



**APPLICATION ACCEPTED:** July 24, 2015  
**BOARD OF ZONING APPEALS:** October 21, 2015  
@ 9:00 A.M.

# County of Fairfax, Virginia

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**October 14, 2015**

## **STAFF REPORT**

### **SPECIAL PERMIT APPLICATION SP 2015-PR-113**

#### **PROVIDENCE DISTRICT**

**APPLICANTS/OWNERS:** Bao Nguyen and Mai Nguyen

**STREET ADDRESS:** 8100 Bright Meadows Lane, Dunn Loring, 22027

**SUBDIVISION:** Bright Meadows, Section 1

**TAX MAP REFERENCE:** 39-4 ((18)) 38

**LOT SIZE:** 10,901 square feet

**ZONING DISTRICT:** R-3

**ZONING ORDINANCE PROVISIONS:** 8-914 and 8-923

**SPECIAL PERMIT PROPOSAL:** To permit a reduction in the minimum yard requirements based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line and to permit a fence greater than 4.0 feet in height to remain in the front yard of a corner lot.

#### **STAFF RECOMMENDATION:**

Staff recommends approval of SP 2015-PR-113, subject to the approval of the proposed development conditions contained in Appendix 1.

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

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Mary Ann Tsai, AICP

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. A copy of the Board of Zoning Appeals' Resolution setting forth this decision will be mailed within five days after the decision becomes final.

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

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



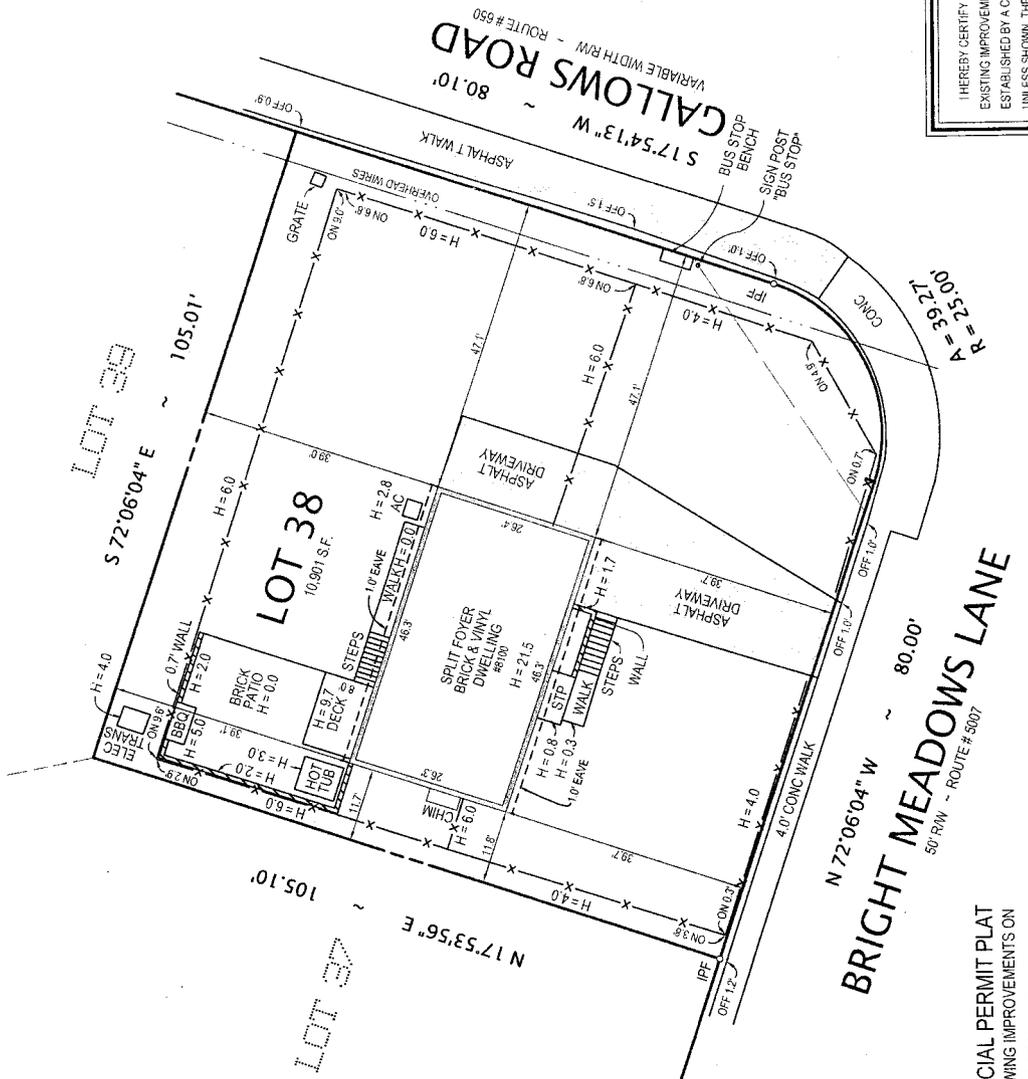
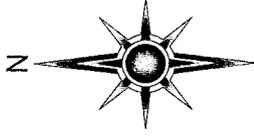
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



JUL 07 2015  
Zoning Evaluation Division

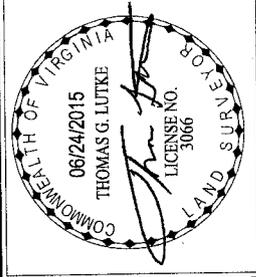
NOTES:

- TAX MAP: 0394 18 0038
- R-3 (RESIDENTIAL 3 DU/AC)
- LOT AREA: 10,901 SF
- REQUIRED YARDS:  
FRONT: = 35.0 FEET  
SIDE: = 12.0 FEET  
REAR: = 25.0 FEET
- THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
- THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
- ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING.
- THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
- THERE ARE NO FLOOD PLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
- AREAS:  
EX. FIRST FLOOR = 1,222 SF  
EX. 2ND FLOOR = 1,222 SF  
GROSS FLOOR AREA = 2,444 SF
- FLOOR AREA RATIO: EX. GFA (2,444)/LOT AREA (10,901) = 0.22
- ALL EAVES ARE HIGHER THEN 10 FEET TO EXISTING GRADE.
- UTILITIES ARE UNDERGROUND.
- NO TRAILS ARE REQUIRED FOR THIS SITE PER THE ADOPTED COMPREHENSIVE PLAN.
- FENCES ARE FRAME.



