

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-19-14 Lucille & Donald Hunter, Sr.

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: May 7, 2014.

CERTIFICATE OF SERVICE

This is to certify that on May 21, 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/Inspections Division
Sun Valley Estates Homeowners Association

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

Petitioners: Lucille and Donald Hunter, Sr.

Appeal No.: V-19-14

Subject Property: Lot 24, Sun Valley Estates Subdivision, being 3311 Valley Forest Drive, Upper Marlboro,
Prince George's County, Maryland

Heard: April 23, 2014; Decided: May 7, 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 a variance 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 a variance from Section 27-420(a) of the Zoning Ordinance, which prescribes that fences more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings, and Section 27-442(e)(Table IV), which prescribes that each lot shall have a rear yard at least 20 feet in depth/width. Petitioners propose to construct an 8-foot-high chain link fence around a basketball court in the rear yard. A variance of 18 feet rear yard depth/width and a waiver of the fence location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 2004, contains 18,076 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and basketball court. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing single-family dwelling was built in 2007. Exhs. 9 and 10. A deck was added in 2008. Exh. 8.
2. The subject lot adjoins a lot on the lip of a cul-de-sac. Exhs. 4 and 11(A). There is wooded area immediately to the rear of the property. Exhs. 6(A) and (B), 11(A) through (F).
3. Petitioners would like to construct an 8-foot-high chain link fence along two sides of the basketball court, but variances are needed to obtain a building permit. Since fences over 6 feet in height must meet main structure setbacks and the proposed fence would be located only 2 feet from the rear lot line, a variance of 18 feet rear yard depth/width and a waiver of the fence location requirement were requested. Exh. 13.
4. Petitioner Donald Hunter testified that he has a concrete slab at the back of his property between a 6-foot-high retaining wall and the rear property line. Exhs. 2, 5(A) and (D), 6(A) and (B), and 11(A) through (E). He explained that a portion of the concrete slab is used as a basketball court and he would like to put up the 8-foot chain link fence on the side and back of the basketball court area to prevent balls from going into the woods behind the property. Exh. 2.

5. Mr. Hunter testified that his neighbors support his putting up the fence. He stated that he has cook-outs in the back yard, the neighbors come over and play basketball and they use the basketball court from May until September.

6. The basketball court is approximately 12 feet from the side property line (Exh. 2) and Mr. Hunter estimated that a neighbor's house is 30-40 feet from the court.

7. Sun Valley Estates Homeowners Association has no objection to the request. Exh. 20.

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 owners 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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the existence of a large concrete area at the rear of the property, there being wooded area immediately to the rear of the property, a portion of the concrete area being used as a basketball court, a 6-foot retaining wall existing next to one side of the concrete area, the proposed 8-foot fence allowing three sides of the court to be enclosed to prevent balls from going into the adjoining woods, 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 variance of 18 feet rear yard depth/width and a waiver of the fence location requirement in order to construct an 8-foot high chain link fence around a basketball court in the rear yard on the property located at Lot 24, Sun Valley Estates Subdivision, being 3311 Valley Forest Drive, Upper Marlboro, 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 the approved revised elevation plan, Exhibit 19.

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.