

EXHIBIT NO. 1

3  
11-13-04

Docket Item #2  
ENCROACHMENT #2004-0008

Planning Commission Meeting  
November 4, 2004

**ISSUE:** Consideration of a request for an encroachment of a picket fence into the public right-of-way.

**APPLICANT:** David and Sarah Goldstein

**LOCATION:** 335 North Patrick Street

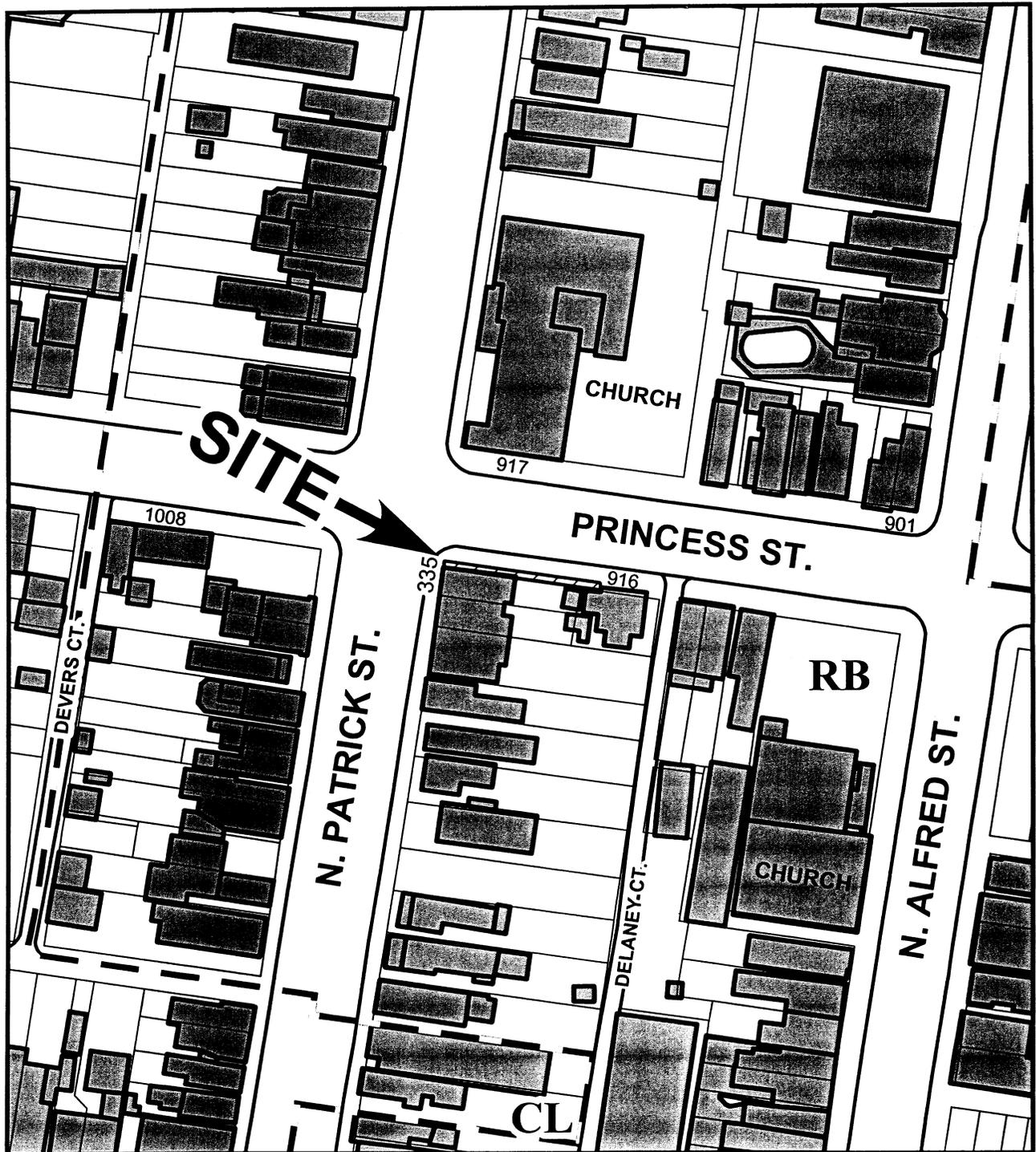
**ZONE:** RB/Townhouse

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**PLANNING COMMISSION ACTION, NOVEMBER 4, 2004:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the permit conditions found in Section III of this report.



