




City of Bowie

2614 Kenhill Drive
Bowie, Maryland 20715

MEMORANDUM

TO: City Council

FROM: David J. Deutsch
City Manager 

SUBJECT: Resolution R-41-08
BV-3-08
12307 Chalford Lane

DATE: June 12, 2008

Attached please find a copy of Resolution R-41-08 for BV-3-08 denying a variance to allow an 8-foot high fence along the rear lot line along Old Chapel Road at 12307 Chalford Lane. Council is authorized to adopt this Resolution pursuant to the City Code. The Bowie Advisory Planning Board unanimously recommended denial of the above case on May 27, 2008. No appeal or oral argument has been filed with the City, nor has any City Council member called up the action of the Bowie Advisory Planning Board (BAPB) recommending denial of the requested variance. The attached resolution reflects BAPB's findings and recommendation.

Recommendation

It is recommended that Council approve the attached Resolution.

Attachment

RESOLUTION
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND
ADOPTING THE RECOMMENDATION OF THE BOWIE ADVISORY
PLANNING BOARD TO DENY VARIANCE BV-3-08, A REQUEST FOR A
VARIANCE FROM SECTION 27-420 (a) OF THE PRINCE GEORGE'S COUNTY
ZONING ORDINANCE TO ALLOW AN 8-FOOT HIGH FENCE ALONG THE
REAR LOT LINE ALONG OLD CHAPEL ROAD AT 12307 CHALFORD LANE

WHEREAS, the City of Bowie (hereinafter the "City"), pursuant to the City Code (hereafter the "Code"), is authorized to hear requests for Variances from the terms of the Prince George's County Zoning Ordinance (hereafter the "Zoning Ordinance") with respect to building setbacks, height, lot coverage and so forth; and,

WHEREAS, the Bowie Advisory Planning Board (hereinafter "BAPB") is authorized by the Code to grant an application for a Variance if the BAPB makes the following findings pursuant to Section 27-230 of the Zoning Ordinance:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; and,
- (2) The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and,
- (3) The variance will not substantially impair the intent, purpose, or integrity of the General or Master Plan.

WHEREAS, the City Council is authorized by the Code to accept or deny the recommendation of the BAPB with respect to Departures and Variances; and,

WHEREAS, on or about May 1, 2008, Mr. David Ford (hereinafter the "Applicant") of 12307 Chalford Lane in the Chapel Forge section of the City (hereinafter the "Subject Property") submitted an application for a variance from Section 27-420 (a) of the Zoning Ordinance for the above address, specifically requesting a variance of two (2) feet from the maximum permitted fence height of six (6) feet to allow an eight (8) foot fence along the rear lot line along Old Chapel Road; and

WHEREAS, the advertisement of the public hearing was printed in the local newspaper on May 15, 2008 in accordance with the adopted Ordinance; and,

WHEREAS, the technical staff report recommended **DENIAL** of the variance request; and,

WHEREAS, on May 27, 2008, the BAPB heard testimony and accepted evidence with respect to whether it can make the necessary findings set forth in the Ordinance to grant a variance, and the Board voted to recommend **DENIAL** of the variance in accordance with the staff recommendation; and,

WHEREAS, the BAPB's recommendation was based on the findings and analysis found in the technical staff report; and,

WHEREAS, the BAPB's recommendation for **DENIAL** on May 27, 2008 was based on the findings and analysis found in the technical staff report; and,

WHEREAS, pursuant to the City Code, within 15 days of the BAPB's decision, persons of record may file an appeal or a City Councilmember may request oral argument if the BAPB's recommendation fails to comply with the criteria for approval and no appeal was filed or City Council review requested; and,

WHEREAS, no appeal was filed or City Council review requested; and

WHEREAS, the City Council hereby makes the following findings of fact:

1. The lot is zoned R-80 (One Family Detached Residential) and contains 12,251 square feet.
2. The lot is currently improved with a single-family detached dwelling, an 8-foot by 12-foot shed and a two-car wide driveway. An additional macadam drive exists at the rear of the property, providing access to Old Chapel Road.
3. The Applicant's shed, grill, swing-set and picnic table are located in the lower portion of the lot, adjacent to Old Chapel Road. The rear yard is currently fenced with a 4-foot high chain link fence.
4. A 12-foot wide water line easement exists along the west (side) property line. The recorded subdivision plat shows the Subject Property, Lot 30 in Section 71, Chapel Forge at Belair, as being encumbered with a 20-foot wide non-access screen planting strip along Old Chapel Road.
5. Section 27-420 (a) of the Prince George's County Zoning Ordinance prescribes that fences and walls (including retaining walls) more than six (6) feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings.
6. There was no response from the seven (7) adjacent residents and property owners notified of the variance request.