I HEREBY CERTIFY THAT THE LOCATIONS OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD. NORTH IS RECORD NORTH. A TITLE REPORT WAS NOT FURNISHED. NO CORNER MARKERS SET.



ORDERED BY:  
BAO NGUYEN

NOVA SURVEYS  
6655 ROCKLEIGH WAY  
ALEXANDRIA, VA 22315  
703-688-4038  
FAX: 703-649-6038

SPECIAL PERMIT PLAT  
SHOWING IMPROVEMENTS ON  
LOT 38, SECTION 1  
**BRIGHT MEADOWS**  
(DEED BOOK 3864, PAGE 707)  
FAIRFAX COUNTY, VIRGINIA  
PROVIDENCE DISTRICT  
SCALE: 1" = 20'  
JUNE 24, 2015



## SPECIAL PERMIT REQUEST

The applicants request special permit approval to permit a reduction in the minimum yard requirements based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line and to permit a fence greater than 4.0 feet in height to remain in the front yard of a corner lot. Figure 1 depicts the subject property.



**Figure 1: Subject property**, Source: Fairfax County Pictometry, 2015

A copy of the special permit plat entitled “Lot 38, Section 1, Bright Meadows,” was prepared by Thomas G. Lutke of NoVA Surveys, dated June 24, 2015, consisting of one sheet and is provided at the front of this staff report. A copy of the applicants’ statement of justification and relevant photographs and affidavit are provided as Appendices 2 and 3, respectively.

## CHARACTER OF THE SITE AND SURROUNDING AREA

The 10,901-square foot subject property is located at the northwest corner of the intersection of Gallows Road and Bright Meadows Lane in Dunn Loring in the Bright Meadows subdivision. The site is developed with a 1,196-square foot single family detached dwelling with an asphalt driveway. Access to the dwelling is off Bright Meadows Lane. A brick patio, deck, hot tub, and barbeque are located in the rear of the dwelling. A six-foot high fence is located along the side, rear, and a portion of the front yards adjacent and perpendicular to Gallows Road. A four-foot high fence also is located along portions

of the front yards adjacent to Gallows Road and Bright Meadows Lane. The surrounding area is developed with single family homes zoned R-3 to the north, east, south, and west.

## **BACKGROUND**

According to Fairfax County tax records, the dwelling was constructed in 1973 and purchased by the applicants in 2012.

On November 27, 1973, a Residential Use Permit (RUP) was approved for a single family detached dwelling on the subject property. A copy of the RUP is provided as part of Appendix 4.

On February 26, 1975, final zoning approval was granted for a House Location Survey showing the single family dwelling and deck. A copy of the house location survey is provided as part of Appendix 4.

On February 19, 2015, in response to a complaint received, an investigator from the Department of Code Compliance inspected the subject property and found a fence greater than four feet in height located in the front yard and a portion of the fence is within the sight distance triangle. On February 23, 2015, a Notice of Violation (NOV) was issued to the applicants for a six-foot high wood fence in the front yard of the subject property containing less than two acres in area and for obstructing sight distance. The applicants have lowered the portion of the existing four-foot high fence that obstructed the sight distance at the intersection of Bright Meadows Lane and Gallows Road so that it is no taller than three and half feet in height. A copy of the NOV is provided as Appendix 5.

## **DESCRIPTION OF THE APPLICATION**

The applicants request special permit approval for a reduction of the minimum required yards based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line and to permit a fence greater than 4 feet in height to remain in the front yard of a corner lot.

A brick patio is located in the northwest area of the property and existed at the time the applicants purchased the property. The patio extends from the dwelling with no separation between it and the dwelling into the side and rear yards. Accordingly, the patio is deemed to be an open deck in accordance with Par. 2A(2) of Sect. 2-412 of the Zoning Ordinance, which states that any deck attached to a single family detached dwelling with no part of its floor higher than four feet above finished ground level may extend into the side and rear yards five feet and 20 feet, respectively, but no closer than five feet to any side or rear lot line. A deck is defined in Article 20 of the Zoning Ordinance as “[a]ny patio, balcony, terrace...[a] deck shall have no enclosure, other than the side(s) of the principal building to which it is attached...” Therefore, the applicants’ patio is deemed to be an open deck and Par. 2A(2) of Sect. 2-412 is applicable.