**ENC #2004-0008**

**11/04/04**



## I. DISCUSSION

### REQUEST

The applicants, David and Sarah Goldstein, request approval of an encroachment into the public right-of-way for a fence located on the southeast corner of Princess and North Patrick Streets.

### SITE DESCRIPTION

The subject property is one lot of record with 14 feet of frontage on North Patrick Street, 76.6 feet of frontage on Princess Street and a total lot area of 1,078 square feet. The site is developed with a two story, end unit rowhouse facing Patrick Street. Residential uses surround the property to the west, south and east. The Third Baptist Church is located to the north across Princess Street.

### PROJECT DESCRIPTION

The applicants request approval of a four feet wide and seventy feet long encroachment into public right-of-way along the Princess Street frontage of the property. The proposed encroachment has a total area of 280 square feet. The area is landscaped and maintained by the applicants and appears to be part of their property. Without knowing that this narrow strip of land between the house and sidewalk along the Princess Street was public right-of-way, the applicants enclosed this area with a white wood picket fence in June 2004, leaving a four feet wide opening as an entrance to the side yard. The fence is approximately 3' in height and does not encroach on the four feet wide public sidewalk (see picture below).



ZONING / MASTER PLAN

The subject property is located in the RB/Townhouse zone and the Parker-Gray Historic District. On September 22, 2004, the Parker-Gray Board of Architectural Review, approved a Certificate of Appropriateness for the after-the-fact wood picket fence, conditioned upon approval of the encroachment by Planning Commission and City Council.

**II. STAFF ANALYSIS**

Staff supports this encroachment request to allow the existing fence to enclose a portion of the landscape strip along the Princess Street side of the property.

The Parker-Gray Board of Architectural Review determined that the fence is appropriate for the mid-19th century house and compatible with the surrounding neighborhood. The fence aligns with and is the same height as the monument style wood picket fence of the adjoining properties at 914 and 916 Princess Street (Staff could not locate any record of either BAR review or encroachment approval for this fence, which has been in place for at least 10 years). The narrow strip of land with grass and landscaping along the side of the house remains visually accessible as the fence is both low and open. Therefore, staff recommends approval of the encroachment permit subject to the recommended conditions.

**III. RECOMMENDED PERMIT CONDITIONS**

1. The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
3. Neither the City nor any private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;  
Bettina Irps, Urban Planner.

#### IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

##### Transportation & Environmental Services:

- R-1 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment.(T&ES)
- R-2 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.(T&ES)
- R-3 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any fence or structure that encroached into the public right-of-way, within 60 days, upon notification by the City.(T&ES)

##### Code Enforcement:

- F-1 No comments.

##### Health Department:

- F-1 No comments.

##### Police Department:

- F-1 No objections.

APPLICATION for ENCROACHMENT # 2004-0008

[must use black ink or type]

PROPERTY LOCATION: 335 N. Patrick Street

TAX MAP REFERENCE: 064.02-04-35 ZONE: RB

APPLICANT'S NAME: David and Sarah Goldstein

ADDRESS: 335 N. Patrick Street, Alexandria, VA 22314

PROPERTY OWNER NAME: David and Sarah Goldstein

ADDRESS: 335 N. Patrick Street, Alexandria, VA 22314

ENCROACHMENT DESCRIPTION: Installation of white picket fence adjacent to owners property encroached property belonging to City of Alexandria

INSURANCE CARRIER (copy attached) State Farm Insurance POLICY # 46-KV-5513-3

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

David Goldstein  
Print Name of Applicant or Agent

David Goldstein  
Signature

335 N. Patrick Street  
Mailing/Street Address

703-683-6338 703-269-0248  
Telephone # Fax #

Alexandria, VA 22314  
City and State Zip Code

8/5/04  
Date

=====DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY=====

Application Received: 8/10/04 Date & Fee Paid: 8/10/04 \$ 150.00

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_

ENC 2004-0008

**CERTIFICATE OF INSURANCE**



- STATE FARM FIRE AND CASUALTY COMPANY, Bloomington, Illinois
- STATE FARM GENERAL INSURANCE COMPANY, Bloomington, Illinois
- STATE FARM FIRE AND CASUALTY COMPANY, Scarborough, Ontario
- STATE FARM FLORIDA INSURANCE COMPANY, Winter Haven, Florida
- STATE FARM LLOYDS, Dallas, Texas

insures the following policyholder for the coverages indicated below:

