



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-27-23 Bar Properties, LLC

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 13, 2023.

CERTIFICATE OF SERVICE

This is to certify that on February 14, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature of Barbara J Stone in cursive script, positioned above a horizontal line.

Barbara J Stone
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: Bar Properties, LLC

Appeal No.: V-27-23

Subject Property: Lot 14, Block 1, Mount Rainier Subdivision, being 4105 34th Street, Mount Rainier,
Prince George's County, Maryland

Municipality: City of Mount Rainier

Counsel for Petitioner: Traci Scudder, Scudder Law

Witnesses: Terry Myers, Legal Assistant, Scudder Law
Renato Dasilva, Property Owner

Heard: May 24, 2023; Decided: December 13, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson¹
Carl Isler, Vice Chairman
Renee Alston, Member
Board Members Absent: Teia Hill, Member
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 a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

It has been specifically requested by the Petitioner to review under the previous Zoning Ordinance. The specific violation resides in the fact that Zoning Ordinance Section 27-442(e)(Table IV) prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-442(e)(Table IV) prescribes that each lot shall have a side yard at least 8 feet in width. Section 27-442(c)(Table II) prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. The petitioner proposed to obtain a building permit to construct a proposed 16.5' x 26.7' two-story addition and a 12.5' x 26.7' wooden deck. Variances of 5 feet front yard depth, 4 feet side yard width, and 2.7% lot coverage are requested.

Evidence Presented

1. The property was subdivided in 1903 prior to the adoption of the Prince George's County Zoning Ordinance, contains 6,500 square feet, is RSF-65 (Residential, Single-Family - 65) zoned, and is improved with a 1½ story single-family dwelling, driveway, existing garage to be removed and covered front porch. Exhibits (Exhs.) 3, 5, 8, 9, and 10 (A) thru (F).
2. The subject property is rectangular in shape, being 50 feet in width and 130 feet in length. The property is located within the City limits of Mount Rainier. The house was built in 1938. Exhs. 3, 5, 8, 9, and 10 (A) thru (F).
3. Petitioner proposed to obtain a building permit to construct a proposed 16.5' x 26.7' two-story addition and 12.5' x 26.7' wooden deck. Variances of 5 feet front yard depth, 4 feet side yard width, and 2.7% lot coverage are requested. Exhs. 3, 5, 8, 9, and 10 (A) thru (F).
4. Petitioner's Counsel, Traci Scudder, Esq. stated that this property is a single-family house that is situated upon an unusually small lot in Mount Rainier, being built in 1938 and is only a 6,500 square foot lot. Because of the small size of this house, the Petitioner would like to construct a two-story rear addition and a

¹ Board Members Mack, Isler, and Alston present at final vote. Board Members Hill and Johnson were absent on December 13, 2023.

deck to add more suitable living space to the house. Right now, it is an older house, and it has very little closet space, it does not have a master bedroom, very little storage, very small kitchen. This two-story rear addition is to create additional living space for the house and also to modernize the home with some amenities that people expect these days. They would like to convert the existing garage into additional living space for the house as well. Combined with the two-story addition, the addition will give this house a much-needed update. One other thing to mention, again as noted, the lot is very small, and this request would validate existing conditions. This house is in line with the other homes on the street. So, it is in the character of the neighborhood. The rear addition on the left side yard will be in line with the existing house. The only additional variance that is being triggered by the rear yard addition is lot coverage. This house right now is vacant, it's falling into a state of disrepair. It needs the updates both interior and exterior. At this point, it is starting to attract trouble with recent entering by squatters. The police have suggested boarding up the house and doing further security to avoid the issues of squatters. Once the variances are approved the Petitioner can move forward with the update which will be an improvement for the neighborhood. Exhs. 3, 4 (A) thru (D), 6 (A) thru (C) and 16.

5. Renato Dasilva, testified that they are going to demolish the existing garage to give the space for the house. The garage is dilapidated, so it will be removed. This way the lot coverage can be directed to the house. The driveway will remain. Exhs. 3, 4 (A) thru (D), 6 (A) thru (C) and 16.

6. Chair Mack questioned if the house would be a 2-story house. Mr. Dasilva confirmed, yes, the house will be a 2-story house. Exhs. 4 (A) thru (D).

7. Board Member Isler questioned if the house would be demolished or renovated. Mr. Dasilva noted the foundation will remain and the front left and right walls.

