

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-8-10 Renee Green-Smith

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: March 10, 2010 .

CERTIFICATE OF SERVICE

This is to certify that on April 7, 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 Div.

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

Petitioner: Renee Green-Smith

Appeal No.: V-8-10

Subject Property: Lots 28, 29 & 30, Block 36, Bradbury Heights Subdivision, being 4125 Urn Street,
Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Matthew Tedesco, Esq.

Heard and Decided: March 10, 2010

Board Members Present and Voting: 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 a front yard at least 25 feet in depth, 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 certain existing conditions¹ and construct a roof over an existing front porch. Variances of 6 feet front yard depth and 10.5% net lot coverage are requested.

Evidence Presented

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

1. The subject property was subdivided in 1909, contains 6,000 square feet, is zoned R-55 (One-Family Detached Residential), and is improved with a single-family dwelling, driveway and shed. The property was improved with a single-family dwelling in 1947. See Exhibits ("Exhs.") 2, 4, 7.
2. Petitioner would like to construct a roof over the existing 20' x 7' front porch. Because the porch is located 19 feet from the front street line and construction of the new roof will cause the allowable net lot coverage to be exceeded, variances of 6 feet front yard depth and 10.5% net lot coverage were requested. See Exhs. 2, 3(A)&(B), 9, 10.
3. There are other houses with covered front porches in the neighborhood. See Exh. 18(A)-(E).
4. Counsel for Petitioner explained that the front porch is currently partially covered by an outdated roof and associated railing system. He stated that the porch is weathered, rusted and unsafe for the inhabitants and guests of the home. See Exh. 19. Counsel stated that the proposed new roof and

¹ Variances were approved for other conditions of the property by the Board in 1990 (Appeal No. 10521). Front and side yard setback variances were required to validate the existing dwelling (including the partial roofing of the front porch) and construct an addition, with garage, on the side of the dwelling. See Exh. 5.

railing system will extend over the entire front porch and be constructed with modern/sustainable and maintenance-free materials.

5. Counsel further explained that although the Board only granted a 5' 10" front yard setback variance in 1990 to validate the existing porch and roof and in order to correct an apparent 2-inch deficiency in the previous variance, the variance of 6 feet was requested. Counsel also explained that the requested variance of 10.5% net lot coverage to validate both existing and proposed net lot coverage on the property corrects an oversight for prior excess net lot coverage and includes an additional $\pm 1\%$ net lot coverage created by the proposal to entirely cover the porch. See Exh. 19.

6. Addressing the legal criteria for approval of a variance, counsel argued that an extraordinary situation or condition exists in that Petitioner's three lots were recorded in 1908, each 20' x 100' or 2,000 square feet, and merger of the lots still leaves the property exceptionally narrow and shallow. He pointed out that Petitioner has no ability to acquire additional land as adjoining properties are fully developed on all three sides and the property fronts on Urn Street. Counsel argued that strict compliance with the Zoning Ordinance would present an undue hardship since the Board's previously approved variance failed to address the lot coverage issue and compliance now would require Petitioner to demolish the existing porch, driveway, shed, and portions of the house/garage. He further opined that strict compliance would deny Petitioner reasonable use of the porch without the proposed porch extension and repair and Petitioner and her family members will be subjected to weather and safety concerns. Counsel stated that the use of the property is consistent with the recommendations of the Master Plan and submitted photographs in support of his position (Exh. 18(A)-(E)). He stated that at least four other houses within 1-2 blocks of Petitioner's property have porches completely under roof and Petitioner's proposed improvements are, therefore, consistent with the character of the neighborhood. See Exhs. 19, 20(C), 21.

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 house being built in 1947, variances having been approved in 1990 to validate the existing dwelling and construct an addition, the current variances requested being to correct oversights in the 1990 Board decision and to allow Petitioner simply to construct a roof over the uncovered part of the existing front porch, the proposed roof extension infringing no further into the front yard setback than the existing porch, replacement of the existing porch roof being necessary due to its deterioration and safety issues, Petitioner being unable to acquire additional land, 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, by majority vote, Ms. Mack absent, that variances of 6 feet front yard depth and 10.5% net lot coverage in order to validate existing conditions and construct a roof over an existing front porch on the property located at Lots 28, 29 & 30, Block 36, Bradbury Heights Subdivision, being 4125 Urn Street, Capitol 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 3(A)&(B).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.