

*NOTICE OF FINAL DECISION*  
*OF BOARD OF APPEALS*

RE: Case No. V-14-14 Michael Matese & Shannon Morris

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: March 26, 2014 .

**CERTIFICATE OF SERVICE**

This is to certify that on April 16, 2014 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)

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Anne F. Carter  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting

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

Petitioners: Michael Matese and Shannon Morris

Appeal No.: V-14-14

Subject Property: Lot 5, Block R, Carole Highlands Subdivision, being 1524 Elson Street, Takoma Park,  
Prince George's County, Maryland

Counsel for Petitioners: Lawrence N. Taub, Esq.

Heard and Decided: March 26, 2014

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 a variance 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 a variance from Section 27-442(e)(Table IV) of the Zoning Ordinance, which prescribes that each lot shall have a side yard at least 8 feet in width. Petitioners propose to validate an existing condition and construct a two-story addition and covered porch. A variance of 1 foot side yard width is requested.

Evidence Presented

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

1. The property was subdivided in 1946, contains 6,973 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 single-family dwelling was built in 1947. Exhs. 9 and 10.
2. The property slopes upward from front to rear and slopes down toward the adjoining lot on one side of the property. Exhs. 5(A), 11(F) and 19(C).
3. Petitioners would like to construct a 16' x 22' two-story addition and 8' x 14' covered porch on the back of the house, but a variance is needed to obtain a building permit. Since the existing dwelling is located only 7 feet from the side lot line, a variance of 1 foot side yard width was requested to validate this existing condition. Exh. 13.
4. Counsel for Petitioner explained that 10-12 years ago, Petitioner's aunt, who was the previous owner, built a small addition on the side of the house that extends to within 6 feet of the side property line. Exhs. 5(A) and (B); 19(A) through (C).
5. Exh. 19(C) shows that the driveway on the property next to the subject property is at least 3-4 feet below the side yard where the addition was built by Petitioner's aunt.
6. Counsel further stated that Petitioner's aunt obtained a certificate of occupancy for the addition in 2006 (Exh. 7) at which time it was not noticed that the side yard setback was one foot shy of the required minimum.
7. Petitioner Michael Matese testified that the proposed addition would be built directly behind the original house, not behind the sun porch addition.

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 variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being subdivided in 1946, the dwelling being built in 1947, the sloping topography of the property, an addition having been built on one side of the house by the previous owner, removal of a foot of the existing structure would result in an unusual practical difficulty, 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 a variance of 1 foot side yard width in order to validate an existing condition and construct a 16' x 22' two-story addition and 8' x 14' covered porch on the property located at Lot 5, Block R, Carole Highlands Subdivision, being 1524 Elson Street, Takoma Park, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plans, Exhibits 3(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.