

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-78-14 Tracy & Jeffrey Hall, 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: November 19, 2014.

CERTIFICATE OF SERVICE

This is to certify that on December 9, 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
The Villages of Savannah Homeowners Association, Inc.

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

Petitioners: Tracy & Jeffery Hall, Sr.

Appeal No.: V-78-14

Subject Property: Lot 54, Block A, Villages of Savannah, being 6400 Chatham Park Drive, Brandywine,
Prince George's County, Maryland

Heard and Decided: November 19, 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 27-420(a) of the Zoning Ordinance, 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. Petitioners propose to validate and obtain a building permit for a 5-foot black aluminum picket fence. Waivers of the location and height requirements for a fence in the side yard on a corner lot are requested.

Evidence Presented

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

1. The property was subdivided in 2007, contains 22,640 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and 5-foot black aluminum picket fence. Exhibits ("Exhs.") 2, 4, 10 and 11. The existing single-family dwelling was built in 2011. Exhs. 10 and 11.
2. The property is a corner lot, with the house facing the corner (intersection of Chatham Park Drive and St. Emory's Place). Exhs. 2, 12(A) through (E).
3. On September 12, 2014, Petitioners received a notice from the Inspections Division, Department of Permitting, Inspections and Enforcement, regarding their fence being built without a permit. Exh. 8.
4. Petitioners would like to obtain a building permit for their 5-foot black aluminum picket fence, a portion of which is located in the side yard abutting the side street (St. Emory's Place). Since fences over four feet in height are not permitted in the side yard of a corner lot, waivers of both the fence location and height requirements were requested. Exh. 14.
5. Petitioner Tracy Hall testified that in approximately May of this year they erected a 5-foot fence to secure their dog. Exhs. 3(a) through (d), 5(A) through (C).
6. She testified that the fence company ordered the fence before informing them that a variance was needed. She explained that the contract for the fence gave three days to opt out, but by the time the County had let them know there was a problem, they had already paid for the fence. She stated that there are other similar fences in the neighborhood. Exhs. 20, 21 and 22.

7. Petitioner Jeffrey Hall explained that their dog, a bull mastiff, is "pretty large" and they thought by putting up a fence taller than 4 feet they would avoid any issues with children playing outside and residents walking up and down the streets of the neighborhood. See also Exhibits 5(A) through (C).

8. The Maryland-National Capital Park and Planning Commission staff informed Petitioners of permission to erect a fence in a Tree Conservation Plan ("TCP") Area. Exh. 7.

9. The Villages of Savannah Homeowners Association, Inc. approved the request. Exh. 6.

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 corner, erection of a fence being permitted in a TCP Area, the need to contain/secure a large dog, 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 waivers of the fence location and height requirements for a fence in the side yard on a corner lot in order to validate and obtain a building permit for a 5-foot black aluminum picket fence on the property located at Lot 54, Block A, Villages of Savannah, being 6400 Chatham Park Drive, Brandywine, 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 (d).

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.