



APPLICATION ACCEPTED: November 16, 2015
BOARD OF ZONING APPEALS: February 10, 2016 @ 9:00 a.m.

County of Fairfax, Virginia

February 3, 2016

STAFF REPORT

SPECIAL PERMIT SP 2015-MA-148

MASON DISTRICT

APPLICANT: Indie Holdings, LLC

OWNER: Jeffrey Elms

STREET ADDRESS: 7800 Trammell Road, Annandale, 22003

SUBDIVISION: Holmes Run Heights

TAX MAP REFERENCE: 59-4 ((9)) 61

LOT SIZE: 22,733 square feet

ZONING DISTRICT: R-2

ZONING ORDINANCE PROVISIONS: 8-914, 8-923

SPECIAL PERMIT PROPOSAL: To permit a reduction in minimum yard requirements based on an error in building location to permit a flagstone patio to remain 18.2 feet from one front lot line and an accessory structure (pond equipment) to remain 6.2 feet from the other front lot line and to permit a fence higher than 4.0 feet in height to remain in the front yard of a corner lot.

STAFF RECOMMENDATION:

Staff recommends approval of SP 2015-MA-148 for the fence with the adoption of the proposed development conditions contained in Appendix 1.

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

Sharon E. Williams

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

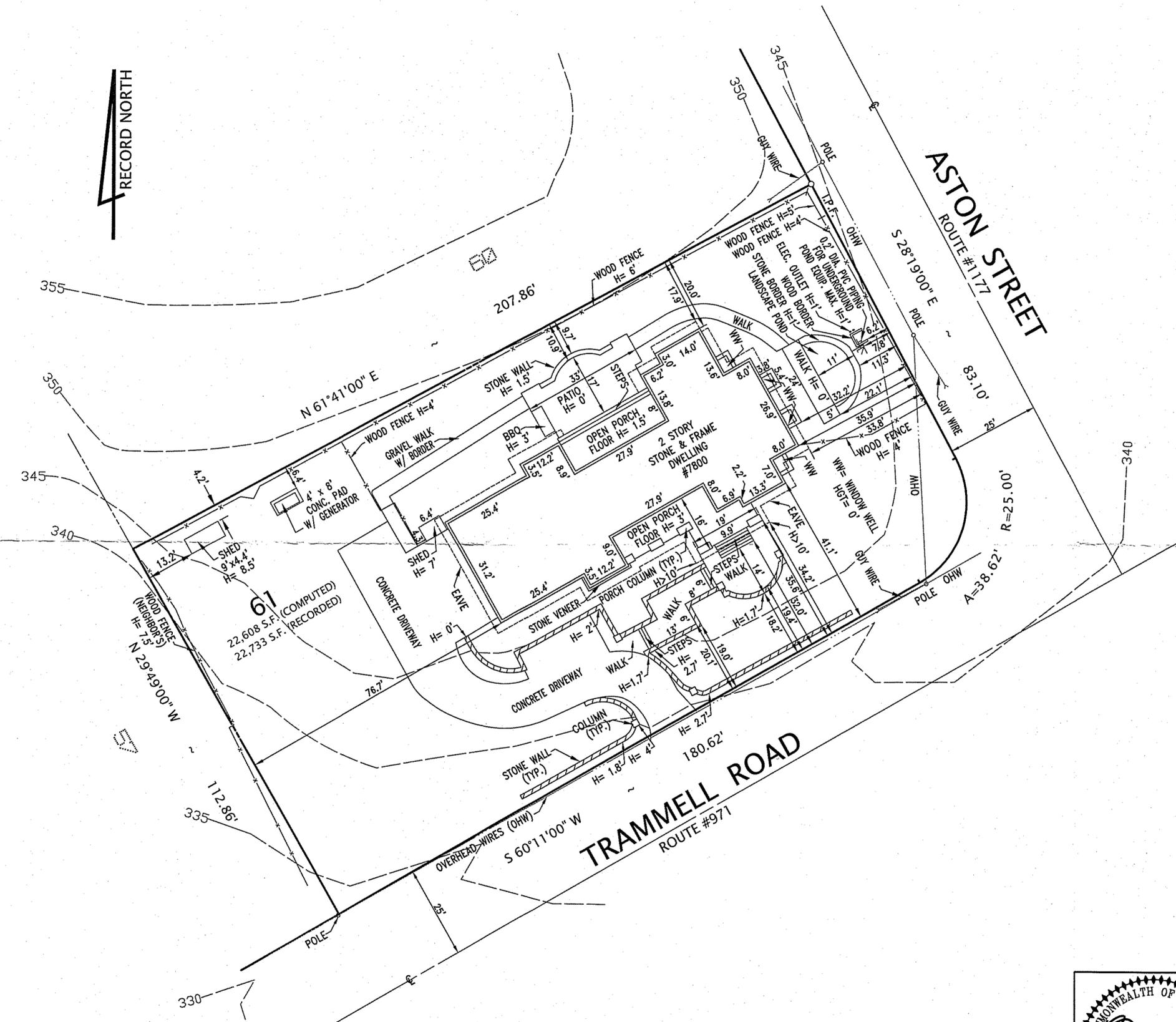
A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

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

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



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



NOTES:

1. TAX MAP: 0594 09 0061 ZONE: R-2
2. PROPERTY SERVED BY PUBLIC WATER AND SEWER.
3. NO UTILITY EASEMENTS 25 FEET WIDE OR GREATER WERE FOUND ON THIS PROPERTY.
4. THERE ARE NO FLOOD PLAIN OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
5. NO GRAVE SITES OR BURIAL GROUNDS WERE FOUND ON THIS PROPERTY.
6. MINIMUM YARDS REQUIRED:

FRONT	35 FEET
SIDE	15 FEET
REAR	NA
7. HEIGHTS:

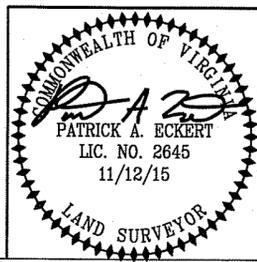
DWELLING	25 FEET
FENCES/OTHER	AS SHOWN
WALKS & PATIOS	AT GRADE
8. APPROXIMATE FLOOR AREAS:

DWELLING	4,670 SQUARE FEET
SHEDS (TOTAL)	67 SQUARE FEET
FAR: .21	
9. THE DWELLING WAS CONSTRUCTED IN 2013.
10. IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
11. VEGETATION IS PRIMARILY LAWN WITH SOME TREES AND SHRUBS. THERE ARE NO PLANNED CHANGES TO TREES OR SHRUBS.
12. TOPOGRAPHY SHOWN HEREON IS PER COUNTY MAP. MAPPING IS BASED ON AERIAL SURVEY.

SPECIAL PERMIT PLAT
 LOT 61
 1ST ADDITION TO
HOLMES RUN HEIGHTS
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20' AUGUST 19, 2014

RECEIVED
 Department of Planning & Zoning
 NOV 16 2015
 Zoning Evaluation Division

11/12/15 REVISED PER COMMENTS
 9/23/15 REVISED PER COMMENTS



THE POSITION OF THE EXISTING IMPROVEMENTS HAS BEEN ESTABLISHED BY AN ON SITE INSTRUMENT SURVEY AND UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS.

PLAT PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THIS PLAT IS SUBJECT TO RESTRICTIONS AND EASEMENTS OF RECORD OR ESTABLISHED. NO CORNER MARKERS SET.

REQUESTED BY:
 JEFF ELMS

ALTERRA SURVEYS, INC.
 11350 RANDOM HILLS ROAD #430
 FAIRFAX, VIRGINIA 22030
 TEL. NO. 703-520-1558
 FAX NO. 703-995-4800
 INBOX@ALTERRASURVEYS.COM

SPECIAL PERMIT REQUEST

The applicants are seeking a special permit to permit a fence greater than 4.0 feet in height to remain in the front yard of a corner lot (Aston Street). The applicants are also requesting a special permit to allow an error in building location to permit a flagstone patio, attached to a covered front porch to remain 18.2 feet from the front lot line along Trammell Road and to permit an accessory structure (pond equipment) to remain in 6.2 feet from the front lot line along Aston Street.

A copy of the special permit plat, titled "Special Permit Plat, Lot 61, 1st addition to Holmes Run Heights," prepared by Patrick A. Eckert on August 19, 2014, as revised on November 12, 2015, is included in the front of the staff report.

