

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-39-13 Carlos & Valerie Powers

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: June 19, 2013.

CERTIFICATE OF SERVICE

This is to certify that on July 8, 2013, 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
DER/Building Code Official, Permits & Review Group
DER/Licenses & Inspections Group
Office of Law

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

Petitioners: Carlos & Valerie Powers

Appeal No.: V-39-13

Subject Property: Lot 4, Block C, Woodberry Forest Subdivision, being 6700 Northam Road, Temple Hills,
Prince George's County, Maryland

Witness: Edith Gill, neighbor

Heard: June 5, 2013; Decided: June 19, 2013

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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 60 feet from the front street line, 2 feet from any side lot line and generally be located only in the rear yard. Petitioners propose to validate and obtain a building permit for a shed in the side yard. Variances of 27 feet front street line setback, 2 feet side lot 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 1962, contains 10,014 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1964. Exhs. 8 and 9.
2. The property is rectangular in shape – 81.75 feet wide and 122.50 feet deep. Exhs. 2 and 4. The size and shape of the lot is not unique in the neighborhood. Exh. 4.
3. Petitioners were issued Building Violation Notice No. 22717-2012-1, dated September 6, 2012, by the Department of Environmental Resources, which requires that Petitioners obtain a building permit for the structure attached to the fence in the right side yard or remove it. Exh. 6, Attachment A.
4. Petitioners would like to validate and obtain a building permit for an 8' x 18' shed, but variances must first be obtained for the shed's location. Since the shed is located only 33 feet from the front street line, and since it is in the side yard at the side lot line, a variance of 27 feet front street line setback, 2 feet side lot line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 2 and 13.
5. Petitioner Carlos Powers testified that he has lived at the property for about 14 years and built the subject shed about 4 years ago. He further testified that his property is the only one in the neighborhood without either a garage or a carport. He explained that a small shed (8' x 10') at the rear of the property is used to store the lawn mower, other equipment and wood. He stated that he put up the subject shed in its

current location because open storage on the property is not permitted and the location of trees and an electric pole precluded him from constructing a garage. Exhs. 3(a) & (b). He stated that he did not build the subject shed farther to the rear of the property because it would take up a large amount of the back yard, there is already a brick grill in the back yard behind the subject shed and it would be built on an incline in the back. He also explained that he built the shed in the right side yard because there is more space there than on the left side. He noted that on the right side there is probably about 10 feet between his basement stairs and the property line/fence.

6. He further testified that the wood he used to build the subject shed was supposedly pressure treated, but eventually water leaked through the top when it rained. He explained that he placed a tarp over the shed and no water currently leaks through.

7. Edith Gill, who lives on the property next to the subject shed, testified that the structure on Petitioners' property is not a shed or a carport. She stated that Mr. Powers took some plywood two-by-fours that you would use to cover your roof when you have a leak and attached that to his privacy fence. She submitted photographs of Petitioners' structure to support her argument that it is not a shed, but is actually used as a garage. Exhs. 21, 22 and 24. She stated that she has a view of the subject shed, which is an eyesore, because of its proximity to her patio and bedroom window. Exhs. 21, 22, 23, 24 and 25. She stated that Petitioner parks one vehicle and bicycles in the structure and then parks another vehicle next to it. She testified that when it rains, water flowing off Petitioners' structure backs up in her yard so much that she cannot grow grass in that area. She stated that she is also concerned about the rodents and snakes that crawl into or make nests in Petitioners' structure. She explained that if the structure had a roof and walls like a regular garage, she would not object.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented.
2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.
3. The Board notes that the subject shed may constitute a nuisance if it attracts animals and the Board is not convinced that the structure does not cause or exacerbate water drainage problems.

BE IT THEREFORE RESOLVED, unanimously, that variances of 27 feet front street line setback, 2 feet side lot line setback and a waiver of the rear yard location requirement for an accessory building in order to validate and obtain a building permit for an 8' x 18' shed on the property located at Lot 4, Block C,

Woodberry Forest Subdivision, being 6700 Northam Road, Temple Hills, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.