

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

Petitioner: Roberto Boudet

Appeal No.: V-129-19

Subject Property: Lot 2, Block B, John M King Subdivision, being 3901 57th Place, Hyattsville, Prince George's County, Maryland

Witness: Kenneth Harrison, Inspector, Department of Permitting, Inspections and Enforcement

Spanish Language Interpreter: Ernesto Luna

Heard and Decided: February 5, 2020

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(i)(Table VIII) which prescribes that accessory buildings shall be set back 60 feet from the front street line 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). Petitioner proposes to validate an existing condition (shed) and obtain a building permit for an unauthorized construction of a deck, one story addition and a shed. A variance of 30 feet front street line setback and a waiver of the rear yard location requirement for an accessory building is requested.

Evidence Presented

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

1. The property was subdivided in 1940, contains 6,815 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, and a deck, one story addition and two sheds. Exhibits (Exhs) 2, 4, 9, 10 and 11 (A) thru (F).
2. The lot is odd shaped with the rear property line being at a significant angle. Exhs. 2 and 4.
3. Petitioner would like to validate the unauthorized construction of the deck, one story addition, and a second shed.¹ Because the deck is setback only 30 feet from the front street line and built in the front (side) of the dwelling, a variance of 30 feet front street line setback and a waiver of the rear yard location for an accessory building is requested, respectively. Exhs. 2, 3 (a) thru (c) and 5 (A) thru (H).
4. The Department of Permitting, Inspections and Enforcement issued Correction Order on October 18, 2018 advised the homeowner (Roberto Boudet) that permits must be obtained for two sheds, addition, fence and obtain structural engineer certification. Exh. 7.
5. Petitioner Boudet explained that he expanded the deck by adding 2 feet.² The tree roots were lifting the foundation. Petitioner stated that the Correction Order?? was issued because of the location of the deck. 2, 3 (a) thru (c) and 5 (A) thru (H).

¹ Petitioner explained that the 10' x 12' shed preexisted. Exh 2.

6. The additional 8' x 8' shed is needed for extra storage.

7. Inspector Harrison testified that a six-foot fence, shed and the deck were found when he inspected that property. He emphasized that Petitioner must obtain permits for the two sheds, deck and the 6-foot fence. Exhs. 2, 3 (a) thru (c) and 5 (A) thru (H).

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 existing conditions on the property, the rear shape of the lot being at a significant angle and detrimental to the location of the deck, the additional need for storage 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 a variance of 30 feet front street line setback and a waiver of the rear yard location requirement for an accessory building in order to validate an existing condition (shed) and obtain a building permit for an unauthorized construction of a deck, one story addition and a second shed on the property located at 3901 57th Place, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (c).

BOARD OF ZONING APPEALS

By: _____

ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

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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.