Copies of the proposed development conditions, the statement of justification and select file photographs and the affidavit are contained in Appendices 1 through 3, respectively.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 22,733 square foot application property is located on the corner of Trammell Road and Aston Street. The property is developed with a two-story single-family detached dwelling. A concrete driveway extends to Trammell Road, the concrete continues to a walkway that connects a 1.7 foot tall flagstone patio to a set of stairs and a covered porch which provides access to the home. There is a 1.5 foot tall stone porch attached to the rear of the home. A gravel walkway wraps around the rear of the home and leads to a landscaped pond located to the east of the dwelling in the front yard adjacent to Aston Street. There is also a shed in the rear yard located to the northwest of the dwelling; the shed is 8.5 feet in height. A wood fence varying in height from 4 feet to 5 feet surrounds the northern portion of the lot to the eastern portion of the lot in the front yard adjacent to Aston Street.

The property is located to the southwest of Gallows Road and north of Hummer Road. The subject property and surrounding properties are zoned R-2 and are developed with single-family detached dwellings.



Figure 1:
Aerial View

BACKGROUND AND HISTORY

Fairfax County Tax Records indicate that the applicant purchased the property in 2011 and constructed a new dwelling in 2013 after demolishing the previous dwelling.

County records indicate that the applicants obtained a building permit to build a new single family detached dwelling with a finished basement, with a bedroom and a wet bar, and also with a back and front porch. (Appendix 4) The building received final inspections on May 3, 2013.

Following the final inspection, the applicants filed for setback certification for the new single family detached dwelling. That certification was failed on May 16, 2013 due to non-compliance with the location regulation and minimum yard requirement provisions in the Zoning Ordinance. (Appendix 5)

In response to a complaint, staff from the Department of Code Compliance (DCC) inspected the property on July 30, 2014, and found that pond pump and filter equipment encroached into the front lot line adjacent to Aston Street, a flagstone patio including its steps and landing encroached into the front lot line adjacent to Trammell Road, and a 5 foot, 6 inch to 6 foot tall fence is located in the front yard adjacent to Aston Street. DCC also determined that a detached patio had been constructed in the front yard adjacent to Aston Street and that the applicant and his family were occupying the dwelling without having obtained the required Residential Use Permit (RUP); however, the applicant has since removed the detached patio and obtained a RUP.

A Notice of Violation was issued on September 4, 2014 (Appendix 6). The applicant filed the special permit application to attempt to bring the violations into conformance. The application was filed in November 2014 and accepted in November 2015.

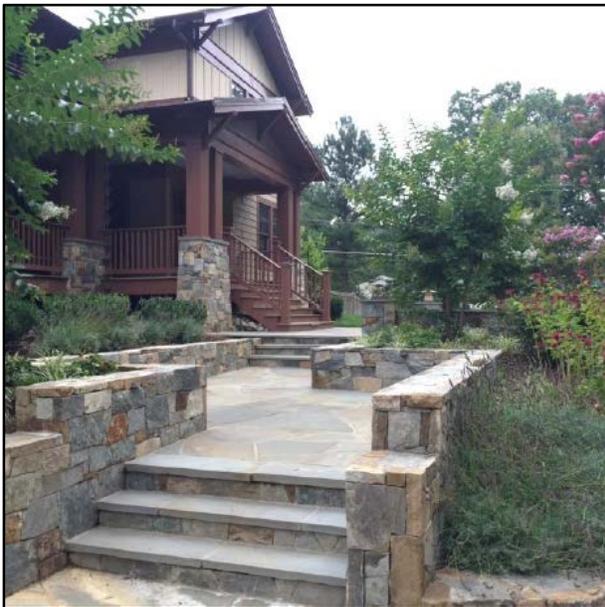


Figure 2: View of flagstone patio and attached covered porch



Figure 3: View of pond equipment



Figure 4: View of the portion of the flagstone patio that encroaches into front yard

DESCRIPTION OF THE REQUEST

The applicants are requesting approval of a special permit to allow a fence greater than 4.0 feet in height to remain in the front yard of a corner lot. The 5 foot, 6 inch to 6 foot tall wood frame fence encloses a portion of the front yard of the property facing Aston Street. According to the applicant, this fence is intended as a security and safety measure because the applicant’s children frequently play in the side yard.

In addition, the applicants are seeking special permit approval for a reduction of minimum yard requirements based on an error in building location to permit the flagstone patio to remain 18.2 feet from the front lot line adjacent to Trammell Road and to permit the pond equipment to remain 6.2 feet from the other front lot line adjacent to Aston Street.

	Structure	Yard	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit	Fence	Front	4.0 feet	6.0 feet	2.0 feet

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area I, Annandale Planning District
Planning Sector: Holmes Run Community Planning Sector (A9)
Plan Map: Residential, 1-2 dwelling units per acre

Zoning District Standards

Bulk Standards (R-2)		
Standard	Required	Provided
Lot Size	15,000 sf.	22,733 sf.
Lot Width	Corner: 125 feet	205 feet
Building Height	35 feet max.	25.0 feet
Front Yard	Min. 35 feet	35.6 feet ¹
Side Yard (Functional Rear Yard)	Min. 15 feet	17.9 feet

¹This reduction is being requested with this application

Accessort Structures On-Site

Structure	Yard	Minimum Yard Required	Existing Location	Existing Height
Flagstone Patio	Front	29.0 feet ¹	18.2 feet	1.7 feet
Pond Equipment	Front	30.0 ²	6.2	1.0

¹Sect. 2-412.2 A states that any open deck with no part of its floor higher than four (4) feet above finished ground level may extend into the minimum required front yard by 6 feet, but not closer than 14 feet to a front lot line.

²Sect. 2-412.1 C states that air conditioners (determined most similar to pond equipment by ZAD) which are no more than ten (10) feet in width may extend 5 feet into any minimum required yard, but not closer than 5 feet to any lot line.

Zoning Ordinance Requirements (Appendix 7)

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 All Group 9 Uses
- Sect. 8-914 Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-923 Provisions for Increase¹ in Fence and/or Wall Height in Any Front Yard

General Standards for Special Permit Uses (Sect. 8-006)

Standards 1 and 2 Comprehensive Plan/ Zoning District	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-2 District permits a fence over 4.0 feet in height in a front yard with special permit approval.
Standard 3 Adjacent Development	No new construction is proposed.

Standard 4 Pedestrian/Vehicular Traffic	No increase in vehicular or pedestrian traffic is expected with this application.
Standard 5 Landscaping/Screening	Landscaping and screening are not applicable to the requested fence.
Standard 6 Open Space	There is no prescribed open space requirement on individual lots in the R-2 District.
Standard 7 Utilities, Drainage, Parking, and Loading	There are no changes to the utilities and drainage serving the property or use.
Standard 8 Signs	No signage is proposed.

Standards for all Group 9 Uses (Sect. 8-903)

Standard 1 Lot Size and Bulk Regulations	The bulk regulations for minimum required yards are requested to be modified with the special permit application.
Standard 2 Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
Standard 3 Site Plan	Fences in a front yard are not subject to the provisions of Article 17, Site Plans.

Provisions for Increase in Fence Height in Any Front Yard (Sect. 8-923)

Standard 1 Fence Shall Not Exceed 6 Feet in Height	The tallest point of the fence does not exceed 6.0 feet in height.
Standard 2 Meet Sight Distance Requirements	The fence does not affect sight distance.
Standard 3 Proposed Fence Height is Warranted	In staff's opinion, the proposed fence height is warranted. The dwelling on the adjacent Lot 60 is located behind the tallest portion of the fence, it is situated at a higher grade so the height of the fence has less of an impact. There is also some mature vegetation to the northwest of the fence on Lot 60 that helps screen the fence. Lot 62 is located on the corner across the street from the subject property; the dwelling is located far to the east of the property line on Aston street so the fence height has minimal impact.
Standard 4 Fence is in Character with On-Site and Off- Site Uses	Adjacent properties have fences or landscaping that do not violate front yard requirements. However, given the placement of the dwellings on adjacent lots staff believes the fence is in character with neighboring lots.

