



SP APPLICATION ACCEPTED: March 13, 2015
VC APPLICATION ACCEPTED: August 26, 2015
DATE OF PUBLIC HEARING: September 23, 2015 @ 9:00am

County of Fairfax, Virginia

September 16, 2015

STAFF REPORT

SPECIAL PERMIT SP 2015-LE-052

Concurrent with

VARIANCE VC 2015-LE-008

LEE DISTRICT

APPLICANTS/OWNERS: Rigoberto Guardado and Deborah E. Guardado,
Maria E. Guardado

LOCATION: 3118 Groveton Street, Alexandria, 22306

SUBDIVISION: Groveton Heights, Section 1

TAX MAP: 92-2 ((18)) (2) 31

LOT SIZE: 12,675 square feet

ZONING: R-2, HC

ZONING ORDINANCE PROVISION: 8-914, 18-401

SPECIAL PERMIT PROPOSAL: To permit reductions in minimum yard requirements based on errors in building locations to allow an accessory structure to remain 2.5 feet from a side lot line and 6.7 feet from a rear lot line and an addition to remain 13.9 feet from a side lot line.

VARIANCE PROPOSAL: To allow greater than 30% rear yard coverage.

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.

Laura Arseneau

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

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

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



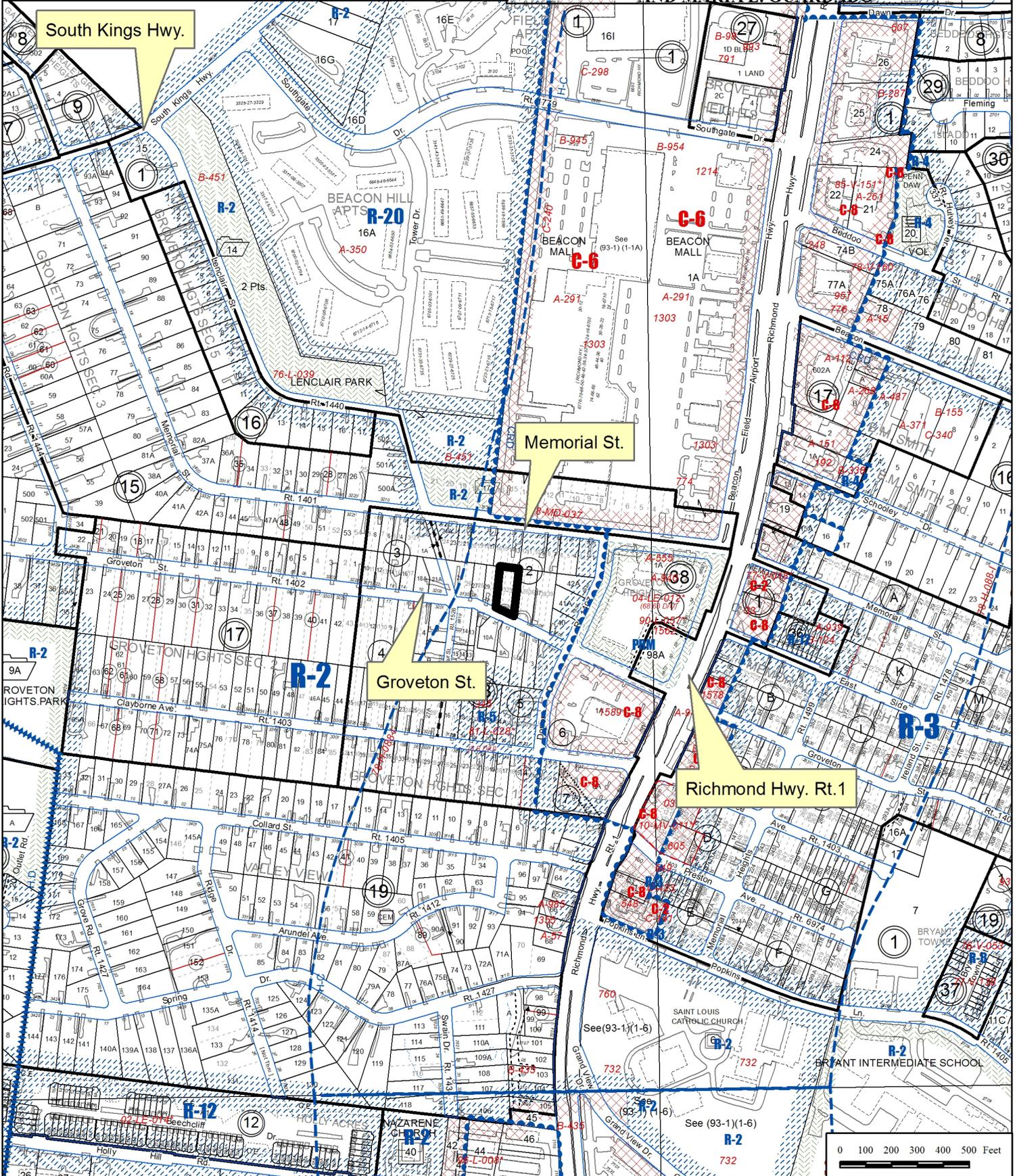
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2015-LE-052
RIGOBERTO GUARDADO,
DEBORAH E. GUARDADO
AND MARIA E. GUARDADO

