



Office of the Mayor and Council
City of College Park
8400 Baltimore Avenue, Suite 375
College Park, Maryland 20740
Telephone (240) 487-3501

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CEO-2020-01 Name: Errol and Mercile Ashond

Address: 5003 Eutaw Street, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

April 14, 2020.

CERTIFICATE OF SERVICE

This is to certify that on April 17, 2020 the attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

***RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CEO-2020-01,
5003 EUTAW PLACE, COLLEGE PARK, MARYLAND, RECOMMENDING
APPROVAL OF VARIANCES FROM THE PRINCE GEORGE'S COUNTY ZONING
ORDINANCE, SECTION 27-420(A) AND CITY CODE §87-23 C TO PERMIT THE
CONSTRUCTION OF A 6-FOOT HIGH FENCE.***

- WHEREAS,** the City, in accordance with §25-303 of the Land Use Article, Annotated Code of Maryland, has adopted §87-23, “Fences”, of the City Code, and established certain restrictions on the construction and reconstruction of fences on residential properties, including a height restriction on front yard fences; and
- WHEREAS,** pursuant to §15-19 of the Code of the City of College Park (“City Code”), the Advisory Planning Commission (“APC”) is authorized to hear appeals of the provisions of Chapter 87, Building Construction, of the City Code; and
- WHEREAS,** the City is authorized by §87-23 J to grant a variance where by reason of an extraordinary situation or condition, the strict application of the Fence Ordinance would result in peculiar and unusual practical difficulty to or an exceptional or undue hardship upon the owner of the property; and a variance can be granted without substantial impairment of the intent, purpose and integrity of the Fence Ordinance; and where, if applicable, the variance is consistent with the Design Guidelines adopted for the locally designated Historic District, and the fence for which a variance is requested incorporates openness as much as is practicable, provided that the fence shall not be constructed of chain link unless the material is consistent with the surrounding neighborhood; and
- WHEREAS,** the City has, pursuant to §190-1 et seq. of the City Code , and in accordance with Section 27-924 of the Prince George’s County Zoning Ordinance (“Zoning Ordinance”), enacted procedural regulations governing any or all of the following: departures from design and landscaping standards, parking and loading standards, sign design standards, and variances for lot size, setback, and similar requirements for land within the corporate boundaries of the City, alternative compliance from landscaping requirements, certification, revocation, and revision of nonconforming uses, and minor changes to approved special exceptions; and
- WHEREAS,** the APC authorized by §190-3 of the City Code to hear requests for variance from the terms of the Zoning Ordinance with respect to lot size, setback, and similar requirements, and to make recommendations to the Mayor and City Council in connection therewith; and

- WHEREAS,** the Prince George’s County Code, Section 27-420(a), restricts fences in the front or side yard to four feet for corner lots of one acre or less; and
- WHEREAS,** the City is authorized by the Zoning Ordinance to grant an application for a variance where, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel 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, and a variance can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan; and
- WHEREAS,** on February 21, 2020, Errol and Mercile Ashond (“Applicants”), submitted an application for a 3-foot front yard and 4-foot rear yard fence height variance from provision §87-23 C of the City Code and a 2-foot front yard fence height variance from the Prince George’s County Zoning Ordinance, Section 27-420 (a), for the property located at 5003 Eutaw Place, College Park, Maryland (“Property”); and
- WHEREAS,** on March 5, 2020, the APC conducted a hearing on the merits of the variance at which time the APC heard testimony and accepted evidence, including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting an appeal set forth in §87-23 J and §190-4 of the City Code.
- WHEREAS,** based upon the evidence and testimony presented, the APC voted 6-0-0 to recommend that the variance be approved; and
- WHEREAS,** the Mayor and Council have reviewed the recommendation of the APC as to the application for a variance and in particular have reviewed the APC’s findings of fact and conclusions of law; and
- WHEREAS,** no exceptions have been filed.

NOW THEREFORE, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CEO-2020-01 for a 2 and 3 foot fence height variance, as applicable.

Section 1 Findings of Fact

- 1.1 The property is a triangular-shaped corner lot.
- 1.2 The property contains 5,036 square feet and is improved with a 1-story, single-family frame house with a shed (8’ x 12’). The house faces and has access from Eutaw Place.
- 1.3 Previously, a 4-foot high chain-link fence existed where a 6-foot high board-on-board fence has been installed without a permit.

- 1.4 A 4-foot high chain-link fence remains along the eastern side yard, a part of which encroaches in the front yard. There are other similar side yard chain-link fences in the surrounding area.
- 1.5 This section of Indian Lane has extreme slope (15% to greater than 25%) between the road and the rear yard of the properties. Neighboring properties along Indian Lane have installed 6-foot high stockade fences to reduce the risk of falls from the slope into the street.
- 1.6 No houses front this section of Indian Lane.
- 1.7 Prince George's County Zoning Ordinance, Section 27-421 states "on a corner lot, no visual obstruction more than three (3) feet high (above the curb level) shall be located within the triangle formed by the intersection of the street lines and points on the street lines twenty-five (25) feet from the intersection."

Section 2 Conclusions of Law

- 2.1 This property has an exceptional shape in that it has a triangular shape and is a corner lot. In addition, the property has an exceptional topographic condition in that it has an extreme slope along the rear frontage where the fence is now located.
- 2.2 Denial of the variance will result in a- a peculiar and unusual practical difficulty to the property owner by preventing the erection of a fence of a height sufficient to guard against falls due to the extreme slope.
- 2.3 This request will not impair the intent of the City Fence Ordinance which is to prevent creating a negative impact on neighboring front yards. Neighboring properties do not front Indian Lane.
- 2.4 The property is not located in the regulated Old Town College Park Historic District.
- 2.5 The Applicant erected a board-on-board fence which incorporates openness as much as is practicable, particularly when compared to nearby 6-foot high, stockade fences. The portion of the property used as a front yard will in larger part remain open, except for the existing side yard chain-link fence and there are no properties in this location that front on Indian Lane.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park to approve CEO-2020-01 for a 2-foot and 3-foot fence height variance, a applicable, to allow a 6-foot high board-on-board fence along Indian Lane conditioned on compliance with Prince George's County Zoning Ordinance, Section 27-421 corner lot obstructions restrictions.

ADOPTED, by the Mayor and Council of the City of College Park at a regular meeting on the 14th day of April, 2020.

CITY OF COLLEGE PARK

DocuSigned by:

Janeen S. Miller

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Janeen S. Miller, CMC
City Clerk

DocuSigned by:

Patrick Wojahn

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Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

DocuSigned by:

Suellen M Ferguson

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Suellen M. Ferguson
City Attorney