



# 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-11-24 Pablo Contreras and Simon C. Osorio

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: September 11, 2024; October 25, 2024 Reconsideration).

## **CERTIFICATE OF SERVICE**

This is to certify that on January 28, 2025, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

*Ellis Watson*

Ellis Watson  
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: Pablo Contreras and Simon C. Osorio

Appeal No.: V-11-24

Subject Property: Lots 233 and 234, Block G, Hyattsville Subdivision, being 4105 Oliver Street, Hyattsville,  
Prince George's County, Maryland

Heard: May 22, 2024; June 20, 2024 Decided: September 11, 2024; October 25, 2024 (Reconsideration  
Vote and Approval as Amended)

Board Members Present and Voting: Bobbie S. Mack, Chairperson<sup>1</sup>  
Carl Isler, Vice Chairman  
Teia Hill, Member  
Renee Alston, Member

Omar Boulware, Chair<sup>2</sup>  
Phillippa Johnston, Vice Chair  
Dwayne Stanton, 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, Section 27-4202(e)(1) prescribes that a lot shall have a minimum width of 65 feet at the building line, a lot frontage of a minimum width of 52 feet at front street line. Section 27-11002(1)(a) prescribes that no parking space, parking area, or parking surface other than a driveway no wider than its associate garage, carport, or other parking structure may be built in the front yard of a dwelling, except a "dwelling, in the area between the front street line and the sides of the dwelling. Section 27-6600(a) prescribes that walls more than 4 feet high shall not be located in any required yard, shall meet the setback requirements for main buildings and shall require a security exemption approval. Any fence or wall that does not comply with height standards will require a Security Exemption review and approval under Section 27-6610 Security Exemption Plan. Variances of 15 feet lot width at the building line, 2 feet lot width at the front street line, a waiver of the parking area location requirement, and a security exemption for a wall over 4 feet in height in the front yard (abutting Oliver Street) are requested.

**Evidence Presented**

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

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<sup>1</sup> Chair Mack attended and voted at the May 22, 2024, Board Hearing; however, Ms. Mack was absent for the vote on June 20, 2024.

<sup>2</sup> Pursuant to County Code Section 2-119, as amended by CB-017-2024, the County Council appointed new members to the Board of Appeals on July 16, 2024.

1. The property was subdivided in 1925, contains 6,924 square feet, is zoned RSF-65 (Residential, Single-Family-65), and is improved with a single-family dwelling, porch, patio, and concrete driveway. Exhibits (Exhs.) 2, 4, 8, 9 (A) thru (F).

2. The subject lot is located in the city limits of Hyattsville and was subdivided in 1925 before the adoption of the Prince George's County Zoning Ordinance. Exhs. 4, 7, and 8.

3. The Petitioner proposed to obtain a building permit to construct a new retaining wall (4'6" height) with safety railings in the front yard. Exhs. 1, 2, 3 A & B, 5 A and 18.

4. Petitioner Pablo Contreras testified that he was the owner of the property, and his brother, Simon C. Osorio, would not be testifying.

5. Vice Chair Isler noted that the City of Hyattsville wanted to comment on V-11-24 and approve changes to the application.

6. The Board reviewed the letter from the City of Hyattsville and determined that the incorrect variance case (V-84-23) was stated on the letter. Chair Mack asked staff to contact the City of Hyattsville for the correct information regarding V-11-24. Exh. 17.

7. Chair Mack asked the Petitioner about the color of the retaining wall. Further, Chair Mack wanted to know if the intent was to leave it yellow. The Petitioner answered that the color is melon and matches the aesthetics of his neighbor's property. Exh. 5 A thru H.

8. Chair Mack made the Motion to Hold Open in order for the City of Hyattsville to submit a corrected letter. Motion Seconded by Vice Chair Isler. Motion carried 4-0.

9. The Hearing concerning V-11-24 reconvened on June 20, 2024 with Vice Chair Isler, Board Members Alston, and Hill present.

10. Vice Chair Isler asked staff if the Board received the corrected letter from the City of Hyattsville. Staff indicated that the City asked until July 15, 2024, to send the correct letter.

