

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-50-13 Francis & Margaret Harley

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: August 7, 2013.

CERTIFICATE OF SERVICE

This is to certify that on August 30, 2013, 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
Other Interested Parties

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

Petitioners: Francis¹ & Margaret Harley

Appeal No.: V-50-13

Subject Property: Lot 11, Block F, Fowler's Concord Subdivision, being 7809 Berry Place, Forestville,
Prince George's County, Maryland

Witnesses: Marvin Harley, Petitioners' son

Sheila Smith, Medallion Security Door & Window Co.

Heard and Decided: August 7, 2013

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 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. Petitioners propose to validate existing conditions and construct a sunroom. Variances of 2 feet front yard depth, 10 feet rear yard depth/width and 4.6% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1968, contains 6,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a brick single-family dwelling, covered patio, attached carport, driveway and shed. Exhibits ("Exhs.") 2, 4, 7 and 8. The existing single-family dwelling was built in 1971. Exhs. 6 and 7.

2. The rear yard is shallow. Exh. 2.

3. Petitioners would like to construct a 12' x 26' sunroom to replace a covered patio on the rear of the existing dwelling, but variances are needed to obtain a building permit. Since the existing covered front porch is located only 23 feet from the front street line, the covered patio already infringes 10 feet into the required rear setback and existing development has exceeded the allowed amount of net lot coverage, variances of 2 feet front yard depth, 10 feet rear yard depth/width and 4.6% net lot coverage were requested, respectively. Exhs. 9 and 10.

4. Margaret Harley, the property owner, testified that she has lived at the property for 20 years.

5. Marvin Harley testified that the aluminum awning was added to the patio about 15 years ago. Exhs. 5(A) and 5(B). He stated that the proposed sunroom is needed for protection from mosquitos.

¹ Francis Harley is deceased.

6. Sheila Smith, Petitioner's contractor, testified that the proposed sunroom will replace and will not extend beyond the footprint of the existing covered patio. She stated that the exterior of the sunroom will have vinyl siding and the sunroom will not have electricity or air conditioning.

7. Ms. Smith further testified that Petitioners' neighbor has a brick house with an addition that has vinyl siding (Exh. 18(A)) and other additions have been built on properties in the neighborhood (Exhs. 18(B) and 18(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 the shallowness of the rear yard, the need for protection from mosquitos, the proposed sunroom replacing and not extending beyond the footprint of the existing covered patio, 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 2 feet front yard depth, 10 feet rear yard depth/width and 4.6% net lot coverage in order to validate existing conditions and construct a 12' x 26' sunroom on the rear of the existing dwelling on the property located at Lot 11, Block F, Fowler's Concord Subdivision, being 7809 Berry Place, Forestville, 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 plans, Exhibits 3(a) and 3(b).

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.