

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-123-15 Reginald Wood

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: December 2, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on January 13, 2016, 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: Reginald Wood

Appeal No.: V-123-15

Subject Property: Lots 1 thru 4, Block 68, Greater Capitol Heights Subdivision, being 4801 Heath Street,  
Capitol Heights, Prince George's County, Maryland

Witness: Ernest Brown, neighbor

Heard: November 18, 2015; Decided: December 2, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
Albert C. Scott, Vice Chairman

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 corner lot shall have a front yard at least 25 feet in depth, a side yard along the side street at least 25 feet in depth, a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width; 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 27-420(a), which prescribes that on corner lots consisting of one (1) acre or less, fences in the front yard or side yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to validate existing conditions and obtain a building permit for two one-story additions, an enclosed front porch, front porch area enclosed into living space, screened porch, attached garage, two attached carports, covered patio, driveway extension and 6-foot privacy fence. Variances of 7 feet front yard depth, 14 feet side street yard depth, 5 feet side yard width, 20 feet rear yard depth/width, 17.3% net lot coverage, and a waiver of the fence height and location requirements for a fence in the side yard on a corner lot are requested.

Evidence Presented

1. The property contains 8,905 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, two attached carports, an attached garage, and driveway area. Exhibits ("Exhs.") 2, 4, 10 and 11. The property was improved with a dwelling in 1929. Exh. 10.

2. The property is a building lot consisting of three lots and part of a fourth lot that were subdivided in 1909. Exhs. 2 and 4. The property in its current configuration was created by deed in 1966. Exh. 22.

3. The property is an odd-shaped corner lot with the house facing the legal front street (Heath Street) and driveway access off of the legal side street (Glacier Avenue). Exh. 2. The property is enclosed by chain link fencing, wooden stockade fencing and white vinyl privacy fencing. Exhs. 3(A), (B), (D), (E), (R), (U) through (Z), 5(C).

4. The Department of Permitting, Inspections and Enforcement, Inspections Division, cited Petitioner with Building Violation Notice No. 32803-15-1, dated September 9, 2015, for work done without the required permits and inspections, including but not limited to installation of a fence over 6 feet high, a screened porch, two carports, an addition and a rear paved driveway. Exh. 7.

5. Petitioner would like to obtain a building permit for a 12' x 19.4' one-story addition (Exhs. 2, 3(A) through (C), (N) and (O)), a 21' x 29' one-story addition (Exhs. 2, 3(V) through (AA)), a 6' x 13' enclosed front porch (Exhs. 2, 3(A) and (B), 5(B)), a 6' x 11.2' porch enclosed into living space (Exhs. 2, 3(A) and (B), 5(B)), a 15.5' x 21' screened porch (Exhs. 2, 3(H), (I), (P) and (R)), an 11.8' x 22' attached garage (Exhs. 2, 3(K), (P), (S), (T), (W), (Y) through (AA)), a 12' x 20' attached carport (Exhs. 2, 3(A), (B), (D) through (G) and (Q)), a 17' x 21' attached carport (Exhs. 2, 3(I), (J), (M), (R) and (S)), a 3.3' x 12' covered patio (Exhs. 2, 3(C), (D) and (G)), a driveway extension (Exhs. 2, 3(D), (F), (I) through (M), (Q) and (U)) and a 6-foot privacy fence (Exhs. 2, 3(A), (B), (D), (E), (R), (U) through (Z)). *See* Exhs. 1 and 6 (and matching numbers on Exhs. 1 through 3).

6. A number of variances are necessary to validate existing conditions before obtaining a permit for the referenced structures in order to bring the property into compliance with the requirements of the Zoning Ordinance. Since the enclosed front porch is only 18 feet from the front street line, one carport is only 11 feet from the side street line, a one-story addition is only 3 feet from the side lot line, and a second carport extends to the rear lot line (Exh. 2), variances of 7 feet front yard depth, 14 feet side street yard depth, 5 feet side yard width and 20 feet rear yard depth/width were requested. Exh. 15.

7. Since the allowed amount of net lot coverage (30%) is exceeded by existing development on the property (Exh. 14), a variance of 17.3% net lot coverage was also requested. Exh. 15.

8. Because the property is a corner lot and a 6-foot fence was put up in the side yard abutting the street (Glacier Avenue) (Exh. 2), a waiver of the fence height and location requirements for a fence in the side yard on a corner lot was also requested. Exh. 15.

9. Petitioner testified that his house had insufficient living place for him, a disabled veteran, and his daughter. Exh. 5(A).

10. He stated that in 2013 or 2014 he replaced an old wood fence and silver chain link fence that were falling down with a white vinyl fence and black chain link fence of the same heights in the same locations. He explained that the back yard was fenced in for the safety of his daughter, who plays in the yard. He added that before placing asphalt in the area behind the house it was just dirt and mud and that he paved it so he could park his vehicle in the rear.

11. Petitioner stated that all he wanted was to update the property and make it more suitable for his daughter and himself. He explained that since he is disabled he is at his property 90% of the time.

12. Ernest Brown, a neighbor that lives across the street from Petitioner's property, testified that Petitioner's house was small and he does not object to the development on the subject property. He stated that the fence in question does not constitute a problem because it does not extend to the corner.

#### 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 a corner lot, the unusual shape of the lot, the original dwelling on the property being very small, the need for additional living space, old fencing having been replaced in the same location with fencing of the same height, variances being needed to validate and obtain a building permit for enlargement of the dwelling, driveway area and construction of other structures, fencing around the back yard providing a safe area for a child to play, 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, by majority vote, Board Member Anastasia Johnson abstaining, that variances of 7 feet front yard depth, 14 feet side street yard depth, 5 feet side yard width, 20 feet rear yard depth/width and 17% net lot coverage are requested; and a waiver of the fence height and location requirements for a fence in the side yard on a corner lot in order to validate existing conditions and obtain a building permit for a 12' x 19.4' one-story addition, 21' x 29' one-story addition, 6' x 13' enclosed front porch, 6' x 11.2' porch enclosed into living space, 15.5' x 21' screened porch, 11.8' x 22' attached garage, 12' x 20' attached carport, 17' x 21' attached carport, 3.3' x 12' covered patio, driveway extension and 6-foot privacy fence on the property located at Lots 1 thru 4, Block 68, Greater Capitol Heights Subdivision, being 4801 Heath Street, 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) through (AA).

#### 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.