

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-102-14 Victor Alvarado-Pena

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: February 11, 2015.

CERTIFICATE OF SERVICE

This is to certify that on February 25, 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
DPIE/Inspections Division

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

Petitioner: Victor Alvarado-Pena

Appeal No.: V-102-14

Subject Property: Lot 7, Block A, Cheverly Manor Subdivision, being 3412 63rd Avenue, Cheverly,
Prince George's County, Maryland

Heard: January 28, 2015; Decided: February 11, 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(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a front yard at least 25 feet in depth and a side yard at least 7 feet in width, and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line. Petitioner proposes to validate existing conditions and obtain a building permit to complete construction of a shed. Variances of 8 feet front yard depth and 1 foot side yard width for the dwelling and a variance of 54 feet front street line setback for an accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1942, contains 6,836 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1942. Exhs. 9 and 10.
2. The property is a through lot, with the dwelling facing both 63rd Avenue and 62nd Place to the rear. Exhs. 2, 4, 6(A) and 11(A).
3. On November 25, 2014, the Department of Permitting, Inspections and Enforcement issued a Stop Work Order for work being done on the property without a permit. Exh. 7.
4. Petitioner would like to obtain a building permit to complete construction of a 16.5' x 30.5' shed, but variances must be approved before obtaining the building permit. The shed is permitted in the yard opposite the designated front of the dwelling (62nd Place street yard), but since it is only located 6 feet from the street line of 62nd Place, a variance of 54 feet front street line setback for an accessory building was requested. Exh. 12.
5. Since it is unknown whether the covered front porch was built with the dwelling in 1942, variances are needed to validate the location of the porch. Since the existing covered front porch is located only 17 feet from the front street line and 6 feet from the side lot line, variances of 8 feet front yard depth and 1 foot side yard width were requested to validate these existing conditions. Exh. 12.

6. Petitioner testified that he believed that because the proposed larger shed would be simply replacing a smaller (15' x 15') shed, a building permit was not required. Exhs. 5(A) through (E). He explained that he is a carpenter by trade and the larger shed will allow him sufficient room for a table saw and other equipment and space to work on his vehicle. He testified that he does not plan on using the structure as a garage at this time and it will not be heated. He stated that the new shed will have a maximum height of 13 feet and the exterior will have painted siding and gutters.

7. Petitioner submitted a plan indicating which nearby properties have accessory structures and photographs of the structures. Exh. 6 (A) through (J). He testified that some of those structures are smaller than his, but some are as large or larger.

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 the property being subdivided in 1942, the property being a through lot, the dwelling being built in 1942, the covered front porch not meeting the current minimum front yard setback requirement, Petitioner having removed an old shed from the property, the need for space for storage of equipment and to work on carpentry projects, 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 8 feet front yard depth and 1 foot side yard width for the dwelling and a variance of 54 feet front street line setback for an accessory building in order to validate existing conditions and obtain a building permit to complete construction of a 16.5' x 30.5' shed on the property located at Lot 7, Block A, Cheverly Manor Subdivision, being 3412 63rd Avenue, Cheverly, 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 approved elevation plan, Exhibit 3.

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.