

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

Petitioners: Kerry Richards and Patricia Dawkins

Appeal No.: V-57-19

Subject Property: Lot 1, Block 48, Kettering Subdivision, being 12801 Winona Drive, Upper Marlboro,
Prince George's County, Maryland

Witness: Antoine Fagan, Neighbor

Heard: July 17, 2019; Decided: November 20, 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 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 27-420(a) which prescribes that on lots on 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 an existing condition (dwelling) and construct a 6-foot wooden fence. A variance of 13 feet side street yard depth¹ and waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Watkins Park Drive) are requested.

Evidence Presented

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

1. The property was subdivided in 1955, contains 14,810 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (H).

2. The property is an odd shaped corner lot with the dwelling facing the legal front yard. The rear lot line is sharply angled. It is located on the corner of Winona Drive and Watkins Drive. Exhs. 2 and 4.

3. Petitioners would like to erect a 6-foot wooden site tight fence. Because the property is a corner lot, the fence will be erected along the side street (Watkins Park Drive). Therefore, a waiver of the fence height and location requirement is requested. Exhs. 2, 3 and 5 (A) thru (H).

4. Petitioners would like to erect a 6-foot wood fence surrounding the back and side yards of the corner lot. Kerry Richards stated the fence is for privacy and safety of their two young children. He explained that Watkins Park Drive is a busy road with vehicles and pedestrians and that a lot of pedestrians will cut through their yard. The fence will surround the rear yard running from the back corners of the house. He further explained that a portion of the fence, along Watkins Park Drive, will be setback 5-feet

¹ The subject property does not require a side street variance of 13 feet, as it was determined that a 26-foot side yard setback already exists. Exh. 2.

from an existing 10-foot non-access easement with a total setback from the property line of 15-feet. Exhs. 2, 3 and 5 (A) thru (H).

5. Petitioner advised the Board that there are several 6-foot fences on corner lots located along Watkins Park Drive and believes the proposed fence will not be out of character in the neighborhood. Exhs. 2, 3 and 5 (A) thru (H).

6. Antoine Fagan, who lives at 12803 Winona Drive, testified that he also has a fence and does not object to the proposed fence.

7. Kettering Community Association, Inc. approved the height and location of the proposed fence. Exhs. 17 and 18.

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 for safety of two young children in the side and rear yards, protection from pedestrians traversing the corner lot, 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 waivers of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Watkins Park Drive) in order to construct a 6-foot wooden fence on the property located at 12801 Winona Drive, Upper Marlboro, 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 plan, Exh. 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.