



# 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*

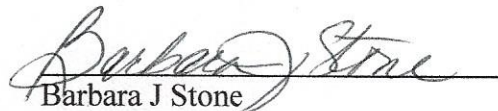
### *OF BOARD OF APPEALS*

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.

  
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: 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.<sup>1</sup>

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.

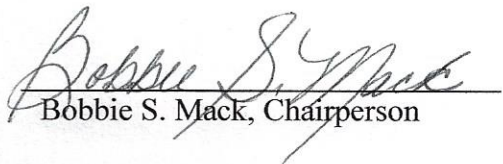
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<sup>1</sup> Counsel cites the *2013 Approved Central Branch Avenue Corridor Revitalization Sector Plan* to buttress his argument of the need of territorial protection by property owners in order to successfully operate their businesses. Exh. 2.



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.



# WHARTON HARDWARE AND SUPPLY VARIANCE EXHIBIT

**Dewberry.**

Dewberry Engineers Inc.  
4801 FORBES BOULEVARD  
CLINTON, MD 20735  
301.877.2100 (PHONE)  
301.877.2100 (FAX)  
www.dewberry.com

OWNER/APPLICANT  
WHARTON HARDWARE AND SUPPLY  
6048 OLD ALEXANDRIA FERRY ROAD  
CLINTON, MD 20735  
301.877.2100 (PHONE)  
ATTN: BARRY SCHROEDER

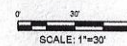
WHARTON HARDWARE  
AND SUPPLY  
PERMIT PLAN  
LOTS 151 AND P/O LOT 167  
PRINCE GEORGES COUNTY,  
MD  
CLINTON, MD 20735



PROFESSIONAL CERTIFICATION:  
I HEREBY CERTIFY THAT THESE DOCUMENTS  
WERE PREPARED OR APPROVED BY ME AND  
THAT I AM A DULY REGISTERED LANDSCAPE  
ARCHITECT UNDER THE LAWS OF THE STATE  
OF MARYLAND. LICENSE NO. 877 EXPIRATION  
DATE: MAY 15, 2025.

KEY PLAN

SCALE



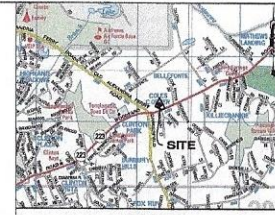
No.	DATE	BY	Description
1	10/19/20	PMS	Revision to Plan for Change of Use
REVISIONS			

TITLE  
**VARIANCE  
EXHIBIT**

C.O.U. PERMIT # 43759-2020-0  
FENCE PERMIT # 23560-2020-0  
PROJECT NO. 50127285

1

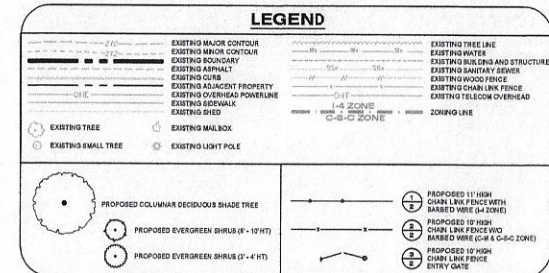
SHEET NO. 1 OF 2



VICINITY MAP  
SCALE: 1" = 2000'  
Vicinity Map © 2020 - Kappa Map Group LLC/MS  
Integrated Solutions LLC 2014  
PRINCE GEORGES COUNTY  
ROAD ATLAS  
MAP 2767 GRID A6 & B6

