

Covenants Appeal Request Resolution Worksheet

Date: November 20, 2019

Suggested Motion:

“I move to approve to schedule a hearing on _____ in relation to the Covenants Committee’s decision to deny the flagstone patio with retaining wall at 3442 Gunston Road”.

2nd.

Summary:

On July 9, 2019 the Covenants Committee denied the flagstone patio with retaining wall application as the installation does not comply with the current patio specifications and walkway specification.

Vote:

	In Favor	Opposed	Abstained	Absent
Scott Buchanan				
Dan Courtney				
Susan Cox				
Maria Wildes				
James Konkel				
Rich Moha				
Kathy Schramek				
Nicholas Soto				
Robin Woods				

Appeal to Board of Covenants Approval Denial for 3442 Gunston Rd

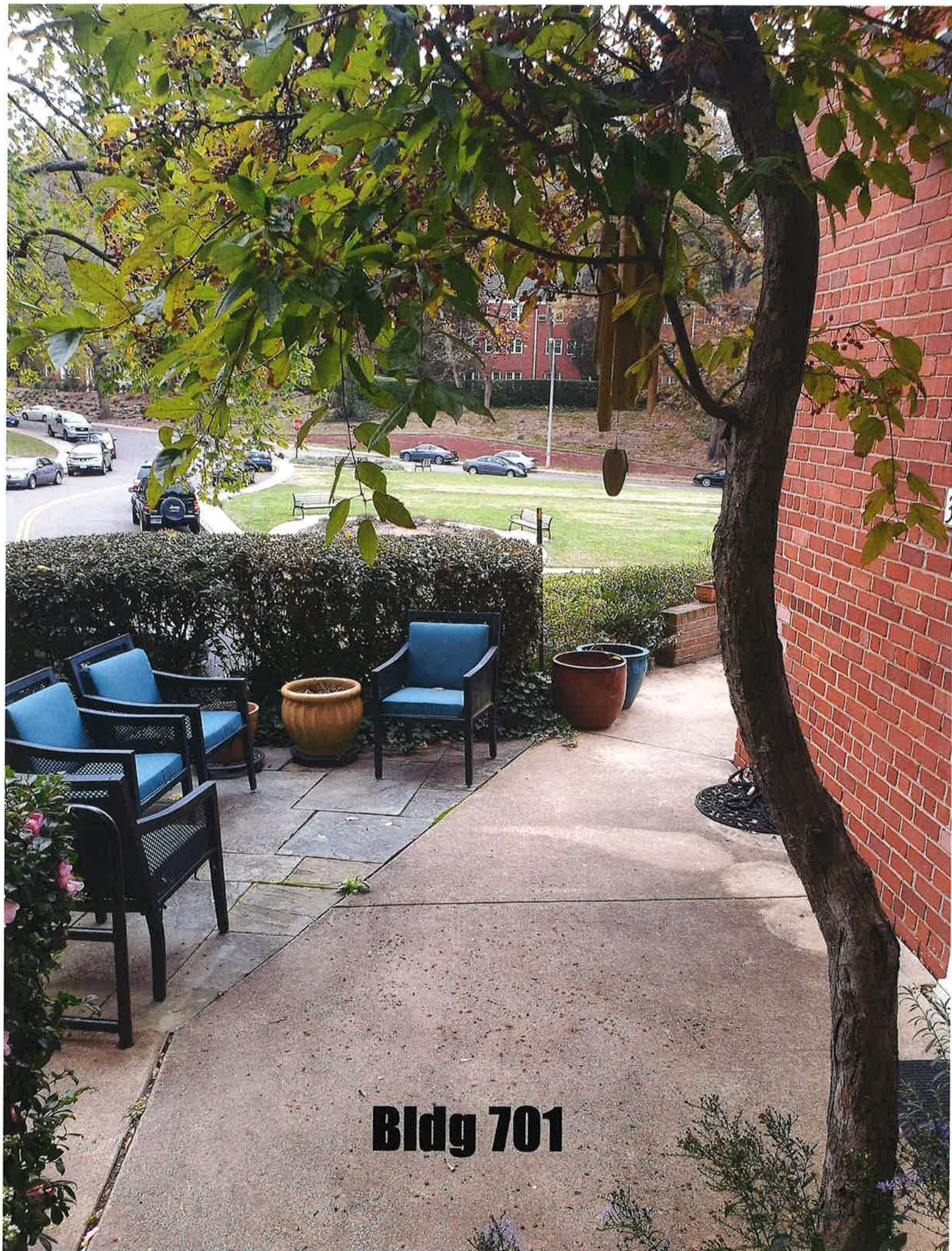
The Covenants Committee denied my request to approve my existing patio in the area of the side of Bldg. 729 (adjacent to the front door of a Lincoln unit). My appeal to the Board has several bases:

