

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-49-16 Damia Maynor

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: June 8, 2016.

CERTIFICATE OF SERVICE

This is to certify that on June 21, 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
Kettering Community Association, Inc.

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

Petitioner: Damia Maynor

Appeal No.: V-49-16

Subject Property: Lot 9, Block 26, Kettering Subdivision, being 115 Weymouth Street, Upper Marlboro,
Prince George's County, Maryland

Witness: Darryl Mason, Petitioner's husband

Heard and Decided: June 8, 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 lots consisting of one (1) acre or less, fences and walls in the front 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 front yard (along Watkins Park Drive). Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested.

Evidence Presented

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

1. The property was subdivided in 1969, contains 11,600 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, attached carport, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1972. Exh. 10.

2. The property is a through lot, having two front yards and no rear yard. The house faces Weymouth Street and the yard behind the house abuts Watkins Park Drive. Exhs. 2 and 12(A) thru (E).

3. Petitioner would like to construct a 6-foot wooden privacy fence along the property line abutting Watkins Park Drive (Exh. 2), but variances are required to obtain a building permit. Since the fence will be over 4 feet in height and located in a legal front yard, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard were requested. Exh. 13.

4. Darryl Mason testified that the 6-foot privacy fence is for security and to reduce noise. He explained that there is a lot of foot traffic through their yard and noise from the high volume of car and motorcycle traffic on Watkins Park Drive. He stated that neighbors on both sides of his property have existing 6-foot fences. Exhs. 5(A) and (B), 6(A) and (B); 12(C) and (D). Both adjoining lots are also through lots. Exhs. 4, 12(A) thru (E).

5. Petitioner testified that the property is located across the street from Watkins Regional Park and pedestrians use their yard as a sidewalk.

6. Kettering Community Association, Inc. approved the fence request. Exh. 7.

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 through lot, the yard behind the house abutting a busy road, a privacy fence providing security from pass-through trespassers and buffering high traffic noise, neighboring 6-foot fences already existing, 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 order to construct a 6-foot wooden privacy fence in the front yard (along Watkins Park Drive) on the property located at Lot 9, Block 26, Kettering Subdivision, being 115 Weymouth Street, Upper Marlboro, 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)
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.