

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-20-16 Robert and Julie Michels

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 27, 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
DPIE/Inspections Division

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

Petitioners: Robert and Julie Michels

Appeal No.: V-20-16

Subject Property: Lot 7, Block 64, Kettering Subdivision, also being 12300 Kings Valley Court, Bowie,
Prince George's County, Maryland

Witness: Lauren Clagett, Construction Standards Inspector, Department of Permitting,
Inspections and Enforcement ("DPIE")

Heard and Decided: April 13, 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 request that the Board approve variances from Section 27-420(a) of the Zoning Ordinance, which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to construct a 6-foot wooden privacy fence in the front yard (along Enterprise Road). Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested.

Evidence Presented

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

1. The property was subdivided in 1974, contains 28,241 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, attached carport and driveway. Exhibits ("Exhs.") 2, 5, 8 and 9. The existing dwelling was built in 1978. Exh. 8.
2. The property is an odd-shaped through lot located on a cul-de-sac. The property has two (legal) front yards, on Kings Valley Court and Enterprise Road (MD Route 193), and no rear yard. The front of the dwelling faces Kings Valley Court on a cul-de-sac. Exh. 2.
3. Petitioners were cited with Building Violation Notice 4402-16-0, dated January 4, 2016, by the Department of Permitting, Inspections and Enforcement ("DPIE"), requiring that the required permit(s) be obtained for work done (including a fence over 4 feet) or the work removed. Exh. 6.
4. Petitioners would like to construct a 6-foot wooden privacy fence across their property near the street line of Enterprise Road, but variances are needed to obtain a building permit. Since the property is a through lot and the fence will be over 4 feet in height and located in a front yard, waivers of the fence location and height requirements were requested. Exh. 12.
5. Inspector Lauren Clagett testified that she inspected the property on January 2, 2016, in response to a complaint that was received regarding a 6-foot wooden fence built without a permit. She explained that

there was a permit abandoned in 2013 for extension of a fence on the subject property and a permit applied for in 2014 for a 6-foot fence that was never issued by DPIE. Exh. 7.

6. Petitioner Robert Michels testified that they have lived at the property since 2012. He stated that the proposed fence is needed because of: (1) their two dogs, one of which is a Doberman that runs all the way up to the sidewalk on the back side of their property (along Enterprise Road, a State highway), (2) trash from the Mitchellville Plaza across Enterprise Road (see Exh. 10(A)) ending up on their property and causing illness in their daughter, and (3) persons trespassing constantly through their property in order to cross Enterprise Road. He further stated that the proposed fence will also serve as a sound and wind barrier.

7. Mr. Michels further testified that because the current fence is old and needs replacement he decided to also extend it out close to the property line. He also explained that the location of the current fence that crosses their back yard provides use of only about two-thirds of the area behind the house. Exhs. 10(B) and (C).

8. He stated that a 6-foot fence on the property next door extends all the way out to Enterprise Road (Exhs. 10(C) thru (E)) and the proposed 6-foot fence would connect with the neighbor's fence on that side and with existing 6-foot wooden fencing on the other side of the property.

9. Inspector Clagett stated that the neighbor's abutting fence (along Enterprise Road) has a valid permit.

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 property being a through lot, none of the proposed fence being erected in front of the house, the property being located on a cul-de-sac but backing up to a State highway (Enterprise Road), the need to contain two dogs on the property, trash from the shopping center traveling across Enterprise Road and ending up on the property, the need to keep out trespassers who cut through the property to cross Enterprise Road where there is a shopping center, the proposed fence also serving as a noise and wind barrier, 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 waivers of the fence location and height requirements to construct a 6-foot wooden privacy fence in the front yard (along Enterprise Road) on the property located at Lot 7, Block 64, Kettering Subdivision, also being 12300 Kings Valley Court, Bowie, 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, Exhs. 3(a) thru (c).

BOARD OF ZONING APPEALS

By: (Original Signed)
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.