



**APPLICATION ACCEPTED:** December 16, 2014  
**DATE OF PUBLIC HEARING:** March 11, 2015 @ 9:00 a.m.

# County of Fairfax, Virginia

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**March 4, 2015**

## **STAFF REPORT**

### **SPECIAL PERMIT SP 2014-DR-255**

#### **DRANESVILLE DISTRICT**

**APPLICANT:** Donald Brian Zimmer

**OWNERS:** Donald Brian Zimmer  
Gloria G. Zimmer

**LOCATION:** 1432 Laburnum Street, Fairfax, 22101

**SUBDIVISION:** Hoopers Chesterbrook

**TAX MAP:** 31-2 ((9)) 11

**LOT SIZE:** 22,500 square feet

**ZONING:** R-2

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit a reduction to the minimum rear yard requirements based on error in building location to permit accessory structure to remain 2.8 feet from a side lot line and deck to remain 1.4 feet from a rear lot line and 13.3 feet from a side lot line.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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.

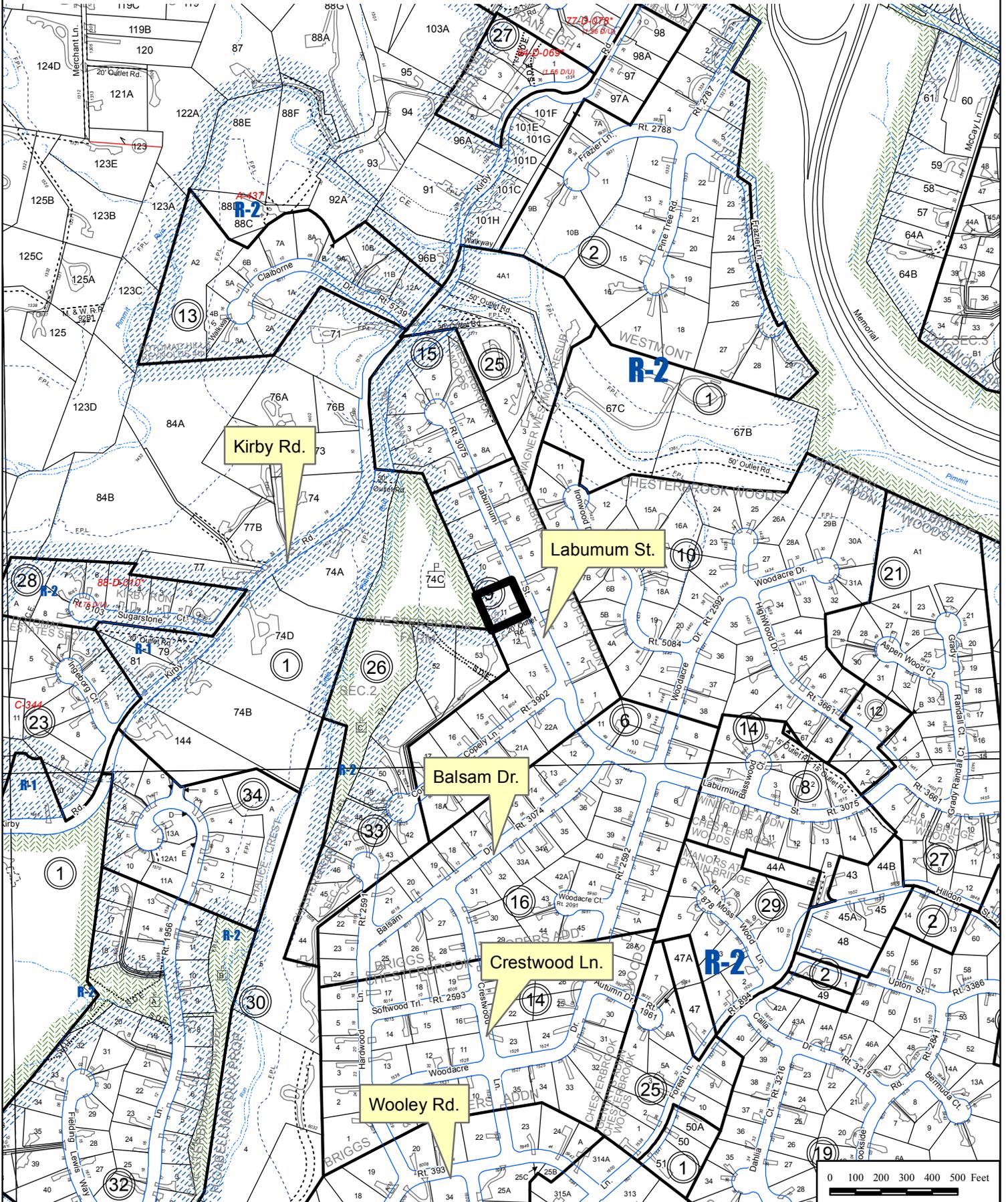
*Erin M. Haley*

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 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.**



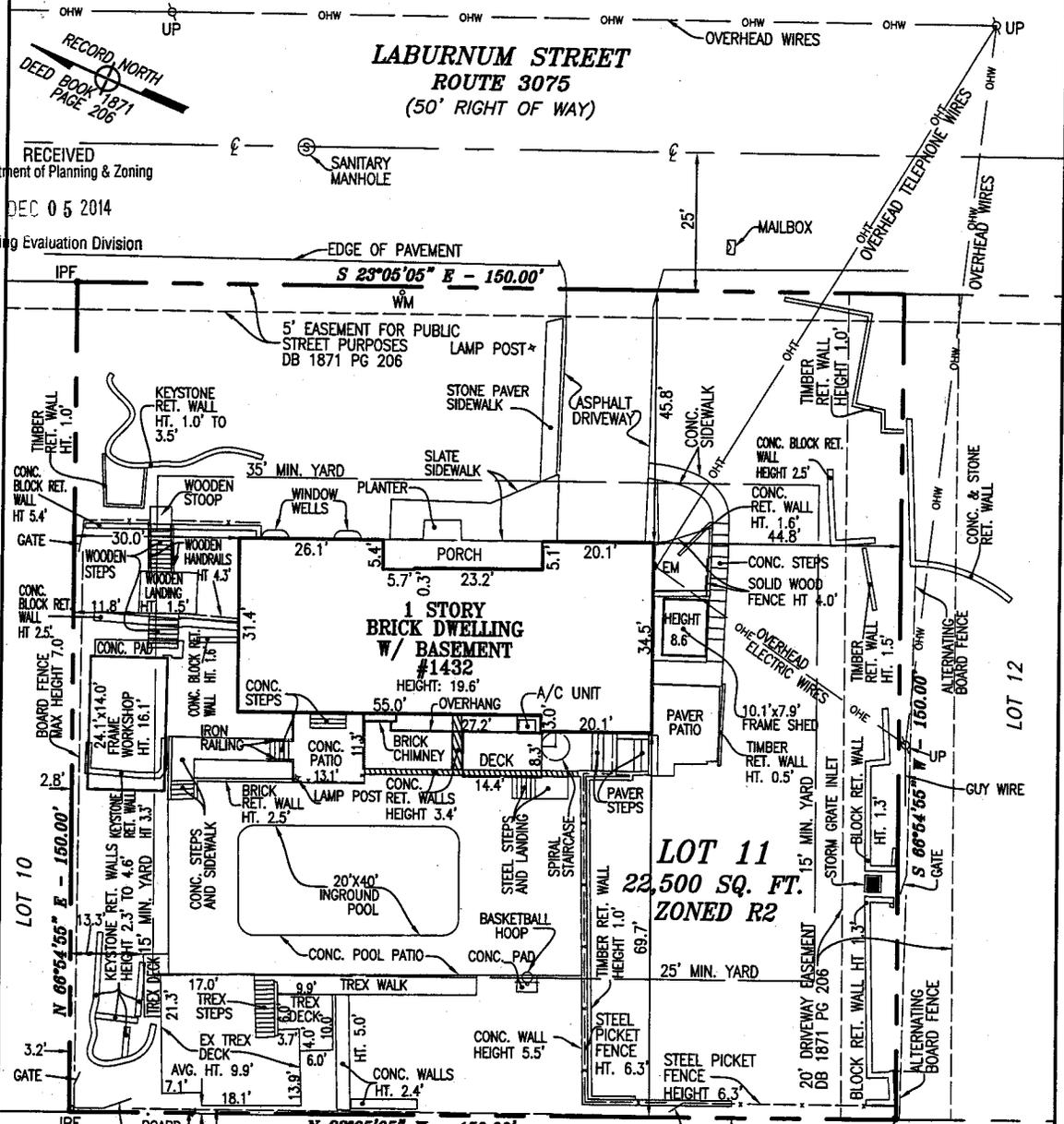
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**Special Permit**  
**SP 2014-DR-255**  
**DONALD BRIAN ZIMMER**



**LABURNUM STREET  
ROUTE 3075  
(50' RIGHT OF WAY)**

RECEIVED  
Department of Planning & Zoning  
DEC 05 2014  
Zoning Evaluation Division

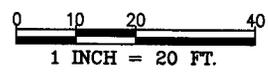
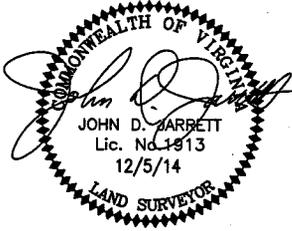


**LOT 11  
22,500 SQ. FT.  
ZONED R2**

- LEGEND**
- IPF - IRON PIPE FOUND
  - CONC. - CONCRETE
  - EM - ELECTRIC METER
  - RET. - RETAINING
  - A/C - AIR CONDITIONING
  - SQ. FT. - SQUARE FEET
  - HT - HEIGHT

- NOTES**
1. PROPERTY ADDRESS:  
1432 LABURNUM STREET  
MCLEAN, VA 22101
  2. THE IMPROVEMENTS SHOWN ON THIS PROPERTY WERE FIELD LOCATED WITH A TOTAL STATION INSTRUMENT AND UNLESS OTHERWISE SHOWN, THERE ARE NO ENCROACHMENTS.
  3. NO TITLE REPORT FURNISHED.
  4. THIS PROPERTY IS SERVICED BY PUBLIC SEWER AND WATER.
  5. THERE ARE NO GRAVES OR BURIAL GROUNDS KNOWN TO BE ON THIS PROPERTY.

- NOTES CONTINUED**
6. NO EASEMENTS OF 25 FEET OR GREATER ARE KNOWN TO EXIST ON THIS PROPERTY.
  7. IMPERVIOUS AREA IN REAR YARD: 26.6% 998 SQ. FT. IMPERVIOUS. 3,750 SQ. FT. IN REQUIRED YARD.



