

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-77-15 Roy and Adie Graves

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: August 19, 2015.

CERTIFICATE OF SERVICE

This is to certify that on September 2, 2015, 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

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

Petitioners: Roy and Addie Graves

Appeal No.: V-77-15

Subject Property: Lot 33, Block C, and Part of Outlot B, Tantallon South Subdivision, being 307 Rexburg Avenue, Fort Washington, Prince George's County, Maryland

Heard and Decided: August 19, 2015

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 accessory buildings shall be set back 60 feet from the front street line and Section 27-420(a), which prescribes that on lots consisting of one (1) acre or less, fences in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate an existing condition and construct a 6-foot white vinyl fence in a front yard. A variance of 40 feet front street line setback for an accessory building and waivers of the fence height and location requirements for a fence 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 1968, contains 17,489 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1970.
2. The property is a through lot, with two front yards and no rear yard. The property is an odd-shaped lot that fronts on both Rexburg Avenue and Fort Washington Road. Exhs. 2 and 4. The house faces and driveway access is off of Rexburg Avenue. Exh. 2.
3. The house on the lot next door to Petitioners' to the north faces and driveway access is off of Rexburg Avenue and the house on the lot next door to Petitioners' to the south faces and driveway access is off of Fort Washington Road. Exhs. 9(A) through (E).
4. Petitioners would like to construct a 6-foot white vinyl fence to enclose the yard behind the house, but because the yard behind the house is considered a front yard and the proposed fence would be more than 4 feet in height, waivers of the fence location and height requirements were requested. Exh. 11.
5. A variance is also required to validate an existing 12' x 24' shed because the shed is located only 20 feet from the street line at Fort Washington Road. A variance of 40 feet front street line setback for an accessory building was, therefore, also requested. Exh. 11.

6. The property was purchased by Petitioners in 1993. Exh. 7. Petitioner Roy Graves testified that the proposed fence would replace a deteriorating 6-foot wooden stockade fence along Fort Washington Road (Exhs. 5(G), (I), (K) and (Q)) and 4-foot chain link fencing along the sides of the yard. Exhs. 5(D), (F), (I), (J) and (U).

7. Evidence indicates that the driveway view for the property at 12320 Fort Washington Road will not be blocked due to the bushes and trees along the fence line of that property. Exhs. 5(P), (R), (S) and (V)).

8. He stated that the current location of the shed is the most suitable for the usefulness of the back yard. See Exhs. 9(B) through (E).

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

Due to the property being a through lot, the property having two fronts and no rear yard, the existing wooden stockade fence needing to be replaced because of deterioration, the proposed fence providing more security than the current fencing, the yard behind the house being better utilized with the current location of the existing shed, 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 40 feet front street line setback for an accessory building and waivers of the fence height and location requirements for a fence in the front yard in order to validate an existing condition and construct a 6-foot white vinyl fence in the front yard on the property located at Lot 33, Block C, and Part of Outlot B, Tantallon South Subdivision, being 307 Rexburg Avenue, Fort Washington, 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 elevation plans, Exhibits 3(A) through (C).

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.