

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-50-15 Manuel Hernandez

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: June 24, 2015.

CERTIFICATE OF SERVICE

This is to certify that on August 10, 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: 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

Petitioner: Manuel Hernandez

Appeal No.: V-50-15

Subject Property: Lot 9, Block E, Hampshire Heights Subdivision, being 815 Berkshire Drive, Hyattsville,
Prince George's County, Maryland

Witness: Evelyn Hernandez

Heard and Decided: June 24, 2015

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 27-420(a) of the Zoning Ordinance, which prescribes that fences and walls in the front yard shall not be more than four (4) feet high without the approval of a variance, and Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioner proposes to construct retaining walls with fencing up to a total height of 7 feet and a driveway in the front yard of a semi-detached dwelling. Waivers of the fence location and height requirements and the parking area location requirement are requested.

Evidence Presented

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

1. The property was subdivided in 1950, contains 6,333 square feet, is zoned R-T (Townhouse) and is improved with a semi-detached single-family dwelling and shed. Exhibits ("Exhs.") 2(a), 3, 6 and 7. The existing dwelling was built in 1953. Exhs. 6 and 7.
2. The property is long and narrow, being only 27.03 feet wide at the street and 173 feet deep, and the lot widens slightly from front to rear. Exhs. 2(a) and 3. There is a steep slope in the front yard. Exhs. 4(C), (D) and (E), 8(E).
3. Petitioner would like to construct an 8.3'-11' x 26.3' driveway, part of which would be located in front of the dwelling, but a variance is needed to obtain a building permit. Since a portion of the driveway would be located in the area of the front yard prohibited by Section 27-120.01(c), a waiver of the parking area location requirement was requested. Exh. 10.
4. Petitioner would also like to construct retaining walls with fencing on top on both sides of the driveway and along 13.6 feet of the right side of the front street line and 9.75 feet of the right side lot line. Since the retaining walls with fencing would have a maximum height of 7 feet and a variance is required for

walls/fences over 4 feet in height, waivers of the fence location and height requirements for retaining walls with fencing in the front yard were also requested. Exh. 10.

5. Petitioner testified that he wants to build the proposed driveway because of the slope in the front yard and for safety reasons. *See*, Exhs. 4(B) through (E) and 8(E). He explained that because of the narrowness of the proposed driveway closer to the street, he believed the driveway should extend to be closer to the house where the driveway will be wide enough to open car doors.

6. Petitioner explained that the retaining walls are necessary to prevent soil erosion and flooding on a neighbor's property and the height of it is necessary to comply with the requirement¹ that fencing is required on top of retaining walls for safety.

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 extreme narrowness of the property at the front street line, the steep topography of the front of the lot, 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 waivers of the fence location and height requirements and the parking area location requirement in order to construct retaining walls with fencing up to a total height of 7 feet and an 8.3'-11' x 26.3' driveway in the front yard of a semi-detached dwelling on the property located at Lot 9, Block E, Hampshire Heights Subdivision, being 815 Berkshire Drive, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site and elevation plans, Exhibits 2(a) through (d).

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

¹ Prince George's County Code Section 4-254.

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.