- There was a preexisting flagstone patio for decades in the area in question (see *Patio prior*), which used extensive flagstone (see *Previous flagstone*). Through the years this patio was seen by the General Manager, Asst. GM, Covenants Director, et al, and was never deemed an issue. Thus, the improvements on the preexisting patio should be grandfathered in.
- There are numerous units – both Lincolns and others – which have patios seemingly in violation of the Bylaws. (See *Bldg 701 a/b/c*, *Bldg 708*, *Bldg 710*, *Bldg 715*, *Bldg 726*, *Bldg 734*, *Bldg 737*, *Bldg 838*.) These include patios on the side of Lincoln units, extended front stoops on the side of Lincoln units, patios in front of other units, and patios which are across sidewalks from the adjacent unit. The Bylaws are being enforced in an arbitrary and capricious manner.
- There is a retaining wall adjacent to a Lincoln (see *Bldg 835*), to prevent excessive rainwater runoff. The retaining wall is necessary at my unit to prevent excessive pooling (see *Porch combined*).
- My neighbor Ellen Averbach (3468 Gunston Bldg 723) also has a side patio and retaining wall adjacent to the front door of her Lincoln unit (see *Ellen1*, *Ellen2*, *Ellen3*, *Ellen4*). She obtained permission from Parkfairfax for both the patio and the retaining wall (see *Ellen Approval*) on the side of her Lincoln unit.

Based on the preceding, I submit that my appeal should be heard and approved by the Board based on both equity and fairness.

