

City of Bowie

2614 Kenhill Drive
Bowie, Maryland 20715

MEMORANDUM

TO: City Council *[Signature]*
FROM: David J. Deutsch, City Manager
SUBJECT: Resolution R-9-08
Bowie Advisory Planning Board Resolution #BV-6-07
15807 Anthony Way
DATE: January 31, 2008

A hearing of the above application by the City Council is scheduled for Monday night. Last week, staff provided Council with a copy of the listing of the contents of the official case file, a transcript of the BAPB's December 11, 2007 meeting, the BAPB resolution and the staff report prepared for this case.

Under the City Code, the hearing in the case is limited to the facts and information already in the record of the BAPB hearing. Only a person who is a party of record in this case can testify before Council. At the conclusion of the hearing, the majority of City Council shall either accept, deny or modify the recommendation of the BAPB, or return the variance application to the Board to take further testimony or reconsider its recommendation. The Council must give its decision in writing, stating the reasons for its action. If the Council denies a variance, no other variance covering the same specific subject on the same property shall be filed within the following 12-month period. The Council decision may also be appealed to the Circuit Court.

The BAPB voted to deny the applicant's request in BV-6-07. The staff recommendation was for denial of the variance. The BAPB's findings and conclusions are reflected in Resolution BV-6-07 (attached). Staff has prepared the attached City Council Resolution affirming the BAPB recommendation (R-9-08). Should the Council choose to act contrary to the BAPB recommendation, another resolution will be prepared and placed on a future Council agenda for action. Pursuant to the City Code, failure of the City Council to act on the recommendation of the BAPB within sixty (60) days of receipt thereof shall result in the denial of the request.

Last day for City Council to Take Action: February 11, 2008.

Attachments

MAYOR G. Frederick Robinson MAYOR PRO TEM Todd M. Turner

COUNCIL: Dennis Brady ♦ James L. Marcos ♦ Diane M. Polangin ♦ Isaac C. Trough ♦ Geraldine Valentino-Smith CITY MANAGER David J. Deutsch
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RESOLUTION
OF THE BOWIE ADVISORY PLANNING BOARD
FOR VARIANCE #BV-6-07
VARIANCE FROM THE REQUIRED
SIDE YARD SETBACK

WHEREAS, the City of Bowie (hereinafter the "City"), pursuant to Ordinance O-24-98 (hereafter the "Ordinance"), is authorized to hear requests for Variances from the terms of the Prince George's County Zoning Ordinance (hereafter the "Zoning Ordinance") with respect to sign design standards, landscaping requirements, parking and loading requirements and building setbacks, and to make recommendations to the Bowie City Council in connection therewith; and,

WHEREAS, the City is authorized by the Ordinance to grant an application for a Variance if the Bowie Advisory Planning Board (hereinafter the "BAPB") makes the following findings pursuant to the Prince George's County Zoning Ordinance:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; and,
- (2) The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and,
- (3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan; and,

WHEREAS, Mr. Thomas L. Stewart, Jr., the Applicant in this case, submitted an application for a Variance from Section 27-442 (e) (Table IV) of the Zoning Ordinance for a 12,955 sq. ft. site known as Lot 3-82, Block L-1, Section One, Plat Three in the Mitchellville East subdivision, and more commonly known as 15807 Anthony Way in the Glen Allen residential community, specifically requesting a Variance from the side yard building setback to allow an encroachment of eight (8) feet into the required minimum 8-foot side yard setback for the purpose of constructing a 364 sq. ft. garage addition (26 ft. by 14 ft.) onto the existing detached single family dwelling on the premises; and,

WHEREAS, the advertisement of the public hearing was published in a local newspaper on November 29, 2007, in accordance with the adopted Ordinance; and,

WHEREAS, the technical staff report recommended **DENIAL**; and,

WHEREAS, on December 11, 2007 the BAPB conducted a public hearing on the merits of the Variance application, at which the BAPB heard testimony and accepted evidence with respect to whether it can make the necessary findings set forth in the Ordinance to grant a Variance; and,

WHEREAS, the recommendation is based on the factual findings set forth in the technical staff report and the evidence presented by the applicant at the hearing; and,

WHEREAS, the BAPB makes the following findings of fact:

