

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

Petitioners: Kingsley and Wendy McLean

Appeal No.: V-106-18

Subject Property: Parcel 196, Tax Map 116, Grid B2, being 8801 Christina Lane, Clinton,
Prince George's County, Maryland

Heard and Decided: October 10, 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, Petitioners request that the Board approve variances from Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard 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. Petitioners propose to validate an existing condition (shed) and construct a 2-foot retaining wall next to the driveway¹, a 6-foot ornamental black chain link fence along the side lot line and a 6-foot ornamental iron fence in the front, side and rear yards. A variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard are requested.

Evidence Presented

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

1. The property contains 25,308 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 11, 12 and 13 (A) thru (F).
2. The property was recorded by deed in 1967 (L.3430 F.157) followed by 1967 (L.3518 F.389) and 2012 (L.34263 F.202). The lot is odd-shaped at the rear. Exhs. 2, 5, 6 and 7.
3. Petitioners would like to construct a 6-foot ornamental black chain link fence along the left side lot line towards the street and a 6-foot ornamental iron fence in the rear yard and along the right side and front street lines. As part of the fence will extend into the yard between the dwelling and the front street line, waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard were requested. Exhs. 2, 3, 4, 8 (A) thru (N), 9 (A) thru (B) and 14.
4. The existing shed is located in front of the dwelling about 15 feet from the front street line. A variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were also requested. Exhs. 2, 3, 4, 8 (A) thru (N), 9 (A) thru (B) and 14.

¹ The Hearing Notice reference to construction of a two-foot retaining wall is incorrect as the retaining wall existed on the property prior to the purchase of the home.

5. Petitioner Wendy McLean testified that since November 2017, her family has been fearful of their neighbor's unrestrained large breed dogs (German Shepards) who trespass onto the subject property where her family, including their two children, ages 6 and 11, who are home schooled, are constantly harassed by the dogs. She stated that because there is no relief from the dogs, any outside activities are precluded. She mentioned that attempts have been made to work things out with the neighbors, but to no avail. Exhs. 2, 3, 4, 8 (A) thru (N), 9 (A) thru (B).

6. Mrs. Mclean further testified that several calls have been made to Animal Management regarding the dogs without any relief. She stated that the dogs pose a danger to her family. Exh. 21.

7. She explained that the only other house on their street belongs to the neighbor with the dogs. She stated that the subject property is otherwise surrounded by woods. Exhs. 2, 3, 4, 8 (A) thru (N), 9 (A) thru (B).

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 neighbor's unrestrained large breed dogs, for the safety and wellbeing of the Petitioners' family, including their young children 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, by majority vote, Ms. Bobbie Mack absent, that a variance of 45 feet front street line setback and a waiver of the rear yard location requirement for an accessory building and waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard in order to validate an existing condition (shed) and a 6-foot ornamental black chain link fence along the side lot line and a 6-foot ornamental iron fence in the front, side and rear yards on the property located at Parcel 196, Tax Map 116, Grid B2, being 8801 Christina Lane, Clinton, 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 plans, Exhibits 3 and 4.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Albert C. Scott, Vice 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.