Policyholder DAVID J & SARAH E GOLDSTEIN

Address of policyholder 157 N PATRICK ST, ALEXANDRIA, VA 22314

Location of operations \_\_\_\_\_

Description of operations \_\_\_\_\_

The policies listed below have been issued to the policyholder for the policy periods shown. The insurance described in these policies is subject to all the terms, exclusions, and conditions of those policies. The limits of liability shown may have been reduced by any paid claims.

POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
		Effective Date	Expiration Date	
This insurance includes:	Comprehensive Business Liability			BODILY INJURY AND PROPERTY DAMAGE
	<input type="checkbox"/> Products - Completed Operations <input type="checkbox"/> Contractual Liability <input type="checkbox"/> Underground Hazard Coverage <input type="checkbox"/> Personal Injury <input type="checkbox"/> Advertising Injury <input type="checkbox"/> Explosion Hazard Coverage <input type="checkbox"/> Collapse Hazard Coverage <input type="checkbox"/> <input type="checkbox"/>			Each Occurrence \$ General Aggregate \$ Products - Completed Operations Aggregate \$
	EXCESS LIABILITY			BODILY INJURY AND PROPERTY DAMAGE (Combined Single Limit)
	<input type="checkbox"/> Umbrella <input type="checkbox"/> Other			Each Occurrence \$ Aggregate \$
	Workers' Compensation and Employers Liability			Part 1 STATUTORY Part 2 BODILY INJURY Each Accident \$ Disease - Each Employee \$ Disease - Policy Limit \$
POLICY NUMBER	TYPE OF INSURANCE	POLICY PERIOD		LIMITS OF LIABILITY (at beginning of policy period)
46-KU-5513-3	HOMEOWNERS	04-30-04	04-30-05	\$1,000,000

THE CERTIFICATE OF INSURANCE IS NOT A CONTRACT OF INSURANCE AND NEITHER AFFIRMATIVELY NOR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE APPROVED BY ANY POLICY DESCRIBED HEREIN.

Name and Address of Certificate Holder

CITY OF ALEXANDRIA  
301 KING ST  
ALEXANDRIA, VA 22315

If any of the described policies are canceled before its expiration date, State Farm will try to mail a written notice to the certificate holder \_\_\_\_\_ days before cancellation. If however, we fail to mail such notice, no obligation or liability will be imposed on State Farm or its agents or representatives.

Bob Noble  
Signature of Authorized Representative  
AGENT \_\_\_\_\_ Date 08 04 04  
Title \_\_\_\_\_

Agent's Code Stamp

AFO Code **B NOBLE FAIRFAX** 2064 F206

7

August 10, 2004

Department of Planning and Zoning  
301 King Street, Room 2100  
Alexandria, VA 22313

RE: 335 N. Patrick St.

To Whom It May Concern:

In June of 2004, my wife and I erected a white, wooden picket fence along the property line of our newly purchased home at 335 N. Patrick Street in the City of Alexandria, Virginia. The fence runs the length of our property along Princess Street (our home is located on the corner of Patrick and Princess Streets).

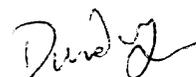
We incorrectly assumed that the small strip of land adjacent to and running the length of our home along Princess Street was our property because the previous owners of the home had landscaped this thin strip of land, planted shrubbery, laid down wood chips and paid a fertilizer and pest service to tend to the land on a monthly basis. We were also unaware that due to the fact that we purchased a home in the historic Parker-Gray District of Alexandria, that we were required to attain Department of Planning and Zoning and City Council approval before erecting the fence.