<p align="center">Standard 5 Fence Will Not Adversely Impact Other Properties</p>	<p>Staff believes the fence does not adversely impact the adjacent properties because of how the dwellings are situated on Lot 60 and 62 and the fact that only a small portion of the fence is over 4 feet in height on Aston street.</p>  <p><i>Figure 5: View of fence from Aston Street</i></p>
<p align="center">Standard 6 BZA May Impose Conditions</p>	<p>Proposed development conditions are included in Appendix 1.</p>
<p align="center">Standard 7 Meet Submission Requirements</p>	<p>A copy of the plat is included in the beginning of this report.</p>
<p align="center">Standard 8 Architectural Depictions Provided</p>	<p>Pictures of the existing fence have been included in Appendix 2.</p>

CONCLUSION / RECOMMENDATION

Staff believes that the request for a fence greater than 4.0 feet in height in a front yard is in conformance with the applicable Zoning Ordinance provisions with the implementation of the proposed development conditions contained in Appendix 1 of the staff report. Staff recommends approval of SP 2015-MA-148 for the fence with the adoption of the proposed development conditions contained in Appendix 1.

Staff does not make recommendations on building in error applications. However, if it is the intention of the Board of Zoning Appeals to approve the request for a special permit for an error in building location to allow the flagstone patio to remain 18.2 feet from the front lot line adjacent to Trammell Road and to allow the pond equipment to remain 6.2 feet from the other front lot line adjacent to Aston Road, staff recommends that such approval be made subject to the development conditions contained in Appendix 1.

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.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Statement of Justification
3. Applicant's Affidavit
4. Building Permit History
5. Setback Certification
6. Notice of Violation
7. Applicable Zoning Ordinance Provision

PROPOSED DEVELOPMENT CONDITIONS**SP 2015-MA-148****February 3, 2016**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-MA-148 located at Tax Map 59-4 ((9)) 61 to permit a reduction in minimum yard requirements based on an error in building location to permit a flagstone patio to remain 18.2 feet from one lot line (Trammell Road) and to permit an accessory structure (pond equipment) to remain 6.2 feet from the front lot line (Aston Street) pursuant to Section 8-914 and to permit a fence higher than 4.0 feet in height to remain in the front yard of a corner lot pursuant to 8-923 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location of a wood fence six feet in height, the flagstone patio and the accessory structure (pond equipment) as shown on the plat entitled "Special Permit Plat, Lot 61, 1st addition to Holmes Run Heights," prepared by Patrick A. Eckert on August 19, 2014, as revised on November 12, 2015, as submitted with this application and is not transferable to other land.

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

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

RECEIVED
Department of Planning & Zoning

OCT 01 2015

Zoning Evaluation Division

**Indie Holdings, LLC c/o Jeff Elms
SPECIAL PERMIT APPLICATION
STATEMENT OF JUSTIFICATION
TM 0594 09 0061
7800 TRAMMELL ROAD
ANNANDALE, VA 22003**

October 1, 2015

DESCRIPTION OF THE APPLICATION

Special Permit

Request:

In accordance with Zoning Ordinance Sections 8-914 & 8-923, the Applicant seeks relief from three zoning requirements in order to permit (1) the continued use of an existing walkway that is located in the primary front yard of a single family residence, (2) to permit PVC piping deemed to be "pool equipment" within the secondary front yard, and (3) to permit a fence no higher than six (6) feet within the secondary front yard of a corner lot. A Notice of Violation was issued on September 4, 2014, wherein it cites specific zoning requirements related to setback (2-412(1) and (2)) and fence height (10-104 (3B))

**Record Fee Owner/
Applicant:**

Indie Holdings, LLC, C/O Jeffrey Elms

Zoning:

R-2

Size:

Lot size is 22,733 square feet.

**Waivers or
Modifications:**

The Applicant requests the following modifications:

1. Zoning Ordinance §2-412(2) Permitted Extensions into Minimum Required Yards: The Applicant requests a modification of the requirements of this section due to building location error that was done in good faith and through no fault of the owner. Specifically, the applicant requests a modification of the location regulations of an accessory structure in accordance with Zoning Ordinance §8-914. This matter concerns the walkway located in the primary front yard of the lot. Although staff has deemed this walkway as a "patio", it is more appropriately characterized as a tiered walkway from the driveway to the front door on the Trammell Road boundary. (see attached photos) The nature of the encroachment involves a small extension of the walkway into

the front yard setback. The error in location stems from a good faith belief of the Applicant that the front walkway constituted an allowed landscape feature and not an attached patio in which to entertain guests or be used at all for any purposes commonly associated with patios or decks.

Following discussions with staff, we are pursuing this requested modification under the provisions of §8-914, which allows for approval of reduction of the minimum yard requirements based on error in building location.

2. Zoning Ordinance §2-412(1) Permitted Extensions into Minimum Required Yards: The Applicant requests a modification of the requirements of this section due to building location error that was done in good faith and through no fault of the owner. Specifically, the applicant requests a modification of the location regulations of an accessory structure in accordance with Zoning Ordinance §8-914. This matter involves PVC pipe that extends roughly 1 foot above grade, and is located six (6) feet from the lot's secondary front line adjacent to Aston Street. Staff has deemed this piping to be "pool equipment" as it services a small decorative pond located within the yard. In order to rectify this concern, the Applicant has lowered the piping from its original height of three (3) feet to one (1) foot above grade. Moreover, the existing perimeter fence and landscaping currently provides adequate screening. The equipment is not visible from the right-of-way outside the property. (see attached photos for current site conditions and current screening)

Similar to the front walkway issue above, the error in location stems from the fact that this piping is not intended to serve as "pool equipment", as deemed by staff. At all times, the Applicant acted in good faith and with the understanding that he was in compliance with the ordinance.

3. Zoning Ordinance §10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard: The Applicant requests a modification of the requirements of this section because of the unusual shape and sloping topography of the lot. Specifically, the applicant requests an increase in fence height not to exceed six (6) feet, in accordance with Zoning Ordinance §8-923. The fence stands six (6) feet along the northern perimeter of the property; it is otherwise compliant with all applicable regulations. From a pure zoning standpoint, a corner lot is considered to have two

“front yards”; however, the Applicant’s home is sited so that the portion of the lot abutting Aston Street is in fact the “side yard” of the home. The current size of the fence is intended purely as a security and safety measure, as the applicant’s children will frequently play in the side yard. Moreover, due to the sloping topography of the subject site, the existing 4’ requirement would not provide adequate screening. (see attached photos) Moreover, the neighbor abutting the Applicant’s property opposite the fence supports this modification. The Applicant intends to provide staff and the BZA with a letter of support from this neighbor prior to any hearing on this matter.

LOCATION AND CHARACTER

Existing Site Description: The site is an improved residential lot in an established neighborhood. The property is developed with a single family detached dwelling.

Surrounding Area Description:

The subject lot sits at the intersection of Trammell Road and Aston Street. The house fronts on Trammell Road which serves as the entrance to the house, and is bounded by Aston Street to the west. Trammell Road serves as the access to the property. Single family detached homes surround the subject property in a half mile radius.

<u>Direction</u>	<u>Use</u>	<u>Zoning</u>
North	Single Family Residential	R-2
South	Single Family Residential	R-2
East	Single Family Residential	R-2
West	Vacant	R-2

Plan Area: I -- Annandale

Community Planning Sector: Holmes Run

No hazardous or toxic substances: There are no known hazardous or toxic substances, as set forth in Title 40, Code of Federal Regulations (parts 116.4, 302.4 and 355), stored or used on the Property, other than limited amounts of oil

and gasoline for residential lawn mower use. There are no hazardous waste and/or petroleum products generated, utilized, stored treated and/or disposed of on the Property, other than said limited amounts of lawn mower oil and gasoline. There are no above or underground storage tanks or containers for such hazardous materials.

Conformance with Regulations:

The front walkway and piping conform to the provisions of all applicable ordinances, regulations and adopted standards, other than the setback issue. Likewise, the fence conforms to all applicable regulations, other than the height.

