

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-10-16 Phillip Vaughn, Jr.

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: March 23, 2016.

CERTIFICATE OF SERVICE

This is to certify that on March 29, 2016, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Anne F. Carter
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: Phillip Vaughn, Jr.

Appeal No.: V-10-16

Subject Property: Lot 8, Block D, Lakeview at Brandywine Subdivision, being 14101 Owings Avenue,
Brandywine, Prince George's County, Maryland

Heard and Decided: March 23, 2016

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) of the Zoning Ordinance, which prescribes that on corner lots consisting of one (1) acre or less, fences and walls 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 construct a 6-foot white vinyl privacy fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard abutting a street are requested.

Evidence Presented

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

1. The property was subdivided in 2006, contains 20,025 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 2009. Exh. 8.
2. The property is an odd-shaped corner lot with the dwelling facing the legal front street. Exh. 2.
3. Petitioner would like to construct a 6-foot white vinyl privacy fence to enclose the yard behind the house, but variances are needed to obtain a building permit. Since the fence will be over 4 feet in height and extend into the side yard abutting the street, waivers of the fence location and height requirements were requested. Exh. 12.
4. Petitioner testified that if the variance is not granted, he could only enclose a portion of his rear yard with a 6-foot fence (*see* Exh. 2), he would not be able to use most of the yard and it would not be attractive. He stated that he has two small dogs and enclosing more of the back yard will give them more room to run.
5. Petitioner explained that the proposed white vinyl fence will be uniform with the existing fence along the left side lot line, which is his neighbor's fence. *See* Exhs. 5(B) and (D). He submitted a photograph of a similar corner lot in his neighborhood with a 6-foot white privacy fence. Exh. 19.
6. He further testified that his property abuts wide two-lane streets on both sides and the proposed fence would be set back 10 feet inside the sidewalk along the side street (Sudley Avenue). *See* Exhs. 5(A), (C) and (D); 10(B) thru (E). He stated that the proposed fence will not impair any visibility for drivers.
7. The Lakeview At Brandywine Homeowners Association approved the request. 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a corner lot, the unusual shape of the lot, the house facing the legal front street, enclosure of the rear yard with a 6-foot fence providing running room for dogs, denial of the variance depriving the owner of the ability to use most of the yard behind the house, 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 waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard abutting a street in order to construct a 6-foot white vinyl privacy fence on the property located at Lot 8, Block D, Lakeview at Brandywine Subdivision, being 14101 Owings Avenue, Brandywine, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) and (b).

BOARD OF ZONING APPEALS

By: (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.