



APPLICATION ACCEPTED: June 2, 2015  
DATE OF PUBLIC HEARING: October 7, 2015 @ 9:00 a.m.

# County of Fairfax, Virginia

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September 29, 2015

## STAFF REPORT

### SPECIAL PERMIT SP 2015-LE-091

#### LEE DISTRICT

**APPLICANTS/OWNERS:** Linwood J. White  
Carol A. White

**LOCATION:** 7829 Ashton St., Alexandria, 22309

**SUBDIVISION:** Mount Vernon Woods, Sec. 24

**TAX MAP:** 101-2 ((4)) 28A

**LOT SIZE:** 12,300 square feet

**ZONING:** R-3

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit reduction to minimum yard requirements based on an error in building location to permit an addition to remain 5.7 ft. from a side lot line.

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

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

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.

*Casey V. Gresham*

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-091 LINWOOD J. & CAROL A. WHITE

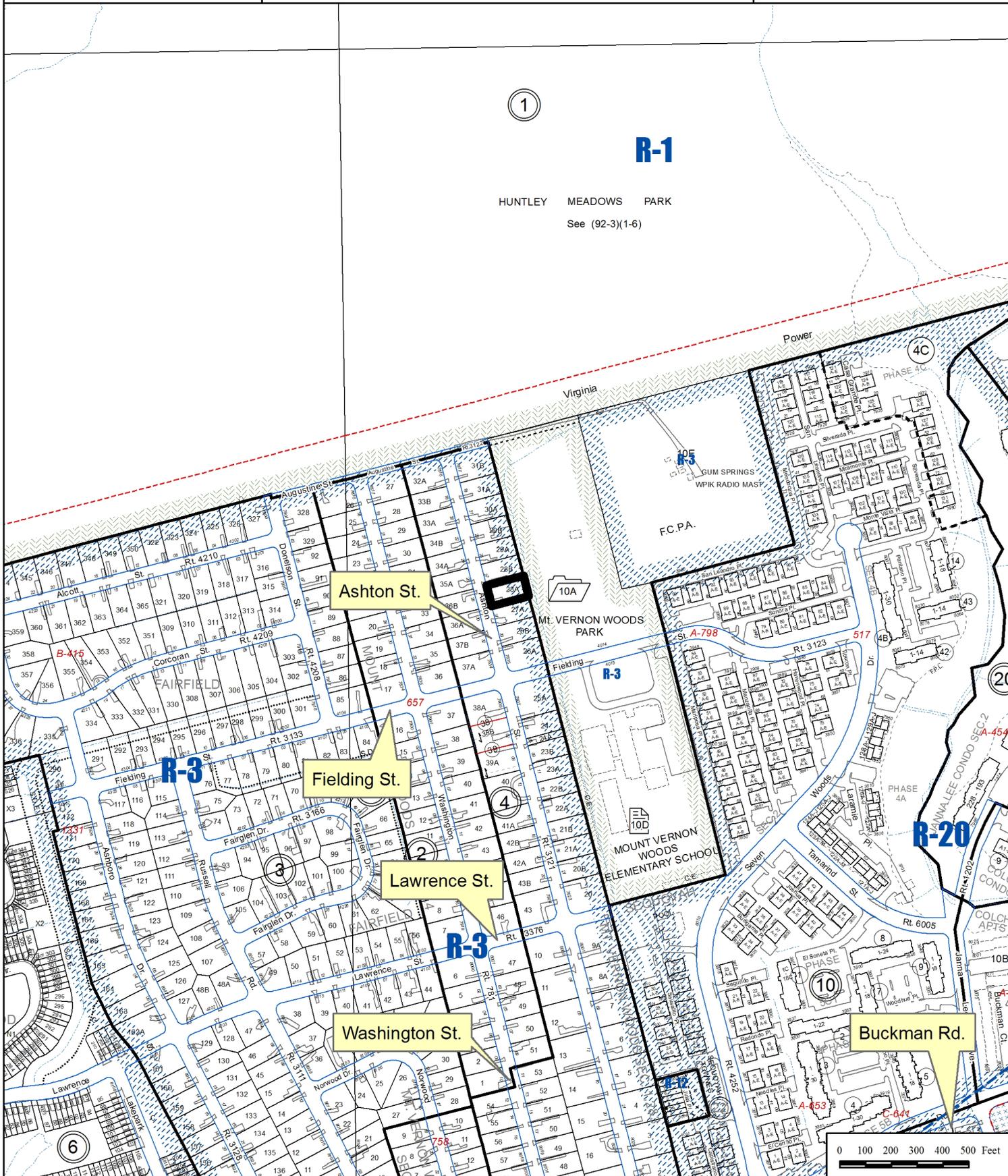


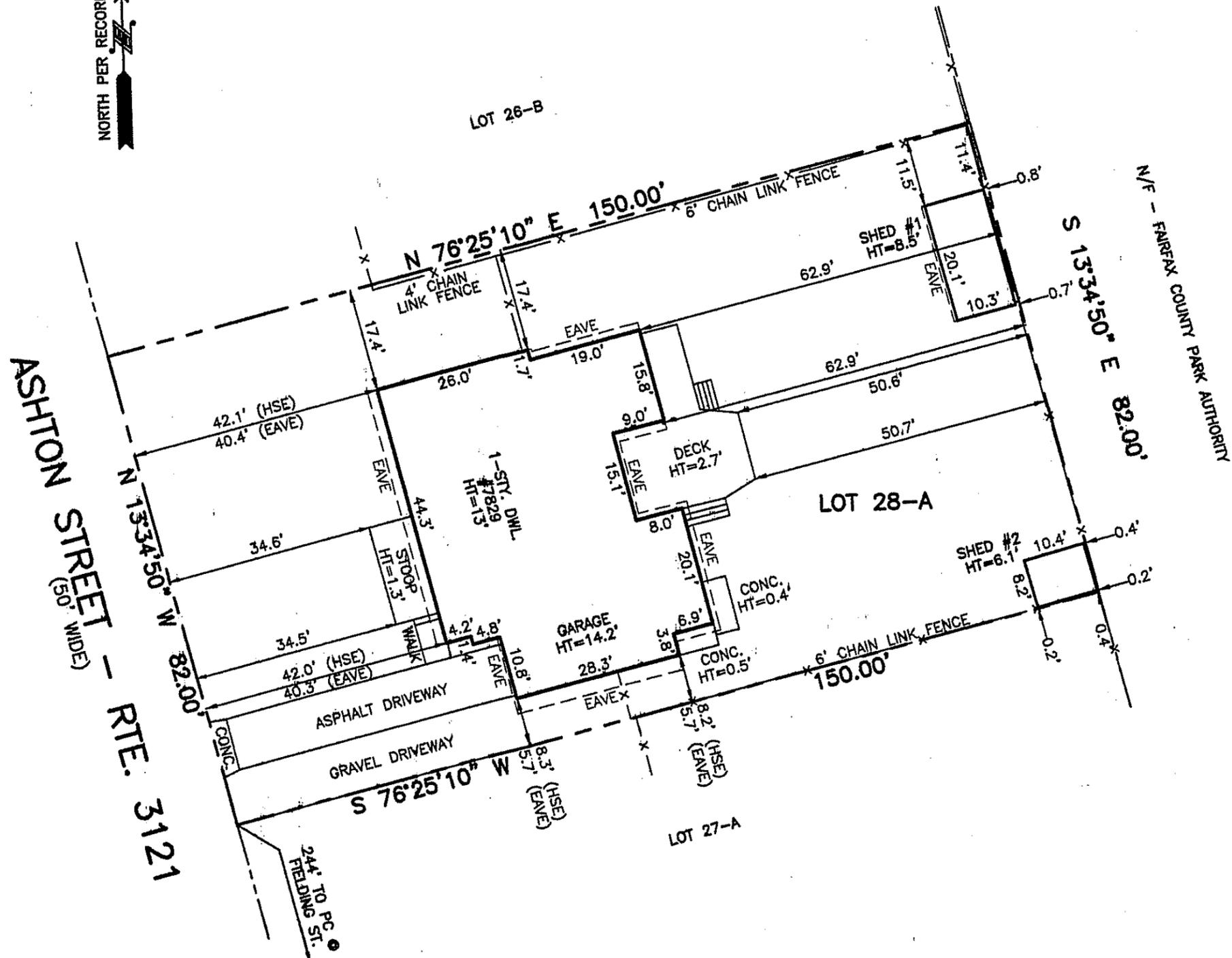
1

**R-1**

HUNTLEY MEADOWS PARK

See (92-3)(1-6)





**NOTES:**

1. TAX MAP - 101-2-04-0028A
2. ZONED - R-3
3. LOT AREA = 12,300 S.F.
4. NO TITLE REPORT FURNISHED
5. MINIMUM YARD REQUIREMENTS  
FRONT YARD = 30'  
SIDE YARD = 12'  
REAR YARD = 25'
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER
7. NO GRAVE, OBJECT OR STRUCTURE MARKING A PLACE OF BURIAL WAS OBSERVED DURING FIELD INSPECTION.
8. THERE ARE NO EASEMENTS 25' OR GREATER IN WIDTH ON THIS LOT.
9. THIS LOT IS IN AN AREA SHOWN ON FIRM COMMUNITY PANEL 405E EFFECTIVE SEPTEMBER 17, 2010 DESIGNATED AS ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
10. THERE ARE NO RPA'S ON THIS SITE.

RECEIVED  
Department of Planning & Zoning

MAY 20 2015

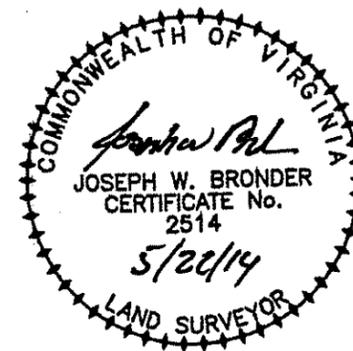
Zoning Evaluation Division

**GROSS FLOOR AREA TABULATION**

|                  |          |                   |
|------------------|----------|-------------------|
| HOUSE            | =        | 2,100 S.F.        |
| SHED #1          | =        | 186 S.F.          |
| SHED #2          | =        | 74 S.F.           |
| <b>TOTAL GFA</b> | <b>=</b> | <b>2,360 S.F.</b> |

**FRONT YARD COVERAGE TABULATION**

|                           |          |                           |
|---------------------------|----------|---------------------------|
| ASPHALT DRIVEWAY          | =        | 426 S.F.                  |
| GRAVEL DRIVEWAY           | =        | 449 S.F.                  |
| CONCRETE DRIVEWAY         | =        | 26 S.F.                   |
| STOOP & WALK              | =        | 161 S.F.                  |
| <b>TOTAL COVERAGE</b>     | <b>=</b> | <b>1,062 S.F. = 29.4%</b> |
| <b>AREA OF FRONT YARD</b> | <b>=</b> | <b>3,618 S.F.</b>         |



SPECIAL PERMIT PLAT  
**LOT 28-A**  
RESUBDIVISION OF PART OF SECTION TWO  
**MT. VERNON WOODS**  
LEE DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE - 1"=20' MAY 21, 2014  
**DIGIULIAN ASSOCIATES, P.C.**  
LAND SURVEYORS  
7000-D NEWINGTON ROAD  
LORTON, VIRGINIA  
703-339-7449



**SPECIAL PERMIT REQUEST**

The applicant is seeking a special permit to allow a reduction to minimum yard requirements based on an error in building location to permit a garage addition (enclosed carport) to remain 5.7 feet from a side lot line.

|                | Structure | Yard | Minimum Yard Required | Existing Location | Existing Reduction | Percentage of Reduction Requested |
|----------------|-----------|------|-----------------------|-------------------|--------------------|-----------------------------------|
| Special Permit | Garage    | Side | 12.0 feet             | 5.7 feet          | 6.3 feet           | 52.5%                             |

A copy of the special permit plat titled “Special Permit Plat, Lot 28-A, Resubdivision of Part of Section Two, Mt. Vernon Woods,” prepared by Joseph W. Bronder, L.S, dated May 22, 2014, is included in the front of the staff report.

**CHARACTER OF THE SITE AND SURROUNDING AREA**

The 12,300 square foot lot is developed with a one story single family detached dwelling. An asphalt and concrete driveway extends from the garage and provides vehicular access to Ashton Street. A concrete walkway extending from the driveway and provides access to the main entrance of the home. A deck and shed are located in the rear yard. The rear yard is enclosed by a chain link fence six feet in height.

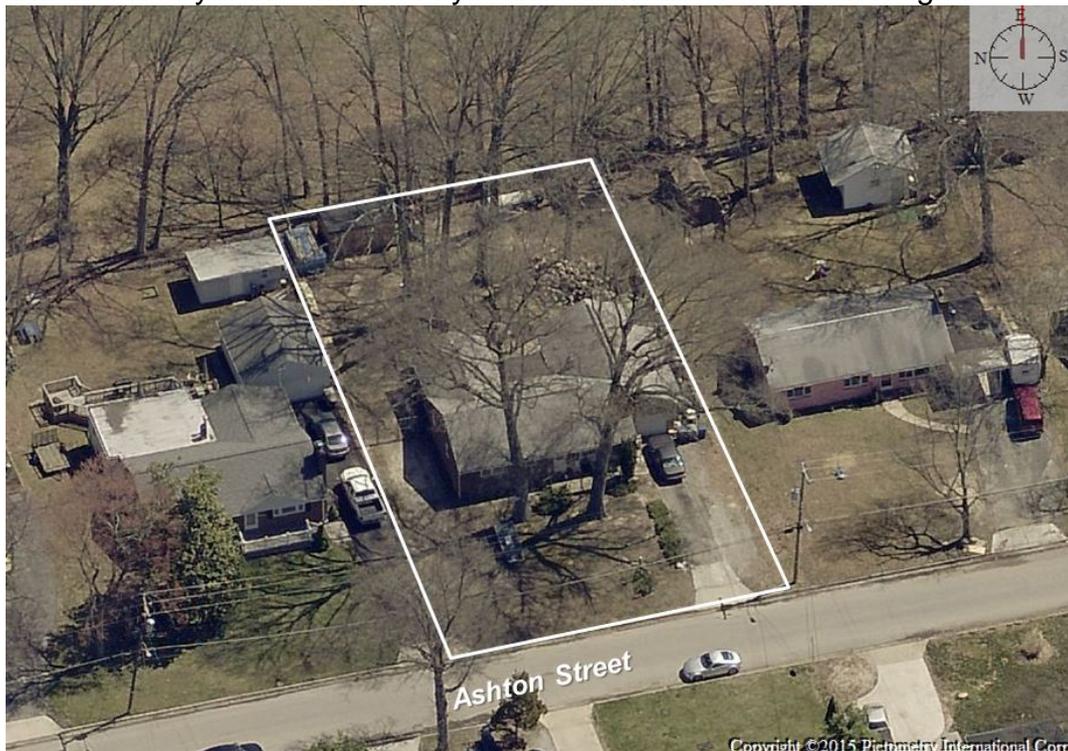


Figure 1: House Location

The subject property and surrounding properties to the north, south, and west are zoned R-3, and are developed with single family detached dwellings. The property to the east is Mount Vernon Woods Park.

## **BACKGROUND**

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1954 and purchased by the applicant in 1978.

Sometime in the 1990s or 2000s, the applicants converted the carport (that had been approved in a previous variance application) to a garage by adding a siding wall and replacing previously installed swinging doors. As the home does not have a basement, the garage is used for storage purposes.

### **Case History:**

- September 22, 1954: A building permit was issued to construct a carport approximately 4 feet from a side lot line. A copy of this permit is included in Appendix 4. This permit triggered a variance application.
- December 13, 1955: The Board of Zoning Appeals approved variance #10102 to allow a carport to remain closer to a side lot line than allowed by the Zoning Ordinance. This approval is included in Appendix 5.
- November 2, 2009: The Zoning Inspections Branch conducted an inspection of the property in response to a complaint regarding a business in a residential district (vehicle repair) and use of the site as a junk yard. During this inspection, the following violations were observed:
  - The enclosure of a carport, which violated the side-yard setback requirements.
  - A wood deck constructed without building permits.
  - A shed approximately 12 feet in height and 350 square feet in area that was located within the minimum rear and side yard setbacks constructed without building permit.
  - Greater than 30% rear yard coverage.
  - Outdoor storage in the front, side, and rear yards exceeding 100 square feet in aggregate area.
  - Greater than 30% front yard coverage used for parking vehicles.
  - Two inoperable vehicles located in the front yard.
  - Five trailers, three boats, a utility trailer, and a pop-up camper located as storage.
- November 2009 – July 2012: A series of field inspections were conducted in an attempt to obtain voluntary compliance.

