

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-76-10 N. J. Investments, LLC

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 3, 2010 .

**CERTIFICATE OF SERVICE**

This is to certify that on December 2, 2010 , 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

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

Petitioner: N. J. Investments, LLC

Appeal No.: V-76-10

Subject Property: Tax Map 19, Grid B-1, Parcel 153, and Lot 17, Block 45, Beltsville Subdivision, being  
11238 and 11240 Old Baltimore Pike, Beltsville, Prince George's County, Maryland

Counsel for Petitioner: Ted J. Harries, Esq.

Witness: Steve Rodriguez, owner of N.J. Investments, Inc.

Heard: October 20, 2010; Decided: November 3, 2010

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 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 27-474(b)(Table I), which prescribes that structures shall be set back at least 25 feet from the street line as shown on the Master Plan, Functional Master Plan of Transportation, or General Plan, Prince George's County Capital Improvement Program, or Maryland Five (5) Year Highway Plan of Transportation, whichever indicates the greatest right-of-way width [any other street shall be deemed to have a right-of-way width of at least seventy (70) feet], here deemed to be 70 feet wide. Petitioner proposes to construct a storage building. A variance of 15 feet setback from the street line of Maryland Avenue is requested.

Evidence Presented

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

1. The property contains 13,023 square feet (.2989± acre), is zoned I-2 (Heavy Industrial) and is currently improved with paved driveway area and parking spaces. See Exhibits ("Exhs.") 2, 10-13. The proposed use of the property is a contractor storage yard. See Exh. 2.
2. The property narrows toward the rear of the lot. See Exh. 2.
3. The legal side street, Maryland Avenue, is a paper street. The adjoining portion of Maryland Avenue is paved area of the adjoining parcel separated from the subject property by a concrete storm water channel. See Exhs. 2, 14(B)-(C). The subject property is located in an industrial area and is surrounded by I-2 properties with outside storage and scrap metal recycling uses. See Exhs. 2, 14(A).
4. Petitioner would like to construct a 40' x 55'/18' x 20' (2,560 square feet) one-story storage building on the property (see Exhs. 2-3), but a variance is needed to obtain a building permit. Since the proposed building will be located 10 feet from property line along Maryland Avenue, a variance of 15 feet setback from the street line of Maryland Avenue was requested. See Exh. 16.
4. Counsel for Petitioner stated that the property is currently used for outdoor storage. Counsel explained that Petitioner is a concrete, stone and masonry business which utilizes 40-foot loading trucks which have a very wide turning radius.

5. Steve Rodriguez, Petitioner business' owner, testified that he has owned the property for three years. He stated that loading trucks are about 50 feet long counting the cabs and if he had to meet the setback requirements for the proposed building, the trucks would not fit properly. See Exh. 26. He further explained that the proposed storage building would allow him to securely store his equipment and materials out of the weather and would be large enough to store his dump trucks, trailers and bobcat.

6. Staff of the Permit Review Section of the Maryland-National Capital Park and Planning Commission opined that a variance of 15 feet setback from the street line of Maryland Avenue is sufficient to fulfill the 30 feet total side yard setback requirement. See Exhs. 8, 27.

#### 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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being located in an industrial area, the property being surrounded by I-2 zoned properties with industrial uses, the size of the property, the property narrowing at the rear, access to the property being at the front of the property, the company's trucks being 50 feet in length and needing a very wide turning area, the need for an enclosed structure large enough to securely store equipment and materials out of the weather, the most suitable location of the proposed storage building being at the rear of the property in order to accommodate the long trucks, 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 a variance of 15 feet setback from the street line of Maryland Avenue in order to construct a 40' x 55'18" x 20' (2,560 square feet) one-story storage building on the property located at Tax Map 19, Grid B-1, Parcel 153, and Lot 17, Block 45, Beltsville Subdivision, being 11238 and 11240 Old Baltimore Pike, Beltsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

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.