

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-121-16 Mohammed, Zafar, Abida and Usman Khan

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 December 22, 2016 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Barbara J. Stone
Acting Administrator

cc: Petitioners
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

Petitioners: Mohammed, Zafar, Abida and Usman Khan

Appeal No.: V-121-16

Subject Property: Part of Lot 1, Troxell's Subdivision, and Parcel 1, being 12325 Old Gunpowder
Road Spur, Beltsville, Prince George's County, Maryland

Heard and 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, Petitioners request that the Board approve variances from Section 27-442(e) (Table IV), which prescribes that each lot shall have a side yard at least 8 feet in width, and Section 27-442(c) (Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate existing conditions and obtain a building permit for a covered deck and shed. Variances of 3 feet side yard width and 5.1% net lot coverage are requested, respectively.

Evidence Presented

1. The property contains 9,657 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 11 thru 13. The existing dwelling was built in 1962. Exh. 11.
2. The property is part of a lot that was subdivided in 1961 (Exh. 4), but was created in its current configuration by deed in 1946. Exh. 6.
3. The property is odd-shaped and the house sits at an angle to the front street line. Exh. 2.
4. Petitioners were cited with a violation notice, dated August 17, 2016, by the Department of Permitting, Inspections and Enforcement, stating that the required permit(s) be obtained for work done at the property, including but not limited to a rear deck, a shed over 150 square feet, window wells and a fence over 4 feet, or the work be removed. Exh. 10.
5. Petitioners would like to obtain building permits for an existing 12' x 12' covered deck and 12' x 16' shed (Exh. 2), but variances are needed. Since the allowed amount of net lot coverage (25%) is exceeded by existing development on the property, a variance of 5.1% net lot coverage was requested. Exhs. 16 and 17.
6. In addition, a variance is needed to validate the location of the existing dwelling. Since the dwelling is located 5 feet from the side lot line, a variance of 3 feet side yard width was also requested. Exh. 17.
7. Petitioner Mohammed Kahn, who purchased the property on December 21, 2015, believes that the shed, deck and window wells have existed on the property since at least 1998.

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 odd shape of the property, the house sitting at an angle to the front street line, pre-existing conditions on the property 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, Ms. Mack absent, that variances of 3 feet side yard width and 5.1% net lot coverage in order to validate existing conditions and obtain a building permit for a 12' x 12' covered deck and 12' x 16' shed on the property located at Part of Lot 1, Troxell's Subdivision, and Parcel 1, being 12325 Old Gunpowder Road Spur, Beltsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and elevation plans, Exhibits 3(a) thru (f).

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.