterproofing of the dwelling, which constitutes a replacement of the porch structure even though it was necessary for maintenance of the dwelling. As a result, the vested rights status of the front porch was nullified, and replacement of this porch now requires the approval of a Special Permit from the BZA. During the Applications Acceptance process for the subject application, it was determined that a Special Permit under Sect. 8-914 of the Zoning Ordinance would be appropriate.

Records indicate that no other similar applications have been heard by the Board of Zoning Appeals (BZA) in the surrounding area.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area IV, Lower Potomac Planning District
Planning Sector: Fort Belvoir Community Planning Sector (LP4)
Plan Map: Residential uses, at 2-3 dwelling units/acre (du/ac)

Zoning Ordinance Requirements (Appendix 7)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

CONCLUSION

Staff does not make recommendations on an error in building location. However, if it is the intent of the Board of Zoning Appeals to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1.

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

APPENDICES

1. Proposed Development Conditions
2. Applicant's Statement of Justification and Select File Photographs

3. Applicant's Affidavit
4. Building Permit History
5. Notice of Violation and Case Disposition Letter
6. Vested Rights Determination
7. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2014-MV-240

February 4, 2015

1. This special permit is approved for the location of the roofed deck (porch), as shown on the plat prepared titled, "Plat Showing House Location On #9121 Backlick Road," prepared by Thomas G. Lutke, of NoVA Surveys, dated November 1, 2014.
2. All applicable permits and final inspections shall be obtained for the roofed deck (front porch) within 180 days of the approval of this application.

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

5

9121 statement

Property Address:
9121 backlick road
Fort Belvoir, Va. 22060

RECEIVED
Department of Planning & Zoning

SEP 30 2014
Zoning Evaluation Division

Written Statement of justification

Please review my case and reconsider the approval for a permit for reinstalling existing covered porch slab back. In August 01,2014 my contractor remove my existing concrete porch slab to water proof the front foundation wall. There was no other way to get to it without breaking it up, and when we broke it up, it fell apart. This cost an additional \$10,000 dollars that wasn't in my budget and now I have the stress from the county. So hopefull this should be consider a repair and not a new install . Im not sure why i I need a special permit, when the existing structure was taxed and paid more than 15 years. I know you said in the letter that when i reinstall a new one, i have to follow the guidelines. But it should be considered a repair. Did you considered that I have an existing fence that was not removed is about 5 ft away from the main road (backlick rd).So my porch is alot farther when compared to the fence. Also in 1943 common wealth of va acquired a portion of the front of the property. With that to consider, the fence will always be closer to the road then my porch. If you decided that i still need to apply for special permit, please consider expediting my application. I bought the house with a hard money cash loan, and the debt is due end of this month. I wanted to get an appraisal and refinance and paid the lender back this month. Every month that past, i have to pay an \$5,000 extension fee. I have max out all my credit cards. Please help and reconsider. Otherwise I will have to file bankruptcy.

Nick Nighia Tran

Date: 09-30-14

November 3, 2014

RE: Special Permit Application- Property Address: 9121 Backlick Road, Fort Belvoir, VA 22060

Dear Sir/Madam,

I am Nighia Tran, the owner of the property listed above. Please review my case and reconsider the approval for a permit for reinstalling existing covered porch slab back. On August 01, 2014 my contractor removed my existing concrete porch slab to waterproof the front foundation wall. There was no other way to get to the wall without breaking the existing porch up, and when we broke it up, it fell apart. This cost an additional \$10,000 dollars that wasn't in my budget and now I have the stress from the county. So hopefully this should be considered a repair and not a new installation. I am not sure why I need a special permit when the existing structure was taxed and paid more than 15 years. I know you said in the letter that when I reinstall a new one, I have to follow the guidelines. However, it should be considered as a repair. Did you consider that I have an existing fence that was not removed is about 5ft away from the main road (Backlick Rd). So my porch is a lot farther when compared to the fence. Also, in 1943, Commonwealth of Virginia acquired a portion of the front of the property, with that to consider, the fence will always be closer to the road than my porch. If you decided that I still need to apply for the special permit, please consider expediting my application.

I bought the house with a hard money cash loan, and the debt has passed the maturity date which was in the end of September. Since then, I have to pay \$5,000 loan extension fee for every additional 30-day. I can only extend the loan three times which means I MUST pay the debt by December 24th, 2014. Therefore, I need to get the porch done to be able to get an appraisal and refinance to pay the hard money lender back the loan. I have already used up all of my credit cards. Please reconsider and help me with the permit approval. Otherwise I will have to file bankruptcy.

I would be happy to provide you the image of the completed front porch that will appear to look like. However, I don't have a proposed plan for it because I just reinstall the existing porch slab.

A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations parts 116.4, 302.4, and 355; all hazardous waste as set forth in Commonwealth of Virginia/Department of waste management regulations VR 672-10-1-Virginia hazardous waste management regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.

A statement that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought by the applicant, such shall be specifically noted with the justification for such modification.

