



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-55-21 Sylvia Doll Durham

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: October 20, 2021.

CERTIFICATE OF SERVICE

This is to certify that on December 20, 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".

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: Sylvia Doll Durham

Appeal No.: V-55-21

Subject Property: Lot 12, Block 2, Clinton Dale Estates-Barnes Addition, being 9007 Hardesty Drive, Clinton, Prince George's County, Maryland

Heard: October 6, 2021; Decided: October 20, 2021

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

Board Member Absent: 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 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 27-420(a) which prescribes that fences more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings; on a corner lot consisting of one (1) acre or less, fences in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate an existing condition (waiver of fence) and obtain a building permit for the installation of a 6-foot-high white vinyl fence. A waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard/side street yard (abutting Elsie Court) is necessary in order to obtain a building permit for the installation of a 6-foot-high white vinyl fence is requested.¹

Evidence Presented

1. The property was subdivided in 1993, contains 12,913 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway deck w/stairs and shed. Exhibits (Exhs.) 2 (A) thru (B), 4, 8, 9 and 10 (A) thru (B).

2. The subject property is located on a corner lot. The side street lot line curves as the property line is abutting a cul-de-sac (Elsie Court). Exhs. 2 (A) thru (B), 4, 8, 9 and 10 (A) thru (B).

3. Petitioner proposes to obtain a building permit for the installation of a 6-foot-high white vinyl fence. Due to the rear yard abutting Elsie Court, a waiver of the fence height and location are required. Exhs. 2 (A) thru (B), 4, 8, 9 and 10 (A) thru (B)

4. Petitioner Sylvia Durham testified that she would like to install the proposed fence that will enclose a future above ground pool. Exhs. 2, 3 and 5 (A) thru (G).

5. She stated that the problem is that the property is sloped and the yard area nearest the cul-de-sac is the only level area suitable for the location for the pool. Exhs. 2, 3, 5 (A) thru (G).

6. Section 27-424 of the Zoning Ordinance prescribes that a 6-foot fence is required for above-grade swimming pools.

¹ Notice of Hearing stated that a waiver was needed for the parking area location. The Board determined that the subject lot has an associated garage; therefore, there is no need for a waiver of the parking area location. In addition, the Hearing Notice indicated an existing condition being the fence. Petitioner does not have an existing fence. Therefore, there are no existing condition. Exhs. 5 (A) thru (B).

7. The Board noted that the proposed fence is located within a Public Utility Easement (PUE). Petitioner advised the Board that a revised site plan will demonstrate that the proposed fence will not be within the PUE.² Exh. 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

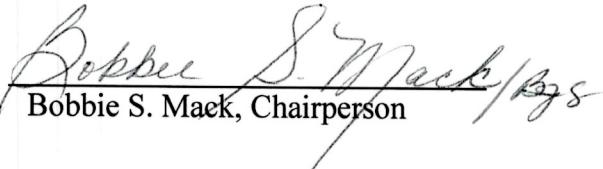
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the Petitioner proposing a 4 foot above ground pool, the yard being sloped limiting the location of the pool, the Zoning Ordinance requirement for fencing pools 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.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard/side street yard (abutting Elsie Court) in order to obtain a building permit for the installation of a 6-foot-high white vinyl fence on the property located at 9007 Hardesty Drive, Clinton, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 16 and approved elevation plan, Exhibit 3.

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By:


Bobbie S. Mack, Chairperson

² 27-424 -All outdoor swimming pools in the R-E, R-R, R-80, R-55, R-35, and R-20 zones shall be enclosed by a fence at least six (6) feet high. If the pool is constructed above grade, and a fence or railing (the top of which is at least six (6) feet above grade) is attached to it, another separate fence shall not be required. (See Figure 51.)

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.

