



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-37-23 Ronako and Patrice Edwards

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 4, 2023.

CERTIFICATE OF SERVICE

This is to certify that on January 18, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature of Barbara J. Stone is shown above a horizontal line.

Barbara J Stone
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

Petitioners: Ronako and Patrice Edwards

Appeal No.: V-37-23

Subject Property: Lot 7, Block B, Melwood Spring Subdivision, being 10105 Quince Apple Court, Upper Marlboro, Prince George's County, Maryland

Witnesses: James Hardy, Neighbor

Inspector Juan Swann, Department of Permitting, Inspections and Enforcement (DPIE)

Heard: July 26, 2023; Decided: October 4, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Carl Isler, Acting Vice Chair

Renee Alston, Member

Teia Hill, Member

Board Member Absent: Anastasia T. Johnson, Member¹

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 a variance 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 27-6610 Security Exemption review, a landowner in need of heightened security may submit to the Board of Appeals a security exemption plan proposing a fence or wall taller than those permitted by this Section. Petitioner proposes to obtain a building permit for the unauthorized construction of a 6'high fence and a 5'6" high wall in front of the dwelling at 10105 Quince Appel Court, Upper Marlboro. A Security Exemption review for both a 6' fence and 5'6" wall over the allowable height located in the front yard (abutting Quince Apple Court) are requested.

Evidence Presented

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

1. The property was subdivided in 1979, contains 29,901 square feet, is zoned RR (Residential, Rural) and is improved with a single-family dwelling, driveway, deck, shed and patio. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).

2. The subject lot is rectangular in shape just entering the cul-de-sac. The topography is somewhat rolling slopes in all directions. The dwelling does sit on an uphill slope. Exhs. 2, 4 and 5 (A) thru (T).

3. Petitioner did receive a correction order with the instructions to obtain a building permit by Inspector Juan Swan (DPIE). Exh. 6.

4. The Petitioner did note on the Affidavit of Posting that the signs did fall over during a rainstorm as the signs were erected on an easel type post. After being informed by the Board the signs must be staked into the ground; the signs were replaced with stakes the replaced the next day. Exhs. 19.

5. Petitioner Ronako Edwards testified that they are requesting permission for a 6-foot fence to remain on the side and front for security purposes from the neighbor. The fence is located (facing the property) on the left side of the property. The fence is needed to decrease the constant harassment from the neighbor, Mr. Hardy at 10107 Quince Apple Court and provide security for him and his family. Mr. Edwards explained that last year they had to take Mr. Hardy to court because of a verbal altercation in front

¹ V-37-23 Board Members who participated in Final Vote: Mack, Isler, Johnson, and Alston

of his property where he rammed his trash cans down with his truck and when Mr. Edwards went to pick them up, Mr. Hardy came out of his house cussing at him. This was just the beginning of the issues causing the Petitioner to take him to court. This again happened when Mr. Edwards was cutting his grass. Mr. Hardy and his wife continues to threaten Mr. Edwards and his wife. Telling him to "go back to Jamaica or go back to Africa".

6. Administrator Stone clarified for the Board that the location of the fence in question (facing the property) runs along the left property line from the front property line back to the front corner of the house (which is considered the front yard). Code Section 27-6603, states that only a 4-foot fence can be located in the "front yard". Mr. Edwards has installed a 6-foot white vinyl fence which does require the Security Exemption review and approval to be located in the front yard. Exhs. 2, 3, and 5 (A) thru (T).

7. Inspector Juan Swann noted that the respondent has been extremely communicative with him several times to make him aware of the steps he has taken to rectify the violation he was issued by Inspector Swann.

8. Board Member Isler question Inspector Swann that other than the height of the fence, are there any other issues that are pending? Inspector Swann responded that the there are no other issues pending. He does not see any difficulty or concerns that would prevent the Board from considering and possibly approving the fence.

9. Mr. James Hardy testified that he has a problem with the fence and several concerns. He does not appreciate that Mr. Edwards wants to pull some issues regarding trash cans.

10. Madam Chair stated that we are here to discuss the fence and please explain the issues regarding the fence.

11. Mr. Hardy continued that his concerns are that it is already a violation from the Prince George's County Code from the beginning. He stated that he was not allowed to put up a fence in that manner. When he applied for a fence, the permit office would not allow it. Furthermore, he came home a few weeks ago and the Petitioner's son got away from his mother and ran out behind the fence and just about hit the Petitioner's son. This fence is a safety hazard. Someone could be lurking behind this fence. We do not have a problem with them, they have the problem with us. We just want to be left alone.

12. Madam Chair stated she is asking Mr. Hardy again, what is the issue with the fence? Mr. Hardy reiterated that the fence is unsafe. It is against the County Code. And when he applied for the 6-foot fence to the street, it was denied. The County permit office denied him the right to put the fence just like the Petitioner is requesting.

13. Administrator Stone questioned the location of the address feature (Exh. 5 L) as to whether it is in the Public Utility Easement. Inspector Swann noted that it was not something that he took note of. So, from this perspective. (Photo Exh. 5 L) it does not look as if it is in the easement. Mr. Hardy spoke stating that the address feature is in the middle of the easement.

