



APPLICATION ACCEPTED: March 3, 2011
DATE OF PUBLIC HEARING: May 25, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

May 18, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-SP-018

SPRINGFIELD DISTRICT

APPLICANT/OWNER: Joanne M. Morgan

LOCATION: 4201 Plaza Lane

SUBDIVISION: Greenbriar

TAX MAP: 45-1 ((3)) (59) 1

LOT SIZE: 10,495 square feet

ZONING: R-3 (Cluster)

ZONING ORDINANCE PROVISION: 8-914 and 8-923

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure (shed) to remain 0.9 feet from the rear lot line and 1.3 feet from a side lot line and fence greater than 4.0 feet in height to remain in the front yard of a corner lot.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals (BZA). A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

O:\SMCKNI\SP\MORGAN SP 2011-SP-018 (fence)\Staff Report - Morgan.doc

Shelby Johnson

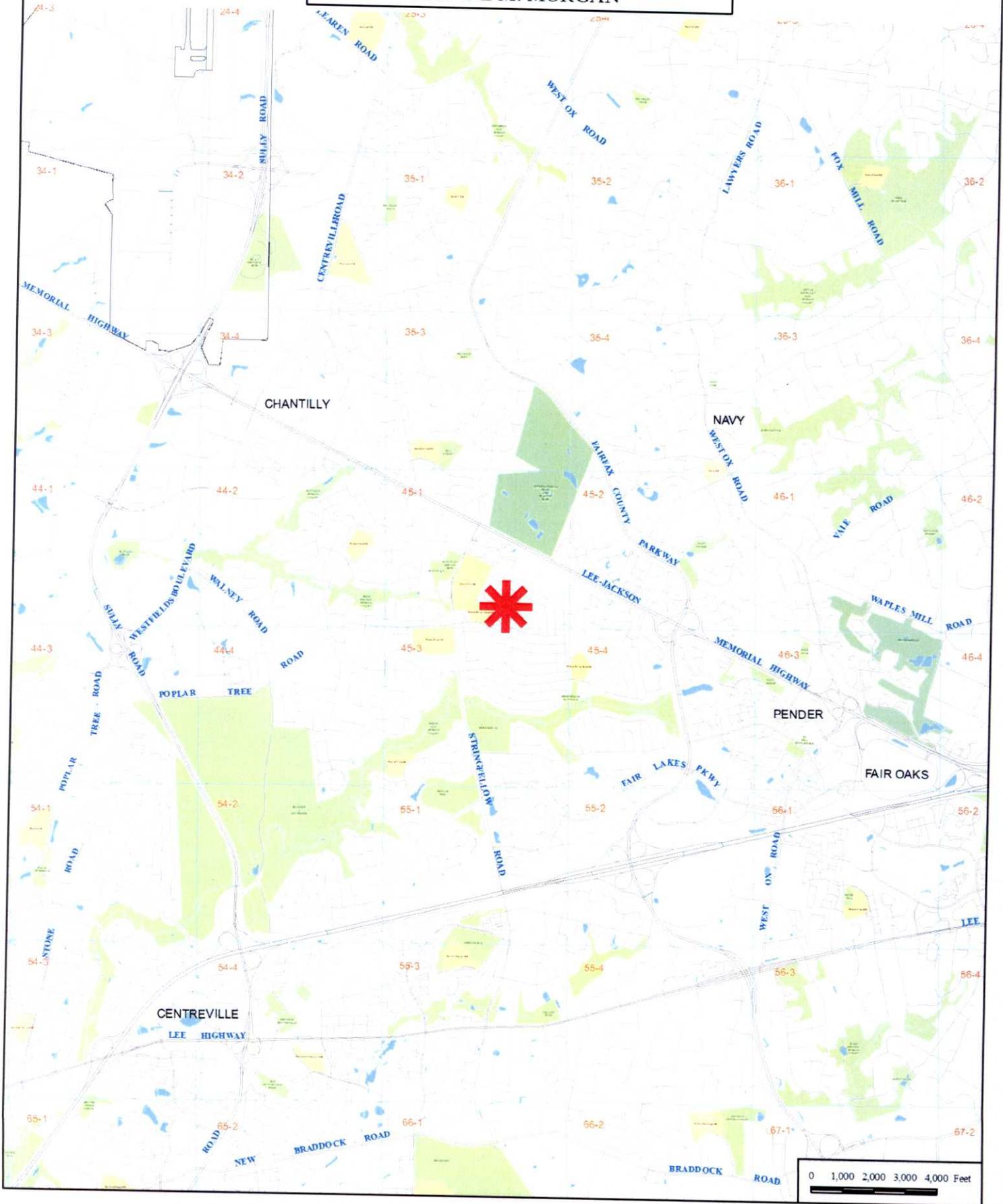
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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).

Special Permit
SP 2011-SP-018
JOANNE M. MORGAN



Special Permit

SP 2011-SP-018

JOANNE M. MORGAN

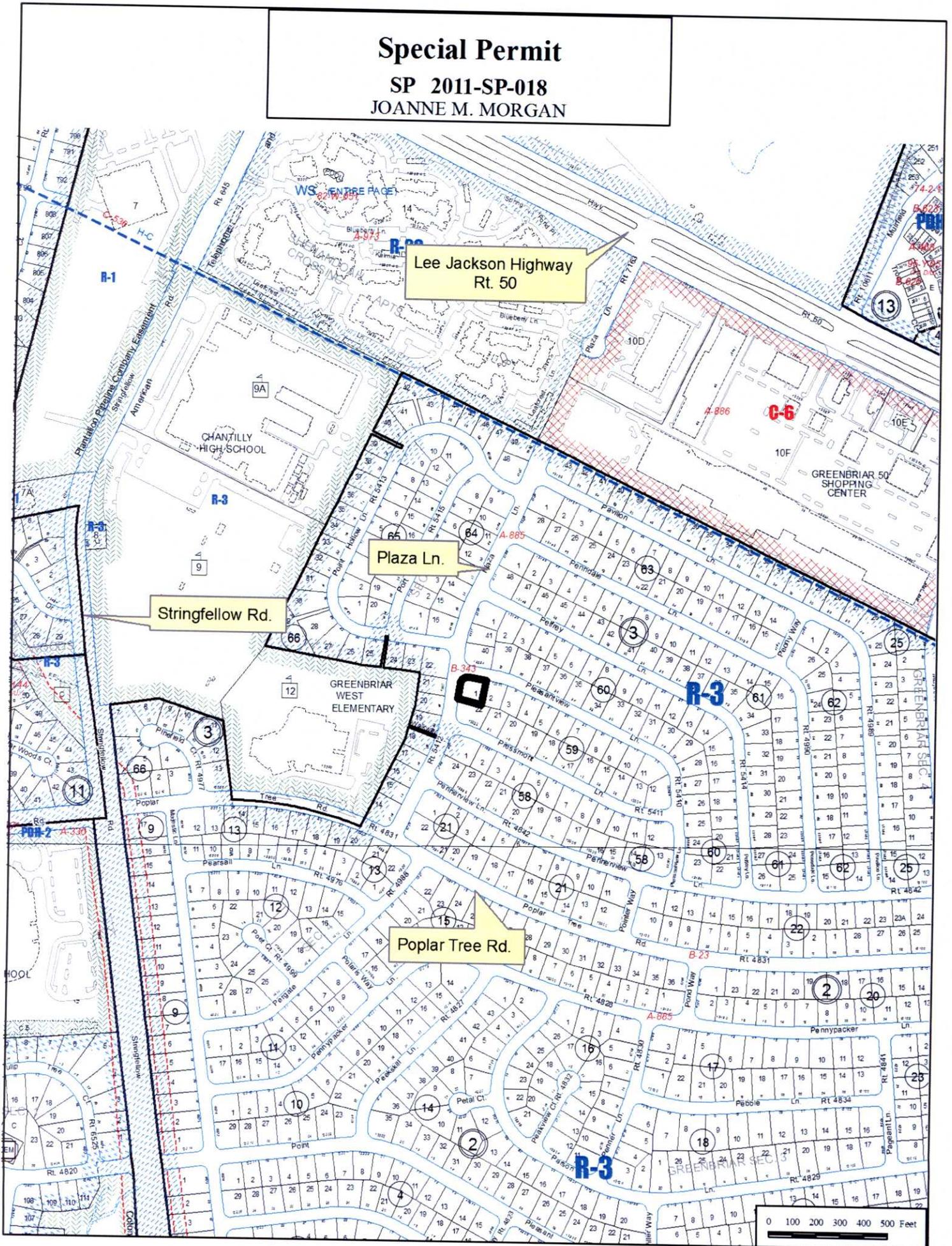
Lee Jackson Highway
Rt. 50

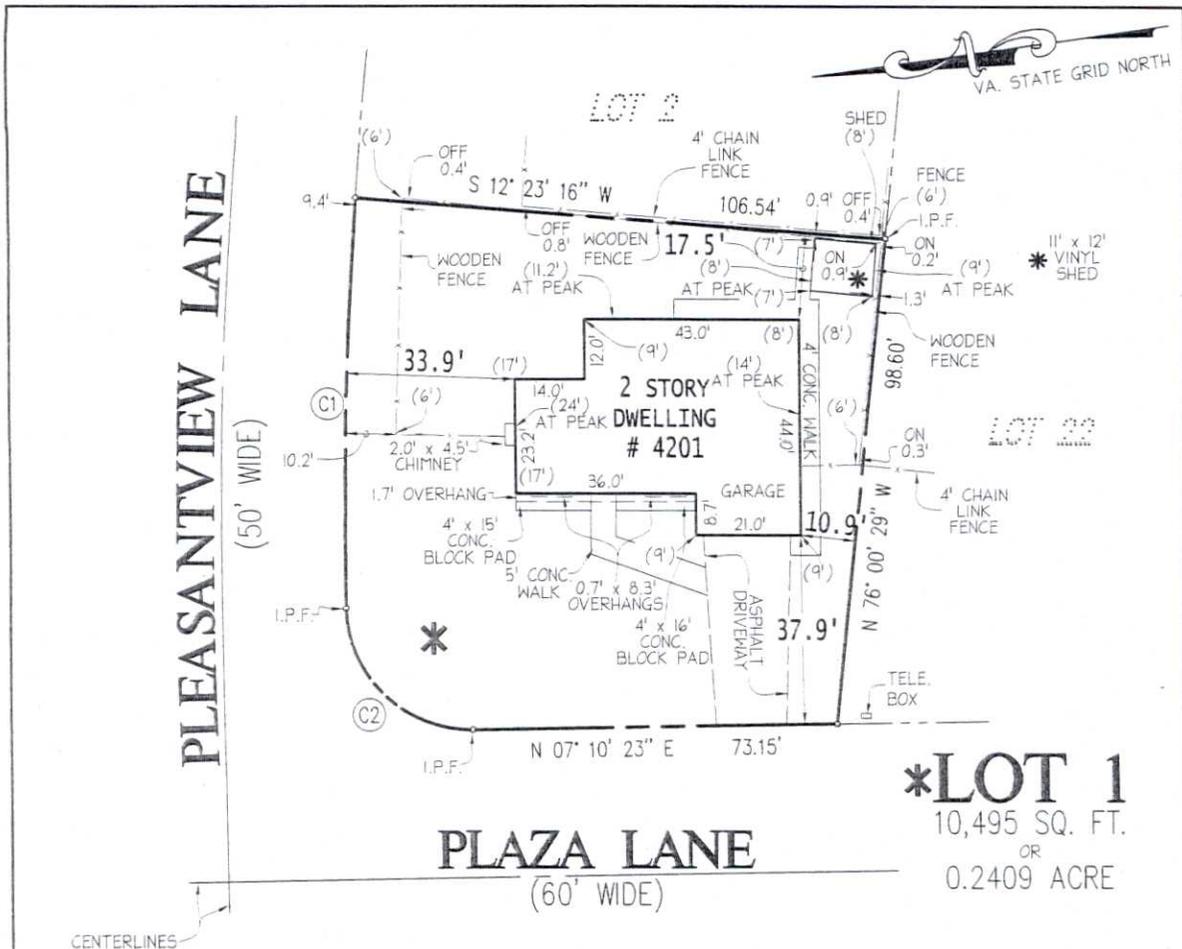
Plaza Ln.

