



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774  
TELEPHONE (301) 952-3220

## *NOTICE OF FINAL DECISION*

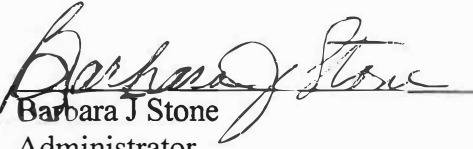
### *OF BOARD OF APPEALS*

RE: Case No. V-29-22 Guadalupe Sanchez and Wilmare Rodriguez

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: July 20, 2022.

## **CERTIFICATE OF SERVICE**

This is to certify that on October 19, 2022, 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

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

Petitioners: Guadalupe Sanchez Chavez and Wilmarie Rodriguez Pacheco

Appeal No.: V-29-22

Subject Property: Lot 1, Block B, Westchester Estates Subdivision, being 6901 Westchester Drive, Temple Hills, Prince George's County, Maryland

Heard: June 22, 2022; Decided: July 20, 2022

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
Anastasia T. Johnson, Member

Board Member Absent: 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 a variance 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 a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each corner lot shall have a side yard along the side street at least 25 feet in depth. Petitioners propose to validate existing conditions (side street yard depth) and obtain a building permit for the construction of an 8-foot (total height) fence (6-foot fence that includes a 2-foot lattice on top). A variance of 4 feet side street yard depth and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) is requested.

Evidence Presented

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

1. The property was subdivided in 1956, contains 18,568 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and garage. Exhibits (Exhs.) 3, 5, 10 (A) thru (F), 12, and 13.

2. The subject property is a corner lot and irregular in shape. The 40-foot building restriction line (BRL) is not recorded-on plat WWW 27@34<sup>1</sup>. The subject lot includes an easement (L. 2056 F. 506) for subdivision entry sign/wall. In addition, there is a drainage easement along the southwestern property line, along Allentown Road. Exhs. 3, 5, 10 (A) thru (F), 12, and 13.

3. Petitioners propose to validate existing conditions (side street yard depth) and obtain a building permit for the construction of an 8-foot (total height) fence to include a 6-foot fence to include a 2-foot lattice on top. A variance of 4 feet side street yard depth and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) are requested. Exhs. 3, 5, 10 (A) thru (F), 12, and 13.

4. Petitioner Wilmarie Pacheco testified that the existing fence is 6-foot in height and is damaged, rotting and falling apart.

5. It was explained that the proposed fence will be built in the same location as the existing fence. Exhs. 3, 4, 6, (A) thru (E).

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<sup>1</sup> The requirement for the 40-foot building restriction line is a covenant (L.1981 F. 253) requirement and does not pertain to zoning review. Therefore the 40-foot building restriction line is not required.

6. She further explained that an 8-foot fence is necessary because the level of the sidewalk on Allentown Road, adjacent to their side yard, is much higher than the level of the yard. Pedestrians can easily jump over the fence into their yard. With a Metro bus stop located adjacent to their side yard, trash accumulates in their yard. Numerous accidents have occurred along Allentown Road and their side yard. She stated that because they have four children, including one with autism, who enjoys playing in the back yard, along with the pets, the proposed fence is needed for the safety of their children and pets. Exhs. 3, 4, 6, (A) thru (E).

7. She emphasized that because of the topography of the back yard and the level of the sidewalk, the proposed 8-foot fence is needed. Exhs. 3, 4, 6, (A) thru (E).

8. Petitioner Guadalupe Sanchez Chavez stated that because the street is much higher than the back yard and the fence is on the same level as the back yard, the fence on the sidewalk side is essentially around 3-feet high and too easy for someone to jump over it. The 8-foot fence is for safety. Exhs. 3, 4, 6, (A) thru (E).

9. Jasper Tillery who is located on Lansing Drive (specific address not provided) submitted a letter of opposition stating that the proposed 8-foot fence would cause a safety concern regarding the site views of all drivers turning onto Allentown Road from Westchester Drive as Allentown Road is a major artery with high traffic. Exh. 19.

10. The Board recommended that the replacement fence remain at 6 feet in height believing that an 8-foot fence would be out of character in the neighborhood.

11. Petitioners subsequently submitted a revised site plan indicating a 6-foot fence without the lattice panel and revised elevations demonstrating the height of a 6-foot fence. (Exh. 20 and 21).

#### 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:

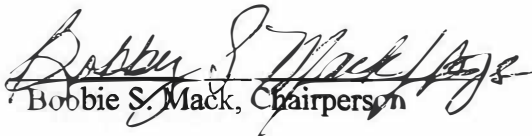
Due to the subject property being an irregular shaped corner lot, the topography of the property, the existing 6-foot fence being in disrepair, rotting and falling down, the proposed 6-foot fence will be in the same location as the existing fence, the need for safety of the children and pets and the 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, by majority vote, Mr. Albert Scott absent, that a variances of 4 feet side street yard depth, a waiver of the fence height and location requirements for a fence over 4 feet in height in the front yard (abutting Allentown Road) in order to validate existing conditions (side street yard depth) and obtain a building permit for the construction of a 8-foot (total height) fence to include a 8 foot fence to include a 2 foot lattice on top on the property located at 6901 Westchester Drive, Temple Hills, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent



upon development in compliance with the approved site plan, Exhibit 3 and approved revised elevation plan, Exhibit 21.

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.







EXH. # 21  
V-29-22

## BOARD OF APPEALS

APPROVED JUL 20 2022

  
ADMINISTRATOR