

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-70-16 Reynaldo DeGuzman

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: September 7, 2016 .

**CERTIFICATE OF SERVICE**

This is to certify that on September 22, 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***

Petitioner: Reynaldo DeGuzman

Appeal No.: V-70-16

Subject Property: Part of Lot 27, North Barnaby Subdivision, being 5055 St. Barnabas Road, Temple Hills, Prince George's County, Maryland

Heard and Decided: September 7, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
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, Petitioner requests that the Board approve variances from Section 27-442(c)(Table II) of the Zoning Ordinance, which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking, and Section 27-420(a), which prescribes that fences and walls on a corner lot consisting of one (1) acre or less fences and walls in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions and construct a 6-foot wooden privacy fence. A variance of 30.3% net lot coverage and a waiver of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Lime Street) of a corner lot are requested.

**Evidence Presented**

1. The property was subdivided in 1939, contains 14,110 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, two driveways, parking area and a shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing single-family dwelling was built in 1947. Exh. 9.

2. The property is a corner lot with the dwelling facing the legal front street (St. Barnabas Road). Exh. 2.

3. Petitioner would like to construct a 6-foot wooden privacy fence, but variances are needed to obtain a building permit. Since the fence would be over 4 feet in height and a portion of the fence would be located in the side yard abutting the legal side street (Lime Street), a waiver of the fence location and height requirements for a fence over 4 feet in height in the side yard was requested. Exh. 14.

4. In addition, a variance is needed to validate the existing net lot coverage on the property. Since the allowed amount of net lot coverage (25%) is exceeded by existing development on the property, a variance of 30.3% net lot coverage was also requested. Exhs. 13 and 14.

5. Petitioner proposes to erect a 6-foot privacy fence along the rear property line and Lime Street side of the rear yard to finish enclosing the rear yard for security. He explained that a bus stop exists beside the subject property on St. Barnabas Road (Exh. 21) and people cut through the back of his property.

6. Petitioner further testified that Lime Street is a very narrow street. *See also* Exhs. 11(B), (C) and (C). He explained that there are no sidewalks but only swales along the sides of Lime Street. He stated that the proposed fence would be located at the top of the slope, a couple of feet above the level of Lime Street.

See Exhs. 5(C) and 22. He estimated that the subject property probably sits about 4 feet above St. Barnabas Road. He explained that when Lime Street was widened, State Highway Administration (SHA) built a retaining wall with a chain link fence on top that wraps around the corner. See Exhs. 5(A) and (B), 21, 22 and 23. He believed that the proposed fence would not interfere with either the SHA wall/fence or pedestrian walking area.

7. He further stated that much of the parking area on his property is gravel (contributing to the net lot coverage). See Exhs. 11(B) thru (E).

8. The Historic Preservation Section of M-NCPPC commented that the subject property is located within 0.5 mile of St. Barnabas Church (Historic Site 76A-004) and that the variance request will have no effect on Historic Site, Historic Resources or Historic Districts. Exh. 18.

#### 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, a bus stop being next to the property, there being an issue of trespassers coming onto the property, the proposed fence completing enclosure of the yard behind the house and providing security 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Vice Chairman Scott absent, that a variance of 30.3% net lot coverage and a waiver of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Lime Street) of a corner lot in order to validate existing conditions and construct a 6-foot wooden privacy fence on the property located at Part of Lot 27, North Barnaby Subdivision, being 5055 St. Barnabas Road, Temple Hills, 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 plan, Exhibit 3.

#### 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.