

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address:	10302 Fawcett St., Kensington	Meeting Date:	6/14/2023
Resource:	Primary One Resource Kensington Historic District	Report Date:	6/7/2023
Applicant:	Jessica Chertow	Public Notice:	5/31/2023
Review:	HAWP	Staff:	Dan Bruechert
Case No:	1027503	Tax Credit:	n/a
PROPOSAL:	Fence Installation and driveway replacement		

STAFF RECOMMENDATION

Staff recommends the HPC **approve** the HAWP application **with one (1) condition**:

1. The proposed iron picket fence may not exceed 48” (forty-eight) inches tall. Revised plans showing the approved fence height need to be submitted to Staff before approval documents can be issued.

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Primary One Resource within the Kensington Historic District
STYLE: Colonial Revival
DATE: c.1905

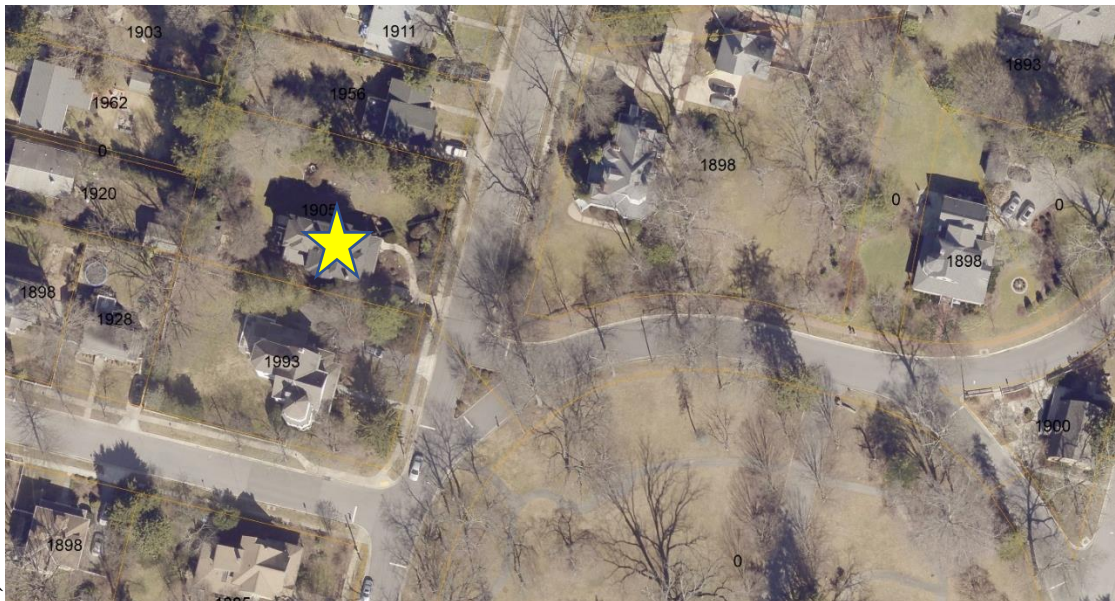


Figure 1: 10302 Fawcett St. is adjacent to Warner Circle.

PROPOSAL

The applicant proposes to install two types of fencing to enclose the yard at the subject property.

APPLICABLE GUIDELINES

Kensington Historic District Guidelines

When reviewing alterations and new construction within the Kensington Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the *Approved & Adopted Amendment to the Master Plan for Historic Preservation: Kensington Historic District, Atlas #31/6 (Amendment)*, *Vision of Kensington: A Long-Range Preservation Plan (Vision)*, *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.

Vision of Kensington: A Long-Range Preservation Plan

The HPC formally adopted the planning study, *Vision of Kensington: A Long-Range Preservation Plan*, and is directed by the Executive Regulations, which were approved by the County Council, to use this plan when considering changes and alterations to the Kensington Historic District. The goal of this preservation plan "was to establish a sound database of information from, which to produce a document that would serve the HPC, M-NCPPC, their staff and the community in wrestling with the protection of historic districts amidst the pressures of life in the 21st century." (page 1). The plan provides a specific physical description of the district as it is; an analysis of character-defining features of the district; a discussion of the challenges facing the district; and a discussion of proposed strategies for maintaining the character of the district while allowing for appropriate growth and change.

