

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

Petitioners: Gervin Martinez and Maria Rivera

Appeal No.: V-53-18

Subject Property: Lot 12, Block 24, Berwyn Heights Subdivision, being 5805 Seminole Street, Berwyn Heights, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Spanish Language Interpreter Services: Leslie Bilcheck

Heard: July 11, 2018; Decided: August 29, 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, Petitioners request that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 7 feet in 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; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set 2 feet from the rear lot line; and Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioners propose to validate existing conditions (dwelling, shed) and construct a driveway extension in the front yard. Variances of 1 foot side yard width for the dwelling, 1 foot rear lot line setback for an accessory building and 1.6% net lot coverage, and a waiver of the parking area location requirement are requested.

**Evidence Presented**

1. The property was subdivided in 1888, contains 5,825 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 2, 3, 7, 8, and 9 (A) thru (F).

2. The lot is small in size, being only 5,825 square feet with the frontage is only 50 feet wide. Exhs. 2 and 3.

3. Petitioners would like to construct a 6' x 23' / 9' x 23' driveway extension, a portion of which would be located in front of the dwelling. As construction of the driveway extension would exceed the amount of lot coverage allowed, a variance of 1.6% net lot coverage was requested. Exhs. 2, 4(A) thru (F) and 12.

4. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioners' driveway will be located in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 4(A) thru (F) and 12.

5. The dwelling is located 6 feet from the left side lot line and the existing shed is located 1 foot from the rear lot line. Variances of 1 foot side yard width for the dwelling and 1 foot rear lot line setback for an accessory building were requested, respectively. Exhs. 2, 4(A) thru (F) and 12.

6. The Town of Berwyn Heights, at its August 8, 2018 meeting, voted to take no position on the subject variances. Exhs. 17 and 23.

7. Petitioner Gervin Martinez testified that more parking area is needed to accommodate his vehicles and explained that he does not have the full width of his front property line for on-street parking due to a fire hydrant located in front of the subject property. He noted that currently he has a shared apron with his neighbors. Exhs. 2, 4 (A) thru (F) and 9 (F).

8. Petitioner has submitted a revised site plan demonstrating the correct width and location of the existing driveway and the removal of a portion (6' x 22') of the proposed driveway. Exh. 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 small size of the lot, the frontage being only 50 feet, location of a fire hydrant limiting the area for on-street parking, 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 1 foot side yard width for the dwelling, 1 foot rear lot line setback for an accessory building and 1.6% net lot coverage, and a waiver of the parking area location requirement in order to validate existing conditions (dwelling, shed) and construct a 9' x 23' driveway extension in the front yard on the property located at Lot 12, Block 24, Berwyn Heights Subdivision, being 5805 Seminole Street, Berwyn Heights, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 21.

#### 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.