



# County of Fairfax, Virginia

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September 9, 2015

## STAFF REPORT

SPECIAL PERMIT NO. SP 2015-LE-086

### LEE DISTRICT

**APPLICANT/OWNER:** Johnny Rocha

**SUBDIVISION:** Monticello Forest, Section 7

**STREET ADDRESS:** 6201 Dana Avenue, Springfield, 22150

**TAX MAP REFERENCE:** 80-3 ((3)) (80) 1

**LOT SIZE:** 13,116 square feet

**ZONING DISTRICT:** R-3

**ZONING ORDINANCE PROVISIONS:** 8-923

**SPECIAL PERMIT PROPOSAL:** To permit a fence greater than 4.0 ft. in height in a front yard of a corner lot.

### STAFF RECOMMENDATION:

Staff recommends approval of SP 2015-LE-086 for an existing fence over four feet in height to remain in a front yard of a corner lot with the adoption 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, in adopting any conditions, relieve the applicant/owner 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. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

*Laura B. Arseneau*

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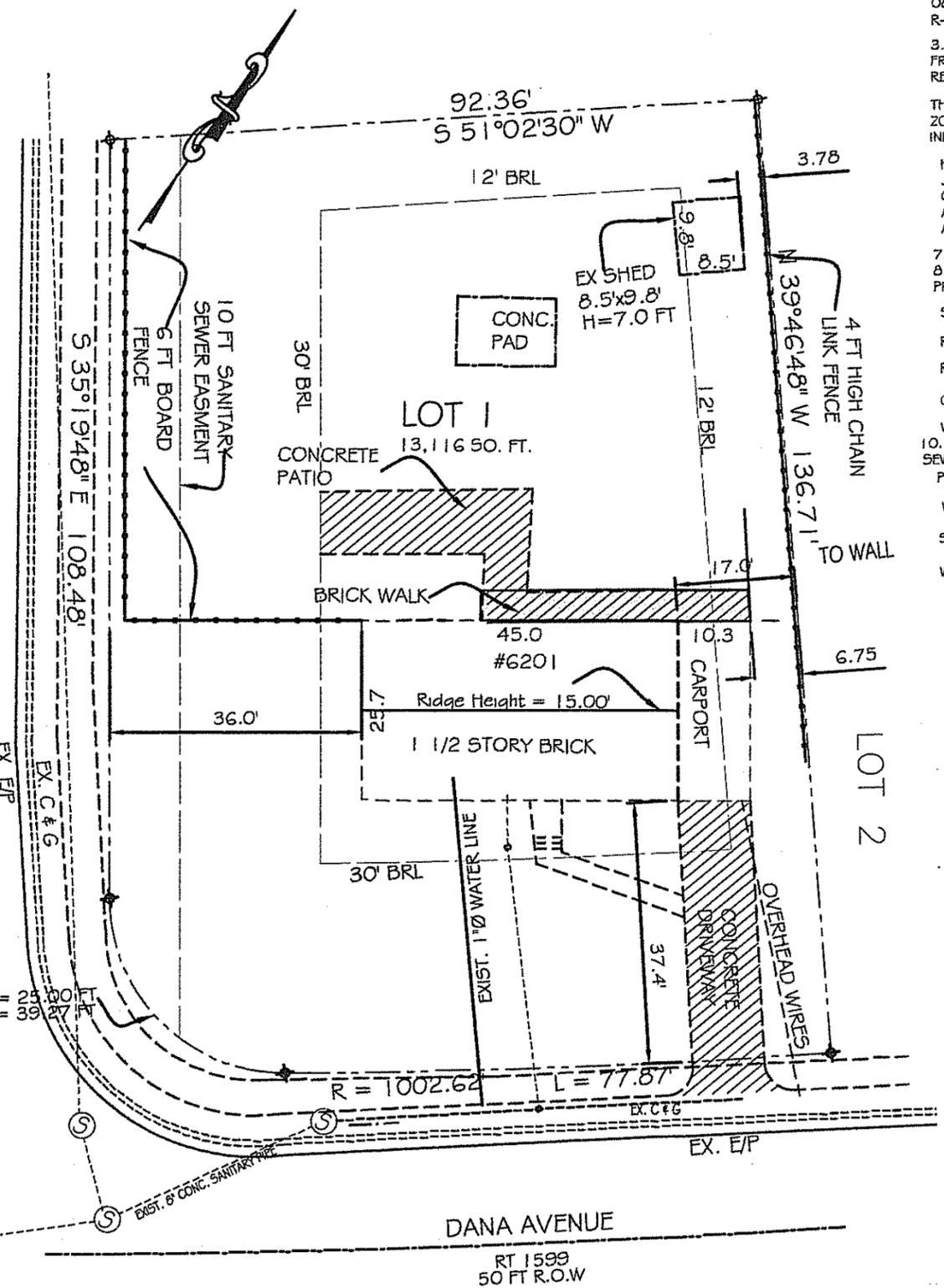
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

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).





**SITE PLAN**  
SCALE = 1" = 20 FT

**GENERAL NOTES**

080-3-0380-0001 1.MAP #:  
R-3 2. ZONING DISTRICT:  
3. YARD REQUIREMENTS  
FRONT: 30 FEET SIDES: 12 FEET  
REAR: 25 FEET MAX. BUILDING HEIGHT=35 FEET  
THE PROPERTY SHOWN HEREON IS NOT LOCATED IN FEMA FLOOD ZONE 4. 5. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION WAS TAKEN FROM AVAILABLE

