

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

Petitioners: Alexander and Katherine Waterhouse, III

Appeal No.: V-41-19

Subject Property: Lot 9 and 10, Block 10, Charlton Heights Subdivision, being 5705 Berwyn Road, College Park, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Heard and Decided: September 4, 2019

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 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, Petitioners request that the Board approve variances from Section 27-442(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-442(i)(Table VIII) which prescribes that accessory buildings shall be set back 15 feet from the front street line, 10 feet from a rear lot line, shall not exceed 15 feet in height and generally be located only in the rear yard, or in the yard opposite the designated front of the main building on lots having no rear yard (through lots) and on corner lots where the designated front of the main building faces the side street. Petitioners propose to validate existing conditions (dwelling and development) and obtain a building permit to construct two-story addition, one-story addition, a covered porch, replace and extend the driveway and an validate the existing shed. Variances of 22.5 feet front yard depth, 12 feet front street line setback, 7 feet rear lot line setback, and a waiver of the rear yard location requirement (abutting Osage Street) for an accessory building (shed) are requested.¹

Evidence Presented

1. The property was subdivided in 1931, contains 12,099 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, garage, shed and driveway. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (J).

2. The property is an odd-shaped (triangular) corner lot with two legal front yards and a rear yard. Exhs. 2, 4, 8, 9 and 10 (A) thru (J).

3. Petitioners would like to construct a two-story addition, a one-story addition to connect the dwelling to the garage and repave/extend the driveway. Petitioners would also like to construct a covered front porch. Exhs. 2, 3, 5 (A) thru (D), 6 (A) thru (E) and 18.

4. Petitioner Alexander Waterhouse stated that additional living space is needed for a new child. He stated that hardship constitutes the shape of the lot, being a triangular lot having two legal front yards and a rear yard. He explained that the property does not have any legal side yards, so the setbacks are considerably

¹ Prior Appeal No. V-51-08 (Granted) has been misplaced by Prince George's County storage warehouse. Any variance or waiver required currently, which may have been approved under V-51-08 has been requested again under this appeal for record purposes. Petitioner explained that the prior variance pertained to a conversion of a single car garage to a double car garage, as the existing garage is completely within the setback.

more stringent than any a standard shaped lot. He stated that the variances are therefore, needed. Exhs. 2, 3, 5 (A) thru (D), 6 (A) thru (E) and 18.

5. In addition, Petitioner testified that on November 28, 2018, a fire occurred in the dwelling. Instead of restoration, the decision was made to do the proposed renovations, to include the proposed additional living space. He stated that currently the dwelling is boarded up with a warning sticker "do not enter" on the door. Exhs. 6 (A) thru (E).

6. The Town of Berwyn Heights voted to support the proposed variances with one change.² Exhs. 16, 18, 23 and 24.

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 triangular shape of the lot, the lot having two legal front yards and one rear yard with no side yards, the setbacks being considerably more stringent than any other usual lot, a fire destroying the dwelling necessitating renovations 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 a variances of 22.5 feet front yard depth, 12 feet front street line setback, 7 feet rear lot line setback, and a waiver of the rear yard location requirement (abutting Osage Street) for an accessory building on the property located at 5705 Berwyn Road, College Park, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 18 and approved elevation plan, Exhibit 3.

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By: (ORIGINAL SIGNEDd)

Bobbie S. Mack, Chairperson

² Revised site plan was submitted to reduce the percentage of lot coverage to under 30% per request of Berwyn Heights. Therefore, a variance for lot coverage is not required. Exh. 18.

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.