The fence was originally erected because we wished to add to the aesthetic beauty and charm of the neighborhood. We noticed that many of our neighbors along Princess Street possessed similar white picket fences in the fronts of their homes, and we wished to continue with this trend and enhance the appeal and charm of the neighborhood and home. Second, we realized quickly that trash, dropped by passersby, accumulated in the landscaped strip of property and we wished to provide a deterrent to littering.

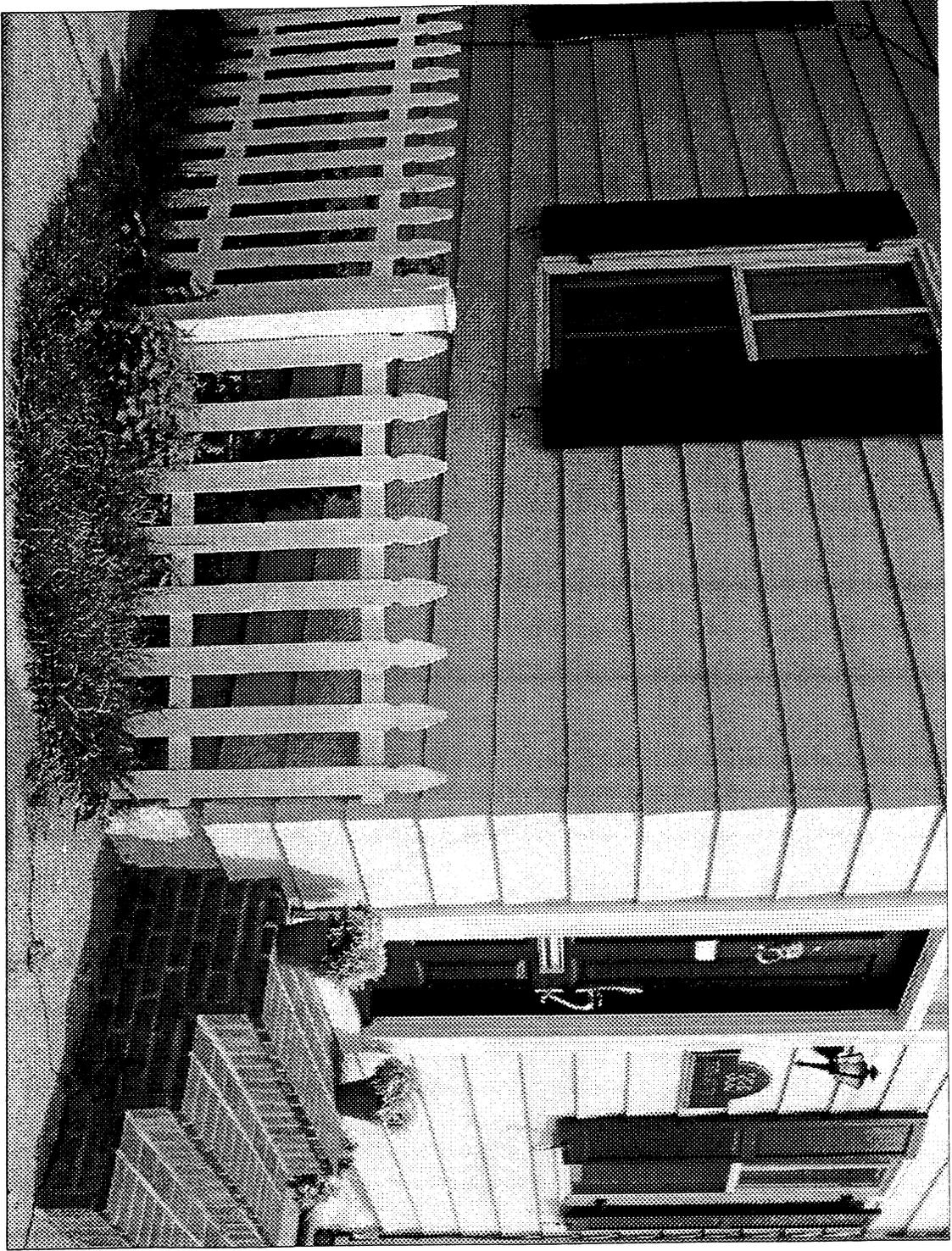
After we primed the fence and prepared to paint it white, we received a notice in the mail from the City Department of Planning and Zoning alerting us to the fact that the strip of land upon which the fence was erected was not our property and that we must apply for an encroachment approval. We were surprised to learn that this was indeed not our property and dismayed to realize that we might have created a problem within our home's district—this certainly was not our intention—on the contrary, we had aimed to enhance and add to the district's appeal and historic charm.

