

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-64-17 Joan and Eugene Stump

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: July 12, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on July 20, 2017, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Hyattsville

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioners: Joan and Freddie Eugene Stump

Appeal No.: V-64-17

Subject Property: Lots 38 & 39, Ellaville Heights Subdivision, being 4215 Nicholson Street, Hyattsville,
Prince George's County, Maryland

Municipality: City of Hyattsville

Heard and Decided: July 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, Petitioners request that the Board approve variances from Section 27-442(i)(Table VIII), which prescribes that accessory buildings on a corner lot shall be set back 10 feet from the rear lot line 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 or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate an existing condition and construct a 6-foot wooden privacy fence in the side street yard. A variance of 5 feet rear lot line setback for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 42nd Place) are requested.

Evidence Presented

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

1. The property was subdivided in 1890, contains 9,800 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. The subject property, which is located within the Gateway Arts District Development Overlay Zone, is a corner lot, with the dwelling facing the legal front street. Exhibits (Exhs.) 3, 5, 8, 9 and 10 (A) thru (F).

2. Petitioners would like to construct a 6-foot wooden privacy fence around the rear yard. As a portion of the proposed fence would also be in the yard abutting the side street (42nd Place), waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard were requested. Exhs. 2, 3, 4, 6 (A) thru (H) and 10 (A) thru (F).

3. Petitioner Freddie Stump testified that there is an existing 4-foot chain link fence around the back yard and wishes to replace a major portion of that 4-foot chain link fence with a 6-foot wooden fence along adjoining lots 26 and 27. He stated the 4-foot chain link fence will remain between their lot (Lot 39) and adjoining lot 40 on the left side of the subject property. Exhs. 3, 4, 6 (A) thru (H) and 10 (A) thru (F).

4. Ms. Joan Stump testified that there is a lot of foot traffic and dogs jumping the 4-foot fence. Exhs. 3, 6 (A) thru (H) and 10 (A) thru (F).

5. Ms. Stump further testified that the proposed 6-foot fence will provide security. Exhs. 10 (A) thru (F).

6. The existing shed is located 5 feet from the rear lot line. Exh. 3. A variance of 5 feet rear lot line width was requested to validate that condition.

7. The City of Hyattsville provided no comment on the appeal to the Board. Exh. 19.

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 subject property being a corner lot, the need for security/safety 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 5 feet rear lot line setback for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 42nd Place) in order to validate an existing condition and construct a 6-foot wooden privacy fence in the side street yard on the property located at Lots 38 & 39, Ellaville Heights Subdivision, being 4215 Nicholson Street, Hyattsville, 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 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.