



APPLICATION ACCEPTED: May 18, 2011  
DATE OF PUBLIC HEARING: August 10, 2011  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

August 3, 2011

## STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-MV-040

### MOUNT VERNON DISTRICT

**APPLICANT/OWNER:** Henrietta Burke

**LOCATION:** 8201 East Boulevard Drive

**TAX MAP:** 102-4 ((1)) 73

**LOT SIZE:** 24,541 square feet

**ZONING:** R-2

**ZONING ORDINANCE PROVISION:** 8-923

**SPECIAL PERMIT PROPOSAL:** To permit fence greater than 4.0 feet in height to remain in the front yards of a corner lot.

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 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.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 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.**

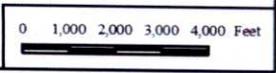
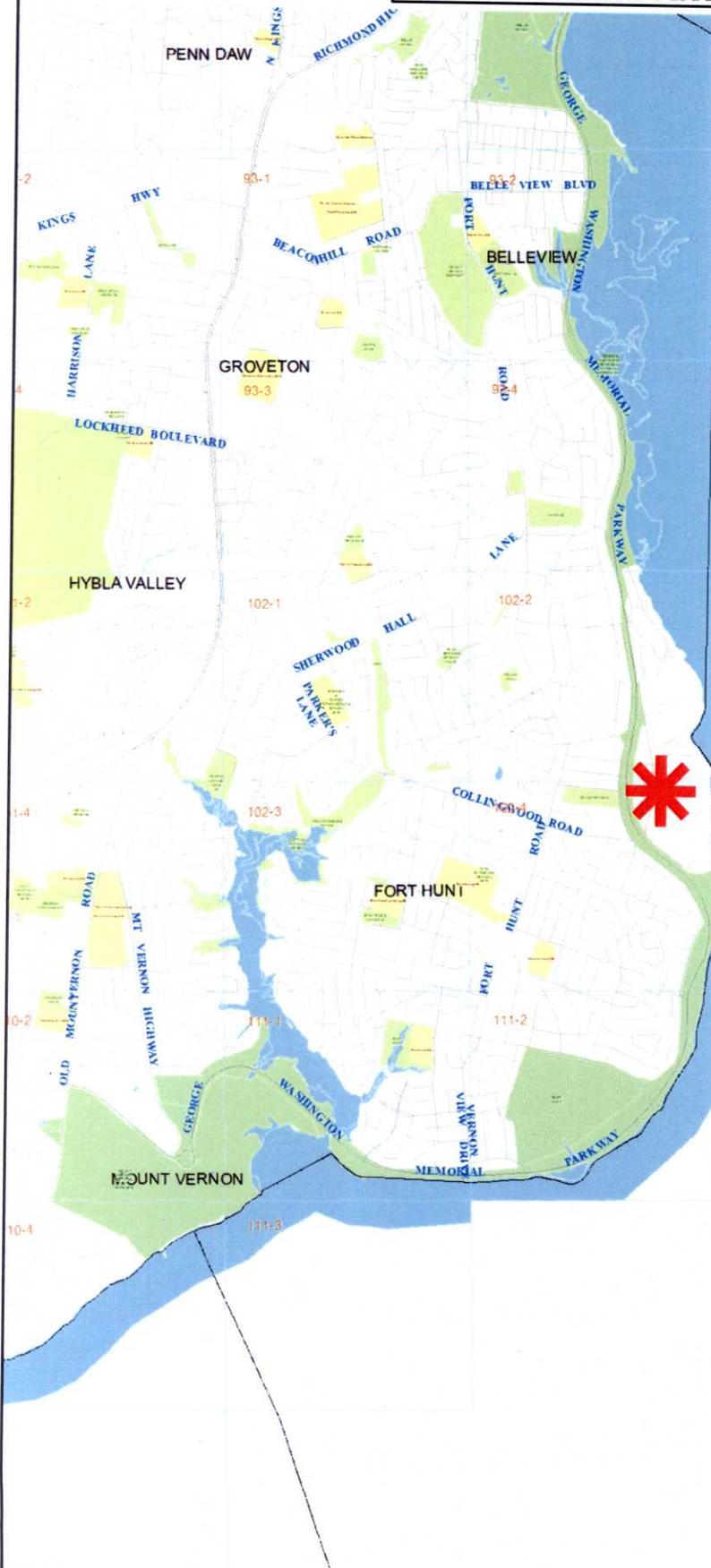


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

O:\mmertz\SP\_Burke\SP 2011-MV-040 staff report.doc

Matthew Mertz

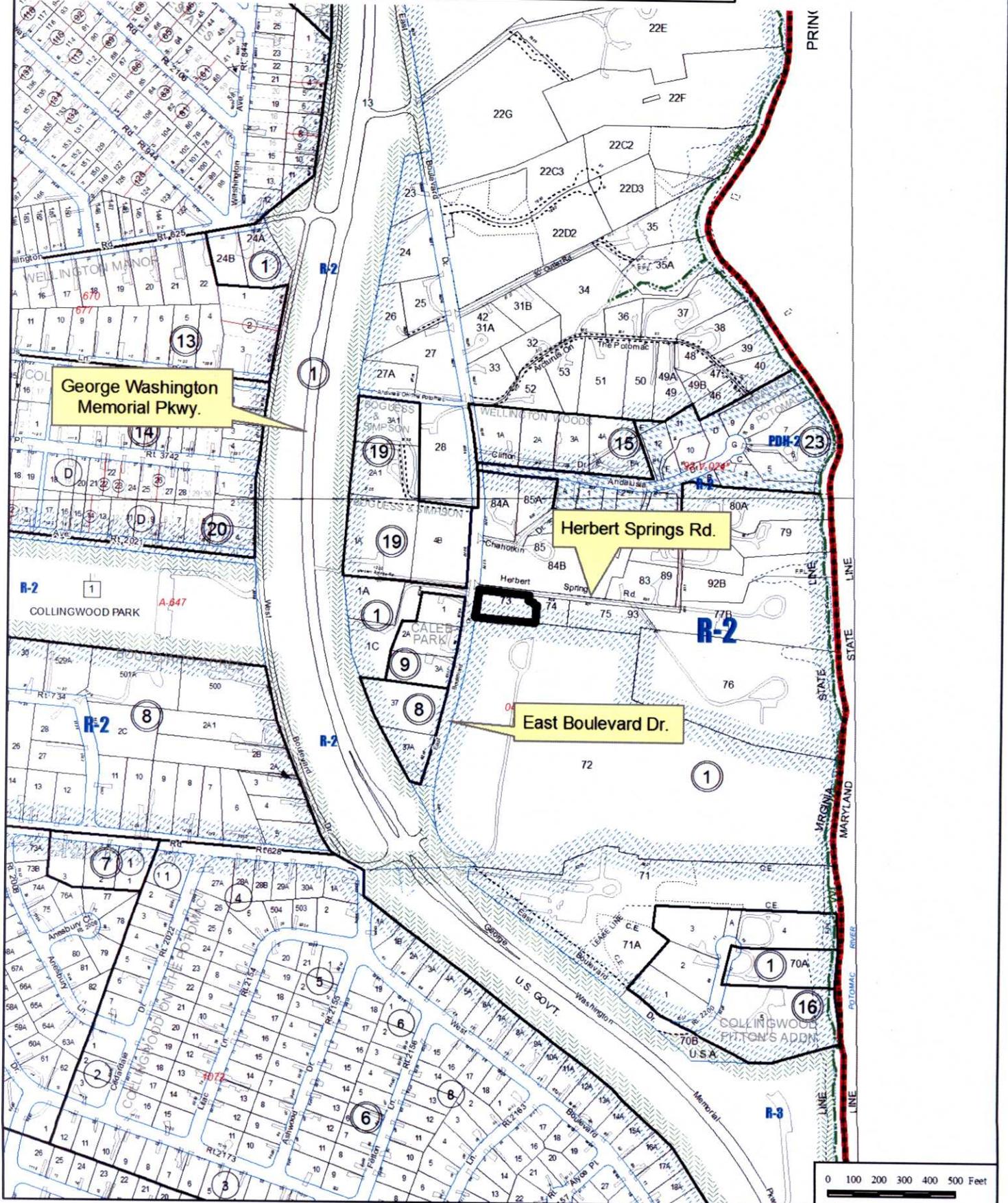
**Special Permit**  
**SP 2011-MV-040**  
**HENRIETTA BURKE**



# Special Permit

SP 2011-MV-040

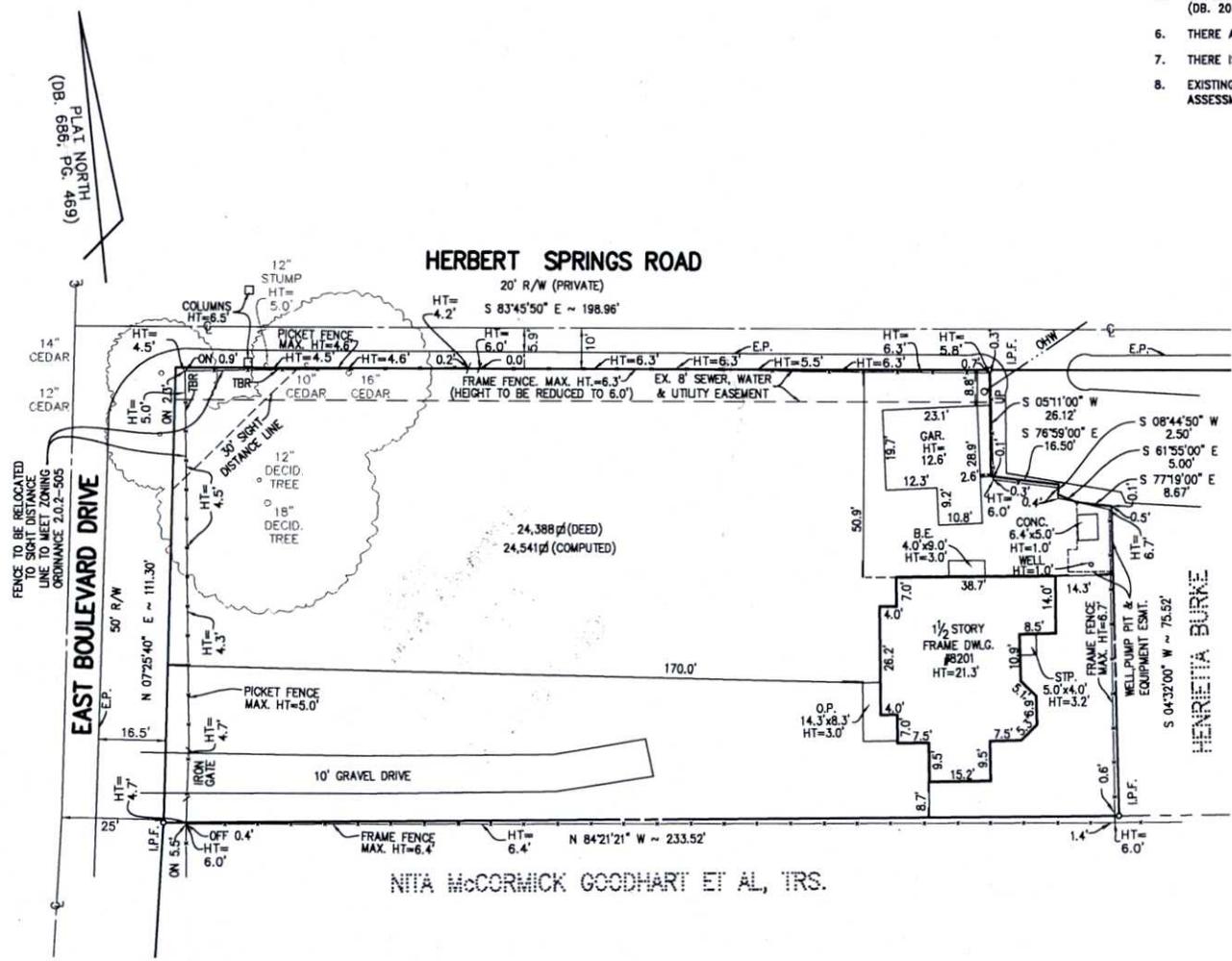
HENRIETTA BURKE





NOTES:

