

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-97-13 Christopher Brown & Nataka Wilson

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: January 29, 2014.

CERTIFICATE OF SERVICE

This is to certify that on April 28, 2014, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Anne F. Carter
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Enforcement Division
Simmons Acres Homeowners Association

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

Petitioners: Christopher Brown and Nataka Wilson

Appeal No.: V-97-13

Subject Property: Lot 30, Block J, Addition to Simmons Acres Subdivision, being 18005 Sappling Court, Accokeek, Prince George's County, Maryland

Witness: Kimothy Bynum, neighbor

Heard: November 20, 2014; Decided: January 29, 2014

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 27-442(i)(Table VIII) of the Zoning Ordinance, which prescribes that dog kennels shall be located 25 feet from any rear lot line and 50 feet from any dwelling on an adjoining lot. Petitioners propose to validate an existing dog kennel. A waiver of the location requirements for an accessory building used to house animals is requested.

Evidence Presented

The following testimony and evidence were presented to the Board for its consideration:

1. The property was subdivided in 1990, contains 11,613 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, shed and dog kennel. Exhibits ("Exhs.") 4, 9, 10 and 28. The existing single-family dwelling was built in 2004. Exhs. 9 and 10.

2. The property is located on the lip of a cul-de-sac and has an irregular front street line. Exhs. 4, 11(A) through (E) and 28.

3. Petitioners received Zoning Violation Notice No. Z-432-9-14 ("Violation Notice"), dated September 24, 2013, issued by the Department of Permitting, Inspections and Enforcement Division, requiring that Petitioners relocate their dog kennel to conform with required setbacks or remove it from the premises. Exh. 6.

4. Petitioners would like to validate a 10' x 10' dog kennel in the rear yard.¹ Since the kennel is not located 25 feet from the rear lot line or 50 feet from the dwelling on the adjoining lot to the rear, a waiver of the location requirements for an accessory building used to house animals was requested. Exh. 12.

5. Petitioners have an existing wooden privacy fence enclosing the rear yard. Exhs. 11(B), (C) and (D).

¹ Petitioners had a 10' x 15' three-cage dog kennel located at the rear property line, but agreed to reduce it to a 10' x 10' two-cage dog kennel and move it away from the property line to line up with the existing shed. A revised site plan was submitted. Exh. 28.

6. Petitioner Christopher Brown testified that the kennel has existed in its current location for 2-3 years. He stated that the homeowners association asked him to fill out a form describing any additions made to the property, which he provided. He stated that if he had to meet the required setbacks the kennel would be located in the middle of his back yard which would leave no yard area in which the children could play.

7. Petitioner estimated that the house of the neighbor to the rear is approximately 25-30 feet from his fence next to the kennel.

8. Mr. Brown further testified that he has two dogs and the kennel has a dog house inside for each dog. He stated that the dogs cannot bite through or dig under the sides of the kennel and that the kennel sits on a concrete slab that makes it easier to clean up the dogs' excrement. Exhs. 19(A) through (F).

9. Kimothy Bynum, owner of property next door to Petitioners, testified that he has no opposition to the location of the kennel, the dogs were well controlled and taken into the house at night.

10. Petitioners submitted letters from three neighbors, one of whom lives on the adjoining property across the street, expressing no objections to the request. Exhs. 20(A) through (C).

11. Simmons Acres Homeowners Association was notified of the request (Exhs. 21 and 31), but did not comment.

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 presented, the Board finds that:

Due to the property being located on the lip of a cul-de-sac and having an irregular front street line, the existing location of a dog kennel next to a shed inside the fence close to the rear property line and 25-30 feet from any structure on neighboring property, Petitioners' agreement to reduce the 10' x 15' three-cage dog kennel to a 10' x 10' two-cage dog kennel, Petitioners' agreement to move the kennel away from the property line to line up with the existing shed, the need to retain usable area in the rear yard for a suitable place where Petitioners' child can play, the kennel sitting on a concrete slab which facilitates clean-up of excrement, the kennel allowing the dogs to be well controlled, the rear yard being enclosed by a wooden privacy fence, 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, unanimously, that a waiver of the location requirements for an accessory building used to house animals in order to validate a 10' x 10' dog kennel located in the rear yard on the property located at Lot 30, Block J, Addition to Simmons Acres Subdivision, being 18005 Sappling Court, Accokeek, Prince George's County, Maryland, is hereby APPROVED. Approval of the

variance is contingent upon development in compliance with the approved revised site plan, Exhibit 28, and approved elevation plans, Exhibits 3(a) and (b).

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.