

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-130-16 Rafael and Maria Bernal

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: December 14, 2016 .

CERTIFICATE OF SERVICE

This is to certify that on December 21, 2016 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed) _____
Barbara J. Stone
Acting Administrator

cc: Petitioners
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Mark Maier, Spanish Language Interpreter

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

Petitioners: Rafael and Maria Bernal

Appeal No.: V-130-16

Subject Property: Lot 34, The Townsend Subdivision, being 8704 Daniel Lane, Clinton,
Prince George's County, Maryland

Spanish Language Interpreter: Mark Maier

Heard and Decided: December 14, 2016

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; Section 27-442(c)(Table II), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 60 feet from the front street line, 2 feet from any side lot line and generally be located only in the rear yard. Petitioners propose to validate existing conditions and construct a covered front porch and one-story addition with basement. Variances of 5 feet front yard depth, 18.5% net lot coverage, variances of 7 feet front street line setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for one accessory building and a variance of 2 feet side lot line setback for a second accessory building are requested.

Evidence Presented

1. The property was subdivided in 1967, contains 17,179 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway, detached carport and three sheds. The property is located within the Military Installation Overlay Zone. Exhibits (Exhs.) 2, 4, 7 and 8.
2. Petitioners would like to construct a 9' x 38' covered front porch and 26.5' x 38' one-story addition with basement. The covered front porch would be located 20 feet from the front street line. A variance of 5 feet front yard depth was requested. Exhs. 2, 3 (a) thru (d).
3. As the existing development on the property exceeds the amount of lot coverage allowed, construction of the porch and addition would be further overage. A variance of 18.5% net lot coverage was requested. Exhs. 2 and 3 (a) thru (d).
4. Two of the existing sheds do not meet the location requirement. Variances of 7 feet front street line setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for one accessory building and a variance of 2 feet side lot line setback for a second accessory building were requested. Exh. 2 and 3 (a) thru (d).
5. Petitioner Rafael Bernal testified that the addition is for his son who is confined to a wheelchair and diagnosed with Cerebral Paralysis.
6. He described the house as being very small and the hallway is narrow making it very difficult for his son to move around in the house. Exhs. 2, 3 and 5(A) thru (E).

7. Petitioner stated that no concerns were raised by neighbors in regards to the proposed addition and porch.

8. Petitioner explained that the existing first floor of the addition will be approximately the same square footage and height as the existing dwelling and therefore will not be seen from the front of the house. Exhs. 2 and 3.

9. Petitioner Maria Bernal likewise testified that the proposed addition would allow their son to move more freely within the house.

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 complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the lot being an odd shape, the home being built in 1968, the Petitioners' son being physically handicapped and needing additional space for maneuverability of his wheelchair 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 owners of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 5 feet front yard depth, 18.5% net lot coverage, variances of 7 feet front street line setback, 1 foot side lot line setback and a waiver of the rear yard location requirement for one accessory building and a variance of 2 feet side lot line setback for a second accessory building in order to validate existing conditions and construct a 9' x 38' covered front porch and 26.5' x 38' one-story addition with basement on the property located at Lot 34, The Townsend Subdivision, being 8704 Daniel Lane, Clinton, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances are contingent upon development in compliance with the approved site plan, Exhibit 2, and 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.