

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

Petitioner: Jose Marquez
Appeal No.: V-128-18
Subject Property: Lot 3, Block W, University Gardens Subdivision, being 7502 24th Avenue, Hyattsville, Prince George's County, Maryland
Witnesses: Matt Escobar, Relative and Real Estate Agent
Kenneth Harrison, Dpie Inspector
Heard: December 5, 2018; Decided: January 9, 2019
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 side yard at least 8 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 Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard.. Petitioner proposes to validate existing conditions (dwelling, shed, development) and obtain a building permit for an existing one-story addition and new driveway. Variances of 1-foot side yard width for the dwelling, 8.7% net lot coverage and 11 feet front street line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

1. The property was subdivided in 1947, contains 8,014 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits (Exhs.) 3, 9, 10 and 11 (A) thru (G).

2. Petitioner would like to obtain a building permit for a 10' x 56' driveway and 24.2' x 27.6' one-story addition. Construction of the addition, driveway extension and shed exceeded the amount of lot coverage allowed. A variance of 8.7% net lot coverage was requested. Exhs. 2, 5 (A) thru (G).

3. The existing dwelling is located 7 feet from the side lot line and the shed is 49 feet from the front street line and is located in the side yard. Variances of 1-foot side yard width for the dwelling and 11 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 2, 5 (A) thru (G).

4. The Department of Permitting, Inspections and Enforcement, Inspections Division, issued a Correction Order, dated April 10, 2018, informing Petitioner that "permit needed for building, electrical, mechanical and WSSC Approval for a rear addition and grading the backyard with rocks." Exh. 6.

5. Mr. Escobar testified that Mr. Marquez received the violation for an addition on the rear of the home which required a permit. It was determined by the permit office that the addition was constructed

since 1968. Inspector Harrison had advised Mr. Marquez that he had spoken with his supervisor who agreed that since the structure has existed since the 1960s, a permit would not be required.

6. Petitioner Marquez pulled the permit for the driveway, but extended it longer than the original plan, explaining that extending the driveway would provide more space for (family) vehicles. The original driveway was approximately 13' x 32' feet and the extension is 10' x 56'. Exhs. 2 and 5 (A) thru (G).

7. He stated the gravel in the rear existed when he purchased the property, and more gravel was added to provide a play area for his children as well as an area for parking vehicles. Exhs. 2 and 5 (A) thru (G). Mr. Marquez testified that he really does not need the gravel area in the rear.¹

8. The Board ordered all gravel in the rear of the property to be removed and replaced with grass. See Exh. 22.

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 for the extended driveway for family parking, the addition constructed in the 1960s, not requiring a current permit, removal of the gravel (parking) area in the rear, 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, 8.7% net lot coverage and 11 feet front street line setback and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions (dwelling, shed, development) and obtain a building permit for an existing 24.2' x 27.6' one-story addition and new 10' x 56' driveway on the property located at Lot 3, Block W, University Gardens Subdivision, being 7502 24th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

¹ Kenneth Harrison, DPIE Inspector, testified that he observed commercial trucks illegally parked on the gravel in the rear of the property.

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.