



**APPLICATION ACCEPTED:** November 21, 2014

**DATE OF PUBLIC HEARING:** February 11, 2015

**TIME:** 9:00 a.m.

# County of Fairfax, Virginia

---

**February 4, 2015**

## **STAFF REPORT**

### **SPECIAL PERMIT SP 2014-MV-250**

#### **MOUNT VERNON DISTRICT**

**APPLICANT:** David Alan Rose

**OWNERS:** David Alan Rose  
Hana Benes Rose

**LOCATION:** 7957 Bolling Dr., Alexandria, 22308

**SUBDIVISION:** Wellington Estates

**TAX MAP:** 102-2 ((12)) 157

**LOT SIZE:** 12,500 square feet

**ZONING:** R-2

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit reduction to minimum yard requirements based on error in building location to permit an accessory storage structure to remain 2.3 feet from side 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.

*Casey V. Gresham*

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

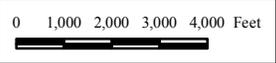
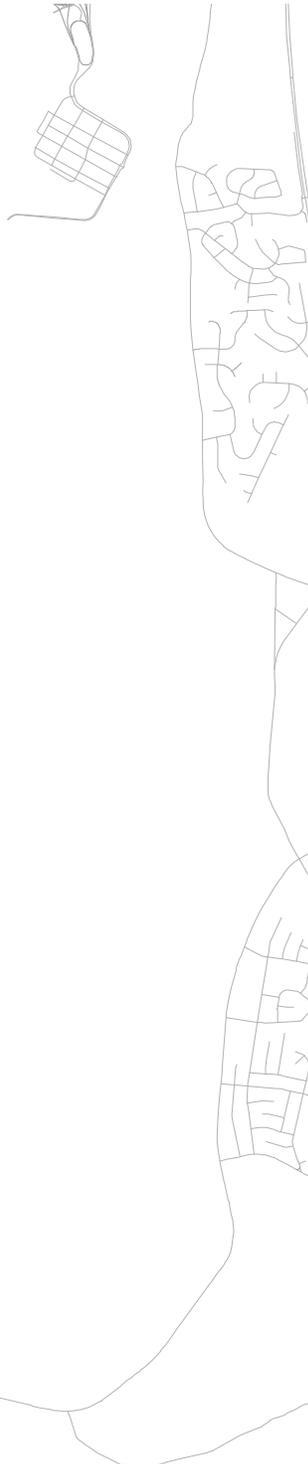
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government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