- July 10, 2012: A notice of violation was issued for the previously noted violations. Upon subsequent re-inspections, the only issue resolved was the parking of vehicles on the grass of the front yard. All other violations remain outstanding. This notice is included in Appendix 6.
- August 27, 2013: The Zoning Administrator filed a complaint for declaratory judgement and injunctive relief with the circuit court of Fairfax County. This documentation is included in Appendix 7.
- June 2, 2014: An Agreed Final Order was entered requiring the applicants to remove inoperable vehicles from the property, to bring the garage into conformance through demolition or special permit, to obtain a permit and final inspections for the deck, and to bring front yard coverage into conformance with the ordinance. This Final Order is included in Appendix 8.
- May 1, 2015: The applicants were found in contempt with the Agreed Final Order. The judge ordered the defendants to obtain a demolition permit or submit a complete special permit application within 30 days. This documentation is included in Appendix 9.
- May 20, 2015: The applicant submitted a complete special permit application to the Zoning Evaluation Division. This application was accepted on June 2, 2015.
- June 12, 2015: An agreed order dismissing the contempt charge for rule to show cause was entered, as the applicants successfully filed a complete special permit application. This documentation is included in Appendix 10.

As of the publication of this report, the applicant has corrected the violations regarding accessory storage structures, front yard coverage, and rear yard coverage. The outstanding issues include the converted carport, an unpermitted deck, and outdoor storage. Conditions have been included in Appendix 1 that the unpermitted deck and outdoor storage be brought into conformance through the issuance of building permits and the removal of storage.

## **ANALYSIS**

### **Comprehensive Plan Provisions**

**Plan Area:** Area IV, Mount Vernon Planning District  
**Planning Sector:** Woodlawn Community Planning Sector (MV8)  
**Plan Map:** Residential uses, at 3-4 dwelling units/acre (du/ac)

## Zoning District Standards

| Bulk Standards (R-3) |                   |                       |
|----------------------|-------------------|-----------------------|
| Standard             | Required          | Provided              |
| Lot Size             | 10,500 sf.        | 12,300 sf.            |
| Lot Width            | Interior: 80 feet | 82 feet               |
| Building Height      | 35 feet max.      | Figure not provided   |
| Front Yard           | Min. 30 feet      | 34.5 feet             |
| Side Yard            | Min. 12 feet      | 5.7 feet <sup>1</sup> |
| Rear Yard            | Min. 25 feet      | 50.6 feet             |

<sup>1</sup> Application is to address this side yard setback.

## Zoning Ordinance Requirements

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

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 8. Subject to development conditions, the special permit must meet these standards.

## CONCLUSION

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

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

## APPENDICES

1. Proposed Development Conditions
2. Applicant's Statement of Justification and Select File Photos
3. Applicant's Affidavit
4. Carport Building Permit
5. Variance, Approved 1955
6. Notice of Violation, Dated July 10, 2012

7. Complaint for Declaratory Judgement and Injunctive Relief, dated August 27, 2013
8. Agreed Final Order, Dated June 2, 2014
9. Court Documentation, Dated May 1, 2015
10. Agreed Order Dismissing Rule To Show Cause, Dated June 12, 2015
11. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2015-LE-091****September 29, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-LE-091, located at Tax Map 101-2 ((4)) 28A, to permit an reduction in minimum yard requirements based on error in building location pursuant to Sect. 8-914 of the Fairfax County Zoning Ordinance, the BZA should condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location of the garage (converted carport), as shown on the plat prepared titled, "Special Permit Plat, Lot 28-A, Resubdivision of Part of Section Two, Mt. Vernon Woods," prepared by Joseph W. Bronder, L.S, dated May 22, 2014, and approved with this application, as qualified by these development conditions.
2. All required permits and final inspections shall be obtained for both the existing deck and garage within six (6) months of BZA approval.
3. All illegal outdoor storage and/or inoperable vehicles shall be removed from the property within thirty (30) days of approval.

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

## #5 Proposed Use

When this house was built in the mid-1950s the builder applied for and was granted a variance to build a carport on the East side of the house.

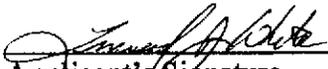
In September of 1978 I purchased this house and the carport had two swinging doors (old fashion garage doors) in the front and the side was closed in half way up with wood and the rest the way up with screen. (Closing in the carport)

In later years the screen was removed and siding was installed as well as the swinging doors were replaced with a std. garage door. (It has been this way for well over 10 years.)

The house has no basement and lacks storage space. The garage area is used for two up right freezers, my many tools, fishing gear, an area to work on things, and various other items. (Basically a catch all storage area.) This is what the area is proposed to be used for.

- H. A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.

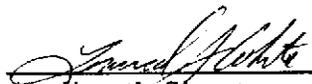
Hazardous or Toxic Substances. There are no known hazardous or toxic substances. No hazardous materials will be generated, utilized, stored, treated, and/or disposed of onsite.

  
Applicant's Signature

5/23/2015  
Date

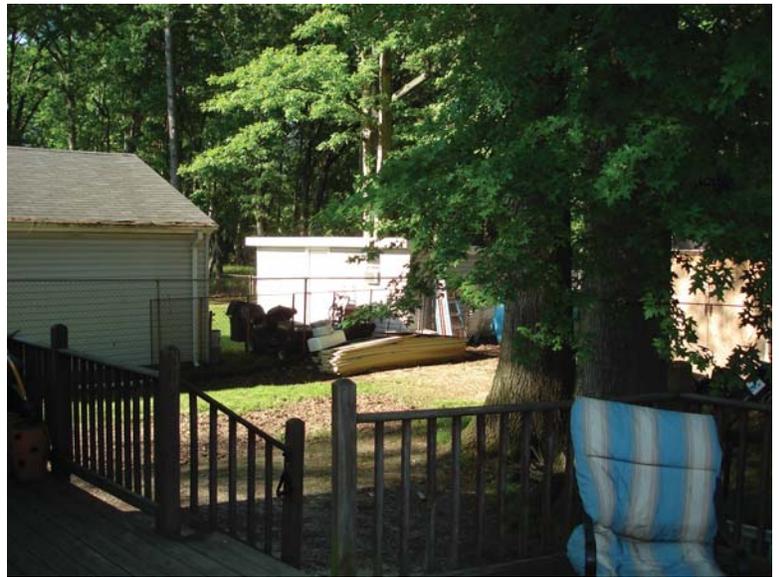
- I. A statement that the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be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

Zoning Ordinance Compliance. The proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards or, if any waiver, exception or variance is sought, such request has been specifically noted with the justification for such modification.

  
Applicant's Signature

5/23/2015  
Date







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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 19, 2015  
 (enter date affidavit is notarized) **129781**

I, LINWOOD J. WHITE & CAROL A. WHITE, 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<br>(enter first name, middle initial, and last name) | ADDRESS<br>(enter number, street, city, state, and zip code) | RELATIONSHIP(S)<br>(enter applicable relationships listed in <b>BOLD</b> above) |
|---|--|---|
| LINWOOD J. WHITE  | 7829 ASHTON ST.<br>ALEX, VA. 22309                           | <b>APPLICANT/TITLE OWNERS</b>   |
| CAROL A. WHITE  | 7829 ASHTON ST.<br>ALEX VA. 22309                            | <b>APPLICANT/TITLE OWNER</b>  |

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

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.  
 \*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: MAY 19, 2015  
(enter date affidavit is notarized)

129781

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)

NONE

**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)

NONE

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

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

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

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 19, 2015  
(enter date affidavit is notarized)

129781

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)

*NONE*

(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): \_\_\_\_\_  
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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 19, 2015  
(enter date affidavit is notarized)

129781

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

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

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

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

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

*NONE*

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

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: May 19, 2015  
(enter date affidavit is notarized)

129781

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

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

*NONE*

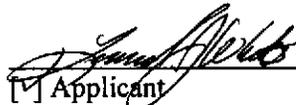
(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

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

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

WITNESS the following signature:

(check one)

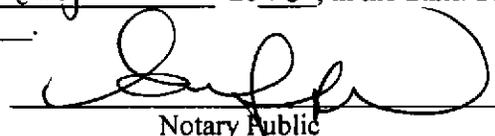
  
 Applicant

[ ] Applicant's Authorized Agent

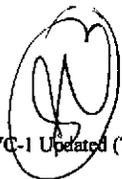
Linwood J. White

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

Subscribed and sworn to before me this 19th day of May, 2015, in the State/Comm. of Virginia, County/City of Fairfax.

  
Notary Public

My commission expires: 11/30/2017



**ANDREA CAMACHO**  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES NOV. 30, 2017  
COMMISSION # 001286524

COUNTY OF FAIRFAX, VIRGINIA  
OFFICE OF BUILDING INSPECTOR

APPENDIX 4

Building Permit No. 9253

APPLICATION FOR PERMIT TO ALTER, REPAIR OR ADD TO EXISTING BUILDING

Fairfax, Va., SEPT. 22, 1954

TO THE BUILDING INSPECTOR:

The undersigned applies for a permit to BUILD CARPORT

- 1. Description of Building FRAME
- 2. Location: Lot No. 28 Block \_\_\_\_\_ Section TWO Subdivision 1 Woods Mt. VERMONT
- 3. Name of Owner Andrew S. Kiesel Phone \_\_\_\_\_  
Address 409 Ashton Blvd Va
- 4. Name of Designer \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_
- 5. Name of Contractor SELF Phone \_\_\_\_\_  
Address \_\_\_\_\_

I hereby certify that the property described above is listed in the name of: Harvey D. Hanson

Mag. Dist. Lee Deed Book Reference 1189-140  
John H. Ferguson  
Supervisor of Assessments

- 6. Zoning: Use of building CARPORT No. of families or housekeeping units NONE  
No. kitchens NONE Size of lot: Width 24 ft., Depth 140 ft., Area \_\_\_\_\_; Height of building (to highest point of roof) \_\_\_\_\_ ft. Setback from property line: Front \_\_\_\_\_ ft., Rear \_\_\_\_\_ ft., Side 4 ft.  
Zone SAD. RES.
- 7. Check system to be used: (a) Sewage Disposal by: Public Sewer \_\_\_\_\_, Community System \_\_\_\_\_, Septic Tank \_\_\_\_\_, Pit privy \_\_\_\_\_ (b) Water Supply: Public system \_\_\_\_\_, Individual well \_\_\_\_\_

8. Give Details:

CARPORT 10'-0" x 30'-0"  
POSTS - 4" x 4" @ 7'-6" o/c  
BEAMS 2" x 8"  
RAFTERS PITCH 20' @ 1/2" o/c  
1" SHEATHING.  
COMP. SHINGLES.  
POSTS SET IN CON. FTG. 24" DEEP.

- 9. Use of Building after Alterations: CARPORT
- 10. Estimated Cost of Improvement: \$1500

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

Andrew S. Kiesel  
Signature of owner or authorized agent

Address \_\_\_\_\_

|                                |   |
|--------------------------------|---|
| Fire-proof _____               | Non-fireproof <input checked="" type="checkbox"/> |
| Total sq. ft. _____            | Fee <u>\$7.00</u>                                 |
| Approved by Building Inspector |   |
| <u>7/22/54</u>                 | <u>Dorsey B. Gray</u>                             |
| Date                           |   |

Telephone No. \_\_\_\_\_ Date \_\_\_\_\_

December 13, 1955

HARVEY HENSON, to permit carport to remain as erected closer to side lot line than allowed by the Ordinance, Lot 28A, Section 4, Mt. Vernon Woods Subdivision, Lee District. (Suburban Residence).

Mrs. Henson appeared for the applicant. The house was built to sell, Mrs. Henson said, and this violation was not noticed until the loan was requested. The front of the carport is 1.5 feet in violation and the rear 1.6 foot violation. There were no objections from the area.

Mr. Mooreland noted that Mr. Henson has been building in this County for some time and this is the first variance he has asked.

Mr. V. Smith moved to grant the application for a 1.5 foot variance from the side property line because this is a small variance and it does not appear to affect adversely neighboring property.

Seconded, Judge Hamel.

Carried, unanimously.

//



# County of Fairfax, Virginia

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

## NOTICE OF VIOLATION

### Sheriff's Letter

July 10, 2012

Mr. & Mrs. Linwood J. and Carol A. White  
7829 Ashton Street  
Alexandria, VA 22309

RE: 7829 Ashton Street  
Mount Vernon Woods, Sec 2 4, Lt 28A  
Tax Map Ref.: 101-2 ((4)) 0028A  
Zoning District: R-3  
Variance #10102  
Lot Area: 12,300 square feet  
Case # 2009-06301

Dear Mr. and Mrs. White:

The purpose of this letter is to follow up on both my June 20, 2012 meeting with Mr. White and an inspection of the above referenced property. During the meeting, a number of different issues and how each was affected by limitations and restrictions of the Fairfax County Zoning Ordinance were discussed.

This property is developed and is improved with a ranch style single family dwelling and is occupied as a residence.

### Garage Addition

According to records maintained by the Department of Planning and Zoning (DPZ), on December 13, 1955, the Board of Zoning Appeals (BZA), following a public hearing, granted approval of Variance application #10102 which allowed an existing carport at this property, located closer to the side lot line than would be allowed by right, to remain where positioned. This carport has now been converted into a garage.

Par. 1 of Sect. 2-307 and the R-3 District regulations, per Par. 2A(1)(b) of Sect. 3-307, of the Fairfax County Zoning Ordinance detail specific requirements known as bulk regulations that affect among other limitations the position of a structure or additions on a lot. Bulk Regulations is a phrase defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

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



Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 2

Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio, (c) minimum yard requirement and (d) minimum angle of bulk plane. (Underlining added)

Bulk regulations require that no structure or part thereof shall be built or moved on a lot that does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located as specified in Par. 1 of Sect. 2-307 which requires that:

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

The minimum yard requirement is at issue, in this case, as the attached garage extends into the minimum required side yard. A carport with the approval of a variance may extend into this minimum required side yard a specified distance. However, an attached or detached garage must satisfy the R-3 District's minimum required side yard requirement (12 foot separation between the structure and property line) per Par. 2A(1)(b) of Sect. 3-307.

The current distance separating the perimeter wall of the garage from this side yard boundary is significantly less than this required 12 foot separation distance.

Additionally, after a review of the records of this property maintained by both the Department of Public Works and Environmental Services (DPWES) and DPZ, it was verified that no Building Permit application was authorized by the Zoning Administrator as required by Sect. 18-601 of the Zoning Ordinance prior to the enclosure of the carport and its conversion into an attached garage. Sect. 18-601 of the Zoning Ordinance requires that:

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

#### **Wooden Deck**

Also observed on-site was a wooden deck approximately 390 square feet in area attached to the rear walls of the single family dwelling located at this property. A review of records maintained by both the DPWES and DPZ, verified that no Building Permit application was authorized by the Zoning Administrator for the construction of this wooden deck as required by Sect. 18-601.

#### **Accessory Uses**

The single family dwelling unit is the principal use of this property. In addition, the Zoning Ordinance also allows in conjunction with the principal use, accessory uses on this property.

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 3

Accessory uses are defined in Part 3 of Article 20 as:

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

1. Is clearly subordinate to, customarily found in association with, and serves a principal use; and
2. Is subordinate in purpose, area or extent to the principal use served; and
3. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and
4. Is located on the same lot as the principal use, except any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot.

#### **Accessory Storage Structure**

An accessory storage structure (or shed) is located in both the rear yard and minimum required rear yard of 7829 Ashton Street. Accessory uses including this shed are subject to; area, height, location, etc. requirements as detailed in Article 10 of the Zoning Ordinance.

The maximum size of an accessory structure is limited to 200 square feet in area. Additionally, an accessory storage structure that exceeds 8.5 feet in height should not be located closer to the rear lot line than a distance equal to the height of the structure and located a distance no closer than the minimum required side yard to the side lot line. The height of an accessory structure is measured from natural grade to the highest point of the structure.

These requirements are detailed in Par. 25 of Sect. 10-102 and Par. 10 of Sect. 10-104 of the Zoning Ordinance which specify respectively that:

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

And

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.

The accessory storage structure located in the rear yard of 7829 Ashton Street was constructed without the Zoning Administrator's authorization of a valid Building Permit application and is approximately; 340 square feet in area, 12 feet in height and positioned inches from both the side and rear lot lines.

