



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-18-23 Timothy Harris, jr and Digna Menjivar

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 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: Digna I Menjivar and Timothy P. Harris, Jr.

Appeal No.: V-18-23

Subject Property: Lot 1, Block J, Hillmeade Estates Subdivision, being 6400 Brick House Terrace, Bowie, Prince George's County, Maryland

Counsel for Petitioner: Abdullah Hijazi, Esq. Hijazi, Zaslow & Carroll, P.A.

Heard and Decided: October 4, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Wm. Carl Isler, Acting Vice Chair
Renee Alston, Member
Anastasia T. Johnson, Member

Board Member Absent: Teia Hill, 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 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-foot-high fence (abutting Bright Valley Court and Hillmeade Road) and a 12-foot in height basketball rebound-chain-link fence along the property line (abutting Lot 2, Blk. J.) at 6400 Brick House Terrace, Bowie. A Security Exemption approval for two fences are requested.

Evidence Presented

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

1. The property was subdivided in 1992, contains 24,000 square feet, is zoned RR (Residential, Rural) and is improved with a single-family dwelling, concrete driveway, extensive rear yard deck, 6-foot vinyl fence and a 12-foot-high basketball rebound chain link fence. Exhibit (Exhs.) 2, 5, 7, 8 and 9 (A) thru (E).
2. The subject lot has a unique rectangular shape and is considered a "through lot" fronting on 3 streets being Hillmeade Road, Bright Valley Court and Brick House Terrace. The legal front yard is located on Brick House Terrace. The home does sit diagonally on the lot. Exhs. 2, 5, 7, 8 and 9 (A) thru (E).
3. The property is not located within the City Limits of Bowie. Exh. 7.
4. The original site plan demonstrated a portion of the driveway and rebound fence encroaching onto the neighboring Lot 2 which has since been physically removed and demonstrated on revised site plan and photographs. Exhs. 17 and 4 (F) and 4 (J).
5. Counsel Abdullah Hijazi representing the Petitioner explained that his client in 2019 installed a 6-foot-high vinyl fence around the "back yard" of the home. In 2021, during the pandemic the Petitioner hired a contractor to install 60 square feet of concrete to extend his driveway at a basketball hoop that was installed. He also hired a contractor to install a 12-foot-high basketball rebound fence around the area of the basketball hoop. After receiving a complaint from his neighbor, he realized a portion (or a corner) of the concrete and fence were encroaching the neighbor's (Lot 2) side yard. The contractor did not pull any permits and did not have a survey at the house when the work was done. At the time Petitioner, Mr. Harris, was unaware that

permits were needed to extend the driveway and install the basketball rebound fence. At the time that Dpie came out requesting a permit for the fence in the back yard which has been up for two years. Exhs. 2, 3, 4 (A) thru (E) and 17.

6. Mr. Hijazi further explained that the Petitioners immediately removed the encroachment from his neighbor's property, and further filed a permit for the driveway and fencing. (42454-2021-0). Once the permit went to M-NCPPC it was placed on hold in order to obtain a variance for the 6-foot-high fence in the back yard being along Bright Valley Court (being within the side street yard) and also for the 12-foot basketball rebound fence. No variance was needed for the driveway extension. In the interim, the current or "new" Zoning Ordinance came into effect, variances are no longer required for these features. Mr. Hijazi did note that the house does sit diagonally on the lot which front 3 roads and would be a safety issue if the ball were to roll into the road. Exhs. 2, 3, 4 (A) thru (E) and 17.

7. Administrator Stone advised Mr. Hijazi that even though "variances" are no longer required, we can review under the current code being Section 27-6610 as a Security Exemption for the height of the fences.

8. Madam Chair questioned the existence of a Homeowners Association (HOA). Mr. Hijazi noted that originally, they believed it was within an HOA and after further research, there is no HOA.

9. Madam Chair also inquired as to any lighting on the basketball court. Mr. Hijazi with clarification from the Petitioner noted that there is a solar light that is pointed directly down onto the court. Exh. 4 (F).

10. Madam Chair reminded the Petitioner to keep the children from playing basketball at a reasonable hour in the evening and not all night.

Applicable Code Section and Authority

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

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:

Due to the unique orientation of the property being a “through lot” that fronts three roads, the configuration and location of the house and driveway on the lot, the need for safety to keep the basketball and children from traveling into the street or into neighboring properties 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. The Board finds that there are no impediments to reject this proposal.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Teia Hill absent, that a Security Exemption review in order to validate and obtain a building permit for the unauthorized construction of a 6-foot-high fence (abutting Bright Valley Court and Hillmeade Road) and a 12-foot high basketball rebound-chain-link fence along the property line (abutting Lot 2, Blk. J.) on the property located at 6400 Brick House Terrace, Bowie, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the Security Exemption is contingent upon development in compliance with the approved revised site plan, Exhibit 17.

