


NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-312-06 Sandra Whetstone

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: December 12, 2007 .

CERTIFICATE OF SERVICE

This is to certify that on June 26, 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.
M-NCPPC, Permit Review Section

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

Petitioner: Sandra Whetstone

Appeal No.: V-312-06

Subject Property: Lot 14, Block F, Rosedale Estates Subdivision, being 3006 Ivy Bridge Road,
Fort Washington, Prince George's County, Maryland

Counsel for Petitioner: Darryl A. Kelley, Darryl A. Kelley & Associates, LLC

Heard: December 6, 2006; Decided: January 3, 2007

Request for Reconsideration: September 19, 2007¹

Reconsideration Hearing: November 7, 2007; Decided: November 28, 2007

Prior Decision Vacated and Revote Taken by the Board: December 12, 2007²

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 a variance 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 a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioner proposes to validate existing conditions and construct a one-story extension on the front of an existing attached garage. A variance of 4.2 feet side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1965, contains 10,060 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, attached garage and driveway.

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¹ The Board notes that the reconsideration hearing was requested, and granted, solely because the words "to construct a driveway in the front yard" were inadvertently used in the Board's findings rather than the words "to construct a one-story extension on the front of an existing garage".

² The Board took action on its own motion simply to allow into evidence a supplemental elevation plan not previously considered by the Board that should have been made a part of the record.

2. The subject lot is regular in its shape and average in size in relation to other lots in the neighborhood (Exhibits 3 & 4). Petitioner testified that the lot does not have an unusual shape or topographic condition.³ See also Exhibit 2.

3. Petitioner would like to construct a 19' x 6' one-story extension to the front of the existing attached two-car garage. Since the garage extension would follow the line of the house, which is located only 3.8 feet from the side lot line, a variance of 4.2 feet side yard width was requested to validate the house and construct the garage extension.

4. In 1985, the Board approved a variance of 3.63 feet side yard setback (Appeal No. 7806) to construct a two-story addition on the side of the house (Exhibit 10). The site plan submitted with the subject request indicates that the right side of the house is 3.8 feet from the side lot line, resulting in the slightly larger 4.2 feet side yard setback variance request (Exhibit 3).

5. The site and elevation plans submitted by Petitioner indicate that after the side yard setback variance was approved in 1985 by the Board, a two-story addition was constructed on the right side of the house that contains a two-car garage and a dining room on the first floor and living space on the second floor (Exhibits 3 & R-12). The site plan submitted with the 1985 variance request indicates that the addition replaced a single-car carport (Exhibit R-11).

6. Counsel for Petitioner explained that Petitioner wants to extend her garage forward 6 feet because her vehicles are too long to fit in her garage, which is only 17'10" deep. Counsel stated that Petitioner must pull her car all the way up to the back wall of her garage, behind which is her dining room, to park in the garage and there is only a 4-inch clearance. See Exhibits R-7 (A) & R-10 (H-J). Counsel argued that Petitioner is only requesting the same variance that was granted in 1985 and no setback variance for the front of the structure is required.

7. Petitioner stated that her garage is not a "full-size" garage and approval of her request would allow her to have a full-size garage that would accommodate a full-size vehicle.

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:

1. Satisfaction of the first prong of Section 27-230 of the Zoning Ordinance requires that the specific parcel of property have exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition. The Board finds that although Petitioner states that the subject lot

³ Evidence presented in the 1985 approval of a side yard variance (Appeal No. 7806) (Exhibit R-11) indicates that there is a hill in the rear of the lot that supported the need for that variance.

has no exceptional conditions peculiar to the property, we take notice that in Appeal 7806, the Board deemed the property to be hilly in the rear and we take note that Petitioner affirms that that condition still exists. See Exhibit R-10 (Photos B & G). Thus, we find that Petitioner has met the first requirement of Section 27-230.

2. Section 27-230 also requires that it must be shown that 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. The Board finds that Petitioner does not meet this burden.

3. Petitioner was granted a variance to construct the addition on the right side of the existing house in 1985. Petitioner opted for the current dimensions of the garage, which she now considers limiting, when she constructed the 1985 addition with a dining room behind the garage. We do not believe the current size of the garage presents a peculiar and unusual practical difficulty. In addition, any hardship that may exist is self-imposed.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 4.2 feet side yard width in order to validate existing conditions and construct a one-story extension on the front of an existing attached garage on the property located at Lot 14, Block F, Rosedale Estates Subdivision, being 3006 Ivy Bridge Road, Fort Washington, Prince George's County, Maryland, be and is hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.