



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-45-23 Angela Patricia Calvo

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: November 8, 2023.

CERTIFICATE OF SERVICE

This is to certify that on January 24, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script, reading "Barbara J Stone", is written over 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

Petitioners: Angela Patricia Calvo

Appeal No.: V-45-23

Subject Property: Lots 10 & 11, Block I, Fairmount Heights Subdivision, being 727 61st Avenue, Fairmount Heights, Prince George's County, Maryland

Municipality: Fairmount Heights

Witness: Juan Swann, Inspector, Department of Permitting, Inspections and Enforcement (DPIE)

Heard and Decided: November 8, 2023

Board Members Present and Voting: Bobbie S. Mack, Chair

Renee Alston, Member

Teia Hill, Member

Board Members Absent:

Carl Isler, Acting 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 a variance 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 27-3613 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(e)(2) prescribes that each lot shall have a minimum net lot area of 6,500 square feet, a minimum width of 65 feet measured along the minimum front setback (lot width) and 52 feet measured along the front street line (lot frontage), a maximum lot coverage of 35%, and a minimum front yard depth of 25 feet. Section 27-5202(c)(5) prescribes that unless otherwise provided in Section 27-5203, Standards Specific to Accessory Uses and Structures, accessory uses or structures may be located in a required side yard or rear yard, provided an accessory structure, other than a fence or wall, that is more than ten feet in height is set back from the nearest side or rear lot line one foot for every foot (or fraction thereof) the structure's height exceeds ten feet. Petitioners propose to validate existing conditions and obtain a building permit for the unauthorized construction of a 9.42' x 32.5' two-story cinder block shed. Variances of 250 square feet net lot area, 15 feet lot width, 2 feet lot frontage, 12.5% lot coverage, 7 feet front yard depth, 4.4 feet side lot line setback for an accessory building and 3.8 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 1900, contains 6,250 square feet, is zoned RSF-65 (Residential, Single Family-65) and is improved with a single-family dwelling, concrete driveway, second concrete drive (parking area), 6-foot fence, and two retaining walls. Exhibits (Exhs.) 2, 3, 6, 7 and 8 (A) thru (F).

2. The subject property is rectangular in shape and is otherwise unremarkable. The main structure was constructed in 1958 prior to the adoption of the Prince George's County Zoning Ordinance. Exhs. 2, 3, 6, 7 and 8 (A) thru (F).

3. Petitioners propose to validate existing conditions and obtain a building permit for the unauthorized construction of a 9.42' x 32.5' two-story cinder block shed. Variances of 250 square feet net

lot area, 15 feet lot width, 2 feet lot frontage at front street line, 12.5% lot coverage, and 7 feet front yard depth are requested. Exhs. 2, 3, 6, 7 and 8 (A) thru (F).

4. The Town of Fairmont Heights has provided a letter to the Board supporting the requested variances. Exh. 14

5. Petitioner Angela Patricia Calvo testified that in 2015 she and her husband bought the property that was considered retail space at the time. Her neighbors remembers it being a dry cleaner and a beauty salon. The front of the building had three doors, which explained the retail spaces. The property was abandoned and vacant, so their idea was to renovate it so that it could be their "forever home". In those years, her husband worked to redesign the space to fit their needs. During those years they had a few robberies that involved the theft of tools. The demolition, framing, to include an A-frame roof was done, to include electrical and HVAC systems. In March of 2021, her husband passed away. The renovations that were done by her husband was at least 80% completed. With the help from her family, the work was completed on the interior of the house. In September, final inspections were done, which failed as the exterior was not complete. The cinderblock shed, which had a tarp on the roof to protect her husband's tools, was not complete. Exhs. 2 and 4 (A) thru (I).

6. She continued, stating the Inspectors told her she did not need a permit to complete the shed because it was not shown on the site plan. Needing a secure area for the construction tools, she finished the shed not realizing the height limits; constructing a second floor that now she is aware is too high. The second floor is to store the tools and other items. The bottom floor is for garden supplies. She further explained that her mother lives with her and they both love to garden. She is working on finishing the project with all the required permits necessary. Exhs. 2 and 4 (A) thru (I).

