

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-47-13 Thomas & Brenda Green

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: July 10, 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  
Waterford Cove Homeowners Association

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

Petitioners: Thomas and Brenda Green

Appeal No.: V-47-13

Subject Property: Lot 11, Waterford Cove Subdivision, being 13320 L'Enfant Drive, Fort Washington,  
Prince George's County, Maryland

Witnesses: Roberta Campbell, neighbor & Vice President, Waterford Cove Homeowners Association  
Adrien Starks, neighbor

Heard and Decided: July 10, 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, 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 vinyl privacy 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 2004, contains 40,018 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 2009. Exhs. 9 and 10.
2. The property is a through lot, with the front of the house facing L'Enfant Drive and the back facing Old Fort Road. As a through lot, the property has two legal front yards and no rear yard. Exh. 2 and County Code Section 27-107.01(a)(144). Access to Old Fort Road is denied. Exh. 4.
3. Petitioners would like to enclose the yard behind the house with 6-foot wrought iron fencing along the side lot lines and a 6-foot vinyl privacy fence along the street line of Old Fort Road, but variances are needed to obtain a building. Since the proposed fence is over 4 feet in height, the property is a through lot and the area to be enclosed is a legal front yard, waivers of the fence location and height requirements for a fence in the front yard were requested. Exh. 13.
4. Petitioner Thomas Green testified that he has been a resident and homeowner in the County for 33 years. He explained that his property sits between L'Enfant Drive and Old Fort Road, both active roads. He stated that he purchased the property thinking that the front of his property faced L'Enfant Drive, but later found out that he has two front yards and the yard he thought was his back yard can only have a fence up to 4 feet because it is a front yard. He further testified that he needs a 6-foot fence because he has contracted to have a swimming pool put in the yard behind the house and for safety purposes it must be enclosed by a 6-foot fence. He explained that a 6-foot fence would also provide security.

5. Petitioner Brenda Green testified that there will be single-door wrought iron access gate on the proposed fence on the right side of the house (next to the Starks property) and a double-door gate will be on the left side of the house.

6. Waterford Cove Homeowners Association approved the request. Exh. 6.

7. Roberta Campbell, a neighbor and vice president of the homeowners association, had no opposition to the request. She testified that the lots are wooded near Old Fort Road and one would not notice a fence from that side.

8. Adrien Starks, a next-door neighbor, requested assurance that the proposed fence along her side property line would be open and not block her view. She believes Petitioners' proposed access gate to the side of the house will be too "grandiose" to be in character with the rest of the neighborhood.

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 sitting between two active streets, there being two legal front yards and no rear yard, the homeowners association having approved Petitioners' site and elevation plans to erect the fence and put in a swimming pool, County Code Section 4-140 requiring that a fence at least six (6) feet in height enclose a swimming pool for safety purposes, the portion of the property near Old Fort Road being wooded and rendering a 6-foot fence unnoticeable, 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 wrought iron fence along the side lot lines and a 6-foot vinyl privacy fence along the front street line abutting Old Fort Road on the property located at Lot 11, Waterford Cove Subdivision, being 13320 L'Enfant Drive, Fort Washington, 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.