Meeting Date: 4-1-14

Agenda Item: 4

CITY OF FAIRFAX

Department of Community Development & Planning

Special Exception Request SE-1010007

PUBLIC HEARING DATE

April 1, 2014

APPLICANT

Jeremy and Kristin Fisher
property owners

AGENT

N/A

PARCEL DATA

Tax Map ID
◊ 57-1-24-023

Street Address
◊ 4030 Maple Street

Zoning District
◊ R-3 Residential

APPLICATION SUMMARY

The applicant requests Board of Zoning Appeals approval, pursuant to City Code Sections 110-37(6) and 110-369, for special exceptions to City Code Section 110-37 (1) to allow construction of a six-foot-tall fence in the front yard of a corner lot where maximum fence height of four feet is allowed in the R-3 Residential District on the property located at 4030 Maple Street, and more particularly described as tax map parcel 57-1-24-023

STAFF RECOMMENDATION

Based on analysis of the criteria contained in City Code Sections 110-37 and 110-369, staff recommends approval of the applicants' request for a Special Exception to allow a fence height of six feet in a front yard subject to the following development conditions:

1. The applicant shall place the proposed six-foot-tall fence on the subject property as depicted on the plat prepared by Barry L. Wissinger, dated April 26, 2012 and submitted by the applicant with the subject application.

2. The applicants shall ensure the finished side of the fence faces outward where adjacent to the right-of-way.

3. The applicants shall preserve the existing mature trees along the property line between the subject property and Lot 12.

4. The applicants shall provide a detailed installation plan for the fence for review and approval by the Zoning Administrator prior to commencing construction to ensure proper tree and root protection and growth potential.

BACKGROUND INFORMATION

The 9,904 square-foot subject property is located in the Westmore subdivision on Maple Street. The 1,326 square-foot, 1 ½ story Cape Cod-style residence that occupies the subject property was constructed in 1951.

The subject property is currently zoned R-3 Residential which requires a 25-foot-wide setback from the front property line. As the subject lot is a corner lot, it is required to have a 25-foot setback along Maple Street and Oakwood Drive. For corner lots recorded prior to December 7, 1960, with a minimum lot width less than 95 feet at the building restriction line, side yard setbacks are reduced to not less than 8 feet along the remaining two property lines. The existing residential structure sits 30.3 feet from the property line along Maple Street and 31.7 feet from the property line along Oakwood Drive. As a result, a large portion of the yard located behind the structure is considered a front yard by definition.

The applicant requests a special exception to the fence regulations of the City Code to allow construction of a six-foot-tall fence, where a maximum fence height of four feet is allowed, along the front property line adjacent to Oakwood Drive. The proposed fence will not encroach into the front yard along Maple Street. The applicant proposes that a height of six feet is necessary to provide privacy, as well as safety and security for children and pets.

ANALYSIS OF CRITERIA

The staff recommendation for this application is based on analysis of the following criteria for Special Exception review as specified in City Code Sections 110-37(6) and 110-369(6):

a) The site for the proposed use is adequate in size and shape, and the proposed use will not negatively affect adjacent property or the surrounding area.

The existing residential structure is situated on a 0.227-acre (9,904 square-feet) lot which meets the R-3 District minimum standard for lot size (9,500 square feet). Consequently, the subject site is adequate in size and shape for the existing residential use. The applicant's proposal to construct a fence six feet in height, in the front yard of the property where parallel to Oakwood Drive, will not affect the intensity of the use of the property. As a result of being a corner lot with the residential structure facing Maple Street the portion of the property along Oakwood Drive is functionally a side yard.

Staff believes the subject site is adequate in size and shape for the existing residential use and to accommodate the proposed six-foot-tall fence in the yard adjacent to Oakwood Drive.

b) The Special Exception will not be inconsistent with the objectives specified in the Comprehensive Plan.

