



**APPLICATIONS ACCEPTED:** September 1, 2016  
**BOARD OF ZONING APPEALS:** November 30, 2016 @ 9:00 a.m.

# County of Fairfax, Virginia

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**November 23, 2016**

**STAFF REPORT**

**SPECIAL PERMIT SP 2016-PR-089**

**Concurrent with**

**VARIANCE APPLICATION VCA 81-C-059**

**DRANESVILLE DISTRICT**

**APPLICANT:** Tan Le

**OWNER:** Tan Le and Truc Anh Nguyen

**STREET ADDRESS:** 3700 Highland Place, Fairfax 22033

**TAX MAP REFERENCE:** 46-4 ((2)) 43A

**LOT SIZE:** 1.20 acres

**ZONING DISTRICT:** R-1

**ZONING ORDINANCE PROVISIONS:** 8-917, 8-918, 8-914, 18-401

**SPECIAL PERMIT PROPOSALS:** To permit a reduction in the minimum yard requirements based on errors in building location to permit an accessory structure (playhouse) to remain 8.6 feet and a deck 8.5 feet from a side lot line; to permit an accessory dwelling unit; and to permit modifications to the limitations on the keeping of animals (chickens).

**VARIANCE PROPOSAL:** To amend V 81-C-059 previously approved for a carport 1.0 feet from a side lot line to permit an addition to remain 0.8 feet from a side lot line.

*Heath Eddy, AICP*

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**STAFF RECOMMENDATIONS:** Staff recommends the following:

1. Approval of SP 2016-PR-089 for the accessory dwelling unit and for the keeping of up to 10 chickens on the subject property with adoption of the Proposed Development Conditions contained in Appendix 1.
2. Approval of VCA 81-C-059 for the conversion of the previously approved carport to an attached garage located 0.8 feet from the side lot line, with adoption of the Proposed Development Conditions contained in Appendix 1.

Staff has no recommendations regarding the requests for reduction due to errors in building location.

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

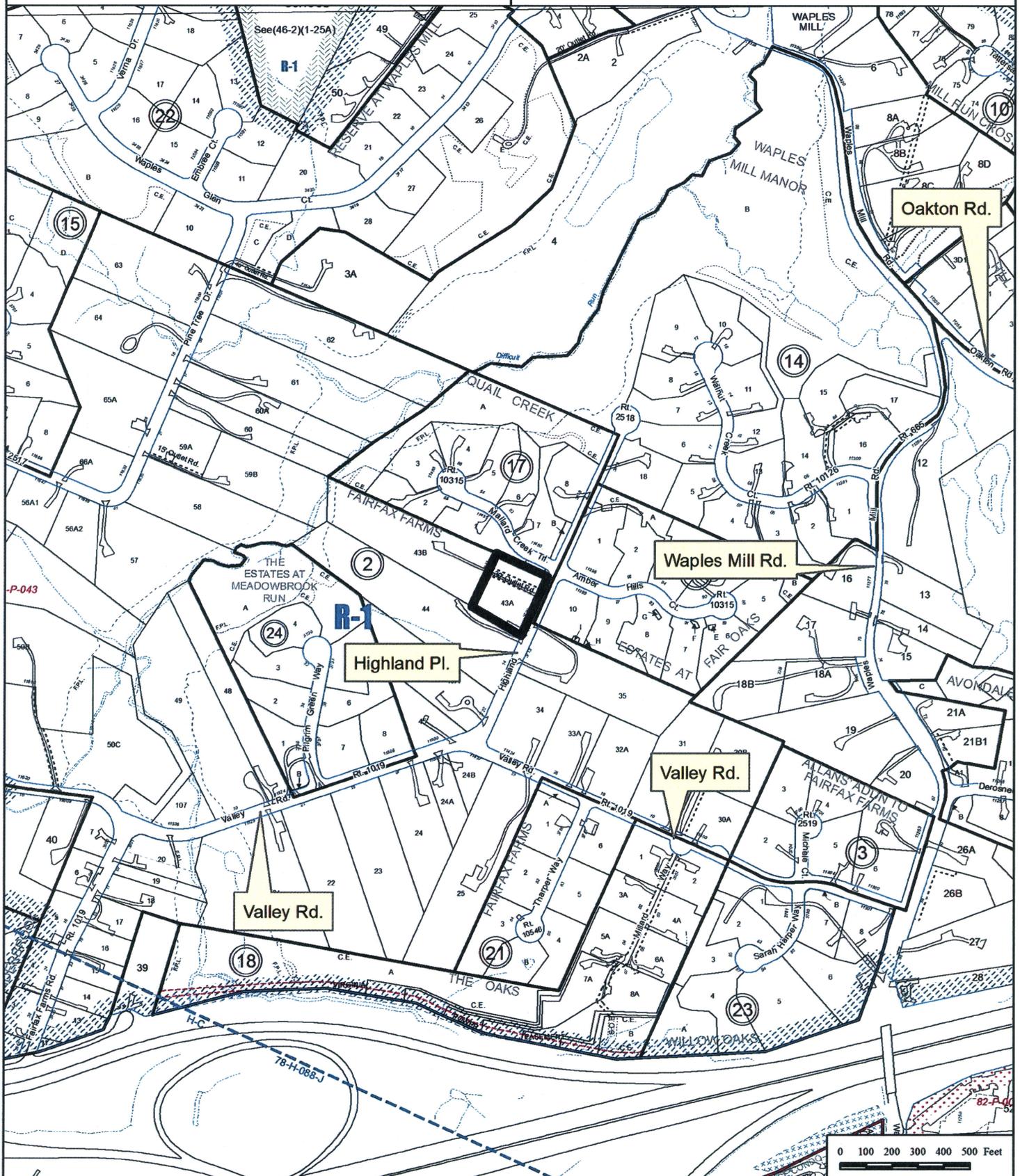
SP 2016-PR-089

TAN LE

# Variance Amendment

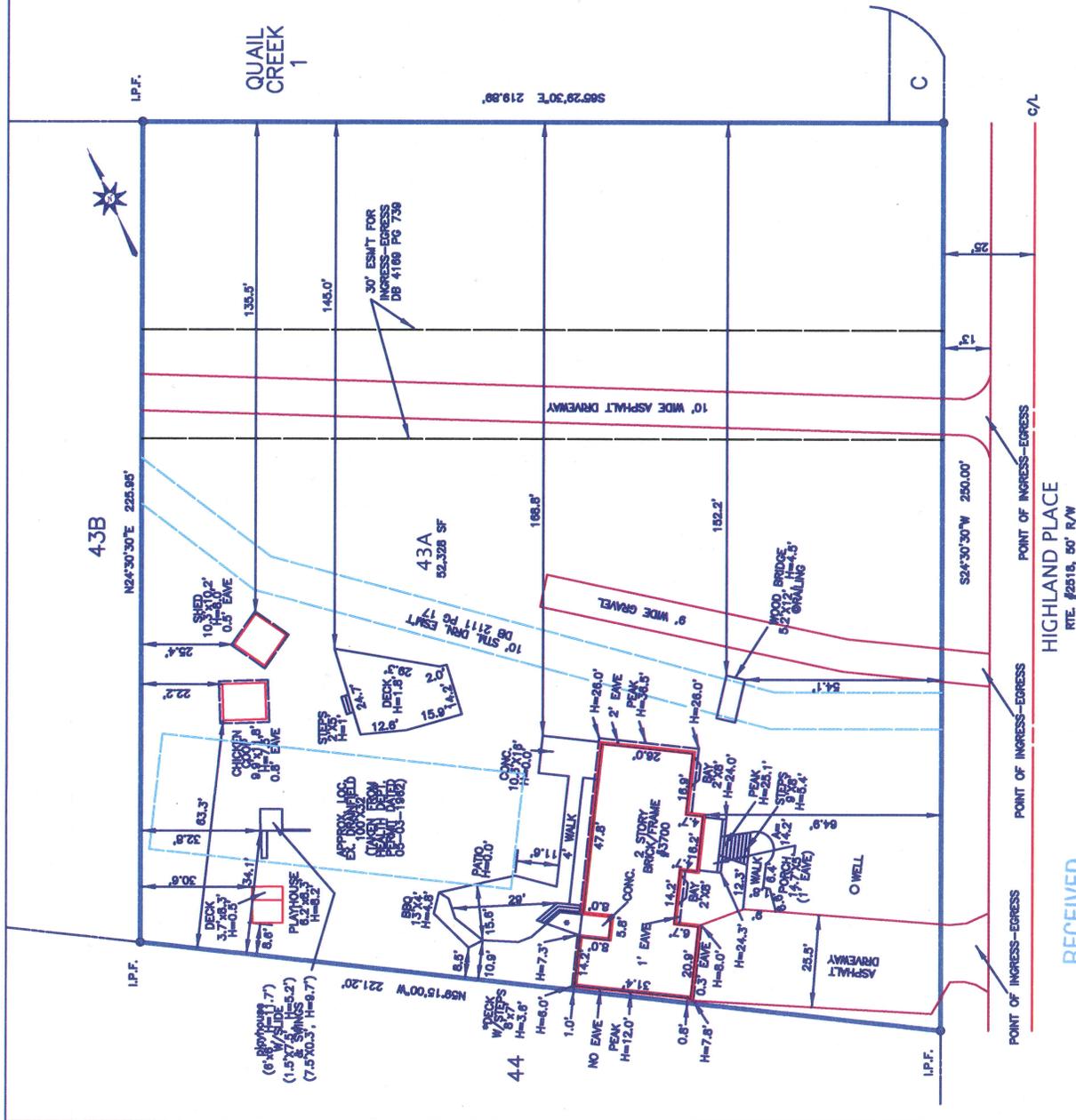
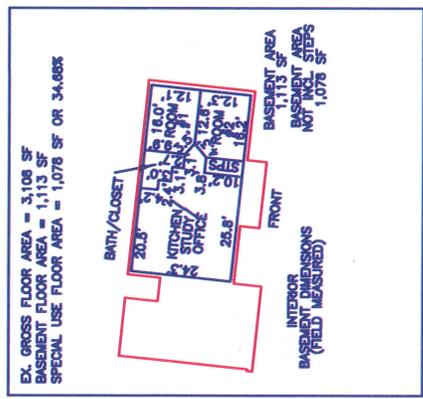
VCA 81-C -059

TAN LE

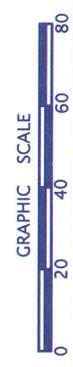


NOTES:

1. TM #046-4-02-0043A.
2. ZONE: R-1
3. SETBACKS: FRONT = 40', SIDE = 20', REAR = 25'.
4. PROPERTY IS SERVED BY ON-SITE SEPTIC AND PUBLIC WATER. A WELL IS LOCATED IN THE FRONT YARD. COUNTY RECORDS SAY THIS WELL IS NOT SERVED BY PUBLIC WATER. HOMEOWNER CONFIRMS THAT DWELLING IS CONNECTED TO PUBLIC WATER.
5. THERE ARE NO KNOWN GRAVES OR STRUCTURES MARKING A PLACE OF BURIAL ON THIS SITE.
6. THERE ARE NO MAJOR UNDERGROUND UTILITIES OR EASEMENTS FOR SUCH UTILITIES HAVING A WIDTH OF 25 FEET OR GREATER LOCATED ON THIS SITE.
7. THIS SITE DOES NOT CONTAIN 100-YEAR FLOOD PLAN OR RESOURCE PROTECTION AREA (RPA). SITE IS LOCATED ENTIRELY WITHIN THE RESOURCE MANAGEMENT AREA (RMA).
8. NO ADDITIONAL LANDSCAPING OR SCREENING IS PROPOSED WITH THIS PLAN.
9. FLOOR AREA CALCULATIONS: PER ZO SECTION 20-300 (DEFINITIONS) (DWELLING FRAME CALCULATED USING BOTH EXTERIOR WALLS AND INTERIOR WALLS) (MEASUREMENTS OF DWELLING AS MEASURED IN THE FIELD)  
 EX. LOT AREA = 52,328 SF  
 EX. GROSS FLOOR AREA, 2-STY. = 3,108 SF (NOT INCLUDING BASEMENT)  
 PROP. ADDITIONAL GROSS FLOOR AREA = 0 SF  
 EX. & PROP. FAR = 3,108 / 52,328 = 0.059



RECEIVED  
 Department of Planning & Zoning  
 SEP 02 2016  
 Zoning Evaluation Division



BY PROVISIONS OF THE VIRGINIA CODE, NO CORNER MARKERS SET.  
 ANY SURVEY SHALL BE SUBJECT TO RESTRICTIONS OF RECORD, TITLE REPORT NOT FURNISHED.



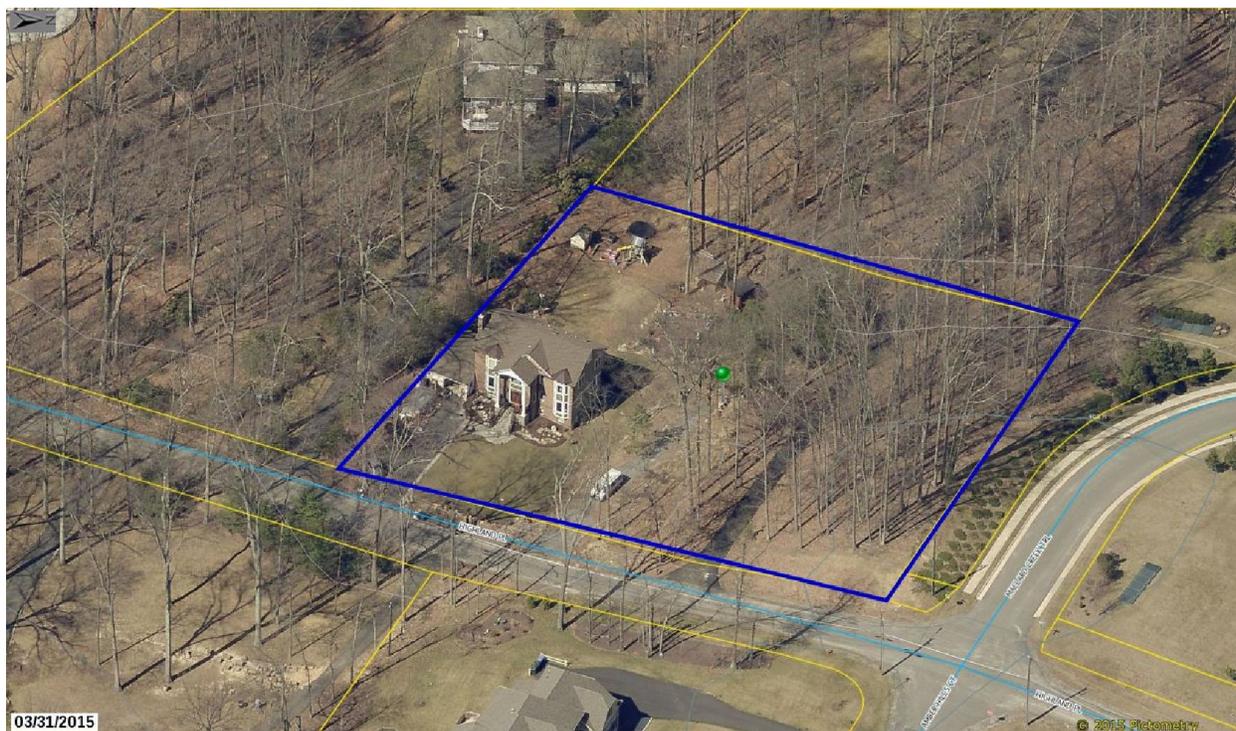
SPECIAL PERMIT PLAT  
 LOT 43A  
 FAIRFAX FARMS  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE 1"=20' DATE 10-26-15  
 REV. 08-15-16

ALEXANDRIA SURVEYS, LLC  
 1228 CARROLLVILLE ROAD SUITE 104 STAFFORD, VA 22556  
 TEL. NO. 703-696-1313 FAX NO. 703-696-4266

819-1970

## SPECIAL PERMIT REQUEST

The applicant is seeking multiple special permit approvals to allow an accessory dwelling unit; to permit modifications to the limitations on the keeping of animals (chickens); and to permit a reduction in minimum yard requirements based on errors in building location to permit an accessory structure (playhouse) to remain 8.6 feet and a deck to remain 8.5 feet from the side lot line. In addition, the applicant is seeking a variance amendment to amend V 81-C-059 previously approved for a carport 1.0 feet from a side lot line to permit a residential addition (garage) to remain 0.8 feet from a side lot line.



