

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-97-14 Roman Catholic Archbishop of Washington

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: January 7, 2015.

CERTIFICATE OF SERVICE

This is to certify that on January 26, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Town of Upper Marlboro

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

Petitioner: Roman Catholic Archbishop of Washington

Appeal No.: V-97-14

Subject Property: Tax Map 101, Grid F1, Parcel 76, being 14920 Main Street, Upper Marlboro,
Prince George's County, Maryland

Municipality: Town of Upper Marlboro

Counsel for Petitioner: Steven T. Cain, Esq.

Witnesses: James Storey, Town Commissioner

Joseph Behun, Jr., PE, Marlboro Engineering

Heard and Decided: January 7, 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, Petitioner requests that the Board approve variances from Section 27-442(d)(Table III) of the Zoning Ordinance, which prescribes that each lot shall have a minimum width of 75 feet measured along the front building line, and Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 8 feet in width. Petitioner proposes to validate existing conditions and construct a two-story addition, pergola and parking area. Variances of 6.25 feet front building line width, 15 feet front yard depth and 8 feet side yard width are requested.

Evidence Presented

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

1. The property contains 27,882 square feet, is zoned R-80 (One-Family Detached Residential) and is improved with a single-family dwelling. Exhibits ("Exhs.") 3, 13, 14 and 15. The existing dwelling was built prior to 1900. Exhs. 14 and 15.

2. Deeds going back to 1896 describe the property (Exhs. 7 through 10), but the first formal survey of the property that appears in the Land Records of Prince George's County is contained in a deed dated May 16, 1986 (Exh. 9). Exh. 6.

3. The property is a long and narrow parcel, being 350 feet deep and having varying widths of 68-83 feet. Exh. 3.

4. Petitioner would like to construct an 18' x 24'2" x 12' two-story addition at the rear of the existing dwelling, a 12' x 20' pergola and 20' x 30' parking area, which would be located behind the house and access the public street through the adjoining property. In order to obtain a building permit, variances need to be approved to validate existing conditions. Since the street has an ultimate right-of-way width of 70 feet and the existing dwelling is located only 10 feet from the ultimate right-of-way line (35 feet from center line) and

extends to the side lot line at the closest point, variances of 15 feet front yard depth and 8 feet side yard width were requested. Exh. 18.

5. In addition, since the width of the lot at the front building line does not meet the current minimum requirement of 75 feet, a variance of 6.25 feet front building line width was requested to validate that existing condition. Exh. 18.

6. Joseph Behun, Petitioner's civil engineer, testified that the old historic building which Petitioner proposes to renovate is the Crandell-Rothstein House, a designated Historic Property #79-019-27 (Exhs. 5(A) through (D)). See also Exh. 2. He explained that Petitioner bought the property from the Town of Upper Marlboro and the structure has been vacant for many years. He stated that upon completion of the renovation and addition the structure will serve as the rectory for the adjacent St. Mary of the Assumption Church.¹

7. Mr. Behun stated that the proposed renovation will modernize the existing structure while keeping its historic character. He explained that the original building has existed since the mid-1800s and has been improved with some additions, but it remains relatively small and currently is not in the best of condition. He stated that the proposed addition will make the house a rectangle. He explained that by adding the proposed addition, the existing uniqueness of the structure will no longer be considered "grandfathered", making it subject, therefore, to current setback requirements.

8. Counsel for Petitioner stated that a driveway next to the north side of the property leads to adjoining property owned by the Maryland-National Park and Planning Commission where Darnell's Chance, another historic site, is located. It was explained that the proposed driveway will connect to the parking lot behind St. Mary of the Assumption Church. Counsel further stated that the structure on the subject property is uninhabitable and believes the Town of Upper Marlboro would like to see it improved.

9. Petitioner avers that it is being placed in a hardship situation as the necessary renovation to be done is on an historic house constructed long before the adoption of the current zoning requirements by the County. It was stated that in order to comply with the Zoning Ordinance, Petitioner would have to relocate the existing structure at considerable expense and thereby destroy the historic setting which is part of the existing historic nature of the property and its surroundings. Exh. 2.

10. Historic Preservation Commission Historic Area Work Permit 43-14 was approved on October 7, 2014, for the proposed renovation. Exh. 11.

11. A letter from the President of the Board of Commissioners for the Town of Upper Marlboro was submitted in which he stated that due to timing of notice of the hearing on the subject request and the Town's regular meeting date, the Town Board could not take an official position but he, as president, supported Petitioner's request. Exh. 24. James Storey, Commissioner, Town of Upper Marlboro, testified that the structure accentuates the appearance of the Town, especially as you enter the Town, and that he also supported the approval of the variance request.

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.

¹ The church property is also owned by Petitioner. Exh. 2.

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 evidence of the property existing as long ago as 1896, the narrowness of the property, the property being a County Designated Historic Site, the original structure being built in the mid-1800's, the structure having sat vacant for many years, the unique character, size and condition of the existing structure, renovation and enlargement being necessary for the intended use as a rectory for the church on the adjacent property, the harm that the historic site and its surroundings would suffer if relocation of the existing structure were required, the proposed construction plan having been reviewed by staff of the Historic Preservation Commission, an Historic Area Work Permit having been approved for the renovation, 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 owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 6.25 feet front building line width, 15 feet front yard depth and 8 feet side yard width in order to validate existing conditions and construct an 18' x 24'2" x 12' two-story addition, 12' x 20' pergola and 20' x 30' parking area on the property located at Tax Map 101, Grid F1, Parcel 76, being 14920 Main Street, Upper Marlboro, 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 3, and the approved elevation plan, Exhibit 4.

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.