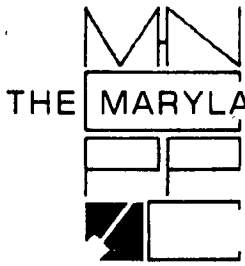


35/36-97C 4711 Cumberland Ave. Chevy Ch.
(Somerset Historic District)



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MEMORANDUM

DATE: 5/29/97

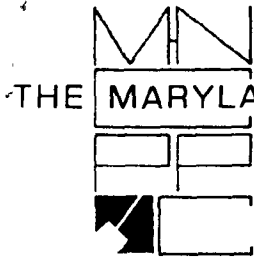
TO: Local Advisory Panel/Town Government

FROM: Historic Preservation Section, M-NCPPC
Robin D. Ziek, Historic Preservation Planner
Perry Kephart, Historic Preservation Planner

SUBJECT: Historic Area Work Permit Application - HPC Decision

The Historic Preservation Commission reviewed this project on 5/28/97.
A copy of the HPC decision is enclosed for your information.

Thank you for providing your comments to the HPC. Community involvement is a key component of historic preservation in Montgomery County. If you have any questions, please do not hesitate to call this office at (301) 495-4570.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

DATE: 5/29/97

MEMORANDUM

TO: Robert Hubbard, Chief
Division of Development Services and Regulation
Department of Environmental Protection (DEP)

FROM: Gwen Marcus, ^{PO2}Historic Preservation Coordinator
Design, Zoning, and Preservation Division
M-NCPPC

SUBJECT: Historic Area Work Permit

The Montgomery Historic Preservation Commission has reviewed the attached application for a Historic Area Work Permit. The application was:

Approved Denied
 Approved with Conditions: _____

THE BUILDING PERMIT FOR THIS PROJECT SHALL BE ISSUED CONDITIONAL UPON ADHERANCE TO THE APPROVED HISTORIC AREA WORK PERMIT(HAWP).

Applicant: Robert Wenger

Address: 4711 Cumberland Ave, Chevy Chase, MD. 20815

***THE APPLICANT MUST ARRANGE FOR A FIELD INSPECTION BY CALLING DEP/FIELD SERVICES (217-6240) FIVE DAYS PRIOR TO COMMENCEMENT OF WORK AND WITHIN TWO WEEKS FOLLOWING COMPLETION OF WORK.



RETURN TO: DEPARTMENT OF PERMITTING SERVICES
250 HUNGERFORD DRIVE, ROCKVILLE, MARYLAND 20850
301/217-6370

DPS - #B

HISTORIC PRESERVATION COMMISSION
301/495-4570

APPLICATION FOR
HISTORIC AREA WORK PERMIT

Contact Person: PAUL ARQUETTE

Daytime Phone No.: 202 337 0888

Tax Account No.: 538 980

Name of Property Owner: MR. ROBERT WENGER Daytime Phone No.: 703/516-2440

Address: 4711 CUMBERLAND AVE, CHEVY CHASE, MD 20815
Street Number City Street Zip Code

Contractor: deMARNE & DAY Phone No.: 301 299 6500

Contractor Registration No.: 1528

Agent for Owner: PAUL ARQUETTE Daytime Phone No.: 202 337 0888

LOCATION OF BUILDING/PREMISE

House Number: 4711 Street: CUMBERLAND AVE

Town/City: CHEVY CHASE (SOMERSET) Nearest Cross Street: DEVON LANE

Lot: 18 Block: 1 Subdivision: SOMERSET HEIGHTS

Liber: Folio: Parcel:

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct Extend Alter/Renovate
- Move Install Wreck/Raze
- Revision Repair Revocable

CHECK ALL APPLICABLE:

- A/C Slab Room Addition Porch Deck Shed
- Solar Fireplace Woodburning Stove Single Family
- Fence/Wall (complete Section 4) Other:

1B. Construction cost estimate: \$ 2,000.00

1C. If this is a revision of a previously approved active permit, see Permit # 9602200073

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other:

2B. Type of water supply: 01 WSSC 02 Well 03 Other:

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 7 feet 6 inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line Entirely on land of owner On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Paul V. Arquette AIA
Signature of owner or authorized agent

APRIL 30, 1997
Date

Approved:

For Chairperson, Historic Preservation Commission

Disapproved: Signature: Date: 5/28/97

Application/Permit No.: 9705050087 Date Filed: Date Issued:

SEE REVERSE SIDE FOR INSTRUCTIONS

THE FOLLOWING ITEMS MUST BE COMPLETED. THE REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.



HISTORIC PRESERVATION COMMISSION

1. WRITTEN DESCRIPTION OF PROJECT

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

THE EXISTING FENCE AT THE REAR OF THE BACK YARD (OF THE PLEASING VICTORIAN HOUSE) HAS AN UNDISTINGUISHED PICKET DESIGN.

b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

THE PROPOSED FENCE WOULD BE A SIGNIFICANT IMPROVEMENT OVER THE EXISTING. THE NEW FENCE WOULD HAVE VERTICAL 1X4 BOARDS, W/ A LATTICE SCREEN AT THE TOP. THIS FENCE WOULD COMPLIMENT THE EXISTING VICTORIAN HOUSE AND ITS NEIGHBORS.

2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- a. the scale, north arrow, and date;
- b. dimensions of all existing and proposed structures; and
- c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- a. Schematic construction plans, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. TREE SURVEY

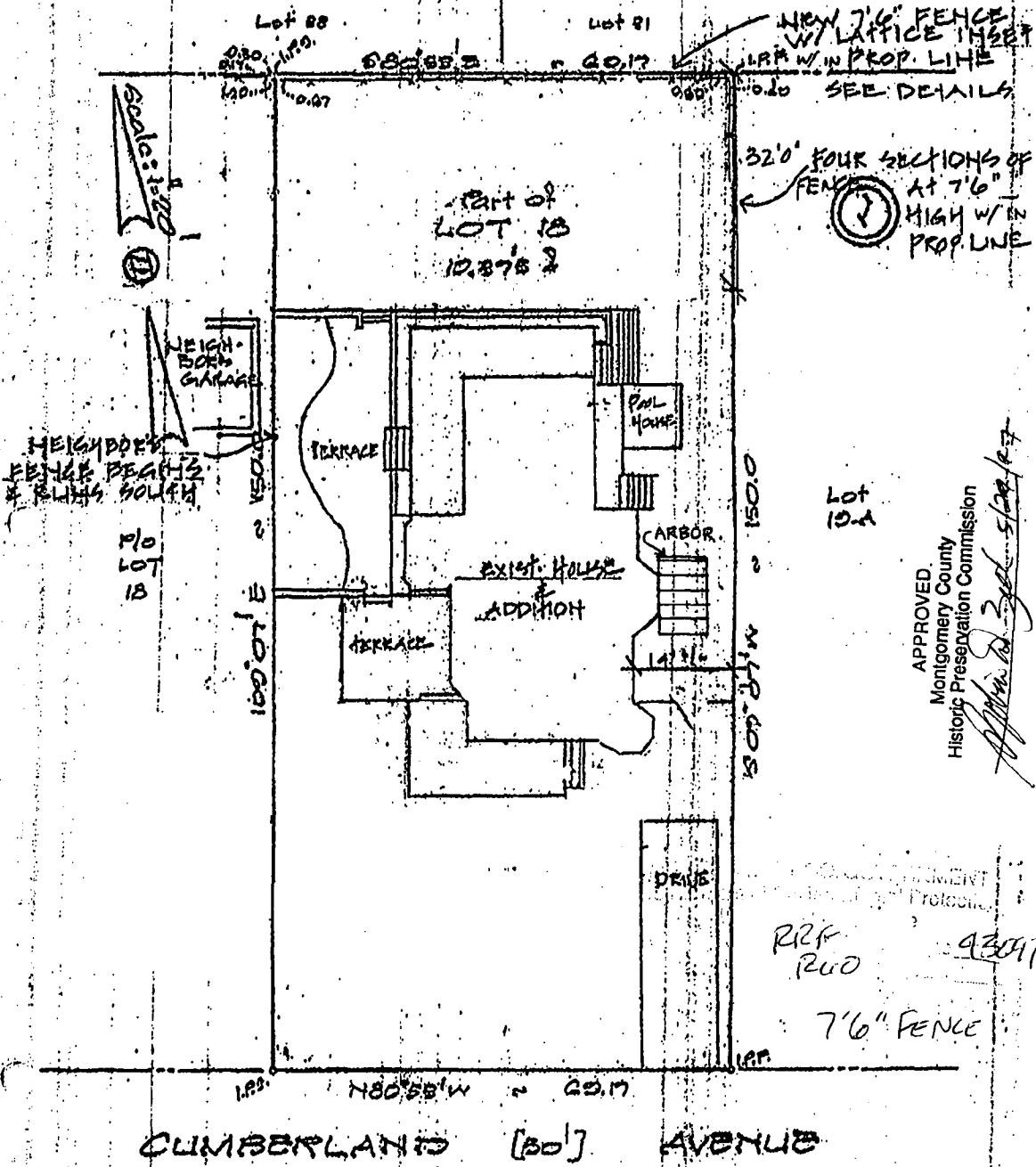
If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS

For ALL projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question. You can obtain this information from the Department of Assessments and Taxation, 51 Monroe Street, Rockville, (301/279-1355).

**PLEASE PRINT (IN BLUE OR BLACK INK) OR TYPE THIS INFORMATION ON THE FOLLOWING PAGE.
PLEASE STAY WITHIN THE GUIDES OF THE TEMPLATE, AS THIS WILL BE PHOTOCOPIED DIRECTLY ONTO MAILING LABELS.**

Lot Stakeout
 Part of Lot Block I
 Somerset Heights
 Plat Book 1 Plat 30
 Montgomery Co., MD



APPROVED.
 Montgomery County
 Historic Preservation Commission
[Signature] 5/22/97

SURVEYOR'S CERTIFICATES:

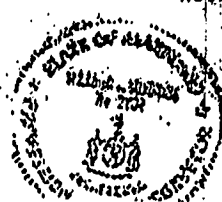
I hereby certify that the position of the existing improvements on the above described property has been carefully established by a transit-race survey and that unless otherwise shown, there are no encroachments.

BACK FENCE LOCATED.

I hereby certify that I have carefully the property as shown by this plat the are in place as shown.

WENGER RESIDENCE
 4711 Cumberland Avenue
 Chevy Chase, Maryland
 Fence Plans by Chris Dougherty Gardens by Design
 (202) 966-3935 Scale: 1/2" = 1'0"

Note: House location surveys do not include existing lean-toes on property corners.



W. L. MEEKINS, Inc.
 Registered Land Surveyor #2724
 3101 Ritchie Road
 Forestville, Maryland 20747
 726-7116 736-6366 736-6387

← DRUMMOND AVE NEIGHBORS →

8'0" (TYP)

6x6 FENCE POST ON PROPERTY LINE (TYP)

FENCE SET BET. POSTS (TYP)

PROPERTY LINE

2'0"

POOL DECK

STONE WALL

475 CUMBERLAND

4709 CUMBERLAND

POOL & COVER

← PLANTER →

WALK & PORCH

PLAN VIEW OF POOL DECK

FENCE & PROPERTY LINE

APPROVED
Montgomery County
Historic Preservation Commission

[Signature] 3/29/97

WENGER RESIDENCE

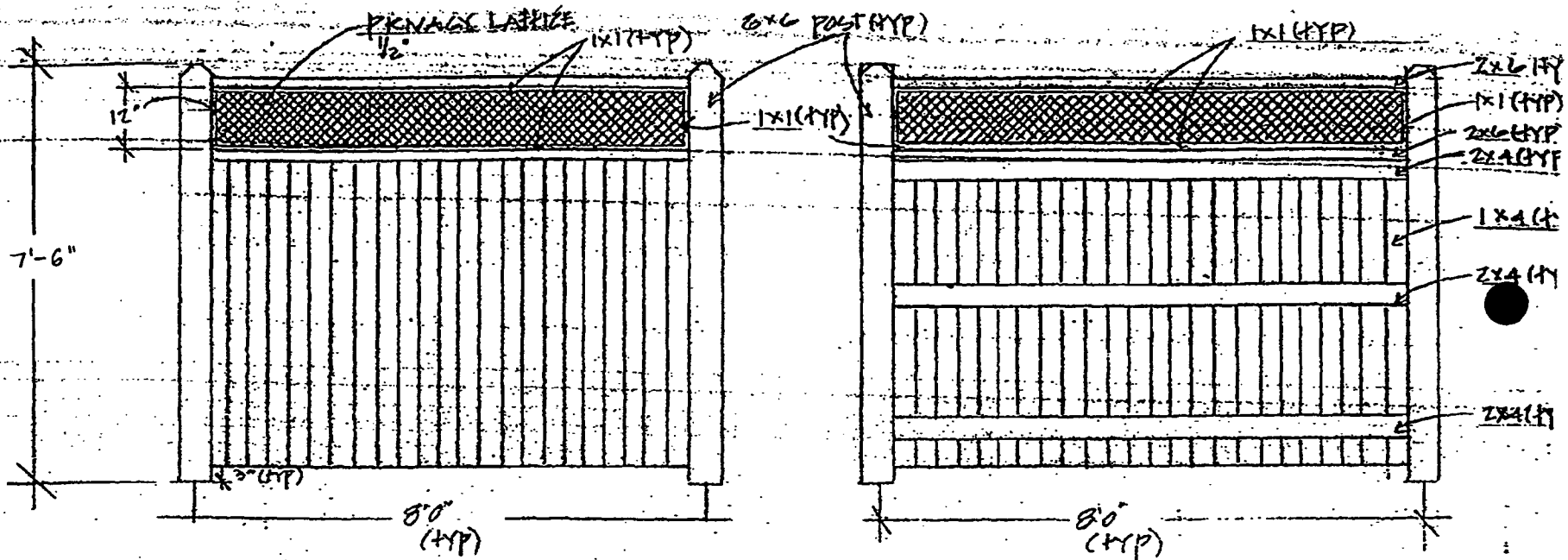
4711 CUMBERLAND AVE
CHEVY CHASE, MD.

DRAWING BY CHRIS DOUGHERTY

SCALE: 1/8" = 1'0"

FEB 7, 1997





FENCE ELEVATION (NEIGHBOR'S SIDE)

FENCE ELEVATION (WENGER'S SIDE)

SCALE: 1/2" = 10'

SCALE: 1/2" = 10'

GENERAL NOTES:

DISCARD OLD FENCING.

ALL MATERIAL TO BE PRESSURE TREATED LUMBER

FENCE POSTS TO BE 3'-0" BELOW GRADE.

FENCE TO BE W/IN PROPERTY LINE. SEE SITE PLAN.