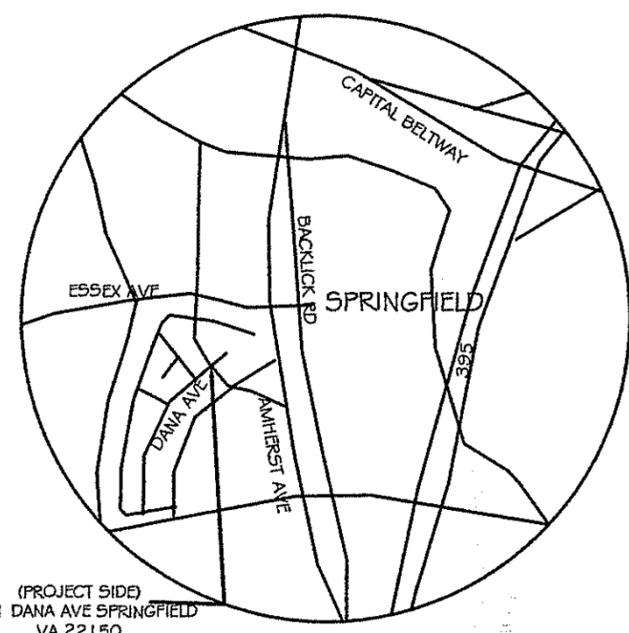
HOUSE LOCATION PLAT ON RECORD PREPARED BY JOHN F. VEATCH, DATED 9/28/2006 G. CONTOUR BASED ON TOPO SURVEYED BY ADVANCE ENGINEERING GROUP ON JAN 23, 2009 AND IS BASED ON USGS DATUM.  
7. TO THE BEST OF OUR KNOWLEDGE, NO HAZARDOUS WASTE EXISTS ON THIS SITE.  
8. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO KNOWN CEMETERIES ON THIS PROPERTY. 9. THIS SITE INFORMATION

- SLOPES OVER 15%  YES  NO  
R.P.A.  YES  NO  
R.M.A.  YES  NO  
OVERLAY DISTRICT ( )  YES  NO  
WETLANDS  YES  NO  
10. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.  
PROFFERED OR CONDITIONED SITE:  
WATER SUPPLY  YES  NO  
SEWER SERVICE  PUBLIC  WELL  PRIVATE  
WATER WELL OR SEPTIC DRAINFIELD ON SITE =  YES  NO

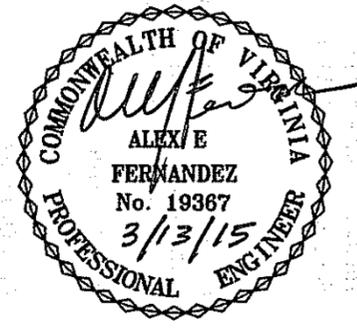
- NOTES:**  
1. NO TITLE REPORT FURNISHED  
2. THE LOT SHOWN DO NOT LIE WITHIN A H.U.D. DESIGNATED AREA OF SPECIAL FLOOD HAZARD  
3. THIS PLAT IS NOT INTENDED FOR USE IN DETERMINING THE LOCATION OF PROPERTY LINES OR CONSTRUCTION OF THE EXTERIOR IMPROVEMENTS.  
4. ALL EASEMENTS RECORDED ARE SHOWN UNLESS OTHERWISE NOTED.  
5. ALL TOPOGRAPHIC DATA TAKEN BY ADVANCE ENG. GROUP FIELD RUN WITH TOTAL STATION ON DEC-12-2014

**SUMMARY OF SPECIAL PERMIT SP#1**  
SEC. 10-104- PAR. 3. B AN INCREASE IN FENCE HEIGHT UP TO SIX (6) FEET MAY BE PERMITTED WITH THE APPROVAL OF A SPECIAL PERMIT BY THE BZA IN ACCORDANCE WITH PART 9 ARTICLE 8

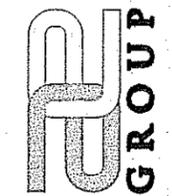
**PROPERTY INFORMATION:**  
MAP #: 080-3-03-80-0001  
ADDR.: 6201 DANA AVE SPRINGFIELD VA 22150  
ZONING DIST: R-3 (Residential 3 DU/AC)  
LOT SIZE: 13,116 SF = 0.301 AC  
LEGAL DESCR.: MONTICELLO FOREST LT 1 SECT 7 BLOCK 80  
DEED BOOK: 20139 PAGE = 0631  
OWNER: JOHNNY ROCHA



- TOPOGRAPHIC SYMBOLS**
- PROPERTY LINE
  - BUILDING RESTRICTION LINE
  - EXISTING FENCELINE
  - EXISTING EDGE OF PAVEMENT
  - EXISTING CURB AND GUTTER
  - EXISTING ROAD
  - CENTER LINE
  - EXISTING DRIVEWAY LINE
  - EXISTING ROAD R.O.W.
  - EXISTING WATER VALVE
  - EXISTING STORM SEWER MANHOLE
  - EXISTING SANITARY SEWER
  - FLOW ARROW



**Advanc Engineering Group, LLC.**  
Structural and Civil Engineers  
701 W. Broad St Suite 306,  
Falls Church VA 22046  
Ph 703-533-1581 Fax 703-533-1582  
www.advengroup.net info@advengroup.net



**MONTICELLO FOREST**  
BLOCK 80 SECT 7 LOT 1  
**LEE MAGISTERIAL DISTRICT**  
6201 DANA AVE  
SPRINGFIELD, VA 22150  
TAX MAP 080-3-03-80-0001  
**SPECIAL PERMIT PLAT**

PROJECT MANAGER	14-VA-706
ENG. OF RECORD	A.E.F
ISSUE DATE	01-02-2015
APPLICAT. NO.	

**706**

## SPECIAL PERMIT REQUEST

The applicant is seeking a special permit to allow an existing fence over four feet in height to remain in a front yard of a corner lot along Dinwiddie Street. A copy of the special permit plat, titled "Site Plan" at 6201 Dana Avenue, Springfield, Virginia 22150, by Alex E. Fernandez, P.E., on March 13, 2015, is included in the front of the staff report. Copies of the proposed development conditions, the statements of justification with select file photographs and the affidavit are contained in Appendices 1 through 3, respectively.