8. Board Member Alston questioned what the hardship would be if the variance wasn't granted. Ms. Scudder responded that this house, as you can see is on its way to becoming an eye-sore in the community, and without the variance, the property owner would not be able to move forward. The house would fall into further disrepair. The hardship would be that this property owner would not be able to move forward to improve the property. At this point, the house would sit vacant and is now starting to attract crime. The improvement would allow increasing property value for the neighborhood.

9. Ms. Alston questioned if the property owner would improve the house and then sell it. Or will he be residing on the property? Mr. Dasilva noted that at this moment it is an investment. He plans on renovating it and then put on the market.

10. The City of Mount Rainier (Koroush Kamali, City Manager) has submitted a letter (May 22, 2023) for additional time to review the plans with the homeowner. They have requested a two-month delay. Exh. 17.

11. Tracy Scudder stated that they have contacted Mount Rainer and will be working with them. They have no objection to the delay.

A motion was made by Chair Mack and seconded by Board Member Isler to hold this case open to receive comments from Mount Rainier. Motion carried 4/0/1. (Approve: Mack, Isler, Alston, and Hill; Abstain: Johnson).

On June 28, 2023, this case was heard as a Discussion/Decision item. Legal Representative Traci Scudder, Esq. submitted a letter on June 28, 2023, requesting additional time as they are working with Mount Rainier in redesigning the plans.

A motion was made by Chair Mack and seconded by Board Member Isler to hold the record open to obtain Mount Rainier comments and a possible revised site plan. Motion carried 4/0. (Mack, Isler, Alston, and Hill)

On September 13, 2023, this case was scheduled to be heard as a Discussion/Decision item. It was determined that the comments and revised plans approved by Mount Rainier were not ready to be heard. Therefore, this case has been rescheduled to October 11, 2023.

On October 11, 2023, this case was scheduled to be heard as a Discussion/Decision item. It was again determined that the comments and revised plans by Mount Rainer were not ready to be heard. Therefore, this case has been rescheduled to October 25, 2023.

On October 25, 2023, this case was scheduled to be heard as a Discussion/Decision item. It was determined that Mount Rainier will not meet until November 6, 2023. This case has again been rescheduled until December 13, 2023. A motion was made by Chair Mack and seconded by Board Member Isler to reschedule this case to December 13, 2023. Motion carried 3/0. (Mack, Isler, and Alston.)

On December 13, 2023, this case was heard by the Board. The revised site plan and revised elevation plans approved by Mount Rainer have been submitted.

1. On November 8, 2023, the City of Mount Rainer submitted a letter stating that on November 7, 2023, the Mayor and City Council approved the variances requested. A revised site plan and revised elevations have been submitted. Exhs. 19, 20 (A) thru (D) and 24.

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 house being built in 1938 before the adoption of the Prince George's County Zoning Ordinance and not being a suitable size for a family, the limited square footage of the lot, the need to validate existing conditions, the need to repair and improve on a very small house and in need of addition living area, the need to repair the house being in disrepair which attracts vagrants and crime 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. Further, the City of Mount Rainer opined that the Petitioner's request is within the character of its community.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Johnson and Ms. Hill absent, that variances of 5 feet front yard depth, 4 feet side yard width and 2.7% lot coverage to obtain a building permit to construct a proposed 16.5' x 26.7' two-story addition and 12.5' x 26.7' wooden deck on the property located at 4105 34th Street, Mount Rainier, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 19, and approved revised elevation plans, Exhibits 20 (A) thru (D).

BOARD OF ZONING APPEALS

By: Bobbie S. Mack
Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: Ellis Watson
Ellis Watson (Feb 12, 2024 14:51 EST)
Ellis Watson, Esq.

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.

Rafael Coelho

Approved

Architect will continue
Developing Design

City of Mount Rainier has
approved the design shown.

