

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-31-13 Manuel Beza & Fredis Campos

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: June 5, 2013.

CERTIFICATE OF SERVICE

This is to certify that on August 12, 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
DPIE/Inspections Division
RRC Community Association
Ernesto Luna, Spanish Translator

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

Petitioners: Manuel Beza & Fredis Campos

Appeal No.: V-31-13

Subject Property: Lot 58, Block 6, Riverdale Heights Subdivision, being 6216 58th Avenue, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Witness: Santos Portillo, resident of subject property

Heard: May 22, 2013; Decided: June 5, 2013

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 a variance 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 a variance from Section 27-421, which prescribes that on a corner lot, no visual obstruction more than three (3) feet high (above the curb level) shall be located within the triangle formed by the intersection of the street lines and points on the street lines twenty-five (25) feet from the intersection. Petitioners propose to validate and obtain a building permit for a 4-foot chain link fence along the front and side lot lines abutting a street. A waiver of the location requirement for a fence in the triangle area of the corner portion of a corner lot is requested.

Evidence Presented

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

1. The property was subdivided in 1993, contains 8,090 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 8-9. The existing single-family dwelling was built in 2003. Exhs. 8-9.

2. The property is an odd-shaped corner lot, with the house facing the corner. The existing driveway accesses the property from the legal front street (58th Avenue). Exh. 2.

3. Petitioners were cited with Building Violation Notice BVN 10215-13-00, dated March 28, 2013, by the Department of Environmental Resources, Licenses & Inspections Group, requiring that the fence on the subject property be installed according to the approved site plan. Exh. 17.

4. Petitioners would like to validate existing conditions in order to obtain a revised building permit for a 4-foot chain link fence, located along the front and side lot lines abutting the street, including the corner. Since a portion of the 4-foot fence is located in the area where Section 27-421 prohibits obstructions more than 3 feet in height, a waiver of the location requirement for a fence in the triangle area of the corner portion of a corner lot abutting the front and side streets was requested. Exhs. 2, 11.

5. Petitioner Fredis Campos testified that he put up the fence with a permit (Exh. 20), but was informed by a county inspector that a variance was needed. Mr. Campos explained that first he was asked to move back two pieces of the fence and now the county wants the fence to be removed. Exh. 10(B) through 10(E). He explained that he installed the fence to create a play area for his children and to protect it now that a school bus stop was recently placed at the corner.

6. He further testified that the fence does not obstruct the view of vehicular traffic. Photographs of other fences on nearby corner lots, including the neighbor across the street from Petitioners, were submitted into the record. Exhs. 6(A) through 6(D).

7. The subject fence is chain link and is located behind the sidewalk. Exhs. 3(a) and 3(b).

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the property being a corner lot, the 4-foot fence being built with an approved permit but not according to the approved site plan, the fence being chain link and not impeding visibility at the corner, the fence being located inside the sidewalk and not impeding pedestrian traffic, 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 a waiver of the location requirement for a fence in the triangle area of the corner portion of a corner lot abutting the front and side streets in order to validate and obtain a building permit for a 4-foot chain link fence along the front and side lot lines abutting a street on the property located at Lot 58, Block 6, Riverdale Heights Subdivision, being 6216 58th Avenue, Riverdale, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) and 3(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.