7. Ms. Calvo noted that several years ago they did receive a stop work order. She did not obtain the proper permit for the second story on the shed. A copy of the stop work order was not produced for this hearing.

8. Administrator Stone noted that the elevations submitted show the height to be within the regulations at 13 feet at mid-peak. Ms. Stone further stated that the shed is actually too tall. She did speak with Inspector Swann to request to reduce the height of the shed. He stated that after the variance is approved, she can go back to DPIE and obtain a permit to reduce the height of the shed. Exh. 18.

9. Inspector Swann testified that Ms. Calvo has tried to maintain communication and her original intention was not nefarious and that she wanted to create some additional floor space. The plans she has submitted will require adjustment on what is actually there. But the shed is definitely over 15 feet in height. But she has attempted to stay in contact and abide by the regulations prescribed by DPIE. Other than the fact, in his opinion, is a bit unusual, DPIE has not against her attempting to do the work as long as it is in line with the County regulations. Based in the elevations submitted, it is clear that adjustments need to be made to the existing shed to put her within the legal bounds. The only issue would be the height of the shed. Exhs. 2 and 18.

10. Inspector Swann noted that currently there is a stop work order on the property, so no further construction can move forward until the variances and the permit is issued.

11. Ms. Calvo stated that she does wish to do other work as the driveway needs repair, the fence needs repair, but she cannot do that until this issue is resolved and the stop work order is lifted.

12. Administrator Stone requested the height of the retaining wall on the right side of the property. Ms. Calvo noted that the retaining wall is temporary and will be removed and a French drain will be installed to manage water runoff. The retaining wall on the left side will remain as this wall will keep the dirt from draining. Exh. 2.

13. It was noted for the record that the minor revisions can be made by staff with the permission of the Petitioner. Ms. Calvo agreed for the record that the note to remove the retaining wall on the right side of the property and the correct regulated height of the shed be noted on the site plan. These notes shall be made by BOA staff. Exhibit 19.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

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 27-3613 (d), more specifically:

Due to need to validate existing conditions and bring the unauthorized shed into compliance, in order to release the stop work order to allow the Petitioner to work on lowering the height of the shed 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. Furthermore, Petitioner's property was subdivided, and the house was built prior to the adoption of the Prince George's County Zoning Ordinance that would create additional practical difficulties in applying current code provision to the owner's property. Additionally, the Town of Fairmount Heights properly vetted Petitioner's variance requests, and it will not substantially impair the use and enjoyment of adjacent properties. Lastly, the Board relied upon evidence in the record to support the Petitioner's assertion that the practical difficulty contained herein is not self-inflicted by the owner.

BE IT THEREFORE RESOLVED, by majority vote, Mr. Isler and Ms. Johnson absent, that a Variances of 250 square feet net lot area, 15 feet lot width, 2 feet lot frontage, 12.5% lot coverage, 7 feet front yard depth, 4.4 feet side lot line setback for an accessory building and 3.8 feet rear lot line setback for an accessory building in order to validate existing conditions and obtain a building permit for the unauthorized construction of a 9.42' x 32.5' two-story cinder block shed. on the property located at 727 61st Avenuc, Fairmount Heights, 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 elevation plan, Exhibit 18.

BOARD OF ZONING APPEALS

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

Approved for Legal Sufficiency

By: Ellis Watson
Ellis Watson, Esq.