**SPECIAL PERMIT PLAT  
ON LOT 11, SECTION FOUR OF  
HOOPERS ADDITION TO  
CHESTERBROOK WOODS  
DEED BOOK 1871 PAGE 206  
DRANESVILLE DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1" = 20' DATE: MARCH 14, 2014  
REVISED: DECEMBER 5, 2014**

P.O. Box 9051  
McLean, VA 22102  
Phone: 703.893.7544  
Fax: 703.938.7709  
Toll Free: 800.938.7709  
email: Survey@jarrettfamily.com

**S Jarrett**  
Surveys, Inc.  
Surveying Northern Virginia since 1960

## DESCRIPTION OF THE APPLICATION

The applicant requests approval of a special permit to allow a modification of the minimum yard requirements based on an error in building location, to permit an accessory structure to remain 2.8 feet from a side lot line and a deck to remain 1.4 feet from a rear lot line and 13.3 feet from a side lot line. A minimum side yard of 15 feet is required in an R-2 District. Therefore a modification of 12.2 feet from a side yard is requested for the accessory structure. Pursuant to Par. 2B of Sect. 2-412 of the Zoning Ordinance, decks with any part of the floor higher than 4 feet above finished ground level may extend up to 12 feet into the minimum required rear yard, provided they are located no closer than 5 feet to the rear lot line, and must meet the minimum side yard requirements. The subject deck has an average height of 9.9 feet and could therefore be located up to 13 feet from the rear lot line. Therefore, a modification of 1.7 feet from the side lot line and 11.6 feet from the rear lot line is requested for the deck.

A copy of the special permit plat depicting the structures on site titled, "Special Permit Plat, on, Lot 11, Section Four of Hoopers Addition to Chesterbrook Woods," prepared by John D. Jarrett L.S., of Jarrett Surveys, Inc., dated December 5, 2014, is included at the front of the staff report.

A copy of the proposed development conditions, statement of justification with file photographs and the affidavit are in Appendices 1-3, respectively.

## CHARACTER OF THE SITE AND SURROUNDING AREA

The 22,500 square foot lot is developed with a one story, single family detached dwelling. The asphalt driveway provides vehicular access to the property from Laburnum Street. A slate walkway runs from the driveway to the front porch. A concrete walkway runs from the driveway around the south side of the house to a patio that wraps around the rear of the house and connects to a deck and another concrete patio that surrounds an in-ground swimming pool. On the north side of the house, wood steps lead from the front yard to a concrete pad and wood frame workshop, located in a shed-like structure 16.1 feet in height and approximately 356 square feet in size. The workshop is located 2.8 feet from the northern side lot line. In the rear yard, to the west of the pool patio, a wood composite deck 9.9 feet in height is located 1.4 feet from the rear lot line. A second shed 8.6 feet in height is located to the south side of the house. Portions of retaining walls are located at various points around the property. Fences ranging in height from 6 feet to 7 feet in height enclose the portion of the rear yard with the pool. A portion of a 20 foot driveway easement runs across the southern side yard of the property.



The property is located west of the George Washington Memorial Parkway, north of

Chesterbrook Road, and east of Kirby Road near the Arlington County boundary in the Chesterbrook area of Mclean. The subject property and surrounding properties are zoned R-2. The application property and lots to the north, east and south are developed with single family detached dwellings. The property to the west is vacant parkland.

## **BACKGROUND**

According to Fairfax County Tax Records the house was constructed in 1964 and purchased by the applicant in 1986.

On January 29, 2014, a Notice of Violation was issued to the applicant for locating an accessory storage structure over 200 square feet in size within the minimum required side yard (Appendix 4). On May 29, 2014, the applicant requested a vested rights determination for the accessory storage structure and the rear deck but was not found to meet the requirements to obtain such a determination (Appendix 5). The applicant subsequently submitted this special permit application. During the review process, it was found that the accessory storage structure was actually an accessory structure, a workshop, due to only a portion of the structure being used for storage and the rest as a workshop.

According to the applicant's testimony, a contracted builder was hired to install the deck in 2008. The applicant has also provided information showing that a building permit was obtained at the time of construction, however no inspections were ever pursued and the applicant states that the builder subsequently canceled the building permit. This information is included with the applicant's statement of justification in Appendix 2.

Records indicate that no other applications to allow reductions in minimum required yards due to errors in building location have been heard by the Board of Zoning Appeals (BZA) in the surrounding area.

## **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**

If it is the intent of the BZA to approve this application, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

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 with File Photographs
3. Applicant's Affidavit
4. Notice of Violation, dated January 29, 2014
5. Vested Rights Determination, dated June 27, 2014
6. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2014-DR-255****March 4, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2014-DR-255 located on property described as Tax Map 31-2 ((9)) 11 to permit a reduction in minimum yard requirements based on error in building location pursuant to Section 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location of the addition as shown on the titled, "Special Permit Plat, on, Lot 11, Section Four of Hoopers Addition to Chesterbrook Woods," prepared by John D. Jarrett L.S., of Jarrett Surveys, Inc., dated December 5, 2014.
2. All applicable permits and final inspections shall be obtained for the workshop (16.1 feet in height and approximately 356 square feet in size) and the rear deck 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.

Special Permit Application SP 2014-0443 – Donald Brian Zimmer – Chesterbrook Woods, Hooper's 4<sup>th</sup> Addition, Lot 11, 1432 Laburnum Street, McLean, VA 22101 December 10, 2014

**SPECIAL PERMIT STATEMENT OF JUSTIFICATION (Amended)**

RECEIVED  
Department of Planning & Zoning

DEC 16 2014

Zoning Evaluation Division

**Donald Brian Zimmer**  
**Work Telephone (202) 312 1540, Mobile Telephone (703) 303 2549**  
**1432 Laburnum Street**  
**McLean, VA 22101**

This is the required written statement from the applicant, Donald Brian Zimmer, describing the proposed use of an existing deck, and of an existing workshop.

A & B. The application for a special permit based on Zoning Ordinance Section 8-914, for special permit for error in building location to (1) allow continued use of the existing deck for a single family residential property and (2) continued use of a workshop accessory building. An additional purpose of the special permit application to obtain a building permit issued to me to replace permit number #81420038 issued 5/21/2008 to Paul Davis Construction for which inspections were not completed. It was confirmed in a telephone conversation with Inspector James Watson of the zoning violations office that the deck was previously permitted as permit #81420038.

The deck's closest distance to the rear lot line is 1 foot six inches; and the workshop is situated 2.8 feet from the west property line, and is 16.1 feet high at the highest point above the finished surface of the lowest point of ground adjacent to the workshop. The error in building location on the property exceeds ten (10) percent of the measurement involved.

C. The Non-Compliance was done in good faith, and through no fault of the property owner with (1) regard to the deck location occurred because a permit was issued by the County in 2008 for the deck in its current location and its current dimensions. (2) A permit was not applied for with regard to the workshop accessory building because the contracted builder didn't recognize the size and height of the structure was not in compliance with Fairfax County Code, and the salesman said a permit would not be required. See contract receipt attached, which shows the level of detail provided by Valley Structures. The error in building location of the workshop was the result of relying on a recognized builder which has provided structures within Fairfax County for more than a decade.

The status of the permit which I downloaded from the county permits system in early February, 2014, is provided below so you can see my understanding of the permit issued for the deck in 2008. In addition to that permit information, I have attached the bill of materials for the deck submitted to the county for that permit approval, and documents pertaining to my acceptance of Paul Davis' work in 2008 bringing the deck to its current design and dimensions.

Paul Davis Restoration Permit status for: 81420038 Effective: 05/21/2008

Type	Activity Number	Description	Status
Alert		INSPECTION MUST BE SCHEDULED	
Inspection	4727919	FINAL INSPECTION	<a href="#">Detail</a> No Action
Inspection	3884710	FOOTING INSPECTION	<a href="#">Detail</a> No Action
Inspection	3884711	FRAMING INSPECTION	<a href="#">Detail</a> No Action
Review	1728581	ZONING PLAN REVIEW	<a href="#">Detail</a> Waived

Review	1728582	SITE PLAN REVIEW	<a href="#">Detail</a>	Waived
Fee		FILING FEE (\$0.00)		Paid
Condition	386651	LOG OUT REQUIRED	<a href="#">Detail</a>	Approved, APPRVD
Alert		INSPECTION MUST BE SCHEDULED		

The Paul Davis Restoration Permit #81420038 for the deck (5/21/ 2008) was issued by the Fairfax County permits office, but cancelled by the builder when the County Inspections service attempted unsuccessfully to enforce inspection requirements. Although I requested that the permit be transferred to me, so that inspections could take place, it seems that a transfer is not allowed. However, under this Special Permit application is my intent to have inspections to confirm that the deck is in conformance with building requirements. The workshop and the deck structures shall meet all construction requirements of Fairfax County ordinances, regulations and adopted standards.

D. Such reduction or modification will not impair the purpose and intent of this Ordinance, as the situation of the subject property and the intended use of the subject property is for a deck and a workshop accessory building. The height of 16 ft 1 inch on the workshop size of 356 square feet internal dimensions located more than 20 ft below street level, and barely visible from the street is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance. The subject property workshop structure was acquired in good faith in November, 2000, and the dimensions are recorded on the County Tax Assessment maps since 2010. The deck has likewise been recorded on the County’s property tax records since 2010, and a permit at the current dimensions was issued in 2008.

E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity. The property (lot) to the immediate West has about ten large trees, thick with foliage which actually overhangs the subject property. There is also a 6 foot privacy fence on the side lot property line. The subject property lot had the following characteristics at “the effective date of the Ordinance” August 14, 1978:

- (1) Exceptional topographic conditions: The property is located on a steep hill that provides a runoff watershed dropping to Little Pimmit Run in the county owned parkland immediately abutting our rear property line. The house is a single story at the level of the street, and has a basement that requires stairs to accommodate yet another 10 feet drop below the back of the house to the level of an in-ground pool. The topography drops again at the Southwest corner of the property line to approximately 7 feet below the pool deck level.
- (2) An extraordinary situation or condition of the subject property, which is no back alley or rear access to the property via vehicle without permission from the park authority;
- (3) An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property, which is that the property rear property line abuts undeveloped Fairfax County Parkland.

