



APPLICATION ACCEPTED: May 20, 2009  
BOARD OF ZONING APPEALS: August 4, 2009  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

July 28, 2009

**STAFF REPORT  
SPECIAL PERMIT APPLICATION NO. SP 2009-LE-039  
LEE DISTRICT**

**APPLICANTS/OWNERS:** John Dennis Hall, Jr.  
Cynthia R. Bauso

**SUBDIVISION:** Kings Landing

**STREET ADDRESS:** 3405 Austin Court

**TAX MAP REFERENCE:** 82-4 ((32)) 62

**LOT SIZE:** 11,612 square feet

**ZONING DISTRICT:** R-4

**ZONING ORDINANCE PROVISIONS:** 8-923

**SPECIAL PERMIT PROPOSAL:** To permit existing fence greater than 4.0 feet in height to remain in the front yard.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) 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 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

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Shelby Johnson



# Special Permit

SP 2009-LE-039

Applicant: JOHN DENNIS HALL, JR. AND CYNTHIA R. BAUSO

Accepted: 05/20/2009

Proposed: PERMIT FENCE GREATER THAN 4.0 FEET TO REMAIN IN FRONT YARD

Area: 11,612 SF OF LAND; DISTRICT - LEE

Zoning Dist Sect: 08-0923

Art 8 Group and Use: 9-22

Located: 3405 AUSTIN COURT

Zoning: R- 4

Overlay Dist:

