



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-64-23 Lauris V. and Marcella D. Lucas

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 25, 2023

CERTIFICATE OF SERVICE

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

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is placed over 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: Lauris V. and Marcella D. Lucas

Appeal No.: V-64-23

Subject Property: Lot 43, Damm Subdivision, being 5103 Karen Anne Court, Temple Hills,
Prince George's County, Maryland

Witness: Lunet Luna, Neighbor

Heard and Decided: October 25, 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, 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").

The specific violation resides in the fact that Zoning Ordinance Section 27-11002 (1)(a) prescribes that no parking space, parking area, or parking surface other than a driveway no wider than its associate garage, carport, or other parking structure may be built in the front yard of a dwelling, except a "dwelling, townhouse" or "dwelling, multifamily", in the area between the front street line and the sides of the dwelling. Section 27-6600(a) prescribes that fences more than 4 feet high shall not be located in any required yard, shall meet the setback requirements for main buildings and shall require a security exemption approval. Petitioner proposes to validate an existing condition (parking area location) and obtain a building permit for the proposed 5-foot fence in front of the house. A waiver of the parking area location requirement, and a security exemption review for a fence over 4 feet in height in the front yard (abutting Karen Anne Court) are requested.

Evidence Presented

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

1. The property was subdivided in 1963, contains 10,154 square feet, is zoned RSF-95 (Residential, Single-Family - 95), and is improved with a single-family dwelling, driveway, concrete patio, swimming pool, shed, and fencing. Exhibits (Exhs.) 3, 5, 8, 9 and 10 (A) thru (F).

2. The subject lot has a unique rectangular shape, although since the lot is located in a cul-de-sac, the frontage is partially curved. The property does have a slight incline up to the house from the street. Exhs. 3, 5, 8, 9 and 10 (A) thru (F).

3. Petitioner proposes to validate an existing condition (parking area location) and obtain a building permit for the proposed 5-foot fence in front of the house. A waiver of the parking area location requirement, and a security exemption review for a fence over 4 feet in height in the front yard (abutting Karen Anne Court) are requested. Exhs. 2, 3, 4 and 6 (A) thru (N).

4. Petitioner Marcella Lucas testified that they purchased the property 27 years ago. They have come before the Board to request a fence in the front yard. They understand the Zoning Ordinance 27-6600 only allows a 4-foot fence in the front yard. However, they are asking for an additional one foot for security

reasons. The Petitioner have owned and operated a Barber Shop for the last 25 years. During that time, they have employed hundreds of barbers over the years. Some of the barbers are involved in a Barber Program in Upper Marlboro Correctional Facility. Light offenders are offered a second chance in their apprenticeship program that has a high success rate. However, it has always been an issue with the employees knowing where they live. There have been more than few high-profile cases not far from them where disgruntled employees gain access to their employee's homes to commit robberies and more horrific crimes. That worry has always been in the back of her mind. Furthermore, with the rise of crime this is one reason for heightened security from the business aspect. They have a cash and carry business and some people do not understand that money goes in banks, so we have never been comfortable with that and always perform extra security. Exhs. 2, 3, 4 and 6 (A) thru (N).

5. Ms. Lucas continued that the second reason is her mom, who is 88 years old and resides with the Petitioners. She had medical issues last year and part of her rehabilitation is to regain her independence and mobility involves her to be mobile and work. It would be much safer with the front yard enclosed to have to watch her every single second when she steps outside. She does not want any stray dogs to enter the yard with any of the family outside. With having an inground pool she is weary of kids again gaining access to the pool. Fortunately, they were able to speak to the parents to stop the jumping of the fence and no one was hurt; however, with the front fence this will be another deterrent. Lastly, is beatification, the fence is aesthetically beautiful, and we take pride in our home making it look nice. We do know that anyone can jump a five-foot fence, but again, this is another deterrent. She believes this does not create a negative impact to the neighbors or community. Exhs. 2, 3, 4 and 6 (A) thru (N).