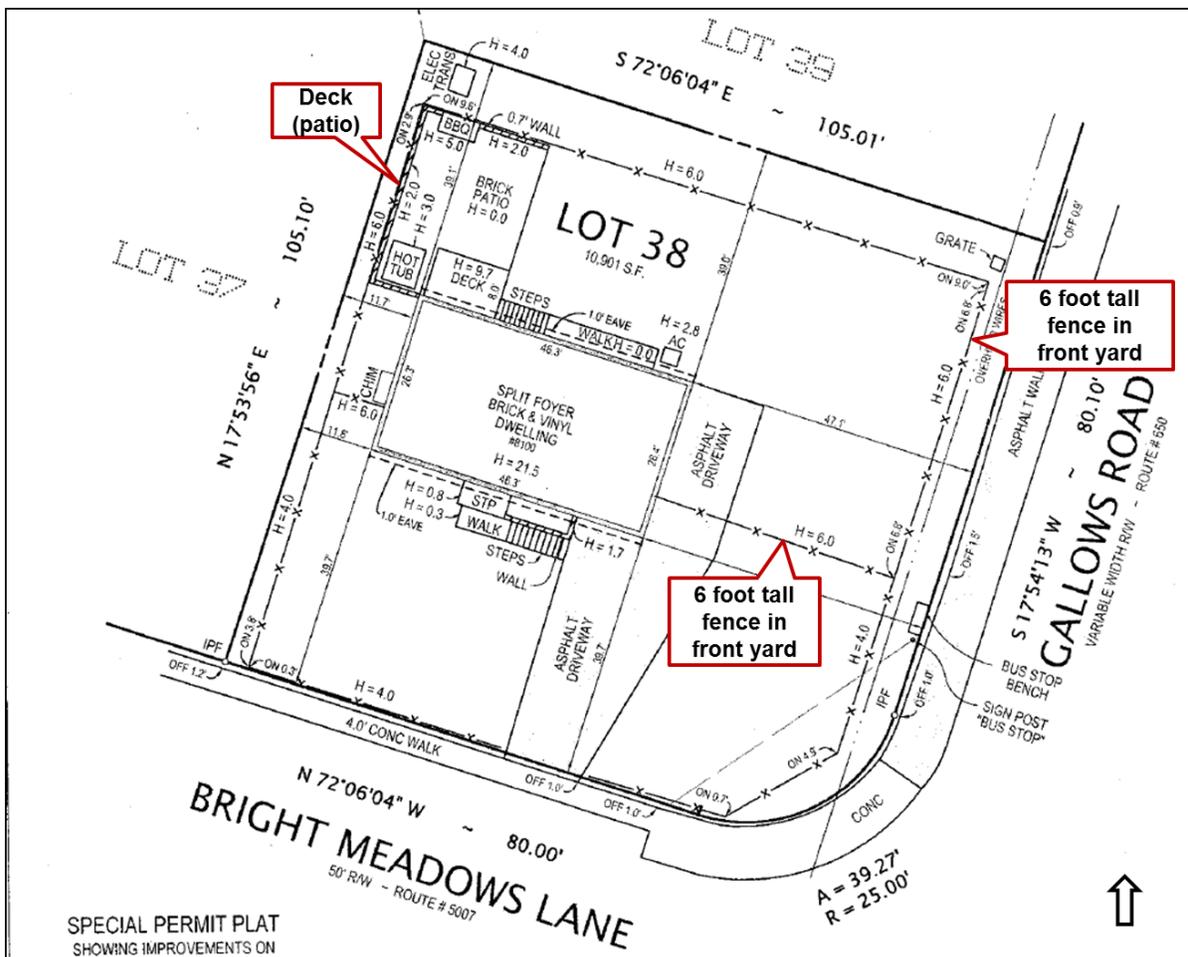
The applicants' patio is 10 feet from the rear lot line, but extends 9.1 feet into the minimum required 12-foot side yard and is 2.9 feet from the side lot line, as shown in Figure 2. As such, the patio exceeds the permitted 5-foot extension in the side yard and is closer than 5 feet to any side lot line thus resulting in an error in building location since the patio existed when the applicants purchased the property. The applicants state that when they purchased the property three years ago the patio existed and it appears to have been built over 20 years ago since a tree root has pushed up on the edge of the patio causing it to buckle, as shown in a photograph in Appendix 2.

A comparison of the minimum required yard, permitted extension into the side yard, and proposed reduction is provided in Table 1.

Special Permit Request	Structure	Yard	MRY* and Permitted Extension	Existing Extension into MRY*	Proposed Reduction	Percent of Requested Reduction
	Open deck (brick patio)	Side	MRY: 12 feet Extension: 5 feet	9.1 feet	4.1 feet	58%

**Table 1:** Minimum yard requirement and proposed reduction

\*MRY is the abbreviation for minimum required yard



**Figure 2:** Special permit plat

In addition, a fence six-foot in height is located in the front yard of the subject corner lot property, as shown in Figure 2. Par. 3B of Sect. 10-104 of the Zoning Ordinance states:

*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 subject property is a corner lot that abuts Bright Meadows Lane and Gallows Road. Gallows Road is deemed a major thoroughfare since it is classified as a minor arterial in Appendix 8 of the Zoning Ordinance. Minor arterial, principal arterial and primary highways are deemed to be major thoroughfares in accordance with Sect. 20-300 of the Zoning Ordinance.

A solid wood fence over four feet in height is located in a front yard that abuts Gallows Road on the subject lot. The driveway entrance to the lot is from Bright Meadows Lane, which is not a major thoroughfare and the principal entrance of the dwelling faces Bright Meadows Lane. The subject property is contiguous to Lot 39, located to the north, and the only driveway entrance to Lot 39 is from a major thoroughfare (Gallows Road). Since Lot 39 has its only driveway entrance from a major thoroughfare, the subject property does not meet Par. 3B(2) of Sect. 10-104 and a fence over four feet in height is not permitted by-right in the front yard. The applicants request special permit approval to permit the existing six-foot high fence to remain. A comparison of the fence height permitted by-right in a front yard and the requested modification is provided in Table 2.