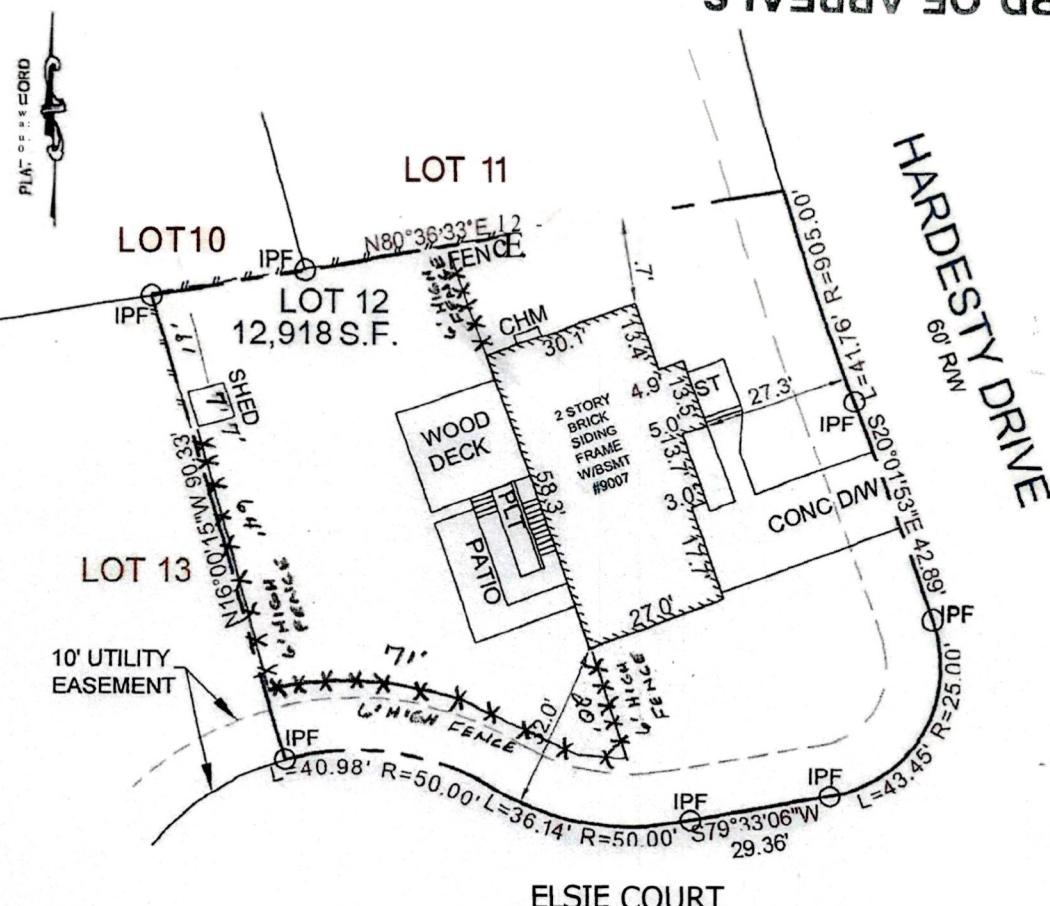
ADMINISTRATOR

LOCATION DRAWING

ADDRESS: 9007 HARDESTY DRIVE

APPROVED OCT 8, 2021

BOARD OF APPEALS



ELSIE COURT

NOTES:

1. THIS LOCATION DRAWING IS OF BENEFIT TO A CONSUMER ONLY IN SO FAR AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH A CONTENDED TRANSFER, FINANCING OR REFINANCING. 2. THIS LOCATION DRAWING IS NOT TO BE RELIED UPON FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. 3. LEVEL OF ACCURACY IS 1±.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN HEREON FOR THE PURPOSE OF LOCATING THE IMPROVEMENTS ONLY, AND THE PROPERTY CORNERS HAVE NOT BEEN ESTABLISHED OR SET, UNLESS OTHERWISE NOTED. WE ASSUME NO RESPONSIBILITY, OR LIABILITY FOR ANY RIGHT-OF-WAYS ON THE RECORD OR EASEMENTS RECORDED OR UNRECORDED NOT APPEARING ON THE RECORDED PLAT OR MENTIONED IN THE DEED REFERRED TO HEREON. NO TITLE REPORT WAS FURNISHED.



PROFESSIONAL SEAL

5/18/2021
DATE

LAND PRO ASSOCIATES, LLC.

