

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

Petitioners: Risserne and Herve Yoerg

Appeal No.: V-112-18

Subject Property: Lot 77, Block A, Villages of Savannah Subdivision, being 6301 Oglethorpe Mill Drive, Brandywine, Prince George's County, Maryland

Heard: October 24, 2018; Decided: November 14, 2018

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 in the front yard of a corner lot. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gaston Court) are requested.

Evidence Presented

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

1. The property was subdivided in 2007, contains 21,382 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 6, 10, 11 and 12 (A) thru (F).
2. The property is a corner lot with the dwelling facing the legal side street at an angle. Exhs. 2, 4, 6, 10, 11 and 12 (A) thru (F).
3. Petitioners would like to construct a 6-foot aluminum fence around the back yard. Part of the fence will extend into the yard between the dwelling and the property line abutting the front street, being located about 25 feet back from the property line. Waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gaston Court) were requested. Exhs. 2, 3 and 5 (A) thru (L).
4. The Villages of Savannah Homeowners Association supported the proposed fence. Exh. 20.
5. Petitioner Herve Yoerg testified that he would like to install a 6-foot aluminum security fence for the safety of his children and privacy. He explained that because the property is a corner lot and the way the house is situated on the lot, the backyard space is limited. Petitioner noted that the house sits on a knoll, and the backyard slopes uphill. Exhs. 2, 3 and 5 (A) thru (L).

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 property being corner lot, the topography of the lot being sloped, the need for a secure area for the 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. Anastasia Johnson absent, that waivers of the fence location and height requirements for a fence over 4 feet in height in the front yard (abutting Gaston Court) in order to construct a 6-foot aluminum fence in the front yard of a corner lot on the property located at Lot 77, Block A, Villages of Savannah Subdivision, being 6301 Oglethorpe Mill Drive, Brandywine, 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, 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.