


*NOTICE OF FINAL DECISION
OF BOARD OF APPEALS*

RE: Case No. V-51-08 Alec & Katherine Waterhouse

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: June 18, 2008.

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
Municipality

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

Petitioners: Alec & Katherine Waterhouse

Appeal No.: V-51-08

Subject Property: Lot 10 and Part of Lot 9, Block 10, Charlton Heights Subdivision, being 5705 Berwyn Road, Berwyn Heights, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Heard and Decided: June 18, 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 construct a two-story addition, with basement, second-floor addition, and addition to a detached garage and to widen the existing driveway. Variances of 5 feet front yard depth from Osage Street for the proposed two-story addition, and 57.5 feet street line setback from Osage Street, 16 feet street line setback from Berwyn Road and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1888, contains 12,099 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and detached garage. The existing house and garage were built in 1948. See Exhibits 2, 3 & 7.
2. The property is a triangular-shaped, corner, through lot, having two fronts and no rear yard. The house faces Berwyn Road. See Exhibits 2, 3 & 8.
3. Petitioners would like to construct a 14' x 25' second-story addition on one side of the existing dwelling, a 10' x 30.7' two-story addition on the rear of the existing dwelling, a 12' x 25' addition to an existing detached garage (with the rear cut an angle), and an extension to the existing driveway.
4. Since the proposed two-story addition would be located 20 feet from Osage Street, a variance of 5 feet front yard depth from Osage Street was requested. Since the existing detached garage is, and the garage addition would be, located 2.5 feet from Osage Street, 44 feet from Berwyn Road, and not located

behind the house, variances of 57.5 feet street line setback from Osage Street, 16 feet street line setback from Berwyn Road and a waiver of the [rear] yard location requirement for an accessory building were requested.

5. Petitioner Alec Waterhouse testified that he purchased the property in 2000 and would like to enlarge the three-bedroom, one-bathroom house. He stated that the proposed additions to the house would contain one new room, one new full bathroom and two half bathrooms, and the house would become a four-bedroom house with two full and two half baths. He further stated that the proposed garage addition is needed to store an historic car, the garage addition will come no closer to the fence line than the existing garage and the addition will not impair visibility from the intersection of Berwyn Road and Osage Street. Mr. Waterhouse further testified that there are other similar additions in the neighborhood and his house will fit in with the character of the neighborhood. See Exhibit 4.

6. Petitioner's architect stated that compliance with the setback requirements would result in a peculiar and inefficient footprint, and approval of the variance would allow a more compact massing for the addition and allow keeping a more open back yard (Exhibits 5 & 6).

7. The Town of Berwyn Heights recommended approval of the request (Exhibit 14).

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 in 1988, the triangular shape of the property, the property being a through lot, the property having no rear yard and fronting on two streets, the house and garage being built many years ago, the need for additional living and garage space, only 19 square feet of the addition to the house not meeting the required setback, the addition not interfering with visibility at the intersection, the garage addition being set back the same distance from the street as one corner of the existing garage, 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 5 feet front yard depth from Osage Street for a proposed two-story addition, and 57.5 feet street line setback from Osage Street, 16 feet street line setback from Berwyn Road and a waiver of the rear yard location requirement for a detached garage in order to validate existing conditions, construct a two-story addition, with basement, second-floor addition, and addition to a detached garage, and widen the existing driveway, on the property located at Lot 10 and Part of Lot 9, Block 10, Charlton Heights Subdivision, being 5705 Berwyn Road, Berwyn 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 and elevation plans, Exhibit 2(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.