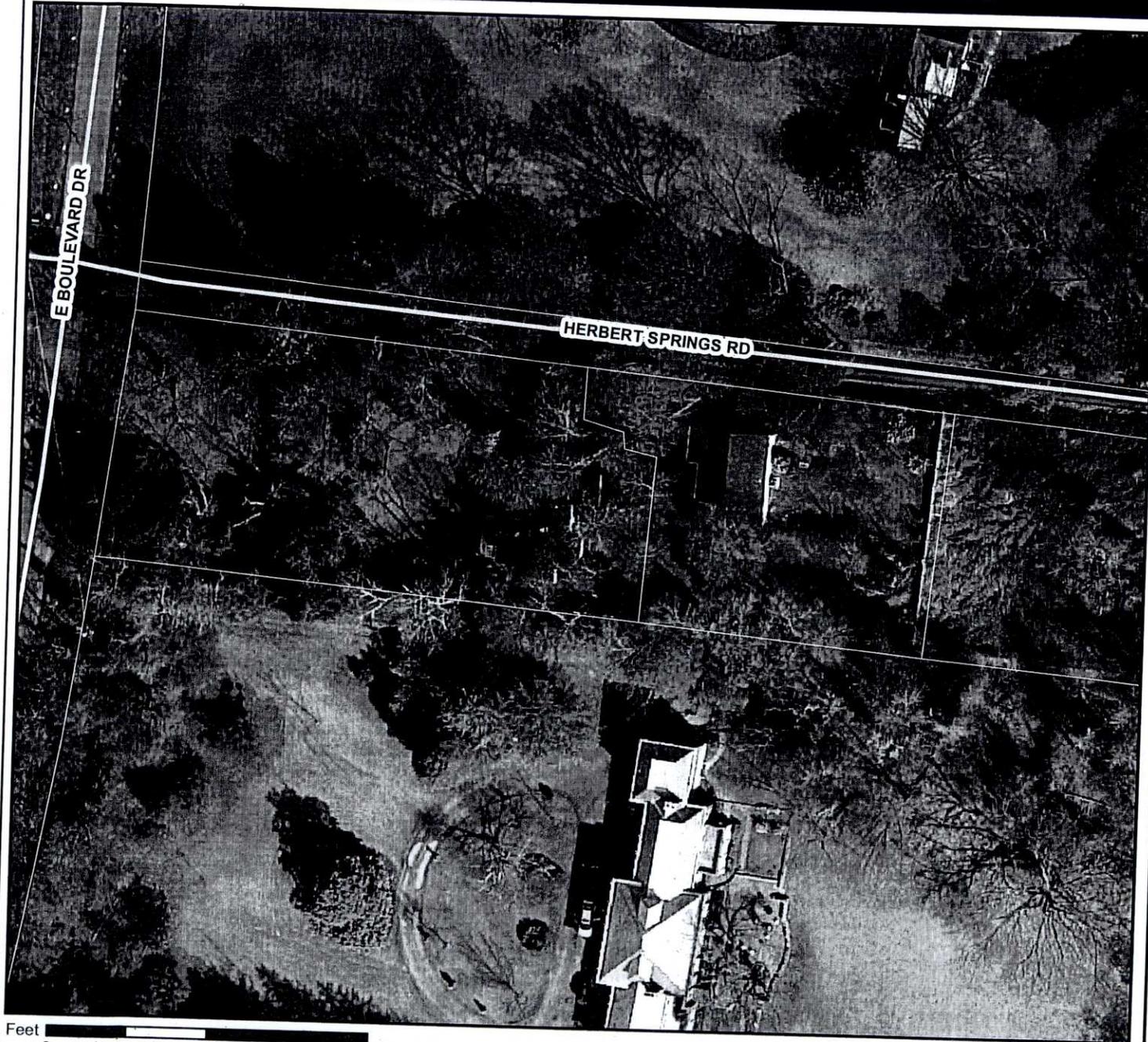
1. TAX MAP #102-4-01-0073
2. ZONE : R-2  
 SETBACK REQUIREMENTS:  
 FRONT : 35'      SIDE : 15'      REAR : 25'
3. TITLE REPORT NOT FURNISHED, THUS ALL EASEMENTS MAY NOT BE SHOWN.
4. PLAT SUBJECT TO RESTRICTIONS OF RECORD.
5. OWNER: HENRIETTA BURKE  
 (DB. 20486, PG. 488)
6. THERE ARE NO KNOWN BURIAL SITES ON THE PROPERTY.
7. THERE IS NO FLOOD-PLAIN OR RPA ON THE PROPERTY.
8. EXISTING DWELLING BUILT IN 1930 PER REAL ESTATE ASSESSMENTS.



SPECIAL PERMIT PLAT  
 ON THE PROPERTY LOCATED AT  
**#8201 EAST BOULEVARD DRIVE**  
 MT. VERNON DISTRICT  
 FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 20'      DATE: APRIL 22, 2011

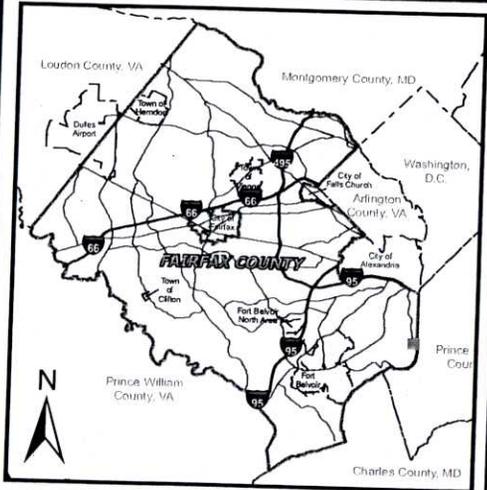
# 8201 E. Boulevard Drive



E BOULEVARD DR

HERBERT SPRINGS RD

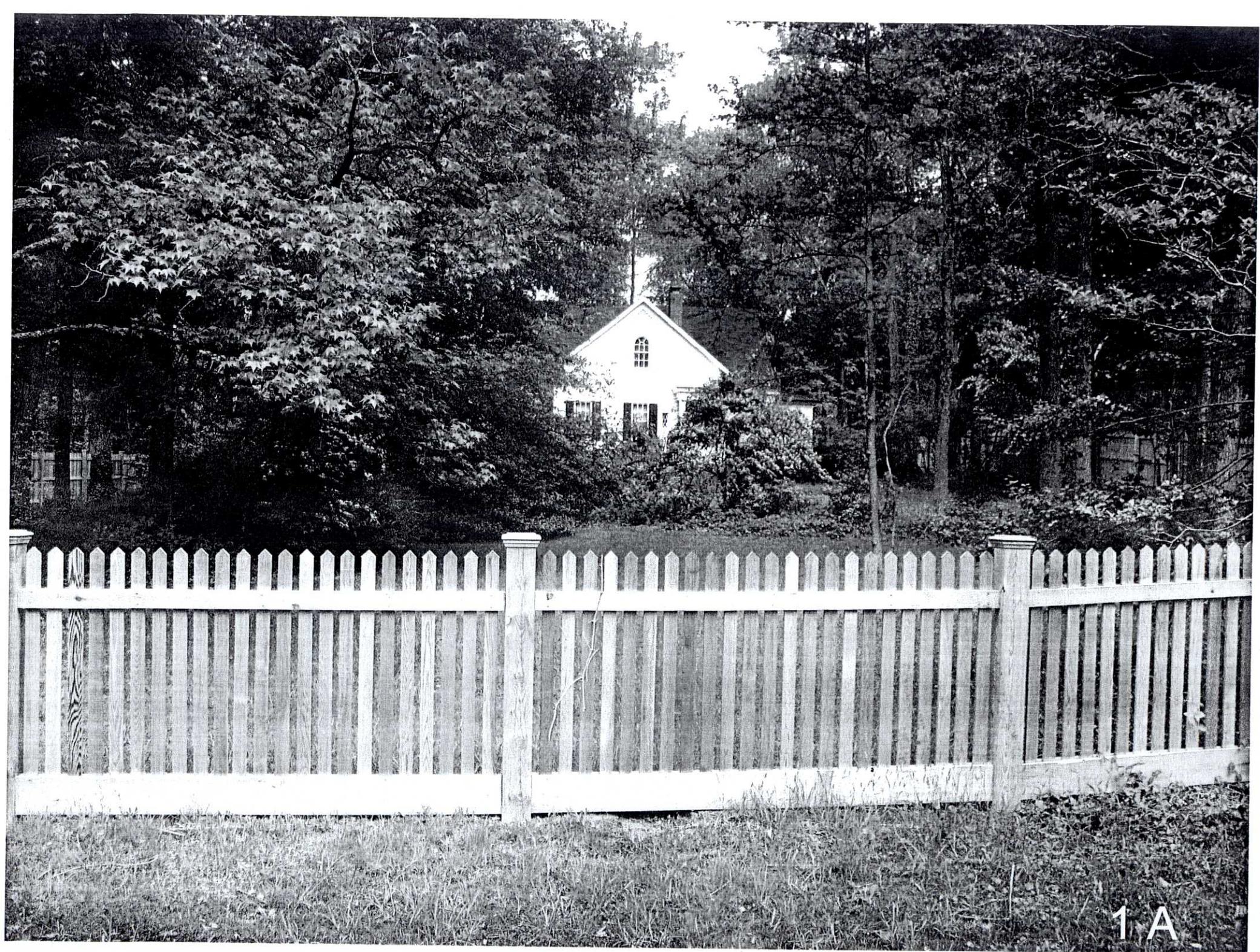
Feet  
0 70 140



Note: This map is intended for reference purposes only. Fairfax County does not provide any guarantee of the accuracy or completeness regarding the map information. Courtesy of Fairfax County GIS and Mapping Services.



