

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address:	7835 Hampden Lane, Bethesda	Meeting Date:	8/18/2021
Resource:	Contributing Resource (Greenwich Forest Historic District)	Report Date:	8/11/2021
Applicant:	13 Enterprises, LLC	Public Notice:	8/04/2021
Review:	HAWP	Staff:	Dan Bruechert
Case Number:	956484 - Revision	Tax Credit:	N/A
PROPOSAL:	RETROACTIVE –Fence Construction		

STAFF RECOMMENDATION:

Staff recommends that the HPC **approve with two (2) conditions** the HAWP application:

1. The fence that separates the subject property from 7831 Hampden Lane may not project beyond the 30' (thirty-foot) building restriction line shown on the site plan; and,
2. The footers supporting the fence posts proposed for removal also need to be removed as part of the work undertaken.

ARCHITECTURAL DESCRIPTION:

SIGNIFICANCE: Contributing Resource within the Greenwich Forest Historic District
STYLE: Colonial Revival
DATE: 1941

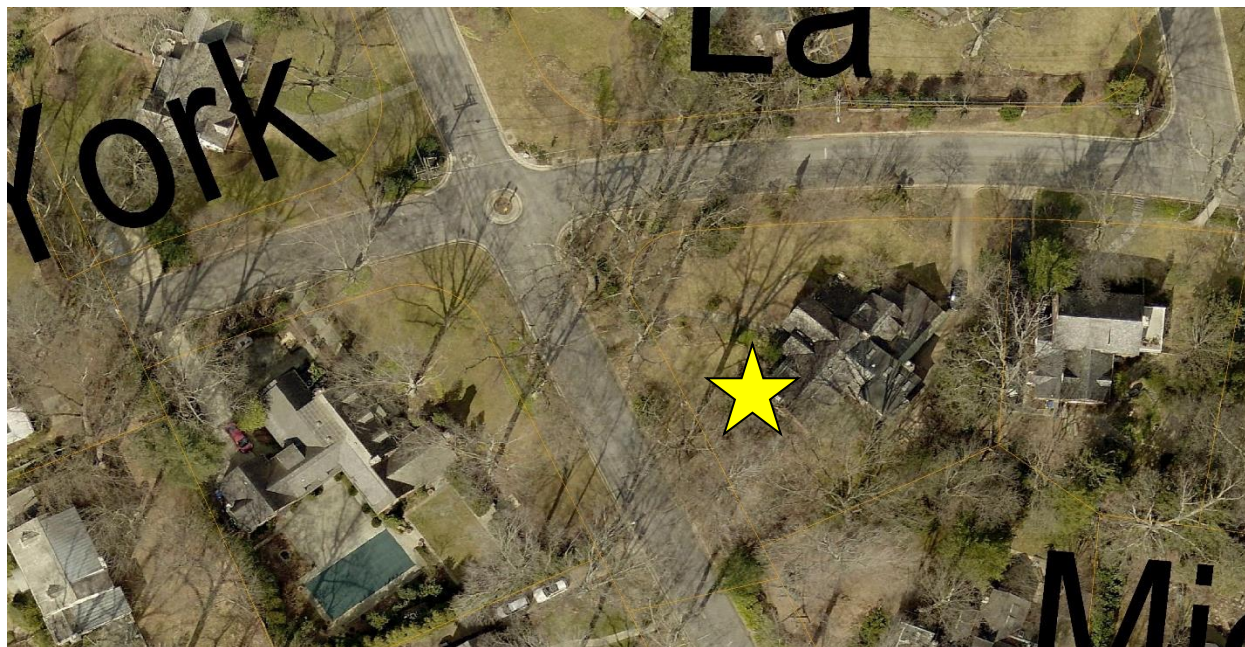


Figure 1: 7835 Hampden Lane, Bethesda

BACKGROUND

The HPC heard a HAWP for this address at the June 23, 2021 HPC meeting to consider two work elements: an expanded parking area and a new fence. The HPC approved the parking pad but did not approve the fence, citing concerns about the fence placement along Hampden Lane, and presenting the finished side into the subject yard instead of towards the neighboring properties. The applicant has revised the fencing proposal and returns for reconsideration.

