



County of Fairfax, Virginia

July 27, 2016

STAFF REPORT

APPLICATION SP 2016-MA-050

MASON DISTRICT

APPLICANTS/OWNERS: Carl S. Ey and Jennifer K. Ey

LOCATION: 4700 Brookside Drive, Alexandria 22312

SUBDIVISION: Pinecrest

PARCEL: 72-1 ((6)) 41, 41V9

LOT SIZE: 2.085 acres

ZONING: R-1, HC

ZONING ORDINANCE PROVISION: 8-914, 8-918

PROPOSAL: To permit a reduction to the minimum yard requirements based on error in building location to permit an accessory structure (detached garage and accessory dwelling unit) to remain 11.4 feet from a side lot line and to permit an accessory dwelling unit

STAFF RECOMMENDATIONS:

Staff recommends approval of SP 2016-MA-050 for an accessory dwelling unit subject to the proposed conditions set forth in Appendix 1.

It should be noted that it is not the intent of the 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.

Erin M. Haley

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.

It should be noted that the content of this report reflects the analysis and recommendation 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.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290. **Board of Zoning Appeals meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035.**



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

NOTES:

- TAX MAP: 72-1-060041V9
- ZONE: R-1 (RESIDENTIAL 1 DU/AC)
- LOT AREA: 90,822 SF (2.0850 ACRES)
- REQUIRED YARDS:
 - FRONT: = 40.0 FEET
 - SIDE: = 20.0 FEET
 - REAR: = 25.0 FEET
- HEIGHTS:
 - DWELLING: = 23.0 FEET (MIDLINE)
 - GARAGE: = 14.7 FEET (MIDLINE)
 - SHED: = 07.0 FEET
 - FENCES: = AS NOTED
 - POOL DECK: = 10.0 FEET
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
- THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
- ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
- THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
- TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL.
- THERE IS A RESOURCE PROTECTION AREA ON THIS PROPERTY.
- THE SUBJECT PROPERTY IS ENTIRELY WITHIN THE LITTLE RIVER TURNPIKE HIGHWAY CORRIDOR.
- AREAS:
 - BASEMENT: = 4,097 SF
 - FIRST FLOOR: = 4,097 SF
 - SECOND FLOOR: = 3,972 SF
 - DETACHED GARAGE: = 1,068 SF
 - GROSS FLOOR AREA: = 13,234 SF
- FLOOR AREA RATIO: EX. GFA (13234) / LOT AREA (89002) = 0.149

PLAT
SHOWING THE IMPROVEMENTS ON
LOT 41

PINECREST
(DEED BOOK T-12, PAGE 567)
FAIRFAX COUNTY, VIRGINIA

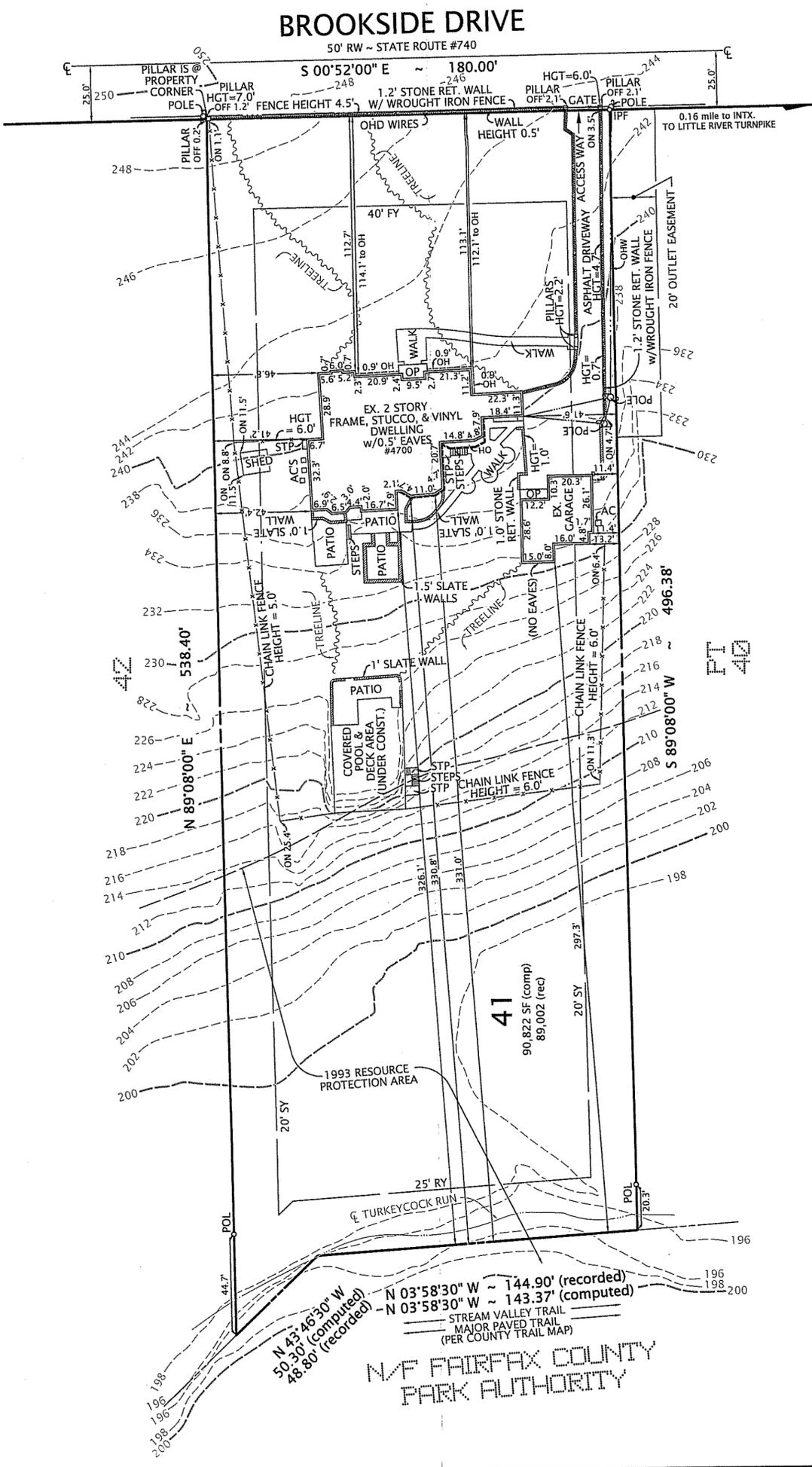
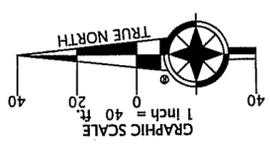
RECEIVED
Department of Planning & Zoning
NOV 06 2014
Zoning Evaluation Division
MASON DISTRICT
MAY 28, 2013
SEPTEMBER 17, 2013 (REV.)
NOVEMBER 04, 2014 (REV.)

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE.



CASE NAME:
CARL EY
JENNIFER KRALY EY

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.



N 43° 46' 30" W 50.30' (computed)
48.80' (recorded)
N 03° 58' 30" W ~ 144.90' (recorded)
N 03° 58' 30" W ~ 143.37' (computed)
STREAM VALLEY TRAIL
MAJOR PAVED TRAIL
(PER COUNTY TRAIL MAP)

HISTORY

The applicants originally received special permit approval on January 8, 2014 (SP 2013-MA-087, Appendix 5), for a reduction to minimum yard requirements based on error in building location to permit the one-story detached garage to remain 11.4 feet from the side lot line. The minimum required side yard is 20 feet. Condition 2 of the approval required the applicants to obtain a building permit and final inspections for the garage within 180 days of final approval or the special permit would be null and void. This would have required the inspections to be completed by July 7, 2014. The applicants did not obtain the required permits and inspections. Fairfax County staff subsequently discovered that an unpermitted ADU was attached to the garage that also required permits and inspections. A special permit amendment application was submitted on July 7, 2014 and requested approval of the ADU and an extension of time "to allow for an additional 9 months" to obtain permits and inspections of the garage and accessory dwelling unit structure. The special permit amendment was approved on April 29, 2015 (SPA 2013-MA-087, Appendix 5) and development condition 5 gave the applicants until November 1, 2015 to obtain permits and inspections for both the garage and ADU. The permits and inspections were not obtained and the special permit automatically expired. The applicants subsequently applied for this special permit on May 13, 2016.

The Department of Code Compliance has been working with the applicant since 2014 to bring the structures into compliance with the Building Code. This process has since moved to the court system. The first court date was December 2, 2015 where the applicants requested more time to obtain permits and inspections and the case was continued to April 13, 2016. At that court date, the applicants again requested additional time and the case was again continued with the agreement that permits and inspections would be obtained by the next court date of September 7, 2016, or that the structures would be demolished. As of the time of this staff report, neither action has been taken.

SPECIAL PERMIT REQUESTS

The applicants request re-approval of a special permit for an accessory dwelling unit (ADU) located in the detached garage structure and an error in building location to allow the garage structure to remain 11.4 feet from a side lot line.

