

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

Petitioner: Carlos Estrada

Appeal No.: V-158-18

Subject Property: Lot 19, Block 26, Lewisdale Subdivision, being 2111 Fordham Street, Hyattsville,
Prince George's County, Maryland

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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; 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 requirements for main buildings and 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; and Section 27-442(e)(Table IV) which prescribes that each corner lot shall have a minimum side yard along the side street at least 25 feet in depth. Petitioner proposes to validate existing conditions (development, fence, and gate) and construct a 6-foot wooden fence and obtain a building permit for a new 6-foot wooden fence and 8-foot sliding gate in the side yard of a corner lot. Variances of 8.4% net lot coverage, 25 feet front yard depth and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Fordham Street) are requested.

Evidence Presented

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

1. The property was subdivided in 1953, contains 7,823 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 10, 11 and 12 (A) thru (F).
2. The property is a corner lot at the intersection of Fordham Street and Chapman Road with the dwelling facing the legal side street (Fordham Street). A 15-foot wide easement crosses the legal rear yard on the left side of the house. Due to the topography of the lot, retaining walls with rails were previously installed. Exhs. 2 and 4.
3. Petitioner would like to obtain a building permit for a replacement 6-foot wooden fence and 7-foot sliding gate in the side yard. He would also like to construct a 6-foot wooden fence (a portion) at the rear lot where it meets Fordham Street. A variance of 25 feet side street yard depth for the gate and waivers of the fence location and height requirement for a fence over 4 feet in height in the side yard (abutting Fordham Street) were requested. Exhs. 2, 3 and 5.

4. Since the existing development already exceeds the amount of lot coverage allowed, a variance of 8.4% lot coverage was also requested. Exhs. 2, 3 and 5.

5. Petitioner Carlos Estrada explained that a prior variance (V-75-10) was approved for the subject fence (and gate), but final inspection never occurred, and the permit expired. He also stated that the inspector advised him that because the material for the replacement fence was different, a permit was necessary. Exhs. 2, 3, 5, 6 and 7.

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 a corner lot, the house facing the legal side street, the sloping topography of the lot, the legal rear yard mostly consisting of a 15-foot-wide easement, the previously approved variances, including one for a fence under V-75-10, the associated approved building permit (19741-2010) expired before completion of the construction 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 8.4% net lot coverage, 25 feet side street yard depth for the gate and waivers of the fence location and height requirements for a fence over 4 feet in height in the side yard (abutting Fordham Street) in order to validate existing conditions (development, fence, gate) and construct a 6-foot wooden fence and obtain a building permit for a new 6-foot wooden fence and 7-foot sliding gate in the side yard of a corner lot on the property located at Lot 19, Block 26, Lewisdale Subdivision, being 2111 Fordham Street, Hyattsville, 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.