Sincerely,

X



Nighia Nick Tran

RECEIVED
Department of Planning & Zoning

NOV 04 2014

Zoning Evaluation Division

NOV 04 2014
Zoning Evaluation Division

November 3, 2014

STATEMENT OF JUSTIFICATION

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

4

9121 BARTKICK RD



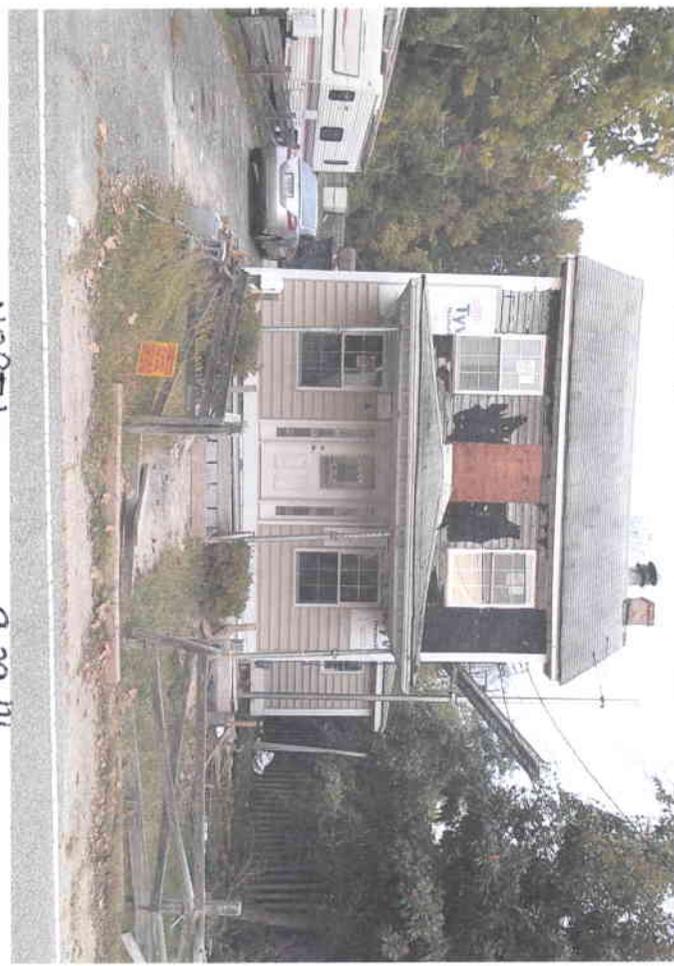
NORTH 9-29-14



NORTH 9-29-14



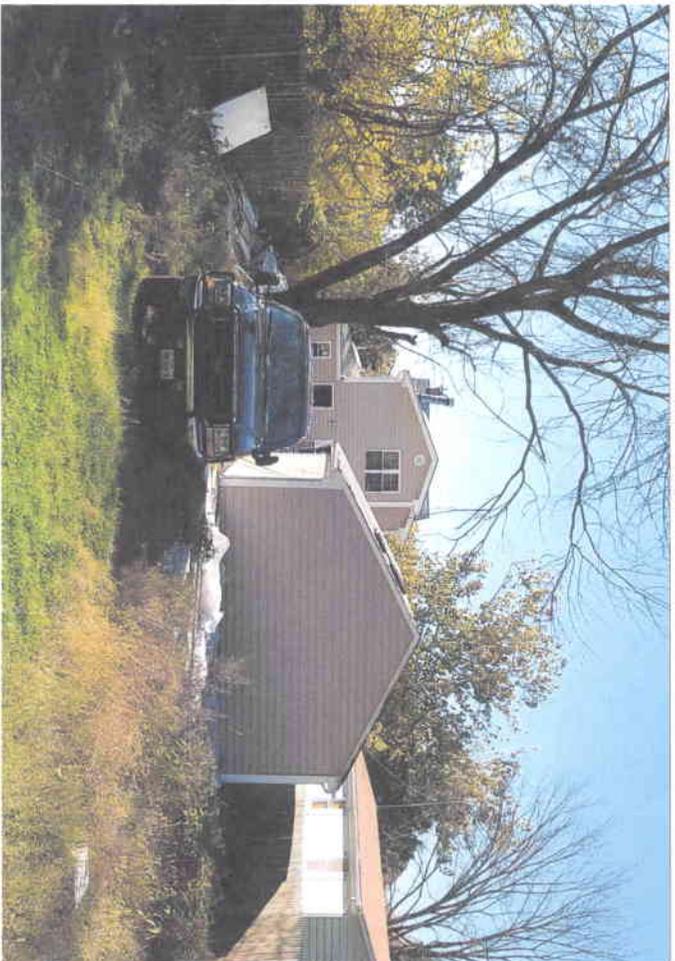
SOUTH



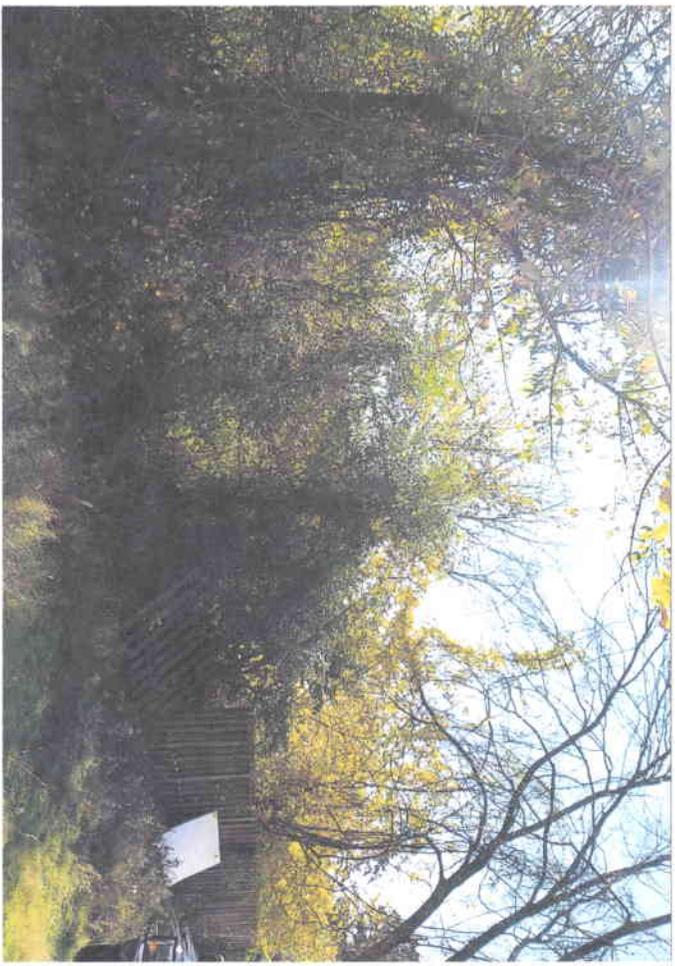
NORTH

9-29-14

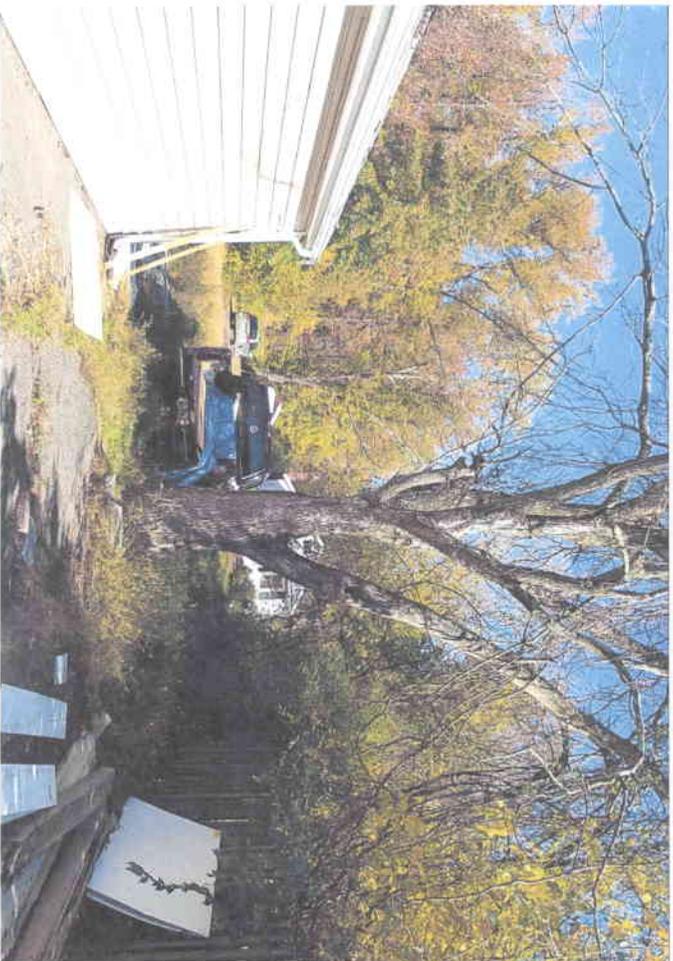
The property (land & ~~unimproved~~ house) from back



