

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-111-08 Green Sr. Family Trust/Lawrence & Isabell Greene

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: November 5, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on November 19, 2008 , 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER, Building Code Official, Permit & Review Div.
DER, Licenses & Inspections Division
Cedar Heights Civic Association
Anne Magner, Esq., Office of Law

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

Petitioners: Greene Sr. Family Trust/Lawrence & Isabell Greene

Appeal No.: V-111-08

Subject Property: Lots 433, 435, 437 & 439, Cedar Heights Subdivision, being 6406 L Street, Capitol Heights, Prince George's County, Maryland

Witness: Kathy Greene Weston

Heard and Decided: November 5, 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, Petitioners request 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, 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. Petitioners propose to validate existing conditions and obtain a building permit for a carport converted into a one-story addition. Variances of 23 feet front yard depth, 12 feet front lot line setback and a waiver of the rear yard location requirement for an existing shed in the side yard are requested.

Evidence Presented

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

1. The property was subdivided prior to 1908, contains 12,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, four sheds, a canopy and covered wood storage. The original house structure was built in the 1930s. See Exhibits ("Exhs.") 2, 3 & 7.
2. The subject property is made up of four zoning lots. The existing house, three sheds and the covered wood storage are located on two abutting lots; one shed, a canopy and an asphalt driveway are located on the other two abutting lots. Petitioners intend on moving the canopy behind the existing house. See Exh. 2.
3. Petitioners were cited by the Department of Environmental Resources with Violation Notice BVN 25649-07-02 in January 2008, requiring that Petitioners obtain a building permit for front and rear additions built without permits, and an order to show cause was issued by the District Court. See Exhs. 5 & 6.

4. Petitioners would like to validate several existing conditions and obtain a building permit for a 12' x 20' one-story addition on the right side of the house. Since an addition on the front of the house is located 2 feet from the front street line, a variance validating 23 feet front yard depth was requested. The original house and an 11' x 4' covered front porch, which are located 14.5 feet and 9.5 feet from the front street line, respectively, would also be validated with approval of the front yard variance.

5. Additionally, since a 7' x 9' shed next to the right side of the existing dwelling is located 48 feet from the front street line and in the legal side yard, both a variance of 12 feet front street line setback and a waiver of the rear yard location requirement were requested to validate this existing condition.

6. Petitioner Lawrence Greene testified that he and his wife have lived in the house for 58 years and he believes the neighborhood development predates the current zoning code. He stated that some of his front yard was lost when sidewalks were installed.

7. Mr. Greene further testified that the front porch was built (in its current location) in the 1930s and the carport constructed in 1961. He further testified that they built the one-story addition to improve the aging house. He stated that a gas line running to the back of the house hampered any construction on the rear.

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 property being subdivided prior to 1908, the house and front porch being built many years ago, the house being located on only two of four zoning lots making up the subject property, the structures that are newly-enclosed having existed since 1961, the addition being no larger than the preexisting carport and porch, street frontage having been lost when sidewalks were built along the street, the location of the gas line entering the house on the rear of the dwelling precluding development, 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 23 feet front yard depth, 12 feet front lot line setback and a waiver of the rear yard location requirement for an existing shed in the side yard in order to validate existing conditions and obtain a building permit for a one-story addition on the property located at Lots 433, 435, 437 & 439, Cedar Heights Subdivision, being 6406 L 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.

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.