

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

Petitioners: Donald and Tavannie Finlayson

Appeal No.: V-79-18

Subject Property: Lot 5 and Part of Lot(s) 6 (&7), Block 19, Beltsville Subdivision, being 4900 Kent Avenue, Beltsville, Prince George's County, Maryland

Heard and Decided: September 12, 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 construct a 6-foot aluminum fence along the side street 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 Kent Avenue) are requested.

Evidence Presented

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

1. The property contains 21,767/23,629 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 side street. Exhibits (Exhs.) 2, 4, 12, 13 and 14 (A) thru (F).

2. The property was subdivided prior to 1930, but was created as it exists today by deed prior to 1944. Exhs. 7, 8, 9 and 10.

3. Petitioners would like to construct a 6-foot aluminum fence along the property line abutting the side street. Waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Kent Avenue) were requested. Exhs. 2, 3, 5 (A) thru (D) 6 and 15.

4. Petitioner Donald Finlayson stated that he wishes to install a security fence around his property due the unique topographical location of his home. The fence is needed to prevent crime that they have experienced. His home sits within a depression at the end of a dark secluded cul-de-sac. The location of the home being secluded, attracts crime and prevents police from seeing criminal activities from Rhode Island Avenue. Kent Avenue was built in 2008 and only two homes reside on the road. Exhs. 2, 3, 5 (A) thru (D), 6 and 23, (A) thru (E).

5. Mr. Finlayson provided photographs of the view from Rhode Island Avenue, demonstrating that the concealed view of the two homes. Exhs. 2, 3, 5 (A) thru (D), 6 and 23 (A) thru (E).

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 of Kent Avenue, the need for a security barricade between Rhode Island Avenue and the subject property 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 waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Kent Avenue) in order to construct a 6-foot aluminum fence along the side street of a corner lot on the property located at Lot 5 and Part of Lot(s) 6 (&7), Block 19, Beltsville Subdivision, being 4900 Kent Avenue, Beltsville, 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, ChairpersonNOTICE

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.

