

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

Petitioners: Susan McDermott and John Tabori

Appeal No.: V-64-19

Subject Property: P/O Lot 19, 20 and P/O Lot 21, College Heights Subdivision, being 6816 Pine Way,
University Park, Prince George's County, Maryland

Municipality: Town of University Park

Heard and Decided: July 17, 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 a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioners propose to validate an existing condition (dwelling) and obtain a permit to construct an open deck with steps. A variance of 3 feet side yard width is requested.

Evidence Presented

1. The property was subdivided in 1920, contains 10,700 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling, garage and driveway. Exhibits (Exhs.) 3, 5, 9, 10 and 11 (A) thru (F).
2. The property consists of Lot 20 and two partial Lots 19 and 21. The dwelling was constructed in 1931 (with only 5 feet from the side lot line of Lot 19). Exhs. 3, 5 and 19.
3. Petitioners would like to construct a 10' x 15' open deck on the rear of the house. Because the dwelling was constructed so close to the left side property line and does not meet current side yard setbacks, the location of the dwelling must now be validated. In addition, the proposed deck will similarly require a left side yard setback of 3 feet. Exhs. 2, 3, 4, 6 (A) thru (J).
3. The Town of University Park voted to support the proposed variance. It concluded that the only viable area for the deck on the property is the proposed location. It also stated that the dwelling with the proposed deck will maintain modest residential dimensions, will be in scale of other houses in the neighborhood and will not be visible from the street. Exh. 19.
4. Petitioner John Tabori described the construction as a small open deck with stairs on the rear of the house that will line up to the left side of the house. Exhs. 2, 3, 4 and 6 (A) thru (J).

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 dwelling being constructed in 1931 in its present location on the property, the proposed deck being in line with the dwelling along the left side 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 a variance of 3 feet side yard width in order to validate an existing condition (dwelling) and construct an open deck with steps on the property located at 6816 Pine Way, University Park, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance 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.