

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-81-14 David Rapp & Andrea Cerulli

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: November 19, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on December 17, 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: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Town of Cheverly

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

Petitioners: David Rapp and Andrea Cerulli

Appeal No.: V-81-14

Subject Property: Lot 1290 and Part of Lot 1289, Block 55, Cheverly Subdivision, being 5719 Forest Road,
Cheverly, Prince George's County, Maryland

Municipality: Town of Cheverly

Witness: Mike Libcke, Petitioners' contractor

Heard and Decided: November 19, 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, 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 8 feet in width, 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. Petitioners propose to validate an existing condition and construct a covered front porch, covered side porch and a two-story addition as part of converting the garage into living space. A variance of 4 feet side yard width and a waiver of the parking area location requirement are requested.

Evidence Presented

1. The property contains 9,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 10 and 11. The existing dwelling was built in 1939. Exhs. 10 and 11.

2. The property is made up of land that was subdivided in 1939 and was created in its current configuration by deed in 1945. Exhs. 4, 6 and 7.

3. Petitioners would like to construct a 5' x 6' roof over an existing front stoop, a 3' x 9' two-story addition as part of converting the existing garage into living space, and a 5' x 8' covered stoop and steps on the side of the dwelling. In order to obtain a building permit for the proposed construction, variances are needed. Since an existing covered stoop and steps are 4 feet from the side lot line and the proposed covered stoop and steps would also be located 4 feet from that side lot line, a variance of 4 feet side yard width was requested. Exh. 14.

4. Petitioners would also like to convert the existing garage into living space as part of a proposed two-story addition. Since this construction would place the existing driveway in front of the dwelling without access to an associated parking structure in violation of Section 27-120.01(c), a waiver of the parking area location requirement was also requested. Exh. 14.

5. Mike Libcke, Petitioners' contractor, testified that Petitioners would like to add an in-law suite in the house. He explained that where there is an existing garage (on the front right side of the house) (Exh. 5) they propose to put in a room and bathroom and add a door for access to new living area. He further stated that they propose to put in a 5-foot-wide landing outside the new door to allow room for a wheelchair to enter and turn around.

6. He stated that the front stoop is sagging due to age.

7. Petitioner David Rapp testified that the proposed building change resulted from his mother's inability to use the current stairs and plan to build steps that will go up to the landing on the side of the house. He stated that the exterior of the addition will be hardy plank.

8. David Rapp further testified that the rear yard is sloped. He stated that the neighbors had no objections to their building plans.

9. The Town of Cheverly approved the request. Exh. 18.

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 existing conditions on the property, the rear yard being sloped, the front stoop being old and needing to be replaced, the need for additional living space for a parent, conversion of the existing garage into living space causing the existing driveway to be in violation of Section 27-120.01(c) of the Zoning Ordinance, the width of the proposed landing on the side of house allowing wheelchair access to the new first-floor living space, 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, unanimously, that a variance of 4 feet side yard width and a waiver of the parking area location requirement in order to validate an existing condition and construct a 5' x 6' covered front porch, 5' x 8' covered side porch and a 3' x 9' two-story addition as part of converting the garage into living space on the property located at Lot 1290 and Part of Lot 1289, Block 55, Cheverly Subdivision, being 5719 Forest Road, Cheverly, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and the approved elevation plan, Exhibit 3.

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.