

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

Petitioner: Savannah Investors 5, Inc.

Appeal No.: V-105-18

Subject Property: Parcels 42 & 98, Tax Map 134, Grid D4, being 12607 Brandywine Road, Brandywine,
Prince George's County, Maryland

Counsel for Petitioner: Thomas H. Haller, Esq.

Witness: Joe Zdrojewsky, Mid Atlantic Builders

Heard and 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, Petitioner requests that the Board approve a variance from Section 27-442(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 20,000 square feet and Section 27-442(d)(Table III) prescribes that each lot shall have a minimum width of 70 feet measured along the front street line. Petitioner proposes to validate an existing condition and construct a two-story single-family dwelling and driveway. Variances of an additional 96 square feet net lot area and 29 feet street line width are requested.

Evidence Presented

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

1. The property contains 16,904 square feet, is zoned R-R (Rural Residential) and is to be improved with a single-family dwelling and driveway. The property is a corner lot and the dwelling would face the legal front street, with the driveway accessing the legal side street. Exhibits (Exhs.) 4, 3, 7, 9, 10 and 11 (A) thru (B).

2. Parcel 42 was created by deed in 1949 and Parcel 98 was created by deed in 1957. Exh. 7.

3. Petitioner would like to construct a 37' x 50' two-story dwelling and 18' x 19' driveway. As the size and width of the lot does not meet the minimum requirements, variances of an additional 96 square feet net lot size and 29 feet street line width were requested. Exhs. 2, 3, 4, 5 (A) thru (D) and 13.

4. The Board approved a lot size variance of 3,000 square feet in 2018 (Appeal No. V-219-17) to allow construction of a two-story dwelling and driveway on the subject property. Exh. 7.

5. Attorney Tom Haller explained that subsequent to the approval of V-219-17, a Departure from Sign Design Standards (DSDS) was filed relating to the construction of gateway entrance sign to the proposed subdivision, Village of Savannah. He stated that the DSDS was approved by the Maryland-National Capital Park and Planning Commission (M-NCPPC) subject to conditions requiring Petitioner to convey a portion of the subject property to the Village of Savannah Homeowners Association, thereby

reducing the net lot area of the property and the lot frontage.¹ Exh. 3.

6. Counsel Tom Haller further explained that because of the narrow width of the land owned by Savannah Homeowners Association (HOA) on the south side of Savannah Parkway, the sign needs to curve in order for the sign to be visible to vehicles traveling south on Brandywine Road. As such, Petitioner now proposes to modify the signage. He stated that during review of the Departure from Sign Design Standards (DSDS-697) by M-NCPPC, it was concluded that because the property was not included in the preliminary plan of the subdivision, any sign placed on the property was "off-site" and would be considered a billboard unless the land on which the sign was constructed was conveyed to the HOA. Exh. 3.

7. Counsel concluded that when the sign parcel is conveyed, the lot width at the street line will be reduced to 41 feet or 29 feet less than required. Thus, a variance of 29 feet from the required lot width is also requested. Exhs. 2, 3 and 4.

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 conditions of the departure for Petitioner to convey a portion of the property, the prior Board approval of a net lot variance in V-219-17 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 an additional 96 square feet net lot area and 29 feet street line width from the minimum requirements in order to validate an existing condition and construct a 38' x 48' two-story dwelling and 17' x 19' driveway on the property located at Parcels 42 & 98, Tax Map 134, Grid D4, being 12607 Brandywine Road, Brandywine, 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 4 and approved elevation plans, Exhibits 5 (A) thru (D).

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¹ The total area conveyed to the HOA is 1,472 square feet and is the reconfigured Parcel 98. The effect of complying with conditions imposed by DSDS-697 is to further reduce the net lot area of the remaining property (Parcel 42) to 16,904 square feet or 3,096 square feet less than the minimum net lot area of 20,000 square feet, and 96 square feet more than the net lot area variance previously granted by the Board. Exhs. 2, 3 and 4.

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.