

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-13-14 Neil Zsak

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: April 9, 2014.

CERTIFICATE OF SERVICE

This is to certify that on April 28, 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
Town of Berwyn Heights

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

Petitioner: Neil Zsak

Appeal No.: V-13-14

Subject Property: Lot 48, Block 6, Berwyn Heights Subdivision, being 5604 Seminole Street, College Park,
Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Witness: Sarah Zsak, Petitioner's wife

Heard: March 26, 2014; Decided: April 9, 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) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a rear yard at least 20 feet in depth/width, 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 construct a covered front porch. Variances of 6 feet front yard depth, an additional 5 feet rear yard depth/width and 4% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1955, contains 5,602 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, attached breezeway, attached garage and driveway. Exhibits ("Exhs.") 3, 5, 10 and 11. The existing single-family dwelling was built in 1957. Exhs. 10 and 11.
2. The property is an odd-shaped lot with the angle of the rear and right side property lines causing a narrowing of the side and rear yards on the right side of the property. Exhs. 2 and 4.
3. The Board approved a variance of 8 feet rear yard depth/width in 1993 (Appeal No. 12033) to validate the garage. Exh. 8. Because the site plan submitted with the subject request indicates that the garage structure is located 7 feet from the rear lot line (Exh. 3), requiring a variance of 13 feet, a variance of an additional 5 feet rear yard depth/width was requested. Exh. 15.
4. Petitioner would like to construct a 6' x 19' covered front porch and uncovered steps, but additional variances are needed to obtain a building permit. Since the porch would be located 19 feet from the front street line and construction of the porch would cause the allowed amount of net lot coverage to be further exceeded, variances of 6 feet front yard depth and 4% net lot coverage were also requested. Exhs. 14 and 15.

5. Petitioner testified that it is awkward to enter the front of the house from the current landing, especially with children.

6. Sarah Zsak testified that the porch will extend to a point halfway between the bay window and the other side of the house. Exhs. 3, 4 and 6(A) through (C).

7. The Town of Berwyn Heights recommended approval of the variance request subject to the condition that all existing downspouts on the front of the house and any future downspouts added to the front or side of the house as a result of any improvements to the front of the house shall be connected and discharge into a rain barrel and said conditions are to be recorded and run with the deed to the property. Exh. 22.

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 unusual shape of the lot, the angle of the rear and right side property lines causing a narrowing of the side and rear yards on the right side of the property, the location of the existing attached garage, the rear setback variance approved by the Board in 1993 being insufficient, the need for a larger porch for ease of entry to the front of the dwelling, downspouts to be connected and to discharge into rain barrels, 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 6 feet front yard depth, an additional 5 feet rear yard depth/width and 4% net lot coverage in order to validate existing conditions and construct a 6' x 19' covered front porch on the property located at Lot 48, Block 6, Berwyn Heights Subdivision, being 5604 Seminole Street, College Park, 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 3, and the approved elevation plan, Exhibit 4.

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.