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

# Special Permit

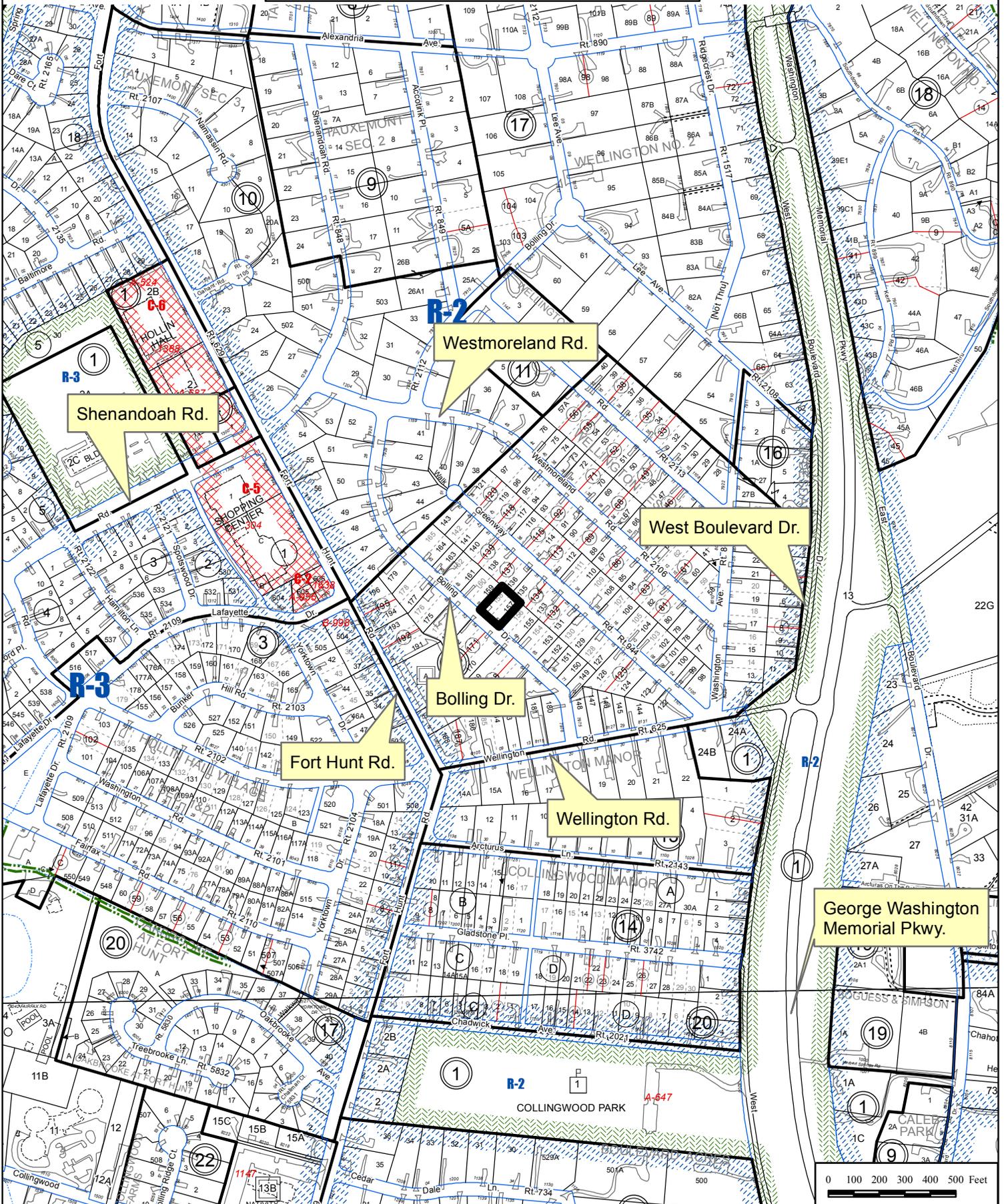
SP 2014-MV-250  
DAVID ALAN ROSE



# Special Permit

SP 2014-MV-250

DAVID ALAN ROSE



NOTES:  
1. TAX MAP #102-2-12-0157

2. PROPERTY SHOWN HEREON IS ZONED:  
R-2 (Residential 2 DU/AC)

3. MINIMUM YARD REQUIREMENTS IN ZONE R-2  
FRONT: 35'  
SIDE: 15'  
REAR: 25'

4. PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.

5. THE RECORD PLAT DOES NOT SHOW ANY UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE EFFECTING THIS PROPERTY.

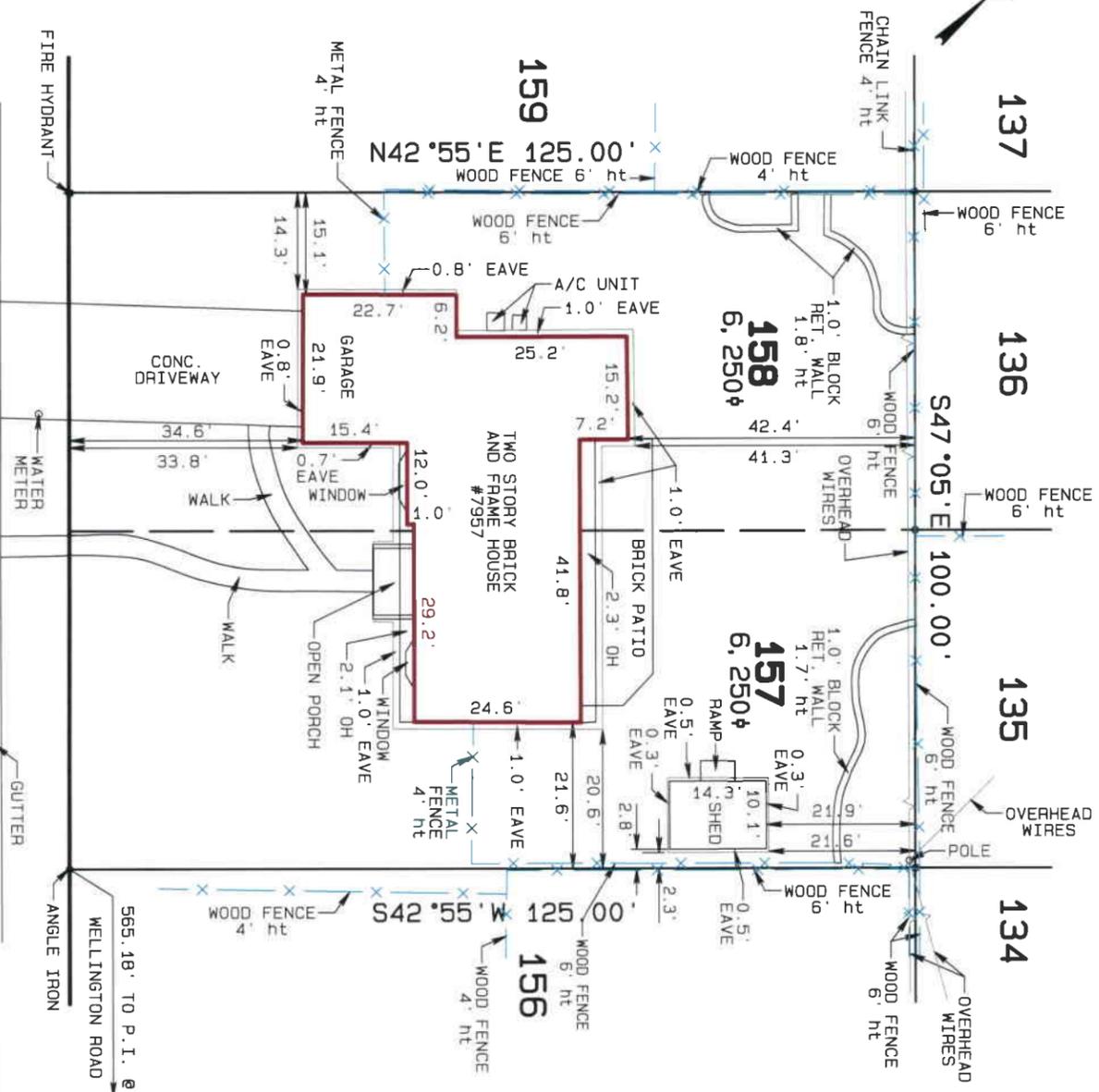
5. THERE ARE NO VISIBLE GRAVE SITES OR CEMETERY PROPERTY WITHIN THE BOUNDARY OF THE SUBJECT PROPERTY.

7. FLOOR AREA:

EXISTING GROSS FLOOR AREA HOUSE	3,288 SQ. FT.
EXISTING GROSS FLOOR AREA GARAGE	506 SQ. FT.
EXISTING GROSS FLOOR AREA PORCH	66 SQ. FT.
<b>TOTAL FLOOR AREA</b>	<b>3,860 SQ. FT.</b>
<b>FLOOR AREA RATIO:</b>	<b>0.30</b>

**HEIGHT TABLE**

HEIGHT OF EXISTING HOUSE:	23.5'
HEIGHT OF EXISTING SHED:	10.2'