## GENERAL NOTES

- SCOPE OF WORK:  
CHANGE OF USE FROM 6 UNIT MULTI-FAMILY APARTMENT BUILDING (LEASE) TO CONTRACTOR HOOD AND OUTDOOR CONTRACTOR STORAGE YARD. NO ADDITIONAL PROPOSED BUILDINGS OR IMPERVIOUS AREA. CONSTRUCTION LIMITED TO PROPOSED 10 FOOT FENCE AND DATE AROUND PROPERTY (AS SHOWN ON PLAN). TENANTS HAVE BEEN REMOVED FROM FORMER APARTMENT BUILDING. CHANGE OF OWNERSHIP FROM WOODYARD ROAD ASSOCIATES, LLC TO WHARTON STORAGE COMPANY, LLC.
- SUBDIVISION NAME: BELLE FONTE SUBDIVISION (PLAT BOOK N.P. 113 PAGE 5)
- TOTAL ACREAGE:  
GROSS ACREAGE: 1.73 ACRES  
FLOOD PLAIN ACREAGE: 0 ACRES  
NET ACREAGE: 1.73 ACRES
- EXISTING ZONING: C-M AND I-4
- PROPOSED USE OF PROPERTY: CONTRACTOR'S OFFICE W/ STORAGE OF MATERIALS OR EQUIPMENT (PERMITTED PER SEC. 27-473)
- NUMBER OF LOTS & PARCELS: LOT 151 AND P/O 67
- 200 FOOT MAP REFERENCE NUMBER (WSS): 2115E07
- TAX MAP NUMBER AND GRID: 117-A1, 117-B1
- AVIATION POLICY AREA: NO AVIATION POLICY AREAS KNOWN TO EXIST ON SITE
- EXISTING WATER/SEWER DESIGNATION: S-3 AND W-3 COMMUNITY SYSTEM
- PROPOSED WATER/SEWER DESIGNATION: PLANNED OR EXISTING COMMUNITY SYSTEM
- STORMWATER MANAGEMENT CONCEPT NUMBER: XXX
- 15-FOOT PUBLIC UTILITY EASEMENT ALONG ALL PUBLIC RIGHT OF WAY UNLESS OTHERWISE MODIFIED.
- CEMETERIES ON OR CONTIGUOUS TO THE SITE: NO
- HISTORIC SITES ON OR IN THE VICINITY OF THE PROPERTY: NO
- STREAMS AND WETLANDS: NO
- 100-YEAR FLOODPLAIN: NO
- CHESAPEAKE BAY CRITICAL AREA OVERLAY: NO
- SOURCE OF TOPOGRAPHY: DEWBERRY ENGINEERS, INC. DATED MAY 2020  
MAJOR CONTOUR INTERVAL: 2'  
MINOR CONTOUR INTERVAL: .50'
- APPLICANT:  
WHARTON HARDWARE AND SUPPLY  
6048 OLD ALEXANDRIA FERRY ROAD  
CLINTON, MD 20735
- OWNER:  
WHARTON STORAGE COMPANY LLC  
8108 OLD ALEXANDRIA FERRY ROAD  
CLINTON, MD 20735
- SOURCE OF THE PROPERTY BOUNDARY: BOUNDARY BY DEWBERRY ENGINEERS, INC. DATED MAY 2020.
- THE PROPOSED PROJECT / PERMIT IS EXEMPT FROM THE REQUIREMENTS OF SECTION 4.3 "PARKING LOT REQUIREMENTS" OF THE PRINCE GEORGES COUNTY LANDSCAPE MANUAL AS STIPULATED IN SECTION 1.1(g)(1).
- THE PROPOSED FENCE MEETS THE REQUIREMENTS STIPULATED IN SECTION 27-465 "FENCES AND WALLS" OF THE PRINCE GEORGES COUNTY ZONING ORDINANCE.
- ALL ZONES: A 10' HIGH CHAIN LINK FENCE WILL BE INSTALLED A MIN. 2' FROM EXISTING PROPERTY LINE. AN ADDITIONAL 1' HIGH BARBED WIRE SECURITY PORTION WILL BE PROVIDED WITHIN THE I-4 ZONE ONLY. BARBED WIRE IS PROHIBITED FOR USE WITHIN THE C-M AND C-S-C ZONES (PER SEC. 27-447 OF THE PRINCE GEORGES COUNTY CODES).