**Figure 1:** House location overhead view. Source: Pictometry

A copy of the special permit and variance plat, entitled “Special Permit Plat Lot 43A Fairfax Farms,” prepared by Michael L. Flynn, LS of Alexandria Surveys, LLC, dated October 26, 2015, last revised August 15, 2016 and received August 30, 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 located on Highland Road about  $\frac{1}{4}$  mile west of Waples Mill Road and just north of the I-66/US 50 interchange. The property is mostly wooded, and is essentially split into two portions. The northern half is split by an asphalt driveway which is the access easement for Lot 43B, located just behind and west of the subject property. The southern half is the

location of the owner's residence and all other on-site improvements, including a second, separate gravel driveway; a detached deck; a 10.3' x 10.2' shed, a playhouse/slide/swing set; a chicken coop; and another playhouse. The residence includes a front porch and walk, a rear walkway and concrete patio, a second brick patio and barbeque grill structure, and an attached, 7.3-foot high deck. The second playhouse and the attached deck are the subjects of the error in building location request. The chicken coop will be reviewed with the request to keep chickens on the property.

The subject property is part of the Fairfax Farms development, which is a low-density area located north of I-66 and the US 50 interchange area and is generally low density in character. Residences in the area of similar or larger size, and most are of a contemporary time period to the subject property.

## **BACKGROUND AND HISTORY**

The residence was constructed in 1962 as a 1-story rambler. Variance V 81-C-059 was approved by the Board of Zoning Appeals on Jun 2, 1981 to permit construction of an attached carport to within 1 foot of the side lot line. The carport was subsequently permitted and built in 1982. In 2012, the current owners receive a building permit to construct a second floor addition, 2-story foyer extension, and a 1-story front porch. The setback certification for this work was approved in 2013, though it was noted that there were several existing structures located on the property that were not in compliance with Zoning Ordinance requirements. Since then, the applicant has constructed a playhouse with a deck, modified a previously approved patio, and added a chicken coop.

A complaint was filed with the Department of Code Compliance (DCC) in May 2014 that indicated there were multiple dwellings on the property. A DCC investigator conducted a site inspection on May 20, 2014 and found evidence of two complete and separate dwellings within the single family residence, the second of which was in the basement. A Notice of Violation (NOV) was issued on June 4, 2014 requiring removal of the second kitchen and building permits for complete inspections for the other improvements to the basement, including two bedrooms and two storage rooms.

The applicant submitted a special permit application on June 26, 2014, for approval of an accessory dwelling unit. A deficiency letter including all application deficiencies was mailed to the applicant in July 2014 from ZED staff. Subsequent revisions were reviewed in March 2015 and a follow-up deficiency letter was mailed to the applicant in early April 2015. In October 2015, the applicant requested to add the errors in building location to the application in response to the deficiency letters. In November 2015, the applicant requested information about adding the garage error and was told it required a variance. Additional revised materials were received on February 24, 2016 including the additional application requests. A follow-up deficiency letter was mailed to the applicant on February 29, 2016. The applicant met with Acceptance staff to review the additional requirements and changes in August 2016, and final submissions were received and the concurrent applications were accepted on September 1, 2016.

During this time period between the initial NOV issuance and acceptance of this application, DCC has taken enforcement action against the owners including two hearings at the Circuit Court. The DCC complaint sent to the Circuit Court included the completed, unpermitted garage in addition to the multiple dwellings violation. The Court case is still pending. The next Court date is April 12, 2017, pending a decision on this special permit/variance application.

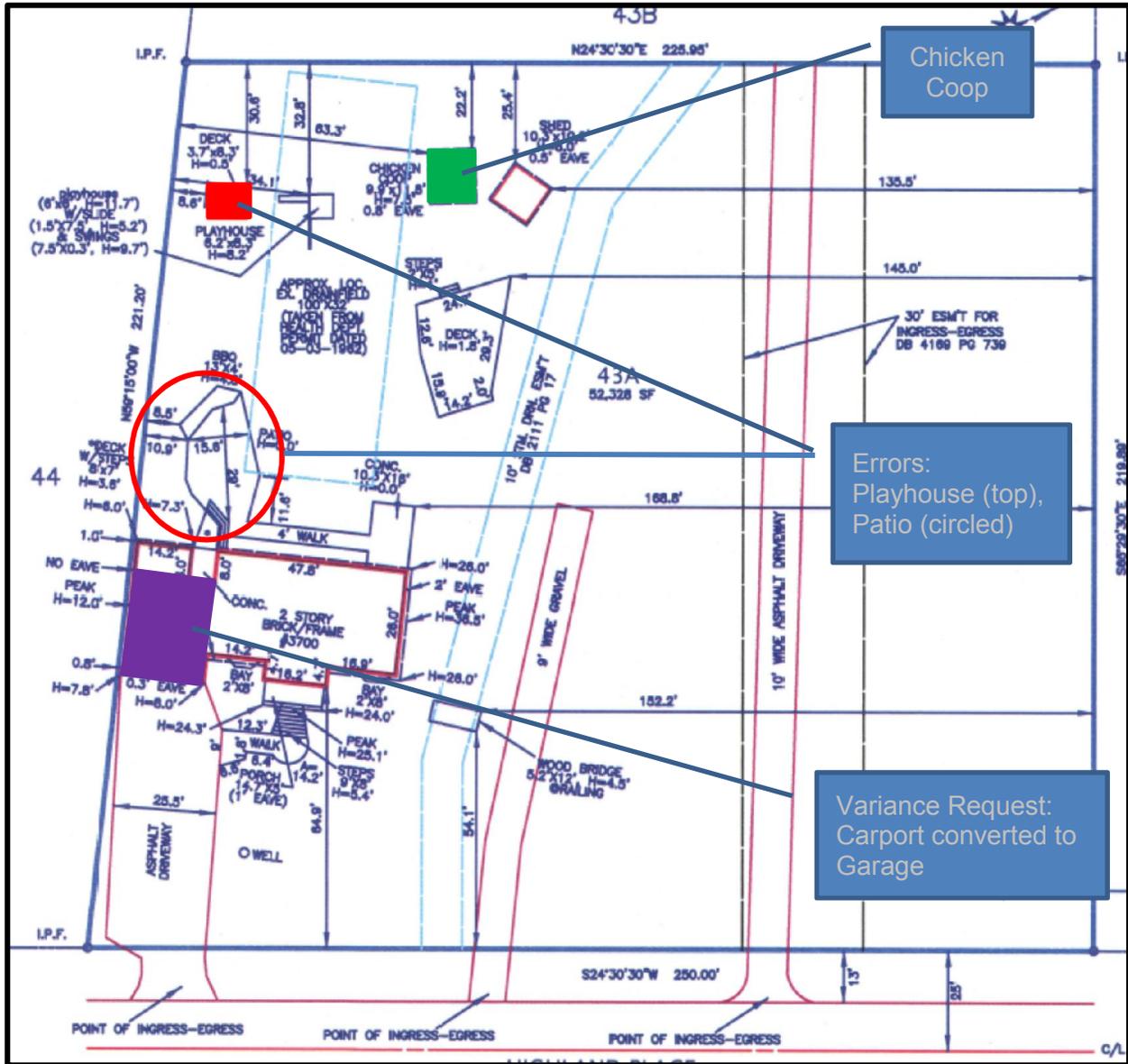
This is the second special permit/variance request for the subject property. There have been no other such requests in the vicinity of the subject property:

## DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of the following:

1. **Special Permit** approval for the following:
  - a. **Accessory Dwelling Unit (ADU)**. This request is the subject of the NOV as discussed above. The ADU is proposed for up to 2 occupants over the age of 55, and is 1,078 square feet in area, which is 34.68% of the total gross floor area (GFA) of the residence, which is 3,108 square feet. The applicant states that the ADU is for his uncle (over age 55) who is currently recovering from a stroke.
  - b. **Modifications to the Keeping of Animals**. The applicant is requesting approval to keep up to 10 hen chickens in an existing chicken coop located 22.2 feet from the rear lot line. The applicant states that the coop is fixed in place and cannot be moved. The coop request is a reduction of 27.8 feet from the minimum distance from all lot lines as required by Sect. 2-502 of the Zoning Ordinance.
  - c. **Errors in Building Location**. The applicant is requesting reductions to the minimum side yard in the R-1 District. The reductions are to the same side yard, and are for the following:
    - i. A playhouse (accessory structure) 8.2 feet tall located 8.6 feet from the side lot line. Pursuant to Sect. 10-104.12, the minimum required yard is 20 feet, therefore the requested reduction is 11.4 feet or 57%; and
    - ii. An attached deck/patio 0 feet in height located as close as 8.5 feet from the side lot line. Pursuant to Sect. 2-412.2, the maximum encroachment into the side yard is 5 feet, or 15 feet from the side lot line. Therefore the requested reduction is 6.5 feet or 43.4%.
2. **Variance**: the applicant is requesting a Variance Amendment. The original variance approved in 1981 was to permit an attached carport to be located 1 foot from the side lot line, the same lot line as the errors described above. According to the applicant, subsequent to the variance approval but prior to the applicant's ownership of the property, the carport was enclosed, and the applicant installed the front façade and garage door (also without a building permit). The 2013

setback certification identifies the carport as such on a sealed survey plat. The request is a reduction from the original approval from 1.0 feet to 0.8 feet. However, the original request was for a carport, whereas the garage is considered a residential addition. Therefore the request reflects an overall reduction of 19.2 feet, or 96%.



**Figure 2:** Special Permit Plat (partial), errors (red outline and solid), chicken coop (green) and garage (purple) as requested for approval. Source: Applicant.

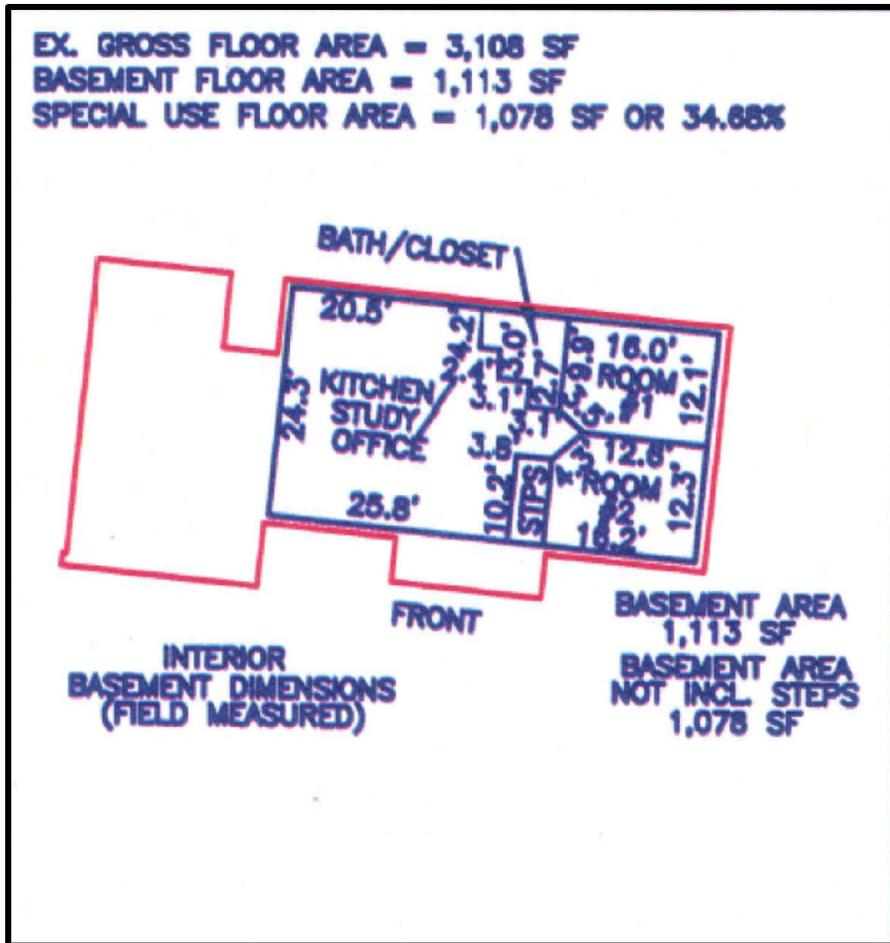


Figure 3: The layout of the proposed/existing ADU. Source: Applicant.



Figure 4: The playhouse (on the left) subject to the error in building location request. Source: Applicant.



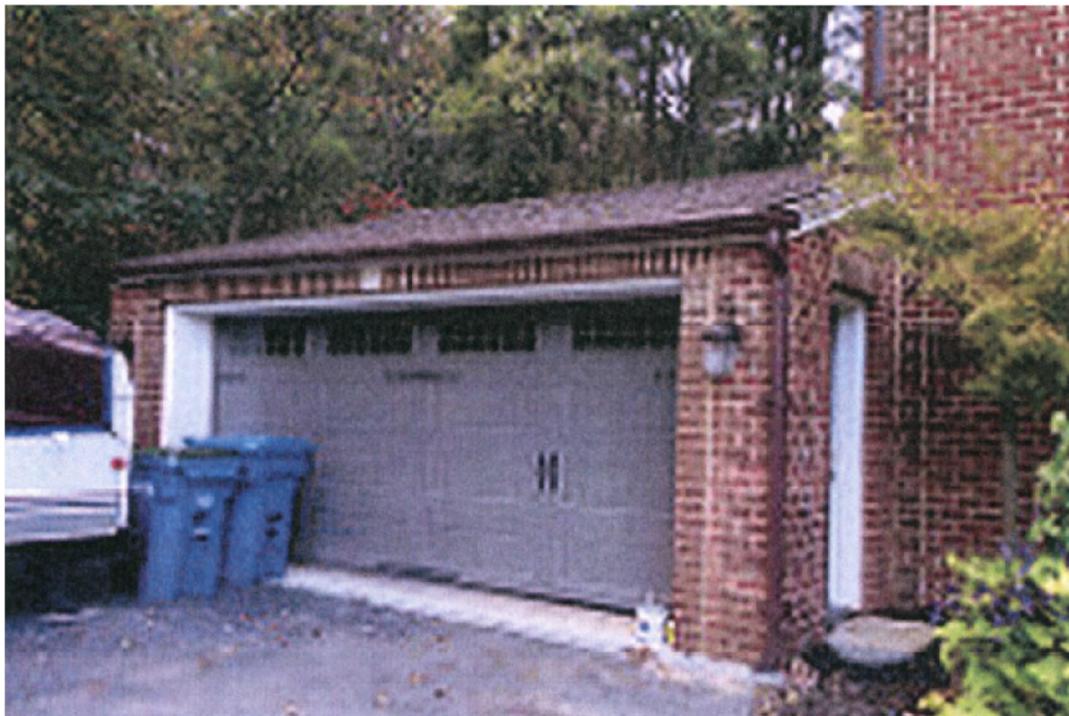
**Figure 5:** The ground level patio subject to the error in building location request. Note the back of the completed garage on the left. Source: Applicant.



**Figure 6:** The chicken coop and run on the left. Note there is an electrical extension cord running to the coop. Source: Applicant.



**Figure 7:** Partially obscured view of the back of the garage/converted carport. Source: Applicant.



**Figure 8:** The front of the converted carport. The brick façade and door were added by the applicant, who assumed it was already a permitted garage. Source: Applicant.