NO TITLE REPORT FURNISHED.  
PLAT SUBJECT TO RESTRICTIONS & EASEMENTS OF RECORD OR OTHERWISE.  
FENCE LOCATIONS, IF SHOWN, ARE APPROXIMATE ONLY  
AND DO NOT CERTIFY AS TO OWNERSHIP.

**SCARTZ SURVEYS**

LARRY N. SCARTZ  
CERTIFIED LAND SURVEYOR  
WOODBRIDGE, VIRGINIA

LOCAL (703) 494-4181  
FAX (703) 494-3330  
LARRY.SCARTZ@SCARTZ.COM



**SPECIAL PERMIT PLAT**  
LOTS 157 AND 158  
**WELLINGTON ESTATES**

MOUNT VERNON MAGISTERIAL DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1"=25'  
DATE: AUGUST 11, 2014

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Department of Planning & Zoning  
OCT 02 2014  
Zoning Evaluation Division

**SPECIAL PERMIT REQUEST**

The applicant is seeking a special permit to allow a reduction to minimum yard requirements based on error in building location to permit an accessory storage structure to remain 2.3 feet from a side lot line. The applicant’s 9.5 foot tall shed is utilized for storage. If the shed were 8.5 feet in height, it would be in compliance with all applicable zoning regulations.

