Meeting Date: 4-1-14

Agenda Item: 5

CITY OF FAIRFAX

Department of Community Development & Planning

Special Exception SE-14010115

PUBLIC HEARING DATE

April 1, 2014

APPLICANT

Kent Musgrave, property owner

AGENT

N/A

PARCEL DATA

Tax Map ID
58-1-((17))-128

Street Address
9924 Great Oaks Way

Zoning District
P-D Planned Development District

APPLICATION SUMMARY

The applicant requests Board of Zoning Appeals approval, pursuant to City Code Sections 110-643(a) and 110-369, for a Special Exception to modify the minimum required side yards for decks and patios to allow a deck to extend more than five feet from the residential structure into the side yard in the Great Oaks planned development.

STAFF RECOMMENDATION

Based on the analysis of the criteria outlined in City Code Section 110-369, staff recommends approval of the applicant's Special Exception request, subject to the following conditions:

1. Construction of the deck shall be in substantial conformance with the plans submitted as part of this application, signed by the applicant, and dated January 30, 2014.
2. The applicant shall fully comply with the conditions outlined in the Great Oaks Homeowners Association' approval letter, dated December 24, 2013.
3. In the event that either of the two trees located closest to the existing deck does not survive due to the impact of construction of the proposed deck expansion, the applicant shall replace the tree(s), subject to review and approval by the Zoning Administrator

BACKGROUND INFORMATION

The subject property is located in the P-D Planned Development District on 0.14 acres in the Great Oaks subdivision. The residential structure is situated on a pie-shaped lot and was constructed in 1978 with approximately 2,950 square feet of living space. At the time of construction of the home, an attached wooden deck was added to the western side of the house and measures 26.5 feet by seven feet (total area of 185.5 square feet). The deck is raised above-ground and is accessible only from the residential structure. There are no stairs providing access to this single-level deck. At the closest point, the deck is located approximately eight feet from the side property line.

The applicant purchased the subject property in 2011 and proposes to make deck repairs relating to structural deficiencies that were noted during the home inspection process (sunken support post and sagging deck) and to expand the existing deck. The proposed deck expansion would measure five feet in width and would range from 17 feet in length to 19.5 feet in length for a total of 97.5 square feet. Therefore, the overall size of the deck with the proposed enlargement would range in length from 17 feet to 26.5 feet and would extend from the residential structure into the side yard ranging from seven to 12 feet with an overall size of 283 square feet. At the closest point, the proposed new deck area would be located 12 feet from the side property line, whereas the existing deck is located eight feet from the side property line.

Staff notes that there are two beech trees located near the existing deck. A certified arborist has determined that these two trees are not likely to be damaged by construction relating to the four footers that would be dug to provide the support columns for the proposed deck expansion. The arborist indicated, however, that the footers must be excavated by hand (shovel or manual auger).

The Great Oaks Homeowners Association considered the applicant's request for the proposed repairs and deck expansion and voted for approval, subject to the following conditions (see official approval letter in Attachment 5):

- Four footers for proposed deck expansion shall be excavated by hand with a shovel or manual auger.
- Existing deck can be extended up to five additional feet, extending no more than 12 feet from the dwelling.
- Single-level deck, top rails, and vertical deck balusters shall be constructed of pressure-treated wood (no synthetic composite materials approved) and be stained to complement the existing brick/trim color palette of the home.
- No stairway access, gates, or deck rail planter boxes are approved.
- No gazebo, pergola, or awning is approved.
- Decorative lattice underpinning must be installed and stained the same color as the deck and should completely enclose the ground level area so that the support columns are not visible from Great Oaks Way.
- Any deck lighting must receive separate approval from the Great Oaks ACC.
- Landscape plantings are required to screen the deck support columns and a detailed landscape plan must be submitted to the Great Oaks ACC for approval prior to installation.
- Construction materials must be stored in an inconspicuous location, no lumber may be stored in the street, and no construction company signage, trucks, trailers, or heavy equipment may be left in the Great Oaks community overnight.
- Any areas disrupted during the deck construction must be restored to pre-construction conditions following completion of construction.

REQUEST

The applicant requests a special exception to modify the minimum required side yard for decks/patios in the Great Oaks subdivision (a planned development district) to allow the proposed deck to extend more than five feet from the residential structure into the side yard.

For background purposes, staff notes that the subject property was constructed in compliance with the City-approved site plan for Great Oaks. There have been several amendments to the Great Oaks site plan, however, since it was originally approved. Pertinent to the existing site conditions, there was a site plan amendment in 1993 that was requested by the Great Oaks Homeowners Association and approved by the City Council that limited deck and patio extensions into side yards and made provisions for non-conforming decks and patios. Specifically the following conditions were approved:

2. Minimum required side yards for decks and patios:
   (B) In a setting where units have an existing side entrance on the same level as a proposed deck/patio, the deck/patio shall not extend more than five feet into the side yard and must be a minimum of one foot from the side property line.
3. Decks/patios in conformity with this amendment may be reconstructed/replaced, but any expansion must conform to these conditions.

Based on the 1993 amendment then, the existing deck at the subject property was considered non-conforming due to its seven-foot extension into the side yard and, therefore, could not be expanded.

A zoning text amendment was made by City Council in 1998, however, to City Code Section 110-643(a) that provided the Board of Zoning Appeals (BZA) with the power to modify minimum yard and building setback requirements for accessory structures and attached decks in a planned development district (instead of requiring City council to approve amendments to site plans in such a district). Under this authority, the BZA can approve a special exception for the proposed deck expansion that in effect removes the deck's nonconforming status to allow for expansion and alteration.

If approved, this special exception request would allow the existing deck and proposed deck extension to be located twelve feet from the residential structure where five feet is the maximum permitted.

ANALYSIS OF SPECIAL EXCEPTION CRITERIA

The staff recommendation for this application is based on an analysis of the applicable standards for Special Exception approval provided in City Code Section 110- 110-369(6) and as applied to the applicant's request to expand a non-conforming deck into the side yard.

a) The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area.

The subject property consists of a 0.14-acre lot that is pie-shaped and contains two side yards, a front yard, and a rear yard. The General Development Plan (GDP) for the Great Oaks subdivision does not show a typical lot layout and the layout shown on each lot of the approved GDP created each lot's approved layout. The subject property is in conformance with the approved GDP.

In the event that either of the two trees located closest to the existing deck do not survive due to the impact of construction of the deck expansion, the applicant will be required to replace such tree(s), subject to review and approval by the Zoning Administrator.

Staff believes the subject property is adequate in size and shape to accommodate the proposed expansion of the deck and that such expansion would not negatively affect adjacent property or the surrounding area. In the event that

either of the two trees located closest to the existing deck do not survive the impact of construction of the proposed deck expansion, the applicant shall be required to replace the tree(s).

b) The Special Exception will not be inconsistent with the objectives specified in the Comprehensive Plan

Within the City's Comprehensive Plan, Objective HOU-2 encourages the preservation and enhancement of the City's housing stock while respecting traditional neighborhood characteristics. Furthermore, Objective HOU-4 encourages the upgrading of the existing housing stock. As proposed, expansion of the existing deck would improve the value and physical appearance of the residential structure and would result in an upgrade to the home.