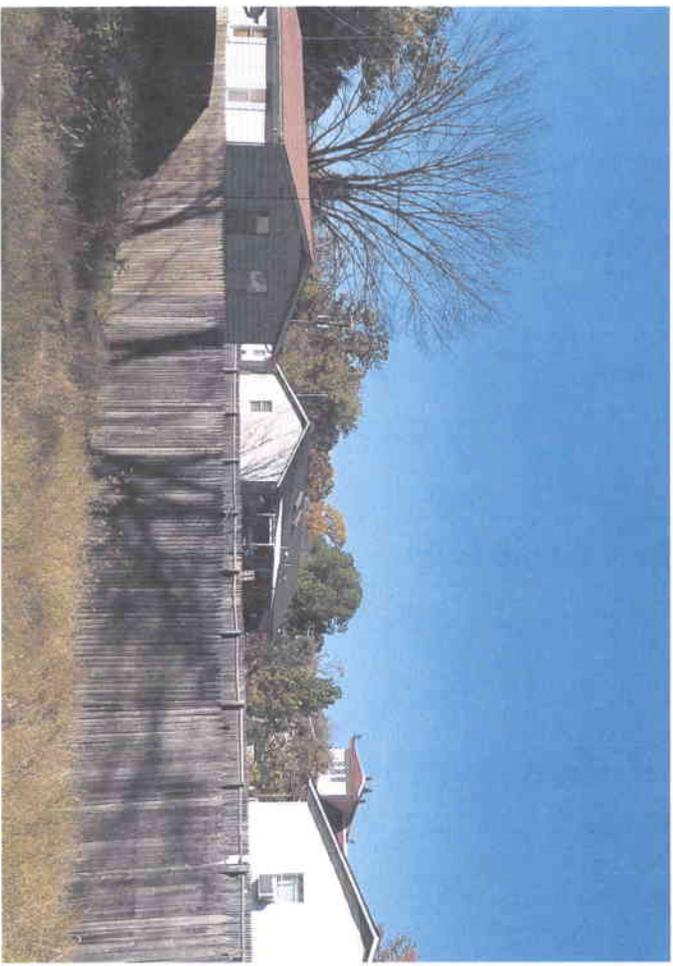
Leftside of the property



Back yard viewed at the shed



Right side of the property



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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11-17-14
(enter date affidavit is notarized)

I, NIGHIA TRAN, 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:

127115

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)
NIGHIA TRAN	9121 BACKLICK RD FORT BELVOIR, VA 22060	OWNER - APPLICANT

(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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 21-17-14
(enter date affidavit is notarized)

127115

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 12-17-14
(enter date affidavit is notarized)

127115

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11-17-14
(enter date affidavit is notarized)

127115

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

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

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

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

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

NONE

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 11-17-14
(enter date affidavit is notarized)

127115

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)

NIGHTIA TRAN
 Applicant Applicant's Authorized Agent

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

Subscribed and sworn to before me this 17th day of November, 2014, in the State/Comm. of Fairfax, County/City of VA.

[Signature]
Notary Public

My commission expires: March 31, 2018



[Signature]

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE BUILDING INSPECTOR
Application for Building Permit
and Certificate of Occupancy

APPLICATION NO. _____
DATE 19 78 PERMIT NO. 29

MAP REFERENCE			
Plot Number	Subd. Des.	Blk. or Sec.	Parcel or lot
1091	1		29

To: BUILD ALTER OR REPAIR ADD TO DEMOLISH MOVE

JOB LOCATION
Street 9121- BACKLICK Road
Lot No. _____
Block _____ Section _____
Subdivision Rudolph in Fairfax County

OWNER
Corp. Name VERNON C. PAYNE
Name (Reg. Agent) _____
Address 9121- BACKLICK Road.
City FT- BELVOIR VA. 780-8971
Telephone Number _____

ARCHITECT ENGINEER
Name _____
Address _____
City _____
State Reg. No. _____

CONTRACTOR
Name VERNON C. PAYNE
Address 9121- BACKLICK Road.
City FT- BELVOIR VA
County Reg. # _____ State Reg. # _____

DESCRIPTION
3 (bathrooms)
For: ADDITION & ROOFING

No. of Bldgs. _____ Est. Const. Cost \$ 4000.00
No. of Units _____ No. of Stories _____
No. of Kitchens _____ Penthouse _____
No. of Baths _____ Ht. of Bldg. _____ ft.
No. of Rooms _____ Bldg. Area _____ sq. ft.
(Exclude Kit. & Bath)
Basement Slab Crawl Soil: Solid Fill

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

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

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

Remarks: _____

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

780-8971 6/13/78 Vernon C. Payne
Phone No. Date Signature of Owner or Auth. Agent

APPLICANT: DO NOT WRITE BELOW THIS LINE

PLAN APPROVAL
Use Group of Building R-3 Area of Bldg. _____ @ _____ per Sq. Ft. \$ _____
Type of Construction F-B @ _____ \$ _____
Fire District _____ @ _____ \$ _____
Date Checked 6/13, 1978 By [Signature] TOTAL FEE \$ 16.50
Approved by Building Inspector [Signature]

ROUTING	OFFICE				OFFICE			
	OFFICE	FLOOR	DATE	APPROVED BY	OFFICE	FLOOR	DATE	APPROVED BY
	Land Office	4th	6-13-78	[Signature]	Fire Marshall	B Level		
	Zoning Administrator	8th	6-13-78	[Signature]	Design Review	7th	6-13-78	[Signature]
	Sanitation	8th	6-15-78	[Signature]	Housing & License	6th		
	Health Dept.	Annex						

CERTIFICATION
I hereby certify to the following statement:
1. All materials used for work performed under this permit will be paid directly to the supplier by the property owner.
2. All compensation will be on an hourly basis and paid by the property owner directly to the person(s) performing work under this permit.
Date _____ 19 _____ By _____
Property Owner Authorized Agent

Supervisor of Assessments
Property is listed in name of Vernon C. Payne
Magisterial District Free Deed Book Reference 3178-20
Supervisor: [Signature]

