

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-49-13 Lisandro Acosta & Reina 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: August 7, 2013 .

CERTIFICATE OF SERVICE

This is to certify that on September 11, 2013 , 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
Other Interested Parties

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

Petitioners: Lisandro Acosta & Reina Hernandez

Appeal No.: V-49-13

Subject Property: Lot 4, Block T, University Gardens Subdivision, being 2407 University Boulevard E.,
Hyattsville, Prince George's County, Maryland

Interpreter (Spanish): Pablo Pineda

Heard: July 24, 2013; Decided: August 7, 2013

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 front yard at least 25 feet in depth, 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. Petitioners propose to validate existing conditions and construct a second-floor addition. Variances of 5 feet front yard depth and 20.2% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1947, contains 7,150 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a one-story single-family dwelling (with basement), detached garage, driveway and shed. Exhibits ("Exhs.") 3, 5, 8 and 9. The existing single-family dwelling was built in 1949. Exhs. 8 and 9.

2. The property is regular in its shape and size. Exhs. 3 and 5. Evidence presented indicates that the lot is flat. Exhs. 6(A) through (C) and 10(B) through (G).

3. Petitioners would like to construct a 32' x 36' second-floor addition over the existing 28' x 36' dwelling, but variances are needed to obtain a building permit. Since the covered front porch is located only 20 feet from the front street line, a variance of 5 feet front yard depth was requested to validate this existing condition. In addition, since the amount of lot coverage permitted under Section 27-442(c)(Table II) is already exceeded with existing development on the property, the construction of the proposed second-floor addition with a 2-foot overhang proposed in the front and rear will cause the statutory limit to be further exceeded and a variance of 20.2% net lot coverage was also requested. Exhs. 11 and 12.

4. Petitioners stated that in December 2012, when they applied for a permit to construct the proposed second-story addition, it was discovered that the garage and driveway on the property were built without a permit. Exh. 2.

5. Petitioner Reina Hernandez testified that she requires more living space and now lives in the basement which is cold. She stated that her daughter recently married and her family is getting larger.

6. Lewisdale Citizens' Association ("Association"), which represents University Gardens, opposed the request. The Association stated that all of the houses in that area have one floor and to approve Petitioners' request would change the character of the area. Exh. 23.

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 Petitioners' lot has no exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property. Exhibits 3, 5 and 6(A) through (C).
2. Because the conditions of the subject property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.

BE IT THEREFORE RESOLVED, unanimously, that variances of 5 feet front yard depth and 20.2% net lot coverage in order to validate existing conditions and construct a 32' x 36' second-floor addition over the existing 28' x 36' dwelling on the property located at Lot 4, Block T, University Gardens Subdivision, being 2407 University Boulevard E., 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.