

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-143-16 Anthony Claggett

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: January 11, 2017.

CERTIFICATE OF SERVICE

This is to certify that on January 23, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Barbara J. Stone
Acting 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: Anthony Claggett

Appeal No.: V-143-16

Subject Property: Lot 1, Block E, Crosier Gardens Subdivision, being 2705 Porter Avenue, Suitland,
Prince George's County, Maryland

Heard: December 14, 2016; Decided: January 11, 2017

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 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth, a side yard along the side street at least 25 feet in depth and a side yard at least 8 feet in width; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be located in the yard opposite the designated front of the main building on corner lots where the designated front of the main building faces the side street; and Section 27-420(a), which prescribes that on corner lots consisting of one (1) acre or less, fences in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions and obtain a building permit for an existing 6-foot wooden privacy fence and to construct a deck. Variances of 1 foot front yard depth, 2 feet side street yard depth, 4 feet side yard width, and waivers of the yard location requirement for an accessory building and the fence height and location requirements for a fence/wall over 4 feet in height in the front yard (abutting Huron Avenue) 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 1939, contains 7,666 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. The property is a narrow corner lot with the dwelling facing the legal side street. Exhibits (Exhs.) 5, 8, 9 and 20.
2. Petitioner would like to obtain a building permit for an existing 6-foot wooden privacy fence and a proposed 6' x 21' deck. The deck would be located 24 feet from the front street line and the fence would be located in the front yard, which abuts Huron Avenue. A variance of 1 foot front yard depth and waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard of a corner lot were requested. Exhs. 2, 3 (a) thru (b) and 4.
3. Existing development on the property also requires variances in order to obtain a building permit. The existing dwelling is located 23 feet from the side street line and 4 feet from the side lot line, and an existing shed is located in the rear yard. Variances of 2 feet side street yard depth and 4 feet side yard width, and a waiver of the yard location requirement for an accessory building were requested. Exhs. 6, 10 (A) thru (F), 18 (A) thru (F) and 20.

4. Petitioner explained that there was an existing 4 foot chain link fence in the front yard, a portion of which was destroyed by a vehicle running through the fence. Exhs. 10 (A) thru (F) and 18 (A) thru (E).

5. Petitioner also explained, while in the process of erecting the posts for the 6-foot wooden fence (in the legal front yard), a County Inspector advised him that a permit was required for the development. Exhs. 18 (A) thru (F).

6. Petitioner stated that he desired the 6-foot fence for security reasons.

7. Petitioner also stated that he has two large dogs and would like to allow the dogs to be able to run in the yard. He further stated that because the subject property is next to a day care center, with the excitement from the kids, the dogs continually bark when the kids are outside playing. Exhs. 10 (A) thru (F).

8. Mr. Claggett testified that the 6-foot fence will not impede any site line views for Porter Avenue and Huron Avenue. Exhs. 10 (A) thru (F).

9. Mr. Claggett also stated that the deck will provide a fire exit for the home. Exh. 18 (D).

10. The Subdivision Section of the Maryland - National Capital Park and Planning Commission stated that the Petitioner's property is subject to a 30-foot building restriction line (BRL) per Plat BB 7 @ 81, along the rights-of-way of Porter Avenue and Huron Avenue. It was further stated that the structure that is proposed is not under roof and are therefore not subject to the 30-foot platted BRL. Exh. 21.

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a narrow corner lot, the dwelling facing the legal side street, location of a day care on adjoining 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, unanimously, that variances of 1 foot front yard depth, 2 feet side street yard depth, 4 feet side yard width, and waivers of the yard location requirement for an accessory building and the fence height and location requirements for a fence over 4 feet in height in the front yard (abutting Huron Avenue) of a corner lot in order to validate existing conditions and obtain a building permit for an existing 6-foot wooden privacy fence and to construct a 6' x 21' deck on the property located at Lot 1, Block E, Crosier Gardens Subdivision, being 2705 Porter Avenue, Suitland, 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 approved elevation plans, Exhibits 3 (a) and (b) and 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.