

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-24-16 Omolara Oydele

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 27, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on May 4, 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
Woodmore North Homeowners Association
Other Interested Parties

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

Petitioner: Omolara Oyedele

Appeal No.: V-24-16

Subject Property: Lot 41, Block E, Westwood Subdivision, being 13200 Big Cedar Lane, Bowie,
Prince George's County, Maryland

Witnesses: Theodore Peoples, neighbor

Sylvia Peoples, neighbor

Heard and Decided: April 27, 2016

Board Members Present and Voting: 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 a corner lot 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 construct a 6-foot black aluminum picket fence in the side yard abutting the street on a corner lot. 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 1999, contains 42,118 square feet, is zoned R-E (Residential-Estate) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 10 and 11. The existing dwelling was built in 2005. Exh. 10.
2. The property is a corner lot with the house facing the legal side street (Big Cedar Lane) at an angle. Exh. 2. The driveway accesses the property off of Big Cedar Lane. Exh. 2.
3. Petitioner would like to construct a 6-foot black aluminum picket fence (Exh. 3) that would extend into the side street yard, but variances are required to obtain a building permit. Since the proposed fence is over 4 feet in height and would be located on a corner lot in the side yard abutting a street, waivers of the fence location and height requirements were requested. Exh. 14.
4. The proposed fence would be erected along a portion of the side lot line where it would connect to the neighbor's existing fence and also erected along the rear lot line and approximately 175 feet of the side street yard within about 20 feet of the side street line. Exh. 2.
5. Petitioner testified that she would like to enclose the yard behind the house with a 6-foot fence to provide a safe play area for her small children and for a swimming pool.¹ She stated that the fence would

¹ County Code Section 4-209(c) requires that residential swimming pools be enclosed by a fence at least 6 feet in height.

extend about 12-15 feet closer to the side street (Big Cedar Lane) than her garage and just barely extend into the yard where a variance is needed (*see* Exh. 2). She pointed out that no fencing will extend in front of the house or near the corner where traffic visibility would be blocked.

6. Petitioner further testified that other properties in the neighborhood have 6-foot fences (Exhs. 6(A) and (B)), including four properties located on her street that have the same type of fence that Petitioner is proposing.

7. Theodore and Sylvia Peoples, who live at 13110 Big Cedar Lane, which is across the street on a corner lot, supported the variance request.

8. Woodmore North Homeowners Association approved the request. 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a corner lot, the house facing the legal side street at an angle, the proposed fence around the rear yard providing enclosed area for a swimming pool, 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, by majority vote, Chairperson Mack absent, 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 black aluminum picket fence in the side yard abutting the street on a corner lot on the property located at Lot 41, Block E, Westwood Subdivision, being 13200 Big Cedar Lane, Bowie, 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 plan, Exhibit 3.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.