



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-81-22 Franklin Velasquez

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: February 22, 2023.

CERTIFICATE OF SERVICE

This is to certify that on March 29, 2023, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone".

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

Petitioner: Franklin Velasquez

Appeal No.: V-81-22

Subject Property: Lot 1, Block 11, Green Meadows Subdivision, being 2029 Rittenhouse Street, Hyattsville, Prince George's County, Maryland

Heard: January 25, 2023; Decided: February 22, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Anastasia T. Johnson, Member
Carl Isler, Member
Teia Hill, Member
Renee Alston, Member

Board Member Absent:

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 27-3613 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(e)(2) prescribes that each lot shall have a minimum rear yard depth of 20 feet. Section 27-6603(a) prescribes that on corner lots, fences in the front yard or side street yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate an existing condition (rear yard depth) and obtain a building permit to replace a 4-foot fence with a 6-foot vinyl fence. Variances of 3.2 feet rear yard depth and a waiver of the fence height and location requirement for a fence over 4 feet in height in the front yard (abutting Ager Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1941, contains 6,800 square feet, is zoned RSF-65 (Residential, Single Family-65) and is improved with a single-family dwelling, gravel driveway wood balcony and covered front porch. Exhibits, (Exhs.) 2, 4, 7, 8 and 11 (A) thru (F).
2. The subject property is a corner lot with the legal front being Ager Road. The dwelling is fronting the side street, Rittenhouse Street. The legal rear yard abuts Lot 32. Exhs. 2, 4, 7, 8 and 11 (A) thru (F).
3. Petitioner proposes to validate an existing condition (legal rear yard depth) and obtain a building permit to replace a 4-foot fence with a 6-foot vinyl fence. Variances of 3.2 feet rear yard depth and a waiver of the fence height and location requirement for a fence over 4 feet in height in the front yard (abutting Ager Road) are requested. Because the dwelling was built on the lot in 1941, the rear yard setback must be validated to meet the current zoning standard since the legal rear yard abutting Lot 32 is only 16.8 feet from the property line, requiring the variance. Exhs. 2, 4, 7, 8 and 11 (A) thru (F).
4. Petitioner testified that he is proposing to replace a 4-foot fence with a 6-foot vinyl fence for privacy in the legal front yard (which is actually used as his side yard). He is concerned for the safety of his children. He explained that with the house facing Rittenhouse Street, there is very little "backyard", so the children have been playing in the legal front yard abutting Ager Road. Exhs. 2, 3 and 5 (A) thru (D).

5. He stated that there is currently a 4 -foot chain link fence surrounding the property. The proposed fence will be built along the legal front of the house along Ager Road. The remaining 4-foot fence will not be changed. For clarity, the silver chain link fence will be replaced with a 6-foot vinyl fence; the black chain link fence will remain. Exhs. 2, 3 and 5 (A) thru (D).

6. He testified that the neighbors located on Lot 2 already have a 6-foot fence. Exh. 11 (c) thru (d).

7. The Board requested that the site plan be revised to confirm exactly where the 6-foot fence will start and stop on the property.

8. Petitioner has submitted a revised site plan indicating the precise location and height of the proposed fence. Exh. 16.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613 (d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property;
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions;
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property;
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-3613 (d), more specifically:

Due to the subject property being a corner lot, the preexisting configuration and location of the dwelling on the property, the need for privacy and safety for petitioner's children, the proposed 6-foot privacy fence will be placed only along Ager Road and a portion of abutting Lot 2 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, by majority vote, Ms. Renee Alston absent, that a variances of 3.2 feet rear yard depth and a waiver of the fence height and location requirement for a fence over 4 feet in height in the front yard (abutting Ager Road) in order to validate an existing condition (rear yard depth) and obtain a building permit to replace the existing 4-foot fence with a 6-foot vinyl fence on the property located at 2029 Rittenhouse Street, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exh. 16 and approved elevation plan, Exh. 3.