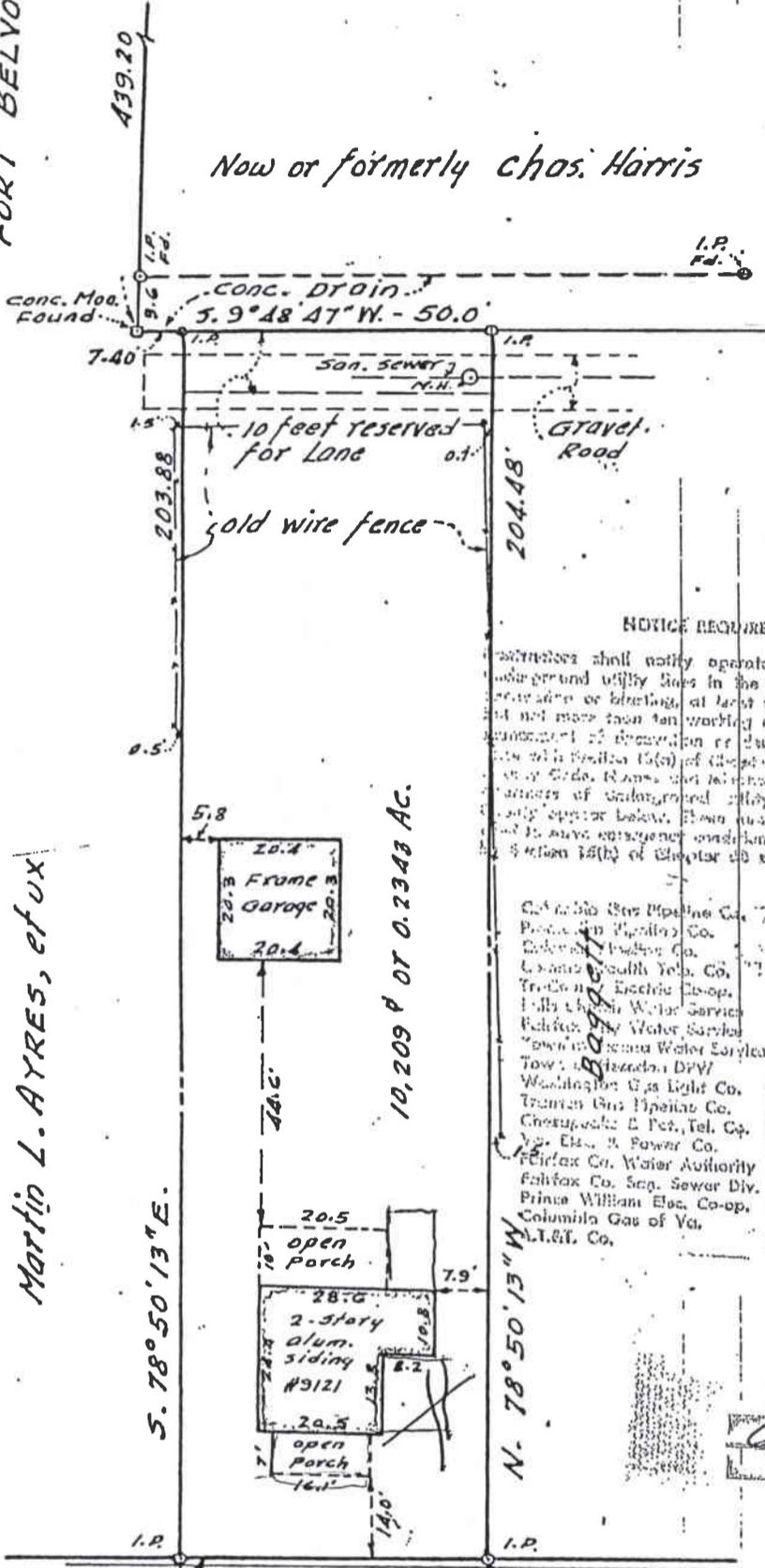
ZONING
Subdivision [Signature] Lot No. _____ Block _____ Section _____ Zone R12.5
Street Address 9121 Backlick Road
Use of Bldg. 3 bed + bathroom Use after Alteration Pat. Attached No. Families one
BZA _____ SITE PLAN [Signature]
Set Back: Front N/A Rt. Side [Signature] Left Side N/A Rear 25'
Zoning Administrator [Signature]

FORT BELVOIR

Now or formerly chas. Harris



Certified correct: J.D. Payne
Certified Lead Surveyor



see plat

NOTICE REQUIRED

Contractors shall notify operators who maintain underground utility lines in the area of proposed excavation or blasting, at least two working days, and not more than ten working days prior to commencement of excavation or blasting in accordance with Section 15(b) of Chapter 63 of the Code of Virginia. Plans and electronic numbers of all existing underground utility lines to be excavated shall appear below. These numbers may also be obtained in any emergency condition as required by Section 15(b) of Chapter 63 of the Code.

- Commonwealth Gas Pipeline Co. 759-2115
- Frederick Pipe Line Co. 760-5250
- Eastern Piedmont Co. 270-5625
- Lee County Health Dept. (800)767-3111
- Lee County Electric Co-op. (800)777-2441
- Fairfax County Water Service (703)493-8200
- Fairfax County Water Service 274-7900
- Town of Leesylvania Water Supply 557-1000
- Washington Gas Light Co. 557-1000
- Truman Gas Pipeline Co.
- Chesapeake & Pot. Tel. Co.
- Va. Elec. & Power Co.
- Fairfax Co. Water Authority (703)559-0100
- Fairfax Co. San. Sewer Div.
- Prince William Elec. Co-op.
- Columbia Gas of Va. L&L Co.

PLAT OF SURVEY property of

RUDOLPH SIMON, ET UX
Lee Magisterial District
Fairfax County, Virginia

Aug. 9, 1965

Payne Associates
Certified Land Surveyors
Arlington, Virginia

Scale 1" = 30'

APPROVED
DIVISION OF DESIGN REVIEW

DATE 6-13-78
DIV. DIRECTOR OR HIS AGENT

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

JUN 13 1978

Zoning Administrator

Required by Commonwealth of Va. 8, 439, 19, 354

BACKLICK ROAD (STATE ROUTE #611)

adj. to ± U.S. Rte. #1



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

August 27, 2012

Certified Mail

Return Receipt # 7010 1870 0002 4539 9857

DEUTSCHE BANK NATIONAL TRUST COMPANY TR,
C/O HOMEWARD RESIDENTIAL INC.
4875 BELFORT RD 130
JACKSONVILLE FL 32256

Re: 9121 Backlick Road
Legal Desc: Accotink
Tax Map Ref: 109-1 ((1)) 0029
Zoning Dist.: R-3
Lot Area: 10, 206 Sq. Ft.
Magisterial District: Mt Vernon District
Case Number: 200907601

Dear Responsible Party:

An investigation of the use of and condition of the above-referenced property was concluded on April 26, 2012, and revealed that there are numerous violations of the Fairfax County Zoning Ordinance existing at 9121 Backlick Road.

Based on a January 24, 2012 and August 1, 2012, inspection and separate interviews of the majority of the tenants of this property, it was established that more than five (5) unrelated individuals reside in and pay monies for their accommodation in the single family dwelling (principle structure) and the five (5) other structures located at 9121 Backlick Road.

In addition, this inspection confirmed that more than one dwelling unit existed on-site and that evidence collected during this inspection verified that tenants were both sleeping and or living in three (3) of the five accessory structures located in the rear yard.

A dwelling unit and rooming house are each defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance. These definitions specify respectively that:

Dwelling Unit

One (1) or more rooms in a residential building or residential

Department of Planning and Zoning
Zoning Administration Division
Zoning Inspections Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-4300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/



August 27, 2012

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portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2 502.

And

Rooming House

Any building or portion thereof containing sleeping accommodations for five (5) to twelve (12) persons wherein normally a charge is paid for such accommodations. The term 'rooming house' shall be deemed to include the term 'boarding house', but not motel or other accommodations used for transient occupancy.

Only one (1) dwelling unit is allowed on a lot. This provision is detailed in Sect. 2-510 of the Fairfax County Zoning Ordinance and requires in part that:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

A rooming house is a use not permitted by right or special exception in the R-3 District. Rather, a rooming house is a use permitted in the R-3 District with the approval by the Board of Zoning Appeals (BZA) of a Group 7 Special Permit subject to standards detailed in Sect. 8-703 and Sect. 8-706 of the Zoning Ordinance. A review of records maintained by the Department of Planning and Zoning confirmed that no application has been submitted to or approved by the BZA granting approval of a Special Permit for the rooming house use in the principal structure or other structures existing at 9121 Backlick Road.

One of several standards for a rooming house to be lawfully established is a requirement detailed in Par. 1 of Sect. 8-706 that specifies that:

Rooming houses shall be located on lots which have direct access to a major thoroughfare or a service drive parallel to same, or shall be located on lots within a Community Business Center (CBC) as delineated on the adopted comprehensive plan.

Even though the single family dwelling unit at 9121 Backlick Road existed prior to January 1, 1949, this property has no direct access onto a major thoroughfare or service drive parallel to the same, and, is not located in a Community Business Center (CBC) as required above in Sect. 8-706.

