

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

Petitioners: Leonardo Johnson, Jr. and Margaret Womack

Appeal No.: V-48-18

Subject Property: Lot 1, Block 44, Kettering Subdivision, being 12801 Keverton Drive, Upper Marlboro,
Prince George's County, Maryland

Witness: Bernita Ferguson, Petitioner's Sister

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, Petitioners request that the Board approve variances from Section 27-420(a) of the Zoning Ordinance, which prescribes that on corner lots 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 in height without the approval of a variance. Petitioners propose to validate and obtain a building permit for a new 6-foot wooden fence in the side yard of a corner lot. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Watkins Park Drive) are requested.

Evidence Presented

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

1. The property was subdivided in 1970, contains 16,741 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. The property is a corner lot with the dwelling facing the legal front street. The property is located within the Enterprise Road Corridor Development Review District. Exhibits (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).

2. Petitioners would like to obtain a building permit for a new 6-foot wooden fence around the back yard. As a portion of the fence extends 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 Watkins Park Drive) were requested. Exhs. 2, 3 (a) thru (b), 5 and 10.

3. Ms. Margaret Womack testified that she had replaced an existing fence approximately a year ago for which she received a violation notice. She stated the subject property is located across the street from Watkins Park and adjacent to Watkins Park Drive, which is a very busy road. She explained that the replacement fence is a shadow box style fence located approximately 75 feet back from the intersection of Keverton Drive and Watkins Park Drive and 15 feet from the property line. Exhs. 2, 3 (a) thru (b) and 5.

4. Ms. Ferguson testified that the 6-foot fence was erected on the subject property because of the close proximity to the woods from which such animals as deer and raccoons come into the back yard. Petitioner stated that she is extremely concerned for the safety of their young children playing in the back

yard related to the animals as well as the traffic from the heavily traveled Watkins Park Road. She stated that the fence has stopped the trespassing through the property. She further testified that the fence has served as a buffer in decreasing the noise from the traffic on Watkins Road. Exhs. 2, 3 (a) thru (b) and 5.

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 with the dwelling facing the legal front street, young children playing in the yard adjacent to Watkins Park Drive which is heavily traveled, the need to keep wild animals as well as trespassers from entering the back 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Watkins Park Drive) in order to validate and obtain a building permit for a new 6-foot wooden fence in the side yard of a corner lot on the property located at Lot 1, Block 44, Kettering Subdivision, being 12801 Keverton Drive, Upper Marlboro, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance(s) 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.