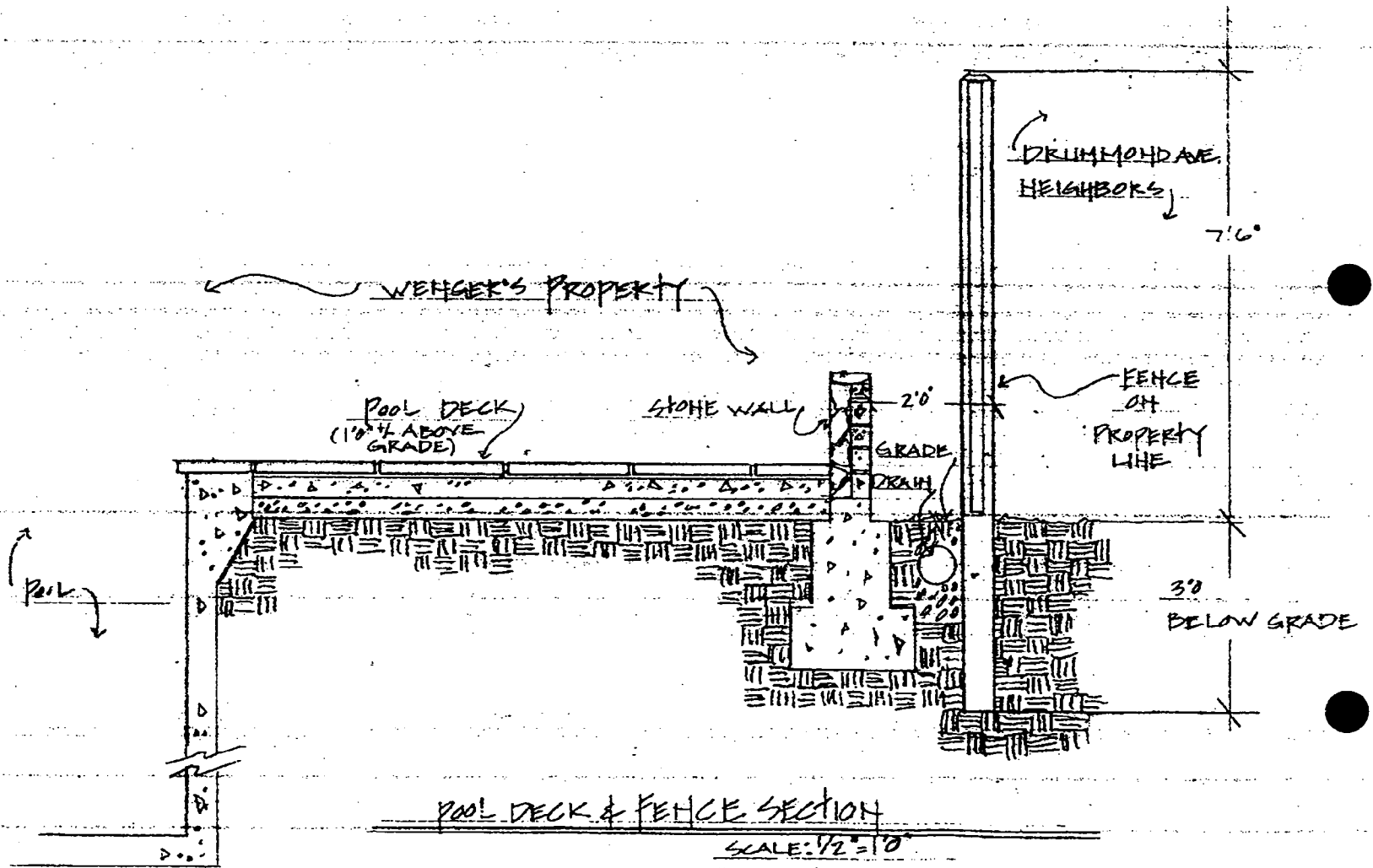
APPROVED
Montgomery County
Historic Preservation Commission

Approved 5/29/27

WENGER RESIDENCE

4711 Cumberland Avenue
Chevy Chase, Maryland

Fence Plans by Chris Dougherty Gardens by Design
(202) 966-3935 Scale 1/2" = 10'



APPROVED
 Montgomery County
 Historic Preservation Commission
Andrew Ziel 5/29/97

WENGER RESIDENCE
 4711 CUMBERLAND AVE
 CHEVY CHASE, MD
 DRAWN BY CHRIS DOUGHERTY



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

DATE: 5/29/97

MEMORANDUM

TO: Historic Area Work Permit Applicants

FROM: Gwen Marcus ^{PD2}, Historic Preservation Coordinator
Design, Zoning, and Preservation Division
M-NCPPC

SUBJECT: Historic Area Work Permit Application - Approval of
Application/ Release of Other Required Permits

Enclosed is a copy of your Historic Area Work Permit application, approved by the Historic Preservation Commission at its recent meeting, and a transmittal memorandum stating conditions (if any) of approval.

You may now apply for a county building permit from the Department of Environmental Protection (DEP), at 250 Hungerford Drive, Second Floor, in Rockville. Please note that although your work has been approved by the Historic Preservation Commission, it must also be approved by DEP before work can begin.

When you file for your building permit at DEP, you must take with you the enclosed forms, as well as the Historic Area Work Permit that will be mailed to you directly from DEP. These forms are proof that the Historic Preservation Commission has reviewed your project. For further information about filing procedures or materials for your county building permit review, please call DEP at 217-6370.

If your project changes in any way from the approved plans, either before you apply for your building permit or even after the work has begun, please contact the Historic Preservation Commission staff at 495-4570.

Please also note that you must arrange for a field inspection for conformance with your approved HAWP plans. Please inform DEP/Field Services at 217-6240 of your anticipated work schedule.

Thank you very much for your patience and good luck with your project!

IMPORTANT MESSAGE

For Robert
Day 5/28 Time 9:10 A.M.
P.M.
M Cal Bowie
Of 202/ 337-0888

Phone _____
FAX Area Code _____ Number _____ Extension _____
MOBILE Area Code _____ Number _____ Extension _____

| | | | |
|------------------|--------------------|-------------------|--|
| Telephoned | Returned your call | RUSH | |
| Came to see you | Please call | Special attention | |
| Wants to see you | Will call again | Caller on hold | |

Message Re: Wenger fence on
today's HPC agenda
They will pick up -

Signed [Signature]

LAP recommends
Approval

EXPEDITED HISTORIC PRESERVATION COMMISSION STAFF REPORT

Address: 4711 Cumberland Avenue

Meeting Date: 5/28/97

Resource: Somerset Historic District

Review: HAWP

Case Number: 35/36-97C

Tax Credit: No

Public Notice: 5/14/97

Report Date: 5/21/97

Applicant: Robert Wenger (Paul Arquette, Agent)

Staff: Robin D. Ziek

PROPOSAL: Rear fence replacement

RECOMMEND: APPROVAL

DATE OF CONSTRUCTION: c1906

SIGNIFICANCE: ___ Individual Master Plan Site
 ___ Within a Master Plan Historic District
 ___ Outstanding Resource
 ___ Contributing Resource
 ___ Non-Contributing/Out-of-Period Resource

ARCHITECTURAL DESCRIPTION: American Four Square with Queen Anne tower

PROPOSAL: Replace existing and deteriorated rear fence with new fencing 7'-6" high. The applicant has previously applied and been approved for a 6'-6" high fence along the two sides and 5' high at the front of the property. The rear fence will be designed to match the other new fencing. The proposed height is felt necessary to provide adequate backyard privacy due to changes in topography at the rear. The applicant has been approved for a variance for the additional fence height by the Board of Appeals as of February 28, 1997.

RECOMMENDATION: ___ Approval
 ___ Approval with conditions:

1. _____
2. _____
3. _____

Approval is based on the following criteria from Chapter 24A of the Montgomery County Code, Section 8(b): The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

 X 1. The proposal will not substantially alter the exterior features of an historic site, or historic resource within an historic district; or

 X 2. The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site, or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or

①

and subject to the general condition that the applicant arrange for a field inspection by calling the Montgomery County Department of Environmental Protection (DEP), Field Services Office, five days prior to commencement of work and within two weeks following completion of work.

