

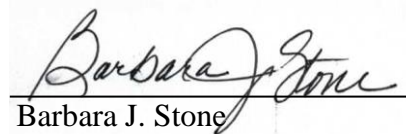
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-95-17 Anabel Alvarenga

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: September 27, 2017.

CERTIFICATE OF SERVICE

This is to certify that on October 24, 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
Vivian Evans, Spanish Language Interpreter

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

Petitioner: Anabel Alvarenga

Appeal No.: V-95-17

Subject Property: Lot 1, Block U, Beacon Heights Subdivision being 5111 Trinidad Street, Riverdale,
Prince George's County, Maryland

Spanish Language Interpreter Service: Vivian Evans

Heard: August 23, 2017; Decided: September 27, 2017

Board Members Present and Voting: Bobbie S. Mack, Chair
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 obtain a building permit for a new 5-foot retaining wall around the front and side yards abutting a street and to construct a 4-foot fence atop the wall. Waivers of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard (abutting Freeport Street) and side yard (abutting Trinidad Street) are requested.

Evidence Presented

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

1. The property was subdivided in 1957, contains 7,415 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 5, 9, and 11 (A) thru (F).
2. The property is a corner lot with the dwelling facing the legal side street. Exhs. 5 and 11 (A) thru (F).
3. Petitioner would like to obtain a building permit for a new 5-foot retaining wall and construct a 4-foot fence atop the retaining wall. Waivers of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard (abutting Freeport Street) and side yard (abutting Trinidad Street) are requested. Exhs. 3 (a) thru (c) and 23.
4. Petitioner testified that the subject property is located on an elevated lot and is partially surrounded by a retaining wall. She explained that the new retaining wall will replace the current wall which is cracking and falling. She further testified that a (County) inspector advised her that the wall must be repaired. She further testified that the wall will be replaced exactly where the existing wall is located with the proposed fence on top. Exhs. 2, 3 (a) thru (c), 11 (A) thru (F) and 23.
5. She stated that the fence will be added for safety reasons because of the existing height of the yard and retaining wall (5 to 6 feet). She further stated that currently it is very dangerous for her small children, other family members and pets to be in the yard (without the proposed fence). Exhs. 6 and 11 (A) thru (F)

6. Petitioner also explained that she will place a 4-foot "chain link" fence on top of the retaining wall to allow visibility. Exhs. 3 (a) thru (c) and 23.

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 house being located on a 5-6-foot elevated lot with a retaining wall, the new retaining wall will replace the current wall which is cracking and falling, the need for safety protection to prevent children and others from falling, 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/wall over 4 feet in height in the front yard (abutting Freeport Street) and side yard (abutting Trinidad Street) are requested in order to obtain a building permit for a new 5-foot retaining wall around the front and side yards abutting a street and to construct a 4-foot chain link fence atop the wall on the property located at Lot 1, Block U, Beacon Heights Subdivision being 5111 Trinidad Street, Riverdale, 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 revised elevation plans, Exhibits 3 (a) thru (c) and 23.

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.