



City of Bowie

15901 Excalibur Road
Bowie, Maryland 20716

MEMORANDUM

TO: City Council

FROM: Alfred D. Lott, ICMA-CM, CPM
City Manager

SUBJECT: Resolution R-22-20
BV-2-20
13010 6th Street

DATE: April 2, 2020

Attached please find a copy of Resolution R-22-20 for BV-2-20 approving an “after the fact” Variance of seven feet from the minimum 25 foot front yard setback prescribed by Section 27-442 (c)(Table IV) of the Prince George’s County Zoning Ordinance to validate enclosure of an open porch, 18 feet from the front property line at 13010 6th Street. Council is authorized to adopt this Resolution via the adopted variance and departure procedures granted to the City. The Bowie Advisory Planning Board (BAPB) approved the above case on January 28, 2020 in opposition to the staff recommendation, and adopted their findings in Resolution #BV-2-20.

The attached resolution reflects BAPB's findings and recommendation and is eligible for final action by Council.

Recommendation

It is recommended that Council approve the attached Resolution (R-22-20).

Attachment

RESOLUTION
OF THE COUNCIL OF THE CITY OF BOWIE, MARYLAND
APPROVING VARIANCE APPLICATION BV-2-20, A REQUEST BY
JEFFERSON HERNANDEZ FOR APPROVAL “AFTER THE FACT” OF A
VARIANCE OF SEVEN FEET FROM THE MINIMUM 25 FOOT FRONT
YARD SETBACK PRESCRIBED BY SECTION 27-442 (C)(TABLE IV) OF
THE PRINCE GEORGE’S COUNTY ZONING ORDINANCE,
TO VALIDATE ENCLOSURE OF AN OPEN PORCH,
18 FEET FROM THE FRONT PROPERTY LINE
AT 13010 6TH STREET

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 January 3, 2020 Mr. Jefferson Hernandez (the “Applicant”) of 13010 6th Street (the “Subject Property”) in the Huntington section of the City submitted an application for approval of an “after the fact” Variance of seven feet from the minimum 25 foot front yard setback prescribed by Section 27-442 (c) (Table IV) of the Prince George’s County Zoning Ordinance to validate enclosure of an open porch, 18 feet from the front property line. Section 27-422 (c) allows open porches to extend beyond the front building line up to nine feet; and,

WHEREAS, the Subject Property was posted with a public hearing advertisement on January 13, 2020 in accordance with the adopted Ordinance; and,

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

WHEREAS, on January 28, 2020, 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 Board voted to recommend **APPROVAL** of the Variance, and the BAPB's recommendation was based on the findings and analysis found in the technical staff report and testimony provided during the hearing; and,

WHEREAS, pursuant to the City Code, within 15 days of the BAPB'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, there were no persons of record participating in the case and no member of the City Council requested oral argument regarding the BAPB's decision; and,

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

1. The Subject Property is located within the Huntington section of the City (Old Town Bowie), is zoned R-55 (One Family Detached Residential) and contains 5,000 square feet.
2. The Subject Property is currently improved with a single-family detached dwelling and driveway.
3. Section 27-442 (c) (Table IV) of the Prince George's County Zoning Ordinance establishes a 25 foot front yard setback for properties in the R-55 Zone.
4. Section 27-422 (c) allows open porches to extend beyond the front building line up to nine feet.
5. The Applicant enclosed the front porch without obtaining a building permit. When the new construction was observed by City Code Compliance staff on November 7, 2019, the Applicant was instructed to obtain a building permit. When the Applicant contacted the County, he was advised that a building permit could not be issued without a zoning Variance, because enclosing the

existing porch invalidated the exception allowed under Section 27-422 (c) that permits extensions beyond the front building line.

6. The Applicant is requesting approval of an “after the fact” Variance of seven feet from the minimum 25 foot front yard setback to validate enclosure of an open porch, 18 feet from the front property line.
7. The City sent notice of the Variance request to five adjacent residents/property owners. On January 13, 2020, staff received a telephone call from a resident regarding BV-2-20. The resident said he supported the applicant’s efforts because the property was previously in a state of disrepair when the applicant acquired it, and he has cleaned it up and made improvements which reflect well on the neighborhood.
8. The alignment of roadway within the 6th Street right-of-way is not centered within the right-of-way. The roadway is closer to the houses at the eastern end of the street compared to where it is in front of the subject property. The Applicant’s house is about 26-27 feet from property line to the edge of the pavement of 6th Street, not counting the setback to the house. Lot lines located further east on 6th Street have a shorter setback to the roadway paving, although those houses meet the required front yard setback. The actual setback of these buildings to pavement can vary between 36 and 40 feet. The front yard setback of the Subject Property is compatible with front yard setbacks of other dwellings, from the pavement, in this block of 6th Street.
9. The front door of the adjacent house, located at 13012 6th Street, is set back almost the entire length of the Applicant’s house.
10. The Applicant only recently moved to Bowie. When the Applicant asked around the neighborhood he was told that, since the porch already exists, he didn’t need a building permit to enclose the porch.
11. The footprint of the house was not increased.

