

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-102-16 Althea Spriggs

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: October 5, 2016.

CERTIFICATE OF SERVICE

This is to certify that on November 2, 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
DPIE/Inspections Division

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

Petitioner: Althea Spriggs

Appeal No.: V-102-16

Subject Property: Lot 5, Block A, Jefferson Heights Subdivision, being 808 Minna Avenue, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Johnine N. Clark, Esq.

Heard: September 28 2016; Decided: October 5, 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, Petitioner requests that the Board approve variances from Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking, 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. Petitioner proposes to validate existing conditions and obtain a building permit for a new shed and cement slab (including driveway area in the front yard). A variance of 5.4% net lot coverage 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 1938, contains 5,695 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1937. Exh. 9.

2. The property narrows from front to rear. Exh. 2.

3. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 55082-2015-0 dated June 24, 2015, requiring that Petitioner obtain the required permit(s) for work done at the above referenced property, including but not limited to having more than one accessory building and cement slab more than 500 square feet, and obtain all required inspection(s) for work done. Exh. 7.

4. Petitioner would like to obtain a building permit for an existing 11.90' x 18.25' shed and concrete slab in the rear yard, but variances are needed. Since the allowed amount of net lot coverage (30%) is exceeded by existing development on the property, a variance of 5.4% net lot coverage was requested. Exhs. 13 and 14.

5. In addition, a variance is needed to validate a portion of the existing driveway in front of the dwelling. Since part of the driveway is located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was also requested. Exh. 14.

6. Counsel for Petitioner clarified that the carport and one shed have been removed and that only one shed remains. Exh. 22

7. Petitioner testified that the driveway area in front of the house is used as a drop off point for her disabled parent. Exhs. 5(A) thru (C), 22.

8. Counsel for Petitioner explained that the concrete in the rear (patio area) is used as a recreational area for the disabled parent who is confined to a wheelchair. Exhs. 5(D) and (E). She pointed out that maneuvering the wheelchair on concrete is easier than on dirt and grass. Exhs 3(A) and 22.

9. Petitioner stated the shed is also used for quick cover when caught in rain.

10. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and stated as follows: The 25-foot building restriction line (BRL) shown on the record plat is not indicated on the submitted plan (Exhibit 2).¹ Although the existing covered porch infringes on the recorded BRL, it is an existing condition and no plat to remove the BRL is required. Exhs. 4 and 19.

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 1938, the house being built many years ago, the narrowing of the property from front to rear, existing conditions on the property, driveway/concrete area being used for the recreational benefit of a disabled parent, concrete area providing for safer handicapped accessibility and mobility, the shed providing protection from the weather, 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, by majority vote, Vice Chairman Scott absent, that a variance of 5.4% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions and obtain a building permit for a new 11.90' x 18.25' shed and cement slab (including driveway area in the front yard) on the property located at Lot 5, Block A, Jefferson Heights Subdivision, being 808 Minna Avenue, Capitol Heights, Prince George's County, Maryland, be and are

¹ Petitioner submitted a revised site plan which does reflect the recorded BRL. Exh. 22.

hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22, and the approved elevation plans, Exhibits 3(a) thru (f).

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.