

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-8-16 Edgar and Yendy Vasquez

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 13, 2016.

CERTIFICATE OF SERVICE

This is to certify that on April 21, 2016, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Glenarden

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioners: Edgar and Yendy Vasquez

Appeal No.: V-8-16

Subject Property: Part of Lots 39 & 40 and Lot 41, Glenarden Subdivision, being 8630 Leslie Avenue, Glenarden, Prince George's County, Maryland

Municipality: City of Glenarden

Witness: Iva Zicha, neighbor

Heard: March 23, 2016; Decided: April 13, 2016

Board Members Present and Voting: 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 variances 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 variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that if the lot adjoining the corner lot along its rear line does not front on the side street of the corner lot, the minimum side yard shall be 15 feet; Section 27-442(e)(Table IV), which also prescribes that the side yard shall be at least 8 feet in width, and Section 27-420(a), which prescribes that on corner lots 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. Petitioners propose to validate existing conditions and construct a 6-foot wooden privacy fence. Variances of 1 foot side street yard depth, 1 foot side yard width, and waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard abutting a street are requested.

Evidence Presented

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

1. The property contains 6,400 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 9 and 10. The existing dwelling was built in 1954. Exh. 9.

2. The lots making up the subject property were subdivided in 1913, but a deed recorded in May 1973 conveyed 800 square feet of the property to the Town of Glenarden. Exh 5.

3. The property is a corner lot with the dwelling facing the legal front street and the driveway accessing the legal side street. Exh. 2.

4. Petitioners would like to construct a 6-foot wooden privacy fence to enclose the rear yard (see Exhs. 2 and 3(a) thru (c)), but since a portion of the fence would be located in the side yard abutting the street, variances are needed to obtain a building permit. Waivers of the fence height and location requirements for a fence over 4 feet in height were requested. Exh. 13.

5. In addition, since the existing dwelling is located 14 feet from the side street line and 7 feet from the side lot line, variances of 1 foot side street yard depth and 1 foot side yard width were also requested to validate the location of the dwelling. Exh. 13.

6. Petitioner Edgar Vasquez testified that he is requesting a 6-foot fence for privacy and security because of the number of persons that walk through his yard. He explained that the fence would be placed inside the line of pine trees along Reed Street. *See* Exhs. 7(A) thru (F). He stated that there will be 11 feet between the fence line and the wall of the house that will be parallel to the fence. Exh. 7(K). He believes that he would lose an unreasonable amount of usable yard space if he cannot extend the fence closer to the street.

7. Iva Zicha, who lives across the street from Petitioners' property, testified that she walks her dog past Petitioners' house every day and understands Petitioners' need for the fence. She testified that there are other fences in the community that extend very close to the street.

8. The City of Glenarden approved the request. Exh. 20.

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 lots making up the property being subdivided in 1913, 800 square feet of the property being conveyed to the City of Glenarden in 1973, the property being a corner lot, the proposed fence providing security and a barrier to potential trespassers, compliance with the fence location requirement causing unreasonable loss of usable yard area, setback variances also being needed to validate the existing location of the dwelling, 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, Chairperson Mack absent, that variances of 1 foot side street yard depth, 1 foot side yard width, and waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard abutting a street in order to validate existing conditions and construct a 6-foot wooden privacy fence on the property located at Part of Lots 39 & 40 and Lot 41, Glenarden Subdivision, being 8630 Leslie Avenue, Glenarden, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) thru (c).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.