

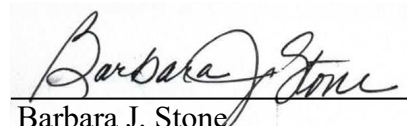
NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-98-19 Hui Xiang

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: March 4, 2020.

CERTIFICATE OF SERVICE

This is to certify that on September 14, 2020, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioner
Adjoining Property Owners
Park and Planning Commission
DPIE/Building Code Official, Permitting

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

Petitioner: Hui Xiong

Appeal No.: V-98-19

Subject Property: Lot 45, Block 41, Berwyn Heights Subdivision, being 6201 Ruatan Street, College Park,
Prince George's County, Maryland

Municipality: Town of Berwyn Height's

Witnesses: Larry Kirsch, Esq.

Kenneth Harrison, Inspector, Department of Permitting, Inspections and Enforcement, (DPIE)

Heard and Decided: March 4, 2020

Board Members Present and Voting: 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, Petitioner requests 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. Petitioner proposes to validate an existing condition (dwelling) and obtain a building permit for unauthorized construction of an existing stoop with steps. A variance of 4 feet side yard width is requested.

Evidence Presented

1. The property was subdivided in 1959, contains 9,638 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 5, 8, 9 and 10 (A) thru (F).

2. The subject property is a corner lot with the legal front facing Ruatan Street. The dwelling which was constructed in 1959, is situated to the left of the property, 8-feet from the property line abutting Lot 46. Exhs. 2, 5, 8, 9 and 10 (A) thru (F).

3. Petitioner proposes to validate an existing condition (dwelling) and obtain a building permit for unauthorized construction of an existing stoop with steps. The stoop and steps are encroaching the side yard setback of 8-feet; therefore, a variance of 4-feet is requested. Exhibits 2, 3, 4 and 5 (A) thru (B).

3. The Town of Berwyn Height's has voted to support the proposed variance. Exh. 19.

4. Petitioner's Counsel Larry Kirsch, explained that the stoop and steps were existing when the property was purchased in 2018. The stoop is required for ingress/egress to the dwelling and without the ability have the stoop there, the door would not be usable. This was not an action by the current homeowner to violate the setback. This was an existing condition when the property was purchased by the current owners. Exhibits 2, 3, 4 and 5 (A) thru (B).

5. Kenneth Harrison, DPIE Inspector, stated that he believed there was an old stoop there, but it was replaced with a new stoop in the same footprint. Therefore, a permit must be obtained.

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 existing condition when the property was purchased, the existing configuration/location of the dwelling on the property 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. Bobbie Mack absent, that a variance of 4 feet side yard width in order to validate an existing condition (dwelling) and obtain a building permit for unauthorized construction of an existing stoop with steps on the property located at 6201 Ruatan Street, College 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 2 and approved elevation plan(s), Exhibit(s) 3 and 4.

BOARD OF ZONING APPEALS



By:

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.