**Figures 9 and 10:** The ADU bedrooms. On the left, the primary bedroom, on the right the secondary bedroom currently used as office. Source: Applicant.



**Figure 11:** The unpermitted kitchen in the ADU. Source: Applicant.

## ANALYSIS

### Comprehensive Plan Provisions

**Plan Area:** II  
**Planning District:** Fairfax  
**Planning Sector:** F4 Fox Lake  
**Plan Map:** Fairfax Center Area

The Comprehensive Plan identifies this area as part of the Fairfax Center Area. However the Area II Plan sector for Fox Lake provides a specific reference to the Fairfax Farms subdivision as follows:

*“The Fairfax Farms subdivision should be retained as a low density residential area. Residential development at a density of .1-.2, .5-1 and 1-2 dwelling units per acre is appropriate as outlined in the recommendations for Land Unit C within the Fairfax Center area text (see Area III Plan). Redevelopment to higher densities or intensities should not occur. Infill of vacant lots in the subdivision and in adjacent areas should be compatible with existing development in terms of use, intensity and dwelling unit type.”*

The Fairfax Center Area plan (Area III) also identifies the area as Low Density Residential. The recommendations for land use in Land Unit C of the Fairfax Center Area specific state

#### **Sub-units C1, C2, C3**

*These sub-units contain the stable Fairfax Farms subdivision which should be buffered and preserved. The easternmost part of Sub-units C1 and C3 contain low density residential areas adjacent to Fairfax Farms and should reflect that land use, density and character. West and north of Difficult Run the area is planned for .5-1 dwelling unit per acre. East of Difficult Run it is planned for .5-1 and .1-.2 dwelling unit per acre, private open space or stream valley park. The area adjacent to Fairfax Farms Road is planned for private open space or stream valley park and 1-2 dwelling units per acre. Redevelopment to higher densities or intensities should not occur. Infill of vacant lots in the subdivision and in adjacent areas should be compatible with existing development in terms of use, intensity, and dwelling unit type. Fairfax County should continue to exercise its best efforts to protect the residential neighborhood of Fairfax Farms.*

### Zoning Ordinance Requirements (Appendix 7)

The subject property is zoned R-1, which has the following lot size and bulk regulations.

<b>Bulk Standards (R-1)</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
Minimum Lot Size	36,000	1.2 acres
Minimum Lot Width	150 feet	250 feet
Maximum Building Height	35 feet	Not provided
Minimum Front Yard	40 feet	64.9 feet
Minimum Side Yard	20 feet	168.8 feet 0.8 feet*
Minimum Rear Yard	25 feet	>25 feet

\*Subject request of VCA 81-C-059.

<b>Extensions and Accessory Structures on Property Subject to Special Permit or Variance Requests – R-1 District</b>		
<b>Standard</b>	<b>Required</b>	<b>Requested</b>
Chicken coop	50 feet from all lot lines	22.8 feet to rear lot line (existing)
Accessory structure (playhouse/deck) 8.2 feet in height	Taller than 7.0 feet must be 20 feet from side lot line	8.6 feet from side lot line
Attached deck/patio 0.0 feet in height	4.0 feet in height or less must be 15 feet from side lot line	8.5 feet from side lot line

This special permit application is subject to the following provisions of the Zoning Ordinance and are provided as Appendix 7.

- *Sect. 8-006* General Special Permit Standards
- *Sect. 8-903* Group 9 Standards
- *Sect. 8-917* Provisions for Modifications to the Limitations on the Keeping of Animals
- *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
- *Sect. 18-404* Required Standards for Variances

The following is staff’s analysis of the Zoning Ordinance provisions and the requests to permit an accessory dwelling unit; and to permit modifications to the limitations on the keeping of animals (chickens). Provisions under Sect. 8-914 are included in Appendix 6, but are not analyzed here, as staff does not provide a recommendation for errors in building location requests.

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

<b>Standards 1 and 2</b> Comprehensive Plan/ Zoning District	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-1 District allows for a special permit application for accessory dwelling units, errors in building location, and the modification on the keeping of animals for lots less than 2 acres in size.
<b>Standard 3</b> Adjacent Development	The property is wooded and the distances between the existing errors in building location and the existing chicken coop to surrounding residences are 105 feet (south), 226 feet (west) and 236 feet (northwest). The adjacent development is low density, existing on generally 1-acre plus lots and heavily wooded. In staff's opinion, the proposed uses and structures appear to be harmonious with adjacent development. In particular, staff believes the location of the chicken coop has little to no impact on adjacent properties.
<b>Standard 4</b> Pedestrian/Vehicular Traffic	The residential driveway is off Highland Place, which is a low traffic cul de sac with 25 residential lots. In staff's opinion, the requests for the subject property represent no significant increase in traffic impact on this roadway or the adjacent network.
<b>Standard 5</b> Landscaping/Screening	The chicken coop is located approximately 105 feet from the nearest adjacent residence to the south, and is 226 feet from the neighboring residence behind the subject property. The applicant maintains a coop and enclosed run all in one structure, and the existing trees have been maintained on the rear of the property. In staff's opinion, no additional screening is necessary.
<b>Standard 6</b> Open Space	There is no prescribed open space requirement for individual lots in the R-1 District.
<b>Standard 7</b> Utilities, Drainage, Parking, and Loading	There are no changes to proposed utilities, drainage or loading. The existing driveway has sufficient space for additional parking for the accessory dwelling unit.
<b>Standard 8</b> Signs	No signage is proposed.

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

<b>Standard 1</b> Lot Size and Bulk Regulations	The subject property conforms to all lot size and bulk regulations in the R-1 District, with the exception of the errors requested, the location of the existing chicken coop, and the converted carport.
<b>Standard 2</b> Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
<b>Standard 3</b> Site Plan	No site plan is required.

**Provisions for Modifications to the Limitations on the Keeping of Animals (8-917)**

<p><b>Standard 1</b> Kinds, Numbers, Management Techniques, and Location</p>	<p>The applicant is requesting up to 10 chickens. The chickens are kept in a covered pen/coop full time. Bedding consists of straw or wood shavings, and is dry. Waste and bedding is removed and composted regularly with other garden debris and is composted for at least 6 months before being used in the garden. The coop is well constructed and designed to prevent attacks by foxes and raccoons. The coop is located at least 105 feet from the nearest adjacent residence to the south.</p>
<p><b>Standard 2</b> Harmonious and Compatible</p>	<p>The coop has been located on the property for several years. Staff notes that no specific complaints have been filed with regard to chickens, as the NOV on the property is related to the ADU. The coop is located at least 105 feet from the nearest adjacent residence, and 226 feet from the residence which derives access through the subject property.</p>
<p><b>Standard 3</b> Plat Requirements</p>	<p>The applicant has met all plat submission requirements for the modification to the limitations on the keeping of animals.</p>

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

<p><b>Standard 1</b> Only One ADU per Single Family Detached Dwelling</p>	<p>The application requests approval of one ADU on a property occupied by a single family detached dwelling; this standard is met.</p>
<p><b>Standard 2</b> Structure Shall be Located Within Single Family Dwelling</p>	<p>The ADU is located in the basement of the single family dwelling, with a separate entrance on the rear façade, though the primary access will continue to be from the main residential entrance. This standard is met.</p>
<p><b>Standard 3</b> GFA Shall Not Exceed 35%</p>	<p>The ADU represents 34.68% of the total GFA. This standard is met.</p>
<p><b>Standard 4</b> Max. 2 Bedrooms</p>	<p>The application indicates that the ADU includes two bedrooms. This standard is met.</p>
<p><b>Standard 5</b> Occupancy Standards</p>	<p>The applicant, who currently resides in the primary residence, co-owns the property. The ADU occupant would have to meet the definition of “elderly” as defined in the Zoning Ordinance, and the applicant has identified the occupant as an uncle who is over the age of 55. This standard is met.</p>
<p><b>Standard 6</b> Reasonable Access for a Disabled Person</p>	<p>The applicant has indicated that the uncle, or any other occupant, is not disabled.</p>
<p><b>Standard 7</b> Sufficient Parking</p>	<p>The property includes sufficient parking in the driveway.</p>

<b>Standard 8</b> Will Not Modify or Disrupt Character of Neighborhood	Staff believes that the use of the ADU, as existing and proposed, would not constitute sufficient change to modify or disrupt the predominant character of the neighborhood.
<b>Standard 9</b> Regulations for Safety, Health, Sanitation	This standard requires any ADU to meet applicable regulations for building, safety, health, and sanitation. As the kitchen was installed without building permits, a development condition is proposed to this effect.
<b>Standard 10</b> Recorded	A condition is proposed requiring the approval to be recorded among the Fairfax County land records.
<b>Standard 11</b> Inspection	A condition is proposed requiring the owner to allow inspections of the property by County personnel during reasonable hours upon prior notice.
<b>Standard 12</b> Approved for 5 Years	A condition is proposed addressing this standard.
<b>Standard 13</b> Approval Prior to July 27, 1987	This standard is not applicable.

### Variance Analysis

In addition to meeting the definition of a variance in Sect. 15.2-2201 of State Code, the BZA must find that an application meets the criteria enumerated in Sect. 18-404 of the Zoning Ordinance in order to grant relief:

*1. The property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.*

The applicant purchased the property in 2006, and at that time the carport for which V 81-C-059 was approved had already been enclosed on 3 sides (including the rear and side), with only the front left open. The applicant subsequently constructed the brick front façade and installed the garage door. However, by 2006, the carport as originally approved was no longer a carport as defined by the Zoning Ordinance. Therefore, in staff's opinion the applicant did not create the hardship.

*2. The condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.*

The condition was created with approval of a variance for an attached carport in 1981. The conditions under which the variance was approved indicate that the configuration of the subject property necessitated some level of relief if the property was to have some kind of covered facility for vehicles, similar to other lots in the

vicinity. This property is particularly unique given the presence of the easement and the location of the house which is located along the property line.

*3. The strict application of this Ordinance would unreasonably restrict the utilization of the subject property, or 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.*

In staff's opinion, the strict application of the requirements for residential additions would require either the removal of the garage or restoration to the previous carport as approved under Variance V 81-C-059. The granting of this amendment to that variance would continue to alleviate the hardship that exists given the location of the house on the lot and the presence of the drainage easement.

*4. Such unreasonable restriction or hardship is not shared generally by other properties in the same zoning district and the same vicinity.*

The variance amendment request is unique to the subject property, largely because the property has a unique variance approval already in effect. Other properties in the vicinity are not restricted by easements and are better capable of constructing attached garages without running afoul of the minimum yard requirements in the R-1 District.

*5. The granting of the variance will not be of substantial detriment to the adjacent property.*

In staff's opinion, the granting of the variance will not be a substantial detriment to the adjacent property or nearby properties in the vicinity. According to the applicant, the adjacent neighbor, who has lived at that property since 1998, has seen the carport as a garage since well before the applicant moved in. There appear to be no complaints regarding this garage, and staff sees no detriment.

*6. The variance will be in harmony with the purposes of this Ordinance and will not be contrary to the public interest.*

The applicant has no other form of remedy under the Zoning Ordinance other than a variance amendment except to restore the approved carport to the original condition, or removal of the garage entirely. As mentioned above, the carport was approved in 1981 and constructed in 1982, and there has been no impact to adjacent neighbors. In staff's opinion, approval of the requested amendment will not be contrary to the public interest.

## **CONCLUSION**

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with respect to the accessory dwelling unit. Staff further believes that the presence of the chickens on this property has posed no issues for the adjacent properties and should be permitted to continue, subject to the Proposed Development

Conditions. Finally, staff believes that the approval of the variance amendment would not impact the adjacent neighbor, and would legalize an existing conversion that is more consistent with properties in the immediate vicinity.

## **RECOMMENDATION**

Staff recommends approval of SP 2016-PR-089 for the accessory dwelling unit and for the keeping of up to 10 chickens on the subject property with adoption of the Proposed Development Conditions contained in Appendix 1.

Staff recommends approval of VCA 81-C-059 with adoption of 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, ADU Floor Layout, and Select File Photographs
3. Applicant's Affidavits
4. Notice of Violation – dated June 4, 2014
5. Available Street File Records
6. Agency Comments
7. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2016-PR-089****November 23, 2016**

If it is the intent of the Board of Zoning Appeals to approve SP 2016-PR-089 located at Tax Map 46-4 ((2)) 43A to permit modification to the limitations on the keeping of animals pursuant to Sect. 8-917 of the Zoning Ordinance; to permit an accessory dwelling unit pursuant to Sect. 8-918 of the Zoning Ordinance; and to permit a reduction in minimum yard requirements based on errors in building location to permit an accessory structure (playhouse) to remain 8.6 feet and a deck/patio to remain 8.5 feet from a side lot line pursuant to Sect. 8-914 of the Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This special permit is approved for the location and size of the accessory structure (playhouse), the patio located 8.5 feet from the side lot line, and the chicken coop as shown on the plat entitled "Special Permit Plat Lot 43A Fairfax Farms," prepared by Michael L. Flynn, LS of Alexandria Surveys, LLC, dated October 26, 2015, last revised August 15, 2016 and received August 30, 2016, and approved with this application, as qualified by these development conditions.
2. With respect to the modification to the limitation on the keeping of animals (chickens) and the accessory dwelling unit, this approval is granted to the applicant, Tan Le, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 3700 Highland Place, and is not transferable to other land.
3. A copy of the special permit shall be made available to all departments of the County of Fairfax upon request.

**Pursuant to Sect. 8-917 (Modification on Keeping of Animals):**

4. This approval shall be for a maximum of ten (10) hen chickens. No roosters are permitted.
5. All chicken waste shall be thoroughly composted before use or distribution, or removed from the site. Any composted waste used on-site shall not be spread except in an environmentally responsible manner, and not during winter months when the ground is frozen, or during the summer months.
6. The composting site shall be covered to prevent leaching of pollutants.
7. The chickens shall remain in a fenced area at all times.

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

8. The occupant(s) of the principal dwelling and the ADU shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.
9. The layout of the ADU shall be consistent with the depiction in Attachment 1 to these conditions.
10. Parking for the ADU shall be accommodated on site.
11. 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.
12. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice, and the ADU shall meet applicable regulation for building safety, health and sanitation.
13. The ADU 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) year periods with prior approval of the Zoning Administrator in accordance with Sect. 8-012 of the Zoning Ordinance.

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.

**PROPOSED DEVELOPMENT CONDITIONS****VCA 81-C-059****November 23, 2016**

If it is the intent of the Board of Zoning Appeals to approve VCA 81-C-059 located at Tax Map 46-4 ((2)) 43A to amend V 81-C-059, to allow the conversion of a carport approved under the previous variance to a garage 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 the carport converted to a garage as shown on the plat entitled "Special Permit Plat Lot 43A Fairfax Farms," prepared by Michael L. Flynn, LS of Alexandria Surveys, LLC, dated October 26, 2015, last revised August 15, 2016 and received August 30, 2016, and approved with this application, as qualified by these development conditions.
2. The applicant shall apply for building permits within thirty (30) days of approval of this variance amendment for the carport conversion and installation of the garage door. Final inspections shall be passed within three (3) months of approval.

