



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

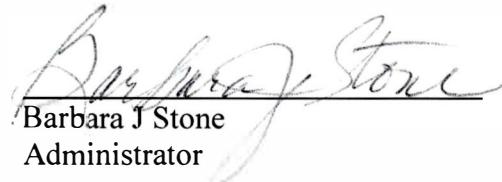
OF BOARD OF APPEALS

RE: Case No. V-141-21 Joseph Garrison and Laura Moore

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: April 6, 2022.

CERTIFICATE OF SERVICE

This is to certify that on June 29, 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", is written over a horizontal line. Below the signature, the name "Barbara J. Stone" is printed in a standard black font, followed by the title "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: Joseph Garrison and Laura Moore

Appeal No.: V-141-21

Subject Property: Lot 17, Block 2, Mount Rainier Subdivision, being 4046 34th Street, Mount Rainier
Prince George's County, Maryland

Municipality: Mount Rainier

Heard: February 9, 2022; Decided: April 6, 2022

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 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, Petitioners request that the Board approve a variance from Section 27-442(e)(Table IV) prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-420(a) 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 lots consisting of one (1) acre or less, fences in the front yard shall not be more than four (4) feet high without the approval of a variance; on a corner lot consisting of one (1) acre or less, fences and in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate existing conditions (front yard depth and waiver of the fence) and obtain a building permit for the unauthorized construction of a 6-foot wooden privacy fence. A variance of 5 feet front yard depth and a waiver of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Shepherd Street) is requested.

Evidence Presented

1. The property was subdivided in 1903, contains 6,217 square feet, is zoned R-55(One-Family Detached Residential) and is improved with a single-family dwelling, and fence. Exhibits (Exhs.) 2, 4, 7, 8, and 9 (A) thru (F).

2. The subject property is located on a corner lot; the legal front of the property is 34th Street where the dwelling is fronting. Exhs. 2, 4, 7, 8, and 9 (A) thru (F).

3. Petitioners propose to validate existing conditions (front yard depth and waiver of the fence) and obtain a building permit for the unauthorized construction of a 6-foot wooden privacy fence. A variance of 5 feet front yard setback is needed as the current setback is only 20 feet. A waiver of the fence location and height is required as the fence is abutting Shepard Street and is 6 feet in height. Exhs. 2, 4, 7, 8, and 9 (A) thru (F).

4. The City of Mount Rainier voted to approve the variances. Exh. 17.

5. Mr. Garrison testified that when the property was purchased, the existing chain-link fence was already in disrepair. As such, the new wooden fence was built without the realization that a permit and variance were necessary for simply replacing the old fence.

6. He stated that the main reason for the variance and waiver is to obtain a building permit for the 6-foot fence because it abuts the legal front street Shepard Street. He explained that directly across Shepard Street is a church with a commercial style parking lot that raises privacy concerns with the church traffic as well as with other persons using that parking lot at night. Exhs. 2, 3 (a) thru (e) and 5 (A) thru (D).

7. He stated that the fence (along Shepard Street) is in character with the neighborhood. Exhs. 2, 3 (a) thru (e) and 5 (A) thru (D).

8. Mr. Garrison further explained that the 6-foot fence will prevent their dog from jumping over the fence or interacting with pedestrians walking along the sidewalk. Exhs. 2, 3 (a) thru (e) and 5 (A) thru (D).

9. He emphasized that the fence will also provide privacy and protection.

10. Since the installation of the fence in October 2021, he testified that his neighbors have not raised any concerns.

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

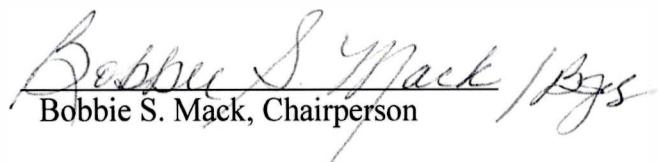
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to property being a corner lot, the prior chain link fence was in disrepair, the need for family privacy and protection, the necessity of containing the dog in a tall fence yarded area 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 owners of the property.

BE IT THEREFORE RESOLVED, by majority vote, that a variance of 5 feet front yard depth and a waiver of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Shepherd Street) in order to validate existing conditions (front yard depth and waiver of the fence) and obtain a building permit for the unauthorized construction of a 6-foot wooden privacy fence on the property located at 4046 34th Street, Mount Rainier, 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 and approved elevation plans, Exhibits 3 (a) thru (e).

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.

CONSUMER INFORMATION NOTES:

1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.
5. No Title Report furnished.