Special Permit Request	Structure	Yard	Permitted By-Right Height	Maximum Height Requested	Modification Request
	Fence	Front	4.0 Feet	6.0 Feet	2.0 Feet

**Table 2:** Comparison of the permitted fence height in a front yard with the requested modification

**ANALYSIS**

**Comprehensive Plan Provisions**

**Plan Area and Planning District:** II, Vienna  
**Planning Sector:** V2-Cedar Community Planning Sector  
**Plan Map:** 2-3 dwelling units per acre

**ZONING ORDINANCE REQUIRMENTS** (Appendix 6)

The subject property is zoned R-3; however, at the time of development in 1973, the property was zoned R-12.5 and met the lot size and bulk regulations at the time of development, as shown in the House Location Survey in Appendix 4 and Table 3 below. With the adoption of the 1978 Zoning Ordinance, the R-12.5 District was converted to the R-3 District, which has the same lot size and bulk regulations as the R-12.5 District.

Standard	R-12.5 Required	R-3 Required	Provided
Lot Size	10,500 feet	10,500 feet	10,901 feet
Lot Width	105 feet	105 feet	105 feet
Building Height	35 feet	35 feet	21.5 feet
Front Yard	40 feet	40 feet	40 feet
Side Yard	12 feet	12 feet*	12 feet
Rear Yard	25 feet	25 feet	40 feet

**Table 3:** Lot size and bulk regulations

*\*The open deck (patio) is located 2.9 feet from the side property line and may extend into the side yard five feet but no closer than five feet to any side lot line.*

This special permit application is subject to the following provisions of the Zoning Ordinance and is provided as Appendix 6. Subject to the development conditions, the special permit must meet these standards.

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

The following is staff’s analysis of the Zoning Ordinance provisions and the proposal to permit a reduction in the minimum yard requirements based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line a fence greater than four feet in height to remain in the front yard of a corner lot.

**General Standards (Sect. 8-006)**

<b>Standards 1 &amp; 2</b> Comprehensive Plan & Zoning Ordinance	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The purpose and intent of the R-3 District is to provide single family detached dwellings and other selected uses. The subject property is developed with a single family detached dwelling unit.
<b>Standard 3</b> Adjacent Development	The proposal to permit a reduction in the minimum yard requirements based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line and a fence greater than four feet in height to remain in the front yard of a corner lot is not anticipated to hinder or discourage development of adjacent or nearby land. The patio was in existence prior to the applicants’ purchase of the subject property. The patio is located within the fenced-in side yard and not visible to adjacent property. Adjacent properties are developed with single family detached dwellings and several corner lot properties (Lots 5 and 35 shown on the locator map

	at the front of the staff report) are developed with fences in the front yard. The proposed six-foot high fence is intended to provide safety and privacy from Gallows Road and from an adjacent bus stop on Gallows Road.
<b>Standard 4</b> Pedestrian/ Vehicular Traffic	The proposal is not anticipated to be hazardous to pedestrian and vehicular traffic in the neighborhood.
<b>Standard 5</b> Landscaping/Screening	The applicant’s fence is adjacent to the patio, along the western property line, and provides a buffer to the adjacent property. Existing mature trees along the subject property’s Gallows Road frontage provides landscaping and screening to the existing fence that is proposed to remain at six feet in height. The applicants indicated providing additional landscaping between the fence and the rear property line and between the fence and sidewalk for screening.
<b>Standard 6</b> Open Space	The open space requirement previously was addressed with the development of the property. No additional open space is proposed.
<b>Standard 7</b> Utilities, Drainage, Parking, and Loading	The proposal does not impact the existing utilities, drainage, and parking at the subject property. No loading space is located at the property. Parking is in accordance with the provisions of Article 11.
<b>Standard 8</b> Signs	No signs are proposed with the use.

**Provision for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location (Sect. 8-914)**

Staff does not make recommendations on error in building location; therefore, a staff recommendation is not provided. The applicants request special permit approval to permit a reduction in the minimum yard requirements based on an error in building location to permit a deck (patio) to remain 2.9 feet from the side lot line. The applicants state that the patio was present at the time they purchased the property. The applicants indicate that they have not received any complaints about the location of the patio and feel that the patio adds value and aesthetic to their rear yard.

**Standards for all Group 9 Uses (Sect. 8-903)**

<b>Standard 1</b> Lot Size and Bulk Regulations	As previously discussed, the subject property met the lot size and bulk regulations at the time of development.
<b>Standard 2</b> Performance Standards	The use will comply with the performance standards set forth in Article 14 of the Zoning Ordinance.
<b>Standard 3</b> Site Plan	A site plan is not required for the existing patio and fence to remain.

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

<b>Provision 1</b> Fence Height	The applicants are proposing to retain the existing fence located in the front yard of a corner lot at six feet in height.
<b>Provision 2</b> Sight District Requirements	The portion of the fence obstructing the sight distance at Bright Meadows Lane and Gallows Road has been lowered in accordance Par. 1B of Sect. 2-505 of the Zoning Ordinance.

