



APPLICATIONS ACCEPTED: January 19, 2015 (SP) & February 19, 2016 (VC)
BOARD OF ZONING APPEALS: July 27, 2016 @ 9:00 a.m.

County of Fairfax, Virginia

July 20, 2016

STAFF REPORT

SPECIAL PERMIT SP 2015-DR-019

Concurrent with

VARIANCE APPLICATION NO. VC 2016-DR-007

DRANESVILLE DISTRICT

APPLICANT: Maliheh Shahrestani, McLean Daycare

OWNER: Ali A. and Maliheh S. Haj Abbassi

SUBDIVISION: Pimmit Park Addition to El Nido, Lot 2

STREET ADDRESS: 6526 Hitt Avenue, McLean 22101

TAX MAP REFERENCE: 30-4 ((7)) 2

LOT SIZE: 9,326 square feet

ZONING DISTRICT: R-4

ZONING ORDINANCE PROVISIONS: 8-305, 4-203, 8-918, 8-914, 18-401

SPECIAL PERMIT PROPOSAL: To permit a home child care facility for up to 12 children at any one time; to permit an accessory dwelling unit; to permit an error in building location to permit a patio to remain 2.5 feet from the rear property line.

VARIANCE PROPOSAL: To permit rear yard impervious coverage in excess of the maximum 30 percent to remain.

Heath Eddy, AICP

STAFF RECOMMENDATIONS: Staff recommends the following:

1. Approval of SP 2015-DR-019 for the home child care facility and the accessory dwelling unit with adoption of the Proposed Development Conditions contained in Appendix 1. Staff provides no recommendation on error in building location.
2. Denial of VC 2016-DR-007 based on the findings. However, should the Board choose to approved this request, staff recommends that it do so subject to 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.

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

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

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

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

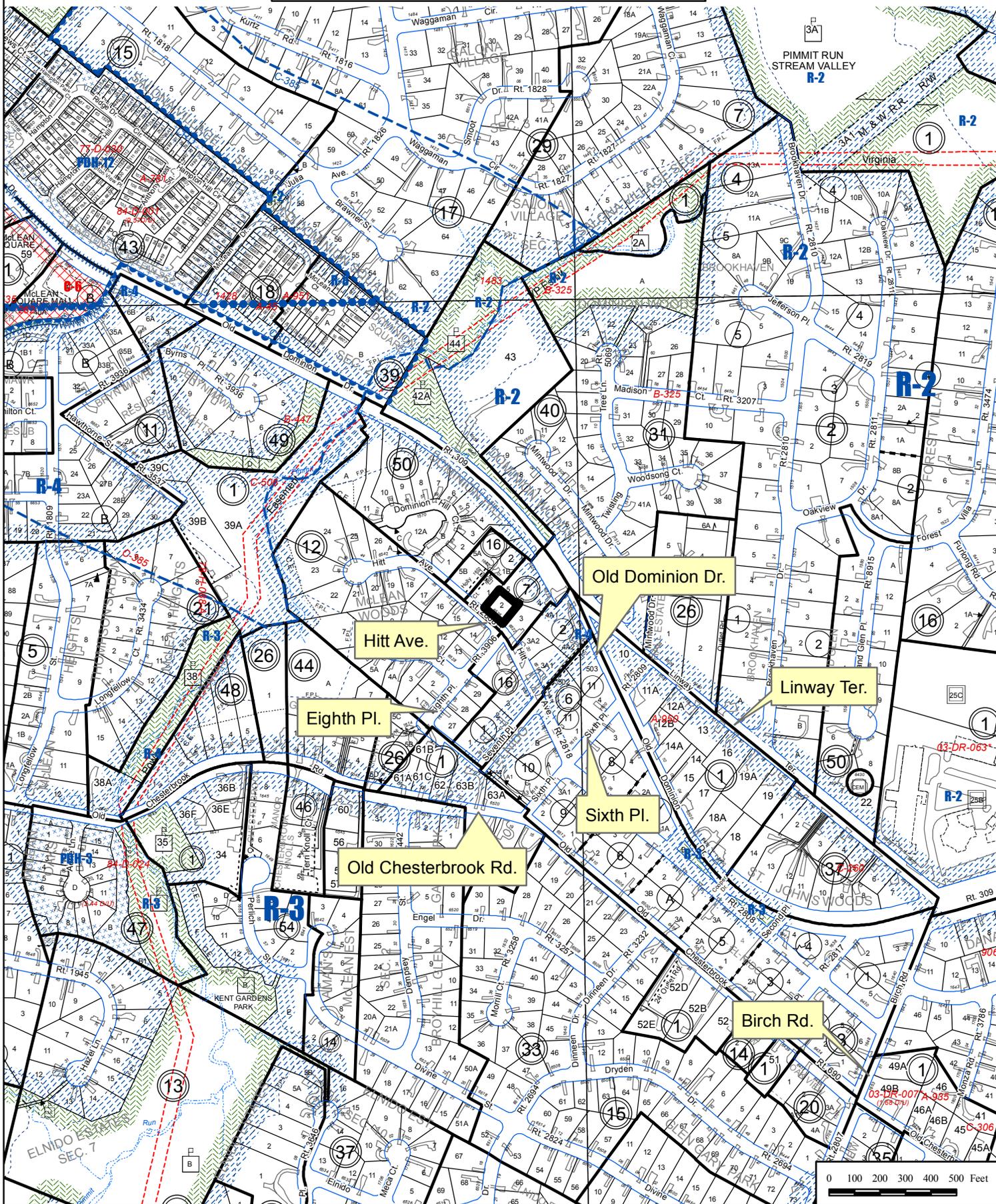


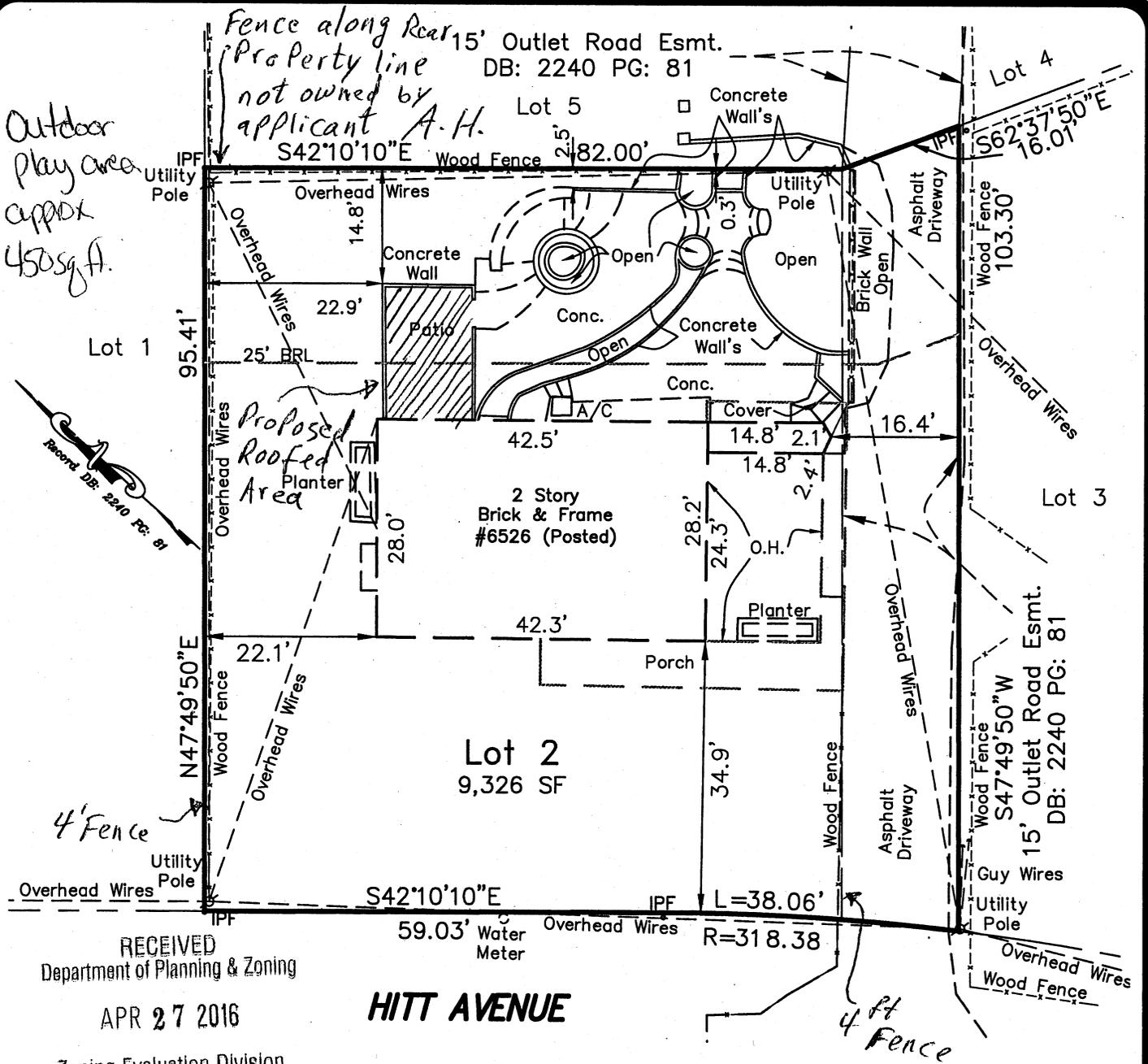
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2015-DR-019

MALIEH SHAHRESTANI / MCLEAN DAY CARE

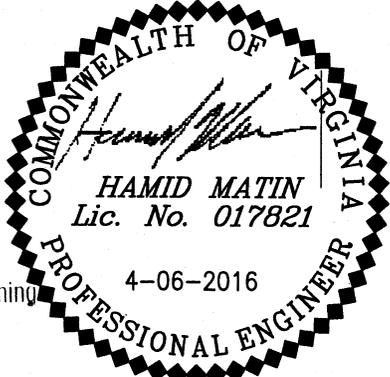




RECEIVED
 Department of Planning & Zoning
 APR 27 2016
 Zoning Evaluation Division

HITT AVENUE

Back Yard area Within 25' Setback Area is 2,446 S.F.
 Impervious area within Outlet Road
 Within 25' Setback Area = 239 S.F.
Total Impervious area Within 25' Setback Area is 1,091 S.F.
 Coverage Area Within 25' Setback Area = 44.6%



Ali A. Haj Abbassi
 4/27/16

RECEIVED
 Department of Planning & Zoning
 APR 07 2016
 Zoning Evaluation Division

NOTES:

- CURRENT OWNER: ALI A. HAJ ABBASSI AND MALIAH S. HAJ ABBASS, DEED BOOK 9714 PAGE 780, PROPERTY ADDRESS, 6525 HITT AVE, McLEAN VIRGINIA 22101.
- THIS PROPERTY IS LOCATED ON TAX MAP #030-4-((07))-0002 AND IS ZONED R-4.
- NO TITLE REPORT FURNISHED, CONSEQUENTLY ALL EASEMENTS, RIGHT OF WAY AND OTHER RESTRICTIONS MAY NOT BE SHOWN.
- THE BOUNDARY AND AREA OF THE PROPERTY SHOWN HEREON IS FROM EXISTING RECORDS.
- THIS SURVEY IS NOT INTENDED FOR THE CONSTRUCTION OF FENCES.
- NO RESPONSIBILITY IS TAKEN FOR THE ACCURACY OF EXISTING MONUMENTATION.

EXHIBIT SHOWING IMPERVIOUS AREA CALCULATIONS IN THE REAR YARD OF
LOT 2
PIMMITT PARK ADDITION TO ELNIDO
 DB: 2240 PG: 81
 DRANESVILLE DISTRICT #1A
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20' DATE: OCTOBER 6, 2015
 REVISED: APRIL 5, 2016



PROFESSIONAL DESIGN GROUP, INC.

14301-B SULLYFIELD CIRCLE, SUITE 202
 CHANTILLY, VIRGINIA 20151
 ENGINEERS, SURVEYORS & CONSULTANTS
 PHONE (703) 631-2344
 FAX. (703) 378-2102

SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow a home child care facility for up to 12 children; to permit the continuance of an accessory dwelling unit; and to permit an error in building location to permit a patio under construction to remain 2.5 feet from the rear property line. In addition, the applicant requests approval of a variance to permit rear yard impervious coverage in excess of the maximum 30 percent to remain. A copy of the special permit plat, entitled "Exhibit Showing Impervious Area Calculations in the Rear Yard of Lot 2 Pimmit Park Addition to El Nido," prepared by Hamid Matin, P.E. of Professional Design Group, Inc., dated April 6, 2016, as modified by Ali A. Haj Abbassi dated April 27, 2016, is included in the front of the staff report. Copies of the proposed development conditions, the statement of justification with select file photographs, and the affidavit are contained in Appendices 1 through 3, respectively.

CHARACTER OF THE SITE AND SURROUNDING AREA

The subject property is a two-story single family detached residence. An asphalt driveway extends from Hitt Avenue back along the southeast side lot line to allow access for Lot 5, located just behind the subject property. The property also includes a covered front walkway and 2-car carport attached on the southeast side, and (until recently) had a single patio located in the rear yard attached at the northern end of the residence. Subsequent to the filing of the special permit application, the property owners commenced construction of the patio/drainage structure for which the variance request is made, as well as the error in building location request. Finally, the rear yard lot line is lined by a wood fence not owned by the applicant/owner, and another similar wood fence constructed along the access easement on the southeast side of the lot.



Figure 1: House location overhead view. Source: Pictometry

The area is an established suburban subdivision with mature tree species throughout. The subject property and surrounding properties are zoned R-4 and developed with single family detached dwellings.

BACKGROUND

County Records indicate that the residence was constructed in 1963 with a certificate of occupancy issued in 1964. The carport was added in 1965, and the canopy over the front walkway and an addition to the carport were added in 1993. The applicant has lived at the property since 1984, first as a renter, and has owned it since 1993.

County records indicate that no other special permit applications for a home child care facility have been heard by the Board of Zoning Appeals (BZA) in the surrounding area. The only other special permit/variance application heard by the BZA in the vicinity is VC 99-D-195, to permit the construction of additions 26.6 feet, 10.8 feet, and 19.4 feet from the front lot lines of a corner lot located at 1540 Sixth Place, which was approved February 29, 2000.

DESCRIPTION OF THE PROPOSED USE

The applicant initially requested approval of a special permit for a home child care facility for up to 12 children on-site at any one time. However, subsequent to the initial application submission, the applicant/owner was cited for multiple dwellings, as the applicant's son and his family (a wife and child) reside on the first level in a separate dwelling unit (including full kitchen facilities). Therefore, a request for an accessory dwelling unit (ADU) was added.

During the home child care inspection with the Zoning Inspection Branch, it was discovered that the applicant was also expanding the rear patio and was exceeding the maximum permitted rear yard coverage. The applicant/owner stated that the expansion was necessary to reroute stormwater runoff around the residence and into the shared driveway. The applicant was further cited for failure to obtain building permits for portions of the new construction that were deemed to be retaining walls and are subject to building code compliance. The application was placed on indefinite deferral so that the applicant could obtain a new plat for the property including analysis of the impervious coverage. Upon receipt of the variance application and plat, the special permit request for an error in building location was added to the application, as the partially constructed patio/drainage feature is located too close to the rear lot line (2.5 feet, while 5 feet is required under Sect. 2-412 of the Zoning Ordinance). In addition a variance request was added to allow more than 30 percent rear yard coverage.

Below is a description of the various requests in this concurrent Special Permit/Variance application:

1. **Home Child Care.** The applicant requests approval of a special permit for a home child care facility under Sects. 8-305 and 4-302 for up to 12 children on-site (the

current number for which she is licensed) at any one time between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday (though children would begin arriving at 7:30 a.m., which is the time frame of the State license). The applicant has a staggered drop-off and pick-up time for the children and proposes to maintain 2 full-time assistants.

The applicant holds a current Family Day Home License from the Commonwealth of Virginia, Department of Social Services, valid through March 20, 2017. The license permits a capacity of 12 children, ages 3 months through 6 years, 11 months. A copy of the license is included as Appendix 4. The Virginia Department of Social Services has renewed the license for this applicant since 2011. A development condition has been included requiring the applicant to amend her state license to match the aforementioned hours of operation.

The home child care facility is operated on the upper level of the residence, and includes a larger room and a smaller room, as well as access to a full bathroom and the use of the kitchen for preparing snacks. The existing porch on the rear (the original porch) is the outdoor play area.

