

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-28-13 Alvaro Sandi

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 8, 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
DER/Building Code Official, Permits & Review Group
Town of Fairmount Heights

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

Petitioner: Alvaro Sandi

Appeal No.: V-28-13

Subject Property: Lot 1, Block 14, Bryn Mawr, West Fairmount Heights Subdivision, being 835 Eastern Avenue, Fairmount Heights, Prince George's County, Maryland

Municipality: Town of Fairmount Heights

Witness: Sylvester Vaughn, Code Enforcement Officer, Town of Fairmount Heights

Heard: May 22, 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(b)(Table I) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 5,000 square feet; Section 27-442(d) (Table III), which prescribes that each lot shall have a minimum width of 50 feet measured along the front building line; Section 27-442(e)(Table IV), which prescribes that each lot shall have a front yard at least 25 feet in depth and side yards at least 5 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 existing conditions and construct a new two-story single-family dwelling over an existing basement. Variances of 2,500 square feet net lot area, 25 feet front building line width, 2.5 feet front yard depth, 1 foot right left side yard width, 4 feet right 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 1911, contains 2,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with an open basement of a one-story single-family dwelling (dwelling razed). Exhibits ("Exhs.") 2, 4, 11(A)-(D).
2. The lot is extremely narrow (25 feet wide). Exh. 2. The lot is located on Eastern Avenue within the municipal limits of the Town of Fairmount Heights and the District of Columbia is on the other side of Eastern Avenue. Exh. 4.
3. Petitioner would like to construct a new 20' x 38' two-story dwelling over the existing basement, but variances are needed to obtain a building permit. Since the front portion of the proposed dwelling would be slightly wider than the foundation of the old porch, construction of the dwelling would cause the allowed amount of net lot coverage to be exceeded, and a variance of .4% net lot coverage was accordingly requested.

4. Since the existing foundation is located 22.5 feet from the front street line, 4 feet from the left side lot line and 1 foot from the right side lot line, variances of 2.5 feet front yard depth, 1 foot right left side yard width and 4 feet right side yard width were requested. Exh. 13.

5. In addition, since the property does not meet current minimum lot size and lot width requirements, variances of 2,500 square feet net lot area and 25 feet front building line width were requested to validate those conditions. Exh. 13.

6. The Board granted variances in 2007 (Appeal No. V-138-07) to renovate the one-story dwelling into a two-story dwelling. Exh. 7.

7. Petitioner testified that when he purchased the property two years ago, he planned to build a second floor over the one-story house (with basement), but the roof collapsed and only the basement remains. He stated that he still would like to have two stories in the house. He explained that if he cannot build two stories, the lot is so narrow that any house built (without variances) would be too small; he would be able to have three rooms on the second floor.

8. Petitioner further testified that there is a two-story house on the Maryland side of Eastern Avenue. Exh. 6.

9. The Town of Fairmount Heights had no objection to the requested development. Exh. 21.

10. The Historic Preservation & Public Facilities Planning Section of M-NCPPC commented that the request will have no effect on identified Historic Site, Resources or Districts. It was stated that the subject property is within the Fairmount Heights National Register Historic District (NRHD), there are no federal guidelines concerning new construction within a NRHD and the property is not protected under Subtitle 29 of the Prince George's County Code. Exh. 17.

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 property being subdivided in 1911, the property not meeting the current lot size and width requirements for development, the narrowness of the lot, the Board having approved variances in 2007 to renovate the one-story house on the property to a two-story house, the roof of the house collapsing after Petitioner purchased the property, the proposed dwelling to be built over the basement of the original house with only a slightly wider front porch, 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 2,500 square feet net lot area, 25 feet front building line width, 2.5 feet front yard depth, 1 foot right left side yard width, 4 feet right side yard

width and .4% net lot coverage order to validate existing conditions and construct a new two-story single-family dwelling over existing basement on the property located at Lot 1, Block 14, Bryn Mawr, West Fairmount Heights Subdivision, being 835 Eastern Avenue, Fairmount Heights, 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.