Variance Application

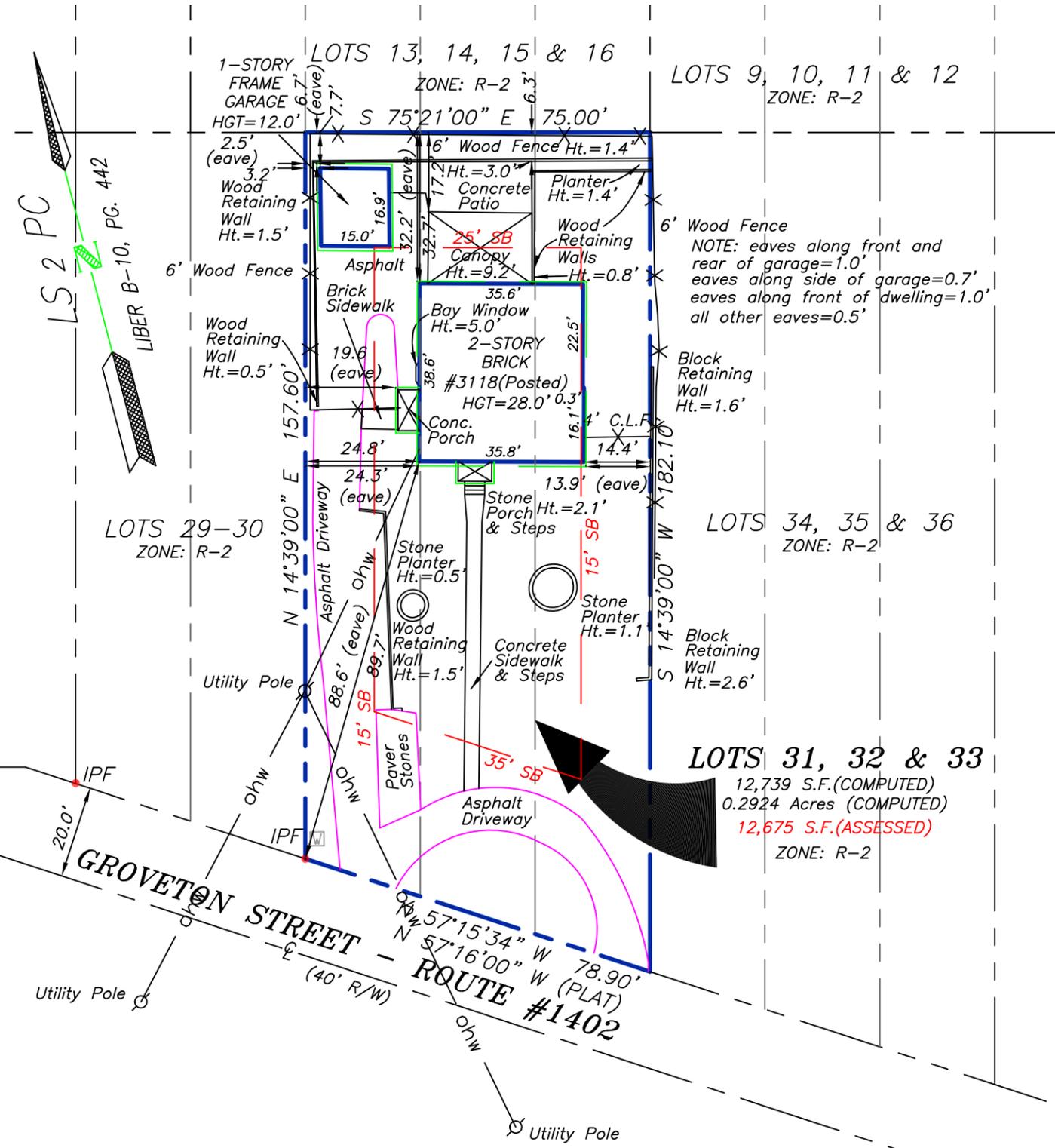
VC 2015-LE-008
RIGOBERTO GUARDADO
, DEBORAH E. GUARDADO
AND MARIA E. GUARDADO



THIS VARIANCE PLAT/SPECIAL PERMIT PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED AS AN AID FOR THE CONSTRUCTION OF FENCES OR ANY OTHER IMPROVEMENTS. FENCES SHOWN HEREON ARE APPROXIMATE AND ARE NOT TO BE USED FOR DETERMINATION OF PROPERTY LINES.

NOTES:

1. CURRENT OWNER: RIGOBERTO GUARDADO, MARIE E. GUARDADO AND DEBORAH E. GUARDADO, D.B. 22327, PG. 224.
2. THIS PROPERTY IS CLASSIFIED AS ZONE X, AN AREA OF MINIMAL FLOOD HAZARD IN ACCORDANCE WITH FLOOD HAZARD BOUNDARY MAP NO. 51059C 0315E.
3. BEARINGS BASED ON THE RECORD PLAT OF GROVETON HEIGHTS, LIBER B-10, PAGE 442.
4. IPF: DENOTES IRON PIPE FOUND.
5. THIS SURVEY IS A GRAPHIC DEPICTION OF THE LOCATION OF IMPROVEMENTS ONLY. NO CORNER MARKERS SET.
6. ANY HAND DRAWN FEATURES OR OTHER MODIFICATIONS SHOWN ON THIS PLAT WERE NOT AUTHORIZED BY THE LAND SURVEYOR WHOSE SIGNATURE AND SEAL APPEAR ON ITS FACE.



REAR YARD COVERAGE	
CANOPY=	349 S.F.
GARAGE=	252 S.F.
CONCRETE PATIO=	295 S.F.
ASPHALT DRIVEWAY PORTION=	+ 353 S.F.
TOTAL=	1,249 S.F.
(TOTAL REAR YARD)=	2,461 S.F.
	1,249/2,461= 50.7%

NOTES:

RESIDENTIAL USE – NO PARKING SPACES ALL EXISTING STRUCTURES TO REMAIN. EXISTING DWELLING CONSTRUCTED IN 1940. NO WELL OR SEPTIC FIELD ON SITE. SERVED BY PUBLIC WATER AND SEWER. RESIDENTIAL USE – NO FAR THERE ARE NO UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE, AND NO MAJOR UNDERGROUND UTILITY EASEMENTS REGARDLESS OF WIDTH ON SITE. PROPERTY NOT IN ANY OVERLAY DISTRICT. TO THE BEST KNOWLEDGE OF THE SURVEYOR, THERE ARE NO EXISTING GRAVES ON-SITE.



