

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-106-15 Custom Care Properties Series 8, 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: October 28, 2015.

CERTIFICATE OF SERVICE

This is to certify that on November 13, 2015, 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
DPIE/Building Code Official, Permitting
Cedar/Jefferson Heights Civic Association
Other Interested Parties

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

Petitioner: Custom Care Properties Series 8, LLC

Appeal No.: V-106-15

Subject Property: Lots 748 & 750, Cedar Heights Subdivision, being 5811 Junipertree Lane, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: M. Arnold Politzer, Esq.

Witness: Russell Sanders, Custom Care Properties Series 8, LLC

Heard and Decided: October 28, 2015

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(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 7 feet in 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 construct a second-floor addition and covered front porch. Variances of 1,250 square feet net lot area, 10.5 feet front yard depth, 2.5 feet side yard width and 4.1% net lot coverage are requested.

Evidence Presented

1. The property contains 3,750 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 8 and 9. The existing dwelling was built in 1970. Exhs. 8 and 9.

2. The property consists of two 25' x 75' zoning lots which were subdivided prior to 1908. Exhs. 2 and 4. The dwelling is located toward the left side of the property and sits at an angle to the street line. Exh. 2.

3. Petitioner would like to construct a 28.5' x 29.35' second-floor addition and a 6' x 14' covered front porch on the existing dwelling (Exh. 2), but variances are required to obtain a building permit. Since the covered porch would be located only 14.5 feet from the front street line and a cantilever overhang of the second-floor addition would be 4.5 feet from the left side lot line, variances of 10.5 feet front yard depth and 2.5 feet side yard width were requested. Exh. 13.

4. The allowed amount of net lot coverage (30%) is already exceeded by existing development on the property and the proposed construction will add to the overage. A variance of 4.1% net lot coverage was requested. Exhs. 12 and 13.

5. In addition, since the property does not meet the current minimum lot size requirement of 5,000 square feet, a variance of 1,250 square feet net lot area was requested to validate that existing condition. Exh. 13.

6. Counsel for Petitioner stated that the proposed construction will bring the property into conformance with the character of the neighborhood. Counsel stated that the neighborhood has "grown up" around the subject property, with many (older) homes having added additions, some of which are second floor additions. He noted that the houses on adjoining properties to either side of the subject property are two-level dwellings. Exh. 5(B). Counsel believes that the only way to enlarge Petitioner's house is to build upward.

7. Russell Sanders, principal of Custom Care Properties Series 8, LLC, testified that the property was purchased as a foreclosure in July 2015 and the house is now vacant. Exh. 6. He explained that the house has two bedrooms and one bathroom, and that the proposed construction will result in three bedrooms and two bathrooms, with the new bedroom area located on the second level. He further explained that they also propose to update the existing porch. Exhs. 3, 5(A).¹

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 property consisting of lots subdivided prior to 1908, the narrowness of the property, the small size of the existing dwelling, the existing angle of the house on the lot, Petitioner needing additional living space, the proposed addition being consistent with the dwellings in the neighborhood, 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 1,250 square feet net lot area, 10.5 feet front yard depth, 2.5 feet side yard width and 4.1% net lot coverage in order to validate existing conditions and construct a 28.5' x 29.35' second-floor addition and 6' x 14' covered front porch on the property located at Lots 748 & 750, Cedar Heights Subdivision, being 5811 Juniper Tree Lane, Capitol Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is

¹ Mr. Sanders stated that the house currently has only one door for egress and a second door built on the back of the house is part of the construction plan. Exh. 3. He stated that all sides of the house will have vinyl siding.

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.