1. The applicant is proposing to construct a garage addition in the side yard area of the existing detached single family dwelling unit on a parcel of land consisting of approximately 12,955 sq. ft. located in a residential neighborhood known as Glen Allen.
2. The subject property is known as Lot 3-82, Block L-1 in Section One, Plat Three in the Glen Allen residential development and is more commonly known as 15807 Anthony Way.
3. The subject property is an interior lot, located on a cul-de-sac (Anthony Way).
4. The subject property is zoned R-R (Rural Residential), where the existing single-family use is permitted by right under the Prince George's County Zoning Ordinance.
5. Section 27-442 (c) (Table IV) of the County Zoning Ordinance, sets forth the building setback requirements for detached single family dwelling units, including a minimum side yard setback of eight (8) feet, with a total combined minimum required side yard setback of 17 feet, for detached single-family dwellings in an R-R residential development.
6. There is an existing two (2)-car attached garage located on the subject property.
7. The existing eastern side yard setback for the property is 10.72 feet, and the existing the western side yard setback for the property is 14.19 feet. Given that the eastern side yard setback for the property is 10.72 feet, the western side yard setback for the property must be eight (8) feet to comply with the Zoning Ordinance.
8. Footers for the proposed addition have already been poured, and they extend beyond the property line by 0.50 feet.

WHEREAS, the BAPB makes the following conclusions of law:

1. Exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions do not exist on the subject property. While the parcel is generally rectangular in shape,

it is not a true rectangle. Although there is a slight degree of irregular shape to the subject lot, it does not constitute an "exceptional shape".

The record plat for Anthony Way shows that the subject parcel, identified as Lot 3-82, has no exceptional narrowness, shallowness or shape, and is similar in configuration to most of the other lots on this street.

There are no exceptional topographic conditions on the property; in fact, the lot is fairly flat.

The applicant's Statement of Justification does not adequately address or demonstrate compliance with the conditions required to support the recommendation of approval for a variance.

To grant the variance, the BAPB must find that the subject property has exceptional narrowness, shallowness, or shape, or exceptional topographic conditions exist. As noted above and as stated in the staff report, the subject property does not have exceptional narrowness, shallowness, or shape, or topographic conditions; it is generally rectangular in configuration and is fairly flat. Therefore, the BAPB finds that the lot is not narrow or shallow, nor does it have any exceptional topographic conditions or other extraordinary situation or condition.

2. The strict application of the Zoning Ordinance will not result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The current side yard building setback on the western side of the house, where the garage addition is proposed, is approximately 14 ft. The applicant could extend the width of the existing double car garage by six (6) feet without a variance, and the garage would be the widest garage on Anthony Way. (All other houses on Anthony Way have double car garages.) The applicant could extend half of the back wall of the present garage to expand the structure to accommodate another vehicle, without the need for a variance from the side yard setback requirement. So, there are alternatives to creating additional garage space onto the existing structure without the need for a variance.

The applicant's Statement of Justification does not adequately address or demonstrate compliance with Section 27-230 of the Zoning Ordinance.

The application of the Zoning Ordinance does not deny the property owner of reasonable or significant use of his property, and, accordingly the BAPB finds that the strict application of the Zoning Ordinance to the property would not cause undue hardship or practical difficulty to the property owner.

3. Granting the variance request will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan. The County

General Plan, adopted in October, 2002, offers several Countywide Goals, including "Enhanc(ing the) quality and character of communities and neighborhoods", and places a priority on existing neighborhood integrity.

Goals for the Developing Tier (within which the subject lot is located) of the 2006 Master Plan include:

- "Maintain(ing) low- to moderate-density land uses . . ."; and,
- "Sustain(ing) existing suburban residential neighborhoods."

The Glen Allen community has been designated for low density residential development by the 2006 Master Plan update. The subject property is zoned for residential development, having been placed in the R-R zoning category, and has developed with a permitted residential use (detached single-family dwelling), in accordance with the Master Plan and, as allowed under the County Zoning Ordinance. The variance requested is not for a change in use or developmental density.

The applicant's Statement of Justification does not adequately address or demonstrate compliance with the conditions required to support the recommendation of approval for a variance under Criterion #3.