Accordingly, this accessory storage structure does not satisfy the aforementioned requirements specified in; Sect. 18-601, Par. 25 of Sect. 10-102 and Par. 10 of Sect. 10-104 of the Zoning

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 4

Ordinance. This structure is also in violation of Par. 6 of Sect. 2-302 which requires:

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

#### **Coverage of the Minimum Required Rear Yard**

In addition to the 340 sq. ft. accessory storage structure, a smaller accessory structure less than 8.5 feet in height (and located in the opposite corner of the rear yard), four boat trailers, {some carrying boats, (other boat trailers carrying building materials and pipe)}, a pop-up camper trailer, a utility trailer, a truck and other materials were all located on the minimum required rear yard of this property.

The rear yard is defined in Part 3 of Article 20 of the Zoning Ordinance as:

A yard extending across the full width of the lot and lying between the rear lot line of the lot and the principal building group.

The minimum required rear yard area of this lot encompasses that portion of the rear yard from the rear property line a distance of 25 feet (per Par. 2A(1)(c) of Sect. 3-307) west and all of the space included in this area extending across the full width of the yard.

The accumulation of; two (2) separate accessory storage structures, two (2) boats on trailers, three (3) boat trailers, a utility trailer, camper trailer, a truck, building materials, etc. covers conservatively approximately 80 % of the minimum required rear yard area. This coverage exceeds the 30% coverage limitation of the minimum required rear yard as is detailed in Par. 3 of Sect. 10-103 of the Zoning Ordinance which specifies that:

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.

The 80% coverage of the minimum required rear yard is also a violation of Par. 6 of Sect. 2-302.

#### **Outdoor Storage**

Also stored in the front, side and rear yards of 7829 Ashton Street is an accumulation of materials including but is not limited to;

Assorted building materials, vehicles parts, stacks of tires, several metal shelving units, tables and a table top, numerous metal and plastic buckets, cans, various containers of solvents, fishing equipment and tackle boxes, wading boots, cardboard box, seat cushions, various sized coolers, shovels, other tools, a deep sink, wheel barrels, propane tanks, sections of down spouts and down spout attachments, gutter, an interior light fixtures, galvanized sheet metal piping, engine hoist, carts, paint cans, a ladder, upholstered furniture, etc.

Outdoor storage is allowed in a Residential District as an accessory use but subject to a;

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 5

maximum area, screening and location requirements. These requirements are detailed, in part, in Par. 24 of Sect. 10-102 which requires that:

Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet....

The volume of outdoor storage located in the front, side and rear yards at 7829 Ashton Street does not satisfy this requirement and is also a violation of Par. 6 of Sect. 2-302.

(It should be noted that the firewood stored on the side and rear yards of this property is not subject to the outdoor storage limitation provided that the firewood is kept on-site for the personal use at and by the occupants of 7829 Ashton Street. The storage of and sale of firewood on-site is not permitted by Paragraphs 4 and 5 of Sect. 2-302.)

#### **Surface covered area Front Yard**

Surfaced areas, as it relates to parking vehicles in a front yard, includes areas covered by; asphalt, poured or precast concrete, brick, and stone, gravel other impervious surface or grasscrete or similar surface. There is a limit on the maximum surfaced covered area allowed in a front yard.

The Ordinance specifies that no more than 30% of the front yard area of a property, located in the R-3 District, should be surface covered with asphalt, poured or precast concrete, brick, and stone, gravel, etc. The surface coverage in the front yard at 7829 Ashton Street is comprised of two (2) separate driveways and a driveway extension. This includes a;

- 374 square feet graveled driveway located along the side (north) lot line, and a
- 576 square feet of the existing original asphalt driveway, and
- 432 square feet of a graveled extension to the existing asphalt driveway parallel to the side (south) lot line.

The front yard area of this property was calculated from the dimensions detailed on a plat dated September 2, 1954 and prepared by Wesley N. Ridgeway, Certified Land Surveyor. This plat indicates that the front yard of this property is 82' (wide) x 42' (deep) or 3444 square feet in area. The portion of the front yard that may be surfaced covered by the materials noted above is 30% or 1033 square feet in area.

The aggregate surface coverage in the front yard at this property is calculated at 1382 square feet in area and this equates to 40.1% coverage. This amount of surface coverage in a front yard exceeds the percentage of surface coverage specified by the Ordinance and is not consistent with the 30% surface coverage requirement detailed in Par. 8 of Sect. 11-102 of the Ordinance which requires in part that:

... In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area...

Mr. & Mrs. Linwood and Carol White  
July 10, 2012  
Page 6

The existing surface coverage of asphalt, poured or precast concrete, brick, and stone, gravel, etc. in the front yard exceeds the maximum allowable area by 10.1% and is not in compliance with the limitations detailed in Par. 8 of Sect. 11-102 above.

### Storage Yard

The inspection verified that a number and differing type of boats and or trailers are being kept and stored at 7829 Ashton Street. This includes:

| Number | Boat type  | Trailer type          | Yard Area |
|--------|------------|-----------------------|-----------|
| 1      | Jon        | boat trailer          | Front     |
| 1      | Power      | boat trailer          | Rear      |
| 1      |            | Utility trailer       | Rear      |
| 1      |            | Pop-up camper trailer | Rear      |
| 1      | "V" bottom | Boat trailer          | Rear      |
| 1      |            | Boat trailer          | Rear      |
| 1      |            | Boat trailer          | Rear      |

The keeping and storage of seven (7) separate trailers on this residential lot is not customarily found in association with the principal use of the property and is most similar to a storage yard. A storage yard is defined in Part 3 of Article 20 as:

The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

A storage yard use is allowed to operate by right in the I-5 and I-6 Districts (respectively General, Heavy Industrial) with approval of both a Site Plan and Non-Residential Use Permit. A storage yard use is not allowed; by right, special permit or special exception permit in the R-3 District. The use of 7829 Ashton Street as a storage yard is a use not permitted and a violation of Paragraphs 4 and 5 of Sect. 2-302 which specifies respectively that:

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

and

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

Based on the above information, you are in violation of the aforementioned Fairfax County Zoning Ordinance provisions. You are hereby directed to clear these violations of the Fairfax County Zoning Ordinance within 30 days of the receipt of this Notice. Compliance must be accomplished by:

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 7

**Garage Addition**

- Modifying and returning the garage structure into a carport as approved by the BZA and as defined in Part 3 of Article 20 of the Zoning Ordinance which specifies that:

Carport: Any space outside a building and contiguous thereto, wholly or partly covered by a roof, used for the shelter of parked motor vehicles. A carport shall have no enclosure that is more than eighteen (18) inches in height, other than the minimum required supports for its roof, and the side(s) of the building to which the carport is contiguous.

- Or, applying for and diligently pursuing approval by the BZA of a Special Permit for an error in building location to allow the garage to remain where positioned on-site, and
- Whether modifying the garage or in the event the BZA grants a Special Permit to allow the garage to remain where positioned, obtaining all required Building and trades permits as required by the Fairfax County Building Official.

**Wooden Deck**

- Applying for and obtaining the Zoning Administrator's approval of a Building Permit application to allow this structure to remain, or
- Removing the deck and all related materials from this property.

**Large Accessory Storage Structure**

- Removing the large accessory storage structure from this property, or
- Reducing the area of the structure from approximately 340 to 200 sq. ft., and
- Reducing the height of this structure from approximately 12 feet to no more than 8.5 feet as measured from natural grade to the highest point of the structure.

**Coverage of the Minimum Required Rear Yard**

- Reducing, on a permanent basis, the coverage of the minimum required rear yard area, such that
- No more than 30% of the minimum required rear yard area of this property is covered.

**Outdoor Storage**

- Remove all outdoor storage from this property, or
- Relocating outdoor storage to the rear half of the lot (making sure not to exceed the 30% coverage of the minimum required rear yard), and

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 8

- Maintaining no more than 100 square feet of outdoor storage, and
- Screening the outdoor storage from the view of the 1<sup>st</sup> floor windows of neighboring dwellings. Screening is accomplished with live plantings not by the use of tarpaulins.

**Surface Covered Area**

- Removing 10.1% of the aggregate surfaced covered area located in the front yard of this property, and
- Stabilizing any disturbed soil to prevent erosion and sedimentation.

**Storage Yard**

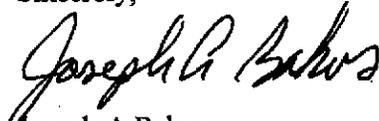
- Removing any trailer, boat, vehicle, etc. from this property that is does not display a valid inspection decal and license.

A follow-up inspection will be made at the expiration of the 30 day time period. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

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 and 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.

Should you have questions concerning this Notice of Violation contact me Monday through Friday, 8am thru 4:30pm at 703- 324-1341. Otherwise, as many of my working hours are spent in the field, should you wish to meet and discuss these issues, please contact me to schedule a meeting.

Sincerely,



Joseph A Bakos  
Chief Zoning Inspector  
JAB/ss

PERSONAL SERVICE

- Being unable to make personal service a copy was delivered in the following manner:
- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 18 or older at usual place of abode or party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.
- Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)
- Served on a Secretary of the Commonwealth.

Not found

*S.S. Consolice*  
SERVING OFFICER

*7-10-12*  
DATE  
Stan G. Barry, Sheriff  
Fairfax County, VA

PERSONAL SERVICE

- Being unable to make personal service a copy was delivered in the following manner:
- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
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- Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)
- Served on a Secretary of the Commonwealth.

*At Fe*

Not found

*S.S. Consolice*  
SERVING OFFICER

*7-10-12*  
DATE

Stan G. Barry, Sheriff  
Fairfax County, VA

FAIRFAX CIRCUIT COURT  
CIVIL CASE COVERSHEET

2013-13605

Parties:

| Plaintiffs  | Defendants          |
|---|---------------------|
| 1. Leslie B. Johnson, Fairfax County Zoning Administrator | 1. Linwood J. White |
| 2.  | 2. Carol A. White   |
| 3.  | 3.                  |

\*Plaintiff proceeding without Counsel – Address and Daytime Phone Number required on Complaint

Plaintiff Attorney:

|   |                                    |
|---|------------------------------------|
| Name: <b>Marc E. Gori</b>                                 | Bar ID: <b>74926</b>               |
| Firm: <b>Office of the County Attorney</b>                |                                    |
| Street: <b>12000 Government Center Parkway, Suite 549</b> |                                    |
| City: <b>Fairfax</b>                                      | State: <b>VA</b> Zip: <b>22035</b> |
| Phone Number: <b>(703) 324-2421</b>                       | Fax Number: <b>(703) 324-2665</b>  |
| E-mail Address: <b>marc.gori@fairfaxcounty.gov</b>        |                                    |

FILED  
 CIVIL INTAKE  
 2013 AUG 27 PM 3:35  
 JOHN T. FREY  
 CLERK, CIRCUIT COURT  
 FAIRFAX, VA

Nature of Complaint (Check only one)

\* Cases in the Civil Tracking Program

|   |   |  |
|---|---|--|
| <input type="checkbox"/> Administrative Appeal                    | <input type="checkbox"/> Defamation *                 | <input type="checkbox"/> Malpractice – Medical *               |
| <input type="checkbox"/> Affirmation of Marriage                  | <input type="checkbox"/> Delinquent Taxes *           | <input type="checkbox"/> Mechanics/Vendors Lien *              |
| <input type="checkbox"/> Aid & Guidance                           | <input type="checkbox"/> Eminent Domain               | <input type="checkbox"/> Partition *                           |
| <input type="checkbox"/> Appeal Decision of Board of Zoning       | <input type="checkbox"/> Encumber/Sell Real Estate    | <input type="checkbox"/> Personal Injury – Assault *           |
| <input type="checkbox"/> Appeal of Process/Judicial Appeal        | <input type="checkbox"/> Erroneous Assessments        | <input type="checkbox"/> Personal Injury – Auto *              |
| <input type="checkbox"/> Appointment Church/Organization Trustees | <input type="checkbox"/> Expungement                  | <input type="checkbox"/> Personal Injury – Emotional *         |
| <input type="checkbox"/> Arbitration                              | <input type="checkbox"/> False Arrest/Imprisonment*   | <input type="checkbox"/> Personal Injury – Premises Liability* |
| <input type="checkbox"/> Attachment                               | <input type="checkbox"/> Fiduciary/Estate Complaint   | <input type="checkbox"/> Property Damage*                      |
| <input type="checkbox"/> Complaint – Equity *                     | <input type="checkbox"/> Garnishment–Federal–180 days | <input type="checkbox"/> Products Liability*                   |
| <input type="checkbox"/> Complaint – Legal Cause of Action *      | <input type="checkbox"/> Garnishment–Wage–180 days    | <input type="checkbox"/> Quiet Title *                         |
| <input type="checkbox"/> Compromise Settlement                    | <input type="checkbox"/> Garnishment–Other – 90 days  | <input type="checkbox"/> Real Estate *                         |
| <input type="checkbox"/> Condemnation*                            | <input type="checkbox"/> Guardian/Conservator Adult   | <input type="checkbox"/> Restoration of Driving Privilege      |
| <input type="checkbox"/> Confession of Judgment                   | <input type="checkbox"/> Guardianship/Minor           | <input type="checkbox"/> Vital Record Correction               |
| <input type="checkbox"/> Construction *                           | <input type="checkbox"/> Injunction                   | <input type="checkbox"/> Writ Habeas Corpus                    |
| <input type="checkbox"/> Contract *                               | <input type="checkbox"/> Interpleader                 | <input type="checkbox"/> Writ Mandamus                         |
| <input type="checkbox"/> Conversion*                              | <input type="checkbox"/> Insurance *                  | <input type="checkbox"/> Wrongful Death*                       |
| <input type="checkbox"/> Court Satisfaction of Judgment           | <input type="checkbox"/> Judicial Review              | <input type="checkbox"/> Wrongful Discharge *                  |
| <input type="checkbox"/> Declare Death                            | <input type="checkbox"/> Malicious Prosecution *      | <input type="checkbox"/> OTHER:                                |
| <input checked="" type="checkbox"/> Declaratory Judgment *        | <input type="checkbox"/> Malpractice – Legal *        |  |

Damages in the amount of \$ \_\_\_\_\_ are claimed.

Requested Service: Sheriff  Private Process Server  DMV  Secretary of Commonwealth   
 State Corporation Commission  Publication  No Service at this time



2286(A)(4), the Zoning Administrator has all necessary authority to administer and enforce the Fairfax County Zoning Ordinance (“Zoning Ordinance”), which includes the authority to issue written orders requiring any condition found to be in violation of the Zoning Ordinance to be corrected and bring legal action to obtain injunctive relief to ensure compliance with the Zoning Ordinance.

3. Defendants Linwood J. White and Carol A. White (“Defendants”) are the record owners of real property located at 7829 Ashton Street, Alexandria, Virginia (“subject property”), by virtue of the Deed recorded on December 3, 1999, among the land records of Fairfax County, Virginia, in Deed Book 11168 at Page 1680. A true and accurate copy of the above-referenced Deed is attached hereto and incorporated herein by reference as Exhibit A.

4. The subject property is identified on the Fairfax County Real Property Identification Map as Tax Map No. 101-2((4)) parcel 28A, is zoned to the R-3 District (Residential District – Three Dwelling Units/Acre), and contains approximately 12,300 square feet. A true and accurate copy of Tax Map No. 101-2 showing the location and zoning of the subject property is attached hereto and incorporated herein by reference as Exhibit B.

5. Fairfax County Code § 110-2-1 defines an inoperative motor vehicle as “[a]ny motor vehicle, trailer or semitrailer . . . which is not in operating condition; or which does not display valid license plates; or which does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than sixty (60) days.” A true and accurate copy of Fairfax County Code § 110-2-1 is attached hereto and incorporated herein by reference as Exhibit C.

6. Zoning Ordinance § 10-102(13) provides that inoperative motor vehicles are a permitted accessory use so long as “such vehicles are kept within a fully enclosed building or

structure or are kept completely screened or shielded from view in accordance with Chapter 110 of The [Fairfax County] Code." A true and accurate copy of Zoning Ordinance § 10-102 in its entirety is attached hereto and incorporated herein by reference as Exhibit D.

7. Zoning Ordinance § 2-307(1) provides that "[e]xcept as may be qualified by the provisions of [the Zoning Ordinance], no structure or part thereof shall hereafter be built or moved on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located." A true and accurate copy of Zoning Ordinance § 2-307(1) is attached hereto and incorporated herein by reference as Exhibit E.