F. The reduction or modification will not create an unsafe condition to both other property and public streets, as (1) both structures are located more than 70 feet from public streets, and the workshop has no impact on the adjacent property, being located more than 30 feet from the nearest structure on the adjacent property and is below the basement level of the house on the adjacent lot, because of the steep topographical contour of the subject property.

G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner. The strict application of this Ordinance would produce undue hardship because the deck and the workshop accessory building have both been in use for fourteen or more years, although the county tax assessment map / data base was not updated until 2010. (See builder contracts / bills of sale enclosed with application.) Cost of removal / reconstruction at this date would greatly exceed reasonable costs, in part because only pedestrian access is allowed by extreme height differential from Laburnum Street on the West side of the property where the shed and deck are located. Such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity because most properties do not have equivalent steep topographical dimensions or otherwise have access via driveways to the rear and side lots of the property. The granting of a variance will alleviate a clearly demonstrable hardship surpassing confiscation because without it the workshop will have to be destroyed at a total loss plus deconstruction costs, and the deck would similarly be disfigured at substantial cost to the owners.

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, as illustrated by the special permit plat.



Donald B. Zimmer

Date: December 10, 2014

Paul Davis Restoration & Remodeling of  
 Suburban VA  
 6886 Wellington Road  
 Manassas VA 20109  
 703-335-2424  
 1/25/2008

Insured: DONALD B ZIMMER

Business: (202) 756-7746x00000  
 Home: (703) 532-9160x00000

Property: 1432 LABURNUM ST  
 MC LEAN, VA 22101-2523  
 Home: 1432 LABURNUM ST  
 MC LEAN, VA 22101-2523

Estimator: Dennis O'Brien

Member Number: 01110339  
 Type of Loss: WIND/HAIL

Policy Number: 91A  
 Cause of Loss:

L/R Number: 021

Coverage	Deductible	Policy Limit
Dwelling	\$500.00	\$0.00

Date of Loss: 1/9/2008  
 Date Inspected: 1/21/2008  
 Date Received: 1/18/2008  
 Date Entered: 1/22/2008

Price List: VAARS88A  
 Restoration/Service/Remodel

Summary for Dwelling

Line Item Total				17,539.52
Material Sales Tax	@ 5.000%	x	5,874.52	293.73
Subtotal				17,833.25
Overhead	@ 15.0%	x	17,833.25	2,674.99
Profit	@ 10.0%	x	17,833.25	1,783.32
Replacement Cost Value				\$22,291.56
Less Deductible				(500.00)
Net Claim				<u>\$21,791.56</u>

Dennis O'Brien

Please contact our adjuster if you believe a supplement to this estimate is needed. Before we will consider a supplement to this estimate, we must have the opportunity to re-inspect the damages prior to the supplemental work being done.

Paul Davis Restoration & Remodeling of  
 Suburban VA

DONALD B ZIMMER

1/25/2008

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DONALD\_B\_ZIMMER2

Exterior/General

0.00 SF Long Wall      0.00 SF Short Wall

CAT	SEL CALC	DESCRIPTION QNTY UNIT PRICE	RCV	DEPREC.	ACV
FEN	CL6	R&R Chain link fence w/posts & top rail - 6' high			
	15	15.00LF	11.40	171.00	(0.00)
FEN	LAB	Fencing installer - per hour			
	3	3.00HR	40.42	121.26	(0.00)
Additional labor due to access issues.					
Totals: Exterior/General			292.26	0.00	292.26

Main Level

LxWxH Ceiling Height: 3'

Deck1

0.00 SF Long Wall      0.00 SF Short Wall

CAT	SEL CALC	DESCRIPTION	QNTY	UNIT PRICE	RCV	DEPREC.	ACV
FRM	2X108T (17)	2" x 10" x 8' #2 treated pine (material only)	17.00EA	9.21	156.57	(0.00)	156.57
FRM	J10L (567)	Labor to install joist - floor or ceiling - 2x10	567.00LF	1.68	952.56	(0.00)	952.56
FRM	2X2X8T 75	2" x 2" x 8' #2 treated pine (material only)	75.00EA	2.48	186.00	(0.00)	186.00
FRM	4X4X8T 6	4" x 4" x 8' - treated lumber post - material only	6.00EA	9.06	54.36	(0.00)	54.36
FRM	DKRLL 91	Deck handrail/guardrail - Labor only	91.00LF	16.55	1,506.05	(0.00)	1,506.05
FRM	2X6X16T (3)	2" x 6" x 16' #2 treated pine (material only)	3.00EA	11.18	33.54	(0.00)	33.54
FRM	2X1016T (11)	2" x 10" x 16' #2 treated pine (material only)	11.00EA	18.57	204.27	(0.00)	204.27
FRM	2X6X18T (2)	2" x 6" x 18' #2 treated pine (material only)	2.00EA	12.94	25.88	(0.00)	25.88
FRM	2X1020T (7)	2" x 10" x 20' #2 treated pine (material only)	7.00EA	23.02	161.14	(0.00)	161.14
FRM	2X6X20T (2)	2" x 6" x 20' #2 treated pine (material only)	2.00EA	15.88	31.76	(0.00)	31.76
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DONALD B ZIMMER

1/25/2008

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CONTINUED - Deck1

CAT	SEL CALC	DESCRIPTION	QNTY	UNIT PRICE	RCV	DEPREC.	ACV
FRM	2X6X8T (4)	2" x 6" x 8' #2 treated pine (material only)	4.00EA	4.90	19.60	(0.00)	19.60
FRM	2X1014T (8)	2" x 10" x 14' #2 treated pine (material only)	8.00EA	16.21	129.68	(0.00)	129.68
FRM	2X1010T (1)	2" x 10" x 10' #2 treated pine (material only)	1.00EA	11.51	11.51	(0.00)	11.51
FRM	2X6X14T (1)	2" x 6" x 14' #2 treated pine (material only)	1.00EA	10.66	10.66	(0.00)	10.66
FRM	2X1216T (3)	2" x 12" x 16' #2 treated pine (material only)	3.00EA	27.89	83.67	(0.00)	83.67
FRM	2X1220T (3)	2" x 12" x 20' #2 treated pine (material only)	3.00EA	34.58	103.74	(0.00)	103.74
FRM	2X128T (2)	2" x 12" x 8' #2 treated pine (material only)	2.00EA	13.83	27.66	(0.00)	27.66
FRM	DKP612 (15)	Deck planking - 2" x 6" x 12' - Polymer - mat. only	15.00EA	33.20	498.00	(0.00)	498.00
FRM	DKP616 (13)	Deck planking - 2" x 6" x 16' - Polymer - mat. only	13.00EA	46.54	605.02	(0.00)	605.02
FRM	DKP620 (33)	Deck planking - 2" x 6" x 20' - Polymer - mat. only	33.00EA	53.39	1,761.87	(0.00)	1,761.87
FRM	DKLP6 (454)	6" wood polymer decking - Labor only (per SF)	454.00SF	3.18	1,443.72	(0.00)	1,443.72
FRM	LAB 8	Carpenter - General Framer - per hour	8.00HR	54.77	438.16	(0.00)	438.16
Additional labor for installation of decking boards. They are angled on the deck and it will take more time to layout and cut.							
FRM	6X6X10T 2	6" x 6" x 10' - treated lumber post - material only	2.00EA	22.14	44.28	(0.00)	44.28
We will save all but the 2 damaged 6x6 posts.							
FRM	2X4T 168	2" x 4" lumber - treated (.667 BF per LF)	168.00LF	1.30	218.40	(0.00)	218.40
FRM	DKSCRH 544	Additional charge to attach decking w/hidden fasteners	544.00SF	2.26	1,229.44	(0.00)	1,229.44
FRM	LGBLT5 125	Lag bolt - 1/2" x 5" - hex lag screw - zinc plated	125.00EA	9.11	1,138.75	(0.00)	1,138.75
FRM	FRHNG> 46	Framing hanger - large	46.00EA	9.75	448.50	(0.00)	448.50
PNT	DKRL 80	Stain/finish deck handrail	80.00LF	4.06	324.80	(0.00)	324.80
Paul Davis Restoration & Remodeling of Suburban VA							

DONALD B ZIMMER

1/25/2008

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CONTINUED - Deck1

2

CAT	SEL CALC	DESCRIPTION QNTY	UNIT PRICE	RCV	DEPREC.	ACV
PNT	DK 575	Stain/finish deck 575.00SF	0.56	322.00	(0.00)	322.00
PNT	LAB 10	Painter - per hour 10.00HR	40.16	401.60	(0.00)	401.60
above 2 line items is for staining underneath of deck. Deck is up in the air and will take alot longer to stain all of the joists.						
FRM	LABL 8	Carpentry - General Laborer - per hour 8.00HR	23.20	185.60	(0.00)	185.60
Additional labor is allowance for laborers to hand carry materials from front yard, down the steps, around the pool to the work area. 2 men 4 hours.						
Totals: Deck1				12,758.79	0.00	12,758.79

Stair1  
 Missing Wall:1 - 10'0" X 17'0" Opens into Exterior LxWxH Ceiling Height: 17' Goes to Floor/Ceiling  
 Missing Wall:1 - 4'4" X 17'0" Opens into Exterior Goes to Floor/Ceiling

86.99 SF Floor  
 0.00 SF Long Wall  
 9.67 SY Flooring  
 0.00 SF Short Wall

CAT	SEL CALC	DESCRIPTION QNTY	UNIT PRICE	RCV	DEPREC.	ACV
FRM	2X1214T 3	2" x 12" x 14' #2 treated pine (material only) 3.00EA	24.35	73.05	(0.00)	73.05
STR	STRLAB 39.1	Stair stringer - Labor only 39.10LF	3.25	127.08	(0.00)	127.08
FNC	1X812S 7	1" x 8" x 12' S4S softwood - material only 7.00EA	23.98	167.86	(0.00)	167.86
STR	RISLAB 14	Stair riser - Labor only 14.00EA	9.16	128.24	(0.00)	128.24
FRM	2X8X8T 26	2" x 8" x 8' #2 treated pine (material only) 26.00EA	7.25	188.50	(0.00)	188.50
FRM	4X4X8T 3	4" x 4" x 8' - treated lumber post - material only 3.00EA	9.06	27.18	(0.00)	27.18
FRM	DKRLL 22	Deck handrail/guardrail - Labor only 22.00LF	16.55	364.10	(0.00)	364.10
FRM	2X2X8T 22	2" x 2" x 8' #2 treated pine (material only) 22.00EA	2.48	54.56	(0.00)	54.56
Paul Davis Restoration & Remodeling of Suburban VA						

DONALD B ZIMMER

1/25/2008

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CONTINUED - Stair1

CAT	SEL CALC	DESCRIPTION QNTY	UNIT PRICE	RCV	DEPREC.	ACV
FRM	4X4T 22	4" x 4" wood post - treated (1.33 BF per LF) 22.00LF	5.10	112.20	(0.00)	112.20
PNT	DKRLL 22	Stain/finish deck handrail 22.00LF	4.06	89.32	(0.00)	89.32
PNT	DK 200	Stain/finish deck 200.00SF	0.56	112.00	(0.00)	112.00
Totals: Stair1				1,444.09	0.00	1,444.09
Total: Main Level				14,202.88	0.00	14,202.88

General Provisions.

