

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

Petitioners: Norma and Oscar Mercado

Appeal No.: V-4-19

Subject Property: Lot 13, Block 18, Chestnut Hills Subdivision, being 10824 Montgomery Road, Beltsville, Prince George's County, Maryland

Heard: February 27, 2019; Decided: March 20, 2019

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 a variance 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 a variance from Section 27-442(e)(Table IV) which prescribes that each corner lot shall have a side yard along the side street at least 25 feet in depth. Section 27-465(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. Petitioners propose to validate and obtain a building permits for a new 10'x 5.42' covered front porch and 6-foot fence. A variance of 6 feet side street yard depth and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard/side yard (abutting 45th Avenue) are requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 13,336 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, covered front porch and driveway. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (F).
2. The property is located on a corner lot with the dwelling sitting catty-corner on the lot facing the intersection of 45th Avenue and Montgomery Road. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (F).
3. Petitioners would like to obtain a building permit for a new covered 10'x 5.42' front porch. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (F).
4. Department of Permitting, Inspection and Enforcement issued Building Violation Notice, dated July 31, 2-17, requiring Petitioner to "obtain the required permit(s) for work done or remove the same. Work includes but not limited to front covered porch and fence over 4 feet." Exh. 7.
5. Petitioner Oscar Mercado testified that the property, which was purchased approximately 2 years, was in "bad shape" and "bamboo had taken over the property". He stated that the existing metal fence was replaced with a 4-foot wood fence and 6-foot fence located along 45th Avenue. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (F).
6. Mr. Mercado explained that the replacement fence will provide security. Exhs. 2, 3 (a) thru (b) and 5 (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 lot being a corner lot, the dwelling being constructed facing the intersection, the need for security 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, by majority vote, Ms. Anastasia Johnson absent, that a variance of 6 feet side street yard depth and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard/side yard (abutting 45th Avenue) on the property located at Lot 13, Block 18, Chestnut Hills Subdivision, being 10824 Montgomery Road, Beltsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, **Exh. 2** and approved elevation plans, **Exhs. 3 (a) thru (b)**.

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.