

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-23-15 Gerald Konkol

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: April 29, 2015.

CERTIFICATE OF SERVICE

This is to certify that on June 4, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
Old Ford Hills Neighborhood Association

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

Petitioner: Gerald Konkol

Appeal No.: V-23-15

Subject Property: Lot 4, Rosedell Subdivision, being 2209 Rosedell Place, Fort Washington
Prince George's County, Maryland

Heard and Decided: April 29, 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, Petitioner requests that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each corner lot shall have a side yard along the side street at least 15 feet in depth if the adjoining lot along the rear lot line does not front on the side street; Section 27-420(a), which prescribes that on corner lots 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(i)(Table VIII), which prescribes that on a corner lot accessory buildings shall be set back 10 feet from any rear lot line. Petitioner proposes to validate existing conditions and construct a 6-foot wooden privacy fence in the side yard on a corner lot. Variances of 2 feet side street yard depth, waivers of the fence location and height requirements for a 6-foot fence in the side yard on a corner lot and 10 feet rear lot line setback for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1962, contains 11,915 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1963. Exhs. 8 and 9.
2. The property is a corner lot at the intersection of Rosedell Place (front street) and MacDougal Drive (side street) with the house facing the legal front street. Exhs. 2, 10(B) through (E). The property has a sloping rear yard. Exhs. 5(A) through (F). MacDougal Drive dead ends at the rear of the subject property. Exhs. 10(A) and (E).
3. Petitioner would like to construct a 6-foot wooden privacy fence in the side yard along MacDougal Drive, but variances are needed to obtain a building permit for the fence. Since the fence would be located in the side yard on a corner lot, waivers of the fence location and height requirements for the proposed fence were requested. Exh. 12.

4. Variances are also needed to validate certain existing conditions on the property. Since the steps to the existing enclosed porch on the side of the dwelling are located only 13 feet from the side street line and an existing shed is located on the rear lot line at the closest point, variances of 2 feet side street yard depth for the dwelling and 10 feet rear lot line setback for an accessory building were also requested. Exh. 12.

5. Petitioner testified that he has lived at the property since 2003. He explained that he would like a 6-foot privacy fence around his yard because he is located on a corner lot and the fence would provide both privacy and prevent his dog, who can get over a 4-foot fence or a chain link fence, from getting out. He explained that the proposed fence would not be, however, in line with the original brick house or the addition (patio room) because: (1) it will substantially decrease the usable portion of his yard by significantly splitting it; and (2) yard maintenance would be difficult and dangerous because the fence would extend either to the top of the hill or on the hill, making maneuvering a mower in that area difficult and dangerous. See Exhs. 6(A) and (B).

6. Petitioner further testified that the shed and porch, both of which require validation by variances, pre-existed his ownership of the subject property.

7. Petitioner noted that the proposed fence would be in line with all the neighbors' fences along Rosedell Place.

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 corner lot, the house facing the legal front street, the side street coming to a dead end at the rear of the subject property, the yard behind the house being sloped, the proposed fence providing privacy and containing the property owner's dog, the location of the fence in the side yard providing more usable yard area and making yard maintenance less difficult/dangerous, 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, unanimously, that variances of 2 feet side street yard depth, waivers of the fence location and height requirements for a 6-foot fence and 10 feet rear lot line setback for an accessory building in order to validate existing conditions and construct a 6-foot wooden privacy fence in the side yard on a corner lot on the property located at Lot 4, Rosedell Subdivision, being 2209 Rosedell Place, Fort Washington, Prince George's County, Maryland, be and are hereby APPROVED. Approval of

the variances is contingent upon development in conformance with the approved revised site plan, Exhibit 18, and the 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.