

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-124-16 Patricia Wardell

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: November 9, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on November 22, 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: Patricia Wardell

Appeal No.: V-124-16

Subject Property: Lot 30, Block 30, Hollaway Estates Subdivision, being 9820 Sea Gull Court, Upper Marlboro, Prince George's County, Maryland

Witnesses: Tyrone Green, neighbor

Heard and Decided: November 9, 2016

Board Members Present and Voting: 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 white vinyl privacy fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard 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 1967, contains 12,390 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 dwelling was built in 1997. Exh. 7.
2. The property is a corner lot with the house facing the legal side street. Exh. 2. The property is uniquely located on "corner circle" which is close to the entrance to a cul-de-sac. Exh. 4.
3. Petitioner would like to construct a 6-foot white vinyl privacy fence around her back yard, but variances are needed to obtain a building permit. Since a portion of the proposed fence would extend into the legal front yard (along Seagull Court), waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard of a corner lot were requested. Exh. 11.
4. Petitioner testified that due to how her house is situated on a corner lot, her back yard (legal side yard) is very small and she would like to be able to use some of the yard on the side of the house (legal front). Exhs. 2, 5(C).
5. Petitioner stated that because persons cut through her yard, a path has been worn in the grass and that she would like to construct the proposed fence for privacy and security.
6. Petitioner explained that several corner lots in the neighborhood have 6-foot fences.
7. Next door neighbor Tyrone Green expressed concern about his view because of the proposed 6 foot height of the fence.
8. Petitioner believes the proposed 6-foot fence will not obstruct any views.

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 with the house facing the legal side street, Petitioner's "backyard" being the opposite legal side yard leaving a very small "backyard" in addition to no privacy or security, 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, Ms. Mack absent, that waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard of a corner lot in order to construct a 6-foot white vinyl privacy fence on the property located at Lot 30, Block 30, Hollaway Estates Subdivision, being 9820 Sea Gull Court, 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 elevation plans, Exhibit 3.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.