0.00 SF Long Wall  
 0.00 SF Short Wall

CAT	SEL CALC	DESCRIPTION QNTY	UNIT PRICE	RCV	DEPREC.	ACV
DMO	LAB 3*16	General Demolition - per hour 48.00HR	28.05	1,346.40	(0.00)	1,346.40
Labor for demolition of the deck and to haul around to the front dumpster.						

3

Includes 3 men for 2 days.  
 Dumpster load - Approx. 40 yards, 7-8 tons of debris

DMO	DUMP>>	1.00EA	547.98	547.98	(0.00)	547.98
FEE	TIPF	1.00EA	350.00	350.00	(0.00)	350.00
Taxes, insurance, permits & fees (Bid item)						
Permit fees.	PLAN	1.00EA	800.00	800.00	(0.00)	800.00
Architectural/Drafting fees (Bid item)						
Allowance to draw plans so we may obtain a permit from the county.						
ELE	MISC	ELECTRICAL (SUB BID)				
Above line items is a allowance to remove all electrical from the deck. There is a pool pump also under neath the deck that has electrical tied into it.						
Totals: General Provisions.			3,044.38		0.00	3,044.38
Line Item Totals: DONALD_B_ZIMMER2			17,539.52		0.00	17,539.52
Paul Davis Restoration & Remodeling of Suburban VA						

DONALD B ZIMMER

1/25/2008

Page: 6

Grand Total Areas:

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls and Ceiling
86.99 SF Floor	9.67 SY Flooring	0.00 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	0.00 LF Cell. Perimeter
86.99 Floor Area	0.00 Total Area	0.00 Interior Wall Area
0.00 Exterior Wall Area	0.00 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

Paul Davis Restoration & Remodeling of Suburban VA

DONALD B ZIMMER

1/25/2008

Page: 7

Recap by Room

Estimate: DONALD_B_ZIMMER2	292.26	1.67%
Area: Main Level	12,758.79	72.74%
Deck1	1,444.09	8.23%
Stair1		
Area Subtotal: Main Level	14,202.88	80.98%
General Provisions.	3,044.38	17.36%
Subtotal of Areas	17,539.52	100.00%

Total	17,539.52	100.00%
Paul Davis Restoration & Remodeling of Suburban VA		

DONALD B ZIMMER

1/25/2008

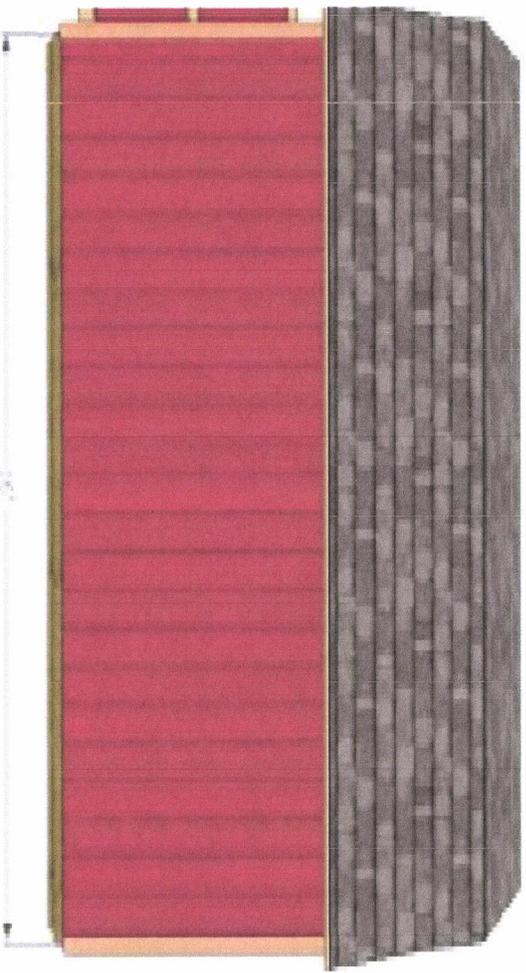
Page: 8

Recap by Category

O&P Items	Total Dollars	%
GENERAL DEMOLITION	1,916.88	8.60%
ELECTRICAL	0.00	0.00%
PERMITS AND FEES	1,150.00	5.16%
FENCING	269.76	1.21%
FINISH CARPENTRY / TRIMMORK	167.86	0.75%
FRAMING & ROUGH CARPENTRY	12,529.98	56.21%
PAINTING	1,249.72	5.61%
STAIRS	255.32	1.15%
Subtotal	17,539.52	78.68%
Material Sales Tax	293.73	1.32%
Overhead	2,674.99	12.00%
Profit	1,783.32	8.00%
O&P Items Subtotal	22,291.56	100.00%

4



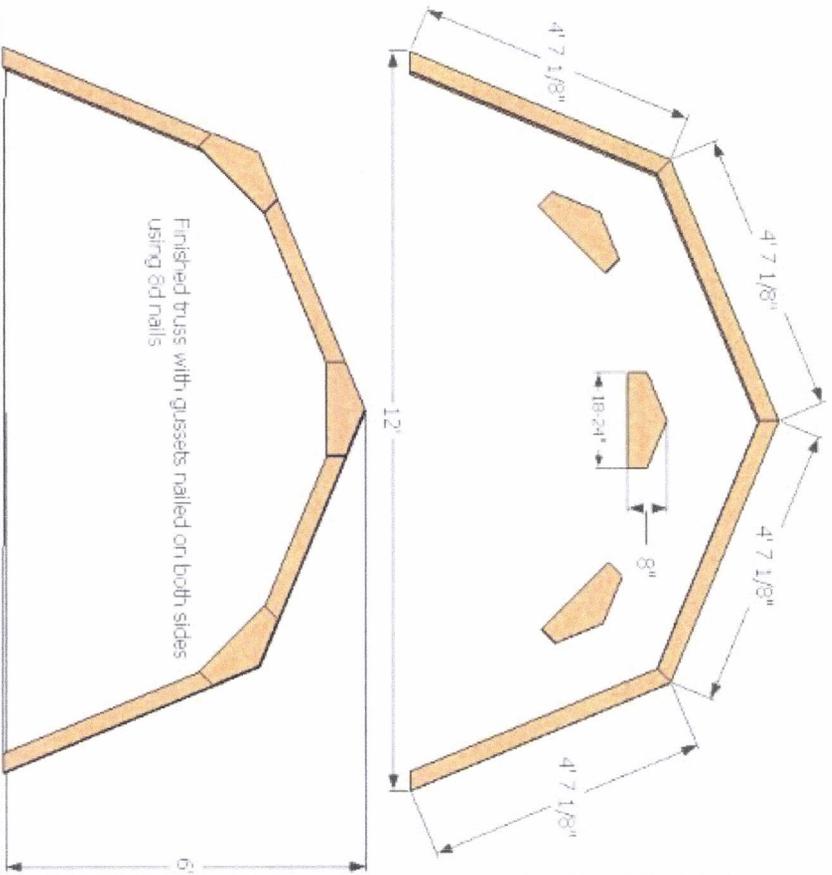


Actual Workshop Accessory Building front Side Dimensions are 14' w X 24' - These plans are hand marked to actual accessory building.  
Green Metal Door identical to image is located as indicated in Center of workshop side on East side facing house.  
West side of Workshop Accessory Building (rear side by fence) has no windows or doors.

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Zoning Evaluation Division



Each of the 4 - 2x4 pieces that make up this gambrel truss are all exactly identical.  
Each is 4' 7 1/8" long with each end cut at a 22.5 degree angle  
Each gusset is identical and is approximately 18-24" long and 8" or more tall and can be made from either 1/2" plywood or leftover siding material

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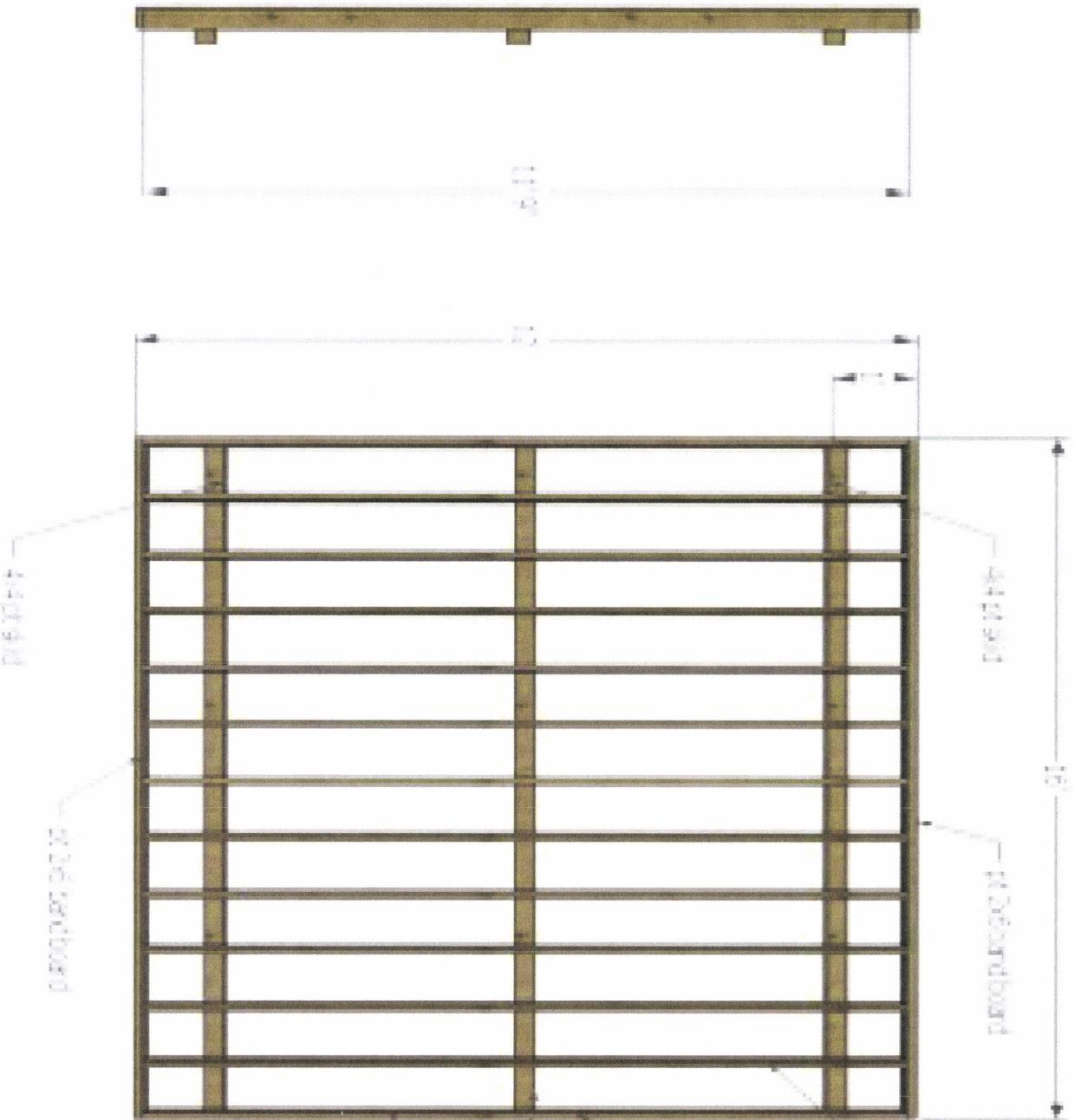
NOV 03 2014

