

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-36-12 Manuel Maldonado

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: July 10, 2013.

CERTIFICATE OF SERVICE

This is to certify that on August 16, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Town of Berwyn Heights
Ernesto Luna, Spanish Language Interpreter

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

Petitioner: Manuel Maldonado

Appeal No.: V-36-12

Subject Property: Lot 34, Block 28, Berwyn Heights Subdivision, being 5902 Tecumseh Street, College Park, Prince George's County, Maryland

Municipality: Town of Berwyn Heights

Spanish Language Interpreter: Ernesto Luna

Witnesses: Edhi Viteri, wife of Petitioner

Vijay Karkhanis, neighbor

Meena Karkhanis, neighbor

Heard: June 6, 2012; Decided: July 10, 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, 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 8 feet in width. Petitioner proposes to construct a covered front porch and construct a roof over an existing side stoop and areaway. Variances of 5.8 feet front yard depth and 3.7 feet side yard width are requested.

Evidence Presented

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

1. The property was subdivided in 1959, contains 6,581 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 3, 5, 8-10. The existing single-family dwelling was built in 1972. Exh. 9.

2. The property has an angled rear property line which causes the rear yard to be deeper on the right side of the lot than the left side. Exh. 3.

3. Petitioner would like to construct a 5.8' x 18' covered front porch and a 4.3' x 16.3' roof over the wooden stoop and areaway on the side of the house (Exh. 3), but variances are needed to obtain a building permit. Since the front porch would be located 19.2 feet from the front street line and the roof over the stoop/areaway would be located 4.3 feet from the side lot line, variances of 5.8 feet front yard depth and 3.7 feet side yard width were requested. Exh. 14. It was later determined that a variance of 3.3 feet side yard width would be sufficient for the roof over the stoop/areaway in the side yard.

4. Petitioner stated that he would like to make the proposed improvements to protect his handicapped son from the front and side steps and stoops which become slippery and dangerous during bad weather and the winter months. Exhs. 2 and 6(A) through (G). He added that water pools where the areaway on the side is now uncovered.

5. Vijay Karkhanis, a neighbor, testified that his bedroom is next to the proposed roof in Petitioner's side yard and expressed concern about water drainage.
6. Petitioner testified that there will be gutters and downspouts on the new roof area.
7. Marie-Claire Paquet, an adjoining property owner, supported the request. Exh. 17.
8. The Town of Berwyn Heights also recommended approval of the variance request. Exh. 27.

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 stoops and areaway already existing on the property, the location of the stoops and areaway being too close to the front and side property lines causing the need for variances in order to construct a roof over them, Petitioner's son being handicapped, covering the stoops and areaways making ingress to and egress from the house safer, covering the side stoop and areaway preventing water from pooling in that location, 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 5.8 feet front yard depth and 3.7 feet side yard width in order to construct a 5.8' x 18' covered front porch and construct a 4.3' x 16.3' roof over an existing deck and areaway on the side of the house on the property located at Lot 34, Block 28, Berwyn Heights Subdivision, being 5902 Tecumseh Street, College Park, 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 revised elevation plans, Exhibits 22(a) and (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.