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Person: PAUL ARQUETTE

Daytime Phone No.: 202 337 0888

Tax Account No.: 538 980

Name of Property Owner: MR. ROBERT WENGER Daytime Phone No.: 703/516-2440

Address: 4711 CUMBERLAND AVE, CHEVY CHASE, MD 20815
Street Number City State Zip Code

Contractor: deMARNE & DAY Phone No.: 301 299 6500

Contractor Registration No.: 1528

Agent for Owner: PAUL ARQUETTE Daytime Phone No.: 202 337 0888

LOCATION OF BUILDING/PREMISE

House Number: 4711 Street: CUMBERLAND AVE

Town/City: CHEVY CHASE (SOMERSET) Nearest Cross Street: DEVON LANE

PART OF Lot: 18 Block: 1 Subdivision: SOMERSET HEIGHTS

Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- Construct Extend Alter/Renovate
 Move Install Wreck/Raze
 Revision Repair Revocable

CHECK ALL APPLICABLE:

- A/C Slab Room Addition Porch Deck Shed
 Solar Fireplace Woodburning Stove Single Family
 Fence/Wall (complete Section 4) Other: _____

1B. Construction cost estimate: \$ 2,000.00

1C. If this is a revision of a previously approved active permit, see Permit # 9602200073

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 WSSC 02 Septic 03 Other: _____

2B. Type of water supply: 01 WSSC 02 Well 03 Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height 7 feet 6 inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- On party line/property line Entirely on land of owner On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

Paul V. Arquette AIA
 Signature of owner or authorized agent

APRIL 30, 1997
 Date



**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**



1. WRITTEN DESCRIPTION OF PROJECT

a. Description of existing structure(s) and environmental setting, including their historical features and significance:

THE EXISTING FENCE AT THE REAR ^{AND SIDES} OF THE BACK YARD (OF THE PLEASING VICTORIAN HOUSE) HAS AN UNDISTINGUISHED PICKET DESIGN.

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2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- the scale, north arrow, and date;
- dimensions of all existing and proposed structures; and
- site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- Schematic construction plans**, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

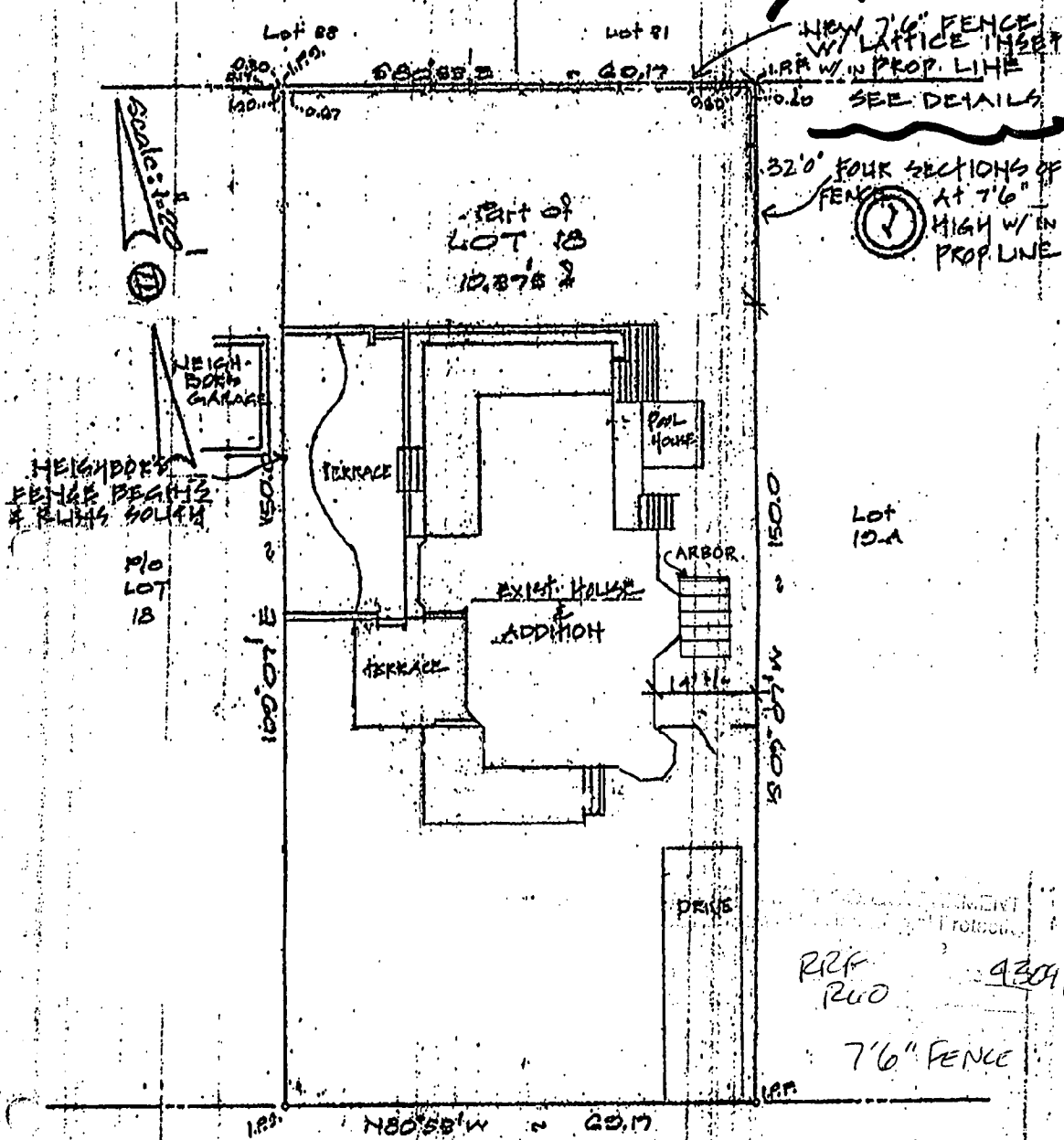
4

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

| NAME | ADDRESS (PLEASE ADD ZIP CODE) | LOT | BLOCK |
|-----------------------------|--|--------------------------|-------|
| Lawrence T. Tirnauer | 4704 Drummond Ave. Chevy Chase, MD 20815 | 31 | A |
| Marion Cox, et. al. | 4708 Drummond Ave. Chevy Chase, MD 20815 | 33 | A |
| Richard A. & M. D. Allen | 4715 Cumberland Ave. Chevy Chase, MD 20815 | All of 17, Part of 18 | 1 |
| Alexandria P. DuBois | 4712 Cumberland Ave. Chevy Chase, MD 20815 | All of 7, Part of 9 | 3 |
| Carol T. Gill, et. al. | PROPERTY ADDRESS: 4709 Cumberland Ave. Chevy Chase, MD 20815 MAILING ADDRESS: 2207 Harcourt Drive Cleveland Heights, OH 44106 | Part of 19A | 1 |

5

Lot Stakeout
 Part of Lot 18, Block 1
 Somerset Heights
 Plat Book 1, Plat 30
 Montgomery Co., MD



NEW 7'6" FENCE
 W/ LATTICE INSERT
 ALR W/ IN PROP. LINE
 SEE DETAILS

320' FOUR SECTIONS OF
 FENCE AT 7'6"
 HIGH W/ IN
 PROP. LINE

NEIGHBOR'S
 GARAGE
 HEIGHTS
 FENCE BEAMS
 & PILLARS SOLID

10' LOT
 18

RRF
 240 43047

7'6" FENCE

CUMBERLAND [30'] AVENUE

SURVEYOR'S CERTIFICATES:

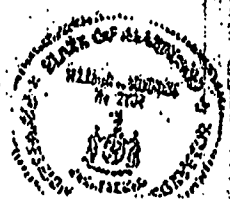
I hereby certify that the position of the existing improvements on the above described property has been carefully established by a transit-race survey and that unless otherwise shown, there are no encroachments.