I HEREBY CERTIFY THAT THE POSITION OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN CAREFULLY ESTABLISHED BY ELECTRONIC EQUIPMENT AND/OR TRANSIT-TAPE SURVEY AND THAT UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

VARIANCE PLAT & SPECIAL PERMIT PLAT
LOTS 31, 32 & 33
 BLOCK 2, SECTION 1
GROVETON HEIGHTS
 LIBER B-10, PAGE 442
 LEE DISTRICT
 FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=30'
 DATE: 2/16/15
 VARIANCE: 7/29/15

DRAWN: MKC/MNS
 CHECKED: FKP/LHS

LS₂PC
 LAND SURVEYING & CIVIL ENGINEERING
 2890 EMMA LEE STREET SUITE 200
 FALLS CHURCH, VIRGINIA 22042
 703 241 5515 FAX 703 241 5516

SPECIAL PERMIT REQUEST

The applicants are seeking a special permit to allow reductions in minimum yard requirements based on errors in building locations to allow an accessory structure (detached garage) to remain 2.5 feet from a side lot line and 6.7 feet from the rear lot line and the garage is approximately 253.5 square feet in area and 12 feet in height. The applicant is also requesting an addition to remain 13.9 feet from the eave to the eastern side lot line. The addition was not constructed to what was approved on the building permit, but the error is less than 10 percent.

	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percentage of Reduction Requested
Special Permit	Accessory Structure (Garage)	Side	15.0 feet	2.5 feet	12.5 feet	83.3%
		Rear	25.0 feet	6.7 feet	18.3 feet	73.2%
	Addition	Side	15.0 feet	13.9 feet	1.1 feet	7.3%

VARIANCE REQUEST

The applicants are also seeking a variance for rear yard coverage that exceeds 30 percent. The total calculated rear yard area is 2,461 square feet. The maximum amount of rear yard coverage at 30 percent would be approximately 738.3 square feet. The applicant is requesting rear yard coverage of approximately 1,249 square feet or approximately 50.7% of the total rear yard. The coverage includes a roofed patio (labeled canopy on the plat), a detached garage, a concrete patio and a portion of the asphalt driveway.

A copy of the special permit plat titled “Variance Plat & Special Permit Plat, Lots 31, 32 and 33, Block 2, Section 1, Groveton Heights” prepared by Lawrence H. Spilman III, L.S., dated February 16, 2015, as revised through July 29, 2015, is included in the front of the staff report.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 12,675 square foot lot is developed with a two-story single family detached dwelling, which is accessed via an asphalt driveway from two points along Groveton Street. The house is also setback far from the street, relative to the size of the lot. A concrete sidewalk, steps and a stone porch are located in the front yard. A detached garage is located to and concrete patio with a



Figure 1- Aerial Photo of Subject Property

canopy are located to the rear of the dwelling. A number of retaining walls and in-ground planters are located throughout the property.

The subject property and surrounding properties are zoned R-2 and developed with single family detached dwellings. The subject property is located in a Highway Corridor Overlay District.

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1940 and purchased by the applicants in 1997.

- August 18, 2006- A building permit was obtained and a final inspection was passed for the construction of a second story addition (Appendix 4).
- May 1, 2014- A complaint for an unpermitted addition for a roofed deck and unpermitted construction of a detached garage was filed (Appendix 5). The complaint is under investigation by the Department of Code Compliance (DCC) pending the result of this special permit application.
- August 25, 2014- A second complaint for a violation in building setbacks was filed for the location of the detached garage (Appendix 5). The complaint is under investigation by the DCC pending the result of this special permit application. On October 6, 2014, a Notice of Violation (NOV) related to the above complaint for building setbacks was issued to the applicant for an existing accessory structure (detached garage) that did not meet applicable zoning setbacks (Appendix 6).

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area IV, Mount Vernon Planning District
Planning Sector: Hybla Valley Community Planning Sector (MV2)
Plan Map: Residential uses, at 2-3 dwelling units/acre

Bulk Standards (R-2)		
Standard	Required	Provided
Lot Size	15,000 sf.	12,675 sf. ¹
Lot Width	Interior: 100 feet	78.9 feet ¹
Building Height	35 feet max.	28 feet
Front Yard	Min. 35 feet	88.6 feet
Side Yard	Min. 15 feet	24.3 feet, 13.9 feet ²
Rear Yard	Min. 25 feet	32.2 feet

1. This lot was subdivided and recorded in 1940 before the establishment of the county's first zoning ordinance on March 1, 1941. Therefore, the property is deemed a legal buildable lot pursuant to Section 2-405.1 of the Zoning Ordinance.

2. Modification for approval requested with this application.

Zoning Ordinance Requirements (Appendix 7)

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

Staff does not make recommendations on applications for errors in building locations, which in this case includes the locations for an accessory structure (detached garage) and the addition. According to the Statement of Justification, the applicant was unaware of the setback requirements for the accessory structure.

Variance Requirements (Appendix 8)

- Code of Virginia Sec. 15.2-2309, as amended

In addition to meeting the definition of a variance, an application must satisfy a specific set of criteria in order for the Board to grant a variance. According to the recently amended Virginia state code in Sec. 15.2-2309, a variance meeting the definition shall be granted if the following elements are met:

1. The evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance (Sect. 15.2-2309.2)

In staff's opinion, the request for the additional rear yard coverage to keep the existing patio is driven by a physical characteristic of the property. The lot was developed in 1940 and by current Zoning Ordinance requirements would be substandard. The current Zoning Ordinance requires a R-2 lot to be at least 15,000 square feet and have a lot width of 100 feet. The subject property is 12,675 square feet and 78.9 feet wide; this lot

is approximately 2,400 square feet smaller and 22.0 feet narrower than current R-2 district lot size regulations.

In addition, the placement of the dwelling on the lot has created a shallow rear yard. The existing dwelling is located approximately 88 feet back from the front lot line. The minimum required front yard in an R-2 district is 35 feet. Therefore the front yard is more than double the minimum front yard setback. In turn, the total rear yard is only 32.7 feet from the dwelling to the rear property line. Coupled with the narrowness of the lot (75.0 feet in the rear), there is a limited amount of space to utilize and develop the rear yard.

Staff found through aerial imagery that the asphalt and concrete patio in the rear yard have existed since at least 1997 (see Figure 2 below). In addition there was a detached accessory structure, which appears to be a detached garage that has been demolished. Therefore the patio (295 square feet) and the asphalt portion (353 square feet) in the rear yard totaling approximately 26 percent (648 square feet) of the total rear yard coverage existed before the applicant purchased the property.