Staff finds that the applicant's request to expand the existing deck is consistent with the objectives of the Comprehensive Plan.

c) The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements.

Since there are no provisions in the Zoning Ordinance to allow the enlargement or alteration of nonconforming residential properties, the applicant has worked with City staff to find a way to enlarge the existing non-conforming deck without further encroaching into the side yard. By keeping a 12-foot side setback (the R-3 Residential District required side setback considered by staff to be the most similar conventional district to Great Oaks), staff believes that the proposed deck expansion would not negatively affect the adjacent property or the surrounding area.

The applicant proposes to enlarge an existing deck that is currently non-conforming because it extends more than five feet into the side yard. The applicant indicates in the Statement of Support that the existing deck is not deep enough and, therefore, proposes to extend it an additional five feet into the side yard.

Staff finds that the applicant's proposal to expand the non-conforming deck from seven feet as it currently exists to twelve feet from the residential structure is reasonable given the large side yard of the subject property and it is not anticipated that this expansion would significantly impact the adjacent property.

d) The proposed structural modifications meet sound residential design objectives to:

1. Minimize loss of privacy on neighboring properties.

   Due to the location of the residential structure and existing deck on the pie-shape lot, the proposal to extend the deck from seven feet from the residential structure as it currently exists an additional five feet, for a total of 12 feet where a five-foot projection is allowed, would not impact the privacy for the adjacent property.

   The proposed deck expansion would not impact the privacy of the neighboring property.

2. Maximize image of quality residential development to the street frontage.

The proposed improvements, including the decorative lattice underpinnings and landscape plantings, would maximize the image of quality residential development to the street and would structurally and aesthetically improve the existing deck conditions.

The proposed deck expansion would improve the image of the existing residential structure to the street frontage.

3. Maximize window area from living rooms, dining rooms, kitchens, dens and family rooms facing the street, within the context of the original building design.

   The expansion of the existing deck would not affect the window areas from the existing home that face the street.

   This criterion is not applicable.

4. Avoid reduction of light and air to neighboring properties.

   The proposed deck expansion would not reduce the light and air to the adjacent property.

   This criterion is not applicable.

5. Minimize development of front yard as driveways.

   The applicant's proposal to expand the existing deck would be limited to the side yard and would not impact any part of the front yard.

   This criterion is not applicable.

CONCLUSION

Based on the review of City Code Section 110-369(6) as it pertains to applications SE-14010115, staff concludes that:

1) The proposed deck expansion is consistent with the objectives of the Comprehensive Plan to improve the subject property;
2) The size and shape of the subject property are adequate to accommodate the proposed expansion of the existing deck;
3) Due to the location of the existing deck, expansion of the deck in the proposed area is the most reasonable location;
4) The proposed deck expansion would not impact the window area from the residential structure;
5) The proposed deck expansion would not reduce air and light to the neighboring property;
6) The proposed deck expansion would not impact the privacy of the adjacent property; and
7) Construction of the deck expansion would not impact the existing front yard.

RECOMMENDATION

Staff recommends approval of the applicant's Special Exception request to allow the expansion of the existing deck that would result in the deck being located twelve feet from the residential structure and twelve feet from the side property line, subject to the following conditions:

1. Construction of the deck shall be in substantial conformance with the plans submitted as part of this application, signed by the applicant, and dated January 30, 2014.
2. The applicant shall fully comply with the conditions outlined in the Great Oaks Homeowners Association' approval letter, dated December 24, 2013.
3. In the event that either of the two trees located closest to the existing deck does not survive due to the impact of construction of the proposed deck expansion, the applicant shall replace the tree(s), subject to review and approval by the Zoning Administrator.

PREPARED BY:

Heidi M. Waugh — 3/27/14
Heidi M. Waugh — DATE
Planner II

REVIEWED AND APPROVED:

Michelle Coleman — 3/27/14
Michelle D. Coleman — DATE
Zoning Administrator

REVIEWED AND APPROVED:

Brooke Hardin — DATE
Director, Community Development & Planning

ATTACHMENTS

1. Plat
2. Location Map
3. Application
4. Applicant's Statement of Support
5. Great Oaks Homeowners Association's Approval Letter
6. Photos
7. Plans
8. Sample Resolutions
9. Sample Motions

ATTACHMENT # 1

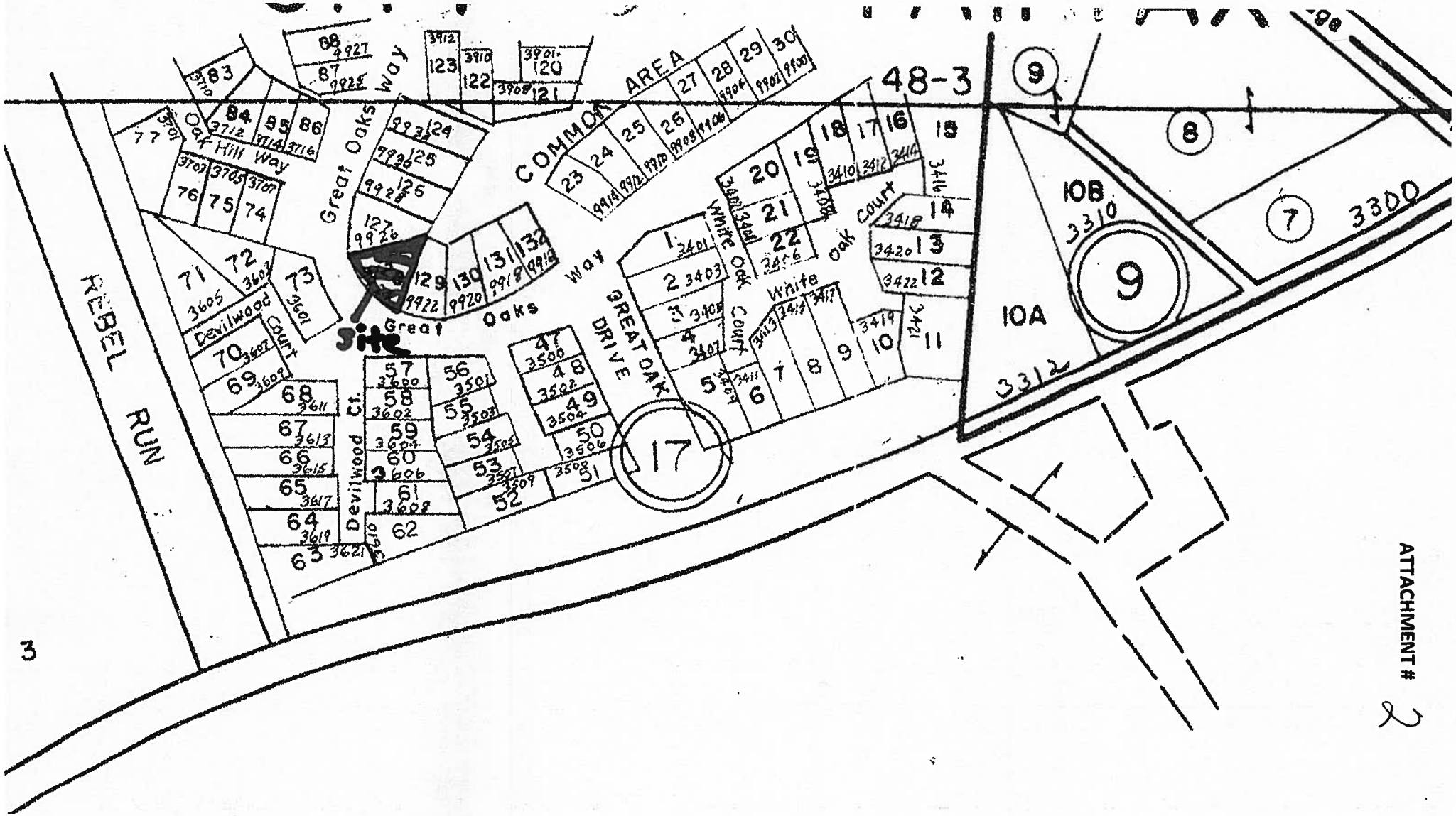
RECEIVED
JAN 30 2014
Community Dev & Planning

