

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

Petitioner: Anita Easter

Appeal No.: V-39-18

Subject Property: Lot 3, Block E, Squire's Hill Subdivision, being 2300 Kingsway Road, Fort Washington, 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(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line 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 an existing condition (shed) and replace a 6-foot wooden privacy fence in the side yard of a corner lot. A variance of 1.5 feet side lot line setback for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Jaffrey Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1967, contains 11,875 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. The property is a corner lot with the dwelling facing the legal front street. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).

2. Petitioner would like to replace the existing 6-foot privacy fence around the back yard. As a portion of the fence is located between the dwelling and the property along the side street, waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Jaffrey Road) were requested. Exhs. 2, 3, 5 (A) thru (C) and 10.

3. The existing shed is located .5 foot from the side lot line. A variance of 1.5 feet side lot line setback for an accessory building was requested. Exhs. 2 and 9 (A) thru (F).

4. Petitioner testified that she is proposing to replace the existing 6-foot fence that is in disrepair and falling. She explained that she has tried to nail the fence back up to no avail. She informed the Board that a County Inspector advised her that if the fence is not repaired or replaced, she will be fined. Exhs. 2, 3 and 5 (A) thru (C).

5. Ms. Easter stated that because the rear yard is sloped, it would be very difficult to relocate the fence to another location. She stated that the new fence will be in the exact same location as the existing fence. Exhs. 2, 3 and 5 (A) thru (C).

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 topography and the slope of the rear yard, the need to replace the existing fence that is damaged 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 1.5 feet side lot line setback for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Jaffrey Road) in order to validate an existing condition (shed) and replace a 6-foot wooden privacy fence in the side yard of a corner lot on the property located at Lot 3, Block E, Squire's Hill Subdivision, being 2300 Kingsway Road, Fort Washington, 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.

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.