The Comprehensive Plan encourages the upgrading of the City's existing housing stock and preservation of existing neighborhood character. The intent of the City's regulations regarding fencing and fence height limitations is to allow residential property owners the ability to have

security while preserving the scenic views within neighborhoods. Currently, most yards in the vicinity of the subject property have either no fence or a short, chain-link fence, giving the neighborhood an open appearance. Staff is concerned that a long length of tall, opaque fence along Oakwood Drive may be inconsistent with the character of the surrounding neighborhood and may block views along the streetscape. Although the applicants have not finalized their fence design, they have expressed willingness to consider alternatives that would minimize visual impact. In addition, they have submitted several pictures of fence styles that they prefer and have indicated that the fence would be stone gray or tan in color. The impact of a six-foot-tall fence may be minimized by constructing the ends at an angle, to reduce the horizontal length of fence along the street. Likewise, a lattice-topped fence would permit more light and air to pass through than a solid design would allow. City regulations require the finished side of a fence to face outward when the fence parallels a right-of-way. This means a fence that faces a street is required to have the decorative side of the fence facing towards the street. Staff believes that with greater attention to fence style and design, subject to review and approval by the Zoning Administrator, the proposal could be consistent with Comprehensive Plan objectives.

c) The applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation; or there are practical siting constraints where original placement of the dwelling on the lot prohibits reasonable improvements that meet existing requirements.

The subject dwelling, which was built in 1951, is situated on a nearly rectangular corner lot. As shown on the included survey, the house sits 30.3 feet from Maple Street and 31.7 feet from Oakwood Drive, with the front entrance of the house facing Maple Street. A large, open backyard that measures approximately 70 feet deep is located behind the dwelling. R-3 zoning regulations require that a six-foot-tall fence meet a 25' setback requirement from Oakwood Drive, which would reduce the amount of lawn that could be enclosed. Consequently, the combination of physical characteristics and regulatory provisions constrain reasonable placement of the fence.

Staff believes the applicants proposal to construct the six-foot-tall fence in the front yard, adjacent to Oakwood Drive, is a reasonable improvement to the property and, if constructed in conformity with the recommended conditions, will result in minimal disturbance to the lot and existing residents of the neighborhood.

d) The proposed structural modifications meet sound residential design objectives to:

1. Minimize loss of privacy on neighboring properties.

The proposed fence is intended to increase privacy, both for the subject property, and adjacent properties. The proposed fence will screen the backyard from view of traffic and pedestrians along Oakwood Drive.

2. Maximize image of quality residential development to the street frontage.

The finished side of the proposed six-foot-tall fence will face outward toward Oakwood Drive. Staff recommends that the ends of the fence be angled to limit the length of fence along the street frontage and to protect a large, mature tree at the rear corner of the property. The

existing tree provides screening and helps maintain the existing residential character of the neighborhood.

Staff recommends a development condition requiring the applicant to maintain existing vegetation along the property line with Lot 12 to the extent possible.

1. Maximize window area from living rooms, dining rooms, kitchens, dens and family rooms facing the street, within the context of the original building design.

   Not applicable

2. Avoid reduction of light and air to neighboring properties.

The proposed fence will be located as allowed under the fence ordinance except for the specified area along Oakwood Drive that is the subject of the special exception request. The location and design of the proposed six-foot-tall fence along the public right-of-way and neighborhood sidewalk is expected to impact the amount of light and air to adjoining properties. The applicants, however, should be required to locate the fence in a manner that would preserve existing trees along the property line between the subject property and Lot 12.

3. Minimize development of front yard as driveways.

No changes are proposed to the existing concrete driveway along Maple Street.

RECOMMENDATION

In consideration of the conformance of this proposal with the applicable R-3 District standards staff hereby recommends approval of the applicants' request subject to the following development conditions:

1. The applicant shall place the proposed six foot fence on the subject property as depicted on the plat prepared by Barry L. Wissinger, dated April 26, 2012, and submitted by the applicant with the subject application.

2. The applicants shall ensure the finished side of the fence faces outward where adjacent to right-of-ways.

3. The applicants shall preserve the existing mature trees along the property line between the subject property and Lot 12.

4. The applicants shall provide a detailed installation plan for the fence for review and approval by the Zoning Administrator prior to commencing construction to ensure proper tree and root protection and growth potential.

