

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-71-16 Faith Ford

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: September 28, 2016.

CERTIFICATE OF SERVICE

This is to certify that on October 20, 2016, 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
DPIE/Building Code Official, Permitting
Town of Capitol Heights
Other Interested Parties

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

Petitioner: Faith Ford

Appeal No.: V-71-16

Subject Property: Lots 51 thru 53 and Part of Lot 54, Block 2, Otway B. Zantzinger's Subdivision of Capitol Heights, being 108 Tunic Avenue, Capitol Heights, Prince George's County, Maryland

Municipality: Town of Capitol Heights

Witnesses: Jerry Mosby, BHI Construction representative

Caroline Brown, Capitol Heights Advisory Committee member

Heard: July 27, 2016; Decided: September 28, 2016

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 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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth. Petitioner proposes to validate and complete construction of a covered front porch. A variance of 3 feet front yard depth is requested.

Evidence Presented

1. The property contains 7,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 11 and 12. The existing dwelling was built in 1988. Exh. 11.

2. The property consists of three record lots and part of a fourth lot that were originally subdivided in 1904. Exh. 4. The property was created in its current configuration by deed in 1997. Exhs. 7 and 8.

3. Petitioner has begun construction of a 6' x 8' covered front porch. Exhs. 5(A) and (B).

4. Petitioner would like to validate the location of the front porch and obtain a building permit to complete the porch, but a variance is required. Since the porch is located 22 feet from the front street line, a variance of 3 feet front yard depth was requested. Exh. 15.

5. Petitioner testified that construction was started in April or May, 2016, on a portico on the front of her house.

6. Caroline Brown, a member of the Capitol Heights Advisory Committee, testified that there have been no complaints regarding Petitioner's property.

7. The Subdivision Section of The Maryland-National Capital Park and Planning Commission ("M-NCPCC) reviewed the request and commented as follows: The site is made up of Lots 51, 52, 53 and part of Lot 54 recorded in Prince George's County Land Records in Liber 20436 folio 516, dated July 26, 2004. The configuration of this site is pursuant to deed Liber 11876 folio 288 recorded in land records dated December 18, 1997. The deed dated December 18, 1997, between Leroy Anderson (grantor) and Leroy Anderson (grantee) illegally divided Lot 54. The Acting Planning Director agreed that the subject of the

variance being a 6' x 8' portico in the front yard of the subject property, it will have no impact on the illegal division of land. M-NCPPC will recommend approval of the permit for the portico if the Board approves the variance for its construction. M-NCPPC has advised Mr. Leroy Anderson (104 Tunic Avenue) and Ms. Faith Ford (108 Tunic Avenue) that corrective action must be taken to address the illegal division of Lot 54, and is required prior to M-NCPPC recommending approval of permits beyond the portico addition to 108 Tunic Avenue. This will allow Ms. Ford the ability to move forward in a timely fashion having not been aware of this issue prior to her filing the variance request. This will also allow Mr. Anderson and Ms. Ford time to seek appropriate consultants to file the final plats to correct, in some fashion, the division of Lot 54. Exh. 24.

8. The Town of Capitol Heights noted the circumstances of the illegal division, but agreed with M-NCPPC that it is a non-issue at this time and does not object to the variance request. Exh. 25.

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the location of the existing house (porch) on the property, a variance being needed to obtain a permit to complete construction of the proposed portico, it having been determined that construction of the portico will have no impact on the illegal division of land, 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 a variance of 3 feet front yard depth in order to validate and complete construction of a 6' x 8' covered front porch on the property located at Lots 51 thru 53 and Part of Lot 54, Block 2, Otway B. Zantzinger's Subdivision of Capitol Heights, being 108 Tunic Avenue, Capitol Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

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.