A reduced copy of the special permit plat, titled "Plat Showing the Improvements on Lot 41 Pinecrest" prepared by Dominion Surveyors, dated May 28, 2013, and revised through November 4, 2014, is included at the front of this report.

Error in Building Location

The applicants have indicated that it was discovered that the detached garage structure requires significant modifications because it was constructed by a previous property owner without adequate foundation support. The applicants note in their Statement of Justification that the building permit and final inspections were not obtained due to the time needed to obtain estimates and the cost of repairs. DCC investigated the unpermitted work and issued a Corrective Work Order on December 5, 2014. The applicants will not

be able to obtain the required final permits to remedy the problems with the structure without approval of this requested special permit. However, since the approval of the original special permit, the applicants have still not obtained any permits or inspections. Staff believes that should this special permit be approved, a more restrictive timeframe be imposed. A development condition has been proposed requiring that all permits be obtained within 30 days (September 2, 2016) and that all inspections be completed by December 31, 2016.

Accessory Dwelling Unit

Since the property is greater than 2.0 acres in size, an ADU in a detached accessory structure is permitted with special permit approval. The ADU is not currently occupied. Access is provided to the ADU from a front door located to the right of the garage, as shown in the photo, and a door located on the north side of the structure. The ADU consists of one bedroom, one bathroom, a kitchen and a living area. The applicant, who resides in the principal dwelling, meets the definition of disabled. The applicants have stated that they would like to use the ADU as a rental or for family when they visit. According to the plat, the garage and ADU structure comprises a total of 1,068 square feet, but it is unclear how much is devoted to the ADU. The bedroom has a window with safe egress in the event of an emergency. No permits or inspections have been obtained for the ADU structure, as discussed above.



Source: Staff photograph, October 20, 2014

LOCATION AND CHARACTER

The 2.085-acre subject property is located on Brookside Drive in the Pinecrest subdivision, north of Little River Turnpike. The property and immediate vicinity are zoned to the R-1 and Highway Corridor Overlay Districts. The property is surrounded by single family detached dwellings and backs to open space owned by the Fairfax County Park Authority. The property is developed with a two-story, stucco dwelling with a detached two-car garage/ADU, and a pool. According to the special permit plat, the dwelling contains approximately 8,069 square feet, not including the basement. The property also contains an asphalt driveway and chain link and wrought iron fencing.



Subject Property, Source: Fairfax County GIS, 2014 Imagery

BACKGROUND

According to the Department of Tax Administration (DTA), the house was constructed in 1930, with various additions and modifications over time. A review of the building permit files reveals that a two-car detached carport, located 10 feet from the side lot line in the same general location as the present garage/ADU structure, was approved and inspected on February 16, 1954. This carport appears on a plat submitted with a building permit for repairs to the swimming pool in 1985. On May 2, 1991, a building permit (#91122B0590) to convert the carport to a garage was denied because it did not meet the required minimum side yard of 20 feet. A review of aerial photography shows that the garage/ADU structure existed in 1997, but it is unclear precisely when it was constructed, and no permit approvals are on record for the structure. The structure was recognized by the DTA beginning in 2007. The applicants purchased the property in 2011. While obtaining a building permit for the pool deck in April 2013, it was identified that the garage was located within the minimum required side yard, and the permit was issued with the note that the applicants would apply for a special permit. The Zoning Administration Division determined on May 10, 2013, that the garage was not vested. Following that determination, the applicants applied for and received a special permit on January 8, 2014, for a reduction to minimum yard requirements based on error in building location to permit the detached garage to remain 11.4 feet from the south side lot line. Copies of the permits referenced above and the vested rights determination are included in Appendix 4. Copies of the special permit and special permit amendment approvals are included in Appendix 5.

Similar case history in the vicinity is included in Appendix 6. An accessory dwelling unit as part of a detached garage structure was approved on July 30, 2014, for 4609 Brookside Drive.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area 1, Lincolnia Planning District
Planning Sector: L1, Pinecrest Community Planning Sector
Plan Map: Residential, 1-2 du/ac

In Land Use recommendation 1 on page 16 of the 2013 Edition, amended through April 29, 2014, the Plan provides:

Maintain the character of the low density single-family residential neighborhoods south of Lincolnia Road and east of Old Columbia Pike through infill development at a density of 1-2 dwelling units per acre.

Zoning Ordinance Requirements

The application must meet the standards of the following sections of the Zoning Ordinance, which are included in Appendix 7:

- Sect. 8-006, General Special Permit Standards
- Sect. 8-903, Group 9 Standards
- Sect. 8-914, Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-918, Additional Standards for Accessory Dwelling Units

Subject to development conditions, the Special Permit must meet these standards. The standards, as they relate to the request for an accessory dwelling unit, are discussed below.

Sect. 8-006, General Special Permit Standards

<p>Standards 1 and 2 Comprehensive Plan/ Zoning District</p>	<p>The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The Zoning Ordinance allows an accessory dwelling unit with special permit approval. The proposed use is in harmony with the Comprehensive Plan and the general purpose and intent of the R-1 District.</p>
<p>Standard 3 <i>Adjacent Development</i></p>	<p>In staff's opinion, the proposed ADU on this large, wooded lot will not hinder or discourage the use or development of neighboring properties.</p>
<p>Standard 4 <i>Pedestrian/Vehicular Traffic</i></p>	<p>Brookside Drive is without a sidewalk and is not conducive to pedestrian access. This is a large lot with a two car garage and a driveway approximately 160 feet in length which staff believes is plenty of room to park the applicants' vehicles as well as vehicles for any tenants of the ADU. The proposed ADU will not significantly impact vehicular traffic.</p>
<p>Standard 5 <i>Landscaping/Screening</i></p>	<p>No additional landscaping or screening is required for the existing structure. The property contains a large number of mature trees.</p>
<p>Standard 6 <i>Open Space</i></p>	<p>There is no open space requirement for individual lots in the R-1 District.</p>
<p>Standard 7 <i>Utilities, Drainage, Parking and Loading</i></p>	<p>Facilities are in place to serve the ADU.</p>
<p>Standard 8 <i>Signs</i></p>	<p>No signs are existing or proposed. All signage is required to be in conformance with Article 12 of the Zoning Ordinance.</p>

Sect. 8-903, Group 9 Standards

Standard 1 <i>Lot Size and Bulk Regulations</i>	The property complies with the lot size and bulk regulations for the R-1 District, with the exception of the garage structure which was included in this special permit application.
Standard 2 <i>Performance Standards</i>	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
Standard 3 <i>Site Plan</i>	The structure is not subject to site plan review.

Sect. 8-918, Additional Standards for Accessory Dwelling Units

Standard 1 <i>Only One ADU per Single Family Detached Dwelling</i>	The application requests approval of one ADU on a property occupied by a single family detached dwelling.
Standard 2 <i>May be Located in Freestanding Structure on Lots 2 Acres or Larger</i>	The property consists of 2.085 acres, which allows the ADU to be located in a freestanding structure.
Standard 3 <i>GFA Shall Not Exceed 35%</i>	The gross floor area of the ADU does not exceed 35% of the total gross floor area of the principal unit and accessory structure. The entire garage and ADU structure represents approximately 11.7% of the total GFA.
Standard 4 <i>Max. 2 Bedrooms</i>	The ADU includes one bedroom.
Standard 5 <i>Occupancy Standards</i>	The application satisfies the occupancy standards in that the owner resides in the principal dwelling and the owner qualifies as disabled as determined by the Veteran's Administration. A condition is proposed limiting occupancy of the one-bedroom ADU to no more than two people.
Standard 6 <i>Reasonable Access for a Disabled Person</i>	The accessory dwelling unit is not intended to be occupied by a disabled person.
Standard 7 <i>Sufficient Parking</i>	The property includes a driveway of approximately 160 feet, providing sufficient parking.
Standard 8 <i>Will Not Modify or Disrupt Character of Neighborhood</i>	This is a large, wooded lot with a perimeter fence and gated access. Staff believes that the use of the ADU will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood.

<p>Standard 9 <i>Regulations for Safety, Health, Sanitation</i></p>	<p>This standard requires any ADU to meet applicable regulations for building, safety, health, and sanitation. Because the structure was constructed without appropriate permits and inspections, this standard is not met. A condition is proposed requiring that all necessary permits be obtained within 30 days (September 2, 2016) and final inspections to be obtained by December 31, 2016.</p>
<p>Standard 10 <i>Recorded</i></p>	<p>A condition is proposed for the approval to be recorded among Fairfax County land records.</p>
<p>Standard 11 <i>Inspection</i></p>	<p>A condition is proposed for the owner to make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.</p>
<p>Standard 12 <i>Approved for 5 Years</i></p>	<p>A condition is proposed addressing this standard.</p>
<p>Standard 13 <i>Approval Prior to July 27, 1987</i></p>	<p>This standard is not applicable as the ADU was not approved prior to July 27, 1987.</p>

CONCLUSION

While the applicants must still acquire all necessary permits and inspections for the garage and ADU, the structures are located on a large lot and well screened by mature vegetation. Staff continues to believe that the request for an accessory dwelling unit is in conformance with the applicable Zoning Ordinance provisions with the implementation of the proposed development conditions in Appendix 1. Other than what is discussed in this report, no other changes have occurred since the approval of the special permit amendment application in April 2015. This application is essentially to re-establish the special permit amendment approval that expired, with no other substantive changes.

