



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-20-23 Jerry and Sabrina Hamilton

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: March 27, 2024.

CERTIFICATE OF SERVICE

This is to certify that on 9/4/2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, which appears 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

Petitioners: Jerry and Sabrina Hamilton

Appeal No.: V-20-23

Subject Property: Lot 13, Block 122, Forest Heights Subdivision being 128 Cree Drive, Oxon Hill,
Prince George's County, Maryland

Heard: December 13, 2023; Decided: March 27, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Carl Isler, Vice Chairman
Renee Alston, Member
Teia Hill, Member

Board Member Absent: Anastasia Johnson

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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(e) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 6500 square feet, minimum width of 65 feet measured along the front building line, a maximum lot coverage of 35%, a minimum front yard depth of 25 feet, a minimum side yard width of 8 feet and a minimum rear yard depth of 20 feet. The Petitioner(s) proposes to validate existing conditions (lot width, front yard depth lot coverage, and driveway in the front yard) and obtain a building permit for the unauthorized construction of a 10.10' x 11.85' shed and a 9.85' x 16.1' shed. Variances of 5 feet lot width, 9.6% lot coverage, 1.55 feet front yard depth, and a waiver of the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1953 before the adoption of the Prince Georges County Zoning Ordinance, contains 7,500 square feet, is zoned RSF-65 (Residential, Single Family-65), and is improved with a single-family dwelling, driveway, detached garage, and two sheds. Exhibits (Exhs.) 2, 3, 6, 7, and 8 (A) thru (F).
2. The subject lot is rectangular in shape and unique compared to the adjacent properties because it contains a 20-foot storm drain right-of-way in the rear yard. Exhs. 2, and 3.
3. Petitioners propose to construct an 8' x 26'3" driveway. Variances of 5 feet lot width, 9.6% lot coverage, 1.55 feet front yard depth, and a waiver of the parking area location requirement are requested. Exhs. 2, and 4 (A) thru (F).
4. Petitioner Sabrina Hamilton confirmed that permits were submitted to the Department of Permitting, Inspections, and Enforcement (DPIE) in May 2023. She continues that they have two unauthorized sheds that have existed for years. The Petitioner, Jerry Hamilton, stated that they purchased the property 29 years ago, and the driveway extension has been there for fifteen years. One shed was built in 2009, and the second shed was constructed around 10 years ago. One shed was destroyed by a tree falling on

it. The shed was replaced with a 10' x 8' shed. A second tree fell, and the second shed was replaced with an addition on the back. Exhs. 2, and 4 (A) thru (F).

5. Petitioner Jerry Hamilton explained that there is a storm drain right-of-way on the property. The Petitioners did get a violation on the second shed due to the shed being located within the storm drain right-of-way. Mr. Hamilton was advised by DPIE that if County work was to be done in the right-of-way, the Petitioner would need to remove the shed. There was a verbal agreement, but no written agreement was executed. Exhs. 2, and 4 (A) thru (F)

Chair Mack made the motioned to Continue case V-20-23 so that staff could obtain information regarding the shed in the right-of-way. A second was made by Vice Chair Isler. Motion carried 3/0. (Mack, Isler, and Alston)

The case was re-heard on January 24, 2024, as a Discussion/ Decision item. Chair Mack motioned to hold the record open as the Stormwater approval for the shed has not been submitted. The motion was seconded by Vice Chair Isler. Motion carried 3/0. (Mack, Isler, and Alston)

The case was re-heard on February 7, 2024, as a Discussion/Decision item. Chair Mack motioned to hold the record open as the Stormwater approval for the shed has not been submitted. The motion was seconded by Vice Chair Isler. Motion carried 3/0. (Mack, Isler, and Alston)

The case was re-heard on February 21, 2024, as a Discussion/Decision item. Vice Chair Isler motioned to hold the record open as Stormwater's approval for the shed has not been submitted. Chair Mack seconded the motion. The motion carried 3/0 (Mack, Isler, and Hill). Ms. Hill reviewed the record before voting.

The case was re-heard on March 27, 2024, as a Discussion/Decision item. The Petitioners had submitted a revised site plan and the agreement with conditions from the Department of Permitting Inspection and Enforcement (DPIE). Exh. 19 and 20.

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 the need to validate existing structures, the location of the shed being in a storm drain right-of-way with a written agreement with DPIE with conditions 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 owners of the property. Furthermore, the peculiar uniqueness of the Petitioners' property containing a storm drain right-of-way easement causes a zoning provision to impact disproportionately upon the property, such that strict application of the applicable zoning provisions would result in peculiar and unusual practical difficulties for the owner. Additionally, the Board determined that this variance is the minimum reasonably necessary to overcome the exceptional physical conditions found on the Petitioners' property. Also, the Board determined that this variance would not substantially impair the use and enjoyment of adjacent properties. Lastly, even though the sheds were considered "unauthorized construction," it was constructed before the current Zoning provisions impacted the allowable net lot area on Petitioners' property. Therefore, the Board determined that the practical difficulty was not self-inflicted by the owner(s) of the property.