11. Vice Chair Isler made the Motion to Hold Open until the City of Hyattsville provides the corrected letter and Seconded by Board Member Hill. Motion carried 3-0.

12. On September 11, 2024, the Board consisting of Chair Boulware, Vice Chair Johnston, and Board Member Stanton, heard V-11-24 as a Discussion/Decision item.

13. The Board reviewed the previous Hearings conducted by the prior Board and thoroughly reviewed the evidence relating to V-11-24 to make the final decision on this case.

14. Vice Johnston made the Motion to Approve V-11-24, and Seconded by Board Member Stanton. The Motion carried by a 3-0 vote.

15. On October 25, 2024, V-11-24 was considered a "Reconsideration" case by the Board due to information that was inadvertently not considered during the approving vote that would impact the Petitioner's ability to receive the permit for construction from the Department of Permitting, Inspections, and Enforcement (DPIE). Exh. 23.

16. Chair Boulware questioned Administrator Watson for the reasoning behind a "Reconsideration" vote on an item that was previously approved. Administrator Watson articulated that the Board would not be able to reopen the file and provide the pertinent information without the mechanism of a "Reconsideration" vote.

17. Board Attorney Garner weighed in, understanding both sides of the issue, and agreed the Board would need to vote to Reconsider V-11-24, including the information that was inadvertently omitted.

18. Vice Chair Johnston made the Motion to Reconsider V-11-24 to consider the additional information from the City of Hyattsville that was omitted during the September 11, 2024 vote. The Motion was Seconded by Board Member Stanton. The Motion carried 3-0.

19. Vice Johnston then made the Motion to Approve V-11-24 as amended, and Seconded by Board Member Stanton. The Motion carried 3-0.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) and Security Exemption Review under Section 27-6610 of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

**27-6610. Security Exemption Plan**

- (a) A landowner in need of heightened security may submit to the Planning Director, or, where delegated pursuant to Section 27-3308(b), the municipality in which the development application is located a security exemption plan proposing a fence or wall taller than those permitted by this Section, an electric fence, or proposing the use of barbed and/or razor wire atop a fence or wall for security reasons.
- (b) The Board of Appeals or municipality may approve or approve with conditions, the security exemption plan, upon finding all of the following:

**(1) Need for Safety or Security Reasons**

The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without:

- (A)** A taller fence or wall;

(B) An electric fence; or

(C) Use of barbed and/or razor wire atop a fence or wall.

**(2) No Adverse Effect**

The proposed fence or wall will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

(c) If the Board of Appeals or municipality finds the applicant fails to demonstrate compliance with Sections 27-6610(b)(1) and 27-6610(b)(2) above, the security plan shall be disapproved.

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 27-3613(d) and Section 27-6610(b)(1)(2), more specifically:

The Board determined that due to the Petitioner's property being subdivided in 1925, before the establishment of the Prince George's County Zoning Ordinance and Subdivision Regulations, the specific property is small and narrow in size making it physically unique and unusual in a manner different from the nature of surrounding neighborhoods. Additionally, the particular uniqueness and peculiarity would cause a zoning provision to impact disproportionately upon the Petitioner's property due to the property being established before the advent of zoning regulations. Further, the Board found no evidence in the record that this variance would substantially impair, the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the property. Moreover, the Board did not find any evidence in the record that granting this variance would substantially impair the use and enjoyment of adjacent properties.

Under Section 27-6600(b)(1)(2), the Board found all criteria for granting a security exemption plan was satisfied by the Petitioner. Lastly, the practical difficulty was not self-inflicted by the Petitioner as he needs the approval to commence construction.

BE IT THEREFORE RESOLVED, **by a 3-0 vote**, variances of 15 feet lot width at the building line, 2 feet lot width at the front street line, a waiver of the parking area location requirement, and Security Exemption Plan for a fence 2 feet over the allowable height located in the front yard (abutting Oliver Street) located at Lots 233 and 234, Block G, Hyattsville Subdivision, being 4105 Oliver Street, Hyattsville, Prince George's County, Maryland be **APPROVED AS AMENDED**. Approval of the variances and Security Exemption Plan is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plan, Exhibit 5 A & B.

