

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-5-17 Raul and Ana Bosque

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: February 22, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on March 8, 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

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

Petitioners: Raul and Ana Bosque

Appeal No.: V-5-17

Subject Property: Lot 57, Block E, Marlow Heights Subdivision, being 2301 Kenton Place, Temple Hills,
Prince George's County, Maryland

Witness: Anna Plumb, Daughter

Heard and Decided: February 22, 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 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth, and Section 27-420(a), which prescribes that 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. Petitioners propose to validate an existing condition and construct a 6-foot wooden privacy fence. A variance of 3.6 feet front yard depth and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 23rd Parkway) of a corner lot are requested.

Evidence Presented

1. The property was subdivided in 1955, contains 5,505 square feet, is zoned R-35 (One-Family Semi-Detached Residential) and is improved with a semi-detached single-family dwelling. The property is a corner lot with the dwelling facing the legal front street. Exhibits (Exhs.) 2, 4, 5 (A) thru (F) and 8.

2. Petitioners would like to construct a 6-foot wooden privacy fence, which would be located from the front corner of the dwelling to the property line along 23rd Parkway and back to the right corner of the property. As the fence will be located in the yard abutting the side street, waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 23rd Parkway) of a corner lot were requested. Exhs. 2, 4, 5 (A) thru (F), 8 and 11.

3. The existing covered front porch is located 21.4 feet from the front street line. A variance of 3.6 feet front yard depth was requested. Exhs. 2, 5 (A) thru (F), 10 (A) thru (F) and 11.

4. Petitioners daughter testified that the current 6-foot fence, which has existed for over 20 years, is in disrepair (rotting). She stated that the proposed replacement fence will be in kind. Exhs. 2, 3 (a) thru (c) and 5 (A) thru (F).

5. She further testified that a Metro Bus stop is located just outside of their property line. She stated that persons intrude onto the property, using Petitioners' water faucet and leaving trash. Exhs. 2, 5 (A) thru (F) and 10 (A) thru (F).

6. Ms. Plumb also explained that the proposed fence will set back from the corner (Kenton Place and 23rd Parkway) and will not block site view from the street. Exhs. 2 and 10 (A) thru (F).

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 owners 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 the lot being a corner lot, the disrepair of the existing fence requiring replacement, the location of a Metro Bus stop in proximity of Petitioners' property causing the need for security and protection 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 a variance of 3.6 feet front yard depth and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 23rd Parkway) of a corner lot in order to validate an existing condition and construct a 6-foot wooden privacy fence on the property located at Lot 57, Block E, Marlow Heights Subdivision, being 2301 Kenton Place, 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 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.