



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-61-21 Max Alberto Jovel Rivera

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: February 9, 2022.

CERTIFICATE OF SERVICE

This is to certify that on August 23, 2022, 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

Petitioners: Max Alberto Jovel Rivera

Appeal No.: V-61-21

Subject Property: Lot 10, Queen Chapel Manor Subdivision, being 3300 Lancer Drive, Hyattsville,
Prince George's County, Maryland

Municipality: City of Hyattsville

Witnesses: Carla Vick, Neighbor
Alexi Boado, Neighbor

Heard: January 26, 2022; Decided: February 9, 2022

Board Members Present and Voting: Albert C. Scott, Vice Chairman

Anastasia T. Johnson, Member

Board Member Absent: Bobbie S. Mack, Chairperson

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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-442(e)(Table IV) which prescribes that each corner lot shall have a side yard along the side street at least 25 feet in depth and a rear yard at least 20 feet in depth/width. Section 27-442(i)(Table VIII) which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Section 27-420(a) which prescribes that fence 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 existing conditions (side street yard depth, rear yard depth/width and accessory building (shed)) and obtain a building permit for the construction of a 6-foot wooden privacy fence. Variances of 5 feet side street yard depth, 5.65 feet rear yard depth/width, 2 feet rear lot line setback (shed) and a waiver of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard/side yard (33rd Avenue) are requested.

Evidence Presented

1. The property was subdivided in 1946, contains 6,980 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2(A), 4, 7, 8 and 9 (A) thru (G).

2. Petitioner proposes to validate existing conditions (side street yard depth, rear yard depth/width and accessory building (shed)) and obtain a building permit for the construction of a 6-foot wooden privacy fence. A variance of 5 feet street yard depth is necessary as the yard is only 20 feet and requires 25 feet under the current zoning requirement. A variance of 5.65 feet rear yard setback is required as the current setback is 14.35 feet and the required rear yard setback should be 20 feet. A waiver of the fence location and height requirement is needed as the proposed fence is located along 33rd Avenue. Finally, a variance of 2 feet for the accessory building (shed) as it is built on the property line. Exhs. 2(A), 4, 7, 8 and 9 (A) thru (G).

3. The City of Hyattsville Council voted in support of all of the requested variances. Exh. 16.

4. Petitioner Rivera testified that he purchased the property approximately a year ago.

5. He stated that the purpose of the 6-foot fence is because he has two large dogs who jump over the 4-foot fence which is unsafe for his neighbors. He also stated that there is a very large tree along 33rd Avenue where people park their cars at night, especially on Fridays to socialize and often throw bottles into his property. Exhs. 2 (A), 3 and 5 (A) thru (D).

6. He further testified that when he purchased the house it was completely ruined, and the fence was in disrepair. He just put a new chain link 4-foot fence, but realizes that the dogs are jumping over the fence.

7. He stated that there are other community properties that have 6-foot fences. Exhs. 2 (A), 3, 5 (A) thru (D) and 9 (A) thru (G).

8. Carla Vick stated that she has lived at 3111 Lancer Drive in Hyattsville since 1996. She had 3 dogs and was told that dogs were not allowed in the front yard. She stated that she does not have a problem with the proposed fence as long as it is located in the back yard as she is concerned about the traffic view. She was also concerned about pedestrians hiding behind the tall fence. Exhs. 2 (A), 3 and 5 (A) thru (D).

9. Alexi Boado (3110 Lancer Drive Hyattsville) stated that the problem she sees with the fence is the location, where the line of sight for cars may become an issue. She noted that the tall fence on Jamestown Road is an exception because it is a one-way street approaching the street from the fence side. She stated that she is not necessarily opposed to the fence, as long as there are good sight lines for that intersection. Exhs. 2 (A), 3 and 5 (A) thru (D).

10. Petitioner emphasized that there will be 30 feet from the intersection to the proposed wooden fence. Exhs. 2 (A), 3 and 5 (A) thru (D).

11. Petitioner noted that he is unable to relocate or move the proposed fence back closer to the house, as there is an electrical meter and a basement window to consider. Exhs. 2 (A), 3 and 5 (A) thru (D).

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 house and shed being in their present location on the property when purchased, the need to replace the old 4-foot fence, which is in disrepair, with a 6-foot wood privacy fence to restrain his 2 large dogs from troubling pedestrians, to reduce the trash thrown into the yard, the fence will not obstruct site view of drivers 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. Bobbie Mack absent, that a variances of 5 feet side street yard depth, 5.65 feet rear yard depth/width, 2 feet rear lot line setback (shed) and a waiver of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard/side yard (33rd Avenue) in order to validate existing conditions (side street yard depth, rear yard depth/width and

accessory building (shed)) and obtain a building permit for the construction of a 6-foot wooden privacy fence on the property located at 3300 Lancer Drive, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 (A) and approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

By:

Bobbie S. Mack /BJS
Bobbie S. Mack, Chairperson

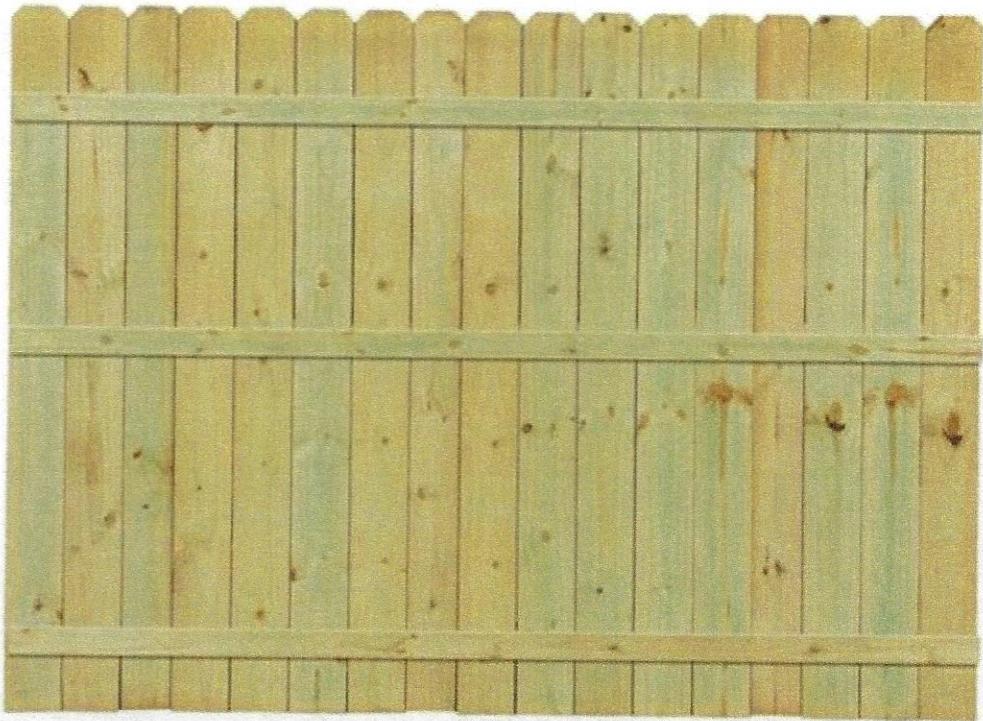
NOTICE

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.

6 ft. H x 8 ft. W Pressure-Treated Pine Dog-Ear Fence Panel



BOARD OF APPEALS

APPROVED FEB 09 2021

John C. Stone
John C. Stone
ADMINISTRATOR



EXH. # 3
V-61-21