

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-154-16 Osmin and Maria Canales

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 17, 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  
Town of Landover Hills

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

Petitioners: Osmin and Maria Canales

Appeal No.: V-154-16

Subject Property: Lot 18, Block R, Landover Hills Subdivision, being 4117 70th Avenue, Hyattsville,  
Prince George's County, Maryland

Municipality: Town of Landover Hills

Witnesses: Mike Thompson, Code Enforcement Officer, Town of Landover Hills

Heard: January 11, 2017; Decided: February 8, 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 fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested.

**Evidence Presented**

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

1. The property was subdivided in 1940, contains 7,200 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 4, 8, 9 and 20.
2. Petitioners would like to obtain a building permit for a 6-foot high wooden fence constructed along the left side lot line. Since the fence extends past the front line of the house, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard were requested. Exhs. 5 (a) thru (b) and 20.
3. Petitioner Osmin Canales explained that because of the need for security and privacy his 3' chain link fence was replaced with a 6' wooden fence along the entire length of the property. Exhs. 5 (a) thru (b) and 20.
4. Mr. Canales agreed to lower the first two panels (16' in length) of the fence to 4' in height. Exh. 20.
5. The Town of Landover Hills does not oppose the height of the fence. Exh. 21.

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 need for security and privacy, two panels of the six foot fence being reduced in height, 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 waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested in order to validate and obtain a building permit for a 6-foot high wooden fence (fence will be reduced to 4 feet in height for 16 feet in length from the front property line along the southwestern side property line) on the property located at Lot 18, Block R, Landover Hills Subdivision, being 4117 70th Avenue, 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 20 and approved elevation plans, 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.