

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

Petitioner: Venancio Balbuena

Appeal No.: V-53-19

Subject Property: Lots 40 & 50, Block 50, Greater Capitol Heights Subdivision being 4900 Heath Street
Capitol Heights, Prince George's County, Maryland

Spanish Language Interpreter Services: Ruben Sotogomez

Heard: October 9, 2019; Decided: October 23, 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 5000 square feet. Section 27-442(d)(Table III) which prescribes that each lot shall have a minimum width of 65 feet measured along the front building line and 45 feet measured along the front street line. Section 27-442(e)(Table IV) which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 8 feet in width. 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 (property, dwelling and development) and construct a driveway. Variances of 1000 square feet net lot area, 25 feet front building line width and 5 feet front street line width for the property, 1.5 feet front yard depth, 7 feet a side yard width for the dwelling and 23% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 5000 square feet, is Zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling. Exhibits (Exhs.) 2, 3, 6, 7 and 8 (A) thru (F).
2. The property is located on a corner lot with the legal front being on Heath Street. Exhs. 2 and 3.
3. Petitioner has requested to construct a 21' x 40' driveway¹ in the rear yard. Because the property was initially developed in 1928, the existing net lot area, front building line width, front and side yard setbacks must be validated. Because the property is already over lot coverage and with adding the proposed driveway, a request for 23% lot coverage is required. Exhs. 2, 4 (A) thru (D) and 23.
4. Petitioner Vernancio Balbuena testified that he has a daughter with special needs (Downs Syndrome). He explained that when parking in the street, the cars move so fast that he fear for the safety of his daughter. Thus, Petitioner is proposing to install a driveway in the rear of the house for parking and to access a door at the rear of the house. Petitioner explained because the property is a corner lot, he is proposing to put in an apron and driveway at the Jansen Avenue. Exhs. 2, 4 (A) thru (D) and 23.
5. Petitioner submitted a single wide apron permit from the Department of Permitting, Inspection and Enforcement, Site Roads Section. Exh. 24.

¹ Petitioner has revised his site plan to demonstrate a reduction in size (10' x 33') to the proposed driveway. The reduction of the driveway has reduced the percentage of lot coverage by 13 %, requiring a **reduced** variance of 10% net lot coverage. Exh. 23.

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:

Because the property is a corner lot, the property was developed prior to the current zoning requirements, Petitioner's daughter having a medical condition (Downs Syndrome), the need for safety for the daughter from moving vehicles, 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 variances of 1000 square feet net lot area, 25 feet front building line width and 5 feet front street line width for the property, 1.5 feet front yard depth, 7 feet a side yard width for the dwelling and 10% net lot coverage in order to validate existing conditions (property, dwelling and development) and construct a proposed driveway on the property located at 4900 Heath Street, Capitol Heights, 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 23.

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.