

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

Petitioner: Marvin Ulloa

Appeal No.: V-141-18

Subject Property: Lot 1, Block C, Vansville Heights Subdivision, being 11499 Cordwall Drive, Beltsville, Prince George's County, Maryland

Spanish Language Interpreter Service: Ernesto Luna

Heard and Decided: February 6, 2019

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, 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 front yard at least 25 feet in depth; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from a front street line; 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, shed, fence) in order to obtain a building permit for a new 6-foot wooden fence in the front yard of a thru lot. Variances of 4 feet front yard depth for the dwelling, 44 feet front street line setback for the shed and waivers of the fence location and height requirements for the fence over 4 feet in height in the front yard (abutting Brewer Road) are requested.

Evidence Presented

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

1. The property was subdivided in 1977, contains 8, 291 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a single-family dwelling, driveway, wood deck and shed. The subject property is an odd shaped "through lot" being surrounded by two streets on three sides (Cordwall Drive and Brewer Road). Exhibits (Exhs.) 2, 4, 9, 10 and 11 (A) thru (F).
2. Petitioner proposes to validate existing conditions (dwelling, shed and fence). A variance of 4 feet front yard depth, 44 feet front street line setback for the accessory building and a waiver of the fence location and height requirement are requested. Exhs. 2, 3, and 5 (A) thru (D).
3. Department of Permitting, Inspection and Enforcement issued Building Violation Notice No. 16253-2018, dated April 5, 2018, requiring Petitioner to "obtain the required permit(s) for work done or remove the same. Work includes but not limited to a 6-foot wooden fence." Exh. 6.
4. Petitioner Marvin Ulloa testified that the prior fence was in disrepair and neighbors complained. The old 6-foot wooden fence was replaced with a wooden 6-foot fence with the only difference between the old and new fences was the addition of three panels across to the shed. He stated that because the rear of his

house backs up to Brewer Road, it provides an open view of his shed where equipment is stored. He stated that the new 6-foot fence offers security as well as safety for his children. Exhs. 2, 3, and 5 (A) thru (D).

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 subject property being an odd shaped through-lot, the legal front yard (back yard) being open to Brewer Road, the safety of Petitioner's children, the prior fence being in disrepair and requiring replacement 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. Anastasia Johnson absent, that variances of 4 feet front yard depth for the dwelling, 44 feet front street line setback 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 (abutting Brewer Road) in order to validate existing conditions (dwelling, shed, fence) in order to obtain a building permit for a new 6 foot wooden fence in the front yard of a thru lot on the property located at Lot 1, Block C, Vansville Heights Subdivision, being 11499 Cordwall Drive, Beltsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance(s) 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.