

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-88-16 Lacy and Juanita Ware

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 14, 2016.

CERTIFICATE OF SERVICE

This is to certify that on September 28, 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: Petitioners
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: Lacy and Juanita Ware

Appeal No.: V-88-16

Subject Property: Lots 23 & 24, Block 24, Bradbury Heights Subdivision, being 4303 Byers Street, Capitol Heights, Prince George's County, Maryland

Heard and Decided: September 14, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 27-442(b)(Table I), which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d) (Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; and Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioners propose to validate existing conditions and construct a driveway in the front yard. Variances of 1,000 square feet net lot area, 10 feet front building line width and a waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1953. Exh. 6.
2. The property is narrow, being only 40 feet wide. The existing dwelling is 26.2 feet wide, leaving 7-foot-wide side yards on each side. Exh. 2.
3. Petitioners would like to construct a 10.5' x 16.5' driveway in the front yard, but variances are needed to obtain a building permit. Since a portion of the proposed driveway would be located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 10.
4. In addition, variances are needed to validate the size and width of the property itself. Since the property does not meet the current minimum requirements for lot size and lot width at the front building line, variances of 1,000 square feet net lot area and 10 feet front building line width were also requested. Exh. 10.
5. Petitioner Juanita Ware testified that there is no sign letting drivers know there is no outlet from her street to Pennsylvania Avenue (*see* Exh. 8(A)) and traffic travels fast past her house and then suddenly has to back up.
6. She further testified that the subject property is the only property in the neighborhood without a driveway.

7. The Historic Preservation Section of M-NCPPC commented that the subject property is located within a half mile of Heineman-Payton House (Historic Site 75A-055) and that the variance request will have no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 88.

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 subdivided in 1909, the narrowness of the property, the need for off-street parking, 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, by majority vote, Vice Chairman Scott absent, that variances of 1,000 square feet net lot area, 10 feet front building line width and a waiver of the parking area location requirement in order to validate existing conditions and construct a 10.5' x 16.5' driveway in the front yard on the property located at Lots 23 & 24, Block 24, Bradbury Heights Subdivision, being 4303 Byers Street, Capitol Heights, 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.]

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.