John J. "Jeff" Lisanick
3442 Gunston Rd.
Bldg 729





Bldg 701



Bldg 708



Bldg 710



Bldg 715



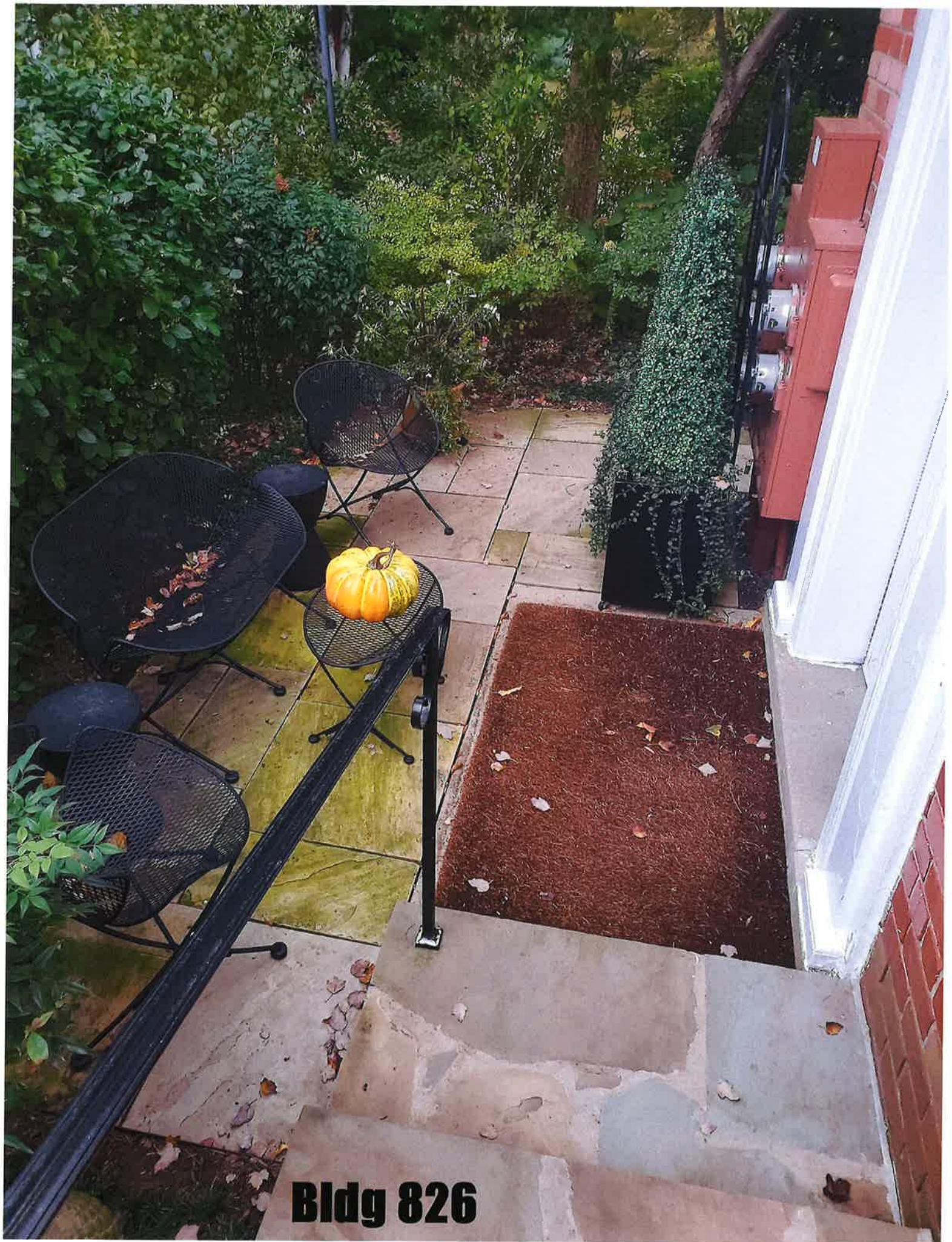
Bldg 726



Bldg 734

A photograph showing the exterior of a light blue brick building. A white-framed glass door is visible on the left, with a black doormat in front of it. A red plastic bag sits on the concrete steps leading up to the door. To the right of the door is a white electrical meter and a black lantern-style light fixture. A brick walkway leads from the door towards the background, bordered by a grey curb. A potted plant sits on the walkway. The surrounding area is covered in fallen autumn leaves, and trees with yellow and orange foliage are in the background.

Bldg 737



Bldg 826



Bldg 838



Bldg 835

Parkfairfax Condominium

A Historic District

UNIT OWNERS ASSOCIATION

3360 GUNSTON ROAD • ALEXANDRIA, VIRGINIA 22302-2198

TELEPHONE (703) 998-6315

FAX (703) 998-8764

May 7, 2004

Ellen Averbach
3468 Gunston Road
Alexandria, VA 22302

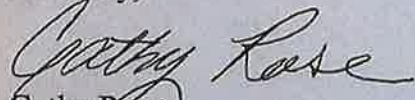
Re: Application for Non-Routine Change

Dear Ms. Averbach;

I am pleased to inform you that the Parkfairfax Board of Directors has accepted the stone arrangement that has been put into place and will allow you to keep the arrangement as is. Enclosed you will find a copy of the approved application. Please keep this application with your permanent papers. The original application will be kept on file at Parkfairfax for future reference.

Thank you for your continued efforts in making Parkfairfax a beautiful community in which to live. Should you have any further questions or concerns, please do not hesitate to call me @ (703) 998-6315.

Sincerely,



Cathy Rose

Covenants Director

CC: Homeowner File

Enclosure



COVENANTS APPLICATION FOR NON-ROUTINE CHANGES

Date: 5-31-19 Unit Owner(s): JOHN LISANICK Phone#: 703 434 0919
Building # 729 Unit Address: 3442 GUNSTON RD. Model: LINCOLN
OWNERS ADDRESS (if different from above): _____

I WISH TO DO THE FOLLOWING (Please mark the appropriate box)

BE SURE TO READ THE APROPRIATE SPECIFICATIONS FOR THE WORK BEING PERFORMED

For the following changes an illustration or detailed description is required.