SPECIAL PERMIT CONFORMANCE WITH §8-006 (GENERAL STANDARDS)

1. **The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.** The front walkway, piping, and perimeter fence of a single family residence are in harmony with the residential policies of the Plan.
2. **The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.** The front walkway, piping, and perimeter fence are in harmony with the R-2 district of the Zoning Ordinance.
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 the adjacent or nearby land and/or buildings or impair the value thereof.** The only structure visible to neighboring properties is the perimeter fence, which is located along a common boundary with an adjacent residential property. The adjoining neighbor has expressed support for the existing fence height, and the Applicant intends to provide a letter to that effect prior to any hearing on this matter. The existing front walkway has no adverse impact on any neighboring properties. The piping is located slightly above grade, and is entirely screened from view with the current landscape vegetation. Accordingly, it will not adversely affect any neighboring property. In all cases, there have been no complaints by neighbors.
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.** The front walkway is a tiered structure that has no adverse impacts on Trammell Road traffic, nor does it create a hazardous condition by any reasonable measure. Likewise, the PVC piping has no impact upon any pedestrian or vehicular traffic along either Trammell Road or Aston Street. With respect to the fence, the height

increase is virtually imperceptible to pedestrians or vehicle traffic turning onto Aston Street and, accordingly, does not create a hazardous condition nor conflicts with anticipated or existing 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.** Vegetative and perimeter fence screening is already provided onsite along the western portion of the lot, and the Applicant will provide additional vegetative screening to mitigate any conceivable impact of the proposed timber box.
6. **Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.** The subject lot is an improved lot within a subdivision. Open space is already provided, per R-2 district regulations.
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.** The subject lot is an improved lot that is part of a subdivision. All necessary infrastructure is already provided. There are no drainage problems caused by any structure existing or proposed.
8. **Signs shall be regulated by the provisions of Article 12.** No signs are proposed by this application.

SPECIAL PERMIT CONFORMANCE WITH §8-903 (STANDARDS FOR ALL GROUP 9 USES)

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.** Except as modified via this application, all special permit requests associated with this application comply with both lot size and bulk regulations.
2. **All uses shall comply with the performance standards specified for the zoning district in which located.** Except as modified via this application, all uses described herein comply with all performance standards.
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.** The Applicant will work with the Director should any additional site plan or related submissions become necessary, in accordance with the provisions of Article 17.

SPECIAL PERMIT CONFORMANCE WITH §8-914 (PROVISIONS FOR APPROVAL OF REDUCTION TO THE MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION)

2. The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved, and

All errors in location detailed herein exceed ten percent of the applicable measurement.

B. 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

The noncompliance was done in good faith by the property owner, who was unaware of the existence of such zoning restrictions.

C. Such reduction will not impair the purpose and intent of this Ordinance, and

Such reduction will not circumvent the intent of the Zoning Ordinance. Moreover, the front walkway is more than fourteen (14) feet beyond the front lot line, as required by ordinance. Likewise, the piping is located more than 5' beyond the front line, as required by ordinance.

D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

Approval of these modifications will not be detrimental to the use and enjoyment of other property in the immediate vicinity. The piping has a height of twelve (12) inches above grade and is entirely screened from view. The front walkway faces a currently vacant parcel of land, and does not otherwise impact any adjacent landowners.

E. It will not create an unsafe condition with respect to both other property and public streets, and

No unsafe conditions are created by the requested modifications.

F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner. To force compliance would impose significant costs and expenses upon the Applicant, to address errors that occurred through no fault of the Applicant.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations. The reduction will not result in any increase in density or floor area ratio.

PROVISIONS FOR INCREASE IN FENCE AND/OR WALL HEIGHT IN ANY FRONT YARD. (§8-923)

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104. The fence does not exceed six (6) feet in height, and no additional increase is anticipated.

2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505. It is believed that the existing fence falls outside the scope of Sect. 2-505, and otherwise does not present any sight distance issues.

3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise. The property slopes downward from the adjacent property to the north, and the increase in height was necessary to correct those topographical conditions. Moreover, the Applicant's children play within the side yard (i.e. the Aston Street yard), and the Applicant has clear safety concerns about off-site visibility of that area. Moreover, the fence serves to decrease noise, both from inside and outside the yard.

4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations. The existing fence is currently integrated well with both the adjoining property and the neighborhood at large, and does not adversely affect adjacent uses.

5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity. The existing fence does not adversely affect other properties within the immediate vicinity, and in fact is supported by the adjoining property owner.

SUMMARY

The subject lot contains a well-designed single family home that serves as the primary residence for the Applicant. The purpose of the Special Permit application is to address a Notice of Violation, issued on September 4, 2014. The Notice cites several concerns, one of which the Applicant is actively mitigating. The remaining items involve the two setback issues identified herein and the height of the perimeter fence. The Special Permit portion of this application attempts to rectify the setback concerns and to modify the fence height standard. At all times, the Applicant has acted in good faith and has been steadfastly working with staff to resolve these issues. In particular, the Applicant has attempted to resolve the PVC pipe issue by re-locating to just above grade, and then housing the pipes with a wooden border. The combination of the existing perimeter fence along the Aston Street frontage and the minor dimensions of this structure entirely screen this feature from view.

Moreover, in view of the sloping topography of the property, the Applicant made a substantial investment in order to design the home in a way that accommodated the lot conditions. The tiered walkway that leads from the driveway to the front door was not conceived as a true "patio" but rather as an architected stone path leading to the entrance of the home. As designed and built, it is not intended to serve as an area in which to entertain guests or to be put to any use commonly associated with decks/patios.

Lastly, as noted above, the existing fence serves to properly screen the property in view of the sloping topographical conditions. The Applicant's children play within the side yard, and safety concerns have primarily driven the increase in fence height, in addition to mitigating external and internal noise impacts. Additionally, the requested modification only applies to perimeter fence located along the northern border of the property.

In sum, the Applicant/Owner has made good faith efforts to remain code compliant, and has dutifully worked with staff to address their concerns. We respectfully request that staff and the members of the Board duly consider these requests and grant the proposed modifications.

