

RESOLUTION NO. R-10-2018

A RESOLUTION OF THE COUNCIL OF THE TOWN OF KENSINGTON TO GRANT A 1.7 FOOT SIDE-YARD SET BACK VARIANCE FOR 3500 DUPONT AVENUE

WHEREAS, an application for a 1.7 foot side yard variance has been filed by Stanka Radeva and Yanev Assen, ("Applicants), for certain real property located at 3500 Dupont Avenue ("the Property"); and

WHEREAS, the purpose of the variance is to allow the reconstruction of a house on the existing single-family foundation, which would encroach 1.7 feet into the ten foot side-yard setback requirement of Section 5-104(a) of the Town Code; and

WHEREAS, the Town Council may grant a petition for a variance upon proof by a preponderance of the evidence that:

(1) There are specific situations or conditions that are peculiar to the property that makes it unique from neighboring properties, including, but not limited to:

- i) shape (narrowness/shalowness);
- (ii) topography;
- (iii) historic significance;
- (iv) environmental features; or

The conditions must result from the application of building or zoning standards and not from the action, inaction or the personal circumstances of the property owner or the owner's predecessor(s);

(2) The requested variance is the minimum necessary to overcome the unique condition of the property; and

(3) The requested variance is not detrimental to neighboring properties or the community as a whole.

WHEREAS, the Mayor and Council, conducted a public hearing on the variance request on May 14, 2018, at a public meeting, after due notice to the public and to the adjacent neighbors, and received testimony on the requested variance. The Council closed the record following the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Kensington, based on the testimony presented at the hearing on May 14, 2018, and evidence submitted, adopts following findings of fact and conclusions of law:

Findings of Fact:

1. Stanka Radeva and Yanev Assen ("Applicants"), are the owners of 3500 Dupont Avenue in Kensington, Maryland, which is zoned single family residential ("Property").

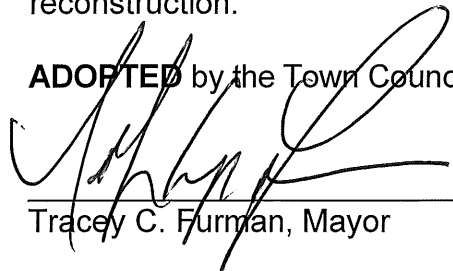
2. The Property is located on a corner lot at the intersection of St. Paul Street and Dupont Avenue. The lot is oddly shaped.
3. The original dwelling was razed following the issuance of a County and Town permit to Applicants on August 10, 2017. The foundation is still in place.
4. The original dwelling dates to at least 1963 and the location of the house was set back as far as possible from the intersection while still compliant with County yard setbacks.
5. The Town's requirement for 10-foot side yard setbacks, which exceeds the County's, was adopted well after this house was constructed.
6. The Applicants wish to rebuild the single-family home in the same foot print with the same foundation that has been retained.
7. The original footprint encroaches 1.7 feet into the Town's 10 foot side yard setback, for a total of 6.63 square feet, a relatively *de minimis* amount.
8. The rebuilt dwelling would be located no closer to the surrounding properties than the original structure.

Conclusions of Law:

1. The shape of the lot, and the location of the dwelling on the lot, are specific situations or conditions that are peculiar to the property and justify the variance. The requested variance is relatively *de minimis*.
2. The requested variance is the minimum necessary to overcome the unique condition of the Property for the addition to be a symmetrical rectangular shape and to adhere to the existing foundation.
3. The requested variance is not detrimental to neighboring properties or the community as a whole. The construction is consistent with the neighborhood. The dwelling will be no closer to the property lines than in the past.

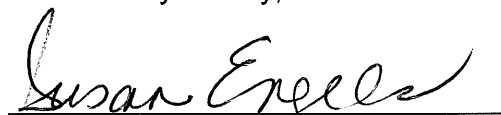
BE IT FURTHER RESOLVED THAT the 1.7 foot encroachment into the ten foot side-yard setback requirement for the purpose of reconstructing house at 3500 Dupont Avenue be and it is hereby granted provided the original foundation of the former house is fully used in the reconstruction.

ADOPTED by the Town Council of the Town of Kensington this 14^h day of May, 2018.



Tracey C. Furman, Mayor

This to certify that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the 14th day of May, 2018.



Susan Engels, Clerk-Treasurer