Kent Morgan

9924 Great Oaks Way Deck Expansion

Scale 1" = 20'

NOTES:
1. "NO" PROPERTY CORNER MONUMENTS SET. REFER TO TITLE 54.1-407 OF THE CODE OF VIRGINIA;
2. THIS SURVEY WAS ESTABLISHED BY AN ELECTRONIC TOTAL STATION AND TAPE UNLESS OTHERWISE SHOWN THERE ARE NO ENCROACHMENTS.
3. THIS IS NOT A BOUNDARY SURVEY, PROPERTY CORNER MONUMENTS ARE NOT GUARANTEED. THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS (IF ANY) OR OTHER CIRCUMSTANCES AFFECTING TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED AS AN [illegible] TYPE OF FENCES AND THE DESIGN OR CONSTRUCTION OF ANY OTHER IMPROVEMENTS



ATTACHMENT # 2

10

Copyright ©2013 Pictometry International Corp.

RECEIVED

1 30 2014

Community Dev & Planning

ATTACHMENT # 3

Application No. SE-14010115

LAND USE APPLICATION
CITY OF FAIRFAX

I/We Kent Musgrave by Self
(name of applicant) (authorized agent's name and relationship to applicant)

a *corporation / general partnership / limited partnership / sole proprietorship/individual* (circle one) which is the *property owner / contract purchaser / lessee* (circle one)

of 9924 Great Oaks Way, Fairfax, VA 22030 / Tax Map#
(address and tax map # of subject property)

hereby apply for a Special Use Permit/Special Exception/Variance (circle one) pursuant to Section _____ of the City Code to allow (describe request) Deck Expansion

City Code References: _____

(signature of applicant or authorized agent) Self (title or relationship)

Address 9924 Great Oaks Way, Fairfax, VA 22030 Phone: 571-449-1190

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/We Kent Musgrave by Self hereby certify that the applicant named above has the authority vested by me to make this application.

(signature of owner or authorized agent) Self (title or relationship)

Address 9924 Great Oaks Way, Fairfax, VA 22030 Phone: 571-449-1190

FOR OFFICE USE ONLY

Proposal filed: 1/30/14 Received by: ale

Fee Paid: 500.00 Receipt No. 36083

Previous Cases: _____

Current status of business license and fees:

Treasurer: Property owner has met the requirements of this office. [illegible] 2-7-14

Commissioner of Revenue: Property owner has met the filing requirements of this office. Linda J. Leighley 2-6-14

Department of Community Development and Planning
City of Fairfax, Virginia

11.

JAN 30 2014

Community Dev & Planning

AFFIDAVIT
CITY OF FAIRFAX

I, Kent Musgrave, by Self (name of applicant or agent) do hereby make oath or affirmation that I am an applicant in Application Number 14010115 and that to the best of my knowledge and belief, the following information is true:

1. (a) That the following is a list of names and addresses of all applicants, title owners, contract purchasers, and lessees of the property described in the application, and if any of the foregoing is a trustee, each beneficiary having an interest in such land, and all attorneys, real estate brokers, architects, engineers, planners, surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application (attach additional pages if necessary):

Name	Address	Relationship
Kent Musgrave	9924 Great Oaks Way Fairfax, VA 22030	Self
Kathleen Alexander	9924 Great Oaks Way, Fairfax, VA 22030	Spouse

(b) That the following is a list of the stockholders of all corporations of the foregoing who own ten (10) percent or more of any class of stock issued by said corporation, and where such corporation has ten (10) or less stockholders, a listing of all the stockholders (attach additional pages if necessary):

Corporation Name: None

Name	Address	Relationship
N/A		

(c) That the following is a list of all partners, both general and limited, in any partnership of the foregoing (attach additional pages if necessary):

Partnership Name: None

Name	Address	Relationship
N/A		

2. That no member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

None

3. That within five (5) years prior to the filing of this application, no member of the City Council, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of $100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

None

WITNESS the following signature: _____
Applicant or Agent

ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 29 day of January, 2014, in the State of Virginia

My commission expires: Sep. 30 2017.

_____
Notary Public/Registration #

AYHAM SAKKOUR
Notary Public
Commonwealth of Virginia
7563631
My Commission Expires Sep 30, 2017

01/29/14

ATTACHMENT # 4

Zoning Commission
City of Fairfax

To whom it may concern:

We are requesting approval to perform the deck repairs that were identified as structural deficiencies when we purchased our home at 9924 Great Oaks Way. One of the support posts has sunk and the deck is sagging. In addition, the deck construction does not meet current standards. Along the deck repairs to repair the structural deficiencies and meet deck construction standards, we request permission to extend our deck within the property line and setback/easement allowances applicable to the Great Oaks Homeowners Association (GOHA) and/or prescribed by the City of Fairfax. The City of Fairfax has requested that we retain a setback of 12' from the side property line for the deck extension. The proposed extension was modified to meet this requirement. The purpose of the deck extension is to enable our use of the deck for a table suitable to outdoor dining. The current deck is less than seven foot wide and unsuitable for this purpose. The deck extension is into area on our property that contains several mature trees. An arborist has performed the inspection has provided an inspection to ensure that the mature trees will not be impacted.