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

**Statement of Justification**

## Statement of Justifications

AUG 31 2

Property: 3700 Highland Place, Fairfax, VA  
Owners: Tan Le & Truc-Anh Nguyen

Zoning Evaluation

- 1) For deck located 8.5 feet from a side lot line
  - A. This error exceeds 10% of the measurement involved.
  - B. N/A
  - C. This structure has a small landing and 3 steps down which was built when previous owner put in the carport to allow access down to the back yard from the carport built in 1982. We really don't have any other choice but to go down this way.
  - D. This modification does not impair the purpose and intent of this ordinance
  - E. This will not in any way be detrimental to the use and enjoyment of the other property in the immediate vicinity. In fact, the neighbor can't even see these steps from his lot line.
  - F. It will not create an unsafe condition with respect to both other property and public street
  - G. To force this compliance with the minimum yard requirements would cause unreasonable hardship to us as we won't have a way to access the backyard and their won't be anyway for us to step down. It would also be very unsafe.
  - H. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 2) The accessory structure (playhouse) located 8.6 feet from a side lot line
  - A. This error exceeds 10% of the measurement involved.
  - B. N/A
  - C. This playhouse belongs to the swing set and playground for the children. This would be no use if we put it any where else on the lot as it won't be accessible safely to the children. We hope we can keep it in this area along with the chicken house where all the children playing sets belong.
  - D. This modification does not impair the purpose and intent of this ordinance
  - E. This will not in any way be detrimental to the use and enjoyment of the other property in the immediate vicinity. I talked to the neighbor, he doesn't mind at all. We even offered and planted a row of 5 tall cypress trees to block the view from the 2 properties. He was very happy with that option.
  - F. It will not create an unsafe condition with respect to both other property and public street
  - G. To force this compliance with the minimum yard requirements would cause unreasonable hardship to us. We would have to demolish and trash this play house to take it out. It is just simply too heavy for even 10 strong men to carry it anywhere.
  - H. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

### 3) The accessory dwelling unit

Please see attached plat with detailed layout of the basement and the percentage of usage. My uncle who is over 55 years of age and had a stroke a few years back into stay in 1 room on the same level with the kitchen. He can also walk out to the back without going up any steps without any assistance. Besides the room, he also uses the kitchen to cook when he needs, special during the night time. He also uses the bathroom which is shared with the rest of the family. The remaining room in the basement with 1 extra room and large office / library area are being used by the whole family on a daily basis. So, he is technically using well under 10% of the total square footage of the house living space.

### 4) Limitation on the keeping of animals request

We started out this chicken coop to raise the chicks from Waples Mill, the children elementary school. This is for teaching and entertainment purpose. The children really enjoy taking care of the chicken and care fro them everyday. This is a fixed structure and will NOT be able to relocated. It would just have to be demolished if it really has to be. At any given point, we have any between 8-20 hens and/or little chicks, absolutely not roosters that can potentially be too noisy and bother the neighbors. We keep this coop very clean and safe. See attached pictures. We sincerely ask for your consideration to keep this coop for the benefit of the children educational and entertainment purposes. This is located 22.2' from the lot line. It is a few hundred feet from the nearest neighbors. We talk to both of them on a regular basis and they are totally fine with the coop being where it is.

Thank you so much for your time and considerations on these items. We really appreciate any exceptions you can make. We have been in this neighborhood for over 25 years, since our uncle was the previous owner. The majority of these changes were done to the property before we bought it. We have been very good neighbor to all those who come and go. We get along with everyone. They really like what we have done to the house so far. These will be the very last items to be approved so that we can move on with our lives and keep making this a nicer piece of property, which would benefit not only us but also the neighborhood as a whole.

Thanks again and if you have any more questions we can be reached at 703-403-9741.

**From:** Tan Le <tanle3700@gmail.com>  
**Sent:** Friday, October 21, 2016 12:40 AM  
**To:** Eddy, Heath  
**Subject:** Re: Your special permit/variance application

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr. Heath,

Here are our responses to the questions/clarifications per your requests.

1. Chicken:

- a. Up to 10 chicken.
- b. Chicken management: we use straw or wood shavings as bedding. Since the area is large for the number of chicken, the floor is always dry under a covered roof. We remove the waste regularly and put in the compost bin with other garden debris. New bedding is added. The compost will be use for our garden after at least six months.
- c. Location of the coop: The coop is very heavy, with good materials to keep checken from being attacked by foxes and raccoons. Therefore, it is unmovable. This is still very far from the nearest neighbors.

2. We can affirm that the carport was enclosed all three sides, with windows and access doors. Our very long time neighbors who have been living here all their lives can be witnesses to this. What we did is put veneer brick in front to match with the new brick of the house, also to fit the garage door.

3. a. Originally, I tried to apply this SP for my father to stay. During the process, my uncle who had a stroke needed a place to stay and some additional help. So, we moved our father upstairs. Only my uncle stays in the basement room with a ground level access door so he can go in and out easier.

b. We are doing all we can and as soon as possible to correct what is needed. While waiting for the hearing, we already called a company in MD to get ready for the inspection as suggested by the county code enforcement official to check out the electrical work inside the drywalls.

Thank you for your time and considerations. Please let us know if you have any more questions. I'd be available to answer them. Please let us know regarding the hearing coming up so we can prepare for it. As the holidays coming up toward the end of the year, if the hearing date happens to set on a certain day that we maybe out of town, would there be any way we can reschedule it? If possible, we can provide these days in advance so you can help coordinate and avoid scheduling the hearing on these dates.

Thanks so much,

Tan Le

Special Permit to convert carport to garage

3700 Highland Place

Fairfax, VA 22033

Owners: Tan Le & Truc Anh Nguyen

To whom it may concern,

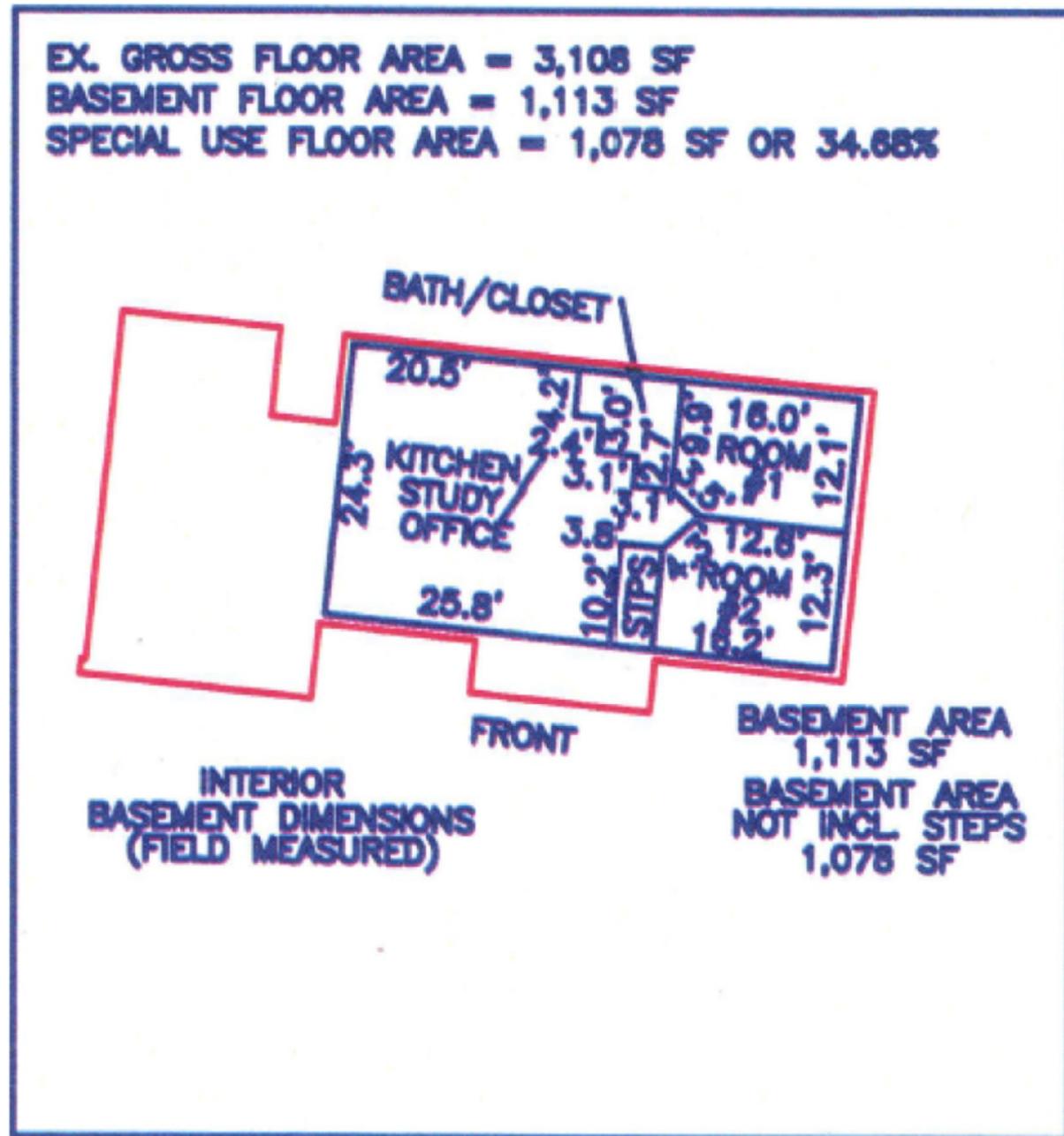
This carport was build earlier and had approved permit. Over the years, previous owner(s) built walls and storage around it. We bought this house as is and recently put a garage door to the front of the garage. We learned now that this is to have a permit to officially convert this carport to a garage. We would like to apply for a special permit to have this garage officially approved. We would be willing to go through the process to apply for this permit.

Thank you for your considerations.

Sincerely,

Tan Le & Truc-Anh Nguyen

**Accessory Dwelling Unit Layout**



**Select Photographs Provided by Applicant**



**Image 1:** The front of the residence. Note the finished garage on the left.



**Image 2:** The north side of the residence. The access easement to Lot 43B is in the woods.



**Image 3:** The patio located 8.5 feet from the side lot line. The barbeque grill is included with the deck because it is integrated into the patio design.



**Image 4:** View of a playset and the detached patio/deck which are not subjects of this application.



**Image 5:** View of the playset and the playhouse with attached small deck that is one of the errors in building location requests.



**Image 6:** The rear of the residence. The second story was built in 2012 and final inspected in 2013. The door on the lower right is the rear access for the proposed ADU.



**Image 7:** Front view of the playhouse with playset in the foreground. Note the existing screening in the background.



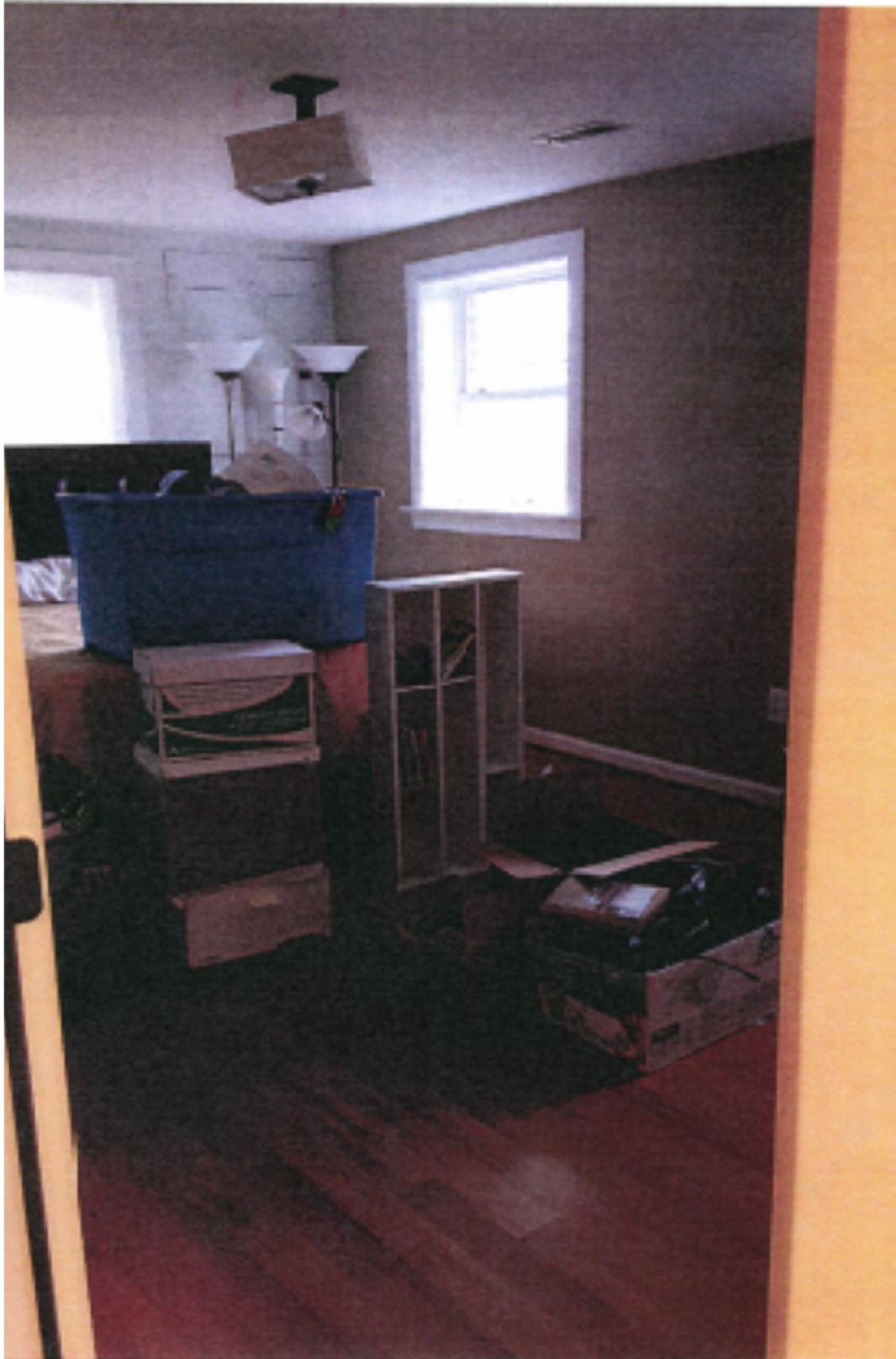
**Image 8:** Chicken coop on the left and storage shed on the right. Note there is an electrical extension cord running to the coop from above.



**Image 9:** Another view of the chicken coop looking back toward Lot 43B. Note the residence on that lot is on the left of this image, about 226 feet away from the coop.



**Image 10:** The second kitchen currently in the proposed ADU.



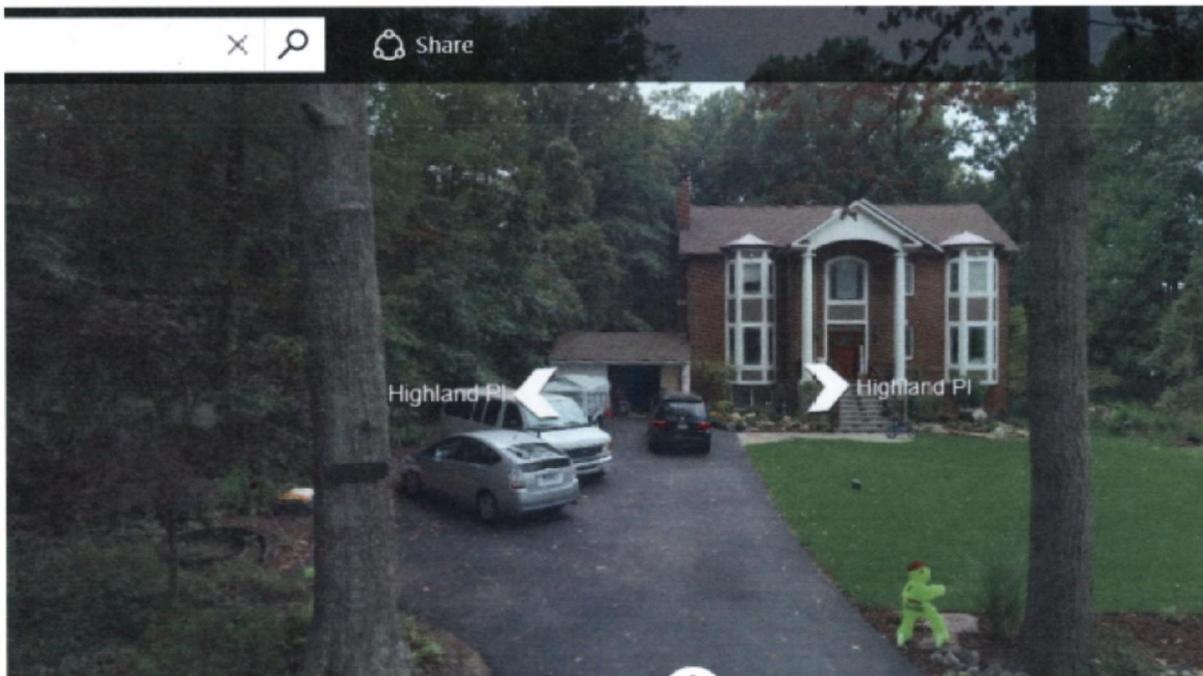
**Image 11:** ADU bedroom #1.



