



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-70-23 Robert and Deborah Bishop

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: February 7, 2024.

CERTIFICATE OF SERVICE

This is to certify that on May 7, 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: Robert and Deborah Bishop

Appeal No.: V-70-23

Subject Property: Lot 79, Block C, Parker Meadows Subdivision (Hillantrae Estates) being 3503 Strawberry Hill Drive, Clinton, Prince George's County, Maryland

Witness: Jeryce Sims, President, Hillantrae Estates Homeowners Association, Inc.

Heard: December 13, 2023; Decided: February 7, 2024

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

Carl Isler, Vice Chairman

Renee Alston, Member

Teia Hill, Member

Anastasia Johnson

Board Member Absent:

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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(c) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 20,000 square feet, a minimum width of 80 feet measured along the minimum front setback (lot width) and 70 feet measured along the front street line (lot frontage), a maximum lot coverage of 25%, a minimum front yard depth of 25 feet, a minimum side yard width of 8 feet, and a minimum rear yard depth of 20 feet. Petitioners propose to validate existing conditions (net lot area) and construct a 6 and 7-foot vinyl fence in the rear yard. Variances of 7,064 square feet net lot area and a security exemption review for a fence 1 foot over the allowable height located in the rear yard.

Evidence Presented

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

1. The property was subdivided in 1988, contains 12,936 square feet, is zoned RR (Residential, Rural), and is improved with a single-family dwelling, driveway, deck, and shed. Exhibits (Exhs.) 2, 4, 7, 8, and 9 (A) thru (F).

2. The subject property is rectangular in shape and a unique irregular in shape in comparison to the other lots within the subdivision. Exhs. 2, 4, 7, 8, and 9 (A) thru (F).

3. Petitioners propose to validate existing conditions (net lot area) and construct a 6 and 7-foot vinyl fence in the rear yard. Variances of 7,064 square feet net lot area and a security exemption review for a fence 1 foot over the allowable height located in the rear yard. Exhs. 2, 3, and 5 (A) thru (X).

4. Mr. Bishop testified that they currently have a permit to install a 6-foot fence around their rear yard. Once they began to assess the installation, they realized that the neighbors' side wall exceeded the height of six (6) feet and that they needed a taller fence. He stated that the variance is for a 7-foot fence along the back and sides. A 6-foot fence will connect to the house along the front edge of the house. The purpose of the fence is for security reasons because the neighbors on lot 78, rear yard elevation has recently changed. They added dirt and a retaining wall, raising that corner of their property approximately three (3)

feet or higher than his yard. In installing a 6-foot fence, the fence would only be three (3) feet tall on the neighbor's side. The neighbors have large dogs, and he is concerned for his family's safety from the dogs. That rear side corner would not stop the dogs from jumping over. There is also a dog kennel right next to the property line that currently only impacts the Petitioners' property. Exhs. 2, 3, and 5 (A) thru (X).

5. Petitioner further stated that even with a 7-foot fence, it is actually only four (4) feet tall on the neighbor's side. He was considering an even taller fence in that area, due to the change in elevation. Exhs. 2, 3, and 5 (A) thru (X).

6. Ms. Sims from the Homeowners Association (HOA) noted that they, about a year or two years ago, granted an exception for the homeowner's lot based on the way the lot was designed so that he could extend his fence beyond the guidelines from the back to the front. At that time, this issue was not on the table. The HOA was not aware of this situation. Mr. Bishop has not yet submitted his request to the HOA committee. The guidelines are for a 6-foot fence. He does need to put in the request with the HOA.

7. Mr. Bishop stated that he did go before the HOA for the original 6-foot fence. The issue with the 7-foot fence was brought up right before the installation of the approved 6-foot fence.

8. A discussion was made regarding the steps to be approved by the HOA, the permit, and the variance. Ms. Sims stated that normally, the HOA requires a permit prior to the approval from the HOA, but due to extenuating circumstances, the HOA will review the request prior to the variance and the permit office.

9. Mr. Bishop stated that in July of 2023, he went back to the permit office to renew and update the permit (12790-21-0). He advised the permit office that he needed to revise his fence request to 7 feet. So, before he pays the fees, can he put in the requested change? The Permit Office said no, he must pay the fees to renew the existing permit and then put in the change request.