<p><b>Provision 3</b> Increase in Fence Height</p>	<p>According to Par. 3 of Sect. 8-923 of the Zoning Ordinance, the BZA shall determine that the proposed increase in fence height is warranted based on several factors, such as presence of multiple front yards and concerns related to safety and/or noise. The subject dwelling is located on a corner lot and has two front yards. The applicants state that safety, among other concerns, was a reason for the existing six-foot high fence. The subject property is located adjacent to Gallows Road, a minor arterial roadway, and an existing bus stop. The applicants have young children and have experienced trespassing from people waiting at the bus stop. The fence is intended to provide security and privacy.</p>
<p><b>Provision 4</b> Character with Existing Development</p>	<p>The existing six-foot tall fence is a board-on-board fence located adjacent to Gallows Road. Other properties in the neighborhood are developed with wood fences. In particular, two corner lot properties (Lots 5 and 35) in the neighborhood also have wood fences located in a front yard. Existing mature trees along Gallows Road provide landscaping and screening to buffer the fence. The applicants indicated a desire upon approval of the special permit to stain the fence to soften its appearance and to provide additional landscaping.</p>
<p><b>Provision 5</b> Impact on Use of Other Properties</p>	<p>The proposal to permit a fence greater than four feet in height to remain in the front yard of a corner lot is not anticipated to adversely impact the use and/or enjoyment of other properties in the immediate vicinity.</p>
<p><b>Provision 6</b> BZA Conditions</p>	<p>The BZA may impose conditions as it deems necessary. The proposed development conditions are contained in Appendix 1 of this staff report.</p>
<p><b>Provision 7</b> Submission Requirements</p>	<p>The application met the submission requirements with staff's acceptance of this application.</p>
<p><b>Provision 8</b> Architectural Depictions</p>	<p>The applicants provided photographs of the existing fence, which is provided as part of Appendix 2, and the fence location and height are shown on the special permit plat.</p>

## CONCLUSION

Staff finds the proposal to permit a reduction in the minimum yard requirements based on an error in building location to permit a deck to remain 2.9 feet from the side lot line and to permit a fence greater than 4.0 feet in height to remain in the front yard of a corner lot in conformance with applicable Zoning Ordinance provisions with the implementation of the proposed development conditions contained in Appendix 1 of the staff report.

## RECOMMENDATION

Staff recommends approval of SP 2015-PR-113 to permit a fence greater than 4.0 feet in height to remain in the front yard of a corner lot with the adoption of the proposed development conditions contained in Appendix 1 of the staff report.

Staff does not make recommendations on errors in building location to permit a deck to remain 2.9 feet from the side lot line.

It should be noted that it is not the intent of staff to recommend that the Board of Zoning Appeals, 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.

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.

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. Statement of Justification and Photographs
3. Affidavit
4. Residential Use Permit and House Location Survey
5. Notice of Violation
6. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2015-PR-113****October 14, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-PR-113 located at Tax Map 39-4 ((18)) 38 to permit a reduction in the minimum yard requirements based on error in building location to permit a deck to remain 2.9 feet from the side lot line pursuant to Sect. 8-914 and a fence greater than 4.0 feet in height to remain in a front yard of a corner lot pursuant to Sect. 8-923 of the Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This special permit is approved for the location of the deck (brick patio) and fence greater than four feet in height in the front yard of a corner lot as shown on the special permit plat entitled, "Lot 38, Section 1, Bright Meadows," was prepared by Thomas G. Lutke of NoVA Surveys, dated June 24, 2015, and consists of one sheet.
2. In accordance with Par. 1B of Sect. 2-505 of the Zoning Ordinance, there shall be no obstruction of the sight distance at the intersection of Bright Meadows Lane and Gallows Road.

This approval is contingent upon the above-noted conditions and shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8 015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

(Brandon) Bao Nguyen  
8100 Bright Meadows Lane  
Dunn Loring, VA 22027  
703-762-6434  
[brandon.bao@gmail.com](mailto:brandon.bao@gmail.com)

RECEIVED  
Department of Planning & Zoning

JUN 17 2015

Zoning Evaluation Division

Dear Fairfax County,

This letter is in regard to justification for the fence that we have built on our property, which is located on the corner of Gallows Road and Bright Meadows Lane in Dunn Loring, VA. Below are the reasons why it is imperative that we are granted a special permit for our fence.

- 1) Safety. Our house is located right next to a public transportation bus stop. There have been several incidents when my children have been approached by men waiting for the bus. They have walked onto my property and accosted my 10 year old daughter on 4 different occasions. Since we have put up the fence, there have been no additional incidents. Having the height of the fence at 6 feet, blocks my children from view to all of the people who use that bus stop. If we remove or lower the height of the fence, my young children will be exposed and at risk of danger again.
- 2) Trash. The people who use that bus stop and also others who walk by my house would leave their trash in my yard on a daily basis. Since we have put the fence up, they have left their trash only in the bus stop area, and no longer in my yard. I still go out there once a week to clean up after them, but I no longer have to pick up their trash out of my yard every day when I come home from work. If we remove or lower the height of the fence, my yard will be filled with trash on a daily basis again.
- 3) Privacy and trespassing. People somehow think it is okay to congregate on my personal property because it is located next to Gallows Road. They walk on my lawn, they allow their children to run on my grass, and they stare at my family, which makes us uneasy and uncomfortable to set foot outside of our own home. Since putting up the fence, there have been no incidents.
- 4) Precedence. There are several homes up and down Gallows Road with the same type of fence, same property lot dimensions, and same height, which have been allowed to remain up for years. A perfect example is my neighbor's house DIRECTLY ACROSS THE STREET from my house with the exact same corner dimensions as my own lot. They have the exact same fence configuration. Here is their address. Please take a look and you will see that they have the same setup.

8101 Bright Meadows Lane  
Dunn Loring, VA 22027

In addition to the reasons listed above, below are additional points in parallel to the law as to why we should be granted a special permit:

- The maximum height of the fence on either side of the house does not exceed six (6) feet.
- The fence does not block any view of the main road on either side of the house, as evidenced in the pictures provided. There is a clear view of the entire road when turning, therefore does not present any safety hazard for any ingress and egress to the property from a public street.
- The fence is done tastefully by a reputable fence company (Long Fence), and everyone in the neighborhood has commented on beautiful it looks.
- The fence does not affect the use or enjoyment of any other properties in the immediate vicinity. In fact, it helps to block some of the noise coming from the main road, therefore increasing the amount of enjoyment.
- The fence is well within my property lines, as evidenced in the 15 copies of our plat.