PROPOSAL

The applicants propose to replace an existing fence. A larger fence was already constructed and the applicant seeks HPC approval before taking any further action.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Greenwich Forest Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the historic preservation review guidelines in the approved and adopted amendment for the *Greenwich Forest Historic District (Guidelines)*, *Montgomery County Code Chapter 24A (Chapter 24A)*, and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Greenwich Forest Historic District Guidelines

A. PRINCIPLES

The preservation of the following essential elements of Greenwich Forest is the highest priority in making decisions concerning applications for work permits. These Principles are not meant to stop or create unreasonable obstacles to normal maintenance, reasonable modifications, and the evolving needs of residents.

A1. Greenwich Forest was conceived of, built, and to a great degree preserved as a park-like canopied forest with gentle topographic contours, in which the presence of houses and hardscape are understated relative to the natural setting. The removal of mature trees and the significant alteration of topographic contours on private property, the *Greenwich Forest Triangle*, and the public right-of-way in Greenwich Forest should be avoided whenever possible. The Greenwich Forest Citizens Association (GFCA) will continue to support the replacement of trees. In order to protect mature trees and the natural setting of Greenwich Forest, and to limit runoff into the Chesapeake Bay, the creation of extensive new impermeable hardscape surfaces should be avoided whenever possible.

A2. The houses in Greenwich Forest create an integrated fabric well-suited to its forest setting. These Guidelines are intended to preserve this environment by ensuring that approved *work permits* include appropriate safeguards that protect the following three essential elements of this fabric.

- a. An array of revival American *architectural styles* that, taken together, make a significant statement on the evolution of suburban building styles (see Appendix 2).
- b. The *scale and spacing* of houses and their *placement* relative to adjacent houses and the public right-of-way. The original developers made decisions on these three elements to understate the presence of structures relative to the forest. For example, minimum side setbacks at the time were 7' but placement and spacing produced distances between houses that far exceeded the minimum

14'. Additions and new houses have, in almost all cases, preserved generous space between houses and minimized visual crowding with plantings.

c. High quality building materials and high level of craftsmanship.

B. BALANCING PRESERVATION AND FLEXIBILITY

Greenwich Forest represents a period in the evolution of Montgomery County worthy of preservation, but it has also changed in response to the needs of residents since it was created in the 1930s. These Guidelines seek a reasonable compromise between preservation and the needs of residents in several ways.

B1. Most of the houses in the Greenwich Forest Historic District are designated “contributing” because they contribute to the architectural and historic nature of the district. Contributing structures are shown in the map of the districts. These Guidelines are more specific for contributing structures.

B2. Other houses in the district are designated non-contributing either because (1) they were built more recently than contributing houses with other architectural styles (see Appendix 3) or (2) their original features have been significantly altered by subsequent modifications. Non-contributing structures are shown on the map of the District. The Guidelines provide greater flexibility for owners of non-contributing houses.

B3. These Guidelines reflect the reality that nearly all houses in Greenwich Forest have been modified since their construction. Owners are not expected to return their houses to their original configurations. The modifications they are permitted to make under these Guidelines are based on the current reality in the neighborhood, provided that those modifications are consistent with the Principles in these Guidelines.

B4. Property owners have additional flexibility under these Guidelines to make more extensive changes to the parts of their houses that are less visible from the public rights-of-way in front of their houses. The Guidelines accomplish this by stipulating different levels of review for specific elements on different parts of houses.

The *Guidelines* that pertain to this project are as follows:

D9. Fences and walls: Fences were not part of the original Greenwich Forest streetscape. No front yard fences have been added since then, though some homeowners have added backyard fences and/or fences along side yard property lines. To preserve the uninterrupted green space adjacent to the public right-of-way, front fences are not allowed. To enable the creation of enclosed yards for residents, fences up to 6'6" tall are permitted in back and side yards. In the case of side yards, fences may extend up to just behind the front plane of the house, preserving at least a 3' setback from the facade. Fence style and material should be in keeping with the architectural style of the house and the forest surroundings. Properties confronting Wilson Lane merit special consideration due to heavy traffic volumes. Construction of fences or walls is permitted on these properties, with review, in order to help ensure the safety and privacy of residents and the safety of drivers and neighbors. The decision-making body is directed to show flexibility in reviewing applications for work permits for such fences and walls.