Zoning Evaluation Division

Actual Workshop Accessory Gambrel roof Dimensions are 4' 6" at peak wide' X 14' - These plans are hand marked to actual accessory

Building Gambrel roof structure on non-residential property

End View



2x6 floor joists  
16' on center

4x4 pt studs  
centered on  
four posts

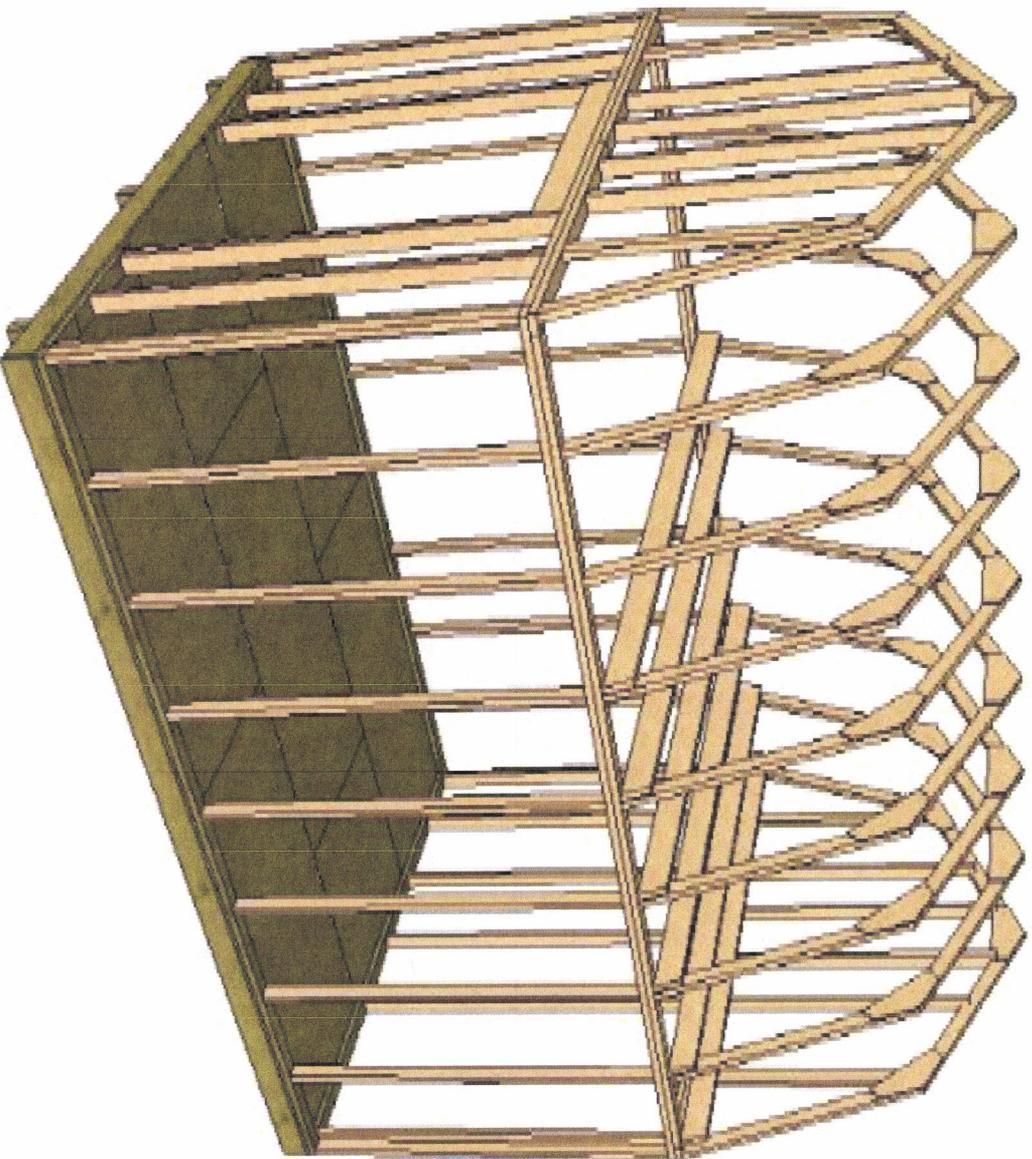
Materials List:

Material	Quantity
4x4 pressure treated studs	3
2x6 floor joists	13
2x6 sandboard	2
2x4x8 plywood	6

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Zoning Evaluation Division



Materials list

- (for 10' of loft space from end)
- 6 - 2x6x12' supports. For extra heavy storage you may want to substitute 2x8s.
- 5 - 5/8"x4x8' plywood panels for flooring

Note: Loft supports should be placed on top of walls and nailed to trusses before sheathing trusses. If you don't, it will be almost impossible to get them into place after sheathing is installed.

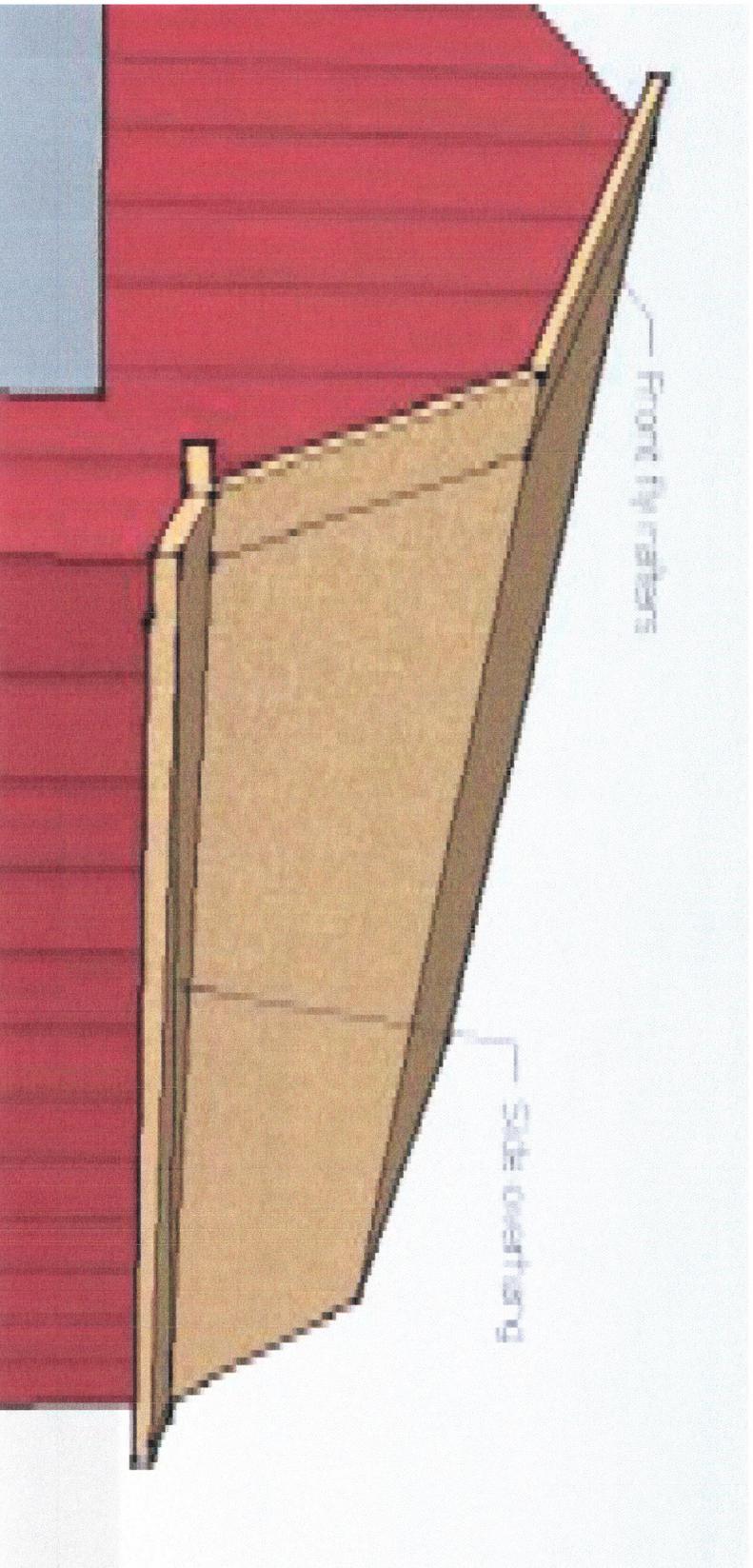
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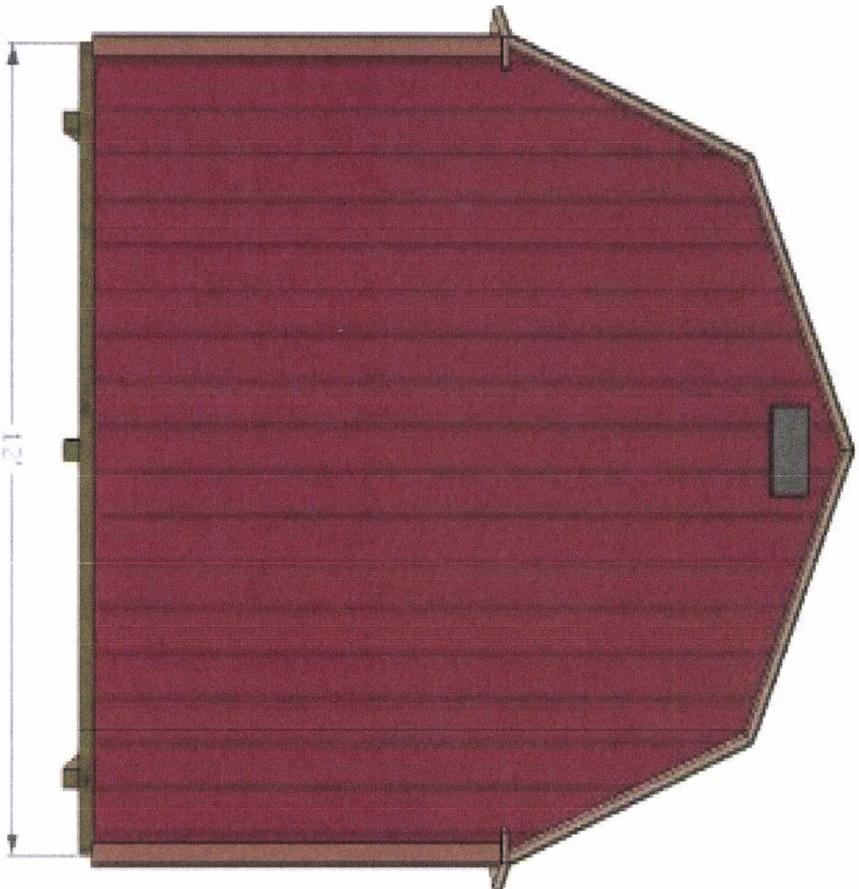
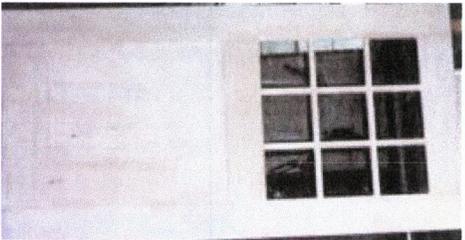
Actual Workshop Accessory Building Loft Has 2 X 8 ceiling joist supports – Loft dimensions are 8' X 12' with dry wall ceiling below joists. These plans are hand marked to actual accessory building . Only building materials & lumber stock are stored in loft.



