

*NOTICE OF FINAL DECISION
OF BOARD OF APPEALS*

RE: Case No. V-90-13 Troy & Sonya Stovall

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 13, 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: Troy & Sonya Stovall

Appeal No.: V-90-13

Subject Property: Lot 41, Block D, Westwood Subdivision, being 13106 Vicar Woods Lane, Bowie,
Prince George's County, Maryland

Witness: Gary Sipes, Maryland Pools

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 black aluminum 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 42,439 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 an odd-shaped through lot, with two legal front yards and no rear yard. The house faces Vicar Woods Lane, a cul-de-sac, and Church Road is to the rear of the house. Driveway access is off of Vicar Woods Lane. Exhs 2 and 4.
3. Petitioners would like to construct a 6-foot black aluminum fence around a portion of the back yard to enclose a proposed swimming pool, but variances are needed to obtain a building permit. Since part 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 were requested. Exh. 12.
4. Section 4-140 of the County Code requires that swimming pools must be enclosed by a fence at least six (6) feet in height for safety purposes.
5. Petitioner Troy Stovall testified that the County approved the building plan for the proposed swimming pool, but informed him that a variance was needed for a 6-foot fence to enclose the pool because the subject property has two front yards, one on Church Road and the other on Vicar Woods Lane. He emphasized that the fence will not be located anywhere near the property line (Exh. 2) and there is a landscape buffer and a conservation easement on the Church Road side. He explained that trees and

shrubbery are located along Church Road and Route 450 (behind the property) and no part of the proposed fence will be seen from the street. Exhs. 5(A) through (O), 10(A) through (E).

6. Gary Sipes testified that where the pool will be is like a valley behind the house because of elevation changes on the property and a 20-foot or greater drop from the road. He stated that the unique shape of the property (Exhs. 2 and 4) and the fact that it is a through lot creates the need for both variances.

7. Woodmore North Homeowners Association supported the request. Exh. 20.

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 no legal rear yard, the unusual shape of the property, the property being located on a cul-de-sac, the sloping topography of the property, the proposed fence to be erected a significant distance from any street line, trees and shrubbery screening the proposed fence from view from Church Road and Md. Route 450, County Code Section 4-140 requiring that swimming pools be enclosed by a fence at least six (6) feet in height for safety purposes, 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 waivers of the fence location and height requirements for a fence in the front yard in order to construct a 6-foot black aluminum fence in the front yard on the property located at Lot 41, Block D, Westwood Subdivision, being 13106 Vicar Woods Lane, 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.