

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-158-16 Hamilton Living Trust/Maurice Hamilton Trustee

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 25, 2017.

CERTIFICATE OF SERVICE

This is to certify that on March 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: Petitioner
Adjoining Property Owners
M-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division

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

Petitioner: Hamilton Living Trust/Maurice Hamilton Trustee

Appeal No.: V-158-16

Subject Property: Lots 72 thru 75, Block C, Englewood Subdivision, being 1330-1340 Marblewood Avenue, Capitol Heights, Prince George's County, Maryland

Heard and Decided: January 25, 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, Petitioner requests that the Board approve variances from Section 27-474(b)(Table I), which prescribes that structures shall be set back at least 25 feet from the street line as shown on the Master Plan, Functional Master Plan of Transportation, or General Plan, Prince George's County Capital Improvement Program, or Maryland Five (5) Year Highway Plan of Transportation, whichever indicates the greatest right-of-way width [any other street shall be deemed to have a right-of-way width of at least seventy (70) feet] here deemed to be 70 feet wide and shall be located 20 feet from any rear lot line abutting residentially-zoned land; Section 27-474(e) (Table IV), which prescribes that at least 10 percent (10%) of the net lot area shall be maintained as green area; and Section 27-465(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings. Petitioner proposes to validate existing conditions and obtain a building permit for an 8-foot metal fence in the front yard. Variances of 19 feet front yard setback, 5.5 feet rear yard setback from abutting residentially-zoned land, 7% green area and a waiver of the fence location requirement are requested.

Evidence Presented

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

1. The property contains 32,010 square feet, is zoned I-1 and is improved with a one story building and storage building. Exhibits (Exhs.) 2, 4, 6, and 8.
2. Petitioner stated that the buildings were constructed many years ago and is currently used as Auto Storage.¹
3. The property is enclosed with an existing 8-foot metal fence on the front and sides of the property. A 6-foot chain link fence and a 6 foot wooden fence are located along the rear, surrounding the storage yard for security of the automobiles and allowing easy police view into the yard during evening hours. Exhs. 2, 3(a) thru (b), 5(A) thru (D).
4. Petitioner testified that when he purchased the property a trailer existed along the side property line in lieu of a fence. Exhs. 2, 3(a) thru (b), 5(A) thru (D).

¹ Use and Occupancy Permit - 37193-2014-U

5. Petitioner further testified that a County Inspector advised him that because the trailer was without a permit it must be removed and replaced with fencing. See also Exhs. 10 (A) thru (D).

6. Mr. Hamilton stated he therefore installed the disputed portion of 8-foot fence and asserted that it needed to be consistent in height with the existing 8-foot metal fence². Exhs. 2, 3(a) thru (b), 5(A) thru (D).

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 the need to validate existing conditions, security for the storage requiring tall fences, replacement of trailer necessitating that the new 8-foot (security) fence be built, 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 variances of 19 feet front yard setback, 5.5 feet rear yard setback from abutting residentially-zoned land, 7% green area and a waiver of the fence location requirement were requested in order to validate existing conditions and obtain a building permit for an 8-foot metal fence in the front yard on the property located at Lots 72 thru 75, Block C, Englewood Subdivision, being 1330-1340 Marblewood Avenue, Capitol Heights, 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 (b).

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

NOTICE

² Fence Permit – 37054-2015-CE

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.