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 significance or for plans involving new construction, unless such plans would seriously impair the 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:

The Secretary of the Interior defines rehabilitation as "the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values." The *Standards* are as follows:

- 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.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

STAFF DISCUSSION

The subject property is an American Foursquare house with Colonial Revival details constructed on a double lot. A rear addition was approved by the HPC in 2007.¹ The applicant proposes to enclose the yard by installing two types of fencing at the subject property. The first is a 6' (six foot) tall cedar privacy fence that will enclose the rear yard and extends along the northern (right) property boundary. The second type of fence is a 5' (five foot) tall wrought iron fence that will enclose the front yard and includes a gate for access to the driveway.

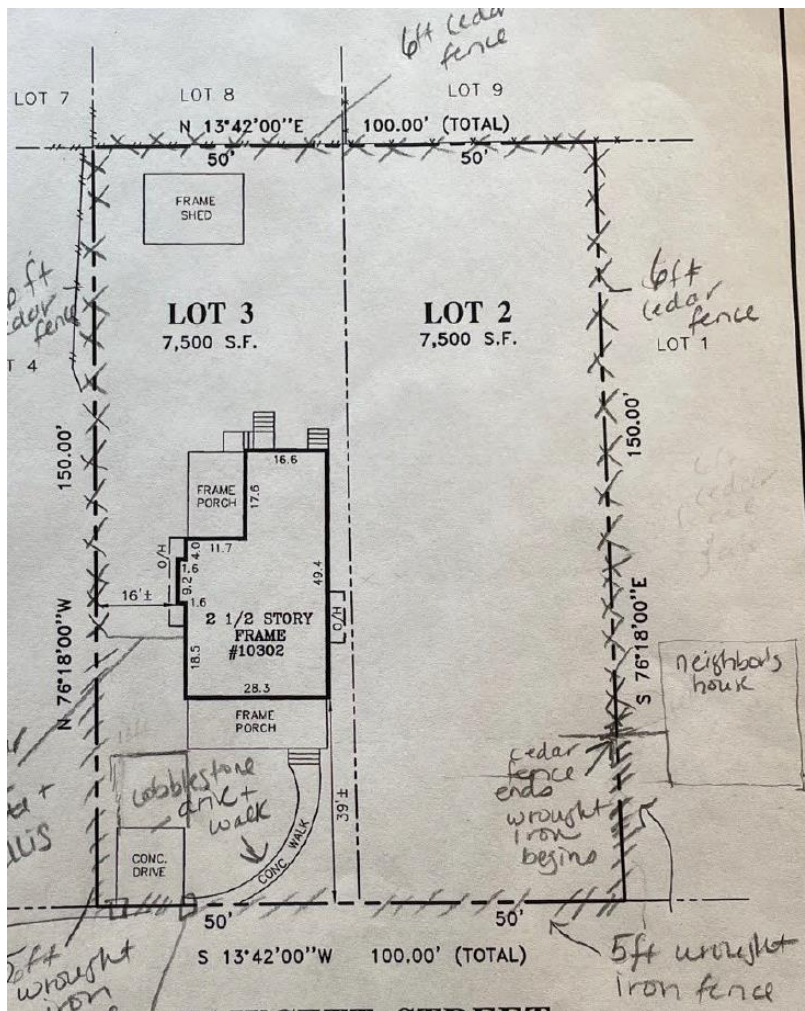


Figure 2: Site plan showing the 6' fence (marked by 'x') and the proposed wrought iron fence (noted by '/').

¹ The Staff Report and HAWP application for the 2007 addition are available here: https://mc atlas.org/files/06_HistoricPreservation_PhotoArchives/Padlock/HAR60640010/Box082/31-06-07D_Kensington%20Historic%20District_10302%20Fawcett%20St_08-13-2007.pdf.