8. Zoning Ordinance § 3-307 sets forth for bulk requirements for properties zoned to the R-3 District. Zoning Ordinance § 3-307(2)(A) provides that the minimum side yard and rear yard requirement for single-family dwellings in R-3 Districts is 12 and 25 feet, respectively. A true and accurate copy of Zoning Ordinance § 3-307 in its entirety is attached hereto and incorporated herein by reference as Exhibit F.

9. Zoning Ordinance § 18-601 provides that

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

A true and accurate copy of Zoning Ordinance § 18-601 is attached hereto and incorporated herein by reference as Exhibit G.

10. Zoning Ordinance § 10-102(25) allows for storage structures incidental to a permitted use provided that "no such structure . . . shall exceed 200 square feet in gross floor

area.” A true and accurate copy of Zoning Ordinance § 10-102 in its entirety is attached hereto and incorporated herein by reference as Exhibit D.

11. Zoning Ordinance § 10-104(10)(E) provides that “[a]n 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.” A true and accurate copy of Zoning Ordinance § 10-104(10)(E) is attached hereto and incorporated herein by reference as Exhibit H.

12. Zoning Ordinance § 10-102(24) allows, *inter alia*, “[s]torage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet.” A true and accurate copy of Zoning Ordinance § 10-102 in its entirety is attached hereto and incorporated herein by reference as Exhibit D.

13. Zoning Ordinance § 20-300 defines a “Storage Yard” as “[t]he use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.” A true and accurate copy of the definition of a Storage Yard as set forth in Zoning Ordinance § 20-300 is attached hereto and incorporated herein by reference as Exhibit I.

14. Zoning Ordinance § 11-102(8) provides, in relevant part, that R-3 Districts, “no more than twenty-five (25) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area.” A true and accurate copy of Zoning Ordinance § 11-102(8) is attached hereto and incorporated herein by reference as Exhibit J.

15. Zoning Ordinance § 2-302(5) provides that “[n]o use shall be allowed in any district which is not permitted by the regulations for the district.” Additionally, Zoning Ordinance § 2-302(6) provides that “[n]o accessory structure or use, as defined in Article 20 [of the Zoning Ordinance], shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.” A true and accurate copy of Zoning Ordinance §§ 2-302(5) and (6) is attached hereto and incorporated herein by reference as Exhibit K.

16. By Sheriff’s Letters dated July 10, 2012, Chief Zoning Inspector Joseph A. Bakos issued Notices of Violation to the Defendants for, among other things, maintaining on the subject property (i) an inoperative motor vehicles in violation of Zoning Ordinance §§ 10-102(13) and 2-302(6); (ii) a garage that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307(1) and 3-307(2)(A)(1)(b) and was constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601; (iii) a wooden deck in the rear yard that was constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601 (hereinafter, “Deck”); (iv) an accessory storage structure that is approximately 340 square feet in gross floor area that was constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601 and is approximately 12 feet in height and located within the minimum required side and rear yards in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6) (hereinafter the “Storage Structure”); (v) outdoor storage on the subject property that not is located on the rear half of the lot, not screened from the view from the first story window of any neighboring dwelling, and exceeds more than 100 square feet in area in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6); (vi) a Storage Yard on the subject property in

violation of Zoning Ordinance § 2-302(5); and (vii) a surfaced area in the front yard that exceeds 30% of the total area of the front yard in violation of Zoning Ordinance § 11-102(8). The Notices of Violation directed the Defendants to clear the inoperative motor vehicle violation within 10 days of receipt of the Notice of Violation and all other violations within 30 days of receipt of the Notice of Violation. True and accurate copies of the July 10, 2012, Notices of Violation are attached hereto and incorporated herein by reference as Exhibits L and M.

17. The Defendants were served with the July 10, 2012, Notices of Violation on July 10, 2012. True and accurate copy of the stamps establishing personal and substituted service by a deputy sheriff of the July 10, 2012, Sheriff's Letters upon the Defendants on July 10, 2012, are located on the last page of the Notices of Violation, which are attached hereto and incorporated herein by reference as Exhibits L and M.

18. Va. Code Ann. § 15.2-2311 (2012) and Fairfax County Zoning Ordinance §§ 18-301 and -303 provide, *inter alia*, that any person aggrieved by any decision of the Zoning Administrator or by any order, requirement, decision, or determination of any other administrative officer made in the administration and enforcement of the Zoning Ordinance may appeal such decision, order, requirement, or determination to the Fairfax County Board of Zoning Appeals ("BZA") within 30 days after the decision, order, requirement, or determination except that notices of violation for the violations specified in Zoning Ordinance § 18-303(2) shall be appealed within 10 days from the date of the notice. A true and accurate copy of the above-referenced sections of the Zoning Ordinance is attached hereto and incorporated herein by reference as Exhibit N.

19. The Defendants never appealed the decisions, orders, requirements, and/or determinations contained in the July 10, 2012, Notices of Violation to the BZA, and the time for filing such an appeal has expired.

20. The Defendants have not cleared the violations alleged in this Complaint from the subject property.

21. The Court has jurisdiction to award declaratory judgments in this case pursuant to Va. Code Ann. § 8.01-184 (2007), and it further has jurisdiction to award injunctive relief in this case pursuant to Va. Code Ann. §§ 8.01-620 (2007), 15.2-2286(A)(4), and 15.2-2208.

WHEREFORE, the Zoning Administrator, by counsel, respectfully requests that the Court grant her the following relief:

a. Declare that the Defendant's maintenance and/or allowing the maintenance of inoperative motor vehicles on the subject property violates Zoning Ordinance §§ 10-102(13) and 2-302(6); and

b. Declare that the Defendants' maintenance and/or allowing the maintenance of a garage on the subject property that is located less than 12 feet from the side lot line and within the minimum required side yard violates Zoning Ordinance §§ 2-307(1) and 3-307(2)(A)(1)(b); and

c. Declare that the Defendants' construction and/or allowing the construction of the Deck on the subject property without a Building Permit approved by the Zoning Administrator violates Zoning Ordinance § 18-601; and

d. Declare that the Defendants' construction and/or allowing the construction of the Storage Structure on the subject property that is greater than 200 square feet in gross floor area

without a Building Permit approved by the Zoning Administrator violates Zoning Ordinance §§ 10-102(25) and 18-601; and

e. Declare that the Defendants' maintenance and/or allowing the maintenance of a Storage Structure on the subject property that exceeds eight and one half feet and is located within the minimum required side yard and closer to the rear lot line than a distance equal to its height violates Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

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

g. Declare that the Defendants' maintenance and/or allowing the maintenance of a Storage Yard on the subject property violates Zoning Ordinance § 2-302(5); and

h. Declare that the Defendants' maintenance and/or allowing the maintenance of surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard on the subject property violates Zoning Ordinance § 11-102(8); and

i. Enter a mandatory injunction requiring the Defendant, within 10 days after the entry of a final order in favor of the Zoning Administrator in this case, to permanently remove the inoperative motor vehicle from the subject property to a lawful site or permanently keep such vehicle in a fully enclosed building or structure or completely screened or shielded from view as required by Zoning Ordinance §§ 10-102(13) and 2-302(6)

j. Enter a mandatory injunction requiring the Defendants, within 30 days after the entry of a final order in favor of the Zoning Administrator in this case, to (i) lawfully demolish the garage on the subject property and remove the resulting debris from the subject property to a

lawful site, or (ii) obtain all necessary permits and modify the garage on the subject property so that it meets the minimum required side yard requirements and permanently remove all resulting debris from the subject property to a lawful site; and

k. Enter a mandatory injunction requiring the Defendants, within 30 days after the entry of a final order in favor of the Zoning Administrator in this case, to (i) apply for and obtain Building Permits approved by the Zoning Administrator for the Deck and the Storage Structure and obtain final inspections for the Deck and the Storage Structure, or (ii) obtain all permits and lawfully demolish the Deck and/or the Storage Structure on the subject property and permanently remove the resulting debris from the subject property to a lawful site; and

l. Enter a mandatory injunction requiring the Defendants, within 30 days after the entry of a final order in favor of the Zoning Administrator in this to (i) permanently remove all materials and items that constitute a Storage Yard from the subject property to a lawful site, (ii) permanently remove all outdoor storage from the subject property to a lawful site or relocate such outdoor storage to the rear half of the subject property, screen it from the view from the first story window of any neighboring dwelling, and limit the outdoor storage to a total area not exceeding 100 square feet, and (iii) permanently reduce the amount of surfaced area in the front yard of the subject property such that the surfaced area remaining thereon does not exceed more than 30 percent of the total area of the front yard and permanently remove all resulting debris to a lawful site; and

m. Enter a prohibitory injunction permanently enjoining the Defendants, their tenants, agents, and/or employees from maintaining and/or allowing the maintenance of a garage on the subject property that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307 and 3-307(2)(A)(1)(b); and

n. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance of a garage on the subject property that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307 and 3-307(2)(A)(1)(b); and

o. Enter a prohibitory injunction permanently enjoining the Defendants, their tenants, agents, and/or employees from maintaining and/or allowing the maintenance on the subject property of a deck and/or an accessory storage structure that has a gross floor area of more than 200 square feet that were constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601; and

p. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance on the subject property of a deck and/or an accessory storage structure that has a gross floor area of more than 200 square feet that was constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601; and

q. Enter a prohibitory injunction permanently enjoining the Defendants, their tenants, agents, and/or employees from maintaining and/or allowing the maintenance of an accessory storage structure on the subject property that exceeds eight and one-half feet that is located within the minimum required side yard or closer to the rear lot line than a distance equal to the height of such structure in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

r. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance of an accessory storage structure on the subject property that exceeds eight and one-half feet that is located within the minimum required side yard and/or closer to the rear lot line than a distance equal to the height of such structure in violation of Zoning Ordinance §§ 10-104(10)(E) and 2-302(6); and

s. Enter a prohibitory injunction permanently enjoining the Defendants, their agents, employees, and/or tenants from maintaining and/or allowing the maintenance of a Storage Yard on the subject property in violation of Zoning Ordinance § 2-302(5); and

t. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance of a Storage Yard on the subject property in violation of Zoning Ordinance § 2-302(5); and

u. Enter a prohibitory injunction permanently enjoining the Defendants, their agents, employees, and/or tenants from maintaining and/or allowing the maintenance of outdoor storage on the subject property in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6); and

v. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance of outdoor storage on the subject property in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6); and

w. Enter a prohibitory injunction permanently enjoining the Defendants, their agents, employees, and/or tenants from maintaining and/or allowing the maintenance of a surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard of the subject property in violation of Zoning Ordinance § 11-102(8); and

x. Enter a prohibitory injunction permanently enjoining the maintenance and/or allowing the maintenance of surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard of the subject property in violation of Zoning Ordinance §§ 11-102(8); and

y. Order that the Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times to inspect and photograph the subject property to

ensure that the Defendants comply with the terms of any order entered in this case in favor of the Zoning Administrator; and

z. Order the Clerk of the Fairfax County Circuit Court to record a copy of the final order entered in favor of the Zoning Administrator in this case among the land records of Fairfax County, Virginia, to give notice of the prohibitions and restrictions contained therein to any successors-in-interest to the Defendants and index said final order as follows:

GRANTORS: Linwood J. White; Carol A. White

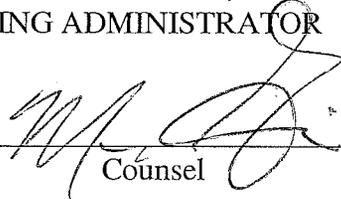
GRANTEES: Leslie B. Johnson; Fairfax County Zoning Administrator

aa. Grant the Zoning Administrator such other relief as this Court may deem appropriate.

Respectfully submitted,

LESLIE B. JOHNSON, FAIRFAX COUNTY  
ZONING ADMINISTRATOR

By

  
Counsel

DAVID P. BOBZIEN  
COUNTY ATTORNEY

By

  
Marc E. Gori (VSB No. 74926)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
(703) 324-2421/(703) 324-2665 (fax)  
Counsel for Plaintiff Leslie B. Johnson,  
Fairfax County Zoning Administrator

234331

99DEC-3 AM11:49

D E E D

THIS DEED, made this 1st day of December, 1999, by and between THOMAS L. ALDERMAN, and CAROLYN M. ALDERMAN, husband and wife, the parties of the first part (GRANTORS), and LINWOOD J. WHITE, and CAROL A. WHITE husband and wife, parties of the second part (GRANTEES).

W I T N E S S E T H :

That for and in consideration of Ten Dollars (\$10.00) cash in hand paid and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties of the first part do hereby grant, bargain, sell, and convey unto the parties of the second part with covenants of General Warranty of Title and in Fee Simple, as tenants by the entirety with common law right of survivorship, all of that certain lots or parcels of land, with all rights, ways, easements, and improvements thereunto belonging or appurtenant thereto, lying and being situated in the Fairfax County, Virginia, and more particularly described as follows:

Lot Numbered 28-A of the Subdivision known as Section 4, MT. VERNON WOODS, and re-subdivision of part of Section 2, MT. VERNON WOODS, as the same appears duly dedicated, platted and recorded among the land records of Fairfax County, Virginia, in Deed Book 943 at page 236.

AND BEING the same property conveyed to Grantor in Deed Book 9275 at page 1935.

|                     |                               |   |
|---------------------|-------------------------------|---|
| (Consideration:     | \$160,000.00                  | ) |
| (Grantee's Address: | <del>7829 Ashton Street</del> | ) |
| (                   | Alexandria, VA 22309          | ) |
| (TAX ID NUMBER:     | 101-2-04-0028-A               | ) |

Please Return to:  
Evergreen Title Co. Inc.  
7015-A Evergreen Ct.  
Annandale, VA 22003  
Eg. File # 99-739  
Tax Map # 101-2-04-0028-A

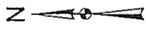
YUN & KIM, P.C.  
7015 EVERGREEN COURT  
SUITE 200  
ANNANDALE, VA 22003  
TEL: 703-354-1710  
FAX: 703-354-1711

BK 1168 1680





A Halifax County, Virginia Publication



Scale: 1" = 100'

Vertical Datum: Mean Sea Level

Horizontal Datum: North American Datum 1983

**GENERAL NOTES**

1. The zoning map is a general guide and does not constitute a contract. The zoning board has the final authority in all zoning matters.

2. The zoning board may, upon application, grant a variance from the zoning map.

3. The zoning board may, upon application, grant a conditional use permit.

4. The zoning board may, upon application, grant a special use permit.

5. The zoning board may, upon application, grant a conditional use permit.

6. The zoning board may, upon application, grant a special use permit.

7. The zoning board may, upon application, grant a conditional use permit.

8. The zoning board may, upon application, grant a special use permit.

9. The zoning board may, upon application, grant a conditional use permit.

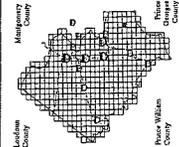
10. The zoning board may, upon application, grant a special use permit.