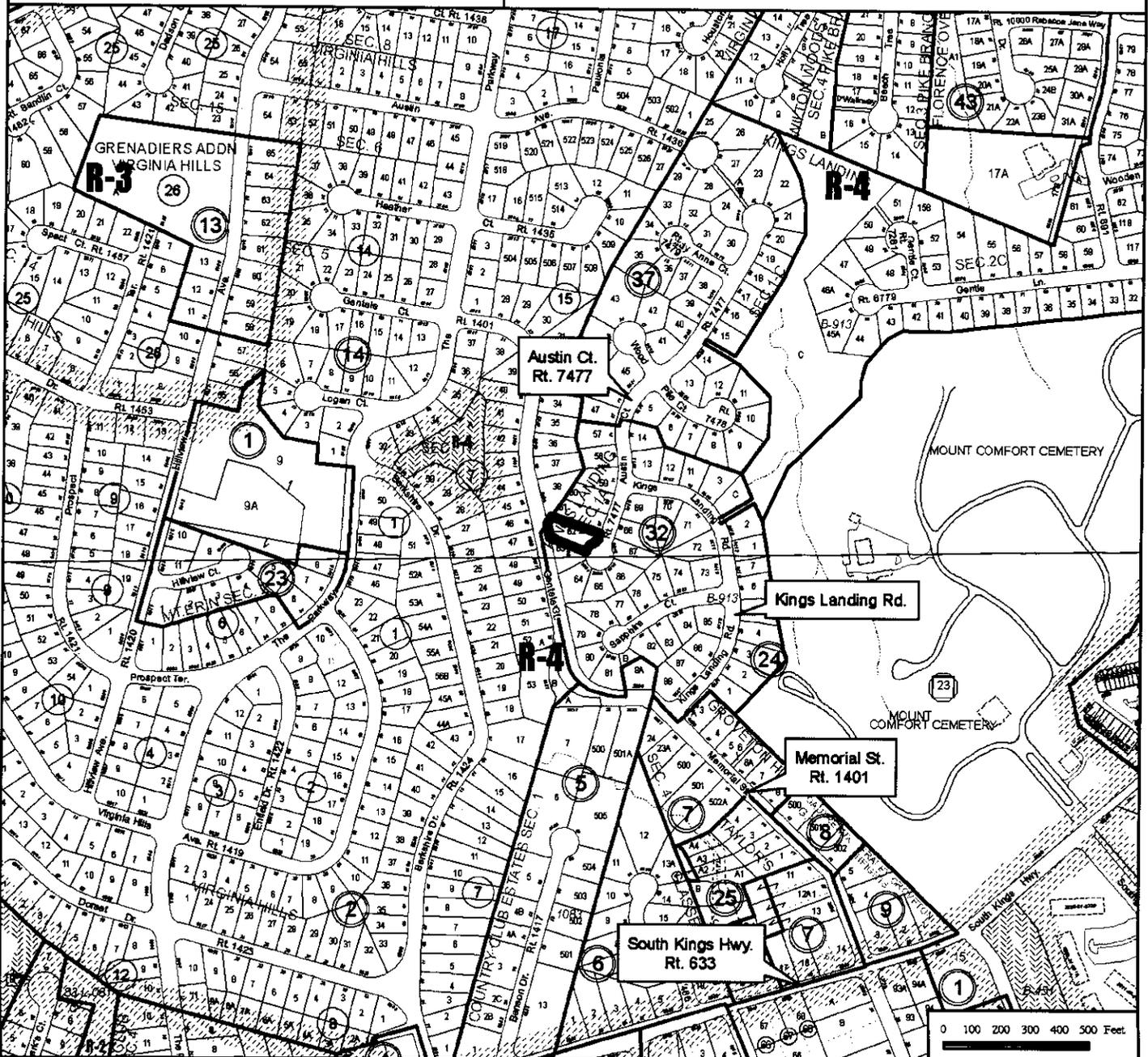
Map Ref Num: 082-4 /32/ /0062



# Special Permit

SP 2009-LE-039

Applicant: JOHN DENNIS HALL, JR. AND CYNTHIA R. BAUSO  
Accepted: 05/20/2009  
Proposed: PERMIT FENCE GREATER THAN 4.0 FEET TO REMAIN IN FRONT YARD  
Area: 11,612 SF OF LAND; DISTRICT - LEE  
Zoning Dist Sect: 08-0923  
Art 8 Group and Use: 9-22  
Located: 3405 AUSTIN COURT  
Zoning: R-4  
Overlay Dist:  
Map Ref Num: 082-4 /32/ /0062



COPYRIGHT LARRY N. SCARTZ, LTD. - THIS IS A SERVICE DOCUMENT AND IS VALID FOR SIX MONTHS FROM DATE ISSUED.  
THIS SURVEY WAS PERFORMED ACCORDING TO THE STANDARDS SET FORTH IN VIRGINIA CODE SECTION 54.1-407.

**NOTES:**

1. TAX MAP 082-4-32-0062
2. THE PROPERTY SHOWN HEREON IS ZONED:  
R-4 (RESIDENTIAL 4 DU/AC)
3. MINIMUM YARD REQUIREMENTS IN ZONE R-4  
FRONT: 30 FEET  
SIDE: 10 FEET  
REAR: 25 FEET
4. PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
5. THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "X" AS PER INSURANCE RATE MAP COMMUNITY PANEL NUMBER 515525 0150 D EFFECTIVE DATE, MARCH 5, 1990.
6. THE RECORD PLAT DOES NOT SHOW ANY UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE AFFECTING THIS PROPERTY.
7. ELEVATION DATUM IS ASSUMED.

8. FLOOR AREA:  
EXISTING GROSS FLOOR AREA HOUSE 2,226 SQ. FEET  
EXISTING GROSS FLOOR AREA DECK 347 SQ. FEET  
FLOOR AREA RATIO: 0.22

<b>HEIGHT TABLE</b>
EXISTING HOUSE HEIGHT: 19.4'

**SPECIAL PERMIT PLAT**  
LOT 62, SECTION 1-A  
**KINGS LANDING**  
LEE MAGISTERIAL DISTRICT  
FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=30' DATE: JANUARY 7, 2009

