

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

Petitioner: Genesis Property Development, LLC.

Appeal No.: V-2-19

Subject Property: Lot 10-B, Block 21-A, Hyattsville Hills Subdivision, being 5709 40th Place, Hyattsville, Prince George's County, Maryland

Municipality: City of Hyattsville

Counsel for Petitioner: Jonathan Morgan, Esq.

Witness: Bruce Lerman, Property Owner

Heard: February 27, 2019; Decided: March 20, 2019

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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 a variance 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. Petitioner proposes to construct a new covered front porch measuring 8' x 11'. A variance of 3 feet front yard depth is requested.

Evidence Presented

1. The property was subdivided in 1935, contains 5,217 square feet, is zoned R-55 (One Family Detached Residential) and is improved with a single-family dwelling, deck and front porch. Exhibits (Exhs.) 3, 5, 8, 9 and 10 (A) thru (G).

2. The lot is an oddly shaped rectangle with the rear yard narrowing towards the rear. Exhs. 3 and 5.

3. Petitioner would like to obtain a permit to construct an 8' x 11' covered front porch. Exhs. 2, 3, 4, 6 (A) thru (C).

4. The City of Hyattsville supports the request for a variance. Exhs. 20 and 21.

5. Petitioner Bruce Lerman testified that he purchased the subject property 5 months ago and intends to repair the house for resale. He proposes to construct a covered front porch (which will not be enclosed). The proposed front porch, which will be located on the left side of the house, will have an odd shape because of the location of a large oak tree to the right of the proposed covered front porch. Mr. Lerman stated that he does not want to cut down the 70+ year old oak tree. He stated that because of the odd shape of the lot and its topography, storm water from the upper houses drains into his rear yard making the yard unusable (for enjoyment). He provided photographs showing that his neighbor's driveway drains into the rear of his lot. Mr. Lerman explained that he would like to bring the focus to the front of the property. Exhs. 2, 3, 4, 6 (A) thru (C), 18 (A) thru (H).

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 the odd shape of the lot, the topography of the neighborhood and the rear yard making it unusable, the existence of a large oak tree in the front 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 owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that a variance of 3 feet front yard depth in order to construct a new covered front porch measuring 8' x 11' on the property located at Lot 10-B, Block 21-A, Hyattsville Hills Subdivision, being 5709 40th Place, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance(s) is contingent upon development in compliance with the approved site plan, Exhibit 3 and approved elevation plan, Exhibit 4.

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.