## CHARACTER OF THE SITE AND SURROUNDING AREA

The site is a corner lot with two front yards; one along Dana Avenue and one along Dinwiddie Street. The site is developed with a one and one-half story single-family detached dwelling. A carport is located in the side yard of the dwelling. A concrete patio, concrete pad and shed are located in the effective rear yard of the dwelling. A walkway and concrete driveway are



*Figure 1- Aerial View of Subject Property*

located in the front yard of the dwelling along Dana Avenue. A six foot tall wood fence is located in the front yard along a portion of Dinwiddie Street. A ten foot wide sanitary sewer easement is located in the front yard along Dinwiddie Street. A portion of the fence is in this easement.

The property is located south of the intersection of Dana Avenue and Dinwiddie Street, just north of the Springfield Plaza Shopping Center. The subject property and surrounding properties to the north, east and west are zoned R-3 and developed with single family detached dwellings. The properties to the south are zoned R-20 and developed with multifamily garden apartments.

## BACKGROUND

Fairfax County Tax Records indicate that the single-family dwelling was constructed in 1959 and purchased by the applicant in 2008.

Numerous complaints have been received by the Department of Code Compliance (DCC), Notice of Violations (NOV) have been issued and a Court Order has been filed related to this property. Issues including multiple occupancies, excessive dwelling units, commercial vehicles, outdoor storage, and inoperable vehicles have been prevalent since 2008, but all of these issues, except an outstanding storage violation, have been resolved. A complete list of these items is included in Appendix 4. A development condition has been included to ensure that the violation of outdoor storage is remedied within 30 days.

Records indicate that no other special permit or variance applications relating to a fence in a front yard over four feet have been heard by the Board of Zoning Appeals (BZA) in the surrounding area.

## ANALYSIS

Bulk Standards (R-3)		
Standard	Required	Provided
Lot Size	10,500 sf.	13,116 sf.
Lot Width	Corner: 105 feet	136.71 feet
Building Height	35 feet max.	15 feet
Front Yard	Min. 30 feet	36.0 feet, 37.4 feet
Side Yard	Min. 12 feet	6.75 feet*
Rear Yard	Min. 25 feet	Approx.. 70 feet

\*The existing carport is located 6.75 feet from the side property line. However, the carport appears on tax records for at least 15 years and appears to have been constructed as part of the main dwelling in 1959.

Accessory Structure Setback Standards				
Structure	Yard	Minimum Yard Required	Existing Location	Permit Status
Shed	Side	Under 8.5 feet in height	3.78 feet	n/a
Concrete Pad	Rear	12 feet	21 feet	n/a
Concrete patio	Side	12 feet	6.75 feet*	n/a
	Rear	12 feet	Approx. 52 feet	n/a

\*The patio is allowed by right per 2-412 to extend into the minimum required side yards per Sect. 2-412.

**Comprehensive Plan Provisions**

**Plan Area:** Area IV, Springfield Planning District  
**Planning Sector:** Crestwood Community Planning Sector (S2)  
**Plan Map:** Residential, 3-4 du/ac

**Zoning Ordinance Requirements (Appendix 5)**

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-923 Provisions for Increase in Fence Height in Any Front Yard

**General Standards for Special Permit Uses (Sect. 8-006)**

<b>Standards 1 and 2</b> Comprehensive Plan/ Zoning District	The Comprehensive Plan recommends residential uses and the property is developed with a residential use. The R-3 District permits a fence over four feet in height in a front yard with special permit approval.
<b>Standard 3</b> Adjacent Development	No new construction is proposed. In staff’s opinion, the proposed use will not hinder or discourage use or development of neighboring properties or negatively affect value.
<b>Standard 4</b> Pedestrian/Vehicular Traffic	No additional traffic is anticipated with the proposed use in the application.
<b>Standard 5</b> Landscaping/Screening	The existing fences in the front yard will screen the functional rear yard of the property from the neighbors.
<b>Standard 6</b> Open Space	There is no prescribed open space requirement in the R-3 District.
<b>Standard 7</b> Utilities, Drainage, Parking, and Loading	There are no changes to the utilities, drainage or parking serving the property or use.
<b>Standard 8</b> Signs	No signage is proposed with the application.

**Standards for all Group 3 Uses (Sect. 8-303)**

<b>Standard 1</b> Lot Size and Bulk Regulations	The property conforms to the lot size and bulk regulations of the R-3 district. No exterior modifications are proposed with this application.
<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	Fences in a front yard are not subject to the provisions of Article 17, Site Plans.

**Provisions for Increase in Fence in Any Front Yard (8-923)**

<p><b>Standard 1</b> Fence Shall Not Exceed 6 feet in Height</p>	<p>The tallest point of the fence does not exceed six feet in height.</p>
<p><b>Standard 2</b> Meet Sight Distance Requirements</p>	<p>The six foot high fence is not located in any areas that may affect sight distance.</p>
<p><b>Standard 3</b> Proposed Fence Height is Warranted</p>	<p>The property has two front yards along Dinwiddie Street and Dana Avenue. The applicants are requesting the additional fence height to enclose the applicants’ functional rear yard for safety of the applicants’ children, to reduce theft and to prevent trash from being thrown into the yard.</p>
<p><b>Standard 4</b> Fence is in Character with On-site and Off-site Uses</p>	<p>Similar fencing exists to the rear of the property line adjacent to the multifamily dwellings to the south. The neighboring single family lots that are adjacent to the multifamily dwellings have fences in what are considered rear yard, where a fence height of up to 7 feet is allowed (Sect. 10-104). As this property is a corner lot, a significant portion of the functional rear and side yard is considered a front yard.</p>  <p><b>Figure 2- Rear View of Subject Property with adjoining fence</b></p> <p>In addition, a few homes in the neighborhood have similar fencing on corner lots that have a functional side yard adjacent to a roadway. None of these neighboring properties have approved special permits.</p>

	 <p data-bbox="537 611 1208 640">Figure 3- House on the corner of Dinwiddie St. and Hibbling Ave.</p>
<p data-bbox="228 667 477 821"><b>Standard 5</b> Fence Will Not Adversely Impact Other Properties</p>	<p data-bbox="537 667 1300 743">Staff believes the fence will not adversely impact other properties.</p>
<p data-bbox="224 829 482 940"><b>Standard 6</b> BZA May Impose Conditions</p>	<p data-bbox="537 829 1398 865">Proposed development conditions are included in Appendix 1.</p>
<p data-bbox="228 949 477 1060"><b>Standard 7</b> Meet Submission Requirements</p>	<p data-bbox="537 949 1377 984">A copy of the plat is included in the beginning of this report.</p>
<p data-bbox="207 1068 493 1180"><b>Standard 8</b> Architectural Depictions Provided</p>	<p data-bbox="537 1068 1430 1104">Pictures of the existing fence have been included in Appendix 2.</p>

**CONCLUSION/ RECOMMENDATION**

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions.

