

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-10-11 Spike Chapman, Trustee

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: March 23, 2011.

CERTIFICATE OF SERVICE

This is to certify that on April 12, 2011, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER/Building Code Official, Permits & Review Group
DER/Licenses & Inspections Group

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

Petitioner: Spike Chapman, Trustee

Appeal No.: V-10-11

Subject Property: Parcel 98, Tax Map 93, Grid C-2, being 3706 Old Crain Highway, Upper Marlboro,
Prince George's County, Maryland

Witness: Dorothy Chapman, Petitioner's wife

Heard and Decided: March 23, 2011

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(c)(Table II), which prescribes that not more than 5% of the net lot area shall be covered by buildings and off-street parking, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 30 feet from the side street line and generally be located only in the rear yard. Petitioner proposes to validate existing conditions and obtain a building permit for a new detached garage. A variance of 24.4% net lot coverage, and a variance of 25.04 side street line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property contains 25,112 square feet, is zoned O-S (Open Space) and is improved with a single-family dwelling, detached garage, two sheds and two driveways. See Exhibits ("Exhs.") 2, 17-18. The single-family dwelling located on the property was constructed in 1957. See Exh. 17.
2. An aerial photograph of the subject property shows a garage on the site in 1968. See Exhs. 4-10, 14.
3. The property is an odd-shaped corner lot with the house facing the legal front street. See Exh. 2.
4. Petitioner was cited with Violation Notice BVN 28211-10-00, issued by the Department of Environmental Resources on September 17, 2010, requiring that a building permit be obtained for a wooden framed garage approximately 20' x 15' constructed in front of the house or the structure be removed. See Exh. 12.
5. Petitioner would like to obtain a building permit for a new 24' x 28' detached garage, but variances are needed to obtain the permit. Since the garage is an accessory building, is located in the front yard and is only set back 4.96 feet from the side street line, a variance of 25.04 side street line setback and a waiver of the rear yard location requirement for an accessory building were requested. In addition, since development on the property exceeds the maximum allowed net lot coverage, a variance of 24.4% net lot coverage was also requested. See Exh. 23.

6. A large percentage of the net lot coverage on the property consists of driveway area (3,957 sq. ft.), more than the house and accessory buildings combined. See Exhs. 2, 22.

7. Petitioner testified that the new garage replaced the 47-year-old garage that collapsed under the weight of heavy snow. See Exhs. 11(A)-(D). He stated that the new garage is the same size as the old garage and sits in the same location, but its new roof is pitched to minimize accumulation of snow.

8. The Historic Preservation & Public Facilities Planning Section (HPPFPS) of the Maryland-National Capital Park and Planning Commission reviewed Petitioner's request and stated that the property abuts Historic Site 79-063-05 Bowling Heights and is across the street from Historic Site 70-063-14 John Henry Quander House. HPPFPS commented that since the detached garage was long-standing (more than 45 years), the reconstruction of the garage will have no effect on the Historic Sites. See Exh. 26.

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 property being a corner lot, the location of the existing house on the property, the property containing substantially less land than the five (5) acres currently required for development in the O-S Zone, the property nevertheless being limited to a maximum of 5% net lot coverage, a large percentage of the net lot coverage on the property consisting of driveway area, a garage existing for many years in the front yard needing to be replaced after collapsing under the weight of heavy snow, 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 variance of 24.4% net lot coverage, and a variance of 25.04 side street line setback and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and obtain a building permit for a new 24.10' x 28' detached garage on the property located at Parcel 98, Tax Map 93, Grid C-2, being 3706 Old Crain Highway, Upper Marlboro, 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, and the approved elevation plans, Exhibits 3(a) & (b).

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.