

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-102-15 John and Sabrina Frank

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: November 4, 2015.

CERTIFICATE OF SERVICE

This is to certify that on November 18, 2015, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioners: John and Sabrina Frank

Appeal No.: V-102-15

Subject Property: Lots 14 & 15, Block G, Martin's Woods Subdivision, being 7292 Finns Lane, Lanham,
Prince George's County, Maryland

Witness: Jaycee Frank, wife of John Frank

Heard and Decided: November 4, 2015

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, Petitioners request that the Board approve variances from Section 27-420(a) of the Zoning Ordinance, which prescribes that on corner lots consisting of one (1) acre or less, fences and walls in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to construct a 6-foot privacy fence. Waivers of the fence location and height requirements for a fence in the side yard on a corner lot are requested.

Evidence Presented

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

1. The property was subdivided in 1955, contains 24,913 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and two driveways. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1954. Exhs. 7 and 8.

2. The property is a corner lot with the house facing the legal front street at an angle. Exhs. 2 and 9(A) through (E). There is an existing asphalt driveway on the property that accesses the property from Riverdale Road and runs along the rear property line. Exhs. 2, 5(E) through (H), 9(A) through (E).

3. Petitioners would like to construct a 6-foot privacy fence around a portion of the rear and side street yards, but a variance is needed to obtain a building permit. Since the fence would be over 4 feet in height and located in the side yard abutting the street, waivers of the fence location and height requirements for a fence in the side yard on a corner lot were requested. Exh. 11.

4. Petitioner John Frank testified that they want the proposed fence for security and privacy reasons noting that drivers currently use the driveway in their rear yard to turn their vehicles. He testified that his dog was run over by a vehicle.

5. Jaycee Frank testified that they have five children and the youngest child is two years old. She stated that the fence is needed to protect the children from the (trespassing) vehicles and from the road. She stated that she is further alarmed because there is a bus stop near the driveway (Exhs. 5(C) and (D)) where people loiter.

6. John Frank further testified that the driveway at the rear and a metal chain link fence existed when he purchased the property. He stated that the existing fence next to the driveway is broken (Exhs. 5(G) and (H)) and will be replaced with the new 6-foot privacy fence using the existing fence lines. He explained that there will be a gate blocking off the driveway from the yard to protect the children.

7. He explained that the property slopes upward from Riverdale Road and the proposed fence would be located at the top of the slope next to the driveway and Riverdale Road. *See* Exhs. 5(A) through (K). He stated that the new fence will not block the view for traffic because there will be sufficient clearance between the fence and Riverdale Road.

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 corner lot, the sloping topography of the property, the property abutting a busy thoroughfare, a bus stop being located along the Riverdale Road side of the property, drivers and loiterers utilizing the driveway in the rear yard causing loss of privacy and raising safety issues for the young children in the rear yard, the existing chain link fence being in disrepair, the proposed 6-foot privacy fence being erected on the existing fence lines, 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that waivers of the fence location and height requirements for a fence in the side yard on a corner lot in order to construct a 6-foot privacy fence on the property located at Lots 14 & 15, Block G, Martin's Woods Subdivision, being 7292 Finns Lane, Lanham, 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 plans, Exhibits 3(a) and (b).

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.