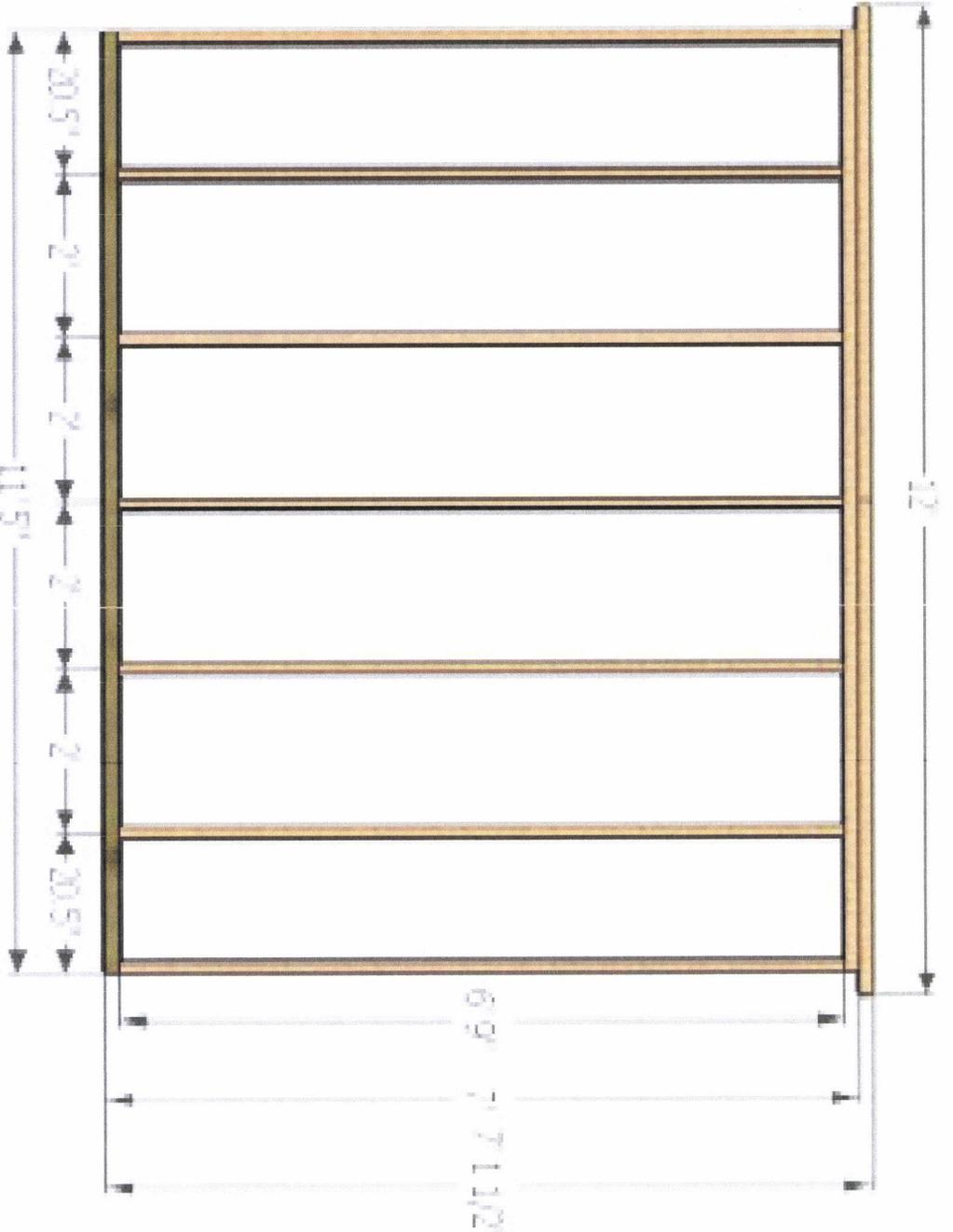
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Actual Workshop Accessory Building West End Dimensions are 14' w X ' - These plans are hand marked to actual accessory building.  
White Door identical to image is located as indicated on west end of workshop.



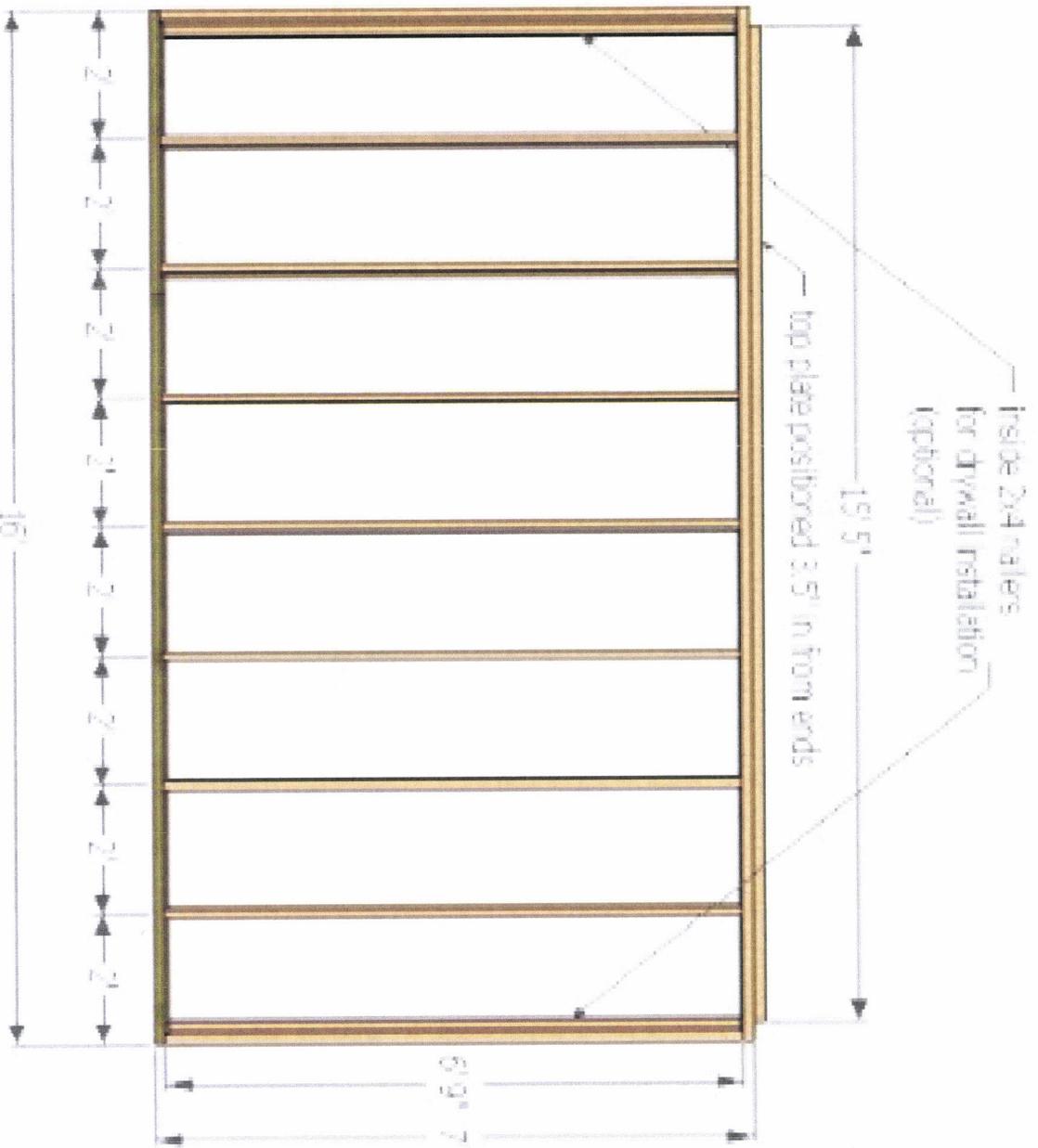
- Materials list  
 pt = pressure treated
- 2 - 2x4x12 top plates
  - 7 - 2x4x8 wall studs
  - 1 - 2x4x12 pt bottom plate
  - 3 - 1/2x4x6 siding or  
 F-111 siding panels