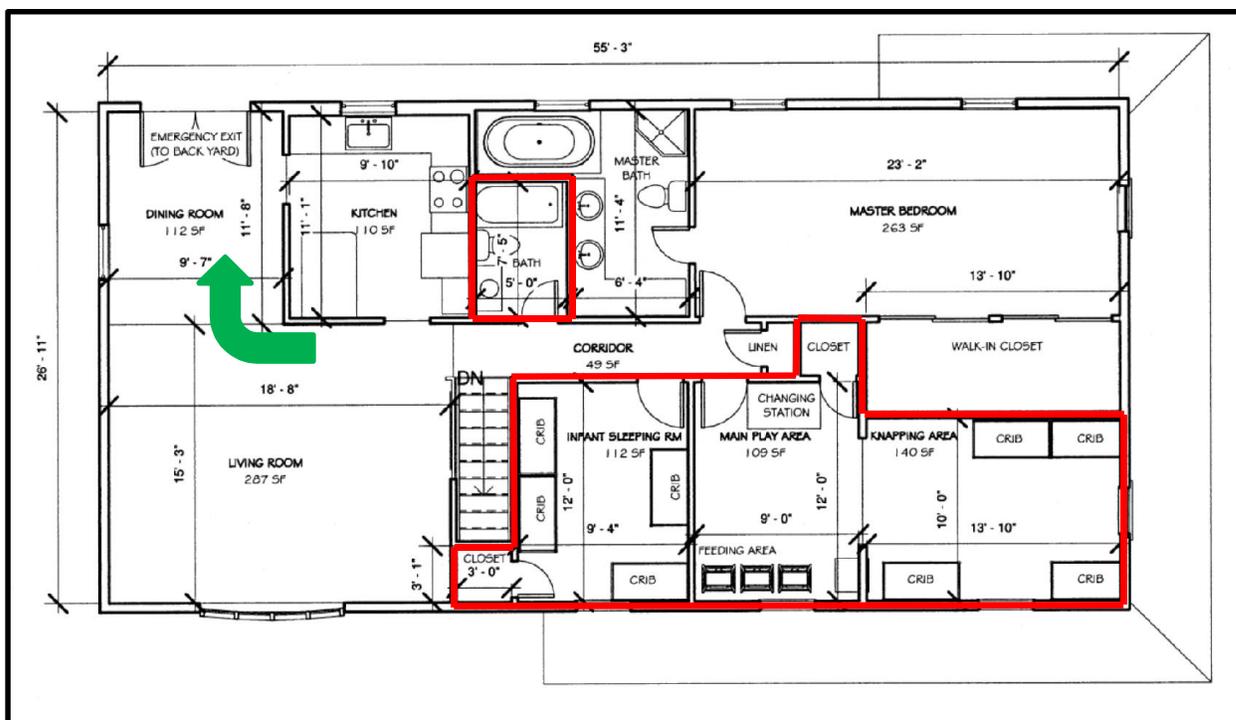


Figure 2: Home Child Care layout on upper level. Primary rooms used are highlighted. The arrow shows the primary emergency exit route. Source: Applicant.

On-Site Parking and Site Circulation. The existing driveway is able to accommodate three vehicles, though it is also shared with Lot 5. The applicant and her husband have two vehicles which are parked in the carport, and the applicant's son parks his vehicle on the street. Staff is concerned about the width of the driveway due to the shared access, so a proposed condition would be to have the carport remain open for drop-offs and pick-ups so that parents can leave the driveway facing forward into the street. There is ample room in front of

the residence to park the applicant's vehicles while the home child care facility is in operation. According to the applicant's statement of justification, there would be no more than 4 children picked up at any one time, which would occur at 5:00 p.m.

Vehicular access to the site is provided from an asphalt driveway from Hitt Avenue. The covered front walk connects to the driveway and carport and provides direct access to the main entrance of the home child care.

Zoning Inspection Report. The Zoning Inspections Branch report is included in Appendix 5. Since this inspection, all noted violations have been corrected, with the exception of the rear yard improvements and ADU.

- 2. Accessory Dwelling Unit (ADU).** The applicant requests approval for an ADU located on the lower level of the residence. The Department of Code Compliance (DCC) issued the owners two Notices of Violation (NOV) on July 13, 2015 for the ADU, one for the violation of the Zoning Ordinance, the other for the violations under the Virginia Uniform Statewide Building Code (see Appendices 8 and 9). The ADU has been certified by an architect at 810 square feet, which is 27% of the overall residence (2,591 square feet of gross floor area (GFA) total). The ADU was part of the original residence, and the two bedrooms in the ADU were original construction. The kitchen on the lower level was added subsequently, without building permits. The bedroom in the rear has windows that would not comply with emergency egress requirements of the current building code, but the room was originally constructed as a bedroom and is exempt from current requirements.

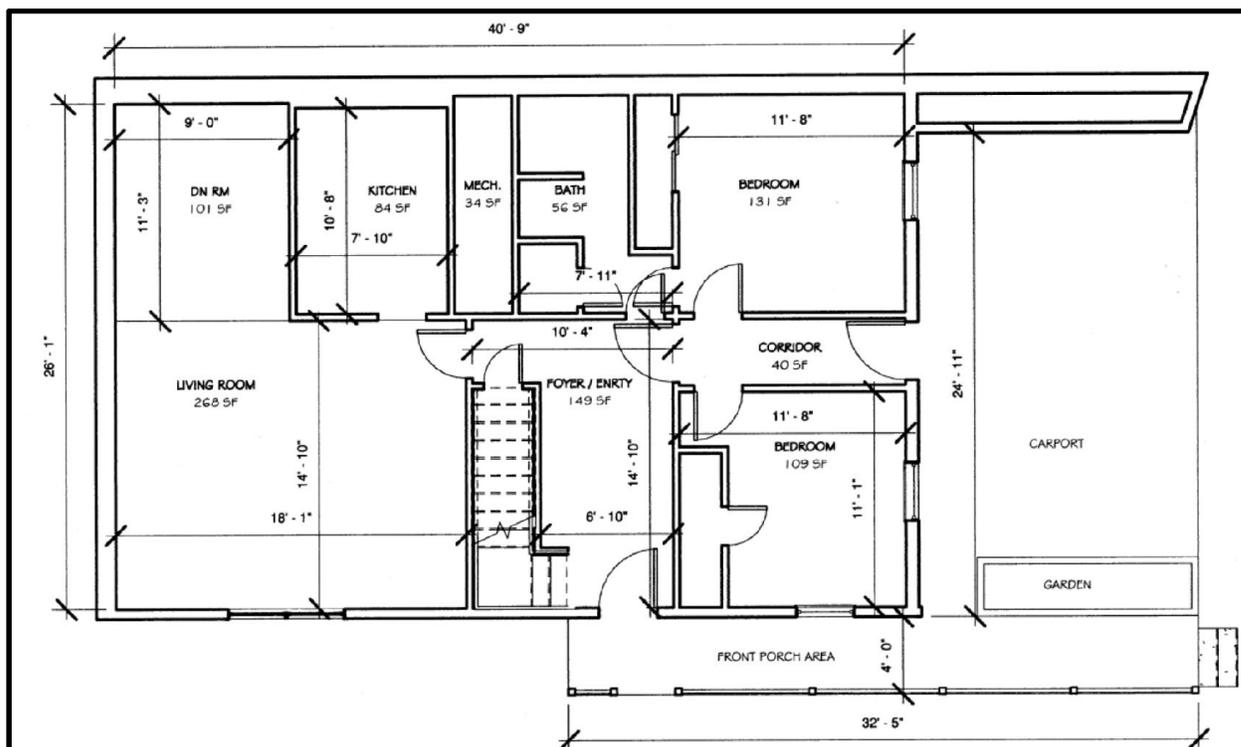


Figure 3: Accessory Dwelling Unit layout, lower level. Source: Applicant.

3. **Error in Building Location (Patio/Drainage Feature).** Staff reviewed the submitted special permit/variance plat submitted with the variance application and noted that the under-construction (and on hold via stop work order) patio/drainage feature is located as close as 2.5 feet from the rear lot line. Pursuant to Sect. 2-412.2 of the Zoning Ordinance, a patio (deck) is required to be a minimum of 5 feet from the rear lot line. The applicant states that the feature is for drainage purposes, but the design incorporates stairs and walkways that would not be included in a drainage structure, and are interpreted to be a patio, which means the applicant was required to add a request to permit the patio/drainage feature to remain 2.5 feet from the rear lot line, a reduction of 2.5 feet or 50 percent of the required distance.

Staff notes that DCC issued a Corrective Work Order dated July 13, 2015, covering the violation under the ADU (as noted above) as well as the patio construction in the rear yard, which has areas that require building permits for retaining wall construction. DCC issued a subsequent NOV dated January 12, 2016 (see Appendix 10) requiring building code compliance, because the DCC investigators believed the property owners had continued construction of the rear patio/drainage area despite the previously issued Corrective Work Order.

4. **Maximum Coverage of Minimum Rear Yard Area.** The applicant requests a variance to permit more than 30 percent impervious coverage of the minimum rear yard area. The applicant requests a total coverage of 44.6 percent of the minimum rear yard (the 25-foot distance from the rear lot line). The applicant notes that the shared driveway is a factor in this coverage amount. Indeed, the shared asphalt driveway within the minimum rear yard accounts for 239 square feet of impervious coverage, which is a significant amount of the 1,091 square feet of total impervious coverage in the minimum rear yard. However, discounting this area still means that the remainder of the impervious coverage remains at 34.8 percent of the minimum rear yard. So without the driveway, the coverage is still more than is permissible under Sect. 10-103.3 of the Zoning Ordinance. As the project is still under construction, staff recommends that it be designed to comply with the ordinance requirements. This is discussed in additional detail in a following section of this report.

The two NOVs as well as the Corrective Work Order reference both the existing unapproved ADU as well as the rear yard coverage construction work.

See Figure 4 below for a summary of all the requests.

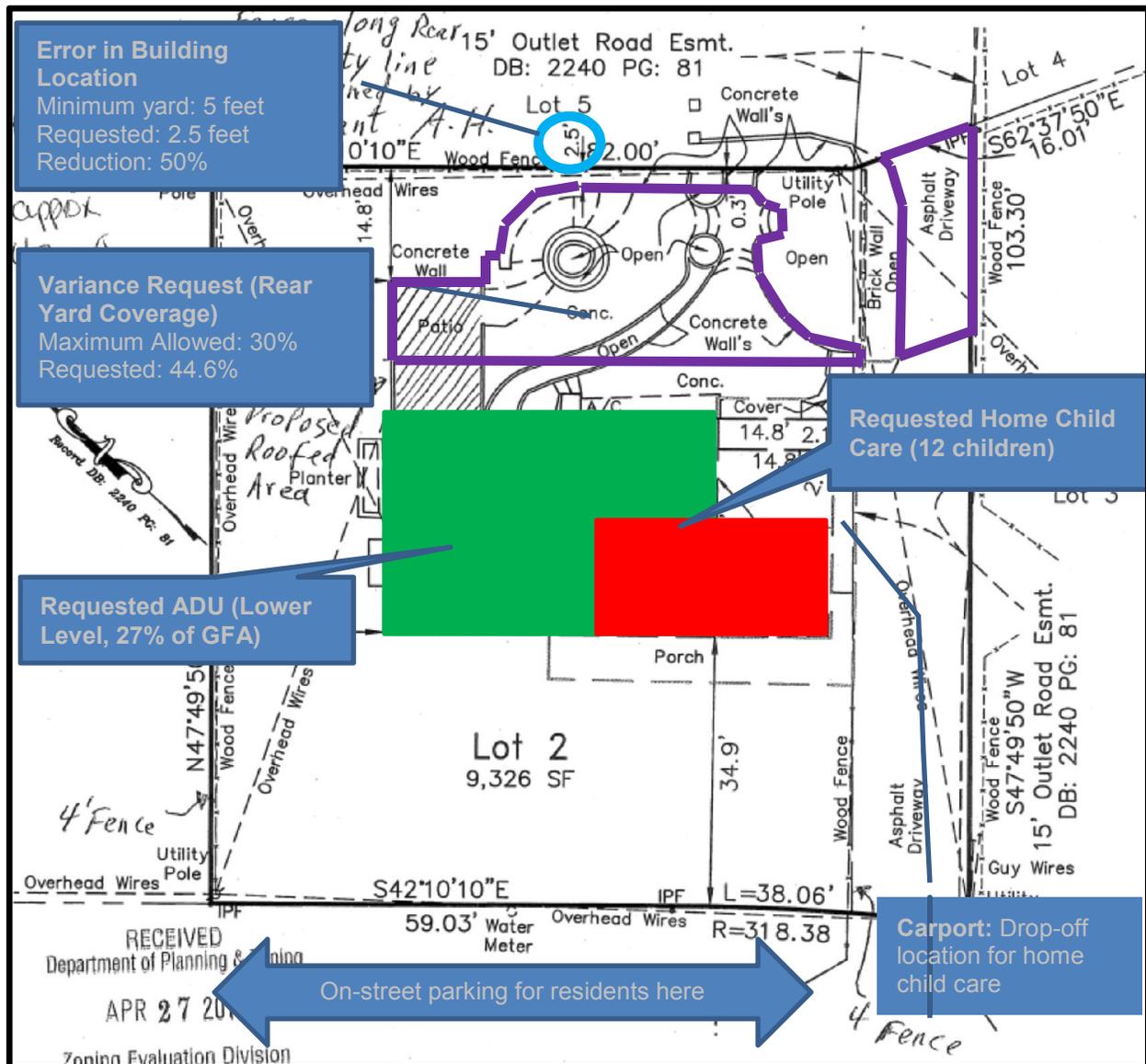


Figure 4: Special Permit/Variance Plat, partial. Source: Applicant.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: II
Planning District: McLean
Planning Sector: Kirby (M3)
Plan Map: Suburban Neighborhoods (infill 3-4 dwelling units/acre)

The subject property is part of an area that is recommended for infill residential development at 3-4 dwelling units/acre, as well as in accordance with Land Use Objectives 8 and 14 of the Policy Plan.

Zoning Ordinance Requirements (Appendix 11)

The subject property is zoned R-4, which has the following lot size and bulk regulations.

Bulk Standards (R-4)		
Standard	Required	Provided
Lot Size	8,400	9,326 sf.
Lot Width	70 feet	97.09 feet
Building Height	35 feet max.	Figure not provided
Front Yard	Min. 30 feet	34.9 feet
Side Yard	Min. 10 feet	22.1 feet (north side) 16.4 feet (south side)
Rear Yard	Min. 25 feet	32 feet (residence)

Extensions and Accessory Structures on Property – Error Requests		
Standard	Required	Requested
Patio/Deck in Rear Yard	Min. rear yard 5 feet	2.5 feet to side lot line*

*subject to approval of the Error in Building Location request.

This special permit application is subject to the following provisions of the Zoning Ordinance and are provided as Appendix 11.

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities
- Sect. 10-103.6 Use Limitations for Home Child Care Facilities
- Sect. 8-903 Group 9 Standards
- Sect. 8-918 Additional Standards for Accessory Dwelling Units
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Code of Virginia, Sect. 15.2-2309, Variance Standards

The following is staff’s analysis of the Zoning Ordinance provisions and the proposal to permit a home child care facility; to permit an accessory dwelling unit; and the variance request to permit rear yard impervious coverage in excess of the maximum 30 percent to remain. Provisions under Sect.t 8-914 are included in Appendix 7, but are not analyzed here, as staff does not provide a recommendation for an error in building location request.

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-4 District permits a home child care facility and an accessory dwelling unit as accessory uses with special permit approval
Standard 3 Adjacent Development	The home child care facility is currently operating with up to 12 children, which is because this is an application filed prior to the original deadline of March 31, 2014. The ADU was already in existence and was cited during inspections of the property for the home child care special permit application. In staff's opinion, the proposed uses will not hinder or discourage the use or development of neighboring properties or negatively affect value.
Standard 4 Pedestrian/Vehicular Traffic	The driveway connects the residence to Hitt Avenue. Arrival and departure times of the children are staggered, and in staff's opinion, the existing use proposed for approval is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.
Standard 5 Landscaping/Screening	There is existing fencing and some vegetation in the rear and side yards. The outdoor play area is currently the original patio area, which is 11' x 17' in area. The applicant needs to ensure that children are not playing in any construction areas.
Standard 6 Open Space	There is no prescribed open space requirement for individual lots in the R-4 District.
Standard 7 Utilities, Drainage, Parking, and Loading	There are no changes to proposed utilities. The DPWES reviewed the patio/drainage structure in the rear yard and determined that the existing drainage system in the neighborhood could accommodate the additional drainage flow. Only compliance with the Chesapeake Bay ordinance requirements or a grading plan are necessary. As previously discussed, the driveway would be used for parking for the home child care facility.
Standard 8 Signs	Sect. 10-103 of the Zoning Ordinance prohibits signs for home child care facilities. No signage is proposed.

Standards for all Group 3 Uses (Sect. 8-303)

Standard 1 Lot Size and Bulk Regulations	The property meets the lot size and bulk regulations for the R-4 District.
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	Home child care facilities are not subject to the provisions of Article 17, Site Plans.

Additional Standards for Home Child Care Facilities (Sect. 8-305)

Standard 1 Maximum of 12 Children & Non-Resident Employee	The applicant is proposing a maximum of 12 children at any one time. The development conditions allow up to 2 non-resident employees.
Standard 2 Access and Parking	Arrival and departure times of the children are staggered and two drop-off parking spaces are available in the driveway. In staff's opinion, the proposed use is not hazardous and does not conflict with existing and anticipated traffic in the neighborhood.
Standard 3 Landscaping/Screening	The property's existing side and front yards are suitable in size to accommodate up to 12 children during outdoor play. The property has several mature trees, and there are fences around the side yard and rear yard to screen these yards for outdoors use by children.
Standard 4 Submission Requirements	The application meets all submission requirements for a home child care facility.
Standard 5 Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17	The applicant has a valid home child care license through March 20, 2017.

Use Limitations (Par. 6 of Sect. 10-103)

Part A Maximum Number of Children	The maximum number of children permitted by-right at any one time is 7 in a single family dwelling. The applicant requests special permit approval to permit a maximum of 12 children at any one time (which is the number currently licensed by the State).
Part B Licensed Provider/Primary Residence	The applicant is a state licensed home child care provider and the subject property is the provider's primary residence.
Part C No Exterior Evidence Except Play Equipment	There is no exterior evidence of the proposed use.
Part D Non-Resident Employee	The applicant is proposing 2 non-resident employees.
Part E Provider is a Resident	The subject property is the provider's primary residence.

