

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-9-11 Help 4 Owners, 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: March 23, 2011.

CERTIFICATE OF SERVICE

This is to certify that on April 12, 2011, 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: Help 4 Owners, LLC

Appeal No.: V-9-11

Subject Property: Part of Lots 3 & 4, Block 5, Fowler's Addition to Maryland Park Subdivision, being 4
Vale Place, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Hughie D. Hunt, II, Esq.

Witnesses: Thomas Merl, President, Help 4 Owners, LLC

Columbus Freeman, Vice President, Help 4 Owners, LLC

Heard and Decided: March 23, 2011

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, 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 a rear yard at least 20 feet in depth/width, 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 existing conditions and obtain a building permit for a new deck. Variances of 5 feet front yard depth, 13 feet rear yard depth/width, and 1.7% net lot coverage are requested.

Evidence Presented

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

1. The property contains 3,340 square feet (Part of Lots 3 & 4), is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. See Exhibits ("Exhs.") 2, 14-15. The property is located within the approved Capitol Heights Transit District Overlay Zone. See Exhs. 12, 15. The property was improved with a single-family dwelling in 1939. See Exh. 14.

2. The property is made up of part of two lots subdivided prior to 1909, but a deed recorded in 1979 created the property as it exists today. See Exhs. 4-6.

3. Petitioner constructed a 10' x 12' deck with steps on the rear of the house to replace a dilapidated porch of an approximate size. See Exh. 1. Three variances are needed in order to obtain a building permit for the deck. Since the deck's steps are located only 7 feet from the rear lot line, a variance of 13 feet rear yard depth/width was requested. Also, since the existing covered front porch is located only 20 feet from the front street line and development on the property exceeds the maximum amount of net lot coverage allowed, variances of 5 feet front yard depth and 1.7% net lot coverage, respectively, were also requested. See Exh. 19.

4. Counsel explained that Petitioner purchased and rehabilitated the property, keeping the original footprint of the structure intact, but the original structure was built in 1939 and does not meet current zoning regulations. He stated that the lot is very small and it would be a hardship to either move or remove the affected portion of the structure.

5. Photographs show the renovations done to the original structure. See Exhs. 25(A)-(V).

6. Thomas Merl testified that neighboring lots are longer than the subject property. He stated that the subject property slopes downward in the rear and a church, which obtained the rear portion of the original lots (Lots 3 & 4) as subdivided, is located to the rear. He explained that the deck would have new footers, but will use the porch's old footer holes.

7. A petition, signed by four neighbors, indicated no objection to the requested variance. See Exh. 8.

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 dimensions of the property, the comparative smallness of the lot, the house being built in 1939, the structural footprint existing for 70 years and remaining intact during rehabilitation of the property, the new deck replacing a dilapidated porch on the rear of the house, the downward slope of the rear yard, 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 variances of 5 feet front yard depth, 13 feet rear yard depth/width and 1.7% net lot coverage in order to validate existing conditions and obtain a building permit for a new 10' x 12' deck and steps on the property located at Part of Lots 3 & 4, Block 5, Fowler's Addition to Maryland Park Subdivision, being 4 Vale Place, 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 revised site plan, Exhibit 26, and the approved elevation plans, Exhibits 3(a)-(f).

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.