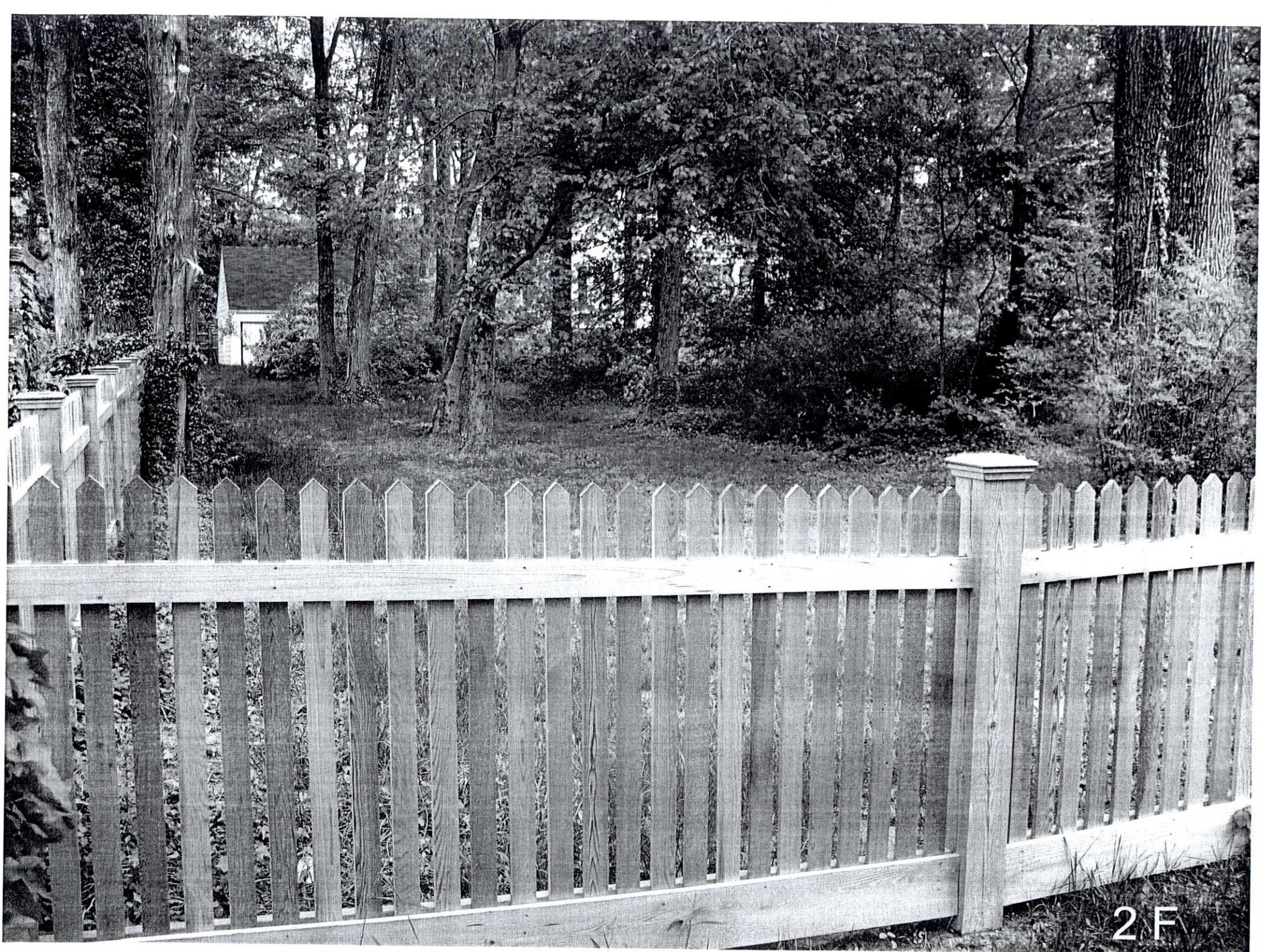




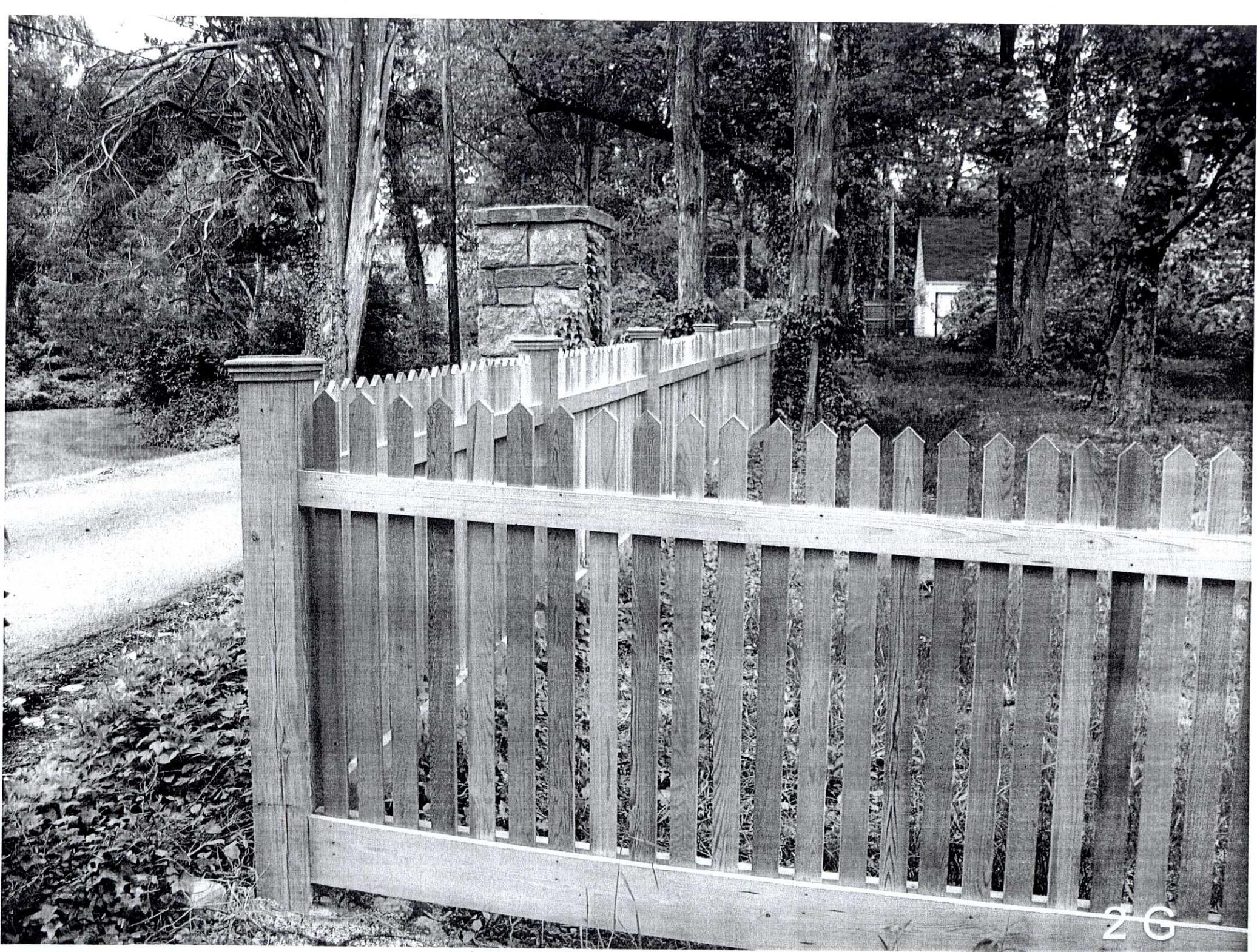
1 A



1 B



2F



26



2H



3 C

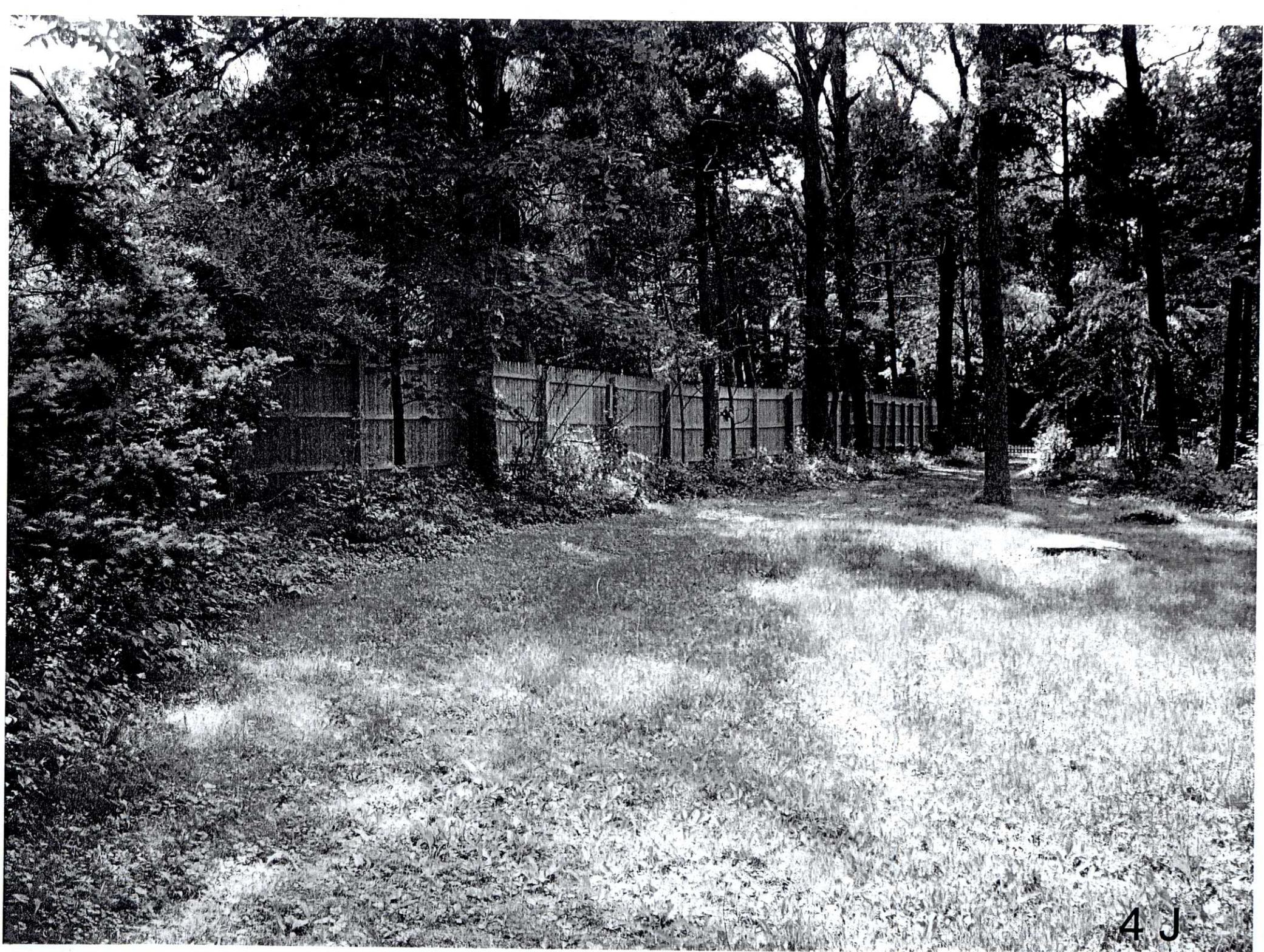


3 D



3E





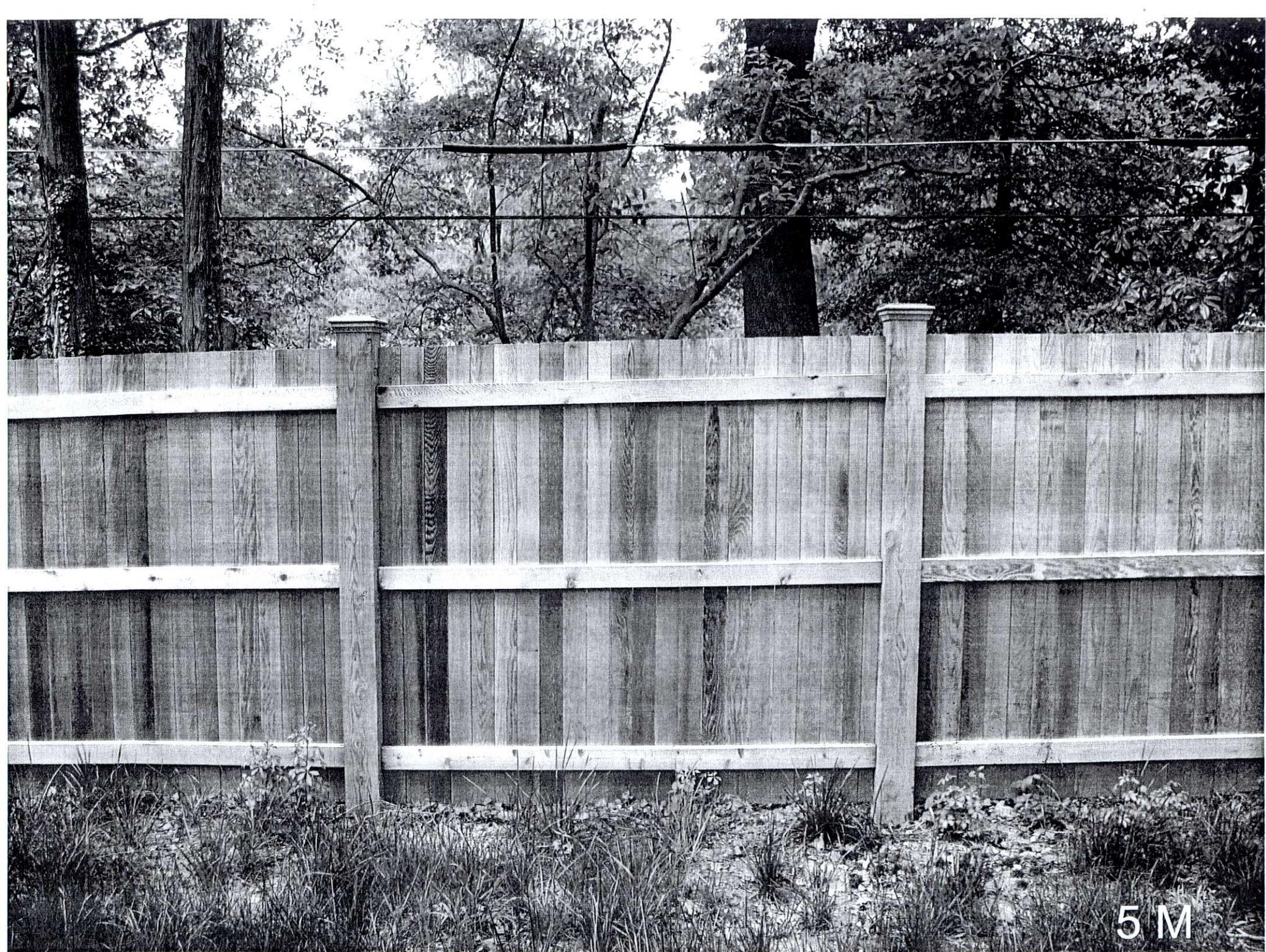
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4K