D11. Runoff control: Proposals for work permits should consider rainwater runoff problems that may be created by additions and other property and structural alterations. Solutions to these problems should protect trees and maximize the on-property control of this runoff by drainage fields, installation of permeable rather than impermeable surfaces, and other available means.

D16. Walkways and patios: Reconfiguration and replacement of existing pathways and patios that would not result in a net addition of impermeable hardscape surfaces are considered landscaping and do not require an application for a work permit. The installation of new walkways and patios requires a work permit and should minimize the creation of new impermeable hardscape surfaces (see Principle 1).

Montgomery County Code; Chapter 24A-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 ensure conformity with the purposes and requirements of this chapter, if it finds that:
 - (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
 - (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
- (d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Secretary of the Interior's Standards for Rehabilitation

- 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

STAFF DISCUSSION

The applicant seeks approval for replacing the existing fence with a new wood fence. The work proposed has already been completed, however, the HAWP review needs to be undertaken as if no work was done.

The subject property is a two-story, stone and brick Tudor Revival house. The house is located at the corner of Hampden and York Lane and is oriented toward the corner. From Hampden Lane, there is a stone walkway from the street to the house. The driveway is accessed via York Lane. The fence, partially enclosing the rear yard of the house includes a mix of low picket fencing and a taller, alternating board fence. The taller fence appears to be approximately 6' (six feet) tall.

Fence Replacement

The subject property contained a mix of a lower open picket fence and a taller alternating board fence. Staff is unable to verify the exact dimensions of the previous fence, but StreetView images do show the configuration of much of the fence on the site. The applicant is replacing an existing wood privacy fence with a new one that does not fully enclose the side yard as the previous fence did. Because the work has already been completed, Staff is unable to determine definitively that the dimensions of the new fence match the old fence, but can infer they are a close match based on StreetView images.

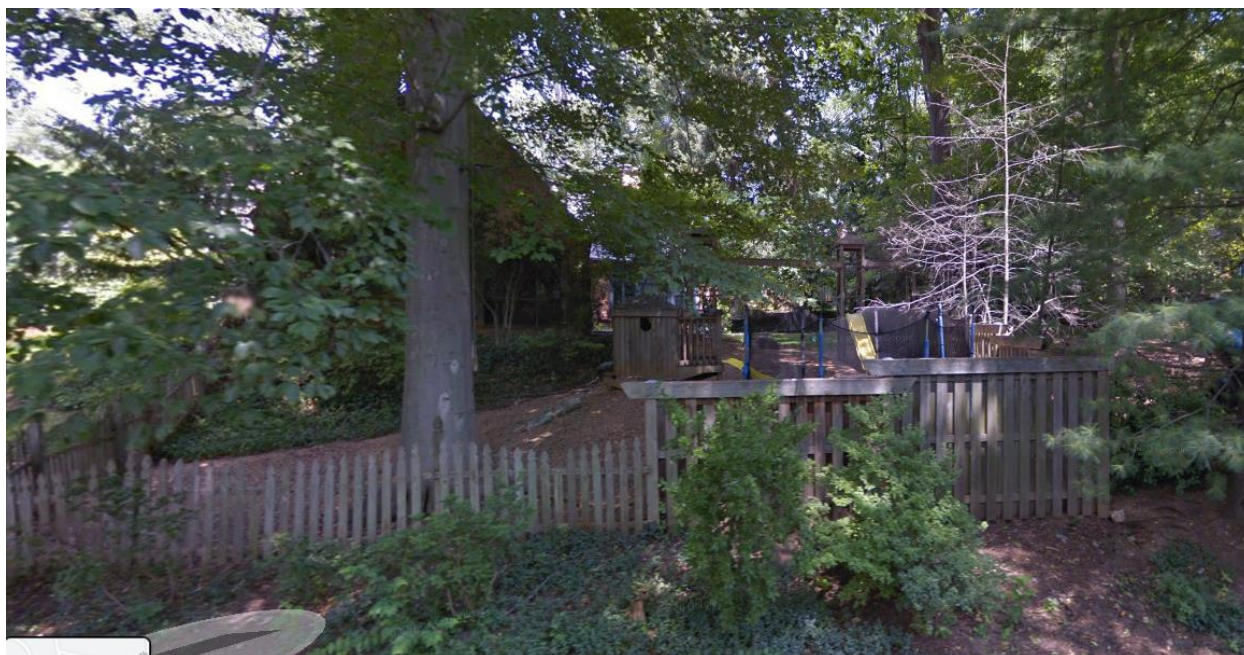


Figure 2: Google StreetView image was taken in 2014.