Stringfellow Rd.

Poplar Tree Rd.

0 100 200 300 400 500 Feet





***LOT 1**
 10,495 SQ. FT.
 OR
 0.2409 ACRE

LEGEND:
 I.P.F. DENOTES IRON PIPE FOUND
 -X- DENOTES FENCE LINE
 (1.0') DENOTES HEIGHT FROM GRADE

(C1) RAD: 908.65'
 ARC: 82.70'
 CH: S 80° 13' 10" E
 82.67'

(C2) RAD: 25.00'
 ARC: 39.27'
 CH: N 52° 10' 23" E
 35.36'



HOUSE LOCATION SURVEY
LOT 1
 SECTION FIFTEEN, BLOCK 59
GREENBRIAR
 SPRINGFIELD DISTRICT
 FAIRFAX COUNTY, VIRGINIA

RECEIVED
 Department of Planning & Zoning
 APR 29 2011
 Zoning Evaluation Division

- NOTES:
- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
 - 2) THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, AS SHOWN ON F.E.M.A. MAP# 515525-0025-D EFFECTIVE DATE: MARCH 5, 1990
 - 3) THIS SURVEY WAS NOT PREPARED FOR CONSTRUCTION PURPOSES. (INCLUDING FENCES)
 - 4) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP # 045-1-03-59-0001
 - 5) PROPERTY CORNERS NOT SET PER WAIVER REQUEST.
 - 6) EASEMENTS, B.R.L.S & MERIDIAN, IF SHOWN HEREON, ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 3082, PAGE 268 (UNLESS NOTED OTHERWISE).
 - 7) THE PURPOSE OF THIS REVISION IS TO SHOW NEW FENCE AND THE HEIGHTS OF HOUSE & SHED.

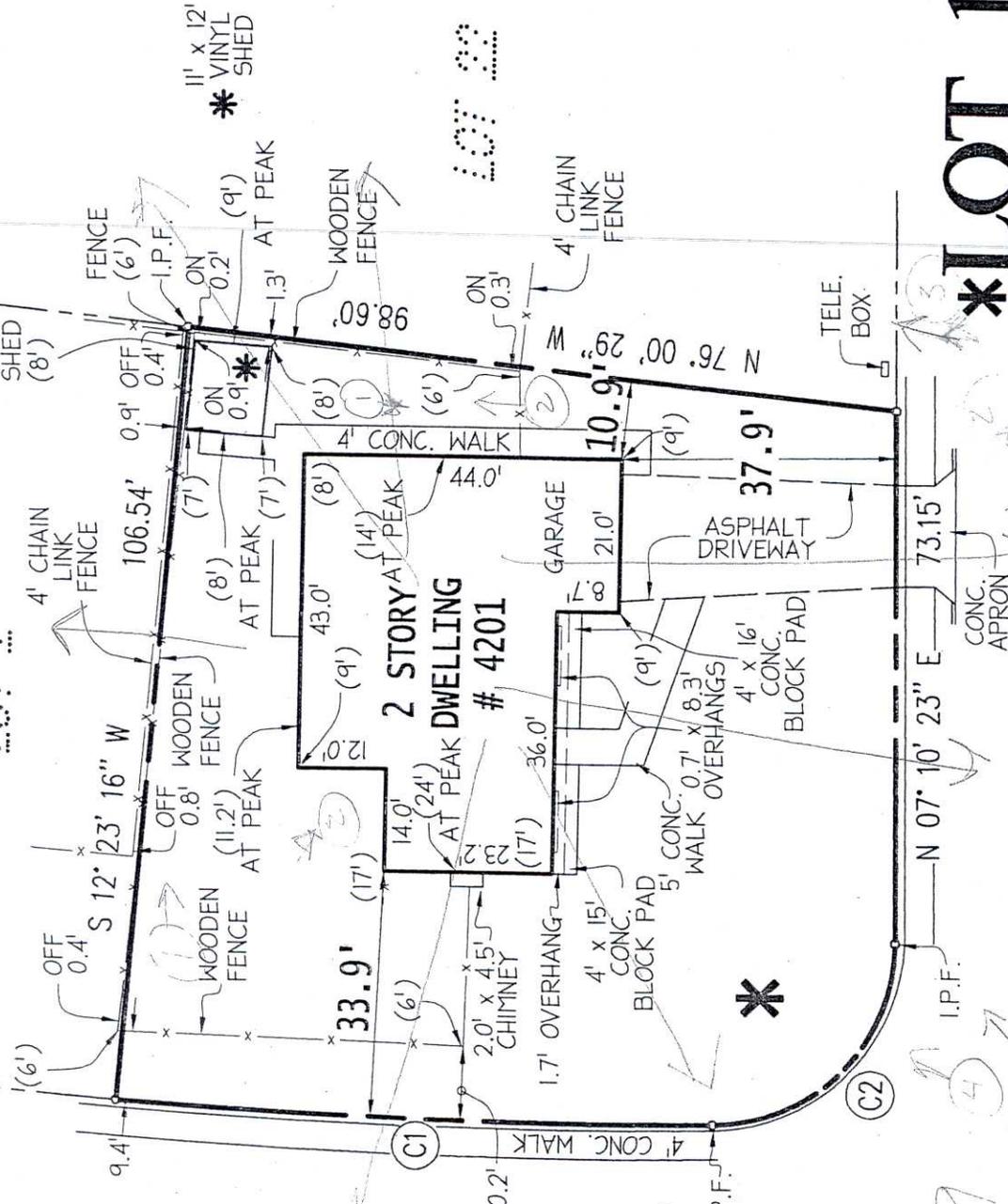
B.W. SMITH AND ASSOCIATES, INC.			FIELD CREW: D. CONRAD	
PROFESSIONAL LAND SURVEYING			REVISION: 11/03/10 (NEW FENCE & HEIGHTS)	
MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996			REVISION: 4/28/11 (SWING) T.J.F	
			JOB# 20103491	
DFT: J.Z.W.	CHK: M.K.S.	NO TITLE REPORT FURNISHED	SCALE= 1" = 30'	DATE: 07/26/10

VA. STATE GRID NORTH

LOT 2

PLEASANTVIEW LANE

(50' WIDE)



***LOT 1**
 10,495 SQ. FT.
 OR
 0.2409 ACRE

PLAZA LANE
 (60' WIDE)

NOTES:

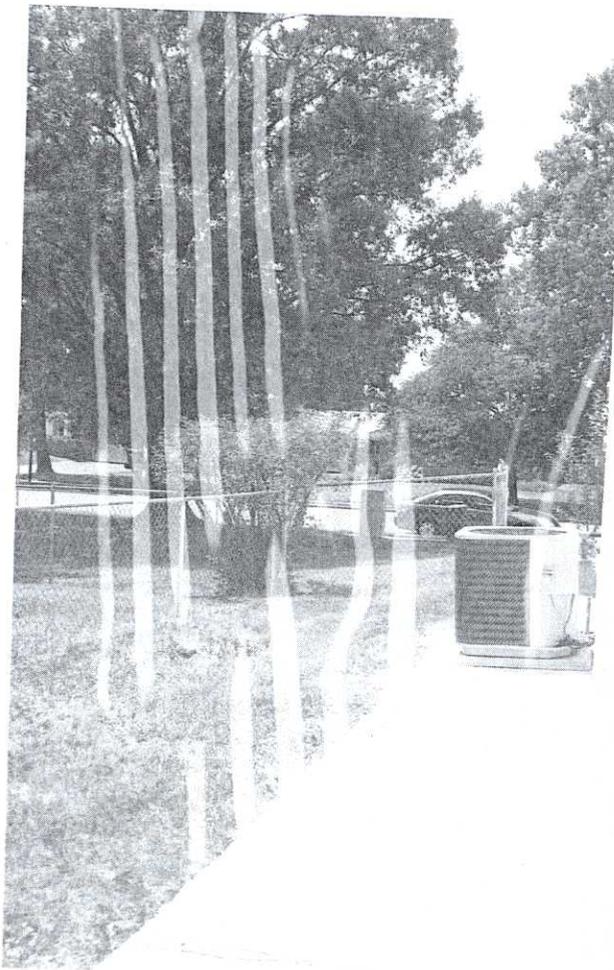
- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE

CENTERLINES

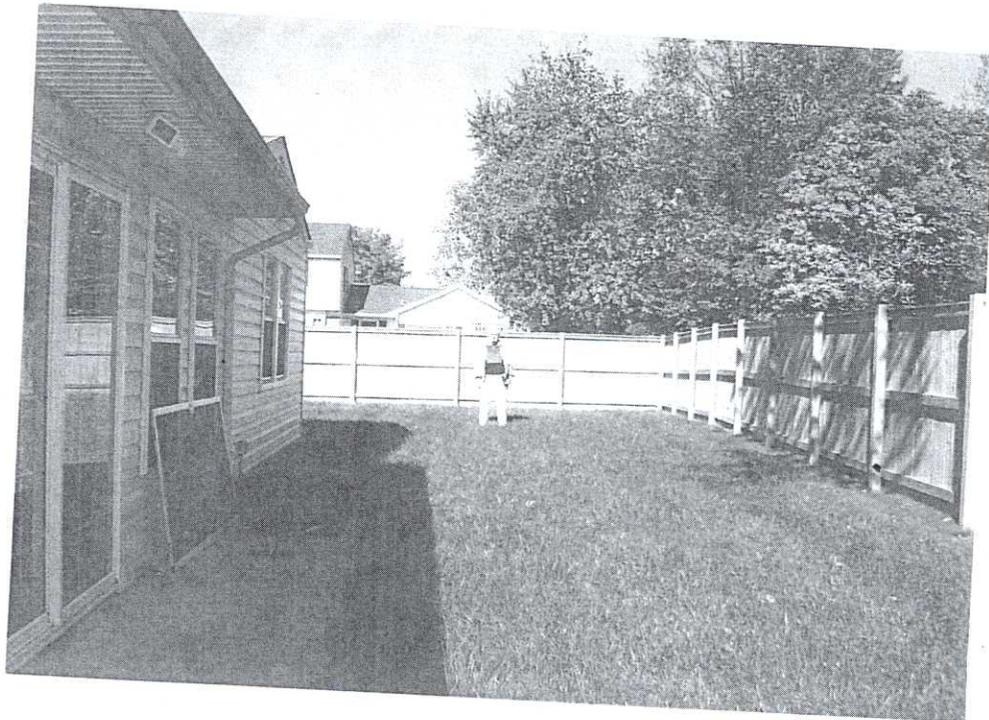
2FL

APPLICANT'S HOUSE, "OLD" FENCE + LAWN (PRIOR TO PURCHASE - AUGUST 2010)