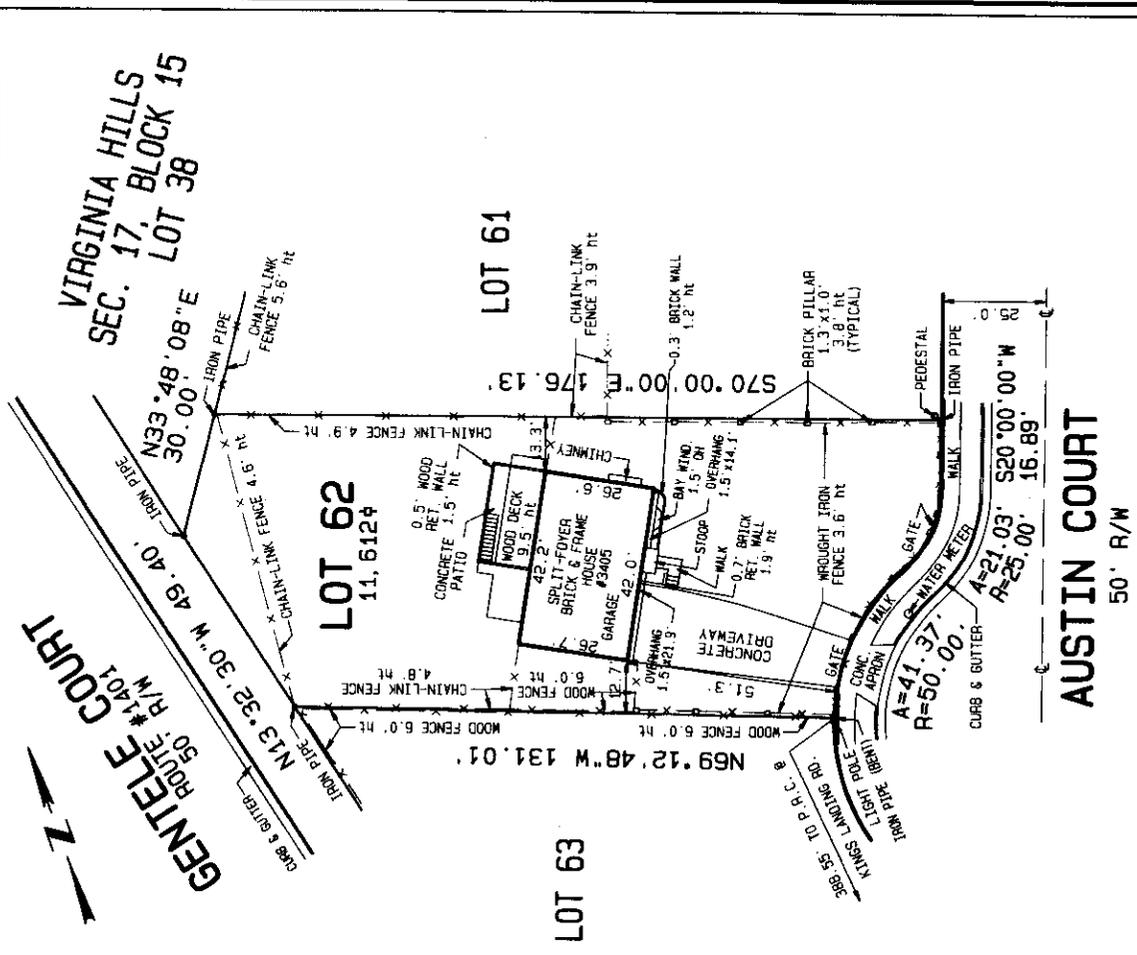
CASE NAME: HALL/BAUSD

NO TITLE REPORT FURNISHED.  
PLAT SUBJECT TO RESTRICTIONS & EASEMENTS OF RECORD OR OTHERWISE.  
FENCE LOCATIONS, IF SHOWN, ARE APPROXIMATE ONLY  
AND DO NOT CERTIFY AS TO OWNERSHIP.

**LARRY N. SCARTZ, LTD. LNS**  
LARRY N. SCARTZ LOCAL (703) 494-4181  
CERTIFIED LAND SURVEYOR FAX (703) 494-3330  
WOODBRIDGE, VIRGINIA LARRY.SCARTZ@SCARTZ.COM

