

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-86-15 Bola Rodoye

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: September 9, 2015.

CERTIFICATE OF SERVICE

This is to certify that on September 23, 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: 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: Bola Rodoye

Appeal No.: V-86-15

Subject Property: Lot 7, Block C, Greenbelt Woods Subdivision, being 9412 Copernicus Drive, Lanham,
Prince George's County, Maryland

Witnesses: Adeleye Fatokimi, Petitioner's brother-in-law
Mosunmola Fatokimi, Petitioner's sister

Heard and Decided: September 9, 2015

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, Petitioner requests that the Board approve variances from Section 27-442(e) (Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth; Section 27-420(a) which prescribes that fences and walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings, and 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. Petitioner proposes to construct an 8-foot privacy fence. A variance of 23.5 feet front yard depth and 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 1988, contains 11,250 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1991. Exhs 8 and 9.

2. The property is a through lot, having no rear yard and two front yards. The house faces Copernicus Drive. Greenbelt Road is to the rear of the house and there is an existing 8-foot privacy fence along the Greenbelt Road street line. Exh. 2.

3. Petitioner would like to construct an 8-foot privacy fence to replace the existing 8-foot privacy fence, but variances are needed to obtain a building permit. Since the fence must meet main structure setbacks and would be as close as about 1.5 feet from Greenbelt Road, and the fence would be located, in fact, in a front yard, a variance of 23.5 feet front yard depth and waivers of the fence location and height requirements for a fence in the front yard were requested. Exh. 12.

4. The Board approved a variance in 1989 (Appeal No. 9807) for the subject property for the construction of an 8-foot board on board fence along Greenbelt Road. Exh. 6.

5. Petitioner testified that she bought the property in 2013. She explained that traffic is very busy on Greenbelt Road (Exhs. 10(A) through (E)). She explained that a vehicular accident involving a Prince

George's County police officer caused damage to the existing fence along Greenbelt Road and she would like to replace the damaged fence with a fence of the same height. Exhs. 5(A) through (D).

6. Mosunmola Fatokimi testified that 8-foot fences exist along Greenbelt Road, including an adjoining neighbor's, whose fence is similar to Petitioner's proposed fence.

7. The Subdivision Review Section of M-NCPPC commented that although the plat and preliminary plat show a non-disturbance buffer, SP-87169-02 (a revision to SP-87169 for Greenbelt Woods) was approved for the location of fences in the rear yards for the lots along Greenbelt Road and specifically conditioned that fences were not to exceed six feet in height unless the applicant obtained the necessary variance from the Board of Zoning Appeals. Staff stated that it is within the authority of the Board of Appeals to grant this variance. Exh. 16.

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 with two legal front yards and no legal rear yard, the property backing up to Greenbelt Road, Greenbelt Road being a very busy thoroughfare, the Board having previously granted a variance in 1989 for the erection on an 8-foot fence along Greenbelt Road, a motor vehicle accident causing damage to the existing fence, Petitioners wanting to replace the existing fence with a fence of the same height in the same location as the damaged 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, by majority vote, Mr. Scott absent, that a variance of 23.5 feet front yard depth and waivers of the fence location and height requirements for a fence in the front yard in order to construct an 8-foot privacy fence on the property located at Lot 7, Block C, Greenbelt Woods Subdivision, being 9412 Copernicus Drive, 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 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.