

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

Petitioner: Mackie Homes, LLC

Appeal No.: V-39-19

Subject Property: Lots 1 and 2, Block E, Wines Johnson's 2<sup>nd</sup> Addition to Hyattsville, being 5227 42<sup>nd</sup> Place, Hyattsville, Prince George's County, Maryland

Municipality: Town of Hyattsville

Counsel for Petitioner: Norman Riviera, Esq.

Witnesses: Karl Granzow, Mackie Homes, LLC

Paul Singh, Neighbor

Barbara Brewer, Neighbor

Ryan Winkelvoss, Neighbor

Mary Kennedy, Neighbor

Maiya Dacey, Neighbor

Heard: June 12, 2019; Decided: September 4, 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 variances from Section 27-442(b)(Table I) 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 front building line minimum width of 65 feet. 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. 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. Section 27-465(a) of the Zoning Ordinance which prescribes that fences and walls more than 6 feet high shall not be located in any required yard and shall meet the setback requirements for main buildings. Petitioner proposes to validate existing conditions (property and dwelling) and obtain a building permit to construct a two-story dwelling with basement, a covered front porch and driveway. Variances of 693 square feet net lot area, 20 feet front building line width, 5 feet front yard depth and 2.7% net lot coverage are requested.<sup>1</sup>

**Evidence Presented**

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

1. The property was subdivided in 1930, contains 4,307 square feet, is zoned R-55 (One-Family Detached Residential), Gateway Arts District (D-D-O) and is currently a vacant lot. Exhibits (Exhs.) 3, 5, 8, 9 and 10 (A) thru (D).

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<sup>1</sup> Attorney Norman Rivera stated Petitioner is requesting 4 variances. The Hearing Notice and the printed agenda included, in error, a request for a 10-foot retaining wall. No retaining walls on the property are necessary as the land is essentially flat. Exh. 28.

2. Petitioner is requesting validation of existing conditions related to the property and dwelling requiring variances from the net lot area, front building line width, front yard setback and lot coverage, to allow Petitioner to obtain a building permit to construct a 2-story single-family dwelling with basement, driveway and covered front porch. Exhs. 2, 3, 4 (a) thru (c) and 6.

3. Karl Granzow explained that there is an existing 1 to 2-foot brick wall in the rear yard which will be removed and replaced by the required Department of Permitting, Inspections and Enforcement (DPIE) Storm Water Management Biodegradable Pond, which will be located at the rear of the property. Exhs. 3 and 28.

4. Counsel Norma Rivera explained that the original house, built in the 1800s, was demolished because of fire and subsequent neglect. The new dwelling will have essentially the same footprint as the prior house. He stated that because the small lot size of the lot (4,307 sq. ft.) does not meet current net lot coverage for a standard size lot, variances for 693 square feet net lot area and 2.7% lot coverage will be required for the lot in order to build the proposed “modern, livable home” (designed by Mackie Homes) which will have a double driveway. In addition, he stated that likewise because of the small size of the lot and to conform to the current front yard setback requirements, a 5-foot front yard variance is requested for the proposed covered front porch. He stated that the porch will be in keeping with the character of the neighborhood, as many houses in the vicinity have covered front porches. Exhs. 2, 4 (a) thru (c) and 28.

5. Mr. Paul Singh, (5223 42<sup>nd</sup> Place, Hyattsville) questioned the height of the proposed building and setbacks. He was advised by Carl Granzow that the height would be approximately 30 feet.<sup>2</sup> Mr. Singh stated that he realizes that the setbacks being provided are minimum, given the small size of the subject lot, but the Petitioner should remain mindful of the setbacks. Exh. 28.

6. Ms. Barbara Brewer, (5225 42<sup>nd</sup> Place, Hyattsville) testified that she has lived next to the subject lot for twenty-five years. She stated she is familiar with the house being demolished in 2014. Her concern also is the proximity of the of the proposed driveway to her house. Mr. Granzow replied that the distance between Ms. Brewer's house and the adjoining property line is 28 feet. See Exh. 28.

7. Barbara Brewer also questioned water runoff. Carl Granzow responded that there will be 2 swales on each side of the house to push the water out to the street, plus a rain garden will be placed in the rear of the property. Exh. 2. She further questioned the length of the proposed house in comparison to the length of the prior dwelling on the property. Mr. Granzow stated that he was unsuccessful obtaining a drawing of the length of the prior house. Exh. 28 (aerial photo).

8. Mr. Ryan Winkelvoss, (4213 Jefferson Street, Hyattsville), is concerned with the square footage of the house (the size of the house). Mr. Winkelvoss asked that the photo provided in Exhibit 3 (c) be compared with the subject house as it pertains to square footage. Mr. Granzow noted that the photograph of a similar home in Exhibit 3 (c) is larger than the proposed house.

9. Ms. Mary Kennedy, (5223 42<sup>nd</sup> Place, Hyattsville), questioned if a deck will be built on the rear of the house. Mr. Granzow replied that a deck will not be constructed. Exh. 28.

10. Maiya Dacey, (4213 Jefferson Street, Hyattsville), also questioned the height of the house. Mr. Granzow stated that more than likely the house will be taller than neighboring houses but is caused only because of the style of the house. He assured that the height will fit into the character of Hyattsville. Exhs. 4 (a) thru (c).

11. Revised site plans were submitted that were supported by the City of Hyattsville. Exhs. 24, 26, 27 and 28.

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<sup>2</sup>Section 27-442(f)(Table V) of the **Zoning Ordinance** prescribes that each lot shall have a maximum building height of 35 feet.

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 prior dwelling being destroyed by fire in 2014, the relative small size of the lot, to be in conformity with the setbacks of surrounding houses street, the covered front porch being **consistent** with 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 variances of 693 square feet net lot area, 20 feet front building line width, 5 feet front yard depth and 2.7% net lot coverage in order to validate existing conditions (property and dwelling) and obtain a building permit to construct a two-story dwelling with basement, a covered front porch, and driveway on the property located at 5227 42<sup>nd</sup> Place, Hyattsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved revised site plan, Exhibit 28 and approved elevation plans, Exhibits 4 (a) thru (c).

## 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.