

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

Petitioners: Madelin and Kurt Fox

Appeal No.: V-67-19

Subject Property: Lot 39, Block 52B, Cheverly Subdivision, being 2411 Valley Way, Cheverly,
Prince George's County, Maryland

Municipality: Town of Cheverly

Witness: John Oberly, Code Enforcement Officer, Town of Cheverly

Heard: August 7, 2019; Decided: November 6, 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 27-420(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 construct a 6-foot wooden fence on a corner lot. A waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard/side yard (abutting Benton Road) are requested.

Evidence Presented

1. The property was subdivided in 1947, contains 6,565 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, and a 6-foot wood fence. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (F)
2. Petitioners would like to replace a 4-foot chain link fence with a 6-foot wood fence around the rear yard. Because the property is a corner lot and a portion of the 6-foot fence will run along Benson Road, which is the legal front street, a waiver of the fence location and height requirement is requested. Exhs. 2, 3, 5 (A) thru (J) and 6 (A) thru (F).
3. Cheverly Code Enforcement Officer, John Oberly testified that the Town of Cheverly requested that the record be held open in order for its Council to review the appeal. On October 3, 2019 the Town of Cheverly indicated its support for the proposed waiver. Exhs. 19 and 20.
4. Petitioner Kurt Fox explained that there is a sidewalk along his property line, but there is no sidewalk on the opposite side of Benson Road. As a result, a large number of pedestrians use the sidewalk daily to access a shortcut to reach the nearby Cheverly Metro Station. Petitioner is concerned about safety for their two young children and privacy while in the yard. He believes that the proposed fence will restrict pedestrians from traversing their property. Exhs. 2, 3, 5 (A) thru (J) and 6 (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:

Because the subject property is a corner lot, the property being in close proximity to the Cheverly Metro Station, the concerns of pedestrians crossing the subject property to gain shorter access to the Metro, the need for privacy and safety for two 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, unanimously, that a waiver of the fence location and height requirements for a fence over 4 feet in height in the front yard/side yard (abutting Benton Road) in order to validate existing conditions (dwelling and development) and construct a 6-foot wooden fence on a corner lot on the property located at 2411 Valley Way, Cheverly, 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 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.