The *Guidelines* for fences (D9) state that fences were not part of the original streetscape and that there remain no front yard fences. The *Guidelines* allow rear and side yard enclosure with tall privacy fences, provided the fences are setback at least 3' (three feet) from the façade. This Guideline may be deficient in that it fails to consider the several corner houses in the district that are oriented towards an intersection because these fences could enclose the side yard along the street. The fence installed extends to within 10 feet of the street, then turns north, running parallel along Hampden Lane. The HPC determined the new fence exceeded the spirit of D9 by its negative impact on the sense of openness found throughout the district and required revisions.

The applicant has returned with a revised proposal that retains the 6' (six-foot) tall wood flat board fence design but removes the sections identified by the HPC as inappropriate.

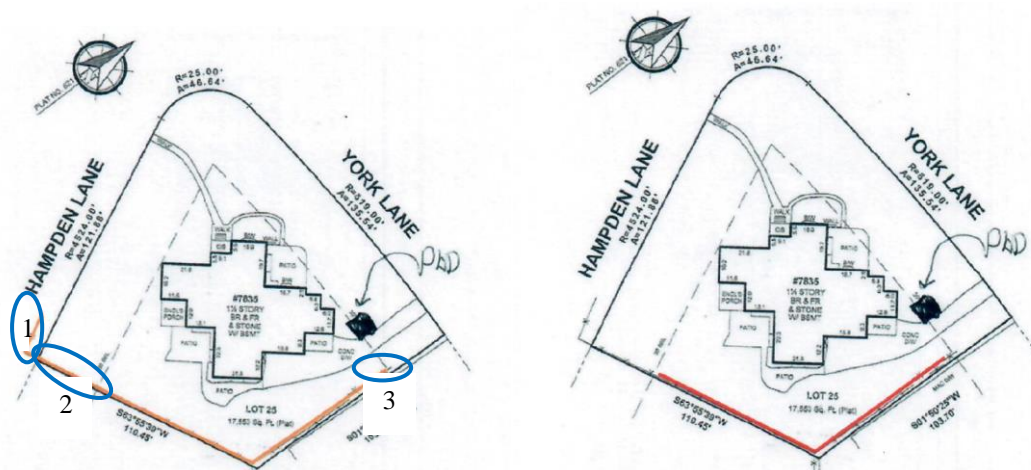


Figure 3: The original proposal (left) identifying the areas to be removed and the revision (right).

The application details the three areas of the fence that have been removed include (see Fig 3):

1. The 18' (eighteen-foot) section along Hampden Lane;

2. The first two or three sections of fence that separate the subject property from 7831 Hampden Lane; and
3. Eliminating a section of the fence along the property boundary with 5606 York Lane, so that the fence is parallel with the plane 3' (three feet) behind the front wall of 5606 York.

Staff finds that the proposed fence revision matches the location, materials, and apparent dimensions of the previous fence, but sets it back further from the right of way to better preserve the sense of openness found throughout the district. Staff recommends the HPC add two conditions for approval for this HAWP. First, Staff recommends that the resulting fence cannot extend beyond the 30' (thirty foot) building restriction line. The application materials state that the revision includes removing "the first two or three 8' sections of the fence... such that the fence would start 26' or 34' in front of the curb." However, the drawing submitted does not show the curb, only the right-of-way, and the building restriction line. Staff finds that requiring a fence not to exceed the building restriction line is the appropriate threshold and is consistent with the submitted drawing. Staff recommends this first condition only to clarify the limits of an approval. The second condition that Staff recommends is that the concrete footers for the removed posts also need to be removed. Because some of these footers are on or immediately adjacent to the property line, leaving them in the ground could preclude the neighbors from undertaking some work in the future.

