

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

Petitioners: Joseph and Melissa Gresock

Appeal No.: V-87-19

Subject Property: Lot 1, Block G, Bond Mill Park Subdivision, being 6110 Kaybro Street, Laurel,
Prince George's County, Maryland

Witness: Bruce Harris, Neighbor

Heard and Decided: September 18, 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 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, Petitioners request that the Board approve variances from Section 27-442(i)(Table VIII) which prescribes that accessory buildings shall be set back 2 feet from any side lot line. Section 27-420(a) which prescribes that 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 (accessory building and replace an existing fence with a proposed 6-foot (up to an 8-foot) cedar picket privacy fence. Variances of 1-foot side lot line setback, waiver of the rear yard location requirement for an accessory building, and waiver of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Kaybro Street and Kent Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1965, contains 15,511 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a 6-foot privacy fence. Exhibits (Exhs.) 2, 4, 7, 8 and (A) thru (F).
2. The property is located on a corner lot with the dwelling facing the intersection of Kaybro Street and Kent Road. Because the property has two front property lines which are equal, both front street lines are legal front yards. Exhs. 2, 4, 7, 8 and (A) thru (F).
3. Petitioners would like to validate existing conditions, the shed being one foot too close to the property line and also located in the side yard. A variance of 1-foot side yard setback and a waiver of the rear yard location for an accessory building, respectively is requested, respectively. Petitioners also requested a waiver of the fence height and location requirement as portions of the new fence are proposed at 8 feet in height. Exhs. 2, 3 and 5(A) thru (J).
4. Petitioner Joseph Gresock testified that they are requesting permission to replace the existing 6-foot fence with a 6 – 8-foot fence (8 feet in certain areas). He explained that the rear property line slopes up approximately 2-feet in the rear to his neighbor's property. He stated that the existing 6-foot fence actually projects only 4-foot tall on the neighbor's side and anyone or anything (animal) could easily jump into

Petitioners' yard.¹ To get the full effect of a 6-foot fence, they wish to erect the 8' fence in certain areas to adjust for the topography.² He submitted that the fence will be a sight tight fence and will not be located near the intersection. Exhs. 2, 3 and 5(A) thru (J).

5. Petitioner further explained that Kaybro Street is a dead-end street which ends at their property line. The two front portions of the fence (constructed 20 years ago) were placed just outside of the property line. Petitioners will move the proposed fence back onto their property to abate encroachment.

6. Bruce Harris, who lives at 6413 MaCahill Drive, testified that he is very familiar with the area and can attest that the existing fence has been there for 20 years. He stated that he understood the concern of the Petitioners because the topography (sloping) of his property is the same. He also stated that the proposed fence should not block the (vehicular) view of the intersection. He does not oppose the height and location of the proposed fence.

7. Several (7) letters of support from neighbors were submitted into the record. Exh. 12

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 property being a corner lot affecting existing conditions, the topography of the property having steep slopes, the need for a protective fence for the 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 1-foot side lot line setback, waiver of the rear yard location requirement for an accessory building, and waiver of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Kaybro Street and Kent Road) in order to validate an existing condition (accessory building) and replace an existing fence with a proposed 6-foot (up to an 8-foot) cedar picket privacy fence on the property located at 6110 Kaybro Street, Laurel, Prince George's County, Maryland, be and are 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.

¹ Their concern is that being foster parents, their foster children's safety in the yard is paramount.

² Along their property lines the land slopes down to the sidewalk; in essence, their house sits up on a hill. Petitioners are trying to achieve a functional consistent 6-foot fence around the rear yard of their property. The fence will sit back from both front streets in allow Petitioners to plant bushes between the sidewalk and the proposed fence to minimize the sight of the actual height differential of the fence. Exhs. 2, 3 and 5(A) thru (J).

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.