Actual Workshop Accessory Building Side Dimensions are hand marked on equivalent building plans

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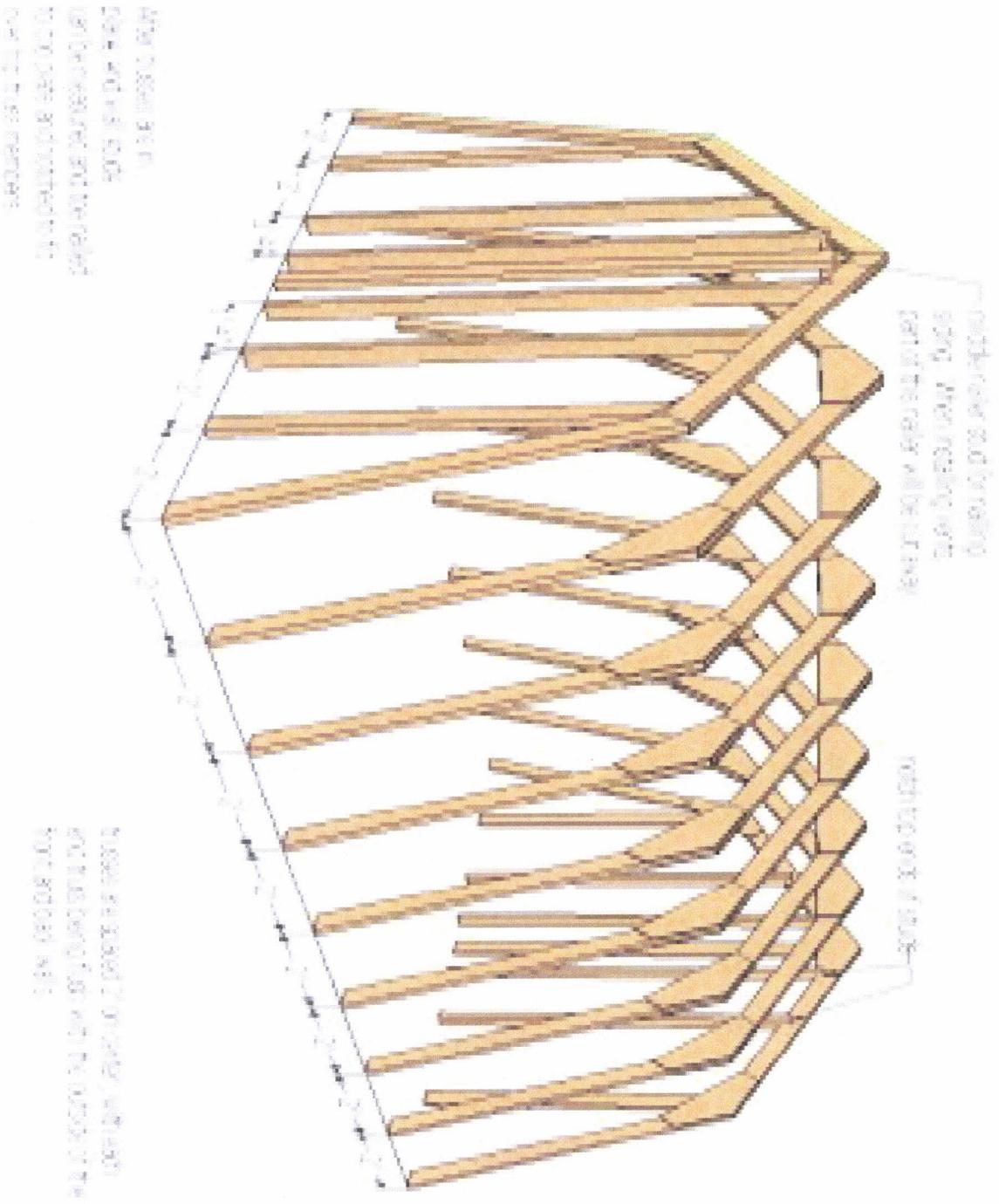
Description of Building Façade and architecture of Accessory Building - Workshop Accessory building **Donald Brian Zimmer**  
**SP2014-0443, 1432 Laburnum Street, McLean, VA 22101 [checklist item 5.07]** **Page 8**

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Zoning Evaluation Division



Materials List  
 pt=pressure treated

- 2 - 2x4x16 top plates
- 11 - 2x4x8 wall studs
- 1 - pt 2x4x16 bottom plate
- 4 - 1/2x4x8 smartside or t-111 siding panels



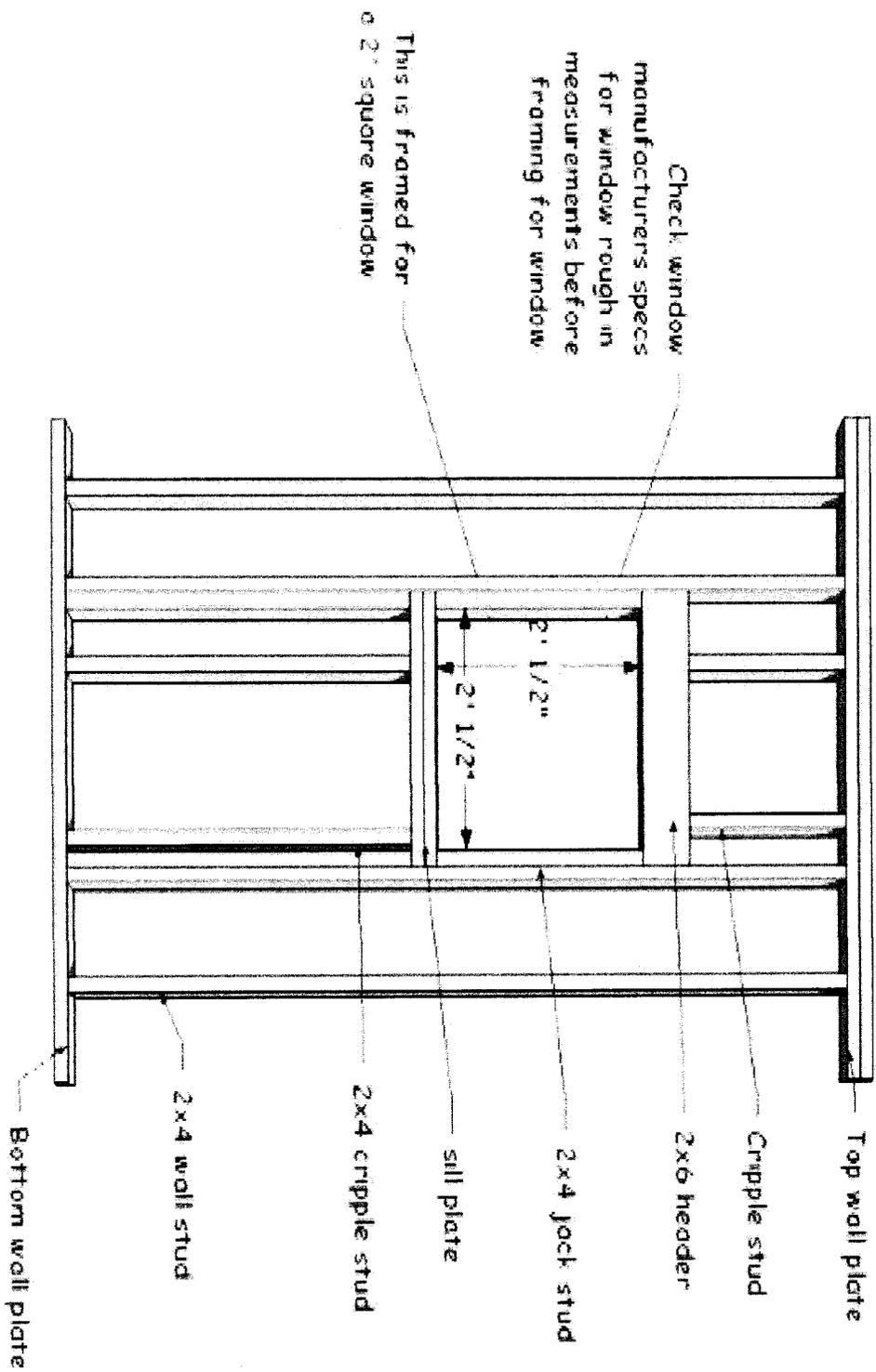
**Materials List**

- 1 - 2x4x12 truss members
- 2 - 1/2" x 6" plywood sheet for rafter gable plates
- 3 - 2x4x12 end of cable
- 4 - 2x4x12 middle cable
- 5 - 1/2" x 6" plywood sheet for string over in middle
- 6 - 1/2" x 6" plywood sheet for roof sheathing
- 7 - bundles of framing. Roofing square footage is approx 200 sq ft
- 8 - 10' x 6' x 8' struts or 2x10's siding panels
- 9 - 8' x 16' gable end rafters
- 10 - 15# roofing felt (optional but recommended)
- 11 - 1/2" x 6" sheathing
- 12 - 2x4x12 raftering. The raftering goes between the top of the bottom wall string and the bottom of the upper wall string. It is a saw cut.

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Zoning Evaluation Division



Actual Workshop Accessory Building Window External Dimensions are 24" h' X 18" w - These plans are hand marked to actual accessory building.

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NOV 03 2014  
Zoning Evaluation Division

THE ATTACHED AFFIDAVIT  
HAS NOT BEEN APPROVED  
BY THE OFFICE OF THE COUNTY ATTORNEY

DCC Return Copy



# 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:** January 29, 2014

**METHOD OF SERVICE:** OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:** Donald Brian Zimmer  
Gloria Gordon Zimmer

**ADDRESS:** 1432 Laburnum Street  
McLean, Virginia 22101- 2523

**LOCATION OF VIOLATION:** 1432 Laburnum Street  
McLean, Virginia 22101-2523

**TAX MAP REF:** 31-2 ((9)) 11

**ZONING DISTRICT:** R- 2

**CASE #:** 201400365 **SR #:** 101640

### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§10.104.E	\$ 200.00	\$ 500.00
	§10.102.25	\$ 200.00	\$ 500.00
	<b>TOTAL:</b>	<b>\$ 400.00</b>	<b>\$ 1000.00</b>

Dear Responsible Party:

An inspection of the above referenced property on January 15, 2014 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

- § 10-102 (25) Accessory Storage Structure exceeding 200 square feet in GFA
- § 2-302 (6) Accessory Use must comply with Article 10:

**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)

Donald Brian Zimmer  
Gloria Gordon Zimmer  
January 29, 2014  
SR 101640  
Page 2

The presence of an accessory storage structure which measured approximately Five Hundred Sixty (560 sf) square feet in area on this property which is zoned R-2. The Fairfax County Zoning Ordinance permits accessory storage structures so long as they conform to Par. 25 of Sect. 10-102 of the Zoning Ordinance which permits:

Storage structure, incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the R-2 through R-20 Districts shall exceed 200 square feet in gross floor area.