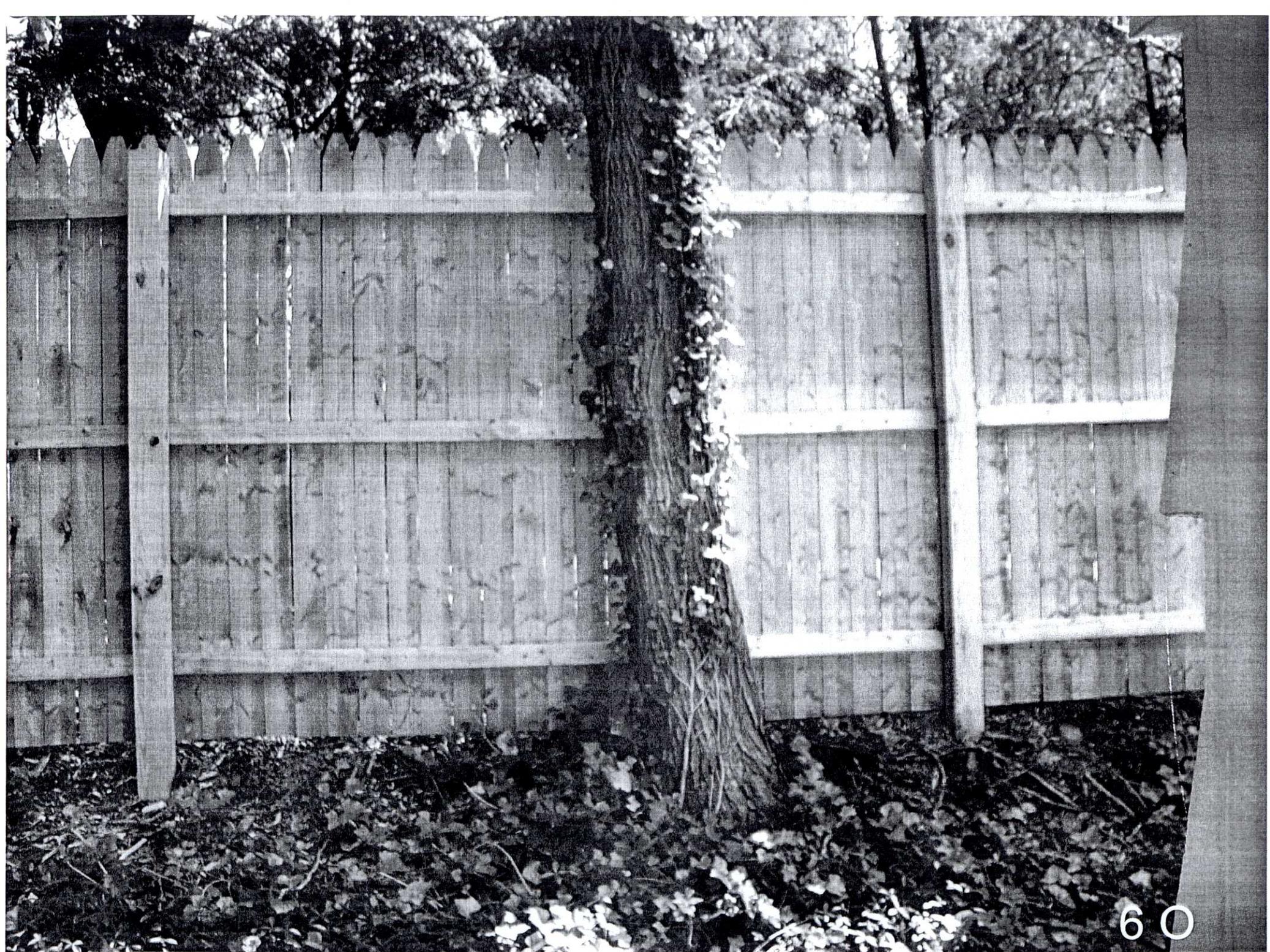
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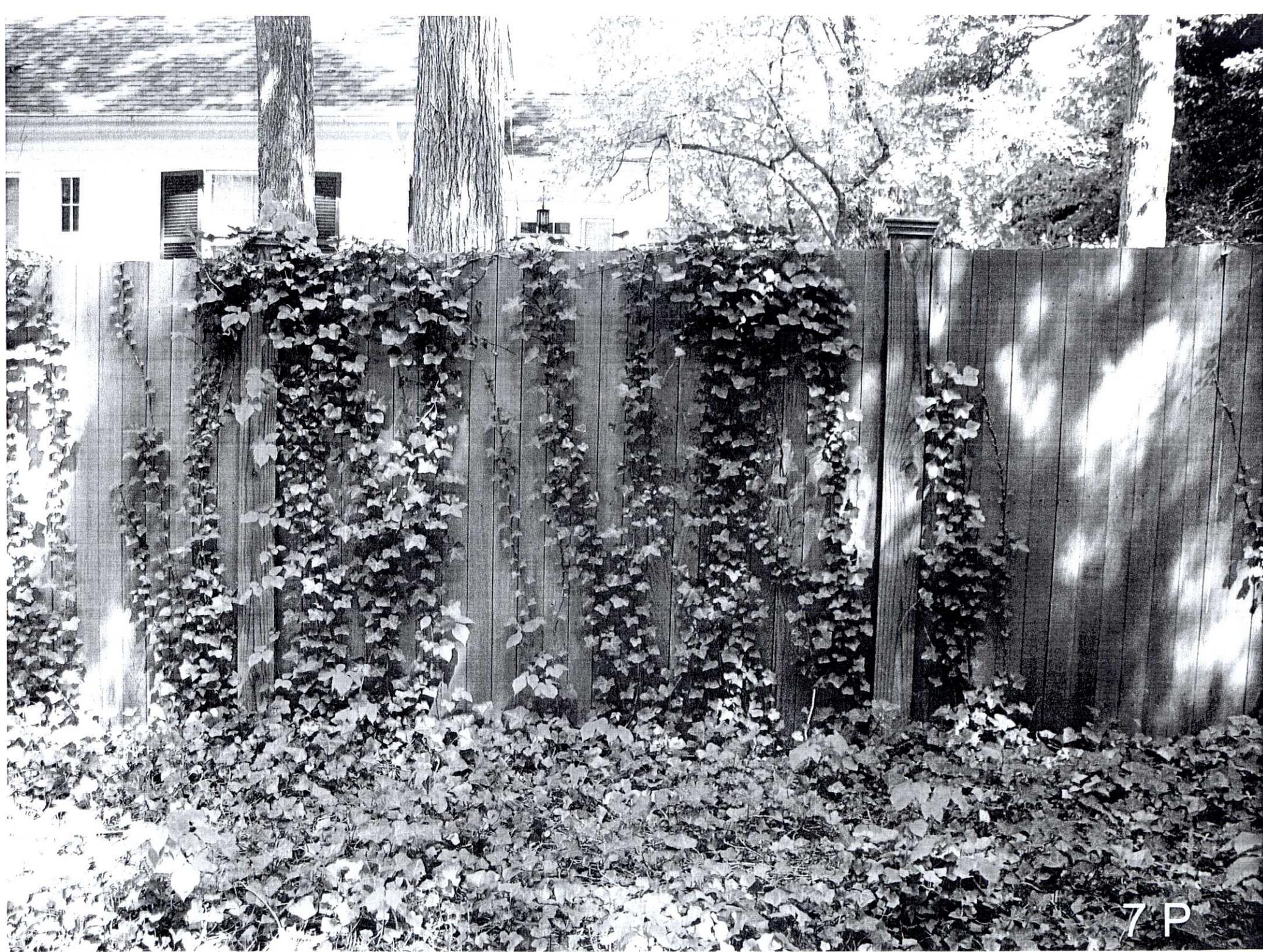


5 M



6 N





7 P

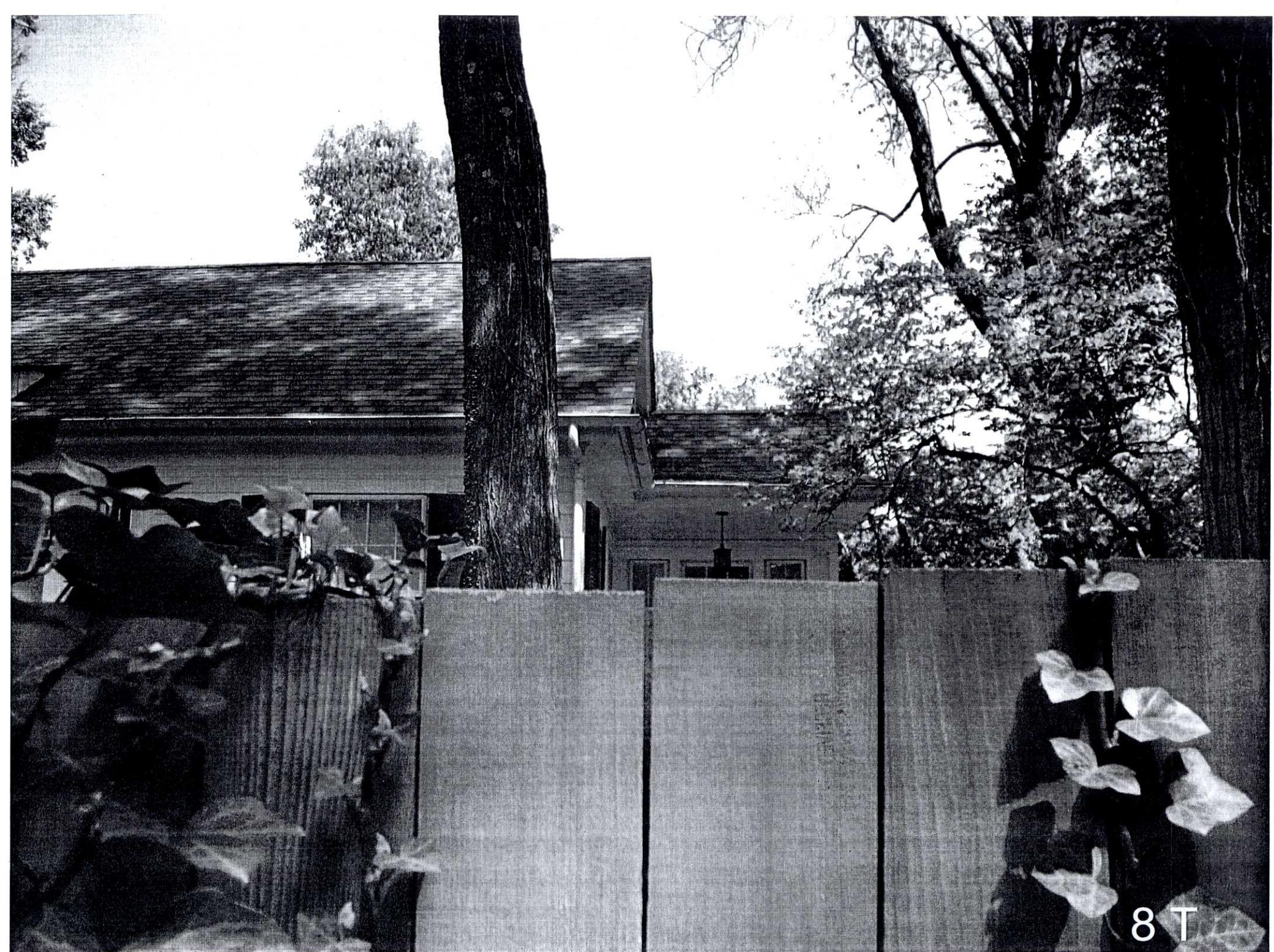


7Q





85



8 T



NO TRASH  
NO WASTE

Property of  
Fairfax County  
703-802-3322  
Recycling Only

R11654587

9 U





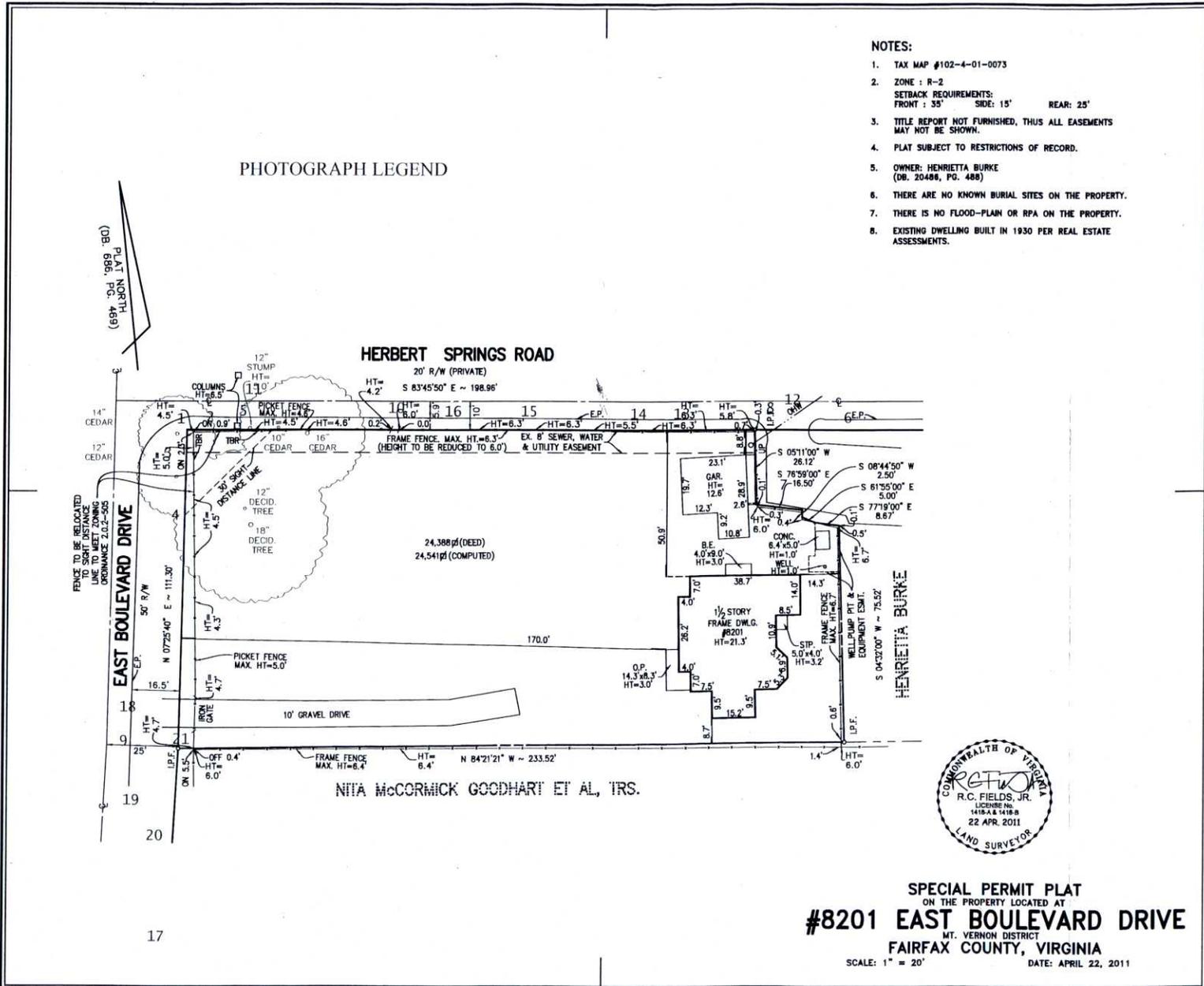
9 V



10 X



10 Z



PHOTOGRAPH LEGEND

- NOTES:
1. TAX MAP #102-4-01-0073
  2. ZONE : R-2  
SETBACK REQUIREMENTS:  
FRONT : 35'      SIDE : 15'      REAR : 25'
  3. TITLE REPORT NOT FURNISHED, THUS ALL EASEMENTS MAY NOT BE SHOWN.
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  8. EXISTING DWELLING BUILT IN 1930 PER REAL ESTATE ASSESSMENTS.