<p>Part F Code of Fairfax, Chapter 30 and Code of Virginia, Title 63.2, Chapter 17</p>	<p>Chapter 30 of the Code of the County of Fairfax addresses home child care facilities and Title 63.2, Chapter 17 of the Code of Virginia addresses licensure and registration procedures. The applicant has a valid state home child care license.</p>
<p>Part G Increase in Children or Non-Resident Employee</p>	<p>The maximum number of children permitted by-right at any one time is 7 in a single family detached dwelling and can be increased up to 12 children with special permit approval. The applicant requests special permit approval to permit a maximum of 12 children at any one time and 2 non-resident employees.</p>

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

<p>Standard 1 Lot Size and Bulk Regulations</p>	<p>The subject property conforms to all lot size and bulk regulations in the R-4 District, with the exception of the error in building location for the patio/drainage structure as described earlier.</p>
<p>Standard 2 Performance Standards</p>	<p>The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.</p>
<p>Standard 3 Site Plan</p>	<p>DPWES states that the proposed construction will not disturb more than 2,500 square feet, therefore no additional site plan requirements are required.</p>

Additional Standards for Accessory Dwelling Units (Sect. 8-918)

<p>Standard 1 Only One ADU per Single Family Detached Dwelling</p>	<p>The applicant requests approval of one ADU on a property occupied by a single family detached dwelling; this standard is met.</p>
<p>Standard 2 Structure Shall be Located Within Single Family Dwelling</p>	<p>The proposed ADU would have a separate entrance on the side façade, as the front façade is at grade. The ADU also has access through the front entrance as well. The ADU is located entirely on the lower level of the residence.</p>
<p>Standard 3 GFA Shall Not Exceed 35%</p>	<p>The ADU is certified at 810 square feet, or approximately 27% of the total GFA of 2,591 square feet. This standard is met.</p>
<p>Standard 4 Max. 2 Bedrooms</p>	<p>The application indicates that the ADU includes two bedrooms. This standard is met.</p>
<p>Standard 5 Occupancy Standards</p>	<p>The applicant and her husband, who currently reside in the primary residence and own the property, meet the definition of “elderly” as defined in the Zoning Ordinance. The ADU is eligible for occupancy by the applicant’s son and his family.</p>
<p>Standard 6 Reasonable Access for a Disabled Person</p>	<p>The applicant has indicated that none of the current occupants are disabled.</p>
<p>Standard 7 Sufficient Parking</p>	<p>The property includes sufficient parking in the driveway or in the carport.</p>

Standard 8 Will Not Modify or Disrupt Character of Neighborhood	Staff believes that the use of the ADU, as proposed, would not modify or disrupt the predominant character of the neighborhood.
Standard 9 Regulations for Safety, Health, Sanitation	This standard requires any ADU to meet applicable regulations for building, safety, health, and sanitation. A development condition is proposed to this effect.
Standard 10 Recorded	A condition is proposed requiring the approval to be recorded among the Fairfax County land records.
Standard 11 Inspection	A condition is proposed requiring the owner to allow inspections of the property by County personnel during reasonable hours upon prior notice.
Standard 12 Approved for 5 Years	A condition is proposed addressing this standard.
Standard 13 Approval Prior to July 27, 1987	This standard is not applicable.

Variance Analysis

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

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

In staff's opinion, the strict application of the impervious area limitations under Sect. 10-103.3 would not unreasonably restrict utilization of the property nor create a hardship. The patio structure, according to applicant, is designed to reroute drainage through the rear yard and around the residence to the shared driveway. However, the total area of the structure is 645 square feet of additional coverage above the previously existing patio and shared driveway. In staff's opinion, the stated need for the new impervious area is at cross purposes with the intention provided by the applicant. The need for drainage reduction or redirection could have been done with far less additional impervious coverage.

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

The applicant purchased the property in 1993. Staff does not believe any hardship exists. The maximum rear yard coverage limit has been in effect for years, and the current coverage violation occurred last spring. In addition, the outlet road (shared driveway) was established by deed in 1962. Therefore, the applicant was aware of its presence in the rear yard when they purchased the property.

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

In staff's opinion, the excess impervious area creates a potential condition that could be detrimental to properties in proximity to the subject property, particularly the property southeast of the subject property. While the DPWES review of the request does not indicate any specific problems with the existing coverage, staff remains concerned with the potential impact to the nearest neighbor.

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

The subject property meets the minimum lot size and bulk regulations of the R-4 District. The only condition that limits impervious area in the minimum rear yard is the shared driveway, which covers 239 square feet. However, even discounting this area, the remaining coverage is 34 percent, which is still in violation of the maximum coverage limit.

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

The variance request is to allow for extra impervious area in the rear yard beyond what is permitted under Sect. 10-103.3. However, the residential use of the property is not affected by this application and is permitted in the R-4 District.

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

The applicant has no other form of remedy under the Zoning Ordinance other than a variance except to remove the excessive impervious area above the maximum allowed. However, it is noted that a proposed special permit process may be adopted by the end of the calendar year to allow for additional impervious coverage in a minimum rear yard. The timing and nature of the proposed Zoning Ordinance amendment is unclear at this time.

CONCLUSION

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with respect to the home child care facility and the accessory dwelling unit. Staff does not believe the variance request meets the standards to permit the variance. Specifically, the applicant does not meet the hardship standard as listed in Standard 1. As the applicant's improvements to the rear yard are not completed, staff sees no practical difficulty in designing the patio to meet the ordinance requirements for coverage in the rear yard.

RECOMMENDATION

Staff recommends approval of SP 2015-DR-019 for the home child care facility and the accessory dwelling unit, with adoption of the Proposed Development Conditions contained in Appendix 1.

Staff has no recommendation for the requested reduction to minimum yard requirements based on an error in building location portion of SP 2015-DR-019.

Staff recommends denial of VC 2016-DR-007 based on the findings. However, should the Board choose to approve this variance request, staff recommends it do so subject to the Proposed Development Conditions contained in Appendix 1.

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, Original Floorplan, and Select File Photographs
3. Applicant's Affidavit
4. State Family Day Home License
5. Zoning Inspections Branch Inspection Comments and Photos of Corrections
6. Agency Comments
7. Available Street File Records
8. Notice of Violation – Fairfax County Zoning Ordinance dated July 13, 2015
9. Corrective Work Order under Virginia Uniform Statewide Building Code dated July 13, 2015
10. Notice of Violation under Virginia Uniform Statewide Building Code dated July 13, 2015
11. Applicable Zoning Ordinance Provisions
12. Code of Virginia Variance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2015-DR-019****July 20, 2016**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-DR-019 located at Tax Map 30-4 ((7)) 2 to permit a home child care facility, an accessory dwelling unit, and an error in building location to permit a patio to remain 2.5 feet from the rear lot line, pursuant to Section 8-305, 4-302, 8-918, and 8-914 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Maliheh Shahrestani nee Haj Abbassi d/b/a as McLean Daycare, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 6526 Hitt Avenue, and is not transferable to other land.
2. This special permit is granted for the home child care use, the accessory dwelling unit, and the error in building location as indicated on the plat entitled "Exhibit Showing Imervious Area Calculations in the Rear Yard of Lot 2 Pimmit Park Addition to El Nido," prepared by Hamid Matin, P.E. of Professional Design Group, Inc., dated April 6, 2016, as modified by Ali A. Haj Abbassi dated April 27, 2016, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit shall be made available to all departments of the County of Fairfax during the hours of operation upon request.

Pursuant to Sect. 8-305 (Home Child Care Facility):

4. The hours of operation of the home child care facility shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday.
5. Excluding the applicant's own grandchildren, the maximum number of children on site at any one time shall be twelve.
6. A maximum of two nonresident employees, whether paid or not for their services, may be involved in the home child care facility, limited to the hours of 7:00 a.m. to 5:00 p.m.
7. There shall be no signage associated with the home child care facility.
8. All drop-off and pick-up activities shall occur in the applicant's driveway.
9. Any areas utilized for children's outdoor play shall be physically separated from the drained features constructed as part of the patio.

10. Any portions of the dwelling associated with the home child care facility that are used as a children's sleeping or rest area shall be located in a room with an operable exterior window, door or similar device that provides for a means of escape and access for rescue in the event of an emergency. Such emergency escape and rescue openings shall be of the dimension and size specified by the Virginia Uniform Statewide Building Code.
11. The approval of the use is contingent upon maintenance of a state-issued family day home license that permits the number and ages of children being cared for at the home child care facility.
12. The child care facility shall be operated in accordance with Chapter 30 of the County Code, entitled "Minimum Private School and Child Care Facility Standards".

Pursuant to Sect. 8-918 (Accessory Dwelling Unit):

13. The occupant(s) of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.
14. The layout of the ADU shall be consistent with the depiction in Attachment 2 to these conditions.
15. The applicant shall apply for building permits within thirty (30) days of approval of this special permit for the second kitchen located in the ADU. Final inspections shall be passed within six (6) months of approval.
16. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice, and the accessory dwelling unit shall meet applicable regulation for building safety, health and sanitation.
17. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) years periods with prior approval of the Zoning Administrator in accordance with Sect. 8-012 of the Zoning Ordinance.

Pursuant to Sect. 8-914 (Error in Building Location):

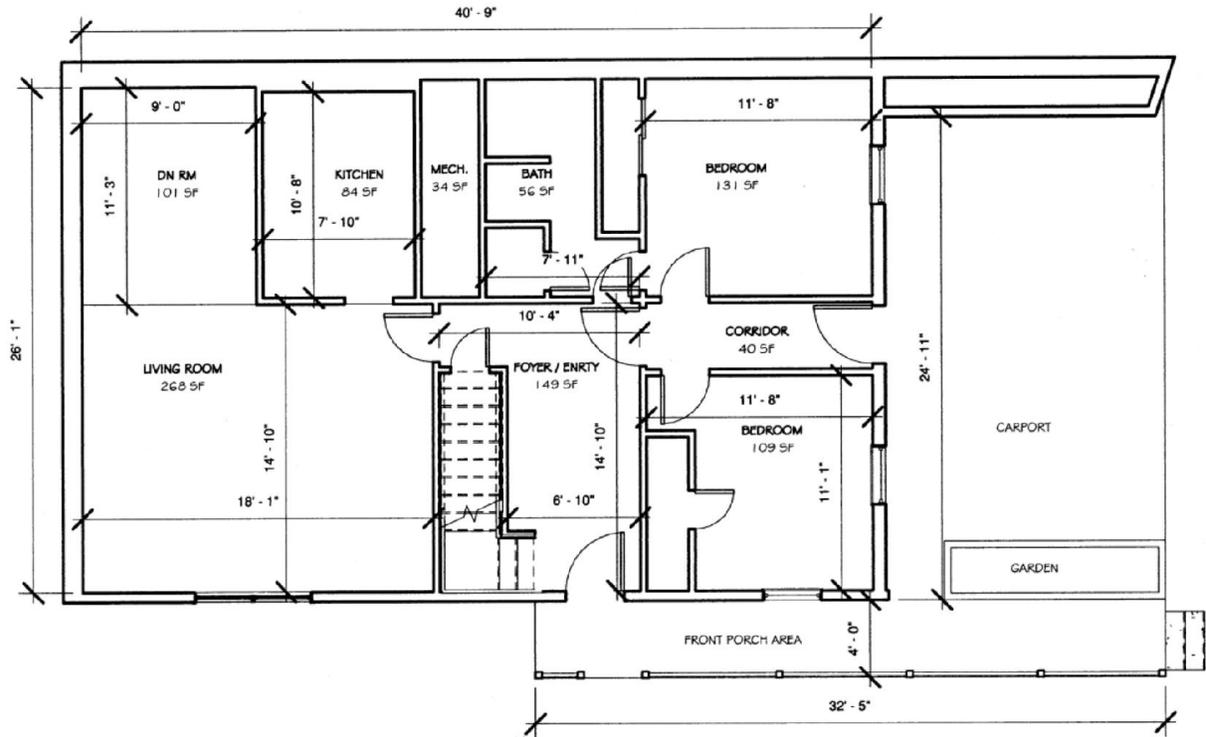
18. Any portion of the rear yard patio that is load bearing shall require a building permit and inspections in compliance with the Virginia Uniform Statewide Building Code, and administered by the Department of Public Works and Environmental Services (DPWES). All required permits shall be applied for and issued within six months of approval of this Special Permit.

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 take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

Attachment 1: Accessory Dwelling Unit Layout



Accessory Dwelling Unit: Bedroom, Bedroom, Bath, Kitchen, Living Room, Dining Room.

PROPOSED DEVELOPMENT CONDITIONS**VC 2016-DR-007****July 20, 2016**

If it is the intent of the Board of Zoning Appeals to approve VC 2016-DR-007 located at Tax Map 30-4 ((7)) 2 to permit rear yard impervious coverage in excess of the maximum 30 percent to remain, pursuant to Section 18-401 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This variance is granted for rear yard coverage as indicated on the plat entitled "Exhibit Showing Impervious Area Calculations in the Rear Yard of Lot 2 Pimmit Park Addition to El Nido," prepared by Hamid Matin, P.E. of Professional Design Group, Inc., dated April 6, 2016, as modified by Ali A. Haj Abbassi dated April 27, 2016, and approved with this application, as qualified by these development conditions.

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.

Statements of Justification, Architectural Floorplans, Patio Design Elements and Select Photographs

Justification – Home Child Care Facility

We have been operating a child home care facility from our house for nearly a decade, having a county permit at first and operating with the state license for the past three years from 7:00 AM to 5:00 PM, with one employee. We would like to apply for a special permit for 12 children.

Currently there are 9 children and we are expecting to have twelve before the end of the year; three siblings come from Great Falls and are dropped off at 7:30 AM and are picked up at 4:30 PM (Mondays, Tuesdays, Thursdays, and Fridays) one of them is to discontinue as of September, one child come from Alexandria and is dropped off at 7:40 AM and is picked up at 4:00 PM every day (M-F) and is to be joined by her sibling as of July, two siblings from one family are neighbors and mostly walk to our house at 8:00 AM and are picked up at 5:00 PM every day (M-F), one child comes from Great Falls and is dropped off at 8:30 AM and picked up at 5:00 PM every day (M-F) and is to be joined by her sibling as of December, two siblings are part timers. There will be a new comer in October and the pick-up and drop-off time is yet to be determined.

At present there are four families and by October there will be five families driving to drop off and pick up their children and there is ample space to park their cars in front of our house, even though hardly ever two of them come at the same time to drop off their children; therefore causing no impact on the traffic, specially since our house is located in a dead-end street with no outlets.

Our house is a five bedroom three full bath and there are over five hundred square feet of living space used for the daycare.

Our house a single family dwelling and there is plenty of space in the private back yard that has a seven feet high fence for their outdoor activity and there are no neighborhood homeowners' associations.

Me and my husband have owned and lived in this same house for the past thirty years along with our family.

RECEIVED
Department of Planning & Zoning
MAR 28 2014
Zoning Evaluation Division

To whom it may concern,

1/09/2015

Here by I Maliheh Shahrestani, announce that to the best of my knowledge utilizing the property for the proposed use does conform to the provisions of all applicable ordinances, regulations, and adopted standards of the county of Fairfax and/or the state of Virginia.

McLean DayCare



Maliheh Shahrestani

RECEIVED
Department of Planning & Zoning
JAN 09 2015
Zoning Evaluation Division

To whom it may concern,

1/09/2015

This is to serve as a statement that to the best of our knowledge there are no known HAZARDOUS or TOXIC Substances of any kind that are being generated, utilized, stored, treated, and/or disposed of on site at 6526 Hitt Ave., McLean, VA 22101

McLean DayCare



Maliheh Shahrestani

RECEIVED
Department of Planning & Zoning
JAN 09 2015
Zoning Evaluation Division

Letters of Support

Natasha Dillaman, D.V.M.
6539 Washburn Ct.
McLean, VA 22101

July 15, 2015

Fairfax County Board of Zoning Appeals
12000 Government Center Parkway
Fairfax, VA 22035

Dear Zoning Board:

I am writing to express my support of McLean Day Care, located at 6526 Hitt Avenue, McLean, VA 22101, and owned/operated by Maliheh Shahrestani. When we first moved to the neighborhood I was not even aware that there was an in-home daycare right up the street, as the traffic/parked cars were not noticeable, even as I passed the house at least twice per day. When I did eventually locate her through the Fairfax County childcare site I was impressed to realize she was just up the road.

Our older daughter started at two months old in Maliheh's care and only a couple of months ago left at the age of two-and-a-half to start preschool. Our twenty-month-old younger daughter is still in her care. We feel that we were blessed to have found such wonderful and capable childcare right in our own neighborhood. I would wholeheartedly endorse McLean Day Care and hope that they are able to continue providing exceptional childcare for years to come.

Please do not hesitate to contact me for additional information if needed.

Sincerely,

Natasha Dillaman, DVM

July 24, 2015

To Whom It May Concern,

I am writing to express my strong support for Maliheh Shahrestani/McLean Daycare's zoning permit application. All three of my children have attended McLean Daycare during the past five years and received exemplary care. Mrs. Shahrestani provides a safe, clean, nurturing environment for infants and small children. She has treated my kids as if they were her family and they feel the same about her.