PREPARED BY:

Carolyn Adkins — 3-27-14

Carolyn Adkins, AICP — DATE

REVIEWED AND APPROVED:

Michelle Coleman — 3-27-14

Michelle Coleman — DATE
Zoning Administrator

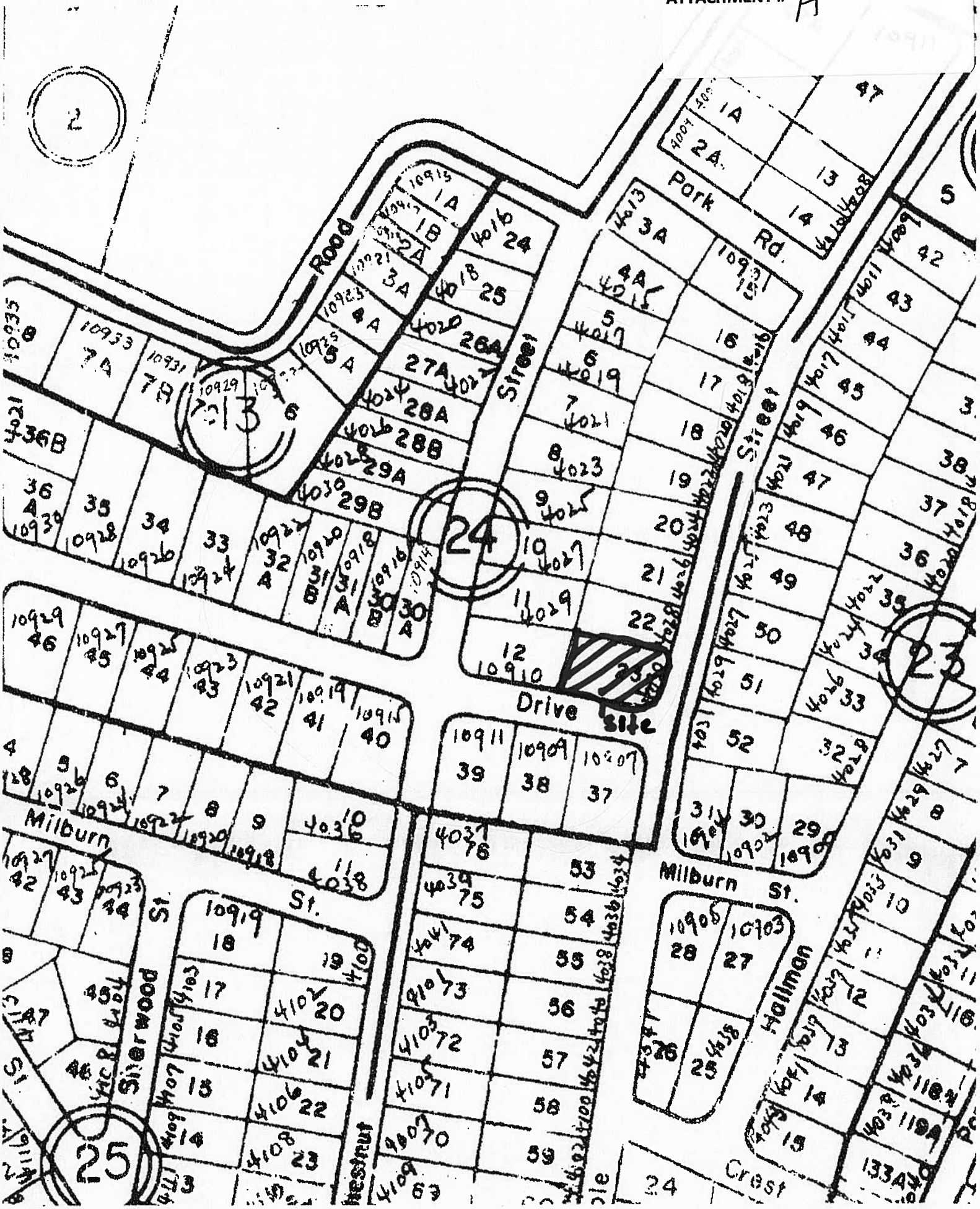
REVIEWED AND APPROVED:

Brooke Hardin, AICP — DATE
Director
Community Development & Planning

ATTACHMENTS

A. Location Map
B. Application with Statement of Support
C. Plans
D. Photographs
E. Sample Resolution
F. Sample Motions

ATTACHMENT # A



ATTACHMENT # B

RECEIVED

JAN 02 2014

Community Dev & Planning

Application No. SE-14010007

LAND USE APPLICATION
CITY OF FAIRFAX

I/(We) Jeremy & Kristin Fisher by ourselves
(name of applicant) (authorized agent's name and relationship to applicant)

a *corporation / general partnership / limited partnership / sole proprietorship / individual* (circle one) which is the *property owner / contract purchaser / lessee* (circle one)

of 4030 Maple Street, Fairfax, VA 22030 Tax Map# 57-1-24-023
(address and tax map # of subject property)

hereby apply for a Special Use Permit/Special Exception/Variance (circle one) pursuant to Section 110-369 of the City Code to allow (describe request) permission to install a 6 foot fence on a corner lot

