

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-59-17 Judy Johnson and Myrtis Leveretta

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 7, 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-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
Other Interested Parties

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

Petitioners: Judy Johnson (deceased) and Myrtis Leverette

Appeal No.: V-59-17

Subject Property: Lots 40, 41, 42, and P/O Lot 43, Block 12, Greater Capitol Heights, being 5100 Fable Street, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner Myrtis Leverette: Shelore Ann Cary Williams

Witness: Allen Agho, Contractor

Tanya Johnson, Granddaughter (Judy Johnson)

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, Petitioner requests that the Board approve variances from Section 27-420(a) of the Zoning Ordinance, 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 vinyl fence. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Nova Avenue) are requested.

Evidence Presented

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

1. The subject property was subdivided in 1909, contains 8,450 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a single-family dwelling and driveway. The property is a corner lot with the dwelling facing the legal side street. Exhibits (Exhs.) 2, 4, 5, 10 and 12 (A) thru (F).

2. Counsel Shelore Williams stated that petitioner Myrtis Leverette would like to construct a 6-foot vinyl fence around the back yard. Because the proposed fence will extend into the yard between the dwelling and the street, waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Nova Avenue) were requested. Exhs. 2, 3 and 14.

3. Counsel stated that a 6-foot white vinyl fence will replace the existing 6-foot wooden which was damaged by Hurricane Sandy. She stated that the new fence will be placed in the exact location as the existing fence. Counsel also explained that the traffic site lines will not be obstructed by the new fence (as was the case with the existing fence). Exhs. 2, 3 and 12 (A) thru (F).

5. Judy Johnson identified the portions of the existing fence which were blown down by the hurricane. Exhs. 12 (A) thru (F).

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 corner lot, the need to replace the existing 6-foot fence as portions of the fence were destroyed by weather, 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 waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Nova Avenue) are requested in order to construct a 6-foot vinyl fence on the property located at Lots 40, 41, 42, and P/O Lot 43, Block 12, Greater Capitol Heights, being 5100 Fable 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 plan, Exhibit 3.

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.