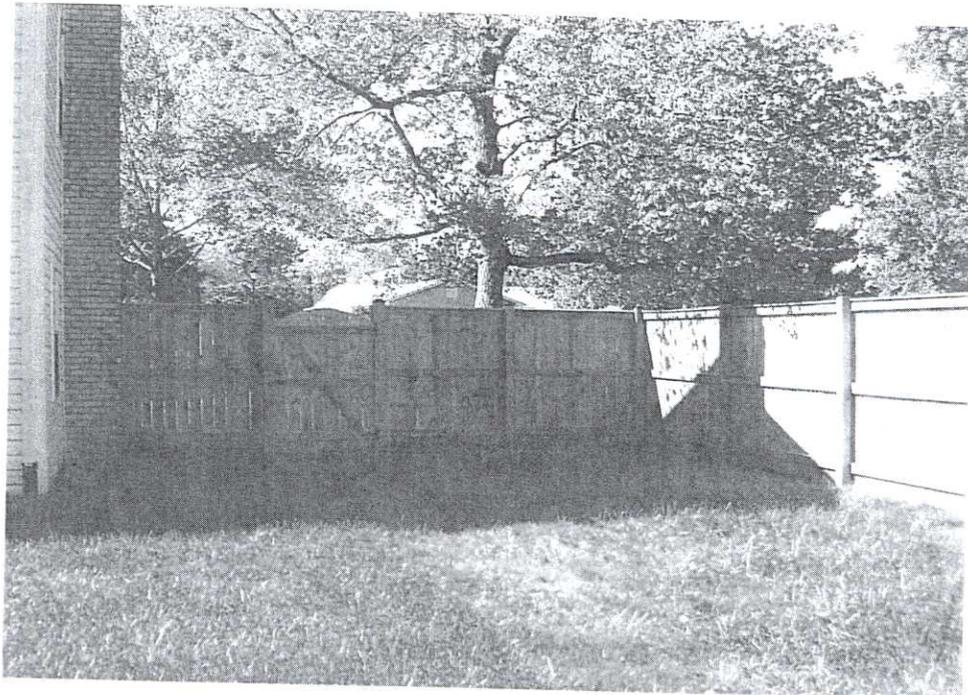
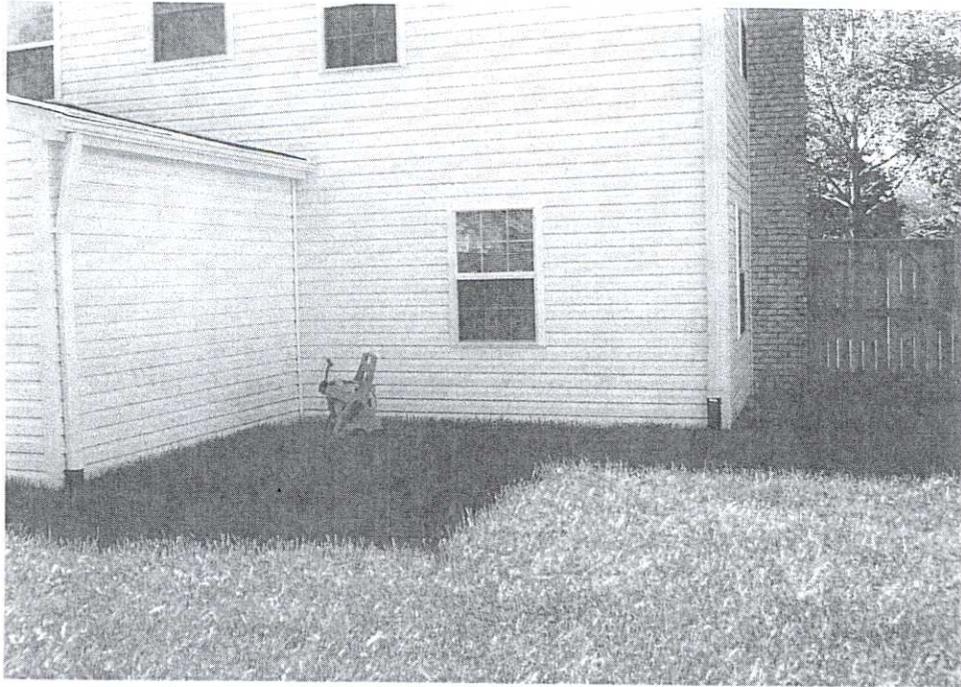


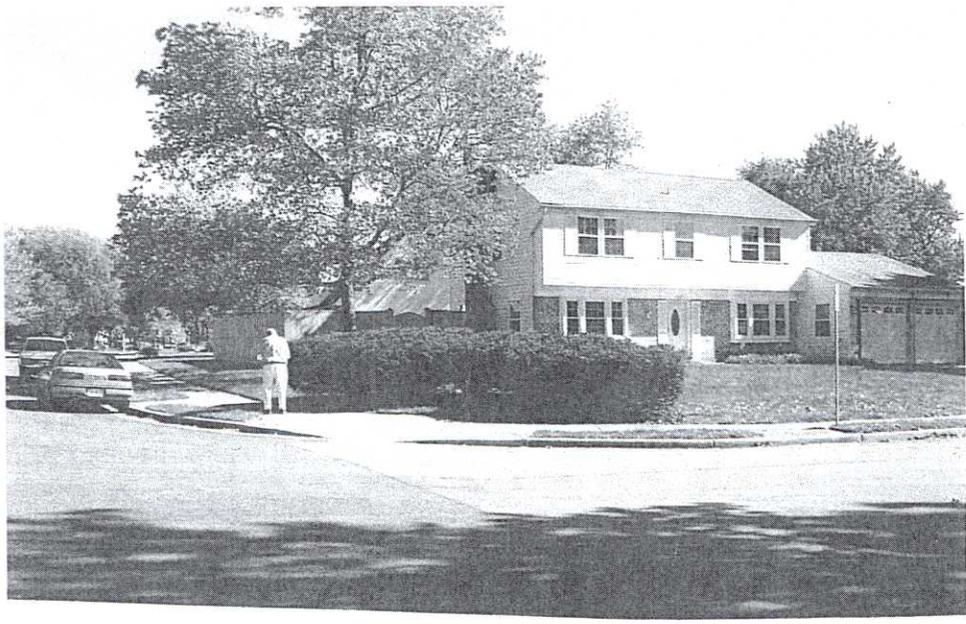


REAR YARD + ADDITIONAL YARD ADDED
BY INSTALLING "NEW" FENCE - 10/31/10



20F2



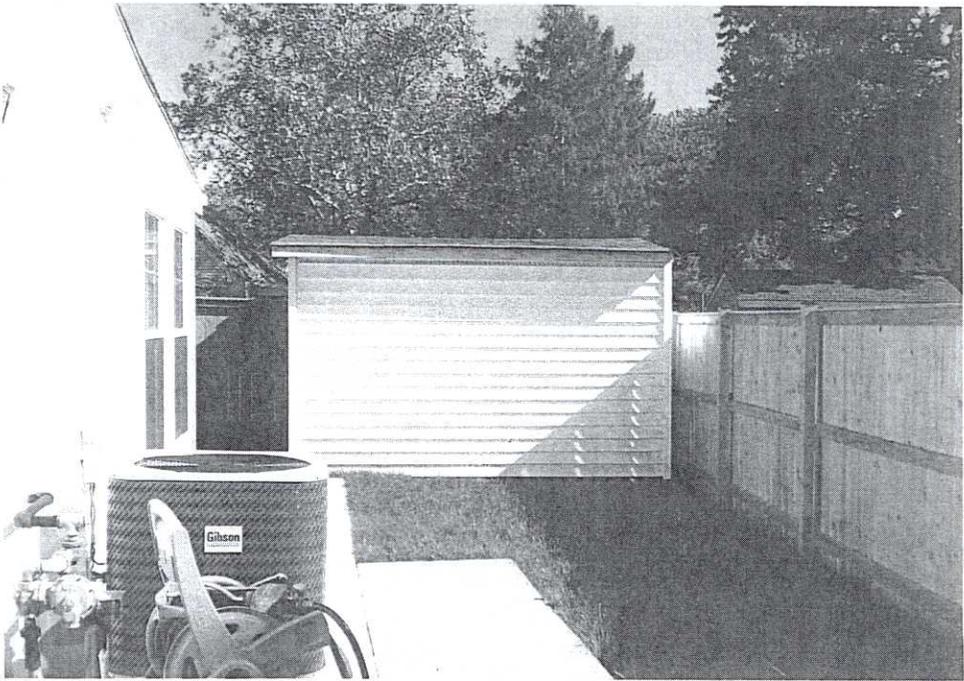
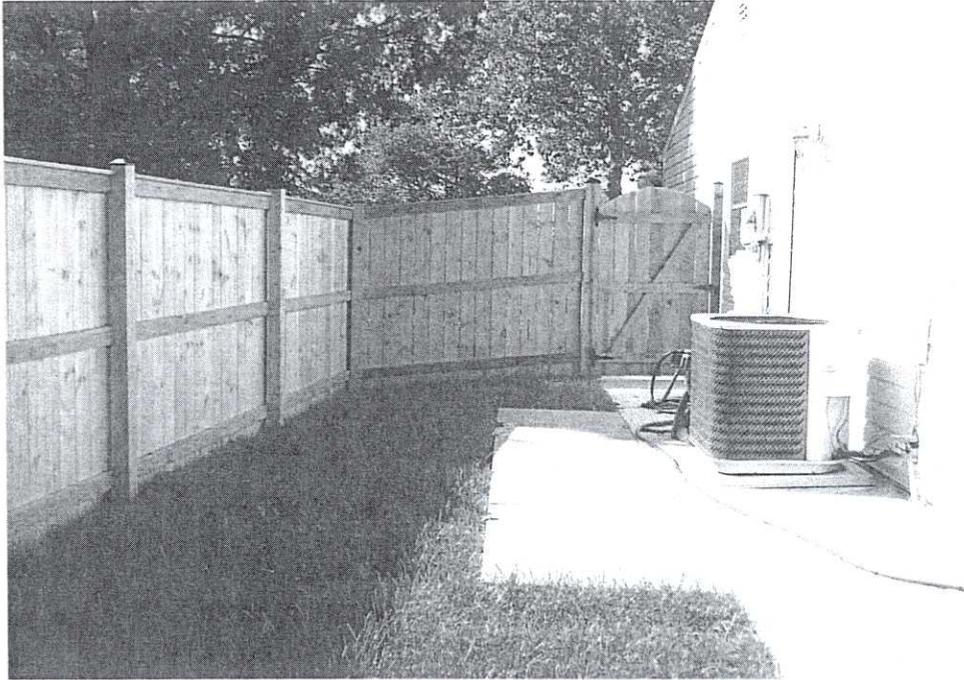