NOTICE

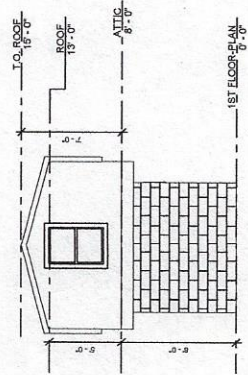
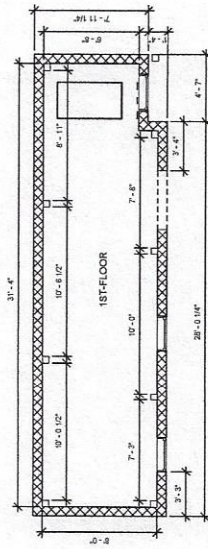
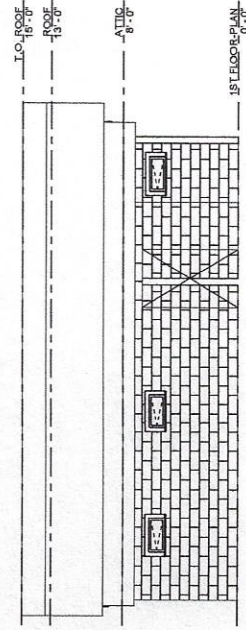
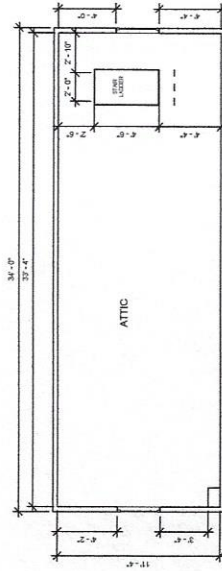
Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-3613 (c)(10)(B) 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.

Signature: Ellis F. Watson
Ellis F. Watson (Jan 23, 2024 15:02 EST)

Email: efwatson@co.pg.md.us



BOARD OF APPEALS

APPROVED
NOV 08 2023

ADMINISTRATOR

CAD TECHNICIAN
KAYMITO, LLC
CAD DRAFTING SERVICES
kaymito57@gmail.com

ARCHITECT

STRUCTURAL ENGINEER

MECHANICAL ENGINEER

ELECTRICAL ENGINEER

ARCHITECT / ENGINEER STAMP

[illegible]

CLIENT / OWNER

PROJECT NAME

PROJECT ADDRESS
727 61ST ST
MD

SHEET NAME
EXISTING- FLOOR- PLANS

PROBATION %	ADULTS
100	100
90	90
80	80
70	70
60	60
50	50
40	40
30	30
20	20
10	10
0	0

DATE	DESCRIPTION	AMOUNT
10/1/20
10/2/20
10/3/20
10/4/20
10/5/20
10/6/20
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10/26/20
10/27/20
10/28/20
10/29/20
10/30/20
10/31/20
TOTAL

PROJECT NO.: R-20-210325

DATE: 06-02-2023

SHEET NO.

