

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-2-14 Gary Wilson and Linda Rogers

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: February 19, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on February 26, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Timber Ridge Homeowners Association

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

Petitioners: Gary Wilson and Linda Rogers

Appeal No.: V-2-14

Subject Property: Lot 3, Block D, Timber Ridge Subdivision, being 11100 Colorado Street, Clinton,
Prince George's County, Maryland

Heard and Decided: February 19, 2014

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 27-424(b), which prescribes that outdoor swimming pools shall meet the setback requirements for a main building (not for accessory structures); Section 27-442(e) (Table IV), which prescribes that each corner lot shall have a minimum side yard along the side street at least 25 feet in depth and pools accessory to one-family detached dwellings shall be set back 8 feet from the rear lot line; and Section 27-420(a), 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 an in-ground swimming pool and 6-foot vinyl privacy fence.¹ A variance of 15 feet side street yard depth for an in-ground swimming pool and 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 2005, contains 16,833 square feet, is zoned R-R (Rural Residential) 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 2006. Exhs. 8 and 9.
2. The property is a corner lot, with the dwelling facing the intersection of Sand Cherry Way (legal front street) and Colorado Street (legal side street). The property is located within an approved cluster development. Exhs. 2 and 4.
3. Petitioners would like to construct an in-ground swimming pool beside the house and a 6-foot vinyl privacy fence along the rear lot line, a portion of the side lot line and the street line along Colorado Street, but variances are needed to obtain a building permit for the proposed construction. Since the swimming pool would be located only 10 feet from the side street line and a portion of the 6-foot fencing would be located in the side yards, a variance of 15 feet side street yard depth for 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.

swimming pool and waivers of the fence location and height requirements for the 6-foot fence in the side yards on a corner lot were requested.

4. Petitioner Linda Rogers testified that because the subject property is a corner lot, the only location where there is sufficient space to build the proposed swimming pool is in the side yard next to the street. She explained the location of their driveway, patio and the rear of the existing house prevented building the pool in any other location. Exhs. 5(A) through (E).

5. Petitioner Gary Wilson testified that the proposed fence would not obstruct the view on Colorado Street approaching the intersection, construction of the pool will not affect the natural grade of the property and no water drainage concerns existed.

6. Timber Ridge Homeowners Association approved Petitioners' construction plan. Exh. 6.

7. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed Petitioners' request with regard to subdivision issues and concluded that because the subject property is located within a cluster development, Section 27-229(b)(27) granted authority to the Board to issue variances for the proposed home improvements. It also determined that the detailed site plan (DSP-03055), which is referenced on the record plat, had no impact on the requested variances. Exh. 17.

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 existing house facing the corner, the shallowness of the rear yard, the existing conditions on the property limiting the location for construction of the proposed in-ground pool to the side street yard, the County Code requiring enclosure of the pool with a fence at least 6 feet in height, a fence more than 4 feet in height in the side street yard of a corner lot requiring a variance, 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 absent, that a variance of 15 feet side street yard depth for an in-ground swimming pool and waivers of the fence location and height requirements for a fence in the side yard on a corner lot in order to construct an in-ground swimming pool and 6-foot vinyl privacy fence on the property located at Lot 3, Block D, Timber Ridge Subdivision, being 11100 Colorado Street, Clinton, 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.