● LAND SURVEYING ● SITE PLANNING ● SUBDIVISION DESIGN  
730 S. Washington Street Alexandria, Virginia 22314 (703) 549-6422

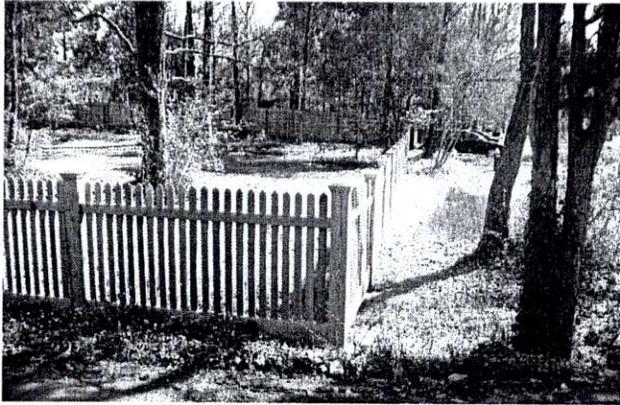
R.C. FIELDS, JR. & ASSOCIATES  
A PROFESSIONAL CORPORATION



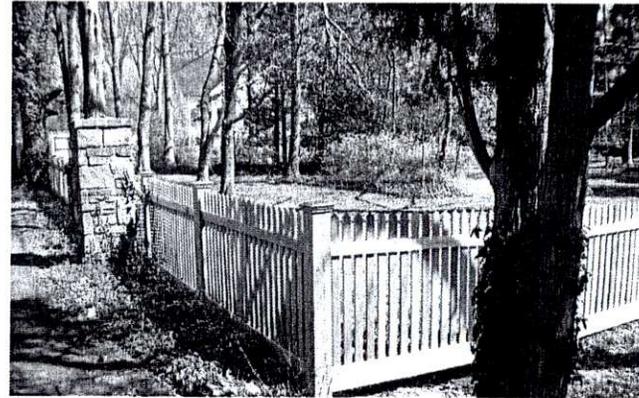
FILE NO. 11-33  
SHEET 1 OF 1

RECEIVED  
Department of Planning & Zoning  
MAY 02 2011  
Zoning Evaluation Division

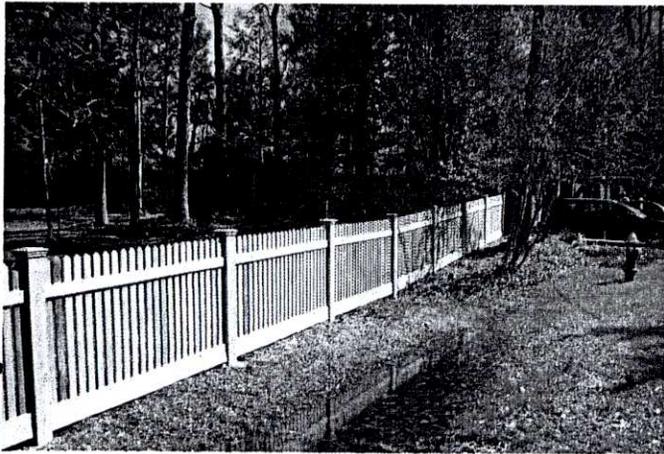
SPECIAL PERMIT PLAT  
ON THE PROPERTY LOCATED AT  
**#8201 EAST BOULEVARD DRIVE**  
MT. VERNON DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1" = 20'      DATE: APRIL 22, 2011



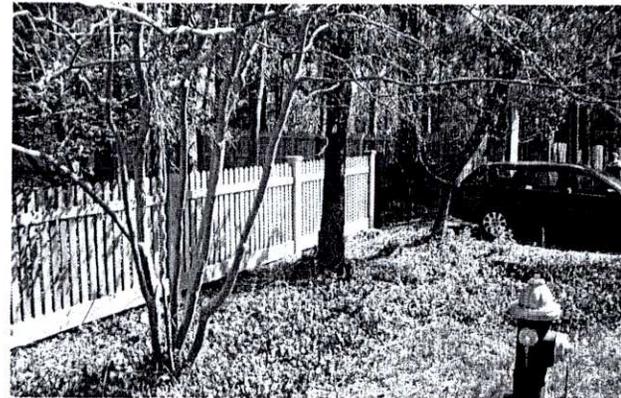
1. View of fence looking south along East Boulevard.



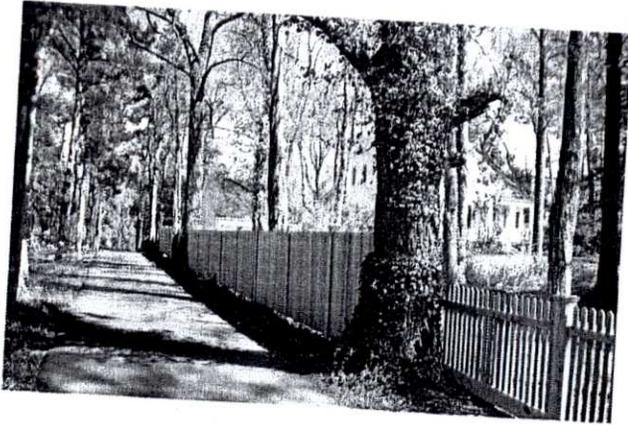
2. View looking east from East Boulevard along northwest corner of property.



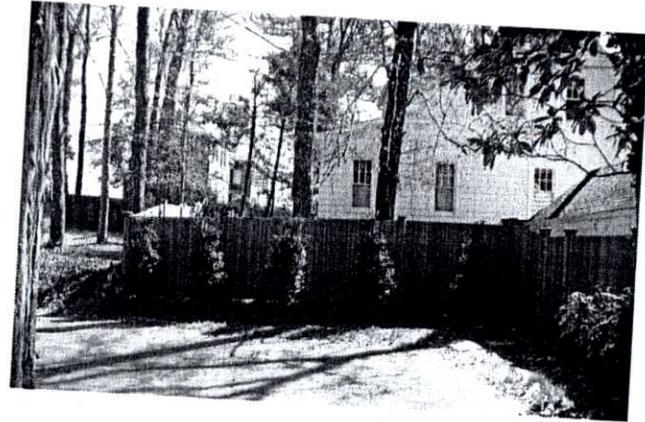
3. View of fence from East Boulevard.



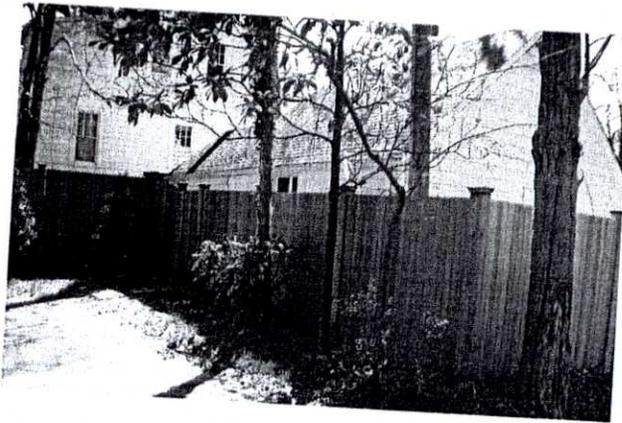
4. View from East Boulevard showing southwest corner of site.



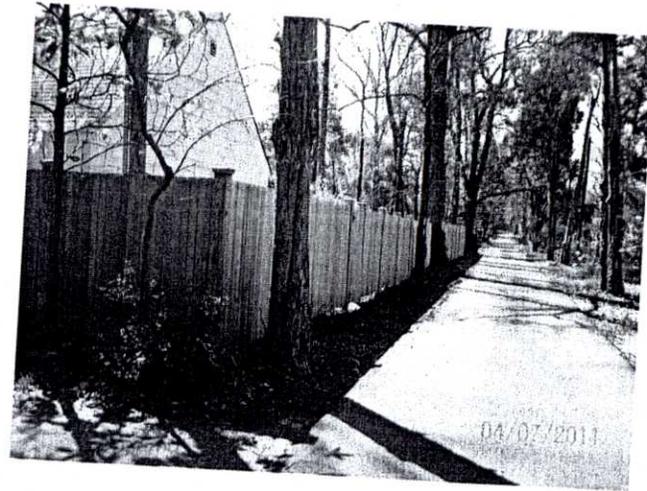
5. View looking east down Herbert Springs Road.



6. View looking south from northeast corner of property from Herbert Springs Road.



7. View looking south from northeast corner of property from Herbert Springs Road.

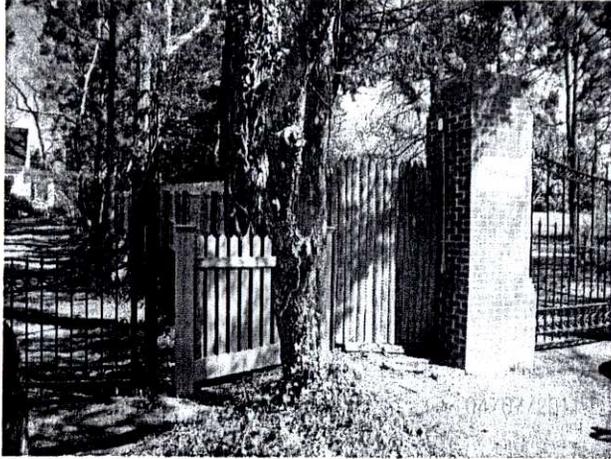


8. View looking west from northeast corner of property down Herbert Springs Road.

**RECEIVED**  
Department of Planning & Zoning

MAY 02 2011

Zoning Evaluation Division



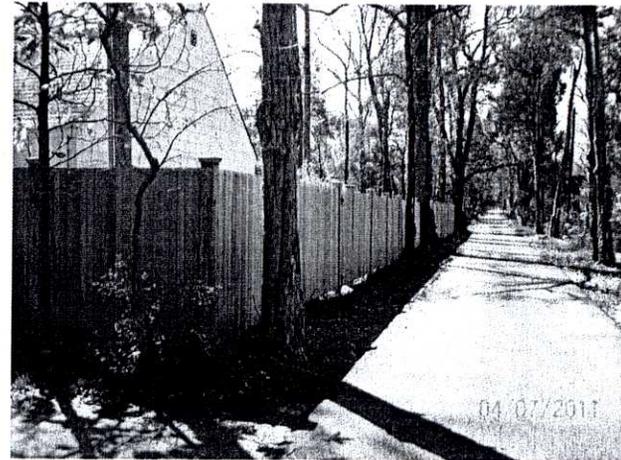
9. View from East Boulevard showing fence along southern property boundary.



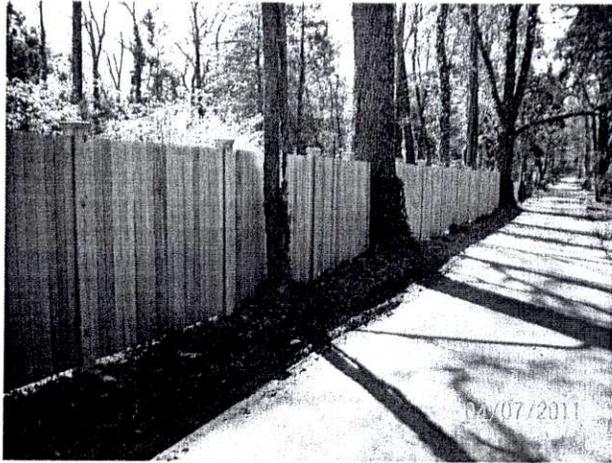
10. View looking east along Herbert Springs Road.