Given the high-density housing immediate abutting this lot the increased fence height would provide increased safety and privacy in the functional side yard of the property and in staff’s opinion, is not adversely affecting neighbors. Therefore, staff recommends approval of SP 2015-LE-086 with the adoption of the proposed development conditions contained in Appendix 1.

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.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Statement of Justification with Select File Photographs
3. Applicant's Affidavit
4. Property History
5. Applicable Zoning Ordinance Provisions

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**PROPOSED DEVELOPMENT CONDITIONS****SP 2015-LE-086****September 9, 2015**

If it is the intent of the Board of Zoning Appeals to approve SP 2015-LE-086 located at Tax Map 80-3 ((3)) (80) 1 to permit an existing fence over four feet in height to remain in a front yard of a corner lot pursuant to Sect. 8-923 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development condition.

1. This special permit is approved for the location of an existing fence in a front yard six feet in height along Dinwiddie Street located at 6201 Dana Avenue, and as indicated on the plat entitled titled "Site Plan" at 6201 Dana Avenue, Springfield, Virginia 22150, by Alex E. Fernandez, P.E., on March 13, 2015, and approved with this application, as qualified by these development conditions.
2. The applicant shall remove any outdoor storage of materials that are in violation of Sect. 10-102.24 of the Zoning Ordinance within 30 days of approval of this application.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall take effect upon adoption of a resolution of approval by the Board of Zoning Appeals. This approval, contingent upon the above-noted condition, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Johnny Rocha  
6201 Dana Ave  
Springfield, VA 22150  
(571)215-1526  
02/10/2015

To whom it may concern;

I, Johnny Rocha, owner of the property located at 6201 Dana Ave would like to address the existence of a 6ft fence that was built couple months ago. I decided to build a 6ft fence based on the information provided by the Fairfax County website stating that one can build a fence 6ft high without a permit. I also called the Fairfax County office to corroborate the information provided on the website and they also provided the same information. As a result, I went ahead and built the 6ft fence. However, an investigator from Fairfax County who came by the property informed me that because my house was located on a corner lot; it has two front yards and that I cannot have a 6ft fence but instead a 4ft tall fence. Since the fence has been built, I would like to express the need to keep it at 6ft. There are a lot of people who walk by the property daily and they often throw empty beer bottles inside the property. I have found broken glass on my backyard several times where my daughter and my dog play. I have to constantly pick up trash from the backyard and empty oil changer containers. Please consider my application to keep the fence 6 ft tall.

The application conforms to the provisions of all applicable ordinances and regulations. There are no hazardous or toxic substances or any storage tanks or containers of hazardous waste in this property. The fence will not cause any difficulty to my neighbors because I do not have any adjunct neighbor. In other words, the fence divides my backyard and Dinwiddie st.

Sincerely,

Johnny Rocha

*The Fence is in character with the surrounding neighborhood and  
Subject property*

RECEIVED  
Department of Planning & Zoning

FEB 2 2015

Zoning Evaluation Division

Johnny Rocha  
6201 Dana Ave  
Springfield, VA 22150  
(571)215-1526

RECEIVED  
Department of Planning & Zoning

JAN 07 2015

Zoning Evaluation Division

01/05/2015

To whom it may concern;

I, Johnny Rocha owner of the property located at the above address, would like to state the purpose for the construction of the 6ft fence on my property. I consulted the Fairfax County website regarding the appropriate length for fences without a permit. I learned through the website that fences are allowed to be 6ft high without a permit. I also called the number specified on the website and I was told the same information. After the fence was built, a Fairfax County Investigator came in and informed me that the fence has to be 4ft because the house is situated on a corner lot. I am applying to this special permit because I am in need of a fence higher than 4ft due to the amount of people walking by the property. There is not harm by people walking by the property, but it becomes a problem when glass beer bottles and empty food boxes are thrown in my back yard where my daughter and my dog play. The Springfield Garden Apartments are also located behind the property; as a result, some people park their job vehicles on the side of the house (Dinwiddie St). I have lost a lot equipment from my shed, but I have not seen them getting into my backyard. However, there was one time when I had the chain link fence that I saw a guy sleeping in my backyard.

Since I built the fence, I have not had any problems that I had in the past. My biggest fear is, if the fence gets to be cut down to 4ft, the problems that I had in the past will rise again.

Johnny Rocha





Pic#4





PIC#1



PIC# 2







Pict# 6





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MAR 20 2015  
Zoning Evaluation Division



Zoning Evaluation Division

MAY 21 2015

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MAY 21 2015

Zoning Evaluation Division



Application No.(s): SP 2015-LE-086  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 02/12/2015  
 (enter date affidavit is notarized)

12818

I, Johnny Rocha Encinas, 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)
JOHNNY ROCHA	6201 Dana Ave Springfield VA 22150	Applicant/ Title Owner

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

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

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

Application No.(s): SP 2015-LE-086  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 02/12/2015  
(enter date affidavit is notarized)

128108

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE:** Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

**CORPORATION INFORMATION**

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

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

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

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

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2015-LE-086  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 02/12/2015  
(enter date affidavit is notarized)

128108

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

**PARTNERSHIP INFORMATION**

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

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

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

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

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2015-LE-086  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 02/12/2015  
(enter date affidavit is notarized)

120108

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 2015-LE-086  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 02/12/2015  
(enter date affidavit is notarized)

128108

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

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

NONE

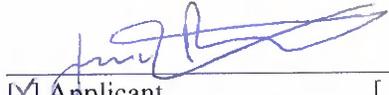
(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

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

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

WITNESS the following signature:

(check one)  Applicant  Applicant's Authorized Agent

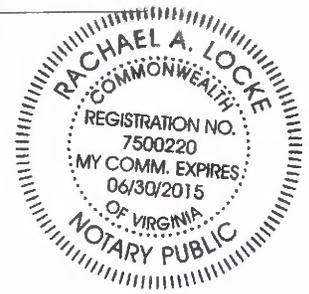


JOHNNY ROCHA ENCINAS  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 12<sup>th</sup> day of February, 2015, in the State/Comm. of Virginia, County/City of Fairfax.

