

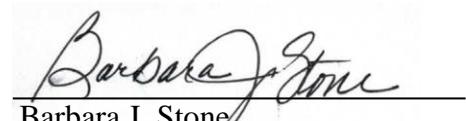
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-202-17 Claudia Alvarez-Fuentes

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: March 28, 2018.

CERTIFICATE OF SERVICE

This is to certify that on April 23, 2018, 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
DPIE/Inspections Division

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

Petitioner: Claudia Alvarez-Fuentes

Appeal No.: V-202-17

Subject Property: Part of Lot 4, Parcel 78, being 5307 Emerson Street, Hyattsville,
Prince George's County, Maryland

Witness: Danny Membreno, Petitioner's Husband

Heard: March 14, 2018; Decided: March 28, 2018

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 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from the rear lot line; Section 27-420(d) prescribes that walls and fences more than four (4) feet in height (above the finished grade, measured from the top of the fence to grade on the side of the fence where the grade is the lowest) shall be considered structures requiring building permits and Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions and obtain a building permit for a 6-foot wooden privacy fence in the front yard. Variances of 4 feet front yard depth for the dwelling, 5.9% net lot coverage, 1 foot rear lot line setback for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested.

Evidence Presented

1. The property contains 5,250 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 18, 20, 21, 22 (A) thru (C) and 23 (A) thru (F).

2. The property was created by deed L.33756 F.257-258 and Legal Description L.33756 F.273 as Part of Lot 4 on The South Side of Lowndes Avenue, Rogers Heights, East Hyattsville. Exh. 18.

3. Petitioner would like to obtain a building permit for a 6-foot wooden privacy fence along the side lot line. As the 6-foot fence is in the yard between the dwelling and the front street line, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard were requested. Exhs. 2, 3 (a) thru (d), and 5.

4. The covered front porch is located 21 feet from the front street line, the existing shed is located 1 foot from the rear lot line and the existing development on the property exceeds the amount of lot coverage allowed. Variances of 4 feet front yard depth for the dwelling, 1-foot rear lot line setback for an accessory building and 5.9% net lot coverage were requested. Exhs. 2, 3 (a) thru (d) and 27.

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 46600-16-0 on August 20, 2016 requiring Petitioner 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.

6. Petitioner submitted a revised site plan demonstrating a 4-foot fence from the front of the house to the street and will include a 4-foot gate.¹ Exh. 34.

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 pre-existing location of the dwelling and shed, 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 variances of 4 feet front yard depth for the dwelling, 1 foot rear lot line setback for an accessory building and 5.9% net lot coverage in order to validate existing conditions and obtain a building permit for a 4-foot wooden privacy fence in the front yard on the property located at Part of Lot 4, Parcel 78, being 5307 Emerson Street, Hyattsville, 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 34.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

¹ Because Petitioner has reduced the fence in the front yard to 4-feet and included a 4-foot gate, waivers of the fence location and height requirement for a fence over 4-feet in height are no longer necessary. Exh.34

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.