10. Administrator Stone noted to Mr. Bishop that the Board is requiring the HOA approval in order for the Board to make a decision.

Madam Chair made a motion to hold the record open for comments from the HOA. Vice Chair Isler seconded the motion. Motion carried 3/0. (Mack, Isler, and Alston).

This case was reheard on January 10, 2024, as a Discussion/Decision item.

1. The Hillantrae Homeowners Association (HOA) submitted a conditional denial. Staff member Celeste Barlow noted that the HOA also emailed her and noted that the homeowner submitted a revised site plan with what the HOA approved. The HOA approved part of the request, but not all of it. Exhs. 15, 16 and 18.

2. Administrator Stone noted that the Board does not approve conditional variances.

3. Administrator Stone read the email into the record. The HOA allowed only the right side may be 7 feet in height, all other property lines may only be 6 feet. A revised site plan was submitted demonstrating the right side of the property with a 7-foot fence and the 3 remaining property lines at 6 feet. Exhs. 15, 16 and 18.

A motion was made by Vice Chair Isler to include the revised site plan, and a second was made by Madam Chair. Motion carried 3/0. (Mack, Isler, and Hill).

1. Staff Member Celeste Barlow noted that the revised site plan does not demonstrate all the structures on the property. It also has a wider driveway and a garage that was not shown on the original site plan. Exh. 17.

A motion was made a motion to rescind the approval on V-70-23 due to a change in the site plan. Motion seconded by Board Member Hill. Motion carried 3/0. (Mack, Isler, and Hill)

A motion was made by Madam Chair that we contact the Petitioners to revise the site plan to demonstrate all structures as shown on the original site plan (specifically, demonstrate the existing shed and remove the garage and the driveway extension). Motion seconded by Ms. Hill. Motion carried, 3/0. (Mack, Isler, and Hill).

A motion was made by Madam Chair to hold the record open in order for the Petitioner to submit the corrected site plan. Seconded by Ms. Hill. Motion carried 3/0. (Mack, Isler, and Hill).

This record was reheard on January 7, 2024, as a Discussion/Decision item. Petitioner has revised the site plan to accurately demonstrate the structures on the property and the proposed fencing.

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 variances comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to the Petitioner's parcel having a unique and rectangular shape that is different from the surrounding properties with respect to exceptional shape and topographic conditions, the particular uniqueness and peculiarity of the neighbors' property being raised in elevation would render a six (6) foot tall fence ineffective. Further, these peculiarities would cause zoning provisions to impact disproportionately upon the Petitioners' property, and strict application of the provision would result in peculiar and unusual practical difficulties to the owner. Additionally, the Board determined that this variance is the minimum reasonably necessary to overcome the exceptional physical conditions. Also, this variance will not substantially impair the intent, purpose, and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property. Lastly, the Board reviewed the record and

determined that a six (6) foot fence is not sufficient due to the property's surrounding conditions that were not self-inflicted by the owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, that variances of 7,064 square feet net lot area and a security exemption review for a fence 1 foot over the allowable height located in the rear yard, to validate existing conditions (net lot area) and construct a 6- and 7-foot vinyl fence in the rear yard on the property located at 3503 Strawberry Hill Drive, Clinton, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 18, and approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

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

Approved for Legal Sufficiency

By: *Ellis Watson*
Ellis Watson (May 7, 2024 14:30 EDT)
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.

CONSUMER INFORMATION NOTES:

- This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
- This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
- This plan 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 re-financing.
- Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.

Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 1.0 Foot.