LEFT OF ENTRANCE

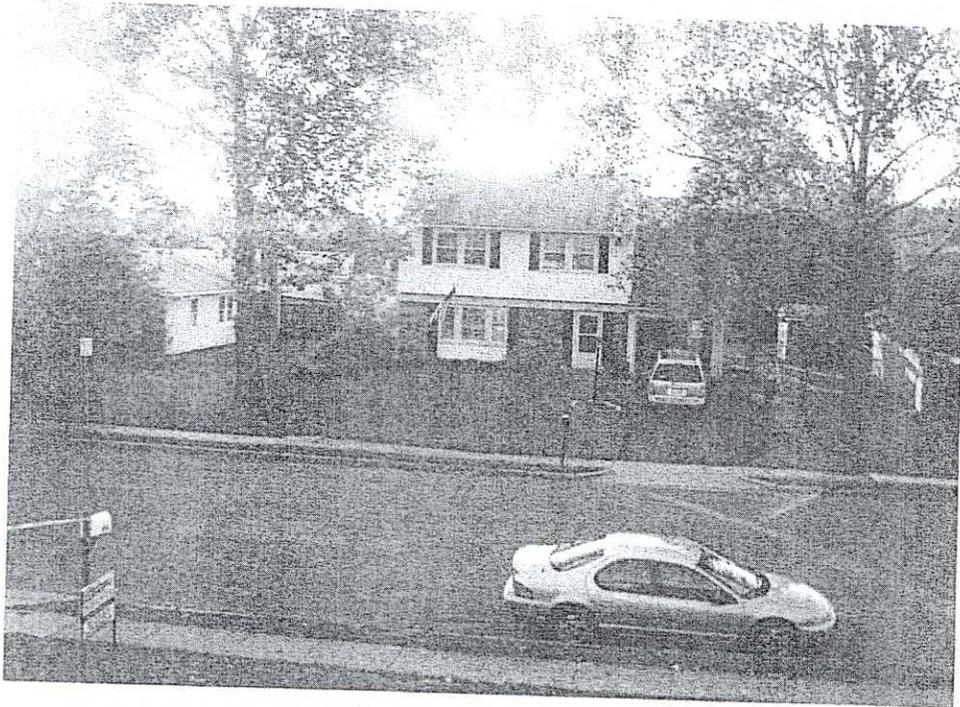


RIGHT OF ENTRANCE

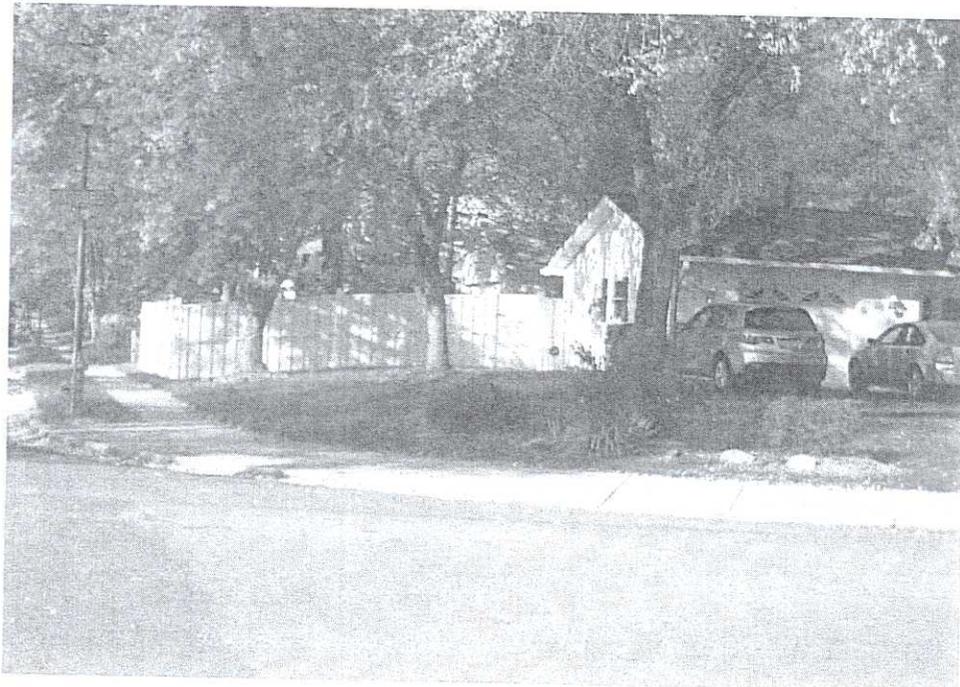
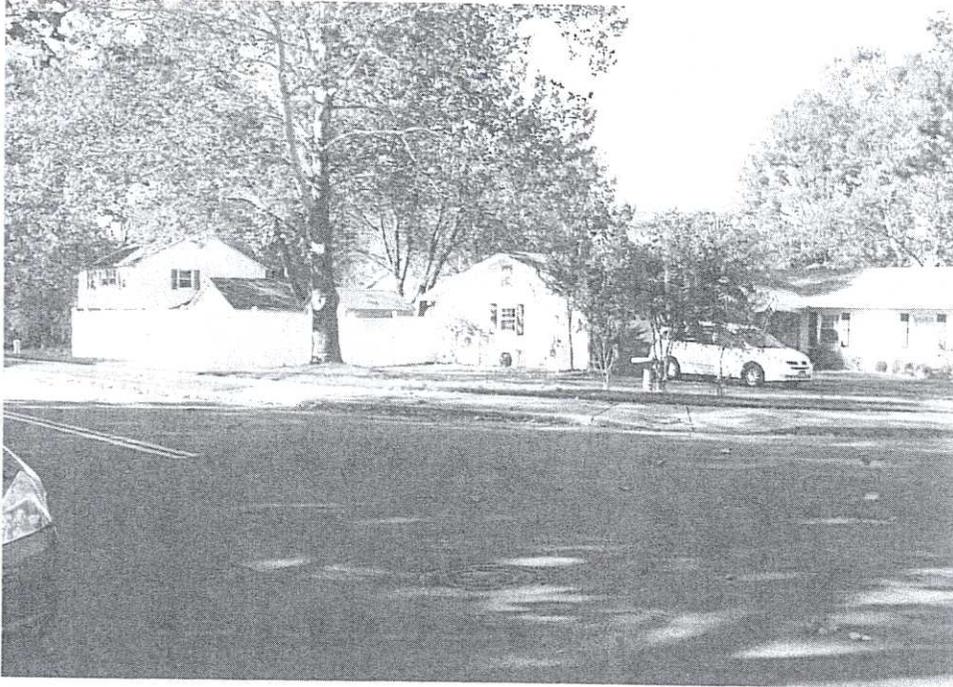
1 RIGHT SIDE YARD - 10/31/10



NEIGHBORS' HOUSES - ACROSS PLAZA LANE 10/31/10

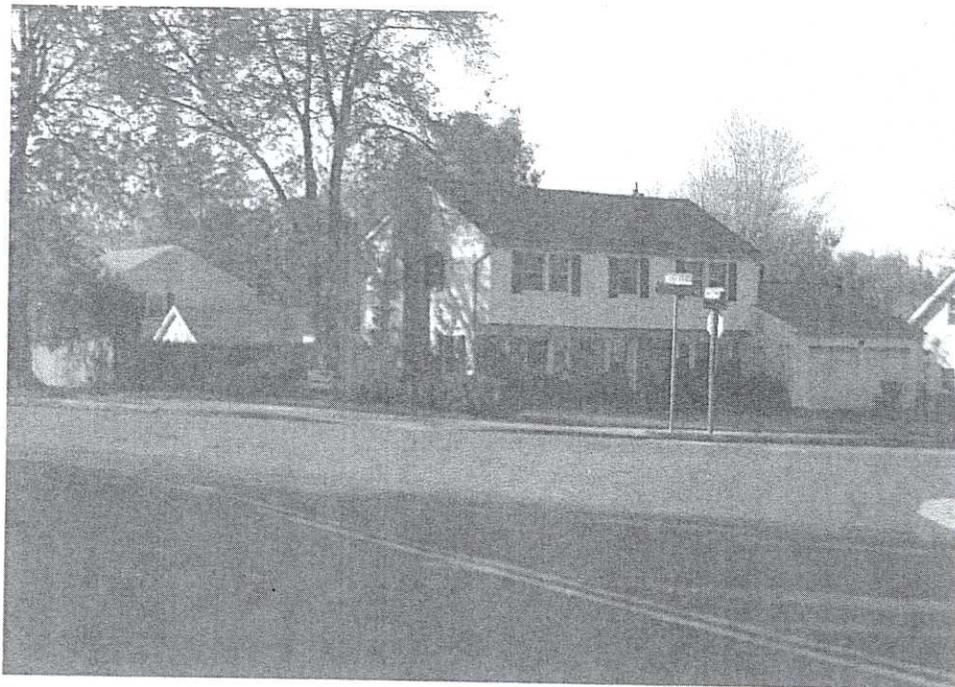
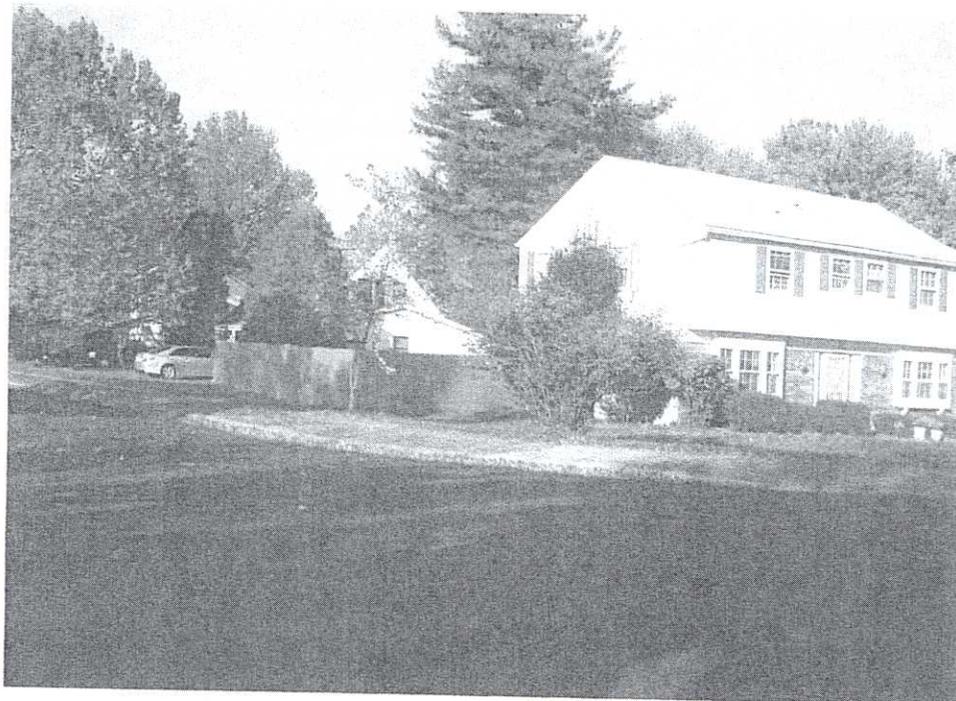


