

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-76-15 Allen Naylor, Jr. and Kim Shannon

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: August 19, 2015.

CERTIFICATE OF SERVICE

This is to certify that on September 2, 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
Town of University Park

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

Petitioners: Allen Naylor, Jr. and Kim Shannon

Appeal No.: V-76-15

Subject Property: Lot 13, Block 12, University Park Subdivision, being 4405 Underwood Street, University Park, Prince George's County, Maryland

Municipality: Town of University Park

Heard and Decided: August 19, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION

This appeal was 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 requested that the Board approve variances from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 7 feet in width and Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioners proposed to validate an existing condition and construct a driveway in the front yard. A variance of 3 feet side yard width and a waiver of the parking area location requirement were requested.¹

Evidence Presented

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

1. The property was subdivided in 1925, contains 6,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1933. Exhs. 8 and 9.
2. The property is located within the municipal limits of the Town of University Park. Exhs. 8 and 9.
3. The property is narrow, being only 50 feet wide. Exhs. 2 and 4.
4. Petitioners would like to obtain a building permit to construct a 12' x 30' driveway, but validation of the following existing condition on the property is required as a prerequisite. Since the existing covered porch on the side of the house is located 4 feet from the side lot line, a variance of 3 feet side yard width was also requested. Exh. 12.

¹ Petitioner Kim Shannon testified that in dealing with the Town of University Park ("Town") they learned that since the Town owns the street and right-of-way area for the driveway apron, the Town may allow the driveway to be built up to the property line rather than set back 3 feet and the variance for the driveway extending in front of the house would not be needed.

5. Petitioner Kim Shannon testified that the house was built in 1933. She stated that she has a site plan showing the existence of the porch when her husband's parents purchased the property in 1951. *See* Exhs. 19(A) and (B).

6. Petitioner Allen Naylor stated that they do not want to remove the porch.

7. Ms. Shannon noted that a portion of a bedroom exists over the porch.

8. The Town of University Park was notified of the request for variances. Exhs. 12 and 16.

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 narrowness of the property, the house being built in 1933, the porch on the side of the house existing for many years, a portion of a bedroom existing over the porch, 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 3 feet side yard width in order to validate an existing condition and construct a 12' x 30' driveway on the property located at Lot 13, Block 12, University Park Subdivision, being 4405 Underwood Street, University Park, 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.

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.