

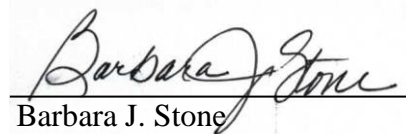
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-104-17 Joseph Keithley III

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
Indian Creek Village Homeowners Association

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

Petitioner: Joseph Keithley III

Appeal No.: V-104-17

Subject Property: Lot 50, Block A, Indian Creek Village Subdivision, being 6216 Indian Creek Street,
Beltsville, Prince George's County, Maryland

Heard: September 13, 2017; Decided: September 27, 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 construct a 6-foot wooden fence in the side yard (abutting Edmonston Road) of a semi-detached dwelling. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Edmonston Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1986, contains 3,686 square feet, is zoned R-35 (One-Family Semi-Detached Residential) and is improved with a semi-detached single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 8, 10 (A) thru (F).
2. The property is an odd shaped corner lot with the dwelling facing the legal front street. Exhs. 2, 4 and 10 (A) thru (F).
3. Petitioner would like to construct a 6-foot wooden fence around his back and side yards, a portion of which will be abutting Edmonston Road. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Edmonston Road) were requested. Exhs. 2, 4, 5, (A) thru (C) and 10 (A) thru (F).
4. Petitioner Joseph Keithley testified the he resides in a semidetached single-family dwelling and would like to replace a pre-existing 6-foot wooden fence in the rear and side yards. He stated that the existing fence is about 30 years old and a portion of it has already fallen. He surmised that the developer had (legally) placed a 6-foot high fence all along the roadway (Edmonston Road) in the early 1980's, but since then regulations (fence location and height requirements) have changed. He stated that the fence is necessary for security reasons. Exhs. 2, 3, 5 (A) thru (C), 6, (A) thru (D) and 10 (A) thru (F).
5. Indian Creek Village Homeowners Association supports and approves the variance request. See Architectural Change Application Approved, Exh. 19.

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 a pre-existing 6-foot wooden fence now in disrepair and the need for replacement and security, 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 Edmonston Road) are requested to construct a 6-foot wooden fence in the side yard (abutting Edmonston Road) of a semi-detached dwelling on the property located at Lot 50, Block A, Indian Creek Village Subdivision, being 6216 Indian Creek Street, 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 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.