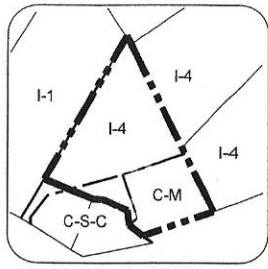


EXH. # 15  
V-17-21

VARIANCE REQUEST:  
PROPOSED 11' HIGH CHAIN-LINK FENCE WITH BARBED WIRE WILL BE INSTALLED A MIN. 2' FROM EXISTING PROPERTY LINE, TYP. (I-4 ZONE)

PROPOSED 10' HIGH CHAIN LINK FENCE W/ BARBED WIRE WILL BE INSTALLED A MIN. 2' FROM EXISTING PROPERTY LINE, TYP. (C-M & C-S-C ZONE)

APPROVED MAY 12 2021  
ADMINISTRATOR



**ZONING MAP**  
NTS

EXISTING 10' HIGH CHAIN LINK FENCE TO BE REMOVED

VARIANCE REQUEST:  
PROPOSED 11' HIGH CHAIN-LINK FENCE WITH BARBED WIRE WILL BE INSTALLED A MIN. 2' FROM EXISTING PROPERTY LINE, TYP. (I-4 ZONE)

PROPOSED FENCE CONNECTION  
15' SIDEYARD SETBACK (I-4 ZONE)  
EXISTING WOOD FENCE TO BE REMOVED

OLD ALEXANDRIA FERRY ROAD  
DANIEL WILSON  
TAX ACCT: 09-08653717  
P/O LOT 67  
USE: RETAIL  
ZONE I-4 & C-S-C

DANIEL WILSON  
TAX ACCT: 09-08653717  
P/O LOT 67  
L15294 F185 F202 (2ND)  
USE: FAST FOOD  
ZONE C-S-C

## PARKING

USE	RATE	SQ. FT. (±)	REQUIRED	PROVIDED
CONTRACTOR STORAGE (INDOOR & OUTDOOR STORAGE)	3.0 SPACES - FIRST 1,500 SF OR FRACTION OF GFA +1.0 - ADDITIONAL 1,500 SF OF GFA	2,300 SF	4 SPACES	4 SPACES*

\* PROPOSED USE ON THIS LOT IS LIMITED TO A CONTRACTOR STORAGE YARD FOR THE CONTRACTOR SUPPLIER (WHARTON HARDWARE AND SUPPLY) LOCATED ON ADJACENT LOTS 65 & 66. IN ACCORDANCE WITH SEC. 27-473 (OFF-SITE PARKING LOT) OF THE PRINCE GEORGES COUNTY ZONING ORDINANCE, PARKING REQUIRED AS PART OF THIS PERMIT TO BE PROVIDED ON ADJACENT LOTS 65 & 66. AS NOTED ON PREVIOUSLY APPROVED TPC2-026-02 FOR LOTS 65 & 66, 88 SPACES WERE REQUIRED AND 75 WERE PROVIDED, LEAVING AN OVERAGE OF 7 SPACES. NEW RESULTING TOTAL REQUIRED FOR THE COMBINED LOTS EQUALS 72 SPACES, 75 PROVIDED.

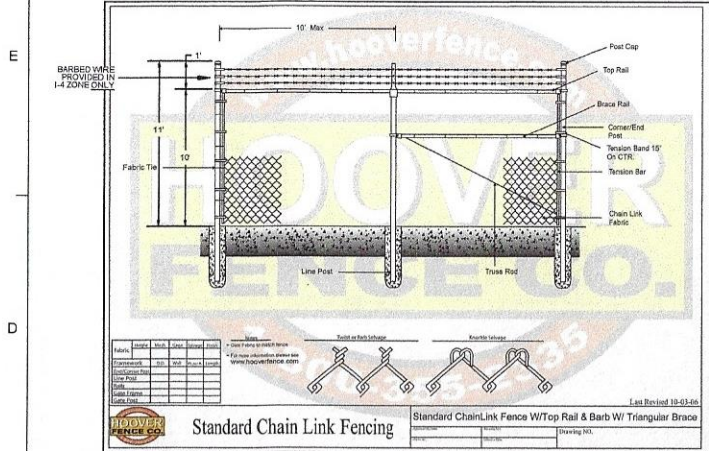
NOTE:  
FOR LOCATION OF UTILITIES CALL 8-1-1 OR 1-800-267-7777  
OR LOG ON TO  
www.cas11.com  
http://www.misutility.net  
48 HOURS IN ADVANCE OF ANY WORK  
IN THIS VICINITY

INFORMATION CONCERNING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS BUT THE CONTRACTOR MUST DETERMINE THE EXACT LOCATION AND ELEVATION OF THE MAINS BY DIGGING TEST PITS BY HAND AT ALL UTILITY CROSSINGS WELL IN ADVANCE OF THE START OF EXCAVATION.