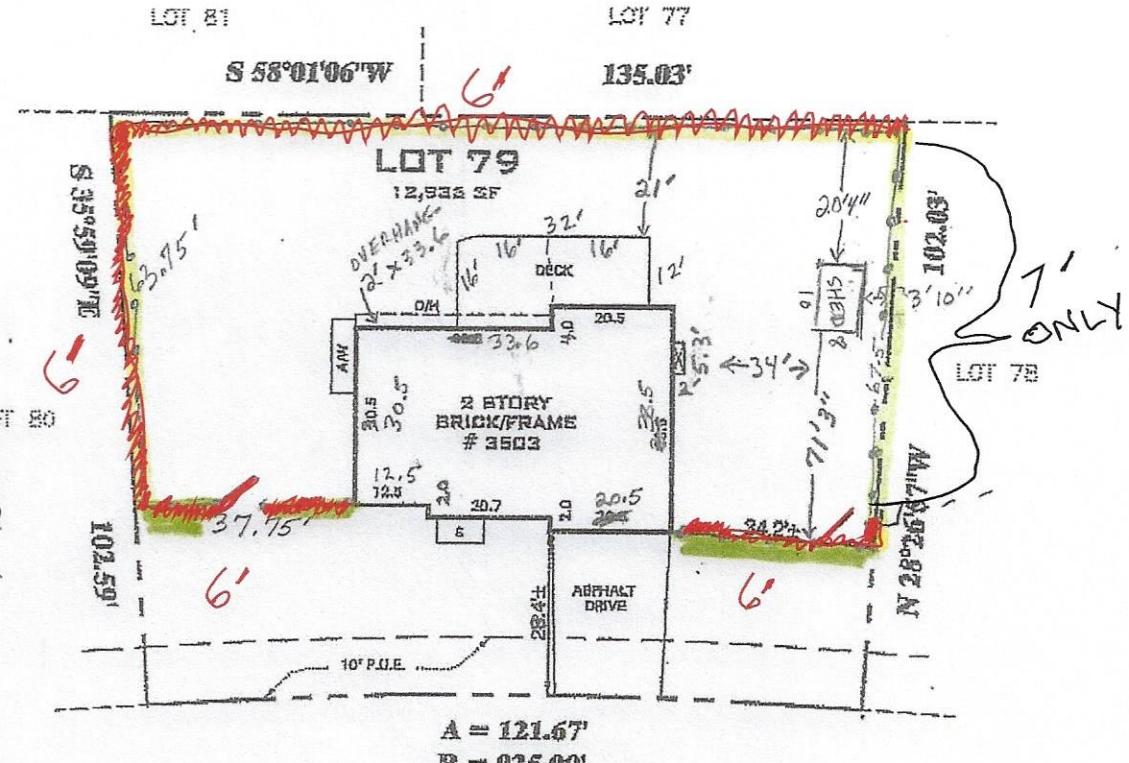
Flood Zone "C" per H.U.D. Flood Panel No. 245208-0095C

BOARD OF APPEALS

APPROVED FEB 07 2024


 Signature of Board of Appeals Administrator

ADMINISTRATOR



STRAWBERRY HILL DRIVE
(SD RW)

LOCATION DRAWING
LOT 79, BLOCK C
PLAT EIGHT
PARKER MEADOWS
PRINCE GEORGE'S COUNTY, MARYLAND
OF MAP

EXHIBIT
18

V-70-23



SURVEYOR'S CERTIFICATE	
<p>THE INFORMATION SHOWN HEREIN HAS BEEN BASED UPON THE RESULTS OF A FENCE INSPECTION PURSUANT TO THE DOCUMENTS OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD-MEASURED BASED UPON MEASUREMENTS AND PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION.</p> <p>Jeffrey L. Snider ND 65</p> <p>MARYLAND PROPERTY LINE SURVEYOR REC. NO. 245208-0095C</p>	

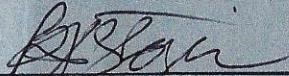
REFERENCES	
PLAT BK.	142
PLAT NO.	95

Snider & Associates
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS
2 Professional Drive, Suite 216
Gaithersburg, Maryland 20878
301/948-5100, Fax 301/948-1286

LIBER	FOLIO	DATE OF LOCATIONS	SCALE: 1" = 30'
		WALL CHECK:	DRAWN BY: F.A.
		H.S.E. LOC.: 07-07-2001	JOB NO.: 2901-3441

BOARD OF APPEALS

APPROVED FEB 07 2024


B. J. Sauer

ADMINISTRATOR

EXHIBIT

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MID-ATLANTIC
Deck & Fence Co.
410-544-1987