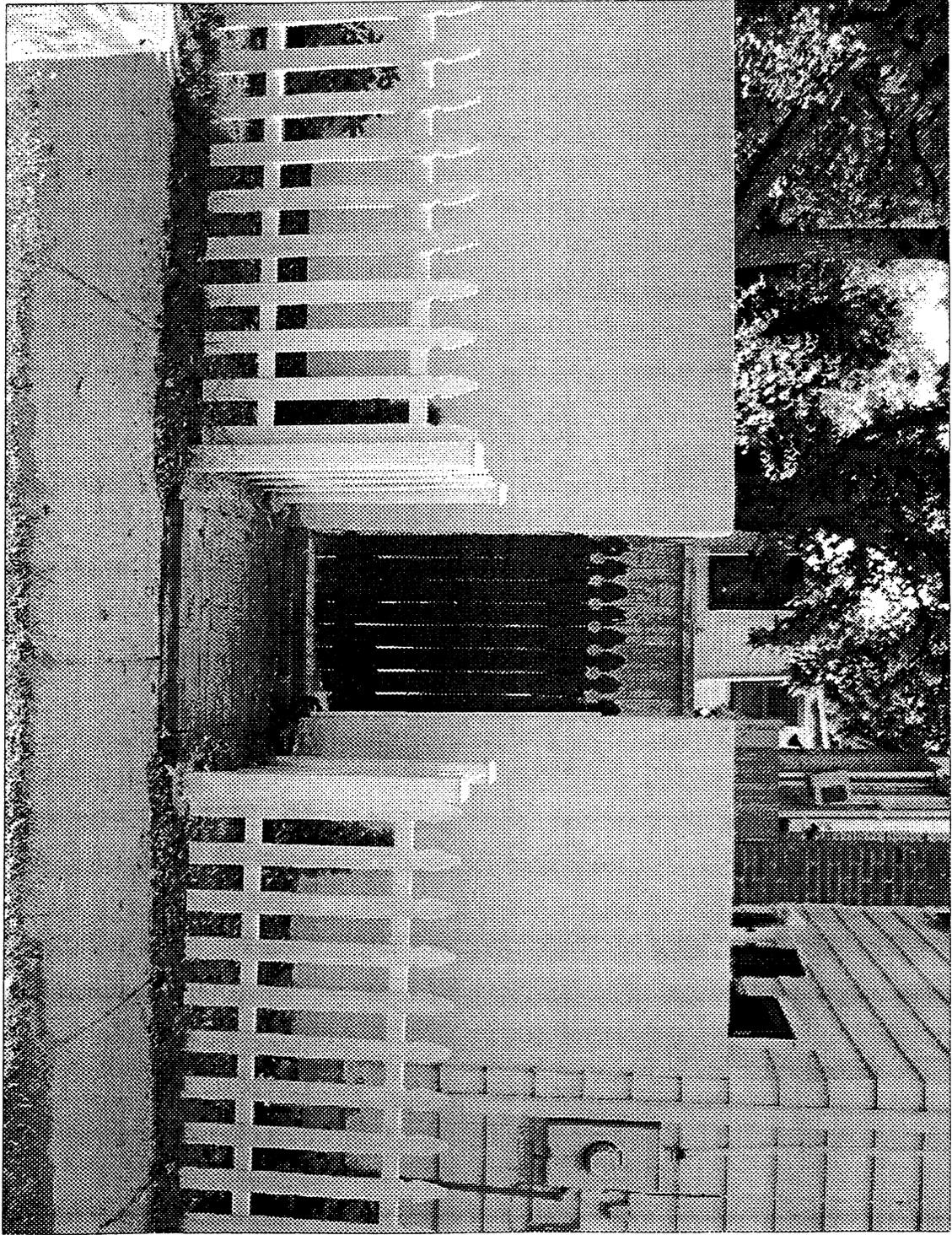
We respectfully ask that we might be granted the opportunity to retain the presence of the fence on this strip of land for the aforementioned reasons. Thank you.

