

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

Petitioner: James Jones

Appeal No.: V-79-19

Subject Property: Lot 25, Block Y, Fort Washington Subdivision, being 2912 Gosport Court, Fort Washington, Prince George's County, Maryland

Heard and Decided: September 4, 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, Petitioner requests that the Board approve a variance from Section 27-420(a) which prescribes that 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, walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Section 27-120.01(c) which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioner proposes to validate an existing condition (dwelling) and obtain a building permit for retaining walls over 4 feet height in front of the house. A variance of 5 feet front yard setback for retaining walls over 4 feet, height and location requirements and waiver of the parking area location requirement are requested.

Evidence Presented

1. The property was subdivided in 1963, contains 13,964 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling with retaining walls. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).

2. Petitioner would like to obtain a building permit for a retaining wall over 4 feet in height to be located in the front yard. Any retaining wall over 4 feet must meet main building setbacks, therefore, a variance of 5 feet is requested as well as a waiver of the parking area location requirement for parking located in the front yard. Exhs. 2, 3 and 5 (A) thru (F).

3. Mr. Jones explained that the current retaining wall and front yard driveway have been in place for 55 years and the wall is now "curving." He stated that the proposed retaining wall be identical to the existing one.

4. The subject property is located on a steep slope and the retaining wall is stated to be imperative to keeping the ground stable and uncompromised. The wall will be approximately 11-feet at its maximum. Exhs. 2, 3 and 5 (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:

Due to the very steep topography of the property, the retaining walls being imperative for ground stability 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 5 feet front yard setback for retaining walls over 4 feet, height and location requirements and waiver of the parking area location requirement in order to validate an existing condition (dwelling) and obtain a building permit for retaining walls over 4 feet in height on the property located at 2912 Gosport Court, Fort Washington, 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 3 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.