



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-53-23 Raul Cordova

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 7, 2024

CERTIFICATE OF SERVICE

This is to certify that on April 3, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is placed 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

Petitioner: Raul Cordova

Appeal No.: V-53-23

Subject Property: Lots 3, 4, and 5, Block 45, Capitol Heights Subdivision, being 606 Opus Avenue,
Capitol Heights, Prince George's County, Maryland

Municipality: Capitol Heights

Spanish Language Interpreter: Ernesto Luna

Heard: January 10, 2024; Decided: February 7, 2024

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

Carl Isler, Vice Chairman

Renee Alston, Member

Teia Hill, 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 27-3303 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-4202(e)(3) prescribes that each lot shall have a side yard at least 8 feet in width. The Petitioner proposes to validate an existing condition (side yard width) and obtain a building permit for the proposed one-story addition. A variance of 3.5 feet right side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1904, contains 6,000 square feet, is zoned RSF-65 (Residential, Single-Family - 65), and is improved with a single-family dwelling, concrete driveway, and shed. Exhibits (Exhs.) 2, 4, 7, 8, and 9 (A) thru (F).
2. The subject property is irregular in shape, consisting of 5 lots. Exhs. 2 and 4).
3. The petitioner proposes to validate an existing condition (side yard width) and obtain a building permit for the proposed one-story addition. A variance of 3.5 feet right side yard width is requested. Exhs. 2, 4, 7, 8, and 9 (A) thru (F).
4. Mr. Cordova testified that he is requesting permission to construct a storage room that is attached to the house to store items that are not used that often. He noted that there is a small shed that is currently existing that is located in front of the proposed addition. This addition will provide an additional storage area. This area will store items such as tables, chairs, and bags used by his children. Exhs. 2, 3 and 5 (A) thru (E).
5. Administrator Stone questioned if the storage area is accessible from inside the house or if you need to go outside to access the addition. Petitioner Cordova responded that the access will be from the outside only. Exh. 3 (d).
6. Vice Chair Isler questioned whether, with this addition, you will be able to access the shed. Mr. Cordova noted yes. Vice Chair Isler again questioned how that would be possible. Mr. Isler stated that looking at the elevation, he does not see a door. Mr. Cordova responded that there is a door. Administrator Stone advised that if you notice at the top of exhibit 3(d), there is a note that states "new door to the main

house". So, the Petitioner was mistaken when he was questioned regarding accessing the addition from the main house. Exh. 3 (d).

7. Administrator Stone questioned Mr. Cordova if he was planning to use any portion of this addition as living space, for example, a bedroom. Mr. Cordova stated, no, because there will be no lighting, no heating or air conditioning. Exh. 3 (d).

8. Vice Chair Isler questioned how the space could be functional without any lighting, heat, or air for such a large space. Mr. Cordova stated that this will be a storeroom that you would not have access to on a daily basis; you are just going to store items there.

9. Administrator Stone questioned if this space will be used for any type of storage for business purposes? Mr. Cordova responded, not for the time being, he further stated, we do not know about the future.

10. Administrator Stone questions Mr. Cordova as to why he needs such a large addition if it is for storage. Mr. Cordova stated that as time passes, you tend to hoard many items. Administrator Stone responded, would it not be more feasible to build another shed and remove the small shed instead of an addition to your house? Mr. Cordova responded that, for the time being, their intention is to proceed with this addition as large as it is. Maybe further down the road, we would consider removing the small shed.

11. Counsel Ellis Watson requested that the Board go through the criteria for granting a variance.

12. Madam Chair requested Mr. Cordova explain again what type of items will be stored. Mr. Cordova responded that things such as lawnmowers and stuff that you do not use like chairs, tables, and coolers.

13. Administrator Stone requested that the Board Members review the criteria as this sounds more like a matter of convenience rather than a variance.

14. Madam Chair noted that by building this addition for storage, is this a self-inflicted variance? You have too many items to store. Mr. Cordova stated that he has a lot of stuff, but in daily living, you hoard items that you cannot even walk through your own house.

15. Administrator Stone stated that the criterion for a variance specifically states that a parcel of land is physically unique or unusual in a manner different from the nature of the surrounding property. It has not been demonstrated that your lot is significantly different from any other lot in the subdivision. Exhs. 2 and 4.