My husband and I are senior executives in the Federal Government and each work well over 40 hours weekly. Finding reliable, convenient and affordable care for our children is a priority. There are simply not enough options for infants and children under three in this area given the high number of busy professional parents like ourselves, and we are grateful we found McLean Daycare. Many of our friends and coworkers have also entrusted their children to Mrs. Shahrestani's care.

I would be happy to provide further information as needed in support of this application.

Sincerely,

Amy McFadden

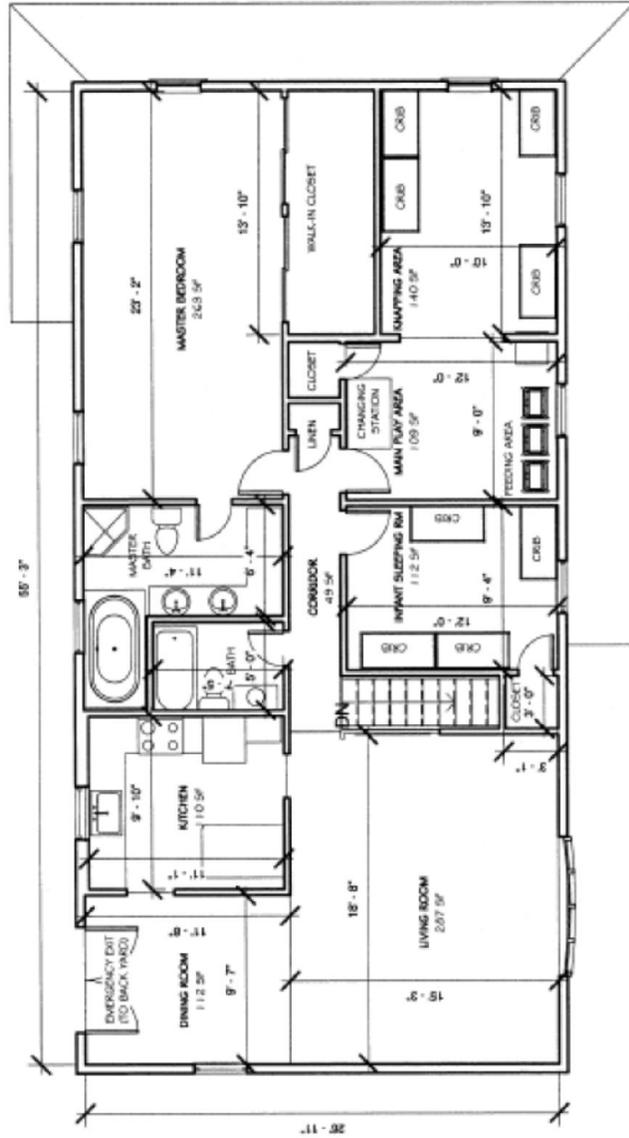
10116 Walker Lake Dr

Great Falls, VA 22066

(703) 759-2652

Home Child Care Facility Layout

RECEIVED
Department of Planning & Zoning
FEB 19 2016
Zoning Evaluation Division



1 Level 2 - 1488 SQ FT
1/8" = 1'-0"

Statement of Justification – Accessory Dwelling Unit

August 4, 2015

County of Fairfax
Department of Planning & Zoning
Zoning Evaluation Division

RECEIVED
Department of Planning & Zoning

FEB 19 2016

Zoning Evaluation Division

Re: Special Permit Application
Accessory Dwelling Unit
Statement of Justification

Dear Sir or Madam,

This statement of justification serves to support our application for special permit – Accessory Dwelling Unit (ADU) and Home Child Care. The ADU in this application is for my son who was born and raised in this house. He has lived here for the past thirty years and currently lives here with his wife and one daughter.

Our house was built as a five bed room three full bath room by-level detached house. Two entry level with two entrances has two bed rooms, each with a closet and two windows along with a full bath room. The windows are the original ones and like others measure 41 inches in width and 43 inches in height with the sill height of 45 inches from the finished floor. My wife and I are both elderly (over 55 year old) and do occupy the principal single family dwelling on the main level that opens to the backyard. We have the master bed room and master bath room. There are three large rooms and a full bath room on the main level assigned to the day care. This was not an unfinished basement that we finished, nor is it a buildout. The old kitchen was there for decades and we recently up-graded it. Once approved, we will make any modifications necessary to be code compliant.

The floor ratio of the ADU to the total floor area of the residence is less than 33% thus not exceeding the maximum allowed ratio of 35%. Please see the attached detail floor plans.

- Main Level; 1487.33 SF
 - Entry Level; 1062.76 SF (including Utility space, Foyer, and storage =223 SF)
-

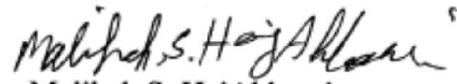
- ADU SF = $1062.76 - 223 = 839.76$ SF
- Total SF of the residence = 2550.1 SF
- ADU Ratio = Accessory Dwelling Unit SF (839.76 SF) / Total SF of the residence (2550.1 SF) x 100 (%)
- ADU Ratio = 32.9%

There will be no commercial type of operation in the ADU and as such there are no hours of operation, patrons, clients, students, or employees coming and going. There will be no general area served by the use of the ADU, nor any known hazardous or toxic substances on the property.

My wife and I are both over 55 years of age. Maliheh over 58 old (born on 2/16/1957) and I just turned 61 years old (born on 5/23/1954). My wife and I are both elderly and do need their presence. We will entertain any modifications you recommend to make this work.

Please let us know if you have any questions regarding this matter.


Ali A. HajAbbassi


Maliheh S. HajAbbassi

August 4, 2015

County of Fairfax
Department of Planning & Zoning
Zoning Evaluation Division

RECEIVED
Department of Planning & Zoning
FEB 19 2016
Zoning Evaluation Division

Re: Special Permit Application
Accessory Dwelling Unit
Statement of Ownership

Dear Sir or Madam,

This letter is to certify that I and my wife, Ali A. HajAbbassi and Maliheh S. HajAbbassi, are the true owners of the residential property located at 6526 Hitt Avenue, McLean, VA 22101. We have lived here for over three decades.

Please let us know if you have any questions regarding this matter.



Ali A. HajAbbassi



Maliheh S. HajAbbassi

Accessory Dwelling Unit Certification



Hodzic Architects, P.C.

1003 Snapper Cove Lane
Pasadena, MD 21122
Tel: (410) 255-2600
Fax: (410) 255-2680

ah@hodzicarchitects.com
www.hodzicarchitects.com

September 30, 2015

Fairfax County Department of Planning and Zoning
Zoning Evaluation Division

Re: Special Permit Application
Accessory Dwelling Unit
Statement Justification

Residence Location: 6526 Hitt Avenue, McLean VA 22101

Accessory Dwelling Unit ration of the Residence above:

The Accessory Dwelling Unit (810 SF) is located at the Level 1. Excluded are Stairs, Corridor and Utility Room serving Main Residence (253 SF). See Floor Plans attached.

Level 1 is walk out finished basement 60% above grade. Main Entrance is on Level 1, with stairs to Level 2.

- Level 1: 1,063 SF (including Accessory Dwelling Unit)
- Level 2: 1,488 SF

Total SF of the Residence = 2,951 SF (100%)

Accessory Dwelling Unit (810) SF or 27%, of entire Residence (2,951 SF).

Bedroom windows shall be:

- Minimum opening = 5.7 sq. ft.
- Minimum opening height = 24"
- Minimum opening width = 20"
-
- Sill height of window above floor, not to exceed 44".

I also certify that Level 1 is walk out basement 60% above the grade. This meets Fairfax County Zoning Section 2-906.

Very truly yours,

Arif Hodzic, AIA
VA License No. 03096



Statement of Justification – Variance Request and Error in Building Location Request

Ali A. HajAbbassi
Maliheh Shahrestani HajAbbassi
6526 Hitt Ave.
McLean, VA 22101

RECEIVED
Department of Planning & Zoning

APR 04 2016
Zoning Evaluation Division

Fairfax County Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

03/29/2016

File: VC 2016-0046

Re: **Ali A. HajAbbassi; 6526 Hitt Ave. Mclean VA 22101**

Application for a Variance-Statement of Justification Based on Standards of 8-914 for an Error in Building Location

Special Permit Requests

We are seeking a special permit to allow an accessory dwelling unit (ADU) for our son to live with us as my wife and I are both over 60 years of age and also a reduction of minimum yard requirements based on an error in building location to permit existing yard pavement and existing accessory structure (circular bench) to remain at 2.0 feet distance from the rear lot line and also the flower bed walls to extend to the rear lot line.

Variance Requests

We are seeking a variance to allow greater than 30 percent yard coverage for an existing covered patio, yard pavement, and accessory structures to remain. Our minimum required rear yard currently exceeds the 30% minimum required rear yard coverage.

A copy of the special permit plat titled, "Variance Plat, showing Lot 2, Pimmit Park addition to ELNIDO (6526 Hitt Avenue)," showing all details and Impervious Area Calculations, prepared by PROFESSIONAL DESIGN GROUP, INC. dated October 6, 2015 is included.

Character of the Site and Surrounding Area

Our house is located at 6526 Hitt Avenue, a rolling neighborhood. It is a bi-level house that has two entrances both on the floor with no basement and the second (main) floor walks out to a roofed patio (built in 1965) that is in an up-hill back yard. Another words the landscape goes one flight up (9 feet) over the width of our house (28 feet), that is downhill from lot 3 and 5 and level with lot 3. It is a quiet and serene neighborhood that we have lived in and enjoyed since 1984.

Background:

My family and I have lived in our residence for over three decades since 1984 and more recently have experienced some runoff problems and water seepage near a column at the corner of our house shown in exhibit A, causing significant damage to the property. In order to remedy the problem, corrective measures had to be taken and we decided to erect a drainage system to divert the water away from the column foundation and also to renovate the existing patio at the same time.

On March, 26th 2014, I went to the Zoning Department on the 8th floor and asked about our limitations in the back yard before starting this project and was told "your minimum setback for the enclosed structure is 25 feet and for non-heated/non-air conditioned structure is 15 feet from the rear lot line." There was no mention a minimum 5 feet distance from the rear lot line for paving, nor was there any mention of the yard coverage percentage (thirty percent), and/or the fact that 25 feet setback is also meant for the calculation of the impervious area. My honest mistake was the assumption in good faith that 15 feet distance from the rear lot line was the setback for both unenclosed structure as well as my calculation of the minimum yard coverage percentage, thus I over paved and exceeded the minimum backyard requirement. I was shocked when I was told about this situation by the zoning staff during an inspection.

After exhausting all other options, I am respectfully requesting the Board of Zoning to grant us a variance based on error in building location since we meet STANDARDS OF THE ZONING CODE 8-914 SECTION 2 PARAGRAPHS A THROUGH H of the Provisions for Approval of Reduction to Minimum Yard Requirements Based on Error in Building Location:

Section 2– The BZA determines that:

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

The total impervious area within 25 feet setback area including the easement area is 1,565 square feet that is equal to 44.6% coverage, with an error of 14.6% that exceeds the ten (10) percent.

- 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 locate on the property that exceeds ten (10) percent of the measurement involved, and

This request is also in conjunction with the approval of a special permit for McLean Day-Care to care for up to twelve, and also approval of a special permit for an accessory dwelling unit for our son to live with us.

- 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

As was explained in the background, this was an error in good faith caused by a misunderstanding of the requirements when I was making the inquiries about these requirements at the office of zoning located on 8th floor of the herrity Building.

- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
-

As mentioned before the violations occurred as an error caused by an honest misunderstanding with no malice intended and without any disregard for this Ordinance. I as a person who has a bachelor's degree in Civil Engineering, a Masters degree in Structural Engineering, and a PHD in Engineering Management/Structural Dynamics and also a person who has taught Structures and Civil Engineering Management at graduate as well as under graduate level have the utmost respect for every single CODE and ORDINANCE as they are designed for our own good (to maintain social harmony, protect property, and most importantly ensure every one's safety). We obtained all permits and went through every single inspection from planning to the occupancy when we build an addition to this very same house 24 years ago. I did check with the Zoning this time as well and unfortunately this error occurred (although in good faith). Considering the fact that this was an honest error an addition to the fact that these improvements are more of a land escaping/ hard escaping done with the intention of preserving the integrity and safety of the foundation (as well as the whole structure), I do strongly believe granting a variance for 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

This variance is sought in order for us to be able to keep the improvements in our fenced backyard to divert the water away from the foundation of our house to the public county's public drainage system well within the boundaries of our lot, and peacefully enjoying our property does not affect any of the adjacent or neighboring properties in any way, shape, or form.

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

The location and the amount of coverage are both within the fenced backyard and have nothing to do with other properties or to the public street, thus not creating any unsafe conditions with respect to both other properties and to public street.

G. To force compliance with the minimum yard requirement or location regulations would cause unreasonable hardship upon the owner.

Enforcing compliance with the minimum yard requirement or location regulations will indeed cause unreasonable hardship upon us as we have a very steep small backyard that drops more than 10 feet in elevation over a length of 80 feet and a 32.8 feet distance from the rear lot line. The hard escape was designed to prevent any further soil erosion and foundation settlement and (except for the cosmetic finishes) is completed. To force compliance with the minimum yard requirement or location regulations and have us destroy all that is built would cause unreasonable hardship upon us and also create an unsafe living condition as the master bedroom is located right above and supported by a major structural column sitting on the foundation that is located at the lowest point, C, (Shown on Exhibit A).

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

The FAR (Floor Area Ratio) is not applicable to the Variance we are requesting as the ROOFED PATIO being remodeled is the exact same size and in the exact same location as the original ROOFED PATIO, approved by the county and built in 1965, thus does not change the FAR. It also has a distance of 15 feet from the rear lot line that means it is compliant).

Structural Design of Rear Patio/Drainage Structure

Select Photographs of Subject Property

Outside Images – March 2014



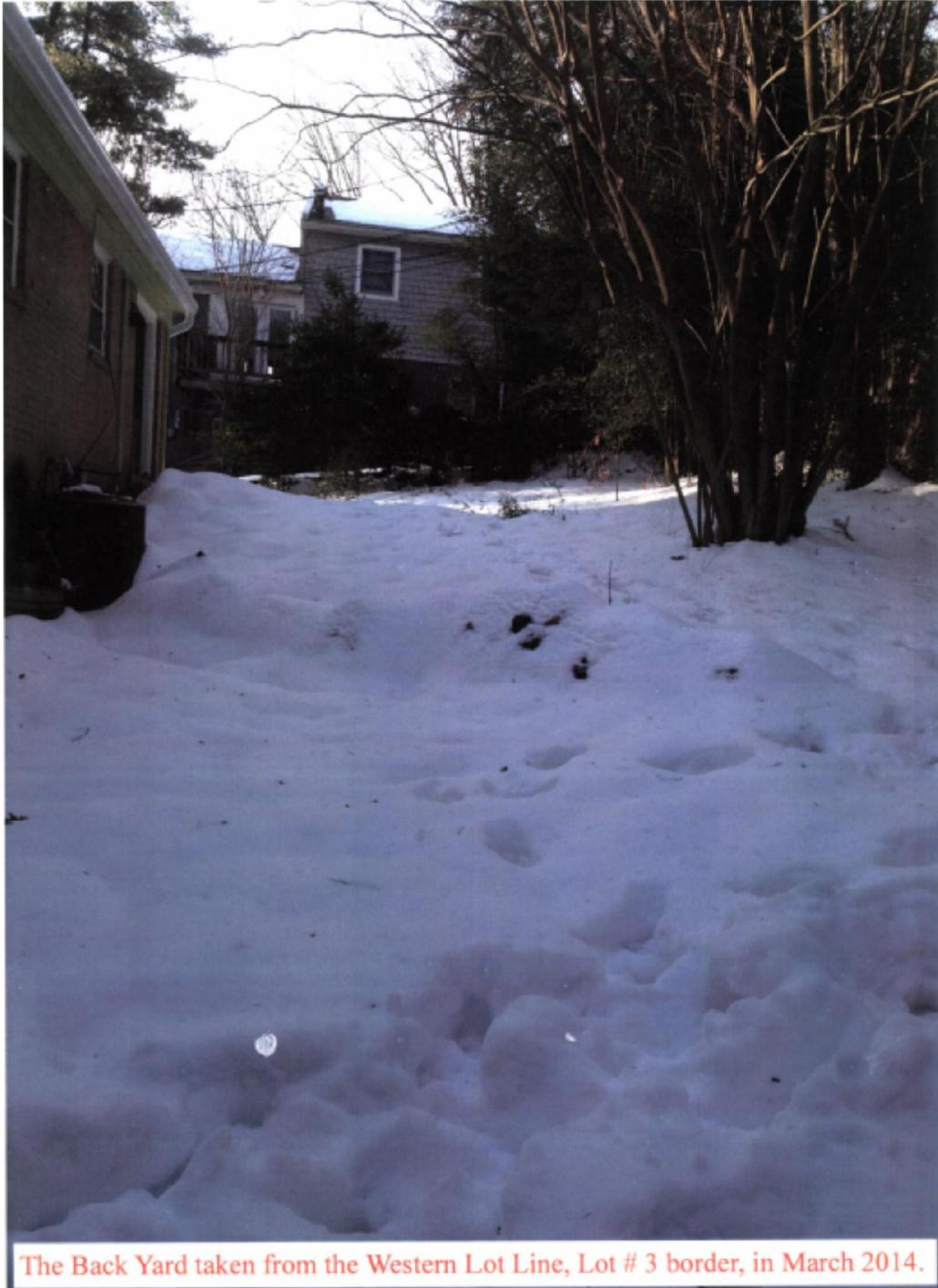
The Front Yard taken from the Eastern Lot Line, Lot # 5 border, in March 2014.

