



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-14-21 Wharton Storage Co., LLC

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: May 12, 2021.

CERTIFICATE OF SERVICE

This is to certify that on 10/18/2021, 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. Below the signature, the name "Barbara J. Stone" is printed in a standard black font, followed by the title "Administrator" in a smaller font.

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: Wharton Storage Company, LLC

Appeal No.: V-14-21

Subject Property: Lots 151 and P/O lot 67, Belle Fonte Subdivision, being 8219 Woodyard Road, Clinton,
Prince George's County, Maryland

Counsel for Petitioner: Norman Rivera, Esq.

Witness: Kenneth Perez, Branch Manager, Wharton Storage Company, LLC

Pamela Scott, Engineer, Dewberry

Ryan McCallister, Engineer, Dewberry

Heard: April 28, 2021; Decided: May 12, 2021

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

Albert C. Scott, Vice Chairman

Anastasia T. Johnson, 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 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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variance from Section 27-465(a) (I-4 Zoned Property) prescribes that fences and walls more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings. Section 27-474 (b) prescribes a 30-foot side yard setback (FN 5). **Section 447** (C-M Zoned property) prescribes that fences and walls more than six (6) feet high shall not be located in any required yard and shall meet the setback requirements for main buildings. Sec. 27-462 (b) prescribes a side yard setback of 12 feet. Petitioner proposes to obtain a building permit for the construction of a 10-foot-high chain-link fence. A variance of 13 feet side yard setback for the 1-4 Zone, a variance of 10-foot side yard setbacks within the C-M Zone, and waivers of the fence location and height requirement for a 10-foot chain link fence are requested.

Evidence Presented

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

1. The subject property was subdivided in 1982, contains 21,411 square feet, is zoned C-M (Commercial-Miscellaneous) and 1-4 is improved with an existing outdoor storage facility for construction materials. Exhibits (Exhs.) 2, 3, 5, 7, 8 and 9 (A) thru (F).

2. The subject property is oddly shaped, located on the north side of the intersection of Old Alexandria Ferry Road and Woodyard Road. The subject property consists of the C-M property and the I-4 property (Lot 151 & Part of Lot 67). The 1-4 portion of the property is "V" shaped. The C-M portion is square shaped. Exhs. 2, 3, 5, 7, 8 and 9 (A) thru (F).

3. Petitioner is requesting a variance of 13 feet side yard setbacks for the 1-4 Zone, and a variance of 10-foot side yard setbacks within the C-M Zone, and waivers of the fence location and height requirement for a 10-foot chain link fence are requested.

4. Attorney Norman Rivera explained that the 10-foot chain link fence has already been installed.

5. Counselor stated that the subject property is located at a very high traffic intersection. He further stated that the CSC property contains Tucker Road Liquors and a convenience store. He explained that with the storage of building materials on the site and with the rocketing prices of materials, and the location of the subject property on a main thoroughfare, being two arterial roads, the property was being pilfered. He discussed how very hard it is to maintain property and employee security. He further discussed that the primary reason for the variances is to install the tall security fence.¹

6. He explained that a major portion of the I-4 property is undeveloped because of a flood plain and stream valley. He stated that the site is isolated which lends itself to the property theft that occurs. He also noted the inability to monitor the property and believed that the tall fence will deter certain activities. Exhs. 2, 3, 5, 7, 8 and 9 (A) thru (F).

7. Attorney Rivera opined that a shorter fence would encourage customers at the liquor store and the convenience store to litter and loiter.

8. Counselor argued that the proposed fence does not impair the integrity of the Master Plan or General Plan. Exhs. 2, 3, 5, 7, 8 and 9 (A) thru (F).

9. The Board noted that barbed wire is prohibited in the C-M portion of the property. The site plan was revised to remove all barbed wire abutting any commercial portion of the property. The height of the fence will now be 10 feet. Exhs. 15 and 16.