RECOMMENDATION

Staff recommends approval of SP 2016-MA-050 for an accessory dwelling unit, subject to the proposed conditions set forth in Appendix 1.

Staff does not make recommendations relating to applications for reduction to minimum yard requirements based on error in building location. If it is the intent of the Board of Zoning Appeals (BZA) to approve application SP 2016-MA-050, relating to the reduction of the minimum yard requirements based on error in building location, the BZA should condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report.

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. 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 this application.

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.

APPENDICES

1. Proposed Development Conditions
2. Statement of Justification and File Photographs
3. Affidavit
4. Permit History, Vested Rights Determination
5. SP 2013-MA-087 and SPA 2013-MA-087
6. Similar Case History
7. Applicable Zoning Ordinance Provisions

Proposed Development Conditions

SP 2016-MA-050

July 27, 2016

If it is the intent of the Board of Zoning Appeals to approve SP 2016-MA-050 located at 4700 Brookside Drive, Tax Map 72-1 ((6)) 41, 41V9, to for an error in building location to permit an accessory structure to remain 11.4 feet from the side lot line, and to permit an accessory dwelling unit pursuant to Sections 8-914 and 8-918 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. The approval for the accessory dwelling unit is granted to the applicants only, Carl S. Ey and Jennifer K. Ey, and is not transferable without further action of the Board, and is for the location indicated on the application, 4700 Brookside Drive, Alexandria, and is not transferable to other land.
2. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
3. This special permit is approved for the accessory structure/accessory dwelling unit as shown on the special permit plat titled, "Plat Showing the Improvements on Lot 41 Pinecrest," prepared by Dominion Surveyors, dated May 28, 2013, and revised through November 4, 2014.
4. A copy of this special permit shall be posted in a conspicuous place within the accessory dwelling unit and be made available to all departments of the County of Fairfax.
5. All applicable permits shall be obtained within 30 days of approval. All necessary inspections shall be passed and completed by December 31, 2016.
6. The accessory dwelling unit shall not be occupied until approval of all required inspections.
7. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states, in part, that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.

8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice.
9. The accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit amendment and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Sect. 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling unit shall be converted to a use permitted by the Zoning Ordinance, or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
12. All parking shall be provided on site.

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

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, on December 31, 2016 unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

RECEIVED
Department of Planning & Zoning

JUL 07 2014

Zoning Evaluation Division

July 3, 2014

Via Hand Delivery

Barbara C. Berlin, Director
Fairfax County Department of Planning & Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Proposed Special Permit Amendment Application
Fairfax County Tax Map Reference: 72-1 ((6)) 0041 and 72-1 ((6)) 0041V9 (the
"Subject Property")
Applicants: Carl Ey and Jennifer Kraly Ey

Dear Ms. Berlin:

We are the title owners of the Subject Property. Please accept this letter as a statement of justification for a special permit amendment on the Subject Property.

The Subject Property contains approximately 2.08 acres and is located at 4700 Brookside Drive, Alexandria, Virginia 22312, in the Pinecrest subdivision of the Mason Magisterial District. Zoned to the R-1 District, the Subject Property is not subject to any proffers, but is subject to special permit SP 2013-MA-087 as described in more detail below. The Subject Property is currently improved with a single-family detached dwelling and a detached garage. The Subject Property is located in the Lincolnia Planning District in the Pinecrest Community Planning Sector (L1) of the Area I Fairfax County Comprehensive Plan (the "Plan"). The Subject Property is planned for low density single-family residential neighborhoods at a density of 1-2 dwelling units per acre.

In the way of background, we purchased the Subject Property in 2011 in good faith. According to the Fairfax County Real Estate Tax Assessment Records, the detached garage was constructed in approximately 2007. Given that the original dwelling was constructed in 1930, we reasonably believed that all existing structures conformed to all relevant Fairfax County ordinances and all necessary approvals and permits had been previously obtained. In April 2013, we hired a contractor to construct a new deck for an existing pool. The contractor submitted a survey which depicted the location of the detached garage and requested a determination as to the vested rights of the Subject Property. In response, Matthew Mertz, Assistant to the Zoning Administrator, issued a letter dated May 10, 2013, which indicated that the detached garage did not meet the requirements for vesting and that no building permit has been obtained for the garage (the "Vested Rights Determination"). The Vested Rights Determination stated that we could pursue a special permit application in order to allow the garage to remain in its current location.

On January 8, 2014, we received approval of special permit SP 2013-MA-087. The special permit was approved subject to two (2) development conditions. Condition 2 states that "A building permit and final inspections for the accessory structure shall be diligently pursued and obtained within 180 days of final approval of this application or the special permit shall be null and void." Based on this condition, we are to have received a building permit and final inspections by COB July 7, 2014. Due to the condition of the accessory structure, the time necessary to receive an accurate estimate of construction costs, and the extremely high cost of repairs estimated by the contractor, we have been unable to obtain a building permit and final inspections as required by condition 2. Accordingly, we now request to amend condition 2 to allow for an additional nine (9) months to obtain a building permit and final inspections. The physical condition of the garage, the time associated with preparation of an estimate by the contractor, and the high cost of repairs were unanticipated at the time of the approval of the initial special permit.

We request this special permit amendment to allow additional time to correct an error in building location to permit a detached garage over eight and one-half (8 ½) feet to remain 11.4 feet from the side lot line, in lieu of the required 20 feet. We continue to propose a reduction of the minimum side yard requirement by 8.6 feet. In accordance with the requirements of Section 8-914 of the Zoning Ordinance, please accept the following information regarding the error in building location and the proposed use of the Subject Property:

- The detached garage extends into the required twenty (20) feet side yard by 8.6 feet, which amounts to an error of approximately forty-three percent (43%). Thus, the error exceeds ten (10) percent of the measurement involved.
- As noted above, the noncompliance was done in good faith and through no fault of the current owners. The error occurred prior to our purchase of the Subject Property.
- The detached garage is in keeping with the character of the existing dwelling and surrounding residential development in terms of bulk, scale and surrounding structures and will not impair the purpose and intent of this Zoning Ordinance.
- The detached garage is not detrimental to the use and enjoyment to adjacent properties and is harmonious with the surrounding residential neighborhood in the context of the location, height, bulk and scale of surrounding houses, topography, existing vegetation, the preservation of significant trees. Given the size of the Subject Property, a reduction in the minimum side yard requirement by 8.6 feet will not change the relationship of the home to the neighborhood.
- The detached garage and reduction in the side yard requirement will not create an unsafe condition to other property. The garage structure was constructed approximately six (6) years ago and to the best of our knowledge has not created any issues with respect to other property.
- As the detached garage was constructed by a prior owner over six (6) years ago, removal of the garage and compliance with the minimum yard requirements would

cause unreasonable hardship and require substantial alterations or relocation of the structure and surrounding landscape and hardscape.

- The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations. No new construction is proposed with this application and no additional structures will be constructed in the minimum side yard.

Except as otherwise noted in terms of location and height, the garage conforms to the provisions of all applicable ordinances, regulations and adopted standards. To the best of our knowledge the Subject Property contains no hazardous or toxic substances.

We propose this special permit amendment to allow for additional time to implement the approved special permit to reduce the side yard requirements and bring the Subject Property into compliance with the Zoning Ordinance. The proposed amendment to condition 2 will allow us additional necessary time to obtain a building permit and obtain final inspections which will allow the continued use of the garage, constructed over six (6) years ago and prior to our purchase of the Subject Property. The garage is in keeping with the character of the neighborhood and will not adversely impact adjoining property owners.

Should you have any questions, or require additional information, please do not hesitate to give us a call. We would appreciate the acceptance of this application and the scheduling of a public hearing before the Board of Zoning Appeals at your earliest convenience.

Very truly yours,



Carl S. Ey



Jennifer Kraly Ey

Lieutenant Colonel (Retired) Carl S. Ey
4700 Brookside Drive
Alexandria, VA 22312
703.913.1148 (home)/202.803.1515 (cell)

18 Aug 2014

Department of Planning and Zoning
ATTN: Ms. Deborah Lasko Pemberton

Subject: SPA 2014-0378

Dear Ms. Pemberton,

As per our discussion, I am writing to provide more information in regard to SPA 2014-0378. My wife, (Jennifer) and I purchased 4700 Brookside Drive, Alexandria, VA 22312 in the fall of 2011. The home resides on more than 2 acres of land. We were able to qualify for a loan for this property under the Veteran's Administration loan application because I am a retired Soldier who happens to be a 100% service-disabled veteran.