	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percentage of Reduction Requested
Special Permit	Shed	Side	15.0 feet	2.3 feet	12.7 feet	85%

A copy of the special permit plat titled “Special Permit Plat, Lots 157 and 158, Wellington Estates,” prepared by Larry N. Scartz, L.S, of Scartz Surveys, dated August 11, 2014, is included in the front of the staff report.

**CHARACTER OF THE SITE AND SURROUNDING AREA**

The 12,500 square foot lot is developed with two story single family detached dwelling. A concrete driveway extends from an attached garage to Bolling Drive, and a walkway provides access to the front entrance of the home. The rear yard contains an existing patio along with a shed 9.5 feet in height. The rear yard is enclosed by a six foot tall wooden fence and a four foot tall metal fence.

The subject property and surrounding properties are zoned R-2 and developed with single family detached dwellings.



Figure 1: House Location  
Source: Fairfax County GIS

**BACKGROUND**

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1947 and purchased by the applicant on April 11, 2007.

A Notice of Violation (NOV) was issued to the applicant on June 9, 2014, for an existing shed exceeding 8.5 feet in height that did not meet applicable zoning setbacks (Appendix 4). Rather than reducing the height of the shed from 9.5 feet to 8.5 feet or relocating the shed, the applicant chose to pursue the special permit remedy.

A copy of information outlining similar special permit and variance requests in the area is attached in Appendix 5.

## **ANALYSIS**

### **Comprehensive Plan Provisions**

**Plan Area:** Area IV, Mount Vernon Planning District  
**Planning Sector:** Wellington Community Planning Sector (MV4)  
**Plan Map:** Residential uses, at 2-3 dwelling units/acre (du/ac)

### **Zoning Ordinance Requirements**

- 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 6. 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
3. Applicant's Affidavit
4. Notice of Violation, dated June 9, 2014

5. Similar Case History
6. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2014-MV-250****February 4, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-MV-250, located at Tax Map 102-2 ((12)) 157, to permit a reduction in minimum yard requirements based on error in building location pursuant to Sect. 8-914 of the Fairfax County Zoning Ordinance, the BZA should condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location of the shed, as shown on the plat prepared titled, "Special Permit Plat, Lots 157 and 158, Wellington Estates," prepared by Larry N. Scartz, L.S, of Scartz Surveys, dated August 11, 2014.

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.

**Accessory Storage Structure Is Existing, Not Proposed (Error In Building Location)****8-914 Item #2 (A-H)**

- A. The error exceeds 10% of the measurement involved:
  - a. Height of shed is 9 1/2 ' or 114"
  - b. Zoning ordinance requirement is 8 1/2' or 102" based on distance to side property line
  - c. 10% error is 10.2"
  - d. 10% error is exceeded by 1.2%
- B. The error of 11.4% is requested to be approved in conjunction with the approval of a special permit.
- C. The noncompliance was done in good faith after consultation with the builder of the property in 2007. The builder advised the accessory storage structure did not require a county building permit and met all necessary county ordinances. This discussion took place with the builder during negotiations to purchase the property.
- D. The height of the accessory storage structure will not impair the purpose and intent of this ordinance.
- E. The height of the accessory storage structure will not be detrimental to the use and enjoyment of other property and public streets; in fact, no one has complained about the structure including the neighbors on the side of the property adjacent to the storage structure.
- F. The accessory storage structure, in its current location and at its current height, does not create an unsafe condition with respect to both other property and public streets.
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner; contractor estimates to lower the roofline of the shed by 12" are approximately \$3,000.00 when the cost of the shed new in 2007 was over \$4,100.00. This is a repair cost that is unaffordable by the homeowners. Because of the limited space on the rear of the property, moving the shed is not an option for the homeowners. Without discretion in the current code, the shed would have to be moved to the middle of the backyard. Due to the narrow depth of the property, this would dramatically affect the resale value of the property.
- H. The approval of a special permit will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations. The accessory storage structure is 10' x 14' (140 sq ft) and would not change in the event the homeowners lowered the pitch in the roof by 12" or relocated the structure to another location on the property.

