

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-118-16 Afework Tesgaye

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: November 9, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on November 29, 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
City of Hyattsville

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

Petitioner: Afework Tesgaye

Appeal No.: V-118-16

Subject Property: Part of Lot 12, Block 9, Clearwood Subdivision, being 5801 Queens Chapel Road,
Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

Heard: October 26, 2016; Decided: November 9, 2016

Board Members Present and Voting: 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 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(e)(Table IV), which prescribes that each corner lot shall have a side yard along the side street at least 25 feet in depth; 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; Section 27-442(i)(Table VIII), which prescribes that not more than 25% of the side yard shall be covered by accessory buildings; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line. Petitioner proposes to validate existing conditions and obtain a building permit for a new shed. Variances of 2 feet side street yard depth, 8.2% net lot coverage, 11.8% side yard coverage, 29 feet front street line setback for one accessory building and 17 feet front street line setback for a second accessory building are requested.

Evidence Presented

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

1. The property contains 6,607 square feet, is zoned R-35 (Two-Family Detached Residential) and is improved with a detached dwelling, driveway and two sheds. Exhibits ("Exhs.") 2, 10 and 11. The existing dwelling was built in 1945. Exh. 10.
2. The property is located within the Gateway Arts District Development Overlay Zone. Exh. 11.
3. The property was subdivided in 1943, but was created in its current configuration by deed in 1971 when land area was conveyed to Prince George's County. Exhs. 4 and 6.
4. The property is a corner lot with the house facing the legal side street. Exh. 2.
5. Petitioner was issued a warning notice by the City of Hyattsville's Office of Code Compliance regarding the need to immediately obtain a building permit for a second shed on the property. Exh. 8.
6. Petitioner would like to obtain a building permit for a new 7' x 10' shed (Exhs. 2, 5(C) and (D)), but variances are needed to obtain a building permit. Since the shed is located 31 feet from the front street line, a variance of 29 feet front street line setback for an accessory building was requested. Exh. 15.
7. Certain other conditions on the property must be validated in order to obtain the building permit. Since another 7' x 16' shed is located 43 feet from the front street line, a variance of 17 feet front street line setback for a second accessory building was also requested. Exh. 15.

8. In addition, since the covered front porch is located 23 feet from the front street line, the allowed amount of net lot coverage (30%) is exceeded by existing development on the property (with construction of the new shed causing further overage), and the allowed amount of side yard coverage (25%) is also exceeded, variances of 2 feet side street yard depth, 8.2% net lot coverage and 11.8% side yard coverage were requested to validate these existing conditions. Exhs. 13, 14 and 15.

9. Petitioner testified that when he purchased the subject rental property two years ago the 7' x 16' shed already existed. He testified that he informed an official with the City of Hyattsville that he needed a second shed because his tenants had filled up the existing shed. When he built the second shed, which is 7' x 10', he received a violation. Exh. 8.

10. The City of Hyattsville opposed the request. Exh. 23.

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/do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, by majority vote, Chairperson Mack absent, that variances of 2 feet side street yard depth, 8.2% net lot coverage, 11.8% side yard coverage, 29 feet front street line setback for one accessory building and 17 feet front street line setback for a second accessory building setback for a new accessory building and 17 feet front street line setback for an existing accessory building in order to validate existing conditions and obtain a building permit for a new 7' x 10' shed on the property located at Part of Lot 12, Block 9, Clearwood Subdivision, being 5801 Queens Chapel Road, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.