The granting of the variance in this case will not have an impact on the General Plan and Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Bowie Advisory Planning Board that **Variance #BV-6-07** is **DENIED**. The following members were present and voted as follows:

<u>Name of BAPB Member</u>	<u>Vote</u>	
	<u>In Favor</u>	<u>Opposed</u>
Ronald Skotz, Chairman	_____ (Excused)	_____
Toussaint D. Gaskins, Vice Chairman	_____ ✓	_____
James A. Golato	_____ ✓	_____
Chris Hedman	_____ (Excused)	_____
Raymond Loftin	_____ ✓	_____
Terry Rogers, Jr.	_____ (Absent)	_____
Deidre R. Trass	_____ ✓	_____
Jarnot Troyer	_____ ✓	_____
Scott Willis	_____ (Excused)	_____

So recommended this 11th day of December, 2007.

BOWIE ADVISORY PLANNING BOARD



 Ronald Skotz, Chairman
 Toussaint D. Gaskins
 Vice - Chairman

RESOLUTION
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND
ADOPTING THE RECOMMENDATION OF THE BOWIE
ADVISORY PLANNING BOARD IN THE CASE OF BV-6-07

WHEREAS, the City of Bowie (hereinafter the "City"), pursuant to Ordinance O-24-98 (hereafter the "Ordinance"), is authorized to hear requests for Variances from the terms of the Prince George's County Zoning Ordinance (hereafter the "Zoning Ordinance") with respect to building setbacks, height, lot coverage and so forth, and to make recommendations to the Bowie City Council in connection therewith; and,

WHEREAS, the City is authorized by the Ordinance to grant an application for a Variance if the Bowie Advisory Planning Board (hereinafter the "BAPB") makes the following findings pursuant to Section 27-230 of the Zoning Ordinance:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions; and,
- (2) The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and,
- (3) The variance will not substantially impair the intent, purpose, or integrity of the General or Master Plan.

WHEREAS, the City Council is authorized by the Ordinance to accept or deny the recommendation of the BAPB with respect to departures and variances; and,

WHEREAS, on or about November 8, 2007, Mr. Thomas L. Stewart, Sr., the Applicant in this case, submitted an application for a Variance from Section 27-442 (e) (Table IV) of the Zoning Ordinance for a 12,955 sq. ft. site known as Lot 3-82, Block L-1, Section One, Plat Three in the Mitchellville East subdivision, and more commonly known as 15807 Anthony Way in the Glen Allen residential community, specifically requesting a Variance of from the side yard building setback for the purpose of constructing a 364 sq. ft. garage addition (26 ft. by 14 ft.) onto the existing detached single-family dwelling on the premises and,

WHEREAS, the advertisement of the public hearing was printed in the local newspaper on November 29, 2007 in accordance with the adopted Ordinance; and,

WHEREAS, the technical staff report recommended **DENIAL** of the variance request; and,

WHEREAS, on December 11, 2006 the BAPB heard testimony and accepted evidence with respect to whether it can make the necessary findings set forth in the Ordinance to grant a Variance; and,

WHEREAS, at the conclusion of the public hearing on December 11, 2007, the BAPB voted unanimously to **DENY** Variance BV-6-07, transmitting their recommendation in Resolution BV-6-07 on December 13, 2007; and,

WHEREAS, pursuant to the City Code, within 15 days of the Board's decision, persons of record may file an appeal or a City Councilmember may request oral argument if the BAPB's recommendation fails to comply with the criteria for approval; and,

WHEREAS, the Applicant filed an appeal within the 15 day appeal; and,

WHEREAS, on February 4, 2008, the Council heard testimony from the Applicant appealing the case and considered the contents of the case file including the case file transcript; and,

WHEREAS, the City Council accepts the following findings of fact recommended by the BAPB, specifically as follows:

1. The Applicant is proposing to construct a garage addition in the side yard area of the existing detached single family dwelling unit on a parcel of land consisting of approximately 12,955 sq. ft. located in a residential neighborhood known as Glen Allen.
2. The subject property is known as Lot 3-82, Block L-1 in Section One, Plat Three in the Glen Allen residential development and is more commonly known as 15807 Anthony Way.
3. The subject property is an interior lot, located on a cul-de-sac (Anthony Way).
4. The subject property is zoned R-R (Rural Residential), where the existing single-family use is permitted by right under the Prince George's County Zoning Ordinance.
5. Section 27-442 (e) (Table IV) of the County Zoning Ordinance, sets forth the building setback requirements for detached single family dwelling units, including a minimum side yard setback of eight (8) feet, with a total combined minimum required side yard setback of 17 feet, for detached single-family dwellings in an R-R residential development.
6. There is an existing two (2)-car attached garage located on the subject property.