BOARD OF ZONING APPEALS

By:   
Omar Boulware (Jan 7, 2025 13:57 EST)  
Omar Boulware, Chairperson

APPROVED FOR LEGAL SUFFICIENCY

By: Keisha Garner  
Keisha Garner, Esq.

**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.

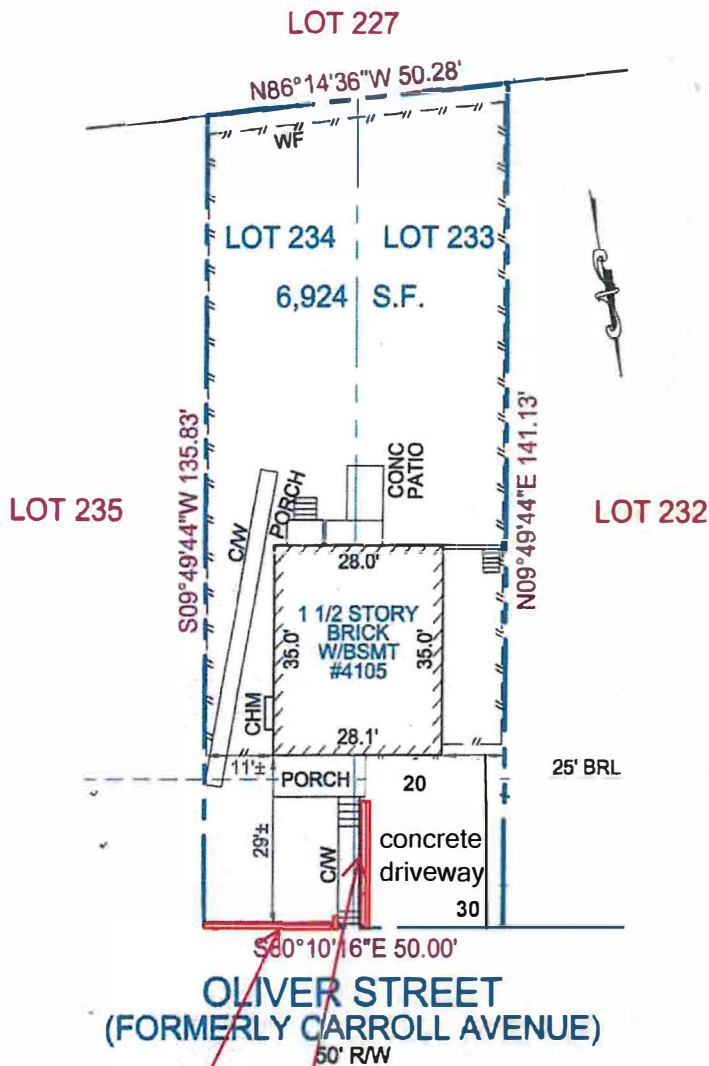
Further, Section 27-3613(c)(10)(B) of the Prince George's County Code states:

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.



# LOCATION DRAWING

ADDRESS: 4105 OLIVER STREET



BOARD OF APPEALS

APPROVED OCT 25 2024

Ellis Watson

ADMINISTRATOR

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 CONTEMPLATED 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"±.

Retaining Walls a 4' 6" height  
see photos for more details

DRAWN BY: RR

## 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.



EXH. # 2  
V-11-24

## LAND PRO & ASSOCIATES, LLC.

8843 GREENBELT ROAD, SUITE 334  
GREENBELT, MD 20770  
PHONE 301-368-1944  
FAX 301-794-8751  
LANDPRO@MAIL.COM

LOCATION DRAWING  
SECTION NO.3  
HYATTASVILLE HILLS  
LOTS 233 & 234  
BOOK 20407 PAGE 166  
PLAT BOOK 3@20

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1" = 30'

DATE: 3/18/2020





BOARD OF APPEALS

APPROVED OCT 26 2024

*Ellis Watson*

ADMINISTRATOR

