

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

Petitioner: Frederick Mbayu

Appeal No.: V-27-18

Subject Property: Lot 52, Block 40, Berwyn Heights Subdivision, being 8803 62nd Avenue, Berwyn Heights, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Heard: May 23, 2018; Decided: June 27, 2018

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 variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a rear yard at least 20 feet in depth/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; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side lot line. Petitioner proposes to validate existing conditions (existing development, shed) and construct a covered front porch. Variances of 10 feet 10 inches front yard depth and 3 feet rear yard depth/width for the dwelling, 8.1% net lot coverage and 2 feet rear lot line setback for an accessory building are requested.

Evidence Presented

1. The property was subdivided in 1955, contains 6,171 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 4, 8, 9 and 10 (A) thru (F)

2. Petitioner would like to construct a 7'1" x 10'10"/6'8" x 10'5" covered front porch. The porch would be located 14 feet 2 inches from the front street line and the existing deck is located 17 feet from the rear lot line. Variances of 10 feet 10 inches front yard depth and 3 feet rear yard depth/width were requested. Exhs. 2, 3 (a) thru (c), 5 (A) thru (C) and 12.

3. The existing development exceeds the amount of lot coverage allowed, with construction of the covered porch adding further overage, and the existing shed being located along the rear lot line. Variances of 8.1% net lot coverage and 2 feet rear lot line setback for an accessory building were requested. Exhs. 2, 3 (a) thru (c), 5 (A) thru (C) and 12.

4. The Town of Berwyn Heights issued a stop work order for the construction on July 17, 2017. Exh. 6.

5. Petitioner Frederick Mbayu testified that he would like to construct a covered front porch as the rain is damaging the front door and causing structural damage. The house was built in 1954. Exhs. 2, 3 (a) thru (c) and 5 (A) thru (C).

6. The Town of Berwyn Heights has provided a letter in which it took no position on the proposed variances. Exhs. 20 and 21.

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 need to build a covered front porch to alleviate water saturation to the front door causing structural damage 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 10 feet 10 inches front yard depth and 3 feet rear yard depth/width for the dwelling, 8.1% net lot coverage and 2 feet rear lot line setback for an accessory building in order to validate existing conditions (existing development, deck, shed) and construct a 7'1" x 10'10"/6'8" x 10'5" covered front porch on the property located at Lot 52, Block 40, Berwyn Heights Subdivision, being 8803 62nd Avenue, Berwyn Heights, 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

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.