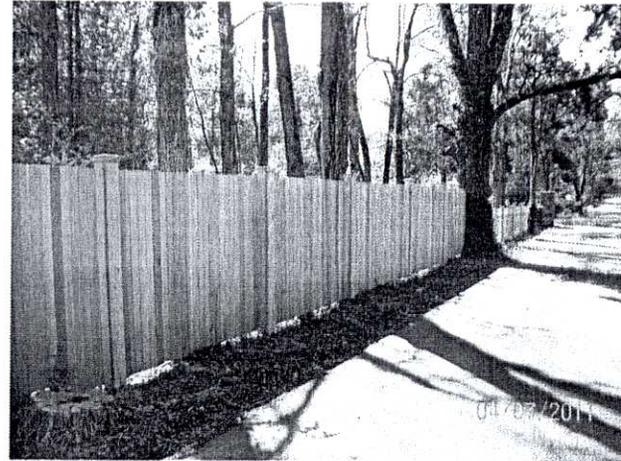
11. Corner looking west onto East Boulevard from Herbert Springs Road.



12. View looking west from northeast corner of property along Herbert Springs Road..



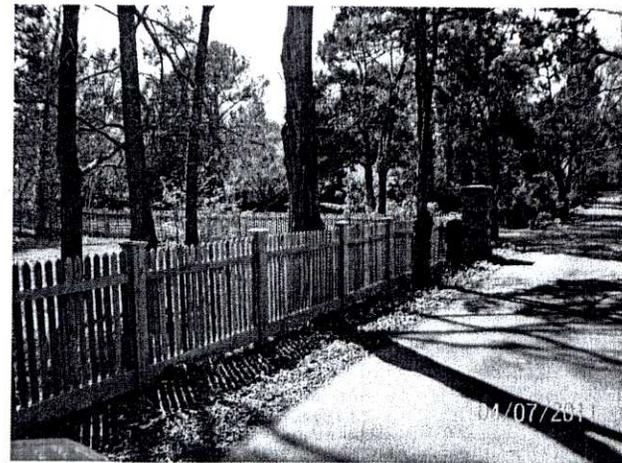
13. Fence visible along Herbert Springs Road.



14. Fence visible along Herbert Springs Road.



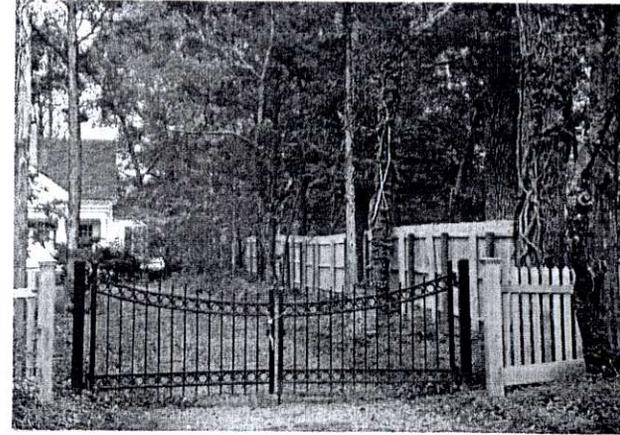
15. View of fence and the variable heights along Herbert Springs Road.



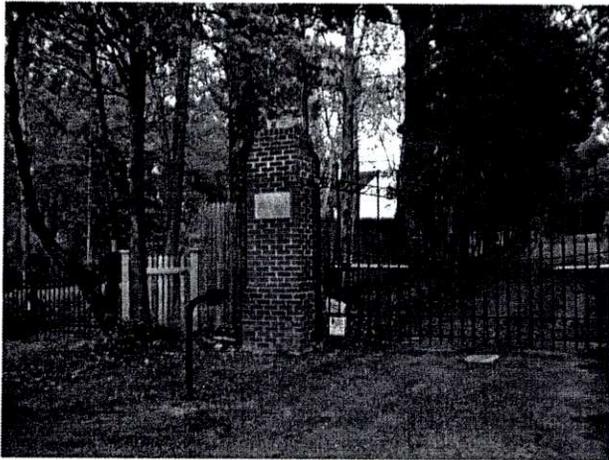
16. Shorter section of fence along Herbert Springs Road.



17. View of subject property and neighboring fence.



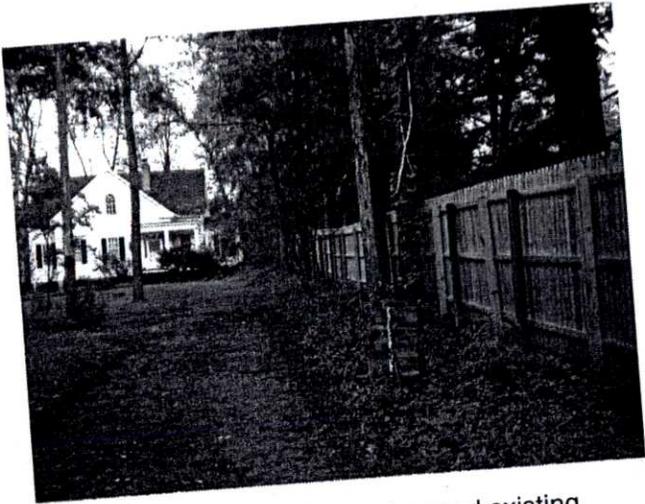
18. View looking along east property line.



19. View of east property line from adjacent property.



20. View looking north from East Boulevard.



21. View of East property boundary and existing dwelling unit.

**RECEIVED**

**Department of Planning & Zoning**

**MAY 02 2011**

**Zoning Evaluation Division**

**DESCRIPTION OF THE APPLICATION**

The applicant is requesting approval of a special permit to permit an existing fence greater than 4.0 feet in height to remain in the front yards of a corner lot. The wood, board on board, privacy fence subject to this application ranges in height from 4.2 feet to 6.7 feet and measures approximately 110 feet parallel to East Boulevard Drive, approximately 196 feet along Herbert Springs Road, and also follows the side and rear property lines on the east side of the property. 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 a front yard up to 6.0 feet in height.

	<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	6.0 feet	2.0 feet

**CHARACTER OF THE AREA**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R-2	Single Family Detached Dwellings
<b>South</b>	R-E	Single Family Detached Dwellings
<b>East</b>	R-2	Single Family Detached Dwellings
<b>West</b>	R-2	Single Family Detached Dwellings

**BACKGROUND**

Records indicate that the one and a half story single family detached dwelling was constructed in 1930. Also, there is a detached garage on the property that does not meet the minimum yard and location requirements in the Zoning Ordinance. However, as noted in Appendix 4, the Zoning Administration Division has determined the garage to be vested under Section 15.2-2307 of the Code of Virginia. In October of 2010, the applicant replaced a four foot tall fence on the property with the taller fence. On January 21, 2011, a Notice of Violation (NOV) was issued to the applicant, and is attached as Appendix 5. The lot is deemed to be a corner lot with two front yards, one

extending east from East Boulevard Drive and one extending south from Herbert Springs Road.

Presently, the fence does not meet the sight distance requirements set forth in the Zoning Ordinance. However, as shown on special permit plat, titled 8201 East Boulevard Drive, prepared by RC Fields, Jr. & Associates and dated April 22, 2011, the applicant is willing to move the fence to meet those requirements. The statement of justification reiterates this willingness to comply. Also, both the plat and the statement of justification reflect the applicant's intent to reduce the fence height to six feet in places where the fence presently exceeds that height. Lastly, although not reflected on the plat, the applicant is willing to bring the portion of the fence encroaching into the adjacent property to the east back into the application property at a height of no greater than six feet. Currently, that portion of the fence is not in compliance, as it is in the front yard of the adjacent lot. Development conditions have been included in Appendix 1 to address these issues.

The portion of the fence along Herbert Springs Road is located within an eight (8) foot wide sewer, water & utility easement. Staff has informed the applicant that the County is not responsible for any repair to, or the replacement of the fence if work must be performed within any of the easements. A development condition has also been included to address this issue.

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

- Variance Amendment VCA 88-V-048 was denied on April 2, 1998 for Tax Map 102-2 ((1)) 38, zoned R-2, at 816 Arcturus on the Potomac, to permit enlargement of accessory structure located 3.4 feet from side lot line and to permit 8.7 foot high fence in the front yard.
- Variance VC 94-V-042 was approved on June 28, 1994 for Tax Map 102-2 ((1)) 24A, zoned R-2, at 8146 Wellington Road, to permit fence 5.9 feet in height to remain in the front yard of a corner lot (4 foot maximum height allowed).
- Variance VC 98-V-086 was denied October 13, 1998, for Tax Map 102-2 ((12)) 180, zoned R-2, at 7976 Bolling Drive, to permit fences greater than 4.0 feet in height to remain in the front yards of a corner lot (4 foot maximum height allowed).
- Variance VC 99-V-017 was denied on April 27, 1999, for Tax Map 102-2 ((12)) 180, zoned R-2, at 7976 Bolling Drive, at permit fences greater than 4.0 feet in height to remain in the front yards of a corner lot (4 foot maximum height allowed).

- Variance VC 99-V-171 was approved in part on February 1, 2000, for Tax Map 102-2 ((12)) 164, zoned R-2, at 7943 Bolling Drive, to permit construction of addition 25.0 feet from front lot line and wall 7.0 feet in height in a front yard (7.0 foot high wall denied).

### **ZONING ORDINANCE REQUIREMENTS (See Appendix 6)**

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- 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.

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. Vested Rights Determination for Detached Garage
5. Notice of Violation dated January 21, 2011
6. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2011-MV-040****August 3, 2011**

1. This special permit is approved for the location of the fence as shown on the plat prepared by R.C. Fields, Jr. & Associates, dated and signed April 22, 2011, as submitted with this application and is not transferable to other land.
2. Within six months of approval of this special permit application, the applicant shall relocate the portion of fence in the front yard of 909 Herbert Springs Road onto the property subject to this application at a height of no greater than 6.0 feet.
3. Within six months of approval of this special permit application, the applicant shall reduce all portions of the fence in the front yards to a maximum of 6.0 feet in height and relocate the fence out of the sight distance triangle.
4. Within six months of approval of this special permit application, if determined necessary by the Department of Public Works & Environmental Services, the applicant shall obtain all necessary permits for the detached garage.
5. The applicant shall assume all responsibility for repair and/or replacement of any portions of the fence which must be removed to accommodate repairs and/or maintenance within any of the easements as shown on the special permit plat.

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-MV-040  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: APR 20 2011  
 (enter date affidavit is notarized)

I, Lisa M. Chiblow, 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

111671a

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)
Henrietta (nmi) Burke	837 Herbert Springs Road Alexandria, VA 22308	Applicant/Title Owner of Tax Map No. 102-4 ((1)) 73
R.C. Fields, Jr. & Associates, PC Agent: Timothy (nmi) Greenwood Robert Clay Fields, Jr.	730 S. Washington Street Alexandria, VA 22314-4219	Engineer/Surveyor/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 2011-MU-040  
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

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

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

**(NOTE):** All relationships to the application are to 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)
McGuireWoods LLP Agents: Scott E. Adams Carson Lee Fifer, Jr. David R. Gill Jonathan P. Rak Gregory A. Riegler Mark M. Viani Kenneth W. Wire Sheri L. Akin Lisa M. Chiblow Lori R. Greenlief	1750 Tysons Boulevard, Suite 1800 McLean, VA 22102	Attorney/Agent Attorney/Agent Attorney/Agent Attorney/Agent Attorney/Agent Attorney/Agent Planner/Agent Planner/Agent Planner/Agent

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

Application No.(s): SP 2011-MV-040  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: APR 20 2011  
(enter date affidavit is notarized)

11167/a

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)  
R.C. Fields, Jr. & Associates, PC  
730 S. Washington Street  
Alexandria, VA 22314-4219

**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)  
Robert Clay Fields, Jr.

(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-MV-040  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

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)

McGuireWoods LLP  
1750 Tysons Boulevard, Suite 1800  
McLean, VA 22102

(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**)

**Equity Partners of McGuireWoods LLP**

Adams, John D.	Becket, Thomas L.	Brown, Thomas C., Jr.
Alphonso, Gordon R.	Beil, Marshall H.	Buchan, Jonathan E.
Anderson, Arthur E., II	Belcher, Dennis I.	Busch, Stephen D.
Anderson, Mark E.	Bell, Craig D.	Cabaniss, Thomas E.
Andre-Dumont, Hubert	Beresford, Richard A.	Cacheris, Kimberly Q.
Bagley, Terrence M.	Bilik, R. E.	Cairns, Scott S.
Barger, Brian D.	Blank, Jonathan T.	Capwell, Jeffrey R.
Barnum, John W.	Boland, J. W.	Cason, Alan C.
Barr, John S.	Brenner, Irving M.	Chaffin, Rebecca S.
Becker, Scott L.	Brooks, Edwin E.	Cobb, John H.

