

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-100-14 Larry Williams

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: February 11, 2015.

CERTIFICATE OF SERVICE

This is to certify that on April 16, 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
DPIE/Inspections Division

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

Petitioner: Larry Williams

Appeal No.: V-100-14

Subject Property: Lot 2, Block C, Cedar Valley Subdivision, being 1810 Nova Avenue, Capitol Heights,
Prince George's County, Maryland

Witnesses: Sharon Williams, wife of Petitioner

Maurice Robinson, neighbor

Sha'Ron Taylor-Robinson, neighbor

Heard: January 28, 2015; Decided: February 11, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and two side yards totaling 17 feet in width, with the minimum width of either side yard being 8 feet; 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, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and generally be located only in the rear yard. Petitioner proposes to validate existing conditions and obtain a building permit for a carport in the front yard. Variances of 2.5 feet front yard depth, .5 foot right side yard width and 1 foot left side yard width for the dwelling; a variance of .3% net lot coverage; and a variance of 59 feet front street line setback and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1946, contains 5,035 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, shed, driveway and detached carport. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1950. Exhs. 9 and 10.
2. The property is located on a hill and slopes downward from left to right. Exhs. 3(a) and (b), 5(A) and (B), 11(B) and (F).
3. The Department of Permitting, Inspections and Enforcement cited Petitioner with Building Violation Notice 35316-14-00, dated September 8, 2014, requiring that the required permit(s) and inspection(s) be obtained for the carport installed in the front right side of the yard. Exh. 7.
4. Petitioner would like to obtain a building permit for a 12' x 21' detached carport located in the front yard, but variances must be approved before obtaining the permit. Since the carport is located in the

front yard and only 1 foot from the front street line, a variance of 59 feet front street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exh. 13.

5. Validation of certain pre-existing conditions of the subject property is also required to obtain a building permit for the carport. Since the maximum amount of net lot coverage allowed is exceeded on the property, a variance of .3% net lot coverage was requested. Exhs. 12 and 13. In addition, since the existing covered front porch is located 22.5 feet from the front street line, the dwelling is 8.5 feet from the right side lot line and 7 feet from the left side lot line, variances of 2.5 feet front yard depth, .5 foot right side yard width and 1 foot left side yard width were requested. Exh. 13.

6. Petitioner Larry Williams testified that the driveway existed since 1998. He explained that because of his age and health concern (triple bypass), it is difficult to shovel his car out (from snow) in the winter. He stated that he put up the carport over the existing driveway to protect his vehicle. He stated that he understands that the carport extends about 4 feet over his front property line and will move it back so that the entire structure is on his property.

7. He testified that the property is located on a hill and water runs down the street.

8. Petitioner offered photographs depicting the existence of other garages, carports and driveways in the neighborhood. Exhs. 6(A) through (K).

9. Sha'Ron Robinson, who lives next door to Petitioner on a corner lot (Lot 1), testified that her property has a garage and she has a driveway which is located on the side where Petitioner's carport is located. Exhs. 3(a), 5(B), 11(A) (C) and (F). She stated that in 1972, Petitioner's property was the only property that did not have a driveway or a garage other than the corner lot where there is now concrete and a carport on the side. Exhs. 6(B), 11(A), (B), (D) and (E). She explained that Petitioner's carport presents a safety issue because one side of his carport blocks her view when she backs out of her garage and driveway. Exhs. 21(A) through G). In addition, she stated that Petitioner's carport is also a place where someone could hide at night. She also stated that her property is downhill from Petitioner's, bricks have come off the retaining wall next to Petitioner's carport and water flows down on her driveway. She explained that she put in a trench, drain and sump pump because of water issues existing before the carport was built, but believes that added water caused by the carport makes the sump pump work harder.

10. Maurice Robinson, Sha'Ron Robinson's husband, also stated that he cannot view up the street when he is backing out of the garage until he is at the top of their driveway, and even then if Petitioner's car is parked in the carport he still cannot see (even though the panels on the opposite or far side of the carport were removed). Exhs. 21(A) through (G). He explained that the situation is very dangerous.

11. Sharon Williams, Petitioner's wife, testified that she has lived at the property since 2000 and water runoff was already a problem.

12. Petitioner testified that he removed several panels from one side of the carport because he did not want anyone to be able to hide in the carport. He testified that he would put up lights, remove the same number of panels from the side of the carport next to the Robinsons' property and install gutters and downspouts to aim runoff water towards the street.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.

¹ Petitioner submitted revised elevation plans indicating these changes. Exhs. 22(a) and (b).

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 property being subdivided in 1946, the sloping topography of the property, the house being built many years ago, Petitioner's age and health making it difficult to shovel out a vehicle, the location of the carport near the street reducing the difficulty of accessing the street with a vehicle, validation of the dwelling being necessary to obtain a permit for the new carport, the carport being moved back so that it is entirely on the subject property, lighting being added to the carport, panels being removed from the side of the carport next to the Robinsons' property, gutters and downspouts being installed to aim runoff water towards the street, 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 2.5 feet front yard depth, .5 foot right side yard width and 1 foot left side yard width for the dwelling; a variance of .3% net lot coverage; and a variance of 59 feet front street line setback and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and obtain a building permit for a 12' x 21' carport in the front yard on the property located at Lot 2, Block C, Cedar Valley Subdivision, being 1810 Nova Avenue, 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 site plan, Exhibit 2, and the approved revised elevation plans, Exhibits 22(a) and (b).

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.