

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

Petitioner: ZMI Properties, LLC

Appeal No.: V-94-19

Subject Property: P/O Lot 4, Block 26, Carlton Heights Subdivision, 8906 58th Avenue, College Park,
Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Counsel for Petitioner: Michelle LaRocca, Esq.

Witness: Jay Endelman, Member, ZMI Properties, LLC

Heard and Decided: October 23, 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 variances 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(b)(Table I) which prescribes that each lot shall have a minimum net lot area of 6,500 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. Petitioner proposes to validate an existing condition (property) and obtain a building permit for a proposed two-story dwelling, wood deck, covered porch and driveway. Variances of 185 square feet net lot area and 15 feet front building line width are requested.

Evidence Presented

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

1. The property was subdivided in 1931, contains 6,315 square feet, is zoned R-55 (One-Family Detached Residential), and is a vacant lot. Exhibits (Exhs.) 2, 4, 5, 6, 11, 12 and 13 (A) thru (F).
2. Petitioner would like to construct a single-family, 2-story home with a 10' x 16' deck and driveway. The lot was created by deed in 1978, which allowed the reconfiguration of the property without a formal subdivision plat. The subject property is now grandfathered as of the 1982 Zoning Ordinance.¹ Variances of 15 feet front building line width and 185 square feet net lot area are, therefore, requested to facilitate development. Exhs. 2, 3 and 7 (A) thru (B).
3. Jay Endelman submitted the lot configurations of the original subdivision and the subsequent deed configuration for the subject property. Block 26 was altered significantly by deed. Exhs. 4, 5, 6, 24 and 25.
4. Michelle LaRocca stated that neighboring property owners were hand-delivered a letter notifying them of the request for variances prior to the proposed development. Exhs. 26 and 27.

¹ Berwyn Heights was predominately developed with smaller lots than the than the current Subdivision Ordinance requires.

5. The Town of Berwyn Heights indicated its support for the request for the variances (subject to the revised site plan). Exhs. 20 and 22.

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 property being reconfigured by deed in 1978, residential development could not occur on the property without the variances 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, unanimously, that variances of 185 square feet net lot area and 15 feet front building line width in order to validate an existing condition (property) and obtain a building permit for a proposed two-story dwelling, wood deck, covered porch and driveway on the property located at 8906 58th Avenue, College Park, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exh. 22 and approved elevation plan, Exh. 3.

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.