(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-MV-040  
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 2

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

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

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

McGuireWoods LLP  
1750 Tysons Boulevard, Suite 1800  
McLean, VA 22102

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

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

- |                               |                           |                            |
|-------------------------------|---------------------------|----------------------------|
| Cogbill, John V., III         | Gibson, Donald J., Jr.    | King, Donald E.            |
| Covington, Peter J.           | Glassman, Margaret M.     | King, Sally D.             |
| Cramer, Robert W.             | Glickson, Scott L.        | Kittrell, Steven D.        |
| Cromwell, Richard J.          | Gold, Stephen (nmi)       | Kobayashi, Naho (nmi)      |
| Culbertson, Craig R.          | Goldstein, Philip (nmi)   | Kratz, Timothy H.          |
| Cullen, Richard (nmi)         | Grant, Richard S.         | Krueger, Kurt J.           |
| de Cannart d'Hamale, Emmanuel | Greenberg, Richard T.     | Kutrow, Bradley R.         |
| De Ridder, Patrick A.         | Grieb, John T.            | La Fratta, Mark J.         |
| Dickerman, Dorothea W.        | Harmon, Jonathan P.       | Lias-Booker, Ava E.        |
| DiMattia, Michael J.          | Harmon, T. C.             | Lieberman, Richard E.      |
| Dooley, Kathleen H.           | Hartsell, David L.        | Little, Nancy R.           |
| Dorman, Keith A.              | Hayden, Patrick L.        | Long, William M.           |
| Downing, Scott P.             | Hayes, Dion W.            | Manning, Amy B.            |
| Edwards, Elizabeth F.         | Heberton, George H.       | Marianes, William B.       |
| Ensing, Donald A.             | Horne, Patrick T.         | Marks, Robert G.           |
| Ey, Douglas W., Jr.           | Hosmer, Patricia F.       | Marshall, Gary S.          |
| Farrell, Thomas M.            | Hutson, Benne C.          | Marshall, Harrison L., Jr. |
| Feller, Howard (nmi)          | Isaf, Fred T.             | Marsico, Leonard J.        |
| Fennebresque, John C.         | Jackson, J. B.            | Martin, Cecil E., III      |
| Foley, Douglas M.             | Jarashow, Richard L.      | Martin, George K.          |
| Fox, Charles D., IV           | Jordan, Hilary P.         | Martinez, Peter W.         |
| France, Bonnie M.             | Kanazawa, Sidney K.       | Mason, Richard J.          |
| Franklin, Ronald G.           | Kannensohn, Kimberly J.   | Mathews, Eugene E., III    |
| Freedlander, Mark E.          | Katsantonis, Joanne (nmi) | Mayberry, William C.       |
| Freeman, Jeremy D.            | Keenan, Mark L.           | McCallum, Steven C.        |
| Fuhr, Joy C.                  | Kennedy, Wade M.          | McDonald, John G.          |
| Gambill, Michael A.           | Kilpatrick, Gregory R.    | McElligott, James P.       |

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

Application No.(s): SP 2011-MV-040  
(county-assigned application number(s), to be entered by County Staff)

Page 2 of 2

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

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

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

McGuireWoods LLP  
1750 Tysons Boulevard, Suite 1800  
McLean, VA 22102

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

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

- |                            |                         |                           |
|----------------------------|-------------------------|---------------------------|
| McFarland, Robert W.       | Reid, Joseph K., III    | Stein, Marta A.           |
| McIntyre, Charles W.       | Richardson, David L.    | Stone, Jacquelyn E.       |
| McLean, J. D.              | Riegle, Gregory A.      | Swan, David I.            |
| McRill, Emery B.           | Riley, James B., Jr.    | Tackley, Michael O.       |
| Muckenfuss, Robert A.      | Riopelle, Brian C.      | Tarry, Samuel L., Jr.     |
| Muir, Arthur B.            | Roberts, Manley W.      | Thornhill, James A.       |
| Murphy, Sean F.            | Robinson, Stephen W.    | Van der Mersch, Xavier G. |
| Natarajan, Rajsekhar (nmi) | Rogers, Marvin L.       | Vaughn, Scott P.          |
| Neale, James F.            | Rohman, Thomas P.       | Vick, Howard C., Jr.      |
| Nesbit, Christopher S.     | Rosen, Gregg M.         | Viola, Richard W.         |
| Nickens, Jacks C.          | Rust, Dana L.           | Wade, H. L., Jr.          |
| O'Grady, Clive R.          | Satterwhite, Rodney A.  | Walker, John T., IV       |
| O'Grady, John B.           | Scheurer, P. C.         | Walsh, James H.           |
| O'Hare, James P.           | Schewel, Michael J.     | Watts, Stephen H., II     |
| Oakey, David N.            | Schill, Gilbert E., Jr. | Werlin, Leslie M.         |
| Oostdyk, Scott C.          | Schmidt, Gordon W.      | Westwood, Scott E.        |
| Padgett, John D.           | Sellers, Jane W.        | Whelpley, David B., Jr.   |
| Pankey, David H.           | Shelley, Patrick M.     | White, H. R., III         |
| Parker, Brian K.           | Simmons, L. D., II      | White, Walter H., Jr.     |
| Phears, H. W.              | Simmons, Robert W.      | Wilburn, John D.          |
| Plotkin, Robert S.         | Skinner, Halcyon E.     | Williams, Steven R.       |
| Potts, William F., Jr.     | Slone, Daniel K.        | Wilson, James M.          |
| Pryor, Robert H.           | Spahn, Thomas E.        | Wren, Elizabeth G.        |
| Pusateri, David P.         | Spitz, Joel H.          | Young, Kevin J.           |
| Rak, Jonathan P.           | Stallings, Thomas J.    | Younger, W. C.            |
| Rakison, Robert B.         | Steen, Bruce M.         |                           |

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

Application No.(s): SP 2011-MV-040  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

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-MU-040  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: APR 20 2011  
(enter date affidavit is notarized)

111671a

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: [Signature]  
(check one) [ ] Applicant [x] Applicant's Authorized Agent

Lisa M. Chiblow, Land Use Planner  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 20th day of April 2011, in the State/Comm. of Virginia, County/City of Fairfax.

[Signature]  
Notary Public

My commission expires: 5/31/2012



**Mertz, Matthew D.**

---

**From:** Chiblow, Lisa M. <lchiblow@mcguirewoods.com>  
**Sent:** Wednesday, June 29, 2011 4:09 PM  
**To:** Mertz, Matthew D.  
**Subject:** FW: Revised Statement of Justification Narrative  
**Attachments:** 3662\_001.pdf

**RECEIVED**  
Department of Planning & Zoning

**JUN 29 2011**

Zoning Evaluation Division

Lisa M. Chiblow  
Land Use Planner

**McGUIREWOODS**  
McGuireWoods LLP  
1750 Tysons Blvd  
McLean, VA 22102  
703.712.5364 (Direct Line)  
571.213.1604 (cell)  
703.712.5050 (Direct FAX)  
[lchiblow@mcguirewoods.com](mailto:lchiblow@mcguirewoods.com)

---

*This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.*

---

**From:** Chiblow, Lisa M.  
**Sent:** Tuesday, June 28, 2011 3:07 PM  
**To:** matthew.mert@fairfaxcounty.gov  
**Subject:** Revised Statement of Justification Narrative

Matt,

Attached is the revised Statement of Justification Narrative with the reference to the section of the fence along East Boulevard being trimmed to four feet removed. Please let me know if you have any questions.

Also, could you please confirm receipt of this email?

Thanks,  
Lisa

Lisa M. Chiblow  
Land Use Planner

**McGUIREWOODS**  
McGuireWoods LLP  
1750 Tysons Blvd  
McLean, VA 22102  
703.712.5364 (Direct Line)  
571.213.1604 (cell)

703.712.5050 (Direct FAX)  
[lchiblow@mcquirewoods.com](mailto:lchiblow@mcquirewoods.com)

---

*This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.*

Statement of Justification Narrative  
Special Permit Application - Fence Height Increase

June 28, 2011

Special Permit Application

The subject Special Permit application is to permit an increase in fence height in a front yard pursuant to Zoning Ordinance Section 8-923. The fence currently exceeds the maximum allowable fence height of four feet in a front yard pursuant to Zoning Ordinance Section 10-104 (3B). The application is being filed on behalf of the property owner, Henrietta Burke ("the Applicant"). The primary purpose of the fence is to provide privacy and security for the dwelling unit.

Description of the Property

The property subject to this application is located along the east side of East Boulevard directly south of Herbert Springs Road in the Mount Vernon Magisterial District and is more specifically identified as 8201 East Boulevard (the "Property") (refer to Exhibit 1). The single family dwelling located on the Property was built in 1930. There is a detached garage located along the northeast property boundary. Access to the site is via a gravel drive off of East Boulevard. A rail fence with brick piers approximately four feet in height was constructed around the perimeter of the property in the early 1940's. This fence was replaced by the property owner in October 2010. The replacement wood board on board fence is the subject of this application.

The house has been unoccupied for a number of years. It is soon to be occupied once again and the fence was constructed to provide privacy and safety for the resident who is to occupy the dwelling. Please refer to the Special Permit Plat, Exhibit 2, for details on the fence location and height.

The fence was constructed in good faith by the property owner as replacement fence, not realizing that under the current zoning, the configuration of the lot actually falls under the Zoning Ordinance definition of a "corner lot." When the fence was constructed the owner thought it was being constructed in accordance with the regulations of the Zoning Ordinance. The fence is the only means to provide privacy and security for this property.

The fence is a wood board on board fence which is in character with the area. Photographs of the fence have been attached as Exhibit 3. The fence is in character with the existing community. There is an existing wood board on board fence on the adjacent property to the south of the subject property. The retention of the fence also has the support of multiple neighbors. Letters of support for retaining the fence and in support of this Special Permit application are attached as Exhibit 4.

The following is a description of the how this application meets the specific criteria under Zoning Ordinance Section 8-923:

- 1. The maximum fence ad/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.**

Due to topography in some instances the fence exceeds the maximum height of six feet. The Applicant understands that the fence cannot exceed six feet in height and proposes to trim the fence down to six feet subject to the BZA's approval.

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

In order to address the site distance requirements, modifications to relocate the fence outside the line of site is proposed by the Applicant as a solution, subject to the BZA's approval. The fence shall be relocated to follow the "30' site distance line" as labeled on the Special Permit Plat (refer to Exhibit 2).

- 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 nearby off-site structures, topography, of the lot, presence of multiple front yards, and concerns related to safety and/or noise.**

Herbert Springs Road provides access to eight homes some of which were built after the subject dwelling unit was established. The lot does have multiple yards as it is a corner lot. The fence provides safety and privacy for the residents of the dwelling.

- 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 locations, height, bulk, scale and any historic designations.**

The fence is in character with the existing community. Five letters of support from nearby neighbors demonstrating this support are attached as Exhibit 4.

- 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 fence does not adversely impact the use and/or enjoyment of other properties in the immediate vicinity. It is a continuation of the fence that already exists along East Boulevard on the lot located directly to the south of the subject property (Please refer to photographs). It blends into the existing community.

- 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.**

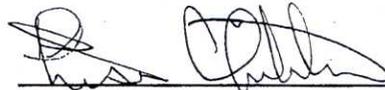
The Applicant shall trim the fence to below six feet subject to a favorable recommendation by the BZA.

**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, etc.**

See attached plat.

Conclusion

The fence is consistent with the character of the area, provides safety and privacy for the dwelling unit and shall comply with all ordinances, regulations and adopted standards of Fairfax County. For all of the aforementioned reasons, the Applicant respectfully requests the Staff and Board of Zoning Appeals to approve this rezoning request.



---

Lisa M. Chiblow  
McGuireWoods LLP

**AFFIDAVIT OF HENRIETTA BURKE**

1. A fence was located along East Boulevard in front of the property identified as Tax Map #102-4-((1))-73. It was a split rail fence with posts spaced approximately every eight feet, with three wood rails between the posts. It was 4 ft in height, and constructed approximately a decade ago.
2. A fence was located along Herbert Springs Road since the early 1940's on the property identified as Tax Map 102-4-((1))-73. This fence had brick pillars and wood rails. It was approximately 4 ft. in height.
3. Both the fence along East Boulevard and Herbert Springs Road were replaced with the fence that exists on the property today in October 2010.

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true and correct to the best of my personal knowledge.

