

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-38-14 Elizabeth Van Nort Revocable Trust

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: June 18, 2014.

CERTIFICATE OF SERVICE

This is to certify that on June 26, 2014, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
City of Mount Rainier

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

Petitioner: Elizabeth Van Nort Revocable Trust

Appeal No.: V-38-14

Subject Property: Lot 9, Block 5, Rogers Addition to Mount Rainier Subdivision, being 4218 30th Street,
Mount Rainier, Prince George's County, Maryland

Municipality: City of Mount Rainier

Witness: Joel Kelty, Century Associates

Heard: June 4, 2014; Decided: June 18, 2014

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

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 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 7 feet in width. Petitioner proposes to construct a second-floor addition. A variance of 2.73 feet side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1904, contains 7,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1910. Exhs. 8 and 9.

2. The property is a long and narrow lot, being 50 feet wide and 150 feet deep. Exh. 2.

3. Petitioner would like to construct a 21' x 25.5' second-floor addition over the rear portion of the existing dwelling, but a variance is needed to obtain a building permit. Since the addition would be located 4.27 feet from the side lot line, a variance of 2.73 feet side yard width was requested. Exh. 12.

4. Joel Kelty, Petitioner's architect, explained that the proposed addition would have two bedrooms and a bathroom, adding living space necessary for long term living quarters for Petitioner's disabled adult son, her daughter and granddaughter. Mr. Kelty further explained that there is insufficient space to logically and efficiently expand the house laterally to the side. He stated that expansion to the rear of the house would require the same side yard variance relief being requested for the proposed vertical addition but would be impractical for the internal layout of the house and the topography of the property. He noted that expanding laterally would add approximately 535 square feet to the footprint, requiring an additional variance for net lot coverage. He also stated that expanding vertically would not require the removal of any trees.

5. Mr. Kelty testified that the site slopes generally from the northeast corner to the southeast corner. He explained that to address the sloping site, the original house was constructed with a crawlspace under the front portion and a low headroom cellar beneath the rear portion. He stated that expanding the house

laterally either to the side or rear would require substantial excavation and foundation work which, due to its proximity to the existing wood frame structure, risks disturbing the foundation of the existing home. Exh. 18.

6. He further testified that the house is very old and beautiful (Exhs. 6(A) and (B)) and the proposed addition is contextually consistent with both the applicant's property and the houses in the surrounding neighborhood. Exhs. 3(a) through (d). He stated that there is a vacant lot next door to the subject property and this part of Mount Rainier features numerous examples of houses constructed less than 7 feet from the side property lines, many of which have been expanded both laterally and vertically over time. Exhs. 6(C) through (I). He further stated that the roof of the proposed addition will be constructed as an extension of the existing roof line with dormers in order to achieve visual compatibility with the original structure and the architectural character of the surrounding neighborhood.

7. Petitioner testified that she has lived in Mount Rainier for 35 years. She explained that the three current bedrooms in the house are very small and there is only one bathroom, which makes it very difficult to accommodate her 40-year-old son who has Down's syndrome.

8. The City of Mount Rainier supported Petitioner's variance request. Exh. 21.

9. The Historic Preservation Section of the Maryland-National Capital Park and Planning Commission commented that the subject property is located within the Mount Rainier History District, but there are no local regulatory impacts. Exh. 16.

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 the property being subdivided in 1904, the extreme narrowness of the property, the sloping topography of the property, the house being built in 1910, the need for additional living space, there being insufficient space to logically and efficiently expand the house to the side, expansion to the rear requiring the same side yard relief being requested for the proposed second-floor addition and an additional variance for net lot coverage, expanding vertically not requiring the removal of any trees, expanding the house either to the side or rear requiring substantial excavation and foundation work which would risk disturbing the foundation of the existing home, the subject property being located in a portion of Mount Rainier where numerous houses were constructed less than 7 feet from the side property lines, many of the houses in the neighborhood having been expanded both laterally and vertically over time, the proposed addition being contextually consistent with both the applicant's property and the houses in the surrounding 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 2.73 feet side yard width in order to construct a 21' x 25.5' second-floor addition on the property located at Lot 9, Block 5, Rogers Addition to Mount Rainier Subdivision, being 4218 30th Street, Mount Rainier, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) through (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.