

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-43-15 Maria Martinez and Leonel Herrera

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: May 27, 2015.

CERTIFICATE OF SERVICE

This is to certify that on July 6, 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
Ernesto Luna, Language Interpreter

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

Petitioners: Maria Martinez and Leonel Herrera

Appeal No.: V-43-15

Subject Property: Lots 20 & 21, Part of Lots 5 & 6, Block 1, Rodgers Heights Subdivision, being 5022 53rd Place, Hyattsville, Prince George's County, Maryland

Witnesses: Donna Rahmani, adjoining property owner
Jennifer Emrey, tenant neighbor

Heard and Decided: May 27, 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, 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 side yard at least 7 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; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall generally be located only in the rear yard. Petitioners propose to validate existing conditions and construct a carport with deck on top. Variances of an additional 1.5 feet side yard width and an additional 1 foot rear yard depth/width for the dwelling, 13.9% net lot coverage and a waiver of the rear yard location requirement for an accessory building are requested.

Evidence Presented

1. The property contains 7,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 12 and 13. The dwelling was constructed in 1930. Exhs. 12 and 13.
2. The property is made up of two complete lots and parts of two additional lots that were subdivided in 1925. Exh. 4. The property was created in its current configuration by a deed dated April 11, 1973. Exh. 5.
3. The property is rectangular in shape and is similar in size and shape to other lots in the neighborhood. Exhs. 2 and 14(A).
4. Petitioners would like to construct an 18'6" x 32' attached carport with a deck on top on the front of the existing house, but variances are needed to obtain a building permit. Exh. 2. The carport with deck would be built over the existing driveway area. Since the allowed amount of net lot coverage is exceeded by existing development on the property, including the driveway, a variance of 13.9% net lot coverage was requested.
5. In 2000, the Board approved variances (Appeal No. V-169-99) to validate the location of the original house and construct an addition (side and rear yard setback variances). Exh. 8. Since the footprint

of the addition on the current site plan does not match the footprint on the site plan submitted in Appeal No. V-169-99 and there is now an existing shed located in the side yard, variances of an additional 1.5 feet side yard width and an additional 1 foot rear yard depth/width for the dwelling and a waiver of the rear yard location requirement for an accessory building were also requested. Exhs. 2, 8, 11 and 17.

6. Petitioner Maria Martinez testified that they would like to construct the proposed attached carport with a deck on top to allow vehicular parking as well a place for her daughter to play. She acknowledged that there is a grassy area on the right side of the property where her daughter can play, but stated that the carport will also allow her to set up a swing and provide shelter from rain for her daughter.

7. Donna Rahmani, owner of adjoining property (Lot 19), opposed the request. She testified that she and her husband have owned the property for 35 years. She stated that she believes Petitioners' project would adversely affect the value of her property, be aesthetically unpleasant, cause exhaust from cars parked in the carport to flow directly into her kitchen and dining area, likely increase the noise level discernible inside her house and create a lack of privacy. She pointed out that the proposed structure would extend beyond the corner of her house to where their kitchen and dining room windows are located. She believed that the proposed deck/carport would negatively impact the appearance of the neighborhood. She also argued that Petitioners left no room to build a deck on the rear of the house when their addition was built; there is space on the other side of Petitioners' house to build a deck; and the request for variances is merely for the convenience of Petitioners. *See also*, Exh. 21.

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 there is no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of the specific parcel of property *See*, Exhibits 2, 14(A) through (F). The Board finds that the request for variances is merely for the convenience of Petitioners.

2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

3. The Board notes that the proposed construction would not be in character with the rest of the neighborhood.

BE IT THEREFORE RESOLVED, unanimously, that variances of an additional 1.5 feet side yard width and an additional 1 foot rear yard depth/width for the dwelling, 13.9% net lot coverage and a waiver of the rear yard location requirement for an accessory building in order to validate existing conditions and construct an 18'6" x 32' carport with deck on top on the property located at Lots 20 & 21, Part of Lots 5 & 6,

Block 1, Rodgers Heights Subdivision, being 5022 53rd Place, 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.