City Code References: 110-37

Kristin Dulumas Fisher — property owner
(signature of applicant or authorized agent) (title or relationship)

Address 4030 Maple St, Fairfax, VA 22030 Phone: 703-951-7751

THE FOLLOWING MUST BE COMPLETED BY THE PROPERTY OWNER

I/(We) Jeremy & Kristin Fisher by ourselves hereby certify that the applicant named above has the authority vested by me to make this application.

Kristin Dulumas Fisher — property owner
(signature of owner or authorized agent) (title or relationship)

Address 4030 Maple St, Fairfax, VA 22030 Phone: 703-951-7751

FOR OFFICE USE ONLY

Proposal filed: 1/2/14 Received by: ade
Fee Paid: 500.00 Receipt No. 36032
Previous Cases:
Current status of business license and fees:
Treasurer:
Commissioner of Revenue:

2. That no member of the City Council, Planning Commission, BZA, or BAR has any interest in the outcome of the decision. EXCEPT AS FOLLOWS: (If none, so state.)

None

3. That within five (5) years prior to the filing of this application, no member of the City Council, Planning Commission, BZA, or BAR or any member of his or her immediate household and family, either directly or by way of a corporation or a partnership in which anyone of them is an officer, director, employee, agent, attorney, or investor has received any gift or political contribution in excess of $100 from any person or entity listed in paragraph one. EXCEPT AS FOLLOWS: (If none, so state.)

None

WITNESS the following signature: _____
Applicant or Agent

ALL APPLICANTS MUST SIGN AND HAVE THEIR SIGNATURES NOTARIZED.

The above affidavit was subscribed and confirmed by oath or affirmation before me on this 30 day of December, 2013, in the ~~State of~~ District of Columbia

My commission expires: Suzanne L. Feighny
Notary Public, District of Columbia
My Commission Expires 2/28/2017.

_____
Notary Public/Registration #

SUZANNE L. FEIGHNY
NOTARY PUBLIC
DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES 2/29/2017

RECEIVED
JAN 02 2014
Community Dev & Planning

Jeremy and Kristin Fisher
4030 Maple Street
Fairfax, VA 22030
December 29, 2013

Dear City of Fairfax Board of Zoning Appeals:

This letter and the attached documentation serves as a formal request for a special exemption to the zoning regulations regarding the installation of a fence greater than four feet in height on our property which borders Maple and Oakwood streets. There are a number of reasons why we would like to install a fence greater than four feet in height, but more importantly the attached documentation should show that the proposed layout for our new fence should not impede traffic in any way and it will also enhance the overall appearance of this lot.

One of the attractive features of this lot in City of Fairfax that drew us to buy our home here is the large back yard. However, when we purchased our home it never dawned on us that if we wanted a fence tall enough to block a ball from going into the street or to provide us with some privacy we would need to almost cut our yard in half in order to meet the zoning regulations. We plan to have a child within the next year or two and we already have several nieces and nephews in the area. It would be nice to be able to make the full use of our yard for family gatherings and we believe that a four foot fence would not provide us with the privacy or security we would like to have for our family.

In addition, we currently own one dog and foster another. Walking two dogs can be a hassle and a fenced yard would allow us to give them exercise without fear of one or the other getting loose. However, both dogs can jump fairly high and it would not be surprising if they could clear a four foot fence. Moreover, we would like to install a fence that the dogs cannot easily see through or over so that neighborhood foot traffic does not startle them and vice versa.