For clarification purposes, the majority of Backlick Road, in Fairfax County, is classified as a major thoroughfare as is detailed in Appendices 8 of the Zoning Ordinance. Backlick

August 27, 2012

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Road, as a major thoroughfare, extends from its intersection with Little River Turnpike (Rte. 236) to its intersection with the Fairfax County Parkway (Rte. 7100). The remainder of Backlick Road, from its intersection with the Fairfax County Parkway south to Richmond Hwy (Rte. 1), a distance of approximately 2,750 feet+/- is a segment of Backlick Road that is not classified as a major thoroughfare.

As a result of the location of this property and other required factors, this property can-not meet all of the Special Permit standards set forth in Sect. 8-703 and Sect. 8-706 of the Zoning Ordinance. Consequently, no Special Permit application can be accepted for a rooming house use on this property.

Therefore, the establishment, operation and maintenance of more than one dwelling unit and a rooming house, as defined above, at 9121 Backlick Road are violations respectively of Sect. 2-501 and Paragraphs 4 and 5 of Sect. 2-302 of the Zoning Ordinance which require respectively that:

No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.

And

No use shall be allowed in any district which is not permitted by the regulations for the district.

Additionally, the occupancy of a dwelling unit is further limited by the Occupancy Limitations specified in Sect. 2-502 of the Zoning Ordinance. Paragraphs 1 and 3 of Sect. 2-502 of the Zoning Ordinance specify respectively:

A dwelling unit, except an accessory dwelling unit which shall be subject to the provisions of Part 9 of Article 8, may be occupied by not more than one (1) of the following:

One (1) family, which may consist of one (1) person or two (2) or more persons related by blood or marriage with any number of natural children, foster children, step children or adopted children and with not to exceed two (2) roomers or boarders as permitted by Article 10:

or

A group of not more than four (4) persons not necessarily related by blood or marriage functioning as a single housekeeping unit.

The current number of tenants and or occupants of the principal structure and or the other structures on-site by more than five (5) unrelated individuals does not satisfy either

August 27, 2012

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occupancy limitation detailed above. The occupancy of the principal structure and or the other structures on-site by more than five (5) unrelated individuals are separate violations of these specified provisions.

A single family dwelling unit is the principle use of this property. A review of the records maintained by the Departments of Public Works and Environmental Services (DPWES) and Planning and Zoning (DPZ) has confirmed that no approved building permit applications have been endorsed by the Fairfax County Zoning Administrator, as required per Sect. 18-601 of the Zoning Ordinance, to construct the five (5) other structures located in the rear yard at 9121 Backlick Road. The Zoning Ordinance, per Sect. 18-601, specifies before construction commences that:

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit application has been approved by the Zoning Administrator.

A summary of the sizes of each structure and the; area, height, existing distance from the property line, and required distance from the property lines for each accessory structure is detailed in the enclosure. All of these other structures are problematic.

One of these structures, a detached garage and addition, has existed on-site and has been taxed by the Fairfax County Department of Tax Administration (DTA) for a period greater than 15 years. As such, this structure is vested in accordance with §15.22-2307. This structure may remain where positioned. However, this structure cannot be modified into and or used as a single family dwelling unit or for any other purpose that would not conform to the limitations in the Zoning Ordinance.

The phrase accessory use is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance which states:

Accessory uses as permitted by this Ordinance are subject to the provisions of Part 1 of Article 10. An accessory use is a use or building which:

1. Is clearly subordinate to, customarily found in association with, and serves a principal use; and
2. Is subordinate in purpose, area or extent to the principal use served; and
3. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and

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4. Is located on the same lot as the principal use, except any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.

The lot size of the subject property is 10,206 square feet in area. The footprint of the single family dwelling onsite covers approximately 1,064 square feet in area which is approximately 9.6% of the area of the lot. The footprint of the other structures located in the rear yard of this property cover an aggregate area of approximately 1,988 square feet or 19.5% of the area of the lot. Clearly, by area alone, the 4 other structures in the rear yard are not subordinate to or customarily found in association with the principle use of this property.

The use of three (3) of these structures for habitation by tenants of 9121 Backlick Road is not subordinate in purpose, area or extent to the principal use served. Nor does the use of these structures for habitation purposes contribute to the occupants of the principle use served.

As such, {with the exception of the detached garage} these other four (4) structures located in the rear yard are not considered accessory uses or structures on this property and their existence on-site is also a violation of the aforementioned Paragraphs 4 and 5 of Sect. 2-302.

The Zoning Ordinance does contain other requirements and or limitations for the construction, height, location, area, use, etc. of accessory structures. Accessory structures that are allowed in this District are subject to the Bulk Regulation requirements as is outlined out in Par. 2A(1)(b) of Sect. 3-307 and other location regulations detailed in Paragraphs 10 and 12 of Sect. 10-104 of the Zoning Ordinance. This provision requires a 12 foot minimum required side yard or the distance between structures from the side property line.

None of the structures located in the rear yard of this property has been positioned correctly or satisfies the 12 foot minimum side yard requirement.

The Bulk Regulations provisions in the Zoning Ordinance also specify per Par. 1 of Sect. 2-307 of the Ordinance that structures built or moved on a lot that do not meet the minimum bulk regulations presented for the zoning district shall not be used or occupied or arranged for use. Par. 1 of Sect. 2-307 requires that;

Except as may be qualified by the provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which such structure is located.

Lastly, there are also limitations detailed in Par. 24 of Sect. 10-102 of the Zoning Ordinance

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that affect the amount, location and screening requirements pertaining to outdoor storage on this property.

Outdoor storage of materials was observed in the front, side and rear yards of this property. This outdoor storage includes but is not limited to; various lengths and sizes of dimensional lumber, automobile parts (both mechanical and body), lattice, fence sections, pieces of carpet, mattresses, upholstered furniture, downspouts, ladders, window screens, various yard and garden tools, various lengths of plywood, storage boxes, cardboard boxes, plastic containers, washing machine, scrap plywood and scrap lumber, LP gas canisters, kerosene heaters, coolers, computer monitor, etc.

Outdoor storage is an approved accessory use on this property subject to the aforementioned limitations of Par. 24 of Sect. 10-102 and Par. 6 of Sect. 2-302.

The outdoor storage observed on this lot is not all located in the rear half of the lot, covers an area greater than 100 square feet and is not screened from the view from first story windows of neighboring dwellings. The location, amount and lack of screening of this outdoor storage does not satisfy the limitations detailed in Par. 24 of Sect. 10-102 and Par. 6 of Sect. 2-302 which specify respectively that:

Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet. In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.

And

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

As the owner of this property, you are in violation of all of the aforementioned Fairfax County Zoning Ordinance provisions.

You are directed to remedy the aforementioned violations within ten (10) days receipt of this Notice. Compliance can be achieved by:

Occupancy Limitations

- Ceasing, on a permanent basis, to occupy or allow the occupancy of the single family dwelling by more individuals than allowed by Sect. 2-502.