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 27-3613 (c)(10)(B) of the Prince George's County Code states:

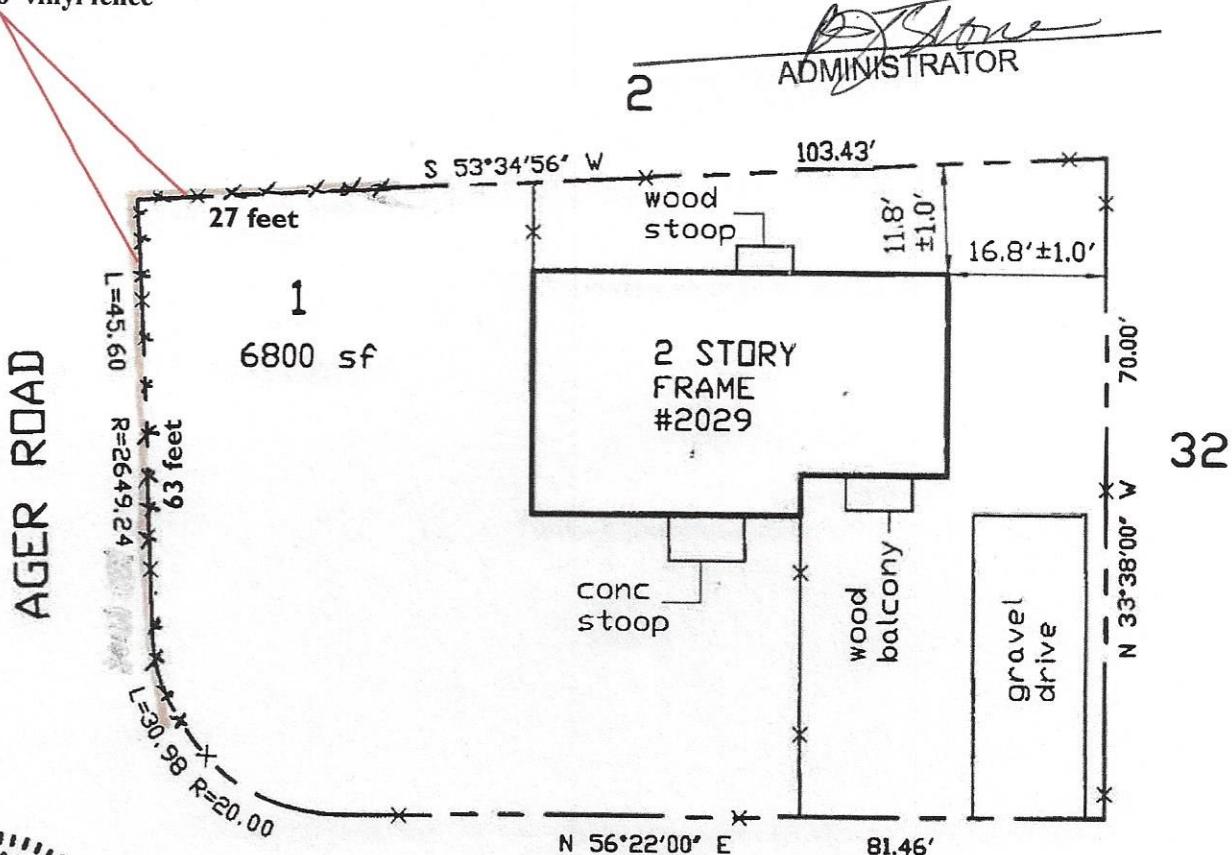
A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.

BOARD OF APPEALS

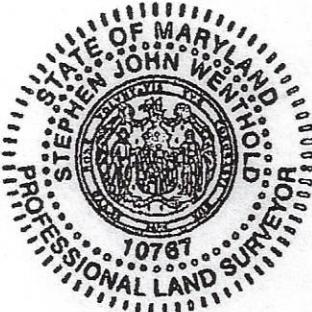
APPROVED FEB 22 2023

D. Stone
ADMINISTRATOR

Proposed 6' vinyl fence



RITTENHOUSE STREET



No evidence of property corners was found.
Apparent occupation is shown.

Date: 3-31-10 Scale: 1" = 20' Drn: R.C.d.
 Plat Book: 8
 Plat No.: 88 NO TITLE REPORT FURNISHED
 Work Order: 10-1321
 Address: 2029 RITTENHOUSE STREET
 District: 17
 Jurisdiction: PRINCE GEORGES COUNTY, MD

Surveyor's Certification

I hereby certify that the survey shown hereon is correct to the best of knowledge and that, unless noted otherwise, it has been prepared utilizing description of record. This survey is not a boundary survey and the location of property corners is neither guaranteed nor implied. Fence lines, if shown, are approximate in location. Building restriction lines shown are per available information and are subject to the interpretation of the original