Staff finds that with the identified conditions, the proposal will result in almost no material change from the existing appearance and will not detract from the surrounding streetscape.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application with two conditions:

1. The fence that separates the subject property from 7831 Hampden Lan may not project beyond the 30' (thirty-foot) building restriction line shown on the site plan; and,
2. The footers supporting the fence posts proposed for removal also need to be removed as part of the work undertaken;

under the Criteria for Issuance in Chapter 24A-8(b)(1), (2), and (d), having found that the proposal, as modified by the condition, is consistent with the *Greenwich Forest Historic District Guidelines* identified above, and therefore will not substantially alter the exterior features of the historic resource and is compatible in character with the district and the purposes of Chapter 24A;

and with the *Secretary of the Interior's Standards for Rehabilitation* #2, #9, and #10;

and with the general condition that the applicant shall present an electronic set of drawings, if applicable, to Historic Preservation Commission (HPC) staff for review and stamping prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff's discretion;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will contact the staff person assigned to this application at 301-563-3400 or dan.bruechert@montgomeryplanning.org to schedule a follow-up site visit.



APPLICATION FOR
HISTORIC AREA WORK PERMIT
HISTORIC PRESERVATION COMMISSION
301.563.3400

FOR STAFF ONLY:

HAWP# _____

DATE ASSIGNED _____

APPLICANT:

Name: 13 Enterprises, LLC

E-mail: tdlventures@gmail.com

Address: 950 Ridgebrook Road

City: Sparks Glencoe Zip: 21152

Daytime Phone: 2026963904

Tax Account No.: _____

AGENT/CONTACT (if applicable):

Name: _____

E-mail: _____

Address: _____

City: _____ Zip: _____

Daytime Phone: _____

Contractor Registration No.: _____

LOCATION OF BUILDING/PREMISE: MIHP # of Historic Property 7835 Hampden Lane Bethesda MD 20814

Is the Property Located within an Historic District? Yes/District Name Greenwich Forrest
No/Individual Site Name _____

Is there an Historic Preservation/Land Trust/Environmental Easement on the Property? If YES, include a map of the easement, and documentation from the Easement Holder supporting this application.

Are other Planning and/or Hearing Examiner Approvals /Reviews Required as part of this Application? (Conditional Use, Variance, Record Plat, etc.?) If YES, include information on these reviews as supplemental information.

Building Number: _____ Street: _____

Town/City: _____ Nearest Cross Street: _____

Lot: _____ Block: _____ Subdivision: _____ Parcel: _____

TYPE OF WORK PROPOSED: See the checklist on Page 4 to verify that all supporting items for proposed work are submitted with this application. Incomplete Applications will not be accepted for review. Check all that apply:

- | | | |
|---|---|--|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Deck/Porch | <input type="checkbox"/> Shed/Garage/Accessory Structure |
| <input type="checkbox"/> Addition | <input checked="" type="checkbox"/> Fence | <input type="checkbox"/> Solar |
| <input type="checkbox"/> Demolition | <input checked="" type="checkbox"/> Hardscape/Landscape | <input type="checkbox"/> Tree removal/planting |
| <input type="checkbox"/> Grading/Excavation | <input type="checkbox"/> Roof | <input type="checkbox"/> Window/Door |
| | | <input type="checkbox"/> Other: _____ |

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

Signature of owner or authorized agent

Date

Adjacent and Confronting Properties:

Bethesda, MD 20814

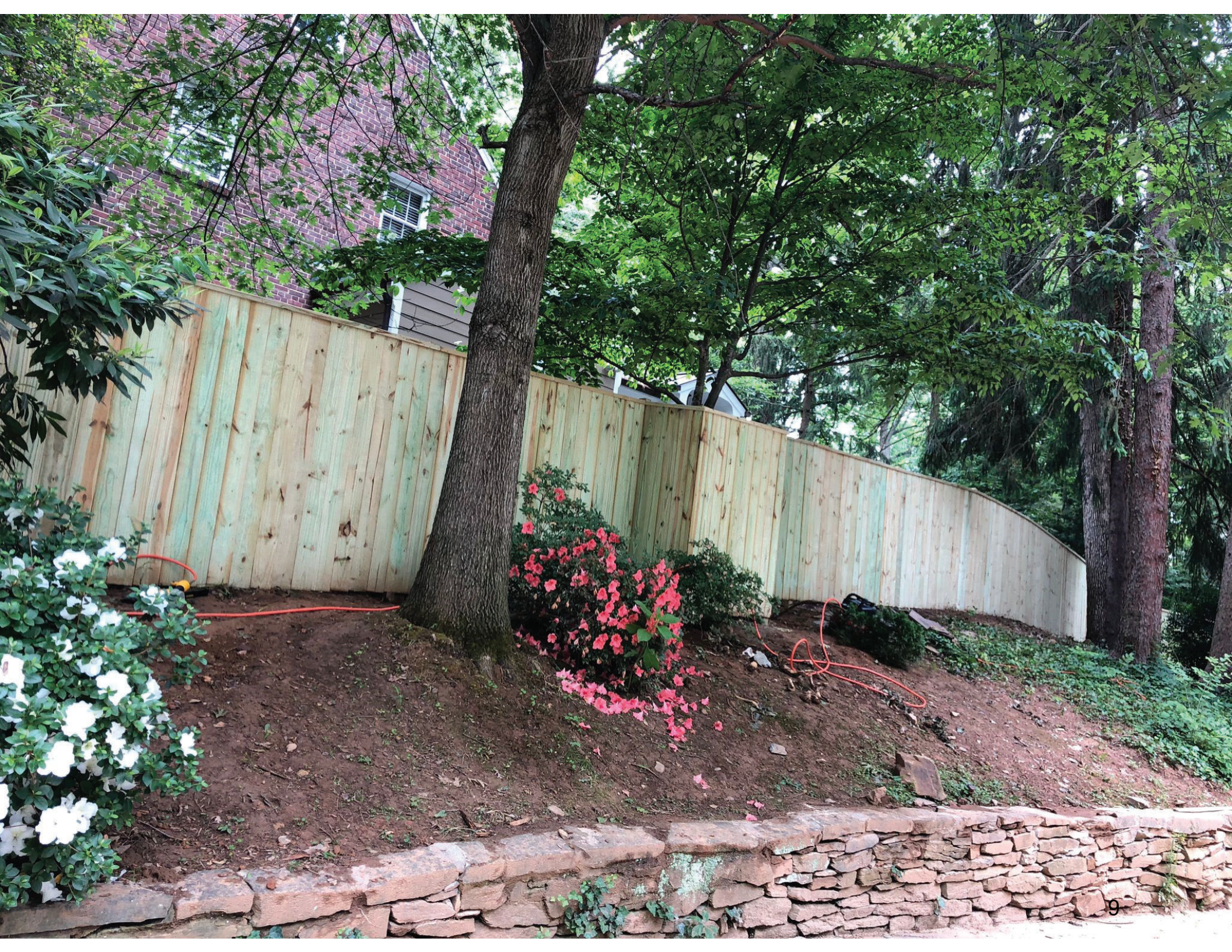
5606 York Lane

7831 Hampden Lane

5619 York Lane

7836 Hampden Lane

8000 Westover Road





Project Description

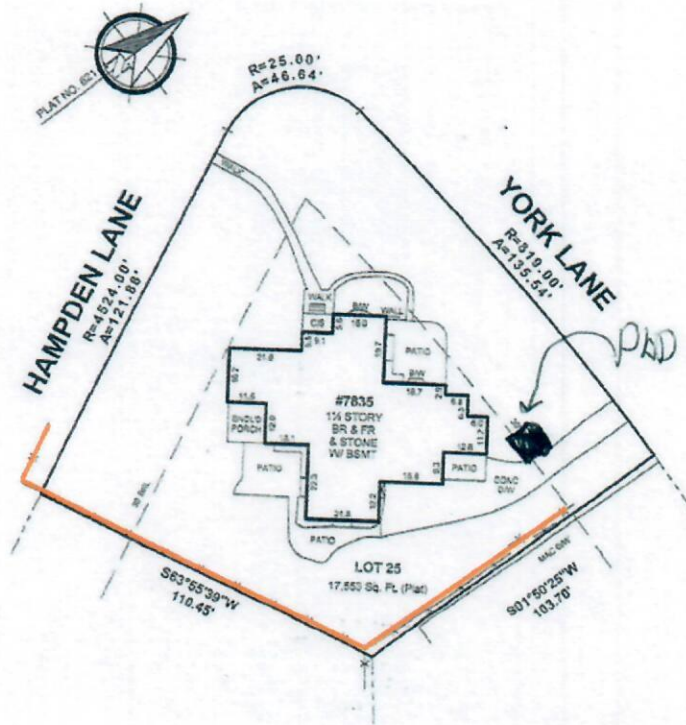
Background A HAWP application for retroactive approval of a fence, driveway, and parking pad at 7835 Hampden Lane in the Greenwich Forest Historic District was submitted for the June 23, 2021 HPC hearing and was discussed on that date. HPC approved replacement of the driveway and construction of a new parking pad, but directed the applicant to remove the privacy fence. After the vote, the HPC Chair stated that the applicant could submit a new application to modify the fence in ways that would bring it into compliance.. The Chair then asked HPC Staff Supervisor Ballo if his statement was correct, and she stated that it was.