*Henrietta Burke*

\_\_\_\_\_  
Henrietta Burke

COMMONWEALTH OF VIRGINIA     )

COUNTY OF FAIRFAX             )

Sworn to and subscribed before me, this 19<sup>th</sup> day of April, 2010

*[Signature]*  
\_\_\_\_\_  
Notary Public



Commission expires: \_\_\_\_\_



James F. Coakley  
President & CEO

March 29, 2011

Board of Zoning Appeals  
Chairman John F. Ribble and Members  
12055 Government Center Parkway  
Suite 800  
Fairfax, VA 22035

Re: Letter of Support for the Fence Located at 8201 E. Boulevard Drive  
Tax Map 102-4-((1))-73  
Case #: 201007211

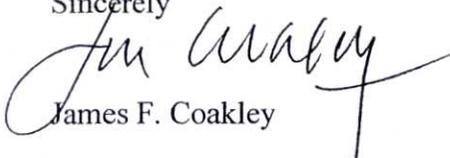
Dear Chairman Ribble and BZA Members:

I am writing this letter because of an objection someone in our neighborhood has lodged against the fence that was installed around 8201 E. Boulevard Drive, Alexandria, Virginia. My wife and I have resided at 8020 East Boulevard Drive since 1984, and we even recently owned a house on Herbert Springs Road. So I am very familiar with the neighborhood, that particular house, as well as the fence in question. In fact, I pass it almost daily when walking our dogs.

That said, I can assure you that neither my wife nor I find anything objectionable about any part of the fence bordering the yard, and in fact, I rather like the style because it is in keeping with the overall rustic nature of that quiet residential niche. It was well built, tastefully designed and in character with the period architecture of the associated house. Considering the alternatives, the fence is entirely appropriate.

Please accept this letter as support for the Special Exception to permit the retention of the existing fence at 8201 E. Boulevard Drive.

Sincerely

  
James F. Coakley

RECEIVED  
Department of Planning & Zoning  
MAY 02 2011  
Zoning Evaluation Division

CC: Henrietta McCormick Goodhart Burke  
837 Herbert Springs Road, Alexandria, VA 22308

Elisa M. Chiblow  
McGuire Woods LLP, 1750 Tysons Blvd., Suite 1800, McLean VA, 22102

**Frank J. Donatelli**

831 Herbert Springs Road  
Alexandria, VA 22308

March 18, 2011

Board of Zoning Appeals  
Chairman John F. Ribble and Members  
12055 Government Center Parkway  
Suite 800  
Fairfax, VA 22035

RECEIVED  
Department of Planning & Zoning  
MAY 02 2011  
Zoning Evaluation Division

Re: Letter of Support for the Fence Located at 8201 E. Boulevard Drive  
Tax Map 102-4-((1))-73  
Case #: 201007211

Dear Chairman Ribble and BZA Members:

We are writing this letter in support of the fence located at 8201 East Boulevard Drive being retained.

We live at 831 Herbert Springs Road and our access is solely through Hebert Springs Road. We believe the fence is consistent with the character of the neighborhood, tastefully done and not so high as to obscure the beautiful trees that line Herbert Springs on the south side of the road. The fact that the fence also provides privacy for the lot is positive as our relatively isolated road can be vulnerable from outsiders.

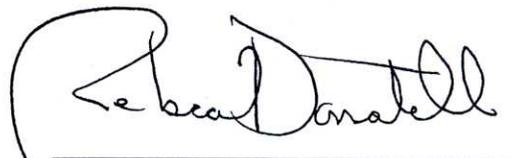
Please accept this letter as support for the Special Exception to permit the retention of the existing fence at 8201 East Boulevard Drive.

Sincerely,



---

Frank J. Donatelli



---

Rebecca Donatelli

cc: Henrietta McCormick Goodhart Burke (837 Herbert Springs Road, Alexandria, VA 22308)  
Lisa M. Chiblow (McGuireWoods LLP, 1750 Tysons Blvd., Suite 1800, McLean VA, 22102)

830 Herbert Springs Road  
Alexandria, VA  
March 18, 2011

Board of Zoning Appeals  
Chairman John F. Ribble and Members  
12055 Government Center Parkway  
Suite 800  
Fairfax, VA 22035

Re: Letter of Support for the Fence Located at 8201 E. Boulevard Drive  
Tax Map 102-4-((1))-73  
Case #: 2010072211

RECEIVED  
Department of Planning & Zoning  
MAY 02 2011  
Zoning Evaluation Division

Dear Chairman Ribble and BZA Members:

We write in support of retaining the current design, dimensions and installation of the fence located at 8201 E. Boulevard Drive.

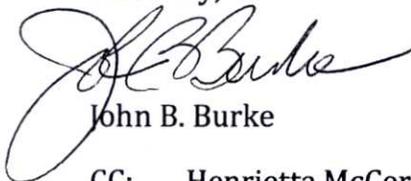
We are owners of 830 Herbert Springs Road and have been residents of the Wellington Community since 2005. We were attracted to this location by the character of the residences and privacy afforded residents in our neighborhood and we are committed to retaining the strong positive elements of our neighborhood.

Access to our property is via East Boulevard Drive; we drive the lane adjacent to the fence at 8201 E Boulevard multiple times each day. We were pleased when the fencing was installed. It is attractive and in keeping with the aesthetics of the properties around us. It also provides a buffer from the road to the dwelling on 8201 enhancing the safety of the single lane, unlighted private road.

We understand that an issue has been raised concerning the height of the new fence. Please accept this letter as neighborly support for the current fence dimensions and in support of a Special Exception to permit retaining the existing fence at 8201 E. Boulevard Drive.

We appreciate the Board's consideration of this situation and your efforts on behalf of all the citizens of Fairfax County. Please contact us directly at 703 329 1126 if you have questions or need for additional information.

Sincerely,



John B. Burke



Bryn M. Burke

CC: Henrietta McCormick Goodhart Burke  
Lisa M. Chiblow, McGuireWoodsLLP

Board of Zoning Appeals,  
Chairman John F. Ribble and Members,  
12055 Government Center Parkway,  
Suite 800,  
Fairfax, Va. 22035

RECEIVED  
Department of Planning & Zoning

MAY 02 2011

Zoning Evaluation Division

Dear Mr. Ribble and Members,

This letter is to show support for a fence that my neighbor, Henrietta Burke, had built last year at 8201 East Boulevard Drive. She has told me that she is trying to provide privacy and safety for a home that was built in the 1930's. At that time, the house was built on the very rear of the lot, and subsequently has no real area that is not visible from the roads on either side. The height of the fence along the North side protects the house from the sight of cars and construction vehicles that use Herbert Springs Road. (Currently there are four houses down this road that are either under construction or awaiting permits.)

The fence is attractive and well constructed, and I believe adds a look of quality to the neighborhood. Mrs. Burke has lived in the neighborhood her entire life, her family bought the house in the 1950's, and has always been a considerate and courteous neighbor.

Yours sincerely,

Ingrid de Thores 03/11/11  
Samuel Thomas 3/4/11

8303 East Boulevard Drive,  
Alexandria, Va. 22308,  
March 16th 2011

Board of Zoning Appeals,  
Chairman John F. Ribble and Members,  
12055 Government Center parkway,  
Suite 800,  
Fairfax, Va. 22035

Re: Letter of Support for the Fence Located at 8201 East Boulevard Drive  
Tax Map 102-4-((1))-73  
Case # 201007211

Dear Chairman Ribble and BZA Members,

I am writing this letter in support of the fence located at 8201 East Boulevard Drive being retained. I own the adjacent property on the South side of the fence, and believe that such a well made and attractive fence is an asset to the neighborhood. I was pleased when Mrs. Burke had it installed, and am hopeful that it can be retained.

Mrs. Burke has told me that her daughter is planning to come and live in the house, and that privacy and safety is a concern. Herbert Springs is a private road, but is becoming quite busy due to a great deal of new construction. All the building materials and trucks pass very close by the house, and as the house is set back on the lot, it has no other privacy at all except for this new fence.

I am fully in support of the application for a Special Exception to permit the existing fence at 8201 East Boulevard Drive to remain.

Thank you for your consideration,



Stephen O'Keefe

RECEIVED  
Department of Planning  
MAY 02 2011  
Zoning Evaluation Division

# EXPERT FENCE, INC.

6027 FARRINGTON AVENUE  
ALEXANDRIA, VA 22304  
PHONE (703) 751-3008  
FAX (703) 751-8803

Board of Zoning Appeals  
Chairman John F. Ribble and Members  
12055 Government Center Parkway  
Suite 800  
Fairfax, Va. 22035

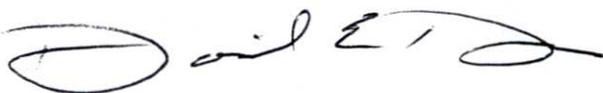
April, 19th, 2011

Re: Fence Replacement - 8201 East Boulevard Drive  
Tax Map 102-4-((1))-73

Dear Chairman Ribble,

This letter is to confirm that Expert Fence, a fencing company located and licensed in Alexandria, Virginia, removed a fence from around the North and West perimeter of the property at 8201 East Boulevard Drive in Fairfax County, Virginia, before installing a replacement fence. The removed fence along Herbert Springs Road consisted of brick pillars approximately 4' high, with wood plank railings between. Opposite the garage, there was a gate with brick pillars approximately 5' high, with a slat gate. The brick pillar and railing fence was extremely old, dating prior to the 1950's. Two of the pillars were leaning or had actually fallen over when we removed them.

Sincerely,



David E. Doss  
President, Expert Fence  
703-751-3008





# County of Fairfax, Virginia

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

## Vested Rights Determination under §15.2-2307 of the Code of Virginia

Property Tax Map Number:	102-4 ((1)) 73
Property Address:	8201 East Blvd. Dr.
Requestor's Name:	Lisa Philbin
Requestors Address: (if different than above)	McGuire Woods 1750 Tysons Blvd. Suite 1800, McLean, VA. 22102
Requestor's Phone Number:	703-712-5000
Current Zoning:	R-2
Magisterial District:	Mt. Vernon
Subdivision Name/Section/Block/Lot No.:	Acrage

### Written Description of Structure that may be vested under §15.2-2307 of the Code of Virginia

- the structure is being used as a detached garage for vehicle storage
- " is ~~70' x 22' (440 sq ft)~~ 23.1' x 19.7'
- " is located north of the lot's single family detached dwelling & in the NE corner of the lot.
- it is located 8.8' from a front lot line bordering "Herbert Springs Rd." & 2.6' from a side lot line on the property's East side.
- the above information was obtained from a house location plat dated 3/28/11.
- A review of zoning map records <sup>and aerial photos</sup> indicated that the subject parcel was part of a larger parcel that was subdivided greater than 15 yrs ago - the detached garage in question was found to exist in its present location for more than 15 yrs.

### Background Summary (check all that are applicable):

- A Building Permit has been issued.
- No evidence of a Building Permit having been issued.
- A Non-Residential Use Permit/Residential Use Permit has been issued or, when a Non-RUP/RUP is not required, evidence that the structure(s) has passed final inspection.
- Department of Tax Administration records indicate that the structure(s) has been taxed for at least 15 years.
- Department of Tax Administration records do not indicate that the structure(s) has been taxed for at least 15 years.

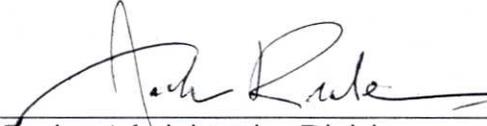
Department of Planning and Zoning  
Zoning Administration Division  
Ordinance Administration Branch  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035-5505  
Phone 703-324-1314 FAX 703-803-6372  
www.fairfaxcounty.gov/dpz/



**Staff Determination:**

- §15.2-2307 of the Code of Virginia is applicable and the structure(s) may remain; however, the structure(s) must be brought into compliance with the Virginia Uniform Statewide Building Code. The structure may not be replaced or enlarged unless the replacement or expansion complies with all regulations of the district in which located.
  
- §15.2-2307 of the Code of Virginia is applicable for the structure and the structure(s) may remain; however, §15.2-2307 is not applicable for the use of the structure. A separate letter explaining the status and use of the structure(s) will be issued.
  
- §15.2-2307 of the Code of Virginia is not applicable. A separate letter explaining the status of the structure(s) will be issued.

**Reviewer's Signature:**

  
\_\_\_\_\_  
Zoning Administration Division  
Department of Planning and Zoning

**Date:** 4/29/11

cc: Janet E. Coldsmith, Director, Real Estate Division, DTA  
Eileen M. McLane, Zoning Administrator  
Diane Johnson-Quinn, Deputy Zoning Administrator for Zoning Permit Review Branch



# 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:** January 21, 2011

### SHERIFF'S LETTER

**CASE #:** 201007211 **SR#:** 66589

**SERVE:** Henrietta Burke III  
837 Herbert Springs Road  
Alexandria, VA 22308

**LOCATION OF VIOLATION** 8201 E. Boulevard Drive  
Alexandria, VA 22308-1314  
Tax Map #: 102-4 ((1)) 73  
Zoning District: R-2

Dear Property Owner:

The purpose of this letter is to rescind the Notice of Violation issued to Henrietta Burke III, dated January 19, 2011.

An inspection of the above referenced property on January 6, 2011, 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 six foot (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.
- 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 923 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 yard.

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 to allow for the increase in fence and /or wall height in any front yard. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

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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 \$600.00 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.

**8-923      *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. 3l 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.