



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-94-23 Victor Cubas Rosell

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: March 27, 2024.

CERTIFICATE OF SERVICE

This is to certify that on July 10, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script, reading "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

Petitioner: Victor Cubas Rosell

Appeal No.: V-94-23

Subject Property: Lots 6 and 12, Block 37, Riverdale Park Subdivision, being 4912 Queensbury Road,
Riverdale, Prince George's County, Maryland.

Municipality: Riverdale

Heard: February 21, 2024; Decided: March 27, 2024

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

Carl Isler, Vice Chairman

Renee Alston, 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 variances 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, Petitioner requests that the Board approve variances from Section 27-11002 (1)(a), which 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, 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. The Petitioner proposes to validate the existing condition (parking area location) and obtain a building permit to install a 6-foot fence on a through lot. A waiver of the parking area location requirement and a security exemption for a fence over 4 feet in height in the front yard (abutting East-West Highway and Taylor Road) is requested.

Evidence Presented

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

1. The property was subdivided in 1889 before the adoption of the Prince Georges County Zoning Ordinance, contains 7,656 square feet, is zoned RSF-65 (Residential, Single-Family-65), and is improved with a single-family dwelling, driveway, and two sheds (one to be removed). Exhibits (Exhs.) 2, 5, 9, 10, and 11 (A) thru (F).

2. The subject property is a uniquely shaped through lot (fronting on three streets) with two areas at each intersection, each with a road creating an angle at each intersection. It consists of two lots. Exhs. 2 and 5.

3. The Petitioner proposes to validate the existing condition (parking area location) and obtain a building permit to install a 6-foot fence on a through lot. A waiver of the parking area location requirement and a security exemption for a fence over 4 feet in height in the front yard (abutting East-West Highway and Taylor Road) is requested. Exhs. 2, 5, 9, 10, and 11 (A) thru (F).

4. The Petitioner testified that what he considers his backyard abuts East-West Highway. With East-West Highway in the lot's rear yard, the abundance of trash is a constant issue in the Petitioner's yard. There

is always loitering, and it is allegedly dangerous with speeding cars. The Petitioner believes that the 6-foot wooden fence would help resolve those issues, including privacy for the family. He also opined that the new fence would help esthetics. He does plan on putting in a gate abutting East-West Highway. The gate will be inset into the property to allow the car to pull into the property prior to opening the gate. Exhs. 2, 3, and 6 (A) thru (H).

5. On February 20, 2024, the Town of Riverdale requested additional time for review. Exh. 18.

Vice Chair Isler made a motion to hold the record open the case. Seconded by Board Member Alston. Motion carried 3/0. (Isler, Alston, and Hill)

The record was heard as a Discussion/Decision item on March 27, 2024.¹

1. It was indicated that the Town of Riverdale has not sent a decision. (Madam Chair made a motion to hold the record open for the results of Riverdale. The motion was seconded by Vice Chair Isler. Motion carried 3/0. Mack, Isler, and Alston.

2. The case reviewer advised that the letter was sent. Chair Mack made a motion to rescind the last vote. Seconded by Vice Chair Isler. Motion carried 3/0 (Mack, Isler, and Alston)

3. Madam Chair read into the record a letter of Approval from the Town of Riverdale dated March 24, 2024. Exh. 20.

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.

¹ Attending Board Members present: Mack, Isler, Alston. Chair Mack has reviewed the prior hearing in order to vote.

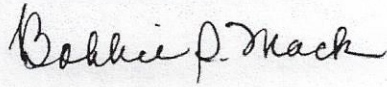
Findings of the Board

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:

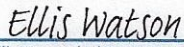
Due to the lot being unique as a through lot abutting three streets, the County taking land from both corners of the intersections, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose, and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property. Furthermore, the Board determined that the particular uniqueness of the Petitioner's property would cause a zoning provision to result in a peculiar and unusual practical difficulty to the owner. Additionally, the Board determined that this variance is the minimum reasonably necessary to overcome the exceptional physical conditions contained on the Petitioner's property. Lastly, the Board found no evidence in the record that this variance would substantially impair the use and enjoyment of adjacent properties, and the practical difficulty is not self-inflicted as the property owner has not commenced construction on the fence.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Hill absent, that a waiver of the parking area location requirement and a security exemption for a fence over 4 feet in height in the front yard (abutting East-West Highway and Taylor Road) in order to validate the existing condition (parking area location) and obtain a building permit to install a 6-foot fence on a through lot on the property located at 4912 Queensbury Road, Riverdale, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 3, and approved elevation plan, Exhibit 4.