14. Madam Chair stated that what if the fence was four (4) feet? Mr. Hardy noted that that's fine, but the County wouldn't let him do it. I (Mr. Hardy) was not allowed.

15. Madam Chair question that when the trash can were hit, where were they? Mr. Edwards stated that the trash cans were in their designated spot.

16. Mr. Edwards stated that Mr. Hardy has just recently hit his trash cans again. They have filed another Peace Order that has not yet been served, but this is why the fence was placed there. Mr. Edward continued that they just want to live in peace.

17. Madam Chair advised Mr. Edward that we are here for the fence, not the trash can issue. Again, Madam Chair questioned Mr. Edwards as to why he needs a 6-foot fence in that area. Mr. Edwards responded that the fence is needed for privacy from Mr. Hardy.

18. Mr. Hardy responded that the Petitioner wants the fence so illegal activity can be done. That is the main issue, we never had any problems with anybody until they moved in. Madam Chair again stated we are here for the fence. Mr. Hardy stated that the fence is in violation for one and it should have never been put up. There should have been a stop work order from the beginning. The County allowed this man to put up a whole complete fence.

19. Patrice Edwards stated with the 6-foot fence, the way their house is sits at a higher elevation and where that fence is, he (Mr. Hardy) has cameras, so when we come out of our house a 6-foot fence will allow them to not see his doorway and he won't be able to see us. So, it is a privacy issue. That way we don't have to interact, we don't have to look at each other. We don't know where the cameras are pointed. One of her main issues is their privacy from whatever camera he (Mr. Hardy) is looking at and worries her day to day with these issues that is going on with her husband and Mr. Hardy.

20. Administrator Stone questioned Inspector Swann, from the end of the fence to the actual street, do you know what the distance is? Inspector Swann responded that he does not know the distance. Administer Stone noted, looking at this photograph being Exh. 5 L, it does look like the Petitioners property is higher than the property to the left, so, if they were to cut the 6-foot fence in half to a 4-foot fence, because of the topographical elevation...

21. Board Member Hill questioned where should the 6-foot fence stop and be lowered to a 4-foot fence? Inspector Swann stated that the panels are 6-foot panels, because of the downward slope Mr. Edwards losses 18-24 inches. Board Member Hill question should the lowering of the panel start at the garage?

22. Administrator Stone noted that regulations state that the 6-foot fence cannot be located in the front yard, which is typically 25 feet back from the front property line.

23. Mr. Edwards noted that the panels are 6 feet in length. Administrator Stone noted that 4 panels would need to be lowered. Although Mr. Hardy spoke up and stated the panels are 8 feet in length.

24. Mr. Hardy claims the fence is a safety hazard. He claims he applied for a similar fence and the County denied his application.²

25. The Applicants made allegations that Mr. Hardy had intentionally rammed their trash cans. Mr. Hardy refuted those claims and alleged drug use by the applicants.

26. Ms. Edwards testified that a 6ft fence would allow security for Mr. Hardy by blocking his view of their property. Furthermore, Ms. Edwards stated the hardship of lowering the fence as three (3) fence panels would have to be removed for fence to meet the 4-foot criteria found in the Zoning Ordinance.

27. Board Member Isler requested technical assistance from DPIE Inspector Swann for additional measurements to be taken at the site of the fence to confirm the size of the slope on the Petitioner' property.

28. DPIE Inspector Swann confirmed to Board Member Isler that the slope of the property is 18 inches, and the fence does not encroach on the neighbor's property.³

29. Mr. Hardy made an allegation concerning a address feature on the Petitioners property prohibit the adequate water flow when a watermain broke in the neighborhood.

30. The alleged address feature is in the right-of-way and Inspector Swann stated that he did not believe it worsened the runoff from the watermain break. Further, he made it clear to the applicant that the address feature was in the right-of-way and would have to be removed if asked by the County.

31. DPIE Inspector Swann testified that the fence does not interfere with the sight of drivers on Quince Apple Road due to it being a short road.

27-6610. Security Exemption Plan

- a. A landowner in need of heightened security may submit to the Planning Director a security exemption plan proposing a fence or wall taller than those permitted by this Section, an electric fence, or proposing the use of barbed and/or razor wire atop a fence or wall for security reasons.
- b. The Board of Appeals may approve or approve with conditions, the security exemption plan, upon finding all of the following:

1. Need for Safety or Security Reasons

² Case V-37-23 was continued to July 26, 2023, with Board Members Mack, Isler, Alston, and Hill present.

³ Case V-37-23 was continued to Sept. 27, 2023; however, due to a lack of a quorum, it was rescheduled to Oct. 4, 2023, with Board Members Mack, Isler, Alston present.

The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without:

- A. A taller fence or wall;
- B. An electric fence; or
- C. Use of barbed and/or razor wire atop a fence or wall.