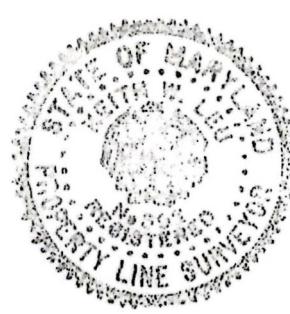
Notes:

1. Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 3 feet.
No property corners found.
2. Fences, if shown, have been located by approximate methods.



Install 154' x 6' wooden fence,
full privacy, flat top
2 single gates, 1 double gate

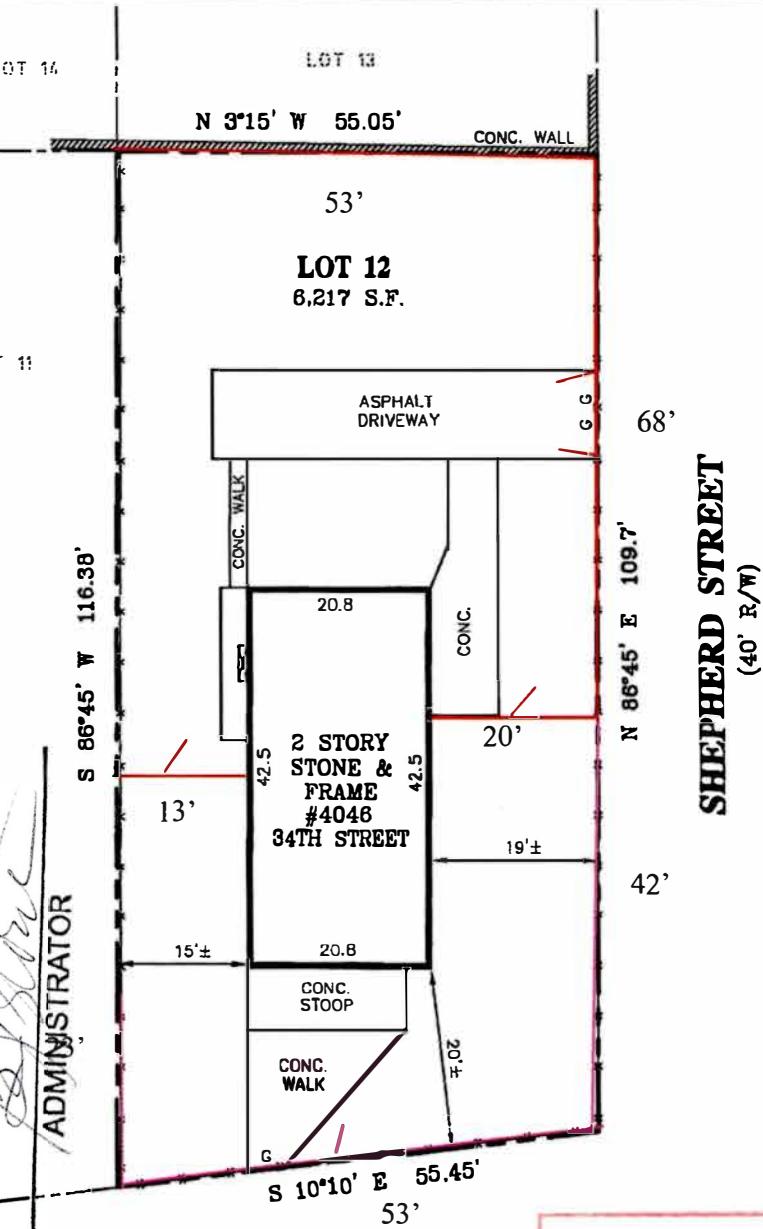
Install 118' x 3.5' block aluminum fence
Ascot style, 3 rails, 1 single gate



BOARD OF APPEALS

APPROVED APR 6 2022

ADMINISTRATOR



EXH. # **2**
V-141-21

LOCATION DRAWING
LOT 12, BLOCK 2
MOUNT RAINIER
PRINCE GEORGE'S COUNTY, MARYLAND

SURVEYOR'S CERTIFICATE

"THE INFORMATION SHOWN HEREON HAS BEEN
BASED UPON THE RESULTS OF A FIELD INSPECTION
PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING
STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED
UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND
OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION."