6. Ms. Lucas also noted that the front yard is on a slight incline that differs from her surrounding neighbors, so the fence does not really look as if it were 5-feet. The fence is actually set back from the property line at least 3 feet. There will be a gate at located inside the property line and will open in toward the house. The gate will be the same height as the fence itself. The proposed fence is indicated on the site plan as blue dots. Exhs. 2, 3, 4 and 6 (A) thru (N).

7. Ms. Lunet Luna, (5105 Karen Anne Court) testified that she personally does not see a problem with the height of the fence or the proposal of the gate to be added. She believes it is an aesthetically pleasing fence, being wrought iron with wood. It complements the property and would be a good deterrent for the roaming deer. She has no issue with the requested proposal.

8. Board Member Isler questioned the existence of any HOA or municipality in which the Petitioner responded that there is no HOA, and they are not located within a municipality.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.

- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

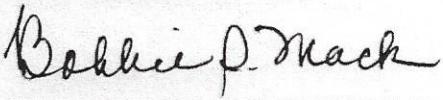
Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance and security exemption complies with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to need for added security for the safety of the family and home business as the business employs light offenders from the Correctional Facility under the Barber Program, the security and safety of neighborhood children as the Petitioner have an inground pool 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. Furthermore, the unique rectangular orientation of the Petitioner's property, and the slopes that differs from Petitioner's adjacent neighbors would result in usual and peculiar practical difficulties to the owner. Testimony was taken that this variance will not substantially impair the use and enjoyment of adjacent property. Additionally, the practical difficulty of the need for a 5-foot fence is not self-inflict and is justified by the slope contained on Petitioner's property.

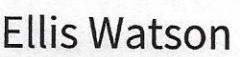
BE IT THEREFORE RESOLVED, by majority vote, Ms. Johnson absent, that a waiver of the parking area location requirement, and a security exemption review for a fence over 4 feet in height in the front yard (abutting Karen Anne Court) in order to validate an existing condition (parking area location) and obtain a building permit for the proposed 5-foot fence in front of the house on the property located at 5103 Karen Anne Court, Temple Hills, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the waiver and security exemption is contingent upon development in compliance with the approved site plan, Exhibit 3 and approved elevation plan, Exhibit 4.

BOARD OF ZONING APPEALS

By: 

Bobbie S. Mack, Chairperson

APPROVED FOR LEGAL SUFFICIENCY

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 F. Watson
Ellis F. Watson (Jan 23, 2024 13:04 EST)

Email: efwatson@co.pg.md.us

Grass
Yarck

check
12 ft. d.
10 ft. w.
6.9 H.
ft./in

6 ft.
wood
privacy
Fence

Existing
wrought
iron

- propose
- new
- fence

Gate
4 ft. wide

Drive
way

sidewalk
concrete

It is illegal to be a licensed Day Care provider. The real need to be inadmissible to Day Care entrance.

NOTE: THE PROPERTY SHOWN
IS NOT IN A FLOOD HAZARD
AREA.

HOUSE LOCATION
LOT 43
LOTS 37 THRU 39 AND LOTS 41 THRU 44
DAMM SUBDIVISION
9th Election District
Prince George's County, Maryland
Plat Book W.W.W. 50 Plat 63

BOARD OF APPEALS

ADMINISTRATOR

OWNER'S CERTIFICATE
I hereby certify that the position of
all the existing improvements on the above
described property has been carefully
established by a transit-type survey and
that unless otherwise shown, there are no
encroachments.

Date: 10-14-85 Roger W. Dally

BALDWIN & SAUPE, INC.
LAND SURVEYING & CIVIL ENGINEERING
7800 OLD BRANCH AVENUE, ROOM 203
CLINTON, MARYLAND 20738
856-1800

EXH. # 3
V-64-23

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APPROVED OCT 25 2023


Administrator