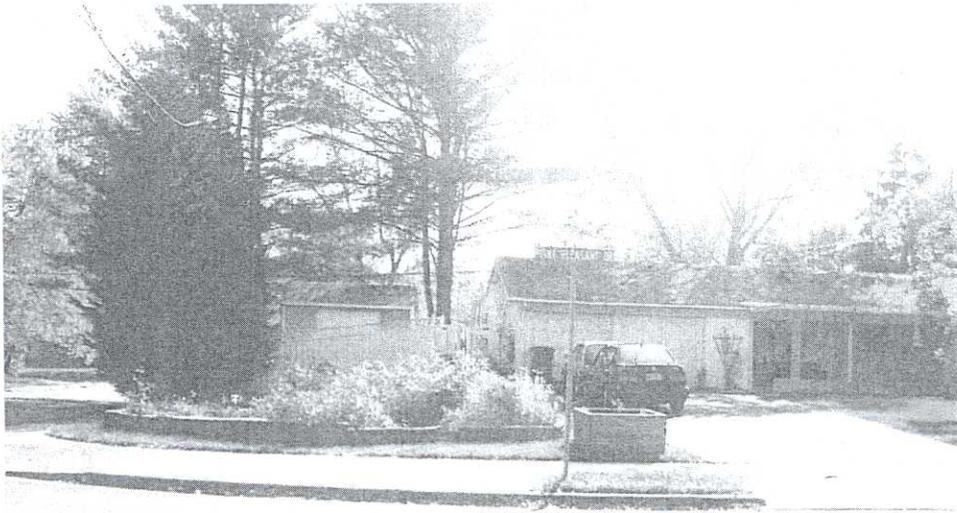
SAMPLES OF CORNER HOUSES IN GREENBRIER
WITH FENCES OVER 4' HIGH IN FRONT YARDS
(SIMILAR TO APPLICANTS HOUSE + FENCE) - 10/31/10







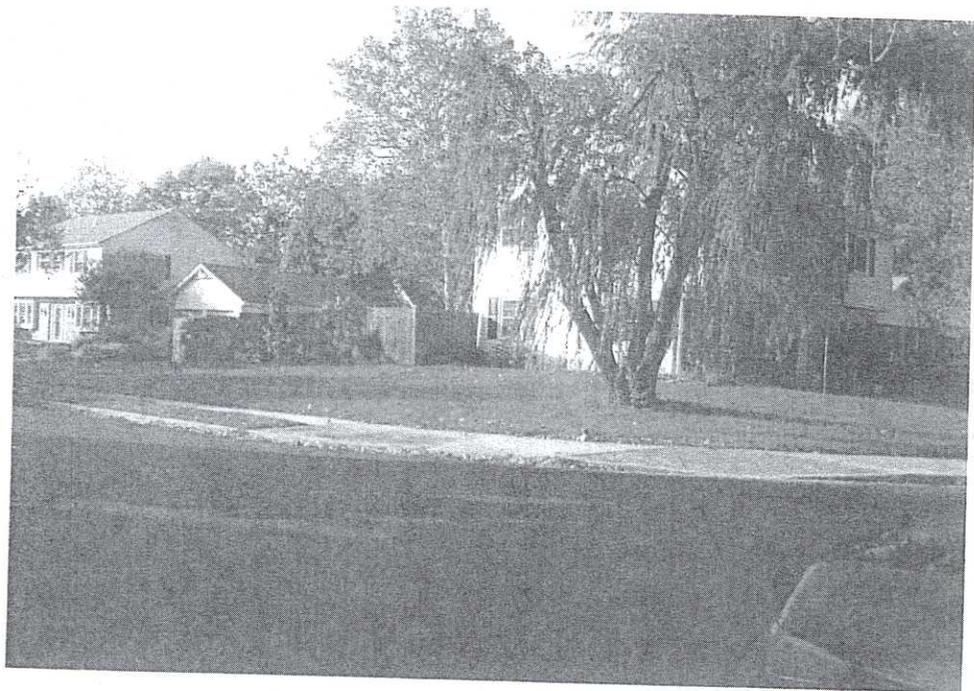


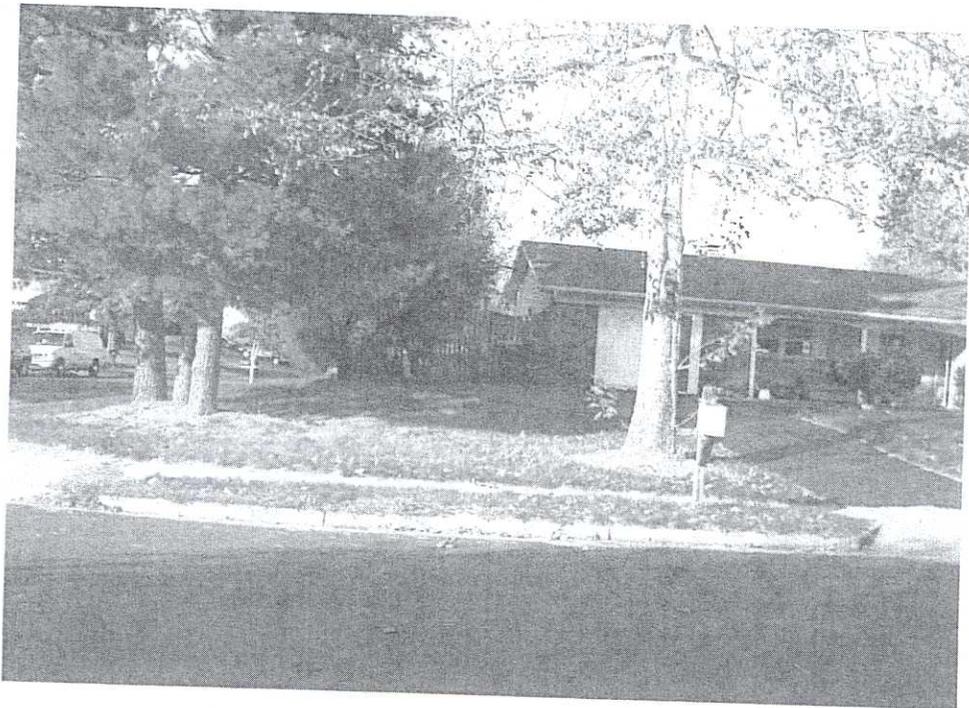
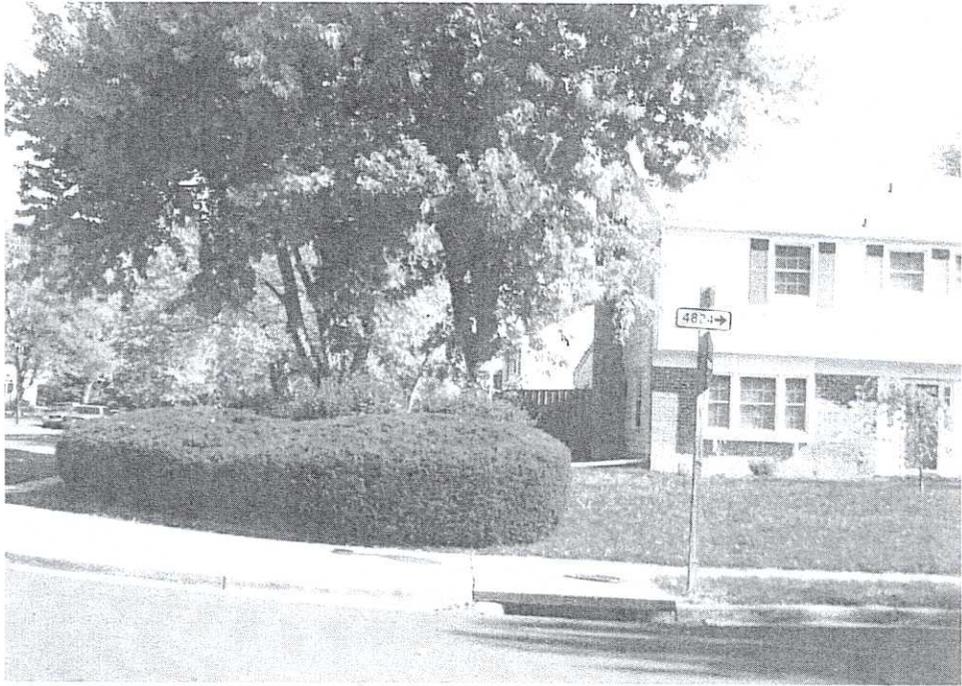


