

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-63-16 George Adams and Lakisha Bacon

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: July 13, 2016.

CERTIFICATE OF SERVICE

This is to certify that on July 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
Hillantrae Estates Homeowners Association

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

Petitioners: George Adams and Lakisha Bacon

Appeal No.: V-63-16

Subject Property: Lot 134, Block C, Parker Meadows Subdivision, being 3501 Kidder Road, Clinton,
Prince George's County, Maryland

Heard and Decided: July 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 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 and obtain a building permit for a 6-foot white vinyl privacy fence. Waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard on a corner lot are requested.

Evidence Presented

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

1. The property was subdivided in 1988, contains 13,438 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, shed and 6-foot white vinyl privacy fence. Exhibits ("Exhs.") 2, 4, 11 and 12. The existing dwelling was built in 1995. Exh. 11.

2. The property is a corner lot with the dwelling facing the legal side street (Kidder Road). Exh. 2.

3. Petitioner would like to validate and obtain a building permit for a 6-foot white vinyl privacy fence which encloses the legal side yard behind the house and extends into the legal front yard abutting Strawberry Hill Drive. Exh. 2. Variances are required in order to obtain a building permit. Since the fence is over 4 feet in height and extends into the front yard, waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard of a corner lot were requested. Exh. 16.

4. Petitioner George Adams testified that a permit was obtained to construct a 6-foot wooden fence in 2007 (Exhs. 6(A) thru (F) and 7) and he upgraded to a 6-foot vinyl privacy fence in 2015 (Exhs. 5 and 8) at the same height and at the same location of the old fence.¹ He stated that the Hillantrae Estates Homeowners Association informed him to obtain a permit for the new fence.

5. Petitioner Lakisha Bacon testified that the old wooden fence was rotting and warping. She stated that the fence encloses a play area.

¹ Council Bill 72-2008, which amended the fence regulations in residential zones to restrict fences over 4 feet in height in the front and side yards of corner lots, took effect in January 2009.

6. Mr. Adams further testified that the new fence is more attractive and does not affect visibility for traffic at the street corner.

7. Hillantrae Estates Homeowners Association did not comment on the request.

8. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented: Exhibit 2 correctly reflects the bearings, distances and lot size shown on the record plat of subdivision for Parker Meadows Cluster Subdivision recorded in Plat Book NLP 142-94. The proposed development does not alter the land uses described in the Preliminary Plan of Subdivision (4-87201) and therefore conforms to the applicable record plat note. Zoning Ordinance Section 27-229(b)(27) grants the Board the authority to grant variances for home improvements in cluster developments. Exh. 19.

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 corner lot, the house facing the legal side street, the subject fence replacing a 6-foot wooden fence built in the same location in 2007, the relevant fence regulation taking effect before the new 6-foot fence was constructed, the fence enclosing play 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, unanimously, that waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard on a corner lot are requested in order to validate and obtain a building permit for a 6-foot white vinyl privacy fence on the property located at Lot 134, Block C, Parker Meadows Subdivision, being 3501 Kidder Road, Clinton, 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)
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.