The size and placement of the proposed fences deviate from the HPC's typical requirements. Fences forward of the historic rear wall plane are generally limited to no taller than 4' (four feet), need to have an open picket design, and must be constructed out of traditional materials (i.e. wood, iron, etc.). This requirement helps preserve the district's characteristic "garden suburb" development pattern. The proposed six-foot solid board cedar fence will terminate at the house's front wall plane right (north) side of the property. This also places the fence at approximately the mid-point of the neighboring house. On the left (south) side of the house, the applicant proposes to install a 5' (five foot) tall gate with a 10' (ten foot) tall cedar trellis. Staff finds, in this instance, the proposed fence will not detract from the sense of openness for two primary reasons. First, the subject property's grade drops off significantly from the sidewalk and is approximately 6' (six feet) below the sidewalk. When viewed from the public right-of-way, a person would be able to look over the fence without perceiving a solid wall dividing the space. The second reason why Staff finds a 6' fence this far forward to be appropriate are the setbacks of the neighboring property. 10306 Fawcett St. was constructed in 1956 and is only setback from the sidewalk by 28' (twenty-eight feet), compared with the subject property which is setback 50' (fifty feet) from the sidewalk (see the Sanborn map, below). Additionally, the neighboring house appears to have a 5' (five foot) setback from its south property boundary. The placement of this house will obscure much of the portion of the solid fence that is forward of the historic rear wall plane. Staff recommends the HPC approve the proposed 6' (six foot) board fence and the fence and gate on the left side.



Figure 3: 1963 Sanborn Map showing the subject property and the infill house to the immediate north.

The second fence proposed is a 5' (five-foot) tall iron fence with fleur-de-lis topping the pickets. The iron fence will enclose the front yard (see Figure 2, above) and includes a mechanical gate supported by stone bollards. Staff finds the majority of the yards in the Kensington Historic District are open and unfenced, but that does not mean that installing fencing is inherently inappropriate. The primary

consideration is the impact the proposal will have on the character of the site and the surrounding historic district.

Typically, fences in the front yards in the Kensington Historic District are limited to 48” (forty-eight inches) in height, with an open picket design, and constructed out of traditional materials (i.e. wood, iron, etc.). Staff finds the proposed fence satisfies two of the three criteria. The proposed fence has an open picket design and is constructed out of iron. However, the fence exceeds the 48” (forty-eight inch) restriction. Staff finds the 5’ height is tall enough that it obscures views into the yard from the right-of-way, as the height is at or above eye level for most adults. The applicant indicates this height was selected to satisfy the requirements for enclosing a swimming pool, which they wish to construct at a future date. County Code requires a fence that is at least 5’ (five feet) tall to fully enclose a pool. Staff finds the height of the proposed fence at the edge of the sidewalk is too tall to be compatible with the character of the district and recommends the HPC add a condition for approval that the iron fence be no taller than 48” (forty-eight inches). The 4’ (four foot) tall iron picket fence would be compatible with the character of the house and surrounding district. Staff recommends the HPC approve the HAWP with the recommended condition under 24A-8(b)(2) and Standard 2.

The final proposed change is expanding and removing the existing driveway concrete walk and installing an expanded cobblestone driveway and cobblestone walk. Staff finds the proposed cobblestones provide the mottled color and texture desired in the Victorian Era historic district. Staff additionally finds the larger driveway will not have a negative impact on the character of the site and Staff recommends the HPC approve the new hardscaping under 24A-8(b)(1), (2), and Standard 2.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application **with one (1) condition**;

1. The proposed iron picket fence may not exceed 48” (forty-eight) inches tall. Revised plans showing the approved fence height need to be submitted to Staff before approval documents can be issued;

under the Criteria for Issuance in Chapter 24A-8(b)(1), (2), and (d), having found that the proposal 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: _____ E-mail: _____
Address: _____ City: _____ Zip: _____
Daytime Phone: _____ 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 _____

