

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-100-16 Gaynelle Brent

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: September 28, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on November 2, 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: Gaynelle Brent

Appeal No.: V-100-16

Subject Property: Lot 14, Block D, Sherwood Forest Subdivision, being 9547 Sherwood Drive, Upper Marlboro, Prince George's County, Maryland

Witness: Stefan Costner, Petitioner's husband

Heard and Decided: September 28, 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), 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 in height without the approval of a variance. Petitioner proposes to construct a 6-foot vinyl privacy fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Woodyard Road) of a corner lot are requested.

Evidence Presented

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

1. The property was subdivided in 1961, contains 21,514 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached carport, driveway and shed. Exhibits ("Exhs.") 3, 5, 9 and 10. The existing dwelling was built in 1964. Exh. 9.
2. The property is a corner lot with the dwelling facing the legal front street (Sherwood Drive). Exh. 3.
3. Petitioner would like to construct a 6-foot vinyl privacy fence along both side lot lines to connect with a neighbor's existing fence, but variances are needed to obtain a building permit. Since the fence would be over 4 feet in height and a portion of the fence would be located in the yard abutting the side street (Woodyard Road), waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Woodyard Road) of a corner lot were requested. Exh. 13.
4. Petitioner stated that the proposed fence is to ensure security, privacy and safety. Exh. 2.
5. Petitioner testified that the subject property is located on a corner lot at the intersection of Woodyard Road and Sherwood Drive in close proximity to Mellwood Elementary School and James Madison Middle School. She stated that there is a basketball court at one of the schools. See attachment to Exh. 2 (Exh. B).
6. Petitioner further testified that students on their way to school or the basketball court cut through the subject property causing damage to the landscaping and leaving trash. See attachment to Exh. 2 (Exh. B).

7. Petitioner stated there is no sidewalk on either Sherwood Drive or Woodyard Road. *Also see* Exh. 2 and attachments.

8. Petitioner testified that parents picking up their children at the bus stop park their cars and cause their driveway, which is circular, and their mailbox to be blocked. *See* attachment to Exh. 2 (Exh. A).

9. Petitioner also testified the fence will not restrict sight lines at the stop sign from Sherwood Drive to Woodyard Road.

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 front street (Sherwood Drive), the house being in close proximity to two public schools, the proposed fence providing security, safety and privacy, 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 Woodyard Road) of a corner lot are requested in order to construct a 6-foot vinyl privacy fence on the property located at Lot 14, Block D, Sherwood Forest Subdivision, being 9547 Sherwood Drive, 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 3, and the approved elevation plan, Exhibit 4.

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.