

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

Petitioner: Luis Hernandez Cisneros

Appeal No.: V-122-19

Subject Property: Lot 9, Block 17, Chestnut Hills Subdivision, being 4417 Usange Street, Beltsville, Prince George's County, Maryland

Witness: Kenneth Harrison, Inspector, Department of Permitting, Inspections and Enforcement (DPIE)

Heard and Decided: December 4, 2019

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 a variance from Section 27-420(a) which 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. Petitioner proposes to obtain a building permit for a construction of a covered deck, open deck and the unauthorized construction of a 6-foot wooden fence. A waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard/side yard (abutting 45<sup>th</sup> Avenue) are requested.

**Evidence Presented**

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

1. The property was subdivided in 1947, contains 10,400 square feet, is zoned R-R (Rural-Residential) and is improved with a 1½ story single-family dwelling, driveway, shed and 6-foot wooden privacy fence. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (F).
2. The property is a corner lot with the dwelling facing the legal front (Usange Street). Exhs. 2, 4, 8, 9 and 10 (A) thru (F).
3. Petitioner would like to construct a covered 15' x 15' deck, a 5' x 15 open deck and validate the construction of an unauthorized 6-foot wooden privacy fence. Because the fence is located along the front side yard, abutting 45<sup>th</sup> Avenue, a waiver of the fence location and height requirement is requested. Exhs. 2, 3 and 5 (A) thru (I).
4. The Department of Permitting, Inspections and Enforcement issued a Correction Order on May 20, 2019 advising Petitioner that a building permit must be obtained for the 6-foot fence. Exh. 6.
5. Petitioner Luis Hernandez Cisneros stated that he built the fence in 2019, around his back-yard area to provide safety for his children. He stated that two years ago, a vandal drove into his back yard, destroying the yard and last summer, while his children were playing in the back yard, a car drove into the yard. He is extremely concerned about the safety of his children and neighborhood children who visit the yard to play. Exhs. 2, 3 and 5 (A) thru (I).

6. Inspector Harrison stated that the fence will not obstruct vehicular sight views on either Usange Street or 45<sup>th</sup> Avenue. Exhs. 2, 8, 9 and 10 (A) thru (F).

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 property being a corner lot, the need to secure the backyard play area for the safety of his children, the need to keep trespassers from his property 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 for a fence over 4 feet in height in the front yard/side yard (abutting 45<sup>th</sup> Avenue) in order to obtain a building permit for a proposed covered deck, open deck and a unauthorized construction of a 6-foot wooden fence on the property located at 4417 Usange Street, Beltsville, 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 2 and approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

(

By:

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ORIGINAL SIGNED)  
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.