

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-78-16 Dorian Lopez and Karen Awwad

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 27, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on August 15, 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
Glenn Estates Homeowners Association

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

Petitioners: Dorian Lopez and Karen Awwad

Appeal No.: V-78-16

Subject Property: Lot 17, Block K, Glenn Estates Subdivision, being 6301 Kinsey Terrace, Lanham,
Prince George's County, Maryland

Heard and Decided: July 27, 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 construct a 6-foot vinyl privacy fence. Waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard (abutting Huxley Drive) are requested.

Evidence Presented

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

1. The property was subdivided in 1990, contains 12,691 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 4, 6, 10 and 11. The existing dwelling was built in 2001. Exh. 10.
2. The property is located within a cluster subdivision. Exh. 6.
3. The property is a corner lot with the dwelling facing the legal front street (Kinsey Terrace). Exhs. 4, 7(A) thru (D) and 12(A) thru (E).
4. Petitioners would like to construct a 6-foot vinyl privacy fence around the rear yard and a portion of the side street yard (abutting Huxley Drive) (Exh. 6), but variances are required to obtain a building permit. Since the fence exceeds 4 feet in height and extends into the side yard abutting Huxley Drive, waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard of a corner lot were requested. Exh. 14.
5. Petitioners stated that their home is on a corner which serves as a bus stop for children to board buses for public schools. Petitioners proposed the fence to protect the landscaping, maintain the cleanliness of the back yard from debris, provide safety for their children and items/furniture on their deck, and contain their pets in a spacious area. Exh. 2.
6. Petitioner Dorian Lopez testified that they had building projects in mind when the subject property was purchased in 2014, including building the deck, which was completed last year, and building the proposed fence.

7. Petitioner Karen Awwad stated that the fence will be a sufficient distance from the intersection to not affect visibility at the corner.

8. Mr. Lopez explained that white vinyl was selected for the fence to match the trim on the house. He testified that other houses in the neighborhood on corners lots have 6-foot fences. *See* Exhs. 8(A) thru (C).

9. Glenn Estates Homeowners Association approved Petitioners' request. Exh. 3.

10. 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. The proposed development does not alter the land uses described in the Preliminary Plan of Subdivision 4-89027 for a cluster development 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, there being a bus stop for public schools at the corner, trespassing being a problem, the fence to enclose only the yard behind the house, the fence providing security for children and items on the deck, the fence providing a barrier to keep the back yard clear of debris, the fence providing a means of containing pets in a spacious 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 side yard (abutting Huxley Drive) of a corner lot in order to construct a 6-foot vinyl privacy fence on the property located at Lot 17, Block K, Glenn Estates Subdivision, being 6301 Kinsey Terrace, Lanham, 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 4, and the approved elevation plan, Exhibit 5.

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.