

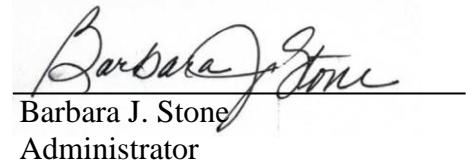
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-172-17 Andra Curry

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 24, 2018 .

CERTIFICATE OF SERVICE

This is to certify that on February 15, 2018 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Office of Law

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

Petitioner: Andra Curry

Appeal No.: V-172-17

Subject Property: Lots 18 thru 21, Block 19, Boulevard Heights Subdivision, being 4305 Southern Avenue,
Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Traci Scudder, Esq.

Heard: January 10, 2018; Decided: January 24, 2018

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 a variance 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 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 obtain a building permit for a new concrete driveway, garage and concrete walk. Variances of 15 feet front yard depth and 4.9% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1906, contains 7,989 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and detached garage. The property consists of four long narrow lots in the residential subdivision of Boulevard Heights. The dwelling was constructed in 1930 and Petitioner purchased the property in 2012. Exhibits (Exhs.) 2, 3, 8, 9, 10 (A) thru (F) and 11 (A) thru C).

2. Petitioner would like to obtain a building permit for a previously constructed concrete driveway (approximately 1,260 square feet), 12' x 20' garage and 5' x 35' concrete walk. As the existing development on the property exceeds the amount of lot coverage allowed, a variance of 4.9% net lot coverage was requested. Exhs. 2 and 4, (A) thru (U).

3. The existing covered front porch is located 10 feet from the front street line. A variance of 15 feet front yard depth was requested. Exhs. 2 and 4, (A) thru (U).

4. Petitioner explained that the driveway, garage and walkway have existed since at least 2003. Exhs. 2 and 4 (A) thru (U).

5. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice No. 34172-11-2, dated September 22, 2016, requiring Petitioner to "Obtain the

required permit(s) for work done . . . or remove same. Work includes but not limited to concrete driveway, lead walk, garage slab and slab off left of driveway."¹

6. Petitioner Andra Curry testified that he purchased the property in June 2012 and that a County Inspector issued a Violation Notice on the property which stated that his house was unsafe because of an incomplete electrical inspection and too much concrete being poured on the property. Mr. Curry stated that the only work that he has performed on the property is the landscaping. Exh. 20.

7. Attorney Traci Scudder submitted that the subject property is long and narrow, the dwelling was built around 1930 and the property does not meet the current minimum net lot size and the front building set back requirements for any current development. She stated that the rectangular long shape of the property (Lot 18) necessitates an extended driveway to reach the garage. She noted that the prior owner applied for permits for the disputed development but abandoned the permit process prior "to completion, approval and final issuance of the permit." She argued that Petitioner simply inherited the issues that are now before the Board. Exh. 21.

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 complies with the applicable standards set forth in Section 27-230.

Due to the lot being long and narrow, the possible unsafe nature of the dwelling, the dwelling being built in 1930, the on-going issue of an incomplete electrical inspection, an aborted attempt to obtain prior permit(s), the need for an extended driveway to reach the garage located in the far rear yard 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, unanimously, that variances of 15 feet front yard depth and 4.9% net lot coverage to validate existing conditions and obtain a building permit for a new concrete driveway, (approx. 1,260 square feet), 12' x 20' garage and 5' x 35' concrete walk on the property located at Lots 18 thru 21, Block 19, Boulevard Heights Subdivision, being 4305 Southern Avenue, Capitol Height, 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.

¹ The Violation Notice was filed in Circuit Court (Case No. SP05-02-05379-2017) and an order to Show Cause, dated July 14, 2017, was issued to Petitioner. A continuance of the September 20, 2017 hearing date was requested to allow Petitioner an opportunity to resolve the matter. Exhs. 5 and 6.

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.