



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-12-24 Hayat Properties, LLC and 901 Old Walnut St, LP

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: May 22, 2024.

CERTIFICATE OF SERVICE

This is to certify that on July 12, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is placed over a horizontal line.

Barbara J Stone
Administrator

cc: Petitioner
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: Hayat Properties, LLC and 901 Old Walnut St, LP

Appeal No.: V-12-24

Subject Property: Lot 6, Block 3, Pleasant Park Subdivision, being 901 Old Walnut Street, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioners: Abdullah Hijazi, Hijasi, Zaslow, and Carroll, PA

Witness: Mahta Rohit, Owner

Heard: April 10, 2024; Decided: May 22, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Carl Isler, Vice Chairman

Renee Alston, Member

Teia Hill, 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 a variance 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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(e) of the Zoning Ordinance, which prescribes that each lot shall have a minimum front yard depth of 25 feet. Petitioners propose to demolish and reconstruct the existing second-story and construct a wood deck. Variances of 2.96 feet front yard depth and 14.99 feet side street yard width are requested.

Evidence Presented

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

1. The property was subdivided in 1909, before the adoption of the Prince Georges County Zoning Ordinance, contains 8,100 square feet, is zoned RSF-65 (Residential, Single Family-65), and is improved with a single-family dwelling, front porch driveway, and two sheds. Exhibits (Exhs.) 2, 5, 8, 9, 10, and 11 (A) thru (G).

2. The subject corner lot is a true square that is contained in an older cluster development that have lots of smaller similar shape that are unique from surrounding developments, being 90' on each side. Exhs. 2 and 5.

3. Petitioners propose to demolish and reconstruct the existing second-story and construct a new wooden deck. Variances of 2.96 feet front yard depth and 14.99 feet side street yard width are requested. Exhs. 2, 5, 8, 9, 10, and 11 (A) thru (G).

4. Abdullah Hijazi, Esq. explained that this is a house that was built in 1930, prior to the enactment of the Zoning Ordinance. The applicant is requesting variances for the setbacks from the front yard depth and side street yard width to validate the existing conditions. He is proposing to do exterior/interior alterations to the dwelling. The footprint will be maintained and not be moved or changed. Exhs. 2, and 5.

5. Mr. Hijazi further stated that if the variance is not approved, the applicant will suffer substantial hardship as the property is unique as it was built prior to the code being built in 1930. One of the unique things about the case is that the lot is equal on both fronts. There has been confusion as to the determination of the legal front. For the record, the property is not within the town limits of Capitol Heights and is not

within a Homeowners Association. Based on the current zoning code, they argued that this lot should be considered non-conforming, although the permit office did not agree with that argument. Exhs. 2, 5, 7 (A) thru (E).

6. Vice Chair Isler questioned if the existing structure would be leveled and then rebuilt. Mr. Hijazi responded, no, the Petitioners will work with what is currently on the property. Basically, the plan is to restore the first level and make changes to the second story.

Madam Chair made the motion to take the record under advisement. Vice Chair Isler seconded the motion. Motion carried 3/0. (Mack, Isler, and Hill)

On April 24, 2024, the record was heard as a Discussion/Decision item.

1. The Board discussed the shape of the lot, which is all equally square. The Board determined that unique shape is called into question.

2. Ms. Hill questioned if there were any environmental features that would make the property unique.

Board Member Hill made a motion to Deny. Motion died for a lack of a Second. Chair Mack made a motion to hold the record open. Seconded by Vice Chair Isler. Motion carried 3/0. (Mack, Isler, and Hill)

On May 22, 2024, Petitioner's counsel submitted a revised justification letter and requested a Reconsideration. Madam Chair made a motion to Approve the request for Reconsideration. Ms. Alston seconded the motion. Motion carried 4/0. (Mack, Isler, Alston, and Hill)

1. Counsel Abdullah Hijazi stated that when the case was heard prior, the case was held open being brought up as a Discussion item. After listening to the hearing, he realized the Board may need additional testimony or evidence to justify the criteria under Section 27-3613(d). At the time, the criteria were not discussed as individual elements. Therefore, this Reconsideration was requested to assist the Board in considering the clarifying evidence and testimony. A Letter of Justification has been submitted to the record as part of the Reconsideration. Exh. 17.