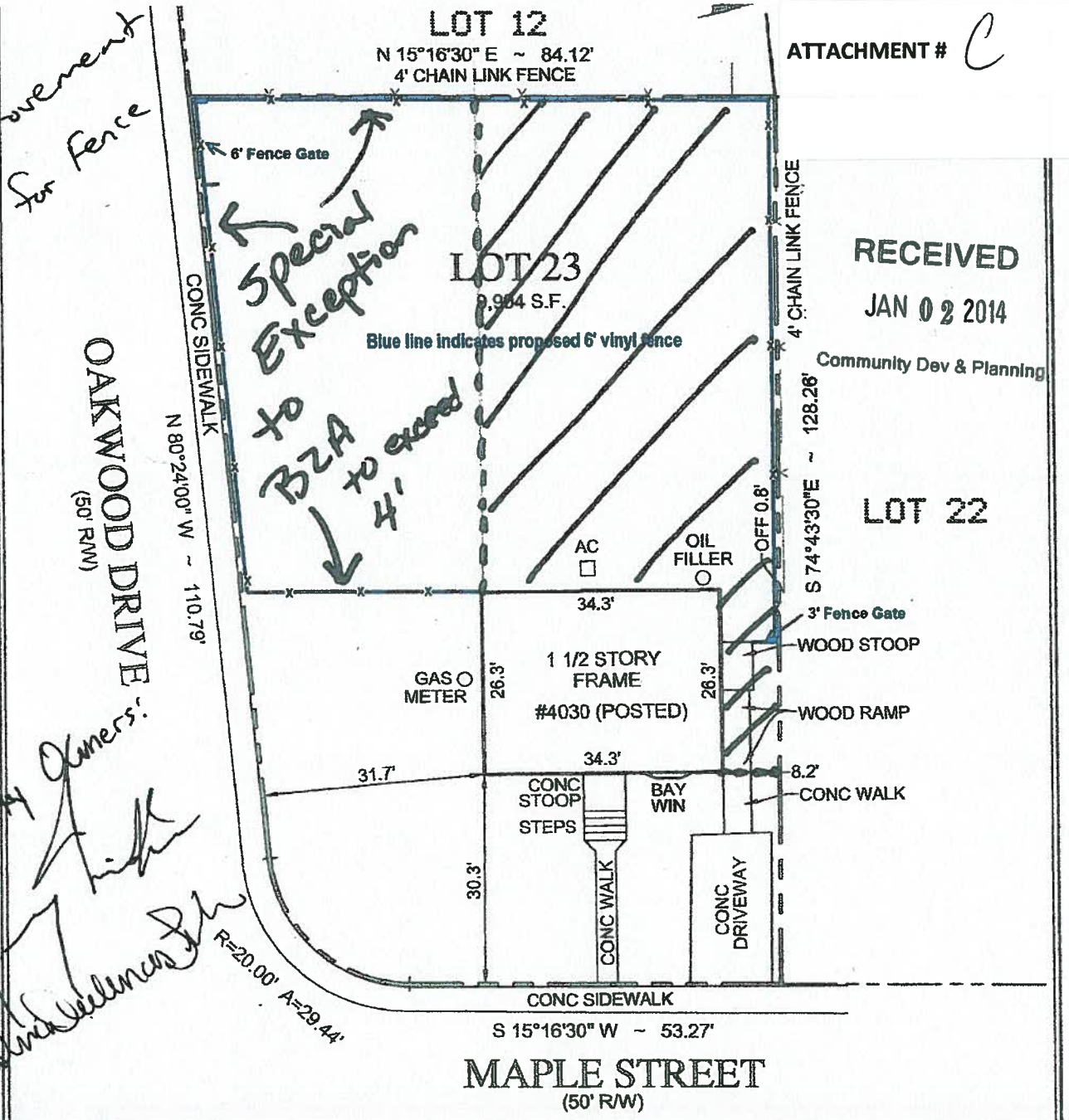
Thank you for your consideration,

Jeremy and Kristin Fisher

Kristin Dulmas Fisher

ATTACHMENT # C

Improvement Plan for Fence



RECEIVED
JAN 02 2014
Community Dev & Planning

Property Owners'

SCALE: 1" = 20'