BOARD OF ZONING APPEALS

By: Bobbie S. Mack
Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: Ellis Watson
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 18, 2024 11:44 EST)

Email: efwatson@co.pg.md.us

PROPERTY LINE EXHIBIT
 6400 BRICK HOUSE TERRACE
 LOT 1
 HILLMEADE ESTATES
 BOWIE (14th) ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND

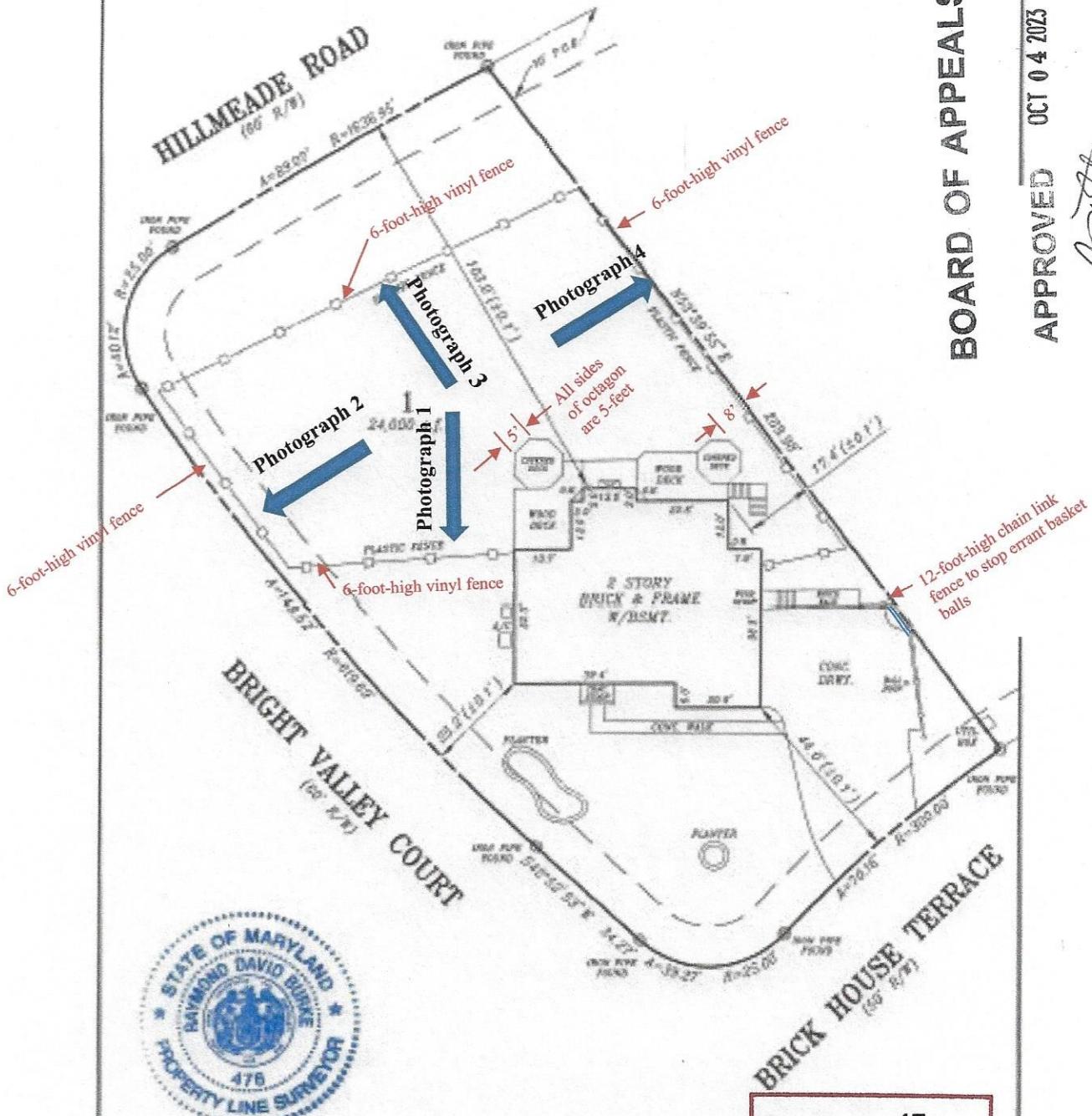
SCALE: 1"=30'

PLAT MERIDIAN
 PG. W. 168 P. 40

APPROVED OCT 04 2023

B. J. B.
 ADMINISTRATOR

BOARD OF APPEALS



PROPERTY SURVEY: 09/23/2021

ZONE: R-R

EXH. # 17
 V-18-23

SURVEYORS CERTIFICATE
 I hereby certify that the information shown herein was obtained using accepted field surveying practices; that the boundary information shown herein was prepared without the benefit of a title report; the plat and the survey on which it is based were prepared under my responsible charge and are in compliance with Estate Reg. 65-1386-12.

9-27-21

R. D. B.
 RAYMOND D. BURKE
 PROPERTY LINE SURVEYOR MD
 #51-474-580707



Charles P. Johnson & Associates, Inc.
 CPJ and CPJ Associates - Engineers - Surveyors - Landscaping Architects - Managers
 10000 Rockville Pike, Suite 200, Rockville, MD 20850 • 301-961-0554
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REFERENCE	Drawn by	Checked by
Plat Book V1 168	Drawn by MBB Date 09/27/2021	Record No.
Plat No. 40	Scale 1"=30'	51-474-5807



EXH. # 3
V-18-23

Fence Elevation Plan

BOARD OF APPEALS

APPROVED OCT 04 2023

B. Blom
ADMINISTRATOR