**PACIFIC FENCE
 LOCATOR**

I hereby certify that I have carefully the property as shown by this plat the are in place as shown.

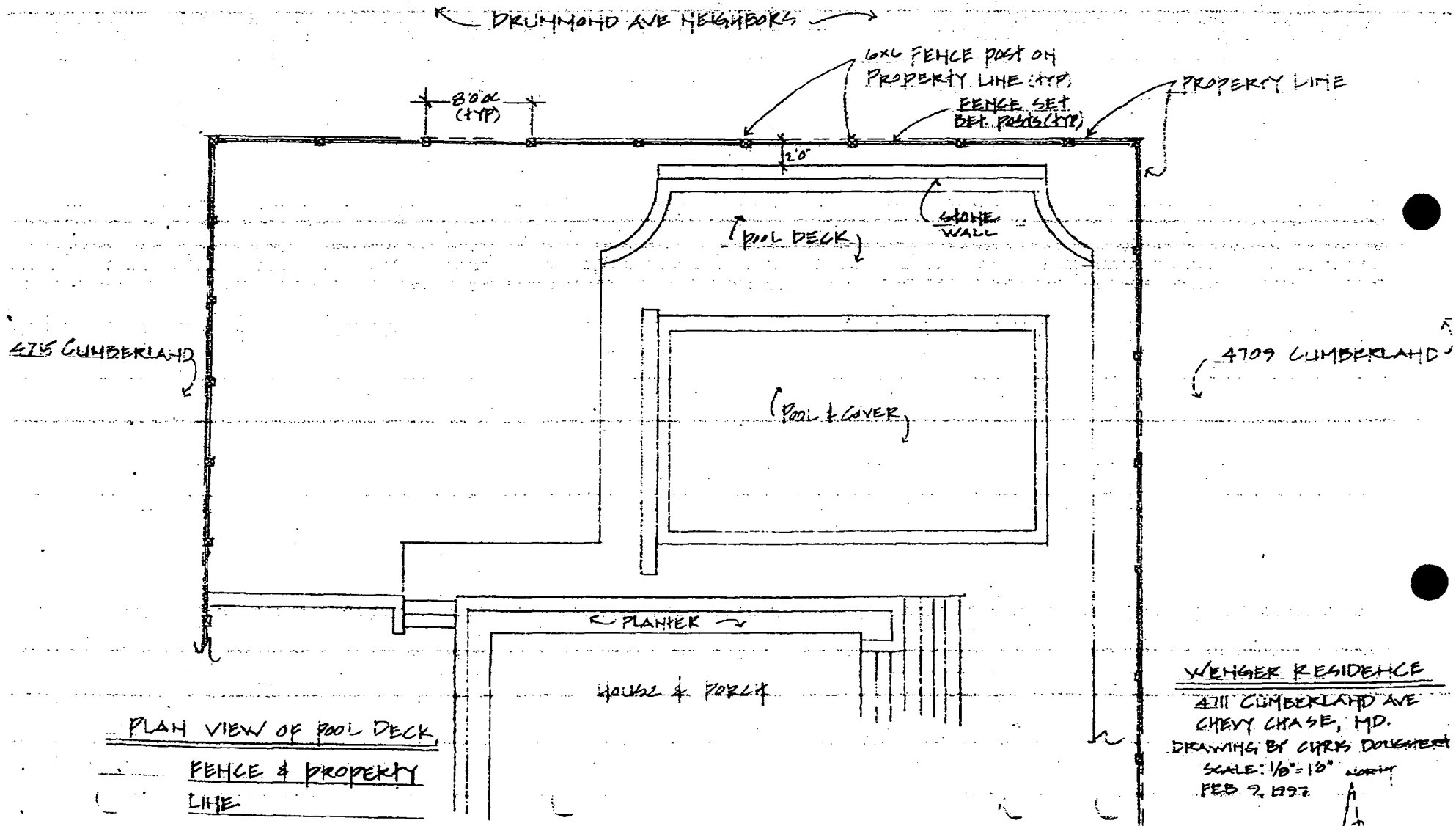
WENGER RESIDENCE
 4711 Cumberland Avenue
 Chevy Chase, Maryland
 Fence Plans by Curtis Dougherty Gardens by Design
 (202) 966-3935 Scale: 1/2" = 10'

Note: House location surveys do not include testing iron pipes on property corners.

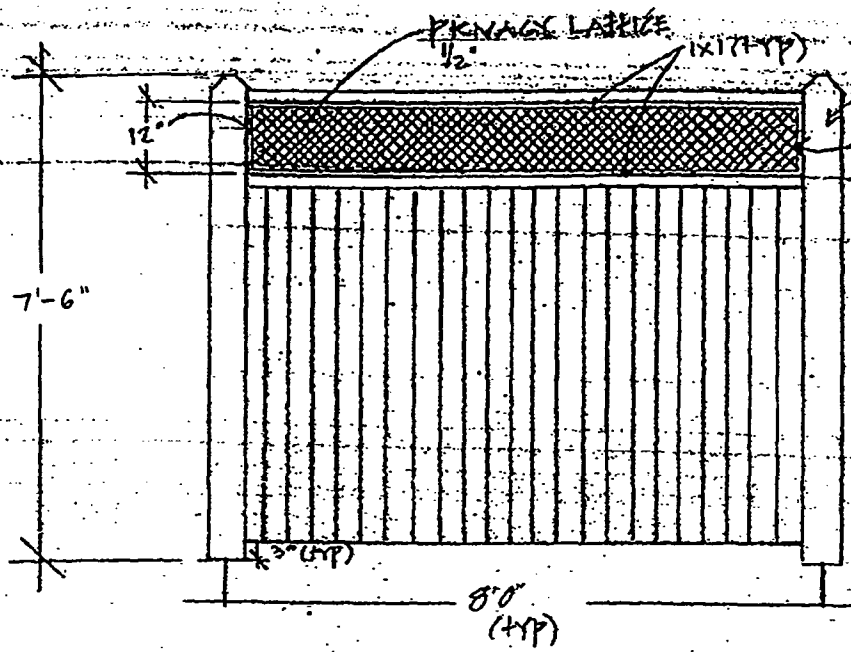


H. L. MEEKINS, Inc.
 Registered Land Surveyor 2124
 3101 Ritchie Road
 Forestville, Maryland 20747
 726-7115 736-6366 736-6387



