

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

Petitioners: James Jones and Carmen Severino

Appeal No.: V-153-18

Subject Property: Lot 7, Block G, Cheverly Subdivision, being 2303 Park Way, Cheverly,
Prince George's County, Maryland

Municipality: Town of Cheverly

Heard: February 6, 2019; Decided: February 27, 2019

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 27-420(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard and shall meet the setback requirement for main buildings and 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; Section 27-442(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth. Petitioners propose to validate existing conditions (retaining wall/rail) and replace existing 6 foot retaining wall topped with 42-inch railing. A variance of 25 feet front yard depth and waivers of the fence location and height requirements for a fence/wall 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 was subdivided in 1919, contains 7,131 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a dwelling, driveway, covered front porch and shed. Exhibit (Exhs.) 2, 4, 7, 8 and 9 (A) thru (F).
2. The property is shaped as a narrow and long rectangle lot with the rear yard being angled. The steep slope of the property requires the driveway be surrounded by retaining wall. Several other properties in the community also require retaining walls around their driveways. Exhs. (2 and 5 (A) thru (F).
3. The Town of Cheverly indicated support for the proposed variances. Exh. 17.
4. Petitioner James Jones testified that the existing 6-foot-high (varying from 3 feet to 6 feet in height because of the topography) retaining wall, which has existed for 26 years ago (when the dwelling was constructed), has deteriorated and caused concern for property safety. Petitioners are proposing to replace the wall with a stone retaining wall with protective fence/railings (wrought iron, black) on the top of the retaining wall for safety purposes. Exhs. 2, 3, 5 (A) thru (F) and 16.
5. The elevations are showing all three sides of the proposed retaining wall. If you were pulling into the driveway, there is a 6-foot-high retaining wall at the back of the driveway and then the two sides. The 6-foot height will exist only at the rear portion of the wall. Exhs. 2 and 16.

6. Petioners opined that if the retaining wall is not replaced, the risk is run that the house may fall into the street because the retaining wall (helps) solidify the soil on which the foundation of the house sits. Exh. 5 (D, E and F).

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 steep topography of the property requiring retaining walls, the existing wall being in disrepair, the potential danger of not replacing the wall for the dwelling itself 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, unanimously, that a variance of 25 feet front yard depth and waivers of the fence location and height requirements for a fence/wall over 4 feet in height in the front yard in order to validate existing conditions (retaining wall/rail) and replace existing 6 foot retaining wall topped with 42-inch railing on the property located at 2303 Park Way, Cheverly, 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 revised elevation plan, Exhibit 16.

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.