BE IT THEREFORE RESOLVED, by majority vote, that variances of 5 feet lot width, 9.6% lot coverage, 1.55 feet front yard depth, and a waiver of the parking area location requirement in order to obtain a building permit for the unauthorized construction of a 10.10' x 11.85' shed and a 9.85' x 16.1' shed on the property located at 128 Cree Drive, Oxon Hill, 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.

BOARD OF ZONING APPEALS

By:



Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:



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.

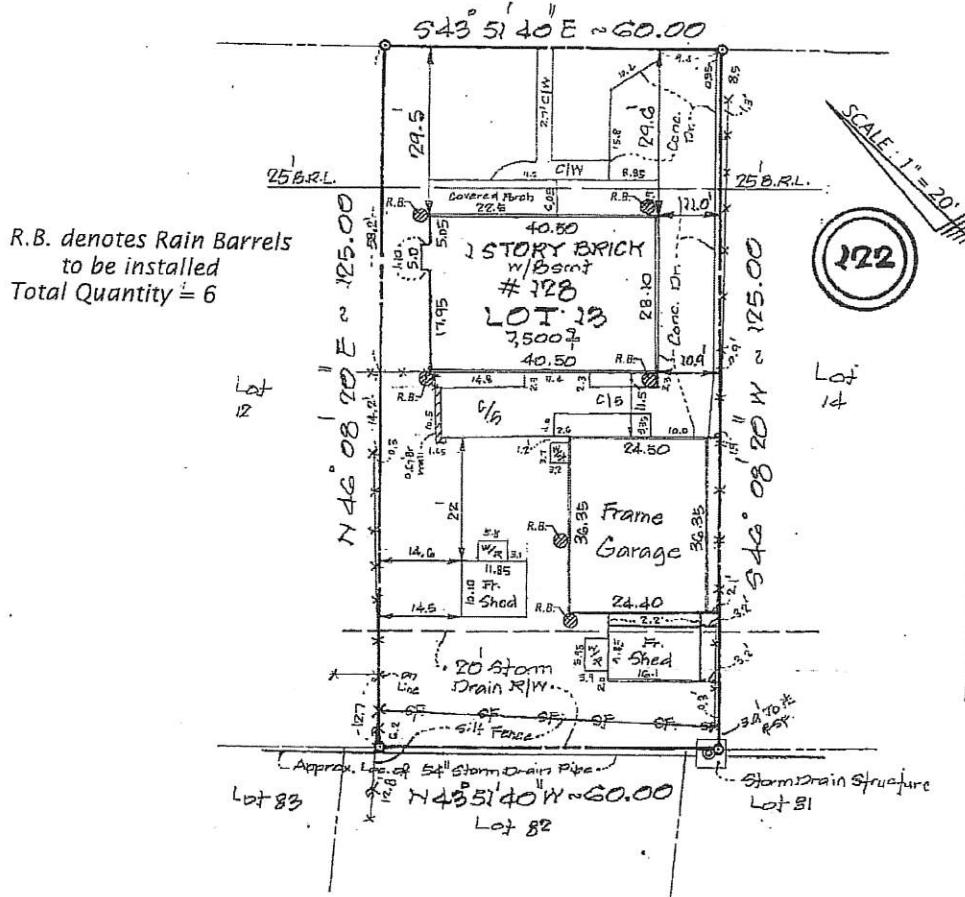
Further, Section 27-3613(c)(10)(B) of the Prince George's County Code states:

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.

LOCATION DRAWING

LOT 13, BLOCK "122", SECTION 14
FOREST HEIGHTS
 PLAT BOOK WWW 22 @ PLAT NO. 79
 12TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MD.

CREE (50'W) DRIVE



LOT COVERAGE CALCULATIONS

Existing Zoning : RSF-65

Lot Coverage allowed = 35% of 7500 SF = 2,625 SF

Exist. Existing House = 1,143 SF

Exist. Frame Garage = 890.6 SF

Exist. Frame Sheds = 278.3 SF

Exist. Conc. Driveway = 860.8 SF

$$\begin{aligned} \text{TOTAL} &= 3,172.7 \text{ SF} \div 7,500 \text{ SF} \\ &= 42.3\% \end{aligned}$$

EXHIBIT

19

V-20-23

SURVEYOR'S CERTIFICATES:

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

This location drawing is not to be relied for establishing boundary lines.

DATE: 4th March, 2024



NOTE: Location drawing does NOT include setting Permanent Survey Markers at property corners.
 NO TITLE REPORT FURNISHED

PLAT SUBJECT TO RESTRICTIONS & EASEMENTS
 OF RECORD OR OTHERWISE.

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REGISTRATIONS

MD # 10833

DCLS # 900860