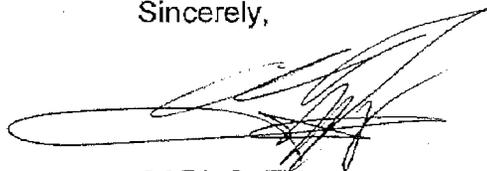
We requested relief from the county because the garage structure was too close to the property line. We were granted relief by the county after a hearing process to allow the structure to remain where it is pending a permit for the structure. My wife and I were given until 7 July 2014 to get that building permit. In that time, we discovered issues with the structure and requested an extension to modify the development conditions. Basically, our attorney advised us that we needed to make an extension request before 7 July 2014 expiration date i.e. we are trying to garner more time to make a decision on the structure and gain the correct permit.

As per the MLS listing provided when we visited the property before purchase, the listing clearly indicates that the home comes with a two-car garage and in-law/au-paire suite. This in-law/au-paire suite is attached to the garage and has a full kitchen, one bedroom and a full bath with a small living area. This dwelling was particularly appealing to my wife and I as the intent was to use the two-car garage and to use the in-law suite as a rental or for family to use when they visit.

In the last 12 months, we discovered that the 2nd dwelling on our property was not permitted or there are limited reasons why it might be permitted and those have been sent to me. It is our intent to permit a structure within the county code regulations and we are working hard with the county, an attorney and a Class A Contractor (J & F Specialities Inc.) etc. to permit the structure appropriately. We are trying to make a decision with the contractor on the most feasible manner to mitigate the issues and pull permit.

Enclosed is a drawing of the garage and dwelling as it stands now. We would appreciate you granting us this extension so we can continue to move forward and legally amend the plat within the current building code.

Sincerely,



CARL S. EY
U.S. Army, Retired

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. There is a one single family dwelling on the property.
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. We have 2.08 acres of property.
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. The gross floor area is less than 35% of the main home.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms. The accessory dwelling unit is one bedroom.
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

FAIRFAX COUNTY ZONING ORDINANCE

Commission which is relevant to the standards for determining permanent and total disability. Owner is a 100% service disabled veteran as per the Veteran's Administration.

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.

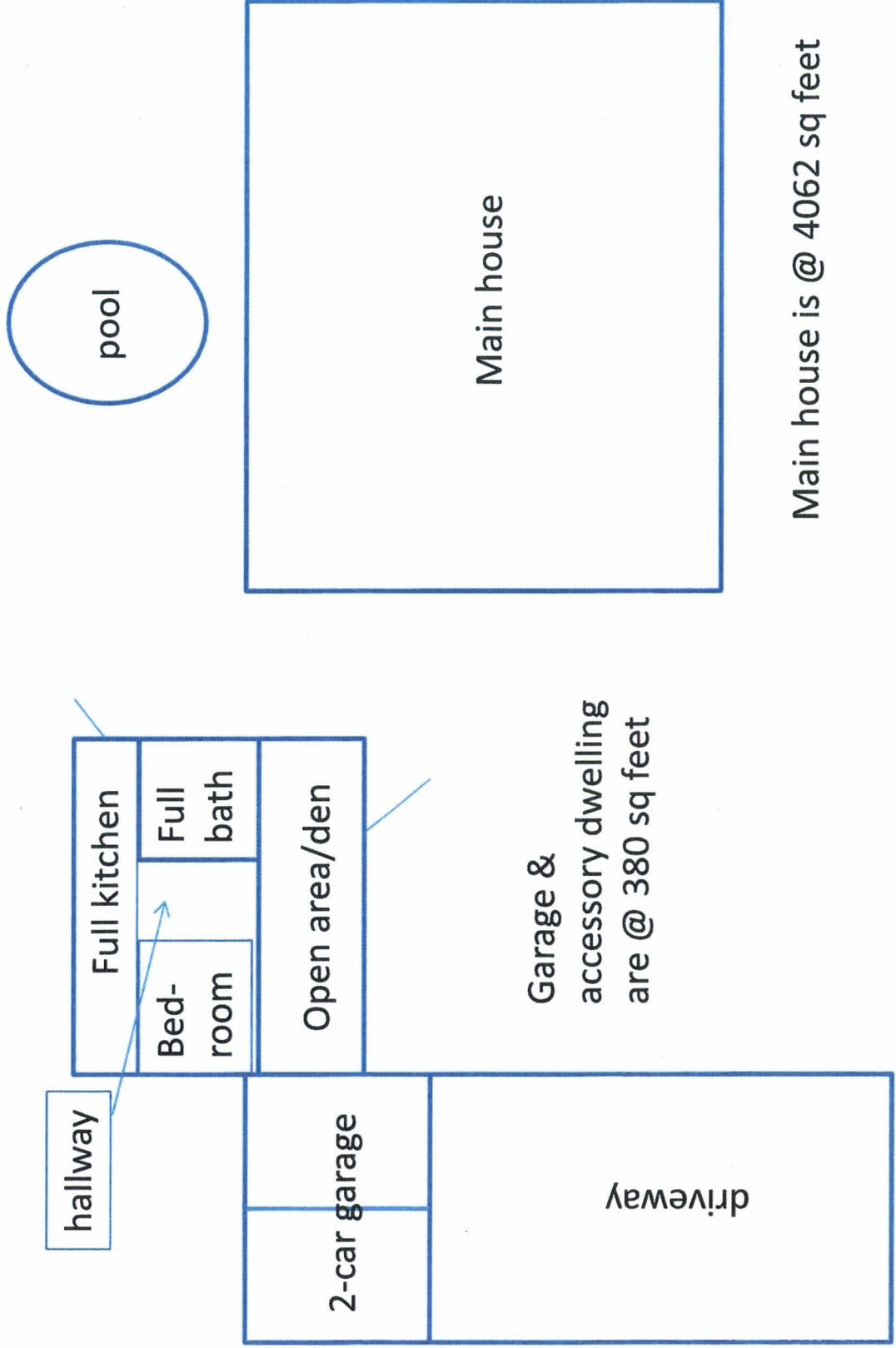
- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more 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. We meet this requirement.
- 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. This unit meets both A & B.
- 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. There are three parking spaces out front of the accessory unit and multiple off-street parking options.
- 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. The BZA has already agreed that the accessory dwelling unit structure (which is connected to the garage) does not disrupt the character of the neighborhood.
- 9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation. No issues with this requirement to our knowledge.

Carl S. Ey 4700 Brookside Drive, Alexandria, VA 22312

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. Thank you.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice. OK
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.

4700 Brookside Drive, Alexandria, VA 22312
Garage/au-paire suite

Carl & Jennifer Ey (202.803.1515 – cell)