You are directed to remedy the other violations within thirty (30) days of receipt of this Notice. Compliance can be achieved by:

Rooming House

- For the violation of establishing, operating and maintaining a rooming house at this property in violation of both Paragraphs 4 and 5 of Sect. 2-302 of the Zoning Ordinance, compliance may be achieved as follows:
 - Ceasing, on a permanent basis, in the establishment, operation and maintenance of a rooming house at this property, by occupying this house in strict conformance with the occupancy limitations detailed in Sect. 2-502, and
 - Ceasing, on a permanent basis, to occupy or allow the occupancy of any other structures located on this property,
 - Removing all keyed interior locking door knobs or other locking equipment and devices and to allow unfettered access of to the single family dwelling.

Multiple Dwelling Units

- For the violation of the separate complete and independent dwelling unit existing in the Single family dwelling and the detached garage with addition at this property in violation of Sect. 2-501 and Sect. 18-601 of the Zoning Ordinance, compliance may be achieved as follows:
 - Submitting and obtaining approval from the Department of Public Works and Environmental Services (DPWES) of a Demolition (Building) Permit to completely and permanently remove the kitchen located in the detached garage on this property, and
 - Removing, on a permanent basis, the second kitchen in its entirety from the detached garage. This includes the removal of; upper and base cabinets, kitchen sink, all cooking, refrigeration and any other kitchen oriented appliances from the garage kitchen. Also cap or terminate, as deemed appropriate and approved by the Building Official, all utilities including; gas, electric, water supply and sewer lines that service the kitchen located in the garage; and
 - Relocating all of the components, materials, equipment from the garage kitchen to an off -site lawful disposal/storage site.
 - Ceasing, on a permanent basis, in the maintenance of a separate and complete independent dwelling unit in the detached garage on this property.

August 27, 2012

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Vested Accessory Structure

- For the violation of Sect. 18-601 for the construction of a vested structure (detached garage and addition) in the rear yard of this property without the Zoning Administrator's endorsement of a Building Permit application,
 - Submitting and obtaining approval of a Building Permit application in accordance with the Virginia Maintenance Code (following the permanent removal of the kitchen and a follow up inspection) for the construction of the detached garage and addition.

Four (4) other structures located in the rear yard that are not deemed to be accessory uses or structures and in violation of Paragraphs 4 and 5 of Sect. 2-302 of the Ordinance:

- Remove from this lot or demolish the four (4) other structures located in the rear yard, and
 - Removing all related demolition debris to a lawful disposal site.

Outdoor Storage

- For the violation of Par. 24 of Sect. 10-102 and Par. 6 of Sect. 2-302 for outdoor storage in the front side and rear yards
 - Remove, on a permanent basis, all outdoor storage from the front and side yards of this property, and
 - Reduce outdoor storage to a maximum of 100 square feet in area and maintain outdoor storage only in the rear half of the property, and
 - Screen the remaining outdoor storage from the first floor windows of neighboring dwellings.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party, and any other information you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it is scheduled

DEUTSCHE BANK NATIONAL TRUST COMPANY TR,
C/O HOMEWARD RESIDENTIAL INC.

August 27, 2012

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for public hearing and decision before the BZA.

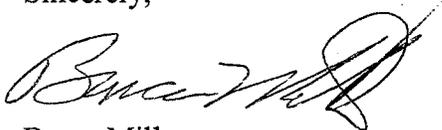
Failure to respond to and comply with this Notice and or to authorize both interior and exterior inspections to verify compliance will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Contact me directly at 703-324-1391 to schedule a zoning inspection or to discuss these issues. If I am unavailable, you are welcome to leave a message as this phone is equipped with voice mail. Please remember to provide a contact telephone number.

Building, Trade and Zoning Permits. This Notice of Violation (NOV) may require a building, trade, or zoning permit to correct code violations. When applying for a permit, a copy of this Notice of Violation must accompany the building, trade, or zoning permit applications for the application to be considered. For information about building, trade, and small appliance permits call the DPWES Customer Technical Support Center at 702-222-0801. For information about zoning permits call the Zoning Permits Review Branch at 703-222-1082.

Because of the nature and the complexity of these separate violations, the most effective way to coordinate a meeting or to discuss these issues, if needed, (rather than visiting the County offices) is to contact me using the telephone number listed above and scheduling a meeting. Otherwise, if this office is visited without an appointment, it is likely that I will be in the field conducting other inspections and unable to assist you.

Sincerely,



Bruce Miller
Zoning /Property Maintenance Inspector

BM/ss

Enclosure: A/S



County of Fairfax, Virginia

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

April 2, 2014

Email: pbingham@absolutepropertysolutionsllc.com

Absolute Property Solutions LLC
c/o Paulette V. Bingham
15480 Annapolis Road
Suite 141
Bowie, Maryland 20715

Address: 9121 Backlick Road
Legal Desc: Accotink
Tax Map Ref: 109-1 ((1)) 29
Zoning Dist.: R-3
Lot Area: 10,206 Sq. Ft.
Mag. District: Mount Vernon District
Case Number: 200907601
SR#: 56690
Circuit Court Case #: CL 2013-0003836

Dear Ms. Bingham:

My investigation of Case #200907601 that was the subject of Fairfax County, Virginia, Circuit Court Case # CL-003836 (enclosed) is complete. Based on the results of my investigation, this complaint is being closed for the following reasons:

- Building Permit #140300215 was issued on February 28, 2014 for work described as follows: remove, demo gazebo, demo 2 sheds, demo 1/2 garage to original state per case 200907601.
- The Final inspection by the Department of Public Works and Environmental Services for the demolition and restoration was approved on March 24, 2014.
- A zoning inspection of the Property on April 2, 2014 revealed that the corrective actions specified in the CL-003836 have been achieved including those set forth in Paragraph 8, 9, 16 and 17, which required the property owner to remove all accessory structures from the property, and obtain an approved building permit for the detached garage addition (Paragraphs 14 and 15) or remove the garage

N/Miller/WP/DOCS/Letters/9121 BACKLICK ROAD CASE DISPOSITION REV

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

Department of Planning and Zoning
Zoning Administration Division
Zoning Inspections Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-4300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/



Absolute Property Solutions LLC
c/o Paulette V. Bingham
April 2, 2014
Page 2

addition to bring the property into compliance with Paragraphs 4 and 5 of Sect. 2-302 and Sect. 18-601 of the Fairfax County Zoning Ordinance within thirty (30) days of entry of the order.

- Please note that the corrective action was not completed within the thirty (30) days of the entry of the order but was completed as of April 2, 2014.

Should you have any questions, I can be reached at (703) 324-1391 between 8:30 a.m. and 5:00 p.m. weekdays.