**ADMINISTRATIVE INDEX**

92-3 92-4 93-3

101-1 102-1

101-3 101-4 102-3



Halifax County  
Prince William County  
Stafford County

**SHEET INDEX**

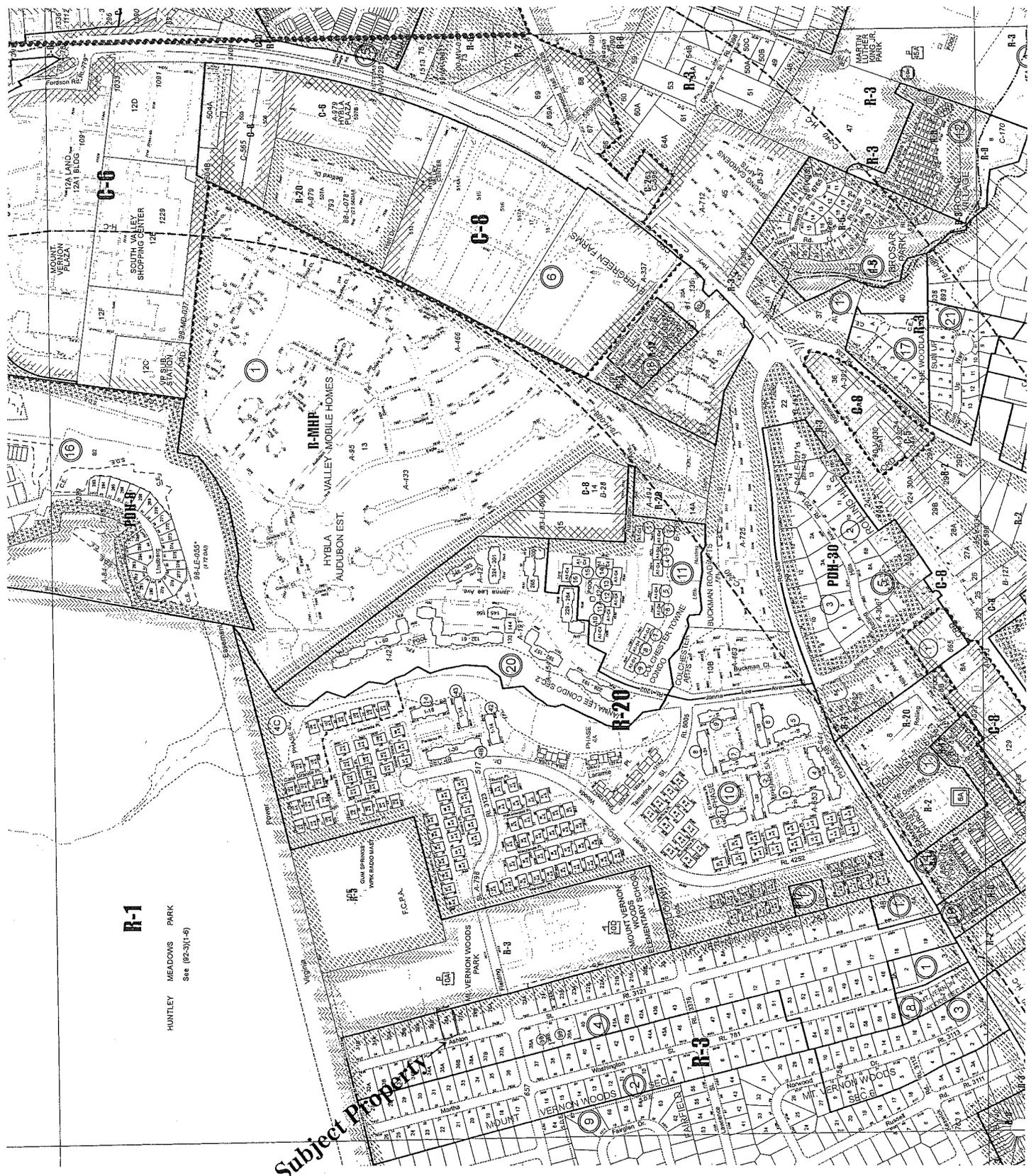
|       |       |       |
|-------|-------|-------|
| 92-3  | 92-4  | 93-3  |
| 101-1 | 102-1 |       |
| 101-3 | 101-4 | 102-3 |

**PROPERTY MAP  
ZONING  
101-2**

Revised to: 03-22-2013

Prepared by:  
DEPARTMENT OF COMMUNITY TECHNOLOGY  
1300 Commonwealth Blvd., Suite 117  
Farmsville, VA 22439  
FAX: (703) 513-2800  
Email: [community@halifaxva.gov](mailto:community@halifaxva.gov)

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PHOTO: 12/04/2013



**R-1**  
HUNTLEY MEADOWS PARK  
See (92-3)(1-9)

*Subject Property*

Fairfax County, Virginia, Code of Ordinances >> - Fairfax County Code >> CHAPTER 110. - Inoperative Motor Vehicles, Trailers and Semitrailers. >> ARTICLE 2. Definitions. >>

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**ARTICLE 2. Definitions.**

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Section 110-2-1. Definitions.

**Section 110-2-1. Definitions.**

For the purposes of this Chapter, the following words and phrases shall have the meanings given:

- (1) *Shielded or screened from view:* Not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.
- (2) *Impoundment Officer:* A police officer designated by the Chief of Police having duties which include the removal, storage and disposal of inoperative motor vehicles, trailers, and semitrailers.
- (3) *Inoperative motor vehicle:* Any motor vehicle, trailer or semitrailer as herein defined:
  - (A) Which is not in operating condition; or
  - (B) Which does not display valid license plates; or
  - (C) Which does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than sixty (60) days.
- (4) *Motor vehicle:* Every vehicle as herein defined that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. A bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or a moped shall not be considered a motor vehicle.
- (5) *Semitrailer:* Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle.
- (6) *Trailer:* Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.
- (7) *Vehicle:* Every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. (20-85-110; 25-87-110; 34-93-110; 28-04-110.)

## ARTICLE 10

### ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

#### PART 1 10-100 ACCESSORY USES AND STRUCTURES

##### 10-101 Authorization

Accessory uses and structures are permitted in any zoning district, unless qualified below, but only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

##### 10-102 Permitted Accessory Uses

Accessory uses and structures shall include, but are not limited to, the following uses and structures; provided that such use or structure shall be in accordance with the definition of Accessory Use contained in Article 20.

1. Amusement machines, but only accessory to eating establishments, motels, hotels, bowling alleys, skating facilities, and establishments for billiards, ping pong, indoor archery, and other indoor games of skill, and retail sales establishments with greater than 5000 square feet of floor area open to the general public.
2. Antenna structures.
3. Barns and any other structures that are customarily incidental to an agricultural use, but only in the R-A through R-1 Districts on a tract of land not less than five (5) acres; provided, however, a stable or other structure for livestock or domestic fowl may be permitted on a lot of less than five (5) acres where such livestock or domestic fowl are kept in accordance with the provisions of Sect. 2-512 or Sect. 8-917. In no instance shall such structures be used for retail sales except as may be permitted for a plant nursery by the provisions of Part 5 of Article 9.
4. Carports.
5. Child's playhouse, not to exceed 100 square feet in gross floor area, and child's play equipment.
6. Doghouses, runs, pens, rabbit hutches, cages, and other similar structures for the housing of commonly accepted pets, but not including kennels as defined in Article 20.
7. Fallout shelters.
8. Garages, private.
9. Garage and yard sales, in R districts, shall be permitted not more than twice in any one calendar year and shall be limited to items not specifically purchased for resale.
10. Gardening and composting.

## FAIRFAX COUNTY ZONING ORDINANCE

11. Guest house or rooms for guests in an accessory structure, but only in the R-A through R-E Districts, and provided such house is without kitchen facilities and is used for the occasional housing of guests of the occupants of the principal structure, and not as rental units or for permanent occupancy as housekeeping units.
12. Home child care facilities.
13. Inoperative motor vehicles, as defined in Chapter 110 of The Code, provided such vehicles are kept within a fully enclosed building or structure or are kept completely screened or shielded from view in accordance with Chapter 110 of The Code.
14. Motor vehicle fuel storage tanks in the C and I districts and in R districts when accessory to a use other than a dwelling.
15. Parking and loading spaces, off-street, as regulated by Article 11.
16. Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:
  - A. No solid waste collection vehicle, tractor and/or trailer of a tractor-trailer truck, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.
  - B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.
17. Porches, gazebos, belvederes and similar structures.
18. Quarters of a caretaker, watchman or tenant farmer, and his family, but only in the R-A through R-E Districts on a parcel of twenty (20) acres or more.
19. Recreation, storage and service structures in a mobile home park.
20. Residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel.
21. Servants quarters, but only in the R-A through R-4 Districts on a lot of two (2) acres or more. Servants quarters located in a structure detached from the principal dwelling shall comply with the applicable zoning district bulk regulations for single family dwellings.
22. Signs, as permitted by Article 12.
23. Statues, arbors, trellises, clotheslines, barbeque stoves, flagpoles, fences, walls and hedges, gates and gateposts, and basketball standards to include rim, net and backboard.

## ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS

24. Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet. In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.
25. Storage structure, incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the R-2 through R-20 Districts shall exceed 200 square feet in gross floor area.
26. Swimming pool and bathhouse, private.
27. Temporary portable storage containers shall be allowed in any yard on lots containing a dwelling, subject to all of the following:
  - A. On lots developed with single family detached dwellings:
    - (1) Temporary portable storage containers shall be permitted on a lot containing 36,000 square feet or less for a period not to exceed 30 consecutive days within a 6 month period. On lots that are greater than 36,000 square feet, temporary portable storage containers shall be permitted for a period not to exceed 60 consecutive days within a 6 month period. However, in cases where a dwelling unit has been damaged by casualty, a temporary portable storage container may be allowed for longer time periods than indicated above in accordance with Part 8 of Article 8.
    - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet.
  - B. On lots developed with single family attached or multiple family dwellings:
    - (1) Temporary portable storage containers shall be permitted for a period not to exceed seven (7) consecutive days within a six (6) month period, however, in cases where a dwelling has been damaged by casualty, a longer period may be permitted in accordance with Part 8 of Article 8.
    - (2) Temporary portable storage containers shall not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
  - C. Temporary portable storage containers shall not exceed eight and one-half (8½) feet in height.
  - D. Temporary portable storage containers shall not be located in any required open space, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off

## FAIRFAX COUNTY ZONING ORDINANCE

valves, and for fire protection. Such containers shall also be subject to the sight distance provisions of Sect. 2-505.

- E. Signage on temporary portable storage containers shall be in accordance with Par. 2S of Sect. 12-103.
28. Tennis, basketball or volleyball court, and other similar private outdoor recreation uses.
29. Wayside stands, but subject to the following limitations:
- A. Shall be permitted only in the R-A through R-4 Districts, on a lot containing at least two (2) acres.
  - B. Structures shall not exceed 400 square feet in gross floor area.
  - C. Shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
  - D. Shall be for the expressed purpose of sale of agricultural products grown on the same property, or the sale of products of approved home occupations conducted on the same property. For the purpose of this Ordinance, plants which are balled, burlapped and bedded shall not be considered as growing on the same property.
  - E. Shall not be subject to the location requirements set forth in Sect. 104 below, but shall be located a minimum distance of twenty-five (25) feet from any lot line.
  - F. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
  - G. Notwithstanding the provisions of Article 12, a wayside stand may have one (1) building-mounted sign, mounted flush against the stand, which does not exceed ten (10) square feet in area.
30. The keeping of animals in accordance with the provisions of Sect. 2-512.

### 10-103

#### Use Limitations

1. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
2. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
3. 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.
4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by

## FAIRFAX COUNTY ZONING ORDINANCE

to the zoned district, and if such lands are in the same ownership, and if the rezoning of such lands would be in conformance with the adopted comprehensive plan.

5. Unless otherwise specified in this Ordinance, all uses permitted by right or allowed by special permit or special exception shall be subject to the lot size requirements specified for a given district. In the R-C through R-4 Districts, non-residential uses shall be controlled by the provisions presented for conventional subdivision lots, either the average or minimum lot area, whichever is greater, unless other minimum requirements are specified for such uses elsewhere in this Ordinance.
6. No land area which is encumbered by any covenant, easement or interest which would permit the establishment of power distribution facilities, including high power transmission lines, ground transformer stations and natural gas, petroleum or other transmission pipelines, but not ordinary transmission lines located in the public right-of-way or easements which total less than twenty-five (25) feet in width, shall be considered in the computation of minimum lot area or minimum district size.

2-307

### **Bulk Regulations**

1. Except as may be qualified by the provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located, and no structure shall hereafter be used, occupied or arranged for use on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which such structure is located.
2. In this Ordinance, bulk regulations are expressed in terms of:
  - A. Maximum building height.
  - B. Minimum yard requirements.
  - C. Minimum angle of bulk plane.
  - D. Maximum floor area ratio.
3. Maximum building height, where specified, shall apply to all structures located in the zoning district except those structures/appurtenances presented in Sect. 506 below, unless a lower maximum height is established for a given use elsewhere in this Ordinance. Maximum building height shall be determined in accordance with the definition, Height, Building set forth in Article 20.
4. Minimum yard requirements shall be as specified for a given zoning district, except as may be qualified by the provisions of Part 4 of this Article or by the provisions of Article 13. The larger of the minimum yard requirements as specified for a given zoning district, or as may be required by the provisions of Part 4 of this Article or by the provisions of Article 13, shall be provided.

FAIRFAX COUNTY ZONING ORDINANCE

- (1) Interior lot - 80 feet
- (2) Corner lot - 105 feet

B. Except as qualified below, cluster subdivision lot approved by the Director:

- (1) Interior lot - No Requirement
- (2) Corner lot - 80 feet

If any portion of a cluster subdivision lot is located within 25 feet of a peripheral boundary of the cluster subdivision, and any portion of any lot located outside of the cluster subdivision that is contiguous to that peripheral cluster subdivision's boundary is zoned to a district that permits a maximum density equal to or less than 3 dwelling units per acre and contains a single family detached dwelling or is vacant, then such cluster subdivision lot shall contain a minimum lot width of 80 feet for interior lots and 105 feet for corner lots. Notwithstanding the above, when the contiguous development is zoned to the PDH-3 District or to a R-3 District and is developed with and/or approved for a cluster subdivision, all lots within the proposed cluster subdivision shall have no minimum required lot width for interior lots and shall contain a minimum lot width of 80 feet for corner lots.

C. Cluster subdivision lot approved by special exception:

- (1) Interior lot – No Requirement
- (2) Corner lot – 80 feet

3-307

**Bulk Regulations**

- 1. Maximum building height
  - A. Single family dwellings: 35 feet
  - B. All other structures: 60 feet
- 2. Minimum yard requirements
  - A. Single family dwellings
    - (1) Conventional subdivision lot
      - (a) Front yard: 30 feet
      - (b) Side yard: 12 feet
      - (c) Rear yard: 25 feet
    - (2) Cluster subdivision lot

## RESIDENTIAL DISTRICT REGULATIONS

- (a) Front yard: 20 feet
  - (b) Side yard: 8 feet, but a total minimum of 20 feet
  - (c) Rear yard: 25 feet
- B. All other structures
- (1) Front yard: Controlled by a 40° angle of bulk plane, but not less than 30 feet
  - (2) Side yard: Controlled by a 35° angle of bulk plane, but not less than 10 feet
  - (3) Rear yard: Controlled by a 35° angle of bulk plane, but not less than 25 feet
3. Maximum floor area ratio:
- A. 0.25 for uses other than residential or public
  - B. 0.30 for public uses

### **3-308 Maximum Density**

- 1. Conventional subdivisions: Three (3) dwelling units per acre.
- 2. Cluster subdivisions:
  - A. Three (3) dwelling units per acre for cluster subdivisions approved by the Director in accordance with Sect. 2-421, or that are the result of proffered rezoning from a district that allows a permitted maximum density of less than three (3) dwelling units per acre.
  - B. Three dwelling units per acre plus one (1) bonus dwelling unit for cluster subdivisions containing a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres and approved by special exception.

### **3-309 Open Space**

In subdivisions approved for cluster development, 25% of the gross area shall be open space.

### **3-310 Affordable Dwelling Unit Developments**

Affordable dwelling unit developments may consist of single family detached dwelling units, either in a conventional subdivision or cluster subdivision. Cluster subdivisions shall be subject to the approval of the Director in accordance with Sect. 2-421. In addition, single family attached dwelling units are permitted, provided that no more than forty (40) percent of the total number of dwelling units allowed within the development shall be single family attached

FAIRFAX COUNTY ZONING ORDINANCE

**PART 6 18-600 BUILDING PERMITS**

**18-601 Permit Required for Erection of Buildings and Structures**

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

**18-602 Application for a Permit**

Applications for a Building Permit shall be on forms provided by the County and shall be approved by the Zoning Administrator prior to issuance. An application shall be accompanied by one of the following:

1. An approved site plan, when the building or structure is required to be shown on a site plan that has been approved under the provisions of Article 17 of this Ordinance, and an approved agreement and security package required pursuant to Sect. 17-112 to ensure completion of the physical improvements as shown on the approved site plan, including any revisions thereto, or such plans and agreements as may be required by the Director for the approval of a partial Building Permit pursuant to the Virginia Uniform Statewide Building Code, or
2. When the building or structure does not require site plan approval, four (4) copies of a plat certified by a land surveyor, engineer, landscape architect or architect authorized by the State to practice as such, except that plats submitted for additions to an existing single family detached or attached dwelling or accessory structures related to an existing single family detached or attached dwelling may be prepared by other than a land surveyor, engineer, landscape architect or architect. Each such plat shall indicate the following information:
  - A. The dimensions of the lot or parcel, the lot lines thereof, and the area of land contained therein.
  - B. Delineation of any major underground utility easements and the location of any water, storm and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation.
  - C. The location, dimensions and height of any building, structure or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level and for accessory structures, the height of the highest point of the structure from finished ground level.
  - D. The distance from all property lines and any floodplain to the proposed building, structure or addition, including any extensions from the vertical plane of the proposed building, structure, or addition, shown to the nearest one-tenth of a foot. For features which extend into the minimum required yard pursuant to Sect. 2-412,

## FAIRFAX COUNTY ZONING ORDINANCE

used for the confining or sheltering of horses and ponies as permitted by Sect. 2-512 or in connection with agriculture shall be located no closer than forty (40) feet to any front or side lot line nor closer than twenty (20) feet to a rear lot line.