JOB# 20082796

DSE



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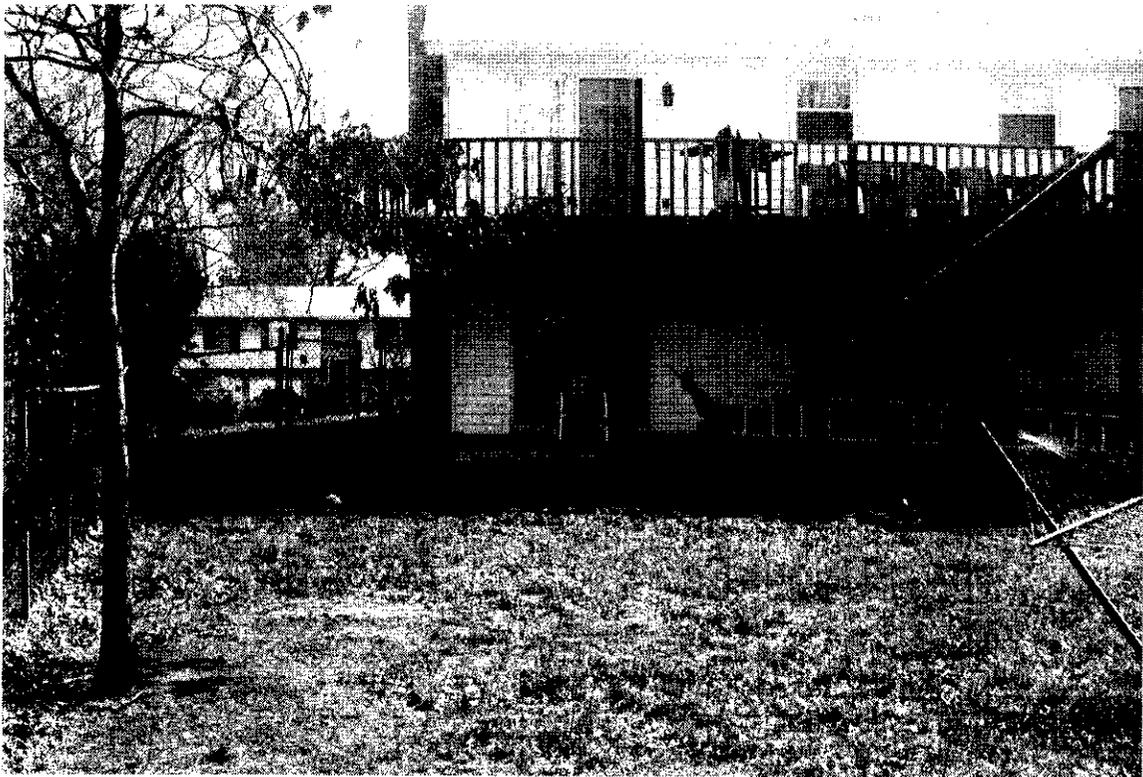
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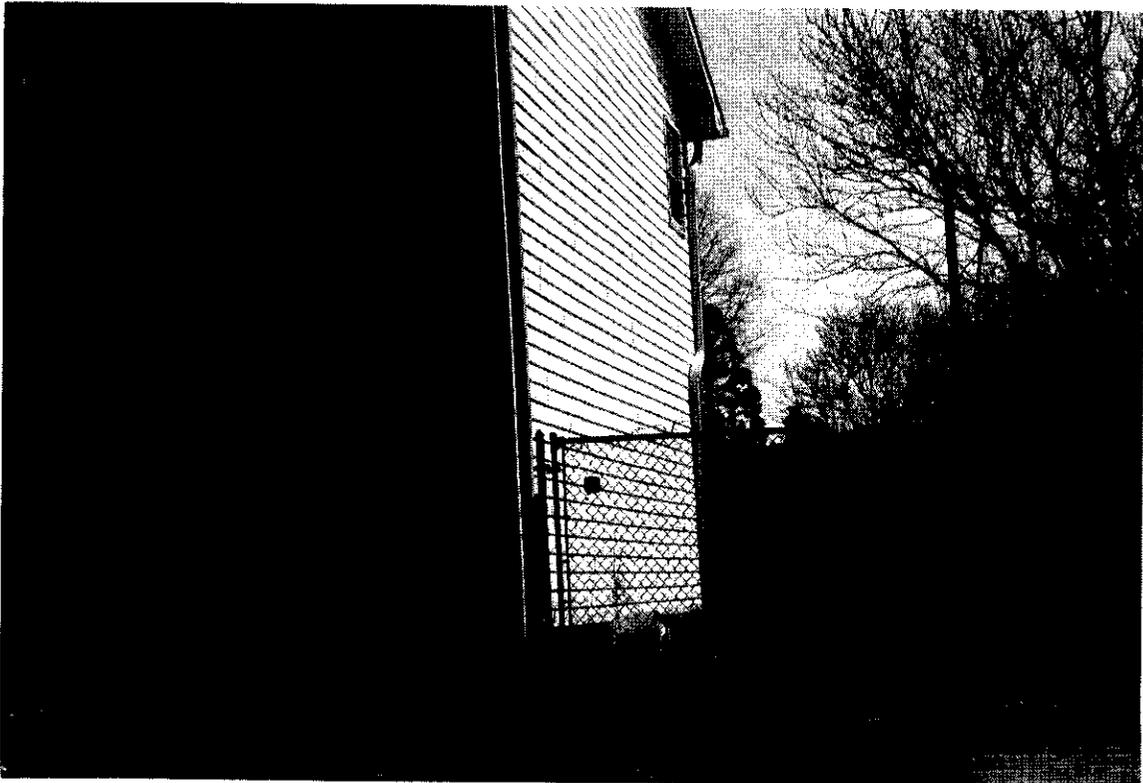
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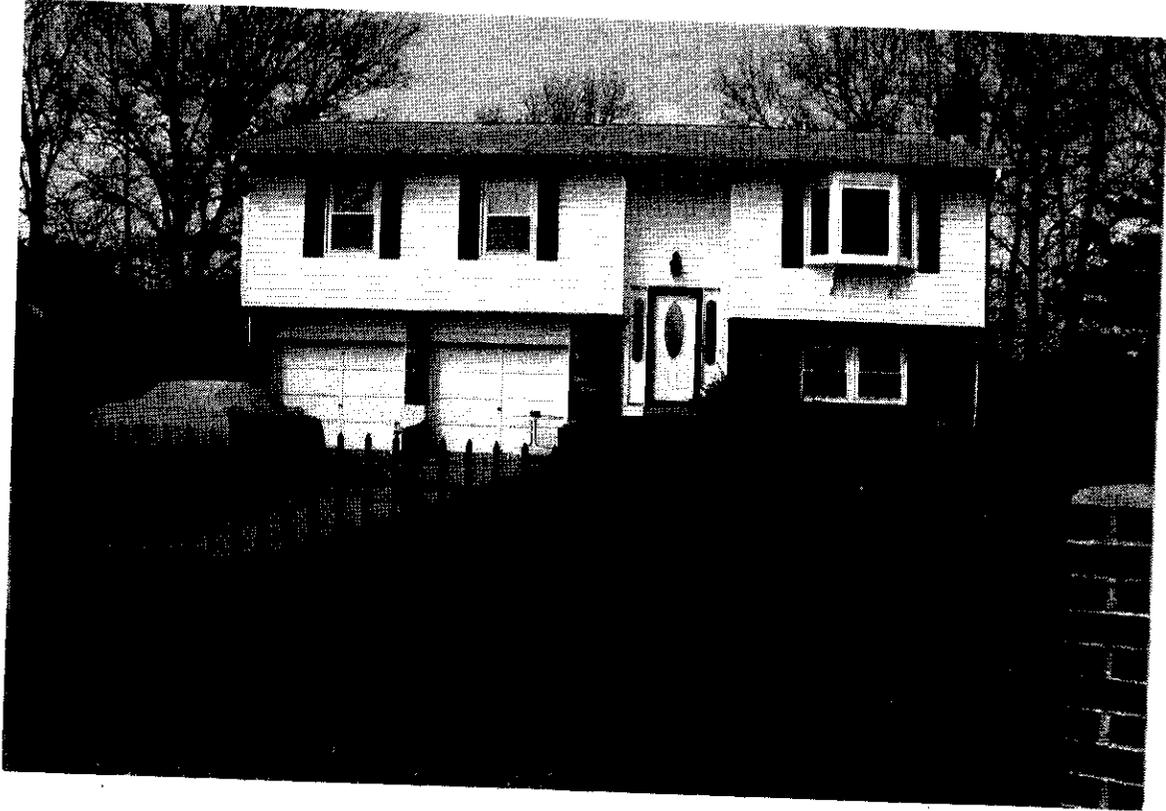
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## DESCRIPTION OF THE APPLICATION