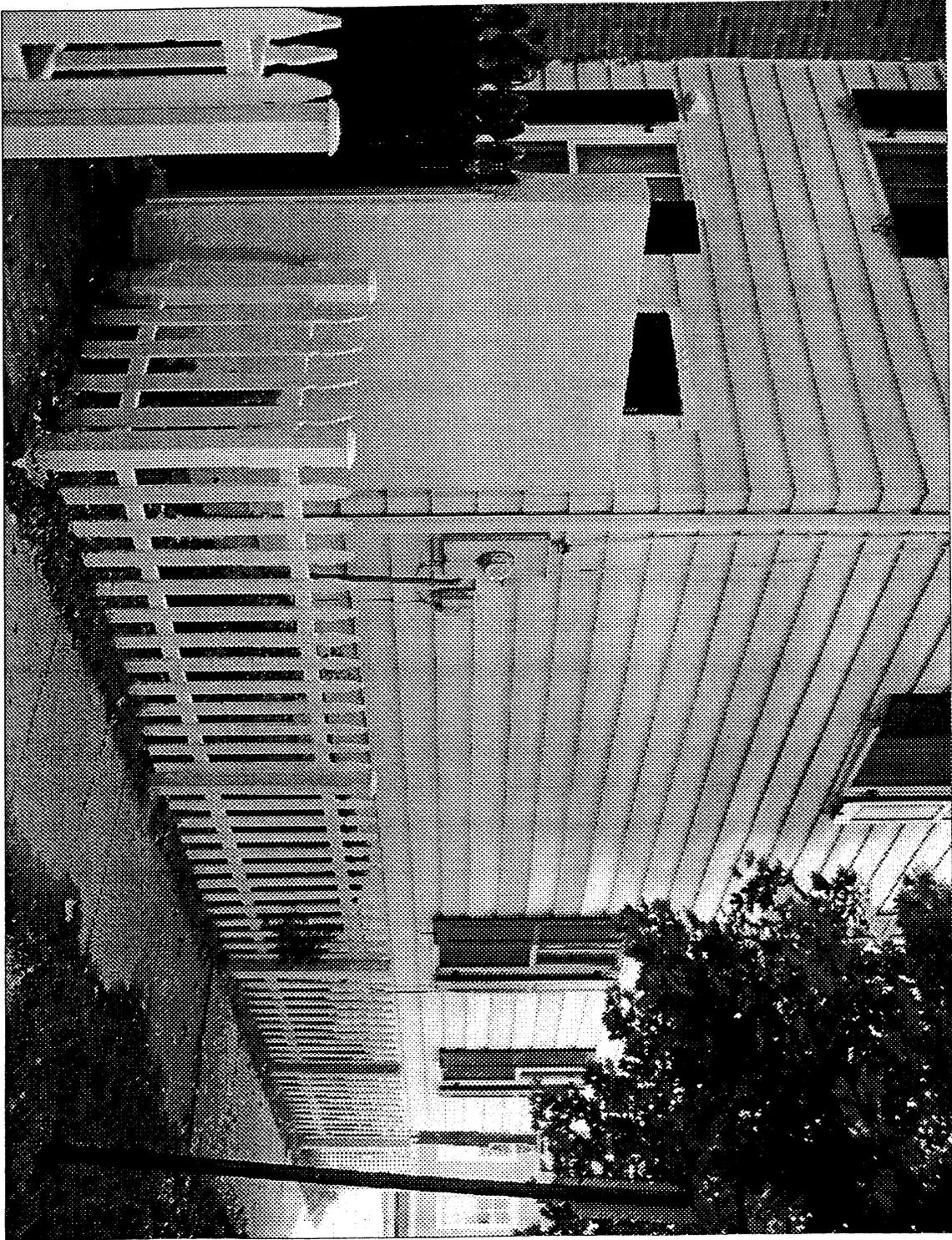
Sincerely,

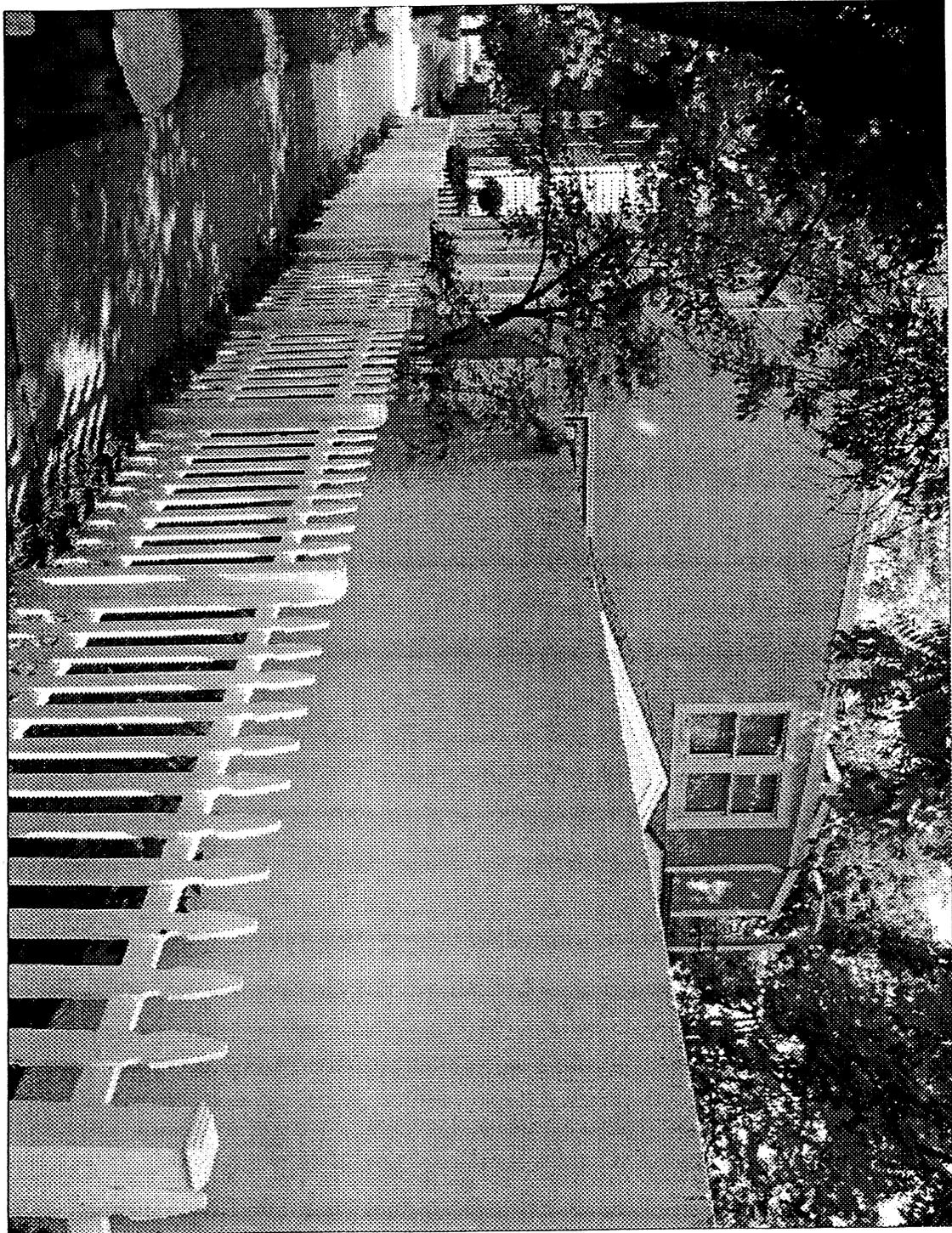


David and Sarah Goldstein



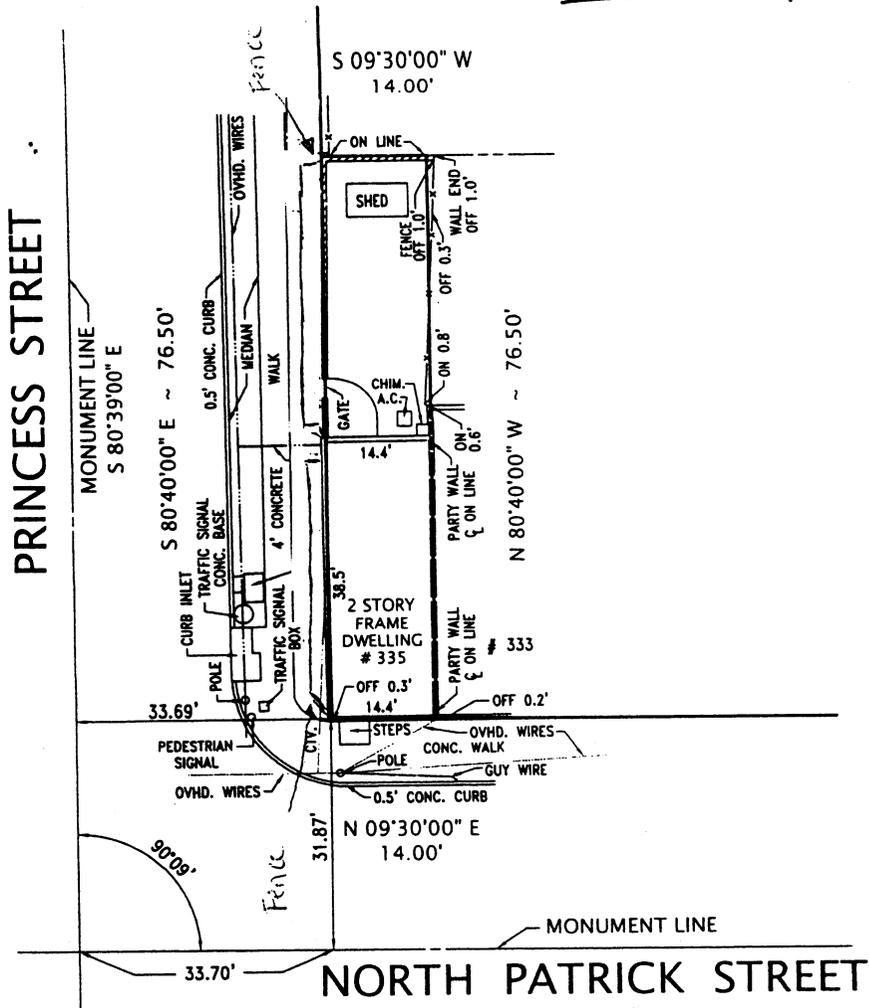
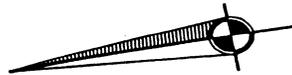






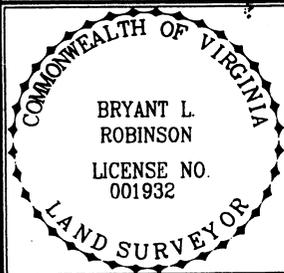
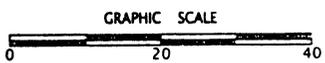
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NOTES: 1. FENCES ARE FRAME & STOCKADE.  
2. AREA = 1,071 S.F.



PLAT  
 SHOWING HOUSE LOCATION ON  
 THE PROPERTY LOCATED AT  
**# 335 NORTH PATRICK STREET**  
 CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20'      APRIL 5, 2004



CASE NAME: **BOESKIN/CANNATA - GOLDSTEIN**

PLAT SUBJECT TO RESTRICTIONS OF RECORD.  
TITLE REPORT NOT FURNISHED.

REQUESTED BY:  
**MARK ALLEN**

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.

*Bryant L. Robinson*  
BRYANT L. ROBINSON, . . . . . L.S.

**ALEXANDRIA SURVEYS**  
INTERNATIONAL, LLC

6343 SOUTH KINGS HIGHWAY ALEXANDRIA, VIRGINIA 22306  
 TEL. NO. 703-660-6615 FAX NO. 703-768-7764

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Print Name of Applicant or Agent

David Gold  
Signature

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Mailing/Street Address

703-683-6338 703-269-0248  
Telephone # Fax #

Alexandria, VA 22314  
City and State Zip Code

8/5/04  
Date

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Application Received: 8/10/04 Date & Fee Paid: 8/10/04 \$ 150.00

ACTION - PLANNING COMMISSION: 11/04/2004 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 11/13/04 CC approved Planning Commission recommendation 6-0