Please take all of our points and reasons into consideration, and grant my family this special permit for our fence. Thank you.

Sincerely,  
(Brandon) Bao Nguyen

Bao Q. Nguyen and Mai D. Nguyen  
8100 Bright Meadows Lane  
Dunn Loring, VA 22027  
703-762-6424  
[nguyen29.mai@gmail.com](mailto:nguyen29.mai@gmail.com)

RECEIVED  
Department of Planning & Zoning

JUL 22 2015  
Zoning Evaluation Division

Dear Fairfax County,

This letter is in regard to the brick patio that is in our back yard. It was built over 20 years ago, and has been there many years before we purchased this home 3 years ago. We have provided pictures to show that a root from one of the trees is already pushing up on the edge of the patio, which proves that it was built a very long time ago.

There have never been any complaints, and the brick patio adds value and aesthetic beauty to our back yard. We have received many compliments for it, and would like to keep it.

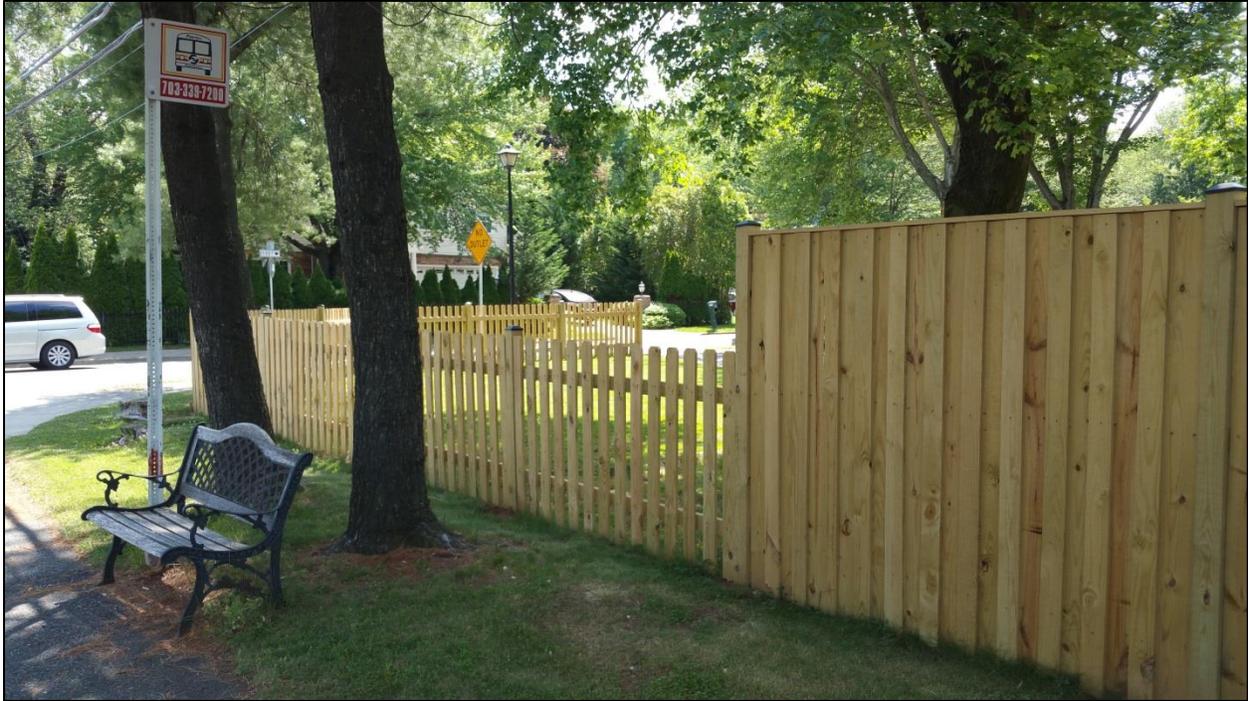
Also, our deck sits on top of the brick patio; therefore any attempts to remove the patio would jeopardize the stability of our deck and the safety of my family.

We have paid the additional permit application fee for the patio, provided digital and printed pictures with all the required legal documents. Please allow my family to keep this patio. Thank you.

Sincerely,  
Bao and Mai Nguyen











Application No.(s): \_\_\_\_\_  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-16-2015  
 (enter date affidavit is notarized)

130364

I, Bao Q Nguyen & Mai D. Nguyen, 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

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 <b>BOLD</b> above)
Bao Q Nguyen	8100 Bright meadows lane Dunn Loring VA 22027	Applicant, co-title owners
Mai D. Nguyen	8100 Bright meadows lane Dunn Loring VA 22027	Applicant, co-title owners

(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): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-16-15  
(enter date affidavit is notarized)

130346

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): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-16-2015  
(enter date affidavit is notarized)

130366

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): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-16-2015  
(enter date affidavit is notarized)

*130326*

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.

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-16-2015  
(enter date affidavit is notarized)

130366

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on line below.)

none

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

[Signature], Mai Nguyen  
 Applicant  Applicant's Authorized Agent

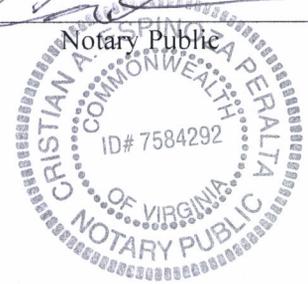
Bao Q. Nguyen, Mai D. Nguyen  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16<sup>th</sup> day of July, 2015, in the State/Comm. of Virginia, County/City of Fairfax.