Your prompt attention to this matter is appreciated.
V/R
Kent Musgrave and Kathleen Alexander
9924 Great Oaks Way
Fairfax, VA 22030

RECEIVED
JAN 30 2014
Community Dev & Planning

ATTACHMENT # 5

RECEIVED
JAN 30 2014
Community Dev & Planning

GREAT OAKS HOMEOWNERS ASSOCIATION

2014 Board of Directors
Iain Williamson, President
Ken Curtis, Vice President
John Butler, Secretary
Marvin Beriss, Treasurer
Bonnie Knoke, At- Large

December 24, 2013

Mr. Kent Musgrave
Ms. Kathy Alexander
9924 Great Oaks Way
Fairfax, Virginia 22030

Dear Mr. Musgrave and Ms. Alexander:

The Great Oaks Homeowners Association Board of Directors voted to grant an administrative exception to existing Fairfax City PD zoning to allow the existing side yard deck to be expanded. You and your contractor must follow all necessary rules and regulations to obtain the necessary permits and bonds as required by the City of Fairfax.

The following is approved:

1. The Board has received an opinion from a certified arborist that the two (2) beech trees at the leading edge of the deck are not likely to be damaged by the four footers proposed for the deck support columns, provided that the excavation of the footers is done by hand (shovel or manual auger) and care taken to locate the locations of the footers as far away from the trees as possible.

2. The existing seven (7) foot deck may be extended up to five (5) additional feet, extending no more than 12 feet from the side wall of the dwelling. Please furnish the Board with a revised deck construction plat as approved by the City and a copy of the building permit when issued.

3. A single level deck is to be constructed entirely of pressure treated wood (no synthetic composite materials approved) and stained to compliment the existing brick/trim color palette of the home. Please provide the color of stain selected to the ACC for approval prior to staining. Top rails and vertical deck balusters (pickets) shall also be constructed of pressure treated wood. No stairway access, gates or deck rail planter boxes are approved. No gazebo, pergola or awning is approved.

4. The finished appearance must include decorative lattice underpinning stained the same color as the deck to completely enclose the ground level area so that the support columns are not visible from Great Oaks Way.

5. If low voltage deck lighting is to be installed, please submit a separate lighting plan to the ACC (including light specifications, number and photographs of proposed light fixture) prior to installing. Deck lighting is not approved as of the date of this letter.

6. Landscape plantings are required to help further obscure the deck support columns. Owners are required to submit a detailed landscape plan to the ACC for final approval prior to plantings being install. No significant deviation from the plan (once approved) is permitted.

7. Construction materials are to be stored in as inconspicuous location as feasible. No construction company signage, trucks, trailers or heavy equipment may be left in Great Oaks overnight. Lumber may not be stored in the street.

8. Any areas disrupted in the construction of the deck must be restored to pre-construction condition upon completion of construction.

If the foregoing approval is satisfactory to you, please sign the enclosed copy of this letter and return to me. Your signatures guarantee that no work outside of the approval will be performed and you agree to comply with the foregoing eight (8) conditions.

Sincerely,

Iain Williamson, President
Great Oaks Homeowners Association

Seen and agreed: _____ _____

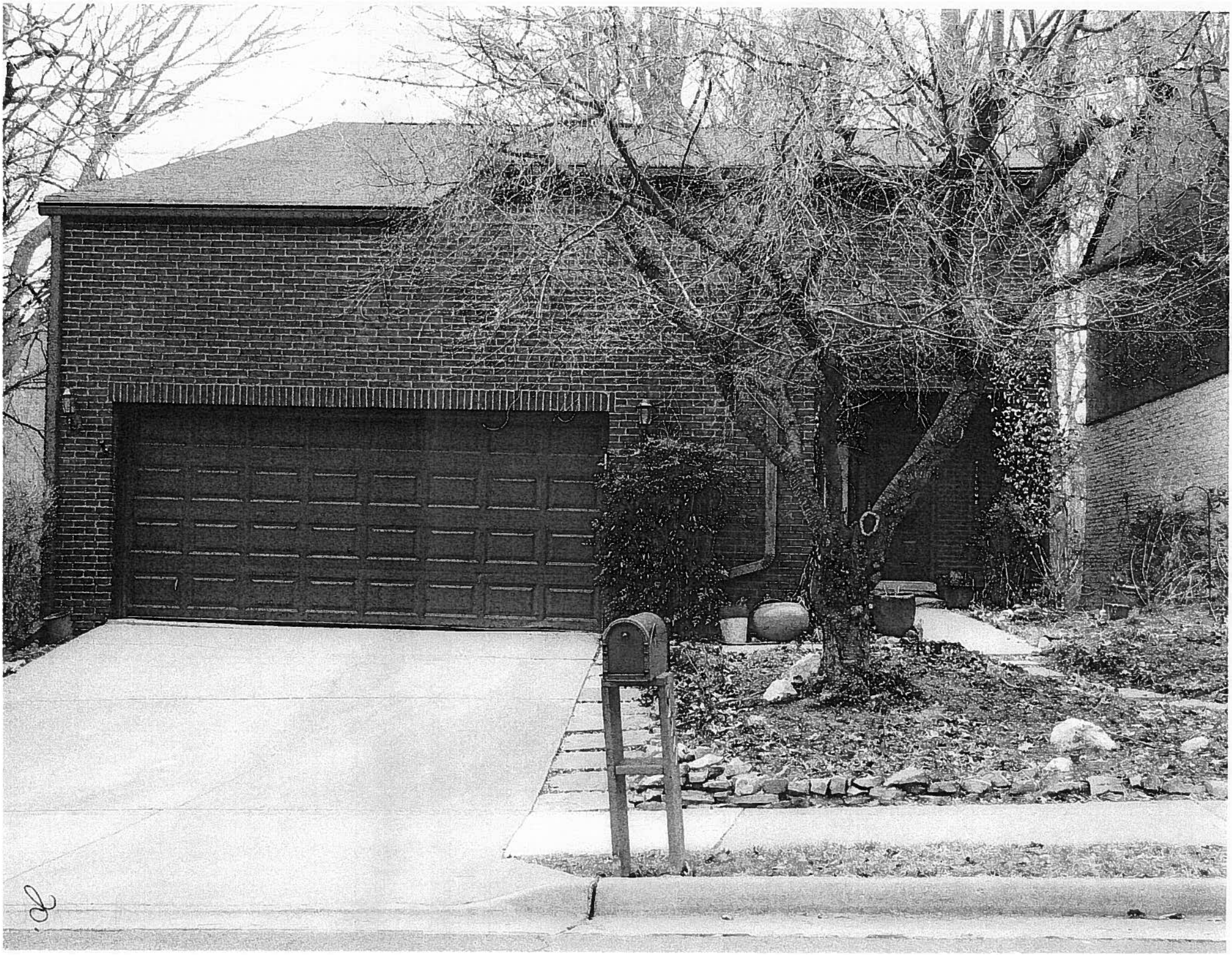
Kent Musgrave Kathy Alexander

16.

