

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-139-16 Evelyn Guerra

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: January 11, 2017 .

CERTIFICATE OF SERVICE

This is to certify that on February 3, 2017 , 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: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
DPIE/Inspections Division
Lewisdale Citizens' Association
Ernesto Luna, Spanish Language Interpreter

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

Petitioner: Evelyn Guerra
Appeal No.: V-139-16
Subject Property: Lot 33, Block 36, Lewisdale Subdivision, being 2206 Lewisdale Drive, Hyattsville,
Witness: Juan Guerra (husband)
Spanish Language Interpreter: Ernesto Luna
Heard: November 30, 2016; Decided: January 11, 2017
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(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking; Section 27-120.01(c), which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling; and Section 27-442(i)(Table VIII), which prescribes that accessory buildings shall be set back 2 feet from any side or rear lot line. Petitioner proposes to validate existing conditions and obtain a building permit for a one-story addition. A variance of 14.1% net lot coverage, a waiver of the parking area location requirement, and variances of 1.5 feet side lot line setback for one accessory building and 1.5 feet rear lot line setback for a second accessory building are requested.

Evidence Presented

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

1. The property was subdivided in 1954, contains 6,107 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling, driveway and two sheds and bird house. Exhibits (Exhs.) 2, 4, 5 (A) thru (G), 7 and 8.
3. On May 6, 2016, the Department of Permitting, Inspections and Enforcement, Inspections Division, issued Building Violation Notice #25275-2016 requiring Petitioner to obtain the required permit(s) for work done at the property or remove the same. The work included a rear addition. Exh. 6.
4. Petitioner would like to obtain a building permit for a 15.7' x 18.6' one-story addition (bird house), constructed on the rear of the existing dwelling. As the development on the property exceeds the amount of lot coverage allowed, a variance of 14.1% net lot coverage was requested. Exhs. 2 and 3.
5. Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioner's driveway is located in this area of the front yard, a waiver of the parking area location requirement was also requested. Exhs. 2 and 16.

4. The property contains two sheds, one of which is located .5 foot from the side lot line and the other .5 foot from the rear lot line. Exh. 2. Variances of 1.5 feet side lot line setback for one accessory building and 1.5 feet rear lot line setback for a second accessory building were requested, respectively. Exhs. 2 and 16.

5. The existing one story addition (36' x 11') was built in 2011. Exh. 2.

6. Mr. Juan Guerra testified that the second addition (15.7' x 18.6' one-story), which triggered the Building Violation Notice, was constructed approximately 1½ – 2 years ago for his mother-in-law's birds and plants. Petitioner purchased the subject property in 2008. Exh. 2 and 3.

7. Lewisdale Citizens' Association submitted a letter of initial opposition to the requested variances (Exh. 19), requested clarification on the development (Exh. 23) and rescinded its opposition on December 13, 2016 (Exhs. 24).

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

Due to the need for additional space to care for pets and plants, 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 14.1% net lot coverage, a waiver of the parking area location requirement, and variances of 1.5 feet side lot line setback for one accessory building and 1.5 feet rear lot line setback for a second accessory building in order to validate existing conditions and obtain a building permit for a 15.7' x 18.6' one-story addition on the property located at Lot 33, Block 36, Lewisdale Subdivision, being 2206 Lewisdale Drive, 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 approved elevations, 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.