

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-86-16 Salvador Robles

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: September 28, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on October 20, 2016, 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
Mark Maier, Spanish Language Interpreter

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

Petitioner: Salvador Robles

Appeal No.: V-86-16

Subject Property: Lot 45, Block 1, Good Luck Estates Subdivision, being 7102 Good Luck Road, Lanham,
Prince George's County, Maryland

Spanish Language Interpreter: Mark Maier

Heard: September 14, 2016; Decided: September 28, 2016

Board Members Present and Voting: Bobbie S. Mack, Chairperson
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 a variance 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 a variance from 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 an existing condition and obtain a building permit for an existing shed. A variance of 17.6% net lot coverage is requested.

Evidence Presented

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

1. The property was subdivided in 1965, contains 6,500 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 4, 9 and 10. The existing dwelling was built in 1966. Exh. 9.

2. The property is regular in its shape and size. Exhs. 4 and 11(A).

3. Building Violation Notice No. 48540-2015-1, dated April 29, 2016, was issued by the Inspections Division, Department of Permitting, Inspections and Enforcement ("DPIE"), requiring that permit(s) be obtained for work done on the subject property, including but not limited to an accessory building over 150 square feet and new HVAC, or remove the work. Exh. 6. Permit history information indicates the violation originated in October, 2015. Exh. 7. Property records indicate that ownership of the property transferred to Petitioner on March 4, 2016. Exhs. 9 and 10.

4. Petitioner would like to obtain a building permit for a 17.5' x 25' shed in the rear yard, but a variance is needed to obtain the permit. Since the allowed amount of net lot coverage (30%) is exceeded by existing development on the property, a variance of 17.6% net lot coverage was requested. Exhs. 14 and 15.

5. Petitioner testified that he purchased the property in December 2015, and the previous owner who sold him the property did not obtain a permit for the shed.

6. Petitioner further testified that he would use the shed for storage and the concrete in the rear next to the shed is useful to him.

7. In response to the Board's inquiry, information from the Inspections Division, DPIE, revealed that a permit was obtained on January 14, 2016, for a 17' x 25' shed on the property, no inspection request was ever received for the shed, and technically the County may consider the permit expired due to the 6-month

limitation with no inspection request. The response from DPIE also revealed that the conditions imposed by the Maryland-National Capital Park and Planning Commission on the permit included:

- Removal of 7' x 10' and 37' x 54' concrete
- Driveway limited to 10' x 47' concrete pad

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 variance does not comply with the applicable standards set forth in Section 27-230, more specifically:

1. The Board finds that Petitioner's lot has no exceptional topography or other conditions peculiar to the property. The Board further finds that the lot is regular in its size and shape and no evidence of any extraordinary situation or uniqueness of the lot was presented. *See* Exhibits 2 and 4.
2. Because the conditions of the property are ordinary, the Board does not deem it necessary to consider the other requirements of Section 27-230.
3. The Board notes that final inspection for the permit obtained in January 2016 was never requested and never occurred. Further, it is clear from the site plan (Exh. 2) that the condition regarding removal of concrete area imposed on the permit has not been met.

BE IT THEREFORE RESOLVED, by majority vote, Vice Chairman Scott abstaining, that a variance of 17.6% net lot coverage in order to validate existing conditions and obtain a building permit for a 17.5' x 25' existing shed on the property located at Lot 45, Block 1, Good Luck Estates Subdivision, being 7102 Good Luck Road, Lanham, Prince George's County, Maryland, be and is 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.