

*NOTICE OF FINAL DECISION*

*OF BOARD OF APPEALS*

RE: Case No. V-81-15 Adolfo Portillo and Rodolfo Martinez

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: September 9, 2015.

**CERTIFICATE OF SERVICE**

This is to certify that on October 1, 2015, 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  
City of Hyattsville  
Mark Maier, Spanish Language Interpreter

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

Petitioners: Adolfo Portillo and Rodolfo Martinez

Appeal No.: V-81-15

Subject Property: Lot 27, Block C, Lanhardt Subdivision, being 5004 37th Avenue, Hyattsville,  
Prince George's County, Maryland

Spanish Language Interpreter: Mark Maier

Municipality: City of Hyattsville

Heard and Decided: September 9, 2015

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
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(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line and 2 feet from any side lot line. Petitioners propose to validate existing conditions and obtain a building permit for a covered storage area. Variances of 7 feet front yard depth, 12 feet rear yard depth/width, 55 feet front street line setback for one accessory building and 46 feet front street line and 2 feet side lot line setbacks for a second accessory structure are requested.

Evidence Presented

1. The property was subdivided in 1951, contains 5,692 square feet, is zoned R-35 (One-Family Detached Residential) and is improved with a single-family dwelling, shed and covered storage area. Exhibits ("Exhs.") 2, 4, 8 and 9. The existing dwelling was built in 1955. Exhs. 8 and 9.
2. The property is located within the Gateway Arts District Development and Chesapeake Bay Critical Area (I-D-O) Overlay Zones. Exh. 9.
3. The property is a corner lot, with the house facing the legal side street (37th Avenue). Exh. 2.
4. Petitioners were issued a warning notice of violation by the City of Hyattsville for erecting an accessory structure without a building permit and instructed to obtain a permit immediately. Exh. 6.
5. Petitioner would like to obtain a building permit for an 11.5' x 20' covered storage area, but variances are needed to obtain the permit. Since the storage area is located 14 feet from the front street line and along the side lot line, variances of 46 feet front street line and 2 feet side lot line setbacks were requested. Exh. 13.
6. Other existing conditions on the property require validation before a building permit may be issued. Since an existing shed, located in front of the storage area, is 5 feet from the front street line, a variance of 55 feet front street line was also requested. Exh. 13.
7. In addition, because the existing dwelling is located 18 feet from the front street line and 8 feet from the rear lot line, variances of 7 feet front yard depth and 12 feet rear yard depth/width, respectively, were requested to validate the location of the dwelling. Exh. 13.

8. Petitioner Rodolfo Martinez testified that he built an open shed for storing bicycles and firewood. Exhs. 3(A) through (C).

9. The City of Hyattsville opposed the request, noting that the accessory structure is being used to house outdoor storage which is strictly prohibited by City Code. Exh. 17.

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 do not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioners' lot does not contain any exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property.
2. As such, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, by majority vote, Mr. Scott absent, that variances of 7 feet front yard depth, 12 feet rear yard depth/width, 55 feet front street line setback for one accessory building and 46 feet front street line and 2 feet side lot line setbacks for a second accessory structure in order to validate existing conditions and obtain a building permit for an 11.5' x 20' covered storage area on the property located at Lot 27, Block C, Lanhardt Subdivision, being 5004 37th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby DENIED.

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 27-234 of the Prince George's County Code states:

If the Board denies an appeal involving a variance, no further appeal covering the same specific subject on the same property shall be filed within the following twelve (12) month period. If the second appeal is also denied, no other subsequent appeals covering the same specific subject on the same property shall be filed within each eighteen (18) month period following the respective denial.