APRIL 26, 2012

NO TITLE REPORT FURNISHED
THIS IS NOT A BOUNDARY SURVEY

PHYSICAL IMPROVEMENT SURVEY
LOT 23, SECTION THREE, SUBDIVISION "B"
WESTMORE
DB G-14 PG 68
CITY OF FAIRFAX, VIRGINIA

COMMONWEALTH OF VIRGINIA
4/26/12
BARRY L. WISSINGER
Lic. No. 001295
LAND SURVEYOR

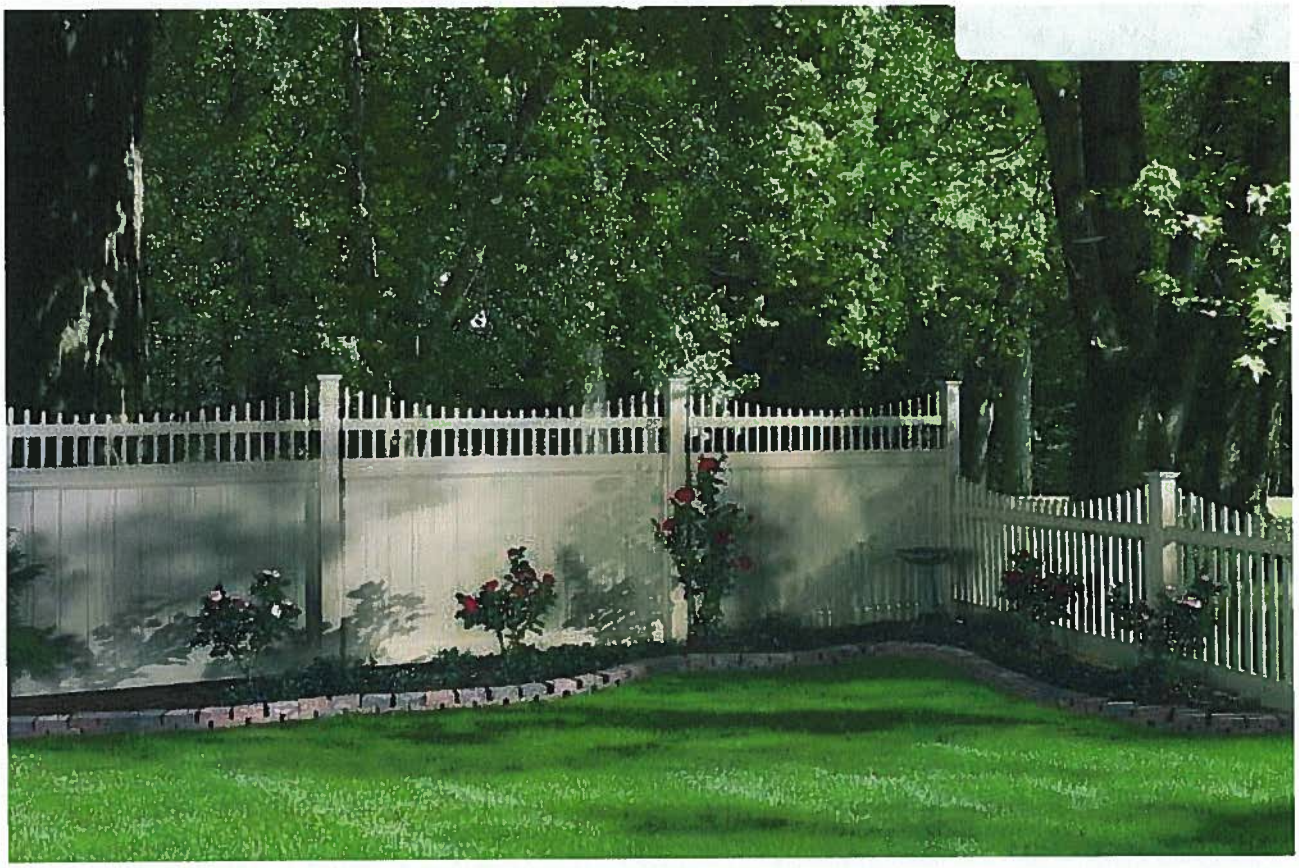
FOR: BAY COUNTY SETTLEMENTS INC. #B120315KT
MARGARET EDITH BROWN ~ JEREMY & KRISTIN FISHER