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

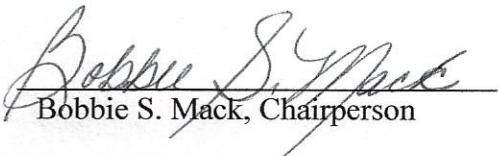
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being located in a high traffic vehicle and pedestrian area, the ease to access the property, the need to protect storage construction supplies, the inability to monitor the subject property adequately 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.

¹ Counsel cites the *2013 Approved Central Branch Avenue Corridor Revitalization Sector Plan* to buttress his argument of the need of territorial protection by property owners in order to successfully operate their businesses. Exh. 2.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 13 feet side yard setbacks for the 1-4 Zone portion of the property, a variance of 10-foot side yard setbacks within the C-M Zone portion, and waivers of the fence location and height requirement for a 10-foot chain link fence in order to obtain a building permit for the construction of a 10-foot-high chain-link fence on the property located at 8219 Woodyard Road, Clinton, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 15 and approved revised elevation plan, Exhibit 16.

BOARD OF ZONING APPEALS

By: 
Bobbie S. Mack, Chairperson

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 27-233(a) 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.

1 2 3 4 5

Dewberry

Dewberry
Engineers Inc.
4001 FRIENDS BOULEVARD
LAUREL, MD 20708
301.731.0789 (FAX)
www.dewberry.com

OWNER/APPLICANT
WHARTON HARDWARE AND SUPPLY
1042 OLD ALEXANDRIA FERRY ROAD
CLINTON, MD 20735
301.877.8840 (PHONE)
ATTN: BARRY SCHROEDER

WHARTON HARDWARE
AND SUPPLY
PERMIT PLAN
LOTS 151 AND P10 LOT 167
PRINCE GEORGES COUNTY
PRINCE GEORGE'S COUNTY, MD
CLINTON, MD 20735



PROFESSIONAL CERTIFICATION:
I, BARRY SCHROEDER, THE APPLICANT FOR THIS PERMIT,
HEREIN SIGNING, STATE THAT THE PLANS AND DRAWINGS
WERE PREPARED OR APPROVED BY ME, AND
THAT I AM A FULLY REGISTERED LICENSED
STRUCTURAL ENGINEER IN THE STATE
OF MARYLAND, LICENSE NO. 3772 EXPIRATION
DATE: MAY 13, 2023.

KEY PLAN

SCALE

1	10/19/20	PWS	Revision to Plan for
No.	DATE	BY	Description

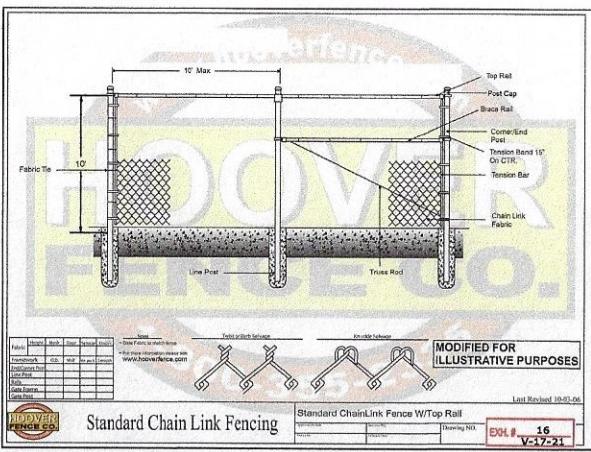
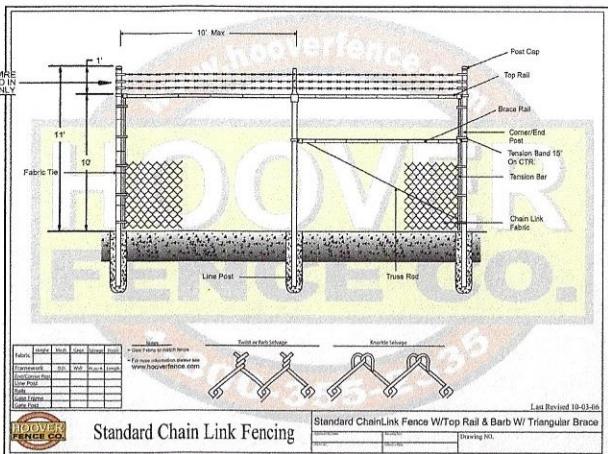
TITLE