SITE PHOTOGRAPHS

7800 Trammell Road, Annandale

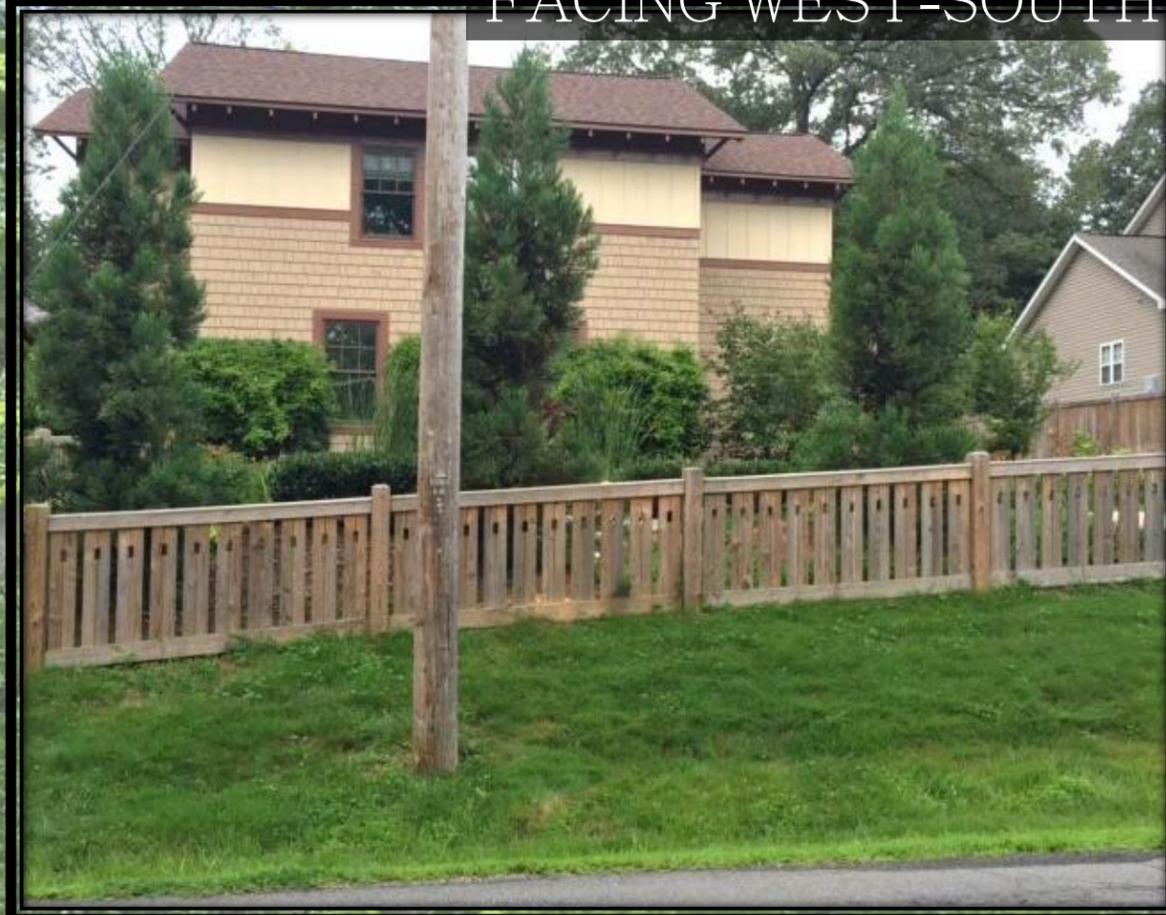
TM# 59-4((9))61

Summer 2015





FACING WEST-SOUTHWEST FROM ASTON STREET

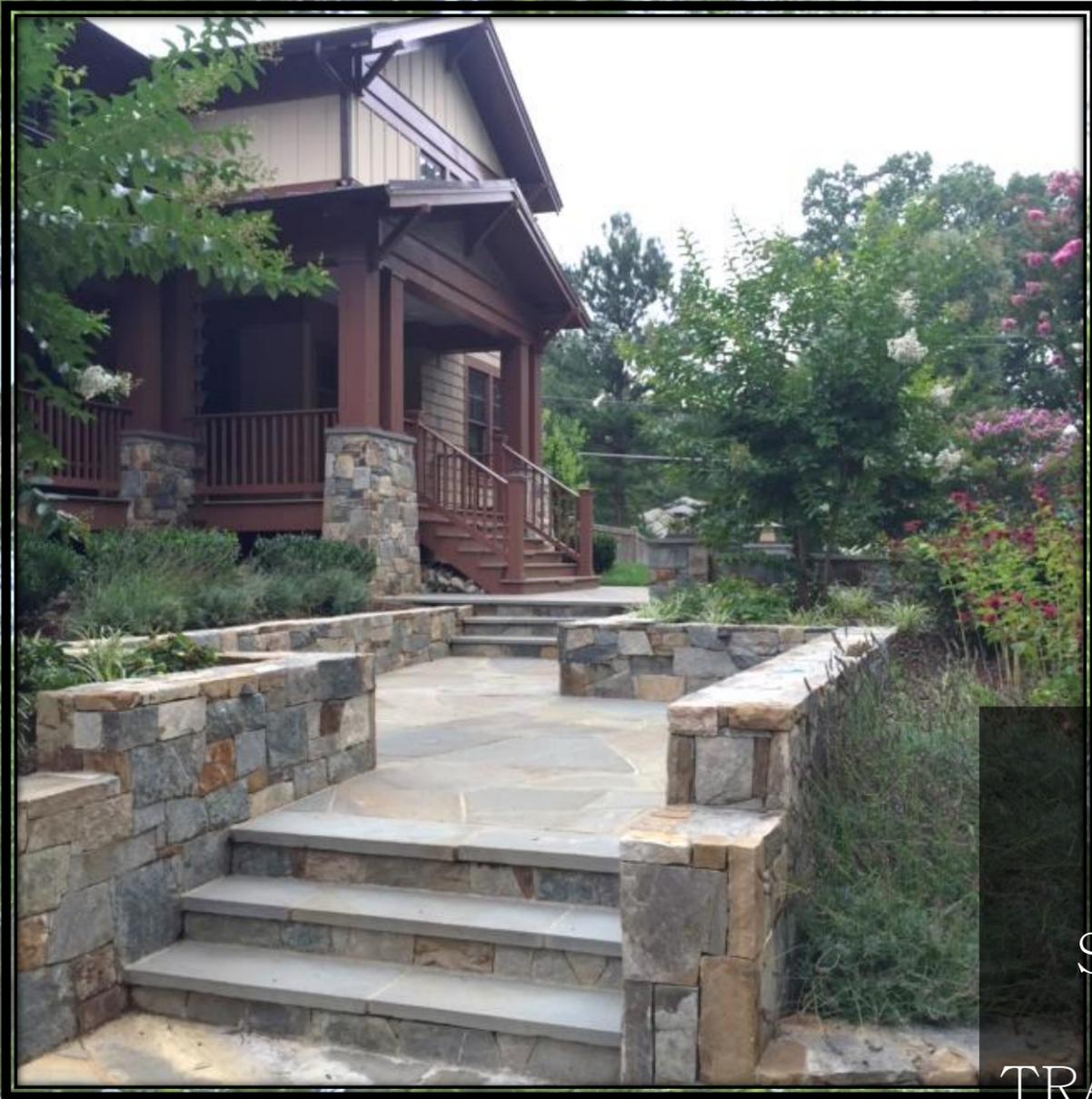




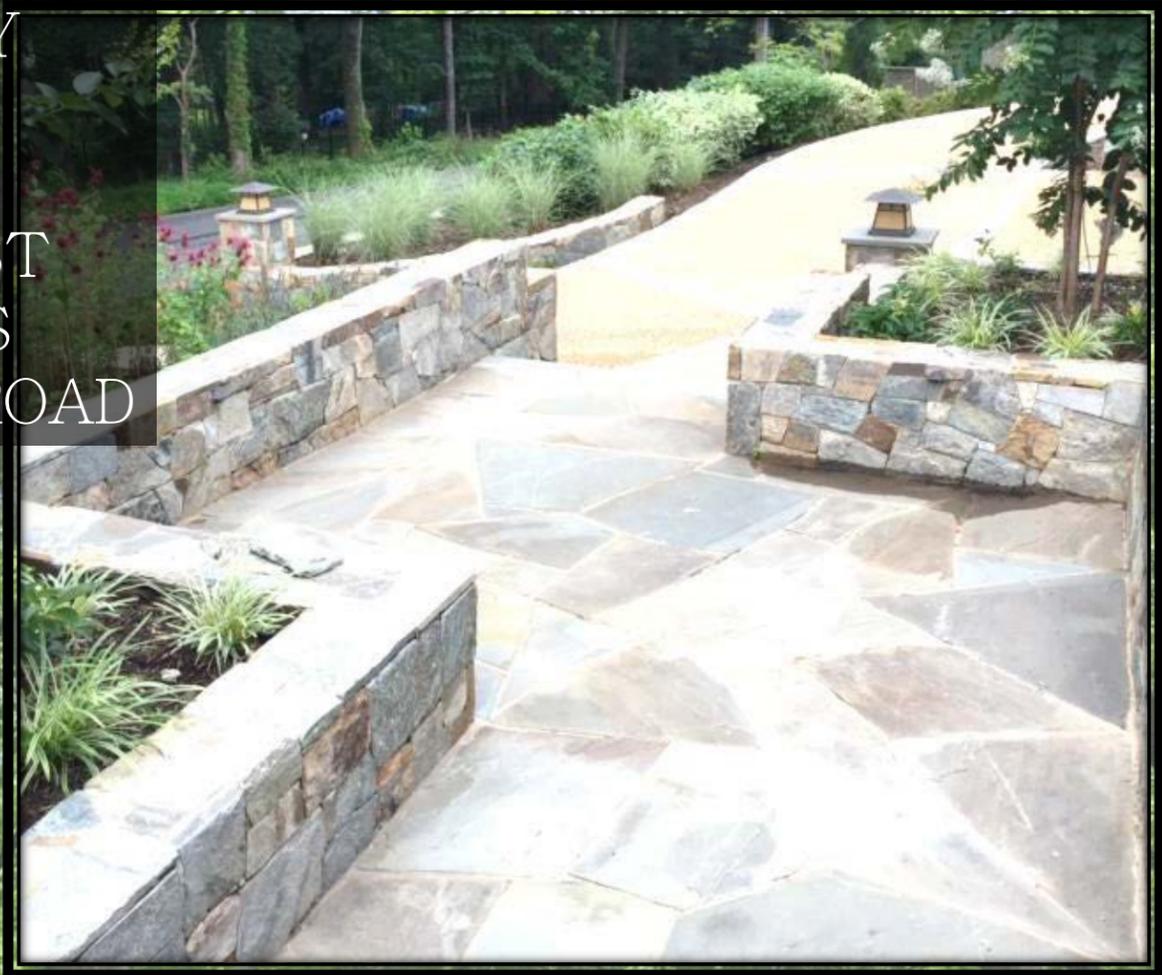
