

CORRECTED

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-152-16 Nathaniel and Comila Gillian

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: January 11, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on February 1, 2017 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Barbara J. Stone

Acting Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioners: Nathaniel and Comila Gillian

Appeal No.: V-152-16

Subject Property: Lot 1, Block 2, Westchester Estates Subdivision, being 6801 Westchester Court, Temple Hills, Prince George's County, Maryland

Witnesses: Hamid Fakri (Contractor)

Orin Paul Gillian (Son)

Heard and Decided: January 11, 2017

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 and walls in the front yard or side yard shall not be more than four (4) feet in height without the approval of a variance. Petitioners propose to validate and obtain a building permit for a 6-foot high wooden privacy fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1958, contains 13,100 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. The property is located within the Military Installation Overlay Zone. Exhibits (Exhs.) 2, 4, 5(A) thru (B), and 9.
2. The property is a corner lot with the dwelling facing the legal side street (Westchester Court). Exhs. 2, 4, 5(A) thru (B), 10(A) thru (F).
3. Petitioners would like to obtain a building permit for a 6-foot high wooden privacy fence constructed around the back yard, a portion of which extends into the yard between the dwelling and Allentown Road. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) were requested. Exhs. 2 and 3.
4. Mr. Orin Paul Gillian testified that when Petitioners purchased the home 40 years ago, the property had a 6 foot fence all the way around the rear yard. Exhs. 18(A) and (B).
5. Mr. Gillian further testified that on February 13, 2015 a tragic fire occurred within the house. He stated that a portion of the 6 foot fence was destroyed by the Fire Department gaining access to the rear of the house. Exhs. 18(A) thru (B), 20(A) thru (O).
6. Building Permit 58213-2016-RW was obtained to replace the existing 6 foot fence, but because of current regulations the portion of the fence along the legal front, (Allentown Road) could only be built 4-feet tall. Exhs. 6 and 7.
7. Petitioner is requesting the variance for a 6 foot fence also as a deterrent and security for the house. Exhs. 2, 3.

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 a tragic fire occurring within the house causing a portion of the original 6 foot fence to be destroyed by the Fire Department gaining access to the subject 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) are requested in order to validate and obtain a building permit for a 6-foot high wooden privacy fence on the property located at Lot 1, Block 2, Westchester Estates Subdivision, being 6801 Westchester Court, Temple Hills, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and 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.