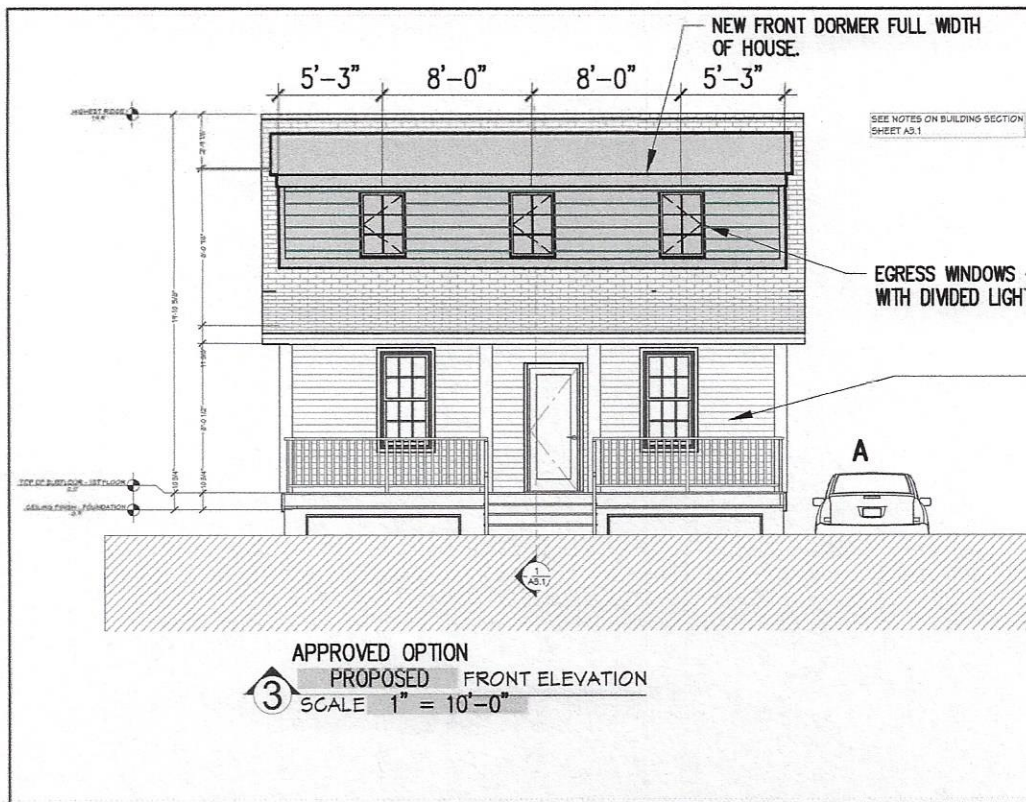


EXHIBIT
20 (A-D)

V-27-23

Douglas Mader, AIA

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Garrett Park, MD 20896-0187
(301) 466-1378, DMaderAIA@aol.com

4105 34th St.

4105 34th Street
Mount Rainier, MD 20712
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Design Development
Front and Rear
Elevations