Figure 2- 1997 Aerial



Figure 3- 2009 Aerial

It should also be noted that although the 2009 garage and the canopy are not seen in the 1997 aerial imagery, it appears that their locations were already paved over or disturbed. The Zoning Ordinance defines rear yard coverage as “All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard” (Sect. 10-103). This would include patios, decks, porches, driveways and any impervious areas. Therefore, before the applicant purchased the property there was already an existing violation in rear yard coverage. Furthermore, the addition of the

structures does not appear to increase the amount of coverage that has existed on the property for at least the last 18 years.

Therefore, staff believes that the application for the rear yard coverage satisfies this standard.

2. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance (Sect. 15.2-2309.2(i))

Staff believes the property was acquired in good faith based on the information contained in the applicants' statement of justification. The placement of the house on the lot greatly limits the area available for typical accessory uses in a rear yard. In addition, the property was acquired with coverage already exceeding the 30 percent maximum. Staff believes from aerial photography that the rear yard coverage has not been dramatically increased by the applicant's construction of the garage and the canopy.

3. The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area (Sect. 15.2-2309.2(ii))

Staff believes the shallow rear yard is not a hardship generally shared by any of the neighboring properties. Although the applicant constructed an addition that extends into the rear yard, the house was already setback further than other homes in the neighborhood (see Figure 4 below). In addition, the applicant has obtained letters in support from a neighbor regarding the garage and canopy structures. The applicant also has six foot high wood fencing to visually screen the structures from the neighbors. Therefore, staff believes that the application meets this provision.



Figure 4- 2013 Aerial Photo

4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general reduction to be adopted as an amendment to the ordinance (Sect. 15.2-2309.2(iii))

The placement of the dwelling on the lot greatly limits the amount of rear yard area available. Other nearby properties have been constructed closer to the street than the subject property and therefore have a larger functional rear yard. The same amount of coverage on those lots would likely be conforming.

5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property (Sect. 15.2-2309.2(iv))

Staff finds that variance request for excess coverage in a front yard and a rear yard would not result in a use that is otherwise permitted or cause a change in the zoning classification of the property.

6. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application (Sect. 15.2-2309.2(v))

The variance application is the only mechanism to provide the relief requested for the coverage in the rear yard.

CONCLUSIONS

Staff does not make recommendations on error in building locations in this application including the location of the accessory structure (detached garage) and the addition. The applicant states in the statement of justification that without the knowledge of the setbacks that he acted in good faith. 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.

Staff recommends approval of VC 2015-LE-008 for rear yard coverage greater than 30 percent. Staff believes that the location of the house limits the utilization and development of the property. In addition, the impervious coverage in the rear yard has existed since at least 1997, approximately when the applicant purchased the property. The definition of the Zoning Ordinance calculates impervious coverage as “all uses and structures” accessory to the dwelling, including patios. Staff believes that all structures in the rear yard were constructed by the applicant on previously impervious surfaces and therefore has not increased the impervious coverage. Therefore staff believes that the ordinance is unreasonably restricting the utilization of the property in this instance and that the variance would provide adequate relief.

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 Special Permit Development Conditions
2. Proposed Variance Development Conditions
3. Applicant's Statements of Justification
4. Applicant's Affidavits
5. Building Permit and Complaint History
6. Notice of Violation dated October 6, 2014
7. Zoning Ordinance Provisions
8. Revised Variance Provisions

PROPOSED SPECIAL PERMIT DEVELOPMENT CONDITIONS**SP 2015-LE-052****September 16, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-LE-052, located at Tax Map 92-2 ((18)) (2) 31, to permit reductions in minimum yard requirements based on errors in building locations to permit an accessory structure to remain 2.5 feet from a side lot line and 6.7 feet from a rear lot line and an addition to remain 13.9 feet from a side lot line 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 garage and the addition, as shown on the plat prepared titled "Variance Plat & Special Permit Plat, Lots 31, 32 and 33, Block 2, Section 1, Groveton Heights," prepared by Lawrence H. Spilman III, L.S., dated February 16, 2015, as revised through July 29, 2015, as included in this report.
2. All applicable permits and final inspections shall be obtained for the detached accessory structure and canopy within 60 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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

PROPOSED VARIANCE DEVELOPMENT CONDITIONS**VC 2015-LE-008****September 16, 2015**

1. This variance is approved for rear yard coverage greater than 30 percent as shown on the plat titled, "Variance Plat & Special Permit Plat, Lots 31, 32 and 33, Block 2, Section 1, Groveton Height," prepared by Lawrence H. Spilman III, L.S., dated February 16, 2015, as revised through July 29, 2015, as submitted with this application and is not transferable to other land.

This approval, contingent upon the above-noted conditions, shall not relieve the applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

MAR 04 2015

Zoning Evaluation Division

RIGOBERTO GUARADO

2. THE BZA DETERMINES THAT

- a) THE ERROR EXCEEDS 10% : YES
- b) N/A
- c) DID NOT KNOW.
- d) SUCH REDUCTION OR MODIFICATION WILL NOT IMPAIR THE PURPOSE AND INTENT OF THIS ORDINANCE.
- e) NOT TO AFFECT NEIGHBOOR PROPERTY
- f) IS NOT GOING TO CREATE UNSAFE CONDITION
- g) IT WILL BE VERY EXPENSIVE TO REMOVE IT, AND WE NEED IT FOR STORAGE.
- h). THE REDUCTION OR MODIFICATION WILL NOT RESULT IN AN INCREASE IN DENSITY OR FLOOR AREA RATIO FROM THE PERMITTED BY THE APPLICABLE ZONING DISTRICT REGULATION.

