

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

Petitioners: Michael and Sara Curran

Appeal No.: V-24-19

Subject Property: Lot 214, Block F, Hyattsville Hill Subdivision, being 6000 41st Avenue, Hyattsville,
Prince George's County, Maryland

Municipality: City of Hyattsville

Heard: May 8, 2019; Decided: May 22, 2019

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 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 variances from Section 27-442(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 8 feet in width, and each corner lot shall have a side yard along the side street at least 25 feet in depth. Section 27-442(i)(Table VIII) which prescribes that accessory buildings on a corner lot shall be set back 30 feet from the side street line. Section 27-4 20(a) which prescribes that corner lots consisting of one (1) acre or less, fences 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 existing conditions (dwelling and detached garage) and obtain a building permit for a new 6-foot wooden fence on a corner lot. Variances of .3-foot front yard depth and 1.4 feet side yard width, .1-foot side street yard depth for the dwelling, 5.1 feet side street setback for an accessory building¹ and a waiver of the fence height and location requirements for a 6-foot wooden fence in the side yard (abutting 41st Street) are requested.

Evidence Presented

1. The property was subdivided in 1925, contains 6,908 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, detached garage and a new 6-foot wooden fence on a corner lot. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (G).

2. The property is an irregular shaped corner lot being tapered along 41st Avenue, with the dwelling facing the legal side street (41st Avenue). The property is located within the Gateway Arts District Development Overlay Zone. Exhs. 2, 4, 8, 9 and 10 (A) thru (G).

3. Petitioners are requesting a waiver of a 6' wooden fence height and location requirement. Exhs. 2 and 19.

4. The City of Hyattsville posed no objection to the requested appeal. Exh. 18.

5. Petitioner Michael Curran testified that in 2016 a large oak tree fell on the house and existing fence during a windstorm. Permits have been obtained for rebuilding the house and would like to replace the fence. Exhs. 7 and 19.

¹ Variances of front yard depth, side yard width, side street yard depth for the dwelling, side street setback for an accessory building were approved in prior variance V-7-17.

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 an irregular-shaped lot, a large oak tree falling on the fencing 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 waiver of the fence height and location requirements in order to erect a 6-foot wooden fence in the side yard (abutting 41st Street) on the property located at Lot 214, Block F, Hyattsville Hill Subdivision, being 6000 41st Avenue, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2.

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.