

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-155-16 San Tse

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: January 25, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on January 30, 2017 , 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Town of Morningside

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

Petitioner: San Tse

Appeal No.: V-155-16

Subject Property: Part of Lot 102, Second Addition to Morningside and Resubdivision of Morningside
Subdivision, being 6617 Woodland Road, Suitland, Prince George's County, Maryland

Municipality: Town of Morningside

Witness: Bernard Peters (Permit Service)

Heard and Decided: January 25, 2017

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 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) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a rear yard at least 20 feet in depth/width, 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 and obtain a building permit for a new front porch, new side porch and new driveway. Variances of 2 feet front yard depth, 3 feet rear yard depth/width and a waiver of the parking area location requirement for a driveway in the front yard are requested.

Evidence Presented

1. The property contains 7,477 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 3, 9 and 11(A) thru (F).
2. The property was originally subdivided in 1940, but was created as it exists today by deed, which was done later in 1940. Exhs. 3, 4 and 5.
3. The property is trapezoid-shaped with parallel side lot lines. The house sits at an angle to the side and rear property lines. The rear yard is shallow. Exhs. 2, 3 and 11(A) thru (F).
4. Petitioner would like to obtain a building permit for a 5' x 14.5' open front porch with steps, 10.5' x 11.5' open side porch with steps and a 20' x 25' driveway, which is located in front of the dwelling. Exhs. 2, 6(A) thru (C) and 13.
5. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Because Petitioner's driveway is located in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 6(A) thru (C), 11(A) thru (F), and 13.
6. The front porch steps are located 23 feet from the front street line and the dwelling is located 17 feet from the rear lot line. Variances of 2 feet front yard depth and 3 feet rear yard depth/width were requested. Exhs. 2, 6(A) thru (C), 11(A) thru (F) and 13.

7. The Board approved variances in 2010 (Appeal No. V-3-10) for the front yard setback and front yard driveway location. A permit for the construction was never obtained, therefore, the Appeal expired. Exhs. 7 and 8.

8. The Town of Morningside provided no comment in the request for variances. Exh.16.

9. Mr. Bernard Peters testified that the side and front porches and driveway were built without a building permit approximately 6 years ago. Exh. 2

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 issuance of Appeal V-3-10 previously addressing front yard setback and driveway location, an incomplete permit process in 2010 related to Appeal V-3-10, the need to validate existing conditions, the rear yard being shallow (for porch location) 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 variances of 2 feet front yard depth, 3 feet rear yard depth/width and a waiver of the parking area location requirement for a driveway in the front yard in order to validate and obtain a building permit for a new 5' x 14.5' front porch and steps, new 10.5' x 11.5' side porch and new 20' x 20' driveway on the property located at Part of Lot 102, Second Addition to Morningside and Resubdivision of Morningside Subdivision, being 6617 Woodland Road, Suitland, 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.