ANSWER ON DEFICIENT 5.08: WE HAVE NO HAZZARD MATERIAL

ANSWER ON DEFICIENT 5.09: APPLICATION MEETS ALL ORDINANCE & REGULATION



FEBRUARY 24 2015

Statement of Justification for Variance

RECEIVED
Department of Planning & Zoning

AUG 25 2015

Zoning Evaluation Division

Variance Requirements (Appendix 14)

- Code of Virginia Sec. 15.2-2309, as amended

In addition to meeting the definition of variance, an application must satisfy a specific set of criteria in order for the Board to grant a variance. According to the recently amended Virginia state code in Sec. 15.2-2309, a variance meeting the definition shall be granted if the following elements are met:

1. The evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance (Sect. 15.2-2309.2)

DUE TO THE NARROW 215E LOT, AND SHALLOW BACK YARD, WOULD LIKE TO HAVE 2 PATIO AND 1 CAR GARAGE AT OUR REAR YARD LOT WAS ESTABLISH IN 1940

2. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance (Sect. 15.2-2309.2(i))

PROPERTY OWNER WAS NOT AWARE OF REAR YARD REQUIREMENTS.

3. The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area (Sect. 15.2-2309.2(ii))

WE HAVE 4 NEIGHBOR AND SUPPORT OF GARAGE WE ALSO HAVE FENCING THATS SCREEN OUR GARAGE AND PATIO FROM NEIGHBORS

4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general reduction to be adopted as an amendment to the ordinance (Sect. 15.2-2309.2(iii))

OUR PROPERTY IS MORE SHALLOW THAN NEIGHBORS REAR YARD.

AUG 25 2015

Zoning Evaluation Division

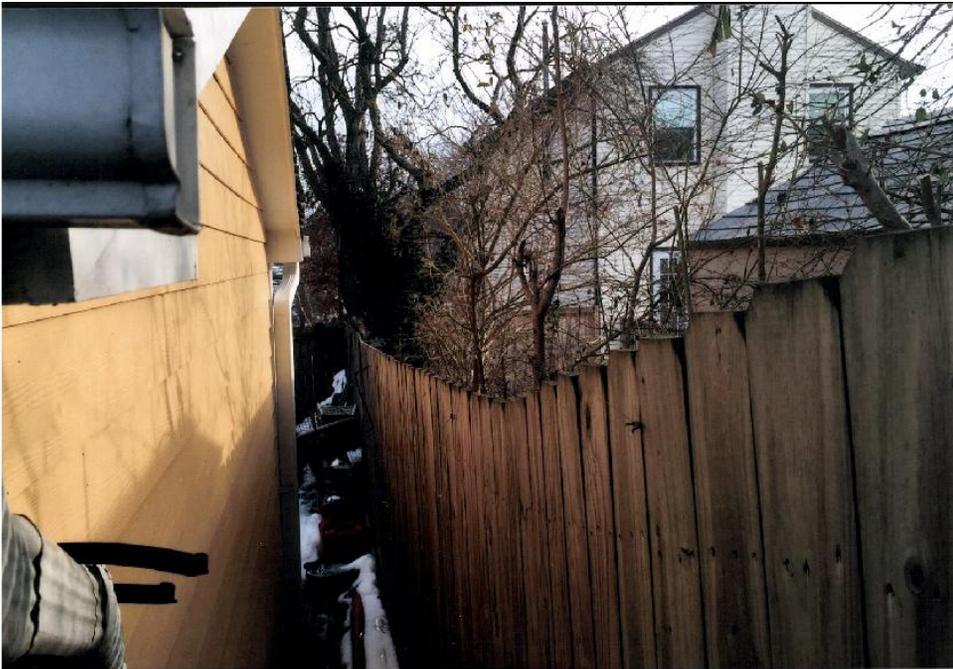
5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property (Sect. 15.2-2309.2(iv))

THE PROPERTY WILL REMAIN AS RESIDENTIAL USE.

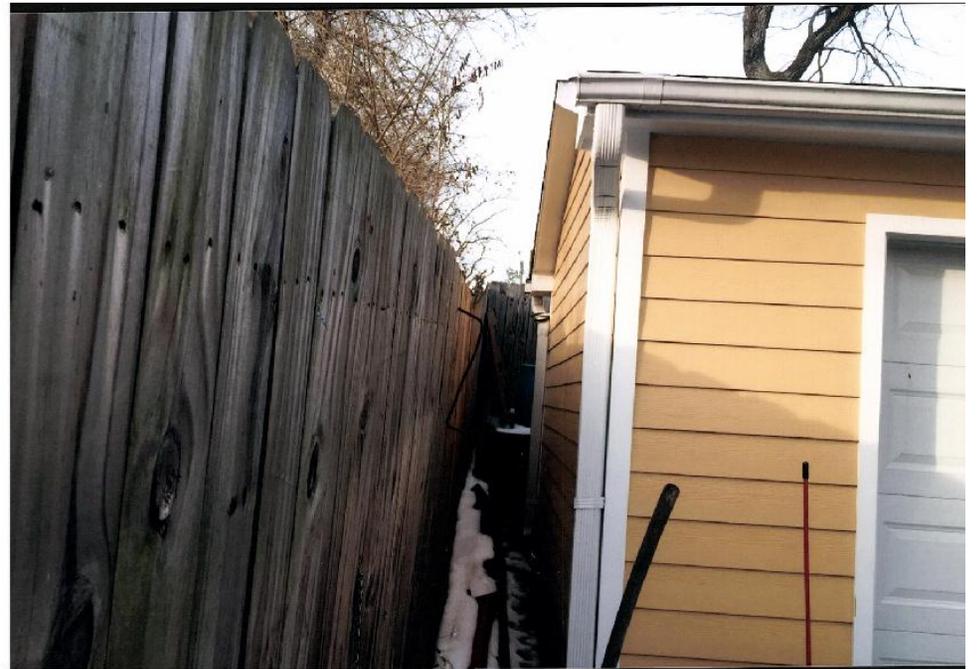
6. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application (Sect. 15.2-2309.2(v))

REQUESTING A VARIANCE IS THE ONLY REMEDY
TO KEEP THE GARAGE AND PATIO.


