

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

Petitioner: G Square Dynamics, LLC

Appeal No.: V-95-18

Subject Property: Lots 59 & 60, Block 35, Greater Capitol Heights Subdivision, being 1108 Nova Avenue, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Perry Foreman, Esq.

Petitioner: Fitzroy E. Gardiner, Jr. (G Square Dynamics, LLC)

Heard and Decided: September 26, 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(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d) (Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; 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 27-120.01(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. Petitioner proposes to validate existing conditions (lot size and width) and construct a new two-story dwelling, with covered front porch and deck, and driveway. Variances of 400 square feet net lot area, 10 feet front building line width, 2.4% net lot coverage and a waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 4,600 square feet, is zoned R-55 (One-Family Detached Residential) and is to be improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2, 4, 11, 12 and 13 (A) thru (F).
2. Petitioner would like to construct a 26' x 42' two-story dwelling, with attic and cellar, 5'8" x 26 covered front porch, 8' x 26' deck and 10' x 25' driveway in the front yard. Construction of the house and driveway would exceed the amount of lot coverage allowed. A variance of 2.4% net lot coverage was requested. Exhs. 2, 3 (a) thru (d) 5 (A) thru (E) and 15.
3. 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 Petitioner's driveway will be located in this area of the front yard, a waiver of the parking area location requirement was requested. Exhs. 2, 3 (a) thru (d) 5 (A) thru (E) and 15.

4. As the existing lot size and lot width at the building line do not meet the minimum requirements, variances of 400 square feet net lot area and 10 feet front building line width were requested. Exhs. 2, 3 (a) thru (d) 5 (A) thru (E) and 15.

5. Mr. Gardiner testified that he would like to construct a new single-family dwelling with basement, but the subject property was created in 1909, is very narrow, and the frontage for the property is only 40 feet. Mr. Gardiner submitted an information form with 8 neighbors expressing their support. Exhs. 2, 3 (a) thru (d) and 5 (A) thru (E).

6. The Town of Capitol Heights supported construction of the proposed development and the associated variances. Exh. 9.

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 subject lots being recorded in 1909 prior to the R-55 zoning requirements, the subject lots being extremely narrow 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 400 square feet net lot area, 10 feet front building line width, 2.4% net lot coverage and a waiver of the parking area location requirement in order to validate existing conditions (lot size and width) and construct a 26' x 42' two-story dwelling, with attic and cellar, 5'8" x 26 covered front porch, 8' x 26' deck and 10' x 25' driveway in the front yard on the property located at Lots 59 & 60, Block 35, Greater Capitol Heights Subdivision, being 1108 Nova Avenue, Capitol 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.

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.