

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-13-17 Stanislaw Kwasnik

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: April 12, 2017.

CERTIFICATE OF SERVICE

This is to certify that on May 19, 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-NCPCC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Mount Rainier
Other Interested Parties

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

Petitioner: Stanislaw Kwasnik

Appeal No.: V-13-17

Subject Property: Lot 29, Block 11, Resubdivision of Robert E. Funkhouser's 32nd Street Addition Subdivision, being 3201 Otis Street, Mount Rainier, Prince George's County, Maryland

Municipality: City of Mount Rainier

Witness: Marcio Dias, Contractor

Heard: March 8, 2017; Decided: April 12, 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 request that the Board approve variances from Section 27-442(b)(Table I) of the Zoning Ordinance, 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; Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth, side yards at least 5 feet in width and a rear yard at least 20 feet in depth/width; and 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. Petitioner proposes to validate existing conditions and construct a second floor addition. Variances of 2,805 square feet net lot area, 8 feet front building line width, 12 feet front yard depth, .5 foot left side yard width, .5 foot right side yard width, 18 feet rear yard depth/width and 21.4% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1927, contains 2,195 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling. The property is located within the Gateway Arts District Development Overlay Zone. Exhibits (Exhs.) 2, 3 (a) thru (b), 4, 7 and 9 (A) thru (F).

2. Petitioner would like to construct a second floor addition on the existing dwelling. The covered front porch is located 13 feet from the front lot line and the dwelling is located 4.5 feet from each side lot line and 18 feet from the rear lot line at the closest point. The existing development on the property exceeds the amount of lot coverage allowed. Variances of 12 feet front yard depth, .5 foot left side yard width, .5 foot right side yard width, 18 feet rear yard depth/width and 21.4% net lot coverage were requested. Exhs. 2, 3 (a) thru (b), 5, (A) thru (F), 11 and 12.

3. The lot size and lot width at the front building line do not meet the current minimum requirements for zoned R-55 property. Variances of 2,805 square feet net lot area and 8 feet front building line width were requested. Exhs. 2 and 12.

4. Marcio Diaz testified that the Petitioner wishes to add a 2nd floor keeping the original footprint of the dwelling. Exh. 2. He further explained that original house was too big for the lot when it was purchased one year ago. Exh. 2.

5. The City Council of Mount Rainier requested denial of the request for the variances and encouraged Petitioner and his architect to meet with Mount Rainier's Design Review Board for discussions. Exhs. 22 and 23.

6. The Subdivision Section of the M-NCPPC stated; "The record plat shows a dashed line along the rear property line of Lot 29 but because it is not labeled, there is no need to remove it or to hold the property owner subject to it. We would be making an assumption 90 years after the plat was recorded of its intent. Without a more definitive label, the Subdivision Section would not consider this a Building Restriction Line for development purposes." Exh. 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 variance does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds no reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the subject property.

BE IT THEREFORE RESOLVED, by majority vote, Mr. Al Scott abstaining, that variances of 2,805 square feet net lot area, 8 feet front building line width, 12 feet front yard depth, .5 foot left side yard width, .5 foot right side yard width, 18 feet rear yard depth/width and 21.4% net lot coverage in order to validate existing conditions and construct a second floor addition on the property located at Lot 29, Block 11, Re-Subdivision of Robert E. Funkhouser's 32nd Street Addition Subdivision, being 3201 Otis Street, Mount Rainier Prince George's County, Maryland, be and are hereby DENIED.

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

NOTICE

Further, Section 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.