

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-64-14 Gunther Development 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: September 17, 2014.

CERTIFICATE OF SERVICE

This is to certify that on October 8, 2014, 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: Gunther Development LLC

Appeal No.: V-64-14

Subject Property: Lot 2, Block A, Jefferson Heights Subdivision, being 802 Minna Avenue, Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: Johnnie Clark, Esq.

Witness: Moses Koyi, owner of Gunther Development LLC

Heard and Decided: September 17, 2014

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), which prescribes that each lot shall have two side yards totaling 17 feet in width, with the minimum width of either side yard being 8 feet, 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 obtain a building permit to complete construction of a one-story addition. Variances of 2 feet left side yard width, 2.4 feet right side yard width and 3.2% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1938, contains 5,002 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 1937. Exhs. 7 and 8.

2. The property is small and narrow, containing only 5,002 square feet of land and being only 55 feet wide. Exh. 2.

3. Petitioner would like to validate and obtain a building permit for a 9'6" x 16' one-story addition constructed on the rear of the existing dwelling, but variances are needed in order to obtain a building permit. Since the existing dwelling is located 6 feet from the left side lot line and 6.6 feet from the right side lot line and since the allowed amount of net lot coverage is exceeded by existing development and construction of the addition causes further overage, variances of 2 feet left side yard width, 2.4 feet right side yard width and 3.2% net lot coverage were requested. Exhs. 11 and 12.

4. Counsel explained that Petitioner would like to convert an existing porch into a bedroom. It was stated that the house on the subject property is one of the smallest houses on the block. It was explained that there are only two bedrooms in the house but other neighborhood houses are substantially larger and have a minimum of three bedrooms. It was further explained that Moses Koyi's daughter and son, who has a wife and child, all will be residing in the house.

5. Moses Koyi testified that the concrete slab shown on the plan (Exh. 2) became a covered porch which is now proposed to become a bedroom.

6. The Subdivision Section of The Maryland-National Capital Park and Planning Commission reviewed the request and commented that the existing covered porch encroaches into the 25 foot building restriction line (BRL), but the proposed addition does not. It was noted that although the existing porch infringes on the recorded BRL, it is an existing condition and no plat to remove the BRL is required. Exh., 17.

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 1938, the small size of the lot, certain setbacks for the house being grandfathered due to the age of the house, the small size of the house relative to other houses with at least three bedrooms on the block, the need for additional living space for family members, the proposed addition to replace an existing covered 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 2 feet left side yard width, 2.4 feet right side yard width and 3.2% net lot coverage in order to validate existing conditions and obtain a building permit to complete construction of a 9'6" x 16' one-story addition on the property located at Lot 2, Block A, Jefferson Heights Subdivision, being 802 Minna 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 elevation plans, Exhibits 3(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.