NORTHEAST CORNER OF FENCE ADJOINING ASTON STREET NEIGHBOR

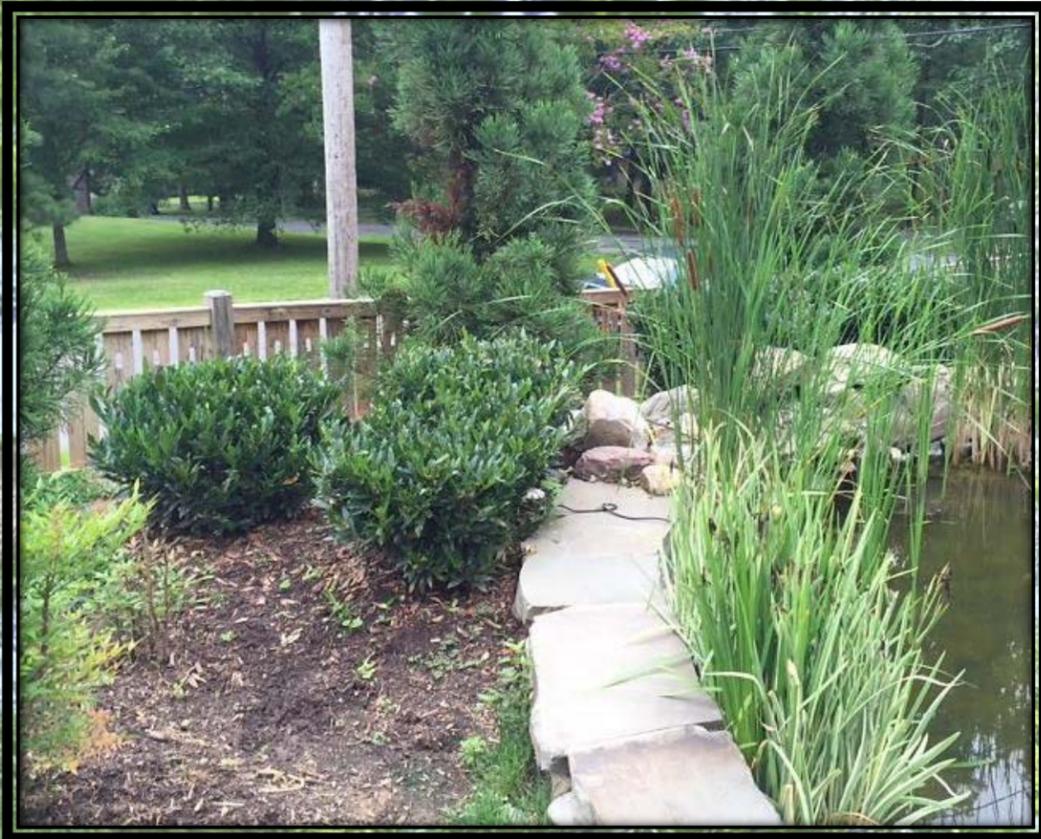


EAST CORNER OF FENCE AT ROADWAY INTERSECTION

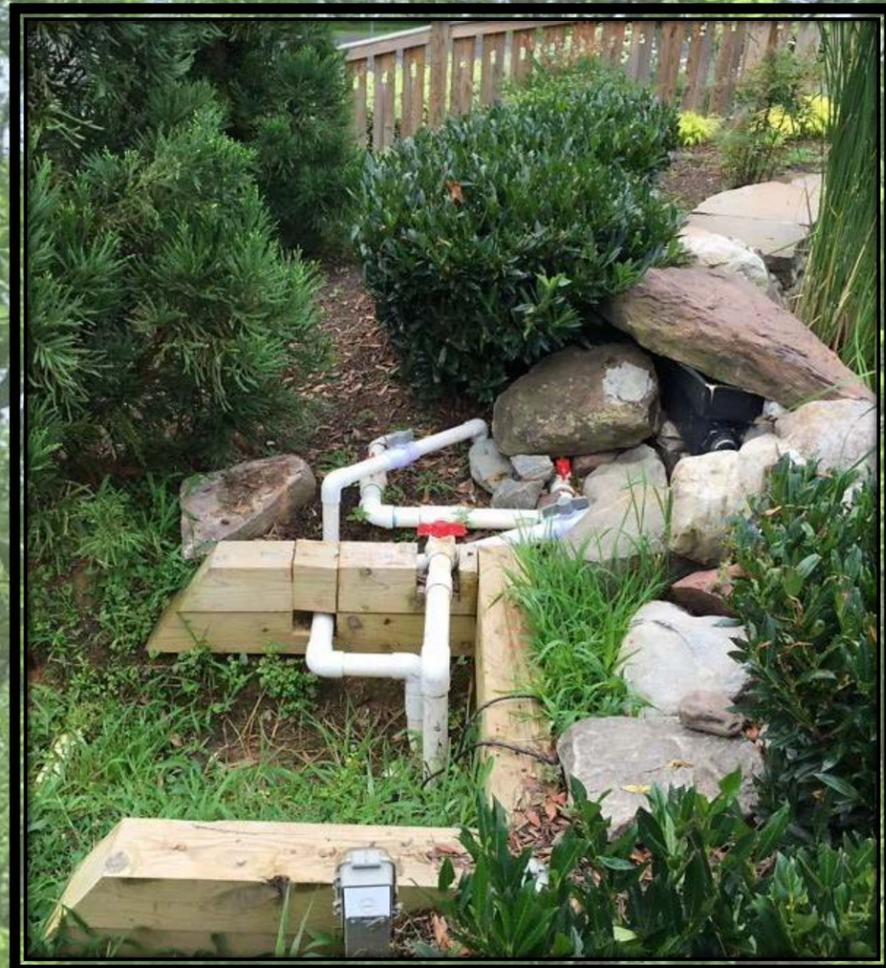
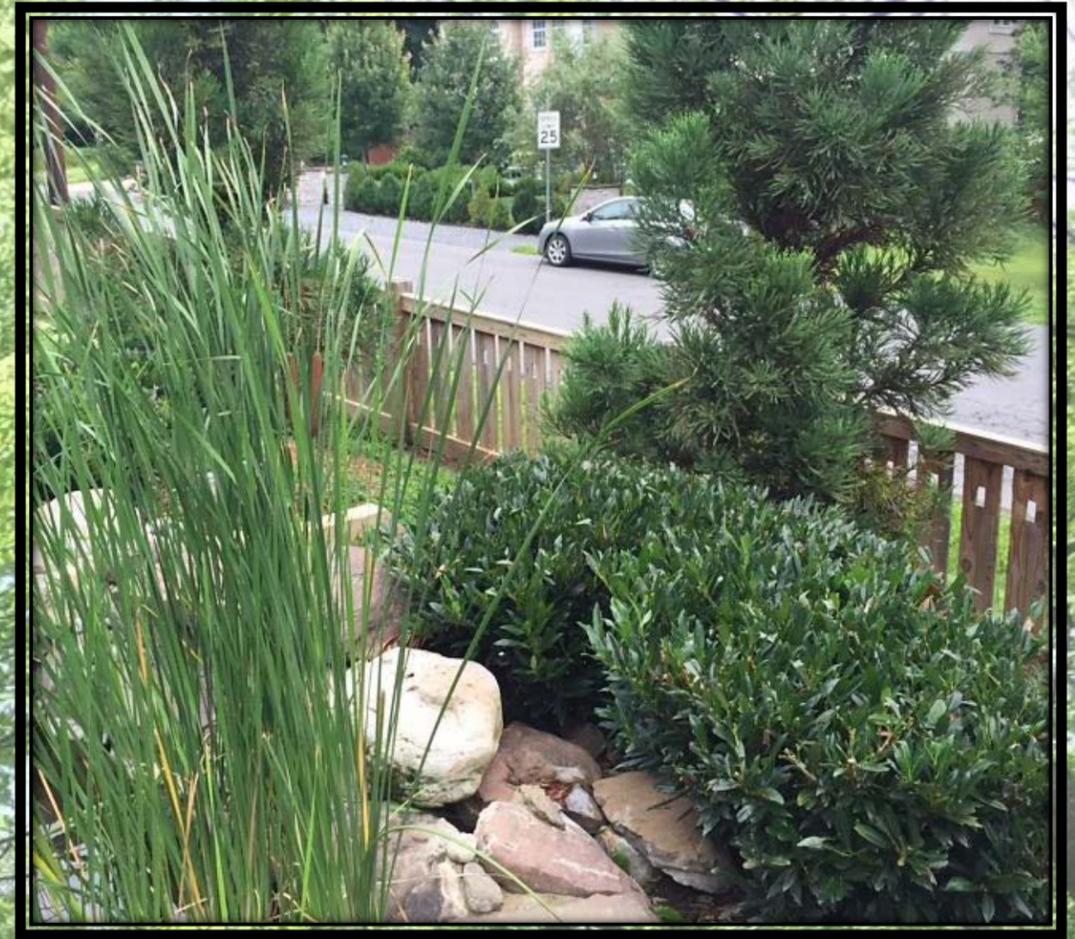