Respectfully,



Bruce Miller
Zoning/Property Maintenance Inspector

BM/bm

Enclosure(s): a/s

cc: DEUTSCHE BANK NATIONAL TRUST COMPANY TR,
C/O HOMEWARD RESIDENTIAL INC.
4875 BELFORT RD 130
JACKSONVILLE FL 32256

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

LESLIE B. JOHNSON, FAIRFAX COUNTY :
ZONING ADMINISTRATOR, :

Plaintiff, :

v. :

CASE NO.: CL-2013-0003836

DEUTSCHE BANK NATIONAL TRUST :
COMPANY, AS TRUSTEE FOR :
HARBORVIEW MORTGAGE LOAN TRUST, :
MORTGAGE LOAN PASS-THROUGH :
CERTIFICATES, SERIES 2007-5, :

Defendant. :

DEFAULT JUDGMENT

THIS CAUSE came on to be heard upon the Motion for Entry of Default Judgment filed by Plaintiff Leslie B. Johnson, Fairfax County Zoning Administrator ("Zoning Administrator"), against Defendant Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust, Mortgage Loan Pass-Through Certificates, Series 2007-5 ("Defendant"); and

IT APPEARING TO THE COURT that the Zoning Administrator filed a Complaint for Declaratory Judgment and Injunctive Relief ("Complaint") in this case on February 22, 2013, 2012, alleging that the Defendant used the property located at 9121 Backlick Road, Fort Belvoir, Virginia 22060 (Tax Map No. 109-1((1)) parcel 29) ("subject property") (i) to maintain more than one dwelling unit on the subject property in violation of Fairfax County Zoning Ordinance ("Zoning Ordinance") § 2-501; (ii) to establish a Rooming House on the subject property in violation of Zoning Ordinance § 2-302(4) and (5); (iii) to construct the garage addition on the subject property without a Building Permit in violation of Zoning Ordinance § 18-601, (iv) to maintain accessory structures in the rear yard with a combined gross floor area that exceeds the

cc to Coddling
6/25/13

gross floor area of the existing principal building and are not subordinate to the principal building in violation of Zoning Ordinance § 2-302(4) and (5), and (v) to maintain excessive outdoor storage on the subject property that is not located on the rear half of the subject property, not screened from the view from the first story window of any neighboring dwelling, and not located in an area occupying 100 square feet or less in violation of Zoning Ordinance § 2-302(6) and 10-102(24).

IT FURTHER APPEARING TO THE COURT that the Defendant owns the subject property; and

IT FURTHER APPEARING TO THE COURT that the Complaint was served on the Defendant through the Secretary of the Commonwealth on March 4, 2013, pursuant to Va. Code Ann. § 8.01-329 (Supp. 2012); and

IT FURTHER APPEARING TO THE COURT that Rule 3:19(a) of the Rules of the Supreme Court of Virginia (2013) provides that the Defendant is in default because it has failed to file responsive pleadings in this case and a period in excess of 21 days has elapsed after due service of process upon it; now therefore, it is hereby

ADJUDGED and ORDERED as follows:

1. By failing to file any responsive pleadings in this case, the Defendant is in default, and the Zoning Administrator's Motion for Entry of Default Judgment is granted; and
2. The Defendant's maintaining or allowing more than one dwelling unit on the subject property violates Zoning Ordinance § 2-501; and
3. The Defendant's maintaining or allowing a Rooming House on the subject property violates Zoning Ordinance § 2-302(4) and (5); and
4. The Defendant's ^{Maintaining}~~constructing~~ the garage addition in the rear yard of the subject

MD

property without obtaining Building Permits violates Zoning Ordinance § 18-601; and

5. The Defendant's allowing the combined gross floor area of the accessory structures in the rear yard of the subject property to exceed the gross floor area of the principal building on the subject property violates Zoning Ordinance § 2-302(4) and (5); and

6. The Defendant's allowing outdoor storage on the subject property that occupies more than 100 square feet in area, is not located on the rear half of the subject property, and/or is not screened from the view from the first story window of any neighboring dwelling violates Zoning Ordinance §§ 2-302(6) and 10-102(24); and

7. The Defendant shall, within 30 days after entry of this Default Judgment, permanently reduce the number of dwelling units on the subject property to not more than one dwelling unit in accordance with Zoning Ordinance § 2-501 by removing the excess dwelling units and all utilities, furnishings, and appliances related thereto from the subject property to a lawful site with such removal to include capping and sealing all utilities in the walls and removing all stoves, ovens, microwave ovens, ranges, toaster ovens, cabinets, countertops, refrigerators, freezers, and sinks on a permanent basis and also removing all interior door locks that prevent the free and unfettered access to all common living areas and that prevent the free and unfettered access between the various levels of the dwelling unit on the subject property; and

8. The Defendant shall, within 30 days after entry of this Default Judgment, permanently remove from the subject property to a lawful site the garage addition in the rear yard of the subject property pursuant to any required demolition permit or obtain a Building Permit and all required inspections for such use; and

9. The Defendant shall, within 30 days after the entry of this Default Judgment, permanently remove accessory structures from the subject property until their combined gross

floor areas are less than the gross floor area of the principal building on the subject property; and

10. The Defendant, its agents, employees, tenants, and/or any successors-in-interest are permanently enjoined from establishing or permitting the establishment of more than one dwelling unit on the subject property at any time in the future in violation of Zoning Ordinance § 2-501; and

11. Establishing or permitting the establishment of more than one dwelling unit on the subject property at any time in the future in violation of Zoning Ordinance § 2-501 is permanently enjoined; and

12. The Defendant, its agents, employees, tenants, and/or any successors-in-interest are permanently enjoined from maintaining a Rooming House on the subject property at any time in the future in violation of Zoning Ordinance § 2-302(4) and (5); and

13. Maintaining a Rooming House on the subject property at any time in the future in violation of Zoning Ordinance § 2-302(4) and (5) is permanently enjoined; and

14. The Defendant, its tenants, agents, employees, and/or any successors-in-interest are permanently enjoined from using the subject property and/or allowing the subject property to be used in the future for a garage addition without obtaining a Building Permit for each use as required by Zoning Ordinance § 18-601; and

15. Using the subject property and/or allowing the subject property to be used for a garage addition without obtaining a Building Permit for such use as required by Zoning Ordinance § 18-601 is permanently enjoined; and

16. The Defendants, its tenants, agents, employees, and/or any successors-in-interest are permanently enjoined from allowing the combined gross floor area of the accessory

structures on the subject property to exceed the gross floor area of the principal building on the subject property; and

17. Allowing the combined gross floor area of the accessory structures on the subject property to exceed the gross floor area of the principal building on the subject property is permanently enjoined; and

18. The Defendant, its tenants, agents, employees, and/or any successors-in-interest are permanently enjoined from using the subject property and/or allowing the subject property to be used for outdoor storage in violation of Zoning Ordinance §§ 2-302(6) and 10-102(24); and

19. Using the subject property and/or allowing the subject property to be used in the future for outdoor storage in violation of Zoning Ordinance §§ 2-302(6) and 10-102(24) is permanently enjoined; and

20. The Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times to inspect and photograph the subject property for the purpose of monitoring compliance with the terms of this Default Judgment; and

21. The Clerk of the Fairfax County Circuit Court shall record a copy of this Default Judgment among the land records of Fairfax County, Virginia, pursuant to Va. Code Ann. § 17.1-227 (Supp. 2012), to give notice of the prohibitions and restrictions contained herein to any successors-in-interest to the Defendant and shall index this Default Judgment as follows:

GRANTOR: Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust, Mortgage Loan Pass-Through Certificates, Series 2007-5

GRANTEES: Leslie B. Johnson; Fairfax County Zoning Administrator

AND THIS ORDER IS FINAL.

ENTERED this 28 day of June 2013.



