

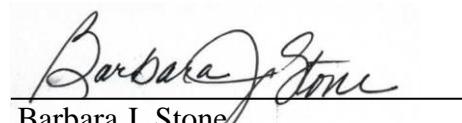
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-226-17 Maritza Torres, Maritza Bolanos and Norma Amaya

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: April 25, 2018.

CERTIFICATE OF SERVICE

This is to certify that on June 1, 2018, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
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

Petitioners: Maritza Torres, Maritza Bolanos and Norma Amaya

Appeal No.: V-226-17

Subject Property: Lot 1, Block 3, Chestnut Hills Subdivision, being 4524 Usange Street, Beltsville,
Prince George's County, Maryland

Witnesses: Margaret Ross, Neighbor

Mary Slaby, Property Owner

Bruce Fisanich, Neighbor

Carlos Linares, Friend

Heard: April 11, 2018; Decided: April 25, 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, 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 new 6-foot wooden privacy fence and construct a driveway extension. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting 45th Place) and the side yard (abutting Usange Street) are requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 16,400 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 6, 9, 10 and 11 (A) thru (F).

2. The property is an odd shaped corner lot with the dwelling facing the legal side street. Exhs. 2 and 4.

3. Petitioners would like to obtain a building permit for a 6-foot wooden privacy fence around the legal front and side yards and to construct a 25' x 60'/19' x 22' extension to the existing driveway. As the fence is in the yards between the dwelling and the front and side streets, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting 45th Place) and the side yard (abutting Usange Street) were requested. Exhs. 2, 3 (a) thru (b), 5 (A) thru (J), and 14.

4. The Department of Permitting, Inspections and Enforcement, Enforcement Division, issued Building Violation Notice No. 55548-2017-0, dated 11/27/17, requiring Petitioners to "obtain the required permit(s) for work done or remove the same. Work includes but not limited to a shed over 150 square feet and fence over 4 feet." A correction order was also issued on November 9, 2017. Exh. 13.

5. Petitioner Maritza Torres stated that the 6-foot privacy fence is essentially constructed ¹ and the driveway has deteriorated which she would like to improve and extend. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (J).

6. She stated that she is very concerned about the safety of her children because of the amount of foot traffic along her property because of the location of a nearby store. Exhs. 2, 3 (a) thru (b), 5 (A) thru (J) and 11 (A) thru (F).

7. Ms. Margaret Ross, 4520 Usange Street, testified that the fence is out of character with the neighborhood.

8. Ms. Mary Slaby, 16300 Bawtry Court, Bowie stated that the fence blocks the street view at the intersection. Exhs. 23, 24, 26.

9. Mr. Bruce Fisanich, 4405 Samar Street, Beltsville stated that an extension on the driveway is requested when there was no driveway to begin with. Exhs. 23, 24, 26.

10. Other neighbors provided written comments in opposition of the variance. Exhs. 19 and 20.

11. Ms. Maritza Torres revised the site plan moving the fence location away from Usange Street and the intersection; the driveway was also reduced in size (L-shaped 42' x 20' / 25' x 25'). Exh. 27.

12. Carlos Linares explained that he is now aware of the prohibition of commercial vehicles (trucks) parked on the subject property and the trucks have been removed.

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 lot being a corner lot and odd-shaped, the house facing the legal side street, the need for safety, the poor condition of the existing driveway 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 (abutting 45th Place) and the side yard (abutting Usange Street) in order to validate and obtain a building permit for a new 6-foot wooden privacy fence and construct a driveway extension (L-shaped 42' x 20' / 25' x 25') on the property located at Lot 1, Block 3, Chestnut Hills Subdivision, being 4524 Usange 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 27 and approved elevation plans, Exhibits 3 (a) thru (b).

¹ A stop order was issued for the cessation of the construction.

BOARD OF ZONING APPEALS

By:

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.