

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-11-09 Brenda Murphy

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: April 22, 2009.

**CERTIFICATE OF SERVICE**

This is to certify that on April 29, 2009, 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, Permit & Review Div.  
Habitat for Humanity of Prince George's County  
Other Interested Parties

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

Petitioner: Brenda Murphy

Appeal No.: V-11-09

Subject Property: Lots 7 & 8, Block 48, Greater Capitol Heights Subdivision, being 4935 Gunther Street,  
Capitol Heights, Prince George's County, Maryland

Counsel for Habitat for Humanity: Imoh Akpan, Esq., Meyers, Rodbell & Rosenbaum, P.A.

Witnesses: Charlene McCall, Habitat for Humanity

Mary Walker Jones, Habitat for Humanity

Heard and Decided: April 22, 2009

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(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; and 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. Petitioner proposes to validate existing conditions and construct a new two-story single-family dwelling and driveway. Variances of 1,000 square feet net lot area, 10 feet front building line width and 3.8% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 4,000 square feet and is zoned R-55 (One-Family Detached Residential). See Exhibits ("Exhs.") 2, 4 & 6. The property was developed in 1928, but the dwelling on the property was recently razed because of its dilapidated condition. See Exhs. 5 & 6.
2. The property is narrow, being only 40 feet wide. See Exhs. 2 & 7. The size and width of the lot do not meet the current minimal legal requirements of the Zoning Ordinance for buildable lots.
3. Habitat for Humanity proposes to have a new 20' x 36' two-story dwelling and 10' x 65' driveway constructed on the property for Petitioner. In order to obtain a building permit to develop the property with a single-family dwelling, however, variances of 1,000 square feet net lot area and 10 feet front building line width are needed and were requested. In addition, since construction of the proposed house and driveway would cause the allowed amount of net lot coverage to be exceeded, a variance of 3.8% net lot coverage was requested.

4. Petitioner testified that she purchased the property in 2003, on which was a rehabilitated house, and the house was razed in April 2008. She explained that the footprint of the proposed new two-story house is smaller than the house that was razed. She stated that the house located on one side of the proposed house has a dormer and the house on the other side has one-story with a basement. She further explained that the new driveway is longer than the previous driveway, which was located in front of the house.

5. Charlene McCall, Vice President, Habitat for Humanity of Prince George's County, testified that Habitat for Humanity is the developer of the property and will hold Petitioner's mortgage. She stated that there are other two-story homes in the neighborhood, including a house on the corner, and the proposed house will not be out of character with the neighborhood. She further stated that she has spoken to Petitioner's neighbors, who do not object to Petitioner's variance request and would like new housing constructed on the vacant lot as soon as possible.

6. Mary Walker Jones, President, Habitat for Humanity of Prince George's County, testified that the new house will be a prefabricated structure that will be approximately the same height as the house next door with a dormer.

7. Ms. Jones further testified that the mission of Habitat for Humanity is to build housing for those less fortunate who have low to moderate income. She emphasized that Petitioner is currently displaced.

#### 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 narrowness of the property, the property being subdivided in 1909 and developed in 1928, the original house being razed because of its deteriorating condition, the proposed new house having a smaller footprint than the previous house, the proposed new driveway being longer than the previous driveway, 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 1,000 square feet net lot area, 10 feet front building line width and 3.8% net lot coverage in order to validate existing conditions and construct a new two-story single-family dwelling and driveway on the property located at Lots 7 & 8, Block 48, Greater Capitol Heights Subdivision, being 4935 Gunther Street, 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, and the approved elevation plans, Exhibit 3(a)-(d).

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.