



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-91-23 Monique and Jowone Avant

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 21, 2024.

CERTIFICATE OF SERVICE

This is to certify that on May 20, 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 written 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: Monique & Jowone Avant

Appeal No.: V-91-23

Subject Property: Parcel 41 and Outlot, Map 135, D-4 being 9001 Cheltenham Drive, Brandywine,
Prince George's County, Maryland

Heard: February 7, 2024; Decided: February 21, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson¹
Carl Isler, Vice Chairman
Renee Alston, Member
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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-6603 of the Zoning Ordinance, which prescribes that unless otherwise stated in Section 27-6600, fences and walls shall comply with the height standards set in Table 27-6603(a): Fence and Wall Height. Petitioners request a security exemption review for a fence two (2) feet over the allowable height located in the front yard (abutting Crain Highway).

Evidence Presented

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

1. The property was transferred by deed in 2020, contains 38,681 square feet, is zoned RR (Residential, Rural) and is improved with a single-family dwelling and fence. Exhibits (Exhs.) 1, 2, 3, 4 (A thru E), 6, 7, 8 (A thru F).
2. Petitioners would like to construct a six (6) foot fence and request a security exemption review for fence two (2) feet over the allowable height abutting Crain Highway. Exhs. 1, 2, 14.
3. The property is located on a uniquely positioned corner lot abutting Crain Highway. Exhs. 4, and 8 (A thru F).
4. Petitioner stated that they need the fence for safety and security issues as property is located on the main thoroughfare of Crain Highway.
5. Administrator Stone asked the Petitioner if property was located on the portion of MD 301 that splits and is property located on an incline or a decline? Petitioner answered that property is located on the split on MD 301, and it is going north. Further, the property is on a flat surface and does not have an incline or decline.
6. At the February 7th hearing, Chair Mack asked if the fence was already built? Petitioner stated that the previous four (4) foot fence was there prior to purchasing the property and it is not a privacy fence that is needed for their security.

¹ Chair Mack voted at the February 7th meeting to hold this case open. Chair Mack was absent for the final deposition of this case on February 21st.

7. Vice-Chair Isler asked if there were any additional issues on the property that would validate the need for a six (6) foot fence? Petitioner stated that their children are four (4) and six (6) and would desire to protect them from the busy highway. Further, wild animals wander onto their property.

8. Administrator Stone informed the Board that the legal side yard of the Petitioner property abuts MD 301 and that is the portion of their property that requires a security exemption plan.

9. Petitioner stated that their fence would be located behind a preexisting tree line; therefore, the fence would not obstruct drivers turning onto Cheltenham Drive.

10. At the February 7th hearing Chair Mack requested that the Petitioner provide the fence type that would be located on their property. In turn, the Board voted 4-0 to hold the case open in order for the Petitioner to provide a picture of the fence type.

11. At the February 21st Board Meeting during the Discussion section of the agenda, the Board received the picture of the fence type from the Petitioner and voted 3-0 (Chair Mack absent) to approve the security exemption plan of two (2) feet over allowable four (4) foot fence requirement.

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 does/does not comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to Petitioners parcel being located on a uniquely shaped corner lot that is unusual in a manner different from the nature of surrounding property with respect to its shape and other extraordinary conditions, such as, abutting a major thoroughfare of MD 301 and this is peculiar to this specific parcel. The particular uniqueness and peculiarity would impact the Petitioners disproportionately if the strict application of the zoning provision was instituted. Furthermore, the granting of the security exemption plan for this property is the minimum reasonably necessary to overcome the exceptional physical conditions of the Petitioners legal side yard abutting MD 301. The record reflects that granting this security exemption plan would 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. Additionally, there is no evidence in the record that granting this security exemption plan would substantially impair the use and enjoyment of adjacent property, and the practical difficulty was not self-inflicted by the Petitioner(s).

BE IT THEREFORE RESOLVED, by majority vote, Chair Mack absent, that a Security Exemption Review of two (2) feet on the property located at 9001 Cheltenham Drive, Brandywine, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the Security Exemption Plan is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plan, Exhibit 14 (A and B).