Therefore, as this accessory storage structure exceeds 200 square feet in area in the R-2 District, you are in violation of Par. 25 of Sect. 10-102 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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 Par. 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the square footage of this accessory storage structure so it does not exceed 200 square feet in area.

---

**§ 10-104 (10E) Accessory Storage Structure Location**  
**§ 2-302 (6) Accessory Use must comply with Article 10:**

The presence of an accessory storage structure which measured approximately 12 feet in height, is approximately 28 feet by 20 feet, 560 square feet in area and is located approximately 3 feet and approximately over 25 feet, respectively from the side and rear lot lines.

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10E of Sect. 10-104 of the Zoning Ordinance which states:

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.

Donald Brian Zimmer  
Gloria Gordon Zimmer  
January 29, 2014  
SR 101640  
Page 3

The minimum required side yard distance in the R-2 District, is fifteen (15) feet, as detailed in Par. 2A (1) b of Sect. 3-207 of the Zoning Ordinance.

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10E of Sect. 10-104 above, it is in violation of Par. 10E of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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 Par 1 of Article 10.

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the height of the structure to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the rear and side lot lines in accordance with Par. 10E of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

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

Donald Brian Zimmer  
Gloria Gordon Zimmer  
January 29, 2014  
SR 101640  
Page 4

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) 324-9326. For any other questions, contact our main office at (703) 324-1300.

LEGAL NOTICE ISSUED BY:

  
Signature

James Watson  
Code Compliance Investigator III  
(703) 324-9326

~~PERSONAL SERVICE~~

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

\_\_\_\_\_

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

Stacey A. Kincaid  
SERVING OFFICER

DATE 1/30/14 for Fairfax County, VA

~~PERSONAL SERVICE~~

Being unable to make personal service a copy was delivered in the following manner:

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\_\_\_\_\_

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Not found.

Stacey A. Kincaid  
SERVING OFFICER

DATE 1/30/14 for Fairfax County, VA

Sheriff  
VA

~~PERSONAL SERVICE~~

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\_\_\_\_\_

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_

SERVING OFFICER \_\_\_\_\_  
for \_\_\_\_\_

DATE \_\_\_\_\_

~~PERSONAL SERVICE~~

Being unable to make personal service a copy was delivered in the following manner:

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- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

\_\_\_\_\_

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_

SERVING OFFICER \_\_\_\_\_  
for \_\_\_\_\_

DATE \_\_\_\_\_



# 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:	31-2 ((9)) 11
Property Address:	1432 Laburnum Street
Requestor's Name:	Donald Brian Zimmer
Requestors Address: (if different than above)	same
Requestor's Phone Number:	703-303-2549
Current Zoning:	R-2
Magisterial District:	Dranesville
Subdivision Name/Section/Block/Lot No.:	Chesterbrook Woods, Hooper's 4 <sup>th</sup> Addition, Lot 11

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

The property is zoned R-2, and is developed with a single family detached dwelling and various accessory structures, including attached decks and patios, a swimming pool, and sheds. According to the real estate assessments, the dwelling was constructed in 1964.

The minimum yard requirements for the R-2 District are 35 feet for the front yard, 15 feet for side yards, and 25 feet for the rear yard. Pursuant to Par. 2B of Sect. 2-412 of the Fairfax County Zoning Ordinance, decks with any part of the floor higher than four (4) feet above finished ground level may extend up to 12 feet into the minimum required rear yard, provided they are located no closer than 5 feet to the rear lot line, and must meet the minimum front and side yard requirements. In addition, pursuant to Par. 10 of Sect. 10-104, accessory storage structures, such as sheds, over 8.5 feet in height must meet the minimum side yard requirements, and must be located a distance at least equal to the height of the structure from the rear lot line.

The request includes a house location plat showing a shed adjacent to the northern side lot line, approximately 2.8 feet from the lot line. According to a Notice of Violation that was issued by the Department of Code Compliance on January 29, 2014 the shed is approximately 12 feet in height. Therefore, the location of the shed does not meet the minimum side yard requirement of 15 feet.

The patio and deck structures at the rear of the property are connected, and ultimately attached to the dwelling; as such, this structure is considered an attached deck. Since portions of the deck floor are higher than 4 feet above finished ground level, the deck is permitted to extend up to 12 feet into the minimum required rear yard of 25 feet, and therefore must be set back a minimum of 13 feet from the rear lot line. Furthermore, the deck must also meet the full minimum side yard requirement of 15 feet. According to the house location plat, portions of the deck extend all the

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Department of Planning & Zoning

SEP 24 2014

Zoning Evaluation Division

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/



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Integrity \* Teamwork \* Public Service

way to the rear lot line, which does not meet the Zoning Ordinance requirement of being set back a minimum of 13 feet from the rear lot line.

Building permits were not located for the shed, or for any portion of the deck located closer than 13 feet to the rear lot line. The shed and those portions of the deck have only been listed in the real estate assessments since 2010.

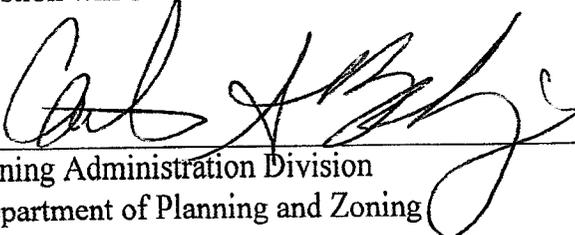
**Background Summary (check all that are applicable):**

- A Building Permit has been issued for the structure(s).
- A Building Permit was not located for the shed or for those portions of the deck located closer than 13 feet to the rear lot line.
- 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 Tax Administration records indicate that the structure(s) has been taxed for at least 15 years.
- Department of Tax Administration records do not indicate that the shed or those portions of the deck located closer than 13 feet to the rear lot line have 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 not applicable for the shed or those portions of the deck located closer than 13 feet to the rear lot line. 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:

6/26/14

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  
James Watson, Code Compliance Investigator III, Department of Code Compliance



# County of Fairfax, Virginia

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

June 27, 2014

Mr. Donald Brian Zimmer  
1432 Laburnum Street  
McLean, Virginia 22101

RE: Sect. 15.2-2307 of the Code of Virginia Determination for 1432 Laburnum Street  
Chesterbrook Woods, Hooper's 4<sup>th</sup> Addition, Lot 11  
Tax Map Ref.: 31-2 ((9)) 11  
Zoning District: R-2

Dear Mr. Zimmer:

This letter is in response to your inquiries received May 29, 2014 requesting a vested rights determination for a shed and the rear portions of the deck located on the referenced property. The property is zoned R-2, and is developed with a single family detached dwelling and various accessory structures, including attached decks and patios, a swimming pool, and sheds. According to the real estate assessments, the dwelling was constructed in 1964. Included with your requests is a copy of a house location plat showing the location of the dwelling and accessory structures, including those that are in question.

The minimum yard requirements for the R-2 District are 35 feet for the front yard, 15 feet for side yards, and 25 feet for the rear yard. Pursuant to Par. 2B of Sect. 2-412 of the Fairfax County Zoning Ordinance, decks with any part of the floor higher than four (4) feet above finished ground level may extend up to 12 feet into the minimum required rear yard, provided they are located no closer than 5 feet to the rear lot line, and must meet the minimum front and side yard requirements. In addition, pursuant to Par. 10 of Sect. 10-104, accessory storage structures, such as sheds, over 8.5 feet in height must meet the minimum side yard requirements, and must be located a distance at least equal to the height of the structure from the rear lot line.

A review of the plat shows a shed adjacent to the northern side lot line, which is 24.1 feet long by 14 feet wide, and is located 2.8 feet from the side lot line. Although the height of the structure is not shown, according to a Notice of Violation that was issued by the Department of Code Compliance on January 29, 2014 the shed is approximately 12 feet in height. Therefore, the location of the shed does not meet the minimum side yard requirement of 15 feet.

The patio and deck structures at the rear of the property are connected, and ultimately attached to the dwelling; as such, this structure is considered an attached deck. Since portions of the deck floor are higher than 4 feet above finished ground level, the deck is permitted to extend up to 12 feet into the minimum required rear yard of 25 feet, but may not be located any closer than 13 feet from the rear lot line. Furthermore, the deck must also meet the full minimum side yard requirement of 15 feet. According to the house location plat, portions of the deck extend all the

Department of Planning and Zoning  
Zoning Administration Division  
Ordinance Administration Branch  
12055 Government Center Parkway, Suite 807  
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Phone 703-324-1314 FAX 703-803-6372  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)

Mr. Donald Brian Zimmer

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way to the rear lot line, which does not meet the minimum Zoning Ordinance requirement of 13 feet from the rear lot line.

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, building permits were located in our files for the portions of the deck closest to the house, and for the pool. These permits show that these improvements were located 25 feet from the rear lot line, which corresponds with the information contained on the submitted plat. However, building permits were not located for the remainder of the deck or for the shed in question. Furthermore, the real estate assessments for the last 15 years neither include those portions of the deck in question, nor the shed. In fact, those structures were only added to the real estate assessments beginning in 2010. As such, §15.2-2307 is not applicable for the expanded deck or the shed. Therefore, in order to meet the minimum Zoning Ordinance requirements, the shed must be removed, or be relocated to meet the minimum side yard requirement of 15 feet while remaining a minimum distance equal to its height from the rear lot line. In addition, any portion of the deck that extends closer than 13 feet to the rear lot line must be removed in order to meet the Zoning Ordinance requirements.

Alternately, you may request a variance from the Board of Zoning Appeals (BZA) to retain these structures. Variance 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 variance application process is available from the Zoning Evaluation Division at 703-324-1290. Please note that failure to address this issue may impact your ability to obtain building permits or pursue other zoning applications on this property in the future.

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: John W. Foust, Supervisor, Dranesville 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  
James Watson, Code Compliance Investigator III, Department of Code Compliance  
Tim Shirocky, Director, Real Estate Division, DTA

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### **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.