16. Vice Chair Isler questioned Mr. Cordova: is lot 65 a part of your property? Mr. Cordova stated yes. Exhs. 2 and 4.

17. Board Member Hill questioned how the Petitioner would access the shed. Petitioner stated he would exit through the rear of the house. There are three access points to his house: the front door, the side door, and then the rear door. Exhs. 3(d).

18. Madam Chair read the criteria for the variances by request of Board Member Hill.

19. Madam Chair stated that she is noticing a large number of damp areas of water on the lot and having a large amount of roof area in adding this addition. Is there any way that the addition can be reduced in size? Also, can the shed be incorporated into that addition? Petitioner responded, "No".

20. Madam Chair read on the record the letter provided by the Town of Capitol Heights. The Town did approve the request for a variance, although the lot numbers indicated in the letter are incorrect. Exh. 18.

21. Madam Chair questioned the intent of the water coming off the roof. The Petitioner stated that the water would come down the same channel as the house. Madam Chair questioned the use of gutters. The Petitioner stated yes. Madam Chair stated that gutters are not shown on the site plan or elevations.

22. Vice Chair Isler stated that even though the property may be unique in shape, he still does not have an understanding of how this is impacting the need for additional storage.

23. Mr. Watson stated that the Board is able to weigh the criteria and decide if there is a valid reason for a variance, which is under the ability of the Board. It can be decided today or as a discussion at a later date.

24. Madam Chair noted that she is concerned about the water damage and runoff. It is extremely close to the neighbor's property line.

Madam Chair made a motion to hold the record open for technical assistance. Vice Chair Isler seconded the motion. Motion carried 3/0. (Mack, Isler, and Hill)

On February 7, 2024, the Board heard this case as a Discussion/Decision item.

1. Administrator Stone clarified the outcome of the previous hearing. It was noted that the addition was very large and could only be accessed by the interior of the house and a door to the backyard. The addition was to be used for storage only.

2. Madame Chair noted that her concern was the water coming off the roof and the fact that the addition was so close to the property line.

3. The Vice Chair questioned if the gutters were to be provided. Mr. Hill noted that he did not indicate that gutters were to be installed for the water runoff.

4. Administrator Stone noted from the previous hearing that the Petitioner stated that basically having a place to put in a storage room, the existing shed is small, and he needs more space. He also noted that could be furniture storage. He further noted that there would be no living area as the addition would have no electricity, A/C, or heating.

5. The Town of Capitol Heights did approve the variance. In addition, there were no witnesses present at the previous hearing. Exh. 18.

6. This case was to be brought before the Board on October 25, 2023, although the Petitioner did not pick up his signs for posting. It was rescheduled to January 10, 2024.

7. Board Members Isler and Hill noted that this is an extension to the main house.

8. It was also noted that the Petitioner does have a shed on the side of the house in front of the proposed addition. Exh. 2.

9. Madam Chair and Vice Chair Isler both stated they do not understand why the storage area has to be so large.

10. Administrator Stone reminded the Board that the Petitioner did state that it was only for storage, but in the future, it may be used for something else.

11. Mr. Watson reminded the Board that the letter from the Town is still a recommendation to the Board. A decision contrary to the Town can be made. Exh. 18.

12. Vice Chair Isler noted that he does not believe the Petitioner has met the criteria for a variance.

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 do not comply with the applicable standards set forth in Section 27-3613(d), more specifically:

The Board finds that even though the lot is irregular in shape, with an additional lot (lot 65) on the rear, the Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that no evidence of any extraordinary situation or uniqueness of the lot was presented. The Board also finds that the addition is excessively large and too close to the neighboring property. The Board also found that the request for a variance is self-inflicted. Furthermore, the Board can determine that a variance application is deficient based on one (1) of the six (6) enumerated criteria; it determined that the Petitioner did not meet several elements of the criteria needed to grant a variance.

BE IT THEREFORE RESOLVED, by majority vote, (Mack, Isler, and Hill), that a variance of 3.5 feet right side yard width in order to validate an existing condition (side yard width) and obtain a building permit for the proposed one-story addition on the property located at 606 Opus Avenue, Capitol Heights, Prince George's County, Maryland, be and are hereby DENIED.

BOARD OF ZONING APPEALS

By:

Bobbie P. Mack

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:

Ellis Watson

Ellis Watson (May 2, 2024 13:16 EDT)

Ellis Watson, Esq.

NOTICE

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.