WHEREAS, the City Council hereby makes the following conclusions of law:

1. The Subject Property does not have exceptional narrowness, shallowness, shape or exceptional topographic conditions or other extraordinary situations or conditions. The property is a typical interior lot with side lot lines that angle slightly outward from the front to the rear of the lot. The front lot line along Chalford Lane is 73.48 feet wide, while the rear lot line is slightly wider at 100.98 feet in width. According to the Applicant, the Subject Property has the lowest elevation along Old Chapel Road. However, in a field investigation conducted on May 12, 2008, City staff confirmed that about one-fourth of the Applicant's property slopes significantly to the rear lot line, where a drainage swale exists parallel to Old Chapel Road, but also determined that the topography of the lot is typical of many lots situated along Old Chapel Road. The property immediately north of the Applicant's lot (Lot 31) includes a 6-foot fence erected approximately 20 feet from the rear lot line at a higher elevation that provides a more effective screening value than would be possible if it were constructed on the rear lot line. The elevations of many of the houses in the immediate vicinity of the Applicant's are either at or above the elevation of Old Chapel Road. There is about a 6-foot height difference between the rear lot line and the usable portion of the Subject Property. Many of the houses have sloping back yards and a drainage swale similar to that found on the Applicant's property. The lot contains a large amount of developable area, much of which has already been improved, and there are no exceptional conditions or situations present. Therefore, this criterion has NOT been met.
2. The strict application of the Zoning Ordinance will not result in a peculiar and unusual practical difficulty to, or exceptional or undue hardship upon, the owner of the property. The Applicant indicated that the unusual circumstance is that the ground elevation is too low for the installation of a 6-foot fence and stated that the inability to protect the occupants of his house from the impacts of road noise, school lighting or vehicles driving by creates an unusual situation. City staff visited the site on May 12, 2008 and found many other similarly situated properties along the same side of Old Chapel Road as the Applicant's. Furthermore, lots on the opposite (north) side of Old Chapel Road are even more exposed to the impacts of road noise and light intrusion than the Applicant's. In addition, the record plat identifies the last 20 feet of the Applicant's lot as a 20-foot wide, non-access screen planting strip. The likely intent of such a designation appears to discourage clearing of vegetation that would compromise the screening along Old Chapel Road. Section 27-420 (a) of the Zoning Ordinance prescribes that fences and walls (including retaining walls) more than six (6) feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings. The Applicant could construct an 8-foot high fence at the top of the slope along the minimum rear yard setback line, obtain the desired buffering and not need a zoning Variance. Based on the above, this criterion has NOT been met.
3. Approval of the Variance request will substantially impair the intent, purpose or integrity of the Master Plan or the General Plan. The Subject Property is located within a Residential, Low land use area within the Developing Tier as designated in the 2006 Approved Bowie and Vicinity Master Plan. A stated

Goal for the Developing Tier in both the General Plan and Area Master Plan is to sustain or reinforce existing suburban residential neighborhoods. Master Plan Policy 3 for the Developing Tier states:

Policy 3. Protect, maintain and enhance the unique historical, cultural, and architectural identity, heritage and character of the City of Bowie.

Strategy 3 under this policy states the following:

3. Encourage the compatibility of infill residential development...Consideration should be given to similarity in density, style, size, material and design to the surrounding residential neighborhoods.

Although the fence type and materials are similar to other fences in the neighborhood, the proposed 8-foot fence height along the rear lot line is not. A memorandum from the Department of Community Services dated May 13, 2008 indicates that, if the Variance is granted, the Applicant's fence would be the only eight foot fence erected along Old Chapel Road. Approval of the Variance request will allow development of the Subject Property in a way that would be harmful to the character of the surrounding residential neighborhood, thus violating the policy and strategy identified for the Developing Tier in the Master Plan. Therefore, this criterion has **NOT** been met.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Bowie hereby adopts Resolution R-41-08 for BV-3-08 to **DENY** a variance of two (2) feet from the maximum permitted fence height of six (6) feet to allow an eight (8) foot fence along the rear lot line along Old Chapel Road.

INTRODUCED AND PASSED on this Sixteenth day of June 2008, by the City Council of the City of Bowie.

G. Frederick Robinson
Mayor

Pamela A. Fleming
City Clerk