Image 1: Front yard from driveway.



The Side Yard taken from the Street Lot Line, in March 2014.

Image 2: Side yard from Hitt Avenue.



The Back Yard taken from the Western Lot Line, Lot # 3 border, in March 2014.

Image 3: Rear yard prior to patio/drainage structure construction.



The Front Yard taken from the Eastern Lot Line, Lot # 1 border, in March 2014.
Image 4: Front yard, taken from north side yard.



The Driveway taken from the Street Lot Line in March 2014.
Image 5: Driveway and carport area taken from Hitt Avenue.

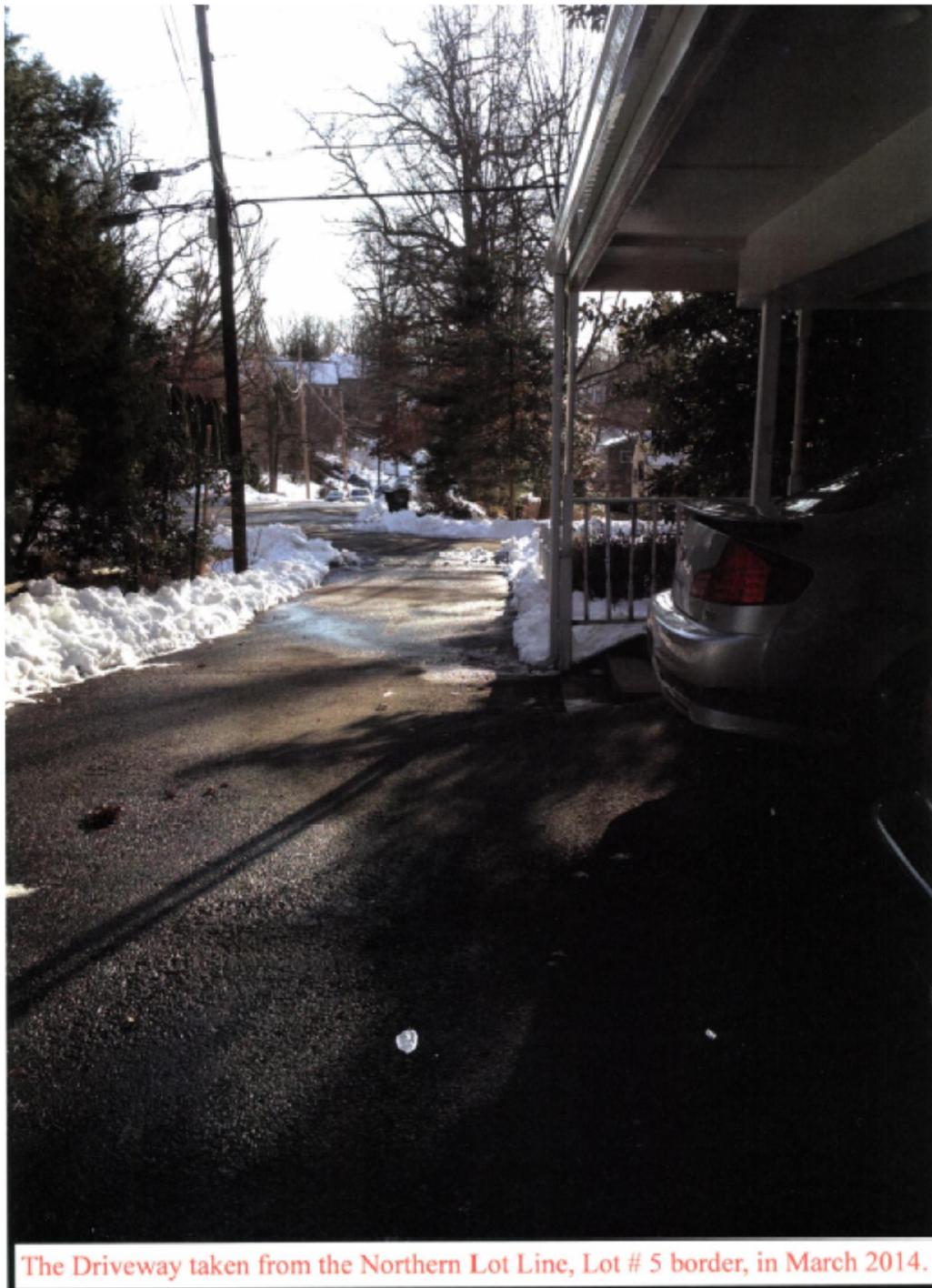
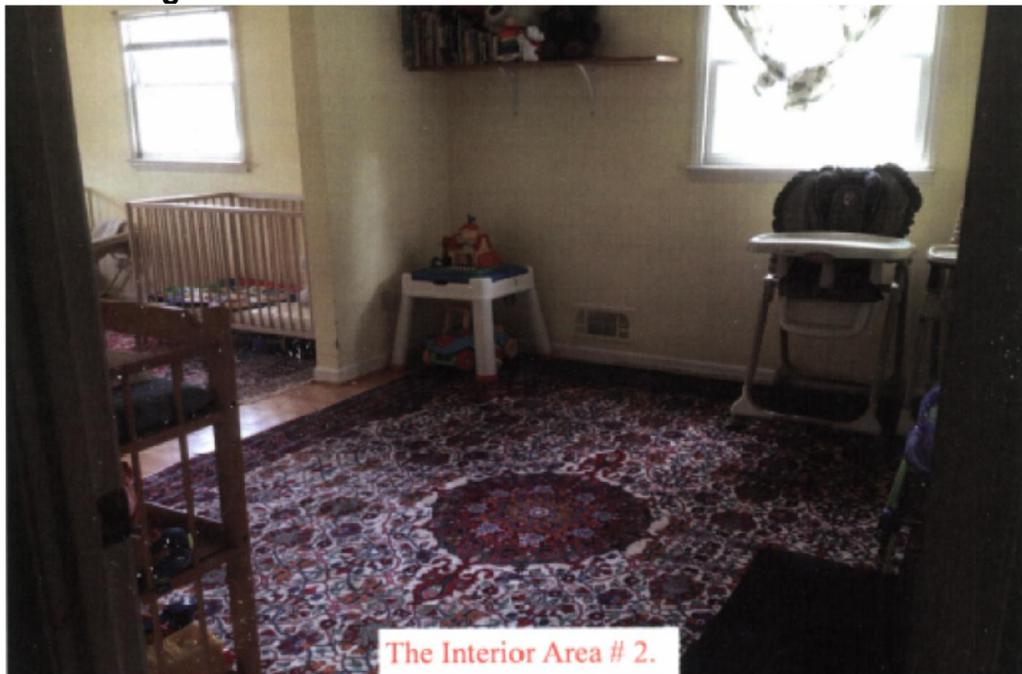


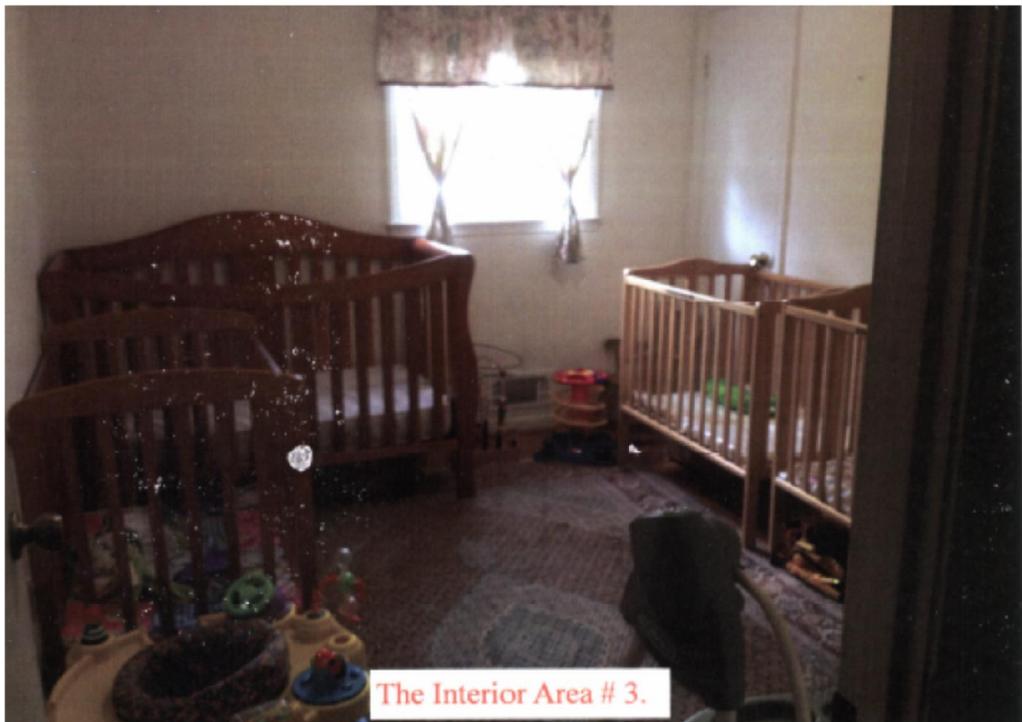
Image 6: Alternate view of driveway taken from carport, looking toward Hitt Avenue.

Inside Images – March 2014



The Interior Area # 2.

Image 7: Interior play room.



The Interior Area # 3.

Image 8: Interior sleeping room.

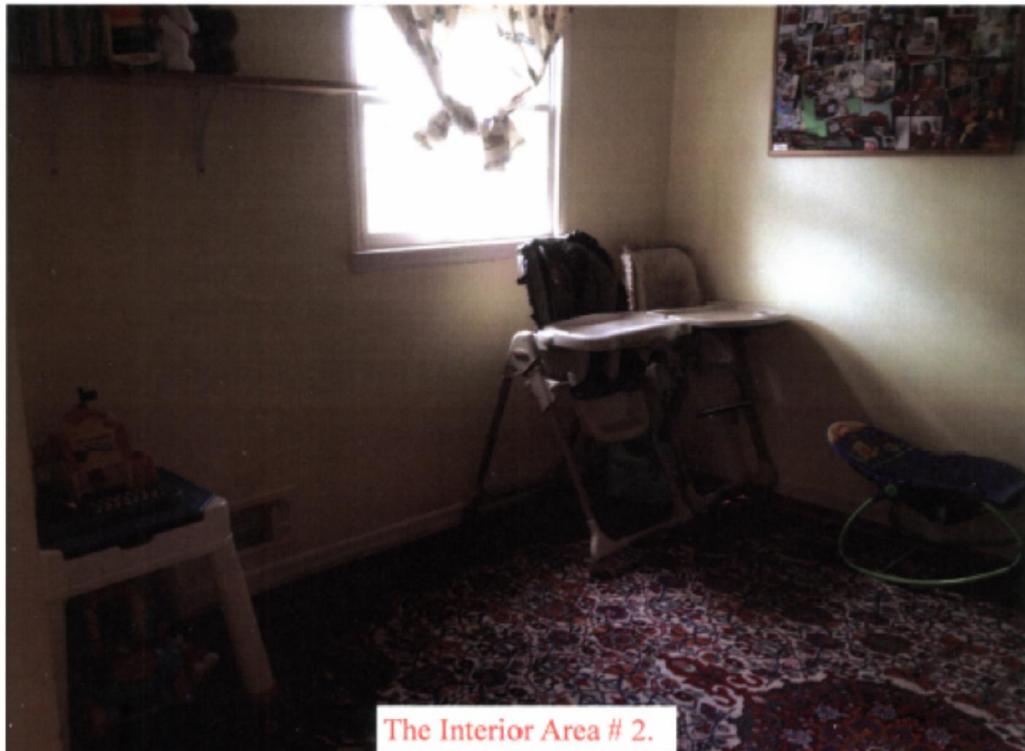


Image 9: Another view of the play room.



Image 10: Napping room as taken from changing table in play room.

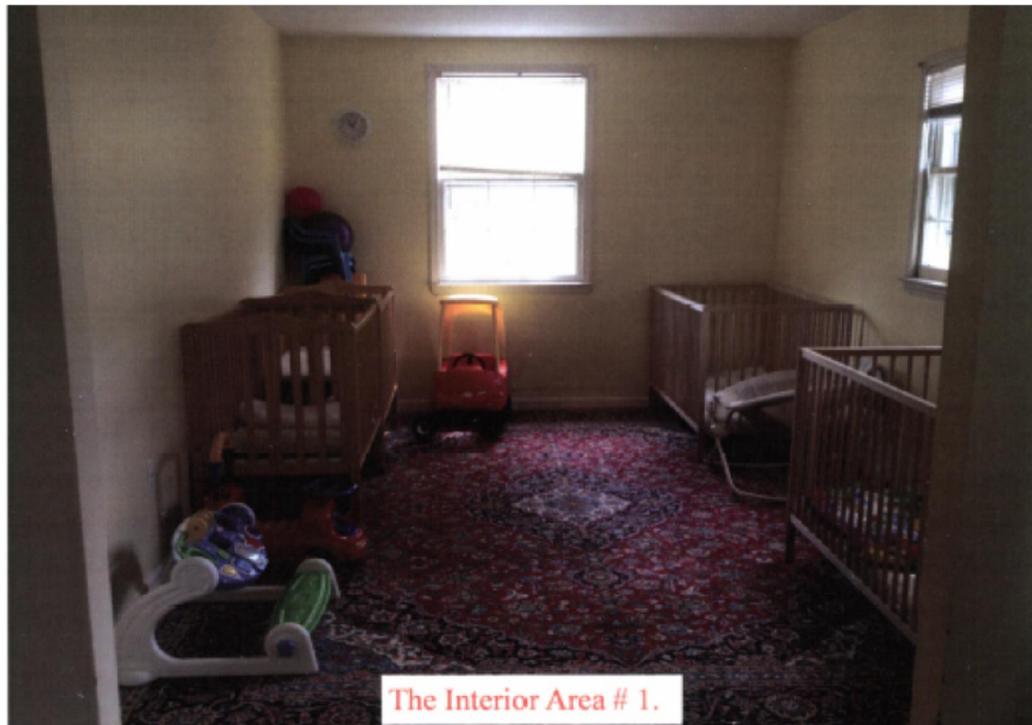


Image 11: Another view of the napping room/play room area.

Outside Images – June 2015 (Source: ZIB)



Image 12: Construction of patio/drainage structure in progress on 06/25/2015.



Image 13: View of former "outdoor play area" under construction.



Image 14: Rear lot line angle of construction area. Note: Applicant says fence is not theirs, though it is on their property.



Image 15: View of north side yard, noting storage of construction materials.

Outdoor Images Provided by Applicant for Variance Application



Image 16: View of back end of patio/drainage structure under construction. Note progress since original images dated 06/25/2015.



Image 17: View of original 11' x 17' concrete patio and doors, now partly enclosed by new construction.



Image 18: View of area of new construction just off original patio looking to north rear corner of subject property.



Image 19: View of new structure wrapping around behind existing tree, now welled in.



Image 20: View of wrap-around of tree on opposite end.



Image 21: View of lower end of new patio/drainage structure. On right is unpaved corner which was formerly “outside play area” for home child care. On left is drainage collection area.



Image 22: View showing bottom end of patio/drainage structure. Note drainage collection area and pipes for outflow. Also note inlet collection drain lower left of image.