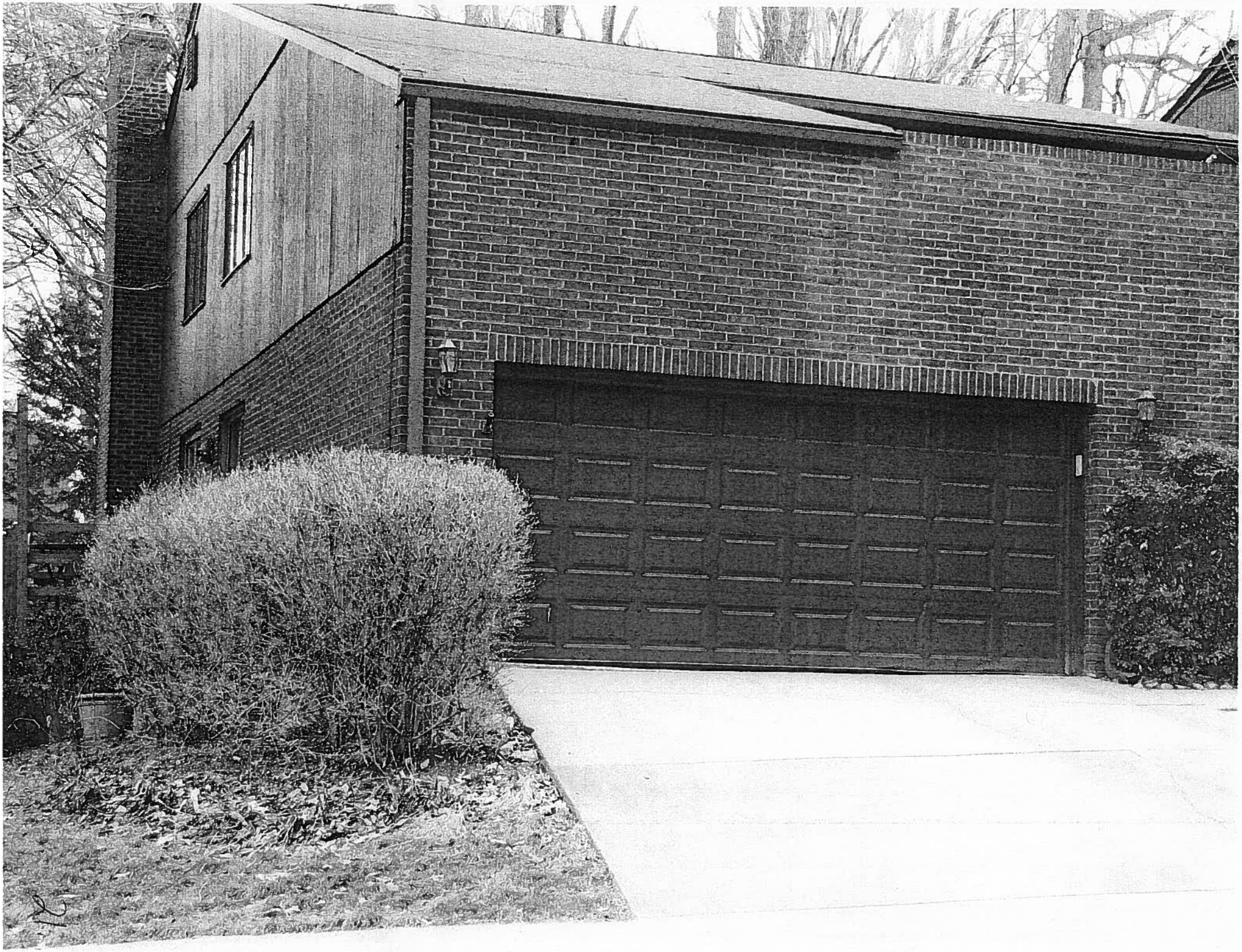
ATTACHMENT # 6

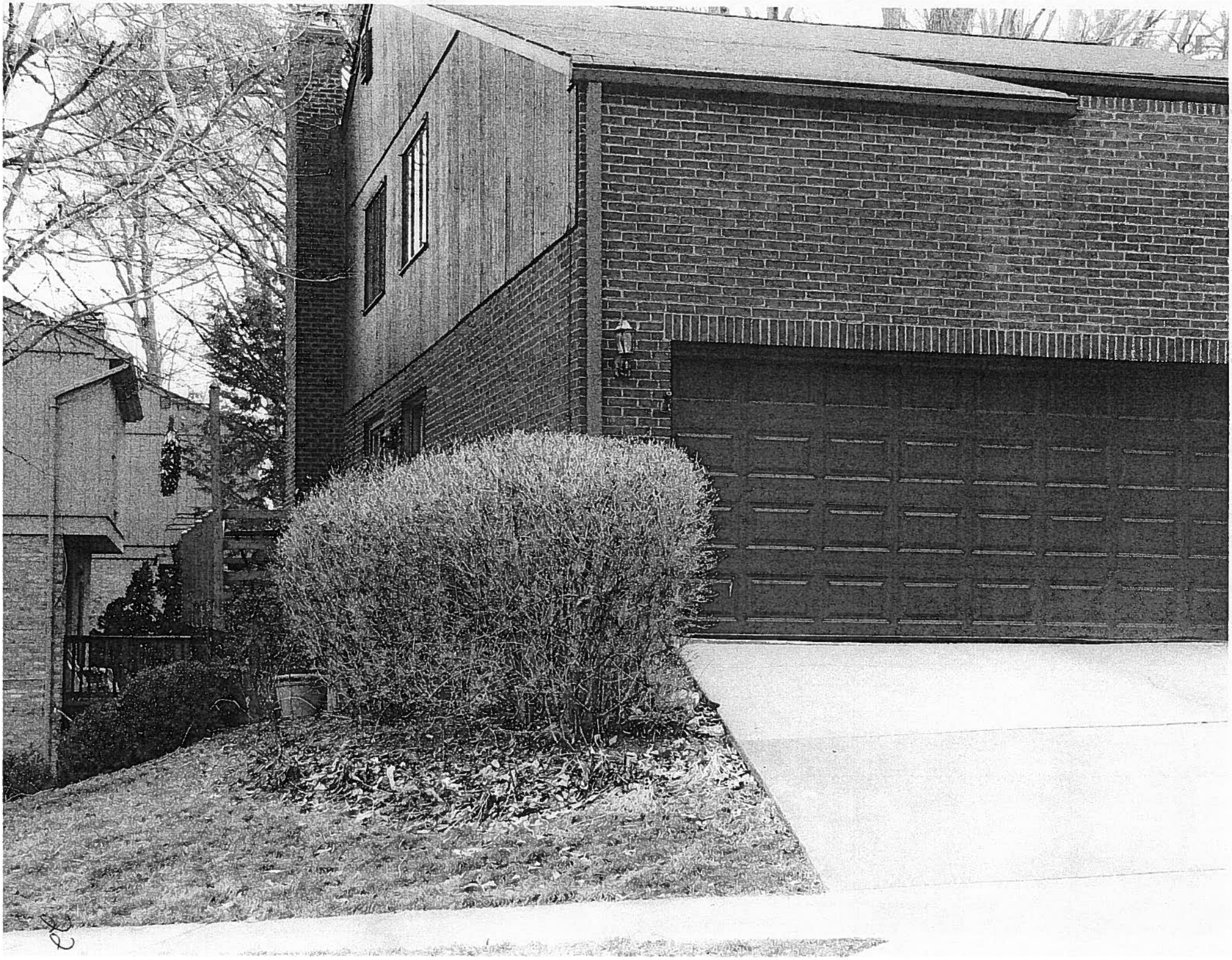
18

16.