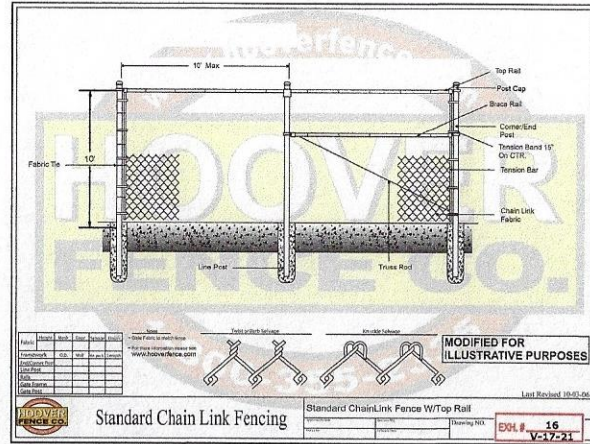


No.	DATE	BY	Description
1	10/19/20	PLS	Revision to Plan for Change of Job
REVISIONS			



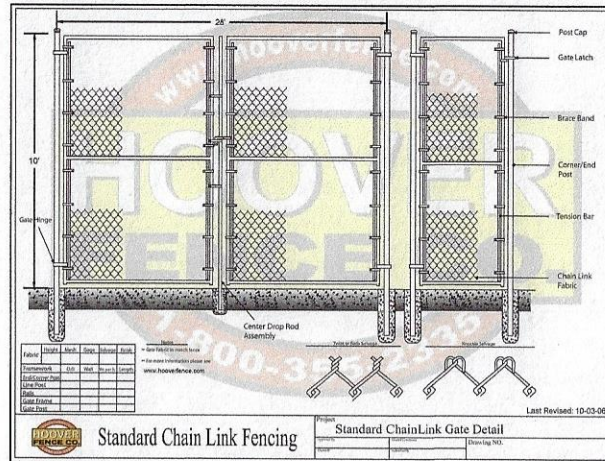
1 STANDARD 11' HIGH CHAIN LINK FENCE WITH BARBED WIRE  
2 SCALE: NTS

- NOTE:
1. INSTALLATION PER MANUFACTURERS SPECIFICATIONS.
  2. POST FOUNDATION / FOOTING BY OTHERS.
  3. SHOP DRAWING SHALL BE SUBMITTED AND APPROVED BY PRINCE GEORGES 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 GEORGES COUNTY, MARYLAND.
  7. AN ADDITIONAL 1' HIGH BARBED WIRE SECURITY PORTION WILL BE PROVIDED WITHIN THE I-4 ZONE ONLY.



2 STANDARD 10' HIGH CHAIN LINK FENCE W/O BARBED WIRE  
2 SCALE: NTS

- NOTE:
1. INSTALLATION PER MANUFACTURERS SPECIFICATIONS.
  2. POST FOUNDATION / FOOTING BY OTHERS.
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  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 GEORGES COUNTY, MARYLAND.
  7. BARBED WIRE IS PROHIBITED FOR USE WITHIN THE C-41 AND C-5-C ZONES (PER SEC. 27-447 OF THE PRINCE GEORGES COUNTY CODE).



3 STANDARD 10' HIGH CHAIN LINK FENCE GATE  
2 SCALE: NTS

- NOTE:
1. INSTALLATION PER MANUFACTURERS SPECIFICATIONS.
  2. POST FOUNDATION / FOOTING BY OTHERS.
  3. SHOP DRAWING SHALL BE SUBMITTED AND APPROVED BY PRINCE GEORGES 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 GEORGES COUNTY, MARYLAND.

**BOARD OF APPEALS**

**APPROVED MAY 12 2021**

**ADMINISTRATOR**

NOTE:  
FOR LOCATION OF UTILITIES CALL  
8-1-1 OR 1-800-267-7777  
OR LOG ON TO  
[www.811.com](http://www.811.com)  
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