County of Fairfax, Virginia

MEMORANDUM

Office of the County Attorney
Suite 549, 12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Phone: (703) 324-2421; Fax: (703) 324-2665
www.fairfaxcounty.gov

DATE: March 14, 2016

TO: Deborah Pemberton, Planner III
Applications Acceptance Section
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Sepideh Aflaki-Khosrowshahi, Paralegal
Office of the County Attorney

SUBJECT: BZA Affidavit
Temporary Application No. VC 2016-0046

REF.: 133673

RECEIVED
Department of Planning & Zoning

MAR 14 2016
Zoning Evaluation Division

Attached is a copy of an application and an original affidavit that has been approved by the Office of the County Attorney for the following case:

Name of Applicant

Affidavit Date of Oath

Ali A. Hajabbassi

2/12/16

Attachment

133673



COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035 (703) 324-1290
TTY 711 (VA Relay)

APPLICATION No: VC 2016-DR-007

(Staff will assign) *concurrent w/ SP 2015-DR-019*
RECEIVED
Department of Planning & Zoning

FEB 19 2016
Zoning Evaluation Division

APPLICATION FOR A VARIANCE

(PLEASE TYPE or PRINT IN BLACK INK)

APPLICANT	NAME <i>Ali A. HajAbbassi / Malikah Shahrestani HajAbbassi</i>
	MAILING ADDRESS <i>6526 Hitt Ave. McLean VA 22101</i>
	PHONE HOME <i>(571) 730 4111</i> WORK <i>(571) 344-5499</i>
PROPERTY INFORMATION	PROPERTY ADDRESS <i>6526 Hitt Ave. McLean VA 22101</i>
	TAX MAP NO. <i>30-4((7))2</i> SIZE (ACRES/SQ FT) <i>9,333 sq. Ft</i>
	ZONING DISTRICT <i>R-4</i> MAGISTERIAL DISTRICT <i>Dranesville</i>
VARIANCE REQUEST INFORMATION	ZONING ORDINANCE SECTION (staff will fill this out)
	NATURE OF REQUEST [circle the item(s) and fill in as appropriate]
	A. To permit construction of [circle the appropriate item(s)]: _____ story dwelling, <u>addition</u> , <u>deck</u> , <u>roofed deck</u> , <u>accessory storage structure</u> , <u>accessory structure</u> , _____ feet from the: <u>front</u> , <u>side</u> , <u>rear</u> lot line _____
	B. To permit the subdivision of ___ lot(s) into ___ lot(s) with proposed lot(s) # _____ _____ having a lot width of _____ feet _____
	C. To permit the construction of a fence greater than _____ ft. in height in the [circle the appropriate item(s)]: <u>front yard</u> , <u>side yard</u> or <u>rear yard</u> .
<i>(D) Other ⁽¹⁾ Completion of the roofed patio renovation ⁽²⁾ Keeping the already paved back yard that exceeds the 30% coverage and 20' of it 5' distance to 27" from the rear lot line including the circular ramp</i>	
AGENT/CONTACT INFORMATION	NAME <i>Ali A. HajAbbassi / Malikah Shahrestani</i>
	MAILING ADDRESS <i>6526 Hitt Ave. McLean VA 22101</i>
	PHONE HOME <i>(571) 730-4111</i> WORK <i>(571) 344-5090</i>
MAILING	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant <i>S</i> or -- <input type="checkbox"/> Agent/Contact
The name(s) and addresses of owner(s) of record shall be provided on the affidavit form attached and made part of this application. The undersigned has the power to authorize and does hereby authorize Fairfax County staff representatives on official business to enter onto the subject property as necessary to process the application.	
<i>Ali A. HajAbbassi</i> <i>Malikah Shahrestani HajAbbassi</i>	
TYPE/PRINT NAME OF APPLICANT/AGENT	
<i>Ali A. HajAbbassi</i> <i>Malikah Shahrestani</i>	
SIGNATURE OF APPLICANT/AGENT	

DO NOT WRITE IN THIS SPACE

VC 2016-0046

Date application received: _____ Date application accepted: _____ Application Fee Paid: \$ _____

Application No.(s): VC 2016-DL-007 w/ SP 2015-DL-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

I, Ali A. HajAbbassi/Malikeh Shahrestani, HajAbbassi, 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

133673

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)
Ali A. HajAbbassi	6526 Hitt Ave. McLean VA 22101	co Applicant/Title Owner
Malikeh Shahrestani HajAbbassi	6526 Hitt Ave. McLean VA 22101	Applicant/ co Title Owner

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

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

Application No.(s): VC 2016-DR-007 w/ SP 2015-DR-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

133673

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)

N/A

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)

N/A

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

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

Application No.(s): VC 2016-DA-007 w/ SP 2015-DR-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

13367B

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)

N/A

(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**)

N/A

(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): VC 2016-DR-007 w/ SP 2015-DR-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

133673

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): UC 2016-02-007 w/ GP 2015-02-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

133673

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

Ali A. Haj Abbassi
Ali A. Haj Abbassi Co-Applicant
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 12th day of feb, 20 16, in the State of VA, County of Fairfax.

ALI HAIDER AL-TAHAN
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES NOV. 30, 2018
Notary Public # 7622211

My commission expires: NOV. 30. 2018

Application No.(s): VC 2016-DR-007 w/ GP 2015-DR-019
(County-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/12/2016
(enter date affidavit is notarized)

133673

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.

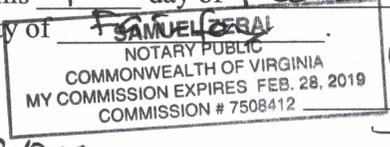
4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE of the land have been listed and broken down, and that prior to each and every public hearing on this matter, 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

Maliheh Shabrestani
Maliheh Shabrestani HajAbbassi Applicant
(type or print first name, middle initial, last name, and title of signee)

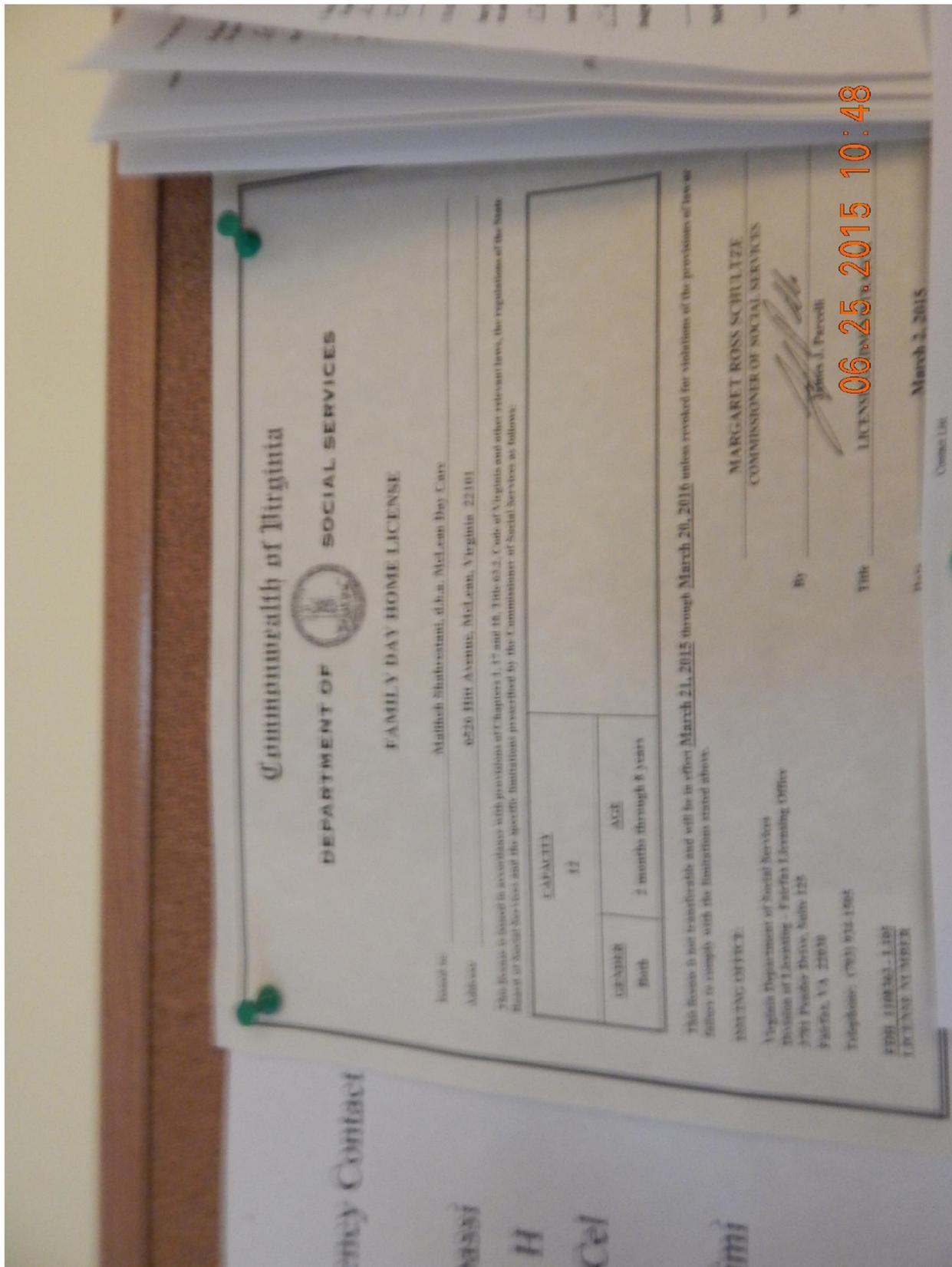
Subscribed and sworn to before me this 12th day of February, 2016, in the State/Comm. of Virginia, County/City of Fairfax



Samuel Zeral
Notary Public

My commission expires: 2/28/2019

Image of State License





County of Fairfax, Virginia

MEMORANDUM

Date: August 24, 2015

To: Casey Gresham, Staff Coordinator
Zoning Evaluation Division

From: Bruce Miller, Zoning/Property Maintenance Inspector *BM*
Zoning Inspections Branch

Subject: Home Child Care Facility (HCCF)
Special Permit Application # SP 2015-DR-019

Applicant: MALIHEH SHAHRESTANI / MCLEAN DAY CARE
6526 Hitt Avenue, McLean Virginia 22101
Legal Description: PIMMIT PARK EL NIDO, LT 2 OF 1A PT 2
Tax Map Ref: 30-4 ((7)) 2
Zoning District: R-4
Lot Size: 9,333 square feet
ZIB# 2015-0279

On June 25, 2015, an inspection was conducted by Zoning/Property Maintenance Inspector Bruce Miller of the property located at 6526 Hitt Avenue, McLean Virginia 22101. The Inspector was accompanied by Staff Coordinator Casey Gresham and the applicant.

*KEY: A "✓" mark in a box indicates that the item was deficient.
An unmarked box indicates that no violation was found.*

1. An operable smoke alarm shall be provided outside (or inside) of each sleeping area, with at least one such device on each floor.

Comment: A smoke alarm must be installed in the upstairs napping room.

2. All exit stairs, interior or exterior, shall be in good repair and shall be provided with handrails and guard rails as required by the Virginia Uniform Statewide Building Code.
3. All egress pathway and exit doors shall be unlocked in the direction of egress and free from obstructions that would prevent their use, including debris, storage, and accumulations of snow and ice; and should not require a key or special knowledge to open.

Comment: Double cylinder (keyed) door locks must be removed from egress doors.

4. Electrical hazards identified shall be abated in accordance with the Virginia Uniform Statewide Building Code.

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/



Comment: Wire exposed in basement kitchen. Wire exposed in exterior light fixture in the rear of the house.

- 5. Extension cords, temporary wiring, and flexible cords shall not be substituted for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, or floors, or under doors or floor coverings, or be subject to environmental or physical damage.
- 6. A working space of not less than 30 inches in width, 36 inches in depth, and 78 inches in height shall be provided in front of the electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

Comment: Storage in front of the electrical service panel must be removed and a clear working space must be provided as set forth above.

- 7. Other Building Code issues:
- 8. Structures comply with the Zoning Ordinance.

Comment: DCC has an open Complaint #201504473 for an accessory dwelling unit and coverage of the rear yard in excess of 30% of the required rear yard.

Comment: The fence in the rear yard is 8 feet 10 inches in height with fence posts another 10 inches higher.

The following photographs were taken by Inspector Miller at the time of the inspection:



County of Fairfax, Virginia

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

DATE: JUN 20 2016

TO: Heath Eddy
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Walter Hamilton, III, Engineer III *WJH*
Site Development and Inspections Division
Department of Public Works and Environmental Services

SUBJECT: Application #SP 2015-DR-019, 6526 Hitt Avenue, McLean, Virginia 22101,
Special Permit Application accepted February 19, 2016; LDS Project
#24916-ZONA-002-1, Tax Map #030-4-07-0002, Dranesville District

We have reviewed the subject application and offer the following stormwater management comments.

The applicant has not provided a Stormwater Information Sheet (LTI 06-06). However there will be a slight increase in impervious area (less than 300 square feet) associated with the proposed roofed patio renovation and as a result, stormwater management is not required.

Chesapeake Bay Preservation Ordinance (CBPO)

There is no Resource Protection Area (RPA) mapped on this site.

Floodplain

No floodplain.

Downstream Drainage Complaints

There is one complaint on file dated 4/19/11 for blockage; however the complaint status was closed by Maintenance and Stormwater Management Division staff.

Stormwater Detention

Detention is not required.

Site Outfall

While the applicant did not provide an outfall analysis. Given the slight increase in runoff generated from the aforementioned impervious area additions, the existing off-site drainage system should accommodate the increase without problems.

Department of Public Works and Environmental Services
Land Development Services
12055 Government Center Parkway, Suite 444
Fairfax, Virginia 22035-5503
Phone: 703-324-1780 • TTY: 711 • FAX: 703-653-6678



Heath Eddy
Application #SP 2016-HM-043
Page 2 of 2

Stormwater Planning Comments
Not applicable

Dam Breach
Not applicable

Please contact me at 703-324-1720, if you have any questions or require additional information.

WLH/am

cc: Shahab Baig, P.E., Chief, North Branch, SDID, LDS, DPWES
Camyllyn Lewis, Stormwater Engineer, North Branch, SDID, LDS, DPWES
Zoning Application File



County of Fairfax, Virginia

MEMORANDUM

DATE: June 7, 2016

TO: Casey Gresham, Staff Coordinator
Department of Planning and Zoning

FROM: Ian Fuze, Urban Forester II
Forest Conservation Branch, DPWES

SUBJECT: Pimmit Park El Nido Lot 2 of 1A Pt 2-Mclean Daycare
SP 2015-DR-019 concurrent with VC 2016-DR-007

The Urban Forest Management Division (UFMD) has completed its review of the Application for a Special Permit, SP 2015-DR-019 and Statement of Justification both date stamped as received by the Department of Planning and Zoning on February 19, 2016. In Addition, the Application for a variance, VC 2016-DR-007 was submitted concurrent with the Special Permit and date stamped as April 27, 2017 and the Statement of Justification was date stamped April 4, 2016.

Based on this review no specific comments were generated. Should any additional improvements to the of the accessory dwelling unit and home child care, existing covered patio, yard pavement, and accessory structures be approved, the UFMD recommends that the applicant take reasonable steps to maximize the preservation of existing vegetation by minimizing soil disturbance to only that necessary to access and construct the improvements and by providing tree protection fencing along the proposed limits of disturbance to protect trees that may be impacted by these activities.

Please contact me should you have any questions.

IF/

UFMDID #: 216520

cc: DPZ File

Department of Public Works and Environmental Services
Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 711, Fax: 703-653-9550
www.fairfaxcounty.gov/dpwes



Cover Sheet Template

Is this Subdiv/Proj coversheet?

Subdivision/Project: EL NIDO PIMMIT PARK ADDITION

Tax Map: 0304 07 0002

Address: 6526 HITT AVE

COUNTY OF FAIRFAX, VIRGINIA

OFFICE OF THE BUILDING INSPECTOR

Application for Building Permit

MAP REFERENCE			
FLAT NUMBER	Subd. Des.	Bk. or Sec.	PARCEL OR LOT
304	16	2	1A

CENSUS TRACT NO.	P15919
DATE	19
PERMIT NO.	

To: BUILD Alter or Repair Add to Demolish Move

JOB LOCATION	86572 DIRECTIONS Route <u>HITT RD (Ave)</u> Street Lot No. <u>214</u> Subdivision <u>Permit Park Addition</u>	DESCRIPTION For: Residential <input checked="" type="checkbox"/> Institutional <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> No. of Bldgs. <u>2</u> Type <u>B1 Level</u> No. of Units <u>1</u> Est. Const. Cost \$ <u>18,500</u> No. of Kitchens <u>1</u> No. of Stories <u>2 levels</u> No. of Baths <u>2</u> Ht. of Building <u>20</u> Ft. No. of Rooms <u>5</u> Total Area <u>1176</u> (Exclude Kit. & Bath) FILL <input type="checkbox"/> Soil <input type="checkbox"/> Basement <input checked="" type="checkbox"/> Slab <input type="checkbox"/> Crawl <input type="checkbox"/> SOLID <input type="checkbox"/> Footing Size <u>12 x 24 x 10 x 20</u> Depth from Finish Grade <u>8</u> Ft. Material of Exterior Walls Basement <u>CB</u> 1st Floor <u>Half CB + Brick</u> 2nd Floor <u>Half Frame</u> Material of Interior Walls <u>Dry Wall</u> HEAT: Gas <input checked="" type="checkbox"/> Oil <input type="checkbox"/> Hot Air <input checked="" type="checkbox"/> Hot Water <input type="checkbox"/> Boiler <input checked="" type="checkbox"/> Air Conditioner <input type="checkbox"/> Sprinkler <input type="checkbox"/> ROOF: Flat <input type="checkbox"/> Pitch <input checked="" type="checkbox"/> Shed <input type="checkbox"/> SEWAGE: Public <input checked="" type="checkbox"/> Community <input type="checkbox"/> Septic Tank <input type="checkbox"/> Pit Privy <input type="checkbox"/> None <input type="checkbox"/> WATER: Public <input checked="" type="checkbox"/> Individual Well <input type="checkbox"/> None <input type="checkbox"/> Remarks:
	OWNER Name <u>Col. I. B. Washburn</u> Address <u>4311 Woodacre Dr</u> City <u>McLean NE6-6419</u> Tel. No.	
ARCHITECT ENGINEER Name <u>Same</u> Address City State Reg. No.		
CONTRACTOR Name <u>Same</u> Address City State Reg. No.		

