

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-120-13 Elias Quintanilla

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 26, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on March 7, 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

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

Petitioner: Elias Quintanilla

Appeal No.: V-120-13

Subject Property: Lot 1, Block M, Fort Washington Forest Subdivision, being 12715 Old Fort Road, Fort Washington, Prince George's County, Maryland

Witnesses: Yanci Quintanilla

Roger Albright, Construction Standards Inspector, Department of Permitting,
Inspections & Enforcement

Heard and Decided: February 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 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(i)(Table VIII) of the Zoning Ordinance, which prescribes that accessory buildings shall be set back 60 feet from the front street line and be located in the yard opposite the designated front of the main building on corner lots where the designated front of the main building faces the side street. Petitioner proposes to validate existing conditions and obtain a building permit for a detached shed/garage and gazebo with deck. A variance of 7 feet front street line setback for an accessory building is requested.

Evidence Presented

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

1. The property was subdivided in 1954, contains 27,455 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, attached carport, driveway, shed, and gazebo with a deck. Exhibits ("Exhs.") 2, 5, 8 and 9. The existing dwelling was built in 1956. Exhs. 8 and 9.
2. The property is an odd-shaped corner lot with the dwelling facing the legal side street. Exh. 2.
3. Petitioner was cited by the Department of Permitting, Inspections and Enforcement, Inspections Division with Violation Notice BVN 42689-2013-1, dated December 4, 2013, which requires Petitioner to obtain a building permit for the existing shed, gazebo and deck on the property or remove them. Exh. 6.
4. Petitioner would like to validate and obtain a building permit for a 17' x 17' gazebo with a 20' x 24' deck (Exhs. 4(a) and (b)) and a 15' x 20' detached shed/garage (Exhs. 3(a) through (d)), but a variance for the location of the gazebo with deck is needed to obtain the permit. Since the gazebo with deck, constructed behind the dwelling, is located only 53 feet from the legal front street line, a variance of 5 feet front street line setback for an accessory building was requested.
5. Inspector Roger Albright testified that based on a complaint that was received he inspected the subject property and found that the gazebo/deck and shed/garage structures had been constructed without

proper building permits. Exhs. 6, 18 and 21. He stated that the property is located in a rural area and the gazebo/deck structure is not a visual obstruction from any street direction because of its location.

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 unusual shape of the property, the property being a corner lot, the gazebo/deck structure being set back far enough that it is not a visual obstruction for traffic, 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 a variance of 7 feet front street line setback in order to validate and obtain a building permit for a 17' x 17' gazebo with 20' x 24' deck and a 15' x 20' detached shed/garage on the property located at Lot 1, Block M, Fort Washington Forest Subdivision, being 12715 Old Fort Road, Fort Washington, 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 for the detached garage/shed, Exhibits 3(a) through (d), and gazebo with deck, Exhibits 4(a) through (c).

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.