Rachael A. Locke  
Notary Public

My commission expires: 6/30/15





**Land Development Information History: Search** [Help](#)

**Search Form**

All text:  All Ids:  After Date:   
 Address:  Project Name:  Before Date:   
 Grid:  Quad:  Subdivision:  Block:  Lot:  Suffix:   
 [Clear Search](#)

**Search Results**

Switch to view:

Showing from 1 to 10 of about 28 results

Sort by:  Pages: [1](#) [2](#) [3](#)

#	Record	Status	Date
1	<a href="#">FIDO - DPZ - Complaint 22942</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2007-10-01
2	<a href="#">FIDO - DPZ - Complaint 27167</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2007-11-19
3	<a href="#">FIDO - DPW - Complaint 32732</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2008-05-19
4	<a href="#">FIDO - DPW - Complaint 36926</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2008-08-15
5	<a href="#">FIDO - DPW - Complaint 39954</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2008-10-06
6	<a href="#">FIDO - DPZ - Complaint 42079</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2008-11-12
7	<a href="#">FIDO - VACA - Complaint 47065</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2009-02-06
8	<a href="#">FIDO - DPZ - Complaint 41799</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2010-02-11
9	<a href="#">FIDO - STRK - Complaint 59094</a> Project Name: MONTICELLO FOREST	Closed	Closed: 2010-06-22

Address: 006201 DANA AV

10 [FIDO - STRK - Complaint 58801](#)

Closed

Closed: 2010-06-22

Project Name: MONTICELLO FOREST

Address: 006201 DANA AV

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**Contact Us:** [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)  
**Phone:County Main Number** - 703-FAIRFAX (703-324-7329), TTY 711 | [County Phone Listing](#)

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**Land Development Information History: Search** [Help](#)

**Search Form**

All text:  All Ids:  After Date:   
 Address:  Project Name:  Before Date:   
 Grid:  80 Quad:  3 Subdivision:  03 Block:  80 Lot:  0001 Suffix:

[Clear Search](#)

**Search Results**

Switch to view:

Showing from 21 to 28 of about 28 results

Sort by:  Pages: [1](#) [2](#) [3](#)

#	Record	Status	Date
21	<a href="#">FIDO - DCC - Complaint 89720</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2013-04-11
22	<a href="#">FIDO - DCC - Complaint 94181</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2013-05-29
23	<a href="#">FIDO - DCC - Complaint 94112</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2013-06-11
24	<a href="#">FIDO - DCC - Complaint 97451</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2013-10-04
25	<a href="#">FIDO - DCC - Complaint 115534</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2015-05-04
26	<a href="#">FIDO - DCC - Complaint 115582</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2015-05-05
27	<a href="#">FIDO - DCC - Complaint 115945</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2015-05-11
28	<a href="#">FIDO - DCC - Complaint 110452</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Under Investigation	No Date In Record

Showing from 21 to 28 of about 28 results

Pages: [1](#) [2](#) [3](#)

**Contact Us:** [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)  
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**Land Development Information History: Search** [Help](#)

**Search Form**

All text:  All Ids:  After Date:   
 Address:  Project Name:  Before Date:   
 Grid:  80 Quad:  3 Subdivision:  03 Block:  80 Lot:  0001 Suffix:

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**Search Results**

Switch to view:

Showing from 11 to 20 of about 28 results

Sort by:  Pages: [1](#) [2](#) [3](#)

#	Record	Status	Date
11	<a href="#">FIDO - DCC - Complaint 64241</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2010-08-18
12	<a href="#">FIDO - HLTH - Complaint 65409</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2010-10-01
13	<a href="#">FIDO - DCC - Complaint 65839</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2010-10-26
14	<a href="#">FIDO - DCC - Complaint 65974</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2010-10-27
15	<a href="#">FIDO - DCC - Complaint 69777</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2011-08-03
16	<a href="#">FIDO - DCC - Complaint 82954</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2012-05-08
17	<a href="#">FIDO - DCC - Complaint 80673</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2012-06-19
18	<a href="#">FIDO - DCC - Complaint 84978</a> Project Name: MONTICELLO FOREST Address: 006201 DANA AV	Closed	Closed: 2012-07-18
19	<a href="#">FIDO - DCC - Complaint 87146</a> Project Name: MONTICELLO FOREST	Closed	Closed: 2012-08-29

Address: 006201 DANA AV

20 [FIDO - DCC - Complaint 91855](#)

Closed

Closed: 2013-03-01

Project Name: MONTICELLO FOREST

Address: 006201 DANA AV

Showing from 11 to 20 of about 28 results

Pages: [1](#) [2](#) [3](#)

**Contact Us:** [General \(Office of Public Affairs\)](#) | [Technical \(Web Administrator\)](#) | [Directed Inquiries \(County Agencies\)](#)  
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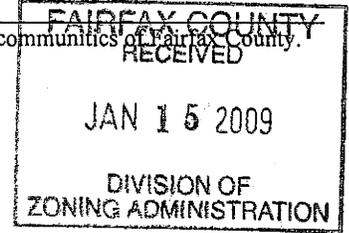
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# County of Fairfax, Virginia

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 15, 2009  
**CERTIFIED MAIL #:** 70080150000291595495

**CASE #:** 41799

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION** 6201 Dana Avenue 22150-3313  
Tax Map #: 0803 03800001  
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on January 5, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

### § 2-501 Excessive Dwelling Units:

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

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 ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) 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 \$375.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Johnny Rocha  
January 15, 2009  
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at 703-324-1388 or 703-324-1300.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Ferramosca", with a long horizontal flourish extending to the right.

