

*NOTICE OF FINAL DECISION*

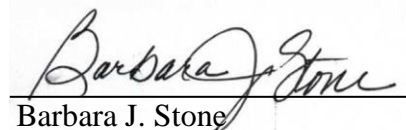
*OF BOARD OF APPEALS*

RE: Case No. V-36-17 Lincoln Tyson

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: October 11, 2017.

**CERTIFICATE OF SERVICE**

This is to certify that on October 31, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

  
\_\_\_\_\_  
Barbara J. Stone  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
Woodmore North Homeowners Association

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

Petitioner: Lincoln Tyson

Appeal No.: V-36-17

Subject Property: Lot 1, Block F, Westwood Subdivision, being 13007 Vicar Woods Lane, Bowie,  
Prince George's County, Maryland

Witness: Kiyo Tyson, Spouse

Shelley Massengale, Neighbor

Heard: June 7, 2017; Decided: October 11, 2017

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
Albert C. Scott, Vice Chairman

**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 construct a 6-foot wrought iron fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Vicar Woods Lane) are requested.

**Evidence Presented**

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

1. The property was subdivided in 2006, contains 40,155 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling, driveway and shed. The property is a corner lot with the dwelling facing the legal side street. The subject lot is exceptionally narrow and long. Exhibits (Exhs.) 2, 4, 8 and 10 (A) thru (F).

2. Petitioner would like to construct a 6-foot wrought iron fence around the back yard, a portion of which will be located about 11 feet from the side street line. Because the fence will extend into the yard between the dwelling and the street, waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Vicar Woods Lane) were requested. Exhs. 2, 3, 5 (A) thru (D) and 10 (A) thru (F).

3. Kiyo Tyson testified that a 6-foot aluminum fence will be in the rear yard including a portion of the yard that is abutting Vicar Woods Lane. The house is set forward on the subject property closer to Amelias Grove Lane. She further testified that in the 4 years they have resided in the house, because of the way the house is situated, they have had several incidents of trespassing in the yard. With a four-year old son, they would like a secure and safe yard for him. Exh. 2 and 26 (revised site plan).

4. Mrs. Tyson added that a pavilion has been constructed and a swimming pool proposed, which will require a surrounding 6-foot fence. See Exh. 26 (revised site plan).

5. Mr. Shelley Massengale, an adjoining neighbor at 13003 Vicar Woods Road, testified that there is a homeowner's association and covenants pertaining to fences that are not being met by Petitioner. He explained that with the fence running along his driveway it will create a barrier and change the character of his yard. Exh. 24.

6. Petitioner specified that the fence will be placed 7+ feet inside his property line abutting Mr. Massengale's property and set 11-feet back from Vicar Woods Road. Exh. 26.

5. Woodmore North Homeowners Association provided a "Notice of Approval" of Petitioner's request to install a 6-foot black aluminum fence. Exh. 25.

#### 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 shape of the lot being exceptionally long and narrow, the requirement for a 6-foot fence to provide safety and security for a swimming pool, approval of the construction by the homeowner's association 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, by majority vote, Ms. Anastasia Johnson absent, that waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Vicar Woods Lane) are requested to construct a 6-foot wrought iron fence on the property located at Lot 1, Block F, Westwood Subdivision, being 13007 Vicar Woods Lane, Bowie, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 26 and approved elevation plan, 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.