

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-54-15 Donald and Lucille Hunter

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 5, 2015.

CERTIFICATE OF SERVICE

This is to certify that on August 12, 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
Sun Valley Estates Homeowners Association

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

Petitioners: Donald and Lucille Hunter

Appeal No.: V-54-15

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

Heard and Decided: August 5, 2015

Board Members Present and Voting: 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) 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 requirement for main buildings; 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, 8 and 9. The existing single-family dwelling was built in 2007. Exhs. 8 and 9.
2. The subject lot adjoins a lot on the lip of a cul-de-sac. Exhs. 4, 10(A) and (E). There is wooded area immediately to the rear of the property. Exhs. 5(A) through (D), 10(A) through (F).
3. In 2014, the Board approved variances (Appeal No. V-19-14) for construction of an 8-foot chain link fence around two sides of the existing basketball court. Exh. 6.
4. Petitioners would like to construct additional 8-foot chain link fencing around the existing basketball court in the rear yard, but variances are needed to obtain a building permit. Since fences over 6 feet in height must meet main structure setbacks and the proposed additional fencing 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. 12.
5. Petitioner Donald Hunter testified that there is wooded area behind his property and the fence enclosure would provide security and keep wild animals off the basketball court. Exhs. 5(A) through (D), 10(A) through (E). He explained that the existing 8-foot chain link fence now only partially encloses the basketball court and the proposal would simply extend the fence along the western (adjacent to the wooded area) and southern edges of the court. Exh. 2.

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 existence of a basketball court in the rear yard, the Board having already approved partial 8-foot fencing around the basketball court area, there existing wooded area immediately to the rear of the subject property, the fence providing security and protection from wild animals, 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, by majority vote, Chairperson Bobbie Mack being absent, 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 conformance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.