Laura Ferramosca  
Property Maintenance/Senior Zoning Inspector

LEF/seg



# 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:** February 4, 2009

**CERTIFIED MAIL #:** 7008 1830 0004 9542 4375

**CASE #:** 41799

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION** 6201 Dana Avenue 22150-3313  
Monticello Forest, Lot 1  
Tax Map #: 80-3 ((38)) 1  
Zoning District: R-3

Dear Property Owner:

Inspections of the above referenced property starting **January 5, 2009** through **February 2, 2009** revealed the following violations of the Fairfax County Zoning Ordinance.

### § 2-302 (4) & (5) Rooming House:

The inspection revealed that you are maintaining a rooming house which is being used and occupied by a minimum of five (5) persons wherein a charge is paid for such accommodations. Part 3 of Article 20 of the Zoning Ordinance defines a rooming house as:

Any building or portion thereof containing sleeping accommodations for five (5) to twelve (12) persons wherein normally a charge is paid for such accommodations. The term 'rooming house' shall be deemed to include the term 'boarding house', but not motel or other accommodations used for transient occupancy.

A rooming house is a use not permitted by right or by special exception in the R-3 District. A rooming house is a use permitted with the approval by the Board of Zoning Appeals (BZA) of a Group 7 Special Permit, in the R-3 District. Therefore, you are in violation of Par. 4 and Par. 5 of Sect. 2-302 of the Fairfax County Zoning Ordinance which state:

**Department of Planning and Zoning**  
Zoning Administration Division  
Zoning Enforcement Branch  
12055 Government Center Parkway, Suite 829  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 FAX 703-324-1343  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



4. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.
5. No use shall be allowed in any district which is not permitted by the regulations for the district.

You are, hereby, directed to clear these violations within thirty (30) days of the date of this Notice. Compliance can be accomplished as follows:

- Ceasing, on a permanent basis, the rooming house use of this single family dwelling, and
- Removing all bedding including, but not limited to mattresses, bed rolls, sleeping mats, blankets, sheets, sleeping bags, or any other bedding material from the property that cannot be used by the lawful residents of the dwelling as referenced in Sect. 2-502 above, and
- Removing all interior keyed locks which restrict unfettered access to all common areas in the dwelling, or which restrict access to any room which constitutes the rooming house; and
- Limiting the occupancy of the dwelling in accordance with the provisions of Sect. 2-502 of the Zoning Ordinance as set forth in this Notice.

**§ 2-502 Multiple Occupancy:**

Inspections have determined you are allowing six (6) or more unrelated persons to reside in the single family dwelling on this property. Sect. 2-502 of the Fairfax County Zoning Ordinance limits the number of individuals that may reside in this single family dwelling as follows:

A dwelling unit, except an accessory dwelling unit which shall be subject to the provisions of Part 9 of Article 8, may be occupied by not more than one (1) of the following:

One (1) family, which may consist of one (1) person or two (2) or more persons related by blood or marriage with any number of natural children, foster children, step children or adopted children and not to exceed two (2) roomers or boarders as permitted by Article 10.

Two (2) single parents or guardians with not more than a total of six (6) of their dependent children, including natural children, foster children, step children or adopted, functioning as a single housekeeping unit.

A group of not more than four (4) persons not necessarily related by blood or marriage functioning at a single housekeeping unit.

A group residential facility.

Any group housekeeping unit which may consist of not more than ten (10) persons as may be approved by the BZA in accordance with the provisions of Part 3 of Article 8.

One (1) person or two (2) persons one of whom shall be elderly and/or disabled as defined in Sect. 8-918, and one (1) or both of whom own the dwelling unit, plus one (1) family, which may consist of one (1) person or two (2) or more persons related by blood or marriage, and with any number of natural children, foster children, step children or adopted children.

A bed and breakfast, as may be approved by the Board of Supervisors in accordance with the provisions of Part 5 of Article 9.

Based on this investigation, the number of roomers or boarders and unrelated occupants/residents exceed this limitation and violate the aforementioned provision.

Therefore, the occupancy of the single family dwelling, at this site, is in violation of Sect. 2-502 as described above.

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

- Complying with **only one** of the provisions of Sect. 2-502 of the Zoning Ordinance as stated above.

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 ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This

Johnny Rocha  
February 4, 2009  
Page 4

decision shall be final and unappealable if it is not appealed within such ten (10) 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 \$375.00 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 703-324-1388 or 703-324-1300.

Sincerely,

Laura Ferramosca  
Property Maintenance / Zoning Inspector

LEF/seg



# 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:** February 11, 2009

### SHERIFF'S LETTER

**CASE #:** 41799

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION** 6201 Dana Avenue 22150-3313  
Tax Map #: 0803 03800001  
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on January 5, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

### § 2-501 Excessive Dwelling Units:

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

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.

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Johnny Rocha  
February 11, 2009  
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at 703-324-1388 or 703-324-1300.

Sincerely,

A handwritten signature in cursive script that reads "Laura Ferramosca". The signature is written in black ink and is positioned above the printed name and title.

Laura Ferramosca  
Property Maintenance/Senior Zoning Inspector

LEF/seg



# 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:** March 4, 2009

### SHERRIF'S LETTER

**CASE #:** 41799

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION** 6201 Dana Avenue 22150-3313  
Monticello Forest, Lot 1  
Tax Map #: 80-3 ((38)) 1  
Zoning District: R-3

Dear Property Owner:

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Any building or portion thereof containing sleeping accommodations for five (5) to twelve (12) persons wherein normally a charge is paid for such accommodations. The term 'rooming house' shall be deemed to include the term 'boarding house', but not motel or other accommodations used for transient occupancy.