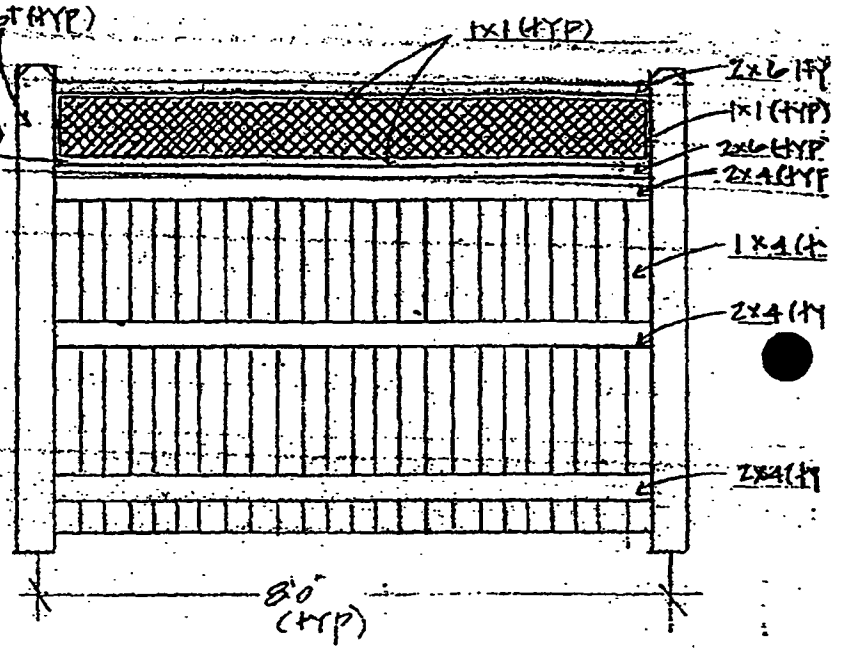


7



FENCE ELEVATION (NEIGHBOR'S SIDE)

SCALE: 1/2" = 10'



FENCE ELEVATION (WENGER'S SIDE)

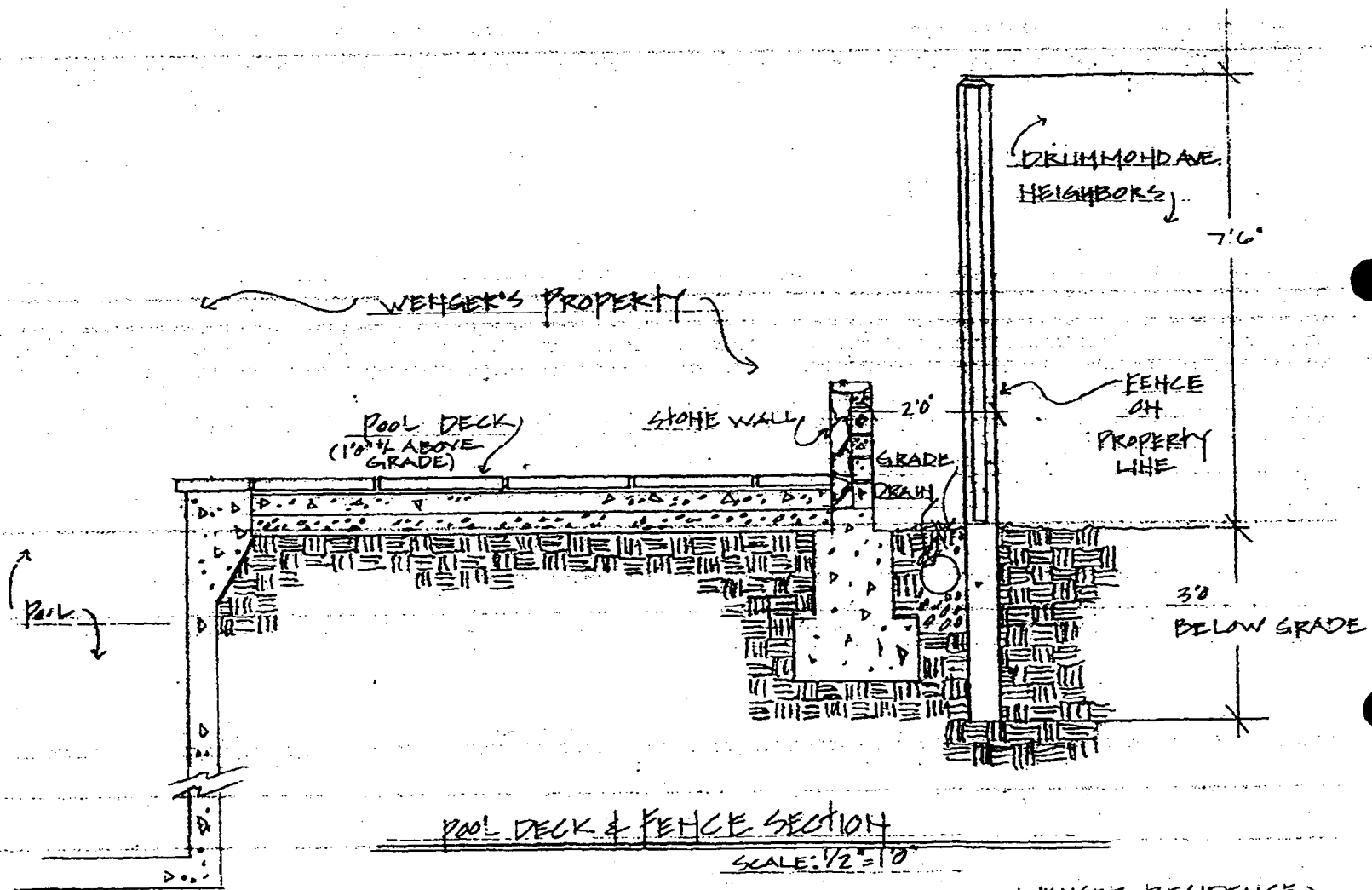
SCALE: 1/2" = 10'

GENERAL NOTES:

- REBOARD OLD FENCING.
- ALL MATERIAL TO BE PRESSURE TREATED LUMBER.
- FENCE POSTS TO BE 3" BELOW GRADE.
- FENCE TO BE WITH PROPERTY LINE. SEE SITE PLAN.

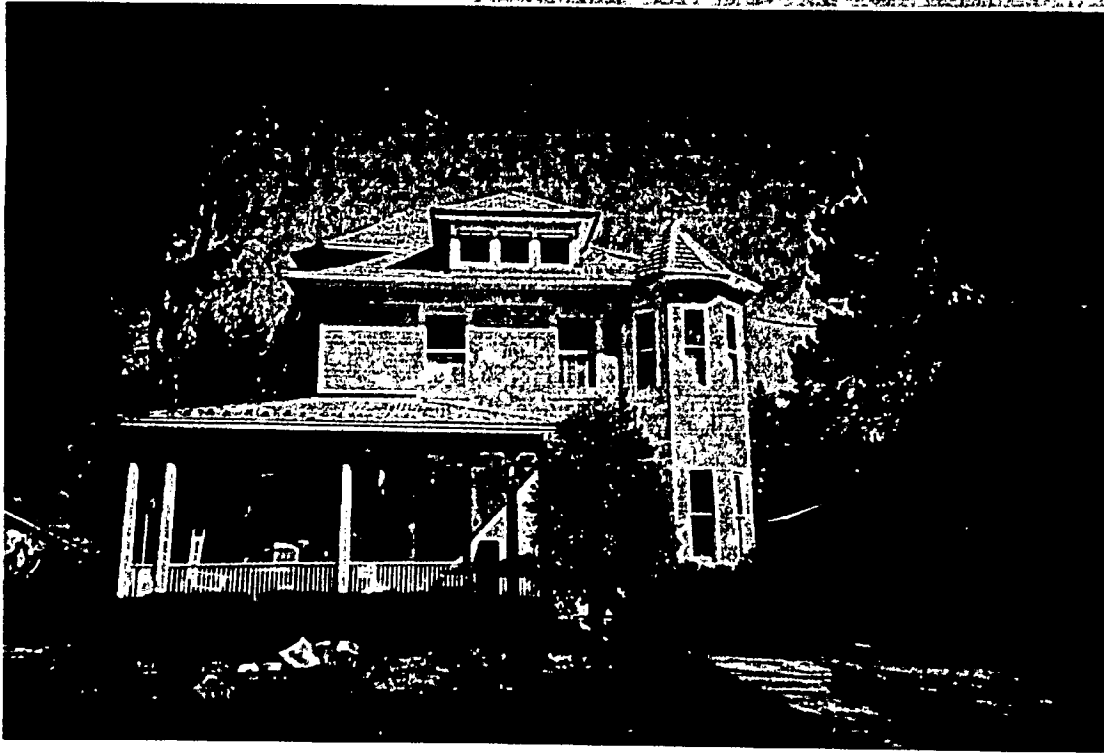
WENGER RESIDENCE
 4711 Cumberland Avenue
 Chevy Chase, Maryland
 Fence Plans by Chris | Cherry Gardens by Design
 (202) 966-3955 Scale: 1/2" = 10'

