

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-12-15 Esteban Cordova and Dina Fernandez

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 5, 2015 .

CERTIFICATE OF SERVICE

This is to certify that on September 11, 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
DPIE/Inspections Division

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

Petitioners: Esteban Cordova and Dina Fernandez

Appeal No.: V-12-15

Subject Property: Lot 7, Block DD, South-Lawn Subdivision, being 1216 Devonshire Drive, Oxon Hill,
Prince George's County, Maryland

Counsel for Petitioners: Lyle F. Jones, Esq., Law Offices of Regan Associates, Chartered

Heard: June 24, 2015; Decided: August 5, 2015

Board Members Present and Voting: 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, a side yard at least 8 feet in width and a rear yard at least 20 feet in depth/width; 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; Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line, 2 feet from any side or rear lot line and generally be located only in the rear yard; and Section 27-420(a), which prescribes that fences and walls more than 6 feet high shall not be located in any required yard and that fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioners propose to validate existing conditions and obtain a building permit for a covered front porch, covered rear porch, attached carport, driveway, shed, 6-foot black iron rail fence, 4.5-foot black iron rail fence (with 5.4-foot and 6.5-foot stone columns and a 5-foot iron gate), 2.1 foot concrete wall topped with a 5-foot grey aluminum mesh fence and a 7.5 foot block wall. Variances of 9.5 feet front yard depth, 6.5 feet side yard width, 17.5 feet rear yard depth/width for the dwelling; 25.7% net lot coverage; variances of 3.5 feet front street line setback, 2 feet side lot line setback, 2 feet rear lot line setback and a waiver of the rear yard location requirement for a shed and canopy; and waivers of the fence location and height requirements for a fence in the front yard and for walls with fencing along the rear lot line are requested.

Evidence Presented

1. The property was subdivided in 1955, contains 7,097 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, attached carport, driveway, shed, walls and fences. Exhibits ("Exhs.") 6, 10, 11 and 26. The existing single-family dwelling was built in 1955. Exhs. 10 and 11.
2. The property is an odd-shaped lot located on a bend in the street. Exh. 6. The property narrows from front to rear and has an angled rear property line. Exhs. 6 and 26.
3. Petitioners were cited by the County with Building Violation Notice No. 3684-15-00, dated January 23, 2015, from the Department of Permitting, Inspections and Enforcement, Inspections Division, requiring that the required permit(s) and inspection(s) be obtained for work done at the property, including

but not limited to the carport, front porch, rear porch, 6-foot-high fence, parking pad and shed, or remove the work and restore the property to its original condition. Exh. 8.

4. Petitioners would like to validate existing conditions and obtain the required permit(s) for a 14' x 18.5' covered front porch, 17' x 35' covered rear porch, 11.5'-20' x 40.4' attached carport, 20' x 30' driveway, 7' x 14.4' shed, 6-foot black iron rail fence along the side lot line, 4.5-foot black iron rail fence (with 5.4-foot and 6.5-foot stone columns) and a 5-foot iron gate along the front lot line and a 2.1 foot concrete wall topped with a 5-foot grey aluminum mesh fence and a 7.5 foot block wall located along the rear lot line.

5. Since the covered front porch is located 15.5 feet from the front street line, the attached carport is located 1.5 feet from the side lot line and the covered rear porch is located 2.5 feet from the rear lot line at the closest point, variances of 9.5 feet front yard depth, 6.5 feet side yard width and 17.5 feet rear yard depth/width were requested, respectively. Exh. 29.

6. Because existing development on the property covers more of the net lot area than the 30% which is permitted, a variance of 25.7% net lot coverage was also requested. Exhs. 28 and 29.

7. Since the shed is located 56.5 feet from the front street line, .5 foot from the side lot line and in the side yard, with a canopy at the rear of the shed extending to the side and rear lot lines, variances of 3.5 feet front street line setback, 2 feet side lot line setback, 2 feet rear lot line setback and a waiver of the rear yard location requirement for an accessory building were also requested. Exh. 29.

8. Since a 6-foot-high black iron rail fence is located along the left side lot line, a 4.5-foot-high black iron rail fence (with 5.4-foot & 6.5-foot stone columns and 5-foot iron gate) is located along the front street line, and a 2.1-foot-high concrete wall topped with a 5-foot grey aluminum mesh fence and a 7.5-foot-high block wall are located along the rear lot line, waivers of the fence location and height requirements for a fence in the front yard and for walls/fencing up to 7.5 feet in total height along the rear lot line were also requested. Exh. 29.

9. Counsel for Petitioners stated that no neighbors were present at the hearing to object to any of these improvements.

10. Petitioner Dina Fernandez testified that they have owned the property since 1997 and the gate in front of their driveway is provided for security. She further testified that they received the violation notice because of their construction of the front and rear porches. Exhs. 4(a) through (c), 5(a) through (c), 8, 36(A) and (B), (D) through (H). She stated that the shed and canopy existed when the property was purchased. She testified that there is no water runoff problem caused by any of the construction.

11. Dina Fernandez further testified that there is no homeowners association for the neighborhood.

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 size and unusual shape of the property, variances being needed in order to obtain the required permit(s), the fencing having been constructed to provide security, the front and rear porches providing areas to enjoy the outdoors, 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, by majority vote, Ms. Mack absent, that variances of 9.5 feet front yard depth, 6.5 feet side yard width, 17.5 feet rear yard depth/width for the dwelling; 25.7% net lot coverage; variances of 3.5 feet front street line setback, 2 feet side lot line setback, 2 feet rear lot line setback and a waiver of the rear yard location requirement for a shed and canopy; and waivers of the fence location and height requirements for a fence in the front yard and for walls with fencing along the rear lot line in order to validate existing conditions and obtain a building permit for a 14' x 18' covered front porch, 17' x 35' covered rear porch, 11.4'/20' x 40' attached carport, 20' x 30' driveway, 7' x 14' shed, 6-foot black iron rail fence (along the left side lot line), 4.5-foot black iron rail fence (with 5.4-foot and 6.5-foot stone columns and a 5-foot iron gate) (along the front lot line), 2.1 foot concrete wall topped with a 5-foot grey aluminum mesh fence and a 7.5 foot block wall (along the rear lot line) on the property located at Lot 7, Block DD, South-Lawn Subdivision, being 1216 Devonshire Drive, Oxon Hill, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in conformance with the approved revised site plan, Exhibit 26, and the approved elevation plans, Exhibits 3(a) through (c) (attached carport), 4(a) through (c) (covered front porch) and 5(a) through (c) (covered rear porch).

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

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.