Kurt L. Wadsworth
MARYLAND PROPERTY LINE SURVEYOR REG. NO. 592
Expires: 04-07-2023

REFERENCES

PLAT BK. **A**
PLAT NO. **5**

LIBER
FOLIO



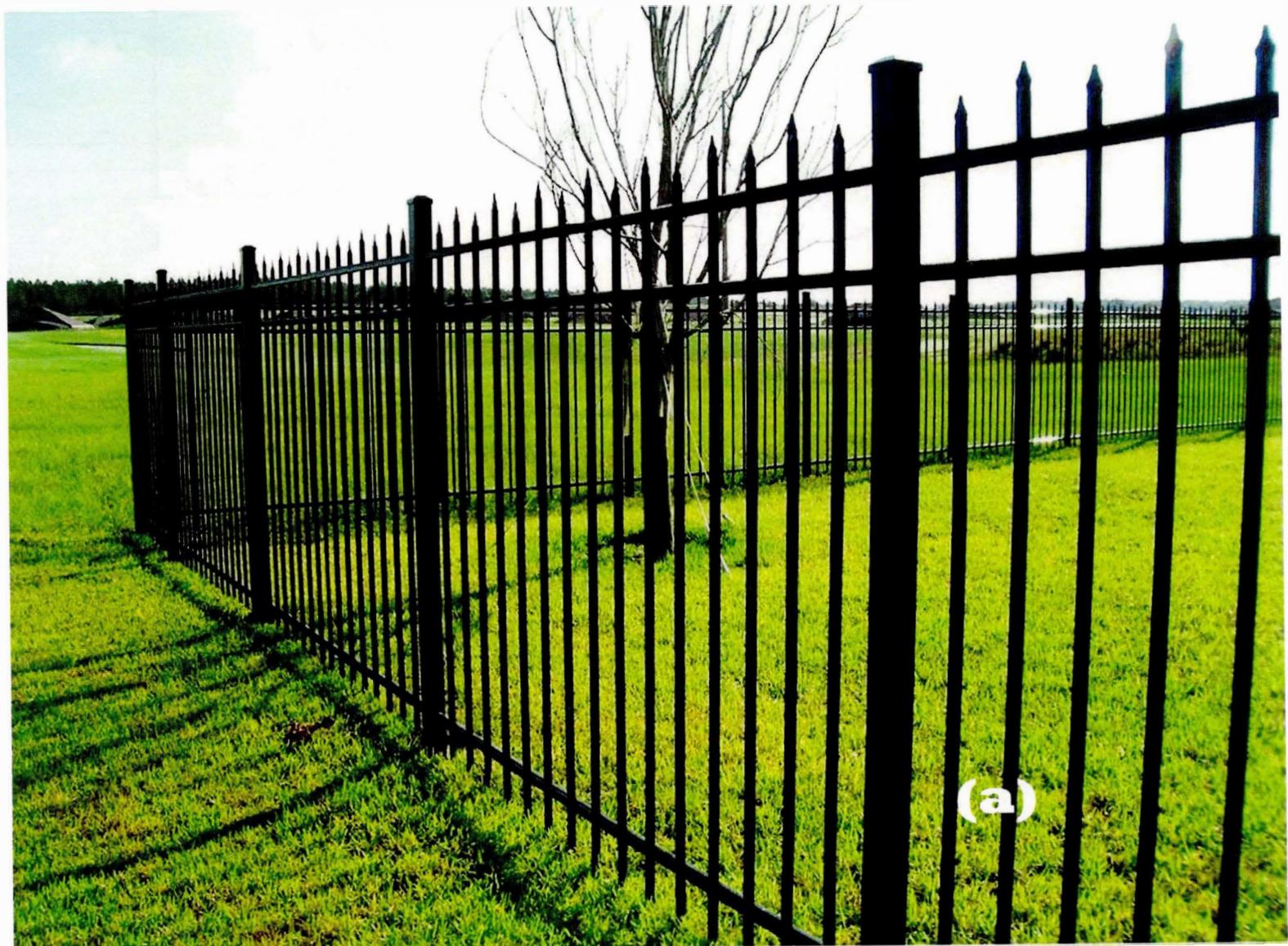
**SNIDER & ASSOCIATES
LAND SURVEYORS**
19644 Amaranth Drive
Germantown, Maryland 20874
301/948-5100 Fax 301/948-1286
WWW.SNIDERSURVEYS.COM

DATE OF LOCATIONS **SCALE:** 1" = 20'

WALL CHECK: **DRAWN BY:** D.M.L.

