

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-15-15 Elmer and Maria Hernandez

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: May 13, 2015.

CERTIFICATE OF SERVICE

This is to certify that on June 23, 2015, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Lewisdale Citizens' Association
Ernesto Luna, Spanish Language Interpreter

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

Petitioners: Elmer and Maria Hernandez

Appeal No.: V-15-15

Subject Property: Lot 14, Block 24, Lewisdale Subdivision, being 2209 Lewisdale Drive, Hyattsville, Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard: March 25, 2015; Decided: May 13, 2015

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 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth; Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line, 2 feet from any side lot line and generally be located only in the rear yard. Petitioners propose to validate existing conditions and obtain a building permit for a covered front porch. Variances of 6 feet front yard depth and 25.1% net lot coverage; and variances of 4 feet front street line and 1 foot side lot line setbacks and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

1. The subject property was subdivided in 1953, contains 5,775 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds. Exhibits ("Exhs.") 2, 4, 9 and 10. The property was improved with a single-family dwelling in 1954.

2. Petitioners were cited with Building Violation Notice 32834-2015-00, dated December 29, 2014, by the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that Petitioners obtain the required permit(s) for construction already completed, including but not limited to, the front porch roof, or remove the work and restore to its original condition. Exh. 6.

3. Petitioners would like to obtain a building permit for the existing 11' x 23' covered front porch (Exhs. 3(A) and (B)), but variances are needed to obtain a permit for that construction. Since the porch is located 19 feet from the front street line, a variance of 6 feet front yard depth was requested. Exh. 13.

4. In addition, variances are needed to validate other existing conditions. Since the allowed amount of net lot coverage is already exceeded by existing development on the property and construction of the covered front porch further increased the overage, a variance of 25.1% net lot coverage was also requested. Exhs. 12 and 13.

5. In addition, the location of one of the sheds on the property also needs to be validated because the shed is located 56 feet from the front street line, 1 foot from the side lot line and is next to the dwelling in the side yard. As such, variances of 4 feet front street line and 1 foot side lot line setbacks, respectively, and a waiver of the rear yard location requirement for an accessory building were also requested. Exh. 13.

6. Petitioner Elmer Hernandez testified that he has owned the property since 2005. He stated that he has already put up a new roof over his porch (Exhs. 3(A) and (B), 5(A)) to replace the old porch roof that blew away. He explained that because his insurance company had an issue with water coming in the basement when there is heavy rain, he designed the new porch roof to extend out farther to help mitigate the water problem.

7. Petitioner further testified that both sheds pre-existed his when he moved to the property. Exh. 5(G) and (H).

8. Lewisdale Citizens Association opposed the request for variances. Exh. 20.

9. After it was pointed out that the height of the porch roof was out of proportion with the rest of the house, Petitioners submitted revised elevation plans which indicate Petitioners will shorten the support columns for the porch roof, remove the existing porch roof and the existing roof of the house will then be extended to continue over the front porch. See Exhs. 23(a) through (c).

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 variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to certain preexisting conditions on the property, Petitioners having constructed a replacement porch roof without a building permit to replace an old roof that no longer existed, variances being needed to validate the setback of the front porch from the street as well as other existing conditions on the property, the new porch roof extending farther from the house to mitigate water from getting into the basement, Petitioners agreeing to reduce the height of the porch and extend the existing roof line of the house to cover the porch, 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, unanimously, that variances of 6 feet front yard depth and 25.1% net lot coverage; and variances of 4 feet front street line and 1 foot side lot line setbacks and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and obtain a building permit for an 11' x 23' covered front porch on the property located at Lot 14, Block 24, Lewisdale Subdivision, being 2209 Lewisdale Drive, Hyattsville, 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 the revised elevation plans, Exhibits 23(a) through (c).

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.