

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-34-13 Porfirio 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 19, 2013.

CERTIFICATE OF SERVICE

This is to certify that on July 25, 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
DPIE/Enforcement Division

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

Petitioner: Porfirio Hernandez

Appeal No.: V-34-13

Subject Property: Lot 2, Block K, Langley Park Subdivision, being 8202 15th Place, Hyattsville,
Prince George's County, Maryland

Spanish Language Interpreter: Ernesto Luna

Heard: June 5, 2013; Decided: June 19, 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, 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 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 and obtain a building permit for a second-floor addition, a two-story addition with basement and an open front porch and to construct a landing and steps. Variances of 2 feet side yard width and 4% net lot coverage are requested.

Evidence Presented

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

1. The property was subdivided in 1950, contains 6,600 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits ("Exhs.") 2, 5, 13 and 14. The property was improved with a one-story dwelling, with basement, in 1950. Exhs. 2, 13 and 14.
2. Petitioner would like to validate and obtain a building permit for a 26.6' x 33.10' second-floor addition, an 18' x 33.10'/11.5' x 44.6' two-story addition with basement and a 5' x 35' open front porch. Petitioner would also like to construct a 3' x 5' landing with steps off the front of the porch. Variances are needed to validate certain existing conditions and obtain the building permit. Since one side of the two-story addition is located only 6 feet from the side lot line and the allowed amount of net lot coverage has been exceeded by the development on the property, variances of 2 feet side yard width and 4% net lot coverage were requested. Exhs. 18 and 19.
3. In 2008, the Board denied (Appeal No. V-62-08) a previous owner's request for variances to validate existing conditions and obtain a building permit for second and third floor additions, a covered front porch and a three-story addition with basement. Exh. 8.

4. In 2012, the Board denied (Appeal No. V-57-12) Petitioner's request for variances to validate and obtain a building permit for second-floor and attic additions, a two-story addition with basement and attic and a covered front porch. Exh. 10.

5. Petitioner testified that the subject variance request differs from his previous request in that the entire top floor and front porch roof were removed and the steps in front turn to the side. Exhs. 3(a) and (b), 6(A), (B) and (C), and compare Exhs. 2, Attachment to Exh. 10 and Attachments to Exh. 23.

6. Changes made to the structure after variances were denied in 2012 have negated the need for a front yard setback variance that was previously requested for the covered front porch, and reduced the amount of the net lot coverage variance currently requested. He stated that he has to correct the problems before he will be able to live at the property.

7. He explained that he needs the 2-foot side yard variance because of the location of the side wall of the house and contended that the only way he could further reduce the lot coverage variance is remove his driveway.

8. Petitioner further testified that the house will have only one front door and because the property slopes up from the street, the door for exiting the rear of the house is on the first floor. Exh. 3(b).

9. Barbara Elliott, owner of adjoining property at 8204 15th Place, opposed the request. Exh. 22.

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 sloping topography of the property, certain changes having been made to the existing structure to reduce its height and the amount of net lot area covered, changes made to the structure negating the need for a front yard setback variance and reducing the amount of the net lot coverage variance requested, the need to obtain certain variances in order to complete construction, construction needing to be completed in order to obtain a final inspection of the structure, final inspection by the county being necessary for Petitioner to be able to reside at the property, 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 2 feet side yard width and 4% net lot coverage in order to validate and obtain a building permit for a 26.6' x 33.10' second-floor addition, 18' x 33.10'/11.5' x 44.6' two-story addition with basement and 5' x 35' open front porch and construct a 3' x 5' landing with steps on the property located at Lot 2, Block K, Langley Park Subdivision, being 8202 15th Place, 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 plan, Exhibit 2, and the approved elevation plans, Exhibits 3(a) & (b).

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.