



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772  
TELEPHONE (301) 952-3220

## *NOTICE OF FINAL DECISION*

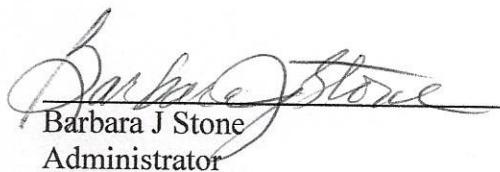
## *OF BOARD OF APPEALS*

RE: Case No. V-17-20 Raymond and Cynthia Tolson

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: October 7, 2020

## **CERTIFICATE OF SERVICE**

This is to certify that on November 18, 2020, 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*

Petitioners: Raymond and Cynthia Tolson

Appeal No.: V-17-20

Subject Property: Lot 6, Block D, Foxchase II Subdivision, being 4111 Tutor Road, Upper Marlboro, Prince George's County, Maryland

Heard: September 23, 2020; Decided: October 7, 2020

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 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 variances Section 27-420(a) which prescribes that fences and walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings; 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. Petitioners propose to replace a 6-foot fence wooden. A waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Conwood Court) is requested.

**Evidence Presented**

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

1. The property was subdivided in 1989, contains 10,055 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, garage, driveway, deck and fence. Exhibits (Exhs.) 3, 5, 9, 10 and 11 (A) thru (H).
2. The property is an odd-shaped corner lot with the house facing the legal front street. Exhs. 3 and 5.
3. Petitioners propose to replace a 6-foot wooden fence. Because the property is a corner lot, with the front of the house facing Tudor Place, and the Petitioner's back yard abutting Conwood Court, the Petitioner's desire to replace the existing fence along the legal front street line, a waiver of the fence height and location requirement is necessary. Exhs. 3, 4, 6 (A) thru (J).
4. Petitioner Cynthia Tolson explained that the existing wooden fence is 22 years old is dilapidated unsafe and falling apart. The wind has already blown down a portion of the fence. The new fence, which is a 6- foot white vinyl fence, will be built in the exact same location as the old fence.
5. She added that the shed is located directly behind the fence and would have to be moved or torn down if the fence waiver location is not approved.
6. She testified that an existing irrigation system would have to be torn up and relocated if the fence location waiver is not granted.
7. She noted that the replacement fence will be setback to where there are no site line issues for drivers of vehicles from either street. Exhs. 3, 4, 6 (A) thru (J).

8. Foxchase, Section II HOA submitted its approval of the height and location of the 6-foot replacement fence. Exh. 16.

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.

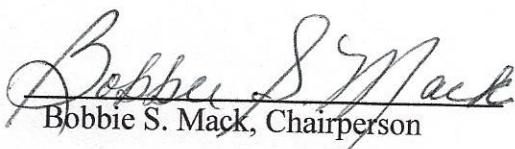
Findings of the Board

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 an odd-shaped corner lot, the preexisting dwelling facing the legal front street, the existing aging wooden 6-foot fence being unsafe and need of replacement, the preexisting locations of both the shed and irrigation system, 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 a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Conwood Court) order to obtain a building permit for the construction of a proposed 6-foot wooden fence on the property located at 4111 Tutor Road, Upper Marlboro, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 3 and approved elevation plan, Exhibit 4.

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.

HOUSE LOCATION DRAWING  
LOT 6, BLOCK "D".  
AS SHOWN ON A PLAT ENTITLED

PLAT TWELVE  
LOTS 1 THRU 8 & PARCELS "A", "M" & "N"  
AND LOTS 1 THRU 16 & PARCEL "A" BLOCK "C"  
BLOCK "D"

FOXCHASE

- 3% Maximum Slope Allowed On Residential Property  
- 7% Maximum Parking Pad Slope  
and 12.5% Maximum Driveway Slope  
- 2.5% Minimum Slope Required  
On Yard or Lawn Areas, 10' in 10'  
Minimum Slope of Pad Away From  
Building is Required.

