

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-4-15 Pedro Reynoso, Jr., et al.

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: February 11, 2015.

CERTIFICATE OF SERVICE

This is to certify that on March 12, 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
DPIE/Inspections Division

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

Petitioners: Pedro Reynoso, Jr., et al.

Appeal No.: V-4-15

Subject Property: Lots 41 & 42, Block 46, Bradbury Heights Subdivision, being 4117 Torque Street, Capitol Heights, Prince George's County, Maryland

Witnesses: Juan Carlos Blanco, occupant of subject property
Kelli Armour, Building Inspector, Department of Permitting, Inspections and Enforcement

Heard and Decided: February 11, 2015

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, Petitioners request that the Board approve variances from Section 27-442(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d) (Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; 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; Section 27-442(e)(Table IV), which prescribes that each corner lot shall have a front yard at least 25 feet in depth and a side yard along the side street at least 15 feet in depth; and Section 27-442(i)(Table VIII), which prescribes that on corner lots accessory buildings shall be set back 60 feet from the front street line, 15 feet from the side street line (along which an abutting lot does not front), 2 feet from the rear lot line and generally be located only in the rear yard. Petitioners propose to validate existing conditions and obtain a permit for two sheds and additional driveway area. Variances of 1,000 square feet net lot area, 10 feet front building line width and 19.7% net lot coverage; 13 feet front yard depth/width and 12 feet side street yard depth/width for the existing dwelling; 14 feet side street line setback for one accessory building; 7 feet front street line setback and 1 foot side lot line setback for a second accessory building; and 12 feet front street line setback, 8 feet side street line setback and a waiver of the rear yard location requirement for a third accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1909, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, three sheds and a driveway. Exhibits ("Exhs.") 2, 4, 8 and 9. The dwelling was built in 1930. Exhs. 8 and 9.
2. The property consists of two 20' x 100' record lots (Lots 41 and 42). Exhs. 2 and 4. The property is a corner lot with the dwelling facing the legal front street (Torque Street) and the driveway accessing the property off the legal side street (Arcadia Avenue). Exh. 2.

3. Petitioners were cited with Building Violation Notice No. 42443-2014 (“Violation Notice”), dated November 13, 2014, issued by the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that the required permit(s) be obtained for installation of two sheds and a fence over 4 feet high or the sheds and fence be removed. Exh. 6.

4. Petitioners would like to obtain a permit for two sheds constructed on the property, but variances are needed to obtain the permit. Since one shed (8' x 16') is located 1 foot from the side street line, a second shed (8' x 12') with a covered patio in front is located 53 feet from the front street line and 1 foot from the side lot line, and a third shed (4.5' x 7') is not in the rear yard and is located 48 feet from the front street line and 7 feet from the side street line, variances of 14 feet side street setback for one accessory building; 7 feet front street line setback and 1 foot side lot line setback for a second accessory building; and 12 feet front street line setback, 8 feet side street line setback and a waiver of the rear yard location requirement for a third accessory building were requested. Exh. 12.

5. Since the allowed amount of net lot coverage was already exceeded by existing development and new construction caused a further overage, a variance of 19.7% net lot coverage was also requested. Exhs. 11 and 12.

6. In addition, certain existing conditions need validation. Since the size of the property, the width of the property at front building line and the location of the dwelling itself do not meet the current requirements, variances of 1,000 square feet net lot area, 10 feet front building line width, 13 feet front yard depth/width and 12 feet side street yard depth/width were requested to validate those existing conditions.

7. Petitioner testified that two sheds, both about the same size, were built in the back. He further stated that the rear access to the basement of the house was enclosed at time of purchase, but not the covered porch above the basement.

8. Juan Carlos Blanco stated one of the sheds is needed for such materials as his tools, table saw, compressors, etc., and the other is needed to store the lawn mower and weed-wacker. He explained that shovels and rakes are stored in the smallest shed next to the rear wall of the house.

9. Mr. Blanco further testified that a retaining wall was built because of the hill in the rear of the property.

10. Mr. Blanco testified that the subject property is composed of two lots while many other properties are made up of three lots. He stated that the house is very small.

11. Inspector Kelli Armour explained that her main concern is the amount of lot coverage utilized on the property and the obtainment of building permits for the added two sheds, each of which is approximately 150 square feet, and the concrete area to the property. Exh. 22; compare Exh. 20 with Exhs. 10(C), (D) and (E). She further explained that the one roof covers both a shed and the patio area next to it which counts towards the allowable lot coverage. Exh. 22 (#2).

12. Mr. Blanco stated that the concrete on the property is where there was already a driveway.

13. Petitioner testified that the small shed attached to the back of the house pre-existed his purchase of the property.

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 dimensions and narrowness of the property, the property being a corner lot, the dwelling being built in 1930, the size of the dwelling, the sloping topography of the property, the need for additional storage area, 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 1,000 square feet net lot area, 10 feet front building line width and 19.7% net lot coverage; 13 feet front yard depth/width and 12 feet side street yard depth/width for the existing dwelling; 14 feet side street line setback for one accessory building; 7 feet front street line setback and 1 foot side lot line setback for a second accessory building; and 12 feet front street line setback, 8 feet side street line setback and a waiver of the rear yard location requirement for a third accessory building in order to validate existing conditions and obtain a permit for two sheds and additional driveway area on the property located at Lots 41 & 42, Block 46, Bradbury Heights Subdivision, being 4117 Torque 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 plan, Exh. 3.

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.