2.

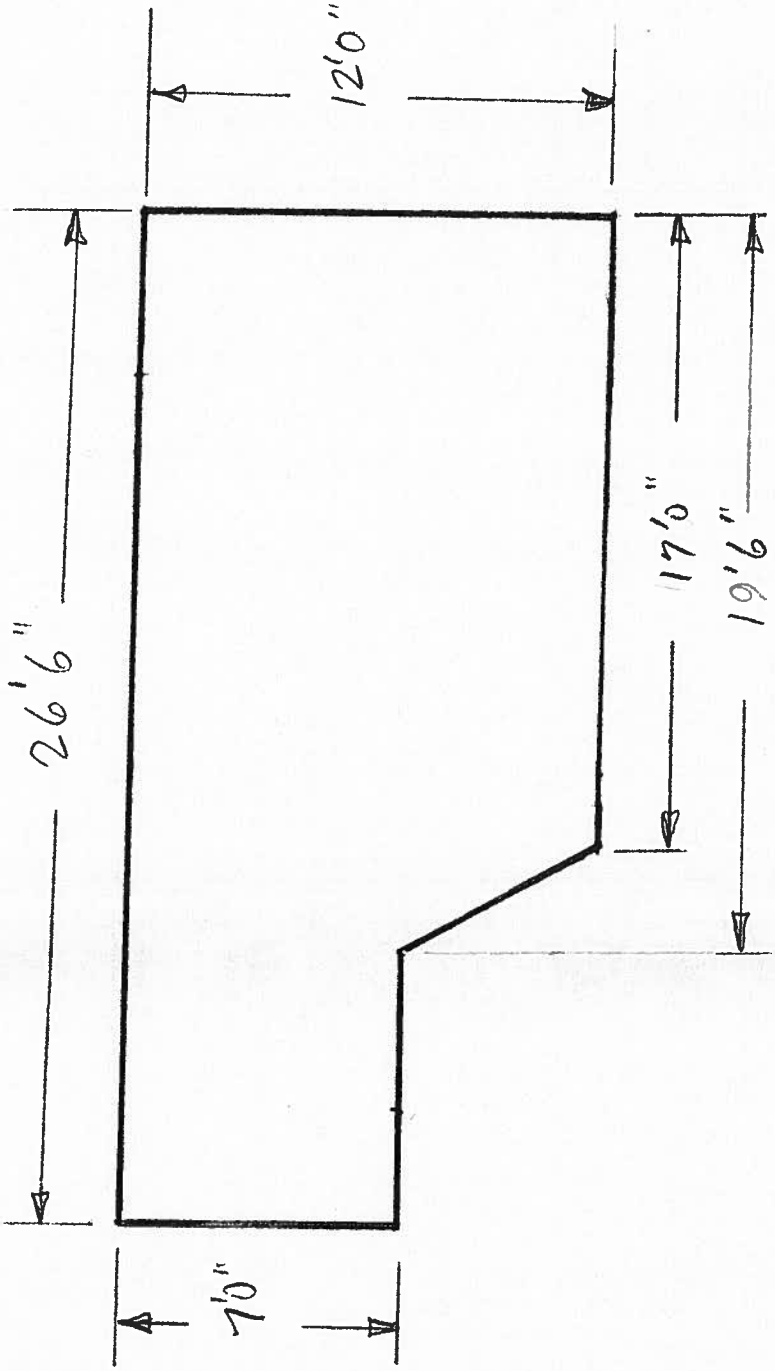




ATTACHMENT # 7

RECEIVED
JAN 30 2014
Community Dev & Planning

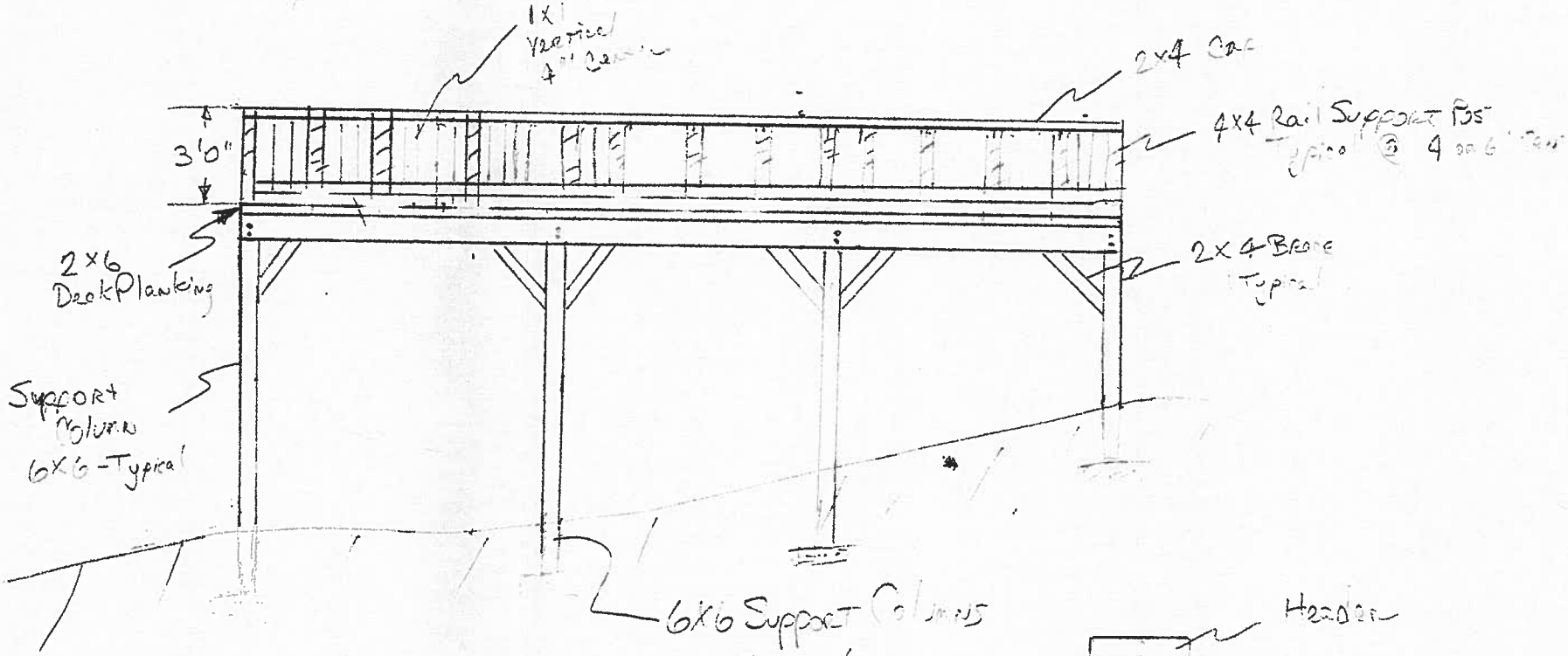
Kent Musgrave

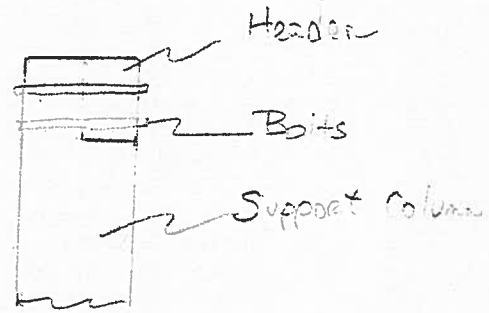