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Department of Planning & Zoning

NOV 21 2014

Zoning Evaluation Division

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Piedmont Portable Structures, LLC

NOV 21 2014

Invoice

5282 Lee Highway  
Warrenton, VA 20187

Zoning Evaluation Division

Date	Invoice #
11/10/2007	5883

Bill To
Hana Rose 7957 Bolling Dr Alexandria, Va 22308 703-929-3171

Ship To
Same  * BUILD ONSITE

P.O. No.	Terms	Rep
	Due on Delivery	JVD

Description	Qty	Rate	Building Color/Trim Color/Shingle Color	Amount
New England Style Cape Cod, 10 x 14	1	2,780.00	Clay, White, Black	2,780.00T
Onsite Construction	1	1,112.00	Black Shutters, Black Door	1,112.00
Standard Window w/ new England trim	1	100.00		100.00T
GABLE VENTS	2	NA		

<p>Thank you for your business.</p>	Subtotal	\$3,992.00
	Sales Tax (5.0%)	\$144.00
	Total	\$4,136.00
	Payments/Credits	\$-1,700.00
	Balance Due	\$2,436.00

Phone #  
540-349-8788

www.piedmontportablestructures.com

Fax #  
541-341-7388

Additional Info Submitted.

[Print](#) | [Close Window](#)

**Subject:** RE: Storm Drain Findings around Bolling Drive, Alexandria VA  
**From:** "Much, Gary M." <Gary.Much@fairfaxcounty.gov>  
**Date:** Thu, Nov 20, 2014 8:30 am  
**To:** "Hana@czechpoint.us" <Hana@czechpoint.us>  
**Cc:** "Smoot, William A." <William.Smoot@fairfaxcounty.gov>  
**Attach:** SOIL 40\_1.xls  
 SOIL 48.PNG

G MUCH INSPECTED SITE 11/19/14 MET PROPERTY OWNER OF 7957 BOLLING DR. IN RIGHT REAR CORNER OF YARD THERE IS A RAISED FLOWER BED (BLOCK WALL) AND A SHED. BETWEEN THE WALL AND THE SHED THERE IS AN 8 FOOT SPACE. AT THIS LOCATION THEIR BOARD FENCE HAS A 4 INCH GAP FROM THE BOTTOM OF THE FENCE TO THE GROUND. ALSO THERE IS A SUBSURFACE DRAIN LOCATED THERE. GMUCH INSPECTED NEIGHBORS REAR YARD AT 7961 BOLLING DR. MET WITH HOUSE SITTER. THIS REAR YARD HAS 1.5 PERCENT GRADE RIGHT TO LEFT WHICH IS ALMOST FLAT. THEIR BOARD FENCE HAS A GAP AT THE SAME AREA AS 7957 BOLLING DR FENCE. 7961 BOLLING DR WAS BUILT IN 1947 ON A SLAB (NO BASEMENT) WHICH HAS VERY LITTLE FREE BOARD. IT WAS SUGGESTED TO HOUSE SITTER FOR THE PROPERTY OWNER TO LANDSCAPE REAR YARD TO HAVE SURFACE FLOW OUT FRONT TOWARD THE STREET. FURTHER RESEARCH OF SOILS FOUND TO BE POOR FOR DRANAGE (SEE DOCUMENT TAB FOR DETAILS) IN CONCLUSION THE WALL AND THE SHED OF 7957 BOLLING ARE NOT BLOCKING STORM WATER SURFACE FLOW.

**From:** Hana@czechpoint.us [mailto:Hana@czechpoint.us]  
**Sent:** Wednesday, November 19, 2014 4:10 PM  
**To:** Much, Gary M.  
**Subject:** RE: Storm Drain Findings around Bolling Drive, Alexandria VA

Thanks Gary....

