

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

Petitioners: Cornelius Wiley

Appeal No.: V-51-18

Subject Property: Lot 28, Block A, Lakeview at Brandywine Subdivision, being 14201 Owings Avenue,
Brandywine, Prince George's County, Maryland

Heard: June 27, 2018; Decided: July 11, 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 27-420(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. Petitioner proposes to construct a 6-foot white vinyl 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 Chicamuxen Court) are requested.

Evidence Presented

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

1. The property was subdivided in 2006, contains 16,988 square feet, is zoned R-R (Rural 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. Exhibits (Exhs) 2, 4, 8, 9 and 10 (A) thru (F).
2. Petitioner would like to construct a 6-foot white vinyl fence around the back yard. As a portion of the fence will be 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 Chicamuxen Court) are requested. Exhs. 2, 3, 5 (A) thru (B) and 19.
3. Lakeview at Brandywine Homeowners Association submitted written approval of the requested fence. Exh. 18 and 20.
4. Petitioner Cornelius Wiley requested to erect a 6-foot solid white vinyl fence extending around his rear yard. He stated that because Chicamuxen Court is a cul-de-sac, there is not much vehicular traffic that will pass the fence. He further stated that the proposed fence will be located approximately 90 feet from the intersection. Exhs. 2, 3, 5 (A) thru (B) and 19.
5. He explained that the height of the proposed 6 foot fence is necessary because he owns 3 large breed dogs and a 4-foot fence will not contain the dogs in the yard. Mr. Wiley explained that he trains the dogs and for the safety of the dogs as well as the community, the (large) dogs need to be secure when he is not with them. Exhs. 2, 3, 5 (A) thru (B) and 19.

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 lot being a corner lot with the house facing the legal front, the Petitioner owning 3 large breed dogs, the need to keep the dogs secure in the yard, the need to protect the dogs, the need to protect the community 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 Chicamuxen Court) in order to construct a 6-foot white vinyl fence in the side yard of a corner lot on the property located at Lot 28, Block A, Lakeview at Brandywine Subdivision, being 14201 Owings Avenue, Brandywine, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance 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.