8/25/15















SP 2015-LE-052

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/24/2015
(enter date affidavit is notarized)

120213

I, MILTON CORTEZ AGENT, do hereby state that I am an
(enter name of applicant or authorized agent)

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

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
MILTON CORTEZ	6614 QUANDEN RD ALEXANDRIA VA 22307	AGENT
RIGOBERTO GUARDADO	3118 GROVETON ST ALEXANDRIA VA 22306	THE OWNER
MARIA GUARDADO	" " "	CO-TITLE OWNER
DEBORAH GUARDADO	" " "	CO-TITLE OWNER

(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): SP 2015-LE-052
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/24/2015
(enter date affidavit is notarized)

128213

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): _____

SP 2015-LE-052

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/24/2015
(enter date affidavit is notarized)

128213

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

PARTNERSHIP INFORMATION

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

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

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

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

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

Application No.(s): _____

SP 2015-LE-052
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/24/2015
(enter date affidavit is notarized)

128213

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.

SP 2015 - LE - 052

Application No.(s):

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

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 02/24/2015
(enter date affidavit is notarized)

128213

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

[X] Applicant's Authorized Agent

MILTON H. CORTEL AGENT
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 24 day of February 2015, in the State/Comm. of Virginia, County/City of Fairfax/Alexandria

[Signature]
Notary Public

My commission expires: 04/30/2018

LUIS FERNANDO DUQUE
NOTARY PUBLIC 7616048
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APRIL 30, 2018

131414

Application No.(s): VC 2015-LE-008
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/25/15
(enter date affidavit is notarized)

I, MILTON CORTEZ, do hereby state that I am an
(enter name of applicant or authorized agent)

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

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
MILTON CORTEZ	6614 QUANDEN RD ALEXANDRIA VA 22307	AGENT.
RIGOBERTO GUARDADO	3118 GROUETON ST ALEXANDRIA VA 22306	THE OWNER
MARIA GUARDADO	" " " "	CO-TITLE OWNER
DEBORAH GUARDADO	" " " "	CO-TITLE OWNER

(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.

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

Application No.(s):

VC 2015-LE-008

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

8/25/15

(enter date affidavit is notarized)

131414

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

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

CORPORATION INFORMATION

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

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): VC 2015-LE-008
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/25/15
(enter date affidavit is notarized)

131414

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

PARTNERSHIP INFORMATION

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

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

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

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

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

RECEIVED
Department of Planning & Zoning

AUG 25 2015

Application No.(s): VC 2015-LE-008
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/25/15
(enter date affidavit is notarized)

131414

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:

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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.

RECEIVED
Department of Planning & Zoning
AUG 25 2015
Zoning Evaluation Division

AUG 25 2015

Application No.(s):

VC 2015-LE-008

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

Zoning Evaluation Division

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/25/15
(enter date affidavit is notarized)

131414

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

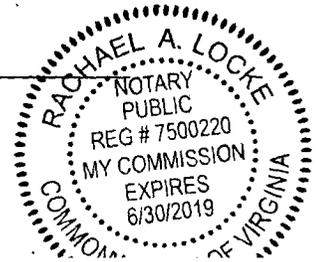
[X] Applicant's Authorized Agent

MILTON H. LOPEZ AGENT

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

Subscribed and sworn to before me this 25th day of August 2015, in the State/Comm. of Virginia, County/City of Fairfax

Rachael A. Locke
Notary Public



My commission expires: 6/30/2019



Land Development Information History: FIDO - ADDITION R - 051445060

Permit Information

Permit Number:	051445060	Application Date:	
Permit Type:	RESIDENTIAL ADDITION	Tax Map:	092-2 ((18)) (02) 0031
Job Address:	003118 GROVETON ST ALEXANDRIA , VA 22306-1515	Permit Status:	Finalized
Location:		Bldg:	Floor: Suite:
		Permit Fee:	\$106.43
Subdivision:	GROVETON HEIGHTS SEC. 1		
Magisterial District:	LEE		
Subcensus Tract:			
AP (Tenant) Name:	NA		
Work Description:	SFD/2ND STORY ADDITION PER PLANS S1 & 2 STORY ADD//		
Type of Work:	ROOM ADDITION		
Building Use:	SFD - SINGLE FAMILY DWELLING		
Standard:	IR00 - IRC 2000		
Plan Number:	R-05-00775		
Parent Permit:	NA		
ISIS Permit:	05144B0020		
Type of Const:	VB		
Use Group:	R5		
Comments:			

Link to FIDO record : [051445060](#)

Owner Information

Owner: GUARDADO RIGOBERTO

Address: 3118 GROVETON ST
City: ALEXANDRIA **State:** VA
Zip: 22306

Contractor Information

Name: OWNER IS CONTRACTOR
Address:
City: **State:** VA **Zip:**
Trade Name:

BPOL License:**State License:****Trade Reg.:****Applicant Information**

Applicant: RIGOBERTO
Address:
City: **State:** **Zip:**

Other Contact Information

Contact: RIGOBERTO
Address:
City: **State:** **Zip:**

Inspections**Inspection - R FINAL - FINAL INSPECTION - 3019038**

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-15	WILLIAM DOUGHERTY	N	Failed	NO	HANDRAIL HEIGHT 34 TO 38", STOVE WIRED TO SMALL APPLIANCE CIRCUIT, GFCI TO RIGHT STOVE NOT WORKING, RECPT NOT GFCI PRO

Inspection - R FINAL - FINAL INSPECTION - 3019038

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-15	WILLIAM DOUGHERTY	N	Failed	NO	HANDRAIL HEIGHT 34 TO 38", STOVE WIRED TO SMALL APPLIANCE CIRCUIT, GFCI TO RIGHT STOVE NOT WORKING, RECPT NOT GFCI PRO

Inspection - R FINAL - FINAL INSPECTION - 3016463

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-07	BRYANT WILKERSON	N	Failed	NO	HANDRAIL KITCHEN 2 20 AMP CIRCUITS GFI PROTECTED BATHROOMS SAME

Inspection - R FINAL - FINAL INSPECTION - 3016463

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-07	BRYANT WILKERSON	N	Failed	NO	HANDRAIL KITCHEN 2 20 AMP CIRCUITS GFI PROTECTED BATHROOMS SAME

Inspection - R FINAL - FINAL INSPECTION - 3025841

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL			N	None	NO	Auto Finalization