Is the Property Located within an Historic District? Yes/District Name _____
 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 type="checkbox"/> Fence | <input type="checkbox"/> Solar |
| <input type="checkbox"/> Demolition | <input 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

HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING
[Owner, Owner's Agent, Adjacent and Confronting Property Owners]

Owner's mailing address	Owner's Agent's mailing address
Adjacent and confronting Property Owners mailing addresses	

Description of Property: Please describe the building and surrounding environment. Include information on significant structures, landscape features, or other significant features of the property:

Description of Work Proposed: Please give an overview of the work to be undertaken:

Work Item 1: _____	
Description of Current Condition:	Proposed Work:

Work Item 2: _____	
Description of Current Condition:	Proposed Work:

Work Item 3: _____	
Description of Current Condition:	Proposed Work:

**HISTORIC AREA WORK PERMIT
CHECKLIST OF
APPLICATION REQUIREMENTS**

	Required Attachments						
Proposed Work	I. Written Description	2. Site Plan	3. Plans/ Elevations	4. Material Specifications	5. Photographs	6. Tree Survey	7. Property Owner Addresses
New Construction	*	*	*	*	*	*	*
Additions/ Alterations	*	*	*	*	*	*	*
Demolition	*	*	*		*		*
Deck/Porch	*	*	*	*	*	*	*
Fence/Wall	*	*	*	*	*	*	*
Driveway/ Parking Area	*	*		*	*	*	*
Grading/Excavation/ Landscaping	*	*		*	*	*	*
Tree Removal	*	*		*	*	*	*
Siding/ Roof Changes	*	*	*	*	*		*
Window/ Door Changes	*	*	*	*	*		*
Masonry Repair/ Repoint	*	*	*	*	*		*
Signs	*	*	*	*	*		*

HAWP 1027503

Jessica and Daniel Chertow

10302 Fawcett Street, Kensington, MD 20895

Proposal to install privacy fencing on property in preparation for a pool



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Rabbiah Sabbakhan
Director

HISTORIC AREA WORK PERMIT APPLICATION

Application Date: 4/11/2023

Application No: 1027503
AP Type: HISTORIC
Customer No: 1462089

Affidavit Acknowledgement

The Homeowner is the Primary applicant
This application does not violate any covenants and deed restrictions

Primary Applicant Information

Location 10302 Fawcett ST 10302 Fawcett St Kensington, MD 20895
Homeowner Chertow (Primary)

Historic Area Work Permit Details

Work Type ADD
Scope We would like to add a 6ft wooden fence on both sides of the property. The reason we are requesting a 6ft fence is because we plan on adding a pool in the coming years and a pool requires the 6ft height. At this time we do not plan on adding a fence along the front and back of the property. A fence already exists along the back of the property.
Work

Project Title: Privacy fencing along the perimeter of 10302 Fawcett Street in compliance with Montgomery County’s pool height regulations and cobblestone driveway replacement and extension.

Project Description and Justification:

This project aims to install fencing around the perimeter of 10302 Fawcett Street to meet Montgomery County’s regulations for an in-ground pool and to achieve privacy along the sides and rear of the property.

We propose to install a 5-feet high wrought iron fence (Figure 1) and driveway gate with adjacent stone posts (Figure 2) along the front of the property and along the sides of the property ending at the front aspect of the front porch.

We propose to install a 6-feet high solid cedar privacy fence (Figure 3) along both sides of the property, beginning at the front aspect of the front porch and extending to the rear, and across the rear of the property as indicated on the plat marked by the symbols xxxx (Figure 4).

To the left side of the home on Lot 3 we propose to install a 5-feet high cedar gate with 10-feet high trellis (Figure 5) connecting the side of the house and the side privacy fence.

We propose to replace the concrete driveway and walkway with cobblestone (Figure 6) and extend the driveway by 14-feet towards the back of the property.

