

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-9-16 Alberto Lima and Carolina Ramirez

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: March 23, 2016 .

**CERTIFICATE OF SERVICE**

This is to certify that on April 1, 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: 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: Alberto Lima and Carolina Ramirez

Appeal No.: V-9-16

Subject Property: Part of Lot 24, Block A, Princess Gardens Subdivision, being 6014 Cipriano Road,  
Lanham, Prince George's County, Maryland

Spanish Language Interpreter: Salvador Hernandez

Heard and Decided: March 23, 2016

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 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 requested that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth 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 proposed to validate an existing condition and construct a 6-foot<sup>1</sup> white vinyl privacy fence. A variance of 3 feet front yard depth and waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard abutting a street were requested.

**Evidence Presented**

1. The property contains 9,848 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 1960. Exh. 9.

2. The property was subdivided in 1960, but a deed recorded in 1971 conveyed 435 square feet (.006± acre) along the front street line to Prince George's County. Exhs. 2, 4 and 5.

3. The property is a corner lot at the intersection of Cipriano Road and Magnolia Avenue. The house faces the legal front street (Cipriano Road) and the driveway accesses both the front and side streets. Exh. 2. *Also see* Exhs. 7(B), (C) and (E).

4. Petitioners initially proposed to construct a 6-foot white vinyl privacy fence along a portion of the side street line of Magnolia Avenue and variances would be needed to obtain a building permit because the fence would be over 4 feet in height and located in the side yard abutting the street. Waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard abutting a street were therefore requested.<sup>2</sup> Exh. 13.

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<sup>1</sup> At the hearing, Petitioners revised the site plan and now propose to construct a 4-foot fence where a 6-foot fence was proposed. Exh. 19.

<sup>2</sup> Although waivers of the fence height and location requirements were advertised in the hearing notice (Exh. 13), revision of the site plan for construction of a 4-foot fence rather than a 6-foot fence negates the need for those variances. Exh. 19.

5. In addition, since the existing dwelling is located 22 feet from the front street line at the closest point, a variance of 3 feet front yard depth was also requested to validate the location of the dwelling.<sup>3</sup> Exh. 13.

6. Petitioner Alberto Lima testified that drivers often use his driveway to travel across his property to go from Cipriano Road to Magnolia Avenue and to make U-turns. *See* Exhs. 11(A) thru (F). He explained that he proposes to construct a 3-foot white vinyl fence at the corner and a 4-foot white vinyl fence along Cipriano Road, but initially desired a 6-foot white vinyl fence along Magnolia Avenue.<sup>4</sup> Exh. 2. He stated that he will have a gate across the driveway on each side of the property, the gates will open inward and that there will be sufficient space for a vehicle between the gates and the street so traffic will not be blocked while opening the gates.

#### 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 the property being a corner lot, the dwelling being built in 1960, lot area along the front street line being conveyed to Prince George's County in 1971, the front of the dwelling not meeting the required 25-foot front yard setback requirement, a variance remaining necessary to validate the location of the dwelling in order to obtain a building permit to erect a fence on the property, 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, unanimously, that a variance of 3 feet front yard depth in order to validate an existing condition and construct a 4-foot white vinyl privacy fence on the property located at Part of Lot 24, Block A, Princess Gardens Subdivision, being 6014 Cipriano Road, Lanham, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 19.

#### BOARD OF ZONING APPEALS

By: (Original Signed)  
Bobbie S. Mack, Chairperson

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<sup>3</sup> This variance was considered by the Board since validation of the location of the house is required to obtain a building permit.

<sup>4</sup> See Footnote 1.

**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.