A1-01

EXHIBIT
18 (A-B)
V-45-23

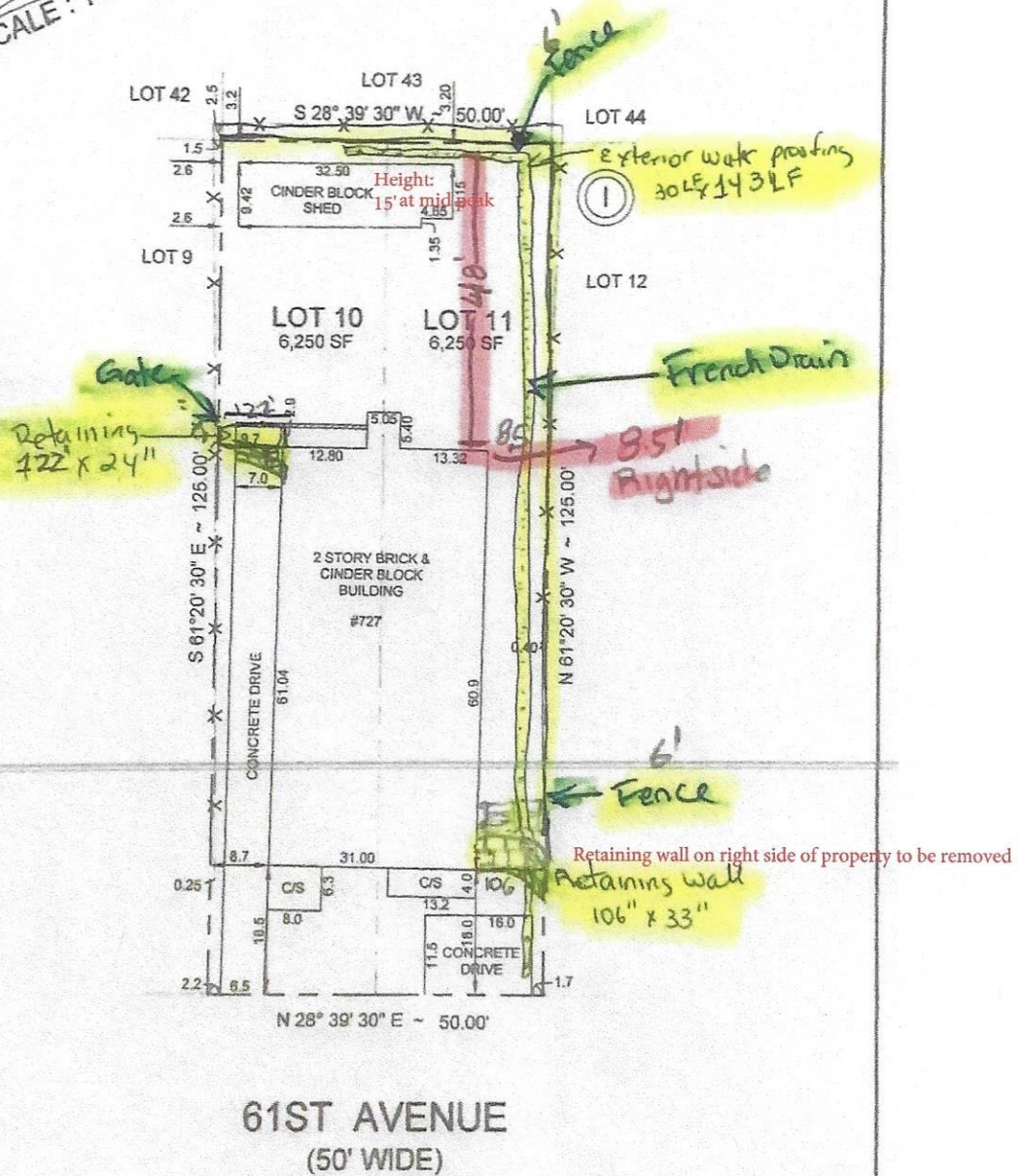
BOARD OF APPEALS

APPROVED NOV 08 2023

[Signature]
ADMINISTRATOR

HOUSE LOCATION LOTS 10 & 11 BLOCK I FAIRMOUNT HEIGHTS 18TH ELECTION DISTRICT PLAT BOOK 1-85 PRINCE GEORGE'S CO., MD

SCALE: 1" = 20'



SURVEYOR'S CERTIFICATES:

I hereby certify that the position of the existing improvements on the above described property has been carefully established by a transit - tape survey and that unless otherwise shown, there are no visible encroachments.

DATE: 24th August 2015 W.L.M.

NOTE: House location surveys do not include setting Iron Pipes on property corners.

NO TITLE REPORT FURNISHED

PLAT SUBJECT TO RESTRICTIONS & EASEMENTS OF RECORD OR OTHERWISE.



The property shown hereon is not within Zone A-Special Flood Hazard Area per F.E.M.A. Flood Insurance Rate Maps

W. L. MEEKINS, INC.

3101 RITCHIE ROAD
FORESTVILLE, MD 20747
TEL: 301-736-6387 / 7115
email: meekins.meekins@verizon.net
web: www.meekins.net

REGISTRATIONS

MD # 10833
DCLS # 900880

EXHIBIT

19

V-45-23