The justification for the proposed fence height and forward extension of a >4-feet high fence beyond the home’s original rear footprint are as follows:

- **Justification for a 5-feet high versus 4-feet high wrought iron fence in front:**
We propose a 5-feet high fence along the front of the property to meet the Montgomery County barrier requirements around a residential pool, given our intention to install a pool in the rear of the home as a subsequent project. These requirements state “A swimming pool over 18-inches deep, or the property on which the pool is constructed, must be enclosed by a fence or wall that is at least 5-feet high”.
- **Justification for extending the 6-feet cedar privacy fence to a distance equivalent to the front aspect of the front porch.**
 - **Justification # 1:** Neighbors directly adjacent to Lot 2 cut many branches on a large mature tree that were extending into their property but was also providing a thick layer of privacy between our homes. Due to this excessive limb loss, the large tree died. We removed the dead tree resulting in a very large open space exposing much of the neighbor’s home and eliminating privacy. We planted 4 large 10-feet high white pine trees in this space to re-establish privacy. However, three out of the four

trees died because the decomposing roots from the original tree prevented the new trees to take hold. Consequently, our arborist has indicated that a new tree cannot yet be planted in this space and that years will pass before new tree(s) can achieve privacy in this space.

- **Justification # 2:** The neighbor's house directly adjacent to Lot 2 when built (likely in the 1950's/1960's) was placed ~24 feet closer to the street than our house and other homes on Fawcett Street built during the early 1900's. This forward offset of our neighbor's home, relative to our home, limits privacy provided by a fence placed toward the rear of our home. A photo of our side yard and view of neighbor's home from our front porch is shown in Figure 7. A 6-foot high cedar privacy fence extended to the front aspect of our front porch will in part alleviate this issue. A further justification for 6-foot high cedar fence rather than a 5-foot high cedar fence is that the height of the fence line on our property is approximately 2.5-feet below the level of the sidewalk in front of our home. Consequently, the effective height of a 6-foot high cedar privacy fence on our property, when viewed from the sidewalk in front of our home, will be < 4-feet. Finally, the 6-foot height of the proposed cedar privacy fence extending forward to the middle of our neighbor's home is consistent with the height and forward distance of the privacy fence present on the opposite side of our neighbors' home (Figure 8). In addition, on the other side of the neighbor's home there is a privacy fence. We propose that our privacy fence be extended to the same length as this existing fence, see figure 8.
- **Solid cedar fencing justification:** We propose solid cedar fencing and not shadowboxing fencing to maximize privacy on the sides and rear of our home. Additionally, we have a large dog as do our neighbors adjacent to Lot 3. We prefer a solid fence to limit the dogs seeing each other and barking across the fence.

Replacement of existing concrete driveway and walkway with cobblestone and 14-foot extension of the driveway towards the back of the property (figure 6). We propose extending the existing driveway by 14-feet in length to end at the front aspect of the porch. Width of the driveway will not change. The shape and size of the walkway will not change other than replacing the concrete, which is aging and broken, with cobblestone.

HAWP: Privacy fencing along the perimeter of 10302 Fawcett Street in compliance with Montgomery County's pool height regulations and cobblestone driveway replacement and extension

Jessica and Daniel Chertow

10302 Fawcett Street, Kensington, MD 20895

May 26, 2023



Figure 1

5-foot high wrought iron fence across front and sides (a portion) of the property.