2. No Adverse Effect

The proposed fence or wall will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

c. If the Board of Appeals finds the applicant fails to demonstrate compliance with Sections 27-6610(b)(1) and 27-6610(b)(2) above, the security plan shall be disapproved.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested Security Exemption complies with the applicable standards set forth in Section 27-6610, more specifically:

The Board determined that Petitioners' have adhered to the standards contained in 27-6610 Security Exemption Plan. Furthermore, the Board relied upon the technical assistance received from DPIE Inspector Swann that this fence would not have an adverse impact on the surrounding neighbors. Additionally, the Petitioners' raised issues surrounding safety issues that were pertinent to the Board and that the Petitioners' established the need for a higher fence.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Teia Hill absent, a Security Exemption review for both a 6' fence and 5'6" wall over the allowable height located in the front yard (abutting Quince Apple Court) be hereby APPROVED. Approval of the Security Exemption is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plan Exhibit 3.

BOARD OF ZONING APPEALS

By: _____
Bobbie S. Mack

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

Ellis Watson
By: _____
Ellis Watson, Esq.

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 27-3613 (c)(10)(B) 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.

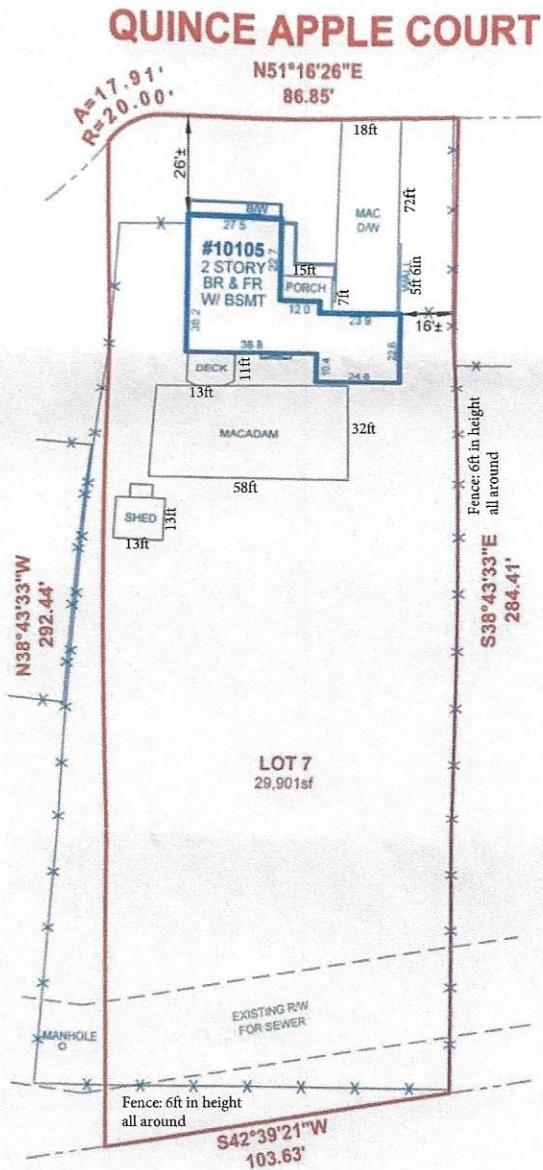
Signature: *Ellis Watson*
Ellis Watson (Jan 17, 2024 14:39 EST)

Email: efwatson@co.pg.md.us

BOARD OF APPEALS

APPROVED OCT 04 2023

Administrator



THE LEVEL OF ACCURACY OF
DISTANCES TO APPARENT
PROPERTY LINES IS: 1±

LOCATION DRAWING OF:
#10105 QUINCE APPLE COURT
LOT 7 BLOCK B
PLAT 1
MELWOOD SPRINGS
PLAT BOOK 102, PLAT 95
PRINCE GEORGE'S COUNTY, MARYLAND
SCALE: 1"=40' DATE: 05-19-2023
DRAWN BY AP FILE #: 234055-200

LEGEND:
 X - FENCE
 B/E - BASEMENT ENTRANCE
 B/W - BAY WINDOW
 B/R - BAY
 BRL - BLDG. RESTRICTION LINE
 BSMT - BASEMENT
 C/S - CONCRETE STOOP
 CON - CONCRETE
 D/W - DORMER
 EX - EXISTING
 FR - FRAME
 MAC - MACADAM
 NF - NOW OR FORMERLY
 O/C - OVERLAPPING
 PUE - PUBLIC UTILITY EMT
 PIE - PUBLIC IMPROVEMENT EMT
 COLOR KEY:
 (RED) RECORD INFORMATION
 (BLUE) IMPROVEMENTS
 (GREEN) EMTS & RESTRICTION LINES

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SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SETFORTH IN THE SURVEY CONTRACT. THIS DRAWING IS FOR THE PURPOSE OF PLATTING AND IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDINGS, OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY. THE PROPERTY IS SUBJECT TO ALL NOTIFICATION, RESTRICTION LINES AND EASEMENTS THAT MAY NOT BE SHOWN. IF IT APPEARS ENCRAGEMENTS MAY BE SHOWN.

EXH. # **2**
V-37-23

DULEY & ASSOC.

WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.
(EXCLUDING D.C. & BALTIMORE CITY)

BOARD OF APPEALS

APPROVED 01/04/2023
John
/ ADMINISTRATOR