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By: 
Bobbie S. Mack, Chairperson

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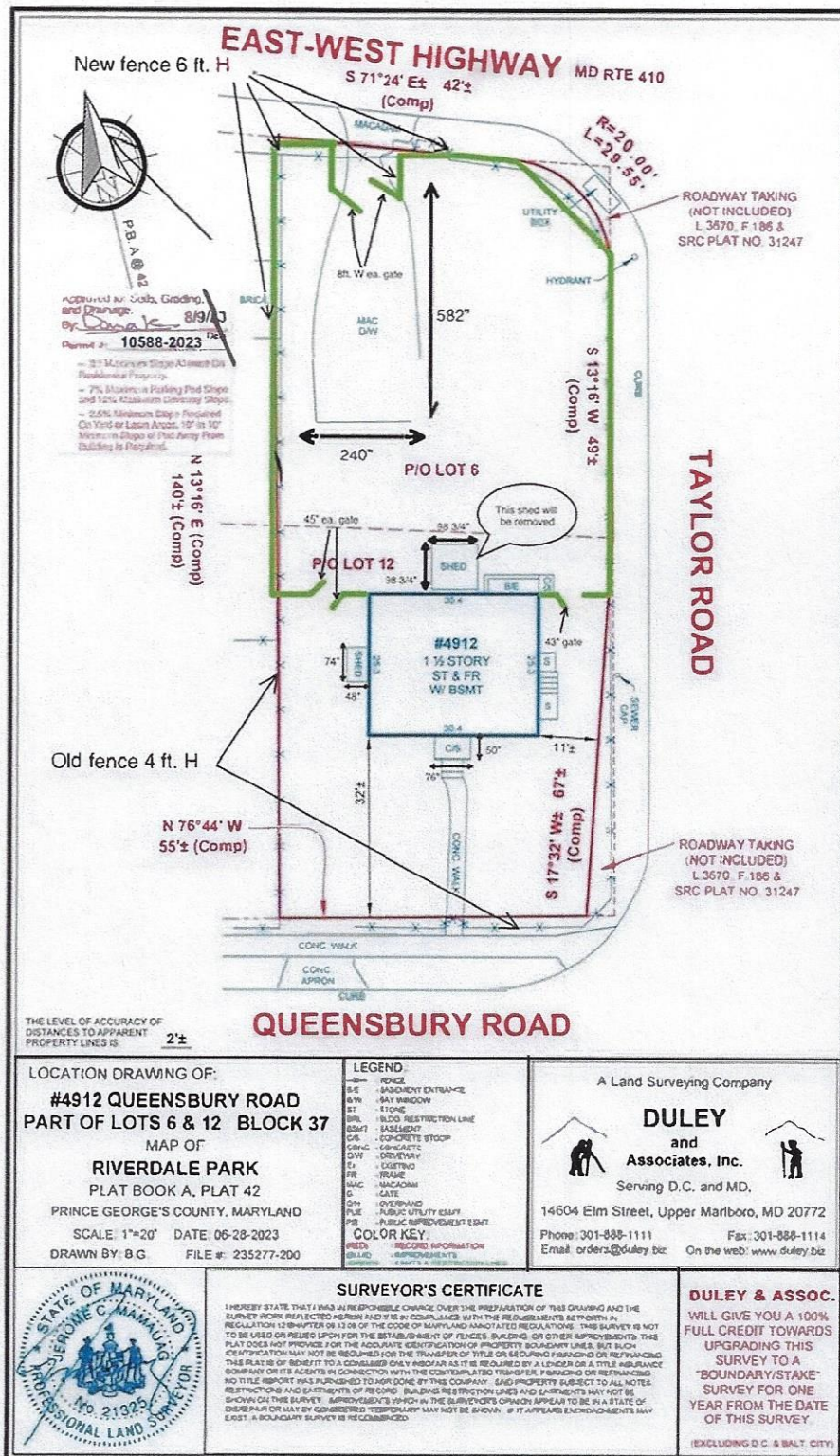
By: 
Ellis Watson (Jul 10, 2024 11:55 EDT)
Ellis Watson, Esq

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.