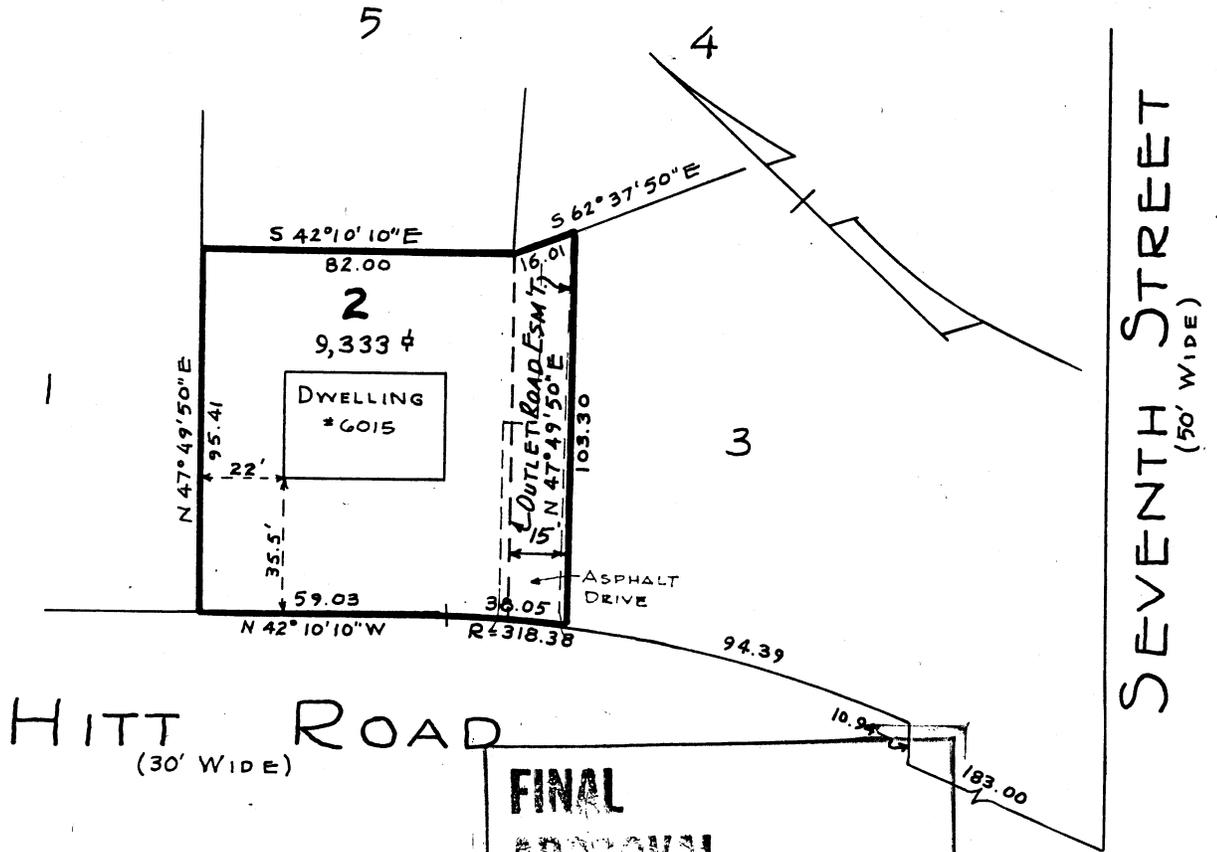
AUTHORIZATION
I hereby certify that I have the authority to make this application, that the information given is correct, and that the use and construction shall conform to the County Health Regulations, the Building and Zoning Ordinances, and private deed restrictions if any, which are imposed on the property.
Phone No. Date Signature of Owner or Auth. Agent I. B. Washburn

PLAN APPROVAL
Use Group of Building L-3 Area of Bldg. @ per Sq. Ft. \$
Type of Construction 4-13 Area of Bldg. 3561 @ .007 per Sq. Ft. \$
Fire District Total Each Bldg. \$
Date Checked 5-27-63 By Steg TOTAL FEE \$ 25.00
Approved by Building Inspector Charles Wood

ROUTING	OFFICE	Rm. No.	DATE	APPROVAL	REMARKS
<input checked="" type="checkbox"/>	Land Office	112	5/17/63	E. N. H.	
<input checked="" type="checkbox"/>	Zoning Administrator	210	5-17-63	W	
	Health Officer	Rt. 237			Health and Welfare Bldg. on Rt. 237
	Sanitary Engineer	Bsmt	5-17-63	JAC	
<input checked="" type="checkbox"/>	Finance Office	120			
<input checked="" type="checkbox"/>	Building Inspector	203	5/27/63	J.W.	Return to secure Bldg. Permit

CERTIFICATION
Supervisor of Assessments
Property is listed in name of I. B. Washburn
Magisterial District Dranesville #3 Deed Book Reference 2130-295-2146-401-
Authorization: John W. Ferguson H.

ZONING
Subdivision Permit Park Addition Lot No. Block Section Zone R-10
No. Acres or Sq. Ft.
Street Address
LOT SIZE: Front Right Side Left Side Rear
Use of Bldg. 2 Dwellings Use after Alteration No. Families One each
Set Back: Front 3 Rt. Side Left Side 1 Rear 25 Authorization JAC



HITT ROAD
(30' WIDE)

SEVENTH STREET
(50' WIDE)

FINAL APPROVAL
J. L. Woodson
 ZONING ADMINISTRATOR
 DATE APR 14 1964

PHYSICAL SURVEY
 LOT 2 ~ SUBD. LOT 1-A & PORTIONS OF LOT 2 & OF I.B. WASHBURN

PIMMIT PARK
 ADDITION TO EL NIDO
 FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 50'

SEPTEMBER 19 1963

WALTER L. PHILLIPS
 CERTIFIED CIVIL ENGINEER & LAND SURVEYOR
 FALLS CHURCH, VA. LEESBURG, VA.

CERTIFIED CORRECT:
Walter L. Phillips

MAP REFERENCE SHEET NO. 30-4 (17) 2, PROPERTY IDENTIFICATION NO. B

FORM ZA

Sewer

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE ZONING ADMINISTRATOR

APPLICATION FOR CERTIFICATE OF OCCUPANCY

FOR USE IN CONNECTION WITH A NEW BUILDING OR FOR CHANGE IN THE
EXTERIOR OUTLINE OF AN EXISTING BUILDING

(WRITE WITH INK)

Date 5-17-63

Name of Proposed Occupant or Trade Name

Applicant Col. J. B. Washburn

Premises number _____

Lot number 2 Block _____ Section _____

Subdivision or Acreage Description Pinnet Park add 2 brds

To be used as one fam. Dwelling

Last used as new

Non Conforming Use _____

Material of building _____

No. of stories high _____

Which floor do you propose to use? _____

Owner of Building (or agent) _____

Address _____

TO BE FILLED IN BY CLERK	
ZONE	<u>R-10</u>
HEIGHT	_____
FIRE ZONE	_____
BUILDING PERMIT NO.	<u>P-15919</u>
DATE	_____
INITIALS	

6015 Hill Rd.

This Application Constitutes A Written Request For a Certificate of Occupancy Upon Compliance By the Applicant With Provisions of Section 30-20 (d) of the Code.

It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to erect or maintain any kind of signs.

Zoning Section
No. <u>D-11436</u>
Issued <u>[initials]</u>
Date <u>4-13-64</u>

Signature of Proposed Occupant

Applicant [Signature]

Address _____

Telephone number _____

10-1-63

Insp. ON Cm 2-15-64

COUNTY OF FAIRFAX, VIRGINIA
OFFICE OF THE BUILDING INSPECTOR
Application for Building Permit

APPLICATION NO. D 1047
P 30660
DATE 19 PERMIT NO.

MAP REFERENCE			
Plot Number	Subd. Des.	Blk. or Sec.	Parcel or lot
<u>304</u>	<u>7</u>		<u>2</u>

To: BUILD ALTER OR REPAIR ADD TO DEMOLISH MOVE

JOB LOCATION
Street 6526 Hitt Ave.
Lot No. 2
Subdivision PIMMIT PARK

OWNER
Corp. Name _____
Name J Taylor
(Reg. Agent)
Address 6526 Hitt Ave
City McLean Telephone Number 356-1278

ARCHITECT ENGINEER
Name _____
Address _____
City _____ State Reg. No. _____

CONTRACTOR
Name J Taylor
Address 6562 Hitt Ave.
City McLean VA.
County Reg. # _____ State Reg. # _____

DESCRIPTION
For: CAR port
~~FRONT ENT. Porch~~

No. of Bldgs. _____ Est. Const. Cost \$ 1500
No. of Units _____ No. of Stories _____
No. of Kitchens _____ Penthouse _____
No. of Baths _____ Ht. of Bldg. _____ ft.
No. of Rooms _____ Bldg. Area _____ sq. ft.

(Exclude Kit. & Bath)
Basement Slab Crawl Soil: Solid Fill

Ftg: Concrete Pile Caisson
Ext. Walls: Wood Metal Brick
Int. Walls: Plast Drywall Panel
Roof: Flat Pitch Shed
Roofing: Built-up Shingle Roll

Heat: Oil Gas Electric
Equipment: Boiler Furnace Heat Pump Air Cond.

Sewage: Public Community Septic Tank None
Water: Public Individual Well None

Remarks: _____

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 restrictions, if any, which are imposed on the property.

356-1278 9-22-65 J Taylor
Phone No. Date Signature of Owner or Auth. Agent

APPLICANT: DO NOT WRITE BELOW THIS LINE

PLAN APPROVAL
Use Group of Building L-3 Area of Bldg. _____ @ _____ per Sq. Ft. \$ _____
Type of Construction H-B @ _____ \$ _____
Fire District _____ @ _____ \$ _____
Date Checked 9-22-65 By [Signature] TOTAL FEE \$ 5.00
Approved by Building Inspector _____

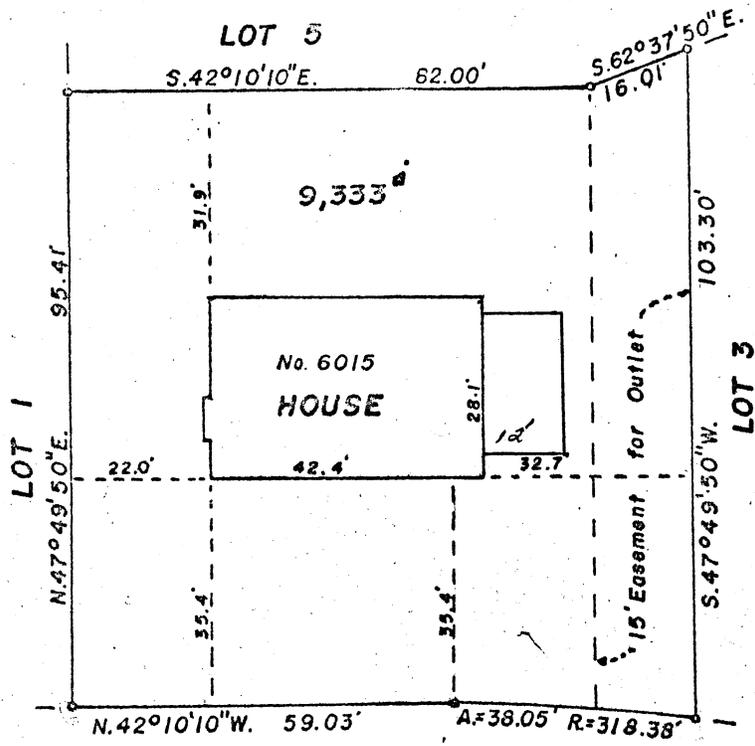
ROUTING	OFFICE	Rm. No.	DATE	BY	OFFICE	Rm. No.	DATE	BY
	<input checked="" type="checkbox"/>	Land Office	112	9-22-65	L.B.	Fire Marshall		
<input checked="" type="checkbox"/>	Zoning Administrator	210	9-22-65	[Signature]	Streets & Drainage			[Signature]
<input checked="" type="checkbox"/>	Sanitary Engineer				Housing & License	30139	9-22-65	[Signature]
<input type="checkbox"/>	Health Officer	Rt. 237						

I hereby certify to the following statement:
1. All materials used for work performed under this permit will be paid directly to the supplier by the property owner.
2. All compensation will be on an hourly basis and paid by the property owner directly to the person(s) performing work under this permit.

Date _____ 19 _____ By _____
Property Owner Authorized Agent

CERTIFICATION
Supervisor of Assessments _____
Property is listed in name of James B. Taylor
Magisterial District Bransville 3 Deed Book Reference 2385-78
Supervisor: John W. Ferguson (L.B.)

ZONING
Subdivision Pimmit Park Lot No. 2 Block _____ Section _____ Zone R-10
Street Address _____
Use of Bldg. Carport Use after Alteration _____ No. Families None
BZA _____ SITE PLAN _____
Set Back: Front 35 Rt. Side _____ Left Side _____ Rear _____ Zoning Administrator



LOT 2 OF THE
 RESUBDIVISION OF LOT 1A & LOT 2
PIMMIT PARK
 FAIRFAX COUNTY VIRGINIA
 SCALE 1"=30' NOV. 5, 1963

J. Horace Jarrett
 Certified Land Surveyor
 McLean Va.

HITT RD.

Centerline

Approved for proposed
 location of building as
 shown. Final approval
 subject to wall check.
SEP 22 1963

Date *J. Woodson*
 Zoning Administrator *YK*

TAYLOR

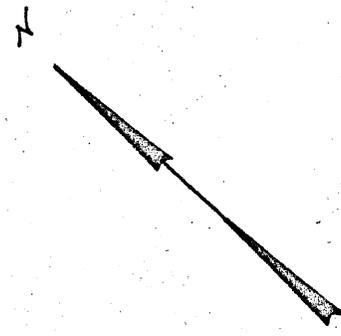
Department of Public Works
 Fairfax County, Virginia
 Application Number **1044**

I hereby certify that this plot plan
 and structure shown hereon conform
 to the requirements of Section 113.10
 of the Fairfax County, Virginia,
 Building Code.

Director of Public Works

James W. White
 By His Agent

9/22/65
 Date



STD

BUILDING PERMIT APPLICATION

APPLICATION NO _____
 19
 Date _____

Area 47.
 Brian County 079

Street 6526 Hill Ave McLean
 Building _____ Floor _____ Suite _____
 Subdivision _____
 Tenants Name _____

DO NOT WRITE IN THIS SPACE
 Permit No. 96176 B09100
 Map Reference 030-A 191 10002
 Building Permit No. _____ Control No. _____
 Std. _____ Mag. _____ Plan _____ Census _____

OWNER
 Name Ali A Hej Abassi
 Address (Mailing) 6526 Hill Ave
 City McLean State VA Zip 22101
 Telephone (703) 895-9174

CONTRACTOR
 Company Name _____
 Master _____
 Address _____
 City _____ State _____ Zip _____
 Telephone _____ License No. _____
 State Contractors License No. _____
 County Business Account No. _____

For Addition on rear of house Description _____

1975 sq ft

Model/Use Carport 5.5-X38

Sewage: Public Community Septic Tank None
 WATER: Public Individual Well None

- N-New D-Demolish
- R-Alter or Repair M-Move
- A-Add To O-Other

REMARKS:

BUILDING DESCRIPTION QUANTITY
 # Units _____
 # Stories _____
 # Rooms _____
 # Bedrooms _____
 # To be Added _____
 # Baths _____
 # Half Baths _____
 # Kitchens _____
 # Fireplaces _____
 Basement _____
 % Basements to Finish _____

BUILDING DIMENSIONS			
No. Stories	Width	Depth	Sq. Ft.
01	30	26	=
01	14	28	=
			=
			=

ROOF
 B/Rooms

ROUTING

	Date	Approved By:
Health Review		
2 Site Review	2nd APR 2006	W.P.
1 Zoning Review	2nd APR 2006	W.P.
Sanitation Review		
3 Building Review	3rd APR 2006	W.P.
Fire Review		
4 Log Off		

Use Group of Building _____
 Type of Construction _____
 Building Area _____
 Estimated Const. Cost \$10,000 - 15,000

ZONING REVIEW
 Zoning Proffers Building _____
 Zoning Class R-4
 Zoning Case # _____

BUILDING CHARACTERISTICS
 Building Height 2.2 ft
 Exterior Walls _____
 Interior Walls _____
 Roofing Material _____
 Flooring Material _____
 Heating Fuel _____
 Heating System _____

GRADING AND DRAINAGE REVIEW
 Soils 21/2nd Jack Beale
 Historical _____
 Plan # _____
 Retaining Wall _____

YARDS	Front	Front	Left Side	Right Side	Rear
		<u>30</u>	<u>N/A</u>	<u>13</u>	<u>25+</u>

REMARKS ENCLOSE CAR PORT OF NORTH END OF:

Permit
Permit Park addr
Lot 2

Robert [Signature]

FOR COUNTY USE ONLY:

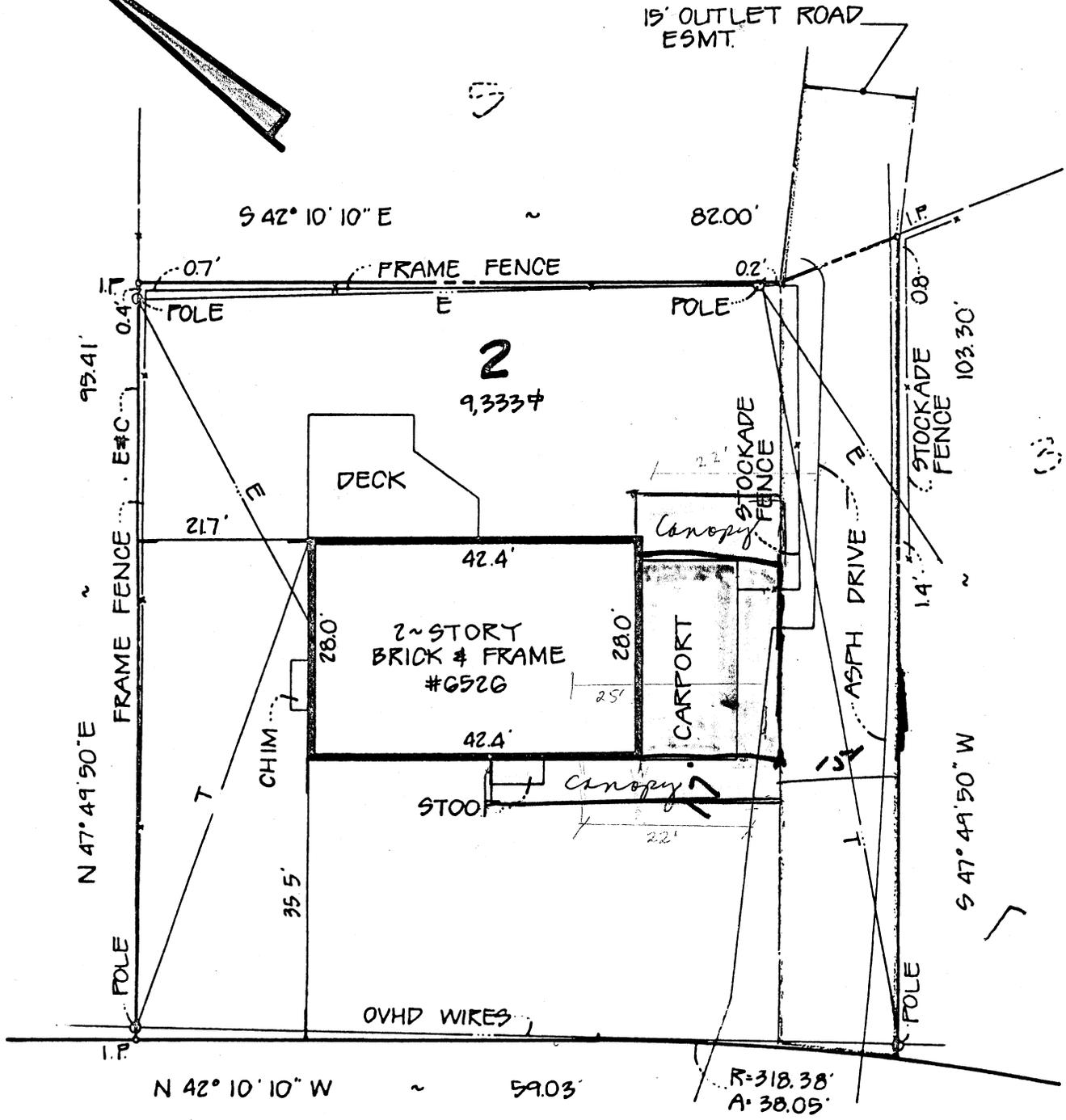
Date _____ Approved for Issuance or _____	Fee <u>100.00</u> Filing Fee _____ Amount Due _____
--	---

The request for and use of personal information on this form is subject to the provisions of the Privacy Protection Act of 1976 and the Freedom of Information Act.