Install or Replace:

- 1) ☒ Brick Patio
- 2) ☒ Flagstone Patio
- 3) ☐ Alteration to A/C Sleeve
- 4) ☐ Wooden Deck
- 5) ☐ Plantings
- 6) ☐ Garden
- 7) ☐ Landscaping
- 8) ☐ Gate
- 9) ☐ Arbor
- 10) ☐ Trellis
- 11) ☐ Resident Installed Walkways
- 12) ☐ HVAC/Central System Package
- 13) ☐ Brick Modifications
- 14) ☐ Subdivision of Units
- 15) ☐ Combine two units into one
- 16) ☐ Other: _____

Please notify the Covenants Director in writing within 30 days of installation to allow for a follow-up inspection to ensure compliance with our outlined specifications.
BY MY SIGNATURE BELOW, I AFFIRM THE FOLLOWING:

1. The change identified herein and the manner of installation of that change meets all applicable codes and ordinances of the City of Alexandria.
2. I understand maintenance and repair of changes by me is my responsibility and I am obligated for all expenses relating to maintenance and repair.
3. I understand that I am personally liable for all damages and expenses to my unit, other units and/or the common elements resulting from improper installation or failure to properly maintain such changes by me or at my direction.

4. I understand changes are subject to inspection by the Association Management up 30 thirty days after changes are completed.

5. I affirm that I am installing/replacing the above items exactly as represented here. I understand that any variation from the above constitutes any variation from the above constitutes a violation of the architectural guidelines and automatically voids approval.

6. I understand and agree that no work on this proposed change shall commence without prior written approval of the Covenants Committee.

6. I understand asbestos is present in Parkfairfax units and the common elements. If the change I am proposing requires work which may disturb asbestos, I agree that I must specifically advise the Covenants Committee of the nature and extent of this work in writing prior to commencement of such work. I also agree I will endorse a separate indemnification agreement if such asbestos disturbing work is necessary. I also agree I and my contractor (if appropriate) will abide by all Federal, State and Local ordinances regarding the disturbance and removal of asbestos containing materials and will agree to have air testing conducted at my expense.

Date: 5-31-2019

Unit Owner:

John J. Lisowski

Date: _____

Unit Owner: _____

=====

Action Taken: _____ Approved

☒ Disapproved

_____ Deferred

_____ Acknowledged

_____ Preliminary Approval, subject to receipt of City Permit and Inspection

_____ Final Approval, copy of City Permit and Inspection received

Stipulations/Reason for Denial:

Patio/retaining wall does not comply
with current patio specifications. Patio extends
beyond the length of the building

Date:

7/9/19

Signature:

Kim Benson

Covenants Committee Chair

INDEMNIFICATION AGREEMENT AND COVENANT

THIS INDEMNIFICATION AND COVENANT AGREEMENT is made this 31ST day of MAY, 20 19, by and between JOHN J. LISANICK ("OWNER"), and the PARKFAIRFAX CONDOMINIUM UNIT OWNERS ASSOCIATION, ("ASSOCIATION"). WITNESSETH: WHEREAS, Owner is the Unit Owner of condominium Unit No. 729 in Parkfairfax Condominium located at (address) 3442 GUNSTON ROAD Alexandria, Virginia; AND WHEREAS, the Association is charged by the Condominium Instruments for Parkfairfax Condominium (recorded on February 7, 1977 in Deed Book 847 at Page 72 among the land records of the City of Alexandria, Virginia) with responsibility for maintaining the Common Elements of the Condominium and enforcing the provisions of the Condominium Instruments; AND WHEREAS, the Condominium Instruments require the approval of the Board of Directors of the Association prior to the making of any alterations by the Unit Owner affecting the Common Elements; AND WHEREAS, Owner wishes to make alterations affecting the common Elements and has approval therefore; AND WHEREAS, The Board of Directors of the Association will not approve such alterations in the absence of an indemnification against damages and assumption of responsibility by Owner; AND WHEREAS, In order to induce the Board of Directors of the Association to grant such approval owner is willing to indemnify the Association and affected Unit Owners and assume responsibility for damages. NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Installation, alteration or removal of PATIO AND RETAINING WALL (specify) must be in accordance with any and all Guide Specifications and Exhibits approved by the Board of Directors.
2. Owner undertakes, of himself and his heirs, successors and assigns, to indemnify and hold harmless the Association and any Unit Owner from and against any loss or damage which the Association or any Unit Owner may suffer as a consequence of such improvements and alterations; including without limitations: (i) loss or damage caused by negligence in the design, construction or maintenance of such improvements and alterations; ii) loss or damage not the result of negligence but caused by the effect of such improvements and alterations on the structural components previously existing; (iii) expenses and consequential damage caused by or resulting from such improvements and alterations; and, (iv) fees, costs and expenses of any claims or suits arising as a result of such improvements and alterations.