8

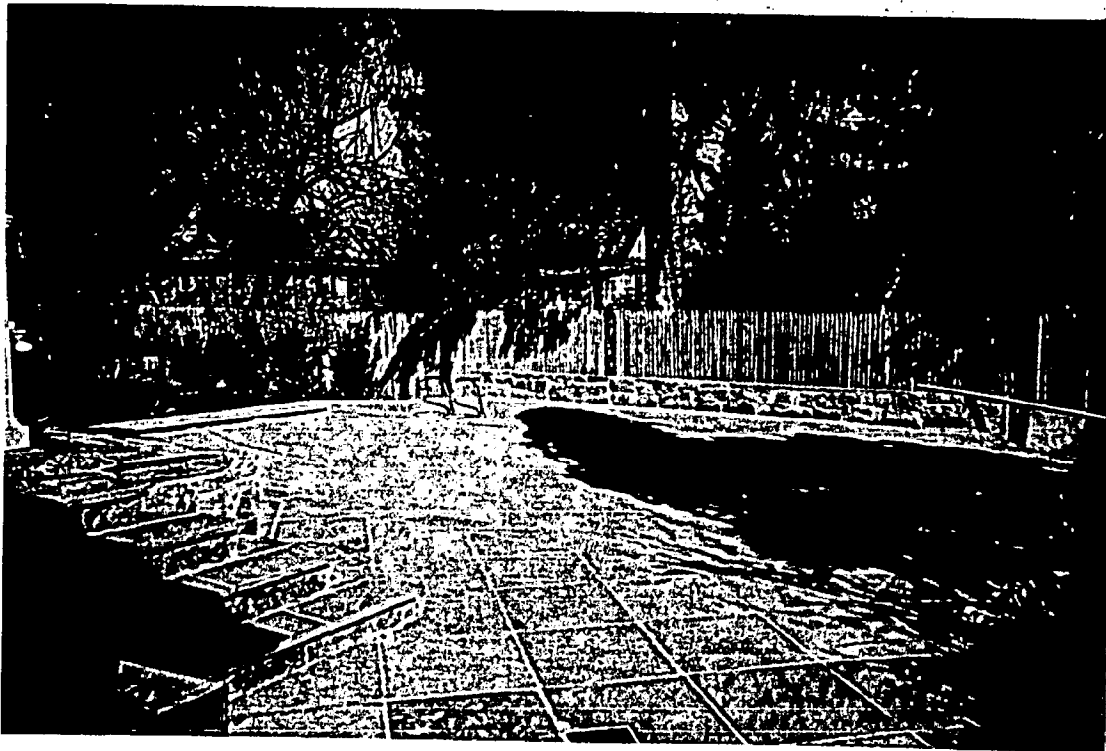


WENGER RESIDENCE
 4711 CUMBERLAND AVE
 CHEVY CHASE, MD
 DRAWN BY CHRIS DOUGHERTY

6



FRONT (SOUTH) ELEVATION



EXISTING FENCE AT REAR (NORTH
SIDE) OF BACK YARD

MEMORANDUM

DATE: January 16, 1997

TO: Montgomery County Board of Appeals

FROM: Paul J. Arquette, AIA

SUBJECT: Summary of Needs for Variance

COPIES: Board of Appeals, Robert Wenger, Kathy Solomon, Chris Dougherty, Architect, File

At the zoning hearing, the following needs for a variance will be proved:

- By reason of exceptional topographical conditions, the strict application of the zoning regulations would result in peculiar and unusual practical difficulties to the owner of the property. A 7'-6" high fence is needed at the property line to provide adequate screening to the swimming pool area from neighboring properties. As shown on the enclosed sectional drawing, the fence is to be built three feet from the edge of the swimming pool deck, on land that is 12" lower than the deck. If the grade were even, then a regulation 6'-6" tall fence would be perfectly suitable for screening the pool area.
- The aforementioned variance is the minimum reasonably necessary to overcome the exceptional topographical conditions. The additional height of twelve inches is all that is needed to provide adequate screening.
- The variance can be granted without substantially impairing the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.
- The variance will not be detrimental to the use and enjoyment of the adjoining or neighboring properties; in fact, the variance would have the opposite effect: The neighboring properties will have a *better* screen from the swimming pool.

Paul Arquette, AIA, and Chris Dougherty, Landscape Architect, are the expert witnesses who will expand on these points at the hearing. It will take approximately twenty minutes to present this case.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301) 217-6600

Case No. A-4688

PETITION OF ROBERT WENGER
(Hearing held February 26, 1997)

OPINION OF THE BOARD
(Effective date of Opinion: February 28, 1997)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.326. The petitioner proposes to construct a 7'6" fence/retaining wall and seeks a variance of two (2) feet from the required rear and side lot line setbacks of two (2) feet.

The subject property is Lot 18, Block 1, Somerset Heights Subdivision, located at 4711 Cumberland Avenue, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 538980).

Decision of the Board: Requested variances granted.

Petitioner Robert Wenger appeared at the hearing with his architect, Paul Arquette. Mr. Arquette testified that there is an existing wood fence along the property line which is in a state of disrepair (photos, Exhibit Nos. 7(a)-(d)). Mr. Arquette stated that Mr. Wenger proposes to replace the fence by constructing a 7'6" privacy fence along the rear property line and a portion of the side property line. The fence would extend into the rear and side lot line setbacks by two feet (as depicted in Exhibit No. 4).

Mr. Arquette further testified that the subject property is long and narrow and the dwelling is sited 34' from the rear property line. There is a steep change in elevation at the rear of the property. A 6'6" fence would appear to be only 5'6" because of the change in elevation. The purpose of the fence is to provide privacy, both for the neighbors and for the users of the swimming pool which is located in petitioner's rear yard behind the dwelling. In response to questions from the Board, Mr. Arquette explained that the good face of the fence will be located on the property line facing the properties to the rear. The concrete footers which will hold the posts will be approximately 2" inside of the Wenger's property line.

The petitioner's neighbors support the instant application as indicated by testimony of Mr. Arquette. Mr. Arquette stated that he has spoken to Ms. Cox, the owner of Lot 33 to the rear. A letter from the Town of Somerset recommends that the Board approve the requested variance (Exhibit No. 10). A letter was received from Lawrence Tirnauer, an adjoining property owner to the rear (Lot 31), which expressed concern about the location of the existing fence (Exhibit No. 9). In response to Mr. Tirnauer's letter, Mr. Arquette stated that the existing fence is not straight and a

small portion of the fence does, indeed, stray onto the property to the rear. Mr. Arquette assured the Board that the new fence will be only on Mr. Wenger's property. No evidence in opposition was presented. The applicant was of the opinion that the proposed fence would increase the utility and value of the subject property, and, coincidentally, would benefit neighboring home values.

In conclusion, Mr. Wegner testified that he has made a private agreement with Mr. Tirnauer and will plant eight Leyland Cypress trees on Mr. Tirnauer's property in front of the fence to provide additional privacy.