To permit an existing fence which measures 4.6 feet in height to remain in the front yard of a through lot.

	<b>Structure</b>	<b>Yard</b>	<b>Height Permitted By right</b>	<b>Maximum Height Requested</b>	<b>Modification Requested</b>
<b>Special Permit</b>	Fence	Front	4.0 feet	4.6 feet	0.6 feet

## ANALYSIS OF THE APPLICATION

- **Title of Plat:** Special Permit Plat, Lot 62, Section 1-A, Lee Magisterial District
- **Prepared by:** Larry N. Scartz, Larry N. Scartz, LTD.
- **Dated:** January, 7, 2009

### Special Permit Request

The applicant is requesting special permit approval to permit an existing 4.6-foot high chain-link fence to remain in the front yard of a through lot with street frontage along Austin Court to the east and along Gentele Court to the west. The Zoning Ordinance currently permits a fence height of up to 4.0 feet in the front yard by-right; however, an applicant may request special permit approval to locate a fence in the front yard up to 6.0 feet in height. The 4.6-foot high chain-link fence that is the subject of this application is located to the rear of the dwelling along the property's Gentele Court frontage, which is used as a rear yard by the applicant. The front entrance of the dwelling faces Austin Court and contains a 3.6-foot high wrought iron fence with brick pillars along the Austin Court frontage. A chain-link fence of varying heights ranging from 3.9 feet to 4.8 feet in height are located between the application site and adjacent properties to the north (Lot 61) and south (Lot 63) respectively. There is also a 6.0-foot high wood fence located between a portion of the application site and the adjacent property to south (Lot 63). These fences are not subject to special permit approval and are not party to this application.

**CHARACTER OF THE AREA**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R-4	Single family detached dwellings
<b>South</b>	R-4	Single family detached dwellings
<b>East</b>	R-4	Single family detached dwellings; Mount Comfort Cemetery
<b>West</b>	R-4	Single family detached dwellings

**BACKGROUND**

Records indicate the dwelling was originally constructed in 1979. No additional building permits have been issued; however, based on assessment records and as depicted on the special permit plat, a wood deck measuring 347 square feet in area and 9.5 feet in height has been constructed subsequent to the construction of the original dwelling.