7. The existing eastern side yard setback for the property is 10.72 feet, and the existing the western side yard setback for the property is 14.19 feet. Given that the eastern side yard setback for the property is 10.72 feet, the western side yard setback for the property must be eight (8) feet to comply with the Zoning Ordinance.
8. Footers for the proposed addition have already been poured, and they extend beyond the property line by 0.50 feet.

WHEREAS, the City Council accepts the following conclusions of law recommended by the BAPB, specifically as follows:

1. Exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions do not exist on the subject property. While the parcel is generally rectangular in shape, it is not a true rectangle. Although there is a slight degree of irregular shape to the subject lot, it does not constitute an "exceptional shape".

The record plat for Anthony Way shows that the subject parcel, identified as Lot 3-82, has no exceptional narrowness, shallowness or shape, and is similar in configuration to most of the other lots on this street.

There are no exceptional topographic conditions on the property; in fact, the lot is fairly flat.

The applicant's Statement of Justification does not adequately address or demonstrate compliance with the conditions required to support the recommendation of approval for a variance.

To grant the variance, the City Council must find that the subject property has exceptional narrowness, shallowness, or shape, or exceptional topographic conditions exist. As noted above and as stated in the staff report, the subject property does not have exceptional narrowness, shallowness, or shape, or topographic conditions; it is generally rectangular in configuration and is fairly flat. Therefore, the City Council finds that the lot is not narrow or shallow, nor does it have any exceptional topographic conditions or other extraordinary situation or condition.

2. The strict application of the Zoning Ordinance will not result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property. The current side yard building setback on the western side of the house, where the garage addition is proposed, is approximately 14 ft. The Applicant could extend the width of the existing double car garage by six (6) feet without a variance, and the garage would be the widest garage on

Anthony Way. (All other houses on Anthony Way have double car garages.) The Applicant could extend half of the back wall of the present garage to expand the structure to accommodate another vehicle, without the need for a variance from the side yard setback requirement. So, there are alternatives to creating additional garage space onto the existing structure without the need for a variance.

The applicant's Statement of Justification does not adequately address or demonstrate compliance with Section 27-230 of the Zoning Ordinance.

The application of the Zoning Ordinance does not deny the property owner of reasonable or significant use of his property, and, accordingly the City Council finds that the strict application of the Zoning Ordinance to the property would not cause undue hardship or practical difficulty to the property owner.

3. Granting the variance request will not substantially impair the intent, purpose or integrity of the General Plan or Master Plan. The County General Plan, adopted in October, 2002, offers several Countywide Goals, including "Enhanc(ing the) quality and character of communities and neighborhoods", and places a priority on existing neighborhood integrity.

Goals for the Developing Tier (within which the subject lot is located) of the 2006 Master Plan include:

- "Maintain(ing) low- to moderate-density land uses . . ."; and,
- "Sustain(ing) existing suburban residential neighborhoods."

The Glen Allen community has been designated for low density residential development by the 2006 Master Plan update. The subject property is zoned for residential development, having been placed in the R-R zoning category, and has developed with a permitted residential use (detached single-family dwelling), in accordance with the Master Plan and, as allowed under the County Zoning Ordinance. The variance requested is not for a change in use or developmental density.

The Applicant's Statement of Justification does not adequately address or demonstrate compliance with the conditions required to support the recommendation of approval for a variance under Criterion #3.

The granting of the variance in this case will not have an impact on the General Plan and Master Plan.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Bowie hereby accepts the findings, conclusions and recommendations of the BAPB as to the Variance Application and adopts Resolution R-9-08 for BV-6-07 to **DENY** a variance of eight (8) feet from the minimum required side yard setback of eight (8) feet, in order to construct a 364 sq. ft. garage addition.

INTRODUCED AND PASSED on this Fourth day of February, 2008, by the City Council of the City of Bowie.

G. Frederick Robinson
Mayor

Pamela A. Fleming
City Clerk