- C. Cages, lofts, hives, pens and other structures which are seven (7) feet or less in height and which are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees shall be located no closer than three (3) feet to any lot line. Any such structure which exceeds seven (7) feet in height shall be located in accordance with the provisions set forth in Par. 12 below.
- D. Doghouses, runs, pens, rabbit hutches, cages and other similar structures for the housing of dogs and other commonly accepted pets shall be located in accordance with the provisions set forth in Par. 12 below, except in no instance shall a structure, run or pen for three (3) or more dogs be located closer than twenty-five (25) feet to any lot line.

The BZA may approve a modification to the location regulations set forth in this Paragraph in accordance with the provisions of Part 9 of Article 8.

- 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 in accordance with Par. 4 of Sect. 10-103 above.
  - 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

## ORDINANCE STRUCTURE, INTERPRETATIONS AND DEFINITIONS

STEADY STATE: See definitions under VIBRATION.

STORAGE YARD: The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

STORY: That part of any building between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, than that part of the building between the level of the highest finished floor and the top of the roof beams. A basement shall be counted as a story if the ceiling is more than six (6) feet above the level from which the height of the building is measured or if it is used for business purposes other than storage or for dwelling purposes by other than a janitor or watchman, but no other basement shall be counted as a story.

STREAM VALLEY: Any stream and the land extending from either side of it to a line established by the high point of the concave/convex topography, as delineated on a map adopted by the Board.

STREET: A strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to road, lane, drive, avenue, highway, boulevard, or any other thoroughfare.

- STREET, ARTERIAL: See STREET, MINOR ARTERIAL and STREET, PRINCIPAL ARTERIAL.

- STREET, COLLECTOR: A street which provides for principal internal movements at moderate operating speeds within residential developments, neighborhoods and commercial or industrial districts. It also provides the primary means of circulation between adjacent neighborhoods and can serve as a local bus route. A collector street functions to distribute trips from arterials to local and other collector streets. Conversely, it collects traffic from local streets and channels it into the arterial system. The collector street provides for the dual purpose of land access and local traffic movement. In line with its dual function, there must be continuity in the pattern of these streets.

- STREET, CUL-DE-SAC: See CUL-DE-SAC.

- STREET, FREEWAY/EXPRESSWAY: See STREET, PRINCIPAL ARTERIAL.

- STREET LINE: The dividing line between a street and a lot; same as a right-of-way line of a public street, or the curb line of a parking bay, travel lane or private street. (Reference Illustration 3 in Appendix 2)

- STREET, LOCAL: A street which primarily provides direct access to residential, commercial, industrial, or other abutting property. The local street system includes all facilities not classified as a principal arterial, minor arterial or collector street. A local street offers the lowest level of mobility and usually does not serve a bus route. Overall operating speeds are low in order to permit frequent stops or turning movements to be made with maximum safety. Service to through traffic movement is deliberately discouraged.

## FAIRFAX COUNTY ZONING ORDINANCE

encroached upon or reduced in any manner except upon approval by the Board in accordance with the provisions of this Ordinance, or except upon approval by the Director in any of the following circumstances. This provision shall not be deemed to negate pipestem lots otherwise allowed under the provisions of Sect. 2-406.

- A. Such space may be reduced by the amount to which other space, conforming to the provisions of this Ordinance, is provided for the use that is involved, or
  - B. Such space may be reduced by an amount which is justified by a reduction in the need for such space by reason of a reduction in the size or change in the nature of the use to which such is appurtenant, or
  - C. Such space may be reduced by reason of the provision of conveniently available parking space in a parking lot established by a public authority for which the developer has made payment in accordance with the provisions of Par. 6 above, or
  - D. Such space may be reduced for an existing structure or use to provide an accessibility improvement.
8. Except as may be qualified elsewhere in this Ordinance, off-street parking spaces that are located on the ground and are open to the sky may be located in any required yard but not closer than ten (10) feet to any front lot line, unless modified by the Board or BZA pursuant to Part 2 of Article 13; except that this ten (10) foot minimum distance shall not be required between parking spaces provided for single family attached dwellings in parking bays and the front lot lines of single family detached dwelling unit lots and shall not apply to parking spaces provided for and on the same lot with single family detached or attached dwellings, provided such space shall not encroach into any sidewalk or trail.
- For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area, provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning or repair of vehicles or trailers. In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area; provided, however, that these limitations may be exceeded for a surfaced area that is:
- A. Directly contiguous with, and providing primary access to, two (2) side-by-side parking spaces as long as the surfaced area is not more than twenty-five (25) feet long and eighteen (18) feet wide;
  - B. On a lot which has its primary access from a major thoroughfare and consists of two (2) side-by-side parking spaces and a vehicular turn-around area as long as the surfaced area is not more than twenty-five (25) feet long and eighteen (18) feet wide and the turn-around area does not exceed 150 square feet; or
  - C. Provided as an accessibility improvement as approved by the Zoning Administrator.

## OFF-STREET PARKING AND LOADING, PRIVATE STREETS

Surfaced area shall include asphalt, poured or precast concrete, brick, stone, gravel, or any other impervious surface, or grasscrete or other similar pervious surface. On a pipestem lot, the surfaced area within the pipestem driveway shall not be included in this limitation.

Except as may be qualified elsewhere in this Ordinance, parking structures and carports shall be subject to the minimum yard requirements applicable in the zoning district in which located; except parking structures that are completely underground may be located in any required yard, but not closer than one (1) foot to any lot line.

9. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which such parking is accessory.

No motor vehicle repair work except emergency service shall be permitted in association with any required off-street parking facilities.

10. All off-street parking space shall be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such dimension, location and construction as may be approved by the Director in accordance with the provisions of the Public Facilities Manual.

11. All off-street parking areas, including aisles and driveways, except those required for single family detached dwellings, shall be constructed and maintained with a dustless surface in accordance with construction standards presented in the Public Facilities Manual; however, the Director may approve a modification or waiver of the dustless surface requirement in accordance with the Public Facilities Manual.

12. All off-street parking spaces and areas shall comply with the geometric design standards presented in the Public Facilities Manual. All parking spaces, except those provided for and on the same lot with single family detached and attached dwellings, shall be clearly marked in accordance with the design guidelines set forth in the Public Facilities Manual and shall be subject to the approval of the Director.

Except for public commuter park-and-ride lots which utilize existing off-street parking spaces accessory to another use, any proposal to redesignate parking space delineations which changes the existing space size, configuration or number shall require the submission to and approval by the Director of a plan certified by an engineer or land surveyor authorized by the State to practice as such. Such plan shall show all off-street parking spaces, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by the provisions of this Article. No plan shall be approved which reduces the number of parking spaces below the minimum number required by this Article.

Notwithstanding the above, a redesignation plan to provide an accessibility improvement need not be certified by an engineer or land surveyor and any such plan which reduces the number of parking spaces below the minimum requirements of this Article may be approved.

13. All required stacking spaces shall be a minimum of eighteen (18) feet in length. In addition, the geometric design of the stacking aisle(s), including but not limited to the radius and width of the travel aisle, shall be subject to the approval of the Director.

## GENERAL REGULATIONS

### **PART 3 2-300 INTERPRETATION OF DISTRICT REGULATIONS**

The Sections that follow present a brief statement of interpretation of the district regulations set forth in Articles 3-7.

#### **2-301 Statements of Purpose and Intent**

The purpose and intent statement presented for each zoning district sets forth the underlying and primary purpose and intent of a given district; although it is not to be concluded that a district is created solely for the fulfillment of a singular stated purpose.

#### **2-302 Permitted Uses**

1. It is the intent of this Ordinance to permit any use, not otherwise prohibited by law, to locate in a specified zoning district(s), either as a permitted use, a special permit use or a special exception use. In the event there is not a particular use listed in the Ordinance that corresponds with the use in question, then it shall be interpreted that the use in the Ordinance having the most similar characteristics as the use in question shall govern. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions of Sect. 18-103.
2. Notwithstanding that a given use might be construed to qualify as a use permitted in a district, if such use has characteristics more similar to a particular use listed or defined elsewhere in the Ordinance, then it shall be interpreted that the latter listing or definition shall govern. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions of Sect. 18-103.
3. The term 'permitted uses' represents only those uses which are permitted by right in a given district and does not apply to uses otherwise allowed by special permit or special exception.
4. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.
5. No use shall be allowed in any district which is not permitted by the regulations for the district.
6. No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.
7. No accessory service use, as defined in Article 20, shall hereafter be established, altered or enlarged unless such accessory service use complies with the provisions of Part 2 of Article 10.
8. No home occupation shall hereafter be established, altered or enlarged unless such home occupation complies with the provisions of Part 3 of Article 10.



# County of Fairfax, Virginia

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

## NOTICE OF VIOLATION

### Sheriff's Letter

July 10, 2012

Mr. & Mrs. Linwood J. and Carol A. White  
7829 Ashton Street  
Alexandria, VA 22309

RE: 7829 Ashton Street  
Mount Vernon Woods, Sec 2 4, Lt 28A  
Tax Map Ref.: 101-2 ((4)) 0028A  
Zoning District: R-3  
Variance #10102  
Lot Area: 12,300 square feet  
Case # 2009-06301

Dear Mr. and Mrs. White:

The purpose of this letter is to follow up on both my June 20, 2012 meeting with Mr. White and an inspection of the above referenced property. During the meeting, a number of different issues and how each was affected by limitations and restrictions of the Fairfax County Zoning Ordinance were discussed.

This property is developed and is improved with a ranch style single family dwelling and is occupied as a residence.

### Garage Addition

According to records maintained by the Department of Planning and Zoning (DPZ), on December 13, 1955, the Board of Zoning Appeals (BZA), following a public hearing, granted approval of Variance application #10102 which allowed an existing carport at this property, located closer to the side lot line than would be allowed by right, to remain where positioned. This carport has now been converted into a garage.

Par. 1 of Sect. 2-307 and the R-3 District regulations, per Par. 2A(1)(b) of Sect. 3-307, of the Fairfax County Zoning Ordinance detail specific requirements known as bulk regulations that affect among other limitations the position of a structure or additions on a lot. Bulk Regulations is a phrase defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

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



EXHIBIT L

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 2

Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio, (c) minimum yard requirement and (d) minimum angle of bulk plane. (Underlining added)

Bulk regulations require that no structure or part thereof shall be built or moved on a lot that does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located as specified in Par. 1 of Sect. 2-307 which requires that:

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

The minimum yard requirement is at issue, in this case, as the attached garage extends into the minimum required side yard. A carport with the approval of a variance may extend into this minimum required side yard a specified distance. However, an attached or detached garage must satisfy the R-3 District's minimum required side yard requirement (12 foot separation between the structure and property line) per Par. 2A(1)(b) of Sect. 3-307.

The current distance separating the perimeter wall of the garage from this side yard boundary is significantly less than this required 12 foot separation distance.

Additionally, after a review of the records of this property maintained by both the Department of Public Works and Environmental Services (DPWES) and DPZ, it was verified that no Building Permit application was authorized by the Zoning Administrator as required by Sect. 18-601 of the Zoning Ordinance prior to the enclosure of the carport and its conversion into an attached garage. Sect. 18-601 of the Zoning Ordinance requires that:

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

### **Wooden Deck**

Also observed on-site was a wooden deck approximately 390 square feet in area attached to the rear walls of the single family dwelling located at this property. A review of records maintained by both the DPWES and DPZ, verified that no Building Permit application was authorized by the Zoning Administrator for the construction of this wooden deck as required by Sect. 18-601.

### **Accessory Uses**

The single family dwelling unit is the principal use of this property. In addition, the Zoning Ordinance also allows in conjunction with the principal use, accessory uses on this property.

Accessory uses are defined in Part 3 of Article 20 as:

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

1. Is clearly subordinate to, customarily found in association with, and serves a principal use; and
2. Is subordinate in purpose, area or extent to the principal use served; and
3. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and
4. Is located on the same lot as the principal use, except any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot.

### **Accessory Storage Structure**

An accessory storage structure (or shed) is located in both the rear yard and minimum required rear yard of 7829 Ashton Street. Accessory uses including this shed are subject to; area, height, location, etc. requirements as detailed in Article 10 of the Zoning Ordinance.

The maximum size of an accessory structure is limited to 200 square feet in area. Additionally, an accessory storage structure that exceeds 8.5 feet in height should not be located closer to the rear lot line than a distance equal to the height of the structure and located a distance no closer than the minimum required side yard to the side lot line. The height of an accessory structure is measured from natural grade to the highest point of the structure.

These requirements are detailed in Par. 25 of Sect. 10-102 and Par. 10 of Sect. 10-104 of the Zoning Ordinance which specify respectively that:

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

And

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.

The accessory storage structure located in the rear yard of 7829 Ashton Street was constructed without the Zoning Administrator's authorization of a valid Building Permit application and is approximately; 340 square feet in area, 12 feet in height and positioned inches from both the side and rear lot lines.

Accordingly, this accessory storage structure does not satisfy the aforementioned requirements specified in; Sect. 18-601, Par. 25 of Sect. 10-102 and Par. 10 of Sect. 10-104 of the Zoning

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 4

Ordinance. This structure is also in violation of Par. 6 of Sect. 2-302 which requires:

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

### **Coverage of the Minimum Required Rear Yard**

In addition to the 340 sq. ft. accessory storage structure, a smaller accessory structure less than 8.5 feet in height (and located in the opposite corner of the rear yard), four boat trailers, {some carrying boats, (other boat trailers carrying building materials and pipe)}, a pop-up camper trailer, a utility trailer, a truck and other materials were all located on the minimum required rear yard of this property.

The rear yard is defined in Part 3 of Article 20 of the Zoning Ordinance as:

A yard extending across the full width of the lot and lying between the rear lot line of the lot and the principal building group.

The minimum required rear yard area of this lot encompasses that portion of the rear yard from the rear property line a distance of 25 feet (per Par. 2A(1)(c) of Sect. 3-307) west and all of the space included in this area extending across the full width of the yard.

The accumulation of; two (2) separate accessory storage structures, two (2) boats on trailers, three (3) boat trailers, a utility trailer, camper trailer, a truck, building materials, etc. covers conservatively approximately 80 % of the minimum required rear yard area. This coverage exceeds the 30% coverage limitation of the minimum required rear yard as is detailed in Par. 3 of Sect. 10-103 of the Zoning Ordinance which specifies that:

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.

The 80% coverage of the minimum required rear yard is also a violation of Par. 6 of Sect. 2-302.

### **Outdoor Storage**

Also stored in the front, side and rear yards of 7829 Ashton Street is an accumulation of materials including but is not limited to;

Assorted building materials, vehicles parts, stacks of tires, several metal shelving units, tables and a table top, numerous metal and plastic buckets, cans, various containers of solvents, fishing equipment and tackle boxes, wading boots, cardboard box, seat cushions, various sized coolers, shovels, other tools, a deep sink, wheel barrels, propane tanks, sections of down spouts and down spout attachments, gutter, an interior light fixtures, galvanized sheet metal piping, engine hoist, carts, paint cans, a ladder, upholstered furniture, etc.

Outdoor storage is allowed in a Residential District as an accessory use but subject to a;

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 5

maximum area, screening and location requirements. These requirements are detailed, in part, in Par. 24 of Sect. 10-102 which requires that:

Storage, outdoor, in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet....

The volume of outdoor storage located in the front, side and rear yards at 7829 Ashton Street does not satisfy this requirement and is also a violation of Par. 6 of Sect. 2-302.

(It should be noted that the firewood stored on the side and rear yards of this property is not subject to the outdoor storage limitation provided that the firewood is kept on-site for the personal use at and by the occupants of 7829 Ashton Street. The storage of and sale of firewood on-site is not permitted by Paragraphs 4 and 5 of Sect. 2-302.)

### **Surface covered area Front Yard**

Surfaced areas, as it relates to parking vehicles in a front yard, includes areas covered by; asphalt, poured or precast concrete, brick, and stone, gravel other impervious surface or grasscrete or similar surface. There is a limit on the maximum surfaced covered area allowed in a front yard.

