



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

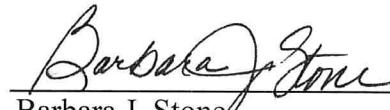
OF BOARD OF APPEALS

RE: Case No. V-80-18 Oscar and Norma Umana

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: September 12, 2018.

CERTIFICATE OF SERVICE

This is to certify that on September 24, 2018, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Beltsville Citizens' Association
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Oscar and Norma Umana

Appeal No.: V-80-18

Subject Property: Lots 4 & 13 and Part of Lots 5 & 6, Block 18, Beltsville Subdivision, being 4909 Kent Avenue, Beltsville, Prince George's County, Maryland

Spanish Language Interpreter Service: Ernesto Luna

Witnesses: Jenny Umana, Petitioner's Daughter

Nhi Lam, Neighbor

Donald Finlayson, Neighbor

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 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking 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. Petitioners propose to validate an existing condition (development) and construct a 6-foot vinyl fence in the front and side yards and a 6-foot iron fence in the side yard of a corner lot. A variance of .9% net lot coverage and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Rhode Island Avenue) and side yard (abutting Kent Avenue) are requested.

Evidence Presented

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

1. The property contains 27,605 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. The property is a corner lot with the dwelling facing the side street, at an angle. Exhibits (Exhs.) 2, 5, 12, 13 and 14 (A) thru (F).
2. Lots 4, 5 and 6 were originally subdivided prior to 1930 and Lot 13 was created by subdivision in 1949. The property as it exists today was created by deeds recorded prior to 1949. Exhs. 6, 7, 8 and 9.
3. Petitioners would like to construct a 6-foot vinyl fence along a portion of the property lines abutting Rhode Island and Kent Avenues and a 6-foot iron fence along a portion of the property line abutting Kent Avenue. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Rhode Island Avenue) and side yard (abutting Kent Avenue) were requested. Exhs. 2, 3, 4, 14, (A) thru (F), 16 and 21.
4. The existing development on the property exceeds the amount of lot coverage allowed. A variance of .9% net lot coverage was requested. Exhs. 2, 3, 4, 14, (A) thru (F), 16 and 21.

5. Petitioner Norma Umana testified that the police suggested that a fence be erected as a measure to control trespassers. Exhs. 2, 3, 4, 14, (A) thru (F), 21, 26 (A) thru (C), 27 (A) thru (D), 28 and 29.

6. Mr. Finlayson, who lives at 4900 Kent Avenue, testified that because of the topography of Kent Avenue, the police cannot view the subject property from Rhode Island Avenue. He stated that Kent Avenue is an incline where the subject property sits down in a depression. Exhs. 2, 3, 4, 14, (A) thru (F), 21, 26 (A) thru (C), 27 (A) thru (D), 28 and 29.

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 variances 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 a variance of .9% net lot coverage and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Rhode Island Avenue) and side yard (abutting Kent Avenue) in order to validate an existing condition (development) and construct a 6-foot vinyl fence in the front and side yards and a 6-foot iron fence in the side yard of a corner lot on the property located at Lots 4 & 13 and Part of Lots 5 & 6, Block 18, Beltsville Subdivision, being 4909 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 revised site plan, Exhibit 21 and approved elevation plans, Exhibits 3 and 4.

BOARD OF ZONING APPEALS

By: 
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.