Figure 2

Stone posts framing driveway with gate

Craft **Figure 3**



- Mid- Atlantic Deck and Fence Co (410-544-1987)
- www.midatlanticdeckandfence.com
- 6-foot high cedar privacy fence

Figure 4

Symbol Key:

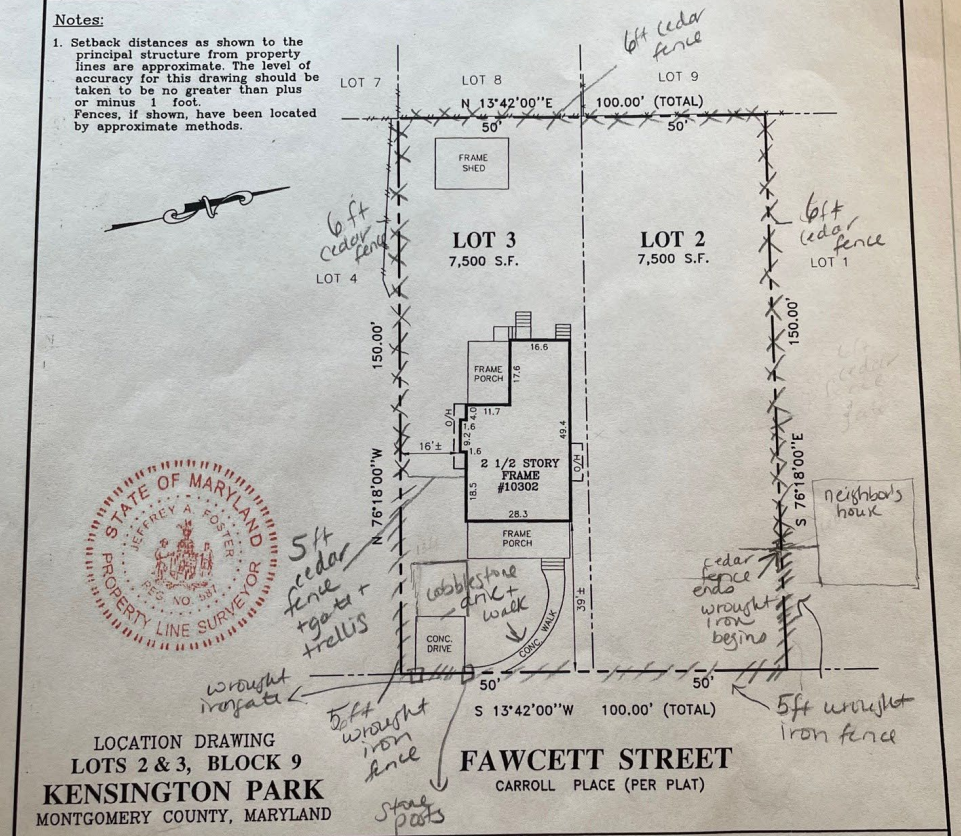
XXX: 6-foot high solid cedar fencing

/////: 5-foot high wrought iron fencing

- CONSUMER INFORMATION NOTES:**
1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
 2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
 3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
 4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.
 5. No Title Report furnished.

Notes:

1. Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 1 foot.
- Fences, if shown, have been located by approximate methods.



SURVEYOR'S CERTIFICATE		REFERENCES		SNIDER & ASSOCIATES LAND SURVEYORS	
"THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION." Jeffrey A. Foster MARYLAND PROPERTY LINE SURVEYOR REG. NO. 587 Expires: 04-02-2016		PLAT BK.	B	20270 Goldenrod Lane, Suite 110 Germantown, Maryland 20876 301/948-5100 Fax 301/948-1288	
		PLAT NO.	4		
LIBER	27316	DATE OF LOCATIONS	SCALE: 1" = 30'		
FOLIO	138	WALL CHECK:	DRAWN BY: D.M.L.		
		HSE. LOC.:	06-25-14	JOB NO.: 14-06377	

Figure 5



- 5-foot high cedar gate and 10-foot high trellis



Figure 6

- Cobblestone for driveway and walkway

Figure 7 Lot 2- *Side* Fencing Placement

Red box indicates the placement of 6-foot high cedar privacy fence on Lot 3 in relation to our neighbor's home. The blue arrow indicates where the 6-foot high privacy fence would end. The red arrow indicate where the 5-foot high wrought iron fence would be placed.





Figure 8

- Solid privacy fencing on opposite side of our neighbor's house adjacent to Lot 2. This fence is extended towards the street and ends at the middle of the house.