

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-26-17 Marian Spencer

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: April 12, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on May 1, 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: Marian Spencer

Appeal No.: V-26-17

Subject Property: Lot 54, Block D, Re-Subdivision of Deanwood Park Subdivision, being 4728 Mann Street, Capitol Heights, Prince George's County, Maryland

Heard and Decided: April 12, 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 60 feet from any front street line and generally be located only in the rear yard and Section 27-420(a), which prescribes that on a corner lot consisting of one (1) acre or less, fences and walls 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 construct a 6-foot chain link fence in the front yards of a corner through lot. A variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yards abutting Deanwood Drive and Mann Street are requested.

Evidence Presented

1. The property contains 6,305 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. The property is an odd-shaped corner through lot, with the dwelling facing the corner. Exhibits (Exhs.) 2, 4, 12 and 14 (A) thru (G).

2. The property was originally subdivided in 1927 and a minor plat of subdivision to remove a building restriction line was recorded in 2003. Exhs. 4 and 10.

3. Petitioner would like to construct a 6-foot chain link fence. The proposed fence would enclose the yard between the right side of the dwelling and the property line abutting Deanwood Drive and extend from the middle of the left side of the dwelling to the property line abutting Mann Street and continue up the property line to the rear of the dwelling. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yards abutting Deanwood Drive and Mann Street were requested. Exhs, 2, 3 (a) thru (c), 5 (A) thru (J) and 16.

4. An existing shed is located 15 feet from the front street line abutting Mann Street and is constructed at the side of the dwelling. A variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exh. 2.

5. Petitioner testified that she would like to construct a 6-foot fence to keep animals out of her yard. She also explained that because the subject property is a corner lot (through lot) the fence will stop people from using her yard as a short cut.

6. Petitioner further testified that the 6-foot chain-link fence will provide security for her family. Exhs. 2, 3 (a) thru (c), 5 (A) thru (J) and 16.

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 an odd-shaped corner through lot, the need for security from trespassers and animals entering the 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 a variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building, and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yards abutting Deanwood Drive and Mann Street in order to validate existing conditions and construct a 6-foot chain link fence in the front yards of a corner through lot on the property located at Lot 54, Block D, Re-Subdivision of Deanwood Park Subdivision, being 4728 Mann Street, Capitol Heights, 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) thru (j).

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.