

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

Petitioner: Werlein Properties, LLC

Appeal No.: V-86-18

Subject Property: Lot 13, Block 8, Rogers' Addition to Mount Rainier Subdivision, 3201 Bunker Hill Road, Mount Rainier, Prince George's County, Maryland

Counsel for Petitioner: Norman Rivera, Esq.

Witness: Carl Granzo, Werlein Properties

Heard and Decided: September 12, 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 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, Petitioners request that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes each corner lot shall have a side yard along the side street at least 25 feet in depth. Section 27-442(i)(Table VIII) prescribes that accessory building shall be setback 30 feet from the side street line and 10 feet from the rear lot line. Petitioner proposes to validate existing conditions (dwelling, garage) and obtain a final building permit for a new detached garage. Variances of 9 feet side street yard depth for the dwelling and 3 feet side street line setback and 7 feet rear lot line setback are requested.

Evidence Presented

1. The property was subdivided in 1907, contains 6,536 square feet, is zoned R-55 (One family detached residential) and is improved with a single-family dwelling, driveway and detached garage. The property is located within the Gateway Arts District Development Overlay Zone. Exhibits (Exhs.) 3, 5, 11, 12 and 13 (A) thru (F).

2. The property is located on a corner lot with the dwelling facing the legal front being Bunker Hill Road. Exhs. 3, 6 (A) thru (F) and 13 (A) thru (F).

3. The Department of Permitting, Inspections and Enforcement issued a Correction Order on June 21, 2018, requiring the Petitioner to obtain a variance for the building setback. Exh. 8.

4. Petitioner would like to validate existing conditions (dwelling, garage) and obtain a final building permit for a new 20' x 16' garage. Exhs. 2, 3 and 4.

5. The Town of Mt. Rainier has provided written approval for the variances. Exh. 21.

6. Counsel Norman Rivera stated the following: The subject property did have a house and a freestanding garage on the property 70 years ago. In 2007, the garage was classified as a "demolition by neglect". Building Permits were obtained, and a house was constructed for the new owners. As part of the contract, Werlein Properties agreed to re-build the garage for the new owners. The footings and the foundation for the garage were still in their original location to include two walls in disrepair. A valid building permit was obtained for the house and garage. The house and garage were properly built, inspected, and finalized. It was discovered after-the-fact that there was a setback issue with the garage. Maryland-National Capital Park & Planning Commission (M-NCPPC) advised Werlein Properties that the garage

permit (4830-2018-RGW) was issued in error due to insufficient setbacks and that a variance must be obtained to essentially validate what Werrlein thought was free and clear. Both the house and garage were built in the exact same location as it was 70 years ago. Exhs. 2, 3, 4, 24, 25 and 26.

7. Counsel submits that the property meets all the criteria for a variance: the subject lot is a small infill lot; the lot is long and rectangular; most of the homes in the area have freestanding garages; and the peculiar hardship would be that the house and garage are built exactly where the original house and garage were located 70 years ago. Exhs. 2, 3 and 4.

8. Letter of opposition was received from neighbor Kelsey Ryland (no address included) stating that the proposed garage would be blocking natural light into their living room. Several photos were included with the letter to demonstrate how close the garage is to their house. Exh. 20.

9. Mike Granzo, Werrlein Properties, stated that Kelsey Rylands's house is only four feet off the property line. He further stated that Werrlein Properties has attempted to address the neighbor's concerns for several months by installing enhanced lighting *inside* the Rylands house.

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 located on a corner lot with the dwelling facing the legal front, the house and garage being built with a "valid" permit on which Petitioners relied, M-NCPPC determining after-the-fact that the permit was issued in error, construction being on the same footprint as the original structures, 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 variances of 9 feet side street yard depth for the dwelling and 3 feet side street line setback and 7 feet rear lot line setbacks in order to validate existing conditions (dwelling, garage) and obtain a final building permit for a new 20' x16' detached garage on the property located at Lot 14, Block 8, Rodgers' Addition to Mount Rainier Subdivision, being 3201 Bunker Hill Road, Mount Rainier, 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, Exh. 3 and approved elevation plan, Exh. 4.

BOARD OF ZONING APPEALS

By:


Bobbie S. Mack, Chairperson


B.S.

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.