


NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-25-08 Delshone Jones

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 23, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on May 13, 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
Adjoining Property Owners
DER, Building Code Official, Permit & Review Div.
DER, Licenses & Inspections Div.
M-NCPPC, Permit Review Section

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

Petitioner: Delshone Jones

Appeal No.: V-25-08

Subject Property: Lots 34 & 35, Block 10, Boulevard Heights Subdivision, being 4013 Byers Street,
Capitol Heights, Prince George's County, Maryland

Heard and Decided: April 23, 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(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 65 feet measured along the front building line and 45 feet measured along the front street line; Section 27-442(e) (Table IV), which prescribes that each lot shall have a side yard at least 5 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 construct a second-floor addition. Variances of 1,000 square feet net lot area, 25 feet front building line width, 5 feet front street line width, .93 foot side yard width and 1.3% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1906, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. See Exhibits 2, 4, 7 & 13. The existing house was built in 1965 (Exhibit 7).

3. The property is long and narrow, being 100 feet long and 40 feet wide, and contains two zoning lots (Exhibits 2, 4, 8 & 13).

2. Petitioner would like to construct a 15' x 18' second-story addition over the right side of the existing dwelling. In order to obtain a building permit to construct the proposed addition, existing conditions must be validated. The subject property does not meet the minimum lot size and lot width requirements for the R-55 Zone and variances of 1,000 square feet net lot area, 25 feet front building line width and 5 feet front street line width were requested. Since the left side of the existing dwelling is located 4.07 feet from the side lot line, a variance of .93 foot side yard width was requested. Existing

development on the property causes the allowed amount of lot coverage to be exceeded and a variance of 1.3% net lot coverage was requested.

4. Petitioner testified that his family has owned the property for 20 years and he became the owner in 2004. He stated that the existing house has only three bedrooms and one bathroom. He stated that he needs more living space for his family and the proposed addition would contain an additional bathroom and bedroom.

5. Petitioner further testified that there are a number of two-story houses and recently-built additions on houses in the neighborhood. Petitioner submitted photographs of some of those houses (Exhibit 6 (A-H)). He stated that the adjoining property to the right of his property contains 8,000 square feet [4 zoning lots], the adjoining property to the left contains 10,000 square feet [5 zoning lots], and the houses on those lots are not close to his house. He further stated that there are a number of existing houses on properties containing 4,000 square feet [2 zoning lots] in the neighborhood and that it would be a hardship for him to remove a portion of the house in order to meet the side yard setback requirement.

6. Petitioner testified that he will not have to remove the tree on the right side of the property because the second-story addition would be added towards the front of the house.

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 property being subdivided in 1906, the dimensions of the property, other same-sized properties in the area being developed with single-family dwellings, the existing conditions on the property, the house being built many years ago, the narrowness of the property, the need for additional living space, the footprint of the house remaining unchanged with the proposed addition, 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, 25 feet front building line width, 5 feet front street line width, .93 foot side yard width and 1.3% net lot coverage in order to validate existing conditions and construct a second-floor addition on the property located at Lots 34 & 35, Block 10, Boulevard Heights Subdivision, being 4013 Byers Street, Capitol Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is

contingent upon development in compliance with the approved revised site plan, Exhibit 13, and the approved elevation plans, Exhibit 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.