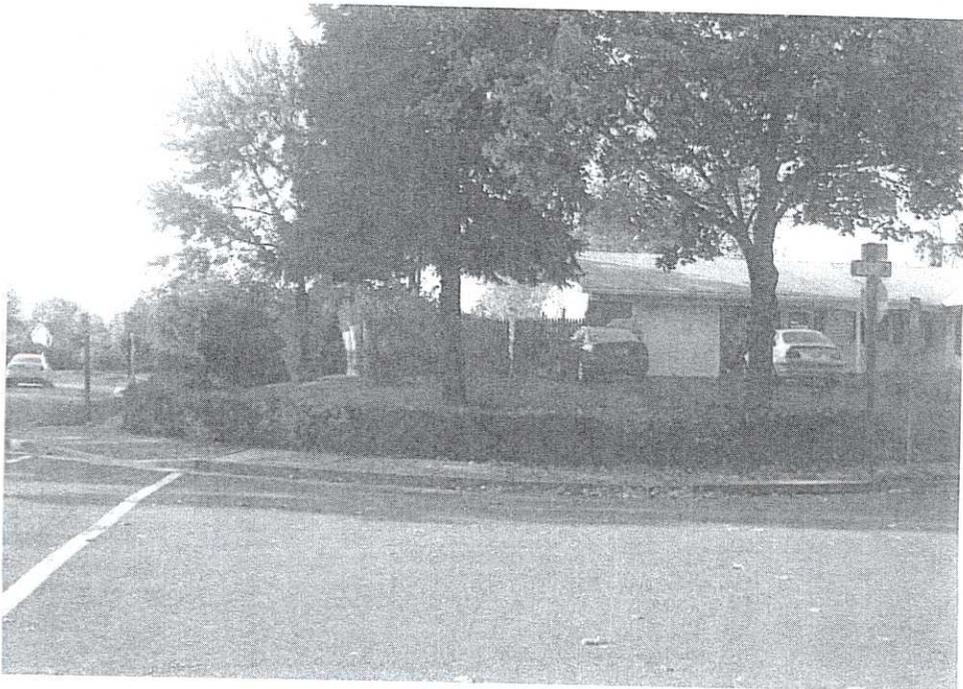
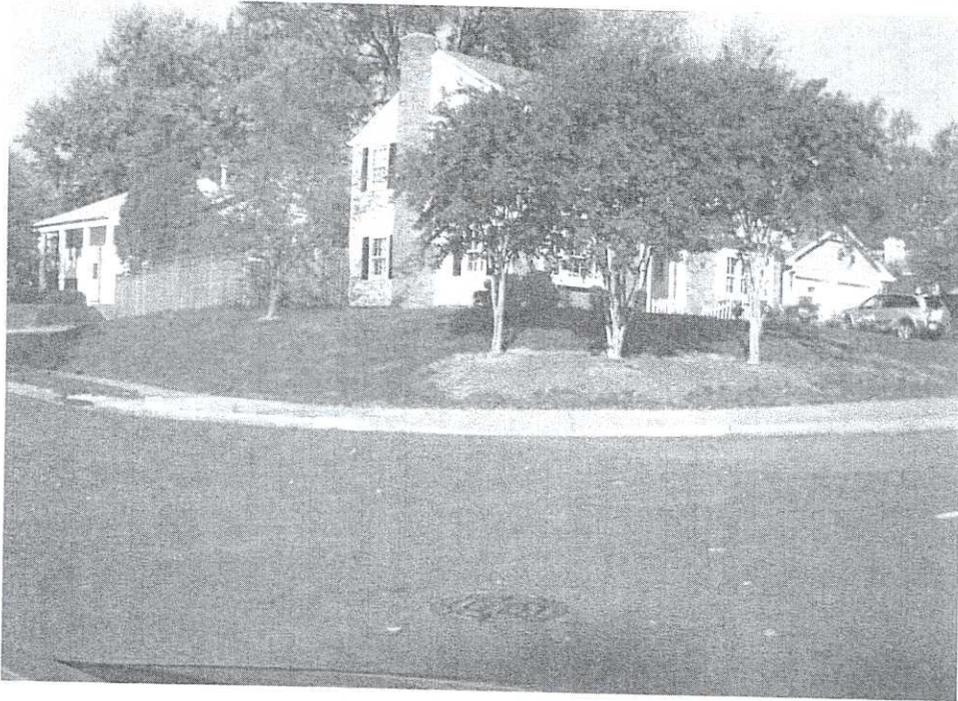




804-16

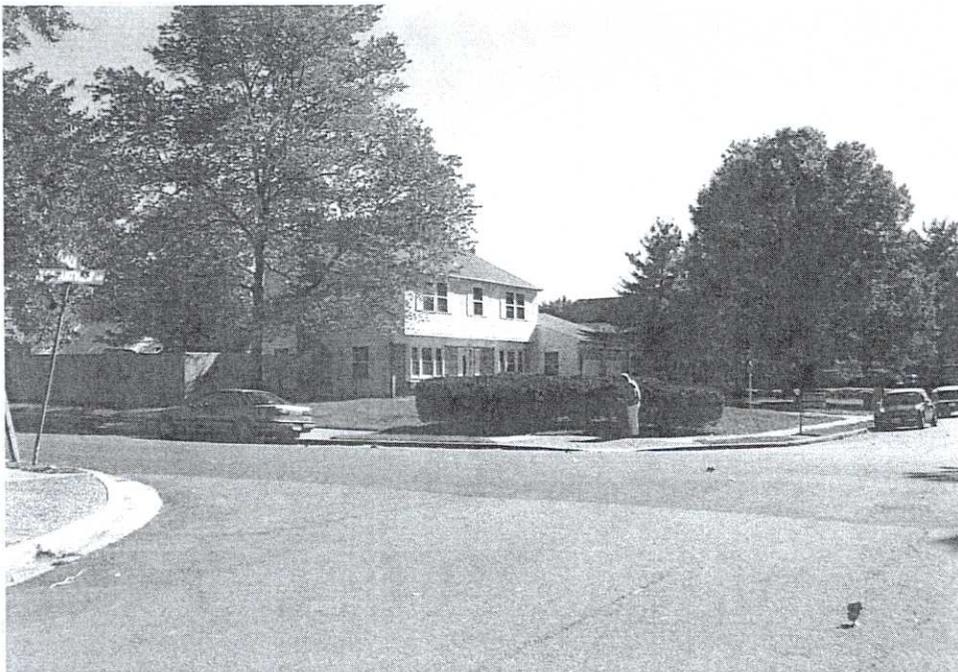
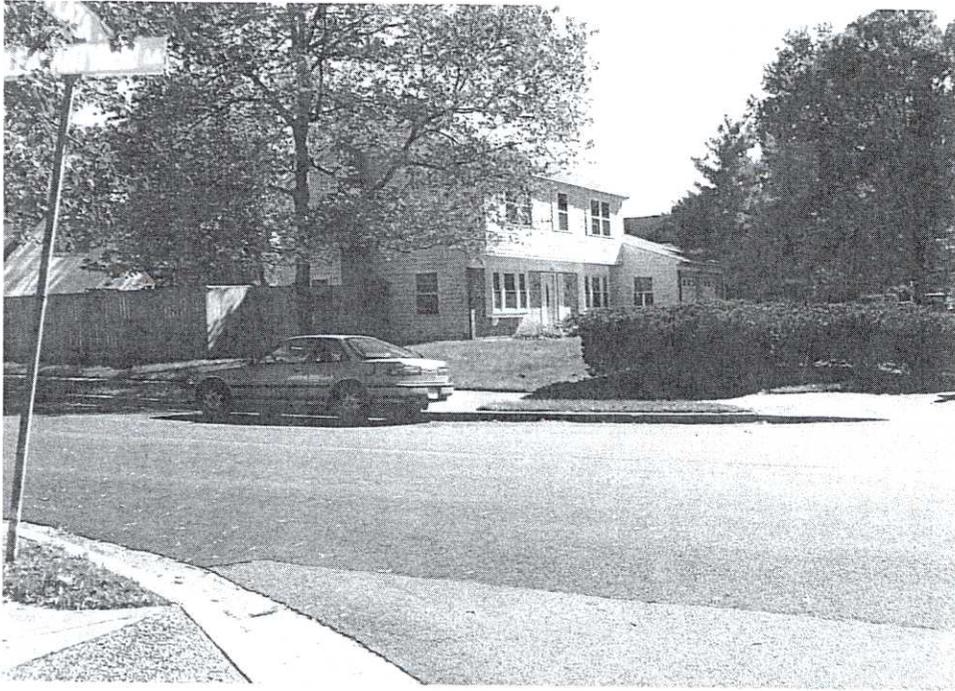


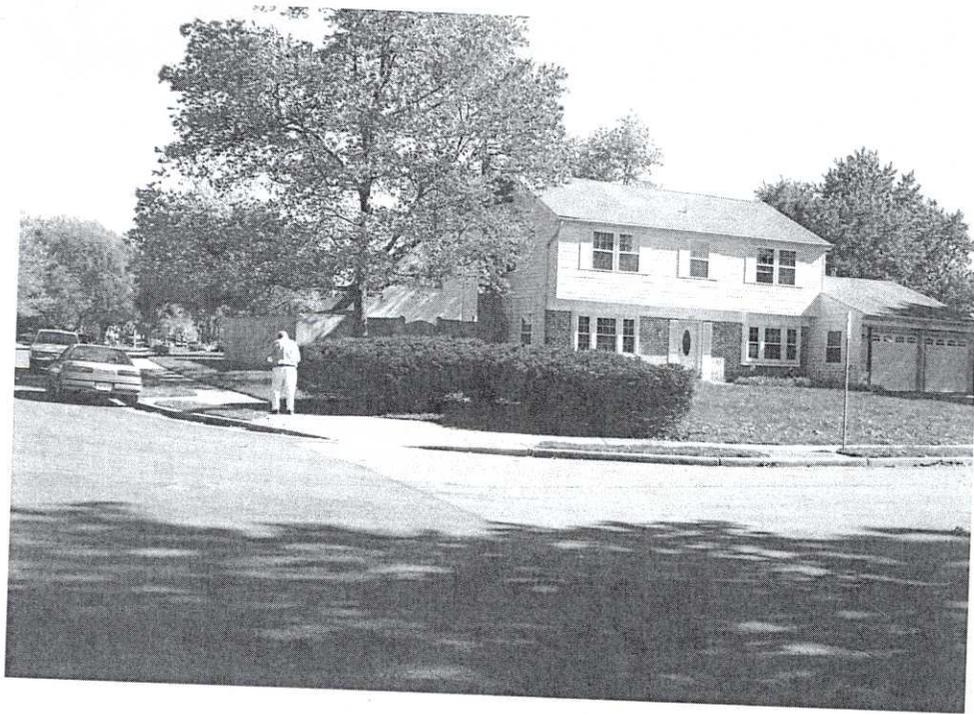




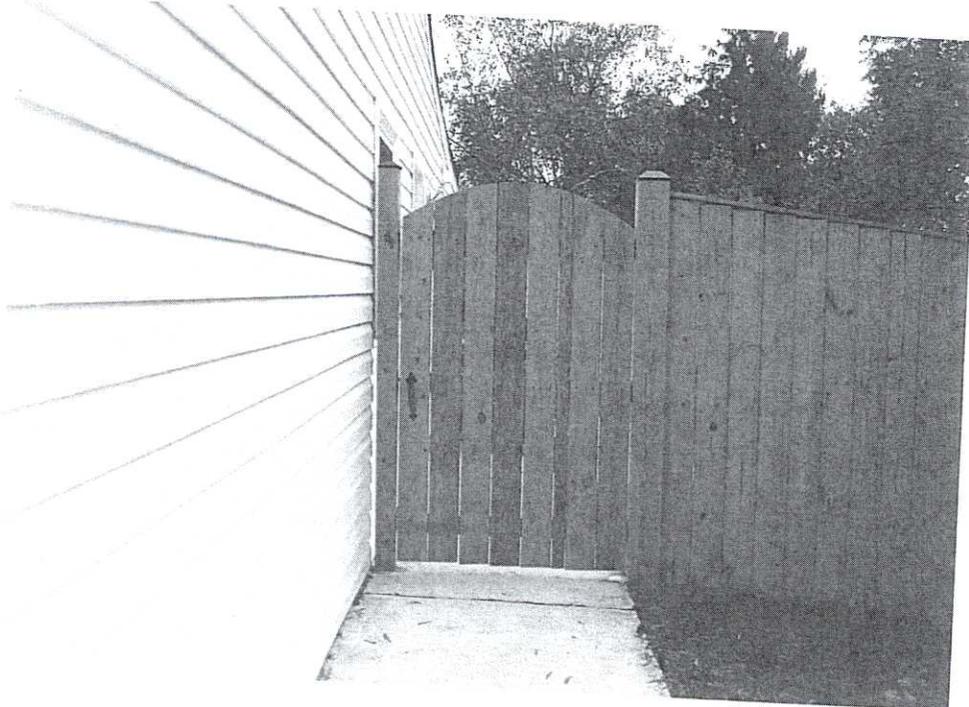
APPLICANT'S HOUSE + "NEW" FENCE - 10/31/10