WHEREAS, the City Council hereby makes the following conclusions of law:

1. The specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions. The City Council finds that the Subject Property has an extraordinary situation and condition. The alignment of roadway within the 6th Street right-of-way is not centered within the right-of-way. The roadway is closer to the houses at the eastern end of the street compared to where it is in front of the Subject Property. The Applicant’s house is about 26-27 feet from property line to the edge of the pavement

of 6th Street, not counting the setback to the house. Lot lines located further east on 6th Street have a shorter setback to the roadway paving, although those houses meet the required front yard setback. The actual setback of these buildings to pavement can vary between 36 and 40 feet. The front yard setback of the Subject Property is compatible with front yard setbacks of other dwellings, from the pavement, in this block of 6th Street. The Applicant's house sits further up on the lot than other houses on the block and is not set back like his neighbors. If that were true, when the Applicant enclosed the porch he would have been able to meet the setback. The City Council therefore concludes that the parcel of land has an extraordinary situation and condition and that this criterion is met.

2. The strict application of the Zoning Ordinance will result in a peculiar and unusual practical difficulty to the property owner. The Applicant's house appears to sit further forward on the property than other houses on the block. Those houses have a little more front yard. One could argue that the Applicant could add on to the back of the house, because there is room, but the City Council believes the Applicant has a practical difficulty because he can't add on to the front of the structure due to the house being located further up on the lot than other lots in this block of 6th Street. The City Council concludes that there is a practical difficulty and the Applicant's house has less front yard space than the other houses. Furthermore, the City Council believes something happened when the Applicant moved in and he was not properly advised, perhaps by the real estate agent, of the requirement for a building permit to enclose the porch. The Applicant should have been made aware that, in order to enclose the porch, he had to have a permit. The Applicant wants to create some space for his family and has improved the Subject Property. The Applicant is trying to add livable space to his property, and it is easier to enclose the existing porch rather than constructing a foundation and adding on. Furthermore, if the Applicant is going to add to his property, enclosing the existing porch would be more cost effective. The City Council concludes it would not be fair for the Applicant to have to completely tear down the structure. Therefore, the City Council finds the strict application of the Zoning Ordinance will result in a peculiar and unusual practical difficulty to the property owner and concludes that this criterion is met.
3. The Variance will not substantially impair the intent, purpose or integrity of the County General Plan or Master Plan. With regard to the Master Plan criterion, the City Council noted that the Plan's goal is that existing suburban neighborhoods are to be maintained, and one of the policies is to protect, maintain and enhance features, such as architectural features. The City Council believes that has been done in this case.

The Subject Property is located within a Residential, Low Density land use area within the Developing Tier as designated in the 2006 Approved Bowie and Vicinity Master Plan. A stated Goal for the Developing Tier in both the General Plan and Area Master

Plan is to sustain or reinforce existing suburban residential neighborhoods. Master Plan Policy 3 for the Developing Tier states:

Policy 3. Protect, maintain and enhance the unique historical, cultural, and architectural identity, heritage and character of the City of Bowie.

Strategy 3 under this policy states the following:

3. Encourage the compatibility of infill residential development...Consideration should be given to similarity in density, style, size, material and design to the surrounding residential neighborhoods.

The City Council concludes that approval of the Variance request to allow a building addition to be located seven feet within the minimum 25 foot front yard setback will not be harmful to the character of the surrounding residential neighborhood. The City Council finds that the structure was already in place, as shown in Applicant's Exhibit 1, and the Applicant just enclosed it. Therefore, the footprint of the house was not increased because the space was already there and was simply enclosed. The City Council finds the granting of a Variance to enclose the front porch will not be a detriment to the neighborhood, and approval of the Variance will not impair the Master Plan but will enhance the neighborhood. Therefore, this criterion is met.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Bowie, Maryland that the above "Whereas" clauses are hereby incorporated as operative provisions of this Resolution.