WALKWAY
FACING
SOUTH-
SOUTHEAST
TOWARDS
TRAMMELL ROAD





PVC PIPING
FACING
EAST-NORTHEAST
TOWARDS
ASTON STREET



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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9-3-15
(enter date affidavit is notarized)

132104

I, JEFFREY ELMS, MANAGING MEMBER OF INDIE HOLDINGS, LLC, do hereby state that I am an
(enter name of applicant or authorized agent)

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

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
INDIE HOLDINGS, LLC AGENT: JEFFREY ELMS	11501 SUNSET HILLS ROAD, RESTON, VA 20190	TITLE OWNER
ALTERRA SURVEYS, INC. AGENT: RODNEY L. ROOT	11350 RANDOM HILLS ROAD, #430, FAIRFAX, VA 22030	SURVEYOR/AGENT
ODIN, FELDMAN & PITTLEMAN, P.C. AGENTS: JOHN L. MCBRIDE NOAH KLEIN DOUGLAS R. FORNO	1775 WIEHLE AVENUE, SUITE 400, RESTON, VA 20190	ATTORNEY/AGENT ATTORNEY/AGENT PLANNER/AGENT

(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)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9-3-15
(enter date affidavit is notarized)

132104

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)

INDIE HOLDINGS, LLC 11501 SUNSET HILLS ROAD, RESTON, VA 20190

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)

JEFFREY ELMS

(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 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: 9-3-15
(enter date affidavit is notarized)

132104

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

ODIN, FELDMAN & PITTLEMAN, P.C. 1775 WIEHLE AVENUE, SUITE 400, RESTON, VA 20190

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

DEXTER S. ODIN
DAVID E. FELDMAN
JAMES B. PITTLEMAN

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

ALTERRA SURVEYS, INC. 11350 RANDOM HILLS ROAD, #430, FAIRFAX, VA 22030

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

PATRICK A. ECKERT
RODNEY L. ROOT

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9-3-15
(enter date affidavit is notarized)

132104

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9-3-15
(enter date affidavit is notarized)

132104

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: 9-3-15
(enter date affidavit is notarized)

132104

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.)

DEXTER ODIN OF ODIN, FELDMAN & PITLEMAN, P.C., MADE A DONATION OR CONTRIBUTION IN EXCESS OF \$100 TO JOHN FOUST'S CONGRESSIONAL CAMPAIGN IN JUNE, 2014.

SUPERVISOR JOHN COOK IS A CREDITOR IN A CHAPTER 7 BANKRUPTCY CASE, IN WHICH DONALD KING OF ODIN, FELDMAN & PITLEMAN, P.C. IS TRUSTEE.

(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

JEFFREY ELMS, MANAGING MEMBER OF INDIE HOLDINGS, LLC
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 3rd day of September, 2015 in the State/Comm. of Virginia, County/City of Fairfax.

Barbara D. Plaster
Notary Public

My commission expires: 5-31-2019
ID# 120854



JW

Fairfax County Government
 12055 Government Center Parkway
 Fairfax, VA 22035

**Building Permit
 Zoning Review**

*This document does not reflect the final
 Building Permit approval.*

1/9/12 3:02:27PM

Bldg Permit #: **113190234** NEW SINGLE FAMILY DWELLING

Address: 7800 Trammell Rd Annandale VA 22003-1536
 Bldg: N/A Floor: Suite: N/A
Subdiv: First Addition Holmes Run Heights Lt 61 **Sub Census:** 507.01 **Lot Size:** 22,733.00
Tax Map: 0594 09 0061
Owner: Indie Holdings Llc
Phone Day: **Evening:**

Contractor:
 MORRIS-DAY INC
 6718 Whittier Ave
 #120
 Mc Lean, Va 22101-0000
 (703) 524-5220

Type of Work: NEW SINGLE FAMILY DWELLING
Description of Work: Build custom sfd with finish basement, with bedroom, & wet bar, with back and front porch

ZPRB Review:

Date	Status
1/9/12	AM00R4 Approved

Zoning Detail Review TAB:

Zoning Dist.	Cluster Subdiv	Use	Height	Wet Bar	2nd Kitchen	ADU Subdiv	Proffer	Setback
R-2	N	SFD	27.30	Y	N	N	N	Y

Yard/Setbacks:

Structure	Front (A)	Front (B)	Front (C)	Left	Right	Rear
	35.80	35.80	0.00	20.10	0.00	76.70

DETAILS COMMENTS:
 build new custom sfd with fin basement with bedroom & wetbar with back and front porch corner lot per approved plan on file 1869-inf-003-2 height certified at 27.38' tall needs setback cert for front lot lines demo permit #113190244 APPROVED 1-6-12

Sub file

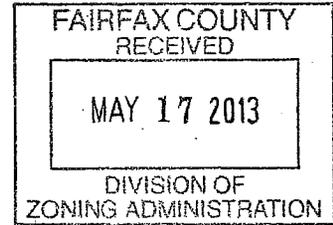


County of Fairfax, Virginia

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

May 16, 2013

Mr. Hap Sampsell
14020 Thunderbolt Place
Suite 300
Chantilly, Virginia 20151



Re: Setback Certification – Building Permit Application #113190234
7800 Trammell Road
Holmes Run Heights, 1st Addition, Lot 61
Tax Map Ref: 59-4 ((9)) 61
Zoning District: R-2

Dear Mr. Sampsell:

This letter is in response to your request for approval of a Setback Certification for a new single family dwelling at the referenced property. The property is a corner lot zoned R-2 and is subject to two (2) minimum required front yards of 35 feet adjacent to Aston Street and Trammell Road and minimum required side and rear yards of 15 feet. The Setback Certification shows a new single family dwelling and accessory structures.

The Setback Certification has been failed due to non-compliance with Zoning Ordinance location requirements and minimum yard requirements. First, a detached pool and patio have been constructed in the front yard adjacent to Aston Street. Pursuant to Par. 12 of Sect. 10-104 of the Zoning Ordinance, freestanding structures, such as detached patios and pools, must not be located in any portion of a front yard on a lot less than 36,000 square feet in size. Therefore, the pool and patio do not comply with Zoning Ordinance location requirements. Second, pool equipment has been placed too close to the front lot line adjacent to Aston Street. Pool equipment is deemed most similar to an air conditioner and, pursuant to Par. 1C of Sect. 2-412 of the Zoning Ordinance, may extend into the 35 foot minimum required front yard, but only by five (5) feet. Given its location of only six (6) feet from the front lot line, the pool equipment does not comply with Sect. 2-412. Third, a patio has been placed too close to the lot line adjacent to Trammell Road. Pursuant to Par. 2A of Sect. 2-412, when attached to the dwelling, an open deck or patio that is greater than four (4) feet in height must meet the 35 foot minimum required front yard, while an open deck or patio less than four (4) feet in height may extend into the minimum required front yard, but only by six (6) feet. Regardless of its height, the patio's location only 20 feet from the front lot line adjacent to Trammell Road does not comply with zoning requirements.

In order for the Setback Certification to be approved, the detached pool and patio, pool equipment, and attached patio must be demolished or relocated to comply with zoning requirements, unless the

Department of Planning and Zoning
Zoning Administration Division
Ordinance Administration Branch
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1314 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



Mr. Hap Sampsell

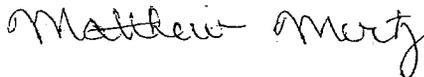
May 16, 2013

Page 2

Board of Zoning Appeals (BZA) approves a variance for the location of the detached pool and patio in a front yard and a special permit for the reduction to the minimum required yards based on error in building location for the attached patio and pool equipment. All special permits and variances are subject to BZA approval and it must be demonstrated to the BZA that all applicable special permit and variance standards are met. All special permits and variances require applications, filing fees, notification of adjacent property owners and public hearing(s) before the BZA. Absent special permit and variance approval, the aforementioned issues must be remedied by the demolition or relocation of these structures and the resubmission of five (5) copies of a revised Setback Certification for review. Enclosed please find a copy of the failed Setback Certification.

