

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-151-16 Noah Pierce

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 8, 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-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
City of Hyattsville

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

Petitioner: Noah Pierce

Appeal No.: V-151-16

Subject Property: Part of Lot 7, Block 20, Johnson and Wine's Third Addition to Hyattsville, being 4101  
Madison Street, Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

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 27-420(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. Petitioner proposes 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 side yard (abutting 41st Avenue) are requested.

**Evidence Presented**

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

1. The property contains 6,013 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. The property is a long, narrow corner lot with the dwelling facing the legal front street.
2. The subject property is located within the Gateway Arts District Development Overlay Zone. Exhibits (Exhs.) 2, 3 (a) thru (b), 12.
3. The property was subdivided in 1892, but was created by deed in 1927 as it exists today. Exhs. 5 and 6.
4. Petitioner would like to obtain a building permit for a 6-foot high wooden privacy fence constructed around the rear yard. As part of the fence is located in the yard between the house and the side street (approximately 52 feet in length), waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 41st Avenue) were requested. Exhs. 2 and 16.
5. Mr. Pierce testified that he purchased the property in 2015, which had an existing 4-foot wooden fence at the front of the house facing Madison Street, a section of 4-foot chain link fence facing the side (41<sup>st</sup> Avenue) and a 6-foot wooden fence in the rear that was in disrepair. He stated that he replaced the 4-foot

wooden fence with a 6-foot wooden fence in 2016, which he extended around the entire rear yard area (including the side yard area along 41<sup>st</sup> Avenue) to contain his dogs. Exhs. 2 and 3 (a) thru (b).<sup>1</sup>

6. On July 7, 2016, the City of Hyattsville Code Compliance Officer sent a letter informing the Petitioner that he was in violation of Chapter 68-7 of the Hyattsville City Code, which states that all fences and walls erected in the City require a City Fence Permit and may require a Prince George's County Fence Permit. Exh. 9.

7. The City of Hyattsville, after discussion with Petitioner, voted unanimously to support the applicant's requested fence location with the condition that the applicant abandon the side driveway. Exh. 24

#### 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 property being a long, narrow corner lot with the dwelling facing the legal front street (Madison Street), approximately 52 feet of rear yard abutting 41<sup>st</sup> Avenue, the need to replace a previous fence in the rear that was in disrepair, the Board's prior approval of front yard and side yard fence locations and dog pen location in Appeal No. 7365 as well as validation of certain existing conditions 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 side yard (abutting 41<sup>st</sup> Avenue) are requested in order to validate and obtain a building permit for a 6-foot high wooden privacy fence on the property located at Part of Lot 7, Block 20, Johnson and Wine's Third Addition to Hyattsville, being 4101 Madison Street, Hyattsville, 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) and (b).

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<sup>1</sup> The Board previously approved front yard, side yard, fence location and dog pen location variances in 1984 (Appeal No. 7365) to validate existing conditions and allow construction of a dog pen. Exh. 10.

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.