----- Original Message -----

**Subject:** RE: Storm Drain Findings around Bolling Drive, Alexandria VA  
**From:** "Much, Gary M." <Gary.Much@fairfaxcounty.gov>  
**Date:** Wed, November 19, 2014 1:33 pm  
**To:** "Hana@czechpoint.us" <Hana@czechpoint.us>

Hana

I got back late to the office I will send you my report tomorrow

Gary M.Much  
 ENG TECH III  
 FFX CO DPWES-SWM  
 703-877-2845

RECEIVED  
 Department of Planning & Zoning  
 NOV 21 2014  
 Zoning Evaluation Division

**From:** [Hana@czechpoint.us](mailto:Hana@czechpoint.us) [mailto:[Hana@czechpoint.us](mailto:Hana@czechpoint.us)]  
**Sent:** Wednesday, November 19, 2014 3:23 PM  
**To:** Much, Gary M.  
**Cc:** David Rose  
**Subject:** Storm Drain Findings around Bolling Drive, Alexandria VA

Hello Sir,

My husband and I would appreciate for the County to share your inspection results associated with the storm drain / water runoff compliant filed by a neighbor in the vicinity of the properties around 7957 Bolling Drive, Alexandria, VA 22308.

Thank you for your support in this matter,

David and Hana Rose  
[hana@czechpoint.us](mailto:hana@czechpoint.us)  
703-929-3171 cell

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Department of Planning & Zoning  
NOV 21 2014  
Zoning Evaluation Division

Justification for Special Permit for an Accessory Storage Structure  
7957 Bolling Drive, Alexandria, Virginia 22308

1. The existing home at 7957 Bolling Drive in Alexandria, Virginia, was remodeled and purchased by David and Hana Rose in 2007. In Nov 2007, a 10' x 14' (140 sq. ft.) shed was placed in the southeast corner of the backyard. Prior to the addition of the shed, the builder advised the homeowners that a county permit was not required for a shed to be on the property. In fact, over 90% of the properties in the neighborhood already had accessory storage structures.
2. Mr. Rose is an active duty military officer and was relocated to other duty stations between 2009 and 2014. During this time, the property was rented and under the care of tenants.
3. Upon Mr. Rose returning to a duty assignment in the Washington, D.C. area, a zoning order violation notice from Fairfax County (Case #201403286, dated 09 Jun 14) was received on 19 Jun 14. The Accessory Storage Structure Violation (10.104.10) indicated the height of the shed exceeded the allowable height by approximately 12" based on the location of the shed in relation to the property line. In order to comply with the existing ordinance, the options were to lower the roofline of the shed by 12" in its current location, relocate the storage structure not closer than 12' from the side lot line or 9 ½' from the rear property line, or remove the structure entirely.
4. Contractor estimates to lower the roofline of the shed are approximately \$3,000.00 when the cost of the shed new in 2007 was over \$4,000.00. This is a repair cost that is unaffordable by the homeowners. Because of the limited space on the rear of the property, moving the shed is not an option for the homeowners. Without discretion in the current code, the shed would have to be in the middle of the backyard due to the narrow depth of the property and this would dramatically affect the resale value of the property.
5. Request a special permit for the structure/shed to remain "as is" at 7957 Bolling Drive for the following reasons:
  - a) No complaints have been received from immediate neighbors or other area residents
  - b) The structure has been on the property for over 7 years without notice
  - c) The shed is an attractive, high quality structure that adds to the value and beauty of the property and neighborhood
  - d) In its current location, lowering the roofline of the shed by 12" will have minimal, if any, effect on the visibility of the structure
  - e) Relocating the structure a few extra feet from the property line will have minimal, if any, effect on the visibility of the structure and in fact makes it more visible from upper floors of neighboring properties (due to existing privacy fencing on property)
  - f) Dozens of outdoor structures in Wellington Estates, Hollin Hall, Collingwood, Waynewood, and Stratford Landing neighborhoods are in violation of the code as currently written
  - g) To the homeowners knowledge no toxic or hazardous substances are disposed of or on site.
  - h) Aside from the structure listed that is the subject of the application the proposed use conforms to the provisions of all applicable ordinances, regulations, standards & conditions.

## Statement that Confirms Ownership

David and Hana Rose own the property located at 7957 Bolling Drive in Alexandria, Virginia, as a primary residence.