The Ordinance specifies that no more than 30% of the front yard area of a property, located in the R-3 District, should to be surface covered with asphalt, poured or precast concrete, brick, and stone, gravel, etc. The surface coverage in the front yard at 7829 Ashton Street is comprised of two (2) separate driveways and a driveway extension. This includes a;

- 374 square feet graveled driveway located along the side (north) lot line, and a
- 576 square feet of the existing original asphalt driveway, and
- 432 square feet of a graveled extension to the existing asphalt driveway parallel to the side (south) lot line.

The front yard area of this property was calculated from the dimensions detailed on a plat dated September 2, 1954 and prepared by Wesley N. Ridgeway, Certified Land Surveyor. This plat indicates that the front yard of this property is 82' (wide) x 42' (deep) or 3444 square feet in area. The portion of the front yard that may be surfaced covered by the materials noted above is 30% or 1033 square feet in area.

The aggregate surface coverage in the front yard at this property is calculated at 1382 square feet in area and this equates to 40.1% coverage. This amount of surface coverage in a front yard exceeds the percentage of surface coverage specified by the Ordinance and is not consistent with the 30% surface coverage requirement detailed in Par. 8 of Sect. 11-102 of the Ordinance which requires in part that:

... In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area...

The existing surface coverage of asphalt, poured or precast concrete, brick, and stone, gravel, etc. in the front yard exceeds the maximum allowable area by 10.1% and is not in compliance with the limitations detailed in Par. 8 of Sect. 11-102 above.

### Storage Yard

The inspection verified that a number and differing type of boats and or trailers are being kept and stored at 7829 Ashton Street. This includes:

| Number | Boat type  | Trailer type          | Yard Area |
|--------|------------|-----------------------|-----------|
| 1      | Jon        | boat trailer          | Front     |
| 1      | Power      | boat trailer          | Rear      |
| 1      |            | Utility trailer       | Rear      |
| 1      |            | Pop-up camper trailer | Rear      |
| 1      | "V" bottom | Boat trailer          | Rear      |
| 1      |            | Boat trailer          | Rear      |
| 1      |            | Boat trailer          | Rear      |

The keeping and storage of seven (7) separate trailers on this residential lot is not customarily found in association with the principal use of the property and is most similar to a storage yard. A storage yard is defined in Part 3 of Article 20 as:

The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

A storage yard use is allowed to operate by right in the I-5 and I-6 Districts (respectively General, Heavy Industrial) with approval of both a Site Plan and Non-Residential Use Permit. A storage yard use is not allowed; by right, special permit or special exception permit in the R-3 District. The use of 7829 Ashton Street as a storage yard is a use not permitted and a violation of Paragraphs 4 and 5 of Sect. 2-302 which specifies respectively that:

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

and

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

Based on the above information, you are in violation of the aforementioned Fairfax County Zoning Ordinance provisions. You are hereby directed to clear these violations of the Fairfax County Zoning Ordinance within 30 days of the receipt of this Notice. Compliance must be accomplished by:

### **Garage Addition**

- Modifying and returning the garage structure into a carport as approved by the BZA and as defined in Part 3 of Article 20 of the Zoning Ordinance which specifies that:

Carport: Any space outside a building and contiguous thereto, wholly or partly covered by a roof, used for the shelter of parked motor vehicles. A carport shall have no enclosure that is more than eighteen (18) inches in height, other than the minimum required supports for its roof, and the side(s) of the building to which the carport is contiguous.

- Or, applying for and diligently pursuing approval by the BZA of a Special Permit for an error in building location to allow the garage to remain where positioned on-site, and
- Whether modifying the garage or in the event the BZA grants a Special Permit to allow the garage to remain where positioned, obtaining all required Building and trades permits as required by the Fairfax County Building Official.

### **Wooden Deck**

- Applying for and obtaining the Zoning Administrator's approval of a Building Permit application to allow this structure to remain, or
- Removing the deck and all related materials from this property.

### **Large Accessory Storage Structure**

- Removing the large accessory storage structure from this property, or
- Reducing the area of the structure from approximately 340 to 200 sq. ft., and
- Reducing the height of this structure from approximately 12 feet to no more than 8.5 feet as measured from natural grade to the highest point of the structure.

### **Coverage of the Minimum Required Rear Yard**

- Reducing, on a permanent basis, the coverage of the minimum required rear yard area, such that
  - No more than 30% of the minimum required rear yard area of this property is covered.

### **Outdoor Storage**

- Remove all outdoor storage from this property, or
- Relocating outdoor storage to the rear half of the lot (making sure not to exceed the 30% coverage of the minimum required rear yard), and

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 8

- Maintaining no more than 100 square feet of outdoor storage, and
- Screening the outdoor storage from the view of the 1<sup>st</sup> floor windows of neighboring dwellings. Screening is accomplished with live plantings not by the use of tarpaulins.

#### **Surface Covered Area**

- Removing 10.1% of the aggregate surfaced covered area located in the front yard of this property, and
- Stabilizing any disturbed soil to prevent erosion and sedimentation.

#### **Storage Yard**

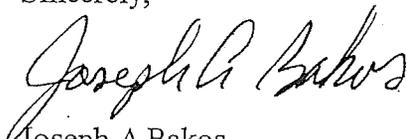
- Removing any trailer, boat, vehicle, etc. from this property that is does not display a valid inspection decal and license.

A follow-up inspection will be made at the expiration of the 30 day time period. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

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 and 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.

Should you have questions concerning this Notice of Violation contact me Monday through Friday, 8am thru 4:30pm at 703- 324-1341. Otherwise, as many of my working hours are spent in the field, should you wish to meet and discuss these issues, please contact me to schedule a meeting.

Sincerely,



Joseph A Bakos  
Chief Zoning Inspector  
JAB/ss

PERSONAL SERVICE

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

Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

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

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

Served on a Secretary of the Commonwealth

Not found

*S.S. Bensalves*

SERVING OFFICER

Stan G. Barry, Sheriff

Fairfax County, VA

7-10-12

DATE

PERSONAL SERVICE

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Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

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

*Wife*

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

Served on a Secretary of the Commonwealth

Not found

*S.S. Bensalves*

SERVING OFFICER

Stan G. Barry, Sheriff

Fairfax County, VA

7-10-12

DATE



# County of Fairfax, Virginia

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

## NOTICE OF VIOLATION

### Sherriff's Letter

July 10, 2012

Mr. & Mrs. Linwood J. and Carol A. White  
7829 Ashton Street  
Alexandria VA 22309

RE: 7829 Ashton Street  
Mount Vernon Woods, Sec 2 4, Lt 28A  
Tax Map Ref.: 101-2 ((4)) 0028A  
Zoning District: R-3  
Lot Area: 12,300 square feet  
Case # 2009-06301

Dear Mr. and Mrs. White:

The purpose of this letter is to follow up on both my June 20, 2012 meeting with Mr. White and an inspection of the above referenced property. During the meeting, the parking of vehicles on the grass in the front yard and keeping of inoperative vehicles at this property were among several issues discussed. This property is developed and is improved with a ranch styled single family detached dwelling and is occupied as a residence.

### Parking On the Grass in the Front Yard

The phrase front yard is defined, in part, in Part 3 of Article 20 of the Zoning ordinance as:

A yard extending across the full width of a lot and lying between the front lot line and the principal building.

It has been confirmed that vehicles park daily on the grass in the front yard of this property. Additionally, this parking on the grass in the front yard is not occurring while vehicles are loaded or unloaded or being repaired, rather, is a routine occurrence.

The limitations for vehicles parked on the grass in a front yard are detailed, in part, in Par. 8 of Sect. 11-102 which requires that;

...For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 2

front yard shall be on a surfaced area provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning or repair of vehicles or trailers.

The above is not new information as this same information has been conveyed to the owners of this property via two (2) earlier Notices of Violation on this topic dated November 2, 2006 and November 15, 2009. (See attachments)

The parking of vehicles on the grass in a front yard is a continued violation of the aforementioned Par. 8 of Sect. 11-102.

### **Inoperative Motor Vehicle**

Also observed at this property was a Plymouth Horizon, (displaying 2003 expired Virginia license plates ZEU-1181 and a rejected Inspection Decal), parked on the graveled driveway extension at this property. An inoperative motor vehicle is defined in Chapter 110, Section 110-2-1(3)(A)(B)(C) of the Fairfax County Code as:

Any motor vehicle, trailer or semitrailer as herein defined:

- (A) Which is not in operating condition; or
- (B) Which does not display valid license plates; or
- (C) Which does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than sixty (60) days.

As this vehicle is not; in operating condition, displaying expired license plates and an out of date and rejected inspection decal it is an inoperative motor vehicle.

The storage of an inoperative motor vehicle is considered an accessory use and subject to location requirements. Inoperable vehicles are, per Par. 13 of Sect. 10-102 of the Zoning Ordinance, to be kept in a fully enclosed structure, and or, screened from view, but are not to be stored in a front yard. Par. 13 of Sect. 10-102 requires that:

Inoperative motor vehicles, as defined in Chapter 110 of The Code, provided such vehicles are kept within a fully enclosed building or structure or are kept completely screened or shielded from view in accordance with Chapter 110 of The Code.

The storage on an inoperative motor vehicle, in the front yard, is a violation of the aforementioned Par. 13 of Sect. 10-102 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which requires that:

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

Based on the above information, as the owners of 7829 Ashton Street, you are in violation of the

Mr. & Mrs. Linwood and Carol White

July 10, 2012

Page 3

above-mentioned Fairfax County Zoning Ordinance provisions. You are hereby directed to clear these violations of the Fairfax County Zoning Ordinance within 10 days of receipt of this Notice. Compliance must be accomplished by:

**Parking on the grass in the front yard**

- Ceasing, on a permanent basis, in the parking of all vehicles on the grass in the front yard of this property.

**Inoperative motor vehicle**

- Remove, on a permanent basis, this and any other inoperative motor vehicle, boat or trailer from the property, or
- Relocating this inoperative motor vehicle to the rear half of the lot, (where this inoperative vehicle, or boat or trailer will be included in the aggregate outdoor storage area), and
- Screening it from view.

A follow-up inspection will be made at the expiration of the 10 day time period. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within ten (10) 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 ten (10) 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 and 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.

Should you have questions concerning this Notice of Violation contact me Monday through Friday, 8am thru 4:30pm at 703- 324-1341. Or should you wish to meet, please schedule an appointment as field duties often require an absence from the office.

Sincerely,



Joseph A Bakos  
Chief Zoning Inspector

Enclosures: A/S

JAB/ss

PERSONAL SERVICE

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

Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.

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

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

Served on a Secretary of the Commonwealth

Not found

*S.S. Consolue*  
SERVING OFFICER

7-10-12 Stan G. Barry, Sheriff  
Fairfax County, VA

DATE

PERSONAL SERVICE

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*at Fe*

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Served on a Secretary of the Commonwealth

Not found

*S.S. Garsales*  
SERVING OFFICER

7-10-12

DATE

Stan G. Barry, Sheriff  
for Fairfax County, VA

ADMINISTRATION, AMENDMENTS, VIOLATIONS AND PENALTIES

**PART 3     18-300   APPEALS**

**18-301     Initiation**

Any person aggrieved or any officer, department, board, commission or authority of the County affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance may appeal such decision to the BZA, except an appeal which relates to a proffered condition shall be taken to the Board as provided for in Par. 10 of Sect. 204 above.

**18-302     Authorization**

The Zoning Administrator shall administer and interpret the Zoning Ordinance. The BZA shall hear and decide all cases of appeal by persons as set forth in Sect. 301 above. The BZA shall also hear and decide applications for interpretation of any district boundary if uncertainty remains after application by the Zoning Administrator of the rules specified in Sect. 2-204.

**18-303     Time Limit on Filing**

1. Except as set forth below, all appeals shall be filed within thirty (30) days from the date of the decision appealed by filing a notice of appeal with the Zoning Administrator and the BZA.
2. Appeals for notices of violation involving the following violations shall be filed within ten (10) days from the date of the notice with the Zoning Administrator and the BZA:
  - A. Occupancy of a dwelling unit in violation of Sect. 2-502.
  - B. Parking of inoperative motor vehicles, as defined in Chapter 110 of The Code, in violation of Par. 13 of Sect. 10-102.
  - C. Parking a commercial vehicle in an R district in violation of Par. 16 of Sect. 10-102.
  - D. Parking of vehicles on an unsurfaced area in the front yard of a single family detached dwelling in the R-1, R-2, R-3 or R-4 Districts in violation of Par. 8 of Sect. 11-102.
  - E. Erection of prohibited signs on private property in violation of Paragraphs 1, 4, 5, 6, 7, 11, 12, 13 or 14 of Sect. 12-104.
  - F. Erection, alteration, refacing or relocation of a sign on private property in violation of Sect. 12-301.
  - G. Other short-term, recurring violations similar to those listed in Paragraphs 2A through 2F above.

## FAIRFAX COUNTY ZONING ORDINANCE

3. A notice of appeal filed pursuant to Paragraphs 1 and 2 above shall specify the grounds for such appeal, and shall be filed in accordance with the provisions of Sect. 304 below.

### **18-304 Submission Requirements**

Every application to appeal shall contain all of the following information:

1. Four (4) copies of an application on forms provided by the County, completed and signed by the appellant. Such application shall not require the execution of an affidavit.
2. Four (4) copies of a statement signed by the appellant setting forth the following information:
  - A. The order, requirement, decision or determination which is the subject of the appeal.
  - B. The date upon which the decision was made.
  - C. The appellant's grounds for the appeal and the reasons therefor. If the appellant is a County officer, department, board or bureau, the statement shall specify how the appellant is affected; otherwise, the statement shall specify how the appellant is an aggrieved person.
3. Such other supportive data as the appellant may desire in the record, including plats, plans, drawings, charts or related material.
4. An application fee as provided for in Sect. 106 above.

### **18-305 Processing**

1. Upon receipt of an appeal, the Zoning Administrator shall immediately transmit a copy to the BZA.
2. Prior to the public hearing, the Zoning Administrator shall forward to the BZA copies of the application for appeal and all of the papers constituting the records upon which the decision being appealed was based.
3. The BZA shall process all applications for appeal in accordance with the provisions of Part 2 of Article 19.

### **18-306 Decision on Appeals**

1. The BZA may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from.
2. The concurring vote of four (4) members of the BZA shall be required to reverse any order, requirement, decision or determination of the Zoning Administrator or any other administrative officer under this Ordinance.

MORNS WOMAN WOODS  
SECS 2, 4  
LOT 28A  
7829 ASHTON ST.

side lot line and within the minimum required side yard in violation of Zoning Ordinance §§ 2-307(1) and 3-307(2)(A)(1)(b) and was constructed without a Building Permit approved by the Zoning Ordinance § 18-601; and

IT FURTHER APPEARING TO THE COURT that the Garage was formerly a carport, the location of which was approved by Variance #10102; and

IT FURTHER APPEARING TO THE COURT that the Defendants are maintaining a deck in the rear yard of the subject property (hereinafter, "Deck") that was constructed without a Building Permit approved by the Zoning Administrator in violation of Zoning Ordinance § 18-601; and

IT FURTHER APPEARING TO THE COURT that at the time this Complaint was filed, the Defendants were maintaining and/or allowing the maintenance of a Storage Yard on the subject property in violation of Zoning Ordinance § 2-302(5); and

IT FURTHER APPEARING TO THE COURT that the Defendants are maintaining and/or allowing the maintenance of surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard on the subject property in violation of Zoning Ordinance § 11-102(8); and

IT FURTHER APPEARING TO THE COURT that the Defendants are maintaining on the subject property outdoor storage that is not located on the rear half of the subject property, not screened from the view from the first story window of any neighboring dwelling, and/or exceeds 100 square feet in area in violation of Fairfax County Zoning Ordinance ("Zoning Ordinance") §§ 10-102(24) and 2-302(6); and

IT FURTHER APPEARING TO THE COURT that the Zoning Administrator and the Defendants have agreed to settle this case under the terms and conditions set forth below, as

VIRGINIA:  
IN THE CIRCUIT COURT OF FAIRFAX COUNTY

LESLIE B. JOHNSON, FAIRFAX COUNTY  
ZONING ADMINISTRATOR,

Plaintiff,

Case No. CL-2013-0013605

LINWOOD J. WHITE

and

CAROL A. WHITE,

Defendants.

