



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

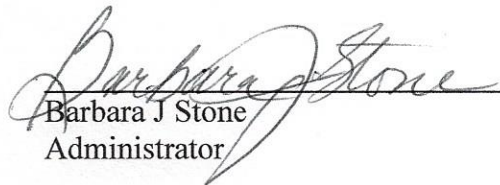
OF BOARD OF APPEALS

RE: Case No. V-31-20 Shanmugam Panneerselvam

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 24, 2021

CERTIFICATE OF SERVICE

This is to certify that on April 22, 2021, 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

Petitioner: Shanmugam Panneerselvam

Appeal No.: V-31-20

Subject Property: Lot 11, Block A, Holly Hill Farm, being 9003 Bexhill Court, Hyattsville, Prince George's County, Maryland

Heard: December 9, 2020; Decided: February 24, 2021

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 27-420(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. The Petitioner proposes to obtain a building permit for the unauthorized construction of a 7-foot wooden fence. A waiver of the fence location and height requirements for a fence of 6 feet in height is requested.

Evidence Presented

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

1. The property was subdivided in 1994, contains 12,327 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with single family dwelling, driveway and deck. Exhibits (Exhs.) 3, 5, 9, 10 and 11 (A) thru (G).
2. The property is located within a cul-de-sac and is an odd shape being very narrow in depth with an angled side yard. The rear yard is not level, sloping up and down in some areas. Exhs. 3 and 11 (A) thru (G).
3. On January 31, 2020, the Department of Permitting, Inspections and Enforcement issued a Correction Order to Petitioner to obtain a variance for a fence of 6 feet in height. Petitioner has applied for building permit 18337-2019-00. Exhs. 7 and 8.
4. Petitioner Shanmugam Panneerselvam is requesting a building permit for the unauthorized construction of a 7-foot fence in the rear and side yards of the property. Because the height of the fence is over 6 feet, a waiver of the fence height requirement is requested¹. Exhs. 3, 5, 9, 10 and 11 (A) thru (G).
5. Petitioner testified that his property abuts both the Avery Park Apartment building and George Washington Cemetery, which was not visible when he purchased the house 26 years prior. With the expansion of the cemetery, Petitioner can now see 400 feet from his property line burials (with the concomitant tractors and backhoes) occurring every day. He explained that when the cemetery is open to the public, trespassers would jump over the prior five-foot fence onto his property, using it as a shortcut. He

¹ Otherwise, because the unauthorized fence is more than 6 feet high in the rear and side yards, it must meet the setback requirements for main buildings.

stated that wild animals (deer) also traversed the shorter fence. As such, his family, including his children, felt extremely unsafe.

6. He stated that several of his neighbors, whose properties also abuts the cemetery property, have constructed fences up to 8-feet. He explained that his fence is not 7 foot throughout, with in some areas being only 5'8" tall depending on the grade of the land. He stated that portions of the fence vary in actual height to create a level fence line. Exhs. 2, 3 and 6 (A) thru (G).

7. The Architectural Review Board of the Sentry Management, Inc. has approved the construction of the fence. Exh. 17.

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

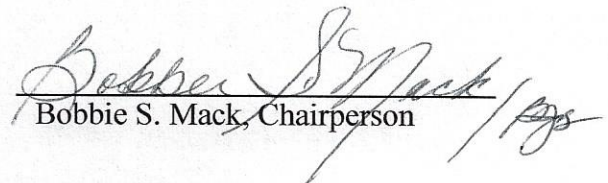
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the uneven grade of the rear property, the proximity of an apartment building and cemetery abutting the Petitioners property, for safety of his family from trespassers breaking into his home 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 a waiver of the fence location and height requirements over 4 feet in height in the front/side yard in order to obtain a building permit for the unauthorized construction of 7 feet wooden fence on the property located at 9003 Bexhill Court, Hyattsville, Prince George's County, Maryland, be and are 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 (A).

BOARD OF ZONING APPEALS

By:


Bobbie S. Mack, Chairperson

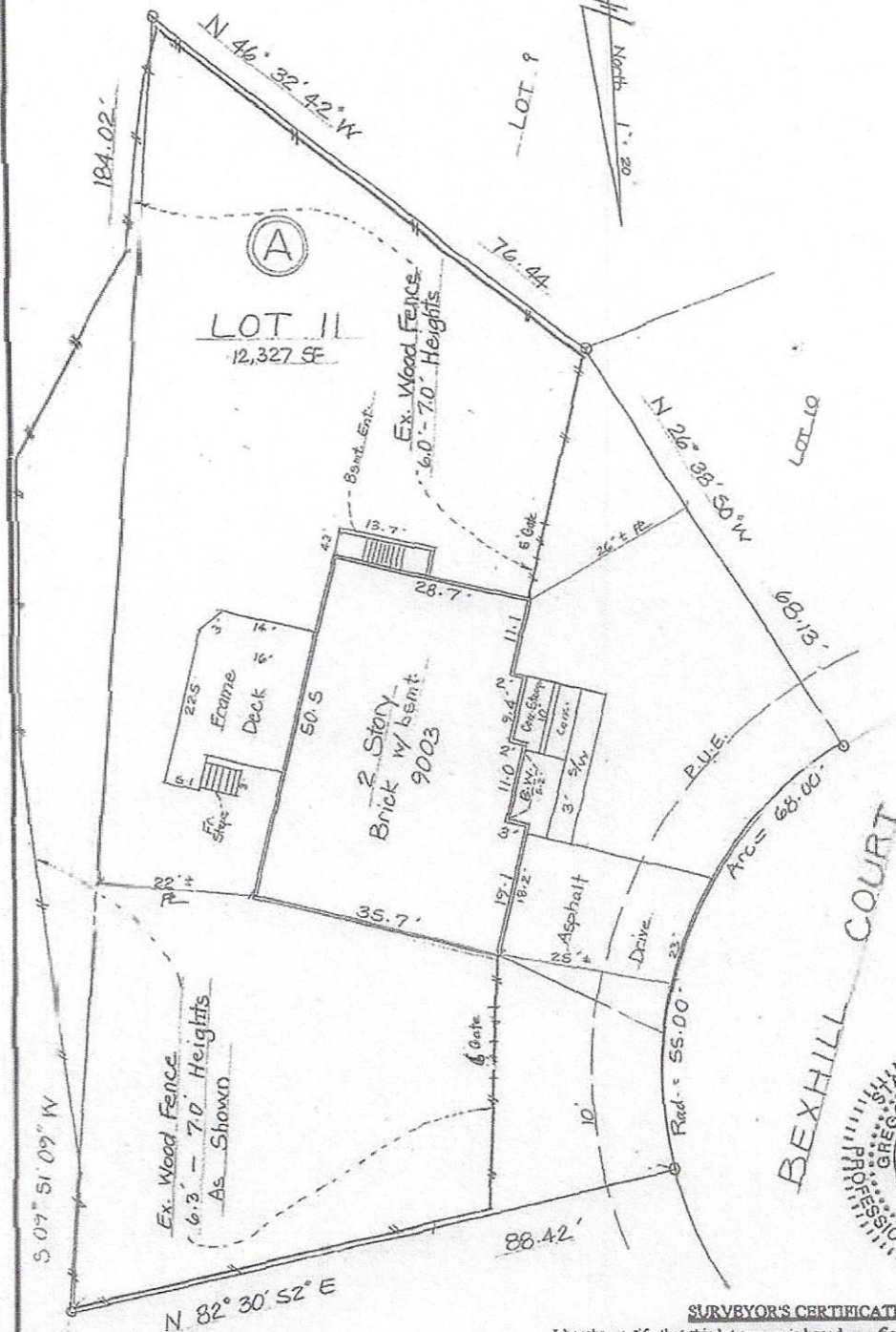
NOTICE

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.

NOTE: No title reports furnished at this time, subject to all easements and rights of ways of record.



BOARD OF APPEALS

APPROVED FEB 24 2021

ADMINISTRATOR

BEXHILL COURT



SURVEYOR'S CERTIFICATE

I hereby certify that this lot survey is based on a field survey performed by myself or directly under my supervision. Information thereon was obtained from County Land Records and to the best of my knowledge and belief is correct, that property corners have been found and/or set as indicated.

5-22-19
Date

Gregory C. Benefield
Registered Professional
Land Surveyor, Md. #10994
Licenses Expiration 08-08-2020

EXH. # 3
V-31-20

DRAWN BY Tom C
CHECKED BY Jax
DATE 5-22-19
SCALE 1" = 20'
JOB NO. 1269-19
CASH NO. Paradeerselvam

LOCATION OF FENCE 02-26-20
LOCATION OF IMPROVEMENTS 05-21-19

BOUNDARY SURVEY / LOT STAKE OUT
9003 Bexhill Court
Lot(s)/Parcel 11 PM/Block A
Plat Section Phase Phase

HOLLY HILL FARM

21 ST Election District
Prince Georges County, Maryland

Plat Book VJ 173 Plat No. 94
Fiber 13059 Folio 216

Drawing No.

S-5409

SURVEYS, INC.

SURVEYORS • ENGINEERS • LAND PLANNERS
PERMIT SERVICES

250 MAIN STREET
LAUREL, MARYLAND, 20701

PHONE 301-716-0541 • E-MAIL SURVEYS@GMAIL.COM

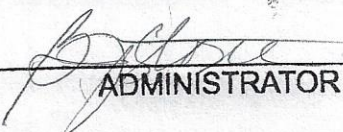


EXH. # 4 (A&B)
V-31-20

A

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ADMINISTRATOR