

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

Petitioner: Karla Carter

Appeal No.: V-93-19

Subject Property: Lot 12, Block 8, Suburban Estates Subdivision, being 5801 Alan Drive, Clinton,
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 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 27-420(a) which prescribes that 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; 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. Petitioner proposes to construct a 6-foot wooden privacy fence on a corner lot. Waiver of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Pinewood Drive) is requested.

Evidence Presented

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

1. The property was subdivided in 1959, contains 14,129 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a 4-foot chain link fence. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. The property is a corner lot with the legal front facing Alan Drive. Exh. 2.
3. The proposed 6-foot fence will be run along Pinewood Drive for approximately 62 feet and turn into the front of the dwelling. Because the 6-foot fence will abut Pinewood Drive, a waiver of the fence height and location requirements is requested. Exhs. 2, 3 and 5 (A) thru (F).
4. Petitioner Karla Carter testified that she currently has a 4-foot chain link fence and Steven Decatur Middle is located on adjoining property to the rear of the subject property. She explained that persons jump her fence and leave trash in the yard.
5. She explained that she has a child with Autism disabilities, and she desire a safe and secure place in which the child may play and enjoy the outside. She stated that the current 4-foot chain link will be torn down and be replaced with the proposed 6-foot wooden privacy fence. 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 property being a corner lot located near a school, the disabilities of Petitioner's son, the need to protect and provide a safe place for the child, the need to preclude trespassers from traversing the corner property (which is not now prevented by the 4-foot fence), 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 waiver of the fence height and location requirements for a fence over 4 feet in height in the front yard/side yard (abutting Pinewood Drive) in order to construct a 6-foot wooden privacy fence on the property located at 5801 Alan Drive, Clinton, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exh. 2 and approved elevation plan, Exh. 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.