**Image 12:** ADU bedroom #2 (currently an office/workout space)



**Image 13:** The current garage, finished façade and door provided by applicant. The conversion was done by a previous owner.



**Image 14L** Image from 2013 taken from MS Maps showing the converted garage prior to the new façade.



# County of Fairfax, Virginia

## MEMORANDUM

RECEIVED  
Department of Planning & Zoning

SEP 15 2016

Zoning Evaluation Division

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:** September 14, 2016

**TO:** Heath Eddy, Staff Coordinator  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Jo Ellen Groves, Paralegal   
Office of the County Attorney

**SUBJECT:** BZA Affidavit

**REF.:** 126030

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:

<u>Name of Applicant</u>	<u>Affidavit Date of Oath</u>
Tan Le	8/29/16

Attachment

NOTICE OF VIOLATION

126030



**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  
[www.fairfaxcounty.gov/dpz/zoning/applications](http://www.fairfaxcounty.gov/dpz/zoning/applications)

APPLICATION No: \_\_\_\_\_

(Staff will assign)

RECEIVED  
 Department of Planning & Zoning

JUN 25 2014

**APPLICATION FOR A SPECIAL PERMIT** Zoning Evaluation Division  
 (PLEASE TYPE or PRINT IN BLACK INK)

APPLICANT	NAME <u>TAN LE</u>	
	MAILING ADDRESS <u>3700 HIGHLAND PL, FAIRFAX 22033</u>	
	PHONE HOME ( )	WORK ( )
	(same as mobile #)	
	PHONE MOBILE (703) 403-9741	
PROPERTY INFORMATION	PROPERTY ADDRESS <u>3700 HIGHLAND PL, FAIRFAX VA 22033</u>	
	TAX MAP NO. <u>0464 02 0043 A</u>	SIZE (ACRES/SQ FT) <u>1.2 Acr.</u>
	ZONING DISTRICT <u>R1</u>	MAGISTERIAL DISTRICT <u>Providence</u>
	PROPOSED ZONING IF CONCURRENT WITH REZONING APPLICATION:	
SPECIAL PERMIT REQUEST INFORMATION	ZONING ORDINANCE SECTION	
	PROPOSED USE <u>having a 2nd kitchen for my parents</u>	
AGENT/CONTACT INFORMATION	NAME <u>also - having less than 20 hens in the backyard (chicken)</u>	
	MAILING ADDRESS	
	PHONE NUMBER	HOME WORK
	PHONE NUMBER	MOBILE
MAILING	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant -or- <input type="checkbox"/> Agent/Contact	
<p>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 the subject property as necessary to process the application.</p>		
<u>TAN LE</u> TYPE/PRINT NAME OF APPLICANT/AGENT		 SIGNATURE OF APPLICANT/AGENT

DO NOT WRITE IN THIS SPACE

SP 2014-0362

Date Application accepted: \_\_\_\_\_ Application Fee Paid: \$ \_\_\_\_\_

Application No.(s): SP 2016-PR-089  
(county-assigned application number(s), to be entered by County Staff)

126030

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/29/16  
(enter date affidavit is notarized)

I, Tan Le, 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 <b>BOLD</b> above)
Tan Le	3700 Highland Pl Fairfax VA 22033	<b>Applicant/Owner</b>
Truc-Anh Nguyen	3700 Highland Pl Fairfax VA 22033	<b>Co-Title Owner</b>

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

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

Application No.(s): SP 2016-PR-089  
(county-assigned application number(s), to be entered by County Staff)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/29/16  
(enter date affidavit is notarized)

126030

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): SP 2016- PR. 089  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

126030

DATE: \_\_\_\_\_  
(enter date affidavit is notarized)

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

N/A

**PARTNERSHIP INFORMATION**

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

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

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

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): SP 2016 - PR - 089  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: \_\_\_\_\_  
(enter date affidavit is notarized)

126030

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): SP 2016 - PR- 089  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/29/16  
(enter date affidavit is notarized)

126030

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:

Tan D. Le

(check one)

Applicant

Applicant's Authorized Agent

Tan D. Le

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

Subscribed and sworn to before me this 29<sup>th</sup> day of August 2016, in the State/Comm. of Virginia, County/City of Fairfax

Rachael A. Locke

Notary Public

My commission expires: 6/30/2019





# County of Fairfax, Virginia

## MEMORANDUM

RECEIVED  
Department of Planning & Zoning

SEP 15 2016

Zoning Evaluation Division

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](http://www.fairfaxcounty.gov)

**DATE:** September 14, 2016

**TO:** Heath Eddy, Staff Coordinator  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Jo Ellen Groves, Paralegal   
Office of the County Attorney

**SUBJECT:** BZA Affidavit

**REF.:** 136678

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:

<u>Name of Applicant</u>	<u>Affidavit Date of Oath</u>
Tan Le	8/29/16

Attachment



**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:** \_\_\_\_\_

(Staff will assign)

RECEIVED  
 Department of Planning & Zoning

AUG 16 2016

Zoning Evaluation Division

**APPLICATION FOR A VARIANCE**

(PLEASE TYPE or PRINT IN BLACK INK)

<b>APPLICANT</b>	<b>NAME</b> Tan Le
	<b>BUSINESS NAME</b> (e.g., d/b/a; aka; LLC; trading as, etc.)
	<b>PHONE</b> HOME (703) 403-9741 WORK (703) 403-9741
<b>PROPERTY INFORMATION</b>	<b>PROPERTY ADDRESS</b> 3700 Highland Place, Fairfax, Virginia 22033
	<b>TAX MAP NO.</b> 46-4 ((2)) 0043-A <b>SIZE (ACRES/SQ FT)</b> 1.2 acres
	<b>ZONING DISTRICT</b> R-1 <b>MAGISTERIAL DISTRICT</b> Providence
<b>VARIANCE REQUEST INFORMATION</b>	<b>ZONING ORDINANCE SECTION</b> (staff will fill this out)
	<b>NATURE OF REQUEST</b> [circle the item(s) and fill in as appropriate]
	A. To permit construction of [circle the appropriate item(s)]: ____ story dwelling, addition, deck, roofed deck, accessory storage structure, accessory structure, _____ feet from the: front, side, rear 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)]: front yard, side yard or rear yard.
D. Other to amend V 81-C-059 previously approved for carport 1.0 ft from <u>a side lot line to permit addition to remain 0.8 ft. from a side lot</u>	
<b>AGENT/CONTACT INFORMATION</b>	<b>NAME</b> _____ line
	<b>MAILING ADDRESS</b>
	<b>PHONE</b> HOME ( ) WORK ( )
<b>MAILING</b>	Send all correspondence to (check one): <input checked="" type="checkbox"/> Applicant -- or -- <input type="checkbox"/> Agent/Contact
<p>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.</p>	
<b>Tan Le</b>	
<b>TYPE/PRINT NAME OF APPLICANT/AGENT</b>	<b>SIGNATURE OF APPLICANT/AGENT</b>

DO NOT WRITE IN THIS SPACE

Date application received: \_\_\_\_\_ Date application accepted: \_\_\_\_\_ Application Fee Paid: \$ 0

VCA 2016-0256

Application No.(s): VCA 81-C-059  
(county-assigned application number(s), to be entered by County Staff)

136678

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/29/16  
(enter date affidavit is notarized)

I, Tan Le, 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 <b>BOLD</b> above)
Tan Le	3700 Highland Pl Fairfax VA 22033	<b>Applicant/Owner</b>
Truc-Anh Nguyen	3700 Highland Pl Fairfax VA 22033	<b>Co-title Owner</b>

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

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

Application No.(s): VCA 81-C-059  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

136678

DATE: 8/29/16  
(enter date affidavit is notarized)

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.)

N/A

**CORPORATION INFORMATION**

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

**DESCRIPTION OF CORPORATION:** (check one statement)

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

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

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): VCA 81-C-059  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: \_\_\_\_\_  
(enter date affidavit is notarized)

136678

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

N/A

**PARTNERSHIP INFORMATION**

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

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

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

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): VCA 81-C-059  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: \_\_\_\_\_  
(enter date affidavit is notarized)

136628

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): VCA 81-C-059  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 8/29/16  
(enter date affidavit is notarized)

136678

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 [Signature]  
 Applicant's Authorized Agent

Tan D. Le  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 29th day of August 2016, in the State/Comm. of Virginia, County/City of Fairfax

Rachael A. Locke  
Notary Public

My commission expires: 6/30/2019



Return Copy



# 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:** June 4, 2014

**METHOD OF SERVICE:** Office of the Sheriff

**LEGAL NOTICE ISSUED TO:** Truc Anh Nguyen  
Tan Le

**ADDRESS:** 3700 Highland Place  
Fairfax, Virginia 22033-2716

**LOCATION OF VIOLATION:** 3700 Highland Place  
Fairfax, Virginia 22033-2716

**TAX MAP REF:** 46-4 ((2)) 43 A

**ZONING DISTRICT:** R- 1

**CASE #:** 201300251 **SR #:** 105176

**ISSUING INVESTIGATOR:** E.R. Bello, (703) 324-8248

**POTENTIAL CIVIL  
PENALTIES UNDER  
ZONING ORDINANCE  
§ 18-903(1):**

Zoning Violation	First Offense	Each Subsequent Offense
§ 2-501	\$ 200.00	\$ 500.00
<b>TOTAL:</b>	<b>\$ 200.00</b>	<b>\$ 500.00</b>

Dear Responsible Party:

An inspection of the above referenced property on May 20, 2014 revealed the following violation of the Fairfax County Zoning Ordinance:

**Department of Code Compliance**  
12055 Government Center Parkway, Suite 1016  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 Fax 703-324-9346  
[www.fairfaxcounty.gov/code](http://www.fairfaxcounty.gov/code)

Truc Anh Nguyen  
Tan Le  
June 4, 2014  
SR 105176  
Page 2

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

The inspection revealed there are **two (2)** complete and separate dwellings in this single family dwelling 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 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.

Truc Anh Nguyen  
Tan Le  
June 4, 2014  
SR 105176  
Page 3

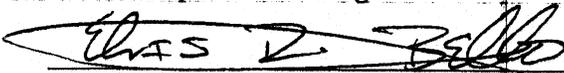
A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil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

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

Zoning Administration Division  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035  
Office: (703)324-1314  
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, schedule a follow up inspection, or need additional information, please do not hesitate to contact me directly at (703) 324-8248 or at [Elvis.Bello@fairfaxcounty.gov](mailto:Elvis.Bello@fairfaxcounty.gov). For any other questions, contact our main office at (703) 324-1300.

Sincerely,  
Elvis R. Bello  
Code Compliance Investigator

  
Signature

Truc Anh Nguyen  
Tan Le  
June 4, 2014  
SR 105176  
Page 4

PERSONAL SERVICE Truc Anh Nguyen

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.

J. SILVER / 686

6-4-14 Stacey A. Kincaid, Sheriff  
DATE for  
Fairfax County, VA

PERSONAL SERVICE \_\_\_\_\_

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

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

\_\_\_\_\_ Truc Anh Nguyen  
(Spouse)

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.

J. SILVER / 686

6-4-14 Stacey A. Kincaid, Sheriff  
DATE for  
Fairfax County, VA

PERSONAL SERVICE \_\_\_\_\_

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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 \_\_\_\_\_

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 \_\_\_\_\_

MAP REFERENCE			
PLAT NUMBER	Subd. or Deg.	Blk. or Sec.	PARCEL OR LOT
461 D			43

44-L  
 P4697  
 PERMIT NO.

To: BUILD  Alter or Repair  Add to  Demolish  Move

JOB LOCATION	DIRECTIONS Route: B-332 Street: HIGHLAND RD. Lot No.: 43 Subdivision: FAIRFAX FARMS Block Section	DESCRIPTION For: Residential <input checked="" type="checkbox"/> Institutional <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> No. of Bldgs. 1 Type RAMBLER No. of Units 1 Est. Const. Cost \$ 16,000.00 No. of Kitchens 1 No. of Stories 1 No. of Baths 2 Ht. of Building 18 Ft. No. of Rooms 5 Total Area (Exclude Kit. & Bath) Basement <input checked="" type="checkbox"/> Slab <input type="checkbox"/> Crawl <input type="checkbox"/> FILL <input type="checkbox"/> Soil SOLID <input checked="" type="checkbox"/> Footing Size 2x16 Depth from Finish Grade 4 Ft. Material of Exterior Walls 1 Basement BLK. + BRICK 1st Floor BLK. + BRICK 2nd Floor Other Material of Interior Walls DRY WALL HEAT: Gas <input type="checkbox"/> Oil <input checked="" type="checkbox"/> Hot Air <input type="checkbox"/> Hot Water <input checked="" type="checkbox"/> Boiler <input 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 type="checkbox"/> Community <input type="checkbox"/> Septic Tank <input checked="" type="checkbox"/> Pit Privy <input type="checkbox"/> None <input type="checkbox"/> WATER: Public <input type="checkbox"/> Individual Well <input checked="" type="checkbox"/> None <input type="checkbox"/> Remarks:
	OWNER Name: STANLEY D. KILBY Address: 1418 W. GREAT FALLS ST. City: MCKEAN VA. EL. 6-4570 Tel. No.	
ARCHITECT/ENGINEER Name: SAME Address: City: State Reg. No.		
CONTRACTOR Name: SAME Address: City: State Reg. No.		

*Provide adequate drainage for sewer project. require occupancy*

**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.

EL. 6-4570 Phone No. Jan. 22, 1962 Date S. D. Kilby Signature of Owner or Auth. Agent

**PLAN APPROVAL**

Use Group of Building L-3 Area of Bldg. @ per Sq. Ft. \$  
 Type of Construction H-B Area of Bldg. @ per Sq. Ft. \$  
 Fire District Total Each Bldg. \$  
 Date Checked 2-1, 1962 By J.E.S. TOTAL FEE \$ 31.00  
 Approved by Building Inspector *Deborah J. King*

ROUTING	OFFICE	Rm. No.	DATE	APPROVAL	REMARKS
<input checked="" type="checkbox"/>	Land Office	112	1-22-62	<i>MVA</i>	
<input checked="" type="checkbox"/>	Zoning Administrator	210	1-22-62	<i>JFK</i>	
	Health Officer	Rt. 237	1-22-62	<i>JFK</i>	Health and Welfare Bldg. on Rt. 237
	Sanitary Engineer	Bsmt			
<input checked="" type="checkbox"/>	Finance Office	120			
<input checked="" type="checkbox"/>	Building Inspector	203			Return to secure Bldg. Permit.

