

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-74-14 Jose Guardado

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: November 5, 2014.

CERTIFICATE OF SERVICE

This is to certify that on December 10, 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
DPIE/Inspections Division
Other Interested Parties

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

Petitioner: Jose Guardado

Appeal No.: V-74-14

Subject Property: Lot 1 & Part of Lot 2, J.R. Shields' Addition to Ducat Town Subdivision, being
5515 Carters Lane, Riverdale, Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Witness: Sharon Wertz, neighbor

Heard and Decided: November 5, 2014

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

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, a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width, and Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes to validate existing conditions and construct a second-floor deck. Variances of 1 foot front yard depth, 7 feet side yard width, 10 feet rear yard depth/width and 8.8% net lot coverage are requested.

Evidence Presented

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

1. The property contains 7,586 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 10 and 11. The dwelling was built in 1926.

2. The property is made up of one record lot and part of another lot that were subdivided in 1936.
Exh. 4. The property has existed in its current configuration since 1954. Exhs. 5 and 6.

3. The right side of the existing dwelling is located almost at the right side lot line and the dwelling faces the street at an angle. The rear yard is extremely shallow. Exh. 2.¹

4. Petitioner would like to construct a 13.6' x 18'/13' x 20' second-floor deck, but variances are needed to obtain a building permit. The deck would be located approximately 5.5 feet from the side lot line and 10 feet from the rear lot line at the closest points. Since the deck would be only 10 feet from the rear lot line, a variance of 10 feet rear yard depth/width was requested. Exh. 14.

5. Existing conditions must also be validated to obtain the building permit. Since the existing covered front porch is located 24 feet from the front street line and the existing dwelling is located 1 foot

¹ The Board approved a side yard setback variance in 1985 (Appeal No. 7887) to validate an existing attached carport on the right side of the house. Exh. 8.

from the side lot line at the closest point, variances of 1 foot front yard depth and 7 feet side yard width were requested. Since the allowed amount of net lot coverage is exceeded by the existing development on the property, and the overhang of the proposed deck would cause further overage, a variance of 8.8% net lot coverage was also requested. Exhs. 13 and 14.

6. Petitioner testified that he has lived at the property for 7 years and the living room addition (with basement) on the back of the house pre-existed. He stated that he would like to build a second-level deck over an existing porch on the back of the house (Exhs. 7(A) and (B)) and access it by converting an upstairs window into a door.

7. Petitioner further testified that the existing first floor porch is old and he plans to remove and rebuild it with thicker supports for the upstairs deck. He testified that he does not intend to cover or enclose the upstairs deck.

8. Sharon Wertz, a neighbor and member of the Templeton Knolls Civic Association, had no opposition to the proposed deck if it remains uncovered and unenclosed.

9. The Subdivision Section of the Maryland-National Capital Park and Planning Commission reviewed the request and commented: Previous deeds of conveyance dating back to 1954 describe the property as it is shown on the submitted house location survey (Exh. 2). The record plat (Exh. 4) shows a dashed line which appears to be a building restriction line (BRL) but because it is not labeled as such on the record plat, there is no need to remove it or hold the property owner subject to it. Exh. 23.

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 location and angle of the dwelling on the property, the shallowness of the rear yard, the dwelling being built many years ago, certain existing conditions on the property needing validation to meet current regulations, there being an existing porch and living space over which the proposed deck would be built, 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, by majority vote, board member Anastasia Johnson absent, that variances of 1 foot front yard depth, 7 feet side yard width, 10 feet rear yard depth/width and 8.8% net lot coverage in order to validate existing conditions and construct a 13.6' x 18'/13' x 20' second-floor deck on the property located at Lot 1 & Part of Lot 2, J.R. Shields' Addition to Ducat Town Subdivision, being 5515 Carters Lane, Riverdale, Prince George's County, Maryland, be and are hereby APPROVED. Approval of

the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 26, 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.