3. Owner undertakes, for himself and his heirs, successors and assigns, to maintain and pay cost of maintaining such improvements and alterations, and all other appurtenant components.

4. Owner hereby warrants that the improvements and alterations have been and will be made in compliance with all applicable requirements of insurance policies covering the condominium and all applicable laws, governmental regulations, ordinances and codes. Owner hereby indemnifies the Association and any Unit Owner from and against any loss or damage attributable to the incorrectness of such warranty. Further, Owner hereby agrees to pay any increase in the cost of insurance coverage occasioned by the construction or maintenance of the improvements and alterations.

5. The approval by the Board of Directors of the Improvements and alterations set forth in paragraph 1 above does not constitute approval of any other improvements and alterations made without obtaining the express prior written approval of the Board of Directors pursuant to the provisions of the Condominium instruments and the procedures of the Board of Directors.

6. The parties agree that this Indemnification Agreement and Covenant shall be filed in the unit file at the Association office, and shall operate as a covenant running with the land, forevermore encumbering the condominium unit and binding Owner's heirs, successors and assigns, including without limitation all future owners of the condominium unit.

7. Wherever used herein the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders, as context may require.

IN WITNESS WHEREOF, The parties have executed this instrument as of the date first written above.

OWNER:



STATE OF VIRGINIA)

CITY OF ALEXANDRIA)

I, the undersigned, a Notary Public in and for the State and City aforesaid, do hereby certify that JOHN J. LIBANICK, whose names are signed to the foregoing instrument bearing date on the 31 day of MAY, 2019, have acknowledged the same before me in the aforesaid jurisdiction to be their act and deed.

GIVEN under my hand and seal this 31 day of MAY 2019.



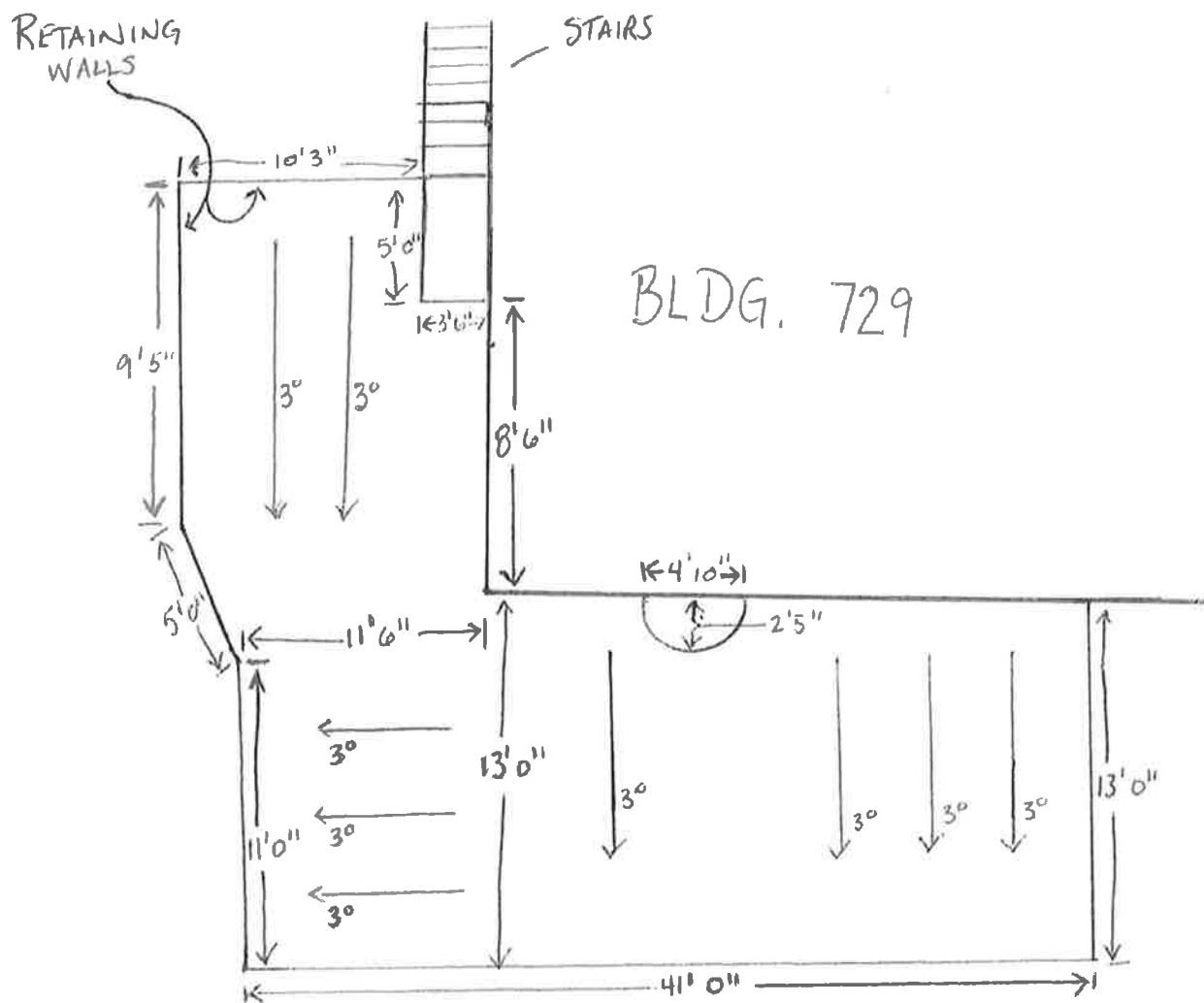
REX MARSHALL
NOTARY PUBLIC 7025520
COMMONWEALTH OF VIRGINIA
MY COMM. EXPIRES DECEMBER 31, 2020

