

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-25-16 Jason Rutland

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: May 11, 2016.

CERTIFICATE OF SERVICE

This is to certify that on June 8, 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: Jason Rutland

Appeal No.: V-25-16

Subject Property: Lot 1, Block H, Stan Haven Subdivision, being 4913 Dalton Street, Temple Hills,
Prince George's County, Maryland

Heard and Decided: May 11, 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 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 construct a 6-foot wooden privacy fence in the side street yard of 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 1954, contains 20,053 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 2002. Exh. 8.
2. The property is a corner lot with the dwelling facing the legal front street (Dalton Street). Exh. 2. Driveway access to the property is off of the legal front street. Exh. 2.
3. Petitioner would like to construct a 6-foot wooden privacy fence to enclose the side yards and rear yard, but variances are needed to obtain a building permit. Since the proposed fence is over 4 feet in height and extends into the side street yard (abutting Rayburn Drive) of a corner lot, waivers of the fence location and height requirements were requested. Exh. 11.
4. Petitioner testified that he has lived at the property about two years and would like a 6-foot fence constructed for security and more privacy. He explained that his property sits below the grade of Rayburn Drive and a 4-foot fence would allow persons to look directly into his property. Exhs. 5(A) and (B), 9(F). He further explained that there is dumping and littering along Rayburn Street towards the rear of his property. Exhs. 17(A) thru (E). He stated that extending the fence into the side yard along Rayburn Street will allow him reasonable use of the yard.
5. Petitioner further testified that there is an unused school building to the rear of his property (Exh. 9(A)) and properties next to his property along Dalton Street have 6-foot fences along the rear. He stated that the adjoining neighbor's fence does not extend over to the shared property line (Exhs. 9(B) thru (E)) but the neighbor has agreed to remove some of the fence and build two extensions to link up with his fence.

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 sloping topography of the property, the house on the property sitting below the grade of the side street, a 6-foot fence being necessary for security and privacy, extension of the fence into the side yard abutting the street allowing reasonable use of 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 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 wooden privacy fence in the side street yard of a corner lot on the property located at Lot 1, Block H, Stan Haven Subdivision, being 4913 Dalton Street, Temple Hills, 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.