

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-17-11 ARMJ Properties, Inc.

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 6, 2011 .

CERTIFICATE OF SERVICE

This is to certify that on April 25, 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: ARMJ Properties, Inc.

Appeal No.: V-17-11

Subject Property: Parcel 335, Tax Map 82, Grid A-1, being 2000 Ritchie Road, District Heights,
Prince George's County, Maryland

Counsel for Petitioner: Michele LaRocca, Esq.

Witness: Russell Webster, ARMJ Properties, Inc.

Heard and Decided: April 6, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have one side yard at least 9 feet in width, 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 obtain a building permit to complete construction of a two-story addition, which includes a garage, a second-floor addition, a one-story addition and a driveway. Variances of 3 feet side yard width and 10.7% net lot coverage are requested.

Evidence Presented

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

1. The property contains 8,000 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, asphalt driveway area and gravel driveway area. See Exhibits ("Exhs.") 2, 12-13.
2. The property was created by deed in 1972 and purchased by Petitioner in 2009. See Exhs. 5-7.
3. The Department of Environmental Resources cited Petitioner with Violation Notice BVN 21357-10-11, dated July 26, 2010, requiring that either a new building permit be obtained (permit expired) for work on the property and the work completed or the structure be removed and the site restored. See Exh. 10.
4. Petitioner would like to obtain a building permit to complete construction of a two-story addition (1,457 sq. ft.), a second-floor addition (863 sq. ft. – over the original house), a 19.8' x 4.6' one-story addition (91 sq. ft.) and a driveway (847 sq. ft.). See Exhs. 1-3. Since the house is located only 6 feet from the right side lot line and the construction caused the allowed amount of net lot coverage to be exceeded, variances of 3 feet side yard width and 10.7% net lot coverage were requested. See Exhs. 16-17.
5. Counsel for Petitioner explained that the house originally constructed on the property was built in 1935. See Exh. 13. Counsel stated that a prior owner obtained a building permit in 2007 to enlarge the

house (see Exhs. 11, 13) and substantial work was done on the house, including all exterior work, but it was not completed. See Exhs. 8(A)-(I). Counsel further explained that Petitioner purchased after foreclosure and attempted to reactivate the County permits, but net lot coverage and setback violations became evident. Counsel stated that approval of the subject variance request is necessary to validate existing conditions in order to obtain a new building permit to complete the construction in order to sell the property.

6. Counsel stated that Petitioner attempted to contact adjacent homeowners, there was no reported opposition to the variance request, and most of the neighbors appeared to favor the construction. Counsel further stated that the house cannot be altered without a complete demolition of what has been built. Counsel also argued that completion of the project would remove an eyesore and benefit the neighborhood because the property could be then sold and occupied.

7. Russell Webster, on behalf of Petitioner, testified when he visited the County permit office, he learned that County inspectors had approved footings for the construction that was previously started.

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 developed in 1935, records indicating that the prior owner of the property obtained a building permit in 2007 from the County to enlarge the house, all work having been done except interior work, the property was foreclosed upon and Petitioner later became the property owner, the violations becoming evident when Petitioner attempted to reactivate permits, the County previously approving the footings, approval of the request being necessary to validate existing conditions in order to obtain new permits to complete the construction in order to sell the property, the project's completion removing an eyesore and benefitting the surrounding neighborhood because the property can finally be sold and occupied, complete demolition of what has been built being required if the request is denied, 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 3 feet side yard width and 10.7% net lot coverage in order to validate existing conditions and obtain a building permit to complete construction of a two-story addition (1,457 sq. ft.), a second-floor addition (863 sq. ft. – over the original house), a 19.8' x 4.6' one-story addition (91 sq. ft.) and a driveway (847 sq. ft.) on the property located at Parcel 335, Tax Map 82, Grid A-1, being 2000 Ritchie Road, District 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, Exhibits 4(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.