A rooming house is a use not permitted by right or by special exception in the R-3 District. A rooming house is a use permitted with the approval by the Board of Zoning Appeals (BZA) of a Group 7 Special Permit, in the R-3 District. Therefore, you are in violation of Par. 4 and Par. 5 of Sect. 2-302 of the Fairfax County Zoning Ordinance which state:

**Department of Planning and Zoning**  
Zoning Administration Division  
Zoning Enforcement Branch  
12055 Government Center Parkway, Suite 829  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 FAX 703-324-1343  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



4. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.
5. No use shall be allowed in any district which is not permitted by the regulations for the district.

You are, hereby, directed to clear these violations within thirty (30) days of the date of this Notice. Compliance can be accomplished as follows:

- Ceasing, on a permanent basis, the rooming house use of this single family dwelling, and
- Removing all bedding including, but not limited to mattresses, bed rolls, sleeping mats, blankets, sheets, sleeping bags, or any other bedding material from the property that cannot be used by the lawful residents of the dwelling as referenced in Sect. 2-502 above, and
- Removing all interior keyed locks which restrict unfettered access to all common areas in the dwelling, or which restrict access to any room which constitutes the rooming house; and
- Limiting the occupancy of the dwelling in accordance with the provisions of Sect. 2-502 of the Zoning Ordinance as set forth in this Notice.

**§ 2-502 Multiple Occupancy:**

Inspections have determined you are allowing six (6) or more unrelated persons to reside in the single family dwelling on this property. Sect. 2-502 of the Fairfax County Zoning Ordinance limits the number of individuals that may reside in this single family dwelling as follows:

A dwelling unit, except an accessory dwelling unit which shall be subject to the provisions of Part 9 of Article 8, may be occupied by not more than one (1) of the following:

One (1) family, which may consist of one (1) person or two (2) or more persons related by blood or marriage with any number of natural children, foster children, step children or adopted children and not to exceed two (2) roomers or boarders as permitted by Article 10.

Two (2) single parents or guardians with not more than a total of six (6) of their dependent children, including natural children, foster children, step children or adopted, functioning as a single housekeeping unit.

A group of not more than four (4) persons not necessarily related by blood or marriage functioning at a single housekeeping unit.

A group residential facility.

Any group housekeeping unit which may consist of not more than ten (10) persons as may be approved by the BZA in accordance with the provisions of Part 3 of Article 8.

One (1) person or two (2) persons one of whom shall be elderly and/or disabled as defined in Sect. 8-918, and one (1) or both of whom own the dwelling unit, plus one (1) family, which may consist of one (1) person or two (2) or more persons related by blood or marriage, and with any number of natural children, foster children, step children or adopted children.

A bed and breakfast, as may be approved by the Board of Supervisors in accordance with the provisions of Part 5 of Article 9.

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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 ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This

Johnny Rocha  
March 4, 2009  
Page 4

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Should you have any questions or need additional information, please do not hesitate to contact me at 703-324-1388 or 703-324-1300.

Sincerely,

Laura Ferramosca  
Property Maintenance / Zoning Inspector

LEF/seg



# County of Fairfax, Virginia

## MEMORANDUM

Office of the County Attorney  
Suite 549, 12000 Government Center Parkway  
Fairfax, Virginia 22035-0064  
Phone: (703) 324-2421; Fax: (703) 324-2665  
www.fairfaxcounty.gov

**DATE:** January 27, 2010

**TO:** Eileen M. McLane, Zoning Administrator  
Department of Planning and Zoning

**FROM:** Marc E. Gori, Assistant County Attorney   
Office of the County Attorney

**SUBJECT:** *Eileen M. McLane, Fairfax County Zoning Administrator v. Johnny Rocha,*  
Case No. CL-2009-0014358

**REF. NO.:** 263804

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**THIS MEMORANDUM CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS AND IS NOT TO BE RELEASED TO THE PUBLIC. THIS MEMORANDUM IS EXEMPT FROM THE DISCLOSURE PROVISIONS OF THE VIRGINIA FREEDOM OF INFORMATION ACT. VA. CODE ANN. § 2.2-3705.1(2) (2008).**

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On January 12, 2010, the Zoning Administrator and the Defendant submitted to the Court for entry the attached Agreed Final Order that grants the Zoning Administrator the declaratory and prohibitory injunctive relief requested in the Complaint. The mandatory injunction is omitted from the order because the Defendant cleared the violations from the subject property on or before December 11, 2009.

Please call me at (703) 324-2627 if you have any questions regarding this matter.

Attachment

cc: Jeffrey C. McKay, Supervisor, Lee District  
**Michael Congleton, Senior Deputy Zoning Administrator, DPZ**  
Laura Ferramosca, Property Maintenance/Senior Zoning Inspector, DPZ



IT FURTHER APPEARING TO THE COURT that the parties hereto agree that the terms of this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the Zoning Administrator and the Defendant, with the approval of this Court; and

IT FURTHER APPEARING TO THE COURT that this Agreed Final Order should be entered; now, therefore, it is hereby

ADJUDGED and ORDERED as follows:

1. The maintenance and/or allowing the maintenance of more than one Dwelling Unit, as defined in the Zoning Ordinance, on the subject property violates Zoning Ordinance § 2-501; and
2. The Defendant, his tenants, agents, and/or employees are permanently enjoined from maintaining and/or allowing the maintenance of more than one Dwelling Unit on the subject property at any time in the future in violation of Zoning Ordinance § 2-501; and
3. The maintenance and/or allowing the maintenance of more than one Dwelling Unit on the subject property at any time in the future in violation of Zoning Ordinance § 2-501 is permanently prohibited; and
4. The Zoning Administrator and/or her agents shall be permitted to enter upon the subject property at reasonable times in the future to inspect and photograph the interior of the dwelling to monitor compliance with the terms of this Agreed Final Order; and
5. If the Defendant, his tenants, agents, employees, and/or any successors-in-interest fail to comply with any of the provisions set forth in this Agreed Final Order, they, he, she, or it shall pay the sum of \$100 per day to the County of Fairfax (delivered to the Office of the County Attorney in the form of a certified check made payable to the "County of Fairfax")

for every day the Court finds a violation of this Agreed Final Order. Payment of this amount shall be in addition to any sanctions, fines, or penalties the Court may impose upon a finding of contempt for any violation of this Agreed Final Order; and