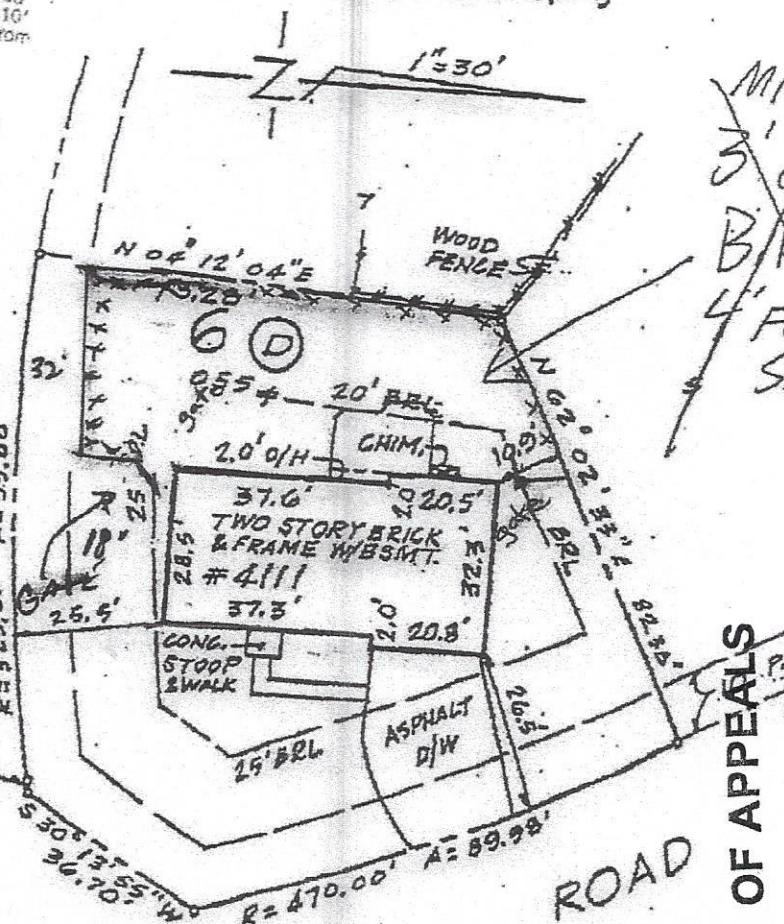
MELLWOOD (15TH) ELECTION DISTRICT  
PRINCE GEORGE'S COUNTY, MARYLAND  
PLAT BOOK NLP 150, PLAT N° 9

1-22-20  
2496-2020-00  
Deed

RECORDED  
1-22-2020  
2496-2020-00  
Deed

CONWOOD COURT  
(50' R/W)  
R=325.00' A=95.00'

