



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-74-20 Erick Alexander Arias Benitez

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 28, 2021

CERTIFICATE OF SERVICE

This is to certify that on August 30, 2021, 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", is written over a horizontal line. Below the signature, the name "Barbara J. Stone" is printed in a standard font, followed by the title "Administrator" in a smaller font.

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: Erick Alexander Arias Benitez

Appeal No.: V-74-20

Subject Property: Lot 46, Block B-B, Willow Hills Subdivision, being 533 Pacer Drive, Landover, Prince George's County, Maryland

Witness: Olivia Yachere, Spouse

Heard: April 14, 2021; Decided: April 28, 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(s) request(s) that the Board approve variances. The specific violation resides in the fact that Zoning Ordinance Section 27-442(e)(Table IV) of the Zoning Ordinance which prescribes that each lot shall have a rear yard at least 20 feet in depth/width. Section 27-420(a) prescribes that fences more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings; on a corner lot consisting of one (1) acre or less, fences in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioners proposes to validate an existing condition (rear yard depth/width) and obtain a building permit for the construction of a 6-foot wooden fence. Variances of 3 feet rear yard depth/width and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Pacer Drive and Pacer Court) are requested.

Evidence Presented

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

1. The property was subdivided in 1977, contains 9,132 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, screened porch and deck. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. The property is an unusually shaped corner lot with the dwelling facing Pacer Drive being the legal front of the property. Exhs. 2 and 4.
3. Petitioner proposes to validate an existing condition (rear yard depth/width) and obtain a building permit for the construction of a 6-foot wooden fence.
4. Petitioners proposes to validate an existing condition (rear yard depth/width). Because of both the placement and configuration of the house and rear yard screen porch on the lot, the rear yard depth is only 17 feet for which a variance of 3 feet is required.
5. With the 6-foot fence proposed location along Pacer Court (being a side street), a waiver of the fence location and height requirement is needed. Exhs. 2, 4, 7, 8 and 9 (A) thru (F).

6. Petitioner Erick Arias testified that they would like to build a six-foot privacy fence around the property line so that his four small children will be able to safely play in the back yard and be protected the from wondering deer. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (C).

7. Olivia Yachere emphasized that the proposed fence is also for privacy on a corner lot and for safety as there is a lot of foot traffic in the area because of their proximity to the Morgan Boulevard Metro. She opined that the height of the fence will not block the view of the neighbors behind them. She testified that neighbors have not provided any complaints of the proposal. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (C).

8. Petitioner also testified that they have lived on the subject property for ten years and seen the increase in the foot traffic.

9. He explained that the fence will not enclose the entire back yard; it will extend from the front corner of the house to 3 feet from the sidewalk along Pacer Court around the opposite property line to the middle line side of the house. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (C).

10. Petitioner agreed to move the fence back 15 feet from the sidewalk. Submitting a revised site plan demonstrating the fence has been moved back from Pacer Court 15 feet from the sidewalk. Exh. 20.

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 a corner lot, the unusual shape of the corner lot, the need to validate the preexisting condition of the location of the dwelling (rear yard depth/width), the proximity of the corner property to the Morgan Boulevard Metro and the concomitant increase of foot traffic, the need for safety of young children playing in the yard 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 variances of 3 feet rear yard depth/width and a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Pacer Drive and Pacer Court) in order to validate an existing condition (rear yard depth/width) and obtain a building permit for the construction of a 6-foot wooden fence on the property located at 533 Pacer Drive, Landover, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 20 and approved elevation plans, Exhibits 3 (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.

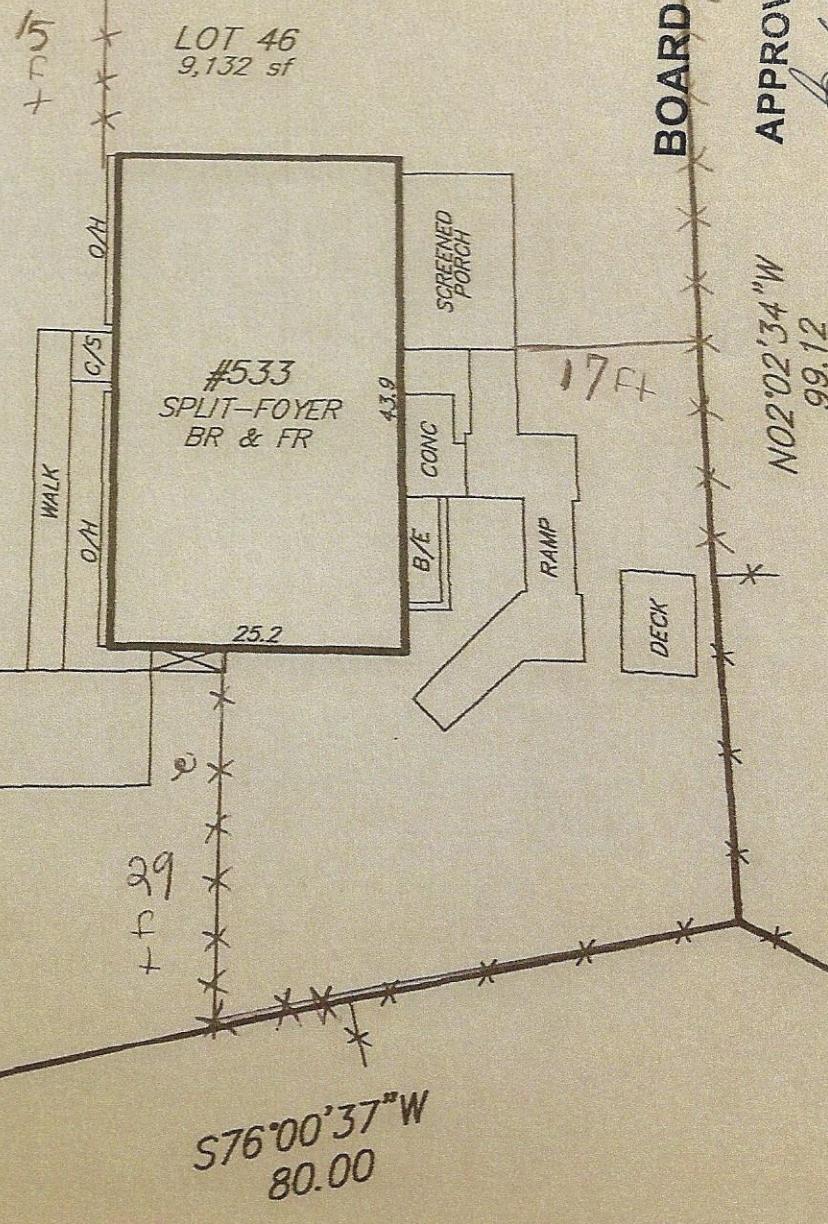
MAC - MACADAM
 O/H - OVERHANG
 PUE - PUBLIC UTILITY EMT.
 COLOR KEY:
 (RED) - RECORD INFORMATION
 (BLUE) - IMPROVEMENTS
 (GREEN) - EMTS & RESTRICTION LINES

PACER COURT

L=87.34'
 R=225.00'

N 20° 42' 55"
 E 35.36

N 20° 50' 34" W
 R=305.00'
 L=49.56'



APPROVED APR 28 2021
 B. H. Dill
 ADMINISTRATOR

EXH. # 29
 V. 4.28

(a)

BOARD OF APPEALS

APPROVED APR 28 2021

EXH. # 3(a-b)
V-74-20

John Steele
ADMINISTRATOR