

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-188-07 Matthew Sadowski

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: January 16, 2008.

CERTIFICATE OF SERVICE

This is to certify that on February 12, 2008, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Anne F. Carter
Administrator

cc: Petitioner(s)
Adjoining Property Owners
DER, Building Code Official, Permit & Review Div.
M-NCPPC, Permit Review Section
Municipality

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

Petitioner: Matthew Sadowski

Appeal No.: V-188-07

Subject Property: Lot 65, Block 43, Berwyn Heights Subdivision, being 6302 Pontiac Street, Berwyn Heights, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Heard and Decided: January 16, 2008

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 front yard at least 25 feet in depth, a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width; Section 27-442(c) (Table II) of the Zoning Ordinance which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking, and Section 27-442(i)(Table VIII) of the Zoning Ordinance 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 and repair an existing deck. Variances of 4 feet front yard depth, 1 foot side yard width, 8 feet rear yard depth, 3% net lot coverage, and 26 feet front street line setback and a waiver of the rear yard location requirement for a shed are requested.

Evidence Presented

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

1. The property was subdivided in 1966, contains 6,670 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, deck and two sheds.
2. The property is an odd-shaped lot (Exhibit 14). The existing house was built in 1969 (Exhibit 5). The house is not centered on the lot and the rear yard behind the house is relatively shallow (Exhibit 14).
3. Petitioner would like to repair the existing 10' x 16' deck on the rear of the existing dwelling and construct deck stairs. In order to obtain a building permit for the deck and stairs, existing conditions on the property must be validated. Since the existing covered front porch is located 21 feet from the front lot line, a corner of the house is located 7 feet from the side lot line and the deck is located 12 feet from the rear lot line at the closest point, variances of 4 feet front yard depth, 1 foot side yard width and 8 feet rear yard depth/width were requested. In addition, the amount of net lot coverage allowed has been exceeded by existing development, and a variance of 3% net lot coverage was requested.
4. Since there is an existing 5' x 12' shed in the side yard 34 feet from the front street line, a variance of 26 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested.

5. Petitioner testified that when he purchased the property in July 2007, he knew that the deck needed to be repaired. When he went to obtain a permit to repair the deck, he learned of the other issues on the property and was told he must obtain variances. He stated that the deck had stairs at one time and he would like to add stairs for egress.

6. The Town of Berwyn Heights recommended approval of the request (Exhibit 16).

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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the shallowness of the rear yard, the house being built many years ago, the location of the house on the lot, the location of other existing structures on the property, the existing deck needing to be repaired, the addition of stairs to the deck providing an additional safety exit from the house, the proposed stairs being the only change to any existing structural footprints on the property, 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 4 feet front yard depth, 1 foot side yard width, 8 feet rear yard depth, 3% net lot coverage, and 26 feet front street line setback and a waiver of the rear yard location requirement for a shed in order to validate existing conditions and repair an existing deck and construct deck stairs on the property located at Lot 65, Block 43, Berwyn Heights Subdivision, being 6302 Pontiac Street, Berwyn Heights, 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 14.

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.