

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-107-16 Hafizullah Salihi

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: October 5, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on October 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: Hafizullah Salihi

Appeal No.: V-107-16

Subject Property: Lot 9, Maguire's Addition to Shorlan Farms Subdivision, being 12400 Old Fort Road, Fort Washington, Prince George's County, Maryland

Heard and Decided: October 5, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 wooden privacy fence. Waivers of the fence height and location requirements for a fence over 4 feet in height in the front (abutting Old Fort Road) and side (abutting Old Piscataway Road) yards 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 1991, contains 23,710 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 3, 5, 11 and 12. The existing dwelling was built in 1956. Exh. 11.
2. The property is a corner lot with the dwelling facing the legal side street. Exh. 3.
3. In 1991, the Board granted a side street setback variance (Appeal Nol. 11012) to validate the location of the house. Exh. 8.
4. Petitioner would like to construct a 6-foot wooden privacy fence around the perimeter of the property, but variances are needed to obtain a building permit. Since the fence would be over 4 feet in height and located in both the front and side yards of a corner lot, waivers of the fence height and location requirements were requested. Exh. 15.
5. Petitioner testified that he purchased the property 9 months ago and has not moved there yet because the house needs repair work. *See* Exh. 6(A). He stated that the main reasons for the fence are privacy and security. He explained that he has a one and half year old child and a neighbor has a pit bull. In addition, he explained that dumping has occurred in the past on the property. *Also see* Exh. 2.
6. Petitioner also pointed out that the existing house extends into the public utility easement. *See* Exh. 3. He explained that since the house is so close to the public right-of-way, the proposed 6-foot fence would provide privacy needed because of the location of bedroom windows in view of the street.
7. Petitioner stated that the fence will also serve as a (pet) sound barrier between him and neighbors. *Also see* Exh. 2.

8. Petitioner further stated that the fence would blend in with neighboring fence types and appearances because it will be constructed of "grape stake" wood and finished in an identical manner as several neighboring properties' fences and the fence will not have any "standout" features. Exhs. 2, 7(A) thru (G).

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 location of the house on the lot being validated by a previous Board decision, a fence over 4 feet in height providing added privacy and security, the fence providing a noise barrier for both neighbors and residents of the subject property, 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, Vice Chairman Scott absent, that waivers of the fence height and location requirements for a fence over 4 feet in height in the front (abutting Old Fort Road) and side (abutting Old Piscataway Road) yards of a corner lot in order to construct a 6-foot wooden privacy fence on the property located at Lot 9, Maguire's Addition to Shorlan Farms Subdivision, being 12400 Old Fort Road, Fort Washington, 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.