**CERTIFICATION**

Supervisor of Assessments  
 Property is listed in name of Glenn Langworthy  
 Magisterial District Providence Deed Book Reference 547-389  
 4.2014 Ac. Authorization: John W. Decker

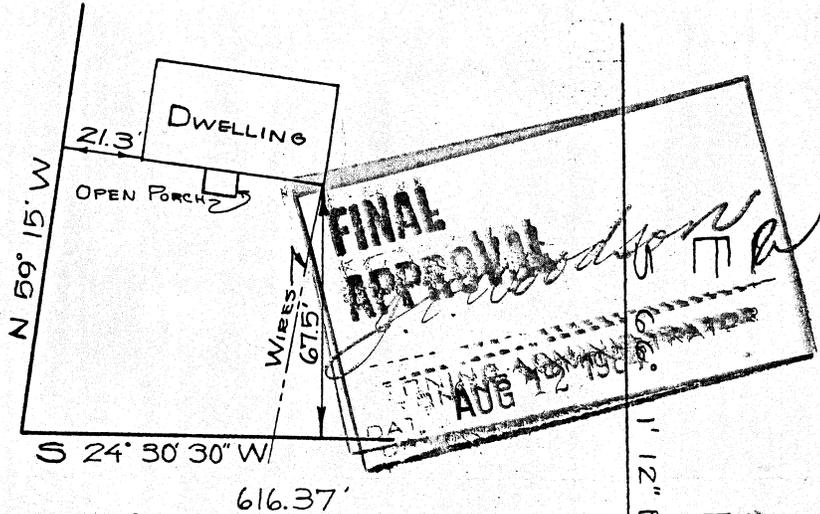
**ZONING**

Subdivision: Fairfax Farms Lot No. 43 Block Section Zone R-1  
 No. Acres or Sq. Ft.  
 Street Address: Highland St.  
 LOT SIZE: Front Right Side Left Side Rear  
 Use of Bldg. Dwelling Use after Alteration No. Families One  
 Set Back: Front 6' Rt. Side 100' Left Side 21' Rear 100' Authorization

58 59 60  
 N 57° 20' E  
 N 7° 26' 30" E - 159.50'  
 DIFFICULT RUN  
 N 52° 52' 30" E

44  
 897.0'  
 43  
 4.2014 Ac.  
 N 59° 15' W  
 938.50'  
 S 65° 29' 30" E  
 SEE HOUSE DETAIL  
 DWELLING  
 WIVES  
 250.0'

HOUSE DETAIL  
 1" = 50'



HIGHLAND (50' WIDE) STREET  
 PHYSICAL SURVEY  
 LOT 43

**FAIRFAX FARMS**

FAIRFAX COUNTY, VIRGINIA  
 SCALE 1" = 200' DEC. 4, 1962

**WALTER L. PHILLIPS**

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

CERTIFIED CORRECT:

*Walter L. Phillips*

MAP REFERENCE SHEET NO. 46-D, PROPERTY IDENTIFICATION NO. 1200

FORM ZA

Septic Tank

B-332

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 1-22-62

Name of Proposed Occupant or Trade Name  
Applicant Stanley D. Kilby

Premises number 1418 W - Great Falls St.  
McLean, Va

Lot number 43 Block \_\_\_\_\_ Section \_\_\_\_\_

Subdivision or  
Acreage Description Fairfax Farms

To be used as one family dwelling

Last used as New

Non Conforming Use \_\_\_\_\_

Material of Building \_\_\_\_\_

No. of stories high 1

Which floor do you propose to use? \_\_\_\_\_

Owner of Building (or agent)  
owner

Address \_\_\_\_\_  
\_\_\_\_\_

TO BE FILLED IN BY CLERK	
ZONE	<u>Re-1</u>
HEIGHT	<u>1 Story</u>
FIRE ZONE	_____
BUILDING PERMIT NO.	<u>P-9697</u>
DATE	<u>1-22-62</u>
INITIALS	<u>[Signature]</u>

Highland Avenue

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

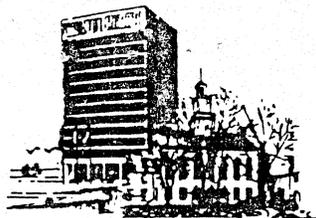
It is understood that the Certificate of Occupancy does not take the place of any license that may be required by law, and also that it does not confer the right to erect or maintain any kind of signs.

Signature of Proposed Occupant  
Applicant Stanley D. Kilby  
Address 1418 W. Great Falls St. McLean, Va.  
Telephone number Ek. 6-4570

Zoning Section
No. <u>D-12071</u>
Issued <u>R</u>
Date <u>8-12-62</u>

164

1-263



COMMONWEALTH OF VIRGINIA  
**COUNTY OF FAIRFAX**  
Office of Comprehensive Planning  
Board of Zoning Appeals  
10555 Main Street  
Fairfax, Virginia 22030



691-2381

June 3, 1981

Mr. Albert L. Jarrett  
3700 Highland Place  
Fairfax, VA 22033

RE: ALBERT L. JARRETT, appl. under Sect. 18-401 of the Ord. to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 and 2-412), V-81-C-059.

This is to notify you that the Board of Zoning Appeals for Fairfax County at its meeting of June 2, 1981 took action to Grant your application. A copy of the Resolution is attached.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for fulfilling his obligations to obtain building permits (691-2381); residential or nonresidential use permits, formerly called occupancy permits (691-2381); etc. through the established procedures.

Very truly yours,

Sandra L. Hicks  
Clerk to the  
Board of Zoning Appeals

Enclosure

*Fairfax Farms*

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. V-81-C-059 by ALBERT L. JARRETT under Section 18-401 of the Zoning Ordinance to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 & 2-412) on property located at 3700 Highland Place, tax map reference 46-4((2))43A, County of Fairfax, Virginia, Mr. Hyland 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 June 2, 1981; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.2014 acres.
4. That the applicant's property has an unusual condition in that it has a storm drainage easement and a power company easement that limit the construction of the proposed carport as well as the location of an existing septic field in the rear of the property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only, and is not transferable to other land or to other structures on the same land.
2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

A COPY TESTE

*Andrea L. Hicks*  
Clerk, Board of Zoning Appeals

11:30 A.M. ALBERT L. JARRETT, appl. under Sect. 18-401 of the Ord. to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 & 2-412), located 3700 Highland Place, Fairfax Farms Subd., 46-4((2))43A, Centreville Dist., R-1, 1.2014 ac., V-81-C-059.

Mr. Albert Jarrett of 3700 Highland Place informed the BZA that he had applied for a variance two years ago. He stated that his lot consisted of 1.2014 acres and that the house was situated on the lot in an odd manner. Mr. Jarrett stated that the only reasonable place for the carport was where he proposed it because of the driveway. He stated that to the right of his property was an easement for drainage as well as a power easement. Mr. Jarrett informed the BZA that his variance was denied two years ago. He stated that he did not want to build a one car structure as he had two vehicles and a motorcycle. Mr. Jarrett stated that he needed an enclosure for the vehicles.

In response to questions from the Board, Mr. Jarrett stated that the property to his left was unimproved. In addition, there was about 300 to 400 ft. of distance between his house and the house to his right.

Mrs. Kidwell spoke in support of the variance as she felt that Mr. Jarrett should be allowed have a carport. She stated that there was not any place else for the carport to be constructed. In addition, there were a lot of trees on the property which dripped onto his cars. Mr. Yaremchuk inquired whether Mrs. Kidwell would have a problem with the variance if she were the owner of lot 44 since the structure would be 1 ft. from the side lot line. Mrs. Kidwell stated that lot 44 was unimproved. In addition, she stated that the lots were big enough.

Mrs. Frances Weeks of 3642 Highland Place spoke in support of the variance. She stated that she was the next door neighbor and had lived there for 19 years. She stated that before Mr. Jarrett had purchased the property in 1975, the house had remained the same. There had not been any improvements to the house or property. After he purchased the property, it had become a showcase to the community.

Mr. George Ray of 11400 Valley Road stated that he was the owner of the property located at 3714 Highland Place. He stated that his property was undeveloped. He stated that Mr. Jarrett was a good neighbor and that his property was an asset to the community. Mr. Ray stated that there was also an easement on his property which took up about 50 ft. so that any development on lot 44 would have to be on the part of the property next to Mr. Jarrett. Mr. Hyland inquired as to how the variance would affect the value of Mr. Ray's property. Mr. Ray stated that two years ago, Mr. Jarrett had asked him if he had any opposition. He indicated that since that time, his plans have changed and that at some time in the future he would selling his property. He indicated that a future buyer would look at a reduced price. Mr. Ray stated that every foot would add value to his property.

Mr. Hyland questioned Mr. Jarrett as to how he would maintain the structure without going onto his neighbor's property and in what direction the water would go. Mr. Jarrett replied that the carport would be open with a planter wall. There would be a gate going down to the patio. Mr. Jarrett stated that he did not believe the carport addition would decrease the property values. Mr. Jarrett stated that his lot was 1.2 acres but if the house were situated more to the right, he would not have any problem with construction. Mr. Yaremchuk inquired if Mr. Jarrett had received a reduced price on the property because of the problem of expansion. Mr. Jarrett stated that the previous owner had sold off  $4\frac{1}{2}$  acres and had to

Page 412, June 2, 1981  
ALBERT L. JARRETT  
(continued)

add an access road to the rear lot. Mr. Jarrett stated that he was only aware of that problem. He stated that he had not known there would be a problem with a carport at this location. He informed the Board that the carport would be convenient at this location.

Page 412, June 2, 1981  
ALBERT JARRETT

Board of Zoning Appeals

### R E S O L U T I O N

In Application No. V-81-C-059 by ALBERT L. JARRETT under Section 18-401 of the Zoning Ordinance to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 & 2-412) on property located at 3700 Highland Place, tax map reference 46-4((2))43A, County of Fairfax, Virginia Mr. Hyland 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 June 2, 1981; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.2014 acres.
4. That the applicant's property has an unusual condition in that it has a storm drainage easement and a power company easement that limit the construction of the proposed carport as well as the location of an existing septic field in the rear of the property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application only and is not transferable to other land or to other structures on the same land.
2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

10:20 - ALBERT L. JARRETT appl. under Sec. 30-6.6 of the Ord. to permit  
A.M. 2 car garage with screened porch above 1.0' from side property  
line (20' required, 19' variance requested), 3700 Highland Place,  
46-4((2))43A, Fairfax Farms Subd., (1.2014 Ac.), Centreville  
Dist., RE-1, V-93-78.

The required notices were in order and in the file.

Mr. Albert Jarrett of the above address presented the justification to the Board. He stated that the house was situated oddly on the property. He stated that the driveway comes into the left side of the house. Mr. Jarrett stated that the other options he had looked into were not feasible. They were to build to the front of the house on the right side which would take away the quality of the building and the appearance of the structure. It would not meet the 50' requirement for the front setback either. There was an easement to the right of the property for water flow and would be a lot of trouble to divert. Mr. Jarrett stated that because of the water flow, there was a lot of vegetation in this area that would have to be removed. If he were to construct the garage to the rear of the house, he would have to bridge the flow of the water in the easement and take out a lot of trees. In addition, the majority of the structure would be sitting on top of the septic fields. It was Mr. Jarrett's feeling that the only logical place to construct the garage would be where he had proposed on the plats submitted.

Chairman Smith inquired as to why he did not locate the garage over across the easement as Mr. Jarrett owned a lot of land. Mr. Jarrett stated that the original owner of the property had approximately  $4\frac{1}{2}$  acres and he subdivided the property which put another easement for ingress and egress for a road to the dwelling behind Mr. Jarrett's property. Mr. Jarrett stated that he did own about 50' on the other side of the easement but that would place the garage about 40' from his house. Chairman Smith inquired as to why he did not locate the garage between the easement and the ringress easement. Mr. Jarrett responded that that area was all vegetation and trees. He stated that he would have to move the trees and that it would put the garage too close to the storm drainage.

Mr. Barnes inquired if water actually ran in the storm drainage ditch or whether it was just an easement. Mr. Jarrett replied that there was culvert under the County road and that the water does run down through there. He further stated that on that side there was a buried oil tank, the air conditioning system and the electrical system which would all have to be removed in order to build there. Mr. Yaremchuk inquired if the easement could be relocated to which Mr. Jarrett stated that he did not know. He stated that he had been told by the County at the time he applied for a building-permit that he could not divert the flow of the water. Mr. Yaremchuk informed Mr. Jarrett that as long as he discharged the water at the same location on the property that he could change the flow anywhere on his own property.

Mr. Barnes inquired if there originally was a two car garage underneath the house. Mr. Jarrett replied that there was not but that there was a house across the street that had a two car garage.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Mr. Yaremchuk stated that he had a problem with this application because the applicant had such a large lot with plenty of room on the other side. Mr. Durrer inquired if the applicant would be willing to settle for a one car garage. Mr. Jarrett stated that it would not do anything for the property. He stated that he had two cars and a truck. Mr. Durrer stated that he thought the applicant might be just asking for a little too much and thought that he might be willing to get by with a one car garage. Mr. Jarrett stated that because of the cost involved he would rather not build a garage if he had to be limited to a one car garage. He stated that he had talked with all of his neighbors and the adjoining neighbor has no problem with the application.

Mr. Yaremchuk stated that if the applicant did not have such a wide lot or if he had had topographic problems then he would have felt better about the application. Mr. Yaremchuk suggested that Mr. Jarrett talk to Preliminary Engineering and the Department of Design Review to try and relocate the easement. He stated that if Mr. Jarrett could build on the other side then he would not need the variance. Mr. Jarrett again stated that the County was not going to move the easement and tear up the County road.

Page 250, June 6, 1978

ALBERT L. JARRETT

Board of Zoning Appeals

R E S O L U T I O N

IN APPLICATION NO. V-93-78 by ALBERT L. JARRETT under Section 30-6.6 of the Zoning Ordinance to permit a two car garage with screened porch 1.0' from side property line (20' required) on property located at 3700 Highland Place, tax map 46-4((2))43A, County of Fairfax, Virginia, I move 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 June 6, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 1.2014 acres.
4. That the

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).



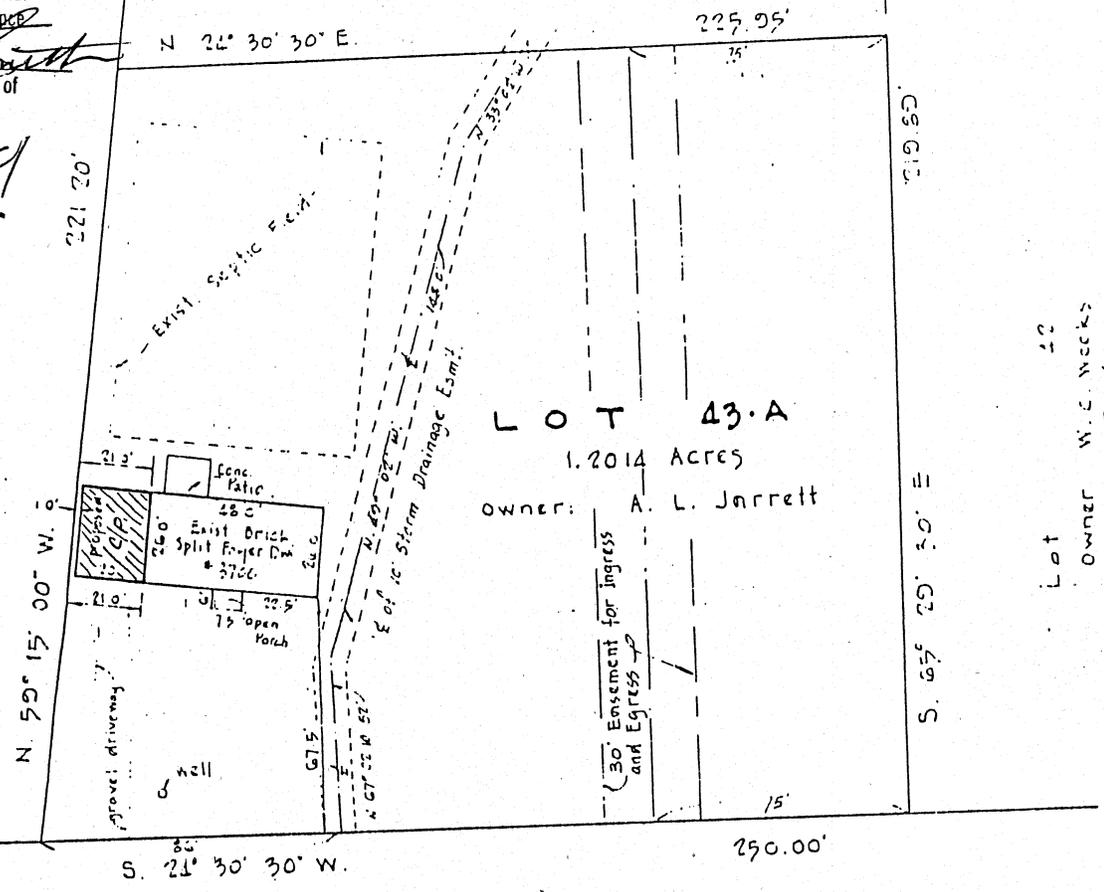
Lot 13-B  
Owner: 3022 RE-1 Long

OFFICIAL PLAT  
This is the APPROVED  
plat/plan for Special  
Use Permit/Variance

*[Signature]*  
Chairman, Board of  
Zoning Appeals

6/2/81

Lot 44  
Owner G. W. Ring  
Zone RE-1



LOT 43-A  
1.2014 Acres  
owner: A. L. Jarrett

Lot 42  
Owner W.C. Weeks  
Zone RE-1

HIGHLAND PLACE  
50' R/W

PLAT  
Showing Proposed Addition to Existing Dwelling  
on Lot 43-A, Resubdivision of Lot 43

FAIRFAX FARMS  
FAIRFAX COUNTY, VIRGINIA  
Scale 1" = 40'  
July 13, 1977



James H. Guynn  
Certified Surveyor  
Arlington, Virginia

Certified Correct

Plat prepared for variance purposes.

