

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

Petitioner: Juan Lopez-Meono

Appeal No.: V-41-18

Subject Property: Lot 1, Block Que, Carole Highlands Subdivision, being 1500 Erskine Street, Takoma Park, Prince George's County, Maryland

Witness: Maria Rodriguez, Spouse

Spanish Language Interpreter: Ernesto Luna

Heard and Decided: June 27, 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 10 feet from the rear 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 and obtain a building permit for a new 6-foot wooden privacy fence in the side yard of a corner lot and a shed. A variance of 6 feet rear 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 15th Avenue) are requested.

Evidence Presented

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

1. The property was subdivided in 1945, contains 7,880 square feet, is zoned R-55 (One-Family Detached 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, 5, 11, 12 and 13 (A) thru (F).

2. Petitioner would like to obtain a permit for a new 6-foot wooden privacy fence along the side street. As the fence is located in the yard between the dwelling and the side street, waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting 15th Avenue) were requested. Exhs. 2, 3, 6 (A) thru (E) and 15.

3. Petitioner would also like to obtain a permit for a 14' x 18' shed, which is located 4 feet from the rear lot line. A variance of 6 feet rear lot line setback for an accessory building was requested. Exhs. 2, 4, 6 (A) thru (E) and 15.

4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 9007-18-0, dated March 10, 2018, requiring Petitioner to "Obtain the required building permit(s) for work done . . . or remove the same. Work includes but not limited to interior renovation, a large shed, Lean-To and deck without inspection or permits." Exh. 8.

5. Petitioner testified that the 6-foot fence was built because where the basketball court is located, (which is on the "L" portion of the driveway) the ball constantly rolls into the street and he was concerned for the safety of his young children. Exhs. 2, 3, 6 (A) thru (E) and 15.

6. He further testified that he replaced a very small existing shed with the larger shed. Exhs. 2, 4, 6 (A) thru (E) and 15.

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, the house facing the legal front street, the safety of young children playing in the yard 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 6 feet rear 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 15th Avenue) in order to validate and obtain a building permit for a new 6-foot wooden privacy fence in the side yard of a corner lot and a 14' x 16' shed on the property located at Lot 1, Block Que, Carole Highlands Subdivision, being 1500 Erskine Street, Takoma Park, 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 and 4.

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.