

*NOTICE OF FINAL DECISION
OF BOARD OF APPEALS*

RE: Case No. V-95-08 JoAnna Kulczak

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: October 8, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on November 5, 2008 , 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, Permit & Review Div.

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

Petitioner: JoAnna Kulczak

Appeal No.: V-95-08

Subject Property: Lot 27, Block 43, Charlton Heights Subdivision, being 8708 Edmonston Road, Berwyn Heights, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Witness: Gary Fleshman

Heard: September 24, 2008; Decided: October 8, 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 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 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioner proposes to validate an existing condition and construct a one-story addition and concrete patio. A variance of 2 feet side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1888 and recorded in 1931, contains 10,900 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. The existing house was built in 1960. See Exhibits ("Exhs.") 2, 5 & 6.
2. The property is a long and narrow lot, being 220 feet deep but only 50 feet wide. See Exh. 2.
3. Petitioner would like to construct a 14' x 18' one-story addition on the rear and an 18' x 20' concrete patio to the rear of the existing dwelling. The addition would follow the line of the existing house, which is located 6 feet from the side lot line. A variance of 2 feet side yard width is therefore requested to validate the existing condition of the structure and obtain a building permit to extend it.
4. Petitioner testified that the construction plan is to remove a smaller addition where the proposed new addition will be built. She stated that the old addition, which contains the kitchen, lacks insulation, is falling apart and has a sagging floor and leaking roof. She explained that there is termite damage in one of the addition's footings and the structure is unable to be salvaged. She stated that the pipes in the old addition freeze in the winter, which poses a health hazard.

- 5. Petitioner further testified that the new addition would be constructed over a crawlspace. See Exh. 4(d). The roof over the entire house will be replaced and will cover a patio next to the new addition. See Exhs. 4(f) & (h).
- 6. The Town of Berwyn Heights recommended approval of the request. See Exh. 12.

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 narrowness of the property, the house being built many years ago, the location of the existing house, the proposed addition continuing the same line of the side of the house, the proposed addition replacing a dilapidated addition containing Petitioner's kitchen, 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 2 feet side yard width in order to validate an existing condition and construct a one-story addition and concrete patio on the property located at Lot 27, Block 43, Charlton Heights Subdivision, being 8708 Edmonston Road, Berwyn Heights, 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 plans, Exhibit 3(a)-(c).

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.