Inspection - R FINAL - FINAL INSPECTION - 3027823

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-18	DIANNE GILLMAN	N	Passed	NO	checked off items on list

Inspection - R FINAL - FINAL INSPECTION - 3027823

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FINAL	2006-08-18	DIANNE GILLMAN	N	Passed	NO	checked off items on list

Inspection - R FRAMING - FRAMING INSPECTION - 2486455

Insp Type	Insp Date	Insp Name	Partial?	Insp Result	Re-Fee	Comments
R FRAMING	2006-02-24	ARTHUR PATTERSON	N	Passed	NO	Certified Engineer Number: Mechanical Indicator: Inspection Branch: Building Permit: NA

Reviews**Review - BUILDING - (BUILDING REVIEW) - 545390**

Review Type	Review Date	Reviewer	Started	Status
BUILDING	2005-06-08	CYNTHIA GRACE	Y	Failed

Review - BUILDING - (BUILDING REVIEW) - 545391

Review Type	Review Date	Reviewer	Started	Status
BUILDING	2005-06-27	CYNTHIA GRACE	Y	Failed

Review - BUILDING - (BUILDING REVIEW) - 545392

Review Type	Review Date	Reviewer	Started	Status
BUILDING	2005-08-24	KAMARAN AHMAD	Y	Conditional Approval

Review - MECHANICAL - (MECHANICAL REVIEW) - 545393

Review Type	Review Date	Reviewer	Started	Status
MECHANICAL	2006-01-12	ROGER O'DONOGHUE	Y	Approved

Review - SITEPERMIT - (SITE PERMITS REVIEW) - 545394

Review Type	Review Date	Reviewer	Started	Status
SITEPERMIT	2005-06-01		Y	Approved

Review - REALESTATE - (REAL ESTATE REVIEW) - 545395

Review Type	Review Date	Reviewer	Started	Status
REALESTATE	2005-05-24		Y	Approved

Review - ZONING - (ZONING REVIEW) - 545396

Review Type	Review Date	Reviewer	Started	Status
ZONING	2005-06-03		Y	Approved

Contact Us: [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)
Phone: **County Main Number** - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

[ADA Accessibility](#)|[Website Accessibility](#)

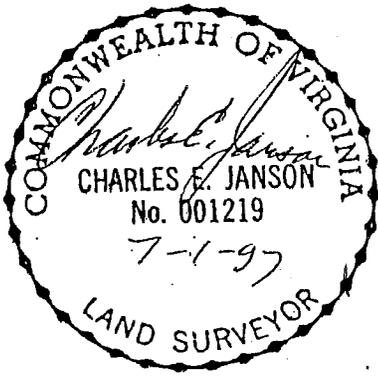
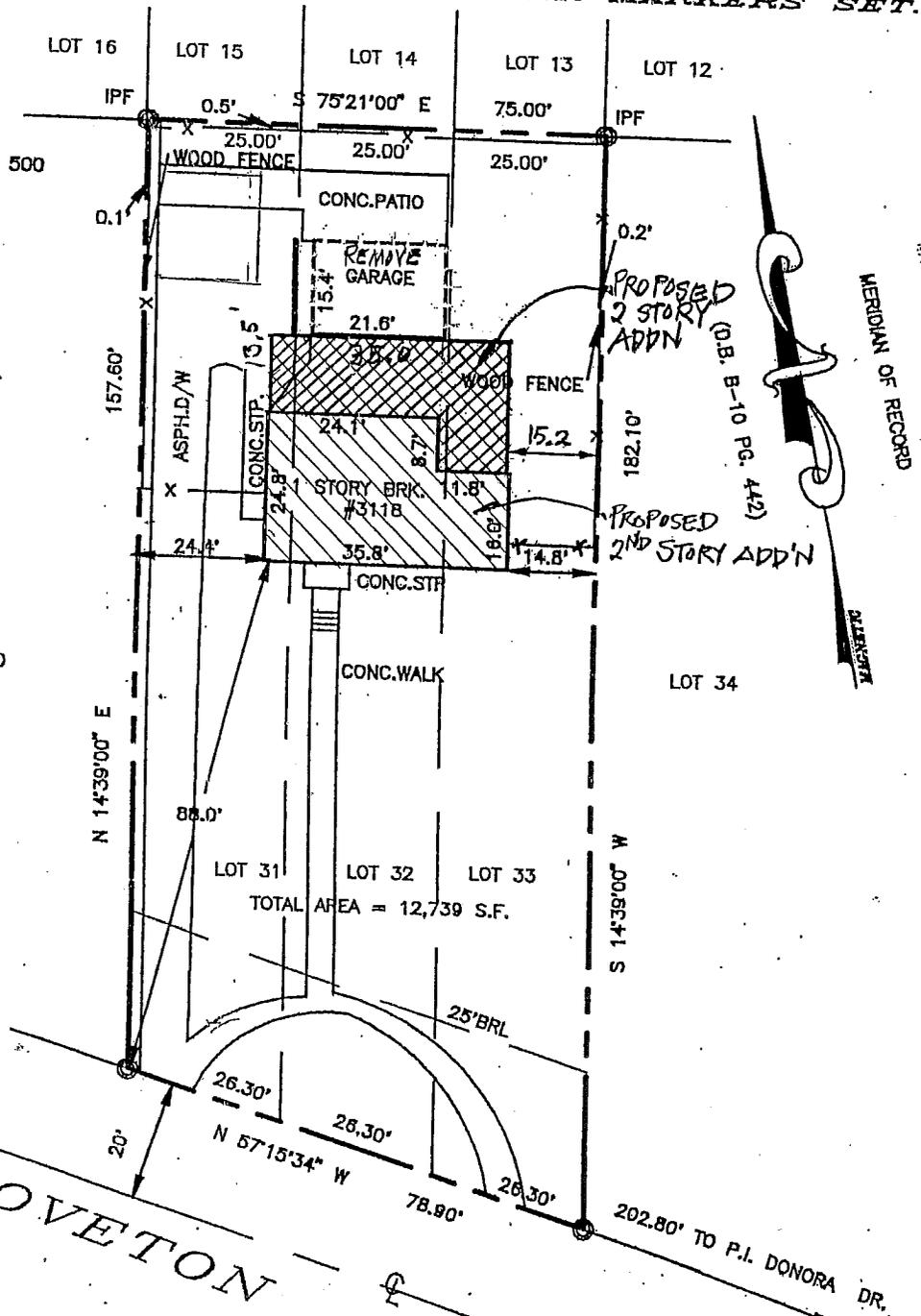
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1. NO TITLE REPORT FURNISHED.
2. THIS PLAT IS NOT TO BE USED FOR THE CONSTRUCTION OF FENCES.
3. BOUNDARY INFORMATION OBTAINED FROM AVAILABLE RECORDS.
4. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY OF LOTS 31, 32 & 33 ANY FENCES SHOWN ARE APPROXIMATE
5. NO CORNER MARKERS SET.