6. The terms set forth in this Agreed Final Order are reasonable and shall not be modified except by the written agreement of the parties with the approval of this Court; and

7. The Clerk of the Fairfax County Circuit Court shall record a copy of this Agreed Final Order among the land records of Fairfax County, Virginia, pursuant to Va. Code Ann. § 17.1-227 (Supp. 2009), to give notice of the prohibitions and restrictions contained herein to any successors-in-interest to the Defendant and shall index this Agreed Final Order as follows:

GRANTOR: Johnny Rocha

GRANTEES: Eileen M. McLane; Fairfax County Zoning Administrator;

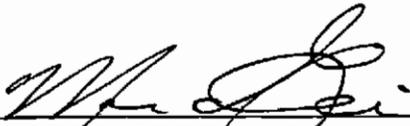
AND THIS CAUSE IS FINAL.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

\_\_\_\_\_  
JUDGE, FAIRFAX COUNTY CIRCUIT COURT

WE ASK FOR THIS:

DAVID P. BOBZIEN  
COUNTY ATTORNEY

By: 

Marc E. Gori (VSB No. 74962)  
Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
(703) 324-2421/(703) 324-2665 (fax)  
Counsel for Plaintiff Eileen M. McLane, Fairfax County Zoning Administrator

SEEN AND AGREED:



Johnny Rocha  
6201 Dana Avenue  
Alexandria, Virginia 22150  
Defendant *pro se*



# 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:** March 21, 2012

### SHERIFF'S LETTER

**CASE #:** 201201220 **SR#:** 80673

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION OF VIOLATION** 6201 Dana Avenue  
Springfield, VA 22150-3313  
Tax Map #: 80-3 ((3) (80) 1  
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on March 13, 2012, revealed the following violations of the Fairfax County Zoning Ordinance.

**§ 10-102 (13) Inoperable Vehicle(s)**  
**§ 2-302 (6) Accessory Use must comply with Article 10:**

The inspection has determined that you are storing three (3) inoperable vehicles at this residentially zoned property. Par. 3 of Sect. 110-2-1 of the Fairfax County Code defines an inoperative vehicle as:

- (3) Any motor vehicle, trailer, or semi trailer as herein defined:
  - (A) Which is not in operating condition; or
  - (B) Which does not display valid license plates; or
  - (C) Which does not display an inspection decal that is valid or does display an inspection decal that has been expired for more than sixty (60) days.

The Fairfax County Zoning Ordinance permits the keeping of inoperative vehicles on this property so long as the keeping of the vehicles are in conformance with Par. 13 of Sect. 10-102 of the Zoning Ordinance which permits:

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

Inoperative motor vehicles, as defined in Chapter 110 of The Code, provided such vehicles are kept within a fully enclosed building or structure or are kept completely screened or shielded from view in accordance with Chapter 110 of The Code.

The inoperative vehicles being kept on this property is in violation of Par. 13 of Sect. 10-102 of the Zoning Ordinance as outlined above and, therefore, is in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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

- Removing all inoperative vehicles from this property; or
- Keeping all inoperative vehicles within a fully enclosed building or structure or are kept completely screened or shielded from view in accordance with Par. 13 of Sect. 10-102 of the Zoning Ordinance.

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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 which can result in court ordered sanctions.

**You may have the right to appeal this Notice of Zoning Violation within ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) 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  
Code Compliance Investigator



# County of Fairfax, Virginia

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## NOTICE OF VIOLATION

**DATE OF ISSUANCE:** March 21, 2012

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**CASE #:** 201201220 **SR#:** 80673

**SERVE:** Johnny Rocha  
6201 Dana Avenue  
Springfield, VA 22150

**LOCATION OF VIOLATION** 6201 Dana Avenue  
Springfield, VA 22150-3313  
Tax Map #: 80-3 ((3)) (80) 1  
Zoning District: R-3

Dear Property Owner:

An inspection of the above referenced property on March 13, 2012, revealed the following violations of the Fairfax County Zoning Ordinance.

### **§ 2-302 (5) Junk Yard:**

You are storing on the property the following materials, debris and junk:

Automobile parts, exercise equipment, car ramps, hydraulic car jack, tools boxes, and other miscellaneous items and debris

The use of the property for the storage of the afore-described items constitutes a junk yard, which is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

The use of any space, whether inside or outside a building, for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof; provided that this definition shall not apply to outside storage as permitted as an accessory use under the provisions of

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

Sect. 10-102. A junk yard shall also be inclusive of an AUTOMOBILE GRAVEYARD as defined herein.

A junk yard is not a permitted use in the R-3 District. Therefore, you are in violation of Par. 5 of Sect. 2-302 of the Zoning Ordinance which states:

No use shall be allowed in any district which is not permitted by the regulations for the district.

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

- Removing all junk, debris and materials that constitutes a junk yard, and
- Ceasing the use of the property as a junk yard.

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**§ 10-102 (24) Outdoor Storage**

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

An inspection has determined that you are allowing the storage on the property of, but not limited to, the following:

Lawn umbrella, portable basketball standard, lumber, plywood, plastic lawn edging, child's car seat, several boxes of tile, and other miscellaneous article of debris and junk.

This outdoor storage:

Exceeds 100 square feet in area, and

Is not located in the rear half of the lot, and

Is not screened from view from the first story window of any neighboring dwelling.

This outdoor storage is violation of Par. 24 of Sect. 10-102 of the Fairfax County Zoning Ordinance that states in part:

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

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

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or

enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

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

- Removing all outdoor storage from this lot; or
- Relocation of the outdoor storage to the rear half of the lot, and
- Screening it from the view from the first story window of any neighboring dwelling, and
- Limiting it to a total area not exceeding 100 square feet.

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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 which can result in court ordered sanctions.

**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  
Code Compliance Investigator

### **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. 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.