BL SURVEY ARBORIST
13605 SOUTH SPRINGS CT
CLIFTON VA 20124
[PH] 703-624-4821
[FAX] 1-703-991-1320

#BL012-0034BC

DRAWN BY : DRB / CHK: BLW

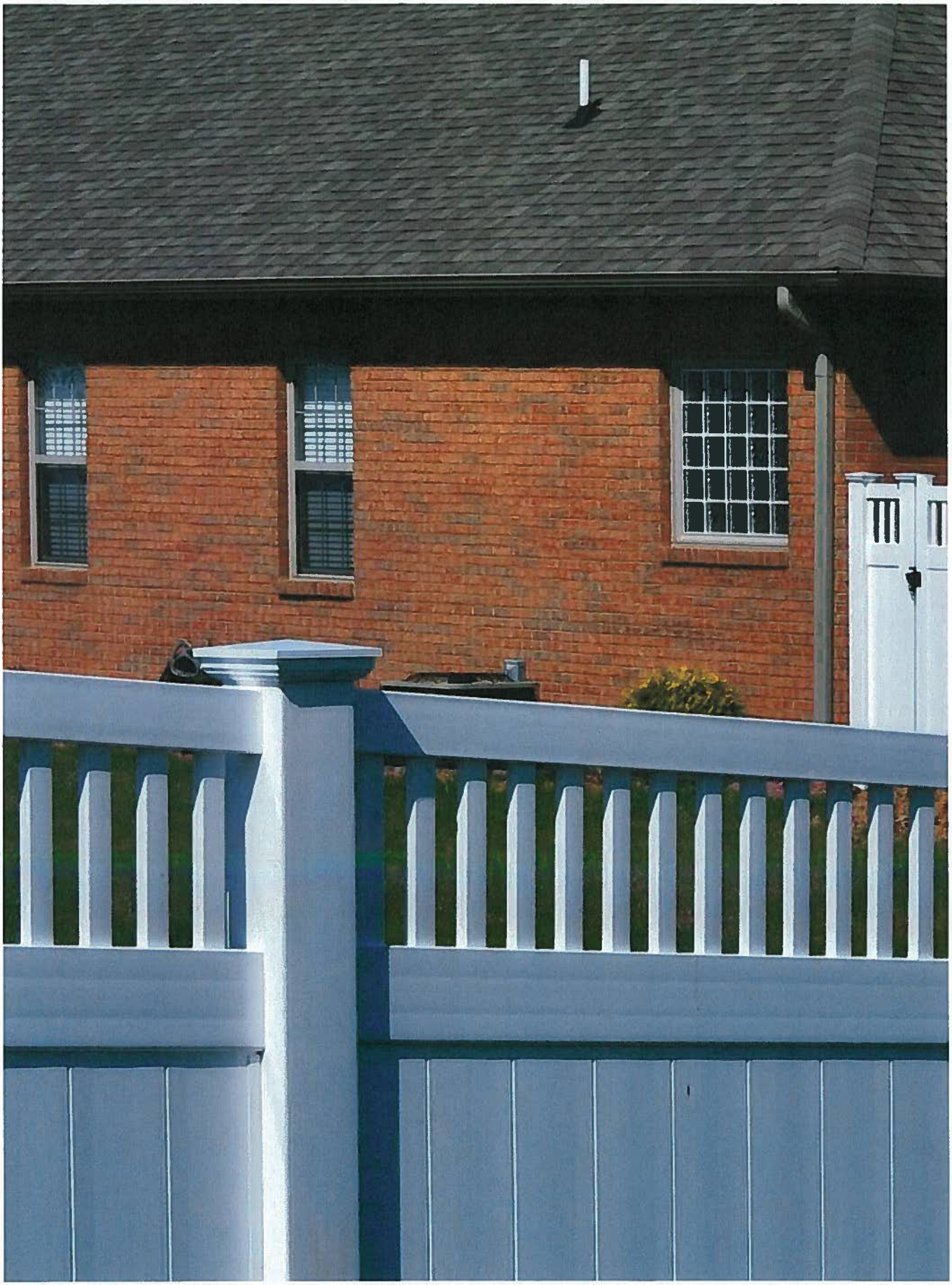
ATTACHMENT # D



11.

http://st.houzz.com/simgs/41d1b75401ade943_4-1943/-fencing.jpg 3/27/2014

12.



13.

14.

ATTACHMENT # E

Board of Zoning Appeals
City of Fairfax

PROPOSED RESOLUTION NO. 2014 - _____

RESOLUTION TO APPROVE THE REQUEST OF JEREMY AND KRISTIN FISHER, PROPERTY OWNERS, PURSUANT TO CITY CODE SECTIONS 110-37(6) AND 110-369, FOR SPECIAL EXCEPTIONS TO CITY CODE SECTION 110-37(1) TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE IN THE FRONT YARD OF A CORNER LOT WHERE THE MAXIMUM PERMITTED FENCE HEIGHT IS FOUR FEET IN THE R-3 RESIDENTIAL DISTRICT, ON THE PREMISES KNOWN AS 4030 MAPLE STREET AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 57-1-24-023.

