

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

Petitioner: Juan Martinez

Appeal No.: V-62-18

Subject Property: Lots 27-32 & 39-40, Block 38, Greater Capitol Heights Subdivision, being 1132 Quo Avenue, Capitol Heights, Prince George's County, Maryland

Heard and Decided: July 25, 2018

Board Members Present and Voting: 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 5 feet in width; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from a front street line; and Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions (dwelling, Sheds) and construct extended driveway area, a 6-foot chain link fence, a 6-foot white vinyl privacy fence and a 5-foot iron fence atop a 1-foot block wall in the front yards of a through lot. Variances of 2 feet side yard depth for the dwelling, 2.8% net lot coverage, 52 feet front street line setback for one accessory building, 45 feet front street line setback for a second accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gunther Street) and the front yard (abutting Oak Avenue) are requested.

Evidence Presented

1. The property was subdivided in 1909, contains 16,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. The property is a through lot, with frontage on three streets. The lot is an unusual "L" shaped lot. Exhibits (Exhs) 2, 6, 9, 10 and 11 (A) thru (F).

2. Petitioner would like to construct a 6-foot chain link fence along the property line abutting Oak Avenue, an unimproved street, a 5-foot iron fence atop a 1-foot block wall along the property line abutting Gunther Street, a dead-end street, and a 6-foot white vinyl privacy fence along the side lot line that connects to Gunther Street. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gunther Street) and the front yard (abutting Oak Avenue) were requested. Exhs. 2, 3, 4, 5, 7 (A) thru (H) and 14.

3. Petitioner would also like to construct a 12' x 75' gravel driveway extension, replacing existing pavers; a 12' x 128' gravel driveway, coming off of Gunther Street and connecting to the driveway extension; and a 12' x 21' driveway extension, using pavers, in front of the small shed. Construction of the driveways would exceed the amount of lot coverage allowed. A variance of 2.8% net lot coverage was requested. Exhs. 2 and 14.

4. The existing dwelling, constructed in 1925, is located 3 feet from the side lot line. One of the sheds is located 8 feet from the front street line abutting Oak Avenue and the other shed is located 45 feet from the front street line abutting Oak Avenue. Variances of 2 feet side yard depth for the dwelling, 52 feet front street line setback for one accessory building and 45 feet front street line setback for a second accessory building were requested. Exhs. 2 and 14.

5. Petitioner Juan Martinez testified he would like to erect a 5-foot iron fence on top of a 12-inch block, a 6 foot white vinyl fence and a 6-foot chain link fence because of the neighbors' two pit bull dogs who run loose through his yard, making it unsafe for his children. Exhs. 2, 3, 4, 5, 7 (A) thru (H) and 21.

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 through lot, the unusual shape of the lot, the need to keep the neighbors' dogs in abeyance and pedestrians from walking through 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Bobbie Mack absent, that variances of 2 feet side yard depth for the dwelling, 2.8% net lot coverage, 52 feet front street line setback for one accessory building, 45 feet front street line setback for a second accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gunther Street) and the front yard (abutting Oak Avenue) in order to validate existing conditions (dwelling, sheds) and construct extended driveway area, a 6-foot chain link fence, a 6-foot white vinyl privacy fence and a 5-foot iron fence atop a 1-foot block wall in the front yards of a through lot on the property located at Lots 27-32 & 39-40, Block 38, Greater Capitol Heights Subdivision, being 1132 Quo Avenue, Capitol Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 21 and approved elevation plans, Exhibits 3, 4 and 5.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Albert C. Scott, Vice Chairman

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.