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 15 Nov 2014  
 (enter date affidavit is notarized)

127244

I, David Alan Rose, do hereby state that I am an  
 (enter name of applicant or authorized agent)

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

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in <b>BOLD</b> above)
David Alan Rose	7957 Bolling Drive, Alexandria, Virginia 22308	<b>Applicant - Co-Owner</b>
Hana Benes Rose		<b>Applicant - Co-Owner</b>

(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: 15 Nov 2014  
(enter date affidavit is notarized)

127244

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)  
NA

**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)  
NA

(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: 15 Nov 2014  
(enter date affidavit is notarized)

127244

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)  
NA

(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)  
NA

(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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DATE: 15 NOV 2014  
(enter date affidavit is notarized)

127244

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: 15 Nov 2014  
(enter date affidavit is notarized)

127244

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  
David A. Rose, Applicant  
(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 15 day of November, 2014, in the State/Comm. of Virginia, County/City of Fairfax.

Jennifer Maria Hernandez  
Notary Public

My commission expires: 10-31-2017

Date





# County of Fairfax, Virginia

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

## NOTICE OF VIOLATION Fairfax County Zoning Ordinance

**DATE OF ISSUANCE:** June 9, 2014

**METHOD OF SERVICE:** CERTIFIED MAIL # 7014 0510 0001 0393 6620

**LEGAL NOTICE ISSUED TO:** Hana Benes Rose  
David A. Rose

**ADDRESS:** 2439 Ledgewood Dr  
Colorado Springs, Colorado 80921

**LOCATION OF VIOLATION:** 7957 Bolling Dr  
Alexandria, Virginia 22308-1232

**TAX MAP REF:** 1022 12 0157

**ZONING DISTRICT:** R- 2

**CASE #:** 201403286 **SR #:** 105931

**ISSUING INVESTIGATOR:** William Smoot, (703) 324-1458

### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

<b>§ 18-903(1):</b>	Zoning Violation	First Offense	Each Subsequent Offense
	§10.104.10	\$ 200.00	\$ 500.00
	<b>TOTAL:</b>	<b>\$ 200.00</b>	<b>\$ 500.00</b>

Dear Responsible Party:

An inspection of the above referenced property on June 3, 2014 revealed the following violation of the Fairfax County Zoning Ordinance: A storage shed which exceeded 8 ½ feet, The storage shed was approximately 9 1/2/ feet in height, and placed too close to the property line, not meeting the minimum side yard setbacks.

Violation: ACCESSORY STORAGE STRUCTURE

**Department of Code Compliance**  
12055 Government Center Parkway, Suite 1016  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 Fax 703-324-9346  
[www.fairfaxcounty.gov/code](http://www.fairfaxcounty.gov/code)

10.104.10 The following regulations shall apply to the location of freestanding accessory storage structures:

A. For purposes of determining height, the height of an accessory storage structure shall be measured from the highest point of the structure.

B. An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.

C. An accessory storage structure which does not exceed eight and one half (8 ½) feet in height may be located in any part of any side yard or rear yard, except as qualified in Sect. 2 505.

D. An accessory storage structure which exceeds eight and one half (8 ½) feet in height shall not be located in any part of any minimum required side yard.

E. An accessory storage structure which exceeds eight and one half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line or located closer than a distance equal to the minimum required side yard to the side lot line.

F. On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one half (8 ½) feet in height shall not be located:

(1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or

(2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

You are, hereby, directed to clear these violations within thirty (30) days of receipt of this notice. Compliance can be accomplished by:

- Reducing the height of the structure so that it does not exceed eight and one half (8 ½) feet in height; thereby, allowing them to remain in its present location; or
- Relocating the accessory storage structure not closer than twelve (12) feet from any side lot line and nine (9 1/2) feet from the rear property line; or

Hana Benes Rose  
David A. Rose  
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- Removing the accessory storage structure from the property in its entirety.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

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

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

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

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703) 324-1458. For any other questions, contact our main office at (703) 324-1300.