The application property has been the subject of several previous notices of violation as set forth below:

- On April 20, 1981, a Notice of Violation (NOV) was issued to Mr. Hall for the keeping of a junk vehicle. The violation was cleared as of July 23, 1981.
- On January 28, 1986, a NOV was issued to Mr. Hall for outdoor storage. The violation was cleared as of February 13, 1986.
- On July 15, 1986, a NOV was issued for outdoor storage. The violation was cleared as of August 4, 1986.
- On July 9, 2007, a NOV was issued for outdoor storage which was later rescinded. A new NOV was issued in its place on February 14, 2008 for maintaining outdoor storage, having erected a fence in excess of four (4) feet in height and an accessory storage structure (shed) all in a front yard, and allowing the parking of a vehicle on the unpaved surface of the front yard.
- On March 17, 2008, the applicant filed an appeal application which was scheduled for public hearing on July 1, 2008. The appeal public hearing has been administratively moved at the applicant's request multiple times and has now been continued until September 29, 2009, pending the outcome of this special permit application. A copy of the February 14, 2008 NOV is attached as Appendix 4.

Following the adoption of the current Ordinance, the BZA has heard the following similar special permit application in the vicinity of the application parcel:

- Special Permit SP 2007-LE-019 was approved on MAY 15, 2007 for Tax Map 82-4 ((32)) 63, zoned R-4, at 3403 Austin Court, to permit existing fences greater than 4.0 feet in height to remain in the front yards.

## **ZONING ORDINANCE REQUIREMENTS**

Applicable bulk regulation(s) and additional location regulations are set forth on Page 1.

The application must meet all of the following standards, copies of which are attached as Appendix 5:

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

## **CONCLUSION**

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated February 14, 2008
5. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2009-LE-039**

**January 6, 2009**

1. This special permit is approved for the location and maximum height of a fence in the front yard as shown on the plat prepared by Larry N. Scartz, Larry N. Scartz, LTD., dated January, 7, 2009, as submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, building permits and final inspections for the deck and any applicable additions shall be diligently pursued and obtained or the structure shall be removed or brought into compliance with Zoning Ordinance Requirements.

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.

Application No.(s): SP 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 6/22/09  
(enter date affidavit is notarized)

I, William B. Lawson, Jr., 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

104102 a

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.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
John Dennis Hall, Jr. Cynthia R. Bauso	3405 Austin Court Alexandria, VA 22310-3101	Title Owner/Applicant
Lawson, Tarter & Charvet, P.C. William B. Lawson, Jr. Benjamin T. Danforth	6045 Wilson Boulevard, Suite 100 Arlington, VA 22203	Attorney/Agent " "
Larry N. Scartz, Ltd. <i>Larry N. Scartz</i>	13621 Jefferson Davis Hwy. Woodbridge, VA 22191	Engineer/Surveyors/ <i>Agent</i> Agent

(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 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 6/22/09  
(enter date affidavit is notarized)

104102a

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)

Lawson, Tarter & Charvet, P.C.  
6045 Wilson Boulevard, Suite 100  
Arlington, Virginia 22205

**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)

William B. Lawson, Jr.  
P. David Tarter  
Ina C. Charvet

(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 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

**Special Permit/Variance Attachment to Par. 1(b)**

DATE: 6/22/09  
(enter date affidavit is notarized)

104102a

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

Larry N. Scartz, Ltd.  
13621 Jefferson Davis Highway  
Woodbridge, Virginia 22191

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

Larry N. Scartz

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

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

Application No.(s): SP 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 6/22/09  
(enter date affidavit is notarized)

104102a

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

**PARTNERSHIP INFORMATION**

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

(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**)

(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 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 6/22/09  
(enter date affidavit is notarized)

104102 a

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 2009-LE-039  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 6/22/09  
(enter date affidavit is notarized)

104102a

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.

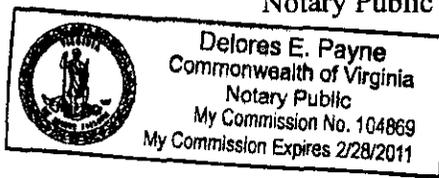
WITNESS the following signature:

(check one) [ ] Applicant [X] Applicant's Authorized Agent  
*William B. Lawson, Jr. Attorney/Agent*  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 22nd day of June 2009, in the State/Comm. of Virginia, County/City of Arlington.

*Delores E. Payne*  
Notary Public

My commission expires: 2-28-11



February 11, 2009

**VIA U.S. MAIL**
 Fairfax County Board of Zoning Appeals  
 12055 Government Center Parkway  
 Suite 801  
 Fairfax, Virginia 22035

 Re: Special Permit Application (the "Application")  
 3405 Austin Court (the "Property")  
 Tax Map # 82-4 ((32)) 0062

Dear Board of Zoning Appeals:

My firm represents John Dennis Hall, Jr. And Cynthia R. Bauso (the "Owner") with respect to the Application. The Owners Property is through lot, which results in a significant portion of the Property being considered a front yard for zoning purposes, even though a large part of the front yard is located to the rear of the house located on the Property. The Owners are seeking a special permit to allow a fence in excess of 4' in height to the rear of the house (the special permit is necessary because, technically, this area is considered part of the Property's front yard). As set forth below, the Application meets the standards for a special permit and should be granted.