Your cooperation in this matter is greatly appreciated, as a Residential Use Permit (RUP), cannot be issued until a Setback Certification is approved. If you have any questions regarding this response, please feel free to contact me at 703-324-1314.

Sincerely,



Matthew Mertz

Assistant to the Zoning Administrator

Enclosure

cc: Penelope A. Gross, Supervisor, Mason District
Indie Holdings, 7800 Trammell Road, Annandale, Virginia 22003
Lorrie Kirst, Senior Deputy Zoning Administrator
Diane Johnson-Quinn, Deputy Zoning Administrator, Zoning Permit Review Branch
Charles O'Donnell, Residential Inspections Division, DPWES
Bijan Sistani, Acting Director, Site Development and Inspections Division, DPWES



County of Fairfax, Virginia

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

DCC RETURN COPY

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: September 4, 2014

METHOD OF SERVICE: SHERIFF LETTER

LEGAL NOTICE ISSUED TO: Indie Holdings, LLC
ADDRESS: c/o Jeffrey Elms
7800 Trammell Road
Annandale, VA 22003

LOCATION OF VIOLATION: 7800 Trammell Rd
Annandale, VA 22003-1536

TAX MAP REF: 0594 09 0061

ZONING DISTRICT: R- 2

CASE #: 201405177 **SR #:** 107698

ISSUING INVESTIGATOR: Nancy Stallings, (703)324-1317

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§2.412 (1C)	\$ 200.00	\$ 500.00
	§2-412 (2A1)	\$ 200.00	\$ 500.00
	§10.104.3 B	\$ 200.00	\$ 500.00
	§10.104.12C	\$ 200.00	\$ 500.00
	§18.701	\$ 200.00	\$ 500.00
	TOTAL:	\$ 1,000.00	\$ 2,500.00

Dear Responsible Party:

An inspection of the above referenced property on July 30, 2014, revealed the following violations of the Fairfax County Zoning Ordinance:

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

§2-412 (1) Permitted Extensions into Minimum Required Yards

Inspection revealed pool equipment has been built six (6) feet from the front lot line adjacent to Aston Street. Pool equipment is deemed most similar to an air conditioner and, pursuant to Par. 1C of Sect. 2-412 of the Zoning Ordinance, may extend into the 35 foot minimum required front yard, but by only five (5) feet.

Therefore, the pools equipment is in violation of Par. 1C of Sect. 2-412 of the Fairfax County Zoning Ordinance which states:

1. The following shall apply to any structure:

C. Open fire balconies, fire escapes, fire towers, uncovered stairs and stoops, air conditioner and heat pumps, none of which are more than ten (10) feet in width, may extend five (5) feet into any minimum required yard, but not closer than five (5) feet to any lot line.

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

- Removing the pool equipment from the front yard, or
- Relocating the pool equipment so that it meets the above provisions.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and seek approval of a Special Permit to allow the pool equipment to remain in the front yard and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

§2-412 (2) Permitted Extensions into Minimum Required Yards

An inspection revealed a deck/patio, its steps and its landing have been built twenty (20) feet from the front lot line adjacent to Trammell Road, in the thirty-five (35) foot minimum required front yard which is in violation of Par. 2A1 of Sect. 2-412 of the Fairfax County Zoning Ordinance which states:

The following shall apply to any deck/patio attached to a single family detached dwelling:

- A. Any open deck/patio with no part of its floor higher than four (4) feet above finished ground level may extend into minimum required yards as follows:
- (1) Front yard: 6 feet, but not closer than 14 feet to a front lot line and not closer than 5 feet to any side lot line

Therefore you are in violation of Par. 2A1 of Sect. 2-412 of the minimum required setback of the flagstone patio located in the minimum required front yard.

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

- Removing the flagstone patio in the front yard, or
- Reducing the size of the flagstone patio so that it meets the provision above, or
- Converting portions of the patio to permanent landscaping beds, as discussed at the July 30, 2014, meeting.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and seek approval of a Special Permit to allow the accessory flagstone patio to remain its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

§ 10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

An inspection has determined the presence of a 5'6" – 6' tall accessory fence in the front yard of this property, which is less than two (2) acres in area. The Fairfax County Zoning Ordinance permits accessory fences in the front yard so long as they are in conformance with Par. 3B of Sect. 10-104 of the Zoning Ordinance, which states:

Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

- (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and

- (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

Therefore, as this accessory fence exceeds four feet (4') in height in the front yard contrary to the provisions of Par. 3B of Sect. 10-104 of the Zoning Ordinance, you are in violation of Par. 3B of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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

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

- Removing the fence from the property in its entirety; or
- Reducing the height of the fence to four feet (4') in the front yard.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and seek approval of a Special Permit to allow the accessory fence to remain at a height of up to six (6) feet and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

§ 10.104.12C Accessory Structure
§ 2-302 (6) Accessory Use must comply with Article 10:

The inspection determined that a detached patio has been constructed in the front yard adjacent to Aston Street. Pursuant to Par. 12 of Sect. 10-104 of the Zoning Ordinance, freestanding structures, such as detached patios, must not be located in any portion of a front yard on a lot less than 36,000 square feet in size.

Therefore, the location of this freestanding accessory structure is in violation with Par. 12C of Sect. 10-

104 of the Fairfax County Zoning Ordinance which states in part:

No accessory structure or use, except a statue, basketball standard or flagpole, shall 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. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line or twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.

And, you are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that states:

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

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

- Removing the freestanding accessory structure (patio) from the property in its entirety; or
- Reducing the size of the accessory structure (patio) so that it matches the size of the lead-in sidewalk from the side yard.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and seek approval of a Variance to allow the freestanding accessory structure to remain at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

§ 18-701 Residential Use Permit:

It has been determined that Jeff Elms and family are occupying the above-referenced property without having obtained the required Residential Use Permit (RUP). Therefore, you are in violation of Sect. 18-701 of the Fairfax County Zoning Ordinance which states:

No occupancy or use shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall be permitted, unless and until a Residential or Non-Residential Use Permit has been approved in accordance with the provisions of this Part. A Residential or

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Non-Residential Use Permit shall be deemed to authorize and is required for both the initial and continued occupancy and use of the building or land to which it applies.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice.

- Compliance can be accomplished by either vacating the premises or
- Obtaining the required RUP within thirty (30) days of the date of this Notice.

Specific instructions and requirements relative to this permit can be obtained by contacting Site Development and Inspection Division, 12055 Government Center Parkway, Fairfax, Virginia, telephone 703-631-5101, between the hours of 8:00am and 3:00 pm, Monday through Friday.

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

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

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

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

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1317. For any other questions, contact our main office at (703)324-1300.

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LEGAL NOTICE ISSUED BY:



Signature

Nancy Stallings
Code Compliance Investigator
(703)324-1317
Nancy.Stallings@fairfaxcounty.gov

PERSONAL SERVICE

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

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

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

Served on a Secretary of the Commonwealth.

Not found.

9/4/14 E. MURPHY 10547
SERVING OFFICER
Stacey A. Kincaid, Sheriff
Fairfax County, VA

DATE _____

PERSONAL SERVICE

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

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

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

Served on a Secretary of the Commonwealth.

Not found.

_____ SERVING OFFICER
for _____

DATE _____

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_____ SERVING OFFICER
for _____

DATE _____

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Served on a Secretary of the Commonwealth.

Not found.

_____ SERVING OFFICER
for _____

DATE _____

8-006 General Standards

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

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

8-903 Standards for All Group 9 Uses

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

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

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

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

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

K. Seal and signature of professional person certifying the plat.

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

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

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

8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/ or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose conditions as it deems necessary to satisfy these criteria, including, but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 1/2" 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. 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. The location, dimension 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.
- E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing and proposed 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 a well and/or septic field.
- I. Existing and proposed gross floor area and floor area ratio.
- 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. The location, type and height of any existing and proposed landscaping and screening.
- L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the

floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

- M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials any associated landscaping shall be provided.