BE IT FURTHER RESOLVED that the Council of the City of Bowie, Maryland hereby adopts Resolution R-22-20, approving an "after the fact" Variance of seven feet from the minimum 25 foot front yard setback prescribed by Section 27-442 (c) (Table IV) of the Prince George's County Zoning Ordinance to validate enclosure of an open porch, 18 feet from the front property line, at 13010 6th Street.

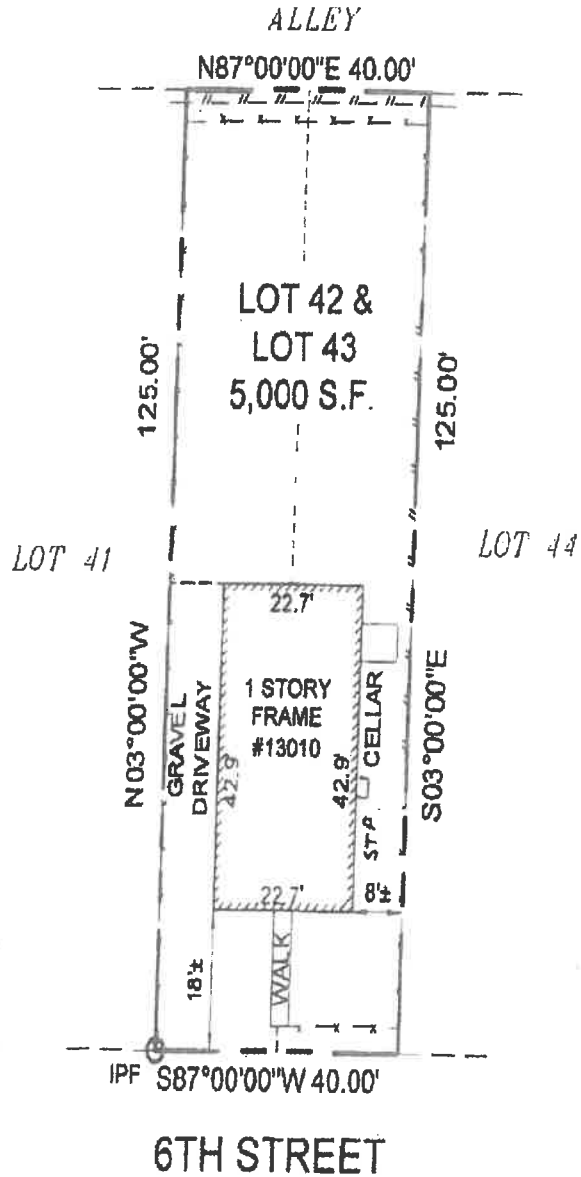
INTRODUCED AND PASSED by the Council of the City of Bowie, Maryland at a meeting on April 6, 2020.

ATTEST:

THE CITY OF BOWIE, MARYLAND

Awilda Hernandez
City Clerk

Timothy J. Adams
Mayor



APPROVED

[Handwritten signature]

Bowie Advisory Planning Board

Resolution # BV-2-20

Date: March 10, 2020

NOTES:

1. THIS IMPROVEMENT LOCATION DRAWING:
 - A. IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING;
 - B. IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS; AND
 - C. DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.
2. THE LEVEL OF ACCURACY OF APPARENT SETBACK DISTANCES IS ONE FOOT, MORE OR LESS.
3. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
4. SUBJECT TO ALL EASEMENTS ON RECORD.
5. A BOUNDARY SURVEY IS RECOMMENDED TO ACCURATELY LOCATE BOUNDARY LINES, HOUSE AND IMPROVEMENTS ON PROPERTY.

DRAW

FILE: #13010.

I HEREBY CERTIFY THAT IMPROVEMENTS ARE LOCATED AS SHOWN HEREON AND TO THE BEST OF MY INFORMATION, PROFESSIONAL KNOWLEDGE AND BELIEF, THERE ARE NO ENCROACHMENTS AND BELIEF, THERE ARE NO ENCROACHMENTS AS SHOWN.

STATE OF MARYLAND
 JERRY BEYER
[Handwritten signature]

LOCATION DRAWING
 LOT 42 & LOT 43: BLOCK 14
 HUNTINGTON CITY
 PLAT: A @ 133
 PRINCE GEORGE'S COUNTY, MARYLAND
 SCALE: 1" = 30' DATE: 11/20/19