Marshall seal)
NOTARY PUBLIC

My commission expires:

12-31-20

DIAGRAM BLDG. 729 72906 3442 GUNSTON



Covenant Info for Retaining Wall and Flagstone Patio – 72906 – 3442 Gunston

Please find important information below pertaining to the flagstone patio and retaining wall adjacent to Building 729, address 3442 Gunston Rd.

Materials: Flagstones from Sislers Stone Falls Church, VA
Sand from LC Smith Alexandria, VA
Stone Dust from Home Depot
Moisture Block from Simple Solutions

Area of Patio: 608 square feet

Retaining Wall: (Parallel to building) 9'5" Length, 1'0" Width, 1'6" Height
(Perpendicular to building) 10'3" Length, 1'0" Width, 1'6" Height

Base of Patio: 4" deep sand

Patio Material: 2" deep flagstones

Foundation Moisture Barrier: Moisturbloc (47' Length, 6" Width)

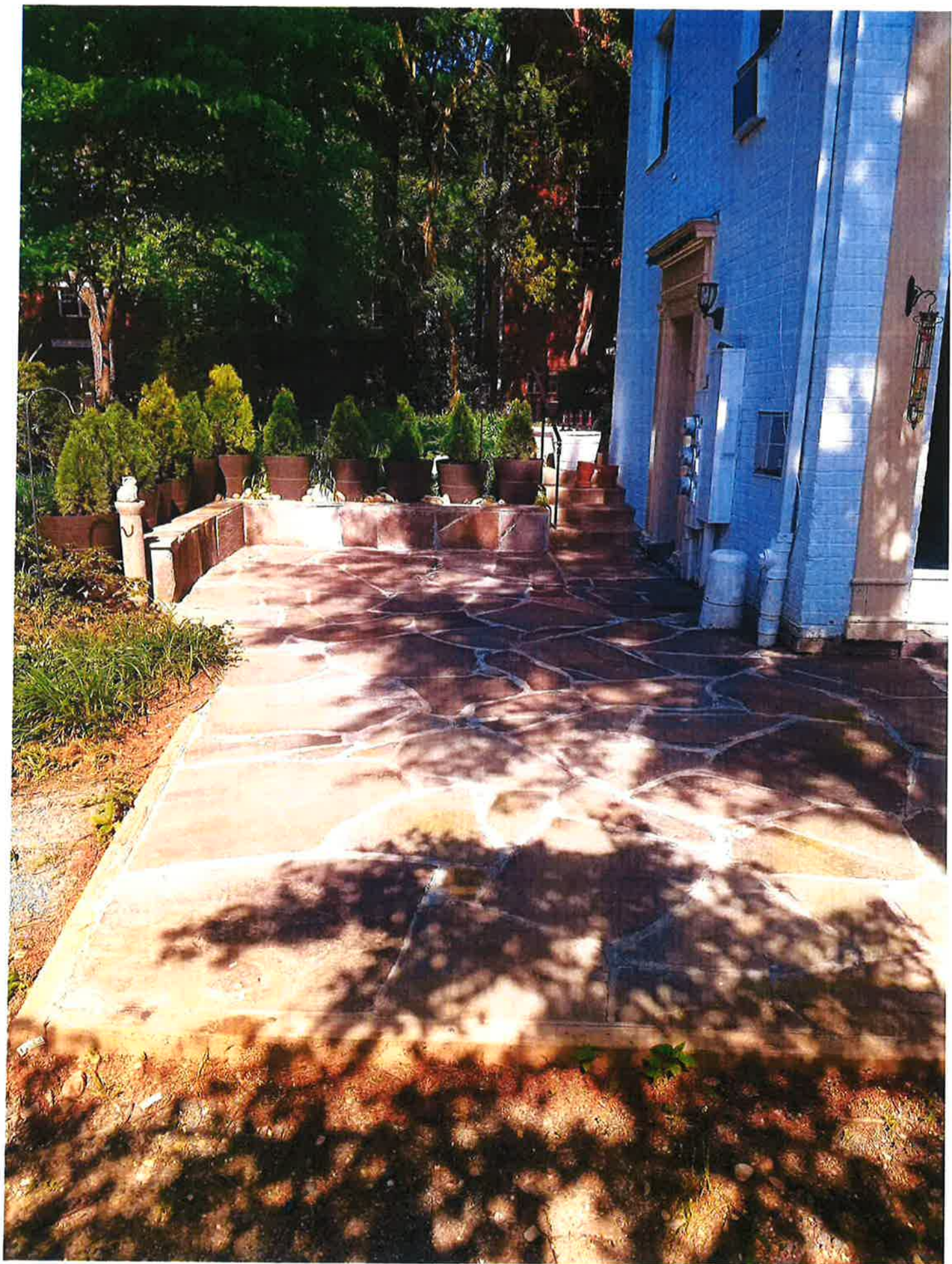
Slope: 3° away from building (see diagram), using standard level

Patio Joints Composition: Stone dust

Contractors: This was a DIY project with this applicant and a friend.

Permits: None necessary

Start/Completion Date: September 2018 – October 2018

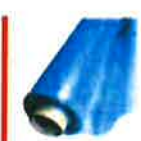






SimpleSolutions

