

NOTICE OF FINAL DECISION

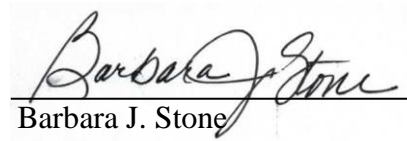
OF BOARD OF APPEALS

RE: Case No. V-85-17 Harry and Bernetha Mack

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: October 11, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on October 31, 2017 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone
Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of District Heights

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

Petitioners: Harry and Bernetha Mack

Appeal No.: V-85-17

Subject Property: Lot 54, Block 19, District Heights Subdivision, being 6630 Kipling Parkway, District Heights, Prince George's County, Maryland

Municipality: City of District Heights

Heard: August 9, 2017; Decided: October 11, 2017

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman

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, Petitioners request that the Board approve variances from Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line, 30 feet from the side street line and generally be located only in the rear yard. Petitioners propose to validate and obtain a building permit for a detached carport in the side street yard. Variances of 15 feet front street line setback, 4 feet side street line setback and a waiver of the rear yard location requirement 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 1952, contains 6,643 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway, detached carport and two sheds. The property is a corner lot with the rear lot line on an angle. The dwelling facing the legal front street. Exhibits (Exhs.) 2, 4, 8 and 10 (A) thru (F).

2. Petitioners would like to obtain a building permit for a 12' x 21' detached carport, which is next to the dwelling and is located 45 feet from the front street line and 23 feet from the side street line. Variances of 15 feet front street line setback, 4 feet side street line setback and a waiver of the rear yard location requirement for an accessory building were requested. Exhs. 2, 3 (a) thru (d) and 10 (A) thru (F).

3. The City of District Heights's Code Enforcement Office issued a notice to Petitioners, dated June 13, 2017, informing them that a building permit was required for the carport. Exh. 6.

4. Petitioner Harry Mack explained that their prefab carport was constructed in February of this year without a permit and is utilized as a covered patio area for family gatherings. He stated that prior to the carport a tent was used but proved unsteady in the wind. Exhs. 2, 3 (a) thru (d).

5. He further testified that he was unable to place the carport behind the house because of the location of an existing shed in the rear yard. Exhs. 2, 3 (a) thru (d).¹

6. Petitioner also stated that the only area the children can play safely away from the street is behind the house. Exhs. 2.

¹ Petitioner stated that the second shed on the driveway was removed. Exh. 2.

7. The City of District Heights supported the request for the variances. Exhs. 20.

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to shape of the corner lot with the rear yard at an angle, the need to give the children a safe play area away from the road 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.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that variances of 15 feet front street line setback, 4 feet side street line setback and a waiver of the rear yard location requirement for an accessory building to validate and obtain a building permit for a 12' x 21' detached carport in the side street yard on the property located at Lot 54, Block 19, District Heights Subdivision, being 6630 Kipling Parkway, District Heights, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) thru (d).

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.