

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-36-15 Keith Winston

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 10, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on July 27, 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: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting  
City of Mount Rainier

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

Petitioner: Keith Winston

Appeal No.: V-36-15

Subject Property: Lots 22 & 23, Bock 3, Rhode Island Avenue Addition to Mount Rainier Subdivision,  
being 3725 Wells Avenue, Mount Rainier, Prince George's County, Maryland

Municipality: City of Mount Rainier

Witness: Dorothy Murray, adjoining property owner

Heard: May 27, 2015; Decided: June 10, 2015

Board Members Present and Voting: 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 side yard at least 8 feet in 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 to obtain a new building permit to complete the renovation of a two-story frame dwelling and driveway. Variances of 15 feet front yard depth, 2 feet side yard width and 7.7% net lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1905, contains 10,731 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, an attached carport, a detached garage and two driveways. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing dwelling was built in 1917. Exhs. 7 and 8.
2. The property is located within the Gateway Arts District Development Overlay Zone. Exh. 8.
3. The property is unusual in its shape and has an angled front street line because the property is located at a bend in the road. Exhs. 2, 9(A) through (F).
4. Petitioner would like to complete renovation of the existing two-story frame dwelling, as well as remove a large portion of the driveway leading to the detached garage. To validate existing conditions and obtain a new permit for the renovation and driveway removal, variances are needed. Since the covered front porch is located only 5 feet from the front street line, the dwelling is located 6 feet from the side lot line and the allowed amount of net lot coverage is exceeded, variances of 15 feet front yard depth, 2 feet side yard width and 7.7% net lot coverage (taking into account the driveway area to be removed) were requested to validate those existing conditions, respectively. Exhs. 11 and 12.
5. Petitioner testified that the subject property was in "pretty rough shape" when he purchased it 5 years ago. He stated that he did not complete renovations to the house before needing to renew his building

permit, at which time he was informed that he required a site development plan because of his location within the Gateway Arts District. As a result, it was discovered that variances were necessary.

6. Petitioner explained that he intends on using the detached garage for his art and building things. He explained that the property is located within the Gateway Arts District where a lot of artists reside.

7. Petitioner stated that he will keep only the amount of the driveway needed to access the garage and remove the rest, but the total net lot coverage will still exceed the allowable 30% net lot coverage.

8. Dorothy Murray, owner of the adjoining land to the right of Petitioner's property (Lots 24 and 25) (Exhs. 9(A) through (E)), testified that there were automotive parts lying around on the subject property.

9. Petitioner stated that the previous owner may have used the garage as a transmission shop and he will remove an old oil tank that became overgrown in the side yard.

10. The City of Mount Rainier approved the variance request. Exh. 19.

11. The Historic Preservation Section of M-NCPPC commented that the subject property is located within the Mount Rainier National Register Historic District (68-013-00) and that Petitioner's variance request will have no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 16.

#### 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 located at a bend in the road, the property having an irregular front street line, the existing conditions on the property, the property being subdivided in 1905, the dwelling being built in 1917, the poor condition of the dwelling, variances to validate existing conditions needing approval before obtaining the required permit(s) to complete renovation of the dwelling and driveway, a large amount of concrete driveway area being removed, minimal driveway access to the existing garage keeping the amount of total net lot coverage above the maximum allowed, 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, Ms. Mack absent, that variances of 15 feet front yard depth, 2 feet side yard width and 7.7% net lot coverage in order to validate existing conditions to obtain a new building permit to complete the renovation of a two-story frame dwelling and driveway on the property located at Lots 22 & 23, Bock 3, Rhode Island Avenue Addition to Mount Rainier Subdivision, being 3725 Wells Avenue, Mount Rainier, 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)  
Albert C. Scott, Vice Chairman

**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.