Job #: 23-16
Drawn by: DDM
Date: 10/26/23

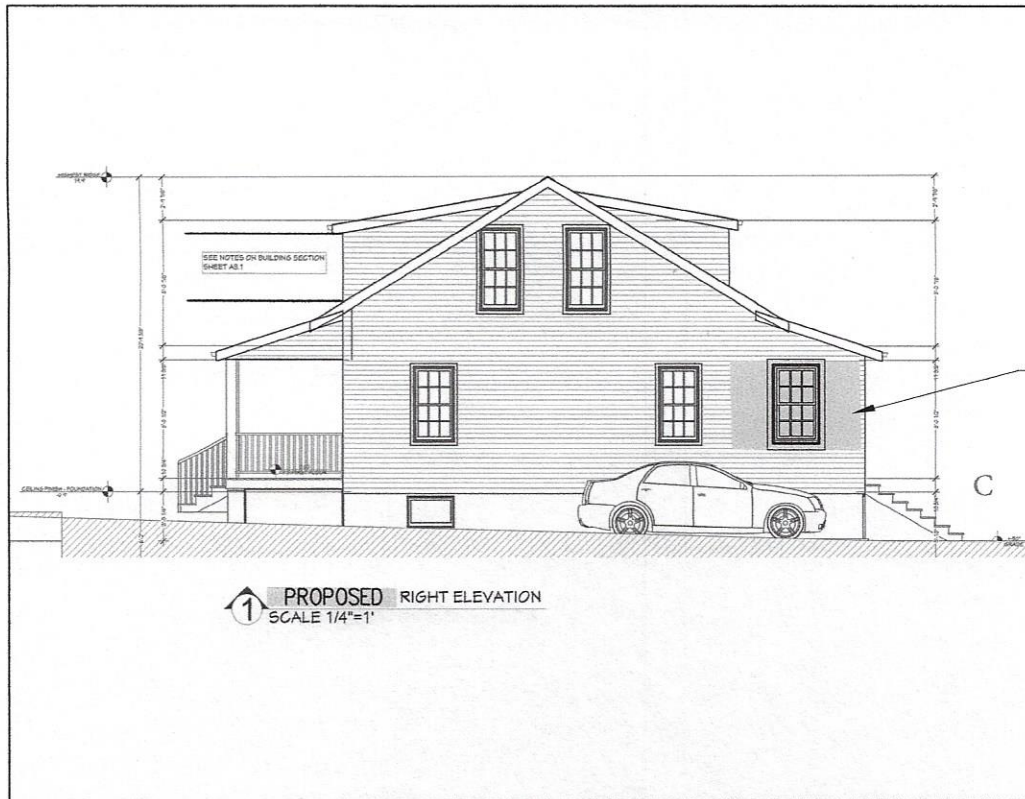
dd4

4 of 5

Approved

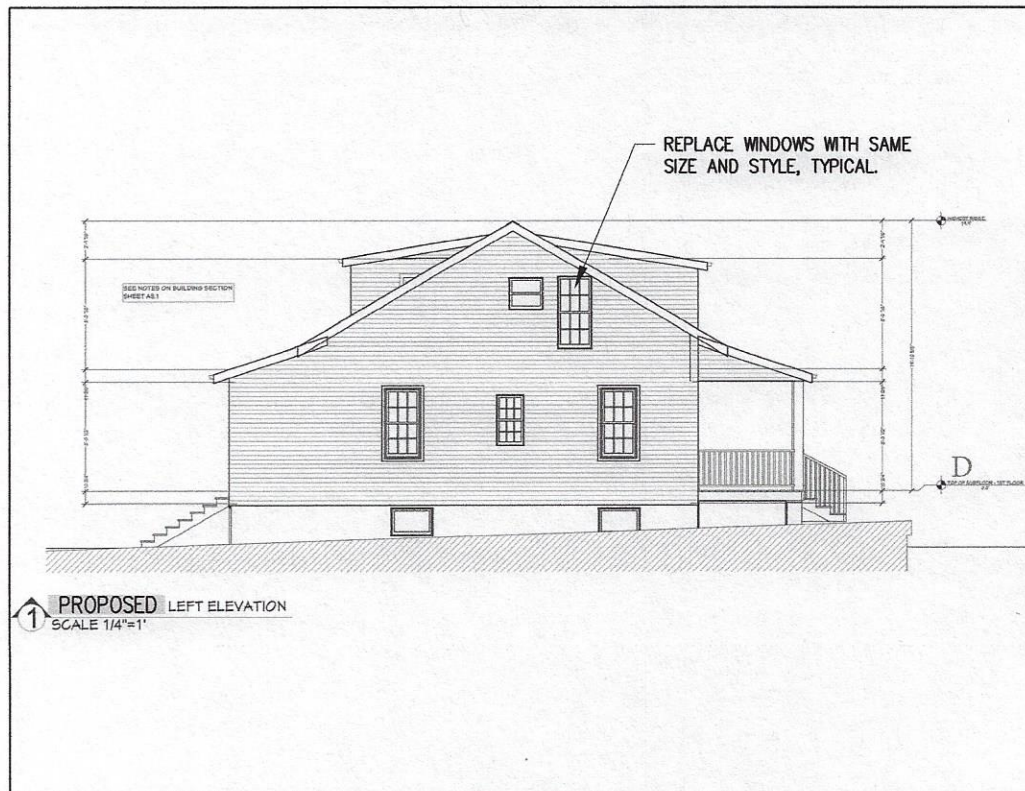
Architect will continue
Developing Design

City of Mount Rainier has
approved the design shown.



PATCH WALL WITH SIDING AND
TRIM TO MATCH ORIGINAL
PAINTED WOOD.

1 PROPOSED RIGHT ELEVATION
SCALE 1/4"=1"



1 PROPOSED LEFT ELEVATION
SCALE 1/4"=1"

BOARD OF APPEALS

APPROVED DEC 13 2023

ADMINISTRATOR

Douglas Mader, AIA

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4105 34th St.

4105 34th Street
Mount Rainier, MD 20712
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Design Development
Side
Elevations

Job #: 23-16
Drawn by: DDM
Date: 10/26/23

dd5

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