

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-60-16 Richard Parks

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: July 13, 2016.

CERTIFICATE OF SERVICE

This is to certify that on July 27, 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: Richard Parks

Appeal No.: V-60-16

Subject Property: Lot 6, Addition to Surratts Gardens Subdivision, being 9200 Wombat Court, Clinton,
Prince George's County, Maryland

Heard and Decided: July 13, 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 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 vinyl privacy fence. Waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard abutting a street on a corner lot are requested.

Evidence Presented

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

1. The property was subdivided in 2004, contains 16,458 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 2015. Exh. 9.
2. The property is a corner lot at the entrance to a cul-de-sac. Exhs. 2, 4 and 5. The dwelling was built at an angle to both streets (Wombat Court and Garden Drive) and faces the corner. Exh. 2.
3. There is a 40-foot required buffer yard at the rear of the property. Exhs. 2 and 5.
4. Petitioner would like to construct a 6-foot vinyl privacy fence around the rear yard and a portion of the side street yard next to Garden Drive (Exh. 2), but variances are needed to obtain a building permit. Since the fence would be over 4 feet in height and extend into the side yard abutting the street (Garden Drive), waivers of the fence height and location requirements for a fence over 4 feet in height in the side yard of a corner lot were requested.¹
5. Petitioner testified that he has lived at the property for 7 months and would like the fence for security and privacy. He explained that his property backs up to the parking lot at Surrattsville High School (Exhs. 11(A), (B) and (D)). He stated that persons walking through the yard have created a dirt path and prevented grass from taking hold. *See* Exhs. 6(B), (F) thru (K).

¹ Council Bill 72-2008, which amended the fence regulations in residential zones with regard to fences over 4 feet in height in the front and side yards of corner lots, took effect in January 2009.

6. He stated that a few months after he moved to the property someone attempted to enter his house at the rear.

7. He explained that Garden Drive, which is shown on County plans as a street, is actually a dead end covered with trees.

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 having been built at an angle to both streets and facing the corner, the property backing up to a high school parking lot, constant foot traffic on the property creating a dirt pathway, the proposed fence providing privacy and a means of preventing trespassing, 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 height and location requirements for a fence over 4 feet in height in the side yard abutting a street on a corner lot in order to construct a 6-foot vinyl privacy fence on the property located at Lot 6, Addition to Surratts Gardens Subdivision, being 9200 Wombat Court, Clinton, 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.