Judge, Fairfax County Circuit Court

WE ASK FOR THIS:

DAVID P. BOBZIEN
COUNTY ATTORNEY

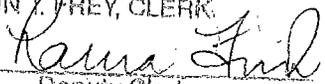


F. Hayden Codding (VSB No. 39785)
Assistant County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064
(703) 324-2421
(703) 324-2665 (fax)
hayden.codding@fairfaxcounty.gov
Counsel for Plaintiff Leslie B. Johnson, Fairfax County Zoning Administrator

SEEN:

Did Not Appear

Deutsche Bank National Trust Company, as Trustee for Harborview Mortgage Loan Trust,
Mortgage Loan Pass-Through Certificates, Series 2007-5
By Counsel

A COPY TESTE:
JOHN T. FREY, CLERK.
BY: 

Deputy Clerk
Date: 6/28/2013
Original retained in the office of
the Clerk of the Circuit Court of
Fairfax County, Virginia



County of Fairfax, Virginia

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

September 11, 2014

Mr. Nighia "Nick" Tran
4508 Tipton Lane
Alexandria, Virginia 22310

RE: Sect. 15.2-2307 of the Code of Virginia Determination
9121 Backlick Road
Accotink (acreage file)
Tax Map Ref.: 109-1 ((1)) 29
Zoning District: R-3

Dear Mr. Tran:

This letter is in response to your request received August 11, 2014 requesting a vested rights determination for a covered front porch. The referenced property consists of 10,206 square feet zoned R-3, and is developed with a single family detached dwelling and various accessory structures. The R-3 District has a minimum front yard requirement of 30 feet, and a covered porch is not permitted to extend into the minimum required front yard.

The date of construction of the dwelling is not noted in the real estate assessment records but a house location plat located in the County's zoning street files dated August 9, 1965 shows the dwelling with a 16 feet wide by 7 feet deep front porch located 14 feet from the front lot line, which does not meet the current minimum front yard requirement of 30 feet. However, it is noted that a portion of the front of the property was acquired by the Commonwealth of Virginia on August 9, 1943, for right-of-way for Backlick Road, thereby reducing the front yard in depth. As such, Sect. 2-417 of the Zoning Ordinance is applicable to the property, which allows for a 20% reduction in a current minimum required yard to be permitted where a yard was reduced in dimension below the minimum requirements. Therefore a minimum required front yard of 24 feet would be permitted for subsequent additions to the dwelling.

Under §15.2-2307 of the *Code of Virginia*, if (a) local government has issued a building permit, the structure was constructed in accordance with the building permit, and a certificate of occupancy was issued, or (b) the owner of the building has paid taxes for the structure for more than 15 years, the structure is not illegal and may remain. In this instance, a building permit was not located for the front porch, but the real estate assessment records for the last 15 years do reflect the front porch. As such, §15.2-2307 would be applicable for the front porch and the front porch would be permitted to may remain. However, the front porch cannot be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located.

Department of Planning and Zoning
Zoning Administration Division

Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505

Phone 703-324-1314 FAX 703-803-6372

www.fairfaxcounty.gov/dpz/

Mr. Nighia "Nick" Tran

September 11, 2014

Page 2

You indicated in your request letter that the front porch was fully removed from the dwelling in order to do foundation waterproofing for the dwelling. The porch was constructed with a concrete slab, which had to be broken up to be removed, and would need to be re-poured to be replaced. Unfortunately, this constitutes a replacement of the porch structure, even though doing so was necessary for maintenance of the dwelling. Therefore, the vested rights status of the front porch has been nullified. Par. 1C of Sect. 2-412 of the Zoning Ordinance allows for uncovered stairs and stoops which are not wider than 10 feet to extend up to 5 feet into any minimum required yard, but the front of the dwelling without the front porch is already located 21 feet from the front lot line, so this would not allow an adequate stoop to be constructed by right. Therefore, construction of a replacement front porch of any size would require approval of a special permit for a reduction in yards from the Board of Zoning Appeals (BZA). Special permit applications require submission of an application, plat, and fees, as well as notification of adjacent property owners and a public hearing before the BZA. Information on the special permit application processes is available from the Zoning Evaluation Division at 703-324-1290.

Although this is not the response you had hoped for, I trust this correspondence adequately responds to your request. If you have any additional questions, please feel free to contact me at 703-324-1314.

Sincerely,



Cathy S. Belgin, AICP

Senior Assistant to the Zoning Administrator

cc: Gerald W. Hyland, Supervisor, Mount Vernon District
Leslie B. Johnson, Zoning Administrator
Andrew Hushour, Deputy Zoning Administrator for Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch
Tim Shirocky, Director, Real Estate Division, DTA

O:\cbelgi\Vested Rights Letter 9121 Backlick.doc



County of Fairfax, Virginia

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

Vested Rights Determination under §15.2-2307 of the Code of Virginia

Property Tax Map Number:	109-1 ((1)) 29
Property Address:	9121 Backlick Road
Requestor's Name:	Nighia (Nick) Tran
Requestors Address: (if different than above)	4508 Tipton Lane, Alexandria, Virginia 22310
Requestor's Phone Number:	703-554-9503 npinvestingllc@gmail.com
Current Zoning:	R-3
Magisterial District:	Mount Vernon
Subdivision Name/Section/Block/Lot No.:	Accotink (acreage file)

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

The property is zoned R-3, and is developed with a single family detached dwelling and various accessory structures. The vested rights request is for a covered front porch. The real estate assessments do not specify the date of construction of the dwelling. The R-3 District has a minimum front yard requirement of 30 feet, and a covered porch is not permitted to extend into the minimum required front yard.

A survey plat was located in the County's zoning street files which shows the front porch in question having dimensions of 7 feet deep and 16 feet wide, and is shown 14 feet from the front lot line, which corresponds to what can be seen via aerial photography and the real estate assessment records, but does not meet the current Zoning Ordinance requirement of a minimum front yard of 30 feet. However, it is also noted that a portion of the front of the property was acquired by the Commonwealth of Virginia for the right-of-way for Backlick Road.

The front porch has been listed in the real estate assessments for the last 15 years.

Background Summary (check all that are applicable):

- A Building Permit was issued for the structure(s).
- A Building Permit was not located for the front porch.
- A Non-Residential Use Permit/Residential Use Permit has been issued or, when a Non-RUP/RUP is not required, evidence that the structure(s) has passed final inspection.

Department of Planning and Zoning
 Zoning Administration Division
 Ordinance Administration Branch
 12055 Government Center Parkway, Suite 807
 Fairfax, Virginia 22035-5505
 Phone 703-324-1314 FAX 703-803-6372
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Department of Tax Administration records indicate that the front porch has been taxed for at least 15 years.



Department of Tax Administration records do not indicate that the structure(s) has been taxed for at least 15 years.

Staff Determination:



§15.2-2307 of the Code of Virginia is applicable for the structure(s) and the structure(s) may remain. The structure(s) may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located.



§15.2-2307 of the Code of Virginia is applicable for the structure(s) and the structure(s) may remain; however, §15.2-2307 is not applicable for the use of the structure. A separate letter explaining the status and use of the structure(s) will be issued.



§15.2-2307 of the Code of Virginia is no longer applicable for the front porch because it has subsequently been removed. A separate letter explaining the status of the structure in question will be issued.

Reviewer's Signature:


Zoning Administration Division
Department of Planning and Zoning

Date:

9/11/14

cc: Tim Shirocky, Director, Real Estate Division, DTA
Leslie B. Johnson, Zoning Administrator
Andrew Hushour, Deputy Zoning Administrator for Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator, for Zoning Permit Review Branch

8-006 General Standards

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

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

8-903 Standards for All Group 9 Uses

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

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

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, or
 - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
 - C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
 - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - F. It will not create an unsafe condition with respect to both other property and public streets, and
 - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.