My commission expires: 07/31/2018

[Signature]

[Signature]



COUNTY OF FAIRFAX, VIRGINIA  
DEPARTMENT OF COUNTY DEVELOPMENT  
DIVISION OF INSPECTION SERVICES

P88956 APPENDIX 042-75  
R-12.5 2-27-75  
PJ

RESIDENTIAL USE PERMIT

Number 12157

# 8100 Street Bright Meadows Lane  
Lot # 38 Subdivision Bright Meadows  
Map reference 39-4

Inspected by	date
Electrical <u>Bond</u>	<u>11-27-73</u>
Plumbing <u>Page</u>	<u>11-19-73</u>
Mechanical _____	_____
Building <u>James</u>	<u>11-27-73</u>
Fire Marshall <u>OK</u>	_____
Public Utilities <u>Turner</u>	<u>11-27-73</u>
Approved _____	_____

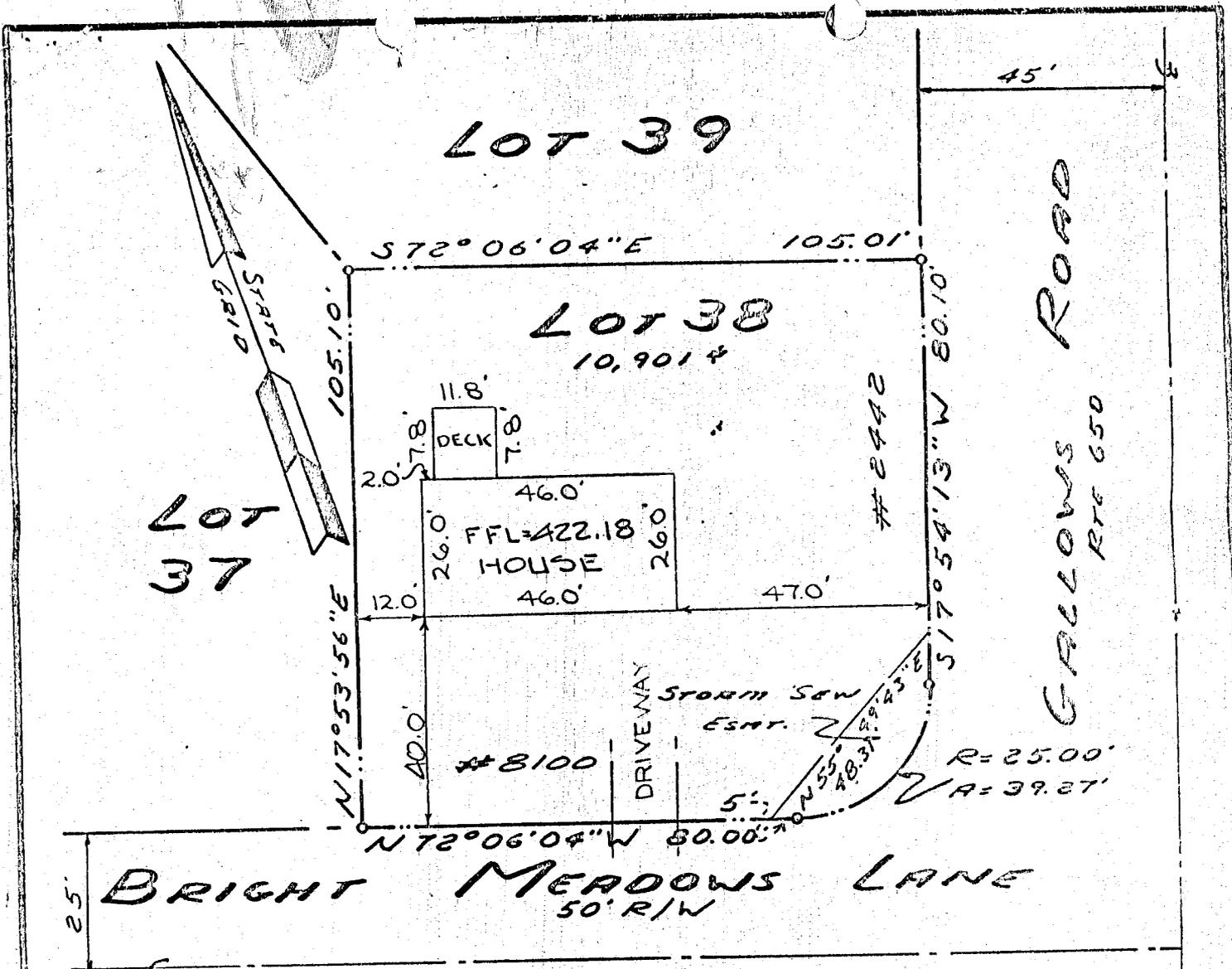
Remarks:

All streets driveways and/or parking lots providing access between this dwelling and a state maintained highway are paved except for: \_\_\_\_\_ which has a gravel surface, in accordance with Section 30-9.7.9 of the Fairfax County Code.