LEGAL NOTICE ISSUED BY:



Signature

William A. Smoot  
Code Compliance Investigator II  
william.smoot@fairfaxcounty.gov







**Group: 98-V-086****VC 98-V-086**

**APPLICANT:** DALEY, SCOTT F. & EILEEN M.C.  
**STATUS:** APPLICATION DENIED  
**STATUS/DECISION DTE:** 10/21/1998  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** PERMIT FENCES GREATER THAN 4.0 FT. IN HEIGHT TO REMAIN IN FRONT YARDS OF A CORNER LOT  
**LOCATION:** 7976 BOLLING DRIVE  
**TAX MAP #5:**  
 1022 12 0180

**Group: 99-V-017****VC 99-V-017**

**APPLICANT:** DALEY, SCOTT F.  
**STATUS:** APPLICATION DENIED  
**STATUS/DECISION DTE:** 05/05/1999  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** PERMIT FENCES GREATER THAN FOUR FEET IN HEIGHT TO REMAIN IN FRONT YARDS OF A CORNER LOT  
**LOCATION:** 7976 BOLLING DRIVE  
**TAX MAP #5:**  
 1022 12 0180

**Group: 99-V-171****VC 99-V-171**

**APPLICANT:** CHONTOS, JOSEPH E.  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 02/09/2000  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** TO PERMIT CONSTRUCTION OF ADDITION 25.0 FT. FROM FRONTLOT LINE AND WALL 7.0 FT. IN HEIGHT IN A FRONT YARD  
**LOCATION:** 7943 BOLLING DRIVE, ALEXANDRIA, VA 22308-1232  
**TAX MAP #5:**  
 1022 12 0164

**Group: 2003-MV-025****VC 2003-MV-025**

**APPLICANT:** BONNIE GREENSPAN  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 04/30/2003  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** TO PERMIT CONSTRUCTION OF ADDITION 25.1 FEET FROM FRONT LOT LINE OF A CORNER LOT  
**LOCATION:** 7922 WASHINGTON AVENUE  
**TAX MAP #5:**

**Group: 2003-MV-081****VC 2003-MV-081**[STAFF REPORT](#)

**APPLICANT:** PAUL F. AND JOHAN H. MORRISON  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 10/01/2003  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** PERMIT CONSTRUCTION OF DWELLING 9.75 FEET, BAY WINDOWS 7.75 FEET AND EAVE 9.25 FEET FROM SIDE LOT LINE  
**LOCATION:** 7945 BOLLING DRIVE  
**TAX MAP #:** 1022 12 0163

[STAFF REPORT ADDENDUM 1](#)**Group: 2007-MV-020****SP 2007-MV-020**[STAFF REPORT](#)

**APPLICANT:** KATHLEEN DOLCE  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 05/15/2007  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT CONSTRUCTION OF ADDITION 11.6 FEET FROM SIDE LOT LINE  
**LOCATION:** 1117 CAMERON ROAD  
**TAX MAP #:** 1022 12 0050

**Group: 2008-MV-025****SP 2008-MV-025**[STAFF REPORT](#)

**APPLICANT:** SANDEE RILEY  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 06/10/2008  
**ZONING DISTRICT:** R-2  
**DESCRIPTION:** TO PERMIT REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURES TO REMAIN 2.1 FT. FROM REAR LOT LINE AND 2.7 FT. FROM SIDE LOT LINE AND ROOFED DECK 12.7 FT. FROM SIDE LOT LINE AND TO PERMIT REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ROOFED DECK 19.4 FT. FROM FRONT LOT LINE AND 9.2 FT. FROM SIDE LOT LINE AND ADDITION 9.2 FT. FROM SIDE LOT LINE  
**LOCATION:** 8002 WEST BOULEVARD DRIVE  
**TAX MAP #:** 1022 12 0003

**Group: 2009-MV-095****SP 2009-MV-095**[STAFF REPORT](#)[LOCATOR MAP](#)

**APPLICANT:** JOSEPH D. LUDOVICI  
**STATUS:** APPLICATION APPROVED  
**STATUS/DECISION DTE:** 12/08/2009  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION 10.3 FEET FROM SIDE LOT LINE  
**LOCATION:** 1143 GREENWAY ROAD  
**TAX MAP #5:**  
1022 12 0141

**Group: 2014-MV-250****SP 2014-MV-250**

**APPLICANT:** DAVID ALAN ROSE  
**STATUS:** ASSIGNED  
**STATUS/DECISION DTE:** 11/25/2014  
**ZONING DISTRICT:** R- 2  
**DESCRIPTION:** REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 2.3 FEET FROM SIDE LOT LINE  
**LOCATION:** 7957 BOLLING DRIVE, ALEXANDRIA, VA 22308  
**TAX MAP #5:**  
1022 12 0157

**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.

**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.