



# 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-71-24 David Stuart Brooks

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: November 20, 2024.

## CERTIFICATE OF SERVICE

This is to certify that on March 4, 2025, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

Ellis Watson

Ellis Watson  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
Karen Monroy, AFK Fencing

***BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND***  
***Sitting as the Board of Zoning Appeals***

Petitioner: David Stuart Brooks

Appeal No.: V-71-24

Subject Property: Lots 26,27,28 and 29, Block C, Fairmount Heights Subdivision, being 706 58<sup>th</sup> Avenue, Capitol Heights, Prince George's County, Maryland

Heard: November 20, 2024    Decided: November 20, 2024

Witness: Eylon Monroy, Representative, AFK Fencing

Board Members Present and Voting: Omar Boulware, Chair  
Phillippa Johnson, Vice Chair  
Dwayne A. Stanton, 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, Petitioner requests that the Board approve a variance from Section 27-4202(e)(2) that prescribes that each lot shall have a minimum net lot area of 6,500 square feet, a minimum width of 65 feet measured along the minimum front setback and 52 feet measured along the front street line, a maximum lot coverage of 35%, 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. Section 27-6603 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. Any fence or wall which does not comply with height standards will require a Security Exemption review and approval. A variance of 7.96 feet front yard depth and a security exemption review for a fence 2 feet over the allowable height located in the front yard are requested.

**Evidence Presented**

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

1. The property was subdivided in 1900, contains 10,950 square feet, is zoned RSF-65 (Residential, Single-Family-65), and is improved with a single-family dwelling. Exhs. 2, 6, 10, 11 and 13.

2. The Petitioner proposes to obtain a building permit to construct a wooden 6-foot fence around the entire property (abutting 58<sup>th</sup> Avenue and Eastern Avenue), with the exception of the front yard. The Petitioner proposes a 4-foot fence in the front yard). A variance of 7.96 feet front yard depth and a security exemption review for a fence 2 feet over the allowable height located in the front yard are requested. Exhs. 1, 2, 3 (A) thru (E), 4, 5, 7 (A) thru (O), 12 (A) thru (F), and 13.

3. The Petitioner, Mr. Brooks, testified that he removed a 4-foot fence from his property because it was inefficient in preventing theft and trespass.

4. Further, Mr. Brooks testified that he would build the section of the fence in front of the house at 4 feet to comply with the general aesthetics of the neighborhood and to prevent posing any visual obstacle to vehicle or pedestrian traffic.

5. Ms. Monroy, Representative, testified that the fence would not interfere with the neighbors and the Petitioner desired the fence to protect the safety and privacy of his property.

5. Vice Chair Johnston mentioned the Petitioner's property is unique compared to the surrounding lots. In response, Administrator Watson reminded the Board that this case was being considered under Section 27-6610 of the Prince George's County Ordinance.

6. Board Member Stanton requested to make a motion and opined that the Petitioner's property met the criteria of uniqueness, as well as the review standard found in Section 27-6610.

7. Board Member Stanton made the motion to approve V-71-24 and Seconded by Vice Chair Johnston. Motion carried by a 3-0 vote.

#### Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-6610(b)(1)(2) of the Prince George's County Zoning Ordinance are satisfied:

#### **27-6610. Security Exemption Plan**

- (a) A landowner in need of heightened security may submit to the Planning Director, or, where delegated pursuant to Section 27-3308(b), the municipality in which the development application is located 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 or municipality 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 or municipality 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 variance complies with the applicable standards set forth in Section 27-6610(b)(1)(2), more specifically:

The Board determined that the Petitioner's property was located in an area with a history of activity that placed it in greater danger of damage than surrounding properties, and a taller fence was warranted. Additionally, the Board found that there would not be any significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

BE IT THEREFORE RESOLVED, by a 3-0 vote, that a variance of 7.96 feet front yard depth and a security exemption review for a fence 2 feet over the allowable height located in the front yard on the property located at 706 58<sup>th</sup> Avenue, Capitol Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plans, Exhibit 3 (A) thru (E).

BOARD OF ZONING APPEALS

By:   
Omar Boulware, Chair

APPROVED FOR LEGAL SUFFICIENCY

By:   
Keisha A. Garner, 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:

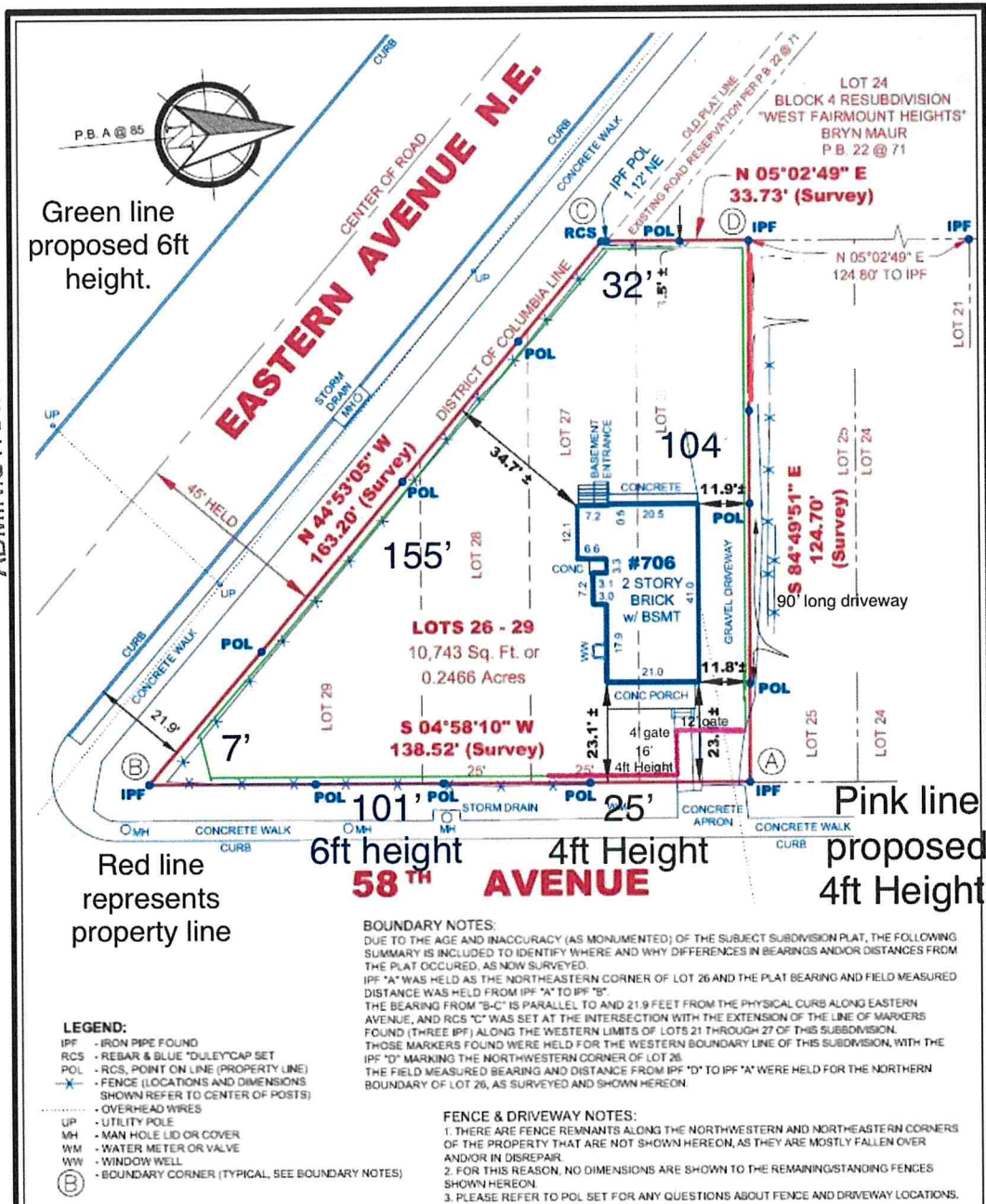
A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.



APPROVED NOV 20 2024

Ellis Watson

ADMINISTRATOR



BOUNDARY SURVEY OF:

**#706 58TH AVENUE**  
**LOTS 26, 27, 28 + 29 BLOCK C**  
**MAP OF FAIRMOUNT HEIGHTS**  
PLAT BOOK A, PAGE 85  
LIBER 46406, FOLIO 224  
PRINCE GEORGE'S COUNTY, MARYLAND  
SCALE: 1"=30' DATE: 02-08-2022  
DRAWN BY: JCW FILE #: 220389 - 900

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### SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS PLAT AND THE SURVEY WORK REFLECTED HEREIN AND I AM IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 12 CODE OF REGS. 29.13 OF THE STATE OF MARYLAND. ANNOTATED REGULATIONS, NO TITLE REPORT WAS FURNISHED TO ME OR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENT OF RECORD, BUILDING RESTRICTION LINES AND EASEMENTS NOT SHOWN ON RECORD PLAT MAY NOT BE SHOWN HEREON.

LICENSE EXPIRATION DATE: 12-23-2023

## EXHIBIT

2

V-71-24



A

1. View of 706 58<sup>th</sup> Ave from the driveway apron on 58<sup>th</sup> Ave.



B

2. View of 706 58<sup>th</sup> Ave from across 58<sup>th</sup> Ave.

## BOARD OF APPEALS

APPROVED NOV 20 2024

*Ellis Watson*

ADMINISTRATOR

EXHIBIT  
3 (A-E)

V-71-24



706 58<sup>th</sup> Ave, Fairmount Heights. 3D renderings of proposed fence. Updated June 25, 2024



3. View of 706 58<sup>th</sup> Ave from cnr of 58<sup>th</sup> Ave and Eastern Ave NE.



4. Elevated view of 706 58<sup>th</sup> Ave from above 58<sup>th</sup> Ave.



706 58<sup>th</sup> Ave, Fairmount Heights. 3D renderings of proposed fence. Updated June 25, 2024



E

5. View of 706 58<sup>th</sup> Ave from Eastern Ave NE.