**GENERAL STANDARDS FOR A SPECIAL PERMIT**

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

*The existing residential use (coupled with the proposed fence) is 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.

 RECEIVED  
 Department of Planning & Zoning

MAR 18 2009

Zoning Evaluation Division

 RECEIVED  
 Department of Planning & Zoning  
 SECTION 1  
 MAR 18 2009

*The existing residential use (coupled with the proposed fence) is in harmony with the general purpose and intent of the applicable R-2 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.

*The existing residential use (coupled with the proposed fence) is harmonious with and will have no affect on the use or development of neighboring properties.*

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.

*The existing residential use (coupled with the proposed fence) will not affect pedestrian and vehicular traffic.*

5. In addition to the standards which may be set forth in this Article for a particular group or use, the Board of Zoning Appeals shall require landscaping and screening in accordance with the provisions of Article 13, Landscaping and Screening, in the Zoning Ordinance.

*Any applicable landscaping and screening requirements have been met.*

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

*Any applicable open space requirement has been met.*

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.

*All necessary facilities and parking and loading requirements have been met.*

8. Signs shall be regulated by the provisions of Article 12, Signs, in the Zoning Ordinance; however, the Board of Zoning Appeals may impose more strict requirements for a given use than those set forth in this Ordinance.

*No signage is proposed.*

#### **SPECIFIC STANDARDS FOR INCREASE IN FENCE HEIGHT**

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 31 of Sect. 10-104.

*The maximum front yard fence height shall not exceed 6'.*

2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.

*The fence meets the sight distance requirements contained in Sect. 2-505.*

3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.

*The proposed fence height is warranted based on the orientation and location of the principal structure on the lot .*

*The lot is a thru lot. The house is in the middle of the lot and faces Austin Court. From a practical viewpoint, that is the front yard. The rear yard partially fronts on Gentile Court, thus creating a second front yard in the rear of the house.*

*The area between the rear property line and Gentile Court is heavily wooded. In addition, Gentile Court is situated approximately 20' below the rear of the Property. No one traveling on Gentile Court can even see the fence on the Owners rear yard.*

*In addition, the fence has been there for many years and has not posed a problem to neighbors or the community. The issue came to light during a visit by a county inspector on another issue.*

4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.

*The proposed fence height is in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures.*

5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

*The proposed fence height will have no impact on other properties in the immediate vicinity.*

### **CONCLUSION**

For the reasons set forth above, the requested special permit should be granted. Thank you for your consideration of this matter. Please contact me with any questions regarding the Application.

Sincerely,

William B. Lawson, Jr.

STATEMENT OF USE OF  
SPECIAL PERMIT APPLICATION BY  
JOHN DENNIS HALL, JR. AND CYNTHIA R. BAUSO

The proposed use is to allow an existing fence.

There are not any proposed new building or additions.

There are no known hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.

The proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modifications.

D0039.5632

**RECEIVED**  
Department of Planning & Zoning

**JUN 25 2009**

Zoning Evaluation Division



# County of Fairfax, Virginia

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

February 14, 2008

## NOTICE OF VIOLATION

### SHERRIF'S LETTER

John Dennis Hall, Jr.  
Cynthia R. Bauso  
3405 Austin Court  
Alexandria, Virginia 22310-3101

Re: 3405 Austin Court  
Subdivision: Kings Landing, Section 1A, Lot 62  
Tax Map Ref.: 082-4 ((32)) 62  
Zoning District: R-4  
Lot size: 11,612 square feet

Dear Property Owners:

The purpose of this letter is to rescind the Notice of Violation dated July 9, 2007, and to reissue a new Notice of Violation regarding zoning violations that exist on the above referenced property.

### OUTDOOR STORAGE

A zoning inspection conducted of the above-referenced property, on January 8, 2008, has revealed that outdoor storage is being maintained in a front yard of this lot in violation of the Fairfax County Zoning Ordinance. This outdoor storage consists of, but may not be limited to:

Bricks, bagged stone, several pieces of scrap metal, automotive parts, a small hand truck, ladders and other miscellaneous trash, junk and debris.