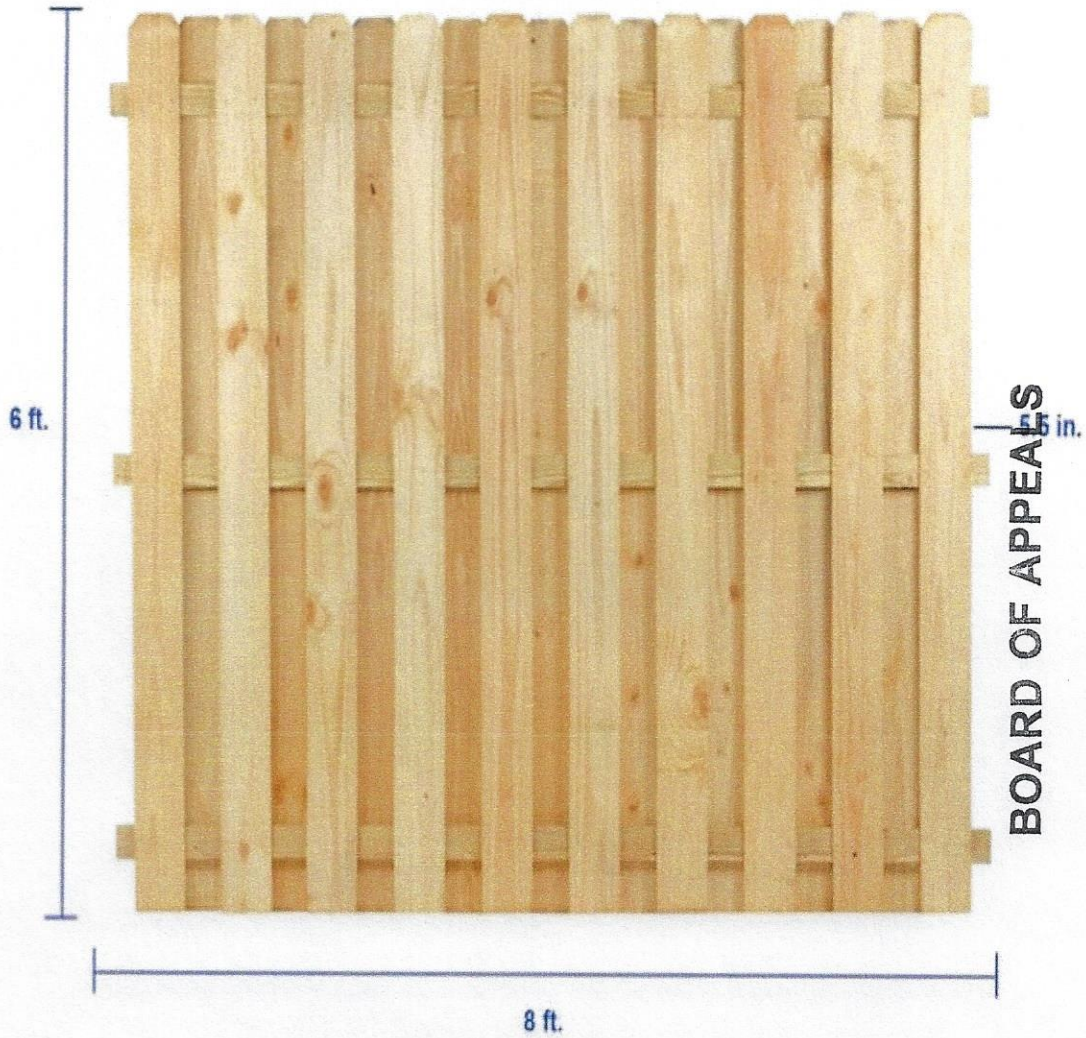


BOARD OF APPEALS

APPROVED MAR 27 2024

ADMINISTRATOR

EXH. # 3
V-94-23



APPROVED MAR 27 2024

[Signature]
ADMINISTRATOR

Measurements shown are actual panel height, actual panel width and actual picket width

4(A)

EXH. # 4(A-C)
V-94-23



BOARD OF APPEALS

APPROVED **MAR 27 2024**


ADMINISTRATOR