**BUILDING PERMIT APPLICATION**

APPLICATION NO

Date 11/16/84

**JOB LOCATION**

Street 3700 Highland Place  
 Building \_\_\_\_\_ Floor \_\_\_\_\_ Suite \_\_\_\_\_  
 Subdivision Fairfax Farms  
 Tenants Name Mr. Jarrett

**DO NOT WRITE IN THIS SPACE**

Permit No. 82197 B01120  
 Map Reference 46-4-243-A  
 Building Permit No. \_\_\_\_\_ Control No. \_\_\_\_\_  
 Std. 1181 Mag. CE Plan PA Census 1263

OWNER

Name MR. JARRETT  
 Address (Mailing) 3700 Highland Place  
 City Fairfax State VA. Zip \_\_\_\_\_  
 Telephone 385-9194

CONTRACTOR

Company Name West Central Contractors Inc  
 Master \_\_\_\_\_  
 Address 4100 North Hill Ln.  
 City Fairfax State VA. Zip 22035  
 Telephone 378-6924 License No. 3770  
 State Contractors License No. 018045  
 County Business Account No. 011371

For 20' x 24' CARPORT

**ROUTING**

	Date	Approved By:
<input checked="" type="checkbox"/> Health Review		
<input checked="" type="checkbox"/> Site Review	<u>11/16/84</u>	<u>[Signature]</u>
<input checked="" type="checkbox"/> Zoning Review	<u>11/16/84</u>	<u>[Signature]</u>
<input type="checkbox"/> Sanitation Review		
<input type="checkbox"/> Building Review	<u>11/16/84</u>	<u>[Signature]</u>
<input type="checkbox"/> Fire Review		

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

**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.
		X	=
		X	=
		X	=
		X	=

Use Group of Building R-4  
 Type of Construction 412  
 Building Area \_\_\_\_\_  
 Estimated Const. Cost \$4,000.00

**ZONING REVIEW**

Zoning Proffers Building \_\_\_\_\_  
 Zoning Class R-4  
 Zoning Case # \_\_\_\_\_

**BUILDING CHARACTERISTICS**

Building Height \_\_\_\_\_  
 Exterior Walls \_\_\_\_\_  
 Interior Walls \_\_\_\_\_  
 Roofing Material \_\_\_\_\_  
 Flooring Material \_\_\_\_\_  
 Heating Fuel \_\_\_\_\_  
 Heating System \_\_\_\_\_

**GRADING AND DRAINAGE REVIEW**

Soils \_\_\_\_\_  
 Historical \_\_\_\_\_  
 Plan # 12/17/1  
 Retaining Wall \_\_\_\_\_

**YARDS**  
 Front 35' Front \_\_\_\_\_ Left Side 1' Right Side 6' Rear 35'

**REMARKS**  
DRAINAGE TO REMAIN ON LOT 43A  
4' on top of forms - Addition - Carport  
Lot 43A  
U-81-C-059 "Zoning Administrator approval subject to applicant's compliance with the conditions set forth in the attached Resolution."

**FOR COUNTY USE ONLY:**

Date 11/16/84 By [Signature]  
 Approved for Issuance of Building Permit

Fee \_\_\_\_\_  
 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.

Signature of Owner or Agent \_\_\_\_\_ Date \_\_\_\_\_ Notary Signature \_\_\_\_\_ Date \_\_\_\_\_

**APPROVED**

DIVISION OF  
OWNER DESIGN REVIEW      43-B

By: Zone RE-1      Long

Date: 7/16/82

**NOTICE TO CONTRACTORS**

Contractors and utility operators who maintain or dig underground utility lines in the area of proposed excavation shall be required to mark at least ten working days, but not more than ten working days prior to commencement of excavation or excavation in accordance with Section 1815 of Chapter 88 of the Fairfax County Code. Names and telephone numbers of the operators of underground utility lines in Fairfax County are listed below. These numbers may also be used to send emergency condition notices as required by Section 1815 of Chapter 88 of the Code.

- Columbia Gas Pipeline Co.      759-2115
  - Plantation Pipeline Co.      780-3350
  - Colonial Pipeline Co.      275-5525
  - Commonwealth Tele. Co.      (703)970-3118
  - County Electric Coop.      (703)777-2041
  - Fairfax Branch Water Service      (703)532-0800
  - Fairfax City Water Service      273-7300
  - Town of Vienna Water Service      938-5907 ex 241
  - Town of Herndon DPW      437-1000
  - Washington Gas Light Co.      }
  - Transco Gas Pipeline Co.      }
  - Chesapeake & Pot. Tel. Co.      }
  - Wa. Elec. & Power Co.      }
  - Fairfax Co. Water Authority      }
  - Fairfax Co. San. Sewer Div.      }
  - Prince William Elec. Coop.      }
  - Columbia Gas of Va.      }
  - A.T.S.L. Co.      }
- MISS UTILITY  
(301)559-0100

N. 24° 30' 30" E.

225.00

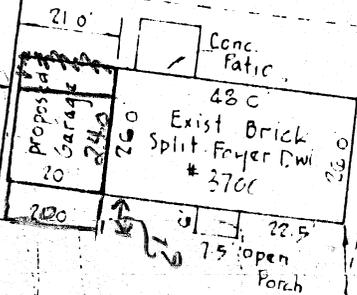
TO ADJACENT LOT #43A

EXIST. SEPTIC FIELD

**LOT 43-A**

1.2014 Acres

owner: A. L. Jarrett



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

Easement for ingress and egress

Lot 42  
OWNER: W. L. WOOD  
Zone RE-1

S. 24° 30' 30" W

**JUL 16 1982**

250.00'

*Philip G. Yates*

**Zoning Administrator**

**HIGHLAND PLACE**

50' R/W

P L A T

Showing Proposed Addition to Existing Dwelling  
on Lot 43-A, Resubdivision of Lot 43

**FAIRFAX FARMS**

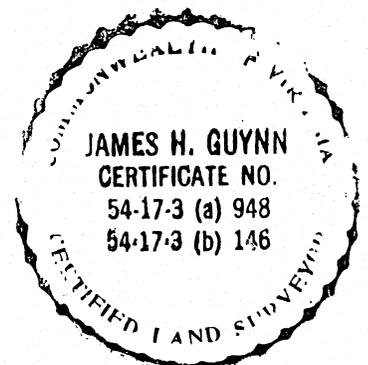
**FAIRFAX COUNTY, VIRGINIA**

Scale 1" = 40'

July 18, 1977

James H. Guynn  
Certified Surveyor  
Arlington, Virginia

Certified Correct



for variance purposes.

Bldg Permit #: **121170194**

**MULTIPLE WORK PERMIT**

**Address:** 3700 Highland PI Fairfax VA 22033-2716  
 Bldg: N/A Floor: Suite: N/A

Subdiv: **Fairfax Farms Lt 43A** Sub Census: 612.03 Lot Size: 1.20  
 Tax Map: 0464 02 0043A  
 Owner: Nguyen Truc Anh  
 Phone Day: (703)403-9741 x Evening:

**Contractor:**  
 OWNER IS CONTRACTOR  
 (999) 999-9999

**Type of Work:** MULTI WORK  
**Description of Work:** BUILD 2-STORY FOYER EXTENSION ON CRAWL SPACE/BUILD 1-STORY FRONT PORCH WITH STAIRS/BUILD 2ND STORY ADDITION/ADD BAY WINDOWS TO 1ST FLOOR

<b>ZPRB Review:</b>	
Date	Status
5/21/12	RG00D3 <span style="border: 1px solid black; padding: 2px;">Approved</span>

**Zoning Detail Review TAB:**

Zoning Dist.	Cluster Subdiv	Exceeds 30%	Height	Wet Bar	2nd Kitchen	ADU Subdiv	Proffer	Setback	Parking Requirement
R-1	N	N	33.60	N	N	N	N	Y	Y
<b>Zoning Use</b>									
SFD									

**Yard/Setbacks:**

Structure	Front (A)	Front (B)	Front (C)	Left	Right	Rear
addition(s)	0.00	0.00	58.00	21.10	0.00	120.00

**DETAILS COMMENTS:**

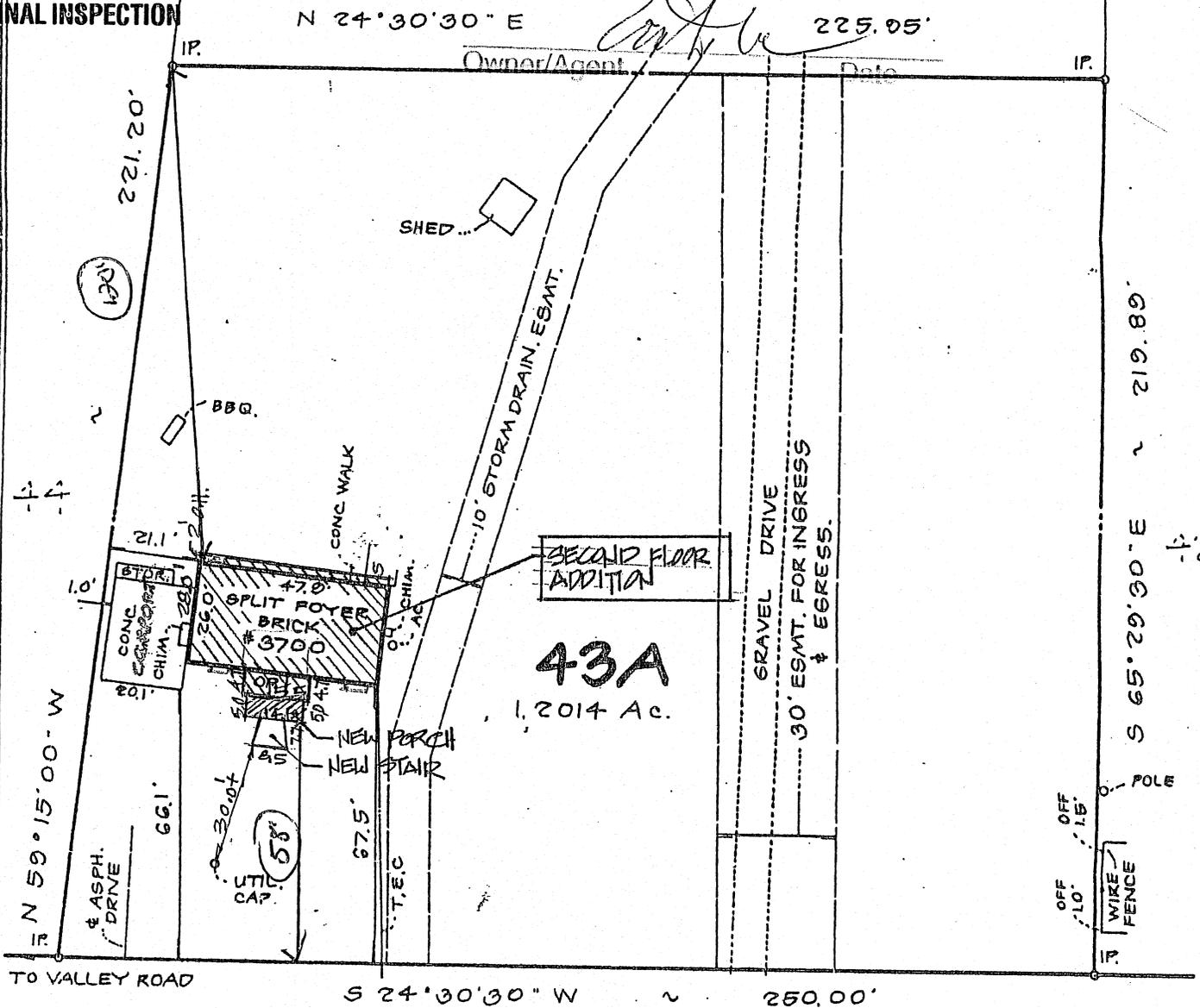
Existing carport which is located 1' from the left side lot line was approved under V-81-C-059 and building permit number 82197B0720.  
 Setback Certification is required prior to approval of final inspection. Minimum required side yard in the R-1 District is 20'.

**A SETBACK CERTIFICATION BASED  
 ON FIELD SURVEY IS REQUIRED  
 PRIOR TO RUP ISSUANCE OR  
 FINAL INSPECTION**

121170194

A SETBACK CERTIFICATION BASED ON FIELD SURVEY IS REQUIRED PRIOR TO RUP ISSUANCE OR FINAL INSPECTION

Plat depicts the location, height and distances of all existing and proposed structures to respective lot lines.



# HIGHLAND PLACE

50' R/W

APPROVED

*Edmund M. Malone*  
5-21-12-19

Zoning Administrator

## PLAT

SHOWING HOUSE LOCATION ON LOT 43A RESUBD. OF LOT 43

# FAIRFAX FARMS

FAIRFAX COUNTY

# FARMS

VIRGINIA

SCALE: 1" = 40'

MARCH 16, 1993 (6NOW)

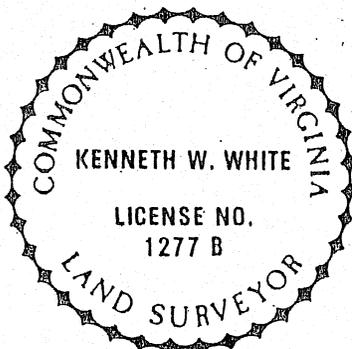
THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.

PLAT SUBJECT TO RESTRICTIONS OF RECORD.

TITLE REPORT NOT FURNISHED.

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.

*Kenneth W. White*  
KENNETH W. WHITE ..... L.S.



CASE NAME:

LE  
LIPPERT

ALEXANDRIA SURVEYS, INC.  
6343 SOUTH KINGS HIGHWAY  
ALEXANDRIA, VIRGINIA 22306  
703-860-6615  
FAX 703-768-7764

170334



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** December 20, 2013

**TO:** Distribution  
*MM*

**FROM:** Matthew Mertz, Assistant to the Zoning Administrator

**SUBJECT:** Setback Certification: Application Permit No.: 121170194

**RE:** 3700 Highland Place  
Fairfax Farms, Lot 43A  
Tax Map Ref.: 46-4 ((2)) 43A  
Zoning District: R-1

Attached for your records is an approved Setback Certification for the second floor addition to the existing single family dwelling at the referenced property. The property is zoned R-1 and is subject to a minimum required front yard of 40 feet, minimum required side yards of 20 feet and a minimum required rear yard of 25 feet. The property is also subject to Variance V-81-C-059, approved by the Board of Zoning Appeals (BZA) on June 2, 1981 to permit construction of a carport one (1) foot from a side lot line.