Moisturbloc 700 sq. ft. 70 ft. x 10 ft. 6-mil Film Vapor Barrier Underlayment for Laminate Flooring



Click or Tap Image to Zoom In

Preliminary Inspection for Covenants Applications

Unit Owner John Lisande
Building # and Unit Address 729-3442 Gunston Road
Proposed Change Existing flagstone patio w/ retaining wall

Inspection Information

Date of Inspection 7-5-19 Performed by Alonzo Alexander

Is the proposed change already in place? ☒ Yes ☐ No ☐ Partially

Inspectors Comments None

Is a follow-up inspection needed after installation? Yes ☒ No

If yes please explain Patio install is complete

Follow-up inspection

results Final inspection OK

Association Front Patio/Walkway/Retaining Wall Information Sheet

- 801-3401 Valley Drive: Flagstones Approved October 2002
- 835-1609 Ripon Place: Stacked Stones Approved 2004
- 838-3235 Ravensworth Place: Walkway Approved October 2012
- 708-3239 Valley Drive: Grandfathered
- 710-3233 Valley Drive: Violation Must be Removed
- 715 Common Element: Association to Remove
- 726-3224 Gunston Road: Grandfathered
- 734-3232 Gunston Road: Grandfathered
- 737-3386 Martha Custis Drive: Approved May 1980
- 826-3101 Martha Custis Drive: Approved 1985