

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

Petitioner: Santos Argueta

Appeal No.: V-71-19

Subject Property: Lot 8, Map: 0082, Grid: 00D3, Little Washington Subdivision, being 9001 South Cherry Lane, Upper Marlboro, Prince George's County, Maryland

Spanish Language Interpreter Services: Ernesto Luna

Heard: September 4, 2019; Decided: October 9, 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 variances 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, Petitioner requests that the Board approve variances from Section 27-442(c)(Table II) which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. 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 lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing condition (dwelling) and obtain a building permit for a new 5-foot brick wall in the front yard, a new 6-foot vinyl fence and a new asphalt driveway. Variances of 4% net lot coverage and waivers of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard/side yard (abutting Cherry Lane South) are requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 21,102 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, asphalt **driveway, concrete** driveway and two sheds. Exhibits (Exhs.) 2, 4, 10, 11, 12 (A) thru (F).

2. Petitioner would like to validate unauthorized construction of a 5-foot-11-inch (height) brick wall located in front of the dwelling, a new 6-foot vinyl fence and a new asphalt driveway. Due to the addition of an unauthorized driveway/parking area, a variance of 4% net lot coverage is requested. Petitioner has constructed a 5-foot unauthorized wall in the front yard which requires a waiver of the fence location and height requirement. Exhs. 2, 3, 5 (A) thru (F) and 6 (A) thru (B).

3. The Department of Permitting, Inspections and Enforcement issued a Violation Notice (VN#20625-19) to Petitioner to obtain the required building permits for work done or remove the same. Work included, but was not limited to the brick wall, columns, and perimeter fence on the subject property. Exhs. 7 and 8.

4. Petitioner Santos Argueta explained that he has constructed a 6-foot vinyl fence and a brick fence on the front of the property with 5-foot columns and pour asphalt on the driveway. The columns on the front are brick columns. He stated that the second driveway was installed 3 1/2 years ago and he has lived on the

property for 4 ½ years. He stated that the additional driveway is used for parking by visitors because there is no street parking permitted on South Cherry Lane. He stated that if the variance is denied, the completed work would be wasted. Exhs. 2, 3, 5 (A) thru (F), 6 (A) thru (B).

5. Petitioner further explained that he built the brick wall with the columns and he would like to add aluminum grid in between the columns. He stated that the brick wall runs from driveway to driveway and is in front of the house. Exhs. 2, 3, 5 (A) thru (F), and 6 (A) thru (B).

6. Petitioner stated the 6-foot vinyl fence currently runs along the rear of the property and on both sides to the front property line. He stated that the fence was installed in April 2019, in the future, he would like to attach the vinyl fence to the front brick wall with two gates. Petitioner opined that the 6-foot fence and brick wall is a bit different than the development on other properties in the community. Exhs. 2, 3, 5 (A) thru (F), 6 (A) thru (B).

7. Petitioner further stated that if the variances are not approved, he will lose both money and the development that he has completed. He also stated that without the fence, he would lose his privacy.

8. Little Washington Civic Association objected to the requested variances. Exh. 19.

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 variances do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented. Exhs. 2.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that variances of 4% net lot coverage and waivers of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard/side yard (abutting Cherry Lane South) in order to validate existing condition (dwelling) and obtain a building permit for a new 5 foot 11 inch brick wall in front of the yard on the property located at 9001 South Cherry Lane, Upper Marlboro, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.