Main house is @ 4062 sq feet



Subject Property



View of Driveway



View of Rear & Kitchen Window

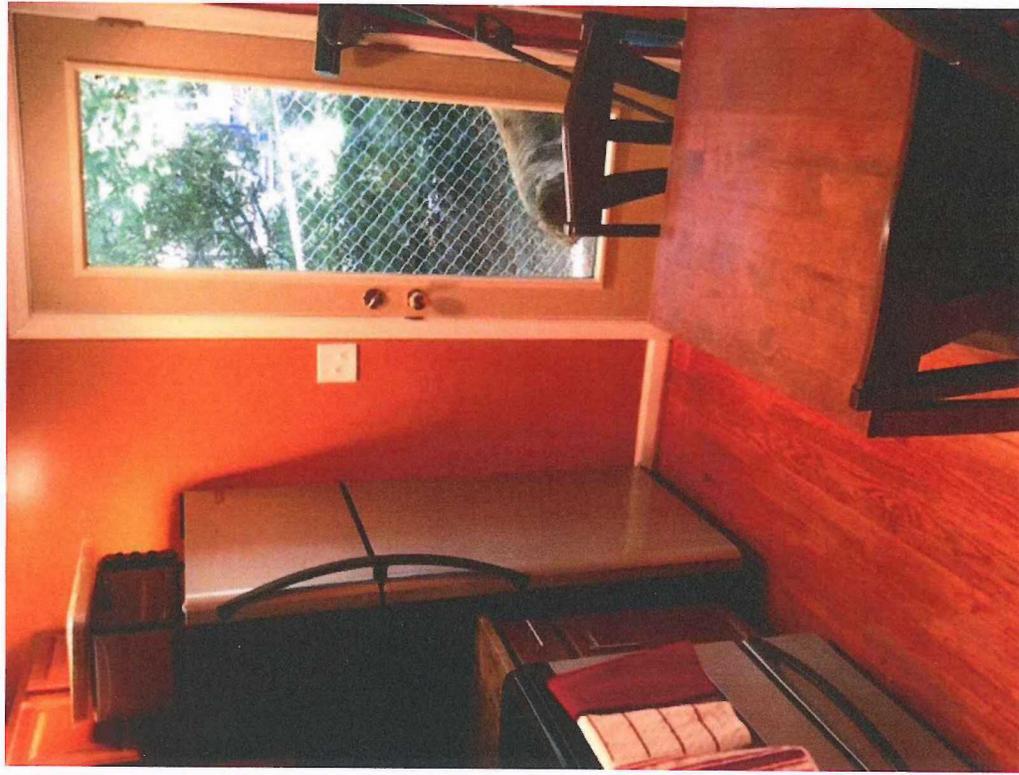
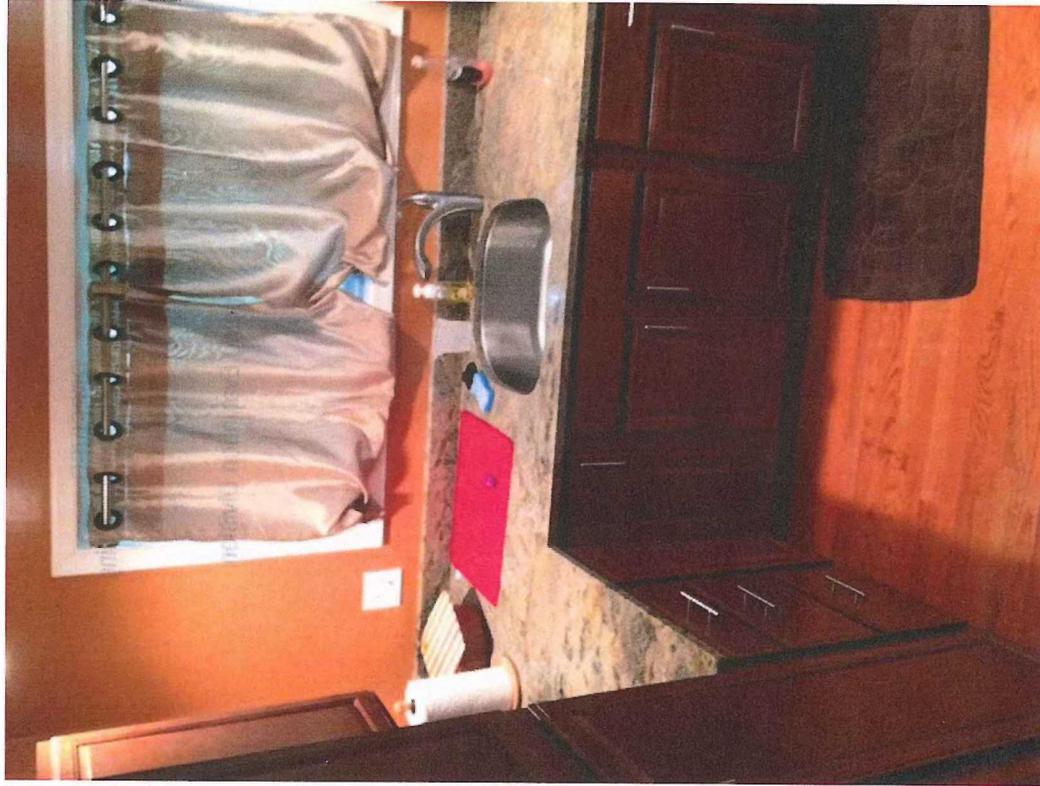
View of Rear & Bedroom Window



Carl S. Ey & Jennifer K. Ey

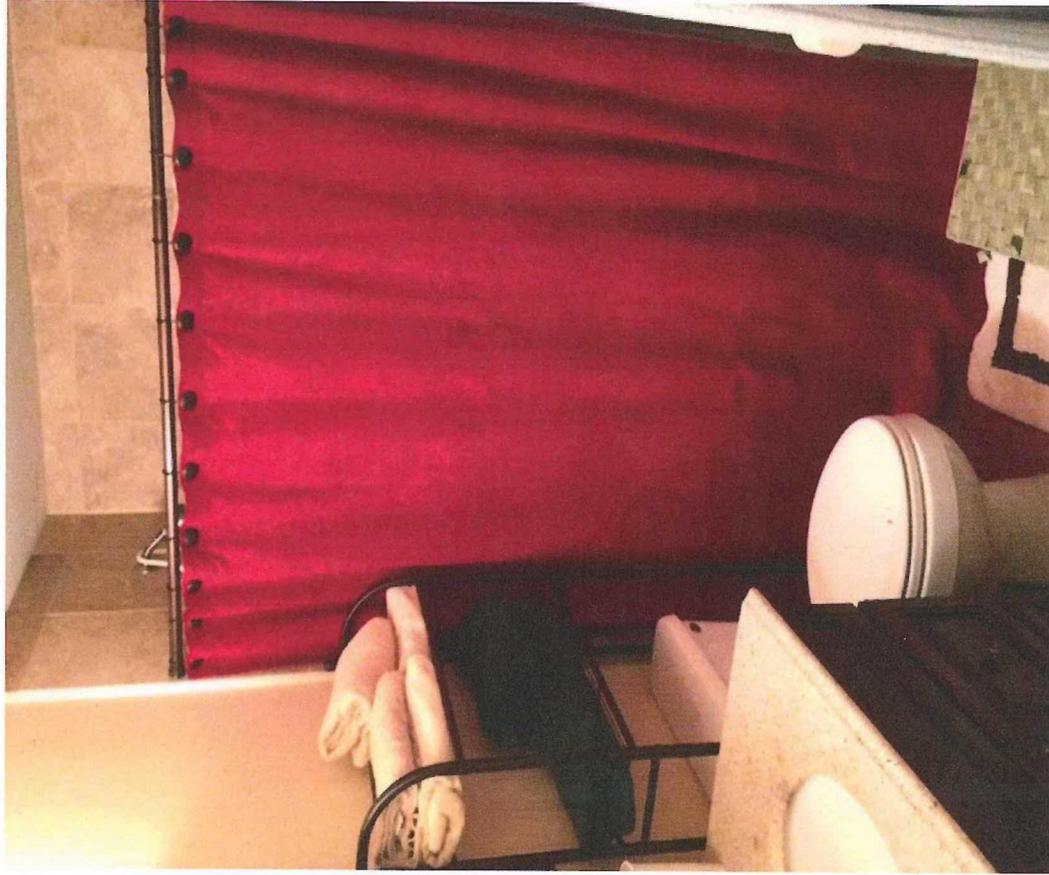
Kitchen

4700 Brookside Drive, Alexandria, VA 22312



RECEIVED
DELIVERY & SERVICE
FEB 09 2014
notelivc notelivcsl optinoS

Carl S. Ey & Jennifer K. Ey
4700 Brookside Drive, Alexandria, VA 22312
Bedroom & Bathroom



Carl S. Ey & Jennifer K. Ey
4700 Brookside Drive, Alexandria, VA
22312



Living Room

Application No.(s): SP 2016-MA-050
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 20 MAY 2016
(enter date affidavit is notarized)

134907

I, Carl Sailer Ey, do hereby state that I am an
(enter name of applicant or authorized agent)

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

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Carl S. Ey Jennifer K. Ey	4700 Brookside Drive Alexandria, VA 22312	Applicant/Title Owner Applicant/Title Owner

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

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 20 May 2016
(enter date affidavit is notarized)

134907

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)
NA

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
none

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

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

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

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 20 MAY 2016
(enter date affidavit is notarized)

134907

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)

NA

(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
None

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

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 20 MAY 2016
(enter date affidavit is notarized)

134907

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:

NONE

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

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

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

NONE

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

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 20 May 2016
(enter date affidavit is notarized)

134907

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) [x] Applicant [Signature] 20 May 2016 [] Applicant's Authorized Agent

Carl S. Ey, Applicant/Title Owner
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20th day of May, 2016, in the State/Comm. of Virginia, County/City of Fairfax