2. Counselor Abdullah Hijazi further stated that after listening to the prior hearings, he realized the Board was having trouble making a decision on the uniqueness factors. The Justification Statement now discusses each of the criteria and how the criteria are being met. Exh. 17.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.

- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Findings of the Board

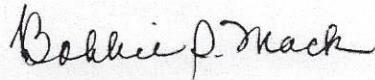
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to the Petitioner's Counsel submitting a Statement of Justification for requested variances, the Board finds that all criteria are being met and being in 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. Furthermore, the Board determined that the particular uniqueness and peculiarity of the specific property being on a corner lot and subdivided in the early 1900s would cause a zoning provision to impact disproportionately upon the Petitioners' property. Additionally, the Board determined that this variance was the minimum reasonably necessary to overcome the exceptional physical conditions found on the Petitioners' property. Lastly, there is no evidence contained in the record to illustrate that this variance would substantially impair the use and enjoyment of adjacent properties, and the practical difficulty was not self-inflicted as the Petitioners have not commenced construction on the property.

BE IT THEREFORE RESOLVED, unanimously, that a variances of 2.96 feet front yard depth and 14.99-feet side street yard width in order to demolish and reconstruct the existing second-story and construct a wood deck on the property located at 901 Old Walnut Street, Capitol Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plan, Exhibit 4.

BOARD OF ZONING APPEALS

By:



Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:


Ellis Watson (Jul 12, 2024 14:56 EDT)

Ellis Watson, Esq.

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 27-3613(c)(10)(B) 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.

BOARD OF APPEALS

APPROVED MAY 22 2024

ADMINISTRATOR

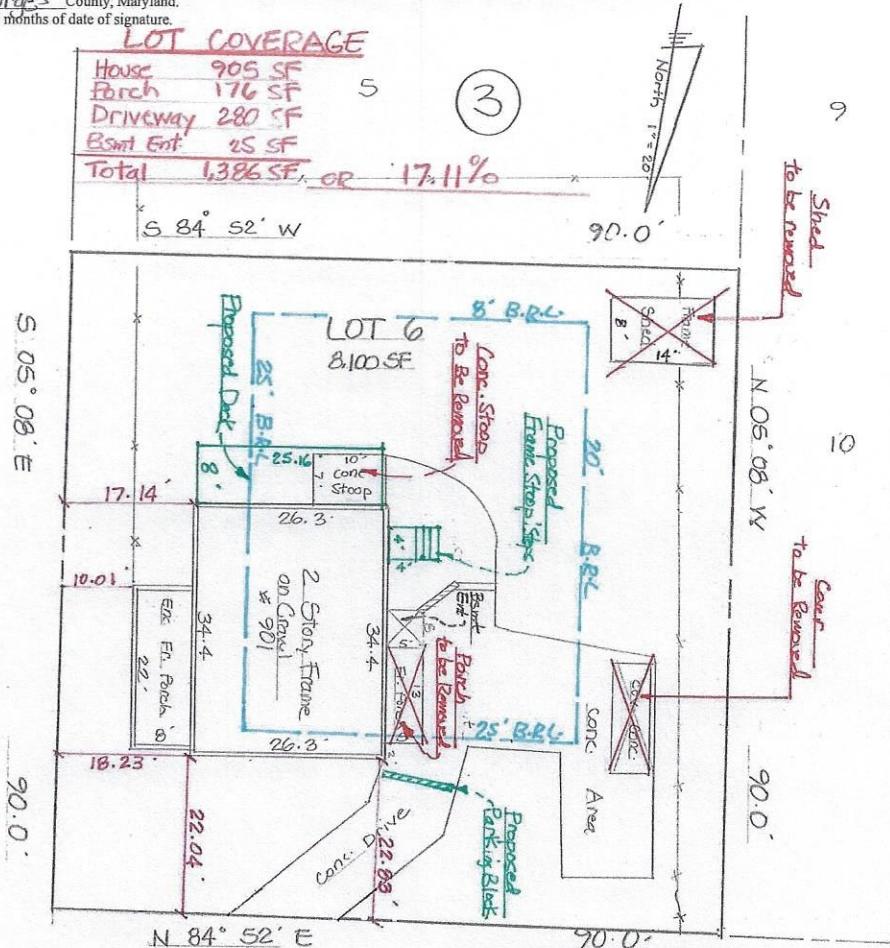
WALNUT
STREET
(30' R.W.Y.)