ORDER: WHITE, LINWOOD J.  
DATE: 06/10/14 10:21:53  
RECORDED: 2014/06/10 10:24  
# of Pages: 5  
RECORDED IN FAIRFAX CIRCUIT COURT  
TESTE: JANE T. PRETZ

**AGREED FINAL ORDER**

THIS CAUSE came before the Court at the request of the Plaintiff, Leslie B. Johnson, Fairfax County Zoning Administrator ("Zoning Administrator"), and Defendants Linwood J. White and Carol A. White ("Defendants"), for the entry of this Agreed Final Order, and

IT APPEARING TO THE COURT that the property that is the subject of this lawsuit is located at 7829 Ashton Street, Alexandria, Virginia (Tax Map No. 101-2((4)) parcel 28A) ("subject property"), is zoned to the R-3 District (Residential District, Three Dwelling Units/Acre), and is owned by the Defendants; and

IT FURTHER APPEARING TO THE COURT that at the time this Complaint was filed, the Defendants were maintaining inoperative motor vehicles on the subject property that were not fully enclosed in a building or structure or kept completely screened or shielded from view in violation of Zoning Ordinance §§ 10-102(13) and 2-302(6); and

IT FURTHER APPEARING TO THE COURT that the Defendants are maintaining a garage on the subject property (hereinafter, "Garage") that is located less than 12 feet from the

100 to name of record record

evidenced by the endorsements hereon of the Defendants and counsel for the Zoning Administrator; and

IT FURTHER APPEARING TO THE COURT that the parties hereto agree that the terms of this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the Zoning Administrator and the Defendants with the approval of this Court; and

IT FURTHER APPEARING TO THE COURT that this Agreed Final Order should be entered, now, therefore, it is hereby

ADJUDGED and ORDERED as follows:

1. The Defendants' maintenance and/or allowing the maintenance of inoperative motor vehicles on the subject property that were not fully enclosed in a building or structure or kept completely screened or shielded from view violated Zoning Ordinance §§ 10-102(13) and 2-302(6); and
2. The Defendants' maintenance and/or allowing the maintenance of a garage on the subject property that is located less than 12 feet from the side lot line and within the minimum required side yard violates Zoning Ordinance §§ 2-307(1) and 2-307(2)(A)(1)(b); and
3. The Defendants' maintenance and/or allowing the maintenance of the Deck on the subject property without a Building Permit approved by the Zoning Administrator violates Zoning Ordinance § 18-601; and
4. The Defendants' maintenance and/or allowing the maintenance of outdoor storage on the subject property that is not located on the rear half of the subject property, is not screened from the view from the first story window of any neighboring dwelling, and/or exceeds 100 square feet in area violates Zoning Ordinance §§ 10-102(24) and 2-302(6); and

5. The Defendants' maintenance and/or allowing the maintenance of a Storage Yard on the subject property violated Zoning Ordinance § 2-302(5); and

6. The Defendants' maintenance and/or allowing the maintenance of surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard on the subject property violates Zoning Ordinance § 11-102(8); and

7. The Defendants shall, within 30 days after the entry of this Agreed Final Order, permanently remove all outdoor storage from the subject property to a lawful site or relocate such outdoor storage to the rear half of the subject property, screen it from the view from the first story window of any neighboring dwelling, and limit the outdoor storage to a total area not exceeding 100 square feet, and (ii) permanently reduce the amount of surfaced area in the front yard of the subject property such that the surfaced area remaining thereon does not exceed more than 30 percent of the total area of the front yard and permanently remove all resulting debris to a lawful site; and

8. The Defendants shall, within 30 days after entry of this Agreed Final Order, submit a Special Permit application (hereinafter, "Application") to the Zoning Administrator, including all submission requirements, that, if approved by the Fairfax County Board of Zoning Appeals ("BZA"), would allow the Garage to remain in its current location; and

9. As may be necessary to obtain approval of the Application, the Defendants shall, within 14 days after comments on the Application are provided by the Zoning Administrator or staff of the Department of Planning and Zoning, submit revisions or provide additional documentation in response to such comments; and

10. If the BZA denies the Defendants' Application, the Defendants shall, within 30 days after such disapproval, obtain a demolition permit and permanently remove the Garage

from within the minimum required side yard setback or restore the Garage to the previously approved Carport, provided further that if the Garage is demolished all resulting debris shall be removed from the subject property to a lawful site; and

11. If the BZA approves the Application, the Defendants shall, within 7 days of such approval, obtain a Building Permit for the Garage and the Deck, and obtain a final inspection on such structures within 30 days after issuance of the Building Permit; and

12. If the BZA denies the Application, the Defendants shall, within 45 days after such disapproval, obtain a Building Permit for the Deck, and obtain a final inspection of the Deck or permanently remove the Deck from the subject property to a lawful location within 30 days after issuance of the Building Permit; and

13. The Defendants, their tenants, agents, and/or employees are permanently enjoined from maintaining and/or allowing the maintenance of inoperative motor vehicles on the subject property that are not fully enclosed in a building or structure or kept completely screened or shielded from view in violation of Zoning Ordinance §§ 10-102(13) and 2-302(6); and

14. Maintaining and/or allowing the maintenance of inoperative motor vehicles on the subject property that are not fully enclosed in a building or structure or kept completely screened or shielded from view in violation of Zoning Ordinance §§ 10-102(13) and 2-302(6) is permanently enjoined; and

15. Unless permitted by a Special Permit, the Defendants, their tenants, agents, and/or employees are permanently enjoined from maintaining and/or allowing the maintenance of a garage on the subject property that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307 and 3-307(2)(A)(1)(b); and

16. Unless permitted by a Special Permit, maintaining and/or allowing the maintenance of a garage on the subject property that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307 and 3-307(2)(A)(1)(b) is permanently enjoined; and

17. The Defendants, their agents, employees, and/or tenants are permanently enjoined from maintaining and/or allowing the maintenance of a Storage Yard on the subject property in violation of Zoning Ordinance § 2-302(5); and

18. Maintaining and/or allowing the maintenance of a Storage Yard on the subject property in violation of Zoning Ordinance § 2-302(5) is permanently enjoined; and

19. The Defendants, their agents, employees, and/or tenants are permanently enjoined from maintaining and/or allowing the maintenance of outdoor storage on the subject property in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6); and

20. Maintaining and/or allowing the maintenance of outdoor storage on the subject property in violation of Zoning Ordinance §§ 10-102(24) and 2-302(6) is permanently enjoined; and

21. The Defendants, their agents, employees, and/or tenants are permanently enjoined from maintaining and/or allowing the maintenance of a surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard of the subject property in violation of Zoning Ordinance § 11-102(8); and

22. Maintaining and/or allowing the maintenance of a surfaced area in the front yard of the subject property that exceeds 30 percent of the total area of the front yard of the subject property in violation of Zoning Ordinance § 11-102(8) is permanently enjoined; and

23. The Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times and upon reasonable notice to inspect and photograph the subject property to ensure that the Defendants comply with this Agreed Final Order; and

24. The terms and deadlines set forth in this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the parties with the approval of this Court; and

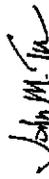
25. The Clerk of the Fairfax County Circuit Court shall record a copy of this Agreed Final Order among the land records of Fairfax County, Virginia, pursuant to Va. Code Ann. § 17.1-227, to give notice of the prohibitions and restrictions contained herein to any successors-in-interest of the Defendants and shall index this Agreed Final Order as follows:

GRANTORS: Linwood J. White; Carol A. White

GRANTEES: Leslie B. Johnson; Fairfax County  
Zoning Administrator

AND THIS CAUSE IS FINAL.

ENTERED this 2 day of June, 2014.



JUDGE, FAIRFAX COUNTY CIRCUIT COURT

WE ASK FOR THIS:

DAVID P. BOBZIEN  
COUNTY ATTORNEY

By   
Marc F. Goff (VSB No. 74976)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
(703) 324-2421/(703) 324-2665 (fax)  
Counsel for Plaintiff Leslie B. Johnson,  
Fairfax County Zoning Administrator

SEEN AND AGREED:

Linwood J. White  
7829 Ashicon Street  
Alexandria, Virginia 22309  
Defendant *pro se*

Carol A. White  
7829 Ashicon Street  
Alexandria, Virginia 22309  
Defendant *pro se*

WE ASK FOR THIS:

DAVID P. BOBZIEN  
COUNTY ATTORNEY

By Marc E. Gorf (VSB No. 74926)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
(703) 324-2421/(703) 324-2665 (fax)  
Counsel for Plaintiff Leslie B. Johnson,  
Fairfax County Zoning Administrator

SEEN AND AGREED:

*Leslie B. Johnson* 5/21/14  
Leslie B. Johnson  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

*Carol A. White* 5/21/14  
Carol A. White  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

A COPY TESTE:  
JOHN T. FNEY, CLERK

By *Carol A. White*  
Deputy Clerk

Date: 5/21/14  
Original retained in the Office of  
the Clerk of the Circuit Court of  
Fairfax County, Virginia

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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

Plaintiff, :

v. : CASE NO. CL-2013-0013605

LINWOOD J. WHITE, :

and :

CAROL A. WHITE, :

Defendants. :

ORDER

THIS CAUSE came to be heard upon the Rule to Show Cause that was issued by this Court to Defendants Linwood J. White and Carol A. White ("Defendants"), on April 1, 2015, requiring the Defendants to show cause why they should not be held in contempt of Court for violating the terms of the June 2, 2014, Agreed Final Order ("Agreed Final Order") entered in this case; and

IT APPEARING TO THE COURT that Defendants are the owners of real property located at 7829 Ashton Street, Alexandria, Virginia (Tax Map No. 101-2((4)) parcel 28A) ("subject property"); and

IT FURTHER APPEARING TO THE COURT that on June 2, 2014, Fairfax County Circuit Court Judge John M. Tran entered the Agreed Final Order in this case, which, among other things, ordered the Defendants to submit a Special Permit application (hereinafter, "Application") to the Zoning Administrator that, if approved by the Fairfax County Board of Zoning Appeals ("BZA"), would allow the Garage to remain in its current location. The Agreed Final Order provided that if the Application was denied, the Garage must be

cc to Gori 5/1/15

demolished or restored to its previously approved use (a carport). The Agreed Final Order also permanently enjoined the Defendants from maintaining and/or allowing the maintenance of a garage on the subject property that is located within the minimum required side yard in violation of Zoning Ordinance §§ 2-307 and 3-307(2)(A)(1)(b) unless permitted by an approved Special Permit; and

IT FURTHER APPEARING TO THE COURT that the Agreed Final Order requires the Defendants to obtain a building permit approved by the Zoning Administrator for the deck that is located in the rear yard of the subject property ("Deck") or demolish the Deck; and

IT FURTHER APPEARING TO THE COURT that the Defendants have violated the foregoing provisions of the Agreed Final Order; and

IT FURTHER APPEARING TO THE COURT that this Order should be entered; now, therefore, it is hereby

ADJUDGED AND ORDERED that:

A. The Defendants are in contempt of Court for having failed to comply with the Agreed Final Order; and

B. The Defendants shall, within 30 days after the date of this order, obtain a demolition permit and permanently remove the Garage from within the minimum required side yard setback or restore the Garage to the previously approved carport; provided further that if the Garage is demolished all resulting debris shall be removed from the subject property to a lawful

site; *or submit a completed special permit application to the County for remaining to allow carport garage to remain in existing location; and*

C. The Defendants shall, within 30 days after the date of this order, obtain a building permit for the Deck and obtain a final inspection of the Deck, or permanently remove the Deck from the subject property to a lawful location; *and*

*IF the special permit is submitted, building permit must be obtained 30 days after denial or approval of the special permit; and*

D. If the Defendants fail to comply with this order, the Defendants shall pay Fairfax County the amount of \$100 for each day that the Court determines that the Defendants have violated this Order. Such payment shall be made to the County of Fairfax (delivered to the Office of the County Attorney in the form of a certified check made payable to the "County of Fairfax") and shall be in addition to any fines or penalties imposed by this Court upon any further find of contempt; and

E. The Defendants are hereby ordered and directed to appear before this Court on Friday, June 12, 2015, at 10:00 a.m. to have a hearing on that date to determine if they are in full compliance with the Agreed Final Order and to assess the sanctions, if any, that are due at that time. *MADH*  
*off/CAW*

F. The terms and conditions set forth in the Agreed Final Order are hereby continued and incorporated herein by reference.

AND THIS CAUSE IS CONTINUED.

ENTERED this 1 day of May, 2015.

*D. D. O. J.*  
Judge, Fairfax County Circuit Court

WE ASK FOR THIS:  
DAVID P. BOBZIEN  
COUNTY ATTORNEY

By *M. E. Gori*  
Marc E. Gori (VSB No. 74926)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
(703) 324-2421 (telephone)  
(703) 324-2665 (facsimile)  
Counsel for the Plaintiff

SEEN: *and agreed*

*Linwood J. White*

Linwood J. White  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

*Carol A. White*

Carol A. White  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

A COPY TESTE:  
JOHN T. FREY, CLERK

BY: *Karna Fink*  
Deputy Clerk

Date: *5/11/2015*  
Original retained in the office of  
the Clerk of the Circuit Court of  
Fairfax County, Virginia

**VIRGINIA:**

**IN THE CIRCUIT COURT OF FAIRFAX COUNTY**

|  |   |                                 |
|--|---|---------------------------------|
| <b>LESLIE B. JOHNSON, FAIRFAX COUNTY</b> | : |                                 |
| <b>ZONING ADMINISTRATOR,</b>             | : |                                 |
|  | : |                                 |
| <b>Plaintiff,</b>                        | : |                                 |
|  | : |                                 |
| <b>v.</b>                                | : | <b>CASE NO. CL-2013-0013605</b> |
|  | : |                                 |
| <b>LINWOOD J. WHITE,</b>                 | : |                                 |
|  | : |                                 |
| <b>and</b>                               | : |                                 |
|  | : |                                 |
| <b>CAROL A. WHITE,</b>                   | : |                                 |
|  | : |                                 |
| <b>Defendants.</b>                       | : |                                 |

**AGREED ORDER DISMISSING RULE TO SHOW CAUSE**

THIS CAUSE came before the court at the request of the Plaintiff, Leslie B. Johnson, Fairfax County Zoning Administrator, and the Defendants, Linwood J. White and Carol A. White (“Defendants”), for entry of this Agreed Order to Dismiss the Rule to Show Cause; and

IT APPEARING TO THE COURT that this Court issued a Rule to Show Case on April 3, 2015, to the Defendants, requiring them to show cause why he should not be held in contempt of Court for violating the terms of the June 2, 2014, Agreed Final Order that was entered in this case; and

IT FURTHER APPEARING TO THE COURT that on May 1, 2014, Circuit Court Judge Daniel E. Ortiz entered an Order that required the Defendants, within 30 days after entry of such order, to, among other things, submit a completed Special Permit Application to the Fairfax County Board of Zoning Appeals (BZA) to allow the Garage to remain in the minimum required side yard, restore the Garage to the previously existing carport, or demolish the Garage and remove any resulting debris to a lawful site; and

IT FURTHER APPEARING TO THE COURT that the Defendants submitted a completed Special Permit Application to the BZA in accordance with the May 1, 2015, Order of this Court; and

IT FURTHER APPEARING TO THE COURT that the Zoning Administrator and the Defendants have agreed to dismiss the Rule to Show Cause, as evidenced by the endorsements hereon of the Defendants and counsel for the Plaintiff; now, therefore, it is hereby

ORDERED that the April 3, 2015, Rule to Show Cause is DISMISSED

AND THIS CAUSE IS FINAL.

ENTERED this 12<sup>th</sup> day of June, 2015.

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JUDGE, FAIRFAX COUNTY CIRCUIT COURT

SEEN AND AGREED:

By

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Marc E. Gori (VSB No. 74926)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
marc.gori@fairfaxcounty.gov  
(703) 324-2421 (telephone)/(703) 324-2665 (facsimile)  
Counsel for the Plaintiff

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Linwood J. White  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

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Carol A. White  
7829 Ashton Street  
Alexandria, Virginia 22309  
Defendant *pro se*

**8-006 General Standards**

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

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

### **8-903 Standards for All Group 9 Uses**

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

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

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

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

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
  - F. Means of ingress and egress to the property from a public street(s).
  - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
  - H. If applicable, the location of well and/or septic field.
  - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
  - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - K. Seal and signature of professional person certifying the plat.

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

2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, or
  - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
  - C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
  - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - F. It will not create an unsafe condition with respect to both other property and public streets, and
  - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
  - H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.