FLOOD NOTE:

THIS LOT CLASSIFIED AS ZONE "X"
AREA DETERMINED TO BE OUTSIDE 500
YEAR FLOOD.



GROVETON STREET

PLAT SHOWING
HOUSE LOCATION SURVEY
LOTS 31, 32 AND 33
BLOCK 2 SECTION 1
GROVETON HEIGHTS
LEE DISTRICT
FAIRFAX COUNTY, VIRGINIA

FLOOD ZONE: "X"
COMMUNITY NO: 6155250150D
PANEL: 150 D
DATE: 3-5-90

DATE: 07-01-97 SCALE: 1" = 30' CASE NAME: SEWARD/GUARDADO

PLAT SUBJECT TO RESTRICTIONS OF RECORD **SDE** SUBURBAN DEVELOPMENT ENGINEERING

I, HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS

7777 LEESBURG PIKE, SUITE # 403N
FALLS CHURCH, VIRGINIA 22043 703-556-0800

DRAWN BY: FARID R. CHECKED BY: CHUCK J.



Land Development Information History: FIDO - DCC - Complaint 109072

Complaint Details

Complaint #	109072
Street Address	003118 GROVETON ST
Magisterial District	Lee
Complaint Description	Setback
Agency	DCC
Status	Closed
Opened Date	2014-08-25
Closed Date	2015-03-18
Disposition	Administrative Action
Inspector Assigned	William Smoot
Notice of Violation and/or Corrective Work Order	Yes
Litigation	No

Contact Us: [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)
Phone: County Main Number - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

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Land Development Information History: FIDO - DCC - Complaint 104223

Complaint Details

Complaint #	104223
Street Address	003118 GROVETON ST
Magisterial District	Lee
Complaint Description	Unpermitted Addition
Agency	DCC
Status	Under Investigation
Opened Date	2014-05-01
Closed Date	
Disposition	
Inspector Assigned	
Notice of Violation and/or Corrective Work Order	No
Litigation	No

Contact Us: [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)
Phone: County Main Number - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

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County of Fairfax, Virginia

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

DOC RETURN COPY

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: October 6, 2014

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Rigoberto Guardado
Maria E. Guardado
Deborah E. Guardado

ADDRESS: 3118 Groveton St
Alexandria, VAirginia22306-1515

LOCATION OF VIOLATION: 3118 Groveton St
Alexandria, Virginia 22306-1515

TAX MAP REF: 0922 18020031

ZONING DISTRICT: R- 2

CASE #: 201402752 **SR #:** 109072

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

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

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

Dear Responsible Party:

The purpose of this letter is to rescind the Notice of Violation issued to Rigoberto Guardado, Maria E. Guardado and Deborah E. Guardado by letter dated September 9, 2014 and reissues a new Notice of Violation regarding the Zoning Violation.

This Notice of Violation rescinds the Notice of Violation dated September 9, 2014.
In accordance with the Fairfax County Zoning Ordinance, an inspection on September 4, 2014 revealed

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Rigoberto Guardado
Maria E. Guardado
Deborah E. Guardado
October 6, 2014
SR 109072
Page 2

the following violation of the Fairfax County Zoning Ordinance as listed below:

Violation: ACCESSORY STORAGE STRUCTURE 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 structures 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

Rigoberto Guardado
Maria E. Guardado
Deborah E. Guardado
October 6, 2014
SR 109072
Page 3

- Relocating the accessory storage structures not closer than twelve (12) feet from any side lot line and nine and one half (9 1/2) feet from the rear property line; or
- Removing the accessory storage structures 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

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.

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 597

An Act to amend and reenact §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2308.1, relating to variances.

[H 1849]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2308.1 as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable

statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use, that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the *shape*, size, or area of a lot or parcel of land; or the size, *height*, area, bulk, or location of a building or structure when the strict application of the ordinance would ~~result in unnecessary or unreasonable hardship to the property owner~~ *unreasonably restrict the utilization of the property*, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the ~~intended spirit and purpose of the ordinance, and would result in substantial justice being done.~~ It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board

may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. ~~For~~ *Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body.* Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the City of Virginia Beach, members of the board shall be appointed by the governing body. The governing body of such city shall also appoint at least one but not more than three alternates to the board.

§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.

A. *The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.*

B. *Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.*

C. *For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.*

D. *This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.*

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. *The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.* The board shall consider ~~the purpose and intent~~ of any applicable ordinances, laws, and regulations in making its decision. *For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

2. ~~To authorize~~ *Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases such a variance as defined in § 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship;* provided that the spirit of the ordinance shall be observed and substantial justice done; ~~as follows:~~ *the burden of proof shall be on the*

applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

~~When a property owner can show that his~~ Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and ~~where by reason of the exceptional and any hardship was not created by the applicant for the variance; narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~ (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

No such variance shall be authorized by the board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship relating to the property;
- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be ~~authorized~~ considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In ~~authorizing~~ granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest; and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

§ 15.2-2314. Certiorari to review decision of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings *in the circuit court*. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

~~If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.~~ The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law *de novo*.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, ~~or application for a special exception,~~ the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by ~~showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning~~

appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality may request that the court hear the matter on the question of whether the appeal was frivolous.