NOTES:

1. This plat is not intended for use in the establishment of property lines, but prepared for the exclusive use of the present property owners of record and/or those who purchase, mortgage or guarantee the title within six months from the date hereof and as to them I warrant this house location plat.
2. ~~For title purposes only.~~
3. No title reports furnished at this time, subject to all easements and rights of ways of record.
4. Property corners have not been set with this survey. Property information was taken from the best available records.
5. ~~This location plat is not to be used for the construction of fences or other improvements. A boundary Survey and lot staking out would have to be performed to determine the location of all property lines as shown.~~
6. The Property shown hereon is located within Zone X as shown on F.E.M.A. Lood Insurance Rate Map Community Panel No. _____ of Prince Georges County, Maryland.
7. This plat is valid within 6 months of date of signature.

LOT COVERAGE

House	905 SF	
Porch	176 SF	5
Driveway	280 SF	
Bsmt Ent.	25 SF	
Total	1,386 SF, OR	17.11%



WASHINGTON

AVENUE

EXHIBIT



VARIANCE REQUESTED FOR:

① FRONT PORCH 10' B.R.L
② HOUSE FRONT OLD WALNUT 17' B.R.L
③ HOUSE SIDE WASHINGTON AVE 22' B.R.L

DRAWN BY Tom O
CHECKED BY BK
DATE 06-27-2023
SCALE : 1" = 20'
JOB NO. 1269-23
CASE NO. Rav M

SURVEYOR'S CERTIFICATE

I hereby certify that the position of all the existing improvements on the above described property has been carefully surveyed by me or directly under my supervision and that they are located as shown. THIS IS NOT A BOUNDARY SURVEY.

6-27-2023

Date

Gregory C. Benefiel
Registered Professional
Land Surveyor, MD. No. 10994
License Expiration 08-08-2024

HOUSE LOCATION PLAT

901 Old Walnut Street
Lot(s)/Parcel 6 , TM./Block 3

PLEASENT PARK

The logo for SURVEYS, INC. is a horizontal banner. On the left is a large, stylized, blocky letter 'S'. To the right of the 'S' is the word 'SURVEYS, INC.' in a serif font. Below the 'S' and the company name are the words 'SURVEYORS * ENGINEERS * LAND PLANNERS * PERMIT SERVICES' in a smaller, sans-serif font. At the bottom of the banner are the addresses '350 MAIN STREET' and 'LAUREL, MARYLAND, 20707'. Below that is the phone number 'PHONE 301-776-0561' and the email 'E-MAIL SURVEYSINC@VERIZON.NET'. On the far left and far right of the banner are small compass rose icons.

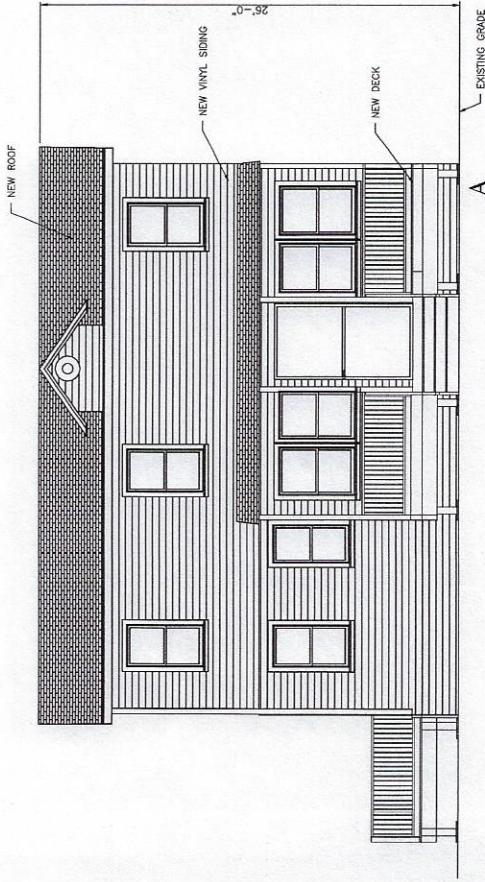
Plat Book 1 Plat No. 68
Liber 47378 Folio 356