LOCATION DRAWING
 LOT 1
 BLOCK 11
 GREEN MEADOWS

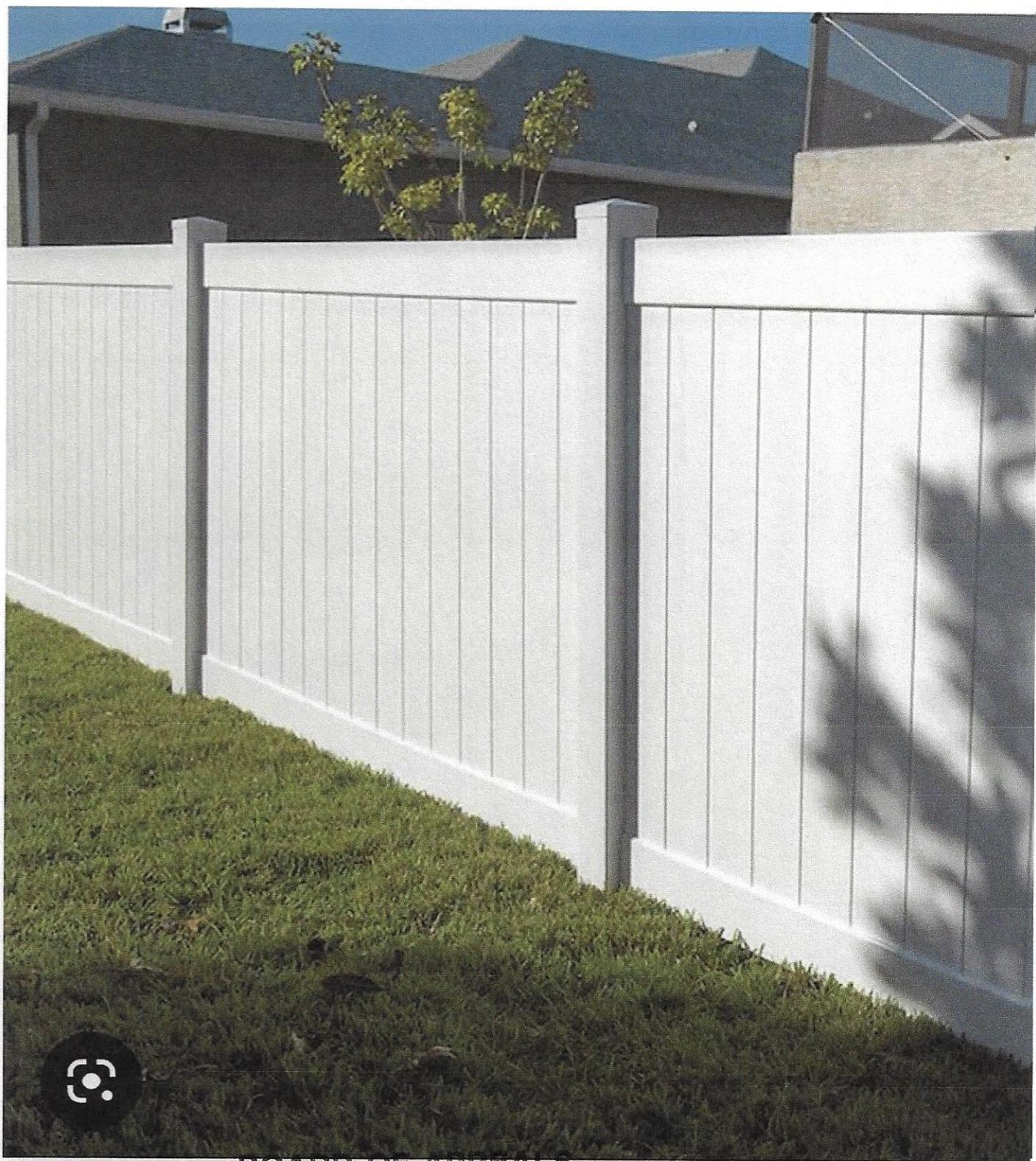
EXH. # 16
 V-81-22

Stephen V. Wentz

NOTE: This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.



Meridian Surveys, Inc.
 811 Russell Avenue
 Suite #303
 Gaithersburg, MD 20879
 (301) 721-9400



BOARD OF APPEALS

APPROVED FEB 22 2023

**EXH. # 3
V-81-22**

[Signature]
ADMINISTRATOR