

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

Petitioner: Morris Little

Appeal No.: V-150-18

Subject Property: Lot 3, Block A, North Potomac View Subdivision, being 7207 Oxon Hill Road, Oxon Hill, Prince George's County, Maryland

Counsel for Petitioner: Bradley Farrar, Esq., Shipley & Horn

Heard and Decided: March 20, 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 27-420(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. Section 27-120.01 (c) prescribes that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Petitioner proposes to construct a 6-foot vinyl fence and extend the driveway. Waivers of the fence location and height requirement and waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1956, contains 14,008 square feet, is zoned R-R (Rural Residential) and is improved with a Single-Family Dwelling, driveway and shed. Exhibit (Exhs.) 2, 4, 7, 8 and 9 (A) thru (H).
2. The property is located on a corner lot with the dwelling facing the legal front street (Oxon Hill Road). The topography of the rear yard is a slope. Exhs. 2, 5 (A) thru (I).
3. Petitioner would like to replace an existing 4-foot fence with a 6-foot privacy fence. Because the fence is located along a portion of the side street, waivers of the fence height and location requirement are requested. In addition, Petitioner would like to extend the driveway but because part of the driveway would be located in the area of the front yard, a waiver of the parking location is required. Exhs. 2, 3, 5 (A) thru (I).
4. Counsel Bradley Farrar stated that Petitioner is requesting to replace an existing 4-foot chain link fence with a 6-foot vinyl fence around the subject property to enhance security. He explained that persons constantly jump the 4-foot fence to cross Petitioner's property.
5. He further stated to improve the aesthetics of the property and for safety reason, he is requesting to upgrade and widen the driveway. He is proposing to widen the driveway and add a concrete patio in the rear of the property. Exhs. 2, 3, and 5 (A) thru (I).
6. Petitioner Morris Little offered clarity as to why the work is needed. Prior to the widening of Oxon Hill Road there was a pull-off area located in front of the house, which allowed you to safely back out

of the driveway. After the widening was completed and sidewalks were added (by the government), it moved the road much closer to the house and henceforth precluded safely backing out of the driveway. With the heavy traffic on Oxon Hill Road and not having a turnaround area anymore, it became extremely dangerous moving in and out of the driveway. He stated that this is why the proposal is to add concrete in front of the house in order to turn around to drive forward out of the driveway onto Oxon Hill Road. Exhs. 2, 3, and 5 (A) thru (I).

7. Petitioner submitted a revised site plan to designate the lowered height of the fence in the front side yard along Lot 2. Exh. 17.

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 a corner lot, the widening of Oxon Hill Road and adding of sidewalks, Oxon Hill Road being an extremely heavily traveled road, the current dangerous conditions associated with backing out of the driveway, the need for security in the rear yard to prevent pedestrians from cutting through the yard 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 waivers of the fence location and height requirement for a fence over 4 feet in height in the front yard and a waiver of the parking area location requirement for a driveway extension in order to construct a 6-foot in height vinyl fence in the side yard abutting (Balmoral Drive East) and expand the existing driveway on the property located at Lot 3, Block A, North Potomac View Subdivision, being 7207 Oxon Hill Road, Oxon Hill, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 17 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.