

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

Petitioners: Mauricio and Jenny Pacheco

Appeal No.: V-43-19

Subject Property: Lots 25 and P/O Lot 14, Block 7, Glendale-Martenets Subdivision, being, 7401 Northern Avenue, Prince George's County, Maryland

Witnesses: Melvin Lockett, Neighbor
Eugenia Williams, Neighbor
Pamela Smith, Neighbor

Heard and Decided: June 12, 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 variances 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 27-420(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; 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 (location of the dwelling on the lot) and construct a 6-foot wooden fence in the legal side yard of a corner lot. Variances of 1.5 feet side street yard depth and a waiver of the fence height and location requirements for a 6-foot wooden fence in the side yard (abutting Potomac Street) are requested.

Evidence Presented

1. The property was subdivided in 1960, contains 49,897 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and garage. Exhs. 2, 4, 12, 13 and 14 (A) thru (F).
2. Petitioners would like to construct a 6-foot wooden fence in the side yard of a corner lot (abutting Potomac Street). Exhs. 2, 3 and 9 (A) thru (J).
3. Petitioner Jenny Pacheco testified that the fence is for the safety of their young children along Potomac Street.¹ She opined that the fence will be aesthetically pleasing in the neighborhood. Exhs. 2, 3 and 9 (A) thru (J).
4. Mrs. Pacheco further stated that the fence will not adversely affect neighbors or vehicular traffic as the fence will end at the front of the dwelling, which is approximately 45 feet from the street stop sign. Exhs. 2, 3 and 9 (A) thru (J).
5. Mr. Melvin Lockett (7405 Northern Avenue, Glendale) did not object to the proposed fence.

¹ Potomac Street is a dead end. Exhs. 2, 3 and 9 (A) thru (J).

6. Ms. Eugenia Williams (10812 Potomac Avenue) did not oppose the security fence and testified that there are suspicious activities in the area.

7. Ms. Pamela Smith (7405 Northern Avenue), an adjoining neighbor, agreed that the proposed fence would provide safety to the children.

8. A letter from Charlene Shaffer (7406 Epling Road) provided additional support for Petitioner. Exh. 22.

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 and near the dead end of a street, the need for safety for young children 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 variances of 1.5 feet side street yard depth and a waiver of the fence height and location requirements for a 6-foot fence in the side yard (abutting Potomac Street) in order to validate an existing condition (dwelling) and construct a 6-foot wooden fence in the side yard of a corner lot on the property located at 7401 Northern Avenue, Glenn Dale, 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, 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.