**VARIANCE
EXHIBIT
DETAILS**

C.O.U. PERMIT #43758-2020-0
FENCE PERMIT #23560-2020-0
PROJECT NO. 50127285

2

SHEET NO. 2 OF 2



STANDARD 11' HIGH CHAIN LINK FENCE WITH BARBED WIRE ⁷
SCALE: NTB

NOTE:
1. INSTALLATION PER MANUFACTURERS SPECIFICATIONS.
2. POST FOUNDATION / FOOTING BY OTHERS.
3. SHOP DRAWING SHALL BE SUBMITTED AND APPROVED BY PRINCE GEORGE'S COUNTY, OWNER, OR OWNERS AGENT, PRIOR TO CONSTRUCTION.
4. SUBJECT TO GEO-TECHNICAL AND STRUCTURAL RECOMMENDATIONS BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF MARYLAND.
5. OR APPROVED EQUIVALENT EQUAL.
6. PERMIT REQUIRED PRIOR TO CONSTRUCTION BY PRINCE GEORGE'S COUNTY, MARYLAND.
7. AN ADDITIONAL 1' HIGH BARBED WIRE SECURITY PORTION WILL BE PROVIDED WITHIN THE I-1 ZONE ONLY.

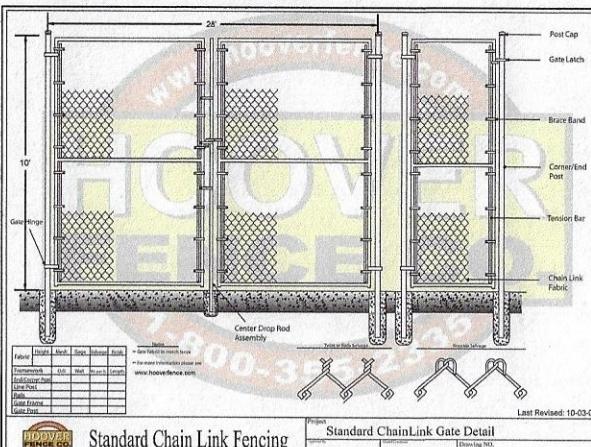
BOARD OF APPEALS

APPROVED MAY 12 2021

B. Strode
ADMINISTRATOR

STANDARD 10' HIGH CHAIN LINK FENCE W/O BARBED WIRE ⁷
SCALE: NTB

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5. OR APPROVED EQUIVALENT EQUAL.
6. PERMIT REQUIRED PRIOR TO CONSTRUCTION BY PRINCE GEORGE'S COUNTY, MARYLAND.
7. BARBED WIRE IS PROHIBITED FOR USE WITHIN THE C-4 AND C-S-C ZONES (PER SEC. 27-447 OF THE PRINCE GEORGE'S COUNTY CODE).



STANDARD 10' HIGH CHAIN LINK FENCE GATE
SCALE: NTB

NOTE:
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NOTE:
FOR LOCATION OF UTILITIES CALL
8-1-1 OR LOG ON TO
www.call811.com
http://www.maryland811.com

48 HOURS IN ADVANCE OF ANY WORK
IN THIS VICINITY

INFORMATION CONCERNING UNDERGROUND
UTILITIES WILL BE PROVIDED FROM AVAILABLE
RECORDS BUT THE CONTRACTOR MUST
ADVANCE THE WORK IN ACCORDANCE WITH
ELEVATION OF THE MAINS BY DIGGING TEST PITS
IN ADVANCE OF THE START OF EXCAVATION.