[Signature]
Notary Public Hang-Nga Phan Le

My commission expires: April 30, 2019

Notary Registration Number - 7504058



180

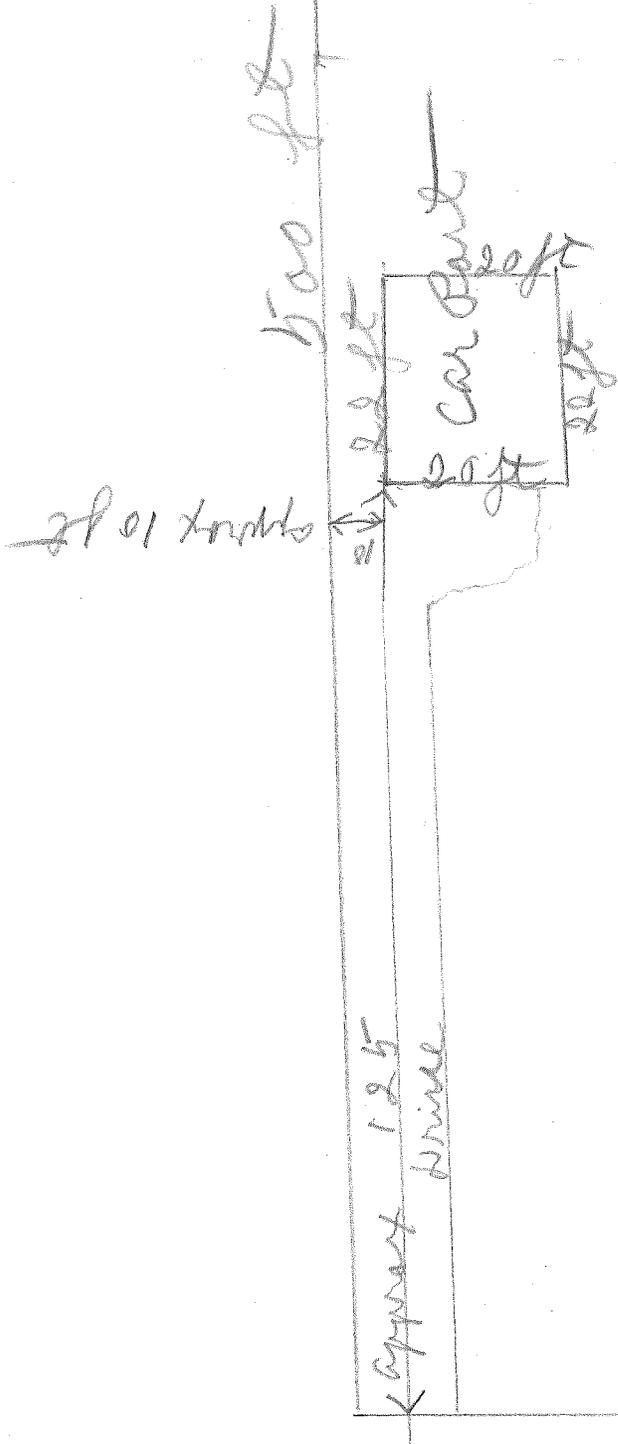
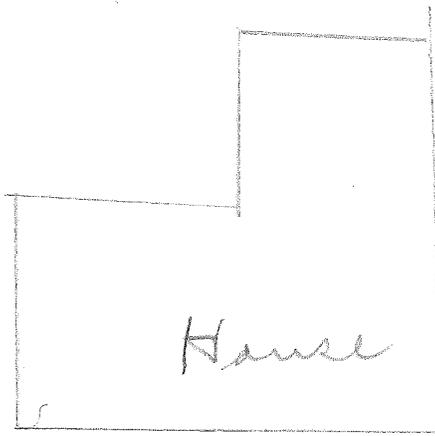
Approved for proposed location of building as shown. Final approval subject to wall check.

Date: MAY 4 1988

Zoning Administrator



Sat # 41
Pinecrest

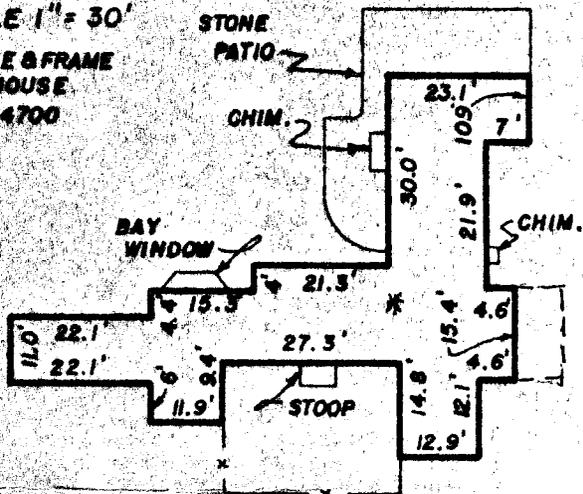


500 ft

180 ft

Brookside Drive

INSET
SCALE 1" = 30'
STONE & FRAME
HOUSE
4700



INITIAL APPROVAL
 MAR 7 1973
 N 45° 46' 30" W
 439.9'
 PLANNING ADMINISTRATOR

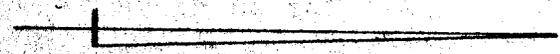
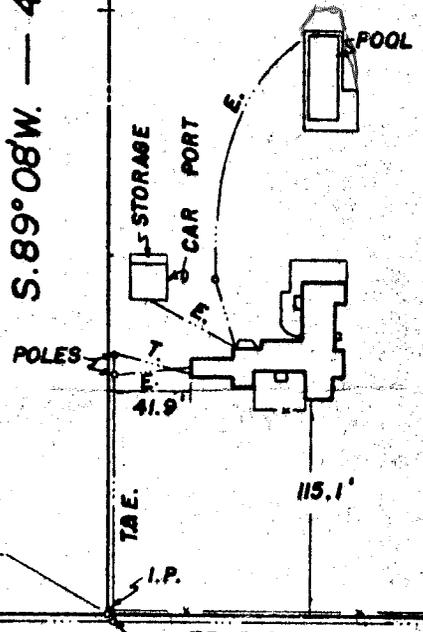
N. 3° 58' 30" W - 144.9'
 I.P. I.P.



LOT 41
 89,002 SQ. FT.

S. 89° 08' W. — 496.38'

N. 89° 08' E. — 538.40'



APPROVED
 DIVISION OF
 DESIGN REVIEW
 By [Signature]
 Date 3-7-73

TO LITTLE RIVER
 TURNPIKE

S. 0° 52' E. — 180.0'
BROOKSIDE DRIVE
 50' R/W

PLAT

SHOWING HOUSE LOCATION ON
 LOT 41

PINECREST

FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 100' FEB. 2, 1973

Commonwealth of Virginia
 R. C. JACKSON
 Certificate No. 740
 57
 Certified Land Surveyor

NO TITLE REPORT FURNISHED
 PLAT SUBJECT TO RESTRICTIONS OF RECORD

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

[Signature]
 R.C. JACKSON, CERTIFIED SURVEYOR

CASE NAME: **HOTCHKISS — RYAN, BEDELL
 CURTIN, BENNETT & GORMAN**

ALEXANDRIA SURVEYS
 1603 King Street
 Alexandria, Virginia

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
 FAIRFAX COUNTY, VIRGINIA
 PERMIT APPLICATION CENTER
 4050 LEGATO ROAD, 2ND FLOOR
 FAIRFAX, VA. 22033 246-1550
 FOR INSPECTIONS CALL: 352-0970

BUILDING PERMIT APPLICATION

APPLICATION NO

19

Date

JOB LOCATION

Street 4700 Brookside Dr. Alex Va. 22312
 Building _____ Floor _____ Suite _____
 Subdivision _____
 Tenants Name MURVAM KLEIN

DO NOT WRITE IN THIS SPACE

Permit No. 9112280590
 Map Reference 72-1-06-0041
 Building Permit No. _____ Control No. _____
 Std. _____ Mag. _____ Plan _____ Census _____

OWNER

Name MORST & MIRYAM KLEIN
 Address (Mailing) 4700 Brookside Dr
 City Alex State VA Zip 22312
 Telephone 703-258-8845

CONTRACTOR

Company Name ~~XXXXXXXXXXXXXXXXXX~~
 Master OWNER
 Address _____
 City _____ State MD Zip _____
 Telephone (301) 875-5132 License No. _____
 State Contractors License No. _____
 County Business Account No. _____

For CAR PORT TO GARAGE

ROUTING

Description	Date	Approved By:
Health Review		
2 Site Review		
1 Zoning Review		
Sanitation Review		
3 Building Review		
Fire Review		
<u>LOG-OUT</u>		

Model/Use

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

Use Group of Building _____
 Type of Construction REMODEL
 Building Area GARAGE
 Estimated Const. Cost 6,000--

ZONING REVIEW
 Zoning Proffers Building R1
 Zoning Class _____
 Zoning Case # _____

BUILDING CHARACTERISTICS
 Building Height 12'
 Exterior Walls WOOD PANEL
 Interior Walls DRYWALL
 Roofing Material EXISTING
 Flooring Material CEMENT
 Heating Fuel _____
 Heating System _____

GRADING AND DRAINAGE REVIEW
 Soils _____
 Historical _____
 Plan # _____
 Retaining Wall _____

REMARKS:

BUILDING DESCRIPTION	QUANTITY
# Units	1
# Stories	1
# Rooms	1
# Bedrooms	1
# To be Added	1
# Baths	1
# Half Baths	1
# Kitchens	1
# Fireplaces	1
Basement	1
% Basements to Finish	1

BUILDING DIMENSIONS			
No. Stories	Width	Depth	Sq. Ft.
	X	=	
	X	=	
	X	=	
	X	=	

YARDS Front Front Left Side Right Side Rear

REMARKS Final Council meet. Side Yard Set Back of 20' -
Enclose Carport 5-2-91 MKS.