5 77° 27' 11" W  
0.53



BOARD OF APPEALS

P.U.E.  
APPROVED OCT 7 2020

ADMINISTRATOR

APPROVED  
1-22-2020  
2496-2020-RW

Ok for 6' High Fence - 1/2 tie

FIRST FLOOR ELEVATION 100.3

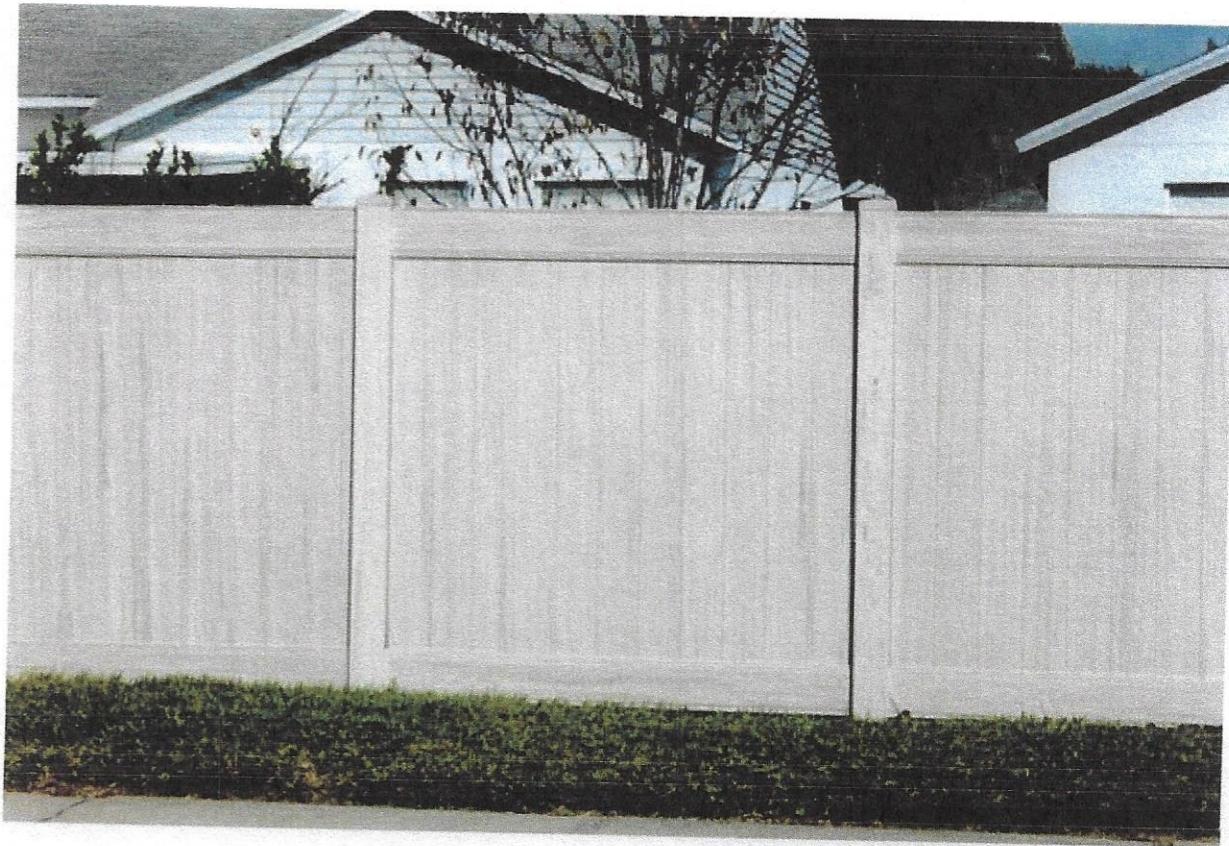
SURVEYOR'S CERTIFICATION

I hereby certify that the property delineated

OF MARY

Scale:

1" = 30



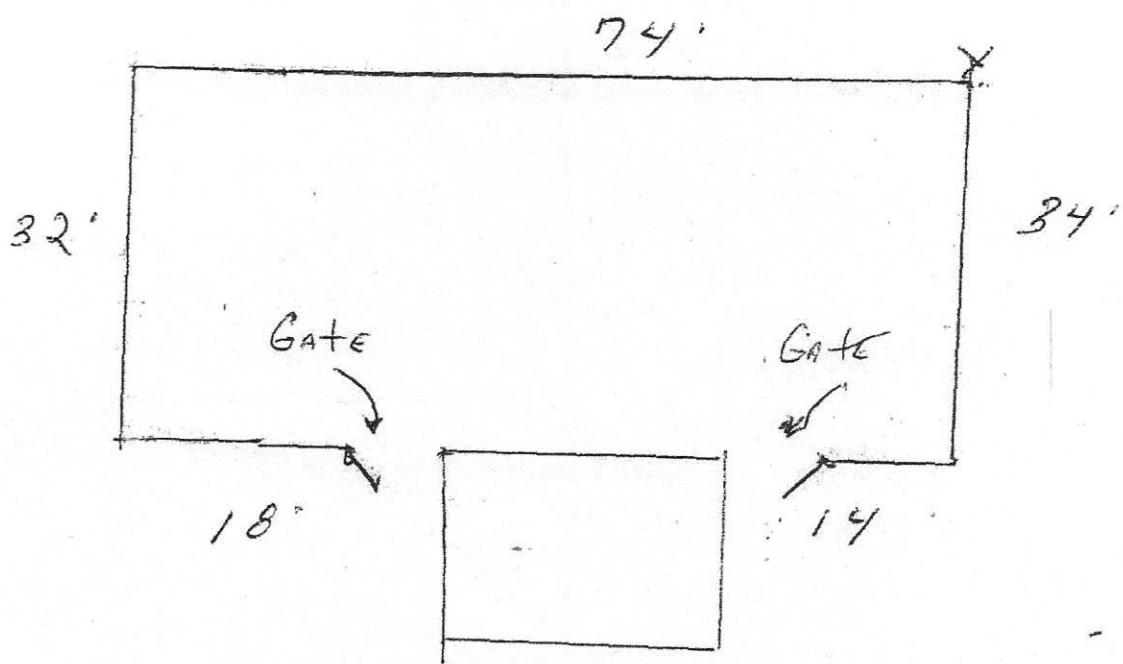
## BOARD OF APPEALS

APPROVED OCT 7 2020

*B. J. Stone*  
ADMINISTRATOR

EXH. # 4(a & b)  
V-17-20

Tolson



(b)

**BOARD OF APPEALS**

APPROVED OCT 7 2020

Bostone  
ADMINISTRATOR