Other remarks:

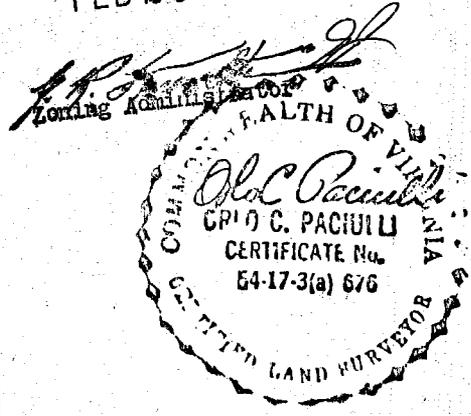
White - Homeowner  
Green - Builder  
Canary - Assessments

Pink - Public Utilities  
Goldenrod - Zoning



**FINAL APPROVAL**

FEB 26 1975



HOUSE LOCATION SURVEY  
 LOT 38 SEC 1  
**BRIGHT MEADOWS**  
 PROVIDENCE DISTRICT  
 FAIRFAX COUNTY VIRGINIA  
 SCALE: 1"=30' NOV. 9, 1973  
 ORLO C. PACIULLI & ASSOC.  
 ENGINEERS PLANNERS  
 & SURVEYORS  
 VIENNA VIRGINIA  
 DRAWN BY: JPA CHECKED BY: JPM

CERTIFIED CORRECT



# County of Fairfax, Virginia

**DCC RETURN COPY**

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

## NOTICE OF VIOLATION Fairfax County Zoning Ordinance

**DATE OF ISSUANCE:** February 23, 2015

**METHOD OF SERVICE:** OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:** Bao Nguyen  
Mai Nguyen

**ADDRESS:** 8100 Bright Meadows Lane  
Dunn Loring, Virginia 22027

**LOCATION OF VIOLATION:** 8100 Bright Meadows Lane  
Dunn Loring, Virginia 22027-1202

**TAX MAP REF:** 0394 18 0038

**ZONING DISTRICT:** R- 3

**CASE #:** 201500558 **SR #:** 113167

**ISSUING INVESTIGATOR:** Michael Caudle, (703)324-9327

### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§02.505	\$ 200.00	\$ 500.00
	§10.104.3B	\$ 200.00	\$ 500.00
	<b>TOTAL:</b>	<b>\$ 400.00</b>	<b>\$ 1000.00</b>

Dear Responsible Party:

An inspection of the above referenced property on February 19, 2015 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

#### § 2-505 (1) Corner Lot – Obstructed Sight Distance:

An inspection of this corner lot has revealed that a wood fence is of such size and location that it has

Department of Code Compliance  
12055 Government Center Parkway, Suite 1016  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 Fax 703-653-9459 TTY 711  
[www.fairfaxcounty.gov/code](http://www.fairfaxcounty.gov/code)

Bao Nguyen  
Mai Nguyen  
February 23, 2015  
SR 113167  
Page 2

obstructed the sight distance at the intersection of Bright Meadows Lane and Gallows Road. The location of this wood fence is in violation of Par. 1 of Sect. 2-505 of the Fairfax County Zoning Ordinance which states:

On every corner lot within the triangle formed by the street lines of such lot and a line drawn between points on such lines as established below, there shall be no structure or planting of such nature and dimension as to obstruct sight distance other than a post, column or trunk of a tree (but not branches or foliage), which is not greater than one (1) foot in cross section or diameter. Such sight distance shall be maintained between two (2) horizontal planes, one of which is three and one-half (3 ½) feet, and the other ten (10) feet above the established grade of either street or, if no grade has been officially established, then above the average elevation of the existing surface of either street at the center line thereof:

- For a lot having an interior angle of ninety (90) degrees or more at the street corner thereof: Points shall be (30) feet from the property lines extended.
- For a lot having an interior angle of less than ninety (90) degrees at the street corner thereof: Points shall be 30 feet from the property lines extended, plus one (1) foot for every ten (10) degrees or major fraction thereof by which such interior angle is less than ninety (90) degrees.

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance must be accomplished by removing or relocating or reducing the height of the wood fence so as not to exceed a maximum height of three and one-half (3 ½) feet for thirty (30) feet from the front property lines extended.

**§ 10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard**

**§ 2-302 (6) Accessory Use must comply with Article 10:**

An inspection has determined the presence of a six (6) foot tall wood 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:

Bao Nguyen  
Mai Nguyen  
February 23, 2015  
SR 113167  
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- 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 seek approval of a Special Permit to allow the accessory fence to remain at a height of up to six (6) feet 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.

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 which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

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, 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. For information regarding an appeal contact:

Zoning Administration Division  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035  
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

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 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:

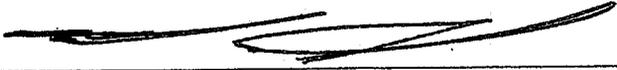
No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

Bao Nguyen  
Mai Nguyen  
February 23, 2015  
SR 113167  
Page 5

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-9327. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:



Signature

Michael Caudle  
Code Compliance Investigator  
(703)324-9327  
Mike.Caudle@fairfaxcounty.gov

PERSONAL SERVICE

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

---

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_  
SERVING OFFICER

2/24/15 Stacey A. Kincaid, Sheriff  
DATE Fairfax County, VA

PERSONAL SERVICE

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

---

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_  
SERVING OFFICER

2/24/15 Stacey A. Kincaid, Sheriff  
DATE Fairfax County, VA

PERSONAL SERVICE

Being unable to make personal service a copy was delivered in the following manner:

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---

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

\_\_\_\_\_  
DATE

PERSONAL SERVICE

Being unable to make personal service a copy was delivered in the following manner:

- Delivered to a person found in charge of usual place of business or employment during business hours and giving information of its purport.
- Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode or party named above after giving information its purport. List name, age of recipient, and relation of recipient to party named above.

---

Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above (Other authorized recipient not found).

Served on a Secretary of the Commonwealth.

Not found.

\_\_\_\_\_  
SERVING OFFICER  
for \_\_\_\_\_

\_\_\_\_\_  
DATE

## Zoning Ordinance Provisions

### 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, or
  - B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
  - C. 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

- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
  - E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - F. It will not create an unsafe condition with respect to both other property and public streets, and
  - G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
  - H. The reduction or modification 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.