HSE. LOC.: 09-10-21 **JOB NO.:** 21-03807HL

Example of Black Aluminum Fence Proposed for Front and Partial Side Yard



BOARD OF APPEALS

EXH. # **3(a-e)**
V-141-21

APPROVED APR 6 2022

S. Stone

ADMINISTRATOR

Wooden Fence Closeup

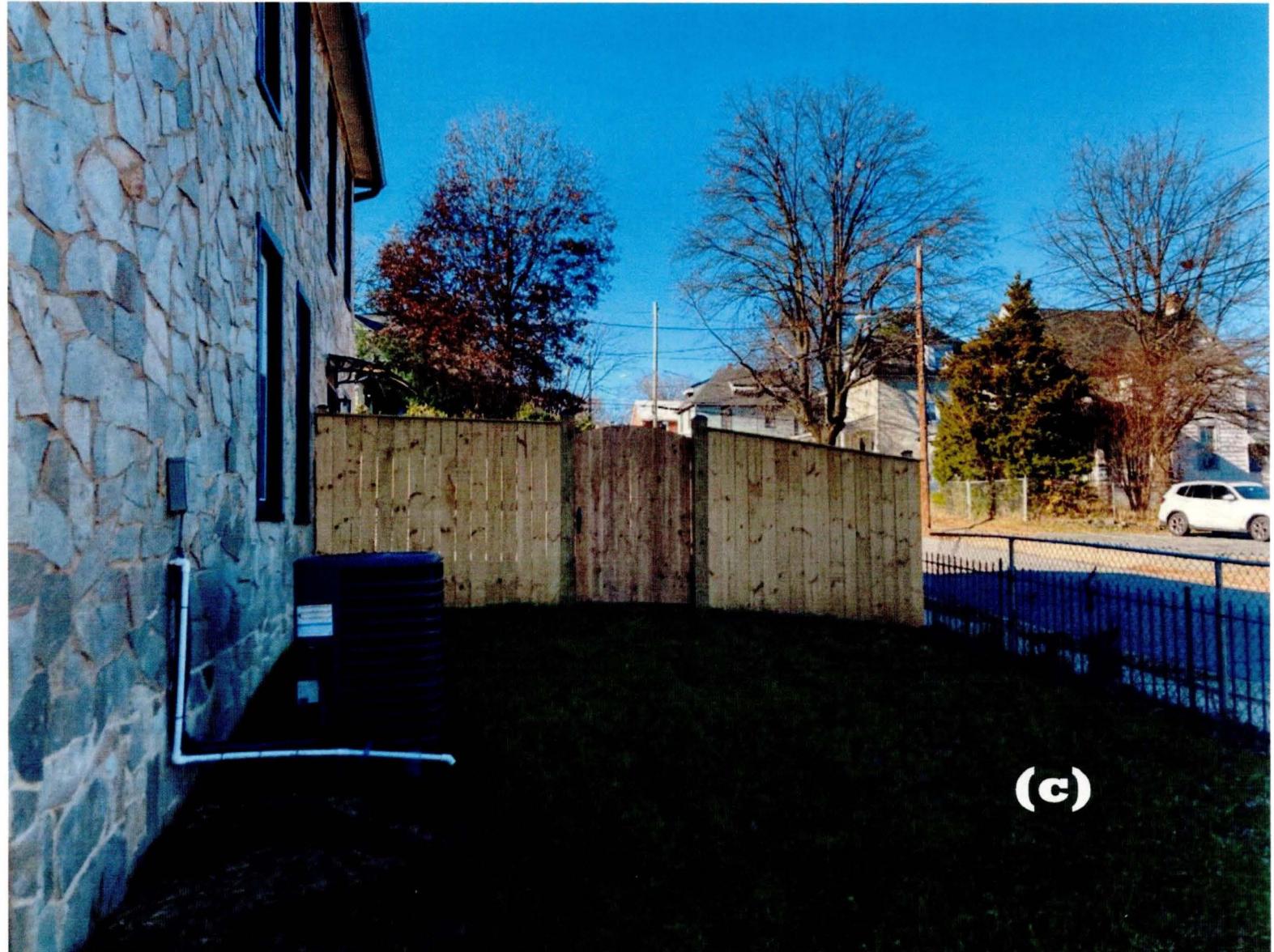


BOARD OF APPEALS

APPROVED APR 6 2022

John Stone
ADMINISTRATOR

Wooden Fence with Single Gate



BOARD OF APPEALS

APPROVED APR 6 2022

By [Signature]

ADMINISTRATOR

Wooden Fence with Single Gate



BOARD OF APPEALS

APPROVED APR 6 2022



Administrator

Wooden Fence from Backyard



(e)

BOARD OF APPEALS

APPROVED APR 6 2022

[Signature]

ADMINISTRATOR