

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-44-14 Maritza Arevalo

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: July 16, 2014 .

CERTIFICATE OF SERVICE

This is to certify that on August 4, 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: 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: Maritza Arevalo

Appeal No.: V-44-14

Subject Property: Lot 26, Block A, Rogers Heights Subdivision, being 4915 55th Avenue, Hyattsville,
Prince George's County, Maryland

Heard and Decided: July 16, 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, Petitioner requests 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 a rear yard at least 20 feet in depth/width, and 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. Petitioner proposes to validate existing conditions and obtain a building permit for a newly built one-story addition, proposed 6-foot wooden privacy fence and proposed 4-foot wooden picket fence. Variances of 3.5 feet side yard width, 3 feet rear yard depth/width and 17.6% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1942, contains 6,032 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 5, 8, 9 and 21. The existing single-family dwelling was built in 1955. Exhs. 8 and 9.
2. The lot narrows toward the rear where the left side lot line angles inward. The house is not centered on the lot and is closer to the left side lot line. Exh. 21.
3. Petitioner would like to obtain a building permit for a new 11'10" x 19'4" one-story addition, but variances are required in order to obtain the permit. Since the new addition is located 4.5 feet from the side lot line and 17 feet from the rear lot line, variances of 3.5 feet side yard width and 3 feet rear yard depth/width were requested. Exh. 13. In addition, since the allowed amount of net lot coverage is exceeded by existing development on the property, a variance of 17.6% net lot coverage was also requested to validate that existing condition. Exhs. 12 and 13.
4. Petitioner would also like to construct a 6-foot wooden privacy fence along the side and rear lot lines and a 4-foot wooden picket fence along the side lot lines between the front of the house and the street line, but the requested variances must be obtained before a fence permit may be obtained.
5. On April 28, 2014, a complaint about the construction of Petitioner's addition without a permit was filed with the Department of Permitting, Inspections and Enforcement, recorded as Complaint No. 12864-2014-0. Exh. 7.

6. Petitioner submitted photographs of other properties in the neighborhood that had constructed long/wide driveways and additions. Exhs. 17(A) through (R) and 18(C) through (F).

7. Petitioner testified that she needs the proposed fencing because of the constant nuisance created by "lots of dogs" in the neighborhood coming into her yard which has become a bigger problem over the last seven years. In addition, she stated that the privacy fence will provide added security.

8. Petitioner further testified that there is plenty of space between the new addition and the rear left side neighbor's house. Exhs. 18(A) and (B). She explained that the house has three bedrooms, one used by her sister, one used as a playroom and the addition contains a bedroom for her and her children.

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, a preexisting driveway making up a large amount of net lot coverage, an addition having been built on the rear of the house without a building permit, variances being needed to validate the location of the addition and the amount of net lot coverage before a building permit may be obtained for proposed fencing, the need for additional living space, enclosure of the yard with fencing providing protection from neighborhood dogs, the proposed 6-foot fence preventing easy access to the house, 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 variances of 3.5 feet side yard width, 3 feet rear yard depth/width and 17.6% net lot coverage in order to validate existing conditions and obtain a building permit for a new 11'10" x 19'4" one-story addition, proposed 6-foot wooden privacy fence and proposed 4-foot wooden picket fence on the property located at Lot 26, Block A, Rogers Heights Subdivision, being 4915 55th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 21, and the approved elevation plans, Exhibits 3 (addition) and 4(a) and (b) (fence).

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.