PINE Crest
LA 41
SD-1930

FOR COUNTY USE ONLY:

Date _____ By _____
 Approved for Issuance of Building Permit

Fee \$56.00
 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 Virginia.

**Building Permit
 Zoning Review**

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

5/13/13 2:17:58PM

Bldg Permit #: **131200174**

DECK

Address: 4700 Brookside Dr Alexandria VA 22312-1409
Bldg: N/A **Floor:** Suite: N/A
Subdiv: Pinecrest Lt 41 0721 06 0041V9 **Is Tax Exempt Pcl** **Sub Census:** 519.01 **Lot Size:** 45,442.00
Tax Map: 0721 06 0041
Owner: Ey Carl
Phone Day: (703)999-9999 **Evening:**

Contractor:
 J BUCKLEY & ASSOC INC
 9300 F Old Keene Mill Rd
 Burke, Va 22015-0000
 (703) 451-6069

Type of Work: DECK
Description of Work: R & R DECKING & RAILING OVER EXITING FRAME WORK IN ACCORDS TO FFX. CO. STANDARD DETAILS

Specific Description of Work:

Stairs: **Hot Tub:** **Multi level** **Single Span:**
 Y N N N

ZPRB Review:

Date	ALANGH	Status
4/30/13		Failed
Problem Recorded: 4/30/13		Problem Resolved:
detached accessory structure does not meet setback of 20' from left side		
5/13/13	ALANGH	Approved
Problem Recorded: 4/30/13		Problem Resolved: 5/13/13
detached accessory structure does not meet setback of 20' from left side. ok per d. varney they are going to apply for a special permit		

Zoning Detail Review TAB:

Zoning	Cluster	Dist.	Subdiv	Use	Proffer
R-1			N	SFD	N

Yard/Setbacks:

Dimensions:

Structure	Front (A)	Front (B)	Front (C)	Left	Right	Rear	Structure Dimension	Height	Structure Type
open deck	0.00	0.00	0.00	0.00	0.00	210.00	open deck 32x48	8.00	OPEN

Is Deck Attached? NO

DETAILS COMMENTS:

not in rpa per as



County of Fairfax, Virginia

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

May 10, 2013

Mr. Joe Buckley
9300F Old Keene Mill Road
Burke, Virginia 22015

RE: Request for Vested Rights Determination
4700 Brookside Drive
Pinecrest, Lot 41
Tax Map Ref.: 72-1 ((6)) 41
Zoning District: R-1

Dear Mr. Buckley:

This letter is in response to your request received on May 1, 2013 for a vested rights determination at the referenced property. It appears you applied for a Building Permit for a deck at the referenced property, at which time staff noticed a detached garage located within the minimum required side yard. Submitted with your request are a picture of the garage and a plat of the property that shows the detached garage located 11.4 feet from the side lot line.

The referenced property is zoned R-1 Residential District, One Dwelling Unit/Acre and is developed with a single family detached dwelling, a pool/patio area, a shed, and a detached garage. The R-1 District requires a minimum front yard of 40 feet, minimum side yards of 20 feet and a minimum rear yard of 25 feet. Pursuant to Par. 12 of Sect. 10-104 of the Zoning Ordinance, a garage must not be located within a minimum required side yard if greater than seven (7) feet in height, with height for freestanding structures measured from the highest point of the structure to the lowest point at grade. Although the exact height of the garage is not provided, photos clearly show the garage as being over seven feet tall. As the plat shows provided shows the detached garage located 11.4 feet, rather than at least 20 feet, from the side lot line, the garage does not meet Zoning Ordinance requirements.

Pursuant to §15.2-2307 of the *Code of Virginia*, if (a) local government has issued a building permit, the structure was constructed in accordance with the building permit, and a certificate of occupancy was issued, or (b) the owner of the building has paid taxes for the structure for more than 15 years, it is legal and can remain. Our records show no record of a Building Permit for the garage. Also, Department of Tax Administration records show that the garage has not been taxed for at least 15 years. Therefore, the garage is not vested and should be moved or modified to meet the 20 foot minimum required side yard, unless the Board of Zoning Appeals approves a special permit for reduction to the minimum required yards based on an error in building location to allow the garage to remain in its current location. All special permits for reduction to the minimum

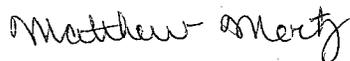
Mr. Joe Buckley
May 10, 2013
Page 2

required yards based on an error in building location are subject to BZA approval and it must be demonstrated to the BZA that the standards contained in Sect. 8-914 of the Zoning Ordinance and all other applicable special permit standards are met. Special permits require an application, a filing fee, notification of adjacent property owners and a public hearing before the BZA. For more information on the special permit process, please contact the Zoning Evaluation Division at 703-324-1290.

The plat provided also shows a shed located approximately 12 feet from the side lot line, but the height of the shed is not provided. Pursuant to Par. 10 of Sect. 10-102, while sheds less than 8.5 feet in height may be located anywhere in the side or rear yard, sheds greater than 8.5 feet in height must not be located within the minimum required side yard of 20 feet. If this shed is greater than 8.5 feet in height, it should be moved to comply with Zoning Ordinance location requirements, absent special permit approval from the BZA for the location of the shed. If special permit approval for an error in building location is sought, the location of both the garage and shed can be included in a single special permit application. Failure to address this issue may impact your ability to obtain a permit in the future.

I trust that this letter satisfactorily responds to your request. Should you have any questions, please feel free to contact me at (703) 324-1314.

Sincerely,



Matthew Mertz
Assistant to the Zoning Administrator

cc: Mr. Carl Ey, 4700 Brookside Drive, Alexandria, Virginia 22312
Penelope A. Gross, Supervisor, Mason District
Leslie B. Johnson, Zoning Administrator
Michelle O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch
Diane Johnson-Quinn, Deputy Zoning Administrator, Zoning Permit Review Branch

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CARL EY AND JENNIFER KRALY EY, SP 2013-MA-087 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 11.4 ft. from the side lot line. Located at 4700 Brookside Dr., Alexandria, 22312, on approx. 2.08 ac. of land zoned R-1. Mason District. Tax Map 72-1 ((6)) 41 and 41V9. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 8, 2014; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. In this case, the applicants bought the house with the detached garage where it is already.
3. As the photos show, it is a very attractive structure.
4. There is significant vegetation around it.
5. It does not seem like it would have any significant negative impact on anybody.
6. It is a little vague how the garage got to where it was without the proper paperwork having been done.
7. On a lot of this scale with this distance from the road and with the topography, the Board does not think that this is going to be a significant problem for anybody.
8. The driveway for this property is also closer to the side line anyway than the garage is.
9. Even though the garage is too close, it is sort of stepped back from the driveway.
10. The Board is not sure how this all happened.
11. It seems to be something that is not going to have any negative impact on the neighbors.
12. Also, the Board has determined that the applicable standards in the mistake section resolution have been satisfied.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

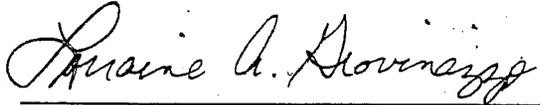
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the detached garage as shown on the plat prepared by Dominion Surveyors, Inc., dated May 28, 2013, as revised through September 17, 2013, as submitted with this application and is not transferable to other land.
- 2. A building permit and final inspections for the accessory structure shall be diligently pursued and obtained within 180 days of final approval of this application or this special permit shall be null and void.

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.

Mr. Hammack seconded the motion, which carried by a vote of 5-0. Mr. Beard and Mr. Byers were absent from the meeting.

A Copy Teste:

A handwritten signature in cursive script, reading "Lorraine A. Giovinazzo". The signature is written in black ink and is positioned above a horizontal line.

Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals

NOTES:

1. TAX MAP: 72-1-060041V9
2. ZONE: R-1 (RESIDENTIAL 1 DU/AC)
3. LOT AREA: 90,822 SF (2.0850 ACRES)

4. REQUIRED YARDS:
- FRONT: = 40.0 FEET
 - SIDE: = 20.0 FEET
 - REAR: = 25.0 FEET

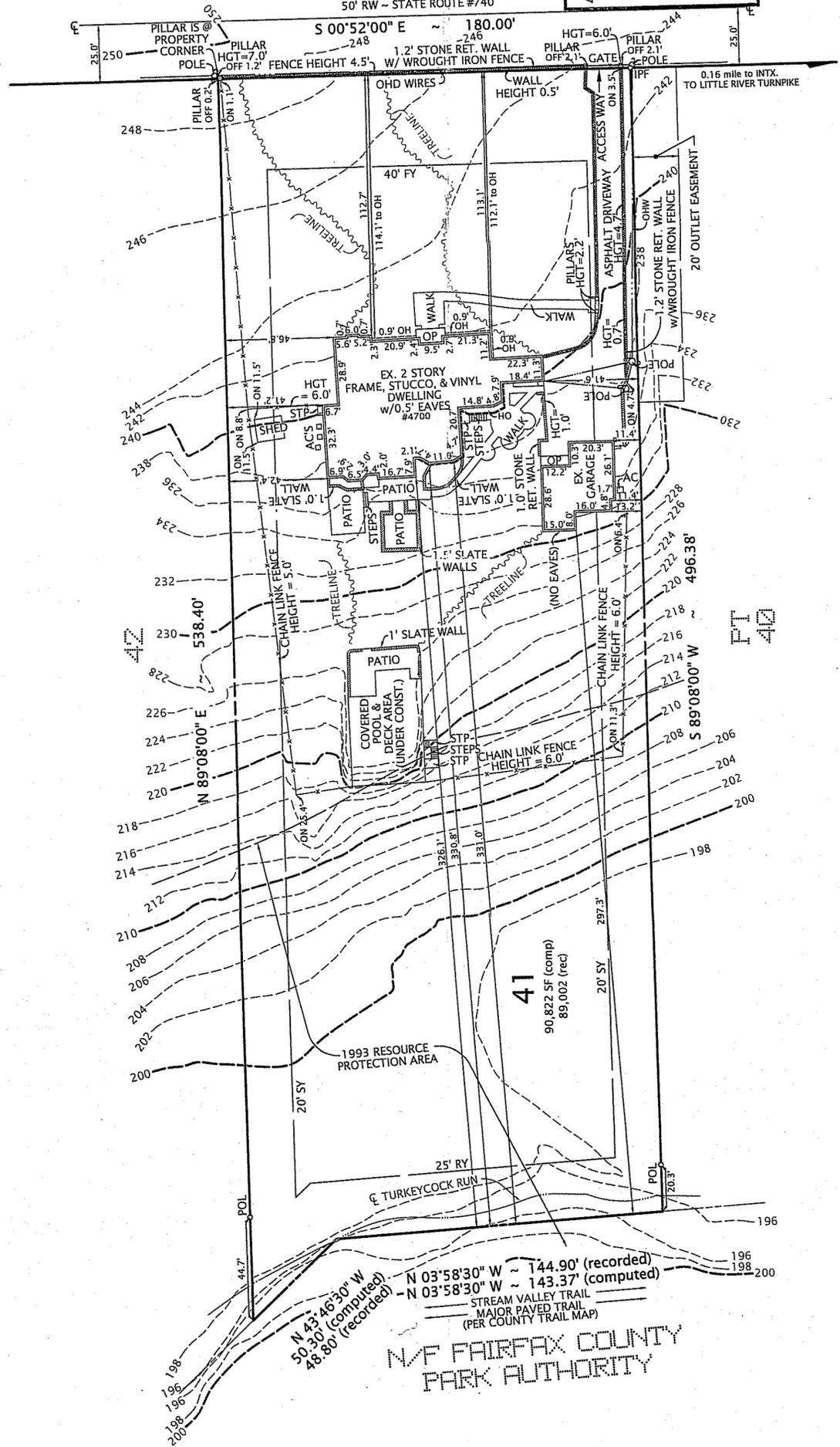
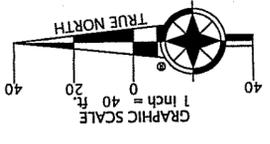
5. HEIGHTS:
- DWELLING = 23.0 FEET (MIDLINE)
 - GARAGE = 14.7 FEET (MIDLINE)
 - SHED = 07.0 FEET
 - FENCES = AS NOTED
 - POOL DECK = 10.0 FEET

6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 2' INTERVALS, AND IS AERIAL.
11. THERE IS A RESOURCE PROTECTION AREA ON THIS PROPERTY.
12. THE SUBJECT PROPERTY IS ENTIRELY WITHIN THE LITTLE RIVER TURKEYCOCK RUN HIGHWAY CORRIDOR.

13. AREAS:
- BASEMENT = 4,097 SF
 - FIRST FLOOR = 4,097 SF
 - SECOND FLOOR = 3,972 SF
 - DETACHED GARAGE = 399 SF
 - GROSS FLOOR AREA = 12,565 SF

FLOOR AREA RATIO: EX. GFA (12565) / LOT AREA (89002) = 0.14

BROOKSIDE DRIVE
50' RW ~ STATE ROUTE #740



Application No. **SP 2013-MA-087**

APPROVED

J. Heath
Chairman, Board of Zoning Appeals

PLAT
SHOWING THE IMPROVEMENTS ON

LOT 41
PINECREST
(DEED BOOK T-12, PAGE 567)
FAIRFAX COUNTY, VIRGINIA
MASON DISTRICT
MAY 28, 2013
SEPTEMBER 17, 2013 (REV.)
SCALE: 1" = 40'

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.



CASE NAME: CARLEY JENNIFER KRALY

DOMINION
8808-H PEAR TREE VILLAS
ALEXANDRIA, VA 22304
PHONE: 703-299-6666
FAX: 703-299-6666

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CARL S. EY & JENNIFER K. EY, SPA 2013-MA-087 Appl. under Sect(s). 8-914 and 8-918 of the Zoning Ordinance to amend SP 2013-MA-087 previously approved for reduction in minimum yard requirements based on error in building location to permit accessory structure to remain 11.4 ft. from a side lot line to permit modification of development conditions and an accessory dwelling unit. Located at 4700 Brookside Dr., Alexandria, 22312, on approx. 2.08 ac. of land zoned R-1 and HC. Mason District. Tax Map 72-1 ((6)) 41 and 41 V9. (Admin. moved from 10/29/14 at appl. req.) (Admin. moved from 1/14/15.) (Decision Deferred from 2/11/15 and 4/01/15.) Mr. Byers moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 29, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The application meets criteria A-H.
3. The applicant has read and understands the proposed development conditions.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- 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.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. The approval for the accessory dwelling unit is granted to the applicants only, Carl S. Ey and Jennifer K. Ey, and is not transferable without further action of the Board, and is for the location indicated on the application, 4700 Brookside Drive, Alexandria, and is not transferable to other land.
- 2. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
- 3. This special permit amendment is approved for the accessory structure/accessory dwelling unit as shown on the special permit plat, titled "Plat Showing the Improvements on Lot 41 Pinecrest" prepared by Dominion Surveyors, dated May 28, 2013, and revised through November 4, 2014.

4. A copy of this special permit shall be posted in a conspicuous place within the accessory dwelling unit and be made available to all departments of the County of Fairfax.
5. All applicable permits and inspections shall be obtained for the garage and accessory dwelling unit by November 1, 2015.
6. The accessory dwelling unit shall not be occupied until approval of all required inspections.
7. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states, in part, that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice.
9. The accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit amendment and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Sect. 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory dwelling unit shall be converted to a use permitted by the Zoning Ordinance, or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
12. All parking shall be provided on site.

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

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, on November 1, 2015 unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the

date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Hart seconded the motion, which carried by a vote of 5-0. Mr. Hammack and Ms. Theodore were absent from the meeting.

A Copy Teste:

Mary D. Padruitt

Mary D. Padruitt, Deputy Clerk
Board of Zoning Appeals

ACKNOWLEDGEMENT

COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

The foregoing instrument was acknowledged before me this 4th day of May, 2015.

Lorraine Ann Giovinazzo

Notary Public

My commission expires: 6/30/18



Group: 2014-MA-059

SP 2014-MA-059

[STAFF REPORT](#)

APPLICANT: GUNTHER IMER
STATUS: BZA DECISION
STATUS/DECISION DTE: 07/30/2014
R- 1
ZONING DISTRICT:
DESCRIPTION: ACCESSORY DWELLING UNIT AND REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ACCESSORY STRUCTURE 13.0 FEET FROM SIDE LOT LINE
LOCATION: 4609 BROOKSIDE DRIVE, ALEXANDRIA, VA 22312
TAX MAP #S:
0721 06 0025

Group: 2014-MA-080

SP 2014-MA-080

[STAFF REPORT](#)

APPLICANT: WILLIAM G. HOHENSTEIN
STATUS: BZA DECISION
STATUS/DECISION DTE: 07/16/2014
R- 1
ZONING DISTRICT:
DESCRIPTION: MODIFICATIONS TO THE LIMITATIONS ON THE KEEPING OF ANIMALS
LOCATION: 4527 BROOKSIDE DRIVE, ALEXANDRIA, VA 22312
TAX MAP #S:
0721 06 0023A

Group: 89-M -006

VC 89-M -006

APPLICANT: MITCHELL, ARTHUR & ELIZABETH DALLAM KOPPELMAN
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 05/03/1989
R- 2
ZONING DISTRICT:
DESCRIPTION: ALLOW CONSTRUCTION OF ADDITION TO DWELLING TO 7.8 FT. FROM SIDE LOT LINE (15 FT. MIN. SIDE YARD REQ.)
LOCATION: 4521 PARK ROAD
TAX MAP #S:
0721 06 0085

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.

8-903 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, Par 2 and 3

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.

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.