BOARD OF ZONING APPEALS

By: William C. Isler, II
William C. Isler, II (May 20, 2024 10:13 EDT)
William C. Isler, Vice-Chair

Approved for Legal Sufficiency

By: Ellis Watson
Ellis Watson (May 20, 2024 11:09 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 27-3313(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.

BOARD OF APPEALS

APPROVED FEB 21 2024

[Signature]
ADMINISTRATOR

THIS DOCUMENT IS CERTIFIED TO:

Custom Title
and
Settlement, Inc.

CASE #: 161010

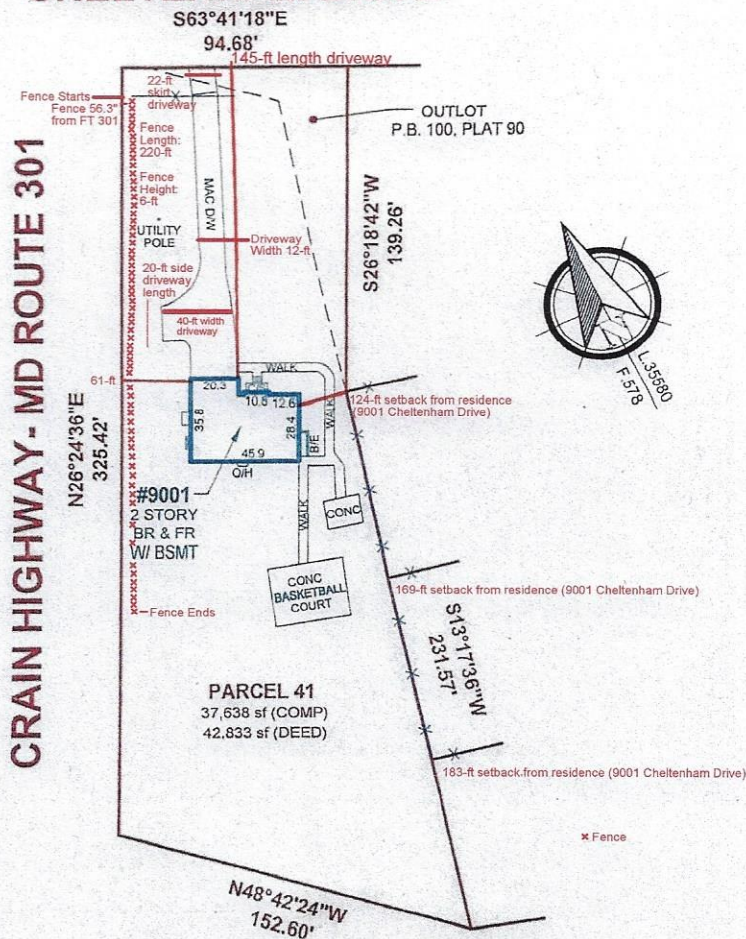


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CHELTENHAM DRIVE



LOCATION DRAWING OF:

**#9001 CHELTENHAM DRIVE
PARCEL 41 (INCLUDES OUTLOT)**

N/F PROPERTY OF

HAROLD TOLBERT

LIBER: 35580 FOLIO: 578

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1"=60' DATE: 10-26-16

DRAWN BY: CP FILE #: 167734-200

LEGEND

- FENCE
- BASEMENT ENTRANCE
- BAY WINDOW
- BRICK
- BLDG. RESTRICTION LINE
- BSMT
- CONCRETE STOOP
- CONC
- DRIVEWAY
- FRAME
- HAZ
- OVERHANG
- PUB

COLOR KEY

- (RED) - RECORD INFORMATION
- (BLUE) - IMPROVEMENTS
- (GREEN) - ESMTS & 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 SET FORTH IN REGULATION 12 CHAPTER 99.13 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT 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 OR ITS AGENTS IN CONNECTION WITH THE CONTINGENT TRANSFER, FINANCING OR REFINANCING THE LEVEL OF ACCURACY FOR THIS DRAWING IS 1". NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISREPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

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. & BALT. CITY)

EXH. # 2
V-91-23





BOARD OF APPEALS

APPROVED FEB 21 2024


ADMINISTRATOR



BOARD OF APPEALS

APPROVED FEB 21 2024


ADMINISTRATOR