Top View - Outline

9924 Great Oaks Way

Scale 1" = 5'



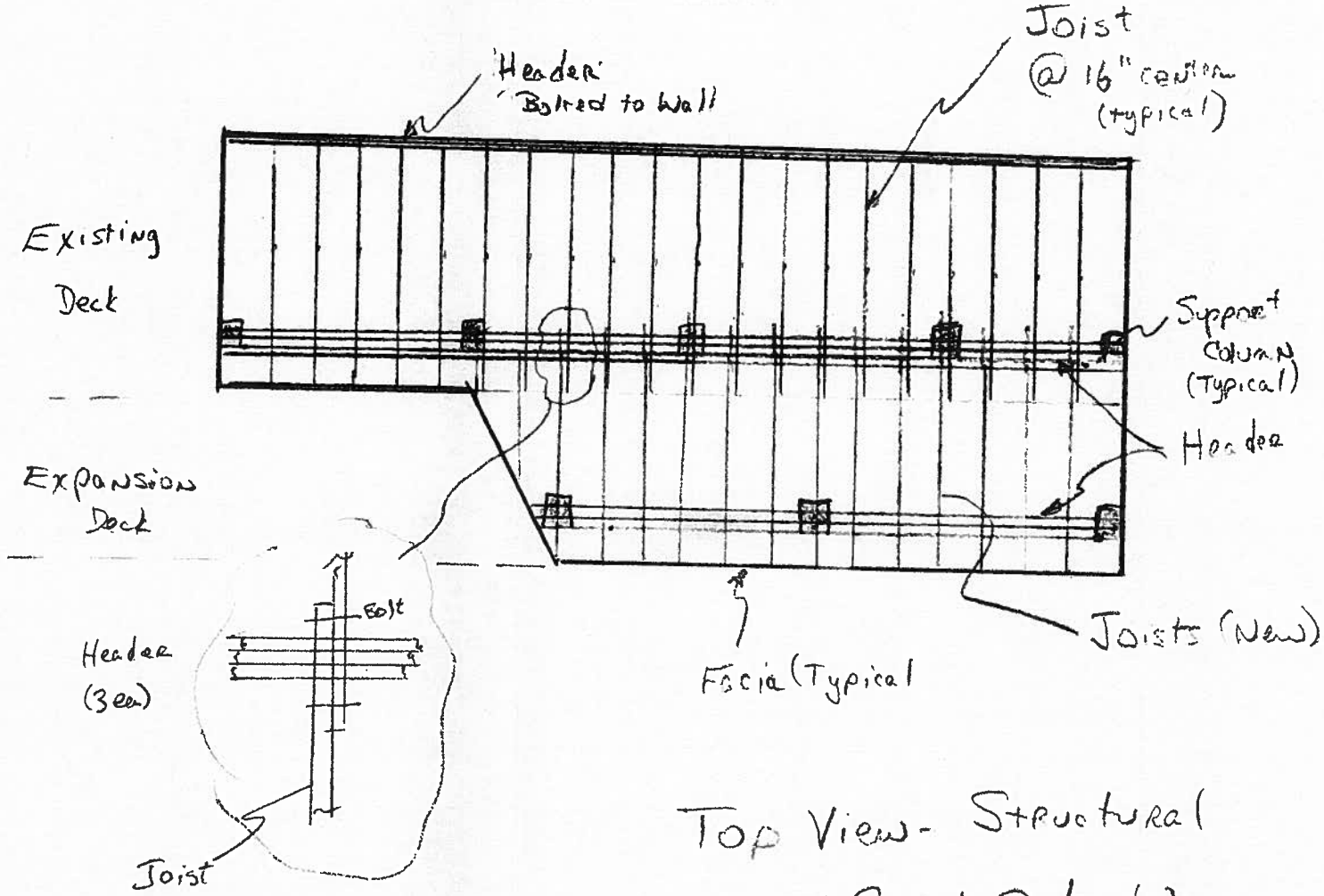


Front View

9924 Great Oaks Way

Scale 1" = 5' Kent Musgrove

24.