This amendment to the original application proposes a set of modifications to the existing fence to that end. These proposed modifications will reduce the length of the modified fence to bring it into compliance with the Greenwich Forest Historic Guidelines, which were approved ten years ago.

The Previous Fence The pictures presented below show the fence that was demolished and replaced. It was constructed of cedar in sections with horizontal tops, a decorative fascia board at the top, and an alternating board design with steps down along the grade. The fence looked the same from the owner's and neighbor's sides.



The previous fence extended as shown by the orange line in the plat shown below:



The Replacement Fence This amendment to the original application acknowledges that the replacement fence does not match its predecessor in materials or design, though it does match the location of the previous fence as shown in the plat, above. The replacement fence is pressure-treated pine and has a continuous sloping top that parallels the grade. The owner's side has boards with no gaps between them, and the neighbor's side is unfinished, with the posts and cross rails showing. The 18' section along the Hampden Lane right-of-way has boards on both sides, with narrow gaps between them. Some sections have a cap board while others do not. These features are illustrated below.



Replacement fence viewed from the owner's side



Replacement fence viewed from the neighbors' sides



Replacement fence along the Hampden Lane right-of-way

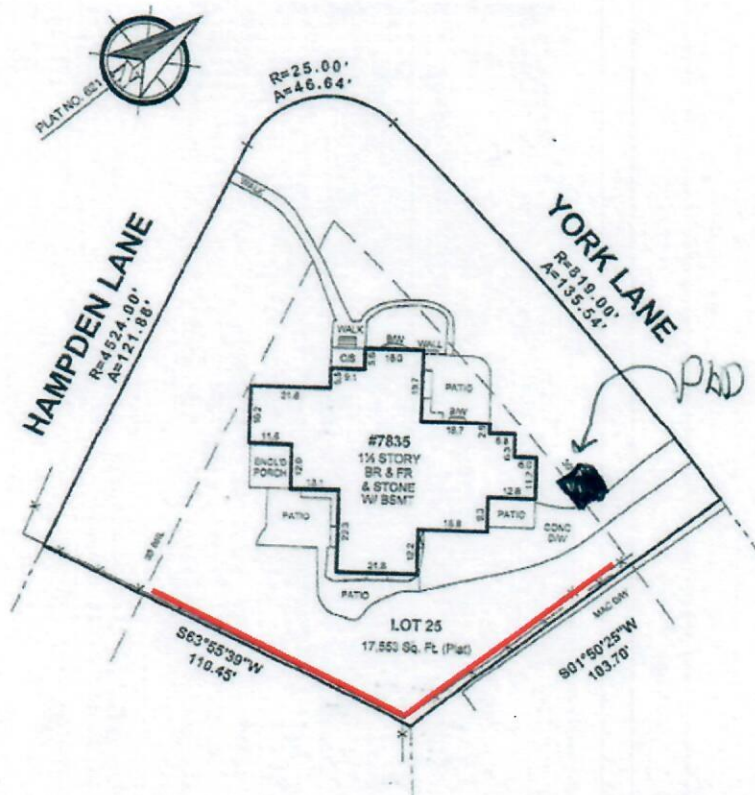
The Proposed Fence

Applicant proposes to remove three sections of the current fence, to "preserve the uninterrupted green space adjacent to the public right-of-way" as required in D9 of the Greenwich Forest Historic Guidelines. These sections are:

- The 18' section along the Hampden Lane right-of-way;
- The first two or three of the 8' sections of the fence that run from the Hampden Lane right of way along the property line with the adjacent property at 7831 Hampden Lane, such that the fence would start 26' or 34' in from the curb; and
- The portion of the fence along the property boundary with 5606 York Lane between the right-of-way and the plane 3' behind and parallel with the front plane of 5606 York Lane.