FINDINGS OF THE BOARD

Based on the binding testimony and evidence of record, the Board finds that the variances can be granted. The topography along the rear and a portion of the side lot line slopes steeply. This is the factor which affects the height of the proposed fence. Therefore, the strict application of the setback requirements would result in practical difficulty to the applicant if the variances are not granted. Further, the Board finds that the variances requested are the minimum reasonably necessary to accomplish the proposed project and that the variances can be granted without substantial impairment of the intent, purpose and integrity of the General Plan. The Board finds that construction of a 7'6" high fence located beyond the setback, as proposed herein, will not impair the intent of the Master Plan.

Accordingly, the requested variance of two (2) feet from the two foot required rear and side lot line setbacks for the proposed 7'6" privacy fence are granted subject to the following conditions:

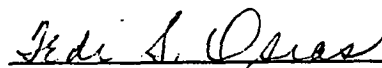
1. Applicant must be bound by all testimony and evidence in the record.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 5.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

The foregoing Resolution was proposed by Allison Bryant and concurred in by William Green, Donna Barron, Wendell Holloway and Susan W. Turnbull, Chair.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 28th day of February, 1997.



Tedi S. Osias
Executive Secretary to the Board

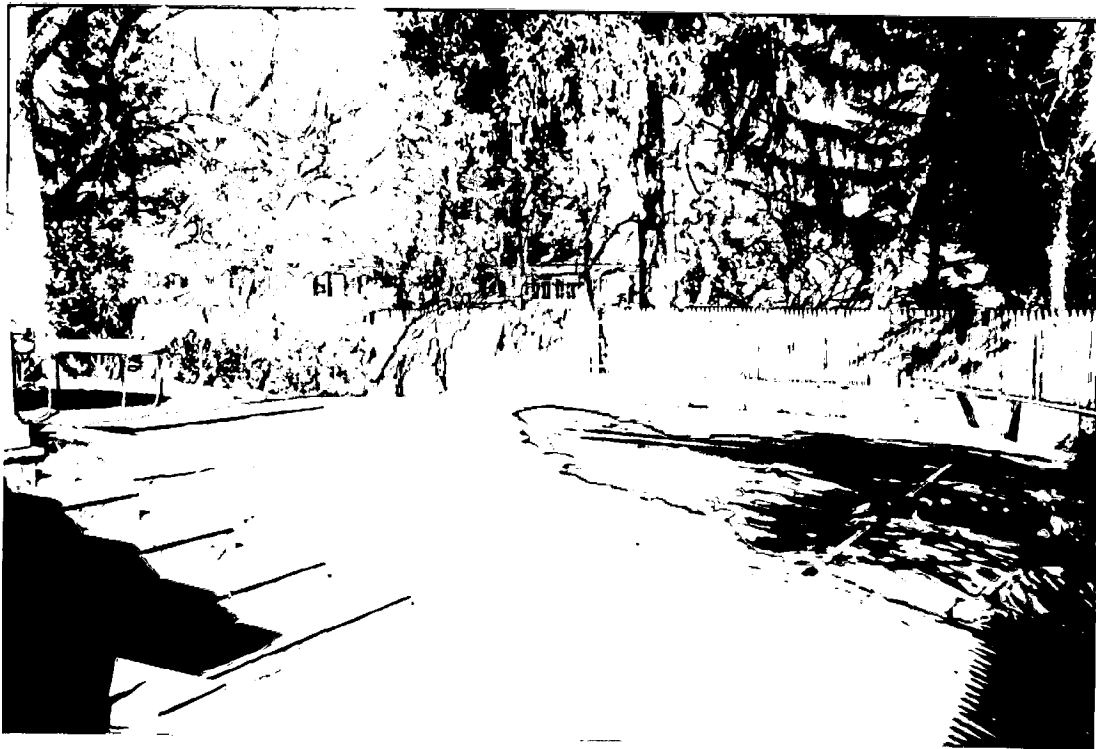
NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.



FRONT (SOUTH) ELEVATION



FENCE AT REAR (NORTH
SIDE) OF BACK YARD

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301) 217-6600

Case No. A-4688

PETITION OF ROBERT WENGER
(Hearing held February 26, 1997)

OPINION OF THE BOARD

(Effective date of Opinion: February 28, 1997)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.326. The petitioner proposes to construct a 7'6" fence/retaining wall and seeks a variance of two (2) feet from the required rear and side lot line setbacks of two (2) feet.

The subject property is Lot 18, Block 1, Somerset Heights Subdivision, located at 4711 Cumberland Avenue, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 538980).

Decision of the Board: Requested variances granted.

Petitioner Robert Wenger appeared at the hearing with his architect, Paul Arquette. Mr. Arquette testified that there is an existing wood fence along the property line which is in a state of disrepair (photos, Exhibit Nos. 7(a)-(d)). Mr. Arquette stated that Mr. Wenger proposes to replace the fence by constructing a 7'6" privacy fence along the rear property line and a portion of the side property line. The fence would extend into the rear and side lot line setbacks by two feet (as depicted in Exhibit No. 4).

Mr. Arquette further testified that the subject property is long and narrow and the dwelling is sited 34' from the rear property line. There is a steep change in elevation at the rear of the property. A 6'6" fence would appear to be only 5'6" because of the change in elevation. The purpose of the fence is to provide privacy, both for the neighbors and for the users of the swimming pool which is located in petitioner's rear yard behind the dwelling. In response to questions from the Board, Mr. Arquette explained that the good face of the fence will be located on the property line facing the properties to the rear. The concrete footers which will hold the posts will be approximately 2" inside of the Wenger's property line.

The petitioner's neighbors support the instant application as indicated by testimony of Mr. Arquette. Mr. Arquette stated that he has spoken to Ms. Cox, the owner of Lot 33 to the rear. A letter from the Town of Somerset recommends that the Board approve the requested variance (Exhibit No. 10). A letter was received from Lawrence Tirnauer, an adjoining property owner to the rear (Lot 31), which expressed concern about the location of the existing fence (Exhibit No. 9). In response to Mr. Tirnauer's letter, Mr. Arquette stated that the existing fence is not straight and a

small portion of the fence does, indeed, stray onto the property to the rear. Mr. Arquette assured the Board that the new fence will be only on Mr. Wenger's property. No evidence in opposition was presented. The applicant was of the opinion that the proposed fence would increase the utility and value of the subject property, and, coincidentally, would benefit neighboring home values.

In conclusion, Mr. Wegner testified that he has made a private agreement with Mr. Tirnauer and will plant eight Leyland Cypress trees on Mr. Tirnauer's property in front of the fence to provide additional privacy.

FINDINGS OF THE BOARD

Based on the binding testimony and evidence of record, the Board finds that the variances can be granted. The topography along the rear and a portion of the side lot line slopes steeply. This is the factor which affects the height of the proposed fence. Therefore, the strict application of the setback requirements would result in practical difficulty to the applicant if the variances are not granted. Further, the Board finds that the variances requested are the minimum reasonably necessary to accomplish the proposed project and that the variances can be granted without substantial impairment of the intent, purpose and integrity of the General Plan. The Board finds that construction of a 7'6" high fence located beyond the setback, as proposed herein, will not impair the intent of the Master Plan.

Accordingly, the requested variance of two (2) feet from the two foot required rear and side lot line setbacks for the proposed 7'6" privacy fence are granted subject to the following conditions:

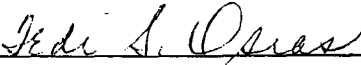
1. Applicant must be bound by all testimony and evidence in the record.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 5.

The Board adopted the following Resolution:

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The foregoing Resolution was proposed by Allison Bryant and concurred in by William Green, Donna Barron, Wendell Holloway and Susan W. Turnbull, Chair.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 28th day of February, 1997.



Tedi S. Osias
Executive Secretary to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

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