In reviewing the submitted plat, it appears that two (2) structures do not comply with Zoning Ordinance regulations. The Setback Certification shows a patio located approximately ten (10) feet from the left side lot line. A patio is defined in the Zoning Ordinance as a deck. As a deck less than four (4) feet above finished grade may only extend five (5) feet into the minimum required side yard, the patio does not comply with zoning requirements, as it can be no closer than 15 feet from the side lot line. Also, the Setback Certification shows a storage area in back of the carport. Per the Zoning Ordinance definition of a carport, a carport is to be open on all sides, with the exception of the side contiguous to the dwelling. These structures could be modified so that they meet the Zoning Ordinance requirements or Board of Zoning Appeals approval of a variance amendment and a special permit for reduction in minimum yard requirements based on error in building location could be obtained. For additional information regarding variances and special permits, please contact the Zoning Evaluation Division at 703-324-1290.

The Setback Certification also shows a barbeque area located approximately 11 feet from the left side lot line, but the height of the barbeque area is not provided, so we are unable to determine whether it complies with Zoning Ordinance requirements. Please note a barbeque area that is greater than seven (7) feet in height (measured from the highest point of the structure, to the lowest point at the grade) may not be located within the minimum required side yard of 20 feet and must also be located a minimum distance equal to its height from the rear lot line. A barbeque area that is less than seven (7) feet in height may be located anywhere in the side or rear yard. If any part of this barbeque area is greater than seven (7) feet in height, then it should be

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



moved to comply with the location regulations contained in Par. 12 of Sect. 10-104 of the Zoning Ordinance as described above. Failure to address these issues may affect your ability to obtain future permits for the property.

**Distribution:**

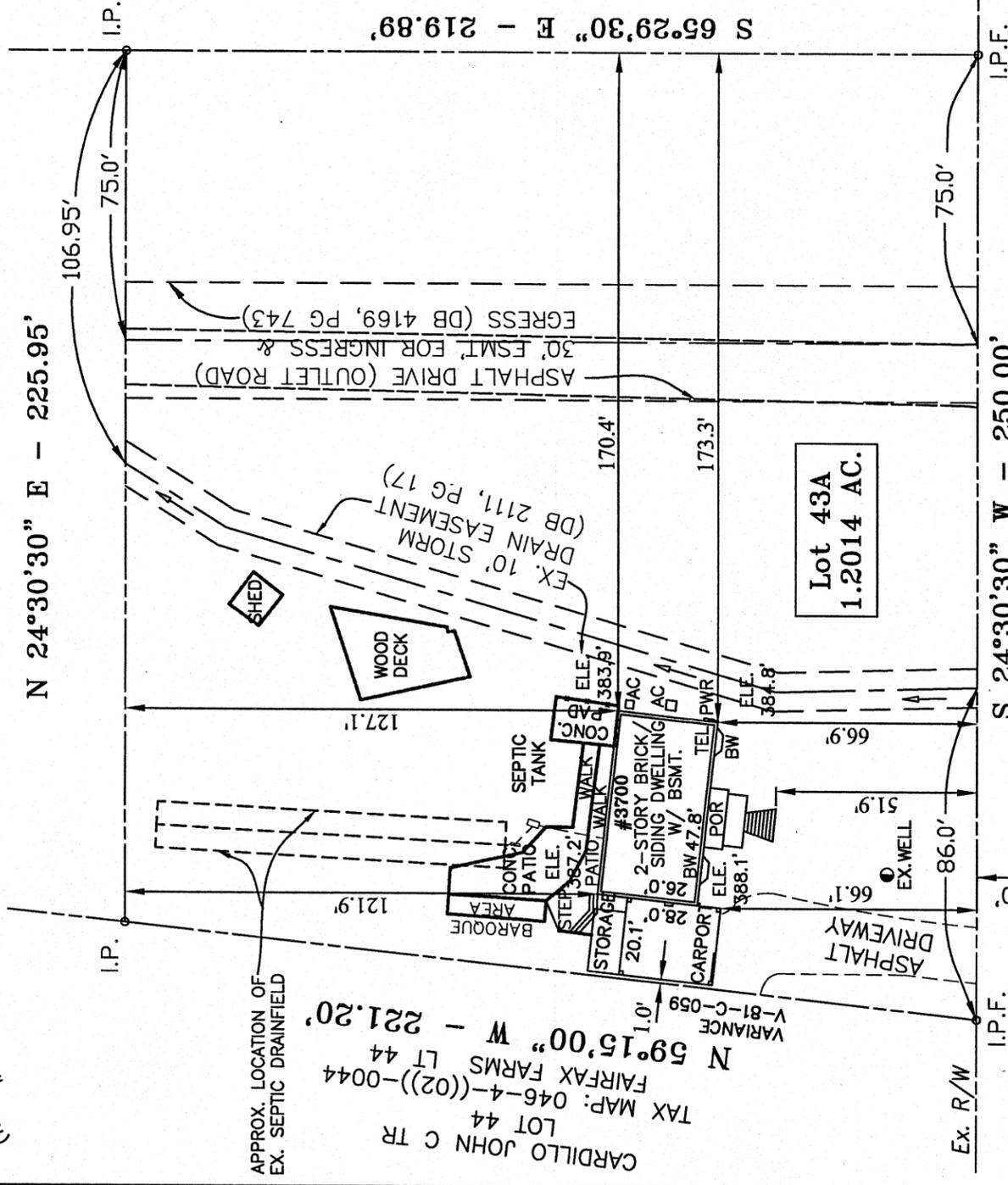
Truc Anh Nguyen & Tan Le, 3700 Highland Place, Fairfax, Virginia 22033

Michelle O'Hare, Deputy Zoning Administrator for Ordinance Administration Branch

Charles O'Donnell, Residential Inspections Division, DPWES

Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch

Jack W. Weyant, Director, Site Development and Inspections Division, DPWES



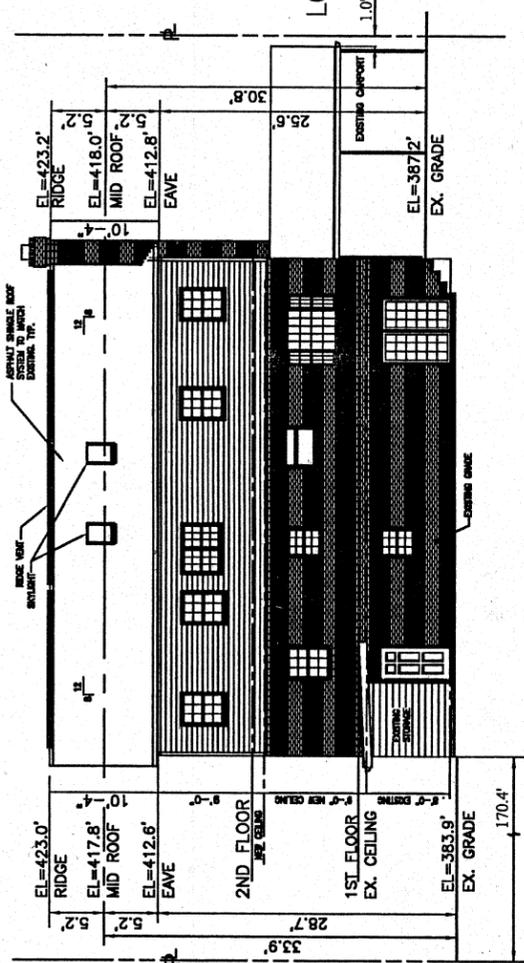
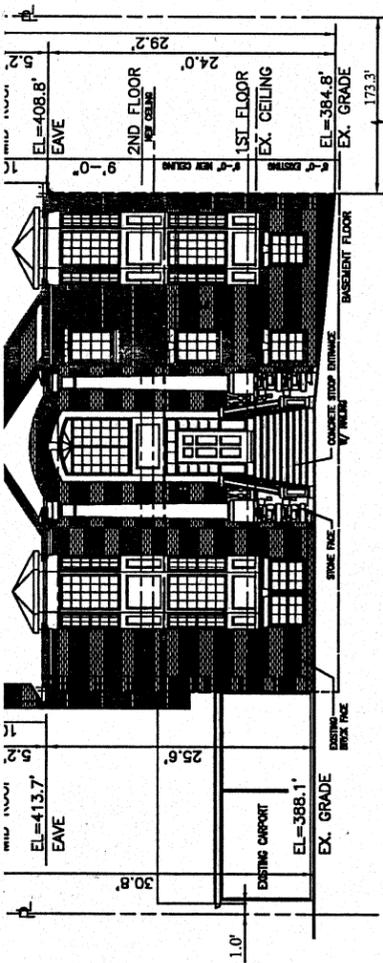
**ZONED: R-1**

**MINIMUM YARD REQUIREMENTS**

REQUIRED	PROVIDED
FRONT: 40.0'	66.1' & 66.9'
SIDE: 20.0'	170.4' & 173.3'
REAR: 25.0'	1.0' (V-81-C-059) 121.9' & 127.1'

MICHAEL E. HUNTER  
LOT 1  
TAX MAP: 046-4-((17))-0001  
QUAIL CREEK LT 1 LOT 1

*Setback Certification APPROVED*  
07/05/13  
*Michael E. Hunter*  
Zoning Administrator



PLAT SUBJECT TO RESTRICTIONS OF RECORD  
TITLE REPORT NOT FURNISHED

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

**ABBREVIATION**

- AC: AIR CONDITIONING UNITS
- BW: BAY WINDOW
- GEN: GENERATOR
- GM: GAS METER
- OH: OVERHANG
- PM: POWER METER
- POR: PORCH
- STP: STOOP
- W: WATER OU
- WD: WOOD DE
- WW: WINDOW

**SETBACK CERTIFICATION PLAT**

SHOWING WALL CHECK LOCATION ON THE PROPERTY LOCATED AT

**#3700 HIGHLAND PLACE**

FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 40' JULY 5, 2013

**LOT 43A, ZONED R-1**  
**FAIRFAX FARMS**

**LT 43A**

TAX MAP: 046-4-((02))-0044

DEED BOOK 18290, PAGE 073

PROVIDENCE MAGISTERIAL DISTRICT





**MEMORANDUM**

**DATE:** September 27, 2016

**TO:** Heath Eddy, Staff Coordinator  
Zoning Evaluation Division, DPZ

**FROM:** Jay Banks, Urban Forester II  
Forest Conservation Branch, DPWES

**SUBJECT:** Fairfax Farms Lot 43A - 3700 Highland Place  
SP 2016-PR-089 & VCA 81-C-059

The Urban Forest Management Division (UFMD) has completed its review of the Application for a Special Permit, SP 2016-PR-089 received August 4, 2016, VCA 81-C-059 received on August 19, 2016, Statement of Justification received on August 31, 2016, and Special Permit Plat date stamped as received by the Department of Planning and Zoning on August 30, 2016.

Based on this review the UFMD has no specific comments. Should any additional improvements or additions to the accessory structure/playhouse, chicken coop, carport/garage, deck, or accessory dwelling unit 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 those improvements and by providing the tree protection fencing along the proposed limits of disturbance to protect trees that may be impacted by these activities.

If further assistance is desired, please contact me at 703 324-1770.

JB/tw

UFMDID #: 220264

cc: DPZ File



## Zoning Ordinance Provisions

### 2-512 Limitations on the Keeping of Animals

1. The keeping of commonly accepted pets shall be allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for any commercial purpose. Dogs shall be subject to the provisions of Par. 2 below.
2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:
  - A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

- B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:
  - (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
  - (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41 of The Code.

3. The keeping of livestock or domestic fowl shall be allowed as an accessory use on any lot of two (2) acres or more in size. The keeping of such livestock or domestic fowl shall be in accordance with the following:

- A. The number of livestock kept on a given lot shall not exceed the ratio of one (1) animal unit per one (1) acre, with an animal unit identified as follows:

2 head of cattle	= 1 animal unit
5 sheep	= 1 animal unit
3 horses	= 1 animal unit
5 swine	= 1 animal unit
5 goats	= 1 animal unit
5 llamas	= 1 animal unit
5 alpacas	= 1 animal unit

Horses shall include ponies, mules, burros and donkeys. In determining the number of livestock permitted, only horses six (6) months or older in age and cattle, sheep, goats, and swine one (1) year or older in age shall be counted. In addition, in determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one (1) animal unit per one (1) acre is maintained.

- B. The number of domestic fowl kept on a given lot shall not exceed the ratio of one (1) bird unit per one (1) acre, with a bird unit identified as follows:

32 chickens	= 1 bird unit
16 ducks	= 1 bird unit
8 turkeys	= 1 bird unit
8 geese	= 1 bird unit

In determining the number of domestic fowl permitted, only fowl six (6) months or older in age shall be counted.

4. The keeping of honeybees in four (4) beehives or less shall be allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four (4) beehives may be kept, provided there is an additional lot area of 2500 square feet for each hive. In all instances, there shall be one (1) adequate and accessible water source provided on site and located within fifty (50) feet of the beehive(s). In addition, if the landing platform of a hive faces and is within ten (10) feet of any lot line, there shall be a flight path barrier, consisting of a fence, structure or plantings not less than six (6) feet in height, located in front of the hive.
5. The keeping of racing, homing, or exhibition (fancy) pigeons shall be allowed as an accessory use on any lot 10,000 square feet or more in size.

6. All accessory structures associated with the keeping or housing of animals shall be located in accordance with the provisions of Part 1 of Article 10.
7. The BZA may approve a special permit to modify the provisions of Paragraphs 1 through 6 above, but only in accordance with Part 9 of Article 8; provided, however, that a kennel, animal shelter or riding or boarding stable shall be subject to the provisions of Part 6 of Article 8.
8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41 of The Code.

### **8-006 General Standards**

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

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

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

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

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

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

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building 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.

#### **8-917 Provisions for Modifications to the Limitations on the Keeping of Animals**

The BZA may approve a special permit to allow the keeping of animals that are not commonly accepted pets, to allow the keeping of animals in numbers greater and/or on lots smaller than permitted by Sect. 2-512, or to allow modifications to the location regulations of Par. 9 of Sect. 10-104, but only in accordance with the following:

1. In reviewing an application, the BZA shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques, and the location that such animals will be kept on the lot. The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission of noise and/or odor detrimental to other property in the area.
2. Such modification may be approved if it is established that the resultant use will be harmonious and compatible with the adjacent area.
3. Notwithstanding the requirements set forth in Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat, which may be prepared by the applicant and shall contain the following information:
  - A. The dimensions of the lot or parcel, the boundary lines thereof, and the area of land contained therein.
  - B. The dimensions, height and distance to all lot lines of any existing or proposed building, structure or addition where such animals are to be kept.
  - C. The delineation of any Resource Protection Area and Resource Management Area.
  - D. The signature and certification number, if applicable, of the person preparing the plat.

### **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.

#### **18-404 Required Standards for Variances**

In furtherance of the requirements of §15.2-2309 of the Code of Virginia, to grant a variance, the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the property interest in the subject property for which the variance is being requested was acquired in good faith, and the applicant did not create any hardship for which relief is sought.
2. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
3. That the strict application of this Ordinance would unreasonably restrict the utilization of the subject property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the subject property or improvements thereon at the time of the effective date of the Ordinance.
4. That such unreasonable restriction or hardship is not shared generally by other properties in the same zoning district and the same vicinity.
5. That the granting of the variance will not be of substantial detriment to adjacent property.
6. That the variance will be in harmony with the purposes of this Ordinance and will not be contrary to the public interest.