The adjacent neighbors at 5606 York Lane and 7831 Hampden Lane are supportive of this approach. The attached letters to the applicant from these neighbors indicate that this compromise is acceptable. Support of this proposal does not preclude either of these families from being approved in the future by the HPC for construction of privacy fences on their property in front of the subject fence.

The resulting fence would be located as shown by the red lines on the plat shown below, and would appear as shown in the diagram below.



July 11, 2021

Robert and Virginia Essink
5606 York Lane
Bethesda, MD 20814

Todd Lubar
7835 Hampden Lane
Bethesda MD 20814

Dear Todd,

We are writing in support of your revised proposal to the Historic Preservation Commission. The reason we are in support is, as both of us have discussed with you, that we would like to have a fence blocking the construction materials, vehicles, and debris until you have completed your refurbishing and sell the property. We want to work with the new owners toward a new fence in keeping with the Greenwich Forest look, including whether they want a gate between our yards (as we have between our yard and our other primary neighbors.) We also want to keep a fence up until a new one is built as we are now being considered as adoptive parents for a dog.

We support the Historic Preservation Commission vote that the fence between 5606 York Lane and your property be removed, but we are opposed to removing it before new owners buy the house. We are, however, comfortable removing the end of the fence adjacent to our property now, to bring the fence distance from the street into compliance. We will also modify our landscaping so that it looks right with the shorter fence.

Respectfully,

Virginia (Ginger) K Essink and
Robert (Bob) Essink

Clifford & Deborah Hendler
7831 Hampden Lane
Bethesda MD 20814

11 July 2021

Mr. Todd Lubar
7835 Hampden Lane
Bethesda MD 20814

re: FENCE

Dear Mr. Lubar,

We understand that you applied for and were denied approval from the Historic Preservation Commission (HPC) for the fence you recently constructed at 7835 Hampden Lane, a substantial part of which runs along our mutual property line. The Commission articulated a number of ways in which your fence failed to comply with the guidelines applicable in this Historic District and provided guidance as to how you might modify the fence to bring it into compliance. You have advised that you prefer to remove the fence entirely rather than undertake the extra effort and expense of such modifications.

In the alternative, we discussed the possibility that you might apply to the HPC for permission to remove portions of the fence closest to the street but allow other parts of the fence to remain standing. We are writing to support that application.

Notwithstanding that your new fence does not mirror in any way the step-down board-on-board cedar fence that you replaced, we much prefer having some fence to having no fence between our properties. Therefore, we support your revised application to remove portions of the fence so as to create a larger open space on both the Hampden Lane and York Road sides of your property, and specifically on Hampden Lane to remove 18' of fencing along Hampden Lane and an additional 16' of fencing along our mutual property line. This would mean that the fence would start 26' from Hampden Lane (or 34' if the Commission feels a wider path is necessary).

Although this distance is less than the fence setback specified in the guidelines for non-corner properties, in the absence of a guideline specifically applicable to corner properties like ours, we think it reflects a reasonable accommodation of interests in this situation.

Notably, the area under consideration is NOT visually unobstructed, because we have a large playset in that corner of our yard, screened by a tall hedge that runs along Hampden Lane and then turns to run about 12' along our mutual property line. The fact that the hedge extends only 12' along the property line is why we would prefer removing only the first 16' of the fence in that area. We note that the fence you removed and replaced had been standing in the same location for the entire 30+ years that we have owned our house.

We believe that your new proposal represents a reasonable compromise between the desire to maintain the open feel of the neighborhood as originally developed and the interests of current owners of corner lots in Greenwich Forest to maintain privacy walls that reflect how their lots are configured and used. While we wish that you had put up a nicer fence and/or had taken the opportunity to work with your neighbors to that end, we are willing to support this compromise over the alternative of your removing the fence in its entirety.

Sincerely,

Clifford & Deborah Hendler