

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

Petitioner: Michelle De Los Santos

Appeal No.: V-38-18

Subject Property: Lot 48, North Barnaby Subdivision, being 5101 Saint Barnabas Road, Temple Hills,
Prince George's County, Maryland

Heard and Decided: June 13, 2018

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(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking and Section 27-420(a), which prescribes that on a corner lot consisting of one (1) acre or less, fences and walls 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 validate existing conditions (existing development) and obtain a building permit for the replacement of a 6-foot wooden privacy fence in the side yard of a corner lot. A variance of 9.6% net lot coverage and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Lime Street) are requested.

Evidence Presented

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

1. The property contains 15,210 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and detached carport. The property is a corner lot with the dwelling facing the legal front street. Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).
2. The property was subdivided in 1939, but was created by deed dated March 25, 1974 conveying 223 square feet to the State of Maryland. Exhs. 4, 12, 13 and 14.
3. Petitioner would like to validate the existing development on the property, which exceeds the amount of lot coverage allowed, and to obtain a building permit for the replacement of a 6-foot wooden privacy fence, which runs from the house along the side street to the driveway. A variance of 9.6% net lot coverage and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Lime Street) were requested. Exhs. 2, 3 (a) thru (b), 5 (A) thru (F) and 16.
4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued a Building Violation Notice, dated May 2, 2016, requiring Petitioner to "Obtain the required permit(s) for work done . . . or remove the same. Work includes but not limited to a fence over 4 feet." On July 7, 2017, a door tag was left informing Petitioner an inspection was done for Court. Exhs. 6 and 7.
5. Petitioner explained that the property was a foreclosure property that was vacant for 3 years before her purchase in 2016. She speculated that a portion of the previously installed fencing was removed when

the house was vacant and explained that a recent wind storm knocked down another portion of the fence. For security, she replaced the missing portions of the fence in the same location as the original fence, following the existing post holes. Subsequently, she became aware that the previous owner had not obtained a permit to erect the pre-existing fence. Exhs. 2, 3 (a) thru (b), 5 (A) thru (F) and 11 (A) thru (F).

6. Ms. De Los Santos explained that all other building structures were in place when she purchased the property.

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 variances complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being a corner lot, the need for security, portions of the fence panels being removed and/or swept away by a wind storm 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 9.6% net lot coverage and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Lime Street) in order to validate existing conditions (existing development) and obtain a building permit for the replacement of a 6-foot wooden privacy fence in the side yard of a corner lot on the property located at Lot 48, North Barnaby Subdivision, being 5101 Saint Barnabas Road, Temple Hills, 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 plans, Exhibits 3 (a) thru (b).

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.