

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-100-15 SunJae and Mie 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: October 14, 2015.

CERTIFICATE OF SERVICE

This is to certify that on October 30, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
West Lanham Hills Citizens' Association

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

Petitioners: SunJae and Mie Smith

Appeal No.: V-100-15

Subject Property: Lot 11, Block 106, West Lanham Hills Subdivision, being 5000 78th Avenue, Hyattsville, Prince George's County, Maryland

Heard and Decided: October 14, 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 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, Petitioners request that the Board approve a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each corner lot shall have a side yard along the side street at least 25 feet in depth. Petitioners propose to construct a one-story addition. A variance of 12.5 feet side street yard depth is requested.

Evidence Presented

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

1. The property was subdivided in 1940, contains 7,488 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 3, 5, 7 and 8. The existing dwelling was built in 1941. Exhs. 7 and 8.

2. The property is located within the New Carrollton Transit District Development Overlay Zone. Exh. 8.

3. The property is a corner lot with the house facing the corner. Driveway access is off of the legal front street, 78th Avenue. Exh. 3.

4. Petitioners would like to construct a 20' x 26.5' one-story addition on the side of the existing dwelling (Exh. 3), but a variance is needed to obtain a building permit. Since the addition would be located 12.5 feet from the side street line at the closest point, a variance of 12.5 feet side street yard depth was requested. Exh.11.

5. Petitioner SunJae Smith testified that they currently have two young children and are expecting their third child soon. He stated that the family share one bedroom in the upstairs of the house and use their other two bedrooms, which are quite small, for an office and a playroom. He testified that the pitch of the roof makes use of the upstairs difficult for Petitioners, there is no exit from the second level, and the staircase is steep. He stated that, therefore, for safety reasons they would like to relocate the sleeping area to the first floor. He stated that the proposed first-level addition would contain two bedrooms and a bathroom. He explained that the addition will allow the three children to be on the same level as their parents. *See* Exhs. 2, 17(A) and (B).

6. Petitioners stated that the shape of the corner lot and the way the house is angled in facing the corner create the need for the variance. Exhs. 2 and 17(A). It was explained that construction of the house at

a diagonal angle on the rectangular corner lot makes it impossible to build to the back of the house without impinging on the neighbor's property lines. *See* Exhs. 17(G) and (H). In addition, Petitioners pointed out that their house is at the highest altitude in the neighborhood and the lawn slopes down so steeply that a large percentage of the yard is unusable (to build on). *See* Exhs. 6(A), (E) and (G); 17(F). They stated that the proposed addition would be constructed on the flat area of the property a few feet from the decline. *See* Exhs. 6(B), (C) and (D).

7. They noted that buffer space is in the steeply sloping part of the yard, and because of the retaining wall next to the sidewalk, they (the construction) would not change the public situation of the sidewalk, sight lines for drivers and pedestrians, and water run-off. Exhs. 2, 17(A) and (B).

8. Five neighbors signed a statement in support of the request. Exh. 17(I).

9. West Lanham Hills Citizens' Association supported the request for the variance. Exh. 17(J).

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 property being a corner lot, the angle of the house on the lot facing the corner, the steep slopes on the lot, the need for additional living space, additional living space on the ground level allowing the adults and children to sleep on the same level, the proposed location of the addition not impacting sight lines or water run-off, 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 a variance of 12.5 feet from the minimum side street setback requirement in order to construct a 20' x 26.5' one-story addition on the property located at Lot 11, Block 106, West Lanham Hills Subdivision, being 5000 78th Avenue, Hyattsville, 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 3, and the approved elevation plans, Exhibits 4(a) through (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.