INTERSECTION OF PLAZA + PLEASANTVIEW LANES





PICTURE TAKEN FROM PLAZA LANE

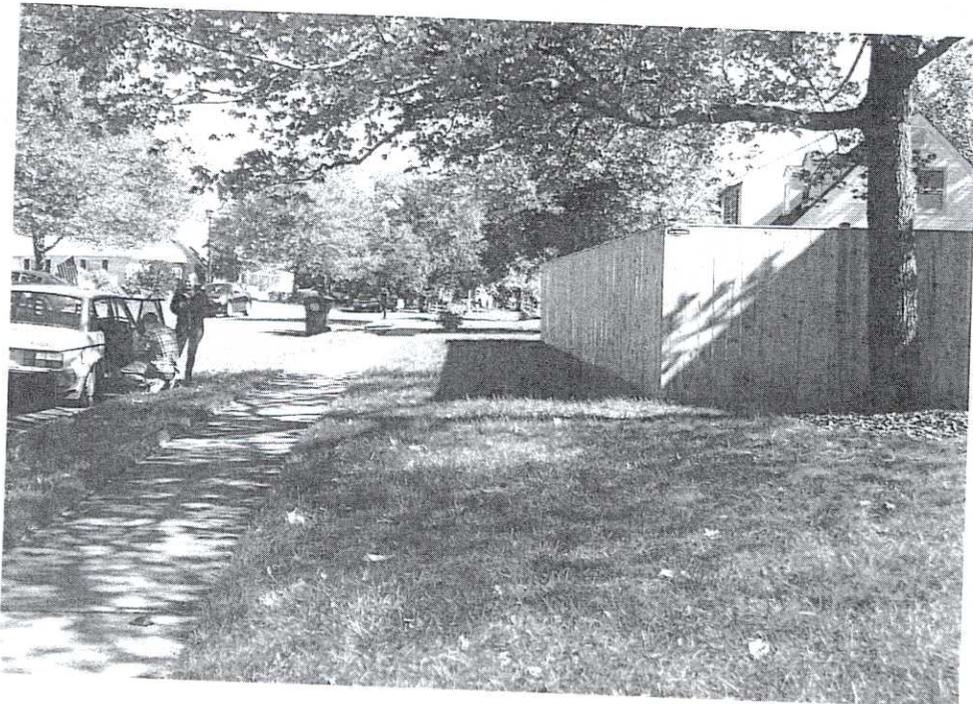
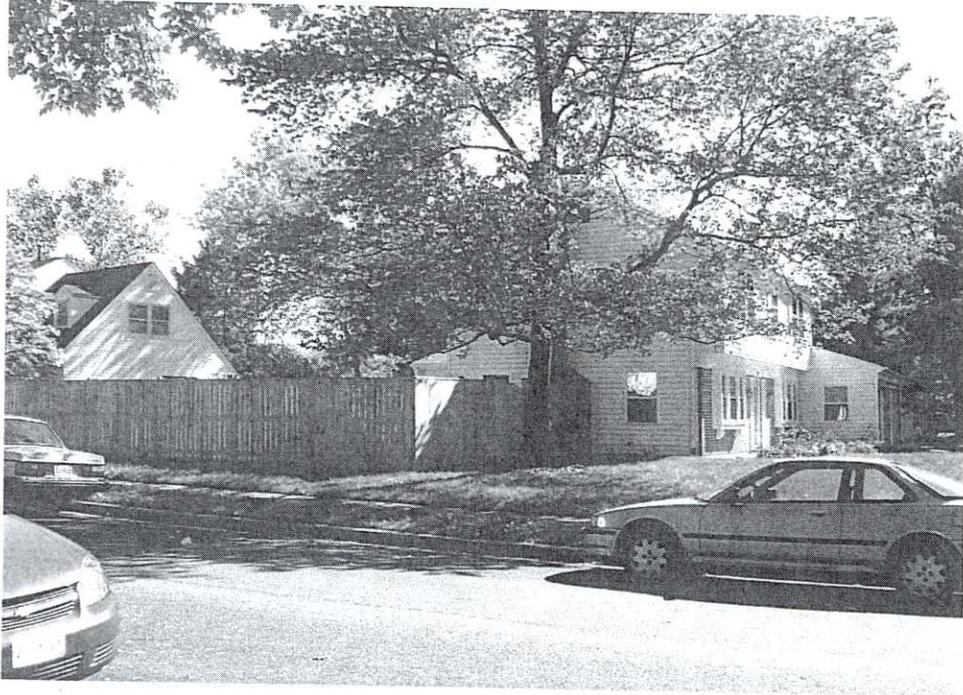




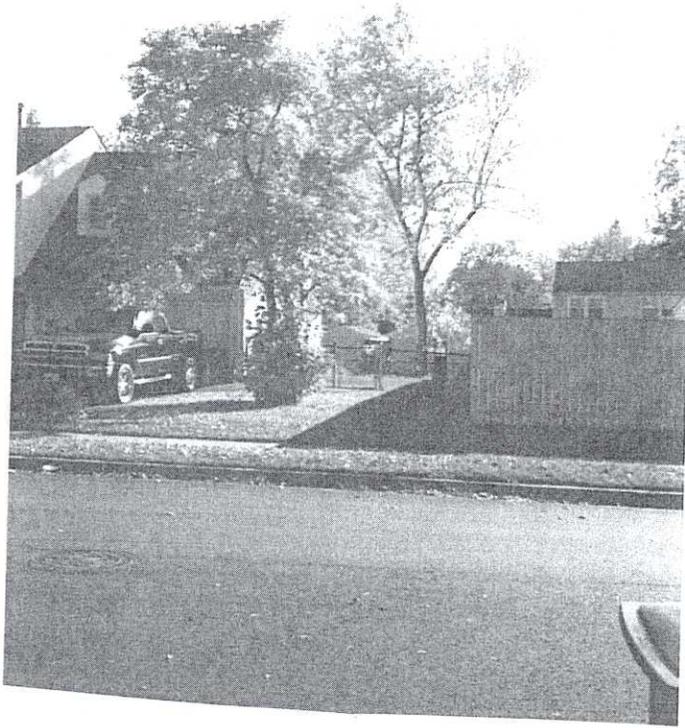
ALSO SHOWS REAR YARD OF ABUTTING HOUSE

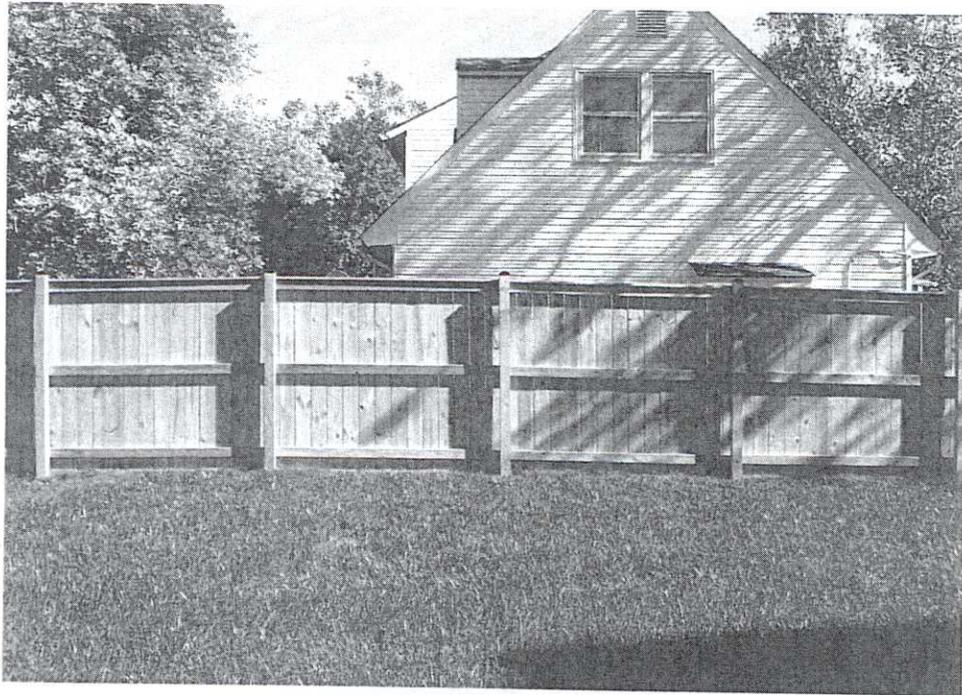


PICTURE TAKEN FROM PLEASANTVIEW LANE



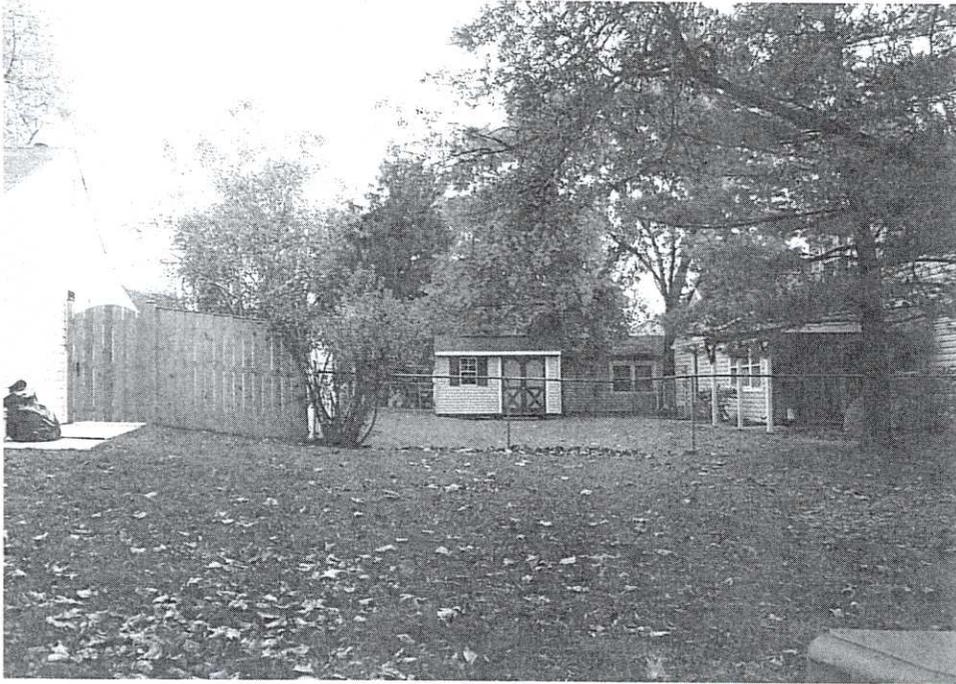
2 ABUTTING PROPERTY - REAR PROPERTY LINE - 10/31/10





ABUTTING PROPERTY - RIGHT SIDE PROPERTY LINE - 10/31/10

ABUTTS NEIGHBOR'S REAR YARD





DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of two special permit requests. The first request is to permit a reduction to minimum yard requirements based on an error in building location to permit an accessory storage structure (shed) to remain 0.9 feet from the rear lot line and 1.3 feet from the southern side lot line.

