

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-85-13 Jerome & Kelly Taylor

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: October 23, 2013.

CERTIFICATE OF SERVICE

This is to certify that on November 20, 2013, 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
Woodmore North Homeowners Association

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

Petitioners: Jerome & Kelly Taylor

Appeal No.: V-85-13

Subject Property: Lot 120, Block E, Westwood Subdivision, being 5803 Chapel Glebe Court, Bowie,
Prince George's County, Maryland

Heard: October 9, 2013; Decided: October 23, 2013

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to construct a 6-foot aluminum picket fence in the front yard. 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 2006, contains 40,061 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing single-family dwelling was built in 2011. Exhs. 8 and 9.

2. The property is a through lot and has no legal rear yard. The lot fronts on three streets: Woodmore North Boulevard, Chapel Glebe Court and Church Road. The existing dwelling is constructed on an angle so that it faces the intersection of Chapel Glebe Court and Woodmore North Boulevard. Driveway access to the property is off of Woodmore North Boulevard. Exhs. 2, 4, 10(A) through (F).

3. Petitioners would like to construct a 6-foot aluminum picket fence to enclose the back yard (Exh. 3), but a variance is needed to obtain a building permit for the fence. Since a portion of the fence would be located in the (legal front) yard abutting Church Road and the fence would be over 4 feet in height, waivers of the fence location and height requirements for the fence were requested. Exh. 12.

4. Petitioner Jerome Taylor testified that a 6-foot fence is mandatory because he has an in-ground swimming pool.¹ He stated that he had a permit to put up a 6-foot fence (Exh. 18), but he decided to move the fence beyond a 35-foot landscaping easement along Church Road (Exh. 2) because the pool itself bumps up to the easement and he would have to clear an area of pavers and trees in the landscaping buffer to put the fence closer to the pool on the Church Road side. He stated that a County inspector notified him that the

¹ Section 4-140 of the Prince George's County Code ("County Code") prescribes that swimming pools must be enclosed by a fence at least six (6) feet in height for safety purposes.

building permit for the pool and fence should not have been issued without a variance and that he needs to obtain the variance before he can get a final inspection of his pool.

5. Mr. Taylor explained that there are trees along approximately 190 feet of the landscaping easement behind the house (Exhs. 10(B) through (F)), his fence is located 10 feet inside the property line and there is an elevation change of two feet on that side of the property. He stated that the fence appears shorter from the street because of the elevation change and the fence does not impede visibility for traffic on the street.

6. Mr. Taylor further testified and offered pictures to show that there are similar fences in the Woodmore community (Exhs. 19(D) and (E)) and some fences, including privacy fences, are on corner lots in the neighborhood. Exhs. 19(A) through (H).

7. Woodmore North Homeowners Association supported the request. Exh. 23.

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 fronting on three streets and having no legal rear yard, County Code Section 4-140 requiring that swimming pools be enclosed by a fence at least six (6) feet in height for safety purposes, an in-ground swimming pool having been built after a permit was issued, the proximity of the 35-foot landscaping easement along the Church Road side of the property to the pool, a line of trees stretching 190 feet along the Church Road side, the location of the 6-foot fence having been changed to the other side of the landscaping easement since the permit was issued, a change in elevation on the Church Road side causing the fence to appear shorter, the fence not obstructing visibility for motorists, 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, by majority vote, Mr. Scott abstaining, that waivers of the fence location and height requirements for a fence in the front yard in order to construct a 6-foot aluminum picket fence in the front yard on the property located at Lot 120, Block E, Westwood Subdivision, being 5803 Chapel Glebe Court, Bowie, 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.