

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

Petitioner: Erick Mendez

Appeal No.: V-90-19

Subject Property: Lot 18, Block D, Queens Chapel Manor Subdivision, being 5622 31st Avenue, Hyattsville
Prince George's County, Maryland

Municipality: City of Hyattsville

Heard: October 9, 2019; Decided: October 23, 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(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-420(a) which prescribes that fences 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 in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate an existing condition (dwelling) and construct a covered porch, a 6-foot Barcelona Maverick Aluminum Fence and a Millie asphalt path. Variances of 16 feet front yard depth¹ and a waiver of the fence location requirement/waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting 31st Avenue) are requested.

Evidence Presented

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

1. The property was subdivided in 1940, contains 5,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. Petitioner would like to install a 6-foot aluminum fence (Barcelona Maverick), construct a 9 'x 16' cover over the front porch and extend the driveway with asphalt millings. Because the dwelling was constructed in 1940, the front of the dwelling is located right at the 25-foot building restriction line leaving no setback for a front porch; therefore, a variance of 9 feet front yard depth is requested. Petitioner also requests a 6-foot fence to surround the entire property, including the front yard, thus, requiring a waiver of the fence location and height requirement. Exhs. 2, 3, 5 (A) thru (E).
3. Petitioner stated that the proposed fence is a "Barcelona" style fence with sharp pointed medallions on the top of the vertical rail. He believed that if the fence were only 4 feet in height, the possibility exists that someone or a dog jumping the fence would be hurt for which he may incur liability or basically cause a "tragic." Exhs. 2, 3, and 5 (A) thru (E).
4. He stated that the fence is needed for his daughter to be able to play in the front and back yards.

¹ The request for 16-feet front yard depth was incorrectly entered on the Hearing Notice as well as **in** the Agenda. The correct front yard variance required is 9-feet.

5. Mr. Mendez stated that there is a corner lot nearby that has a 6-foot site tight fence, but his proposed fence would have open rails.

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 does 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 narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels. See, Exh. 2 and 3.
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.
3. Petitioner has not presented any undue hardship based on the evidence adduced.

BE IT THEREFORE RESOLVED, by majority, Ms. Anastasia Johnson absent, that variances of 9 feet front yard depth and a waiver of the fence location requirement/waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting 31st Avenue) in order to validate an existing condition (dwelling) and construct a covered porch, a 6-foot Aluminum Fence and an asphalt path on the property located at 5622 31st Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

BOARD OF ZONING APPEALS

By:

ORIGINAL SIGNED

Bobbie S. Mack, Chairperson

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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.