

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-76-13 Steve Jaggernath

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: September 11, 2013.

CERTIFICATE OF SERVICE

This is to certify that on October 23, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

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

Petitioner: Steve Jaggernath

Appeal No.: V-76-13

Subject Property: Lot 6, Block A, Beltsville Terrace Subdivision, being 10705 Montgomery Road,
Beltsville, Prince George's County, Maryland

Witness: Shirley Ellis, neighbor

Heard: August 21, 2013; September 11, 2013

Decided: September 11, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth; Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking; and Section 27-442(i)(Table VIII), which prescribes that on a corner lot accessory buildings shall be set back 10 feet from the rear lot line if not set back 60 feet from the side street line. Petitioner proposes to validate existing conditions, construct two additions on an existing detached garage and extend an existing driveway. Variances of 5 feet front yard depth, 6.8% net lot coverage and 6 feet rear lot line setback 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 1942, contains 11,116 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, detached garage and driveway. Exhibits ("Exhs.") 4, 7, 8 and 22. The existing single-family dwelling was built in 1953. Exhs. 7 and 8.
2. The property is a corner lot, with the dwelling facing the legal front street. Exh. 22.
3. Petitioner would like to construct an 8.5' x 10.5' addition to the left rear corner of the detached garage, a 9' x 38.5' addition to the right side of the garage and an 8' x 15.5' extension to an existing driveway, but variances are needed to obtain a building permit. Since one of the proposed garage additions would be located only 4 feet from the rear lot line, the garage is not set back 60 feet from the side street line and construction of the additions and driveway would cause the allowed amount of net lot coverage to be exceeded, variances of 6 feet rear lot line setback for an accessory building and 6.8% net lot coverage were requested. Exhs. 23 and 24.
4. In addition, a variance is requested to validate the existing condition of the covered front porch because it is located only 20 feet from the front street line, requiring a variance of 5 feet front yard depth. Exh. 24.
5. The square footage of the footprint of the proposed garage is less than the total square footage of living space in the existing house. Exhs. 11 and 22 (with "Detail").

6. Petitioner testified that he needs to enlarge his garage to accommodate four classic cars.

7. Petitioner further testified that the driveway extension is needed to access the proposed garage addition on the right side where the garage door will be located. Exhs. 2 and 3. He explained that the garage extension is proposed for the right side because location of a very old large tree on the left side between the house and the garage precludes construction on that side. Exhs. 9(B) & (E), 20.

8. Shirley Ellis, a neighbor who lives next door on the Worcester Avenue side of the property, supported Petitioner's request.

9. Barbara McGown, an adjoining property owner, did not oppose the request. Exh. 27.

10. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented that the record plat contains a 25-foot building restriction line (BRL) along the lot's frontage of Montgomery Road and Worcester Avenue. The Subdivision Section noted that there are no proposed structures within the recorded BRL. Exh. 18.

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 house facing the legal front street, the accessory garage being accessed from the legal side street, the need for protected off-street parking, the square footage of the footprint of the proposed garage being less than the square footage of living space in the existing house, the location of a large tree between the house and the garage on the left side precluded construction on that side, 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 in the minority, that variances of 5 feet front yard depth, 6.8% net lot coverage and 6 feet rear lot line setback for an accessory building in order to validate existing conditions and construct 8.5' x 10.5' and 9' x 38.5' additions on an existing detached garage and an 8' x 15.5' driveway extension on the property located at Lot 6, Block A, Beltsville Terrace Subdivision, being 10705 Montgomery Road, Beltsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22, and the approved elevation plan, Exhibit 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.