Outdoor storage is a permitted accessory use in the R-4 District, subject to the provisions detailed in Par. 24 of Sect. 10-102 of the Fairfax County Zoning Ordinance, which states:

Storage, outdoor in R districts, provided such storage is located on the rear half of the lot, is screened from the view from the first story window of any neighboring dwelling, and the total area for such outdoor storage does not occupy more than 100 square feet.

Department of Planning and Zoning  
Zoning Administration Division  
Zoning Enforcement Branch  
12055 Government Center Parkway, Suite 800  
Fairfax, Virginia 22035-5500  
Phone 703-324-1300 FAX 703-324-1300  
[www.fairfaxcounty.gov/dp](http://www.fairfaxcounty.gov/dp)



- Provided that all outdoor storage is maintained in accordance with the provisions for outdoor storage, as detailed in Par. 24 of Sect. 10-102 of the Zoning Ordinance as detailed above.

### **ACCESSORY STRUCTURES**

It has further been established that you have erected or have permitted to be erected, approximately sixty (60) feet of chain link fencing, approximately five (5) feet in height, in the front yard, adjacent to Gentele Court.

A fence is a permitted accessory use in the R-4 District, subject to the provisions detailed in Par. 3B of Sect. 10-104 of the Zoning Ordinance which states, in part:

In any front yard on any lot, a fence, or wall not exceeding four (4) feet in height is permitted...

Kings Landing, Section 1A, Lot 62 was planned, designed and developed as a Through Lot. A Through Lot is defined in Part 3 of Section 20 of the Fairfax County zoning Ordinance, in part, as:

An interior lot, but not a corner lot, abutting on two (2) or more public streets...

Kings Landing, Section 1A, Lot 62 has been developed as a through lot. This lot contains two front yards and has no rear yard. The front yards of a through lot are defined in Part 3 of Sect. 20 of the Zoning Ordinance, in part, as:

On a through lot, the two (2) yards lying between the principal building and the two (2) or more public streets shall be deemed to be front yards and shall be controlled by the provisions for same...

Because the referenced fence exceeds four (4) feet in height, it is therefore in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of receipt of the Notice. Compliance may be obtained by:

- Remove all fencing from the property that does not conform to the provisions detailed in Par. 3B of Sect. 10-104, as detailed above, or

- Reduce the height of all fencing in a front yard, to a maximum of four (4) feet, when measured from the lowest point of natural grade, or
- Make application to, diligently pursue and ultimately obtain special permit approval of the Board of Zoning Appeals (BZA) to allow the fence to remain at its present height and location.

It has further been determined that you have erected, or have permitted to be erected, an accessory storage structure in the front yard of this property, adjacent to Gentele Court. An accessory storage structure is a permitted accessory use in the R-4 District, subject to the provision for accessory storage structures detailed in Par. 10-B of Sect. 10-104 of the Fairfax County Zoning Ordinance, as:

An accessory storage structure shall not be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less.

Therefore, you are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

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

- Remove the accessory storage structure from the property in its entirety, or
- Relocating the structure to a portion of the lot that conforms to the provisions for accessory storage structures as detailed in Par. 10-B of Sect. 10-104, as detailed above.

### **PARKING IN THE GRASS**

The inspection provided evidence that you are parking, or allowing the parking of no less than one (1) vehicle on the unpaved surface of the front yard on the above-referenced property.

Paragraph 8 of Section 11-102 of the Fairfax County Zoning Ordinance specifically limits off-street parking as follows:

For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area; provided, however, that this shall

John Dennis Hall, Jr.  
Cynthia R. Bauso  
February 14, 2008  
Page 5

not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning, or repair of vehicles or trailers.

Therefore, the parking of this or any vehicle on the unpaved surface of a front yard of this lot, which contains 11,612 square feet, is a violation of the aforementioned Zoning Ordinance provision.

You are hereby directed to clear this violation within thirty (30) days of receipt of this Notice. Compliance must be accomplished by the following:

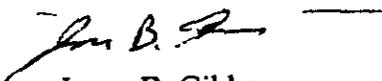
Ceasing, on a permanent basis, the parking or storing of vehicles on the unpaved surface of the front yard of this property.

A follow-up inspection will be made at the expiration of this time period. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

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, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information you may wish to submit and a \$375.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1328 or (703) 324-1300.

Sincerely,



Jason B. Gibbs  
Zoning Inspector

JBG/seg

**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.

**8-923 *Provisions for Increase in Fence and/or Wall Height in Any Front Yard***

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 31 of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) 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. 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. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
  - E. All required minimum yards to include front, side and rear, 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 a well and/or septic field.
  - I. If applicable, existing gross floor area and floor area ratio.
  - 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. The location, type and height of any existing and proposed landscaping and screening.
  - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
  - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.