S- 6003

BOARD OF APPEALS

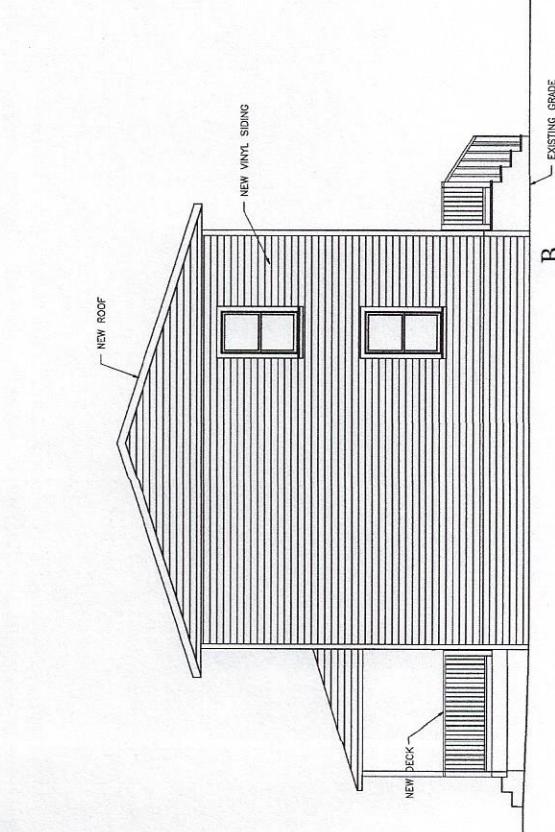
APPROVED B. H. H. MAY 22 2024

Administrator



PROPOSED FRONT ELEVATION

SCALE: 3/16" = 1'-0"



PROPOSED SIDE ELEVATION

SCALE: 3/16" = 1'-0"

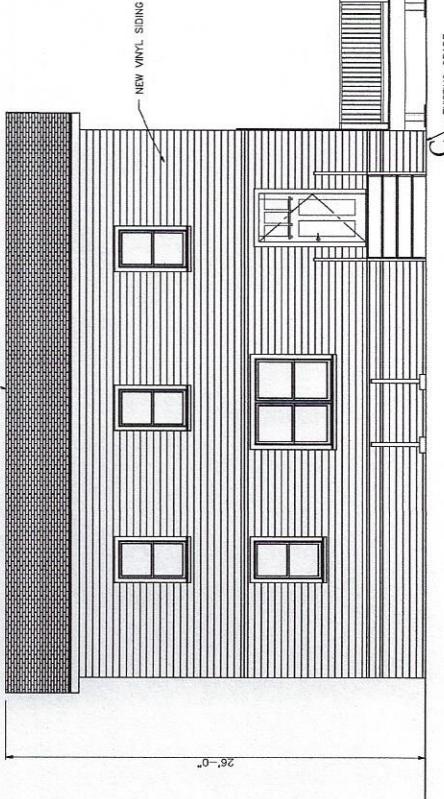


EXHIBIT
4 (A-C)
V-12-24

PROPOSED REAR ELEVATION
SCALE: 3/16" = 1'-0"

<p>ARENCO LLC</p>		<p>RENOVATION AND ADDITION PROJECT ADDRESS: 901 OLD WALNUT ST, APTOL HEIGHTS, MD 20743</p>		<p>ELEVATIONS-2</p>	
<p>ADMINISTRATOR</p>		<p>DISCLAIMER</p>		<p>PROFESSIONAL CERTIFICATION</p>	
<p>NOTES:</p> <ol style="list-style-type: none"> 1. FOR GENERAL NOTES SEE DRAWING A-1. 2. FOR FLOORING, CONCRETE, WALL AND FLOOR DETAILS SEE STRUCTURAL DRAWINGS. 3. ALL WORK SHALL BE DONE ACCORDANCE WITH PRINCE GEORGE'S COUNTY BUILDING CODE. 		<p>PROJECT TITLE 901 OLD WALNUT ST, APTOL HEIGHTS, MD 20743</p>		<p>SHET TITLE PROJECT ADDRESS</p>	
<p><u>B. H. H.</u> ADMINISTRATOR</p>		<p>PROJECT NUMBER R23-224</p>		<p>DRAWN BY SP</p>	
<p>DATE 08-28-23</p>		<p>APPROVED BY PP</p>		<p>ORIGINAL SHEET SIZE: 38x24</p>	
<p>SCALE AS SHOWN</p>		<p>SCALE DRAWING</p>		<p>SHOULD MEASURE: 1'-0"</p>	
<p>A5</p>					