Joist, Facia
2x10 wood

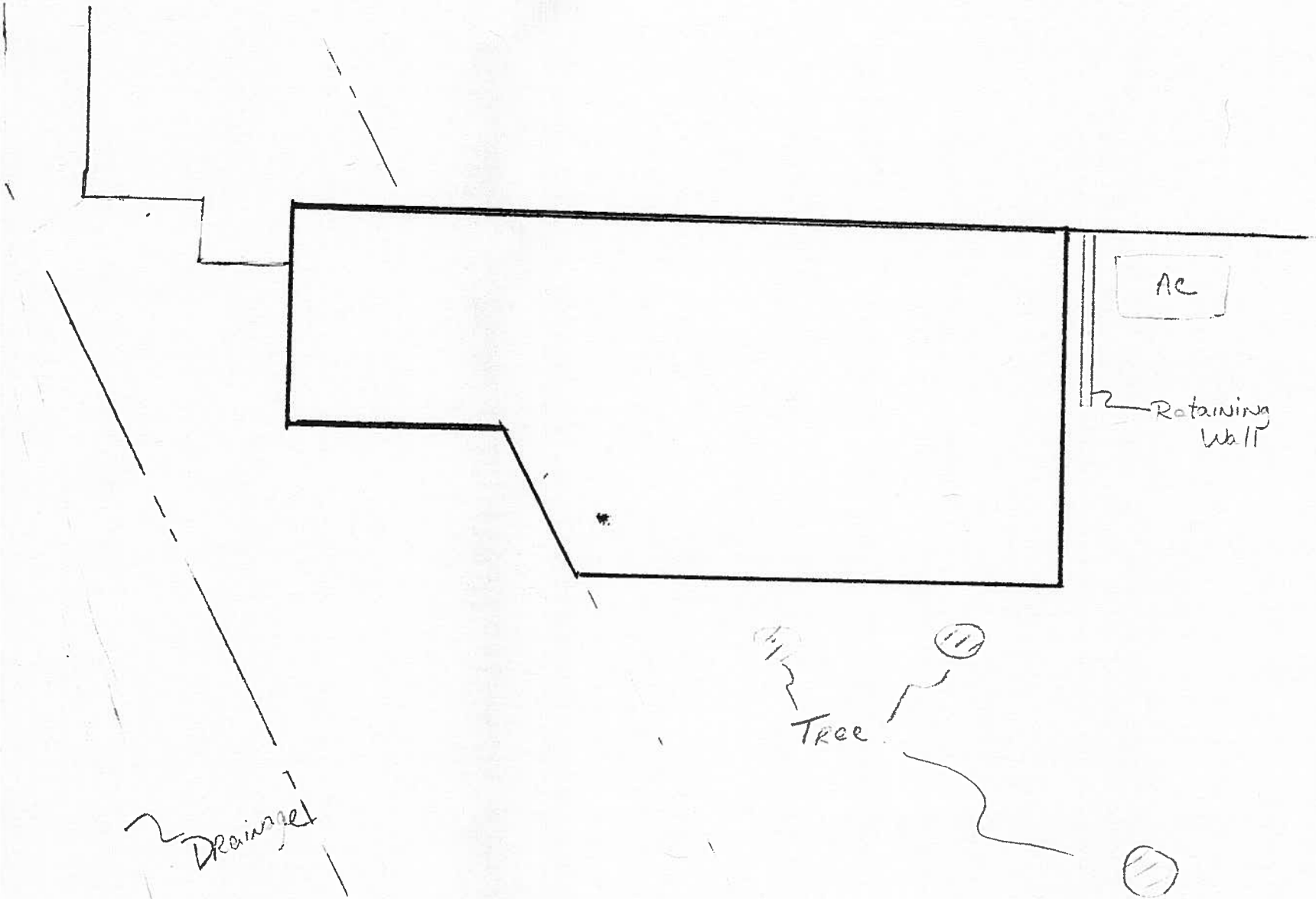
Header
2x10 (2 or 3 ea)
wood

Support Column
6x6 wood

Top View - Structural
9924 Great Oaks Way

Scale 1" = 5'

Kent Musgrove



External Features
9924 Great Oaks Way

Kent Musgrave

Board of Zoning Appeals
City of Fairfax

PROPOSED RESOLUTION NO. 2014- _____

RESOLUTION TO APPROVE THE REQUEST OF KENT MUSGRAVE, PROPERTY OWNER/AGENT, PURSUANT TO CITY CODE SECTIONS 110-643(a) AND 110-369, FOR A SPECIAL EXCEPTION TO MODIFY THE MINIMUM REQUIRED SIDE YARDS FOR DECKS AND PATIOS TO ALLOW A DECK TO EXTEND MORE THAN FIVE FEET FROM THE RESIDENTIAL STRUCTURE INTO THE SIDE YARD IN THE P-D DISTRICT (GREAT OAKS) ON THE PROPERTY LOCATED AT 9924 GREAT OAKS WAY AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 58-1-((17))-128.

WHEREAS, Kent Musgrave has submitted Application No. SE-14010115 requesting a Special Exception to modify the minimum required side yards for decks and patios to allow a deck to extend more than five feet from the residential structure into the side yard;

WHEREAS, the Board of Zoning Appeals has carefully considered the application, the recommendation of the staff, and testimony received at the public hearing; and

WHEREAS, the Board of Zoning Appeals has determined that the proposed Special Exception is appropriate because the proposal meets the criteria established by City Code Section 110-369(6) as follows:

1) The proposed deck expansion is consistent with the objectives of the Comprehensive Plan to improve the subject property;
2) The size and shape of the subject property are adequate to accommodate the proposed expansion of the existing deck;
3) Due to the location of the existing deck, expansion of the deck in the proposed area is the most reasonable location;
4) The proposed deck expansion would not impact the window area from the residential structure;
5) The proposed deck expansion would not reduce air and light to the neighboring property;
6) The proposed deck expansion would not impact the privacy of the adjacent property; and
7) Construction of the deck expansion would not impact the existing front yard.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Fairfax on this 1st day of April, 2014, that Application No. SE-14010115 be and hereby is APPROVED.

Special Exception SE-14010115 ATTACHMENT 8

Public hearing before Board of Zoning Appeals: April 1, 2014

Adopted: _____

	Vote
Chairperson John O'B Clarke Jr.	_____
Member Edward Calabria	_____
Member Ellen Brouwer	_____
Member Robert Matthews	_____
Member Gary Perryman	_____

_____
Chairperson

_____
Date

ATTEST:

_____
Alexis El-Hage,
Secretary

APPROVAL WITH CONDITIONS

(Recommended by Staff)

I MOVE THAT THE BOARD OF ZONING APPEALS APPROVE THE REQUEST OF KENT MUSGRAVE, PROPERTY OWNER/AGENT, PURSUANT TO CITY CODE SECTIONS 110-643(a) AND 110-369, FOR A SPECIAL EXCEPTION TO MODIFY THE MINIMUM REQUIRED SIDE YARDS FOR DECKS AND PATIOS TO ALLOW A DECK TO EXTEND MORE THAN FIVE FEET FROM THE RESIDENTIAL STRUCUTRE INTO THE SIDE YARD IN THE P-D DISTRICT (GREAT OAKS) ON THE PROPERTY LOCATED AT 9924 GREAT OAKS WAY AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 58-1-((17))-128, SUBJECT TO THE FOLLOWING CONDITIONS:

1. Construction of the deck shall be in substantial conformance with the plans submitted as part of this application, signed by the applicant, and dated January 30, 2014.
2. The applicant shall fully comply with the conditions outlined in the Great Oaks Homeowners Association' approval letter, dated December 24, 2013.
3. In the event that either of the two trees located closest to the existing deck does not survive due to the impact of construction of the proposed deck expansion, the applicant shall replace the tree(s), subject to review and approval by the Zoning Administrator.

DENY

I MOVE THAT THE BOARD OF ZONING APPEALS DENY THE REQUEST OF KENT MUSGRAVE, PROPERTY OWNER/AGENT, PURSUANT TO CITY CODE SECTIONS 110-643(a) AND 110-369, FOR A SPECIAL EXCEPTION TO MODIFY THE MINIMUM REQUIRED SIDE YARDS FOR DECKS AND PATIOS TO ALLOW A DECK TO EXTEND MORE THAN FIVE FEET FROM THE RESIDENTIAL STRUCUTRE INTO THE SIDE YARD IN THE P-D DISTRICT (GREAT OAKS) ON THE PROPERTY LOCATED AT 9924 GREAT OAKS WAY AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 58-1-((17))-128, FOR THE FOLLOWING REASONS:

(BZA to provide reasons)