

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-81-09 Posie & Elnora Turner

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 18, 2009.

CERTIFICATE OF SERVICE

This is to certify that on January 4, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DER, Building Code Official, Permits & Review Div.
Municipality

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

Petitioners: Posie & Elnora Turner

Appeal No.: V-81-09

Subject Property: Lots 7-10, Block 4, Bryn Mawr Subdivision, being 815 57th Place, Fairmount Heights,
Prince George's County, Maryland

Municipality: Town of Fairmount Heights

Witnesses: Ukkundo Oohwaka, Code Enforcement, Town of Fairmount Heights
Bernard Peters, Permit Consultant

Heard: November 4, 2009; Decided: November 18, 2009

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 two side yards totaling 17 feet in width, with the minimum width of either side yard being 8 feet on one side and 9 feet on the other, 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. Petitioners propose to validate existing conditions and construct a one-story addition with crawl space and deck. Variances of 5.5 feet side yard width and 5.1% net lot coverage are requested.

Evidence Presented

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

1. The property contains 12,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, attached carport, driveway and two sheds. The property was developed with a single-family dwelling in 1967. See Exhibits ("Exhs.") 4, 6 & 17.
2. Petitioners would like to obtain a building permit to construct a 16' x 30.2'/13' x 35.2' L-shaped one-story addition, with crawl space, which would wrap around the left side and part of the back of the existing dwelling, and construct a 22'6" x 13' deck next to the addition on the rear of the house. Because construction of the proposed addition will cause the allowed amount of lot coverage to be exceeded, a variance of 5.1% net lot coverage was requested. Because an existing 20.2' x 45.9' attached carport is located only 3.5 feet from the side lot line and a 9-foot setback is required for that side yard, a variance of 5.5 feet side yard width was also requested to validate the carport. See Exhs. 8, 9 & 17.
3. Petitioner Posie Turner testified that that the location of part of the addition on the side of the house would allow retention of more back yard area and the addition is proposed for the ground level only

because there is concern that the existing house would not structurally support a second story and to provide easier accessibility by Petitioners because of health conditions.

4. He explained that although Petitioners own the adjoining property on the right side (Lots 11 & 12) and are going to purchase the adjoining property on the left side (Lots 5 & 6), both properties are already developed, each is only 50 feet wide and relocation of side lot lines would not be possible. See Exh. 4.

5. Petitioner Elnora Turner testified that the existing house is very small and additional living space is needed to accommodate Petitioners' health conditions.

6. The Town of Fairmount Heights had no objections to the request. See Exh. 18.

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 an existing attached carport being located only 3.5 feet from the right side lot line, the proposed addition not infringing into the required left side yard setback, the adjoining properties on both sides being already developed and each only 50 feet wide, the need for additional living space on the ground level of the house, 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 5.5 feet side yard width and 5.1% net lot coverage in order to validate existing conditions and construct a one-story addition with crawl space and deck on the property located at Lots 7-10, Block 4, Bryn Mawr Subdivision, being 815 57th Place, Fairmount Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 17, and the approved revised elevation plan, Exhibit 16.

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.