

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-82-13 Angel Serrano

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 25, 2013.

CERTIFICATE OF SERVICE

This is to certify that on October 21, 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

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

Petitioner: Angel Serrano

Appeal No.: V-82-13

Subject Property: Part of Lot 1, Block 3, Clinton Vista Subdivision, being 8800 Clayton Lane, Clinton,
Prince George's County, Maryland

Witnesses: Natalie Vereen, Long Fence Company

Chris Bucca, Long Fence Company

Heard and Decided: September 25, 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 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 27-420(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. Petitioner proposes to construct a 6-foot wooden privacy fence in the front and side yards of a corner (through) lot. Waivers of the fence location and height requirements are requested.

Evidence Presented

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

1. The property was subdivided in 1946, contains 18,439 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, detached garage and shed. Exhibits ("Exhs.") 5, 10, 11 and 20. The existing single-family dwelling was built in 1949. Exhs. 10 and 11.
2. The property is a through lot with frontage on three streets – Tall Cedar Lane, Woodyard Road (MD 223) and Clayton Lane. The existing dwelling faces Clayton Lane. The property has three legal front yards, a side yard and no rear yard. Exhs. 5, 8 and 20.
3. Road frontage was taken by the State of Maryland in 1989, decreasing the size of the subject property by 5,571 square feet. Exhs. 7 and 8.
4. Petitioner would like to partially enclose the yard to the rear and side of the house with a 6-foot wooden privacy fence, but a variance is needed to obtain a building permit for the fence. The fence would extend along a portion of the side lot line and front street line along Tall Cedar Lane, across the yard abutting Woodyard Road and up to the dwelling next to the covered front porch. Exh. 20. Since the proposed fence is over 4 feet in height, the property is a through lot and the fence would be located in two legal front yards and the side yard, waivers of the fence location and height requirements for a fence in the front yard and side yard were requested. Exh. 13.
5. Petitioner further testified that the location of the 6-foot fence will not prevent a clear view on any abutting street and will enhance enjoyment of the property.

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 through lot, there being three legal front yards and no rear yard, a taller privacy fence allowing Petitioner the enjoyment of a portion of his yard, the location of the 6-foot fence not preventing clear views on abutting streets, 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, unanimously, that waivers of the fence location and height requirements in order to construct a 6-foot wooden privacy fence in the front and side yards on the property located at Part of Lot 1, Block 3, Clinton Vista Subdivision, being 8800 Clayton Lane, Clinton, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 20, and the approved elevation plans, Exhibits 4(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.