6643 GREENBELT ROAD SUITE 334
LANHAM MD 20770
PHONE 301-366-1944
FAX 901-794-8761
LANDPRO@MAIL.COM

LOCATION DRAWING
BARNES ADDITION TO
CLINTON-DALE ESTATES
LOT 12 BLOCK 2
BOOK 38223 PAGE 507
PLAT 165@39

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1" = 30'

DATE: 6/8/2021

EXH. # 16
V-55-21

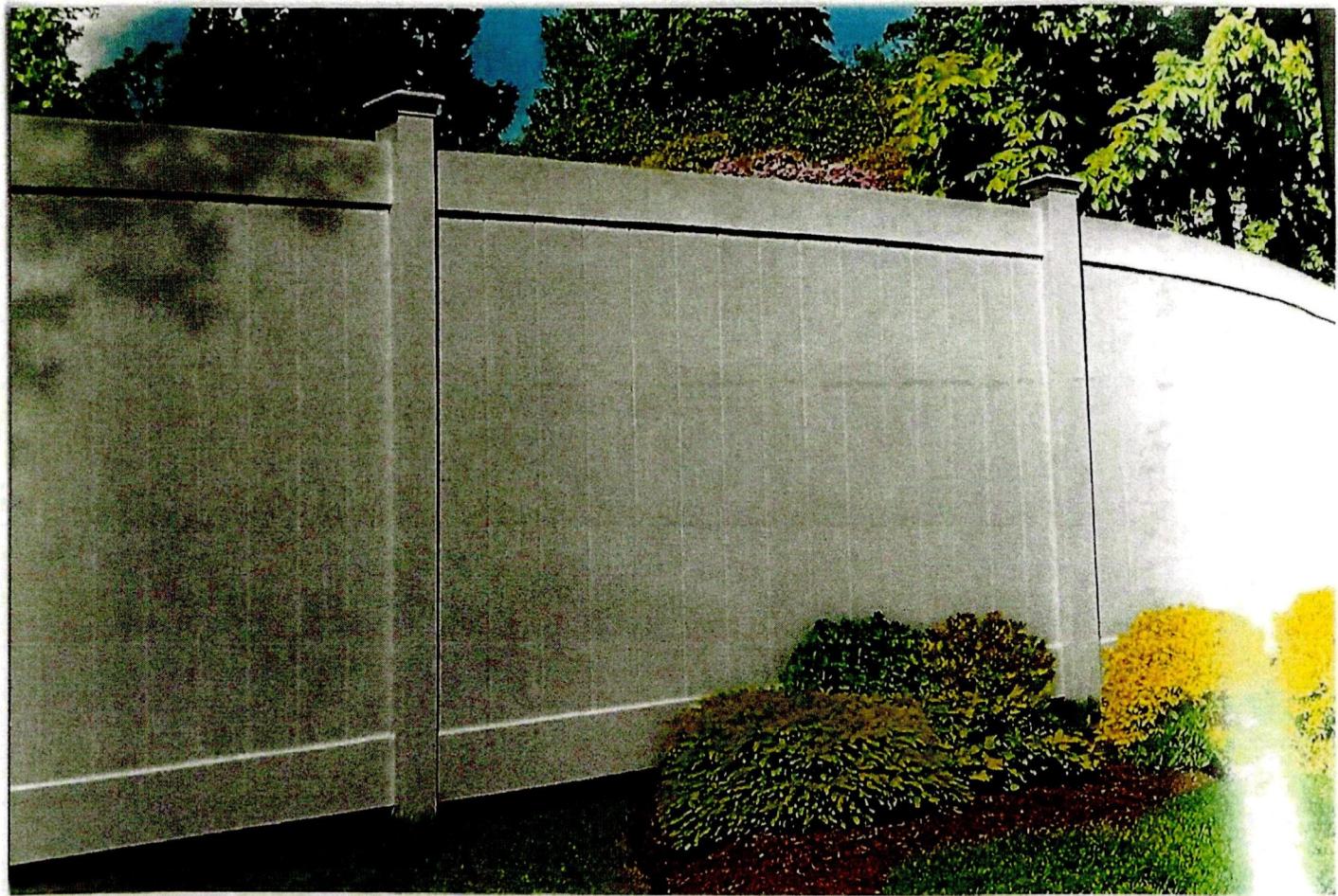
111-8 9007 HARDESTY DRIVE

CASE # 0

BOARD OF APPEALS

APPROVED OCT 20 2021

B. Stone
ADMINISTRATOR



EXH. # **3**
V-55-21