

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-30-14 Linus Nchenku

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: May 21, 2014.

CERTIFICATE OF SERVICE

This is to certify that on June 9, 2014, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Linus Nchenku

Appeal No.: V-30-14

Subject Property: Lot 28, Parkcrest Subdivision, being 5903 Magnolia Hill Lane, Riverdale
Prince George's County, Maryland

Heard and Decided: May 21, 2014

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to construct a 6-foot-high wooden privacy fence. Waivers of the fence location and height requirements for a fence in the front yard are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1993, contains 8,624 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 1997. Exhs. 7 and 8.

2. The property is an odd-shaped through lot located on a cul-de-sac. The property fronts on two streets, Magnolia Hill Lane and Good Luck Road. Good Luck Road is a major thoroughfare. Driveway access to the property is from the cul-de-sac, Magnolia Hill Lane. Exhs. 2 and 4.¹

3. Petitioner would like to construct a 6-foot-high wooden privacy fence along the property line abutting Good Luck Road, but variances are necessary before obtaining a building permit. Since the proposed fence is over 4 feet in height and would be located in a front yard, waivers of the fence location and height requirements for a fence in the front yard were requested. Exh. 11.

4. Petitioner testified that students from a school located on the other side of Good Luck Road and others use his back yard as a short cut and he believes the proposed fence would stop this behavior. He explained that the fence would line up with his neighbor's 6-foot wooden fence (Exhs. 5(E); 9(B), (D) and (E)) and that no trees would be removed. He stated that the proposed fence would not impair the view of drivers turning at the corner of Magnolia Hill Lane and Good Luck Road. See Exh. 9(A).

¹ The property is located within Aviation Policy Area 6. Exh. 8.

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a through lot, the property being located on a cul-de-sac, the house facing the cul-de-sac, the yard behind the house abutting a major thoroughfare, students from a nearby school and others using the subject property as a short cut, the proposed fence lining up with the adjoining neighbor's 6-foot wooden fence, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that waivers of the fence location and height requirements for a fence in the front yard in order to construct a 6-foot-high wooden privacy fence on the property located at Lot 28, Parkcrest Subdivision, being 5903 Magnolia Hill Lane, Riverdale, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.