I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that if a permit is issued the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations including private building restrictions, if any, which relate to the property. He/She and the company or organization named and represented herein is duly registered or exempt from registration in accord with the provisions of Chapter 7 of the Code of _____

[Signature] Date _____ Notary Signature _____ Date _____

THIS PROPERTY IS NOT LOCATED IN A
H.U.D. DESIGNATED FLOOD HAZARD ZONE.



HITT AVENUE

APPROVED
[Signature]
DIVISION OF
INSPECTION SERVICES

APPROVED

BY *[Signature]*

PLAT

Date 6-24-92

SHOWING HOUSE LOCATION ON
LOT 2

[Signature]
Zoning Administrator

PIMMIT PARK

ADDITION TO EL NIDO

FAIRFAX COUNTY, VIRGINIA

W-42-12214

FAIRFAX COUNTY, VIRGINIA

SUBJECT: Request for Amendment to Existing Building Permit DATE: 3/31/93

REFERENCE: Building Permit Number 9217630960 (0961)

Address 6526 Hitt Ave.

Owner Ali A. Haj Abbassi

Subdivision PIMMIT PK Grid 30-4-7.2

AMENDMENT REQUESTED:

EL NIDO LND-OF-1A PT2 (5P)

- Change house type from Model _____ to Model _____
- Address Change/DEM initiated _____ Garage Added _____
- House Relocated _____ Garage Deleted _____
- Finish Basement _____ Carport Added _____
- Deck/Porch/Sunroom Added _____ Carport Deleted _____
- Other - Specify: Enlarge the Bath room

Interior only re

ESTIMATED CONSTRUCTION COST: \$5000⁰⁰

SUPPORTING DOCUMENTATION SUBMITTED:

- Revised Plat _____ Revised Site Plan _____
- Revised Construction Plans _____ Revised Grading Plan _____

SIGNATURE OF OWNER OR AGENT Ali A. Haj Abbassi PHONE (703) 893 9774

CURRENT MAILING ADDRESS 6526 Hitt Ave.

Street Number/Street Name

McLean, Va. 22101

City/State/Zip

THIS SPACE FOR COUNTY USE ONLY

PLAT NO: _____	SUBD. DES. _____	BLK./SEC. _____	PCL./LOT. _____
AMENDMENT APPROVED: Constr. Plans Review	MM	Date	3-31-93
Problem Soils Design Review		Date	
Health Dept.	NR/DEN	Date	3/31/93
Sanitation		Date	
Zoning Class R4 Zoning	RM	Date	3-31-93
ADDITIONAL BUILDING PERMIT FEE TO BE PAID \$	5600	Date/Initials	3/31/93/DKM

- Distribution: White - Permit Jacket
- Pink - Real Estate Assessments
- Canary - Zoning
- Goldenrod - Applicant



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: July 13, 2015

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Maliheh S. Hajabbassi
Ali A. Hajabbassi

ADDRESS: 6526 Hitt Avenue
McLean, VA 22101

LOCATION OF VIOLATION: 6526 Hitt Avenue
McLean, VA 22101-4650

TAX MAP REF: 0304 07 0002

ZONING DISTRICT: R- 4

CASE #: 201504473 **SR #:** 118624

ISSUING INVESTIGATOR: Gabriel Zakkak, (703)324-5031

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§ 2.501	\$ 200.00	\$ 500.00
	§10.103.3	\$ 200.00	\$ 500.00
	TOTAL:	\$ 400.00	\$ 1000.00

Dear Responsible Party:

An inspection of the above referenced property on July 07, 2015 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

§ 2-501 Limitation on the Number of Dwelling Units on a Lot:

The inspection revealed there are two complete and separate dwellings in this single family dwelling

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

Maliheh S. Hajabbassi
Ali A. Hajabbassi
July 13, 2015
SR 118624
Page 2

unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
 - Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
 - Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
 - Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.
-

Maliheh S. Hajabbassi
Ali A. Hajabbassi
July 13, 2015
SR 118624
Page 3

§ 10-103 (3) Use Limitations: Rear Yard Coverage

An inspection revealed that 30% or more of the minimum required rear yard **has** been covered by a retaining wall system which contains concrete slabs and steps and is therefore **in** violation of Par. 3 of Sect. 10-103 which states:

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.

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

- Reducing the amount of coverage of the required minimum rear yard to comply with the provision of Par. 3 of Sect. 10-103 as detailed above.

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/>.

Maliheh S. Hajabbassi
Ali A. Hajabbassi
July 13, 2015
SR 118624
Page 4

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)324-5031. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:

Signature

Gabriel Zakkak
Code Compliance Investigator
(703)324-5031
Gabriel.Zakkak@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.

SERVING OFFICER
for _____

DATE _____

PERSONAL SERVICE _____

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SERVING OFFICER
for _____

DATE _____

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Not found.

SERVING OFFICER
for _____

DATE _____

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

Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER
for _____

DATE _____



County of Fairfax, Virginia

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

CORRECTIVE WORK ORDER Virginia Uniform Statewide Building Code

DATE OF ISSUANCE: July 13, 2015

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Maliheh S. Hajabbassi
Ali A. Hajabbassi

ADDRESS: 6526 Hitt Avenue
McLean, VA 22101

LOCATION OF VIOLATION: 6526 Hitt Avenue
McLean, VA 22101-4650

TAX MAP REF: 0304 07 0002

CASE #: 201504473 **SR#:** 118623

ISSUING INVESTIGATOR: Gabriel Zakkak, (703)324-5031

In accordance with Part I of the Virginia Uniform Statewide Building Code (USBC) 2012 Edition, effective July 14, 2014, an inspection on July 07, 2015 revealed a violation or violations as listed below at the referenced location. The cited violation(s) must be corrected within 30 calendar days from receipt of this notice unless otherwise indicated.

Explanation: On July 7, 2015, County staff inspected the above referenced premises and discovered that an accessory dwelling unit (2nd kitchen) was constructed on the lower level of this dwelling without the required permits. Also observed was a tiered retaining wall system which is retaining more than 3 feet of unbalanced fill. This retaining wall system will require a permit. All of this regulated work was performed without the issuance of the required permit or permits, inspections, and approvals.

Order: Pursuant to *Section 108.1 When applications are required*, and *Section 113.3 Minimum Inspections*, of the USBC, 2012 edition, you are hereby directed to apply for and obtain the required permit or permits, inspections and approvals for the work described above or demolition of same at the above referenced address.

Maliheh S. Hajabbassi
Ali A. Hajabbassi
July 13, 2015
SR 118623
Page 2

Corrective Action Required: Apply for and obtain all necessary County permits for the work described above within 30 calendar days from the date you receive this Order, or obtain a County permit to demolish the work described above within the same timeframe.

1. Schedule and pass the required County inspection(s) for the work described above within 30 calendar days from the date you are issued the required permit or permits for construction or demolition.
2. Contact me at (703)324-5031 within the timeframe established to confirm the violation(s) have been abated.
3. Call (703)222-0455 to schedule all building inspections related to this matter. Please reference CASE #: 201504473.

Note:

*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures as well as indicated distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed with the state of Virginia to do so.

Permit Application Center
The Herrity Building
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035
Telephone: 703-222-0801

*When work described above involves the removal of unpermitted features (including appliances, cabinets, plumbing/gas fixtures) a demolition permit will be required. Be advised that any zoning ordinance violations contained in a separate Notice of Violation must also be corrected prior to or in conjunction with the issuance of a demolition permit.

*If you have received a Zoning Notice of Violation, contact the inspector from the Department of Code Compliance at (703)324-1300 who issued the Notice before coming to the Permit Application Center in the Herrity Building to obtain your permit. When coming to obtain your permit, bring this notice with you.

*Additional fees for unpermitted work may apply.

You are directed to notify Gabriel Zakkak by return correspondence to 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or telephone call to (703)324-5031 within three (3) working days from the date you receive this Order, of your election to accept or reject the terms of this Order. Failure to do so shall result in the immediate issuance of a Notice of Violation and the initiation of legal action to bring the above referenced property into compliance with the USBC.

Maliheh S. Hajabbassi
Ali A. Hajabbassi
July 13, 2015
SR 118623
Page 3

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703)324-5031 or the main office at (703)324-1300.

Notice Issued By:

Signature

Gabriel Zakkak
(703)324-5031
Gabriel.Zakkak@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

CC: Case File
Residential Inspections Branch Chief

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.

SERVING OFFICER

_____ for _____

DATE _____

PERSONAL SERVICE _____

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Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____

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Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____

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Served on a Secretary of the Commonwealth.

Not found.

SERVING OFFICER

_____ for _____

DATE _____



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Virginia Uniform Statewide Building Code

DATE OF ISSUANCE: January 12, 2016

METHOD OF SERVICE: OFFICE OF THE SHERIFF

LEGAL NOTICE ISSUED TO: Maliheh S. Hajabbassi
CONTRACTOR LICENSE#: Ali A. Hajabbassi
ADDRESS: 6526 Hitt Avenue
McLean, VA 22101

LOCATION OF VIOLATION: 6526 Hitt Avenue
McLean, VA 22101-4650

TAX MAP REF: 0304 07 0002

CASE #: 201504473 **SR#:** 118623

ISSUING INVESTIGATOR: John Enos, (703) 324-9325

You were issued a Corrective Work Order on July 13, 2015 for violations of the Virginia Uniform Statewide Building Code (USBC) 2012 Edition, effective July 14, 2014. Staff confirmed on January 12, 2016 that the violations itemized below remain.

Explanation: On July 7, 2015 County staff inspected the above referenced premises and discovered that construction of a retaining wall with more than 3' of unbalanced fill and installation of a 2nd kitchen have been performed without the issuance of the required permit(s), inspections, and approvals. The construction alterations and installations are, but not limited to, the following:

- Construction of retaining wall with more than 3' of unbalanced fill.
- Installation of 2nd kitchen on the lower level of the dwelling.

The permits that may be required, but not limited to, are the following:

- Building
- Electrical

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

Maliheh S. Hajabbassi
Ali A . Hajabbassi
January 12, 2016
SR 118623
Page 2

- Mechanical
- Plumbing
- Demolition

Order: Pursuant to the USBC, *Section(s) 108.1 When applications are required, Section 113.3 Minimum Inspections, Section 113.8 Final Inspection, and Section 116.1 Certificates of Occupancy*, you are hereby directed to apply for and obtain the required permit(s), inspections, and approvals for the work described above or demolition of same at the above referenced address.

Corrective Action Required:

1. Apply for and obtain the necessary County permits for the work described above within 30 calendar days from the date you receive this Order, or obtain a County permit to demolish the work described above within the same timeframe.
2. Schedule and pass the required County inspection(s) for the work described above within 45 calendar days from the date you are issued the required permit or permits for construction or demolition.
3. Contact me at (703) 324-9325 within the timeframe established to confirm the violation(s) have been abated.
4. Call (703) 222-0455 to schedule all building inspections related to this matter. Please reference CASE #: 201504473.
5. Make this notice available for the Inspector performing the inspections throughout the inspections process.

Note:

*When work described above involves construction of an addition or an accessory structure, a certified plat must be submitted along with a building permit application to the Permit Application Center. This plat must indicate the location, dimensions, and height of all existing and proposed structures as well as indicated distance to the respective lot lines. This plat must be prepared, sealed and signed by a professional licensed with the state of Virginia to do so.

Permit Application Center
The Herrity Building
12055 Government Center Parkway, 2nd Floor
Fairfax, Virginia 22035
Telephone: 703-222-0801

*When work described above involves the removal of unpermitted features (including appliances, cabinets, plumbing/gas fixtures) a demolition permit will be required. Be advised that any zoning ordinance violations contained in a separate Notice of Violation must also be corrected prior to or in conjunction with the issuance of a demolition permit.

Maliheh S. Hajabbassi
Ali A . Hajabbassi
January 12, 2016
SR 118623
Page 3

*If you have received a Zoning Notice of Violation, contact the investigator from the Department of Code Compliance at (703) 324-1300 who issued the Notice before coming to the Permit Application Center in the Herrity Building to obtain your permit. When coming to obtain your permit, bring this notice with you.

*Additional fees for unpermitted work may apply.

You are directed to notify John Enos by return correspondence to 12055 Government Center Parkway, Suite 1016 Fairfax, VA 22035 or telephone call to (703) 324-9325 within three (3) working days from the date you receive this Order, of your election to accept or reject the terms of this Order.

If you have any questions, would like to schedule an appointment to meet with me, or to schedule a site visit, please contact me directly at (703) 324-9325 or the main office at (703) 324-1300.

Notice Issued By:

Signature

John Enos
(703) 324-9325
John.Enos@fairfaxcounty.gov
Technical Assistant to the Building Official
Department of Code Compliance

CC: Case File
Guy Tomberlin, Residential Inspections Branch Chief

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.

SERVING OFFICER

_____ for _____

DATE _____

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.

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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 _____

Zoning Ordinance Provisions

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.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
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, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-305 Additional Standards for Home Child Care Facilities

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed twelve (12), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use. Except as described above, home child care facilities shall also be subject to the use limitations of Par. 6 of Sect. 10-103.
2. The BZA shall review access to the site and all existing and/or proposed parking, including but not limited to the availability of on-street parking and/or alternative drop off and pick up areas located in proximity to the use, to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
 - A. The dimensions, boundary lines and area of the lot or parcel.

- B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
 - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
 - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

Sect. 10-103 Use Limitations

6. The following use limitations shall apply to home child care facilities:
- A. The maximum number of children permitted at any one time shall be as follows:
 - (1) Seven (7) when such facility is located in a single family detached dwelling.
 - (2) Five (5) when such facility is located in a single family attached, multiple family or mobile home dwelling.

The maximum number of children specified above shall not include the provider's own children.
 - B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.
 - C. There shall be no exterior evidence, including signs, that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by this Part shall be allowed.
 - D. In addition to the persons who use the dwelling as their primary residence, one (1) nonresident person, whether paid or not for their services, may be involved in the home child care use on the property, provided that there is only one (1) such person on the property at any one time and the hours of

such attendance shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.

- E. Notwithstanding the provisions of Par. B above, a child care provider may care for the maximum number of children permitted in Par. A above in a dwelling other than the provider's own, as long as the dwelling is the primary residence of at least one of the children being cared for by the provider. Such child care provider shall comprise the one nonresident person allowed under Par. D above.
- F. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.
- G. An increase in the number of children permitted under Par. A above or the involvement of more than one nonresident person as permitted under Par. D above may be permitted in accordance with the provisions of Part 3 of Article 8.

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 or a modification to the location regulations of any freestanding accessory structure existing or partially constructed which does not comply with such requirements applicable at the time such building or structure 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 or modification under the provisions of this Section, the BZA shall allow only a reduction or modification 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 or modification for a particular building or structure 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.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.

On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.

3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect

that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.
- 7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
- 8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the

- neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
 10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
 11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
 12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
 13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

Code of Virginia Provisions for Variances
(effective July 1, 2015)

The following are derived from the Code of Virginia, §§ 15.2-2201 and 15.2-2309(2).

From § 15.2-2201

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

From §15.2-2309

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

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

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