Description of Special Permit Request #1

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit Request #1	Accessory Storage (Shed)	Rear	8.0 feet	0.9 feet	7.1 feet	88.8%
Special Permit Request #1	Accessory Storage (Shed)	Side (South)	8.0 feet	1.3 feet	6.7 feet	83.8%

*Minimum yard requirement per Section 10-104

The second special permit request is to permit an existing fence greater than 4.0 feet in height to remain in a front yard of a corner lot. The wood privacy fence is 6.0 feet in height and is located in the front yard facing the Pleasantview Lane. The fence measures approximately 46 feet long, east and west, and approximately 22 feet long, north and south. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height.

Description of Special Permit Request #2

	Structure	Yard	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit Request #2	Fence	Front (North)	4.0 feet	6.0 feet	2.0 feet

EXISTING SITE DESCRIPTION

The 10,495 square-foot property is a corner lot with two front yards; one along Pleasantview Lane and the other along Plaza Lane. Access to the site is provided from Plaza Lane via an existing asphalt driveway that extends from the curb to the garage conversion at the front of the dwelling. The side yard is south of the dwelling. The rear yard is located along the eastern property line and extends north to south. For single family detached dwellings in the R-E through R-8 Districts, the minimum required rear yard on a corner lot may equal but shall not be less than the minimum side yard requirement for the district. It has been determined that the rear yard of this property takes a side yard setback therefore, the minimum required rear yard is 8 feet. The 6-foot high wood privacy fence is located in the front yard to the north and around the perimeter of the property to the east and south. The wood fence is interior to a 4-foot high chain link fence located along the rear lot line, east of the dwelling. A shed, ranging in height from 7 feet to 9 feet in height is located in the southeast corner of the property.

CHARACTER OF THE AREA

	Zoning	Use
North	R-3 (Cluster)	Single Family Detached Dwellings
South	R-3 (Cluster)	Single Family Detached Dwellings
East	R-3 (Cluster)	Single Family Detached Dwellings
West	R-3 (Cluster); R-3	Single Family Detached Dwellings; Fairfax County Public Schools

BACKGROUND

- **Title of Plat:** House Location Survey, Lot 1, Section Fifteen, Block 59, Greenbriar
- **Prepared by:** B.W. Smith and Associates, Inc., dated July 26, 2010, as revised through April 28, 2011 and signed July 26, 2010 by Timothy J. Farrell, Land Surveyor
- **Building Permit required for Shed:** No
- **Error Made by:** Previous property owner (as stated by applicant)

Records indicate that the two-story single family detached dwelling was constructed in 1970. Subsequent improvements to the dwelling include a 12 foot x 17 foot family room addition at the rear of the dwelling in 1974; a front and rear porch was added in 1999 and the attached garage was converted into indoor living space. County records indicate that the applicant purchased the home in August, 2010. The existing wood privacy fence was installed by the applicant. On October 8, 2010, a Notice of Violation (NOV) was issued to the applicant, which is included as Appendix 4.

Following the adoption of the current Ordinance, records indicate the following similar applications for properties in the vicinity of the application site were heard by the Board of Zoning Appeals (BZA):

- *Variance VC 88-P-041* was denied on July 15, 1988 for Tax Map 45-1 ((3)) (63) 15, zoned R-3 (Cluster), at 4104 Peony Way, to permit 6-foot high fence to remain in a front yard (4 feet maximum height for fence in a front yard).
- *Variance VC 2002-SP-184* was denied on February 5, 2003 for Tax Map 45-1 ((3)) (63) 1, zoned R-3 (Cluster), at 4103 Plaza Lane, to permit construction of a fence greater than 4.0 feet and accessory structure in front yard on a lot containing 36,000 square feet or less.

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Sect. 8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

This special permit is subject to Sects. 8-006, 8-903, 8-914 and 8-923 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 6. Subject to development conditions, the special permit must meet these standards.

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.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation dated October 8, 2010
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2011-SP-018

May 18, 2011

1. This special permit is approved for the location of the fence and accessory storage structure (shed) as shown on the plat prepared by B.W. Smith and Associates, Inc. dated July 26, 2010, as revised through April 28, 2011 and signed July 26, 2010 by Timothy J. Farrell, Land Surveyor, as submitted with this application and is not transferable to other land.

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 2011-SP-018
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 1, 2010
(enter date affidavit is notarized)

I, Joanne M. Morgan, 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 110373a

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

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

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

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Joanne M. Morgan	4201 Plaza Lane Fairfax, VA 22033	Applicant and Title Owner

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

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

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

Application No.(s): SP 2011-SP-018
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 1, 2010
(enter date affidavit is notarized)

110373a

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)

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)

(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 2011-SP-018
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 1, 2010
(enter date affidavit is notarized)

110373a

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 2011-SP-018
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 1, 2010
(enter date affidavit is notarized)

110373a

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 2011-SP-018
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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: November 1, 2010
(enter date affidavit is notarized)

110373a

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: Joanne M. Morgan
(check one) Applicant Applicant's Authorized Agent

Joanne M. Morgan, Applicant and Title Owner
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20 day of December, 2010, in the State/Comm. of Virginia, County/City of Fairfax

Cheryl C. Morgan
Notary Public

My commission expires: 8-31-12



Application for Group 9 Special Permit to Retain Fence Height in Front Yard & Building Location in Error for Shed

To Whom It May Concern:

I have recently purchased a home in Greenbriar at 4201 Plaza Lane, Fairfax VA 22033. Since the house had a very small rear yard I put in a privacy fence which extended into what I considered part of my backyard. I have since been informed that it is considered part of the front yard according to the county zoning regulations. Therefore, I am requesting a Group 9 Special Permit to retain the six foot fence height in the front yard.

I would like to change my application to add an error in building location for the shed that was already built when I bought the house. I was unaware of this error when I purchased the house; I made the house purchase in good faith and the shed has been in it's current location for several years before I purchased the home. In the process of gathering information for the fence permit it was brought to my attention by Ms. Johnson at the Department of Planning and Zoning for Fairfax County that this shed is not in compliance with Sect 8-914 of the zoning ordinance.

Submitted by: **Joanne Morgan**
4201 Plaza Lane
Fairfax, VA 22033

Submitted to: **Zoning Evaluation Division**
Fairfax County
Department of Planning and Zoning
12055 Government Center Parkway
Suite 801
Fairfax, VA 22035

Date Submitted: Amended 4/28/2011

RECEIVED
Department of Planning & Zoning

APR 29 2011

Zoning Evaluation Division

Statement of Justification
Group 9 Special Permit for Application to Retain 6 ft Fence Height in Front Yard & Building Location in Error for Shed

I am requesting a special permit to retain the fence height in my front yard because what is currently defined as my backyard is very small and not very useable. My property is located on a corner, and my house is set back from the corner in the front and on the side. By the county's definition, close to three fourths of my lot is considered front yard (excluding the house). This does not allow much space for barbecuing, installing a hot tub or even installing a small patio. In a major portion of the yard there is only seventeen to twenty feet from the back wall of my house to the edge of the property line in the back, and four feet of that is taken up by a concrete walkway. The side that is not on the corner is also only eleven feet from the side of the house to the edge of the property line. This leaves very little room to entertain or hold family gatherings. In contrast, the front yard is three times the size of the backyard.

In seeking a company to install my fence I went to a few neighbors with similarly shaped properties with fences for referrals. There are more than 20 houses with similar fences like mine in the vicinity of my property in Greenbriar. In fact, many of those homeowners extended their fences to the sidewalk. I chose not to do this in order to preserve the green space and make it more pleasing and less imposing. I am also planning to eventually put in a planting area with bushes and seasonal flowers in that space. The resulting fence is in character with the existing structures and harmonious with other houses and their fences. Also, since the vast majority of homes in Greenbriar have six foot privacy fences on both sides of their houses, when viewed from the street, I believe that my house might appear unbalanced if I were to only have a six foot fence on one side and not on the much more spacious other side. I believe that my fence improves the curb appeal of my home.

My fence is 11 feet from the sidewalk, and twenty feet from the curb on the Pleasantview Lane side, and 60 feet from the corner on the Plaza Lane side so as to not interfere with the line of sight for cars turning. This is also in keeping with Regulation 2-505 which states that for corner lots with interior angles equal to or greater than 90 degrees, a sight distance of thirty feet shall be maintained.

I have enclosed pictures of my fence as well as that of others in the neighborhood to demonstrate that my fence is similar and in keeping with the style of fences in the Greenbriar neighborhood.

I would like to add an error in building location for the shed that was already built when I bought the house. I was unaware of this error when I purchased the house; I made the house purchase in good faith and the shed has been in its current location for several years before I purchased the home. Additionally the building has caused no damage to the neighbors. In the process of gathering information for the fence permit it was brought to my attention by Ms. Johnson at the Department of Planning and Zoning for Fairfax County that this shed is not in compliance with Sect 8-914 of the zoning ordinance.



County of Fairfax, Virginia

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

NOTICE OF VIOLATION

DATE OF ISSUANCE: October 8, 2010

SHERIFF'S LETTER

CASE #: 201006009 **SR#:** 64936

SERVE: Joanne Morgan
4201 Plaza Lane
Fairfax, VA 22033

LOCATION OF VIOLATION 4201 Plaza Lane
Fairfax, VA 22033-3003
Tax Map #: 45-1 ((3)) (59) 1
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on September 22, 2010, revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of a 6' tall accessory fence in the front yard of this property which is less than two (2) acres in area. The Fairfax County Zoning Ordinance permits accessory fences in the front yard so long as they are in conformance with Par. 3B of Sect. 10-104 of the Zoning Ordinance which states:

Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

- A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

- (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
- (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

Therefore, as this accessory fence exceeds four feet (4') in height in the front yard contrary to the provisions of Par. 3B of Sect. 10-104 of the Zoning Ordinance, you are in violation of Par. 3B of Sect. 10-104 and 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 Par 1 of Article 10.

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

- Removing the fence from the property in its entirety; or
- Reducing the height of the fence to four feet (4') in the front yards.

As an alternative you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit, specifically, 8-923 the Provisions for Increase in Fence and/or Wall Height in Any Front Yard to allow the fence to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

Joanne Morgan
October 8, 2010
Page 3

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

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days.

Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$2,455.00 filing fee. Once an appeal application is accepted, it will be 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)324-1317 or 703-324-1300.

Sincerely,

Nancy Stallings
Property Maintenance/Zoning Enforcement Inspector

8-006 General Standards

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

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

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

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

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

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.

- E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
- H. If applicable, the location of well and/or septic field.
- I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and

- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section

8-923 *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. 3I 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.