

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-98-14 Devin & Amanda Chesney

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 March 12, 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
Carole Highlands Neighborhood Association

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

Petitioners: Devin and Amanda Chesney

Appeal No.: V-98-14

Subject Property: Lot 16, Block N, Carole Highlands Subdivision, being 7223 15th Avenue, Takoma Park, Prince George's County, Maryland

Heard: January 7, 2015; February 11, 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, Petitioners request 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 a side yard at least 8 feet in width, and Section 27-420(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirement for main buildings, and fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to construct a two-story addition with basement garage, a one-story addition with basement, a covered front porch, driveway and retaining walls with railings. Variances of 2 feet 6 inches front yard depth and 2 feet 2 inches side yard width for the dwelling, and a variance of 17 feet front street line setback and waivers of the fence height and location requirements for retaining walls with railings up to 11 feet in height in the front yard are requested.

Evidence Presented

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

1. The property was subdivided in 1945, contains 6,365 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling. Exhibits ("Exhs.") 6, 8, 9 and 20. The existing single-family dwelling was built in 1947. Exhs. 8 and 9.

2. The lot is only 55 feet wide and the front of the property slopes downward to the street. Exhs. 6, 10(C), (D) and (F), 20.

3. Petitioners would like to construct an 11'1/2" x 27'5"/6'11" x 7'1/2" two-story addition with basement garage, a 4' x 6'11" one-story addition with basement, a 4' x 6'11" covered front porch, a 13' (to 15') x 22'6" driveway and retaining walls up to 11 feet in height (including guard rails) (Exhs. 20 and 21(a) through (d)), but variances are needed. Since the additions would be located 22 feet 6 inches from the front street line and 5 feet 10 inches from the side lot line, variances of 2 feet 6 inches front yard depth and 2 feet 2 inches side yard width were requested. Exhs. 13 and 22. Since the retaining walls with guard rails exceed 6

feet in height and are located in the front yard, a variance of 17 feet front street line setback and waivers of the fence height and location requirements were requested. Exh. 22.

4. Petitioner Devin Chesney testified that he has lived at the property for six years in a house that was built in the 1940's. He testified that the house is only 950 square feet above ground, has two bedrooms and is too small for their growing family. He further stated that larger living spaces are also needed to permit accessibility by aging parents, one of whom requires a walker. He explained that the proposed addition would extend 11'6" to the left in order to fit a full size bedroom, living spaces and garage, and 7'4" to the front of the house including roof overhangs to fit a foyer and covered porch to facilitate accessibility. Exhs. 1, 2 and 16.

5. Petitioners stated that the subject property is unique because of its sloping topography and narrow width. The lot was described as sloping from back to front, causing unique water drainage issues, which previously have been extensively engineered to improve runoff and drainage. It was stated that this makes building backwards into the lot impractical and cost prohibitive. It was further explained that the total area covered by the variance request would be 120 square feet outside the setbacks, which is only 2% of the lot size. It was explained that because the house is elevated 8 feet above the street and a large tree exists in front of the house, visual impact of the proposed additions extending past the setback would be reduced. Exhs. 2 and 16.

6. Petitioners stated that their house is one of the few houses in the neighborhood (estimating 10 in several hundred) that has no addition. Exh. 16, pp. 10 through 13.

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 being subdivided in 1945, the existing house being built in 1947, the narrowness and sloping topography of the property, the impracticality of building to the rear on the lot because of the sloping terrain and already-existing drainage issues, the need for additional living space and improved accessibility, 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 variances of 2 feet 6 inches front yard depth and 2 feet 2 inches side yard width for the dwelling, and a variance of 17 feet front street line setback and waivers of the fence height and location requirements for retaining walls with railings in order to construct an 11'1/2" x 27'5"/6'11" x 7'1/2" two-story addition with basement garage, a 4' x 6'11" one-story addition with basement, a 4' x 6'11" covered front porch, a 13' (to 15') x 22'6" driveway and retaining walls with railings up to 11 feet in height on the property located at Lot 16, Block N, Carole Highlands Subdivision,

being 7223 15th Avenue, Takoma Park, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 20, and the approved revised elevation plans, Exhibits 21(a) through (d).

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.