

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-24-17 Delcarmen and Armando Sanchez, Jr.

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 August 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
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Office of Law
West Laurel Civic Association

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

Petitioners: Delcarmen and Armando Sanchez, Jr.

Appeal No.: V-24-17

Subject Property: Lot 19, Block J, Sandy Spring Estates Subdivision, being 15403 Bounds Avenue, Laurel,
Prince George's County, Maryland

Heard: May 3, 2017; 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 27-420(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings and Section 27-442(e)(Table IV), which prescribes that each lot shall have two side yards totaling 17 feet in width with the minimum width of either side yard being 8 feet, and a rear yard at least 20 feet in depth/width. Petitioners propose to validate existing conditions and obtain a building permit for a deck, gazebo, in-ground pool, shed and construct a 7-foot wooden privacy fence. Variances of 17 feet side/total side yard width and 20 feet rear yard depth/width and a waiver of the fence location requirement for a fence over 6 feet in height are requested.

Evidence Presented

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

1. The property was subdivided in 1966, contains 10,254 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, deck, gazebo, shed and swimming pool. Exhibits (Exhs.) 2, 5, 10 and 22.
2. Petitioners would like to obtain a building permit for a 14' x 22' deck, 12' x 12' gazebo, 19' x 33' in-ground pool, 14.6' x 23.4' shed and construct a 7-foot wooden privacy fence. Because the fence exceeds the 6-foot height requirement, it must be meet main building setbacks. Therefore, variances of 17 feet side/total side yard width and 20 feet rear yard depth/width and a waiver of the fence location requirement for a fence over 6 feet in height were requested, respectively. Exhs. 2, 3 (a) thru (d), 4 (a) thru (b), 6 (A) thru (G), 12 (A) thru (G), 22 and 14
3. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 47513-2015-0, dated July 22 2015, requiring Petitioners to obtain the required permit(s). Work includes but not limited to the deck, pool, shed over 150 square feet and a fence over 4 feet. Exh. 8
4. Petitioner Armando Sanchez testified that all work has already been completed, e.g., the extended deck, gazebo, shed, above ground pool and fence. Exhs. 2, 3 (a) thru (d), 4 (a) thru (b), 6 (A) thru (G), 12 (A) thru (G) and 22.

5. Mr. Sanchez stated that the 7-foot fence will consist of a 6-foot fence and a 1-foot lattice top. Exhs. 3, (a) thru (d).

6. Section 27-488 requires that a 6-foot fence must encompass a swimming pool.

7. It was determined that a portion of the driveway and deck encroached on Lot 20 (15401 Bounds Avenue). Exhs. 2 and 22.

8. Revised plans were submitted by the Petitioner removing the encroachment of the deck and driveway onto Lot 20. Exh. 22.¹

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

Due to the existence of a swimming pool on the subject property, the requirement by law that such structure must be surrounded by a fence at least 6 feet in height, 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 variances of 17 feet side/total side yard width and 20 feet rear yard depth/width and a waiver of the fence location requirement for a fence over 6 feet in height in order to validate existing conditions and obtain a building permit for a 14' x 22' deck, 12' x 12' gazebo, 19' x 33' in-ground pool, 14.6' x 23.4' shed and construct a 7-foot wooden privacy fence on the property located at Lot 19, Block J, Sandy Spring Estates Subdivision, being 15403 Bounds Avenue, Laurel, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22 and approved elevation plans, Exhibits 3 (a) thru (d) and 4 (a) thru (b).

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

¹ The Board initially voted to approve the variance for improvements located solely on the Petitioners property, but after becoming aware of the encroachment issue, the Board voted, unanimously, to vacate the prior approval vote and held the case open to provide the Petitioner opportunity to resolve the property issue as evidenced by Exh. 2.

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.