

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

Petitioners: Damon Fikes

Appeal No.: V-110-19

Subject Property: Lot 15, Block A, Springdale Subdivision, being 9020 Ardmore Road, Upper Marlboro, Prince George's County, Maryland

Witness: Ricardo Magalhaes, Neighbor

Heard: November 20, 2019; Decided: December 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 27-442(d)(Table III) which prescribes that each lot shall have a minimum width of 65 feet measured along the front building line. 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. The Petitioner proposes to validate an existing condition (property) and obtain a building permit for a proposed construction of a 10-feet wooden privacy fence. Variances of 5 feet front building line width and a waiver of the fence location and height requirement for a fence over 4 feet are requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 10,200 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, two sheds and a 4-foot fence. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).

2. The property is a rectangular shaped lot, 60 feet in width and 170 feet in length. Exhs. 2, 4, 9, 10 and 11 (A) thru (F).

3. Petitioner would like to construct a 10-foot wood privacy fence along a portion of the eastern property line. A waiver of the fence height is requested as the fence is 6 feet over the allowable height. Exhs. 2, 3, 5 (A) thru (C), 6 (A) thru (J).

4. Petitioner stated that he is proposing a 10-foot privacy fence between his property and property of his neighbor, Mr. Magalhaes, who lives at 9022 Ardmore Road. The length of the fence will be 64 feet, from the side center of his home, running along the property line toward the rear of his property. He explained that his neighbor has installed numerous security cameras, high in the eaves of his house, at a height of 10+ feet. Petitioner would like to block the view of the cameras from recording within his property. Mr. Fikes contended that a lower height of the fence will not block the view of those cameras. He stated that there is a total of 4 cameras on the side of the neighbor's house, plus security lights. He further stated that he has a hot

tub in his back yard and does not want to be under 24-hour surveillance. Exhs. 2, 3, 5 (A) thru (C), and 6 (A) thru (J).

5. Petitioner stated that trees could be planted along the property line but opined that it would take several years of growth to eventually abate the privacy issue, but he is looking for a more immediate solution. He further stated that if the cameras were lowered, he would not have a problem with them. Exhs. 2, 3, 5 (A) thru (C), 6 (A) thru (J).

6. Mr. Magalhaes stated that he would not like to view a 10-foot fence when he looks out of his window and believed that the proposed 10-foot fence is overly extreme. He explained that when he built an addition on his house, during construction several thefts occurred. He opined that the cameras protect his property. He further stated that the cameras are located on all four sides of the house, not just on the side where Petitioner lives. He contended that the intent of the camera is to angle down onto his property, not into Mr. Fikes'. Exhs. 2, 3, 5 (A) thru (C), 6 (A) thru (J).

7. Mr. Fikes made a suggestion to change the style of the fence to soften the harsh look of the 10-foot fence and possibly reduce the proposed fence by 1-foot. Exh. 18

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 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. See, Exhibits 2 & 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. The Board found that the Petitioner may have a viable option to plant trees to address his privacy concern in balancing his desire for privacy with the security concerns of his neighbor.

BE IT THEREFORE RESOLVED, unanimously, that variances of 5 feet front building line width and a waiver of the fence location and height requirements for a fence over 4 feet in order to validate an existing condition (property) and obtain a building permit for a proposed construction of a 10-feet wooden privacy fence on the property located at 9020 Ardmore Road, 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.