WHEREAS, Jeremy and Kristin Fisher have submitted Application No. SE-14010007 requesting Special Exceptions from City Code Section 110-37(1);

WHEREAS, the Board of Zoning Appeals has carefully considered the application, the recommendation of the staff and testimony received at the public hearing; and

WHEREAS, the Board of Zoning Appeals has determined that the proposed Special Exception is appropriate because the proposal meets the criteria established by City of Fairfax City Code Section 110-369(6) as follows:

1. The subject site is adequate in size and shape for the existing residential use.

2. The applicant's proposal is consistent with the recommendations of the *Comprehensive Plan* to maintain the existing character of the neighborhood streetscape.

3. Staff believes the applicants proposal to construct the six-foot fence in the front yard, adjacent to Oakwood Drive, is a reasonable improvement to the property and will result in minimal disturbance to the lot and existing residents of the neighborhood.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Fairfax on this 1st day of April, 2014, that Application No. SE-14010007 be and hereby is APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall place the proposed six foot fence on the subject property as depicted on the plat prepared by Barry L. Wissinger, dated April 26, 2012, and submitted by the applicant with the subject application.

2. The applicants shall ensure the finished side of the fence faces outward where adjacent to right-of-ways.

3. The applicants shall preserve the existing mature trees along the property line between the subject property and Lot 12.

4. The applicants shall provide a detailed installation plan for the fence for review and approval by the Zoning Administrator prior to commencing construction to ensure proper tree and root protection and growth potential.

Public hearing before Board of Zoning Appeals: April 1st, 2014

Adopted: April 1, 2014

	Vote
Chairperson John O'B Clark Jr.	____
Member Edward Calabria	____
Member Ellen Brouwer	____
Member Robert Matthews	____
Member Gary Perryman	____

_____
Chairperson

_____
Date

ATTEST:

_____
Tina Gillian,
Secretary

MOTION FOR APPROVAL

(Recommended by Staff)

I MOVE THAT THE BOARD OF ZONING APPEALS ADOPT THE ATTACHED RESOLUTION TO APPROVE THE REQUEST OF JEREMY AND KRISTIN FISHER, PROPERTY OWNERS, PURSUANT TO CITY CODE SECTIONS 110-37(6) AND 110-369, FOR SPECIAL EXCEPTIONS TO CITY CODE SECTION 110-37(1) TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE IN THE FRONT YARD OF A CORNER LOT WHERE THE MAXIMUM PERMITTED FENCE HEIGHT IS FOUR FEET IN THE R-3 RESIDENTIAL DISTRICT, ON THE PREMISES KNOWN AS 4030 MAPLE STREET AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 57-1-24-023 SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall place the proposed six foot fence on the subject property as depicted on the plat prepared by Barry L. Wissinger, dated April 26, 2012, and submitted by the applicant with the subject application.

2. The applicants shall ensure the finished side of the fence faces outward where adjacent to the right-of-way.

3. The applicants shall preserve the existing mature trees along the property line between the subject property and Lot 12.

4. The applicant shall provide a detailed installation plan for the fence for review and approval by the Zoning Administrator prior to commencing construction to ensure proper tree and root protection and growth potential.

MOTION FOR DENIAL

I MOVE THAT THE BOARD OF ZONING APPEALS DENY THE REQUEST OF JEREMY AND KRISTIN FISHER, PROPERTY OWNERS, PURSUANT TO CITY CODE SECTIONS 110-37(6) AND 110-369, FOR SPECIAL EXCEPTIONS TO CITY CODE SECTION 110-37(1) TO ALLOW CONSTRUCTION OF A SIX-FOOT-TALL FENCE IN THE FRONT YARD OF A CORNER LOT WHERE THE MAXIMUM PERMITTED FENCE HEIGHT IS FOUR FEET IN THE R-3 RESIDENTIAL DISTRICT, ON THE PREMISES KNOWN AS 4030 MAPLE STREET AND MORE PARTICULARLY DESCRIBED AS TAX MAP PARCEL 57-1-24-023 FOR THE FOLLOWING REASONS:

(Reasons to be provided by the BZA)