

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-22-17 Petronio Morillo and Betty Moore

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: April 12, 2017 .

**CERTIFICATE OF SERVICE**

This is to certify that on April 21, 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  
DPIE/Inspections Division

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

Petitioners: Petronio Morillo and Betty Moore

Appeal No.: V-22-17

Subject Property: Lot 29, Birmingham Terrace Subdivision, being 11501 Montgomery Court, Beltsville,  
Prince George's County, Maryland

Heard and Decided: April 12, 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(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard 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 existing conditions and obtain a building permit for a 6-foot white privacy fence in the side yard. A variance of 25 feet front street line setback and a waiver of the rear yard location requirement for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Montgomery Court) are requested.

**Evidence Presented**

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

1. The property was subdivided in 1997, contains 23,474 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and two sheds. The property is an odd-shaped corner lot with the dwelling facing the legal side street. Exhibits (Exhs.) 2, 3 (a) thru (b), 4 and 5 (A) thru (C) and 9.
2. Petitioners would like to obtain a building permit for an existing 6-foot white privacy fence along the left side lot line, a portion of which is located in front of the dwelling. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Montgomery Court) were requested. Exhs. 2, 3 (a) thru (b), 4, 5 (A) thru (C) and 13.
3. An existing shed is located 35 feet from the front street line and is next to the carport. A variance of 25 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 2, 3 (a) thru (b), 4, 5 (A) thru (C) and 13.
4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Violation Notice No. 64969-16-01, dated February 12, 2017, requiring Petitioners to obtain the required permit(s) for work done or remove the same. Work includes but not limited to a fence over 4 feet. Exh. 6.
5. Petitioner Morilla testified that a 6-foot fence on the side yard (abutting Montgomery Court) was built for privacy. Exhs. 2, 3 (a) thru (b), 4, 5 (A) thru (C) and 6.

6. He further testified that his neighbor on Lot 27 had no concerns about the 6 feet fence.

7. Mr. Morillo explained that the fence is set back 15 feet from his front property line (to allow for traffic site lines). Exh. 2.

8. Mr. Morillo believes the fence additionally complements the attractiveness of his yard. Exhs. 2, 3 (a) thru (b), 4 and 5 (A) thru (C)

#### 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 odd shape of the lot, the property being a corner lot, the need for privacy 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 25 feet front street line setback and a waiver of the rear yard location requirement for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Montgomery Court) in order to validate existing conditions and obtain a building permit for a 6-foot white privacy fence in the side yard on the property located at Lot 29, Birmingham Terrace Subdivision, being 11501 Montgomery Court, Beltsville, 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**

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.